UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE HUNDRED FIRST CONGRESS
OF THE UNITED STATES OF AMERICA

1990

AND

PROCLAMATIONS

VOLUME 104

IN SIX PARTS

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PUBLIC LAWS 101-241 THROUGH 101-440

UNITED STATES
GOVERNMENT PRINTING OFFICE
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101-311	To amend title 11 of the United States Code regarding swap agreements and forward contracts.	June 25, 1990	267
101-312	To authorize the Secretary of Veterans Affairs to proceed with a proposed administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs, notwithstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code.	June 25, 1990	271
101-313	To establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes.	June 27, 1990	272
101-314	Designating July 3, 1990, as "Idaho Centennial Day"	June 28, 1990	281
101-315	To designate June 25, 1990, as "Korean War Remembrance Day".	June 28, 1990	282
101-316	To commemorate the 50th anniversary of the National Sheriffs' Association.	June 28, 1990	284
101-317	Calling upon the United Nations to repeal General Assembly Resolution 3379.	June 29, 1990	285
101-318	Copyright Fees and Technical Amendments Act of 1989	July 3, 1990	287
101-319	Copyright Royalty Tribunal Reform and Miscellaneous Pay Act of 1989.	July 3, 1990	290
101-320	To amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission.	July 3, 1990	292
101-321	Selma to Montgomery National Trail Study Act of 1989	July 3, 1990	293
101-322	Amtrak Reauthorization and Improvement Act of 1990	July 6, 1990	295
101-323	To commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed.	July 6, 1990	299
101-324	To amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.	July 6, 1990	300
101-325	To designate July 10, 1990 as "Wyoming Centennial Day".	July 6, 1990	302
101-326	For the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day".	July 6, 1990	304
101-327	Designating July 2, 1990, as "National Literacy Day"	July 6, 1990	306
101-328	National Space Council Authorization Act of 1990	July 8, 1990	308
101-329	Designating July 19, 1990, as "Flight Attendant Safety Professionals' Day".	July 8, 1990	310
101-330	To amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990.	July 12, 1990	311
101-331	To designate July 1, 1990, as "National Ducks and Wetlands Day".	July 13, 1990	312
101-332	Mount Rushmore Commemorative Coin Act	July 16, 1990	313
101-333	To authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire.	July 16, 1990	316
101-334	Ethics in Government Act Amendment of 1990	July 16, 1990	318
101-335	Thrift Savings Plan Technical Amendments Act of 1990	July 17, 1990	319
101-336	Americans with Disabilities Act of 1990	July 26, 1990	327

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101-337	To improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.	July 27, 1990	379
101-338	Designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week".	July 27, 1990	382
101-339	Relating to NASA and the International Space Year	July 31, 1990	383
101-340	To designate September 13, 1990, as "National D.A.R.E. Day".	July 31, 1990	385
101-341	To designate August 1, 1990, as "Helsinki Human Rights Day".	July 31, 1990	387
101-342	Designating the third Sunday of August of 1990 as "National Senior Citizens Day".	Aug. 2, 1990	390
101-343	Designating the month of November 1990 as "National American Indian Heritage Month".	Aug. 3, 1990	391
101-344	To establish the Tumacacori National Historical Park in the State of Arizona.	Aug. 6, 1990	393
101-345	Designating August 6, 1990, as "Voting Rights Celebration Day".	Aug. 7, 1990	395
101-346	Designating the week of August 19 through 25, 1990, as "National Agricultural Research Week".	Aug. 9, 1990	397
101-347	Recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty.	Aug. 9, 1990	398
101-348	To designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week".	Aug. 9, 1990	399
101-349	To designate the second Sunday in October of 1990 as "National Children's Day".	Aug. 9, 1990	401
101-350	To provide for a temporary increase in the public debt limit.	Aug. 9, 1990	403
101-351	To extend the expiration date of the Defense Production Act of 1950.	Aug. 9, 1990	404
101-352	Fire Safe Cigarette Act of 1990	Aug. 10, 1990	405
101-353	To designate the Agricultural Research Service, United States Department of Agriculture, animal health research building in Clay Center, Nebraska, as the "Virginia D. Smith Animal Health Research Laboratory".	Aug. 10, 1990	408
101-354	Breast and Cervical Cancer Mortality Prevention Act of 1990.	Aug. 10, 1990	409
101-355	Designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag.	Aug. 10, 1990	416
101-356	Merrimack River Study Act of 1990	Aug. 10, 1990	417
101-357	Pemigewasset River Study Act of 1989	Aug. 10, 1990	418
101-358	To authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia.	Aug. 10, 1990	419
101-359	To redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.	Aug. 10, 1990	420
101-360	Energy Policy and Conservation Act Short-Term Extension Amendment of 1990.	Aug. 10, 1990	421
101-361	Designating August 7, 1990, as "National Neighborhood Crime Watch Day".	Aug. 10, 1990	422
101-362	To designate August 13 through August 19, 1990, as "Home Health Aide Week".	Aug. 10, 1990	423
101-363	National Advisory Council on the Public Service Act of 1990.	Aug. 14, 1990	424

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101-364	To amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system.	Aug. 15, 1990	428
101-365	Juan Bautista de Anza National Historic Trail Act	Aug. 15, 1990	429
101-366	Department of Veterans Affairs Nurse Pay Act of 1990	Aug. 15, 1990	430
101-367	To designate the Federal building located at 777 Sonoma Avenue in Santa Rosa, California, as the "John F. Shea Federal Building".	Aug. 15, 1990	445
101-368	Tuberculosis Prevention Amendments of 1990	Aug. 15, 1990	446
101-369	To implement the Inter-American Convention on International Commercial Arbitration.	Aug. 15, 1990	448
101-370	To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.	Aug. 15, 1990	451
101-371	Designating the week beginning September 16, 1990, as "National Give Kids a Fighting Chance Week".	Aug. 15, 1990	453
101-372	Designating January 6, 1991 through January 12, 1991 as "National Law Enforcement Training Week".	Aug. 15, 1990	454
101-373	Designating Labor Day weekend, September 1 through September 3, 1990, as "National Drive for Life Weekend".	Aug. 15, 1990	455
101-374	Drug Abuse Treatment Waiting Period Reduction Amendments of 1990.	Aug. 15, 1990	456
101-375	To designate the month of September 1990 as "International Visitors' Month".	Aug. 15, 1990	460
101-376	Civil Service Due Process Amendments	Aug. 17, 1990	461
101-377	To revise the boundary of Gettysburg National Military Park in the Commonwealth of Pennsylvania, and for other purposes.	Aug. 17, 1990	464
101-378	To enroll twenty individuals under the Alaska Native Claims Settlement Act.	Aug. 17, 1990	468
101-379	Indian Law Enforcement Reform Act	Aug. 18, 1990	473
101-380	Oil Pollution Act of 1990	Aug. 18, 1990	484
101-381	Ryan White Comprehensive AIDS Resources Emergency Act of 1990.	Aug. 18, 1990	576
101-382	Customs and Trade Act of 1990	Aug. 20, 1990	629
101-383	Energy Policy and Conservation Act Amendments of 1990.	Sept. 15, 1990	727
101-384	To amend title 39, United States Code, to allow free mailing privileges to be extended to members of the Armed Forces while engaged in temporary military operations under arduous circumstances.	Sept. 18, 1990	737
101-385	Designating the week beginning September 16, 1990, as "Emergency Medical Services Week".	Sept. 20, 1990	738
101-386	To amend the Act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges.	Sept. 20, 1990	739
101-387	To designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week".	Sept. 20, 1990	741
101-388	To designate October 1990 as "Polish American Heritage Month".	Sept. 20, 1990	742
101-389	Designating the month of October 1990 as "Crime Prevention Month".	Sept. 20, 1990	744
101-390	To designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week".	Sept. 21, 1990	745
101-391	Hotel and Motel Fire Safety Act of 1990	Sept. 25, 1990	747

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101-392	Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.	Sept. 25, 1990	753
101-393	Designating October 3, 1990, as "National Teacher Appreciation Day".	Sept. 25, 1990	844
101-394	To designate the week of September 23 through 29, 1990, as "Religious Freedom Week".	Sept. 25, 1990	845
101-395	To designate the week of September 30, 1990, through October 6, 1990, as "National Job Skills Week".	Sept. 25, 1990	847
101-396	Federal Communications Commission Authorization Act of 1990.	Sept. 28, 1990	848
101-397	To extend the authorization of appropriations for the Water Resources Research Act of 1984 through the end of fiscal year 1994.	Sept. 28, 1990	852
101-398	Mississippi River Corridor Study Commission Act of 1989	Sept. 28, 1990	855
101-399	To provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes.	Sept. 28, 1990	860
101-400	Route 66 Study Act of 1990	Sept. 28, 1990	861
101-401	Maine Wilderness Act of 1990	Sept. 28, 1990	863
101-402	To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.	Oct. 1, 1990	866
101-403	Making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.	Oct. 1, 1990	867
101-404	United Services Organization's 50th Anniversary Commemorative Coin Act.	Oct. 2, 1990	875
101-405	To extend the temporary increase in the public debt limit.	Oct. 2, 1990	878
101-406	1992 Olympic Commemorative Coin Act	Oct. 3, 1990	879
101-407	To extend the expiration date of the Defense Production Act of 1950.	Oct. 4, 1990	882
101-408	Indian Environmental Regulatory Enhancement Act of 1990.	Oct. 4, 1990	883
101-409	White House Conference on Small Business Authorization Act.	Oct. 5, 1990	885
101-410	Federal Civil Penalties Inflation Adjustment Act of 1990	Oct. 5, 1990	890
101-411	To extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.	Oct. 6, 1990	893
101-412	Making further continuing appropriations for the fiscal year 1991, and for other purposes.	Oct. 9, 1990	894
101-413	To designate October 6, 1990, as "German-American Day".	Oct. 11, 1990	898
101-414	To designate the month of October 1990 as "Country Music Month".	Oct. 11, 1990	899
101-415	Designating October 1990 as "National Breast Cancer Awareness Month".	Oct. 11, 1990	900
101-416	To grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes.	Oct. 12, 1990	902
101-417	To commemorate the centennial of the creation by Congress of Yosemite National Park.	Oct. 12, 1990	904
101-418	Designating March 1991 as "Irish-American Heritage Month".	Oct. 12, 1990	906
101-419	To convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.	Oct. 12, 1990	907

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101-420	To amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.	Oct. 12, 1990	908
101-421	Drug and Alcohol Dependent Offenders Treatment Act of 1989.	Oct. 12, 1990	909
101-422	To authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.	Oct. 12, 1990	910
101-423	To establish a national policy on permanent papers	Oct. 12, 1990	912
101-424	To establish calendar year 1992 as the "Year of Clean Water".	Oct. 12, 1990	914
101-425	Department of Energy Metal Casting Competitiveness Research Act of 1990.	Oct. 15, 1990	915
101-426	Radiation Exposure Compensation Act	Oct. 15, 1990	920
101-427	To redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways.	Oct. 15, 1990	927
101-428	Capitol Police Retirement Act	Oct. 15, 1990	928
101-429	Securities Enforcement Remedies and Penny Stock Reform Act of 1990.	Oct. 15, 1990	931
101-430	To authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes.	Oct. 15, 1990	959
101-431	Television Decoder Circuitry Act of 1990	Oct. 15, 1990	960
101-432	Market Reform Act of 1990	Oct. 16, 1990	963
101-433	Older Workers Benefit Protection Act	Oct. 16, 1990	978
101-434	To amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region.	Oct. 17, 1990	985
101-435	Telephone Operator Consumer Services Improvement Act of 1990.	Oct. 17, 1990	986
101-436	To provide for the conveyance of certain lands to the State of California, and for other purposes.	Oct. 17, 1990	993
101-437	Children's Television Act of 1990	Oct. 18, 1990	996
101-438	Rio Grande American Canal Extension Act of 1990	Oct. 18, 1990	1001
101-439	Designating October 1990 as "National Domestic Violence Awareness Month".	Oct. 18, 1990	1004
101-440	State Energy Efficiency Programs Improvement Act of 1990.	Oct. 18, 1990	1006
101-441	To amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission.	Oct. 18, 1990	1017
101-442	To authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.	Oct. 18, 1990	1019
101-443	Connecticut Coastal Protection Act of 1990	Oct. 19, 1990	1028
101-444	Making further continuing appropriations for the fiscal year 1991, and for other purposes.	Oct. 19, 1990	1030
101-445	National Nutrition Monitoring and Related Research Act of 1990.	Oct. 22, 1990	1034
101-446	Firefighters' Safety Study Act	Oct. 22, 1990	1045
101-447	San Carlos Mineral Strip Act of 1990	Oct. 22, 1990	1047
101-448	To designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building".	Oct. 22, 1990	1049

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101-449	To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.	Oct. 22, 1990	1050
101-450	To designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day".	Oct. 22, 1990	1052
101-451	To designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week".	Oct. 22, 1990	1053
101-452	Chehalis River Basin Fishery Resources Study and Restoration Act of 1990.	Oct. 24, 1990	1054
101-453	Cash Management Improvement Act of 1990	Oct. 24, 1990	1058
101-454	Eisenhower Exchange Fellowship Act of 1990	Oct. 24, 1990	1063
101-455	To authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes.	Oct. 24, 1990	1067
101-456	To redesignate the Federal building located at 1 Bowling Green in NewYork, New York, as the "Alexander Hamilton United States Custom House".	Oct. 24, 1990	1068
101-457	To designate the Department of Veterans Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".	Oct. 24, 1990	1069
101-458	Designating October 1990 as "Ending Hunger Month"	Oct. 24, 1990	1070
101-459	To designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America".	Oct. 24, 1990	1071
101-460	Designating October 1990 as "Italian-American Heritage and Culture Month".	Oct. 24, 1990	1074
101-461	Making further continuing appropriations for the fiscal year 1991, and for other purposes.	Oct. 25, 1990	1075
101-462	To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.	Oct. 25, 1990	1079
101-463	Designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week".	Oct. 25, 1990	1080
101-464	Designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week".	Oct. 25, 1990	1081
101-465	Designating October 21 through October 27, 1990, as "World Population Awareness Week".	Oct. 25, 1990	1082
101-466	Waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the One Hundred First Congress.	Oct. 27, 1990	1084
101-467	Making further continuing appropriations for the fiscal year 1991, and for other purposes.	Oct. 28, 1990	1086
101-468	To designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week".	Oct. 30, 1990	1088
101-469	Designating November 11 through 17, 1990, as "Geography Awareness Week".	Oct. 30, 1990	1090
101-470	Designating April 7 through 13, 1991, as "National County Government Week".	Oct. 30, 1990	1092
101-471	To designate the month of May, 1991 as "National Trauma Awareness Month".	Oct. 30, 1990	1093
101-472	To designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week".	Oct. 30, 1990	1094
101-473	To designate March 30, 1991, as "National Doctors Day"	Oct. 30, 1990	1096
101-474	Administrative Office of the United States Courts Personnel Act of 1990.	Oct. 30, 1990	1097

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101-475	To amend section 28(w) of the Mineral Leasing Act, and for other purposes.	Oct. 30, 1990	1102
101-476	Education of the Handicapped Act Amendments of 1990	Oct. 30, 1990	1103
101-477	To reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.	Oct. 30, 1990	1152
101-478	To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.	Oct. 30, 1990	1157
101-479	To allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center.	Oct. 31, 1990	1158
101-480	American University Incorporation Amendments Act of 1990.	Oct. 31, 1990	1160
101-481	Designating August 29, 1990, as "National Sarcoidosis Awareness Day".	Oct. 31, 1990	1162
101-482	Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day".	Oct. 31, 1990	1163
101-483	Committing to the private sector the responsibility for support of the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.	Oct. 31, 1990	1165
101-484	Ponca Restoration Act	Oct. 31, 1990	1167
101-485	Weir Farm National Historic Site Establishment Act of 1990.	Oct. 31, 1990	1171
101-486	Zuni Land Conservation Act of 1990	Oct. 31, 1990	1174
101-487	To designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center".	Oct. 31, 1990	1177
101-488	To designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center".	Oct. 31, 1990	1178
101-489	To designate November 16, 1990, as "National Philanthropy Day".	Oct. 31, 1990	1179
101-490	Designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week".	Oct. 31, 1990	1180
101-491	Designating June 2 through 8, 1991, as a "Week for the National Observance of the 50th Anniversary of World War II".	Oct. 31, 1990	1181
101-492	To designate September of 1991 as "National Rice Month"	Oct. 31, 1990	1182
101-493	Drug and Household Substance Mailing Act of 1990	Oct. 31, 1990	1184
101-494	To provide for the temporary extension of the certain laws relating to housing and community development.	Oct. 31, 1990	1185
101-495	Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act.	Oct. 31, 1990	1187
101-496	Developmental Disabilities Assistance and Bill of Rights Act of 1990.	Oct. 31, 1990	1191
101-497	Waiving certain enrollment requirements with respect to S. 2830, the Food, Agriculture, Conservation and Trade Act of 1990.	Oct. 31, 1990	1205
101-498	Strategic and Critical Minerals Act of 1990	Nov. 2, 1990	1207
101-499	To authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes	Nov. 2, 1990	1209
101-500	Sanitary Food Transportation Act of 1990	Nov. 3, 1990	1213

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101-503	Seneca Nation Settlement Act of 1990	Nov. 3, 1990	1292
101-504	Age Discrimination Claims Assistance Amendments of 1990.	Nov. 3, 1990	1298
101-505	Granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.	Nov. 3, 1990	1300
101-506	Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991.	Nov. 5, 1990	1315
101-507	Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.	Nov. 5, 1990	1351
101-509	Treasury, Postal Service and General Government Appropriations Act, 1991.	Nov. 5, 1990	1389
101-510	National Defense Authorization Act for Fiscal Year 1991	Nov. 5, 1990	1485
101-511	Department of Defense Appropriations Act, 1991	Nov. 5, 1990	1856
101-512	Department of the Interior and Related Agencies Appropriations Act, 1991.	Nov. 5, 1990	1915
101-513	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.	Nov. 5, 1990	1979
101-514	Energy and Water Development Appropriations Act, 1991.	Nov. 5, 1990	2074
101-515	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991.	Nov. 5, 1990	2101
101-516	Department of Transportation and Related Agencies Appropriations Act, 1991.	Nov. 5, 1990	2155
101-517	Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991.	Nov. 5, 1990	2190
101-518	District of Columbia Appropriations Act, 1991	Nov. 5, 1990	2224
101-519	Military Construction Appropriations Act, 1991	Nov. 5, 1990	2240
101-520	Legislative Branch Appropriations Act, 1991	Nov. 5, 1990	2254
101-521	To amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans.	Nov. 5, 1990	2287
101-522	To establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes.	Nov. 5, 1990	2288
101-523	To provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.	Nov. 5, 1990	2297
101-524	Deceptive Mailings Prevention Act of 1990	Nov. 6, 1990	2301
101-525	Congressional Award Amendments of 1990	Nov. 6, 1990	2305
101-526	District of Columbia Revenue Bond Act of 1990	Nov. 6, 1990	2309
101-527	Disadvantaged Minority Health Improvement Act of 1990.	Nov. 6, 1990	2311
101-528	Designating November 18 through 24, 1990, "National Family Caregivers Week".	Nov. 6, 1990	2336
101-529	To designate November 16, 1990, as "National Federation of the Blind Day".	Nov. 6, 1990	2337
101-530	To amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.	Nov. 6, 1990	2338
101-531	To transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, Mississippi, to the States of Mississippi and Arkansas.	Nov. 6, 1990	2341
101-532	To salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.	Nov. 7, 1990	2342

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101-533	Foreign Direct Investment and International Financial Data Improvements Act of 1990.	Nov. 7, 1990	2344
101-534	Attendant Allowance Adjustment Act	Nov. 7, 1990	2352
101-535	Nutrition Labeling and Education Act of 1990	Nov. 8, 1990	2353
101-536	Pecos National Historical Park Expansion Act of 1990	Nov. 8, 1990	2368
101-537	To authorize a study of the fishery resources of the Great Lakes, and for other purposes.	Nov. 8, 1990	2370
101-538	To amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system.	Nov. 8, 1990	2376
101-539	To direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes.	Nov. 8, 1990	2377
101-540	To amend title I of the Employee Retirement Income Security Act of 1974 to require qualifying employer securities to include interest in publicly traded partnerships.	Nov. 8, 1990	2379
101-541	Approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia.	Nov. 8, 1990	2380
101-542	Student Right-To-Know and Campus Security Act	Nov. 8, 1990	2381
101-543	Maine Acadian Culture Preservation Act	Nov. 8, 1990	2389
101-544	To designate October 30, 1990, as "Refugee Day"	Nov. 8, 1990	2393
101-545	To designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office Building".	Nov. 14, 1990	2394
101-546	To designate the Post Office building at 222 West Center Street, in Orem, Utah, as the "Arthur V. Watkins Post Office Building".	Nov. 14, 1990	2395
101-547	To designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families.	Nov. 14, 1990	2396
101-548	To correct a clerical error in Public Law 101-383	Nov. 14, 1990	2398
101-549	To amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.	Nov. 15, 1990	2399
101-550	Securities Acts Amendments of 1990	Nov. 15, 1990	2713
101-551	National Capital Transportation Amendments of 1990	Nov. 15, 1990	2733
101-552	Administrative Dispute Resolution Act	Nov. 15, 1990	2736
101-553	Copyright Remedy Clarification Act	Nov. 15, 1990	2749
101-554	Displaced Homemakers Self-Sufficiency Assistance Act	Nov. 15, 1990	2751
101-555	To authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991.	Nov. 15, 1990	2758
101-556	Baca Location No. 1 Land Acquisition and Study Act of 1990.	Nov. 15, 1990	2762
101-557	Home Health Care and Alzheimer's Disease Amendments of 1990.	Nov. 15, 1990	2766
101-558	Injury Control Act of 1990	Nov. 15, 1990	2772
101-559	To designate the Federal Building at 88 West 100 North in Provo, Utah, as the "J. Will Robinson Federal Building".	Nov. 15, 1990	2774
101-560	Regarding the Early Winters Resorts	Nov. 15, 1990	2775

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101-561	To amend the Water Resources Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes.	Nov. 15, 1990	2778
101-562	To authorize acquisition of certain real property for the Library of Congress, and for other purposes.	Nov. 15, 1990	2780
101-563	Designating October 21 through 27, 1990 as "National Humanities Week".	Nov. 15, 1990	2782
101-564	To designate March 25, 1991, as "National Medal of Honor Day".	Nov. 15, 1990	2783
101-565	Granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes.	Nov. 15, 1990	2784
101-566	Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990.	Nov. 15, 1990	2797
101-567	To authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164.	Nov. 15, 1990	2802
101-568	To authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil.	Nov. 15, 1990	2804
101-569	Providing for the appointment of Ira Michael Heyman as a citizen regent of the Smithsonian Institution.	Nov. 15, 1990	2806
101-570	Designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty".	Nov. 15, 1990	2807
101-571	To authorize the Secretary of Agriculture to exchange certain property in the Chattahoochee National Forest for the construction of facilities in the National Forest.	Nov. 15, 1990	2808
101-572	Gas Related Activities Act of 1990	Nov. 15, 1990	2810
101-573	To authorize the Secretary of the Interior to permit certain uses of lands within the Colonial National Historical Park in the Commonwealth of Virginia.	Nov. 15, 1990	2812
101-574	Small Business Administration Reauthorization and Amendments Act of 1990.	Nov. 15, 1990	2814
101-575	Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990.	Nov. 15, 1990	2834
101-576	Chief Financial Officers Act of 1990	Nov. 15, 1990	2838
101-577	Farm Poundage Quota Revisions Act of 1990	Nov. 15, 1990	2856
101-578	To conduct certain studies in the State of New Mexico	Nov. 15, 1990	2858
101-579	Designating February 16, 1991, as "Lithuanian Independence Day".	Nov. 15, 1990	2862
101-580	To amend title 35, United States Code, with respect to the use of inventions in outer space.	Nov. 15, 1990	2863
101-581	Criminal Victims Protection Act of 1990	Nov. 15, 1990	2865
101-582	Year 2000 Health Objectives Planning Act	Nov. 15, 1990	2867
101-583	To eliminate "substantial documentary evidence" requirement for minimum wage determination for American Samoa, and for other purposes.	Nov. 15, 1990	2871
101-584	To address immediate problems affecting environmental cleanup activities.	Nov. 15, 1990	2872
101-585	Silver Coin Proof Sets Act	Nov. 15, 1990	2874
101-586	Providing for reappointment of Anne Legendre Armstrong as a citizen regent of the Smithsonian Institution.	Nov. 15, 1990	2876
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101-589	Excellence in Mathematics, Science and Engineering Education Act of 1990.	Nov. 16, 1990	2881
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101-592	Fastener Quality Act	Nov. 16, 1990	2943
101-593	To direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, and for other purposes.	Nov. 16, 1990	2954
101-594	Antarctic Protection Act of 1990	Nov. 16, 1990	2975
101-595	Federal Maritime Commission Authorization Act of 1990	Nov. 16, 1990	2979
101-596	Great Lakes Critical Programs Act of 1990	Nov. 16, 1990	3000
101-597	National Health Service Corps Revitalization Amendments of 1990.	Nov. 16, 1990	3013
101-598	To designate the Federal building located at 340 North Pleasant Valley Road in Winchester, Virginia, as the "J. Kenneth Robinson Postal Building".	Nov. 16, 1990	3037
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101-605	Florida Keys National Marine Sanctuary and Protection Act.	Nov. 16, 1990	3089
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101-609	To amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions.	Nov. 16, 1990	3125
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101-630	To authorize the Rumsey Indian Rancheria to convey a certain parcel of land.	Nov. 28, 1990	4531
101-631	To authorize an exchange of lands in South Dakota and Colorado.	Nov. 28, 1990	4569
101-632	To provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts.	Nov. 28, 1990	4575
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ENACTED DURING THE

SECOND SESSION OF THE ONE HUNDRED FIRST CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Tuesday, January 23, 1990, adjourned sine die on Sunday, October 28, 1990. GEORGE BUSH, *President;* DAN QUAYLE, *Vice President;* THOMAS S. FOLEY, *Speaker of the House of Representatives.*

Public Law 101-241
101st Congress

Joint Resolution

To designate February 8, 1990, as "National Women and Girls in Sports Day".

Feb. 12, 1990
[H.J. Res. 82]

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;
Whereas sport and fitness activity contributes to emotional and physical well-being and women need strong bodies as well as strong minds;
Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;
Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;
Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;
Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;
Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;
Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;
Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;
Whereas the performances of such female athletes as Jackie Joyner-Kersee, Florence Griffith Joyner, Bonnie Blair, Janet Evans, the United States Women's Basketball Team and many others in the 1988 Olympic Games were a source of inspiration and pride to all of us;
Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and
Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 8, 1990, is

hereby designated as "National Women and Girls in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

Approved February 12, 1990.

LEGISLATIVE HISTORY—H.J. Res. 82 (S.J. Res. 32):

CONGRESSIONAL RECORD:
Vol. 135 (1989): Feb. 28, S.J. Res. 32 considered and passed Senate.
Vol. 136 (1990): Jan. 31, H.J. Res. 82 considered and passed House.
Feb. 5, considered and passed Senate.

Public Law 101-242
101st Congress

Joint Resolution

To designate the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, as "National Burn Awareness Week".

Feb. 12, 1990
[S.J. Res. 217]

Whereas the burn problem in the United States is one of the worst of any industrialized nation in the world;
Whereas burn injuries are one of the leading causes of accidental death in the United States today;
Whereas every year over 2,000,000 people are victims of some form of burn injury in the United States alone, and children account for between one-third and one-half of this total;
Whereas of these injuries, over 70,000 are hospitalized and account for 9,000,000 disability days and $100,000,000 in costs annually;
Whereas over 6,000 people die from burn injuries annually, and the rehabilitative and psychological impact of burns is devastating;
Whereas young children are in the highest risk group suffering from hot liquid burns and injuries caused by child fire play and fire setting;
Whereas older adults and the disabled are also at great risk and extremely susceptible to burn injuries;
Whereas burn survivors often face years of costly reconstructive surgery and extensive physical and psychological rehabilitation in overcoming disabilities and fears of rejection by family members, friends, coworkers, schoolmates, and the public in general;
Whereas it is estimated that approximately 75 percent of all burn injuries and deaths could be prevented by a comprehensive national educational and awareness campaign and by changes in the design and technology of homes and consumer products;
Whereas a general public awareness of the need for smoke detectors and home fire escape plans, in combination with an understanding of the risk associated with items in the home environment, can cause a reduction of injuries and loss of life; and
Whereas there is a need for an effective national program that deals with all aspects of burn injuries and on the prevention thereof: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 4, 1990, and ending February 10, 1990, and the period

commencing February 3, 1991, and ending February 9, 1991, are designated as "National Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States and all Federal, State, and local government officials to observe that week with appropriate programs and activities.

Approved February 12, 1990.

LEGISLATIVE HISTORY—S.J. Res. 217:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 27, considered and passed Senate.
Vol. 136 (1990): Feb. 6, considered and passed House.

Public Law 101-243
101st Congress

An Act

To authorize certain United States assistance and trade benefits for Panama, and for other purposes.

Feb. 14, 1990
[H.R. 3952]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Urgent Assistance for Democracy in Panama Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Urgent Assistance for Democracy in Panama Act of 1990".

TITLE I—PANAMA

SEC. 101. IMMEDIATE UNITED STATES ASSISTANCE.

(a) ECONOMIC ASSISTANCE PROGRAMS.—

(1) AUTHORITY TO USE FUNDS FOR ECONOMIC ASSISTANCE.—

(A) IN GENERAL.—The President may use up to $32,000,000 of funds made available for economic assistance programs in order to provide economic assistance for Panama for fiscal year 1990 notwithstanding the provisions of law specified in subsection (c) of this section.

(B) DEOBLIGATION/REOBLIGATION AUTHORITY.—Funds may be made available for use under subparagraph (A) without regard to the limitation in section 515 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), that funds deobligated under that section are available for reobligation only for countries within the same general region for which the funds were originally obligated.

(C) ECONOMIC ASSISTANCE DEFINED.—As used in subparagraph (A), the term "economic assistance" means assistance under part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development and related economic assistance programs) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

(2) AUTHORITY TO USE CERTAIN GUARANTY AUTHORITIES.—The President—

(A) may use up to $10,000,000 of the guaranty authority available to carry out section 222 of the Foreign Assistance Act of 1961 (22 U.S.C. 2182; relating to the housing guaranty program), and

(B) may exercise the authorities of section 224 of that Act (22 U.S.C. 2184; relating to the trade credit insurance program for Central America),

with respect to Panama for fiscal year 1990 without regard to the provisions of law specified in subsection (c) of this section.

(b) LAW ENFORCEMENT ASSISTANCE.—

(1) ADMINISTRATION OF JUSTICE PROGRAM.—Up to $1,200,000 of the funds made available for Panama under subsection (a)(1) of this section may be used to provide—

(A) assistance authorized by subsection (b)(3) of section 534 of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c; relating to the administration of justice program); and

(B) training for the Public Forces and other civilian law enforcement forces of Panama in human rights, civil law, and investigative and civilian law enforcement techniques, notwithstanding section 660 of that Act (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces).

All assistance provided for Panama under this paragraph shall be counted toward the limitation contained in the second sentence of section 534(e) of that Act and toward the requirement of the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167).

(2) USE OF MILITARY ASSISTANCE PIPELINE FOR PANAMA TO PROCURE LAW ENFORCEMENT EQUIPMENT.—

(A) AUTHORITY.—Prior year military assistance funds that are obligated for Panama shall be available to finance the procurement of defense articles by law enforcement forces in Panama and related defense services (other than training) notwithstanding the provisions of law specified in subsection (c) of this section and section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance for law enforcement forces).

(B) LIMITATIONS ON LETHAL EQUIPMENT.—Not more than $500,000 of the funds made available under subparagraph (A) may be used for the procurement of lethal equipment. Only lethal equipment that is appropriate for standard civilian law enforcement requirements may be procured with such funds.

(C) PRIOR YEAR MILITARY ASSISTANCE FUNDS DEFINED.—As used in subparagraph (A), the term "prior year military assistance funds" means funds that were appropriated for a fiscal year prior to fiscal year 1990 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2311 and following; relating to the grant military assistance program) or section 23 of the Arms Export Control Act (22 U.S.C. 2763; relating to foreign military sales credits).

(3) CONGRESSIONAL NOTIFICATION REQUIREMENTS.—

President of U.S.

(A) IN GENERAL.—Except as provided in subparagraph (B) of this paragraph, the President shall notify the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogrammings under that section at least 15 days before—

(i) each obligation of funds under paragraph (1) of this subsection, and

(ii) each commitment to use funds under paragraph (2) of this subsection.

(B) EXCEPTION.—Such notification is not required with respect to—

(i) obligations under paragraph (1), and

(ii) commitments to use funds under paragraph (2) for the procurement of uniforms and communications equipment (and related defense services),

that occur prior to the end of the 15-day period beginning on the date of enactment of this Act to the extent that such obligations or commitments, as the case may be, were previously justified to the Congress.

(c) BROOKE-ALEXANDER AMENDMENT.—The provisions of law referred to in subsections (a)(1), (a)(2), and (b)(2)(A) of this section are section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)); and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), and the corresponding sections of foreign assistance appropriations Acts for prior fiscal years.

SEC. 102. RESUMPTION OF UNITED STATES ASSISTANCE: ANTINARCOTICS CERTIFICATION REQUIREMENTS.

Because the vital national interests of the United States so require and because the Endara Government of Panama has indicated its willingness, and is taking steps, to cooperate fully with the United States to control narcotics production, trafficking, and money laundering, the requirements of paragraphs (1) and (5) of section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)) shall cease to apply to Panama as of the date of enactment of this Act to the extent that those requirements became applicable to Panama by reason of the fact that the President did not make a certification with respect to Panama under paragraph (2) of that section at the time the international narcotics control strategy reports for 1988 and 1989 were submitted to the Congress pursuant to section 481(e) of that Act.

SEC. 103. RESUMPTION OF TRADE BENEFITS: ANTINARCOTICS CERTIFICATION REQUIREMENTS.

(a) RESUMPTION UPON DATE OF ENACTMENT.—Because the vital national interests of the United States so require and because the Endara Government of Panama has indicated its willingness, and is taking steps, to cooperate fully with the United States to control narcotics production, trafficking, and money laundering, the conditions specified in section 802(b)(4)(B) of the Narcotics Control Trade Act (19 U.S.C. 2492(b)(4)(B)) shall be deemed to be satisfied as of the date of enactment of this Act with respect to the action taken pursuant to section 802(a) of that Act that is described in subsection (b) of this section.

(b) SPECIFICATION OF BENEFITS.—The action referred to in subsection (a) is the denial to articles imported from Panama of preferential tariff treatment under the Generalized System of Preferences (19 U.S.C. 2461 and following) and the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 and following) pursuant to Presidential Proclamation 5779 of March 23, 1988.

SEC. 104. REPORT ON PANAMANIAN BANK SECRECY LAWS.

(a) CONGRESSIONAL CONCERNS.—The Congress commends the Endara Government for its cooperation and assistance in freezing Panamanian bank accounts believed to be implicated in narcotics-related and other illegal financial transactions. The Congress remains concerned, however, that the current status of bank secrecy

laws in Panama may lend itself to continued criminal abuse of those laws despite the best intentions of the Endara Government.

President of U.S.

(b) REPORT.—Therefore, no later than April 15, 1990, the President shall submit a detailed report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on specific actions being undertaken by the Government of Panama to modify the existing bank secrecy regime in order to facilitate detection and prosecution of criminal activities, including—

(1) the modification of bank secrecy laws by the Government of Panama;

(2) the conclusion of an exchange-of-information agreement between the United States and Panama; and

(3) agreements entered into by the Government of Panama or in the process of negotiation that are designed to deter illegal financial transactions and to facilitate early detection and prosecution of such illegal activities.

TITLE II—EASTERN EUROPE AND YUGOSLAVIA

SEC. 201. ASSISTANCE TO SUPPORT TRANSITION TO DEMOCRACY.

(a) AUTHORITY.—Notwithstanding any other provision of law, the President may use up to $10,000,000 of the funds appropriated for fiscal year 1990 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) to support the process of democratic transition in East European countries and Yugoslavia, in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—Funds provided under this section shall be made available only—

President of U.S.

(1) after the President has certified to the Congress that the country where funds are being expended has had, or is scheduled to have, open and free multiparty national or regional elections; and

(2) in such a manner so as to benefit substantially a full range of non-Communist political parties in the countries in which such funds are used.

Approved February 14, 1990.

LEGISLATIVE HISTORY—H.R. 3952 (S. 2073):

HOUSE REPORTS: No. 101-401, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 7, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Feb. 14, Presidential remarks and statement.

Public Law 101-244
101st Congress

Joint Resolution

To designate the period commencing February 18, 1990, and ending February 24, 1990, as "National Visiting Nurse Associations Week".

Feb. 14, 1990
[S.J. Res. 103]

Whereas Visiting Nurse Associations have served homebound Americans since 1885;
Whereas such Associations annually provide home care and support services to nearly 1,000,000 men, women, children, and infants;
Whereas such Associations serve 504 urban and rural communities in 47 States;
Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of an individual's ability to pay;
Whereas such Associations are voluntary in nature; independently owned and community-based;
Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;
Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;
Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;
Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;
Whereas such Associations provide a wide range of services, including (where appropriate) health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing services, and meals on wheels;
Whereas such Associations offer nursing care provided by registered nurses, homemaking, therapy, and social services by qualified specialists, and "friendly visiting services" by volunteers;
Whereas in each community served by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and
Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 18, 1990, and ending February 24, 1990, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved February 14, 1990.

LEGISLATIVE HISTORY—S.J. Res. 103:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 30, considered and passed Senate.
Feb. 6, considered and passed House.

Public Law 101-245
101st Congress

Joint Resolution

Designating February 11 through February 17, 1990, as "Vocational-Technical Education Week".

Feb. 14, 1990
[S.J. Res. 130]

Whereas vocational-technical education prepares the Nation's work force by providing students with basic academic and occupational skills;

Whereas vocational-technical education stresses the importance of positive work attitudes and values;

Whereas vocational-technical education builds the leadership skills of students by encouraging them to participate in student organizations;

Whereas vocational-technical education stimulates the growth and vitality of the Nation's businesses and industries by preparing workers for the majority of occupations forecasted to experience the largest and fastest growth in the next decade;

Whereas vocational-technical education encourages entrepreneurship among students through units of study and courses designed to prepare them to start and manage their own businesses;

Whereas a strong vocational-technical education program planned and carried out by trained vocational-technical educators is vital to the future economic development of the Nation and to the well-being of its citizens;

Whereas the Future Business Leaders of America, the Future Homemakers of America and Home Economics Related Occupations, the Future Farmers of America, the Distributive Education Clubs of America, the Vocational Industrial Clubs of America, the American Industrial Arts Student Association, the National Association of Trade and Technical Schools, the Health Occupation Students of America, the National Association of State Councils on Vocational Education, and the American Vocational Association have joined efforts to give added definition to vocational-technical education;

Whereas the planned theme for Vocational-Technical Education Week is "Vocational-Technical Education: It Works": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 11 through February 17, 1990, is designated as "Vocational-Technical Education Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate programs, ceremonies, and activities.

Approved February 14, 1990.

LEGISLATIVE HISTORY—S.J. Res. 130:

CONGRESSIONAL RECORD:
Vol. 135 (1989): June 9, considered and passed Senate.
Vol. 136 (1990): Jan. 31, considered and passed House.

Public Law 101-246
101st Congress

An Act

To authorize appropriations for fiscal years 1990 and 1991 for the Department of State, and for other purposes.

Feb. 16, 1990
[H.R. 3792]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.
22 USC 2651 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1990 and 1991".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

Sec. 101. Administration of foreign affairs.
Sec. 102. International organizations and conferences.
Sec. 103. International commissions.
Sec. 104. Migration and refugee assistance.
Sec. 105. Other programs.
Sec. 106. Reduction in earmarks if appropriations are less than authorizations.
Sec. 107. Availability of funds.
Sec. 108. Restriction on funds for negotiations with certain Palestine Liberation Organization representatives.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

Sec. 111. Authorization of certain operational activities.
Sec. 112. Working capital fund for Office of Foreign Missions.
Sec. 113. Authority of Diplomatic Security Service.
Sec. 114. Access to criminal records.
Sec. 115. Enhancement of evacuation capability and procedures regarding major disasters and incidents abroad affecting United States citizens.
Sec. 116. Acquisition of domestic property as interim step to acquiring property abroad.
Sec. 117. Debt collection.
Sec. 118. Munitions control registration fees.
Sec. 119. Fees and reimbursements.
Sec. 120. International Center.
Sec. 121. Closing of diplomatic and consular posts in Antigua and Barbuda.
Sec. 122. Submission of annual country reports on terrorism.
Sec. 123. Consular officer duties.
Sec. 124. Opening a United States consulate in Bratislava.
Sec. 125. Construction of United States embassy in Ottawa.
Sec. 126. Voluntary pilot program for increased participation by economically and socially disadvantaged enterprises in foreign relations activities.
Sec. 127. Report on reorganization of the Department of State.
Sec. 128. Prohibition on exclusion or deportation of nonimmigrant aliens on certain grounds.

PART C—DIPLOMATIC IMMUNITY, RECIPROCITY, AND SECURITY

Sec. 131. Exclusion of aliens previously involved in serious criminal offenses committed in the United States.
Sec. 132. Modification of preference for United States contractors in diplomatic construction program.
Sec. 133. Use of cleared personnel to ensure secure maintenance and repair of diplomatic facilities abroad.

Sec. 134. United States-Soviet reciprocity in matters relating to embassies.
Sec. 135. Construction security certification.
Sec. 136. Increased participation of United States contractors in local guard contracts abroad under the diplomatic security program.

PART D—PERSONNEL

Sec. 141. Authority to transfer retirement contributions for Foreign Service nationals to local plans.
Sec. 142. Disqualification for service on Foreign Service selection boards.
Sec. 143. Separation for cause; judicial review.
Sec. 144. Visiting scholars program for the Foreign Service Institute.
Sec. 145. Credit for service at unhealthful posts.
Sec. 146. Former spouses of United States Information Agency and Agency for International Development employees.
Sec. 147. Child care facilities at certain posts abroad.
Sec. 148. Travel, leave, and other benefits.
Sec. 149. Foreign Service internship program.
Sec. 150. Grants for institutions and students for training in international affairs.
Sec. 151. Danger pay allowance.
Sec. 152. Judicial review of certain Foreign Service grievances.
Sec. 153. Broadening the cultural, geographic, and ethnic representation of the Foreign Service and the Department of State.
Sec. 154. Report to Congress concerning polygraph program.
Sec. 155. Study of sexual harassment at the Department of State.
Sec. 156. Limitation on housing benefits.

PART E—FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE

Sec. 161. Expansion of model foreign language competence posts.
Sec. 162. Report on foreign language entrance requirement for the Foreign Service.
Sec. 163. Foreign Service promotion panels.
Sec. 164. Language proficiency in the Employee Evaluation Report.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY

Sec. 201. Authorization of appropriations.
Sec. 202. Dissemination of information within the United States.
Sec. 203. Distribution within the United States of United States Information Agency film entitled "Long Journey Home".
Sec. 204. The J. William Fulbright Foreign Scholarship Board.
Sec. 205. USIA satellite and television.
Sec. 206. United States Advisory Commission on Public Diplomacy.
Sec. 207. Foreign language services.
Sec. 208. Use of certain fees and payments.
Sec. 209. Debt collection.
Sec. 210. USIA network for dissemination of information concerning United States programs to combat narcotics and other controlled substances.
Sec. 211. Afghanistan country plan.
Sec. 212. General Accounting Office study of the National Endowment for Democracy.
Sec. 213. Report to Congress on the acquisition and use of public programming materials.

PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

Sec. 221. Authorization of appropriations.
Sec. 222. Citizen exchanges.
Sec. 223. Programs to promote international youth understanding.
Sec. 224. United States-Soviet exchanges.
Sec. 225. Scholarships for Tibetans and Burmese.
Sec. 226. Sense of Congress concerning the Humphrey Fellowship Program.

PART C—VOICE OF AMERICA

Sec. 231. Authorization of appropriations.
Sec. 232. Voice of America hiring practices.
Sec. 233. VOA public service announcements to promote child survival.
Sec. 234. Voice of America broadcasts to Tibet.
Sec. 235. Voice of America's Thailand radio facilities.
Sec. 236. Voice of America broadcasts to the People's Republic of China.
Sec. 237. Voice of America equipment abroad.

PART D—TELEVISION BROADCASTING TO CUBA

Sec. 241. Short title.
Sec. 242. Findings and purposes.
Sec. 243. Television broadcasting to Cuba.
Sec. 244. Television Marti Service of the United States Information Agency.
Sec. 245. Amendments to the Radio Broadcasting to Cuba Act.
Sec. 246. Assistance from other government agencies.
Sec. 247. Authorization of appropriations.
Sec. 248. Definitions.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

Sec. 301. Authorizations of appropriations.
Sec. 302. Requirement for authorization of appropriations.
Sec. 303. Procurement of legal services.
Sec. 304. Radio Free Afghanistan.

TITLE IV—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS

Sec. 401. United States membership in International Sugar Organization and International Tropical Timber Organization.
Sec. 402. Authorization for membership in the International Union for the Conservation of Nature and Natural Resources.
Sec. 403. Authorization of appropriations for membership in wildlife conventions.
Sec. 404. Authorization of appropriations for the Commission on the Ukraine Famine.
Sec. 405. Reform in budget decision-making procedures of the United Nations and its specialized agencies.
Sec. 406. Annual report to Congress on voting practices at the United Nations.
Sec. 407. Denial of visas to certain representatives to the United Nations.
Sec. 408. Policy on UNESCO.
Sec. 409. United States Commission on Improving the Effectiveness of the United Nations.
Sec. 410. Contribution to the regular budget of the International Committee of the Red Cross.
Sec. 411. Sense of Congress concerning an enhanced role for the International Court of Justice in resolution of international disputes.
Sec. 412. International Boundary and Water Commission.
Sec. 413. Review of multilateral and bilateral commissions.
Sec. 414. Membership of the Palestine Liberation Organization in United Nations agencies.
Sec. 415. Sense of Congress concerning the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA).
Sec. 416. United Nations sponsorship of a Middle East peace conference.
Sec. 417. Contributions for peacekeeping activities in southern Africa.

TITLE V—ASIA FOUNDATION

Sec. 501. Authorization of appropriations.

TITLE VI—INTER-AMERICAN FOUNDATION

Sec. 601. Authorization of appropriations.

TITLE VII—REFUGEE AND OTHER PROVISIONS

Sec. 701. United Nations High Commissioner for Refugees audit requirement.
Sec. 702. Tibetan and Burmese refugees.
Sec. 703. Report regarding Burmese students.
Sec. 704. The treatment of the Turkish minority by the Government of the People's Republic of Bulgaria and Bulgarian refugees in Turkey.

TITLE VIII—PLO COMMITMENTS COMPLIANCE ACT OF 1989

Sec. 801. Short title.
Sec. 802. Findings.
Sec. 803. Policy.
Sec. 804. Reporting requirement.

TITLE IX—PEOPLE'S REPUBLIC OF CHINA

Sec. 901. Findings and statements of policy.
Sec. 902. Suspension of certain programs and activities.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Increasing amount of rewards for combatting terrorism.
Sec. 1002. Assignment of commercial officers to the United States mission to the European Community.
Sec. 1003. Buy-American requirement.
Sec. 1004. Support for the Benjamin Franklin House museum and library.
Sec. 1005. Association of Democratic Nations.
Sec. 1006. Policy regarding human rights abuses in Cuba.
Sec. 1007. Concerning the submission to the Congress of agreements pertaining to the boundaries of the United States.
Sec. 1008. Report to Congress concerning Oceania.
Sec. 1009. Report concerning Mexico.
Sec. 1010. Establishment of a Latin American and Caribbean data base.

TITLE XI—BUDGET ACT COMPLIANCE

Sec. 1101. Compliance with Congressional Budget Act.

TITLE I—DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

SEC. 101. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) DIPLOMATIC AND ONGOING OPERATIONS.—The following amounts are authorized to be appropriated for the Department of State under "Administration of Foreign Affairs" to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law (other than the diplomatic security program):

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", of the Department of State $1,432,124,000 for the fiscal year 1990 and $1,583,598,000 for the fiscal year 1991, of which not less than $250,000 for each fiscal year shall be available only for use by the Bureau of International Communications and Information Policy to support international institutional development and other activities which promote international communications and information development.

(2) ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD.—For "Acquisition and Maintenance of Buildings Abroad", $218,900,000 for the fiscal year 1990 and $227,656,000 for the fiscal year 1991.

(3) REPRESENTATION ALLOWANCES.—For "Representation Allowances", $4,600,000 for the fiscal year 1990 and $5,000,000 for the fiscal year 1991.

(4) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For "Emergencies in the Diplomatic and Consular Service", $4,700,000 for the fiscal year 1990 and $4,888,000 for the fiscal year 1991.

(5) OFFICE OF THE INSPECTOR GENERAL.—For "Office of the Inspector General", $21,000,000 for the fiscal year 1990 and $21,840,000 for the fiscal year 1991.

(6) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For "Payment to the American Institute in Taiwan", $11,300,000 for the fiscal year 1990 and $11,752,000 for the fiscal year 1991.

(b) DIPLOMATIC SECURITY PROGRAM.—In addition to amounts authorized to be appropriated by subsection (a), the following amounts are authorized to be appropriated under "Administration of Foreign

Affairs" for the fiscal years 1990 and 1991 for the Department of State to carry out the diplomatic security program:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $309,365,000 for the fiscal year 1990 and $361,995,000 for the fiscal year 1991.

(2) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For "Protection of Foreign Missions and Officials", $9,100,000 for the fiscal year 1990 and $9,464,000 for the fiscal year 1991.

(c) ALLOCATION FOR OFFICE OF MUNITIONS CONTROL.—Of the amounts authorized to be appropriated by this section, there shall be available only for the Office of Munitions Control of the Department of State for each of the fiscal years 1990 and 1991 such amount as is necessary to maintain at least 53 full-time equivalent personnel and any associated costs.

SEC. 102. INTERNATIONAL ORGANIZATIONS AND CONFERENCES.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—

(1) There are authorized to be appropriated for "Contributions to International Organizations", $714,927,000 for the fiscal year 1990 and $817,000,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and for other purposes authorized by law.

(2) Of the amounts authorized to be appropriated by paragraph (1), $1,249,000 for the fiscal year 1990 shall be available only for the South Pacific Commission.

(b) CONTRIBUTIONS TO INTERNATIONAL PEACEKEEPING ACTIVITIES.—There are authorized to be appropriated for "Contributions to International Peacekeeping Activities", $111,184,000 for the fiscal year 1990 and $115,000,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and for other purposes authorized by law.

(c) INTERNATIONAL CONFERENCES AND CONTINGENCIES.—(1) There are authorized to be appropriated for "International Conferences and Contingencies", $6,340,000 for the fiscal year 1990 and $7,300,000 for the fiscal year 1991 for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international conferences and contingencies and for other purposes authorized by law.

(2) None of the funds authorized to be appropriated under paragraph (1), may be obligated or expended for any United States delegation to any meeting of the Conference on Security and Cooperation in Europe (CSCE) or meetings within the framework of the CSCE unless the United States delegation to any such meeting includes individuals representing the Commission on Security and Cooperation in Europe.

SEC. 103. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under "International Commissions" for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For "International Boundary and Water Commission, United States and Mexico"—

(A) for "Salaries and Expenses" for the fiscal year 1990, $10,460,000 and, for the fiscal year 1991, $10,878,000; and

(B) for "Construction" for the fiscal year 1990, $11,500,000 and, for the fiscal year 1991, $11,900,000.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For "International Boundary Commission, United States and Canada", $750,000 for the fiscal year 1990 and $780,000 for the fiscal year 1991.

(3) INTERNATIONAL JOINT COMMISSION.—For "International Joint Commission", $3,750,000 for the fiscal year 1990 and $3,900,000 for the fiscal year 1991.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For "International Fisheries Commissions", $11,000,000 for the fiscal year 1990 and $11,440,000 for the fiscal year 1991.

SEC. 104. MIGRATION AND REFUGEE ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Migration and Refugee Assistance"—

(1) for authorized activities, $415,000,000 for the fiscal year 1990 and $445,000,000 for the fiscal year 1991; and

(2) for each of the fiscal years 1990 and 1991 for assistance for refugees resettling in Israel, $25,000,000.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to paragraph (1) or (2) of subsection (a) are authorized to remain available until expended.

SEC. 105. OTHER PROGRAMS.

The following amounts are authorized to be appropriated for the Department of State to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States and for other purposes authorized by law:

(1) UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS.—For "United States Bilateral Science and Technology Agreements", $4,000,000 for the fiscal year 1990 and $4,160,000 for the fiscal year 1991.

(2) SOVIET-EAST EUROPEAN RESEARCH AND TRAINING.—For "Soviet-East European Research and Training", $4,600,000 for the fiscal year 1990 and $5,200,000 for the fiscal year 1991.

SEC. 106. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

The State Department Basic Authorities Act of 1956 is amended by inserting after section 10 (22 U.S.C. 2677) the following new section:

22 USC 2678.

"SEC. 11. REDUCTION IN EARMARKS IF APPROPRIATIONS ARE LESS THAN AUTHORIZATIONS.

"If the amount appropriated (or made available in the event of a sequestration order issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177; 2 U.S.C. 901 et seq.)) for a fiscal year pursuant to any authorization of appropriations provided by an Act other than an appropriation Act is less than the authorization amount and a provision of that Act provides that a specified amount of the authorization amount shall

be available only for a certain purpose, then the amount so specified shall be deemed to be reduced for that fiscal year to the amount which bears the same ratio to the specified amount as the amount appropriated (or made available in the event of sequestration) bears to the authorization amount.".

SEC. 107. AVAILABILITY OF FUNDS.

Section 24 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2696) is amended by adding after subsection (d) the following new subsection:

"(e) Amounts authorized to be appropriated for a fiscal year for the Department of State or to the Secretary of State are authorized to be obligated for twelve-month contracts which are to be performed in two fiscal years, if the total amount for such contracts is obligated in the earlier fiscal year.".

SEC. 108. RESTRICTION ON FUNDS FOR NEGOTIATIONS WITH CERTAIN PALESTINE LIBERATION ORGANIZATION REPRESENTATIVES. 22 USC 2151 note.

Section 1302(b) of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151), is amended by inserting before the period at the end thereof the following: ", except that no funds authorized to be appropriated by this or any other Act may be obligated or made available for the conduct of the current dialogue on the Middle East peace process with any representative of the Palestine Liberation Organization if the President knows and advises the Congress that that representative directly participated in the planning or execution of a particular terrorist activity which resulted in the death or kidnapping of a United States citizen".

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

SEC. 111. AUTHORIZATION OF CERTAIN OPERATIONAL ACTIVITIES.

Section 2 of the State Department Basic Authorities Act (22 U.S.C. 2669) is amended—

(1) in subsection (g), by striking out "and" at the end thereof;

(2) in subsection (h), by striking out the period at the end thereof and inserting in lieu thereof a semicolon; and

(3) by inserting after subsection (h) the following new subsections:

"(i) pay obligations assumed in Germany on or after June 5, 1945;

"(j) provide telecommunications services; and

"(k) provide maximum physical security in Government-owned and leased properties and vehicles abroad.".

SEC. 112. WORKING CAPITAL FUND FOR OFFICE OF FOREIGN MISSIONS.

Section 13(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2684(a)) is amended—

(1) in the first sentence—

(A) by inserting "and" before "(4)"; and

(B) by striking out "; and (5) services and supplies to carry out title II of this Act"; and

(2) by inserting after the first sentence the following new sentence: "Such fund shall also be available without fiscal year limitation to carry out the purposes of title II of this Act".

SEC. 113. AUTHORITY OF DIPLOMATIC SECURITY SERVICE.

Section 37(a) of the State Department Basic Authorities Act (22 U.S.C. 2709(a)) is amended—

(1) in paragraph (2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) make arrests without warrant for any offense concerning passport or visa issuance or use if the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and"; and

(2) in paragraph (5), by amending the text preceding subparagraph (A) to read as follows:

"(5) arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028 of title 18, United States Code—".

SEC. 114. ACCESS TO CRIMINAL RECORDS.

Section 9101 of title 5, United States Code, is amended—

(1) in subsections (b)(1), (b)(3)(A), (b)(3)(B), and (c) by inserting "the Department of State," after "Defense," each place it appears; and

(2) by adding at the end thereof the following new subsection:

"(e) The authority provided under this section with respect to the Department of State may be exercised only so long as the Department of State continues to extend to its employees and applicants for employment, at a minimum, those procedural safeguards provided for as part of the security clearance process that were made available, as of May 1, 1987, pursuant to section 163.4 of volume 3 of the Foreign Affairs Manual.".

Government organization and employees.

SEC. 115. ENHANCEMENT OF EVACUATION CAPABILITY AND PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS.

(a) RESPONSIBILITY OF SECRETARY OF STATE.—Section 102(b) of the Diplomatic Security Act of 1986 (22 U.S.C. 4801(b)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by redesignating paragraph (5) as paragraph (6);

(3) by inserting after paragraph (4) the following new paragraph:

"(5) to set forth the responsibility of the Secretary of State with respect to the safe and efficient evacuation of United States Government personnel, their dependents, and private United States citizens when their lives are endangered by war, civil unrest, or natural disaster; and".

(b) DEVELOPMENT AND IMPLEMENTATION OF POLICIES.—Section 103 of the Diplomatic Security Act of 1986 (22 U.S.C. 4802) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting after subsection (a) the following new subsection:

"(b) OVERSEAS EVACUATIONS.—The Secretary of State shall develop and implement policies and programs to provide for the safe and efficient evacuation of United States Government personnel, dependents, and private United States citizens when their lives are

endangered. Such policies shall include measures to identify high risk areas where evacuation may be necessary and, where appropriate, providing staff to United States Government missions abroad to assist in those evacuations. In carrying out these responsibilities, the Secretary shall—

"(1) develop a model contingency plan for evacuation of personnel, dependents, and United States citizens from foreign countries;

"(2) develop a mechanism whereby United States citizens can voluntarily request to be placed on a list in order to be contacted in the event of an evacuation, or which, in the event of an evacuation, can maintain information on the location of United States citizens in high risk areas submitted by their relatives;

"(3) assess the transportation and communications resources in the area being evacuated and determine the logistic support needed for the evacuation; and

"(4) develop a plan for coordinating communications between embassy staff, Department of State personnel, and families of United States citizens abroad regarding the whereabouts of those citizens.".

(c) PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD.—The State Department Basic Authorities Act of 1956 (22 U.S.C. 2269 et seq.) is amended—

(1) by redesignating section 43 as section 44; and

(2) by adding after section 42 the following new section: 22 USC 2651 note.

"SEC. 43. PROCEDURES REGARDING MAJOR DISASTERS AND INCIDENTS ABROAD AFFECTING UNITED STATES CITIZENS. 22 USC 2715.

"In the case of a major disaster or incident abroad which affects the health and safety of citizens of the United States residing or traveling abroad, the Secretary of State shall provide prompt and thorough notification of all appropriate information concerning such disaster or incident and its effect on United States citizens to the next-of-kin of such individuals. Notification shall be provided through the most expeditious means available, including telephone communications, and shall include timely written notice. The Secretary, through the appropriate offices of the Department of State, shall act as a clearinghouse for up-to-date information for the next-of-kin and shall provide other services and assistance. Assistance shall include liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as disposition of personal effects.". Aircraft and air carriers.

(d) DEVELOPMENT OF STANDARDIZED PROCEDURES.— 22 USC 2715 note.

(1) The Secretary of State shall enter into discussions with international air carriers and other appropriate entities to develop standardized procedures which will assist the Secretary in implementing the provisions of section 43 of the State Department Basic Authorities Act of 1956, as amended by subsection (c).

(2) The Secretary of State shall consider the feasibility of establishing a toll-free telephone number to facilitate inquiries by the next-of-kin in cases of major disasters or incidents abroad which affect the health and safety of citizens of the United States residing or traveling abroad.

(e) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress which sets forth plans for the implementation of the amendment made by subsection (c) and the provisions of subsection (d)(1), together with the Secretary's comments concerning the proposal under subsection (d)(2).

SEC. 116. ACQUISITION OF DOMESTIC PROPERTY AS INTERIM STEP TO ACQUIRING PROPERTY ABROAD.

(a) ADDITIONAL AUTHORITY FOR THE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS.—Section 203(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303(c)) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) dispose of property acquired in carrying out the purposes of this Act; and".

(b) PROVISION OF BENEFITS.—Section 204 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4304) is amended—

(1) in subsection (b)—

(A) by striking out "or" at the end of paragraph (3);

(B) by inserting "or" at the end of paragraph (4);

(C) by inserting after paragraph (4) the following new paragraph:

"(5) subject to subsection (f), to implement an exchange of property between the Government of the United States and the government of a foreign country, such property to be used by each government in the respective receiving state for, or in connection with, diplomatic or consular establishments,"; and

(2) by adding at the end thereof the following new subsection:

"(f)(1) Upon a determination in each specific case by the Secretary of State or the Secretary's designee that the purpose of the Foreign Service Buildings Act, 1926, can best be met on the basis of an in-kind exchange of properties with a foreign country pursuant to subsection (b)(5), the Secretary of State may transfer funds made available under the heading 'Acquisition and Maintenance of Buildings Abroad' (including funds held in the Foreign Service Buildings Fund) for such purpose to the Working Capital Fund, as provided in section 208(h)(1). Except for funds that may be provided by a foreign government for the purchase of property, only funds transferred under the preceding sentence may be used for the purposes of subsection (b)(5).

"(2) The Secretary of State may acquire property in the United States for the purposes of subsection (b)(5) only in the context of a specific reciprocal agreement with a specified foreign government. Property acquired by the United States in the foreign country through such an exchange shall benefit the United States at least to the same extent as the property acquired in the United States benefits the foreign government.

Regulations.

"(3) The Secretary of State shall prescribe regulations for the implementation of any in-kind exchange of properties pursuant to subsection (b)(5).

"(4) At least 15 days before entering into any reciprocal agreement for the exchange of property with another foreign government, the Secretary of State shall notify the Committee on Foreign Affairs and the Committee on Public Works and Transportation of the

House of Representatives and the Committee on Foreign Relations of the Senate.

"(5)(A) Proceeds from the disposition of properties acquired pursuant to this subsection shall be credited to the Foreign Service Buildings Fund (referred to in section 9 of the Foreign Service Buildings Act, 1926).

"(B) The authority to spend proceeds received under subparagraph (A) may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.".

(c) CONFORMING AMENDMENT.—Section 9(a)(1) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 300(a)(1)), is amended by inserting before the comma at the end thereof the following: "or in the United States pursuant to section 204(b)(5) of the State Department Basic Authorities Act of 1956".

SEC. 117. DEBT COLLECTION.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669 et seq.) is amended—

(1) by redesignating section 44 (as redesignated by section 115) as section 45; and 22 USC 2651 note.

(2) by inserting after section 43 (as redesignated by section 115) the following:

"SEC. 44. DEBT COLLECTION. 22 USC 2716.

"(a) CONTRACT AUTHORITY.—(1) Subject to the availability of appropriations, the Secretary of State shall enter into contracts for collection services to recover indebtedness owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 90 days.

"(2) Each contract entered into under this section shall provide that the person with whom the Secretary enters into such contract shall submit to the Secretary at least once every 180 days a status report on the success of the person in collecting debts. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent that such section is not inconsistent with this subsection. Reports.

"(b) DISCLOSURE OF DELINQUENT DEBT TO CREDIT REPORTING AGENCIES.—The Secretary of State shall, to the extent otherwise allowed by law, disclose to those credit reporting agencies to which the Secretary reports loan activity information concerning any debt of more than $100 owed by a person, other than a foreign country, to the United States which arises out of activities of the Department of State and is delinquent by more than 31 days.".

SEC. 118. MUNITIONS CONTROL REGISTRATION FEES.

The State Department Basic Authorities Act of 1956 (22 U.S.C. 2269 et seq.) is amended—

(1) by redesignating section 45 (as redesignated by section 117) as section 46; and 22 USC 2651 note.

(2) by inserting after section 44 (as redesignated by section 117) the following new section:

"SEC. 45. MUNITIONS CONTROL REGISTRATION FEES. 22 USC 2717.

"(a) MUNITIONS CONTROL REGISTRATION FEES.—For each fiscal year, $500,000 of the registration fees collected by the Office of Munitions Control of the Department of State shall be credited to a Department of State account, to be available without fiscal year

limitation. Fees credited to that account shall be available only for payment of expenses incurred for—

"(1) contract personnel to assist in the evaluation of munitions control license applications, reduction in processing time for license applications, and improved monitoring of compliance with the terms of licenses; and

"(2) the automation of munitions control functions and the processing of munitions control license applications, including the development, procurement, and utilization of computer equipment and related software.

"(b) BUDGET ACT COMPLIANCE.—The authority contained in subsection (a) shall be exercised to such extent and in such amounts as are to be provided in an appropriation Act.".

SEC. 119. FEES AND REIMBURSEMENTS.

The State Department Basic Authorities Act of 1956 is amended—

22 USC 2651 note.

(1) by redesignating section 46 (as redesignated by section 118) as section 47; and

(2) by inserting after section 45 (as redesignated by section 118) the following new section:

District of Columbia. 22 USC 2718.

"SEC. 46. FEES RECEIVED FOR USE OF BLAIR HOUSE.

"(a) USE OF FEES.—Notwithstanding any other provision of law, for the fiscal years 1990 and 1991, funds received by the Department of State in connection with use of Blair House (including reimbursements and surcharges for services and goods provided and fees for use of Blair House facilities) may be credited to the appropriate appropriation account of the Department of State which is currently available. Such funds shall be available only for maintenance and other expenses of Blair House.

"(b) COMPLIANCE WITH THE BUDGET ACT.—The authority of this section may be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.".

District of Columbia.

SEC. 120. INTERNATIONAL CENTER.

Section 4 of the International Center Act (Public Law 90-553, as amended) is amended by adding at the end thereof the following new subsection:

96 Stat. 101.

"(c)(1)(A) The Department of State is authorized to require the payment of a fee by other executive agencies of the United States for the lease or use of facilities located at the International Center which are used for the purposes of security and maintenance. Any payments received for lease or use of such facilities shall be credited to the account entitled 'International Center, Washington, District of Columbia' and shall be available, without fiscal year limitation, to cover the operation and maintenance expenses of such facilities, including administration, maintenance, utilities, repairs, and alterations.

"(B) The authority of subparagraph (A) shall be exercised only to such extent or in such amounts as are provided in advance in an appropriation Act.

"(2) For purposes of paragraph (1), the term 'Executive agencies' is used within the meaning of section 105 of title 5, United States Code.".

SEC. 121. CLOSING OF DIPLOMATIC AND CONSULAR POSTS IN ANTIGUA AND BARBUDA.

Section 123 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is repealed. 22 USC 2656 note.

SEC. 122. SUBMISSION OF ANNUAL COUNTRY REPORTS ON TERRORISM.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is amended by striking out "March 31" and inserting in lieu thereof "April 30". 22 USC 2656f.

SEC. 123. CONSULAR OFFICER DUTIES.

Section 31 of the Act of June 22, 1860 (12 Stat. 79; 22 U.S.C. 4192), relating to the solemnization of marriages, is repealed.

SEC. 124. OPENING A UNITED STATES CONSULATE IN BRATISLAVA.

(a) FINDINGS.—The Congress finds that—

(1) the State Department's "special consulate" concept offers a model for reopening a consulate in Bratislava, Czechoslovakia, at modest cost and with significant public diplomacy and political benefits;

(2) the United States still owns the old consulate building and in 1987-1988 spent about $500,000 to renovate parts of the building;

(3) the building has been productively used for trade and cultural events, but could be more effectively used by restoring it to its original purpose as the locus of official United States representation in the Slovak capital;

(4) Slovakia has been the source of the largest and most recent wave of Czechoslovak emigration to the United States and approximately three and one-half million Americans are of Slovak heritage;

(5) American tourists in Slovakia, many visiting relatives, often require consular assistance and this consular support could best be provided by a consulate in Bratislava;

(6) Slovaks account for more than half of all Czechoslovak tourist travel to the United States and this travel, which should be encouraged, could be expedited by a United States consulate in Bratislava;

(7) the Slovak underground Catholic Church is one of the most vibrant religious forces in Czechoslovakia and each year tens of thousands of Catholics make pilgrimages to Slovakia;

(8) American outreach efforts in Slovakia have been hindered by the absence of a constant and direct American presence in Bratislava; and

(9) with its Hungarian, Polish, and Ukrainian minorities, a United States consulate in Bratislava would provide important information on both regional and local developments.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the President should take all practicable steps to reopen the United States consulate in Bratislava, Czechoslovakia.

SEC. 125. CONSTRUCTION OF UNITED STATES EMBASSY IN OTTAWA. 22 USC 4852 note.

Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852(a)) shall not apply to the construction or renovation of the United States Embassy in Ottawa, Canada.

SEC. 126. VOLUNTARY PILOT PROGRAM FOR INCREASED PARTICIPATION BY ECONOMICALLY AND SOCIALLY DISADVANTAGED ENTERPRISES IN FOREIGN RELATIONS ACTIVITIES.

(a) ESTABLISHMENT OF PILOT PROGRAM FOR VOLUNTARY SET-ASIDES.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State (in consultation with the Director of the United States Information Agency) shall prepare and transmit a detailed plan for the establishment for the fiscal years 1990 and 1991 of a pilot program of voluntary set-asides for increased participation, to the extent practicable, by economically and socially disadvantaged enterprises in programs and activities of the Department of State and the United States Information Agency to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(b) CONTENTS OF PLAN.—Such plan shall include—

(1) a description of where such pilot program will be located in each such agency's organizational structure and what relevant lines of authority will be established;

(2) a listing of the specific responsibilities that will be assigned to the pilot program to enable it to increase, to the extent practicable and in a rational and effective manner, participation of economically and socially disadvantaged enterprises in activities funded by such agencies;

(3) a detailed design for a time-phase system for bringing about expanded participation, to the extent practicable, by economically and socially disadvantaged enterprises, including—

(A) specific recommendations for percentage allocations of contracts, subcontracts, procurement, grants, and research and development activities by such agencies to such enterprises; and

(B) particular consideration of the participation of economically and socially disadvantaged enterprises in activities in the areas of communications, telecommunications, and information systems;

(4) a proposed reporting system that will permit objective measuring of the degree of participation of economically and socially disadvantaged enterprises in comparison to the total activities funded by such agencies;

(5) a detailed projection of the administrative budgetary impact of the establishment of the pilot program; and

(6) a detailed set of objective criteria upon which determinations will be made as to the qualifications of economically and socially disadvantaged enterprises to receive contracts funded by such agencies.

(c) OBJECTIVES.—The objective of the pilot program shall be to increase the participation, to the extent practicable, of economically and socially disadvantaged business enterprises in contract, procurement, grant, and research and development activities funded by the agencies.

(d) RESPONSIBILITIES.—The pilot program shall—

(1) establish, maintain, and disseminate information to, and otherwise serve as an information clearinghouse for, economically and socially disadvantaged business enterprises regarding business opportunities funded by the agencies;

(2) design and conduct projects to encourage, promote, and assist economically and socially disadvantaged business enterprises to secure direct contracts, host country contracts, subcontracts, grants, and research and development contracts in order for such enterprises to participate in programs funded by the Department of State and the United States Information Agency;

(3) conduct market research, planning, economic and business analyses, and feasibility studies to identify business opportunities funded by such agencies;

(4) develop support mechanisms which will enable socially and economically disadvantaged enterprises to take advantage of business opportunities in programs funded by such agencies; and

(5) enter into such contracts (to such extent or in such amounts as are provided in advance in appropriation Acts), cooperative agreements, or other transactions as may be necessary in the conduct of its functions under this section. Contracts.

(e) RESPONSIBILITIES OF THE SECRETARY.—The Secretary of State (after consultation with the Director of the United States Information Agency) shall provide the pilot program with such relevant information, including procurement schedules, bids, and specifications with respect to programs funded by the Department of State and the United States Information Agency, as may be requested by the pilot program in connection with the performance of its functions under this section.

(f) DEFINITIONS.—

(1) For the purposes of this section, the term "economically and socially disadvantaged enterprise" means a business—

(A) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(B) whose management and daily business operations are controlled by one or more such individuals.

(2) Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(3) Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. In determining the degree of diminished credit and capital opportunities, the Administrator of the agency shall consider, but not be limited to, the assets and net worth of the socially disadvantaged individual.

(g) REPORTS TO CONGRESS.—For each of the fiscal years 1990 and 1991, the Secretary of State shall prepare and submit a report concerning the implementation of the pilot program under this section to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 127. REPORT ON REORGANIZATION OF THE DEPARTMENT OF STATE.

(a) FINDINGS.—The Congress makes the following findings:

(1) The Department of State is currently reviewing its organizational structure.

(2) Each of the geographical bureaus deals with a large number of countries and often a broad diversity of cultures, nationalities, and ethnic divisions.

(3) The territory covered by the Bureau of Near Eastern and South Asian Affairs, for example, stretches from the Atlantic coast of Morocco to the Bay of Bengal, includes twenty-five countries, more than a billion people, a number of regional disputes, and several cultural and linguistic divisions. The Bureau of Inter-American Affairs has within its jurisdiction thirty-three countries, including Mexico, the nations of the Caribbean Basin, and Central and South America.

(4) Among the most pressing international issues is the prospect for global warming. Over the next few years, American leadership at the international level will be crucial to worldwide efforts to ensure that global warming does not occur. The Department of State will need to consider appropriate steps to prepare for the leadership role of the United States.

(5) The United States continues to face a foreign intelligence threat, including the danger to United States diplomatic missions. The Department of State will need to improve its ability to detect and prevent intelligence penetration of United States missions abroad.

(b) REPORT.—Not later than February 3, 1990, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report assessing the advisability of reorganization of its regional and functional bureaus. The report shall include, but not be limited to, an assessment of the advisability of two bureaus to cover the present responsibilities of the Bureau of Inter-American Affairs, an Office of Diplomatic Security to be headed by an Under Secretary-level Director of Diplomatic Security, and an Office of Global Warming within the Bureau of Oceans, International Environmental and Scientific Affairs. The report shall also include an assessment of the advisability of transferring the jurisdictional responsibility for the Organization of American States from the Bureau of International Organizations to the Bureau of Inter-American Affairs, and of creating a high-level coordinator for United States policy toward Mexico. In the context of the report required by this subsection, it is the sense of the Congress that the Secretary of State should give serious consideration to the establishment of a Bureau of South Asian Affairs within the Department of State.

SEC. 128. PROHIBITION ON EXCLUSION OR DEPORTATION OF NONIMMIGRANT ALIENS ON CERTAIN GROUNDS.

(a) TECHNICAL CORRECTION.—Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended in subsection (a) by inserting "subject to restrictions or conditions on entry into the United States," after "United States," the first place it appears.

(b) REPEAL OF TERMINATION PROVISION.—Subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is repealed.

PART C—DIPLOMATIC IMMUNITY, RECIPROCITY, AND SECURITY

SEC. 131. EXCLUSION OF ALIENS PREVIOUSLY INVOLVED IN SERIOUS CRIMINAL OFFENSES COMMITTED IN THE UNITED STATES.

(a) GROUNDS OF EXCLUSION.—Section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) is amended—

(1) by striking out the period at the end of paragraph (33) and inserting in lieu thereof a semicolon; and

(2) by adding after paragraph (33) the following new paragraph:

"(34) Any alien who has committed in the United States any serious criminal offense, as defined in section 101(h), for whom immunity from criminal jurisdiction was exercised with respect to that offense, who as a consequence of the offense and the exercise of immunity has departed the United States, and who has not subsequently submitted fully to the jurisdiction of the court in the United States with jurisdiction over the offense.".

(b) DEFINITION.—Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended by adding at the end thereof the following new subsection:

"(h) For purposes of section 212(a)(34), the term 'serious criminal offense' means—

"(1) any felony;

"(2) any crime of violence, as defined in section 16 of title 18 of the United States Code; or

"(3) any crime of reckless driving or of driving while intoxicated or under the influence of alcohol or of prohibited substances if such crime involves personal injury to another.".

(c) WAIVER.—Section 212(h) of the Immigration and Nationality Act (8 U.S.C. 1182(h)) is amended by striking out "or (12)" and inserting in lieu thereof "(12), or (34)".

(d) REPORT CONCERNING COMPENSATION AND DIPLOMATIC IMMUNITY.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the appropriate committees of the Congress a report which considers the need and feasibility of establishing a program which makes compensation awards to United States citizens and permanent resident aliens in the United States for physical injury or financial loss which is the result of criminal activity reasonably believed to have been committed by individuals with immunity from criminal jurisdiction as a result of international obligations of the United States arising from multilateral agreements, bilateral agreements, or otherwise under international law.

(2) Together with such other information as the Secretary of State considers appropriate, the report shall include—

(A) a plan and feasibility analysis for the establishment of such a program, including—

(i) specific recommendations for funding, administration, and procedures and standards for compensation and payment of awards; and

(ii) particular consideration of the feasibility of an appeals mechanism;

(B) an assessment of—

(i) the feasibility of establishing a fund;

(ii) the availability of existing accounts; or

(iii) other sources of funding for the program; and

(C) consideration of other possible mechanisms for compensation or reimbursement, including direct compensation by the individual with immunity from criminal jurisdiction or by the sending country of that individual.

SEC. 132. MODIFICATION OF PREFERENCE FOR UNITED STATES CONTRACTORS IN DIPLOMATIC CONSTRUCTION PROGRAM.

Section 402(a) of the Diplomatic Security Act (22 U.S.C. 4852) is amended in paragraph (2) to read as follows:

"(2) bid on a diplomatic construction or design project which involves physical or technical security, unless the project—

"(A) involves nonsophisticated, low-level technology, as determined by the Assistant Secretary for Diplomatic Security;

"(B) is for the design or construction of a facility that does not process or store classified material; and

"(C) does not exceed a total value of $500,000.".

SEC. 133. USE OF CLEARED PERSONNEL TO ENSURE SECURE MAINTENANCE AND REPAIR OF DIPLOMATIC FACILITIES ABROAD.

(a) IN GENERAL.—Title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended by adding at the end thereof the following new section:

Classified information.
22 USC 4863.

"SEC. 415. USE OF CLEARED PERSONNEL TO ENSURE SECURE MAINTENANCE AND REPAIR OF DIPLOMATIC FACILITIES ABROAD.

"(a) POLICIES AND REGULATIONS.—The Secretary of State shall develop and implement policies and regulations to provide for the use of persons who have been granted an appropriate United States security clearance to ensure that the security of areas intended for the storage of classified materials or the conduct of classified activities in a United States diplomatic mission or consular post abroad is not compromised in the performance of maintenance and repair services in those areas.

"(b) STUDY AND REPORT.—The Secretary of State shall conduct a study of the feasibility and necessity of requiring that, in the case of certain United States diplomatic facilities abroad, no contractor shall be hired to perform maintenance or repair services in an area intended for the storage of classified materials or the conduct of classified activities unless such contractor has been granted an appropriate United States security clearance. Such study shall include, but is not limited to, United States facilities located in Cairo, New Delhi, Riyadh, and Tokyo. Not later than 180 days after the date of the enactment of this section, the Secretary of State shall report the results of such study to the Chairman of the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents for the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended by inserting after the item relating to section 414 the following new item:

"Sec. 415. Use of cleared personnel to ensure secure maintenance and repair of diplomatic facilities abroad.".

SEC. 134. UNITED STATES-SOVIET RECIPROCITY IN MATTERS RELATING TO EMBASSIES. 22 USC 4301 note.

(a) WAIVER OF RESTRICTION REGARDING SOVIET CONSULATES IN THE UNITED STATES.—(1) Notwithstanding section 153(b) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) and subject to paragraph (2), the Secretary of State may allow the Soviet mission to the United States to occupy, on the basis of reciprocity, a consulate facility in the United States.

(2) Paragraph (1) shall apply only after the Secretary of State certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the United States mission in Kiev is able to occupy an interim facility intended for the conduct of unclassified activities.

(b) REPORTS TO CONGRESS.—Not later than January 30, 1991, the Secretary of State shall develop and submit to the Congress a long-term plan for acquiring secure permanent facilities for the United States mission in Kiev, together with a budget proposal to implement such plan.

SEC. 135. CONSTRUCTION SECURITY CERTIFICATION.

Section 160(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is amended— 22 USC 4851 note.

(1) in the text preceding paragraph (1), by inserting "or approving occupancy of a similar facility for which construction or major renovation began before the effective date of this section," after "activities,";

(2) at the end of paragraph (1), by striking out "and";

(3) at the end of paragraph (2), by striking out the period and inserting in lieu thereof "; and"; and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) a plan has been put into place for the continued evaluation and maintenance of adequate security at such facility, which plan shall specify the physical security methods and technical countermeasures necessary to ensure secure operations, including any personnel requirements for such purposes.".

SEC. 136. INCREASED PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD UNDER THE DIPLOMATIC SECURITY PROGRAM. 22 USC 4864.

(a) FINDINGS.—The Congress makes the following findings:

(1) State Department policy concerning the advertising of security contracts at Foreign Service buildings has been inconsistent over the years. In many cases, diplomatic and consular posts abroad have been given the responsibility to determine the manner in which the private sector was notified concerning an invitation for bids or a request for proposals with respect to a local guard contract. Some United States foreign missions have only chosen to advertise locally the availability of a local security guard contract abroad.

(2) As a result, many United States security firms that provide local guard services abroad have been unaware that local guard contracts were available for bidding abroad and such firms have been disadvantaged as a result.

(3) Undoubtedly, United States security firms would be interested in bidding on more local guard contracts abroad if such firms knew of the opportunity to bid on such contracts.

(b) OBJECTIVE.—It is the objective of this section to improve the efficiency of the local guard programs abroad administered by the Bureau of Diplomatic Security of the Department of State and to ensure maximum competition for local guard contracts abroad concerning Foreign Service buildings.

(c) PARTICIPATION OF UNITED STATES CONTRACTORS IN LOCAL GUARD CONTRACTS ABROAD.—With respect to local guard contracts for a Foreign Service building which exceed $250,000 and are entered into after the date of enactment of this Act, the Secretary of State shall—

(1) establish procedures to ensure that all solicitations for such contracts are adequately advertised in the Commerce and Business Daily;

(2) establish procedures to ensure that appropriate measures are taken by diplomatic and consular post management to assure that United States persons and qualified United States joint venture persons are not disadvantaged during the solicitation and bid evaluation process due to their distance from the post; and

(3) give preference to United States persons and qualified United States joint venture persons where such persons are price competitive to the non-United States persons bidding on the contract, are properly licensed by the host government, and are otherwise qualified to carry out all the terms of the contract.

(d) DEFINITIONS.—For the purposes of this section—

(1) the term "United States person" means a person which—

(A) is incorporated or legally organized under the laws of the United States, including the laws of any State, locality, or the District of Columbia;

(B) has its principal place of business in the United States;

(C) has been incorporated or legally organized in the United States for more than 2 years before the issuance date of the invitation for bids or request for proposals with respect to the contract under subsection (c);

(D) has performed within the United States and overseas security services similar in complexity to the contract being bid;

(E) with respect to the contract under subsection (c), has achieved a total business volume equal to or greater than the value of the project being bid in 3 years of the 5-year period before the date specified in subparagraph (C);

(F)(i) employs United States citizens in at least 80 percent of its principal management positions in the United States; and

(ii) employs United States citizens in more than half of its permanent, full-time positions in the United States; and

(G) has the existing technical and financial resources in the United States to perform the contract;

(2) the term "qualified United States joint venture person" means a joint venture in which a United States person or persons owns at least 51 percent of the assets of the joint venture; and

(3) the term "Foreign Service building" means any building or grounds of the United States which is in a foreign country and is under the jurisdiction and control of the Secretary of State, including residences of United States personnel assigned overseas under the authority of the Ambassador.

(e) UNITED STATES MINORITY CONTRACTORS.—Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States minority small business contractors.

(f) UNITED STATES SMALL BUSINESS CONTRACTORS.—Not less than 10 percent of the amount of funds obligated for local guard contracts for Foreign Service buildings subject to subsection (c) shall be allocated to the extent practicable for contracts with United States small business contractors.

(g) LIMITATION OF SUBCONTRACTING.—With respect to local guard contracts subject to subsection (c), a prime contractor may not subcontract more than 50 percent of the total value of its contract for that project.

PART D—PERSONNEL

SEC. 141. AUTHORITY TO TRANSFER RETIREMENT CONTRIBUTIONS FOR FOREIGN SERVICE NATIONALS TO LOCAL PLANS.

(a) LOCAL COMPENSATION PLANS.—Section 408(a) of the Foreign Service Act of 1980 (22 U.S.C. 3968(a)) is amended by inserting at the end thereof the following new paragraph:

"(3)(A) Whenever a foreign national employee so elects during a one-year period established by the Secretary of State with respect to each post abroad, the Secretary of the Treasury (at the direction of the Secretary of State) shall transfer such employee's interest in the Civil Service Retirement and Disability Fund to a trust or other local retirement plan certified by the United States Government under a local compensation plan established for foreign national employees pursuant to this section (excluding local social security plans).

"(B) For purposes of subparagraph (A), the phrase "employee's interest in the Civil Service Retirement and Disability Fund" means the total contributions of the employee and the employing agency with respect to such employee, pursuant to sections 8331(8) and 8334(a)(1) of title 5, United States Code, respectively, plus interest at the rate provided in section 8334(e)(3) of such title.

"(C) Any such transfer shall void any annuity rights or entitlement to lump-sum credit under subchapter III of chapter 83 of such title.".

(b) TRANSFER AS CONSTITUTING FINAL PAYMENT.—Section 8345 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(l) Transfers of contributions and deposits authorized by section 408(a)(3) of the Foreign Service Act of 1980 shall be deemed to be a complete and final payment of benefits under this chapter.".

(c) The transfer of an employee's interest in the Civil Service Retirement and Disability Fund shall occur after October 1, 1990. 22 USC 3968 note.

SEC. 142. DISQUALIFICATION FOR SERVICE ON FOREIGN SERVICE SELECTION BOARDS.

Section 602 of the Foreign Service Act of 1980 (22 U.S.C. 4002) is amended by adding at the end thereof the following:

"(c) No public members appointed pursuant to this section may be, at the time of their appointment or during their appointment, an agent of a foreign principal (as defined by section 1(b) of the Foreign Agents Registration Act of 1938) or receive income from a government of a foreign country.".

SEC. 143. SEPARATION FOR CAUSE; JUDICIAL REVIEW.

(a) AVAILABILITY OF JUDICIAL REVIEW.—Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)(2)) is amended by adding at the end thereof the following new sentence: "Section 1110 shall apply to proceedings under this paragraph.".

(b) SEPARATION DUE TO CRIMINAL CONVICTION.—Section 610(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4010) is amended by inserting at the end of the first sentence before the period the following: "or, notwithstanding section 1106(8) of this Act, unless the member has been convicted of a crime related to the cause for separation, subject to reinstatement with back pay (for any period during which separation for cause had not been established by such a hearing) if such conviction is reversed on appeal".

SEC. 144. VISITING SCHOLARS PROGRAM FOR THE FOREIGN SERVICE INSTITUTE.

(a) IN GENERAL.—Chapter 7 of title I of the Foreign Service Act of 1980 is amended by adding at the end thereof the following new section:

Education.
22 USC 4027.

"SEC. 707. VISITING SCHOLARS PROGRAM.

"(a) ESTABLISHMENT OF PROGRAM.—There is authorized to be established at the Foreign Service Institute a program whereby selected scholars would participate fully in the educational and training activities of the Institute. This program may be referred to as the 'Visiting Scholars Program'.

"(b) SELECTION AND APPOINTMENT OF SCHOLARS.—

"(1) Scholars participating in the Visiting Scholars Program shall be selected by a five-member board described in subsection (c).

"(2) Each visiting scholar shall serve a term of one year, except that such term may be extended for one additional one-year period.

"(c) ESTABLISHMENT OF SELECTION BOARD.—The board referred to in subsection (b) shall be composed of the Director of the Foreign Service Institute, who shall serve as chairperson, and four other members appointed by the Secretary of State.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Foreign Service Act of 1980 is amended by inserting after the item relating to section 706 the following new item:

"Sec. 707. Visiting Scholars Program.".

SEC. 145. CREDIT FOR SERVICE AT UNHEALTHFUL POSTS.

(a) APPLICATION TO DETERMINATIONS OF ELIGIBILITY FOR FORMER SPOUSES.—Section 816(i)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4056(i)(2)) is amended to read as follows:

"(2) A former spouse shall not be considered as married to a participant for periods assumed to be creditable service under section 808(a) or section 809(e).".

(b) TERMINATION OF EXTRA CREDIT FOR SERVICE AT UNHEALTHFUL POSTS.—Section 817 of such Act (22 U.S.C. 4057) is amended by adding at the end thereof the following new sentences: "Such extra credit may not be used to determine the eligibility of a person to qualify as a former spouse under this subchapter, or to compute the pro rata share under section 804(10). No extra credit for service at unhealthful posts may be given under this section for any service as part of a tour of duty, or extension thereof, beginning on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991.".

SEC. 146. FORMER SPOUSES OF UNITED STATES INFORMATION AGENCY AND AGENCY FOR INTERNATIONAL DEVELOPMENT EMPLOYEES.

(a) RETIREMENT BENEFITS FOR CERTAIN FORMER SPOUSES.—Section 830 of the Foreign Service Act of 1980 (22 U.S.C. 4069a) (relating to retirement benefits for certain former spouses) is amended by adding at the end the following new subsection:

"(f) Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

"(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

"(2) the marriage included at least five years during which the employee was assigned overseas.".

(b) SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES.—Section 831 of the Foreign Service Act of 1980 (22 U.S.C. 4069b) (relating to survivor benefits for certain former spouses) is amended by adding at the end the following new subsection:

"(g) Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency of International Development, shall be entitled to benefits under this section if—

"(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

"(2) the marriage included at least five years during which the employee was assigned overseas.".

(c) HEALTH BENEFITS FOR CERTAIN FORMER SPOUSES.—Section 832 of the Foreign Service Act of 1980 (22 U.S.C. 4069c) (relating to health benefits for certain former spouses) is amended by adding at the end the following new subsection:

"(f) Any individual who on February 14, 1981, was an otherwise qualified former spouse pursuant to subsections (a), (b), and (c) of this section, but who was married to a former Foreign Service employee of the United States Information Agency or of the Agency for International Development, shall be entitled to benefits under this section if—

"(1) the former employee retired from the Civil Service Retirement and Disability System on a date before his employing agency could legally participate in the Foreign Service Retirement and Disability System; and

"(2) the marriage included at least five years during which the employee was assigned overseas.".

SEC. 147. CHILD CARE FACILITIES AT CERTAIN POSTS ABROAD.

22 USC 2703.

Section 31 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2684) is amended by adding at the end thereof the following new subsection:

"(e) For the fiscal years 1990 and 1991, the Secretary of State may make grants to child care facilities, to offset in part the cost of such care, in Moscow and at no more than five other posts abroad where the Secretary determines that due to extraordinary circumstances such facilities are necessary to the efficient operation of the post. In making that determination, the Secretary shall take into account factors such as—

"(1) whether Foreign Service spouses are encouraged to work at the post because—

"(A) the number of members of the post is subject to a ceiling imposed by the receiving country; and

"(B) Foreign Service nationals are not employed at the post; and

"(2) whether local child care is available.".

SEC. 148. TRAVEL, LEAVE, AND OTHER BENEFITS.

Section 901(9) of chapter 9 of the Foreign Service Act of 1980 (22 U.S.C. 4081(9)) is amended to read as follows:

"(9) roundtrip travel to or from an employee's post of assignment for purposes of family visitation in emergency situations involving personal hardship, except that payment for travel by family members to an employee's post of assignment may be authorized under this paragraph only where the family of the member is prevented by official order from residing at such post.".

Education.
Minorities.
Schools and colleges.

SEC. 149. FOREIGN SERVICE INTERNSHIP PROGRAM.

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 3, 1986, George Shultz, as Secretary of State, issued a statement containing 32 directives concerning equal opportunity in the Foreign Service. In his statement Secretary Shultz affirmed that it was of "fundamental importance that the Foreign Service truly represent the cultural and ethnic diversity of our own society", and indicated that the lack of such balanced representation was "a foreign policy problem which affects our image as a nation and as a leader of the free world". Secretary Shultz stated "that representation of women and minorities in the Foreign Service is still unacceptably low" and declared that he was "particularly concerned at the small number of Blacks in the Senior Foreign Service".

(2) The Secretary approved 32 recommendations included with the statement regarding recruitment, assignments, performance evaluations, and equal employment opportunity procedures within the Foreign Service. The recommendations of Secretary of State Shultz included—

(A) the targeting of historically Black American colleges and universities for special recruitment efforts, including specific information on how to apply for the Foreign Service examination, the testing process, and the mechanics of entry;

(B) independent review of the written exam for any cultural bias against African Americans;

(C) the inclusion of more African Americans on the board of examiners panels;

(D) investigation of methods to increase African American enrollment in university courses which might improve an applicant's chances of passing the written exam;

(E) development of new recruitment strategies;

(F) the assignment of more African American officers to senior (and visible) role model positions; and

(G) the recruitment of more African American officers into the political and economic cones of the Foreign Service.

(3) During the past 7 years, equal opportunity programs to attract women and minorities to the Foreign Service have been most successful in recruiting women and Asian Americans. Such programs have been less than successful in the recruitment of African Americans, Hispanic Americans, and Native Americans. In 1982, 188 new recruits were appointed to the Foreign Service, 48 were minority appointments constituting 26 percent. In 1985 the number of new appointments had increased 33 percent to 281, but minorities comprised only 10.3 percent of such appointments, a total of 29.

(4) For African Americans and Hispanics the trend of hiring in the Foreign Service is disconcerting. Nineteen African Americans were appointed to the Foreign Service in 1983, in 1987 only 10 African Americans were appointed. Hispanic appointments ranged from 12 in 1983 to 8 in 1985 to 15 in 1987. For Native Americans the Foreign Service statistics are ominous, 5 appointments in 1983, 1 in 1984, and no appointments in 1985, 1986, or 1987.

(5) The severe underrepresentation in the Foreign Service of individuals from certain cultural and ethnic groups is in large part due to the small pool of applicants from such groups. In each year from 1982 through 1987, minority applicants represented 14 to 17 percent of the total applicants and only 50 percent of such applicants took the written exam. In 1987, 1,769 minority applicants took the written exam, 191 passed, and 36 were actually appointed to the Foreign Service.

(6) The absolute and relative decline in the appointment to the Foreign Service of certain minorities who reflect the cultural and ethnic diversity of the United States dictates that more aggressive equal opportunity programs be established to facilitate the recruitment and appointment of such individuals.

(b) ESTABLISHMENT.—Title I of the Foreign Service Act of 1980 is amended by adding at the end the following new chapter:

"CHAPTER 12—FOREIGN SERVICE INTERNSHIP PROGRAM

"SEC. 1201. STATEMENT OF POLICY; OBJECTIVES. 22 USC 4141.

"(a) STATEMENT OF POLICY.—Consistent with the findings of section 101, the Foreign Service of the United States should be rep-

resentative of the American people. In order to facilitate and encourage the entry into the Foreign Service of individuals who meet the rigorous requirements of the Service, while ensuring a Foreign Service system which reflects the cultural and ethnic diversity of the United States, intensive recruitment efforts are mandated. This is particularly true for Native Americans, African Americans, and Hispanic Americans, where other affirmative action and equal opportunity efforts have not been successful in attracting the ablest applicants for entry into the Foreign Service. The United States remains committed to equal opportunity and to a Foreign Service system operated on the basis of merit principles.

"(b) OBJECTIVES.—The objective of this chapter is to strengthen and improve the Foreign Service of the United States through the establishment of a Foreign Service Internship Program. The program shall promote the Foreign Service as a viable and rewarding career opportunity for qualified individuals who reflect the cultural and ethnic diversity of the United States through a highly selective internship program for students enrolled in institutions of higher education.

22 USC 4141a.

"SEC. 1202. FOREIGN SERVICE INTERNSHIP PROGRAM.

"(a) ESTABLISHMENT.—In consultation with the heads of other agencies utilizing the Foreign Service system, the Secretary of State shall establish a Foreign Service internship program to carry out the objectives of this chapter in accordance with the provisions of this chapter.

"(b) FOREIGN SERVICE INTERNSHIP PROGRAM.—The program shall introduce interns to the practice of diplomacy and the unique rewards of the Foreign Service. The program shall consist of three successive summer internships of not less than eight weeks duration in each year to be completed over the course of not more than four years. Special emphasis shall be given to preparing the intern for the Foreign Service examination process. In each year not less than 10 interns shall enter the program.

"(c) ELIGIBILITY TO PARTICIPATE.—

"(1) Students enrolled full-time in institutions of higher education from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service and for whom equal opportunity and affirmative action recruitment efforts have not been successful in achieving balanced representation in appointments to the Foreign Service shall be eligible to be interns in programs under this chapter.

"(2) An intern shall have successfully completed not less than one academic year of study at an institution of higher education to be admitted to the program. In each succeeding year of participation an intern shall have completed an additional year of undergraduate or graduate study and shall maintain an exemplary record of academic achievement.

"(3) In selecting interns, the Secretary shall consider only the ablest students of superior ability selected on the basis of demonstrated achievement and exceptional promise whose academic records reflect the requisite standards of performance necessary for the Foreign Service.

"(d) SUMMER INTERNSHIPS.—

"(1) The primary focus of the first internship shall be the study of international relations, the functions of the Depart-

ment of State and other agencies which utilize the Foreign Service system, and the nature of the Foreign Service. The internship shall be held in Washington, District of Columbia, at the Department of State. As appropriate, the Secretary shall utilize the personnel and facilities of the Foreign Service Institute.

"(2) The second internship shall be, principally, an assignment to a specific bureau of the Department of State. Emphasis shall be on providing insight into the economic and political functional areas.

"(3) The third internship shall be an assignment to a United States mission abroad in the political or economic area.

"(4) The first and second internships may include a detail to the Congress.

"(e) ADMINISTRATION.—The Secretary of State shall determine the academic requirements, other selection criteria, and standards for successful completion of each internship period. The Secretary shall be responsible for the design, implementation, and operation of the program.

"(f) MENTORS.—Each intern shall be assigned a career Foreign Service officer as a mentor. The mentor shall act as a counselor and advisor throughout each summer internship and as a personal Foreign Service contact throughout the period of participation in the program. In the assignment of mentors, the Secretary shall give preference to Foreign Service officers who volunteer for such assignment and who may be role models for the interns.

"(g) COMPENSATION.—Interns shall be compensated at a rate determined by the Secretary which shall not be less than the compensation of comparable summer interns at the Department of State. As determined by the Secretary, for the purposes of travel, housing, health insurance, and other appropriate benefits, interns shall be considered employees of the Foreign Service during each internship period.

"(h) STUDY OF FOREIGN SERVICE EXAMINATION.—The Secretary of State shall study the feasibility of administering the Foreign Service examination in separate segments over several years. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report summarizing the findings of such a study to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. Reports.

"SEC. 1203. REPORT TO CONGRESS. 22 USC 4141b.

"Together with the annual submission required under section 105(d)(2), the Secretary of State shall submit a report to the Congress concerning the implementation of the program established under this chapter. Such report accompanied by such other information as the Secretary considers appropriate, shall include specific information concerning the completion rates of interns in the program, interns who took the Foreign Service examination, interns who passed the examination, former interns appointed to the Foreign Service, assignments of former interns, and the advancement of former interns through the Foreign Service System.

"SEC. 1204. AUTHORIZATION OF APPROPRIATIONS. 22 USC 4141c.

"Of the amounts authorized to be appropriated by section 101(a)(1) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, $100,000 for the fiscal year 1990 and $150,000 for the fiscal

year 1991 shall be available only to carry out this chapter. Sums appropriated for the purposes of this chapter are authorized to remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Foreign Service Act of 1980 is amended by adding after the items relating to chapter 11 the following:

"CHAPTER 12—FOREIGN SERVICE INTERNSHIP PROGRAM

"Sec. 1201. Statement of policy; objectives.
"Sec. 1202. Foreign service internship program.
"Sec. 1203. Report to Congress.
"Sec. 1204. Authorization of appropriations.".

(d) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit a report to the Congress concerning the implementation of the Foreign Service Internship Program.

SEC. 150. GRANTS FOR INSTITUTIONS AND STUDENTS FOR TRAINING IN INTERNATIONAL AFFAIRS.

The State Department Basic Authorities Act of 1956 (22 U.S.C. 2269 et seq.) is amended—

22 USC 2651 note.

(1) by redesignating section 47 (as redesignated by section 119) as section 48; and

(2) by inserting after section 46 (as redesignated by section 119) the following new section:

Schools and colleges.
22 USC 2719.

"SEC. 47. GRANTS FOR TRAINING AND EDUCATION IN INTERNATIONAL AFFAIRS.

"The Secretary of State may make grants to postsecondary educational institutions or students for the purpose of increasing the level of knowledge and awareness of and interest in employment with the Foreign Service, consistent with section 105 of the Foreign Service Act of 1980. To the extent possible, the Secretary shall give special emphasis to promoting such knowledge and awareness of, and interest in employment with, the Foreign Service among minority students. Any grants awarded shall be made pursuant to regulations to be established by the Secretary of State, which shall provide for a limit on the size of any specific grant and, regarding any grants to individuals, shall ensure that no grant recipient receives an amount of grants from one or more Federal programs which in the aggregate would exceed the cost of his or her education, and shall require satisfactory educational progress by grantees as a condition of eligibility for continued receipt of grant funds.".

Minorities.

Regulations.

5 USC 5928 note.

SEC. 151. DANGER PAY ALLOWANCE.

The Secretary of State may not deny a request by the Drug Enforcement Administration to authorize a danger pay allowance (under section 5928 of title 5, United States Code) for any employee of such agency.

22 USC 4140 note.

SEC. 152. JUDICIAL REVIEW OF CERTAIN FOREIGN SERVICE GRIEVANCES.

For the purposes of judicial review under section 1110 of the Foreign Service Act of 1980, any recommendation made by the Foreign Service Grievance Board with respect to the tenure of a grievant which was reviewed by the Secretary of State before the date of enactment of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, shall be considered to be a final action of the

Department of State, and any such recommendation shall be considered to have been made within the authority of the Foreign Service Grievance Board.

SEC. 153. BROADENING THE CULTURAL, GEOGRAPHIC, AND ETHNIC REPRESENTATION OF THE FOREIGN SERVICE AND THE DEPARTMENT OF STATE.

(a) FINDINGS.—The Congress finds that a primary role of the Department of State is to represent the interests of the American people in foreign affairs and, as such, should strive to represent and include, among its policy and professional employees, the great diversity of the American people. 22 USC 2656 note.

(b) RECRUITMENT.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of State shall provide the Congress with a plan to assure that equal efforts are undertaken in each of the regions of the United States to recruit policy and professional Government Service employees and Foreign Service officers for the Department of State and each of its affiliated agencies. 22 USC 2656 note.

(2) Not later than January 1, 1990, the Secretary of State shall implement the plan provided for in paragraph (1).

(c) REPORT BY THE INSPECTOR GENERAL.—Not later than 120 days after the date of enactment of this Act, the Office of Inspector General of the Department of State shall submit to the Congress a report documenting, with respect to geographic distribution, race, ethnicity, gender and handicapping conditions, the composition of the workforce of the policy and professional Government Service employees and Foreign Service officers of the Department and each of its affiliated agencies. The report shall include—

(1) a breakdown of current policy and professional Government Service employees and Foreign Service officers of the Department and each of its affiliated agencies by age, race, gender, undergraduate institution, graduate institution, and place of birth;

(2) a breakdown by age, race, gender, ethnic background, undergraduate institution, graduate institution, and place of birth of those persons who during 1988 passed the written portion of the Foreign Service examination but failed the interview portion; and

(3) a breakdown by age, race, gender, ethnic background, undergraduate institution, graduate institution, and place of birth of those persons who during 1989 passed the Foreign Service examination.

(d) PROHIBITION ON DISCRIMINATION BASED ON GEOGRAPHIC OR EDUCATIONAL AFFILIATION.—Section 105(b)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3905(b)(1)) is amended by inserting "geographic or educational affiliation within the United States," after "marital status,".

(e) TASK FORCE AND REPORT ON HISPANIC RECRUITMENT.—The Secretary of State shall appoint a task force comprised of high-ranking officials to conduct a study and make recommendations concerning improvements in the recruitment and promotion of Hispanic Americans at the Department of State and within the Foreign Service. Not later than one year after the date of the enactment of this Act, the task force shall submit a report of the findings of such study to the Secretary of State and the appropriate committees of the Congress.

(f) REPORT TO CONGRESS ON STATUS OF UNDERREPRESENTED GROUPS AT THE DEPARTMENT OF STATE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning efforts of the Department of State to improve the percentage of individuals who are at the assistant secretary and head of bureau level at the Department of State from groups which are underrepresented in the Foreign Service in terms of the cultural and ethnic diversity of the Foreign Service.

Contracts.
22 USC 3941 note.

(g) STUDY OF FOREIGN SERVICE EXAMINATION.—The Secretary of State shall enter into a contract with a private organization for a comprehensive review and evaluation of the Foreign Service examination. Such review and evaluation shall—

(1) identify any cultural, racial, ethnic, and sexual bias;

(2) evaluate the ability of the examination to measure an individual's aptitude for and potential in the Foreign Service;

(3) consider the relevance of the Foreign Service examination to the work of a Foreign Service officer;

(4) make recommendations for the removal of any element of bias in the examination; and

(5) make recommendations for improvements to achieve an examination free of any bias.

Reports.

Not more than 18 months after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Congress which contains the findings of such review and evaluation, together with the comments of the Secretary and measures which the Secretary has initiated to respond to any adverse findings of such review. Such report shall take into consideration the current efforts by the Department of State to review its Foreign Service examination.

Education.
22 USC 2665a.

(h) FOREIGN SERVICE FELLOWSHIPS.—The Secretary of State is authorized to establish a Foreign Service fellowship program at the Department of State. The Foreign Service fellowship program shall provide a fellowship, for not less than 4 months, for academics in the area of international affairs who are members of the faculty of institutions of higher education. Such program shall give priority consideration in the award of fellowships to individuals teaching in programs in international affairs which serve significant numbers of students who are from cultural and ethnic groups which are underrepresented in the Foreign Service.

SEC. 154. REPORT TO CONGRESS CONCERNING POLYGRAPH PROGRAM.

(a) REPORT TO CONGRESS.—Not later than January 31, of each of the years 1990 and 1991, the Secretary of State shall prepare and submit an annual report on the polygraph program of the Department of State to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

(b) CONTENTS OF REPORT.—The report shall provide an assessment of the implementation of the polygraph program during the preceding fiscal year. Together with such other information and comments as the Secretary considers appropriate, the report shall include the following:

(1) Data on the number of lie-detector tests administered.

(2) A description of the purposes and results of such tests.

(3) A description of the criteria used in the selection of programs and individuals for administration of lie-detector tests.

(4) The number of individuals who refused to submit to the administration of such tests.

(5) The number of lie detector tests administered in which a specific incident was not under investigation.

(6) A description of the actions taken when an individual fails or refuses the administration of such tests, including the denial of clearance or any other adverse action.

(7) A detailed accounting of cases in which more than two administrations of such tests were necessary to resolve discrepancies.

(8) Any proposed changes in regulations for the Department of State polygraph program.

(c) DEFINITION.—For purposes of this section, the term "lie detector" shall have the meaning given such term under section 2 of the Employee Polygraph Protection Act of 1988.

SEC. 155. STUDY OF SEXUAL HARASSMENT AT THE DEPARTMENT OF STATE.

(a) FINDINGS.—The June 1988 report of the United States Merit Systems Protection Board entitled "Sexual Harassment in the Federal Government: An Update" determined that the Department of State (including the United States Information Agency) had the highest rate of incidence of sexual harassment of women of any agency of the Federal Government.

(b) STUDY.—Subject to the availability of appropriations, not later than 90 days after the date of the enactment of this Act, the Secretary of State (in consultation with the Director of the United States Information Agency) shall enter into a contract with a private organization with established expertise and demonstrated capabilities in personnel systems and problems for the purpose of conducting a study and preparing a report concerning sexual harassment at the Department of State and the United States Information Agency. Contracts.

(c) REPORT.—Together with such other information as is determined to be appropriate and informative, such report shall include—

(1) a determination of the reasons for the high rate of incidence of sexual harassment at such Federal agencies;

(2) an evaluation of the actions which have been proposed and implemented by such Federal agencies to respond to the findings of the Merit Systems Protection Board report;

(3) a proposal for further specific actions by each agency; and

(4) recommendations for such changes in administrative procedures, regulations, and legislation as may be considered necessary to address the problem of sexual harassment at the Department of State and the United States Information Agency.

(d) SUBMISSION OF REPORT TO THE CONGRESS.—Not later than one year after the date of the enactment of this Act, the Secretary of State shall submit the full and complete report of such study, together with such comments as the Secretary of State or the Director of the United States Information Agency consider appropriate, to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 156. LIMITATION ON HOUSING BENEFITS.

5 USC 5921 note.

(a) IN GENERAL.—The Secretary of State shall establish and implement an appropriate housing policy and space standards in consultation with all agencies with employees outside the United States who are under the authority of the chief of mission or with other agencies or employees who participate in the overseas housing program. Such policy may not provide housing or related benefits based solely on the representational status of the employee, except if such individual is the ambassador, deputy chief of mission, permanent charge, or the consul general when serving as the principal officer.

(b) WAIVER.—The Secretary of State may grant exceptions to the restriction on providing housing or related benefits on a representational basis under subsection (a) on a case-by-case basis where a documented need for such exception is established. The Secretary of State shall prepare a comprehensive list annually of all such exceptions granted under this subsection.

PART E—FOREIGN LANGUAGE COMPETENCE WITHIN THE FOREIGN SERVICE

22 USC 4171 note.

SEC. 161. EXPANSION OF MODEL FOREIGN LANGUAGE COMPETENCE POSTS.

(a) DESIGNATION OF POSTS.—In order to carry out the purposes of section 702 of the Foreign Service Act of 1980, and in light of the positive report issued on March 28, 1986, by the Department of State, as required by section 2207 of the Foreign Service Act of 1980, the Secretary of State shall designate as model foreign language competence posts a minimum of six Foreign Service posts, representing the Department of State's five geographic bureaus, in countries where English is not the common language. Such designation shall be made not later than February 1, 1990, and shall be implemented so that not later than October 1, 1991, in the case of non-hard language posts, and October 1, 1992, in the case of hard language posts, each Government employee permanently assigned to those posts shall possess an appropriate level of competence in the language common to the country where the post is located. The Secretary of State shall determine appropriate levels of language competence for employees assigned to those posts by reference to the nature of their functions and the standards employed by the Foreign Service Institute.

(b) "HARD LANGUAGE COUNTRY" POST TO BE DESIGNATED.—At least one of the posts designated under subsection (a) shall be in a "hard language" country, as identified in the report to the Under Secretary of State for Management of May 12, 1986, entitled "Hard Language Proficiency in the Foreign Service". Such post shall be in one of the countries where the official or principal language is Arabic, Chinese, Japanese, or Russian.

(c) TERMINATION DATE.—The posts designated under subsection (a) shall continue as model foreign language posts at least until September 30, 1993, in the case of non-hard language posts, and September 30, 1994, in the case of hard language posts. Not later than January 31, 1995, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the operation of such posts and the costs, advantages, and

Reports.

disadvantages associated with meeting the foreign language competence requirements of this section.

(d) EXEMPTION AUTHORITY.—The Secretary of State may authorize exceptions to the requirements of this section if—

(1) he determines that unanticipated exigencies so require; and

(2) he immediately reports such exceptions to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

(e) EXCLUDED POSTS.—The posts designated under subsection (a) may not include Dakar, Senegal, or Montevideo, Uruguay. The report required under subsection (c) shall include progress made in these posts in maintaining the high foreign language standards achieved under the initial pilot program.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 162. REPORT ON FOREIGN LANGUAGE ENTRANCE REQUIREMENT FOR THE FOREIGN SERVICE.

Not later than December 31, 1989, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs and the Committee on Post Office and Civil Service of the House of Representatives a report evaluating an entrance requirement for the Foreign Service of at least one world language at the General Professional Speaking Proficiency level, as defined by the Foreign Service Institute, or one nonworld language at the next lowest proficiency level. Such report shall also describe—

(1) the amount of time necessary to implement such a requirement;

(2) the use of bonus points on the Foreign Service candidate scoring system for candidates with foreign language ability; and

(3) the adjustments necessary to raise otherwise qualified candidates, especially including affirmative action applicants, to the levels required for entrance as evaluated in the report required by this section.

SEC. 163. FOREIGN SERVICE PROMOTION PANELS.

22 USC 4001 note.

It is the sense of the Congress that, to the greatest extent possible, Foreign Service promotion panels should—

(1) only promote candidates to the Senior Foreign Service who have demonstrated foreign language proficiency in at least one language at the General Professional Speaking Proficiency level, as defined by the Foreign Service Institute;

(2) strive for the objective stipulated in the Foreign Service Manual "to be able to use two foreign languages at a minimum professional level of proficiency of S-3/R-3, which is the general professional speaking proficiency level"; and

(3) have at least one person on each Foreign Service promotion panel who has attained at least the General Professional Speaking Proficiency level in one language level.

SEC. 164. LANGUAGE PROFICIENCY IN THE EMPLOYEE EVALUATION REPORT.

22 USC 4001 note.

(a) ASSESSMENT OF FOREIGN LANGUAGE COMPETENCE.—The Department of State and the Agency for International Development shall

revise the Employee Evaluation Report for Foreign Service officers, and the United States Information Agency shall revise the Officer Evaluation Report for its Foreign Service officers, to require in a separate entry, an assessment of the employee's effectiveness in using, in his or her work, a foreign language or languages tested at the general professional speaking proficiency level or above, in cases where the supervisor is capable of making such an assessment.

(b) PRECEDENCE IN PROMOTION.—The directors of personnel of the Department of State, the Agency for International Development, and the United States Information Agency shall instruct promotion panels to take account of language ability and, all matters being otherwise equal, to give precedence in promotions to officers who have achieved at least the General Professional Speaking Proficiency level in one or more foreign languages over officers who lack that level of proficiency.

TITLE II—UNITED STATES INFORMATIONAL, EDUCATIONAL, AND CULTURAL PROGRAMS

PART A—UNITED STATES INFORMATION AGENCY

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS OF APPROPRIATIONS.—The following amounts are authorized to be appropriated for the United States Information Agency (other than for the Voice of America) to carry out international information, educational, cultural, and exchange programs under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, and other purposes authorized by law:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $410,000,000 for the fiscal year 1990 and $432,640,000 for the fiscal year 1991.

(2) TELEVISION AND FILM SERVICE.—For "Television and Film Service", $31,000,000 for the fiscal year 1990 and $32,240,000 for the fiscal year 1991.

(3) NATIONAL ENDOWMENT FOR DEMOCRACY.—For "National Endowment for Democracy" $25,000,000 for the fiscal year 1990 and $25,000,000 for the fiscal year 1991.

(4) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For "Center for Cultural and Technical Interchange between East and West", $20,700,000 for the fiscal year 1990 and $26,000,000 for the fiscal year 1991.

(b) SEVILLE WORLD'S FAIR.—(1) Subject to paragraph (2), there are authorized to be appropriated to the United States Information Agency for fiscal year 1990 $7,300,000 for United States participation in the World's Fair in Seville, Spain.

(2) Funds made available under this title for any educational or cultural exchange program, Voice of America programming to China, or any overseas post of the United States Information Agency may not be transferred or otherwise made available for the purposes of paragraph (1).

SEC. 202. DISSEMINATION OF INFORMATION WITHIN THE UNITED STATES. Historic preservation.

Section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) is amended—

(1) by inserting "(a)" after "501."; and

(2) in the second sentence, by striking out "Any" and inserting in lieu thereof "Subject to subsection (b), any"; and

(3) by adding at the end thereof the following new subsection:

"(b)(1) The Director of the United States Information Agency shall make available to the Archivist of the United States, for domestic distribution, motion pictures, films, videotapes, and other material prepared for dissemination abroad 12 years after the initial dissemination of the material abroad or, in the case of such material not disseminated abroad, 12 years after the preparation of the material.

"(2) The Director of the United States Information Agency shall be reimbursed for any attendant expenses. Any reimbursement to the Director pursuant to this subsection shall be credited to the applicable appropriation of the United States Information Agency.

"(3) The Archivist shall be the official custodian of the material and shall issue necessary regulations to ensure that persons seeking its release in the United States have secured and paid for necessary United States rights and licenses and that all costs associated with the provision of the material by the Archivist shall be paid by the persons seeking its release. The Archivist may charge fees to recover such costs, in accordance with section 2116(c) of title 44, United States Code. Such fees shall be paid into, administered, and expended as part of the National Archives Trust Fund.". Regulations.

SEC. 203. DISTRIBUTION WITHIN THE UNITED STATES OF UNITED STATES INFORMATION AGENCY FILM ENTITLED "LONG JOURNEY HOME". Historic preservation.

Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461-1(a)) and the second sentence of section 501 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Long Journey Home"; and

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making that master copy available;

(B) deposit that film in the National Archives of the United States; and

(C) make copies of that film available for purchase and public viewing within the United States. Public information.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

SEC. 204. THE J. WILLIAM FULBRIGHT FOREIGN SCHOLARSHIP BOARD.

(a) AMENDMENTS TO THE MUTUAL EDUCATIONAL AND CULTURAL EXCHANGE ACT OF 1961.—(1) Section 106(a) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2456(a)(1)) is amended in paragraph (1), by striking out "Board of Foreign Scholarships" and inserting in lieu thereof "board of foreign scholarships

which shall be known as the 'J. William Fulbright Foreign Scholarship Board' ".

(2) Section 112 of such Act (22 U.S.C. 2460) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b)(1) All recipients of Fulbright Academic Exchange and Humphrey Fellowship awards shall have full academic and artistic freedom, including freedom to write, publish, and create. No award granted pursuant to this Act may be revoked or diminished on account of the political views expressed by the recipient or on account of any scholarly or artistic activity that would be subject to the protections of academic and artistic freedom normally observed in universities in the United States. The Board shall ensure that the academic and artistic freedoms of all persons receiving grants are protected.

"(2) The J. William Fulbright Foreign Scholarship Board shall formulate a policy on revocation of Fulbright grants which shall be made known to all grantees. Such policy shall fully protect the right to due process as well as the academic and artistic freedom of all grantees.".

22 USC 2456 note.

(b) CONTINUED SERVICE OF MEMBERS OF BOARD OF FOREIGN SCHOLARSHIPS.—Each member appointed to the Board of Foreign Scholarships before the date of the enactment of this Act shall continue to serve for the remainder of the term to which each such member was appointed.

22 USC 2456 note.

(c) REFERENCES IN LAW.—Any reference in any provision of law to the Board of Foreign Scholarships shall, on and after the date of enactment of this Act, be deemed to be a reference to the J. William Fulbright Foreign Scholarship Board.

SEC. 205. USIA SATELLITE AND TELEVISION.

(a) IN GENERAL.—Title V of the United States Information and Educational Exchange Act of 1948 is amended by adding at the end thereof the following new section:

22 USC 1464a.

"SEC. 505. USIA SATELLITE AND TELEVISION.

"(a) IN GENERAL.—The Director of the United States Information Agency is authorized to lease or otherwise acquire time on commercial or United States Government satellites for the purpose of transmitting materials and programs to posts and other users abroad.

"(b) BROADCAST PRINCIPLES.—The Congress finds that the long-term interests of the United States are served by communicating directly with the peoples of the world by television. To be effective, the United States Information Agency must win the attention and respect of viewers. These principles will therefore govern the Agency's television broadcasts (hereinafter in this section referred to as 'USIA-TV'):

"(1) USIA-TV will serve as a consistently reliable and authoritative source of news. USIA-TV news will be accurate and objective.

"(2) USIA-TV will represent the United States, not any single segment of American society and will, therefore, present a balanced and comprehensive projection of significant American thought and institutions.

"(3) USIA-TV will present the policies of the United States clearly and effectively and will also present responsible discussions and opinion on these policies.

"(c) PROGRAMS.—The Director of the United States Information Agency is authorized to produce, acquire, or broadcast television programs, via satellite, only if such programs—

"(1) are interactive, consisting of interviews among participants in different locales;

"(2) cover news, public affairs, or other current events;

"(3) cover official activities of government, Federal or State, including congressional proceedings and news briefings of any agency of the Executive branch; or

"(4) are of an artistic or scientific character or are otherwise representative of American culture.

"(d) COSTS.—When a comparable program produced by United States public or commercial broadcasters and producers is available at a cost which is equal to or less than the cost of production by USIA-TV, the Director of the United States Information Agency shall use such materials in preference to USIA-TV produced materials.

"(e) ALLOCATION OF FUNDS.—(1) Of the funds authorized to be appropriated to the United States Information Agency not more than $12,000,000 for the fiscal year 1990 and not more than $12,480,000 for the fiscal year 1991 may be obligated or expended for USIA-TV.

"(2) The United States Information Agency shall prepare and submit to the Congress quarterly reports which contain a detailed explanation of expenditures for USIA-TV during the fiscal years 1990 and 1991. Such reports shall contain specific justification and supporting information pertaining to all programs, particularly those described in subsection (c)(4), that were produced in-house by USIA-TV. Each such report shall include a statement by the Director of the United States Information Agency that, according to the best information available to the United States Information Agency, no comparable United States commercially-produced or public television program is available at a cost which is equal to or less than the cost of production by USIA-TV. Reports.

"(3) Of the funds authorized to be appropriated to the United States Information Agency, $1,500,000 for the fiscal year 1990 and $1,500,000 for the fiscal year 1991 shall be available only for the purchase or use of programs produced with grants from the Corporation for Public Broadcasting or produced by United States public broadcasters.".

(b) CONFORMING AMENDMENT.—Section 209 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is amended by striking out subsection (e). 101 Stat. 1374.

SEC. 206. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

(a) IN GENERAL.—Section 604 of the United States Information and Education Exchange Act of 1948 (22 U.S.C. 1469) is amended to read as follows:

"SEC. 604. UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY.

"(a) ESTABLISHMENT.—(1) There is established an advisory commission to be known as the United States Advisory Commission on Public Diplomacy.

President of U.S. "(2) The Commission shall consist of seven members appointed by the President, by and with the advice and consent of the Senate. The members of the Commission shall represent the public interest and shall be selected from a cross section of educational, communications, cultural, scientific, technical, public service, labor, business, and professional backgrounds. Not more than four members shall be from any one political party.

"(3) The term of each member shall be 3 years, except that of the original seven appointments, two shall be for a term of 1 year and two shall be for a term of 2 years.

"(4) Any member appointed to fill a vacancy occurring before the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of such term. Upon the expiration of a member's term of office, such member may continue to serve until a successor is appointed and qualified.

President of U.S. "(5) The President shall designate a member to chair the Commission.

"(b) STAFF.—The Commission shall have a staff director who shall be appointed by the chairperson of the Commission. Subject to such rules and regulations as may be adopted by the Commission, the chairperson of the Commission may—

"(1) appoint such additional personnel for the staff of the Commission as the chairperson considers necessary; and

"(2) procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay payable for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(c) DUTIES AND RESPONSIBILITIES.—(1) The Commission shall formulate and recommend to the Director of the United States Information Agency, the Secretary of State, and the President policies and programs to carry out the functions vested in the Director or the Agency, and shall appraise the effectiveness of policies and programs of the Agency.

Reports. "(2) The Commission shall submit to the Congress, the President, the Secretary of State, and the Director of the United States Information Agency annual reports on programs and activities carried out by the Agency, including appraisals, where feasible, as to the effectiveness of the several programs. The Commission shall also include in such reports such recommendations as shall have been made by the Commission to the Director for effectuating the purposes of the Agency, and the action taken to carry out such recommendations.

Reports. "(3) The Commission may also submit such other reports to the Congress as it considers appropriate, and shall make reports to the public in the United States and abroad to develop a better understanding of and support for the programs conducted by the Agency.

Reports. "(4) The Commission's reports to the Congress shall include assessments of the degree to which the scholarly integrity and nonpolitical character of the educational and cultural exchange activities vested

in the Director of the United States Information Agency have been maintained, and assessments of the attitudes of foreign scholars and governments regarding such activities.

"(d) LIMITATION ON AUTHORITY.—The Commission shall have no authority with respect to the J. William Fulbright Foreign Scholarship Board or the United States National Commission for UNESCO.".

(b) CONTINUED SERVICE OF MEMBERS OF COMMISSION.—Each member of the United States Advisory Commission on Public Diplomacy as in existence on the day before the effective date of section 604 of the United States Information and Educational Exchange Act of 1948 (as amended by section 213 of Public Law 100-204) shall continue to serve for the remainder of the term to which such member was appointed. 22 USC 1469 note.

SEC. 207. FOREIGN LANGUAGE SERVICES.

Section 804(1) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1474(1)) is amended by inserting "when job vacancies occur" after "available".

SEC. 208. USE OF CERTAIN FEES AND PAYMENTS.

Section 810 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1475e) is amended to read as follows:

"SEC. 810. USE OF CERTAIN FEES AND PAYMENTS.

"(a) Notwithstanding section 3302 of title 31, United States Code, or any other law or limitation of authority, fees received by or for the use of the United States Information Agency from or in connection with English-teaching and library services, and Agency-produced publications, and not to exceed $100,000 of payments from motion picture and television programs, produced or conducted by or on behalf of the Agency under the authority of this Act or the Mutual Educational and Cultural Exchange Act of 1961 is authorized to be credited each fiscal year to the appropriate appropriation of the United States Information Agency to such extent as may be provided in advance in an appropriation Act.".

SEC. 209. DEBT COLLECTION.

Title VIII of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1472 et seq.) is amended by adding at the end thereof the following:

"SEC. 811. DEBT COLLECTION. 22 USC 1475f.

"(a) CONTRACT AUTHORITY.—(1) Subject to the availability of appropriations, the Director of the United States Information Agency shall enter into contracts for collection services to recover indebtedness owed by a person, other than a foreign country, to the United States which arises out of activities of the United States Information Agency and is delinquent by more than 90 days.

"(2) Each contract entered into under this section shall provide that the person with whom the Director of the United States Information Agency enters into such contract shall submit to the Director at least once every 180 days a status report on the success of the person in collecting debts. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent that such section is not inconsistent with this subsection. Reports.

"(b) DISCLOSURE OF DELINQUENT DEBT TO CREDIT REPORTING AGENCIES.—The Director of the United States Information Agency shall, to the extent otherwise allowed by law, disclose to those credit reporting agencies to which the Director reports loan activity information concerning any debt of more than $100 owed by a person, other than a foreign country, to the United States which arises out of activities of the United States Information Agency and is delinquent by more than 31 days.".

22 USC 1461 note.

SEC. 210. USIA NETWORK FOR DISSEMINATION OF INFORMATION CONCERNING UNITED STATES PROGRAMS TO COMBAT NARCOTICS AND OTHER CONTROLLED SUBSTANCES.

The United States Information Agency shall establish and maintain an international narcotics information network. The network shall disseminate prompt, accurate, and comprehensive information to foreign governments concerning programs and activities of the United States Government—

(1) to eliminate the illicit production, trafficking, and abuse of narcotic and psychotropic drugs and other controlled substances within the United States; and

(2) to promote drug prevention and rehabilitation in the United States.

SEC. 211. AFGHANISTAN COUNTRY PLAN.

(a) MAINTENANCE OF PLAN.—The Director of the United States Information Agency shall maintain a comprehensive country plan for the Agency's activities with respect to Afghanistan, consistent with the plan submitted to the Congress for the fiscal year 1989.

(b) REPORT.—Not later than March 1, 1990, the Director of the United States Information Agency shall submit to the Congress a report describing the Afghanistan country plan and including a specific outline on how that country plan will be adapted for implementation inside a free Afghanistan.

SEC. 212. GENERAL ACCOUNTING OFFICE STUDY OF THE NATIONAL ENDOWMENT FOR DEMOCRACY.

(a) STUDY OF NED.—The Comptroller General of the United States shall conduct a study of the operations of the National Endowment for Democracy. Such study shall evaluate—

(1) the programs and operations of the National Endowment for Democracy;

(2) the effectiveness of the National Endowment for Democracy in fulfilling its goals; and

(3) the management structure of the National Endowment for Democracy, including—

(A) an assessment of the present composition of the board of directors; and

(B) the capability and effectiveness of the board in providing objective oversight of the programs and operations of the National Endowment for Democracy.

(b) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Comptroller General of the United States shall prepare and submit a report of the findings of such study to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 213. REPORT TO CONGRESS ON THE ACQUISITION AND USE OF PUBLIC PROGRAMMING MATERIALS.

Not later than 90 days after the date of enactment of this Act, the Director of the United States Information Agency shall provide to the chairman of the Foreign Relations Committee of the Senate and the Speaker of the House of Representatives a detailed report describing all programming material acquired by the United States Information Agency in the fiscal years 1988 and 1989 from public television and radio entities, including a description of how such program material was utilized by the United States Information Agency, in whole or in part, in original or edited form. Such report shall include a description of projected United States Information Agency use of programming material acquired for public television and radio entities through the fiscal year 1992.

PART B—BUREAU OF EDUCATIONAL AND CULTURAL AFFAIRS

SEC. 221. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the Bureau of Educational and Cultural Affairs to carry out the purposes of the Mutual Educational and Cultural Exchange Act of 1961 the following amounts:

(1) For "Salaries and Expenses", $43,323,000 for the fiscal year 1990 and $45,056,000 for the fiscal year 1991.

(2) For the Fulbright Academic Exchange Programs, $97,460,000 for the fiscal year 1990 and $101,358,000 for the fiscal year 1991.

(3) For the Hubert H. Humphrey Fellowship Program, $5,500,000 for the fiscal year 1990 and $5,720,000 for the fiscal year 1991.

(4) For the International Visitors Program, $41,817,000 for the fiscal year 1990 and $43,490,000 for the fiscal year 1991.

(5) For the Arts America Program, $6,400,000 for the fiscal year 1990 and $6,656,000 for the fiscal year 1991.

(b) ALLOCATION OF FUNDS.—Of the amounts authorized to be appropriated by subsection (a)(1), $150,000 for the fiscal year 1990 and $200,000 for the fiscal year 1991 shall be available only for the training at the University of Maine and in Washington, District of Columbia, of media personnel from developing French-speaking countries. The voice of America International Broadcast Training Center shall administer such training program. The Bureau of Educational and Cultural Exchanges shall provide to the center such assistance as may be necessary in the facilitation of such program.

SEC. 222. CITIZEN EXCHANGES.

(a) IN GENERAL.—Section 112 of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460) is amended by adding at the end thereof the following new subsection:

"(e) There is established in the Bureau of Educational and Cultural Affairs an Office of Citizen Exchanges. The Office shall support private not-for-profit organizations engaged in the exchange of persons between the United States and other countries.". Establishment.

22 USC 2460 note.

(b) TRANSFER OF FUNCTIONS.—There are hereby transferred to the Office of Citizen Exchanges on the date of enactment of this Act all functions carried out by the Office of Private Sector Programs on the day before such date.

SEC. 223. PROGRAMS TO PROMOTE INTERNATIONAL YOUTH UNDERSTANDING.

Section 112(a)(8) of the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2460(a)(8)) is amended by inserting after "degree" the following: "or through other programs designed to promote contact between the young peoples of the United States, the Soviet Union, and Eastern European countries".

SEC. 224. UNITED STATES-SOVIET EXCHANGES.

The Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.) is amended by adding at the end thereof the following new section:

President of U.S. International agreements. 22 USC 2461.

"SEC. 113. UNITED STATES-SOVIET EXCHANGES.—(a) The President is authorized to negotiate and implement an agreement with the Union of Soviet Socialist Republics under which repayments made by the Soviet Union on Lend-Lease debts to the United States would be used to finance the exchange of persons between the United States and the Soviet Union for educational, cultural, and artistic purposes. Exchanges authorized pursuant to this section shall be administered subject to the provisions of this Act. Part of the funds repaid to the United States shall be in convertible currency for the purpose of paying the expenses associated with study and other exchange activities by Soviet citizens in the United States.

"(b) Funds made available for the purposes of this section shall be available only to the extent and in the amounts provided for in an appropriation Act.".

SEC. 225. SCHOLARSHIPS FOR TIBETANS AND BURMESE.

(a) ALLOCATION OF SCHOLARSHIPS.—Of the funds authorized to be appropriated by section 221 for each of the fiscal years 1990 and 1991, not less than 30 scholarships shall be made available to Tibetan students and professionals who are outside Tibet, and not less than 15 scholarships shall be made available to Burmese students and professionals who are outside Burma.

(b) WAIVER.—Subsection (a) shall not apply to the extent that the Director of the United States Information Agency determines that there are not enough qualified students to fulfill such allocation requirement.

SEC. 226. SENSE OF CONGRESS CONCERNING THE HUMPHREY FELLOWSHIP PROGRAM.

It is the sense of the Congress that the United States Information Agency should review the Humphrey Fellowship Program and consider the feasibility of broadening the placement of fellows under such program to provide exposure to the processes of the United States Government, the Congress, and State and local governmental processes.

PART C—VOICE OF AMERICA

SEC. 231. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the United States Information Agency for the Voice of America for carrying out title V of the United States Information and Educational Exchange Act of 1948 and the Radio Broadcasting to Cuba Act the following amounts:

(1) SALARIES AND EXPENSES.—For "Salaries and Expenses", $170,024,000 for the fiscal year 1990 and $176,825,000 for the fiscal year 1991.

(2) ACQUISITION AND CONSTRUCTION OF RADIO FACILITIES.—For "Acquisition and Construction of Radio Facilities", $69,000,000 for the fiscal year 1990 and $122,000,000 for the fiscal year 1991.

(3) RADIO BROADCASTING TO CUBA.—For "Radio Broadcasting to Cuba", $12,700,000 for the fiscal year 1990 and $13,208,000 for the fiscal year 1991.

(4) VOA EUROPE.—For "VOA Europe", $3,000,000 for the fiscal year 1990 and $3,120,000 for the fiscal year 1991.

SEC. 232. VOICE OF AMERICA HIRING PRACTICES.

Title V of the United States Information and Educational Exchange Act of 1948 is further amended by adding at the end thereof the following new section:

"SEC. 506. VOICE OF AMERICA HIRING PRACTICES. 22 USC 1464b.

"(a) PROHIBITION.—After the date of enactment of this section, the Voice of America shall not select candidates for employment who must be or are preapproved for employment at the Voice of America by a foreign government or an entity controlled by a foreign government.

"(b) EXCEPTION.—The prohibition referred to in this section shall not apply to—

"(1) participants in the Voice of America's exchange programs; or

"(2) clerical, technical, or maintenance staff at Voice of America offices in foreign countries.

"(c) REPORT.—If the Director of the United States Information Agency determines that the prohibition under subsection (a) would require the termination of a specific Voice of America foreign language service, then, not less than 90 days before the Agency begins to recruit such candidates, the Director shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report concerning—

"(1) the number and location of speakers of the applicable foreign language who could be recruited by the Voice of America without violating this section; and

"(2) the efforts made by the Voice of America to recruit such individuals for employment.".

SEC. 233. VOA PUBLIC SERVICE ANNOUNCEMENTS TO PROMOTE CHILD SURVIVAL. 22 USC 1463 note.

The United States Information Agency shall establish and maintain through the Voice of America a system of public service announcements focusing on child survival techniques.

SEC. 234. VOICE OF AMERICA BROADCASTS TO TIBET.

(a) ESTABLISHMENT OF SERVICE.—Not later than 90 days after the date of enactment of this Act, the Director of the United States Information Agency shall establish through the Voice of America, a service to provide Voice of America Tibetan language programming to the people of Tibet.

(b) AMOUNT OF PROGRAMMING.—For each of the fiscal years 1990 and 1991, programming broadcasts to the people of Tibet pursuant to this section shall occur for not less than two hours each day.

(c) REPORT.—As soon as possible in the fiscal year 1990, the Director of the United States Information Agency shall submit to the Congress a comprehensive written report detailing the implementation of the programming provided for in this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available under subsection (e), there are authorized to be appropriated to the Voice of America for purposes of carrying out this section $1,000,000 for each of the fiscal years 1990 and 1991.

(e) TRANSFER AUTHORITY.—The Director of the United States Information Agency may transfer to Voice of America Tibet Service such amounts appropriated for the "Television and Film Service" for each of the fiscal years 1990 and 1991 as exceed the amounts authorized to be appropriated for each such fiscal year for such Service.

SEC. 235. VOICE OF AMERICA'S THAILAND RADIO FACILITIES.

The Director of the United States Information Agency may enter into a contract for the construction of the Voice of America's Thailand radio facilities for periods not in excess of 5 years or delegate such authority to the Corps of Engineers of the United States Department of the Army if there are sufficient funds to cover at least the Government's liability for payments for the fiscal year in which the contract is awarded plus the full amount of estimated cancellation costs.

SEC. 236. VOICE OF AMERICA BROADCASTS TO THE PEOPLE'S REPUBLIC OF CHINA.

For each of the fiscal years 1990 and 1991, the Voice of America shall provide not less than 12 hours of programming each day for the People's Republic of China.

SEC. 237. VOICE OF AMERICA EQUIPMENT ABROAD.

It is the sense of the Congress that the United States Information Agency and the Voice of America should take every step necessary to ensure that existing Voice of America equipment abroad is properly maintained and enhanced to prevent deterioration.

PART D—TELEVISION BROADCASTING TO CUBA

Television Broadcasting to Cuba Act. 22 USC 1465aa note.

SEC. 241. SHORT TITLE.

This part may be cited as the "Television Broadcasting to Cuba Act".

22 USC 1465aa.

SEC. 242. FINDINGS AND PURPOSES.

The Congress finds and declares that—

(1) it is the policy of the United States to support the right of the people of Cuba to seek, receive, and impart information and ideas through any media and regardless of frontiers, in accord-

ance with article 19 of the Universal Declaration of Human Rights;

(2) consonant with this policy, television broadcasting to Cuba may be effective in furthering the open communication of accurate information and ideas to the people of Cuba and, in particular, information about Cuba;

(3) television broadcasting to Cuba, operated in a manner not inconsistent with the broad foreign policy of the United States and in accordance with high professional standards, would be in the national interest;

(4) facilities broadcasting television programming to Cuba must be operated in a manner consistent with applicable regulations of the Federal Communications Commission, and must not affect the quality of domestic broadcast transmission or reception; and

(5) that the Voice of America already broadcasts to Cuba information that represents America, not any single segment of American society, and includes a balanced and comprehensive projection of significant American thought and institutions, but that there is a need for television broadcasts to Cuba which provide news, commentary, and other information about events in Cuba and elsewhere to promote the cause of freedom in Cuba.

SEC. 243. TELEVISION BROADCASTING TO CUBA. 22 USC 1465bb.

(a) TELEVISION BROADCASTING TO CUBA.—In order to carry out the purposes set forth in section 242 and notwithstanding the limitation of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461) with respect to the dissemination in the United States of information prepared for dissemination abroad to the extent such dissemination is inadvertent, the United States Information Agency (hereafter in this part referred to as the "Agency") shall provide for the open communication of information and ideas through the use of television broadcasting to Cuba. Television broadcasting to Cuba shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news.

(b) VOICE OF AMERICA STANDARDS.—Television broadcasting to Cuba under this part shall be in accordance with all Voice of America standards to ensure the broadcast of programs which are objective, accurate, balanced, and which present a variety of views.

(c) USIA TELEVISION MARTI.—Any program of United States Government television broadcasts to Cuba authorized by this section shall be designated "USIA Television Marti Program".

(d) FREQUENCY ASSIGNMENT.—

(1) Subject to the Communications Act of 1934, the Federal Communications Commission shall assign by order a suitable frequency to further the national interests expressed in this part, except that no such assignment shall result in objectionable interference with the broadcasts of any domestic licensee.

(2) No Federal branch or agency shall compel an incumbent domestic licensee to change its frequency in order to eliminate objectionable interference caused by broadcasting of the Service.

(3) For purposes of section 305 of the Communications Act of 1934, a television broadcast station established for purposes of this part shall be treated as a government station, but the Federal Communications Commission shall exercise the author-

ity of the President under such section to assign a frequency to such station.

(e) INTERFERENCE WITH DOMESTIC BROADCASTING.—

(1) Broadcasting by the Television Marti Service shall be conducted in accordance with such parameters as shall be prescribed by the Federal Communications Commission to preclude objectionable interference with the broadcasts of any domestic licensee. The Television Marti Service shall be governed by the same standards regarding objectionable interference as any domestic licensee. The Federal Communications Commission shall monitor the operations of television broadcasting to Cuba pursuant to subsection (f). If, on the basis of such monitoring or a complaint from any person, the Federal Communications Commission determines, in its discretion, that broadcasting by the Television Marti Service is causing objectionable interference with the transmission or reception of the broadcasts of a domestic licensee, the Federal Communications Commission shall direct the Television Marti Service to cease broadcasting and to eliminate the objectionable interference. Broadcasts by the Service shall not be resumed until the Federal Communications Commission finds that the objectionable interference has been eliminated and should not recur.

(2) The Federal Communications Commission shall take such actions as are necessary and appropriate to assist domestic licensees in overcoming the adverse effects of objectionable interference caused by broadcasting by the Television Marti Service. Such assistance may include the authorization of nondirectional increases in the effective radiated power of a domestic television station so that its coverage is equivalent to the maximum allowable for such facilities, to avoid any adverse effect on such stations of the broadcasts of the Television Marti Service.

(3) If the Federal Communications Commission directs the Television Marti Service to cease broadcasting pursuant to paragraph (1), the Commission shall, as soon as practicable, notify the appropriate committees of Congress of such action and the reasons therefor. The Federal Communications Commission shall continue to notify the appropriate committees of Congress of progress in eliminating the objectionable interference and shall assure that Congress is fully informed about the operation of the Television Marti Service.

Reports.

(f) MONITORING OF INTERFERENCE.—The Federal Communications Commission shall continually monitor and periodically report to the appropriate committees of the Congress interference to domestic broadcast licensees—

(1) from the operation of Cuban television and radio stations; and

(2) from the operations of the television broadcasting to Cuba.

(g) TASK FORCE.—It is the sense of the Congress that the President should establish a task force to analyze the level of interference from the operation of Cuban television and radio stations experienced by broadcasters in the United States and to seek a practical political and technical solution to this problem.

SEC. 244. TELEVISION MARTI SERVICE OF THE UNITED STATES INFORMATION AGENCY.

Establishment.
22 USC 1465cc.

(a) TELEVISION MARTI SERVICE.—The Director of the United States Information Agency shall establish within the Voice of America a Television Marti Service. The Service shall be responsible for all television broadcasts to Cuba authorized by this part. The Director of the United States Information Agency shall appoint a head of the Service who shall report directly to the Director of the Voice of America. The head of the Service shall employ such staff as the head of the Service may need to carry out the duties of the Service.

(b) USE OF EXISTING FACILITIES OF THE USIA.—To assure consistency of presentation and efficiency of operations in conducting the activities authorized under this part, the Television Marti Service shall make maximum feasible utilization of Agency facilities and management support, including Voice of America: Cuba Service, Voice of America, and the United States Information Agency Television Service.

(c) USIA AUTHORITY.—The Agency may carry out the purposes of this part by means of grants, leases, or contracts (subject to the availability of appropriations), or such other means as the Agency determines will be most effective.

SEC. 245. AMENDMENTS TO THE RADIO BROADCASTING TO CUBA ACT.

(a) ADVISORY BOARD FOR CUBA BROADCASTING.—Section 5 of the Radio Broadcasting to Cuba Act (22 U.S.C. 1465c) is amended—

(1) by amending the heading to read as follows: "ADVISORY BOARD FOR CUBA BROADCASTING";

(2) by amending subsections (a) and (b) to read as follows:

"(a) There is established within the Office of the President the Advisory Board for Cuba Broadcasting (hereafter in this Act referred to as the 'Board'). The Board shall consist of nine members, appointed by the President by and with the advice and consent of the Senate, of whom not more than five shall be members of the same political party. The President shall designate one member of the Board to serve as chairperson.

President of U.S.

"(b) The Board shall review the effectiveness of the activities carried out under this Act and the Television Broadcasting to Cuba Act and shall make recommendations to the President and the Director and Associate Director for Broadcasting of the United States Information Agency as it may consider necessary.";

(3) by amending subsection (d) to read as follows:

"(d) The head of the Cuba Service and the head of the Television Marti Service shall serve, ex officio, as members of the Board."; and

(4) in the last sentence of subsection (e) by striking out "The ex officio member" and inserting in lieu thereof "The ex officio members".

(b) REFERENCES.—A reference in any provision of law to the "Advisory Board for Radio Broadcasting to Cuba" shall be considered to be a reference to the "Advisory Board for Cuba Broadcasting".

22 USC 1465c note.

(c) CONTINUED SERVICE OF MEMBERS OF BOARD.—Each member of the Advisory Board for Radio Broadcasting to Cuba as in existence on the day before the effective date of the amendment made by subsection (a) shall continue to serve for the remainder of the term to which such member was appointed as a member of the Advisory Board for Cuba Broadcasting.

22 USC 1465c note.

22 USC 1465c note.

(d) STAFF DIRECTOR.—The Board shall have a staff director who shall be appointed by the Chairperson of the Advisory Board for Cuba Broadcasting.

22 USC 1465dd.

SEC. 246. ASSISTANCE FROM OTHER GOVERNMENT AGENCIES.

In order to assist the United States Information Agency in carrying out the provisions of this part, any agency or instrumentality of the United States may sell, loan, lease, or grant property (including interests therein) and may perform administrative and technical support and services at the request of the Agency.

22 USC 1465ee.

SEC. 247. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise made available under section 201 for such purposes, there are authorized to be appropriated to the United States Information Agency, $16,000,000 for the fiscal year 1990 and $16,000,000 for the fiscal year 1991 for television broadcasting to Cuba in accordance with the provisions of this part.

(b) LIMITATION.—

(1) Subject to paragraph (2), no funds authorized to be appropriated under subsection (a) may be obligated or expended unless the President determines and notifies the appropriate committees of Congress that the test of television broadcasting to Cuba (as authorized by title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459)) has demonstrated television broadcasting to Cuba is feasible and will not cause objectionable interference with the broadcasts of incumbent domestic licensees. The Federal Communications Commission shall furnish to the appropriate committees of Congress all interim and final reports and other appropriate documentation concerning objectionable interference from television broadcasting to Cuba to incumbent domestic licensees.

Reports.

President of U.S. Reports.

(2) Not less than 30 days before the President makes the determination under paragraph (1), the President shall submit a report to the appropriate committees of the Congress which includes the findings of the test of television broadcasting to Cuba. The period for the test of television broadcasting may be extended until—

(A) the date of the determination and notification by the President under paragraph (1), or

(B) 30 days,

whichever comes first.

22 USC 1465ff.

SEC. 248. DEFINITIONS.

As used in this part—

(1) the term "licensee" has the meaning provided in section 3(c) of the Communications Act of 1934;

(2) the term "incumbent domestic licensee" means a licensee as provided in section 3(c) of the Communications Act of 1934 that was broadcasting a television signal as of January 1, 1989;

(3) the term "objectionable interference" shall be applied in the same manner as such term is applied under regulations of the Federal Communications Commission to other domestic broadcasters; and

(4) the term "appropriate committees of Congress" includes the Committee on Foreign Affairs and the Committee on

Energy and Commerce of the House of Representatives and the Committee on Foreign Relations of the Senate.

TITLE III—BOARD FOR INTERNATIONAL BROADCASTING

SEC. 301. AUTHORIZATIONS OF APPROPRIATIONS.

(a) AMENDMENT TO BOARD FOR INTERNATIONAL BROADCASTING ACT OF 1973.—Subparagraph (A) of section 8(a)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877(a)(1)) is amended to read as follows:

"(A) $180,330,000 for the fiscal year 1990 and $187,543,000 for the fiscal year 1991, at April 21, 1989, exchange rates, and such additional amounts for each such fiscal year as may be necessary to offset adverse fluctuations in foreign currency exchange rates after such date; and".

(b) RADIO TRANSMITTER CONSTRUCTION AND MODERNIZATION.—There are authorized to be appropriated to the Board for International Broadcasting for radio transmitter construction and modernization $15,845,000 for the fiscal year 1990 and $12,000,000 for the fiscal year 1991. Amounts appropriated under this subsection are authorized to remain available until expended.

(c) BROADCASTING RELAY STATION IN ISRAEL.—

(1) There are authorized to be appropriated to the Board for International Broadcasting for the costs associated with construction of a relay station in Israel, $183,500,000 for the fiscal year 1990 and $23,500,000 for the fiscal year 1991. Amounts appropriated under this subsection are authorized to remain available until expended.

(2) To the extent not precluded by the international agreement with the host foreign country of June 18, 1987, and to the extent practicable, not less than 10 percent of the amounts which are authorized to be appropriated under paragraph (1), and which are available for contracts with United States contractors, shall be made available only for contracts and subcontracts with economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Development and Food Assistance Act of 1977).

SEC. 302. REQUIREMENT FOR AUTHORIZATION OF APPROPRIATIONS. 22 USC 2877a.

(a) LIMITATION ON OBLIGATION AND EXPENDITURE OF FUNDS.—Notwithstanding any other provision of law, for the fiscal year 1990 and for each subsequent fiscal year, any funds appropriated for the Board for International Broadcasting shall not be available for obligation or expenditure—

(1) unless such funds are appropriated pursuant to an authorization of appropriations; or

(2) in excess of the authorized level of appropriations.

(b) SUBSEQUENT AUTHORIZATION.—The limitation under subsection (a) shall not apply to the extent that an authorization of appropriations is enacted after such funds are appropriated.

(c) APPLICATION.—The provisions of this section—

(1) may not be superseded, except by a provision of law which specifically repeals, modifies, or supersedes the provisions of this section; and

(2) shall not apply to, or affect in any manner, permanent appropriations, trust funds, and other similar accounts which are authorized by law and administered by the Board for International Broadcasting.

SEC. 303. PROCUREMENT OF LEGAL SERVICES.

Section 26(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2698) is amended by striking out "International Communication Agency" and inserting in lieu thereof "United States Information Agency, the chairman of the Board for International Broadcasting,".

SEC. 304. RADIO FREE AFGHANISTAN.

Section 2(5) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2871(5)) is amended by striking out "(as long as it is under Soviet occupation)" and inserting in lieu thereof "(until the government in Kabul is replaced by a government achieved through a free act of self-determination)".

TITLE IV—INTERNATIONAL ORGANIZATIONS AND COMMISSIONS

SEC. 401. UNITED STATES MEMBERSHIP IN INTERNATIONAL SUGAR ORGANIZATION AND INTERNATIONAL TROPICAL TIMBER ORGANIZATION.

President of U.S.

(a) UNITED STATES MEMBERSHIP.—The President is authorized to maintain membership of the United States in the International Sugar Organization and the International Tropical Timber Organization.

(b) PAYMENT OF ASSESSED CONTRIBUTIONS.—For the fiscal year 1991 and for each fiscal year thereafter, the United States assessed contributions to such organizations may be paid from funds appropriated for "Contributions to International Organizations".

SEC. 402. AUTHORIZATION FOR MEMBERSHIP IN THE INTERNATIONAL UNION FOR THE CONSERVATION OF NATURE AND NATURAL RESOURCES.

President of U.S.

The President is authorized to maintain membership of the United States in the International Union for the Conservation of Nature and Natural Resources (IUCN).

SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR MEMBERSHIP IN WILDLIFE CONVENTIONS.

There are authorized to be appropriated to the President $1,511,000 for the fiscal year 1990 and $1,571,440 for the fiscal year 1991 in support of United States participation in the following international environmental organizations and conventions of which not more than—

(1) $650,000 for the fiscal year 1990 shall be available for dues and arrearages for United States contributions to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);

(2) $231,000 for the fiscal year 1990 shall be available for dues and arrearages for United States contributions to the International Tropical Timber Organization (ITTO);

(3) $450,000 for the fiscal year 1990 shall be available to support United States participation in the World Heritage Convention; and

(4) $180,000 for the fiscal year 1990 shall be available to support United States participation in the International Union for the Conservation of Nature and Natural Resources.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS FOR THE COMMISSION ON THE UKRAINE FAMINE.

There are authorized to be appropriated for the Commission on the Ukraine Famine $100,000 for the fiscal year 1990, which amount is authorized to remain available until expended.

SEC. 405. REFORM IN BUDGET DECISION-MAKING PROCEDURES OF THE UNITED NATIONS AND ITS SPECIALIZED AGENCIES.

22 USC 287e note.

(a) FINDINGS.—(1) The Congress finds that the United Nations and its specialized agencies have made progress in the formulation and implementation of budget reforms as called for by section 143 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93). Presidential determinations that were required by that and other laws confirm the progress that has been made in this respect.

(2) The Congress remains concerned about the need to make further progress to protect the independence of the international civil service working at the United Nations and urges the President to make vigorous efforts to this end.

(3) The Congress is specifically concerned with the practice of reserving certain professional staff slots in the United Nations Secretariat for nationals of certain member states, and urges the President to pursue vigorously a program of regular rotation in these staff positions among all member states of the United Nations.

(b) FINANCIAL RESPONSIBILITY IN BUDGET PROCEDURES.—To assure financial responsibility in preparation of the assessed budgets of the United Nations and its specialized agencies, it is the sense of the Congress that the President should continue vigorous efforts to ensure continued implementation by the United Nations and its specialized agencies of consensus-based decision-making procedures where applicable on budgetary matters which assure that sufficient attention is paid to the views of the United States and other member states who are major financial contributors to such assessed budgets.

(c) LIMITATION ON ASSESSED CONTRIBUTIONS.—

President of U.S. Reports.

(1) For assessed contributions authorized to be appropriated by section 102(a)(1) of this Act, the President shall withhold 20 percent of the funds appropriated for the United States assessed contribution to the United Nations or to any of its specialized agencies for any calendar year until the President determines and reports to the Congress that the United Nations or any such agency—

(A) has continued implementation of decision-making procedures on budgetary matters referred to in subsection (b); and

(B) in the case of the United Nations—

(i) is making further progress toward the elimination of the abuse of secondment in the United Nations Secretariat which undermines the independence of the international civil service; and

(ii) is implementing the 15 percent reduction in the staff of the United Nations Secretariat (recommendation 15 of the Group of High Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations (Group of 18)) and that such reduction is being equitably applied among the nationals on such staff.

(2) The President shall notify the Congress when each such determination is made. Each such notification shall include appropriate consultation between the President or his designated representative and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

22 USC 2414a.

SEC. 406. ANNUAL REPORT TO CONGRESS ON VOTING PRACTICES AT THE UNITED NATIONS.

(a) IN GENERAL.—Not later than March 31 of each year, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a full and complete annual report which assesses for the preceding calendar year, with respect to each foreign country member of the United Nations, the voting practices of the governments of such countries at the United Nations, and which evaluates General Assembly and Security Council actions and the responsiveness of those governments to United States policy on issues of special importance to the United States.

(b) INFORMATION ON VOTING PRACTICES IN THE UNITED NATIONS.—Such report shall include, with respect to voting practices and plenary actions in the United Nations during the preceding calendar year, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of—

(1) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which member countries supported United States policy objectives at the United Nations;

(2) an analysis and discussion, prepared in consultation with the Secretary of State, of actions taken by the United Nations by consensus;

(3) with respect to plenary votes of the United Nations General Assembly—

(A) a listing of all such votes on issues which directly affected important United States interests and on which the United States lobbied extensively and a brief description of the issues involved in each such vote;

(B) a listing of the votes described in subparagraph (A) which provides a comparison of the vote cast by each member country with the vote cast by the United States;

(C) a country-by-country listing of votes described in subparagraph (A); and

(D) a listing of votes described in subparagraph (A) displayed in terms of United Nations regional caucus groups;

(4) a listing of all plenary votes cast by member countries of the United Nations in the General Assembly which provides a comparison of the votes cast by each member country with the vote cast by the United States;

(5) an analysis and discussion, prepared in consultation with the Secretary of State, of the extent to which other members

supported United States policy objectives in the Security Council and a separate listing of all Security Council votes of each member country in comparison with the United States; and

(6) a side-by-side comparison of agreement on important and overall votes for each member country and the United States.

(c) FORMAT.—Information required pursuant to subsection (b)(3) shall also be submitted, together with an explanation of the statistical methodology, in a format identical to that contained in chapter II of the Report to Congress on Voting Practices in the United Nations, dated March 14, 1988.

(d) STATEMENT BY THE SECRETARY OF STATE.—Each report under subsection (a) shall contain a statement by the Secretary of State discussing the measures which have been taken to inform United States diplomatic missions of United Nations General Assembly and Security Council activities.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—The following provisions of law are repealed:

(1) The second undesignated paragraph of section 101(b)(1) of the Foreign Assistance and Related Programs Appropriations Act, 1984 (Public Law 98-151; 97 Stat. 967). 22 USC 2414a.

(2) Section 529 of the Foreign Assistance and Related Programs Appropriations Act, 1986, as enacted by Public Law 99-190 (99 Stat. 1307). 22 USC 2414a.

(3) Section 528 of the Foreign Assistance and Related Programs Appropriations Act, 1987, as enacted by Public Law 99-500 (100 Stat. 1783) and Public Law 99-591 (100 Stat. 3341). 22 USC 2414a.

(4) Section 528 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as enacted by Public Law 100-202 (101 Stat. 1329). 22 USC 2414a.

(5) Section 527 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, as enacted by Public Law 100-461. 22 USC 2414a.

SEC. 407. DENIAL OF VISAS TO CERTAIN REPRESENTATIVES TO THE UNITED NATIONS. 8 USC 1102 note.

(a) IN GENERAL.—The President shall use his authority, including the authorities contained in section 6 of the United Nations Headquarters Agreement Act (Public Law 80-357), to deny any individual's admission to the United States as a representative to the United Nations if the President determines that such individual has been found to have been engaged in espionage activities directed against the United States or its allies and may pose a threat to United States national security interests. President of U.S. Espionage.

(b) WAIVER.—The President may waive the provisions of subsection (a) if the President determines, and so notifies the Congress, that such a waiver is in the national security interests of the United States.

SEC. 408. POLICY ON UNESCO.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the United States withdrew from the United Nations Educational, Scientific, and Cultural Organization (UNESCO) on December 31, 1984, in response to grave and persistent problems in UNESCO under the then-Director General;

(2) chief among these problems was the assault on the free flow of information supported by that Director General and the

pervasive ideological conflict fomented by the alliance between totalitarian and developing nations;

(3) UNESCO has since acquired a new Director General, Federico Mayor, who has pledged his support for the free flow of information, the return of UNESCO to the principles enunciated in its Charter, and other needed changes in UNESCO policy;

(4) Soviet Foreign Minister Eduard Shevardnadze stated on October 11, 1988, that the Soviet Union was responsible for "the exaggerated ideological approach [that] undermined tolerance intrinsic to UNESCO," and stated that Soviet policy would improve in this regard;

(5) substantial progress remains to be made in implementing the reforms proposed by the new Director General and in determining the degree to which ideological conflict has actually declined; and

(6) when the United States withdrew from UNESCO, the policy of the United States was that at such time as satisfactory changes were achieved in UNESCO, the United States would act on reentry.

(b) POLICY.—It is the sense of the Congress that the Secretary of State should monitor closely the changes achieved in UNESCO and should work with United States allies and the UNESCO leadership to continue to promote the progress necessary to justify United States consideration of reentry into UNESCO.

(c) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report on the activities after December 31, 1984, of the United Nations Educational, Scientific, and Cultural Organization.

SEC. 409. UNITED STATES COMMISSION ON IMPROVING THE EFFECTIVENESS OF THE UNITED NATIONS.

22 USC 287 note.

Section 727 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is amended in subsection (b) by inserting "the greater of" after "than".

SEC. 410. CONTRIBUTION TO THE REGULAR BUDGET OF THE INTERNATIONAL COMMITTEE OF THE RED CROSS.

Notwithstanding section 742 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204), for each of the fiscal years 1990 and 1991, the Secretary of State shall not be required to make an annual contribution to the regular budget of the International Committee of the Red Cross of an amount which is greater than 10 percent of the 1989 regular budget of the International Committee of the Red Cross.

SEC. 411. SENSE OF CONGRESS CONCERNING AN ENHANCED ROLE FOR THE INTERNATIONAL COURT OF JUSTICE IN RESOLUTION OF INTERNATIONAL DISPUTES.

(a) FINDINGS.—The Congress makes the following findings:

(1) In 1945, the United States supported the establishment of the International Court of Justice (ICJ) to provide for the orderly resolution of disputes among nations under the rule of law.

(2) The United States, pursuant to Article 93 of the Charter of the United Nations, is also a party to the Statute of the Inter-

national Court of Justice which provides in Article 36(1) that the International Court of Justice will have jurisdiction over "all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force".

(3) In August 1946, the United States, pursuant to Senate advice and consent (61 Stat. 1218), voluntarily accepted the compulsory jurisdiction of the International Court of Justice in other international disputes under Article 36(2) of the Statute of the International Court of Justice, on certain conditions, and maintained such recognition for four decades from 1946 to 1986 when United States acceptance was terminated.

(4) The United States has utilized the International Court of Justice on numerous occasions to resolve disputes with other nations.

(5) In April 1984, the United States notified the Secretary General of the United Nations that the United States was suspending for two years its acceptance of the compulsory jurisdiction of the International Court of Justice in cases relating to Central America.

(6) In 1985, the United States announced it was terminating, in whole, United States acceptance (effective April 1, 1986) of the compulsory jurisdiction of the International Court of Justice.

(7) The Soviet Union, as a member of the United Nations, is also a party to the Statute of the International Court of Justice and is thus bound by Article 36(1).

(8) The Soviet Union, unlike the United States, has not since the inception of the International Court of Justice voluntarily accepted the compulsory jurisdiction of the ICJ under Article 36(2) or taken any other case voluntarily to the court.

(9) Soviet leader Mikhail Gorbachev, in his address to the United Nations in December of 1988 said: "We believe that the jurisdiction of the International Court of Justice at the Hague as regards the interpretation and implementation of agreements on human rights should be binding on all states.".

(10) The Legal Adviser of the State Department is holding discussions with Soviet officials and representatives of other permanent members of the United Nations Security Council and other states to determine whether and how the International Court of Justice might be used for the peaceful settlement of international disputes through procedures that assure fairness and the protection of legitimate national interests.

(b) SENSE OF CONGRESS.—The Congress commends and strongly supports efforts by the United States to broaden, where appropriate, the compulsory jurisdiction and enhance the effectiveness of the International Court of Justice.

SEC. 412. INTERNATIONAL BOUNDARY AND WATER COMMISSION. Flood control.

(a) AUTHORIZATION.—Title I of the Act of June 20, 1956 (70 Stat. 302; 22 U.S.C. 277d-12), is amended in the fourth undesignated paragraph under the heading "INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO"—

(1) by inserting "or sanitation" after "flood control"; and

(2) by inserting before the period at the end thereof the following: ", the Colorado or Tijuana Rivers, and for taking emergency actions to protect against health threatening sanita-

tion problems by repairing or replacing existing capital infrastructure along the United States-Mexico Boundary".

(b) RESTRICTIONS.—The Act of May 13, 1924, as amended (49 Stat. 660; 22 U.S.C. 277-277f), is amended—

(1) in section 3 (22 U.S.C. 277b) by—

(A) inserting "(1)" after "authorized";

(B) striking out "and (b)" and inserting in lieu thereof "(2)";

(C) inserting before the period at the end thereof the following: "; and (3) to carry out preliminary surveys, operations, and maintenance of the interceptor system constructed to intercept sewage flows from Tijuana from selected canyon areas"; and

(D) adding at the end thereof the following new subsections:

"(b) Expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions made with respect to that project in the first undesignated paragraph under the heading 'INTERNATIONAL OBLIGATIONS' contained in the Act of April 25, 1945 (59 Stat. 89).

"(c) The Anzalduas diversion dam shall not be operated for irrigation or water supply purposes in the United States unless suitable arrangements have been made with the prospective water users for repayment to the Government of the United States for such portions of the dam as shall have been allocated to such purposes by the Secretary of State."; and

(2) in section 2 (49 Stat. 660; 22 U.S.C. 277a) by striking out "and stabilization" and inserting in lieu thereof "stabilization, drainage of transboundary storm waters,".

SEC. 413. REVIEW OF MULTILATERAL AND BILATERAL COMMISSIONS.

Reports.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate which provides a review of United States participation in all multilateral and bilateral commissions for which appropriations are authorized to be made under the "International Commissions" account of the Department of State. Together with such comments and recommendations as the Secretary considers appropriate, such report shall include—

(1) a justification for United States participation in each multilateral or bilateral commission;

(2) an assessment of the effectiveness of each multilateral or bilateral commission in which the United States participates; and

(3) information concerning the cost of United States participation in each such commission.

22 USC 287e note.

SEC. 414. MEMBERSHIP OF THE PALESTINE LIBERATION ORGANIZATION IN UNITED NATIONS AGENCIES.

(a) PROHIBITION.—No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states.

(b) TRANSFER OR REPROGRAMMING.—Funds subject to the prohibition contained in subsection (a) which would be available for the

United Nations or any specialized agency thereof (but for that prohibition) are authorized to remain available until expended and may be reprogrammed or transferred to any other account of the Department of State or the Agency for International Development to carry out the general purposes for which such funds were authorized.

SEC. 415. SENSE OF CONGRESS CONCERNING THE UNITED NATIONS RELIEF AND WORKS AGENCY FOR PALESTINIAN REFUGEES IN THE NEAR EAST (UNRWA).

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) international burdensharing of the costs of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) is crucial to the survival of such organization;

(2) the Secretary of State should redouble the efforts of the Department of State to promote international burdensharing of the costs of UNRWA's operations; and

(3) regular and substantial contributions by the Arab states to the budget of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East would reflect the commitment of Arab states to a peaceful political settlement in the Middle East.

(b) REPORT TO CONGRESS.—The Secretary of State shall prepare and submit a report on progress being made to promote international burdensharing of the costs of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate.

SEC. 416. UNITED NATIONS SPONSORSHIP OF A MIDDLE EAST PEACE CONFERENCE.

(a) FINDINGS.—The Congress finds that—

(1) the General Assembly of the United Nations adopted Resolution No. 3379 on November 10, 1975, maintaining that Zionism constituted a form of racism;

(2) most of the proposals for an international peace conference regarding the Middle East have identified the United Nations as the sponsoring organization for such a conference;

(3) all international diplomatic participants in any potential Middle East peace conference must acknowledge the sovereignty of the State of Israel and the right of its citizens to live within secure and permanent boundaries;

(4) United Nations General Assembly Resolution No. 3379 of November 10, 1975, damages the credibility of the General Assembly as a forum for furthering the search for peace in the Middle East; and

(5) the United States does not favor an international conference on the Middle East at this time, and believes that the Israeli proposal for elections that was advanced in May 1989 is the best available vehicle for furthering the Middle East peace process.

(b) POLICY.—The Congress declares, therefore, that—

(1) the United States should use all appropriate means to obtain rescission by the United Nations General Assembly of Resolution No. 3379 and calls upon the General Assembly to do so; and

(2) so long as that resolution remains in effect, the General Assembly and all affiliated agencies of the United Nations constitute an inappropriate forum for the sponsorship of any international conference on the Arab-Israeli conflict.

Angola.
Cuba.
South Africa.

SEC. 417. CONTRIBUTIONS FOR PEACEKEEPING ACTIVITIES IN SOUTHERN AFRICA.

(a) ASSURANCES THAT ALL CUBAN TROOPS WILL BE WITHDRAWN.—The United States may not, after the date of enactment of this Act, expend any funds authorized to be appropriated by this Act for a contribution or any other assistance with respect to implementation of the Tripartite Agreement until the President certifies to the Congress that—

(1) the United States has received explicit and reliable assurances from each of the parties to the Bilateral Agreement that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date; and

(2) the Secretary General of the United Nations has assured the United States that it is his understanding that all Cuban troops will be withdrawn from Angola by July 1, 1991, and that no Cuban troops will remain in Angola after that date.

(b) CONTRIBUTIONS CONDITIONAL ON COMPLIANCE.—The United States may not expend any funds authorized to be appropriated by this Act for a contribution or any other assistance with respect to implementation of the Tripartite Agreement—

(1) if the Government of Cuba fails at any time to comply with any of its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops); or

(2) if any Cuban troops remain in Angola after July 1, 1991.

President of U.S.

(c) REPORTS TO CONGRESS, COMPLIANCE WITH OBLIGATIONS.—Not more than 15 days after each scheduled phase of the redeployment northward and withdrawal of Cuban troops pursuant to the Bilateral Agreement, the President shall submit to the appropriate congressional committees a report on whether each of the signatories of the Tripartite Agreement is complying with its obligations under the agreement. Whenever he has determined that a material breach of the Tripartite Agreement may have been committed by any of the signatories to that agreement, the President shall so report to the appropriate congressional committees.

(d) DISBURSEMENTS.—Of the amount authorized to be appropriated to be made available for contribution with respect to implementation of the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa signed at the United Nations on December 22, 1988 (hereinafter known as the Tripartite Agreement) 50 percent of the annual amount shall be available on October 1, 1989, and the remaining 50 percent on April 1, 1990, only if the President determines and certifies to the appropriate congressional committees as of each date that (1) each of the signatories to the Tripartite Agreement is in compliance with its obligations under the Agreement, (2) the Government of Cuba has complied with its obligations under Article 1 of the Bilateral Agreement (relating to the calendar for redeployment and withdrawal of Cuban troops), (3) the Cubans have not engaged in any offensive military actions against UNITA, including the use of chemical warfare, (4) the United Nations and its affiliated agencies have

terminated all funding and other support, in conformity with the United Nations impartiality package, to the South West Africa People's Organization (SWAPO), and (5) the United Nations Angola Verification Mission is demonstrating diligence, impartiality, and professionalism in verifying the departure of Cuban troops and the recording of any troop rotations.

(e) Funding of these activities by the United States may not be construed as constituting recognition of any government in Angola.

(f) For purposes of this section—

(1) the term "Bilateral Agreement" means the Agreement Between the Governments of the People's Republic of Angola and the Republic of Cuba for the Termination of the International Mission of the Cuban Military Contingent, signed at the United Nations on December 22, 1988;

(2) the term "Tripartite Agreement" means the Agreement Among the People's Republic of Angola, the Republic of Cuba, and the Republic of South Africa, signed at the United Nations on December 22, 1988; and

(3) the term "appropriate congressional committees" means the Committees on Appropriations, Foreign Affairs, and Permanent Select Committee on Intelligence of the House of Representatives, and the Committees on Appropriations, Foreign Relations, and the Select Committee on Intelligence of the Senate.

TITLE V—ASIA FOUNDATION

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

Section 404 of The Asia Foundation Act (22 U.S.C. 4403) is amended to read as follows:

"SEC. 404. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of State $13,900,000 for the fiscal year 1990 and $18,000,000 for the fiscal year 1991 for grants to The Asia Foundation pursuant to this title.

"(b) ALLOCATION OF FUNDS.—Of amounts authorized to be appropriated under subsection (a), $1,324,000 for the fiscal year 1990 and $1,324,000 for the fiscal year 1991 shall be available only for the expansion of programs and services (including the establishment of a field office) for Oceania, comprised of Polynesia, Micronesia, and Melanesia.".

TITLE VI—INTER-AMERICAN FOUNDATION

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 401 of the Inter-American Foundation Act (22 U.S.C. 290f) is amended in subsection (s)(2) by striking out the first sentence and inserting in lieu thereof "There are authorized to be appropriated $16,932,000 for the fiscal year 1990 and $25,000,000 for the fiscal year 1991 to carry out the purposes of this section.".

TITLE VII—REFUGEE AND OTHER PROVISIONS

SEC. 701. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES AUDIT REQUIREMENT.

Subsection (a) of section 8 of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2606) is amended to read as follows:

"(a) PROGRAM AUDITS.—Funds may not be available to the United Nations High Commissioner for Refugees (UNHCR) under this or any other Act unless provision is made for—

"(1) annual program audits to determine the use of UNHCR funds, including the use of such funds by implementing partners; and

"(2) such audits are made available through the Department of State for inspection by the Comptroller General of the United States.".

SEC. 702. TIBETAN AND BURMESE REFUGEES.

(a) TIBETAN REFUGEES.—Of the amounts authorized to be appropriated by section 104(a)(1) for the Department of State for "Migration and Refugee Assistance" $500,000 for the fiscal year 1990 and $500,000 for the fiscal year 1991 shall be available only for assistance for displaced Tibetans in India and Nepal. The Secretary of State shall determine the best means for providing such assistance.

(b) BURMESE REFUGEES.—Of the amounts authorized to be appropriated by section 104(a)(1) for the Department of State for "Migration and Refugee Assistance" $250,000 for the fiscal year 1990 and $250,000 for the fiscal year 1991 shall be available only for humanitarian assistance for displaced Burmese on both sides of the border between Thailand and Burma.

SEC. 703. REPORT REGARDING BURMESE STUDENTS.

Thailand.

(a) REPORTING REQUIREMENT.—Not later than 30 days after the date of enactment of this Act, the Secretary of State, in consultation with the Attorney General, shall submit to the Committee on Foreign Relations and the Committee on the Judiciary of the Senate and the Committee on Foreign Affairs and the Committee on the Judiciary of the House of Representatives a report on the immigration and refugee policy of the United States regarding Burmese pro-democracy protesters who have fled from the military government of Burma and are now located in border camps or inside Thailand. Specifically, the report shall include—

(1) a description of the number and location of such persons in border camps in Burma, inside Thailand, and in third countries;

(2) the number of visas, parole applications, applications for refugee status, and approvals for such persons by the United States and the feasibility of using parole or the need for creating statutory alternatives to parole to facilitate the entry of such persons;

(3) the immigration policy of Thailand and other countries from which such persons have sought immigration assistance;

(4) the involvement of international organizations, such as the United Nations High Commission for Refugees, in meeting the residency needs of such persons; and

(5) the involvement of the United States, other countries, and international organizations in meeting the humanitarian needs of such persons.

(b) RECOMMENDATIONS FOR LEGISLATIVE CHANGES.—The Secretary of State shall recommend in the report required by subsection (a) any policy or legislative changes he deems appropriate to meet the asylum, refugee, parole, or visa status needs of such persons.

(c) DEFINITION.—As used in this section, the term "pro-democracy protester" means any person who has fled from the current military regime of Burma since the outbreak of pro-democracy demonstrations in Burma in 1988.

SEC. 704. THE TREATMENT OF THE TURKISH MINORITY BY THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA AND BULGARIAN REFUGEES IN TURKEY.

(a) FINDINGS.—The Congress finds that—

(1) the Government of the People's Republic of Bulgaria is a signatory to the 1947 Paris Peace Treaty, the Universal Declaration on Human Rights by the United Nations, and the Final Act of the Conference on Security and Cooperation in Europe (also known as the Helsinki Accords);

(2) the Helsinki Accords express the commitment of the participating states to respect the fundamental freedoms of conscience, religion, expression, and emigration, and to guarantee the rights of minorities;

(3) the 1971 Constitution of the People's Republic of Bulgaria declares that fundamental rights will not be restricted because of distinction of national origin, race, or religion, and guarantees minorities the rights to study in their mother tongue and freely practice their religion;

(4) despite its international obligations and constitutional guarantees, the Government of the People's Republic of Bulgaria has taken numerous steps to repress Turkish language and culture, including prohibiting the study of the Turkish language in schools, banning the use of the Turkish language in public, making the receipt and reading of Turkish publications a punishable act, and jamming the reception of Turkish radio and television programs in Bulgaria;

(5) the right of the ethnic Turkish community to freedom of religion has been severely circumscribed by the Government of the People's Republic of Bulgaria, which has closed a number of mosques and barred the importation of copies of the Koran;

(6) emigration by ethnic Turks and others has been banned with only a few exceptions;

(7) beginning in December 1984, the Bulgarian authorities forced the Turkish minority to change their Turkish names to Bulgarian ones, and hundreds of ethnic Turks were killed, injured, or arrested by Bulgarian forces in 1984 and 1985 when they protested this new policy;

(8) the Bulgarian authorities have used both force and coercion to resettle ethnic Turks from their local villages to areas in Bulgaria with small Turkish populations;

(9) in May 1989, Bulgarian troops and police attacked ethnic Turks and others who were peacefully demonstrating against their discriminatory treatment in Bulgaria;

(10) hundreds of demonstrators were killed or wounded in these attacks, and hundreds more were arrested; and

(11) since these demonstrations, the Government of the People's Republic of Bulgaria has forcibly expelled or coerced into emigrating to Turkey thousands of ethnic Turks without either their money or their possessions, often resulting in the separation of families.

(b) POLICY.—It is the sense of the Congress that the Congress—

(1) strongly condemns the brutal treatment of, and blatant discrimination against, the Turkish minority by the Government of the People's Republic of Bulgaria;

(2) calls upon the Bulgarian authorities to immediately cease all discriminatory practices against this community and to release all ethnic Turks and others currently imprisoned because of their participation in nonviolent political acts;

(3) calls upon the Government of Bulgaria to honor its obligations and public statements concerning the right of all Bulgarian citizens to emigrate freely; and

(4) urges the President and Secretary of State to make strong diplomatic representations to Bulgaria protesting its discriminatory treatment of its Turkish minority and to raise this issue in all appropriate international forums, including the Conference on Security and Cooperation in Europe meeting on the environment in Sofia, Bulgaria, this year.

(c) ALLOCATION OF FUNDS FOR ASSISTANCE TO CERTAIN TURKISH REFUGEES.—Of the funds authorized to be appropriated by section 104(a)(1) for the fiscal year 1990, $10,000,000 shall be available only to the Republic of Turkey for assistance for shelter, food, and other basic needs to ethnic Turkish refugees fleeing the People's Republic of Bulgaria and resettling in the sovereign territory of Turkey.

PLO Commitments Compliance Act of 1989. Israel. Terrorism.

TITLE VIII—PLO COMMITMENTS COMPLIANCE ACT OF 1989

SEC. 801. SHORT TITLE.

This title may be cited as the "PLO Commitments Compliance Act of 1989".

SEC. 802. FINDINGS.

The Congress finds that—

(1) United States policy regarding contacts with the Palestine Liberation Organization (including its Executive Committee, the Palestine National Council, and any constituent groups related thereto (hereafter in this title referred to as the "PLO")) set forth in the Memorandum of Agreement between the United States and Israel, dated September 1, 1975, stated that the United States "will not recognize or negotiate with the Palestine Liberation Organization so long as the PLO does not recognize Israel's right to exist and does not accept United Nations Security Council Resolutions 242 and 338";

(2) section 1302 of the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2151 note; Public Law 99-83), effective October 1, 1985, stated that "no officer or employee of the United States Government and no agent or other individual acting on behalf of the United States Government shall negotiate with the PLO or any representatives thereof (except in emergency or humanitarian situations) unless

and until the PLO recognizes Israel's right to exist, accepts United Nations Security Council Resolutions 242 and 338, and renounces the use of terrorism";

(3) the Department of State statement of November 26, 1988, found that "the United States Government has convincing evidence that PLO elements have engaged in terrorism against Americans and others" and that "Mr. [Yasser] Arafat, Chairman of the PLO, knows of, condones, and lends support to such acts; he therefore is an accessory to such terrorism"; Yasser Arafat.

(4) Secretary of State Shultz declared on December 14, 1988, that "the [PLO] today issued a statement in which it accepted United Nations Security Council Resolutions 242 and 338, recognized Israel's right to exist in peace and security, and renounced terrorism. As a result, the United States is prepared for a substantive dialogue with PLO representatives"; George Shultz.

(5) President Ronald Reagan, subsequent to the decision to open a United States-PLO dialogue, stated that the PLO "must demonstrate that its renunciation of terrorism is pervasive and permanent" and if the PLO reneges on its commitments, the United States "will certainly break off communications"; Ronald Reagan.

(6) since the United States agreed to enter into a dialogue with the PLO, there have been several attempted incursions into Israel by the following PLO-affiliated groups: the Popular Struggle Front, the Palestine Liberation Front, the Democratic Front for the Liberation of Palestine, and the Islamic Jihad group;

(7) Yasser Arafat has not renounced any of these incidents, that he has threatened "ten bullets in the chest" to those Palestinians who advocate a cessation of the unrest, and that his principal deputy, Abu Iyad, as well as other senior Al-Fatah figures, have been quoted as saying that the PLO recognition of Israel and renunciation of terrorism is merely tactical and that a Palestinian state is but the first step in the "liberation of Palestine"; and Abu Iyad.

(8) that the United States should regularly evaluate the PLO's compliance with the commitments made by Yasser Arafat on behalf of the PLO in Geneva on December 14, 1988.

SEC. 803. POLICY.

(a) IN GENERAL.—The Congress reiterates long-standing United States policy that any dialogue with the PLO be contingent upon the PLO's recognition of Israel's right to exist, its acceptance of United Nations Security Council Resolutions 242 and 338, and its abstention from and renunciation of all acts of terrorism.

(b) POLICY TOWARD IMPLEMENTATION OF PLO COMMITMENTS.—It is the sense of the Congress that the United States, in any discussions with the PLO, should seek—

(1) the prevention of terrorism and other violent activity by the PLO or any of its factions; and

(2) the implementation of concrete steps by the PLO consistent with its commitments to recognize Israel and renounce terrorism, including concrete actions that will further the peace process such as—

(A) disbanding units which have been involved in terrorism;

(B) publicly condemning all acts of terrorism;

(C) ceasing the intimidation of Palestinians who advocate a cessation of or who do not support the unrest;

(D) calling on the Arab states to recognize Israel and to end their economic boycott of Israel; and

(E) amending the PLO's Covenant to remove provisions which undermine Israel's legitimacy and which call for Israel's destruction.

(c) POLICY TOWARD RECENT ARMED INCURSIONS INTO ISRAEL BY PLO-AFFILIATED GROUPS.—During the next round of talks with the PLO, should such talks occur after the date of enactment of this Act, the representative of the United States should obtain from the representative of the PLO a full accounting of the following attempted incursions into Israel which occurred after Yasser Arafat's statement of December 14, 1988:

(1) On December 26, 1988, an attempted armed infiltration into Israel by boat by four members of the PLO-affiliated Popular Struggle Front.

(2) On December 28, 1988, an attempted armed infiltration into Israel by three members of the PLO-affiliated Palestine Liberation Front.

(3) On January 24, 1989, an unprovoked attack on an Israeli patrol in Southern Lebanon by the PLO-affiliated Palestine Liberation Front.

(4) On February 5, 1989, an attempted armed infiltration into Israel by nine members of the PLO-affiliated Palestine Liberation Front and Popular Front for the Liberation of Palestine.

(5) On February 23, 1989, an attempted attack on targets in Israel by members of the PLO-affiliated Democratic Front for the Liberation of Palestine.

(6) On February 27, 1989, a PLO-affiliated Popular Front for the Liberation of Palestine ambush of a pro-Israeli Southern Lebanese army vehicle.

(7) On March 2, 1989, an attempted armed infiltration into Israel by four members of the PLO-affiliated Democratic Front for the Liberation of Palestine headed for the civilian town of Zarit.

(8) On March 13, 1989, an attempted armed infiltration into Israel by three members of the PLO-aligned Palestine Liberation Front.

(9) On March 15, 1989, an attempted attack on Israel through Gaza by two members of the Islamic Jihad group.

SEC. 804. REPORTING REQUIREMENT.

(a) REPORT ON ARMED INCURSIONS.—In the event that talks are held with the PLO after the date of enactment of this Act, the Secretary of State, shall, within 30 days after the next round of such talks, report to the Chairman of the Committee on Foreign Affairs of the Senate and the Speaker of the House of Representatives any accounting provided by the representative of the PLO of the incidents described in section 803(c).

President of U.S.

(b) REPORT ON COMPLIANCE WITH COMMITMENTS.—Beginning 30 days after the date of enactment of this Act, and every 120 days thereafter in which the dialogue between the United States and the PLO has not been discontinued, the President shall submit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report, in unclassified form to the maximum extent practicable, regarding progress

toward the achievement of the measures described in section 803(b). Such report shall include—

(1) a description of actions or statements by the PLO as an organization, its Chairman, members of its Executive Committee, members of the Palestine National Council, or any constituent groups related thereto, as they relate to the Geneva commitments of December 1988 regarding cessation of terrorism and recognition of Israel's right to exist, including actions or statements that contend that the declared "Palestinian state" encompasses all of Israel;

(2) a description of the steps, if any, taken by the PLO to evict or otherwise discipline individuals or groups taking actions inconsistent with the Geneva commitments;

(3) a statement of whether the PLO, in accordance with procedures in Article 33 of the Palestinian National Covenant, has repealed provisions in that Covenant which call for Israel's destruction;

(4) a statement of whether the PLO has repudiated its "strategy of stages" whereby it seeks to use a Palestinian state in the West Bank and Gaza as the first step in the total elimination of the state of Israel;

(5) a statement of whether the PLO has called on any Arab state to recognize and enter direct negotiations with Israel or to end its economic boycott of Israel;

(6) a statement of whether "Force 17" and the "Hawari Group", units directed by Yasser Arafat that have carried out terrorist attacks, have been disbanded and not reconstituted under different names;

(7) a statement of whether the following PLO constituent groups conduct or participate in terrorist or other violent activities: the Fatah; the Popular Front for the Liberation of Palestine; the Democratic Front for the Liberation of Palestine; the Arab Liberation Front; the Palestine Liberation Front;

(8) a statement of the PLO's position on the unrest in the West Bank and Gaza, and whether the PLO threatens, through violence or other intimidation measures, Palestinians in the West Bank and Gaza who advocate a cessation of or who do not support the unrest, and who might be receptive to taking part in elections there;

(9) a statement of the position of the PLO regarding the prosecution and extradition, if so requested, of known terrorists such as Abu Abbas, who directed the Achille Lauro hijacking during which Leon Klinghoffer was murdered, and Muhammed Rashid, implicated in the 1982 bombing of a PanAm jet and the 1986 bombing of a TWA jet in which four Americans were killed; and

Abu Abbas.
Muhammed Rashid.

(10) a statement of the position of the PLO on providing compensation to the American victims or the families of American victims of PLO terrorism.

(c) REPORT ON POLICIES OF ARAB STATES.—Not more than 30 days after the date of enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the policies of Arab states toward the Middle East peace process, including progress toward—

(1) public recognition of Israel's right to exist in peace and security;

(2) ending the Arab economic boycott of Israel; and

(3) ending efforts to expel Israel from international organizations or denying participation in the activities of such organizations.

Human rights.

TITLE IX—PEOPLE'S REPUBLIC OF CHINA

SEC. 901. FINDINGS AND STATEMENTS OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) on June 4, 1989, the Government of the People's Republic of China ordered an unprovoked, brutal, and indiscriminate assault on thousands of peaceful and unarmed demonstrators and onlookers in and around Tiananmen Square by units of the People's Liberation Army, which resulted in at least 1,000 deaths and several thousand injuries;

(2) the Chinese Government has executed dozens of individuals who participated in prodemocracy demonstrations or who protested the brutal military assault against peaceful demonstrators;

(3) the Government of the People's Republic of China is engaging in widespread mass arrests in the aftermath of the June 4, 1989, military assault in Tiananmen Square, which have resulted in the arrests of thousands of students, workers, and other civilians so far;

(4) independent international human rights organizations, such as Amnesty International and Asia Watch, have documented daily incidences of arbitrary arrests, torture, and beatings by police and military forces in the People's Republic of China;

(5) the Chinese Government has established telephone hotlines and other local communications networks for the express purpose of identifying and imprisoning prodemocracy supporters and political dissidents throughout the country;

(6) officials of the Chinese Government have grossly distorted the Government's actions to suppress the prodemocracy movement, including the clandestine disposal of the bodies of demonstrators without informing their families, and have consistently denied that the massacre in and around Tiananmen Square took place or that abuses of human rights have occurred;

(7) in an effort to conceal the truth about the Chinese Government's brutal suppression of the prodemocracy movement, foreign journalists have been expelled and Voice of America broadcasts are being jammed;

Fang Lizhi.
Li Shuxian.

(8) in view of the widespread and continuing repression, noted Chinese intellectuals and advocates of peaceful democratic reform, Fang Lizhi and Li Shuxian, sought refuge at the United States Embassy in Beijing on June 3, 1989, and the United States exercised its prerogatives under longstanding practices of diplomatic missions by granting them refuge; and

(9) the President has condemned the actions of the leaders of the People's Republic of China against participants in the prodemocracy movement in China and has taken several concrete steps to respond to the repression of the movement, including—

(A) suspending all exports of items on the United States Munitions List, including arms and defense related equipment, to the People's Republic of China;

(B) suspending high level government-to-government contact between the United States and the People's Republic of China;

(C) extending the visas of nationals of the People's Republic of China currently in the United States;

(D) offering humanitarian and medical assistance to the injured through the Red Cross;

(E) instructing United States representatives to international financial institutions to seek delay in the consideration of loan requests that are made to those financial institutions and would benefit the People's Republic of China;

(F) suspending action on applications for the issuance by the Overseas Private Investment Corporation of new insurance and financing of investments in the People's Republic of China by United States investors;

(G) opposing the further liberalization of the guidelines of the group known as the Coordinating Committee (COCOM) regarding trade with the People's Republic of China;

(H) taking no further action to implement the agreement for cooperation between the United States and the People's Republic of China relating to the uses of nuclear energy, thereby foreclosing the issuance of new licenses; and

(I) suspending the license for the export of any United States manufactured satellites for launch on launch vehicles owned by the People's Republic of China, including the two Aussat satellites and the Asiasat satellite.

(b) STATEMENTS OF POLICY.—It is the sense of the Congress that—

(1) the President is to be commended for his clear articulation of United States condemnation of the actions of the Government of the People's Republic of China in the killing and persecution of the participants of the prodemocracy movement in the People's Republic of China, and for the responses and measures by the President against the People's Republic of China, which the Congress supports;

(2) the consultative approach that the President has used in coordinating with other countries the United States response to the atrocities committed by the leaders of the People's Republic of China should be supported;

(3) it is essential that the United States speak in a bipartisan and unified voice in response to the events in the People's Republic of China, and that the President be given the necessary flexibility to respond to rapidly changing situations so that the long-term interests of the United States are not damaged;

(4) in this vein, the President should continue to emphasize to the leaders of the Government of the People's Republic of China that resumption of normal diplomatic and military relations between the United States and the People's Republic of China will depend directly on the Chinese Government's halting of executions of prodemocracy movement supporters, releasing those imprisoned for their political beliefs, and increasing respect for internationally recognized human rights;

(5) because human rights violations in a country as populous as the People's Republic of China may have serious implications for the stability of the Asia-Pacific region, the United Nations should, in order to further regional security and peace, condemn the violent repression, mass arrests, abuse of African students, and executions of peaceful demonstrators by the Government of the People's Republic of China and urge the Chinese Government to enter into negotiations with representatives of the prodemocracy movement;

(6) United States policy toward the People's Republic of China should be explicitly linked with the situation in Tibet, specifically as to whether—

(A) martial law is lifted in Lhasa and other parts of Tibet;

(B) Tibet is open to foreigners, including representatives of the international press and of international human rights organizations;

(C) Tibetan political prisoners are released; and

(D) the Government of the People's Republic of China is entering into negotiations with representatives of the Dalai Lama on a settlement of the Tibetan question;

(7) with respect to Hong Kong—

(A) the President should convey to the leaders of the People's Republic of China the importance of living up to its international undertaking with respect to the 1984 Joint Declaration for the future prosperity and stability of Hong Kong; and

(B) the Secretary of State should convey to the Government of the United Kingdom the strong concern of the United States for continued respect for human rights in Hong Kong, and the need to accelerate progress toward representative government through free and fair direct elections;

(8) the United States should offer admission to the United States to any national of the People's Republic of China who is under threat of severe penalty as a result of participating in prodemocracy activities; and

(9) the President should be commended for his courageous and appropriate action, in accordance with the Vienna Convention on Diplomatic Relations and customary international law, in swiftly providing temporary refuge to Fang Lizhi and Li Shuxian at the United States Embassy in Beijing, and the President should continue to provide refuge to those individuals to ensure their personal safety.

(c) ADDITIONAL MEASURES.—It is further the sense of the Congress that, in addition to the measures already taken or required to be taken by this title—

(1) because systematic repression in China continues, the President should urge the Export-Import Bank of the United States to continue to postpone approval of any application for financing United States exports to the People's Republic of China;

(2) under the direction of the Secretary of the Treasury, the United States executive directors of the appropriate international financial institutions should continue to oppose the extension of loans or any other financial assistance by such institutions to the People's Republic of China;

(3) if systematic repression in China deepens, the President should review—

(A) the advisability of continuing to extend most-favored-nation (MFN) trade treatment to Chinese products;

(B) all bilateral trade agreements between the United States and the People's Republic of China;

(C) the bilateral commercial agreements governing Chinese-American cooperation on satellite launches; and

(D) the Chinese-American Agreement for Cooperation on the Peaceful Uses of Atomic Energy, signed at Washington on July 23, 1985;

(4) if systematic repression in China deepens, the President should consult—

(A) with the members of the group known as the Coordinating Committee (COCOM) for the purpose of reviewing the current favorable treatment accorded to high technology exports to the People's Republic of China; and

(B) with the other signatories of the General Agreement on Tariffs and Trade (GATT) for the purpose of reviewing the People's Republic of China's observer status at meetings on GATT and reassessing the People's Republic of China's right to accede to GATT.

SEC. 902. SUSPENSION OF CERTAIN PROGRAMS AND ACTIVITIES.

22 USC 2151 note.

(a) SUSPENSIONS.—

(1) OVERSEAS PRIVATE INVESTMENT CORPORATION.—The Overseas Private Investment Corporation shall continue to suspend the issuance of any new insurance, reinsurance, guarantees, financing, or other financial support with respect to the People's Republic of China, unless the President makes a report under subsection (b) (1) or (2) of this section.

(2) TRADE AND DEVELOPMENT PROGRAM.—The President shall suspend the obligation of funds under the Foreign Assistance Act of 1961 for any new activities of the Trade and Development Program with respect to the People's Republic of China, unless the President makes a report under subsection (b) (1) or (2) of this section.

President of U.S.

(3) MUNITIONS EXPORT LICENSES.—(A) The issuance of licenses under section 38 of the Arms Export Control Act for the export to the People's Republic of China of any defense article on the United States Munitions List, including helicopters and helicopter parts, shall continue to be suspended, subject to subparagraph (B), unless the President makes a report under subsection (b) (1) or (2) of this section.

(B) The suspension set forth in subparagraph (A) shall not apply to systems and components designed specifically for inclusion in civil products and controlled as defense articles only for purposes of export to a controlled country, unless the President determines that the intended recipient of such items is the military or security forces of the People's Republic of China.

(4) CRIME CONTROL AND DETECTION INSTRUMENTS AND EQUIPMENT.—The issuance of any license under section 6(k) of the Export Administration Act of 1979 for the export to the People's Republic of China of any crime control or detection instruments or equipment shall be suspended, unless the President makes a report under subsection (b) (1) or (2) of this section.

(5) EXPORT OF SATELLITES FOR LAUNCH BY THE PEOPLE'S REPUBLIC OF CHINA.—Exports of any satellite of United States origin that is intended for launch from a launch vehicle owned by the People's Republic of China shall remain suspended, unless the President makes a report under subsection (b) (1) or (2) of this section.

(6) NUCLEAR COOPERATION WITH THE PEOPLE'S REPUBLIC OF CHINA.—(A) Any—

(i) application for a license under the Export Administration Act of 1979 for the export to the People's Republic of China for use in a nuclear production or utilization facility of any goods or technology which, as determined under section 309(c) of the Nuclear Non-Proliferation Act of 1978, could be of significance for nuclear explosive purposes, or which, in the judgment of the President, is likely to be diverted for use in such a facility, for any nuclear explosive device, or for research on or development of any nuclear explosive device, shall be suspended,

(ii) application for a license for the export to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall be suspended,

(iii) approval for the transfer or retransfer to the People's Republic of China of any nuclear material, facilities, or components subject to the Agreement shall not be given, and

(iv) specific authorization for assistance in any activities with respect to the People's Republic of China relating to the use of nuclear energy under section 57b.(2) of the Atomic Energy Act of 1954 shall not be given,

until the conditions specified in subparagraph (B) are met.

(B) Subparagraph (A) applies until—

President of U.S.

(i) the President certifies to the Congress that the People's Republic of China has provided clear and unequivocal assurances to the United States that it is not assisting and will not assist any nonnuclear-weapon state, either directly or indirectly, in acquiring nuclear explosive devices or the materials and components for such devices;

(ii) the President makes the certifications and submits the report required by Public Law 99-183; and

(iii) the President makes a report under subsection (b) (1) or (2) of this section.

(C) For purposes of this paragraph, the term "Agreement" means the Agreement for Cooperation Between the Government of the United States of America and the Government of the People's Republic of China Concerning Peaceful Uses of Nuclear Energy (done on July 23, 1985).

President of U.S.

(7) LIBERALIZATION OF EXPORT CONTROLS.—(A) The President shall negotiate with the governments participating in the group known as the Coordinating Committee (COCOM) to suspend, on a multilateral basis, any liberalization by the Coordinating Committee of controls on exports of goods and technology to the People's Republic of China under section 5 of the Export Administration Act of 1979, including—

(i) the implementation of bulk licenses for exports to the People's Republic of China; and

(ii) the raising of the performance levels of goods or technology below which no authority or permission to export to the People's Republic of China would be required.

(B) The President shall oppose any liberalization by the Coordinating Committee of controls which is described in subparagraph (A)(ii), until the end of the 6-month period beginning on the date of enactment of this Act or until the President makes a report under subsection (b) (1) or (2) of this section, whichever occurs first.

(b) TERMINATION OF SUSPENSIONS.—A report referred to in subsection (a) is a report by the President to the Congress either— Reports.

(1) that the Government of the People's Republic of China has made progress on a program of political reform throughout the country, including Tibet, which includes—

(A) lifting of martial law;

(B) halting of executions and other reprisals against individuals for the nonviolent expression of their political beliefs;

(C) release of political prisoners;

(D) increased respect for internationally recognized human rights, including freedom of expression, the press, assembly, and association; and

(E) permitting a freer flow of information, including an end to the jamming of Voice of America and greater access for foreign journalists; or

(2) that it is in the national interest of the United States to terminate a suspension under subsection (a) (1), (2), (3), (4), or (5), to terminate a suspension or disapproval under subsection (a)(6), or to terminate the opposition required by subsection (a)(7), as the case may be.

(c) REPORTING REQUIREMENT.—Sixty days after the date of enactment of this Act, the President shall submit to the Congress a report on— President of U.S.

(1) any steps taken by the Government of China to achieve the objectives described in subsection (b)(1);

(2) the effect of multilateral sanctions on political and economic developments in China and on China's international economic relations;

(3) the impact of the President's actions described in section 901(a)(9) and of the suspensions under subsection (a) of this section on—

(A) political and economic developments in China;

(B) the standard of living of the Chinese people;

(C) relations between the United States and China; and

(D) the actions taken by China to promote a settlement in Cambodia which will ensure Cambodian independence, facilitate an act of self-determination by the Cambodian people, and prevent the Khmer Rouge from returning to exclusive power;

(4) the status of programs and activities suspended under subsection (a); and

(5) the additional measures taken by the President under section 901(c) if repression in China deepens.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. INCREASING AMOUNT OF REWARDS FOR COMBATTING TERRORISM.

Section 36(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708) is amended by striking out "$500,000" and inserting in lieu thereof "$2,000,000".

SEC. 1002. ASSIGNMENT OF COMMERCIAL OFFICERS TO THE UNITED STATES MISSION TO THE EUROPEAN COMMUNITY.

Within 90 days of the date of enactment of this Act, the United States Foreign and Commercial Service shall assign to the United States Mission to the European Community in Brussels no less than three commercial officers and such other staff as may be necessary to support such officers.

Business and industry.
Commerce and trade.
Contracts.
Corporations.

SEC. 1003. BUY-AMERICAN REQUIREMENT.

(a) DETERMINATION BY SECRETARY OF STATE.—If the Secretary of State, with the concurrence of the United States Trade Representative and the Secretary of Commerce, determines that the public interest so requires, the Secretary of State is authorized to award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Secretary of State shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) APPLICABILITY OF PROVISION.—This section shall apply only to contracts for which—

(1) amounts are authorized to be made available by this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

SEC. 1004. SUPPORT FOR THE BENJAMIN FRANKLIN HOUSE MUSEUM AND LIBRARY.

(a) FINDINGS.—The Congress finds that—

(1) the former London residence of Benjamin Franklin is the only surviving home of Benjamin Franklin existing today and should be preserved to commemorate his great contributions to human liberty, science, and education; and

(2) the Friends of Benjamin Franklin House and the American Franklin Friends Committee are twin charities dedicated to the restoration, preservation, and maintenance of the Benjamin Franklin House as a museum and library open to the public.

(b) POLICY OF SUPPORT.—The Congress hereby—

(1) urges the people of the United States to recognize June 17, 1990, as the bicentennial of Benjamin Franklin's death and to celebrate Franklin's long and distinguished public service, his scientific and literary achievements, and his role as a Founding Father of our country; and

(2) calls on the relevant agencies and departments of the Federal Government of the United States to recognize the important goals of the Friends of Benjamin Franklin House and the American Franklin Friends Committee.

SEC. 1005. ASSOCIATION OF DEMOCRATIC NATIONS.

(a) FINDINGS.—The Congress makes the following findings:

(1) It is the policy of the United States to support and promote democratic values and institutions around the world.

(2) Over the last decade, the United States, in concert with other nations, has provided support to those working for democracy in many nations throughout the world.

(3) Such support has advanced the cause of freedom and democracy in those nations by providing international technical expertise on holding free and fair elections, providing international observers to document the conduct of the elections, and in offering economic and humanitarian support to newly established democracies.

(4) On June 8, 1989, at the commencement ceremonies at Harvard University, the newest leader of a democratic nation, Prime Minister Benazir Bhutto of Pakistan, called for the establishment of an Association of Democratic Nations to support the right of peoples everywhere to choose freely their own government. Benazir Bhutto.

(5) The goals of the Association would be to promote—

(A) the holding of elections at regular intervals which are open to the participation of all significant political parties, which are fairly administered, and in which the franchise is broad or universal;

(B) respect for fundamental human rights, including freedom of expression, freedom of conscience, and freedom of association;

(C) international recognition of legitimate elections through international election observer missions at all stages of the election, including the campaign, the voting, and the ballot counting;

(D) the mobilization of international opinion and economic measures against the military overthrow of democratic governments; and

(E) the provision of economic assistance to strengthen and support democratic nations.

(b) POLICY.—It is the sense of the Congress that—

(1) the proposal offered by Prime Minister Benazir Bhutto of Pakistan would further the cause of democracy, freedom, and justice and is in the interest of the United States; and

Reports.

(2) the President of the United States should give serious consideration to the implementation of the proposal, and should provide by December 31, 1989, a report to the Congress assessing the merits of, and estimated annual costs of, establishing such an Association of Democratic Nations.

SEC. 1006. POLICY REGARDING HUMAN RIGHTS ABUSES IN CUBA.

(a) FINDINGS.—The Congress finds that—

(1) the United Nations Commission on Human Rights in 1989 issued its first report on human rights in Cuba, the result of a year-long investigation that concluded on the 30th year of Fidel Castro's rise to power;

(2) that report extensively documented across-the-board human rights abuses, including cases of torture, missing persons, religious persecution, violations of civil and political rights, and violations of economic and social rights;

(3) the United Nations received 137 complaints of "torture, cruel, inhuman or degrading treatment or punishment";

(4) among the abuses reported to the United Nations were sensory deprivation, immersion in a pit latrine, mock executions, overcrowding in special cells, deafening loudspeakers, keeping prisoners naked in front of relatives, and forcing a prisoner about to be executed to carry his own coffin or dig his own grave;

(5) despite the Cuban Government's statements not to harass those who cooperated with the United Nations' investigation, many Cuban citizens who met, or attempted to meet with the United Nations team suffered reprisals;

(6) at least 26 Cuban human rights monitors and independent activists who were arrested in the aftermath of the United Nations investigation are currently serving prison sentences or being held without trial; and

(7) the United Nations Commission on Human Rights approved a resolution on March 9, 1989, calling on the Government of Cuba to cooperate with the Secretary General of the United Nations in settling unresolved questions of human rights.

(b) STATEMENT OF POLICY.—In the interest of promoting respect for internationally recognized human rights in Cuba, the Congress—

(1) calls on the Secretary General of the United Nations to act upon the resolution approved by the Commission on Human Rights March 9, 1989, calling on the Secretary General to take appropriate action to follow up on the Commission's report on human rights in Cuba; and

(2) calls on the Secretary General to specifically urge the Government of Cuba to release at least 26 persons still being held in detention because of their human rights activities.

SEC. 1007. CONCERNING THE SUBMISSION TO THE CONGRESS OF AGREEMENTS PERTAINING TO THE BOUNDARIES OF THE UNITED STATES.

It is the sense of the Congress that all international agreements pertaining to the international boundaries of the United States should be submitted to the Congress for such consideration as is appropriate pursuant to the respective constitutional responsibilities of the Senate and the House of Representatives.

SEC. 1008. REPORT TO CONGRESS CONCERNING OCEANIA. Territories, U.S.

Not later than 180 days after the date of the enactment of this Act, and one year thereafter, the Secretary of State shall prepare and submit an unclassified report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate which—

(1) sets forth in detail the policy of the United States with respect to Oceania, which is comprised of Polynesia, Micronesia, and Melanesia;

(2) examines the nature, extent, and source of political, social, and economic instability affecting states in such region;

(3) assesses the impact and level of communist influence in Oceania;

(4) analyzes projections for the total economic growth of such region, with particular emphasis on the exclusive economic zones (EEZ); and

(5) makes recommendations for specific measures necessary to ensure a strong United States presence in Oceania that contributes to and strengthens democratic institutions and economic growth for the states of the region.

SEC. 1009. REPORT CONCERNING MEXICO.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the Congress a report concerning the relationship between the United States and Mexico. Such report shall—

(1) analyze potential changes in political, cultural, diplomatic, economic, and other factors as the United States and Mexico move toward greater economic integration and cooperation;

(2) consider the feasibility and effect of a three-way meeting among Canada, Mexico, and the United States to discuss greater economic integration and cooperation;

(3) analyze political, cultural, diplomatic, economic, and other factors related to the development of an economically integrated and cooperative border region between Mexico and the United States; and

(4) evaluate the adequacy of the resources of the Department of State which currently address relations between the United States and Mexico, including a projection of future needs to handle the increasing work load requirements resulting from the growing flow of goods, services, and people across the United States-Mexican border.

SEC. 1010. ESTABLISHMENT OF A LATIN AMERICAN AND CARIBBEAN DATA BASE.

(a) AUTHORIZATION.—Of the funds authorized to be appropriated for fiscal year 1990 by section 101(a)(1), $1,300,000 are authorized to

be appropriated to provide continued support for the establishment of a Latin American and Caribbean Data base.

(b) CONDITIONS.—In developing the data base described in subsection (a), the Secretary of State shall be required to satisfy the following conditions:

(1) Any agreement for an on-line bibliographic data base entered into for purposes of this section shall continue to be subject to full and open competition or merit review among qualified United States institutions with strong Latin American and Caribbean programs.

(2) The Secretary of State shall ensure that funds are not awarded to maintain services which are significantly duplicative of existing services.

TITLE XI—BUDGET ACT COMPLIANCE

22 USC 2651 note.

SEC. 1101. COMPLIANCE WITH CONGRESSIONAL BUDGET ACT.

(a) LIMITATION ON SPENDING AUTHORITY.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in advance in appropriation Acts.

(b) LIMITATION ON CONTRACT AUTHORITY.—Any authority provided by this Act to enter into contracts shall be effective only—

(1) to the extent that the budget authority for the obligation to make outlays, which is created by the contract, has been provided in advance by an appropriation Act; or

(2) to the extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 1102. WAIVER OF EARMARKS.

Section 101(a)(1) that follows "1991"; 101(c); 102(a)(2); 221(b); 702(a); 702(b) and 704(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (including amendments made thereunder), and section 1204 of the Foreign Service Act of 1980 as amended by section 149(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; section 505(e)(3) of title V of the United States Information and Educational Exchange Act of 1948, as amended by section 205 of the Foreign Relations Authorization Act, Fiscal Years

1990 and 1991; and section 404(b) of the Asia Foundation Act as amended by section 501 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991; are hereby waived during fiscal years 1990 and 1991. So much of the preceding sentence as pertains to the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 shall take effect only on the date of enactment of this Act. Effective date.

Approved February 16, 1990.

LEGISLATIVE HISTORY—H.R. 3792:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 21, considered and passed House.
Vol. 136 (1990): Jan. 29, 30, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Feb. 16, Presidential statement.

Public Law 101-247
101st Congress

Joint Resolution

Feb. 16, 1990
[H.J. Res. 149]

Designating February 16, 1990, as "Lithuanian Independence Day".

Whereas February 16, 1990, is the 72nd anniversary of the declaration of independence of Lithuania;

Whereas on February 16, 1918, the Council of Lithuania, the sole representative of the Lithuanian people, in conformity with the recognized right to national self determination, proclaimed the restoration of an independent and democratic Lithuania and ended all ties that formally subordinated Lithuania to other nations;

Whereas Lithuania was independent until 1940 when the Soviet Union took over the country;

Whereas the United States opposes tyranny and injustice in all forms and supports the cause of Lithuanian independence; and

Whereas the oppressed people currently living in Lithuania keep the flame of freedom forever burning in their hearts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 16, 1990, is designated as "Lithuanian Independence Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved February 16, 1990.

LEGISLATIVE HISTORY—H.J. Res. 149 (S.J. Res. 208):

CONGRESSIONAL RECORD:
Vol. 135 (1989): June 29, considered and passed House.
Vol. 136 (1990): Jan. 30, considered and passed Senate.

Public Law 101-248
101st Congress

Joint Resolution

Designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week".

Feb. 27, 1990
[S.J. Res. 186]

Whereas the American Quarter Horse Association was founded on March 15, 1940, to record and preserve the pedigrees of American quarter horses, and continues to serve such purposes;

Whereas the American quarter horse has played a significant role in the development of the United States and contributed to the western heritage of the Nation;

Whereas the American Quarter Horse Association has developed into the largest equine registry in the world, with more than two million eight hundred thousand American quarter horses and two hundred thousand individuals located in the United States and sixty-two foreign countries;

Whereas the American quarter horse industry has become invaluable to the agriculture industry of the Nation, and American quarter horses are enjoyed by more individuals than any other breed of horse in the world; and

Whereas the American Quarter Horse Association celebrates its fiftieth anniversary in March 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of March 1 through March 7, 1990, is designated as "National Quarter Horse Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved February 27, 1990.

LEGISLATIVE HISTORY—S.J. Res. 186:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 20, considered and passed Senate.
Vol. 136 (1990): Feb. 21, considered and passed House.

Public Law 101-249
101st Congress

An Act

Mar. 6, 1990
[H.R. 150]

To amend the Immigration and Nationality Act to provide a procedure for an alien who dies while serving on active-duty with the United States armed forces during certain periods of hostilities to be considered a citizen of the United States at the time of the alien's death.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Posthumous Citizenship for Active Duty Service Act of 1989.
8 USC 1101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Posthumous Citizenship for Active Duty Service Act of 1989".

SEC. 2. POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES.

(a) IN GENERAL.—Chapter 2 of title III of the Immigration and Nationality Act is amended by inserting after section 329 (8 U.S.C. 1440) the following new section:

"POSTHUMOUS CITIZENSHIP THROUGH DEATH WHILE ON ACTIVE-DUTY SERVICE IN THE ARMED FORCES DURING WORLD WAR I, WORLD WAR II, THE KOREAN HOSTILITIES, THE VIETNAM HOSTILITIES, OR IN OTHER PERIODS OF MILITARY HOSTILITIES

8 USC 1440-1.

"SEC. 329A. (a) PERMITTING GRANTING OF POSTHUMOUS CITIZENSHIP.—Notwithstanding any other provision of this title, the Attorney General shall provide, in accordance with this section, for the granting of posthumous citizenship at the time of death to a person described in subsection (b) if the Attorney General approves an application for that posthumous citizenship under subsection (c).

"(b) NONCITIZENS ELIGIBLE FOR POSTHUMOUS CITIZENSHIP.—A person referred to in subsection (a) is a person who, while an alien or a noncitizen national of the United States—

"(1) served honorably in an active-duty status in the military, air, or naval forces of the United States during any period described in the first sentence of section 329(a),

"(2) died as a result of injury or disease incurred in or aggravated by that service, and

"(3) satisfied the requirements of clause (1) or (2) of the first sentence of section 329(a).

The executive department under which the person so served shall determine whether the person satisfied the requirements of paragraphs (1) and (2).

"(c) REQUESTS FOR POSTHUMOUS CITIZENSHIP.—A request for the granting of posthumous citizenship to a person described in subsection (b) may be filed on behalf of the person only by the next-of-kin (as defined by the Attorney General) or another representative (as

defined by the Attorney General). The Attorney General shall approve such a request respecting a person if—

"(1) the request is filed not later than 2 years after—

"(A) the date of the enactment of this section, or

"(B) the date of the person's death, whichever date is later;

"(2) the request is accompanied by a duly authenticated certificate from the executive department under which the person served which states that the person satisfied the requirements of paragraphs (1) and (2) of subsection (b); and

"(3) the Attorney General finds that the person satisfied the requirement of subsection (b)(3).

"(d) DOCUMENTATION OF POSTHUMOUS CITIZENSHIP.—If the Attorney General approves such a request to grant a person posthumous citizenship, the Attorney General shall send to the individual who filed the request a suitable document which states that the United States considers the person to have been a citizen of the United States at the time of the person's death.

"(e) NO BENEFITS TO SURVIVORS.—Nothing in this section or section 319(d) shall be construed as providing for any benefits under this Act for any spouse, son, daughter, or other relative of a person granted posthumous citizenship under this section.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 329 the following new item:

"Sec. 329A. Posthumous citizenship through death while on active-duty service in the armed forces during World War I, World War II, the Korean hostilities, the Vietnam hostilities, or in other periods of military hostilities.".

Approved March 6, 1990.

LEGISLATIVE HISTORY—H.R. 150:

HOUSE REPORTS: No. 101-350 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 13, considered and passed House.
Vol. 136 (1990): Feb. 20, considered and passed Senate.

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Public Law 101-250
101st Congress

An Act

Mar. 6, 1990
[H.R. 2281]

To amend the Elementary and Secondary Education Act of 1965 to extend the authorization for certain school dropout demonstration programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SCHOOL DROPOUT DEMONSTRATION PROGRAMS.

Section 6003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3243) is amended—

(1) by striking "There" and inserting the following: "(a) IN GENERAL.—Subject to subsection (b), there";

(2) by inserting "each of" before "the fiscal";

(3) by striking "year" and inserting "years";

(4) by inserting before the period the following: ", 1990, and 1991"; and

(5) by adding at the end the following new subsection:

"(b) No amounts are authorized to be appropriated under subsection (a) for any fiscal year in which assistance is made available to local educational agencies under part C of chapter 1 of title I.".

SEC. 2. AUTHORIZATION OF USE OF FUNDS FOR EVALUATION ACTIVITIES.

Subsection (a) of section 6004 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3244) is amended—

(1) by inserting after "the Secretary" the following: "shall first reserve not more than $1,500,000 for the purposes of evaluating programs carried out with assistance under this part. From the remaining amount, the Secretary"; and

(2) by striking "the amount appropriated" each place it appears after the first occurrence and inserting "such remaining amount".

SEC. 3. AUTHORIZATION OF REALLOTMENT OF CERTAIN FUNDS.

Paragraph (1) of section 6004(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3244(b)) is amended by striking "25 percent" and inserting "not less than 25 percent and not more than 50 percent".

SEC. 4. DEADLINE FOR EVALUATIONS.

Subsection (d) of section 6201 of the Elementary and Secondary Education Act of 1965 is amended by striking "at the end" and all that follows and inserting "not later than the expiration of the 6-month period following the end of the grant period.". 20 USC 3271.

Approved March 6, 1990.

LEGISLATIVE HISTORY—H.R. 2281:

HOUSE REPORTS: No. 101-82 (Comm. on Education and Labor).
CONGRESSIONAL RECORD:
Vol. 135 (1989): June 13, considered and passed House.
Vol. 136 (1990): Feb. 20, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Mar. 6, Presidential statement.

Public Law 101-251
101st Congress

Joint Resolution

Mar. 13, 1990
[S.J. Res. 227]

To designate March 11 through March 17, 1990, as "Deaf Awareness Week".

Whereas during the second week of March 1988, a revolutionary sequence of historic social events evolved on the campus of Gallaudet University, the only university in the Nation which teaches exclusively deaf and hard of hearing students;

Whereas the events which occurred at Gallaudet University in the Spring of 1988 had great significance to all Americans, especially those who are deaf or hard of hearing;

Whereas the week long social protest at Gallaudet University awakened the people of nations around the world to the fact that deaf and hard of hearing individuals are able to achieve at the same level as others and need to be recognized as individuals with unique abilities and qualities; and

Whereas the week long social protest at Gallaudet University served to educate and sensitize the American people concerning the hopes and dreams of the twenty-four million Americans who are deaf or hard of hearing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 11 through March 17, 1990, is designated as "Deaf Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this week by remembering the significance of the historic social movement, which began in March 1988 at Gallaudet University, through appropriate ceremonies and activities.

Approved March 13, 1990.

LEGISLATIVE HISTORY—S.J. Res. 227 (H.J. Res. 140):

CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 20, H.J. Res. 140 considered and passed House.
Vol. 136 (1990): Feb. 26, S.J. Res. 227 considered and passed Senate.
Mar. 7, considered and passed House.

Public Law 101-252
101st Congress

Joint Resolution

To designate March 10, 1990, as "Harriet Tubman Day".

Mar. 13, 1990
[S.J. Res. 257]

Whereas Harriet Ross Tubman was born into slavery in Bucktown, Maryland, in or around the year 1820;
Whereas she escaped slavery in 1849 and became a "conductor" on the Underground Railroad;
Whereas she undertook a reported nineteen trips as a conductor, endeavoring despite great hardship and great danger to lead hundreds of slaves to freedom;
Whereas Harriet Tubman became an eloquent and effective speaker on behalf of the movement to abolish slavery;
Whereas she served in the Civil War as a soldier, spy, nurse, scout, and cook, and as a leader in working with newly freed slaves;
Whereas after the War, she continued to fight for human dignity, human rights, opportunity, and justice; and
Whereas Harriet Tubman—whose courageous and dedicated pursuit of the promise of American ideals and common principles of humanity continues to serve and inspire all people who cherish freedom—died at her home in Auburn, New York, on March 10, 1913: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 10, 1990 be designated as "Harriet Tubman Day," to be observed by the people of the United States with appropriate ceremonies and activities.

Approved March 13, 1990.

LEGISLATIVE HISTORY—S.J. Res. 257:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 6, considered and passed Senate.
Mar. 7, considered and passed House.

Public Law 101-253
101st Congress

An Act

Mar. 14, 1990
[S. 1016]

To change the name of "Marion Lake", located northwest of Marion, Kansas, to "Marion Reservoir".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lake located northwest of the City of Marion, Kansas, commonly known as "Marion Lake", and adopted and authorized in Public Law 81-516, shall hereafter be known and designated as "Marion Reservoir". Any reference to such lake in a law, map, regulation, document, record or other paper of the United States shall be deemed to be a reference to "Marion Reservoir".

Approved March 14, 1990.

LEGISLATIVE HISTORY—S. 1016:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Aug. 2, considered and passed Senate.
Vol. 136 (1990): Feb. 27, considered and passed House.

Public Law 101-254
101st Congress

An Act

To extend and amend the Library Services and Construction Act, and for other purposes.

Mar. 15, 1990
[H.R. 2742]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Library Services and Construction Act Amendments of 1990.
20 USC 351 note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Library Services and Construction Act Amendments of 1990".

(b) REFERENCES.—References in this Act to "the Act" are references to the Library Services and Construction Act (20 U.S.C. 351 et seq.).

SEC. 2. DEFINITIONS.

20 USC 351a.

Section 3 of the Act is amended—

(1) in paragraph (2)—

(A) by striking "and initial equipment" and inserting "and for the purchase, lease, and installation of equipment";

(B) by striking "to conserve energy" and inserting "to ensure safe working environments and to conserve energy"; and

(C) by striking "includes machinery" and inserting "includes information and building technologies, video and telecommunications equipment, machinery"; and

(2) by adding at the end thereof the following new paragraphs:

"(17) The term 'handicapped individual' means an individual who is physically or mentally impaired, visually impaired, or hearing impaired.

"(18) The term 'network' means any local, statewide, regional, interstate, or international cooperative association of library entities which provide for the systematic and effective coordination of the resources of school, public, academic, and special libraries and information centers for improved supplementary services for the clientele served by each type of library entity.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) AMENDMENT.—Section 4(a) of the Act is amended to read as follows: 20 USC 351b.

"SEC. 4. (a) There are authorized to be appropriated—

"(1) for the purpose of making grants as provided in title I, $100,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(2) for the purpose of making grants as provided in title II, $55,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(3) for the purpose of making grants as provided in title III, $35,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(4) for the purpose of making grants as provided in title V, $1,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(5) for the purpose of making grants as provided in title VI, $10,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years;

"(6) for the purpose of activities as provided in title VII, $500,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years; and

"(7) for the purpose of making grants as provided in title VIII, $6,000,000 for fiscal year 1990 and such sums as may be necessary for each of the 4 succeeding fiscal years, except that no amounts are authorized to be appropriated under this paragraph for any fiscal year unless the total amount appropriated pursuant to paragraphs (1), (2), and (3) for such fiscal year equals or exceeds sum of the total amount appropriated pursuant to such paragraphs for the preceding fiscal year, plus 4 percent of such total amount.

There shall be available for the purpose of making grants under title IV for each of the fiscal years 1990, 1991, 1992, 1993, and 1994, 1.5 percent of the amount appropriated pursuant to each of paragraphs (1), (2), and (3) for each such fiscal year. There shall be available for the purpose of making grants under section 5(d) for such fiscal years 0.5 percent of the amount appropriated pursuant to each of such paragraphs for each such fiscal year.".

20 USC 351b. (b) CARRYOVER OF FUNDS.—Section 4(b) of the Act is amended by striking "and for the next succeeding fiscal year" and inserting "and is authorized to remain available until expended".

SEC. 4. ALLOCATIONS.

20 USC 351c. (a) AMENDMENT.—Section 5(c) of the Act is amended to read as follows:

Indians. "(c)(1) From one-half of the sums available pursuant to the second sentence of section 4(a) for any fiscal year, the Secretary shall allot an equal amount to each Indian tribe that submits an approved application under section 403.

"(2) From the remaining one-half of the sums available pursuant to such second sentence, the Secretary shall make allocations to Indian tribes that (A) are receiving an allocation under paragraph (1) of this subsection for such fiscal year; and (B) have submitted approved applications under section 404.

"(3) In making allocations under paragraph (2)—

"(A) no funds shall be allocated to an Indian tribe unless such funds will be administered by a librarian; and

"(B) the Secretary shall take into account the needs of Indian tribes for such allocations to carry out the activities described in section 402(b).

"(4) In making allocations under this subsection, the Secretary shall take such actions as may be necessary to prevent an allocation from being received to serve the same population by any 2 or more of the following entities (as defined in or established pursuant to the Alaskan Native Claims Settlement Act): an Alaskan native village, a regional corporation, or a village corporation.".

20 USC 351d. (b) CONFORMING AMENDMENT.—Section 6(g)(2) of the Act is amended by inserting after "section 5(c)(2)" the following: "in the same fiscal year in which it has received an allocation under section 5(c)(1)".

SEC. 5. ANTIDISCRIMINATION PROVISION.

20 USC 351d.

Section 6(b) of the Act is amended by—

(1) striking "and" at the end of paragraph (3);

(2) redesignating paragraph (4) as paragraph (5); and

(3) inserting the following new paragraph (4) after paragraph (3):

"(4) provide assurances that libraries within the State that receive funds under this Act shall not discriminate on the basis of race, religion, age, gender, national origin, or handicapping condition in providing space for public meetings; and".

SEC. 6. RESOURCE SHARING COORDINATION.

State and local governments.

Section 6 of the Act is amended—

(1) in subsection (d)(1), by striking "and construction" and inserting ", construction, and interlibrary cooperation and resource sharing"; and

(2) by adding at the end thereof the following new subsection:

"(h) The Secretary shall coordinate programs under titles V and VI of this Act with the programs assisted by titles I, II, and III of this Act, and shall provide to the head of the State library administrative agency the opportunity to comment on any application for a grant under title V or VI of this Act prior to the awarding of the grant, in order to assure that such grants from the Secretary are for purposes consistent with the long-range program required under subsection (d) of this section.".

SEC. 7. MAINTENANCE OF EFFORT.

State and local governments.
20 USC 351e.

(a) GENERAL REQUIREMENT.—Section 7(a) of the Act is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) there will be available from State and local sources for expenditure under the programs, during the fiscal year for which the allotment is made, an amount that equals or exceeds the amount required to provide the State percentage as required by subsection (b); and

"(2)(A) there will be available for expenditure for State aid to public libraries and library systems, during the fiscal year for which the allotment is made, an aggregate amount equal to 90 percent of the amount actually expended for such purposes in the second preceding fiscal year; and

"(B) there will be available for expenditure, during the fiscal year for which the allotment is made, for the State library administrative agency, or for the part thereof charged by State law with the extension and development of public library services throughout the State, an aggregate amount equal to 90 percent of the amount actually expended for such purpose in the second preceding fiscal year.

The Secretary may, in accordance with regulations, waive the requirements of paragraph (2) of this subsection, if the Secretary determines that the application of such paragraph would be unjust or unreasonable in the light of exceptional extenuating circumstances.".

(b) INSTITUTIONAL LIBRARY SERVICES.—The last sentence of section 103 is amended by inserting before the period at the end thereof the following: "and to the extent that the Secretary determines that the populations served by such expenditures has declined".

20 USC 354.

SEC. 8. EDUCATION RESEARCH LIBRARY.

(a) AMENDMENT.—The Library Services and Construction Act is further amended by inserting after section 8 the following new section:

"EDUCATION RESEARCH LIBRARY

20 USC 351g.

"SEC. 9. None of the activities or functions of the Department of Education Research Library which are utilized, directly or indirectly, by the Secretary in carrying out this Act and which were not performed by contractors as of July 26, 1989, shall be contracted out or otherwise transferred from the Federal Government before September 30, 1991, unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed $50,000.".

Reports.

(b) STUDY REQUIRED.—The Comptroller General shall conduct a study of the Department of Education Research Library. The Comptroller General shall prepare and submit a report on the study required by this section by no later than January 30, 1991, together with such recommendations and any statutory changes required to carry out such recommendations, as the Comptroller deems necessary. Such study shall include—

(1) an assessment of the historic and scholastic value and significance of the library's collection to educators, education researchers, historians, and others;

(2) a review of the feasibility and merits of expanding public access to and use of the library's collections and alternative means by which such access could be promoted; and

(3) an evaluation of the quality and effectiveness of services provided by the library to Department personnel and recommendations for improving such services.

Voluntarism.

SEC. 9. INTERGENERATIONAL LIBRARY SERVICES.

20 USC 352.

Section 101 of the Act is amended—

(1) by redesignating paragraphs (5) and (6) as paragraphs (9) and (10), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) for assisting libraries in developing intergenerational library programs that will match older adult volunteers with libraries interested in developing after school literacy and reading skills programs for unsupervised school children during afterschool hours;".

SEC. 10. CHILDCARE LIBRARY OUTREACH.

Section 101 of the Act is further amended by inserting after paragraph (5) the following new paragraph:

"(6) for assisting libraries in providing mobile library services and programs to child-care providers or child-care centers which are licensed or certified by the State, or otherwise meet the requirements of State law;".

SEC. 11. LIBRARY LITERACY CENTERS.

Section 101 of the Act is further amended by inserting after paragraph (6) the following new paragraph:

"(7) to establish and support model library literacy centers, coordinated by the State library administrative agency with other interested State agencies and nonprofit organizations to

reduce the number of functionally illiterate individuals and to help them reach full employment;".

SEC. 12. DRUG ABUSE PREVENTION.

Section 101 of the Act is further amended by inserting after paragraph (7) the following new paragraph:

"(8) for assisting libraries in providing and displaying educational materials, and conducting community-wide programs, aimed at preventing and eliminating drug abuse, in cooperation with local education agencies or other agencies or organizations, if appropriate;".

SEC. 13. USE OF TITLE I FUNDS.

Section 102(a) of the Act is amended by adding at the end thereof the following new sentence: "In carrying out its program to accomplish the purposes of this title, a State may make subgrants to library systems or networks which include libraries other than public libraries, if the purpose of the subgrant is to improve services for public library patrons.". 20 USC 353.

SEC. 14. RATABLE REDUCTIONS OF MAJOR URBAN RESOURCE LIBRARIES.

Section 102(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(3) No State shall, in carrying out the provisions of paragraph (2) of this subsection, reduce the amount paid to any major urban resource library below the amount that such library received in the fiscal year preceding the fiscal year for which the determination is made under such paragraph (2), except that such amount may be ratably reduced to the extent that (A) the total Federal allocations to the State under section 5 for purposes of this title for the applicable fiscal year are reduced, or (B) the 1990 Census shows the population of the city served by such library has decreased.".

SEC. 15. STATE ANNUAL PROGRAM.

Section 103 of the Act is amended— 20 USC 354.

(1) in paragraph (3), by striking "and institutionalized individuals";

(2) in paragraph (4), by striking everything following "elderly" the first place it appears and inserting a semicolon; and

(3) by striking paragraph (5) and inserting the following: "(5) describe the uses of funds to make library services and programs more accessible to handicapped individuals.".

SEC. 16. TECHNOLOGY ENHANCEMENT.

(a) DEFINITION.—Section 3 of the Act is further amended by adding at the end thereof the following new paragraph:

"(19) The term 'technology enhancement' means the acquisition, installation, maintenance, or replacement, of substantial technological equipment (including library bibliographic automation equipment) necessary to provide access to information in electronic and other formats made possible by new information and communications technologies.".

(b) USE OF TITLE I FUNDS.—Section 101 of the Act is further amended—

(1) by striking "and" at the end of paragraph (9) (as redesignated by section 7(1));

(2) by striking the period at the end of paragraph (10) (as redesignated by section 7(1)) and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(11) for assisting public libraries in making effective use of technology to improve library and information services.".

(c) USE OF TITLE II FUNDS.—Title II of the Act is amended—

(1) by inserting "AND TECHNOLOGY ENHANCEMENT" after "CONSTRUCTION" in the heading of such title;

(2) by inserting "AND LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT" after "CONSTRUCTION" in the head of section 201;

20 USC 355a.

(3) by inserting "and technology enhancement" after "construction" each place it appears in sections 201, 202(a), 202(b), 203(1), 203(2), and 203(3);

20 USC 355a–355c.

(4) by striking "section 3(2)" in section 202(a) and inserting "sections 3(2) and 3(19), respectively"; and

(5) by inserting "AND TECHNOLOGY ENHANCEMENT" after "CONSTRUCTION" in the heading of section 203.

20 USC 355e–1.

(d) USE OF TITLE III FUNDS.—Section 302(a) of the Act is amended—

(1) by striking "and" at the end of clause (1); and

(2) by inserting before the period at the end of clause (2) the following: "; and (3) developing the technological capacity of libraries for interlibrary cooperation and resource sharing".

SEC. 17. PRESERVATION OBJECTIVES IN CONSTRUCTION.

20 USC 355c.

Section 203 of the Act is amended—

(1) by striking the period at the end of paragraph (4) and inserting "; and"; and

(2) by adding at the end thereof the following new paragraph:

"(5) follow policies and procedures in the construction of public libraries that will promote the preservation of library and information resources to be utilized in the facilities.".

SEC. 18. RESOURCE SHARING.

20 USC 355e, 355e–3.

(a) ATTAINMENT OF COMPLIANCE WITH RESOURCE SHARING PLANS.—Sections 301 and 304(a) of the Act are each amended by striking "eventual" and inserting "attaining".

(b) SCHOOL LIBRARY RESOURCES.—Section 304 of the Act is amended by adding at the end thereof the following new subsection:

"(e) Public and school libraries which cooperate to make school library resources available to the public during periods when school is not in session may be reimbursed for such expenses.".

State and local governments.

SEC. 19. PRESERVATION COOPERATION.

Title III of the Act is amended by adding at the end thereof the following new section:

"PRESERVATION PROGRAMS

20 USC 355e–4.

"SEC. 305. (a) The long-range program and annual program of each State under this title may—

"(1) include a statewide preservation cooperation plan that complies with this section; and

"(2) identify the preservation objectives to be achieved during the period covered by the long-range plans required by section 6.

"(b) A statewide preservation cooperation plan complies with this section if—

"(1) such plan specifies the methods by which the State library administrative agency will work with libraries, archives, historical societies, scholarly organizations, and other agencies, within or outside the State, in planning, education and training, coordinating, outreach and public information, and service programs to ensure that endangered library and information resources are preserved systematically; and

"(2) such preservation plan is developed in consultation with such parties and agencies as the State archives, historical societies, libraries, scholarly organizations, and other interested parties.

"(c) A State which has a statewide preservation cooperation plan that complies with this section may use funds under this title to carry out such plan.

"(d) The State library administrative agency may contract part or all of the preservation program under this section to other agencies or institutions.".

SEC. 20. MAXIMUM GRANTS UNDER TITLE V.

Section 501(c) of the Act is amended by striking "$15,000." and inserting "$35,000, except that— 20 USC 371.

"(1) not more than 30 percent of the funds available for grants under this title in any fiscal year may be used to make grants in amounts between $35,000 and $125,000; and

"(2) no recipient may receive more than one grant under this title for any fiscal year.".

SEC. 21. LIBRARY LITERACY GRANTS.

Section 601(e) of the Act is amended by striking "$25,000" and inserting "$35,000". 20 USC 375.

SEC. 22. EVALUATION AND ASSESSMENT.

(a) AMENDMENT.—The Act is further amended by adding at the end thereof the following new title:

"TITLE VII—EVALUATION AND ASSESSMENT

"PROGRAM AUTHORITY

"SEC. 701. The Secretary is authorized to carry out a program for the purpose of evaluation and assessment (directly or by grants or contracts) of programs authorized under this Act.". Grants. Contracts. 20 USC 381.

(b) CONFORMING AMENDMENT.—Section 5(a) of the Act is amended by striking out paragraph (5). 20 USC 351c.

SEC. 23. FAMILY LEARNING CENTER PROGRAMS.

(a) AMENDMENT.—The Library Services and Construction Act is amended by adding at the end the following:

"TITLE VIII—LIBRARY LEARNING CENTER PROGRAMS

"PART A—FAMILY LEARNING CENTERS

"STATEMENT OF PURPOSE

"SEC. 801. It is the purpose of this part to expand and improve opportunities for lifetime learning and the involvement of the Nation's families as partners in their children's education by providing 20 USC 385.

comprehensive, family-oriented library services through Family Learning Centers.

"GRANTS FOR FAMILY LEARNING CENTERS

20 USC 385a.

"SEC. 802. The Secretary shall carry out a program of making grants from sums appropriated pursuant to paragraph (7) of section 4(a) to local public libraries for the purposes of supporting family learning centers.

"USE OF FUNDS

20 USC 385b.

"SEC. 803. (a) Funds made available to a grantee under this part shall be used to initiate, expand, or improve public library services to families.

"(b) Not less than 25 percent of the funds made available under this part shall be used for the acquisition of resources and materials in print and electronic formats—

"(1) which are intended for use by and with adults, including materials in such areas as child care, child development, nutrition, parenting skills, and job and career information; and

"(2) which are intended for use by and with children and adolescents.

"(c) Not less than 10 percent of the funds made available to a grantee under this part shall be used for—

"(1) the acquisition or leasing of computer hardware for use by library patrons, including services necessary for the operation, installation, and maintenance of such equipment; and

"(2) the acquisition of computer software and complementary explanatory material for use by library patrons.

"APPLICATION

20 USC 385c.

"SEC. 804. (a) Any local public library which wishes to receive a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary determines is necessary to evaluate the quality of the applicant's proposal and the applicant's ability to carry it out.

"(b) Each such application shall—

"(1) describe the manner in which the funds will be used to initiate, expand, or improve library services to families;

"(2) provide assurances that the library will be open on weekday evenings, Saturdays, and some Sundays and legal public holidays to enable families in which both parents work outside the home to utilize the library's services;

"(3) demonstrate that the library has or will have sufficient qualified staff with specialized training in providing library services to children, adolescents, and adults;

"(4) provide for the establishment of an advisory committee consisting of parents, teachers, local school administrators, librarians, library administrators, library trustees, local elected officials, and business leaders, at least one-third of whom are parents who regularly use the services of the library;

"(5) provide for the establishment of a family library loan program through which families may borrow sets of books for extended periods, and other innovative programs and policies designed to encourage greater use of the library by families;

"(6) provide for a job and career information program to provide information and assistance to parents and others who are unemployed or seeking a new job;

"(7) describe, if appropriate, any special services and outreach activities which will be offered to meet the needs of—

"(A) adolescent parents;

"(B) single-parent families;

"(C) families in which both parents are employed outside the home;

"(D) parents and children with limited English language proficiency; and

"(E) educationally disadvantaged adults and their children;

"(8) describe the methods by which the library will publicize and promote the services of the Center in cooperation with the local media, schools, businesses, social service agencies, and other appropriate entities; and

"(9) provide assurances that the funds provided will be used to supplement and not supplant funds otherwise available for the purposes of this part.

"SELECTION OF FAMILY LEARNING CENTERS

"SEC. 805. (a) The Secretary shall select family learning centers on a competitive basis from among the local public libraries submitting applications under section 804. In making such selection, the Secretary shall give priority to applications which— 20 USC 385d.

"(1) promise to serve a significant number of families on a regular basis; and

"(2) offer innovative approaches to improving library services for families and approaches which show promise for replication and dissemination.

"(b) In making grants under this title, the Secretary shall assure that there is an equitable distribution of grants among the States and between urban and rural communities.

"(c) No grant made under this title for any fiscal year shall exceed $200,000.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 806. There are authorized to be appropriated $3,000,000 for fiscal year 1990 and such sums as may be necessary for each succeeding fiscal year to carry out the provisions of this part. 20 USC 385e.

"PART B—LIBRARY LITERACY CENTERS

State and local governments.

"STATEMENT OF PURPOSE

"SEC. 811. The purposes of this part are to— 20 USC 386.

"(1) establish model library literacy centers throughout the country to serve as resource centers for the dissemination of literacy materials and equipment to local public libraries in order to help overcome the high incidence of adults with limited literacy skills in the United States;

"(2) help adults with limited literacy skills reach full employment through nonthreatening learning experiences in their local public library or in their own home; and

"(3) offer innovative approaches to improving library literacy services to adults and approaches which show promise for replication and dissemination.

"GRANTS TO STATES FOR LIBRARY LITERACY CENTERS

20 USC 386a.

"SEC. 812. (a) The Secretary shall carry out a program of making grants on a competitive basis to States which have an approved basic State plan under section 6 of this Act and an approved application under section 813 of this Act.

"(b)(1) The total grant amount awarded to each State shall not exceed—

"(A) $350,000 in the first fiscal year in which a State receives a grant under this part; and

"(B) $100,000 in the second and third fiscal years in which a State receives a grant under this part.

"(2) Funds received in the first fiscal year in which a State receives a grant under this part shall remain available until expended. Funds received in the second and third fiscal year in which a State receives a grant under this part shall be available only for the fiscal year for which funds are received.

"(3) Funds received in the second and third fiscal years in which a State receives a grant under this part shall be matched, on a dollar for dollar basis, from non-Federal sources.

"STATE APPLICATION

Grants.
20 USC 386b.

"SEC. 813. (a) Funds appropriated pursuant to section 818 shall be available for grants to States for the purpose of supporting not more than 1 library literacy center in each State to coordinate the statewide distribution of library literacy materials and equipment on a loan basis to local public libraries within the State.

"(b) Any State wishing to receive a grant shall, through its State library administrative agency, in conjunction with the advisory committee established under section 816, submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may reasonably require. No application may be approved by the Secretary unless it contains assurances that the State will—

"(1) designate the State library administrative agency, or select a local public library through a competitive process, to serve as a library literacy center in accordance with the provisions of this part;

"(2) provide assurances that the library literacy center will—

"(A) select local public libraries to participate in a literacy materials and equipment loan program;

"(B) select at least 25 percent of the local libraries that participate in the literacy materials and equipment loan program from rural areas;

"(C) give priority in the selection of local public libraries to participate in the literacy materials and equipment loan program to public libraries within the State which serve those in greatest need;

"(D) coordinate the distribution of equipment and materials;

"(E) provide training to local public library personnel;

"(3) describe how the results of the grant program will be evaluated and disseminated;

"(4) set forth the potential of the grant program for achieving replicability and for serving as a model program; and

"(5) distribute 100 percent of the amounts received pursuant to this part to the library literacy center as designated or selected under section 817.

"(c) The Secretary shall give priority to applicants whose applications comply with the provisions of this part and describe programs and services to be delivered in States which have—

"(1) the highest concentrations of adults who do not have a secondary education or its equivalent,

"(2)(A) few community or financial resources to establish the program described under this part without Federal assistance, or

"(B) low per capita income, or high concentrations of unemployment or underemployment.

"USE OF FUNDS

"SEC. 814. (a) Funds made available under this part shall be used by the library literacy centers to establish coordination centers to make literacy materials and equipment available to local public libraries on a loan basis to initiate, expand, or improve public library literacy services and programs. Such services and programs may include— 20 USC 386c.

"(1) the acquisition of literacy education equipment including, but not limited to, video recorders and television monitors;

"(2) the acquisition of print materials, audio tapes and video tapes designed to train adults with limited literacy skills, including materials and tapes prepared by public television;

"(3) the acquisition of library resource materials for literacy instruction purposes;

"(4) the acquisition of literacy training materials including but not limited to General Education Development (GED) print materials and video tapes; and

"(5) staffing for coordination and training of local library personnel on literacy services.

"(b) Each library literacy center receiving a grant under this part may use no more than 25 percent of such funds for the acquisition of literacy education computers and computer software.

"LOCAL APPLICATION

"SEC. 815. (a) Any local public library desiring to participate in programs and services conducted pursuant to this part shall submit an application to the State or the library literacy center as selected by the State under section 817 at such time, in such form, and containing such information as the State or the library literacy center determines is necessary to evaluate the quality of the local public library's proposal and the local public library's ability to carry out such proposal. 20 USC 386d.

"(b) Each such application shall—

"(1) describe the manner in which the equipment and materials will be used to initiate, expand, or improve local library literacy services;

"(2) demonstrate that the library has or will have sufficient qualified staff and volunteers with specialized training in providing library literacy services to adults;

"(3) provide for the establishment of—

"(A) a library literacy loan program through which adults with limited literacy skills or individuals helping illiterate adults to learn to read may borrow books, video tapes, and other learning materials; and

"(B) other innovative programs and policies designed to encourage greater use of the library by adults with limited literacy skills or individuals helping illiterate adults learn to read;

"(4) provide assurances that coordination will take place with literacy organizations and community-based organizations providing literacy services;

"(5) provide job and career information to adults with limited literacy skills who are unemployed or seeking a new job;

"(6) provide information or referrals to other adult education opportunities in the community;

"(7) describe, if appropriate, any special services and outreach activities which will be offered to meet the needs of adults with limited literacy skills;

"(8) describe the methods by which the library will publicize and promote the services of the library in cooperation with the local media, schools, businesses, social service agencies, and other appropriate entities; and

"(9) provide assurances that the materials, equipment and training provided will be used to supplement and not supplant materials, equipment and training otherwise available for the purposes of this part.

"ADVISORY COMMITTEE

20 USC 386e.

"SEC. 816. Each State receiving a grant under this part shall establish an advisory committee to assist in coordinating the services and programs assisted under this part. Such committee shall consist of, but not be limited to, representatives of—

"(1) the Governor's office;

"(2) the State library administrative agency;

"(3) the State Advisory Council on Libraries;

"(4) the State department of education;

"(5) the State employment office;

"(6) public television; and

"(7) adult literacy community organizations.

"SELECTION OF LITERACY LEARNING CENTERS

20 USC 386f.

"SEC. 817. Each State receiving a grant under this part shall designate the State library administrative agency as the library literacy center or shall select a library literacy center on a competitive basis from among the local public libraries submitting applications under section 815. In making such selection, the State shall give priority to applications which—

"(1) demonstrate the greatest ability to carry out the requirements of section 813 and to serve other local libraries; and

"(2) offer innovative approaches to improving library literacy services to adults and approaches which show promise for replication and dissemination.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 818. There are authorized to be appropriated $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of this part.". 20 USC 386g.

(b) CONFORMING AMENDMENTS.—Section 3 of the Act is amended by adding at the end thereof the following: 20 USC 351a.

"(20) The term 'educationally disadvantaged adult' has the meaning given that term in section 312(3)(A) of the Adult Education Act of 1988 (20 U.S.C. 2101a).

"(21) The term 'adult with limited literacy skills' means an adult whose minimal skills in reading, writing, or computation or in performing basic arithmetical computations preclude the individual from functioning in society without assistance from others.".

SEC. 24. TECHNICAL AMENDMENT.

Title I of the Act is amended—

(1) by inserting "PUBLIC" before "LIBRARY" in the heading of such title; and

(2) by inserting "PUBLIC" before "LIBRARY" in the heading of section 101. 20 USC 352.

SEC. 25. EFFECTIVE DATE. 20 USC 351a note.

The amendments made by this Act shall take effect on October 1, 1990.

Approved March 15, 1990.

LEGISLATIVE HISTORY—H.R. 2742 (S. 1291):

HOUSE REPORTS: No. 101-237 (Comm. on Education and Labor) and No. 101-407 (Comm. of Conference).

SENATE REPORTS: No. 101-125 accompanying S. 1291 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Sept. 12, considered and passed House.
Oct. 12, considered and passed Senate, amended.

Vol. 136 (1990): Feb. 27, House agreed to conference report.
Mar. 1, Senate agreed to conference report.

Public Law 101-255
101st Congress

An Act

Mar. 15, 1990
[H.R. 4010]

To provide the Secretary of Agriculture authority regarding the sale of sterile screwworms.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of February 28, 1947 (61 Stat. 7; 21 U.S.C. 114b et seq.) is amended—

21 USC 114b.

(1) in the first section—

(A) by inserting at the beginning "SECTION 1. COOPERATION IN ANIMAL DISEASE CONTROL.—", and

(B) by striking "screw-worm" and inserting "screwworm";

21 USC 114c.

(2) in section 2 by inserting after "SEC. 2." the heading "USE OF FUNDS.—";

(3) by inserting after section 2 the following:

21 USC 114d.

"SEC. 3. SALE OF STERILE SCREWWORMS.—(a) IN GENERAL.—Notwithstanding section 1, the Secretary of Agriculture may, independently or in cooperation with any foreign government or any international organization or association, produce and sell sterile screwworms to any foreign government or to any international organization or association, if the Secretary determines that the protection of livestock and related industries of the United States will not be adversely affected by such production and sale.

"(b) TERMS OF SALE.—The Secretary may provide for the sale of screwworms under subsection (a) under such terms and conditions as the Secretary considers appropriate.

"(c) DEPOSIT OF PROCEEDS.—(1) INDEPENDENT SALES.—If the Secretary independently produces and sells screwworms under subsection (a), the proceeds of such sales shall be deposited in the Treasury of the United States and be credited to the appropriation from which the operating expenses of the facility producing the screwworms have been paid.

"(2) COOPERATIVE SALES.—If the Secretary produces and sells screwworms in cooperation with a foreign government or an international organization or association, the proceeds of such sale shall be divided between the United States and such government, organization, or association, as determined by the Secretary, and the United States portion of such proceeds shall be deposited into the Treasury of the United States and be credited to the appropriation from which the operating expenses of the facility producing the screwworms have been paid.";

21 USC 114b note.

(4) in section 4 by inserting after "SEC. 4." the heading "AUTHORIZATION OF APPROPRIATIONS.—";

21 USC 114d-1.

(5) in section 5 by inserting after "SEC. 5." the heading "COOPERATION WITH PUBLIC AND PRIVATE ENTITIES.—"; and

(6) by adding at the end the following new section:

"SEC. 6. SHORT TITLE.—This Act may be referred to as the 'Animal Disease Control Cooperation Act of 1947'.". Animal Disease Control Cooperation Act of 1947. 21 USC 114b note.

Approved March 15, 1990.

LEGISLATIVE HISTORY—H.R. 4010:

HOUSE REPORTS: No. 101-408 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 27, considered and passed House.
Mar. 5, considered and passed Senate.

Public Law 101-256
101st Congress

Joint Resolution

Mar. 20, 1990
[S.J. Res. 243]

To designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;
Whereas 1990 marks the 2,500th anniversary of the birth of democracy;
Whereas the Founding Fathers of the United States drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;
Whereas March 25, 1990, marks the 169th anniversary of the beginning of the revolution that freed the Greek people from the Ottoman Empire;
Whereas democratic ideals have forged a close bond between our two nations and their peoples; and
Whereas it is proper and desirable to celebrate our ideals with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1990, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved March 20, 1990.

LEGISLATIVE HISTORY—S.J. Res. 243:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
Mar. 14, considered and passed House.

Public Law 101-257
101st Congress

An Act

To authorize the conveyance of a parcel of land in Whitney Lake, Texas.

Mar. 20, 1990
[H.R. 2749]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, WHITNEY LAKE, TEXAS.

(a) AUTHORITY TO CONVEY.—Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to sell and convey to the city of Whitney, Texas, all right, title, and interest of the United States in and to approximately 45 acres of land located at Whitney Lake, Texas.

(b) CONDITIONS.—(1) In consideration for the sale and conveyance, the city of Whitney shall pay to the United States the fair market value, as determined by the Secretary, of the property to be conveyed by the United States under subsection (a).

(2) The conveyance authorized by subsection (a) shall be subject to the condition that the property conveyed by the Secretary be used by the city for the purposes of a wastewater treatment plant. Waste disposal.

(3) The conveyance authorized by subsection (a) shall be made only if the Secretary determines that the Secretary does not need fee simple title to such real property for the flood control project on Lake Whitney.

(c) LEGAL DESCRIPTION OF LAND.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the city of Whitney.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions (including any limitation relating to the operation of the Lake Whitney flood control project) with respect to the conveyance as the Secretary considers appropriate to protect the interests of the United States.

Approved March 20, 1990.

LEGISLATIVE HISTORY—H.R. 2749:

CONGRESSIONAL RECORD:
Vol. 135 (1989): June 28, considered and passed House.
Vol. 136 (1990): Mar. 5, considered and passed Senate.

Public Law 101-258
101st Congress
Joint Resolution

Mar. 27, 1990
[S.J. Res. 237]

Providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

Whereas October 14, 1990, marks the 100th anniversary of the birth of Dwight David Eisenhower;

Whereas Eisenhower was born on October 14, 1890, in Denison, Texas, and soon thereafter moved with his family to Abilene, Kansas;

Whereas Eisenhower developed an interest in military history early in childhood, and attended the United States Military Academy at West Point, New York, from 1911 through 1915;

Whereas in 1915, upon graduation from the United States Military Academy, Eisenhower was commissioned as a second lieutenant and assigned to the 19th Infantry at Fort Sam Houston, Texas;

Whereas at the conclusion of World War I, Eisenhower assumed the rank of captain, and was promoted to the rank of major shortly thereafter;

Whereas in 1935, Eisenhower accompanied General Douglas MacArthur to the Philippines, where he served as a senior military assistant to General MacArthur;

Whereas Eisenhower was promoted to the rank of lieutenant colonel during his service in the Philippines;

Whereas Eisenhower was subsequently assigned to Fort Lewis, Washington, where he served as executive officer of the 15th Regiment of the 3d Infantry Division from January through November, 1940, and as chief of staff to General Kenyon A. Joyce of the 9th Corps from March through June of 1941;

Whereas in March 1942, Eisenhower was promoted to the rank of General and named Chief of the Operations Division for the General Staff of the United States Army;

Whereas in June 1942, Eisenhower achieved the rank of Lieutenant General, and in December 1944, he became a General of the Armies;

Whereas Eisenhower served as President of Columbia University from 1948 through 1950;

Whereas Eisenhower was appointed by President Harry S Truman as Supreme Commander of the North Atlantic Treaty Organization forces in Europe, and served in that position from 1951 through 1952;

Whereas Eisenhower was elected the 34th President of the United States on November 4, 1952, and was reelected to serve a second term on November 6, 1956;

Whereas President Eisenhower hosted 115 foreign chiefs of state and heads of government on visits to the United States, traveled to 28 foreign countries, and participated in 20 summit talks with foreign government leaders;

Whereas Eisenhower strongly supported education and promoted international understanding through education;

Whereas Eisenhower had a long and productive association with Gettysburg College, serving as a member of the College's Board of Trustees, using a campus office to write his memoirs and to fulfill the numerous duties of a former President, and receiving an honorary doctorate from the College;

Whereas after leaving office on January 20, 1961, Eisenhower retired with his wife to their farm and home in Gettysburg, Pennsylvania;

Whereas Eisenhower died on March 28, 1969, and was buried in military uniform in the place of meditation on the grounds of the Eisenhower Center in Abilene, Kansas; and

Whereas throughout 1990, various public and private organizations, including the Eisenhower Society, the Eisenhower Foundation, the Eisenhower World Affairs Institute, the Eisenhower Exchange Fellowship Program, Inc., the Eisenhower Centennial Commission, and others, will be sponsoring and conducting events across the Nation to commemorate the centennial of the birth of Dwight David Eisenhower: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 14, 1990, the 100th anniversary of the birth of Dwight David Eisenhower, is designated as "Dwight D. Eisenhower Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

SEC. 2. The members of the Senate and the House of Representatives who are members of the Dwight David Eisenhower Centennial Commission, with the assistance of the other members of that commission (referred to hereinafter as the "Commission"), shall—

(1) make arrangements for a joint meeting of the Congress to be held on Tuesday, March 27, 1990, or such other day as may be designated by the Speaker of the House of Representatives, in the Hall of the House of Representatives in commemoration of the centennial of the birth of Dwight David Eisenhower;

(2) plan the proceedings of and issue appropriate invitations to the joint meeting; and

(3) coordinate the foregoing arrangements with the activities of the Dwight David Eisenhower Centennial Commission.

SEC. 3. The expenses of carrying out this joint resolution shall not exceed $25,000 and shall be paid from the contingent fund of the House of Representatives upon vouchers approved by the Speaker of the House of Representatives.

Approved March 27, 1990.

LEGISLATIVE HISTORY—S.J. Res. 237:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 1, considered and passed Senate.
Mar. 21, considered and passed House.

Public Law 101-259
101st Congress

An Act

To designate the Federal building located at 350 South Main Street in Salt Lake City, Utah, as the "Frank E. Moss United States Courthouse".

Mar. 30, 1990
[H.R. 3311]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 350 South Main Street in Salt Lake City, Utah, shall be known and designated as the "Frank E. Moss United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Frank E. Moss United States Courthouse".

Approved March 30, 1990.

LEGISLATIVE HISTORY—H.R. 3311:

HOUSE REPORTS: No. 101-375 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 17, considered and passed House.
Vol. 136 (1990): Mar. 20, considered and passed Senate.

Public Law 101-260
101st Congress

An Act

Mar. 30, 1990
[S. 1091]

To provide for the striking of medals in commemoration of the bicentennial of the United States Coast Guard.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States Coast Guard Bicentennial Medal Act.
31 USC 5111 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Coast Guard Bicentennial Medal Act".

31 USC 5111 note.

SEC. 2. MEDAL COMMEMORATING THE BICENTENNIAL OF THE UNITED STATES COAST GUARD.

(a) COMMEMORATIVE MEDAL.—The Secretary of the Treasury shall design, strike, and sell a medal in commemoration of the bicentennial of the United States Coast Guard in 1990.

(b) SALES.—Medals struck pursuant to subsection (a) shall be sold at a price sufficient to cover the cost of such medals, including labor, materials, dies, use of machinery, and overhead expenses.

31 USC 5111 note.

SEC. 3. DESIGN OF MEDAL.

The design of the medal authorized by this Act shall be selected by the Secretary of the Treasury after consultation with the Secretary of Transportation and the Commission of Fine Arts.

31 USC 5111 note.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

Approved March 30, 1990.

LEGISLATIVE HISTORY—S. 1091:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 3, considered and passed Senate.
Vol. 136 (1990): Mar. 20, considered and passed House.

Public Law 101-261
101st Congress

Joint Resolution

To designate April 1990 as "National Prevent-A-Litter Month".

Mar. 30, 1990
[S.J. Res. 229]

Whereas the irresponsibility of some dog and cat owners in allowing uncontrolled breeding of their pets has created a pet overpopulation problem in the United States;

Whereas the pet overpopulation problem results in the destruction of millions of dogs and cats each year;

Whereas the pet overpopulation problem results in other cruelties to pets caused by neglect, such as abandonment, starvation, and injury;

Whereas the cruelties inflicted on pets result not only in lost animal lives but also in lost resources spent by thousands of communities to shelter neglected and displaced pets;

Whereas the pet overpopulation problem can be solved only by active promotion of pet owner responsibility programs that include spaying and neutering of pets, proper care and sheltering of pets, and compliance with animal control regulations; and

Whereas the people of the United States should commit themselves to preventing the needless destruction of pets by practicing responsible pet ownership and by spaying and neutering pets as a means of combating the problem of pet overpopulation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1990 is designated as "National Prevent-A-Litter Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved March 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 229:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
Mar. 14, considered and passed House.

Public Law 101-262
101st Congress

An Act

Mar. 31, 1990
[S. 2231]

To amend the Energy Policy and Conservation Act to extend the authority for titles I and II.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Energy Policy and Conservation Act Extension Amendment of 1990.
42 USC 6201 note.

SECTION. 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Extension Amendment of 1990".

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

50 USC app. 2071 note.

(a) in section 104(b)(1) by striking out "April 1, 1990" and inserting in lieu thereof "August 15, 1990";

42 USC 6251.

(b) in section 171, by striking out "April 1, 1990" each place it appears and inserting in lieu thereof "August 15, 1990"; and

42 USC 6285.

(c) in section 281, by striking out the term "June 30, 1990" each place it appears and inserting in lieu thereof "August 15, 1990".

Approved March 31, 1990.

LEGISLATIVE HISTORY—S. 2231 (H.R. 4167):

HOUSE REPORTS: No. 101-422 accompanying H.R. 4167 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-247 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 9, considered and passed Senate.
Mar. 20, H.R. 4167 considered and passed House; proceedings vacated and S. 2231 passed in lieu.

Public Law 101-263
101st Congress

An Act

To provide for an increase in the maximum rates of basic pay for the police force of the National Zoological Park.

Apr. 4, 1990
[S. 1521]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN THE MAXIMUM RATES OF BASIC PAY FOR THE POLICE FORCE OF THE NATIONAL ZOOLOGICAL PARK.

(a) IN GENERAL.—Section 5375 of title 5, United States Code, is amended to read as follows:

"§ 5375. Police force of the National Zoological Park

"The Secretary of the Smithsonian Institution shall fix the annual rates of basic pay for positions on the police force of the National Zoological Park as follows:

"(1) Private, not more than the maximum annual rate of basic pay payable for grade GS-7 of the General Schedule.

"(2) Sergeant, not more than the maximum annual rate of basic pay payable for grade GS-8, of the General Schedule.

"(3) Lieutenant, not more than the maximum annual rate of basic pay payable for grade GS-9 of the General Schedule.

"(4) Captain, not more than the maximum annual rate of basic pay payable for grade GS-10 of the General Schedule.".

(b) CLERICAL AMENDMENT.—The item relating to section 5375 in the table of sections for chapter 53 of title 5, United States Code, is amended to read as follows:

"5375. Police force of the National Zoological Park.".

SEC. 2. EFFECTIVE DATE.

5 USC 5375 note.

The amendments made by section 1 shall apply with respect to pay periods beginning after the date of the enactment of this Act.

Approved April 4, 1990.

LEGISLATIVE HISTORY—S. 1521:

SENATE REPORTS: No. 101-145 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 2, considered and passed Senate.
Vol. 136 (1990): Jan. 30, considered and passed House, amended.
Mar. 20, Senate concurred in House amendments.

Public Law 101-264
101st Congress

Joint Resolution

Apr. 4, 1990
[S.J. Res. 250]

Designating April 1990 as "National Recycling Month".

Whereas the continued generation of enormous volumes of solid waste each year presents unacceptable threats to human health and the environment;

Whereas several regions of the United States are experiencing a severe shortage of disposal capacity for municipal solid waste;

Whereas as a result of the inability to find sites for new solid waste management facilities, many communities are managing waste in facilities that were not designed with the best available environmental controls;

Whereas the generation of hazardous waste and solid waste must be reduced and as much remaining waste as possible must be recycled to protect human health and the environment and to minimize treatment and disposal capacity problems;

Whereas a significant amount of waste can be diverted from disposal by the utilization of source separation, mechanical separation, and community-based recycling programs;

Whereas local governments should be an integral component of the decisionmaking process regarding the management of municipal solid waste;

Whereas developing a system of waste management that, to the greatest extent practicable, separates elements of the waste stream that require special management or that are in demand for reuse or recycling will enhance the economic feasibility and environmental safety of all management methods, including recycling, incineration, and land disposal;

Whereas source reduction and recycling represent the most environmentally sound means of managing municipal solid waste and can often be carried out with a lower cost than is incurred by other means;

Whereas recycling preserves limited landfill capacity and reduces the amount of solid waste intended for incineration;

Whereas recycling can save energy and avoid the pollution created from extracting resources from their natural environment;

Whereas the revenues recovered by recycling programs offset the costs of solid waste management;

Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and is significantly reducing the quantity of solid waste entering landfills or incinerators;

Whereas the technology for recycling plastic is currently under development, and progress continues toward increasing potential markets;

Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;

Whereas Federal, State, and local governments should promote the design of products that can be recycled safely and efficiently;

Whereas Federal, State, and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas Federal, State, and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;

Whereas Federal, State, and local governments should establish incentives for household separation of waste to encourage recycling;

Whereas the success of source reduction and recycling programs depends on the participation of an informed public; and

Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1990 is designated as "National Recycling Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved April 4, 1990.

LEGISLATIVE HISTORY—S.J. Res. 250:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
Mar. 28, considered and passed House.

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Public Law 101-265
101st Congress

Joint Resolution

Apr. 4, 1990
[S.J. Res. 266]

Designating March 1990, as "United States Naval Reserve Month".

Whereas March 1990, is the 75th anniversary of the establishment of the Federal Navy Reserve Force;

Whereas thousands of men and women of the United States have served the Nation as "Twice the Citizens" by serving with the United States Naval Reserve;

Whereas thousands of Reserve members have been a critical component of the Fighting Force of the United States Navy;

Whereas 600,000 individuals were members of the Naval Reserve during World War I and 80 percent of Naval personnel were reservists during World War II;

Whereas, in the Berlin Crisis, Korea, Vietnam, and most recently in the Persian Gulf, Naval reservists played vital roles;

Whereas the United States Naval Reserve continues to serve the Nation in peace time by maintaining military readiness and contributing to fleet support;

Whereas the reservists serve as part-time regular Navy personnel which economically fulfills important military missions and expands the operational abilities of the Navy around the world;

Whereas thousands of employers throughout the United States and the families of reservists have contributed to the support and encouragement needed for a successful Reserve program;

Whereas many Naval reservists have died while serving the Nation; and

Whereas in recognition of great sacrifice of Naval reservists during peace time and during war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1990, is designated as "United States Naval Reserve Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the Nation to observe the month with appropriate ceremonies and activities in recognition of the 75th anniversary of the United States Naval Reserve.

Approved April 4, 1990.

LEGISLATIVE HISTORY—S.J. Res. 266:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 20, considered and passed Senate.
Mar. 28, considered and passed House.

Public Law 101-266
101st Congress

Joint Resolution

Designating April 9, 1990, as "National Former Prisoners of War Recognition Day".

Apr. 5, 1990
[S.J. Res. 190]

Whereas the United States has fought in many armed conflicts;
Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;
Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;
Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and
Whereas these great sacrifices of former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1990, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such day with appropriate ceremonies and activities.

Approved April 5, 1990.

LEGISLATIVE HISTORY—S.J. Res. 190:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
Mar. 20, considered and passed House.

Public Law 101-267
101st Congress

Joint Resolution

Apr. 6, 1990
[H.J. Res. 500]

To designate April 6, 1990, as "Education Day, U.S.A.".

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement through its over one hundred and fifty centers in the United States and many more the world over has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-eighth year will be seen as the year of continued "turn and return", the year in which we continue to turn to an education which will return the world to the moral and ethical values contained in the Seven Noahide Laws;

Whereas, this year of 1990 (5750 on the Hebrew calendar) is the "Fortieth Anniversary" in which the Rebbe enters the fifth decade since his ascension to the world leadership of the Lubavitch movement and spiritual guidance of world Jewry; and

Whereas this has been reflected in the "International Scroll of Honor" which has been signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1990, the eighty-eighth birthday of Rabbi Menachem Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities. We also call on heads of

Public Law 101-268
101st Congress

An Act

Apr. 9, 1990
[H.R. 2692]

To amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN MEMBERSHIP OF THE BOARD OF TRUSTEES OF THE WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS.

Section 3(b) of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f(b)) is amended to read as follows:

"(b) The Board of Trustees shall be composed of 19 members as follows:

"(1) the Secretary of State;

"(2) the Secretary of Health and Human Services;

"(3) the Secretary of Education;

"(4) the Chairman of the National Endowment for the Humanities;

"(5) the Secretary of the Smithsonian Institution;

"(6) the Librarian of Congress;

"(7) the Director of the United States Information Agency;

"(8) the Archivist of the United States;

President of U.S.

"(9) one member appointed by the President from time to time from within the Federal Government; and

"(10) 10 members appointed by the President from private life.".

SEC. 2. CONFORMING AMENDMENTS.

Section 3 of the Woodrow Wilson Memorial Act of 1968 (20 U.S.C. 80f) is amended—

(1) in subsection (c), by striking out "(8)" and inserting in lieu thereof "(9)"; and

(2) in the first sentence of subsection (d), by striking out "(9)" and inserting in lieu thereof "(10)".

Approved April 9, 1990.

LEGISLATIVE HISTORY—H.R. 2692:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 20, considered and passed House.
Mar. 26, considered and passed Senate.

Public Law 101-269
101st Congress

An Act

To permit the transfer of the obsolete submarine U.S.S. Requin to the Carnegie Institute in Pittsburgh, Pennsylvania, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer.

Apr. 9, 1990
[S. 2151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF WAITING PERIOD

Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete submarine U.S.S. Requin to the Carnegie Institute in Pittsburgh, Pennsylvania, for use by the Carnegie Institute in connection with the Carnegie Institute Science Center in Pittsburgh.

Approved April 9, 1990.

LEGISLATIVE HISTORY—S. 2151:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 5, considered and passed Senate.
Mar. 28, considered and passed House.

Public Law 101-270
101st Congress

An Act

Apr. 10, 1990
[H.R. 4099]

To suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.

7 USC 1332 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 332 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1332) shall not be applicable to the 1991 crop of wheat.

Approved April 10, 1990.

LEGISLATIVE HISTORY—H.R. 4099:

HOUSE REPORTS: No. 101-414 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 6, considered and passed House.
Mar. 28, considered and passed Senate.

Public Law 101-271
101st Congress

An Act

To provide for five-year, staggered terms for members of the Federal Energy Regulatory Commission, and for other purposes.

Apr. 11, 1990
[S. 388]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Energy Regulatory Commission Member Term Act of 1990. 42 USC 7101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Regulatory Commission Member Term Act of 1990".

SEC. 2. FIVE-YEAR TERMS FOR MEMBERS OF THE FEDERAL ENERGY REGULATORY COMMISSION.

(a) IN GENERAL.—Section 401(b) of the Department of Energy Organization Act is amended by striking "four years" in the third sentence and inserting "5 years". 42 USC 7171.

(b) STAGGERED TERMS.—Section 401(b) of such Act is amended by—

(1) inserting "(1)" after "(b)";

(2) striking the fourth sentence;

(3) amending the seventh sentence to read, "A Commissioner may continue to serve after the expiration of his term until his successor is appointed and has been confirmed and taken the oath of Office, except that such Commissioner shall not serve beyond the end of the session of the Congress in which such term expires."; and

(4) adding at the end thereof the following:

"(2) Notwithstanding the third sentence of paragraph (1), the terms of members first taking office after the date of enactment of the Federal Energy Regulatory Commission Member Term Act of 1990 shall expire as follows:

"(A) In the case of members appointed to succeed members whose terms expire in 1991, one such member's term shall expire on June 30, 1994, and one such member's term shall expire on June 30, 1995, as designated by the President at the time of appointment.

"(B) In the case of members appointed to succeed members whose terms expire in 1992, one such member's term shall expire on June 30, 1996, and one such member's term shall expire on June 30, 1997, as designated by the President at the time of appointment.

"(C) In the case of the member appointed to succeed the member whose term expires in 1993, such member's term shall expire on June 30, 1998.".

42 USC 7171 note.

(c) APPLICABILITY.—The amendments made by this section apply only to persons appointed or reappointed as members of the Federal Energy Regulatory Commission after the date of enactment of this Act.

Approved April 11, 1990.

LEGISLATIVE HISTORY—S. 388 (H.R. 908):

HOUSE REPORTS: No. 101-421 accompanying H.R. 908 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-76 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 15, considered and passed Senate.
Vol. 136 (1990): Mar. 27, H.R. 908 considered and passed House; S. 388, amended, passed in lieu.
Mar. 29, Senate concurred in House amendment.

Public Law 101-272
101st Congress

An Act

To ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

Apr. 18, 1990
[S. 1813]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (e) of section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433(e)) is amended—

(1) by inserting ", or purchase or lease of land or facilities for," after "renovation of" in paragraph (1),

(2) by striking out "subject to contracting" in paragraph (3) and inserting in lieu thereof "subject to contracting or available for grants", and

(3) by adding at the end thereof the following new paragraphs:

"(4) Funds appropriated under the authority of this subsection may be used by any Indian tribe or tribal organization to purchase or lease any land or facilities if—

"(A) the Secretary of the Interior determines that no Federal land or facilities are reasonably available for emergency shelters or halfway houses described in subsection (a) to serve the needs of that Indian tribe or tribal organization, and

"(B) the Indian tribe or tribal organization enters into an agreement with the Secretary of the Interior that requires the Indian tribe or tribal organization to use the land or facilities for emergency shelters or half-way houses described in subsection (a).

"(5) Nothing in this Act may be construed—

"(A) to limit the authority for contracts with, or grants to, Indian tribes or tribal organizations under the Indian Self-Determination Act for the construction, improvement, renovation, operation, repair, land acquisition, or maintenance of tribal juvenile detention facilities, emergency shelters, or half-way houses, or

"(B) to require a lease of tribal facilities to the United States to qualify for financial assistance for the facilities under this or any other Act.".

Approved April 18, 1990.

LEGISLATIVE HISTORY—S. 1813:

HOUSE REPORTS: No. 101-432, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-207 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 16, considered and passed Senate.
Vol. 136 (1990): Apr. 3, considered and passed House.

Public Law 101-273
101st Congress

An Act

Apr. 18, 1990
[S. 1949]

To amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMPLOYEE HOUSING TRUST FUNDS.

Section 302(c)(7) of the Labor Management Relations Act of 1947 (29 U.S.C. 186(c)(7)) is amended—

(1) by striking out "or" at the end of subparagraph (A); and

(2) by inserting ", or (C) financial assistance for employee housing" after "dependents of employees" in subparagraph (B).

Approved April 18, 1990.

LEGISLATIVE HISTORY—S. 1949 (H.R. 4073):

HOUSE REPORTS: No. 101-441 accompanying H.R. 4073 (Comm. on Education and Labor).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Nov. 21, considered and passed Senate.

Vol. 136 (1990): Apr. 3, H.R. 4073 considered and passed House; proceedings vacated and S. 1949 passed in lieu.

Public Law 101-274
101st Congress

An Act

To further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations.

Apr. 23, 1990
[H.R. 3968]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 402(c)(3) of the Organ Transplant Amendments Act of 1988 (42 U.S.C. 273 note) is amended by striking "until 2 years" and all that follows and inserting "until January 1, 1992.".

Approved April 23, 1990.

LEGISLATIVE HISTORY—H.R. 3968:

HOUSE REPORTS: No. 101-447 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 4, considered and passed House and Senate.

Public Law 101-275
101st Congress

An Act

Apr. 23, 1990
[H.R. 1048]

To provide for the acquisition and publication of data about crimes that manifest prejudice based on certain group characteristics.

Hate Crime Statistics Act.
28 USC 534 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Hate Crime Statistics Act".

(b)(1) Under the authority of section 534 of title 28, United States Code, the Attorney General shall acquire data, for the calendar year 1990 and each of the succeeding 4 calendar years, about crimes that manifest evidence of prejudice based on race, religion, sexual orientation, or ethnicity, including where appropriate the crimes of murder, non-negligent manslaughter; forcible rape; aggravated assault, simple assault, intimidation; arson; and destruction, damage or vandalism of property.

(2) The Attorney General shall establish guidelines for the collection of such data including the necessary evidence and criteria that must be present for a finding of manifest prejudice and procedures for carrying out the purposes of this section.

(3) Nothing in this section creates a cause of action or a right to bring an action, including an action based on discrimination due to sexual orientation. As used in this section, the term "sexual orientation" means consensual homosexuality or heterosexuality. This subsection does not limit any existing cause of action or right to bring an action, including any action under the Administrative Procedure Act or the All Writs Act.

Research and development.

(4) Data acquired under this section shall be used only for research or statistical purposes and may not contain any information that may reveal the identity of an individual victim of a crime.

(5) The Attorney General shall publish an annual summary of the data acquired under this section.

Appropriation authorization.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section through fiscal year 1994.

28 USC 534 note.

SEC. 2. (a) Congress finds that—

(1) the American family life is the foundation of American Society,

(2) Federal policy should encourage the well-being, financial security, and health of the American family,

(3) schools should not de-emphasize the critical value of American family life.

(b) Nothing in this Act shall be construed, nor shall any funds appropriated to carry out the purpose of the Act be used, to promote or encourage homosexuality.

Approved April 23, 1990.

LEGISLATIVE HISTORY—H.R. 1048 (S. 419):

HOUSE REPORTS: No. 101-109 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-21 accompanying S. 419 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): June 27, considered and passed House.
Vol. 136 (1990): Feb. 8, considered and passed Senate, amended.
Apr. 3, 4, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Apr. 23, Presidential remarks.

Public Law 101-276
101st Congress

Joint Resolution

Apr. 25, 1990
[S.J. Res. 242]

Designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week".

Whereas thirty-five million individuals in the United States are victimized by crime each year, with six million falling prey to violence;

Whereas the Department of Justice estimates that five out of six individuals will be the victim or intended victim of crime during their lifetimes;

Whereas many victims suffer severe psychological, physical, and emotional hardships as a result of victimizations;

Whereas the Nation must commit its collective energies to improving the criminal justice and social services response to victims;

Whereas injustice to crime victims must be redressed by implementing the recommendations proposed by the President's Task Force on Victims of Crime; and

Whereas, as a Nation committed to justice and liberty for all, efforts must be continued to remove the inequities victims face and to protect and restore individual rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 22 through April 28, 1990, is designated as "National Crime Victims' Rights Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved April 25, 1990.

LEGISLATIVE HISTORY—S.J. Res. 242:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 4, considered and passed Senate.
Apr. 18, considered and passed House.

Public Law 101-277
101st Congress

An Act

To provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission.

Apr. 30, 1990
[S. 1096]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, the funds appropriated in satisfaction of judgments awarded to the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission shall be used and distributed as provided in this Act.

Oklahoma.
Florida.

SEC. 2. (a) The funds appropriated with respect to the judgments awarded to the Seminole Indians in dockets 73 and 151 of the Indian Claims Commission (less attorney fees and litigation expenses), including all interest and investment income accrued thereon, are allocated hereby as follows—

(1) 75.404 per centum of such funds are allocated to the Seminole Nation of Oklahoma; and

(2) 24.596 per centum of such funds shall be allocated among the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida and the independent Seminole Indians of Florida.

(b) The funds that are required under subsection (a) of this section to be allocated among the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida, and all of the funds appropriated with respect to the judgment awarded to the Seminole Indians in docket 73-A (less attorney fees and litigation expenses), including all interest and investment income accrued thereon, shall be allocated as follows—

(1) the Seminole Tribe of Florida, 77.20 per centum;

(2) the Miccosukee Tribe of Indians of Florida, 18.16 per centum; and

(3) the independent Seminole Indians of Florida (as a group), 4.64 per centum.

SEC. 3. (a) A proposed plan for the use and distribution of the funds allocated to the Seminole Nation of Oklahoma under section 2 of this Act may be prepared by the governing body of the Seminole Nation of Oklahoma in consultation with the Secretary of the Interior within one hundred and eighty days of the enactment of this Act. Upon completion of such a plan, the Secretary shall submit it to the Congress without delay, together with recommendations for its approval and the reasons therefor.

(b) If a plan has not been prepared by the Seminole Nation as provided in subsection (a) of this section, the Secretary, in consultation with the Seminole Nation, shall prepare and submit a plan to the Congress for approval within one hundred and eighty days of the expiration of the period referred to in subsection (a) of this section. A copy of the plan prepared by the Secretary shall be furnished to

the Seminole Nation simultaneously with its submission to the Congress.

SEC. 4. (a) Any plan for the use and distribution of the funds allocated to the Seminole Nation of Oklahoma shall provide that not less than 80 per centum thereof shall be set aside and programmed to serve common tribal needs, educational requirements, and such other purposes as the circumstances of the Seminole Nation of Oklahoma may determine.

(b) No per capita distribution may be made from the sum allocated to the Seminole Nation of Oklahoma, except that the investment income from not more than 20 per centum of the fund may be distributed per capita from time to time in the discretion of the tribal governing authority pursuant to a distribution plan approved by the Secretary. No per capita distribution shall occur pursuant to this subsection until a roll of members of the Seminole Nation of Oklahoma born on or before and living on the date of enactment of this Act has been certified by the Secretary.

(c) The interests of minors and other legally incompetent persons who are entitled to receive any portion of such funds as are subsequently distributed to them will be protected and preserved: *Provided,* That such funds may be disbursed to the parents or legal guardians of such minors or legal incompetents in such amounts as may be necessary for the minors or legal incompetents' health, education, welfare, or emergencies under a plan or plans approved by the Secretary and the tribal governing body of the Indian tribe involved.

(d) A plan for the use and distribution of the judgment funds referred to in this Act shall be implemented by the Secretary immediately at the end of the sixty-day period (excluding days on which either the House of Representatives or the Senate is not in session because of an adjournment of more than three calendar days to a day certain) beginning on the day such plan is submitted to the Congress, unless during such sixty-day period a joint resolution is enacted disapproving such plan.

(e) Tribal investment decisions under a plan shall be subject to the approval of the Secretary. Approval shall be granted within a reasonable time unless the Secretary determines, in writing, that the investment would not be reasonable or prudent or would otherwise not be in accord with the provisions of this section.

(f) Neither the United States nor the Secretary shall be liable, because of the Secretary's approval of an investment decision under this section, for any losses in connection with such investment decision.

SEC. 5. The Secretary shall pay the governing body of the Seminole Tribe of Florida such portion of the amount held in trust for that tribe under section 2 of this Act to be allocated or invested as the tribal governing body determines to be in the economic or social interest of the tribe within sixty days after submission of an appropriate resolution by the tribal governing body.

SEC. 6. Notwithstanding any other provision of this Act, no plan for the use and distribution of the share of the funds allocated to the Miccosukee Tribe of Indians of Florida shall be prepared or implemented and no funds allocated to the Miccosukee Tribe of Indians of Florida shall be distributed to the tribe, its members, or any other person unless such plan or distribution is duly authorized by the General Council of the Miccosukee Tribe or by a referendum vote of the members of the tribe duly called by the General Council of the

tribe at which a negative vote is permitted. Such funds (and the interest therefrom) shall be held in trust by the United States and invested as provided in the Act of June 24, 1938 (52 Stat. 1037, as amended; 25 U.S.C. 162a), except that part or all of the amount may from time to time be paid to the governing body of the Miccosukee Tribe of Indians of Florida as may be authorized under this section.

SEC. 7. (a) The Secretary shall invest the funds allocated to the independent Seminole Indians of Florida (as a group) under section 2 in accordance with subsection (a) of the first section of the Act of June 24, 1938 (52 Stat. 1037, as amended; 25 U.S.C. 162a) until the date on which the funds are distributed under subsection (c).

(b)(1) Under regulations prescribed by the Secretary, the Secretary shall compile a role of those independent individuals of Seminole Indian lineal descent who— Regulations.

(A) were born on or before, and are living on, the date of enactment of this Act;

(B) are listed on or are lineal descendants of persons listed on the annotated Seminole Agency Census of 1957 as independent Seminoles; and

(C) are not members of an Indian tribe recognized by the Secretary on the most recent list of such Indian tribes published in the Federal Register.

Such persons listed on this roll shall constitute the independent Seminoles referred to in this Act.

(2) All determinations in the preparation of the roll under paragraph (1) of this subsection shall be based on timely applications for inclusions on the roll supported by evidence satisfactory to the Secretary. The Secretary shall not include any person on the roll who has not made formal application in writing to be included, and who has not met the requirements of paragraph (1) (A), (B), and (C).

(c) As soon as practicable after the roll required under subsection (b) has been compiled, the funds allocated to the independent Seminole Indians of Florida (as a group) under section 2, including all interest and investment income accrued thereon to the date of payment, except as provided for in subsection (d), shall be distributed on a per capita basis, in payments as equal as possible, only to those independent Seminole Indians of Florida enrolled under subsection (b) who make timely application to the Secretary. The Secretary shall not distribute any funds to any Seminoles who are not on the roll prepared pursuant to subsection (b) or who do not make timely application to the Secretary.

(d) Except for the persons who make application and are included on the roll prepared pursuant to section 7(b)(1), and who make application and accept a per capita share of the distribution pursuant to subsection (c), the payment and distribution of the award in accordance with this Act shall not be construed to impair, diminish or affect in any manner any rights and claims of the independent Seminole Indians, either as a group or individually, to any lands or natural resources in the State.

SEC. 8. (a) The funds allocated pursuant to this Act are hereby declared to be held in trust by the United States for the benefit of the Seminole Nation of Oklahoma, the Seminole Tribe of Florida, the Miccosukee Tribe of Indians of Florida, and the independent Seminole Indians of Florida respectively.

(b) None of the funds held in trust by the United States under this Act (including interest and investment income accrued on such funds while such funds are held in trust by the United States), and

none of the funds distributed per capita or made available under this Act for programs, shall be subject to Federal, State, or local income taxes, nor shall such funds nor their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita payments in excess of $2,000, any other Federal or federally assisted program.

Approved April 30, 1990.

LEGISLATIVE HISTORY—S. 1096:

HOUSE REPORTS: No. 101-399 (Comm. on Interior and Insular Affairs) and No. 101-439 (Comm. of Conference).
SENATE REPORTS: No. 101-212 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 21, considered and passed Senate.
Vol. 136 (1990): Feb. 6, considered and passed House, amended.
Apr. 3, House agreed to conference report.
Apr. 5, Senate agreed to conference report.

○

Public Law 101-278
101st Congress

An Act

To redesignate the Post Office located at 300 East Ninth Street in Austin, Texas, as the "Homer Thornberry Judicial Building".

May 1, 1990
[H.R. 2334]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION OF POST OFFICE.

The Post Office located at 300 East Ninth Street, in Austin, Texas, is redesignated as the "Homer Thornberry Judicial Building".

SEC. 2. REFERENCES.

Any reference in a law, rule, map, document, record, or other paper of the United States to the Post Office referred to in section 1 is deemed to be a reference to the "Homer Thornberry Judicial Building".

Approved May 1, 1990.

LEGISLATIVE HISTORY—H.R. 2334:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Aug. 4, considered and passed House.
Vol. 136 (1990): Apr. 5, considered and passed Senate.

Public Law 101-279
101st Congress

Joint Resolution

May 1, 1990
[S.J. Res. 258]

To authorize the President to proclaim the last Friday of April 1990 as "National Arbor Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April 1990 as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved May 1, 1990.

LEGISLATIVE HISTORY—S.J. Res. 258:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
Apr. 24, considered and passed House.

Public Law 101-280
101st Congress

Joint Resolution

To make technical changes in the Ethics Reform Act of 1989.

May 4, 1990
[H.J. Res. 553]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Government organization and employees.
District of Columbia.
5 USC app. 101 note.

SECTION 1. PURPOSE.

It is the purpose of this joint resolution to make technical corrections in the Ethics Reform Act of 1989.

SEC. 2. AMENDMENTS PERTAINING TO TITLE I.

(a) AMENDMENTS TO SECTION 207 OF TITLE 18.—Section 207 of title 18, United States Code, as amended by section 101 of the Ethics Reform Act of 1989 (Public Law 101-194), is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by inserting "(including any special Government employee)" after "employee" the first place it appears;

(B) by striking "Government" after "United States" each place it appears;

(C) by striking "and any special Government employee";

(D) by striking "as the case may be," each place it appears;

(E) by striking "(except the United States)" and inserting "(except the United States or the District of Columbia)"; and

(F) in subparagraph (A) by inserting "or the District of Columbia" after "United States".

(2) Subsection (a)(2) is amended—

(A) by striking "Government" the first place it appears and inserting "or the District of Columbia";

(B) by striking "(except the United States)" and inserting "(except the United States or the District of Columbia)";

(C) in subparagraph (A) by inserting "or the District of Columbia" after "United States"; and

(D) in subparagraph (B) by striking "Government".

(3) Subsection (a) is amended by adding at the end the following:

"(3) CLARIFICATION OF RESTRICTIONS.—The restrictions contained in paragraphs (1) and (2) shall apply—

"(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

"(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency,

or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.".

(4) Subsection (b)(1) is amended—

(A) by striking "a former officer or employee" and inserting "a former officer or employee of the executive branch of the United States (including any independent agency) and is";

(B) by striking "and any person described in subsection (e)(7)" and inserting "or any person who is a former officer or employee of the legislative branch or a former Member of Congress";

(C) by striking "and which is so designated by the appropriate department or agency, shall not, on the basis of that information, which the person knew or should have known was so designated, knowingly represent" and inserting "which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent";

(D) by inserting "a period of" before "1 year"; and

(E) by striking "Government".

(5) Subsection (c) is amended—

(A) in paragraph (1) by striking "of the executive branch" and inserting "(including any special Government employee) of the executive branch of the United States"; and

(B) in paragraph (2)—

(i) in subparagraph (A)(i)—

(I) by inserting "specified in or" after "pay" the first place it appears; and

(II) by striking "or a comparable or greater rate of pay under other authority,";

(ii) in subparagraph (A)(ii) by striking "basic rate of" each place it appears and inserting "rate of basic"; and

(iii) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(6) Subsection (d) is amended—

(A) in paragraph (1)(B) by striking "paid" and inserting "in the executive branch of the United States (including any independent agency)"; and

(B) in paragraph (2)—

(i) by amending the paragraph caption to read as follows: "PERSONS WHO MAY NOT BE CONTACTED"; and

(ii) in subparagraph (B) by striking "other".

(7) Subsection (e) is amended—

(A) in paragraph (6) by striking "basic rate of" each place it appears and inserting "rate of basic"; and

(B) in paragraph (7) in subparagraphs (L) and (M) by inserting "on or" before "after the effective date" each place it appears.

(8) Subsection (f)(1) is amended—

(A) by striking "subsection (c), (d), or (e), as the case may be" and inserting "such subsection";

(B) in subparagraph (A)—

(i) by striking "the interests of"; and

(ii) by striking "of the Government"; and

(C) in subparagraph (B) by striking "of the Government".

(9) Subsection (i) is amended by striking paragraph (1) and inserting the following:

"(1) the term 'officer or employee', when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include—

"(A) in subsections (a), (c), and (d), the President and the Vice President; and

"(B) in subsection (f), the President, the Vice President, and Members of Congress;".

(10) Subsection (j) is amended—

(A) in paragraph (1)—

(i) by striking "subsections (a), (c), (d), and (e)" and inserting "this section";

(ii) by striking "as an officer or employee of" and inserting "on behalf of"; and

(iii) by striking "Government" and inserting "or the District of Columbia";

(B) in paragraph (3)—

(i) by striking "subsections (c), (d), and (e)" and inserting "this section"; and

(ii) by striking "of which the United States is a member" and inserting "in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States";

(C) in paragraph (4)—

(i) in the paragraph caption by striking "PERSONAL MATTERS AND SPECIAL" and inserting "SPECIAL";

(ii) by striking "apply to appearances" and all that follows through "subsections";

(iii) by striking "prevent a former officer or employee" and inserting "prevent an individual";

(iv) by striking "former officer's or employee's" and inserting "individual's"; and

(v) by striking ", other than that regularly provided for by law or regulation for witnesses";

(D) in paragraph (5)—

(i) by striking "(d), and (e)" and inserting "and (d)"; and

(ii) by adding at the end the following: "For purposes of this paragraph, the term 'officer or employee' includes the Vice President."; and

(E) in paragraph (6)—

(i) in the first sentence by striking "a former Member" and all that follows through "employee)" and inserting "an individual"; and

(ii) in the second sentence by striking "sentence, a former" and all that follows through the end of the paragraph and inserting the following: "sentence—

"(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and

"(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.".

18 USC 207 note.

(b) EFFECTIVE DATE.—Section 102 of the Ethics Reform Act of 1989 is amended—

(1) in subsection (a)—

(A) by striking "Subject to subsection (b)" and inserting "(1) Subject to paragraph (2) and to subsection (b)"; and

(B) by adding at the end the following:

"(2) Subject to subsection (b), the amendments made by section 101 take effect at noon on January 3, 1991, with respect to Members of Congress (within the meaning of section 207 of title 18, United States Code)."; and

(2) in subsection (b), by inserting ", the Vice President," after "Congress".

SEC. 3. AMENDMENTS PERTAINING TO TITLE II.

5 USC app. 101 *et seq.*

Title I of the Ethics in Government Act of 1978 is amended as follows:

(1) JUDICIAL CONFERENCE.—Title I is amended by striking "of the United States" after "Judicial Conference" each place it appears, except for section 109(9).

5 USC app. 101.

(2) PERSONS REQUIRED TO FILE.—Section 101(e) is amended by striking "the later of May 15 or".

5 USC app. 102.

(3) CONTENTS OF REPORTS.—Section 102 is amended—

(A) in subsection (a)—

(i) in paragraph (1)(A) by striking "such individuals" and inserting "the reporting individual";

(ii) in paragraph (3) by striking "parent, brother, sister, or child" and inserting ", or by a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse,"; and

(iii) in paragraph (4) by striking "relative" and inserting "spouse, or a parent, brother, sister, or child of the reporting individual or of the reporting individual's spouse";

(B) in subsection (e)(1)(E) by inserting "of subsection (a)" after "(5)";

(C) in subsection (f)—

(i) in paragraph (3)—

(I) in subparagraph (A)(i)(II) by striking the comma after "involved in";

(II) by amending subparagraph (A)(ii)(II) to read as follows:

"(II) is not a partner of, or involved in any joint venture or other investment with, any interested party; and"; and

(III) in subparagraph (F) by striking "this section" and inserting "title II of the Ethics Reform Act of 1989"; and

(ii) in paragraph (6) (A) and (B) by striking "or negligently" each place it appears and inserting "and willfully, or negligently,"; and

(D) by adding at the end of section 102 the following:

"(i) A reporting individual shall not be required under this title to report—

"(1) financial interests in or income derived from—

"(A) any retirement system under title 5, United States Code (including the Thrift Savings Plan under subchapter III of chapter 84 of such title); or

"(B) any other retirement system maintained by the United States for officers or employees of the United States, including the President, or for members of the uniformed services; or

"(2) benefits received under the Social Security Act.".

(4) FILING OF REPORTS.—Section 103 is amended— 5 USC app. 103.

(A) in subsection (c) by inserting "individuals nominated to be judicial officers and" after "Houses of Congress other than";

(B) in subsection (d) by inserting "of the Office of Government Ethics" after "Director";

(C) in subsection (e)—

(i) by inserting "who is a candidate for nomination or election to the Office of President or Vice President" after "section 101(c)"; and

(ii) by striking "Elections" and inserting "Election";

(D) in subsection (g) by striking "The Office of Government Ethics" and inserting "Each supervising ethics office";

(E) by amending subsection (h)(1)(A)(i) to read as follows:

"(A)(i)(I) the Clerk of the House of Representatives, in the case of a Representative in Congress, a Delegate to Congress, the Resident Commissioner from Puerto Rico, an officer or employee of the Congress whose compensation is disbursed by the Clerk of the House of Representatives, an officer or employee of the Architect of the Capitol, the United States Botanic Garden, the Congressional Budget Office, the Government Printing Office, the Library of Congress, or the Copyright Royalty Tribunal (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Representative in Congress, a Delegate to Congress, or the Resident Commissioner from Puerto Rico; and

"(II) the Secretary of the Senate, in the case of a Senator, an officer or employee of the Congress whose compensation is disbursed by the Secretary of the Senate, an officer or employee of the General Accounting Office, the Office of Technology Assessment, or the Office of the Attending Physician (including any individual terminating service, under section 101(e), in any office or position referred to in this subclause), or an individual described in section 101(c) who is a candidate for nomination or election as a Senator; and";

(F) in subsection (h)(1)(A)(ii)—

(i) in subclause (I) by striking "congressional ethics committee" and inserting "Secretary of the Senate or the Clerk of the House of Representatives, as the case may be, as"; and

(ii) in subclause (II)—

(I) by striking "Senate Select Committee on Ethics" and inserting "Secretary of the Senate"; and

(II) by striking "Committee on Standards of Official Conduct" and inserting "Clerk"; and

(G) by adding at the end of section 103 the following:

"(i) A copy of each report filed under this title by a Member or an individual who is a candidate for the office of Member shall be sent by the Clerk of the House of Representatives or Secretary of the Senate, as the case may be, to the appropriate State officer designated under section 316(a) of the Federal Election Campaign Act of 1971 of the State represented by the Member or in which the individual is a candidate, as the case may be, within the 7-day period beginning on the day the report is filed with the Clerk or Secretary.

"(j)(1) A copy of each report filed under this title with the Clerk of the House of Representatives shall be sent by the Clerk to the Committee on Standards of Official Conduct of the House of Representatives within the 7-day period beginning on the day the report is filed.

"(2) A copy of each report filed under this title with the Secretary of the Senate shall be sent by the Secretary to the Select Committee on Ethics of the Senate within the 7-day period beginning on the day the report is filed.

"(k) In carrying out their responsibilities under this title with respect to candidates for office, the Clerk of the House of Representatives and the Secretary of the Senate shall avail themselves of the assistance of the Federal Election Commission. The Commission shall make available to the Clerk and the Secretary on a regular basis a complete list of names and addresses of all candidates registered with the Commission, and shall cooperate and coordinate its candidate information and notification program with the Clerk and the Secretary to the greatest extent possible.".

5 USC app. 104.

(5) FAILURE TO FILE.—Section 104 is amended—

(A) in subsection (b), by striking "Chairman of the Judicial Conference" and inserting "Judicial Conference"; and

(B) in subsection (d)(1) by striking "shall pay a filing fee of $200 to the miscellaneous receipts of the General Treasury" and inserting "shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of $200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch.".

5 USC app. 105.
Public information.

(6) INDEPENDENT COUNSEL; CONFORMING AMENDMENTS.—(A) Section 105(a) is amended to read as follows:

"SEC. 105. (a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that—

Defense and national security.
Classified information.

"(1) this section does not require public availability of a report filed by any individual in the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such

individual, public disclosure of such report would, be revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such individuals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

"(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.".

(B) Section 105(b)(1) is amended— 5 USC app. 105.

(i) in the first sentence—

(I) by striking "and each supervising ethics office" and inserting ", each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate"; and

(II) by striking "by such agency or office under this title" and inserting "under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be,"; and

(ii) in the second sentence by striking "or office" and inserting ", office, Clerk, or Secretary of the Senate, as the case may be"; and

(C) Section 105(d) is amended—

(i) by inserting "or to the Clerk of the House of Representatives or the Secretary of the Senate" after "ethics office"; and

(ii) by inserting "or by the Clerk or the Secretary of the Senate" after "or office".

(7) REVIEW OF REPORTS.—Section 106(b) is amended— 5 USC app. 106.

(A) by striking "the Chairman of the Judicial Conference" each place it appears and inserting "a person designated by the Judicial Conference";

(B) in paragraph (1) by striking "Secretary concerned, designated agency ethics official, or" and inserting "the Secretary concerned, the designated agency ethics official,";

(C) in paragraph (2) by striking "Secretary concerned, designated agency ethics official or" and inserting "the Secretary concerned, the designated agency ethics official,";

(D) in paragraph (3) by striking "Secretary concerned, designated agency ethics official, a congressional ethics committee, or the" and inserting "the Secretary concerned, the designated agency ethics official, a person designated by a congressional ethics committee, or a person designated by the";

(E) in paragraph (4)—

(i) by inserting "in the executive branch" after "position"; and

(ii) by striking "foreign service" and inserting "Foreign Service";

(F) in paragraph (5) by striking "foreign service" and inserting "Foreign Service"; and

(G) in paragraph (6) by striking "employee" and inserting "employee,".

(8) DEFINITIONS.—Section 109 is amended— 5 USC app. 109.

(A) in paragraph (1) by striking "Senate Select Committee on Ethics" and inserting "Select Committee on Ethics of the Senate";

(B) in paragraph (4) by inserting ", other than the General Accounting Office," after "Code)";

(C) in paragraph (5)—

(i) in subparagraph (C) by inserting ", the District of Columbia, or a State or local government or political subdivision thereof" after "United States Government";

(ii) by amending subparagraph (D) to read as follows: "(D) food and beverages which are not consumed in connection with a gift of overnight lodging;";

(iii) in subparagraph (E)—

(I) by striking "individual" and inserting "individual,"; and

(II) by adding "or" after the semicolon; and

(iv) by adding after subparagraph (E) the following: "(F) consumable products provided by home-State businesses to the offices of a reporting individual who is an elected official, if those products are intended for consumption by persons other than such reporting individual;";

(D) in paragraph (8)—

(i) by striking "Tax Court," and inserting "United States Sentencing Commission, of the Tax Court, of the Claims Court,"; and

(ii) by striking "who receives compensation" and all that follows through "Code" and inserting "who is paid at a rate of basic pay equal to or greater than the minimum rate of basic pay in effect for grade GS-16 of the General Schedule";

(E) in paragraph (10)—

(i) by striking "the Canal Zone, Guam," and inserting "Guam, the Northern Mariana Islands,";

(ii) by striking "Court of Claims,"; and

(iii) by inserting "Claims Court, Court of Veterans Appeals," after "Tax Court,";

(F) in paragraph (13)(B)(i)—

(i) by striking "60 consecutive" and inserting "at least 60"; and

(ii) by striking "equal to or in excess of" and inserting "of basic pay equal to or greater than";

(G) in paragraph (15)(A) by inserting ", the District of Columbia, or a State or local government or political subdivision thereof" after "Government";

(H) in paragraph (17)—

(i) in subparagraph (A) by striking "and" after the semicolon;

(ii) in subparagraph (B) by adding "and" after the semicolon; and

(iii) by adding after subparagraph (B) the following: "(C) the Secretary of State, with respect to matters concerning the Foreign Service;"; and

(I) in paragraph (18)—

(i) in subparagraph (A) by striking "such committee" and inserting "the Secretary of the Senate";

(ii) in subparagraph (B) by striking "such committee" and inserting "the Clerk of the House of Representatives"; and

(iii) in subparagraph (D) by inserting "officers and" after "branch".

(9) ADMINISTRATION OF PROVISIONS.—Section 111 is amended— 5 USC app. 111.

(A) in paragraph (2) by striking "Senate Select Committee on Ethics" and inserting "Select Committee on Ethics of the Senate";

(B) in paragraph (3) by striking "and clerk of the applicable court, as appropriate,"; and

(C) by adding at the end the following:

"The Judicial Conference may delegate any authority it has under this title to an ethics committee established by the Judicial Conference.".

(10) EFFECTIVE DATE FOR TITLE II.—(A) Section 112 of the Ethics in Government Act of 1978 (5 U.S.C. App.), as amended by the Ethics Reform Act of 1989, is repealed. 5 USC app. 112.

(B) Title II of the Ethics Reform Act of 1989 is amended by adding at the end the following:

"SEC. 204. EFFECTIVE DATE. 5 USC app. 101 note.

"The amendments made by this title and the repeal made by section 201 shall take effect on January 1, 1991, except that the provisions of section 102(f)(4)(B) of the Ethics in Government Act of 1978, as amended by this title, shall be effective as of January 1, 1990.".

(C) The provisions of titles I, II, and III of the Ethics in Government Act of 1978, as in effect on the day before the date of the enactment of the Ethics Reform Act of 1989, shall be effective for the period beginning on November 30, 1989, and ending on January 1, 1991, as if the Ethics Reform Act of 1989 had not been enacted, except that the provisions of section 202(f)(4)(B) of the Ethics in Government Act of 1978 shall be repealed as of January 1, 1990. 5 USC app. 101 note. 5 USC app. 202.

(D) Nothing in title II of the Ethics Reform Act of 1989 or the amendments made by such title shall be construed to prevent the prosecution of civil actions against individuals for violations of the Ethics in Government Act of 1978 before January 1, 1991. 5 USC app. 101 note.

SEC. 4. AMENDMENTS PERTAINING TO TITLE III.

(a) GIFTS TO SUPERIORS.—Section 7351 of title 5, United States Code, is amended—

(1) in subsection (a)(2) by inserting "or give a gift" after "gift"; and

(2) in subsection (c)—

(A) by striking "The Office of Government Ethics" and inserting "Each supervising ethics office (as defined in section 7353(d)(1))"; and

(B) by striking "similar circumstances" and inserting "circumstances in which gifts are traditionally given or exchanged".

(b) REDESIGNATION.—(1) Section 1352 of title 31, United States Code, as enacted by section 302 of the Ethics Reform Act of 1989, is amended by redesignating such section as section 1353.

(2) The item relating to section 1352 of title 31, United States Code, as enacted by section 302 of the Ethics Reform Act of 1989, in

the table of sections at the beginning of chapter 13 of such title, is amended by striking "1352" and inserting "1353".

(c) TRAVEL ACCEPTANCE AUTHORITY.—Section 1353 of title 31, United States Code, as redesignated by subsection (b) of this section, is amended—

(1) in subsection (a) in the first sentence by striking "or employee in the executive branch may accept payment" and inserting "in the executive branch (including an independent agency) may accept payment, or authorize an employee of such agency to accept payment on the agency's behalf,";

(2) in subsection (b)—

(A) by inserting "or 7342" after "section 4111"; and

(B) in paragraph (2) by striking "(1)" and inserting "(1),"; and

(3) in subsection (c)(1) by striking "any executive agency" and inserting "all executive agencies".

(d) GIFTS TO FEDERAL EMPLOYEES.—Section 7353 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1) by striking "branches" and inserting "branch"; and

(B) in paragraph (1) by striking "regulated by the individual's employing agency" and inserting "regulated by, the individual's employing entity";

(2) in subsection (c) by striking "An employee" and inserting "A Member of Congress or an officer or employee"; and

(3) in subsection (d)—

(A) in paragraph (1)—

(i) in subparagraph (B) by striking "officers" and inserting "officers,"; and

(ii) by amending subparagraph (E) to read as follows:

"(E) in the case of legislative branch officers and employees other than those specified in subparagraphs (A) and (B), the committee referred to in either such subparagraph to which reports filed by such officers and employees under title I of the Ethics in Government Act of 1978 are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officers and employees; and"; and

(B) in paragraph (2) by striking "Government" and inserting "Government,".

SEC. 5. AMENDMENTS PERTAINING TO TITLE IV.

(a) DEFINITIONS.—(1) Section 202(c) of title 18, United States Code, is amended to read as follows:

"(c) Except as otherwise provided in such sections, the terms 'officer' and 'employee' in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.".

(2) Section 202(d) of title 18, United States Code, is amended by striking "shall include" and inserting "means".

(3) Section 202(e) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "means any" and inserting "includes each"; and

(2) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

"(A) the Congress; and"; and

(B) in subparagraph (B) by striking "an officer or employee" and inserting "the Office".

(b) COMPENSATION IN MATTERS AFFECTING THE GOVERNMENT.—Section 203 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B) by inserting "or Federal judge" after "employee";

(2) in subsection (a)(2) by inserting "Commissioner Elect, Federal judge," after "Commissioner,";

(3) in subsection (b)(2) by inserting "representational" before "services";

(4) in subsection (d)(1) by striking "Government employee," and inserting "Government employee or as a special Government employee"; and

(5) by adding after subsection (e) the following new subsection:

"(f) Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.".

(c) OTHER COMPENSATION OF OFFICERS AND EMPLOYEES.—Section 205 of title 18, United States Code, is amended—

(1) in subsection (a)(2) by striking "any civil" and inserting "civil"; and

(2) in subsection (b)(2) by striking "any commission" and inserting "commission".

(d) PENALTIES FOR PRIOR VIOLATIONS OF POST-EMPLOYMENT RESTRICTIONS.—Section 207 of title 18, United States Code, as in effect on the date of the enactment of this joint resolution, is amended by striking "shall be fined not more than $10,000 or imprisoned for not more than two years, or both" following subsection (c) and inserting "shall be subject to the penalties set forth in section 216 of this title".

(e) ACTS AFFECTING A PERSONAL FINANCIAL INTEREST.—(1) Section 208 of title 18, United States Code, is amended—

(A) in subsection (b)(2) by striking "paragraph (1)" and inserting "subsection (a)";

(B) in subsection (b)(3) by striking "section 107 of"; and

(C) by amending subsection (d)(1) to read as follows:

"(d)(1) Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.". Public information.

(2) Section 405(1)(C) of the Ethics Reform Act of 1989 is amended by inserting "each place it appears" before "and inserting". 18 USC 208.

(f) PENALTIES.—Section 216 of title 18, United States Code, is amended—

(1) in subsection (a) by striking "sections 203, 204, 205, 207, 208, and 209" and inserting "section 203, 204, 205, 207, 208, or 209"; and

(2) in subsection (b) by striking "sections 203, 204, 205, 207, 208, and 209" and inserting "section 203, 204, 205, 207, 208, or 209".

SEC. 6. AMENDMENTS PERTAINING TO TITLE V.

(a) SALE OF PROPERTY TO COMPLY WITH CONFLICT OF INTEREST REQUIREMENTS.—(1) Subsection (b) of section 1043 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

26 USC 1043.

"(5) SPECIAL RULE FOR TRUSTS.—For purposes of this section, the trustee of a trust shall be treated as an eligible person with respect to property which is held in the trust if—

"(A) any person referred to in paragraph (1)(A) has a beneficial interest in the principal or income of the trust, or

"(B) any person referred to in paragraph (1)(B) has a beneficial interest in the principal or income of the trust and such interest is attributable under any statute, regulation, rule, or executive order referred to in paragraph (2) to a person referred to in paragraph (1)(A).".

26 USC 1043 note.

(2)(A) For purposes of section 1043 of such Code—

(i) any property sold before June 19, 1990, shall be treated as sold pursuant to a certificate of divestiture (as defined in subsection (b)(2) thereof) if such a certificate is issued with respect to such sale before such date, and

(ii) in any such case, the 60-day period referred to in subsection (a) thereof shall not expire before the end of the 60-day period beginning on the date on which the certificate of divestiture was issued.

(B) Notwithstanding subparagraph (A), section 1043 of such Code shall not apply to any sale before April 19, 1990, unless—

(i) the sale was made in order to comply with an ethics agreement or pursuant to specific direction from the appropriate agency or confirming committee, and

(ii) the justification for the sale meets the criteria set forth in subsection (b)(2)(A) thereof as implemented by the interim regulations implementing such section 1043, published on April 18, 1990.

26 USC 1043 note.

(3) The amendment made by paragraph (1) and the provisions of paragraph (2) shall apply to sales after November 30, 1989.

(b) USE OF GOVERNMENT VEHICLES.—Section 503 of the Ethics Reform Act of 1989 (31 U.S.C. 1344 note) is amended in the first sentence by striking "shall" and inserting "may".

(c) INTERIOR APPROPRIATIONS.—Section 505(b) of the Ethics Reform Act of 1989 is amended by striking "Fiscal Year 1988" and inserting "Fiscal Year 1989".

18 USC 208 note.

(d) OTHER AMENDMENTS TO TITLE V.—Section 506 of the Ethics Reform Act of 1989 is amended—

5 USC 3393.

(1) by amending paragraph (2) of subsection (b) to read as follows:

"(2) in section 3393(g), by inserting after '1215,' the following: '3393a,';

5 USC 7701.

(2) by amending paragraph (6) of subsection (b) to read as follows:

"(6) in section 7701(c)(1)(A), by striking 'of' and inserting in lieu thereof the following: 'or a removal from the Senior Executive Service for failure to be recertified under section 3393a of';";

22 USC 3945.

(3) in the amendment made by subsection (c)(1), by redesignating the new subsection being inserted at the end of section 305

of the Foreign Service Act of 1980 as subsection (d) (rather than subsection (c)); and

(4) by amending subparagraph (B) of subsection (c)(3) to read as follows: 10 USC 1601.

"(B) by striking the period at the end of paragraph (7) and inserting in lieu thereof the following: '; and' ".

SEC. 7. AMENDMENTS PERTAINING TO TITLE VI.

(a) CLARIFICATION OF SECTIONS 501(a) AND 502.—(1) Sections 501(a)(1) and (2) and 502 of the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989, are each amended by striking "not a career civil servant" and inserting "a noncareer officer or employee". 5 USC app. 501, 502.

(2) Section 501(a)(2) of the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989, is amended—

(1) by striking "Member, officer or employee which" and inserting "Member or such an officer or employee which"; and

(2) by striking "Member, officer or employee during" and inserting "Member or such officer or employee during".

(b) CLARIFICATION OF SECTION 502.—Section 502 of the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989, is amended—

(1) in paragraph (1)—

(A) by striking "affiliate with or be employed" and inserting "receive compensation for affiliating with or being employed";

(B) by striking "to provide professional services which involves" and inserting "which provides professional services involving"; and

(C) by striking "for compensation"; and

(2) in paragraph (3)—

(A) by striking "practice" and inserting "receive compensation for practicing"; and

(B) by striking "for compensation".

(c) ADMINISTRATION.—Section 503 of the Ethics in Government Act of 1978, as amended by the Ethics Reform Act of 1989, is amended by amending paragraph (1) to read as follows: 5 USC app. 503.

"(1) and administered by—

"(A) the Committee on Standards of Official Conduct of the House of Representatives, with respect to Members, officers, and employees of the House of Representatives; and

"(B) in the case of legislative branch officers and employees other than Senators, officers, and employees of the Senate and other than those officers and employees specified in subparagraph (A), the committee to which reports filed by such officers and employees under title I are transmitted under such title, except that the authority of this section may be delegated by such committee with respect to such officers and employees;".

(b) CONFORMING AMENDMENTS TO OTHER PROVISIONS OF LAW.—(1) Section 323(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i(a)) is amended by inserting "or child" after "spouse".

(2) Section 908(a) of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1(a)), is amended in paragraphs (2) and (4) by inserting "or child" after "spouse" each place it appears.

SEC. 8. AMENDMENTS PERTAINING TO TITLE IX.

Section 901 of the Ethics Reform Act of 1989 (2 U.S.C. 31-2) is amended—

(1) in subsection (a)—

(A) in paragraph (5)—

(i) in subparagraph (B) by adding "or" after the semicolon;

(ii) in subparagraph (C) by striking "; or" and inserting a period; and

(iii) by striking subparagraph (D); and

(B) in paragraph (6)—

(i) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(ii) by inserting after "subsection—" the following: "(A) the term 'foreign national' means a person acting directly or indirectly on behalf of a foreign corporation, partnership, or business enterprise, a foreign trade, cultural, educational, or other association, a foreign political party, or a foreign government;"; and

(2) in subsection (b)—

(A) by striking "(and 2 nights)";

(B) by striking "(and 6 nights)"; and

(C) in the last sentence by striking "of a Member" and inserting "or child of such Member".

5 USC app. 105 note. Public information.

SEC. 9. SAVINGS PROVISION.

Those reports filed under title I, II, or III of the Ethics in Government Act of 1978, as in effect before January 1, 1991, shall be made available to the public on or after such date in accordance with section 105 of that Act, as amended by the Ethics Reform Act of 1989, and the provisions of such section shall apply with respect to those reports.

SEC. 10. CONFORMING AMENDMENTS TO OTHER PROVISIONS OF LAW.

(a) SECTION 3730 OF TITLE 31.—Section 3730(e) of title 31, United States Code, is amended by striking "201(f)" and inserting "paragraphs (1) through (8) of section 101(f)".

(b) SECTION 2397a OF TITLE 10.—Section 2397a(a)(4) of title 10, United States Code, is amended by striking "209(10)" and inserting "109(3)".

10 USC 2397a note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on January 1, 1991.

SEC. 11. EFFECTIVE DATE.

5 USC app. 101 note.

Except as otherwise provided in this joint resolution, this Act and the amendments made by this joint resolution take effect on the date of the enactment of this joint resolution.

Approved May 4, 1990.

LEGISLATIVE HISTORY—H.J. Res. 553:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed House.
Apr. 26, considered and passed Senate.

Public Law 101-281
101st Congress

An Act

May 4, 1990
[S. 2533]

To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 905(d)(4) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1475(d)(4)) is amended by striking "28 month" and inserting in lieu thereof "31-month".

Effective date.
49 USC app.
1475 note.

(b) The amendment made by subsection (a) shall be effective as of April 30, 1990.

SEC. 2. Section 511 of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2210) is amended by adding at the end the following new subsection:

"(g) USE OF AIRPORT GENERATED REVENUES IN HAWAII.—

"(1) GENERAL RULE.—Notwithstanding the limitation on the use of revenues generated by airports contained in subsection (a)(12) of this section, the State of Hawaii may use for eligible transportation projects revenues generated on the sale at off-airport locations in the State of duty-free merchandise under a contract between the State and a duty-free sales enterprise.

"(2) LIMITATIONS.—

"(A) APPLICABILITY PERIOD.—This subsection only applies to revenues generated after the date of enactment of this subsection and before December 31, 1994, on sales referred to in paragraph (1) and to amounts in the Airport Revenue Fund of the State of Hawaii which are attributable to revenues generated before the date of enactment of this subsection on such sales.

"(B) COVERAGE OF AIRPORT CAPITAL AND OPERATING COSTS.—The State of Hawaii may use under paragraph (1) revenues generated on sales referred to in paragraph (1) in a fiscal year of the State only if the amount of such revenues, when added to the amount of funds received in such year by the State for airport capital and operating costs from all other sources (including revenues generated by such airports from other sources, unrestricted cash on hand, and Federal funds made available under this Act for expenditure at such airports), exceeds 150 percent of the projected airport capital and operating costs for such year.

"(C) ANNUAL CAP.—The amount of revenues generated on sales referred to in paragraph (1) in a fiscal year of the State of Hawaii which the State may use under paragraph (1) may not exceed the amount of the excess determined under subparagraph (B) for such year.

"(D) AGGREGATE CAP.—The maximum amount of revenues which the State of Hawaii may use under paragraph (1) may not exceed $250,000,000 in the aggregate.

"(E) REDUCTION DUE TO LANDING FEE INCREASE.—If any fee levied or collected by an airport operated by the State of Hawaii for a rental charge, landing fee, or other service charge from an aircraft operator for the use of airport facilities is increased in the period beginning on the date of enactment of this subsection and ending December 31, 1994, by a percentage which is greater than the percentage change in the Consumer Price Index of All Urban Consumers for Honolulu, Hawaii, published by the Bureau of Labor Statistics of the Department of Labor in such period and if, as a result of such fee increase, there is an increase in the revenues derived from such fee, the $250,000,000 limit established by subparagraph (D) shall be reduced by the amount of the projected increase in such revenues in such period less any portion of such increase which is attributable to changes in such Index in such period.

"(F) DETERMINATION OF COSTS AND PROJECTED INCREASES IN REVENUES.—The State of Hawaii shall determine capital and operating costs and revenues under subparagraph (B) and the amount of projected increases in revenues from fee increases referred to in subparagraph (E). Determinations shall be submittted by the State to the Secretary for approval. A determination shall be treated as approved by the Secretary unless the Secretary disapproves such determination on or before the 30th day after the State submits such determination to the Secretary.

"(G) ELIGIBILITY FOR DISCRETIONARY GRANTS.—The State of Hawaii shall not be eligible for a grant under section 507(c) in any fiscal year in which the State uses under paragraph (1) revenues generated on sales referred to in paragraph (1). If the State receives a grant in a fiscal year in which the State as a result of this subparagraph is not eligible to receive a grant, the State shall repay all amounts received by the State under such grant to the Secretary for deposit in the discretionary fund established under section 507(c).

"(3) PERIOD OF USE.—Revenues generated on sales referred to in paragraph (1) in the period of applicability set forth in paragraph (2)(A) may be used under paragraph (1) in any fiscal year of the State, including a fiscal year of the State beginning after December 31, 1994.

"(4) DEFINITIONS.—In this subsection, the following apply:

"(A) AIRPORT CAPITAL AND OPERATING COSTS.—The term 'airport capital and operating costs' means costs incurred by the State of Hawaii for operation of all airports operated by such State and costs for debt service incurred by such State in connection with capital projects for such airports, including interest and amortization of principal costs.

"(B) DUTY-FREE SALES ENTERPRISE; DUTY-FREE MERCHANDISE.—The terms 'duty-free sales enterprise' and 'duty-free merchandise' have the meaning such terms have under section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)).

"(C) ELIGIBLE TRANSPORTATION PROJECT.—The term 'eligible transportation project' means a project for construc-

tion or reconstruction of a highway on a Federal-aid system which will facilitate access to an airport and which is located within 10 miles by road of such airport.

"(D) FEDERAL-AID SYSTEM; HIGHWAY.—The terms 'Federal aid system' and 'highway' have the meaning such terms have under section 101 of title 23, United States Code.".

Approved May 4, 1990.

LEGISLATIVE HISTORY—S. 2533:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 26, considered and passed Senate.
May 1, considered and passed House.

Public Law 101-282
101st Congress

Joint Resolution

Designating May 6 through 12, 1990, as "Be Kind to Animals and National Pet Week".

May 8, 1990
[S.J. Res. 236]

Whereas 1990 marks the 75th anniversary of the American Humane Association's "Be Kind to Animals Week" and the 10th anniversary of "National Pet Week", sponsored by the American Veterinary Medical Association, the Auxiliary to the American Veterinary Medical Association, and the American Animal Hospital Association;

Whereas animals and pets give companionship and pleasure in daily living, share the homes of nearly 50,000,000 individuals or families in the United States, and provide special benefits to elderly persons and children;

Whereas the people of the United States have a firm commitment to promote responsible care of animals and pets and guard against cruel and irresponsible treatment;

Whereas teaching kindness and respect for all living animals through education in schools and communities is essential to the basic values of a humane and civilized society;

Whereas the people of the United States are grateful to the veterinary medical profession for providing preventive and emergency medical care and assistance to animals, spaying and neutering animals to combat overpopulation, and contributing to the education of animal owners; and

Whereas the people of the United States are indebted to animal protection organizations, State humane organizations, and local animal care and control agencies for promoting respect for animals and pets, educating children about humane attitudes, and caring for lost, unwanted, abused, and abandoned animals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 6 through 12, 1990, is designated as "Be Kind to Animals and National Pet Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved May 8, 1990.

LEGISLATIVE HISTORY—S.J. Res. 236:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
May 1, considered and passed House.

Public Law 101-283
101st Congress

An Act

May 9, 1990
[H.R. 3802]

To designate May 1990 as "Asian/Pacific American Heritage Month".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASIAN/PACIFIC AMERICAN HERITAGE MONTH.

92 Stat. 920.

The text of Public Law 95-419 after the resolving clause is amended to read as follows: "That the President may issue a proclamation designating May 1990 as 'Asian/Pacific American Heritage Month' and calling on the people of the United States, especially the educational community, to observe such month with appropriate ceremonies, programs, and activities.".

SEC. 2. CONFORMING AMENDMENT.

The title to Public Law 95-419 is amended to read as follows: "Joint resolution authorizing the President to designate May 1990 as 'Asian/Pacific American Heritage Month'.".

Approved May 9, 1990.

LEGISLATIVE HISTORY—H.R. 3802:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 3, considered and passed House and Senate.

Public Law 101-284
101st Congress

Joint Resolution

Designating the third week in May 1990 as "National Tourism Week".

May 9, 1990
[S.J. Res. 153]

Whereas travel and tourism is the third largest retail industry and the second largest private employer in the United States, generating more than five million nine hundred thousand jobs;

Whereas total travel expenditures in the United States amount to more than $350,000,000,000 annually, or about 6.7 percent of the Gross National Product;

Whereas tourism is an essential American export, as thirty-eight million three hundred thousand foreign travelers spend approximately $43,000,000,000 annually in the United States;

Whereas development and promotion of tourism have brought new industries, jobs, and economic revitalization to cities and regions across the United States;

Whereas tourism contributes substantially to personal growth, education, appreciation of intercultural differences, and the enhancement of international understanding and good will; and

Whereas the abundant natural and man-made attractions of the United States and the hospitality of the American people establish the United States as the preeminent destination for both foreign and domestic travelers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on the second Sunday in May 1990 is designated as "National Tourism Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

Approved May 9, 1990.

LEGISLATIVE HISTORY—S.J. Res. 153:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 28, considered and passed Senate.
Apr. 18, considered and passed House, amended.
Apr. 24, Senate concurred in House amendment.

Public Law 101-285
101st Congress

Joint Resolution

May 9, 1990
[S.J. Res. 230]

To designate the period commencing on May 6, 1990, and ending on May 12, 1990, as "National Drinking Water Week".

Whereas water itself is God-given, and the drinking water that flows dependably through our household taps results from the dedication of the men and women who operate the public water systems of collection, storage, treatment, testing, and distribution that insures that drinking water is available, affordable, and of unquestionable quality;

Whereas the advances in health effects research and water analysis and treatment technologies, in conjunction with the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339), could create major changes in the production and distribution of drinking water;

Whereas this substance, which the public uses with confidence in so many productive ways, is without doubt the single most important product in the world and a significant issue of the future;

Whereas the public expects high-quality drinking water to always be there when needed; and

Whereas the public continues to increase its demand for drinking water of unquestionable quality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 6, 1990, and ending on May 12, 1990, is designated as "National Drinking Water Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, activities, and programs designed to enhance public awareness of drinking water issues and public recognition of the difference that drinking water makes to the health, safety, and quality of the life we enjoy.

Approved May 9, 1990.

LEGISLATIVE HISTORY—S.J. Res. 230:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
May 1, considered and passed House.

Public Law 101-286
101st Congress

An Act

To provide for the establishment of the National Commission on Wildfire Disasters, to provide for increased planning and cooperation with local firefighting forces in the event of forest fires, and for other purposes.

May 9, 1990
[H.R. 1011]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wildfire Disaster Recovery Act of 1989.

SECTION 1. This Act may be cited as the "Wildfire Disaster Recovery Act of 1989".

Forests and forest products.
National Forest System.
National parks, monuments, etc.
Public lands.
16 USC 551 note.

TITLE I—NATIONAL COMMISSION ON WILDFIRE DISASTERS

16 USC 551 note.

SEC. 101. FINDINGS AND POLICY.

(a) FINDINGS.—Congress finds that—

(1) the natural fire disasters that occurred in 1987 and 1988 in Western and Southeastern States burned nearly seven and one-half million acres of Federal, State, and private land;

(2) these fires have altered the ability of Federal Government agencies to effectively manage the lands for timber production, fish and wildlife habitation, watershed, and recreation for future use by the American public; and

(3) the communities in and surrounding the areas affected by the fires have suffered economic and social losses.

(b) POLICY.—It is hereby declared to be the policy of Congress to respond to these disasters and prepare for potential disasters by reviewing the effect of these disasters on natural resources and on the financial and cultural aspects of the affected communities and by adopting such policies as are needed to assist in an effective and efficient recovery of those communities.

SEC. 102. NATIONAL COMMISSION ON WILDFIRE DISASTERS.

(a) ESTABLISHMENT.—There is hereby established a National Commission on Wildfire Disasters (hereafter referred to as the "Commission") which shall study the effects of disastrous wildfires, resulting from natural or other causes, and make recommendations concerning the steps necessary for a smooth and timely transition from the loss of natural resources due to such fires.

(b) COMPOSITION.—(1) The Commission shall be composed of 25 members. Thirteen members shall be appointed by the Secretary of Agriculture with at least one from each of the following groups: the timber industry, nonindustrial private forest landowners, State or local officials, employees of the Department of Agriculture, scientists from the academic community, wildlife biologists, members of private nonprofit forestry organizations, members of environmental organizations, and community leaders. Twelve members shall be appointed by the Secretary of the Interior, with at least one from each of the following groups: State or local officials, employees of the Department of the Interior, scientists from the academic

community, wildlife biologists, members of environmental organizations, members of private nonprofit national park organizations, conservationists, community leaders, and fire ecologists.

(2) The two Secretaries shall each appoint no more than three members from any one State and shall each appoint at least five members from areas affected by wildfires since 1986.

(3) In making appointments under this subsection, the Secretary of Agriculture shall consider nominations submitted by the following Members of Congress:

(A) The chairman of the Committee on Agriculture of the House of Representatives.

(B) The ranking minority member of the Committee on Agriculture of the House of Representatives.

(C) The chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(D) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) In making appointments under this subsection, the Secretary of the Interior shall consider nominations submitted by the following Members of Congress:

(A) The chairman of the Committee on Interior and Insular Affairs of the House of Representatives.

(B) The ranking minority member of the Committee on Interior and Insular Affairs of the House of Representatives.

(C) The chairman of the Committee on Energy and Natural Resources of the Senate.

(D) The ranking minority member of the Committee on Energy and Natural Resources of the Senate.

(c) VACANCY.—A vacancy on the Commission shall be filled by appointment in the manner provided in subsection (b) by the Secretary making the initial appointment.

(d) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission by a majority vote.

(e) MEETINGS.—The Commission shall meet at the call of the chairperson or a majority of the members of the Commission.

SEC. 103. DUTIES.

(a) STUDY.—The National Commission on Wildfire Disasters shall study the effects of fires on—

(1) the current and future economy of affected communities;

(2) the availability of sufficient timber supplies to meet future industry needs;

(3) fish and wildlife habitats;

(4) recreation in the affected areas;

(5) watershed and water quality protection plans in effect within National Forest System lands;

(6) ecosystems in the areas;

(7) management plans of the affected National Forest System lands;

(8) national parks;

(9) Bureau of Land Management public lands;

(10) wilderness; and

(11) biodiversity of the affected areas.

(b) FINDINGS AND RECOMMENDATIONS.—On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the Secretaries of Agriculture and the Interior with respect to the future management of National Forest System

lands, national parks, Bureau of Land Management public lands, and community redevelopment activities and programs.

(c) REPORT.—The Commission shall submit to the Secretaries of Agriculture and the Interior, not later than December 1, 1991, a report containing its findings and recommendations. The Secretaries of Agriculture and the Interior shall forthwith submit the report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, and the report is authorized to be printed as a House Document.

SEC. 104. OPERATION IN GENERAL.

(a) AGENCY COOPERATION.—The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office shall provide the Commission such information as may be required to carry out its duties and functions.

(b) COMPENSATION.—Members of the Commission shall serve without compensation for work on the Commission. While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5 of the United States Code.

(c) EMPLOYEES.—(1) To the extent there are sufficient funds available to the Commission and subject to such rules as may be adopted by the Commission, the Commission, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and, except as provided in paragraph (2), without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates, may—

(A) appoint and fix the compensation of a director; and

(B) appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions.

(2) No employee of the Commission shall be compensated at a pay rate greater than the rate received by an employee at the grade of GS-16 as described in section 5104(16) of title 5 of the United States Code.

(d) STAFF AND SERVICES.—On the request of the Commission, the heads of executive agencies, the Comptroller General, and the Director of the Office of Technology Assessment may furnish the Commission with such office, personnel or support services as the head of the agency, or office, and the chairperson of the Commission agree are necessary to assist the Commission to carry out its duties and functions. The Commission shall not be required to pay, or reimburse, any agency for office, personnel or support services provided under this subsection.

(e) EXEMPTIONS.—(1) The Commission shall be exempt from sections 7(d), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App.).

(2) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

SEC. 105. FUNDING.

(a) ACCEPTANCE OF CONTRIBUTIONS.—Following the appointment of the members of the National Commission on Wildfire Disasters, notwithstanding the provisions of section 1342 of title 31 of the United States Code, the Secretary of Agriculture may receive on behalf of the Commission, from persons, groups, and entities within the United States, contributions of money and services to assist the Commission in carrying out its duties and functions. Any money contributed under this section shall be made available to the Commission to carry out this Act.

Regulations.

(b) LIMITATION ON CONTRIBUTION.—The Secretary of Agriculture shall promulgate regulations to assure that the aggregate amount of contributions from any one person, group, or entity shall not exceed 10 percent of the total amount of funds that will be contributed to the Commission.

Public information.

(c) RECORDS.—The Secretary of Agriculture shall keep, and shall make available for public inspection during normal business hours, records that fully disclose a complete list of every person, group, and entity making a contribution under this section, the address of the contributor, the amount and type of each such contribution, and the date the contribution was made.

(d) EXCESS FUNDS.—Any amount of money available to the Commission under this section that remains unobligated upon termination of the Commission shall be deposited in the Treasury as miscellaneous receipts.

SEC. 106. TERMINATION.

The National Commission on Wildfire Disasters shall cease to exist 90 days following the submission of its report to the Secretaries of Agriculture and the Interior.

TITLE II—FOREST FIREFIGHTING PLANNING AND COOPERATION

16 USC 551b note.

SEC. 201. FINDINGS.

The Congress finds that—

(1) it is in the best interest of the Nation to take swift action to rehabilitate burned forests, and an assessment of the situation is necessary to accomplish this; and

(2) volunteers should be trained to assist where possible.

16 USC 551b.

SEC. 202. REPORT ON REHABILITATION NEEDS.

Not later than six months after the date of enactment of this Act and annually thereafter, detailed reports by—

(1) the Secretary of Agriculture on the rehabilitation needs of each Forest Service Region, and

(2) the Secretary of the Interior on the rehabilitation needs of the Bureau of Land Management public lands on a State-by-State basis and of each National Park Region,

resulting from disastrous forest fire damage during the previous year shall be submitted to Congress. Each such report shall specify the needs with respect to reforestation, vegetation management, timber stand improvement, fish and wildlife habitat restoration, soil conservation, recreation, and wilderness resources.

SEC. 203. PLANNING FOR FIRE PROTECTION. 16 USC 551c.

(a) VOLUNTEER FIREFIGHTERS.—The Secretaries of Agriculture and the Interior shall annually offer training programs to certify volunteers for suppressing forest fires on National Forest System lands, National Park System lands and Bureau of Land Management public lands in the event that the appropriate Secretary determines that such volunteers are needed. In carrying out this subsection, the Secretaries should utilize existing authorities to train volunteer firefighters for use in fire emergencies. The Secretaries should assess the capabilities of educational institutions and other public and private organizations to provide such training programs.

(b) DEFINITION.—For the purposes of this section, the term "educational institutions" shall include institutions established pursuant to the Act of July 2, 1862 (7 U.S.C. 301 et seq., commonly known as the "Morrill Act"), or the Act of August 30, 1890 (7 U.S.C. 321 et seq., commonly known as the "Second Morrill Act").

(c) MOBILIZATION OF LOCAL EQUIPMENT.—Not later than one year after the date of enactment of this Act—

(1) the Secretary of Agriculture shall submit to the Congress information with respect to regions of the National Forest System, and

(2) the Secretary of the Interior shall submit to the Congress information with respect to the Bureau of Land Management public lands on a State-by-State basis and each region of the National Park System

that documents mobilization plans that provide for the use of firefighting equipment in cases of fire emergencies that may occur in each such area that may be highly prone to disastrous forest fires.

(d) PRESUPPRESSION NEEDS.—Not later than one year after the date of enactment of this Act, information from the Secretary of Agriculture on presuppression needs for each region of the National Forest System and information from the Secretary of the Interior on the presuppression needs for each region of the National Park System and for each State unit of the Bureau of Land Management shall be submitted to Congress. These reports shall include needs, including an estimate of the funds required, for fire prevention, fuel reduction, training and seasonal fire crews. Reports.

SEC. 204. VOLUNTEER COMPENSATION FOR LOSSES AND DAMAGES. Claims.

(a) NATIONAL FORESTS.—Section 3 of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558c) is amended by adding the following new subsection:

"(d) For the purposes of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this Act shall be considered a Federal employee, and the provisions of 31 U.S.C. 3721 shall apply.".

(b) NATIONAL PARKS.—Section 3 of the Volunteers in the Parks Act of 1969 (16 U.S.C. 18i) is amended by adding the following new subsection:

"(d) For the purpose of claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, a volunteer under this Act shall be considered a Federal employee, and the provisions of 31 U.S.C. 3721 shall apply.".

(c) BUREAU OF LAND MANAGEMENT.—Section 307(f) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1737(f)) is amended to read as follows:

"(f) Volunteers shall not be deemed employees of the United States except for the purposes of—

"(1) the tort claims provisions of title 28;

"(2) subchapter 1 of chapter 81 of title 5; and

"(3) claims relating to damage to, or loss of, personal property of a volunteer incident to volunteer service, in which case the provisions of 31 U.S.C. 3721 shall apply.".

Approved May 9, 1990.

LEGISLATIVE HISTORY—H.R. 1011:

HOUSE REPORTS: No. 101-333, Pt. 1 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 13, considered and passed House.
Vol. 136 (1990): Apr. 26, considered and passed Senate.

Public Law 101-287
101st Congress

Joint Resolution

May 10, 1990
[H.J. Res. 546]

Designating May 13, 1990, as "Infant Mortality Awareness Day".

Whereas more than 38,000 infants will die this year in the United States before their first birthday;

Whereas the international ranking of the United States in infant mortality has declined from 6th in the 1950s to 22nd in the 1980s;

Whereas proper prenatal care has been found to be the single greatest contributor to the birth of a healthy baby, but 1 in 3 pregnant women does not receive early and comprehensive prenatal care in the United States;

Whereas low birth weight has been found to be a significant determinant of infant mortality and 7 percent of all babies born in this country are born below a healthy birth weight; and

Whereas for every dollar spent on prenatal care for high risk mothers, there can be a savings of more than $3: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States finds that situation to be deplorable and designates May 13, 1990, as "Infant Mortality Awareness Day", and encourages the citizens of this country to work toward the birth of healthy babies to healthy mothers.

Approved May 10, 1990.

LEGISLATIVE HISTORY—H.J. Res. 546:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed House.
Apr. 26, considered and passed Senate.

Public Law 101-288
101st Congress

An Act

May 10, 1990
[S. 1485]

To grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress hereby consents to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa, which compact is substantially as follows:

Quad Cities Interstate Metropolitan Authority Compact.

ARTICLE 1—SHORT TITLE

This compact may be cited as the "Quad Cities Interstate Metropolitan Authority Compact".

ARTICLE 2—AUTHORIZATION

The states of Illinois and Iowa authorize the creation of the quad cities interstate authority to include the territories of Scott county in the state of Iowa and Rock Island county in the state of Illinois.

ARTICLE 3—PURPOSES

The purposes of the authority are to provide facilities and to foster cooperative efforts, all for the development and public benefit of its territory. This compact shall be liberally interpreted to carry out these purposes.

ARTICLE 4—CREATION

The authority is created when the secretary of state of Iowa certifies to the secretary of state of Illinois that a majority of the electors of Scott county voting on the proposition voted to approve creation of the authority and the secretary of state of Illinois certifies to the secretary of state of Iowa that a majority of the electors of Rock Island county voting on the proposition voted to approve creation of the authority. A referendum approving creation of the authority must be held before January 1, 1993.

ARTICLE 5—BOARD MEMBERS

The authority shall be governed by a board of not more than sixteen members, one-half of whom are residents of Rock Island county, Illinois, and one-half of whom are residents of Scott county, Iowa. Iowa members shall be chosen in the manner and for the terms fixed by the law of Iowa. Illinois members shall be chosen in the manner and for the terms fixed by the law of Illinois.

ARTICLE 6—BOARD OFFICERS

The board shall elect annually from its members a chairperson, a vice chairperson, a secretary, and other officers it determines necessary.

ARTICLE 7—BOARD OPERATION

The board shall adopt bylaws governing its meetings, fiscal year, election of officers, and other matters of procedure and operation.

ARTICLE 8—BOARD EXPENSES AND COMPENSATION

(a) Members shall be reimbursed for reasonable expenses incurred while carrying out official duties.

(b) Members shall be compensated as authorized by substantially identical laws of the states of Illinois and Iowa.

ARTICLE 9—EMPLOYEES

(a) The board shall hire an executive director, a treasurer, and other employees it determines necessary and shall fix their qualifications, duties, compensation, and terms of employment.

(b) The executive director, treasurer, and other employees shall have no pension benefits or rights of collective bargaining other than those authorized by substantially identical laws of the states of Iowa and Illinois.

ARTICLE 10—GENERAL POWERS

The authority has the following general powers:

(1) To sue and be sued.

(2) To own, operate, manage, or lease facilities within the territory of the authority. "Facility" means an airport, port, wharf, dock, harbor, bridge, tunnel, terminal, industrial park, waste disposal system, mass transit system, parking area, road, recreational area, conservation area, or other project beneficial to the territory of the authority as authorized by substantially identical laws of the states of Iowa and Illinois, together with related or incidental fixtures, equipment, improvements, and real or personal property.

(3) To fix and collect reasonable fees and charges for the use of its facilities.

(4) To own or lease interests in real or personal property.

(5) To accept and receive money, services, property, and other things of value.

(6) To disburse funds for its lawful activities.

(7) To enter into agreements with political subdivisions of the state of Illinois or Iowa or with the United States.

(8) To pledge or mortgage its property.

(9) To perform other functions necessary or incidental to its purposes and powers.

(10) To exercise other powers conferred by substantially identical laws of the states of Iowa and Illinois.

ARTICLE 11—EMINENT DOMAIN

Real property.

(a) The authority has the power to acquire real property by eminent domain.

(b) Property in the state of Iowa shall be acquired under the laws of the state of Iowa. Property in the state of Illinois shall be acquired under the laws of the state of Illinois.

ARTICLE 12—INDEBTEDNESS

(a) The authority may incur indebtedness subject to debt limits imposed by substantially identical laws of the states of Illinois and Iowa.

(b) Indebtedness of the authority shall not be secured by the full faith and credit or the tax revenues of the state of Iowa or Illinois, or a political subdivision of the state of Iowa or Illinois other than the authority or as otherwise authorized by substantially identical laws of the states of Iowa and Illinois.

(c) Bonds shall be issued only under terms authorized by substantially identical laws of the states of Illinois and Iowa.

ARTICLE 13—TAXES

(a) The authority shall have no independent power to tax.

(b) A political subdivision of the state of Iowa or Illinois shall not impose taxes to fund the authority or any of the authority's projects except as specifically authorized by substantially identical laws of the states of Illinois and Iowa.

ARTICLE 14—REPORTS

The authority shall report annually to the governors and legislatures of the states of Iowa and Illinois concerning its facilities, activities, and finances and may make recommendations for state legislation.

ARTICLE 15—PENALTIES

The states of Illinois and Iowa may provide by substantially identical laws for the enforcement of the ordinances of the authority and for penalties for the violation of those ordinances.

ARTICLE 16—SUBSTANTIALLY IDENTICAL LAWS

Substantially identical laws of the states of Iowa and Illinois which are in effect before the authority is created shall apply unless the laws are contrary to or inconsistent with the provisions of this compact. A question of whether the laws of the states of Iowa and Illinois are substantially identical may be determined and enforced by a federal district court.

ARTICLE 17—DISSOLUTION

The authority may be dissolved by independent action of a political subdivision of the state of Iowa or the state of Iowa as authorized by law of the state of Iowa or by independent action of a political subdivision of the state of Illinois or the state of Illinois as authorized by law of the state of Illinois.

ARTICLE 18—SUBJECT TO LAWS AND CONSTITUTIONS

This compact, the enabling laws of the states of Iowa and Illinois, and the authority are subject to the laws and Constitution of the

United States and the Constitutions of the states of Illinois and Iowa.

ARTICLE 19—CONSENT OF CONGRESS

The attorneys general of the states of Iowa and Illinois shall jointly seek the consent of the Congress of the United States to enter into or implement this compact if either of them believes the consent of the Congress of the United States is necessary.

ARTICLE 20—BINDING EFFECT

This compact and substantially identical enabling laws are binding on the states of Illinois and Iowa to the full extent allowed without the consent of Congress. If the consent of Congress is necessary, this compact and substantially identical enabling laws are binding on the states of Iowa and Illinois to the full extent when consent is obtained.

ARTICLE 21—SIGNING

This compact shall be signed in duplicate by the speakers of the houses of representatives of the states of Illinois and Iowa. One signed copy shall be filed with the secretary of state of Iowa and the other with the secretary of state of Illinois.

SEC. 2. RESERVATION OF RIGHTS.

The right to alter, amend, or repeal this Act is expressly reserved.

Approved May 10, 1990.

LEGISLATIVE HISTORY—S. 1485:

HOUSE REPORTS: No. 101-462 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 15, considered and passed Senate.
Vol. 136 (1990): May 1, considered and passed House.

Public Law 101-289
101st Congress

Joint Resolution

May 10, 1990
[S.J. Res. 224]

To designate the month of May 1990, as "National Trauma Awareness Month".

Whereas more than eight million individuals in the United States suffer traumatic injury each year;
Whereas traumatic injury is the leading cause of death of individuals less than forty-four years of age in the United States;
Whereas every individual is a potential victim of traumatic injury;
Whereas traumatic injury often occurs without warning;
Whereas traumatic injury frequently renders its victims incapable of caring for themselves;
Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;
Whereas the people of the United States spend more than $110,000,000,000 on the problem of trauma;
Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and
Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1990 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved May 10, 1990.

LEGISLATIVE HISTORY—S.J. Res. 224:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed Senate.
May 1, considered and passed House.

Public Law 101-290
101st Congress

Joint Resolution

To designate the week of May 6, 1990 through May 13, 1990, as "Jewish Heritage Week".

May 10, 1990
[S.J. Res. 241]

Whereas May 10, 1990, marks the forty-second anniversary of the founding of the State of Israel;

Whereas the months of April, May, and June contain events of major significance in the Jewish calendar, including Passover, the anniversary of the Warsaw Ghetto Uprising, Holocaust Memorial Day, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all ethnic groups in this Nation contributes to the unity of this Nation; and

Whereas understanding among ethnic groups in this Nation may be fostered further through an appreciation of the culture, history, and traditions of the Jewish community and the contributions of Jewish people to this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 6, 1990 through May 13, 1990, is designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such week with appropriate ceremonies, activities, and programs.

Approved May 10, 1990.

LEGISLATIVE HISTORY—S.J. Res. 241:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
May 1, considered and passed House.

Public Law 101-291
101st Congress

An Act

May 17, 1990
[H.R. 922]

To designate the building located at 1515 Sam Houston Street in Liberty, Texas, as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 1515 Sam Houston Street in Liberty, Texas, known as the United States Post Office Building, is designated as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building". Any reference to such building in any law, map, regulation, document, or other paper of the United States shall be deemed to be a reference to the M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building.

Approved May 17, 1990.

LEGISLATIVE HISTORY—H.R. 922:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 30, considered and passed House.
Vol. 136 (1990): May 9, considered and passed Senate.

Public Law 101-292
101st Congress

An Act

To establish the Grand Island National Recreation Area in the State of Michigan, and for other purposes.

May 17, 1990
[H.R. 1472]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Environmental protection.
Historic preservation.
National parks, monuments, etc.
16 USC 460aaa.

SECTION 1. ESTABLISHMENT OF GRAND ISLAND NATIONAL RECREATION AREA.

In order to preserve and protect for present and future generations the outstanding resources and values of Grand Island in Lake Superior, Michigan, and for the purposes of providing for the conservation, protection, and enhancement of its scenery, recreation, fish and wildlife, vegetation and historical and cultural resources, there is hereby established the Grand Island National Recreation Area (hereafter in this Act referred to as the "national recreation area"). These resources and values include, but are not limited to, cliffs, caves, beaches, forested appearance, natural biological diversity, and features of early settlement.

16 USC 460aaa-1.

SEC. 2. BOUNDARIES.

The national recreation area shall comprise all of the Grand Island in Lake Superior, Michigan, and all associated rocks, pinnacles, and islands and islets within one-quarter mile of the shore of Grand Island. The boundaries of the Hiawatha National Forest are hereby extended to include all of the lands within the national recreation area. All such extended boundaries shall be deemed boundaries in existence as of January 1, 1965, for the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-9). All federally owned lands within the national recreation area on the date of enactment of this Act are hereby components of the National Forest System and shall be administered by the Secretary of Agriculture as provided in this Act.

National Forest System.

16 USC 460aaa-2.

SEC. 3. ADMINISTRATION.

(a) ADMINISTRATION.—Subject to valid existing rights, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall administer the national recreation area in accordance with the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the national recreation area was established.

(b) SPECIAL MANAGEMENT REQUIREMENTS.—The national recreation area also shall be administered according to the following special management requirements:

(1) Subject to such terms and conditions as may be prescribed by the Secretary, including the protection of threatened and endangered species and the protection of other natural, cultural, and scenic values, owners of privately owned land and homes within the national recreation area shall be afforded access across National Forest System lands.

(2) Consistent with section 7 of this Act, and the purposes of this Act, the Secretary shall provide for and maintain traditional public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, fishing, and trapping.

(3) The Secretary shall permit the use of snowmobiles on Federal lands in the national recreation area in accordance with the rules and regulations of the National Forest System and consistent with the management plan developed pursuant to section 7 of this Act. Such use shall be regulated to protect the resources of the national recreation area in a way that minimizes the degradation of these resources.

(4) Timber management shall be utilized only as a tool to enhance public recreation, scenic quality, game and nongame wildlife species, and the protection and enhancement of threatened, endangered, or sensitive species. Trees damaged or downed due to fire, insects, disease, or blowdown may be utilized, salvaged, or removed from the recreation area as authorized by the Secretary to further the purposes of the national recreation area.

(5) The Secretary shall, after acquiring fee title to at least 10,000 acres of land on Grand Island, provide reasonable water transportation from the mainland to Grand Island. Transportation may be provided through concession, permit, or other means, and a reasonable charge may be imposed. Transportation shall be subject to reasonable regulation by the Secretary and shall not be required when the Secretary deems it to be unsafe because of factors such as weather and water conditions.

(6) The Secretary shall provide through concession, permit, or other means docking and lodge facilities consistent with the management plan developed pursuant to section 7 of this Act.

(7) The Secretary shall take reasonable actions to provide for public health and safety and for the protection of the national recreation area in the event of fire or infestation of insects or disease.

(8) Under the authority of the Act of March 4, 1915, as amended (16 U.S.C. 497), the Secretary shall, as a condition of acquisition, issue occupancy and use permits for any privately owned home as of the date of Federal acquisition of the land within the national recreation area on which the home is located. Any such permit shall be issued for an initial period of 20 years and shall be renewed thereafter for successive 20-year periods so long as the permittee is in compliance with the purposes of this Act, the terms of the permit, and other applicable rules and regulations. Any such permit shall be issued in accordance with the laws, rules, and regulations of the Secretary pertaining to the National Forest System, except that such permit shall be subject to the following special provisions:

(A) Such permit may only be issued to the owner of such home as of the date of Federal acquisition of the property, such owner's spouse, the children, stepchildren, and grandchildren of such owner and spouse, and their direct lineal descendants (natural or adopted offspring).

(B) Only noncommercial recreation occupancy may be permitted.

(C) The Secretary shall collect fees on an annual basis based on the fair market value of the occupancy permitted.

(D) The expansion, remodeling, or reconstruction of such homes shall be subject to approval of and regulation by the Secretary. No expansion, remodeling, or reconstruction may increase the height of structure or result in an increase of more than 25 percent of the sum of the exterior dimensions of a structure as it existed on the date of enactment of this Act. Any expansion, remodeling, or reconstruction shall be consistent with the criteria developed pursuant to section 7(b)(4) of this Act and shall be subject to such other terms and conditions as the Secretary may prescribe.

(E) Any such home may be purchased at the fair market value of the structure and improvements by the Secretary on a willing seller basis.

(F) The permit may be terminated at any time for failure to comply with its terms and conditions and applicable regulations without cost to the Federal Government in accordance with the permit.

(G) After termination of any such permit, if any improvements or property are not removed by their owner within one year of the termination, they shall become the property of the Federal Government.

(9) Solely for purposes of payments pursuant to section 6904 of title 31, United States Code, lands on Grand Island acquired by the United States after January 1, 1990 shall be considered to have been acquired for addition to a National Forest Wilderness Area (national forest portion of the National Wilderness Preservation System).

SEC. 4. ACQUISITION.

Gifts and property. 16 USC 460aaa-3.

(a) GENERAL AUTHORITY.—Subject to the provisions of subsection 3(b)(8) and subsection (b) of this section, the Secretary is authorized and directed to acquire by purchase, gift, exchange, or otherwise, lands, waters, structures, or interests therein, including scenic or other easements, within the boundaries of the national recreation area to further the purposes of this Act: *Provided,* That the Secretary may not acquire any privately owned lands within the national recreation area other than with the consent of the owner so long as the owner agrees to the restrictions contained in subsection (b)(1) of this section and grants the Secretary a right of first refusal as provided in subsection (b)(2) of this section. The Secretary also is authorized and directed to acquire lands or structures by such means on the mainland to the extent necessary for access to and administrative facilities for the national recreation area. In acquiring lands or structures under this subsection, the Secretary is directed to give prompt and careful consideration to any offer to sell land or structures made by an individual, organization, or any legal entity owning property within the boundaries of the national recreation area.

(b) PRIVATE LANDS.—(1) An owner of unimproved real property within the national recreation area may construct recreational residences that are architecturally compatible with other structures within the national recreation area, as described by the management plan developed pursuant to section 7 of this Act.

(2) Any privately owned lands, interests in lands, or structures within the national recreation area shall not be disposed of by donation, exchange, sale, or other conveyance without first being

offered at no more than fair market value to the Secretary. The Secretary shall be given a period of 120 days to accept an offer and, after such offer is accepted, a period of 45 days after the end of the fiscal year following the fiscal year in which the offer was accepted to acquire such lands, interests in lands, or structures. No such lands, interests in lands, or structures shall be sold or conveyed at a price below the price at which they have been offered for sale to the Secretary, and if such lands, interest in lands, or structures are reoffered for sale or conveyance they shall first be reoffered to the Secretary, except that this subsection shall not apply to a change in ownership of a property within the immediate family of the owner of record on January 1, 1989. For the purposes of this subsection, the term "immediate family" means, with respect to any such owner of record, the spouse, siblings, children (whether natural or adopted), stepchildren, and lineal descendants of that owner.

16 USC 460aaa-4.

SEC. 5. FISH AND GAME.

(a) IN GENERAL.—Nothing in this Act shall be construed as affecting the responsibilities of the State of Michigan with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping in any lands acquired and managed by the Secretary under this Act, except that the Secretary may, in consultation with the State of Michigan, designate zones where, and establish periods when, no hunting, fishing or trapping shall be permitted for reasons of public safety, administration, the protection of nongame species and their habitats, or public use and enjoyment.

(b) NOTICE OF SECRETARIAL ACTION.—As soon as practicable after each case in which the Secretary exercises authority under subsection (a), the Secretary, in consultation with appropriate officials of the State of Michigan, shall take steps to notify area residents as to the nature of actions taken, and the location of zones designated and periods established, under subsection (a).

(c) CONSULTATION.—Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect after consultation with the fish and wildlife agency of the State of Michigan.

16 USC 460aaa-5.

SEC. 6. MINERALS.

Subject to valid existing rights, the lands within the national recreation area are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing including all laws pertaining to geothermal leasing. Also subject to valid existing rights, the Secretary shall not allow any mineral development on federally owned land within the national recreation area, except that common varieties of mineral materials, such as stone, and gravel, may be utilized only as authorized by the Secretary to the extent necessary for construction and maintenance of roads and facilities within the national recreation area.

16 USC 460aaa-6.

SEC. 7. MANAGEMENT PLAN.

(a) DEVELOPMENT.—After the Secretary acquires fee title to at least 10,000 acres of land on Grand Island, the Secretary, within 30 months, shall develop with public involvement a comprehensive management plan for the national recreation area which implements the provisions of this Act.

(b) SPECIAL ISSUES TO BE INCLUDED.—The comprehensive management plan shall include, but not be limited to, the following issues:

(1) Public recreation, including consideration of a range of appropriate recreational opportunities consistent with the rustic, natural, and historic character of the island, including, but not limited to, a system of trails and campsites in conjunction with the lodge referred to in paragraph (2) of this section.

(2) The feasibility of a concessionaire constructed, operated, and maintained rustic lodge and educational facility on no more than 55 acres located so as not to impair or alter existing scenic views or the existing tree line and forested appearance of Grand Island from any point within the boundaries of Pictured Rocks National Lakeshore. The plan shall address the economics of constructing, operating, and maintaining such a facility by a concessionaire or other entity; access by roads and waters; utilities; waste water treatment, garbage disposal, and other associated environmental impacts; management operations including construction, operation and maintenance; and the potential for permitted uses by government agencies, profit and nonprofit organizations, or individuals.

(3) Prescriptions concerning any management and harvest of timber, subject to section 3(b)(4) of this Act.

(4) General design criteria for new facilities or the improvement of existing facilities that are compatible with the rustic, natural, and historic character of the island and their topographic and geological location, and that do not impair scenic views from the Pictured Rocks National Lakeshore.

(5) Water transportation from the mainland to the national recreation area by a concessionaire or other entity.

(6) The feasibility of concessionaire constructed, operated, and maintained docking facilities in the national recreation area and on the mainland.

(7) An inventory and assessment of existing traditional roads, the level of road use, access needs, and any vehicular regulation and management needed to protect the resources of the national recreation area while, at the same time, providing reasonable access to private property.

(c) CONSULTATION.—In preparing the comprehensive management plan, the Secretary shall consult with the appropriate State and local government officials, provide for full public participation, and consider the views of all interested parties, organizations, and individuals.

SEC. 8. GRAND ISLAND ADVISORY COMMISSION. 16 USC 460aaa-7.

(a) ESTABLISHMENT.—Subject to appointments as provided in subsection (b), there is established a Grand Island Advisory Commission (hereafter in this Act referred to as the "Commission") comprised of 12 members for the purpose of advising the Secretary on the preparation of the management plan which is provided for in section 7 of this Act.

(b) APPOINTMENT.—(1) Commission members shall be appointed by the Secretary as follows:

(A) Three non-voting members, who shall be employees of the Forest Service including the Forest Supervisor of the Hiawatha National Forest.

(B) One member who shall be a resident of Munising, Michigan, who is not a Forest Service employee.

(C) Two members who shall be recreational users of Grand Island who are not Forest Service employees.

(D) One member from nominations made by the Alger County Board of Commissioners who is a member of such board.

(E) One member from nominations made by the Alger County Economic Development Corporation who is a member of such corporation.

(F) One member from nominations made by the Grand Island Association who is a member of such association.

(G) One member from nominations made by the private landowners of Grand Island who is a private landowner on Grand Island.

(H) One member from nominations made by the Grand Island Township Board who is a member of such board.

(I) The Munising city manager, upon accepting the invitation of the Secretary.

(2) Any vacancy shall be filled in the same manner as the original appointment.

(c) QUORUM.—A quorum shall be six members. The operations of the Commission shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(d) PROCEDURES.—The Commission shall elect a Chairman and establish such rules and procedures as it deems necessary or desirable.

(e) CONSULTATION.—The Secretary shall consult with the Commission on a periodic and regular basis with respect to the management plan.

(f) PAY.—(1) Members of the Commission who are not full-time officers or employees of the United States shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(g) PROPOSALS FOR NON-FEDERAL DEVELOPMENT ON FEDERAL LAND.—The Commission shall recommend proposals for non-Federal development on the 55 acres described in section 7(b)(2) of this Act. It shall submit any such proposals to the Secretary for approval, rejection, or revision. The Secretary shall include in the management plan a development proposal submitted by the Commission or arrived at by any other means available to the Secretary.

(h) TERMINATION.—The Commission shall cease to exist on the date upon which the management plan is adopted.

16 USC 460aaa-8.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) ACQUISITION OF LANDS.—There are hereby authorized to be appropriated an amount not to exceed $5,000,000 for the acquisition of land, interests in land, or structures within the national recreation area and on the mainland as needed for access and administrative facilities.

(b) OTHER PURPOSES.—In addition to the amounts authorized to be appropriated under subsection (a), there are authorized to be appropriated not more than $5,000,000 for development to carry out the other purposes of this Act.

Approved May 17, 1990.

LEGISLATIVE HISTORY—H.R. 1472:

HOUSE REPORTS: No. 101-78, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
SENATE REPORTS: No. 101-248 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 31, considered and passed House.
Vol. 136 (1990): Mar. 20, considered and passed Senate, amended.
May 1, House concurred in Senate amendments.

39-194 O - 91 - 8 : QL 3 Part 1

Public Law 101-293
101st Congress

An Act

May 17, 1990
[H.R. 4637]

To amend Public Law 101-86 to eliminate the 6-month limitation on the period for which civilian and military retirees may serve as temporary employees, in connection with the 1990 decennial census of population, without being subject to certain offsets from pay or other benefits.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ELIMINATION OF LIMITATION.

(a) IN GENERAL.—Public Law 101-86 (13 U.S.C. 23 note) is amended by striking section 4.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

13 USC 23 note.

(1) Sections 2(b) and 3(b) of Public Law 101-86 are each amended—

(A) by striking paragraph (2);

(B) in paragraph (1) by striking "(1)", and by striking "; and" and inserting a period; and

(C) by striking "section—" and inserting "section" and running in thereafter the text of paragraph (1) (as amended by subparagraph (B)).

13 USC 23 note.

(2) Public Law 101-86 is amended by redesignating section 5 as section 4.

13 USC 23 note.

SEC. 2. PRIOR SERVICE IN EXCESS OF 6 MONTHS NOT AFFECTED.

Nothing in this Act shall be considered to make an exemption under section 2 or 3 of Public Law 101-86 applicable to any service performed before the date of enactment of this Act which was in excess of that allowable under section 4 of Public Law 101-86 (as then in effect).

Approved May 17, 1990.

LEGISLATIVE HISTORY—H.R. 4637:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 1, considered and passed House.
May 7, considered and passed Senate.

Public Law 101-294
101st Congress

Joint Resolution

Designating May 1990 as "National Digestive Disease Awareness Month".

May 17, 1990
[H.J. Res. 453]

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;
Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality;
Whereas twenty million Americans suffer from chronic digestive diseases;
Whereas more than fourteen million cases of acute digestive diseases are treated in this country each year, including one-third of all malignancies and some of the most common acute infections;
Whereas more Americans are hospitalized with digestive diseases than any other type of disease;
Whereas digestive diseases necessitate 25 per centum of all surgical operations;
Whereas digestive diseases are one of the most prevalent causes of disability in the work force;
Whereas, in the United States, digestive diseases cause yearly expenditures of over $17,000,000,000 in direct health care costs and a total annual economic burden of nearly $50,000,000,000;
Whereas more than one hundred different digestive diseases, and other disorders of the gastrointestinal tract, each cause more than two hundred thousand deaths each year;
Whereas there has been interest on the part of the research community in the causes, cures, prevention, and clinical treatment of digestive diseases and related nutritional problems;
Whereas the people of the United States should recognize prevention and treatment of digestive diseases as a major health priority;
Whereas national organizations, such as the Digestive Disease National Coalition, are committed to increasing awareness and understanding of digestive diseases in the health care community and among members of the general public;
Whereas the National Institutes of Health, through the National Digestive Disease Information Clearinghouse and the National Digestive Diseases Advisory Board, is committed to encouraging and coordinating such educational efforts;
Whereas the National Digestive Disease Education Program is a coordinated effort to educate the public and the health care community on the seriousness of digestive diseases and to provide information relative to the treatment, prevention, and control of digestive diseases; and
Whereas May 1990 marks the eighth anniversary of the National Digestive Disease Education Program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1990 is designated as "National Digestive Disease Awareness Month", and the President is authorized and requested to issue a proclamation call-

ing upon all government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved May 17, 1990.

LEGISLATIVE HISTORY—H.J. Res. 453 (S.J. Res. 254):

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 8, considered and passed House.
May 9, considered and passed Senate.

Public Law 101-295
101st Congress

Joint Resolution

Commemorating May 18, 1990, as the 25th anniversary of Head Start.

May 17, 1990
[H.J. Res. 490]

Whereas on May 18, 1965, President Lyndon B. Johnson announced the launching of the Head Start program;
Whereas Head Start has provided comprehensive services, including health, education, and social services, and parent involvement opportunities to more than 11,000,000 children and their families since 1965;
Whereas Head Start has helped to ensure that children are prepared to succeed in school and become productive adults;
Whereas Head Start has been a pioneer in developing successful approaches for meeting the needs of young children and strengthening early childhood development programs;
Whereas Head Start has been a model for involving handicapped children and now more than 13 percent of Head Start participants are handicapped children;
Whereas Head Start now serves more than 450,000 children in every State, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, and the Pacific Territories, and in Native American and migrant programs throughout the country;
Whereas Head Start provides children with a learning environment and varied experiences that help them develop socially, intellectually, physically, and emotionally in a manner appropriate to their age and stage of development;
Whereas Head Start maximizes the strengths and unique experiences of each child;
Whereas Head Start guarantees that children receive medical and dental screening and follow-up treatment, including necessary immunizations;
Whereas Head Start helps children become physically capable of learning by providing adequate meals and snacks to help meet their daily nutritional needs;
Whereas Head Start directly includes parents in decisionmaking for the program's planning and operation;
Whereas for every five children enrolled, more than four Head Start parents are providing a volunteer service;
Whereas more than 30 percent of Head Start staff members are parents of current or former Head Start children;
Whereas members of the Head Start staff have shown a high degree of dedication to children and families across the country;
Whereas Head Start has been widely recognized by the business community, policymakers, and child development experts as an important investment in the future of our country, one that should be made for all eligible children; and
Whereas the Congress supports Head Start's goal of ensuring the availability of comprehensive services to all eligible children: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 18, 1990, is hereby commemorated as the 25th anniversary of Head Start, and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved May 17, 1990.

LEGISLATIVE HISTORY—H.J. Res. 490 (S.J. Res. 265):

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 1, considered and passed House.
May 4, considered and passed Senate.

Public Law 101-296
101st Congress

An Act

To award a congressional gold medal to Laurance Spelman Rockefeller.

May 17, 1990
[S. 1853]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

31 USC 5111 note.

The Congress finds that—

(1) Laurance Spelman Rockefeller followed in the tradition of his father, John D. Rockefeller, Jr., by enlarging and enhancing the National Park System of the United States, including the donation of five thousand acres on the Island of St. John for the Virgin Islands National Park;

(2) Laurance Spelman Rockefeller was appointed by President Dwight D. Eisenhower as chairman of the Outdoor Recreation Resources Review Commission, and his work led to the establishment of the Bureau of Outdoor Recreation, the Land and Water Conservation Fund, the Wilderness Act, the National System of Scenic Rivers, and other landmark conservation programs;

(3) Laurance Spelman Rockefeller was appointed by President Lyndon B. Johnson as Chairman of the 1965 White House Conference on Natural Beauty, and his recommendations brought the concept of natural beauty to urban areas, led to the Highway Beautification Act, and increased State and local awareness of environmental issues;

(4) Laurance Spelman Rockefeller collaborated with Lady Bird Johnson in her quest to beautify the United States and the Capital, and assisted her in the creation of the Lyndon Baines Johnson Memorial Grove in Washington, District of Columbia;

(5) Laurance Spelman Rockefeller served President Richard M. Nixon and President Gerald R. Ford as chairman of Presidential advisory committees on environmental quality, and served on other Federal advisory groups, including the Public Land Law Review Commission and the National Park Foundation;

(6) Laurance Spelman Rockefeller served as a member of the New York State Council of Parks for thirty years and, as its chairman, expanded and modernized the State park system through an innovative bond program which was replicated across the Nation;

(7) Laurance Spelman Rockefeller served as a principal advisor on environmental matters to his brother, Governor Nelson A. Rockefeller of New York, and helped to develop the Adirondack Park Agency, the Hudson River Valley Commission, the first State water pollution bond issue, and the first comprehensive State environmental and conservation agency;

(8) Laurance Spelman Rockefeller served as a member and President of the Palisades Interstate Park Commission for forty years and made major donations to expand the Palisades Interstate Park System;

(9) Laurance Spelman Rockefeller contributed to the environmental quality of New York City through his efforts on behalf of the New York Zoological Society and the Bronx Zoo, the New York Aquarium, Central Park, and other parks in the city;

(10) Laurance Spelman Rockefeller, as a part-time resident of Woodstock, Vermont, has contributed to the environmental aesthetics of that community through promotion of the placement of power lines underground, the initiation of watershed planning, and the preservation and display of historic properties and objects;

(11) Laurance Spelman Rockefeller has been the long-time guiding force in three significant private conservation organizations: Jackson Hole Preserve, Incorporated, which has preserved park land in the Grand Tetons of Wyoming, the Virgin Islands, and the Hudson Valley; the American Conservation Association, which has provided support and encouragement for innovative government and private conservation programs; and Historic Hudson Valley, Incorporated, which has preserved outstanding historic properties of the Hudson Valley for public use;

(12) Laurance Spelman Rockefeller has played an important role in creating or leading other private conservation organizations, including Resources for the Future, the National Recreation and Park Association, and the Conservation Foundation; and

(13) Laurance Spelman Rockefeller, in addition to his extraordinary contributions to the environment in the United States, is one of the leaders in the fight against cancer with more than forty years of dedicated work and benefactions to the Memorial Sloan-Kettering Cancer Center.

31 USC 5111 note.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, a gold medal of appropriate design to Laurance Spelman Rockefeller in recognition of his leadership on behalf of natural resource conservation and historic preservation.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated not to exceed $25,000 to carry out this section.

31 USC 5111 note.

SEC. 3. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the costs thereof, including labor, materials, dies, use of machinery, and overhead expenses and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 4. NATIONAL MEDALS.

31 USC 5111 note.

The medals struck pursuant to this Act shall be considered national medals for purposes of chapter 51 of title 31, United States Code.

Approved May 17, 1990.

LEGISLATIVE HISTORY—S. 1853:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 26, considered and passed Senate.
May 1, considered and passed House.

Public Law 101-297
101st Congress

An Act

May 22, 1990
[H.R. 2890]

To designate the Federal Building and United States Courthouse located at 750 Missouri Avenue in East St. Louis, Illinois, as the "Melvin Price Federal Building and United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and the United States Courthouse located at 750 Missouri Avenue in East St. Louis, Illinois, shall be known and designated as the "Melvin Price Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in section 1 shall be deemed to be a reference to the "Melvin Price Federal Building and United States Courthouse".

Approved May 22, 1990.

LEGISLATIVE HISTORY—H.R. 2890:

HOUSE REPORTS: No. 101-326 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 7, considered and passed House.
Vol. 136 (1990): May 9, considered and passed Senate.

Public Law 101-298
101st Congress

An Act

To implement the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and Their Destruction, by prohibiting certain conduct relating to biological weapons, and for other purposes.

May 22, 1990
[S. 993]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Biological Weapons Anti-Terrorism Act of 1989.
International agreements.
18 USC 175 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biological Weapons Anti-Terrorism Act of 1989".

18 USC 175 note.

SEC. 2. PURPOSE AND INTENT.

(a) PURPOSE.—The purpose of this Act is to—

(1) implement the Biological Weapons Convention, an international agreement unanimously ratified by the United States Senate in 1974 and signed by more than 100 other nations, including the Soviet Union; and

(2) protect the United States against the threat of biological terrorism.

(b) INTENT OF ACT.—Nothing in this Act is intended to restrain or restrict peaceful scientific research or development.

SEC. 3. TITLE 18 AMENDMENTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 9 the following:

"CHAPTER 10—BIOLOGICAL WEAPONS

"Sec.
"175. Prohibitions with respect to biological weapons.
"176. Seizure, forfeiture, and destruction.
"177. Injunctions.
"178. Definitions.

"§ 175. Prohibitions with respect to biological weapons

"(a) IN GENERAL.—Whoever knowingly develops, produces, stockpiles, transfers, acquires, retains, or possesses any biological agent, toxin, or delivery system for use as a weapon, or knowingly assists a foreign state or any organization to do so, shall be fined under this title or imprisoned for life or any term of years, or both. There is extraterritorial Federal jurisdiction over an offense under this section committed by or against a national of the United States.

"(b) DEFINITION.—For purposes of this section, the term 'for use as a weapon' does not include the development, production, transfer, acquisition, retention, or possession of any biological agent, toxin, or delivery system for prophylactic, protective, or other peaceful purposes.

"§ 176. Seizure, forfeiture, and destruction

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any biological agent, toxin, or delivery system that—

"(A) exists by reason of conduct prohibited under section 175 of this title; or

"(B) is of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

"(2) In exigent circumstances, seizure and destruction of any biological agent, toxin, or delivery system described in subparagraphs (A) and (B) of paragraph (1) may be made upon probable cause without the necessity for a warrant.

"(b) PROCEDURE.—Property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such hearing, the government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the same procedures and provisions of law relating to a forfeiture under the customs laws shall extend to a seizure or forfeiture under this section. The Attorney General may provide for the destruction or other appropriate disposition of any biological agent, toxin, or delivery system seized and forfeited pursuant to this section.

"(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (a)(1)(B) of this section that—

"(1) such biological agent, toxin, or delivery system is for a prophylactic, protective, or other peaceful purpose; and

"(2) such biological agent, toxin, or delivery system, is of a type and quantity reasonable for that purpose.

"§ 177. Injunctions

"(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

"(1) the conduct prohibited under section 175 of this title;

"(2) the preparation, solicitation, attempt, or conspiracy to engage in conduct prohibited under section 175 of this title; or

"(3) the development, production, stockpiling, transferring, acquisition, retention, or possession, or the attempted development, production, stockpiling, transferring, acquisition, retention, or possession of any biological agent, toxin, or delivery system of a type or in a quantity that under the circumstances has no apparent justification for prophylactic, protective, or other peaceful purposes.

"(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) of this section that—

"(1) the conduct sought to be enjoined is for a prophylactic, protective, or other peaceful purpose; and

"(2) such biological agent, toxin, or delivery system is of a type and quantity reasonable for that purpose.

"§ 178. Definitions

"As used in this chapter—

"(1) the term 'biological agent' means any micro-organism, virus, or infectious substance, capable of causing—

"(A) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;

"(B) deterioration of food, water, equipment, supplies, or material of any kind; or

"(C) deleterious alteration of the environment;

"(2) the term 'toxin' means, whatever its origin or method of production—

"(A) any poisonous substance produced by a living organism; or

"(B) any poisonous isomer, homolog, or derivative of such a substance;

"(3) the term 'delivery system' means—

"(A) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or

"(B) any vector; and

"(4) the term 'vector' means a living organism capable of carrying a biological agent or toxin to a host.".

(b) WIRE INTERCEPTION.—Section 2516(c) of title 18, United States Code, is amended by adding "section 175 (relating to biological weapons)," after "section 33 (relating to destruction of motor vehicles or motor vehicle facilities),".

(c) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 9 the following new item:

"10. Biological Weapons ..... 175.".

Approved May 22, 1990.

LEGISLATIVE HISTORY—S. 993 (H.R. 237):

HOUSE REPORTS: No. 101-476 accompanying H.R. 237 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-210 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 21, considered and passed Senate.
Vol. 136 (1990): May 8, H.R. 237 considered and passed House; proceedings vacated and S. 993 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
May 22, Presidential statement.

Public Law 101-299
101st Congress

Joint Resolution

May 23, 1990
[S.J. Res. 275]

Designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet".

Whereas the United States supports the legitimate and democratic aspirations for freedom of peoples throughout the world;
Whereas student and citizen groups throughout the world have taken great risks in pursuit of reform;
Whereas on May 13, 1989, Chinese students began a hunger strike in Tiananmen Square seeking nonviolent dialogue with the Chinese Government;
Whereas the Chinese Government responded to the Chinese students with violence, killing many;
Whereas the non-violent resistance of the people of Tibet to the Chinese Government has also been met with violence;
Whereas the Chinese students and the Tibetan people follow the tradition of the Dalai Lama's and Mahatma Gandhi's doctrine of non-violence, and have inspired the world;
Whereas student organizations throughout the United States and around the world have declared May 13, 1990, as an international day of fasting in support of democratic reforms in China and Tibet; and
Whereas this effort is being undertaken in the hope of bringing the current tragedies in China and Tibet to a peaceful end, and in the hope that productive dialogue will replace an atmosphere of suspicion and reprisal: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet", and calling on the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved May 23, 1990.

LEGISLATIVE HISTORY—S.J. Res. 275:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 5, considered and passed Senate.
May 10, considered and passed House.

Public Law 101-300
101st Congress

An Act

To provide financial assistance to the Simon Wiesenthal Center in Los Angeles, California, for the education programs of the Museum of Tolerance.

May 24, 1990
[S. 2300]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORITY.

The Secretary of Education is authorized, subject to the availability of appropriations, to pay to the Museum of Tolerance of the Simon Wiesenthal Center, located in Los Angeles, California, the Federal share of the cost of designing and operating education programs concerning the holocaust.

SEC. 2. APPLICATION REQUIRED.

No financial assistance may be provided under this Act unless an application is submitted to the Secretary of Education at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may reasonably require. Each such application shall describe the type and kind of educational materials to be developed and the steps that will be taken to ensure that age appropriate products are available to school districts and institutions of higher education across the country.

SEC. 3. FEDERAL SHARE.

The Federal share of the cost of designing and conducting education programs under this Act shall be 50 percent. The portion of costs not paid by financial assistance provided pursuant to this Act must be paid from sources other than Federal, State, or local government.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $5,000,000, to carry out the provisions of this Act. Funds appropriated pursuant to this Act shall remain available until expended.

Approved May 24, 1990.

LEGISLATIVE HISTORY—S. 2300:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 1, considered and passed Senate.
May 10, considered and passed House.

Public Law 101-301
101st Congress

An Act

May 24, 1990
[S. 1846]

To make miscellaneous amendments to Indian laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Public Law 100-581 is amended—

(1) by striking out "shall take effect upon enactment of this Act" in section 203 and inserting in lieu thereof "shall take effect upon enactment of this Act if the plan has not taken effect before the enactment of this Act";

102 Stat. 2939.

(2) by striking out "section 201" in subsections (a) and (c) of section 212 and inserting in lieu thereof "section 206";

25 USC 450m-1.

(3) by striking out section 213;

25 USC 608.

(4) by striking out "section 3" in section 702(a) and inserting in lieu thereof "section 703";

102 Stat. 2946.

(5) by striking out "section 602" in the last sentence of paragraph (1) of section 703(b) and inserting in lieu thereof "section 702"; and

102 Stat. 2948.

(6) by striking out "section 602" in section 703(c) and inserting in lieu thereof "section 702".

(b) Subsection (c) of the first section of the Act of July 28, 1955 (69 Stat. 392; 25 U.S.C. 608(c)) is amended to read as follows:

Real property.

"(c) Lands and interests in lands acquired by the Secretary pursuant to subsection (a)(1) and for the benefit of the Yakima Indian Nation pursuant to section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) shall be held in trust by the United States for the benefit of the Yakima Indian Nation.".

SEC. 2. (a) The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) is amended—

(1) by inserting a comma after "688)" in section 4(e) (25 U.S.C. 450b(e)),

(2) by striking out "the appropriate the Secretary" in section 4(j) and inserting in lieu thereof "the appropriate Secretary",

(3) by striking out "pursuant to this Act" each place it appears in section 4(j) and inserting in lieu thereof "under title I of this Act",

(4) by striking out "the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.)," in section 5(a)(2) (25 U.S.C. 450c(a)(2)) and inserting in lieu thereof "chapter 75 of title 31, United States Code",

(5) by striking out "the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224; 92 Stat. 3)" in section 9 (25 U.S.C. 450e-1) and inserting in lieu thereof "chapter 63 of title 31, United States Code",

(6) by striking out "an Indian appointed" in section 104(m) (25 U.S.C. 450i(m)) and inserting in lieu thereof "an Indian (as defined in section 19 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 479)) appointed (except temporary appointments)",

(7) by striking out "sub-contracts in such cases where the tribal contractor has sub-contracted the activity" in section 105(a) (25 U.S.C. 450j(a)) and inserting in lieu thereof "sub-contracts of such a construction contract",

(8) by striking out "the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code)" in section 106(f) (25 U.S.C. 450j-1(f)) and inserting in lieu thereof "chapter 75 of title 31, United States Code",

(9) by striking out "agency personnel" in section 106(i) (25 U.S.C. 450j-1(i)) and inserting in lieu thereof "agency personnel (area personnel in the Navajo Area and in the case of Indian tribes not served by an agency)", and

(10) by striking out "providing notice and hearing" in section 109 (25 U.S.C. 450m) and inserting in lieu thereof "providing notice and a hearing".

(b) Subsection (b) of section 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450m-1(b)) is amended to read as follows:

"(b) The Secretary shall not revise or amend a self-determination contract with a tribal organization without the tribal organization's consent.".

(c) Subparagraph (C) of section 3371(2) of title 5, United States Code, is amended by striking out "section 4(m)" and inserting in lieu thereof "section 4".

SEC. 3. (a) Notwithstanding section 18 of the Act of June 18, 1934 (48 Stat. 988; 25 U.S.C. 478), sections 2 and 17 of that Act (25 U.S.C. 462 and 477) shall apply to— 25 USC 478-1.

(1) all Indian tribes,

(2) all lands held in trust by the United States for Indians, and Real property.

(3) all lands owned by Indians that are subject to a restriction imposed by the United States on alienation of the rights of the Indians in the lands.

(b) The proviso of section 13 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 473) is amended by striking out "sections 2, 4," and inserting in lieu thereof "sections 4,".

(c) Section 17 of the Act of June 18, 1934 (25 U.S.C. 477), is amended—

(1) by striking out "by at least one-third of the adult Indians," and inserting in lieu thereof "by any tribe,";

(2) by striking out "at a special election by a majority vote of the adult Indians living on the reservation" and inserting in lieu thereof "by the governing body of such tribe";

(3) by striking out "ten years any of the land" and inserting in lieu thereof "twenty-five years any trust or restricted lands".

SEC. 4. Subsection (c) of section 1 of Public Law 100-425 is amended by striking out "NE¼E½,NW¼" each place it appears and inserting in lieu thereof "NE¼,E½NW¼". 25 USC 713f note.

SEC. 5. (a) Paragraph (5) of section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended by striking out "104(a)" and inserting in lieu thereof "103(a)".

(b) Subsection (a) of section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508) is amended by striking out "105" and inserting in lieu thereof "104".

(c) Subparagraph (C) of section 5314(e)(1) of the Indian Education Act of 1988 (25 U.S.C. 2604(e)(1)(C)) is amended to read as follows:

State and local governments. Children and youth.

"(C) No local educational agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit that relate to the date of completion, or the date of submission, of any forms used to establish, before April 28, 1988, a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act.".

(d)(1) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended—

(A) by striking out "0.133 percent" in paragraph (3)(A) and inserting in lieu thereof "0.2 percent",

(B) by striking out "$4,000" in paragraph (3)(C)(i) and inserting in lieu thereof "$5,000",

(C) by striking out clause (ii) of paragraph (3)(C) and inserting in lieu thereof the following:

"(ii) the lesser of—

"(I) $15,000, or

"(II) 1 percent of such allotted funds,".

(D) by striking out paragraph (2), and

(E) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(2) Section 5324(c)(4)(B) of the Indian Education Act of 1988 (25 U.S.C. 2624(c)(4)(B)) is amended by striking out "section 1128(c)(4)(A)(i)" and inserting in lieu thereof "section 1128(c)(3)(A)(i)".

25 USC 2001 note.

(e)(1) Subsection (b) of section 5504 of Public Law 100-297 (25 U.S.C. 2001, note) is amended—

(A) by inserting "the Executive Director of the National Advisory Council on Indian Education and of" after "which shall consist of" in paragraph (1),

(B) by inserting "(but not the Executive Director of the National Advisory Council on Indian Education)" after "Task Force" in paragraph (3), and

(C) by adding at the end thereof the following new paragraph:

"(7) Sums appropriated under the authority of section 5508 shall not be used to pay the salaries of employees of the Department of the Interior or the Department of Education who are assigned as staff to the Task Force; but the salaries of such employees shall be paid out of funds appropriated to the employing Department under the authority of other provisions of law.".

25 USC 2001 note.

(2) Subsection (a) of section 5506 of Public Law 100-297 is amended—

(A) by striking out "and" at the end of paragraph (5),

(B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and", and

(C) by adding at the end thereof the following new paragraph:

"(7) the chairman of the National Advisory Council on Indian Education.".

25 USC 2001 note.

(3) Section 5508 of Public Law 100-297 is amended by striking out "1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(f) Subsection (d) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a(d)) is amended by adding at the end thereof the following new paragraph:

"(4) In applying this section and section 106 of the Indian Self-Determination and Education Assistance Act with respect to an Indian tribe or tribal organization that—

"(A) receives funds under this section for administrative costs incurred in operating a contract school or a school operated under the Tribally Controlled Schools Act of 1988, and

"(B) operates one or more other programs under a contract or grant provided under the Indian Self-Determination and Education Assistance Act,

the Secretary shall ensure that the Indian tribe or tribal organization is provided with the full amount of the administrative costs, and of the indirect costs, that are associated with operating the contract school, a school operated under the Tribally Controlled Schools Act of 1988, and all of such other programs, except that funds appropriated for implementation of this section shall be used only to supply the amount of the grant required to be provided by this section.".

(g)(1) Paragraph (2) of subsection 5205(a) of the Tribally controlled Schools Act of 1988 (25 U.S.C. 2504(a)) is amended to read as follows:

"(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and, notwithstanding section 105 of the Indian Self-Determination Act (25 U.S.C. 450j), or any other provision of law, other facilities accounts for such schools for such fiscal year (including but not limited to all those referenced under section 1126(d) of the Education Amendments of 1978, or any other law), and".

(2) Subsection (b) of section 5205 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)) is amended by adding the following new paragraph:

"(4) Notwithstanding the provision of paragraph 5204(a)(2) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(a)(2)), with respect to funds from facilities improvement and repair, alteration and renovation (major or minor), health and safety, or new construction accounts included in the grant under such paragraph (a)(2), the grantee shall maintain a separate account for such funds and shall, at the end of the period designated for the work covered by the funds received, render a separate accounting of the work done and the funds used to the Secretary. Funds received from these accounts may only be used for the purposes for which they were appropriated and for the work encompassed by the application or submission under which they were received. Where the appropriations measure or the application submission does not stipulate a period for the work covered by the funds so designated, the Secretary and the grantee shall consult and determine such a period prior to the transfer of funds: *Provided,* That such period may be extended upon mutual agreement.".

25 USC 2703 note.

SEC. 6. Notwithstanding any other provision of law, the term "class II gaming" includes, for purposes of applying Public Law 100-497 with respect to any Indian tribe located in the State of Wisconsin or the State of Montana, during the 1-year period beginning on the date of enactment of this Act, any gaming described in section 4(7)(B)(ii) of Public Law 100-497 that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated made a request, by no later than November 16, 1988, to the State in which such gaming is operated to negotiate a Tribal-State compact under section 11(d)(3) of Public Law 100-497.

SEC. 7. Section 9 of the Lac Vieux Desert Band of Lake Superior Chippewa Indians Act (25 U.S.C. 1300h-7) is amended—

(1) by striking out "Notwithstanding" and inserting in lieu thereof "(a) Notwithstanding", and

(2) by adding at the end thereof the following new subsection:

"(b) The Secretary shall accept as voters eligible to vote on any amendments to the constitution of the Keweenaw Bay Indian Community—

"(1) all those persons who were deemed eligible by the Keweenaw Bay Indian Community to vote in the most recent election for the Tribal Council, and

"(2) any other person certified by the Keweenaw Bay Indian Community Tribal Council as—

"(A) a member of the Keweenaw Bay Indian Community, and

"(B) eligible to vote in any election for the Tribal Council.".

SEC. 8. Section 3(l) of the White Earth Reservation Land Settlement Act of 1985 (25 U.S.C. 331, note) is amended—

(1) by inserting "(not including laws relating to spousal allowance and maintenance payments)" immediately after "inheritance laws of Minnesota in effect on March 26, 1986", and

(2) by adding at the end of section 7 the following new subsection:

"(e)(1) After publication of the second list under subsection (c), the Secretary may, at any time, add allotments or interests to that second list if the Secretary determines that the additional allotment or interest falls within the provisions of section 5(c) or subsection (a) or (b) of section 4.

Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register notice of any additions made under paragraph (1) to the second list published under subsection (c).

"(3) Any determination made by the Secretary to add an allotment or interest under paragraph (1) to the second list published under subsection (c) may be judicially reviewed in accordance with chapter 7 of title 5, United States Code, within 90 days after the date on which notice of such determination is published in the Federal Register under paragraph (2). Any legal action challenging such a determination that is not filed within such 90-day period shall be forever barred. Exclusive jurisdiction over any legal action challenging such a determination is vested in the United States District Court for the District of Minnesota.".

Courts, U.S. Minnesota.

SEC. 9. The Hoopa-Yurok Settlement Act (25 U.S.C. 1300i, et seq.) is amended—

25 USC 1300i-4.

(1) by adding at the end of paragraph (2) of section (5)(a) the following new sentence: "Children under age 10 on the date they applied for the Settlement Roll who have lived all their lives on the Joint Reservation or the Hoopa Valley or Yurok Reservations, and who otherwise meet the requirements of this section except they lack 10 years of Reservation residence, shall be included on the Settlement Roll.",

(2) by adding at the end of subsection (d) of section 5 the following new paragraph:

"(4) For the sole purpose of preparing the Settlement Roll under this section, the Yurok Transition Team and the Hoopa Valley Business Council may review applications, make recommendations which the Secretary shall accept unless conflict-

ing or erroneous, and may appeal the Secretary's decisions concerning the Settlement Roll. Full disclosure of relevant records shall be made to the Team and to the Council notwithstanding any other provision of law.". Records.

(3) by striking out "counseling," in section (9)(a)(3) and inserting in lieu thereof "counseling and assistance, shall", and 25 USC 1300i-8.

(4) by adding at the end of subsection (a) of section 14 the following new sentence: "The Yurok Transition Team, or any individual thereon, shall not be named as a defendant or otherwise joined in any suit in which a claim is made arising out of this subsection.". 25 USC 1300i-11.

SEC. 10. The Secretary of the Interior is authorized to retain collections from the public in payment for goods and services provided by the Bureau of Indian Affairs. Such collections shall be credited to the appropriation account against which obligations were incurred in providing such goods and services. 25 USC 14b.

SEC. 11. There is authorized to be appropriated to the Secretary of Health and Human Services, Administration for Native Americans, $1,000,000 for the purpose of conducting a feasibility study for the establishment of a National Center for Native American Studies and Policy Development. Appropriation authorization.

SEC. 12. (a) The following proviso in title I of the Act of June 24, 1967 (81 Stat. 59), under the heading "Office of the Solicitor", is repealed: *"Provided,* That hereafter hearing officers appointed for Indian probate work need not be appointed pursuant to the Administrative Procedures Act (60 Stat. 237), as amended". 25 USC 372-1.

(b) Hearing officers heretofore appointed to preside over Indian probate proceedings pursuant to the proviso repealed by subsection (a), having met the qualifications required for appointment pursuant to section 3105 of title 5, United States Code, shall be deemed to have been appointed pursuant to that section. 25 USC 372-1 note.

(c) The first sentence of section 1 of the Act of June 25, 1910 (36 Stat. 855; 25 U.S.C. 372), is amended by deleting "his decision thereon shall be final and conclusive" and inserting in lieu thereof "his decisions shall be subject to judicial review to the same extent as determinations rendered under section 2 of this Act".

SEC. 13. Notwithstanding the Act of March 7, 1928 (45 Stat. 210–211), and the Act of August 7, 1946 (60 Stat. 895–896), the Secretary

of the Interior is authorized to allocate not to exceed $2,000,000 from power revenues available to the San Carlos Irrigation Project to pay for the operation and maintenance charges associated with the delivery of 30,000 acre-feet of water from the Central Arizona Project to the San Carlos Irrigation Project.

Approved May 24, 1990.

LEGISLATIVE HISTORY—S. 1846:

SENATE REPORTS: No. 101-226 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 2, considered and passed Senate.
May 10, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
May 24, Presidential statement.

Public Law 101-302
101st Congress

An Act

Making dire emergency supplemental appropriations for disaster assistance, food stamps, unemployment compensation administration, and other urgent needs, and transfers, and reducing funds budgeted for military spending for the fiscal year ending September 30, 1990, and for other purposes.

May 25, 1990
[H.R. 4404]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1990, and for other purposes, namely:

Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990.

TITLE I—DISASTER ASSISTANCE

DEPARTMENT OF DEFENSE—CIVIL DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

For additional expenses to meet the present emergency needs for "Flood control and coastal emergencies", $20,000,000, to remain available until expended.

GENERAL EXPENSES

For additional expenses to meet the present emergency needs for "General expenses", $15,000,000, to remain available until expended.

OPERATION AND MAINTENANCE, GENERAL

For additional expenses to meet the present emergency needs for "Operation and maintenance, general", $40,000,000, to remain available until expended.

DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For additional expenses to meet the present emergency needs of the Soil Conservation Service, Emergency Watershed Protection Program, $70,000,000, of which $10,000,000 shall be available for the Emergency Conservation Program of the Agricultural Stabilization and Conservation Service: *Provided,* That the Soil Conservation Service and the Agricultural Stabilization and Conservation Service are expected to address the needs arising from more recent disasters and, to the greatest extent possible, to continue to address the

remaining needs from Hurricane Hugo: *Provided further,* That such funds are to remain available until expended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

For expenses to carry out section 201(k)(2) of the Agricultural Act of 1949 for 1990 crops damaged by a natural disaster in 1989, $11,000,000: *Provided,* That the Secretary shall spend not less than the amount appropriated herein.

EMERGENCY CONSERVATION PROGRAM

For additional expenses to meet the present emergency needs of the Agricultural Stabilization and Conservation Service, Emergency Conservation Program, $10,000,000, to remain available until expended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For additional expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $50,000,000, to remain available until expended, which, together with $350,000,000 uncommitted and unobligated identified by the Federal Emergency Management Agency to be presently available, will provide over $400,000,000 for relief assistance.

GENERAL PROVISION

Of the funds made available for any account by any appropriations Act for fiscal year 1990, the amount apportioned to the fourth quarter shall also be available for obligation in the third quarter of fiscal year 1990 where necessary.

TITLE II—SUPPLEMENTAL APPROPRIATIONS

CHAPTER I

DEPARTMENTS OF COMMERCE AND JUSTICE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs", $424,000 for planning assistance for Economic Development Districts authorized by section 301(b) of the Public Works and Economic Development Act of 1965, as amended, which shall be obligated only for grants to maintain the level of assistance in effect on September 30, 1989, for each development district.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

The limitation on the use of prior year funds for the Trade Adjustment Assistance Program, enacted under this head in Public Law 101-162, is repealed and funds appropriated for this program for fiscal year 1990 and prior years are available for obligation. 103 Stat. 990.

For an additional amount for "Operations and Administration", $1,445,000 which shall be obligated only for the Trade Adjustment Assistance Program for grants to recipient organizations.

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

For an additional amount for "Periodic census and programs", $110,000,000, as a contingency reserve for the decennial census, to remain available until expended and to be available only to the extent that appropriations are insufficient to cover unanticipated expenses related to unforeseen events such as lower-than-expected response rates, lower-than-expected employee productivity rates, or natural disasters.

ADMINISTRATIVE PROVISION

Services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population shall not constitute "Federal service" for purposes of section 8501 of title 5, United States Code.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", $8,762,000, to remain available until expended.

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, a procurement for the Stuttgart, Arkansas, Fish Farming Experimental Laboratory shall be issued by the Administrator of the National Oceanic and Atmospheric Administration or the Director of the United States Fish and Wildlife Service which includes the full scope of the work described in Department of the Interior Task Order Numbered 89-025, Contract No. 14-16-0009-86-007: *Provided,* That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232-18; and also $6,000,000 is hereby appropriated to the United States Fish and Wildlife Service to procure a wildlife refuge site at no more than appraised market value and without the use of condemnation procedures at a location in Jasper and Marion Counties, Iowa, identified in a location map on file with the United States Fish and Wildlife Service and entitled "Walnut Creek National Wildlife Refuge". Arkansas. Contracts.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, ANTITRUST DIVISION

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, Antitrust Division", $2,500,000 to be derived by transfer from "Salaries and expenses, Federal Prison System".

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses, United States Marshals Service", $7,400,000 to be derived by transfer from "Salaries and Expenses, Federal Prison System".

FEES AND EXPENSES OF WITNESSES

For an additional amount for "Fees and Expenses of Witnesses", $2,600,000 to remain available until expended.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $185,000,000, to remain available until expended, to defray expenses for the automation of fingerprint identification services including planning, site acquisition, construction, and other associated costs: *Provided,* That none of the funds included herein shall be available for automated system procurement prior to submission of an implementation plan thereon, pursuant to the notification procedures prescribed under section 606 of Public Law 101-162, and a site shall not be selected or procured prior to notification of the appropriate Committees of the House of Representatives and the Senate.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1000-1001), is amended by adding the following after the period: "Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.".

GENERAL PROVISION

31 USC 3718 note.

The pilot debt collection project authorized by Public Law 99-578 is extended through September 30, 1992.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $63,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $25,503,000, and in addition, $4,500,000 to be derived by transfer from "Defender Services".

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $700,000, to remain available until expended.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

For the "Federal Ship Financing Fund", $750,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, these funds shall be available to the Federal Maritime Administrator of the Department of Transportation only to acquire an appropriate vessel for transfer to the Government of the Territory of American Samoa to be used by that Government for interisland transportation of cargo and passengers, and for repairs and maintenance necessary to provide for the United States Coast Guard's certification of such vessel: *Provided further,* That the Department of Defense shall transport such vessel to American Samoa without reimbursement and any appropriations available to the Department of Defense shall be available for this purpose.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,500,000.

ADMINISTRATIVE PROVISION

Section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended by adding the following provision at the end thereof: ": *Provided further,* That fees made available to the Federal Trade Commission and the Antitrust Division herein shall remain available until expended". 15 USC 18a note.

CHAPTER II

DEPARTMENT OF DEFENSE—MILITARY

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for "Research, development, test and evaluation, Navy", $6,000,000 for the Navy Medical Research and Development Command to support the unrelated marrow donor program.

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For an additional amount for "Military construction, Army National Guard", $7,000,000, to remain available until September 30, 1994.

MILITARY CONSTRUCTION, ARMY RESERVE

For an additional amount for "Military construction, Army Reserve", $3,000,000, to remain available until September 30, 1994.

GENERAL PROVISIONS

(RESCISSIONS)

SEC. 201. Of the funds provided in Department of Defense Appropriations Acts and Military Construction Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Personnel, Air Force, $104,484,000;
Operation and Maintenance, Army, $80,800,000;
Operation and Maintenance, Navy, $39,500,000;
Operation and Maintenance, Marine Corps, $3,000,000;
Operation and Maintenance, Air Force, $380,000,000;
Operation and Maintenance, Defense Agencies, $62,000,000;
Operation and Maintenance, Army Reserve, $896,000;
Operation and Maintenance, Navy Reserve, $209,000;
Operation and Maintenance, Air Force Reserve, $1,190,000;
Operation and Maintenance, Army National Guard, $2,125,000;
Operation and Maintenance, Air National Guard, $2,199,000;
Aircraft procurement, Army, 1990/1992, $16,000,000;
Missile procurement, Army, 1990/1992, $50,700,000;
Procurement of weapons and tracked combat vehicles, Army, 1990/1992, $5,500,000;
Procurement of ammunition, Army, 1990/1992, $45,200,000;
Other procurement, Army, 1988/1990, $23,000,000;
Other procurement, Army, 1989/1991, $30,000,000;
Other procurement, Army, 1990/1992, $51,000,000;
Aircraft procurement, Navy, 1988/1990, $30,000,000;
Weapons procurement, Navy, 1989/1991, $40,600,000;
Weapons procurement, Navy, 1990/1992, $17,201,000;
Other procurement, Navy, 1988/1990, $16,500,000;
Other procurement, Navy, 1990/1992, $2,000,000;

Procurement, Marine Corps, 1990/1992, $15,200,000;
Aircraft procurement, Air Force, 1990/1992, $64,864,000;
Missile procurement, Air Force, 1988/1990, $34,900,000;
Missile procurement, Air Force, 1989/1991, $25,000,000;
Missile procurement, Air Force, 1990/1992, $70,142,000;
Other procurement, Air Force, 1989/1991, $17,900,000;
Other procurement, Air Force, 1990/1992, $45,805,000;
Research, Development, Test and Evaluation, Army, 1989/1990, $18,000,000;
Research, Development, Test and Evaluation, Army, 1990/1991, $64,000,000;
Research, Development, Test and Evaluation, Navy, 1989/1990, $5,000,000;
Research, Development, Test and Evaluation, Navy, 1990/1991, $27,000,000;
Research, Development, Test and Evaluation, Air Force, 1989/1990, $77,900,000;
Research, Development, Test and Evaluation, Air Force, 1990/1991, $102,358,000;
Research, Development, Test and Evaluation, Defense Agencies, 1989/1990, $25,000,000;
Research, Development, Test and Evaluation, Defense Agencies, 1990/1991, $70,000,000;
Navy Stock Fund, $15,000,000;
Air Force Stock Fund, $15,000,000;
Defense Stock Fund, $78,100,000;
Military Construction, Navy, 1989/1993, $10,000,000;
Family Housing, Air Force, 1989/1993, $8,000,000;
Military Construction, Army, 1990/1994, $16,000,000;
Military Construction, Navy, 1990/1994, $10,650,000;
Military Construction, Air Force, 1990/1994, $37,500,000;
Military Construction, Defense Agencies, 1990/1994, $5,810,000;
North Atlantic Treaty Organization Infrastructure, 1990/1994, $21,925,000;
Family Housing, Air Force, 1990/1994, $36,522,000;
Family Housing, Air Force, 1986/1990, $25,200,000;
Military Construction, Army, 1986/1990, $2,850,000;
Military Construction, Army, 1987/1991, $4,295,000;
Military Construction, Army, 1988/1992, $10,470,000;
Military Construction, Army, 1989/1993, $29,931,000;
Military Construction, Army, 1990/1994, $27,700,000; and
Family Housing, Army, 1990/1994, $6,335,000.

SEC. 202. Section 9080 of Public Law 101-165 is amended by inserting the following proviso before the period ": *Provided,* That except for M1 Garand and M1 carbine rifles, this provision does not restrict the use of funds for the destruction and disposal of other firearms". 103 Stat. 1147.

SEC. 203. Title VI of Public Law 101-165 is amended by striking the amount "$10,000,000" and inserting in lieu thereof the amount "$18,000,000". 103 Stat. 1127.

SEC. 204. (a) The appropriation "Research, development, test and evaluation, Air Force" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165) is amended in the second proviso by striking out "1989" and inserting in lieu thereof "1990" and by striking the phrase "from the B-1B program that remain available for obligation". 103 Stat. 1125.

(b) Section 8084 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is amended by striking out "$109,895,000" and inserting in lieu thereof "$79,895,000".

102 Stat. 2270-31.

(c) Section 8115 of the Department of Defense Appropriations Act, 1988 (Public Law 100-202) is amended by striking out "$90,895,000" and inserting in lieu thereof "$67,895,000".

102 Stat. 1329-82.

(d) Section 8127(b) of the Department of Defense Appropriations Act, 1989 (Public Law 100-463) is hereby repealed.

102 Stat. 2270-44.

Contracts. President of U.S.

SEC. 205. (a) Not less than thirty days before a cooperative project agreement is signed or amended on behalf of the United States in conjunction with the NATO Research and Development program, the President shall transmit to the Committees on Appropriations of the Senate and House of Representatives a numbered certification setting forth the text and providing an explanatory statement on the purposes of the proposed agreement or amendment.

(b) Any cooperative project agreement or amendment referred to in subsection (a) shall contain a provision stipulating that United States participation under the agreement or amendment is subject to the availability of appropriated funds.

Grants.

SEC. 206. Of the $6,000,000 provided in this Act in "Research development, test and evaluation, Navy" for the Navy Medical Research and Development Command to support the unrelated marrow donor program, not less than $4,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.

SEC. 207. The last proviso under the head "Research, development, test and evaluation, Navy" contained in the Department of Defense Appropriations Act, 1990 (Public Law 101-165 (103 Stat. 1125)) is amended by deleting the phrase "to the Center" and inserting in lieu thereof "to the Mississippi Resource Development Corporation".

SEC. 208. (a) Of funds available during fiscal year 1990 under the heading "Research, development, test and evaluation, Defense Agencies", for the NATO Research and Development program—

(1) not less than $12,776,000 shall be transferred immediately upon enactment of this Act to the Defense Advanced Research Projects Agency to finance the advanced neural networks information processing technologies project; and

(2) not less than $12,224,000 shall be transferred immediately upon enactment of this Act to the Joint Department of Defense—Department of Energy Munitions Technology Development program.

(b) None of the funds referred to in subsection (a) may be transferred from the AV-8(B) radar development, F/A-18 radar upgrade, medium surface-to-air missile, and multifunctional information distribution system projects.

SEC. 209. None of the funds available to the Department of Defense may be used to purchase circuit breakers for United States naval vessels unless the circuit breakers are manufactured in the United States from components which are substantially manufactured in the United States. For the purpose of this section, the manufacture of circuit breaker cradles in the United States by a foreign supplier shall not be deemed to constitute substantial United States manufacture of circuit breakers. The Secretary of Defense may waive this provision if he determines that it is not in the national security interests of the United States or will have an adverse effect on a United States company.

SEC. 210. Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure improve-

ment demonstration program conducted by the Regional Equipment Center, Newport Township, Pennsylvania: *Provided,* That within ninety days following enactment of this Act, the Secretary shall provide directly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section.

Panama.

SEC. 211. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to fund the additional cost of pay and allowances, operational expenses and other costs associated with military operations in Panama known as Operation Just Cause: *Provided,* That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further,* That the Secretary shall notify the Congress promptly of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

SEC. 212. The Department of the Army shall explore the possibility of laying away and storing the equipment and hardware located at the Mississippi Army Ammunition Plant and make the buildings available for such other private use as may be possible.

SEC. 213. Of the funds available to the Department of Defense, $5,000,000 shall be made available only for the establishment of a National Defense Center for Environmental Excellence.

SEC. 214. Of the funds made available for Research, development, test and evaluation, Defense Agencies, 1990/1991, $4,000,000 shall be available only to conduct an operational test and evaluation (OT&E) of Individually Carried Record (ICR) technologies to be completed not later than August 31, 1991.

SEC. 215. Of the funds appropriated in fiscal year 1990 for the Defense Advanced Research Projects Agency's nuclear monitoring program, $6,500,000 is available only for the United States-Eurasian Seismic Studies Program administered by the Incorporated Research Institutions for Seismology.

Contracts.

SEC. 216. Notwithstanding any other provision of law, the Secretary of the Air Force is authorized and directed to negotiate, compromise, and reach a determination with Shipco General, Incorporated, regarding contract dispute Numbered F29650-82-C-0201 prior to the end of fiscal year 1990. The Secretary is authorized to pay the agreed upon settlement amount from available funds.

Claims.

CHAPTER III

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $1,609,671,408.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

Of the funds made available in Public Law 101-167, for "International organizations and programs", an additional $5,000,000 may be made available for payment to the United Nations Environment Program, to carry out the provisions of section 2 of the United Nations Environment Program Participation Act of 1973.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for "Migration and refugee assistance", $75,000,000, to support emergency refugee admissions and assistance: *Provided,* That not less than $5,000,000 of the funds provided under this heading shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That of the funds allocated in this account, an equitable share shall be made available to Pentecostals, Evangelicals, and Baptists to fund the existing two thousand semifunded refugee admissions numbers for the Soviet Union, unless sufficient unused refugee admissions numbers could be reallocated within this fiscal year to allow adequate funding and admission of this group: *Provided further,* That funds provided under this heading shall remain available until expended: *Provided further,* That funds used pursuant to the last proviso (relating to assistance for Burmese students at camps on the border with Thailand) under the heading "MIGRATION AND REFUGEE ASSISTANCE" in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) may be used to provide assistance to any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict.

Burma.
Thailand.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for the "United States emergency refugee and migration assistance fund", $25,000,000 to remain available until expended.

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE

HAITI

Not less than $10,000,000, of the funds made available in Public Law 101-167 for the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, development assistance funds contained in prior foreign assistance appropriations Acts that were not made available for Haiti, or pursuant to section 515 of such public law, shall be made available for assistance to Haiti: *Provided,* That any of such funds made available for Haiti may be used for any of the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961 and also may be used to finance critical imports.

CHILE

For an additional amount for "Health, development assistance", $10,000,000, to remain available through September 30, 1991, which shall be made available only for assistance for Chile.

DEVELOPMENT ASSISTANCE FOR ANTI-NARCOTICS

EFFORTS OF BOLIVIA AND PERU

Of the funds appropriated for fiscal year 1990 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), up to $25,000,000 should be available for Bolivia, and up to $20,000,000 should be available for Peru, for the following purposes—

(1) providing alternative income, employment, and social services for individuals involved in illicit coca and marijuana production,

(2) supporting investment in infrastructure, farm credit and extension services, and other development projects in non-coca production areas, and

(3) otherwise assisting, in accordance with chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), such countries in continuing their anti-narcotics efforts.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

(a) Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in the undesignated paragraph under the heading "HOUSING AND OTHER CREDIT GUARANTY PROGRAMS"— 103 Stat. 1205.

(1) by striking out "$100,000,000" and inserting in lieu thereof "$500,000,000"; and

(2) by inserting after "principal" in the last proviso under such heading the following: ", of which amount $400,000,000 in

Loans.
Israel.

commitments shall be available during fiscal year 1990 or subsequent fiscal years only for the purpose of providing housing and infrastructure in Israel for Soviet refugees: *Provided further,* That with respect only to the $400,000,000 in commitments to be made for housing and infrastructure in Israel referred to in the preceding proviso—

"(1) the guarantees shall be made available for loans made during or after fiscal year 1990, notwithstanding the limitation contained in the third sentence of section 222(a) of the Foreign Assistance Act of 1961;

"(2) the guarantees shall be made available for loans in increments of at least $150,000,000 or the amount requested by the borrower, whichever is lesser; and that the Agency for International Development shall review the borrower's actual or planned expenditures to ascertain that such amounts have or will be expended in accordance with the preceding proviso;

"(3) section 223(j) of the Foreign Assistance Act of 1961 (22 U.S.C. 2183(j)) shall not apply to such commitments; and

"(4) fees charged by the Agency for International Development under section 223(a) of the Foreign Assistance Act of 1961 shall be—

"(A) an initial fee of $2,800,000; and

"(B) an annual fee in an amount not more than one-half of 1 percent of the maximum face value of guarantees which may be issued for any one country in a fiscal year pursuant to the penultimate sentence of section 223(j) of such Act.".

(b) Section 222(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2182) is amended by striking out "$2,158,000,000" and inserting in lieu thereof "$2,558,000,000".

ECONOMIC SUPPORT FUND

PANAMA

For an additional amount for the "Economic Support Fund", $420,000,000, to remain available until September 30, 1991, which shall be made available only for assistance for Panama: *Provided,* That of this amount up to $15,000,000 may be used for a debt-for-nature swap and for immediate environmental needs.

NICARAGUA

For an additional amount for the "Economic Support Fund", $300,000,000, to remain available until September 30, 1991, which shall be made available only for assistance for Nicaragua: *Provided,* That of this amount $30,000,000 shall be for assistance to support the voluntary demobilization, repatriation and resettlement of members of the Nicaraguan resistance and their families: *Provided further,* That such assistance may be made available only to members of the Nicaraguan resistance who agree to and are abiding by the terms of the cease-fire agreement and the addendum to the Toncontin Agreement signed on April 19, 1990: *Provided further,* That such assistance referred to in the previous proviso shall be provided through the International Commission of Support and Verification (CIAV) established by the Secretary General of the United Nations and the Secretary General of the Organization of

American States pursuant to the agreement of the Central American Presidents at Tela, Honduras, on August 7, 1989, unless the President notifies the Committees on Appropriations in accordance with the procedures contained in section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990: *Provided further,* That up to $8,000,000 of the funds made available by this subsection may be used for environmental activities, including the preservation of tropical forests, promotion of sustainable agriculture, control of pollution, and restoration of the natural resource base.

FORESTRY PROTECTION

None of the funds appropriated in this Act for Nicaragua or Panama shall be used for any project that would result in any significant loss of tropical forests.

ADMINISTRATIVE EXPENSES

Up to $10,000,000, of the funds made available under the headings "Panama" and "Nicaragua" may be used for the purpose of paying administrative expenses incurred by the Agency for International Development in connection with carrying out its functions under such headings.

EVALUATION AND AUDIT

Reports.

In order to monitor the uses and evaluate the effectiveness of Economic Support Fund programs provided under this Act for Nicaragua and Panama—

(1) the Administrator of the Agency for International Development shall—

(A) submit periodic reports to the Committees on Appropriations, the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs on such assistance assessing compliance with specific program objectives with particular emphasis on monitoring commodity import programs and cash transfers for balance of payments and budget support programs;

(B) in cooperation with the governments and nongovernmental organizations receiving such assistance, establish appropriate administrative systems and controls to ensure that the assistance is being used for its intended purposes;

(2) the Inspector General of the Agency for International Development shall, at least semiannually beginning six months from the date of enactment of this Act, audit the Economic Support Fund programs provided under this Act for Nicaragua and Panama to assess the financial management and administrative systems established by the Agency to control such programs, and report to the Committees on Appropriations, the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs and the Administrator its findings; and

(3) the General Accounting Office shall submit a report to the Committees on Appropriations, the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs not later than January 15, 1992, assessing the effectiveness of the Economic Support Fund assistance provided under this Act for Panama and Nicaragua, emphasizing commodity import pro-

grams and cash transfers used for balance of payments and budget support, in meeting stated objectives, the effectiveness of fiscal and administrative controls, and the application of lessons learned from the implementation of these programs to other similar programs administered by the Agency.

CARIBBEAN

For an additional amount for the "Economic Support Fund", $15,000,000, to remain available until September 30, 1991, which shall be made available only for assistance for countries in the Caribbean: *Provided,* That of the funds made available under this heading not less than $3,000,000 shall be made available only for Haiti to support the democratic electoral process: *Provided further,* That of the funds made available under this heading not less than $8,750,000 shall be made available only for Jamaica.

ASSISTANCE FOR THE EASTERN CARIBBEAN

For an additional amount to carry out the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961, $5,000,000, for assistance for countries of the Eastern Caribbean, to remain available through September 30, 1991.

SUB-SAHARAN AFRICA

For an additional amount for the "Economic Support Fund", $20,000,000, to remain available until September 30, 1991, which shall be made available for assistance for Sub-Saharan Africa: *Provided,* That of this amount $10,000,000 shall be for assistance for Namibia, and $10,000,000 shall be used to provide assistance, through the National Endowment for Democracy and other groups, to support programs and activities of organizations to encourage negotiations leading to a peaceful transition to a genuine democracy based on universal suffrage within a united South Africa, as follows:

South Africa.

(1) SUSPENSION OF VIOLENCE.—An organization which has engaged in armed struggle or other acts of violence shall be eligible for assistance under this section only if that organization is committed to a suspension of violence in the context of negotiations to establish a democratic system of government in South Africa.

(2) PROHIBITION ON USING FUNDS TO SUPPORT VIOLENCE.—In order to receive assistance under this section, an organization must agree that it will not use any of the funds made available to it under this section for the purpose of supporting physical violence by any individual, group, or government.

HUMANITARIAN ASSISTANCE FOR ARMENIA AND ROMANIA

(a) For an additional amount for "International disaster assistance", $5,000,000, to remain available until September 30, 1991, which sum shall be made available, notwithstanding any other provision of law, for humanitarian assistance, transportation of materials provided for such assistance, medical treatment, and education and vocational training to the victims of the Armenian earthquake of December 7, 1988, which assistance shall be channeled through United States private and voluntary organizations and other United States nongovernmental organizations: *Provided,*

That such funds are in addition to funds previously made available for such purposes: *Provided further*, That of the funds made available by this subsection for assistance for Armenia, up to 1 percent may be used by the Agency for International Development for costs of administering such program.

(b) Not less than $4,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—

(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167);

(2) made available through the exercise of the authority contained in section 515 of that Act; or

(3) appropriated for development assistance in prior foreign assistance appropriations Acts,

shall be made available, notwithstanding any other provision of law, through international relief agencies and nongovernmental organizations for health assistance for children in Romania.

SUB-SAHARAN AFRICA DEVELOPMENT ASSISTANCE

For an additional amount for "Sub-Saharan Africa, Development Assistance", $10,000,000, to remain available until September 30, 1991.

NOTIFICATION PROCEDURES

Prior to each obligation of funds made available for the "Economic Support Fund" and "Sub-Saharan Africa, Development Assistance" in this Act, the Committees on Appropriations of the House of Representatives and the Senate shall be notified in accordance with section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990.

WAIVERS AND AUTHORITIES

(a) Funds appropriated by this chapter for the "Economic Support Fund" for Panama shall be available as follows: (1) up to $1,200,000 may be provided to carry out the purposes of section 534(b)(3) of the Foreign Assistance Act of 1961 for countries in Latin America and the Caribbean other than Panama; (2) assistance may be provided for technical assistance, training, and commodities with the objective of creating a professional civilian police force notwithstanding section 660 of the Foreign Assistance Act of 1961, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes in Panama, and shall not include lethal equipment; and (3) the limitations contained in the second sentence of section 534(e) of the Foreign Assistance Act of 1961 and the second sentence of section 599G(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall not be applicable to assistance provided under this subsection. Panama.

(b) Funds appropriated under this chapter for Panama and Nicaragua, as well as during fiscal year 1990 funds otherwise available for economic assistance under other provisions of law and assistance under chapter 8 of part II of the Foreign Assistance Act of 1961, may be made available for Panama and Nicaragua notwithstanding section 518 of the Foreign Operations, Export Financing, and Panama. Nicaragua.

Related Programs Appropriations Act, 1990, section 620(q) of the Foreign Assistance Act of 1961, or any similar provision of law relating to foreign assistance repayments.

(c) Funds appropriated under this Act may be made available notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

PEACE CORPS

Amounts appropriated under the heading "Peace Corps" by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), may be made available for activities of the Peace Corps in Czechoslovakia.

Loans.

EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

Notwithstanding the first proviso contained under the heading "Limitation on Program Activity" under "Title IV—Export Assistance" of Public Law 101-167, the medium-term financing program of the Export-Import Bank shall not exceed the gross obligations for the principal amount of direct loans contained under such heading in Public Law 101-167.

103 Stat. 1215.

Title IV, "Export Assistance", of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by inserting after the fifth proviso under the heading "Limitation on Program Activity" the following: *"Provided further,* That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program:".

TECHNICAL CORRECTION

Effective date.
8 USC 1101 note.

Effective as of November 21, 1989, the 11th proviso under the heading "Migration and Refugee Assistance" in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167, 103 Stat. 1211) is amended by striking "sixth proviso" and inserting "ninth proviso".

CHAPTER IV

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

FIREFIGHTING

For an additional amount for "Firefighting", $176,800,000: *Provided,* That these funds also shall be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes and shall be obligated fully prior to use of any other funds for wildfire suppression and emergency rehabilitation and shall remain available until December 31, 1990.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $827,000: *Provided,* That the Secretary, acting through the United States Fish and Wildlife Service, is authorized to enter into renewable contracts for the payment of reasonable and customary costs for delivery of Newlands Project water rights acquired by the Service to benefit the Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada: *Provided further,* That the costs for delivery shall be those costs normally associated with the delivery of water to Newlands Project lands: *Provided further,* That the contracts shall be of a term not exceeding forty years: *Provided further,* That any such contract shall provide that upon the failure of the service to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract subject to availability of appropriations: *Provided further,* That the Secretary, acting through the United States Fish and Wildlife Service, in accordance with applicable State law, may use water diversion, storage, and conveyance systems of Federal Reclamation Projects to benefit Federal and State wildlife areas in the Lahontan Valley and the Fernley Sink in Nevada. Contracts. Nevada.

NATIONAL PARK SERVICE

HISTORIC PRESERVATION FUND

Funds appropriated under this head in Public Law 101-121 shall remain available for obligation until September 30, 1991.

CONSTRUCTION

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1990 (Public Law 101-121), not less than $5,852,000 shall be made available immediately for design and construction activities associated with the Franklin Delano Roosevelt Memorial.

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $6,246,000, to remain available until expended.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

The paragraph under this head in Public Law 101-121 is amended by inserting in front of $54,000,000 the words "up to": *Provided,* That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation. 103 Stat. 713.

DEPARTMENTAL OFFICES

OIL SPILL EMERGENCY FUND

For an additional amount for the Department of the Interior for contingency planning, response and natural resource damage assessment related to the discharge of oil from the tanker Exxon Valdez into Prince William Sound, Alaska, and for other purposes authorized under this head in Public Law 101-45, $7,279,000: *Provided,* That all authorities associated with, and funds in, the Oil Spill Emergency Fund shall remain available until September 30, 1994: *Provided further,* That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST SERVICE FIREFIGHTING

For an additional amount for "Forest service firefighting", $256,700,000.

NATIONAL FOREST SYSTEM

For additional expenses associated with assessment or recovery on National Forest System lands from Hurricane Hugo and the Exxon Valdez oil spill of March 24, 1989, or for assessment and recovery on associated lands affected by the Exxon Valdez oil spill, $8,633,000, to remain available until September 30, 1991: *Provided,* That none of the funds made available by this or any other Act with respect to any fiscal year may be used by the Forest Service to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oil spill.

Grants.
Mississippi.

CONSTRUCTION

Notwithstanding any other provision of law, funds originally appropriated under this head in Public Law 101-121, the Department of the Interior and Related Agencies Appropriations Act, 1990, in the amount of $371,000 for the Forest Service for the construction of an addition to the Starkville, Mississippi, research office shall be available for a grant to Mississippi State University as the Federal share in the construction of a new University facility: *Provided,* That comparable space shall be provided to the Forest Service without charge for a reasonable period.

SETTLEMENT OF CLAIMS, FOREST SERVICE

The Forest Service is hereby authorized and directed to negotiate, compromise, and reach a determination on certain claims against the United States resulting from the Mink Fire (Bridger-Teton National Forest and Yellowstone National Park), Clover-Mist Fire (Yellowstone National Park and Shoshone National Forest), Storm Creek Fire (Yellowstone National Park and Gallatin-Custer National Forests), and Canyon Creek Fire (Lolo, Helena, Lewis and

Clark National Forests) which were originally classified as prescribed fires but subsequently became wildfires. The Forest Service is directed to negotiate, compromise, and reach a determination on the original claims, or the claims filed by an insurer subrogated to the rights of a claimant, and to negotiate any other claims filed within ninety days of the date of enactment of this Act. Notwithstanding any other provision of the law, the Secretary of the Treasury is authorized and directed to pay the amount of each determination from the Claims, Judgments, and Relief Act Fund (Public Law 95-26): *Provided,* That the Secretary of the Treasury shall make no payments for claims which are determined by the Forest Service or the Department of Justice to be invalid under current law: *Provided further,* That nothing in this section shall prohibit any claimant from filing an appeal of any determination made by the Forest Service, Department of Agriculture, or Department of Justice pursuant to current law.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

Funds previously appropriated under this head for clean coal technology solicitations to be issued no later than June 1, 1990, and no later than September 1, 1991, respectively, shall not be obligated until September 1, 1991: *Provided,* That the aforementioned solicitations shall not be conducted prior to the ability to obligate these funds: *Provided further,* That pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That for the clean coal solicitations identified herein, provisions included for the repayment of government contributions to individual projects shall be identical to those included in the Program Opportunity Notice (PON) for Clean Coal Technology III (CCT-III) Demonstration Projects (solicitation number DE-PSO1-89 FE 61825), issued by the Department of Energy on May 1, 1989.

CHAPTER V

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

For an additional amount to carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $7,800,000.

For an additional amount to carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $2,200,000.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", $99,600,000 from the Employment Security Administration account in the Unemployment Trust Fund, which shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based.

EMPLOYMENT STANDARDS ADMINISTRATION

SPECIAL BENEFITS

Such amounts, in addition to appropriations provided under this heading in Public Law 101-166, as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided,* That balances of reimbursements from Federal Government agencies under this heading unobligated on September 30, 1990, shall remain available for the payment of compensation, benefits, and expenses through September 30, 1991.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional $700,000 from the Black Lung Disability Trust Fund which shall be available for transfer to Departmental Management, Salaries and expenses, for expenses of operation and administration of the Black Lung Benefits Program as authorized by section 9501(d)(5)(A) of that Act.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For an additional amount for "Program operations" for health care for the homeless, $2,300,000.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for "Disease control, research, and training", $30,500,000, of which $7,000,000 is for measles outbreak control under section 317 of the Public Health Service Act, and of which $23,500,000, to remain available until expended, is for the purchase of a second vaccination for measles immunization.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

The second proviso under the heading "Alcohol, drug abuse, and mental health" in title IV of Public Law 101-164 is repealed effective September 10, 1990 if the treatment waiting period reduction grants are not specifically authorized prior to that date.

Effective date.
103 Stat. 1105.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

All funds collected in fiscal year 1990 in accordance with section 353 of the Public Health Service Act shall be credited to this account, to remain available until expended, for necessary expenses associated with the survey and certification of clinical laboratories.

FAMILY SUPPORT ADMINISTRATION

REFUGEE AND ENTRANT ASSISTANCE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Refugee and entrant assistance", $6,000,000, to be distributed under the Targeted Assistance Program, of which $5,000,000 shall be for health and educational services in areas affected as a result of the massive influx of Cuban and Haitian entrants during the Mariel boatlift, $500,000 shall be available for communities currently conducting a "Fish/Wilson" demonstration project and which have been heavily impacted by the recent influx of Soviet Pentecostals for health and employment services, and $500,000 shall be available for schools in areas impacted by the influx of Indochinese refugees who entered the United States after October 1, 1979, in which the enrollment of Indochinese students (including secondary migrants) is greater than 2,000, and who comprise no less than 20 percent of the overall school enrollment in such a locality with a general population of no less than 75,000 persons: *Provided,* That the amount provided herein shall be derived by transfer from funds appropriated in Public Law 101-166 for Student Financial Assistance for carrying out activities authorized under part E, section 465 of the Higher Education Act, as amended.

LOW INCOME HOME ENERGY ASSISTANCE

For an additional amount for "Low income home energy assistance", $50,000,000 to remain available until October 31, 1990: *Provided,* That the Secretary shall obligate these funds on the basis of relative need to those States and other entities which promptly supplement their applications under the Act for the current fiscal year demonstrating both a substantial need for and the capacity to expend the additional funds.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

HUMAN DEVELOPMENT SERVICES

For an additional amount for carrying out the Head Start Act, $165,685,000, which shall remain available until December 31, 1990.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "School improvement programs", $20,945,000, to remain available until September 30, 1991, of which $19,945,000 shall be to continue funding of existing School Dropout Demonstration programs as authorized under title VI, part A and $1,000,000 shall be for carrying out the Javits Gifted and Talented Education Program as authorized under title IV, part B of the Elementary and Secondary Education Act of 1965, as amended: *Provided,* That $2,520,000 of the amount provided herein shall be derived by transfer from funds appropriated in Public Law 100-436 for Student Financial Assistance for carrying out activities authorized by part E, section 465 of the Higher Education Act, as amended: *Provided further,* That funds available under Public Law 101-164 for grants to States under the Drug-Free Schools and Communities Act shall also be available for Indian Youth under sections 5112(a)(2) and 5133, and for Hawaiian Natives under sections 5112(a)(3) and 5134.

Indians. Hawaii.

EDUCATION FOR THE HANDICAPPED

Funds appropriated under section 619 of the Education of the Handicapped Act for fiscal year 1989 shall remain available for obligation by States through September 30, 1992.

RELATED AGENCIES

NATIONAL COMMISSION ON CHILDREN

For an additional amount for the National Commission on Children established by section 9136 of Public Law 100-203, $400,000, which shall remain available until expended.

CHAPTER VI

RURAL DEVELOPMENT, AGRICULTURE, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

Of the $6,004,000 provided in Public Law 101-161 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)), $250,000 is transferred to Federal Administration for the necessary expenses of Cooperative State

Research Service activities, including coordination and program leadership for higher education work of the Department.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

For an additional amount for expenses for the Animal and Plant Health Inspection Service, $8,000,000, to remain available until expended.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $4,400,000: *Provided,* That none of the funds appropriated or otherwise made available by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1990, Public Law 101-161, shall be used to pay the salaries of personnel who carry out an export enhancement program if the aggregate amount of funds and/or commodities under such program exceeds $553,000,000.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For an additional amount for administrative and operating expenses, as authorized by the Federal Crop Insurance Corporation Act, as amended (7 U.S.C. 1516), $15,000,000: *Provided,* That these funds shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress.

FOOD AND NUTRITION SERVICE

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For an additional amount for necessary expenses of the Commodity Supplemental Food Program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), $3,100,000.

FOOD STAMP PROGRAM

For an additional amount for necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $1,200,000,000, which shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress, of which $135,000,000 shall be placed in reserve to be used only to the extent that such amount is required during the current fiscal year to meet program requirements.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

For an additional amount for generic drug activities of the Food and Drug Administration under section 505(j) of the Food, Drug, and Cosmetic Act, $13,900,000.

INDEPENDENT AGENCY

COMMODITY FUTURES TRADING COMMISSION

For an additional amount for necessary expenses to carry out the provisions of the Commodity Exchange Act (7 U.S.C. 1 et seq.), $2,000,000.

CHAPTER VII

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $190,000,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

For an additional amount for "Loan guaranty revolving fund", $245,000,000, to remain available until expended.

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care", $94,000,000: *Provided,* That, notwithstanding any other provision of law, not less than $7,227,000,000 of the sums appropriated under this heading in fiscal year 1990 shall be available only for expenses in the personnel compensation and benefits object classifications.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Medical administration and miscellaneous operating expenses", $1,300,000, to be derived by transfer from "Construction, minor projects".

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

Of the sum appropriated under this heading for fiscal year 1990, the amount available for expenses of travel is increased by $1,000,000.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Of the amount provided for direct loan obligations under this head in title II, Public Law 101-144 (103 Stat. 839, 847), and subject to the provisos under that head, any part of such amount that is not obligated during fiscal year 1990 may be used for direct loan obligations thereafter.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(TRANSFER OF FUNDS)

For an additional amount for "Payments for operation of low-income housing projects", $72,000,000, to remain available until September 30, 1991: *Provided,* That such amount shall be derived by transfer from "Annual contributions for assisted housing", and the amount specified for the section 8 moderate rehabilitation program in the first proviso under that head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1989 (Public Law 100-404, 102 Stat. 1014) shall be reduced by such amount.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFER OF FUNDS)

Notwithstanding the repeal of section 107(b)(3) of the Housing and Community Development Act of 1974 by section 105(b) of the Department of Housing and Urban Development Reform Act of 1989, funds appropriated under the Community Development Grants heading of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990, pursuant to such section 107 shall be available for grants to Indian tribes.

The paragraph under this head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 849-850) is hereby amended by inserting, immediately before the final colon in the third proviso, a semicolon and the following: "and the amounts set forth for the 27 projects and purposes specified at page 19 (other than those three projects specified in this and the immediately preceding proviso) and for the first 10 projects specified on page 20, of the Joint Explanatory Statement of the Committee of Conference on H.R. 2916 (House Report 101-297), shall be made available for such projects and purposes".

The amount to be derived by transfer from the urban development action grants account to this head under Public Law 101-144 shall include all unobligated balances available at the end of fiscal year 1989: *Provided,* That such unobligated balances shall be made available for purposes authorized by section 106 of the Housing and Community Development Act of 1974: *Provided further,* That those amounts that are required to fund urban development action grant projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development shall not be transferred: *Provided further,* That

the Secretary of Housing and Urban Development shall withhold from the amount subject to transfer such funds as may be necessary to comply with orders of United States Courts which direct the Secretary to set aside funds for possible future approval of grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301).

Of the amount that otherwise would be available under this head under Public Law 101-144 for technical assistance activities to be allocated at the discretion of the Secretary, under section 107(b)(4) of the Housing and Community Development Act of 1974, $14,000,000 shall be made available under section 106 of such Act.

ADMINISTRATIVE PROVISIONS

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended by inserting after "or City of New York" the following: "or State of Vermont".

Section 17(d)(4)(G) of the United States Housing Act of 1937 shall not be applicable to the Beechwood Towers Housing Development Grant project, number PA008HG401, through December 31, 1990, and any cancellation of the grant resulting from the application of section 17(d)(4)(G) prior to December 31, 1990, shall be rescinded and the grant restored to the project.

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For an additional amount for necessary expenses, $500,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

For an additional amount for "Abatement, control, and compliance", $1,800,000, to remain available until September 30, 1991: *Provided,* That of the funds appropriated under this head in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144), $500,000 shall be available for a lead storage battery recycling pilot project for the State of New Jersey, to remain available until expended.

CONSTRUCTION GRANTS

33 USC 1384 note.

The last proviso under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990 (Public Law 101-144) is amended by inserting "heretofore, herein or hereafter" after the word "sums" and ", and sums appropriated in fiscal year 1989 shall remain available for obligation until September 30, 1992" after the word "entities", and by striking the words "Trust Territory" and inserting the word "Republic" before the words "of Palau".

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFERS OF FUNDS)

For an additional amount for "Research and program management", $32,970,000, of which $18,000,000 shall be derived by transfer from "Research and development" and $14,970,000 shall be derived by transfer from "Space flight, control, and data communications".

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, in carrying out their functions under title VI of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, 103 Stat. 1987, 2052) $500,000, to remain available until expended, to be derived by transfer from amounts provided under the head "Annual contributions for assisted housing", and earmarked for modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371), in Public Law 101-144 (approved November 9, 1989, 103 Stat. 839, 844).

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For necessary expenses of the National Commission on Severely Distressed Public Housing, in carrying out their functions under title V of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, 103 Stat. 1987, 2048) $2,000,000, to remain available until expended, to be derived by transfer from amounts provided under the head "Annual contributions for assisted housing", and earmarked for modernization of existing public housing projects pursuant to section 14 of the United States Housing Act of 1937 (42 U.S.C. 14371), in Public Law 101-144 (approved November 9, 1989, 103 Stat. 839, 844).

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of additional obligations incurred carrying out the provisions of 23 U.S.C. 408, to remain available until expended, $5,000,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act or any other appropriations Act for fiscal year 1990 shall be available for the planning or execution of programs the total obligations for which are in excess of $15,967,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408.

CHAPTER IX

DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $99,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1268 to 1269), $3,317,000 are rescinded for a net decrease of $3,218,000.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $50,000: *Provided,* That of the funds appropriated under this heading for fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269), $10,498,000 are rescinded for a net decrease of $10,448,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $7,750,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1269 to 1271), $2,739,000 are rescinded for a net increase of $5,011,000: *Provided further,* That of the $50,000,000 previously appropriated under the heading "Criminal Justice Initiative",

$10,000,000 shall be paid to the District of Columbia government to pay amounts due to the Federal Bureau of Prisons and State governments and facilities for the housing of District of Columbia Code violators: *Provided further,* That by November 30, 1990, the District of Columbia government shall pay $10,000,000 (from current operating revenues collected during fiscal year 1991 and not from the proceeds of borrowed funds) to the United States Treasury, and such payment shall be credited to and be available for the purposes of the "Criminal Justice Initiative" for the construction of the Correctional Treatment Facility: *Provided further,* That no actions taken pursuant to any of the provisions of this heading may be carried out in a manner that will delay the constuction of such Correctional Treatment Facility.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $3,461,000, including $2,682,000 for the D.C. Public Schools and $779,000 for the Public Library: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $7,882,000 for the D.C. Public Schools, $730,000 for the University of the District of Columbia, $779,000 for the Public Library, $643,000 for the Commission on the Arts and Humanities, and $10,000 for the Education Licensure Commission are rescinded for a net decrease of $6,583,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $4,840,000: *Provided,* That $640,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271), $10,245,000 are rescinded for a net decrease of $5,405,000.

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1990, in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1271 and 1272), $8,810,000 are rescinded: *Provided,* That none of the funds contained in this Act or any other Act shall be obligated or expended by the District of Columbia government to remove the safety fences at the Duke Ellington Memorial Bridge until—

(a) the Mayor's Agent, following an evidentiary determination, has found that the evidence indicates that the circumstances have changed to nullify the 1987 findings of the

Mayor's Agent, HPA No. 87-377 (August 20, 1987), as to the benefits of the fences; and

(b) the Mayor has provided a detailed statement to the Committees on Appropriations of the House of Representatives and the Senate explaining the basis for the decision to remove the safety fences.

WASHINGTON CONVENTION CENTER FUND

For an additional amount for "Washington Convention Center Fund", $2,993,000.

REPAYMENT OF LOANS AND INTEREST

Of the funds appropriated under this heading for fiscal year ending September 30, 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1272), $12,336,000 are rescinded.

SHORT-TERM BORROWINGS

For an additional amount for "Short-term borrowings", $3,349,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $543,000.

ENERGY ADJUSTMENT

The paragraph under the heading "Energy Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

EQUIPMENT ADJUSTMENT

The paragraph under the heading "Equipment Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

PERSONAL SERVICES ADJUSTMENT

The paragraph under the heading "Personal Services Adjustment" in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1273), is hereby repealed.

SUPPLY, ENERGY, AND EQUIPMENT ADJUSTMENTS

The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object classes 20 (supplies), 30a (energy), and 70 (equipment) in the aggregate amount of $5,000,000 within one or several of the various appropriation headings in this chapter: *Provided,* That notwithstanding any other provision of law, such reductions shall not be allocated to any activities or programs of the Metropolitan Police Department.

CAPITAL OUTLAY

(INCLUDING RESCISSION)

For an additional amount for "Capital outlay", $79,802,000, to remain available until expended: *Provided,* That $27,915,000 of prior year authority is rescinded for a net increase of $51,887,000: *Provided further,* That $2,362,000 shall be available for project management and $2,116,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and sewer enterprise fund", $12,026,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1990 in the District of Columbia Appropriations Act, 1990, approved November 21, 1989 (Public Law 101-168; 103 Stat. 1274), $17,680,000 are rescinded, including $697,000 for debt service and $13,951,000 for pay-as-you-go capital, for a net decrease of $5,654,000.

CHAPTER X

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

Funds appropriated under this heading in the Treasury, Postal Service and General Government Appropriations Act, fiscal year 1990, Public Law 101-136, for the White House Conference on Indian Education shall remain available until expended.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

For an additional amount for "Unanticipated Needs for Natural Disasters", $5,000,000, to remain available until expended, to enable the President to meet unanticipated needs arising from natural disasters occurring on March 13, 1990: *Provided,* That, notwithstanding any other provision of law, not less than $2,500,000 of such additional amount shall be available to meet disaster assistance needs in the State of Nebraska, and not less than $2,500,000 shall be available to meet disaster assistance needs in the State of Kansas.

CHAPTER XI

LEGISLATIVE BRANCH

U.S. SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

Helene H. Matsunaga.

For a payment to Helene H. Matsunaga, widow of Spark M. Matsunaga, late a Senator from Hawaii, $98,400.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 302. The proviso under the heading "Department of the Interior, Bureau of Land Management, Firefighting" in Public Law 101-121 is amended by inserting "full" before the word "repayment" in the proviso, and by inserting at the end thereof "prior to the expenditure of any of such funds for any other purposes".

103 Stat. 701.

SEC. 303. In Public Law 101-148, Military Construction Appropriations Act, 1990, the last proviso under "Military Construction, Defense Agencies" is hereby repealed.

103 Stat. 921.

SEC. 304. Notwithstanding any other provision of law, all projects contained in the State list included in House Report 101-307, for which funds were appropriated in Public Law 101-148, are hereby authorized for appropriations and for construction or execution.

SEC. 305. None of the funds provided in this Act shall be provided to any nation where it is made known to the President that the nation is providing military or economic assistance to Cuba.

SEC. 306. Section 610 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended by adding the following subsection:

103 Stat. 1038.

"(d) The term 'export license applications' includes requests for approval of technical assistance agreements or services that would serve to facilitate launch of such satellites.".

SEC. 307. None of the funds appropriated by this or any other Act with respect to any fiscal year for contractural services support of the United States Antarctic Program may be obligated for procurement of a multibeam bathymetric sonar mapping system manufactured outside of the United States: *Provided,* That not to exceed $2,400,000 shall be available for the total cost of such procurement, including software: *Provided further,* That this section shall not be applicable to any procurement covered by the GATT Agreement on Government Procurement.

103 Stat. 1094.

SEC. 308. Section 319 of Public Law 101-164 is amended by inserting "training, salaries" after the word "reports"; inserting the words "including site acquisition, construction and equipment" after the word "expenses"; and inserting the word "grants" after the word "contracts".

SEC. 309. Notwithstanding any other provision of law, within 60 days of enactment, the Secretary of Transportation is directed to make available to the Tri-County Metropolitan Transportation District of Oregon, $13,500,000 in funds previously appropriated for the

acquisition of land in Gresham, Oregon, for the joint development project called "Project Break-Even".

SEC. 310. Funds appropriated under Public Law 101-164, the Department of Transportation and Related Agencies Appropriations Act, 1990, for Highway Demonstration Projects involving railroad overpasses in Las Vegas, New Mexico, may be used for construction: *Provided,* That for loans to the Chicago, Missouri and Western Railroad, or its successors, authorized in Public Law 101-164, $3,500,000: *Provided further,* That such loans shall be made available no later than thirty days after enactment of this Act. Loans.

SEC. 311. Of the funds appropriated in section 108(d) of Public Law 101-130 and remaining available for obligation as of April 16, 1990, $4,700,000 shall be made available to the Forest Service for "Forest Research", $6,900,000 to the Forest Service for "State and Private Forestry", and $4,440,000 to the Forest Service for "National Forest System": *Provided,* That $15,153,000 of remaining unobligated balances appropriated in section 108(d) of said law and which are not needed under the provisions of this Act are hereby rescinded.

SEC. 312. (a) Section 802(b)(1) of the Arizona-Idaho Conservation Act of 1988 is amended to read as follows: 40 USC 188a-1. Gifts and property.

"(1) in consultation with the Joint Committee on the Library, the Senate Commission on Art, or the House of Representatives Fine Arts Board, as the case may be, transfer such property to the entity consulted;".

(b) Section 803(b) of the Arizona-Idaho Conservation Act of 1988 is amended— 40 USC 188a-2.

(1) by striking "subject" and all that follows through "respectively"; and

(2) in paragraph (2) by inserting "subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, after "(2)".

(c) Section 8(c) of the Bicentennial of the United States Congress Commemorative Coin Act is amended to read as follows: 31 USC 5112 note.

"(c) REPORT REQUIRED.—The Commission shall submit an annual report of expenditures to the Congress.".

SEC. 313. (a) The supervision and jurisdiction of the United States Capitol Police shall extend over any area with respect to which the Architect of the Capitol has contracted, or otherwise entered into an agreement, for parking space in the Union Station parking garage to accommodate personnel of the United States Senate whose parking privileges have been affected by the construction of the Judiciary Annex Building, and over any area and streets necessary to carry out such supervision and to travel between such parking area and the United States Capitol Grounds. Law enforcement and crime. District of Columbia. 40 USC 212a note.

(b) In carrying out such supervision, the United States Capitol Police shall have, within any such area or street, jurisdiction, concurrent with that of the Metropolitan Police of the District of Columbia, to provide security for such personnel and property of such personnel and of the United States Senate within such area or street, and to make arrests for the violation of the laws and regulations of the United States and the District of Columbia.

(c) The provisions of subsections (a) and (b) shall be effective only during the period that there is in effect a contract or other agreement as referred to in subsection (a).

SEC. 314. (a) Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6) is amended—

(1) by inserting "(a)" immediately after "SEC. 101.", and

(2) by adding at the end thereof the following new subsection:

"(b) The Majority Leader, the Minority Leader, and the President pro tempore of the Senate, in appointing individuals to consultant positions under authority of this section, may appoint one such individual to such position at an annual rate of compensation rather than at a daily rate of compensation, but such annual rate shall not be in excess of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the Senate.".

Effective date. 2 USC 61h-6 note.

(b) The amendments made by this section shall be effective in the case of appointments made after the date of enactment of this Act.

Gifts and property. Poland.

SEC. 315. (a) Consistent with the purposes of Senate Concurrent Resolution 74 of the 101st Congress (agreed to October 26, 1989), and until October 1, 1992, the Sergeant at Arms and Doorkeeper of the Senate, upon the approval of the Committee on Rules and Administration of the Senate, from funds authorized to be expended by subsection (b) of this section, is authorized to provide for the donation of equipment and training to the Senat and Sejm of Poland by—

(1) purchasing and donating new equipment;

(2) donating used or surplus equipment of the United States Senate, notwithstanding section 103 of the Legislative Branch Appropriations Act, 1978 (2 U.S.C. 117b);

(3) arranging for the preparation, delivery, installation, servicing, modification, and adjustment of, and the training, accessories, and supplies for any items donated under paragraphs (1) and (2);

(4) replacing in the United States Senate used or surplus equipment that is donated under paragraph (2); and

(5) conducting such other transactions as necessary to carry out the purposes of section 2(c) of Senate Concurrent Resolution 74 of the 101st Congress.

(b) Of the unexpended and unobligated funds in the appropriation account for the Sergeant at Arms and Doorkeeper of the Senate within the contingent fund of the Senate which were appropriated for fiscal years prior to October 1, 1989, not more than $1,500,000 shall be available to the Sergeant at Arms and Doorkeeper of the Senate to carry out the provisions of subsection (a).

40 USC 188b-6.

SEC. 316. (a) Effective with the fiscal year ending September 30, 1990, and each fiscal year thereafter, subject to the approval of the Committee on Appropriations of the Senate, any unexpended and unobligated funds in the appropriation account for the "Secretary of the Senate" within the contingent fund of the Senate which have not been withdrawn in accordance with the paragraph under the heading "General Provisions" of Chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a), shall be available for the expenses incurred, without regard to the fiscal year in which incurred, for the conservation, restoration, and replication or replacement, in whole or in part, of items of art, fine art, and historical items within the Senate wing of the United States Capitol, any Senate Office Building, or any room, corridor, or other space therein. In the case of replication or replacement of such items, the funds available under this subsection shall be available for any such items previously contained within the Senate wing of the Capitol, or an item historically accurate.

(b) All such items of art referred to in subsection (a) shall be known as the "United States Senate Collection".

(c) Disbursements for expenses incurred for the purposes in subsection (a) shall be made upon vouchers approved by the Chairman of the Senate Commission on Art or the Executive Secretary of the Senate Commission on Art.

SEC. 317. Subsection (a) of section 3 of the Legislative Branch Appropriations Act, 1989 (2 U.S.C. 68-6(a)) is amended—

(1) by striking out "during any fiscal year," and inserting in lieu thereof "during any fiscal year (1)"; and

(2) by striking out "; and" and inserting in lieu thereof ", and (2) from the Senate appropriations account, appropriated under the headings 'Salaries, Officers and Employees' and 'Office of the Secretary' to the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify; and".

SEC. 318. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force or the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 319. The Secretary of the Army is directed to execute a local cooperation agreement prior to July 1, 1990, for construction of a modification of the existing Gulfport Harbor Project in Mississippi as authorized by the Supplemental Appropriations Act, 1985 (Public Law 99-88), section 202(a) of the Water Resources Development Act of 1986 (Public Law 99-662), and section 4(n) of the Water Resources Development Act of 1988 (Public Law 100-676). Contracts. Mississippi.

Within available funds, the Secretary of the Interior is authorized to obligate up to $12,000,000 to initiate safety of dams modifications at Mormon Island Auxiliary Dam (Folsom Dam and related facilities) of the Central Valley Project, California, authorized under Public Law 95-578, as amended, absent the transmission of the report described in the proviso of section 5 of Public Law 95-578, as amended.

SEC. 320. (a) The following provisions of law are repealed:

(1) Section 614 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162). 103 Stat. 1040.

(2) Section 302 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246). 22 USC 2877a.

(b)(1) Section 127(b) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246) is amended by striking out "February 3, 1990" and inserting in lieu thereof "120 days after the date of enactment of this Act". *Ante*, p. 29.

(2) Section 153(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, is amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991". 22 USC 2656 note.

(3) Section 161(a) of that Act is amended in the second sentence by striking out "February 1, 1990," and inserting in lieu thereof "120 days after the date of enactment of this Act". 22 USC 4171 note.

(4) Section 162 of that Act is amended by striking out "December 31, 1989" and inserting in lieu thereof "120 days after the date of enactment of this Act". *Ante*, p. 47.

(5) Section 1005(b)(2) of that Act is amended by striking out "by December 31, 1989" and inserting in lieu thereof "not later than 120 days after the date of enactment of this Act". *Ante*, p. 87.

(c)(1) Section 506(a) of part E of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3756(a)), as amended by the third proviso under the heading "Organized Crime Drug Enforcement" of title II of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) and by section 212 of Public Law 101-162, is further amended—

(A) in the text above paragraph (1), by inserting "required" after "setting aside the amount"; and

(B) in paragraph (1), by striking out "0.4 percent" and inserting in lieu thereof "$500,000 or 0.25 percent, whichever is greater,".

(2) Title V of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162) is amended under the heading "Educational and Cultural Exchange Programs" of the United States Information Agency by striking out "$160,300,000" and inserting in lieu thereof "$156,506,000".

103 Stat. 1029.

SEC. 321. COMMERCIAL ASPECTS OF UNITED STATES FOREIGN ASSISTANCE.—(a) The Secretary of Commerce, after consulting with the Administrator of the Agency for International Development, the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Treasury, the Secretary of State, other appropriate agencies of the United States Government, and United States business organizations, shall conduct a study which examines and explores the foreign assistance programs currently engaged in by the United States Government and major international financing programs of the United States Government, through the Agency for International Development and other appropriate departments and agencies of the United States Government and explores mechanisms and ways by which the international economic competitiveness of the United States may be enhanced through such programs. In undertaking this study, the Secretary shall—

(1) examine the foreign assistance and major financing programs of Japan, West Germany, France, the United Kingdom, and such other international aid donors as the Secretary may designate, for the purpose of determining what mechanisms are in use to tie foreign assistance to, and advance the industrial and commercial interests of, the donor nations, in particular, the programs currently being engaged in and planned by such countries in the Eastern European countries of East Germany, Poland, Czechoslovakia, and Hungary; and

(2) determine, as far as possible, for each of fiscal years 1989 and 1990, and requested for fiscal year 1991, the dollar amounts and percentages of current United States programs which support United States business investment, exports, or other business-related activities, and shall compare that assessment with a similar assessment made for each of the other international aid donors examined by this study, on a region-by-region basis, with particular attention paid to the comparable efforts in the Eastern European countries referred to in paragraph (1).

Reports.

(b) Not later than September 20, 1990, the Secretary of Commerce shall prepare and transmit to the Committees on Foreign Relations and Appropriations of the Senate and the Committees on Foreign Affairs and Appropriations of the House of Representatives, a report setting forth the findings of the study conducted under subsection (a).

SEC. 322. (a) Notwithstanding any other provision of law, up to $5,000,000 of the total amount of funds available to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance), which funds were—

(1) appropriated by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167), or

(2) otherwise made available through the exercise of the authority contained in section 515 of that Act,

may be made available to the President to provide emergency assistance through international relief agencies to children within Cambodia.

(b) None of the funds made available pursuant to subsection (a) may be made available, directly or indirectly, for the Khmer Rouge.

This Act may be cited as the "Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990".

Approved May 25, 1990.

LEGISLATIVE HISTORY—H.R. 4404:

HOUSE REPORTS: No. 101-434 (Comm. on Appropriations) and No. 101-493 (Comm. of Conference).
SENATE REPORTS: No. 101-272 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 3, considered and passed House.
Apr. 25-27, 30, May 1, considered and passed Senate, amended.
May 24, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to another. Senate agreed to conference report; concurred in House amendments; and receded from amendment No. 24.

Public Law 101-303
101st Congress

An Act

May 29, 1990
[H.R. 1805]

To amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and for other purposes.

Retirement.
Insurance.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HEALTH BENEFITS.

(a) AUTHORITY FOR DIRECT PAYMENTS.—Section 8906 of title 5, United States Code, is amended by adding at the end the following:

"(i) An annuitant whose annuity is insufficient to cover the withholdings required for enrollment in a particular health benefits plan may enroll (or remain enrolled) in such plan, notwithstanding any other provision of this section, if the annuitant elects, under conditions prescribed by regulations of the Office, to pay currently into the Employees Health Benefits Fund, through the retirement system that administers the annuitant's health benefits enrollment, an amount equal to the withholdings that would otherwise be required under this section.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8906 of title 5, United States Code, is further amended—

(1) in subsection (c), by inserting "except as provided in subsection (i) of this section)" before "the annuity"; and

(2) in subsection (d), by inserting "(except as provided in subsection (i) of this section)" before "from the annuity".

5 USC 8906 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act. Any annuitant whose enrollment was terminated at any time before such date on account of such annuitant's annuity being insufficient to cover the amount of the required withholdings may, under regulations prescribed by the Office of Personnel Management, be prospectively reinstated in any available health benefits plan upon application of the annuitant.

SEC. 2. TECHNICAL CORRECTION IN LIFE INSURANCE PROVISIONS.

Section 8708 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as otherwise provided in this subsection, for each period in which an employee continues life insurance after retirement or while in receipt of compensation under subchapter I of chapter 81 of this title because of disease or injury to the employee, as provided under section 8706(b) of this title, a sum equal to one-half of the amount which is withheld from the employee's annuity or compensation under section 8707 of this title shall be contributed by the Office from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

"(2) Contributions under this subsection—

"(A) shall not be made other than with respect to individuals who retire, or commence receiving compensation, after December 31, 1989;

"(B) shall not be made with respect to any individual for months after the calendar month in which such individual becomes 65 years of age; and

"(C) shall, in the case of any individual who elects coverage under subparagraph (B) of section 8706(b)(3) of this title, be equal to the amount which would apply under this subsection if such individual had instead elected coverage under subparagraph (A) of such section.

"(3) The United States Postal Service shall pay the contributions required under this subsection with respect to any individual who—

"(A) first becomes an annuitant by reason of retirement from employment with the United States Postal Service after December 31, 1989; or

"(B) commences receiving compensation under subchapter I of chapter 81 of this title (because of disease or injury to the individual) after December 31, 1989, if the position last held by the individual before commencing to receive such compensation was within the United States Postal Service.".

SEC. 3. REDUCTION IN AGE REQUIREMENT FOR WIDOWS AND WIDOWERS FOR RECEIVING CERTAIN COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION SYSTEM.

Chapter 81, of title 5, United States Code, is amended—

(1) in section 8133(b)(1) by striking out "age 60" and inserting in lieu thereof "age 55"; and

(2) in section 8135(b) by striking out "age 60" and inserting in lieu thereof "age 55".

Approved May 29, 1990.

LEGISLATIVE HISTORY—H.R. 1805:

HOUSE REPORTS: No. 101-327 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 6, considered and passed House.
Vol. 136 (1990): Apr. 26, considered and passed Senate, amended.
May 8, House concurred in certain Senate amendments, disagreed to another, and concurred in another with an amendment.
May 14, Senate receded and concurred in House amendment.

Public Law 101-304
101st Congress

An Act

May 29, 1990
[H.R. 3961]

To redesignate the Federal building at 1800 5th Avenue, North in Birmingham, Alabama, as the "Robert S. Vance Federal Building and United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1800 5th Avenue, North in Birmingham, Alabama, and known as the Federal Building and United States Courthouse, shall be known and designated as the "Robert S. Vance Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Robert S. Vance Federal Building and United States Courthouse".

Approved May 29, 1990.

LEGISLATIVE HISTORY—H.R. 3961 (S. 2068):

HOUSE REPORTS: No. 101-453 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-280 accompanying S. 2068 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed House.
May 9, S. 2068 considered and passed Senate.
May 10, H.R. 3961 considered and passed Senate; passage of S. 2068 vitiated.

Public Law 101-305
101st Congress

An Act

To require the Secretary of Education to conduct a comprehensive national assessment of programs carried out with assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

May 30, 1990
[H.R. 3910]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1992 National Assessment of Chapter 1 Act.
20 USC 236 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "1992 National Assessment of Chapter 1 Act".

SEC. 2. NATIONAL ASSESSMENT OF PROGRAMS ASSISTED UNDER CHAPTER 1.

20 USC 2882 note.

(a) NATIONAL ASSESSMENT.—

(1) GENERAL REQUIREMENT.—The Secretary of Education, through the Deputy Under Secretary for Planning, Budget, and Evaluation and the Assistant Secretary of Educational Research and Improvement (in this section referred to as the "Assistant Secretary"), shall conduct a comprehensive national assessment of the effects of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (in this section referred to as "chapter 1").

(2) INDEPENDENT REVIEW PANEL.—Such assessment shall be planned, reviewed, and conducted in consultation with an independent panel of researchers, State practitioners, local practitioners, and other appropriate individuals including individuals with a background in conducting congressionally mandated national assessments of chapter 1. The Federal Advisory Committee Act shall not apply to the establishment or operation of such panel.

(3) COORDINATION WITH AND USE OF EXISTING STUDIES.—Such assessment shall be coordinated with all related research conducted by the Secretary of Education. Nothing in this section shall be construed to limit or alter the authority of the Secretary to review other program aspects of chapter 1 not mandated by this section.

(b) CONTENTS OF ASSESSMENT.—The assessment required by subsection (a) shall include descriptions and evaluations of—

(1) the implementation of the provisions of sections 1019, 1020, 1021, and 1435 of chapter 1, including—

(A) the progress made by State educational agencies and local educational agencies in implementing such sections;

(B) procedures used by State educational agencies and local educational agencies to govern interactions between such agencies relating to the administration and coordination of the provisions of such sections;

(C) program improvements undertaken by local educational agencies and State educational agencies under such sections and the effects of such improvements on

program participants with respect to the basic and more advanced skills that all children are expected to master; and

(D) major programmatic accomplishments and problems and procedural accomplishments and problems caused by the implementation of such sections;

(2) the implementation of section 1015 of chapter 1, including—

(A) the number of schoolwide projects assisted under such section;

(B) operational procedures used by the schoolwide projects assisted under such section, including an analysis of similarities and differences in procedures and programs among such projects in different States;

(C) accomplishments and problems resulting from establishing schoolwide projects;

(D) an analysis of the effectiveness of schoolwide projects as compared to other programs assisted under part A of chapter 1; and

(E) a description of uses of funds in programs assisted in the implementation of schoolwide projects;

(3) the overall operation and effectiveness of part A of chapter 1, including—

(A) program participation, particularly—

(i) allocation of funds to school sites and the factors involved in such allocation;

(ii) recipients of services delivered with assistance under such part, including limited English proficient students;

(iii) with respect to each local educational agency that receives assistance under such part (or a representative sample of such agencies for each State), the number of eligible children within the jurisdiction of such agency, the resources necessary to serve all such eligible children, and the school attendance of participants in programs assisted under such part; and

(iv) the effect of the decennial census compiled by the Bureau of the Census in 1990 on the allocation of funding to local educational agencies, as well as counties;

(B) program services and personnel, particularly—

(i) services delivered with assistance under part A of chapter 1; and

(ii) a comparison of the background and training of teachers and staff who conduct programs assisted under part A of chapter 1 and regular classroom teachers and staff;

(C) program administration, particularly—

(i) coordination with regular classroom activities and with other programs;

(ii) the adequacy of standardized tests; and

(iii) the effectiveness of parent involvement procedures in enhancing parental collaboration with schools and parent involvement in the children's educational development;

(D) program outcomes, particularly—

(i) student achievement, as reflected by student attendance, behavior, grades, and other indicators of achievement; and

(ii) the development of curricula that provides effective instruction in basic and more advanced skills that all children are expected to master; and

(E) a national profile of the manner in which local educational agencies implement activities described in the plans included in their applications submitted to the Secretary under section 1056 of chapter 1;

(4) the implementation of section 1017 of chapter 1;

(5) the operation and effectiveness of Even Start projects carried out under part B of chapter 1; and

(6) the operation and effectiveness of programs for migratory children carried out under subpart 1 of part D of chapter 1.

(c) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—In designing and implementing the assessment required by subsection (a), the Secretary of Education shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

(d) REPORTS TO CONGRESS.—

(1) GENERAL REQUIREMENTS.—The Secretary of Education shall submit to the Congress—

(A) not later than June 30, 1992, a report containing the preliminary results of the assessment required by subsection (a); and

(B) not later than December 1, 1992, a final report with respect to such assessment.

(2) LIMITATION ON DEPARTMENTAL REVIEW OF REPORTS.—Notwithstanding any other provision of law, the Secretary of Education shall make available to the appropriate committees of the Congress such studies, reports, and data as are submitted to the Secretary by grantees and contractors pursuant to this Act without any additions, deletions, or other modifications by the Department of Education. The Secretary of Education and the President may submit such additional studies and make such additional recommendations to the Congress with respect to chapter 1 as they may consider appropriate.

(e) RESERVATION OF AMOUNTS.—From funds appropriated for purposes of chapter 1, the Secretary of Education shall reserve for purposes of conducting the assessment required by subsection (a) a total amount of not more than $6,000,000 from funds appropriated for the fiscal years 1990, 1991, 1992, and 1993. Amounts reserved under the preceding sentence may only be expended during the period beginning on December 1, 1989, and ending on January 1, 1993.

SEC. 3. IMPACT AID.

(a) AMOUNT OF PAYMENTS.—(1) Subparagraph (A) of section 3(d)(2) of Public Law 81-874 is amended to read as follows: 20 USC 238.

"(A)(i) Except as provided in clause (ii), for any fiscal year after September 30, 1988, funds reserved to make payments under subparagraph (B) shall not exceed $25,000,000 from the funds appropriated for such fiscal year.

"(ii) In the event that the payments made under subparagraph (B) in any fiscal year are less than $25,000,000, such remaining funds as do not exceed $25,000,000 shall remain

available until expended for the purpose of carrying out the provisions of subparagraph (B). Such remaining funds shall not be considered part of the funds reserved to make payments under subparagraph (B), but shall be expended if funds in excess of $25,000,000 are needed to carry out the provisions of subparagraph (B) in any fiscal year.

"(iii) If for any fiscal year the total amount of payments to be made under subparagraph (B) exceeds $25,000,000 and the funds described in clause (ii) are insufficient to make such payments, then the provisions of clause (i) shall not apply.".

20 USC 238 and note.

(2) Subparagraph (B) of section 2(b)(2) of Public Law 101-26 is hereby repealed, and Public Law 81-874 shall be applied and administered as if such subparagraph (B) (and the amendment made by such subparagraph) had not been enacted.

(b) ADJUSTMENTS FOR DECREASES IN FEDERAL ACTIVITIES.—Section 3(e) of Public Law 81-874 is amended to read as follows:

20 USC 238.

Children and youth.
State and local governments.

"(e)(1) Whenever the Secretary of Education determines that—

"(A) for any fiscal year, the number of children determined with respect to any local educational agency under subsections (a) and (b) is less than 90 percent of the number so determined with respect to such agency during the preceding fiscal year;

"(B) there has been a decrease or cessation of Federal activities within the State in which such agency is located; and

"(C) such decrease or cessation has resulted in a substantial decrease in the number of children determined under subsections (a) and (b) with respect to such agency for such fiscal year;

the amount to which such agency is entitled for such fiscal year and for any of the 3 succeeding fiscal years shall not be less than 90 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year.

Appropriation authorization.

"(2) There is authorized to be appropriated for each fiscal year such amount as may be necessary to carry out the provisions of this section, which remain available until expended.

Reports.

"(3) Expenditures pursuant to paragraph (2) shall be reported by the Secretary to the Committees on Appropriations and Education and Labor of the House of Representatives and the Committees on Appropriations and Labor and Human Resources of the Senate within 30 days of expenditure.

"(4) The Secretary shall make available to the Congress in the Department of Education's annual budget submission, the amount of funds necessary to defray the costs associated with the provisions of this subsection during the fiscal year for which the submission is made.".

20 USC 240.

(c) APPLICATION.—Section 5(a) of Public Law 81-874 (Impact Aid) (hereafter in this section referred to as "the Act") is amended to read as follows:

State and local governments.

"(a) APPLICATIONS.—(1) Any local educational agency desiring to receive the payments to which it is entitled for any fiscal year under section 2, 3, or 4 shall submit an application therefor to the Secretary and file a copy with the State educational agency. Each such application shall be submitted in such form, and containing such information, as the Secretary may reasonably require to determine whether such agency is entitled to a payment under any of such sections and the amount of any such payment.

"(2) The Secretary shall establish a deadline for the receipt of applications. For each fiscal year beginning with fiscal year 1991, the Secretary shall accept an approvable application received up to

60 days after the deadline, but shall reduce the payment based on such late application by 10 percent of the amount that would otherwise be paid. The Secretary shall not accept or approve any application submitted more than 60 days after the application deadline.

"(3) Notwithstanding any other provision of law or regulation, a State educational agency that had been accepted as an applicant for funds under section 3 for fiscal years 1985, 1986, 1987 and 1988 shall be permitted to continue as an applicant under the same conditions by which it made application during such fiscal years only if such State educational agency distributes all funds received for the students for which application is being made by such State educational agency to the local educational agencies providing educational services to such students.".

(d) ADJUSTMENTS.—Section 5(c)(2) of Public Law 81-874 is amended by inserting at the end thereof the following new subparagraph: 20 USC 240.

"(C) For the purpose of determining the category under subparagraph (A) that is applicable to the local educational agency providing free public education to secondary school students residing on Hanscom Air Force Base, Massachusetts, the Secretary shall count children in kindergarten through grade 8 who are residing on such base as if such students are receiving a free public education from such local educational agency.". State and local governments. Massachusetts.

(e) SPECIAL RULE.—The Secretary of Education shall consider as timely filed, and shall process for payment, an application from a local educational agency that is eligible to receive the payments to which it is entitled in fiscal year 1990 under section 2 or 3 of the Act, if the Secretary receives the application by June 29, 1990, and the application is otherwise approvable. State and local governments. 20 USC 240 note.

(f) DEFINITION.—Section 403(6) of Public Law 81-874 is amended by inserting the following new sentences at the end thereof: "Such term does not include any agency or school authority that the Secretary determines, on a case-by-case basis— 20 USC 244.

"(A) was constituted or reconstituted primarily for the purpose of receiving assistance under this Act or increasing the amount of that assistance;

"(B) is not constituted or reconstituted for legitimate educational purposes; or

"(C) was previously part of a school district upon being constituted or reconstituted.

For the purpose of carrying out the provisions of section 3(a), such term includes any agency or school authority that has had an arrangement with a nonadjacent school district for the education of children of persons who reside or work on an installation of the Department of Defense for more than 25 years, but only if the Secretary determines that there is no single school district adjacent to the school district in which the installation is located that is capable of educating all such children.".

SEC. 4. BILINGUAL EDUCATION.

Awards made by the Secretary of Education to the Franklin-Northwest Supervisory Union of Vermont under the Bilingual Education Act (20 U.S.C. 3221 et seq.), in amounts of—

(1) $388,076.56 for the period of fiscal year 1984 through fiscal year 1986 (for programs of bilingual education, however characterized),

(2) $400,061.00 for the period of fiscal year 1984 through fiscal year 1986 (for programs of bilingual education, however characterized), and

(3) any expenditure of funds by the Franklin-Northwest Supervisory Union pursuant to the awards described in paragraphs (1) and (2),

shall be treated as if they were made in accordance with the provisions of the Bilingual Education Act for purposes of any claims for repayment asserted by the Secretary of Education.

SEC. 5. STUDENT LITERACY CORPS.

20 USC 1018e.

Section 146 of the Higher Education Act of 1965 is amended to read as follows:

"SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this part $10,000,000 for fiscal year 1991.".

SEC. 6. THE HEAD START ACT AND CHAPTER 1 OF TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

(a) FINDINGS.—The Senate finds that—

(1) one in every five children in America, some 12,600,000 youngsters under the age of 18, live in poverty;

(2) the Head Start program and programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 are proven early education programs that offer the best opportunity to break the cycle of poverty;

(3) since 1980, spending by the Federal Government for education has decreased by 4.7 percent in real terms;

(4) $1 invested in high-quality preschool programs like Head Start and chapter 1 of title I of the Elementary and Secondary Education Act of 1965 saves $6 in lowered costs for special education, grade retention, public assistance, and crime;

(5) children who enroll in Head Start are more likely than other poor children to be literate, employed, and enrolled in postsecondary education;

(6) children who enroll in Head Start programs are less likely than other poor children to be high school dropouts, teen parents, dependent on welfare, or arrested for criminal or delinquent activity;

(7) children who enroll in programs under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 experience larger increases in standardized achievement scores than comparable students who did not enroll in such programs;

(8) low funding levels for the Head Start Act limit the participation in Head Start programs to less than 20 percent of the eligible population; and

(9) low funding levels for chapter 1 of title I of the Elementary and Secondary Education Act of 1965 limit participation in programs assisted under such Act to less than 50 percent of the eligible population.

(b) SENSE OF SENATE.—It is the sense of the Senate that appropriations for the Head Start Act should be increased to fully serve the potential, eligible population under such Act by fiscal year 1994 and

that appropriations for chapter 1 of title I of the Elementary and Secondary Education Act of 1965 should be increased to the authorization level of such Act by fiscal year 1994.

SEC. 7. TECHNICAL AMENDMENT.

(a) IN GENERAL.—Section 2 of Public Law 81-874 is amended by inserting at the end thereof the following new subsection (d): 20 USC 237.

"(d) The United States shall be deemed to own Federal property, for the purposes of this Act where— Gifts and property.

"(1) prior to the transfer of Federal property, the United States owned Federal property meeting the requirements of subparagraphs (A), (B), and (C) of subsection (a)(1); and

"(2) the United States transfers a portion of the property referred to in paragraph (1) to another nontaxable entity, and the United States—

"(A) restricts some or any construction on such property;

"(B) requires that the property be used in perpetuity for the public purposes for which it was conveyed;

"(C) requires the grantee of the property to report to the Federal Government (or its agent) setting forth information on the use of the property;

"(D) prohibits the sale, lease assignment or other disposal of the property unless to another eligible government agency and with the approval of the Federal Government (or its agent); and

"(E) reserves to the Federal Government a right of reversion at any time the Federal Government (or its agent) deems it necessary for the national defense.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1989. 20 USC 237 note.

Approved May 30, 1990.

LEGISLATIVE HISTORY—H.R. 3910:

HOUSE REPORTS: No. 101-404 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 27, considered and passed House.
May 7, considered and passed Senate, amended.
May 10, House concurred in Senate amendment with an amendment.
May 14, Senate concurred in House amendment.

Public Law 101-306
101st Congress

An Act

June 6, 1990
[H.R. 644]

To amend the Wild and Scenic Rivers Act by designating segments of the East Fork of the Jemez and Pecos Rivers in New Mexico as components of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

East Fork of the Jemez River and the Pecos River Wild and Scenic Rivers Addition Act of 1989.
Conservation.
Environmental protection.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "East Fork of the Jemez River and the Pecos River Wild and Scenic Rivers Addition Act of 1989".

SEC. 2. WILD AND SCENIC RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) EAST FORK OF JEMEZ, NEW MEXICO.—The 11-mile segment from the Santa Fe National Forest boundary to its confluence with the Rio San Antonio; to be administered by the Secretary of Agriculture in the following classifications:

"(A) the 2-mile segment from the Santa Fe National Forest boundary to the second crossing of State Highway 4, near Las Conchas Trailhead, as a recreational river; and

"(B) the 4-mile segment from the second crossing of State Highway 4, near Las Conchas Trailhead, to the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, as a wild river; and

"(C) the 5-mile segment from the third crossing of State Highway 4, approximately one and one-quarter miles upstream from Jemez Falls, to its confluence with the Rio San Antonio, as a scenic river.

Minerals and mining.

After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.

"( ) PECOS RIVER, NEW MEXICO.—The 20.5-mile segment from its headwaters to the townsite of Tererro; to be administered by the Secretary of Agriculture in the following classifications:

"(A) the 13.5-mile segment from its headwaters to the Pecos Wilderness boundary, as a wild river; and

"(B) the 7-mile segment from the Pecos Wilderness boundary to the townsite of Tererro, as a recreational river.

After the enactment of this paragraph, Federal lands within the boundaries of the segments designated under this paragraph or which constitute the bed or bank or are situated within one-quarter mile of the ordinary highwater mark on each side of such segments are withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws of the United States, and no patent may be issued for the surface estate with respect to any mining claim located on such lands. Nothing in this paragraph shall be construed as precluding mining operations on any valid existing claim, subject to applicable regulations under section 9.". Minerals and mining.

Approved June 6, 1990.

LEGISLATIVE HISTORY—H.R. 644 (S. 940):

HOUSE REPORTS: No. 101-232 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-112 accompanying S. 940 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Sept. 12, S. 940 considered and passed Senate.
Vol. 136 (1990): Apr. 19, H.R. 644 considered and passed House.
May 22, considered and passed Senate.

Public Law 101-307
101st Congress

Joint Resolution

June 6, 1990
[S.J. Res. 231]

To designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week".

Whereas since 1864, 36 States have established a total of 58 State-supported homes for the veterans of this Nation;

Whereas such States and the Department of Veterans Affairs support such State-supported homes for veterans and such State-supported homes for veterans currently serve critical needs of the veterans of this Nation;

Whereas such State-supported homes for veterans shall continue to serve the veterans of this Nation and meet the future needs of such veterans when the number of aging veterans increases at an accelerated rate in this Nation;

Whereas such State-supported homes for veterans provide an important resource for the veterans of this Nation, and for the families of such veterans;

Whereas the staff of such State-supported homes for veterans contribute to an enhanced quality of life for the veterans of this Nation, and for the families of such veterans; and

Whereas there is a need for greater public awareness of the vital and significant contributions of State-supported homes for veterans to this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 10, 1990 through June 16, 1990, is designated as "State-Supported Homes for Veterans Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved June 6, 1990.

LEGISLATIVE HISTORY—S.J. Res. 231:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
May 22, considered and passed House.

Public Law 101-308
101st Congress

Joint Resolution

To authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month".

June 6, 1990
[S.J. Res. 267]

Whereas there is an increase in the number of adults in our country who regularly participate in exercise and sports;
Whereas the number of physically active men and women continues to grow rapidly, especially since the 1970s;
Whereas there is great support for the importance of daily exercise for youth and children regardless of physical capabilities or limitations;
Whereas there is continued growth in senior citizens' physical activity participation which increases their enjoyment and quality of life;
Whereas today we recognize that physical activity is an important part of daily life for children, adults, and senior citizens of both sexes;
Whereas physical activity is vital to good health and is a rich source of pleasure and personal satisfaction;
Whereas our physical fitness and sports programs are one of the primary means by which we strengthen our bodies and refresh our spirits; and
Whereas it is essential that we make fitness and sports programs increasingly available in the schools, at the workplace, and during leisure time so that all of our citizens will be able to experience the joys and benefits they offer: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the month of May 1990 as "National Physical Fitness and Sports Month", and to call upon Federal, State, and local government agencies, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved June 6, 1990.

LEGISLATIVE HISTORY—S.J. Res. 267:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 8, considered and passed Senate.
May 24, considered and passed House.

Public Law 101-309
101st Congress

Joint Resolution

June 18, 1990
[S. J. Res. 251]

Designating "Baltic Freedom Day".

Whereas the people of the Baltic States of Estonia, Latvia, and Lithuania have cherished the principles of religious and political freedom and have recently held mass demonstrations calling for freedom and independence;

Whereas from 1918 to 1940, the Baltic States existed as independent, sovereign nations and as fully recognized members of the League of Nations;

Whereas 1990 marks the 50th anniversary of the invasion, seizure, and illegal incorporation of the Baltic States into the Soviet Union against the national will and the desire for independence and freedom of the Baltic people;

Whereas 1990 also marks the 50th anniversary of the continued policy of the United States of not recognizing the illegal forcible occupation of the Baltic States by the Soviet Union;

Whereas, due to Soviet and Nazi collusion, the Baltic States suffered a loss of one-third of their population by the end of World War II;

Whereas, under Soviet occupation, the native Baltic peoples have been deported from their homelands to forced labor and concentration camps in Siberia and elsewhere;

Whereas the people of the Baltic States have unique indigenous cultures, national traditions, and languages, which have been threatened by decades of russification;

Whereas the Soviet Union has introduced into the Baltic States ecologically unsound industries without proper safeguards, and the presence of those industries has critically endangered the environment and well-being of the Baltic people;

Whereas, as part of Soviet President Mikhail Gorbachev's campaign of openness, restructuring, and democratization, the Soviet leaders have officially acknowledged the illegality of the secret protocols to the 1939 Molotov-Ribbentrop Pact, which led to the Soviet military invasion of the Baltic States in 1940;

Whereas, in the spirit of openness and democratization, the Baltic peoples are affirming their right, upheld both by international law and by the Soviet Constitution, to restore full independence through parliamentary and peaceful means; and

Whereas the United States, as a member of the United Nations, has repeatedly upheld the right of nations to self-determination: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and right of the people of the Baltic States for freedom and independence;

(2) the Congress, in keeping with the policy of the United States to deny recognition of the Soviet occupation of the Baltic States, urges the Soviet Union to recognize the sovereignty of the Baltic States and to yield to the rightful demands of the

Baltic peoples for independence from foreign domination and oppression, as guaranteed by Principle Eight of the Helsinki Accords, to which the Soviet Union is a signatory;

(3) June 14, 1990, the anniversary of the first mass deportation of the Baltic peoples from their homelands in 1941, is designated as "Baltic Freedom Day", as a symbol of the solidarity of the people of the United States with the aspirations of the captive Baltic people; and

(4) the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Baltic Freedom Day with appropriate ceremonies and activities, and to submit to the Congress within 60 days a statement articulating specific actions the United States Government is taking, in fulfillment of the intent of the nonrecognition principle to—

(A) support the peaceful restoration of the independence of the Baltic States; and

(B) to encourage Soviet support for a peaceful transition to independence and democracy in the Baltic States.

Approved June 18, 1990.

LEGISLATIVE HISTORY—S.J. Res. 251:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
June 12, considered and passed House.

Public Law 101-310
101st Congress

Joint Resolution

June 18, 1990
[H.J. Res. 516]

To designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week".

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;
Whereas approximately three hundred thousand people in the United States suffer from scleroderma;
Whereas women are afflicted by scleroderma three times more often than men;
Whereas scleroderma is a chronic and often progressive illness that can result in death;
Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;
Whereas the cause and cure of scleroderma are unknown; and
Whereas scleroderma is an orphan disease and is considered to be understudied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 10, 1990, is designated as "National Scleroderma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved June 18, 1990.

LEGISLATIVE HISTORY—H.J. Res. 516 (S.J. Res. 274):

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 7, considered and passed House.
June 11, considered and passed Senate.

Public Law 101-311
101st Congress

An Act

To amend title 11 of the United States Code regarding swap agreements and forward contracts.

June 25, 1990
[H.R. 4612]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SWAP AGREEMENTS

SEC. 101. DEFINITION OF SWAP AGREEMENT AND SWAP PARTICIPANT.

Section 101 of title 11, United States Code, is amended by—

(1) redesignating paragraphs (49), (50), (51), (52), and (53) as paragraphs (51), (52), (53), (54), and (55), respectively; and

(2) inserting after paragraph (48) the following:

"(49) 'swap agreement' means—

"(A) an agreement (including terms and conditions incorporated by reference therein) which is a rate swap agreement, basis swap, forward rate agreement, commodity swap, interest rate option, forward foreign exchange agreement, rate cap agreement, rate floor agreement, rate collar agreement, currency swap agreement, cross-currency rate swap agreement, currency option, any other similar agreement (including any option to enter into any of the foregoing);

"(B) any combination of the foregoing; or

"(C) a master agreement for any of the foregoing together with all supplements;

"(50) 'swap participant' means an entity that, at any time before the filing of the petition, has an outstanding swap agreement with the debtor;".

SEC. 102. AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (12) by striking "or" at the end;

(2) in paragraph (13) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(14) under subsection (a) of this section, of the setoff by a swap participant, of any mutual debt and claim under or in connection with any swap agreement that constitutes the setoff of a claim against the debtor for any payment due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant under or in connection with any swap agreement or against cash, securities, or other property of the debtor held by or due from such swap participant to guarantee, secure or settle any swap agreement.". Claims.

SEC. 103. LIMITATION ON AVOIDING POWERS.

Section 546 of title 11, United States Code, is amended by adding at the end the following:

"(g) Notwithstanding sections 544, 545, 547, 548(a)(2) and 548(b) of this title, the trustee may not avoid a transfer under a swap agreement, made by or to a swap participant, in connection with a swap agreement and that is made before the commencement of the case, except under section 548(a)(1) of this title.".

SEC. 104. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (B) by striking "and" at the end;

(2) in subparagraph (C) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(D) a swap participant that receives a transfer in connection with a swap agreement takes for value to the extent of such transfer.".

SEC. 105. SETOFF.

Section 553(b)(1) of title 11, United States Code, is amended by striking "362(b)(7)," and inserting "362(b)(7), 362(b)(14),".

SEC. 106. CONTRACTUAL RIGHT TO TERMINATE SWAP AGREEMENTS.

(a) TERMINATION OF SWAP AGREEMENTS.—Subchapter III of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

"§ 560. Contractual right to terminate a swap agreement

"The exercise of any contractual right of any swap participant to cause the termination of a swap agreement because of a condition of the kind specified in section 365(e)(1) of this title or to offset or net out any termination values or payment amounts arising under or in connection with any swap agreement shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by order of a court or administrative agency in any proceeding under this title. As used in this section, the term 'contractual right' includes a right, whether or not evidenced in writing, arising under common law, under law merchant, or by reason of normal business practice.".

(b) TECHNICAL AMENDMENT.—The table of sections of chapter 5 of title 11, United States Code, is amended by adding at the end the following item:

"560. Contractual right to terminate a swap agreement.".

TITLE II—FORWARD CONTRACTS

SEC. 201. DEFINITION OF COMMODITY.

Section 101 of title 11, United States Code (as amended by section 101), is amended—

(1) in paragraph (24)—

(A) by inserting "as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade," after "transfer of a commodity,", and

(B) by inserting ", including, but not limited to, a repurchase transaction, reverse repurchase transaction, consignment, lease, swap, hedge transaction, deposit, loan, option, allocated transaction, unallocated transaction, or any combination thereof or option thereon" after "entered into";

(2) in paragraph (25) by striking out "commodities" and inserting "a commodity, as defined in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing in the forward contract trade";

(3) by redesignating paragraphs (34) through (55), as paragraphs (36) through (57), respectively; and

(4) by inserting after paragraph (33) the following:

"(34) 'margin payment' means, for purposes of the forward contract provisions of this title, payment or deposit of cash, a security or other property, that is commonly known in the forward contract trade as original margin, initial margin, maintenance margin, or variation margin, including mark-to-market payments, or variation payments; and

"(35) 'settlement payment' means, for purposes of the forward contract provisions of this title, a preliminary settlement payment, a partial settlement payment, an interim settlement payment, a settlement payment on account, a final settlement payment, a net settlement payment, or any other similar payment commonly used in the forward contract trade;".

SEC. 202. AUTOMATIC STAY.

Section 362(b)(6) of title 11, United States Code, is amended—

(1) by striking "section 741(5) or 761(15)" and inserting "section 101(34), 741(5), or 761(15)"; and

(2) by striking "section 741(8)" and inserting "section 101(35) or 741(8)".

SEC. 203. LIMITATIONS ON AVOIDING POWERS.

Section 546(e) of title 11, United States Code, is amended—

(1) by striking "section 741(5) or 761(15)" and inserting "section 101(34), 741(5), or 761(15)"; and

(2) by striking "section 741(8)" and inserting "section 101(35) or 741(8)".

SEC. 204. FRAUDULENT TRANSFERS AND OBLIGATIONS.

Section 548(d)(2)(B) of title 11, United States Code, is amended—

(1) by striking "section 741(5) or 761(15)" and inserting "section 101(34), 741(5) or 761(15)"; and

(2) by striking "section 741(8)" and inserting "section 101(35) or 741(8)".

SEC. 205. CONTRACTUAL RIGHT TO LIQUIDATE A COMMODITY CONTRACT OR FORWARD CONTRACT.

Section 556 of title 11, United States Code, is amended by striking the period at the end of the last sentence of the section and inserting "and a right, whether or not evidenced in writing, arising under common law, under law merchant or by reason of normal business practice.".

Approved June 25, 1990.

LEGISLATIVE HISTORY—H.R. 4612 (S. 396):

HOUSE REPORTS: No. 101-484 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-285 accompanying S. 396 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 15, considered and passed House.
June 6, S. 396 and H.R. 4612 considered and passed Senate.

Public Law 101-312
101st Congress

An Act

To authorize the Secretary of Veterans Affairs to proceed with a proposed administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs, notwithstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code.

June 25, 1990
[S. 2700]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of Veterans Affairs may proceed with the administrative reorganization described in subsection (b) of this Act without regard to section 210(b) of title 38, United States Code. 38 USC 210 note.

(b) The administrative reorganization referred to in subsection (a) is the reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs as that reorganization and related activity are described in (1) letters dated January 22, 1990, and the detailed plan and justification enclosed therewith, submitted by the Secretary to the Committees on Veterans' Affairs of the Senate and the House of Representatives pursuant to such section 210(b), and (2) letters dated April 17, 1990, submitted in supplementation thereof by the Secretary to such Committees.

Approved June 25, 1990.

LEGISLATIVE HISTORY—S. 2700:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 6, considered and passed Senate.
June 12, considered and passed House.

Public Law 101-313
101st Congress

An Act

June 27, 1990
[S. 286]

To establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes.

Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PETROGLYPH NATIONAL MONUMENT

Petroglyph National Monument Establishment Act of 1990.
16 USC 431 note.

SECTION 101. SHORT TITLE AND CONGRESSIONAL FINDINGS.

(a) This title may be cited as the "Petroglyph National Monument Establishment Act of 1990".

(b) The Congress finds that—

(1) the nationally significant Las Imagines National Archeological District on Albuquerque's West Mesa Escarpment contains more than 15,000 documented and prehistoric and historic petroglyphs;

(2) the district also contains approximately sixty-five other archeological sites;

(3) the West Mesa Escarpment and the petroglyphs are threatened by urbanization and vandalism, and hundreds of petroglyphs have already been destroyed;

(4) the State of New Mexico has shown great leadership by recognizing the importance of the archeological resources of the West Mesa Escarpment through the establishment of the Las Imagines National Archeological District;

(5) the city of Albuquerque has played a significant role in the preservation of the natural, cultural, and recreational resources of the West Mesa Escarpment;

(6) the Middle Rio Grande Pueblo Tribes have shown a strong and sincere interest in the preservation of their heritage through protection of the West Mesa Escarpment;

(7) the Atrisco Land Grant, now held by Westland Development Company, Incorporated, a corporation whose stock is owned primarily by heirs of the Atrisco Land Grant, has played a significant role in the settlement of the West Mesa area since 1692, and the corporation's shareholders have shown a strong interest in the preservation of their traditional lands;

(8) the National Park System has no unit established for the specific purpose of protecting, preserving, and interpreting prehistoric and historic rock art; and

(9) in light of the national significance of the West Mesa Escarpment and the petroglyphs and the urgent need to protect the cultural and natural resources of the area from urbanization and vandalism, it is appropriate that a national monument be established in the West Mesa Escarpment area, near Albuquerque, New Mexico.

SEC. 102. ESTABLISHMENT OF PETROGLYPH NATIONAL MONUMENT.

(a) In order to preserve, for the benefit and enjoyment of present and future generations, that area in New Mexico containing the nationally significant West Mesa Escarpment, the Las Imagines National Archeological District, a portion of the Atrisco Land Grant, and other significant natural and cultural resources, and to facilitate research activities associated with the resources, there is hereby established the Petroglyph National Monument (hereinafter in this title referred to as the "monument") as a unit of the National Park System. The monument shall consist of approximately 5,280 acres generally known as the Atrisco Unit, as depicted on the map entitled "Boundary Map, Petroglyph National Monument", numbered NM-PETR-80,010C and dated June 1990, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, and in the office of the mayor of the city of Albuquerque, New Mexico.

(b) The monument shall be administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") or, if the monument is expanded pursuant to section 104(a), by the Secretary in cooperation with the State of New Mexico (hereinafter in this title referred to as the "State") or the city of Albuquerque, New Mexico (hereinafter in this title referred to as the "city"), in accordance with section 105.

(c) Within 6 months after the date of enaction of this title, the Secretary shall file a legal description of the monument with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such legal description shall have the same force and legal description as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description. The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, in the offices of the Department of Energy, Minerals, and Natural Resources of the State of New Mexico, and in the office of the mayor of the city of Albuquerque, New Mexico: *Provided,* That the Secretary may from time to time, after completion of the general management plan referred to in section 108(a), may make minor adjustments to the monument boundary by publication of a revised map or other boundary description in the Federal Register.

SEC. 103. LAND ACQUISITION AUTHORITY.

(a) The Secretary is authorized to acquire lands and interests therein within the monument boundary by donation, purchase with donated or appropriated funds, exchange, or transfer from any other Federal agency, except that lands or interests therein owned by the State or a political subdivision thereof may be acquired only by donation or exchange. Gifts and property.

(b) Where the surface and subsurface estates of private land to be acquired are separately owned, the Secretary shall acquire the subsurface estate to such land prior to or at the same time the surface estate is acquired: *Provided,* That this subsection shall not be applicable if the Secretary determines that the prior acquisition of the surface estate is necessary—

(1) to prevent damage to the resources of the monument; or

(2) to properly manage and interpret the monument in accordance with sections 102 and 105.

(c)(1) The Secretary is authorized to exchange Federal lands within the area described on the map referred to in section 102(a) as the Piedras Marcadas Unit for lands owned by the city within the area described as the Atrisco Unit on such map.

(2) The Secretary is authorized to exchange Federal lands within the area described on the map referred to in section 102(a) as the Boca Negra Unit for lands owned by the State within the area described as the Atrisco Unit on such map.

(3) Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the properties exchanged.

Gifts and property.

(d) Prior to acquiring fee simple ownership of private lands or interests therein within the monument boundary, the Secretary is authorized to acquire an appropriate interest in such land by donation or for a nominal fee from the owner or owners of such lands for the purpose of providing immediate protection against trespass or vandalism or initiating any resource inventories necessary to carry out the purposes of this title.

SEC. 104. EXPANSION OF THE MONUMENT.

(a) Upon the execution of a binding agreement between the Secretary, the State, and the city that the lands identified in this subsection shall be perpetually managed in accordance with section 105, the Secretary shall include such lands, totaling approximately 1,994 acres, within the monument boundary. The lands referred to in this subsection are:

(1) the approximately 1,779 acres generally known as the Piedras Marcadas Unit, as depicted on the map referred to in section 102(a); and

(2) the approximately 215 acres generally known as the Boca Negra Unit, as depicted on the map referred to in section 102(a).

(b)(1) The Secretary is authorized to acquire, as provided in section 103(a), some or all of the approximately 95 acres of land, or interests therein, within the area identified as "Potential Addition" on the map referred to in section 102(a), if, after consultation with the Petroglyph National Monument Advisory Commission established under section 110, the Secretary determines that such acquisition would further the purposes of this title.

(2) The authority of the Secretary to make acquisitions pursuant to paragraph (1) shall expire on the date three years after the date of enactment of this Act.

(3) Any lands acquired pursuant to paragraph (1) shall be incorporated into the monument and managed accordingly.

SEC. 105. ADMINISTRATION AND MANAGEMENT OF THE MONUMENT.

(a) The Secretary shall administer, manage, and protect the monument in accordance with the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.), and this title, and in such a manner as to preserve, for the benefit and enjoyment of present and future generations, its cultural and natural resources, and to provide for the interpretation of and research on such resources.

(b) Units of the monument which may be added pursuant to section 104(a) shall be managed and developed in accordance with management and operational plans prepared concurrently with the

National Park Service, consistent with section 108. Visitor use and interpretive programs within such units shall be undertaken consistent with plans developed with the assistance of the National Park Service.

(c) The Secretary is authorized to enter into cooperative agreements with either the State or the city under which the Secretary may manage and interpret any lands owned by the State or the city, respectively, within the boundaries of the monument. Contracts.

(d) In order to encourage a unified and cost effective interpretive program of the natural and cultural resources of the West Mesa Escarpment and its environs, the Secretary is authorized to enter into cooperative agreements with other Federal, State, and local public departments and agencies, Indian tribes, and nonprofit entities providing for the interpretation of these resources. Such agreements shall include, but need not be limited to, a provision for the Secretary to develop and operate interpretive facilities and programs on lands and interests in lands outside the monument boundary, with the agreement of the owner or the administrator thereof. Such cooperative agreements may also provide for financial and technical assistance for the planning and implementation of interpretive programs and minimal development related to these programs. Contracts. Conservation.

(e) Federal laws generally applicable to units of the National Park System, including but not limited to, the National Environmental Policy Act of 1969 and the Archeological Resources Protection Act of 1979, shall apply to the monument. The Secretary is authorized to pursue concurrent jurisdiction of the monument for the purposes of law enforcement and implementation of Federal regulations.

SEC. 106. LAND USE AND TRANSPORTATION PLANNING.

The Secretary may participate in land use and transportation management planning conducted by appropriate local authorities for lands adjacent to the monument and may provide technical assistance to such authorities and affected landowners for such planning.

SEC. 107. EXISTING TRANSMISSION OR DISTRIBUTION FACILITIES.

Nothing in this title shall be construed as authorizing or requiring revocation of any interest or easement for existing transmission or distribution facilities or prohibiting the operation and maintenance of such facilities within or adjacent to the monument boundary.

SEC. 108. GENERAL MANAGEMENT PLAN.

(a) Within 3 years from the date funding is made available for the purposes of this section, the Secretary, in cooperation with the city and the State, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the monument consistent with the purposes of this title, including, but not limited to—

(1) a statement of the number of visitors and types of public use within the monument which can be accommodated in accordance with the protection of its resources;

(2) a resource protection program;

(3) a general interpretive program;

(4) a plan to implement the joint resolution entitled "American Indian Religious Freedom", approved August 11, 1978 (42 U.S.C. 1996);

(5) a general development plan for the monument, including proposals for a visitors' center, and the estimated cost thereof; and

(6) a plan for the Rock Art Research Center established in section 109.

(b) The general management plan shall be prepared in consultation with the Petroglyph National Monument Advisory Commission established pursuant to section 110, appropriate Indian tribes and their civil officials, the heirs of the Atrisco Land Grant, the New Mexico State Historical Preservation Office, and other interested parties.

Contracts.

(c) The Secretary shall undertake, in consultation and cooperation with appropriate New Mexico Indian tribes and their civil officials, research on other Rio Grande style rock art sites on Federal lands in New Mexico, and through cooperative agreements with State and willing private landowners, on non-Federal lands. The Secretary shall provide the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within 3 years of the date funding is made available for the purposes of this section, a report that—

Reports.

(1) lists various locations of Rio Grande style rock art;

(2) identifies the ownership of the rock art;

(3) identifies the condition of the resources; and

(4) identifies the appropriate type of technical assistance needed for the protection and care of these resources.

The report shall be updated and transmitted to such committees every 2 years thereafter.

Cultural programs.
Indians.
Minorities.
Public buildings and grounds.

SEC. 109. ROCK ART RESEARCH CENTER.

(a) In order to provide for research relating to Rio Grande style rock art, undertake comprehensive evaluations of petroglyphs within the monument, prepare interpretive programs that are sensitive to the concerns of the Indian and Hispanic peoples, and relate monument resources to other styles and forms of rock art, the Secretary, acting through the National Park Service and in cooperation with the University of New Mexico, other educational institutions, foundations, Indian tribes, and private entities, shall establish a Rock Art Research Center (hereinafter in this title referred to as the "Center").

(b) The Center shall function as a focal point for the systematic and scholarly collection, analysis, and dissemination of information relating to Rio Grande style rock art, and other forms of rock art within the region.

Education.

(c) The Center shall produce research data and educational materials that will enhance public understanding of prehistoric and historic rock art.

(d) The Center shall provide for a broad program of research including ethnographic studies, resource management techniques, and comparative studies of rock art forms and styles.

(e) Research shall be primarily directed toward rock art managed by the National Park Service. The Secretary may enter into cooperative agreements with other agencies and entities as may be appropriate to carry out the requirements of the Center.

(f) The Secretary, acting through the National Park Service, is authorized to undertake research and assist in the management and protection of Rio Grande style rock art sites on public and, with the agreement of the landowner, private lands within the Galisteo Basin. The Secretary is authorized to enter into cooperative agreements with landowners of such rock art sites and expend appropriated funds for research, site protection, and interpretive programs. Research shall include the identification and mapping of rock art sites and the development of protection options. Contracts.

SEC. 110. PETROGLYPH NATIONAL MONUMENT ADVISORY COMMISSION. Establishment.

(a) There is hereby established the Petroglyph National Monument Advisory Commission (hereinafter in this title referred to as the "Commission"). The Commission shall be composed of eleven members appointed by the Secretary for terms of 5 years as follows:

(1) one member, who shall have professional expertise in history or archeology, appointed from recommendations submitted by the Governor of the State of New Mexico;

(2) one member, who shall have professional expertise in history or archeology, appointed from recommendations submitted by the mayor of the city of Albuquerque, New Mexico;

(3) one member, who shall have professional expertise in Indian history or ceremonial activities, appointed from recommendations submitted by the All Indian Pueblo Council;

(4) one member, who shall be a shareholder of the Westland Development Company, Incorporated;

(5) one member, who shall be an heir of the Atrisco Land Grant;

(6) one member, who shall be an affected landowner;

(7) one member, who shall have professional expertise in Indian rock art;

(8) one member, who shall have professional expertise in cultural anthropology;

(9) one member, who shall have professional expertise in geology;

(10) one member from the general public; and

(11) the Director of the National Park Service, or his or her designee, ex officio.

(b) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(e) The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Six members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall, from

time to time, meet with persons concerned with Indian history and historic preservation, and with other interested persons.

(f) The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this title. Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(g) The Commission shall advise the Secretary on the management and development of the monument, and on the preparation of the general management plan referred to in section 108(a). The Secretary, or his or her designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the monument.

Termination date.

(h) The Commission shall cease to exist 10 years after the date of its first meeting.

SEC. 111. AUTHORIZATION OF APPROPRIATIONS.

Reports.

There are authorized to be appropriated such sums as may be necessary for the purposes of this title. The Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, concurrently with the submission to Congress of the President's proposed budget for the second fiscal year beginning after the date of enactment of this title, and every 5 years thereafter, a report on the status of the agreement referred to in section 104(a), its associated costs, and any proposed alterations to the agreement.

TITLE II—PECOS NATIONAL HISTORICAL PARK

Conservation.
16 USC 410rr.

SEC. 201. The purpose of this title is—

(1) to recognize the multitheme history, including the cultural interaction among diverse groups of people, of the Pecos area and its "gateway" role between the Great Plains and the Rio Grande Valley, and

(2) to provide for the preservation and interpretation of the cultural and natural resources of the Forked Lightning Ranch by establishing the Pecos National Historical Park.

Establishment.
16 USC 410rr-1.

SEC. 202. (a) In order to enhance and preserve the existing Pecos National Monument and related nationally significant resources for the benefit and enjoyment of present and future generations, there is hereby established the Pecos National Historical Park (hereinafter in this title referred to as the "park").

(b) The park shall include the existing Pecos National Monument and the area known as the Forked Lightning Ranch which surrounds the Pecos National Monument and shall consist of approximately 5,865 acres of the lands and interests in lands as generally depicted on the map entitled "Pecos National Historical Park Boundary Concept", numbered 430/80028 and dated March 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") may from time to time make minor revisions in the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-4 and following).

(c) The Act entitled "An Act to authorize the establishment of Pecos National Monument in the State of New Mexico, and for other

purposes" approved June 28, 1965 (79 Stat. 195), is hereby repealed, and any funds available for purposes of the Pecos National Monument shall be available for purposes of the park.

SEC. 203. The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange: *Provided, however,* That the Secretary may not acquire lands within the Forked Lightning Ranch as depicted on the map from the owner of record of such lands as of May 1, 1990, without the consent of such owner unless the Secretary determines that the lands are being used, or that there is an imminent threat that the lands will be used, for any purpose that is incompatible with the purposes of this Act. Gifts and property. 16 USC 410rr-2.

SEC. 204. The Secretary shall administer the park in accordance with the provisions of this title and the provisions of law generally applicable to the administration of units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-7). 16 USC 410rr-3.

SEC. 205. Within 3 full fiscal years from the date funding is made available for the purposes of preparing a general management plan, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a general management plan for the park consistent with the purposes of this title, including (but not limited to)— 16 USC 410rr-4.

(1) a general visitor use and interpretive program that fully considers the prehistoric and historic aspects of the national historical park including the "gateway theme" and early Spanish settlement of New Mexico;

(2) a statement on the number of visitors and types of public uses within the park which can be reasonably accommodated in accordance with the protection of its resources; and

(3) a general development plan for the park, including the estimated cost thereof.

SEC. 206. The Secretary, acting through the National Park Service, shall undertake a study of the Rowe Ruin, Arrowhead Pueblo, Hobson-Dressler Ruin, and Las Ruedas site for the suitability and feasibility of their inclusion in the park. The Secretary shall submit the study to the Congress within one year after the date of enactment of this title. 16 USC 410rr-5.

SEC. 207. There is authorized to be appropriated such sums as may be necessary to carry out this title. Appropriation authorization. 16 USC 410rr-6.

TITLE III—ZUNI-CIBOLA NATIONAL HISTORICAL PARK AND JUAN DE ONATE MEMORIAL

SEC. 301. The first sentence of section 202 of Public Law 100-225 (16 U.S.C. 460uu-12) is amended by deleting "and Zuni-Cibola National Historical Park" and inserting "Zuni-Cibola National Historical Park, and Petroglyph National Monument".

SEC. 302. The Zuni-Cibola National Historical Park Establishment Act of 1988 (16 U.S.C. 410pp et seq.) is amended—

(1) in section 2(c)— 16 USC 410pp.

(A) by striking "24 months" and inserting "6 years"; and

(B) by striking "24-month" and inserting "6-year"; and

(2) in section 3(a) by striking "18 months" and inserting "5½ years". 16 USC 410pp-1.

SEC. 303. (a) The tract of land described in subsection (b) shall be treated as public land for the purposes of the Act of June 14, 1926 (43 U.S.C. 869 et seq.; commonly known as the "Recreation and Public Purposes Act").

(b) The land referred to in paragraph (1) is approximately 5 acres of the Sebastian Martin Land Grant near Los Luceros, New Mexico, as generally depicted on the map entitled "Onate Memorial Map" and dated July 1989.

Approved June 27, 1990.

LEGISLATIVE HISTORY—S. 286:

HOUSE REPORTS: No. 101-491 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-230 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 24, considered and passed Senate.
May 21, 22, considered and passed House, amended.
June 12, Senate concurred in House amendments with amendments.
June 14, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
June 27, Presidential statement.

Public Law 101-314
101st Congress

Joint Resolution

Designating July 3, 1990, as "Idaho Centennial Day".

June 28, 1990
[S.J. Res. 245]

Whereas at 10 a.m., on July 3, 1890, President Benjamin Harrison signed a proclamation declaring Idaho a State;
Whereas the State of Idaho is known as the Gem State;
Whereas the State of Idaho has become a national leader in agriculture, natural resource industries, technology, and manufacturing;
Whereas the people of Idaho have harvested the natural abundance to produce a wealth which has enabled the building of cities, educational institutions, an unhurried pace of life, and a rich culture, while maintaining the pristine ecology;
Whereas the beautiful mountains, rivers, lakes, trees, deserts, plains, and fields of the State of Idaho are appreciated and preserved, and the quality of life is unsurpassed; and
Whereas on July 3, 1990, the State of Idaho will begin a new century of statehood: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 3, 1990, is designated as "Idaho Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social, and historic contributions of the people of the State of Idaho to the United States during the past century.

Approved June 28, 1990.

LEGISLATIVE HISTORY—S.J. Res. 245:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26, considered and passed Senate.
June 12, considered and passed House.

Public Law 101-315
101st Congress

Joint Resolution

June 28, 1990
[H.J. Res. 575]

To designate June 25, 1990, as "Korean War Remembrance Day".

Whereas on June 25, 1950, the army of the Communist government of North Korea initiated the Korean war by invading South Korea;

Whereas the United Nations military command created to respond to the attack is the only example of such a command in the history of the United Nations;

Whereas members of the Armed Forces of the United States exerted executive authority over and were the primary participants in the command;

Whereas in addition to the United States and South Korea, 20 other member nations of the United Nations provided military forces to serve under the United Nations military command;

Whereas after three years of active hostilities, the territorial integrity of South Korea was restored, primarily through the efforts of the Armed Forces of the United States;

Whereas the people of South Korea remain free and independent to this day;

Whereas more than 5,700,000 United States servicemen and servicewomen were directly or indirectly involved in the war;

Whereas this Nation's casualties from the war included 54,246 dead, of which 33,629 were battle deaths, 103,284 wounded, 8,177 listed as missing or prisoners of war, and 328 prisoners of war still unaccounted for;

Whereas, although the Korean war has been called this Nation's "Forgotten War", the war has not been forgotten by those who served or by the families of those who served;

Whereas this Nation must never forget the sacrifices made by the servicemen and servicewomen who served, fought, were injured, and died in the Korean war;

Whereas the Congress has enacted and the President has signed into law an Act to establish a Korean War Veterans' Memorial in the Nation's Capital to recognize and honor the service and sacrifice of this Nation's servicemen and servicewomen who participated in the Korean war; and

Whereas on the 40th anniversary of the commencement of the Korean war, it is appropriate to recognize, honor, and remember the service and sacrifices of the servicemen and servicewomen of this Nation who preserved the independence of South Korea by enduring the rigors of combat, a hostile climate, and other trying conditions during that war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 25, 1990, is designated as "Korean War Remembrance Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities and to urge the departments and agencies

of the United States and interested organizations, groups, and individuals to fly the flag of the United States at half staff on June 25, 1990, in honor of the Americans who died as a result of service in the Korean war.

Approved June 28, 1990.

LEGISLATIVE HISTORY—H.J. Res. 575:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 19, considered and passed House.
June 22, considered and passed Senate.

Public Law 101-317
101st Congress

Joint Resolution

Calling upon the United Nations to repeal General Assembly Resolution 3379.

June 29, 1990
[S.J. Res. 246]

Whereas the United Nations will celebrate the forty-fifth anniversary of its charter on June 26, 1990;

Whereas Article I of the United Nations Charter establishes the United Nations as "a center for harmonizing the actions of nations";

Whereas on November 10, 1990, fifteen years will have passed since the adoption of United Nations General Assembly Resolution 3379 which formally declared Zionism to be "a form of racism and racial discrimination";

Whereas Zionism is a national movement of the Jewish people for self-determination, a legitimate and moral aspiration characteristic of many national groups in the modern world;

Whereas United Nations General Assembly Resolution 3379 has had as its overt purpose the delegitimation of the State of Israel;

Whereas United Nations General Assembly Resolution 3379 has impeded the struggle against real forms of racial bigotry and has had the incendiary effect of stimulating and encouraging anti-semitism;

Whereas United Nations General Assembly Resolution 3379 has been used to justify terrorist attacks against innocent people;

Whereas United Nations General Assembly Resolution 3379 is violative of the principles of the United Nations Charter and makes it impossible for the General Assembly to play a credible role in the peaceful resolution of the Arab-Israeli conflict; and

Whereas Public Laws 99-90 (S.J. Res. 98, 1985) and 100-169 (S.J. Res. 205, 1987) and earlier expressions of congressional concern bearing on this subject demonstrate that the United States condemns, denounces, and repudiates United Nations General Assembly Resolution 3379: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the United States calls upon all member states of the United Nations General Assembly to take immediate action to repeal United Nations General Assembly Resolution 3379;

(2) the President shall periodically report to the Congress on progress made toward the repeal of United Nations General Assembly Resolution 3379; and

(3) the Congress commends the President for his commitment to achieving this goal.

Approved June 29, 1990.

LEGISLATIVE HISTORY—S.J. Res. 246:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 3, considered and passed Senate.
June 18, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
June 29, Presidential statement.

Public Law 101-318
101st Congress

An Act

To amend title 17, United States Code, to change the fee schedule of the Copyright Office, and to make certain technical amendments.

July 3, 1990
[H.R. 1622]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Copyright Fees and Technical Amendments Act of 1989.
17 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Fees and Technical Amendments Act of 1989".

SEC. 2. FEES OF COPYRIGHT OFFICE.

(a) FEE SCHEDULE.—Section 708(a) of title 17, United States Code, is amended to read as follows:

"(a) The following fees shall be paid to the Register of Copyrights:

"(1) on filing each application under section 408 for registration of a copyright claim or for a supplementary registration, including the issuance of a certificate of registration if registration is made, $20; Claims.

"(2) on filing each application for registration of a claim for renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, $12;

"(3) for the issuance of a receipt for a deposit under section 407, $4;

"(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document covering not more than one title, $20; for additional titles, $10 for each group of not more than 10 titles;

"(5) for the filing, under section 115(b), of a notice of intention to obtain a compulsory license, $12;

"(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, $20 for a document covering not more than one title; for each additional title, $2;

"(7) for the issuance, under section 706, of an additional certificate of registration, $8;

"(8) for the issuance of any other certification, $20 for each hour or fraction of an hour consumed with respect thereto;

"(9) for the making and reporting of a search as provided by section 705, and for any related services, $20 for each hour or fraction of an hour consumed with respect thereto; and

"(10) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.

The Register of Copyrights is authorized to fix the fees for preparing copies of Copyright Office records, whether or not such copies are certified, on the basis of the cost of such preparation.".

(b) ADJUSTMENT OF FEES.—Section 708 of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b) In calendar year 1995 and in each subsequent fifth calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) by the percent change in the annual average, for the preceding calendar year, of the Consumer Price Index published by the Bureau of Labor Statistics, over the annual average of the Consumer Price Index for the fifth calendar year preceding the calendar year in which such increase is authorized.".

(c) CONFORMING AMENDMENT.—Section 704(e) of title 17, United States Code, is amended by striking out "708(a)(11)" and inserting in lieu thereof "708(a)(10)".

17 USC 708 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect 6 months after the date of the enactment of this Act and shall apply to—

Claims.

(A) claims to original, supplementary, and renewal copyright received for registration, and to items received for recordation in the Copyright Office, on or after such effective date, and

(B) other requests for services received on or after such effective date, or received before such effective date for services not yet rendered as of such date.

(2) PRIOR CLAIMS.—Claims to original, supplementary, and renewal copyright received for registration and items received for recordation in acceptable form in the Copyright Office before the effective date set forth in paragraph (1), and requests for services which are rendered before such effective date shall be governed by section 708 of title 17, United States Code, as in effect before such effective date.

SEC. 3. TECHNICAL AMENDMENTS.

(a) SECTION 111.—Section 111 of title 17, United States Code, is amended—

(1) in subsection (c)(2)(B) by striking out "recorded the notice specified by subsection (d) and"; and

(2) in subsection (d)—

(A) in paragraph (2) by striking out "paragraph (1)" and inserting in lieu thereof "clause (1)";

(B) in paragraph (3) by striking out "clause (5)" and inserting in lieu thereof "clause (4)"; and

(C) in paragraph (3)(B) by striking out "clause (2)(A)" and inserting in lieu thereof "clause (1)(A)".

(b) SECTION 801.—Section 801(b)(2)(D) of title 17, United States Code, is amended by striking out "111(d)(2) (C) and (D)" and inserting in lieu thereof "111(d)(1) (C) and (D)".

(c) SECTION 804.—Section 804(a)(2)(C)(i) of title 17, United States Code, is amended by striking out "115" and inserting in lieu thereof "116".

(d) SECTION 106.—Section 106 of title 17, United States Code, is amended by striking out "118" and inserting in lieu thereof "119".

(e) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) shall be effective as of August 27, 1986. 17 USC 111 note.

(2) The amendment made by subsection (c) shall be effective as of October 31, 1988. 17 USC 804 note.

(3) The amendment made by subsection (d) shall be effective as of November 16, 1988. 17 USC 106 note.

Approved July 3, 1990.

LEGISLATIVE HISTORY—H.R. 1622 (S. 1271):

HOUSE REPORTS: No. 101-279 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-267 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 16, considered and passed House.
Vol. 136 (1990): June 13, S. 1271 and H.R. 1622 considered and passed Senate.

Public Law 101-319
101st Congress

An Act

To reduce the number of Commissioners on the Copyright Royalty Tribunal, to change the salary classification rates for members of the Copyright Tribunal and the United States Parole Commission, for the Register and Associate Registers of Copyrights, and for the Deputy and Assistant Commissioners of Patents and Trademarks, and for other purposes.

July 3, 1990
[H.R. 3046]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Copyright Royalty Tribunal Reform and Miscellaneous Pay Act of 1989.
17 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty Tribunal Reform and Miscellaneous Pay Act of 1989".

SEC. 2. COPYRIGHT ROYALTY TRIBUNAL AND COPYRIGHT OFFICE.

(a) MEMBERSHIP OF THE COPYRIGHT ROYALTY TRIBUNAL; LAPSED TERMS; PAY.—Section 802(a) of title 17, United States Code, is amended to read as follows:

President of U.S.

"(a) The Tribunal shall be composed of three Commissioners appointed by the President, by and with the advice and consent of the Senate. The term of office of any individual appointed as a Commissioner shall be seven years, except that a Commissioner may serve after the expiration of his or her term until a successor has taken office. Each Commissioner shall be compensated at the rate of pay in effect for level V of the Executive Schedule under section 5316 of title 5.".

(b) COPYRIGHT OFFICE.—Section 701 of title 17, United States Code, is amended by adding at the end the following new subsection:

"(e) The Register of Copyrights shall be compensated at the rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5. The Librarian of Congress shall establish not more than four positions for Associate Registers of Copyrights, in accordance with the recommendations of the Register of Copyrights. The Librarian shall make appointments to such positions after consultation with the Register of Copyrights. Each Associate Register of Copyrights shall be paid at a rate not to exceed the maximum annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5.".

Library of Congress.

SEC. 3. PAY RATES FOR PAROLE COMMISSION.

(a) CHAIRMAN.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, United States Parole Commission.".

(b) OTHER COMMISSIONERS.—Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Commissioners, United States Parole Commission (8).".

SEC. 4. PAY RATES FOR DEPUTY AND ASSISTANT COMMISSIONERS OF PATENTS AND TRADEMARKS.

Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Commissioner of Patents and Trademarks.
"Assistant Commissioner for Patents.
"Assistant Commissioner for Trademarks.".

SEC. 5. EFFECTIVE DATE; BUDGET ACT. 17 USC 701 note.

(a) EFFECTIVE DATE.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) BUDGET ACT.—Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriations Acts.

Approved July 3, 1990.

LEGISLATIVE HISTORY—H.R. 3046 (S. 1272):

HOUSE REPORTS: No. 101-329 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-268 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 13, considered and passed House.
Vol. 136 (1990): June 13, S. 1272 and H.R. 3046 considered and passed Senate.

Public Law 101-320
101st Congress

An Act

July 3, 1990
[H.R. 3545]

To amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK COMMISSION.

(a) VACANCY.—Section 6(c) of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y-4(c)) is amended by adding at the end the following: "A member may serve after the expiration of his term until his successor has taken office.".

(b) TERMINATION.—Section 6(g) of such Act (16 U.S.C. 410y-4(g)) is amended by striking "twenty" and inserting "thirty".

Approved July 3, 1990.

LEGISLATIVE HISTORY—H.R. 3545:

HOUSE REPORTS: No. 101-456 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-312 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed House.
June 14, considered and passed Senate.

Public Law 101-321
101st Congress

An Act

To amend the National Trails System Act to designate the route from Selma to Montgomery for study for potential addition to the national trails system.

July 3, 1990
[H.R. 3834]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Selma to Montgomery National Trail Study Act of 1989.
Alabama.
National parks, monuments, etc.
Historic preservation.
16 USC 1241 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Selma to Montgomery National Trail Study Act of 1989".

SEC. 2. FINDINGS.

The Congress finds that:

(1) The march from Selma to Montgomery led to the passage of the Voting Rights Act of 1965, which achieved the legal right to vote for all Americans.

(2) Events associated with the march from Selma to Montgomery and from what came to be known as "Bloody Sunday" sent shock waves around the world, raised the Nation's consciousness and convinced political leaders that the time had come for voting rights legislation.

(3) The designation of the route of the march from Selma to Montgomery as a national historic trail will serve as a reminder of the right and responsibility of all Americans to fully participate in the election processes. It will serve as a reminder that we must be ever vigilant in securing our right to vote. It will also give long overdue recognition to the men and women who have sacrificed so much for, and dedicated their lives to, voting rights for all Americans.

SEC. 3. DESIGNATION OF TRAIL FOR STUDY.

Section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1244(c)) is amended by adding the following new paragraph at the end thereof:

"(33) The route from Selma to Montgomery, Alabama traveled by people in a march dramatizing the need for voting rights legislation, in March 1965, includes Sylvan South Street, Water

Avenue, the Edmund Pettus Bridge, and Highway 80. The study under this paragraph shall be prepared in accordance with subsection (b) of this section, except that it shall be completed and submitted to the Congress with recommendations as to the trail's suitability for designation not later than 1 year after the enactment of this paragraph.".

Approved July 3, 1990.

LEGISLATIVE HISTORY—H.R. 3834:

HOUSE REPORTS: No. 101-425 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-313 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 20, considered and passed House.
June 14, considered and passed Senate.

Public Law 101-322
101st Congress

An Act

To amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

July 6, 1990
[H.R. 5075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Amtrak Reauthorization and Improvement Act of 1990.
45 USC 501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Reauthorization and Improvement Act of 1990".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 601(b)(2) of the Rail Passenger Service Act (45 U.S.C. 601(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(F) not to exceed $630,000,000 for the fiscal year ending September 30, 1989;

"(G) not to exceed $656,000,000 for the fiscal year ending September 30, 1990;

"(H) not to exceed $684,000,000 for the fiscal year ending September 30, 1991; and

"(I) not to exceed $712,000,000 for the fiscal year ending September 30, 1992.".

SEC. 3. INCENTIVES FOR PASSENGER SERVICE AGREEMENTS.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 810. INCENTIVES FOR PASSENGER SERVICE AGREEMENTS.

Virginia.
45 USC 649.
District of Columbia.
Claims.

"(a) Notwithstanding any other provision of law, in instances where a publicly funded commuter transportation authority established under Virginia law contracts to indemnify the Corporation for liability for operations conducted by or on behalf of the publicly funded commuter transportation authority or to indemnify a railroad over whose tracks such operations are conducted, liability for all claims, whether for compensatory or punitive damages, arising from any accident or incident occurring in the District of Columbia against the Corporation or the publicly funded commuter transportation authority in connection with operations conducted by or on behalf of such publicly funded commuter transportation authority, or against a railroad over whose tracks such operations were conducted at the time of the accident or incident, shall not be in an amount greater than the limits of the liability coverage maintained by the publicly funded commuter transportation authority to indemnify the Corporation or the railroad. In no event shall the publicly funded commuter transportation authority maintain an aggregate limit of liability coverage less than $200,000,000.

"(b) Subsection (a) shall not be effective unless the Corporation or a railroad seeking coverage hereunder has entered into an operating agreement with a publicly funded commuter transportation authority established under Virginia law to provide access for revenue service to its property in connection with the operations of the publicly funded commuter transportation authority.".

SEC. 4. AUTHORIZATION TO USE FUNDS FOR SIMILAR PURPOSES.

Proceeds from the sale of all or part of the railroad line for which funds were provided, for acquisition and rehabilitation, under section 511 of the Rail Safety and Service Improvement Act of 1982 may be used for similar purposes with respect to any railroad line connecting with such line, for the purpose of continued rail service on such lines.

SEC. 5. COOPERATION WITH STUDY.

The National Railroad Passenger Corporation shall cooperate with the efforts of the Washington State Department of Transportation in designing and carrying out a study of the feasibility of reestablishing rail service between Seattle, Washington, and Vancouver, British Columbia.

SEC. 6. ROUTING FEASIBILITY STUDY.

The National Railroad Passenger Corporation shall conduct a study to evaluate the short-term and long-term revenue and cost implications of separating the existing California Zephyr-Desert Wind-Pioneer train into two service routes serving separate western destinations via a southern route and a central route through Iowa. The Corporation shall include in this evaluation the projected cost for required additional passenger equipment, any projected loss, and any revenue and ridership gains, associated with offering a second service route. A detailed report on the findings of the study shall be submitted by the Corporation to the Congress within 6 months after the date of enactment of this Act.

Reports.

State and local governments.
Taxes.

SEC. 7. RESIDENCE OF EMPLOYEES.

(a) Section 11504(a) of title 49, United States Code, is amended to read as follows:

"(a) No part of the compensation paid by a rail carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 105 of this title to an employee who performs regularly assigned duties as such an employee on a railroad in more than one State shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.".

(b) Section 11504(b) of title 49, United States Code, is amended to read as follows:

"(b)(1) No part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more States as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any State or subdivision of that State, other than the State or subdivision thereof of the employee's residence.

"(2) In this subsection 'employee' has the meaning given such term in section 204 of the Motor Carrier Safety Act of 1984 (49 App. U.S.C. 2503).".

(c) Section 11504(d) of title 49, United States Code, is amended—

(1) by striking "express, sleeping car,"; and

(2) by striking "with—" and all that follows and inserting in lieu thereof the following: "with the State and subdivision of residence of the employee.".

SEC. 8. RAILROAD UNEMPLOYMENT INSURANCE ACT AMENDMENT.

(a) Section 8(a)(1)(B)(vi) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)(1)(B)(vi)) is amended by inserting "the National Railroad Passenger Corporation and" immediately after "the contribution of" in the first sentence.

(b) The amendment made by subsection (a) shall be effective as of January 1, 1989. Effective date. 45 USC 358 note.

SEC. 9. STUDY OF LOAN GUARANTEE NEEDS.

The Secretary of Transportation, in consultation with the Administrator of the Federal Railroad Administration, shall study and survey the present and potential need and demand among class II and class III railroads for Federal guarantees of obligations as provided for by section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831). Such study and survey shall examine the present and potential need and demand for such guarantees to fund rehabilitation and improvement of facilities or equipment, acquisition of new railroad facilities, and refinancing of existing debt. The Secretary of Transportation shall report to Congress no later than 90 days following the date of the enactment of this Act the results of such study and survey. Such report shall include an analysis of the present and potential need and demand for Federal guarantees of class II and class III railroad debt, the amount of guarantee authority required to meet that need, and a projection of demand for such Federal guarantees through fiscal year 1995. Reports.

SEC. 10. FEDERAL OPERATING SUPPORT REPORT.

The National Railroad Passenger Corporation shall report to Congress by June 1, 1991, on its plan to eliminate its need for Federal operating support by the year 2000. The report should include a discussion of the actions that could be taken to enhance revenues, to control costs, and to improve productivity and efficiency of operations, as well as an estimate of the capital investment needed to take such actions.

SEC. 11. NEW SERVICE STUDY.

The National Railroad Passenger Corporation shall study the economic feasibility of providing new service, if such service will

have the potential of covering the operating costs associated with such service, to areas not served by the Corporation as of the date of enactment of this Act. Within two years after such date of enactment, the Corporation shall report to Congress on the results of that study.

Approved July 6, 1990.

LEGISLATIVE HISTORY—H.R. 5075:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 25, considered and passed House and Senate.

Public Law 101-323
101st Congress

Joint Resolution

To commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed.

July 6, 1990
[H.J. Res. 555]

Whereas on May 26, 1790, President George Washington signed into law the Act entitled "An Act for the government of the territory of the United States, south of the river Ohio";

Whereas the State of Tennessee, which was formed from such territory, was the first State to be admitted to the Union from territorial status;

Whereas, from 1790 to 1792, a log cabin known as "Rocky Mount" served as that territory's first territorial capitol; and

Whereas William Blount, the first governor of that territory, resided at Rocky Mount during the period of time referred to in the preceding clause: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation calling on the people of the United States to observe May 26, 1990, with appropriate ceremonies and activities to mark the bicentennial of the enactment of the Act entitled "An Act for the government of the territory of the United States, south of the river Ohio".

Approved July 6, 1990.

LEGISLATIVE HISTORY—H.J. Res. 555 (S.J. Res. 330):

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 24, considered and passed House.
June 18, considered and passed Senate.

Public Law 101-324
101st Congress

An Act

July 6, 1990
[S. 1999]

To amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADMINISTRATION OF COMMISSION.

Section 1321 of the Higher Education Amendments of 1986 (20 U.S.C. 1221-1 note) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) ADMINISTRATION OF THE COMMISSION.—

"(1) RATE OF PAY.—Members of the Commission who are not full-time officers or employees of the United States and who are not Members of Congress may, while serving on business of the Commission, be compensated at a rate not to exceed the rate specified at the time of such service for Grade GS-18 of the General Schedule as authorized by section 5332 of title 5, United States Code, for each day, or any part of a day, they are engaged in the actual performance of Commission duties, including travel time; and while so serving away from their homes or regular places of business, all members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(2) TEMPORARY EXEMPTION.—Subject to such rules as may be adopted by the Commission, the Chairperson, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, shall have the power to—

"(A) appoint a Director or Executive Director who shall be paid at a rate not to exceed the rate of basic pay for GS-18 of the General Schedule; and

"(B) appoint and fix the compensation at a rate not to exceed the rate payable at the GS-18 rate of such other personnel as the Chairperson considers necessary.

"(3) AUTHORITY TO CONTRACT.—Subject to the Federal Property and Administrative Services Act of 1949, as amended, the Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities.

"(4) SOURCE OF ADMINISTRATIVE SUPPORT.—Financial and administrative support services (including those related to budget and accounting, financial reporting, payroll, and personnel) shall be provided to the Commission by the General Services Administration (or other appropriate organization) for which payment shall be made in advance, or by reimbursement, from funds of the Commission, in such amounts as may be agreed by the Chairperson of the Commission and the Administrator of General Services.

"(5) AUTHORITY TO HIRE EXPERTS AND CONSULTANTS.—The Commission is authorized to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18. Experts and consultants may be employed without compensation if they agree to do so in advance.

"(6) AUTHORITY FOR DETAIL OF EMPLOYEES.—Upon request of the Commission, the head of any Federal agency is authorized to detail on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.".

SEC. 2. TERMINATION OF COMMISSION.

Subsection (g) of section 1321 of the Higher Education Amendments of 1986, as redesignated by section 1 of this Act, is amended to read as follows:

"(g) TERMINATION.—The Commission shall terminate 2 years after the first meeting of the members.".

Approved July 6, 1990.

LEGISLATIVE HISTORY—S. 1999:

HOUSE REPORTS: No. 101-517 (Comm. on Education and Labor).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 21, considered and passed Senate.
Vol. 136 (1990): June 5, considered and passed House, amended.
June 22, Senate concurred in House amendment.

Public Law 101-325
101st Congress

Joint Resolution

July 6, 1990
[S.J. Res. 271]

To designate July 10, 1990 as "Wyoming Centennial Day".

Whereas on July 10, 1890, President Benjamin Harrison signed a proclamation admitting Wyoming as the forty-fourth State in the Union.

Whereas Wyoming is known as the Equality forty-fourth State;

Whereas Wyoming was the first State to recognize the rights of women and allow them voting privileges;

Whereas Wyoming appointed the first woman Justice of the Peace, Esther Hobart Morris, whose statue now graces the United States Capitol;

Whereas Wyoming is the home of the first national forest, the Shoshone;

Whereas Wyoming elected the first woman governor, Mrs. Nellie Tayloe Ross;

Whereas Wyoming, which represents the ideal in outdoor recreation, became the home of our Nation's first national park, Yellowstone National Park, the founding gem and is the site of the magnificent Grand Tetons;

Whereas Wyoming is also the home of America's first national monument, Devils Tower;

Whereas Wyoming is the site of the mother store of J.C. Penney's Department store in Kemmerer, founding a familiar fixture on mainstreets across America;

Whereas renowned inventor Thomas Alva Edison received the inspiration for the invention of the incandescent bulb while fishing and camping in Encampment, Wyoming;

Whereas Wyoming is home to the Nation's largest rodeo, Cheyenne Frontier Days, "the Daddy of them all";

Whereas Wyoming's beautiful mountains, trees, ranches and natural resources are appreciated nationwide;

Whereas on July 10, 1990, the State of Wyoming will see the dawn of a new century: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 10, 1990, is designated "Wyoming Centennial Day", and the President is authorized and requested to issue a proclamation acknowledging the economic, social and historic contributions of the people of Wyoming to the United States of America over the past century.

Approved July 6, 1990.

LEGISLATIVE HISTORY—S.J. Res. 271:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
June 28, considered and passed House.

Public Law 101-326
101st Congress

Joint Resolution

July 6, 1990
[S.J. Res. 315]

For the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day".

Whereas on July 22, 1990, one of the most admired and beloved symbols of the American family, Rose Fitzgerald Kennedy, will reach the age of one hundred years;

Whereas the strength and integrity of the family are essential to our well-being as a Nation;

Whereas a secure and loving family is a principal source of the values, beliefs, traditions, ideals, and concern for others at the heart of the American character;

Whereas families provide continuity for the American people from generation to generation, linking the Nation's past, present, and future, and ensuring that our heritage of liberty, democracy, and justice for all is maintained in present generations and carried forward to future generations;

Whereas Rose Fitzgerald Kennedy, throughout her long and active life, has emphasized the importance of the family as the foundation of a secure and caring society;

Whereas Rose Fitzgerald Kennedy has inspired millions of Americans with her courage, her faith, her commitment to the central role of the family in American life, and her belief in the responsibility of citizens of all ages to help others and to serve others to the best of their ability;

Whereas Rose Fitzgerald Kennedy has worked tirelessly to improve the lives of those with mental and physical disabilities; and

Whereas the Congress and the Nation hold Rose Fitzgerald Kennedy in high affection and esteem: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby conveys its appreciation, affection and respect to Rose Fitzgerald Kennedy on the occasion of her one hundredth birthday, July 22, 1990.

SEC. 2. The President of the United States is hereby authorized and requested to issue a proclamation designating July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day", and calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved July 6, 1990.

LEGISLATIVE HISTORY—S.J. Res. 315:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 15, considered and passed Senate.
June 21, considered and passed House.

Public Law 101-327
101st Congress

Joint Resolution

July 6, 1990
[S.J. Res. 320]

Designating July 2, 1990, as "National Literacy Day".

Whereas literacy is a necessary tool for survival in our society;
Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;
Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;
Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;
Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;
Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;
Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;
Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;
Whereas the prison population represents the single highest concentration of adult illiteracy;
Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;
Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;
Whereas the 47 per centum illiteracy rate among black youths is expected to increase;
Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;
Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;
Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1990, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 6, 1990.

LEGISLATIVE HISTORY—S.J. Res. 320:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
June 21, considered and passed House.

Public Law 101-328
101st Congress

An Act

July 8, 1990
[S. 2124]

To authorize appropriations for the National Space Council, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Space Council Authorization Act of 1990.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Space Council Authorization Act of 1990".

AUTHORIZATION OF APPROPRIATIONS

42 USC 2471 note.

SEC. 2. There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, fiscal year 1989 (42 U.S.C. 2471), $1,200,000 for fiscal year 1990. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

STAFFING

42 USC 2471 note.

SEC. 3. (a) Not more than six individuals may be employed by the National Space Council without regard to any provision of law regulating the employment or compensation of persons in the Government service, at rates not to exceed the rate of pay for level VI of the Senior Executive Schedule as provided pursuant to section 5382 of title 5, United States Code.

(b) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Executive Secretary, National Space Council.".

EXPERTS AND CONSULTANTS

42 USC 2471 note.

SEC. 4. The National Space Council may, for purposes of carrying out its functions, employ experts and consultants in accordance with section 3109 of title 5, United States Code, and may compensate individuals so employed for each day they are involved in a business of the National Space Council (including traveltime) at rates not in excess of the daily equivalent of the maximum rate of pay for grade GS-18 as provided pursuant to section 5332 of title 5, United States Code.

REVIEW OF LAUNCH INDUSTRY

SEC. 5. (a) The National Space Council is requested to initiate a review of United States launch policy, including the Nation's expendable launch vehicle and satellite industries, their current and projected markets, the existing and projected level of foreign competition in these industries, the extent and level of support from foreign governments in these markets and industries, the con-

sequences of the entry of nonmarket providers of launch services and satellites into the world market, restrictions on the use of foreign launch services and the export of United States satellites, and the importance of the United States launch vehicle and satellite industry to the national and economic security.

(b) The findings of this review and any policy recommendations are to be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives by August 1, 1990.

EFFECTIVE DATE

SEC. 6. The provisions of this Act are effective as of October 1, 1989. 5 USC 5314 note.

Approved July 8, 1990.

LEGISLATIVE HISTORY—S. 2124:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 20, considered and passed Senate.
June 26, considered and passed House.

Public Law 101-329
101st Congress

Joint Resolution

July 8, 1990
[S.J. Res. 278]

Designating July 19, 1990, as "Flight Attendant Safety Professionals' Day".

Whereas Federal aviation regulations, since 1952, have required flight attendants on board all commercial airlines to safeguard the well-being of passengers;

Whereas flight attendants are trained to respond to medical emergencies and have assisted in saving passengers' lives in emergencies caused by strokes, heart attacks, and so forth;

Whereas flight attendants' professionalism and calmness in evacuations of crashed airplanes have saved thousands of lives that otherwise would have been lost;

Whereas flight attendants have given their lives to save passengers in emergency evacuations, sustaining an on-the-job fatality rate higher than that of police officers;

Whereas flight attendants have assisted in hundreds of in-flight emergencies due to hijackings, terrorist acts, decompressions, and severe turbulence; and

Whereas flight attendants have vigorously strived for safety improvements at their airlines and the Federal Aviation Administration and have worked diligently to educate the flying public of safety procedures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 19, 1990, is designated as "Flight Attendant Safety Professionals' Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 8, 1990.

LEGISLATIVE HISTORY—S.J. Res. 278:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
June 26, considered and passed House.

Public Law 101-330
101st Congress

An Act

To amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990.

July 12, 1990
[H.R. 5149]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO THE CHILD NUTRITION ACT OF 1966.

Section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)) is amended at the end thereof by adding new subparagraphs (3) (E), (F) and (G) which read:

"(E) Notwithstanding any other provision in this paragraph and paragraph (2) a State agency may, subject to the approval of the Secretary under subparagraph (F), expend not more than 3 percent of the amount of funds allocated to such agency for supplemental foods for the fiscal year 1991 for expenses incurred under this section for supplemental foods during the fiscal year 1990.

"(F) Each State agency which intends to use the authority provided in subparagraph (E) shall request approval from the Secretary in advance and shall submit a plan showing how the State's caseload will be managed to meet funding limitations. The Secretary shall review and make determinations on such plans on an expedited basis.

"(G) No State can use the authority provided under subparagraph (E) to increase the caseload level above the highest level to date in fiscal year 1990.".

Approved July 12, 1990.

LEGISLATIVE HISTORY—H.R. 5149:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed House and Senate.

Public Law 101-331
101st Congress

Joint Resolution

July 13, 1990
[H.J. Res. 599]

To designate July 1, 1990, as "National Ducks and Wetlands Day".

Whereas the United States converts almost 500,000 acres of wetlands to other uses each year;

Whereas the Department of the Interior annually issues a Federal duck stamp and uses all funds raised by the sale of the stamp to acquire wildlife habitat in the form of wetlands that support both waterfowl and other wildlife;

Whereas the United States Postal Service sells more than 1,500,000 duck stamps annually;

Whereas citizens of the United States have purchased duck stamps for over half a century to support the conservation benefits of saving wetlands;

Whereas the sale of duck stamps has raised more than $400,000,000 since the inception of the program, and these proceeds have been used to acquire almost 4,000,000 acres of prime habitat for the National Refuge System;

Whereas on Sunday, July 1, 1990, the Fish and Wildlife Service of the Department of the Interior will issue a Federal duck stamp that will go on sale at post offices nationwide;

Whereas according to popular tradition, the artist who designed the new stamp will be honored at a First Day of Sale Ceremony to be held near the hometown of the artist;

Whereas the United States Postal Service will host a ceremony at the new Minnesota Valley Wildlife Refuge Visitors Center to honor the fourteenth duck stamp to be designed by a Minnesota artist; and

Whereas the citizens of Minnesota have dedicated an afternoon program of ceremony, information, and family activities to support the conservation of wetlands and waterfowl: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 1, 1990, is designated as "National Ducks and Wetlands Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities and to support conservation efforts by purchasing duck stamps.

Approved July 13, 1990.

LEGISLATIVE HISTORY—H.J. Res. 599 (S.J. Res. 338):

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed House. S.J. Res. 338 and H.J. Res. 599 considered and passed Senate.

Public Law 101-332
101st Congress

An Act

To require the Secretary of the Treasury to mint coins in commemoration of the Golden Anniversary of the Mount Rushmore National Memorial.

July 16, 1990
[H.R. 1028]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mount Rushmore Commemorative Coin Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mount Rushmore Commemorative Coin Act".

31 USC 5112 note.

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 500,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such five dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such five dollar coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Liberty", "In God we Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 2.5 million half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of such half dollar coins shall be emblematic of the Mount Rushmore National Memorial. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Liberty", "In God we Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

31 USC 5112 note.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this Act from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

31 USC 5112 note.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Mount Rushmore National Memorial Society of Black Hills (hereafter in this Act referred to as the "Society") and the United States Commission of Fine Arts.

31 USC 5112 note.

SEC. 5. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

31 USC 5112 note.

SEC. 6. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this Act shall be issued only during 1991.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this Act shall be issued in uncirculated and proof qualities and not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

31 USC 5112 note.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

31 USC 5112 note.

SEC. 8. DISTRIBUTION OF SURCHARGES.

Of the total surcharges received by the Secretary from the sale of the coins issued under this Act—

(1) 50 percent shall be returned to the Federal Treasury for purposes of reducing the national debt; and

(2) 50 percent shall be promptly paid by the Secretary to the Society to assist the Society's efforts to improve, enlarge, and renovate the Mount Rushmore National Memorial.

SEC. 9. AUDITS. 31 USC 5112 note.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the Society as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND. 31 USC 5112 note.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund to the Mount Rushmore National Memorial Society of Black Hills; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES. 31 USC 5112 note.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 2 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

Approved July 16, 1990.

LEGISLATIVE HISTORY—H.R. 1028 (S. 148):

CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 3, S. 148 considered and passed Senate.
Vol. 136 (1990): May 15, H.R. 1028 considered and passed House.
June 28, considered and passed Senate.

Public Law 101-333
101st Congress

An Act

July 16, 1990
[H.R. 4252]

To authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PEASE AIR FORCE BASE, NEW HAMPSHIRE.

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Air Force may—

(1) make payment pursuant to subsection (b) to purchase all right, title, and interest of members of the Air Force and their spouses in manufactured housing located at the base manufactured housing park at Pease Air Force Base, New Hampshire, on January 1, 1989, and not moved from the base since that date; or

(2) make payment pursuant to subsection (b) and take action described in subsection (c)(2) with respect to such housing.

(b) AMOUNT OF PAYMENT.—Subject to subsection (c)(2), the Secretary shall establish the amount of the payment to be made under this section, but such amount shall not exceed—

(1) 90 percent of the member's purchase price of the manufactured housing; or

(2) if elected by the member, the amount of the outstanding mortgages on such housing that are attributable to purchasing the manufactured housing or making a capital improvement thereto.

(c) DISPOSAL OF MANUFACTURED HOUSING.—The Secretary may, subject only to the provisions of this section—

(1) sell, donate, trade, or otherwise dispose of any manufactured housing acquired under authority of this section; or

(2) permit the member to retain the manufactured housing for removal from Pease Air Force Base, with an appropriate reduction for the value of the manufactured housing as personal property from the amount otherwise payable under subsection (b).

(d) SOURCE OF FUNDS.—The payments authorized by subsection (a) shall be made from funds appropriated for operation and maintenance of the Department of the Air Force for any fiscal year.

(e) OTHER TERMS AND CONDITIONS.—The Secretary shall require such other terms and conditions on any payment made under this section that are in the best interests of the United States.

Approved July 16, 1990.

LEGISLATIVE HISTORY—H.R. 4252:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 21, considered and passed House.
June 28, considered and passed Senate.

Public Law 101-334
101st Congress

An Act

July 16, 1990
[H.R. 4525]

To amend the Ethics in Government Act of 1978 to increase the authorization of appropriations for the Office of Government Ethics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ethics in Government Act Amendment of 1990.
5 USC app. 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ethics in Government Act Amendment of 1990".

5 USC app. 405.

SEC. 2. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

Section 405(2) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "$3,500,000" and inserting "$5,000,000".

Approved July 16, 1990.

LEGISLATIVE HISTORY—H.R. 4525:

HOUSE REPORTS: No. 101-502, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 25, considered and passed House.
June 28, considered and passed Senate.

Public Law 101-335
101st Congress

An Act

Amending subchapter III of chapter 84 of title 5, United States Code.

July 17, 1990
[H.R. 2514]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Thrift Savings Plan Technical Amendments Act of 1990.
Government organization and employees.
Retirement.
5 USC 8401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thrift Savings Plan Technical Amendments Act of 1990".

SEC. 2. CORRECTION OF EMPLOYING AGENCY ERRORS RELATING TO THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—

(1) AMENDMENT TO CHAPTER 84.—Chapter 84 of title 5, United States Code, is amended by inserting after section 8432 the following:

"§ 8432a. Payment of lost earnings

"(a)(1) The Executive Director shall prescribe regulations under which an employing agency shall be required to pay to the Thrift Savings Fund amounts representing lost earnings resulting from errors (including errors of omission) made by such agency in carrying out this subchapter, subject to paragraph (2). Regulations.

"(2) If the error involves an employing agency's failure to deduct from basic pay contributions (in whole or in part) on behalf of an individual in accordance with section 8432(a), the regulations shall not provide for the payment of any lost earnings which would be attributable to—

"(A) the contributions that the agency failed to deduct from basic pay in accordance with section 8432(a); or

"(B) any related contributions under section 8432(c)(2) that the employing agency is not required (by statute or otherwise) to make up.

"(b) The regulations—

"(1) shall include—

"(A) procedures for computing lost earnings; and

"(B) procedures under which amounts paid to the Thrift Savings Fund under this section shall be credited to appropriate accounts;

"(2) may provide for exceptions from the requirements of this section to the extent that correction of an error is not administratively feasible;

"(3) may require an employing agency to reimburse the Thrift Savings Fund for costs incurred by the Thrift Savings Fund in implementing corrections of employing agency errors under this section; and

"(4) may include such other provisions as the Executive Director determines appropriate to carry out this section.

"(c) Any amounts required to be paid by an employing agency under this section shall be paid from the appropriation or fund

available to the employing agency for payment of salaries of the participant's office or establishment. If a participant in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House of Representatives the amount required to be paid to correct errors relating to the Thrift Savings Fund that otherwise would be paid from the appropriation or fund used to pay the participant."

(2) CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8432 the following:

"8432a. Payment of lost earnings."

5 USC 8432a note.

(b) APPLICABILITY.—The amendments made by this section shall apply with respect to lost earnings attributable to errors made before, on, or after the date of enactment of this Act.

SEC. 3. REMOVAL OF RESTRICTIONS RELATING TO THE INVESTMENT OF AMOUNTS IN THE THRIFT SAVINGS FUND.

(a) IN GENERAL.—Section 8438 of title 5, United States Code, is amended—

(1) by striking subsection (e) and redesignating subsections (f) through (i) as subsections (e) through (h), respectively;

(2) in subsection (b)(1)(A), by striking "subsection (f)" and inserting "subsection (e)";

(3) in subsection (c)(1), by striking "Subject to subsection (e), the" and inserting "The";

(4) in subsection (d)(1), by striking "and not subject to subsection (e)";

(5) in paragraphs (1) and (2) of subsection (g) (as so redesignated by paragraph (1)), by striking "subsection (f)" and inserting "subsection (e)", and in paragraph (3) of subsection (g) (as so redesignated), by striking "subsection (f)(2)" and inserting "subsection (e)(2)";

(6) in subsection (g)(6) (as so redesignated by paragraph (1)), by striking "subsection (i)" and inserting "subsection (h)"; and

(7) in paragraph (1) of subsection (h) (as so redesignated by paragraph (1)), by striking "subsection (h)" and inserting "subsection (g)", and in paragraph (2) of subsection (h) (as so redesignated), by striking "subsection (f)" and inserting "subsection (e)".

(b) REMOVAL OF INVESTMENT RESTRICTIONS AFFECTING CSRS PARTICIPANTS AND OTHERS.—

(1) CSRS PARTICIPANTS.—Section 8351(b)(8) of title 5, United States Code, is repealed.

(2) JUSTICES AND JUDGES.—Subsection (b) of the first section 8440a of title 5, United States Code, is amended by striking paragraph (6) and redesignating paragraph (7) as paragraph (6).

(3) BANKRUPTCY JUDGES AND MAGISTRATES.—Section 8440b(b) of title 5, United States Code (as so redesignated by section 9) is amended by striking paragraph (7) and redesignating paragraph (8) as paragraph (7).

5 USC 8438 note.

(4) OTHERS.—Any other provision of law, in effect on the date of enactment of this Act, which provides that any amounts contributed to the Thrift Savings Fund, or earnings thereon, may be invested or reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of title 5, United States Code, shall cease to be effective.

(c) EFFECTIVE DATE.—Subsections (a) and (b), and the amendments made by such subsections, shall be effective as of the second election period described in section 8432(b) of title 5, United States Code, beginning after the date of enactment of this Act, or as of such earlier date as the Executive Director may by regulation prescribe. 5 USC 8351 note.

SEC. 4. EXEMPTION OF THRIFT SAVINGS PLAN ANNUITIES FROM STATE AND LOCAL PREMIUM TAXES.

(a) IN GENERAL.—Section 8434 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any amount paid to purchase an annuity contract under this section.

"(2) Paragraph (1) shall not be construed to exempt any company or other entity issuing an annuity contract under this section from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that entity from the sale of an annuity contract under this section if that tax, fee, or payment is applicable to a broad range of business activity."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of enactment of this Act. 5 USC 8434 note.

SEC. 5. CLARIFYING AMENDMENTS RELATING TO AN ANNUITY'S COMMENCEMENT DATE.

(a) AMENDMENTS TO SECTION 8433.—

(1) RELATING TO DEADLINE FOR CHANGING AN ELECTION.—Section 8433(f)(3)(A) of title 5, United States Code, is amended by striking "an annuity elected by the former employee or Member commences." and inserting "an annuity contract is purchased to provide for the annuity elected by the former employee or Member."

(2) RELATING TO RESTRICTIONS CONCERNING DEFERRED ANNUITIES.—Section 8433(f)(3)(B) of title 5, United States Code, is amended to read as follows:

"(B) A modification of a date may not be made under paragraph (2) on or after the date on which an annuity contract is purchased to provide for the annuity involved, and may not specify a date for the commencement of an annuity earlier than 90 days after the date on which the modification is submitted to the Executive Director (or such period shorter than 90 days as the Executive Director may by regulation prescribe)."

(b) AMENDMENTS TO SECTION 8434.—

(1) RELATING TO DEADLINE FOR CHANGING AN ELECTION.—Section 8434(b) of title 5, United States Code, is amended by striking "the annuity commences," and inserting "an annuity contract is purchased to provide for that annuity,".

(2) RELATING TO THE PURCHASE OF ANNUITY CONTRACTS.—Section 8434(d)(1) of title 5, United States Code, is amended by striking "At the time an annuity is to commence under this subchapter," and inserting "Not earlier than 90 days (or such shorter period as the Executive Director may by regulation prescribe) before an annuity is to commence under this subchapter,".

(c) AMENDMENTS TO SECTION 8435.—

(1) DETERMINATION OF MARITAL STATUS.—Section 8435(c)(1) of title 5, United States Code, is amended—

(A) by inserting "an annuity contract is purchased to provide for" after "the date on which"; and

(B) by striking "commences".

(2) DEADLINE FOR RECEIPT OF NOTIFICATION.—Section 8435(d)(2)(B)(ii) of title 5, United States Code, is amended by striking "the annuity commences," and inserting "an annuity contract is purchased to provide for the annuity,".

5 USC 8433 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as of April 1, 1987.

SEC. 6. PROVISIONS RELATING TO ACCOUNTS HAVING A FINAL BALANCE OF $3,500 OR LESS.

(a) IN GENERAL.—

(1) DEFINITION.—Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (30), by striking the final "and";

(B) in paragraph (31), by striking "States." and inserting "States; and"; and

(C) by adding at the end the following:

"(32) the term 'nonforfeitable account balance' means any amounts in an account, established and maintained under subchapter III, which are nonforfeitable (as determined under section 8432(g))."

(2) PAYMENT OF NONFORFEITABLE ACCOUNT BALANCE IN CASE OF NONELECTION.—Section 8433(h) of title 5, United States Code, is amended to read as follows:

"(h)(1) Notwithstanding subsection (d), if an employee or Member separates from Government employment before becoming entitled to a deferred annuity under subchapter II, and such employee's or Member's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in subsection (e).

"(2) Notwithstanding subsections (b) and (c), if an employee or Member separates from Government employment under circumstances making such employee or Member eligible to make an election under either of those subsections, and such employee's or Member's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under subsection (b) or (c), as applicable.

"(3) Unless otherwise elected under this section, and subject to paragraphs (1) and (2), benefits under this subchapter shall be paid as an annuity commencing for an employee, Member, former employee, or former Member on February 1 of the year following the latest of the year in which—

"(A) the employee, Member, former employee, or former Member becomes 65 years of age;

"(B) occurs the tenth anniversary of the year in which the employee, Member, former employee, or former Member became subject to this subchapter; or

"(C) the employee, Member, former employee, or former Member separates from Government employment."

(3) WAIVER OF NOTIFICATION REQUIREMENTS.—Section 8435 of title 5, United States Code, is amended by redesignating subsection (h) as subsection (i), and by inserting after subsection (g) the following:

"(h) Except with respect to the making of loans under section 8433(i), none of the provisions of this section requiring notification to, or the consent or waiver of, a spouse or former spouse of an employee, Member, former employee, or former Member shall apply in any case in which the nonforfeitable account balance of the employee, Member, former employee, or former Member is $3,500 or less."

(b) CONFORMING AMENDMENTS.—

(1) CSRS.—Section 8351(b) of title 5, United States Code, as amended by section 3(b)(1), is further amended—

(A) by adding after paragraph (7) the following:

"(8) Notwithstanding paragraph (6), if an employee or Member who elects to make contributions to the Thrift Savings Fund under subsection (a) separates from Government employment before becoming entitled to a deferred or immediate annuity under this subchapter, and such employee's or Member's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(9) Notwithstanding paragraphs (4) and (5), if an employee or Member separates from Government employment under circumstances making such employee or Member eligible to make an election under subsection (b) or (c) of section 8433, and such employee's or Member's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the employee or Member elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under such subsection (b) or (c), as applicable.

"(10) For the purpose of this section, the term 'nonforfeitable account balance' has the same meaning as under section 8401(32)."; and

(B) by inserting after paragraph (7)(C) the following:

"(D) Except with respect to the making of loans under section 8433(i), none of the provisions of this paragraph requiring notification to a spouse or former spouse of an employee, Member, former employee, or former Member shall apply in any case in which the nonforfeitable account balance of the employee, Member, former employee, or former Member is $3,500 or less."

(2) JUSTICES AND JUDGES.—Subsection (b) of the first section 8440a of title 5, United States Code, as amended by section 3(b)(2), is further amended by adding at the end the following:

"(7) Notwithstanding paragraph (5), if any justice or judge who elects to make contributions to the Thrift Savings Fund under

subsection (a) resigns without having met the age and service requirements set forth in section 371(c) of title 28, and such justice's or judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(8) Notwithstanding paragraph (4), if any justice or judge retires under subsection (a) or (b) of section 371 or section 372(a) of title 28, and such justice's or judge's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the justice or judge elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under section 8433(b)."

(3) BANKRUPTCY JUDGES AND MAGISTRATES.—Subsection (b) of section 8440b of title 5, United States Code (as so redesignated by section 9, and as amended by section 3(b)(3)) is further amended by adding at the end the following:

"(8) Notwithstanding paragraph (4)(C), if any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, and such bankruptcy judge's or magistrate's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, to have the nonforfeitable account balance transferred to an eligible retirement plan as provided in section 8433(e).

"(9) Notwithstanding subparagraphs (A) and (B) of paragraph (4), if any bankruptcy judge or magistrate retires under circumstances making such bankruptcy judge or magistrate eligible to make an election under subsection (b) or (c) of section 8433, and such bankruptcy judge's or magistrate's nonforfeitable account balance is $3,500 or less, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment unless the bankruptcy judge or magistrate elects, at such time and otherwise in such manner as the Executive Director prescribes, one of the options available under such subsection (b) or (c), as applicable."

Regulations.
5 USC 8433 note.

(4) OTHERS.—The Executive Director (as appointed under section 8474(a) of title 5, United States Code) shall prescribe regulations under which the purposes of the amendments made by this section shall be carried out with respect to any individuals participating in the Thrift Savings Plan who would not otherwise be affected by this section.

5 USC 8351 note.

(c) EFFECTIVE DATE.—This section, and the amendments made by this section, shall be effective as of the second election period described in section 8432(b) of title 5, United States Code, beginning after the date of enactment of this Act (or as of such earlier date as the Executive Director may by regulation prescribe), and shall apply with respect to separations occurring before, on, or after that effective date.

SEC. 7. ELECTION TO REMAIN SUBJECT TO CERTAIN PROVISIONS RELATING TO CAREER APPOINTEES.

(a) IN GENERAL.—Section 3392(c) of title 5, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsection (c) as subsection (c)(1); and

(3) by adding at the end the following:

"(2) An election under paragraph (1) may also be made by any career appointee who is appointed to a civilian position in the executive branch—

"(A) which is not in the Senior Executive Service; and

"(B) which is covered by the Executive Schedule, or the rate of basic pay for which is fixed by statute at a rate equal to 1 of the levels of the Executive Schedule.

An election under this paragraph shall remain effective so long as the appointee continues to serve in the same position."

(b) EFFECTIVE DATE; ELECTION BY PERSONS PREVIOUSLY APPOINTED.— 5 USC 3392 note.

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

(2) ELECTION BY PERSONS PREVIOUSLY APPOINTED.—The Office of Personnel Management shall prescribe regulations (including procedures and deadlines) under which an election under section 3392(c)(2) of title 5, United States Code (as amended by this section) may be made by any individual who— Regulations.

(A) on the date of enactment of this Act, is serving in a civilian position in the executive branch which—

(i) is not in the Senior Executive Service; and

(ii) satisfies section 3392(c)(2)(B) of such title 5 (as so amended);

(B) was appointed to that position on or after November 1, 1986, and has served continuously in such position since then;

(C) was a career appointee (within the meaning of section 3132(a)(4) of such title 5) immediately before having been so appointed; and

(D) was not, based on such individual's appointment to the position described in subparagraph (A), eligible to make an election under section 3392(c) of such title 5 (as then in effect).

An election under this paragraph shall be effective as of the date of appointment to the position described in subparagraph (A).

SEC. 8. REPEAL.

Subsection (c) of section 133 of Public Law 100-238 (5 U.S.C. 8477 note) is repealed.

SEC. 9. TECHNICAL CORRECTION.

(a) SECTION REDESIGNATION.—Chapter 84 of title 5, United States Code, is amended by redesignating the second section 8440a thereof (relating to bankruptcy judges and magistrates) as section 8440b.

(b) TABLE OF SECTIONS.—The table of sections for chapter 84 of title 5, United States Code, is amended by striking the item relating to the second section 8440a and inserting the following:

"8440b. Bankruptcy judges and magistrates."

Approved July 17, 1990.

LEGISLATIVE HISTORY—H.R. 2514:

HOUSE REPORTS: No. 101-452 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed House.
June 27, considered and passed Senate.

Public Law 101-336
101st Congress

An Act

To establish a clear and comprehensive prohibition of discrimination on the basis of disability.

July 26, 1990
[S. 933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Americans with Disabilities Act of 1990.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

42 USC 12101 note.

(a) SHORT TITLE.—This Act may be cited as the "Americans with Disabilities Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.

TITLE I—EMPLOYMENT

Sec. 101. Definitions.
Sec. 102. Discrimination.
Sec. 103. Defenses.
Sec. 104. Illegal use of drugs and alcohol.
Sec. 105. Posting notices.
Sec. 106. Regulations.
Sec. 107. Enforcement.
Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

Sec. 201. Definition.
Sec. 202. Discrimination.
Sec. 203. Enforcement.
Sec. 204. Regulations.
Sec. 205. Effective date.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

Sec. 221. Definitions.
Sec. 222. Public entities operating fixed route systems.
Sec. 223. Paratransit as a complement to fixed route service.
Sec. 224. Public entity operating a demand responsive system.
Sec. 225. Temporary relief where lifts are unavailable.
Sec. 226. New facilities.
Sec. 227. Alterations of existing facilities.
Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.

Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in specified public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

TITLE IV—TELECOMMUNICATIONS

Sec. 401. Telecommunications relay services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.

TITLE V—MISCELLANEOUS PROVISIONS

Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Coverage of Congress and the agencies of the legislative branch.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

42 USC 12101.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies,

failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. DEFINITIONS. 42 USC 12102.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term "auxiliary aids and services" includes—

(A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;

(B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(C) acquisition or modification of equipment or devices; and

(D) other similar services and actions.

(2) DISABILITY.—The term "disability" means, with respect to an individual—

(A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;

(B) a record of such an impairment; or

(C) being regarded as having such an impairment.

(3) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT

42 USC 12111.

SEC. 101. DEFINITIONS.

As used in this title:

(1) COMMISSION.—The term "Commission" means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).

(2) COVERED ENTITY.—The term "covered entity" means an employer, employment agency, labor organization, or joint labor-management committee.

(3) DIRECT THREAT.—The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.

(4) EMPLOYEE.—The term "employee" means an individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term "employer" does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms "person", "labor organization", "employment agency", "commerce", and "industry affecting commerce", shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term "reasonable accommodation" may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term "undue hardship" means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. DISCRIMINATION. 42 USC 12112.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compen-

sation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term "discriminate" includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity's qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. DEFENSES. 42 USC 12113.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity,

and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) QUALIFICATION STANDARDS.—The term "qualification standards" may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) RELIGIOUS ENTITIES.—

(1) IN GENERAL.—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) RELIGIOUS TENETS REQUIREMENT.—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) LIST OF INFECTIOUS AND COMMUNICABLE DISEASES.—

(1) IN GENERAL.—The Secretary of Health and Human Services, not later than 6 months after the date of enactment of this Act, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

Public information.

(D) widely disseminate such information regarding the list of diseases and their modes of transmissability to the general public.

Such list shall be updated annually.

(2) APPLICATIONS.—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) CONSTRUCTION.—Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissability published by the Secretary of Health and Human Services.

42 USC 12114.

SEC. 104. ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) QUALIFIED INDIVIDUAL WITH A DISABILITY.—For purposes of this title, the term "qualified individual with a disability" shall not include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation, if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are

employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) TRANSPORTATION EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

42 USC 12115.

SEC. 105. POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–10).

42 USC 12116.

SEC. 106. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

42 USC 12117.

SEC. 107. ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4, 2000e–5, 2000e–6, 2000e–8, and 2000e–9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and

Regulations.

part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

SEC. 108. EFFECTIVE DATE. 42 USC 12111 note.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. DEFINITION. 42 USC 12131.

As used in this title:

(1) PUBLIC ENTITY.—The term "public entity" means—

(A) any State or local government;

(B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and

(C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

(2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term "qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

SEC. 202. DISCRIMINATION. 42 USC 12132.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. ENFORCEMENT. 42 USC 12133.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. REGULATIONS. 42 USC 12134.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) RELATIONSHIP TO OTHER REGULATIONS.—Except for "program accessibility, existing facilities", and "communications", regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to "program accessibility, existing facilities", and "communications", such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) STANDARDS.—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

42 USC 12131 note.

SEC. 205. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

42 USC 12141.

SEC. 221. DEFINITIONS.

As used in this part:

(1) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing designated public transportation which is not a fixed route system.

(2) DESIGNATED PUBLIC TRANSPORTATION.—The term "designated public transportation" means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) OPERATES.—The term "operates", as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) PUBLIC SCHOOL TRANSPORTATION.—The term "public school transportation" means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 222. PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS. 42 USC 12142.

(a) PURCHASE AND LEASE OF NEW VEHICLES.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) PURCHASE AND LEASE OF USED VEHICLES.—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended;

unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph

(1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

42 USC 12143.

SEC. 223. PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to one other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying

the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Secretary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) ADDITIONAL SERVICES.—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) PUBLIC PARTICIPATION.—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) PLANS.—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) PROVISION OF SERVICES BY OTHERS.—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) OTHER PROVISIONS.—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) REVIEW OF PLAN.—

(1) GENERAL RULE.—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) DISAPPROVAL.—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term "discrimination" includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

42 USC 12144.

SEC. 224. PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable

by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE. 42 USC 12145.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. NEW FACILITIES. 42 USC 12146.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. ALTERATIONS OF EXISTING FACILITIES. 42 USC 12147.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or

access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least ⅔ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

42 USC 12148.

SEC. 228. PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C.

794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (relating to alterations) or section 227(b) (relating to key stations).

(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. REGULATIONS. 42 USC 12149.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. INTERIM ACCESSIBILITY REQUIREMENTS. 42 USC 12150.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of

such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

42 USC 12141 note.

SEC. 231. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

42 USC 12161.

SEC. 241. DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term "commuter authority" has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C. 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term "commuter rail transportation" has the meaning given the term "commuter service" in section 103(9) of the Rail Passenger Service Act (45 U.S.C. 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term "intercity rail transportation" means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term "rail passenger car" means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term "responsible person" means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term "station" means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and, where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY. 42 USC 12162.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or

(iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

(i) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

(ii) a number of spaces—

(I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

(II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to

purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the

maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

42 USC 12163.

SEC. 243. CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

42 USC 12164.

SEC. 244. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

42 USC 12165.

SEC. 245. INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is

issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242 (a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. EFFECTIVE DATE. 42 USC 12161 note.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

SEC. 301. DEFINITIONS. 42 USC 12181.

As used in this title:

(1) COMMERCE.—The term "commerce" means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) COMMERCIAL FACILITIES.—The term "commercial facilities" means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) DEMAND RESPONSIVE SYSTEM.—The term "demand responsive system" means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) FIXED ROUTE SYSTEM.—The term "fixed route system" means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) OVER-THE-ROAD BUS.—The term "over-the-road bus" means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) PRIVATE ENTITY.—The term "private entity" means any entity other than a public entity (as defined in section 201(1)).

(7) PUBLIC ACCOMMODATION.—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms "rail" and "railroad" have the meaning given the term "railroad" in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term "readily achievable" means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the

impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term "specified public transportation" means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term "vehicle" does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS. 42 USC 12182.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privi-

lege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term "individual or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fun-

damentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retrofitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily

accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

42 USC 12183.

SEC. 303. NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and

scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES. 42 USC 12184.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) CONSTRUCTION.—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following

the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term "historical or antiquated rail passenger car" means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

42 USC 12185.

SEC. 305. STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year. President of U.S.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. REGULATIONS. 42 USC 12186.

(a) TRANSPORTATION PROVISIONS.—

(1) GENERAL RULE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections

302(b)(2) (B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—

(A) INTERIM REQUIREMENTS.—

(i) ISSUANCE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) EFFECTIVE PERIOD.—The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) FINAL REQUIREMENT.—

(i) REVIEW OF STUDY AND INTERIM REQUIREMENTS.—The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) ISSUANCE.—Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) EFFECTIVE PERIOD.—Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 7 years after the date of the enactment of this Act; and

(II) with respect to other providers of transportation, 6 years after such date of enactment.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not

referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS. 42 USC 12187.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000-a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. ENFORCEMENT. 42 USC 12188.

(a) IN GENERAL.—

(1) AVAILABILITY OF REMEDIES AND PROCEDURES.—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a-3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of

section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) INJUNCTIVE RELIEF.—In the case of violations of sections 302(b)(2)(A)(iv) and section 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—

(1) DENIAL OF RIGHTS.—

(A) DUTY TO INVESTIGATE.—

(i) IN GENERAL.—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) ATTORNEY GENERAL CERTIFICATION.—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance,

the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding $50,000 for a first violation; and

(ii) not exceeding $100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term "monetary damages" and "such other relief" does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. EXAMINATIONS AND COURSES. 42 USC 12189.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or post-secondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. EFFECTIVE DATE. 42 USC 12181 note.

(a) GENERAL RULE.—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) CIVIL ACTIONS.—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of $1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of $500,000 or less.

(c) EXCEPTION.—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

SEC. 401. TELECOMMUNICATIONS RELAY SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

(a) TELECOMMUNICATIONS.—Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

State and local governments.
47 USC 225.

"SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

"(a) DEFINITIONS.—As used in this section—

"(1) COMMON CARRIER OR CARRIER.—The term 'common carrier' or 'carrier' includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

"(2) TDD.—The term 'TDD' means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

"(3) TELECOMMUNICATIONS RELAY SERVICES.—The term 'telecommunications relay services' means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

"(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

"(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

"(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

"(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the

regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

"(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission's regulations under subsection (d); or

"(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

"(d) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

"(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

"(B) establish minimum standards that shall be met in carrying out subsection (c);

"(C) require that telecommunications relay services operate every day for 24 hours per day;

"(D) require that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

"(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

"(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

"(G) prohibit relay operators from intentionally altering a relayed conversation.

"(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

"(3) JURISDICTIONAL SEPARATION OF COSTS.—

"(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

"(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications

relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

"(e) ENFORCEMENT.—

"(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

"(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

"(f) CERTIFICATION.—

"(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

"(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

"(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intrastate telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

"(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

"(3) METHOD OF FUNDING.—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

"(4) SUSPENSION OR REVOCATION OF CERTIFICATION.—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

"(g) COMPLAINT.—

"(1) REFERRAL OF COMPLAINT.—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

"(2) JURISDICTION OF COMMISSION.—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

"(A) final action under such State program has not been taken on such complaint by such State—

"(i) within 180 days after the complaint is filed with such State; or

"(ii) within a shorter period as prescribed by the regulations of such State; or

"(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).".

(b) CONFORMING AMENDMENTS.—The Communications Act of 1934 (47 U.S.C. 151 et seq.) is amended—

(1) in section 2(b) (47 U.S.C. 152(b)), by striking "section 224" and inserting "sections 224 and 225"; and

(2) in section 221(b) (47 U.S.C. 221(b)), by striking "section 301" and inserting "sections 225 and 301".

SEC. 402. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

Section 711 of the Communications Act of 1934 is amended to read as follows: 47 USC 611.

"SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

"Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

"(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

"(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.".

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. CONSTRUCTION. 42 USC 12201.

(a) IN GENERAL.—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) RELATIONSHIP TO OTHER LAWS.—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) INSURANCE.—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms

of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title I and III.

(d) ACCOMMODATIONS AND SERVICES.—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

42 USC 12202.

SEC. 502. STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

42 USC 12203.

SEC. 503. PROHIBITION AGAINST RETALIATION AND COERCION.

(a) RETALIATION.—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) INTERFERENCE, COERCION, OR INTIMIDATION.—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) REMEDIES AND PROCEDURES.—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

42 USC 12204.

SEC. 504. REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ISSUANCE OF GUIDELINES.—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) CONTENTS OF GUIDELINES.—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) QUALIFIED HISTORIC PROPERTIES.—

(1) IN GENERAL.—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for

alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards.

(3) OTHER SITES.—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. ATTORNEY'S FEES. 42 USC 12205.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. TECHNICAL ASSISTANCE. 42 USC 12206.

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) RENDERING ASSISTANCE.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the

plan for assistance developed under subsection (a), for title I.

(B) TITLE II.—

(i) SUBTITLE A.—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) SUBTITLE B.—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

42 USC 12207.

SEC. 507. FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

(2) DEFINITION.—For purposes of paragraph (1), the term "wheelchair" means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

SEC. 508. TRANSVESTITES. 42 USC 12208.

For the purposes of this Act, the term "disabled" or "disability" shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH. 42 USC 12209.

(a) COVERAGE OF THE SENATE.—

(1) COMMITMENT TO RULE XLII.—The Senate reaffirms its commitment to Rule XLII of the Standing Rules of the Senate which provides as follows:

"No member, officer, or employee of the Senate shall, with respect to employment by the Senate or any office thereof—

"(a) fail or refuse to hire an individual;

"(b) discharge an individual; or

"(c) otherwise discriminate against an individual with respect to promotion, compensation, or terms, conditions, or privileges of employment

on the basis of such individual's race, color, religion, sex, national origin, age, or state of physical handicap.".

(2) APPLICATION TO SENATE EMPLOYMENT.—The rights and protections provided pursuant to this Act, the Civil Rights Act of 1990 (S. 2104, 101st Congress), the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973 shall apply with respect to employment by the United States Senate.

(3) INVESTIGATION AND ADJUDICATION OF CLAIMS.—All claims raised by any individual with respect to Senate employment, pursuant to the Acts referred to in paragraph (2), shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(4) RIGHTS OF EMPLOYEES.—The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the Acts referred to in paragraph (2).

(5) APPLICABLE REMEDIES.—When assigning remedies to individuals found to have a valid claim under the Acts referred to in paragraph (2), the Select Committee on Ethics, or such other entity as the Senate may designate, should to the extent

practicable apply the same remedies applicable to all other employees covered by the Acts referred to in paragraph (2). Such remedies shall apply exclusively.

(6) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the Senate regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) PROPOSED REMEDIES AND PROCEDURES.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Senate Committee on Rules and Administration. The remedies and procedures shall be effective upon the approval of the Committee on Rules and Administration.

(7) EXERCISE OF RULEMAKING POWER.—Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (2) and (6)(A) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraph (1), (3), (4), (5), (6)(B), and (6)(C) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or of law, the purposes of this Act shall, subject to paragraphs (2) and (3), apply in their entirety to the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.—

(A) APPLICATION.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.—

(i) IN GENERAL.—In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.—The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(C) EXERCISE OF RULEMAKING POWER.—The provisions of subparagraph (B) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

(3) MATTERS OTHER THAN EMPLOYMENT.—

(A) IN GENERAL.—The rights and protections under this Act shall, subject to subparagraph (B), apply with respect to the conduct of the House of Representatives regarding matters other than employment.

(B) REMEDIES.—The Architect of the Capitol shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to subparagraph (A). Such remedies and procedures shall apply exclusively, after approval in accordance with subparagraph (C).

(C) APPROVAL.—For purposes of subparagraph (B), the Architect of the Capitol shall submit proposed remedies and procedures to the Speaker of the House of Representatives. The remedies and procedures shall be effective upon the approval of the Speaker, after consultation with the House Office Building Commission.

(c) INSTRUMENTALITIES OF CONGRESS.—

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1). Such remedies and procedures shall apply exclusively.

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities of the Congress include the following: the Architect of the Capitol, the Congressional Budget Office, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the United States Botanic Garden.

(5) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

SEC. 510. ILLEGAL USE OF DRUGS. 42 USC 12210.

(a) IN GENERAL.—For purposes of this Act, the term "individual with a disability" does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term "illegal use of drugs" means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term "drug" means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

42 USC 12211.

SEC. 511. DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of "disability" in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term "disability" shall not include—

(1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

(2) compulsive gambling, kleptomania, or pyromania; or

(3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

(a) DEFINITION OF HANDICAPPED INDIVIDUAL.—Section 7(8) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)) is amended by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following subparagraph:

"(C)(i) For purposes of title V, the term 'individual with handicaps' does not include an individual who is currently engaging in the illegal use of drugs, when a covered entity acts on the basis of such use.

"(ii) Nothing in clause (i) shall be construed to exclude as an individual with handicaps an individual who—

"(I) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

"(II) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

"(III) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in subclause (I) or (II) is no longer engaging in the illegal use of drugs.

"(iii) Notwithstanding clause (i), for purposes of programs and activities providing health services and services provided under titles I, II and III, an individual shall not be excluded from the benefits of such programs or activities on the basis of his or her current illegal use of drugs if he or she is otherwise entitled to such services.

"(iv) For purposes of programs and activities providing educational services, local educational agencies may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any handicapped student who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against nonhandicapped students. Furthermore, the due process procedures at 34 CFR 104.36 shall not apply to such disciplinary actions.

"(v) For purposes of sections 503 and 504 as such sections relate to employment, the term 'individual with handicaps' does not include any individual who is an alcoholic whose current use of alcohol prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.".

(b) DEFINITION OF ILLEGAL DRUGS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended by adding at the end the following new paragraph:

"(22)(A) The term 'drug' means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812).

"(B) The term 'illegal use of drugs' means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.".

(c) CONFORMING AMENDMENTS.—Section 7(8)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 706(8)(B)) is amended—

(1) in the first sentence, by striking "Subject to the second sentence of this subparagraph," and inserting "Subject to subparagraphs (C) and (D),"; and

(2) by striking the second sentence.

SEC. 513. ALTERNATIVE MEANS OF DISPUTE RESOLUTION. 42 USC 12212.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials,

and arbitration, is encouraged to resolve disputes arising under this Act.

42 USC 12213.

SEC. 514. SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

Approved July 26, 1990.

LEGISLATIVE HISTORY—S. 933 (H.R. 2273):

HOUSE REPORTS: No. 101-485, Pt. 1 (Comm. on Public Works and Transportation), Pt. 2 (Comm. on Education and Labor), Pt. 3 (Comm. on the Judiciary), and Pt. 4 (Comm. on Energy and Commerce) all accompanying H.R. 2273; and Nos. 101-558 and 101-596 both from (Comm. of Conference).

SENATE REPORTS: No. 101-116 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Sept. 7, considered and passed Senate.

Vol. 136 (1990): May 17, 22, H.R. 2273 considered and passed House; S. 933 passed in lieu.

July 11, Senate recommitted conference report.

July 12, House agreed to conference report.

July 13, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

July 26, Presidential remarks and statement.

Public Law 101-337
101st Congress

An Act

To improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.

July 27, 1990
[H.R. 2844]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

16 USC 19jj.

As used in this Act the term:

(a) "Attorney General" means the Attorney General of the United States.

(b) "Damages" includes the following:

(1) Compensation for—

(A)(i) the cost of replacing, restoring, or acquiring the equivalent of a park system resource; and

(ii) the value of any significant loss of use of a park system resource pending its restoration or replacement or the acquisition of an equivalent resource; or

(B) the value of the park system resource in the event the resource cannot be replaced or restored.

(2) The cost of damage assessments under section 3(b).

(c) "Response costs" means the costs of actions taken by the Secretary of the Interior to prevent or minimize destruction or loss of or injury to park system resources; or to abate or minimize the imminent risk of such destruction, loss, or injury; or to monitor ongoing effects of incidents causing such destruction, loss, or injury.

(d) "Park system resource" means any living or nonliving resource that is located within or is a living part of a marine regimen or a Great Lakes aquatic regimen (including an aquatic regimen within Voyageurs National Park) within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.

(e) "Regimen" means a water column and submerged lands, up to the high-tide or high-water line.

(f) "Secretary" means the Secretary of the Interior.

SEC. 2. LIABILITY.

16 USC 19jj-1.

(a) IN GENERAL.—Subject to subsection (c), any person who destroys, causes the loss of, or injures any park system resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

(b) LIABILITY IN REM.—Any instrumentality, including but not limited to a vessel, vehicle, aircraft, or other equipment that destroys, causes the loss of, or injures any park system resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury to the same extent as a person is liable under subsection (a).

(c) DEFENSES.—A person is not liable under this section if such person can establish that—

(1) the destruction, loss of, or injury to the park system resource was caused solely by an act of God or an act of war;

(2) such person acted with due care, and the destruction, loss of, or injury to the park system resource was caused solely by an act or omission of a third party, other than an employee or agent of such person; or

(3) the destruction, loss, or injury to the park system resource was caused by an activity authorized by Federal or State law.

(d) SCOPE.—The provisions of this section shall be in addition to any other liability which may arise under Federal or State law.

16 USC 19jj-2.

SEC. 3. ACTIONS.

(a) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—The Attorney General, upon request of the Secretary after a finding by the Secretary—

(1) of damage to a park system resource; or

(2) that absent the undertaking of response costs, damage to a park system resource would have occurred;

may commence a civil action in the United States district court for the appropriate district against any person who may be liable under section 2 for response costs and damages. The Secretary shall submit a request for such an action to the Attorney General whenever a person may be liable or an instrumentality may be liable in rem for such costs and damages as provided in section 2.

(b) RESPONSE ACTIONS AND ASSESSMENT OF DAMAGES.—(1) The Secretary shall undertake all necessary actions to prevent or minimize the destruction, loss of, or injury to park system resources, or to minimize the imminent risk of such destruction, loss, or injury.

(2) The Secretary shall assess and monitor damages to park system resources.

16 USC 19jj-3.

SEC. 4. USE OF RECOVERED AMOUNTS.

Response costs and damages recovered by the Secretary under the provisions of this Act or amounts recovered by the Federal Government under any Federal, State, or local law or regulation or otherwise as a result of damage to any living or nonliving resource located within a unit of the National Park System, except for damage to resources owned by a non-Federal entity, shall be available to the Secretary and without further congressional action may be used only as follows:

(a) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—To reimburse response costs and damage assessments by the Secretary or other Federal agencies as the Secretary deems appropriate.

(b) RESTORATION AND REPLACEMENT.—To restore, replace, or acquire the equivalent of resources which were the subject of the action and to monitor and study such resources: *Provided,* That no such funds may be used to acquire any lands or waters or interests therein or rights thereto unless such acquisition is specifically approved in advance in appropriations Acts and any such acquisition shall be subject to any limitations contained in the organic legislation for such park unit.

(c) EXCESS FUNDS.—Any amounts remaining after expenditures pursuant to subsections (a) and (b) shall be deposited into the General Fund of the United States Treasury.

(d) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Appropriations and the Committee on Energy and Natural Resources of the United States

Senate and the Committee on Appropriations and the Committee on Interior and Insular Affairs of the United States House of Representatives on funds expended pursuant to this Act. The report shall contain a detailed analysis and accounting of all funds recovered and expended, including, but not limited to, donations received pursuant to section 5, projects undertaken, and monies returned to the Treasury.

SEC. 5. DONATIONS. 16 USC 19jj-4.

The Secretary may accept donations of money or services for expenditure or employment to meet expected, immediate, or ongoing response costs. Such donations may be expended or employed at any time after their acceptance, without further congressional action.

Approved July 27, 1990.

LEGISLATIVE HISTORY—H.R. 2844:

SENATE REPORTS: No. 101-328 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 19, considered and passed House.
Vol. 136 (1990): June 19, considered and passed Senate, amended.
July 10, House concurred in Senate amendment.

Public Law 101-338
101st Congress

Joint Resolution

July 27, 1990
[S.J. Res. 276]

Designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week".

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Borrelia Burgdorferi;
Whereas these ticks are no larger than the head of a pin;
Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;
Whereas these ticks can be transferred from domestic animals to humans;
Whereas Lyme disease was first diagnosed in southeastern Connecticut and has spread to 43 States;
Whereas the Centers for Disease Control has reported more than 21,000 cases of Lyme disease since 1982;
Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);
Whereas the early symptoms of Lyme disease may be a bulls-eye rash, severe headaches, fever, and swollen glands;
Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;
Whereas if left untreated, Lyme disease can cause severe damage to the heart, brain and joints;
Whereas the best cure for Lyme disease is prevention;
Whereas prevention of Lyme disease depends upon public awareness; and
Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 22, 1990, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved July 27, 1990.

LEGISLATIVE HISTORY—S.J. Res. 276:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
July 17, considered and passed House.

Public Law 101-339
101st Congress

Joint Resolution

Relating to NASA and the International Space Year.

July 31, 1990
[S.J. Res. 75]

Whereas in 1985 Congress proposed an International Space Year (ISY) for 1992, commemorating the 500th anniversary of Columbus' voyage to the New World and the 35th anniversary of the International Geophysical Year that ushered in the space age;

Whereas Congress also requested the President to endorse the ISY and to initiate interagency and international discussions for an ISY;

Whereas in 1986 President Reagan endorsed the ISY and reported to Congress that NASA had found worldwide support for an ISY in 1992, consisting of space activities coordinated on a global basis, and the President directed NASA to move the concept forward internationally and to lead an interagency effort for domestic activities;

Whereas NASA has exercised admirable leadership, through the Office of Space Science and Applications and the Division of International Relations, in establishing the Space Agency Forum on ISY (SAFISY) to coordinate ISY planning, with a current worldwide membership of 25 national space agencies or equivalent bodies;

Whereas SAFISY planning is accelerating, with particular emphasis on coordinating current and planned space agency activities so as to improve efficiency and maximize scientific and economic return on space investments; and

Whereas the ISY also is generating numerous educational activities, including classroom activities, films, television programs, that will greatly improve public understanding of the significance and potential of the space age: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that the President should—

(1) reaffirm support for the ISY and invite foreign leaders to do the same;

(2) support the World Space Congress, to be convened in 1992, in its efforts to encourage cooperative space activities among nations in space science, space exploration, and the application of space technology;

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(3) invite the American public to develop ISY activities that foster the global perspective of the ISY;

(4) direct NASA to continue to develop ISY activities through SAFISY, with a primary emphasis on Mission to Planet Earth, but also with a strong emphasis on the other space sciences, human exploration, education, and developing nations applications; and

(5) report to Congress at the earliest practicable date, but no later than September 1, 1990, on the steps taken to carry out items (1) through (4) above, including a list of all current and planned NASA initiatives in each of the categories mentioned in item (4).

Approved July 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 75:

HOUSE REPORTS: No. 101-532, Pt. 1 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 7, considered and passed Senate.
June 12, considered and passed House, amended.
July 19, Senate concurred in House amendments.

Public Law 101-340
101st Congress

Joint Resolution

To designate September 13, 1990, as "National D.A.R.E. Day".

July 31, 1990
[S.J. Res. 281]

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a comprehensive program under which children from kindergarten through the 12th grade are taught how to resist the pressures of experimenting with drugs and alcohol;

Whereas the D.A.R.E. program provides parents with the information and techniques necessary to reinforce and further develop the decisions of their children to lead drug free-lives;

Whereas the D.A.R.E. program targets children at ages when they are most vulnerable to extreme peer pressure to try drugs and alcohol and teaches them how effectively to resist pressure to engage in negative behavior;

Whereas the D.A.R.E. program is now conducted in local schools in more than 2,000 communities in 49 States and in Department of Defense Overseas Dependent Schools worldwide;

Whereas more than 4,500,000 school children will be reached through the D.A.R.E. core curriculum in 1990;

Whereas, school children are sometimes more streetwise about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers having direct experience with cases involving criminal drug offenses and with people whose lives have been ruined by substance abuse;

Whereas each police officer who teaches the D.A.R.E. program completes an 80-hour training course that includes instruction in teaching techniques, relationships between officers and schools, self-esteem development, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps school children understand self-image, recognize and manage stress without using drugs or alcohol, analyze and resist media presentations about drugs and alcohol, evaluate risk-taking behavior, resist gang pressure, apply decision-making skills, and evaluate the consequences of the choices facing them;

Whereas independent research shows that the D.A.R.E program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol by contributing to improved study habits and grades, by reducing vandalism and gang activity, and by instilling greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to one of the most difficult problems facing young people today, namely drug and alcohol abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1990, is designated as "National D.A.R.E. Day", and the President is requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved July 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 281:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed House.
July 17, considered and passed Senate.

Public Law 101-341
101st Congress

Joint Resolution

To designate August 1, 1990, as "Helsinki Human Rights Day".

July 31, 1990
[S.J. Res. 339]

Whereas August 1, 1990, is the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to guarantee the effective exercise of human rights and fundamental freedoms which derive from the inherent dignity of humanity and are essential for the free and full development of that dignity;

Whereas the participating States have committed themselves to "protect and create the conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory," as well as to "respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia International Covenants on Human Rights, by which they may be bound";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are

brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have recognized that respect for human rights is an essential aspect for the protection of the environment and for economic prosperity;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States have made it their aim to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas the dramatic changes which have occurred within the last year in many signatory States have brought the human rights promises of Helsinki closer to fruition;

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, and under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas on January 19, 1989, representatives from the signatory States agreed on the Concluding Document of the Vienna Follow-Up Meeting, a document which has added clarity and precision to the obligations undertaken by the States in signing the Helsinki accords;

Whereas by agreeing to the Concluding Document, the signatory States "reaffirmed their commitment to the CSCE process and underlined its essential role in increasing confidence, in opening up new ways for cooperation, in promoting respect for human rights and fundamental freedoms and thus strengthening international security";

Whereas the Conference on Security and Cooperation in Europe of the thirty-five signatory States of the Helsinki accords has made major contributions to the positive developments in Eastern and Central Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups; and

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1990, the fifteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory nation which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing address the major problems that remain, including the question of self-determination of peoples.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Approved July 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 339:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed Senate.
July 26, considered and passed House.

Public Law 101-342
101st Congress

Joint Resolution

Aug. 2, 1990
[H.J. Res. 591]

Designating the third Sunday of August of 1990 as "National Senior Citizens Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third Sunday of August of 1990 is designated as "National Senior Citizens Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

Approved August 2, 1990.

LEGISLATIVE HISTORY—H.J. Res. 591:

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 17, considered and passed House.
July 19, considered and passed Senate.

Public Law 101-343
101st Congress

Joint Resolution

Designating the month of November 1990 as "National American Indian Heritage Month".

Aug. 3, 1990
[H.J. Res. 577]

Whereas American Indians were the original inhabitants of the lands that now constitute the United States of America;

Whereas American Indians have made an essential and unique contribution to our Nation, not the least of which is the contribution of most of the land which now comprises these United States;

Whereas American Indians have made essential contributions to the world, including prehistoric cultivation and harvesting of corn and sweet potatoes;

Whereas the people of the United States should be reminded of the assistance given to the early European visitors to North America by the ancestors of today's American Indians, including knowledge and training provided to the pilgrims in survival, hunting, and cultivation, and fertilization of indigenous crops;

Whereas the people and Government of the United States should be reminded of the assistance given to this country's Founding Fathers by the ancestors of today's American Indians, including the support the original inhabitants provided to George Washington and his troops during the winter of 1777–1778, which they spent in Valley Forge;

Whereas the people and Government of the United States should be reminded that certain concepts such as freedom of speech, the separation of powers in government, and the balance of power within government, all of which were found in the political systems of various American Indian nations, influenced the formulation of the Government of the United States of America;

Whereas the Members of the Senate and House of Representatives believe that a resolution and proclamation of the nature requested in this resolution can encourage activities which provide positive benefits of enhanced self-esteem, pride, and self-awareness to young American Indians;

Whereas the approaching 500th anniversary of the arrival of Christopher Columbus to the Western Hemisphere provides an opportunity for the people of the United States to consider and reflect on our Nation's current relationship with our American Indians; and

Whereas the month of November concludes the traditional harvest season of American Indians and was generally a time of celebration and giving thanks: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1990 is designated as "National American Indian Heritage Month", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved August 3, 1990.

LEGISLATIVE HISTORY—H.J. Res. 577:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 26, considered and passed House.
July 19, considered and passed Senate.

Public Law 101-344
101st Congress

An Act

To establish the Tumacacori National Historical Park in the State of Arizona.

Aug. 6, 1990
[H.R. 2843]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public lands.

SECTION 1. TUMACACORI NATIONAL HISTORICAL PARK.

16 USC 410ss.

(a) ESTABLISHMENT.—In order to protect and interpret, for the education and benefit of the public, sites in the State of Arizona associated with the early Spanish missionaries and explorers of the 17th and 18th centuries, there is hereby established the Tumacacori National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the existing Tumacacori National Monument, together with (1) the ruins of Los Santos Angeles de Guevavi, the first mission in Arizona (consisting of approximately 8 acres) and (2) the Kino visita and rancheria ruins of Calabazas (consisting of approximately 22 acres), each as generally depicted on the map entitled "Boundary Map, Tumacacori National Historical Park", numbered 311/80018, and dated February 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

16 USC 431 note.

(c) ABOLITION OF MONUMENT.—The Tumacacori National Monument is hereby abolished and any funds available for purposes of the monument shall be available for purposes of the park.

SEC. 2. ADMINISTRATION.

16 USC 410ss-1.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary may acquire lands or interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange.

(b) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(c) SEPARATE UNITS.—The Secretary shall provide for the identification of the Guevavi, Calabazas, and Tumacacori sites as 3 separate units of the park.

(d) RECOGNITION OF FATHER EUSEBIO FRANCISCO KINO'S ROLE.—In administering the park, the Secretary shall utilize such interpretative materials and other devices as may be necessary to give appropriate recognition to the role of the Jesuit Missionary Priest, Father Eusebio Francisco Kino, in the development of the mission sites and the settlement of the region.

Approved August 6, 1990.

LEGISLATIVE HISTORY—H.R. 2843:

HOUSE REPORTS: No. 101-418 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-362 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 13, considered and passed House.
July 23, considered and passed Senate.

Public Law 101-345
101st Congress

Joint Resolution

Designating August 6, 1990, as "Voting Rights Celebration Day".

Aug. 7, 1990
[H.J. Res. 625]

Whereas the 15th amendment to the United States Constitution guarantees the right of all citizens of the United States to vote without regard to their race or color;

Whereas, for nearly a century, the Government of the United States failed to enforce effectively the 15th amendment, thus denying African-Americans the right to exercise their voting franchise;

Whereas, in the absence of voting rights legislation, violence, harassment, intimidation, unfair tests, and other barriers to participation denied millions of United States citizens empowerment and enfranchisement in the political process;

Whereas the enactment of effective voting rights legislation was a priority of the civil rights movement for which many gave their lives;

Whereas President Lyndon Johnson declared on March 15, 1965, before a Joint Session of Congress that "every American citizen must have an equal right to vote," and that "there is no duty which weighs more heavily on us than the duty we have to insure that right";

Whereas bipartisan majorities in the House of Representatives and the Senate overwhelmingly approved the Voting Rights Act of 1965, and President Johnson signed the Act into law in a ceremony in the rotunda of the United States Capitol on August 6, 1965;

Whereas the Voting Rights Act of 1965 has been the most effective civil rights legislation for changing discriminatory practices that denied African-American, Hispanic-American, Native-American, Asian-American and other minority voters their most basic democratic rights, the right to vote and the opportunity to elect the persons they most want to represent them;

Whereas Congress has extended the Voting Rights Act of 1965 on three occasions because of its great effectiveness in expanding voter registration among minority citizens, increasing the number of African-American, Hispanic-American, Native-American, Asian-American and other minority elected officials, and causing greater and intrinsically valuable discourse between candidates for elective office and voters of all races and colors; and

Whereas August 6, 1990, marks the 25th anniversary of the enactment of the Voting Rights Act of 1965: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 6, 1990, is designated as "Voting Rights Celebration Day", and the President is authorized and requested to issue a proclamation reminding the people of the United States of—

(1) the historic struggle to provide all citizens of the United States with an equal and unencumbered right to vote;

(2) the need to register to vote and participate in elections;

(3) the importance of the Voting Rights Act of 1965 and the need for its continued enforcement; and

(4) the value of the vote to all citizens as an instrument of self-government and justice in a democratic society.

Approved August 7, 1990.

LEGISLATIVE HISTORY—H.J. Res. 625:

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 31, considered and passed House.
Aug. 1, considered and passed Senate.

Public Law 101-346
101st Congress

Joint Resolution

Designating the week of August 19 through 25, 1990, as "National Agricultural Research Week".

Aug. 9, 1990
[H.J. Res. 548]

Whereas the Act to establish a Department of Agriculture, enacted May 15, 1862, which placed the primary responsibility for scientific experimentation in agriculture with the Department of Agriculture, provided the basis for the development of the modern nationwide cooperative agricultural research system;

Whereas past public commitments to agricultural research in the United States provided the scientists and facilities essential to the development of the most successful technological advancements known to the science of agriculture;

Whereas the American public has been the major beneficiary of agricultural research through a broad array of food, fiber, and forest products unsurpassed in cost, availability, quality, safety, and convenience; and

Whereas the agricultural production and marketing system of the United States faces urgent challenges from increased international competition for markets, consumer demands for healthier and safer foods, the need to adjust to the uncertainties of climatic change, appeals to conserve the natural resources of the Nation and protect the environment, and the need to improve the economic well-being of rural America: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 19 through 25, 1990, is designated as "National Agricultural Research Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with proper ceremonies and activities.

Approved August 9, 1990.

LEGISLATIVE HISTORY—H.J. Res. 548 (S.J. Res. 321):

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, S.J. Res. 321 considered and passed Senate.
June 17, H.J. Res. 548 considered and passed House.
July 27, considered and passed Senate.

Public Law 101-347
101st Congress

Joint Resolution

Aug. 9, 1990
[S.J. Res. 77]

Recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty.

Whereas the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, honors the approximately one hundred and sixty volunteer and career firefighters who die each year in the line of duty; and

Whereas such Memorial serves as a symbol of the courage and dedication of past, present, and future firefighters in their efforts to protect life and property: Now, therefore, be it

16 USC 431 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the memorial known as the National Fallen Firefighters' Memorial, located on the campus of the National Fire Academy in Emmitsburg, Maryland, is recognized as the official national memorial to volunteer and career firefighters who die in the line of duty.

Approved August 9, 1990.

LEGISLATIVE HISTORY—S.J. Res. 77 (H.J. Res. 183):

SENATE REPORTS: No. 101-31 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 1, considered and passed Senate.
Vol. 136 (1990): July 30, H.J. Res. 183 and S.J. Res. 77 considered and passed House.

Public Law 101-348
101st Congress

Joint Resolution

To designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week".

Aug. 9, 1990
[S.J. Res. 256]

Whereas mental illness is a problem of grave concern and consequence in American society, widely but unnecessarily feared and misunderstood;

Whereas 31 to 41 million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than 10,000,000 Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas 33 percent of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 percent of American adults in any 6-month period;

Whereas mental illness in at least 12,000,000 children interferes with vital developmental and maturational processes;

Whereas mental disorder-related deaths are estimated to be 33,000 annually, with suicide accounting for at least 29,000 of those, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that 1 in 10 AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and that as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas the Federal research budget committed to the Alcohol, Drug Abuse, and Mental Health Administration represents only about 1 percent of the direct clinical costs of caring for persons with alcohol, drug, and mental disorders;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill persons and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the 7-day period beginning October 7, 1990, and ending October 13, 1990, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved August 9, 1990.

LEGISLATIVE HISTORY—S.J. Res. 256:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
July 31, considered and passed House.

Public Law 101-349
101st Congress

Joint Resolution

To designate the second Sunday in October of 1990 as "National Children's Day".

Aug. 9, 1990
[S.J. Res. 316]

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;
Whereas children represent the future, hope, and inspiration of the United States;
Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;
Whereas many children face crises of grave proportions, especially as they enter adolescent years;
Whereas it is important for parents to spend time listening to their children on a daily basis;
Whereas modern societal and economic demands often pull the family apart;
Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;
Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;
Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;
Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;
Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and
Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1990 is designated as "National Children's Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved August 9, 1990.

LEGISLATIVE HISTORY—S.J. Res. 316:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
July 31, considered and passed House.

Public Law 101-350
101st Congress

An Act

To provide for a temporary increase in the public debt limit.

Aug. 9, 1990
[H.R. 5350]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

31 USC 3101 note.

During the period beginning on the date of the enactment of this Act and ending on October 2, 1990, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased to $3,195,000,000,000.

Approved August 9, 1990.

LEGISLATIVE HISTORY—H.R. 5350:

HOUSE REPORTS: No. 101-631 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 3, considered and passed House and Senate.

Public Law 101-351
101st Congress

An Act

Aug. 9, 1990
[H.R. 5432]

To extend the expiration date of the Defense Production Act of 1950.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "August 10, 1990" and inserting "September 30, 1990".

Approved August 9, 1990.

LEGISLATIVE HISTORY—H.R. 5432:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 2, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-352
101st Congress

An Act

To direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard.

Aug. 10, 1990
[H.R. 293]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fire Safe Cigarette Act of 1990.
15 USC 2054 note.

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Fire Safe Cigarette Act of 1990".

(b) FINDINGS.—The Congress finds that—

(1) cigarette-ignited fires are the leading cause of fire deaths in the United States,

(2) in 1987, there were 1,492 deaths from cigarette-ignited fires, 3,809 serious injuries, and $395,000,000 in property damage caused by such fires,

(3) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 determined that (A) it is technically feasible and may be commercially feasible to develop a cigarette that will have a significantly reduced propensity to ignite furniture and mattresses, and (B) the overall impact on other aspects of the United States society and economy may be minimal,

(4) the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety under the Cigarette Safety Act of 1984 further determined that the value of a cigarette with less of a likelihood to ignite furniture and mattresses which would prevent property damage and personal injury and loss of life is economically incalculable,

(5) it is appropriate for the Congress to require by law the completion of the research described in the final report of the Technical Study Group on Cigarette and Little Cigar Fire Safety and an assessment of the practicability of developing a performance standard to reduce cigarette ignition propensity, and

(6) it is appropriate for the Consumer Product Safety Commission to utilize its expertise to complete the recommendations for further work and report to Congress in a timely fashion.

SEC. 2. COMPLETION OF FIRE SAFETY RESEARCH.

15 USC 2054 note.

(a) CENTER FOR FIRE RESEARCH.—At the request of the Consumer Product Safety Commission, the National Institute for Standards and Technology's Center for Fire Research shall—

(1) develop a standard test method to determine cigarette ignition propensity,

(2) compile performance data for cigarettes using the standard test method developed under paragraph (1), and

(3) conduct laboratory studies on and computer modeling of ignition physics to develop valid, user-friendly predictive capability.

The Commission shall make such request not later than the expiration of 30 days after the date of the enactment of this Act.

(b) COMMISSION.—The Consumer Product Safety Commission shall—

(1) design and implement a study to collect baseline and followup data about the characteristics of cigarettes, products ignited, and smokers involved in fires, and

(2) develop information on societal costs of cigarette-ignited fires.

(c) HEALTH AND HUMAN SERVICES.—The Consumer Product Safety Commission, in consultation with the Secretary of Health and Human Services, shall develop information on changes in the toxicity of smoke and resultant health effects from cigarette prototypes. The Commission shall not obligate more than $50,000 to develop such information.

15 USC 2054 note.

SEC. 3. ADVISORY GROUP.

(a) ESTABLISHMENT.—There is established the Technical Advisory Group to advise and work with the Consumer Product Safety Commission and National Institute for Standards and Technology's Center for Fire Research on the implementation of this Act. The Technical Advisory Group may hold hearings to develop information to carry out its functions. The Technical Advisory Group shall terminate 1 month after the submission of the final report of the Chairman of the Consumer Product Safety Commission under section 4.

Termination date.

(b) MEMBERS.—The Technical Advisory Group shall consist of the same individuals appointed to the Technical Study Group on Cigarette and Little Cigar Fire Safety under section 3(a) of the Cigarette Safety Act of 1984. If such an individual is unavailable to serve on the Technical Advisory Group, the entity which such individual represented on such Technical Study Group shall submit to the Chairman of the Consumer Product Safety Commission the name of another individual to be appointed by the Chairman to represent such group on the Technical Advisory Group.

15 USC 2054 note.

SEC. 4. REPORTS.

The Chairman of the Consumer Product Safety Commission, in consultation with the Technical Advisory Group, shall submit to Congress three reports on the activities undertaken under section 2 as follows: The first such report shall be made not later than 13 months after the date of the enactment of this Act, the second such report shall be made not later than 25 months after such date, and the final such report shall be made not later than 36 months after such date.

15 USC 2054 note.

SEC. 5. CONFIDENTIALITY.

(a) IN GENERAL.—Any information provided to the National Institute for Standards and Technology's Center for Fire Research, to the Consumer Product Safety Commission, or to the Technical Advisory Group under section 2 which is designated as trade secret or confidential information shall be treated as trade secret or confidential information subject to section 552(b)(4) of title 5, United States Code, and section 1905 of title 18, United States Code, and shall not be revealed, except as provided under subsection (b). No member or employee of the Center for Fire Research, the Consumer Product Safety Commission, or the Technical Advisory Group and

no person assigned to or consulting with the Center for Fire Research, the Consumer Product Safety Commission, or the Technical Advisory Group, shall disclose any such information to any person who is not a member or employee of, assigned to, or consulting with, the Center for Fire Research, Consumer Product Safety Commission, or the Technical Advisory Group unless the person submitting such information specifically and in writing authorizes such disclosure.

(b) CONSTRUCTION.—Subsection (a) does not authorize the withholding of any information from any duly authorized subcommittee or committee of the Congress, except that if a subcommittee or committee of the Congress requests the Consumer Product Safety Commission, the National Institute for Standards and Technology's Center for Fire Research, or the Technical Advisory Group to provide such information, the Commission, the Center for Fire Research, or Technical Advisory Group shall notify the person who provided the information of such a request in writing.

Approved August 10, 1990.

LEGISLATIVE HISTORY—H.R. 293:

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 30, considered and passed House and Senate.

Public Law 101-353
101st Congress

An Act

Aug. 10, 1990
[H.R. 3048]

To designate the Agricultural Research Service, United States Department of Agriculture, animal health research building in Clay Center, Nebraska, as the "Virginia D. Smith Animal Health Research Laboratory".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Research Service, United States Department of Agriculture, animal health research building located at the Roman L. Hruska United States Meat Animal Research Center in Clay Center, Nebraska, is hereby designated as the "Virginia D. Smith Animal Health Research Laboratory". Any reference to the Laboratory in a rule, document, record, or other paper of the United States shall be considered to be a reference to the "Virginia D. Smith Animal Health Research Laboratory".

Approved August 10, 1990.

LEGISLATIVE HISTORY—H.R. 3048:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 1, considered and passed House.
Aug. 3, considered and passed Senate.

Public Law 101-354
101st Congress

An Act

To amend the Public Health Service Act to establish a program of grants for the detection and control of breast and cervical cancer.

Aug. 10, 1990
[H.R. 4790]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Breast and Cervical Cancer Mortality Prevention Act of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Breast and Cervical Cancer Mortality Prevention Act of 1990".

SEC. 2. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES FOR PREVENTION AND CONTROL OF BREAST AND CERVICAL CANCER.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XIV the following new title:

"TITLE XV—PREVENTIVE HEALTH MEASURES WITH RESPECT TO BREAST AND CERVICAL CANCERS

"SEC. 1501. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

42 USC 300k.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States on the basis of an established competitive review process for the purpose of carrying out programs—

"(1) to screen women for breast and cervical cancer as a preventive health measure;

"(2) to provide appropriate referrals for medical treatment of women screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;

"(3) to develop and disseminate public information and education programs for the detection and control of breast and cervical cancer;

"(4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer;

"(5) to establish mechanisms through which the States can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures; and

"(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

"(b) GRANT AND CONTRACT AUTHORITY OF STATES.—A State receiving a grant under subsection (a) may expend the grant to carry out

the purpose described in such subsection through grants to, and contracts with, public or nonprofit private entities.

42 USC 300*l*.

"SEC. 1502. REQUIREMENT OF MATCHING FUNDS.

"(a) IN GENERAL.—The Secretary may not make a grant under section 1501 unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(1) IN GENERAL.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(2) MAINTENANCE OF EFFORT.—In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in section 1501 for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

"(3) INCLUSION OF RELEVANT NON-FEDERAL CONTRIBUTIONS FOR MEDICAID.—In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary shall, subject to paragraphs (1) and (2) of this subsection, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act by the State involved toward the purpose described in paragraphs (1) and (2) of section 1501(a).

42 USC 300m.

"SEC. 1503. REQUIREMENTS WITH RESPECT TO TYPE AND QUALITY OF SERVICES.

"(a) REQUIREMENT OF PROVISION OF ALL SERVICES BY DATE CERTAIN.—The Secretary may not make a grant under section 1501 unless the State involved agrees—

"(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of section 1501(a), including making available screening procedures for both breast and cervical cancers;

"(2) subject to subsection (b), to ensure that—

"(A) in the case of breast cancer, both a physical examination of the breasts and the screening procedure known as a mammography are conducted; and

"(B) in the case of cervical cancer, both a pelvic examination and the screening procedure known as a pap smear are conducted;

"(3) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in section 1501(a) is provided; and

"(4) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

"(b) USE OF IMPROVED SCREENING PROCEDURES.—The Secretary may not make a grant under section 1501 unless the State involved agrees that, if any screening procedure superior to a procedure described in subsection (a)(2) becomes commonly available and is recommended for use, any entity providing screening procedures pursuant to the grant will utilize the superior procedure rather than the procedure described in such subsection.

"(c) QUALITY ASSURANCE REGARDING SCREENING FOR BREAST CANCER.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will assure the quality of any screening procedure for breast cancer conducted pursuant to such section and, in the case of mammography, will provide that—

"(1) the equipment used to perform the mammography will be specifically designed for mammography and will meet appropriate radiologic standards for mammography;

"(2) the mammography will be performed by an individual who—

"(A) is licensed by a State to perform radiological procedures; or

"(B) is certified as qualified to perform radiological procedures by an appropriate organization;

"(3) the results of the mammography will be interpreted by a physician who—

"(A) is certified as qualified to interpret radiological procedures by an appropriate board; or

"(B) is certified as qualified to interpret screening mammography procedures by an appropriate program for assuring the qualifications of the individual with respect to such interpretations; and

"(4) with respect to the first screening mammography performed on a woman for which payment is made pursuant to section 1501(a), there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(d) QUALITY ASSURANCE REGARDING SCREENING FOR CERVICAL CANCER.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will assure the quality of any screening procedure for cervical cancer conducted pursuant to such section and, in the case of the pap smear (or other cytological screening procedure replacing the pap smear pursuant to subsection (b)), will provide—

"(1) the maximum number of cytology slides that any individual may screen in a 24-hour period;

"(2) requirements that a clinical laboratory maintain a record of— Records.

"(A) the number of cytology slides screened during each 24-hour period by each individual who examines cytology slides for the laboratory; and

"(B) the number of hours devoted during each 24-hour period to screening cytology slides by such individual;

"(3) criteria for requiring rescreening of cytological preparations, such as—

"(A) random rescreening of cytology specimens determined to be in the benign category;

"(B) focused rescreening of such preparations in high risk groups; and

"(C) for each abnormal cytological result, rescreening of all prior cytological specimens for the patient, if available;

"(4) periodic confirmation and evaluation of the proficiency of individuals involved in screening or interpreting cytological preparations, including announced and unannounced on-site proficiency testing of such individuals, with such testing to take place, to the extent practicable, under normal working conditions;

"(5) procedures for detecting inadequately prepared slides, for assuring that no cytological diagnosis is rendered on such slides, and for notifying referring physicians of such slides;

"(6) requirements that all cytological screening be done on the premises of an appropriately qualified laboratory;

"(7) requirements for the retention of cytology slides by laboratories for appropriate periods of time; and

"(8) requirements of periodic inspection of cytology services by persons capable of evaluating the quality of cytology services.

"(e) ISSUANCE BY SECRETARY OF GUIDELINES WITH RESPECT TO QUALITY OF MAMMOGRAPHY AND CYTOLOGICAL SERVICES.—

"(1) IN GENERAL.—The Secretary shall establish guidelines for assuring the quality of any mammography and cytological screening procedure conducted pursuant to section 1501(a). Such guidelines with respect to mammography shall include the provisions of paragraphs (1) through (4) of subsection (c), and such guidelines with respect to cytological screening procedures shall include the provisions of paragraphs (1) through (8) of subsection (d).

"(2) APPLICABILITY WITH RESPECT TO GRANTS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the State will, with respect to any mammography or cytological screening procedure conducted pursuant to such section, ensure that the procedure is conducted in accordance with the guidelines issued by the Secretary under paragraph (1).

"(3) RESPONSIBILITY OF STATES IN ABSENCE OF GUIDELINES.—With respect to circumstances in which a State receives a grant under section 1501 before the issuance of guidelines under paragraph (1), this subsection may not be construed to affect in such circumstances the obligation of the State pursuant to subsection (a)(1) to provide for screening procedures and referrals or the obligations under subsections (c) and (d) with respect to providing for quality in the screening procedures.

42 USC 300n.

"SEC. 1504. ADDITIONAL REQUIRED AGREEMENTS.

"(a) PRIORITY FOR LOW-INCOME WOMEN.—The Secretary may not make a grant under section 1501 unless the State involved agrees that low-income women will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of section 1501(a).

"(b) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not make a grant under section 1501 unless the State

involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(c) STATEWIDE PROVISION OF SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 1501 unless the State involved agrees that services and activities under the grant will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act).

"(2) WAIVER.—The Secretary may waive the requirement established in paragraph (1) for a State if the Secretary determines that compliance by the State with the requirement would result in an inefficient allocation of resources with respect to carrying out the purpose described in section 1501(a).

"(d) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"(e) COORDINATION WITH OTHER BREAST AND CERVICAL CANCER PROGRAMS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the services and activities funded through the grant shall be coordinated with other Federal, State, and local breast and cervical cancer programs.

"(f) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 1501 unless the State involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(g) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under section 1501 unless the State involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

"(h) RECORDS AND AUDITS.—The Secretary may not make a grant under section 1501 unless the State involved agrees that—

"(1) the State will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section; and

"(2) upon request, the State will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the State of the grant.

"(i) REPORTS TO SECRETARY.—The Secretary may not make a grant under section 1501 unless the State involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

42 USC 300n-1.

"SEC. 1505. DESCRIPTION OF INTENDED USES OF GRANT.

"The Secretary may not make a grant under section 1501 unless—

"(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the State with a need for the services or activities described in section 1501(a);

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprivate entities; and

"(4) the description provides assurances that the grant funds be used in the most cost-effective manner.

42 USC 300n-2.

"SEC. 1506. REQUIREMENT OF SUBMISSION OF APPLICATION.

"The Secretary may not make a grant under section 1501 unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 1505, and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

42 USC 300n-3.

"SEC. 1507. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1501. The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

"(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—Upon the request of a State receiving a grant under section 1501, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such section and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant under section 1501 to the State involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1508. EVALUATIONS AND REPORTS. 42 USC 300n-4.

"(a) EVALUATIONS.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 1501.

"(b) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 1509(a), and annually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

"SEC. 1509. FUNDING. 42 USC 300n-5.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) SET-ASIDE FOR TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out section 1507.".

Approved August 10, 1990.

LEGISLATIVE HISTORY—H.R. 4790 (S. 2283):

HOUSE REPORTS: No. 101-543 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-380 accompanying S. 2283 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed House.
Aug. 3, considered and passed Senate, amended. House concurred in Senate amendment.

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Public Law 101-355
101st Congress

Joint Resolution

Aug. 10, 1990
[H.J. Res. 467]

Designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag.

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;
Whereas many of these Americans are still missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and
Whereas the sacrifices of Americans still missing and unaccounted for and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 21, 1990, is hereby designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

36 USC 189.

SEC. 2. RECOGNITION OF NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

The National League of Families POW/MIA flag is hereby recognized officially and designated as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation.

Approved August 10, 1990.

LEGISLATIVE HISTORY—H.J. Res. 467 (S.J. Res. 327):

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 24, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 101-356
101st Congress

An Act

To amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the Merrimack River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

Aug. 10, 1990
[S. 1046]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Merrimack River Study Act of 1990.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Merrimack River Study Act of 1990".

SEC. 2. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)), as amended, is further amended by adding the following new paragraph:

"(106) MERRIMACK RIVER, NEW HAMPSHIRE.—The segment from its origin at the confluence of the Pemigewasset and Winnipesaukee Rivers in Franklin, New Hampshire, to the backwater impoundment at Hooksett Dam, excluding the Garvins Falls Dam and its impoundment.".

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)), as amended, is further amended by adding the following new paragraph:

"(8) The study of the Merrimack River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S. 1046:

HOUSE REPORTS: No. 101-640 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-233 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 24, considered and passed Senate.
July 30, considered and passed House.

Public Law 101-357
101st Congress

An Act

Aug. 10, 1990
[S. 1524]

To amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pemigewasset River Study Act of 1989.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pemigewasset River Study Act of 1989".

SEC. 2. STUDY RIVER DESIGNATION.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) as amended, is further amended by adding the following new paragraph at the end thereof:

"(107) PEMIGEWASSET, NEW HAMPSHIRE.—The segments from Profile Lake downstream to the southern boundary of the Franconia Notch State Park and from the northern Thornton town-line downstream to the backwater of the Ayers Island Dam; by the Secretary of the Interior.".

SEC. 3. STUDY AND REPORT.

Section 5(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(b)), as amended, is further amended by adding the following new paragraph:

"(9) The study of the Pemigewasset River, New Hampshire, shall be completed and the report thereon submitted not later than three years after the date of enactment of this paragraph.".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S. 1524:

HOUSE REPORTS: No. 101-639 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 20, considered and passed Senate.
Vol. 136 (1990): July 30, considered and passed House.

Public Law 101-358
101st Congress

An Act

To authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia.

Aug. 10, 1990
[S. 1543]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

Public buildings and grounds. 40 USC 1003 note.

(a) IN GENERAL.—The Board of Regents of Gunston Hall is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor George Mason.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PAYMENT OF EXPENSES.

40 USC 1003 note.

The United States shall not pay any expense of the establishment of the memorial.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S. 1543 (H.R. 3687):

SENATE REPORTS: No. 101-245 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 7, considered and passed Senate.
July 30, H.R. 3687 considered and passed House.
July 31, S. 1543 considered and passed House.

Public Law 101-359
101st Congress

An Act

Aug. 10, 1990
[S. 1875]

To redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

43 USC 615dddd note.

SECTION 1. RENAMING OF DAM AND RESERVOIR.

The Calamus Dam and Reservoir in the North Loup division of the Missouri River basin project shall be known and redesignated as the "Virginia Smith Dam and Calamus Lake Recreation Area".

43 USC 615dddd note.

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the dam and reservoir referred to in section 1 is deemed to be a reference to the "Virginia Smith Dam and Calamus Lake Recreation Area".

43 USC 615dddd note.

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall be effective on January 3, 1991.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S. 1875:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 12, considered and passed Senate.
July 31, considered and passed House.

Public Law 101-360
101st Congress

An Act

To amend the Energy Policy and Conservation Act to extend the authority for titles I and II.

Aug. 10, 1990
[S. 2952]

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

Energy Policy and Conservation Act Short-Term Extension Amendment of 1990.
42 USC 6201 note.

SECTION 1. SHORT TITLE

That this Act may be referred to as the "Energy Policy and Conservation Act Short-Term Extension Amendment of 1990".

SEC. 2. EXTENSION OF AUTHORITY

The Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(a) in section 104(b)(1) by striking out "August 15, 1990" and inserting in lieu thereof "September 15, 1990"; 50 USC app. 2071 note.

(b) in section 171, by striking out "August 15, 1990" each place it appears and inserting in lieu thereof "September 15, 1990"; and 42 USC 6251.

(c) in section 281, by striking out the term "August 15, 1990" each place it appears and inserting in lieu thereof "September 15, 1990". 42 USC 6285.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S. 2952:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 2, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 101-361
101st Congress
Joint Resolution

Aug. 10, 1990
[S.J. Res. 296]

Designating August 7, 1990, as "National Neighborhood Crime Watch Day".

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness of, and participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the national war on drugs by helping to prevent their communities from becoming markets for drug dealers;

Whereas citizens across the United States will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock p.m. on August 7, 1990, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 7, 1990, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe National Neighborhood Crime Watch Day with appropriate programs, ceremonies, and activities.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S.J. Res. 296:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 101-362
101st Congress

Joint Resolution

To designate August 13 through August 19, 1990, as "Home Health Aide Week".

Aug. 10, 1990
[S.J. Res. 343]

Whereas a home health aide is a person who is a member of a multidisciplinary team which provides health care for patients in a home environment;

Whereas the personal care and health-related services provided by a home health aide are a vital part of the services provided by home care companies and hospices and help to maintain a patient's physical and emotional well-being;

Whereas a home health aide is responsible for assisting members of a health-care team in following a pragmatic, goal-oriented plan of patient care;

Whereas the duties performed by a home health aide include assisting patients in their daily living activities, providing them with a clean and safe environment, providing them with personal care rehabilitative and supportive services, and observing and reporting to other members of the health-care team significant changes in the status of the patient; and

Whereas by providing such important health-care services, a home health aide has a significant beneficial impact on the lives of the patients served by the aide: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of August 13 through August 19, 1990, is designated as "Home Health Aide Week", and the President is requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs, ceremonies, and activities.

Approved August 10, 1990.

LEGISLATIVE HISTORY—S.J. Res. 343:

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 12, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 101-363
101st Congress

An Act

Aug. 14, 1990
[H.R. 4872]

To establish the National Advisory Council on the Public Service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Advisory Council on the Public Service Act of 1990.
5 USC 3301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Advisory Council on the Public Service Act of 1990".

5 USC 3301 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) recognition of the services rendered by Federal employees (hereinafter in this Act referred to as "national public service") should be accorded a high and continuing place on the national agenda;

(2) the National Commission on the Public Service, through its good works, has documented the need for greater advocacy on behalf of those performing national public service;

(3) although public service is an honorable profession, members of the public do not always perceive it favorably;

(4) serious obstacles often hinder the Government's efforts to recruit and retain the best and the brightest for national public service;

(5) just as the public has a right to expect Federal employees to adhere to the highest standards of excellence and ethicality, so Federal employees have a right to expect an atmosphere of trust and respect, and a sense of accomplishment from their work; and

(6) an advisory council is needed to provide the President and the Congress with bipartisan, objective assessments of, and recommendations concerning, the Federal workforce.

5 USC 3301 note.

SEC. 3. ESTABLISHMENT.

There shall be established a council to be known as the National Advisory Council on the Public Service (hereinafter in this Act referred to as the "Council").

5 USC 3301 note.

SEC. 4. FUNCTIONS.

The Council shall—

(1) regularly assess the state of the Federal workforce;

(2) in conjunction with the President, the Congress, and the Judiciary, seek to attract individuals of the highest caliber to careers involving national public service, and encourage them and others of similar distinction who are already part of the Federal workforce to make a continuing commitment to national public service;

(3) promote better public understanding of the role of Federal employees in implementing Government programs and policies,

and otherwise seek to improve the public perception of Federal employees;

(4) encourage efforts to build student interest in performing national public service (whether those efforts are undertaken at the community level, in the classroom, or otherwise); and

(5) develop methods for improving motivation and excellence among Federal employees.

SEC. 5. MEMBERSHIP. 5 USC 3301 note.

(a) NUMBER AND APPOINTMENT.—The Council shall be composed of 15 members as follows:

(1) 2 Members of the Senate, 1 of whom shall be appointed by the majority leader of the Senate and the other of whom shall be appointed by the minority leader of the Senate.

(2) 2 Members of the House of Representatives, 1 of whom shall be appointed by the Speaker of the House of Representatives and the other of whom shall be appointed by the minority leader of the House of Representatives.

(3) The Director of the Administrative Office of the United States Courts (or his delegate).

(4) 10 individuals appointed by the President— President of U.S.

(A) 4 of whom shall be chosen from among officers serving in the executive branch;

(B) 1 of whom shall be chosen from among career employees in the civil service;

(C) 1 of whom shall be a Federal employee who is a member of a labor organization (as defined by section 7103(a)(4) of title 5, United States Code); and

(D) 4 of whom shall be chosen from among members of the public who do not hold any Government office or position.

(b) CONTINUATION OF MEMBERSHIP.—If any member of the Council whose appointment is based on that individual's holding a Government office or position leaves such office or position, or if any member of the Council under subsection (a)(4)(D) is appointed or elected to a Government office or position, that individual may continue to serve as such a member for not longer than the 90-day period beginning on the date of leaving that office or position, or entering into that office or position, as the case may be.

(c) TERMS.—Members of the Council shall be appointed for the life of the Council.

(d) VACANCIES.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(e) COMPENSATION.—(1) Members of the Council shall not be entitled to pay (or, in the case of members holding any Government office or position, pay in addition to any to which they are otherwise entitled for service in such office or position) by virtue of membership on the Council.

(2) While serving away from their homes or regular places of business in the performance of duties for the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(f) QUORUM.—Eight members of the Council shall constitute a quorum.

President of U.S.

(g) CHAIRMAN.—The Chairman of the Council shall be designated by the President from among the members appointed under subsection (a)(4)(D).

(h) MEETINGS.—The Council shall meet at the call of the Chairman or a majority of its members, and shall meet on at least a quarterly basis.

5 USC 3301 note.

SEC. 6. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—With the approval of the Council, the Chairman may appoint a Director and fix the pay of such Director at a rate not to exceed the rate for level IV of the Executive Schedule. The Director shall be a person who, by reason of demonstrated ability in the area of management, government, or public administration, is especially well qualified to serve.

(b) STAFF.—With the approval of the Chairman, the Director may appoint and fix the pay of such personnel as may be necessary to carry out the functions of the Council. The staff of the Council shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate payable under the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Chairman, the head of a Federal agency may detail, on a reimbursable or nonreimbursable basis, any personnel of such agency to the Council to assist the Council in carrying out its functions under this Act.

5 USC 3301 note.

SEC. 7. POWERS.

(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(b) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request.

(c) OFFICIAL DATA.—The Council may secure directly from any Federal agency information necessary to carry out its functions under this Act. Each such agency is authorized and directed to furnish, to the extent permitted by law, any information requested by the Council.

(d) GIFTS.—The Council—

(1) may accept money and other property donated, bequeathed, or devised to the Council without condition or restriction (other than that it be used to carry out the work of the Council); and

(2) may use, sell, or otherwise dispose of any such property to carry out its functions under this Act, except that, upon the termination of the Council, any such property shall be disposed of in accordance with applicable provisions of law governing the disposal of Federal property.

SEC. 8. REPORTS. 5 USC 3301 note.

The Council shall transmit to the President and each House of the Congress—

(1) within 1 and 2 years, respectively, after the date on which the Council first meets, reports containing its preliminary findings and recommendations; and

(2) within 3 years after the date on which the Council first meets, a final report containing a detailed statement of the findings and conclusions of the Council, together with its recommendations for such legislation or administrative actions as it considers appropriate.

SEC. 9. COMMENCEMENT; TERMINATION. 5 USC 3301 note.

(a) COMMENCEMENT.—Appointments under section 5 shall be made, and the Council shall first meet, within 90 days after the date of the enactment of this Act.

(b) TERMINATION.—The Council shall cease to exist upon transmitting its final report under section 8(2).

SEC. 10. AUTHORIZATION.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved August 14, 1990.

LEGISLATIVE HISTORY—H.R. 4872:

HOUSE REPORTS: No. 101-551 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 25, considered and passed House.
July 27, considered and passed Senate.

Public Law 101-364
101st Congress

An Act

Aug. 15, 1990
[H.R. 76]

To amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system.

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ST. MARYS RIVER STUDY

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"(106) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segment from its headwaters to its confluence with the Bells River.".

(b) COMPLETION DATE.—Section 5(b) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(b)), is further amended by adding the following new paragraph at the end thereof:

"(8) The study of the river named in paragraph (106) of subsection (a) shall be completed not later than three years after the date of enactment of this paragraph. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resource values and the development of alternatives for the protection of those resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to the role the States, local governments and landowners should play in the management of the river if it were designated as a component of the National Wild and Scenic Rivers System.".

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 76:

HOUSE REPORTS: No. 101-284 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-311 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 16, considered and passed House.
Vol. 136 (1990): June 14, considered and passed Senate, amended.
Aug. 1, House concurred in Senate amendment.

Public Law 101-365
101st Congress

An Act

To amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes.

Aug. 15, 1990
[H.R. 1159]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Juan Bautista de Anza National Historic Trail Act.
Mexico.
California.
Arizona.
16 USC 1241 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Juan Bautista de Anza National Historic Trail Act".

SEC. 2. JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL.

(a) DESIGNATION.—Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end thereof the following:

"(17) The Juan Bautista de Anza National Historic Trail, a trail comprising the overland route traveled by Captain Juan Bautista de Anza of Spain during the years 1775 and 1776 from Sonora, Mexico, to the vicinity of San Francisco, California, of approximately 1,200 miles through Arizona and California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) entitled 'Juan Bautista de Anza National Trail Study, Feasibility Study and Environmental Assessment' and dated August 1986. A map generally depicting the trail shall be on file and available for public inspection in the Office of the Director of the National Park Service, Washington, District of Columbia. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owner thereof. In implementing this paragraph, the Secretary shall encourage volunteer trail groups to participate in the development and maintenance of the trail.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 10(c)(2) of the National Trails System Act (16 U.S.C. 1249(c)) is amended by striking the first sentence and inserting: "Except as otherwise provided in this Act, there is authorized to be appropriated such sums as may be necessary to implement the provisions of this Act relating to the trails designated by section 5(a).".

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 1159:

HOUSE REPORTS: No. 101-412 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-290 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 6, considered and passed House.
May 22, considered and passed Senate, amended.
Aug. 1, House concurred in Senate amendment.

Public Law 101-366
101st Congress

An Act

To amend title 38, United States Code, to establish a system of competitive pay for nurses employed by the Department of Veterans Affairs, to authorize the Secretary of Veterans Affairs to make such system applicable to certain other health-care personnel, to make certain improvements in veterans' health and education programs, and for other purposes.

Aug. 15, 1990
[H.R. 1199]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Veterans Affairs Nurse Pay Act of 1990.
Government organization and employees.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Pay Act of 1990".

TITLE I—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

SEC. 101. RESTRUCTURING OF NURSE GRADE LEVELS AND PAY.

38 USC 4107 note.

(a) NEW GRADES ESTABLISHED.—The Secretary of Veterans Affairs shall provide four grade levels for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code, with relation to current nurse grades, as follows:

New grades	Current nurse grades
1. Entry grade	Junior and associate grades
2. Intermediate grade	Full and intermediate grades
3. Senior grade	Senior and chief grades
4. Director grade	Assistant director and director grades

38 USC 4107 note.

(b) CURRENT NURSE GRADES DEFINED.—For purposes of subsection (a), the term "current nurse grades" means the grades in effect on the day before the effective date of this Act for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code.

(c) CONFORMING AMENDMENT.—Section 4107(b) of title 38, United States Code, is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

"Entry grade.
"Intermediate grade.
"Senior grade.
"Director grade.".

SEC. 102. RATES OF PAY AND ADMINISTRATION OF PAY FOR NEW NURSE GRADES AND CERTAIN OTHER HEALTH-CARE PERSONNEL.

(a) CLARIFICATION.—Section 4104(1) of title 38, United States Code, is amended by inserting "registered" before "nurses".

(b) PAY ADMINISTRATION.—Chapter 73 of such title is amended by inserting after subchapter III the following new subchapter:

"SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"§ 4141. Nurses and other health-care personnel: competitive pay

"(a)(1) It is the purpose of this section to ensure, by a means providing increased responsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions on a part-time basis) are sufficient for that facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

"(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as 'covered positions') are the following:

"(A) Registered nurse.

"(B) Such positions referred to in clauses (1) and (3) of section 4104 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(3) The rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 4107 of this title.

"(4) The Secretary, after receiving the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 4142 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration. Regulations.

"(b) The Secretary shall maintain the four grade levels for nurses employed by the Department under section 4104(1) of this title as specified in the Nurse Schedule in section 4107(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

"(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g), provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

"(3) The range of basic pay for each such grade shall be divided into equal increments, known as 'steps'. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

"(d)(1) The rates of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

"(A) whenever there is an adjustment under section 5305 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date as the adjustment in the rates of basic pay under the General Schedule; and

"(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, determines.

"(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

"(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on beginning rates of compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on beginning rates of compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

"(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on beginning rates of compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of that facility shall conduct a

survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making industry-wage surveys except to the extent determined infeasible by the Secretary. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination. Regulations.

"(C) The director of a facility may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for that grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

"(4) If the director of a Department health-care facility determines, after any survey under paragraph (3)(B) or at any other time that an adjustment in rates of pay is scheduled to take place under this subsection, that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made. Whenever a director makes such a determination, the director shall within 10 days notify the Chief Medical Director of the decision and the reasons for the decision.

"(5) Information collected by the Department in surveys conducted under this subsection is not subject to disclosure under section 552 of title 5.

"(6) In this subsection—

"(A) The term 'beginning rate of compensation', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

"(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

"(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

"(B) The term 'corresponding', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

"(e) Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces the rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.

Reports. "(f) Not later than February 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subsection (d)(1)(A) effective during the 12 months preceding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

Reports. "(g) Not later than December 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

"(1) A review of the use of the authorities provided in this section (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) during the preceding fiscal year, including an assessment of the effects of the exercise of such authorities on the ability of the Department to recruit and retain qualified health-care professionals for covered positions.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the rates of basic pay in effect during the preceding fiscal year, with a comparison to the rates in effect during the previous fiscal year, shown by facility and by covered position.

"(4) The numbers of employees in covered positions (shown separately for registered nurses and for each other covered position) who during the preceding fiscal year (A) left employment with the Department, (B) left employment at one Department medical facility for employment at another Department medical facility, or (C) changed from full-time status to part-time status (and from part-time status to full-time status), and a summary of the reasons therefor.

"(5) The number of vacancies in covered positions in the Administration and a summary of the reasons that those positions are vacant.

"(6) The number of employees who during the preceding fiscal year left employment at a health-care facility in one Bureau of Labor Statistics labor-market area for employment at a health-

care facility in another such labor-market area, without changing residence.

"(7) Justification for setting the maximum rate of basic pay for any grade at a rate in excess of 133 percent of the minimum rate of basic pay for that grade.

"(8) The discussion required by section 4142(b)(2) of this title.

"(h) For the purposes of this section, the term 'health-care facility' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

"§ 4142. Nurses and other health-care personnel: administration of pay

"(a)(1) Regulations prescribed under section 4141(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

"(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 4141(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

"(3) An employee in a covered position who is promoted to the next higher grade shall be appointed in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

"(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed $2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

"(2) The Secretary shall include in the annual report under section 4141(g) of this title a discussion of the use during the period covered by the report of the payment of bonuses under this subsection and other job performance incentives available to the Secretary.

"(c)(1) The Secretary shall provide (in regulations prescribed for the administration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 4104(1) of this title as an employee in a covered position for employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

"(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

"(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

"(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

"(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain that document on file); and

"(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include documentation for the need for such increased rates of basic pay described in clause (A).

"(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

"(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

"(e) An employee in a covered position employed under section 4104(1) of this title who (without a break in employment) transfers from one Department health-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step.

"(f) In this section, the term 'covered position' has the meaning given that term in section 4141 of this title.".

(c) CONFORMING AMENDMENTS.—Section 4107(e)(1) of such title is amended by striking out "in subsection (b)(1) of this section".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 4134 the following:

"SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"4141. Nurses and other health-care personnel: competitive pay.
"4142. Nurses and other health-care personnel: administration of pay.".

SEC. 103. REPEAL OF LIMITATION ON HOURLY RATE OF OVERTIME PAY.

Section 4107(e)(5) of title 38, United States Code, is amended by striking out ", not to exceed" in the first sentence and all that follows through "Nurse Schedule".

SEC. 104. EFFECTIVE DATE.

38 USC 4141 note.

(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 and the amendments made by section 102 shall take effect on the date of enactment.

(2) The amendment made by section 103 shall take effect on April 1, 1991.

(b) NEW PAY RATES.—The rates of basic pay established pursuant to section 4141 of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.

TITLE II—MISCELLANEOUS

SEC. 201. PILOT PROGRAM ON PROVISION OF NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 620C. Noninstitutional alternatives to nursing home care: pilot program

"(a) During the four-year period beginning on October 1, 1990, the Secretary may conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care and who—

"(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

"(2) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

"(2) For the purposes of paragraph (1), the term 'case management services' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title during that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available.".

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following new item:

"620C. Noninstitutional alternatives to nursing home care: pilot program.".

38 USC 620C note.

(b) REPORT.—Not later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 202. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 of title 38, United States Code, is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) EXPANSION OF AUTHORITY.—Section 5053 of such title is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "a charge" and all that follows and inserting in lieu thereof "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 203. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program.".

SEC. 204. REPORT ON POST-TRAUMATIC STRESS DISORDER.

Section 201(e)(1) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2066) is amended by inserting "and not later than February 1, 1991," after "Not later than February 1, 1990,". 38 USC 612A note.

SEC. 205. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of

education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of $400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under section 4354 of this title shall be liable to the United States in an amount determined in accordance with section 4317(c)(1) of this title.

"(2) An individual who, as a result of performing active duty (including active duty for training), is unable to perform the service for which the individual is obligated under section 4354 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 4354 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"4351. Authority for program.

"4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve.
"4353. Amount of assistance.
"4354. Obligated service.
"4355. Breach of agreement; liability.".

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount." and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount.";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection.".

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter.".

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

SEC. 206. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section:

"§ 1784A. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552a(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5.".

38 USC 1434 note.

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

38 USC 1434 note.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item:

"1784A. Procedures relating to computer matching programs.".

5 USC 552a note.

(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

38 USC 1622 note.

SEC. 207. REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Upon receipt before January 1, 1992, of an application from an individual described in subsection (b)(3), the Secretary of Veterans Affairs shall—

(1) not later than 60 days after receiving such application, refund to the individual concerned the amount, if any, of the individual's unused contributions to the VEAP Account;

(2)(A) if the individual has received educational assistance under chapter 32 of title 38, United States Code, for the pursuit of a program of education, pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under such chapter 32 for the pursuit of such program; or

(B) if the individual has not received educational assistance under such chapter 32, pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of such title for the pursuit of a program of

education if the individual had been entitled to assistance under such program during the period ending on December 31, 1989; and

(3) refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "VEAP Account" means the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of title 38, United States Code;

(2) the term "active duty" has the same meaning given such term by section 101(21) of such title 38;

(3) the term "individual described in subsection (b)(3)" means an individual who—

(A) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officers' Training Corps in a program of educational assistance under section 2104 or 2107 of title 10, United States Code;

(B) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 of such title 10) as a member of the Senior Reserve Officers' Training Corps;

(C) after such period of active duty, was discharged or released therefrom under conditions other than dishonorable or continued to serve on active duty without a break in service; and

(D) if enrolled under the program of educational assistance provided under chapter 32 of title 38, United States Code, submits to the Secretary of Veterans Affairs, as part of the application made by the individual under subsection (a) in such form and manner as such Secretary shall prescribe by January 1, 1991, an irrevocable election to be disenrolled from such program at that time; and

(4) the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

SEC. 208. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) IN GENERAL.—Section 1791(b) of title 38, United States Code, is amended by striking out "The" through "additional change" and inserting in lieu thereof "The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on June 1, 1991. 38 USC 1791 note.

SEC. 209. NAMING OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN. Public buildings and grounds.

The Department of Veterans Affairs medical center in Saginaw, Michigan, shall after the date of the enactment of this Act be known and designated as the "Aleda E. Lutz Department of Veterans Affairs Medical Center". Any reference to such medical center in

any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Aleda E. Lutz Department of Veterans Affairs Medical Center.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 1199:

HOUSE REPORTS: No. 101-106 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): June 27, considered and passed House.
Vol. 136 (1990): Aug. 2, considered and passed Senate, amended.
Aug. 3, House concurred in Senate amendments.

Public Law 101-367
101st Congress

An Act

To designate the Federal building located at 777 Sonoma Avenue in Santa Rosa, California, as the "John F. Shea Federal Building".

Aug. 15, 1990
[H.R. 4035]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 777 Sonoma Avenue in Santa Rosa, California, shall be known and designated as the "John F. Shea Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, paper, map, or other record of the United States to the building referred to in section 1 is deemed to be a reference to the "John F. Shea Federal Building".

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 4035:

HOUSE REPORTS: No. 101-454 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 24, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 101-368
101st Congress

An Act

Aug. 15, 1990
[H.R. 4273]

To amend the Public Health Service Act to extend the program of grants for preventive health services with respect to tuberculosis, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tuberculosis Prevention Amendments of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tuberculosis Prevention Amendments of 1990".

SEC. 2. EXTENSION OF PROGRAM OF GRANTS FOR PREVENTIVE HEALTH SERVICES WITH RESPECT TO TUBERCULOSIS.

(a) PROGRAM FOR ELIMINATING TUBERCULOSIS.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended—

(1) in subsection (j)(2), in the first sentence, by striking "preventive health service programs for tuberculosis" and inserting the following: "preventive health service programs for the prevention, control, and elimination of tuberculosis"; and

(2) in subsection (k)(2), in each of subparagraphs (A) through (D), by striking "prevention and control" each place such term appears and inserting "prevention, control, and elimination".

(b) ADVISORY COUNCIL ON ELIMINATING TUBERCULOSIS.—Section 317 of the Public Health Service Act (42 U.S.C. 247b) is amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall establish an advisory council to be known as the Advisory Council for the Elimination of Tuberculosis (hereafter in this subsection referred to as the 'Council'). The Council shall provide advice and recommendations regarding the elimination of tuberculosis to the Secretary, the Assistant Secretary for Health, and the Director of the Centers for Disease Control.

"(2) With respect to the elimination of tuberculosis, the Council shall—

"(A) in making recommendations under paragraph (1), make recommendations regarding policies, strategies, objectives, and priorities;

"(B) address the development and application of new technologies; and

"(C) review the extent to which progress has been made toward eliminating tuberculosis.

"(3) The Secretary shall determine the size and composition of the Council, and the frequency and scope of official meetings of the Council.

"(4) The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 317(j)(2) of the Public Health Service Act (42 U.S.C. 247b(j)(2)) is amended in the first sentence by striking "and" after "1989,", and by inserting before the period the following: ", $36,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995".

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 4273 (S. 2630):

HOUSE REPORTS: No. 101-542 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-372 accompanying S. 2630 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed House.
Aug. 4, considered and passed Senate.

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Public Law 101-369
101st Congress

An Act

Aug. 15, 1990
[H.R. 4314]

To implement the Inter-American Convention on International Commercial Arbitration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 9, UNITED STATES CODE.

Title 9, United States Code, is amended by adding at the end the following:

"CHAPTER 3. INTER-AMERICAN CONVENTION ON INTERNATIONAL COMMERCIAL ARBITRATION

"Sec.

"301. Enforcement of Convention.
"302. Incorporation by reference.
"303. Order to compel arbitration; appointment of arbitrators; locale.
"304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity.
"305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958.
"306. Applicable rules of Inter-American Commercial Arbitration Commission.
"307. Chapter 1; residual application.

"§ 301. Enforcement of Convention

"The Inter-American Convention on International Commercial Arbitration of January 30, 1975, shall be enforced in United States courts in accordance with this chapter.

"§ 302. Incorporation by reference

"Sections 202, 203, 204, 205, and 207 of this title shall apply to this chapter as if specifically set forth herein, except that for the purposes of this chapter 'the Convention' shall mean the Inter-American Convention.

"§ 303. Order to compel arbitration; appointment of arbitrators; locale

"(a) A court having jurisdiction under this chapter may direct that arbitration be held in accordance with the agreement at any place therein provided for, whether that place is within or without the United States. The court may also appoint arbitrators in accordance with the provisions of the agreement.

"(b) In the event the agreement does not make provision for the place of arbitration or the appointment of arbitrators, the court shall direct that the arbitration shall be held and the arbitrators be appointed in accordance with Article 3 of the Inter-American Convention.

"§ 304. Recognition and enforcement of foreign arbitral decisions and awards; reciprocity

"Arbitral decisions or awards made in the territory of a foreign State shall, on the basis of reciprocity, be recognized and enforced under this chapter only if that State has ratified or acceded to the Inter-American Convention.

"§ 305. Relationship between the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958

"When the requirements for application of both the Inter-American Convention and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, are met, determination as to which Convention applies shall, unless otherwise expressly agreed, be made as follows:

"(1) If a majority of the parties to the arbitration agreement are citizens of a State or States that have ratified or acceded to the Inter-American Convention and are member States of the Organization of American States, the Inter-American Convention shall apply.

"(2) In all other cases the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June 10, 1958, shall apply.

"§ 306. Applicable rules of Inter-American Commercial Arbitration Commission

"(a) For the purposes of this chapter the rules of procedure of the Inter-American Commercial Arbitration Commission referred to in Article 3 of the Inter-American Convention shall, subject to subsection (b) of this section, be those rules as promulgated by the Commission on July 1, 1988.

"(b) In the event the rules of procedure of the Inter-American Commercial Arbitration Commission are modified or amended in accordance with the procedures for amendment of the rules of that Commission, the Secretary of State, by regulation in accordance with section 553 of title 5, consistent with the aims and purposes of this Convention, may prescribe that such modifications or amendments shall be effective for purposes of this chapter.

"§ 307. Chapter 1; residual application

"Chapter 1 applies to actions and proceedings brought under this chapter to the extent chapter 1 is not in conflict with this chapter or the Inter-American Convention as ratified by the United States.".

SEC. 2. CLERICAL AMENDMENT.

The table of chapters at the beginning of title 9, United States Code, is further amended by adding at the end the following new item:

"3. Inter-American Convention on International Commercial Arbitration..... 301".

9 USC 301 note.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect upon the entry into force of the Inter-American Convention on International Commercial Arbitration of January 30, 1975, with respect to the United States.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 4314 (S. 1941):

HOUSE REPORTS: No. 101-501 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-370
101st Congress

An Act

To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.

Aug. 15, 1990
[H.R. 5131]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Aircraft and air carriers.

SECTION 1. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

Section 905(d)(4) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1475(d)(4)) is amended by striking "the 31-month period beginning on the date of the enactment of this section" and inserting "the period beginning on the date of the enactment of this section and ending on August 1, 1992".

SEC. 2. AIRPORT SECURITY PROGRAMS.

Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsection:

"(g) AIRPORT TENANTS SECURITY PROGRAMS.—The Administrator may approve under this section a security program of an airport operator, and may approve an amendment to a security program of an airport operator approved by the Administrator under subsection (b), which incorporates a security program of an airport tenant (other than an air carrier separately complying with part 108 or 129 of title 14 of the Code of Federal Regulations) having access to the secured areas of the airport—

"(1) if such program or amendment incorporates the measures by which the tenant will carry out, within the tenant's leased areas or areas designated for the tenant's exclusive use under an agreement with the airport operator, the security requirements imposed by the Administrator on the airport operator pursuant to the access control system requirements of section 107.14 of such title or to other requirements of part 107 of such title; and

"(2) if such program or amendment incorporates the methods by which the airport operator will monitor and audit the tenant's compliance with such security requirements and provides that the tenant will be required to pay financial penalties to the airport operator in the event the tenant fails to carry out any such security requirement in accordance with a contractual provision or requirement imposed by the airport operator.

If the Administrator approves a program or amendment described in this subsection, the airport operator may not be found to be in violation of a requirement of this section in any case in which the airport operator demonstrates that the tenant or an employee, permittee, or invitee of the tenant is responsible for such violation and that the airport operator has complied with all measures in its security program for securing compliance with its security program by the tenant.".

49 USC app. 1482 note.

SEC. 3. ADMINISTRATIVE CONFERENCE EVALUATION OF ADJUDICATORY PROCEDURES.

(a) STUDY AND EVALUATION.—The Administrative Conference of the United States shall conduct a study and evaluation of the administrative adjudicatory procedures of the Federal Aviation Administration and the National Transportation Safety Board and shall make a recommendation not later than 18 months after the date of the enactment of this Act as to whether the authority to adjudicate administrative complaints under the Federal Aviation Act of 1958 should remain with the Department of Transportation, should be transferred to the National Transportation Safety Board, or should be otherwise modified.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000 for fiscal year 1991. Such funds shall be in addition to amounts authorized to be appropriated under section 576 of title 5, United States Code, and shall remain available until expended.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.R. 5131:

HOUSE REPORTS: No. 101-602 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-425 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 16, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-371
101st Congress

Joint Resolution

Designating the week beginning September 16, 1990, as "National Give Kids a Fighting Chance Week".

Aug. 15, 1990
[H.J. Res. 515]

Whereas as many as 200,000 children of less than 5 years of age suffer from severe craniofacial deformity;

Whereas individuals who suffer from craniofacial deformity, including children and adults, are too often forced to live secluded lives, hidden from society;

Whereas individuals who suffer from craniofacial deformity and their families experience severe emotional and behavioral difficulties;

Whereas the International Craniofacial Foundations, Inc., its affiliated centers, the National Foundation for Facial Reconstruction, and other organizations dedicated to craniofacial reconstruction fund programs for research and education regarding craniofacial deformity and treatment of individuals who suffer from craniofacial deformity;

Whereas the International Craniofacial Foundations, Inc., its affiliated centers, the National Foundation for Facial Reconstruction, and other organizations dedicated to craniofacial reconstruction have funded surgical and nonsurgical treatment for more than 10,000 patients from throughout the United States and 12 countries; and

Whereas the International Craniofacial Foundations, Inc., its affiliated centers, the National Foundation for Facial Reconstruction and other organizations dedicated to craniofacial reconstruction have begun to aggressively seek out individuals who can be aided by the services of the organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 16, 1990, is designated as "National Give the Kids a Fighting Chance Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 515 (S.J. Res. 284):

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 31, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-372
101st Congress

Joint Resolution

Aug. 15, 1990
[H.J. Res. 554]

Designating January 6, 1991 through January 12, 1991 as "National Law Enforcement Training Week".

Whereas law enforcement training and sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 6, 1991 through January 12, 1991, is designated as "National Law Enforcement Training Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 554 (S.J. Res. 288):

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 17, considered and passed House.
Aug. 2, considered and passed Senate.

Public Law 101-373
101st Congress

Joint Resolution

Designating Labor Day weekend, September 1 through September 3, 1990, as "National Drive for Life Weekend".

Aug. 15, 1990
[H.J. Res. 627]

Whereas drunk driving is the most frequently committed violent crime in the United States, with arrests for driving while intoxicated totaling more than 3 times the number of arrests for all violent crimes combined;

Whereas 1 individual in the United States is killed every 22 minutes in a drunk-driving-related crash, an average of 65 individuals each day;

Whereas more than 23,000 individuals were killed in the United States in drunk-driving-related crashes in 1989;

Whereas 2 out of every 5 individuals in the United States will be involved in a drunk-driving-related crash at some point in their lives;

Whereas the estimates of the economic costs of drunk driving in the United States are as high as $24,000,000,000;

Whereas Americans are also asked to turn on their headlights while driving on Drive for Life Day as a remembrance of those people killed or injured by drunk-driving incidences;

Whereas Drive for Life is a public awareness campaign which asks all Americans to pledge to be responsible by driving sober and encouraging others to do the same on the Drive for Life Day and thereby demonstrating a commitment to significantly reduce the tragedies of drunk driving and which serves to educate the public about the dangers of drunk driving;

Whereas on the third annual National Drive for Life Day, the toll of individuals killed in drunk-driving-related crashes in the United States was 25.7 percent lower than the average number of deaths due to drunk-driving-related crashes on Labor Day weekend Saturday, in 1988, reflecting the success of this campaign;

Whereas the third annual National Drive for Life campaign featured endorsements from all 50 United States Governors, more than 160 mayors, and all 50 State police departments and other prominent public officials; and

Whereas the fourth annual National Drive for Life Day will occur on September 1, 1990, the Saturday of the Labor Day weekend, when drunk-driving-related crashes are traditionally at their peak: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Labor Day weekend beginning on September 1, 1990, is designated as "National Drive for Life Weekend". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that weekend with a pledge to not drink and drive and other appropriate activities.

Approved August 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 627:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 3, considered and passed House.
Aug. 4, considered and passed Senate.

Public Law 101-374
101st Congress

An Act

Aug. 15, 1990
[S. 2461]

To amend the Public Health Service Act to revise and extend the program of grants for reducing the waiting period for receiving treatment services for drug abuse, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug Abuse Treatment Waiting Period Reduction Amendments of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Abuse Treatment Waiting Period Reduction Amendments of 1990".

SEC. 2. REVISION AND EXTENSION OF PROGRAM FOR REDUCING WAITING PERIOD FOR DRUG ABUSE TREATMENT.

(a) TECHNICAL AMENDMENT REGARDING WAITING PERIOD.—Section 509E(a) of the Public Health Service Act (42 U.S.C. 290aa-12(a)) is amended by striking "the waiting list" and all that follows and inserting the following: "the waiting period for receiving, with respect to drug abuse, treatment services from public and nonprofit private providers of such services.".

(b) PRIORITIES IN MAKING GRANTS; AUTHORITY FOR POSTTREATMENT SERVICES.—Section 509E of the Public Health Service Act (42 U.S.C. 290aa-12) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (c), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (b) the following new subsections:

Women.

"(c) Subject to the availability of qualified applicants, the Secretary shall, in making grant under subsection (a), give priority to applicants that will provide, directly or through arrangements with public or nonprofit private entities, treatment services for drug abuse to pregnant or postpartum women.

"(d) A grantee under subsection (a) may expend not more than 50 percent of the grant to develop and provide, directly or through arrangements with public or nonprofit private entities, follow-up services to prevent the renewed abuse of drugs by individuals who have successfully completed, with respect to such abuse, a program of treatment provided by the grantee.".

(c) FUNDING.—

(1) INCREASE IN AUTHORIZATION OF APPROPRIATIONS.—Paragraph (1) of section 509E(g) of the Public Health Service Act, as redesignated by subsection (b)(2) of this section, is amended to read as follows:

Appropriation authorization.

"(1) In addition to amounts otherwise appropriated to carry out this section prior to fiscal year 1991, there are authorized to be appropriated an additional $40,000,000 to carry out this section.".

(2) INCREASE REGARDING LIMITATION ON AGGREGATE AMOUNT OF GRANTS.—Paragraph (3) of section 509E(g) of the Public Health Service Act, as redesignated by subsection (b)(2) of this

section, is amended by striking "$100,000,000" and inserting "$140,000,000".

(3) AVAILABILITY OF CERTAIN FUNDS.—Notwithstanding section 307 of Public Law 101-164, amounts appropriated in such Public Law for the purpose of carrying out section 509E of the Public Health Service Act shall remain available for obligation for such purpose through December 31, 1990.

(d) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration shall prepare and submit to the Senate Committee on Labor and Human Resources, and the House Committee on Energy and Commerce, a report concerning the waiting-period-reduction grant program under section 509E of the Public Health Service Act. Such report shall include—

(1) a list and description of the programs that have been awarded grants under such section;

(2) with respect to the process by which funds awarded under such section are expended for treatment services for drug abuse, a description of the extent to which such process is different than the process by which funds received by the States under subpart B of title XIX of such Act are expended by entities to which the States have awarded such funds for the purpose of providing treatment services (including a description of the extent to which there are differences in the 2 processes in the manner in which the providers of such treatment services obligate and draw down funds);

(3) an assessment of the validity of waiting lists as a measure of treatment need and, if the report concludes that waiting lists are not the most accurate measure of treatment need, a description of other, more accurate means of measuring the need for treatment services within a specified geographic area;

(4) the views of State, local, and nongovernmental treatment experts with respect to the validity of waiting lists as a measure of treatment need and with respect to the efficacy of the waiting period reduction grant program; and

(5) an assessment of the effectiveness of the treatment programs that receive funding under such section, including the usefulness of mechanisms, such as drug testing, that detect renewed substance abuse, and information with respect to the current use of such mechanisms.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect upon the date of the enactment of this Act. 42 USC 290aa-12 note.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN DRUG ABUSE DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-1) is amended by striking "There are" and all that follows through "section 515" and inserting the following: "For the purpose of carrying out this subpart, there are authorized to be appropriated". 42 USC 290cc-2.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later. 42 USC 290cc-2 note.

SEC. 4. TECHNICAL AMENDMENTS TO CERTAIN PROGRAMS.

(a) FORM OF ASSISTANCE FOR CONSTRUCTION OF FACILITIES TO SUPPLY SPECIALIZED MICE FOR BIOMEDICAL RESEARCH.—Public Law 101-190 (42 U.S.C. 289e note) is amended—

(1) in section 1—

(A) in the heading for the section, by striking "CONTRACT" and inserting "GRANT";

(B) in subsection (a), by striking "entering into a contract with" and inserting "making a grant to"; and

(C) in subsection (b), by striking "contract" and inserting "grant";

(2) in section 2—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "enter into a contract" and inserting "make a grant";

(B) in subsection (a)(1), by striking "contract" and inserting "grant";

(C) in subsection (b)(1), in the matter preceding subparagraph (A), by striking "contractor" and inserting "grantee";

(D) in subsection (b)(1), in subparagraphs (A) and (B), by striking "a contract" each place such term appears and inserting "an agreement";

(E) in subsection (b)(2), by striking "contractor" and inserting "grantee";

(F) in subsection (d)(1), in the heading, by striking "contractor" and inserting "grantee"; and

(G) in subsection (d)(1)—

(i) by striking "enter into a contract" and inserting "make a grant"; and

(ii) by striking "the contract" and inserting "the grant";

(3) in section 3(a)—

(A) by striking "enter into a contract" and inserting "make a grant"; and

(B) by striking "the contract" and inserting "the grant";

(4) in section 4—

(A) in subsection (a)(1), in the first sentence—

(i) by striking "enter into a contract" and inserting "make a grant"; and

(ii) by striking "the contract" and inserting "the grant";

(B) in subsection (a)(2)(A), in the second sentence, by striking "in the contract";

(C) in subsection (b), in the matter preceding paragraph (1), by striking "enter into a contract" and inserting "make a grant";

(D) in subsection (b)(1), by striking "contract" and inserting "grant";

(E) in subsection (c), in the matter preceding paragraph (1), by striking "enter into a contract" and inserting "make a grant"; and

(F) in subsection (c)(1), by striking "contract" and inserting "grant";

(5) in section 5—

(A) in subsection (a), in paragraphs (1) and (2), by striking "contractor" each place such term appears and inserting "grantee";

(B) in subsection (b), in paragraphs (1) through (3), by striking "contractor" each place such term appears and inserting "grantee"; and

(C) in subsection (c), by striking "contractor" and inserting "grantee"; and

(6) in section 6(a), in the matter preceding paragraph (1), by striking "contractor" and inserting "grantee".

(b) INTRASTATE ALLOCATIONS FOR SUBSTANCE ABUSE PROGRAMS UNDER CERTAIN BLOCK GRANTS TO THE STATES.—Section 1916(c)(6)(A) of the Public Health Service Act is amended— 42 USC 300x-4.

(1) in clause (i)—

(A) by striking "and" before "(III) in fiscal year 1989"; and

(B) by inserting before the period the following: ", and (IV) in fiscal year 1990 under appropriations made in Public Law 101-164 for allotments under this subpart"; and

(2) in clause (ii)—

(A) by striking "and" before "(III) in fiscal year 1989"; and

(B) by inserting before "bore to the funds" the following: ", and (IV) in fiscal year 1990 under appropriations made in Public Law 101-164 for allotments under this subpart".

(c) EFFECTIVE DATES FOR TECHNICAL AMENDMENTS.—

(1) CONSTRUCTION OF BIOMEDICAL FACILITIES.—The amendments made by subsection (a) shall take effect as if included in Public Law 101-190. 42 USC 289e note.

(2) INTRASTATE ALLOCATIONS FOR BLOCK GRANTS.—The amendments made by subsection (b) shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later. 42 USC 300x-4 note.

Approved August 15, 1990.

LEGISLATIVE HISTORY—S. 2461:

SENATE REPORTS: No. 101-336 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed Senate.
June 30, considered and passed House, amended.
Aug. 4, Senate concurred in House amendment.

Public Law 101-375
101st Congress

Joint Resolution

Aug. 15, 1990
[S.J. Res. 248]

To designate the month of September 1990 as "International Visitors' Month".

Whereas the United States Information Agency conducts educational and cultural exchange programs that bring current and future foreign leaders to the United States, often for their first visit;

Whereas the experiences of these visitors affect attitudes and decisions regarding our country and international relations in general;

Whereas the success of these programs depends on the visitors' seeing American democracy in all its openness and diversity;

Whereas such broad and meaningful exposure requires thousands of volunteers, who open their homes, businesses, and communities to more than 5,000 visitors each year;

Whereas such volunteer efforts are coordinated by the National Council for International Visitors, comprised of 103 not-for-profit community organizations throughout the United States and 42 national programming agencies;

Whereas these international visits not only enrich the United States and the world in cultural, social, and human terms, but also provide the United States and foreign nations opportunities in international trade, commerce, and economic development; and

Whereas the continuing vitality and growing value of such programs depend upon community awareness and support: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1990 is designated as "International Visitors' Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved August 15, 1990.

LEGISLATIVE HISTORY—S.J. Res. 248:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Aug. 3, considered and passed House.

Public Law 101-376
101st Congress

An Act

To amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes.

Aug. 17, 1990
[H.R. 3086]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civil Service Due Process Amendments. 5 USC 7501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Service Due Process Amendments".

SEC. 2. EXCEPTED SERVICE APPEAL RIGHTS.

(a) IN GENERAL.—Section 7511 of title 5, United States Code, is amended to read as follows:

"§ 7511. Definitions; application

"(a) For the purpose of this subchapter—
"(1) 'employee' means—
"(A) an individual in the competitive service—
"(i) who is not serving a probationary or trial period under an initial appointment; or
"(ii) who has completed 1 year of current continuous service under other than a temporary appointment limited to 1 year or less;
"(B) a preference eligible in the excepted service who has completed 1 year of current continuous service in the same or similar positions—
"(i) in an Executive agency; or
"(ii) in the United States Postal Service or Postal Rate Commission; and
"(C) an individual in the excepted service (other than a preference eligible)—
"(i) who is not serving a probationary or trial period under an initial appointment pending conversion to the competitive service; or
"(ii) who has completed 2 years of current continuous service in the same or similar positions in an Executive agency under other than a temporary appointment limited to 2 years or less;
"(2) 'suspension' has the same meaning as set forth in section 7501(2) of this title;
"(3) 'grade' means a level of classification under a position classification system;
"(4) 'pay' means the rate of basic pay fixed by law or administrative action for the position held by an employee; and
"(5) 'furlough' means the placing of an employee in a temporary status without duties and pay because of lack of work or funds or other nondisciplinary reasons.
"(b) This subchapter does not apply to an employee—

"(1) whose appointment is made by and with the advice and consent of the Senate;

"(2) whose position has been determined to be of a confidential, policy-determining, policy-making or policy-advocating character by—

"(A) the President for a position that the President has excepted from the competitive service;

"(B) the Office of Personnel Management for a position that the Office has excepted from the competitive service; or

"(C) the President or the head of an agency for a position excepted from the competitive service by statute;

"(3) whose appointment is made by the President;

"(4) who is receiving an annuity from the Civil Service Retirement and Disability Fund, or the Foreign Service Retirement and Disability Fund, based on the service of such employee;

"(5) who is described in section 8337(h)(1), relating to technicians in the National Guard;

"(6) who is a member of the Foreign Service, as described in section 103 of the Foreign Service Act of 1980;

"(7) whose position is with the Central Intelligence Agency, the General Accounting Office, or the Veterans Health Services and Research Administration;

"(8) whose position is within the United States Postal Service, the Postal Rate Commission, the Panama Canal Commission, the Tennessee Valley Authority, the Federal Bureau of Investigation, the National Security Agency, the Defense Intelligence Agency, or an intelligence activity of a military department covered under section 1590 of title 10, unless subsection (a)(1)(B) of this section or section 1005(a) of title 39 is the basis for this subchapter's applicability; or

"(9) who is described in section 5102(c)(11) of this title.

"(c) The Office may provide for the application of this subchapter to any position or group of positions excepted from the competitive service by regulation of the Office which is not otherwise covered by this subchapter.".

(b) ACTIONS BASED ON UNACCEPTABLE PERFORMANCE.—Section 4303(e) of title 5, United States Code, is amended to read as follows:

"(e) Any employee who is—

"(1) a preference eligible;

"(2) in the competitive service; or

"(3) in the excepted service and covered by subchapter II of chapter 75,

and who has been reduced in grade or removed under this section is entitled to appeal the action to the Merit Systems Protection Board under section 7701.".

5 USC 4303 note.

(c) APPLICABILITY.—The amendments made by this section shall apply with respect to any personnel action taking effect on or after the effective date of this Act.

SEC. 3. ANNUITANT STATUS NOT A BAR TO APPEALING ONE'S REMOVAL.

Section 7701 of title 5, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (k); and

(2) by inserting after subsection (i) the following:

"(j) In determining the appealability under this section of any case involving a removal from the service (other than the removal of a reemployed annuitant), neither an individual's status under any

retirement system established by or under Federal statute nor any election made by such individual under any such system may be taken into account.".

SEC. 4. EFFECTIVE DATE.

5 USC 4303 note.

This Act and the amendments made by this Act shall become effective on the date of the enactment of this Act, and, except as provided in section 2(c), shall apply with respect to any appeal or other proceeding brought on or after such date.

Approved August 17, 1990.

LEGISLATIVE HISTORY—H.R. 3086:

HOUSE REPORTS: No. 101-328 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 6, considered and passed House.
Vol. 136 (1990): July 30, considered and passed Senate, amended.
Aug. 3, House concurred in Senate amendment.

Public Law 101-377
101st Congress

An Act

Aug. 17, 1990
[H.R. 3248]

To revise the boundary of Gettysburg National Military Park in the Commonwealth of Pennsylvania, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 430g-4.

SECTION 1. GETTYSBURG NATIONAL MILITARY PARK BOUNDARY REVISION.

Public information.

(a) LANDS INCLUDED IN THE PARK.—In furtherance of the purposes of the Act entitled "An Act to establish a national military park at Gettysburg, Pennsylvania", approved February 11, 1895 (16 U.S.C. 430g et seq.), the Gettysburg National Military Park (hereafter in this Act referred to as the "park") shall hereafter comprise the lands and interests in lands within the boundary generally depicted as "Park Boundary" on the map entitled "Gettysburg National Military Park Boundary Map", numbered NPS 305/80034-B, and dated March 1990, which shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior.

(b) LANDS EXCLUDED FROM THE PARK.—Lands and interests in lands outside of the boundary so depicted as "Park Boundary" on the map referred to in subsection (a) are hereby excluded from the park and shall be disposed of in accordance with the provisions of section 2(c).

16 USC 430g-5.

SEC. 2. ACQUISITION AND DISPOSAL OF LANDS.

Gifts and property.

(a) GENERAL AUTHORITY.—The Secretary is authorized to acquire lands and interests in lands within the park by donation, purchase with donated or appropriated funds, exchange, or otherwise. In acquiring lands and interests in lands under this Act, the Secretary shall acquire the minimum Federal interests necessary to achieve the objectives identified for specific areas and the park.

(b) AUTHORITY TO CONVEY FREEHOLD AND LEASEHOLD INTERESTS WITHIN PARK.—The Secretary may convey lands and interests in lands within the park authorized in accordance with subsection (a) of the Act of July 15, 1968 (16 U.S.C. 460l-22), except that, notwithstanding subsection (d) of that section, the net proceeds from any such conveyance may be used, subject to appropriations, to acquire lands and interests within the park.

(c) CONVEYANCE OF LANDS EXCLUDED FROM PARK.—(1) The Secretary is authorized, in accordance with applicable existing law, to exchange Federal lands and interests excluded from the park pursuant to section 1(b) for the purpose of acquiring lands within the park boundary.

(2) If any such Federal lands or interests are not exchanged within five years after the date of enactment of this Act, the Secretary may sell any or all such lands or interests to the highest bidder, in accordance with such regulations as the Secretary may prescribe,

but any such conveyance shall be at not less than the fair market value of the land or interest, as determined by the Secretary.

(3) All Federal lands and interests sold or exchanged pursuant to this subsection shall be subject to such terms and conditions as will assure the use of the property in a manner which, in the judgment of the Secretary, will protect the park and the Gettysburg Battlefield Historic District (hereafter in this Act referred to as the "historic district"). Notwithstanding any other provision of law, the net proceeds from any such sale or exchange shall be used, subject to appropriations, to acquire lands and interests within the park.

(d) RELINQUISHMENT OF LEGISLATIVE JURISDICTION TO PENNSYLVANIA.—With respect to any lands over which the United States exercises exclusive or concurrent legislative jurisdiction and which are excluded from the park pursuant to section 1(b), the Secretary may relinquish to the State of Pennsylvania such exclusive or concurrent legislative jurisdiction by filing with the Governor a notice of relinquishment to take effect upon acceptance thereof, unless otherwise provided by the laws of the State.

SEC. 3. AGREEMENTS WITH RESPECT TO MONUMENTS AND TABLETS LOCATED OUTSIDE PARK BOUNDARY. 16 USC 430g-6.

The Secretary is authorized to enter into agreements with the owners of property in proximity to but outside the boundary of the park on which historic monuments and tablets commemorating the Battle of Gettysburg have been erected on or before January 1, 1990. The Secretary may make funds available, subject to appropriations, for the maintenance, protection, and interpretation of such monuments and tablets pursuant to such agreements. In addition, within the area depicted as the "Gettysburg Battlefield Historic District" on the map referred to in section 1(a), or in proximity thereto, the Secretary may, with the consent of the owner, acquire, by donation, purchase, or exchange, lands and interests comprising such monuments and tablets together with lands and interests necessary to provide adequate public access thereto.

SEC. 4. CONSERVATION WITHIN GETTYSBURG BATTLEFIELD HISTORIC DISTRICT. 16 USC 430g-7.

(a) ENCOURAGEMENT OF CONSERVATION.—The Secretary shall take appropriate action to encourage conservation of the historic district by landowners, local governments, organizations, and businesses.

(b) PRIORITIZATION OF GRANTS.—Within the historic district, the Secretary shall give priority in making grants under section 101(d), and in providing technical assistance, information, and advice under section 101(h), of the National Historic Preservation Act (16 U.S.C. 470a(d), (h)) to those programs and activities in the historic district that will assure development and use of natural and cultural resources in a manner that is consistent with the conservation and maintenance of the district's historic character.

(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to assist local governments in cooperative efforts which complement the values of the park and the historic district and to help landowners prepare individual property plans which meet landowner and conservation objectives in the historic district.

(d) REIMBURSEMENT OF PLANNING COSTS.—The Secretary, under such terms and conditions as the Secretary may prescribe and at the request of any local or county government within the historic

district, shall provide matching reimbursements for up to 50 percent of the planning costs incurred by such government in the development of comprehensive plans and land use guidelines which are consistent with conserving the historic character of the historic district. Reimbursements may only be provided under this subsection to the extent or in such amounts as are provided in appropriation Acts.

(e) ACCEPTANCE OF EASEMENT DONATIONS.—The Secretary, upon recommendation from the Director of the National Park Service, in consultation with the Advisory Commission established under section 5, is authorized to accept donations of conservation easements on land located within the historic district.

(f) FEDERAL CONSISTENCY.—(1) Any Federal or federally assisted activity or undertaking in the historic district, shall be consistent to the maximum extent possible with the purposes of the preservation of the historic district, including its rural, agricultural, and town elements, and shall also comply with the National Historic Preservation Act and other applicable laws.

(2) The head of any Federal agency (hereafter in this subsection referred to as the "agency") having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the historic district, and the head of any Federal agency having authority to license or permit any undertaking in such area, shall at the earliest feasible date prepare a detailed analysis of any proposed action and submit it to the Secretary.

(3) The Secretary shall review the analysis and consult with the agency. If after such review and consultation, the Secretary finds that the proposed action is not consistent with the purposes identified in this subsection, the agency shall not proceed with the action until after a justification for the action has been submitted to the appropriate committees of Congress with adequate time allowed for Congressional comment. Such justification shall include the following elements: the anticipated effects on the historic and commemorative character of the historic district, the social and economic necessity for the proposed action, all possible alternatives to the proposed action, the comparative benefits of proposed alternative actions, and the mitigation measures outlined in the proposed action.

16 USC 430g-8.

SEC. 5. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Gettysburg National Military Park Advisory Commission (hereafter in this Act referred to as the "Advisory Commission"). The Advisory Commission shall be composed of eleven members, as follows:

(1) One member representing each of the local governments from the four townships surrounding the park and the Borough of Gettysburg, appointed by the Secretary.

(2) One member representing the Adams County, Pennsylvania government, appointed by the Secretary.

(3) One member representing the State Historic Preservation Office of the State of Pennsylvania, appointed by the Secretary.

(4) Two members who are residents of Adams County and who are knowledgeable about the park and its resources, appointed by the Secretary, one of whom shall own land or interests in land within the park boundary.

(5) One member with expertise in local historic preservation, appointed by the Secretary.

(6) The Director of the National Park Service or his designee, ex officio.

Members shall be appointed for staggered terms of three years, as designated by the Secretary at the time of the initial appointments. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairperson. Six members of the Advisory Commission shall constitute a quorum.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission to coordinate the management of the park and the historic district with local jurisdictions.

(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the park. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement. Public information.

(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(e) CHARTER.—The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) are hereby waived with respect to this Advisory Commission.

SEC. 6. INTERPRETATION. 16 USC 430g-9.

In administering the park, the Secretary shall take such action as is necessary and appropriate to interpret, for the benefit of visitors to the park and the general public, the Battle of Gettysburg in the larger context of the Civil War and American history, including the causes and consequences of the Civil War and including the effects of the war on all the American people.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS. 16 USC 430g-10.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved August 17, 1990.

LEGISLATIVE HISTORY—H.R. 3248 (S. 1594):

HOUSE REPORTS: No. 101-467 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-229 accompanying S. 1594 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 24, S. 1594 considered and passed Senate.
May 1, H.R. 3248 considered and passed House.
Aug. 3, considered and passed Senate.

Public Law 101-378
101st Congress

An Act

Aug. 17, 1990
[S. 666]

To enroll twenty individuals under the Alaska Native Claims Settlement Act.

Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. ENROLL NATIVES UNDER ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following named individuals as Natives under the Alaska Native Claims Settlement Act (Public Law 92-203): Marilyn Jean (Warren) Sanchez, Theresa A. (Warren) Forbes, Linda (Graham) Raymond, Carol (Graham) Kistler, Debra (Sellers) Page, Glenn Sellers, David P. Schmalzried, Odman H. Schmalzried, Carol Guzialek, Corbin Kooly, Charmaine I. (Warren) Forbes, John A. Warren, Jr., Phillip Graham, Sharon (Graham) Skinner, Wanda (Sellers) Clancy, Georgia A. (Schmalzried) Flood, Rhonda S. (Schmalzried) Koski, Paula (Guzialek) Smith, Pamela Kooly, and Darrell Kooly. Each individual is entitled to receive one hundred shares of stock in Cook Inlet Region, Inc., and such other benefits as the Board of Directors of that corporation may approve. No individual enrolled pursuant to this Act shall be entitled to share in any dividends or Alaska Native Claims Settlement Act distributions made by the United States or Cook Inlet Region, Inc., prior to the individual's enrollment. Enrollment of these individuals shall not alter the entitlement to or distribution of land to Cook Inlet Region, Inc., under the terms of the Alaska Native Claims Settlement Act.

TITLE II

Admiralty Island National Monument Land Management Act of 1990.
Conservation.

SEC. 201. TITLE AND PURPOSE.

(a) TITLE.—This title may be cited as the "Admiralty Island National Monument Land Management Act of 1990".

(b) PURPOSE.—The purpose of this title is to improve Federal management of lands on Admiralty Island, Alaska, as provided herein.

SEC. 202. FINDINGS.

The Congress hereby finds that—

(1) Admiralty Island National Monument, Alaska, is an area of unparalleled natural beauty containing multiple values including but not limited to, fish and wildlife, forestry, recreational, subsistence, educational, wilderness, historical, cultural, and scenic values of enduring benefit to the Nation and the Native peoples residing therein; and

(2) land management and Federal administration of Admiralty Island National Monument may be enhanced by Federal land acquisitions, through land exchanges or otherwise, and by cooperative agreements between the Federal Government and the indigenous residents of the island, the people of the city of Angoon and the Native Village Corporation, Kootznoowoo, Incorporated.

SEC. 203. LAND ACQUISITION AND EXCHANGE.

(a) Section 506(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new paragraph: 94 Stat. 2406.

"(9)(A) The Secretary is authorized and directed to enter into such cooperative agreements and agreements for land acquisitions, through exchange or otherwise, with Kootznoowoo as are deemed necessary by the Secretary to carry out the purposes specified in sections 201 and 503 of this Act and to improve the management of Federal lands on Admiralty Island. Contracts.

"(B) The Secretary shall make every effort to complete agreements within eighteen months of the date of enactment of this paragraph.

"(C) The Secretary shall report to Congress before the end of such eighteen-month period on the status and results of negotiations with Kootznoowoo. The report shall include, but not be limited to, any Kootznoowoo properties proposed to be acquired by the United States, any Federal land or other compensation to be offered in exchange, and the text of any proposed or executed agreements. Reports.

"(D) Any lands on Admiralty Island acquired by the United States pursuant to this paragraph shall be added to and incorporated within the Admiralty Island National Monument.

"(E) The inability of the Secretary and Kootznoowoo to reach agreement shall not preclude subsequent negotiations at any time for the purposes of land exchanges or other matters.

"(F) Enactment of this paragraph shall not create any right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States.".

SEC. 204. LAND SELECTION CONSOLIDATION.

(a) Section 506(a)(5) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) is hereby amended by adding at the end thereof the following new subparagraphs:

"(C) In order to consolidate Federal land ownership and improve management of all land and timber resources in the area, the lands between such sale area and lands lying to the east of such sale area which have been or may be conveyed to Kootznoowoo pursuant to this paragraph shall be made available by the Secretary for an exchange between the Federal Government and Kootznoowoo, Incorporated, pursuant to the terms of section 1302(h) of this Act. If such sale is voluntarily terminated, or is canceled or forfeited in accordance with applicable law and regulations, then the lands within the sale area shall also be made available for exchange. The availability of the lands within the sale area for exchange shall continue for one year following the date the sale is completed and closed, or for one year following its termination, cancellation, or forfeiture, whichever is later. Nothing in this section shall affect valid land selections which the State of Alaska has filed with the Forests and forest products.

Federal Government pursuant to Public Law 85-508, nor shall this section cause these lands to be removed from entry pursuant to the Mining Law of 1872.

"(D) Subject to lode mining claims, known as KAEL 1-216 inclusive, and valid existing rights, the subsurface estate in the lands conveyed to Kootznoowoo, Incorporated, pursuant to subparagraph (C) shall be granted to Sealaska, Incorporated. Nothing in subparagraphs (C) or (D) shall create a right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States.".

SEC. 205. ADMINISTRATIVE PROVISIONS.

16 USC 1132 note.

(a) Section 703(a)(1) of the Alaska National Interest Lands Conservation Act is amended by deleting the words "Admiralty Island National Monument Wilderness" and inserting in lieu thereof "Kootznoowoo Wilderness".

(b)(1) All rights, title, and interests to that portion of the approximately seventeen and thirty-four one-hundredths acres comprising the Angoon Administrative Site which, pursuant to paragraph (b)(2) of this section, the Secretary dedicates for uses related to the administration of the Tongass National Forest, are hereby confirmed in the United States, said parcel being a valid existing Federal administrative site as referenced in section 506(a)(3)(A) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended). Said administrative site is located on Admiralty Island in township 50 south, range 68 east, section 31, Copper River Base and Meridian and township 50 south, range 67 east, section 36, Copper River Base and Meridian.

(2) Within one year of enactment of this paragraph, the Secretary of Agriculture shall adjust, and resurvey as necessary, the boundaries of the Angoon Administrative Site to include only that portion of the site described as follows:

(A) Those lands which lie within the following described boundaries, comprising four and sixty-eight one-hundredths acres more or less:

Beginning at corner 1, also corner 9 of United States survey numbered 3756;

Thence north 45 degrees 30 minutes west, 540.79 feet to corner 2;

Thence north 45 degrees 00 minutes east, 376.60 feet to corner 3;

Thence south 45 degrees 30 minutes east, 540.79 feet to corner 4;

Thence south 45 degrees 00 minutes west, 376.60 feet to corner 1, also corner 9 of United States survey numbered 3756, the point of beginning.

(B) Those lands which lie within that area adjoining the northeastern boundary of the four and sixty-eight one-hundredths acre tract and the mean high tide line of Kootznoowoo Inlet, subject to a perpetual public easement for the existing Angoon-Killisnoo Road.

(C) An easement for road and utility access to the four and sixty-eight one-hundredths acre tract from the western or southern boundary of the seventeen and thirty-four one-hundredths acre site. To the maximum extent feasible, the Secretary shall locate said easement to connect and follow the existing right-of-way for Relay Road, which lies between lots 1 and 6 of the

Samuel G. Johnson subdivision. Said easement shall be at a precise location and of dimensions which the Secretary determines are reasonably necessary for present and projected Federal uses of the site related to administration of the Tongass National Forest. Said easement shall be subject to any valid existing rights except those of Kootznoowoo, Incorporated: *Provided,* That the easement shall not be located on any lands conveyed by Kootznoowoo, Incorporated, to a third party prior to June 1, 1988, without the express consent of such party: *Provided further,* That the Secretary shall exclude from the lands so retained those lands which were occupied on June 1, 1988, by structures and improvements that were not constructed by or for the United States including easements related thereto, or which were constructed by or for the United States but which the Secretary determines are not reasonably necessary for present or projected Federal uses related to the administration of the Tongass National Forest: *Provided further,* That the Secretary shall not exclude from the four and sixty-eight one-hundredths acre tract any lands occupied by existing power or utility lines or poles, and the lands so occupied shall be subject to an easement to allow for their continued use, maintenance, and repair.

(3) Title to all lands within the seventeen and thirty-four one-hundredths acre administrative site which are not included by the Secretary in the adjusted area provided by paragraph (b)(2) shall be conveyed by the Secretary of Agriculture by quitclaim deed to Kootznoowoo, Incorporated.

(4) The provisions of paragraphs (b)(2) and (b)(3) are subject to the condition precedent that Kootznoowoo, Incorporated, executes an appropriate written agreement acceptable to the United States Attorney for the District of Alaska to dismiss, with prejudice, the pending litigation entitled Kootznoowoo, Incorporated, versus United States Department of Agriculture, Forest Service, Civil Numbered A84-575, in the United States District Court for the District of Alaska, and agrees therein that Kootznoowoo, Incorporated, and the United States shall each bear their respective costs of said litigation, including attorneys' fees.

TITLE III

SEC. 301. ALASKA NATIVE CLAIM SETTLEMENT ACT.

Subsection (d) of section 37 of the Alaska Native Claims Settlement Act is amended by— 43 USC 1629c.

(1) inserting the words "and such resolution is not validly rescinded pursuant to paragraph (2)(B)(ii)" before the period at the end of paragraph (1)(A);

(2) by redesignating paragraph (2)(B) as paragraph (2)(B)(i); and

(3) by adding the following new clauses to paragraph (2)(B):

"(ii) In lieu of approving the amendment to the articles of incorporation described in clause (i) and submitting such amendment to a vote of the shareholders, at any time prior to January 1, 1991, the board of directors of a Native Corporation that has approved a resolution described in paragraph (1)(A) may approve a new resolution rescinding that prior resolution. Upon approval of the new resolution

rescinding a resolution described in paragraph (1)(A), the latter resolution shall be void and alienability restrictions on the Settlement Common Stock of such corporation shall continue subsequent to December 18, 1991, until such time as the alienability restrictions are terminated pursuant to the procedure described in subsection (b).

"(iii) Notwithstanding any other provision of law, a civil action that challenges the constitutionality of any provision in clause (ii) shall be barred unless it is filed within one year after the date of the vote of the board of directors approving a resolution to rescind a prior opt-in election under paragraph (1)(A). Any such civil action shall be filed in accordance with section 16(b) of the Alaska Native Claims Settlement Act Amendments of 1987 (101 Stat. 1813-1814).".

Approved August 17, 1990.

LEGISLATIVE HISTORY—S. 666:

HOUSE REPORTS: No. 101-575 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-297 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 6, considered and passed Senate.
July 10, considered and passed House, amended.
July 23, Senate concurred in House amendments with amendments.
Aug. 1, House concurred in Senate amendments.

Public Law 101-379
101st Congress

An Act

To clarify and strengthen the authority for certain Department of the Interior law enforcement services, activities, and officers in Indian country, and for other purposes.

Aug. 18, 1990
[H.R. 498]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Law Enforcement Reform Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Law Enforcement Reform Act". 25 USC 2801 note.

DEFINITIONS

SEC. 2. For purposes of this Act— 25 USC 2801.

(1) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(2) The term "employee of the Bureau" includes an officer of the Bureau.

(3) The term "enforcement of a law" includes the prevention, detection, and investigation of an offense and the detention or confinement of an offender.

(4) The term "Indian country" has the meaning given that term in section 1151 of title 18, United States Code.

(5) The term "Indian tribe" has the meaning given that term in section 201 of the Act of April 11, 1968 (82 Stat. 77; 25 U.S.C. 1301).

(6) The term "offense" means an offense against the United States and includes a violation of a Federal regulation relating to part or all of Indian country.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "Division of Law Enforcement Services" means the entity established within the Bureau under section 3(b).

(9) The term "Branch of Criminal Investigations" means the entity the Secretary is required to establish within the Division of Law Enforcement Services under section 3(d)(1).

INDIAN LAW ENFORCEMENT RESPONSIBILITIES

SEC. 3. (a) The Secretary, acting through the Bureau, shall be responsible for providing, or for assisting in the provision of, law enforcement services in Indian country as provided in this Act. 25 USC 2802.

(b) There is hereby established within the Bureau a Division of Law Enforcement Services which, under the supervision of the Secretary, or an individual designated by the Secretary, shall be responsible for—

(1) carrying out the law enforcement functions of the Secretary in Indian country, and

(2) implementing the provisions of this section.

(c) Subject to the provisions of this Act and other applicable Federal or tribal laws, the responsibilities of the Division of Law Enforcement Services in Indian country shall include—

(1) the enforcement of Federal law and, with the consent of the Indian tribe, tribal law;

(2) in cooperation with appropriate Federal and tribal law enforcement agencies, the investigation of offenses against criminal laws of the United States;

(3) the protection of life and property;

(4) the development of methods and expertise to resolve conflicts and solve crimes;

(5) the provision of criminal justice remedial actions, correctional and detention services, and rehabilitation;

(6) the reduction of recidivism and adverse social effects;

(7) the development of preventive and outreach programs which will enhance the public conception of law enforcement responsibilities through training and development of needed public service skills;

(8) the assessment and evaluation of program accomplishments in reducing crime; and

(9) the development and provision of law enforcement training and technical assistance.

Establishment.

(d)(1) The Secretary shall establish within the Division of Law Enforcement Services a separate Branch of Criminal Investigations which, under such inter-agency agreement as may be reached between the Secretary and appropriate agencies or officials of the Department of Justice and subject to such guidelines as may be adopted by relevant United States attorneys, shall be responsible for the investigation, and presentation for prosecution, of cases involving violations of sections 1152 and 1153 of title 18, United States Code, within Indian country.

(2) The Branch of Criminal Investigations shall not be primarily responsible for the routine law enforcement and police operations of the Bureau in Indian country.

Regulations.

(3) The Secretary shall prescribe regulations which shall establish a procedure for active cooperation and consultation of the criminal investigative employees of the Bureau assigned to an Indian reservation with the governmental and law enforcement officials of the Indian tribe located on such reservation.

(4)(i) Criminal investigative personnel of the Branch shall be subject only to the supervision and direction of law enforcement personnel of the Branch or of the Division. Such personnel shall not be subject to the supervision of the Bureau of Indian Affairs Agency Superintendent or Bureau of Indian Affairs Area Office Director. Nothing in this paragraph is intended to prohibit cooperation, coordination, or consultation, as appropriate, with nonlaw enforcement Bureau of Indian Affairs personnel at the agency or area levels, or prohibit or restrict the right of a tribe to contract the investigative program under the authority of Public Law 93-638 or to maintain its own criminal investigative operations.

(ii) At the end of one year following the date of establishment of the separate Branch of Criminal Investigations, any tribe may, by resolution of the governing body of the tribe, request the Secretary to reestablish line authority through the Agency Superintendent or Bureau of Indian Affairs Area Office Director. In the absence of good cause to the contrary, the Secretary, upon receipt of such

resolution, shall reestablish the line authority as requested by the tribe.

(e)(1) The Secretary shall establish appropriate standards of education, experience, training, and other relevant qualifications for law enforcement personnel of the Division of Law Enforcement Services who are charged with law enforcement responsibilities pursuant to section 4.

(2) The Secretary shall also provide for the classification of such positions within the Division of Law Enforcement Services at GS grades, as provided in section 5104 of title 5, United States Code, consistent with the responsibilities and duties assigned to such positions and with the qualifications established for such positions.

(3) In classifying positions in the Division of Law Enforcement Services under paragraph (2), the Secretary shall ensure that such positions are classified at GS grades comparable to those for other Federal law enforcement personnel in other Federal Agencies in light of the responsibilities, duties, and qualifications required of such positions.

LAW ENFORCEMENT AUTHORITY

SEC. 4. The Secretary may charge employees of the Bureau with law enforcement responsibilities and may authorize those employees to— 25 USC 2803.

(1) carry firearms;

(2) execute or serve warrants, summonses, or other orders relating to a crime committed in Indian country and issued under the laws of—

(A) the United States (including those issued by a Court of Indian Offenses under regulations prescribed by the Secretary), or

(B) an Indian tribe if authorized by the Indian tribe;

(3) make an arrest without a warrant for an offense committed in Indian country if—

(A) the offense is committed in the presence of the employee, or

(B) the offense is a felony and the employee has reasonable grounds to believe that the person to be arrested has committed, or is committing, the felony;

(4) offer and pay a reward for services or information, or purchase evidence, assisting in the detection or investigation of the commission of an offense committed in Indian country or in the arrest of an offender against the United States;

(5) make inquiries of any person, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter relevant to the enforcement or carrying out in Indian country of a law of either the United States or an Indian tribe that has authorized the employee to enforce or carry out tribal laws;

(6) wear a prescribed uniform and badge or carry prescribed credentials;

(7) perform any other law enforcement related duty; and

(8) when requested, assist (with or without reimbursement) any Federal, tribal, State, or local law enforcement agency in the enforcement or carrying out of the laws or regulations the agency enforces or administers.

ASSISTANCE BY OTHER AGENCIES

Contracts.
25 USC 2804.

SEC. 5. (a) The Secretary may enter into an agreement for the use (with or without reimbursement) of the personnel or facilities of a Federal, tribal, State, or other government agency to aid in the enforcement or carrying out in Indian country of a law of either the United States or an Indian tribe that has authorized the Secretary to enforce tribal laws. The Secretary may authorize a law enforcement officer of such an agency to perform any activity the Secretary may authorize under section 4.

(b) Any agreement entered into under this section relating to the enforcement of the criminal laws of the United States shall be in accord with any agreement between the Secretary and the Attorney General of the United States.

(c) The Secretary may not use the personnel of a non-Federal agency under this section in an area of Indian country if the Indian tribe having jurisdiction over such area of Indian country has adopted a resolution objecting to the use of the personnel of such agency. The Secretary shall consult with Indian tribes before entering into any agreement under subsection (a) with a non-Federal agency that will provide personnel for use in any area under the jurisdiction of such Indian tribes.

(d) Notwithstanding the provisions of section 1535 of title 31, United States Code, the head of a Federal agency with law enforcement personnel or facilities may enter into an agreement (with or without reimbursement) with the Secretary under subsection (a).

(e) The head of a Federal agency with law enforcement personnel or facilities may enter into an agreement (with or without reimbursement) with an Indian tribe relating to—

(1) the law enforcement authority of the Indian tribe, or

(2) the carrying out of a law of either the United States or the Indian tribe.

(f) While acting under authority granted by the Secretary under subsection (a), a person who is not otherwise a Federal employee shall be considered to be—

(1) an employee of the Department of the Interior only for purposes of—

(A) the provisions of law described in section 3374(c)(2) of title 5, United States Code, and

(B) sections 111 and 1114 of title 18, United States Code, and

(2) an eligible officer under subchapter III of chapter 81 of title 5, United States Code.

REGULATIONS

25 USC 2805.

SEC. 6. After consultation with the Attorney General of the United States, the Secretary may prescribe under this Act regulations relating to the enforcement of criminal laws of the United States and regulations relating to the consideration of applications for contracts awarded under the Indian Self-Determination Act to perform the functions of the Branch of Criminal Investigations.

JURISDICTION

25 USC 2806.

SEC. 7. (a) The Secretary shall have investigative jurisdiction over offenses against criminal laws of the United States in Indian coun-

try subject to an agreement between the Secretary and the Attorney General of the United States.

(b) In exercising the investigative authority conferred by this section, the employees of the Bureau shall cooperate with the law enforcement agency having primary investigative jurisdiction over the offense committed.

(c) This Act does not invalidate or diminish any law enforcement commission or other delegation of authority issued under the authority of the Secretary before the date of enactment of this Act.

(d) The authority provided by this Act is in addition to, and not in derogation of, any authority that existed before the enactment of this Act. The provisions of this Act alter neither the civil or criminal jurisdiction of the United States, Indian tribes, States, or other political subdivisions or agencies, nor the law enforcement, investigative, or judicial authority of any Indian tribe, State, or political subdivision or agency thereof, or of any department, agency, court, or official of the United States other than the Secretary.

UNIFORM ALLOWANCE

SEC. 8. Notwithstanding the limitation in section 5901(a) of title 5, United States Code, the Secretary may provide a uniform allowance for uniformed law enforcement officers under section 4 of this Act of not more than $400 a year. 25 USC 2807.

SOURCE OF FUNDS

SEC. 9. Any expenses incurred by the Secretary under this Act shall be paid from funds appropriated under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13). 25 USC 2808.

REPORTS TO TRIBES

SEC. 10. (a) In any case in which law enforcement officials of the Bureau or the Federal Bureau of Investigation decline to initiate an investigation of a reported violation of Federal law in Indian country, or terminate such an investigation without referral for prosecution, such officials are authorized to submit a report to the appropriate governmental and law enforcement officials of the Indian tribe involved that states, with particularity, the reason or reasons why the investigation was declined or terminated. 25 USC 2809.

(b) In any case in which a United States attorney declines to prosecute an alleged violation of Federal criminal law in Indian country referred for prosecution by the Federal Bureau of Investigation or the Bureau, or moves to terminate a prosecution of such an alleged violation, the United States attorney is authorized to submit a report to the appropriate governmental and law enforcement officials of the Indian tribe involved that states, with particularity, the reason or reasons why the prosecution was declined or terminated.

(c) In any case—

(1) in which the alleged offender is an Indian, and

(2) for which a report is submitted under subsection (a) or (b),

the report made to the Indian tribe may include the case file, including evidence collected and statements taken, which might support an investigation or prosecution of a violation of tribal law.

(d) Nothing in this section shall require any Federal agency or official to transfer or disclose any confidential or privileged commu-

nication, information, or sources to the officials of any Indian tribe. Federal agencies authorized to make reports pursuant to this section shall, by regulations, adopt standards for the protection of such communications, information, or sources.

EASTERN BAND OF CHEROKEE INDIANS

SEC. 11. Notwithstanding any other provision of law, the Eastern Band of Cherokee Indians is hereby authorized to sell and transfer, without further approval of the United States, all its interests in the business operating as Carolina Mirror Inc., including lands, leasehold interests, and improvements which are located in Wilkes County, North Carolina, and Harris County, Texas. Nothing in this section is intended to authorize the Band to sell any Eastern Cherokee lands which are held in trust by the United States or any lands comprising the Eastern Cherokee Indian Reservation.

ALASKA NATIVES COMMISSION

42 USC 2991a note.

SEC. 12. (a)(1) The Congress has conducted a preliminary review of the social and economic circumstances of Alaska Natives and of governmental policies and programs affecting Alaska Natives and finds that—

(A) in this period of rapid cultural change, there is, among Alaska Natives, a growing social and economic crisis characterized by, among other things, alcohol abuse and violence, grave health problems, low levels of educational achievement, joblessness, a lack of employment opportunities, and a growing dependency upon transfer payments;

(B) these conditions exist even though public policies and programs adopted in recent decades have been intended to assist Alaska Natives in protecting their traditional cultures and subsistence economies and in encouraging economic self-sufficiency and individual, group, village, and regional self-determination; and

(C) Alaska Natives and the State of Alaska have expressed a need for a review of public policies and programs and a desire to make such policies and programs more effective in accomplishing their intentions.

(2) The Congress hereby declares that it is timely and essential to conduct, in cooperation with the State of Alaska and with the participation of Alaska Natives, a comprehensive review of Federal and State policies and programs affecting Alaska Natives in order to identify specific actions that may be taken by the United States and the State of Alaska to help assure that public policy goals are more fully realized among Alaska Natives.

Establishment.

(b)(1) There is hereby established a Commission to be known as the "Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives" (hereafter referred to in this section as the "Commission").

President.

(2)(A) The Commission shall consist of the following members:

(i) seven individuals appointed by the President, at least three of whom shall be Alaska Natives and not more than two of whom may be officers or employees of the Federal Government,

(ii) seven individuals appointed by the Governor of the State of Alaska,

(iii) the president of the senate of the State of Alaska or a designated representative of such president,

(iv) the speaker of the house of representatives of the State of Alaska or a designated representative of such speaker,

(v) the chairman of the Select Committee on Indian Affairs of the Senate or a designated representative of such chairman,

(vi) the ranking minority member of the Select Committee on Indian Affairs of the Senate or a designated representative of such member,

(vii) the chairman of the Committee on Energy and Natural Resources of the Senate or a designated representative of such chairman,

(viii) the ranking minority member of the Committee on Energy and Natural Resources of the Senate or a designated representative of such member,

(ix) the chairman of the Committee on Interior and Insular Affairs of the House of Representatives or a designated representative of such chairman,

(x) the ranking minority member of the Committee on Interior and Insular Affairs of the House of Representatives or a designated representative of such member, and

(xi) each Member of Congress who represents the people of the State of Alaska and is not described in any of the preceding paragraphs, or a designated representative of such Member.

(B) The Commission shall hold its first meeting by no later than the date that is thirty days after the date on which all members of the Commission who are to be appointed have been appointed.

(C) Each member of the Commission who is appointed to the Commission under clause (i) or (ii) of subparagraph (A) shall be entitled to one vote which shall be equal to the vote of every other member of the Commission who is appointed to the Commission under clause (i) or (ii) of subparagraph (A). The members of the Commission described in a clause of subparagraph (A) other than clause (i) or (ii) shall be ex officio, nonvoting members of the Commission.

(D) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(E) In making appointments to the Commission, the President and the Governor of Alaska shall give careful consideration to recommendations received from Alaska Native village, regional, and State organizations.

(F) At the time appointments are made under subparagraph (A), the President shall designate an individual appointed under subparagraph (A)(i) to be cochairman of the Commission and the Governor of the State of Alaska shall designate an individual appointed under subparagraph (A)(ii) to be the other cochairman of the Commission.

(G) Eight voting members of the Commission shall constitute a quorum for the transaction of business.

(H) The Commission may adopt such rules (consistent with the other provisions of this section) as may be necessary to establish its procedures and to govern the manner of its operations, organization (including task forces), and personnel.

(3)(A) Each member of the Commission not otherwise employed by the United States Government or the State of Alaska shall receive compensation at a rate equal to the daily rate for GS-18 of the

General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties (including service on a task force) authorized by the Commission.

(B) Except as provided in subparagraph (C), a member of the Commission who is otherwise an officer or employee of the United States Government or the State of Alaska shall serve on the Commission without additional compensation.

(C) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from home or their regular place of business, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(D) Notwithstanding the other provisions of this section, no individual appointed to the Commission by the Governor of the State of Alaska under paragraph (2)(A)(ii) shall participate in the proceedings of the Commission, vote on business of the Commission, or receive any compensation or expense reimbursement under this section until the State of Alaska and the President have concluded an equitable agreement to share the expenses incurred by the Commission. In the event that such an agreement is not reached within a reasonable period of time, the members of the Commission described in any clause of subparagraph (A) of paragraph (2) other than clause (ii) shall proceed with the work of the Commission without the participation of the individuals appointed under paragraph (2)(A)(ii) and the quorum required for the transaction of the business of the Commission shall be 4 members of the Commission appointed under paragraph (2)(A)(i).

(5) The principal office of the Commission shall be in the State of Alaska.

(c) The Commission shall—

(1) conduct a comprehensive study of—

(A) the social and economic status of Alaska Natives, and

(B) the effectiveness of those policies and programs of the United States, and of the State of Alaska, that affect Alaska Natives,

(2) conduct public hearings on the subjects of such study,

(3) recommend specific actions to the Congress and to the State of Alaska that—

(A) help to assure that Alaska Natives have life opportunities comparable to other Americans, while respecting their unique traditions, cultures, and special status as Alaska Natives,

(B) address, among other things, the needs of Alaska Natives for self-determination, economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems,

(4) in developing those recommendations, respect the important cultural differences which characterize Alaska Native groups,

(5) submit, by no later than the date that is eighteen months after the date of the first meeting of the Commission, a report on the study, together with the recommendations developed under paragraph (3), to the President, the Congress, the Governor of the State of Alaska, and the legislature of the State of Alaska, and

(6) make such report available to Alaska Native villages and organizations and to the public.

(d)(1)(A) Subject to such rules and regulations as may be adopted by the Commission, the co-chairmen of the Commission shall have the power to—

(i) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the cochairmen deem advisable to assist in the performance of the duties of the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(ii) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of such General Schedule.

(B) Service of an individual as a member of the Commission shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(2)(A) The Commission is authorized to—

(i) hold such hearings and sit and act at such times,

(ii) take such testimony,

(iii) have such printing and binding done,

(iv) enter into such contracts and other arrangements,

(v) make such expenditures, and

(vi) take such other actions,

as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(B) The Commission is authorized to establish task forces which include individuals appointed by the Commission who are not members of the Commission only for the purpose of gathering information on specific subjects identified by the Commission as requiring the knowledge and expertise of such individuals. Any task force established by the Commission shall be chaired by a voting member of the Commission who shall preside at any task force hearing authorized by the Commission. No compensation (other than compensation under subsection (b)(3)(A) to a member of the Commission) may be paid to members of a task force solely for their service on the task force, but the Commission may authorize the reimbursement of members of a task force for travel and per diem in lieu of subsistence expenses during the performance of duties while away from the home, or regular place of business, of the member, in accordance

with subchapter I of chapter 57 of title 5, United States Code. The Commission shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Commission staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Commission.

Gifts and property.

(3) The Commission is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of Alaska, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this section.

(4) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(5)(A) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by a cochairman of the Commission.

(B) Upon the request of both cochairmen of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(C) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) The Commission shall cease to exist on the date that is one hundred eighty days after the date on which the Commission submits the report required under subsection (c)(5). All records, documents, and materials of the Commission shall be transferred to the National Archives and Records Administration on the date on which the Commission ceases to exist.

Appropriation authorization.

(f)(1) There are authorized to be appropriated to the Commission $700,000 to carry out the provisions of this section. Such sum shall remain available, without fiscal year limitation, until expended.

(2) Until funds are appropriated under the authority of paragraph (1), salaries and other expenses incurred by the Commission shall be paid from the contingent fund of the Senate upon vouchers

approved by the cochairman of the Commission. The total amount of funds paid from such contingent fund shall be reimbursed to such contingent fund from funds appropirated under the authority of paragraph (1).

Approved August 18, 1990.

LEGISLATIVE HISTORY—H.R. 498:

HOUSE REPORTS: No. 101-60 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-167 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): May 23, considered and passed House.
Nov. 17, considered and passed Senate, amended.
Vol. 136 (1990): Aug. 1, House concurred in Senate amendment with amendments.
Aug. 4, Senate concurred in House amendments.

Public Law 101-380
101st Congress

An Act

Aug. 18, 1990
[H.R. 1465]

To establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Oil Pollution Act of 1990.
Maritime affairs.
Environmental protection.
33 USC 2701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oil Pollution Act of 1990".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

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Sec. 1001. Definitions.
Sec. 1002. Elements of liability.
Sec. 1003. Defenses to liability.
Sec. 1004. Limits on liability.
Sec. 1005. Interest.
Sec. 1006. Natural resources.
Sec. 1007. Recovery by foreign claimants.
Sec. 1008. Recovery by responsible party.
Sec. 1009. Contribution.
Sec. 1010. Indemnification agreements.
Sec. 1011. Consultation on removal actions.
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Sec. 1014. Designation of source and advertisement.
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TITLE II—CONFORMING AMENDMENTS

Sec. 2001. Intervention on the High Seas Act.
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Sec. 3001. Sense of Congress regarding participation in international regime.
Sec. 3002. United States-Canada Great Lakes oil spill cooperation.
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Sec. 3004. International inventory of removal equipment and personnel.
Sec. 3005. Negotiations with Canada concerning tug escorts in Puget Sound.

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Subtitle A—Prevention

Sec. 4101. Review of alcohol and drug abuse and other matters in issuing licenses, certificates of registry, and merchant mariners' documents.
Sec. 4102. Term of licenses, certificates of registry, and merchant mariners' documents; criminal record reviews in renewals.
Sec. 4103. Suspension and revocation of licenses, certificates of registry, and merchant mariners' documents for alcohol and drug abuse.

Sec. 4104. Removal of master or individual in charge.
Sec. 4105. Access to National Driver Register.
Sec. 4106. Manning standards for foreign tank vessels.
Sec. 4107. Vessel traffic service systems.
Sec. 4108. Great Lakes pilotage.
Sec. 4109. Periodic gauging of plating thickness of commercial vessels.
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TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

33 USC 2701.

Sec. 1001. DEFINITIONS.

For the purposes of this Act, the term—

(1) "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) "barrel" means 42 United States gallons at 60 degrees fahrenheit;

(3) "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from an incident;

(4) "claimant" means any person or government who presents a claim for compensation under this title;

(5) "damages" means damages specified in section 1002(b) of this Act, and includes the cost of assessing these damages;

(6) "deepwater port" is a facility licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524);

(7) "discharge" means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(8) "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990;

(9) "facility" means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes;

(10) "foreign offshore unit" means a facility which is located, in whole or in part, in the territorial sea or on the continental shelf of a foreign country and which is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country's territorial sea or from the foreign country's continental shelf;

(11) "Fund" means the Oil Spill Liability Trust Fund, established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509);

(12) "gross ton" has the meaning given that term by the Secretary under part J of title 46, United States Code;

(13) "guarantor" means any person, other than the responsible party, who provides evidence of financial responsibility for a responsible party under this Act;

(14) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil;

(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and has governmental authority over lands belonging to or controlled by the tribe;

(16) "lessee" means a person holding a leasehold interest in an oil or gas lease on lands beneath navigable waters (as that term is defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a))) or on submerged lands of the Outer Continental Shelf, granted or maintained under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(17) "liable" or "liability" shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321);

(18) "mobile offshore drilling unit" means a vessel (other than a self-elevating lift vessel) capable of use as an offshore facility;

(19) "National Contingency Plan" means the National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act, as amended by this Act, or revised under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9605);

(20) "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the exclusive economic zone), any State or local government or Indian tribe, or any foreign government;

(21) "navigable waters" means the waters of the United States, including the territorial sea;

(22) "offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

(23) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act;

(24) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(25) the term "Outer Continental Shelf facility" means an offshore facility which is located, in whole or in part, on the Outer Continental Shelf and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the Outer Continental Shelf;

(26) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(27) "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body;

(28) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) or applicable State law;

(29) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when the vessel is engaged in commerce;

(30) "remove" or "removal" means containment and removal of oil or a hazardous substance from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(31) "removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident;

(32) "responsible party" means the following:

(A) VESSELS.—In the case of a vessel, any person owning, operating, or demise chartering the vessel.

(B) ONSHORE FACILITIES.—In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(C) OFFSHORE FACILITIES.—In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.)), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301-1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as

owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(D) DEEPWATER PORTS.—In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524), the licensee.

(E) PIPELINES.—In the case of a pipeline, any person owning or operating the pipeline.

(F) ABANDONMENT.—In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the persons who would have been responsible parties immediately prior to the abandonment of the vessel or facility.

(33) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(34) "tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(A) is a vessel of the United States;

(B) operates on the navigable waters; or

(C) transfers oil or hazardous material in a place subject to the jurisdiction of the United States;

(35) "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles;

(36) "United States" and "State" mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States; and

(37) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.

SEC. 1002. ELEMENTS OF LIABILITY. 33 USC 2702.

(a) IN GENERAL.—Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) that result from such incident.

(b) COVERED REMOVAL COSTS AND DAMAGES.—

(1) REMOVAL COSTS.—The removal costs referred to in subsection (a) are—

(A) all removal costs incurred by the United States, a State, or an Indian tribe under subsection (c), (d), (e), or (l) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, under the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.), or under State law; and State and local governments. Indians.

(B) any removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan.

(2) DAMAGES.—The damages referred to in subsection (a) are the following:

(A) NATURAL RESOURCES.—Damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee, a State trustee, an Indian tribe trustee, or a foreign trustee.

(B) REAL OR PERSONAL PROPERTY.—Damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property.

(C) SUBSISTENCE USE.—Damages for loss of subsistence use of natural resources, which shall be recoverable by any claimant who so uses natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources.

(D) REVENUES.—Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by the Government of the United States, a State, or a political subdivision thereof.

(E) PROFITS AND EARNING CAPACITY.—Damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant.

(F) PUBLIC SERVICES.—Damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil, which shall be recoverable by a State, or a political subdivision of a State.

(c) EXCLUDED DISCHARGES.—This title does not apply to any discharge—

(1) permitted by a permit issued under Federal, State, or local law;

(2) from a public vessel; or

(3) from an onshore facility which is subject to the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(d) LIABILITY OF THIRD PARTIES.—

(1) IN GENERAL.—

(A) THIRD PARTY TREATED AS RESPONSIBLE PARTY.—Except as provided in subparagraph (B), in any case in which a responsible party establishes that a discharge or threat of a discharge and the resulting removal costs and damages were caused solely by an act or omission of one or more third parties described in section 1003(a)(3) (or solely by such an act or omission in combination with an act of God or an act of war), the third party or parties shall be treated as the responsible party or parties for purposes of determining liability under this title.

(B) SUBROGATION OF RESPONSIBLE PARTY.—If the responsible party alleges that the discharge or threat of a discharge was caused solely by an act or omission of a third party, the responsible party—

(i) in accordance with section 1013, shall pay removal costs and damages to any claimant; and

(ii) shall be entitled by subrogation to all rights of the United States Government and the claimant to recover

removal costs or damages from the third party or the Fund paid under this subsection.

(2) LIMITATION APPLIED.—

(A) OWNER OR OPERATOR OF VESSEL OR FACILITY.—If the act or omission of a third party that causes an incident occurs in connection with a vessel or facility owned or operated by the third party, the liability of the third party shall be subject to the limits provided in section 1004 as applied with respect to the vessel or facility.

(B) OTHER CASES.—In any other case, the liability of a third party or parties shall not exceed the limitation which would have been applicable to the responsible party of the vessel or facility from which the discharge actually occurred if the responsible party were liable.

SEC. 1003. DEFENSES TO LIABILITY. 33 USC 2703.

(a) COMPLETE DEFENSES.—A responsible party is not liable for removal costs or damages under section 1002 if the responsible party establishes, by a preponderance of the evidence, that the discharge or substantial threat of a discharge of oil and the resulting damages or removal costs were caused solely by—

(1) an act of God;

(2) an act of war;

(3) an act or omission of a third party, other than an employee or agent of the responsible party or a third party whose act or omission occurs in connection with any contractual relationship with the responsible party (except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail), if the responsible party establishes, by a preponderance of the evidence, that the responsible party—

(A) exercised due care with respect to the oil concerned, taking into consideration the characteristics of the oil and in light of all relevant facts and circumstances; and

(B) took precautions against foreseeable acts or omissions of any such third party and the foreseeable consequences of those acts or omissions; or

(4) any combination of paragraphs (1), (2), and (3).

(b) DEFENSES AS TO PARTICULAR CLAIMANTS.—A responsible party is not liable under section 1002 to a claimant, to the extent that the incident is caused by the gross negligence or willful misconduct of the claimant.

(c) LIMITATION ON COMPLETE DEFENSE.—Subsection (a) does not apply with respect to a responsible party who fails or refuses—

(1) to report the incident as required by law if the responsible party knows or has reason to know of the incident;

(2) to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; or

(3) without sufficient cause, to comply with an order issued under subsection (c) or (e) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, or the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.).

SEC. 1004. LIMITS ON LIABILITY. 33 USC 2704.

(a) GENERAL RULE.—Except as otherwise provided in this section, the total of the liability of a responsible party under section 1002

and any removal costs incurred by, or on behalf of, the responsible party, with respect to each incident shall not exceed—

(1) for a tank vessel, the greater of—

(A) $1,200 per gross ton; or

(B)(i) in the case of a vessel greater than 3,000 gross tons, $10,000,000; or

(ii) in the case of a vessel of 3,000 gross tons or less, $2,000,000;

(2) for any other vessel, $600 per gross ton or $500,000, whichever is greater;

(3) for an offshore facility except a deepwater port, the total of all removal costs plus $75,000,000; and

(4) for any onshore facility and a deepwater port, $350,000,000.

(b) DIVISION OF LIABILITY FOR MOBILE OFFSHORE DRILLING UNITS.—

(1) TREATED FIRST AS TANK VESSEL.—For purposes of determining the responsible party and applying this Act and except as provided in paragraph (2), a mobile offshore drilling unit which is being used as an offshore facility is deemed to be a tank vessel with respect to the discharge, or the substantial threat of a discharge, of oil on or above the surface of the water.

(2) TREATED AS FACILITY FOR EXCESS LIABILITY.—To the extent that removal costs and damages from any incident described in paragraph (1) exceed the amount for which a responsible party is liable (as that amount may be limited under subsection (a)(1)), the mobile offshore drilling unit is deemed to be an offshore facility. For purposes of applying subsection (a)(3), the amount specified in that subsection shall be reduced by the amount for which the responsible party is liable under paragraph (1).

(c) EXCEPTIONS.—

(1) ACTS OF RESPONSIBLE PARTY.—Subsection (a) does not apply if the incident was proximately caused by—

(A) gross negligence or willful misconduct of, or

(B) the violation of an applicable Federal safety, construction, or operating regulation by,

the responsible party, an agent or employee of the responsible party, or a person acting pursuant to a contractual relationship with the responsible party (except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail).

(2) FAILURE OR REFUSAL OF RESPONSIBLE PARTY.—Subsection (a) does not apply if the responsible party fails or refuses—

(A) to report the incident as required by law and the responsible party knows or has reason to know of the incident;

(B) to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; or

(C) without sufficient cause, to comply with an order issued under subsection (c) or (e) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, or the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.).

(3) OCS FACILITY OR VESSEL.—Notwithstanding the limitations established under subsection (a) and the defenses of section 1003, all removal costs incurred by the United States Government or any State or local official or agency in connection with a discharge or substantial threat of a discharge of oil from any

Outer Continental Shelf facility or a vessel carrying oil as cargo from such a facility shall be borne by the owner or operator of such facility or vessel.

(d) ADJUSTING LIMITS OF LIABILITY.—

(1) ONSHORE FACILITIES.—Subject to paragraph (2), the President may establish by regulation, with respect to any class or category of onshore facility, a limit of liability under this section of less than $350,000,000, but not less than $8,000,000, taking into account size, storage capacity, oil throughput, proximity to sensitive areas, type of oil handled, history of discharges, and other factors relevant to risks posed by the class or category of facility.

(2) DEEPWATER PORTS AND ASSOCIATED VESSELS.—

(A) STUDY.—The Secretary shall conduct a study of the relative operational and environmental risks posed by the transportation of oil by vessel to deepwater ports (as defined in section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502)) versus the transportation of oil by vessel to other ports. The study shall include a review and analysis of offshore lightering practices used in connection with that transportation, an analysis of the volume of oil transported by vessel using those practices, and an analysis of the frequency and volume of oil discharges which occur in connection with the use of those practices.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under subparagraph (A).

(C) RULEMAKING PROCEEDING.—If the Secretary determines, based on the results of the study conducted under this subparagraph (A), that the use of deepwater ports in connection with the transportation of oil by vessel results in a lower operational or environmental risk than the use of other ports, the Secretary shall initiate, not later than the 180th day following the date of submission of the report to the Congress under subparagraph (B), a rulemaking proceeding to lower the limits of liability under this section for deepwater ports as the Secretary determines appropriate. The Secretary may establish a limit of liability of less than $350,000,000, but not less than $50,000,000, in accordance with paragraph (1).

(3) PERIODIC REPORTS.—The President shall, within 6 months after the date of the enactment of this Act, and from time to time thereafter, report to the Congress on the desirability of adjusting the limits of liability specified in subsection (a). President of U.S.

(4) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—The President shall, by regulations issued not less often than every 3 years, adjust the limits of liability specified in subsection (a) to reflect significant increases in the Consumer Price Index. Regulations.

SEC. 1005. INTEREST. 33 USC 2705.

(a) GENERAL RULE.—The responsible party or the responsible party's guarantor is liable to a claimant for interest on the amount paid in satisfaction of a claim under this Act for the period described in subsection (b).

(b) PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), the period for which interest shall be paid is the period beginning on the 30th day following the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claim is paid.

(2) EXCLUSION OF PERIOD DUE TO OFFER BY GUARANTOR.—If the guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in paragraph (1) does not include the period beginning on the date the offer is made and ending on the date the offer is accepted. If the offer is made within 60 days after the date on which the claim is presented under section 1013(a), the period described in paragraph (1) does not include any period before the offer is accepted.

(3) EXCLUSION OF PERIODS IN INTERESTS OF JUSTICE.—If in any period a claimant is not paid due to reasons beyond the control of the responsible party or because it would not serve the interests of justice, no interest shall accrue under this section during that period.

(4) CALCULATION OF INTEREST.—The interest paid under this section shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(5) INTEREST NOT SUBJECT TO LIABILITY LIMITS.—

(A) IN GENERAL.—Interest (including prejudgment interest) under this paragraph is in addition to damages and removal costs for which claims may be asserted under section 1002 and shall be paid without regard to any limitation of liability under section 1004.

(B) PAYMENT BY GUARANTOR.—The payment of interest under this subsection by a guarantor is subject to section 1016(g).

33 USC 2706.

SEC. 1006. NATURAL RESOURCES.

(a) LIABILITY.—In the case of natural resource damages under section 1002(b)(2)(A), liability shall be—

(1) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States;

State and local governments.

(2) to any State for natural resources belonging to, managed by, controlled by, or appertaining to such State or political subdivision thereof;

Indians.

(3) to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such Indian tribe; and

(4) in any case in which section 1007 applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such country.

(b) DESIGNATION OF TRUSTEES.—

President of U.S. Claims.

(1) IN GENERAL.—The President, or the authorized representative of any State, Indian tribe, or foreign government, shall act on behalf of the public, Indian tribe, or foreign country as trustee of natural resources to present a claim for and to recover damages to the natural resources.

(2) FEDERAL TRUSTEES.—The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act.

(3) STATE TRUSTEES.—The Governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of the designation.

(4) INDIAN TRIBE TRUSTEES.—The governing body of any Indian tribe shall designate tribal officials who may act on behalf of the tribe or its members as trustee for natural resources under this Act and shall notify the President of the designation.

(5) FOREIGN TRUSTEES.—The head of any foreign government may designate the trustee who shall act on behalf of that government as trustee for natural resources under this Act.

(c) FUNCTIONS OF TRUSTEES.—

(1) FEDERAL TRUSTEES.—The Federal officials designated under subsection (b)(2)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the natural resources under their trusteeship;

(B) may, upon request of and reimbursement from a State or Indian tribe and at the Federal officials' discretion, assess damages for the natural resources under the State's or tribe's trusteeship; and

(C) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(2) STATE TRUSTEES.—The State and local officials designated under subsection (b)(3)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the purposes of this Act for the natural resources under their trusteeship; and

(B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(3) INDIAN TRIBE TRUSTEES.—The tribal officials designated under subsection (b)(4)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the purposes of this Act for the natural resources under their trusteeship; and

(B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(4) FOREIGN TRUSTEES.—The trustees designated under subsection (b)(5)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the purposes of this Act for the natural resources under their trusteeship; and

(B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(5) NOTICE AND OPPORTUNITY TO BE HEARD.—Plans shall be developed and implemented under this section only after ade-

quate public notice, opportunity for a hearing, and consideration of all public comment.

(d) MEASURE OF DAMAGES.—

(1) IN GENERAL.—The measure of natural resource damages under section 1002(b)(2)(A) is—

(A) the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources;

(B) the diminution in value of those natural resources pending restoration; plus

(C) the reasonable cost of assessing those damages.

(2) DETERMINE COSTS WITH RESPECT TO PLANS.—Costs shall be determined under paragraph (1) with respect to plans adopted under subsection (c).

(3) NO DOUBLE RECOVERY.—There shall be no double recovery under this Act for natural resource damages, including with respect to the costs of damage assessment or restoration, rehabilitation, replacement, or acquisition for the same incident and natural resource.

President of U.S.

(e) DAMAGE ASSESSMENT REGULATIONS.—

(1) REGULATIONS.—The President, acting through the Under Secretary of Commerce for Oceans and Atmosphere and in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, and the heads of other affected agencies, not later than 2 years after the date of the enactment of this Act, shall promulgate regulations for the assessment of natural resource damages under section 1002(b)(2)(A) resulting from a discharge of oil for the purpose of this Act.

(2) REBUTTABLE PRESUMPTION.—Any determination or assessment of damages to natural resources for the purposes of this Act made under subsection (d) by a Federal, State, or Indian trustee in accordance with the regulations promulgated under paragraph (1) shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act.

(f) USE OF RECOVERED SUMS.—Sums recovered under this Act by a Federal, State, Indian, or foreign trustee for natural resource damages under section 1002(b)(2)(A) shall be retained by the trustee in a revolving trust account, without further appropriation, for use only to reimburse or pay costs incurred by the trustee under subsection (c) with respect to the damaged natural resources. Any amounts in excess of those required for these reimbursements and costs shall be deposited in the Fund.

(g) COMPLIANCE.—Review of actions by any Federal official where there is alleged to be a failure of that official to perform a duty under this section that is not discretionary with that official may be had by any person in the district court in which the person resides or in which the alleged damage to natural resources occurred. The court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party. Nothing in this subsection shall restrict any right which any person may have to seek relief under any other provision of law.

33 USC 2707.

SEC. 1007. RECOVERY BY FOREIGN CLAIMANTS.

(a) REQUIRED SHOWING BY FOREIGN CLAIMANTS.—

(1) IN GENERAL.—In addition to satisfying the other requirements of this Act, to recover removal costs or damages resulting from an incident a foreign claimant shall demonstrate that—

(A) the claimant has not been otherwise compensated for the removal costs or damages; and

(B) recovery is authorized by a treaty or executive agreement between the United States and the claimant's country, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, has certified that the claimant's country provides a comparable remedy for United States claimants.

(2) EXCEPTIONS.—Paragraph (1)(B) shall not apply with respect to recovery by a resident of Canada in the case of an incident described in subsection (b)(4). Canada.

(b) DISCHARGES IN FOREIGN COUNTRIES.—A foreign claimant may make a claim for removal costs and damages resulting from a discharge, or substantial threat of a discharge, of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country, only if the discharge is from—

(1) an Outer Continental Shelf facility or a deepwater port;

(2) a vessel in the navigable waters;

(3) a vessel carrying oil as cargo between 2 places in the United States; or

(4) a tanker that received the oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), for transportation to a place in the United States, and the discharge or threat occurs prior to delivery of the oil to that place.

(c) FOREIGN CLAIMANT DEFINED.—In this section, the term "foreign claimant" means—

(1) a person residing in a foreign country;

(2) the government of a foreign country; and

(3) an agency or political subdivision of a foreign country.

SEC. 1008. RECOVERY BY RESPONSIBLE PARTY. 33 USC 2708.

(a) IN GENERAL.—The responsible party for a vessel or facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, may assert a claim for removal costs and damages under section 1013 only if the responsible party demonstrates that—

(1) the responsible party is entitled to a defense to liability under section 1003; or

(2) the responsible party is entitled to a limitation of liability under section 1004.

(b) EXTENT OF RECOVERY.—A responsible party who is entitled to a limitation of liability may assert a claim under section 1013 only to the extent that the sum of the removal costs and damages incurred by the responsible party plus the amounts paid by the responsible party, or by the guarantor on behalf of the responsible party, for claims asserted under section 1013 exceeds the amount to which the total of the liability under section 1002 and removal costs and damages incurred by, or on behalf of, the responsible party is limited under section 1004.

SEC. 1009. CONTRIBUTION. 33 USC 2709.

A person may bring a civil action for contribution against any other person who is liable or potentially liable under this Act or

another law. The action shall be brought in accordance with section 1017.

33 USC 2710.

SEC. 1010. INDEMNIFICATION AGREEMENTS.

(a) AGREEMENTS NOT PROHIBITED.—Nothing in this Act prohibits any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this Act.

(b) LIABILITY NOT TRANSFERRED.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer liability imposed under this Act from a responsible party or from any person who may be liable for an incident under this Act to any other person.

(c) RELATIONSHIP TO OTHER CAUSES OF ACTION.—Nothing in this Act, including the provisions of subsection (b), bars a cause of action that a responsible party subject to liability under this Act, or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

President of U.S. State and local governments. 33 USC 2711.

SEC. 1011. CONSULTATION ON REMOVAL ACTIONS.

The President shall consult with the affected trustees designated under section 1006 on the appropriate removal action to be taken in connection with any discharge of oil. For the purposes of the National Contingency Plan, removal with respect to any discharge shall be considered completed when so determined by the President in consultation with the Governor or Governors of the affected States. However, this determination shall not preclude additional removal actions under applicable State law.

President of U.S. 33 USC 2712.

SEC. 1012. USES OF THE FUND.

(a) USES GENERALLY.—The Fund shall be available to the President for—

(1) the payment of removal costs, including the costs of monitoring removal actions, determined by the President to be consistent with the National Contingency Plan—

(A) by Federal authorities; or

(B) by a Governor or designated State official under subsection (d);

(2) the payment of costs incurred by Federal, State, or Indian tribe trustees in carrying out their functions under section 1006 for assessing natural resource damages and for developing and implementing plans for the restoration, rehabilitation, replacement, or acquisition of the equivalent of damaged resources determined by the President to be consistent with the National Contingency Plan;

(3) the payment of removal costs determined by the President to be consistent with the National Contingency Plan as a result of, and damages resulting from, a discharge, or a substantial threat of a discharge, of oil from a foreign offshore unit;

(4) the payment of claims in accordance with section 1013 for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages;

(5) the payment of Federal administrative, operational, and personnel costs and expenses reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act (including, but not limited to, sections 1004(d)(2), 1006(e), 4107, 4110, 4111, 4112, 4117, 5006, 8103, and

title VII) and subsections (b), (c), (d), (j), and (l) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, with respect to prevention, removal, and enforcement related to oil discharges, provided that—

(A) not more than $25,000,000 in each fiscal year shall be available to the Secretary for operating expenses incurred by the Coast Guard; Uniformed services.

(B) not more than $30,000,000 each year through the end of fiscal year 1992 shall be available to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, including the purchase and prepositioning of oil spill removal equipment; and

(C) not more than $27,250,000 in each fiscal year shall be available to carry out title VII of this Act.

(b) DEFENSE TO LIABILITY FOR FUND.—The Fund shall not be available to pay any claim for removal costs or damages to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the gross negligence or willful misconduct of that claimant.

(c) OBLIGATION OF FUND BY FEDERAL OFFICIALS.—The President may promulgate regulations designating one or more Federal officials who may obligate money in accordance with subsection (a).

(d) ACCESS TO FUND BY STATE OFFICIALS.—

(1) IMMEDIATE REMOVAL.—In accordance with regulations promulgated under this section, the President, upon the request of the Governor of a State or pursuant to an agreement with a State under paragraph (2), may obligate the Fund for payment in an amount not to exceed $250,000 for removal costs consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil.

(2) AGREEMENTS.—

(A) IN GENERAL.—The President shall enter into an agreement with the Governor of any interested State to establish procedures under which the Governor or a designated State official may receive payments from the Fund for removal costs pursuant to paragraph (1).

(B) TERMS.—Agreements under this paragraph—

(i) may include such terms and conditions as may be agreed upon by the President and the Governor of a State;

(ii) shall provide for political subdivisions of the State to receive payments for reasonable removal costs; and

(iii) may authorize advance payments from the Fund to facilitate removal efforts.

(e) REGULATIONS.—The President shall—

(1) not later than 6 months after the date of the enactment of this Act, publish proposed regulations detailing the manner in which the authority to obligate the Fund and to enter into agreements under this subsection shall be exercised; and

(2) not later than 3 months after the close of the comment period for such proposed regulations, promulgate final regulations for that purpose.

(f) RIGHTS OF SUBROGATION.—Payment of any claim or obligation by the Fund under this Act shall be subject to the United States

Government acquiring by subrogation all rights of the claimant or State to recover from the responsible party.

(g) AUDITS.—The Comptroller General shall audit all payments, obligations, reimbursements, and other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the date of the enactment of this Act. The Comptroller General shall thereafter audit the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

Reports.

(h) PERIOD OF LIMITATIONS FOR CLAIMS.—

(1) REMOVAL COSTS.—No claim may be presented under this title for recovery of removal costs for an incident unless the claim is presented within 6 years after the date of completion of all removal actions for that incident.

(2) DAMAGES.—No claim may be presented under this section for recovery of damages unless the claim is presented within 3 years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care, or in the case of natural resource damages under section 1002(b)(2)(A), if later, the date of completion of the natural resources damage assessment under section 1006(e).

(3) MINORS AND INCOMPETENTS.—The time limitations contained in this subsection shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for the incompetent.

(i) LIMITATION ON PAYMENT FOR SAME COSTS.—In any case in which the President has paid an amount from the Fund for any removal costs or damages specified under subsection (a), no other claim may be paid from the Fund for the same removal costs or damages.

(j) OBLIGATION IN ACCORDANCE WITH PLAN.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts may be obligated from the Fund for the restoration, rehabilitation, replacement, or acquisition of natural resources only in accordance with a plan adopted under section 1006(c).

(2) EXCEPTION.—Paragraph (1) shall not apply in a situation requiring action to avoid irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action.

(k) PREFERENCE FOR PRIVATE PERSONS IN AREA AFFECTED BY DISCHARGE.—

(1) IN GENERAL.—In the expenditure of Federal funds for removal of oil, including for distribution of supplies, construction, and other reasonable and appropriate activities, under a contract or agreement with a private person, preference shall be given, to the extent feasible and practicable, to private persons residing or doing business primarily in the area affected by the discharge of oil.

(2) LIMITATION.—This subsection shall not be considered to restrict the use of Department of Defense resources.

SEC. 1013. CLAIMS PROCEDURE. 33 USC 2713.

(a) PRESENTATION.—Except as provided in subsection (b), all claims for removal costs or damages shall be presented first to the responsible party or guarantor of the source designated under section 1014(a).

(b) PRESENTATION TO FUND.—

(1) IN GENERAL.—Claims for removal costs or damages may be presented first to the Fund—

(A) if the President has advertised or otherwise notified claimants in accordance with section 1014(c);

(B) by a responsible party who may assert a claim under section 1008;

(C) by the Governor of a State for removal costs incurred by that State; or

(D) by a United States claimant in a case where a foreign offshore unit has discharged oil causing damage for which the Fund is liable under section 1012(a).

(2) LIMITATION ON PRESENTING CLAIM.—No claim of a person against the Fund may be approved or certified during the pendency of an action by the person in court to recover costs which are the subject of the claim.

(c) ELECTION.—If a claim is presented in accordance with subsection (a) and—

(1) each person to whom the claim is presented denies all liability for the claim, or

(2) the claim is not settled by any person by payment within 90 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 1014(b), whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund.

(d) UNCOMPENSATED DAMAGES.—If a claim is presented in accordance with this section and full and adequate compensation is unavailable, a claim for the uncompensated damages and removal costs may be presented to the Fund.

(e) PROCEDURE FOR CLAIMS AGAINST FUND.—The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims under this Act against the Fund. President of U.S. Regulations.

SEC. 1014. DESIGNATION OF SOURCE AND ADVERTISEMENT. President of U.S. 33 USC 2714.

(a) DESIGNATION OF SOURCE AND NOTIFICATION.—When the President receives information of an incident, the President shall, where possible and appropriate, designate the source or sources of the discharge or threat. If a designated source is a vessel or a facility, the President shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) ADVERTISEMENT BY RESPONSIBLE PARTY OR GUARANTOR.—If a responsible party or guarantor fails to inform the President, within 5 days after receiving notification of a designation under subsection (a), of the party's or the guarantor's denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented, in accordance with regulations promulgated by the President. Advertisement under the preceding sentence shall begin no later than 15 days after the date of the designation made under subsection (a). If advertisement is not otherwise made in accordance with this subsection, the President

shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than 30 days.

(c) ADVERTISEMENT BY PRESIDENT.—If—

(1) the responsible party and the guarantor both deny a designation within 5 days after receiving notification of a designation under subsection (a),

(2) the source of the discharge or threat was a public vessel, or

(3) the President is unable to designate the source or sources of the discharge or threat under subsection (a),

the President shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

33 USC 2715.

SEC. 1015. SUBROGATION.

(a) IN GENERAL.—Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other law.

(b) ACTIONS ON BEHALF OF FUND.—At the request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any responsible party or (subject to section 1016) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

33 USC 2716.

SEC. 1016. FINANCIAL RESPONSIBILITY.

(a) REQUIREMENT.—The responsible party for—

(1) any vessel over 300 gross tons (except a non-self-propelled vessel that does not carry oil as cargo or fuel) using any place subject to the jurisdiction of the United States; or

(2) any vessel using the waters of the exclusive economic zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States;

shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to meet the maximum amount of liability to which, in the case of a tank vessel, the responsible party could be subject under section 1004 (a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004 (a)(2) or (d), in a case where the responsible party would be entitled to limit liability under that section. If the responsible party owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the amount of the maximum liability applicable to the vessel having the greatest maximum liability.

(b) SANCTIONS.—

(1) WITHHOLDING CLEARANCE.—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this section that does not have the evidence of financial responsibility required for the vessel under this section.

(2) DENYING ENTRY TO OR DETAINING VESSELS.—The Secretary may—

(A) deny entry to any vessel to any place in the United States, or to the navigable waters, or

(B) detain at the place,

any vessel that, upon request, does not produce the evidence of financial responsibility required for the vessel under this section.

(3) SEIZURE OF VESSEL.—Any vessel subject to the requirements of this section which is found in the navigable waters without the necessary evidence of financial responsibility for the vessel shall be subject to seizure by and forfeiture to the United States.

(c) OFFSHORE FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), each responsible party with respect to an offshore facility shall establish and maintain evidence of financial responsibility of $150,000,000 to meet the amount of liability to which the responsible party could be subjected under section 1004(a) in a case in which the responsible party would be entitled to limit liability under that section. In a case in which a person is the responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the facility having the greatest maximum liability.

(2) DEEPWATER PORTS.—Each responsible party with respect to a deepwater port shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability to which the responsible party could be subjected under section 1004(a) of this Act in a case where the responsible party would be entitled to limit liability under that section. If the Secretary exercises the authority under section 1004(d)(2) to lower the limit of liability for deepwater ports, the responsible party shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability so established. In a case in which a person is the responsible party for more than one deepwater port, evidence of financial responsibility need be established only to meet the maximum liability applicable to the deepwater port having the greatest maximum liability.

(e) METHODS OF FINANCIAL RESPONSIBILITY.—Financial responsibility under this section may be established by any one, or by any combination, of the following methods which the Secretary (in the case of a vessel) or the President (in the case of a facility) determines to be acceptable: evidence of insurance, surety bond, guarantee, letter of credit, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In promulgating requirements under this section, the Secretary or the President, as appropriate, may specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unaccept-

able, in establishing evidence of financial responsibility to effectuate the purposes of this Act.

(f) CLAIMS AGAINST GUARANTOR.—Any claim for which liability may be established under section 1002 may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for removal costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke (1) all rights and defenses which would be available to the responsible party under this Act, (2) any defense authorized under subsection (e), and (3) the defense that the incident was caused by the willful misconduct of the responsible party. The guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.

(g) LIMITATION ON GUARANTOR'S LIABILITY.—Nothing in this Act shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceed, in the aggregate, the amount of financial responsibility required under this Act which that guarantor has provided for a responsible party.

(h) CONTINUATION OF REGULATIONS.—Any regulation relating to financial responsibility, which has been issued pursuant to any provision of law repealed or superseded by this Act, and which is in effect on the date immediately preceding the effective date of this Act, is deemed and shall be construed to be a regulation issued pursuant to this section. Such a regulation shall remain in full force and effect unless and until superseded by a new regulation issued under this section.

(i) UNIFIED CERTIFICATE.—The Secretary may issue a single unified certificate of financial responsibility for purposes of this Act and any other law.

33 USC 2717.

SEC. 1017. LITIGATION, JURISDICTION, AND VENUE.

(a) REVIEW OF REGULATIONS.—Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within 90 days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

(b) JURISDICTION.—Except as provided in subsections (a) and (c), the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process. For the purposes of this section, the Fund shall reside in the District of Columbia.

(c) STATE COURT JURISDICTION.—A State trial court of competent jurisdiction over claims for removal costs or damages, as defined under this Act, may consider claims under this Act or State law and any final judgment of such court (when no longer subject to ordinary forms of review) shall be recognized, valid, and enforceable for all purposes of this Act.

(d) ASSESSMENT AND COLLECTION OF TAX.—The provisions of subsections (a), (b), and (c) shall not apply to any controversy or other matter resulting from the assessment or collection of any tax, or to the review of any regulation promulgated under the Internal Revenue Code of 1986.

(e) SAVINGS PROVISION.—Nothing in this title shall apply to any cause of action or right of recovery arising from any incident which occurred prior to the date of enactment of this title. Such claims shall be adjudicated pursuant to the law applicable on the date of the incident.

(f) PERIOD OF LIMITATIONS.—

(1) DAMAGES.—Except as provided in paragraphs (3) and (4), an action for damages under this Act shall be barred unless the action is brought within 3 years after—

(A) the date on which the loss and the connection of the loss with the discharge in question are reasonably discoverable with the exercise of due care, or

(B) in the case of natural resource damages under section 1002(b)(2)(A), the date of completion of the natural resources damage assessment under section 1006(c).

(2) REMOVAL COSTS.—An action for recovery of removal costs referred to in section 1002(b)(1) must be commenced within 3 years after completion of the removal action. In any such action described in this subsection, the court shall enter a declaratory judgment on liability for removal costs or damages that will be binding on any subsequent action or actions to recover further removal costs or damages. Except as otherwise provided in this paragraph, an action may be commenced under this title for recovery of removal costs at any time after such costs have been incurred.

(3) CONTRIBUTION.—No action for contribution for any removal costs or damages may be commenced more than 3 years after—

(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

(4) SUBROGATION.—No action based on rights subrogated pursuant to this Act by reason of payment of a claim may be commenced under this Act more than 3 years after the date of payment of such claim.

(5) COMMENCEMENT.—The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for such minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

SEC. 1018. RELATIONSHIP TO OTHER LAW. 33 USC 2718.

(a) PRESERVATION OF STATE AUTHORITIES; SOLID WASTE DISPOSAL ACT.—Nothing in this Act or the Act of March 3, 1851 shall—

(1) affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof from

imposing any additional liability or requirements with respect to—

(A) the discharge of oil or other pollution by oil within such State; or

(B) any removal activities in connection with such a discharge; or

(2) affect, or be construed or interpreted to affect or modify in any way the obligations or liabilities of any person under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or State law, including common law.

(b) PRESERVATION OF STATE FUNDS.—Nothing in this Act or in section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall in any way affect, or be construed to affect, the authority of any State—

(1) to establish, or to continue in effect, a fund any purpose of which is to pay for costs or damages arising out of, or directly resulting from, oil pollution or the substantial threat of oil pollution; or

(2) to require any person to contribute to such a fund.

(c) ADDITIONAL REQUIREMENTS AND LIABILITIES; PENALTIES.—Nothing in this Act, the Act of March 3, 1851 (46 U.S.C. 183 et seq.), or section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), shall in any way affect, or be construed to affect, the authority of the United States or any State or political subdivision thereof—

(1) to impose additional liability or additional requirements; or

(2) to impose, or to determine the amount of, any fine or penalty (whether criminal or civil in nature) for any violation of law;

relating to the discharge, or substantial threat of a discharge, of oil.

(d) FEDERAL EMPLOYEE LIABILITY.—For purposes of section 2679(b)(2)(B) of title 28, United States Code, nothing in this Act shall be construed to authorize or create a cause of action against a Federal officer or employee in the officer's or employee's personal or individual capacity for any act or omission while acting within the scope of the officer's or employee's office or employment.

33 USC 2719.

SEC. 1019. STATE FINANCIAL RESPONSIBILITY.

A State may enforce, on the navigable waters of the State, the requirements for evidence of financial responsibility under section 1016.

33 USC 2701 note.

SEC. 1020. APPLICATION.

This Act shall apply to an incident occurring after the date of the enactment of this Act.

TITLE II—CONFORMING AMENDMENTS

SEC. 2001. INTERVENTION ON THE HIGH SEAS ACT.

Section 17 of the Intervention on the High Seas Act (33 U.S.C. 1486) is amended to read as follows:

"SEC. 17. The Oil Spill Liability Trust Fund shall be available to the Secretary for actions taken under sections 5 and 7 of this Act."

SEC. 2002. FEDERAL WATER POLLUTION CONTROL ACT.

33 USC 1321 note.

(a) APPLICATION.—Subsections (f), (g), (h), and (i) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) shall not apply with respect to any incident for which liability is established under section 1002 of this Act.

(b) CONFORMING AMENDMENTS.—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended as follows:

(1) Subsection (i) is amended by striking "(1)" after "(i)" and by striking paragraphs (2) and (3).

(2) Subsection (k) is repealed. Any amounts remaining in the revolving fund established under that subsection shall be deposited in the Fund. The Fund shall assume all liability incurred by the revolving fund established under that subsection. 33 USC 1321 note.

(3) Subsection (l) is amended by striking the second sentence.

(4) Subsection (p) is repealed.

(5) The following is added at the end thereof:

"(s) The Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall be available to carry out subsections (b), (c), (d), (j), and (l) as those subsections apply to discharges, and substantial threats of discharges, of oil. Any amounts received by the United States under this section shall be deposited in the Oil Spill Liability Trust Fund.".

SEC. 2003. DEEPWATER PORT ACT.

(a) CONFORMING AMENDMENTS.—The Deepwater Port Act of 1974 (33 U.S.C. 1502 et seq.) is amended—

(1) in section 4(c)(1) by striking "section 18(l) of this Act;" and inserting "section 1016 of the Oil Pollution Act of 1990"; and 33 USC 1503.

(2) by striking section 18. 33 USC 1517.

(b) AMOUNTS REMAINING IN DEEPWATER PORT FUND.—Any amounts remaining in the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974 (33 U.S.C. 1517(f)) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund. 26 USC 9509 note.

SEC. 2004. OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978. Repeal.

Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811-1824) is repealed. Any amounts remaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title (43 U.S.C. 1812) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund. 26 USC 9509 note.

TITLE III—INTERNATIONAL OIL POLLUTION PREVENTION AND REMOVAL

SEC. 3001. SENSE OF CONGRESS REGARDING PARTICIPATION IN INTERNATIONAL REGIME.

It is the sense of the Congress that it is in the best interests of the United States to participate in an international oil pollution liabil-

ity and compensation regime that is at least as effective as Federal and State laws in preventing incidents and in guaranteeing full and prompt compensation for damages resulting from incidents.

SEC. 3002. UNITED STATES-CANADA GREAT LAKES OIL SPILL COOPERATION.

(a) REVIEW.—The Secretary of State shall review relevant international agreements and treaties with the Government of Canada, including the Great Lakes Water Quality Agreement, to determine whether amendments or additional international agreements are necessary to—

(1) prevent discharges of oil on the Great Lakes;

(2) ensure an immediate and effective removal of oil on the Great Lakes; and

(3) fully compensate those who are injured by a discharge of oil on the Great Lakes.

(b) CONSULTATION.—In carrying out this section, the Secretary of State shall consult with the Department of Transportation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Great Lakes States, the International Joint Commission, and other appropriate agencies.

(c) REPORT.—The Secretary of State shall submit a report to the Congress on the results of the review under this section within 6 months after the date of the enactment of this Act.

SEC. 3003. UNITED STATES-CANADA LAKE CHAMPLAIN OIL SPILL COOPERATION.

(a) REVIEW.—The Secretary of State shall review relevant international agreements and treaties with the Government of Canada, to determine whether amendments or additional international agreements are necessary to—

(1) prevent discharges of oil on Lake Champlain;

(2) ensure an immediate and effective removal of oil on Lake Champlain; and

(3) fully compensate those who are injured by a discharge of oil on Lake Champlain.

Vermont.
New York.

(b) CONSULTATION.—In carrying out this section, the Secretary of State shall consult with the Department of Transportation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the States of Vermont and New York, the International Joint Commission, and other appropriate agencies.

(c) REPORT.—The Secretary of State shall submit a report to the Congress on the results of the review under this section within 6 months after the date of the enactment of this Act.

SEC. 3004. INTERNATIONAL INVENTORY OF REMOVAL EQUIPMENT AND PERSONNEL.

The President shall encourage appropriate international organizations to establish an international inventory of spill removal equipment and personnel.

SEC. 3005. NEGOTIATIONS WITH CANADA CONCERNING TUG ESCORTS IN PUGET SOUND.

Congress urges the Secretary of State to enter into negotiations with the Government of Canada to ensure that tugboat escorts are required for all tank vessels with a capacity over 40,000 deadweight tons in the Strait of Juan de Fuca and in Haro Strait.

TITLE IV—PREVENTION AND REMOVAL

Subtitle A—Prevention

SEC. 4101. REVIEW OF ALCOHOL AND DRUG ABUSE AND OTHER MATTERS IN ISSUING LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.

(a) LICENSES AND CERTIFICATES OF REGISTRY.—Section 7101 of title 46, United States Code, is amended by adding at the end the following:

"(g) The Secretary may not issue a license or certificate of registry under this section unless an individual applying for the license or certificate makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

"(h) The Secretary may review the criminal record of an individual who applies for a license or certificate of registry under this section.

"(i) The Secretary shall require the testing of an individual who applies for issuance or renewal of a license or certificate of registry under this chapter for use of a dangerous drug in violation of law or Federal regulation.".

(b) MERCHANT MARINERS' DOCUMENTS.—Section 7302 of title 46, United States Code, is amended by adding at the end the following:

"(c) The Secretary may not issue a merchant mariner's document under this chapter unless the individual applying for the document makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

"(d) The Secretary may review the criminal record of an individual who applies for a merchant mariner's document under this section.

"(e) The Secretary shall require the testing of an individual applying for issuance or renewal of a merchant mariner's document under this chapter for the use of a dangerous drug in violation of law or Federal regulation.".

SEC. 4102. TERM OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS; CRIMINAL RECORD REVIEWS IN RENEWALS.

(a) LICENSES.—Section 7106 of title 46, United States Code, is amended by inserting "and may be renewed for additional 5-year periods" after "is valid for 5 years".

(b) CERTIFICATES OF REGISTRY.—Section 7107 of title 46, United States Code, is amended by striking "is not limited in duration." and inserting "is valid for 5 years and may be renewed for additional 5-year periods.".

(c) MERCHANT MARINERS' DOCUMENTS.—Section 7302 of title 46, United States Code, is amended by adding at the end the following:

"(f) A merchant mariner's document issued under this chapter is valid for 5 years and may be renewed for additional 5-year periods.".

46 USC 7106 note.

(d) TERMINATION OF EXISTING LICENSES, CERTIFICATES, AND DOCUMENTS.—A license, certificate of registry, or merchant mariner's document issued before the date of the enactment of this section terminates on the day it would have expired if—

(1) subsections (a), (b), and (c) were in effect on the date it was issued; and

(2) it was renewed at the end of each 5-year period under section 7106, 7107, or 7302 of title 46, United States Code.

(e) CRIMINAL RECORD REVIEW IN RENEWALS OF LICENSES AND CERTIFICATES OF REGISTRY.—

(1) IN GENERAL.—Section 7109 of title 46, United States Code, is amended to read as follows:

"§ 7109. Review of criminal records

"The Secretary may review the criminal record of each holder of a license or certificate of registry issued under this part who applies for renewal of that license or certificate of registry.".

(2) CLERICAL AMENDMENT.—The analysis for chapter 71 of title 46, United States Code, is amended by striking the item relating to section 7109 and inserting the following:

"7109. Review of criminal records.".

SEC. 4103. SUSPENSION AND REVOCATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS FOR ALCOHOL AND DRUG ABUSE.

(a) AVAILABILITY OF INFORMATION IN NATIONAL DRIVER REGISTER.—

(1) IN GENERAL.—Section 7702 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) The Secretary shall request a holder of a license, certificate of registry, or merchant mariner's document to make available to the Secretary, under section 206(b)(4) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), all information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

"(2) The Secretary shall require the testing of the holder of a license, certificate of registry, or merchant mariner's document for use of alcohol and dangerous drugs in violation of law or Federal regulation. The testing may include preemployment (with respect to dangerous drugs only), periodic, random, reasonable cause, and post accident testing.

"(d)(1) The Secretary may temporarily, for not more than 45 days, suspend and take possession of the license, certificate of registry, or merchant mariner's document held by an individual if, when acting under the authority of that license, certificate, or document—

"(A) that individual performs a safety sensitive function on a vessel, as determined by the Secretary; and

"(B) there is probable cause to believe that the individual—

"(i) has performed the safety sensitive function in violation of law or Federal regulation regarding use of alcohol or a dangerous drug;

"(ii) has been convicted of an offense that would prevent the issuance or renewal of the license, certificate, or document; or

"(iii) within the 3-year period preceding the initiation of a suspension proceeding, has been convicted of an offense

described in section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982.

"(2) If a license, certificate, or document is temporarily suspended under this section, an expedited hearing under subsection (a) of this section shall be held within 30 days after the temporary suspension.".

(2) DEFINITION OF DANGEROUS DRUG.—(A) Section 2101 of title 46, United States Code, is amended by inserting after paragraph (8) the following new paragraph:

"(8a) 'dangerous drug' means a narcotic drug, a controlled substance, or a controlled substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)).".

(B) Sections 7503(a) and 7704(a) of title 46, United States Code, are repealed.

(b) BASES FOR SUSPENSION OR REVOCATION.—Section 7703 of title 46, United States Code, is amended to read as follows:

"§ 7703. Bases for suspension or revocation

"A license, certificate of registry, or merchant mariner's document issued by the Secretary may be suspended or revoked if the holder—

"(1) when acting under the authority of that license, certificate, or document—

"(A) has violated or fails to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters; or

"(B) has committed an act of incompetence, misconduct, or negligence;

"(2) is convicted of an offense that would prevent the issuance or renewal of a license, certificate of registry, or merchant mariner's document; or

"(3) within the 3-year period preceding the initiation of the suspension or revocation proceeding is convicted of an offense described in section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982 (23 U.S.C. 401 note).".

(c) TERMINATION OF REVOCATION.—Section 7701(c) of title 46, United States Code, is amended to read as follows:

"(c) When a license, certificate of registry, or merchant mariner's document has been revoked under this chapter, the former holder may be issued a new license, certificate of registry, or merchant mariner's document only after—

"(1) the Secretary decides, under regulations prescribed by the Secretary, that the issuance is compatible with the requirement of good discipline and safety at sea; and Regulations.

"(2) the former holder provides satisfactory proof that the bases for revocation are no longer valid.".

SEC. 4104. REMOVAL OF MASTER OR INDIVIDUAL IN CHARGE.

Section 8101 of title 46, United States Code, is amended by adding at the end the following:

"(i) When the 2 next most senior licensed officers on a vessel reasonably believe that the master or individual in charge of the vessel is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel, the next most senior master,

mate, or operator licensed under section 7101(c) (1) or (3) of this title shall—

"(1) temporarily relieve the master or individual in charge;

"(2) temporarily take command of the vessel;

"(3) in the case of a vessel required to have a log under chapter 113 of this title, immediately enter the details of the incident in the log; and

"(4) report those details to the Secretary—

"(A) by the most expeditious means available; and

"(B) in written form transmitted within 12 hours after the vessel arrives at its next port.".

SEC. 4105. ACCESS TO NATIONAL DRIVER REGISTER.

(a) ACCESS TO REGISTER.—Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by redesignating the second paragraph (5) (as added to the end of that section by section 4(b)(1) of the Rail Safety Improvement Act of 1988) as paragraph (6); and

(2) by adding at the end the following:

"(7)(A) Any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46, United States Code, or a merchant mariner's document under section 7302 of title 46, United States Code, may request the chief driver licensing official of a State to transmit to the Secretary of the department in which the Coast Guard is operating in accordance with subsection (a) information regarding the motor vehicle driving record of the individual.

"(B) The Secretary—

"(i) may receive information transmitted by the chief driver licensing official of a State pursuant to a request under subparagraph (A);

"(ii) shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, United States Code; and

"(iii) may not otherwise divulge or use that information, except for the purposes of section 7101, 7302, or 7703 of title 46, United States Code.

"(C) Information regarding the motor vehicle driving record of an individual may not be transmitted to the Secretary under this paragraph if the information was entered in the Register more than 3 years before the date of the request for the information, unless the information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this title shall be subject to access for the purpose of this paragraph during the transition to the Register described under section 203(c) of this title.".

(b) CONFORMING AMENDMENTS.—

(1) REVIEW OF INFORMATION RECEIVED FROM REGISTER.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§ 7505. Review of information in National Driver Register

"The Secretary shall make information received from the National Driver Register under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) available to an individual for review and written comment before denying, suspending, revoking, or taking any other action relating to a license, certificate of registry, or merchant mariner's document authorized to be issued for that individual under this part, based on that information.".

(2) PENALTY FOR NEGLIGENT OPERATION OF VESSEL.—Section 2302(c) of title 46, United States Code, is amended by striking "intoxicated" and inserting "under the influence of alcohol, or a dangerous drug in violation of a law of the United States".

(c) CLERICAL AMENDMENT.—The analysis for chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"7505. Review of information in National Driver Register.".

SEC. 4106. MANNING STANDARDS FOR FOREIGN TANK VESSELS.

(a) STANDARDS FOR FOREIGN TANK VESSELS.—Section 9101(a) of title 46, United States Code, is amended to read as follows:

"(a)(1) The Secretary shall evaluate the manning, training, qualification, and watchkeeping standards of a foreign country that issues documentation for any vessel to which chapter 37 of this title applies—

"(A) on a periodic basis; and

"(B) when the vessel is involved in a marine casualty required to be reported under section 6101(a) (4) or (5) of this title.

"(2) After each evaluation made under paragraph (1) of this subsection, the Secretary shall determine whether—

"(A) the foreign country has standards for licensing and certification of seamen that are at least equivalent to United States law or international standards accepted by the United States; and

"(B) those standards are being enforced.

"(3) If the Secretary determines under this subsection that a country has failed to maintain or enforce standards at least equivalent to United States law or international standards accepted by the United States, the Secretary shall prohibit vessels issued documentation by that country from entering the United States until the Secretary determines those standards have been established and are being enforced.

"(4) The Secretary may allow provisional entry of a vessel prohibited from entering the United States under paragraph (3) of this subsection if—

"(A) the owner or operator of the vessel establishes, to the satisfaction of the Secretary, that the vessel is not unsafe or a threat to the marine environment; or

"(B) the entry is necessary for the safety of the vessel or individuals on the vessel.".

(b) REPORTING MARINE CASUALTIES.—

(1) REPORTING REQUIREMENT.—Section 6101(a) of title 46, United States Code, is amended by adding at the end the following:

"(5) significant harm to the environment.".

(2) APPLICATION TO FOREIGN VESSELS.—Section 6101(d) of title 46, United States Code, is amended—

(A) by inserting "(1)" before "This part"; and

(B) by adding at the end the following:

"(2) This part applies, to the extent consistent with generally recognized principles of international law, to a foreign vessel constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue involved in a marine casualty described under subsection (a) (4) or (5) in waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 9(a) of the Ports and Waterways Safety Act (33 U.S.C. 1228(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "section 4417a of the Revised Statutes, as amended," and inserting "chapter 37 of title 46, United States Code,";

(2) in paragraph (2), by striking "section 4417a of the Revised Statutes, as amended," and inserting "chapter 37 of title 46, United States Code,"; and

(3) in paragraph (5), by striking "section 4417a(11) of the Revised Statutes, as amended," and inserting "section 9101 of title 46, United States Code,".

SEC. 4107. VESSEL TRAFFIC SERVICE SYSTEMS.

(a) IN GENERAL.—Section 4(a) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)) is amended—

(1) by striking "Secretary may—" and inserting "Secretary—";

(2) in paragraph (1) by striking "establish, operate, and maintain" and inserting "may construct, operate, maintain, improve, or expand";

(3) in paragraph (2) by striking "require" and inserting "shall require appropriate";

(4) in paragraph (3) by inserting "may" before "require";

(5) in paragraph (4) by inserting "may" before "control"; and

(6) in paragraph (5) by inserting "may" before "require".

(b) DIRECTION OF VESSEL MOVEMENT.—

(1) STUDY.—The Secretary shall conduct a study—

(A) of whether the Secretary should be given additional authority to direct the movement of vessels on navigable waters and should exercise such authority; and

(B) to determine and prioritize the United States ports and channels that are in need of new, expanded, or improved vessel traffic service systems, by evaluating—

(i) the nature, volume, and frequency of vessel traffic;

(ii) the risks of collisions, spills, and damages associated with that traffic;

(iii) the impact of installation, expansion, or improvement of a vessel traffic service system; and

(iv) all other relevant costs and data.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1) and recommendations for implementing the results of that study.

SEC. 4108. GREAT LAKES PILOTAGE.

(a) INDIVIDUALS WHO MAY SERVE AS PILOT ON UNDESIGNATED GREAT LAKE WATERS.—Section 9302(b) of title 46, United States Code, is amended to read as follows:

"(b) A member of the complement of a vessel of the United States operating on register or of a vessel of Canada may serve as the pilot required on waters not designated by the President if the member is licensed under section 7101 of this title, or under equivalent provisions of Canadian law, to direct the navigation of the vessel on the waters being navigated.".

(b) PENALTIES.—Section 9308 of title 46, United States Code, is amended in each of subsections (a), (b), and (c) by striking "$500" and inserting "no more than $10,000".

SEC. 4109. PERIODIC GAUGING OF PLATING THICKNESS OF COMMERCIAL VESSELS. 46 USC 3703 note.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations for vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue— Regulations.

(1) establishing minimum standards for plating thickness; and

(2) requiring, consistent with generally recognized principles of international law, periodic gauging of the plating thickness of all such vessels over 30 years old operating on the navigable waters or the waters of the exclusive economic zone.

SEC. 4110. OVERFILL AND TANK LEVEL OR PRESSURE MONITORING DEVICES. Regulations. 46 USC 3703 note.

(a) STANDARDS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

(b) USE.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations establishing, consistent with generally recognized principles of international law, requirements concerning the use of—

(1) overfill devices, and

(2) tank level or pressure monitoring devices,

which are referred to in subsection (a) and which meet the standards established by the Secretary under subsection (a), on vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue on the navigable waters and the waters of the exclusive economic zone.

SEC. 4111. STUDY ON TANKER NAVIGATION SAFETY STANDARDS. 46 USC 3703 note.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a study to determine whether existing laws and regulations are adequate to ensure the safe navigation of vessels transporting oil or hazardous substances in bulk on the navigable waters and the waters of the exclusive economic zone.

(b) CONTENT.—In conducting the study required under subsection (a), the Secretary shall—

(1) determine appropriate crew sizes on tankers;

(2) evaluate the adequacy of qualifications and training of crewmembers on tankers;

(3) evaluate the ability of crewmembers on tankers to take emergency actions to prevent or remove a discharge of oil or a hazardous substance from their tankers;

(4) evaluate the adequacy of navigation equipment and systems on tankers (including sonar, electronic chart display, and satellite technology);

(5) evaluate and test electronic means of position-reporting and identification on tankers, consider the minimum standards suitable for equipment for that purpose, and determine whether to require that equipment on tankers;

(6) evaluate the adequacy of navigation procedures under different operating conditions, including such variables as speed, daylight, ice, tides, weather, and other conditions;

(7) evaluate whether areas of navigable waters and the exclusive economic zone should be designated as zones where the movement of tankers should be limited or prohibited;

(8) evaluate whether inspection standards are adequate;

(9) review and incorporate the results of past studies, including studies conducted by the Coast Guard and the Office of Technology Assessment;

(10) evaluate the use of computer simulator courses for training bridge officers and pilots of vessels transporting oil or hazardous substances on the navigable waters and waters of the exclusive economic zone, and determine the feasibility and practicality of mandating such training;

(11) evaluate the size, cargo capacity, and flag nation of tankers transporting oil or hazardous substances on the navigable waters and the waters of the exclusive economic zone—

(A) identifying changes occurring over the past 20 years in such size and cargo capacity and in vessel navigation and technology; and

(B) evaluating the extent to which the risks or difficulties associated with tanker navigation, vessel traffic control, accidents, oil spills, and the containment and cleanup of such spills are influenced by or related to an increase in tanker size and cargo capacity; and

(12) evaluate and test a program of remote alcohol testing for masters and pilots aboard tankers carrying significant quantities of oil.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of the study conducted under subsection (a), including recommendations for implementing the results of that study.

SEC. 4112. DREDGE MODIFICATION STUDY.

(a) STUDY.—The Secretary of the Army shall conduct a study and demonstration to determine the feasibility of modifying dredges to make them usable in removing discharges of oil and hazardous substances.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army shall submit to the Congress a report on the results of the study conducted under subsection (a) and recommendations for implementing the results of that study.

President of U.S.

SEC. 4113. USE OF LINERS.

(a) STUDY.—The President shall conduct a study to determine whether liners or other secondary means of containment should be used to prevent leaking or to aid in leak detection at onshore facilities used for the bulk storage of oil and located near navigable waters.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the President shall submit to the Congress a report on the results of the study conducted under subsection (a) and recommendations to implement the results of the study.

(c) IMPLEMENTATION.—Not later than 6 months after the date the report required under subsection (b) is submitted to the Congress, the President shall implement the recommendations contained in the report.

SEC. 4114. TANK VESSEL MANNING.

46 USC 3703 note.

(a) RULEMAKING.—In order to protect life, property, and the environment, the Secretary shall initiate a rulemaking proceeding within 180 days after the date of the enactment of this Act to define the conditions under, and designate the waters upon, which tank vessels subject to section 3703 of title 46, United States Code, may operate in the navigable waters with the auto-pilot engaged or with an unattended engine room.

(b) WATCHES.—Section 8104 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(n) On a tanker, a licensed individual or seaman may not be permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period, except in an emergency or a drill. In this subsection, 'work' includes any administrative duties associated with the vessel whether performed on board the vessel or onshore.".

(c) MANNING REQUIREMENT.—Section 8101(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) a tank vessel shall consider the navigation, cargo handling, and maintenance functions of that vessel for protection of life, property, and the environment.".

(d) STANDARDS.—Section 9102(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) instruction in vessel maintenance functions.".

(e) RECORDS.—Section 7502 of title 46, United States Code, is amended by striking "maintain records" and inserting "maintain computerized records".

SEC. 4115. ESTABLISHMENT OF DOUBLE HULL REQUIREMENT FOR TANK VESSELS.

(a) DOUBLE HULL REQUIREMENT.—Chapter 37 of title 46, United States Code, is amended by inserting after section 3703 the following new section:

"§ 3703a. Tank vessel construction standards

"(a) Except as otherwise provided in this section, a vessel to which this chapter applies shall be equipped with a double hull—

"(1) if it is constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue; and

"(2) when operating on the waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

"(b) This section does not apply to—

"(1) a vessel used only to respond to a discharge of oil or a hazardous substance;

"(2) a vessel of less than 5,000 gross tons equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil; or

"(3) before January 1, 2015—

"(A) a vessel unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

"(B) a delivering vessel that is offloading in lightering activities—

"(i) within a lightering zone established under section 3715(b)(5) of this title; and

"(ii) more than 60 miles from the baseline from which the territorial sea of the United States is measured.

"(c)(1) In this subsection, the age of a vessel is determined from the later of the date on which the vessel—

"(A) is delivered after original construction;

"(B) is delivered after completion of a major conversion; or

"(C) had its appraised salvage value determined by the Coast Guard and is qualified for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14).

"(2) A vessel of less than 5,000 gross tons for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel of less than 5,000 gross tons that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or the Exclusive Economic Zone of the United States after January 1, 2015, unless the vessel is equipped with a double hull or with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

"(3) A vessel for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or Exclusive Economic Zone of the United States unless equipped with a double hull—

"(A) in the case of a vessel of at least 5,000 gross tons but less than 15,000 gross tons—

"(i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;

"(ii) after January 1, 1996, if the vessel is 39 years old or older and has a single hull, or is 44 years old or older and has a double bottom or double sides;

"(iii) after January 1, 1997, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;

"(iv) after January 1, 1998, if the vessel is 37 years old or older and has a single hull, or is 42 years old or older and has a double bottom or double sides;

"(v) after January 1, 1999, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;

"(vi) after January 1, 2000, if the vessel is 35 years old or older and has a single hull, or is 40 years old or older and has a double bottom or double sides; and

"(vii) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;

"(B) in the case of a vessel of at least 15,000 gross tons but less than 30,000 gross tons—

"(i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;

"(ii) after January 1, 1996, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;

"(iii) after January 1, 1997, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;

"(iv) after January 1, 1998, if the vessel is 34 years old or older and has a single hull, or is 39 years old or older and has a double bottom or double sides;

"(v) after January 1, 1999, if the vessel is 32 years old or older and has a single hull, or 37 years old or older and has a double bottom or double sides;

"(vi) after January 1, 2000, if the vessel is 30 years old or older and has a single hull, or is 35 years old or older and has a double bottom or double sides;

"(vii) after January 1, 2001, if the vessel is 29 years old or older and has a single hull, or is 34 years old or older and has a double bottom or double sides;

"(viii) after January 1, 2002, if the vessel is 28 years old or older and has a single hull, or is 33 years old or older and has a double bottom or double sides;

"(ix) after January 1, 2003, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;

"(x) after January 1, 2004, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides; and

"(xi) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides; and

"(C) in the case of a vessel of at least 30,000 gross tons—

"(i) after January 1, 1995, if the vessel is 28 years old or older and has a single hull, or 33 years old or older and has a double bottom or double sides;

"(ii) after January 1, 1996, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;

"(iii) after January 1, 1997, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides;

"(iv) after January 1, 1998, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;

"(v) after January 1, 1999, if the vessel is 24 years old or older and has a single hull, or 29 years old or older and has a double bottom or double sides; and

"(vi) after January 1, 2000, if the vessel is 23 years old or older and has a single hull, or is 28 years old or older and has a double bottom or double sides.

"(4) Except as provided in subsection (b) of this section—

"(A) a vessel that has a single hull may not operate after January 1, 2010; and

"(B) a vessel that has a double bottom or double sides may not operate after January 1, 2015.".

46 USC 3703a note.

(b) RULEMAKING.—The Secretary shall, within 12 months after the date of the enactment of this Act, complete a rulemaking proceeding and issue a final rule to require that tank vessels over 5,000 gross tons affected by section 3703a of title 46, United States Code, as added by this section, comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible.

(c) CLERICAL AMENDMENT.—The analysis for chapter 37 of title 46, United States Code, is amended by inserting after the item relating to section 3703 the following:

"3703a. Tank vessel construction standards.".

(d) LIGHTERING REQUIREMENTS.—Section 3715(a) of title 46, United States Code, is amended—

(1) in paragraph (1), by striking "; and" and inserting a semicolon;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) the delivering and the receiving vessel had on board at the time of transfer, a certificate of financial responsibility as would have been required under section 1016 of the Oil Pollution Act of 1990, had the transfer taken place in a place subject to the jurisdiction of the United States;

"(4) the delivering and the receiving vessel had on board at the time of transfer, evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)); and

"(5) the delivering and the receiving vessel are operating in compliance with section 3703a of this title.".

46 USC 3703a note. Reports.

(e) SECRETARIAL STUDIES.—

(1) OTHER REQUIREMENTS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall determine, based on recommendations from the National Academy of Sciences or other qualified organizations, whether other structural and operational tank vessel requirements will provide protection to the marine environment equal to or greater than that provided by double hulls, and shall report to the Congress that determination and recommendations for legislative action.

(2) REVIEW AND ASSESSMENT.—The Secretary shall—

(A) periodically review recommendations from the National Academy of Sciences and other qualified organizations on methods for further increasing the environmental and operational safety of tank vessels;

(B) not later than 5 years after the date of enactment of this Act, assess the impact of this section on the safety of the marine environment and the economic viability and operational makeup of the maritime oil transportation industry; and

(C) report the results of the review and assessment to the Congress with recommendations for legislative or other action. Reports.

(f) VESSEL FINANCING.—Section 1104 of the Merchant Marine Act of 1936 (46 App. U.S.C. 1274) is amended—

(1) by striking "SEC. 1104." and inserting "SEC. 1104A."; and

(2) by inserting after section 1104A (as redesignated by paragraph (1)) the following:

"SEC. 1104B. (a) Notwithstanding the provisions of this title, except as provided in subsection (d) of this section, the Secretary, upon the terms the Secretary may prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in financing and refinancing, including reimbursement to an obligor for expenditures previously made, of a contract for construction or reconstruction of a vessel or vessels owned by citizens of the United States which are designed and to be employed for commercial use in the coastwise or intercoastal trade or in foreign trade as defined in section 905 of this Act if— 46 USC app. 1274a.

"(1) the construction or reconstruction by an applicant is made necessary to replace vessels the continued operation of which is denied by virtue of the imposition of a statutorily mandated change in standards for the operation of vessels, and where, as a matter of law, the applicant would otherwise be denied the right to continue operating vessels in the trades in which the applicant operated prior to the taking effect of the statutory or regulatory change;

"(2) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section, and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by changes in operating standards imposed by statute;

"(3) the capacity of the vessels to be constructed or reconstructed under this title will not increase the cargo carrying capacity of the vessels being replaced;

"(4) the Secretary has not made a determination that the market demand for the vessel over its useful life will diminish so as to make the granting of the guarantee fiduciarily imprudent; and

"(5) the Secretary has considered the provisions of section 1104A(d)(1)(A) (iii), (iv), and (v) of this title.

"(b) For the purposes of this section—

"(1) the maximum term for obligations guaranteed under this program may not exceed 25 years;

"(2) obligations guaranteed may not exceed 75 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel; and

"(3) reconstruction cost obligations may not be guaranteed unless the vessel after reconstruction will have a useful life of at least 15 years.

"(c)(1) The Secretary shall by rule require that the applicant provide adequate security against default. The Secretary may, in addition to any fees assessed under section 1104A(e), establish a Vessel Replacement Guarantee Fund into which shall be paid by obligors under this section—

"(A) annual fees which may be an additional amount on the loan guarantee fee in section 1104A(e) not to exceed an additional 1 percent; or

"(B) fees based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

"(2) The Vessel Replacement Guarantee Fund shall be a subaccount in the Federal Ship Financing Fund, and shall—

"(A) be the depository for all moneys received by the Secretary under sections 1101 through 1107 of this title with respect to guarantee or commitments to guarantee made under this section;

"(B) not include investigation fees payable under section 1104A(f) which shall be paid to the Federal Ship Financing Fund; and

"(C) be the depository, whenever there shall be outstanding any notes or obligations issued by the Secretary under section 1105(d) with respect to the Vessel Replacement Guarantee Fund, for all moneys received by the Secretary under sections 1101 through 1107 from applicants under this section.

"(d) The program created by this section shall, in addition to the requirements of this section, be subject to the provisions of sections 1101 through 1103; 1104A(b) (1), (4), (5), (6); 1104A(e); 1104A(f); 1104A(h); and 1105 through 1107; except that the Federal Ship Financing Fund is not liable for any guarantees or commitments to guarantee issued under this section.".

SEC. 4116. PILOTAGE.

(a) PILOT REQUIRED.—Section 8502(g) of title 46, United States Code, is amended to read as follows:

Regulations. Alaska.

"(g)(1) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, if any, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.

"(2) In any area of Prince William Sound, Alaska, where a vessel subject to this section is required to be under the direction and control of a pilot licensed under section 7101 of this title, the pilot may not be a member of the crew of that vessel and shall be a pilot licensed by the State of Alaska who is operating under a Federal license, when the vessel is navigating waters between 60°49' North latitude and the Port of Valdez, Alaska.".

(b) SECOND PERSON REQUIRED.—Section 8502 of title 46, United States Code, is amended by adding at the end the following:

"(h) The Secretary shall designate waters on which tankers over 1,600 gross tons subject to this section shall have on the bridge a

master or mate licensed to direct and control the vessel under section 7101(c)(1) of this title who is separate and distinct from the pilot required under subsection (a) of this section.".

(c) ESCORTS FOR CERTAIN TANKERS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall initiate issuance of regulations under section 3703(a)(3) of title 46, United States Code, to define those areas, including Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait of Georgia subject to United States jurisdiction), on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels (as defined under section 2101 of title 46, United States Code) or other vessels considered appropriate by the Secretary. Regulations. Alaska. Washington. 46 USC 3703 note.

(d) TANKER DEFINED.—In this section the term "tanker" has the same meaning the term has in section 2101 of title 46, United States Code. 46 USC 3703 note.

SEC. 4117. MARITIME POLLUTION PREVENTION TRAINING PROGRAM STUDY. 46 USC app. 1295 note.

The Secretary shall conduct a study to determine the feasibility of a Maritime Oil Pollution Prevention Training program to be carried out in cooperation with approved maritime training institutions. The study shall assess the costs and benefits of transferring suitable vessels to selected maritime training institutions, equipping the vessels for oil spill response, and training students in oil pollution response skills. The study shall be completed and transmitted to the Congress no later than one year after the date of the enactment of this Act.

SEC. 4118. VESSEL COMMUNICATION EQUIPMENT REGULATIONS. 33 USC 1203 note.

The Secretary shall, not later than one year after the date of the enactment of this Act, issue regulations necessary to ensure that vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203) are also equipped as necessary to—

(1) receive radio marine navigation safety warnings; and

(2) engage in radio communications on designated frequencies with the Coast Guard, and such other vessels and stations as may be specified by the Secretary.

Subtitle B—Removal

SEC. 4201. FEDERAL REMOVAL AUTHORITY. President of U.S. Hazardous materials.

(a) IN GENERAL.—Subsection (c) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) is amended to read as follows:

"(c) FEDERAL REMOVAL AUTHORITY.—

"(1) GENERAL REMOVAL REQUIREMENT.—(A) The President shall, in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance—

"(i) into or on the navigable waters;

"(ii) on the adjoining shorelines to the navigable waters;

"(iii) into or on the waters of the exclusive economic zone; or

"(iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

"(B) In carrying out this paragraph, the President may—

"(i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;

"(ii) direct or monitor all Federal, State, and private actions to remove a discharge; and

"(iii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

"(2) DISCHARGE POSING SUBSTANTIAL THREAT TO PUBLIC HEALTH OR WELFARE.—(A) If a discharge, or a substantial threat of a discharge, of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a size or character as to be a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the President shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

"(B) In carrying out this paragraph, the President may, without regard to any other provision of law governing contracting procedures or employment of personnel by the Federal Government—

"(i) remove or arrange for the removal of the discharge, or mitigate or prevent the substantial threat of the discharge; and

"(ii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

"(3) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—(A) Each Federal agency, State, owner or operator, or other person participating in efforts under this subsection shall act in accordance with the National Contingency Plan or as directed by the President.

"(B) An owner or operator participating in efforts under this subsection shall act in accordance with the National Contingency Plan and the applicable response plan required under subsection (j), or as directed by the President.

"(4) EXEMPTION FROM LIABILITY.—(A) A person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the President.

"(B) Subparagraph (A) does not apply—

"(i) to a responsible party;

"(ii) to a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(iii) with respect to personal injury or wrongful death; or

"(iv) if the person is grossly negligent or engages in willful misconduct.

"(C) A responsible party is liable for any removal costs and damages that another person is relieved of under subparagraph (A).

"(5) OBLIGATION AND LIABILITY OF OWNER OR OPERATOR NOT AFFECTED.—Nothing in this subsection affects—

"(A) the obligation of an owner or operator to respond immediately to a discharge, or the threat of a discharge, of oil; or

"(B) the liability of a responsible party under the Oil Pollution Act of 1990.

"(6) RESPONSIBLE PARTY DEFINED.—For purposes of this subsection, the term 'responsible party' has the meaning given that term under section 1001 of the Oil Pollution Act of 1990.".

(b) NATIONAL CONTINGENCY PLAN.—Subsection (d) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)) is amended to read as follows:

"(d) NATIONAL CONTINGENCY PLAN.—

"(1) PREPARATION BY PRESIDENT.—The President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances pursuant to this section.

"(2) CONTENTS.—The National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to, the following:

"(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities including, but not limited to, water pollution control and conservation and trusteeship of natural resources (including conservation of fish and wildlife).

"(B) Identification, procurement, maintenance, and storage of equipment and supplies.

"(C) Establishment or designation of Coast Guard strike teams, consisting of—

"(i) personnel who shall be trained, prepared, and available to provide necessary services to carry out the National Contingency Plan;

"(ii) adequate oil and hazardous substance pollution control equipment and material; and

"(iii) a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife.

"(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies.

"(E) Establishment of a national center to provide coordination and direction for operations in carrying out the Plan.

"(F) Procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances.

"(G) A schedule, prepared in cooperation with the States, identifying—

"(i) dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the Plan,

"(ii) the waters in which such dispersants, other chemicals, and other spill mitigating devices and substances may be used, and

"(iii) the quantities of such dispersant, other chemicals, or other spill mitigating device or substance which can be used safely in such waters,

which schedule shall provide in the case of any dispersant, chemical, spill mitigating device or substance, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants, other chemicals, and other spill mitigating devices and substances which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

"(H) A system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed in accordance with the Oil Pollution Act of 1990, in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred for that removal, from the Oil Spill Liability Trust Fund.

"(I) Establishment of criteria and procedures to ensure immediate and effective Federal identification of, and response to, a discharge, or the threat of a discharge, that results in a substantial threat to the public health or welfare of the United States, as required under subsection (c)(2).

"(J) Establishment of procedures and standards for removing a worst case discharge of oil, and for mitigating or preventing a substantial threat of such a discharge.

"(K) Designation of the Federal official who shall be the Federal On-Scene Coordinator for each area for which an Area Contingency Plan is required to be prepared under subsection (j).

"(L) Establishment of procedures for the coordination of activities of—

"(i) Coast Guard strike teams established under subparagraph (C);

"(ii) Federal On-Scene Coordinators designated under subparagraph (K);

"(iii) District Response Groups established under subsection (j); and

"(iv) Area Committees established under subsection (j).

Fish and fishing.
Wildlife.

"(M) A fish and wildlife response plan, developed in consultation with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other interested parties (including State fish and wildlife conservation officials), for the immediate and effective protection, rescue, and rehabilitation of, and the minimization of risk of damage to, fish and wildlife resources and their habitat that are harmed or that may be jeopardized by a discharge.

"(3) REVISIONS AND AMENDMENTS.—The President may, from time to time, as the President deems advisable, revise or otherwise amend the National Contingency Plan.

"(4) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.".

(b) DEFINITIONS.— Section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)) is amended—

(1) in paragraph (8), by inserting "containment and" after "refers to"; and

(2) in paragraph (16) by striking the period at the end and inserting a semicolon;

(3) in paragraph (17)—

(A) by striking "Otherwise" and inserting "otherwise"; and

(B) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(18) 'Area Committee' means an Area Committee established under subsection (j);

"(19) 'Area Contingency Plan' means an Area Contingency Plan prepared under subsection (j);

"(20) 'Coast Guard District Response Group' means a Coast Guard District Response Group established under subsection (j);

"(21) 'Federal On-Scene Coordinator' means a Federal On-Scene Coordinator designated in the National Contingency Plan;

"(22) 'National Contingency Plan' means the National Contingency Plan prepared and published under subsection (d);

"(23) 'National Response Unit' means the National Response Unit established under subsection (j); and

"(24) 'worst case discharge' means—

"(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

"(B) in the case of an offshore facility or onshore facility, the largest foreseeable discharge in adverse weather conditions.".

(c) REVISION OF NATIONAL CONTINGENCY PLAN.—Not later than one year after the date of the enactment of this Act, the President shall revise and republish the National Contingency Plan prepared under section 311(c)(2) of the Federal Water Pollution Control Act (as in effect immediately before the date of the enactment of this Act) to implement the amendments made by this section and section 4202. 33 USC 1321 note.

SEC. 4202. NATIONAL PLANNING AND RESPONSE SYSTEM.

(a) IN GENERAL.—Subsection (j) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) by striking "(j)" and inserting the following:

"(j) NATIONAL RESPONSE SYSTEM.—";

(2) by moving paragraph (1) so as to begin immediately below the heading for subsection (j) (as added by paragraph (1) of this subsection);

(3) by moving paragraph (1) two ems to the right, so the left margin of that paragraph is aligned with the left margin of paragraph (2) of that subsection (as added by paragraph (6) of this subsection);

(4) in paragraph (1) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(5) by striking paragraph (2); and

(6) by adding at the end the following:

Uniformed services. North Carolina.

"(2) NATIONAL RESPONSE UNIT.—The Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit at Elizabeth City, North Carolina. The Secretary, acting through the National Response Unit—

Public information.

"(A) shall compile and maintain a comprehensive computer list of spill removal resources, personnel, and equipment that is available worldwide and within the areas designated by the President pursuant to paragraph (4), which shall be available to Federal and State agencies and the public;

"(B) shall provide technical assistance, equipment, and other resources requested by a Federal On-Scene Coordinator;

"(C) shall coordinate use of private and public personnel and equipment to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near an area designated by the President pursuant to paragraph (4);

"(D) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4);

"(E) shall administer Coast Guard strike teams established under the National Contingency Plan;

Records.

"(F) shall maintain on file all Area Contingency Plans approved by the President under this subsection; and

"(G) shall review each of those plans that affects its responsibilities under this subsection.

"(3) COAST GUARD DISTRICT RESPONSE GROUPS.—(A) The Secretary of the department in which the Coast Guard is operating shall establish in each Coast Guard district a Coast Guard District Response Group.

"(B) Each Coast Guard District Response Group shall consist of—

"(i) the Coast Guard personnel and equipment, including firefighting equipment, of each port within the district;

"(ii) additional prepositioned equipment; and

"(iii) a district response advisory staff.

"(C) Coast Guard district response groups—

"(i) shall provide technical assistance, equipment, and other resources when required by a Federal On-Scene Coordinator;

"(ii) shall maintain all Coast Guard response equipment within its district;

"(iii) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4); and

"(iv) shall review each of those plans that affect its area of geographic responsibility.

"(4) AREA COMMITTEES AND AREA CONTINGENCY PLANS.—(A) There is established for each area designated by the President an Area Committee comprised of members appointed by the President from qualified personnel of Federal, State, and local agencies. Establishment.

"(B) Each Area Committee, under the direction of the Federal On-Scene Coordinator for its area, shall—

"(i) prepare for its area the Area Contingency Plan required under subparagraph (C);

"(ii) work with State and local officials to enhance the contingency planning of those officials and to assure preplanning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife; and

"(iii) work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

"(C) Each Area Committee shall prepare and submit to the President for approval an Area Contingency Plan for its area. The Area Contingency Plan shall—

"(i) when implemented in conjunction with the National Contingency Plan, be adequate to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the area;

"(ii) describe the area covered by the plan, including the areas of special economic or environmental importance that might be damaged by a discharge;

"(iii) describe in detail the responsibilities of an owner or operator and of Federal, State, and local agencies in removing a discharge, and in mitigating or preventing a substantial threat of a discharge;

"(iv) list the equipment (including firefighting equipment), dispersants or other mitigating substances and devices, and personnel available to an owner or operator and Federal, State, and local agencies, to ensure an effective and immediate removal of a discharge, and to ensure mitigation or prevention of a substantial threat of a discharge;

"(v) describe the procedures to be followed for obtaining an expedited decision regarding the use of dispersants;

"(vi) describe in detail how the plan is integrated into other Area Contingency Plans and vessel, offshore facility, and onshore facility response plans approved under this subsection, and into operating procedures of the National Response Unit;

"(vii) include any other information the President requires; and

"(viii) be updated periodically by the Area Committee.

"(D) The President shall—

"(i) review and approve Area Contingency Plans under this paragraph; and

"(ii) periodically review Area Contingency Plans so approved.

"(5) TANK VESSEL AND FACILITY RESPONSE PLANS.—(A) The President shall issue regulations which require an owner or Regulations.

operator of a tank vessel or facility described in subparagraph (B) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

"(B) The tank vessels and facilities referred to in subparagraph (A) are the following:

"(i) A tank vessel, as defined under section 2101 of title 46, United States Code.

"(ii) An offshore facility.

"(iii) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

"(C) A response plan required under this paragraph shall—

"(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

"(ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);

"(iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;

"(iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;

"(v) be updated periodically; and

"(vi) be resubmitted for approval of each significant change.

President of U.S.

"(D) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel or offshore facility, the President shall—

"(i) promptly review such response plan;

"(ii) require amendments to any plan that does not meet the requirements of this paragraph;

"(iii) approve any plan that meets the requirements of this paragraph; and

"(iv) review each plan periodically thereafter.

"(E) A tank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—

"(i) in the case of a tank vessel, offshore facility, or onshore facility for which a response plan is reviewed by

the President under subparagraph (D), the plan has been approved by the President; and

"(ii) the vessel or facility is operating in compliance with the plan.

"(F) Notwithstanding subparagraph (E), the President may authorize a tank vessel, offshore facility, or onshore facility to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

"(G) The owner or operator of a tank vessel, offshore facility, or onshore facility may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

"(H) The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel that is a vessel of the United States.

"(6) EQUIPMENT REQUIREMENTS AND INSPECTION.—Not later than 2 years after the date of enactment of this section, the President shall require— President of U.S.

"(A) periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges; and

"(B) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.

"(7) AREA DRILLS.—The President shall periodically conduct drills of removal capability, without prior notice, in areas for which Area Contingency Plans are required under this subsection and under relevant tank vessel and facility response plans. The drills may include participation by Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The President may publish annual reports on these drills, including assessments of the effectiveness of the plans and a list of amendments made to improve plans. President of U.S.

"(8) UNITED STATES GOVERNMENT NOT LIABLE.—The United States Government is not liable for any damages arising from its actions or omissions relating to any response plan required by this section.".

(b) IMPLEMENTATION.—

(1) AREA COMMITTEES AND CONTINGENCY PLANS.—(A) Not later than 6 months after the date of the enactment of this Act, the President shall designate the areas for which Area Committees are established under section 311(j)(4) of the Federal Water Pollution Control Act, as amended by this Act. In designating such areas, the President shall ensure that all navigable waters, adjoining shorelines, and waters of the exclusive economic zone are subject to an Area Contingency Plan under that section. 33 USC 1321 note. President of U.S.

(B) Not later than 18 months after the date of the enactment of this Act, each Area Committee established under that section shall submit to the President the Area Contingency Plan required under that section.

(C) Not later than 24 months after the date of the enactment of this Act, the President shall—

(i) promptly review each plan;

(ii) require amendments to any plan that does not meet the requirements of section 311(j)(4) of the Federal Water Pollution Control Act; and

(iii) approve each plan that meets the requirements of that section.

Establishment.

(2) NATIONAL RESPONSE UNIT.—Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit in accordance with section 311(j)(2) of the Federal Water Pollution Control Act, as amended by this Act.

Establishment.

(3) COAST GUARD DISTRICT RESPONSE GROUPS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish Coast Guard District Response Groups in accordance with section 311(j)(3) of the Federal Water Pollution Control Act, as amended by this Act.

President of U.S.
Regulations.

(4) TANK VESSEL AND FACILITY RESPONSE PLANS; TRANSITION PROVISION; EFFECTIVE DATE OF PROHIBITION.—(A) Not later than 24 months after the date of the enactment of this Act, the President shall issue regulations for tank vessel and facility response plans under section 311(j)(5) of the Federal Water Pollution Control Act, as amended by this Act.

(B) During the period beginning 30 months after the date of the enactment of this paragraph and ending 36 months after that date of enactment, a tank vessel or facility for which a response plan is required to be prepared under section 311(j)(5) of the Federal Water Pollution Control Act, as amended by this Act, may not handle, store, or transport oil unless the owner or operator thereof has submitted such a plan to the President.

(C) Subparagraph (E) of section 311(j)(5) of the Federal Water Pollution Control Act, as amended by this Act, shall take effect 36 months after the date of the enactment of this Act.

(c) STATE LAW NOT PREEMPTED.— Section 311(o)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(o)(2)) is amended by inserting before the period the following: ", or with respect to any removal activities related to such discharge".

14 USC 92 note.

SEC. 4203. COAST GUARD VESSEL DESIGN.

The Secretary shall ensure that vessels designed and constructed to replace Coast Guard buoy tenders are equipped with oil skimming systems that are readily available and operable, and that complement the primary mission of servicing aids to navigation.

SEC. 4204. DETERMINATION OF HARMFUL QUANTITIES OF OIL AND HAZARDOUS SUBSTANCES.

Section 311(b)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(4)) is amended by inserting "or the environment" after "the public health or welfare".

SEC. 4205. COASTWISE OIL SPILL RESPONSE COOPERATIVES.

Section 12106 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) A vessel may be issued a certificate of documentation with a coastwise endorsement if—

"(A) the vessel is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative who dedicate the vessel to use by the cooperative;

"(B) the vessel is at least 50 percent owned by persons or entities described in section 12102(a) of this title;

"(C) the vessel otherwise qualifies under section 12106 to be employed in the coastwise trade; and

"(D) use of the vessel is restricted to—

"(i) the deployment of equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States, or within the Exclusive Economic Zone, or

"(ii) for training exercises to prepare to respond to such a discharge.

"(2) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act of 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection shall be considered to be owned exclusively by citizens of the United States.".

Subtitle C—Penalties and Miscellaneous

SEC. 4301. FEDERAL WATER POLLUTION CONTROL ACT PENALTIES.

(a) NOTICE TO STATE AND FAILURE TO REPORT.—Section 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(5)) is amended—

(1) by inserting after the first sentence the following: "The Federal agency shall immediately notify the appropriate State agency of any State which is, or may reasonably be expected to be, affected by the discharge of oil or a hazardous substance.";

(2) by striking "fined not more than $10,000, or imprisoned for not more than one year, or both" and inserting "fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both"; and

(3) in the last sentence by—

(A) striking "or information obtained by the exploitation of such notification"; and

(B) inserting "natural" before "person".

(b) PENALTIES FOR DISCHARGES AND VIOLATIONS OF REGULATIONS.—Section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) is amended by striking paragraph (6) and inserting the following new paragraphs:

"(6) ADMINISTRATIVE PENALTIES.—

"(A) VIOLATIONS.—Any owner, operator, or person in charge of any vessel, onshore facility, or offshore facility—

"(i) from which oil or a hazardous substance is discharged in violation of paragraph (3), or

"(ii) who fails or refuses to comply with any regulation issued under subsection (j) to which that owner, operator, or person in charge is subject,

may be assessed a class I or class II civil penalty by the Secretary of the department in which the Coast Guard is operating or the Administrator.

"(B) CLASSES OF PENALTIES.—

"(i) CLASS I.—The amount of a class I civil penalty under subparagraph (A) may not exceed $10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed $25,000. Before assessing a civil penalty under this clause, the Administrator or Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(ii) CLASS II.—The amount of a class II civil penalty under subparagraph (A) may not exceed $10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed $125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and Secretary may issue rules for discovery procedures for hearings under this paragraph.

"(C) RIGHTS OF INTERESTED PERSONS.—

"(i) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under this paragraph the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(ii) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a class II civil penalty under this paragraph shall be given notice of any hearing held under this paragraph and of the order assessing such penalty. In any hearing held under this paragraph, such person shall have a reasonable opportunity to be heard and to present evidence.

Federal Register, publication.

"(iii) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under subparagraph (B) before issuance of an order assessing a class II civil penalty under this paragraph, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall imme-

diately set aside such order and provide a hearing in accordance with subparagraph (B)(ii). If the Administrator or Secretary denies a hearing under this clause, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(D) FINALITY OF ORDER.—An order assessing a class II civil penalty under this paragraph shall become final 30 days after its issuance unless a petition for judicial review is filed under subparagraph (G) or a hearing is requested under subparagraph (C)(iii). If such a hearing is denied, such order shall become final 30 days after such denial.

"(E) EFFECT OF ORDER.—Action taken by the Administrator or Secretary, as the case may be, under this paragraph shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or Secretary has commenced and is diligently prosecuting an action to assess a class II civil penalty under this paragraph, or

"(ii) for which the Administrator or Secretary has issued a final order assessing a class II civil penalty not subject to further judicial review and the violator has paid a penalty assessed under this paragraph,

shall not be the subject of a civil penalty action under section 309(d), 309(g), or 505 of this Act or under paragraph (7).

"(F) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or Secretary under this paragraph shall affect any person's obligation to comply with any section of this Act.

"(G) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this paragraph or who commented on the proposed assessment of such penalty in accordance with subparagraph (C) may obtain review of such assessment—

"(i) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

District of Columbia.

"(ii) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or Secretary, as the case may be, and the Attorney General. The Administrator or Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil

penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

"(H) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

"(i) after the assessment has become final, or

"(ii) after a court in an action brought under subparagraph (G) has entered a final judgment in favor of the Administrator or Secretary, as the case may be,

the Administrator or Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this subparagraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(I) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this paragraph. In case of contumacy or refusal to obey a subpoena issued pursuant to this subparagraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Hazardous materials.

"(7) CIVIL PENALTY ACTION.—

"(A) DISCHARGE, GENERALLY.—Any person who is the owner, operator, or person in charge of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3), shall be subject to a civil penalty in an amount up to $25,000 per day of violation or an amount up to $1,000 per barrel of oil or unit of reportable quantity of hazardous substances discharged.

"(B) FAILURE TO REMOVE OR COMPLY.—Any person described in subparagraph (A) who, without sufficient cause—

"(i) fails to properly carry out removal of the discharge under an order of the President pursuant to subsection (c); or

"(ii) fails to comply with an order pursuant to subsection (e)(1)(B);

shall be subject to a civil penalty in an amount up to $25,000 per day of violation or an amount up to 3 times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure.

"(C) FAILURE TO COMPLY WITH REGULATION.—Any person who fails or refuses to comply with any regulation issued under subsection (j) shall be subject to a civil penalty in an amount up to $25,000 per day of violation.

"(D) GROSS NEGLIGENCE.—In any case in which a violation of paragraph (3) was the result of gross negligence or willful misconduct of a person described in subparagraph (A), the person shall be subject to a civil penalty of not less than $100,000, and not more than $3,000 per barrel of oil or unit of reportable quantity of hazardous substance discharged.

"(E) JURISDICTION.—An action to impose a civil penalty under this paragraph may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to assess such penalty. Courts, U.S.

"(F) LIMITATION.—A person is not liable for a civil penalty under this paragraph for a discharge if the person has been assessed a civil penalty under paragraph (6) for the discharge.

"(8) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under paragraphs (6) and (7), the Administrator, Secretary, or the court, as the case may be, shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

"(9) MITIGATION OF DAMAGE.—In addition to establishing a penalty for the discharge of oil or a hazardous substance, the Administrator or the Secretary of the department in which the Coast Guard is operating may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government. Hazardous materials.

"(10) RECOVERY OF REMOVAL COSTS.—Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

"(11) LIMITATION.—Civil penalties shall not be assessed under both this section and section 309 for the same discharge.".

(c) CRIMINAL PENALTIES.—Section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) is amended by inserting after "308," each place it appears the following: "311(b)(3),".

SEC. 4302. OTHER PENALTIES.

(a) NEGLIGENT OPERATIONS.—Section 2302 of title 46, United States Code, is amended—

(1) in subsection (b) by striking "shall be fined not more than $5,000, imprisoned for not more than one year, or both.", and inserting "commits a class A misdemeanor."; and

(2) in subsection (c)—

(A) by striking ", shall be" in the matter preceding paragraph (1);

(B) by inserting "is" before "liable" in paragraph (1); and

(C) by amending paragraph (2) to read as follows:

"(2) commits a class A misdemeanor.".

(b) INSPECTIONS.—Section 3318 of title 46, United States Code, is amended—

(1) in subsection (b) by striking "shall be fined not more than $10,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

(2) in subsection (c) by striking "shall be fined not more than $5,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

(3) in subsection (d) by striking "shall be fined not more than $5,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

(4) in subsection (e) by striking "shall be fined not more than $10,000, imprisoned for not more than 2 years, or both." and inserting "commits a class A misdemeanor."; and

(5) in the matter preceding paragraph (1) of subsection (f) by striking "shall be fined not less than $1,000 but not more than $10,000, and imprisoned for not less than 2 years but not more than 5 years," and inserting "commits a class D felony.".

(c) CARRIAGE OF LIQUID BULK DANGEROUS CARGOES.—Section 3718 of title 46, United States Code, is amended—

(1) in subsection (b) by striking "shall be fined not more than $50,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony."; and

(2) in subsection (c) by striking "shall be fined not more than $100,000, imprisoned for not more than 10 years, or both." and inserting "commits a class C felony.".

(d) LOAD LINES.—Section 5116 of title 46, United States Code, is amended—

(1) in subsection (d) by striking "shall be fined not more than $10,000, imprisoned for not more than one year, or both." and inserting "commits a class A misdemeanor."; and

(2) in subsection (e) by striking "shall be fined not more than $10,000, imprisoned for not more than 2 years, or both." and inserting "commits a class A misdemeanor.".

(e) COMPLEMENT OF INSPECTED VESSELS.—Section 8101 of title 46, United States Code, is amended—

(1) in subsection (e) by striking "$50" and inserting "$1,000";

(2) in subsection (f) by striking "$100, or, for a deficiency of a licensed individual, a penalty of $500." and inserting "$10,000."; and

(3) in subsection (g) by striking "$500." and inserting "$10,000.".

(f) WATCHES.—Section 8104 of title 46, United States Code, is amended—

(1) in subsection (i) by striking "$100." and inserting "$10,000."; and

(2) in subsection (j) by striking "$500." and inserting "$10,000.".

(g) COASTWISE PILOTAGE.—Section 8502 of title 46, United States Code, is amended—

(1) in subsection (e) by striking "$500." and inserting "$10,000."; and

(2) in subsection (f) by striking "$500." and inserting "$10,000.".

(h) FOREIGN COMMERCE PILOTAGE.—Section 8503(e) of title 46, United States Code, is amended by striking "shall be fined not more than $50,000, imprisoned for not more than five years, or both." and inserting "commits a class D felony.".

(i) CREW REQUIREMENTS.—Section 8702(e) of title 46, United States Code, is amended by striking "$500." and inserting "$10,000.".

(j) PORTS AND WATERWAYS SAFETY ACT.—Section 13(b) of the Port and Waterways Safety Act (33 U.S.C. 1232(b)) is amended—

(1) in paragraph (1) by striking "shall be fined not more than $50,000 for each violation or imprisoned for not more than five years, or both." and inserting "commits a class D felony."; and

(2) in paragraph (2) by striking "shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than $100,000, or imprisoned for not more than 10 years, or both." and inserting "commits a class C felony.".

(k) VESSEL NAVIGATION.—Section 4 of the Act of April 28, 1908 (33 U.S.C. 1236) is amended—

(1) in subsection (b) by striking "$500." and inserting "$5,000.";

(2) in subsection (c) by striking "$500," and inserting "$5,000,"; and

(3) in subsection (d) by striking "$250." and inserting "$2,500.".

(l) INTERVENTION ON THE HIGH SEAS ACT.—Section 12(a) of the Intervention of the High Seas Act (33 U.S.C. 1481(a)) is amended—

(1) in the matter preceding paragraph (1) by striking "Any person who" and inserting "A person commits a class A misdemeanor if that person"; and

(2) in paragraph (3) by striking ", shall be fined not more than $10,000 or imprisoned not more than one year, or both".

(m) DEEPWATER PORT ACT OF 1974.—Section 15(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1514(a)) is amended by striking "shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than 1 year, or both." and inserting "commits a class A misdemeanor for each day of violation.".

(n) ACT TO PREVENT POLLUTION FROM SHIPS.—Section 9(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1908(a)) is amended by striking "shall, for each violation, be fined not more than $50,000 or be imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.".

SEC. 4303. FINANCIAL RESPONSIBILITY CIVIL PENALTIES.

President of U.S.
33 USC 2716a.

(a) ADMINISTRATIVE.—Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 1016 or the regulations issued under that section, or with a denial or detention order issued under subsection (c)(2) of that section, shall be liable to the United States for a civil penalty, not to exceed $25,000 per day of violation. The amount of the civil penalty shall be assessed by the President by written notice. In determining the amount of the penalty, the President

shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability, any history of prior violation, ability to pay, and such other matters as justice may require. The President may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which had been imposed under this paragraph. If any person fails to pay an assessed civil penalty after it has become final, the President may refer the matter to the Attorney General for collection.

(b) JUDICIAL.—In addition to, or in lieu of, assessing a penalty under subsection (a), the President may request the Attorney General to secure such relief as necessary to compel compliance with this section 1016, including a judicial order terminating operations. The district courts of the United States shall have jurisdiction to grant any relief as the public interest and the equities of the case may require.

26 USC 9509 note.

SEC. 4304. DEPOSIT OF CERTAIN PENALTIES INTO OIL SPILL LIABILITY TRUST FUND.

Penalties paid pursuant to section 311 of the Federal Water Pollution Control Act, section 309(c) of that Act, as a result of violations of section 311 of that Act, and the Deepwater Port Act of 1974, shall be deposited in the Oil Spill Liability Trust Fund created under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

SEC. 4305. INSPECTION AND ENTRY.

Section 311(m) of the Federal Water Pollution Control Act (33 U.S.C. 1321(m)) is amended to read as follows:

"(m) ADMINISTRATIVE PROVISIONS.—

"(1) FOR VESSELS.—Anyone authorized by the President to enforce the provisions of this section with respect to any vessel may, except as to public vessels—

"(A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone,

"(B) with or without a warrant, arrest any person who in the presence or view of the authorized person violates the provisions of this section or any regulation issued thereunder, and

"(C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

Reports. Records.

"(2) FOR FACILITIES.—

"(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator or the Secretary of the Department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator or Secretary, as the case may be, may require to carry out the objectives of this section.

"(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Adminis-

trator or Secretary, upon presentation of appropriate credentials, may—

"(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

"(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).

"(C) ARRESTS AND EXECUTION OF WARRANTS.—Anyone authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section with respect to any facility may—

"(i) with or without a warrant, arrest any person who violates the provisions of this section or any regulation issued thereunder in the presence or view of the person so authorized; and

"(ii) execute any warrant or process issued by an officer or court of competent jurisdiction.

"(D) PUBLIC ACCESS.—Any records, reports, or information obtained under this paragraph shall be subject to the same public access and disclosure requirements which are applicable to records, reports, and information obtained pursuant to section 308.".

SEC. 4306. CIVIL ENFORCEMENT UNDER FEDERAL WATER POLLUTION CONTROL ACT.

Section 311(e) of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended to read as follows:

"(e) CIVIL ENFORCEMENT.—

State and local governments.

"(1) ORDERS PROTECTING PUBLIC HEALTH.—In addition to any action taken by a State or local government, when the President determines that there may be an imminent and substantial threat to the public health or welfare of the United States, including fish, shellfish, and wildlife, public and private property, shorelines, beaches, habitat, and other living and nonliving natural resources under the jurisdiction or control of the United States, because of an actual or threatened discharge of oil or a hazardous substance from a vessel or facility in violation of subsection (b), the President may—

"(A) require the Attorney General to secure any relief from any person, including the owner or operator of the vessel or facility, as may be necessary to abate such endangerment; or

"(B) after notice to the affected State, take any other action under this section, including issuing administrative orders, that may be necessary to protect the public health and welfare.

"(2) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States shall have jurisdiction to grant any relief under this subsection that the public interest and the equities of the case may require.".

Alaska.
Research and development.

TITLE V—PRINCE WILLIAM SOUND PROVISIONS

33 USC 2731.

SEC. 5001. OIL SPILL RECOVERY INSTITUTE.

(a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereinafter in this section referred to as the "Institute") to be administered by the Secretary of Commerce through the Prince William Sound Science and Technology Institute and located in Cordova, Alaska.

(b) FUNCTIONS.—The Institute shall conduct research and carry out educational and demonstration projects designed to—

(1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

(2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of the EXXON VALDEZ oil spill on the natural resources of Prince William Sound and its adjacent waters (as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990"), and the environment, the economy, and the lifestyle and well-being of the people who are dependent on them, except that the Institute shall not conduct studies or make recommendations on any matter which is not directly related to the EXXON VALDEZ oil spill or the effects thereof.

(c) ADVISORY BOARD.—

(1) IN GENERAL.—The policies of the Institute shall be determined by an advisory board, composed of 18 members appointed as follows:

(A) One representative appointed by each of the Commissioners of Fish and Game, Environmental Conservation, Natural Resources, and Commerce and Economic Development of the State of Alaska, all of whom shall be State employees.

(B) One representative appointed by each of—

(i) the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy; and

(ii) the Administrator of the Environmental Protection Agency;

all of whom shall be Federal employees.

(C) 4 representatives appointed by the Secretary of Commerce from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education. At least 2 of the representatives shall be appointed from among residents of communities located in Prince William Sound. The Secretary shall appoint residents to serve terms of 2 years each, from a list of 8 qualified individuals to be submitted by the Governor of the State of Alaska based on recommendations made by the governing body of each affected community. Each affected community may submit the names of 2 qualified individuals for the Governor's consideration. No more than 5 of the 8 qualified

persons recommended by the Governor shall be members of the same political party.

(D) 3 Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, to serve terms of 2 years each from a list of 6 qualified individuals submitted by the Alaska Federation of Natives.

(E) One nonvoting representative of the Institute of Marine Science.

(F) One nonvoting representative appointed by the Prince William Sound Science and Technology Institute.

(2) CHAIRMAN.—The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.

(3) POLICIES.—Policies determined by the Advisory Board under this subsection shall include policies for the conduct and support, through contracts and grants awarded on a nationally competitive basis, of research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) SCIENTIFIC AND TECHNICAL COMMITTEE.— Establishment.

(1) IN GENERAL.—The Advisory Board shall establish a scientific and technical committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and subarctic marine ecology, and the living resources and socioeconomics of Prince William Sound and its adjacent waters, from the University of Alaska, the Institute of Marine Science, the Prince William Sound Science and Technology Institute, and elsewhere in the academic community.

(2) FUNCTIONS.—The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Advisory Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section. The Advisory Board shall not request, and the Committee shall not provide, any advice which is not directly related to the EXXON VALDEZ oil spill or the effects thereof.

(e) DIRECTOR.—The Institute shall be administered by a Director appointed by the Secretary of Commerce. The Prince William Sound Science and Technology Institute, the Advisory Board, and the Scientific and Technical Committee may each submit independent recommendations for the Secretary's consideration for appointment as Director. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.

(f) EVALUATION.—The Secretary of Commerce may conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with this section.

(g) AUDIT.—The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute and its administering agency that are pertinent to the funds received and expended by the Institute and its administering agency.

(h) STATUS OF EMPLOYEES.—Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) TERMINATION.—The Institute shall terminate 10 years after the date of the enactment of this Act.

(j) USE OF FUNDS.—All funds authorized for the Institute shall be provided through the National Oceanic and Atmospheric Administration. No funds made available to carry out this section may be used to initiate litigation. No funds made available to carry out this section may be used for the acquisition of real property (including buildings) or construction of any building. No more than 20 percent of funds made available to carry out this section may be used to lease necessary facilities and to administer the Institute. None of the funds authorized by this section shall be used for any purpose other than the functions specified in subsection (b).

Public information.

(k) RESEARCH.—The Institute shall publish and make available to any person upon request the results of all research, educational, and demonstration projects conducted by the Institute. The Administrator shall provide a copy of all research, educational, and demonstration projects conducted by the Institute to the National Oceanic and Atmospheric Administration.

(l) DEFINITIONS.—In this section, the term "Prince William Sound and its adjacent waters" means such sound and waters as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990".

Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990.
33 USC 2732.

SEC. 5002. TERMINAL AND TANKER OVERSIGHT AND MONITORING.

(a) SHORT TITLE AND FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the "Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990".

(2) FINDINGS.—The Congress finds that—

(A) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the EXXON VALDEZ, spilled 11 million gallons of crude oil in Prince William Sound, an environmentally sensitive area;

(B) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;

(C) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(D) a mechanism should be established which fosters the long-term partnership of industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;

(E) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;

(F) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe;

(G) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;

(H) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;

(I) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and

(J) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

(b) DEMONSTRATION PROGRAMS.—

(1) ESTABLISHMENT.—There are established 2 Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as "Programs") to be carried out in the State of Alaska.

(2) ADVISORY FUNCTION.—The function of these Programs shall be advisory only.

(3) PURPOSE.—The Prince William Sound Program shall be responsible for environmental monitoring of the terminal facilities in Prince William Sound and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program shall be responsible for environmental monitoring of the terminal facilities and crude oil tankers operating in Cook Inlet located South of the latitude at Point Possession and North of the latitude at Amatuli Island, including offshore facilities in Cook Inlet.

(4) SUITS BARRED.—No program, association, council, committee or other organization created by this section may sue any person or entity, public or private, concerning any matter arising under this section except for the performance of contracts.

(c) OIL TERMINAL FACILITIES AND OIL TANKER OPERATIONS ASSOCIATION.—

(1) ESTABLISHMENT.—There is established an Oil Terminal Facilities and Oil Tanker Operations Association (hereinafter in this section referred to as the "Association") for each of the Programs established under subsection (b).

(2) MEMBERSHIP.—Each Association shall be comprised of 4 individuals as follows:

(A) One individual shall be designated by the owners and operators of the terminal facilities and shall represent those owners and operators.

(B) One individual shall be designated by the owners and operators of the crude oil tankers calling at the terminal facilities and shall represent those owners and operators.

(C) One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government.

(D) One individual shall be an employee of the Federal Government, shall be designated by the President, and shall represent the Federal Government.

(3) RESPONSIBILITIES.—Each Association shall be responsible for reviewing policies relating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals. Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those

facilities, the United States, and the State of Alaska to discuss and to make recommendations concerning all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

(4) DESIGNATION OF EXISTING ORGANIZATION.—The Secretary may designate an existing nonprofit organization as an Association under this subsection if the organization is organized to meet the purposes of this section and consists of at least the individuals listed in paragraph (2).

(d) REGIONAL CITIZENS' ADVISORY COUNCILS.—

(1) MEMBERSHIP.—There is established a Regional Citizens' Advisory Council (hereinafter in this section referred to as the "Council") for each of the programs established by subsection (b).

(2) MEMBERSHIP.—Each Council shall be composed of voting members and nonvoting members, as follows:

(A) VOTING MEMBERS.—Voting members shall be Alaska residents and, except as provided in clause (vii) of this paragraph, shall be appointed by the Governor of the State of Alaska from a list of nominees provided by each of the following interests, with one representative appointed to represent each of the following interests, taking into consideration the need for regional balance on the Council:

(i) Local commercial fishing industry organizations, the members of which depend on the fisheries resources of the waters in the vicinity of the terminal facilities.

(ii) Aquaculture associations in the vicinity of the terminal facilities.

(iii) Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities.

(iv) Environmental organizations the members of which reside in the vicinity of the terminal facilities.

(v) Recreational organizations the members of which reside in or use the vicinity of the terminal facilities.

(vi) The Alaska State Chamber of Commerce, to represent the locally based tourist industry.

(vii)(I) For the Prince William Sound Terminal Facilities Council, one representative selected by each of the following municipalities: Cordova, Whittier, Seward, Valdez, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

(II) For the Cook Inlet Terminal Facilities Council, one representative selected by each of the following municipalities: Homer, Seldovia, Anchorage, Kenai, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

(B) NONVOTING MEMBERS.—One ex-officio, nonvoting representative shall be designated by, and represent, each of the following:

(i) The Environmental Protection Agency.

(ii) The Coast Guard.

(iii) The National Oceanic and Atmospheric Administration.

(iv) The United States Forest Service.
(v) The Bureau of Land Management.
(vi) The Alaska Department of Environmental Conservation.
(vii) The Alaska Department of Fish and Game.
(viii) The Alaska Department of Natural Resources.
(ix) The Division of Emergency Services, Alaska Department of Military and Veterans Affairs.

(3) TERMS.—

(A) DURATION OF COUNCILS.—The term of the Councils shall continue throughout the life of the operation of the Trans-Alaska Pipeline System and so long as oil is transported to or from Cook Inlet.

(B) THREE YEARS.—The voting members of each Council shall be appointed for a term of 3 years except as provided for in subparagraph (C).

(C) INITIAL APPOINTMENTS.—The terms of the first appointments shall be as follows:

(i) For the appointments by the Governor of the State of Alaska, one-third shall serve for 3 years, one-third shall serve for 2 years, and one-third shall serve for one year.

(ii) For the representatives of municipalities required by subsection (d)(2)(A)(vii), a drawing of lots among the appointees shall determine that one-third of that group serves for 3 years, one-third serves for 2 years, and the remainder serves for 1 year.

(4) SELF-GOVERNING.—Each Council shall elect its own chairperson, select its own staff, and make policies with regard to its internal operating procedures. After the initial organizational meeting called by the Secretary under subsection (i), each Council shall be self-governing.

(5) DUAL MEMBERSHIP AND CONFLICTS OF INTEREST PROHIBITED.—(A) No individual selected as a member of the Council shall serve on the Association.

(B) No individual selected as a voting member of the Council shall be engaged in any activity which might conflict with such individual carrying out his functions as a member thereof.

(6) DUTIES.—Each Council shall—

(A) provide advice and recommendations to the Association on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of the terminal facilities;

(B) monitor through the committee established under subsection (e), the environmental impacts of the operation of the terminal facilities and crude oil tankers;

(C) monitor those aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;

(D) review through the committee established under subsection (f), the adequacy of oil spill prevention and contingency plans for the terminal facilities and the adequacy of oil spill prevention and contingency plans for crude oil tankers, operating in Prince William Sound or in Cook Inlet;

(E) provide advice and recommendations to the Association on port operations, policies and practices;

(F) recommend to the Association—

(i) standards and stipulations for permits and site-specific regulations intended to minimize the impact of the terminal facilities' and crude oil tankers' operations in the vicinity of the terminal facilities;

(ii) modifications of terminal facility operations and maintenance intended to minimize the risk and mitigate the impact of terminal facilities, operations in the vicinity of the terminal facilities and to minimize the risk of oil spills;

(iii) modifications of crude oil tanker operations and maintenance in Prince William Sound and Cook Inlet intended to minimize the risk and mitigate the impact of oil spills; and

(iv) modifications to the oil spill prevention and contingency plans for terminal facilities and for crude oil tankers in Prince William Sound and Cook Inlet intended to enhance the ability to prevent and respond to an oil spill; and

(G) create additional committees of the Council as necessary to carry out the above functions, including a scientific and technical advisory committee to the Prince William Sound Council.

(7) NO ESTOPPEL.—No Council shall be held liable under State or Federal law for costs or damages as a result of rendering advice under this section. Nor shall any advice given by a voting member of a Council, or program representative or agent, be grounds for estopping the interests represented by the voting Council members from seeking damages or other appropriate relief.

(8) SCIENTIFIC WORK.—In carrying out its research, development and monitoring functions, each Council is authorized to conduct its own scientific research and shall review the scientific work undertaken by or on behalf of the terminal operators or crude oil tanker operators as a result of a legal requirement to undertake that work. Each Council shall also review the relevant scientific work undertaken by or on behalf of any government entity relating to the terminal facilities or crude oil tankers. To the extent possible, to avoid unnecessary duplication, each Council shall coordinate its independent scientific work with the scientific work performed by or on behalf of the terminal operators and with the scientific work performed by or on behalf of the operators of the crude oil tankers.

(e) COMMITTEE FOR TERMINAL AND OIL TANKER OPERATIONS AND ENVIRONMENTAL MONITORING.—

(1) MONITORING COMMITTEE.—Each Council shall establish a standing Terminal and Oil Tanker Operations and Environmental Monitoring Committee (hereinafter in this section referred to as the "Monitoring Committee") to devise and manage a comprehensive program of monitoring the environmental impacts of the operations of terminal facilities and of crude oil tankers while operating in Prince William Sound and Cook Inlet. The membership of the Monitoring Committee shall be made up of members of the Council, citizens, and recognized scientific experts selected by the Council.

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(2) DUTIES.—In fulfilling its responsibilities, the Monitoring Committee shall—

(A) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facility operations and crude oil tanker operations while in Prince William Sound and Cook Inlet;

(B) develop monitoring programs and make recommendations to the Council on the implementation of those programs;

(C) at its discretion, select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy;

(D) complete any other tasks assigned by the Council; and

(E) provide written reports to the Council which interpret and assess the results of all monitoring programs. Reports.

(f) COMMITTEE FOR OIL SPILL PREVENTION, SAFETY, AND EMERGENCY RESPONSE.—

(1) TECHNICAL OIL SPILL COMMITTEE.—Each Council shall establish a standing technical committee (hereinafter referred to as "Oil Spill Committee") to review and assess measures designed to prevent oil spills and the planning and preparedness for responding to, containing, cleaning up, and mitigating impacts of oil spills. The membership of the Oil Spill Committee shall be made up of members of the Council, citizens, and recognized technical experts selected by the Council.

(2) DUTIES.—In fulfilling its responsibilities, the Oil Spill Committee shall—

(A) periodically review the respective oil spill prevention and contingency plans for the terminal facilities and for the crude oil tankers while in Prince William Sound or Cook Inlet, in light of new technological developments and changed circumstances;

(B) monitor periodic drills and testing of the oil spill contingency plans for the terminal facilities and for crude oil tankers while in Prince William Sound and Cook Inlet;

(C) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to prevent, respond to, contain, and clean up an oil spill;

(D) identify highly sensitive areas which may require specific protective measures in the event of a spill in Prince William Sound or Cook Inlet;

(E) monitor developments in oil spill prevention, containment, response, and cleanup technology;

(F) periodically review port organization, operations, incidents, and the adequacy and maintenance of vessel traffic service systems designed to assure safe transit of crude oil tankers pertinent to terminal operations;

(G) periodically review the standards for tankers bound for, loading at, exiting from, or otherwise using the terminal facilities;

(H) complete any other tasks assigned by the Council; and Reports.

(I) provide written reports to the Council outlining its findings and recommendations.

(g) AGENCY COOPERATION.—On and after the expiration of the 180-day period following the date of the enactment of this section, each

Federal department, agency, or other instrumentality shall, with respect to all permits, site-specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the vicinity of the terminal facilities, consult with the appropriate Council prior to taking substantive action with respect to the permit, site-specific regulation, or other matter. This consultation shall be carried out with a view to enabling the appropriate Association and Council to review the permit, site-specific regulation, or other matters and make appropriate recommendations regarding operations, policy or agency actions. Prior consultation shall not be required if an authorized Federal agency representative reasonably believes that an emergency exists requiring action without delay.

(h) RECOMMENDATIONS OF THE COUNCIL.—In the event that the Association does not adopt, or significantly modifies before adoption, any recommendation of the Council made pursuant to the authority granted to the Council in subsection (d), the Association shall provide to the Council, in writing, within 5 days of its decision, notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.

(i) ADMINISTRATIVE ACTIONS.—Appointments, designations, and selections of individuals to serve as members of the Associations and Councils under this section shall be submitted to the Secretary prior to the expiration of the 120-day period following the date of the enactment of this section. On or before the expiration of the 180-day period following that date of enactment of this section, the Secretary shall call an initial meeting of each Association and Council for organizational purposes.

(j) LOCATION AND COMPENSATION.—

(1) LOCATION.—Each Association and Council established by this section shall be located in the State of Alaska.

(2) COMPENSATION.—No member of an Association or Council shall be compensated for the member's services as a member of the Association or Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code. However, each Council may enter into contracts to provide compensation and expenses to members of the committees created under subsections (d), (e), and (f).

(k) FUNDING.—

(1) REQUIREMENT.—Approval of the contingency plans required of owners and operators of the Cook Inlet and Prince William Sound terminal facilities and crude oil tankers while operating in Alaskan waters in commerce with those terminal facilities shall be effective only so long as the respective Association and Council for a facility are funded pursuant to paragraph (2).

(2) PRINCE WILLIAM SOUND PROGRAM.—The owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound shall provide, on an annual basis, an aggregate amount of not more than $2,000,000, as determined by the Secretary. Such amount—

(A) shall provide for the establishment and operation on the environmental oversight and monitoring program in Prince William Sound;

(B) shall be adjusted annually by the Anchorage Consumer Price Index; and

(C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound and the Prince William Sound terminal facilities Council.

(3) COOK INLET PROGRAM.—The owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet shall provide, on an annual basis, an aggregate amount of not more than $1,000,000, as determined by the Secretary. Such amount—

(A) shall provide for the establishment and operation of the environmental oversight and monitoring program in Cook Inlet;

(B) shall be adjusted annually by the Anchorage Consumer Price Index; and

(C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet and the Cook Inlet Council.

(l) REPORTS.—

(1) ASSOCIATIONS AND COUNCILS.—Prior to the expiration of the 36-month period following the date of the enactment of this section, each Association and Council established by this section shall report to the President and the Congress concerning its activities under this section, together with its recommendations.

(2) GAO.—Prior to the expiration of the 36-month period following the date of the enactment of this section, the General Accounting Office shall report to the President and the Congress as to the handling of funds, including donated funds, by the entities carrying out the programs under this section, and the effectiveness of the demonstration programs carried out under this section, together with its recommendations.

(m) DEFINITIONS.—As used in this section, the term—

(1) "terminal facilities" means—

(A) in the case of the Prince William Sound Program, the entire oil terminal complex located in Valdez, Alaska, consisting of approximately 1,000 acres including all buildings, docks (except docks owned by the City of Valdez if those docks are not used for loading of crude oil), pipes, piping, roads, ponds, tanks, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, vehicles, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex; and

(B) in the case of the Cook Inlet Program, the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessels, vehicles, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, emergency spill response vessels owned or operated by the operator of the terminal, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex;

(2) "crude oil tanker" means a tanker (as that term is defined under section 2101 of title 46, United States Code)—

(A) in the case of the Prince William Sound Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries, operating north of Middleston Island and bound for or exiting from Prince William Sound; and

(B) in the case of the Cook Inlet Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries and operating in Cook Inlet and the Gulf of Alaska north of Amatuli Island, including tankers transiting to Cook Inlet from Prince William Sound;

(3) "vicinity of the terminal facilities" means that geographical area surrounding the environment of terminal facilities which is directly affected or may be directly affected by the operation of the terminal facilities; and

(4) "Secretary" means the Secretary of Transportation.

(n) SAVINGS CLAUSE.—

(1) REGULATORY AUTHORITY.—Nothing in this section shall be construed as modifying, repealing, superseding, or preempting any municipal, State or Federal law or regulation, or in any way affecting litigation arising from oil spills or the rights and responsibilities of the United States or the State of Alaska, or municipalities thereof, to preserve and protect the environment through regulation of land, air, and water uses, of safety, and of related development. The monitoring provided for by this section shall be designed to help assure compliance with applicable laws and regulations and shall only extend to activities—

(A) that would affect or have the potential to affect the vicinity of the terminal facilities and the area of crude oil tanker operations included in the Programs; and

(B) are subject to the United States or State of Alaska, or municipality thereof, law, regulation, or other legal requirement.

(2) RECOMMENDATIONS.—This subsection is not intended to prevent the Association or Council from recommending to appropriate authorities that existing legal requirements should be modified or that new legal requirements should be adopted.

Contracts.

(o) ALTERNATIVE VOLUNTARY ADVISORY GROUP IN LIEU OF COUNCIL.—The requirements of subsections (c) through (l), as such subsections apply respectively to the Prince William Sound Program and the Cook Inlet Program, are deemed to have been satisfied so long as the following conditions are met:

(1) PRINCE WILLIAM SOUND.—With respect to the Prince William Sound Program, the Alyeska Pipeline Service Company or any of its owner companies enters into a contract for the duration of the operation of the Trans-Alaska Pipeline System with the Alyeska Citizens Advisory Committee in existence on the date of enactment of this section, or a successor organization, to fund that Committee or organization on an annual basis in the amount provided for by subsection (k)(2)(A) and the President annually certifies that the Committee or organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.

(2) COOK INLET.—With respect to the Cook Inlet Program, the terminal facilities, offshore facilities, or crude oil tanker owners and operators enter into a contract with a voluntary advisory

organization to fund that organization on an annual basis and the President annually certifies that the organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Cook Inlet.

SEC. 5003. BLIGH REEF LIGHT. 33 USC 2733.

The Secretary of Transportation shall within one year after the date of the enactment of this title install and ensure operation of an automated navigation light on or adjacent to Bligh Reef in Prince William Sound, Alaska, of sufficient power and height to provide long-range warning of the location of Bligh Reef.

SEC. 5004. VESSEL TRAFFIC SERVICE SYSTEM. 33 USC 2734.

The Secretary of Transportation shall within one year after the date of the enactment of this title—

(1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, satellite tracking systems, or other shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of tank vessels carrying oil from the Trans-Alaska Pipeline when such vessels are transiting Prince William Sound, Alaska, and to sound an audible alarm when such tankers depart from designated navigation routes; and Regulations.

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the feasibility and desirability of instituting positive control of tank vessel movements in Prince William Sound by Coast Guard personnel using the Port of Valdez, Alaska, VTS system, as modified pursuant to paragraph (1). Reports.

SEC. 5005. EQUIPMENT AND PERSONNEL REQUIREMENTS UNDER TANK VESSEL AND FACILITY RESPONSE PLANS. 33 USC 2735.

(a) IN GENERAL.—In addition to the requirements for response plans for vessels established by section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a tank vessel operating on Prince William Sound, or a facility permitted under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), shall provide for—

(1) prepositioned oil spill containment and removal equipment in communities and other strategic locations within the geographic boundaries of Prince William Sound, including escort vessels with skimming capability; barges to receive recovered oil; heavy duty sea boom, pumping, transferring, and lightering equipment; and other appropriate removal equipment for the protection of the environment, including fish hatcheries;

(2) the establishment of an oil spill removal organization at appropriate locations in Prince William Sound, consisting of trained personnel in sufficient numbers to immediately remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater;

(3) training in oil removal techniques for local residents and individuals engaged in the cultivation or production of fish or fish products in Prince William Sound;

(4) practice exercises not less than 2 times per year which test the capacity of the equipment and personnel required under this paragraph; and

(5) periodic testing and certification of equipment required under this paragraph, as required by the Secretary.

(b) DEFINITIONS.—In this section—

(1) the term "Prince William Sound" means all State and Federal waters within Prince William Sound, Alaska, including the approach to Hinchenbrook Entrance out to and encompassing Seal Rocks; and

(2) the term "worst case discharge" means—

(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

(B) in the case of a facility, the largest foreseeable discharge in adverse weather conditions.

33 USC 2736.

SEC. 5006. FUNDING.

(a) SECTION 5001.—Amounts in the Fund shall be available, subject to appropriations, and shall remain available until expended, to carry out section 5001 as follows:

(1) $5,000,000 shall be available for the first fiscal year beginning after the date of enactment of this Act.

(2) $2,000,000 shall be available for each of the 9 fiscal years following the fiscal year described in paragraph (1).

(b) SECTIONS 5003 AND 5004.—Amounts in the Fund shall be available, without further appropriations and without fiscal year limitation, to carry out sections 5003 and 5004, in an amount not to exceed $5,000,000.

33 USC 2737.

SEC. 5007. LIMITATION.

Notwithstanding any other law, tank vessels that have spilled more than 1,000,000 gallons of oil into the marine environment after March 22, 1989, are prohibited from operating on the navigable waters of Prince William Sound, Alaska.

TITLE VI—MISCELLANEOUS

33 USC 2751.

SEC. 6001. SAVINGS PROVISIONS.

(a) CROSS-REFERENCES.—A reference to a law replaced by this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(b) CONTINUATION OF REGULATIONS.—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(c) RULE OF CONSTRUCTION.—An inference of legislative construction shall not be drawn by reason of the caption or catch line of a provision enacted by this Act.

(d) ACTIONS AND RIGHTS.—Nothing in this Act shall apply to any rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act, except as provided by this section, and shall be adjudicated pursuant to the law applicable on the date prior to the date of the enactment of this Act.

(e) ADMIRALTY AND MARITIME LAW.—Except as otherwise provided in this Act, this Act does not affect—

(1) admiralty and maritime law; or

(2) the jurisdiction of the district courts of the United States with respect to civil actions under admiralty and maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled.

SEC. 6002. ANNUAL APPROPRIATIONS.

33 USC 2752.

(a) REQUIRED.—Except as provided in subsection (b), amounts in the Fund shall be available only as provided in annual appropriation Acts.

(b) EXCEPTIONS.—Subsection (a) shall not apply to sections 1006(f), 1012(a)(4), or 5006(b), and shall not apply to an amount not to exceed $50,000,000 in any fiscal year which the President may make available from the Fund to carry out section 311(c) of the Federal Water Pollution Control Act, as amended by this Act, and to initiate the assessment of natural resources damages required under section 1006. Sums to which this subsection applies shall remain available until expended.

SEC. 6003. OUTER BANKS PROTECTION.

Outer Banks Protection Act. North Carolina. 33 USC 2753.

(a) SHORT TITLE.—This section may be cited as the "Outer Banks Protection Act".

(b) FINDINGS.—The Congress finds that—

(1) the Outer Banks of North Carolina is an area of exceptional environmental fragility and beauty;

(2) the annual economic benefits of commercial and recreational fishing activities to North Carolina, which could be adversely affected by oil or gas development offshore the State's coast, exceeds $1,000,000,000;

(3) the major industry in coastal North Carolina is tourism, which is subject to potentially significant disruption by offshore oil or gas development;

(4) the physical oceanographic characteristics of the area offshore North Carolina between Cape Hatteras and the mouth of the Chesapeake Bay are not well understood, being affected by Gulf Stream western boundary perturbations and accompanying warm filaments, warm and cold core rings which separate from the Gulf Stream, wind stress, outflow from the Chesapeake Bay, Gulf Stream meanders, and intrusions of Virginia coastal waters around and over the Diamond shoals;

(5) diverse and abundant fisheries resources occur in the western boundary area of the Gulf Stream offshore North Carolina, but little is understood of the complex ecological relationships between the life histories of those species and their physical, chemical, and biological environment;

(6) the environmental impact statements prepared for Outer Continental Shelf lease sales numbered 56 (1981) and 78 (1983) contain insufficient and outdated environmental information from which to make decisions on approval of additional oil and gas leasing, exploration, and development activities;

(7) the draft environmental report, dated November 1, 1989, and the preliminary final environmental report dated June 1, 1990, prepared pursuant to a July 14, 1989 memorandum of understanding between the State of North Carolina, the Department of the Interior, and the Mobil Oil Company, have not allayed concerns about the adequacy of the environmental information available to determine whether to proceed with

additional offshore leasing, exploration, or development offshore North Carolina; and

(8) the National Research Council report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California", issued in 1989, concluded that—

(A) information with respect to those States, which have received greater scrutiny than has North Carolina, is inadequate; and

(B) there are serious generic defects in the Minerals Management Service's methods of environmental analysis, reinforcing concerns about the adequacy of the scientific and technical information which are the basis for a decision to lease additional tracts or approve an exploration plan offshore North Carolina, especially with respect to oceanographic, ecological, and socioeconomic information.

(c) PROHIBITION OF OIL AND GAS LEASING, EXPLORATION, AND DEVELOPMENT.—

(1) PROHIBITION.—The Secretary of the Interior shall not—

(A) conduct a lease sale;

(B) issue any new leases;

(C) approve any exploration plan;

(D) approve any development and production plan;

(E) approve any application for permit to drill; or

(F) permit any drilling,

for oil or gas under the Outer Continental Shelf Lands Act on any lands of the Outer Continental Shelf offshore North Carolina.

(2) BOUNDARIES.—For purposes of paragraph (1), the term "offshore North Carolina" means the area within the lateral seaward boundaries between areas offshore North Carolina and areas offshore—

(A) Virginia as provided in the joint resolution entitled "Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary" approved October 27, 1972 (86 Stat. 1298); and

(B) South Carolina as provided in the Act entitled "An Act granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary" approved October 9, 1981 (95 Stat. 988).

(3) DURATION OF PROHIBITION.—

(A) IN GENERAL.—The prohibition under paragraph (1) shall remain in effect until the later of—

(i) October 1, 1991; or

Reports.

(ii) 45 days of continuous session of the Congress after submission of a written report to the Congress by the Secretary of the Interior, made after consideration of the findings and recommendations of the Environmental Sciences Review Panel under subsection (e)—

(I) certifying that the information available, including information acquired pursuant to subsection (d), is sufficient to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing the activities described in paragraph (1); and

(II) including a detailed explanation of any differences between such certification and the findings and recommendations of the Environmental Sciences Review Panel under subsection (e), and a detailed justification of each such difference.

(B) CONTINUOUS SESSION OF CONGRESS.—In computing any 45-day period of continuous session of Congress under subparagraph (A)(ii)—

(i) continuity of session is broken only by an adjournment of the Congress sine die; and

(ii) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded.

(d) ADDITIONAL ENVIRONMENTAL INFORMATION.—The Secretary of the Interior shall undertake ecological and socioeconomic studies, additional physical oceanographic studies, including actual field work and the correlation of existing data, and other additional environmental studies, to obtain sufficient information about all significant conditions, processes, and environments which influence, or may be influenced by, oil and gas leasing, exploration, and development activities offshore North Carolina to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing the activities described in subsection (c)(1). During the time that the Environmental Sciences Review Panel established under subsection (e) is in existence, the Secretary of the Interior shall consult with such Panel in carrying out this subsection.

(e) ENVIRONMENTAL SCIENCES REVIEW PANEL.— Establishment.

(1) ESTABLISHMENT AND MEMBERSHIP.—There shall be established an Environmental Sciences Review Panel, to consist of—

(A) 1 marine scientist selected by the Secretary of the Interior;

(B) 1 marine scientist selected by the Governor of North Carolina; and

(C) 1 person each from the disciplines of physical oceanography, ecology, and social science, to be selected jointly by the Secretary of the Interior and the Governor of North Carolina from a list of individuals nominated by the National Academy of Sciences.

(2) FUNCTIONS.—Not later than 6 months after the date of the enactment of this Act, the Environmental Sciences Review Panel shall—

(A) prepare and submit to the Secretary of the Interior findings and recommendations—

(i) assessing the adequacy of available physical oceanographic, ecological, and socioeconomic information in enabling the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing the activities described in subsection (c)(1); and

(ii) if such available information is not adequate for such purposes, indicating what additional information is required to enable the Secretary to carry out such responsibilities; and

(B) consult with the Secretary of the Interior as provided in subsection (d).

(3) EXPENSES.—Each member of the Environmental Sciences Review Panel shall be reimbursed for actual travel expenses and shall receive per diem in lieu of subsistence for each day such member is engaged in the business of the Environmental Sciences Review Panel.

(4) TERMINATION.—The Environmental Sciences Review Panel shall be terminated after the submission of all findings and recommendations required under paragraph (2)(A).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior to carry out this section not to exceed $500,000 for fiscal year 1991, to remain available until expended.

SEC. 6004. COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 5 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1334), is amended by adding a new subsection (j) as follows:

"(j) COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.—

"(1) FINDINGS.—

"(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including—

"(i) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

"(ii) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

"(iii) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

"(2) PREVENTION OF HARMFUL EFFECTS.—The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.".

Louisiana.
43 USC 1334 note.

(b) EXCEPTION FOR WEST DELTA FIELD.—Section 5(j) of the Outer Continental Shelf Lands Act, as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to provide compensation, including interest, to the State of Louisiana and its lessees, for net drainage of oil and gas resources as determined in the Third Party Factfinder Louisiana Boundary Study dated March 21, 1989. For purposes of this section, such lessees shall include those persons with an ownership interest in State of Louisiana leases SL10087, SL10088 or SL10187, or ownership interests in the production or proceeds therefrom, as established by assignment,

contract or otherwise. Interest shall be computed for the period March 21, 1989 until the date of payment.

TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

SEC. 7001. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM. 33 USC 2761.

(a) INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—

(1) ESTABLISHMENT.—There is established an Interagency Coordinating Committee on Oil Pollution Research (hereinafter in this section referred to as the "Interagency Committee").

(2) PURPOSES.—The Interagency Committee shall coordinate a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, and other nations, as appropriate, and shall foster cost-effective research mechanisms, including the joint funding of research.

(3) MEMBERSHIP.—The Interagency Committee shall include representatives from the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the Minerals Management Service and the United States Fish and Wildlife Service), the Department of Transportation (including the United States Coast Guard, the Maritime Administration, and the Research and Special Projects Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Environmental Protection Agency, the National Aeronautics and Space Administration, and the United States Fire Administration in the Federal Emergency Management Agency, as well as such other Federal agencies as the President may designate.

A representative of the Department of Transportation shall serve as Chairman.

(b) OIL POLLUTION RESEARCH AND TECHNOLOGY PLAN.—

(1) IMPLEMENTATION PLAN.—Within 180 days after the date of enactment of this Act, the Interagency Committee shall submit to Congress a plan for the implementation of the oil pollution research, development, and demonstration program established pursuant to subsection (c). The research plan shall—

(A) identify agency roles and responsibilities;

(B) assess the current status of knowledge on oil pollution prevention, response, and mitigation technologies and effects of oil pollution on the environment;

(C) identify significant oil pollution research gaps including an assessment of major technological deficiencies in responses to past oil discharges;

(D) establish research priorities and goals for oil pollution technology development related to prevention, response, mitigation, and environmental effects;

(E) estimate the resources needed to conduct the oil pollution research and development program established

pursuant to subsection (c), and timetables for completing research tasks; and

(F) identify, in consultation with the States, regional oil pollution research needs and priorities for a coordinated, multidisciplinary program of research at the regional level.

Contracts.

(2) ADVICE AND GUIDANCE.—The Chairman, through the Department of Transportation, shall contract with the National Academy of Sciences to—

(A) provide advice and guidance in the preparation and development of the research plan; and

Reports.

(B) assess the adequacy of the plan as submitted, and submit a report to Congress on the conclusions of such assessment.

The National Institute of Standards and Technology shall provide the Interagency Committee with advice and guidance on issues relating to quality assurance and standards measurements relating to its activities under this section.

(c) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT.—The Interagency Committee shall coordinate the establishment, by the agencies represented on the Interagency Committee, of a program for conducting oil pollution research and development, as provided in this subsection.

(2) INNOVATIVE OIL POLLUTION TECHNOLOGY.—The program established under this subsection shall provide for research, development, and demonstration of new or improved technologies which are effective in preventing or mitigating oil discharges and which protect the environment, including—

(A) development of improved designs for vessels and facilities, and improved operational practices;

(B) research, development, and demonstration of improved technologies to measure the ullage of a vessel tank, prevent discharges from tank vents, prevent discharges during lightering and bunkering operations, contain discharges on the deck of a vessel, prevent discharges through the use of vacuums in tanks, and otherwise contain discharges of oil from vessels and facilities;

(C) research, development, and demonstration of new or improved systems of mechanical, chemical, biological, and other methods (including the use of dispersants, solvents, and bioremediation) for the recovery, removal, and disposal of oil, including evaluation of the environmental effects of the use of such systems;

Texas.

(D) research and training, in consultation with the National Response Team, to improve industry's and Government's ability to quickly and effectively remove an oil discharge, including the long-term use, as appropriate, of the National Spill Control School in Corpus Christi, Texas;

(E) research to improve information systems for decision-making, including the use of data from coastal mapping, baseline data, and other data related to the environmental effects of oil discharges, and cleanup technologies;

(F) development of technologies and methods to protect public health and safety from oil discharges, including the population directly exposed to an oil discharge;

(G) development of technologies, methods, and standards for protecting removal personnel, including training, ade-

quate supervision, protective equipment, maximum exposure limits, and decontamination procedures;

(H) research and development of methods to restore and rehabilitate natural resources damaged by oil discharges;

(I) research to evaluate the relative effectiveness and environmental impacts of bioremediation technologies; and

(J) the demonstration of a satellite-based, dependent surveillance vessel traffic system in Narragansett Bay to evaluate the utility of such system in reducing the risk of oil discharges from vessel collisions and groundings in confined waters.

(3) OIL POLLUTION TECHNOLOGY EVALUATION.—The program established under this subsection shall provide for oil pollution prevention and mitigation technology evaluation including—

(A) the evaluation and testing of technologies developed independently of the research and development program established under this subsection;

(B) the establishment, where appropriate, of standards and testing protocols traceable to national standards to measure the performance of oil pollution prevention or mitigation technologies; and

(C) the use, where appropriate, of controlled field testing to evaluate real-world application of oil discharge prevention or mitigation technologies.

(4) OIL POLLUTION EFFECTS RESEARCH.—(A) The Committee shall establish a research program to monitor and evaluate the environmental effects of oil discharges. Such program shall include the following elements:

(i) The development of improved models and capabilities for predicting the environmental fate, transport, and effects of oil discharges.

(ii) The development of methods, including economic methods, to assess damages to natural resources resulting from oil discharges.

(iii) The identification of types of ecologically sensitive areas at particular risk to oil discharges and the preparation of scientific monitoring and evaluation plans, one for each of several types of ecological conditions, to be implemented in the event of major oil discharges in such areas.

(iv) The collection of environmental baseline data in ecologically sensitive areas at particular risk to oil discharges where such data are insufficient.

(B) The Department of Commerce in consultation with the Environmental Protection Agency shall monitor and scientifically evaluate the long-term environmental effects of oil discharges if—

(i) the amount of oil discharged exceeds 250,000 gallons;

(ii) the oil discharge has occurred on or after January 1, 1989; and

(iii) the Interagency Committee determines that a study of the long-term environmental effects of the discharge would be of significant scientific value, especially for preventing or responding to future oil discharges.

Areas for study may include the following sites where oil discharges have occurred: the New York/New Jersey Harbor area, where oil was discharged by an Exxon underwater pipeline, the T/B CIBRO SAVANNAH, and the M/V BT NAUTILUS; State listing.

Narragansett Bay where oil was discharged by the WORLD PRODIGY; the Houston Ship Channel where oil was discharged by the RACHEL B; the Delaware River, where oil was discharged by the PRESIDENTE RIVERA, and Huntington Beach, California, where oil was discharged by the AMERICAN TRADER.

(C) Research conducted under this paragraph by, or through, the United States Fish and Wildlife Service shall be directed and coordinated by the National Wetland Research Center.

(5) MARINE SIMULATION RESEARCH.—The program established under this subsection shall include research on the greater use and application of geographic and vessel response simulation models, including the development of additional data bases and updating of existing data bases using, among others, the resources of the National Maritime Research Center. It shall include research and vessel simulations for—

(A) contingency plan evaluation and amendment;

(B) removal and strike team training;

(C) tank vessel personnel training; and

(D) those geographic areas where there is a significant likelihood of a major oil discharge.

State listing.

(6) DEMONSTRATION PROJECTS.—The United States Coast Guard, in conjunction with other such agencies in the Department of Transportation as the Secretary of Transportation may designate, shall conduct 3 port oil pollution minimization demonstration projects, one each with (A) the Port Authority of New York and New Jersey, (B) the Ports of Los Angeles and Long Beach, California, and (C) the Port of New Orleans, Louisiana, for the purpose of developing and demonstrating integrated port oil pollution prevention and cleanup systems which utilize the information and implement the improved practices and technologies developed from the research, development, and demonstration program established in this section. Such systems shall utilize improved technologies and management practices for reducing the risk of oil discharges, including, as appropriate, improved data access, computerized tracking of oil shipments, improved vessel tracking and navigation systems, advanced technology to monitor pipeline and tank conditions, improved oil spill response capability, improved capability to predict the flow and effects of oil discharges in both the inner and outer harbor areas for the purposes of making infrastructure decisions, and such other activities necessary to achieve the purposes of this section.

New Jersey.

(7) SIMULATED ENVIRONMENTAL TESTING.—Agencies represented on the Interagency Committee shall ensure the long-term use and operation of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) Research Center in New Jersey for oil pollution technology testing and evaluations.

Grants.
Schools and colleges.

(8) REGIONAL RESEARCH PROGRAM.—(A) Consistent with the research plan in subsection (b), the Interagency Committee shall coordinate a program of competitive grants to universities or other research institutions, or groups of universities or research institutions, for the purposes of conducting a coordinated research program related to the regional aspects of oil pollution, such as prevention, removal, mitigation, and the effects of discharged oil on regional environments. For the purposes of

this paragraph, a region means a Coast Guard district as set out in part 3 of title 33, Code of Federal Regulations (1989).

(B) The Interagency Committee shall coordinate the publication by the agencies represented on the Interagency Committee of a solicitation for grants under this subsection. The application shall be in such form and contain such information as may be required in the published solicitation. The applications shall be reviewed by the Interagency Committee, which shall make recommendations to the appropriate granting agency represented on the Interagency Committee for awarding the grant. The granting agency shall award the grants recommended by the Interagency Committee unless the agency decides not to award the grant due to budgetary or other compelling considerations and publishes its reasons for such a determination in the Federal Register. No grants may be made by any agency from any funds authorized for this paragraph unless such grant award has first been recommended by the Interagency Committee.

(C) Any university or other research institution, or group of universities or research institutions, may apply for a grant for the regional research program established by this paragraph. The applicant must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program. With respect to a group application, the entity or entities which will carry out the substantial portion of the proposed research must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.

(D) The Interagency Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various aspects of oil pollution research, including prevention, removal, mitigation, and the effects of discharged oil on regional environments. In addition, the Interagency Committee shall make recommendations for grants based on the following criteria:

(i) There is available to the applicant for carrying out this paragraph demonstrated research resources.

(ii) The applicant demonstrates the capability of making a significant contribution to regional research needs.

(iii) The projects which the applicant proposes to carry out under the grant are consistent with the research plan under subsection (b)(1)(F) and would further the objectives of the research and development program established in this section.

(E) Grants provided under this paragraph shall be for a period up to 3 years, subject to annual review by the granting agency, and provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.

(F) No funds made available to carry out this subsection may be used for the acquisition of real property (including buildings) or construction of any building.

(G) Nothing in this paragraph is intended to alter or abridge the authority under existing law of any Federal agency to make grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purposes of carrying out this paragraph.

(9) FUNDING.—For each of the fiscal years 1991, 1992, 1993, 1994, and 1995, $6,000,000 of amounts in the Fund shall be available to carry out the regional research program in paragraph (8), such amounts to be available in equal amounts for the regional research program in each region; except that if the agencies represented on the Interagency Committee determine that regional research needs exist which cannot be addressed within such funding limits, such agencies may use their authority under paragraph (10) to make additional grants to meet such needs. For the purposes of this paragraph, the research program carried out by the Prince William Sound Oil Spill Recovery Institute established under section 5001, shall not be eligible to receive grants under this paragraph.

(10) GRANTS.—In carrying out the research and development program established under this subsection, the agencies represented on the Interagency Committee may enter into contracts and cooperative agreements and make grants to universities, research institutions, and other persons. Such contracts, cooperative agreements, and grants shall address research and technology priorities set forth in the oil pollution research plan under subsection (b).

(11) In carrying out research under this section, the Department of Transportation shall continue to utilize the resources of the Research and Special Programs Administration of the Department of Transportation, to the maximum extent practicable.

(d) INTERNATIONAL COOPERATION.—In accordance with the research plan submitted under subsection (b), the Interagency Committee shall coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges.

(e) BIENNIAL REPORTS.—The Chairman of the Interagency Committee shall submit to Congress every 2 years on October 30 a report on the activities carried out under this section in the preceding 2 fiscal years, and on activities proposed to be carried out under this section in the current 2 fiscal year period.

(f) FUNDING.—Not to exceed $21,250,000 of amounts in the Fund shall be available annually to carry out this section except for subsection (c)(8). Of such sums—

(1) funds authorized to be appropriated to carry out the activities under subsection (c)(4) shall not exceed $5,000,000 for fiscal year 1991 or $3,500,000 for any subsequent fiscal year; and

(2) not less than $2,250,000 shall be available for carrying out the activities in subsection (c)(6) for fiscal years 1992, 1993, 1994, and 1995.

All activities authorized in this section, including subsection (c)(8), are subject to appropriations.

Trans-Alaska Pipeline System Reform Act of 1990.

TITLE VIII—TRANS-ALASKA PIPELINE SYSTEM

43 USC 1651 note.

SEC. 8001. SHORT TITLE.

This title may be cited as the "Trans-Alaska Pipeline System Reform Act of 1990".

Subtitle A—Improvements to Trans-Alaska Pipeline System

SEC. 8101. LIABILITY WITHIN THE STATE OF ALASKA AND CLEANUP EFFORTS.

(a) CAUSE OF ACCIDENT.—Section 204(a)(1) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(a)(1)) is amended by striking out "caused by" in the first sentence and inserting in lieu thereof "caused solely by".

(b) LIMITATION OF LIABILITY.—Section 204(a)(2) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(a)(2)) is amended by striking "$50,000,000" each place it occurs and inserting in lieu thereof "$350,000,000".

(c) CLEANUP EFFORTS.—Section 204(b) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(b)) is amended in the first sentence—

(1) by inserting after "any area" the following: "in the State of Alaska";

(2) by inserting after "any activities" the following: "related to the Trans-Alaska Pipeline System, including operation of the terminal,"; and

(3) by inserting after "other Federal" the first place it appears the following: "or State".

SEC. 8102. TRANS-ALASKA PIPELINE LIABILITY FUND.

(a) TERMINATION OF CERTAIN PROVISIONS.—

(1) REPEAL.—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed, effective as provided in paragraph (5).

(2) DISPOSITION OF FUND BALANCE.— 43 USC 1653 note.

(A) RESERVATION OF AMOUNTS.—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the "TAPS Fund") shall reserve the following amounts in the TAPS Fund—

(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)); and

(ii) administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of that Act.

(B) DISPOSITION OF THE BALANCE.—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of amounts are made under subparagraph (A) by—

(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil; and then

(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

(C) DISPOSITION OF THE RESERVED AMOUNTS.—After payment of all claims arising from an incident for which funds

are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

(D) AUTHORIZATION.—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 after funding sections 5001 and 8103 to the extent that funds have not otherwise been provided for the purposes of such sections.

43 USC 1653 note.

(3) SAVINGS CLAUSE.—The repeal made by paragraph (1) shall have no effect on any right to recover or responsibility that arises from incidents subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) occurring prior to the date of enactment of this Act.

(4) TAPS COLLECTION.—Paragraph (5) of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is amended by striking the period at the end of the second sentence and adding at the end the following: ", except that after the date of enactment of the Oil Pollution Act of 1990, the amount to be accumulated shall be $100,000,000 or the amount determined by the trustees and certified to the Congress by the Comptroller General as necessary to pay claims arising from incidents occurring prior to the date of enactment of that Act and administrative costs, whichever is less.".

43 USC 1653 note.

(5) EFFECTIVE DATE.—(A) The repeal by paragraph (1) shall be effective 60 days after the date on which the Comptroller General of the United States certifies to the Congress that—

(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) have been resolved,

(ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and

(iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid.

(B) Upon the effective date of the repeal pursuant to subparagraph (A), the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act, but not any existing legal liability.

43 USC 1653 note.

(6) TUCKER ACT.—This subsection is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act").

(b) CAUSE OF ACCIDENT.—Section 204(c)(2) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(2)) is amended by striking out "caused by" in the first sentence and inserting in lieu thereof "caused solely by".

(c) DAMAGES.—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)), as amended by this title, is further amended by adding at the end the following new paragraphs:

"(13) For any claims against the Fund, the term 'damages' shall include, but not be limited to—

"(A) the net loss of taxes, revenues, fees, royalties, rents, or other revenues incurred by a State or a political subdivision of a

State due to injury, destruction, or loss of real property, personal property, or natural resources, or diminished economic activity due to a discharge of oil; and

"(B) the net cost of providing increased or additional public services during or after removal activities due to a discharge of oil, including protection from fire, safety, or health hazards, incurred by a State or political subdivision of a State.

"(14) Paragraphs (1) through (13) shall apply only to claims arising from incidents occurring before the date of enactment of the Trans-Alaska Pipeline System Reform Act of 1990. The Oil Pollution Act of 1990 shall apply to any incident, or any claims arising from an incident, occurring on or after the date of the enactment of that Act.".

(d) PAYMENT OF CLAIMS BY FUND.—Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end the following: "The Fund shall expeditiously pay claims under this subsection, including such $14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and, in the discretion of the court, penalties.".

(e) OFFICERS OR TRUSTEES.—Section 204(c)(4) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following:

"(B) No present or former officer or trustee of the Fund shall be subject to any liability incurred by the Fund or by the present or former officers or trustees of the Fund, other than liability for gross negligence or willful misconduct.

"(C)(i) Subject to clause (ii), each officer and each trustee of the Fund—

"(I) shall be indemnified against all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as an officer or trustee, or by reason of any action taken, omitted, or neglected by him or her as an officer or trustee; and

"(II) shall be reimbursed for all attorney's fees reasonably incurred in connection with any claim or liability.

"(ii) No officer or trustee shall be indemnified against, or be reimbursed for, any expenses incurred in connection with, any claim or liability arising out of his or her gross negligence or willful misconduct.".

SEC. 8103. PRESIDENTIAL TASK FORCE. 43 USC 1651 note.

(a) ESTABLISHMENT OF TASK FORCE.—

(1) ESTABLISHMENT AND MEMBERS.—(A) There is hereby established a Presidential Task Force on the Trans-Alaska Pipeline System (hereinafter referred to as the "Task Force") composed of the following members appointed by the President:

(i) Three members, one of whom shall be nominated by the Secretary of the Interior, one by the Administrator of

the Environmental Protection Agency, and one by the Secretary of Transportation.

(ii) Three members nominated by the Governor of the State of Alaska, one of whom shall be an employee of the Alaska Department of Natural Resources and one of whom shall be an employee of the Alaska Department of Environmental Conservation.

(iii) One member nominated by the Office of Technology Assessment.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his or her term until a successor, if applicable, has taken office.

(2) COCHAIRMEN.—The President shall appoint a Federal cochairman from among the Federal members of the Task Force appointed pursuant to paragraph (1)(A) and the Governor shall designate a State cochairman from among the State members of the Task Force appointed pursuant to paragraph (1)(B).

(3) COMPENSATION.—Members shall, to the extent approved in appropriations Acts, receive the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force, except that members who are State, Federal, or other governmental employees shall receive no compensation under this paragraph in addition to the salaries they receive as such employees.

(4) STAFF.—The cochairman of the Task Force shall appoint a Director to carry out administrative duties. The Director may hire such staff and incur such expenses on behalf of the Task Force for which funds are available.

(5) RULE.—Employees of the Task Force shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(b) DUTIES OF THE TASK FORCE.—

(1) AUDIT.—The Task Force shall conduct an audit of the Trans-Alaska Pipeline System (hereinafter referred to as "TAPS") including the terminal at Valdez, Alaska, and other related onshore facilities, make recommendations to the President, the Congress, and the Governor of Alaska.

(2) COMPREHENSIVE REVIEW.—As part of such audit, the Task Force shall conduct a comprehensive review of the TAPS in order to specifically advise the President, the Congress, and the Governor of Alaska concerning whether—

(A) the holder of the Federal and State right-of-way is, and has been, in full compliance with applicable laws, regulations, and agreements;

(B) the laws, regulations, and agreements are sufficient to prevent the release of oil from TAPS and prevent other damage or degradation to the environment and public health;

(C) improvements are necessary to TAPS to prevent release of oil from TAPS and to prevent other damage or degradation to the environment and public health;

(D) improvements are necessary in the onshore oil spill response capabilities for the TAPS; and

(E) improvements are necessary in security for TAPS.

(3) CONSULTANTS.—(A) The Task Force shall retain at least one independent consulting firm with technical expertise in engineering, transportation, safety, the environment, and other applicable areas to assist the Task Force in carrying out this subsection.

(B) Contracts with any such firm shall be entered into on a nationally competitive basis, and the Task Force shall not select any firm with respect to which there may be a conflict of interest in assisting the Task Force in carrying out the audit and review. All work performed by such firm shall be under the direct and immediate supervision of a registered engineer. Contracts.

(4) PUBLIC COMMENT.—The Task Force shall provide an opportunity for public comment on its activities including at a minimum the following:

(A) Before it begins its audit and review, the Task Force shall review reports prepared by other Government entities conducting reviews of TAPS and shall consult with those Government entities that are conducting ongoing investigations including the General Accounting Office. It shall also hold at least 2 public hearings, at least 1 of which shall be held in a community affected by the Exxon Valdez oil spill. Members of the public shall be given an opportunity to present both oral and written testimony.

(B) The Task Force shall provide a mechanism for the confidential receipt of information concerning TAPS, which may include a designated telephone hotline. Classified information.

(5) TASK FORCE REPORT.—The Task Force shall publish a draft report which it shall make available to the public. The public will have at least 30 days to provide comments on the draft report. Based on its draft report and the public comments thereon, the Task Force shall prepare a final report which shall include its findings, conclusions, and recommendations made as a result of carrying out such audit. The Task Force shall transmit (and make available to the public), no later than 2 years after the date on which funding is made available under paragraph (7), its final report to the President, the Congress, and the Governor of Alaska.

(6) PRESIDENTIAL REPORT.—The President shall, within 90 days after receiving the Task Force's report, transmit a report to the Congress and the Governor of Alaska outlining what measures have been taken or will be taken to implement the Task Force's recommendations. The President's report shall include recommended changes, if any, in Federal and State law to enhance the safety and operation of TAPS.

(7) EARMARK.—Of amounts in the Fund, $5,000,000 shall be available, subject to appropriations, annually without fiscal year limitation to carry out the requirements of this section.

(c) GENERAL ADMINISTRATION AND POWERS OF THE TASK FORCE.—

(1) AUDIT ACCESS.—The Comptroller General of the United States, and any of his or her duly appointed representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Task Force that are pertinent to the funds received and expended by the Task Force.

(2) TERMINATION.—The Task Force shall cease to exist on the date on which the final report is provided pursuant to subsection (b)(5).

Safety.

(3) FUNCTIONS LIMITATION.—With respect to safety, operations, and other matters related to the pipeline facilities (as such term is defined in section 202(4) of the Hazardous Liquid Pipeline Safety Act of 1979) of the TAPS, the Task Force shall not perform any functions which are the responsibility of the Secretary of Transportation under the Hazardous Liquid Pipeline Safety Act of 1979, as amended. The Secretary may use the information gathered by and reports issued by the Task Force in carrying out the Secretary's responsibilities under that Act.

(4) POWERS.—The Task Force may, to the extent necessary to carry out its responsibilities, conduct investigations, make reports, issue subpoenas, require the production of relevant documents and records, take depositions, and conduct directly or, by contract, or otherwise, research, testing, and demonstration activities.

(5) EXAMINATION OF RECORDS AND PROPERTIES.—The Task Force, and the employees and agents it so designates, are authorized, upon presenting appropriate credentials to the person in charge, to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with applicable laws and agreements.

(6) FOIA.—The information gathered by the Task Force pursuant to subsection (b) shall not be subject to section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act"), until its final report is issued pursuant to subsection (b)(6).

Subtitle B—Penalties

SEC. 8201. AUTHORITY OF THE SECRETARY OF THE INTERIOR TO IMPOSE PENALTIES ON OUTER CONTINENTAL SHELF FACILITIES.

Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b)) is amended—

(1) by striking out "If any" and inserting in lieu thereof "(1) Except as provided in paragraph (2), if any";

(2) by striking out "$10,000" and inserting in lieu thereof "$20,000";

Regulations.

(3) by adding at the end of paragraph (1) the following new sentence: "The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor."; and

(4) by adding at the end the following new paragraph:

"(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action.".

SEC. 8202. TRANS-ALASKA PIPELINE SYSTEM CIVIL PENALTIES.

The Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) is amended by adding at the end thereof the following new section:

"CIVIL PENALTIES

"SEC. 207. (a) PENALTY.—Except as provided in subsection (c)(4), the Secretary of the Interior may assess and collect a civil penalty under this section with respect to any discharge of oil— 43 USC 1656.

"(1) in transit from fields or reservoirs supplying oil to the trans-Alaska pipeline; or

"(2) during transportation through the trans-Alaska pipeline or handling at the terminal facilities, that causes damage to, or threatens to damage, natural resources or public or private property.

"(b) PERSONS LIABLE.—In addition to the person causing or permitting the discharge, the owner or owners of the oil at the time the discharge occurs shall be jointly, severally, and strictly liable for the full amount of penalties assessed pursuant to this section, except that the United States and the several States, and political subdivisions thereof, shall not be liable under this section.

"(c) AMOUNT.—(1) The amount of the civil penalty shall not exceed $1,000 per barrel of oil discharged.

"(2) In determining the amount of civil penalty under this section, the Secretary shall consider the seriousness of the damages from the discharge, the cause of the discharge, any history of prior violations of applicable rules and laws, and the degree of success of any efforts by the violator to minimize or mitigate the effects of such discharge.

"(3) The Secretary may reduce or waive the penalty imposed under this section if the discharge was solely caused by an act of war, act of God, or third party action beyond the control of the persons liable under this section.

"(4) No civil penalty assessed by the Secretary pursuant to this section shall be in addition to a penalty assessed pursuant to section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)).

"(d) PROCEDURES.—A civil penalty may be assessed and collected under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. In any proceeding for the assessment of a civil penalty under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(e) STATE LAW.—(1) Nothing in this section shall be construed or interpreted as preempting any State or political subdivision thereof from imposing any additional liability or requirements with respect to the discharge, or threat of discharge, of oil or other pollution by oil.

"(2) Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil.".

Subtitle C—Provisions Applicable to Alaska Natives

SEC. 8301. LAND CONVEYANCES.

The Alaska National Interest Lands Conservation Act (Public Law 96-487) is amended by adding the following after section 1437:

Claims.
43 USC 1642.

"SEC. 1438. Solely for the purpose of bringing claims that arise from the discharge of oil, the Congress confirms that all right, title, and interest of the United States in and to the lands validly selected pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by Alaska Native corporations are deemed to have vested in the respective corporations as of March 23, 1989. This section shall take effect with respect to each Alaska Native corporation only upon its irrevocable election to accept an interim conveyance of such land and notice of such election has been formally transmitted to the Secretary of the Interior.".

SEC. 8302. IMPACT OF POTENTIAL SPILLS IN THE ARCTIC OCEAN ON ALASKA NATIVES.

Section 1005 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3145) is amended—

(1) by amending the heading to read as follows:

"WILDLIFE RESOURCES PORTION OF STUDY AND IMPACT OF POTENTIAL OIL SPILLS IN THE ARCTIC OCEAN";

(2) by inserting "(a)" after "SEC. 1005."; and

(3) by adding at the end the following:

"(b)(1) The Congress finds that—

Canada.

"(A) Canada has discovered commercial quantities of oil and gas in the Amalagak region of the Northwest Territory;

"(B) Canada is exploring alternatives for transporting the oil from the Amalagak field to markets in Asia and the Far East;

"(C) one of the options the Canadian Government is exploring involves transshipment of oil from the Amalagak field across the Beaufort Sea to tankers which would transport the oil overseas;

"(D) the tankers would traverse the American Exclusive Economic Zone through the Beaufort Sea into the Chuckchi Sea and then through the Bering Straits;

"(E) the Beaufort and Chuckchi Seas are vital to Alaska's Native people, providing them with subsistence in the form of walrus, seals, fish, and whales;

"(F) the Secretary of the Interior has conducted Outer Continental Shelf lease sales in the Beaufort and Chuckchi Seas and oil and gas exploration is ongoing;

"(G) an oil spill in the Arctic Ocean, if not properly contained and cleaned up, could have significant impacts on the indigenous people of Alaska's North Slope and on the Arctic environment; and

"(H) there are no international contingency plans involving our two governments concerning containment and cleanup of an oil spill in the Arctic Ocean.

"(2)(A) The Secretary of the Interior, in consultation with the Governor of Alaska, shall conduct a study of the issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

"(B) The Secretary shall, no later than January 31, 1991, transmit a report to the Congress on the findings and conclusions reached as the result of the study carried out under this subsection. Reports.

"(c) The Congress calls upon the Secretary of State, in consultation with the Secretary of the Interior, the Secretary of Transportation, and the Governor of Alaska, to begin negotiations with the Foreign Minister of Canada regarding a treaty dealing with the complex issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean. Canada. International agreements.

"(d) The Secretary of State shall report to the Congress on the Secretary's efforts pursuant to this section no later than June 1, 1991.". Reports.

TITLE IX—AMENDMENTS TO OIL SPILL LIABILITY TRUST FUND, ETC.

SEC. 9001. AMENDMENTS TO OIL SPILL LIABILITY TRUST FUND.

(a) TRANSFERS TO TRUST FUND.—Subsection (b) of section 9509 of the Internal Revenue Code of 1986 is amended by striking all that follows paragraph (1) and inserting the following: 26 USC 9509.

"(2) amounts recovered under the Oil Pollution Act of 1990 for damages to natural resources which are required to be deposited in the Fund under section 1006(f) of such Act,

"(3) amounts recovered by such Trust Fund under section 1015 of such Act,

"(4) amounts required to be transferred by such Act from the revolving fund established under section 311(k) of the Federal Water Pollution Control Act,

"(5) amounts required to be transferred by the Oil Pollution Act of 1990 from the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974,

"(6) amounts required to be transferred by the Oil Pollution Act of 1990 from the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978,

"(7) amounts required to be transferred by the Oil Pollution Act of 1990 from the Trans-Alaska Pipeline Liability Fund established under section 204 of the Trans-Alaska Pipeline Authorization Act, and

"(8) any penalty paid pursuant to section 311 of the Federal Water Pollution Control Act, section 309(c) of such Act (as a result of violations of such section 311), the Deepwater Port Act of 1974, or section 207 of the Trans-Alaska Pipeline Authorization Act."

(b) EXPENDITURES FROM TRUST FUND.—Paragraph (1) of section 9509(c) of such Code is amended to read as follows:

"(1) EXPENDITURE PURPOSES.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation

Acts or section 6002(b) of the Oil Pollution Act of 1990, only for purposes of making expenditures—

"(A) for the payment of removal costs and other costs, expenses, claims, and damages referred to in section 1012 of such Act,

"(B) to carry out sections 5 and 7 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(C) for the payment of liabilities incurred by the revolving fund established by section 311(k) of the Federal Water Pollution Control Act,

"(D) to carry out subsections (b), (c), (d), (j), and (l) of section 311 of the Federal Water Pollution Control Act with respect to prevention, removal, and enforcement related to oil discharges (as defined in such section),

"(E) for the payment of liabilities incurred by the Deepwater Port Liability Fund, and

"(F) for the payment of liabilities incurred by the Offshore Oil Pollution Compensation Fund."

(c) INCREASE IN EXPENDITURES PERMITTED PER INCIDENT.—Subparagraph (A) of section 9509(c)(2) of such Code is amended— 26 USC 9509.

(1) by striking "$500,000,000" each place it appears and inserting "$1,000,000,000", and

(2) by striking "$250,000,000" and inserting "$500,000,000".

(d) INCREASE IN BORROWING AUTHORITY.—

(1) INCREASE IN BORROWING PERMITTED.—Paragraph (2) of section 9509(d) of such Code is amended by striking "$500,000,000" and inserting "$1,000,000,000".

(2) CHANGE IN FINAL REPAYMENT DATE.—Subparagraph (B) of section 9509(d)(3) of such Code is amended by striking "December 31, 1991" and inserting "December 31, 1994".

(e) OTHER CHANGES.—

(1) Paragraph (2) of section 9509(e) of such Code is amended by striking "Comprehensive Oil Pollution Liability and Compensation Act" and inserting "Oil Pollution Act of 1990".

(2) Subparagraph (B) of section 9509(c)(2) of such Code is amended by striking "described in paragraph (1)(A)(i)" and inserting "of removal costs".

(3) Subsection (f) of section 9509 of such Code is amended to read as follows:

"(f) REFERENCES TO OIL POLLUTION ACT OF 1990.—Any reference in this section to the Oil Pollution Act of 1990 or any other Act referred to in a subparagraph of subsection (c)(1) shall be treated as a reference to such Act as in effect on the date of the enactment of this subsection."

SEC. 9002. CHANGES RELATING TO OTHER FUNDS.

(a) REPEAL OF PROVISION RELATING TO TRANSFERS TO OIL SPILL LIABILITY FUND.—Subsection (d) of section 4612 of the Internal Revenue Code of 1986 is amended by striking the last sentence. 26 USC 4612.

(b) CREDIT AGAINST OIL SPILL RATE ALLOWED ON AFFILIATED GROUP BASIS.—Subsection (d) of section 4612 of such Code is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, all taxpayers which would be members of the same affiliated group (as defined in section 1504(a)) if section

1504(a)(2) were applied by substituting '100 percent' for '80 percent' shall be treated as 1 taxpayer."

Approved August 18, 1990.

LEGISLATIVE HISTORY—H.R. 1465 (H.R. 3027) (S. 686):

HOUSE REPORTS: No. 101-241, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Science, Space, and Technology), both accompanying H.R. 3027; No. 101-242, Pt. 1 (Comm. on Public Works and Transportation), Pt. 2 (Comm. on Merchant Marine and Fisheries), Pt. 3 (Comm. on Science, Space, and Technology), Pt. 4 (Comm. on Public Works and Transportation), and Pt. 5 (Comm. on Merchant Marine and Fisheries); and No. 101-653 (Comm. of Conference).

SENATE REPORTS: No. 101-94 accompanying S. 686 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Aug. 3, 4, S. 686 considered and passed Senate.
Nov. 2, 8, 9, H.R. 1465 considered and passed House.
Nov. 19, considered and passed Senate, amended, in lieu of S. 686.

Vol. 136 (1990): Aug. 2, Senate agreed to conference report.
Aug. 3, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Aug. 18, Presidential statement.

39-194 O - 91 - 20 : QL 3 Part 1

Public Law 101-381
101st Congress

An Act

Aug. 18, 1990
[S. 2240]

To amend the Public Health Service Act to provide grants to improve the quality and availability of care for individuals and families with HIV disease, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ryan White Comprehensive AIDS Resources Emergency Act of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ryan White Comprehensive AIDS Resources Emergency Act of 1990".

42 USC 300ff.

SEC. 2. PURPOSE.

It is the purpose of this Act to provide emergency assistance to localities that are disproportionately affected by the Human Immunodeficiency Virus epidemic and to make financial assistance available to States and other public or private nonprofit entities to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease.

TITLE I—HIV EMERGENCY RELIEF GRANT PROGRAM

SEC. 101. HIV EMERGENCY RELIEF GRANT PROGRAM.

42 USC 300aaa—300aaa-13.

The Public Health Service Act is amended—

(1) by redesignating title XXVI as title XXVII;

(2) by redesignating sections 2601 through 2614 as sections 2701 through 2714, respectively; and

(3) by inserting after title XXV (42 U.S.C. 300ee et seq.) the following new title:

"TITLE XXVI—HIV HEALTH CARE SERVICES PROGRAM

"PART A—EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

42 USC 300ff-11.

"SEC. 2601. ESTABLISHMENT OF PROGRAM OF GRANTS.

"(a) ELIGIBLE AREAS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to subsection (b), make grants in accordance with section 2603 for the purpose of assisting in the provision of the services specified in 2604 in any metropolitan area for which, as of June 30, 1990, in the case of grants for fiscal year 1991, and as of March 31 of the most recent fiscal year for which such data is available in the case of a grant for any subsequent fiscal year—

"(1) there has been reported to and confirmed by the Director of the Centers for Disease Control a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome; or

"(2) the per capita incidence of cumulative cases of such syndrome (computed on the basis of the most recently available data on the population of the area) is not less than 0.0025.

"(b) REQUIREMENT REGARDING CONFIRMATION OF CASES.—The Secretary may not make a grant under subsection (a) for a metropolitan area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such subsection have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control.

"SEC. 2602. ADMINISTRATION AND PLANNING COUNCIL. 42 USC 300ff-12.

"(a) ADMINISTRATION.—

"(1) IN GENERAL.—Assistance made available under grants awarded under this part shall be directed to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control, in the eligible area that is awarded such a grant.

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—To receive assistance under section 2601(a), the chief elected official of the eligible area involved shall—

"(i) establish, through intergovernmental agreements with the chief elected officials of the political subdivisions described in subparagraph (B), an administrative mechanism to allocate funds and services based on— Contracts.

"(I) the number of AIDS cases in such subdivisions;

"(II) the severity of need for outpatient and ambulatory care services in such subdivisions; and

"(III) the health and support services personnel needs of such subdivisions; and

"(ii) establish an HIV health services planning council in accordance with subsection (b).

"(B) LOCAL POLITICAL SUBDIVISION.—The political subdivisions referred to in subparagraph (A) are those political subdivisions in the eligible area—

"(i) that provide HIV-related health services; and

"(ii) for which the number of cases reported for purposes of section 2601(a) constitutes not less than 10 percent of the number of such cases reported for the eligible area.

"(b) HIV HEALTH SERVICES PLANNING COUNCIL.—

"(1) ESTABLISHMENT.—To be eligible for assistance under this part, the chief elected official described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall include representatives of—

"(A) health care providers;

"(B) community-based and AIDS service organizations;

"(C) social service providers;

"(D) mental health care providers;

"(E) local public health agencies;

"(F) hospital planning agencies or health care planning agencies;

"(G) affected communities, including individuals with HIV disease;

"(H) non-elected community leaders;

"(I) State government;

"(J) grantees under subpart II of part C; and

"(K) the lead agency of any Health Resources and Services Administration adult and pediatric HIV-related care demonstration project operating in the area to be served.

"(2) METHOD OF PROVIDING FOR COUNCIL.—

"(A) IN GENERAL.—In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 2601(a) may establish the council directly or designate an existing entity to serve as the council, subject to subparagraph (B).

"(B) CONSIDERATION REGARDING DESIGNATION OF COUNCIL.—In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2601(a) shall give priority to the designation of an existing entity that has demonstrated experience in planning for the HIV health care service needs within the eligible area and in the implementation of such plans in addressing those needs. Any existing entity so designated shall be expanded to include a broad representation of the full range of entities that provide such services within the geographic area to be served.

"(3) DUTIES.—The planning council established or designated under paragraph (1) shall—

"(A) establish priorities for the allocation of funds within the eligible area;

"(B) develop a comprehensive plan for the organization and delivery of health services described in section 2604 that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease; and

"(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area.

42 USC 300ff-13.

"SEC. 2603. TYPE AND DISTRIBUTION OF GRANTS.

"(a) GRANTS BASED ON RELATIVE NEED OF AREA.—

"(1) IN GENERAL.—In carrying out section 2601(a), the Secretary shall make a grant for each eligible area for which an application under section 2605(a) has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

"(2) EXPEDITED DISTRIBUTION.—Not later than—

"(A) 90 days after an appropriation becomes available to carry out this part for fiscal year 1991; and

"(B) 60 days after an appropriation becomes available to carry out this part for each of fiscal years 1992 through 1995;

the Secretary shall, except in the case of waivers granted under section 2605(c), disburse 50 percent of the amount appropriated

under section 2608 for such fiscal year through grants to eligible areas under section 2601(a).

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph for an eligible area shall be made in an amount equal to the sum of—

"(i) an amount determined in accordance with subparagraph (B); and

"(ii) an amount determined in accordance with subparagraph (C).

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—

"(i) an amount equal to 75 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

"(ii) a percentage equal to the quotient of—

"(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control on the applicable date described in section 2601(a); divided by

"(II) the sum of the cumulative number of such cases in all eligible areas for which an application for a grant under paragraph (1) has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—

"(i) an amount equal to 25 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

"(ii) a percentage developed by the Secretary through consideration of the ratio of—

"(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(II) the per capita incidence of such cumulative cases in all eligible areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such areas).

"(b) SUPPLEMENTAL GRANTS.—

"(1) IN GENERAL.—Not later than 150 days after the date on which appropriations are made under section 2608 for a fiscal year, the Secretary shall disburse the remainder of amounts not disbursed under section 2603(a)(2) for such fiscal year for the purpose of making grants under section 2601(a) to eligible areas whose application under section 2605(b)—

"(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) and the plan for utilization of such funds;

"(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

"(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

"(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective; and

Children and youth. Women.

"(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV disease.

"(2) REMAINDER OF AMOUNTS.—In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under section 2603(a)(2) as a result of—

"(A) the failure of any eligible area to submit an application under section 2605(c); or

"(B) any eligible area informing the Secretary that such eligible area does not intend to expend the full amount of its grant under such section.

"(3) AMOUNT OF GRANT.—The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on the application submitted by the eligible area under section 2605(b).

"(4) FAILURE TO SUBMIT.—

"(A) IN GENERAL.—The failure of an eligible area to submit an application for an expedited grant under section 2603(a)(2) shall not result in such area being ineligible for a grant under this subsection.

"(B) APPLICATION.—The application of an eligible area submitted under section 2605(b) shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited grants under section 2603(a)(2).

42 USC 300ff-14.

"SEC. 2604. USE OF AMOUNTS.

"(a) REQUIREMENTS.—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

"(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(3)(A), by the HIV health services planning council that serves such eligible area; and

"(2) funds provided under section 2601 will be expended only for the purposes described in subsections (b) and (c).

"(b) PRIMARY PURPOSES.—

"(1) IN GENERAL.—The chief elected official shall use amounts received under a grant under section 2601 to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing HIV-related—

"(A) outpatient and ambulatory health and support services, including case management and comprehensive treatment services, for individuals and families with HIV disease; and

"(B) inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities.

"(2) APPROPRIATE ENTITIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, including hospitals (which may include Veterans Administration facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, and homeless health centers.

"(B) PRIORITY.—In providing direct financial assistance under paragraph (1) the chief elected official shall give priority to entities that are currently participating in Health Resources and Services Administration HIV health care demonstration projects.

"(c) LIMITED EXPENDITURES FOR PERSONNEL NEEDS.—

"(1) IN GENERAL.—A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 2601 to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals (which may include Veterans Administration facilities), nursing homes, subacute and transitional care facilities, and hospices that—

"(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease;

"(B) incur uncompensated costs in the provision of such care or services to such individuals and families;

"(C) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

"(D) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

"(2) USE.—A chief elected official may use amounts referred to in paragraph (1) to—

"(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and entities in recruiting or training and paying compensation to qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV disease; or

"(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

"(3) REQUIREMENT OF DETERMINATION BY COUNCIL.—A chief elected official shall not use any of the amounts received under a grant under section 2601(a) to provide assistance or services under paragraph (2) unless the HIV health services planning council of the eligible area has made a determination that, with respect to the care of individuals with HIV disease—

"(A) a shortage of specific health, mental health or support service personnel exists within specific institutions or entities in the eligible area;

"(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

"(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the existing resources devoted by such institution or entity to the uses described in such paragraph.

"(d) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(1) PROVISION OF SERVICE.—Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER.—

"(A) IN GENERAL.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

"(e) ADMINISTRATION AND PLANNING.—The chief executive officer of an eligible area shall not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.

"(f) CONSTRUCTION.—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

42 USC 300ff-15.

"SEC. 2605. APPLICATION.

"(a) IN GENERAL.—To be eligible to receive a grant under section 2601, an eligible area shall prepare and submit to the Secretary an application at such time, in such form, and containing such informa-

tion as the Secretary shall require, including assurances adequate to ensure—

"(1)(A) that funds received under a grant awarded under this part will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services to individuals with HIV disease;

"(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services for individuals with HIV disease at a level that is equal to the level of such expenditures by such political subdivisions for the 1-year period preceding the first fiscal year for which a grant is received by the eligible area; and

"(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

"(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 2602, and has developed or will develop the comprehensive plan in accordance with section 2602(b)(3)(B);

"(3) that entities within the eligible area that will receive funds under a grant provided under section 2601(a) shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

"(4) that funds received under a grant awarded under this part will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis; and

"(5) to the maximum extent practicable, that— Disadvantaged persons.

"(A) HIV health care and support services provided with assistance made available under this part will be provided without regard—

"(i) to the ability of the individual to pay for such services; and

"(ii) to the current or past health condition of the individual to be served;

"(B) such services will be provided in a setting that is accessible to low-income individuals with HIV-disease; and

"(C) a program of outreach will be provided to low-income individuals with HIV-disease to inform such individuals of such services.

"(b) ADDITIONAL APPLICATION.—An eligible area that desires to receive a grant under section 2603(b) shall prepare and submit to the Secretary an additional application at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning—

"(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

"(2) demographic data on the population of such individuals;

"(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

"(4) the aggregate amounts expended for each such category of services.

"(c) DATE CERTAIN FOR SUBMISSION.—

"(1) REQUIREMENT.—Except as provided in paragraph (2), to be eligible to receive a grant under section 2601(a) for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 2608 for the fiscal year.

"(2) EXCEPTION.—The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

"(3) DISTRIBUTION BY SECRETARY.—Not later than 45 days after receiving an application that meets the requirements of subsection (a) from an eligible area, the Secretary shall distribute to such eligible area the amounts awarded under the grant for which the application was submitted.

"(4) REDISTRIBUTION.—Any amounts appropriated in any fiscal year under this part and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under 2601(a).

"(d) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant—

"(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

"(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

"(i) will impose a charge on each such individual for the provision of such services; and

"(ii) will impose the charge according to a schedule of charges that is made available to the public;

"(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

"(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

"(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

"(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

"(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

"(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

"(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2601 to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

"(4) WAIVER REGARDING SECONDARY AGREEMENTS.—The requirements established in paragraphs (1) through (3) shall be waived in accordance with section 2604(d)(2).

"SEC. 2606. TECHNICAL ASSISTANCE. 42 USC 300ff-16.

"The Administrator of the Health Resources and Services Administration may, beginning on the date of enactment of this title, provide technical assistance to assist entities in complying with the requirements of this part in order to make such entities eligible to receive a grant under this part.

"SEC. 2607. DEFINITIONS. 42 USC 300ff-17.

"For purposes of this part:

"(1) ELIGIBLE AREA.—The term 'eligible area' means a metropolitan area described in section 2601(a)(1).

"(2) METROPOLITAN AREA.—The term 'metropolitan area' means an area referred to in the HIV/AIDS Surveillance Report of the Centers for Disease Control as a metropolitan area.

"SEC. 2608. AUTHORIZATION OF APPROPRIATIONS. 42 USC 300ff-18.

"There are authorized to be appropriated to make grants under this part, $275,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

SEC. 102. TECHNICAL AND CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 406(a)(2), by striking "2101" and inserting "2701"; 42 USC 284a.

(2) in section 465(f), by striking "2601" and inserting "2701"; 42 USC 286.

42 USC 287a. (3) in section 480(a)(2), by striking "2101" and inserting "2701";

42 USC 287c-2. (4) in section 485(a)(2), by striking "2101" and inserting "2701";

42 USC 289f. (5) in section 497, by striking "2601" and inserting "2701"; and

42 USC 290aa-3a. (6) in section 505(a)(2), by striking "2101" and inserting "2701"; and

42 USC 299c-5. (7) in section 926(b) (as added by section 6103(c)(1) of Public Law 101-239), by striking "2611" each place such term appears and inserting "2711".

TITLE II—HIV CARE GRANTS

SEC. 201. HIV CARE GRANTS.

Title XXVI of the Public Health Service Act (as added by section 101) is amended by adding at the end thereof the following new part:

State and local governments.

"PART B—CARE GRANT PROGRAM

42 USC 300ff-21. **"SEC. 2611. GRANTS.**

"The Secretary shall, subject to the availability of appropriations, make grants to States to enable such States to improve the quality, availability and organization of health care and support services for individuals and families with HIV disease.

42 USC 300ff-22. **"SEC. 2612. GENERAL USE OF GRANTS.**

"(a) IN GENERAL.—A State may use amounts provided under grants made under this part—

"(1) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive continuum of care to individuals and families with HIV disease in accordance with section 2613;

"(2) to provide home- and community-based care services for individuals with HIV disease in accordance with section 2614;

"(3) to provide assistance to assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 2615; and

"(4) to provide treatments, that have been determined to prolong life or prevent serious deterioration of health, to individuals with HIV disease in accordance with section 2616.

"(b) INFANTS AND WOMEN, ETC.—A State shall use not less than 15 percent of funds allocated under this part to provide health and support services to infants, children, women, and families with HIV disease.

42 USC 300ff-23. **"SEC. 2613. GRANTS TO ESTABLISH HIV CARE CONSORTIA.**

"(a) CONSORTIA.—A State may use amounts provided under a grant awarded under this part to provide assistance under section 2612(a)(1) to an entity that—

"(1) is an association of one or more public, and one or more nonprofit private, health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

"(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or

through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease, that may include—

"(A) essential health services such as case management services, medical, nursing, and dental care, diagnostics, monitoring, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

"(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for individuals with HIV disease including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this title as a 'consortium' or 'consortia'.

"(b) ASSURANCES.—

"(1) REQUIREMENT.—To receive assistance from a State under subsection (a), an applicant consortium shall provide the State with assurances that—

"(A) within any locality in which such consortium is to operate, the populations and subpopulations of individuals and families with HIV disease have been identified by the consortium;

"(B) the service plan established under subsection (c)(2) by such consortium addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

"(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A).

"(2) EXCEPTION.—Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that—

"(A) subpopulations exist within the community to be served that have unique service requirements; and

"(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

"(c) APPLICATION.—

"(1) IN GENERAL.—To receive assistance from the State under subsection (a), a consortium shall prepare and submit to the State, an application that—

"(A) demonstrates that the consortium includes agencies and community-based organizations—

"(i) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

"(ii) that are representative of populations and subpopulations reflecting the local incidence of HIV

and that are located in areas in which such populations reside;

"(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include—

"(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

Urban areas.
Suburban areas.

"(ii) assurances that, in metropolitan areas, the geographic area to be served by the consortium corresponds to the geographic boundaries of local health and support services delivery systems to the extent practicable;

Rural areas.

"(iii) assurances that, in the case of services for individuals residing in rural areas, the applicant consortium shall deliver case management services that link available community support services to appropriate specialized medical services; and

"(iv) assurances that the assessment of service needs and the planning of the delivery of services will include participation by individuals with HIV disease;

"(C) demonstrates that adequate planning has occurred to meet the special needs of families with HIV disease, including family centered care;

"(D) demonstrates that the consortium has created a mechanism to evaluate periodically—

"(i) the success of the consortium in responding to identified needs; and

"(ii) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care; and

"(E) demonstrates that the consortium will report to the State the results of the evaluations described in subparagraph (D) and shall make available to the State or the Secretary, on request, such data and information on the program methodology that may be required to perform an independent evaluation.

"(2) CONSULTATION.—In establishing the plan required under paragraph (1)(B), the consortium shall consult with—

"(A)(i) the public health agency that provides or supports ambulatory and outpatient HIV-related health care services within the geographic area to be served; or

"(ii) in the case of a public health agency that does not directly provide such HIV-related health care services such agency shall consult with an entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic area to be served; and

"(B) not less than one community-based organization that is organized solely for the purpose of providing HIV-related support services to individuals with HIV disease.

The organization to be consulted under subparagraph (B) shall be at the discretion of the applicant consortium.

"(d) DEFINITION.—As used in this part, the term 'family centered care' means the system of services described in this section that is

targeted specifically to the special needs of infants, children, women, and families. Family centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV disease.

"(e) PRIORITY.—In providing assistance under subsection (a), the State shall, among applicants that meet the requirements of this section, give priority—

"(1) first to consortia that are receiving assistance from the Health Resources and Services Administration for adult and pediatric HIV-related care demonstration projects; and then

"(2) to any other existing HIV care consortia.

"SEC. 2614. GRANTS FOR HOME- AND COMMUNITY-BASED CARE. 42 USC 300ff-24.

"(a) USES.—A State may use amounts provided under a grant awarded under this part to make grants under section 2612(a)(2) to entities to—

"(1) provide home- and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by a case management team, that shall include appropriate health care professionals, in such State for providing such services to such individuals;

"(2) provide outreach services to individuals with HIV disease, including those individuals in rural areas; and

"(3) provide for the coordination of the provision of services under this section with the provision of HIV-related health services provided by public and private entities.

"(b) PRIORITY.—In awarding grants under subsection (a), a State shall give priority to entities that provide assurances to the State that—

"(1) such entities will participate in HIV care consortia if such consortia exist within the State; and

"(2) such entities will utilize amounts provided under such grants for the provision of home- and community-based services to low-income individuals with HIV disease. Disadvantaged persons.

"(c) DEFINITION.—As used in this part, the term 'home- and community-based health services'—

"(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a case management team, that shall include appropriate health care professionals, for the provision of such services and items described in paragraph (2);

"(2) includes—

"(A) durable medical equipment;

"(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

"(C) day treatment or other partial hospitalization services;

"(D) home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy);

"(E) routine diagnostic testing administered in the home of the individual; and

"(F) appropriate mental health, developmental, and rehabilitation services; and

"(3) does not include—

"(A) inpatient hospital services; and

"(B) nursing home and other long term care facilities.

42 USC 300ff-25.

"SEC. 2615. CONTINUUM OF HEALTH INSURANCE COVERAGE.

"(a) IN GENERAL.—A State may use amounts received under a grant awarded under this part to establish a program of financial assistance under section 2612(a)(3) to assist eligible low-income individuals with HIV disease in—

"(1) maintaining a continuity of health insurance; or

"(2) receiving medical benefits under a health insurance program, including risk-pools.

"(b) LIMITATIONS.—Assistance shall not be utilized under subsection (a)—

"(1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and

"(2) to pay any amount expended by a State under title XIX of the Social Security Act.

42 USC 300ff-26.

"SEC. 2616. PROVISION OF TREATMENTS.

"(a) IN GENERAL.—A State may use amounts provided under a grant awarded under this part to establish a program under section 2612(a)(4) to provide treatments that have been determined to prolong life or prevent the serious deterioration of health arising from HIV disease in eligible individuals.

"(b) ELIGIBLE INDIVIDUAL.—To be eligible to receive assistance from a State under this section an individual shall—

"(1) have a medical diagnosis of HIV disease; and

Disadvantaged persons.

"(2) be a low-income individual, as defined by the State.

"(c) STATE DUTIES.—In carrying out this section the State shall—

"(1) determine, in accordance with guidelines issued by the Secretary, which treatments are eligible to be included under the program established under this section;

"(2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;

"(3) provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals; and

"(4) facilitate access to treatments for such individuals.

42 USC 300ff-27.

"SEC. 2617. STATE APPLICATION.

"(a) IN GENERAL.—The Secretary shall not make a grant to a State under this part for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) DESCRIPTION OF INTENDED USES AND AGREEMENTS.—The application submitted under subsection (a) shall contain—

"(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include—

"(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

"(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

"(C) information concerning—

"(i) the number of individuals to be served with assistance provided under the grant;

"(ii) demographic data on the population of the individuals to be served;

"(iii) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

"(iv) the aggregate amounts expended for each such category of services;

"(2) a comprehensive plan for the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, including—

"(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State; and

"(B) a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease; and

"(3) an assurance by the State that—

"(A) the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part;

"(B) the State will— Disadvantaged persons.

"(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

"(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

"(iii) provide outreach to low-income individuals with HIV disease to inform such individuals of the services available under this part; and

"(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in 2615, submit a plan to the Secretary that

demonstrates that the State has established a program that assures that—

"(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

Public information.

"(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

"(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this part;

"(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

"(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part; and

"(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

"(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(ii) by an entity that provides health services on a prepaid basis.

"(c) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 2611 to a State unless the State provides assurances that in the provision of services with assistance provided under the grant—

"(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

"(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

"(i) will impose charges on each such individual for the provision of such services; and

Public information.

"(ii) will impose charges according to a schedule of charges that is made available to the public;

"(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

"(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not,

for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

"(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

"(2) ASSESSMENT OF CHARGE.—With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

"(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules regarding limitation on the maximum amount of charges; and

"(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

"(3) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under section 2611 unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D), and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

"(4) WAIVER.—

"(A) IN GENERAL.—The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) DETERMINATION.—A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(d) REQUIREMENT OF MATCHING FUNDS REGARDING STATE ALLOTMENTS.—

"(1) IN GENERAL.—In the case of any State to which the criterion described in paragraph (3) applies, the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

"(B) for any second fiscal year of such payments, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

"(C) for any third fiscal year of such payments, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant);

"(D) for any fourth fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant); and

"(E) for any subsequent fiscal year of such payments, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) IN GENERAL.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) INCLUSION OF CERTAIN AMOUNTS.—

"(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title;

"(ii) In making a determination for purposes of clause (i), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in this part) or under other provisions of law.

"(3) APPLICABILITY OF REQUIREMENT.—

"(A) NUMBER OF CASES.—A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

"(B) PERIOD OF TIME.—The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

"(C) PUERTO RICO.—For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

"(4) DIMINISHED STATE CONTRIBUTION.—With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a

grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

"SEC. 2618. DISTRIBUTION OF FUNDS. 42 USC 300ff-28.

"(a) SPECIAL PROJECTS OF A NATIONAL SIGNIFICANCE.—

"(1) IN GENERAL.—Of the amount appropriated under section 2620 for each fiscal year, the Secretary shall use not to exceed 10 percent of such amount to establish and administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

"(2) GRANTS.—The Secretary shall award grants under subsection (a) based on—

"(A) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

"(B) the innovative nature of the proposed activity; and

"(C) the potential replicability of the proposed activity in other similar localities or nationally.

"(3) SPECIAL PROJECTS.—Special projects of a national significance may include those that are designed to—

"(A) establish a system designed to increase the number of health care facilities willing and able to serve low-income individuals and families with HIV disease;

"(B) deliver drug abuse treatment and HIV health care services at a single location, through either an outpatient or residential facility;

"(C) provide support and respite care for participants in family-based care networks critical to the delivery of comprehensive HIV care in the minority community;

"(D) deliver an enhanced spectrum of comprehensive health care and support services to underserved hemophilia populations, including minorities and those in rural and underserved areas, utilizing established networks of hemophilia diagnostic and treatment centers and community-based outreach systems;

"(E) deliver HIV health care and support services to Indians with HIV disease and their families;

"(F) improve the provision of HIV health care and support services to individuals and families with HIV disease located in rural areas;

"(G) deliver HIV health care and support services to homeless individuals and families with HIV disease; and

"(H) deliver HIV health care and support services to individuals with HIV disease who are incarcerated.

"(b) AMOUNT OF GRANT TO STATE.—

"(1) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available under section 2620, the amount of a grant to be made under this part for—

"(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of— District of Columbia.

"(i) $100,000, and

"(ii) an amount determined under paragraph (2); and

Territories, U.S.

"(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).

"(2) DETERMINATION.—

"(A) FORMULA.—The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of—

"(i) an amount equal to the amount appropriated under section 2620 for the fiscal year involved; and

"(ii) the ratio of the distribution factor for the State or territory to the sum of the distribution factors for all the States or territories.

"(B) DISTRIBUTION FACTOR.—As used in subparagraph (A)(ii), the term 'distribution factor' means—

"(i) in the case of a State, the product of—

"(I) the number of cases of acquired immune deficiency syndrome in the State, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data are available; and

"(II) the cube root of the ratio (based on the most recent available data) of—

"(aa) the average per capita income of individuals in the United States (including the territories); to

"(bb) the average per capita income of individuals in the State; and

"(ii) in the case of a territory of the United States the number of additional cases of such syndrome in the specific territory, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available.

"(3) DEFINITIONS.—As used in this subsection—

"(A) the term 'State' means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

"(B) the term 'territory of the United States' means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

"(c) ALLOCATION OF ASSISTANCE BY STATES.—

"(1) CONSORTIA.—In a State that has reported 1 percent or more of all AIDS cases reported to and confirmed by the Centers for Disease Control in all States, not less than 50 percent of the amount received by the State under a grant awarded under this part shall be utilized for the creation and operation of community-based comprehensive care consortia under section 2613, in those areas within the State in which the largest number of individuals with HIV disease reside.

"(2) ALLOWANCES.—Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A.

"(3) PLANNING AND EVALUATIONS.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

"(4) ADMINISTRATION.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.

"(5) CONSTRUCTION.—A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

"(d) EXPEDITED DISTRIBUTION.—

"(1) IN GENERAL.—Not less than 75 percent of the amounts received under a grant awarded to a State under this part shall be obligated to specific programs and projects and made available for expenditure not later than—

"(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and

"(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

"(2) PUBLIC COMMENT.—Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

"(e) REALLOCATION.—Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) shall be repaid to the Secretary and reallotted to other States in proportion to the original grants made to such States.

"SEC. 2619. TECHNICAL ASSISTANCE. 42 USC 300ff-29.

"The Secretary may provide technical assistance in administering and coordinating the activities authorized under section 2612.

"SEC. 2620. AUTHORIZATION OF APPROPRIATIONS. 42 USC 300ff-30.

"There are authorized to be appropriated to make grants under this part, $275,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.".

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. GRANTS FOR PROVISION OF SERVICES. Contracts.

(a) IN GENERAL.—Title XXVI of the Public Health Service Act (as amended by section 201) is further amended by adding at the end the following new part:

"PART C—EARLY INTERVENTION SERVICES

"Subpart I—Formula Grants for States

"SEC. 2641. ESTABLISHMENT OF PROGRAM. 42 USC 300ff-41.

"(a) ALLOTMENTS FOR STATES.—For the purposes described in subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and in consultation with the Administrator of the Health Resources and Services Administration, shall

for each of the fiscal years 1991 through 1995 make an allotment for each State in an amount determined in accordance with section 2649. The Secretary shall make payments, as grants, to each State from the allotment for the State for the fiscal year involved if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 2665.

"(b) PURPOSES OF GRANTS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

"(2) SPECIFICATION OF EARLY INTERVENTION SERVICES.—The early intervention services referred to in paragraph (1) are—

"(A) counseling individuals with respect to HIV disease in accordance with section 2662;

"(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

"(C) referrals described in paragraph (3);

"(D) other clinical and diagnostic services with respect to HIV disease, and periodic medical evaluations of individuals with the disease; and

"(E) providing the therapeutic measures described in subparagraph (B).

"(3) REFERRALS.—The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

"(A) to entities receiving amounts under part A or B for the provision of such services;

"(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

"(C) to grantees under section 2671, in the case of pregnant women.

"(4) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that each of the early intervention services specified in paragraph (2) will be available through the State. With respect to compliance with such agreement, a State may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities under which the entities provide the services.

"(5) OPTIONAL SERVICES.—A State receiving a grant under subsection (a)—

"(A) may expend not more than 5 percent of the grant to provide early intervention services through making grants to hospitals that—

"(i) for the most recent fiscal year for which the data is available, have admitted—

"(I) not fewer than 250 individuals with acquired immune deficiency syndrome; or

"(II) a number of such individuals constituting 20 percent of the number of inpatients of the hospital admitted during such period;

"(ii) agree to offer and encourage such services with respect to inpatients of the hospitals; and

"(iii) agree that subsections (c) and (d) of section 2644 will apply to the hospitals to the same extent and in the same manner as such subsections apply to entities described in such section;

"(B) may expend the grant to provide outreach services to individuals who may have HIV disease, or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

"(C) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

"(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

"(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

"(6) ALLOCATIONS.—

"(A) Subject to subparagraphs (B) and (C), the Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(i) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2); and

"(ii) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (D) and (E) of such paragraph.

"(B) With respect to compliance with the agreement under subparagraph (A), amounts reserved by a State for fiscal year 1991 for purposes of clauses (i) and (ii) of such subparagraph may be expended to provide the services specified in paragraph (5).

"(C) The Secretary shall ensure that, of the amounts appropriated under section 2650 for fiscal year 1991, an amount equal to $130,000,000 is expended to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2).

"SEC. 2642. PROVISION OF SERVICES THROUGH MEDICAID PROVIDERS. 42 USC 300ff-42.

"(a) IN GENERAL.—Subject to subsection (b), the Secretary may not make a grant under section 2641 to a State unless, in the case of any service described in subsection (b) of such section that is available

pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(1) the State will provide the service through a State entity, and the State entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(2) the State will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(b) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(1) IN GENERAL.—In the case of an entity making an agreement pursuant to subsection (a)(2) regarding the provision of services, the requirement established in such subsection regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(2) ACCEPTANCE OF VOLUNTARY DONATIONS.—A determination by the Secretary of whether an entity referred to in paragraph (1) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

42 USC 300ff-43.

"SEC. 2643. REQUIREMENT OF MATCHING FUNDS.

"(a) IN GENERAL.—In the case of any State to which the criterion described in subsection (c) applies, the Secretary may not make a grant under section 2641 unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the purpose referred to in such subsection, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(1) for the first fiscal year for which such criterion applies to the State, not less than 16⅔ percent of such costs ($1 for each $5 of Federal funds provided in the grant);

"(2) for any second such fiscal year, not less than 20 percent of such costs ($1 for each $4 of Federal funds provided in the grant);

"(3) for any third such fiscal year, not less than 25 percent of such costs ($1 for each $3 of Federal funds provided in the grant); and

"(4) for any subsequent fiscal year, not less than 33⅓ percent of such costs ($1 for each $2 of Federal funds provided in the grant).

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(1) IN GENERAL.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(2) INCLUSION OF CERTAIN AMOUNTS.—

"(A) In making a determination of the amount of non-Federal contributions made by a State for purposes of subsection (a), the Secretary shall, subject to subparagraph (B), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title.

"(B) In making a determination for purposes of subparagraph (A), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in section 2641) or under other provisions of law.

"(c) APPLICABILITY OF MATCHING REQUIREMENT.—

"(1) PERCENTAGE OF NATIONAL NUMBER OF CASES.—

"(A) The criterion referred to in subsection (a) is, with respect to a State, that the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the State for the period described in subparagraph (B) constitutes more than 1 percent of the number of such cases reported to and confirmed by the Director for the United States for such period.

"(B) The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under section 2641.

"(2) EXEMPTION.—For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent. Puerto Rico.

"(d) DIMINISHED STATE CONTRIBUTION.—With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in subsection (a), the State shall continue to be eligible to receive Federal funds under a grant under section 2641, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

"SEC. 2644. OFFERING AND ENCOURAGING EARLY INTERVENTION SERVICES. 42 USC 300ff-44.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2641 unless, in the case of entities to which the State provides amounts from the grant for the provision of early intervention services, the State involved agrees that—

"(1) if the entity is a health care provider that regularly provides treatment for sexually transmitted diseases, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

"(2) if the entity is a health care provider that regularly provides treatment for intravenous substance abuse, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment;

"(3) if the entity is a family planning clinic, the entity will offer and encourage such services with respect to individuals to whom the entity provides family planning services and whom the entity has reason to believe has HIV disease; and

"(4) if the entity is a health care provider that provides treatment for tuberculosis, the entity will offer and encourage such services with respect to individuals to whom the entity provides such treatment.

"(b) SUFFICIENCY OF AMOUNT OF GRANT.—With respect to compliance with the agreement made under subsection (a), an entity to which subsection (a) applies may be required to offer, encourage, and provide early intervention services only to the extent that the amount of the grant is sufficient to pay the costs of offering, encouraging, and providing the services.

"(c) CRITERIA FOR OFFERING AND ENCOURAGING.—Subject to section 2641(b)(4), an entity to which subsection (a) applies is, for purposes of such subsection, offering and encouraging early intervention services with respect to the individuals involved if the entity—

"(1) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing the health care involved; and

"(2) provides the early intervention services only with the consent of the individuals.

42 USC 300ff-45.

"SEC. 2645. NOTIFICATION OF CERTAIN INDIVIDUALS RECEIVING BLOOD TRANSFUSIONS.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2641 unless the State involved provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1, 1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will provide public education and information for the purpose of—

"(1) encouraging the population of such individuals to receive early intervention services; and

"(2) informing such population of any health facilities in the geographic area involved that provide such services.

"(b) RULE OF CONSTRUCTION.—An agreement made under subsection (a) may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 2641 provide individual notifications to the individuals described in such subsection.

42 USC 300ff-46.

"SEC. 2646. REPORTING AND PARTNER NOTIFICATION.

Classified information.

"(a) REPORTING.—The Secretary may not make a grant under section 2641 unless, with respect to testing for HIV disease, the State involved provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

"(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such disease;

"(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease; and

"(3) to assess the adequacy of early intervention services in the State.

"(b) PARTNER NOTIFICATION.—The Secretary may not make a grant under section 2641 unless the State involved provides assurances satisfactory to the Secretary that the State will require that the public health officer of the State, to the extent appropriate in

the determination of the officer, carry out a program of partner notification regarding cases of HIV disease.

"(c) RULES OF CONSTRUCTION.—An agreement made under this section may not be construed—

"(1) to require or prohibit any State from providing that identifying information concerning individuals with HIV disease is required to be submitted to the State; or

"(2) to require any State to establish a requirement that entities other than the public health officer of the State are required to make the notifications referred to in subsection (b).

"SEC. 2647. REQUIREMENT OF STATE LAW PROTECTION AGAINST INTENTIONAL TRANSMISSION. 42 USC 300ff-47.

"(a) IN GENERAL.—The Secretary may not make a grant under section 2641 to a State unless the chief executive officer determines that the criminal laws of the State are adequate to prosecute any HIV infected individual, subject to the condition described in subsection (b), who—

"(1) makes a donation of blood, semen, or breast milk, if the individual knows that he or she is infected with HIV and intends, through such donation, to expose another HIV in the event that the donation is utilized;

"(2) engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV; and

"(3) injects himself or herself with a hypodermic needle and subsequently provides the needle to another person for purposes of hypodermic injection, if the individual knows that he or she is infected and intends, through the provision of the needle, to expose another to such etiologic agent in the event that the needle is utilized.

"(b) CONSENT TO RISK OF TRANSMISSION.—The State laws described in subsection (a) need not apply to circumstances under which the conduct described in paragraphs (1) through (3) of subsection (a) if the individual who is subjected to the behavior involved knows that the other individual is infected and provides prior informed consent to the activity.

"(c) STATE CERTIFICATION WITH RESPECT TO REQUIRED LAWS.—With respect to complying with subsection (a) as a condition of receiving a grant under section 2601, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State are adequate. The existence of a criminal law of general application, which can be applied to the conduct described in paragraphs (1) through (3) of subsection (a) is sufficient for compliance with this section.

"(d) TIME LIMITATIONS WITH RESPECT TO REQUIRED LAWS.—With respect to receiving a grant under section 2601, if a State is unable to certify compliance with subsection (a), the Secretary may make a grant to a State under such section if—

"(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State has in place or will establish the prohibitions described in subsection (a); and

"(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions.

42 USC 300ff-49.

"SEC. 2649. DETERMINATION OF AMOUNT OF ALLOTMENTS.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2641(a) for a State for a fiscal year shall be the greater of—

District of Columbia. Puerto Rico. Territories, U.S.

"(1) $100,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 for each of the territories of the United States other than the Commonwealth of Puerto Rico; and

"(2) an amount determined under subsection (b).

"(b) DETERMINATION UNDER FORMULA.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount appropriated under subsection (a) of section 2650 for the fiscal year involved; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the State involved for the most recent fiscal year for which such data is available; divided by

"(B) an amount equal to the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control for the United States for the most recent fiscal year for which such data is available.

"(c) CERTAIN ALLOCATIONS BY SECRETARY.—After determining the amount of an allotment under this subsection (a) for a fiscal year, the Secretary shall reduce the amount of the allotment of each State by 10 percent. From the amounts available as a result of such reductions, the Secretary shall, on a discretionary basis, make grants to States receiving allotments for the fiscal year involved. Such grants shall be made subject to each of the agreements and assurances required as a condition of receiving grants under section 2641.

"(d) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) IN GENERAL.—Any amounts available pursuant to paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary each fiscal year to States receiving payments under section 2641(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). The Secretary shall make payments, as grants, to each such State from any such allotment for the State for the fiscal year involved.

"(2) SPECIFICATION OF AMOUNTS.—The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2641(a) as a result of—

"(A) the failure of any State to submit an application under section 2651;

"(B) the failure, in the determination of the Secretary, of any State to prepare the application in compliance with such section or to submit the application within a reasonable period of time; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(3) AMOUNT OF ALLOTMENT.—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount available pursuant to paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

"(e) TRANSITION RULES.—

"(1) For the fiscal years 1991 through 1993, the amount of an allotment under section 2641 shall be the greater of the amount determined under subsection (a) and an amount equal to the amount applicable under paragraph (2) for the fiscal year involved.

"(2) For purposes of paragraph (1)—

"(A) the amount applicable for fiscal year 1991 is an amount equal to the amount received by the State involved from the Secretary, acting through the Director of the Centers for Disease Control, for fiscal year 1990 for the provision of counseling and testing services with respect to HIV;

"(B) the amount applicable for fiscal year 1992 is 85 percent of the amount specified in subparagraph (A); and

"(C) the amount applicable for fiscal year 1993 is 70 percent of the amount specified in subparagraph (A).

"SEC. 2649A. MISCELLANEOUS PROVISIONS.

42 USC 300ff-49a.

The Secretary may not make a grant under section 2641 unless—

"(1) the State involved submits to the Secretary a comprehensive plan for the organization and delivery of the early intervention services to be funded with the grant that includes a description of the purposes for which the State intends to use such assistance, including—

"(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with the grant will maximize the quality of early intervention services available to individuals with HIV disease throughout the State; and

"(B) a description of the manner in which services funded with the grant will be coordinated with other available related services for individuals with HIV disease; and

"(2) the State agrees that—

"(A) the public health agency administering the grant will conduct public hearings regarding the proposed use and distribution of the grant;

"(B) to the maximum extent practicable, early intervention services delivered pursuant to the grant will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

"(C) early intervention services under the grant will be provided in settings accessible to low-income individuals with HIV disease; and

Disadvantaged persons.

"(D) outreach to low-income individuals with HIV disease will be provided to inform such individuals of the services available pursuant to the grant.

42 USC 300ff-50. "SEC. 2650. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of making grants under section 2641, there are authorized to be appropriated $230,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

"Subpart II—Categorical Grants

42 USC 300ff-51. "SEC. 2651. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and nonprofit private entities specified in section 2652(a)(1).

"(b) PURPOSES OF GRANTS.—

Contracts. "(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

"(2) SPECIFICATION OF EARLY INTERVENTION SERVICES.—The early intervention services referred to in paragraph (1) are—

"(A) counseling individuals with respect to HIV disease in accordance with section 2662;

"(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

"(C) referrals described in paragraph (3);

"(D) other clinical and diagnostic services regarding HIV disease, and periodic medical evaluations of individuals with the disease;

"(E) providing the therapeutic measures described in subparagraph (B).

"(3) REFERRALS.—The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate—

"(A) to entities receiving amounts under part A or B for the provision of such services;

"(B) to biomedical research facility of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

"(C) to grantees under section 2671, in the case of a pregnant woman.

Contracts. "(4) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements

with public or nonprofit private entities under which the entities provide the services.

"(5) OPTIONAL SERVICES.—A grantee under subsection (a)—

"(A) may expend the grant to provide outreach services to individuals who may have HIV disease or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

"(B) may, in the case of individuals who seek early intervention services from the grantee, expend the grant—

"(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

"(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

"(c) PARTICIPATION IN CERTAIN CONSORTIUM.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to make reasonable efforts to participate in a consortium established with a grant under section 2612(a)(1) regarding comprehensive services to individuals with HIV disease, if such a consortium exist in the geographic area with respect to which the applicant is applying to receive such a grant.

"SEC. 2652. MINIMUM QUALIFICATIONS OF GRANTEES. 42 USC 300ff-52.

"(a) IN GENERAL.—The entities referred to in subsection (b) are public entities and nonprofit private entities that are—

"(A) migrant health centers under section 329 or community health centers under section 330;

"(B) grantees under section 340 (regarding health services for the homeless);

"(C) grantees under section 1001 (regarding family planning) other than States;

"(D) comprehensive hemophilia diagnostic and treatment centers;

"(E) Federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act; or

"(F) a nonprofit private entity that provides comprehensive primary care services to populations at risk of HIV disease.

"(b) STATUS AS MEDICAID PROVIDER.— Contracts.

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under section 2651 for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

"(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

42 USC 300ff-53. "SEC. 2653. PREFERENCES IN MAKING GRANTS.

"(a) IN GENERAL.—In making grants under section 2651, the Secretary shall give preference to any qualified applicant experiencing an increase in the burden of providing services regarding HIV disease, as indicated by the factors specified in subsection (b).

"(b) SPECIFICATION OF FACTORS.—

"(1) IN GENERAL.—In the case of the geographic area with respect to which the entity involved is applying for a grant under section 2651, the factors referred to in subsection (a), as determined for the period specified in paragraph (2), are—

"(A) the number of cases of acquired immune deficiency syndrome;

"(B) the rate of increase in such cases;

"(C) the lack of availability of early intervention services;

"(D) the number of other cases of sexually transmitted diseases, and the number of cases of tuberculosis and of drug abuse;

"(E) the rate of increase in each of the cases specified in subparagraph (D);

"(F) the lack of availability of primary health services from providers other than such applicant; and

"(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

"(2) RELEVANT PERIOD OF TIME.—The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 2651.

Urban areas. Rural areas. "(c) EQUITABLE ALLOCATIONS.—In providing preferences for purposes of subsection (b), the Secretary shall equitably allocate the preferences among urban and rural areas.

42 USC 300ff-54. "SEC. 2654. MISCELLANEOUS PROVISIONS.

"(a) SERVICES FOR INDIVIDUALS WITH HEMOPHILIA.—In making grants under section 2651, the Secretary shall ensure that any such

grants made regarding the provision of early intervention services to individuals with hemophilia are made through the network of comprehensive hemophilia diagnostic and treatment centers.

"(b) TECHNICAL ASSISTANCE.—The Secretary may, directly or through grants or contracts, provide technical assistance to nonprofit private entities regarding the process of submitting to the Secretary applications for grants under section 2651, and may provide technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to such section.

"SEC. 2655. AUTHORIZATION OF APPROPRIATIONS. 42 USC 300ff-55.

"For the purpose of making grants under section 2651, there are authorized to be appropriated $75,000,000 for fiscal years 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

"Subpart III—General Provisions

"SEC. 2661. CONFIDENTIALITY AND INFORMED CONSENT. 42 USC 300ff-61.

"(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part unless—

"(1) in the case of any State applying for a grant under section 2641, the State agrees to ensure that information regarding the receipt of early intervention services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and

"(2) in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

"(b) INFORMED CONSENT.—

"(1) IN GENERAL.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV disease, the applicant will test an individual only after obtaining from the individual a statement, made in writing and signed by the individual, declaring that the individual has undergone the counseling described in section 2662(a) and that the decision of the individual with respect to undergoing such testing is voluntarily made.

"(2) PROVISIONS REGARDING ANONYMOUS TESTING.—

"(A) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part through the use of a pseudonym, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual signs the statement described in such subsection using the pseudonym.

"(B) If, pursuant to section 2664(b), an individual will undergo testing pursuant to this part without providing any information relating to the identity of the individual, a grantee under such section shall be considered to be in compliance with the agreement made under paragraph (1) if the individual orally provides the declaration described in such paragraph.

42 USC 300ff-62.

"SEC. 2662. PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, before testing an individual for HIV disease, the applicant will provide to the individual appropriate counseling regarding the disease (based on the most recently available scientific data), including counseling on—

"(1) measures for the prevention of exposure to, and the transmission of, HIV;

"(2) the accuracy and reliability of the results of testing for HIV disease;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome;

"(4) encouraging the individual, as appropriate, to undergo such testing;

"(5) the benefits of such testing, including the medical benefits of diagnosing HIV disease in the early stages and the medical benefits of receiving early intervention services during such stages;

"(6) provisions of law relating to the confidentiality of the process of receiving such services, including information regarding any disclosures that may be authorized under applicable law and information regarding the availability of anonymous counseling and testing pursuant to section 2664(b); and

"(7) provisions of applicable law relating to discrimination against individuals with HIV disease.

"(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV disease indicate that an individual does not have the disease, the applicant will review for the individual the information provided pursuant to subsection (a), including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual regarding such disease.

"(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV disease indicate that the individual has the disease, the applicant will provide to the individual appropriate counseling regarding such disease, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding such disease; and

"(3) providing counseling on—

"(A) the availability, through the applicant, of early intervention services;

"(B) the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

"(C) the benefits of locating and counseling any individual by whom the infected individual may have been ex-

posed to HIV and any individual whom the infected individual may have exposed to HIV; and

"(D) the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C).

"(d) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV disease, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

"(e) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV disease, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

"(f) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV disease as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"SEC. 2663. APPLICABILITY OF REQUIREMENTS REGARDING CONFIDENTIALITY, INFORMED CONSENT, AND COUNSELING. 42 USC 300ff-63.

"The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV disease, any such testing carried out by the applicant will, without regard to whether such testing is carried out with Federal funds, be carried out in accordance with conditions described in sections 2661 and 2662.

"SEC. 2664. ADDITIONAL REQUIRED AGREEMENTS. 42 USC 300ff-64.

"(a) REPORTS TO SECRETARY.—The Secretary may not make a grant under this part unless—

"(1) the applicant submits to the Secretary—

"(A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant; and

"(B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year; and

"(2) the applicant agrees to submit to the Secretary a report providing— Reports.

"(A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

"(B) epidemiological and demographic data on the population of such individuals;

"(C) the extent to which the costs of HIV-related health care for such individuals are paid by third-party payors;

"(D) the average costs of providing each category of early intervention service; and

"(E) the aggregate amounts expended for each such category.

"(b) PROVISION OF OPPORTUNITIES FOR ANONYMOUS COUNSELING AND TESTING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual—

"(1) to undergo counseling and testing regarding HIV disease without being required to provide any information relating to the identity of the individual; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

"(c) PROHIBITION AGAINST REQUIRING TESTING AS CONDITION OF RECEIVING OTHER HEALTH SERVICES.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

"(d) MAINTENANCE OF SUPPORT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees to maintain the expenditures of the applicant for early intervention services at a level equal to not less than the level of such expenditures maintained by the State for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant.

"(e) REQUIREMENTS REGARDING IMPOSITION OF CHARGES FOR SERVICES.—

"(1) IN GENERAL.—The Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

"(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the applicant will not impose a charge on any such individual for the provision of early intervention services under the grant;

"(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the applicant—

"(i) will impose a charge on each such individual for the provision of such services; and

"(ii) will impose the charge according to a schedule of charges that is made available to the public.

"(2) LIMITATION ON CHARGES REGARDING INDIVIDUALS SUBJECT TO CHARGES.—With respect to the imposition of a charge for purposes of paragraph (1)(B)(ii), the Secretary may not make a grant under this part unless, subject to paragraph (5), the applicant for the grant agrees that—

"(A) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

"(B) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the applicant will not, for any calendar year, impose charges in an

amount exceeding 7 percent of the annual gross income of the individual involved; and

"(C) in the case of individuals with an income greater than 300 percent of the official poverty line, the applicant will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

"(3) ASSESSMENT OF CHARGE.—With respect to compliance with the agreement made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph—

"(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and of paragraph (2) regarding limitations on the maximum amount of charges; and

"(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

"(4) APPLICABILITY OF LIMITATION ON AMOUNT OF CHARGE.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that the limitations established in paragraph (2) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or similar charges.

(5) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—The requirement established in paragraph (1)(B)(i) shall be waived by the Secretary in the case of any entity for whom the Secretary has granted a waiver under section 2642(b) or 2652(b)(2).

"(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, subject to paragraph (2), the grant will not be expended by the applicant, or by any entity receiving amounts from the applicant for the provision of early intervention services, to make payment for any such service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—An agreement made under paragraph (1) shall not apply in the case of an entity through which a grantee under this part provides early intervention services if the Secretary has provided a waiver under section 2642(b) or 2652(b)(2) regarding the entity.

"(g) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that—

"(1) the applicant will not expend amounts received pursuant to this part for any purpose other than the purposes described in the subpart under which the grant involved is made;

"(2) the applicant will establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant; and

"(3) the applicant will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

"(h) CONSTRUCTION.—A State may not use amounts received under a grant awarded under section 2641 to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

42 USC 300ff-65.

"SEC. 2665. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make a grant under this part unless—

"(1) an application for the grant is submitted to the Secretary containing agreements and assurances in accordance with this part and containing the information specified in section 2664(a)(1);

"(2) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

42 USC 300ff-66.

"SEC. 2666. PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) IN GENERAL.—Upon the request of a grantee under this part, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the grantee in providing early intervention services and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(b) LIMITATION.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the grant involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

42 USC 300ff-67.

"SEC. 2667. USE OF FUNDS.

"Counseling programs carried out under this part—

"(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual;

Public information.

"(2) shall be designed to reduce exposure to and transmission of HIV disease by providing accurate information; and

Sexual activities. Drugs and drug abuse.

"(3) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.".

(b) REVISION, EXTENSION, AND TRANSFER OF PROGRAM OF PRISON TESTING ACT OF 1988.—

(1) TRANSFER OF PROGRAM.—Section 902 of Public Law 100-607— 42 USC 300ee-6, 300ff-48.

(A) is transferred to part C of title XXVI of the Public Health Service Act, as added by subsection (a) of this Act;

(B) is redesignated as section 2648; and 42 USC 300ff-48.

(C) is inserted after section 2647 of such part C.

(2) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM.—Section 2648(g) of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking "1990" and inserting "1995".

(3) REVISION OF PROGRAM.—Section 2648 of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking subsections (a) through (f) and inserting the following: Prisoners.

"(a) IN GENERAL.—In addition to grants under section 2641, the Secretary may make grants to States for the purpose of assisting the States in providing early intervention services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d), that—

"(1) the services be provided to such individuals; and

"(2) each such individual be informed of the requirements of subsection (c) regarding testing and be informed of the results of such testing of the individual.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than $1 for each $2 of Federal funds provided in the grant; and

"(B) for any subsequent fiscal year of such payments, not less than $1 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and services (or portions of services) subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(c) TESTING.—The Secretary may not make a grant under subsection (a) unless—

"(1) the State involved requires that, subject to subsection (d), any individual sentenced by the State to a term of imprisonment be tested for HIV disease—

"(A) upon entering the State penal system; and

"(B) during the 30-day period preceding the date on which the individual is released from such system;

"(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State—

"(A) upon the request of any such employee, provides the results to the employee in any case in which the medical

officer of the prison determines that there is a reasonable basis for believing that the employee has been exposed by the individual to such disease; and

"(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

"(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State—

"(A) upon the request of the spouse, provides such results to the spouse prior to any conjugal visit and provides such results to the spouse during the period described in paragraph (1)(B); and

"(B) informs the spouse of the availability to the spouse of such results under the conditions described in subparagraph (A);

"(4) with respect to such testing upon entering the State penal system of such an individual who has been convicted of rape or aggravated sexual assault, the State—

"(A) upon the request of the victim of the rape or assault, provides such results to the victim; and

"(B) informs the victim of the availability to the victim of such results; and

Classified information.

"(5) the State, except as provided in any of paragraphs (2) through (4), maintains the confidentiality of the results of testing for HIV disease in each prison operated by the State or with amounts provided by the State, and makes disclosures of such results only as medically necessary.

"(d) DETERMINATION OF PRISONS SUBJECT TO REQUIREMENT.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the requirement established in such subsection regarding the provision of early intervention services to inmates will apply only to inmates who are incarcerated in prisons with respect to which the State public health officer, after consultation with the chief State correctional officer, has, on the basis of the criteria described in paragraph (2), determined that the provision of such services is appropriate with respect to the public health and safety.

"(2) DESCRIPTION OF CRITERIA.—The criteria to be considered for purposes of paragraph (1) are—

"(A) with respect to the geographic areas in which inmates of the prison involved resided before incarceration in the prison—

"(i) the severity of the epidemic of HIV disease in the areas during the period in which the inmates resided in the areas; and

"(ii) the incidence, in the areas during such period, of behavior that places individuals at significant risk of developing HIV disease; and

"(B) the extent to which medical examinations conducted by the State for inmates of the prison involved indicate that the inmates have engaged in such behavior.

"(e) APPLICABILITY OF PROVISIONS REGARDING INFORMED CONSENT, COUNSELING, AND OTHER MATTERS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that sections 2641(b)(4), 2662, and 2664(c) will apply to the provision of early intervention services pursuant to the grant in the same

manner and to the same extent as such sections apply to the provision of such services by grantees under section 2641.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) RULE OF CONSTRUCTION.—With respect to testing inmates of State prisons for HIV disease without the consent of the inmates, the agreements made under this section may not be construed to authorize, prohibit, or require any State to conduct such testing, except as provided in subparagraphs (A) and (B) of subsection (c)(1).".

(4) TECHNICAL AMENDMENTS.—Section 2648 of the Public Health Service Act, as transferred and added by paragraph (1) of this subsection, is amended by striking the heading and inserting the following: "TESTING AND OTHER EARLY INTERVENTION SERVICES FOR STATE PRISONERS.".

TITLE IV—GENERAL PROVISIONS, REPORTS AND EVALUATIONS

Subtitle A—General Provisions

SEC. 401. GENERAL PROVISIONS.

Title XXVI of the Public Health Service Act (as added by section 101 and amended by sections 201 and 301) is further amended by adding at the end thereof the following new part:

"PART D—GENERAL PROVISIONS

"SEC. 2671. DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME. 42 USC 300ff-71.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and the Director of the National Institutes of Health, shall make demonstration grants to community health centers, and other appropriate public or nonprofit private entities that provide primary health care to the public, for the purpose of— Health care facilities.

"(1) conducting, at the health facilities of such entities, clinical research on therapies for pediatric patients with HIV disease as well as pregnant women with HIV disease; and Women.

"(2) with respect to the pediatric patients who participate in such research, providing health care on an outpatient basis to such patients and the families of such patients.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health facility operated by the applicant for the grant serves a significant number of pediatric patients and pregnant women with HIV disease. Women.

"(c) COOPERATION WITH BIOMEDICAL INSTITUTIONS.—

"(1) DESIGN OF RESEARCH PROTOCOL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant—

"(A) has entered into a cooperative agreement or contract with an appropriately qualified entity with expertise in biomedical research under which the entity will assist the applicant in designing and conducting a protocol for the research to be conducted pursuant to the grant; and

"(B) agrees to provide the clinical data developed in the research to the Director of the National Institutes of Health.

"(2) ANALYSIS AND EVALUATION.—The Secretary, acting through the Director of the National Institutes of Health—

"(A) may assist grantees under subsection (a) in designing and conducting protocols described in subparagraph (A) of paragraph (1); and

"(B) shall analyze and evaluate the data submitted to the Director pursuant to subparagraph (B) of such paragraph.

"(d) CASE MANAGEMENT.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the case management of the pediatric patient involved and the family of the patient.

"(e) REFERRALS FOR ADDITIONAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide for the pediatric patient involved and the family of the patient—

"(1) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(2) referrals for other social and support services, as appropriate.

"(f) INCIDENTAL SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to provide the family of the pediatric patient involved with such transportation, child care, and other incidental services as may be necessary to enable the pediatric patient and the family of the patient to participate in the program established by the applicant pursuant to such subsection.

"(g) APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

Contracts.

"(h) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(i) DEFINITION.—For purposes of this section, the term 'community health center' has the meaning given such term in section 330(a).

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

42 USC 300ff-72.

"SEC. 2672. PROVISIONS RELATING TO BLOOD BANKS.

"(a) INFORMATIONAL AND TRAINING PROGRAMS.—The Secretary shall—

Safety.

"(1) develop and make available to technical and supervisory personnel employed at blood banks and facilities that produce blood products, materials and information concerning measures that may be implemented to protect the safety of the blood

supply with respect to the activities of such personnel, including—

"(A) state-of-the-art diagnostic and testing procedures relating to pathogens in the blood supply; and

"(B) quality assurance procedures relating to the safety of the blood supply and of blood products; and

"(2) develop and implement a training program that is designed to increase the number of employees of the Department of Health and Human Services who are qualified to conduct inspections of blood banks and facilities that produce blood products.

"(b) UPDATES.—The Secretary shall periodically review and update the materials and information made available under informational or training programs conducted under subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,500,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 through 1995.

"SEC. 2673. RESEARCH, EVALUATION, AND ASSESSMENT PROGRAM. 42 USC 300ff-73.

"(a) ESTABLISHMENT.—The Secretary, acting through the Agency for Health Care Policy and Research, shall establish a program to enable independent research to be conducted by individuals and organizations with appropriate expertise in the fields of health, health policy, and economics (particularly health care economics) to develop—

"(1) a comparative assessment of the impact and cost-effectiveness of major models for organizing and delivering HIV-related health care, mental health care, early intervention, and support services, that shall include a report concerning patient outcomes, satisfaction, perceived quality of care, and total cumulative cost, and a review of the appropriateness of such models for the delivery of health and support services to infants, children, women, and families with HIV disease;

"(2) through a review of private sector financing mechanisms for the delivery of HIV-related health and support services, an assessment of strategies for maintaining private health benefits for individuals with HIV disease and an assessment of specific business practices or regulatory barriers that could serve to reduce access to private sector benefit programs;

"(3) an assessment of the manner in which different points-of-entry to the health care system affect the cost, quality, and outcome of the care and treatment of individuals and families with HIV disease; and

"(4) a summary report concerning the major and continuing unmet needs in health care, mental health care, early intervention, and support services for individuals and families with HIV disease in urban and rural areas. Reports.

"(b) REPORT.—Not later than 2 years after the date of enactment of this title, and periodically thereafter, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a progress report that contains the findings and assessments developed under subsection (a).

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

42 USC 300ff-74. "SEC. 2674. EVALUATIONS AND REPORTS.

Contracts. "(a) EVALUATIONS.—The Secretary shall, directly or through grants and contracts, evaluate programs carried out under this title.

"(b) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under this title, and annually thereafter, prepare and submit to the appropriate Committees of Congress a report—

"(1) summarizing all of the reports that are required to be submitted to the Secretary under this title;

"(2) recommending criteria to be used in determining the geographic areas with the most substantial need for HIV-related health services;

"(3) summarizing all of the evaluations carried out pursuant to subsection (a) during the period for which the report under this subsection is prepared; and

"(4) making such recommendations for administrative and legislative initiatives with respect to this title as the Secretary determines to be appropriate.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

42 USC 300ff-75. "SEC. 2675. COORDINATION.

"(a) REQUIREMENT.—The Secretary shall assure that the Health Resources and Services Administration and the Centers for Disease Control will coordinate the planning of the funding of programs authorized under this title to assure that health support services for individuals with HIV disease are integrated with each other and that the continuity of care of individuals with HIV disease is enhanced. In coordinating the allocation of funds made available under this title the Health Resources and Services Administration and the Centers for Disease Control shall utilize planning information submitted to such agencies by the States and entities eligible for support.

"(b) INTEGRATION BY STATE.—As a condition of receipt of funds under this title, a State shall assure the Secretary that health support services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV disease is enhanced.

"(c) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.—As a condition of receipt of funds under this title, a local government or private nonprofit entity shall assure the Secretary that services funded under this title will be integrated with each other, that programs will be coordinated with other available programs (including Medicaid) and that the continuity of care of individuals with HIV is enhanced.

42 USC 300ff-76. "SEC. 2676. DEFINITIONS.

"For purposes of this title:

"(1) COUNSELING.—The term 'counseling' means such counseling provided by an individual trained to provide such counseling.

"(2) DESIGNATED OFFICER OF EMERGENCY RESPONSE EMPLOYEES.—The term 'designated officer of emergency response employees' means an individual designated under section 26____ by the public health officer of the State involved.

"(3) EMERGENCY.—The term 'emergency' means an emergency involving injury or illness.

"(4) EMERGENCY RESPONSE EMPLOYEE.—The term 'emergency response employees' means firefighters, law enforcement officers, paramedics, emergency medical technicians, and other individuals (including employees of legally organized and recognized volunteer organizations, without regard to whether such employees receive nominal compensation) who, in the course of professional duties, respond to emergencies in the geographic area involved.

"(5) EMPLOYER OF EMERGENCY RESPONSE EMPLOYEES.—The term 'employer of emergency response employees' means an organization that, in the course of professional duties, responds to emergencies in the geographic area involved.

"(6) EXPOSED.—The term 'exposed', with respect to HIV disease or any other infectious disease, means to be in circumstances in which there is a significant risk of becoming infected with the etiologic agent for the disease involved.

"(7) FAMILIES WITH HIV DISEASE.—The term 'families with HIV disease' means families in which one or more members have HIV disease.

"(8) HIV.—The term 'HIV' means infection with the etiologic agent for acquired immune deficiency syndrome.

"(9) HIV DISEASE.—The term 'HIV disease' means infection with the etiologic agent for acquired immune deficiency syndrome, and includes any condition arising from such syndrome.

"(10) OFFICIAL POVERTY LINE.—The term 'official poverty line' means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(a) of the Omnibus Budget Reconciliation Act of 1981.

"(11) PERSON.—The term 'person' includes one or more individuals, governments (including the Federal Government and the governments of the States), governmental agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and trustees in cases under title 11, United States Code.

"(12) STATE.—The term 'State', except as otherwise specifically provided, means each of the 50 States, the District of Columbia, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Republic of the Marshall Islands.".

SEC. 402. STUDY REGARDING PARTNER NOTIFICATION.

42 USC 300ff-46 note.

(a) IN GENERAL.—The Secretary shall conduct a study of programs of HIV partner notification for the purpose of determining—

(1) in the case of individuals who have been notified under such programs, the percentage of such individuals who undergo counseling and testing regarding HIV disease;

(2) in the case of such individuals who have undergone HIV testing, the number of such individuals determined through such tests to have HIV disease;

(3) the extent to which such programs have, in the case of such individuals, resulted in behavioral changes that are effec-

tive regarding the prevention of exposure to, and the transmission of, HIV disease; and

(4) the extent to which such programs represent a cost effective use of available HIV-related resources.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress, a report describing the findings made as a result of such study.

42 USC 300ff-11 note.

SEC. 403. STUDY REGARDING HIV DISEASE IN RURAL AREAS.

(a) IN GENERAL.—The Secretary of Health and Human Services, after consultation with the Director of the Office of Rural Health Policy, shall—

(1) conduct a study for the purpose of estimating the incidence and prevalence in rural areas of cases of acquired immune deficiency syndrome and cases of infection with the etiologic agent for such syndrome; and

(2) in carrying out such study, determine the adequacy in rural areas of services for diagnosing such cases and providing treatment for such cases that are in the early stages of infection.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress a report describing the findings made as a result of such study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995.

Subtitle B—Emergency Response Employees

SEC. 411. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Title XXVI of the Public Health Service Act (as amended by section 401) is further amended by adding at the end the following new part:

"PART E—EMERGENCY RESPONSE EMPLOYEES

"SUBPART I—GUIDELINES AND MODEL CURRICULUM

42 USC 300ff-80.

"SEC. 2680. GRANTS FOR IMPLEMENTATION.

"(a) IN GENERAL.—With respect to the recommendations contained in the guidelines and the model curriculum developed under section 253 of Public Law 100-607, the Secretary shall make grants to States and political subdivisions of States for the purpose of assisting grantees regarding the initial implementation of such portions of the recommendations as are applicable to emergency response employees.

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1995.

"SUBPART II—NOTIFICATIONS OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES

"SEC. 2681. INFECTIOUS DISEASES AND CIRCUMSTANCES RELEVANT TO NOTIFICATION REQUIREMENTS. 42 USC 300ff-81.

"(a) IN GENERAL.—Not later than 180 days after the date of the enactment of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990, the Secretary shall complete the development of—

"(1) a list of potentially life-threatening infectious diseases to which emergency response employees may be exposed in responding to emergencies;

"(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

"(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 2683(d).

"(b) SPECIFICATION OF AIRBORNE INFECTIOUS DISEASES.—The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

"(c) DISSEMINATION.—The Secretary shall—

"(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

"(2) make such copies available to the public.

Public information.

"SEC. 2682. ROUTINE NOTIFICATIONS WITH RESPECT TO AIRBORNE INFECTIOUS DISEASES IN VICTIMS ASSISTED. 42 USC 300ff-82.

"(a) ROUTINE NOTIFICATION OF DESIGNATED OFFICER.—

"(1) DETERMINATION BY TREATING FACILITY.—If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

"(2) DETERMINATION BY FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

"(b) REQUIREMENT OF PROMPT NOTIFICATION.—With respect to a determination described in paragraph (1) or (2), the notification required in each of such paragraphs shall be made as soon as is practicable, but not later than 48 hours after the determination is made.

42 USC 300ff-83.

"SEC. 2683. REQUEST FOR NOTIFICATIONS WITH RESPECT TO VICTIMS ASSISTED.

"(a) INITIATION OF PROCESS BY EMPLOYEE.—If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

"(b) INITIAL DETERMINATION BY DESIGNATED OFFICER.—The duties referred to in subsection (a) are that—

"(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

"(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 2681(a), the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

"(c) SUBMISSION OF REQUEST TO MEDICAL FACILITY.—

"(1) IN GENERAL.—If a designated officer makes a determination under subsection (b)(2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

"(2) FORM OF REQUEST.—A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1).

"(d) EVALUATION AND RESPONSE REGARDING REQUEST TO MEDICAL FACILITY.—

"(1) IN GENERAL.—If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was exposed to an infectious disease included on the list issued under paragraph (1) of section 2681(a), as indicated by the guidelines issued under paragraph (2) of such section.

"(2) NOTIFICATION OF EXPOSURE.—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

"(3) FINDING OF NO EXPOSURE.—If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease,

the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

"(4) INSUFFICIENT INFORMATION.—

"(A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.

"(B)(i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 2681(a), the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.

"(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

"(e) TIME FOR MAKING RESPONSE.—After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

"(f) DEATH OF VICTIM OF EMERGENCY.—

"(1) FACILITY ASCERTAINING CAUSE OF DEATH.—If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

"(2) RESPONSIBILITY OF FACILITY.—Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this subpart regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

"(g) ASSISTANCE OF PUBLIC HEALTH OFFICER.—

"(1) EVALUATION OF RESPONSE OF MEDICAL FACILITY REGARDING INSUFFICIENT FACTS.—

"(A) In the case of a request under subsection (c) to which a medical facility has made the response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

"(B) As soon as is practicable after a public health officer receives a request under paragraph (1), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such para-

graph and inform the designated officer of the results of the evaluation.

"(2) FINDINGS OF EVALUATION.—

"(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d)(1)—

"(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

"(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

"(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c)—

"(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

"(ii) if sufficient facts are obtained by the designated officer—

"(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

"(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

Health care facilities.
42 USC 300ff-84.

"SEC. 2684. PROCEDURES FOR NOTIFICATION OF EXPOSURE.

"(a) CONTENTS OF NOTIFICATION TO OFFICER.—In making a notification required under section 2682 or section 2683(d)(2), a medical facility shall provide—

"(1) the name of the infectious disease involved; and

"(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

"(b) MANNER OF NOTIFICATION.—If a notification under section 2682 or section 2682(d)(2) is mailed or otherwise indirectly made—

"(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the notification is sent of the fact that the notification has been sent; and

"(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

42 USC 300ff-85.

"SEC. 2685. NOTIFICATION OF EMPLOYEE.

"(a) IN GENERAL.—After receiving a notification for purposes of section 2682 or 2683(d)(2), a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

"(1) responded to the emergency involved; and

"(2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

"(b) CERTAIN CONTENTS OF NOTIFICATION TO EMPLOYEE.—A notification under this subsection to an emergency response employee shall inform the employee of—

"(1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;

"(2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and

"(3) if medically appropriate under such criteria, the date of such emergency.

"(c) RESPONSES OTHER THAN NOTIFICATION OF EXPOSURE.—After receiving a response under paragraph (3) or (4) of subsection (d) of section 2683, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

"SEC. 2686. SELECTION OF DESIGNATED OFFICERS. 42 USC 300ff-86.

"(a) IN GENERAL.—For the purposes of receiving notifications and responses and making requests under this subpart on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

"(b) PREFERENCE IN MAKING DESIGNATIONS.—In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

"SEC. 2687. LIMITATIONS WITH RESPECT TO DUTIES OF MEDICAL FACILITIES. 42 USC 300ff-87.

"The duties established in this subpart for a medical facility—

"(1) shall apply only to medical information possessed by the facility during the period in which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

"(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 2683(c) received by a medical facility before the expiration of such 30-day period.

"SEC. 2688. RULES OF CONSTRUCTION. 42 USC 300ff-88.

"(a) LIABILITY OF MEDICAL FACILITIES AND DESIGNATED OFFICERS.—This subpart may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, or any designated officer, for failure to comply with the duties established in this subpart.

"(b) TESTING.—This subpart may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

"(c) CONFIDENTIALITY.—This subpart may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

"(d) FAILURE TO PROVIDE EMERGENCY SERVICES.—This subpart may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

42 USC 300ff-89.

"SEC. 2689. INJUNCTIONS REGARDING VIOLATION OF PROHIBITION.

"(a) IN GENERAL.—The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this subpart.

"(b) FACILITATION OF INFORMATION ON VIOLATIONS.—The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this subpart. As appropriate, the Secretary shall investigate alleged such violations and seek appropriate injunctive relief.

42 USC 300ff-90.

"SEC. 2690. APPLICABILITY OF SUBPART.

"This subpart shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is in substantial compliance with this subpart.".

42 USC 300ff-80 note.

(b) EFFECTIVE DATE.—Sections 2680 and 2681 of part E of title XXVI of the Public Health Service Act, as added by subsection (a) of this section, shall take effect upon the date of the enactment of this Act. Such part shall otherwise take effect upon the expiration of the 30-day period beginning on the date on which the Secretary issues guidelines under section 2681(a).

Subtitle C—Miscellaneous Provisions

42 USC 300x-4 note.

SEC. 421. ADAMHA IV DRUG ABUSE WAIVER.

Any State that received a waiver under section 1916(c)(7) of the Public Health Service Act (42 U.S.C. 300x-4(a)(7)) of $100,000 or less for fiscal year 1989 shall be granted a waiver under such section for fiscal years 1990 and 1991.

42 USC 300ff-1.

SEC. 422. PROHIBITION ON USE OF FUNDS.

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

Approved August 18, 1990.

LEGISLATIVE HISTORY—S. 2240 (H.R. 4785):

HOUSE REPORTS: No. 101-511 accompanying H.R. 4785 (Comm. on Energy and Commerce) and No. 101-652 (Comm. of Conference).
SENATE REPORTS: No. 101-273 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 15, 16, considered and passed Senate.
June 13, H.R. 4785 considered and passed House; S. 2240, amended, passed in lieu.
Aug. 3, House receded and agreed to conference report.
Aug. 4, Senate agreed to conference report.

Public Law 101-382
101st Congress

An Act

Aug. 20, 1990
[H.R. 1594]

To make miscellaneous and technical changes to various trade laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Customs and Trade Act of 1990.
Exports.
Imports.
19 USC 2101 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Customs and Trade Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—TRADE AGENCY AUTHORIZATIONS, CUSTOMS USER FEES, AND OTHER PROVISIONS

Subtitle A—Trade Agency Authorizations for Fiscal Years 1991 and 1992

Sec. 101. United States International Trade Commission.
Sec. 102. United States Customs Service.
Sec. 103. Office of the United States Trade Representative.

Subtitle B—Customs User Fees

Sec. 111. Customs user fees.
Sec. 112. Exemption of Israeli products from certain user fees.
Sec. 113. Customs Service administration.
Sec. 114. GAO report on entries by mail.
Sec. 115. Effective date.

Subtitle C—Miscellaneous Customs Provisions

Sec. 121. Customs forfeiture fund.
Sec. 122. Increase in value subject to administrative forfeiture; processing of money seized under the customs laws.
Sec. 123. Annual national trade and customs law violation estimates and enforcement strategy.
Sec. 124. Reports regarding expansion of customs preclearance operations and recovery for damage resulting from customs examinations.

Subtitle D—Miscellaneous Provisions

Sec. 131. Treatment of Czechoslovakia and East Germany under the Generalized System of Preferences.
Sec. 132. Technical amendments regarding nondiscriminatory trade treatment.
Sec. 133. Competitiveness Policy Council.
Sec. 134. Technical amendments relating to the United States-Canada Free-Trade Agreement.
Sec. 135. Treatment of certain information under administrative protective orders.
Sec. 136. Extension of time for preparation of report on supplemental wage allowance demonstration projects under the Worker Adjustment Assistance Program.
Sec. 137. Drug paraphernalia.
Sec. 138. Economic sanctions against products of Burma.
Sec. 139. Miscellaneous technical and clerical amendments.
Sec. 140. Increase in expenditures to provide assistance for United States citizens returning from foreign countries.
Sec. 141. Administrative provision.
Sec. 142. Nondiscriminatory treatment for the products of East Germany.

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TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

Subtitle A—Short Title and Findings

Sec. 201. Short title.
Sec. 202. Congressional findings.

Subtitle B—Amendments to the Caribbean Basin Economic Recovery Act and Related Provisions

PART 1—AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Sec. 211. Repeal of termination date on duty-free treatment under the Act.
Sec. 212. Duty reduction for certain leather-related products.
Sec. 213. Worker rights.
Sec. 214. Reports.
Sec. 215. Treatment of articles grown, produced, or manufactured in Puerto Rico.
Sec. 216. Application of Act in eastern Caribbean area.

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Sec. 222. Duty-free treatment for articles assembled in beneficiary countries from components produced in the United States.
Sec. 223. Rules of origin for beneficiary country products.
Sec. 224. Cumulation involving beneficiary country products under the countervailing and antidumping duty laws.
Sec. 225. Ethyl alcohol.
Sec. 226. Conforming amendment.
Sec. 227. Requirement for investment of section 936 funds in Caribbean Basin countries.

Subtitle C—Scholarship Assistance and Tourism Promotion

Sec. 231. Cooperative public and private sector program for providing scholarships to students from the Caribbean and Central America.
Sec. 232. Promotion of tourism.
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Subtitle D—Miscellaneous Provisions

Sec. 241. Trade benefits for Nicaragua.
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Sec. 243. Extension of trade benefits to the Andean region.

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Subtitle A—Temporary Suspensions and Reductions in Duties

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TITLE I—TRADE AGENCY AUTHORIZATIONS, CUSTOMS USER FEES, AND OTHER PROVISIONS

Subtitle A—Trade Agency Authorizations for Fiscal Years 1991 and 1992

SEC. 101. UNITED STATES INTERNATIONAL TRADE COMMISSION.

Section 330(e)(2) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended to read as follows:

"(2)(A) There are authorized to be appropriated to the Commission for necessary expenses (including the rental of conference rooms in the District of Columbia and elsewhere) not to exceed the following:

"(i) $41,170,000 for fiscal year 1991.

"(ii) $44,052,000 for fiscal year 1992.

"(B) Not to exceed $2,500 of the amount authorized to be appropriated for any fiscal year under subparagraph (A) may be used, subject to the approval of the Chairman of the Commission, for reception and entertainment expenses.

"(C) No part of any sum that is appropriated under the authority of subparagraph (A) may be used by the Commission in the making of any special study, investigation, or report that is requested by any agency of the executive branch unless that agency reimburses the Commission for the cost thereof.".

SEC. 102. UNITED STATES CUSTOMS SERVICE.

Section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in noncommercial operations not to exceed the following:

"(A) $516,217,000 for fiscal year 1991.

"(B) $542,091,000 for fiscal year 1992.

"(2) FOR COMMERCIAL OPERATIONS.—(A) There are authorized to be appropriated for the salaries and expenses of the Customs Service that are incurred in commercial operations not less than the following:

"(i) $672,021,000 for fiscal year 1991.

"(ii) $705,793,000 for fiscal year 1992.

"(B) The monies authorized to be appropriated under subparagraph (A) for any fiscal year, except for such sums as may be necessary for the salaries and expenses of the Customs Service that are incurred in connection with the processing of merchandise that is exempt from the fees imposed under section 13031(a)(9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985, shall be appropriated from the Customs User Fee Account.

"(3) FOR AIR INTERDICTION.—There are authorized to be appropriated for the operation (including salaries and expenses) and maintenance of the air interdiction program of the Customs Service not to exceed the following:

"(A) $143,047,000 for fiscal year 1991.

"(B) $150,199,000 for fiscal year 1992.".

SEC. 103. OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended to read as follows:

"(g)(1)(A) There are authorized to be appropriated to the Office for the purposes of carrying out its functions not to exceed the following:

"(i) $23,250,000 for fiscal year 1991.

"(ii) $21,077,000 for fiscal year 1992.

"(B) Of the amounts authorized to be appropriated under subparagraph (A) for any fiscal year—

"(i) not to exceed $98,000 may be used for entertainment and representation expenses of the Office;

"(ii) not to exceed $2,050,000 may be used to pay the United States share of the expenses of binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the United States-Canada Free-Trade Agreement; and

"(iii) not to exceed $1,000,000 shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 406(b)(2) of the United States-Canada Free-Trade Agreement Act of 1988 (19 U.S.C. 2112 note) is amended to read as follows:

"(2) The United States Trade Representative is authorized to transfer to any department or agency of the United States, from sums appropriated pursuant to the authorization provided under paragraph (1) or section 141(g)(1) of the Trade Act of 1974, such funds as may be necessary to facilitate the payment of the expenses described in paragraph (1).".

Subtitle B—Customs User Fees

SEC. 111. CUSTOMS USER FEES.

(a) MERCHANDISE PROCESSING FEES.—Paragraphs (9) and (10) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a) (9) and (10)) are amended to read as follows:

"(9) For the processing of merchandise that is formally entered or released during any fiscal year, a fee, subject to the limitations in subsection (b)(8)(A), in an amount equal to 0.17 percent ad valorem.

"(10) For the processing of merchandise that is informally entered or released, other than at—

"(A) a centralized hub facility,

"(B) an express consignment carrier facility, or

"(C) a small airport or other facility to which section 236 of the Trade and Tariff Act of 1984 applies,

a fee of—

"(i) $2 if the entry or release is automated and not prepared by customs personnel;

"(ii) $5 if the entry or release is manual and not prepared by customs personnel; or

"(iii) $8 if the entry or release, whether automated or manual, is prepared by customs personnel.

For provisions relating to the informal entry or release of merchandise at facilities referred to in subparagraphs (A), (B), and (C), see subsection (b)(9).".

(b) LIMITATIONS ON FEES.—Subsection (b) of section 13031 of such Act of 1985 (19 U.S.C. 58c(b)) is amended as follows:

(1) Subparagraph (B) of paragraph (1) is amended to read as follows:

"(B) the arrival of any railroad car the journey of which originates and terminates in the same country, but only if no passengers board or disembark from the train and no cargo is loaded or unloaded from such car while the car is within any country other than the country in which such car originates and terminates; or". Railroads.

(2) Paragraph (8) is amended—

(A) by redesignating subparagraph (A) as subparagraph (D),

(B) by striking out subparagraph (B),

(C) by inserting before subparagraph (D) (as redesignated by this paragraph) the following:

"(A)(i) Subject to clause (ii), the fee charged under subsection (a)(9) for the formal entry or release of merchandise may not exceed $400 or be less than $21.

"(ii) A surcharge of $3 shall be added to the fee determined after application of clause (i) for any manual entry or release of merchandise.

"(B) No fee may be charged under subsection (a) (9) or (10) for the processing of any article that is—

"(i) provided for under any item in chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80,

"(ii) a product of an insular possession of the United States, or

"(iii) a product of any country listed in subdivision (c)(ii)(B) or (c)(v) of general note 3 to such Schedule.

"(C) For purposes of applying subsection (a) (9) or (10)—

"(i) expenses incurred by the Secretary of the Treasury in the processing of merchandise do not include costs incurred in—

"(I) air passenger processing,

"(II) export control, or

"(III) international affairs, and

"(ii) any reference to a manual entry or release includes—

"(I) any entry or release filed by a broker or importer that requires the recording of cargo selectivity data by customs personnel, except when the recording of such data is required because of a temporary administrative or technical failure in the Customs Service automated commercial system that prevents the filing of entries or release in that system by brokers and importers that are certified by the Customs Service to do so; and

"(II) any entry or release filed by a broker or importer that is not certified by the Customs Service to file entries and releases in the Customs Service automated commercial system.",

(D) by amending subparagraph (D) (as redesignated by this paragraph)—

(i) by striking out "be based" in clause (ii) and inserting "except as otherwise provided in this paragraph, be based",

(ii) by striking out "and" at the end of clause (iii),

(iii) by striking out the period at the end of clause (iv) and inserting "; and", and

(iv) by inserting after clause (iv) the following new clause:

Agriculture and agricultural commodities.

"(v) in the case of agricultural products of the United States that are processed and packed in a foreign trade zone, be applied only to the value of material used to make the container for such merchandise, if such merchandise is subject to entry and the container is of a kind normally used for packing such merchandise.", and

(E) by adding at the end thereof the following new subparagraph:

"(E) For purposes of subsection (a) (9) and (10), merchandise is entered or released, as the case may be, if the merchandise is—

"(i) permitted or released under section 448(b) of the Tariff Act of 1930,

"(ii) entered or released from customs custody under section 484(a)(1)(A) of the Tariff Act of 1930, or

"(iii) withdrawn from warehouse for consumption.".

(3) Paragraph (9) is amended to read as follows:

"(9)(A) With respect to the processing of merchandise that is informally entered or released at a centralized hub facility, an express consignment carrier facility, or a small airport or other facility, the following reimbursements and payments are required: Aircraft and air carriers. Airports. Transportation.

"(i) In the case of a centralized hub facility or small airport or other facility—

"(I) the reimbursement which such facility is required to make during the fiscal year under section 9701 of title 31, United States Code or section 236 of the Trade and Tariff Act of 1984; and

"(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement under subclause (I).

"(ii) In the case of an express consignment carrier facility—

"(I) an amount, for which the Customs Service shall be reimbursed under section 524 of the Tariff Act of 1930, equal to the cost of the customs inspectional services provided by the Customs Service at the facility during the fiscal year; and

"(II) an annual payment by the facility to the Secretary of the Treasury, which is in lieu of the payment of fees under subsection (a)(10) for such fiscal year, in an amount equal to the reimbursement made under subclause (I).

"(B) For purposes of this paragraph:

"(i) The terms 'centralized hub facility' and 'express consignment carrier facility' have the respective meanings that are applied to such terms in part 128 of chapter I of title 19, Code of Federal Regulations, as in effect on July 30, 1990.

"(ii) The term 'small airport or other facility' means any airport or facility to which section 236 of the Tariff and Trade Act of 1984 applies.".

(4) Paragraph (10) is amended by striking out "under subsection (a)(10)" and inserting "under subsection (a) (9) or (10)".

(5) The following new paragraph is added at the end:

"(11) No fee may be charged under subsection (a) (9) or (10) with respect to products of Israel if an exemption with respect to the fee is implemented under section 112 of the Customs and Trade Act of 1990.". Israel.

(c) DISPOSITION OF FEES.—Subsection (f) of section 13031 of such Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) by striking out "All funds" in paragraph (2) and inserting in lieu thereof "Except as otherwise provided in this subsection, all funds"; and

(2) by amending paragraph (3) to read as follows:

"(3)(A) The Secretary of the Treasury, in accordance with section 524 of the Tariff Act of 1930 and subject to subparagraph (B), shall directly reimburse, from the fees collected under subsection (a) (other than subsection (a) (9) or (10)), each appropriation for the

amount paid out of that appropriation for the costs incurred by the Secretary—

"(i) in providing—

"(I) inspectional overtime services, and

"(II) all preclearance services for which the recipients of such services are not required to reimburse the Secretary of the Treasury, and

"(ii) to the extent funds remain available to make reimbursements under clause (i), in providing salaries for full-time and part-time inspectional personnel and equipment that enhance customs services for those persons or entities that are required to pay fees under paragraphs (1) through (8) of subsection (a) (distributed on a basis proportionate to the fees collected under subsection (a)(1) through (a)(8)).

Funds described in clause (ii) shall only be available to reimburse costs in excess of the highest amount appropriated for such costs during the period beginning with fiscal year 1990 and ending with the current fiscal year.

"(B) Reimbursement of appropriations under this paragraph—

"(i) except for costs described in subparagraph (A)(i) (I) and (II), shall be subject to apportionment or similar administrative practices;

"(ii) shall be made at least quarterly; and

"(iii) to the extent necessary, may be made on the basis of estimates made by the Secretary of the Treasury and adjustments shall be made in subsequent reimbursements to the extent that the estimates were in excess of, or less than, the amounts required to be reimbursed.

"(C)(i) For fiscal year 1991 and subsequent fiscal years, the amount required to fully reimburse inspectional overtime and preclearance costs shall be projected from actual requirements, and only the excess of collections over such projected costs for such fiscal year shall be used as provided in subparagraph (A)(ii).

"(ii) The excess of collections over inspectional overtime and preclearance costs (under subparagraph (A)(i)) reimbursed for fiscal years 1989 and 1990 shall be available in fiscal year 1991 and subsequent fiscal years for the purposes described in subparagraph (A)(ii), except that $30,000,000 of such excess shall remain without fiscal year limitation in a contingency fund and, in any fiscal year in which receipts are insufficient to cover the costs described in subparagraph (A) (i) and (ii), shall be used for—

"(I) the costs of providing the services described in paragraph (A)(i), and

"(II) after the costs described in subclause (I) are paid, the costs of providing the personnel and equipment described in subparagraph (A)(ii) at the preceding fiscal year level.

Reports.

"(D) At the close of each fiscal year, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives summarizing the expenditures, on a port-by-port basis, for which reimbursement has been provided under subparagraph (A)(ii).".

(d) ENFORCEMENT AUTHORITY.—Subsection (g) of section 13031 of such Act of 1985 (19 U.S.C. 58c(g)) is amended—

(1) by amending the heading to read as follows: "REGULATIONS AND ENFORCEMENT.—"; and

(2) by adding at the end the following new paragraph:

"(3) Except to the extent otherwise provided in regulations, all administrative and enforcement provisions of customs laws and regulations, other than those laws and regulations relating to drawback, shall apply with respect to any fee prescribed under subsection (a) of this section, and with respect to persons liable therefor, as if such fee is a customs duty. For purposes of the preceding sentence, any penalty expressed in terms of a relationship to the amount of the duty shall be treated as not less than the amount which bears a similar relationship to the amount of the fee assessed. For purposes of determining the jurisdiction of any court of the United States or any agency of the United States, any fee prescribed under subsection (a) of this section shall be treated as if such fee is a customs duty.".

(e) EXTENSION OF FEES.—Paragraph (3) of section 13031(j) of such Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1990" and inserting "1991".

(f) AGGREGATION OF MERCHANDISE PROCESSING FEES.— 19 USC 58c note.

(1) Notwithstanding any provision of section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c), in the case of entries of merchandise made under the temporary monthly entry programs established by the Commissioner of Customs before July 1, 1989, for the purpose of testing entry processing improvements, the fee charged under section 13031(a)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 for each day's importations at each port by the same importer from the same exporter shall be the lesser of—

(A) $400, or

(B) the amount determined by applying the ad valorem rate determined in such section 13031(a)(9) to the total value of each day's importations at each port by the same importer from the same exporter.

(2) The fees described in paragraph (1) that are payable under the program described in paragraph (1) shall be paid with each monthly consumption entry. Interest shall accrue on the fees paid monthly in accordance with section 6621 of the Internal Revenue Code of 1986.

SEC. 112. EXEMPTION OF ISRAELI PRODUCTS FROM CERTAIN USER FEES. 19 USC 58c note.

If the United States Trade Representative determines that the Government of Israel has provided reciprocal concessions in exchange for the exemption of the products of Israel from the fees imposed under section 13031(a) (9) and (10) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (as amended by section 111), such fees may not be charged with respect to any product of Israel that is entered, or withdrawn from warehouse for consumption, on or after the 15th day (which day may not be before October 1, 1990) after the date on which the determination is published in the Federal Register. Federal Register, publication.

SEC. 113. CUSTOMS SERVICE ADMINISTRATION. 19 USC 2082.

(a) IN GENERAL.—The Commissioner of Customs shall—

(1) develop and implement accounting systems that accurately determine and report the allocations made of Customs Service personnel and other resources among the various operational functions of the Service, such as passenger processing, merchandise processing and drug enforcement;

(2) develop and implement periodic labor distribution surveys of major workforce activities (such as inspectors, import specialists, fines, penalties, and forfeiture officers, special agents, data transcribers, and Customs aides) to determine the costs of different types of passenger and merchandise processing transactions, such as informal and formal entries, and automated and manual entries;

(3) as soon as practicable after the enactment of appropriations for the Customs Service for each fiscal year, but not later than the 15th day after the beginning of such year, estimate, based on the amounts appropriated, the amount of the fee that would, if imposed on the processing of merchandise, offset the salaries and expenses subject to reimbursement from the fee that will likely be incurred by the Service in conducting commercial operations during that year;

(4) develop annually a detailed derivation of the commercial services cost base and the methodology used for computing the merchandise processing fee under paragraph (3); and

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(5) report within 45 days of the beginning of any fiscal year to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of each fee estimate made under paragraph (3) and each cost base and user fee methodology derivation made under paragraph (4).

(b) SURVEY REPORTS.—The Commissioner of Customs shall no later than January 31, 1991, submit to the Committees referred to in subsection (a)(5) a report on the results of the first survey implemented under subsection (a)(2).

SEC. 114. GAO REPORT ON ENTRIES BY MAIL.

Before the 240th day after the date of the enactment of this Act, the Comptroller General of the United States shall—

(1) determine the extent to which the fees imposed under section 13031(a)(6) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(6)) are collected;

(2) develop recommendations for maximizing the collection of such fees; and

(3) submit a written report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth such determination and recommendation and the bases therefor.

19 USC 58c note.

SEC. 115. EFFECTIVE DATE.

Railroads.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle, and the amendments made by this subtitle, take effect October 1, 1990, but the amendment made by section 111(b)(1) applies with respect to railroad cars arriving in the United States on or after July 7, 1986.

(b) EXCEPTIONS.—The amendment made by section 111(d), and section 112, take effect on the date of the enactment of this Act.

Subtitle C—Miscellaneous Customs Provisions

SEC. 121. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by striking out the period at the end of subparagraph (E) and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(F) equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries under the authority of section 616(c) of this Act or section 981 of title 18, United States Code.".

(2) Subsection (a)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end thereof the following:

"(B) Any payment made under subparagraph (F) of paragraph (1) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.".

(3) Subsection (c) is amended by inserting "forfeited currency and" before "proceeds".

(4) Subsection (e)(1) is amended—

(A) by striking out "and" after the semicolon at the end of subparagraph (A);

(B) by amending subparagraph (B)—

(i) by striking out clause (ii),

(ii) by redesignating clauses (iii) through (vi) as clauses (ii) through (v), respectively,

(iii) by striking out "and" after the semicolon in clause (iv) (as so redesignated); and

(iv) by striking out the period at the end thereof and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) a report containing, for the previous fiscal year— Reports.

"(i) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Comptroller General, and

"(ii) an analysis of income and expenses showing the revenue received or lost—

"(I) by property category (general property, vehicles, vessels, aircraft, cash, and real property) and

"(II) by type of disposition (sales, remissions, cancellations, placed into official use, sharing with State and local agencies, and destructions).".

(5) Subsection (f) is amended to read as follows:

"(f)(1) Subject to paragraph (2), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(2) Of the amount authorized to be appropriated under paragraph (1), not to exceed the following shall be available to carry out the purposes set forth in subsection (a)(3):

"(A) $14,855,000 for fiscal year 1991.

"(B) $15,598,000 for fiscal year 1992.".

SEC. 122. INCREASE IN VALUE SUBJECT TO ADMINISTRATIVE FORFEITURE; PROCESSING OF MONEY SEIZED UNDER THE CUSTOMS LAWS.

Section 607 of the Tariff Act of 1930 (19 U.S.C. 1607) is amended—

(1) by striking out "$100,000" in subsection (a)(1) and inserting "$500,000";

(2) by striking out "or" at the end of subsection (a)(2);

(3) by inserting "or" after the semicolon at the end of subsection (a)(3);

(4) by inserting after paragraph (3) of subsection (a) the following new paragraph:

"(4) such seized merchandise is any monetary instrument within the meaning of section 5312(a)(3) of title 31 of the United States Code;";

(5) by adding at the end thereof the following new subsection:

Reports. "(c) The Commissioner of Customs shall submit to the Congress, by no later than February 1 of each fiscal year, a report on the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Customs Forfeiture Fund under section 613A within 120 days of seizure, as of the end of the previous fiscal year."; and

(6) by striking out "**$100,000**" in the section heading and inserting "**$500,000**".

19 USC 2083. **SEC. 123. ANNUAL NATIONAL TRADE AND CUSTOMS LAW VIOLATION ESTIMATES AND ENFORCEMENT STRATEGY.**

Reports. (a) VIOLATION ESTIMATES.—Not later than 30 days before the beginning of each fiscal year after fiscal year 1991, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the "Committees") a report that contains estimates of—

(1) the number and extent of violations of the trade, customs, and illegal drug control laws listed under subsection (b) that will likely occur during the fiscal year; and

(2) the relative incidence of the violations estimated under paragraph (1) among the various ports of entry and customs regions within the customs territory.

(b) APPLICABLE STATUTORY PROVISIONS.—The Commissioner of Customs, after consultation with the Committees—

(1) shall, within 60 days after the date of the enactment of this Act, prepare a list of those provisions of the trade, customs, and illegal drug control laws of the United States for which the United States Customs Service has enforcement responsibility and to which the reports required under subsection (a) will apply; and

(2) may from time-to-time amend the listing developed under paragraph (1).

(c) ENFORCEMENT STRATEGY.—Within 90 days after submitting a report under subsection (a) for any fiscal year, the Commissioner of Customs shall—

(1) develop a nationally uniform enforcement strategy for dealing during that year with the violations estimated in the report; and

Reports. (2) submit to the Committees a report setting forth the details of the strategy.

(d) CONFIDENTIALITY.—The contents of any report submitted to the Committees under subsection (a) or (c)(2) are confidential and disclosure of all or part of the contents is restricted to—

(1) officers and employees of the United States designated by the Commissioner of Customs;

(2) the chairman of each of the Committees; and

(3) those members of each of the Committees and staff persons of each of the Committees who are authorized by the chairman thereof to have access to the contents.

SEC. 124. REPORTS REGARDING EXPANSION OF CUSTOMS PRECLEARANCE OPERATIONS AND RECOVERY FOR DAMAGE RESULTING FROM CUSTOMS EXAMINATIONS.

19 USC 2071 note.

(a) CUSTOMS PRECLEARANCE.—The Secretary of the Treasury, in consultation with the Secretary of State, shall assess the advisability of expanding the use of preclearance operations by the United States Customs Service at foreign airports. The Secretary of the Treasury shall submit a report on the assessment to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (hereafter in this section referred to as the "Committees") no later than February 1, 1991.

(b) RECOVERY FOR CUSTOMS DAMAGE.—

(1) The Secretary of the Treasury, in consultation with the Attorney General, shall determine and evaluate various means by which persons whose merchandise is damaged during customs examinations may seek compensation from, or take other recourse against, the United States Customs Service regarding the damage.

(2) No later than February 1, 1991, the Secretary of the Treasury shall submit to the Committees a report on the evaluation required under paragraph (1), together with any legislative recommendation that the Secretary considers appropriate.

(c) MERCHANDISE DAMAGE STATISTICS.—The Commissioner of Customs shall keep accurate statistics on the incidence, nature, and extent of damage to merchandise resulting from customs examinations and shall provide an annual summary of these statistics to the Committees.

Subtitle D—Miscellaneous Provisions

SEC. 131. TREATMENT OF CZECHOSLOVAKIA AND EAST GERMANY UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

The table in section 502(b) of the Trade Act of 1974 (19 U.S.C. 2462(b)) is amended by striking out "Czechoslovakia" and "Germany (East)".

SEC. 132. TECHNICAL AMENDMENTS REGARDING NONDISCRIMINATORY TRADE TREATMENT.

(a) WAIVER AUTHORITY.—

(1) Paragraph (5) of section 402(d) of the Trade Act of 1974 (19 U.S.C. 2432(d)(5)) is amended—

(A) by striking out "the waiver authority granted by subsection (c) has been extended under paragraph (3) or (4) for any country for the 12-month period referred to in such paragraphs, and",

(B) by striking out "such authority will" in the first sentence thereof and inserting in lieu thereof "the waiver authority granted under subsection (c) will", and

(C) by striking out ", unless" in the next to the last sentence and all that follows through the end of such paragraph and inserting ", unless a joint resolution described in section 153(a) is enacted into law pursuant to the provisions of paragraph (2).".

(2) Subsection (d) of section 402 of the Trade Act of 1974 (19 U.S.C. 2432(d)), as amended by paragraph (1), is amended—

(A) by striking out paragraphs (1), (2), (3), and (4),

(B) by redesignating paragraph (5) as paragraph (1), and

(C) by adding at the end thereof the following new paragraph:

"(2)(A) The requirements of this paragraph are met if the joint resolution is enacted under the procedures set forth in section 153, and—

"(i) the Congress adopts and transmits the joint resolution to the President before the end of the 60-day period beginning on the date the waiver authority would expire but for an extension under paragraph (1), and

"(ii) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the later of the last day of the 60-day period referred to in clause (i) or the last day of the 15-day period (excluding any day described in section 154(b)) beginning on the date the Congress receives the veto message from the President.

"(B) If a joint resolution is enacted into law under the provisions of this paragraph, the waiver authority applicable to any country with respect to which the joint resolution disapproves of the extension of such authority shall cease to be effective as of the day after the 60-day period beginning on the date of the enactment of the joint resolution.

"(C) A joint resolution to which this subsection and section 153 apply may be introduced at any time on or after the date the President transmits to the Congress the document described in paragraph (1)(B)."

(3) Subsection (a) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(a)) is amended to read as follows:

"(a) CONTENTS OF RESOLUTION.—For purposes of this section, the term 'resolution' means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on _____ with respect to _____.', with the first blank space being filled with the appropriate date, and the second blank space being filled with the names of those countries, if any, with respect to which such extension of authority is not approved, and with the clause beginning with 'with respect to' being omitted if the extension of the authority is not approved with respect to any country."

(4) Subsection (b) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193(b)) is amended—

(A) by striking out ", and, in the case of a resolution related to section 402(d)(4), 20 calendar days shall be substituted for 30 days" in paragraph (2),

(B) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (3),

(C) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (3),

(D) by striking out "an except clause, in the case of a resolution described in subsection (a)(1), or" in paragraph (4), and

(E) by striking out ", in the case of a resolution described in subsection (a)(2)" in paragraph (4).

(5) Subsection (c) of section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by striking out "in subsection (a)(1)" and inserting in lieu thereof "in subsection (a)".

(6) Section 153 of the Trade Act of 1974 (19 U.S.C. 2193) is amended by adding at the end thereof the following new subsection:

"(d) PROCEDURES RELATING TO CONFERENCE REPORTS IN THE SENATE.—

"(1) Consideration in the Senate of the conference report on any joint resolution described in subsection (a), including consideration of all amendments in disagreement (and all amendments thereto), and consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees. Debate on any debatable motion or appeal related to the conference report shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the conference report.

"(2) In any case in which there are amendments in disagreement, time on each amendment shall be limited to 30 minutes, to be equally divided between, and controlled by, the manager of the conference report and the minority leader or his designee. No amendment to any amendment in disagreement shall be received unless it is a germane amendment."

(b) BILATERAL COMMERCIAL AGREEMENTS.—

(1) Subsection (c) of section 405 of the Trade Act of 1974 (19 U.S.C. 2435(c)) is amended to read as follows:

"(c) An agreement referred to in subsection (a), and a proclamation referred to in section 404(a) implementing such agreement, shall take effect only if a joint resolution described in section 151(b)(3) that approves of the agreement referred to in subsection (a) is enacted into law."

(2) Section 151 of the Trade Act of 1974 (19 U.S.C. 2191(b)) is amended—

(A) by inserting "or resolution" after "revenue bill" in subsection (b)(2),

(B) by inserting ", or approval resolution," in subsection (b)(2) after "implementing bill",

(C) by striking out "concurrent" in subsection (b)(3) and inserting in lieu thereof "joint",

(D) by striking out "revenue bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "revenue bill or resolution", and

(E) by striking out "such bill" each place it appears in subsection (e)(2) and inserting in lieu thereof "such bill or resolution".

(3) Subsection (c) of section 407 of the Trade Act of 1974 (19 U.S.C. 2437(c)) is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) In the case of a document referred to in subsection (a), the proclamation set forth in the document may become effective and the agreement set forth in the document may enter into force and effect only if a joint resolution described in section 151(b)(3) that approves of the extension of nondiscriminatory treatment to the products of the country concerned is enacted into law.", and

(B) by redesignating paragraph (3) as paragraph (2).

(c) COMPLIANCE REPORTS.—

(1) Paragraph (2) of section 407(c) of the Trade Act of 1974 (19 U.S.C. 2437(c)(2)), as redesignated by subsection (b)(3)(B) of this section, is amended—

(A) by striking out "either the House of Representatives or the Senate adopts, by an affirmative vote of a majority of those present and voting in that House, a resolution of disapproval (under the procedures set forth in section 152)" and inserting in lieu thereof "a joint resolution described in section 152(a)(1)(B) is enacted into law that disapproves",

(B) by striking out "the date of the adoption" and inserting in lieu thereof "the end of the 60-day period beginning with the date of the enactment", and

(C) by adding at the end thereof the following new sentence: "If the President vetoes the joint resolution, the joint resolution shall be treated as enacted into law before the end of the 90-day period under this paragraph if both Houses of Congress vote to override such veto on or before the later of the last day of such 90-day period or the last day of the 15-day period (excluding any day described in section 154(b)) beginning on the date the Congress receives the veto message from the President."

(2) Subparagraph (B) of section 152(a)(1) of the Trade Act of 1974 (19 U.S.C. 2192(a)(1)(B)) is amended to read as follows:

"(B) a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: 'That the Congress does not approve _____ transmitted to the Congress on _____.', with the first blank space being filled in accordance with paragraph (2), and the second blank space being filled with the appropriate date."

(3) Paragraph (2) of section 152(a) of the Trade Act of 1974 (19 U.S.C. 2192(a)(2)) is amended—

(A) by striking out "second" in the matter preceding subparagraph (A) and inserting in lieu thereof "first",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking out "407(c)(3)" in subparagraph (C) and inserting in lieu thereof "407(c)(2)",

(D) by striking out subparagraph (B), and

(E) by redesignating subparagraph (C) as subparagraph (B).

(4) Paragraph (1) of section 152(c) of the Trade Act of 1974 (19 U.S.C. 2192(c)(1)) is amended by striking out "except" and all that follows thereafter and inserting the following: "except that a motion to discharge—

"(A) may only be made on the second legislative day after the calendar day on which the Member making the motion announces to the House his intention to do so; and

"(B) is not in order after the Committee has reported a resolution with respect to the same matter.".

(5) Subsection (f) of section 152 of the Trade Act of 1974 (19 U.S.C. 2192(f)) is amended to read as follows:

"(f) PROCEDURES IN THE SENATE.—

"(1) Except as otherwise provided in this section, the following procedures shall apply in the Senate to a resolution to which this section applies:

"(A)(i) Except as provided in clause (ii), a resolution that has passed the House of Representatives shall, when received in the Senate, be referred to the Committee on Finance for consideration in accordance with this section.

"(ii) If a resolution to which this section applies was introduced in the Senate before receipt of a resolution that has passed the House of Representatives, the resolution from the House of Representatives shall, when received in the Senate, be placed on the calendar. If this clause applies, the procedures in the Senate with respect to a resolution introduced in the Senate that contains the identical matter as the resolution that passed the House of Representatives shall be the same as if no resolution had been received from the House of Representatives, except that the vote on passage in the Senate shall be on the resolution that passed the House of Representatives.

"(B) If the Senate passes a resolution before receiving from the House of Representatives a joint resolution that contains the identical matter, the joint resolution shall be held at the desk pending receipt of the joint resolution from the House of Representatives. Upon receipt of the joint resolution from the House of Representatives, such joint resolution shall be deemed to be read twice, considered, read the third time, and passed.

"(2) If the texts of joint resolutions described in section 152 or 153(a), whichever is applicable, concerning any matter are not identical—

"(A) the Senate shall vote passage on the resolution introduced in the Senate, and

"(B) the text of the joint resolution passed by the Senate shall, immediately upon its passage (or, if later, upon receipt of the joint resolution passed by the House), be substituted for the text of the joint resolution passed by the House of Representatives, and such resolution, as amended, shall be returned with a request for a conference between the two Houses.

"(3) Consideration in the Senate of any veto message with respect to a joint resolution described in subsection (a)(2)(B) or section 153(a), including consideration of all debatable motions and appeals in connection therewith, shall be limited to 10 hours, to be equally divided between, and controlled by, the majority leader and the minority leader or their designees."

(6) Subsection (b) of section 154 of the Trade Act of 1974 (194 U.S.C. 2194(b)) is amended by striking out "407(c)(2) and 407(c)(3)" and inserting in lieu thereof "and 407(c)(2)". 19 USC 2194.

(d) EFFECTIVE DATES.— 19 USC 2432 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the date of the enactment of this Act.

(2) EXTENSION OF WAIVER AUTHORITY.—

(A) The amendments made by subsections (a) and (c) (4) and (5) apply with respect to recommendations made under section 402(d) of the Trade Act of 1974 by the President after May 23, 1990.

(B) Solely for purposes of applying the applicable provisions of the Trade Act of 1974 with respect to the recommendations made by the President to the House of Representatives and the Senate under subsection (d) of section 402 of the Trade Act of 1974 after May 23, 1990, and on or before the date of the enactment of this Act—

(i) in paragraph (2)(A)(i) of subsection (d) of such section 402 (as amended by subsection (a)), the date on which the waiver authority granted under subsection (c) of such section 402 would expire but for an extension under paragraph (1) of such subsection (d) is the date of the enactment of this Act;

(ii) paragraph (2)(A)(ii) of subsection (d) of such section 402 (as amended by subsection (a)) shall be treated as reading as follows:

"(ii) if the President vetoes the joint resolution, each House of Congress votes to override such veto on or before the last day of the 60-day period referred to in clause (i).";

(iii) if the waiver authority granted under such subsection (c) is extended after application of clauses (i) and (ii), the expiration date for such authority is July 3, 1991; and

(iv) only joint resolutions described in section 153(a) of the Trade Act of 1974 (as amended by subsection (a)) that are introduced in the House of Representatives or the Senate on or after the date of the enactment of this Act may be considered by either body.

SEC. 133. COMPETITIVENESS POLICY COUNCIL.

(a) MEMBERSHIP OF COUNCIL.—Section 5205 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4804) is amended—

(1) in subsection (b) by striking out "January 21, 1989" and inserting in lieu thereof "the date of the enactment of the Customs and Trade Act of 1990";

(2) by striking out subsections (e) and (f) and inserting in lieu thereof the following new subsections:

"(e) CONFLICT OF INTEREST.—A member of the Council shall not serve as an agent for a foreign principal.

"(f) EXPENSES.—Each member of the Council, while engaged in duties as a member of the Council, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code."; and

(3) by striking out subsections (l) and (m).

(b) EXECUTIVE DIRECTOR AND STAFF.—Section 5206 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4805) is amended by adding the following new subsections:

"(c) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

"(d) DETAILS.—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.".

(c) POWERS OF THE COUNCIL.—Section 5207 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4806) is amended—

(1) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively; and

(2) in subsection (c) (as redesignated under paragraph (1)) by striking out "60" and inserting in lieu thereof "120".

(d) ANNUAL REPORT.—Section 5208(a) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4807(a)) is amended by striking out "prepare and" and inserting in lieu thereof "on March 1".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 5209 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4808) is amended by striking out "1989 and 1990" and inserting in lieu thereof "1991 and 1992".

SEC. 134. TECHNICAL AMENDMENTS RELATING TO THE UNITED STATES-CANADA FREE-TRADE AGREEMENT.

(a) AMENDMENTS TO THE TARIFF ACT OF 1930.—

(1) Section 313(n) of the Tariff Act of 1930 (19 U.S.C. 1313(n)) is amended—

(A) by inserting ", except an article" before "made from or substituted for", and

(B) by striking "of 1988" the second place it appears and inserting a comma.

(2) Section 313(o) of the Tariff Act of 1930 (19 U.S.C. 1313(o)) is amended by adding at the end thereof the following new sentence: "This subsection shall apply to vessels delivered to Canadian account or owner, or to the Government of Canada, on and after January 1, 1994 (or, if later, the date proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988).". Maritime affairs.

(3) Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended—

(A) in subsection (a)(5)—

(i) by striking subparagraph (A) and inserting:

"(A) the date of publication in the Federal Register of notice of any determination described in paragraph (1)(B) or any determination described in clause (i), (ii), or (iii) of paragraph (2)(B),", and

(ii) by striking out the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the date as of which—

"(i) a binational panel has dismissed the binational panel review for lack of jurisdiction, and

"(ii) any interested party seeking review under paragraph (1), (2), or (3) has provided timely notice under subsection (g)(3)(B),

except that if a request for an extraordinary challenge committee has been made with respect to the decision to dismiss, the date under this subparagraph shall not be earlier than the date on which such committee determines that such panel acted properly when it dismissed for lack of jurisdiction,"; and

(B) in subsection (g)(3)—

(i) by striking "or" at the end of subparagraph (A)(ii), by striking the period at the end of subparagraph (A)(iii) and inserting ", or", and by adding at the end of subparagraph (A) the following new clause:

"(iv) a determination which a binational panel has determined under paragraph (2)(A) is not reviewable by the binational panel.", and

(ii) by inserting "or (iv)" after "subparagraph (A)(i)" in subparagraph (B).

(4) Section 777(d) of the Tariff Act of 1930 (19 U.S.C. 1677f(d)), as added by section 403(c) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, is redesignated as subsection (f) and is further amended—

(A) in paragraph (1)(A)—

(i) by striking "(but not privileged material as defined by the rules of procedure referred to in article 1904(14) of the United States-Canada Agreement)", and

(ii) by adding at the end thereof the following new sentence: "If the administering authority or the Commission claims a privilege as to a document or portion of a document in the administrative record of the proceeding in question and a binational panel finds that in camera inspection or limited disclosure of that document or portion thereof is required by United States law, the administering authority or the Commission, as appropriate, may restrict access to such document or portion thereof to the authorized persons identified by the panel as requiring access and may require such persons to obtain access under a protective order described in paragraph (2).";

(B) in paragraph (1)(B)—

(i) by inserting ", and persons under the direction and control," after "employees" in clause (ii),

(ii) by striking "and" at the end of clause (ii),

(iii) by striking all after "in order to" in clause (iii) and inserting "make recommendations to the Trade Representative regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement, and"; and

(iv) by adding at the end thereof the following new clause:

"(iv) any officer or employee of the Government of Canada designated by an authorized agency of Canada to whom disclosure is necessary in order to make decisions regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement.";

(C) in paragraph (3)—

(i) by striking "or" after "violate," each place it appears, and

(ii) by inserting "or knowingly to receive information the receipt of which constitutes a violation of," after "violation of," each place it appears; and

(D) in paragraph (4), by striking out "or inducement of a violation," and inserting "inducement of a violation or receipt of information with reason to know that such information was disclosed in violation,".

(b) AMENDMENTS TO THE UNITED STATES-CANADA FREE-TRADE AGREEMENT IMPLEMENTATION ACT OF 1988.—

(1) Section 406(b) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by adding at the end thereof the following new paragraph:

"(4) If the Canadian Secretariat described in chapter 19 of the Agreement provides funds during any fiscal year for the purpose of paying, in accordance with Annex 1901.2 of the Agreement, the Canadian share of the expenses of binational panels, the United States Secretariat established under section 405(e)(1) may hereafter retain and use such funds for such purposes.".

(2) Section 408(c) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking all after "persons" and inserting "who would otherwise be entitled under Canadian law to commence procedures for judicial review of a final antidumping or countervailing duty determination made by a competent investigating authority of Canada.".

(3) Section 409(b)(3)(A) of the United States-Canada Free-Trade Agreement Implementation Act of 1988 (19 U.S.C. 2112 note) is amended by striking "section 305" and inserting "section 308".

(c) AMENDMENT TO HARMONIZED TARIFF SCHEDULE.—U.S. Note 1 to subchapter XIII of chapter 98 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended by adding at the end thereof the following new paragraph:

"(c) For purposes of this subchapter, the shipment to Canada of an article entered into the United States under heading 9813.00.05 shall not constitute an exportation, unless the article is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988. This paragraph shall apply to shipments on or after January 1, 1994 (or, if later, the date proclaimed by the President under section 204(b)(2)(B) of such Act).".

SEC. 135. TREATMENT OF CERTAIN INFORMATION UNDER ADMINISTRATIVE PROTECTIVE ORDERS.

(a) IN GENERAL.—Section 333 of the Tariff Act of 1930 (19 U.S.C. 1333) is amended by adding at the end thereof the following new subsection:

"(h) ADMINISTRATIVE PROTECTIVE ORDERS.—Any correspondence, private letters of reprimand, and other documents and files relating to violations or possible violations of administrative protective orders issued by the Commission in connection with investigations or other proceedings under this title shall be treated as information described in section 552(b)(3) of title 5, United States Code.".

(b) COUNTERVAILING AND ANTIDUMPING DUTY INVESTIGATIONS.—Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended—

(1) by adding the following sentences at the end of subsection (c)(1)(A): "Customer names obtained during any investigation which requires a determination under section 705(b) or 735(b) may not be disclosed by the administering authority under protective order until either an order is published under section 706(a) or 736(a) as a result of the investigation or the investigation is suspended or terminated. The Commission may delay disclosure of customer names under protective order during any such investigation until a reasonable time prior to any hearing provided under section 774."; and

(2) by adding at the end thereof the following new subsection:

"(g) INFORMATION RELATING TO VIOLATIONS OF PROTECTIVE ORDERS AND SANCTIONS.—The administering authority and the Commission may withhold from disclosure any correspondence, private letters of reprimand, settlement agreements, and documents and files compiled in relation to investigations and actions involving a violation or possible violation of a protective order issued under subsection (c) or (d), and such information shall be treated as information described in section 552(b)(3) of title 5, United States Code.".

19 USC 2112 note.

(c) APPLICATION OF AMENDMENTS TO PRODUCTS OF CANADIAN ORIGIN.—For purposes of section 404 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, the amendments made by subsection (b) also apply with respect to investigations under title VII of the Tariff Act of 1930 involving products of Canadian origin.

SEC. 136. EXTENSION OF TIME FOR PREPARATION OF REPORT ON SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS UNDER THE WORKER ADJUSTMENT ASSISTANCE PROGRAM.

Section 246 of the Trade Act of 1974 (19 U.S.C. 2318) is amended—

(1) by striking out "and carry out" in the matter preceding paragraph (1) of subsection (a); and

(2) by striking out "3 years" in subsection (d) and inserting "6 years".

19 USC 1484 note.

SEC. 137. DRUG PARAPHERNALIA.

(a) STATISTICAL ANNOTATIONS.—The Secretary of the Treasury, the Secretary of Commerce, and the United States International Trade Commission shall take actions under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) to implement the recommendations of the Commission regarding additional statistical annotations that were made in the report of the Commission on Investigation 332-277.

(b) REPORT.—By no later than the date that is 1 year after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the operational response of the United States Customs Service to the recommendations contained in the report of the United States Trade Commission described in subsection (a). The report submitted by the Commissioner of Customs under this subsection shall address the effectiveness of the United States Customs Service in monitoring and seizing drug paraphernalia, including crack bags, vials, and pipes.

SEC. 138. ECONOMIC SANCTIONS AGAINST PRODUCTS OF BURMA. President of U.S.

(a) IN GENERAL.—If, prior to October 1, 1990, the President does not certify to Congress that Burma has met all of the conditions listed in subsection (b), then the President—

(1) shall impose such economic sanctions upon Burma as the President determines to be appropriate, including any sanctions appropriate under the Narcotics Control Trade Act of 1986; and

(2) should confer with other industrialized democracies in order to reach cooperative agreements to impose sanctions against Burma.

(b) CONDITIONS WHICH BURMA MUST MEET.—The conditions referred to in subsection (a) are as follows:

(1) Burma meets the certification requirements listed in section 802(b) of the Narcotics Control Trade Act of 1986.

(2) The national governmental legal authority in Burma has been transferred to a civilian government.

(3) Martial law has been lifted in Burma.

(4) Prisoners held for political reasons in Burma have been released.

(c) IMPOSITION OF SANCTIONS.—In applying subsection (a)(1), the President shall give primary consideration to the imposition of sanctions on those products which constitute major imports from Burma, including fish, tropical timber, and aquatic animals, unless the President determines that sanctions against such products would have a significant adverse effect on the economic interests of the United States.

(d) REPORTS IF SANCTIONS NOT IMPOSED.—If the President does not impose economic sanctions under subsection (a)(1), the President shall—

(1) report to the Congress his reasons for not imposing sanctions and the actions he intends to take to achieve the conditions listed in subsection (b) (1) through (4); and

(2) for as long as economic sanctions are not imposed during the 2-year period after the date on which the report is first made under paragraph (1), submit semiannual reports to the Congress regarding the reasons and actions referred in such paragraph.

SEC. 139. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.

(a) TARIFF ACT OF 1930.—The Tariff Act of 1930 is amended as follows:

(1) Section 555(b)(6) (19 U.S.C. 1555(b)(6)) is amended by striking out "subpart A of part 2 of schedule 8 of the Tariff schedules of the United States" and inserting "subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States".

(2) Section 739(a)(1)(B)(v) (19 U.S.C. 1673h(a)(1)(B)(v)) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(3) Section 771(20)(A) (19 U.S.C. 1677(20)(A)) is amended by striking out "schedule 8 of the Tariff Schedules of the United States" and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States".

(b) OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.—Section 1102(c)(4) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(c)(4)) is amended—

(1) by striking out "paragraph (3)(B)" and inserting "paragraph (3)(C)"; and

(2) by striking out "1103(f)" and inserting "1103(e)".

(c) COBRA OF 1985.—Section 13031(b)(8)(D) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(8)(D)) (as redesignated by section 111(b)(2)(A) of this Act) is amended—

(1) by striking out "subparagraph 9802.00.60 of the Tariff Schedules of the United States" in clause (iii) and inserting "subheading 9802.00.60 of the Harmonized Tariff Schedule of the United States";

(2) by striking out "subparagraph 9802.00.80 of Schedules" in clause (iv) and inserting "heading 9802.00.80 of such Schedule"; and

(3) by striking out "subparagraph 9802.00.60 or 807.00 of such Schedules" in the sentence following clause (iv) and inserting "subheading 9802.00.60 or heading 9802.00.80 of such Schedule".

SEC. 140. INCREASE IN EXPENDITURES TO PROVIDE ASSISTANCE FOR UNITED STATES CITIZENS RETURNING FROM FOREIGN COUNTRIES.

Section 1113(d) of the Social Security Act (42 U.S.C. 1313(d)) is amended to read as follows:

"(d) The total amount of temporary assistance provided under this section shall not exceed $1,000,000 during any fiscal year beginning on or after October 1, 1989."

13 USC 23 note.

SEC. 141. ADMINISTRATIVE PROVISION.

(a) GENERAL RULE.—The determination of whether temporary 1990 census services constitute "Federal service" for purposes of subchapter I of chapter 85 of title 5, United States Code, shall be made under the provisions of such subchapter without regard to any provision of law not contained in such subchapter.

(b) TEMPORARY 1990 CENSUS SERVICES.—For purposes of subsection (a), the term "temporary 1990 census services" means services performed by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population (as determined under regulations determined by the Secretary of Commerce).

SEC. 142. NONDISCRIMINATORY TREATMENT FOR THE PRODUCTS OF EAST GERMANY.

Notwithstanding any other provision of law, the President may, by proclamation, lower the rate of duty under the Harmonized Tariff Schedule of the United States on products of the German Democratic Republic that are entered, or withdrawn from warehouse for consumption, in the customs territory of the United States—

(1) after September 30, 1990; and

(2) before the beginning date on which a unified Germany is treated as a country eligible for column 1 duty treatment under such Harmonized Schedule;

to any rate of duty that is not lower than the rate that would be imposed if the column 1 general rate of duty provided for in such Schedule applied to the product at the time of entry or withdrawal.

TITLE II—CARIBBEAN BASIN ECONOMIC RECOVERY

Caribbean Basin Economic Recovery Expansion Act of 1990.

Subtitle A—Short Title and Findings

SEC. 201. SHORT TITLE.

19 USC 2701 note.

This title may be cited as the "Caribbean Basin Economic Recovery Expansion Act of 1990".

SEC. 202. CONGRESSIONAL FINDINGS.

19 USC 2701 note.

The Congress finds that—

(1) a stable political and economic climate in the Caribbean region is necessary for the development of the countries in that region and for the security and economic interests of the United States;

(2) the Caribbean Basin Economic Recovery Act was enacted in 1983 to assist in the achievement of such a climate by stimulating the development of the export potential of the region; and

(3) the commitment of the United States to the successful development of the region, as evidenced by the enactment of the Caribbean Basin Economic Recovery Act, should be reaffirmed, and further strengthened, by amending that Act to improve its operation.

Subtitle B—Amendments to the Caribbean Basin Economic Recovery Act and Related Provisions

PART 1—AMENDMENTS TO CARIBBEAN BASIN ECONOMIC RECOVERY ACT

SEC. 211. REPEAL OF TERMINATION DATE ON DUTY-FREE TREATMENT UNDER THE ACT.

Section 218 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2706(b)) is repealed.

SEC. 212. DUTY REDUCTION FOR CERTAIN LEATHER-RELATED PRODUCTS.

(a) IN GENERAL.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended by adding at the end thereof the following new subsection:

"(h)(1) Subject to paragraph (2), the President shall proclaim reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that— President of U.S.

"(A) are the product of any beneficiary country; and

"(B) were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

"(2) The reduction required under paragraph (1) in the rate of duty on any article shall—

"(A) result in a rate that is equal to 80 percent of the rate of duty that applies to the article on December 31, 1991, except

that, subject to the limitations in paragraph (3), the reduction may not exceed 2.5 percent ad valorem; and

"(B) be implemented in 5 equal annual stages with the first one-fifth of the aggregate reduction in the rate of duty being applied to entries, or withdrawals from warehouse for consumption, of the article on or after January 1, 1992.

"(3) The reduction required under this subsection with respect to the rate of duty on any article is in addition to any reduction in the rate of duty on that article that may be proclaimed by the President as being required or appropriate to carry out any trade agreement entered into under the Uruguay Round of trade negotiations; except that if the reduction so proclaimed—

"(A) is less than 1.5 percent ad valorem, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed 3.5 percent ad valorem, or

"(B) is 1.5 percent ad valorem or greater, the aggregate of such proclaimed reduction and the reduction under this subsection may not exceed the proclaimed reduction plus 1 percent ad valorem.".

19 USC 2703.

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 213 is amended—

(1) by striking out ", handbags, luggage, flat goods, work gloves, and leather wearing apparel" in paragraph (2);

(2) by striking "or" at the end of paragraph (4);

(3) by striking out the period at the end of paragraph (5) and inserting "; or"; and

(4) by adding at the end thereof the following new paragraph:

"(6) articles to which reduced rates of duty apply under subsection (h).".

SEC. 213. WORKER RIGHTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended—

(1) by striking out "and" after the semicolon at the end of subsection (b)(5);

(2) by striking out the period at the end of subsection (b)(6) and inserting "; and";

(3) by adding at the end of subsection (b) the following new paragraph:

"(7) if such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).";

(4) by amending the last sentence in subsection (b) by striking out "and (5)" and inserting "(5), and (7)"; and

(5) by amending subsection (c)(8) to read as follows:

"(8) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.".

SEC. 214. REPORTS.

Section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) is amended by adding at the end thereof the following new subsection:

President.

"(f) On or before October 1, 1993, and the close of each 3-year period thereafter, the President shall submit to the Congress a

complete report regarding the operation of this title, including the results of a general review of beneficiary countries based on the considerations described in subsections (b) and (c).".

SEC. 215. TREATMENT OF ARTICLES GROWN, PRODUCED, OR MANUFACTURED IN PUERTO RICO.

(a) IN GENERAL.—Section 213(a) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(a)) is amended by adding at the end thereof the following new paragraph:

"(5) The duty-free treatment provided under this chapter shall apply to an article (other than an article listed in subsection (b)) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if—

"(A) the article is imported directly from the beneficiary country into the customs territory of the United States,

"(B) the article was by any means advanced in value or improved in condition in a beneficiary country, and

"(C) if any materials are added to the article in a beneficiary country, such materials are a product of a beneficiary country or the United States.".

(b) EFFECTIVE DATES.— 19 USC 2703 note.

(1) The amendment made by subsection (a) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry, or withdrawal from warehouse—

(A) which was made after August 5, 1983, and before October 1, 1990, and with respect to which liquidation has not occurred before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if the amendment made by subsection (a) applied,

shall be liquidated as though such amendment applied to such entry or withdrawal.

SEC. 216. APPLICATION OF ACT IN EASTERN CARIBBEAN AREA.

It is the sense of the Congress that there should be undertaken special efforts in order to improve the ability of the Organization of Eastern Caribbean States countries and Belize to benefit from the Caribbean Basin Economic Recovery Act.

PART 2—AMENDMENTS TO THE HARMONIZED TARIFF SCHEDULE AND OTHER PROVISIONS AFFECTING CBI BENEFICIARY COUNTRIES

SEC. 221. INCREASE IN DUTY-FREE TOURIST ALLOWANCES.

(a) DUTY-FREE ALLOWANCE FOR RETURNING RESIDENTS.—Subchapter IV of chapter 98 of the Harmonized Tariff Schedule of the United States is amended—

(1) by inserting the following new note at the end of the notes to such subchapter:

"4. As used in subheadings 9804.00.70 and 9804.00.72, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).";

"(A) assembled or processed in whole of fabricated components that are a product of the United States, or

"(B) processed in whole of ingredients (other than water) that are a product of the United States,

in a beneficiary country; and

"(ii) neither the fabricated components, materials or ingredients, after exportation from the United States, nor the article itself, before importation into the United States, enters the commerce of any foreign country other than a beneficiary country.

As used in this paragraph, the term 'beneficiary country' means a country listed in general note 3(c)(v)(A).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) applies with respect to goods assembled or processed abroad that are entered on or after October 1, 1990.

SEC. 223. RULES OF ORIGIN FOR PRODUCTS OF BENEFICIARY COUNTRIES.

(a) ITC INVESTIGATION.—

(1) The United States International Trade Commission shall immediately undertake, pursuant to section 332(g) of the Tariff Act of 1930, an investigation for the purpose of assessing whether revised rules of origin for products of countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act are appropriate. If the Commission makes an affirmative assessment, it shall develop recommended revised rules of origin.

(2) The Commission shall submit a report on the results of the investigation under paragraph (1), together with the text of recommended rules, if any, to the President and the Congress no later than 9 months after the date of the enactment of this Act. Reports.

(b) LEGISLATIVE RECOMMENDATIONS.—If the President considers that the implementation of revised rules of origin for products of beneficiary countries would be appropriate, the President shall transmit to the Congress suggested legislation containing such rules of origin. In formulating such suggested legislation, the President shall— President of U.S.

(1) take into account the report and recommended rules submitted under subsection (a); and

(2) obtain the advice of—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974,

(B) the governments of the beneficiary countries,

(C) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and

(D) other interested parties.

SEC. 224. CUMULATION INVOLVING BENEFICIARY COUNTRY PRODUCTS UNDER THE COUNTERVAILING AND ANTIDUMPING DUTY LAWS.

(a) MATERIAL INJURY.—Section 771(7)(C)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)) is amended to read as follows:

"(iv) CUMULATION.—

"(I) IN GENERAL.—For purposes of clauses (i) and (ii) and subject to subclause (II), the Commission shall cumulatively assess the volume and effect of

imports from two or more countries of like products subject to investigation if such imports compete with each other and with like products of the domestic industry in the United States market.

"(II) CBI EXCEPTION.—Solely for purposes of determining material injury, or the threat thereof, by reason of imports which are products of a country designated as a beneficiary country under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.), the volume and effect of imports from such country may only be cumulatively assessed with imports of like products from one or more other countries designated as beneficiary countries.".

(b) THREAT OF MATERIAL INJURY.—Section 771(7)(F)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(F)(iv)) is amended by striking out "(C)(v)," and inserting "(C)(iv)(II) and (v),".

19 USC 1677 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations (including investigations regarding products of Canadian origin) initiated under section 702 or 732 of the Tariff Act of 1930 on or after the date of the enactment of this Act.

SEC. 225. ETHYL ALCOHOL.

Section 7(b) of the Steel Trade Liberalization Program Implementation Act (19 U.S.C. 2703 note) is amended by striking out "calendar years 1990 and 1991." and inserting "calendar years after 1989.".

SEC. 226. CONFORMING AMENDMENT.

Section 503(b) of the Trade Act of 1974 (19 U.S.C. 2463(b)) is amended to read as follows:

"(b)(1) The duty-free treatment provided under section 501 shall apply to any eligible article which is the growth, product, or manufacture of a beneficiary developing country if—

"(A) that article is imported directly from a beneficiary developing country into the customs territory of the United States; and

"(B) the sum of (i) the cost or value of the materials produced in the beneficiary developing country or any 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3), plus (ii) the direct costs of processing operations performed in such beneficiary developing country or such member countries is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States.

Regulations.

"(2) The Secretary of the Treasury, after consulting with the United States Trade Representative, shall prescribe such regulations as may be necessary to carry out this subsection, including, but not limited to, regulations providing that, in order to be eligible for duty-free treatment under this title, an article must be wholly the growth, product, or manufacture of a beneficiary developing country, or must be a new or different article of commerce which has been grown, produced, or manufactured in the beneficiary developing country; but no article or material of a beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone—

"(A) simple combining or packaging operations, or

"(B) mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article.".

SEC. 227. REQUIREMENT FOR INVESTMENT OF SECTION 936 FUNDS IN CARIBBEAN BASIN COUNTRIES.

(a) GENERAL RULE.—Paragraph (4) of section 936(d) of the Internal Revenue Code of 1986 (relating to investment in Caribbean Basin countries) is amended by adding at the end thereof the following new subparagraph: 26 USC 936.

"(D) REQUIREMENT FOR INVESTMENT IN CARIBBEAN BASIN COUNTRIES.—

"(i) IN GENERAL.—For each calendar year, the government of Puerto Rico shall take such steps as may be necessary to ensure that at least $100,000,000 of qualified Caribbean Basin country investments are made during such calendar year. Puerto Rico.

"(ii) QUALIFIED CARIBBEAN BASIN COUNTRY INVESTMENT.—For purposes of clause (i), the term 'qualified Caribbean Basin country investment' means any investment if—

"(I) the income from such investment is treated as qualified possession source investment income by reason of subparagraph (A), and

"(II) such investment is not (directly or indirectly) a refinancing of a prior investment (whether or not such prior investment was a qualified Caribbean Basin country investment)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to calendar years after 1989. 26 USC 936 note.

Subtitle C—Scholarship Assistance and Tourism Promotion

State and local governments. Schools and colleges.

SEC. 231. COOPERATIVE PUBLIC AND PRIVATE SECTOR PROGRAM FOR PROVIDING SCHOLARSHIPS TO STUDENTS FROM THE CARIBBEAN AND CENTRAL AMERICA. 20 USC 226.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage the establishment of partnerships between State governments, universities, community colleges, and businesses to support scholarships for talented socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States in order to—

(1) improve the diversity and quality of educational opportunities for such students;

(2) assist the development efforts of eligible countries by providing training and educational assistance to persons who can help address the social and economic needs of these countries;

(3) expand opportunities for cross-cultural studies and exchanges and improve the exchange of understanding and principles of democracy;

(4) promote positive and productive relationships between the United States and its neighbor countries in the Caribbean and Central American regions;

(5) give added visibility and focus to the "scholarship diplomacy" efforts of the United States Government by leveraging the monies available for this purpose through the development of partnerships among Federal, State, and local governments and the business and academic communities; and

(6) promote community involvement with the scholarship program as a tool for broadening and strengthening the "American experience" for foreign students.

(b) ESTABLISHMENT OF SCHOLARSHIP PROGRAM.—The Administrator of the Agency for International Development shall establish and administer a program of scholarship assistance, in cooperation with State governments, universities, community colleges, and businesses, to provide scholarships to enable socially and economically disadvantaged students from eligible countries in the Caribbean and Central America to study in the United States.

(c) GRANTS TO STATES.—In carrying out this section, the Administrator may make grants to States to provide scholarship assistance for undergraduate degree programs and for training programs of one year or longer in study areas related to the critical development needs of the students' respective countries.

(d) AGREEMENT WITH STATES.—The Administrator and each participating State shall agree on a program regarding the educational opportunities available within the State, the selection and assignment of scholarship recipients, and related issues. To the maximum extent practicable, each State shall be given flexibility in designing its program.

(e) FEDERAL SHARE.—The Federal share for each year for which a State receives payments under this section shall be not less than 50 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of payments under this section may be in cash, including the waiver of tuition or the offering of in-State tuition or housing waivers or subsidies, or in-kind fairly evaluated, including the provision of books or supplies.

(g) FORGIVENESS OF SCHOLARSHIP ASSISTANCE.—The obligation of any recipient to reimburse any entity for any or all scholarship assistance provided under this section shall be forgiven upon the recipient's prompt return to his or her country of domicile for a period which is at least one year longer than the period spent studying in the United States with scholarship assistance.

(h) PRIVATE SECTOR PARTICIPATION.—To the maximum extent practicable, each participating State shall enlist the assistance of the private sector to enable the State to meet the non-Federal share of payments under this section. Wherever appropriate, each participating State shall encourage the private sector to offer internships or other opportunities consistent with the purposes of this section to students receiving scholarships under this section.

(i) FUNDING.—Any funds used in carrying out this section shall be derived from funds allocated for Latin American and Caribbean regional programs under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund).

(j) DEFINITIONS.—As used in this section—

(1) The term "eligible country" means any country—

(A) which is receiving assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) or chapter 4

of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund); and

(B) which is designated by the President as a beneficiary country pursuant to the Caribbean Basin Economic Recovery Act.

(2) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 232. PROMOTION OF TOURISM.

(a) CONGRESSIONAL FINDING.—The Congress finds that the tourism industry must be recognized as a central element in the economic development and political stability of the Caribbean Basin region because of the potential that the industry has for increasing employment and foreign exchange earnings, establishing important linkages with other related sectors, and having a positive complementary effect on trade with the United States.

(b) FEDERAL AGENCY PRIORITY.—It is the sense of the Congress that increased tourism and related activities should be developed in the Caribbean Basin region as a central part of the Caribbean Basin Initiative program and, to that end, the appropriate agencies of the United States Government should assign a high priority to projects that promote the tourism industry in the Caribbean Basin.

(c) STUDY.—The Secretary of Commerce shall complete the study begun in 1986 regarding tourism development strategies for the Caribbean Basin region. The study shall include—

(1) information on the mutual benefits received by the United States and the Caribbean Basin economies as a result of tourist activity in the area; and

(2) proposals for developing increased linkages between the tourism industry and local industries in the region such as the agrobusiness.

SEC. 233. PILOT PRECLEARANCE PROGRAM.

19 USC 2071 note.

(a) ESTABLISHMENT OF PROGRAM.—Subject to subsection (b), the Commissioner of Customs shall carry out, during fiscal years 1991 and 1992, preclearance operations at a facility of the United States Customs Service in a country within the Caribbean Basin which the Commissioner of Customs considers appropriate for testing the extent to which the availability of preclearance operations can assist in the development of tourism.

(b) RESTRICTIONS REGARDING PROGRAM.—

(1) The Commissioner of Customs may not consider a country within the Caribbean Basin to be appropriate for the testing referred to in subsection (a) if preclearance operations are currently carried out by the United States Customs Service in that country.

(2) Preclearance operations may not be commenced in the country selected for testing under subsection (a) unless the Commissioner of Customs and the Commissioner of Immigration and Naturalization jointly certify that—

(A) there exists a bilateral agreement between the United States Government and the government of such country which protects the interests of the United States and af-

fords diplomatic protection to United States employees working at the preclearance location;

(B) the facilities at the preclearance location conform to Federal Inspection Services standards and are suitable for the duties to be performed therein;

(C) there is adequate security around the structure used for the reception of international arrivals;

(D) the government of such country grants the United States Customs Service and the United States Immigration and Naturalization Service appropriate search, seizure, and arrest authority; and

(E) United States employees and their families will not be subject to fear of reprisal, acts of terrorism, and threats of intimidation.

Aruba.
Jamaica.

(3) In determining the country in which to establish the operation described in paragraph (1), the Commissioner of Customs and the Commissioner of Immigration and Naturalization shall first determine the viability of establishing such operations in either Aruba or Jamaica. If the Commissioners determine, after full consultation with the governments of such countries, that it is not viable to establish pre-clearance operations in either Aruba or Jamaica, they shall so report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, including an explanation of how this determination was reached. Such report shall be submitted to those Committees within six months after the date of the enactment of this Act. Following the submission of such a report, the Commissioners shall take all necessary steps, consistent with the requirements of this section, to establish such operations in another country.

Reports.

(c) REPORT.—As soon as practicable after September 30, 1992, the Commissioner of Customs shall submit to the Congress a report regarding the preclearance operations program carried out under subsection (a). The report shall include—

(1) a summary of the preclearance operations, including the number of individuals processed, any administrative problems encountered, and cost of the operations;

(2) an evaluation of the extent to which the preclearance operations contributed to—

(A) the stimulation of the tourism industry of the country concerned, and

(B) expedited customs processing at United States ports of entry;

(3) the opinion of the Commissioner of Customs regarding the efficacy of extending preclearance operations to other countries within the Caribbean Basin that are developing tourism industries, and if the opinion is affirmative, the identity of those countries to which such operations should be extended and the estimated costs and results of such extensions; and

(4) such other matters that the Commissioner of Customs considers relevant.

Subtitle D—Miscellaneous Provisions

SEC. 241. TRADE BENEFITS FOR NICARAGUA.

President of U.S.

Notwithstanding any other provision of law, the President is authorized to designate Nicaragua as a beneficiary developing country for the purposes of title V of the Trade Act of 1974, as amended, and as a beneficiary country under the Caribbean Basin Economic Recovery Act, and any such designation may remain effective for the duration of the calendar year 1990.

SEC. 242. AGRICULTURAL INFRASTRUCTURE SUPPORT.

It is the sense of Congress that in order to facilitate trade with, and the economic development of, the countries designated as beneficiary countries under the Caribbean Basin Economic Recovery Act, the Secretary of Agriculture should, in consultation with the Agribusiness Promotion Council, coordinate with the Agency for International Development the development of programs to encourage improvements in the transportation and cargo handling infrastructure in these countries for the purpose of improving agricultural trade between these countries and the United States. Such programs should focus on improving distribution of agricultural commodities and products in these countries, and the phytosanitary institutions, quarantine capabilities, and pesticide regulations of these countries regarding agricultural commodities and products.

SEC. 243. EXTENSION OF TRADE BENEFITS TO THE ANDEAN REGION.

(a) FINDINGS.—The Congress finds that:

(1) United States antinarcotics policy places a high priority on assisting the nations of the Andean region of South America, the source of 100 percent of the world's supply of cocaine.

(2) The President and Congress have recognized that United States trade and economic policies play an important role in the overall United States antidrug strategy in the Andes.

(3) The extension of special trade preferences for articles from the Andean region would help revitalize the national economies of the Andes and further United States antinarcotics policy in the region.

(b) SENSE OF CONGRESS.—The Congress urges the President to—

(1) review the merits of extending the benefits provided under the Caribbean Basin Economic Recovery Act to the Andean region; and

(2) continue to explore additional mechanisms to expand trade opportunities for the Andean region, and report to Congress in a regular and timely fashion on the result of this review.

TITLE III—TARIFF PROVISIONS

SEC. 301. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, head-

(11) Heading 9902.29.22 (relating to d-6-meth-oxy-α-methyl-2-naphthaleneacetic acid and its sodium salt).
(12) Heading 9902.29.24 (relating to 3-amino-3-methyl-1-butyne).
(13) Heading 9902.29.30 (relating to 8-amino-1-naphthalenesulfonic acid and its salts).
(14) Heading 9902.29.31 (relating to 5-amino-2 (p-aminoanilino) benzenesulfonic acid).
(15) Heading 9902.29.33 (relating to 1-amino-8-hydroxy-3,6-naphthalenedisulfonic acid; and 4-amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt)).
(16) Heading 9902.29.43 (relating to 1-amino-2,4-dibromoanthraquinone).
(17) Heading 9902.29.44 (relating to bromamine acid).
(18) Heading 9902.29.51 (relating to N-(7-hy-droxy-1-naphthyl)acetamide).
(19) Heading 9902.29.57 (relating to N,N-bis(2-cyanoethyl)aniline).
(20) Heading 9902.29.60 (relating to triallate).
(21) Heading 9902.29.64 (relating to 6-(3-methyl-5-oxo-1-pyrazolyl)-1,3-naphthalenedisulfonic acid (amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-methyl-1-phenyl-5-pyrazolone (methylphenylpyrazolone)).
(22) Heading 9902.29.66 (relating to m-sulfaminopyrazolone (m-sulfamidophenylmethylpyrazolone)).
(23) Heading 9902.29.76 (relating to 2-n-octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants).
(24) Heading 9902.29.79 (relating to 2-amino-N-ethylbenzenesulfonanilide).
(25) Heading 9902.32.04 (relating to methylene blue).
(26) Heading 9902.38.06 (relating to mixtures of dinocap with application adjuvants).
(27) Heading 9902.38.07 (relating to mixtures of mancozeb and dinocap).
(28) Heading 9902.38.08 (relating to mixtures of maneb, zineb, mancozeb, and metiram).
(29) Heading 9902.38.10 (relating to mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and stabilizers, whether or not containing application adjuvants).
(30) Heading 9902.38.11 (relating to mixtures of dicofol and application adjuvants).
(31) Heading 9902.39.14 (relating to cholestyramine resin USP).
(32) Headings 9902.40.11, 9902.73.12, 9902.73.15, 9902.85.12, and 9902.87.14 (relating to certain bicycle parts).
(33) Heading 9902.51.01 (relating to certain wools).
(34) Heading 9902.84.42 (relating to certain narrow weaving machines).
(35) Heading 9902.84.45 (relating to certain wool carding and spinning machinery).
(36) Heading 9902.84.48 (relating to certain knitting machines designed for sweater strip or garment length knitting).
(37) Heading 9902.84.50 (relating to certain lace braiding machines).

(38) Heading 9902.29.10 (relating to 6-hydroxy-2-naphthalenesulfonic acid and its sodium, potassium, and ammonium salts).

(39) Heading 9902.29.23 (relating to triphenyl phosphate).

(40) Heading 9902.29.28 (relating to α,a,α-trifluoro-o-toluidine).

(41) Heading 9902.29.35 (relating to 6-amino-4-hydroxy-2-naphthalenesulfonic acid (gamma acid)).

(42) Heading 9902.29.38 (relating to 3,3'-dimethoxybenzidine (o-dianisidine) and its dihydrochloride).

(43) Heading 9902.29.40 (relating to 2-amino-5-nitrophenol).

(44) Heading 9902.29.47 (relating to 4-methoxyaniline-2-sulfonic acid).

(45) Heading 9902.29.49 (relating to benzethonium chloride).

(46) Heading 9902.29.59 (relating to 2,2-bis(4-cyanatophenyl)propane).

(47) Heading 9902.29.62 (relating to paraldehyde).

(48) Heading 9902.29.63 (relating to aminomethylphenylpyrazole).

(49) Heading 9902.29.67 (relating to 3-methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-tolyl methyl pyrazolone)).

(50) Heading 9902.29.69 (relating to 3-methyl-5-pyrazolone).

(51) Heading 9902.29.71 (relating to barbituric acid).

(52) Heading 9902.30.04 (relating to nicotine resin complex).

(53) Heading 9902.36.06 (relating to metaldehyde).

(54) Heading 9902.84.44 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).

(55) Heading 9902.84.51 (relating to knitting needles).

(56) Heading 9902.29.27 (relating to tetraamino biphenyl).

(57) Heading 9902.29.88 (relating to cyclosporine).

(58) Heading 9902.26.14 (relating to synthetic rutile).

(59) Heading 9902.57.01 (relating to needlecraft display models, primarily hand stitched, of completed mass-produced kits).

(60) Heading 9902.29.52 (relating to 2,5-dimethoxyacetanilide).

(61) Heading 9902.29.61 (relating to 3-(4'-aminobenzamido)phenyl-β-hydroxyethylsulfone).

(62) Heading 9902.29.25 (relating to 4-chloro-2-nitroaniline).

(63) Heading 9902.29.07 (relating to 2-[(3-nitrophenyl)sulfonyl]ethanol).

(64) Heading 9902.29.42 (relating to 4-chloro-2,5-dimethoxyaniline).

(65) Heading 9902.29.45 (relating to 3,4-diaminophenetole, dihydrogen sulfate).

(66) Heading 9902.29.86 (relating to 2,4-dichloro-5-sulfamoylbenzoic acid).

(67) Heading 9902.25.04 (relating to graphite).

(68) Headings 9902.29.01 and 9902.37.07 (relating to photographic color couplers and coupler intermediates).

(69) Heading 9902.95.01 (relating to stuffed dolls and doll skins).

(b) EXTENSION UNTIL DATE OTHER THAN JANUARY 1, 1993.—Heading 9902.61.00 (relating to certain knitwear fabricated in Guam) is amended by striking out "10/31/92" and inserting "10/31/96".

SEC. 476. ELIMINATION OF INVERTED TARIFF ON CANTILEVER BRAKES AND BRAKE PARTS FOR BICYCLES.

The following provisions are amended as follows:

(1) Subheading 8714.94.20 is amended by striking out "Caliper brakes" and inserting "Caliper and cantilever bicycle brakes and parts thereof".

(2) Heading 9902.73.12 is amended by inserting "and cantilever bicycle" immediately after "caliper".

(3) Heading 9902.87.14 is amended by inserting "and cantilever bicycle brakes," immediately after "Caliper".

SEC. 477. BICYCLES HAVING 26-INCH WHEELS.

Chapter 87 is amended—

(1) by striking out "65 cm" in subheadings 8712.00.10 and 8712.00.20 and inserting "63.5 cm"; and

(2) by striking out "4 cm" in subheading 8712.00.20 and inserting "4.13 cm".

SEC. 478. PROCESSING OF CERTAIN BLENDED SYRUPS.

(a) IN GENERAL.—U.S. note 2 to subchapter IV of chapter 99 is amended by adding at the end thereof the following:

"(e) Blended syrups of heading 9904.50.20, if entered from a foreign trade zone by a foreign trade zone user whose facilities were in operation on June 1, 1990, to the extent that the annual quantity entered into the customs territory from such zone does not contain an amount of sugar of nondomestic origin greater than that authorized by the Foreign Trade Zones Board for processing in such zone during calendar year 1985.".

(b) EFFECTIVE DATE.—The amendments made by this section shall plies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1988.

SEC. 479A. ARTICLES EXPORTED AND RETURNED.

The U.S. notes to subchapter II of chapter 98 are amended by adding at the end thereof the following new note:

"6. Notwithstanding the partial exemption from ordinary customs duties on the value of the metal product exported from the United States provided under subheading 9802.00.60, articles imported under subheading 9802.00.60 are subject to all other duties, and any other restrictions or limitations, imposed pursuant to title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.), or chapter 1 of title II or chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2251 et seq., 19 U.S.C. 2411 et seq.).".

SEC. 479B. BROOMS.

(a) IN GENERAL.—Chapter 96 is amended—

(1) by inserting "wholly or in part" after "Whiskbrooms," in the superior article description for subheading 9603.10.10; and

(2) by inserting "wholly or in part" after "Other brooms," in the superior article description for subheading 9603.10.40.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered or withdrawn from warehouse for consumption on or after the date that is 15 days after the date of enactment of this Act.

SEC. 479C. FOLIAGE-TYPE ARTIFICIAL FLOWERS.

Subheading 6702.90.40 is amended by striking out "Artificial flowers, of" in the article description and inserting in lieu thereof "Of".

PART 2—MISCELLANEOUS PROVISIONS

SEC. 481. RENEWAL OF EXISTING CUSTOMS EXEMPTION APPLICABLE TO BICYCLE PARTS IN FOREIGN TRADE ZONES.

Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "before January 1, 1991" and inserting in lieu thereof "on or before December 31, 1992".

SEC. 482. RAIL CARS FOR THE STATE OF FLORIDA.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall admit free of duty each bilevel rail passenger car that was—

(1) entered after March 14, 1988, and before January 1, 1989, and classified under item 690.15 of the Tariff Schedules of the United States (19 U.S.C. 1202); and

(2) designed for, and is for the use of, the Department of Transportation of the State of Florida.

If the liquidation of the entry of any such rail car has become final before the date of the enactment of this Act, the entry shall, notwithstanding any other provision of law, be reliquidated in accordance with the provisions of this Act and the appropriate refund of duty made.

SEC. 483. RELIQUIDATION OF CERTAIN ENTRIES.

(a) CERTAIN ANTIDUMPING DUTIES.—(1) Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law and subject to paragraph (2), the entries listed in paragraph (3) shall be reliquidated, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made within 90 days after reliquidation.

(2) Reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the appropriate customs officer within 180 days after the date of the enactment of this Act that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) The entries referred to in paragraph (1) are as follows:

Entry number	Date of entry
74-222089	May 7, 1974.
74-225275	June 17, 1974.
76-237223	July 9, 1976.
76-247178	October 1, 1976.
79-251251	September 11, 1979.
80-223851	October 9, 1979.
80-224447	November 27, 1979.
80-224448	November 27, 1979.
80-225842	April 29, 1980.
80-225843	April 29, 1980.
80-225844	April 29, 1980.

Entry number	Date of entry
80-225845	April 29, 1980.
80-226742	August 13, 1980.
80-226743	August 13, 1980.

(b) DIGITAL PROCESSING UNITS.—(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, any entry of a processing unit that—

(A) was entered under item 676.15 or 676.54 of the Tariff Schedules of the United States;

(B) would not, if classified under item 675.15, have been subject to temporary duties under item 945.83 or 945.84 of the Appendix to such Schedules; and

(C) was made after January 16, 1986, and before July 2, 1987;

shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duties paid with respect to such entry.

(2) For purposes of this subsection, the term "processing unit" means a digital processing unit for an automated data processing machine, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon.

(c) CERTAIN OTHER ENTRIES.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act—

(1) any entry of 1-(3-sulfopropylpyridinium hydroxide (provided for in item 406.39 of the Tariff Schedules of the United States (19 U.S.C. 1202)) that occurred after September 30, 1988, and before January 1, 1989, shall be reliquidated as free of duty; and

(2) any entry of brussels sprouts (provided for in item 903.29 of such Schedules (19 U.S.C. 1202)) that occurred after December 31, 1987, and before November 11, 1988, shall be liquidated at the rate of 12.5 percent ad valorem.

SEC. 484. PROTEST RELATING TO CERTAIN ENTRIES.

For purposes of section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), and notwithstanding any other provision of law, Protest Numbered 1801-000027 shall be deemed to have been filed with the appropriate customs officer within 90 days of the liquidation of entries 81-103533-2 and 81-103789-3.

SEC. 484A. SUBSTITUTION OF CRUDE PETROLEUM OR PETROLEUM DERIVATIVES.

(a) IN GENERAL.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end thereof the following new subsection:

"(p) SUBSTITUTION OF CRUDE PETROLEUM OR PETROLEUM DERIVATIVES.—

"(1) Notwithstanding any other provision of this section, in the case of articles, described in headings 2707 through 2715, 2901 and 2902, or 3901 through 3914 (limited to liquids, pastes, powders, granules, and flakes) of the Harmonized Tariff Schedule of the United States, that—

"(A) are—

"(i) manufactured or produced under subsection (a) or (b) from crude petroleum or petroleum derivatives, or

"(ii) imported duty-paid, and

"(B) are stored in common storage with other articles of the same kind and quality that are otherwise manufactured or produced,

drawback shall be paid on the articles withdrawn for export from such common storage (regardless of the source or origination of the articles withdrawn), if the requirements described in paragraph (2) are met.

"(2) The requirements of this paragraph are met if—

"(A) inventory records kept on a calendar month basis (not on a daily or transaction-by-transaction basis) demonstrate sufficient quantities of imported duty-paid articles or articles manufactured or produced under subsection (a) or (b) in the common storage against which such withdrawal is designated;

"(B) such inventory records reflect deliveries to and withdrawals from such common storage that assure that the drawback paid does not exceed the amount of drawback that would be payable under this section had all of the articles withdrawn from common storage been imported duty-paid or manufactured or produced under subsection (a) or (b);

"(C) certificates of delivery or certificates of manufacture and delivery, establishing the drawback eligibility of the imported duty-paid articles or articles manufactured or produced under subsection (a) or (b), when required, are filed with the drawback entry; and

"(D) the inventory records of the operator of such common storage are, upon reasonable notice, available to the Customs Service.

"(3) For purposes of this subsection—

"(A) The term 'common storage' includes all articles of the same kind and quality stored at a single facility regardless of the number of bins, tanks, or other containers used.

"(B) The term 'same kind and quality' means articles that are commercially interchangeable or that are referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States.

"(C) The term 'single facility' means all storage units under the control and recordkeeping of a single operator adjacent to a manufacturing plant, refinery, warehouse complex, terminal area, airport, bunkering facility, or similar facility.".

(b) TECHNICAL CORRECTION.—Subsection (b) of section 309 of the Tariff Act of 1930 (19 U.S.C. 1309) is amended by inserting "imported articles," after "foreign-trade zone,".

Claims.
19 USC 1309 note.

(c) EFFECTIVE DATE.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendments made by this section shall apply to—

(1) claims filed or liquidated on or after January 1, 1988, and

(2) claims that are unliquidated, under protest, or in litigation on the date of enactment of this Act.

SEC. 484B. AGGLOMERATE MARBLE FLOOR TILES.

Chapter 68 is amended by striking out subheading 6810.19.10 and inserting the following new subheadings with the article descriptions for such subheadings having the same degree of indentation as the article description for subheading 6804.22.60:

"	6810.19.12	Floor and wall tiles: Agglomerate marble tiles ..	4.9%	Free (A, E, IL) 4.2% (CA)	40%	
	6810.19.14	Other	21%	Free (A, E, IL) 12.6% (CA)	55%	".

SEC. 484C. PARTS OF IONIZATION SMOKE DETECTORS.

Chapter 90 is amended by inserting in numerical sequence the following new subheading with the article description having the same degree of indentation as the article description in subheading 9022.90.60:

"	9022.90.70	Of smoke detectors, ionization type	2.7%	Free (A, B, E, IL) 2.1% (CA)	35%	".

SEC. 484D. NUCLEAR MAGNETIC SPECTROMETER.

The Secretary of the Treasury shall admit free of duty a Phillips Medical Systems 4 tesla nuclear magnetic resonance (NMR) spectrometer for the use of the University of Alabama at Birmingham. If the liquidation of the entry of the spectrometer becomes final before the date of the enactment of this Act, the Secretary of the Treasury, notwithstanding any other provisions of law, shall—

(1) within 15 days after such date, reliquidate the entry in accordance with the provisions of this Act, and

(2) at the time of such reliquidation, make the appropriate refund of any duty paid with respect to the entry.

SEC. 484E. FOREIGN REPAIR OF VESSELS.

(a) IN GENERAL.—Section 466 of the Tariff Act of 1930 (19 U.S.C. 1466) is amended by adding at the end thereof the following new subsection:

"(h) The duty imposed by subsection (a) of this section shall not apply to—

"(1) the cost of any equipment, or any part of equipment, purchased for, or the repair parts or materials to be used, or the expense of repairs made in a foreign country with respect to, LASH (Lighter Aboard Ship) barges documented under the laws of the United States and utilized as cargo containers, or

"(2) the cost of spare repair parts or materials (other than nets or nettings) which the owner or master of the vessel certifies are intended for use aboard a cargo vessel, documented under the laws of the United States and engaged in the foreign or coasting trade, for installation or use on such vessel, as needed, in the United States, at sea, or in a foreign country, but only if duty is paid under appropriate commodity classifications of the Harmonized Tariff Schedule of the United States upon first entry into the United States of each such spare part purchased in, or imported from, a foreign country.".

corresponding rates of duty set forth in subheading 9901.00.52 of such Schedule.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act.

SEC. 484H. CANADIAN LOTTERY MATERIAL.

(a) IN GENERAL.—Section 553 of the Tariff Act of 1930 (19 U.S.C. 1553) is amended—

(1) by striking out "Any merchandise" and inserting "(a) Any merchandise"; and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), the entry for transportation in bond through the United States of any lottery ticket, printed paper that may be used as a lottery ticket, or any advertisement of any lottery, that is printed in Canada, shall be permitted without appraisement or the payment of duties under such regulations as the Secretary of the Treasury may prescribe, except that such regulations shall not permit the transportation of lottery materials in the personal baggage of a traveler.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 15 days after the date of enactment of this Act. 19 USC 1553 note.

SEC. 484I. CERTAIN FORGINGS.

Notwithstanding sections 304 and 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, within 180 days after the date of the enactment of this Act, shall, upon request filed with the appropriate customs officer, reliquidate entries numbered 85414397-7, 85414495-0, 85414647-9, 85414649-5, 85414983-2, 85414995-5, 85415031-3, 85415122-8, 85415244-7, 85415496-6, 85415619-7, 85415683-8, and 85415828-9, filed at the Port of Portland, Oregon, and, upon such reliquidation, shall refund the additional marking duties that were collected upon such entries pursuant to such section 304.

SEC. 484J. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER.

Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, entry numbered 86-707943-6, dated November 10, 1985, shall be reliquidated as duty-free and any duties paid with respect to such entry shall be refunded.

SEC. 484K. CERTAIN METHANOL ENTRIES.

Notwithstanding section 514 or 520 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury shall—

(1) reliquidate as free of duty—

(A) Entry No. 85322102-3, dated June 21, 1985, and

(B) Entry No. 85603168-9, dated September 20, 1985,

made at New York, New York, that consists of methanol, and

(2) refund any duties paid with respect to such entries,

if the appropriate certification of actual use for such entries is submitted to the appropriate customs officer by no later than the date that is 180 days after the date of enactment of this Act.

SEC. 484L. CERTAIN FROZEN VEGETABLES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days after the date of enactment of this Act, the Secretary of the Treasury shall—

(1) liquidate or reliquidate as free of duty any entry, or withdrawal from warehouse for consumption, made after December 31, 1989, and before May 1, 1990, of—

(A) cut and frozen green beans (provided for in subheading 0710.22.40 of the Harmonized Tariff Schedule of the United States), or

(B) frozen and off the cob whole kernel sweet corn (provided for in subheading 0710.40.00 of such Schedule),

that is the product of a foreign country to which nondiscriminatory (most-favored-nation) tariff treatment applies, and

(2) refund any duties paid with respect to such entry or withdrawal.

SEC. 484M. CERTAIN FILMS AND RECORDINGS.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer within 180 days of the date of enactment of this Act, any entry, or withdrawal from warehouse for consumption, of any article described in items 960.50 through 960.70 of the Appendix to the Tariff Schedules of the United States (as in effect on August 11, 1985) which was made after August 11, 1985, and before January 1, 1987, shall be liquidated or reliquidated as though such entry or withdrawal had been made on August 11, 1985 and the Secretary of the Treasury shall make the appropriate refund of any duties paid with respect to such entry or withdrawal.

SEC. 485. EFFECTIVE DATES.

19 USC 81c note.

(a) IN GENERAL.—Except as otherwise provided in this title, the amendments made by this title shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after October 1, 1990.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry—

(A) which was made after the applicable date and before October 1, 1990, and

(B) with respect to which there would have been no duty, or a lesser duty, if any amendment made by section 311, 312, 377, 419, 423, 426, 428, 432, 434, 436, 438, 440, 441, 442, 445, 446, 450A, 461(a)(36), 462(d), 472, 474, 475, 477, 479C, 484B, or 484C applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this title—

(A) The term "applicable date" means—

(i) if such amendment is made by section 442, December 31, 1987,

(ii) if such amendment is made by section 438, October 1, 1988,

(iii) if such amendment is made by section 311, 312, 377, 419, 426, 428, 432, 434, 440, 441, 445, 446, 450A, 462(d), 472, 474, 475, 477, 479C, 484B, or 484C, December 31, 1988,

(iv) if such amendment is made by section 436, July 1, 1989,

(v) if such amendment is made by section 461(a)(36), December 31, 1989, and

(vi) if such amendment is made by section 423, January 31, 1990.

(B) The term "entry" includes any withdrawal from warehouse.

(C) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(c) CORNED BEEF.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1990, and before April 1, 1991, any entry of corned beef in airtight containers—

(1) described in subheading 9902.16.02,

(2) to which the column 1 general rate of duty in effect on December 31, 1989 would have applied if entry had been made on such date, and

(3) that was entered after December 31, 1989, and before October 1, 1990,

shall be liquidated or reliquidated at the column 1 general rate of duty in subheading 9902.16.02 in effect on December 31, 1989, and the Secretary of the Treasury shall refund any duties paid with respect to such entry in excess of such column 1 general rate.

(d) STAGED RATE REDUCTIONS FOR CERTAIN GOODS.—

(1) Any staged reductions of a special rate of duty set forth in subheading 5111.19.10 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, also apply to the corresponding special rates of duty set forth in subheadings 5111.11.20, 5111.20.10, 5111.30.10, 5111.90.40, 5111.90.50, 5112.11.10, 5112.20.10, 5112.20.20, 5112.30.10, 5112.30.20, 5112.90.40, 5112.90.50, and 5803.90.11 (relating to certain woven fabrics and gauze) of such Schedule (as added by section 472).

(2) Any staged rate reduction proclaimed by the President before October 1, 1990, that—

(A) would take effect on or after October 1, 1990; and

(B) would, but for any amendment made by section 472 (relating to certain woven fabrics) or 475 (relating to chipper knife steel), apply to a special rate of duty set forth in any subheading of the Harmonized Tariff Schedule of the United States that is listed in column A;

applies to the corresponding special rate of duty set forth in the subheading of such Schedule that is listed in column B opposite such column A subheading:

Column A	Column B
5111.11.10	5111.11.30
5111.11.60	5111.11.70
5111.90.60	5111.90.70
5112.11.00	5112.11.20
5112.20.00	5112.20.30

5112.30.00	5112.30.30
5803.90.10	5803.90.12
7226.91.10	7226.91.15
7226.91.30	7226.91.25

(3) The amendments made by section 472 shall not affect any staged reductions of a rate of duty set forth in subheadings 5112.19.10, 5112.19.60, 5112.90.30, 5112.90.60 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990.

(4)(A) Any staged reductions of a special rate of duty set forth in subheading 6810.19.10 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, shall apply to the corresponding special rate of duty in subheading 6810.19.14.

(B) Any staged reductions of a special rate of duty set forth in subheading 3926.90.90 of the Harmonized Tariff Schedule of the United States that were proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, shall apply to the corresponding special rate of duty in subheading 6810.19.12.

(5) Any staged reductions of a special rate of duty set forth in subheading 9022.29.40 of the Harmonized Tariff Schedule of the United States that was proclaimed by the President before October 1, 1990, and are scheduled to take effect on or after October 1, 1990, also apply to the corresponding special rate of duty set forth in subheading 9022.90.70.

Forest Resources Conservation and Shortage Relief Act of 1990.

TITLE IV—EXPORTS OF UNPROCESSED TIMBER

16 USC 620 note.

SEC. 487. SHORT TITLE.

This title may be cited as the "Forest Resources Conservation and Shortage Relief Act of 1990".

16 USC 620.

SEC. 488. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Timber is essential to the United States.

(2) Forests, forest resources, and the forest environment are exhaustible natural resources that require efficient and effective conservation efforts.

(3) In the interest of conserving those resources, the United States has set aside millions of acres of otherwise harvestable timberlands in the western United States, representing well over 100,000,000,000 board feet of otherwise harvestable timber.

(4) In recent years, administrative, statutory, or judicial action has been taken to set aside an increased amount of otherwise harvestable timberlands for conservation purposes.

(5) In the next few months and years, additional amounts of otherwise harvestable timberlands may be set aside for conservation purposes, pursuant to the Endangered Species Act of 1973, the National Forest Management Act of 1976, or other expected statutory, administrative, and judicial actions.

(6) There is evidence of a shortfall in the supply of unprocessed timber in the western United States.

(7) There is reason to believe that any shortfall which may already exist may worsen unless action is taken.

(8) In conjunction with the broad conservation actions expected in the next few months and years, conservation action is necessary with respect to exports of unprocessed timber.

(b) PURPOSES.—The purposes of this title are—

(1) to promote the conservation of forest resources in conjunction with State and Federal resources management plans, and other actions or decisions, affecting the use of forest resources;

(2) to take action essential for the acquisition and distribution of forest resources or products in short supply in the western United States;

(3) to take action necessary, to meet the goals of Article XI 2.(a) of the General Agreement on Tariffs and Trade, to ensure sufficient supplies of certain forest resources or products which are essential to the United States;

(4) to continue and refine the existing Federal policy of restricting the export of unprocessed timber harvested from Federal lands in the western United States; and

(5) to effect measures aimed at meeting these objectives in conformity with the obligations of the United States under the General Agreement on Tariffs and Trade.

SEC. 489. RESTRICTIONS ON EXPORTS OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS. 16 USC 620a.

(a) PROHIBITION ON EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM FEDERAL LANDS.—No person who acquires unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States may export such timber from the United States, or sell, trade, exchange, or otherwise convey such timber to any other person for the purpose of exporting such timber from the United States, unless such timber has been determined under subsection (b) to be surplus to the needs of timber manufacturing facilities in the United States.

(b) SURPLUSES.—

(1) DETERMINATIONS BY SECRETARY CONCERNED.—The prohibition contained in subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from Federal lands which the Secretary concerned determines to be surplus to domestic manufacturing needs.

(2) PROCEDURES.—Any determination under paragraph (1) shall be made in regulations issued in accordance with section 553 of title 5, United States Code. Any such determination shall be reviewed at least once in every 3-year period. The Secretary concerned shall publish notice of such review in the Federal Register, and shall give the public an opportunity to comment on such review. Federal Register, publication.

SEC. 490. LIMITATIONS ON THE SUBSTITUTION OF UNPROCESSED FEDERAL TIMBER FOR UNPROCESSED TIMBER EXPORTED FROM PRIVATE LANDS. 16 USC 620b.

(a) DIRECT SUBSTITUTION.—(1) Except as provided in subsection (c), no person may purchase directly from any department or agency of the United States unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if—

(A) such unprocessed timber is to be used in substitution for exported unprocessed timber originating from private lands; or

(B) such person has, during the preceding 24-month period, exported unprocessed timber originating from private lands.

(2) Notwithstanding paragraph (1)—

(A) Federal timber purchased pursuant to a contract entered into between the purchaser and the Secretary concerned before the date on which regulations to carry out this subsection are issued under section 495 shall be governed by the regulations of the Secretary concerned in effect before such date that restrict the substitution of unprocessed timber originating from Federal lands for exported timber originating from private lands;

Contracts.

(B) in the 1-year period beginning on the effective date of this title, any person who operates under a Cooperative Sustained Yield Unit Agreement, and who has an historic export quota shall be limited to entering into contracts under such a quota to a volume equal to not more than 66 percent of the person's historic export quota used during fiscal year 1989;

(C) a person referred to in subparagraph (B) shall reduce the person's remaining substitution volume by an equal amount each year thereafter such that no volume is substituted under such a quota in fiscal year 1995 or thereafter; and

(D) the 24-month period referred to in paragraph (1)(B) shall not apply to any person who—

(i) before the enactment of this Act, has, under an historic export quota approved by the Secretary concerned, purchased unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States in substitution for exported unprocessed timber originating from private lands;

(ii) certifies to the Secretary concerned, within 3 months after the date of the enactment of this Act, that the person will, within 6 months after such date of enactment, cease exporting unprocessed timber originating from private lands; and

(iii) ceases exports in accordance with such certification.

(b) INDIRECT SUBSTITUTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), no person may, beginning 21 days after the date of the enactment of this Act, purchase from any other person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States if such person would be prohibited from purchasing such timber directly from a department or agency of the United States. Acquisitions of western red cedar which are domestically processed into finished products to be sold into domestic or international markets are exempt from the prohibition contained in this paragraph.

(2) EXCEPTIONS.—(A) The Secretary of Agriculture shall, as soon as practicable but not later than 9 months after the date of the enactment of this Act, establish, by rule, a limited amount of unprocessed timber originating from Federal lands described in subparagraph (B) which may be purchased by a person otherwise covered by the prohibition contained in paragraph (1). Such limit shall equal—

(i) the amount of such timber acquired by such person, based on the higher of the applicant's actual timber purchasing receipts or the appropriate Federal agency's

records, during fiscal years 1988, 1989, and 1990, divided by 3, or

(ii) 15 million board feet,

whichever is less, except that such limit shall not exceed such person's proportionate share, with respect to all persons covered under this paragraph, of 50 million board feet.

(B) The Federal lands referred to in subparagraph (A) are Federal lands administered by the United States Forest Service Region 6 that are located north of the Columbia River from its mouth and east to its first intersection with the 119th meridian, and from that point north of the 46th parallel and east.

(C) Any person may sell, trade, or otherwise exchange with any other person the rights obtained under subparagraph (A), except that such rights may not be sold, traded, or otherwise exchanged to persons already in possession of such rights obtained under subparagraph (A).

(D) Federal timber purchased from Federal lands described in subparagraph (B) pursuant to a contract entered into between the purchaser and the Secretary of Agriculture before the date on which regulations to carry out this subsection are issued under section 495 shall be governed by the regulations of the Secretary of Agriculture in effect before such date that restrict the substitution of unprocessed timber originating from Federal lands for exported timber originating from private lands.

(c) APPROVAL OF SOURCING AREAS.—

(1) IN GENERAL.—The prohibitions contained in subsections (a) and (b) shall not apply with respect to the acquisition of unprocessed timber originating from Federal lands within a sourcing area west of the 100th meridian in the contiguous 48 States approved by the Secretary concerned under this subsection by a person who—

(A) in the previous 24 months, has not exported unprocessed timber originating from private lands within the sourcing area; and

(B) during the period in which such approval is in effect, does not export unprocessed timber originating from private lands within the sourcing area.

The Secretary concerned may waive the 24-month requirement set forth in subparagraph (A) for any person who, within 3 months after the date of the enactment of this Act, certifies that, within 6 months after such date, such person will, for a period of not less than 3 years, cease exporting unprocessed timber originating from private lands within the sourcing area.

(2) REQUIREMENTS FOR APPLICATION.—The Secretaries concerned shall, not later than 3 months after the date of the enactment of this Act, prescribe procedures to be used by a person applying for approval of a sourcing area under paragraph (1). Such procedures shall require, at a minimum, the applicant to provide—

(A) information regarding the location of private lands from which such person has, within the previous year, harvested or otherwise acquired unprocessed timber which has been exported from the United States; and

(B) information regarding the location of each timber manufacturing facility owned or operated by such person within the proposed sourcing area boundaries at which the

applicant proposes to process timber originating from Federal lands.

The prohibition contained in subsection (a) shall not apply to a person before the date which is 1 month after the procedures referred to in this paragraph are prescribed. With respect to any person who submits an application in accordance with such procedures by the end of the time period set forth in the preceding sentence, the prohibition contained in subsection (a) shall not apply to such person before the date on which the Secretary concerned approves or disapproves such application.

(3) GRANT OF APPROVAL.—For each applicant, the Secretary concerned shall, on the record and after an opportunity for a hearing, not later than 4 months after receipt of the application for a sourcing area, either approve or disapprove the application. The Secretary concerned may approve such application only if the Secretary determines that the area that is the subject of the application, in which the timber manufacturing facilities at which the applicant desires to process timber originating from Federal lands are located, is geographically and economically separate from any geographic area from which that person harvests for export any unprocessed timber originating from private lands. In making a determination referred to in this paragraph, the Secretary concerned shall consider equally the timber purchasing patterns, on private and Federal lands, of the applicant as well as other persons in the same local vicinity as the applicant, and the relative similarity of such purchasing patterns.

(4) DENIAL OF APPLICATION.—(A) Subject to subparagraph (B), and notwithstanding any other provision of law, in the 9-month period after receiving disapproval of an application submitted pursuant to this subsection, the applicant may purchase unprocessed timber originating from Federal lands in the area which is the subject of the application in an amount not to exceed 75 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application. In the subsequent 6-month period, such person may purchase not more than 25 percent of such annual average, after which time the prohibitions contained in subsection (a) shall fully apply.

(B) If a person referred to in subparagraph (A) certifies to the Secretary concerned, within 90 days after receiving disapproval of such application, that such person shall, within 15 months after such disapproval, cease the export of unprocessed timber originating from private lands from the geographic area determined by the Secretary for which the application would have been approved, such person may continue to purchase unprocessed timber originating from Federal lands in the area which is the subject of the application, without being subject to the restrictions of subparagraph (A), except that such purchases during that 15-month period may not exceed 125 percent of the annual average of such person's purchases of unprocessed timber originating from Federal lands in the same area during the 5 full fiscal years immediately prior to submission of the application which was denied.

(C) Any person to whom subparagraph (B) applies may not, during the 15-month period after the person's application for

sourcing area boundaries is denied, export unprocessed timber originating from private lands in the geographic area determined by the Secretary concerned for which the application would have been approved in amounts that exceed 125 percent of the annual average of such person's exports of unprocessed timber from such private lands during the 5 full fiscal years immediately prior to submission of the application.

(5) REVIEW OF DETERMINATIONS.—Determinations made under paragraph (3) shall be reviewed, in accordance with the procedures prescribed in this title, not less often than every 5 years.

SEC. 491. RESTRICTION ON EXPORTS OF UNPROCESSED TIMBER FROM STATE AND OTHER PUBLIC LANDS. 16 USC 620c.

(a) ORDER TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—Except as provided in subsection (e), the Secretary of Commerce shall issue orders to prohibit the export from the United States of unprocessed timber originating from public lands, in the amounts specified in subsection (b).

(b) SCHEDULE FOR DETERMINATION TO PROHIBIT THE EXPORT OF UNPROCESSED TIMBER ORIGINATING FROM STATE OR OTHER PUBLIC LANDS.—

(1) STATES WITH ANNUAL SALES OF 400,000,000 BOARD FEET OR LESS.—With respect to States with annual sales volumes of 400,000,000 board feet or less, the Secretary of Commerce shall issue an order referred to in subsection (a) to prohibit the export of unprocessed timber originating from public lands not later than 21 days after the date of the enactment of this Act.

(2) STATES WITH ANNUAL SALES OF GREATER THAN 400,000,000 BOARD FEET.—With respect to any State with an annual sales volume greater than 400,000,000 board feet, the following shall apply:

(A) The Secretary of Commerce shall issue an order referred to in subsection (a) not later than 21 days after the date of the enactment of this Act. Such order shall cover a period beginning 120 days after the issuance of such an order, or January 1, 1991, whichever is earlier, and shall extend to December 31, 1991. Such order shall prohibit the export of 75 percent of the annual sales volume in such State of unprocessed timber from public lands.

(B) For the period beginning on January 1, 1992, and ending on December 31, 1993, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) not later than September 30, 1991. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period.

(C) For the period beginning on January 1, 1994, and ending on December 31, 1995, the Secretary of Commerce shall, after notice and an opportunity for a hearing, issue an order referred to in subsection (a) not later than September 30, 1993. Such order shall prohibit the export of at least 75 percent of such State's annual sales volume for this 2-year period.

(D) For all periods on or after January 1, 1996, the Secretary of Commerce shall issue an order referred to in subsection (a) not later than September 30, 1995. Such order

shall prohibit the export of the lesser of 400,000,000 board feet or the total annual sales volume.

(3) REPORT TO CONGRESS.—Not later than June 1, 1995, the Secretary of Commerce, in conjunction with the Secretaries of Agriculture and Interior, shall issue a report to the Congress on the effects of the reallocation, as a result of the enactment of this title, of public lands timber resources to the domestic timber processing sector, the ability of the domestic timber processing sector to meet domestic demand for forest products, the volume of transshipment of timber originating from public lands across State borders, the effectiveness of rules issued and administered by States pursuant to this title, and trends in growth and productivity in the domestic timber processing sector.

(c) BASIS FOR INCREASE IN VOLUME PROHIBITED FROM EXPORT.—The Secretary of Commerce may increase the amount of unprocessed timber to be prohibited from export above the minimum amount specified in subsection (b)(2) (B) and (C), based on a determination that the purposes of this title have not been adequately met and that such an increase would further the purposes of this title. In making this determination, the Secretary shall consider—

(1) actions or decisions taken, for the purpose of conserving or protecting exhaustible natural resources in the United States, which have affected the use or availability of forest products;

(2) whether the volume of timber from public lands that is under contract has increased or decreased by an amount greater than 20 percent within the previous 12 months; and

(3) the probable effects of unprocessed timber exports on the ability of timber mills to acquire unprocessed timber.

(d) ADMINISTRATIVE PROVISIONS.—

(1) DELAY OF SECRETARY'S ORDER.—In the event that any order of the Secretary of Commerce under subsection (a) or its implementation is delayed for any reason, the prohibitions on exports under subsection (b) to which such order would apply shall apply in the absence of such order.

(2) ADMINISTRATION BY STATES.—Each State shall determine the species, grade, and geographic origin of unprocessed timber to be prohibited from export under subsection (b) and shall administer such prohibitions consistent with the intent of this title and ensure that the species, grades, and geographic origin of unprocessed timber prohibited from export is representative of the species, grades, and geographic origin of timber comprising such State's total timber sales program. The State is authorized to cooperate with Federal and State agencies with appropriate jurisdiction to further the intent of this title.

(3) STATE REGULATIONS.—(A) Except for States with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, the Governor of each State to which this title applies, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section, the promulgation of which shall be consistent with section 553 of title 5, United States Code. Such regulations in each State shall remain in effect until such time as the legislature of that State enacts such requirements as it deems appropriate to carry out this section. Before issuing such regulations,

the Governor shall enter into formal consultation, concerning such regulations, with appropriate State officials and with a State Board of Natural Resources where such a board exists. When formulating regulations under this paragraph, the Governor shall take into account the intent of this title to effect a net increase in domestic processing of timber harvested from public lands consistent with all orders issued by the Secretary of Commerce under subsection (a).

(B) The Governor of each State with annual sales of 400,000,000 board feet or less upon the date of the enactment of this Act, or such other State official as the Governor may designate, shall, within 120 days after the date of the enactment of this Act, issue regulations to carry out the purposes of this section. Until such regulations are issued in a State, the prohibitions contained in subsections (a) and (b) of section 490 shall apply to unprocessed timber originating from public lands in that State to the same extent as such prohibitions apply to unprocessed timber originating from Federal lands, except that the provisions of subsection (c) of such section shall not apply.

(4) PRIOR CONTRACTS.—Nothing in this section shall apply to any contract for the purchase of unprocessed timber from public lands entered into before the effective date of a Secretary's order issued under subsection (a).

(5) WESTERN RED CEDAR.—Nothing in this section shall be construed to supersede the provisions of section 7(i) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)).

(e) PRESIDENTIAL AUTHORITY.—The President is authorized, after suitable notice and a public comment period of not less than 120 days, to suspend the provisions of this section if a panel of experts has reported to the Contracting Parties to the General Agreement on Tariffs and Trade, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that the provisions of this section are in violation of, or inconsistent with, United States obligations under that trade agreement.

(f) REMOVAL OR MODIFICATIONS OF STATE RESTRICTIONS.—Based upon a determination that it is in the national economic interest, the President may remove or modify any prohibition on exports from public lands in a State if that State petitions the President to remove or modify such prohibition.

(g) EFFECT OF PRIOR FEDERAL LAW.—No provision of Federal law which imposes requirements with respect to the generation of revenue from State timberlands and was enacted before the enactment of this Act shall be construed to invalidate, supersede, or otherwise affect any action of a State or political subdivision of a State pursuant to this title.

(h) SURPLUS TIMBER.—The prohibitions on exports contained in orders of the Secretary of Commerce issued under subsection (a) shall not apply to specific quantities of grades and species of unprocessed timber originating from public lands which the Secretary concerned determines by rule to be surplus to the needs of timber manufacturing facilities in the United States. Any such determination may, by rule, be withdrawn by the Secretary concerned if the Secretary determines that the affected timber is no longer surplus to the needs of timber manufacturing facilities in the United States.

(i) SUSPENSION OF PROHIBITIONS.—Notwithstanding any other provision of this section, beginning on January 1, 1998, and annually thereafter, if the President finds, upon review of the purposes and implementation of this title, that the prohibitions on exports required by subsection (a) no longer promote the purposes of this title, then the President may suspend such prohibitions, except that such suspension shall not take effect until 90 days after the President notifies the Congress of such finding.

(j) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this title shall be construed to limit the authority of the President or the United States Trade Representative to take action authorized by law to respond appropriately to any measures taken by a foreign government in connection with this title.

16 USC 620d.

SEC. 492. MONITORING AND ENFORCEMENT.

(a) MONITORING AND REPORTS.—In accordance with regulations issued under this section—

(1) each person who acquires, either directly or indirectly, unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall report the receipt and disposition of such timber to the Secretary concerned, in such form as such Secretary may by rule prescribe; except that nothing in this paragraph shall be construed to hold any person responsible for the reporting of the disposition of any such timber held by subsequent persons; and

(2) each person who transfers to another person unprocessed timber originating from Federal lands west of the 100th meridian in the contiguous 48 States shall, before completing such transfer—

(A) provide to such other person a written notice, in such form as the Secretary concerned may prescribe, which shall identify the Federal origin of such timber;

(B) receive from such other person a written acknowledgment of such notice and a written agreement that such other person will comply with the requirements of this title, in such form as the Secretary concerned may prescribe; and

(C) provide to the Secretary concerned copies of all notices, acknowledgments, and agreements referred to in subparagraphs (A) and (B).

(b) REPORT TO CONGRESS.—Using the information gathered under subsection (a), the Secretaries of Agriculture and Interior shall, not later than June 1, 1995, submit to the Congress a report on the disposition of unprocessed timber harvested from Federal lands west of the 100th meridian in the contiguous 48 States, and recommendations concerning the practice of indirect substitution of such timber for exported timber harvested from private lands. Specifically, such report shall—

(1) analyze the effects of indirect substitution on market efficiency;

(2) analyze the effects of indirect substitution on domestic log supply;

(3) offer any recommendations that the Secretaries consider necessary for specific statutory or regulatory changes regarding indirect substitution;

(4) provide summaries of the data collected;

(5) analyze the effects of the provisions of section 490(b)(2)(C); and

(6) provide such other information as the Secretaries consider appropriate.

(c) CIVIL PENALTIES FOR VIOLATION.—

(1) EXPORTS.—If the Secretary concerned finds, on the record and after an opportunity for a hearing, that a person, with willful disregard for the prohibition contained in this title against exporting Federal timber, exported or caused to be exported unprocessed timber originating from Federal lands in violation of this title, such Secretary may assess against such person a civil penalty of not more than $500,000 for each violation, or 3 times the gross value of the unprocessed timber involved in the violation, whichever amount is greater.

(2) OTHER VIOLATIONS.—If the Secretary concerned finds, on the record and after an opportunity for a hearing, that a person has violated any provision of this title or any regulation issued under this title relating to lands which they administer (notwithstanding that such violation may not have caused the export of unprocessed Federal timber in violation of this title), such Secretary may—

(A) assess against such person a civil penalty of not more than $75,000 for each violation if the Secretary determines that the person committed such violation in disregard of such provision or regulation;

(B) assess against such person a civil penalty of not more than $50,000 for each violation if the Secretary determines that the person should have known that the action constituted a violation; or

(C) assess against such person a civil penalty of not more than $500,000 if the Secretary determines that the person committed such violation willfully.

(3) PENALTIES NOT EXCLUSIVE; JUDICIAL REVIEW.—A penalty assessed under this subsection shall not be exclusive of any other penalty provided by law and shall be subject to review in an appropriate United States district court.

(d) ADMINISTRATIVE REMEDIES.—

(1) DEBARMENT.—The head of the appropriate Federal department or agency under this title may debar any person who violates this title, or any regulation or contract issued under this title, from entering into any contract for the purchase of unprocessed timber from Federal lands for a period of not more than 5 years. Such person shall also be precluded from taking delivery of Federal timber purchased by another party for the period of debarment.

(2) CANCELLATION OF CONTRACTS.—The head of the appropriate Federal department or agency under this title may cancel any contract entered into with a person found to have violated this title or regulations issued under this title.

(e) EXCEPTION.—Subsections (c) and (d) do not apply to violations of section 498.

SEC. 493. DEFINITIONS. 16 USC 620e.

For purposes of this title:

(1) The term "acquire" means to come into possession of, whether directly or indirectly, through a sale, trade, exchange, or other transaction, and the term "acquisition" means the act of acquiring.

(2) The term "Federal lands" means lands that are owned by the United States, but does not include any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(3) The term "person" means any individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, or parent company, and business affiliates where 1 affiliate controls or has the power to control the other or when both are controlled directly or indirectly by a third person.

(4) The term "private lands" means lands held or owned by a person. Such term does not include Federal lands or public lands, or any lands the title to which is—

(A) held in trust by the United States for the benefit of any Indian tribe or individual,

(B) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(C) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(5) The term "public lands" means lands west of the 100th meridian in the contiguous 48 States, that are held or owned by a State or political subdivision thereof, or any other public agency. Such term does not include any lands the title to which is—

(A) held by the United States;

(B) held in trust by the United States for the benefit of any Indian tribe or individual,

(C) held by any Indian tribe or individual subject to a restriction by the United States against alienation, or

(D) held by any Native Corporation as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(6) The term "Secretary concerned" means—

(A) the Secretary of Agriculture, with respect to Federal lands administered by that Secretary; and

(B) the Secretary of the Interior with respect to Federal lands administered by that Secretary.

(7)(A) The term "unprocessed timber" means trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use.

(B) The term "unprocessed timber" does not include timber processed into any one of the following:

(i) Lumber or construction timbers, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection Bureau Export R or N list grades, sawn on 4 sides, not intended for remanufacture.

(ii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, meeting current American Lumber Standards Grades or Pacific Lumber Inspection

Bureau Export R or N list clear grades, sawn on 4 sides, not to exceed 12 inches in thickness.

(iii) Lumber, construction timbers, or cants for remanufacture, except Western Red Cedar, that do not meet the grades referred to in clause (ii) and are sawn on 4 sides, with wane less than ¼ of any face, not exceeding 8¾ inches in thickness.

(iv) Chips, pulp, or pulp products.

(v) Veneer or plywood.

(vi) Poles, posts, or piling cut or treated with preservatives for use as such.

(vii) Shakes or shingles.

(viii) Aspen or other pulpwood bolts, not exceeding 100 inches in length, exported for processing into pulp.

(ix) Pulp logs or cull logs processed at domestic pulp mills, domestic chip plants, or other domestic operations for the purpose of conversion of the logs into chips.

(8) The acquisition of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States to be used in "substitution" for exported unprocessed timber originating from private lands means acquiring unprocessed timber from such Federal lands and engaging in exporting, or selling for export, unprocessed timber originating from private lands within the same geographic and economic area.

SEC. 494. EFFECTIVE DATE. 16 USC 620 note.

Except as otherwise provided in this title, the provisions of this title take effect on the date of the enactment of this Act.

SEC. 495. REGULATIONS AND REVIEW. 16 USC 620f.

(a) REGULATIONS.—The Secretaries of Agriculture and Interior shall, in consultation, each prescribe new coordinated and consistent regulations to implement this title on lands which they administer. The Secretary of Commerce shall promulgate such rules and guidelines as may be necessary to carry out this title. Except as otherwise provided in this title, regulations and guidelines under this subsection shall be issued not later than 9 months after the date of the enactment of this Act.

(b) REVIEW.—The Secretaries of Agriculture and Interior shall, in consultation, review the definition of unprocessed timber under section 493(7) for purposes of this title and, not later than 18 months after the date of the enactment of this Act, submit to the Congress any recommendations they have with respect to such definition. Specifically, the Secretaries shall report on the effects of maintaining 2 size standards under section 493(B) (ii) and (iii). Reports.

SEC. 496. AUTHORIZATION OF APPROPRIATIONS. 16 USC 620g.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 497. SAVINGS CLAUSE. 16 USC 620h.

Nothing in this title, or regulations issued under this title, shall be construed to abrogate or affect any timber sale contract entered into before the effective date of this title.

SEC. 498. EASTERN HARDWOODS STUDY. 16 USC 620i.

(a) STUDY.—The Secretary of Commerce, in conjunction with the Secretary of Agriculture and the Secretary of the Interior, shall

conduct a study of the export from the United States, during the 2-year period beginning on January 1, 1991, of unprocessed hardwood timber harvested from Federal lands or public lands east of the 100th meridian. In order to carry out the provisions of this section—

(1) the Secretary of Commerce shall require each person exporting such timber from the United States to declare, in addition to the information normally required in the Shipper's Export Declarations, the State in which the timber was grown and harvested; and

(2) the Secretary of Agriculture and the Secretary of the Interior shall ensure that all hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture, and shall take such steps as each Secretary considers appropriate to ensure that such markings are not altered or destroyed before manufacturing.

(b) REPORT TO CONGRESS.—Not later than April 1, 1993, the Secretary of Commerce shall submit to the Committees on Agriculture, Interior and Insular Affairs, and Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the volume and value of unprocessed timber grown and harvested from Federal lands or public lands east of the 100th meridian that is exported from the United States during the 2-year period beginning on January 1, 1991, the country to which such timber is exported, and the State in which such timber was grown and harvested.

16 USC 620j.

SEC. 499. AUTHORITY OF EXPORT ADMINISTRATION ACT OF 1979.

Nothing in this title shall be construed to—

(1) prejudice the outcome of pending or prospective petitions filed under, or

(2) warrant the exercise of the authority contained in,

section 7 of the Export Administration Act of 1979 with respect to the export of unprocessed timber.

Approved August 20, 1990.

LEGISLATIVE HISTORY—H.R. 1594:

HOUSE REPORTS: No. 101-99 (Comm. on Ways and Means) and No. 101-650 (Comm. of Conference).
SENATE REPORTS: No. 101-252 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 135 (1989): June 27, considered and rejected in House.
Sept. 7, considered and passed House.
Vol. 136 (1990): Apr. 19, 20, 23, 24, considered and passed Senate, amended.
May 9, House concurred in Senate amendment with an amendment.
July 31, Senate agreed to conference report.
Aug. 3, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Aug. 20, Presidential statement.

Public Law 101-383
101st Congress

An Act

To extend titles I and II of the Energy Policy and Conservation Act, and for other purposes.

Sept. 15, 1990
[S. 2088]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Energy Policy and Conservation Act Amendments of 1990.
Petroleum and petroleum products.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Energy Policy and Conservation Act Amendments of 1990".

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.) is amended— 42 USC 6201 note. 50 USC app. 2071 note.

(1) in section 104(b)(1) by striking out "September 15, 1990" and inserting in lieu thereof "September 30, 1994";

(2) in section 171, by striking out "September 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1994"; and 42 USC 6251.

(3) in section 281, by striking out "September 15, 1990" each place it appears and inserting in lieu thereof "September 30, 1994". 42 USC 6285.

SEC. 3. SEVERE DOMESTIC ENERGY SUPPLY INTERRUPTIONS.

(a) DEFINITIONS.—Section 3(8)(C) of the Energy Policy and Conservation Act (42 U.S.C. 6202(8)(C)) is amended—

(1) by inserting "(i)" after "from" the first place it appears; and

(2) by striking out "or from" and inserting in lieu thereof: "(ii) an interruption in the supply of domestic petroleum products, or (iii)".

(b) DRAWDOWN.—Section 161 of such Act (42 U.S.C. 6241) is amended by adding at the end the following:

"(h)(1) If the President finds that—

"(A) a circumstance, other than those described in subsection (d), exists that constitutes, or is likely to become, a domestic energy supply shortage of significant scope or duration; and

"(B) action taken under this subsection would assist directly and significantly in preventing or reducing the adverse impact of such shortage,

then the Secretary may, subject to the limitations of paragraph (2), draw down and distribute the Strategic Petroleum Reserve.

"(2) In no case may the Reserve be drawn down under this subsection—

"(A) in excess of an aggregate of 30,000,000 barrels with respect to each such shortage;

"(B) for more than 60 days with respect to each such shortage;

"(C) if there are fewer than 500,000,000 barrels of petroleum product stored in the Reserve; or

"(D) below the level of an aggregate of 500,000,000 barrels of petroleum product stored in the Reserve.

Reports. "(3) During any period in which there is a drawdown and distribution of the Reserve in effect under this subsection, the Secretary shall transmit a monthly report to the Congress containing an account of the drawdown and distribution of petroleum products under this subsection and an assessment of its effect.

"(4) In no case may the drawdown under this subsection be extended beyond 60 days with respect to any domestic energy supply shortage.".

SEC. 4. ENLARGEMENT OF SPR TO ONE BILLION BARRELS.

(a) IN GENERAL.—Section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) is amended by adding at the end the following new subsections:

Reports. "(i) No later than 18 months after the date of the enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the results of negotiations undertaken pursuant to part C. The report shall—

"(1) describe the terms of any contracts negotiated pursuant to part C and any cost savings that would result from such contracts relative to the costs of acquisition pursuant to part B; and

"(2) give all available information on any cost savings that would likely result from additional contracts that could be negotiated pursuant to part C for completion of the storage of one billion barrels of petroleum product in the Reserve relative to the costs of acquisition pursuant to part B.

"(j) No later than 24 months after the date of the enactment of the Energy Policy and Conservation Act Amendments of 1990, the Secretary shall amend the Strategic Petroleum Reserve Plan to prescribe plans for completion of storage of one billion barrels of petroleum product in the Reserve. Such amendment shall comply with the provisions of this section and shall detail the Secretary's plans for the design, construction, leasing or other acquisition, and fill of storage and related facilities of the Reserve to achieve such one billion barrels of storage. Such amendment shall not be subject to the congressional review procedures contained in section 551. In assessing alternatives in the development of such plans, the Secretary shall consider leasing privately owned storage facilities.".

(b) CONFORMING AMENDMENTS.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended—

(1) in subsection (c)(3)—

(A) by striking out "fiscal years 1988 and 1989" and inserting in lieu thereof "fiscal year 1994"; and

(B) by striking out "at least 750,000,000" and inserting in lieu thereof "1,000,000,000"; and

(2) in subsection (d)(1), by inserting before the period at the end of subparagraph (B) the following: "and the Secretary has amended the Strategic Petroleum Reserve Plan as required by section 159(j)".

(c) FACILITIES.—Section 160(d)(1)(A) of such Act (42 U.S.C. 6240(d)(1)(A)) is amended by inserting after "within" the following: "Government owned facilities of".

SEC. 5. PREDRAWDOWN DIVERSION OF SPR OIL.

(a) IN GENERAL.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end the following:

"(f) If the Secretary finds that a severe energy supply interruption may be imminent, the Secretary may suspend the acquisition of petroleum product for, and the injection of petroleum product into, the Reserve and may sell any petroleum product acquired for and in transit to, but not injected into, the Reserve.".

(b) CONFORMING AMENDMENTS.—(1) Section 167(b)(3) of such Act (42 U.S.C. 6247(b)(3)) is amended by inserting after "(g) of such section" the following: ", or from the sale of petroleum products under section 160(f)".

(2) Section 167(d) of such Act (42 U.S.C. 6247(d)) is amended by inserting after "(g) of such section" the following: ", and from the sale of petroleum products under section 160(f)".

(3) Section 160(d) of such Act (42 U.S.C. 6240(d)) is amended by adding at the end the following:

"(4) For any fiscal year in which purchases of petroleum products are suspended, or the sale of petroleum products is carried out, under subsection (f), the fill-rate requirements of paragraph (1)(B) shall be reduced by—

"(A) the amount of petroleum products are acquired for such fiscal year as a result of such suspension; plus

"(B) the amount of petroleum products sold under such subsection during such fiscal year.".

SEC. 6. LEASING AUTHORITY.

(a) IN GENERAL.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(1) in section 152, by inserting "and part C" after "this part" in the material preceding paragraph (1); 42 USC 6232.

(2) by redesignating part C as part D;

(3) by redesignating section 171 (after the amendment is made by section 2(2) of this Act) as section 181; and 42 USC 6251.

(4) by adding the following new part after part B:

"PART C—AUTHORITY TO CONTRACT FOR PETROLEUM PRODUCT NOT OWNED BY THE UNITED STATES

"CONTRACTING FOR PETROLEUM PRODUCT AND FACILITIES

"SEC. 171. (a) IN GENERAL.—Subject to the other provisions of this part, the Secretary may contract— 42 USC 6249.

"(1) for storage, in otherwise unused Strategic Petroleum Reserve facilities, of petroleum product not owned by the United States; and

"(2) for storage, in storage facilities other than those of the Reserve, of petroleum product either owned or not owned by the United States.

"(b) CONDITIONS.—(1) Petroleum product stored pursuant to such a contract shall, until the expiration, termination, or other conclusion of the contract, be a part of the Reserve and subject to the Secretary's authority under part B.

"(2) The Secretary may enter into a contract for storage of petroleum product under subsection (a) only if—

"(A) the Secretary determines (i) that entering into one or more contracts under such subsection would achieve benefits comparable to the acquisition of an equivalent amount of petroleum product, or an equivalent volume of storage capacity, for the Reserve under part B, and (ii) that, because of budgetary constraints, the acquisition of an equivalent amount of petroleum product or volume of storage space for the Reserve cannot be accomplished under part B; and

"(B) the Secretary notifies each House of the Congress of such determination and includes in such notification the same information required under section 154(e) with regard to storage and related facilities proposed to be included, or petroleum product proposed to be stored, in the Reserve.

"(3) A contract entered into under subsection (a) shall not limit the discretion of the President or the Secretary to conduct a drawdown and distribution of the Reserve.

"(4) A contract entered into under subsection (a) shall include a provision that the obligation of the United States to make payments under the contract in any fiscal year is subject to the availability of appropriations.

"(c) CHARGE FOR STORAGE.—The Secretary may store petroleum product pursuant to a contract entered into under subsection (a)(1) with or without charge or may pay a fee for its storage.

"(d) DURATION.—Contracts entered into under subsection (a) may be of such duration as the Secretary considers necessary or appropriate.

"(e) BINDING ARBITRATION.—The Secretary may agree to binding arbitration of disputes under any contract entered into under subsection (a).

"IMPLEMENTATION

42 USC 6249a.

"SEC. 172. (a) AMENDMENT TO PLAN NOT REQUIRED.—An amendment of the Strategic Petroleum Reserve Plan is not required for any action taken under this part.

"(b) FILL RATE REQUIREMENT.—For purposes of section 160(d)(1), any petroleum product stored in the Reserve under this part that is removed from the Reserve at the expiration, termination, or other conclusion of the agreement shall be considered to be part of the Reserve until the beginning of the fiscal year following the fiscal year in which the petroleum product was removed.

"(c) LEGAL STATUS REGARDING OTHER LAW.—Petroleum product and facilities contracted for under this part have the same status as petroleum product and facilities owned by the United States for all purposes associated with the exercise of the laws of any State or political subdivision thereof.

"(d) RETURN OF PRODUCT.—At such time as the petroleum product contracted for under this part is withdrawn from the Reserve upon the expiration, termination, or other conclusion of the contract, such petroleum product (or the equivalent quantity of petroleum product withdrawn from the Reserve pursuant to the contract) shall be deemed, for purposes of determining the extent to which such product is thereafter subject to any Federal, State, or local law or regulation, not to have left the place where such petroleum product was located at the time it was originally committed to a contract under this part.

"CONTRACTS FOR WHICH NO IMPLEMENTING LEGISLATION IS NEEDED

"SEC. 173. (a) CONGRESSIONAL REVIEW.—In the case of contracts entered into under this part, and amendments to such contracts, for which no implementing legislation is needed, the Secretary shall transmit each such contract and each such amendment to the Committee on Appropriations and the Committee on Energy and Natural Resources of the Senate and to the Committee on Appropriations and the Committee on Energy and Commerce of the House of Representatives within 30 days after the signing thereof. 42 USC 6249b.

"(b) EFFECTIVE DATE.—(1) Any such contract, and any such amendment, shall not become effective until the end of the 30-day period of continuous session of Congress after the date of such transmittal, except that such contract may become effective without regard to such period if the President determines that such contract is required as a result of a severe energy supply interruption or by obligations of the United States under the international energy program.

"(2) For purposes of paragraph (1)—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the calendar-day period involved.

"CONTRACTS FOR WHICH IMPLEMENTING LEGISLATION IS NEEDED

"SEC. 174. (a) IN GENERAL.—(1) In the case of contracts entered into under this part, and amendments to such contracts, for which implementing legislation will be needed, the Secretary may transmit an implementing bill to both Houses of the Congress. 42 USC 6249c.

"(2) In the Senate, any such bill shall be considered in accordance with the provisions of this section.

"(3) For purposes of this section—

"(A) the term 'implementing bill' means a bill introduced in either House of Congress with respect to one or more contracts or amendments to contracts submitted to the House of Representatives and the Senate under this section and which contains—

"(i) a provision approving such contracts or amendments, or both; and

"(ii) legislative provisions that are necessary or appropriate for the implementation of such contracts or amendments, or both; and

"(B) the term 'implementing revenue bill' means an implementing bill which contains one or more revenue measures by reason of which it must originate in the House of Representatives.

"(b) CONSULTATION.—The Secretary shall consult, at the earliest possible time and on a continuing basis, with each committee of the House and the Senate that has jurisdiction over all matters expected to be affected by legislation needed to implement any such contract.

"(c) EFFECTIVE DATE.—Each contract and each amendment to a contract for which an implementing bill is necessary may become effective only if—

Federal Register, publication.

"(1) the Secretary, not less than 30 days before the day on which such contract is entered into, notifies the House of Representatives and the Senate of the intention to enter into such a contract and promptly thereafter publishes notice of such intention in the Federal Register;

Reports.

"(2) after entering into the contract, the Secretary transmits a report to the House of Representatives and to the Senate containing a copy of the final text of such contract together with—

"(A) the implementing bill, and an explanation of how the implementing bill changes or affects existing law; and

"(B) a statement of the reasons why the contract serves the interests of the United States and why the implementing bill is required or appropriate to implement the contract; and

"(3) the implementing bill is enacted into law.

"(d) RULES OF THE SENATE.—Subsections (e) through (h) are enacted by the Congress—

"(1) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate but applicable only with respect to the procedure to be followed in the Senate in the case of implementing bills and implementing revenue bills described in subsection (a), and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

"(e) INTRODUCTION AND REFERRAL IN THE SENATE.—(1) On the day on which an implementing bill is transmitted to the Senate under this section, the implementing bill shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate.

"(2) If the Senate is not in session on the day on which such an agreement is submitted, the implementing bill shall be introduced in the Senate, as provided in the paragraph (1), on the first day thereafter on which the Senate is in session.

"(3) Such bills shall be referred by the presiding officer of the Senate to the appropriate committee, or, in the case of a bill containing provisions within the jurisdiction of two or more committees, jointly to such committees for consideration of those provisions within their respective jurisdictions.

"(f) CONSIDERATION OF AMENDMENTS TO IMPLEMENTING BILL PROHIBITED IN THE SENATE.—(1) No amendments to an implementing bill shall be in order in the Senate, and it shall not be in order in the Senate to consider an implementing bill that originated in the House if such bill passed the House containing any amendment to the introduced bill.

"(2) No motion to suspend the application of this subsection shall be in order in the Senate; nor shall it be in order in the Senate for the Presiding Officer to entertain a request to suspend the application of this subsection by unanimous consent.

"(g) DISCHARGE IN THE SENATE.—(1) Except as provided in paragraph (3), if the committee or committees of the Senate to which an

implementing bill has been referred have not reported it at the close of the 30th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill, and it shall be placed on the appropriate calendar.

"(2) A vote on final passage of the bill shall be taken in the Senate on or before the close of the 15th day after the bill is reported by the committee or committees to which it was referred or after such committee or committees have been discharged from further consideration of the bill.

"(3) The provisions of paragraphs (1) and (2) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be, subject to subsection (f)(1), referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate, such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar. A vote on final passage of such bill shall be taken in the Senate on or before the close of the 15th day after such bill is reported by the committee or committees of the Senate to which it was referred, or after such committee or committees have been discharged from further consideration of such bill.

"(4) For purposes of this subsection, in computing a number of days in the Senate, there shall be excluded any day on which the Senate is not in session.

"(h) FLOOR CONSIDERATION IN THE SENATE.—(1) A motion in the Senate to proceed to the consideration of an implementing bill shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(2) Debate in the Senate on an implementing bill, and all debatable motions and appeals in connection therewith, shall be limited to not more than 20 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(3) Debate in the Senate on any debatable motion or appeal in connection with an implementing bill shall be limited to not more than one hour to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from time under their control on the passage of an implementing bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(4) A motion in the Senate to further limit debate is not debatable. A motion to recommit an implementing bill is not in order.".

(b) CONFORMING AMENDMENTS.—The table of contents of the Energy Policy and Conservation Act is amended—

(1) by adding at the end of the items for title I the following items:

"PART C—AUTHORITY TO CONTRACT FOR PETROLEUM PRODUCT NOT OWNED BY THE UNITED STATES

"Sec. 171. Contracting for petroleum product and facilities.
"Sec. 172. Implementation.
"Sec. 173. Contracts for which no implementing legislation is needed.
"Sec. 174. Contracts for which implementing legislation is needed.";

(2) by redesignating part C in the items for title I as part D; and

(3) by redesignating the item for section 171 as the item for section 181.

SEC. 7. REFINED PETROLEUM PRODUCT RESERVE.

Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end the following after the subsection added by section 5(a) of this Act:

"(g)(1) The Secretary shall conduct a test program of storage of refined petroleum products within the Reserve. The test program shall commence during fiscal year 1992 and continue through fiscal year 1994. The test program shall demonstrate mechanisms for storage of refined petroleum products within the Reserve which may be drawn down in accordance with this part.

"(2) The mechanisms demonstrated under paragraph (1)— Contracts.

"(A) shall include the acquisition by lease or purchase, or both, of refined petroleum products for storage in the Reserve and shall include the acquisition by lease of storage facilities; and

"(B) may include other mechanisms including, but not limited to, industrial petroleum reserves pursuant to section 156 and State set-aside programs, except that such mechanisms must provide equivalent control over the drawdown and distribution of such refined petroleum products as is provided under this part.

"(3) Any refined petroleum products stored in the Reserve under this subsection shall be stored in locations to be determined by the Secretary, taking into account the proximity of existing distribution systems, the proximity of the area or areas of the United States most dependent on imported petroleum products or likely to experience shortages of refined petroleum products, and the capability for expeditious distribution to such area or areas.

"(4) In the conduct of the test program under paragraph (1), the Secretary shall increase the quantity of refined petroleum products acquired for storage in the Reserve by an amount equal to 10 percent of the fill of the Reserve during each of the fiscal years 1992, 1993, and 1994, except that the Secretary may not expend more than 10 percent of the funds appropriated for the acquisition, transportation and injection of petroleum products into the Reserve during each of the fiscal years covered by the test program.

"(5) In the conduct of the test program under paragraph (1), the Secretary may not construct or purchase facilities for the storage of refined petroleum products.

"(6) Refined petroleum products stored in the Reserve under the test program may be withdrawn from the Reserve before the conclusion of the test program—

"(A) as may be necessary to turn such products over because of changes in the physical characteristics of the product; or

"(B) on the basis of a finding made under section 161.

Reports. "(7) No later than January 31, 1994, the Secretary shall transmit to the Congress a report on the test program. The report shall evaluate the mechanisms demonstrated under the test program, other potential mechanisms, and the purchase of facilities. The report shall include an assessment of the costs and benefits of the various mechanisms. The report shall also make recommendations with regard to future storage of refined petroleum products and

contain drafts of any legislative provisions which the Secretary wishes to recommend.".

SEC. 8. TEST DRAWDOWN.

Paragraph (1) of section 161(g) of the Energy Policy and Conservation Act (42 U.S.C. 6241(g)(1)) is amended to read as follows:

"(1) The Secretary shall conduct a continuing evaluation of the Distribution Plan. In the conduct of such evaluation, the Secretary is authorized to carry out test drawdown and distribution of crude oil from the Reserve. If any such test drawdown includes the sale or exchange of crude oil, then the aggregate quantity of crude oil withdrawn from the Reserve may not exceed 5,000,000 barrels during any such test drawdown or distribution.".

SEC. 9. EXEMPTION FROM INTERSTATE COMMERCE ACT.

Section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239), is amended by adding at the end the following new subsection after the subsection added by section 4(a) of this Act:

"(k) A storage or related facility of the Strategic Petroleum Reserve owned by or leased to the United States is not subject to the Interstate Commerce Act.".

SEC. 10. AUTHORITY TO ALLOW EXCHANGE OF SPR OIL.

Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended by adding at the end the following new subsection after the subsection added by section 3(b) of this Act:

"(i) Notwithstanding any other law, the President may permit any petroleum products withdrawn from the Strategic Petroleum Reserve in accordance with this section to be sold and delivered for refining or exchange outside of the United States, in connection with an arrangement for the delivery of refined petroleum products to the United States.".

SEC. 11. DRAWDOWN PLAN AMENDMENTS DURING IMPLEMENTATION.

Section 159 of the Energy Policy and Conservation Act (42 U.S.C. 6239) is amended by inserting at the end of the section the following new subsection after the subsection added by section 9 of this Act:

"(l) Notwithstanding subsection (d), during any period in which the Distribution Plan is being implemented, the Secretary may amend the plan and promulgate rules, regulations, or orders to implement such amendments in accordance with section 523 of this Act, without regard to the requirements of section 553 of title 5,

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United States Code, and section 501 of the Department of Energy Organization Act (42 U.S.C. 7191). Such amendments shall be transmitted to the Congress together with a statement explaining the need for such amendments.".

Approved September 15, 1990.

LEGISLATIVE HISTORY—S. 2088 (H.R. 3193):

HOUSE REPORTS: No. 101-604 accompanying H.R. 3193 (Comm. on Energy and Commerce) and No. 101-698 (Comm. of Conference).
SENATE REPORTS: No. 101-289 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 22, considered and passed Senate.
July 16, H.R. 3193 considered and passed House; S. 2088, amended, passed in lieu.
Sept. 13, House and Senate agreed to conference report.

Public Law 101-384
101st Congress

An Act

To amend title 39, United States Code, to allow free mailing privileges to be extended to members of the Armed Forces while engaged in temporary military operations under arduous circumstances.

Sept. 18, 1990
[S. 3033]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3401(a)(1)(A) of title 39, United States Code, is amended by inserting "engaged in temporary military operations under arduous circumstances," before "or serving".

Approved September 18, 1990.

LEGISLATIVE HISTORY—S. 3033 (H.R. 5611):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 13, H.R. 5611 considered in House.
Sept. 14, S. 3033 considered and passed Senate.
Sept. 17, S. 3033 and H.R. 5611 considered and passed House.

Public Law 101-385
101st Congress

Joint Resolution

Sept. 20, 1990
[H.J. Res. 568]

Designating the week beginning September 16, 1990, as "Emergency Medical Services Week".

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;

Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;

Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;

Whereas advances in emergency medical care increase the number of lives saved every year;

Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;

Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;

Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel and reciprocal recognition of training and credentials by the States;

Whereas the designation of Emergency Medical Services Week will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and

Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating Emergency Medical Services Week: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 16, 1990, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 20, 1990.

LEGISLATIVE HISTORY—H.J. Res. 568 (S.J. Res. 359):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 13, considered and passed House.
Sept. 17, considered and passed Senate.

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Public Law 101-386
101st Congress

An Act

To amend the Act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges.

Sept. 20, 1990
[S. 2597]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO EXCHANGE LAND.

Section 10 of the Act of June 20, 1910 (36 Stat. 563), is amended by inserting after the ninth paragraph thereof the following new paragraph:

"The State commissioner of public lands may exchange any land granted or confirmed by this Act for any land of the United States or an agency thereof, a State agency or political subdivision, a beneficiary of lands granted or confirmed by this Act, an Indian tribe or pueblo, or a private entity when the commissioner finds, after consultation with the chief administrative officer of the affected beneficiary of lands granted or confirmed by this Act, that—

"(1) based upon appraisals of the true value thereof, the value of the land to be received by the State is equal to or greater than the land to be conveyed by the State; and

"(2) the proposed exchange is beneficial to the interests of the affected beneficiary.".

SEC. 2. EFFECTIVE DATE.

(a) FINDING.—The Congress finds that the retroactive application of the amendment made in section 1 to approve, validate, and ratify land exchanges made prior to the effective date of the amendment will not prejudice the interests of any person and will benefit the interests of the parties to such exchanges, the beneficiaries of land granted or confirmed under the Act of June 20, 1910, and the public.

(b) RETROACTIVE APPLICATION.—On the date that the Secretary of State of the State of New Mexico certifies that the people of the State of New Mexico have consented to this Act by amendment of article XXI of the constitution of the State of New Mexico, the amendment made in section 1 shall be effective as of June 20, 1910, so as to approve, validate, and ratify all exchanges made after that date of lands granted or confirmed to the State of New Mexico after that date.

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SEC. 3. CONSENT TO CONSTITUTIONAL AMENDMENTS.

The consent of Congress is given to amendments to article XXI of the Constitution of the State of New Mexico to consent to the amendment made in section 1, to become effective as of June 20, 1910, as provided in section 2.

Approved September 20, 1990.

LEGISLATIVE HISTORY—S. 2597:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 1, considered and passed Senate.
Sept. 10, considered and passed House.

Public Law 101-387
101st Congress

Joint Resolution

To designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week".

Sept. 20, 1990
[S.J. Res. 285]

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 9, 1990, and ending on September 15, 1990, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 20, 1990.

LEGISLATIVE HISTORY—S.J. Res. 285:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Sept. 10, considered and passed House.

39-139 O - 90 (387)

Public Law 101-388
101st Congress

Joint Resolution

Sept. 20, 1990
[S.J. Res. 289]

To designate October 1990 as "Polish American Heritage Month".

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia in the seventeenth century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas, the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor the greatest son of Poland, His Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader Lech Walesa and the Polish Government in holding a Round Table conference in February-April 1989, which led to a peaceful transition to a multiparty democracy;

Whereas Americans of Polish descent and Americans take great pride in the election of Tadeusz Mazowiecki as Prime Minister of Poland;

Whereas Americans of Polish descent and Americans support the struggle of the Polish people to move toward a free-market economy; and

Whereas the Polish American Congress is observing its forty-sixth anniversary this year and is celebrating October 1990 as Polish American Heritage Month: Now, therefore, be it

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Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated "Polish American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.

Approved September 20, 1990.

LEGISLATIVE HISTORY—S.J. Res. 289:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Sept. 10, considered and passed House.

Public Law 101-389
101st Congress

Joint Resolution

Sept. 20, 1990
[S.J. Res. 309]

Designating the month of October 1990 as "Crime Prevention Month".

Whereas it has been proven that community crime prevention efforts are reducing victimization by crime and helping to rebuild a sense of mutual responsibility and shared pride in community;

Whereas the National Citizens' Crime Prevention Campaign, featuring McGruff the Crime Dog and promoted by the United States Department of Justice, the National Crime Prevention Council, the Advertising Council, and the Crime Prevention Coalition, helps spur diverse local partnerships among law enforcement agencies, citizens, businesses, and government which work to reduce crime and improve community life throughout the Nation; and

Whereas the 10th anniversary of McGruff the Crime Dog as a symbol of the Nation's fight against crime and drugs will be celebrated in October 1990: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1990 is designated as "Crime Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved September 20, 1990.

LEGISLATIVE HISTORY—S.J. Res. 309:

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 31, considered and passed Senate.
Sept. 10, considered and passed House.

39-139 O - 90 (389)

Public Law 101-390
101st Congress

Joint Resolution

To designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week".

Sept. 21, 1990
[S.J. Res. 279]

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy;

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitative services in this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 16, 1990, through September 22, 1990, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

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(2) each State governor, and each chief executive of each political subdivision of each State, is urged to issue proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

Approved September 21, 1990.

LEGISLATIVE HISTORY—S.J. Res. 279:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed Senate.
Sept. 10, considered and passed House.

Public Law 101-391
101st Congress

An Act

To amend the Federal Fire Prevention and Control Act of 1974 to allow for the development and issuance of guidelines concerning the use and installation of automatic sprinkler systems and smoke detectors in places of public accommodation affecting commerce, and for other purposes.

Sept. 25, 1990
[H.R. 94]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Hotel and Motel Fire Safety Act of 1990.
15 USC 2201 note.

This Act may be cited as the "Hotel and Motel Fire Safety Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

15 USC 2201 note.

(a) FINDINGS.—Congress finds that—

(1) more than 400 Americans have lost their lives in multi-story hotel fires over the last 5 years;

(2) when properly installed and maintained, automatic sprinklers and smoke detectors provide the most effective safeguards against the loss of life and property from fire;

(3) automatic sprinklers and smoke detectors should supplement and not supplant other fire protection measures, including existing requirements for fire resistive walls and fire retardant furnishings;

(4) some State and local governments and the hotel industry need to act more rapidly to require the installation and use of automatic sprinkler systems in hotels; and

(5) through the United States Fire Administration and the Center for Fire Research, the Federal Government has helped to develop and promote the use of residential sprinkler systems and other means of fire prevention and control.

(b) PURPOSE.—It is the purpose of this Act to save lives and protect property by promoting fire and life safety in hotels, motels, and all places of public accommodation affecting commerce.

SEC. 3. HOTEL AND MOTEL FIRE PREVENTION AND CONTROL.

State and local governments.

(a) IN GENERAL.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.) is amended by adding at the end the following new sections:

"LISTINGS OF CERTIFIED PLACES OF PUBLIC ACCOMMODATION

"SEC. 28. (a) SUBMISSIONS BY STATES.—(1) Not later than 2 years after the date of enactment of this section, each State shall, under procedures formulated by the Director, submit to the Director a list of those places of public accommodation affecting commerce located in the State which the Governor of the State or his designee certifies meet the requirements of the guidelines described in section 29.

15 USC 2224.

"(2) The Director shall formulate procedures under which each State shall periodically update the list submitted pursuant to paragraph (1).

Federal Register, publication.

"(b) COMPILATION AND DISTRIBUTION OF MASTER LIST.—(1) Not later than 60 days after the expiration of the 2-year period referred to in subsection (a), the Director shall compile and publish in the Federal Register a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines described in section 29, and shall distribute such list to each agency of the Federal Government and take steps to make the employees of such agencies aware of its existence and contents.

"(2) The Director shall periodically update the national master list compiled pursuant to paragraph (1) to reflect changes in the State lists submitted to the Director pursuant to subsection (a), and shall periodically redistribute the updated master list to each agency of the Federal Government.

"(3) For purposes of this subsection, the term 'agency' has the meaning given to it under section 5701(1) of title 5, United States Code.

"FIRE PREVENTION AND CONTROL GUIDELINES FOR PLACES OF PUBLIC ACCOMMODATION

15 USC 2225.

"SEC. 29. (a) CONTENTS OF GUIDELINES.—The guidelines referred to in sections 28 and 30 consist of—

"(1) a requirement that hard-wired, single-station smoke detectors be installed in accordance with National Fire Protection Association Standard 74 in each guest room in each place of public accommodation affecting commerce; and

"(2) a requirement that an automatic sprinkler system be installed in accordance with National Fire Protection Association Standard 13 or 13-R, whichever is appropriate, in each place of public accommodation affecting commerce except those places that are 3 stories or lower.

"(b) EFFECT ON STATE AND LOCAL LAW.—The provisions of this section shall not be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard concerning fire prevention and control.

"(c) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) The term 'smoke detector' means an alarm that is designed to respond to the presence of visible or invisible particles of combustion.

"(2) The term 'automatic sprinkler system' means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire, will protect human lives by discharging water over the fire area, and by providing appropriate warning signals (to the extent such signals are required by Federal, State, or local laws or regulations) through the building's fire alarm system.

"DISSEMINATION OF FIRE PREVENTION AND CONTROL INFORMATION

15 USC 2226.

"SEC. 30. The Director, acting through the Administrator, is authorized to take steps to encourage the States to promote the use of automatic sprinkler systems and automatic smoke detection systems, and to disseminate to the maximum extent possible information on the life safety value and use of such systems. Such steps may

include, but need not be limited to, providing copies of the guidelines described in section 29 and of the master list compiled under section 28(b) to Federal agencies, State and local governments, and fire services throughout the United States, and making copies of the master list compiled under section 28(b) available upon request to interested private organizations and individuals.".

(b) DEFINITIONS.—(1) Section 4 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2203) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting immediately after paragraph (3) the following new paragraph:

"(4) 'Director' means the Director of the Federal Emergency Management Agency;".

(2) Section 4 of such Act (as amended by paragraph (1)) is further amended by inserting immediately after paragraph (6), as so redesignated, the following new paragraph:

"(7) 'place of public accommodation affecting commerce' means any inn, hotel, or other establishment not owned by the Federal Government that provides lodging to transient guests, except that such term does not include an establishment treated as an apartment building for purposes of any State or local law or regulation or an establishment located within a building that contains not more than 5 rooms for rent or hire and that is actually occupied as a residence by the proprietor of such establishment;".

SEC. 4. ADHERENCE TO FIRE SAFETY GUIDELINES IN ESTABLISHING RATES AND DISCOUNTS FOR LODGING EXPENSES.

(a) AMENDMENT TO TITLE 5.—Subchapter I of chapter 57 of title 5, United States Code, is amended by inserting immediately after section 5707 the following new section:

"§ 5707a. Adherence to fire safety guidelines in establishing rates and discounts for lodging expenses

"(a) Studies or surveys conducted for the purposes of establishing per diem rates for lodging expenses under this chapter shall be limited to places of public accommodation that meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974. The provisions of this subsection shall not apply with respect to studies and surveys that are conducted in any jurisdiction that is not a State as defined in section 4 of the Federal Fire Prevention and Control Act of 1974.

"(b) The Administrator of General Services may not include in any directory which lists lodging accommodations any hotel, motel, or other place of public accommodation that does not meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974.

"(c) The Administrator of General Services shall include in each directory which lists lodging accommodations a description of the access and safety devices, including appropriate emergency alerting devices, which each listed place of public accommodation provides for guests who are hearing-impaired or visually or physically handicapped. Handicapped persons.

"(d) The Administrator of General Services may take any additional actions the Administrator determines appropriate to encour-

age employees traveling on official business to stay at places of public accommodation that meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 57 of title 5, United States Code, is amended by inserting immediately after the item relating to section 5707 the following new item:

"5707a. Adherence to fire safety guidelines in establishing rates and discounts for lodging expenses.".

5 USC 5707a note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the publication in the Federal Register of the master list of certified places of public accommodation maintained by the Director of the Federal Emergency Management Agency pursuant to section 28(b) of the Federal Fire Prevention and Control Act of 1974 (as added by section 3 of this Act).

SEC. 5. ESTABLISHMENT OF APPROVED ACCOMMODATIONS PERCENTAGE FOR FEDERAL AGENCIES.

(a) APPROVED ACCOMMODATIONS PERCENTAGE.—

(1) IN GENERAL.—Section 5707 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) Each agency shall ensure that its approved accommodations percentage for a fiscal year shall be not less than—

"(A) 65 percent, for the first fiscal year that begins 4 years after the date of enactment of this subsection;

"(B) 75 percent, for the fiscal year that begins 5 years after the date of enactment of this subsection; and

"(C) 90 percent, for the fiscal year that begins 6 years after the date of enactment of this subsection and for each subsequent fiscal year.

"(2) In this subsection, an agency's 'approved accommodations percentage' for a fiscal year is the percentage determined by multiplying 100 by the quotient of—

"(A) the total number of nights spent by civilian employees of the agency (as described in section 5702(a)) for which payment was made under this chapter for lodging expenses incurred in any State at any approved hotel, motel, or other place of public accommodation not owned by the Federal Government; divided by

"(B) the total number of nights spent by such employees for which payment was made under this chapter for lodging expenses incurred in any State at any hotel, motel, or other place of public accommodation not owned by the Federal Government.

"(3) For purposes of this subsection, a hotel, motel, or other place of public accommodation is approved if it meets the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974.

"(4) For purposes of this subsection—

"(A) the term 'agency' does not include the government of the District of Columbia; and

"(B) the term 'State' means any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Virgin Islands, the Canal Zone, Guam, American Samoa, or any other territory or possession.".

(2) CONFORMING AMENDMENT.—Section 5701 of such title is amended in the matter preceding paragraph (1) by striking "For the purpose" and inserting "Except as otherwise provided in section 5707(d), for the purpose".

(b) GAO AUDIT OF AGENCY COMPLIANCE.—Not later than 6 months after the last day of the first fiscal year during which lodging expenses are subject to the requirements of section 5707(d) of title 5, United States Code, as added by subsection (a), and not later than 6 months after the last day of every fiscal year thereafter, the Comptroller General shall conduct an audit of the compliance of agencies with the requirements of section 5707(d) of title 5, United States Code (as added by subsection (a)), and shall submit a report to Congress describing the results of such audit. Reports. 5 USC 5707 note.

SEC. 6. PROHIBITING FEDERAL FUNDING OF CONFERENCES HELD AT NON-CERTIFIED PLACES OF PUBLIC ACCOMMODATION. 15 USC 2225a.

(a) IN GENERAL.—No Federal funds may be used to sponsor or fund in whole or in part a meeting, convention, conference, or training seminar that is conducted in, or that otherwise uses the rooms, facilities, or services of, a place of public accommodation that does not meet the requirements of the fire prevention and control guidelines described in section 29 of the Federal Fire Prevention and Control Act of 1974 (as added by section 3(a) of this Act).

(b) WAIVER.—

(1) IN GENERAL.—The head of an agency of the Federal Government sponsoring or funding a particular meeting, convention, conference, or training seminar may waive the prohibition described in subsection (a) if the head of such agency determines that a waiver of such prohibition is necessary in the public interest in the case of such particular event.

(2) DELEGATION OF AUTHORITY.—The head of an agency of the Federal Government may delegate the authority provided under paragraph (1) to waive the prohibition described in subsection (a) and to determine whether such a waiver is necessary in the public interest to an officer or employee of the agency if such officer or employee is given such authority with respect to all meetings, conventions, conferences, and training seminars sponsored or funded by the agency.

(c) NOTICE REQUIREMENTS.—

(1) ADVERTISEMENTS AND APPLICATIONS.—(A) Any advertisement for or application for attendance at a meeting, convention, conference, or training seminar sponsored or funded in whole or in part by the Federal Government shall include a notice regarding the prohibition described in subsection (a).

(B) The requirement described in subparagraph (A) shall not apply in the case of an event for which a head of an agency of the Federal Government, pursuant to subsection (b), waives the prohibition described in subsection (a).

(2) PROVIDING NOTICE TO RECIPIENTS OF FUNDS.—(A) Each Executive department, Government corporation, and independent establishment providing Federal funds to non-Federal entities shall notify recipients of such funds of the prohibition described in subsection (a).

(B) In subparagraph (A), the terms "Executive department", "Government corporation", and "independent establishment" have the meanings given such terms in chapter 1 of title 5, United States Code.

(d) EFFECTIVE DATE.—The provisions of this section shall take effect on the first day of the first fiscal year that begins after the expiration of the 425-day period that begins on the date of the publication in the Federal Register of the master list referred to in section 28(b) of the Federal Fire Prevention and Control Act of 1974 (as added by section 3 of this Act).

15 USC 2201 note.

SEC. 7. WAIVER OF FEDERAL LIABILITY.

In any action for damages resulting from a fire at a place of public accommodation, the Federal Government may not be found liable for the death of or injury to any person or damage to any property because an officer or employee of the Federal Government was negligent in carrying out any requirement under this Act or the amendments made by this Act.

15 USC 2201 note.

SEC. 8. EFFECT ON CERTAIN REQUIREMENTS.

Nothing in this Act shall be construed to encourage model building code organizations, or State or local governments, to reduce requirements for fire resistive walls or other safety features.

Approved September 25, 1990.

LEGISLATIVE HISTORY—H.R. 94:

HOUSE REPORTS: No. 101-357 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 101-408 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 17, considered and passed House.
Vol. 136 (1990): Aug. 3, considered and passed Senate, amended.
Sept. 10, House concurred in Senate amendment.

Public Law 101-392
101st Congress

An Act

To amend the Carl D. Perkins Vocational Education Act to improve the provision of services under such Act and to extend the authorities contained in such Act through the fiscal year 1995, and for other purposes.

Sept. 25, 1990
[H.R. 7]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.
Schools and colleges.
State and local governments.
20 USC 2301 note.

SECTION 1. SHORT TITLE.

(a) THIS ACT.—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990".

(b) AMENDMENTS.—Section 1 of the Carl D. Perkins Vocational Education Act (in this Act referred to as the "Act") (20 U.S.C. 2301 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Carl D. Perkins Vocational and Applied Technology Education Act.

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.
"Sec. 2. Statement of purpose.
"Sec. 3. Authorization of appropriations.

"TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"Sec. 101. Allotment.
"Sec. 101A. The territories.
"Sec. 102. Within State allocation.
"Sec. 103. Indian and Hawaiian natives programs.

"PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

"Sec. 111. State administration.
"Sec. 112. State council on vocational education.
"Sec. 113. State plan.
"Sec. 114. State plan approval.
"Sec. 115. State and local standards and measures.
"Sec. 116. State assessment and evaluation.
"Sec. 117. Program evaluation and improvement.
"Sec. 118. Criteria for services and activities for individuals who are members of special populations.

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"Sec. 201. State programs and State leadership.

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"PART B—OTHER STATE-ADMINISTERED PROGRAMS

"Subpart 1—Programs to Provide Single Parents, Displaced Homemakers, and Single Pregnant Women With Marketable Skills and to Promote the Elimination of Sex Bias

"Sec. 221. Programs for single parents, displaced homemakers, and single pregnant women.
"Sec. 222. Sex equity programs.
"Sec. 223. Competitive award of amounts; evaluation of programs.

"Subpart 2—Corrections Education

"Sec. 225. Programs for criminal offenders.

"PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

"Subpart 1—Within State Allocation

"Sec. 231. Distribution of funds to secondary school programs.
"Sec. 232. Distribution of funds to postsecondary and adult programs.
"Sec. 233. Special rule for minimal allocation.
"Sec. 234. Reallocation.

"Subpart 2—Uses of Funds

"Sec. 235. Uses of funds.

"Subpart 3—Local Application

"Sec. 240. Local application.

"TITLE III—SPECIAL PROGRAMS

"PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

"Sec. 301. Applications.
"Sec. 302. Uses of funds.

"PART B—CONSUMER AND HOMEMAKING EDUCATION

"Sec. 311. Consumer and homemaking education grants.
"Sec. 312. Use of funds from consumer and homemaking education grants.
"Sec. 313. Information dissemination and leadership.

"PART C—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

"Sec. 321. Grants for career guidance and counseling.
"Sec. 322. Use of funds from career guidance and counseling grants.
"Sec. 323. Information dissemination and leadership.

"PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING

"Sec. 331. Findings and purpose.
"Sec. 332. Authorization of grants.
"Sec. 333. Use of funds.

"PART E—TECH-PREP EDUCATION

"Sec. 341. Short title.
"Sec. 342. Findings and purpose.
"Sec. 343. Program authorized.
"Sec. 344. Tech-prep education programs.
"Sec. 345. Applications.
"Sec. 346. Reports.
"Sec. 347. Definitions.

"PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES

"Sec. 351. Statement of purpose.
"Sec. 352. Allotment to States.
"Sec. 353. Allocation to local educational agencies.
"Sec. 354. Uses of funds.
"Sec. 355. State applications.
"Sec. 356. Local applications.

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"Subpart 1—Community Education Employment Centers

"Sec. 361. Short title.
"Sec. 362. Purpose.
"Sec. 363. Program authorized.
"Sec. 364. Program requirements.
"Sec. 365. Support services requirements.
"Sec. 366. Parental and community participation.
"Sec. 367. Professional staff.
"Sec. 368. Eligibility.
"Sec. 369. Application.
"Sec. 370. Evaluation and report.
"Sec. 371. Definitions.

"Subpart 2—Vocational Education Lighthouse Schools

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"Sec. 382. Purpose.
"Sec. 383. Grants authorized.
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"Sec. 387. Effect on other programs.
"Sec. 388. Grant adjustments.
"Sec. 389. Report on facilities and facilities improvement.
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"PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

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"Sec. 511. Joint funding.
"Sec. 512. Review of regulations.
"Sec. 513. Identification of State-imposed requirements.
"Sec. 514. Prohibition on use of funds to induce out-of-State relocation of businesses.
"Sec. 515. State administrative costs.
"Sec. 516. Additional administrative requirements.

"PART C—DEFINITIONS

"Sec. 521. Definitions.".

SEC. 2. STATEMENT OF PURPOSE.

Section 2 of the Act (20 U.S.C. 2301) is amended to read as follows:

"SEC. 2. STATEMENT OF PURPOSE.

"It is the purpose of this Act to make the United States more competitive in the world economy by developing more fully the academic and occupational skills of all segments of the population. This purpose will principally be achieved through concentrating resources on improving educational programs leading to academic and occupational skill competencies needed to work in a technologically advanced society.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Act (20 U.S.C. 2302) is amended to read as follows:

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated $1,600,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of titles I, II, III, and IV of this Act.

"(b) TITLE I.—(1) Of the amounts remaining from amounts made available under subsection (a) after providing amounts for the programs described in paragraph (2) and subsections (d) and (f)—

"(A) 1.5 percent shall be available to carry out the provisions of section 103, relating to Indian and Hawaiian natives programs; and

"(B) .2 percent shall be available to carry out the provisions of section 101A, relating to the territories.

"(2) Of the amounts made available in the fiscal year 1991 under subsection (a), not more than $9,000,000 shall be available to carry out the provisions of section 112, relating to State councils on vocational education.

"(c) BASIC PROGRAMS.—Of the amounts remaining from amounts made available under subsection (a) after providing amounts for the programs described in subsections (b)(2), (d), and (f), 95.8 percent shall be available to carry out the provisions of title II, relating to basic programs.

"(d) SPECIAL PROGRAMS.—(1) Subject to paragraph (2), of the amounts made available under subsection (a) for the fiscal year 1991—

"(A) not more than $15,000,000 shall be available to carry out the provisions of part A of title III, relating to State assistance for vocational education support programs by community-based organizations;

"(B) not more than $38,500,000 shall be available to carry out the provisions of part B of title III, relating to consumer and homemaking education;

"(C) not more than $20,000,000 shall be available to carry out the provisions of part C of title III, relating to comprehensive career guidance and counseling programs;

"(D) not more than $10,000,000 shall be available to carry out the provisions of part D of title III, relating to business-labor-education partnerships;

"(E) not more than $125,000,000 shall be available to carry out the provisions of part E of title III, relating to tech-prep education;

"(F) not more than $100,000,000 shall be available to carry out the provisions of part F of title III, relating to supplementary State grants for facilities and equipment and other program improvement activities;

"(G) not more than $10,000,000 shall be available to carry out the provisions of part G of title III, of which—

"(i) an amount equal to 75 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 1 of such part, relating to community education employment centers; and

"(ii) an amount equal to 25 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 2 of such part, relating to vocational education lighthouse schools; and

"(H) not more than $4,000,000 shall be available to carry out the provisions of part H of title III, relating to tribally controlled postsecondary vocational institutions.

"(2) Notwithstanding the provisions of paragraph (1), amounts shall be available to carry out the provisions of part C, D, or G of title III in any fiscal year only to the extent that the amount available for such fiscal year to carry out the provisions of title II exceeds $1,000,000,000.

"(e) NATIONAL PROGRAMS.—For each fiscal year, of the amounts remaining from amounts available pursuant to subsection (a) after providing amounts for the programs described in subsections (b)(2), (d), and (f), 2.5 percent of such remainder shall be available to carry out the provisions of title IV (other than parts D and E), relating to national programs.

"(f) OTHER NATIONAL PROGRAMS.—(1) Of amounts made available under subsection (a) for the fiscal year 1991, not more than $350,000 shall be available to carry out the provisions of part D of title IV, relating to the National Council on Vocational Education.

"(2) Of amounts made available under subsection (a) for the fiscal year 1991, not more than $10,000,000 shall be available to carry out the provisions of part E of title IV, relating to bilingual vocational training programs.".

20 USC 2303.

SEC. 4. INTERDEPARTMENTAL TASK FORCE ON COORDINATION OF VOCATIONAL EDUCATION AND RELATED PROGRAMS.

(a) ESTABLISHMENT.—There is established the Interdepartmental Task Force on Vocational Education and Related Programs (in this section referred to as the "Task Force").

(b) MEMBERSHIP.—The Task Force shall consist of the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and such other personnel of the Department of Education, the Department of Labor, and the Department of Health and Human Services as the Secretaries consider appropriate.

(c) DUTIES.—The Task Force shall—

(1) examine principal data required for programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act;

(2) examine possible common objectives, definitions, measures, and standards for such programs; and

(3) consider integration of research and development conducted with Federal assistance in the area of vocational education and related areas, including areas of emerging technologies.

(d) REPORT TO CONGRESS.—The Task Force shall, every 2 years, submit a report on its findings to the appropriate committees of the Congress.

SEC. 5. JOINT FUNDING.

(a) JOB TRAINING PARTNERSHIP ACT.—(1) Section 123 of the Job Training Partnership Act (29 U.S.C. 1533) is amended by adding at the end the following new subsection:

"(e)(1) Sums available for this section pursuant to section 202(b)(1) may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this section;

"(C) such program provides services in a coordinated manner with services provided under this section; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act.".

(2) Section 204 of the Job Training Partnership Act (29 U.S.C. 1604) is amended—

(A) by inserting "(a)" after "SEC. 204."; and

(B) by adding at the end the following new subsection:

"(b)(1) Funds provided under this title may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this title;

"(C) such program provides services in a coordinated manner with services provided under this title; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act.".

(3) Section 314 of the Job Training Partnership Act (29 U.S.C. 1661c) is amended by adding at the end the following new subsection:

"(g) JOINT FUNDING.—(1) Funds allotted under section 302 may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this title;

"(C) such program provides services in a coordinated manner with services provided under this title; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act.".

(b) WAGNER-PEYSER ACT.—Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Funds made available to States under this section may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this Act;

"(C) such program provides services in a coordinated manner with services provided under this Act; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) Section 123, title II, and title III of the Job Training Partnership Act.".

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

SEC. 101. ALLOTMENT.

(a) IN GENERAL.—Section 101 of the Act (20 U.S.C. 2311) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) In each fiscal year, of the amounts remaining from amounts made available under section 3(a) after providing amounts for the programs described in subsections (b)(2), (d), and (f) of section 3, the Secretary shall reserve—

"(A) 2.5 percent for the activities described in title IV (other than parts D and E);

"(B) 1.5 percent for the purpose of carrying out section 103, of which—

"(i) 1.25 percent shall be for the purpose of carrying out section 103(b); and

"(ii) .25 percent shall be for the purpose of carrying out section 103(c); and

"(C) .2 percent for the purpose of carrying out section 101A.";

(B) in paragraph (3)—

(i) in clause (i) of subparagraph (B)—

(I) by striking "subparagraph (A)" and inserting "subparagraphs (A), (C), and (D)"; and

(II) by striking "(D), or (E)" each place it appears and inserting "or (D)";

(ii) by amending subparagraph (C) to read as follows:

"(C) In the case of the Virgin Islands, the minimum allotment for all programs under this Act shall not be less than $200,000.";

(iii) by adding at the end the following:

"(D)(i) Subject to clause (iii), no State shall, by reason of subparagraph (B), be allotted more than the lesser of—

"(I) 150 percent of the amount that the State received in the preceding fiscal year; and

"(II) the amount calculated under clause (ii).

"(ii) The amount calculated under this clause shall be determined by multiplying—

"(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

"(II) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(iii) Notwithstanding the provisions of clauses (i) and (ii), no State shall be allotted an amount under this section in any fiscal year that is less than the amount such State is allotted in the fiscal year 1991.";

(2) in subparagraph (B) of subsection (c)(1), by striking ", Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place such phrase appears and inserting "and the Virgin Islands"; and

(3) by adding at the end the following:

"(d) For the purpose of this section, the term 'State' means any 1 of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands.".

(b) THE TERRITORIES.—Part A of title I of the Act (20 U.S.C. 2311 et seq.) is amended by inserting after section 101 the following:

Grants.
20 USC 2311a.

"SEC. 101A. THE TERRITORIES.

"(a) THE TERRITORIES.—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall—

"(1) make a grant in the amount of $500,000 to Guam; and

"(2) make a grant in the amount of $190,000 to each of American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) REMAINDER.—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory to make grants for vocational education and training in Guam, American Samoa, Palau, the Commonwealth of the Northern Marianas, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including— Hawaii.

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative programs involving both secondary schools and institutions of higher education.

"(c) LIMITATION.—The Center for the Advancement of Pacific Education may use not more than 5 percent of the funds received pursuant to subsection (b) for administrative costs.".

SEC. 102. WITHIN STATE ALLOCATION.

Section 102 of the Act (20 U.S.C. 2312) is amended to read as follows:

"SEC. 102. WITHIN STATE ALLOCATION.

"(a) PROGRAMS OTHER THAN STATE GRANTS.—From the allotment made to each State from funds appropriated under section 3(a) for each fiscal year—

"(1) an amount equal to at least 75 percent of the allotment shall be available only for basic programs under part C of title II;

"(2) an amount equal to 10.5 percent of the allotment shall be available only for the program for single parents, displaced homemakers, and single pregnant women described in section 221 and the sex equity program described in section 222, of which—

"(A) not less than 7 percent of such allotment shall be reserved for the program for single parents, displaced homemakers, and single pregnant women; and

"(B) not less than 3 percent of such allotment shall be reserved for the sex equity program;

"(3) an amount equal to not more than 8.5 percent of the allotment shall be available only for State programs and activities described in section 201;

"(4) the State may use for administration of the State plan an amount that does not exceed 5 percent of the allotment or $250,000, whichever is greater, of which—

"(A) not less than $60,000 shall be available only for purposes of carrying out the provisions of section 111(b)(1); and

"(B) remaining amounts may be used for the costs of—

"(i) developing the State plan;

"(ii) reviewing local applications;

"(iii) monitoring and evaluating program effectiveness;

"(iv) providing technical assistance; and

"(v) assuring compliance with all applicable Federal laws, including required services and activities for individuals who are members of special populations; and

"(5) an amount equal to 1 percent of the allotment shall be available only for programs for criminal offenders under section 225.

"(b) MATCHING REQUIREMENT.—Each State receiving financial assistance under this Act shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds reserved pursuant to subsection (a)(4).

"(c) HOLD HARMLESS PROVISION.—(1) Except as provided in paragraph (2) and notwithstanding the provisions of subsection (a), each State shall reserve for the program for single parents, displaced homemakers, and single pregnant women under section 221, the sex equity program under section 222, and the program for criminal offenders under section 225, respectively, an amount that is not less than the amount such State reserved for each such program in the fiscal year 1990.

"(2) In any year in which a State receives an amount for purposes of carrying out programs under title II that is less than the amount such State received for such purposes in the fiscal year 1990, such State shall ratably reduce the amounts reserved under paragraph (1).".

Grants.
Contracts.

SEC. 103. INDIAN AND HAWAIIAN NATIVES PROGRAMS.

Paragraph (1) of section 103(b) of the Act (20 U.S.C. 2313) is amended to read as follows:

"(1)(A) From the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed—

"(i) upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934; or

"(ii) upon an application received from a Bureau funded school (as such term is defined in section 1139(3) of the Education Amendments of 1978) offering secondary programs filed at such time and under such conditions as the Secretary may prescribe,

to make grants to or enter into contracts with any tribal organization of any such Indian tribe or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by and consistent with the purposes of this Act, except that—

"(I) such grants or contracts with any tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence; and

"(II) such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

"(B)(i) Any tribal organization or school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such tribal organization or school.

"(ii) In the case of a Bureau funded school, the minimum amount of a grant made under this section shall be $35,000.

"(C) The Secretary may not place upon grants made or contracts entered into under this paragraph any restrictions relating to programs or outcomes other than restrictions which apply to grants made to or contracts entered into with States under section 101. The Secretary, in making grants under this paragraph, shall give special consideration to—

"(i) grants which involve, coordinate with, or encourage tribal economic development plans; and

"(ii) applications from tribally controlled community colleges which—

"(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

"(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.".

PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

SEC. 111. STATE ADMINISTRATION.

Section 111 of the Act (20 U.S.C. 2321) is amended—

(1) in subsection (a)(1)(A), by striking "113(b)(9)" and inserting "113(b)(8), section 116, and section 117";

(2) in subsection (a)(1)(C), by inserting ", including business, industry, and labor," before "involved";

(3) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) by striking "201(f)" and inserting "221"; and

(ii) by striking "201(g)" and inserting "222";

(B) by redesignating subparagraphs (C), (D), (E), (F), and (G), as subparagraphs (D), (E), (F), (G), and (H), respectively;

(C) by striking "and" at the end of subparagraph (F) (as redesignated by subparagraph (B) of this paragraph);

(D) by striking the period at the end of subparagraph (G) (as redesignated by subparagraph (B) of this paragraph) and inserting a semicolon; and

(E) by inserting after subparagraph (B) the following:

"(C) reviewing and commenting upon, and making recommendations concerning, the plans of local educational agencies, area vocational education schools, intermediate educational agencies, and postsecondary educational institutions to ensure that the needs of women and men for training in nontraditional jobs are met;"; and

(F) by adding at the end the following:

"(I) developing an annual plan for the use of all funds available for such programs;

"(J) managing the distribution of funds pursuant to section 223;

"(K) monitoring the use of funds distributed to recipients under such programs; and

"(L) evaluating the effectiveness of programs and activities supported by such funds.";

(4) in subsection (b)(3) by inserting "from funds allocated under section 102(a)(4)(A)" before "expend";

(5) by striking subsection (e);

(6) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively; and

(7) by inserting the following new subsections after subsection (b):

"(c) REVIEW OF PLANS WITH RESPECT TO STUDENTS WITH HANDICAPS.—(1) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act to review the implementation of the provisions of this Act as such provisions relate to students with handicaps by reviewing all or a representative sample of plans of eligible recipients to—

"(A) assure that individuals with handicaps are receiving vocational educational services;

"(B) assure that the plans of the eligible recipient provide assurances of compliance with the provisions of section 504 of the Rehabilitation Act of 1973 and the Education of Handicapped Act regarding equal access to programs; and

"(C) assure that the eligible recipients have—

"(i) identified the number of students with handicaps enrolled in vocational programs operated by the eligible recipient;

"(ii) assessed the vocational needs of the students identified pursuant to clause (i); and

"(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students.

"(2) For purposes of this subsection and subsections (d) and (e), the term 'State' means any 1 of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(d) NEEDS OF ECONOMICALLY DISADVANTAGED STUDENTS.—Any State desiring to participate in the programs authorized by this Act shall assign the head of the State office or other appropriate individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to review all or a representative sample of plans of the eligible recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

"(e) NEEDS OF STUDENTS OF LIMITED ENGLISH PROFICIENCY.—Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office or other appropriate individual responsible for administering programs for students of limited English proficiency to review all or a representative sample of the plans of the eligible recipients to ensure the numbers of students of limited English proficiency have been identified and that the needs of such students for participation in vocational education programs are being met as outlined by such plans.".

SEC. 112. STATE COUNCIL ON VOCATIONAL EDUCATION.

Section 112 of the Act (20 U.S.C. 2322) is amended—

(1) in subsection (a)(1)(A), by inserting "trade organizations," after "industry,";

(2) in subsection (a)(2), by striking the period at the end and inserting "and may include members of vocational student organizations and school board members.";

(3) in subsection (a), by inserting the following new sentence at the end of the matter following paragraph (2): "No employee of the State board shall serve on the State council.";

(4) in subsection (d)(2), by—

(A) striking "advise" and inserting "make recommendations to";

(B) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(C) inserting the following new subparagraph (A) before subparagraph (B) (as redesignated by subparagraph (B) of this paragraph):

"(A) the State plan;";

(5) in subsection (d)(8), by—

(A) striking "the individuals described in section 201(b)" and inserting "individuals who are members of special populations"; and

(B) striking "and" at the end;

(6) by striking subsection (d)(9) and inserting the following new paragraphs:

"(9) analyze and review corrections education programs; and

"(10)(A) evaluate at least once every 2 years—

"(i) the extent to which vocational education, employment, and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State;

"(ii) the vocational education program delivery system assisted under this Act, and the job training program delivery system assisted under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the 2 Acts; and

"(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

"(B) comment on the adequacy or inadequacy of State action in implementing the State plan;

"(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

"(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.";

(7) in subsection (e) by inserting the following new sentences at the end: "Each State Council may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State plan.";

(8) by amending subsection (f)(1)(A) to read as follows:

Grants.

"(f)(1)(A) Except as provided in subparagraph (B), from the sums appropriated pursuant to section 3(c), the Secretary shall first make grants of $150,000 to each State council. From the remainder of such sums the Secretary shall allot to each State council an amount in accordance with the method of allotment set forth in section 101(a)(2) of this Act, provided that—

"(i) no State council shall receive more than $250,000 for each fiscal year;

"(ii) no State council shall receive less than $150,000 for each fiscal year; and

"(iii) no State council shall receive less than such State council was allotted in the fiscal year 1990;"; and

(9) by amending subsection (f)(1)(B) to read as follows:

Grants.
Territories, U.S.

"(B) From the sums appropriated pursuant to section 3(c) for each fiscal year, the Secretary shall make grants of—

"(i) $60,000 to each of the State councils of the Virgin Islands and Guam; and

"(ii) $25,000 to each of the State councils of American Samoa, Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658), and the Commonwealth of the Northern Mariana Islands.".

SEC. 113. STATE PLAN.

Section 113 of the Act (20 U.S.C. 2323) is amended to read as follows:

"SEC. 113. STATE PLAN.

"(a) IN GENERAL.—(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a 3-year period, in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by subparagraph (A) shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto), the State board shall meet with and utilize the State council established pursuant to section 112.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall conduct an assessment according to section 116. Such assessment shall include analysis of—

"(A) the relative academic, occupational, training, and retraining needs of secondary, adult, and postsecondary students; and

"(B) the capability of vocational education programs to provide vocational education students, to the extent practicable, with—

"(i) strong experience in and understanding of all aspects of the industry the students are preparing to enter (including planning, management, finances, technical and produc-

tion skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues); and

"(ii) strong development and use of problem-solving skills and basic and advanced academic skills (including skills in the areas of mathematics, reading, writing, science, and social studies) in a technological setting.

"(b) CONTENTS.—Each State plan shall—

"(1) describe the procedures and the results of each of the assessments required by section 116(a), including the needs identified by such assessments;

"(2) describe how uses of funds reflect the needs described in paragraph (1);

"(3) provide assurances that, and where necessary a description of the manner in which, eligible recipients will comply with the requirements of titles I and II, including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for individuals who are members of special populations and a description of the responsiveness of such programs to the special needs of such students;

"(B) assurances that the State board will develop measurable goals and accountability measures for meeting the needs of individuals who are members of special populations;

"(C) assurances that the State board will conduct adequate monitoring of programs conducted by eligible recipients to ensure that programs within the State are meeting the goals described in subparagraph (B); and

"(D) assurances that, to the extent consistent with the number and location of individuals who are members of special populations who are enrolled in private secondary schools, provision is made for the participation of such individuals in the vocational education programs assisted under section 231;

"(4) describe the estimated distribution of funds to corrections educational agencies as prescribed by section 225, the estimated distribution of funds to local educational agencies, area vocational education schools, or intermediate educational agencies as prescribed by section 231, and the planned estimated distribution of funds to eligible institutions as prescribed by section 232;

"(5) provide assurances that the State will comply with the provisions of section 102, including assurances that the State will distribute not less than 75 percent of the funds made available for title II to eligible recipients pursuant to such title;

"(6) describe the criteria the State board will use—

"(A) in approving applications of eligible recipients; and

"(B) for spending the amounts reserved for the State under paragraphs (2) through (5) of section 102(a);

"(7) describe how funds expended for occupationally specific training will be used for occupations in which job openings are projected or available, based on a labor market analysis;

"(8) provide assurances that the State will develop and implement a system of standards for performance and measures of performance for vocational education programs at the State level that meets the requirements of section 115;

"(9) describe, in each State plan submitted after the fiscal year 1991, the progress the State has made in achieving the goals described in previous State plans;

"(10) provide such methods of administration as are necessary for the prompt and efficient administration of programs under this Act;

"(11) provide assurances that, in the use of funds available for single parents, displaced homemakers, and single pregnant women under section 221, the State will emphasize assisting individuals with the greatest financial need, and that the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(12) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(13) describe how the State is implementing performance evaluations with eligible recipients as prescribed in section 117;

"(14) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship programs;

"(15) provide assurances that programs of personnel development and curriculum development shall be funded to further the goals identified in the State plan;

"(16) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(17) provide assurances that the State board will cooperate with the State council in carrying out the Board's duties under this part;

"(18) provide assurances that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(19) provide assurances that State and local funds will be used in the schools of each local educational agency that are receiving funds under this Act to provide services which, taken as a whole, are at least comparable to services being provided in schools in such agency which are not receiving such funds;

"(20)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs;

"(B) as a component of the assurances described in subparagraph (A), annually assess and report on the degree to which expenditures aggregated within the State for career guidance and vocational counseling from allotments under title II are not less than such expenditures for such guidance and counseling within the State in the fiscal year 1988;

"(21) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

"(22) provide procedures by which an area vocational education school, intermediate educational agency, or local educational agency may appeal decisions adverse to its interests with respect to programs assisted under this Act; and

"(23) describe how the State will comply with the provisions of section 118.

"(c) AMENDMENTS TO STATE PLAN.—When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council and the State council.".

SEC. 114. STATE PLAN APPROVAL.

Section 114 of the Act (20 U.S.C. 2324) is amended to read as follows:

"SEC. 114. STATE PLAN APPROVAL.

"(a) IN GENERAL.—The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, tech-prep education, and secondary education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational education, and the State agency responsible for secondary education. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult, and postsecondary students, and shall include the State's rationale for distribution of funds. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) TIME FOR SUBMISSION; APPROVAL.—Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted, if the plan meets the requirements of section 113 and is of sufficient quality to meet the objectives of this Act (including the objective of developing and implementing program evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this Act on a regular basis. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board.".

SEC. 115. STATE AND LOCAL STANDARDS AND MEASURES.

Section 115 of the Act (20 U.S.C. 2325) is amended to read as follows:

"SEC. 115. STATE AND LOCAL STANDARDS AND MEASURES.

"(a) GENERAL AUTHORITY.—Each State board receiving funds under this Act shall develop and implement a statewide system of core standards and measures of performance for secondary and postsecondary vocational education programs. Each State board receiving funds under this Act, before the expiration of the 30-day period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, shall appoint the State Committee of Practitioners (in this section referred to as the 'Committee') as prescribed by section 512(a) after consulting with local school officials representing eligible recipients, and representatives of organized labor, business, superintendents, community-based organizations, private industry councils established under section 102(a) of the Job Training Partnership Act, State councils, parents, special populations, correctional institutions, the administrator appointed under section 111(b)(1), the State administrator of programs assisted under part B of the Education of the Handicapped Act, the State administrator of programs assisted under chapter 1 of title I of the Elementary and Secondary Education Act, the State administrator of programs for students of limited English proficiency, and guidance counselors. Such system shall be developed and implemented before the end of the 2-year period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 and shall apply to all programs assisted under this Act. Eligible recipients may make local modifications to such system based on economic, geographic, or demographic factors, or the characteristics of the population to be served. Such modifications shall conform to the assessment criteria contained in the State plan. The State board shall convene the Committee on a regular basis to review, comment on, and propose revisions to a draft State proposal, which the State board shall develop, for a system of core standards and measures of performance for vocational programs.

"(b) REQUIREMENTS.—Each system developed under subsection (a) shall include—

"(1) measures of learning and competency gains, including student progress in the achievement of basic and more advanced academic skills;

"(2) 1 or more measures of performance, which shall include only—

"(A) competency attainment;

"(B) job or work skill attainment or enhancement including student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in the industry the student is preparing to enter;

"(C) retention in school or completion of secondary school or its equivalent; and

"(D) placement into additional training or education, military service, or employment;

"(3) incentives or adjustments that are—

"(A) designed to encourage service to targeted groups or special populations; and

"(B) for each student, consistent with the student's individualized education program developed under section 614(a)(5) of the Education of the Handicapped Act, where appropriate; and

"(4) procedures for using existing resources and methods developed in other programs receiving Federal assistance.

"(c) CONSISTENCY WITH OTHER PROGRAMS.—In developing the standards and measures included in a system developed under subsection (a), the State board shall take into consideration—

"(1) standards and measures developed under job opportunities and basic skills training programs established and operated under a plan approved by the Secretary of Health and Human Services that meets the requirements of section 402(a)(19) of the Social Security Act; and

"(2) standards prescribed by the Secretary of Labor under section 106 of the Job Training Partnership Act.

"(d) INFORMATION PROVIDED BY STATE BOARD.—(1) The Committee shall make recommendations to the State board with respect to modifying standards and measures to be used under this section, based on the information provided under paragraph (2).

"(2) To assist the Committee in formulating recommendations under paragraph (1), the State board shall provide to the Committee information concerning differing types of standards and measurement, including—

"(A) the advantages and disadvantages of each type of standard or measurement;

"(B) instances in which such standards and measures have been effective; and

"(C) instances in which such standards and measures have not been effective.

"(3) In the event that the State board does not accept the Committee's recommendations made as required by paragraph (1), the State board shall set forth in the State plan its reasons for not accepting such recommendations.

"(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States with respect to the development of systems under subsection (a). In providing such assistance, the Secretary shall utilize existing resources in other Federal agencies.

"(f) REPORT.—The Secretary shall submit a report to the appropriate committees of the Congress not later than the expiration of the 4-year period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such report shall include—

"(1) a detailed description of the status of each State's system of standards and measures developed as required by this section;

"(2) an assessment of the validity, predictiveness, and reliability of such standards and measures, unbiased to special populations, in the areas of academic achievement, vocational skill competencies, employment outcomes, and postsecondary continuation and attainment; and

"(3) an evaluation of the comparability of State-developed performance standards across States to establish a core of common indicators.".

SEC. 116. STATE ASSESSMENT AND EVALUATION.

Part B of title I of the Act (20 U.S.C. 2321 et seq.) is amended by adding at the end the following:

20 USC 2326.

"SEC. 116. STATE ASSESSMENT.

"(a) IN GENERAL.—Each State board receiving assistance under this Act shall conduct an assessment using measurable objective criteria developed by the State board to assess program quality. Such criteria shall be developed in consultation with representatives of the groups described in section 115(a) and shall use information gathered by the National Occupational Information Coordinating Committee and, if appropriate, other information. Each State board shall widely disseminate such criteria. State boards shall develop such criteria no later than the beginning of the 1991-1992 school year. Such criteria shall include such factors as—

"(1) integration of academic and vocational education;

"(2) sequential course of study leading to both academic and occupational competencies;

"(3) increased student work skill attainment and job placement;

"(4) increased linkages between secondary and postsecondary educational institutions;

"(5) instruction and experience, to the extent practicable, in all aspects of the industry the students are preparing to enter;

"(6) the ability of the eligible recipients to meet the needs of special populations with respect to vocational education;

"(7) raising the quality of vocational education programs in schools with high concentrations of poor and low-achieving students;

"(8) the relevance of programs to the workplace and to the occupations for which students are to be trained, and the extent to which such programs reflect a realistic assessment of current and future labor market needs, including needs in areas of emerging technologies;

"(9) the ability of the vocational curriculum, equipment, and instructional materials to meet the demands of the workforce;

"(10) basic and higher order current and future workplace competencies which will reflect the hiring needs of employers; and

"(11) other factors considered appropriate by the State board.

"(b) DEADLINE FOR ASSESSMENT.—Each State board shall complete the assessment required by subsection (a) before the expiration of the 6-month period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.

Disadvantaged persons.
Handicapped persons.
Children and youth.
Prisoners.
20 USC 2327.

"SEC. 117. PROGRAM EVALUATION AND IMPROVEMENT.

"(a) ANNUAL EVALUATION.—Each recipient of financial assistance under part C of title II shall annually evaluate the effectiveness of the program conducted with assistance under this Act based on the standards and measures (or modifications thereto) developed as required by section 115. As part of each such evaluation, each such recipient shall—

"(1) review programs, with the full and informed participation of representatives of individuals who are members of special populations, to—

"(A) identify and adopt strategies to overcome any barriers which are resulting in lower rates of access to vocational education programs or success in such programs for individuals who are members of special populations; and

"(B) evaluate the progress of individuals who are members of special populations in vocational education programs assisted under this Act; and

"(2) evaluate the progress of vocational education programs assisted under this Act in providing vocational education students with strong experience in and understanding of all aspects of the industry the students are preparing to enter.

"(b) LOCAL PROGRAM IMPROVEMENT PLAN.—Beginning not less than 1 year after the implementation of the provisions of section 115, if any recipient described in subsection (a) determines that the recipient is not making substantial progress in meeting the standards and measures developed as required by section 115, such recipient shall develop a plan, in consultation with teachers, parents, and students concerned, for program improvement for the succeeding school year. Such plan shall describe how the recipient will identify and modify programs funded under part C of title II, including—

"(1) a description of vocational education and career development strategies designed to achieve progress in improving the effectiveness of the program conducted with assistance under this Act; and

"(2) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

"(c) STATE AND LOCAL JOINT PLAN.—If, after 1 year of implementation of the plan described in subsection (b), sufficient progress in meeting the standards and measures developed as required by section 115 has not been made, the State shall work jointly with the recipient and teachers, parents, and students concerned to develop a plan for program improvement. Each such plan shall contain—

"(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the eligible recipient;

"(2) a reasonable timetable to improve the school performance under the plan;

"(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

"(4) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

"(d) FURTHER ACTION.—The State shall, in conjunction with the eligible recipient, annually review and revise the joint plan developed under subsection (c) in order to improve performance and will continue to do so each consecutive year until the recipient sustains, for more than 1 year, fulfillment of the State and local standards and measures developed under section 115.

"SEC. 118. CRITERIA FOR SERVICES AND ACTIVITIES FOR INDIVIDUALS WHO ARE MEMBERS OF SPECIAL POPULATIONS.

Disadvantaged persons.
Handicapped persons.
Children and youth.
Prisoners.
20 USC 2328.

"(a) ASSURANCES OF EQUAL ACCESS FOR MEMBERS OF SPECIAL POPULATIONS.—The State board, in its State plan, shall provide assurances that—

"(1) individuals who are members of special populations will be provided with equal access to recruitment, enrollment, and placement activities;

Discrimination, prohibition.

"(2) individuals who are members of special populations will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and, to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis of their status as members of special populations;

"(3)(A) vocational education programs and activities for individuals with handicaps will be provided in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act and will, whenever appropriate, be included as a component of the individualized education program developed under section 614(a)(5) of such Act;

"(B) students with handicaps who have individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act shall, with respect to vocational education programs, be afforded the rights and protections guaranteed such students under sections 612, 614, and 615 of such Act;

"(C) students with handicaps who do not have individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act or who are not eligible to have such a program shall, with respect to vocational education programs, be afforded the rights and protections guaranteed such students under section 504 of the Rehabilitation Act of 1973 and, for the purpose of this Act, such rights and protections shall include making vocational education programs readily accessible to eligible individuals with disabilities through the provision of services described in subsection (c)(3);

"(D) vocational education planning for individuals with handicaps will be coordinated between appropriate representatives of vocational education, special education, and State vocational rehabilitation agencies; and

"(E) the provision of vocational education to each student with handicaps will be monitored to determine if such education is consistent with the individualized education program developed for such student under section 614(a)(5) of the Education of the Handicapped Act, in any case in which such a program exists;

"(4) the provision of vocational education will be monitored to ensure that disadvantaged students and students of limited English proficiency have access to such education in the most integrated setting possible; and

"(5)(A) the requirements of this Act relating to individuals who are members of special populations—

"(i) will be carried out under the general supervision of individuals in the appropriate State educational agency or State board who are responsible for students who are members of special populations; and

"(ii) will meet education standards of the State educational agency or State board; and

"(B) with respect to students with handicaps, the supervision carried out under subparagraph (A) shall be carried out consistent with and in conjunction with supervision by the State educational agency or State board carried out under section 612(6) of the Education of the Handicapped Act.

"(b) PROVISION OF INFORMATION.—(1) Each local educational agency shall provide to students who are members of special populations and parents of such students at least 1 year before the students enter or are of an appropriate age for the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, information concerning—

"(A) the opportunities available in vocational education;

"(B) the requirements for eligibility for enrollment in such vocational education programs;

"(C) specific courses that are available;

"(D) special services that are available;

"(E) employment opportunities; and

"(F) placement.

"(2) Each eligible institution that receives assistance under title II shall provide the information described in paragraph (1) to each individual who requests information concerning or seeks admission to vocational education programs offered by the institution, and, when appropriate, assist in the preparation of applications relating to such admission.

"(3) The information provided under this subsection shall, to the extent practicable, be in a language and form that the parents and students understand.

"(c) ASSURANCES.—Each eligible recipient that receives assistance under title II shall provide assurances that such eligible recipient shall—

"(1) assist students who are members of special populations to enter vocational education programs, and, with respect to students with handicaps, assist in fulfilling the transitional service requirements of section 626 of the Education of the Handicapped Act;

"(2) assess the special needs of students participating in programs receiving assistance under title II with respect to their successful completion of the vocational education program in the most integrated setting possible;

"(3) provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps—

"(A) curriculum modification;

"(B) equipment modification;

"(C) classroom modification;

"(D) supportive personnel; and

"(E) instructional aids and devices;

"(4) provide guidance, counseling, and career development activities conducted by professionally trained counselors and teachers who are associated with the provision of such special services; and

"(5) provide counseling and instructional services designed to facilitate the transition from school to post-school employment and career opportunities.

"(d) PARTICIPATORY PLANNING.—The State board shall—

"(1) establish effective procedures, including an expedited appeals procedure, by which parents, students, teachers, and area residents concerned will be able to directly participate in State and local decisions that influence the character of programs under this Act affecting their interests; and

"(2) provide technical assistance and design such procedures to ensure that such individuals are given access to the information needed to use such procedures.".

TITLE II—BASIC STATE GRANTS

SEC. 201. BASIC STATE GRANTS.

Title II of the Act is amended to read as follows:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

20 USC 2331.

"SEC. 201. STATE PROGRAMS AND STATE LEADERSHIP.

"(a) GENERAL AUTHORITY.—From amounts reserved under section 102(a)(3), each State shall conduct State programs and State leadership activities.

"(b) REQUIRED USES OF FUNDS.—The programs and activities described in subsection (a) shall include—

"(1) professional development activities for vocational teachers and academic teachers working with vocational education students, including corrections educators and counselors, and educators and counselors in community-based organizations, including inservice and preservice training of teachers in state-of-the-art programs and techniques, including integration of vocational and academic curricula, with particular emphasis on inservice and preservice training of minority teachers;

"(2) development, dissemination, and field testing of curricula, especially—

"(A) curricula that integrate vocational and academic methodologies; and

"(B) curricula that provide a coherent sequence of courses through which academic and occupational skills may be measured; and

"(3) assessment of programs conducted with assistance under this Act, including the development of—

"(A) performance standards and measures for such programs; and

"(B) program improvement and accountability with respect to such programs.

"(c) AUTHORIZED ACTIVITIES.—The programs and activities described in subsection (a) may include—

"(1) the promotion of partnerships among business, education (including educational agencies), industry, labor, community-based organizations, or governmental agencies;

"(2) the support for tech-prep education as described in section 344;

"(3) the support of vocational student organizations, especially with respect to efforts to increase minority participation in such organizations;

"(4) leadership and instructional programs in technology education; and

"(5) data collection.

"PART B—OTHER STATE-ADMINISTERED PROGRAMS

"Subpart 1—Programs to Provide Single Parents, Displaced Homemakers, and Single Pregnant Women With Marketable Skills and to Promote the Elimination of Sex Bias

"SEC. 221. PROGRAMS FOR SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN. 20 USC 2335.

"(a) GENERAL AUTHORITY.—Each State shall use the amount reserved under section 102(a)(2)(A) only to—

"(1) provide, subsidize, reimburse, or pay for preparatory services, including instruction in basic academic and occupational skills, necessary educational materials, and career guidance and counseling services, in preparation for vocational education and training that will furnish single parents, displaced homemakers, and single pregnant women with marketable skills;

"(2) make grants to eligible recipients for expanding preparatory services and vocational education services when the expansion directly increases the eligible recipients' capacity for providing single parents, displaced homemakers, and single pregnant women with marketable skills;

"(3) make grants to community-based organizations for the provision of preparatory and vocational education services to single parents, displaced homemakers, and single pregnant women if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, displaced homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training, and the characteristics of the participants;

"(4) make preparatory services and vocational education and training more accessible to single parents, displaced homemakers, and single pregnant women by assisting such individuals with dependent care, transportation services, or special services and supplies, books, and materials, or by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents, displaced homemakers, and single pregnant women to inform such individuals of vocational education programs, related support services, and career counseling.

"(b) SETTINGS.—The programs and services described in subsection (a) may be provided in postsecondary or secondary school settings,

including area vocational education schools, that serve single parents, displaced homemakers, and single pregnant women.

20 USC 2335a.

"SEC. 222. SEX EQUITY PROGRAMS.

"(a) GENERAL AUTHORITY.—Except as provided in subsection (b), each State shall use the amount reserved under section 102(a)(2)(B) only for—

"(1) programs, services, comprehensive career guidance and counseling, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) preparatory services and vocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2), including dependent-care services and transportation.

"(b) WAIVER OF AGE LIMIT.—The administrator appointed under section 111(b)(1) may waive the requirement with respect to age limitations contained in subsection (a)(2) whenever the administrator determines that the waiver is essential to meet the objectives of this section.

20 USC 2335b.

"SEC. 223. COMPETITIVE AWARD OF AMOUNTS; EVALUATION OF PROGRAMS.

"The administrator appointed under section 111(b)(1)—

"(1) shall, on a competitive basis, allocate and distribute to eligible recipients or community-based organizations the amounts reserved under section 102(a)(2) for carrying out this subpart, ensuring that each grant made under this subpart is for a program that is of sufficient size, scope, and quality to be effective; and

"(2) shall develop procedures for the collection from eligible recipients, including community-based organizations, that receive funds under this subpart of data appropriate to the individuals served in order to permit evaluation of the effectiveness of such programs as required by section 111(b)(1)(L).

"Subpart 2—Corrections Education

20 USC 2336.

"SEC. 225. PROGRAMS FOR CRIMINAL OFFENDERS.

"(a) DESIGNATION OF STATE CORRECTIONS EDUCATIONAL AGENCY.—(1) Each State board shall designate 1 or more State corrections agencies as State corrections educational agencies to administer vocational education programs assisted under this Act for juvenile and adult criminal offenders in correctional institutions in the State, including correctional institutions operated by local authorities.

"(2) Any corrections agency that desires to be designated under paragraph (1) shall submit to the State board a plan for the use of funds provided to such corrections agency from the amounts reserved by the State under section 102(a)(5).

"(b) DUTIES OF STATE CORRECTIONS EDUCATIONAL AGENCY.—In administering programs receiving funds under this section, each State corrections educational agency designated under subsection (a)

shall, in carrying out a vocational education program for criminal offenders—

"(1) give special consideration to—

"(A) providing services to offenders who are completing their sentences and preparing for release; and

"(B) providing grants for the establishment of vocational education programs in correctional institutions that do not have such programs;

"(2) provide vocational education programs for women who are incarcerated;

"(3) improve equipment; and

"(4) in cooperation with eligible recipients, administer and coordinate vocational education services to offenders before and after their release.

"PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

"Subpart 1—Within-State Allocation

"SEC. 231. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS. 20 USC 2341.

"(a) GENERAL RULE.—Except as otherwise provided in this section and section 233, each State shall distribute funds available in any fiscal year for secondary school vocational education programs to local educational agencies within the State as follows:

"(1) From 70 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1005 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year.

"(2) From 20 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with handicaps who have individualized education programs under section 614(a)(5) of the Education of the Handicapped Act served by such local educational agency in the preceding fiscal year bears to the total number of such students served by local educational agencies in the State in such year.

"(3) From 10 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency in the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State in such year.

"(b) MINIMUM GRANT AMOUNT.—(1) Except as provided in paragraph (2), no local educational agency shall be eligible for a grant under this part unless the amount allocated to such agency under subsection (a) is not less than $15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum grant requirement of this paragraph.

"(2) The State may waive the application of paragraph (1) in any case in which the local educational agency—

"(A) is located in a rural, sparsely-populated area; and

"(B) demonstrates that the agency is unable to enter into a consortium for purposes of providing services under this part.

"(3) Any amounts which are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or paragraph (2) in accordance with the provisions of this section.

"(c) LIMITED JURISDICTION AGENCIES.—(1) In applying the provisions of subsection (a), no State board receiving assistance under this Act shall allocate funds to a local educational agency that serves only elementary schools, but shall distribute such funds to the local or regional educational agency which provides secondary school services to secondary school students in the same attendance area.

"(2) The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

"(d) ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND INTERMEDIATE EDUCATIONAL AGENCIES.—(1) The State shall distribute funds available for secondary school vocational education programs to the appropriate area vocational education school or intermediate educational agency in any case in which—

"(A) the area vocational education school or intermediate educational agency and the local educational agency concerned—

"(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

Contracts.

"(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

Handicapped persons. Disadvantaged persons.

"(B)(i) the area vocational education school or intermediate educational agency serves an approximately equal or greater proportion of students with handicaps and students who are economically disadvantaged than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the intermediate educational agency; or

"(ii) the area vocational education school, intermediate educational agency, or local educational agency demonstrates that it is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area school or intermediate educational agency.

"(2) If an area vocational education school or intermediate educational agency meets the requirements of paragraph (1), then—

"(A) the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational education school, the intermediate educational agency, and the local educational agency based on each school's or entity's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs that meet the requirements of section 235 (based, if practicable, on the average enrollment for the prior 3 years); or

"(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or intermediate educational agency.

"(3)(A) For the purposes of this subsection, the State may determine the number of economically disadvantaged students attending vocational education programs on the basis of eligibility for any of the following:

"(i) Free or reduced-price meals under the National School Lunch Act.

"(ii) The program for aid to dependent children under part A of title IV of the Social Security Act.

"(iii) Benefits under the Food Stamp Act of 1977.

"(iv) Services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(v) Other indices of economic status including estimates of such indices, if the State demonstrates to the satisfaction of the Secretary that such indices are more representative of such number.

"(B) If a State elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the State shall ensure that the data used is not duplicative.

"(4) The State board shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an intermediate educational agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

"(5) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) any local educational agency receiving an allocation which is not sufficient to conduct a program which meets the requirements of section 235(c) is encouraged to—

"(A) form a consortium or enter into a cooperative agreement with an area vocational education school or intermediate educational agency offering programs that meet the requirements of section 235(c) and that are accessible to economically disadvantaged students and students with handicaps served by such local educational agency; and

Disadvantaged persons.
Handicapped persons.

"(B) transfer such allocation to the area vocational education school or intermediate educational agency.

"SEC. 232. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

20 USC 2341a.

"(a) GENERAL RULE.—Except as provided in subsection (b) and section 233, each State shall distribute funds available in any fiscal year for postsecondary and adult vocational education programs to eligible institutions within the State. Each such eligible institution shall receive an amount that bears the same relationship to the amount of funds available under such section as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 235 offered by such institution in the preceding fiscal year bears to the number of such recipients enrolled in such programs within the State in such year.

"(b) WAIVER FOR MORE EQUITABLE DISTRIBUTION.—The Secretary may waive the application of subsection (a) in the case of any State

that submits to the Secretary an application for such a waiver that—

"(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the institutions within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula would result in such a distribution; and

"(2) includes a proposal for an alternative formula that may include criteria relating to the number of individuals attending institutions within the State who—

"(A) receive need-based postsecondary financial aid provided from public funds;

"(B) are members of families participating in the program for aid to families with dependent children under part A of title IV of the Social Security Act;

"(C) are enrolled in postsecondary educational institutions that—

"(i) are funded by the State;

"(ii) do not charge tuition; and

"(iii) serve only economically disadvantaged students;

"(D) are enrolled in programs serving economically disadvantaged adults;

"(E) are participants in programs assisted under the Job Training Partnership Act; or

"(F) are recipients of Pell Grants.

"(c) MINIMUM GRANT AMOUNT.—(1) No grant provided to any institution under this section shall be for an amount that is less than $50,000.

"(2) Any amounts which are not allocated by reason of paragraph (1) shall be redistributed to eligible institutions in accordance with the provisions of this section.

"(d) DEFINITION.—For the purposes of this section—

"(1) the term 'eligible institution' means an institution of higher education, a local educational agency serving adults, or an area vocational education school serving adults that offers or will offer a program that meets the requirements of section 235 and seeks to receive assistance under this part;

"(2) the term 'institution of higher education' has the meaning given that term in section 435(b) of the Higher Education Act of 1965; and

"(3) the term 'Pell Grant recipient' means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965.

20 USC 2341b.

"SEC. 233. SPECIAL RULE FOR MINIMAL ALLOCATION.

Disadvantaged persons.

"(a) GENERAL AUTHORITY.—In any fiscal year in which a minimal amount is made available by a State for distribution under section 231 or section 232 such State may, notwithstanding the provisions of section 231 or section 232, as appropriate, in order to result in a more equitable distribution of funds for programs serving the highest numbers of economically disadvantaged individuals, distribute such minimal amount—

"(1) on a competitive basis; or

"(2) through any alternative method determined by the State.

"(b) MINIMAL AMOUNT.—For purposes of this section, the term 'minimal amount' means not more than 15 percent of the total amount made available for distribution under this part.

"SEC. 234. REALLOCATION. 20 USC 2341c.

"(a) IN GENERAL.—In any academic year that a local educational agency or eligible institution does not expend all of the amounts it is allocated for such year under section 231 or section 232, such local educational agency or eligible institution shall return any unexpended amounts to the State to be reallocated under section 231 or section 232, as appropriate.

"(b) REALLOCATION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.—In any academic year in which amounts are returned to the State under sections 231 or 232 and the State is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the State shall retain such amounts to be distributed in combination with amounts provided under this title for the following academic year.

"Subpart 2—Uses of Funds

"SEC. 235. USES OF FUNDS.

Disadvantaged persons.
Handicapped persons.
Children and youth.
Prisoners.
20 USC 2342.

"(a) GENERAL AUTHORITY.—Each eligible recipient that receives a grant under this part shall use funds provided under such grant to improve vocational education programs, with the full participation of individuals who are members of special populations, at a limited number of sites or with respect to a limited number of program areas.

"(b) PRIORITY.—Each eligible recipient that receives a grant under this part shall give priority for assistance under this part to sites or programs that serve the highest concentrations of individuals who are members of special populations.

"(c) REQUIREMENTS FOR USES OF FUNDS.—(1) Funds made available under a grant under this part shall be used to provide vocational education in programs that—

"(A) are of such size, scope, and quality as to be effective;

"(B) integrate academic and vocational education in such programs through coherent sequences of courses so that students achieve both academic and occupational competencies; and

"(C) provide equitable participation in such programs for the special populations consistent with the assurances and requirements in section 118.

"(2) In carrying out the provisions of paragraph (1), grant funds may be used for activities such as—

"(A) upgrading of curriculum;

"(B) purchase of equipment, including instructional aids;

"(C) inservice training of both vocational instructors and academic instructors working with vocational education students for integrating academic and vocational education;

"(D) guidance and counseling;

"(E) remedial courses;

"(F) adaptation of equipment;

"(G) tech-prep education programs;

"(H) supplementary services designed to meet the needs of special populations;

"(I) a special populations coordinator paid in whole or in part from such funds who shall be a qualified counselor or teacher to ensure that individuals who are members of special populations are receiving adequate services and job skill training;

"(J) apprenticeship programs;

"(K) programs that are strongly tied to economic development efforts in the State;

"(L) programs which train adults and students for all aspects of the occupation, in which job openings are projected or available;

"(M) comprehensive mentor programs in institutions of higher education offering comprehensive programs in teacher preparation, which seek to fully use the skills and work experience of individuals currently or formerly employed in business and industry who are interested in becoming classroom instructors and to meet the need of vocational educators who wish to upgrade their teaching competencies;

"(N) provision of education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, employers, labor organizations, and joint labor-management apprenticeship programs whenever such institutions, employers, labor organizations, or programs can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(3) Equipment purchases pursuant to sections 231 and 232, when not being used to carry out the provisions of this Act, may be used for other instructional purposes if—

"(A) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this title;

"(B) is used after regular school hours or on weekends; and

"(C) such other use is—

"(i) incidental to the use of that equipment under this title;

"(ii) does not interfere with the use of that equipment under this title; and

"(iii) does not add to the cost of using that equipment under this title.

"(4) Each eligible recipient receiving funds under this part shall use no more than 5 percent of such funds for administrative costs.

"Subpart 3—Local Application

Disadvantaged persons. Handicapped persons. Children and youth. Prisoners. 20 USC 2343.

"SEC. 240. LOCAL APPLICATION.

"Any eligible recipient desiring financial assistance under this part shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

"(1) contain a description of the vocational education programs to be funded, including—

"(A) the extent to which the program incorporates each of the elements described in section 235;

"(B) how the eligible recipient will use the funds available under this part and from other resources to improve the program with regard to each use of funds described in section 235;

"(2) contain a report on the number of individuals in each of the special populations; Reports.

"(3) contain a description of how the needs of individuals who are members of special populations will be assessed and a description of the planned use of funds to meet such needs;

"(4) describe how access to programs of good quality will be provided to students who are economically disadvantaged (including foster children), students with handicaps, and students of limited English proficiency through affirmative outreach and recruitment efforts;

"(5) provide assurances that the programs funded under this part shall be carried out according to the criteria for programs for each special population;

"(6) describe the program evaluation standards the applicant will use to measure its progress;

"(7) describe methods to be used to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act, including cooperative arrangements established with private industry councils established under section 102(a) of such Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

"(8) describe methods used to develop vocational educational programs in consultation with parents and students of special populations;

"(9) provide a description of coordination with community-based organizations;

"(10) consider the demonstrated occupational needs of the area in assisting programs funded by this Act;

"(11) provide a description of how the eligible recipient will provide a vocational education program that—

"(A) integrates academic and occupational disciplines so that students participating in the program are able to achieve both academic and occupational competence; and

"(B) offers coherent sequences of courses leading to a job skill;

"(12) provide assurances that the eligible recipient will provide a vocational education program that—

"(A) encourages students through counseling to pursue such coherent sequences of courses;

"(B) assists students who are economically disadvantaged, students of limited English proficiency, and students with handicaps to succeed through supportive services such as counseling, English-language instruction, child care, and special aids;

"(C) is of such size, scope, and quality as to bring about improvement in the quality of education offered by the school; and

"(D) seeks to cooperate with the sex equity program carried out under section 222;

"(13) provide an assurance that the eligible recipient will provide sufficient information to the State to enable the State to comply with the provisions of section 231(d); and

"(14) describe how the eligible recipient will monitor the provision of vocational education to individuals who are members of special populations."

TITLE III—SPECIAL PROGRAMS

SEC. 301. USE OF FUNDS.

Section 302(b) of the Act (20 U.S.C. 2352(b)) is amended by—

(1) redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) inserting the following new paragraph (6) after paragraph (5):

"(6) model programs for school dropouts;".

SEC. 302. CONSUMER AND HOMEMAKING EDUCATION.

Paragraph (2) of section 311 of the Act (20 U.S.C. 2361) is amended by inserting "individual and family health," after "food and nutrition,".

SEC. 303. USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS.

Section 312 of the Act (20 U.S.C. 2362) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "in" and inserting "for residents of"; and

(B) in paragraph (3), by inserting after "encourage" the following: ", in cooperation with the individual appointed under section 111(b)(1),";

(2) in paragraph (1) of subsection (b)—

(A) by striking "managing home and work responsibilities" and inserting "balancing work and family";

(B) by inserting after "family crises" the following: "(including family violence and child abuse)";

(C) by inserting after "parenting skills" the following: "(especially among teenage parents), preventing teenage pregnancy";

(D) by striking "handicapped individuals," and inserting "individuals with handicaps, and members of at-risk populations (including the homeless),"; and

(E) by striking "improving nutrition," and inserting "improving individual, child, and family nutrition and wellness,".

SEC. 304. INFORMATION DISSEMINATION AND LEADERSHIP.

The second sentence of subsection (a) of section 313 of the Act (20 U.S.C. 2363) is amended—

(1) by inserting after "State leadership" the following: "and full time State administrators"; and

(2) by inserting "educational" after "experience and".

SEC. 305. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

Part C of title III of the Act (20 U.S.C. 2371 et seq.) is repealed.

SEC. 306. COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS.

(a) REDESIGNATIONS.—(1) Title III of the Act (20 U.S.C. 2351 et seq.) is amended by redesignating part D as part C.

(2) Sections 331, 332, and 333 of the Act (20 U.S.C. 2381, 2382, 2383) are redesignated as sections 321, 322, and 323, respectively.

(b) AMENDMENT TO PART HEADING.—The heading for part D of title III of the Act (as redesignated in subsection (a)(1)) is redesignated as the heading to part C.

(c) USE OF FUNDS FROM CAREER GUIDANCE AND COUNSELING GRANTS.—Section 322 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2382) is amended in paragraph (2) of subsection (b), by inserting after "equipment acquisition," the following: "development of career information delivery systems,".

SEC. 307. BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING.

(a) REDESIGNATIONS.—(1) Title III of the Act (20 U.S.C. 2351 et seq.) is amended by redesignating part E as part D.

(2) Sections 341, 342, and 343 of the Act (20 U.S.C. 2391, 2392, 2393) are redesignated as sections 331, 332, and 333, respectively.

(b) AMENDMENT TO PART HEADING.—The heading for part D of title III of the Act (as redesignated by subsection (a)(1)) is amended to read as follows:

"PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING".

(c) FINDINGS AND PURPOSE.—Section 331 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2391) is amended to read as follows:

"SEC. 331. FINDINGS AND PURPOSE.

"The Congress finds that—

"(1) there is a need to infuse resources into the schools for the purpose of improving the quality of vocational education; and

"(2) there is a need to fulfill the needs of business for skilled employees who meet certain minimal standards in key occupational areas.".

(d) AUTHORIZATION OF GRANTS.—Section 332 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2392) is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) From amounts authorized under section 3(d)(1)(D) that are made available for this part, the Secretary shall make grants to States to enable States to award grants to partnerships among—

"(A) an area vocational education school, a State agency, a local educational agency, a secondary school funded by the Bureau of Indian Affairs, an institution of higher education, a State corrections educational agency or an adult learning center; and

"(B) business, industry, labor organizations, or apprenticeship programs;

to carry out business-labor-education partnership training programs in accordance with this part.

"(2) The Secretary shall ensure an equitable geographic distribution of grants under this part.";

(2) by amending subsection (b) to read as follows:

"(b) Grants to any State under this part shall be used in accordance with State plans and shall provide incentives for the coordination of programs assisted with funds under this part with related efforts under part E and under the Job Training Partnership Act. Each such State plan shall contain assurances to the Secretary that—

"(1) funds received under this part will be awarded on a competitive basis solely for vocational education programs, including programs—

"(A) to provide apprenticeships and internships in industry;

"(B) to provide new equipment;

"(C) to provide teacher internships or teacher training;

"(D) that bring representatives of business and organized labor into the classroom;

"(E) to increase the access to, and quality of, programs for individuals who are members of special populations;

"(F) to strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

"(G) to address the economic development needs of the area served by the partnership;

"(H) to provide training and career counseling that will enable workers to retain their jobs;

"(I) to provide training and career counseling that will enable workers to upgrade their jobs; and

"(J) that address the needs of new and emerging industries, particularly industries in high-technology fields.

"(2) the State will give preference to partnerships that coordinate with local chambers of commerce (or the equivalent), local labor organizations, or local economic development plans;

"(3) the State will give priority to programs offered by partnerships that provide job training in areas or skills where there are significant labor shortages;

Urban areas.
Rural areas.

"(4) the State shall ensure an equitable distribution of assistance under this part between urban and rural areas;

"(5) except as provided in paragraph (6), not less than 50 percent of the aggregate cost of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 percent of such non-Federal share will be provided by businesses or labor organizations participating in the partnership; and

"(6) in the event that the partnership includes a small business or labor organization, 40 percent of the aggregate cost of the programs and projects assisted under this part will be provided from non-Federal sources and not less than 50 percent of such non-Federal share will be provided by participating businesses or labor organizations."; and

(3) by adding at the end the following new subsection:

"(d) The Secretary shall prescribe policies for vocational education programs carried out with assistance under this part. Such policies shall include examples of allowable expenses for business-labor-education partnerships.".

SEC. 308. TECH-PREP EDUCATION.

Title III of the Act (20 U.S.C. 2351 et seq.) is amended by adding at the end the following new part:

Tech-Prep Education Act.
Grants.
20 USC 2394 note.

"PART E—TECH-PREP EDUCATION

"SEC. 341. SHORT TITLE.

"This part may be cited as the 'Tech-Prep Education Act'.

"SEC. 342. FINDINGS AND PURPOSE. 20 USC 2394.

"(a) FINDINGS.—The Congress finds that—

"(1) rapid technological advances and global economic competition demand increased levels of skilled technical education preparation and readiness on the part of youths entering the workforce;

"(2) effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students;

"(3) a combination of nontraditional school-to-work technical education programs, using state-of-the-art equipment and appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves;

"(4) the establishment of systematic technical education articulation agreements between secondary schools and postsecondary educational institutions is necessary for providing youths with skills in the liberal and practical arts and in basic academics, including literacy instruction in the English language, and with the intense technical preparation necessary for finding a position in a changing workplace;

"(5) by the year 2000 an estimated 15,000,000 manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete;

"(6) more than 50 percent of jobs that are developing will require skills greater than those provided by existing educational programs;

"(7) dropout rates in urban schools are 50 percent or higher, and more than 50 percent of all Hispanic youth drop out of high school; and

"(8) employers in the United States pay an estimated $210,000,000,000 annually for formal and informal training, remediation, and lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the workforce of the United States.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to provide planning and demonstration grants to consortia of local educational agencies and postsecondary educational institutions, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate; and

"(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools and postsecondary educational institutions.

"SEC. 343. PROGRAM AUTHORIZED. 20 USC 2394a.

"(a) DISCRETIONARY AMOUNTS.—In any fiscal year in which the amount made available under section 3(d)(1)(E) to carry out the provisions of this part is equal to or less than $50,000,000, the Secretary, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants for tech-prep education programs to consortia of—

"(1) local educational agencies, intermediate educational agencies or area vocational education schools serving secondary

school students, or secondary schools funded by the Bureau of Indian Affairs; and

"(2)(A) nonprofit institutions of higher education which offer a 2-year associate degree program, a 2-year certificate program, and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978, or a 2-year apprenticeship program that follows secondary instruction, if such nonprofit institutions of higher education are not subject to a default management plan required by the Secretary; or

"(B) proprietary institutions of higher education which offer a 2-year associate degree program and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 if such proprietary institutions of higher education are not subject to a default management plan required by the Secretary.

"(b) STATE GRANTS.—(1) In any fiscal year for which the amount made available under section 3(d)(1)(E) to carry out the provisions of this part exceeds $50,000,000, the Secretary shall allot such amount to the States in accordance with the provisions of section 101(a)(2).

"(2) From amounts made available to each State under paragraph (1), the State board, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants on a competitive basis or on the basis of a formula determined by the State board, for tech-prep education programs to consortia described in subsection (a)(1).

20 USC 2394b.

"SEC. 344. TECH-PREP EDUCATION PROGRAMS.

"(a) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

"(b) CONTENTS OF PROGRAM.—Any such program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation and 2 years of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree or certificate in a specific career field;

"(3) include the development of tech-prep education program curricula appropriate to the needs of the consortium participants;

"(4) include in-service training for teachers that—

"(A) is designed to train teachers to effectively implement tech-prep education curricula;

"(B) provides for joint training for teachers from all participants in the consortium; and

"(C) may provide such training in weekend, evening, and summer sessions, institutes or workshops;

"(5) include training programs for counselors designed to enable counselors to more effectively—

"(A) recruit students for tech-prep education programs;

"(B) ensure that such students successfully complete such programs; and

"(C) ensure that such students are placed in appropriate employment;

"(6) provide equal access to the full range of technical preparation programs to individuals who are members of special populations, including the development of tech-prep education program services appropriate to the needs of such individuals; and

"(7) provide for preparatory services which assist all participants in such programs.

"(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such program may—

"(1) provide for the acquisition of tech-prep education program equipment; and

"(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established and operated tech-prep programs.

"SEC. 345. APPLICATIONS.

20 USC 2394c.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this part shall submit an application to the Secretary or the State board, as appropriate, at such time and in such manner as the Secretary or the State board, as appropriate, shall prescribe.

"(b) THREE-YEAR PLAN.—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this part.

"(c) APPROVAL.—The Secretary or the State board, as appropriate, shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 344.

"(d) SPECIAL CONSIDERATION.—The Secretary or the State board, as appropriate, shall give special consideration to applications which—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs;

Employment and unemployment.

"(2) are developed in consultation with business, industry, and labor unions; and

Business and industry.

"(3) address effectively the issues of dropout prevention and re-entry and the needs of minority youths, youths of limited English proficiency, youths with handicaps, and disadvantaged youths.

Minorities. Handicapped persons. Disadvantaged persons.

"(e) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In making grants under this part, the Secretary shall ensure an equitable distribution of assistance among States and the Secretary or the State board, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

Urban areas. Rural areas.

"(f) NOTICE.—(1) In the case of grants to be made by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

"(2) The Secretary shall notify the State educational agency, the State agency for higher education, and the State council on vocational education of any State each time a consortium located in such State is selected to receive a grant under this part.

20 USC 2394d.

"SEC. 346. REPORTS.

"(a) REPORT TO THE SECRETARY.—In the case of grants made by the Secretary, each grant recipient shall, with respect to assistance received under this part, submit to the Secretary such reports as may be required by the Secretary to ensure that such grant recipient is complying with the requirements of this part.

"(b) REPORT TO THE CONGRESS.—After grant recipients who receive grants in the first year in which grants are made under this part complete their eligibility under the program, the Secretary shall submit to the Congress a report evaluating the effectiveness of the program under this part.

20 USC 2394e.

"SEC. 347. DEFINITIONS.

"For purposes of this part:

"(1) The term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

"(2) The term 'community college'—

"(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled community colleges.

"(3) The term 'tech-prep education program' means a combined secondary and postsecondary program which—

"(A) leads to an associate degree or 2-year certificate;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;

"(C) builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

"(D) leads to placement in employment.

"(4) The terms 'institution of higher education' and 'higher education' include institutions offering apprenticeship programs of at least 2 years beyond the completion of secondary school.".

SEC. 309. SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES.

Title III of the Act (as amended by section 308 of this Act) (20 U.S.C. 2351 et seq.) is further amended by adding at the end the following new part:

"PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES

20 USC 2395.

"SEC. 351. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide funding to local educational agencies in economically depressed areas for program improvement activities, especially the improvement of facilities and acquisition or leasing of equipment to be used to carry out vocational education programs that receive assistance under this Act.

"SEC. 352. ALLOTMENT TO STATES. 20 USC 2395a.

"In each fiscal year, from any amounts appropriated for purposes of carrying out this part, the Secretary shall allot to each State an amount which bears the same ratio to such appropriated amounts as the aggregate amount allocated to counties in such State for such fiscal year under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the total amount appropriated for carrying out such section for such fiscal year.

"SEC. 353. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES. 20 USC 2395b.

"(a) DISTRIBUTION OF ALL GRANT AMOUNTS.—In each fiscal year for which a State receives a grant under this part, the State shall distribute not less than 100 percent of the amounts made available under the grant to eligible local educational agencies as provided in subsection (b).

"(b) GRANT AMOUNTS.—In each fiscal year for which a State receives a grant under this part, each eligible local educational agency or consortium of such agencies in the State shall receive an amount under this part that bears the same relationship to the amount received by such local educational agency or agencies under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the aggregate amount received by local educational agencies in such State under such section in such fiscal year.

"SEC. 354. USES OF FUNDS. 20 USC 2395c.

"Each local educational agency or consortium of such agencies that receives a grant under this part shall——

"(1) give first priority to using funds provided under the grant for improving facilities and acquiring or leasing equipment for carrying out vocational education programs that receive assistance under this Act; and

"(2) then may use any funds not required to carry out the provisions of paragraph (1) for other program improvement activities, such as curriculum development or teacher training.

"SEC. 355. STATE APPLICATIONS. 20 USC 2395d.

"(a) IN GENERAL.—Each State that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) designate the sole State agency described in section 111(a)(1) as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) provide for a process of consultation with the State council established under section 112;

"(3) describes how funds will be allocated in a manner consistent with section 353;

"(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part;

"(5) provide that the State educational agency will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluations; and Records.

"(6) contain assurances that the State will comply with the requirements of this part.

"(b) PERIOD OF APPLICATION.—An application submitted by the State under subsection (a) shall be for a period of not more than 3 years and shall be amended annually.

20 USC 2395e.

"SEC. 356. LOCAL APPLICATIONS.

"Each local educational agency or consortium of such agencies that desires to receive a grant under this part shall submit to the State an application at such time, in such manner, and containing or accompanied by such information as the State may reasonably require.".

SEC. 310. COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS.

Title III of the Act (as amended by sections 308 and 309 of this Act) is further amended by inserting at the end the following:

Community Education Employment Center Act of 1990.
Disadvantaged persons.
Urban areas.
Rural areas.
Children and youth.
Grants.

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"Subpart 1—Community Education Employment Centers

20 USC 2396 note.

"SEC. 361. SHORT TITLE.

"This part may be cited as the 'Community Education Employment Center Act of 1990'.

20 USC 2396.

"SEC. 362. PURPOSE.

"It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to enable such eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(1) graduation from secondary school;

"(2) successful transition from secondary schools to a broad range of postsecondary institutions; and

"(3) employment, including military service.

20 USC 2396a.

"SEC. 363. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants to eligible recipients having applications approved pursuant to section 369 to establish and operate not more than 10 community education employment centers nationwide.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

20 USC 2396b.

"SEC. 364. PROGRAM REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall—

"(1) operate a community education employment center on an extended year and extended day basis;

"(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

"(3) maintain small class sizes, and to the extent possible, maintain an average class size of 15 students or less;

"(4) have the option to organize community education and employment centers into 1 or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

"(5) offer a broad array of secondary school coursework, including, to the extent possible—

"(A) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

"(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

"(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environment issues;

"(D) courses in health, nutrition, and parenting;

"(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

"(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

"(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities;

"(9) seek to utilize community organizations to provide support for educational activities and services to parents and students; and

"(10) offer school-to-work transition services.

"SEC. 365. SUPPORT SERVICES REQUIREMENTS. 20 USC 2396c.

"Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

"(1) a comprehensive program of confidential guidance counseling, providing—

"(A) guidance for career and personal decisionmaking and postsecondary institution placement;

"(B) mentoring and referral to appropriate social services; and

"(C) an accessible counseling service to help parents to focus on the enhancement of student education;

"(2) an on-site job service office to offer students—

"(A) career guidance, development, and employment counseling, which provides information about a broad range of occupations and alternative career paths;

"(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

"(C) assistance in arranging part-time employment, so long as such employment does not adversely affect academic performance;

"(3) assistance in arranging a summer program of work, education, or enrichment sessions;

"(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

"(5) access to day care services for children of participating students.

20 USC 2396d.

"SEC. 366. PARENTAL AND COMMUNITY PARTICIPATION.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

"(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

"(2) conducting regular parent seminars to—

"(A) inform parents about community education employment center operations;

"(B) obtain parent input; and

"(C) disseminate information on how parents can encourage student performance;

"(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

"(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

"(5) establishing an advisory Council of Advisors (in this part referred to as the 'Council') consisting of 1 individual representing each of the following entities:

"(A) the local educational agency;

"(B) the State council on vocational education and the State agency responsible for secondary vocational education;

"(C) the student body;

"(D) the local teacher organization;

"(E) guidance counselors;

"(F) community-based organizations;

"(G) parents; and

"(H) the appropriate private industry council.

"(b) FUNCTIONS OF THE COUNCIL.—The Council shall provide recommendations to, and work with, eligible recipients to—

"(1) establish annual community education employment center priorities, programs, and procedures;

"(2) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that

participants will be representative of the secondary school population in the school district;

"(3) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

"(4) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

"(5) assist in the selection and application of assessment tools for continuous evaluation of student learning progress;

"(6) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment; and

"(7) make recommendations regarding the coordination of activities assisted under this part with activities assisted under the Job Training Partnership Act and school to work transitions.

"SEC. 367. PROFESSIONAL STAFF. 20 USC 2396e.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

"(b) TEACHERS.—(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

"(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance and monitor student progress.

"SEC. 368. ELIGIBILITY. 20 USC 2396f.

"An eligible recipient shall be eligible to receive a grant under this part if—

"(1) the eligible recipient is located in or serves 1 or more local educational agencies that are eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965; and

"(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

"SEC. 369. APPLICATION. 20 USC 2396g.

"(a) APPLICATION REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this part shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) demonstrate that the area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole;

"(2) describe the activities and services for which assistance is sought;

"(3) provide assurances that the eligible recipient will comply with the provisions of sections 364, 365, 366, 367, and 368;

"(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary schools in such local educational agency;

"(5) utilize funding available from appropriate employment, training, and education programs in the State;

"(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

"(7) provide such additional assurances as the Secretary may reasonably require.

20 USC 2396h.

"SEC. 370. EVALUATION AND REPORT.

"(a) LOCAL EVALUATION.—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

"(1) academic and vocational competencies;

"(2) dropout rates;

"(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

"(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

"(5) parental, student and community participation in the activities of the community employment education center.

"(b) REPORT.—The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) not later than October 1, 1995.

20 USC 2396i.

"SEC. 371. DEFINITIONS.

"As used in this part—

"(1) the term 'eligible recipient' means a secondary school or an area vocational school; and

"(2) the term 'parent' includes a legal guardian or other person standing in loco parentis.

"Subpart 2—Vocational Education Lighthouse Schools

20 USC 2396m.

"SEC. 375. VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to secondary schools and area vocational education schools to enable such schools to establish and operate vocational education lighthouse schools.

"(b) USE OF FUNDS.—Grants awarded under this section shall be used to establish vocational education lighthouse schools which—

"(1) serve as a model vocational education program—

"(A) to provide each student with knowledge of, and experience in, all aspects of the industry or enterprise the student is preparing to enter;

"(B) to provide each student with basic and higher order skills and develop the student's problem solving abilities in a vocational setting;

"(C) to offer exceptionally high quality programs for disadvantaged and minority students;

"(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

"(E) which is planned, developed and implemented with the participation of staff, local employers and local community; and

"(F) which offers a full range of programs, including comprehensive career guidance and counseling, for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

"(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

"(A) curriculum materials;

"(B) curriculum development, especially the integration of vocational and academic education;

"(C) inservice and preservice staff development, training, and assistance, through off-site activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

"(D) opportunities to systematically observe the model program; and

"(E) technical assistance and staff development, as appropriate;

"(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

"(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community-based organizations, labor unions, employers, and other business groups, as appropriate; and

"(5) develop and disseminate model approaches—

"(A) for meeting the education training needs and career counseling needs of minority students, disadvantaged students, students with handicaps, and students of limited English proficiency; and

"(B) to reduce and eliminate sex bias and stereotyping.".

SEC. 311. VOCATIONAL EDUCATION OPPORTUNITIES FOR INDIANS AND ALASKA NATIVES.

Title III of the Act (as amended by sections 308, 309 and 310 of this Act) (20 U.S.C. 2351) is further amended by adding at the end the following new part:

"PART H—TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS

Tribally Controlled Vocational Institutions Support Act of 1990.

Grants.
20 USC 2397 note.

"SEC. 381. SHORT TITLE.

"This part may be cited as the 'Tribally Controlled Vocational Institutions Support Act of 1990'.

20 USC 2397.

"SEC. 382. PURPOSE.

"It is the purpose of this part to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

20 USC 2397a.

"SEC. 383. GRANTS AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational institutions to provide basic support for the education and training of Indian students.

"(b) USE OF GRANTS.—Amounts made available under grants made pursuant to this section may be used for—

"(1) training costs;

"(2) educational costs;

"(3) equipment costs;

"(4) administrative costs; and

"(5) costs of operation and maintenance of the institution.

20 USC 2397b.

"SEC. 384. ELIGIBLE GRANT RECIPIENTS.

"To be eligible for assistance under this part a tribally controlled postsecondary vocational institution shall—

"(1) be governed by a board of directors or trustees, a majority of whom are Indians;

"(2) demonstrate adherence to stated goals, a philosophy or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs which are appropriate to stated tribal goals of developing individual entrepreneurships and self-sustaining economic infrastructures on reservations;

"(3) have been in operation for at least 3 years;

"(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

"(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

20 USC 2397c.

"SEC. 385. GRANTS TO TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

"(a) APPLICATIONS.—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this part shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this part which will allow the Secretary to audit and monitor programs.

"(b) INITIAL GRANTS.—In the first year for which amounts are appropriated to carry out this part, the number of grants issued shall be not less than 2.

"(c) CONSULTATION.—In making grants pursuant to this part, the Secretary shall, to the extent practicable, consult with the boards of trustees and the tribal governments chartering the institutions being considered.

"(d) LIMITATION.—Amounts made available under grants made pursuant to this part shall not be used in connection with religious worship or sectarian instruction.

"SEC. 386. AMOUNT OF GRANTS. 20 USC 2397d.

"(a) ALLOWABLE EXPENSES.—Except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

"(1) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contributions to the costs of education for dependents);

"(2) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

"(3) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(b) PAYMENTS.—(1) For each fiscal year, the Secretary shall provide amounts to institutions that are approved for grants under section 385 in 2 payments.

"(2)(A) The first payment shall be made before the end of the 30-day period beginning on the date of the enactment of an Act providing appropriations for such fiscal year for purposes of carrying out this part. Except as provided in subparagraph (B), such payment shall be in an amount that is equal to at least 50 percent of the amount determined to be required under subsection (a) for the preceding year.

"(B) In the first year that an institution receives a grant under this part, the Secretary shall determine the amount of the first payment by estimating the costs described in subsection (a) based upon information submitted by the institution.

"(3) Each institution that receives a grant under section 385 shall receive a final payment of amounts to which it is entitled based on its costs under subsection (a) not later than January 1 of the fiscal year in which the costs are incurred.

"(c) ACCOUNTING.—Each institution receiving payments under this part shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

"(d) ADDITIONAL GRANTS AUTHORIZED.—(1) After providing grants to all eligible institutions under subsection (a), the Secretary shall, from any amounts remaining—

"(A) first allocate to institutions receiving their first grant under this part an amount equal to the training equipment costs necessary to implement training programs; and

"(B) from any remaining funds, review training equipment needs at each institution receiving assistance under this part at the end of the 5-year period beginning on the first day of the first year for which the institution received a grant under this part, and provide allocations for other training equipment needs if it is demonstrated by the institution that its training equipment has become obsolete for its purposes, or that the development of other training programs is appropriate.

"(2) For the purposes of carrying out this subsection, the Secretary may require from each institution the submission of such information relating to the feasibility of such training programs as is reasonable and practical.

20 USC 2397e.

"SEC. 387. EFFECT ON OTHER PROGRAMS.

"(a) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this part shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education or vocational education.

"(b) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this part shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921.

"(c) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

20 USC 2397f.

"SEC. 388. GRANT ADJUSTMENTS.

"(a) ALLOCATION.—(1) If the sums appropriated for any fiscal year for grants under this part are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this part for such fiscal year, the Secretary shall first allocate to each such applicant which received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

"(2) For purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this part.

"(b) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this part, in consideration of employment needs, economic development needs, population training needs, prepare an actual budget needs estimate for each institution eligible under this part for each subsequent program year, and submit such budget needs estimate to the Congress in such a timely manner as will enable the appropriate committees of the

Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions.

"SEC. 389. REPORT ON FACILITIES AND FACILITIES IMPROVEMENT. 20 USC 2397g.

"(a) STUDY OF TRAINING AND HOUSING NEEDS.—(1) The Secretary shall conduct a detailed study of the training and housing needs of each institution eligible under this part.

"(2) The study required by paragraph (1) shall include an examination of—

"(A) training equipment needs; and

"(B) housing needs of families whose heads of household are students and whose dependents have no alternate source of support while such heads of household are students.

"(3) The Secretary shall report to the Congress not later than July 1, 1991, on the results of the study required by paragraph (1).

"(4) The report required by paragraph (3) shall—

"(A) include the number, type, and cost of meeting the needs described in paragraph (2); and

"(B) rank each institution by relative need.

"(5) In conducting the study required by paragraph (1), the Secretary shall give priority to institutions which are receiving assistance under this part.

"(b) LONG-TERM STUDY OF FACILITIES.—(1) The Secretary shall provide for the conduct of a long-term study of facilities of each institution eligible for assistance under this part.

"(2) The study required by paragraph (1) shall include a 5-year projection of training facilities and equipment and housing needs and shall consider such factors as projected service population, employment and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

"(3) The Secretary shall submit to the Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of the enactment of this Act.

"(4) The Secretary shall submit to the Congress a progress report not less often than once every 6 months, beginning on the date of the enactment of this Act, concerning activities conducted pursuant to this section.

"(c) CONSTRUCTION AND RENOVATION GRANTS.—Pursuant to the studies conducted and the report submitted under subsections (a) and (b), the Secretary is authorized to make grants to the tribally controlled vocational institutions for construction, rehabilitation, major alterations and renovation of buildings and other physical structures for the conduct of programs funded under this part. Such grants shall be made in such time and pursuant to such applications as the Secretary shall by regulation determine.

"SEC. 390. DEFINITIONS. 20 USC 2397h.

"For the purposes of this part:

"(1) The terms 'Indian' and 'Indian tribe' have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978.

"(2) The term 'tribally controlled postsecondary vocational institution' means an institution of higher education which is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes which offers technical degrees or certificate granting programs.

"(3) The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled vocational institution, determined as follows:

"(A) The registrations of Indian students as in effect on October 1 of each year.

"(B) Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

"(C) Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

"(D) Indian students earning credits in any continuing education program of a tribally controlled vocational institution shall be included in determining the sum of all credit or clock hours.

"(E) Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs.".

SEC. 312. TRIBAL ECONOMIC DEVELOPMENT.

The Tribally Controlled Community College Assistance Act of 1978 is amended by adding at the end the following new title:

Tribal Economic Development and Technology Related Education Assistance Act of 1990.
25 USC 1801 note.

"TITLE IV—TRIBAL ECONOMIC DEVELOPMENT

"SEC. 401. SHORT TITLE.

"This title may be cited as the 'Tribal Economic Development and Technology Related Education Assistance Act of 1990'.

25 USC 1851.

"SEC. 402. GRANTS AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled community colleges which receive grants under either this Act or the Navajo Community College Act for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a grant under this subsection shall include at least the following activities:

"(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resources needs.

"(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

"(3) The conduct of vocational courses, including administrative expenses and student support services.

"(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

"(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

"(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

"(b) AMOUNT AND DURATION.—The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

"(c) APPLICATIONS.—Institutions which receive funds under other titles of this Act or the Navajo Community College Act may apply for grants under this title either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this part.

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS. 25 USC 1852.

"There are authorized to be appropriated for grants under this part $2,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the 5 succeeding fiscal years.".

SEC. 313. FACILITIES.

Section 112 of the Tribally Controlled Community College Assistance Act of 1978 is amended— 25 USC 1812.

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges that receive funding under this Act or the Navajo Community College Act. Contracts.

"(2) An organization described in this section is any organization that—

"(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act; and

"(B) has demonstrated expertise in areas and issues dealing with tribally controlled community colleges.

"(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress.".

TITLE IV—NATIONAL PROGRAMS

SEC. 401 RESEARCH AND DEVELOPMENT.

The heading for part A of title IV of the Act is amended to read as follows:

"PART A—RESEARCH AND DEVELOPMENT".

SEC. 402. RESEARCH OBJECTIVES.

Section 401 of the Act (20 U.S.C. 2401) is amended—

(1) in paragraph (1), by striking "single parents or homemakers" and inserting "single parents, displaced homemakers, or single pregnant women";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) to authorize additional research and development activities that are related to the purposes of this Act as stated in section 2;".

20 USC 2402.

SEC. 403. RESEARCH ACTIVITIES.

Section 402 of the Act is amended—

(1) in subsection (a)—

(A) by striking "National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate" and inserting "Office of Educational Research and Improvement";

(B) in paragraph (1), by striking "individuals who are single parents or homemakers" and inserting "single parents, displaced homemakers, single pregnant women";

(C) by striking paragraphs (5) and (6);

(D) by redesignating paragraph (4) as paragraph (6);

(E) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(F) by redesignating paragraph (7) as paragraph (8);

(G) by inserting after paragraph (1) the following new paragraphs:

"(2) research on the development and implementation of performance standards and measures that fit within the needs of State boards or eligible recipients in carrying out the provisions of this Act and on the relationship of such standards and measures to the data system established under section 421, which may include evaluation of existing performance standards and measures and dissemination of such information to the State board and eligible recipients;

Disadvantaged persons.
Handicapped persons.
Children and youth.
Prisoners.

"(3) evaluation of the use of performance standards and measures under this Act and the effect of such standards and measures on the participation of students in vocational education programs and on the outcomes of students in such programs, especially students who are members of special populations;";

(H) in paragraph (6) (as redesignated by subparagraph (D) of this section)—

(i) by inserting "and more advanced" after "basic"; and

(ii) by inserting "and problem-solving" after "academic"; and

(I) by inserting after paragraph (6) (as redesignated by subparagraph (D) of this section) the following new paragraph:

"(7) successful methods for providing students, to the maximum extent practicable, with experience in and understanding of all aspects of the industry such students are preparing to enter; and";

(2) by amending subsection (b) to read as follows:

"(b) In addition, the Secretary shall support meritorious, unsolicited research proposals from individual researchers, community colleges, State advisory councils, and State and local educators relating to the goals of this Act.";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c) DISSEMINATION.—(1) The Secretary shall establish a system for disseminating information resulting from research and development activities carried out under this Act. In establishing such system, the Secretary shall use existing dissemination systems, including the National Diffusion Network, the National Center or Centers for Research in Vocational Education, and the National Network for Curriculum Coordination in Vocational and Technical Education, in order to assure broad access at the State and local levels to the information being disseminated.

"(2)(A) In order to comply with paragraph (1), the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education (in this paragraph referred to as the 'Network') consisting of 6 regional curriculum coordination centers. The Network shall— Grants. Contracts.

"(i) provide national dissemination of information on effective vocational education programs and materials, with particular attention to regional programs;

"(ii) be accessible by electronic means;

"(iii) provide leadership and technical assistance in the design, development, and dissemination of curricula for vocational education;

"(iv) coordinate the sharing of information among the States with respect to vocational education curricula;

"(v) reduce duplication of effort in State activities for the development of vocational education curricula; and

"(vi) promote the use of research findings with respect to vocational education curricula.

"(B) The Secretary shall encourage the designation by each State of a liaison representative for the Network.";

(5) in paragraph (1) of subsection (e) (as redesignated in paragraph (3)) by striking "(1)"; and

(6) by striking paragraph (2) of subsection (e) (as redesignated in paragraph (3)).

SEC. 404. NATIONAL ASSESSMENT.

Section 403 of the Act is amended to read as follows: 20 USC 2403.

"SEC. 403. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) The Office of Education Research and Improvement (in this section referred to as the 'Office') shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

"(2) The Office shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of business, industry, labor, and other relevant groups, to advise the Office on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The Federal Advisory Committee Act shall not apply to the panel established under this paragraph.

"(b) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

"(1) the effect of this Act on State and tribal administration of vocational education programs and on local vocational education practices, including the capacity of State, tribal and local vocational education systems to address the priorities identified in this Act;

"(2) expenditures at the Federal, State, tribal and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

"(4) participation in vocational education programs, including, in particular, access of individuals who are members of special populations to high-quality vocational education programs and the effect on the delivery of services to such populations, of Federal legislation giving States flexibility in allocating funds to serve such populations;

"(5) academic and employment outcomes of vocational education, including analyses of—

"(A) the effect of educational reform on vocational education;

"(B) the extent and success of integration of academic and vocational curricula;

"(C) the success of the school-to-work transition; and

"(D) the degree to which vocational training is relevant to subsequent employment;

"(6) employer involvement in, and satisfaction with, vocational education programs;

"(7) the effect of performance standards and other measures of accountability on the delivery of vocational education services;

"(8) the effect of Federal requirements regarding criteria for services to special populations, participatory planning in the States, and articulation between secondary and postsecondary programs;

"(9) coordination of services under this Act, the Adult Education Act, the Job Training Partnership Act, the National Apprenticeship Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act; and

"(10) the degree to which minority students are involved in vocational student organizations.

"(c) CONSULTATION.—(1) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a).

"(2) The Secretary shall submit to the Congress— Reports.

"(A) an interim report on or before January 1, 1994; and

"(B) a final report, summarizing all studies and analyses completed after the assessment, on or before July 1, 1994.

"(3) Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Office of Educational Research and Improvement before their transmittal to the Congress, but the President, the Secretary, and the independent advisory council established under subsection (a)(2) may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

"(d) STUDY.—(1) The assessment required by subsection (a) shall include a study of the distribution of Federal vocational education funds to the States. The study shall—

"(A) consider the distributional effects of the formula for allocation to the States established in section 101(a)(2), including the age cohorts and the per capita income allotment ratios;

"(B) examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this Act;

"(C) specifically address the appropriate distribution mechanism to serve the target populations of this Act; and

"(D) explore the use of other possible methods of targeting funds to individuals who are members of special populations, particularly individuals who are economically disadvantaged, including the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

"(2) The findings of the study required by paragraph (1) shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this Act.

"(3) The study required under paragraph (1) shall be completed by January 1, 1994.".

SEC. 405. NATIONAL CENTER OR CENTERS FOR RESEARCH IN VOCATIONAL EDUCATION.

Section 404 of the Act is amended to read as follows: 20 USC 2404.

"SEC. 404. NATIONAL CENTER OR CENTERS FOR RESEARCH IN VOCATIONAL EDUCATION.

"(a) GENERAL AUTHORITY.—(1) In order to address the purposes of this Act through the involvement of a broad array of individuals, including both vocational and academic teachers and administra- Grants.

tors, the Secretary is authorized to award a grant or grants for the establishment of 1 or 2 national centers in the areas of—

"(A) applied research and development; and

"(B) dissemination and training.

"(2)(A) Each entity selected to establish and operate a Center pursuant to paragraph (1) shall operate such Center for a period of 5 years.

"(B) Beginning after December 31, 1992, the Secretary shall award an annual grant to the National Center or Centers selected pursuant to paragraph (1) for each of the 5 years such National Center is operated. After the third year in which the National Center or Centers receive a grant under this section the Secretary shall review the research priorities of the National Center or Centers.

"(3) Of the amount available pursuant to section 451(a)(1) for purposes of carrying out this section, at least ⅔ of such amount shall be available for applied research and development.

"(4)(A) The Secretary shall hold a competition at the same point in time for the grant or grants for the activities described in paragraph (1). Any institution of higher education or consortium of such institutions may compete for either or both sets of activities.

"(B) For the purpose of this section the term 'institution of higher education' has the same meaning as provided by section 435(b) of the Higher Education Act of 1965.

"(5) If an institution or consortium demonstrates that it can effectively carry out both activities either directly or through contracting, such institution or consortium shall be given a preference in the grant selection. If no institution or consortium demonstrates such capability and 2 grants are awarded, the Secretary must assure coordination of the activities under both grants.

"(6) Not more than 10 percent of each year's budget for the Center or for each of the Centers may be used to respond to field-initiated needs unanticipated prior to the annual funding period and which are in the mission of the Center but not part of the scope of work of the grant.

"(7) The National Center in existence on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 shall continue to operate through its 5-year cycle ending December 31, 1992.

"(b) ACTIVITIES.—(1) The applied research and development activities shall include—

"(A) economic changes that affect the skills which employers seek and entrepreneurs need;

"(B) integration of academic and vocational education;

"(C) efficient and effective practices for addressing the needs of special populations;

"(D) efficient and effective methods for delivering vocational education;

"(E) articulation of school and college instruction with high quality work experience;

"(F) recruitment, education, and enhancement of vocational teachers and other professionals in the field;

"(G) accountability processes in vocational education, to include identification and evaluation of the use of appropriate performance standards for student, program, and State-level outcomes;

"(H) effective practices that educate students in all aspects of the industry the students are preparing to enter;

"(I) effective methods for identifying and inculcating literacy and other communication skills essential for effective job preparation and job performance;

"(J) identification of strategic, high priority occupational skills and skills formation approaches needed to maintain the competitiveness of the United States workforce, sustain high-wage, high-technology jobs and which address national priorities such as technical jobs needed to protect and restore the environment;

"(K) identification of practices and strategies that address entrepreneurial development for minority-owned enterprises; and

"(L) upon negotiation with the Center, and if funds are provided pursuant to subsection (d), such other topics as the Secretary may designate.

"(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the research conducted on approaches that lead to effective articulation for the education-to-work transition, including tech-prep programs, cooperative education or other work-based programs, such as innovative apprenticeship or mentoring approaches, and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(c) DISSEMINATION AND TRAINING.—(1) The dissemination and training activities shall include—

"(A) teacher and administrator training and leadership development;

"(B) technical assistance to assure that programs serving special populations are effective in delivering well-integrated and appropriately articulated vocational and academic offerings for secondary, postsecondary, and adult students;

"(C) needs assessment, design, and implementation of new and revised programs with related curriculum materials to facilitate vocational-academic integration;

"(D) evaluation and follow-through to maintain and extend quality programs;

"(E) assistance in technology transfer and articulation of program offerings from advanced technology centers to minority enterprises;

"(F) assistance to programs and States on the use of accountability indicators, including appropriate and innovative performance standards;

"(G) delivery of information and services using advanced technology, where appropriate, to increase the effectiveness and efficiency of knowledge transfer;

"(H) development of processes for synthesis of research, in cooperation with a broad array of users, including vocational and non-vocational educators, employers and labor organizations;

"(I) dissemination of exemplary curriculum and instructional materials, and development and publication of curriculum materials (in conjunction with vocational and non-vocational constituency groups, where appropriate);

"(J) technical assistance in recruiting, hiring, and advancing minorities in vocational education; and

"(K) upon negotiation with the Center and if funds are provided pursuant to subsection (d), such other topics as the Secretary may designate.

"(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the dissemination and training activities described in paragraph (1) and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

Appropriation authorization.

"(d) AUTHORIZATION OF OTHER RESEARCH.—There are authorized to be appropriated $3,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out such additional activities assigned by the Secretary to the National Center in existence on the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 until the termination of its grant on December 31, 1992 and to carry out the provisions of subsections (b)(1)(L) and (c)(1)(K).".

SEC. 406. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part B of title IV of the Act is amended to read as follows:

Grants.

"PART B—DEMONSTRATION PROGRAMS

20 USC 2411.

"SEC. 411. PROGRAMS AUTHORIZED.

"(a) IN GENERAL.—From amounts available pursuant to section 101(a)(1)(A) in each fiscal year, the Secretary shall make demonstration grants in accordance with the provisions of this part.

"(b) PRIORITY.—In awarding demonstration grants pursuant to this part, the Secretary shall give priority to the programs described in sections 412 and 413.

20 USC 2412.

"SEC. 412. MATERIALS DEVELOPMENT IN TELECOMMUNICATIONS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

"(b) FEDERAL SHARE.—(1) The Federal share of the cost of each project assisted under this section shall be 50 percent.

"(2) The non-Federal share of the cost of each project assisted under this section shall be provided from non-Federal sources.

"(c) USE OF FUNDS.—Grants awarded pursuant to this section may be used to provide—

"(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

"(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, which shall be distributed both via broadcast and nonbroadcast means;

"(3) videodiscs that produce simulated hands-on training; and

"(4) teacher training programs for vocational educators and administrators and correctional educators.

"(d) PRIORITY.—In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

"(1) students in area vocational and technical schools;

"(2) teachers, administrators, and counselors in need of training or retraining;

"(3) out-of-school adults in need of basic skills improvement or a high school equivalency diploma to improve the employability of such individuals;

"(4) college students, particularly college students who are working toward a 2-year associate degree from a technical or community college;

"(5) workers in need of basic skills, vocational instruction, or career counseling to retain employment; and

"(6) workers who need to improve their skills to obtain jobs in high-growth industries.

"SEC. 413. DEMONSTRATION CENTERS FOR THE TRAINING OF DISLOCATED WORKERS. 20 USC 2413.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to establish 1 or more demonstration centers for the retraining of dislocated workers. Such center or centers may provide for the recruitment of unemployed workers, vocational evaluation, assessment and counseling services, vocational and technical training, support services, and job placement assistance. The design and operation of each center shall provide for the utilization of appropriate existing Federal, State, and local programs.

"(b) EVALUATION.—The Secretary shall provide for the evaluation of each center established under subsection (a).

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information on successful retraining models developed by any center established under subsection (a) through dissemination programs operated by the Secretary and the Secretary of Labor.

"(d) ELIGIBLE ORGANIZATIONS.—Any private, nonprofit organization that is eligible to receive funding under the Job Training Partnership Act is eligible to receive funding under this section.

"SEC. 414. PROFESSIONAL DEVELOPMENT. 20 USC 2414.

"(a) TRAINING AND STUDY GRANTS.—(1) The Secretary is authorized to provide grants to institutions of higher education, State educational agencies, or State correctional education agencies to provide grants, awards, or stipends—

"(A) to individuals who are entering the field of vocational education;

"(B) for graduate training in vocational education;

"(C) for vocational teacher education; and

"(D) for attracting gifted and talented students in vocational programs into further study and professional development.

"(2) Grants, awards, and stipends awarded under paragraph (1) shall provide—

"(A) opportunities for experienced vocational educators;

"(B) opportunities for—

"(i) certified teachers who have been trained to teach in other fields to become vocational educators, including teachers with skills related to vocational fields who can be trained as vocational educators, and especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individ- Minorities.

uals with handicaps, students of limited English proficiency, and adult and juvenile criminal offenders;

"(ii) individuals in industry who have skills and experience in vocational fields to be trained as vocational educators; and

"(iii) vocational educators to improve or maintain technological currency in their fields; and

"(C) opportunities for gifted and talented vocational education secondary and postsecondary students to intern with Federal or State agencies, nationally recognized vocational education associations and student organizations or the National Center or Centers for Research in Vocational Education.

"(b) LEADERSHIP DEVELOPMENT AWARDS.—(1) In order to meet the needs of all States for qualified vocational education leaders (such as administrators, supervisors, teacher educators, researchers, career guidance and vocational counseling personnel, vocational student organization leadership personnel and teachers in vocational education programs), the Secretary shall make grants to institutions of higher education for leadership development awards. Individuals selected for such awards shall—

"(A) have not less than 3 years of experience in vocational education or in industrial training, or, in the case of researchers, experience in social science research which is applicable to vocational education;

"(B) are currently employed or are reasonably assured of employment in vocational education and have successfully completed at least a baccalaureate degree program;

"(C) are recommended by their employer, or others, as having leadership potential in the field of vocational education and have been accepted for admission as a graduate student in a program of higher education approved by the Secretary; and

"(D) have made a commitment to return to the field of vocational education upon completion of education provided through the leadership development award.

"(2) For a period of not more than 3 years, stipends shall be paid to individuals selected for leadership development awards. Such stipends shall be paid (including allowances for tuition, nonrefundable fees, and other expenses for such individuals and their dependents) as may be determined to be consistent with prevailing practices.

"(3) The Secretary may provide grants to institutions for stipends to individuals, which shall not exceed $9,000 per individual per academic year or its equivalent and $3,000 per individual per summer session or its equivalent.

"(4) The Secretary shall approve the application of the vocational education program of an institution of higher education for the purposes of this section only upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research, and curriculum development;

"(B) such program is designed to substantially advance the objective of improving vocational education through providing opportunities for graduate training of vocational teachers, supervisors, and administrators, and of university-level vocational education teacher educators and researchers; and

"(C) such programs are conducted by a school of graduate study in the institution of higher education.

"(5) The Secretary, in carrying out this subsection shall apportion leadership development awards to institutions of higher education equitably among the States, taking into account such factors as the State's vocational education enrollments and the need for additional vocational education personnel in the State.

"(6) Each individual who receives a leadership development award under this subsection shall receive payments as provided in paragraph (2) for not more than a 3-year period during which such individual is—

"(A) pursuing a full-time course of study in vocational education in an approved institution of higher education;

"(B) maintaining satisfactory proficiency in such course of study; and

"(C) not engaged in gainful employment other than part-time employment by such institution in teaching, research, or similar activities.

"(c) VOCATIONAL EDUCATOR TRAINING FELLOWSHIPS.—(1) The purpose of this subsection is to provide fellowships—

"(A) to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education who are technologically current in their fields;

"(B) to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experience in vocational fields; and

"(C) to encourage more instructors from minority groups and teachers with skills and experience with individuals of limited English proficiency to become vocational education teachers.

"(2) The Secretary shall make available fellowships, in accordance with the provisions of this subsection, to individuals (especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with disabilities, students of limited English proficiency, and adult and juvenile criminal offenders) who— Minorities.

"(A)(i)(I) are employed in vocational education and need an opportunity to improve or maintain technological skills;

"(II) are certified by a State, or were so certified during the 10-year period preceding their application for a fellowship under this subsection, as teachers in secondary schools, area vocational education schools or institutes, or in community or junior colleges; and

"(III) have skills and experiences in vocational fields so that such individuals can be trained to be vocational educators; or

"(ii) are employed in agriculture, business, or industry (and may or may not hold a baccalaureate degree) and have skills and experience in vocational fields for which there is a need for vocational educators;

"(B) have been accepted in a program to become a vocational educator by an institution of higher education approved by the Secretary; and

"(C) have made a commitment to work in the field of vocational education upon completion of such program.

"(2) The Secretary shall, for a period of not more than 2 years, provide stipends to individuals who are awarded fellowships under

this subsection (including such allowances for tuition, nonrefundable fees, subsistence and other expenses for such individuals and the dependents of such individuals) as the Secretary may determine to be consistent with prevailing practices.

"(3) The Secretary shall approve an institution of higher education under this subsection if—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research and curriculum development; and

"(B) such program is available to individuals receiving fellowships under this subsection so that such individuals receive the same quality of education and training provided for undergraduate students at such institution who are preparing to become vocational education teachers.

"(4) The Secretary shall apportion the fellowships available under this subsection equitably among the States, taking into account such factors as the State's vocational education enrollments, and the need in the State for additional vocational educators, especially minority educators and individuals with skills and experience in teaching individuals of limited English proficiency.

"(5) Individuals receiving fellowships under this subsection shall continue to receive payments provided in paragraph (2) only during such period as such individuals—

"(A) are maintaining satisfactory proficiency;

"(B) are devoting full time to study in the field of vocational education in an institution of higher education; and

"(C) are not engaging in gainful employment other than part-time employment by such institution.

"(6)(A) The Secretary shall, before the beginning of each fiscal year for which amounts are appropriated or otherwise made available to carry out this subsection, publish a listing of—

"(i) the areas of teaching in vocational education in need of additional personnel;

"(ii) the areas of teaching which will likely have need of additional personnel in the future; and

"(iii) areas of teaching in which technological upgrading may be especially critical.

"(B) The listing required by subparagraph (A) shall be based on information from the National Occupational Information Coordinating Committee, State occupational information coordinating committees, the vocational education data system established pursuant to section 421, and other appropriate sources.

"(7) In selecting recipients for fellowships under this subsection, the Secretary shall, to the maximum extent practicable, grant fellowships to individuals seeking to become teachers or improve their skills in the areas identified in the listing required by paragraph (6)(A).

"(d) INTERNSHIPS FOR GIFTED AND TALENTED STUDENTS.—(1) The purpose of this subsection is to provide stipends for internships to meet the need of attracting gifted and talented vocational education students into further study and professional development in the field of vocational education.

"(2)(A) The Secretary shall, from recommendations provided by State directors of vocational education, select gifted and talented students from vocational education secondary and postsecondary

programs to work as interns for Federal and State agencies, nationally recognized vocational education associations, or the National Center or Centers for Research in Vocational Education. Each such student shall receive a stipend for the period of the student's internship, which shall not exceed 9 months. Such stipend shall cover subsistence and other expenses for such individuals and shall be in such amount as the Secretary may determine to be consistent with prevailing practices.

"(B) Each individual selected under this paragraph shall have been recommended as gifted and talented by a vocational educator at the secondary or postsecondary school the student attends.

"(C) Each individual selected under this paragraph shall, during the period of such individual's internship, be provided with professional supervision by an individual qualified and experienced in the field of vocational education at the agency or institution at which the internship is offered.

"SEC. 415. BLUE RIBBON VOCATIONAL EDUCATION PROGRAMS. 20 USC 2415.

"(a) INFORMATION DISSEMINATION.—The Secretary is authorized to disseminate information and exemplary materials regarding effective vocational education.

"(b) STANDARDS OF EXCELLENCE.—(1) The Secretary, in consultation with the National Center or Centers for Research in Vocational Education (in this section referred to as the 'National Center or Centers for Research'), the National Diffusion Network, and the Blue Ribbon Schools Program, is authorized to carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality. Such schools and programs shall be known as 'Blue Ribbon Vocational Programs'. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools funded by the Department of the Interior.

"(2) In the case of a private school or vocational education program that is designated as a Blue Ribbon Vocational Education Program, the Secretary shall make suitable arrangements to provide the award to such school.

"(c) AWARDS.—(1) The Secretary, in consultation with the National Center or Centers for Research and the National Occupational Information Coordinating Committee (in this section referred to as the 'Committee'), is authorized to designate each fiscal year a category or several categories of vocational education, which may include tech-prep education, in which Blue Ribbon Vocational Education Program awards will be named. Such categories shall emphasize the expansion or strengthening of the participation of individuals who are members of special populations and may give special consideration to any of the following:

"(A) program improvement;

"(B) academic and occupational competencies; and

"(C) other categories determined by the Secretary in consultation with the National Center or Centers for Research and the Committee.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards

under this section shall not be required to be representative of the States.

"(d) CONSULTATION.—(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency, area vocational education school, intermediate educational agency, tribal authority, Bureau of Indian Affairs, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

20 USC 2416.

"SEC. 416. DEVELOPMENT OF BUSINESS AND EDUCATION STANDARDS.

"(a) FINDINGS.—The Congress finds that, in order to meet the needs of business for competent entry-level workers who have received a quality vocational education, national standards should be developed for competencies in industries and trades.

"(b) GENERAL AUTHORITY.—(1) The Secretary, in consultation with the Secretary of Labor, is authorized to establish a program of grants to industrial trade associations, labor organizations, or comparable national organizations for purposes of organizing and operating business-labor-education technical committees.

"(2) The committees established with assistance under this section shall propose national standards for competencies in industries and trades. Such standards shall at least include standards for—

"(A) major divisions or specialty areas identified within occupations studied;

"(B) minimum hours of study to be competent in such divisions or specialty areas;

"(C) minimum tools and equipment required in such divisions or specialty areas;

"(D) minimum qualifications for instructional staff; and

"(E) minimum tasks to be included in any course of study purporting to prepare individuals for work in such divisions or specialty areas.

"(c) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall agree to provide for the committee to be established under the grant an amount equal to the amount provided under the grant.

"(d) APPLICATION.—Any industrial trade association, labor organization, national joint apprenticeship committee, or comparable national organization that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

20 USC 2417.

"SEC. 417. EDUCATIONAL PROGRAMS FOR FEDERAL CORRECTIONAL INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or business and industry, to provide education and training for criminal offenders in such institutions.

"(b) USE OF FUNDS.—Grants awarded pursuant to this section may be used for—

"(1) basic education programs with an emphasis on literacy instruction;

"(2) vocational training programs;

"(3) guidance and counseling programs; and

"(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders are released from correctional institutions.

"SEC. 418. DROPOUT PREVENTION. 20 USC 2418.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to partnerships between—

"(1) local educational agencies or area vocational education schools; and

"(2) institutions of higher education or public or private nonprofit organizations which have an established record of vocational education strategies that prevent students from dropping out of school.

"(b) USE OF FUNDS.—Grants awarded under this section shall be used to develop, implement, and operate vocational education programs designed to prevent students from dropping out of school. Such programs shall—

"(1) serve special populations, including significant numbers of economically disadvantaged dropout-prone youth;

"(2) provide inservice training for teachers and administrators in dropout prevention; and

"(3) disseminate information relating to successful dropout prevention strategies and programs through the National Dropout Prevention Network and the Center on Adult, Career and Vocational Education of the Educational Resources Information Clearinghouse.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to partnerships which—

"(1) provide the special support services necessary to help individual students successfully complete the program such as mentoring, basic skills education, and services which address barriers to learning; and

"(2) utilize measures to integrate basic and academic skills instruction with work experience and vocational education.

"SEC. 419. MODEL PROGRAMS OF REGIONAL TRAINING FOR SKILLED TRADES. 20 USC 2419.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to regional model centers which provide—

"(1) training for skilled tradesmen within a region serving several States, and

"(2) technical assistance for programs which train such tradesmen within a region serving several States.

"(b) USE OF FUNDS.—The regional model centers described in subsection (a) shall—

"(1) provide training and career counseling for skilled tradesmen in areas of skill shortages or projected skilled shortages;

"(2) provide prejob and apprenticeship training and career counseling in skilled trades;

"(3) upgrade specialized craft training; and

Women. Minorities. Disadvantaged persons. Handicapped persons.

"(4) improve the access of women, minorities, economically disadvantaged individuals, individuals with handicaps and ex-criminal offenders to trade occupations and training.

"(c) SPECIAL RULE.—In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

20 USC 2420.

"SEC. 420. DEMONSTRATION PROJECTS FOR THE INTEGRATION OF VOCATIONAL AND ACADEMIC LEARNING.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education, area vocational education schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

"(1) designing integrated curricula and courses;

"(2) providing inservice training for teachers and administrators in integrated curricula; and

"(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965.

"(b) REQUIREMENTS RELATING TO GRANT AWARDS.—In awarding grants under this section, the Secretary shall ensure—

"(1) an equitable geographic distribution of funds awarded pursuant to this section;

"(2) that programs supported under this section offer significantly different approaches to integrating curricula;

"(3) that the programs supported under this section serve individuals who are members of special populations;

"(4) that programs supported under this section serve—

"(A) vocational students in secondary schools and at postsecondary institutions;

"(B) individuals enrolled in adult programs; and

"(C) single parents, displaced homemakers, and single pregnant women; and

"(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section.

20 USC 2420a.

"SEC. 420A. COOPERATIVE DEMONSTRATION PROGRAMS.

Contracts.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

"(1) model programs providing improved access to quality vocational education programs for those individuals described in section 521(31) of this Act and for men and women seeking nontraditional occupations;

"(2) examples of successful cooperation between the private sector and public agencies in vocational education, involving employers or consortia of employers or labor organizations and building trade councils, and State boards or eligible recipients

designed to demonstrate ways in which vocational education and the private sector of the economy can work together effectively to assist vocational education students to attain the advanced level of skills needed to make the transition from school to productive employment, including—

"(A) work experience and apprenticeship programs;

"(B) transitional worksite job training for vocational education students which is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

"(C) placement services in occupations which the students are preparing to enter;

"(D) where practical, projects (such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas) that will benefit the public; and

"(E) employment-based learning programs;

"(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce;

"(4) model programs described in section 312(b)(1), including child growth and development centers;

"(5) grants to community-based organizations in partnerships with local schools, institutions of higher education, and businesses for programs and projects that assist disadvantaged youths in preparing for technical and professional health careers (which partnerships should include in-kind contributions from such schools, institutions, and businesses and involve health professionals serving as preceptors and counselors); and

"(6) model programs providing improved access to vocational education programs through centers to be known as agriculture action centers, which programs shall be operated under regulations developed by the Secretary in consultation with the Secretary of Labor and— Regulations.

"(A) shall assist— Agriculture and agricultural commodities. Rural areas.

"(i) individuals who are adversely affected by farm and rural economic downturns;

"(ii) individuals who are dislocated from farming; and

"(iii) individuals who are dislocated from agriculturally-related businesses and industries that are adversely affected by farm and rural economic downturns;

"(B) shall provide services, including—

"(i) crisis management counseling and outreach counseling that would include members of the family of the affected individual;

"(ii) evaluation of vocational skills and counseling on enhancement of such skills;

"(iii) assistance in obtaining training in basic, remedial, and literacy skills;

"(iv) assistance in seeking employment and training in employment-seeking skills; and Employment and unemployment.

"(v) assistance in obtaining training related to operating a business or enterprise;

"(C) shall provide for formal and on-the-job training to the extent practicable; and

"(D) shall be coordinated with activities and discretionary programs conducted under title III of the Job Training Partnership Act.

"(b)(1) Projects described in clause (2) of subsection (a) may include institutional and on-the-job training, supportive services authorized by this Act, and such other necessary assistance as the Secretary determines to be necessary for the successful completion of the project.

"(2) Not less than 25 percent of the cost of the demonstration programs authorized by this subpart shall be provided by the recipient of the grant or contract, and such share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued.

"(c) All programs assisted under this section shall be—

"(1) of direct service to individuals enrolled in such programs; and

"(2) capable of wide replication by service providers.

"(d) The Secretary shall disseminate the results of the programs and projects assisted under this section in a manner designed to improve the training of teachers, other instructional personnel, counsellors, and administrators who are needed to carry out the purposes of this Act.".

SEC. 407. DATA SYSTEMS AUTHORIZED.

Section 421 of the Act (20 U.S.C. 2421) is amended to read as follows:

"SEC. 421. DATA SYSTEMS AUTHORIZED.

Contracts.

"(a) ESTABLISHMENT OF SYSTEM.—(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, establish a vocational educational data system (in this section referred to as the 'system'), using comparative information elements and uniform definitions, to the extent practicable.

"(2) The Secretary shall establish the system not later than the end of the 6-month period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.

"(3) The National Center for Education Statistics (in this section referred to as the 'National Center') shall coordinate the development and implementation of the system.

"(b) FUNCTIONS OF SYSTEM.—Through the system, the Secretary shall collect data and analyze such data in order to provide—

"(1) the Congress with information relevant to policymaking; and

"(2) Federal, State, and local agencies and Tribal agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

"(c) CONTENTS OF SYSTEM.—(1)(A) The system shall include information—

"(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, facilities, and, to the extent practicable, equipment; and

"(ii) describing the condition of vocational education with respect to the elements described in clause (i).

"(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

"(C) The Secretary, in consultation with the Task Force, the National Center, and the Office of Adult and Vocational Education (in this section referred to as the 'Office'), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in the design, implementation and reporting of such systems in order to fulfill the information requirements of this section.

"(2) The information system shall include data reflecting the extent of participation of the following populations:

"(A) women;

"(B) Indians;

"(C) individuals with handicaps;

"(D) individuals of limited English proficiency;

"(E) economically disadvantaged students (including information on students in rural and urban areas);

"(F) adults who are in need of training and retraining;

"(G) single parents;

"(H) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

"(I) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

"(J) minorities; and

"(K) displaced homemakers.

"(3) The Secretary, in consultation with the National Center and the Office, shall maintain and update the system at least every 3 years and assure the system provides the highest quality statistics and is adequate to meet the information needs of this Act. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this Act, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

Handicapped persons.

"(d) ASSESSMENT OF INTERNATIONAL COMPETITIVENESS.—The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations which are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

Reports.

"(e) USE OF AND COMPATIBILITY WITH OTHER DATA COLLECTION SYSTEMS.—(1) In establishing, maintaining, and updating the system, the Secretary shall—

"(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

"(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

"(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

"(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 422 with respect to the development of an information system under section 463 of the Job Training Partnership Act to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that the system allows international comparisons to the extent feasible.

"(3) The Secretary shall assure that the system, to the extent practicable, uses data definitions common to State plans, performance standards, local applications and evaluations required by this Act. The data in the system shall be available for use in preparing such plans, standards, applications, and evaluations.

"(f) REPORTS.—The Secretary shall report to the Congress at least biennially with respect to—

"(1) the performance of the system established under subsection (a); and

"(2) strategies to improve the system and expand its implementation.

"(g) VOCATIONAL EDUCATION ADVISORY TASK FORCE.—(1) The Secretary, in consultation with the National Center and the Office shall establish a Vocational Education Advisory Task Force.

Termination date.

"(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, and shall terminate upon the expiration of the 2-year period beginning on such date.

"(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this Act.

"(4) The membership of the Task Force shall be representative of Federal, State, and local agencies and Tribal agencies affected by technological information, representatives of secondary and vocational postsecondary educational institutions, representatives of vocational student organizations, representatives of special populations, representatives of adult training programs funded under this Act, and representatives of apprenticeships, business, and industry.

"(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

Reports.

"(h) ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.—As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally representative subsample of vocational education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of vocational education students and

other students in the areas assessed. Such assessment may include international comparisons.".

SEC. 408. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

(a) AMENDMENT TO HEADING.—The heading for section 422 of the Act is amended to read as follows: 20 USC 2422.

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE".

(b) AMENDMENT TO TEXT.—Section 422 of the Act is amended—

(1) in subsection (a)—

(A) by inserting after "Coordinating Committee" the following: "(in this section referred to as the 'Committee')";

(B) by inserting after "Office of Bilingual Education and Minority Language Affairs," the following: "the Assistant Secretary for Postsecondary Education,";

(C) by striking "(Manpower, Reserve Affairs, and Logistics)" and inserting "(Force Management and Personnel)";

(D) in paragraph (2), by inserting before the semicolon the following: ", including regularly updated data on employment demand for agribusiness";

(E) in paragraph (3)—

(i) by striking "conduct studies on" and inserting the following: "conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine"; and

(ii) by striking "and" at the end thereof;

(F) by redesignating paragraph (4) as paragraph (6); and

(G) by inserting after paragraph (3) the following new paragraphs:

"(4) continue training, technical assistance activities to support comprehensive career guidance, and vocational counseling programs designed to promote improved career decisionmaking by individuals (especially in areas of career information delivery and use);

"(5) coordinate the efforts of Federal, State, and local agencies and Tribal agencies with respect to such programs; and";

(2) by adding at the end the following new subsections:

"(c)(1)(A) The Committee, in consultation with the National Center or Centers for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for vocational education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earning records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of vocational education students and nonvocational education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study. Wages. Records. Reports.

"(B)(i) Participation in the program described in subparagraph (A) shall be voluntary. The Committee shall enter into an agreement Contracts.

with any State which desires to carry out a study for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(I) that the State will participate in the study;

"(II) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(III) that the State agrees to the terms and conditions specified in this section.

"(ii) For each fiscal year, the non-Federal share for the purpose of this program shall be the cost of conducting the study in the State, including the cost of administering the assessment for the State sample and the cost of coordination within the State.

"(2) The program shall provide for an independent evaluation conducted by the Office of Technology Assessment of the Congress to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

"(3) The provision of wage and other records to the Committee by a State employment security agency shall be voluntary and pursuant to an agreement between the Committee and the agency. Such agreement shall take into consideration issues such as—

"(A) reimbursing the State employment security agency for the costs to the agency of providing the information; and

"(B) compliance with safeguards established by the State employment security agency and determined by the Secretary of Labor to be appropriate to ensure that the information disclosed to the Committee is used only for the purposes of this subsection.

Classified information.

"(4) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5, United States Code. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

"(d) Of amounts reserved under section 451(a)(3)(A) to carry out the provisions of this section, the Committee shall use—

"(1) to support State occupational information coordinating committees for the purpose of operating State occupational information systems and career information delivery systems, the greater of—

"(A) an amount equal to the aggregate amount appropriated or otherwise made available for that purpose for the fiscal year 1990; or

"(B) an amount equal to 75 percent of the aggregate amount appropriated or otherwise made available to carry out this section; and

"(2) for purposes of carrying out subsection (c)—

"(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

"(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount.".

SEC. 409. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

Section 423 of the Act is amended to read as follows: 20 USC 2423.

"SEC. 423. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

"(a) INFORMATION RELATING TO STUDENTS WITH HANDICAPS.—(1) The Secretary shall ensure that adequate information on access to vocational education by secondary school students with handicaps is maintained in the data system established under section 421.

"(2) The system shall include detailed information obtained through scientific sample surveys concerning—

"(A) types of programs available; and

"(B) enrollment of students with handicaps by—

"(i) type of program;

"(ii) type of instructional setting; and

"(iii) type of handicap.

"(3)(A) The General Accounting Office shall conduct a 3-year study, using representative samples, of the effects of the amendments made by title II of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990 on the access to and participation in vocational education of disadvantaged students, students with handicaps, students of limited English proficiency, and, to the extent practicable, foster children.

"(B) The study shall include consideration of issues such as—

"(i) the proportion of students described in paragraph (1) who are enrolled in vocational education programs during the first 3 program years to which the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments Act of 1990 apply compared to the program year preceding such years;

"(ii) the number of such students who enroll in vocational education programs for the first time during the period of study;

"(iii) the number of such students who participate in vocational education programs that lead to an occupational skill or job placement;

"(iv) the extent to which academics are incorporated with vocational education courses;

"(v) the manner in which vocational education programs have addressed special needs of such students for supportive services, material, and equipment;

"(vi) the comparability of vocational education services provided to such students with vocational education services provided to students who are not members of special populations; and

"(vii) in the case of students with handicaps—

"(I) the types and severity of handicaps of such students who enroll in vocational education programs;

"(II) the extent to which such students participate in the same vocational education programs as students who do not have handicaps;

"(III) the number of such students with individualized education programs developed under section 614(a)(5) of the

Education of the Handicapped Act who have individualized education programs that include vocational education programs;

"(IV) the extent to which special personnel such as special education personnel or vocational rehabilitation personnel assist in the selection and provision of vocational education programs with respect to such students;

"(V) the extent to which such students and their parents are involved in selecting vocational education courses and programs;

"(VI) the number of such students who have returned to secondary vocational education programs after dropping out of or formally exiting the local educational system; and

"(VII) the ages of such students.

"(C) In conducting the study required by this subsection, the General Accounting Office may consider and include information from other sources to address or augment the issues considered in the study.

Reports. "(4) The General Accounting Office shall submit to the appropriate committees of the Congress a report describing the results of the study conducted as required by this subsection not later than July 1, 1995.

"(b) INFORMATION RELATING TO STUDENTS WHO HAVE COMPLETED SECONDARY SCHOOL.—(1) To carry out the provisions of this section, in accordance with the provisions of section 3 of the Technology Assessment Act of 1972, the Office of Technology Assessment shall conduct an assessment of a sample of tests designed to be administered to students who have completed secondary school to assess the level of technical knowledge relating to broad technical fields possessed by such students. The assessment shall include at least—

"(A) an assessment of the quality, validity, reliability, and predictive capability of widely used vocational aptitude and competency tests and assessments, with particular attention to—

"(i) the use of such assessments with respect to students who are members of special populations; and

"(ii) patterns of actual usage with respect to entry into vocational education programs, promotion within such programs, completion of such programs, and placement in appropriate positions;

"(B) identification of trends in such tests and assessments, including any relationship to vocational education curricula; and

"(C) identification of policy options for—

"(i) strengthening development and quality of such tests and assessments to ensure that such tests and assessments are conducted in an impartial manner that does not penalize students on the basis of race, sex, or economic background; and

"(ii) means of sustaining competition in the development of such tests and assessments.

Reports. "(2) The results of the study required by paragraph (1) shall be reported to the appropriate committees of the Congress not later than September 30, 1994.".

SEC. 410. MISCELLANEOUS PROVISIONS.

Part C of title IV of the Act is amended by adding at the end the following new section:

"SEC. 424. MISCELLANEOUS PROVISIONS. 20 USC 2424.

"(a) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this part. To ensure reasonable cost, the Secretary, in consultation with the Vocational Education Task Force, the National Center for Education Statistics, the Office of Vocational and Adult Education, and the National Occupational Information Coordinating Committee shall determine the methodology to be used and the frequency with which information is to be collected.

"(b) COOPERATION OF STATES.—All States receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this part.".

SEC. 411. REPEAL OF NATIONAL COUNCIL ON VOCATIONAL EDUCATION.

(a) IN GENERAL.—Part D of title IV of the Act (20 U.S.C. 2431) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of the Act (20 U.S.C. 2301 note) is amended by striking the items relating to part D and to section 431.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1991. 20 USC 2431 note.

SEC. 412. GENERAL PROVISIONS.

Section 451 of the Act is amended to read as follows: 20 USC 2451.

"SEC. 451. DISTRIBUTION OF ASSISTANCE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b) and section 504, of the amounts available pursuant to section 3(e)(1) for any fiscal year for this title—

"(1) 30 percent shall be available for part A, relating to research and development, of which 90 percent shall be available for section 404, relating to the National Center or Centers;

"(2) 30 percent shall be available for part B, relating to demonstration programs; and

"(3) 40 percent shall be available for part C, relating to vocational education and occupational information data systems, of which not less than—

"(A) 22 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available to carry out section 422, relating to the National Occupational Information Coordinating Committee;

"(B) 8 percent shall be available to carry out the provisions of section 421, relating to data systems; and

"(C) 10 percent shall be available to carry out the provisions of section 402(c), relating to the National Network for Curriculum Coordination.

"(b) HOLD HARMLESS.—Notwithstanding the provisions of subsection (a), the amounts available to carry out the activities described in subsection (a)(1) and in subsections (a)(3)(A) and (a)(3)(C) shall be at least equal to the amounts made available for such activities in the fiscal year 1990.".

TITLE V—GENERAL PROVISIONS

SEC. 501. FEDERAL ADMINISTRATIVE PROVISIONS.

20 USC 2462, 2464, 2465.

(a) ELIMINATION OF MATCHING REQUIREMENTS AND TRANSFER OF STATE PROVISION.—(1) Sections 502, 504, and 505 of the Act (20 U.S.C. 2462, 2465, 2466) are repealed.

(2) Sections 503 and 506 of the Act (20 U.S.C. 2463, 2466), are redesignated as sections 502 and 503, respectively.

20 USC 2463.

(b) MAINTENANCE OF EFFORT.—The first sentence of section 502(b) of the Act (as redesignated by subsection (a)(2) of this section) is amended by inserting after "this section" the following: "(with respect to not more than 5 percent of expenditures by any State educational agency)".

(c) ADDITIONAL ADMINISTRATIVE PROVISIONS.—Title V of the Act (20 U.S.C. 2461 et seq.) is amended—

(1) by redesignating part B as part C; and

(2) by inserting after section 503 the following:

20 USC 2466a.

"SEC. 504. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) IN GENERAL.—(1) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such meetings shall include individuals and representatives of groups involved in vocational education programs under this Act, such as Federal, State, tribal and local administrators, parents, teachers, members of local boards of education and special populations.

"(2) During each meeting described in paragraph (1), the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. The Secretary shall take into account information received at such meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

Federal Register, publication.

"(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations under this Act and submit regulations on at least 2 key issues to a negotiated rulemaking process. The Secretary shall follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4 and 85-5, 'Procedures for Negotiating Proposed Regulations' (1 C.F.R. 305.82-4 and 85-5) and any successor recommendation, regulation, or law. Participants in the negotiation process shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in subsection (a)(1) and all geographic regions. At least 10 participants, 1 from each of the regions served by a regional office established pursuant to section 416 of the Department of Education Organization Act, representing the groups described in subsection (a)(1), shall be chosen under the preceding sentence. The negotiation process shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(c) SPECIAL RULE.—If a regulation must be issued within a very limited time period to assist States and eligible recipients with the operation of a program under this Act, the Secretary may issue a regulation without fulfilling the requirements of subsections (a) and (b), but shall immediately convene regional meetings to review the regulation before such regulation is issued in final form.

"(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to activities carried out under this section.

"(e) RESERVATION OF AMOUNTS.—For the fiscal year 1991, the Secretary may reserve for purposes of carrying out subsection (b) not more than $300,000 from amounts made available under section 3(e).

"SEC. 505. REQUIREMENTS RELATING TO REPORTS, PLANS, AND REGULATIONS. 20 USC 2466b.

"The General Accounting Office shall, upon the request of any Member of the Congress—

"(1) investigate the circumstances of any failure by the Secretary to submit any report or research finding or issue any regulation required by this Act by the time specified in the provision of this Act requiring the submission of such report or research finding or issuance of such regulation; and

"(2) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the results of any investigation conducted pursuant to paragraph (1), including an identification of the cause of delay and of the office or offices of the Department of Education or of the Office of Management and Budget responsible for the delay.

"SEC. 506. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS. 20 USC 2466c.

"Nothing in this Act shall be construed to be inconsistent with appropriate Federal laws guaranteeing civil rights.

"SEC. 507. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS. 20 USC 2466d.

"(a) ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) ATTENDANCE COSTS.—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"SEC. 508. FEDERAL MONITORING. 20 USC 2466e.

"The Secretary shall make every effort to provide adequate monitoring of compliance by recipients of assistance under this Act with the provisions of this Act. Such monitoring activities shall be devel-

oped by the Secretary in consultation with parents, students, and advocacy organizations, and shall—

"(1) consider items such as whether the provisions of the State plan are being fully implemented;

"(2) consider items such as whether the State board's monitoring of local recipients of assistance under this Act is adequate to assure full compliance with the provisions of this Act by such recipients;

"(3) consider items such as whether the State-level coordinators for individuals who are members of special populations are able to review the local plans for serving such individuals;

"(4) consider items such as whether the other State responsibilities under this Act are being implemented; and

"(5) provide for input from students, parents, teachers, and special populations in the States.

"PART B—STATE ADMINISTRATIVE PROVISIONS

20 USC 2468.

"SEC. 511. JOINT FUNDING.

"(a) GENERAL AUTHORITY.—Funds made available to States under this Act may be used to provide additional funds under an applicable program if—

"(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(2) such program serves the same individuals that are served under this Act;

"(3) such program provides services in a coordinated manner with services provided under this Act; and

"(4) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(b) APPLICABLE PROGRAMS.—For the purposes of this section, the term 'applicable program' means any program under any of the following provisions of law:

"(1) Section 123, title II, and title III of the Job Training Partnership Act.

"(2) The Wagner-Peyser Act.

"(c) ISSUANCE OF REGULATIONS.—Notwithstanding the provisions of section 504, the Secretary shall develop regulations to be issued under this section in consultation with the Secretary of Labor.

"(d) USE OF FUNDS AS MATCHING FUNDS.—For the purposes of this section, the term 'additional funds' includes the use of funds as matching funds.

20 USC 2468a.

"SEC. 512. REVIEW OF REGULATIONS.

"(a) ESTABLISHMENT OF REVIEW COMMITTEE.—Except as provided in subsection (b), before any State publishes any proposed or final State rule or regulation pursuant to this Act, the State shall establish and convene a State Committee of Practitioners (in this section referred to as the 'Committee') for the purpose of reviewing such rule or regulation. The Committee shall be selected from nominees solicited from State organizations representing school administrators, teachers, parents, members of local boards of education, and appropriate representatives of institutions of higher education. The Committee shall consist of—

"(1) representatives of local educational agencies, who shall constitute a majority of the members of the Committee;

"(2) school administrators;

"(3) teachers;
"(4) parents;
"(5) members of local boards of education;
"(6) representatives of institutions of higher education; and
"(7) students.

"(b) LIMITED EXCEPTION.—In an emergency, where a regulation must be issued within a very limited time period to assist eligible recipients with the operation of a program, the State may issue a regulation without fulfilling the requirements of subsection (a), but shall immediately convene the Committee to review the regulation before it is issued in final form.

"SEC. 513. IDENTIFICATION OF STATE-IMPOSED REQUIREMENTS. 20 USC 2468b.

"Any State rule or policy imposed on the administration or operation of programs funded by this Act, including any rule or policy based on State interpretation of any Federal law, regulation, or guideline, shall be identified as a State imposed requirement.

"SEC. 514. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES. 20 USC 2468c.

"No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from 1 State to another State if such relocation would result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

"SEC. 515. STATE ADMINISTRATIVE COSTS. 20 USC 2468d.

"For each fiscal year for which a State receives assistance under this Act, the State shall provide from non-Federal sources for costs the State incurs for administration of programs under this Act an amount that is not less than the amount provided by the State from non-Federal sources for such costs for the preceding fiscal year.

"SEC. 516. ADDITIONAL ADMINISTRATIVE PROVISIONS. 20 USC 2468e.

"(a) IN GENERAL.—(1)(A) Funds made available under title II shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

"(B) Notwithstanding subparagraph (A), funds made available under title II may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 612(4) and 614(a)(5) of the Education of the Handicapped Act, in a manner consistent with section 614(a)(1) of such Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

"(2) No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"(b) LIMITATION.—Any project assisted with funds made available under title II shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"(c) PERMISSIBLE SERVICES AND ACTIVITIES.—(1) Vocational education services and activities authorized in title II may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in title II may include placement services for students who have successfully completed vocational education programs.

"(3) Vocational education services and activities described in title II may include programs which involve students in addressing the needs of the community in the production of goods or services which contribute to the community's welfare or which involve the students with other community development planning, institutions, and enterprises.

"(d) ACADEMIC CREDIT.—Each State board receiving financial assistance under title II may consider granting academic credit for vocational education courses which integrate core academic competencies.".

SEC. 502. DEFINITIONS.

20 USC 2471.

Section 521 of the Act is amended to read as follows:

"SEC. 521. DEFINITIONS.

"As used in this Act:

"(1) The term 'administration' means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but does not include curriculum development activities, personnel development, or research activities.

"(2) The term 'all aspects of the industry' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor issues, and health and safety.

"(3) The term 'apprenticeship training program' means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, commonly known as the National Apprenticeship Act, which is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and which contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

"(4) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a high school exclusively or principally used for providing vocational education in not less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school

and who are available for study in preparation for entering the labor market; or

"(D) the department or division of a junior college, community college or university operating under the policies of the State board and which provides vocational education in not less than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in subparagraph (C) or this subparagraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

"(5) The term 'career guidance and counseling' means programs—

"(A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills, and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities; and

"(B) which assist such individuals in making and implementing informed educational and occupational choices.

"(6) The term 'community-based organization' means any such organization of demonstrated effectiveness described in section 4(5) of the Job Training Partnership Act.

"(7) The term 'construction' includes construction of new buildings and acquisition, and expansion, remodeling, and alternation of existing buildings, and includes site grading and improvement and architect fees.

"(8) The term 'cooperative education' means a method of instruction of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field. Such alternation shall be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(9) The term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

"(10) The term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"(11) The term 'Council' means the National Council on Vocational Education.

"(12) The term 'curriculum materials' means instructional and related or supportive material, including materials using

advanced learning technology, in any occupational field which is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

"(13) The term 'disadvantaged' means individuals (other than individuals with handicaps) who have economic or academic disadvantages and who require special services and assistance in order to enable such individuals to succeed in vocational education programs. Such term includes individuals who are members of economically disadvantaged families, migrants, individuals of limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

"(14) The term 'displaced homemaker' means an individual who—

"(A) is an adult; and

"(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by such income;

"(iii) is a parent whose youngest dependent child will become ineligible to receive assistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act within 2 years of the parent's application for assistance under this Act; or

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate, or

"(C) is described in subparagraph (A) or (B) and is a criminal offender.

The Secretary may not prescribe the manner in which the States will comply with the application of the definition contained in this paragraph.

"(15) The term 'economically disadvantaged family or individual' means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

"(16) Except as otherwise provided, the term 'eligible recipient' means a local educational agency, an area vocational education school, an intermediate educational agency, a postsecondary educational institution, a State corrections educational agency, or an eligible institution (as such term is defined in section 232(d)(1)).

"(17) The term 'general occupational skills' means experience in and understanding of all aspects of the industry the student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues.

"(18) The term 'high technology' means state-of-the-art computer, microelectronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication,

transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

"(19) The term 'individual with handicaps' means any individual who is an individual with any disability (as defined in section 3(2) of the Americans With Disabilities Act of 1990).

"(20) The term 'intermediate educational agency' means a combination of school districts or counties (as defined in section 1471(5) of the Elementary and Secondary Education Act of 1965) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

"(21) The term 'limited English proficiency' has the meaning given such term in section 703(a)(1) of the Elementary and Secondary Education Act of 1965.

"(22) The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. For the purposes of sections 114, 115, 116, 117, and 240, such term shall include a State corrections educational agency.

"(23) The term 'postsecondary educational institution' means an institution legally authorized to provide postsecondary education within a State, a Bureau of Indian Affairs controlled postsecondary institution, or any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(24) The term 'preparatory services' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education or training program, such as—

"(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

"(B) career counseling and personal counseling;

"(C) vocational assessment and testing; and

"(D) other appropriate services, programs, or activities.

"(25) The term 'private vocational training institution' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

"(A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution;

"(B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

"(C) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

"(D) is accredited—

"(i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause;

"(ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause; or

"(iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards.

For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

"(26) The term 'school facilities' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

"(27) The term 'Secretary' means the Secretary of Education.

"(28) The term 'small business' means for-profit enterprises employing 500 or fewer employees.

"(29) The term 'sequential course of study' means an integrated series of courses which are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education.

"(30) The term 'single parent' means an individual who—

"(A) is unmarried or legally separated from a spouse; and

"(B)(i) has a minor child or children for which the parent has either custody or joint custody; or

"(ii) is pregnant.

"(31) The term 'special populations' includes individuals with handicaps, educationally and economically disadvantaged individuals (including foster children), individuals of limited English proficiency, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions.

"(32) The term 'specific job training' means training and education for skills required by the employer that provides the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.

"(33) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern

Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(34) The term 'State board' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

"(35) The term 'State corrections educational agency' means the State agency or agencies responsible for carrying out corrections education programs in the State.

"(36) The term 'State council' means the State council on vocational education established in accordance with section 112.

"(37) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(38) The term 'supplementary services' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(39) The term 'technology education' means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy.

"(40) The term 'tribally controlled community college' means an institution which receives assistance under the Tribally Controlled Community College Assistance Act of 1976 or the Navajo Community College Act.

"(41) The term 'vocational education' means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include competency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

"(42) The term 'vocational student organizations' means those organizations for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. Such organizations may have State and national units which aggregate the work and purposes of instruction in vocational education at the local level.".

TITLE VI—MISCELLANEOUS

PART A—CORRECTIONAL EDUCATION

Office of Correctional Education Act of 1990.

20 USC 3401 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Office of Correctional Education Act of 1990".

SEC. 602. CORRECTIONAL EDUCATION.

(a) IN GENERAL.—Title II of the Department of Education Organization Act is amended by—

20 USC 3423.
(1) repealing section 213;

20 USC 3424.
(2) redesignating section 214 as section 215; and

(3) inserting the following new section 214 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

20 USC 3423a.
"SEC. 214. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this title to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

Reports.
"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs;

"(5) consult with, and provide outreach to, State directors of correctional education and correctional educators; and

"(6) collect from States a sample of information on the number of individuals who complete a vocational education sequence, earn a high school degree or general equivalency diploma, or earn a postsecondary degree while incarcerated and the correlation with job placement, job retention, and recidivism.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—
"(A) prison,
"(B) jail,
"(C) reformatory,
"(D) work farm,
"(E) detention center, or
"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and
"(3) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.".

(b) CLERICAL AMENDMENTS.—The table of contents contained in section 1 of the Department of Education Organization Act is amended by striking the items relating to sections 213 and 214 and inserting the following:

"Sec. 214. Office of Correctional Education.
"Sec. 215. Federal Interagency Committee on Education.".

PART B—MISCELLANEOUS PROVISIONS

SEC. 611. STUDY OF THE DUAL SYSTEM OF VOCATIONAL EDUCATION IN THE FEDERAL REPUBLIC OF GERMANY.

20 USC 2403 note.

(a) GENERAL AUTHORITY.—The General Accounting Office (in this section referred to as the "Office") shall conduct a thorough study of the Dual System of Vocational Education in the Federal Republic of Germany, including an analysis of the desirability, advantages, and disadvantages of establishing a nationwide job apprenticeship program in the United States similar to the Dual System of Vocational Education in the Federal Republic of Germany.

(b) CONTENTS.—In studying the West German Dual System of Vocational Education, the Office shall assess—

(1) the ability of such a system to prepare workers for the technical workplace;
(2) the level of academic skills an apprentice in the Dual System acquires;
(3) the effectiveness of combining on-the-job training with classroom instruction;
(4) the participation in apprenticeships by gender and minority status;
(5) the dropout rate of West German students;
(6) the construction and oversight of skill certification tests;
(7) the unemployment rate and relative wage levels of former participants;
(8) the labor mobility of apprentices;
(9) whether such a system has helped West Germany maintain a competitive workforce and a competitive edge in the world economy;
(10) the value and productivity of apprentices to business; and
(11) the direct and indirect costs and benefits to the country, industry, company, and individual that result from the Dual System of Vocational Education.

(c) FACTORS TO BE CONSIDERED.—In assessing the ability of a similar program to be replicated in the United States, the Office shall evaluate such factors as—

(1) existing job apprenticeship programs and their ability to prepare workers for the technical workplace;

(2) the future need for skilled workers and the extent to which job apprenticeship programs could meet such future workforce needs;

(3) the appropriate age or grade level for students to enter job apprenticeship programs (such as secondary students, post-secondary students, or both);

(4) the potential for such programs to reduce the dropout rate, place more qualified workers in the workplace, provide continuing education, including postsecondary opportunities, and increase the lifetime earnings of those who participate in such a job apprenticeship program;

(5) the issues in obtaining labor and management utilization of skills, certification for employee recruitment, promotion, and other purposes, and issues in creating and improving such certification to reliably and validly reflect the changing structure of work in the skills certified;

(6) the training wage appropriate for an apprentice;

(7) the estimated value and productivity of apprentices to business;

(8) the Federal, State, employer, and labor roles in regulating and funding such a program;

(9) the direct and indirect costs and benefits of such a program to the Federal and State governments, industry, the company and the individual; and

(10) the quality and adequacy of Federal and State data on training, including apprenticeships, directly or indirectly provided by employers, including data on the level and distribution of training by industry, firm size, and of labor and management employees.

(d) DEADLINE FOR STUDY.—The study required by subsection (a), together with comments and recommendations, shall be completed and presented to Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act.

SEC. 612. HIGHER EDUCATION ACT.

20 USC 1131.

Section 621 of the Higher Education Act of 1965 is repealed.

TITLE VII—EFFECTIVE DATE

20 USC 2301 note.

SEC. 701. TRANSITION PROVISION.

Upon the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, each State and eligible recipient of Federal financial assistance under a State plan submitted pursuant to section 113 of the Carl D. Perkins Vocational Education Act may expend funds currently available under the Carl D. Perkins Vocational Education Act to—

(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, including the development of a State plan under section 113 of such Act;

(2) develop State and local standards and measures as required by section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act; and

(3) conduct assessments as required by section 116 of the Carl D. Perkins Vocational and Applied Technology Education Act.

SEC. 702. EFFECTIVE DATE. 20 USC 2301 note.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on July 1, 1991.

(b) SPECIAL RULE.—Sections 3, 115, 116, 504, and 512 and part H of title III of the Carl D. Perkins Vocational and Applied Technology Education Act (as amended by this Act) shall take effect upon the enactment of this Act.

Approved September 25, 1990.

LEGISLATIVE HISTORY—H.R. 7 (S. 1109):

HOUSE REPORTS: No. 101-41 (Comm. on Education and Labor) and No. 101-660 (Comm. of Conference).
SENATE REPORTS: No. 101-221 accompanying S. 1109 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): May 9, considered and passed House.
Vol. 136 (1990): Apr. 5, considered and passed Senate, amended, in lieu of S. 1109.
Aug. 2, Senate agreed to conference report.
Sept. 13, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Sept. 25, Presidential statement.

Public Law 101-393
101st Congress

Joint Resolution

Sept. 25, 1990
[S.J. Res. 313]

Designating October 3, 1990, as "National Teacher Appreciation Day".

Whereas education of the Nation's youth is the foundation of the Nation's future;

Whereas education is a lifelong process which is beneficial to the individual and thus beneficial to the entire Nation;

Whereas teachers deserve credit for their invaluable role in providing education;

Whereas teaching not only involves traditional areas of education, but today also includes vocational education, continuing education, and education for special needs;

Whereas teachers contribute not only to the academic growth of students, but also to their ethical, social, and emotional development;

Whereas a student's respect for his or her teacher is essential to the student's ability to learn; and

Whereas the contributions of teachers should be celebrated often in order to honor the role of teachers in society and to affirm and foster respect for teachers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 3, 1990, is designated as "National Teacher Appreciation Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved September 25, 1990.

LEGISLATIVE HISTORY—S.J. *Res.* 313:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed Senate.
Sept. 17, considered and passed House.

39-139 O - 90 (393)

Public Law 101-394
101st Congress

Joint Resolution

To designate the week of September 23 through 29, 1990, as "Religious Freedom Week".

Sept. 25, 1990
[S.J. Res. 331]

Whereas the principle of religious liberty was an essential part of the founding of the Nation, and must be safeguarded with eternal vigilance by all men and women of goodwill;

Whereas religious liberty has been endangered throughout history by bigotry and indifference;

Whereas the first amendment to the Constitution guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the Constitution ensures religious freedom to all of the people of the United States;

Whereas at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than 1 year before the adoption of the Bill of Rights;

Whereas the letter of President Washingon and the Touro Synagogue have become national symbols of the commitment of the United States to religious freedom;

Whereas throughout the history of the Nation, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics, and justice;

Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas religious liberty can be protected only through the efforts of all persons of goodwill in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

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(1) the week of September 23 through 29, 1990, is designated as "Religious Freedom Week"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States, including members of all faiths or none, to join together in support of religious tolerance and religious liberty for all, and to observe the week with appropriate activities.

Approved September 25, 1990.

LEGISLATIVE HISTORY—S.J. Res. 331:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Sept. 17, considered and passed House.

Public Law 101-395
101st Congress

Joint Resolution

To designate the week of September 30, 1990, through October 6, 1990, as "National Job Skills Week".

Sept. 25, 1990
[S.J. Res. 333]

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas new technologies require skills that are currently unavailable in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of the twentieth century;

Whereas young people in the United States are experiencing higher than normal unemployment rates due to the lack of skills necessary to perform entry-level jobs that are currently available;

Whereas young people in the United States will continue to experience higher than normal unemployment rates unless such young people develop the skills necessary to perform the entry-level jobs that become available;

Whereas workers in the United States, threatened by dislocation due to plant closures and industrial relocation, need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week would serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 30, 1990, through October 6, 1990, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 25, 1990.

LEGISLATIVE HISTORY—S.J. Res. 333:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Sept. 17, considered and passed House.

39-139 O - 90 (395)

Public Law 101-396
101st Congress

An Act

Sept. 28, 1990
[H.R. 3265]

To amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes.

Federal Communications Commission Authorization Act of 1990.
47 USC 609 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Communications Commission Authorization Act of 1990".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. (a) There are authorized to be appropriated for the administration of this Act by the Commission $109,831,000 for fiscal year 1990 and $119,831,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1990 and 1991.

"(b) In addition to the amounts authorized to be appropriated under this section, not more than 4 percent of the amount of any fees or other charges payable to the United States which are collected by the Commission during fiscal year 1990 are authorized to be made available to the Commission until expended to defray the fully distributed costs of such fees collection.

Maryland.

"(c) Of the amounts appropriated pursuant to subsection (a) for fiscal year 1991, such sums as may be necessary not to exceed $2,000,000 shall be expended for upgrading and modernizing equipment at the Commission's electronic emissions test laboratory located in Laurel, Maryland.".

COMMERCIAL RADIO OPERATOR EXAMINATIONS

SEC. 3. Section 4(f) of the Communications Act of 1934 (47 U.S.C. 154(f)) is amended by adding at the end the following new paragraph:

"(5)(A) The Commission, for purposes of preparing and administering any examination for a commercial radio operator license or endorsement, may accept and employ the services of persons that the Commission determines to be qualified. Any person so employed may not receive compensation for such services, but may recover from examinees such fees as the Commission permits, considering such factors as public service and cost estimates submitted by such person.

"(B) The Commission may prescribe regulations to select, oversee, sanction, and dismiss any person authorized under this paragraph to be employed by the Commission.

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"(C) Any person who provides services under this paragraph or who provides goods in connection with such services shall not, by reason of having provided such service or goods, be considered a Federal or special government employee.".

TRAVEL REIMBURSEMENT PROGRAM

SEC. 4. Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1989" and inserting in lieu thereof "1992".

COMMUNICATIONS SUPPORT FROM OLDER AMERICANS

SEC. 5. Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended by striking "and 1989" and inserting in lieu thereof ", 1989, 1990, and 1991".

HAWAII MONITORING STATION

Real property.

SEC. 6. (a) Section 9(a) of the Federal Communications Commission Authorization Act of 1988 (Public Law 100-594; 102 Stat. 3024) is amended—

(1) by striking "and 1990" and inserting in lieu thereof ", 1990, 1991, and 1992";

(2) in paragraph (4) by striking "a facility at the new location" and inserting in lieu thereof "facilities at new locations"; and

(3) in paragraph (6) by striking "a facility at a new location" and inserting in lieu thereof "facilities at new locations".

(b) Subsection (b) of section 9 of the Federal Communications Commission Authorization Act of 1988 (Public Law 100-594; 102 Stat. 3024) is amended to read as follows:

"(b) The Administrator of General Services is authorized to dispose of, only to the State of Hawaii, as much of the real property (including improvements thereon) at the present location of the Hawaii Monitoring Station as is necessary for the purposes of relocating, at a minimum, the antennas associated with the Monitoring Station.".

(c) Section 9 of the Federal Communications Commission Authorization Act of 1988 (Public Law 100-594; 102 Stat. 3024) is amended by striking subsections (c) and (d), by redesignating subsection (e) as subsection (i), and by inserting immediately after subsection (b) the following new subsections:

"(c) Pursuant to the authority provided in subsection (b), the Administrator of General Services shall sell and convey to the State of Hawaii the real property and improvements thereon described in subsection (b) on an expedited basis, including provisions for leaseback as required.

Government contracts.

"(d) In consideration of such sale, the State of Hawaii shall agree to—

"(1) pay to the General Services Administration an amount not less than the fair market value, as determined by the Administrator of General Services, of the property to be conveyed under subsection (c), or

"(2) convey to the Federal Communications Commission real property that would be suitable, as determined by the Commission, for the relocation of the Hawaii Monitoring Station and, in addition, pay to the General Services Administration an

amount equal to the difference between the fair market value of the two properties, as determined by the Administrator of General Services, if the Federal property conveyed is of greater value.

"(e) The General Services Administration shall reimburse the Federal Communications Commission from the net proceeds of such sale for all of the expenditures of the Commission associated with the relocation of the Hawaii Monitoring Station. Any such reimbursed funds received by the Commission shall remain available until expended.

"(f) The net proceeds of such sale, less any funds reimbursed to the Federal Communications Commission pursuant to subsection (e), and less normal and reasonable charges by the General Services Administration for costs associated with such sale, shall be deposited in the general funds of the Treasury.

"(g) If the General Services Administration and the State of Hawaii are unable to execute a contract for sale as required by this section or complete any other transaction necessary to carry out such sale, the Administrator of General Services shall not proceed to public sale of the property described in subsection (b).

"(h) The Hawaii Monitoring Station shall continue its full operations at its present location until new facilities have been built and are fully operational.".

(d) Subsection (i) of section 9 of the Federal Communications Commission Authorization Act of 1988 (Public Law 100-594; 102 Stat. 3024), as so redesignated by subsection (c) of this section, is amended by striking ", in fiscal years 1989 and 1990".

TARIFF NOTICE PERIOD

SEC. 7. (a) Section 203(b)(1) of the Communications Act of 1934 (47 U.S.C. 203(b)(1)) is amended by striking "ninety days notice" and inserting in lieu thereof "one hundred and twenty days notice".

(b) Section 203(b)(2) of the Communications Act of 1934 (47 U.S.C. 203(b)(2)) is amended by striking "ninety days" and inserting in lieu thereof "one hundred and twenty days".

AMATEUR RADIO SERVICE RECIPROCAL PERMITS

SEC. 8. (a) Section 303(l)(3) of the Communications Act of 1934 (47 U.S.C. 303(l)(3)) is amended by striking "bilateral agreement between the United States and the alien's government" and inserting in lieu thereof "multilateral or bilateral agreement, to which the United States and the alien's government are parties,".

(b) Section 310(c) of the Communications Act of 1934 (47 U.S.C. 310(c)) is amended by striking "bilateral agreement between the United States and the alien's government" and inserting in lieu thereof "multilateral or bilateral agreement, to which the United States and the alien's government are parties,".

WILLFUL OR MALICIOUS INTERFERENCE

SEC. 9. Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end the following new section:

"WILLFUL OR MALICIOUS INTERFERENCE

"SEC. 333. No person shall willfully or maliciously interfere with or cause interference to any radio communications of any station licensed or authorized by or under this Act or operated by the United States Government.". 47 USC 333.

APPLICABILITY OF FORFEITURES TO APPLICANTS

SEC. 10. The first sentence of section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended by inserting "and if such person is not an applicant for a license, permit, certificate, or other authorization issued by the Commission," immediately before "unless, prior".

Approved September 28, 1990.

LEGISLATIVE HISTORY—H.R. 3265 (S. 1022):

HOUSE REPORTS: No. 101-316 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-215 accompanying S. 1022 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 30, considered and passed House.
Vol. 136 (1990): July 19, considered and passed Senate, amended, in lieu of S. 1022.
Sept. 13, House concurred in Senate amendment.

Public Law 101-397
101st Congress

An Act

Sept. 28, 1990
[H.R. 1101]

To extend the authorization of appropriations for the Water Resources Research Act of 1984 through the end of fiscal year 1994.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WATER RESEARCH INSTITUTES.

(a) Section 103(5) of the Water Resources Research Act of 1984 (42 U.S.C. 10302(5)) is amended by deleting "coordinate more effectively" and inserting in lieu thereof: "to promote more effective coordination of".

(b) Section 104(a) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(a)) is amended by changing "Trust Territory of the Pacific Islands" to "Federated States of Micronesia".

(c) Section 104(b) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)) is amended by inserting in the last sentence after the phrase "for the purpose of" the following: "promoting".

(d) Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended to read as follows:

> "(1) plan, conduct, or otherwise arrange for competent research that fosters (A) the entry of new research scientists into the water resources fields, (B) the training and education of future water scientists, engineers, and technicians, (C) the preliminary exploration of new ideas that address water problems or expand understanding of water and water-related phenomena, and (D) the dissemination of research results to water managers and the public, and".

(e) Section 104(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(c)) is amended by deleting the period at the end thereof and inserting in lieu thereof "and thereafter, such sums to be used only for the reimbursement of the direct cost expenditures incurred for the conduct of the water resources research program.".

(f) Section 104(e) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(e)) is amended to read as follows:

"(e) The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine that the quality and relevance of its water resources research and its effectiveness as an institution for planning, conducting, and arranging for research warrants its continued support under this section. If, as a result of any such evaluation, the Secretary determines that an institute does not qualify for further support under this section, then no further grants to the institute may be made until the institute's qualifications are reestablished to the satisfaction of the Secretary.".

(g) Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by deleting "September 30, 1985, through September 30, 1989" and inserting in lieu thereof "September 30, 1989, through September 30, 1995,".

(h) Section 104(f)(2) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(2)) is amended by deleting "section 106 of this Act" and inserting in lieu thereof "section 104(g) of this Act".

(i) Section 105(a)(3) of the Water Resources Research Act of 1984 (42 U.S.C. 10304(a)(3)) is repealed.

(j) Section 105(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10304(c)) is amended by:

(1) striking "$20,000,000" and inserting in lieu thereof, "$10,000,000"; and

(2) striking "1989" and inserting in lieu thereof, "1995".

(k) Section 108(6) of the Water Resources Research Act of 1984 (42 U.S.C. 10307(6)) is amended by inserting immediately after "depletion" a comma and the word "contamination,".

(l) Section 108(8) of the Water Resources Research Act of 1984 (42 U.S.C. 10307(8)) is amended by inserting immediately after "water" the words "quality and quantity".

(m) Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by adding the following:

"(g)(1) There is further authorized to be appropriated to the Secretary of the Interior the sum of $5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 only for reimbursement of the direct cost expenses of additional research or synthesis of the results of research by institutes which focuses on water problems and issues of a regional or interstate nature beyond those of concern only to a single State and which relate to specific program priorities identified jointly by the Secretary and the institutes. Such funds when appropriated shall be matched on a not less than dollar-for-dollar basis by funds made available to institutes or groups of institutes, by States or other non-Federal sources. Funds made available under this subsection shall remain available until expended.

"(2) Research funds made available under this subsection shall be made on a competitive basis subject to the merit of the proposal, the need for the information to be produced, and the opportunity such funds will provide for training of water resources scientists or professionals.".

(n) Section 106 of the Water Resources Research Act of 1984 (42 U.S.C. 10305) is amended to read as follows:

"SEC. 106. (a)(1) The Secretary shall make grants in addition to those authorized under sections 104 and 105 for technology development concerning any aspect of water resources including water-related technology which the Secretary may deem to be of State, regional, or national importance. Activities funded under this section may be carried out by educational institutions, private firms, foundations, individuals, or agencies of State or local government. Care shall be taken to protect proprietary information of private individuals or firms associated with the technology.

Grants.
Science and technology.

Classified information.

"(2) The Secretary may establish any condition for the matching of funds by the recipient of any grant or contract under this section which the Secretary considers to be in the best interest of the Nation considering the information transfer and technology needs of the Nation. However, in the case of institutes established by section 104 of this Act no match greater than that required under section 104 may be required.

"(b) Each application for a grant under this section shall state the nature of the project to be undertaken, the qualifications of the personnel who will direct and conduct it, facilities of the organization performing any technology development, the importance of the

project to the Nation, region, and State concerned, and the potential benefit to be accrued.

"(c) There is authorized to be appropriated to the Secretary the sum of $6,000,000 for the purpose of carrying out this section for each of the fiscal years ending September 30, 1990, through September 30, 1995; such sums to remain available until expended.".

42 USC 10301 note.

(o) Section 309(a) of the Water Resources Research Act of 1984 (42 U.S.C. 10301 et al.), as amended, is further amended by deleting "1991" and inserting in lieu thereof "1995".

Contracts. 42 USC 10303 note.

SEC. 2. (a) The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, is authorized to enter into contracts or cooperative agreements, as the Secretary deems appropriate, with national laboratories (including Los Alamos National Laboratory) to carry out water resources research, development, and demonstration projects within the authorities of Public Law 98-242 (including the effects of potential climate changes on surface and ground water quality and quantity and the elimination of contamination of ground water aquifers).

(b) The water resources research authorized in this section shall be undertaken under such rules and regulations as the Secretary deems appropriate and shall be carried out in close consultation and collaboration with the institutes established pursuant to Public Law 98-242, to the extent such research work affects the State in which the institute exists, and to the extent such institute agrees to consult and collaborate.

(c) For the purposes of carrying out this section, there is authorized to be appropriated to the Secretary of the Interior the sum of $10,000,000 for each of the fiscal years 1991 through 1995.

Approved September 28, 1990.

LEGISLATIVE HISTORY—H.R. 1101:

HOUSE REPORTS: No. 101-76 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): June 6, considered and passed House.
Vol. 136 (1990): Aug. 1, considered and passed Senate, amended.
Sept. 11, House concurred in Senate amendment.

Public Law 101-398
101st Congress

An Act

To provide for the establishment of the Mississippi River Corridor Study Commission, and for other purposes.

Sept. 28, 1990
[H.R. 2174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mississippi River Corridor Study Commission Act of 1989.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mississippi River Corridor Study Commission Act of 1989".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Mississippi River flows through 10 States from its headwaters in the State of Minnesota to the Gulf of Mexico and comprises a ribbon of commerce, history, archeology, wildlife habitat, urban and rural communities, and open space containing historical, recreational, natural, scenic, cultural, economic, and scientific resources of major significance to the Nation.

(2) The national interest would be served by—

(A) preserving, protecting, and enhancing such resources for the benefit of the people of the United States; and

(B) improving the coordination between all levels of government in such corridor.

(3) The preservation, protection, and enhancement of such resources has not been fully realized despite efforts by the States through which the Mississippi River flows, political subdivisions of such States, and volunteer associations and private businesses in such States.

(4) Most existing Federal agency programs lack sufficient coordination with State and local planning and regulatory authorities to provide for resource management and economic development in a manner that is consistent with the protection and public use of the Corridor's resources.

(5) The national Government should assist in coordinating preservation and interpretation activities of public and private entities with respect to the significant resources associated with the Mississippi River.

(6) The establishment of a commission as provided for by this Act will—

(A) focus attention on the unique and nationally significant resources of this region; and

(B) provide a means and a stimulus for coordinating the preservation, protection, enhancement, enjoyment, and utilization of the resources of this region.

(7) The establishment of such commission would provide a national entity to gather, assess, and disseminate information on the recreational, cultural, historic, natural, scenic, and economic opportunities in this region.

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SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) The term "Commission" means the Mississippi River Corridor Study Commission.

(2) The terms "Mississippi River Corridor" and "Corridor" mean the area included by the Commission in a proposed Mississippi River National Heritage Corridor.

(3) The term "Mississippi River State" means any of the States of Arkansas, Illinois, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Tennessee, or Wisconsin.

SEC. 4. ESTABLISHMENT OF COMMISSION.

There is established a Commission to be known as the Mississippi River Corridor Study Commission.

SEC. 5. DUTIES OF THE COMMISSION.

(a) STUDY.—The Commission shall study and make recommendations regarding—

(1) the feasibility of creating a Mississippi River National Heritage Corridor for the Mississippi River Corridor; and

(2) the preservation, protection, enhancement, enjoyment, and utilization of the historic, economic, natural, recreational, scenic, cultural, and scientific resources of the Corridor consistent with the purposes of this Act.

(b) INFORMATION COLLECTION; CONSULTATION.—As part of the study conducted under subsection (a), the Commission shall—

(1) assess the preservation, protection, enhancement, enjoyment, and utilization potential of the historic, economic, natural, recreational, scenic, cultural, and scientific resources of the Corridor;

(2) collect information dealing with ongoing activities, management plans, and opportunities regarding historic, economic, natural, recreational, scenic, cultural, and scientific resources in the Corridor;

(3) make such information available to Federal agencies, States and political subdivisions thereof, tribal governments, educational institutions, volunteer associations, and private businesses to assist such entities in undertaking activities to preserve, protect, enhance, or utilize the historic, economic, natural, recreational, scenic, cultural, or scientific resources of the Corridor;

(4)(A) consult with the Mississippi River Parkway Commission, the Upper Mississippi River Basin Association, the Great River Road Association, the Lower Mississippi Delta Development Commission, and the Mississippi River Coordinating Commission; and

(B) cooperate with such commissions and associations in the performance of their duties;

(5) provide a forum for the consideration of resource issues relating to the Corridor;

(6) seek and encourage the participation of affected State and local governments, interested citizens, public officials, groups, agencies, educational institutions, and others in the preservation, protection, enhancement, enjoyment, and utilization of the Corridor's resources;

(7) recommend methods and means for educating the general population about the national importance and value of the

Mississippi River as a natural resource and national treasure; and

(8) make the Commission accessible to such groups, agencies, and citizens by holding at least one well publicized public hearing in every State within the Corridor.

(c) REPORT.—The Commission shall prepare a report—

(1) specifying the results of the study conducted under subsection (a); and

(2) containing—

(A) a description of the Mississippi River Corridor and the proposed boundaries of a Mississippi River National Heritage Corridor (if so recommended) showing the primary corridor and such secondary zones as may be appropriate;

(B) an inventory and assessment of the historic, economic, natural, recreational, scenic, cultural, and scientific resources of the Corridor;

(C) specific preservation and interpretation goals and a priority timetable for their achievement;

(D) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be combined and coordinated in furtherance of the purposes of this Act;

(E) proposed changes in Federal, State, and local laws and regulations that are needed to accomplish the purposes of this Act, in whole or in part;

(F) proposals to improve guidance and assistance provided to Mississippi River States and political subdivisions thereof and other entities regarding their compliance with applicable provisions of the Clean Water Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and related laws; and

(G) such recommendations as the Commission may deem appropriate with respect to subparagraphs (A) through (F) and with respect to public access to and interpretation of the natural and cultural resources of the river and related outdoor recreation opportunities.

SEC. 6. ORGANIZATION OF THE COMMISSION.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(1) The Director of the National Park Service (or designee).

(2) The Secretary of Transportation (or designee).

(3) The Secretary of Commerce (or designee).

(4) The Director of the United States Fish and Wildlife Service (or designee).

(5) The Chief of Engineers of the Army Corps of Engineers (or designee).

(6) One member from each Mississippi River State appointed by the Governor of such State from among the members of the Mississippi River Parkway Commission from such State.

(b) FIRST APPOINTMENTS.—Members of the Commission required by subsection (a) to be appointed shall be first appointed not later than 45 days after the effective date of this Act.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the orginal appointment is made.

(d) TERMS.—Members of the Commission shall be appointed for the life of the Commission.

(e) PAY.—Members of the Commission shall serve without pay.

(f) REIMBURSEMENT OF EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(g) QUORUM.—(1) Nine members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(2) A member of the Commission may vote by means of a signed proxy exercised by another member of the Commission, but any member so voting shall not be considered present for purposes of establishing a quorum.

(h) CHAIRPERSON.—As the first item of business at the first meeting of the Commission, the members of the Commission shall elect a chairperson of the Commission from among the members appointed under subsection (a)(6).

(i) MEETINGS.—(1) The Commission shall meet at the call of the chairperson or a majority of the members.

(2) Not later than 30 days after the members of the Commission are first appointed, the Commission shall hold its first meeting.

(3) The Director of the National Park Service shall select the date of the first meeting and shall serve as chairperson until the election of the chairperson under subsection (h).

SEC. 7. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS; PERSONNEL OF FEDERAL AGENCIES.

(a) STAFF.—The Commission may appoint and fix the pay of such staff as the Commission considers appropriate subject to—

(1) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) PERSONNEL OF STATES AND POLITICAL SUBDIVISIONS.—The Commission may—

(1) accept the services of personnel detailed from a Mississippi River State or a political subdivision thereof; and

(2) reimburse such State or such subdivision for such services.

(d) PERSONNEL OF FEDERAL AGENCIES.—At the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 8. POWERS OF THE COMMISSION.

(a) HEARINGS AND SESSIONS.—For the purpose of carrying out this Act, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(d) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 9. SUBMISSION OF REPORTS.

(a) INTERIM REPORT.—Not later than two years after the date of the first meeting of the Commission, the Commission shall submit to the President, the Speaker of the House of Representatives, the President of the Senate, and the Governor of each Mississippi River State a report describing the progress of the Commission in carrying out the duties of the Commission under section 5.

(b) FINAL REPORT.—Not later than 3 years after the date of the first meeting of the Commission, the Commission shall submit to the President, the Speaker of the House of Representatives, the President of the Senate, and the Governor of each Mississippi River State the report required by section 5(c).

SEC. 10. TERMINATION OF COMMISSION.

Notwithstanding section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), the Commission shall cease to exist 90 days after submitting the report required by section 5(c) and submitted under section 9(b).

SEC. 11. CONSENT TO NEGOTIATE PROPOSED COMPACTS.

The Congress hereby consents to the negotiation by any State referred to in section 3 with one or more of any other such State of proposed interstate agreements or compacts among such States in furtherance of the purposes of this Act or the study referred to in section 5 or any material component thereof.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Commission to carry out this Act $500,000 for each fiscal year in which the Commission is in existence.

Approved September 28, 1990.

LEGISLATIVE HISTORY—H.R. 2174:

HOUSE REPORTS: No. 101-525 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-423 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 12, considered and passed House.
Sept. 11, considered and passed Senate.

Public Law 101-399
101st Congress

An Act

Sept. 28, 1990
[H.R. 4501]

To provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mississippi.

SECTION 1. ACQUISITION OF WILLIAM JOHNSON HOUSE.

(a) INCLUSION WITHIN NATCHEZ NATIONAL HISTORICAL PARK.—Section 2(b) of the Act entitled "An Act to create a national park at Natchez, Mississippi" (16 U.S.C. 410oo-1(b)) is amended by inserting after paragraph (2) the following new paragraph:

Real property.
Gifts and property.

"(3) The lands and structures known as the William Johnson House, together with all personal property located on such lands, and the building adjacent thereto which bears a common wall.".

(b) ACQUISITION AUTHORITY.—Section 3 of such Act (16 U.S.C. 410oo-2) is amended—

(1) by striking "paragraph (1) or (2)" and inserting "paragraph (1), (2), or (3)"; and

(2) by adding at the end the following: "The Secretary may not acquire the property referred to in paragraph (3) of section 2(b) except by donation.".

Approved September 28, 1990.

LEGISLATIVE HISTORY—H.R. 4501:

HOUSE REPORTS: No. 101-550 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-424 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 25, considered and passed House.
Sept. 11, considered and passed Senate.

49-139 O - 90 (399)

Public Law 101-400
101st Congress

An Act

To authorize a study on methods to commemorate the nationally significant highway known as Route 66, and for other purposes.

Sept. 28, 1990
[S. 963]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Route 66 Study Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Route 66 Study Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) United States Route 66, the 2,000 mile highway from Chicago, Illinois, to Santa Monica, California, played a significant role in the 20th-century history of our Nation, including the westward migration from the Dust Bowl and the increase in tourist travel;

(2) Route 66, an early example of the 1926 National Highway System program, transverses the States of Illinois, Missouri, Kansas, Oklahoma, Texas, New Mexico, Arizona, and California;

(3) Route 66 has become a symbol of the American people's heritage of travel and their legacy of seeking a better life and has been enshrined in American popular culture;

(4) although the remnants of Route 66 are disappearing, many structures, features, and artifacts of Route 66 remain; and

(5) given the interest by organized groups and State governments in the preservation of features associated with Route 66, the route's history, and its role in American popular culture, a coordinated evaluation of preservation options should be undertaken.

SEC. 3. STUDY AND REPORT BY THE NATIONAL PARK SERVICE.

(a) STUDY.—(1) The Secretary of the Interior, acting through the Director of the National Park Service and in cooperation with the respective States, shall coordinate a comprehensive study of United States Route 66. Such study shall include an evaluation of the significance of Route 66 in American history, options for preservation and use of remaining segments of Route 66, and options for the preservation and interpretation of significant features associated with the highway. The study shall consider private sector preservation alternatives.

(2) The study shall include participation by representatives from each of the States traversed by Route 66, the State historic preservation offices, representatives of associations interested in the preservation of Route 66 and its features, and persons knowledgeable in American history, historic preservation, and popular culture.

(b) REPORT.—Not later than two years from the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy

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and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(c) LIMITATION.—Nothing in this Act shall be construed to authorize the National Park Service to assume responsibility for the maintenance of United States Route 66.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $200,000 to carry out the provisions of this Act.

Approved September 28, 1990.

LEGISLATIVE HISTORY—S. 963 (H.R. 3493):

HOUSE REPORTS: No. 101-637 accompanying H.R. 3493 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-89 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Aug. 2, considered and passed Senate.
Vol. 136 (1990): July 30, H.R. 3493 considered and passed House.
July 31, S. 963 considered and passed House, amended, in lieu of H.R. 3493.
Sept. 13, Senate concurred in House amendment.

Public Law 101-401
101st Congress

An Act

To designate certain lands in the State of Maine as wilderness.

Sept. 28, 1990
[S. 2205]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maine Wilderness Act of 1990.
Environmental protection.
National Wilderness Preservation System.
National Forest System.
16 USC 1132 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Maine Wilderness Act of 1990".

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), certain lands in the White Mountain National Forest, in the State of Maine—

(1) which comprise approximately twelve thousand acres, as generally depicted on a map entitled "Caribou-Speckled Mountain Wilderness—Proposed", dated January 1987; and

(2) which shall be known as the Caribou-Speckled Mountain Wilderness,

are hereby designated wilderness, and, therefore, as components of the National Wilderness Preservation System.

SEC. 3. MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of the wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. The map and description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and description may be made by the Secretary. The map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 4. ADMINISTRATION OF WILDERNESS.

Subject to valid existing rights, the wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

SEC. 5. WILDERNESS REVIEW CONCERNS.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the Maine section of

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the White Mountain National Forest and of the environmental impacts associated with alternative allocations of such areas.

(b) DETERMINATION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in the State of Maine; such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Maine;

(2) with respect to the National Forest System lands in the State of Maine which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revisions of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time, the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Maine reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Maine are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Maine for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) REVISION.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICATION OF SECTION.—The provisions of this section shall also apply to National Forest System roadless lands in the State of Maine which are less than 5,000 acres in size.

SEC. 6. PROHIBITION ON BUFFER ZONES.

Congress does not intend that the designation of a wilderness area in the State of Maine lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard from within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

SEC. 7. CONTROL OF FIRE, INSECTS, AND DISEASES.

As provided in section 4(d)(1) of the Wilderness Act, such measures may be taken within wilderness areas designated by this Act as may be necessary in the control of fire, insects, and diseases, subject to applicable laws and such additional reasonable conditions as the Secretary deems desirable.

SEC. 8. STATE FISH AND WILDLIFE AUTHORITY.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Maine with respect to wildlife and fish in the national forests in Maine.

Approved September 28, 1990.

LEGISLATIVE HISTORY—S. 2205 (H.R. 4145):

HOUSE REPORTS: No. 101-497, Pt. 1 (Comm. on Interior and Insular Affairs) accompanying H.R. 4145 and No. 101-714, Pt. 1 (Comm. on Agriculture).

SENATE REPORTS: No. 101-299 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 136 (1990):

June 6, considered and passed Senate.

Sept. 17, considered and passed House.

Public Law 101-402
101st Congress

An Act

Oct. 1, 1990
[H.R. 5747]

To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987.

Section 203(a) of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) is amended by striking "September 30, 1990" and inserting "October 31, 1990".

SEC. 2. INTERAGENCY COUNCIL ON THE HOMELESS.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1990" and inserting "October 31, 1990".

SEC. 3. FHA MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "during fiscal year 1990" and inserting "until October 31, 1990".

Approved October 1, 1990.

LEGISLATIVE HISTORY—H.R. 5747:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed House and Senate.

49-139 O - 90 (402)

Public Law 101-403
101st Congress

Joint Resolution

Making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.

Oct. 1, 1990
[H.J. Res. 655]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

TITLE I—CONTINUING APPROPRIATIONS

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropria-

tion, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided*, That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $262,969,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided*, That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate

multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to title I of this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 5, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to title I of this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to title I of this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to title I of this joint resolution may be used without regard to the time limitations for submission and approval

of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

2 USC 902 note.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

Termination date.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

Egypt.

SEC. 114. The provisions of section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and any comparable provision contained in or incorporated by reference by a joint resolution making continuing appropriations for foreign operations, export financing, and related programs for fiscal year 1991, shall not operate to prohibit the furnishing of assistance for Egypt pursuant to any program for which funds are appropriated under such Acts: *Provided,* That the authority contained in this section to furnish assistance notwithstanding section 518 of such Act, and comparable provisions contained in a subsequent Act for fiscal year 1991, shall expire on December 31, 1990.

Termination date.

EXTENSION OF CERTAIN MEDICARE HOSPITAL PAYMENT PROVISIONS

42 USC 1395 ww note.

SEC. 115. (a) EXTENSION OF AREA WAGE INDEX.—For purposes of determining the amount of payment made to a hospital under part A of title XVIII of the Social Security Act for the operating costs of inpatient hospital services for discharges occurring on or after October 1, 1990, and on or before October 20, 1990, the Secretary of Health and Human Services, in adjusting such amount under section 1886(d)(3)(E) of such Act to reflect the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage index, shall apply the area wage index applicable to such hospital as of September 30, 1990.

(b) EXTENSION OF REGIONAL FLOOR ON STANDARDIZED AMOUNTS.—(1) Section 1886(d)(1)(A)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "September 30, 1990," and inserting "October 20, 1990,".

42 USC 1395 ww note.

(2) The Secretary of Health and Human Services shall make any adjustments resulting from the amendment made by paragraph (1) in the amount of the payments made to hospitals under section 1886(d) of the Social Security Act in a fiscal year for the operating costs of inpatient hospital services in a manner that ensures that the aggregate payments under such section are not greater or less than those that would have been made in the year without such adjustments.

TITLE II—SUPPLEMENTAL APPROPRIATIONS FOR OPERATION DESERT SHIELD

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For an additional amount for fiscal year 1990 for "Military personnel, Army", $123,100,000.

MILITARY PERSONNEL, NAVY

For an additional amount for fiscal year 1990 for "Military personnel, Navy", $44,500,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for fiscal year 1990 for "Military personnel, Marine Corps", $33,700,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for fiscal year 1990 for "Military personnel, Air Force", $77,000,000.

RESERVE PERSONNEL, ARMY

For an additional amount for fiscal year 1990 for "Reserve personnel, Army", $2,700,000.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for fiscal year 1990 for "Operation and maintenance, Army", $643,963,000, and in addition, $75,037,000 which shall be derived by transfer from "Procurement of Ammunition, Army, 1988/1990".

OPERATION AND MAINTENANCE, NAVY

For an additional amount for fiscal year 1990 for "Operation and maintenance, Navy", $279,400,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for fiscal year 1990 for "Operation and maintenance, Marine Corps", $47,300,000.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for fiscal year 1990 for "Operation and maintenance, Air Force", $320,300,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for fiscal year 1990 for "Operation and maintenance, Defense Agencies", $18,200,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for fiscal year 1990 for "Operation and maintenance, Air Force Reserve", $12,300,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for fiscal year 1990 for "Operation and maintenance, Air National Guard", $6,200,000.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for "Other procurement, Army", $10,000,000, to remain available for obligation until September 30, 1992.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For an additional amount for "Research, development, test, and evaluation, Navy" in support of the unrelated marrow donor program, $9,000,000, to remain available for obligation until September 30, 1991: *Provided,* That not less than $6,500,000 shall be provided as a grant to the National Marrow Donor Program Foundation.

Grant programs—health.

REVOLVING AND MANAGEMENT FUNDS

DEFENSE STOCK FUND

For an additional amount for fiscal year 1990 for "Defense stock fund", $400,000,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated or otherwise made available by this title are available only for obligation and expenditure to liquidate obligations undertaken pursuant to section 3732 of the Revised Statutes (41 U.S.C. 11), however, funds appropriated or otherwise made available by this title for "Other Procurement, Army" and "Research, Development, Test, and Evaluation, Navy" shall be exempt from the provisions of this section.

SEC. 202. AUTHORITY TO ACCEPT CONTRIBUTIONS.—(a)(1) Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2608. Acceptance of contributions for defense programs, projects, and activities

"(a) ACCEPTANCE AUTHORITY.—The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money or real or personal property made by such person, foreign government, or international organization for use by the Department of Defense.

"(b) ESTABLISHMENT OF DEFENSE COOPERATION ACCOUNT.—(1) There is established in the Treasury of the United States a special account to be known as the 'Defense Cooperation Account'.

"(2) Contributions of money and proceeds from the sale of any property accepted by the Secretary of Defense under subsection (a) shall be credited to the Defense Cooperation Account.

"(c) USE OF THE DEFENSE COOPERATION ACCOUNT.—(1) Funds in the Defense Cooperation Account may be appropriated for a function described in section 114 of this title only to the extent that the appropriation of such funds for such purpose is authorized in accordance with that section.

"(2) Funds in the Defense Cooperation Account shall not be made available for obligation or expenditure except to the extent and in the manner provided in subsequent appropriations Acts.

"(d) USE OF PROPERTY.—Any contribution of property received under this section may be—

"(1) retained and used by the Department of Defense in the form in which it was donated;

"(2) sold or otherwise disposed of upon such terms and conditions and in accordance with such procedures as the Secretary determines appropriate; or

"(3) converted into a form usable by the Department of Defense.

"(e) REPORTING REQUIREMENT.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on contributions of property accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property having a value of more than $1,000,000.

"(2) In computing the value of any property referred to in paragraph (1), the Secretary shall aggregate the value of—

"(A) similar items of property accepted by the Secretary during the quarter concerned; and

"(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

"(f) AUTHORITY TO USE PROPERTY.—Property accepted under subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property may not be used in connection with any program, project, or activity if the use of such property would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity.

"(g) INVESTMENT OF MONEY.—Upon request by the Secretary of Defense, the Secretary of the Treasury may invest money in the Defense Cooperation Account in securities of the United States or in securities guaranteed as to principal and interest by the United States.

"(2) Any interest or other income that accrues from investment in securities referred to in paragraph (1) shall be deposited to the credit of the Defense Cooperation Account.

"(h) NOTIFICATION OF CONDITIONS.—The Secretary of Defense shall notify Congress of any condition imposed by the donor on the use of any contribution accepted by the Secretary under the authority of this section.

"(i) ANNUAL AUDIT BY GAO.—The Comptroller General of the United States shall conduct an annual audit of money and property accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress.

"(j) ITEMS INCLUDED AS CONTRIBUTIONS.—In this section, the term 'contribution' includes a devise of real property or a bequest of personal property.

"(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting at the end the following new item:

"2608. Acceptance of contributions and services for defense programs, projects, and activities.".

(b) CONFORMING REPEAL.—The Act entitled "An Act to authorize the acceptance of conditional gifts to further the defense effort" approved July 27, 1954 (68 Stat. 566; 50 U.S.C. 1151 et seq.), is repealed.

50 USC 1151 note.

(c) TRANSFER OF FUNDS.—Any money in the special account provided for in section 3 of the Act referred to in subsection (b) on the date of the enactment of this Act shall be credited to the Defense Cooperation Account provided for in section 2608(b) of title 10, United States Code, as added by subsection (a).

TITLE III—SUPPLEMENTAL APPROPRIATIONS FOR EMERGENCY REFUGEE ASSISTANCE

DEPARTMENT OF STATE

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For an additional amount for the "United States Emergency Refugee and Migration Assistance Fund", $10,000,000 to remain available until expended.

Approved October 1, 1990.

LEGISLATIVE HISTORY—H.J. Res. 655:

HOUSE REPORTS: No. 101-754 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 30, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 1, Presidential remarks.

Public Law 101-404
101st Congress

An Act

To require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United Services Organization.

Oct. 2, 1990
[H.R. 2761]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United Services Organization's 50th Anniversary Commemorative Coin Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United Services Organization's 50th Anniversary Commemorative Coin Act".

SEC. 2. USO COMMEMORATIVE COINS.

31 USC 5112 note.

The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue coins in accordance with this Act to commemorate the 50th anniversary of the United Services Organization (hereafter in this Act referred to as the "USO").

SEC. 3. SPECIFICATIONS OF COINS.

31 USC 5112 note.

(a) IN GENERAL.—The Secretary shall mint and issue not more than 1,000,000 one dollar silver coins, each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) be composed of 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. SOURCES OF BULLION.

Silver.
31 USC 5112 note.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 5. DESIGN OF COINS.

31 USC 5112 note.

(a) IN GENERAL.—The design of the coins shall, in accordance with subsection (b), be emblematic of the services provided by the USO to military service personnel and families. Each coin shall bear a designation of the value of the coin, an inscription of the year "1991", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the President of the USO and the United States Commission of Fine Arts.

SEC. 6. ISSUANCE OF COINS.

31 USC 5112 note.

(a) QUALITY OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Not more than 1 facility of the Bureau of the Mint may be used to strike any particular quality of the coins minted under this Act.

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(c) PERIOD OF ISSUANCE.—The Secretary may issue the coins minted under this Act during the 1-year period beginning at the end of the 6-month period beginning on the date of the enactment of this Act.

(d) CONTRACT CONSULTATION.—A contract involving the promotion, advertising, or marketing of coins authorized under this Act may be made by the Secretary after consultation with the President of the USO.

31 USC 5112 note.

SEC. 7. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $7 per coin.

31 USC 5112 note.

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Government.

31 USC 5112 note.

SEC. 9. USE OF SURCHARGES.

(a) IN GENERAL.—Surcharges received from the sale of coins minted under this Act and deposited in the coinage profit fund under section 12 shall be used as follows:

(1) USO PROGRAMS.—50 percent shall be promptly paid to the USO. Such amounts shall be used by the USO to fund programs, including airport centers, fleet centers, family and community centers, and celebrity entertainment.

(2) REDUCTION OF NATIONAL DEBT.—50 percent shall be transferred to the general fund of the Treasury for the sole purpose of reducing the national debt.

(b) AUDIT.—The Comptroller General of the United States shall have the right to examine the books, records, documents, and other data of the USO that relate to the expenditure of amounts paid under subsection (a).

31 USC 5112 note.

SEC. 10. REPORT TO CONGRESS.

The Secretary shall submit to the Congress semiannual reports regarding the activities carried out under this Act. The first report shall be submitted at the end of the 1-year period beginning on the

date of the enactment of this Act and the last report shall be submitted not later than 6 months after the Secretary ceases to issue coins minted under this Act.

SEC. 11. GENERAL WAIVER OF PROCUREMENT REGULATIONS. 31 USC 5112 note.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 12. COINAGE PROFIT FUND. 31 USC 5112 note.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 9 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

Approved October 2, 1990.

LEGISLATIVE HISTORY—H.R. 2761:

CONGRESSIONAL RECORD, Vol. 136 (1990):
May 15, considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 101-405
101st Congress

An Act

Oct. 2, 1990
[H.R. 5755]

To extend the temporary increase in the public debt limit.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT.

Ante, p. 403.

Section 1 of Public Law 101-350 is amended by striking "October 2, 1990" and inserting "October 6, 1990".

Approved October 2, 1990.

LEGISLATIVE HISTORY—H.R. 5755:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 30, considered and passed House and Senate.

49-139 O - 90 (405)

Public Law 101-406
101st Congress

An Act

To authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic Games.

Oct. 3, 1990
[H.R. 4962]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

1992 Olympic Commemorative Coin Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "1992 Olympic Commemorative Coin Act".

31 USC 5112 note.

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall issue not more than 500,000 $5 coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of such $5 coins shall be emblematic of the participation of American athletes in the 1992 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 4,000,000 $1 coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the $1 coins shall be emblematic of the participation of American athletes in the 1992 Olympic Games. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 6,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall be emblematic of the participation of American athletes in the 1992 Olympic Games. Each half dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

31 USC 5112 note.

SEC. 3. SOURCES OF BULLION.

(a) SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

(b) GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

31 USC 5112 note.

SEC. 4. SELECTION OF DESIGN.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the United States Olympic Committee and the Commission of Fine Arts.

31 USC 5112 note.

SEC. 5. SALE OF THE COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the $5 coins, $7 per coin for the $1 coins, and $1 per coin for the half dollar coins.

31 USC 5112 note.

SEC. 6. ISSUANCE OF THE COINS.

(a) GOLD COINS.—The $5 coins authorized under this Act shall be issued in uncirculated and proof qualities and shall be struck at the United States Bullion Depository at West Point.

(b) SILVER AND HALF DOLLAR COINS.—The $1 coins and the half dollar coins authorized under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

(c) SUNSET PROVISION.—No coins shall be minted under this Act after June 30, 1993.

31 USC 5112 note.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act. Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

31 USC 5112 note.

SEC. 8. DISTRIBUTION OF SURCHARGES.

All surcharges which are received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the United States Olympic Committee. Such amounts shall be used by the United States Olympic Committee for the objects and purposes of the committee as established in the Amateur Sports Act of 1978.

SEC. 9. AUDITS. 31 USC 5112 note.

The Comptroller General shall have the right to examine such books, records, documents, and other data of the United States Olympic Committee as may be related to the expenditure of amounts paid under section 8.

SEC. 10. COINAGE PROFIT FUND. 31 USC 5112 note.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this Act from the coinage profit fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 11. FINANCIAL ASSURANCES. 31 USC 5112 note.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this Act shall result in no net cost to the United States Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment therefor;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

Approved October 3, 1990.

LEGISLATIVE HISTORY—H.R. 4962:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 17, considered and passed House.
Sept. 20, considered and passed Senate.

Public Law 101-407
101st Congress

An Act

Oct. 4, 1990
[H.R. 5725]

To extend the expiration date of the Defense Production Act of 1950.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF THE DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1990" and inserting "October 5, 1990".

Approved October 4, 1990.

LEGISLATIVE HISTORY—H.R. 5725:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendment.

49-139 O - 90 (407)

Public Law 101-408
101st Congress

An Act

To authorize grants to improve the capability of Indian tribal governments to regulate environmental quality.

Oct. 4, 1990
[S. 2075]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Environmental Regulatory Enhancement Act of 1990.
42 USC 2991 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Environmental Regulatory Enhancement Act of 1990".

GRANT PROGRAM

SEC. 2. Section 803 of the Native American Programs Act of 1974 (42 U.S.C. 2991b) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall award grants to Indian tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to regulate environmental quality pursuant to Federal and tribal environmental laws.

"(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

"(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

"(B) the development of tribal laws on environmental quality, and

"(C) the enforcement and monitoring of environmental quality laws.

"(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

"(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes to the Secretary in such form as the Secretary shall prescribe.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 3. Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking out "section 803A" each place it appears and inserting in lieu thereof "sections 803(d) and 803A", and

(2) by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $8,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, 1995, and 1996, for the purpose of carrying out the provisions of section 803(d).".

Approved October 4, 1990.

LEGISLATIVE HISTORY—S. 2075:

HOUSE REPORTS: No. 101-743 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-295 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 23, considered and passed Senate.
Sept. 24, considered and passed House.

Public Law 101-409
101st Congress

An Act

To authorize the President to call and conduct a National White House Conference on Small Business.

Oct. 5, 1990
[H.R. 4773]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "White House Conference on Small Business Authorization Act".

White House Conference on Small Business Authorization Act.
15 USC 631 note.

AUTHORIZATION OF CONFERENCE

SEC. 2. (a) The President shall call and conduct a National White House Conference on Small Business (hereinafter referred to as the "National Conference") not earlier than January 1, 1994, and not later than April 1, 1994, to carry out the purposes described in section 3 of this Act. The National Conference shall be preceded by State conferences, with at least one such conference being held in each State, and with at least two conferences being held in any State with a population of ten million or more. The State conferences shall be held not earlier than December 1, 1992, and at their conclusion shall be followed by regional meetings of delegates in at least six cities prior to the National Conference.

State and local governments.
15 USC 631 note.

(b) Participants in the National Conference and other interested individuals and organizations, are authorized to conduct activities at the State and regional level prior to the date of the National Conference, and shall direct such activities toward the consideration of the purposes of the National Conference.

(c) The National Conference shall be conducted under the general supervision and direction of the White House Conference on Small Business Commission (hereinafter referred to as the "Commission") established in section 5 of this Act.

PURPOSE OF CONFERENCE

SEC. 3. The purpose of the National Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business; to examine the status of minorities and women as small business owners; to assist small business in carrying out its role as the Nation's job creator; to assemble small businesses (particularly those who are not actively involved in small business or trade organizations) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation; and to review the status of recommendations adopted at the 1986 White House Conference on Small Business.

15 USC 631 note.

CONFERENCE PARTICIPANTS

SEC. 4. (a) In order to carry out the purposes specified in section 3 of this Act, the National Conference shall bring together individuals

15 USC 631 note.

concerned with issues relating to small business: *Provided,* That no owner, officer or employee of a small business concern may be denied admission to any State conference, nor may any fee or charge be imposed on any such owner, officer or employee except an amount to cover the cost of any meal provided plus a registration fee of not to exceed $10. The Commission may not impose any fees or charges except as specified in this subsection and may not accept any gifts of money from any source. Amounts collected as fees and charges shall be used solely to pay the cost of meals provided and to defray the expense of meeting rooms. The Commission shall—

Records.

(1) keep a record of all receipts and disbursements as directed by the Administrator of the Small Business Administration;

(2) open and maintain an account in an institution whose accounts are insured by an instrumentality of the United States, into which account all receipts shall be deposited and from which all payments shall be disbursed; and

Reports.

(3) provide such periodic financial reports to the Small Business Administration as the Administrator may request.

(b) Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences: *Provided,* That each Governor and each chief executive official of the political subdivisions enumerated in section 4(a) of the Small Business Act may appoint one delegate and one alternate: *Provided further,* That each Member of the United States House of Representatives, including each Delegate, and each Member of the United States Senate may appoint one delegate and one alternate: and *Provided further,* That the President may appoint one hundred delegates and alternates. Only owners, employees or corporate officers of small businesses shall be eligible for appointment or election pursuant to this subsection, and delegates may be elected only at the conference for the State in which he or she resides.

COMMISSION

Establishment.
15 USC 631 note.

SEC. 5. (a) There is hereby established a White House Conference on Small Business Commission. The President shall select and appoint eleven individuals. The commissioners shall be responsible for the overall preparation for and conduct of the National Conference, including the issuance of the report specified in section 7 of this Act.

(b) At least seven of the individuals appointed shall be small business owners, employees or corporate officers of a small business. Other members may include representatives of businesses (other than small), associations, or educational institutions.

(c) Not more than six of the Commissioners shall be of the same political party. No member shall be an officer or employee of the Federal Government, in either the executive branch or the Congress.

(d) Commissioners shall be appointed for a term which shall expire on the date the report is submitted, except if the status of any such appointee changes so that he or she would have been ineligible for appointment, such individual may continue as a Commissioner for not longer than a thirty-day period beginning on the date such individual becomes ineligible.

(e) A vacancy shall be filled in the manner in which the original appointment was made.

(f) Commissioners shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Goverment are allowed expenses under section 5703 of title 5, United States Code.

(g) Six Commissioners shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chairperson who shall be designated by the President.

(h) The Commission shall have an executive director who shall be appointed by the Chairperson, and such other staff as it deems appropriate. The executive director and other personnel may be appointed without regard to section 531(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(i) The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(j) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the National Conference without regard to section 3341 of title 5 of the United States Code. Except as otherwise prohibited by law, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson, the head of such department or agency shall promptly furnish such information to the Commission.

(k) The Administrator of the General Service Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 6. (a) In order to facilitate the carrying out of the provisions of this Act, the Administrator of the Small Business Administration— 15 USC 631 note.

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized under section 2 of this Act;

(2) is authorized to enter into contracts with public agencies, private organizations, business entities and academic institutions to carry out the provisions of this Act: *Provided,* That the Administrator shall coordinate any such contracting in advance with the Commission if it has met and organized; and Government contracts.

(3) shall prescribe such financial controls and accounting procedures for the handling of income received by the Commission as fees and charges and the payment by the Commission of authorized meal and meeting room expenses.

(b) The Chief Counsel for Advocacy shall assist in carrying out the provisions of this Act by preparing and providing background materials for use by participants in the National Conference, as well as by participants in State and regional conferences.

(c) The White House Conference on Small Business Commission shall conduct appropriate outreach efforts to obtain the participation, at both State conferences and at the National Conference, of individuals who are not actively involved in small business or trade organizations.

(d) EXPENSES.—(1) Each delegate to the National Conference shall pay his or her expenses of attending the Conference. However, prior to the National Conference, any delegate may seek reimbursement from the Conference upon written application establishing that his or her anticipated expenses would constitute a financial burden.

(2) The Commission shall adopt rules, guidelines, and procedures to implement this provision. No delegate shall be reimbursed for any expense except transportation, meals and lodging and shall not be reimbursed at more than the rates provided to employees of the Federal Government who travel to Washington, DC, on official business during the time when the National Conference is held.

(3) At the beginning of each State conference, all attendees shall be advised of this provision and any rules or procedures adopted by the Commission to implement it.

(4) A separate accounting for these reimbursed expenses shall be provided to the Small Business Administration.

REPORTS REQUIRED

15 USC 631 note.

SEC. 7. (a) Not more than four months from the date on which the National Conference is convened, a final report of the National Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the delegates as well as proposals for any legislative action necessary to implement their recommendations. The report shall be available to the public.

(b) At the same time, the Commission shall—

(1) provide a final financial report to the Small Business Administration and shall deliver to the Agency all of its financial books and records; and

(2) deposit in the Treasury of the United States, for crediting as miscellaneous receipts, any monies collected as fees and charges pursuant to the authority of this Act which remain unexpended.

FOLLOWUP ACTIONS

Reports.
15 USC 631 note.

SEC. 8. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the National Conference on the status and implementation of the findings and recommendations.

AVAILABILITY OF FUNDS

Appropriation authorization.
15 USC 631 note.

SEC. 9. (a) There are hereby authorized to be appropriated for fiscal year 1992, or any year thereafter, not to exceed $5,000,000 to carry out the provisions of this Act, and such sums shall remain available until expended. New spending authority or authority to

enter contracts as provided in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriations Acts.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this Act other than funds appropriated specifically for the purpose of conducting the National Conference. Any funds remaining unexpended at the termination of the National Conference, including submission of the report pursuant to section 7, shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

Approved October 5, 1990.

LEGISLATIVE HISTORY—H.R. 4773:

HOUSE REPORTS: No. 101-669 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 10, considered and passed House.
Sept. 18, considered and passed Senate.

Public Law 101-410
101st Congress

An Act

Oct. 5, 1990
[S. 535]

To increase civil monetary penalties based on the effect of inflation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Civil Penalties Inflation Adjustment Act of 1990.
28 USC 2461 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Civil Penalties Inflation Adjustment Act of 1990".

FINDINGS AND PURPOSE

28 USC 2461 note.

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) the power of Federal agencies to impose civil monetary penalties for violations of Federal law and regulations plays an important role in deterring violations and furthering the policy goals embodied in such laws and regulations;

(2) the impact of many civil monetary penalties has been and is diminished due to the effect of inflation;

(3) by reducing the impact of civil monetary penalties, inflation has weakened the deterrent effect of such penalties; and

(4) the Federal Government does not maintain comprehensive, detailed accounting of the efforts of Federal agencies to assess and collect civil monetary penalties.

(b) PURPOSE.—The purpose of this Act is to establish a mechanism that shall—

(1) allow for regular adjustment for inflation of civil monetary penalties;

(2) maintain the deterrent effect of civil monetary penalties and promote compliance with the law; and

(3) improve the collection by the Federal Government of civil monetary penalties.

DEFINITIONS

28 USC 2461 note.

SEC. 3. For purposes of this Act, the term—

(1) "agency" means an Executive agency as defined under section 105 of title 5, United States Code, and includes the United States Postal Service;

(2) "civil monetary penalty" means any penalty, fine, or other sanction that—

(A)(i) is for a specific monetary amount as provided by Federal law; or

(ii) has a maximum amount provided for by Federal law; and

(B) is assessed or enforced by an agency pursuant to Federal law; and

(C) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts; and

(3) "Consumer Price Index" means the Consumer Price Index for all-urban consumers published by the Department of Labor.

CIVIL MONETARY PENALTY INFLATION ADJUSTMENT REPORTS

SEC. 4. Within 6 months after the date of the enactment of this Act, and on January 1 of each fifth calendar year thereafter, the President shall submit a report on civil monetary penalty inflation adjustment to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives. Such report shall include— President. 28 USC 2461 note.

(1) each civil monetary penalty as defined under section 3(2);

(2) the date each civil monetary penalty was most recently set pursuant to law;

(3) the maximum amount of each civil monetary penalty or, if applicable, the range of the minimum and maximum amounts of each civil monetary penalty in effect on the date of the submission of such report;

(4) the amount of each civil monetary penalty described under paragraph (3) other than any such penalty for which inflation adjustment is provided by law, if each such penalty is increased by the adjustment described under section 5; and

(5) a listing of the modifications to Federal law that would be required to—

(A) increase each penalty described in paragraph (1) by the adjustments described under section 5, excluding any penalty for which inflation adjustment is provided by law or that has been increased within the 5-year period immediately preceding the date of the submission of such report; and

(B) provide that any increase in any civil monetary penalty shall apply only to violations which occur after the date any such increase takes effect.

COST-OF-LIVING ADJUSTMENTS OF CIVIL MONETARY PENALTIES

SEC. 5. (a) ADJUSTMENT.—The adjustment described under paragraphs (4) and (5)(A) of section 4 shall be determined by increasing the maximum civil monetary penalty or the range of minimum and maximum civil monetary penalties, as applicable, for each civil monetary penalty by the cost-of-living adjustment. Any increase determined under this subsection shall be rounded to the nearest— 28 USC 2461 note.

(1) multiple of $10 in the case of penalties less than or equal to $100;

(2) multiple of $100 in the case of penalties greater than $100 but less than or equal to $1,000;

(3) multiple of $1,000 in the case of penalties greater than $1,000 but less than or equal to $10,000;

(4) multiple of $5,000 in the case of penalties greater than $10,000 but less than or equal to $100,000;

(5) multiple of $10,000 in the case of penalties greater than $100,000 but less than or equal to $200,000; and

(6) multiple of $25,000 in the case of penalties greater than $200,000.

(b) DEFINITION.—For purposes of subsection (a), the term "cost-of-living adjustment" means the percentage (if any) for each civil monetary penalty by which—

(1) the Consumer Price Index for the month of June of the calendar year preceding the adjustment, exceeds

(2) the Consumer Price Index for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

ANNUAL REPORT

President. 28 USC 2461 note.

SEC. 6. No later than January 1 of each year, the President shall submit a report on civil monetary penalties to the Congress which shall include—

(1) to the extent possible, the number and amount of civil monetary penalties imposed pursuant to each provision of law providing for such civil monetary penalties, during the complete fiscal year preceding the submission of such report;

(2) to the extent possible, the number and amount of such civil penalties collected during such fiscal year; and

(3) any recommendations that the President determines appropriate to—

(A) eliminate obsolete civil monetary penalties;

(B) modify the amount of any civil monetary penalty; or

(C) make any other legislative modifications concerning civil monetary penalties.

Approved October 5, 1990.

LEGISLATIVE HISTORY—S. 535:

HOUSE REPORTS: No. 101-697 (Comm. on Government Operations).
SENATE REPORTS: No. 101-240 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 22, considered and passed Senate.
Sept. 24, considered and passed House.

Public Law 101-411
101st Congress

An Act

To extend the expiration date of the Defense Production Act of 1950 to October 20, 1990.

Oct. 6, 1990
[S. 3155]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "October 5, 1990" and inserting "October 20, 1990".

Approved October 6, 1990.

LEGISLATIVE HISTORY—S. 3155:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 3, considered and passed Senate.
Oct. 5, considered and passed House.

49-139 O - 90 (411)

Public Law 101-412
101st Congress

Joint Resolution

Oct. 9, 1990
[H.J. Res. 666]

Making further continuing appropriations for the fiscal year 1991, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by

the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided*, That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $265,369,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided*, That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for

economic order quantity procurement unless specifically appropriated later: *Provided further*, That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 19, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code,

but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order. 2 USC 902 note.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c). Termination date.

EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

SEC. 114. Section 1 of Public Law 101-350 is amended by striking "October 6, 1990" and inserting "October 19, 1990". *Ante*, p. 403.

SEC. 115. (a) It is the sense of Congress that the date by which committees should report their reconciliation language to their respective Budget Committees should be October 12.

(b) The Budget Committees should report the reconciliation bills no later than close of business October 13.

(c) It is the sense of the Senate that the Senate should begin consideration of the reconciliation bill on the first day of session following its report by the Budget Committee.

Approved October 9, 1990.

LEGISLATIVE HISTORY—H.J. Res. 666:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 7, considered and passed House.
Oct. 8, considered and passed Senate, amended. House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 9, Presidential statement.

Public Law 101-413
101st Congress

Joint Resolution

Oct. 11, 1990
[H.J. Res. 469]

To designate October 6, 1990, as "German-American Day".

Whereas the tricentennial of the arrival of the first German immigrants to the United States was celebrated on October 6, 1983;

Whereas such day was proclaimed by the President to be German-American Day in honor of the contributions made by German immigrants to the life and culture of the United States;

Whereas such contributions should be recognized and celebrated every year; and

Whereas the German-American Friendship Garden, symbolic of friendly relations between West Germany and the United States, was dedicated in the District of Columbia on November 15, 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1990, is designated as "German-American Day". The President is requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 11, 1990.

LEGISLATIVE HISTORY—H.J. Res. 469 (S.J. Res. 277):

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 31, considered and passed House.
Sept. 28, considered and passed Senate.

49-139 O - 90 (413)

Public Law 101-414
101st Congress

Joint Resolution

To designate the month of October 1990 as "Country Music Month".

Oct. 11, 1990
[H.J. Res. 603]

Whereas country music derives its roots from the folk songs of our Nation's workers, captures the spirit of our religious hymns, reflects the sorrow and joy of our traditional ballads, and echoes the drive and soulfulness of rhythm and blues;

Whereas country music has played an integral part in our Nation's history, accompanying the growth of the Nation and reflecting the ethnic and cultural diversity of our people;

Whereas country music embodies a spirit of America and the deep and genuine feelings individuals experience throughout their lives;

Whereas the distinctively American refrains of country music have been performed for audiences throughout the world, striking a chord deep within the hearts and souls of its fans; and

Whereas October 1990 marks the twenty-sixth annual observance of Country Music Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1990 is designated as "Country Music Month", and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 11, 1990.

LEGISLATIVE HISTORY—H.J. Res. 603 (S.J. Res. 365):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 17, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 101-415
101st Congress

Joint Resolution

Oct. 11, 1990
[S.J. Res. 301]

Designating October 1990 as "National Breast Cancer Awareness Month".

Whereas breast cancer will strike an estimated 150,000 women and 900 men in the United States in 1990;

Whereas one out of every ten women will develop breast cancer at some point in her life;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, killing an estimated 43,000 women and 300 men in 1989;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and physicians about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas women do not have mammograms for a variety of reasons, such as the cost of testing, lack of information, and fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

Approved October 11, 1990.

LEGISLATIVE HISTORY—S.J. Res. 301:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Oct. 1, considered and passed House.

Public Law 101-416
101st Congress

An Act

Oct. 12, 1990
[H.R. 5643]

To grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

5 USC 4103 note.

SECTION 1. TEMPORARY EXTENSION OF AUTHORITY RELATING TO PRIVATE-SECTOR EXECUTIVES PERFORMING VOLUNTARY SERVICES FOR THE GOVERNMENT.

(a) IN GENERAL.—Notwithstanding the expiration on September 30, 1990, of the Executive Exchange Program Voluntary Services Act of 1986 (5 U.S.C. 4103 note), any individual who, as of that date, is or was participating in a program established under such Act may continue to perform voluntary services for the Government, and the Government may continue to accept those services, for not more than an additional 90 days beyond that expiration date, to the same extent as if such Act had not expired.

(b) EFFECTIVE DATE.—This section shall be effective as of September 30, 1990.

SEC. 2. STATUS OF GOVERNMENT EXECUTIVES WHILE SERVING IN PRIVATE-SECTOR POSITIONS.

(a) IN GENERAL.—(1) Title 5, United States Code, is amended by inserting after section 3341 the following:

"§ 3342. Federal participants in executive exchange programs

"(a) For the purpose of this section, the term 'executive exchange program' means any program which is required, by statute or Executive order, to be administered, in whole or in part, by the President's Commission on Executive Exchange (described in Executive Order Numbered 12493, dated December 5, 1984), a successor entity in function, or any officer thereof.

"(b) An employee assigned to a position in the private sector as a participant in an executive exchange program shall, while so assigned, be treated as if on detail to a regular work assignment in such employee's employing agency, except that nothing in section 3341(b) shall limit the period of time for which any such employee may be so assigned.

"(c) An agreement providing for the assignment of an employee to a position in the private sector as a participant in an executive exchange program shall not be effective unless it includes a provision under which the private-sector employer agrees to reimburse the employee's agency for any basic pay which is paid by the agency to such employee, and attributable to the period during which the employee is so assigned. Any reimbursement so made shall be credited to the appropriation, fund, or account used to pay the amount reimbursed.".

49-139- O - 90 (416)

(2) The table of sections for chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3341 the following:

"3342. Federal participants in executive exchange programs.".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act, and shall apply with respect to any Federal employee who begins an assignment with a private-sector employer as a participant in an executive exchange program beginning on or after that effective date. 5 USC 3342 note.

Approved October 12, 1990.

LEGISLATIVE HISTORY—H.R. 5643:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 101-417
101st Congress

Joint Resolution

Oct. 12, 1990
[H.J. Res. 398]

To commemorate the centennial of the creation by Congress of Yosemite National Park.

Whereas the first application of a park concept originated in Yosemite with the grant of 1864 (Federal land given to California for preservation) and since that time the park has played an important role in pioneering park management concepts;

Whereas Yosemite National Park was established for the purpose of preservation of the resources that contribute to its uniqueness and attractiveness;

Whereas the United States Congress recognized the importance of preserving this great park for future public enjoyment when it established Yosemite National Park;

Whereas Yosemite National Park is a showcase of spectacular geological features, including the greatest concentration of granite domes in the world and the largest exposed granite monolith in the world;

Whereas Yosemite National Park possesses outstanding recreational values and supreme scenic attractions, including alpine and subalpine wilderness, three groves of giant sequoia trees and thundering waterfalls that are among the world's highest;

Whereas Yosemite was the birthplace of the idea of the Sierra Club;

Whereas Yosemite plays an important role in wildlife preservation and preserving biological diversity;

Whereas Yosemite is a world heritage site which has made a significant contribution to California's cultural heritage, to the national park movement, and to Yosemite's 4,000 years of cultural heritage by Native Americans;

Whereas Yosemite provides solitude and inspiration and serves as an outdoor classroom for environmental education;

Whereas each year Yosemite National Park welcomes millions of people from around the world; and

Whereas Yosemite National Park was established on October 1, 1890, and is the Nation's third oldest national park: Now, therefore, be it

49-139 O - 90 (417)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby recognizes and commemorates the centennial of Yosemite National Park, created by Congress in 1890. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the centennial with appropriate ceremonies and activities.

Approved October 12, 1990.

LEGISLATIVE HISTORY—H.J. Res. 398:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 7, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 101-418
101st Congress

Joint Resolution

Oct. 12, 1990
[H.J. Res. 482]

Designating March 1991 as "Irish-American Heritage Month".

Whereas by 1776 nearly 300,000 natives of Ireland had emigrated to the United States;

Whereas, following the victory at Yorktown over the English, a French Major General reported that Congress owed its existence, and America, possibly her preservation, to the fidelity of the Irish;

Whereas at least 8 signers of the Declaration of Independence were of Irish origin;

Whereas Charles Thomson, born in Ireland, was Secretary of the Continental Congress;

Whereas Irish-born James Hoban designed the White House, the State and war offices, and assisted in the building of the United States Capitol;

Whereas on March 17, 1990, Saint Patrick's Day, 206 community parades honored the patron saint of Ireland;

Whereas more than 480 institutions of higher learning in the United States offer courses in Irish studies;

Whereas the Irish and Irish descendants have contributed greatly to the enrichment of all aspects of life in the United States, including military and governmental service, science, education, art, agriculture, business, industry, and athletics; and

Whereas, in the 1980 census, 40,700,000 individuals in the United States claimed to be of Irish descent: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1991 is designated as "Irish-American Heritage Month", and the President of the United States of America is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 12, 1990.

LEGISLATIVE HISTORY—H.J. Res. 482:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 3, considered and passed House.
Oct. 1, considered and passed Senate.

49-139 O - 90 (418)

Public Law 101-419
101st Congress

An Act

To convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.

Oct. 12, 1990
[S. 1738]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND.

(a) CONVEYANCE.—Subject to section 2, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to land described in subsection (b) to the Rogue Community College District in Josephine County, Oregon (hereafter in this Act referred to as the "District").

(b) LAND DESCRIPTION.—The land referred to in subsection (a) is land in Josephine County, Oregon, described as Township 36 South, Range 6 West, W.M., Section 27, southwest ¼, northeast ¼.

SEC. 2. LIMITATIONS ON CONVEYANCE.

The conveyance authorized by section 1(a) is subject to the following limitations:

(a) ENCUMBRANCES.—Such conveyance shall be subject to all encumbrances on the land existing as of the date of enactment of this Act.

(b) MINERAL RIGHTS.—Such conveyance shall reserve to the United States all minerals in the land, including geothermal rights, together with the right to prospect for, mine, and remove the minerals and geothermal resources.

(c) RIGHT OF WAY FOR DITCHES AND CANALS.—Such conveyance shall be subject to the proviso in the fourth undesignated paragraph under the caption entitled "United States Geological Survey" in the first section of the Act of August 30, 1890 (26 Stat. 371, 391) (43 U.S.C. 945).

(d) REVERSIONARY INTEREST.—Such conveyance shall be subject to a reversionary interest in the land described in section 1(b) to be held by the United States. If such land ceases to be used for educational purposes, all right, title, and interest in and to such land shall revert to the United States and shall be identified, classified, and managed as Oregon and California Railroad Grant Lands.

Approved October 12, 1990.

LEGISLATIVE HISTORY—S. 1738:

HOUSE REPORTS: No. 101-741 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-282 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 17, considered and passed Senate.
Sept. 27, considered and passed House.

Public Law 101-420
101st Congress

An Act

Oct. 12, 1990
[S. 2588]

To amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5948(d) of title 5, United States Code, is amended by striking out the second sentence and inserting in lieu thereof "No agreement shall be entered into under this section later than September 30, 1993, nor shall any agreement cover a period of service extending beyond September 30, 1995.".

Approved October 12, 1990.

LEGISLATIVE HISTORY—S. 2588:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 26, considered and passed Senate.
Oct. 1, considered and passed House.

49-139 O - 90 (420)

Public Law 101-421
101st Congress

An Act

To amend the Contract Services for Drug Dependent Federal Offenders Act of 1978 to provide additional authorizations for appropriations.

Oct. 12, 1990
[H.R. 3007]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug and Alcohol Dependent Offenders Treatment Act of 1989.
18 USC 3661 note.
18 USC 3672 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Alcohol Dependent Offenders Treatment Act of 1989".

SEC. 2. REAUTHORIZATION.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 is amended—

(1) by inserting "and the 7th paragraph of section 3672 of title 18, United States Code" after "purposes of this Act";

(2) by striking "; and" and inserting a semicolon; and

(3) by striking the period at the end and inserting "; $30,000,000 for the fiscal year ending September 30, 1990; $40,000,000 for the fiscal year ending September 30, 1991; and $45,000,000 for the fiscal year ending September 30, 1992.".

Approved October 12, 1990.

LEGISLATIVE HISTORY—H.R. 3007:

HOUSE REPORTS: No. 101-272 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 10, considered and passed House.
Vol. 136 (1990): Sept. 28, considered and passed Senate.

49-139 O - 90 (421)

Public Law 101-422
101st Congress

An Act

Oct. 12, 1990
[H.R. 3897]

To authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 576 of title 5, United States Code, is amended to read as follows:

"§ 576. Authorization of appropriations

"There are authorized to be appropriated to carry out the purposes of this subchapter not more than $2,000,000 for fiscal year 1990, $2,100,000 for fiscal year 1991, $2,200,000 for fiscal year 1992, $2,300,000 for fiscal year 1993, and $2,400,000 for fiscal year 1994. Of any amounts appropriated under this section, not more than $1,500 may be made available in each fiscal year for official representation and entertainment expenses for foreign dignitaries.".

SEC. 2. POWERS OF THE CONFERENCE.

Section 574 of title 5, United States Code, is amended—

(1) in paragraph (2) by striking "and" after the semicolon;

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) enter into arrangements with any administrative agency or major organizational unit within an administrative agency pursuant to which the Conference performs any of the functions described in paragraphs (1), (2), and (3).

Payment for services provided by the Conference pursuant to paragraph (4) shall be credited to the operating account for the Conference and shall remain available until expended.".

SEC. 3. ORGANIZATION OF THE CONFERENCE.

Section 575(c) of title 5, United States Code, is amended—

(1) in paragraph (14) by striking "and" after the semicolon;

(2) in paragraph (15) by striking the period and inserting "; and"; and

49-139 O - 90 (422)

(3) by adding at the end the following:

"(16) request any administrative agency to notify the Chairman of its intent to enter into any contract with any person outside the agency to study the efficiency, adequacy, or fairness of an agency proceeding (as defined in section 551(12) of this title).".

Approved October 12, 1990.

LEGISLATIVE HISTORY—H.R. 3897 (S. 2224):

HOUSE REPORTS: No. 101-500 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Sept. 17, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendment.

Public Law 101-423
101st Congress

Joint Resolution

Oct. 12, 1990
[S.J. Res. 57]

To establish a national policy on permanent papers.

44 USC 509 note.

Whereas it is now widely recognized and scientifically demonstrated that the acidic papers commonly used for more than a century in documents, books, and other publications are self-destructing and will continue to self destruct;

Whereas Americans are facing the prospect of continuing to lose national, historical, scientific, and scholarly records, including government records, faster than salvage efforts can be mounted despite the dedicated efforts of many libraries, archives, and agencies, such as the Library of Congress and the National Archives and Records Administration;

Whereas nationwide hundreds of millions of dollars will have to be spent by the Federal, State, and local governments and private institutions to salvage the most essential books and other materials in the libraries and archives of government, academic, and private institutions;

Whereas paper manufacturers can produce a sufficient supply of acid free permanent papers with a life of several hundred years, at prices competitive with acid papers, if publishers would specify the use of such papers, and some publishers and many university presses are already publishing on acid free permanent papers;

Whereas most Government agencies do not require the use of acid free permanent papers for appropriate Federal records and publications;

Whereas librarians, publishers, and other professional groups have urged the use of acid free permanent papers;

Whereas even when books are printed on acid free permanent paper this fact is often not made known to libraries by notations in the book or by notations in standard bibliographic listings; and

Whereas there is an urgent need to prevent the continuance of the acid paper problem in the future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic preservation.
44 USC 509 note.

SECTION 1. It is the policy of the United States that Federal records, books, and publications of enduring value be produced on acid free permanent papers.

44 USC 509 note.

SEC. 2. The Congress of the United States urgently recommends that—

(1) Federal agencies require the use of acid free permanent papers for publications of enduring value produced by the Government Printing Office or produced by Federal grant or contract, using the specifications for such paper established by the Joint Committee on Printing;

(2) Federal agencies require the use of archival quality acid free papers for permanently valuable Federal records and confer with the National Archives and Records Administration on the requirements for paper quality;

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(3) American publishers and State and local governments use acid free permanent papers for publications of enduring value, in voluntary compliance with the American National Standard;

(4) all publishers, private and governmental, prominently note the use of acid free permanent paper in books, advertisements, catalogs, and standard bibliographic listings; and

(5) the Secretary of State, Librarian of Congress, Archivist of the United States, and other Federal officials make known the national policy regarding acid free permanent papers to foreign governments and appropriate international agencies since the acid paper problem is worldwide and essential foreign materials being imported by our libraries are printed on acid papers.

Reports.
44 USC 509 note.

SEC. 3. The Librarian of Congress, the Archivist of the United States, and the Public Printer shall jointly monitor the Federal Government's progress in implementing the national policy declared in section 1 regarding acid free permanent papers and shall report to the Congress regarding such progress on December 31, 1991, December 31, 1993, and December 31, 1995. In carrying out the monitoring and reporting functions under this section, the Librarian of Congress, the Archivist of the United States, and the Public Printer may consult with the National Endowment for the Humanities, National Agricultural Library, National Library of Medicine, other Federal and State agencies, international organizations, private publishers, paper manufacturers, and other organizations with an interest in preservation of books and historical papers.

Approved October 12, 1990.

LEGISLATIVE HISTORY—S.J. Res. 57 (H.J. Res. 226):

HOUSE REPORTS: No. 101-680, Pt. 1 accompanying H.J. Res. 226 (Comm. on Government Operations).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 31, S.J. Res. 57 considered and passed Senate.
Vol. 136 (1990): Sept. 17, H.J. Res. 226 considered and passed House; S.J. Res. 57, amended, passed in lieu.
Sept. 26, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 12, Presidential statement.

Public Law 101-424
101st Congress

Joint Resolution

Oct. 12, 1990
[S.J. Res. 181]

To establish calendar year 1992 as the "Year of Clean Water".

Whereas, clean water is a natural resource of tremendous value and importance to the Nation;

Whereas, there is resounding public support for protecting and enhancing the quality of this Nation's rivers, streams, lakes, wetlands, and marine waters;

Whereas, maintaining and improving water quality is essential to protect public health, to protect fisheries and wildlife, and to assure abundant opportunities for public recreation;

Whereas, it is a national responsibility to provide clean water as a legacy for future generations;

Whereas, substantial progress has been made in protecting and enhancing water quality since passage of the 1972 Federal Water Pollution Control Act (Clean Water Act) due to concerted efforts by Federal, State, and local governments, the private sector, and the public;

Whereas, serious water pollution problems persist throughout the Nation and significant challenges lie ahead in the effort to protect water resources from point and nonpoint sources of conventional and toxic pollution;

Whereas, further development of water pollution control programs and advancement of water pollution control research, technology, and education are necessary and desirable; and

Whereas, October of 1992 is the 20th anniversary of the enactment into law of the Clean Water Act: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Congress of the United States hereby designates calendar year 1992 as the "Year of Clean Water" and the month of October 1992 as "Clean Water Month" in celebration of the Nation's accomplishments under the Clean Water Act, and the firm commitment of the Nation to the goals of that Act.

Approved October 12, 1990.

LEGISLATIVE HISTORY—S.J. Res. 181:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 20, considered and passed Senate.
Vol. 136 (1990): Oct. 1, considered and passed House.

49-139 0 - 90 (424)

Public Law 101-425
101st Congress

An Act

To require the Secretary of Energy to establish Centers for Metal Casting Competitiveness Research.

Oct. 15, 1990
[H.R. 1243]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Energy Metal Casting Competitiveness Research Act of 1990.
Science and technology.
15 USC 5301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy Metal Casting Competitiveness Research Act of 1990".

SEC. 2. FINDINGS.

15 USC 5301.

The Congress finds that—

(1) metal casting is an important process for manufacturing many items imported into or exported from the United States;

(2) the encouragement and maintenance of a technically advanced United States metal casting industry is essential to the competitiveness of many American industries;

(3) maintaining a viable metal casting industry is vital to the national security and economic well being of the United States;

(4) the promotion of technology competitiveness and energy efficiency in the United States metal casting industry by the Federal Government is necessary to maintain a viable metal casting industry;

(5) many metal casting companies lack the resources to conduct metal casting research alone, placing them at a serious competitive disadvantage;

(6) the support of university-based research in metal casting is important in promoting technology development and providing industry with qualified engineers; and

(7) by combining the resources of the Federal Government, universities, industry, and private organizations, to conduct research and development activities, substantial technological benefits will result to the metal casting industry.

SEC. 3. DEFINITIONS.

15 USC 5302.

As used in this Act, the term—

(1) "applicant" means:

(A) an educational institution;

(B) a consortium of educational institutions;

(C) a consortium of an educational institution or educational institutions with one or more of the following: Government-owned laboratories, private research organizations, nonprofit institutions, or private firms;

that is located in a region where the metal casting industry is concentrated;

(2) "census region" means one of the four census regions (Northeast, South, Midwest, and West) that are designated as

census regions by the Bureau of the Census as of the date of enactment of this Act;

(3) "Department" means the Department of Energy;

(4) "educational institution" means a degree granting institution of at least a baccalaureate level;

(5) "non-Federal source" means the United States metal casting industry, related industries, industry-related associations, individuals, organizations, universities, State agencies, or other entities supporting the metal casting industry;

(6) "metal casting industry" or "industry" means the industries identified by codes numbered 3321, 3322, 3324, 3325, 3363, 3364, 3365, 3366, and 3369, in the Standard Industrial Classification manual published by the Office of Management and Budget in 1987;

(7) "Secretary" means the Secretary of Energy.

15 USC 5303.

SEC. 4. ESTABLISHMENT OF PROGRAM.

The Secretary, acting in accordance with authority provided in the Federal Non-Nuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), except as otherwise provided in this Act, shall establish a Metal Casting Competitiveness Research Program (hereafter in this Act referred to as the "Program") for the purpose of performing and promoting the performance of research and development on issues related to the technology competitiveness and energy efficiency of the United States metal casting industry.

15 USC 5304.

SEC. 5. OPERATION OF PROGRAM.

(a) SOLICITATION OF PROPOSALS.—Within one year after the date of enactment of this Act, the Secretary shall solicit and, subject to available appropriations, select proposals on a competitive basis from applicants to carry out the program under section 4. In order for a proposal to be considered by the Secretary, the applicant shall have in existence at the time the proposal is submitted the following qualifications:

(1) the technical capability to enable it to make use of existing research support and facilities in carrying out its research objectives;

(2) a multidisciplinary research staff experienced in metal casting or other directly related technologies; and

(3) the facilities and equipment capable of conducting at least laboratory scale testing or demonstration of metal casting or related processes.

(b) PROPOSAL CRITERIA.—Each proposal shall—

(1) demonstrate the support of the metal casting industry by describing—

(A) how industry has participated in deciding what research activities will be undertaken;

(B) how industry will participate in the evaluation of the applicant's progress in research and development activities; and

(C) the extent to which industry funds are committed to the applicant's proposal;

(2) have a commitment for matching funds from non-Federal sources, which shall consist of:

(A) cash, or

(B) as determined by the Secretary, the fair market value of equipment, services, materials, appropriate tech-

nology transfer activities, and other assets directly related to the proposal's cost;

(3) include a single or multiyear management plan that outlines how the research and development activities will be administered and carried out;

(4) state the annual cost of the proposal and a breakdown of those costs; and

(5) describe the technology transfer mechanisms the applicant will use to make available research results to industry and to other researchers.

(c) CONTENT OF MANAGEMENT PLAN.—The management plan set forth in subsection 5(b)(3) shall—

(1) outline the basic research and development activities expected to be performed;

(2) outline who will conduct those research activities;

(3) establish the time frame over which the research activities will take place; and

(4) define the overall program management and direction by—

(A) identifying managerial, organizational and administrative procedures and responsibilities;

(B) outlining how the coordination of research and development between the individuals and organizations involved will be achieved;

(C) demonstrating how implementation and monitoring of the progress of research projects after receipt of funding from the Secretary will be achieved;

(D) demonstrating how recommendations and implementations on modifications to the plan will be achieved; and

(E) providing sufficient rationale to support the plan's costs.

(d) SELECTION OF PROPOSALS.—From the proposals submitted, the Secretary shall select proposals for funding. The Secretary shall attempt to select at least four proposals. The Secretary shall select the proposals that—

(1) will best result in carrying out needed metal casting research and development in one or more of the following general areas—

(A) solidification and casting technologies;

(B) computational modeling and design;

(C) processing technologies and design for energy efficiency, material conservation, environmental protection, or industrial productivity; and

(D) other areas of research, which in the judgment of the Secretary, after consulting with the Board established in section 7, further the purposes of this Act;

(2) represent research and development in specific areas identified in the "Metal Casting Research Priorities" developed annually by the Board pursuant to subsection 7(b)(1);

(3) to the greatest extent possible and subject to available appropriations, ensure that at least one applicant is selected from each of the four census regions of the country where the metal casting industry is concentrated;

(4) demonstrate strong industry support;

(5) ensure the timely transfer of technology to industry; and

(6) otherwise best carry out the purposes of this Act.

(e) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Secretary shall provide to each applicant selected the financial and technical assistance and other incentives that are necessary and appropriate to carry out the purposes of this Act.

(f) NATIONAL METAL CASTING RESEARCH INSTITUTE.—Each recipient of financial assistance under subsection (d) shall be known as a "National Metal Casting Research Institute".

15 USC 5305.

SEC. 6. REVIEW.

(a) EVALUATION OF RESEARCH ACTIVITIES.—The Secretary shall regularly monitor and evaluate the research activities of the applicants selected. After considering the reports of the Board provided for in subsection 7(b)(2), the Secretary shall determine whether each applicant selected has complied with the management plan submitted in the original proposal and any modifications made since.

(b) ANNUAL REPORT.—Each selected applicant in the program shall provide an annual report to the Secretary that explains the progress made, compliance with the management plan, whether changes are needed and are being made to the management plan, and what new research is planned.

(c) DISCONTINUATION OF FUNDING.—In the event a selected applicant has substantially failed in the implementation of the management plan and research activities, the Secretary shall discontinue funding.

(d) SOLICITATION OF NEW PROPOSALS.—Upon completion or discontinuance of any research activity authorized in section 5, the Secretary shall, using available funds appropriated pursuant to this Act, solicit new research proposals as set forth under the terms of this Act.

15 USC 5306.

SEC. 7. INDUSTRIAL ADVISORY BOARD.

(a) ESTABLISHMENT OF BOARD.—Within 120 days after the date of the enactment of this Act the Secretary, after consulting with representatives of trade and technical associations of the metal casting industry, shall establish an Industrial Advisory Board (hereafter in this Act referred to as the "Board") to provide guidance and oversight in implementing the selection criteria and operation of the program. The Board shall be composed of nine members who are selected by the Secretary, a majority of whom shall be individuals from the metal casting industry or individuals affiliated with the industry. At least one member of the Board shall be chosen from each of the four census regions of the country. Each Board member shall serve for a term not to exceed five years, but may be reappointed for successive terms.

(b) REVIEW AND RECOMMENDATIONS.—

(1) Within 180 days after the date of the enactment of this Act and annually thereafter, the Board shall develop from the general research areas identified in section 5(d) and submit to the Secretary a list of Metal Casting Research Priorities. Such list shall, to the greatest extent possible, identify specific areas of research that would be considered of a priority nature to the United States metal casting industry.

(2) On an annual basis the Board shall—

(A) review the Secretary's solicitation and selection of research proposals and make recommendations as to how

each such activity can be altered so as to better achieve the purposes of this Act; and

(B) review the research activities of each selected applicant, and the selected applicant's management plan, and report its findings and recommendations to the Secretary. Reports.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS. 15 USC 5307.

There are authorized to be appropriated to the Secretary for carrying out this Act $5,000,000 for each of the fiscal years 1991, 1992, and 1993.

SEC. 9. PROTECTION OF PROPRIETARY RIGHTS. 15 USC 5308.

(a) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a company as a result of activities under this Act shall be disclosed.

(b) COMMERCIAL INFORMATION.—The Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this Act; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a company,

may provide appropriate protection against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(c) PATENT RIGHTS.—With respect to patent rights, the Institutes shall be treated in the same manner as are nonprofit organizations and small business firms under chapter 18 of title 35, United States Code, notwithstanding any provisions to the contrary contained in that chapter.

SEC. 10. REPORTING. 15 USC 5309.

At the time the President's annual budget request for the Department is submitted, the Secretary shall provide to Congress a detailed review of the progress of the research and development activities authorized under this Act.

Approved October 15, 1990.

LEGISLATIVE HISTORY—H.R. 1243:

HOUSE REPORTS: No. 101-410 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 101-258 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 6, considered and passed House.
Apr. 3, considered and passed Senate, amended.
Sept. 24, House agreed to Senate amendment with amendments.
Sept. 28, Senate concurred in House amendments.

Public Law 101-426
101st Congress

An Act

Oct. 15, 1990
[H.R. 2372]

To provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Radiation Exposure Compensation Act.
State listing.
42 USC 2210 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation Exposure Compensation Act".

42 USC 2210 note.

SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) fallout emitted during the Government's above-ground nuclear tests in Nevada exposed individuals who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that is presumed to have generated an excess of cancers among these individuals;

(2) the health of the individuals who were unwitting participants in these tests was put at risk to serve the national security interests of the United States;

(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

(5) the Congress recognizes that the lives and health of uranium miners and of innocent individuals who lived downwind from the Nevada tests were involuntarily subjected to increased risk of injury and disease to serve the national security interests of the United States.

(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

42 USC 2210 note.

SEC. 3. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the "Radiation Exposure Compensation Trust Fund" (hereinafter in this Act referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United

States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 22 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $100,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 4. CLAIMS RELATING TO OPEN AIR NUCLEAR TESTING.

42 USC 2210 note.

(a)(1) CLAIMS RELATING TO CHILDHOOD LEUKEMIA.—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence and between 2 and 30 years of first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive $50,000 if—

(A) initial exposure occurred prior to age 21,

(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence, contracted a specified disease, shall receive $50,000 if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section, the term—

(1) "affected area" means—

(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, and Piute;

(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

(C) that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

(2) "specified disease" means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was between 2 and 30 years of first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of: the thyroid (provided initial exposure occurred by the age of 20), female breast (provided initial exposure occurred prior to age 40), esophagus (provided low alcohol consumption and not a heavy smoker), stomach (provided initial exposure occurred before age 30), pharynx (provided not a heavy smoker), small intestine, pancreas (provided not a heavy smoker and low coffee consumption), bile ducts, gall bladder, or liver (except if cirrhosis or hepatitis B is indicated).

State listing.
42 USC 2210 note.

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) ELIGIBILITY OF INDIVIDUALS.—Any individual who was employed in a uranium mine located in Colorado, New Mexico, Arizona, Wyoming, or Utah at any time during the period beginning on January 1, 1947, and ending on December 31, 1971, and who, in the course of such employment—

(1)(A) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed lung cancer, or

(B) if a smoker, was exposed to 300 or more working level months of radiation and cancer incidence occurred before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of cancer incidence, and submits written medical documentation that he or she, after such exposure, developed lung cancer; or

(2)(A) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, or

(B) if a smoker, was exposed to 300 or more working level months of radiation and the nonmalignant respiratory disease developed before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of disease incidence, and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease,

shall receive $100,000, if—

(1) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(2) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "working level month of radiation" means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

(2) the term "working level" means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

(3) the term "nonmalignant respiratory disease" means fibrosis of the lung, pulmonary fibrosis, and corpulmonale related to fibrosis of the lung; and if the claimant, whether Indian or non-Indian, worked in an uranium mine located on or within an Indian Reservation, the term shall also include moderate or severe silicosis or pneumoconiosis; and

(4) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians.

SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

42 USC 2210 note.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act.

(b) DETERMINATION OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act.

(2) CONSULTATION.—The Attorney General shall—

(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted a specified disease under section 4 or other disease specified in section 5; and

(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5.

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), and with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B).

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act which the Attorney General determines meet the requirements of this Act.

(2) OFFSET FOR CERTAIN PAYMENTS.—A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4 or 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

(A) exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period specified in section 4(a), or

(B) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

Uranium. Mine safety and health.

(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the "spouse" of an individual means a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a "parent" includes fathers and mothers through adoption;

(iv) a "grandchild" of an individual is a child of a child of that individual; and

(v) a "grandparent" of an individual is a parent of a parent of that individual.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this

section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period described in section 4(a), or exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES. 42 USC 2210 note.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

(b) CHOICE OF REMEDIES.—No individual may receive payment under both sections 4 and 5 of this Act.

SEC. 8. LIMITATIONS ON CLAIMS. 42 USC 2210 note.

A claim to which this Act applies shall be barred unless the claim is filed within 20 years after the date of the enactment of this Act.

SEC. 9. ATTORNEY FEES. 42 USC 2210 note.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 10 per centum of a payment made under this Act on such claim. Any such representative who violates this section shall be fined not more than $5,000.

SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES. 42 USC 2210 note.

A payment made under this Act shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensa-

tion payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

42 USC 2210 note.

SEC. 11. BUDGET ACT.

No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

42 USC 2210 note.

SEC. 12. REPORT.

(a) The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

(b) Such report shall be completed not later than September 30, 1992.

Approved October 15, 1990.

LEGISLATIVE HISTORY—H.R. 2372:

HOUSE REPORTS: No. 101-463 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Aug. 1, considered and passed Senate, amended.
Sept. 27, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 15, Presidential statement.

Public Law 101-427
101st Congress

An Act

To redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways.

Oct. 15, 1990
[S. 2806]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That—

23 USC 101 note.

(a) notwithstanding any other provision of law, The National System of Interstate and Defense Highways shall be redesignated as "The Dwight D. Eisenhower System of Interstate and Defense Highways"; and

(b) any reference before the date of enactment of this Act in any provision of law, regulation, map, sign, or otherwise to The National System of Interstate and Defense Highways shall be deemed to refer, on and after such date, to The Dwight D. Eisenhower System of Interstate and Defense Highways.

Approved October 15, 1990.

LEGISLATIVE HISTORY—S. 2806:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 4, considered and passed Senate.
Oct. 10, considered and passed House.

49-139 O - 90 (427)

39-194 O - 91 - 31 : QL 3 Part 1

Public Law 101-428
101st Congress

An Act

Oct. 15, 1990
[H.R. 5641]

To amend title 5, United States Code, with respect to retirement of members of the Capitol Police.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Capitol Police Retirement Act.
5 USC 8331 note.

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Capitol Police Retirement Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 5, United States Code.

SEC. 2. AMENDMENTS TO CHAPTER 83.

(a) IMMEDIATE RETIREMENT.—Section 8336 is amended by redesignating subsection (m) as subsection (n) and inserting after subsection (l) the following new subsection:

"(m) A member of the Capitol Police who is separated from the service after becoming 50 years of age and completing 20 years of service as a member of the Capitol Police or as a law enforcement officer, or any combination of such service totaling at least 20 years, is entitled to an annuity.".

(b) MANDATORY SEPARATION.—(1)(A) Section 8335 is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d) A member of the Capitol Police who is otherwise eligible for immediate retirement under section 8336(m) shall be separated from the service on the last day of the month in which such member becomes 55 years of age or completes 20 years of service if then over that age. The Capitol Police Board, when in its judgment the public interest so requires, may exempt such a member from automatic separation under this subsection until that member becomes 60 years of age. The Board shall notify the member in writing of the date of separation at least 60 days in advance thereof. Action to separate the member is not effective, without the consent of the member, until the last day of the month in which the 60-day notice expires.".

Effective date.
5 USC 8335 note.

(B) The amendment made by subparagraph (A) shall take effect 2 years after the date of enactment of this Act.

(2) Section 8335(e), as so redesignated by paragraph (1)(A), is amended by inserting "(other than a member of the Capitol Police)" after "employee".

(c) COMPUTATION.—(1) Section 8339 is amended by adding at the end the following new subsection:

"(q) The annuity of a member of the Capitol Police, or former member of the Capitol Police, retiring under this subchapter is computed in accordance with subsection (b), except that, in the case

of a member who retires under section 8335(d) or 8336(m), and who meets the requirements of subsection (b)(2), the annuity of such member is—

"(1) 2½ percent of the member's average pay multiplied by so much of such member's total service as does not exceed 20 years; plus

"(2) 2 percent of the member's average pay multiplied by so much of such member's total service as exceeds 20 years.".

(2)(A) The amendment made by paragraph (1) shall take effect 4 years after the date of enactment of this Act, and shall apply with respect to any annuity, entitlement to which is based on a separation occurring on or after that effective date, subject to subparagraph (B). Effective date. 5 USC 8339 note.

(B) Nothing in this subsection or in the amendment made by this subsection shall, with respect to any service performed before the effective date of such amendment, have the effect of reducing the percentage applicable in computing any portion of an annuity based on such service below the percentage which would otherwise apply if this Act had not been enacted.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 8337(a) is amended in the last sentence by striking "8339(a)-(e) or (n)" and inserting "8339(a)-(e), (n), or (q)".

(2) Subsections (f) and (m) of section 8339 are each amended by striking "(a)-(e) and (n)" and inserting "(a)-(e), (n), and (q)".

(3) Section 8339(g) is amended—

(A) in paragraph (2), by striking "(a)-(c) or (n)" and inserting "(a)-(c), (n), or (q)"; and

(B) in the matter following paragraph (2), by striking "(c), or (n)" each place it appears and inserting "(c), (n), or (q)".

(4) Section 8339(i) is amended by striking "(a)-(h) and (n)" and inserting "(a)-(h), (n), and (q)".

(5) Sections 8339(j), 8339(k)(1), and 8343a are each amended by striking "(a)-(i) and (n)" each place it appears and inserting "(a)-(i), (n), and (q)".

(6) Section 8339(l) is amended by striking "(a)-(k) and (n)" and inserting "(a)-(k), (n), and (q)".

(7) Subsections (b)(1) and (d) of section 8341 are each amended by striking "(n), and (o)" and inserting "(n), (o), and (q)".

(8) Section 8344(a)(A) is amended by striking "(i), and (n)" and inserting "(i), (n), and (q)".

SEC. 3. AMENDMENTS TO CHAPTER 84.

(a) IMMEDIATE RETIREMENT.—Section 8412(d) is amended by striking "officer" each place it appears and inserting "officer, member of the Capitol Police,".

(b) MANDATORY SEPARATION.—(1)(A) Section 8425(b) is amended by striking "officer" each place it appears and inserting "officer, member of the Capitol Police,".

(B) Nothing in section 8425(b) of title 5, United States Code, as amended by subparagraph (A), shall require the automatic separation of any member of the Capitol Police before the end of the 2-year period beginning on the date of enactment of this Act. 5 USC 8425 note.

(2) Section 8425(c) is amended by inserting "(other than a member of the Capitol Police)" after "employee".

Approved October 15, 1990.

LEGISLATIVE HISTORY—H.R. 5641:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 101-429
101st Congress

An Act

To amend the Federal securities laws in order to provide additional enforcement remedies for violations of those laws and to eliminate abuses in transactions in penny stocks, and for other purposes.

Oct. 15, 1990
[S. 647]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Securities Enforcement Remedies and Penny Stock Reform Act of 1990.
Brokers.
Investment companies.
Fraud.
15 USC 78a note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; EFFECTIVE DATE.

(a) SHORT TITLE.—This Act may be cited as the "Securities Enforcement Remedies and Penny Stock Reform Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents; effective dates.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

Sec. 101. Authority of a court to impose money penalties and to prohibit persons from serving as officers and directors.
Sec. 102. Cease-and-desist authority.

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

Sec. 201. Enforcement of title.
Sec. 202. Civil remedies in administrative proceedings.
Sec. 203. Cease-and-desist authority.
Sec. 204. Procedural rules for cease-and-desist proceedings.
Sec. 205. Conforming amendments to section 15B.
Sec. 206. Signature guarantees.

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

Sec. 301. Civil remedies in administrative proceedings.
Sec. 302. Money penalties in civil actions.

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

Sec. 401. Civil remedies in administrative proceedings.
Sec. 402. Money penalties in civil actions.
Sec. 403. Conforming amendment to section 214.

TITLE V—PENNY STOCK REFORM

Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Definition of penny stock.
Sec. 504. Expansion of section 15(b) sanction authority with respect to penny stocks.
Sec. 505. Requirements for brokers and dealers of penny stocks.
Sec. 506. Development of automated quotation systems for penny stocks.
Sec. 507. Voidability of contracts in violation of section 15(c)(2).
Sec. 508. Restrictions on blank check offerings.
Sec. 509. Broker/dealer disciplinary history.
Sec. 510. Review of regulatory structures and procedures.

(c) EFFECTIVE DATES.— 15 USC 77g note.

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this Act shall be effective upon enactment.

(2) CIVIL PENALTIES.—

(A) IN GENERAL.—No civil penalty may be imposed pursuant to the amendments made by this Act on the basis of conduct occurring before the date of enactment of this Act.

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(B) ACCOUNTING AND DISGORGEMENT.—Subparagraph (A) shall not operate to preclude the Securities and Exchange Commission from ordering an accounting or disgorgement pursuant to the amendments made by this Act.

(3) SPECIAL RULES FOR TITLE V.—

(A) SECTIONS 503 AND 504.—Except as provided in subparagraph (C), sections 503 and 504 shall be effective 12 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such section, whichever is earlier.

(B) SECTIONS 505 AND 508.—Except as provided in subparagraph (C), sections 505 and 508 shall be effective 18 months after the date of enactment of this Act or upon the issuance of final regulations initially implementing such sections, whichever is earlier.

(C) COMMENCEMENT OF RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Commission shall commence rulemaking proceedings to implement sections 503, 505, and 508.

TITLE I—AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 101. AUTHORITY OF A COURT TO IMPOSE MONEY PENALTIES AND TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.

Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end thereof the following new subsections:

"(d) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 8A of this title, other than by committing a violation subject to a penalty pursuant to section 21A of the Securities Exchange Act of 1934, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 22 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 8A, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with such an order, each day of the failure to comply with the order shall be deemed a separate offense.

"(e) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under subsection (b), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 17(a)(1) of this title from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934 or that is required to file reports pursuant to section 15(d) of such Act if the person's conduct demonstrates substantial unfitness to serve as an officer or director of any such issuer.".

SEC. 102. CEASE-AND-DESIST AUTHORITY.

The Securities Act of 1933 (15 U.S.C. 77 et seq.) is amended by inserting after section 8 the following:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 8A. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may 15 USC 77h-1.

publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceeding. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respond-

ent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 9(a) of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

TITLE II—AMENDMENTS TO THE SECURITIES EXCHANGE ACT OF 1934

SEC. 201. ENFORCEMENT OF TITLE.

Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended—

(1) by redesignating subsection (d) as subsection (d)(1);

(2) by inserting after subsection (d)(1) the following new paragraphs:

"(2) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS AND DIRECTORS.—In any proceeding under paragraph (1) of this subsection, the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who violated section 10(b) of this title or the rules or regulations thereunder from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of this title or that is required to file reports pursuant to section 15(d) of this title if the person's conduct demonstrates

substantial unfitness to serve as an officer or director of any such issuer.

"(3) MONEY PENALTIES IN CIVIL ACTIONS.—

Courts.

"(A) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 21C of this title, other than by committing a violation subject to a penalty pursuant to section 21A, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(B) AMOUNT OF PENALTY.—

"(i) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (I) $5,000 for a natural person or $50,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(ii) SECOND TIER.—Notwithstanding clause (i), the amount of penalty for each such violation shall not exceed the greater of (I) $50,000 for a natural person or $250,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(iii) THIRD TIER.—Notwithstanding clauses (i) and (ii), the amount of penalty for each such violation shall not exceed the greater of (I) $100,000 for a natural person or $500,000 for any other person, or (II) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(aa) the violation described in subparagraph (A) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(bb) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(C) PROCEDURES FOR COLLECTION.—

"(i) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(ii) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(iii) REMEDY NOT EXCLUSIVE.—The actions authorized by this paragraph may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(iv) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(D) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 21C, each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 202. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

(a) The Securities Exchange Act of 1934 is amended by inserting after section 21A (15 U.S.C. 78u-1) the following:

"CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS

"SEC. 21B. (a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding instituted pursuant to sections 15(b)(4), 15(b)(6), 15B, 15C, or 17A of this title against any person, the Commission or the appropriate regulatory agency may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person— 15 USC 78u-2.

"(1) has willfully violated any provision of the Securities Act of 1933, the Investment Company Act of 1940, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder, or the rules of the Municipal Securities Rulemaking Board;

"(2) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(3) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission or with any other appropriate regulatory agency under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which is required to be stated therein; or

"(4) has failed reasonably to supervise, within the meaning of section 15(b)(4)(E) of this title, with a view to preventing violations of the provisions of such statutes, rules and regulations, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(b) MAXIMUM AMOUNT OF PENALTY.—

"(1) FIRST TIER.—The maximum amount of penalty for each act or omission described in subsection (a) shall be $5,000 for a natural person or $50,000 for any other person.

"(2) SECOND TIER.—Notwithstanding paragraph (1), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(3) THIRD TIER.—Notwithstanding paragraphs (1) and (2), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(A) the act or omission described in subsection (a) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(B) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(c) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission or the appropriate regulatory agency may consider—

"(1) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(2) the harm to other persons resulting either directly or indirectly from such act or omission;

"(3) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(4) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 15(b)(4)(B) of this title;

"(5) the need to deter such person and other persons from committing such acts or omissions; and

"(6) such other matters as justice may require.

"(d) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission or the appropriate regulatory agency may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission or the appropriate regulatory agency may impose a penalty under this section, the Commission or the appropriate regulatory agency may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

(b) CONFORMING AMENDMENT.—The heading of section 21A of this title (15 U.S.C. 78u-1) is amended to read as follows:

"CIVIL PENALTIES FOR INSIDER TRADING".

SEC. 203. CEASE-AND-DESIST AUTHORITY.

The Securities and Exchange Act of 1934 is amended by adding after section 21B (as added by section 202 of this Act) the following new section:

"CEASE-AND-DESIST PROCEEDINGS

"SEC. 21C. (a) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person. 15 USC 78u-3.

"(b) HEARING.—The notice instituting proceedings pursuant to subsection (a) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(c) TEMPORARY ORDER.—

"(1) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to subsection (a), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(2) APPLICABILITY.—This subsection shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(d) REVIEW OF TEMPORARY ORDERS.—

"(1) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to subsection (c), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(2) JUDICIAL REVIEW.—Within—

"(A) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(B) 10 days after the Commission renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under paragraph (1) of this subsection.

"(3) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(4) EXCLUSIVE REVIEW.—Section 25 of this title shall not apply to a temporary order entered pursuant to this section.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (a), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 204. PROCEDURAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.

Section 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78w) is amended by adding at the end thereof the following new subsection:

Regulations.

"(d) CEASE-AND-DESIST PROCEDURES.—Within 1 year after the date of enactment of this subsection, the Commission shall establish

regulations providing for the expeditious conduct of hearings and rendering of decisions under section 21C of this title, section 8A of the Securities Act of 1933, section 9(f) of the Investment Company Act of 1940, and section 203(k) of the Investment Advisers Act of 1940.".

SEC. 205. CONFORMING AMENDMENTS TO SECTION 15B.

Section 15B(c)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)(6)(A)) is amended—

(1) by striking "and the nature" and inserting ", the nature"; and

(2) by striking "proposed action and" and inserting "proposed action, and whether the Commission is seeking a monetary penalty against such municipal securities dealer or such associated person pursuant to section 21B of this title; and ".

SEC. 206. SIGNATURE GUARANTEES.

Section 17A(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-9(d)(4)) is amended by adding at the end the following: 15 USC 78q-1.

"(5) A registered transfer agent may not, directly or indirectly, engage in any activity in connection with the guarantee of a signature of an endorser of a security, including the acceptance or rejection of such guarantee, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest, for the protection of investors, to facilitate the equitable treatment of financial institutions which issue such guarantees, or otherwise in furtherance of the purposes of this title.".

TITLE III—AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 301. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 9 of the Investment Company Act of 1940 (15 U.S.C. 80a-9) is amended—

(1) by redesignating subsection (d) as subsection (g);

(2) by inserting after subsection (c) the following new subsections:

"(d) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (b) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person; or

"(C) has willfully made or caused to be made in any registration statement, application, or report required to be filed with the Commission under this title, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect

to any material fact, or has omitted to state in any such registration statement, application, or report any material fact which was required to be stated therein;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of the Investment Advisers Act of 1940;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the

collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(e) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(f) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceeding, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 40(a) of this title, determines that notice and hearing prior to entry would be impractica-

ble or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 43 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under subsection (f)(1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of

interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection."; and

(3) in redesignated subsection (g), by striking "subsections (a) through (c) of".

SEC. 302. MONEY PENALTIES IN CIVIL ACTIONS.

Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 9(f) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 44 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 9(f), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

TITLE IV—AMENDMENTS TO THE INVESTMENT ADVISERS ACT OF 1940

SEC. 401. CIVIL REMEDIES IN ADMINISTRATIVE PROCEEDINGS.

Section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3) is amended by adding at the end thereof the following new subsections:

"(i) MONEY PENALTIES IN ADMINISTRATIVE PROCEEDINGS.—

"(1) AUTHORITY OF COMMISSION.—In any proceeding instituted pursuant to subsection (e) or (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

"(A) has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Company Act of 1940, or this title, or the rules or regulations thereunder;

"(B) has willfully aided, abetted, counseled, commanded, induced, or procured such a violation by any other person;

"(C) has willfully made or caused to be made in any application for registration or report required to be filed with the Commission under this title, or in any proceeding before the Commission with respect to registration, any statement which was, at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application or report any material fact which was required to be stated therein; or

"(D) has failed reasonably to supervise, within the meaning of section 203(e)(5) of this title, with a view to preventing violations of the provisions of this title and the rules and regulations thereunder, another person who commits such a violation, if such other person is subject to his supervision;

and that such penalty is in the public interest.

"(2) MAXIMUM AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $5,000 for a natural person or $50,000 for any other person.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the maximum amount of penalty for each such act or

omission shall be $50,000 for a natural person or $250,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $100,000 for a natural person or $500,000 for any other person if—

"(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

"(3) DETERMINATION OF PUBLIC INTEREST.—In considering under this section whether a penalty is in the public interest, the Commission may consider—

"(A) whether the act or omission for which such penalty is assessed involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement;

"(B) the harm to other persons resulting either directly or indirectly from such act or omission;

"(C) the extent to which any person was unjustly enriched, taking into account any restitution made to persons injured by such behavior;

"(D) whether such person previously has been found by the Commission, another appropriate regulatory agency, or a self-regulatory organization to have violated the Federal securities laws, State securities laws, or the rules of a self-regulatory organization, has been enjoined by a court of competent jurisdiction from violations of such laws or rules, or has been convicted by a court of competent jurisdiction of violations of such laws or of any felony or misdemeanor described in section 203(e)(2) of this title;

"(E) the need to deter such person and other persons from committing such acts or omissions; and

"(F) such other matters as justice may require.

"(4) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.

"(j) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any proceeding in which the Commission may impose a penalty under this section, the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.

"(k) CEASE-AND-DESIST PROCEEDINGS.—

"(1) AUTHORITY OF THE COMMISSION.—If the Commission finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any rule or regulation thereunder, the Commission may publish its findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision, rule, or regulation, upon such terms and conditions and within such time as the Commission may specify in such order. Any such order may, as the Commission deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Commission may specify, with such provision, rule, or regulation with respect to any security, any issuer, or any other person.

"(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Commission with the consent of any respondent so served.

"(3) TEMPORARY ORDER.—

"(A) IN GENERAL.—Whenever the Commission determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest, including, but not limited to, losses to the Securities Investor Protection Corporation, prior to the completion of the proceedings, the Commission may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to investors, or substantial harm to the public interest as the Commission deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Commission, notwithstanding section 211(c) of this title, determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Commission or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

"(B) APPLICABILITY.—This paragraph shall apply only to a respondent that acts, or, at the time of the alleged misconduct acted, as a broker, dealer, investment adviser, investment company, municipal securities dealer, government securities broker, government securities dealer, or

transfer agent, or is, or was at the time of the alleged misconduct, an associated person of, or a person seeking to become associated with, any of the foregoing.

"(4) REVIEW OF TEMPORARY ORDERS.—

"(A) COMMISSION REVIEW.—At any time after the respondent has been served with a temporary cease-and-desist order pursuant to paragraph (3), the respondent may apply to the Commission to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease-and-desist order entered without a prior Commission hearing, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Commission shall hold a hearing and render a decision on such application at the earliest possible time.

"(B) JUDICIAL REVIEW.—Within—

"(i) 10 days after the date the respondent was served with a temporary cease-and-desist order entered with a prior Commission hearing, or

"(ii) 10 days after the Commission renders a decision on an application and hearing under subparagraph (A), with respect to any temporary cease-and-desist order entered without a prior Commission hearing,

the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease-and-desist order entered without a prior Commission hearing may not apply to the court except after hearing and decision by the Commission on the respondent's application under subparagraph (A) of this paragraph.

"(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—The commencement of proceedings under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

"(D) EXCLUSIVE REVIEW.—Section 213 of this title shall not apply to a temporary order entered pursuant to this section.

"(5) AUTHORITY TO ENTER AN ORDER REQUIRING AN ACCOUNTING AND DISGORGEMENT.—In any cease-and-desist proceeding under paragraph (1), the Commission may enter an order requiring accounting and disgorgement, including reasonable interest. The Commission is authorized to adopt rules, regulations, and orders concerning payments to investors, rates of interest, periods of accrual, and such other matters as it deems appropriate to implement this subsection.".

SEC. 402. MONEY PENALTIES IN CIVIL ACTIONS.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended by adding at the end thereof the following new subsection:

"(e) MONEY PENALTIES IN CIVIL ACTIONS.—

"(1) AUTHORITY OF COMMISSION.—Whenever it shall appear to the Commission that any person has violated any provision of

this title, the rules or regulations thereunder, or a cease-and-desist order entered by the Commission pursuant to section 203(k) of this title, the Commission may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, upon a proper showing, a civil penalty to be paid by the person who committed such violation.

"(2) AMOUNT OF PENALTY.—

"(A) FIRST TIER.—The amount of the penalty shall be determined by the court in light of the facts and circumstances. For each violation, the amount of the penalty shall not exceed the greater of (i) $5,000 for a natural person or $50,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation.

"(B) SECOND TIER.—Notwithstanding subparagraph (A), the amount of penalty for each such violation shall not exceed the greater of (i) $50,000 for a natural person or $250,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

"(C) THIRD TIER.—Notwithstanding subparagraphs (A) and (B), the amount of penalty for each such violation shall not exceed the greater of (i) $100,000 for a natural person or $500,000 for any other person, or (ii) the gross amount of pecuniary gain to such defendant as a result of the violation, if—

"(I) the violation described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

"(II) such violation directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons.

"(3) PROCEDURES FOR COLLECTION.—

"(A) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall be payable into the Treasury of the United States.

"(B) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(C) REMEDY NOT EXCLUSIVE.—The actions authorized by this subsection may be brought in addition to any other action that the Commission or the Attorney General is entitled to bring.

"(D) JURISDICTION AND VENUE.—For purposes of section 214 of this title, actions under this paragraph shall be actions to enforce a liability or a duty created by this title.

"(4) SPECIAL PROVISIONS RELATING TO A VIOLATION OF A CEASE-AND-DESIST ORDER.—In an action to enforce a cease-and-desist order entered by the Commission pursuant to section 203(k), each separate violation of such order shall be a separate offense, except that in the case of a violation through a continuing

failure to comply with the order, each day of the failure to comply shall be deemed a separate offense.".

SEC. 403. CONFORMING AMENDMENT TO SECTION 214.

Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-14) is amended—

(1) by inserting after "all suits in equity" the following: "and actions at law brought to enforce any liability or duty created by, or"; and

(2) by inserting after "Any suit or action" the following: "to enforce any liability or duty created by, or".

TITLE V—PENNY STOCK REFORM

Penny Stock Reform Act of 1990.

SEC. 501. SHORT TITLE.

15 USC 78a note.

This title may be cited as the "Penny Stock Reform Act of 1990".

SEC. 502. FINDINGS.

15 USC 78o note.

The Congress finds the following:

(1) The maintenance of an honest and healthy primary and secondary market for securities offerings is essential to enhancing long-term capital formation and economic growth and providing legitimate investment opportunities for individuals and institutions.

(2) Protecting investors in new securities is a critical component in the maintenance of an honest and healthy market for such securities.

(3) Protecting issuers of new securities and promoting the capital formation process on behalf of small companies are fundamental concerns in maintaining a strong economy and viable trading markets.

(4) Unscrupulous market practices and market participants have pervaded the "penny stock" market with an overwhelming amount of fraud and abuse.

(5) Although the Securities and Exchange Commission, State securities regulators, and securities self-regulators have made efforts to curb these abusive and harmful practices, the penny stock market still lacks an adequate and sufficient regulatory structure, particularly in comparison to the structure for overseeing trading in National Market System securities.

(6) Investors in the penny stock market suffer from a serious lack of adequate information concerning price and volume of penny stock transactions, the nature of this market, and the specific securities in which they are investing.

(7) Current practices do not adequately regulate the role of "promoters" and "consultants" in the penny stock market, and many professionals who have been banned from the securities markets have ended up in promoter and consultant roles, contributing substantially to fraudulent and abusive schemes.

(8) The present regulatory environment has permitted the ascendancy of the use of particular market practices, such as "reverse mergers" with shell corporations and "blank check" offerings, which are used to facilitate manipulation schemes and harm investors.

(9) In light of the substantial and continuing problems in the penny stock markets, additional legislative measures are necessary and appropriate.

SEC. 503. DEFINITION OF PENNY STOCK.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

Regulations.

"(51)(A) The term 'penny stock' means any equity security other than a security that is—

"(i) registered or approved for registration and traded on a national securities exchange that meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(ii) authorized for quotation on an automated quotation system sponsored by a registered securities association, if such system (I) was established and in operation before January 1, 1990, and (II) meets such criteria as the Commission shall prescribe by rule or regulation for purposes of this paragraph;

"(iii) issued by an investment company registered under the Investment Company Act of 1940;

"(iv) excluded, on the basis of exceeding a minimum price, net tangible assets of the issuer, or other relevant criteria, from the definition of such term by rule or regulation which the Commission shall prescribe for purposes of this paragraph; or

"(v) exempted, in whole or in part, conditionally or unconditionally, from the definition of such term by rule, regulation, or order prescribed by the Commission.

"(B) The Commission may, by rule, regulation, or order, designate any equity security or class of equity securities described in clause (i) or (ii) of subparagraph (A) as within the meaning of the term 'penny stock' if such security or class of securities is traded other than on a national securities exchange or through an automated quotation system described in clause (ii) of subparagraph (A).

"(C) In exercising its authority under this paragraph to prescribe rules, regulations, and orders, the Commission shall determine that such rule, regulation, or order is consistent with the public interest and the protection of investors.".

SEC. 504. EXPANSION OF SECTION 15(b) SANCTION AUTHORITY WITH RESPECT TO PENNY STOCKS.

(a) AMENDMENT.—Section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)) is amended to read as follows:

"(6)(A) With respect to any person who is associated, who is seeking to become associated, or, at the time of the alleged misconduct, who was associated or was seeking to become associated with a broker or dealer, or any person participating, or, at the time of the alleged misconduct, who was participating, in an offering of any penny stock, the Commission, by order, shall censure, place limitations on the activities or functions of such person, or suspend for a period not exceeding 12 months, or bar such person from being associated with a broker or dealer, or from participating in an offering of penny stock, if the Commission finds, on the record after notice and opportunity for a hearing, that such censure, placing of

limitations, suspension, or bar is in the public interest and that such person—

"(i) has committed or omitted any act or omission enumerated in subparagraph (A), (D), or (E) of paragraph (4) of this subsection;

"(ii) has been convicted of any offense specified in subparagraph (B) of such paragraph (4) within 10 years of the commencement of the proceedings under this paragraph; or

"(iii) is enjoined from any action, conduct, or practice specified in subparagraph (C) of such paragraph (4).

"(B) It shall be unlawful—

"(i) for any person as to whom an order under subparagraph (A) is in effect, without the consent of the Commission, willfully to become, or to be, associated with a broker or dealer in contravention of such order, or to participate in an offering of penny stock in contravention of such order;

"(ii) for any broker or dealer to permit such a person, without the consent of the Commission, to become or remain, a person associated with the broker or dealer in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order; or

"(iii) for any broker or dealer to permit such a person, without the consent of the Commission, to participate in an offering of penny stock in contravention of such order, if such broker or dealer knew, or in the exercise of reasonable care should have known, of such order and of such participation.

"(C) For purposes of this paragraph, the term 'person participating in an offering of penny stock' includes any person acting as any promoter, finder, consultant, agent, or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from such term.".

(b) RECOMMENDATIONS.—Within 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to each House of the Congress such recommendations as the Commission considers appropriate with respect to further revision of section 15(b)(6) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)). In preparing such recommendations, the Commission shall consider the desirability and effect of expanding the applicability of such section to any promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer, or issuer for purposes of the issuance of or trading in, or inducing or attempting to induce the purchase or sale of, any security (and not just penny stock). 15 USC 78o note.

SEC. 505. REQUIREMENTS FOR BROKERS AND DEALERS OF PENNY STOCKS.

Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(g) REQUIREMENTS FOR TRANSACTIONS IN PENNY STOCKS.—

"(1) IN GENERAL.—No broker or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce

the purchase or sale of, any penny stock by any customer except in accordance with the requirements of this subsection and the rules and regulations prescribed under this subsection.

"(2) RISK DISCLOSURE WITH RESPECT TO PENNY STOCKS.—Prior to effecting any transaction in any penny stock, a broker or dealer shall give the customer a risk disclosure document that—

"(A) contains a description of the nature and level of risk in the market for penny stocks in both public offerings and secondary trading;

"(B) contains a description of the broker's or dealer's duties to the customer and of the rights and remedies available to the customer with respect to violations of such duties or other requirements of Federal securities laws;

"(C) contains a brief, clear, narrative description of a dealer market, including 'bid' and 'ask' prices for penny stocks and the significance of the spread between the bid and ask prices;

"(D) contains the toll free telephone number for inquiries on disciplinary actions established pursuant to section 15A(i) of this title;

"(E) defines significant terms used in the disclosure document or in the conduct of trading in penny stocks; and

"(F) contains such other information, and is in such form (including language, type size, and format), as the Commission shall require by rule or regulation.

"(3) COMMISSION RULES RELATING TO DISCLOSURE.—The Commission shall adopt rules setting forth additional standards for the disclosure by brokers and dealers to customers of information concerning transactions in penny stocks. Such rules—

"(A) shall require brokers and dealers to disclose to each customer, prior to effecting any transaction in, and at the time of confirming any transaction with respect to any penny stock, in accordance with such procedures and methods as the Commission may require consistent with the public interest and the protection of investors—

"(i) the bid and ask prices for penny stock, or such other information as the Commission may, by rule, require to provide customers with more useful and reliable information relating to the price of such stock;

"(ii) the number of shares to which such bid and ask prices apply, or other comparable information relating to the depth and liquidity of the market for such stock; and

"(iii) the amount and a description of any compensation that the broker or dealer and the associated person thereof will receive or has received in connection with such transaction;

"(B) shall require brokers and dealers to provide, to each customer whose account with the broker or dealer contains penny stocks, a monthly statement indicating the market value of the penny stocks in that account or indicating that the market value of such stock cannot be determined because of the unavailability of firm quotes; and

"(C) may, as the Commission finds necessary or appropriate in the public interest or for the protection of investors, require brokers and dealers to disclose to customers

additional information concerning transactions in penny stocks.

"(4) EXEMPTIONS.—The Commission, as it determines consistent with the public interest and the protection of investors, may by rule, regulation, or order exempt in whole or in part, conditionally or unconditionally, any person or class of persons, or any transaction or class of transactions, from the requirements of this subsection. Such exemptions shall include an exemption for brokers and dealers based on the minimal percentage of the broker's or dealer's commissions, commission-equivalents, and markups received from transactions in penny stocks.

"(5) REGULATIONS.—It shall be unlawful for any person to violate such rules and regulations as the Commission shall prescribe in the public interest or for the protection of investors or to maintain fair and orderly markets—

"(A) as necessary or appropriate to carry out this subsection; or

"(B) as reasonably designed to prevent fraudulent, deceptive, or manipulative acts and practices with respect to penny stocks.".

SEC. 506. DEVELOPMENT OF AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS.

The Securities Exchange Act of 1934 is amended by inserting after section 17A the following new section:

"AUTOMATED QUOTATION SYSTEMS FOR PENNY STOCKS

"SEC. 17B. (a) FINDINGS.—The Congress finds that— 15 USC 78q-2.

"(1) the market for penny stocks suffers from a lack of reliable and accurate quotation and last sale information available to investors and regulators;

"(2) it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to improve significantly the information available to brokers, dealers, investors, and regulators with respect to quotations for and transactions in penny stocks; and

"(3) a fully implemented automated quotation system for penny stocks would meet the information needs of investors and market participants and would add visibility and regulatory and surveillance data to that market.

"(b) MANDATE TO FACILITATE THE ESTABLISHMENT OF AUTOMATED QUOTATION SYSTEMS.—

"(1) IN GENERAL.—The Commission shall facilitate the widespread dissemination of reliable and accurate last sale and quotation information with respect to penny stocks in accordance with the findings set forth in subsection (a), with a view toward establishing, at the earliest feasible time, one or more automated quotation systems that will collect and disseminate information regarding all penny stocks.

"(2) CHARACTERISTICS OF SYSTEMS.—Each such automated quotation system shall—

"(A) be operated by a registered securities association or a national securities exchange in accordance with such rules as the Commission and these entities shall prescribe;

"(B) collect and disseminate quotation and transaction information;

"(C) except as provided in subsection (c), provide bid and ask quotations of participating brokers or dealers, or comparably accurate and reliable pricing information, which shall constitute firm bids or offers for at least such minimum numbers of shares or minimum dollar amounts as the Commission and the registered securities association or national securities exchange shall require; and

"(D) provide for the reporting of the volume of penny stock transactions, including last sale reporting, when the volume reaches appropriate levels that the Commission shall specify by rule or order.

"(c) EXEMPTIVE AUTHORITY.—The Commission may, by rule or order, grant such exemptions, in whole or in part, conditionally or unconditionally, to any penny stock or class of penny stocks from the requirements of subsection (b) as the Commission determines to be consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets.

"(d) COMMISSION REPORTING REQUIREMENTS.—The Commission shall, in each of the first 5 annual reports (under section 23(b)(1) of this title) submitted more than 12 months after the date of enactment of this section, include a description of the status of the penny stock automated quotation system or systems required by subsection (b). Such description shall include—

"(1) a review of the development, implementation, and progress of the project, including achievement of significant milestones and current project schedule; and

"(2) a review of the activities of registered securities associations and national securities exchanges in the development of the system.".

SEC. 507. VOIDABILITY OF CONTRACTS IN VIOLATION OF SECTION 15(c)(2).

Section 29(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78cc(b)) is amended—

(1) in clause (A), by striking "paragraph (2) or (3)" and inserting "paragraph (3)";

(2) in clause (B), by striking "paragraph (1)" and inserting "paragraph (1) or (2)"; and

(3) by adding at the end thereof the following new sentence: "The Commission may, in a rule or regulation prescribed pursuant to such paragraph (2) of such section 15(c), designate such rule or regulation, or portion thereof, as a rule or regulation, or portion thereof, a contract in violation of which shall not be void by reason of this subsection.".

SEC. 508. RESTRICTIONS ON BLANK CHECK OFFERINGS.

Section 7 of the Securities Act of 1933 (15 U.S.C. 77g) is amended—

(1) by inserting "(a)" after "SEC. 7."; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Commission shall prescribe special rules with respect to registration statements filed by any issuer that is a blank check company. Such rules may, as the Commission determines necessary or appropriate in the public interest or for the protection of investors—

"(A) require such issuers to provide timely disclosure, prior to or after such statement becomes effective under section 8, of (i) information regarding the company to be acquired and the specific application of the proceeds of the offering, or (ii) addi-

tional information necessary to prevent such statement from being misleading;

"(B) place limitations on the use of such proceeds and the distribution of securities by such issuer until the disclosures required under subparagraph (A) have been made; and

"(C) provide a right of rescission to shareholders of such securities.

"(2) The Commission may, as it determines consistent with the public interest and the protection of investors, by rule or order exempt any issuer or class of issuers from the rules prescribed under paragraph (1).

"(3) For purposes of paragraph (1) of this subsection, the term 'blank check company' means any development stage company that is issuing a penny stock (within the meaning of section 3(a)(51) of the Securities Exchange Act of 1934) and that—

"(A) has no specific business plan or purpose; or

"(B) has indicated that its business plan is to merge with an unidentified company or companies.".

SEC. 509. BROKER/DEALER DISCIPLINARY HISTORY.

Section 15A of the Securities Exchange Act 1934 (15 U.S.C. 78o-3) is amended by adding at the end the following:

"(i) A registered securities association shall, within one year from the date of enactment of this section, (1) establish and maintain a toll-free telephone listing to receive inquiries regarding disciplinary actions involving its members and their associated persons, and (2) promptly respond to such inquiries in writing. Such association may charge persons, other than individual investors, reasonable fees for written responses to such inquiries. Such an association shall not have any liability to any person for any actions taken or omitted in good faith under this paragraph.". Telecommunications.

SEC. 510. REVIEW OF REGULATORY STRUCTURES AND PROCEDURES. 15 USC 78s note.

(a) REVIEW REQUIRED.—The Comptroller General, in consultation with the Securities and Exchange Commission, shall conduct a review of the rules, procedures, facilities, and oversight and enforcement activities of self-regulatory organizations under the Securities Exchange Act of 1934 with respect to penny stocks (within the meaning of section 3(a)(51) of such Act). Such review shall include an analysis of—

(1) the resources devoted by self-regulatory organizations to the detection, investigation, prosecution, and correction of fraud and abuse in the trading of such penny stocks;

(2) the methods and techniques used, and alternative methods which may be used, in those oversight and enforcement activities, including methods and techniques involving coordinated oversight and enforcement activities with other Federal and State authorities;

(3) the adequacy of the rules, procedures, and facilities of such self-regulatory organizations for the prevention of excessive spreads and markups, unscrupulous sales practices, and other conduct inconsistent with high standards of commercial honor and just and equitable principles of trade;

(4) any obstacles to or limitations on the authority of self-regulatory organizations that impair the conduct of those oversight and enforcement activities;

(5) the adequacy of current listing and maintenance requirements and procedures and the potential for erosion of such requirements and procedures due to issuer avoidance of penny stock designation and regulation; and

(6) such other matters as the Comptroller General considers necessary or appropriate.

(b) REPORT.—Within one year after the date of enactment of this Act, the Comptroller General shall submit a report on the review required by subsection (a). Such report shall include, in addition to a statement of findings with respect to each matter described in paragraphs (1) through (6) of such subsection, such recommendations as the Comptroller General considers appropriate with respect to legislative or administrative changes.

Approved October 15, 1990.

LEGISLATIVE HISTORY—S. 647 (H.R. 975) (H.R. 5325):

HOUSE REPORTS: No. 101-616 accompanying H.R. 975 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-337 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 18, considered and passed Senate.
July 23, H.R. 5325 considered and passed House; S. 647, amended, passed in lieu.
Sept. 27, Senate concurred in House amendments with an amendment.
Oct. 1, House concurred in Senate amendment.

Public Law 101-430
101st Congress

An Act

To authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes.

Oct. 15, 1990
[S. 1230]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF ADDITIONAL LANDS.

North Dakota.
Government property.
16 USC 461 note.

(a) The Secretary of the Interior is authorized to acquire by purchase with donated or appropriated funds, donation, or exchange the lands comprising approximately 465 acres and described in subsection (b) as an addition to the Knife River Indian Villages National Historic Site, North Dakota: *Provided,* That no such lands may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the archaeological, historical, or other values for which the site was established.

(b) The lands referred to in subsection (a) are those lands depicted on the map entitled "Proposed Boundary Knife River Indian Villages National Historic Site" numbered 468-80,039A and dated July 1990.

SEC. 2. ADDITIONAL AUTHORIZATIONS.

Section 104(c) of Public Law 93-486 (88 Stat. 1462) is amended by striking "$600,000" and inserting in lieu thereof "$1,000,000" and by striking "$2,268,000" and inserting in lieu thereof "$4,000,000".

Approved October 15, 1990.

LEGISLATIVE HISTORY—S. 1230:

HOUSE REPORTS: No. 101-638 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-256 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 28, considered and passed Senate.
July 30, considered and passed House.
Oct. 2, Senate concurred in House amendments.

Public Law 101-431
101st Congress

An Act

Oct. 15, 1990
[S. 1974]

To require new televisions to have built in decoder circuitry.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Television Decoder Circuitry Act of 1990.
Handicapped. Communications equipment.
47 USC 609 note.

SHORT TITLE

SECTION. 1. This Act may be cited as the "Television Decoder Circuitry Act of 1990".

FINDINGS

47 USC 303 note.

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a TeleCaption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size.". Manufacturers. Imports.

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. (a) Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by inserting immediately after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it.".

(b) Section 330(c) of such Act, as redesignated by subsection (a) of this section, is amended by deleting "and section 303(s)" and inserting in lieu thereof ", section 303(s), and section 303(u)".

EFFECTIVE DATE

SEC. 5. Sections 3 and 4 of this Act shall take effect on July 1, 1993. 47 USC 303 note.

RULES

47 USC 303 note.

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

Approved October 15, 1990.

LEGISLATIVE HISTORY—S. 1974 (H.R. 4267):

HOUSE REPORTS: No. 101-767 accompanying H.R. 4267 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 101-393 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Aug. 2, considered and passed Senate.

Oct. 1, H.R. 4267 considered and passed House; S. 1974 passed in lieu.

Public Law 101-432
101st Congress

An Act

To amend the Securities Exchange Act of 1934 to strengthen regulatory oversight of the United States securities markets, improve supervision of financial market participants, and improve the safety and efficiency of market mechanisms, and for other purposes.

Oct. 16, 1990
[H.R. 3657]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Market Reform Act of 1990.
Brokers.
15 USC 78a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Market Reform Act of 1990".

SEC. 2. EMERGENCY AUTHORITY; TRADING HALTS.

15 USC 78*l*.

Section 12(k) of the Securities Exchange Act of 1934 (15 U.S.C. 781(k)) is amended to read as follows:

"(k) TRADING SUSPENSIONS; EMERGENCY AUTHORITY.—

"(1) TRADING SUSPENSIONS.—If in its opinion the public interest and the protection of investors so require, the Commission is authorized by order—

"(A) summarily to suspend trading in any security (other than an exempted security) for a period not exceeding 10 business days, and

"(B) summarily to suspend all trading on any national securities exchange or otherwise, in securities other than exempted securities, for a period not exceeding 90 calendar days.

The action described in subparagraph (B) shall not take effect unless the Commission notifies the President of its decision and the President notifies the Commission that the President does not disapprove of such decision.

"(2) EMERGENCY ORDERS.—(A) The Commission, in an emergency, may by order summarily take such action to alter, supplement, suspend, or impose requirements or restrictions with respect to any matter or action subject to regulation by the Commission or a self-regulatory organization under this title, as the Commission determines is necessary in the public interest and for the protection of investors—

"(i) to maintain or restore fair and orderly securities markets (other than markets in exempted securities); or

"(ii) to ensure prompt, accurate, and safe clearance and settlement of transactions in securities (other than exempted securities).

"(B) An order of the Commission under this paragraph (2) shall continue in effect for the period specified by the Commission, and may be extended, except that in no event shall the Commission's action continue in effect for more than 10 business days, including extensions. In exercising its authority under this paragraph, the Commission shall not be required to comply with the provisions of section 553 of title 5, United States Code, or with the provisions of section 19(c) of this title.

"(3) TERMINATION OF EMERGENCY ACTIONS BY PRESIDENT.—The President may direct that action taken by the Commission

under paragraph (1)(B) or paragraph (2) of this subsection shall not continue in effect.

"(4) COMPLIANCE WITH ORDERS.—No member of a national securities exchange, broker, or dealer shall make use of the mails or any means or instrumentality of interstate commerce to effect any transaction in, or to induce the purchase or sale of, any security in contravention of an order of the Commission under this subsection unless such order has been stayed, modified, or set aside as provided in paragraph (5) of this subsection or has ceased to be effective upon direction of the President as provided in paragraph (3).

"(5) LIMITATIONS ON REVIEW OF ORDERS.—An order of the Commission pursuant to this subsection shall be subject to review only as provided in section 25(a) of this title. Review shall be based on an examination of all the information before the Commission at the time such order was issued. The reviewing court shall not enter a stay, writ of mandamus, or similar relief unless the court finds, after notice and hearing before a panel of the court, that the Commission's action is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(6) DEFINITION OF EMERGENCY.—For purposes of this subsection, the term 'emergency' means a major market disturbance characterized by or constituting—

"(A) sudden and excessive fluctuations of securities prices generally, or a substantial threat thereof, that threaten fair and orderly markets, or

"(B) a substantial disruption of the safe or efficient operation of the national system for clearance and settlement of securities, or a substantial threat thereof.".

SEC. 3. LARGE TRADER REPORTING.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

"(h) LARGE TRADER REPORTING.—

"(1) IDENTIFICATION REQUIREMENTS FOR LARGE TRADERS.—For the purpose of monitoring the impact on the securities markets of securities transactions involving a substantial volume or a large fair market value or exercise value and for the purpose of otherwise assisting the Commission in the enforcement of this title, each large trader shall—

"(A) provide such information to the Commission as the Commission may by rule or regulation prescribe as necessary or appropriate, identifying such large trader and all accounts in or through which such large trader effects such transactions; and

"(B) identify, in accordance with such rules or regulations as the Commission may prescribe as necessary or appropriate, to any registered broker or dealer by or through whom such large trader directly or indirectly effects securities transactions, such large trader and all accounts directly or indirectly maintained with such broker or dealer by such large trader in or through which such transactions are effected.

Regulations.

"(2) RECORDKEEPING AND REPORTING REQUIREMENTS FOR BROKERS AND DEALERS.—Every registered broker or dealer shall make and keep for prescribed periods such records as the

Commission by rule or regulation prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title, with respect to securities transactions that equal or exceed the reporting activity level effected directly or indirectly by or through such registered broker or dealer of or for any person that such broker or dealer knows is a large trader, or any person that such broker or dealer has reason to know is a large trader on the basis of transactions in securities effected by or through such broker or dealer. Such records shall be available for reporting to the Commission, or any self-regulatory organization that the Commission shall designate to receive such reports, on the morning of the day following the day the transactions were effected, and shall be reported to the Commission or a self-regulatory organization designated by the Commission immediately upon request by the Commission or such a self-regulatory organization. Such records and reports shall be in a format and transmitted in a manner prescribed by the Commission (including, but not limited to, machine readable form).

"(3) AGGREGATION RULES.—The Commission may prescribe rules or regulations governing the manner in which transactions and accounts shall be aggregated for the purpose of this subsection, including aggregation on the basis of common ownership or control.

"(4) EXAMINATION OF BROKER AND DEALER RECORDS.—All records required to be made and kept by registered brokers and dealers pursuant to this subsection with respect to transactions effected by large traders are subject at any time, or from time to time, to such reasonable periodic, special, or other examinations by representatives of the Commission as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this title.

"(5) FACTORS TO BE CONSIDERED IN COMMISSION ACTIONS.—In exercising its authority under this subsection, the Commission shall take into account—

"(A) existing reporting systems;

"(B) the costs associated with maintaining information with respect to transactions effected by large traders and reporting such information to the Commission or self-regulatory organizations; and

"(C) the relationship between the United States and international securities markets.

"(6) EXEMPTIONS.—The Commission, by rule, regulation, or order, consistent with the purposes of this title, may exempt any person or class of persons or any transaction or class of transactions, either conditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection, and the rules and regulations thereunder.

"(7) AUTHORITY OF COMMISSION TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be kept or reported under this subsection. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Fed-

eral department or agency requesting information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'large trader' means every person who, for his own account or an account for which he exercises investment discretion, effects transactions for the purchase or sale of any publicly traded security or securities by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of a national securities exchange, directly or indirectly by or through a registered broker or dealer in an aggregate amount equal to or in excess of the identifying activity level;

"(B) the term 'publicly traded security' means any equity security (including an option on individual equity securities, and an option on a group or index of such securities) listed, or admitted to unlisted trading privileges, on a national securities exchange, or quoted in an automated interdealer quotation system;

"(C) the term 'identifying activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule or regulation, specifying the time interval during which such transactions shall be aggregated;

"(D) the term 'reporting activity level' means transactions in publicly traded securities at or above a level of volume, fair market value, or exercise value as shall be fixed from time to time by the Commission by rule, regulation, or order, specifying the time interval during which such transactions shall be aggregated; and

"(E) the term 'person' has the meaning given in section 3(a)(9) of this title and also includes two or more persons acting as a partnership, limited partnership, syndicate, or other group, but does not include a foreign central bank.".

SEC. 4. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

(a) AMENDMENT.—Section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q) is amended by adding at the end the following:

"(h) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

"(1) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is (A) a registered broker or dealer, or (B) a registered municipal securities dealer for which the Commission is the appropriate regulatory agency, shall obtain such information and make and keep such records as the Commission by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and the customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational

condition of such registered person, including its net capital, its liquidity, or its ability to conduct or finance its operations. The Commission, by rule, may require summary reports of such information to be filed with the Commission no more frequently than quarterly.

"(2) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (1) of this subsection or other available information, the Commission reasonably concludes that it has concerns regarding the financial or operational condition of (A) any registered broker or dealer, or (B) any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, the Commission may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(3) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(A) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to paragraph (1) of this subsection with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to such written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

Federal Register, publication.

"(B) USE OF BANKING AGENCY REPORTS.—A registered broker, dealer, or municipal securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to paragraph (1) of this subsection concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such broker, dealer, or municipal securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Commission may, however, by rule adopted pursuant to paragraph (1), require

any broker, dealer, or municipal securities dealer filing such reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that such supplemental information is necessary to inform the Commission regarding potential risks to such broker, dealer, or municipal securities dealer. Prior to requiring any such supplemental information, the Commission shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(C) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to paragraph (2) of this subsection for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(i) notify such agency of the information required with respect to such associated person; and

"(ii) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the Commission determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or the stability or integrity of the securities markets.

"(D) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subsection shall be construed to permit the Commission to require any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(E) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request by the Commission under subparagraph (C) of this paragraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(F) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Commission shall notify the Federal banking agency of any concerns of the Commission regarding significant financial or oper-

ational risks resulting from the activities of any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency, to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(G) DEFINITION.—For purposes of this paragraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal bank agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(4) EXEMPTIONS.—The Commission by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Commission shall provide in such rule or order, from the provisions of this subsection, and the rules thereunder. In granting such exemptions, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(B) the primary business of any associated person;

"(C) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(D) the nature and extent of the registered person's securities activities; and

"(E) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(5) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered broker, dealer, government securities broker, government securities dealer, or municipal securities dealer. Nothing in this subsection shall authorize the Commission to withhold information from Congress, or prevent the Commission from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552. In prescribing regulations to carry out the requirements of this subsection, the Commission shall designate information described in or obtained pursuant to subparagraph (B) or (C) of paragraph (3) of this subsection as confidential information for purposes of section 24(b)(2) of this title.". Regulations.

15 USC 78o-5.

(b) CONFORMING AMENDMENT.—Section 15C(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(b)) is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.—

Records.

"(A) OBLIGATIONS TO OBTAIN, MAINTAIN, AND REPORT INFORMATION.—Every person who is registered as a government securities broker or government securities dealer under this section shall obtain such information and make and keep such records as the Secretary by rule prescribes concerning the registered person's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its associated persons, other than a natural person. Such records shall describe, in the aggregate, each of the financial and securities activities conducted by, and customary sources of capital and funding of, those of its associated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person, including its capital, its liquidity, or its ability to conduct or finance its operations. The Secretary, by rule, may require summary reports of such information to be filed with the registered person's appropriate regulatory agency no more frequently than quarterly.

"(B) AUTHORITY TO REQUIRE ADDITIONAL INFORMATION.—If, as a result of adverse market conditions or based on reports provided pursuant to subparagraph (A) of this paragraph or other available information, the appropriate regulatory agency reasonably concludes that it has concerns regarding the financial or operational condition of any government securities broker or government securities dealer registered under this section, such agency may require the registered person to make reports concerning the financial and securities activities of any of such person's associated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of such registered person. The appropriate regulatory agency, in requiring reports pursuant to this subparagraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the appropriate regulatory agency or to a self-regulatory organization with primary responsibility for examining the registered person's financial and operational condition.

"(C) SPECIAL PROVISIONS WITH RESPECT TO ASSOCIATED PERSONS SUBJECT TO FEDERAL BANKING AGENCY REGULATION.—

"(i) COOPERATION IN IMPLEMENTATION.—In developing and implementing reporting requirements pursuant to subparagraph (A) of this paragraph with respect to associated persons subject to examination by or reporting requirements of a Federal banking agency, the Secretary shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Secretary under this paragraph that has been published for comment, the Secretary shall respond in writing to such written comment

before adopting the proposed rule. The Secretary shall, at the request of a Federal banking agency, publish such comment and response in the Federal Register at the time of publishing the adopted rule.

Federal Register, publication.

"(ii) USE OF BANKING AGENCY REPORTS.—A registered government securities broker or government securities dealer shall be in compliance with any recordkeeping or reporting requirement adopted pursuant to subparagraph (A) of this paragraph concerning an associated person that is subject to examination by or reporting requirements of a Federal banking agency if such government securities broker or government securities dealer utilizes for such recordkeeping or reporting requirement copies of reports filed by the associated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes, section 9 of the Federal Reserve Act, section 7(a) of the Federal Deposit Insurance Act, section 10(b) of the Home Owners' Loan Act, or section 8 of the Bank Holding Company Act of 1956. The Secretary may, however, by rule adopted pursuant to subparagraph (A), require any registered government securities broker or government securities dealer filing such reports with the appropriate regulatory agency to obtain, maintain, or report supplemental information if the Secretary makes an explicit finding, based on information provided by the appropriate regulatory agency, that such supplemental information is necessary to inform the appropriate regulatory agency regarding potential risks to such government securities broker or government securities dealer. Prior to requiring any such supplemental information, the Secretary shall first request the Federal banking agency to expand its reporting requirements to include such information.

"(iii) PROCEDURE FOR REQUIRING ADDITIONAL INFORMATION.—Prior to making a request pursuant to subparagraph (B) of this paragraph for information with respect to an associated person that is subject to examination by or reporting requirements of a Federal banking agency, the appropriate regulatory agency shall—

"(I) notify such banking agency of the information required with respect to such associated person; and

"(II) consult with such agency to determine whether the information required is available from such agency and for other purposes, unless the appropriate regulatory agency determines that any delay resulting from such consultation would be inconsistent with ensuring the financial and operational condition of the government securities broker or government securities dealer or the stability or integrity of the securities markets.

"(iv) EXCLUSION FOR EXAMINATION REPORTS.—Nothing in this subparagraph shall be construed to permit the Secretary or an appropriate regulatory agency to require any registered government securities broker or government securities dealer to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained therein.

"(v) CONFIDENTIALITY OF INFORMATION PROVIDED.—No information provided to or obtained by an appropriate regu-

latory agency from any Federal banking agency pursuant to a request under clause (iii) of this subparagraph regarding any associated person which is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than a self-regulatory organization), without the prior written approval of the Federal banking agency. Nothing in this clause shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission.

"(vi) NOTICE TO BANKING AGENCIES CONCERNING FINANCIAL AND OPERATIONAL CONDITION CONCERNS.—The Secretary or appropriate regulatory agency shall notify the Federal banking agency of any concerns of the Secretary or the appropriate regulatory agency regarding significant financial or operational risks resulting from the activities of any government securities broker or government securities dealer to any associated person thereof which is subject to examination by or reporting requirements of the Federal banking agency.

"(vii) DEFINITION.—For purposes of this subparagraph, the term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(D) EXEMPTIONS.—The Secretary by rule or order may exempt any person or class of persons, under such terms and conditions and for such periods as the Secretary shall provide in such rule or order, from the provisions of this paragraph, and the rules thereunder. In granting such exemptions, the Secretary shall consider, among other factors—

"(i) whether information of the type required under this paragraph is available from a supervisory agency (as defined in section 1101(6) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6))), a State insurance commission or similar State agency, the Commodity Futures Trading Commission, or a similar foreign regulator;

"(ii) the primary business of any associated person;

"(iii) the nature and extent of domestic or foreign regulation of the associated person's activities;

"(iv) the nature and extent of the registered person's securities transactions; and

"(v) with respect to the registered person and its associated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from, activities in the United States securities markets.

"(E) CONFORMITY WITH REQUIREMENTS UNDER SECTION 17(h).—In exercising authority pursuant to subparagraph (A) of this paragraph concerning information with respect to associated persons of government securities brokers and government securities dealers who are also associated persons of registered

brokers or dealers reporting to the Commission pursuant to section 17(h) of this title, the requirements relating to such associated persons shall conform, to the greatest extent practicable, to the requirements under section 17(h).

"(F) AUTHORITY TO LIMIT DISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, the Secretary and any appropriate regulatory agency shall not be compelled to disclose any information required to be reported under this paragraph, or any information supplied to the Secretary or any appropriate regulatory agency by any domestic or foreign regulatory agency that relates to the financial or operational condition of any associated person of a registered government securities broker or a government securities dealer. Nothing in this paragraph shall authorize the Secretary or any appropriate regulatory agency to withhold information from Congress, or prevent the Secretary or any appropriate regulatory agency from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States or the Commission. For purposes of section 552 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3)(B) of such section 552.".

SEC. 5. COORDINATED CLEARING.

(a) AUTHORITY TO FACILITATE COORDINATED CLEARING MECHANISMS.—Section 17A(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended to read as follows:

"(2)(A) The Commission is directed, therefore, having due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers and dealers, clearing agencies, and transfer agents, to use its authority under this title—

"(i) to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities (other than exempt securities); and

"(ii) to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options;

in accordance with the findings and to carry out the objectives set forth in paragraph (1) of this subsection.

"(B) The Commission shall use its authority under this title to assure equal regulation under this title of registered clearing agencies and registered transfer agents. In carrying out its responsibilities set forth in subparagraph (A)(ii) of this paragraph, the Commission shall coordinate with the Commodity Futures Trading Commission and consult with the Board of Governors of the Federal Reserve System.".

(b) TRANSFER AND PLEDGE OF SECURITIES.—Section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1) is amended by adding at the end the following:

"(f)(1) Notwithstanding any provision of State law, except as provided in paragraph (3), if the Commission makes each of the findings described in paragraph (2)(A), the Commission may adopt rules concerning—

"(A) the transfer of certificated or uncertificated securities (other than government securities issued pursuant to chapter 31 of title 31, United States Code, or securities otherwise processed within a book-entry system operated by the Federal Reserve banks pursuant to a Federal book-entry regulation) or limited interests (including security interests) therein; and

"(B) rights and obligations of purchasers, sellers, owners, lenders, borrowers, and financial intermediaries (including brokers, dealers, banks, and clearing agencies) involved in or affected by such transfers, and the rights of third parties whose interests in such securities devolve from such transfers.

"(2)(A) The findings described in this paragraph are findings by the Commission that—

"(i) such rule is necessary or appropriate for the protection of investors or in the public interest and is reasonably designed to promote the prompt, accurate, and safe clearance and settlement of securities transactions;

"(ii) in the absence of a uniform rule, the safe and efficient operation of the national system for clearance and settlement of securities transactions will be, or is, substantially impeded; and

"(iii) to the extent such rule will impair or diminish, directly or indirectly, rights of persons specified in paragraph (1)(B) under State law concerning transfers of securities (or limited interests therein), the benefits of such rule outweigh such impairment or diminution of rights.

"(B) In making the findings described in subparagraph (A), the Commission shall give consideration to the recommendations of the Advisory Committee established under paragraph (4), and it shall consult with and consider the views of the Secretary of the Treasury and the Board of Governors of the Federal Reserve System. If the Secretary of the Treasury objects, in writing, to any proposed rule of the Commission on the basis of the Secretary's view on the issues described in clauses (i), (ii), and (iii) of subparagraph (A), the Commission shall consider all feasible alternatives to the proposed rule, and it shall not adopt any such rule unless the Commission makes an explicit finding that the rule is the most practicable method for achieving safe and efficient operation of the national clearance and settlement system.

"(3) Any State may, prior to the expiration of 2 years after the Commission adopts a rule under this subsection, enact a statute that specifically refers to this subsection and the specific rule thereunder and establishes, prospectively from the date of enactment of the State statute, a provision that differs from that applicable under the Commission's rule.

"(4)(A) Within 90 days after the date of enactment of this subsection, the Commission shall (and at such times thereafter as the Commission may determine, the Commission may), after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.). The Advisory Committee shall be directed to consider and report to the Commission on such matters as the Commission, after consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System, determines, including the areas, if any, in which State commercial laws and related Federal laws concerning the transfer of certificated or uncertificated securities, limited interests (including security interests) in such securities, or the

Reports.

creation or perfection of security interests in such securities do not provide the necessary certainty, uniformity, and clarity for purchasers, sellers, owners, lenders, borrowers, and financial intermediaries concerning their respective rights and obligations.

"(B) The Advisory Committee shall consist of 15 members, of which—

"(i) 11 shall be designated by the Commission in accordance with the Federal Advisory Committee Act; and

"(ii) 2 each shall be designated by the Board of Governors of the Federal Reserve System and the Secretary of the Treasury.

"(C) The Advisory Committee shall conduct its activities in accordance with the Federal Advisory Committee Act. Within 6 months of its designation, or such longer time as the Commission may designate, the Advisory Committee shall issue a report to the Commission, and shall cause copies of that report to be delivered to the Secretary of the Treasury and the Chairman of the Board of Governors of the Federal Reserve System.". Reports.

SEC. 6. LIMITATION ON PRACTICES WHICH RESULT IN VOLATILITY.

(a) IN GENERAL.—Section 9 of the Securities Exchange Act of 1934 (15 U.S.C. 78i) is amended by adding at the end thereof the following new subsection:

"(h) LIMITATIONS ON PRACTICES THAT AFFECT MARKET VOLATILITY.—It shall be unlawful for any person, by the use of the mails or any means or instrumentality of interstate commerce or of any facility of any national securities exchange, to use or employ any act or practice in connection with the purchase or sale of any equity security in contravention of such rules or regulations as the Commission may adopt, consistent with the public interest, the protection of investors, and the maintenance of fair and orderly markets—

"(1) to prescribe means reasonably designed to prevent manipulation of price levels of the equity securities market or a substantial segment thereof; and

"(2) to prohibit or constrain, during periods of extraordinary market volatility, any trading practice in connection with the purchase or sale of equity securities that the Commission determines (A) has previously contributed significantly to extraordinary levels of volatility that have threatened the maintenance of fair and orderly markets; and (B) is reasonably certain to engender such levels of volatility if not prohibited or constrained.

In adopting rules under paragraph (2), the Commission shall, consistent with the purposes of this subsection, minimize the impact on the normal operations of the market and a natural person's freedom to buy or sell any equity security.".

(b) CONFORMING AMENDMENT.—Section 25(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78y(b)(1)) is amended by inserting "9(h)(2)," after "section 6,".

SEC. 7. NOTIFICATION OF SEC CONCERNING RISKS TO SECURITIES SUBSIDIARY.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

12 USC 1831*l*.

"SEC. 35. COORDINATION OF RISK ANALYSIS BETWEEN SEC AND FEDERAL BANKING AGENCIES.

"Any appropriate Federal banking agency shall notify the Securities and Exchange Commission of any concerns of the agency regarding significant financial or operational risks to any registered broker or dealer, or any registered municipal securities dealer, government securities broker, or government securities dealer for which the Commission is the appropriate regulatory agency (as defined in section 3 of the Securities Exchange Act of 1934), resulting from the activities of any insured depository institution, any depository institution holding company, or any affiliate of any such institution or company if such broker, dealer, municipal securities dealer, government securities broker, or government securities dealer is an affiliate of any such institution, company, or affiliate.".

15 USC 78b note.

SEC. 8. REPORTS TO CONGRESS.

(a) INTERMARKET COORDINATION.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Commodity Futures Trading Commission, shall report to the Congress not later than May 31, 1991, and annually thereafter until May 31, 1995, on the following:

(1) the efforts their respective agencies have made relating to the coordination of regulatory activities to ensure the integrity and competitiveness of United States financial markets;

(2) the efforts their respective agencies have made to formulate coordinated mechanisms across marketplaces to protect the payments and market systems during market emergencies;

(3) the views of their respective agencies with respect to the adequacy of margin levels and use of leverage by market participants; and

(4) such other issues and concerns relating to the soundness, stability, and integrity of domestic and international capital markets as may be appropriate.

The agencies shall cooperate in the development of their reports, and prior to submitting its report to Congress, each agency shall provide copies to the other agencies.

15 USC 78q-1 note.

(b) CLEARANCE AND SETTLEMENT.—The Securities and Exchange Commission, in consultation with the Commodity Futures Trading Commission, the Board of Governors of the Federal Reserve System, and other relevant regulatory authorities, shall examine progress toward establishing linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options, and shall submit to the Committees on Energy and Commerce and Agriculture of the House of Representatives and the

Committees on Banking, Housing, and Urban Affairs and Agriculture, Nutrition, and Forestry of the Senate, not later than 2 years from the date of enactment of this section, a report detailing and evaluating such progress.

Approved October 16, 1990.

LEGISLATIVE HISTORY—H.R. 3657 (S. 648):

HOUSE REPORTS: No. 101-524 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-300 accompanying S. 648 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Aug. 4, S. 648 considered and passed Senate.
Sept. 25, H.R. 3657 considered and passed Senate, amended.
Sept. 28, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 16, Presidential statement.

Public Law 101-433
101st Congress

An Act

Oct. 16, 1990
[S. 1511]

To amend the Age Discrimination in Employment Act of 1967 to clarify the protections given to older individuals in regard to employee benefit plans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Older Workers Benefit Protection Act.
Pensions.
Health care.
29 USC 621 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Workers Benefit Protection Act".

TITLE I—OLDER WORKERS BENEFIT PROTECTION

29 USC 621 note.

SEC. 101. FINDING.

The Congress finds that, as a result of the decision of the Supreme Court in Public Employees Retirement System of Ohio v. Betts, 109 S.Ct. 256 (1989), legislative action is necessary to restore the original congressional intent in passing and amending the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), which was to prohibit discrimination against older workers in all employee benefits except when age-based reductions in employee benefit plans are justified by significant cost considerations.

SEC. 102. DEFINITION.

Section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630) is amended by adding at the end the following new subsection:

"(l) The term 'compensation, terms, conditions, or privileges of employment' encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.".

Retirement.

SEC. 103. LAWFUL EMPLOYMENT PRACTICES.

Section 4 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623) is amended—

(1) in subsection (f), by striking paragraph (2) and inserting the following new paragraph:

"(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

"(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

"(B) to observe the terms of a bona fide employee benefit plan—

"(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

"(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any civil enforcement proceeding brought under this Act; or";

(2) by redesignating the second subsection (i) as subsection (j); and

(3) by adding at the end the following new subsections:

"(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

"(l) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

"(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

"(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

"(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

"(i) payments that constitute the subsidized portion of an early retirement benefit; or

"(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

"(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

"(i) the value of any retiree health benefits received by an individual eligible for an immediate pension; and

"(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension,

are deducted from severance pay made available as a result of the contingent event unrelated to age.

"(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be

reduced by the same percentage as the reduction in the pension benefits.

"(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

"(i) constitutes additional benefits of up to 52 weeks;

"(ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and

"(iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

"(D) For purposes of this paragraph, the term 'retiree health benefits' means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

"(i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.); and

"(ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act.

"(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of $3,000 per year for benefit years before age 65, and $750 per year for benefit years beginning at age 65 and above.

"(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of $48,000 for individuals below age 65, and $24,000 for individuals age 65 and above.

"(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

"(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

"(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

"(A) paid to the individual that the individual voluntarily elects to receive; or

"(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.".

SEC. 104. RULES AND REGULATIONS. 29 USC 623 note.

Notwithstanding section 9 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 628), the Equal Employment Opportunity Commission may issue such rules and regulations as the Commission may consider necessary or appropriate for carrying out this title, and the amendments made by this title, only after consultation with the Secretary of the Treasury and the Secretary of Labor.

SEC. 105. EFFECTIVE DATE. 29 USC 623 note.

(a) IN GENERAL.—Except as otherwise provided in this section, this title and the amendments made by this title shall apply only to—

(1) any employee benefit established or modified on or after the date of enactment of this Act; and

(2) other conduct occurring more than 180 days after the date of enactment of this Act.

(b) COLLECTIVELY BARGAINED AGREEMENTS.—With respect to any employee benefits provided in accordance with a collective bargaining agreement—

(1) that is in effect as of the date of enactment of this Act;

(2) that terminates after such date of enactment;

"(3) any provision of which was entered into by a labor organization (as defined by section 6(d)(4) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d)(4))); and

(4) that contains any provision that would be superseded (in whole or part) by this title and the amendments made by this title, but for the operation of this section,

this title and the amendments made by this title shall not apply until the termination of such collective bargaining agreement or June 1, 1992, whichever occurs first.

(c) STATES AND POLITICAL SUBDIVISIONS.—

(1) IN GENERAL.—With respect to any employee benefits provided by an employer—

(A) that is a State or political subdivision of a State or any agency or instrumentality of a State or political subdivision of a State; and

(B) that maintained an employee benefit plan at any time between June 23, 1989, and the date of enactment of this Act that would be superseded (in whole or part) by this title and the amendments made by this title but for the operation of this subsection, and which plan may be modified only through a change in applicable State or local law,

this title and the amendments made by this title shall not apply until the date that is 2 years after the date of enactment of this Act.

(2) ELECTION OF DISABILITY COVERAGE FOR EMPLOYEES HIRED PRIOR TO EFFECTIVE DATE.—

(A) IN GENERAL.—An employer that maintains a plan described in paragraph (1)(B) may, with regard to disability benefits provided pursuant to such a plan—

(i) following reasonable notice to all employees, implement new disability benefits that satisfy the require-

ments of the Age Discrimination in Employment Act of 1967 (as amended by this title)· and

(ii) then offer to each employee covered by a plan described in paragraph (1)(B) the option to elect such new disability benefits in lieu of the existing disability benefits, if—

(I) the offer is made and reasonable notice provided no later than the date that is 2 years after the date of enactment of this Act; and

(II) the employee is given up to 180 days after the offer in which to make the election.

(B) PREVIOUS DISABILITY BENEFITS.—If the employee does not elect to be covered by the new disability benefits, the employer may continue to cover the employee under the previous disability benefits even though such previous benefits do not otherwise satisfy the requirements of the Age Discrimination in Employment Act of 1967 (as amended by this title).

(C) ABROGATION OF RIGHT TO RECEIVE BENEFITS.—An election of coverage under the new disability benefits shall abrogate any right the electing employee may have had to receive existing disability benefits. The employee shall maintain any years of service accumulated for purposes of determining eligibility for the new benefits.

(3) STATE ASSISTANCE.—The Equal Employment Opportunity Commission, the Secretary of Labor, and the Secretary of the Treasury shall, on request, provide to States assistance in identifying and securing independent technical advice to assist in complying with this subsection.

(4) DEFINITIONS.—For purposes of this subsection:

(A) EMPLOYER AND STATE.—The terms "employer" and "State" shall have the respective meanings provided such terms under subsections (b) and (i) of section 11 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630).

(B) DISABILITY BENEFITS.—The term 'disability benefits' means any program for employees of a State or political subdivision of a State that provides long-term disability benefits, whether on an insured basis in a separate employee benefit plan or as part of an employee pension benefit plan.

(C) REASONABLE NOTICE.—The term "reasonable notice" means, with respect to notice of new disability benefits described in paragraph (2)(A) that is given to each employee, notice that—

(i) is sufficiently accurate and comprehensive to appraise the employee of the terms and conditions of the disability benefits, including whether the employee is immediately eligible for such benefits; and

(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

(d) DISCRIMINATION IN EMPLOYEE PENSION BENEFIT PLANS.—Nothing in this title, or the amendments made by this title, shall be construed as limiting the prohibitions against discrimination that are set forth in section 4(j) of the Age Discrimination in Employment Act of 1967 (as redesignated by section 103(2) of this Act).

(e) CONTINUED BENEFIT PAYMENTS.—Notwithstanding any other provision of this section, on and after the effective date of this title

and the amendments made by this title (as determined in accordance with subsections (a), (b), and (c)), this title and the amendments made by this title shall not apply to a series of benefit payments made to an individual or the individual's representative that began prior to the effective date and that continue after the effective date pursuant to an arrangement that was in effect on the effective date, except that no substantial modification to such arrangement may be made after the date of enactment of this Act if the intent of the modification is to evade the purposes of this Act.

TITLE II—WAIVER OF RIGHTS OR CLAIMS

SEC. 201. WAIVER OF RIGHTS OR CLAIMS.

Section 7 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626) is amended by adding at the end the following new subsection:

"(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

"(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

"(B) the waiver specifically refers to rights or claims arising under this Act;

"(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

"(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

"(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

"(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

"(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

"(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

"(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

"(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

"(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

"(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

"(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

"(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

"(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

"(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.".

29 USC 626 note.

SEC. 202. EFFECTIVE DATE.

(a) IN GENERAL.—The amendment made by section 201 shall not apply with respect to waivers that occur before the date of enactment of this Act.

(b) RULE ON WAIVERS.—Effective on the date of enactment of this Act, the rule on waivers issued by the Equal Employment Opportunity Commission and contained in section 1627.16(c) of title 29, Code of Federal Regulations, shall have no force and effect.

TITLE III—SEVERABILITY

29 USC 621 note.

SEC. 301. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons and circumstances, shall not be affected thereby.

Approved October 16, 1990.

LEGISLATIVE HISTORY—S. 1511 (H.R. 3200):

HOUSE REPORTS: No. 101-664 accompanying H.R. 3200 (Comm. on Education and Labor).
SENATE REPORTS: No. 101-263 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 17, 18, 24, considered and passed Senate.
Oct. 2, 3, considered and passed House.

Public Law 101-434
101st Congress

An Act

To amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region.

Oct. 17, 1990
[H.R. 435]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont,".

Approved October 17, 1990.

LEGISLATIVE HISTORY—H.R. 435:

HOUSE REPORTS: No. 101-374 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 17, considered and passed House.
Vol. 136 (1990): Oct. 4, considered and passed Senate.

49-139 O - 90 (434)

Public Law 101-435
101st Congress

An Act

Oct. 17, 1990
[H.R. 971]

To require the Federal Communications Commission to prescribe rules to protect consumers from unfair practices in the provision of operator services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Telephone Operator Consumer Services Improvement Act of 1990.
47 USC 609 note.
47 USC 226 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telephone Operator Consumer Services Improvement Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the divestiture of AT&T and decisions allowing open entry for competitors in the telephone marketplace produced a variety of new services and many new providers of existing telephone services;

(2) the growth of competition in the telecommunications market makes it essential to ensure that safeguards are in place to assure fairness for consumers and service providers alike;

(3) a variety of providers of operator services now compete to win contracts to provide operator services to hotels, hospitals, airports, and other aggregators of telephone business from consumers;

(4) the mere existence of a variety of service providers in the operator services marketplace is significant in making that market competitive only when consumers are able to make informed choices from among those service providers;

(5) however, often consumers have no choices in selecting a provider of operator services, and often attempts by consumers to reach their preferred long distance carrier by using a telephone billing card, credit card, or prearranged access code number are blocked;

(6) a number of State regulatory authorities have taken action to protect consumers using intrastate operator services;

(7) from January 1988 through February 1990, the Federal Communications Commission received over 4,000 complaints from consumers about operator services;

(8) those consumers have complained that they are denied access to the interexchange carrier of their choice, that they are deceived about the identity of the company providing operator services for their calls and the rates being charged, that they lack information on what they can do to complain about unfair treatment by an operator service provider, and that they are, accordingly, being deprived of the free choice essential to the operation of a competitive market;

(9) the Commission has testified that its actions have been insufficient to correct the problems in the operator services industry to date; and

(10) a combination of industry self-regulation and government regulation is required to ensure that competitive operator services are provided in a fair and reasonable manner.

SEC. 3. AMENDMENT.

Title II of the Communications Act of 1934 is amended by inserting immediately after section 225 (47 U.S.C. 225) the following new section:

"SEC. 226. TELEPHONE OPERATOR SERVICES. 47 USC 226.

"(a) DEFINITIONS.—As used in this section—

"(1) The term 'access code' means a sequence of numbers that, when dialed, connect the caller to the provider of operator services associated with that sequence.

"(2) The term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services.

"(3) The term 'call splashing' means the transfer of a telephone call from one provider of operator services to another such provider in such a manner that the subsequent provider is unable or unwilling to determine the location of the origination of the call and, because of such inability or unwillingness, is prevented from billing the call on the basis of such location.

"(4) The term 'consumer' means a person initiating any interstate telephone call using operator services.

"(5) The term 'equal access' has the meaning given that term in Appendix B of the Modification of Final Judgment entered August 24, 1982, in United States v. Western Electric, Civil Action No. 82-0192 (United States District Court, District of Columbia), as amended by the Court in its orders issued prior to the enactment of this section.

"(6) The term 'equal access code' means an access code that allows the public to obtain an equal access connection to the carrier associated with that code.

"(7) The term 'operator services' means any interstate telecommunications service initiated from an aggregator location that includes, as a component, any automatic or live assistance to a consumer to arrange for billing or completion, or both, of an interstate telephone call through a method other than—

"(A) automatic completion with billing to the telephone from which the call originated; or

"(B) completion through an access code used by the consumer, with billing to an account previously established with the carrier by the consumer.

"(8) The term 'presubscribed provider of operator services' means the interstate provider of operator services to which the consumer is connected when the consumer places a call using a provider of operator services without dialing an access code.

"(9) The term 'provider of operator services' means any common carrier that provides operator services or any other person determined by the Commission to be providing operator services.

"(b) REQUIREMENTS FOR PROVIDERS OF OPERATOR SERVICES.—

"(1) IN GENERAL.—Beginning not later than 30 days after the date of enactment of this section, each provider of operator services shall, at a minimum—

"(A) identify itself, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

"(B) permit the consumer to terminate the telephone call at no charge before the call is connected;

"(C) disclose immediately to the consumer, upon request and at no charge to the consumer—

"(i) a quote of its rates or charges for the call;

"(ii) the methods by which such rates or charges will be collected; and

"(iii) the methods by which complaints concerning such rates, charges, or collection practices will be resolved;

"(D) ensure, by contract or tariff, that each aggregator for which such provider is the presubscribed provider of operator services is in compliance with the requirements of subsection (c) and, if applicable, subsection (e)(1);

"(E) withhold payment (on a location-by-location basis) of any compensation, including commissions, to aggregators if such provider reasonably believes that the aggregator (i) is blocking access by means of "950" or "800" numbers to interstate common carriers in violation of subsection (c)(1)(B) or (ii) is blocking access to equal access codes in violation of rules the Commission may prescribe under subsection (e)(1);

"(F) not bill for unanswered telephone calls in areas where equal access is available;

"(G) not knowingly bill for unanswered telephone calls where equal access is not available;

"(H) not engage in call splashing, unless the consumer requests to be transferred to another provider of operator services, the consumer is informed prior to incurring any charges that the rates for the call may not reflect the rates from the actual originating location of the call, and the consumer then consents to be transferred;

"(I) except as provided in subparagraph (H), not bill for a call that does not reflect the location of the origination of the call; and

"(J) not bill an interexchange telephone call to a billing card number which—

"(i) is issued by another provider of operator services, and

"(ii) permits the identification of the other provider, unless the call is billed at a rate not greater than the other provider's rate for the call, the consumer requests a special service that is not available under tariff from the other provider, or the consumer expressly consents to a rate greater than the other provider's rate.

"(2) ADDITIONAL REQUIREMENTS FOR FIRST 3 YEARS.—In addition to meeting the requirements of paragraph (1), during the 3-year period beginning on the date that is 30 days after the date of enactment of this section, each presubscribed provider of operator services shall identify itself audibly and distinctly to the consumer, not only as required in paragraph (1)(A), but also for a second time before connecting the call and before the consumer incurs any charge.

"(c) REQUIREMENTS FOR AGGREGATORS.—

"(1) IN GENERAL.—Each aggregator, beginning not later than 30 days after the date of enactment of this section, shall—

"(A) post on or near the telephone instrument, in plain view of consumers—

"(i) the name, address, and toll-free telephone number of the provider of operator services;

"(ii) a written disclosure that the rates for all operator-assisted calls are available on request, and that consumers have a right to obtain access to the interstate common carrier of their choice and may contact their preferred interstate common carriers for information on accessing that carrier's service using that telephone; and

"(iii) the name and address of the enforcement division of the Common Carrier Bureau of the Commission, to which the consumer may direct complaints regarding operator services;

"(B) ensure that each of its telephones presubscribed to a provider of operator services allows the consumer to use "800" and "950" access code numbers to obtain access to the provider of operator services desired by the consumer; and

"(C) ensure that no charge by the aggregator to the consumer for using an "800" or "950" access code number, or any other access code number, is greater than the amount the aggregator charges for calls placed using the presubscribed provider of operator services.

"(2) EFFECT OF STATE LAW OR REGULATION.—The requirements of paragraph (1)(A) shall not apply to an aggregator in any case in which State law or State regulation requires the aggregator to take actions that are substantially the same as those required in paragraph (1)(A).

"(d) GENERAL RULEMAKING REQUIRED.—

"(1) RULEMAKING PROCEEDING.—The Commission shall conduct a rulemaking proceeding pursuant to this title to prescribe regulations to—

"(A) protect consumers from unfair and deceptive practices relating to their use of operator services to place interstate telephone calls; and

"(B) ensure that consumers have the opportunity to make informed choices in making such calls.

"(2) DEADLINES.—The Commission shall initiate the proceeding required under paragraph (1) within 60 days after the date of enactment of this section and shall prescribe regulations pursuant to the proceeding not later than 210 days after such date of enactment. Such regulations shall take effect not later than 45 days after the date the regulations are prescribed.

"(3) CONTENTS OF REGULATIONS.—The regulations prescribed under this section shall—

"(A) contain provisions to implement each of the requirements of this section, other than the requirements established by the rulemaking under subsection (e) on access and compensation; and

"(B) contain such other provisions as the Commission determines necessary to carry out this section and the purposes and policies of this section.

"(4) ADDITIONAL REQUIREMENTS TO BE IMPLEMENTED BY REGULATIONS.—The regulations prescribed under this section shall, at a minimum—

"(A) establish minimum standards for providers of operator services to use in the routing and handling of emergency telephone calls; and

Public information.

"(B) establish a policy for requiring providers of operator services to make public information about recent changes in operator services and choices available to consumers in that market.

"(e) SEPARATE RULEMAKING ON ACCESS AND COMPENSATION.—

"(1) ACCESS.—The Commission, within 9 months after the date of enactment of this section, shall require—

"(A) that each aggregator ensure within a reasonable time that each of its telephones presubscribed to a provider of operator services allows the consumer to obtain access to the provider of operator services desired by the consumer through the use of an equal access code; or

"(B) that all providers of operator services, within a reasonable time, make available to their customers a "950" or "800" access code number for use in making operator services calls from anywhere in the United States; or

"(C) that the requirements described under both subparagraphs (A) and (B) apply.

"(2) COMPENSATION.—The Commission shall consider the need to prescribe compensation (other than advance payment by consumers) for owners of competitive public pay telephones for calls routed to providers of operator services that are other than the presubscribed provider of operator services for such telephones. Within 9 months after the date of enactment of this section, the Commission shall reach a final decision on whether to prescribe such compensation.

"(f) TECHNOLOGICAL CAPABILITY OF EQUIPMENT.—Any equipment and software manufactured or imported more than 18 months after the date of enactment of this section and installed by any aggregator shall be technologically capable of providing consumers with access to interstate providers of operator services through the use of equal access codes.

"(g) FRAUD.—In any proceeding to carry out the provisions of this section, the Commission shall require such actions or measures as are necessary to ensure that aggregators are not exposed to undue risk of fraud.

"(h) DETERMINATIONS OF RATE COMPLIANCE.—

"(1) FILING OF INFORMATIONAL TARIFF.—

"(A) IN GENERAL.—Each provider of operator services shall file, within 30 days after the date of enactment of this section, and shall maintain, update regularly, and keep open for public inspection, an informational tariff specifying rates, terms, and conditions, and including commissions, surcharges, any fees which are collected from consumers, and reasonable estimates of the amount of traffic priced at each rate, with respect to calls for which operator services are provided. Any changes in such rates, terms, or conditions shall be filed no later than the first day on which the changed rates, terms, or conditions are in effect.

"(B) WAIVER AUTHORITY.—The Commission may, after 4 years following the date of enactment of this section, waive the requirements of this paragraph only if—

"(i) the findings and conclusions of the Commission in the final report issued under paragraph (3)(B)(iii) state that the regulatory objectives specified in subsection (d)(1) (A) and (B) have been achieved; and

"(ii) the Commission determines that such waiver will not adversely affect the continued achievement of such regulatory objectives.

"(2) REVIEW OF INFORMATIONAL TARIFFS.—If the rates and charges filed by any provider of operator services under paragraph (1) appear upon review by the Commission to be unjust or unreasonable, the Commission may require such provider of operator services to do either or both of the following:

"(A) demonstrate that its rates and charges are just and reasonable, and

"(B) announce that its rates are available on request at the beginning of each call.

"(3) PROCEEDING REQUIRED.—

"(A) IN GENERAL.—Within 60 days after the date of enactment of this section, the Commission shall initiate a proceeding to determine whether the regulatory objectives specified in subsection (d)(1) (A) and (B) are being achieved. The proceeding shall—

"(i) monitor operator service rates;

"(ii) determine the extent to which offerings made by providers of operator services are improvements, in terms of service quality, price, innovation, and other factors, over those available before the entry of new providers of operator services into the market;

"(iii) report on (in the aggregate and by individual provider) operator service rates, incidence of service complaints, and service offerings; Reports.

"(iv) consider the effect that commissions and surcharges, billing and validation costs, and other costs of doing business have on the overall rates charged to consumers; and

"(v) monitor compliance with the provisions of this section, including the periodic placement of telephone calls from aggregator locations.

"(B) REPORTS.—(i) The Commission shall, during the pendency of such proceeding and not later than 5 months after its commencement, provide the Congress with an interim report on the Commission's activities and progress to date.

"(ii) Not later than 11 months after the commencement of such proceeding, the Commission shall report to the Congress on its interim findings as a result of the proceeding.

"(iii) Not later than 23 months after the commencement of such proceeding, the Commission shall submit a final report to the Congress on its findings and conclusions.

"(4) IMPLEMENTING REGULATIONS.—

"(A) IN GENERAL.—Unless the Commission makes the determination described in subparagraph (B), the Commis-

sion shall, within 180 days after submission of the report required under paragraph (3)(B)(iii), complete a rulemaking proceeding pursuant to this title to establish regulations for implementing the requirements of this title (and paragraphs (1) and (2) of this subsection) that rates and charges for operator services be just and reasonable. Such regulations shall include limitations on the amount of commissions or any other compensation given to aggregators by providers of operator service.

"(B) LIMITATION.—The requirement of subparagraph (A) shall not apply if, on the basis of the proceeding under paragraph (3)(A), the Commission makes (and includes in the report required by paragraph (3)(B)(iii)) a factual determination that market forces are securing rates and charges that are just and reasonable, as evidenced by rate levels, costs, complaints, service quality, and other relevant factors.

"(i) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to alter the obligations, powers, or duties of common carriers or the Commission under the other sections of this Act.".

Approved October 17, 1990.

LEGISLATIVE HISTORY—H.R. 971 (S. 1660):

HOUSE REPORTS: No. 101-213 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-439 accompanying S. 1660 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Sept. 25, considered and passed House.
Vol. 136 (1990): Oct. 1, considered and passed Senate, amended, in lieu of S. 1660.

Public Law 101-436
101st Congress

An Act

To provide for the conveyance of certain lands to the State of California, and for other purposes.

Oct. 17, 1990
[H.R. 2809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National forests. Natural resources. 16 USC 494 note.

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) in order to protect certain outstanding examples of ponderosa pine, sugar pine, and giant sequoia trees located in the North and South Calaveras Groves, on the western slope of the Sierra Nevada Mountains, the State of California has established the Calaveras Big Trees State Park;

(2) for similar purposes, the United States has designated certain adjacent Federal lands, amounting to approximately 379 acres, as the Calaveras Big Trees National Forest; and

(3) this National Forest (managed as part of the Stanislaus National Forest) is the smallest National Forest in the United States and could be more appropriately and efficiently managed as part of the Calaveras Big Trees State Park.

(b) PURPOSE.—The purpose of this Act is to improve the management of the lands located in the Calaveras Big Trees National Forest, and to protect certain examples of ponderosa pine, sugar pine, and giant sequoia trees, by unifying the management of the lands in such National Forest and in the California Calaveras Big Trees State Park.

SEC. 2. LAND CONVEYANCE.

16 USC 494 note.

(a) CONVEYANCE.—Subject to valid existing rights and the provisions of this Act, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized and directed to convey all right, title, and interest of the United States in and to lands and interests therein within the Calaveras Big Trees National Forest, as generally depicted on a map numbered 20435 and dated June 5, 1989, prepared by the California Department of Parks and Recreation, to the State of California for inclusion within the Calaveras Big Trees State Park.

(b) MAP AND DESCRIPTION.—As soon as practicable after the enactment of this Act, the Secretary shall submit a map and legal description of the lands referred to in subsection (a) to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the Senate. Such map and legal description shall have the same force and effect as if included in this Act, except that any clerical or typographical errors in such map or legal description may be corrected. The Secretary shall place such map and legal description on file, and make them available for public inspection, in the Office of the Chief of the Forest Service.

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(c) CONDITIONS OF CONVEYANCE.—Conveyance of the lands and interests described in subsection (a) of this section shall be subject to the following conditions:

(1) The conveyance shall take place only if within two years after the date of enactment of this Act, there is concluded an agreement between the State of California and the Secretary whereby the State of California agrees to provide to the United States, in exchange for the lands described in subsection (a) and pursuant to terms and conditions which the Secretary finds acceptable, consideration of approximately equal value. Such consideration shall include either lands in California that the Secretary finds suitable for addition to, and are contiguous to, one or more units of the National Forest System, cash payment, or monetary grants awarded to the United States after June 1, 1990, or any combination thereof.

(2) No harvest of timber (except as may be necessary for the control of fire, insects, or disease) and no mining, mineral leasing, or geothermal exploration or development shall be permitted on such lands.

(3) Any action by the State of California to convey any portion of such lands or interests to any entity other than the United States shall be void ab initio and shall result in the reversion to the United States of all right, title, and interest in such lands.

(4) Any action by the State of California to permit the use of any portion of such lands for any purpose prohibited by this subsection or any purpose incompatible with the continued ability of such lands to support ponderosa pine, sugar pine, or giant sequoia trees, shall result in the reversion of all right, title, and interest in such lands to the United States. Any such lands which revert to the United States shall be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands.

(5) The Secretary, acting through the Forest Service, shall be afforded by appropriate officials of the State of California reasonable opportunities to collect seeds from trees located on such lands for scientific or silvicultural purposes.

(6) The Secretary, upon prior notification to the State of California, shall be entitled at any time to enter upon such lands for the purpose of monitoring the management of such lands and the compliance of the State of California with the provisions of this subsection.

(7) The conveyance shall be subject to the following reservations or exceptions:

(A) existing ditches and canals as authorized by the Act of August 30, 1890 (43 U.S.C. 945); and

(B) any existing rights-of-way to provide the United States and its assigns access to federally owned lands.

(d) ENFORCEMENT.—Upon the request of the Secretary, the Attorney General shall bring any action or take any other steps necessary to enforce the provisions of subsection (c) of this section.

(e) TIMING, VALUE, AND STATUS.—(1) Conveyance of lands to the State of California pursuant to this Act shall occur when the agreement described in paragraph (1) of subsection (c) has been reached. The restrictions and conditions specified in paragraphs (2), (3), (4), (5), (6), and (7) of subsection (c) shall be included in the instruments of conveyance of lands to the State of California.

(2) Effective upon the conveyance to the State of California of lands described in subsection (a) of this section, or two years after the date of enactment of this Act, whichever is sooner, the National Forest designation of such lands shall terminate. Any such lands not conveyed to the State of California shall thereupon be incorporated into the Stanislaus National Forest and managed to preserve and protect the stands of ponderosa pine, sugar pine, and giant sequoia trees located on such lands. Termination date.

(3) Any lands conveyed to the United States pursuant to this Act shall be deemed national forest lands and managed according to the laws governing the management of the National Forest System. If any such lands are outside existing boundaries of one or more National Forests, the Secretary shall modify such boundaries as he deems appropriate to include such lands.

(4) Values of the respective lands exchanged between the United States and the State of California pursuant to this Act shall be of "approximately equal value" as that term is defined by regulations implementing the Act of January 12, 1983, known as the Small Tracts Act (16 U.S.C. 521c-521i).

Approved October 17, 1990.

LEGISLATIVE HISTORY—H.R. 2809:

HOUSE REPORTS: No. 101-337 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-430 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 13, considered and passed House.
Vol. 136 (1990): Sept. 11, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendments.

Public Law 101-437
101st Congress

An Act

Oct. 17, 1990
[H.R. 1677]

To require the Federal Communications Commission to reinstate restrictions on advertising during children's television, to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Children's Television Act of 1990.

SHORT TITLE

47 USC 609 note.

SECTION 1. This Act may be cited as the "Children's Television Act of 1990".

TITLE I—REGULATION OF CHILDREN'S TELEVISION

FINDINGS

47 USC 303a note.

SEC. 101. The Congress finds that—

(1) it has been clearly demonstrated that television can assist children to learn important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them;

(2) as part of their obligation to serve the public interest, television station operators and licensees should provide programming that serves the special needs of children;

(3) the financial support of advertisers assists in the provision of programming to children;

(4) special safeguards are appropriate to protect children from overcommercialization on television;

(5) television station operators and licensees should follow practices in connection with children's television programming and advertising that take into consideration the characteristics of this child audience; and

(6) it is therefore necessary that the Federal Communications Commission (hereinafter referred to as the "Commission") take the actions required by this title.

STANDARDS FOR CHILDREN'S TELEVISION PROGRAMMING

47 USC 303a.

SEC. 102. (a) The Commission shall, within 30 days after the date of enactment of this Act, initiate a rulemaking proceeding to prescribe standards applicable to commercial television broadcast licensees with respect to the time devoted to commercial matter in conjunction with children's television programming. The Commission shall, within 180 days after the date of enactment of this Act, complete the rulemaking proceeding and prescribe final standards that meet the requirements of subsection (b).

(b) Except as provided in subsection (c), the standards prescribed under subsection (a) shall include the requirement that each commercial television broadcast licensee shall limit the duration of advertising in children's television programming to not more than

10.5 minutes per hour on weekends and not more than 12 minutes per hour on weekdays.

(c) After January 1, 1993, the Commission—

(1) may review and evaluate the advertising duration limitations required by subsection (b); and

(2) may, after notice and public comment and a demonstration of the need for modification of such limitations, modify such limitations in accordance with the public interest.

(d) As used in this section, the term "commercial television broadcast licensee" includes a cable operator, as defined in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

CONSIDERATION OF CHILDREN'S TELEVISION SERVICE IN BROADCAST LICENSE RENEWAL

SEC. 103. (a) After the standards required by section 102 are in effect, the Commission shall, in its review of any application for renewal of a television broadcast license, consider the extent to which the licensee— 47 USC 303b.

(1) has complied with such standards; and

(2) has served the educational and informational needs of children through the licensee's overall programming, including programming specifically designed to serve such needs.

(b) In addition to consideration of the licensee's programming as required under subsection (a), the Commission may consider—

(1) any special nonbroadcast efforts by the licensee which enhance the educational and informational value of such programming to children; and

(2) any special efforts by the licensee to produce or support programming broadcast by another station in the licensee's marketplace which is specifically designed to serve the educational and informational needs of children.

PROGRAM LENGTH COMMERCIAL MATTER

SEC. 104. Within 180 days after the date of enactment of this Act, the Commission shall complete the proceeding known as "Revision of Programming and Commercialization Policies, Ascertainment Requirements and Program Log Requirements for Commercial Television Stations", MM Docket No. 83-670.

TITLE II—ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

National Endowment for Children's Educational Television Act of 1990.

SHORT TITLE

SEC. 201. This title may be cited as the "National Endowment for Children's Educational Television Act of 1990". 47 USC 609 note.

FINDINGS

SEC. 202. The Congress finds that— 47 USC 394 note.

(1) children in the United States are lagging behind those in other countries in fundamental intellectual skills, including reading, writing, mathematics, science, and geography;

(2) these fundamental skills are essential for the future governmental and industrial leadership of the United States;

(3) the United States must act now to greatly improve the education of its children;

(4) television is watched by children about three hours each day on average and can be effective in teaching children;

(5) educational television programming for children is aired too infrequently either because public broadcast licensees and permittees lack funds or because commercial broadcast licensees and permittees or cable television system operators do not have the economic incentive; and

(6) the Federal Government can assist in the creation of children's educational television by establishing a National Endowment for Children's Educational Television to supplement the children's educational programming funded by other governmental entities.

NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

SEC. 203. (a) Part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.) is amended—

47 USC 394, 393a. 47 USC prec. 395, prec. 396, prec. 397.

(1) by redesignating section 394 as section 393A;

(2) by redesignating subparts B, C, and D as subparts C, D, and E, respectively; and

(3) by inserting immediately after section 393A, as so redesignated, the following new subpart:

"Subpart B—National Endowment for Children's Educational Television

"ESTABLISHMENT OF NATIONAL ENDOWMENT

Government contracts. Grant programs—education. 47 USC 394.

"SEC. 394. (a) It is the purpose of this section to enhance the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

"(b)(1) There is established, under the direction of the Secretary, a National Endowment for Children's Educational Television. In administering the National Endowment, the Secretary is authorized to—

"(A) contract with the Corporation for the production of educational television programming for children; and

"(B) make grants directly to persons proposing to create and produce educational television programming for children.

The Secretary shall consult with the Advisory Council on Children's Educational Television in the making of the grants or the awarding of contracts for the purpose of making the grants.

"(2) Contracts and grants under this section shall be made on the condition that the programming shall—

"(A) during the first two years after its production, be made available only to public television licensees and permittees and noncommercial television licensees and permittees; and

Cable television.

"(B) thereafter be made available to any commercial television licensee or permittee or cable television system operator, at a charge established by the Secretary that will assure the maximum practicable distribution of such programming, so long as such licensee, permittee, or operator does not interrupt the programming with commercial advertisements.

The Secretary may, consistent with the purpose and provisions of this section, permit the programming to be distributed to persons using other media, establish conditions relating to such distribution, and apply those conditions to any contract or grant made under this section. The Secretary may waive the requirements of subparagraph (A) if the Secretary finds that neither public television licensees and permittees nor noncommercial television licensees and permittees will have an opportunity to air such programming in the first two years after its production.

"(c)(1) The Secretary, with the advice of the Advisory Council on Children's Educational Television, shall establish criteria for making contracts and grants under this section. Such criteria shall be consistent with the purpose and provisions of this section and shall be made available to interested parties upon request. Such criteria shall include—

"(A) criteria to maximize the amount of programming that is produced with the funds made available by the Endowment;

"(B) criteria to minimize the costs of—

"(i) selection of grantees,

"(ii) administering the contracts and grants, and

"(iii) the administrative costs of the programming production; and

"(C) criteria to otherwise maximize the proportion of funds made available by the Endowment that are expended for the cost of programming production.

"(2) Applications for grants under this section shall be submitted to the Secretary in such form and containing such information as the Secretary shall require by regulation.

"(d) Upon approving any application for a grant under subsection (b)(1)(B), the Secretary shall make a grant to the applicant in an amount determined by the Secretary, except that such amounts shall not exceed 75 percent of the amount determined by the Secretary to be the reasonable and necessary cost of the project for which the grant is made.

"(e)(1) The Secretary shall establish an Advisory Council on Children's Educational Television. The Secretary shall appoint ten individuals as members of the Council and designate one of such members to serve as Chairman.

"(2) Members of the Council shall have terms of two years, and no member shall serve for more than three consecutive terms. The members shall have expertise in the fields of education, psychology, child development, or television programming, or related disciplines. Officers and employees of the United States shall not be appointed as members.

"(3) While away from their homes or regular places of business in the performance of duties for the Council, the members of the Council shall serve without compensation but shall be allowed travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code.

"(4) The Council shall meet at the call of the Chairman and shall advise the Secretary concerning the making of contracts and grants under this section.

"(f)(1) Each recipient of a grant under this section shall keep such records as may be reasonably necessary to enable the Secretary to carry out the Secretary's functions under this section, including records which fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project, Records.

the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

Records.

"(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purposes of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to a grant received under this section.

"(g) The Secretary is authorized to make such rules and regulations as may be necessary to carry out this section, including those relating to the order of priority in approving applications for projects under this section or to determining the amounts of contracts and grants for such projects.

Appropriation authorization.

"(h) There are authorized to be appropriated $2,000,000 for fiscal year 1991 and $4,000,000 for fiscal year 1992 to be used by the Secretary to carry out the provisions of this section. Sums appropriated under this subsection for any fiscal year shall remain available for contracts and grants for projects for which applications approved under this section have been submitted wtihin one year after the last day of such fiscal year.

"(i) For purposes of this section—

"(1) the term 'educational television programming for children' means any television program which is directed to an audience of children who are 16 years of age or younger and which is designed for the intellectual development of those children, except that such term does not include any television program which is directed to a general audience but which might also be viewed by a significant number of children; and

"(2) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or State or local governmental entity.".

(b) Section 397 of the Communications Act of 1934 (47 U.S.C. 397) is amended—

(1) in paragraph (2) by striking "subpart C" and inserting in lieu thereof "subpart D"; and

(2) in paragraph (15)—

(A) by inserting "and subpart B" immediately after "subpart A"; and

(B) by striking "subpart B, subpart C" and inserting in lieu thereof "subpart C, subpart D".

[Note by the Office of the Federal Register.—The foregoing Act, having been presented to the President of the United States on Friday, October 5, 1990, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become law without his signature on October 18, 1990.]

LEGISLATIVE HISTORY—H.R. 1677 (S. 1992):

HOUSE REPORTS: No. 101-385 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-227 accompanying S. 1992 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 19, S. 1992 considered and passed Senate.
July 23, H.R. 1677 considered and passed House.
Sept. 24, considered and passed Senate, amended.
Oct. 1, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 17, Presidential statement.

Public Law 101-438
101st Congress

An Act

To provide for the construction, operation, and maintenance of an extension of the American Canal at El Paso, Texas.

Oct. 18, 1990
[H.R. 4758]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rio Grande American Canal Extension Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande American Canal Extension Act of 1990".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Riverside Dam on the international reach of the Rio Grande River at El Paso, Texas, provides the water used to irrigate nearly 32,000 acres of farmland in the United States.

(2) In June 1987, the Riverside Dam failed, and the temporary replacement structure now in place on the river cannot be relied upon to guarantee the continued provision of these waters to the United States.

(3) Building a permanent structure in an international reach of the Rio Grande would require the conditional approval of the Government of Mexico through an action of the International Boundary and Water Commission, United States and Mexico, and Mexico could use such structure to divert waters to its own land.

(4) The United States constructed the American Dam completely in United States territory to ensure that waters from the American Canal would be completely retained within the United States up to a point below Mexico's diversion at the International Dam.

(5) Potentially disruptive international issues might arise from the commingling of the waters of the United States and the waters of Mexico in this reach of the Rio Grande, while such issues would not arise if a canal extension were constructed and operated wholly on the American side of the river.

(6) The construction and operation of an extension of the American Canal which would lie wholly in the United States would provide for a more equitable distribution of waters between the United States and Mexico, reduce water losses, and eliminate many hazards to public safety.

SEC. 3. CONSTRUCTION OF CANAL EXTENSION, OPERATION, MAINTENANCE, AND USE.

(a) CONSTRUCTION OF EXTENSION.—Subject to subsection (e), the Secretary shall construct an extension of the American Canal, together with pumping plants, wasteways, measuring devices, and other facilities needed to connect such extension with existing irrigation systems. Such extension shall lie wholly in the United States and shall be approximately 13 miles in length, beginning at

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the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(b) OPERATION OF CANAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall operate the extension of the American Canal provided for in subsection (a).

Government contracts. Mexico.

(2) DELIVERY OF WATERS.—The Secretary shall enter into an agreement with El Paso County Water Improvement District Number 1 pursuant to which the Water Improvement District would be responsible for the operation of the American Canal with respect to the delivery of all waters, with the exception of those waters belonging to Mexico which, consistent with paragraph (3), the Secretary shall be responsible for delivering.

(3) UNITED STATES OBLIGATIONS UNDER 1906 AND 1933 CONVENTIONS.—In authorizing the agreement described in paragraph (2), this Act—

(A) does not in any way affect the jurisdiction, powers, or prerogatives of the International Boundary and Water Commission, United States and Mexico, and

(B) does not in any way impede the ability of the United States Government to fulfill its obligations under the 1906 and 1933 Conventions.

(c) USE OF CANAL AS CONVEYANCE CHANNEL.—

(1) USE BY MEXICO.— The Secretary may enter into an agreement with Mexico which permits Mexico to use the American Canal as a conveyance channel. Any such agreement shall require Mexico to make payments to the United States for Mexico's use of the American Canal.

(2) USE BY NON-FEDERAL ENTITIES.—Upon obtaining the express approval of the Secretary, El Paso County Water Improvement District Number 1 may enter into agreements with other non-Federal entities pursuant to which such entities may use the American Canal as a conveyance channel.

(d) MAINTENANCE OF EXTENSION.—The Secretary shall maintain the extension of the American Canal provided for in subsection (a).

(e) LOCAL CONTRIBUTIONS TO COSTS.—The extension of the American Canal provided for in subsection (a) may not be constructed unless the Secretary and El Paso County Water Improvement District Number 1 have entered into the following agreements:

(1) CONSTRUCTION COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will pay $5,000,000 as its share of the construction costs for the construction of the extension of the American Canal provided for in subsection (a).

(2) MAINTENANCE COSTS.—An agreement pursuant to which El Paso County Water Improvement District Number 1 will contribute a cumulative amount of $50,000 each year to the United States Commissioner as its share of the costs for maintenance of the extention of the American Canal provided for in subsection (a). After the 7-year anniversary of the completion of the construction of that extension (and after the end of each 7-year interval since the last such renegotiation), the Secretary and the El Paso County Water Improvement District Number 1 may renegotiate the amount of the contribution of El Paso County Water Improvement District Number 1 pursuant to the agreement required by this paragraph in order to reflect any increase in Bureau of Labor Statistics Consumer Price Index-

Urban Wage Earners and Clerical Workers (CPI-W)-1982-84-100 Index. In the event the funds contributed by the El Paso County Water Improvement District Number 1 pursuant to this paragraph are not utilized during any given year, the funds shall be carried over to the succeeding years in a contingency fund for necessary preventative and routine maintenance work to be performed by the United States Section, International Boundary and Water Commission.

(f) REPEAL OF PREVIOUS CONSTRUCTION AUTHORIZATION.—Title IV of the Act entitled "An Act to authorize various Federal reclamation projects and programs, and for other purposes", approved September 28, 1976 (Public Law 94-423; 90 Stat. 1327), is repealed.

SEC. 4. STUDY OF SUBSIDENCE DAMAGE.

The Secretary—

(1) shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension provided for in section 3(a), and

(2) shall submit a report to the Congress detailing his findings not later than 1 year after the date of the enactment of this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $42,000,000 to construct the extension of the American Canal provided for in section 3(a); and

(2) such sums as may be necessary to operate and maintain that extension and to conduct the study required by section 4.

SEC. 6. DEFINITIONS.

As used in this Act—

(1) the term "American Canal" means the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961);

(2) the term "United States Commissioner" means the United States Commissioner, International Boundary and Water Commission, United States and Mexico; and

(3) the term "Secretary" means the Secretary of State, acting through the United States Commissioner.

Approved October 18, 1990.

LEGISLATIVE HISTORY—H.R. 4758:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 12, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 101-439
101st Congress

Joint Resolution

Oct. 18, 1990
[H.J. Res. 602]

Designating October 1990 as "National Domestic Violence Awareness Month".

Whereas it is estimated that a woman is battered every 15 seconds in the United States;

Whereas domestic violence is the single largest cause of injury to women in the United States, affecting 6,000,000 women;

Whereas urban and rural women of all racial, social, religious, ethnic, and economic groups, and of all ages, physical abilities, and lifestyles are affected by domestic violence;

Whereas 31 percent of female homicide victims in 1988 were killed by their husbands or boyfriends;

Whereas one-third of the domestic violence incidents involve felonies, specifically, rape, robbery, and aggravated assault;

Whereas in 50 percent of families where the wife is being abused, the children of that family are also abused;

Whereas some individuals in law enforcement and the judicial system continue to think of spousal abuse as a "private" matter and are hesitant to intervene and treat domestic assault as a crime;

Whereas in 1987, over 375,000 women, plus their children, were provided emergency shelter in domestic violence shelters and safe homes, and the number of women and children that were sheltered by domestic violence programs increased by 164,000 between 1983 and 1987;

Whereas 40 percent of women in need of shelter may be turned away due to a lack of shelter space;

Whereas the nationwide efforts to help the victims of domestic violence need to be expanded and coordinated;

Whereas there is a need to increase the public awareness and understanding of domestic violence and the needs of battered women and their children; and

Whereas the dedication and successes of those working to end domestic violence and the strength of the survivors of domestic violence should be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "National Domestic Violence Awareness Month", and

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the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the month by becoming more aware of the tragedy of domestic violence, supporting those who are working to end domestic violence, and participating in other appropriate efforts.

Approved October 18, 1990.

LEGISLATIVE HISTORY—H.J. Res. 602:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 10, considered and passed Senate.

Public Law 101-440
101st Congress

An Act

Oct. 18, 1990
[S. 247]

To amend the Energy Policy and Conservation Act to increase the efficiency and effectiveness of State energy conservation programs carried out pursuant to such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

State Energy Efficiency Programs Improvement Act of 1990. 42 USC 6201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "State Energy Efficiency Programs Improvement Act of 1990".

SEC. 2. STATE ENERGY EFFICIENCY GOALS AND DEFINITIONS.

(a) GOALS.—(1) Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

"STATE ENERGY EFFICIENCY GOALS

"SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after October 1, 1991, shall contain a goal, consisting of an improvement of 10 percent or more in the efficiency of use of energy in the State concerned in the calendar year 2000 as compared to the calendar year 1990, and may contain interim goals.".

(2) The table of contents of such Act is amended by striking out the item for section 364 and inserting in lieu thereof the following:

"Sec. 364. State energy efficiency goals.".

(b) DEFINITIONS.—Section 366(4) of such Act (42 U.S.C. 6326(4)) is amended—

(1) by striking out "building or industrial" and inserting in lieu thereof "building, building system, energy consuming device associated with the building, or industrial";

(2) by striking out "the date of enactment of the Energy Conservation and Production Act" and inserting in lieu thereof "May 1, 1989"; and

(3) by inserting "maintain or" before "improve the efficiency" in the first sentence.

SEC. 3. REQUIRED ELEMENTS OF STATE ENERGY CONSERVATION PLAN.

(a) PLAN REQUIREMENTS.—Section 362(c) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)) is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(3) by adding at the end thereof the following new paragraph:

"(6) procedures for ensuring effective coordination among various local, State, and Federal energy conservation programs within the State, including any program administered within the Office of Technical and Financial Assistance of the Department of Energy and the Low Income Home Energy Assistance

Program administered by the Department of Health and Human Services.".

(b) ADDITIONAL CONDITIONS.—Section 363 of such Act (42 U.S.C. 6323) is amended by adding at the end thereof the following new subsections:

"(d) Each State receiving Federal financial assistance pursuant to this section shall provide reasonable assurance to the Secretary that it has established policies and procedures designed to assure that Federal financial assistance under this part and under part G of this title will be used to supplement, and not to supplant, State and local funds, and to the extent practicable, to increase the amount of such funds that otherwise would be available, in the absence of such Federal financial assistance, for those programs set forth in the State energy conservation plan approved pursuant to subsection (b).

"(e)(1) Effective October 1, 1991, to be eligible for Federal financial assistance pursuant to this section, a State shall submit to the Secretary, as a supplement to its energy conservation plan, an energy emergency planning program for an energy supply disruption, as designed by the State consistent with applicable Federal and State law. The contingency plan provided for by the program shall include an implementation strategy or strategies (including regional coordination) for dealing with energy emergencies. The submission of such plan shall be for informational purposes only and without any requirement of approval by the Secretary.

"(2) Federal financial assistance made available under this part to a State may be used to develop and conduct the energy emergency planning program requirement referred to in paragraph (1).".

SEC. 4. OPTIONAL ELEMENTS OF STATE ENERGY CONSERVATION PLAN AND CONSOLIDATION OF SUPPLEMENTAL STATE ENERGY CONSERVATION PLAN.

(a) IN GENERAL.—Section 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) programs to increase transportation energy efficiency, including programs to accelerate the use of alternative transportation fuels for State government vehicles, fleet vehicles, taxies, mass transit, and privately owned vehicles;";

(2) by striking out "and" at the end of paragraph (4);

(3) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) programs for financing energy efficiency and renewable energy capital investments, projects, and programs—

"(A) which may include loan programs and performance contracting programs for leveraging of additional public and private sector funds, and programs which allow rebates, grants, or other incentives for the purchase and installation of energy efficiency and renewable energy measures; or

"(B) in addition to or in lieu of programs described in subparagraph (A), which may be used in connection with public or nonprofit buildings owned and operated by a State, a political subdivision of a State or an agency or instrumentality of a State, or an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986;

"(6) programs for encouraging and for carrying out energy audits with respect to buildings and industrial facilities (including industrial processes) within the State;

"(7) programs to promote the adoption of integrated energy plans which provide for—

"(A) periodic evaluation of a State's energy needs, available energy resources (including greater energy efficiency), and energy costs; and

"(B) utilization of adequate and reliable energy supplies, including greater energy efficiency, that meet applicable safety, environmental, and policy requirements at the lowest cost;

"(8) programs to promote energy efficiency in residential housing, such as—

"(A) programs for development and promotion of energy efficiency rating systems for newly constructed housing and existing housing so that consumers can compare the energy efficiency of different housing; and

"(B) programs for the adoption of incentives for builders, utilities, and mortgage lenders to build, service, or finance energy efficient housing;

"(9) programs to identify unfair or deceptive acts or practices which relate to the implementation of energy efficiency measures and renewable resource energy measures and to educate consumers concerning such acts or practices;

"(10) programs to modify patterns of energy consumption so as to reduce peak demands for energy and improve the efficiency of energy supply systems, including electricity supply systems;

"(11) programs to promote energy efficiency as an integral component of economic development planning conducted by State, local, or other governmental entities or by energy utilities;

"(12) in accordance with subsection (g), programs to implement the Energy Technology Commercialization Services Program; and

"(13) any other appropriate method or programs to conserve and to promote efficiency in the use of energy.".

(b) ENERGY TECHNOLOGY COMMERCIALIZATION SERVICES PROGRAM.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322) is amended by adding at the end thereof the following new subsection:

Small businesses.

"(f)(1) The purposes of this subsection are to—

"(A) strengthen State outreach programs to aid small and start-up businesses;

"(B) foster a broader application of engineering principles and techniques to energy technology products, manufacturing, and commercial production by small and start-up businesses; and

"(C) foster greater assistance to small and start-up businesses in dealing with the Federal Government on energy technology related matters.

"(2) The programs to implement the functions of the Energy Technology Commercialization Services Program, as provided for by subsection (d)(12), shall—

"(A) aid small and start-up businesses in discovering useful and practical information relating to manufacturing and

commercial production techniques and costs associated with new energy technologies;

"(B) encourage the application of such information in order to solve energy technology product development and manufacturing problems;

"(C) establish an Energy Technology Commercialization Services Program affiliated with an existing entity in each State;

"(D) coordinate engineers and manufacturers to aid small and start-up businesses in solving specific technical problems and improving the cost effectiveness of methods for manufacturing new energy technologies;

"(E) assist small and start-up businesses in preparing the technical portions of proposals seeking financial assistance for new energy technology commercialization; and

"(F) facilitate contract research between university faculty and students and small start-up businesses, in order to improve energy technology product development and independent quality control testing.

"(3) Each State energy technology commercialization services program shall develop and maintain a data base of engineering and scientific experts in energy technologies and product commercialization interested in participating in the service. Such data base shall, at a minimum, include faculty of institutions of higher education, retired manufacturing experts, and national laboratory personnel.

"(4) The services provided by the energy technology commercialization services programs established under this subsection shall be available to any small or start-up business. Such service programs shall charge fees which are affordable to a party eligible for assistance, which shall be determined by examining factors, including the following: (A) the costs of the services received; (B) the need of the recipient for the services; and (C) the ability of the recipient to pay for the services.

"(5) For the purposes of this subsection, the term—

"(A) 'institution of higher education' has the same meaning as such term is defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(B) 'small business' means a private firm that does not exceed the numerical size standard promulgated by the Small Business Administration under section 3(a) of the Small Business Act (15 U.S.C. 632) for the Standard Industrial Classification (SIC) codes designated by the Secretary of Energy; and

"(C) 'start-up business' means a small business which has been in existence for 5 years or less.".

(c) ELIMINATION OF SSECP.—(1) Section 367 of such Act (42 U.S.C. 6327) is repealed.

(2) The table of contents of such Act is amended by striking out the item for section 367.

SEC. 5. STATE ENERGY ADVISORY BOARD.

Section 365 of the Energy Policy and Conservation Act (42 U.S.C. 6325) is amended by adding at the end the following:

"(g)(1)(A) There is hereby established within the Department of Energy a State Energy Advisory Board (hereafter in this subsection referred to as the 'Board') which shall consist of at least 18 and not more than 21 members appointed by the Secretary as soon as practicable but no later than September 30, 1991. At least eight of the members of the Board shall be persons who serve as directors of

the State agency, or a division of such agency, responsible for developing State energy conservation plans pursuant to section 362. At least four members shall be directors of State or local low income weatherization assistance programs. Other members shall be appointed from persons who have experience in energy efficiency or renewable energy programs from the private sector, consumer interest groups, utilities, public utility commissions, educational institutions, financial institutions, local government energy programs, or research institutions. A majority of the members of the Board shall be State employees.

"(B)(i) Except as provided in clause (ii), the members of the Board shall serve a term of three years.

"(ii) Of the members first appointed to the Board, one-third shall serve a term of one year, one-third shall serve a term of two years, and the remainder shall serve a term of three years, as specified by the Secretary.

"(2) The Board shall—

"(A) make recommendations to the Assistant Secretary for Conservation and Renewable Energy within the Department of Energy with respect to—

"(i) the energy efficiency goals and objectives of the programs carried out under this part, part G of this title, and under part A of title IV of the Energy Conservation and Production Act; and

"(ii) programmatic and administrative policies designed to strengthen and improve the programs referred to in clause (i), including actions that should be considered to encourage non-Federal resources (including private resources) to supplement Federal financial assistance;

"(B) serve as a liaison between the States and such Department on energy efficiency and renewable energy resource programs; and

"(C) encourage transfer of the results of research and development activities carried out by the Federal Government with respect to energy efficiency and renewable energy resource technologies.

"(3) The Secretary shall designate one of the members of the Board to serve as its chairman and one to serve as its vice-chairman. The chairman and vice-chairman shall serve in those offices no longer than two years.

"(4) The Secretary shall provide the Board with such reasonable services and facilities as may be necessary for the performance of its functions.

"(5) The Board shall be nonpartisan.

"(6) The Board may adopt administrative rules and procedures and may elect one of its members secretary of the Board.

"(7) Consistent with Federal regulations, the Secretary shall reimburse members of the Board for expenses (including travel expenses) necessarily incurred by them in the performance of their duties.

Reports.

"(8) The Board shall meet at least twice a year and shall submit an annual report to the Secretary and the Congress on the activities carried out by the Board in the previous fiscal year, including an accounting of the expenses reimbursed under paragraph (7) with respect to the year for which the report is made and any recommendations it may have for administrative or legislative changes

concerning the matters referred to in subparagraphs (A), (B), and (C) of paragraph (2).

"(9) The Board shall continue until terminated by law.".

SEC. 6. ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.

(a) NON-FEDERAL SHARE OF A PROJECT.—Section 396(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6371e(b)(1)) is amended by adding at the end thereof the following: "The non-Federal share of the costs of any such energy conservation project may be provided by using programs of innovative financing for energy conservation projects (including, but not limited to, loan programs and performance contracting), even if, pursuant to such financing, clear title to the equipment does not pass to the school or hospital until after the grant is completed.".

(b) DEFINITIONS.—Section 391 of such Act (42 U.S.C. 6371) is amended—

(1) in paragraph (1), by striking out "April 20, 1977" and inserting in lieu thereof "May 1, 1989";

(2) in paragraph (2), by striking out "reduce energy consumption" and inserting in lieu thereof "maintain or reduce energy consumption and reduce energy costs" in the material preceding subparagraph (A);

(3) in paragraph (2)(C), by inserting "and load management systems" before the semicolon;

(4) in paragraph (8), by inserting "administrative facilities," after "dormitories,"; and

(5) in paragraph (17)(A), by striking out "and related cost savings" and inserting in lieu thereof "or energy cost savings".

(c) REPEAL OF EDUCATIONAL AGENCY EXCLUSION.—Section 396(e) of such Act (42 U.S.C. 6371e(e)) is repealed.

(d) USE OF FUNDS.—Section 396(d) of such Act (42 U.S.C. 6371e(d)) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraphs:

"(2) A State may utilize up to 100 percent of the funds provided by the Secretary under this part for any fiscal year for program and technical assistance and up to 50 percent of such funds for marketing and other costs associated with leveraging of non-Federal funds for carrying out this part and may administer a continuous and consecutive application and award procedure for providing program and technical assistance under this part in accordance with regulations that the Secretary shall establish, if the State— Regulations.

"(A) has adopted a State plan in accordance with section 394, the administration of which is in accordance with applicable regulations; and

"(B) certifies to the Secretary that not more than 15 percent of the aggregate amount of Federal and non-Federal funds used by the State to provide program and technical assistance, implement energy conservation measures, and otherwise carry out a program pursuant to this part for the fiscal year concerned will be expended for program and technical assistance and for marketing and other costs associated with leveraging of non-Federal funds for such program.".

SEC. 7. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS.

(a) COOLING MATERIALS.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by adding after subparagraph (F) the following:

"(G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices; and".

(b) RENTAL HOUSING.—(1) Section 413(b)(2) of such Act (42 U.S.C. 6863(b)(2)) is amended—

(A) by striking out "and" at the end of subparagraph (A); and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) that provide guidance to the States in the implementation of this part, including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part; and

"(C) that secure the Federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part.".

(2) Section 413(b) of such Act (42 U.S.C. 6863(b)) is amended by adding at the end the following:

"(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part, shall ensure that—

"(A) the benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

"(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

"(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

"(D) no undue or excessive enhancement will occur to the value of such dwelling units.

"(6) As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.".

(c) ALLOCATION FORMULA.—Section 414 of such Act (42 U.S.C. 6864) is amended—

(1) in subsection (a)(D), by inserting ", such as the cost of heating and cooling," after "necessary"; and

(2) by adding at the end the following:

"(c) Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part among the States pursuant to subsection (a).".

(d) WAIVER OF 40-PERCENT REQUIREMENT.—Section 415(a) of such Act (42 U.S.C. 6865(a)) is amended—

(1) in the first sentence, by striking out "An average" and inserting in lieu thereof "(1) Except as provided in paragraph (2), an average";

(2) by inserting the following before the period at the end of the second sentence: ", and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than $350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part"; and

(3) by adding at the end the following:

"(2)(A) The Secretary shall approve a State's application to waive the 40-percent requirement established in paragraph (1) if the State includes in its plan energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act, (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

"(B) The Secretary shall make information on energy audit procedures and techniques available to States applying for a waiver under subparagraph (A) and shall provide training for State and local agencies in the implementation of such procedures and techniques.". Occupational training.

(e) DWELLING UNIT LIMITATION.—Section 415(c) of such Act (42 U.S.C. 6865(c)) is amended—

(1) in paragraph (1), by striking out "The expenditure" and inserting in lieu thereof "Except as provided in paragraphs (3) and (4), the expenditure"; and

(2) by adding at the end the following:

"(3) Beginning with fiscal year 1991, the $1,600 per dwelling unit limitation provided in paragraph (1) shall be adjusted annually by increasing the limitation amount by an amount equal to—

"(A) the limitation amount for the previous fiscal year, multiplied by

"(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of fiscal year for which the determination is being made, or (ii) three percent.

"(4)(A) In addition to the average per dwelling unit limitation applicable in a State under paragraphs (1) and (3), the Secretary shall, upon application by a State, establish a separate average per dwelling unit limitation for dwelling units in such State—

"(i) which conform to program requirements; and

"(ii) which, in addition to any other weatherization modifications, have furnace efficiency modifications made under this part.

"(B) The average per dwelling unit limitation applicable in a State to units described in subparagraph (A) shall not exceed an amount equal to—

"(i) the amount permitted for the expenditure of financial assistance for labor, weatherization materials, and related matters for dwelling units in such State under paragraphs (1) and (3), plus

"(ii) an amount determined by the State to be the average amount that is appropriate for furnace efficiency modifications of dwelling units of the type assisted under this part in such State.".

(f) REPEAL OF PERFORMANCE FUND.—Section 415(d) of such Act (42 U.S.C. 6865(d)) is repealed.

(g) NON-FEDERAL FUNDING REQUIREMENT.—Section 414(b)(3) of such Act (42 U.S.C. 6864(b)(3)) is amended by striking out "and (B)" and inserting in lieu thereof the following: "(B) for using Federal financial assistance under this part to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C)".

(h) ADDITIONAL REPORTING REQUIREMENT.—Section 421 of such Act (42 U.S.C. 6871) is amended—

(1) by striking out "through 1979"; and

(2) by adding at the end the following: "Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part.".

(i) INCENTIVE PROGRAM.—Section 415 of such Act (42 U.S.C. 6865) is amended by adding at the end the following:

"(d) Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b) to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part. In making this determination, the Secretary shall—

"(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act; and

"(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

"(e)(1)(A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b), among the States an equal amount for each State not to exceed $100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part that have achieved the best performance during the previous fiscal year in advancing the purposes of this part.

"(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

"(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary finan-

cial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part during the previous fiscal year.".

(j) CONFORMING AMENDMENT.—Section 411 of such Act (42 U.S.C. 6861) is amended to read as follows:

"FINDINGS AND PURPOSE

"SEC. 411. (a) The Congress finds that—

"(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

"(2) existing efforts to encourage and facilitate such measures are inadequate because—

"(A) many dwellings owned or occupied by low-income persons are energy inefficient;

"(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

"(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

"(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

"(b) It is, therefore, the purpose of this part to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.".

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) STATE PLAN PROGRAM.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended to read as follows:

"(f) For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $25,000,000 for fiscal year 1991, $35,000,000 for fiscal year 1992, and $45,000,000 for fiscal year 1993.".

(b) ENERGY CONSERVATION PROGRAM FOR SCHOOLS AND HOSPITALS.—Section 397 of the Energy Policy and Conservation Act (42 U.S.C. 6371f) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 397. For the purpose of carrying out this part, there are authorized to be appropriated not to exceed $40,000,000 for fiscal year 1991, $50,000,000 for fiscal year 1992, and $60,000,000 for fiscal year 1993.".

(c) WEATHERIZATION ASSISTANCE PROGRAM.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 422. (a) There are authorized to be appropriated for purposes of carrying out the weatherization program under this part, other than under subsections (d) and (e) of section 415, not to exceed $200,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994.

"(b) There are authorized to be appropriated for purposes of carrying out the weatherization program under subsections (d) and (e) of section 415, not to exceed $20,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.".

Approved October 18, 1990.

LEGISLATIVE HISTORY—S. 247 (H.R. 711):

HOUSE REPORTS: No. 101-646 accompanying H.R. 711 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-235 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 25, considered and passed Senate.
Oct. 1, H.R. 711 considered and passed House; S. 247, amended, passed in lieu.
Oct. 4, Senate concurred in House amendment.

Public Law 101-441
101st Congress

An Act

To amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission.

Oct. 18, 1990
[S. 830]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPLEMENTATION OF THE PLAN.

Section 8 of the Act entitled "An Act to establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island", approved November 10, 1986 (Public Law 99-647, 16 U.S.C. 461 note) (hereinafter referred to as the "Act"), is amended by inserting the following at the end thereof:

Historic preservation.

"(c)(1) In furtherance of the purposes of this Act, the Secretary is authorized to undertake a limited experimental program of financial assistance for the purpose of providing demonstration funds for projects within the corridor which exhibit national significance or provide a wide spectrum of historic, recreational, or environmental education opportunities to the general public in a manner consistent with the purposes of this Act.

"(2) Applications for funds under this section shall be made to the Secretary through the Commission. Each application shall include the recommendation of the Commission and its findings as to how the project proposed to be funded will further the purposes of this Act.

"(3) The Secretary is authorized to provide funds for the following purposes—

"(A) preservation and restoration of properties on or eligible for inclusion on the National Register of Historic Places;

"(B) design and development of interpretive exhibits to encourage public understanding of the resources of the Blackstone Valley; and

"(C) cultural programs and environmental education programs related to environmental awareness or historic preservation.

"(4) Funds made available pursuant to this subsection shall not exceed 50 percent of the total costs of the project to be funded. In making such funds available, the Secretary shall give consideration to projects which provide a greater leverage of Federal funds. Any payment made shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States of compensation of all funds made available to such project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

16 USC 461 note.

Section 10 of the Act is amended by inserting "(a)" after "SEC. 10.", striking "250,000 for the next five fiscal years" and inserting "350,000 for each year in which the Commission is in existence" and inserting at the end thereof the following:

"(b) DEMONSTRATION FUNDS.—There are authorized to be appropriated to carry out the provisions of section 8(c), $1,000,000 annually for fiscal years 1991, 1992, and 1993, to remain available until expended.".

Approved October 18, 1990.

LEGISLATIVE HISTORY—S. 830:

HOUSE REPORTS: No. 101-712 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-63 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 14, considered and passed Senate.
Vol. 136 (1990): Sept. 17, considered and passed House, amended.
Oct. 3, Senate concurred in House amendment.

Public Law 101-442
101st Congress

An Act

To authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.

Oct. 18, 1990
[S. 2437]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—VICKSBURG NATIONAL MILITARY PARK

SEC. 101. ADDITION OF LANDS TO VICKSBURG NATIONAL MILITARY PARK.

16 USC 430h-6.

(a) GRANT'S CANAL, LOUISIANA.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, approximately two and five-tenths acres of land in Madison Parish, Louisiana, known generally as the Grant's Canal property.

(b) WARREN COUNTY, MISSISSIPPI.—(1) The Secretary is authorized to acquire by donation approximately two and eighty-two one-hundredths acres of land adjacent to the entrance of Vicksburg National Military Park owned by Warren County, Mississippi.

(2) The Secretary may contribute, in cash or services, to the relocation and construction of a maintenance facility to replace the facility located on the land to be donated, all in accordance with an agreement between the Secretary and the Board of Supervisors.

(3) The Secretary is authorized to restore and landscape the property acquired pursuant to this subsection.

(c) BOUNDARY REVISION.—Upon acquisition of the properties referred to in subsections (a) and (b), the Secretary shall, after the publication of notice in the Federal Register, revise the boundary of Vicksburg National Military Park (hereinafter in this title referred to as the "park") to reflect the inclusion of such properties within the park.

Federal Register, publication.

SEC. 102. EXCLUSION OF LANDS FROM PARK.

16 USC 430h-7.

(a) EXCLUSION OF CERTAIN LANDS.—The park boundary is hereby revised to exclude those lands depicted as "Proposed Deletions" on the map entitled "Vicksburg National Military Park" numbered 306-80,007 and dated May 1990, which map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. Exclusive jurisdiction over the lands excluded from the park is hereby retroceded to the State of Mississippi.

(b) TRANSFER TO ADJACENT OWNERS.—(1) For a period ending four years after the date of enactment of this title and subject to the provisions of paragraph (2), the Secretary is authorized to convey title to all or part of the lands referred to in subsection (a) to an owner of property adjacent to such lands, upon the application of such owner.

(2) No property shall be conveyed unless the application referred to in paragraph (1) is accompanied by a payment in an amount equal to—

(A) the fair market value of the land to be conveyed; and

(B) the administrative costs of such transfer incurred by the Secretary, including the costs of surveys, appraisals, and filing and recording fees.

(c) EXCESS PROPERTY.—Any lands not conveyed pursuant to subsection (b) shall be reported to the Administrator of General Services as excess to the needs of the Department of the Interior and shall be subject to transfer or disposition in accordance with the Federal Property and Administrative Services Act of 1949, as amended.

16 USC 430h-8.

SEC. 103. PARK INTERPRETATION.

In administering Vicksburg National Military Park, the Secretary shall interpret the campaign and seige of Vicksburg from April 1862 to July 4, 1863, and the history of Vicksburg under Union occupation during the Civil War and Reconstruction.

16 USC 430h-9.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Minnesota Public Lands Improvement Act of 1990. Claims. Natural resources. Recreation and recreation areas. Wildlife. Plants.

TITLE II—MINNESOTA PUBLIC LANDS

SEC. 201. SHORT TITLE.

This title may be cited as the "Minnesota Public Lands Improvement Act of 1990".

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress hereby finds and declares that—

(1) within the State of Minnesota there are a number of small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) the public interest would be best served if these Federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, historic, cultural, geologic, and other resources and values;

(3) many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation system or for efficient management by the Bureau of Land Management;

(4) the State of Minnesota is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) elsewhere in Minnesota there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of

claims arising under public land laws or otherwise involving possible Federal residual interests;

(6) existing authorities for Federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) legislation to facilitate appropriate management by the State of Minnesota of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest.

(b) PURPOSES.—This title is intended to provide for better management of public lands located in the State of Minnesota by—

(1) transferring certain specified unclaimed islands and uplands and certain other public lands to such State for purposes of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

(2) authorizing the Secretary of the Interior to resolve claims to certain other public lands in Minnesota and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

SEC. 203. DEFINITIONS.

As used in this title—

(a) the term "listed uplands and islands" means those public lands located in the State of Minnesota which are specified in the list containing the legal description of such lands and entitled "Minnesota Uplands and Islands Appropriate for State Management" dated July 16, 1990, on file in the Office of the Secretary of the Interior, except for any lands to which Indian title has not been extinguished;

(b) the term "public lands" means federally owned lands or interests therein managed by the Bureau of Land Management;

(c) the term "claim" means a good faith assertion by a party other than the United States that—

(1) such party has title to a parcel or tract of land, or

(2) a parcel or tract of land is held in trust by the United States for the benefit of an Indian tribe or an individual member of an Indian tribe;

(d) the term "Recreation and Public Purposes Act" means the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.);

(e) the term "Secretary" means the Secretary of the Interior; and

(f) the term "State" means the State of Minnesota.

SEC. 204. GRANT TO STATE.

(a) UNCLAIMED AREAS.—Effective one year after the date of enactment of this Act and subject to its terms and conditions, the right, title and interest of the United States in and to all listed uplands and islands, surveyed and unsurveyed, in Lake Superior, inland lakes and rivers, and other bodies of water within the State which as of one hundred and eighty days after the date of enactment of this Act were not subject to any claim identified on the records of, or filed with the Bureau of Land Management, are hereby granted to the State.

(b) CLAIMED AREAS.—Any listed uplands and islands which were subject to a claim identified on the records of, or filed with the Bureau of Land Management as of one hundred and eighty days

after the date of enactment of this Act, may be sold by the Secretary to the claimant or claimants thereof under section 205 of this Act. No later than one year after the date of enactment of this Act, the Secretary shall notify such claimant or claimants concerning the Secretary's authority for such sales. The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall not thereafter be enforceable in any court of the United States, subject to the following exceptions:

(1) The ten-year period shall be tolled during pendency of any administrative appellate review of a decision by the Bureau of Land Management or of any judicial review of a final decision by the Secretary; and

(2) The Secretary may transfer lands to the State earlier than ten years after the date of enactment if a claim for said lands has been rejected or disallowed for any reason, or forfeited by the claimant.

(c) PRIOR TRANSFERS.—

(1) Title to the surface estate in all public land which on the date of enactment of this Act was subject to leases issued under the authority of the Recreation and Public Purposes Act to the State, its departments, agencies, and bureaus, shall be deemed to have been granted to and vested in the State under this title on such date and shall thereafter be exempt from the requirements of the regulations of the Department of the Interior governing leases under the Recreation and Public Purposes Act, but shall be subject to the provisions of this title.

(2) Upon reversion and acceptance of public land in Minnesota which prior to the date of enactment of this Act was leased or patented under the Recreation and Public Purposes Act to entities other than the State, its departments, agencies and bureaus, and upon request of the State, the surface estate in such lands shall be transferred by the Secretary to the State pursuant to and subject to the provisions of this title.

(3) If, in order to bring lands under the provisions of this title, the State notifies the Secretary that the State desires to relinquish to the United States the right, title, and interest of the State in and to any lands which prior to the date of enactment of this Act were patented to the State (or to any department, agency, or bureau of the State) under the authority of the Recreation and Public Purposes Act, the Secretary shall accept such relinquishment and shall transfer such relinquished lands to the State under and subject to the provisions of this title. Such transfer shall be effective at the same time that the State's relinquishment is effective.

SEC. 205. RESOLUTION OF CLAIMS.

(a) SALES.—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in Minnesota to an applicant for such sale where the Secretary determines that—

(1) such tract does not exceed one thousand five hundred acres and, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not

suitable for management by another Federal department or agency, and

(2) such sale would not be inconsistent with land use plans, if any, developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) PRICE ADJUSTMENTS.—Notwithstanding any other provision of law, following adjudication of any claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to)—

(1) the amount paid for the land by the applicant;

(2) longevity of applicant's claim;

(3) taxes paid on the land; and

(4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS.—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approved Federal plat of survey. Where a tract does not conform to an existing survey plat, the Secretary may either—

(1) convey title to a trustee, qualified under the laws of the State to act as a trustee and acceptable to the Secretary, acting on behalf of more than one applicant to whom such trustee shall be required to transfer such tract, in order to conform the legal description to such plat; or

(2) require an applicant to reimburse the United States for the cost of preparing a plat of survey. No cost incurred by a trustee in implementing this subsection shall be borne by the United States.

(d) APPLICABILITY AND PROCEDURE.—

(1) This section shall apply only to tracts specified in subsection 204(b) of this Act, and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.

(2) No sale under this section shall take place before thirty days after the Secretary has published in a newspaper of general circulation in the county where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

SEC. 206. RESERVATIONS AND CONDITIONS.

(a) MINERAL RESERVATION.—All lands granted by, and any patent or document of conveyance or other transfer issued pursuant to, this title shall be subject to the reservation to the United States of all minerals in the lands granted, conveyed, or otherwise transferred, together with the right to prospect for, mine and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 205 of this title the Secretary may convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(b) OTHER CONDITIONS.—

(1) The lands granted or otherwise transferred to the State under this title shall not be conveyed or otherwise transferred by the State to any person or entity other than the United States or a political subdivision of the State.

(2) The lands granted or otherwise transferred to the State under this title shall be used only for purposes of—

(A) public recreation;

(B) protection of fish and wildlife (including habitat) and plants; or

(C) the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

(3)(A) If the State attempts to convey or otherwise transfer title to any part of the lands granted or otherwise transferred to the State under this title to any person or entity other than the United States or a political subdivision of the State, all right, title, and interest in and to all such lands so granted or otherwise transferred to the State, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State attempts to convey or otherwise transfer title to any part of any lands granted or otherwise transferred to the State under this title (and conveyed or otherwise transferred to such subdivision by the State) to any person or entity other than the State, all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the lands granted or otherwise transferred to the State under this title (and not further conveyed or otherwise transferred by the State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in and to all such lands in the ownership of the State, together with all improvements thereon, shall revert to the United States.

(B) If any of the lands granted or otherwise transferred to the State under this title are conveyed or otherwise transferred by the State to a political subdivision of the State, use of part of any such lands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such political subdivision, together with all improvements thereon, to revert to the United States.

(5)(A) If any land, or portion thereof, granted or otherwise conveyed to the State or political subdivision of the State shall become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)), or if such land, or portion thereof, has been used for purposes that the Secretary finds may result in the disposal, placement or release of any hazardous substance, such land shall not, under any circumstances, revert to the United States.

(B) In the event lands granted or conveyed to the State or political subdivision of the State shall be used for purposes that the Secretary finds: (1) inconsistent with the purposes of this Act, and (2) which may result in the disposal, placement or

release of any hazardous substance, the State or political subdivision of the State shall be liable to pay to the Secretary, on behalf of the United States, the fair market value of the land, including the value of any improvements thereon, as of the date of conversion of the land to the nonconforming purpose. All amounts received by the Secretary pursuant to this subparagraph shall be retained by the Secretary and used, subject to appropriations, for the management of public lands and shall remain available until expended.

SEC. 207. NOTICE AND ENFORCEMENT.

(a) PUBLIC NOTICE.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State, shall take steps to notify residents of the State as to the nature and location of the listed uplands and islands to be granted or otherwise transferred to the State under this title.

(2)(A) The State, or a political subdivision thereof, shall provide notice in writing to the Secretary with regard to any conveyance or other transfer by the State to a political subdivision thereof of any of the lands granted or otherwise transferred to the State under this title. In the event that such notice is not received within one year after any such conveyance or transfer, such conveyance or transfer by the State shall be void ab initio and all right, title, and interest in and to the land covered by such attempted conveyance or transfer shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State shall submit to the Secretary a report as to the present ownership, management, and use of the lands granted or otherwise transferred to the State pursuant to this title. Reports.

(3) The Secretary shall maintain in the appropriate office of the Bureau of Land Management a current listing of the lands granted or otherwise transferred to the State under this title, including a record of which, if any, of such lands have been conveyed or otherwise transferred by the State to a political subdivision thereof.

(b) ENFORCEMENT.—

(1) Any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this title or that actions have occurred which have had the effect of causing the reversion to the United States of some or all of the lands granted or otherwise transferred to the State under this title.

(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter. Investigations.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or all of the lands granted or otherwise transferred to the State under this title has reverted to the United States pursuant to this title, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such lands for any purpose incompatible with the purposes specified in section 206(b)(2) of this title.

(4) Any lands which may revert to the United States under this title shall be retained and managed by the Secretary for the purposes specified in section 206(b)(2) of this title.

SEC. 208. HUNTING AND FISHING.

Nothing in this title shall be construed as affecting the jurisdiction or responsibilities of the State of Minnesota with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under this title, or as increasing or diminishing any rights with respect to hunting, gathering, or fishing on such lands arising under any Treaty or other agreement between the United States and any Indian Tribe or individual.

SEC. 209. CONFORMING AMENDMENT.

(a) Subsection 3(d) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is hereby amended by striking the period at the end of paragraph (1) of such subsection and by inserting in lieu thereof, ", and only if the Secretary has determined such claims to be sufficiently meritorious as to be appropriate for exercise of the Secretary's discretionary authority under this section.". 102 Stat. 2713.

(b) Subsection 4(b) of the Michigan Public Lands Improvement Act of 1988 (Public Law 100-537) is amended— 102 Stat. 2714.

(1) by inserting "the United States or" after "any person or entity other than" in paragraph (1); and

(2) by inserting "the United States or" after "any person or entity other than" in subparagraph (3)(A).

TITLE III—FLORENCE BROWN RELIEF ACT

SEC. 301. LAND TRANSFER.

The Secretary of Agriculture shall transfer, without consideration, to Florence F. Brown of Goleta, California, all right, title, and interest of the United States in and to the parcel of land located in the Los Padres National Forest which is comprised of approximately

40 acres and more particularly described as T. 5 N., R. 30 W., S.B.M., section 18, NE¼ SW¼.

Approved October 18, 1990.

LEGISLATIVE HISTORY—S. 2437:

HOUSE REPORTS: No. 101-744 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-309 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 14, considered and passed Senate.
Sept. 27, considered and passed House, amended.
Oct. 3, Senate concurred in House amendments.

Public Law 101-443
101st Congress

An Act

Oct. 19, 1990
[H.R. 3468]

To amend the Act entitled "An Act to extend the Wetlands Loan Act", to provide for the expansion of the Stewart B. McKinney National Wildlife Refuge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Connecticut Coastal Protection Act of 1990.
Natural resources.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Connecticut Coastal Protection Act of 1990".

16 USC 668dd note.

SEC. 2. EXPANSION OF REFUGE.

The Act entitled "An Act to extend the Wetlands Loan Act" (Public Law 98-548; 98 Stat. 2774) is amended—

(1) in section 205 by striking "$2,500,000" and inserting in lieu thereof "such sums as may be necessary";

(2) by redesignating section 205 (as amended by paragraph (1)) as section 208; and

(3) by inserting after section 204 the following:

"EXPANSION

"SEC. 205. The Secretary may acquire for addition to the refuge—

"(1) approximately 690 acres of land and water known as the Great Meadows Marsh, in Stratford, Connecticut;

"(2) approximately 230 acres of land and water at the Menunketesuck River marsh and Menunketesuck Island, in Westbrook, Connecticut; and

"(3) approximately 80 acres of land and water in the vicinity of Norwalk Harbor, Connecticut;

as such lands and waters are depicted on the map entitled 'Stewart B. McKinney NWR Expansion', dated September 1989 and on file with the United States Fish and Wildlife Service.

"TRANSFER

"SEC. 206. After the date of the enactment of the Connecticut Coastal Protection Act of 1989, the Secretary shall manage the Salt Meadow National Wildlife Refuge as an element of the Stewart B. McKinney National Wildlife Refuge.

"FUTURE EXPANSION

"SEC. 207. (a) Subject to the availability of appropriations, the Secretary may acquire such additional lands for the refuge as the Secretary considers appropriate, and may adjust the boundaries of the refuge accordingly. Any such acquisition shall be carried out in accordance with all applicable laws and without regard to section 203 of this Act.

Public lands.

"(b) All lands acquired within the vicinity of Long Island Sound in the State of Connecticut after the date of the enactment of the

Connecticut Coastal Protection Act of 1989 for addition to the National Wildlife Refuge System shall be managed as part of the Stewart B. McKinney National Wildlife Refuge.".

Approved October 19, 1990.

LEGISLATIVE HISTORY—H.R. 3468:

HOUSE REPORTS: No. 101-522 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-484 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 19, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 101-444
101st Congress

Joint Resolution

Oct. 19, 1990
[H.J. Res. 677]

Making further continuing appropriations for the fiscal year 1991, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by

the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $265,369,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided,* That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for

economic order quantity procurement unless specifically appropriated later: *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 24, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code,

but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order. 2 USC 902 note.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c). Termination date.

EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

SEC. 114. Section 1 of Public Law 101-350 is amended by striking "October 19, 1990" and inserting "October 24, 1990". *Ante*, p. 403.

Approved October 19, 1990.

LEGISLATIVE HISTORY—H.J. Res. 677:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 18, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 101-445
101st Congress

An Act

To strengthen national nutrition monitoring by requiring the Secretary of Agriculture and the Secretary of Health and Human Services to prepare and implement a ten-year plan to assess the dietary and nutritional status of the United States population, to support research on, and development of, nutrition monitoring, to foster national nutrition education, to establish dietary guidelines, and for other purposes.

Oct. 22, 1990
[H.R. 1608]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Nutrition Monitoring and Related Research Act of 1990.
Intergovernmental relations.
Business and industry.
Health professions.
Science and technology.
7 USC 5301 note.
7 USC 5301.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Nutrition Monitoring and Related Research Act of 1990".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;

(2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;

(3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;

(4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;

(5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;

(6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and

(7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

SEC. 3 DEFINITIONS. 7 USC 5302.

As used in this Act—

(1) the term "comprehensive plan" means the comprehensive plan prepared under section 103;

(2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 101(a);

(3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 101(c);

(4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 1428 of the Food and Agriculture Act of 1977 (7 U.S.C. 3178);

(5) the term "local government" means a local general unit of government or local educational unit;

(6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 201;

(7) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—

(A) dietary, nutritional, and health status measurements;

(B) food consumption measurements;

(C) food composition measurements and nutrient data banks;

(D) dietary knowledge and attitude measurements; and

(E) food supply and demand determinations;

(8) the term "nutritional quality" means—

(A) the appropriate levels of individual nutrients in the diet;

(B) the appropriate levels between nutrients in the diet;

(C) the bioavailability of nutrients such as absorption, digestion, and utilization; and

(D) the nutritional importance of nonnutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and

(9) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

TITLE I—NUTRITION MONITORING AND RELATED RESEARCH

SEC. 101. ESTABLISHMENT OF THE COORDINATED PROGRAM. 7 USC 5311.

(a) IN GENERAL.—There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this Act.

(b) IMPLEMENTATION RESPONSIBILITY.—The Secretaries shall be responsible for the implementation of the coordinated program.

(c) ESTABLISHMENT OF BOARD.—To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following the date of the enactment of this Act, and when appropriate thereafter.

(d) ADMINISTRATOR.—To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

(1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

7 USC 5312.

SEC. 102. FUNCTIONS OF THE SECRETARIES.

(a) IN GENERAL.—The Secretaries, with the advice of the Board, shall—

(1) establish the goals of the coordinated program, identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;

(2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;

(3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 103;

Grant programs—research.

(4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this Act to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 103(a)(3)) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;

Grant programs—nutrition.

(5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this Act, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using such capacity to enhance nutrition services (including activities described in section 103(a)(5) and 103(b)(9));

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

Government contracts. Reports.

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that sufficient data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such report at least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

(b) BIENNIAL REPORT.—The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following the date of the enactment of this Act, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 103;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 202; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

SEC. 103. DEVELOPMENT OF THE COMPREHENSIVE PLAN FOR THE NATIONAL NUTRITION MONITORING AND RELATED RESEARCH PROGRAM.

7 USC 5313.

Reports. Infants and children. Aged. Disadvantaged persons. Minorities. Women.

(a) COMPREHENSIVE PLAN.—The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactat-

ing women, elderly individuals, low-income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low-income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low-income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the nutrition monitoring activities of Federal agencies.

(b) COMPONENTS OF PLAN.—The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

(c) ADDITIONAL REQUIREMENTS OF PLAN.—The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

(d) PUBLICATION OF PLAN.—(1) PROPOSED PLAN.—Within 12 months after the date of enactment of this Act, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days. Federal Register, publication.

(2) FINAL PLAN.—Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

(e) PROHIBITION ON CONSTRUING.—Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

7 USC 5314.

SEC. 104. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(a) IN GENERAL.—The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 103(d)(2) and shall be—

(1) carried out in accordance with, and meet the program objectives specified in, section 103(a) and section 103(b);

(2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 103(c); and

(3) funded by appropriations made to such agencies for each fiscal year of the program.

(b) EXISTING LAW NOT AFFECTED.—Nothing in this title may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

7 USC 5315.

SEC. 105. SCIENTIFIC RESEARCH AND DEVELOPMENT IN SUPPORT OF THE COORDINATED PROGRAM AND COMPREHENSIVE PLAN.

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this Act.

7 USC 5316.

SEC. 106. ANNUAL BUDGET SUBMISSION.

(a) ANNUAL REPORT.—The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

(1) the amounts spent on the coordinated program during the fiscal year most recently ended;

(2) the amounts expected to be spent during the current fiscal year; and

(3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) EXISTING AUTHORITY NOT AFFECTED.—Nothing in this title is intended to either—

(1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or

(2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

TITLE II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

SEC. 201. STRUCTURE OF THE COUNCIL. 7 USC 5331.

(a) IN GENERAL.—(1) ESTABLISHMENT.—The President shall establish, within ninety days after the date of the enactment of this Act, a National Nutrition Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries. President.

(2) MEMBERSHIP.—The Council shall consist of nine voting members, of whom—

(A) five members shall be appointed by the President based upon recommendations from the Secretaries; and

(B) four members shall be appointed by Congress, of whom—

(i) one shall be appointed by the Speaker of the House of Representatives;

(ii) one shall be appointed by the minority leader of the House of Representatives;

(iii) one shall be appointed by the President pro tempore of the Senate; and

(iv) one shall be appointed by the minority leader of the Senate.

(3) EX OFFICIO MEMBERS.—The Council also shall include the joint chairpersons of the Board as ex officio nonvoting members.

(b) SELECTION CRITERIA.—Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

(c) PARTICULAR REPRESENTATION REQUIREMENTS.—The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) CHAIRPERSON.—The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(e) TERM OF OFFICE.—The term of office of each of the voting members of the Council shall be 5 years, except that of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) INITIAL APPOINTMENT.—The initial members of the Council shall be appointed or designated not later than ninety days after the date of the enactment of this Act.

(g) MEETINGS.—The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(h) LIMITATION ON FEDERAL EMPLOYMENT.—Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5, United States Code.

(i) EXECUTIVE SECRETARY.—The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d)) shall serve as the Executive Secretary of the Council.

(j) TERMINATION.—The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103.

7 USC 5332.

SEC. 202. FUNCTIONS OF THE COUNCIL.

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

Reports.

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 102(b).

TITLE III—DIETARY GUIDANCE

7 USC 5341.

SEC. 301. ESTABLISHMENT OF DIETARY GUIDELINES.

(a) REPORT.—(1) IN GENERAL.—At least every five years the Secretaries shall publish a report entitled "Dietary Guidelines for Americans". Each such report shall contain nutritional and dietary

information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) BASIS OF GUIDELINES.—The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(b) APPROVAL BY SECRETARIES.—(1) REVIEW.—Any Federal agency that proposes to issue any dietary guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretaries for a sixty-day review period.

(2) BASIS OF REVIEW.—(A) IN GENERAL.—During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the "Dietary Guidelines for Americans" or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the "Dietary Guidelines for Americans" and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the "Dietary Guidelines for Americans" the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed dietary guidance; Federal Register, publication.

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) REVIEW OF COMMENTS.—After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) ANNOUNCEMENT.—Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained. Federal Register, publication.

(D) NOTIFICATION OF DISAPPROVAL.—If after the thirty-day period for comment as provided under subparagraph (A)(ii), both Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

(E) REVIEW OF DISAPPROVAL.—If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D),

request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

(3) LIMITATION ON DEFINITION OF GUIDANCE.—For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

(4) DEFINITION OF IDENTIFIED POPULATION SUBGROUPS.—For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

(c) EXISTING AUTHORITY NOT AFFECTED.—This section does not place any limitations on—

(1) the conduct or support of any scientific or medical research by any Federal agency;

(2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or

(3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.).

7 USC 5342.

SEC. 302. NUTRITION TRAINING REPORT.

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after the date of enactment of this Act, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

Approved October 22, 1990.

LEGISLATIVE HISTORY—H.R. 1608:

HOUSE REPORTS: No. 101-788 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 2, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 101-446
101st Congress

An Act

To improve the information available to emergency response personnel in the field, and for other purposes.

Oct. 22, 1990
[H.R. 4522]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Firefighters' Safety Study Act.
Intergovernmental relations.
15 USC 2223a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Firefighters' Safety Study Act".

SEC. 2. REVIEW.

15 USC 2223a.

The Administrator of the United States Fire Administration (hereafter in this Act referred to as the "Administrator") shall conduct a review of existing response information used by emergency response personnel at the State and local levels to evaluate its accuracy and consistency, and to determine whether it is properly expressed. Such information should clearly communicate to emergency response personnel the probable hazards which they must contend with in an emergency situation involving hazardous materials, and the appropriate response to those hazards.

SEC. 3. WORKING GROUP.

15 USC 2223b.

For the purpose of carrying out section 2, the Administrator shall establish a working group which shall, at a minimum, consist of—

(1) program officials from each of—

(A) the Environmental Protection Agency;

(B) the National Oceanic and Atmospheric Administration;

(C) the Department of Transportation;

(D) the Occupational Safety and Health Administration; and

(E) the Bureau of Alcohol, Tobacco, and Firearms,

who develop and disseminate hazardous materials identification and response data, and who collect, collate, analyze, and disseminate hazardous materials incident data;

(2) State and local operational officials with emergency response or relevant regulatory responsibilities; and

(3) representatives of companies engaged in the manufacture and processing of chemicals.

SEC. 4. REPORT AND RECOMMENDATIONS.

15 USC 2223c.

The working group established under section 3 shall, within 1 year after the date of enactment of this Act, submit a report to the Administrator and to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate presenting the results of the review carried out under this Act, along with recommendations to ensure that response information disseminated to emergency response personnel is appropriate for operational personnel at the local level.

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15 USC 2223d.

SEC. 5. ANNUAL REVISION OF RECOMMENDATIONS.

After the submission of the report cited in section 4, the working group established under section 3 shall meet as needed, but at least once every 12 months, to review and recommend changes and additions to the report cited in section 4, that are necessary and appropriate for operational personnel at the local level.

15 USC 2223e.

SEC. 6. DEFINITION.

As used in this Act, the term "emergency response personnel" means personnel responsible for mitigation activities in a medical emergency, fire emergency, hazardous material emergency, or natural disaster.

Approved October 22, 1990.

LEGISLATIVE HISTORY—H.R. 4522:

HOUSE REPORTS: No. 101-473 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 101-452 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 8, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 101-447
101st Congress

An Act

To transfer to the Secretary of the Interior the administration of the surface rights in certain lands presently within the boundaries of the San Carlos Indian Reservation, Arizona, and managed by the Forest Service as part of the Coronado National Forest, and for other purposes.

Oct. 22, 1990
[H.R. 4593]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Carlos Mineral Strip Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Carlos Mineral Strip Act of 1990".

SEC. 2. DEFINITION.

For the purposes of this Act, the term "San Carlos Apache Mineral Strip" means that portion of the San Carlos Apache Reservation which was conditionally ceded to the United States, as described by the Agreement dated February 25, 1896, and ratified by the Act of June 10, 1896 (29 Stat. 360).

SEC. 3. CONFIRMATION OF BOUNDARY.

Congress hereby affirms that the San Carlos Apache Reservation, as established and described by the Executive orders of November 9, 1871, and December 14, 1872, includes all lands which lie within the San Carlos Apache Mineral Strip which are presently managed by the Forest Service as part of the Coronado National Forest. The boundary of the Coronado National Forest is hereby modified to exclude such lands.

SEC. 4. DATE OF ESTABLISHMENT.

The lands referred to in section 3 which were managed by the Forest Service before the effective date of this Act shall be deemed to have been held in trust by the United States for the benefit of the San Carlos Apache Tribe since December 14, 1872. Nothing in this Act may be construed to establish, in any action brought by the San Carlos Apache Tribe, whether or not the tribe is entitled to payment for damages arising from the management of such lands by the Forest Service before the date of enactment of this Act.

SEC. 5. ADMINISTRATION OF LANDS.

All right, title, and interest in the lands referred to in section 4 shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the benefit of the San Carlos Apache Tribe.

Such lands shall be a part of the San Carlos Apache Indian Reservation for all purposes.

SEC. 6. PURCHASE OF RANGE IMPROVEMENTS.

If offered to the Secretary within 180 days after the date of enactment of this Act, the Secretary shall acquire the permanent

improvements on the grazing allotment located on the lands referred to in section 4 which are subject to a grazing permit from the Forest Service on the date of enactment of this Act. The Secretary shall pay $122,842 for such improvements.

SEC. 7. SAVINGS PROVISION.

Nothing in this Act shall affect or modify any valid entry or other valid existing rights under the mining laws of the United States.

SEC. 8. EFFECTIVE DATE.

Sections 3, 4, and 5 of this Act shall take effect upon certification by the Secretary that the provisions of section 6 have been satisfied.

Approved October 22, 1990.

LEGISLATIVE HISTORY—H.R. 4593:

HOUSE REPORTS: No. 101-666 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 5, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 22, Presidential statement.

Public Law 101-448
101st Congress

An Act

To designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building".

Oct. 22, 1990
[H.R. 4985]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 51 Southwest 1st Avenue in Miami, Florida, shall be known and designated as the "Claude Pepper Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Claude Pepper Federal Building".

Approved October 22, 1990.

LEGISLATIVE HISTORY—H.R. 4985 (S. 2965):

HOUSE REPORTS: No. 101-689 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 10, considered and passed House.
Oct. 4, S. 2965 considered and passed Senate.
Oct. 5, H.R. 4985 considered and passed Senate.

49-139 O - 90 (448)

Public Law 101-449
101st Congress

An Act

Oct. 22, 1990
[H.R. 5070]

To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE, REPAIRS, AND OTHER BUILDING SERVICES.

Section 6(e) of the John F. Kennedy Center Act (20 U.S.C. 76l(e)) is amended to read as follows:

"(e) MAINTENANCE, REPAIR, ALTERATION, SECURITY, INFORMATION AND OTHER SERVICES.—

"(1) PROVISION OF SERVICES.—The Secretary of the Interior, acting through the National Park Service, and the Board shall provide for maintenance, repair, and alteration of the building and security, information, interpretation, janitorial, and all other services necessary for operating the building.

"(2) AGREEMENT.—The Secretary and the Board shall enter into a cooperative agreement setting forth their respective responsibilities under paragraph (1) of this subsection.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

"(A) for fiscal year 1991, not more than—

"(i) $6,750,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,000,000 for deferred maintenance, repairs, and alterations; and

"(B) for fiscal year 1992, not more than—

"(i) $9,850,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,512,000 for deferred maintenance, repairs, and alterations.".

SEC. 2. AUDITS.

Section 6(f) of the John F. Kennedy Center Act (20 U.S.C. 76l(f)) is amended to read as follows:

"(f) AUDITS.—The General Accounting Office shall review and audit, at least every 3 years, the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of—

"(1) examining expenditures made under the cooperative agreement entered into under subsection (c)(2); and

"(2) determining the continuing ability of the Center to pay its share of future expenditures under such agreement.".

SEC. 3. REPEAL OF OUTDATED PROVISIONS.

Sections 6(d), 7, and 8 of the John F. Kennedy Center Act (20 U.S.C. 76l(d)), 76m, and 76n) are repealed.

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SEC. 4. TECHNICAL AMENDMENT.

Section 9(a) of the John F. Kennedy Center Act (20 U.S.C. 76o(a)) is amended by striking "the Second Liberty Bond Act, as amended," each place it appears and inserting "chapter 31 of title 31, United States Code,".

Approved October 22, 1990.

LEGISLATIVE HISTORY—H.R. 5070 (S. 2879):

HOUSE REPORTS: No. 101-662 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-556 accompanying S. 2879 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 10, considered and passed House.
Oct. 4, S. 2879 considered and passed Senate.
Oct. 5, H.R. 5070 considered and passed Senate.

Public Law 101-450
101st Congress

Joint Resolution

Oct. 22, 1990
[S.J. Res. 304]

To designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day".

Whereas one in every two high school seniors who graduated in 1989 used an illegal drug before graduating;

Whereas the Congress recognizes that drug abuse exists among people in all geographic areas, of all socioeconomic classes, and of all ethnic and racial groups;

Whereas the Congress recognizes that education and public awareness regarding the dangers of drug abuse are necessary to prevent the children and young people of this Nation from entering into cycles of drug abuse; and

Whereas the Congress recognizes that members of a community must unite and work together to address the drug abuse problem that this Nation confronts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 17, 1990, is designated as "National Drug-Free Schools and Communities Education and Awareness Day", and the President is requested to issue a proclamation calling upon the people of the United States, departments and agencies of State and local governments, and interested organizations to observe such day with appropriate ceremonies, activities, and programs.

Approved October 22, 1990.

LEGISLATIVE HISTORY—S.J. Res. 304:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Oct. 16, considered and passed House.

49-139 O - 90 (450)

Public Law 101-451
101st Congress

Joint Resolution

To designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week".

Oct. 22, 1990
[S.J. Res. 317]

Whereas exposure to radon poses a serious threat to the health of the people of this Nation;

Whereas the Environmental Protection Agency estimates that lung cancer attributable to radon exposure causes approximately twenty thousand deaths a year in the United States;

Whereas the United States has set a long-term national goal of making the air inside buildings as free of radon as the ambient air;

Whereas excessively high levels of radon in homes and schools can be reduced successfully and economically with appropriate treatment;

Whereas only about 2 percent of the homes in this Nation have been tested for radon levels;

Whereas the people of this Nation should be educated about the dangers of exposure to radon; and

Whereas people should be encouraged to conduct tests for radon in their homes and schools and to make the repairs required to reduce excessive radon levels: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 14, 1990, through October 20, 1990, is designated as "National Radon Action Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved October 22, 1990.

LEGISLATIVE HISTORY—S.J. Res. 317:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18, considered and passed Senate.
Oct. 16, considered and passed House.

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Public Law 101-452
101st Congress

An Act

Oct. 24, 1990
[H.R. 3787]

To authorize a joint Federal, State, and Tribal study for the restoration of the fishery resources of the Chehalis River Basin, Washington, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Chehalis River Basin Fishery Resources Study and Restoration Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chehalis River Basin Fishery Resources Study and Restoration Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Chehalis River Basin in southwestern Washington, including Grays Harbor and its tributaries, has approximately 1,400 separate rivers and streams totaling nearly 3,400 miles in length which flow into the Pacific Ocean through Grays Harbor, a major west coast estuarine system.

(2) The Basin historically produced large runs of anadromous and resident fish that supported important commercial, recreational, and tribal fisheries within the Basin and off the coast of the States of Washington and Alaska and Canada; however, the population of these fishery resources is less than one-half the levels that occurred prior to 1935.

(3) The decline in productivity of the Chehalis system is thought to result from a number of activities. Ongoing studies by the State of Washington and others have linked significant mortality of Chehalis River salmon to water quality degradation, sedimentation of spawning gravels, reduced stream flows, and reduced spawning escapements.

(4) The Federal Government has a substantial interest in the fishery resources of the Basin because important interjurisdictional (including international) and tribal fisheries are involved and several federally constructed, permitted, and licensed water projects are located in the Basin.

(b) PURPOSES.—The purposes of this Act are—

(1) to require a comprehensive study of the causes of the decline of fishery resources originating in the Chehalis River Basin;

(2) to develop recommendations for a program to address the causes of those declines; and

(3) to restore those fishery resources in a reasonable period of time.

SEC. 3. JOINT FEDERAL, STATE, AND TRIBAL STUDY AND RECOMMENDATIONS.

(a) STUDY.—Subject to section 5, the Director of the United States Fish and Wildlife Service shall undertake a comprehensive study of the fishery resources and habitats of the Basin and, on the basis of such study, develop goals and recommend short- and long-term

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actions for achieving those goals and maximizing the restoration and conservation of those fishery resources and habitats. The Director shall submit the study, goals, and recommended short- and long-term actions to the Congress before October 1, 1992.

(b) PARTICIPATION OF STATE OF WASHINGTON.—

(1) INVITATION.—In carrying out subsection (a), the Director shall invite the heads of the departments of Fisheries, Wildlife, and Ecology of the State of Washington to participate jointly in undertaking the study and developing goals and recommending actions.

(2) MEMORANDUM OF UNDERSTANDING.—The Director, the head of the Council of the Chehalis Tribe, the head of the Council of the Quinault Indian Nation, and each head of a State department participating pursuant to paragraph (1), shall enter into a memorandum of understanding setting forth the respective responsibilities of each entity in carrying out the study and making recommendations regarding fishery resource restoration under subsection (a).

(c) CONSULTATION.—In carrying out this Act, the Director shall, to the maximum extent practicable, consult with the National Marine Fisheries Service, Army Corps of Engineers, Environmental Protection Agency, Federal Energy Regulatory Commission, Soil Conservation Service, State of Washington agencies, including the Department of Natural Resources, the Northwest Indian Fisheries Commission, affected local governments, appropriate commercial, recreational, and Tribal fishing interests, other affected or interested entities, and (if the joint participation referred to in this section is not effected) the heads of the Departments of Fisheries, Wildlife, and Ecology of the State of Washington.

(d) MAPS.—The Director shall prepare and maintain maps depicting the Chehalis River Basin for use in fulfilling the purposes of this Act.

SEC. 4. STUDY CONTENTS.

The study under section 3 shall take advantage of and build upon ongoing watershed planning and research efforts to identify fishery resource problems in the basin to complete the following:

(1) DESCRIPTION OF BASIN.—A physical, hydrographic, economic, and social description of the Basin.

(2) HISTORICAL FISHERY RESOURCES AND HABITATS.—A historical account of the fishery resources and habitats of the Basin.

(3) DESCRIPTION OF FISHERY RESOURCES AND HABITATS.—A comprehensive description of the fishery resources and habitats of the Basin, including—

(A) population estimates of fishery resources in the Basin that are of sport or commercial value, important forage resources, or otherwise of significance;

(B) an analysis of the current status and trends of the Basin's fishery resources and their use, and the cause of any decline in population of each such species, including the extent and causes of environmental problems in Grays Harbor and the lower Chehalis River and other impediments to smolt and adult migration in the Basin;

(C) an identification of the location, quantity, and extent of utilization of existing adult holding, spawning, and juvenile rearing habitat, as well as the location of degraded fish habitat, and impediments to use of potential adult holding, spawning, and juvenile rearing habitat in the Basin;

(D) estimates of instream flows needed where insufficient stream flows occur due to human activities and development of instream flow strategies to address these problems; and

(E) a projection of the problems that the species identified as a result of subparagraph (A) are expected to encounter in the future.

(4) EFFECTS OF LAND USE ON FISHERY RESOURCES.—An analysis of how Basin characteristics and past, current, and projected land and water use within the Basin have affected, and can be expected to affect, its fishery resources and habitats, including documentation of the nature, source, and magnitude of point and nonpoint pollution, sedimentation, and runoff characteristics.

(5) REVIEW AND EVALUATION OF AVAILABLE INFORMATION AND RESTORATION STUDIES AND ACTIONS.—(A) A review of past and ongoing research on the decline of Chehalis Basin fishery resources and the results of existing or previous attempts to address the declines.

(B) Based on the review under subparagraph (A), an evaluation of the adequacy of the information that is currently available, and specification of the additional types, quantity, and periodicity of information that must be obtained, for the purposes of restoring and conserving the fishery resources and habitats of the Basin.

(6) FEDERAL, STATE, TRIBAL, AND LOCAL GOVERNMENT ROLES.—A discussion of Federal, State, Tribal, and local government statutory authorities and programs that pertain to the conservation and restoration of the fishery resources and habitats of the Basin, with particular attention being given to the fishery management plans and programs of those jurisdictions and the relationship to applicable private fishery conservation and management activities.

(7) RESTORATION PROGRAM RECOMMENDATIONS AND RESPONSIBILITIES.—A comprehensive statement of fishery resource restoration goals and objectives for fish originating in the Basin and the remedial actions and programs necessary to achieve those goals and objectives. The statement shall designate the authorities responsible, together with a projected timetable, for taking such actions and carrying out such programs. In addition, the statement shall prescribe the areas and priorities for any additional studies needed to restore fishery resources in the Basin.

SEC. 5. COST SHARING.

(a) REQUIREMENT FOR SHARING.—The State of Washington may not participate in undertaking the study under section 3, including developing goals and recommending actions for the restoration and conservation of the fishery resources and habitats of the Basin, unless the Director is satisfied that non-Federal and nontribal participants in the study will pay in the aggregate at least one-sixth of the cost of the study.

(b) IN-KIND CONTRIBUTIONS.—

(1) IN GENERAL.—The non-Federal share required by subsection (a) may be in the form of cash or services, or other in-kind contributions, fairly valued, including the time of State employees not funded from Federal sources.

Regulations.

(2) QUALIFICATIONS AND OTHER STANDARDS.—The Director shall by regulation establish—

(A) the training, experience, and other qualifications which volunteers must have in order for their services to be considered as in-kind contributions; and Volunteers.

(B) the standards under which the Director will determine the value of in-kind contributions for purposes of this subsection.

Valuations made by the Director under this subsection are final and not subject to judicial review.

(c) LIMITATION.—The Director shall not consider the expenditure, either directly or indirectly, of Federal moneys received by the State of Washington or any local government of such a State, to be a financial contribution from a non-Federal source. For purposes of this section, funds provided to the tribes under authority of the Indian Self-Determination Act (25 U.S.C. 450f-450n) shall not be considered Federal moneys.

SEC. 6. DEFINITIONS.

As used in this Act:

(1) BASIN.—The term "Basin" means the Chehalis River Basin in the State of Washington, including the Chehalis River in southwestern Washington and its drainage basin as well as Grays Harbor and the remainder of its drainage basin.

(2) DIRECTOR.—The term "Director" means the Director of the United States Fish and Wildlife Service, acting for the Secretary of the Interior.

(3) FISHERY RESOURCES.—The term "fishery resources" means—

(A) any stock of fish;

(B) one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, recreational, or economic considerations;

(C) any species of fish; or

(D) any habitat of fish.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director not more than $2,500,000 to carry out this Act, to remain available until expended. One-fifth of any amounts appropriated under the authority of this section shall be made available to the Chehalis Tribe and the Quinault Indian Nation to carry out their responsibilities under a memorandum of understanding entered into pursuant to section 3(b).

Approved October 24, 1990.

LEGISLATIVE HISTORY—H.R. 3787:

HOUSE REPORTS: No. 101-594 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-485 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 16, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 101-453
101st Congress

An Act

Oct. 24, 1990
[H.R. 4279]

To amend title 31, United States Code, to improve cash management of funds transferred between the Federal Government and the States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cash Management Improvement Act of 1990.
31 USC 6501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act of 1990".

31 USC 6501 note.

SEC. 2. PURPOSE.

The purpose of this Act is to ensure greater efficiency, effectiveness, and equity in the exchange of funds between the Federal Government and the States.

SEC. 3. TECHNICAL AMENDMENTS.

Section 6501 of title 31, United States Code, is amended—

(1) in paragraph (2)(B) by striking "subclause (A) of this clause (2)" and inserting in lieu thereof "subparagraph (A)";

(2) in paragraph (2)(E) by striking "subclauses (A)-(D) of this clause (2)" and inserting in lieu thereof "subparagraphs (A), (B), (C), and (D)";

(3) in paragraph (4)(A) by striking "subclause (C) of this clause (4)" and inserting in lieu thereof "subparagraph (C)"; and

(4) in paragraph (4)(B) by striking "subclause (C) of this clause (4)" and inserting in lieu thereof "subparagraph (C)".

SEC. 4. DISBURSEMENT OBJECTIVES.

(a) IN GENERAL.—Subchapter II of chapter 33 of title 31, United States Code, is amended by adding at the end thereof the following:

"§ 3335. Timely disbursement of Federal funds

Regulations.

"(a) Each head of an executive agency (other than the Tennessee Valley Authority) shall, under such regulations as the Secretary of the Treasury shall prescribe, provide for the timely disbursement of Federal funds through cash, checks, electronic funds transfer, or any other means identified by the Secretary.

"(b) The Secretary may collect from any executive agency which does not comply with subsection (a) a charge in an amount the Secretary determines to be the cost to the general fund of the Treasury caused by such noncompliance.

"(c) The amounts of charges collected from an executive agency under this section shall be deposited in the Treasury and credited as miscellaneous receipts.

"(d) Any charge assessed by the Secretary under this section, to the maximum extent practicable—

"(1) shall be paid out of appropriations available for executive agency operations; and

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"(2) shall not be paid from amounts available for funding programs of an executive agency.".

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 33 of title 31, United States Code, is amended by inserting after the item relating to section 3334 the following:

"3335. Timely disbursement of Federal funds.".

(c) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations under section 3335 of title 31, United States Code, as added by subsection (a), to ensure the full implementation of that section by the date which is 2 years after the date of the enactment of this Act. 31 USC 3335 note.

SEC. 5. PAYMENT OF INTEREST.

(a) DEFINITION OF STATE.—Section 6501 of title 31, United States Code, is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively;

(2) by inserting after paragraph (6) the following new paragraph:

"(7) 'Secretary' means the Secretary of the Treasury."; and

(3) by striking out paragraph (9) (as redesignated by paragraph (1)) and inserting in lieu thereof the following:

"(9) 'State' means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency, instrumentality, or fiscal agent of a State but does not mean a local government of a State.".

(b) INTERGOVERNMENTAL TRANSFERS OF FUNDS; PAYMENT OF INTEREST.—Section 6503 of title 31, United States Code, is amended to read as follows:

"§ 6503. Intergovernmental financing

"(a) Consistent with program purposes and with regulations of the Secretary, and in accordance with an agreement under subsection (b) entered into by the Secretary and a State—

"(1) the head of an executive agency (other than the Tennessee Valley Authority) carrying out a program shall schedule transfers of funds to the State under the program so as to minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means by a State; and

"(2) the State shall minimize the time elapsing between transfer of funds from the United States Treasury and the issuance or redemption of checks, warrants, or payments by other means for program purposes.

"(b)(1) The Secretary shall enter into an agreement with each State to which transfers of funds are made, which establishes procedures and requirements for implementing this section. Government contracts.

"(2) An agreement under this subsection shall—

"(A) specify procedures chosen by the State for carrying out transfers of funds under the agreement;

"(B) describe the process by which the Federal Government shall review and approve the implementation of the procedures specified under subparagraph (A);

"(C) establish the methods to be used for calculating and documenting payments of interest pursuant to this section; and

"(D) specify those types of costs directly incurred by the State for interest calculations required under this section, and require the Secretary to consider those costs in computing payments under this section.

Regulations.

"(3) The Secretary shall issue regulations establishing procedures and requirements for implementing this section with respect to a State with which no agreement is entered into by the Secretary under paragraph (1). Such regulations shall apply to a State until such time as the Secretary enters into an agreement with the State under paragraph (1).

Regulations.

"(c)(1) The Secretary shall issue regulations that shall require a State, when not inconsistent with program purposes, to pay interest to the United States on funds from the time funds are deposited by the United States to the State's account until the time that funds are paid out by the State in order to redeem checks or warrants or make payments by other means for program purposes. Except as provided under paragraph (3)(B) (relating to the Unemployment Trust Fund), the interest payable under this subsection shall be calculated at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(2) Except as provided in paragraph (3), amounts received by the United States as payment of interest under this subsection shall be deposited in the Treasury and credited as miscellaneous receipts.

"(3)(A) Amounts paid by a State under paragraph (1) as interest on funds paid to a State from a trust fund for which the Secretary is the trustee shall be credited to such trust fund.

"(B) Notwithstanding any other provision of this section, amounts of interest paid by a State, on funds drawn from its account in the Unemployment Trust Fund, shall be deposited into that account and shall consist of actual interest earnings by the State, less related banking costs incurred by the State, for the period for which interest is calculated.

"(d)(1) If a State disburses its own funds for program purposes in accordance with Federal law, Federal regulation, or Federal-State agreement, the State shall be entitled to interest from the time the State's funds are paid out to redeem checks or warrants, or make payments by other means, until the Federal funds are deposited to the State's bank account. The Secretary shall pay, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary for interest owed to a State under this subsection. Such interest shall be calculated, at a rate equal to the average of the bond equivalent rates of 13-week Treasury bills auctioned during the period for which interest is calculated, as determined by the Secretary.

"(2) If interest is paid under this subsection as a result of a State disbursing its own funds before receiving payment from a trust fund for which the Secretary of the Treasury is the trustee, such interest shall be charged against such trust fund.

"(e) The budget submitted by the President under section 1105 of this title for a fiscal year shall include a statement specifying, for the most recently completed fiscal year, amounts of interest accrued to the Federal Government under subsection (c) and amounts of interest paid to States under subsection (d).

"(f) If a State receives refunds of funds disbursed by the State under a Federal program, the State shall return those refunds to the Federal executive agency administering the program or apply those

refunds to reduce the amount of funds owed by the Federal Government to the State under such program. Interest earned on such refunds shall be considered when setting overall interest obligations between the State and the Federal Government as required by this section.

"(g) If the Federal Government makes a payment to a recipient under a Federal program, and a portion of the payment is an amount which the Federal Government is paying to such recipient on behalf of a State, such amount shall be considered to be a transfer of funds between the Federal Government and the State for purposes of this section.

"(h) A State may not be required by a law or regulation of the United States to deposit funds received by it in a separate bank account. However, a State shall account for funds made available to the State as United States Government funds in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate Federal executive agency on the status and the application of the funds, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the funds received by the State shall be made available to the head of the executive agency, the Inspector General of the executive agency, and the Comptroller General for necessary audits.

Reports.

Records.

"(i) The Secretary shall prescribe methods for the payment of interest under this section between the Federal Government and the States, including provisions for offsetting amounts owed by the respective parties. Such methods of payment shall require payment of interest on an annual basis and shall provide for comparable treatment in manner, technique, and timing for both the States and the Federal Government.

"(j) Consistent with Federal program purposes and regulations of the Director of the Office of Management and Budget, the head of a Federal executive agency carrying out a program shall execute grant awards to States on a timely basis to assure the availability of funds to accomplish transfers in compliance with subsection (a) of this section.".

(c) CLERICAL AMENDMENT.—The item relating to section 6503 in the chapter analysis for chapter 65 of title 31, United States Code, is amended to read as follows:

"6503. Intergovernmental financing.".

(d) AGREEMENTS WITH STATES.—

31 USC 6503 note.

(1) SECRETARY'S EFFORTS TO ENTER AGREEMENTS.—The Secretary of the Treasury shall make all reasonable efforts to enter into an agreement with each State under section 6503(b) of title 31, United States Code, as added by this section (relating to procedures and requirements for transfers of funds between executive agencies and States), by not later than 2 years after the date of the enactment of this Act.

(2) EFFECTIVE DATE OF REGULATIONS.—Regulations issued by the Secretary of the Treasury under subsection (b)(3) of section 6503 of title 31, United States Code, as added by the section (relating to procedures and requirements for transfers of funds involving States not entering agreements), shall take effect 2 years after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, except that subsec-

31 USC 6503 note.

tions (c) and (d) of section 6503 of title 31, United States Code, as added by subsection (b) of this section (relating to payments of interest between the Federal Government and State governments), shall take effect 2 years after the date of enactment of this Act.

31 USC 6503 note.

SEC. 6. GAO REPORT.

Four years after the date of the enactment of this Act the Comptroller General shall submit an audit of the implementation of the amendments made by section 5 and submit a report to the Congress describing the results of that audit.

Approved October 24, 1990.

LEGISLATIVE HISTORY—H.R. 4279 (S. 926):

HOUSE REPORTS: No. 101-696 (Comm. on Government Operations).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Aug. 24, S. 926 considered and passed Senate.
Vol. 136 (1990): Sept. 24, H.R. 4279 considered and passed House.
Oct. 10, considered and passed Senate.

Public Law 101-454
101st Congress

An Act

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program.

Oct. 24, 1990
[S. 2017]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Eisenhower Exchange Fellowship Act of 1990.
20 USC 5201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Eisenhower Exchange Fellowship Act of 1990".

SEC. 2. PURPOSES.

20 USC 5201.

The purposes of this Act are—

(1) to provide a permanent endowment for the Eisenhower Exchange Fellowship Program;

(2) to honor Dwight D. Eisenhower for his character, courage, and patriotism, and for his leadership based on moral integrity and trust;

(3) to pay tribute to President Eisenhower's leadership in war and peace, through his diverse understanding of history, practical affairs, and the hearts of humankind;

(4) to address America's need for the best possible higher education of its young talent for a competitive world which shares a common and endangered environment;

(5) to advance the network of friendship and trust already established in President Eisenhower's name, so that it may continue to grow to the imminent challenges of the 21st century;

(6) to complete Dwight David Eisenhower's crusade to liberate the people's of Europe from oppression;

(7) to deepen and expand relationships with European nations developing democracy and self-determination; and

(8) to honor President Dwight D. Eisenhower on the occasion of the centennial of his birth through permanent endowment of an established fellowship program, the Eisenhower Exchange Fellowships, to increase educational opportunities for young leaders in preparation for and enhancement of their professional careers, and advancement of peace through international understanding.

SEC. 3. EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND.

20 USC 5202.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the Eisenhower Exchange Fellowship Program Trust Fund (hereinafter in this Act referred to as the "fund"). The fund shall consist of amounts authorized to be appropriated under section 5 of this Act.

(b) INVESTMENT IN INTEREST BEARING OBLIGATIONS.—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations

guaranteed as to both principal and interests by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) SALE AND REDEMPTION OF OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) CREDIT TO THE FUND OF INTEREST AND PROCEEDS OF SALE OR REDEMPTION.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

20 USC 5203.

SEC. 4. EXPENDITURE AND AUDIT OF TRUST FUND.

(a) AUTHORIZATION OF FUNDING.—For each fiscal year, there is authorized to be appropriated from the fund to Eisenhower Exchange Fellowships, Incorporated, the interest and earnings of the fund.

(b) ACCESS TO BOOKS, RECORDS, ETC. BY GENERAL ACCOUNTING OFFICE.—The activities of Eisenhower Exchange Fellowships, Incorporated, may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by Eisenhower Exchange Fellowships, Incorporated, pertaining to such activities and necessary to facilitate the audit.

20 USC 5204.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

To provide a permanent endowment for the Eisenhower Exchange Fellowship Program, there are authorized to be appropriated to the Eisenhower Exchange Fellowships Program Trust Fund—

(1) $5,000,000; and

(2) the lesser of—

(A) $2,500,000, or

(B) an amount equal to contributions to Eisenhower Exchange Fellowships, Incorporated, from private sector sources during the 4-year period beginning on the date of enactment of this Act.

SEC. 6. USE OF INCOME ON THE ENDOWMENT. 20 USC 5205.

(a) REQUIREMENT FOR FUNDING OF UNITED STATES FELLOWS IN EMERGING EUROPEAN DEMOCRACIES.—For any fiscal year, not less than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available only to assist United States fellows in traveling to and studying in emerging European democracies.

(b) LIMITATION ON STUDY IN UNITED STATES.—For any fiscal year, not more than 50 percent of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be available to assist foreign fellows in traveling to and studying in the United States.

(c) AGRICULTURAL EXCHANGE PROGRAM.—For any fiscal year, as may be determined by Eisenhower Exchange Fellowships, Incorporated, a portion of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) shall be used to provide fellowships for agricultural exchange programs for farmers from the United States and foreign countries.

(d) PARTICIPATION BY UNITED STATES MINORITY POPULATIONS.—In order to ensure that the United States fellows participating in programs of the Eisenhower Exchange Fellowships, Incorporated, are representative of the cultural, ethnic, and racial diversity of the American people, of the amounts made available to Eisenhower Exchange Fellowships, Incorporated, pursuant to section 4(a) which are obligated and expended for United States fellowship programs, not less than 10 percent shall be available only for participation by individuals who are representative of United States minority populations.

SEC. 7. REPORT TO CONGRESS. 20 USC 5206.

For any fiscal year for which Eisenhower Exchange Fellowships, Incorporated, receive funds pursuant to section 4(a) of this Act, Eisenhower Exchange Fellowships, Incorporated, shall prepare and transmit to the President and the Congress a report of its activities for such fiscal year.

SEC. 8. EXTENSION OF AU PAIR PROGRAMS.

The United States Information Agency shall continue to implement the au pair programs designated by the Director of United States Information Agency as of July 10, 1990, until such au pair programs are authorized and implemented by another agency of the United States Government.

SEC. 9. FASCELL FELLOWSHIP PROGRAM.

Fascell Fellowship Amendments Act of 1990. 22 USC 4901 note.

(a) SHORT TITLE.—This section may be cited as the "Fascell Fellowship Amendments Act of 1990".

(b) SERVICE OF FASCELL FELLOWS.—

(1) ESTABLISHMENT.—Section 1002(a) of the Fascell Fellowship Act (22 U.S.C. 4901(a); hereinafter in this section referred to as "the Act") is amended—

(A) by striking out "formerly" and inserting in lieu thereof "which would otherwise be"; and

(B) by striking out "in the Soviet Union or Eastern European countries" and inserting in lieu thereof "abroad".

(2) PURPOSE OF THE FELLOWSHIPS.—Section 1002(c) of the Act (22 U.S.C. 4901(c)) is amended—

(A) by striking out "in the Soviet Union or an Eastern European country" and inserting in lieu thereof "abroad"; and

(B) by striking out "Soviet or Eastern European" and inserting in lieu thereof "that country's".

(3) INDIVIDUALS WHO MAY RECEIVE A FELLOWSHIP.—Section 1002(d) of the Act (22 U.S.C. 4901(d)) is amended by striking out "Soviet or Eastern European area studies or languages" and inserting in lieu thereof "international affairs, foreign languages, or career and professional experience or interest in international affairs,".

(c) FELLOWSHIP BOARD.—

(1) MEMBERSHIP.—Section 1003(b) of the Act (22 U.S.C. 4902(b)) is amended in paragraph (4) by striking out "Soviet or Eastern European area studies or languages," and inserting in lieu thereof "international affairs or foreign languages,".

22 USC 4902 note.

(2) TRANSITION.—The amendment made by paragraph (1) shall apply only to appointments to the Fascell Fellowship Board after the date of the enactment of this section and shall not affect the service of members of such board on the date of the enactment of this section.

(d) POSTING OF FELLOWS.—Section 1005(a) of the Act (22 U.S.C. 4904(a)) is amended by striking out "in the Soviet Union or Eastern Europe" and inserting in lieu thereof "abroad".

Approved October 24, 1990.

LEGISLATIVE HISTORY—S. 2017 (H.R. 4054):

HOUSE REPORTS: No. 101-788 accompanying H.R. 4054 (Comm. on Foreign Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 8, Senate concurred in House amendment.

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Public Law 101-455
101st Congress

An Act

To authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes.

Oct. 24, 1990
[S. 2540]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL SPACE IN NATIONAL MUSEUM OF NATURAL HISTORY.

20 USC 50 note.

The Board of Regents of the Smithsonian Institution is authorized to plan, design, construct, and equip approximately 80,000 square feet of space in the East Court of the National Museum of Natural History building.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

20 USC 50 note.

There is authorized to be appropriated to the Smithsonian Institution for fiscal year 1991 not to exceed $30,000,000 to carry out this Act.

Approved October 24, 1990.

LEGISLATIVE HISTORY—S. 2540 (H.R. 4463):

HOUSE REPORTS: No. 101-810, Pt. 1 accompanying H.R. 4463 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 101-342 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed Senate.
Oct. 10, H.R. 4463 considered and passed House; S. 2540 passed in lieu.

49-139 O - 90 (455)

Public Law 101-456
101st Congress

An Act

Oct. 24, 1990
[S. 3046]

To redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 1 Bowling Green in New York, New York, and known as the United States Custom House, shall be known and designated as the "Alexander Hamilton United States Custom House".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Alexander Hamilton United States Custom House".

Approved October 24, 1990.

LEGISLATIVE HISTORY—S. 3046 (H.R. 5595):

HOUSE REPORTS: No. 101-812 accompanying H.R. 5595 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 4, considered and passed Senate.
Oct. 10, H.R. 5595 considered and passed House; S. 3046 passed in lieu.

49-139 O - 90 (456)

Public Law 101-457
101st Congress

An Act

To designate the Department of Veterans Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

Oct. 24, 1990
[S. 3127]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs Medical Center in Albany, New York, shall be known and designated as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Department of Veterans Affairs Medical Center referred to in section 1 shall be deemed to be a reference to the "Samuel S. Stratton Department of Veterans Affairs Medical Center".

Approved October 24, 1990.

LEGISLATIVE HISTORY—S. 3127 (H.R. 5739):

HOUSE REPORTS: No. 101-860 accompanying H.R. 5739 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed Senate.
Oct. 15, H.R. 5739 considered and passed House; S. 3127 passed in lieu.

Public Law 101-458
101st Congress

Joint Resolution

Oct. 24, 1990
[S.J. Res. 342]

Designating October 1990 as "Ending Hunger Month".

Whereas hunger affects the lives of 500,000,000 to 1,000,000,000 people in the world and takes the lives of 13,000,000 to 18,000,000 people each year, 75 percent of whom are children under the age of 5;

Whereas, while famines often gain widespread media attention and the subsequent response of the public, little attention is focused on the problem of chronic hunger;

Whereas schools and communities should conduct educational programs that lead to the development of viable methods for alleviating hunger;

Whereas there is a need to promote continuing activities that increase education and heighten public awareness about the extent of hunger, its causes, and consequences;

Whereas a society educated about the pervasiveness of hunger is equipped to respond to the needs of hungry people around the world; and

Whereas the United Nations and the United States Congress have designated October 16, 1990, as World Food Day and have called upon all people to take appropriate actions: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Ending Hunger Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 24, 1990.

LEGISLATIVE HISTORY—S.J. Res. 342 (H.J. Res. 610):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 1, H.J. Res. 610 considered and passed House.
Oct. 16, S.J. Res. 342 considered and passed House.

49-139 O - 90 (458)

Public Law 101-459
101st Congress

Joint Resolution

To designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America".

Oct. 24, 1990
[S.J. Res. 346]

Whereas alcohol and other drug abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas alcohol and other drug abuse is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas alcohol and other drug abuse costs the United States nearly $100,000,000,000 each year;

Whereas illegal drug use is not limited to persons of a particular age, gender, or socioeconomic status, as evidenced by the fact that—

(1) 23,000,000 Americans age 12 and over currently use illicit drugs;

(2) a nationwide Weekly Reader survey revealed that, of the 68,000 fourth graders polled, 34 percent reported peer pressure to try wine coolers, 41 percent to smoke, and 24 percent to use crack or cocaine; and

(3) Americans age 15 to 24 have a higher rate of deaths due to accidents, homicides, and suicides, many of which are related to drug and alcohol abuse, than any other age group;

Whereas the drug problem appears to be insurmountable, but the United States has begun to lay the foundation to combat it;

Whereas the United States must continue the important strides made to combat alcohol and other drug abuse;

Whereas the most recent national polls reveal that—

(1) the United States has made progress in combatting alcohol and other drug abuse;

(2) there has been a steady decline in the reported use of marijuana on a daily basis by high school seniors since 1979;

(3) marijuana use among high school seniors was at its lowest level in 11 years in 1987;

(4) there was a significant drop in the use of cocaine in 1987; and

(5) the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 percent in 1986 to 48 percent in 1987;

Whereas illicit use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas public opinion polls demonstrate that the American people consider drug abuse one of the most serious domestic problems facing the United States and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America", has organized the National Red Ribbon Campaign to coordinate the week, has established the theme "Line Up to Sign Up for a Drug-free Decade" for

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the week, and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;

Whereas other outstanding groups and agencies, including the Parents Communication Network, the National Crime Prevention Council, the Federal Bureau of Investigation of the Department of Justice, the United States Conference of Mayors, the National Governors' Association, the Chiefs of Police Drug Task Force, Congressional Families for Drug Free Youth, the Parents' Resource Institute on Drug Education (PRIDE), the Outdoor Advertising Association of America, the National Association of State Alcohol and Drug Abuse Directors, Just Say No International, the Corporation Against Drug Abuse (CADA), the National Association of Broadcasters, the National School Boards Association, the Washington Regional Alcohol Program (WRAP), the National Prevention Network, the Office for Substance Abuse Prevention of the Department of Health and Human Services, the National Parents and Teachers Association, the General Federation of Women's Clubs, the American Council for Drug Education, Youth to Youth, the Drug Enforcement Administration of the Department of Justice, national youth organizations, and national service organizations, have demonstrated leadership, creativity, and determination in efforts to achieve a drug-free America;

Whereas the National Red Ribbon Campaign is headed by President and Mrs. George Bush as national honorary chairpersons, and by a distinguished national advisory committee, including Bill Cosby, Tom Landry, Joan Lunden, Boone Pickens, and Peter Ueberroth;

Whereas any use of an illegal drug is unacceptable, and the illegal use of a legal drug cannot be tolerated; and

Whereas alcohol and other drug abuse destroys lives, spawns rampant crime, undermines our economy, and threatens our national security: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the period of October 20 through 28, 1990, is designated as "National Red Ribbon Week for a Drug-Free America";

(2) the President is authorized and directed to issue a proclamation calling on the people of the United States—

(A) to observe the week by holding meetings, conferences, and fundraising activities to support community and alcohol education, and with other appropriate activities, events, and educational campaigns; and

(B) both during the week and thereafter, to wear and display red ribbons to present and symbolize commitment to a healthy, drug-free lifestyle, and to develop an attitude of intolerance concerning the use of drugs; and

(3) Congress recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement, educators, business leaders, religious leaders, private sector

organizations, and Government leaders in combatting the abuse of alcohol and other drugs.

Approved October 24, 1990.

LEGISLATIVE HISTORY—S.J. Res. 346:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 17, considered and passed Senate.
Oct. 16, considered and passed House.

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Public Law 101-460
101st Congress
Joint Resolution

Oct. 24, 1990
[S.J. Res. 349]

Designating October 1990 as "Italian-American Heritage and Culture Month".

Whereas Italians and Italian-Americans have made contributions in all areas of life in the United States, including art, science, civil service, military service, athletics, education, law, and politics;
Whereas Italian-Americans make up one of the largest ethnic groups in the United States;
Whereas an annual national observance day has been established in October to recognize the accomplishments of Christopher Columbus, one of the greatest explorers in history and the first to record the discovery of the Americas;
Whereas the phrase "All men are created equal", contained in the Declaration of Independence, was suggested by the Italian patriot and immigrant Philip Mazzei;
Whereas the people of the United States take great pride in the accomplishments of the many outstanding men and women of Italian descent who have enriched our Nation's history, including Fiorello LaGuardia, the beloved mayor of New York City, and Enrico Fermi, winner of the 1938 Nobel Prize for Physics;
Whereas Italy enjoys a rich cultural heritage and has given the world the great works of Dante, the breathtaking art of Giotti and Michelangelo, and the inspirational music of Antonio Vivaldi and Domenico Scarlatti;
Whereas the Americas were named for the Italian explorer Amerigo Vespucci;
Whereas William Paca, an Italian-American, was one of the signers of the Declaration of Independence; and
Whereas during October 1990, special attention will be directed to national, State, and local programs promoting Italian heritage and culture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1990 is designated as "Italian-American Heritage and Culture Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 24, 1990.

LEGISLATIVE HISTORY—S.J. Res. 349:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

49-139 O - 90 (460)

Public Law 101-461
101st Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 1991, and for other purposes.

Oct. 25, 1990
[H.J. Res. 681]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for continuing projects or activities (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1990 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1990, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1990, or at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by

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the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1990 and not included in the version passed by the House as of October 1, 1990, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990.

SEC. 102. Such amounts as may be necessary to continue existing programs and activities (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 1990, under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1990, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1990, for which provision was made in the following Acts: The Department of the Interior and Related Agencies Appropriations Act, 1990, and the Legislative Branch Appropriations Act, 1990.

SEC. 103. Such amounts as may be necessary to continue existing programs and activities, which were conducted in fiscal year 1990, for which provision was made in the Department of Defense Appropriations Act, 1990, but such activities shall be funded at not to exceed an annual rate for new obligational authority of $265,369,000,000, and this level shall be distributed on a pro rata basis to each appropriation account utilizing the fiscal year 1991 amended budget request as the base for such distribution and shall be available under the terms and conditions provided for in the applicable appropriations Acts for fiscal year 1990, notwithstanding section 502(a)(1) of the National Security Act of 1947: *Provided,* That no appropriation or funds made available or authority granted pursuant to this section shall be used for new production of items not funded for production in fiscal year 1990 or prior years, for the increase in production rates above those sustained with fiscal year 1990 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1990, except projects, activities, operations, or organizations relating to "Operation Desert Shield": *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section shall be used to initiate multi-year procurements utilizing advance procurement funding for

economic order quantity procurement unless specifically appropriated later: *Provided further,* That no appropriation or funds made available or authority granted pursuant to this section for procurement and research, development, test, and evaluation, shall be used to fund any program, project, activity, operation, or organization at a rate for operations in excess of the current rate or the rate provided for in the budget estimates for fiscal year 1991, whichever is lower, during fiscal year 1991, except programs, projects, activities, operations, or organizations relating to "Operation Desert Shield".

SEC. 104. Notwithstanding any other provision of this joint resolution, such amounts as may be necessary to continue the Aerostat Program of the United States Customs Service which was conducted in fiscal year 1990 at a rate of operations not exceeding the current rate and under the authority and conditions provided in the applicable appropriations Act for the fiscal year 1990.

SEC. 105. Appropriations made by sections 101, 102, 103, and 104 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 106. No appropriation or funds made available or authority granted pursuant to sections 101, 102, 103, and 104 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1990.

SEC. 107. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1990, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 108. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 27, 1990, whichever first occurs.

SEC. 109. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 110. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 111. No provision in any appropriations Act for the fiscal year 1991 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 108(c) of this joint resolution.

SEC. 112. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code,

but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

2 USC 902 note.

SEC. 113. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order.

Termination date.

(b) Subsection (a) shall cease to be effective on the date set forth in section 108(c).

EXTENSION OF TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

Ante, p. 403.

SEC. 114. Section 1 of Public Law 101-350 is amended by striking "October 24, 1990" and inserting "October 27, 1990".

Approved October 25, 1990.

LEGISLATIVE HISTORY—H.J. Res. 681:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, considered and passed House and Senate.

Public Law 101-462
101st Congress

An Act

To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.

Oct. 25, 1990
[H.R. 4757]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(c) of the Act entitled "An Act relating to the policing of the building and grounds of the Supreme Court of the United States," approved August 18, 1949 (40 U.S.C. 13n(c)), is amended in the first sentence by striking out "1990" and inserting in lieu thereof "1993".

Approved October 25, 1990.

LEGISLATIVE HISTORY—H.R. 4757 (S. 2572):

HOUSE REPORTS: No. 101-503 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Oct. 5, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendments.

49-139 O - 90 (462)

Public Law 101-463
101st Congress

Joint Resolution

Oct. 25, 1990
[H.J. Res. 214]

Designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week".

Whereas anorexia nervosa (also known as starvation sickness) and bulimia (also known as binge-purge syndrome) are emotional disorders that can lead to serious physical illness and even death;

Whereas experts estimate that 1 out of every 100 women between the ages of 12 and 25 suffers from anorexia nervosa, that 1 out of every 7 women in that age group develops bulimia, and that nearly 10 percent of all patients who are referred to eating disorder clinics are men;

Whereas there has been a dramatic increase in the number of reported cases of anorexia nervosa and bulimia, making the need to provide effective treatment to the victims of these disorders much larger than in the past; and

Whereas public awareness about the personal and familial tragedies caused by anorexia nervosa and bulimia must be raised in order to promote continued research into the causes and treatments of these and other eating disorders: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 22 through October 28, 1990, is designated as "Eating Disorders Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs and activities.

Approved October 25, 1990.

LEGISLATIVE HISTORY—H.J. Res. 214:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 16, considered and passed House.
Oct. 17, considered and passed Senate.

49-139 O - 90 (463)

Public Law 101-464
101st Congress

Joint Resolution

Designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week".

Oct. 25, 1990
[H.J. Res. 518]

Whereas in 1790 Samuel Slater, an immigrant mechanic, began producing cotton yarn via water-powered machinery in Pawtucket, Rhode Island;

Whereas Samuel Slater's success led to the firm establishment of the textile factory system in the United States of America and helped give birth to the United States industrial revolution;

Whereas thousands of immigrants from dozens of nations came to the United States to work in these mills and factories alongside the thousands of American textile workers;

Whereas the textile industry has played a major role in the development of the American economy, social system, and political history over the past 200 years; and

Whereas the leaders of the United States textile industry have declared 1990 as "America's Textile Industry Bicentennial Year" in recognition of the 200th anniversary of the first successful production of cotton yarn in this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 13 through October 20, 1990, is designated as "American Textile Industry Bicentennial Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 25, 1990.

LEGISLATIVE HISTORY—H.J. Res. 518:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 16, considered and passed House.
Oct. 17, considered and passed Senate.

49-139 O - 90 (464)

Public Law 101-465
101st Congress
Joint Resolution

Oct. 25, 1990
[S.J. Res. 158]

Designating October 21 through October 27, 1990, as "World Population Awareness Week".

Whereas the population of the world today exceeds five billion and is growing at an unprecedented rate of approximately ninety million per year;

Whereas virtually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the ten million infant deaths and one-quarter of the five hundred thousand maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their families but lack the means or ability to gain access to family planning;

Whereas the global community has for more than twenty years recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest on their debt;

Whereas selling off natural resources in such circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of fifty thousand acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas pollution is damaging the ozone layer to such an extent that within forty years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today; and

Whereas in 1988, forty State Governors proclaimed "World Population Awareness Week" in their States to call attention to the consequences of rapid population growth and the House of Representatives also passed a resolution to that effect: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 21 through October 27, 1990, is designated as "World Population Awareness Week", and the President is authorized and requested to

issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 25, 1990.

LEGISLATIVE HISTORY—S.J. Res. 158:

CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 6, considered and passed Senate.
Vol. 136 (1990): Oct. 16, considered and passed House, amended.
Oct. 17, Senate concurred in House amendments.

Public Law 101-466
101st Congress
Joint Resolution

Oct. 27, 1990
[H.J. Res. 682]

Waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the One Hundred First Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

1 USC 106 note.

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING OF ENROLLMENT OF CERTAIN MEASURES.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any reconciliation bill, appropriation bill, or continuing resolution of the One Hundred First Congress presented to the President after the enactment of this joint resolution.

(b) CERTIFICATION OF ENROLLMENT BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

1 USC 106 note.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENT.

(a) PREPARATION.—

(1) IN GENERAL.—If a reconciliation bill, appropriation bill, or continuing resolution is presented to the President in the form of a hand enrollment pursuant to the authority of section 1, then upon the enactment of that bill or joint resolution the Clerk of the House of Representatives shall prepare a printed enrollment of the bill or joint resolution as in the case of a bill or joint resolution to which sections 106 and 107 of title 1, United States Code, apply.

(2) TYPOGRAPHICAL CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in indentation, type face, and type size and may include notations (in the margins or as otherwise appropriate) of obvious errors in spelling or punctuation in the hand enrollment.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a), after being certified by the Committee on House Administration of the House of Representatives to be a correct printing of the hand enrollment, shall be signed by the presiding officer of each House of Congress and transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; PRESERVATION IN ARCHIVES.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment, such printed enrollment shall be transmitted to

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the Archivist of the United States, who shall preserve it with the hand enrollment.

(d) PUBLICATION OF LAW.—In preparing the bill or joint resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

SEC. 3. DEFINITIONS. 1 USC 106 note.

As used in this resolution:

(1) RECONCILIATION BILL.—The term "reconciliation bill" means a bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

(2) APPROPRIATION BILL.—The term "appropriation bill" means a general appropriation bill making appropriations for the fiscal year ending September 30, 1991.

(3) CONTINUING RESOLUTION.—The term "continuing resolution" means a joint resolution making continuing appropriations for the fiscal year 1991.

(4) HAND ENROLLMENT.—The term "hand enrollment" means the enrollment, as authorized by section 1, of a bill or joint resolution for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

Approved October 27, 1990.

LEGISLATIVE HISTORY—H.J. Res. 682:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, considered and passed House.
Oct. 26, considered and passed Senate.

Public Law 101-467
101st Congress

Joint Resolution

Oct. 28, 1990
[H.J. Res. 687]

Making further continuing appropriations for the fiscal year 1991, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1991, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary for appropriations, funds, or other authority made available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991;

The Department of Defense Appropriations Act, 1991, notwithstanding section 502(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1991;

The Energy and Water Development Appropriations Act, 1991;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, notwithstanding section 10 of Public Law 91-672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of Interior and Related Agencies Appropriations Act, 1991;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991;

The Legislative Branch Appropriations Act, 1991;

The Military Construction Appropriations Act, 1991;

The Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991;

The Department of Transportation and Related Agencies Appropriations Act, 1991;

The Treasury, Postal Service, and General Government Appropriations Act, 1991; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991;

to the extent and in the manner reflected in the final action of the two Houses of Congress on the conference report and amendments in disagreement for each Act listed in this section and to the extent and in the manner provided for in the accompanying joint explanatory statements of the Committees of Conference.

(b) Appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (A) enactment into law of an appropriation for any project or activity

provided for in this joint resolution, or (B) November 5, 1990, whichever first occurs.

SEC. 102. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 103. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 104. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 105. (a) Any order on sequestration for fiscal year 1991 issued before, on, or after the date of enactment of this joint resolution pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 is suspended and no action shall be taken to implement any such order. 2 USC 902 note.

(b) Subsection (a) shall cease to be effective on the date set forth in section 101(b)(B). Termination date.

SEC. 106. TEMPORARY INCREASE IN PUBLIC DEBT LIMIT. 31 USC 3101 note.

Duing the period beginning on the date of the enactment of this joint resolution and until November 5, 1990, the public debt limit set forth in subsection (b) of section 3101 of title 31, United States Code, shall be temporarily increased to $3,230,000,000,000.

Approved October 28, 1990.

LEGISLATIVE HISTORY—H.J. Res. 687:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 27, considered and passed House and Senate.

Public Law 101-468
101st Congress

Joint Resolution

Oct. 30, 1990
[S.J. Res. 270]

To designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week".

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 464 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community-based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;

Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community served by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 17, 1991, and ending February 23, 1991, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation call-

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ing upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 270:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

Public Law 101-469
101st Congress

Joint Resolution

Oct. 30, 1990
[S.J. Res. 323]

Designating November 11 through 17, 1990, as "Geography Awareness Week".

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States is a truly unique Nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas the leadership of the United States in world affairs is threatened by a lack of understanding of the locations and significance of historic changes occurring around the globe;

Whereas a knowledge of geography provides a "Window on a Changing World" and a way in which to understand events and their impact on the United States;

Whereas the United States is a Nation of worldwide involvements and influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas the first federally funded National Assessment of Educational Progress survey revealed a "disturbing geography knowledge gap" among 12th graders in the United States;

Whereas this survey also indicated that many students did not know that the Mississippi River flows into the Gulf of Mexico, or that the Panama Canal shortens sailing time between the east and west coasts of the United States, nor could they identify Jerusalem on a regional map, or name the three oceans moving east around the globe from Africa;

Whereas departments of geography are being eliminated from institutes of higher learning in the United States, thus endangering the discipline of geography in this country;

Whereas, while geography as a distinct discipline has virtually disappeared from the curricula of schools in the United States, it is still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, the environment, and global events;

Whereas one-third of adults in the United States cannot name four of the sixteen North Atlantic Treaty Organization member nations, and another one-third cannot name any; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent, interconnected, and rapidly changing world: Now, therefore, be it

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Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 11 through 17, 1990, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 323:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

Public Law 101-470
101st Congress
Joint Resolution

Oct. 30, 1990
[S.J. Res. 347]

Designating April 7 through 13, 1991, as "National County Government Week".

Whereas county government is the oldest form of local government in the United States;

Whereas 98 percent of the Nation's population reside in counties;

Whereas county governments employed over 1,900,000 people and spent almost $103,000,000,000 last year to provide a wide range of services for the benefit of the people of the United States;

Whereas county governments are often the last available resource for providing emergency and long-term services for the poor, the homeless, immigrants, refugees, the disadvantaged, and other segments of society;

Whereas county governments own and operate 1,000 health care facilities and over 2,000 health departments;

Whereas almost 1,200 counties are now managed by appointed administrators or elected executives;

Whereas over the last 30 years county governments have assumed increasing responsibility for the administration and financing of health, welfare, justice, transportation, housing, and community development programs; and

Whereas county governments have also been assigned a greater role in solving area wide problems dealing with air pollution, water pollution, solid waste disposal, airports, transit systems, regional parks, and other issues: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 7 through 13, 1991, is designated as "National County Government Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 347:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

49-139 O - 90 (470)

Public Law 101-471
101st Congress

Joint Resolution

To designate the month of May, 1991 as "National Trauma Awareness Month".

Oct. 30, 1990
[S.J. Res. 351]

Whereas more than eight million individuals in the United States suffer traumatic injury each year;
Whereas traumatic injury is the leading cause of death of individuals less than forty-four years of age in the United States;
Whereas every individual is a potential victim of traumatic injury;
Whereas traumatic injury often occurs without warning;
Whereas traumatic injury frequently renders its victims incapable of caring for themselves;
Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;
Whereas the people of the United States spend more than $140 billion on the problem of trauma;
Whereas the problem of trauma can be remedied only by prevention and treatment through emergency medical services and trauma systems; and
Whereas the people of the United States must be educated in the prevention and treatment of trauma and in the proper and effective use of emergency medical systems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May, 1991 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 351:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed Senate.
Oct. 16, considered and passed House.

49-139 O - 90 (471)

Public Law 101-472
101st Congress

Joint Resolution

Oct. 30, 1990
[S.J. Res. 362]

To designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week".

Whereas Thanksgiving week has been commemorated as "National Adoption Week" for the past 12 years;

Whereas we in Congress recognize the essential value of belonging to a secure, loving permanent family as every child's right;

Whereas the President of the United States has actively promoted the benefits of adoption by implementing a Federal program to encourage Federal employees to consider adoption;

Whereas approximately thirty-six thousand children who have special needs—school age, in sibling groups, members of minorities, or children with physical, mental and emotional handicaps—are now in foster care or institutions financed at public expense and are legally free for adoption;

Whereas the adoption by capable parents of these institutionalized or foster care children into permanent, adoptive homes would ensure the opportunity for their continued happiness and long-range well-being;

Whereas public and private barriers inhibiting the placement of these special needs children must be reviewed and removed where possible to assure these children's adoption;

Whereas the public and prospective parents must be informed of the availability of adoptive children;

Whereas a variety of media, agencies, adoptive parent and advocacy groups, civic and church groups, businesses, and industries will feature publicity and information to heighten community awareness of the crucial needs of waiting children; and

Whereas the recognition of Thanksgiving week as "National Adoption Week" is in the best interest of adoptable children and the public in general: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on November 18, 1990, and ending on November 24, 1990, is designated as "National Adoption Week", and the President of the United States is authorized and requested to issue a proclama-

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tion calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 362:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

Public Law 101-473
101st Congress

Joint Resolution

Oct. 30, 1990
[S.J. Res. 366]

To designate March 30, 1991, as "National Doctors Day".

Whereas society owes a debt of gratitude to physicians for the contributions of physicians in enlarging the reservoir of scientific knowledge, increasing the number of scientific tools, and expanding the ability of health professionals to use the knowledge and tools effectively in the never-ending fight against disease; and

Whereas society owes a debt of gratitude to physicians for the sympathy and compassion of physicians in ministering to the sick and in alleviating human suffering: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) March 30, 1991, is designated as "National Doctors Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S.J. Res. 366:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

49-139 O - 90 (473)

Public Law 101-474
101st Congress

An Act

To establish a comprehensive personnel system for employees of the Administrative Office of the United States Courts, and for other purposes.

Oct. 30, 1990
[H.R. 4174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Administrative Office of the United States Courts Personnel Act of 1990.
28 USC 602 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Office of the United States Courts Personnel Act of 1990".

28 USC 602 note.

SEC. 2. GENERAL PERSONNEL AUTHORITY.

The Director of the Administrative Office of the United States Courts (hereinafter in this Act referred to as the "Director") may appoint, fix the compensation of, assign, and direct such personnel as the Director determines necessary to discharge the duties and functions of the Administrative Office.

28 USC 602 note.

SEC. 3. ESTABLISHMENT OF PERSONNEL MANAGEMENT SYSTEM.

Regulations.
Wages.

(a) The Director shall, by regulation, establish a personnel management system for the Administrative Office which provides for the appointment, pay, promotion, and assignment of all employees on the basis of merit, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates. The system shall apply to all Administrative Office employees except those referred to in section 603 of title 28, United States Code, and shall, at a minimum—

(1) provide for a schedule of pay rates applicable to all employees; except as provided in paragraph (10), the basic pay of any person appointed under this section shall not exceed the rate of basic pay for level V of the Executive Schedule;

(2) incorporate pay comparability principles as set forth in section 5301(a) of title 5, United States Code;

(3) provide for the adjustment of the pay of employees at the same time and in the same percentage amount as rates of basic pay are adjusted for General Schedule and prevailing rate employees, as appropriate;

(4) establish procedures for employee evaluations, the granting of periodic pay adjustments, incentive awards, and resolution of employee grievances;

(5) establish procedures for disciplinary actions, including reduction in grade or pay, suspension, and removal, based on unacceptable performance or misconduct, except that—

(A) such procedures shall be consistent with—

(i) section 4303 of title 5, United States Code, to the extent that they relate to adverse actions based on unacceptable performance; and

(ii) chapter 75 of title 5, United States Code, to the extent that they relate to adverse actions covered by such chapter; and

(B) the Director may exempt from these procedures positions of a confidential or policy-determining character, not to exceed 4 percent of the authorized positions of the Administrative Office;

(6) establish procedures for premium pay (including overtime), except that the Director may at his discretion implement flexible and compressed work schedules and may exempt the hours constituting such schedules from premium pay to the extent he deems necessary to implement such schedules;

(7) include the principles set forth in section 2301(b) of title 5, United States Code;

(8) prohibit personnel practices prohibited under section 2302(b) of title 5, United States Code;

Civil rights.

(9) prohibit discrimination on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; the Director must promulgate regulations providing procedures for resolving complaints of discrimination by employees and applicants for employment;

Regulations.
Employment.

(10) provide for the basic pay of not more than 5 percent of the authorized positions of the Administrative Office (excluding the positions referred to in section 603 of title 28, United States Code) to be set at rates not to exceed the rate of basic pay for positions at level IV of the Executive Schedule; the aggregate pay (including basic pay and incentive awards) of any individual whose basic pay is set under this subsection may not exceed the salary of the Director; and

(11) in the case of any individual who would be a preference eligible in the executive branch, provide preference for that individual in a manner and to an extent consistent with preference accorded to preference eligibles in the executive branch.

(b) The Director may apply the provisions of sections 5723 and 6304(f) of title 5, United States Code, to the positions referred to in subsection (a)(10) and in section 603 of title 28, United States Code, including the Deputy Director.

(c) The Director may provide for incentive awards for the positions referred to in section 603 of title 28, United States Code, including the Deputy Director, subject to the aggregate pay limitation in subsection (a)(10).

(d) The Chief Justice of the United States or the Judicial Conference of the United States may grant incentive awards to the Director, except that the Director's aggregate pay for any fiscal year, including salary and incentive awards, may not exceed the salary of a United States circuit judge. The Chief Justice or the Judicial Conference may authorize application of section 5723 of title 5, United States Code, to the Director.

(e) The Director may develop and conduct programs to meet the short- and long-range training needs of the agency.

(f) Notwithstanding any other provision of law, an individual who is an employee of the Administrative Office on the day before the effective date of this section and who, as of that day, was entitled to—

(1) appeal a reduction in grade or removal to the Merit Systems Protection Board under chapter 43 of title 5, United States Code,

(2) appeal an adverse action to the Merit Systems Protection Board under chapter 75 of title 5, United States Code, or

(3) file an appeal with the Equal Employment Opportunity Commission under part 1613 of title 29 of the Code of Federal Regulations,

shall continue to be entitled to file such appeal so long as the individual remains an employee of the Administrative Office, except that this provision shall not apply to employees in positions referred to in section 603 of title 28, United States Code, or in positions of a confidential or policy-determining character referred to in subsection (a)(10).

(g) Nothing in this Act shall be construed to abolish or diminish any right or remedy granted to employees of or applicants for employment in the Administrative Office by any law prohibiting discrimination in Federal employment on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition, except that, with respect to any such employees and applicants for employment, any authority granted under any such law to the Equal Employment Opportunity Commission, the Office of Personnel Management, the Merit Systems Protection Board, or any other agency in the executive branch, shall be exercised by the Administrative Office.

SEC. 4. NONCOMPETITIVE APPOINTMENTS. 28 USC 602 note.

(a) Notwithstanding any other provision of law, any employee of the Administrative Office who has completed at least 1 year of continuous service under a nontemporary appointment under the personnel system established pursuant to section 3 acquires a competitive status for appointment to any position in the competitive service for which the employee possesses the required qualifications.

(b) A period of continuous service performed as a nontemporary employee of the Administrative Office immediately before the personnel system under section 3 takes effect shall, for purposes of subsection (a), be treated as if it had been performed under such system.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 602(a) of title 28, United States Code, is amended to read as follows:

"(a) The Director shall appoint and fix the compensation of necessary employees of the Administrative Office in accordance with the Administrative Office of the United States Courts Personnel Act of 1990.". Wages.

(b) Section 603 of title 28, United States Code, is amended by striking "of the Deputy Director and" and by inserting after the first sentence the following: "Notwithstanding any other provision of law, the Director shall not be deemed to be an 'employee' for the purpose of subchapter I of chapter 63 of title 5. The salary of the Deputy Director shall be 92 percent of the salary of the Director.". Wages.

(c) Section 2301(a) of title 5, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(d) Section 2302(a)(2)(C) of title 5, United States Code, is amended by striking ", the Administrative Office of the United States Courts,".

(e) Section 4301(1) of title 5, United States Code, is amended—
(1) by inserting "and" at the end of subparagraph (A);
(2) by striking subparagraph (B); and
(3) by redesignating subparagraph (C) as subparagraph (B).

(f) Section 4501(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (H) as subparagraphs (B) through (G), respectively.

(g) Section 4701(a)(1) of title 5, United States Code, is amended by striking ", the Administrative Office of the United States Courts,".

(h) Section 5102(a)(1) of title 5, United States Code, is amended by striking subparagraph (B) and redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively.

(i) Section 5108(c) of title 5, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(j) Section 5349(a) of title 5, United States Code, is amended by striking "the Administrative Office of the United States Courts,".

(k)(1) Section 5595(a)(1) of title 5, United States Code, is amended—
(A) by striking "and" at the end of subparagraph (C); and
(B) by adding after subparagraph (D) the following:
"(E) the Administrative Office of the United States Courts, the Federal Judicial Center, and the courts named by section 610 of title 28; and".

(2) Section 5595(b) of title 5, United States Code, is amended by adding at the end the following: "However, the Director of the Administrative Office of the United States Courts may prescribe regulations to effect the application and operation of this section to the agencies specified in subsection (a)(1)(E) of this section.".

(l)(1) Section 5596(a)(2) of title 5, United States Code, is amended by striking "Courts;" and inserting "Courts, the Federal Judicial Center, and the courts named by section 610 of title 28;".

(2) Section 5596(c) of title 5, United States Code, is amended by striking "employees." and inserting "employees, or to the agencies specified in subsection (a)(2) of this section.".

(m) Clause (v) of section 8331(1) of title 5, United States Code, is amended to read as follows:
"(v) an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, excluded by the Director of the Administrative Office under section 8347(o) of this title;".

(n) Section 8347 of title 5, United States Code, is amended by adding at the end the following:
"(p) The Director of the Administrative Office of the United States Courts may exclude from the operation of this subchapter an employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(o) Section 8401(11)(i)(I) of title 5, United States Code, is amended by striking "(v),".

(p) Section 8402(c) of title 5, United States Code, is amended by adding at the end the following:
"(7) The Director of the Administrative Office of the United States Courts may exclude from the operation of this chapter an employee of the Administrative Office of the United States Courts, the Federal

Judicial Center, or a court named by section 610 of title 28, whose employment is temporary or of uncertain duration.".

(q) Section 602(b) of title 28, United States Code, is amended by striking "604(a)(15)(B)" and inserting "604(a)(16)(B)".

(r) Section 402(a)(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking "redesignating paragraph (18)" and inserting "redesignating paragraph (19)". 28 USC 604.

SEC. 6. AUTHORIZATION. 28 USC 602 note.

There are authorized to be appropriated for fiscal year 1990 and for each fiscal year thereafter such sums as may be necessary to carry out the provisions of this Act.

Approved October 30, 1990.

LEGISLATIVE HISTORY—H.R. 4174:

HOUSE REPORTS: No. 101-770, Pt. 1 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 101-475
101st Congress

An Act

Oct. 30, 1990
[H.R. 5579]

To amend section 28(w) of the Mineral Leasing Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF WAITING PERIOD.

(a) Section 28(w)(1) of the Mineral Leasing Act (30 U.S.C. 185(w)(1)) is amended by striking "House and Senate Committees on Interior and Insular Affairs" and inserting in lieu thereof "Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate".

(b) Section 28(w)(2) of the Mineral Leasing Act (30 U.S.C. 185(w)(2)) is amended to read as follows:

"(2) The Secretary or agency head shall promptly notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to the terms and conditions he proposes to impose, has been submitted to such committees.".

Approved October 30, 1990.

LEGISLATIVE HISTORY—H.R. 5579 (S. 3017):

HOUSE REPORTS: No. 101-833 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-471 accompanying S. 3017 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 15, considered and passed Senate.

49-139 O - 90 (475)

Public Law 101-476
101st Congress

An Act

To amend the Education of the Handicapped Act to revise and extend the programs established in parts C through G of such Act, and for other purposes.

Oct. 30, 1990
[S. 1824]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Education of the Handicapped Act Amendments of 1990.
20 USC 1400 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) Short Title.—This Act may be cited as the "Education of the Handicapped Act Amendments of 1990".

(b) REFERENCE.—Except as otherwise provided in section 901, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Education of the Handicapped Act.

TITLE I—GENERAL PROVISIONS

SEC. 101. DEFINITIONS.

(a) HANDICAPPED CHILDREN.—Section 602(a)(1) (20 U.S.C. 1401(a)(1)) is amended to read as follows:

"(1) The term 'children with disabilities' means children—

"(A) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(B) who, by reason thereof need special education and related services.".

(b) SPECIAL EDUCATION.—Section 602(a)(16) (20 U.S.C. 1401(a)(16)) is amended by striking "including classroom instruction" and all that follows and inserting the following: "including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education.".

(c) RELATED SERVICES.—Section 602(a)(17) (20 U.S.C. 1401(a)(17)) is amended—

(1) by striking "recreation," and inserting "recreation, including therapeutic recreation and social work services,"; and

(2) by inserting ", including rehabilitation counseling," after "counseling services,".

(d) TRANSITION SERVICES.—Section 602(a) (20 U.S.C. 1401(a)) is amended by redesignating paragraphs (19) through (23) as paragraphs (20) through (24), respectively, and by inserting after paragraph (18) the following new paragraph:

"(19) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school

activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.".

(e) INDIVIDUALIZED EDUCATION PROGRAM.—Section 602(a)(20), as redesignated by subsection (d) of this section, is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency reponsibilities or linkages (or both) before the student leaves the school setting,", and

(2) by inserting after subparagraph (F) (as so redesignated) the following: "In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.".

(f) PUBLIC OR PRIVATE NONPROFIT AGENCY OR ORGANIZATION.—Section 602(a)(24)(A), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: "and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior".

(g) ASSISTIVE TECHNOLOGY DEVICE.—Section 602(a), as amended by subsection (d) of this section, is amended by adding at the end the following new paragraph:

"(25) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.".

(h) ASSISTIVE TECHNOLOGY SERVICE.—Section 602(a), as amended by subsection (g) of this section, is amended by adding at the end the following new paragraph:

"(26) The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.".

(i) UNDERREPRESENTED.—Section 602(a), as amended by subsection (h) of this section, is amended by adding at the end the following new paragraph:

"(27) The term 'underrepresented' means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.".

SEC. 102. NOTICE OF INQUIRY.

(a) PUBLICATION.—Not later than 30 days after the date of the enactment of the Education of the Handicapped Act Amendments of 1990, the Secretary shall publish a Notice of Inquiry in the Federal Register for the purpose of soliciting public comments regarding the appropriate components of an operational definition under such Act for the term "attention deficit disorder" (hereinafter referred to in this section as the "disorder") in accordance with subsection (b)(2). Federal Register, publication.

(b) PUBLIC COMMENT.—

(1) The Notice of Inquiry published under subsection (a) shall provide for a 120-day period for public comment.

(2) The Notice of Inquiry shall request comments concerning the following issues:

(A) How should the disorder be described operationally for purposes of qualifying a child for special education and related services under part B of the Education of the Handicapped Act.

(B) What criteria should be included in the definition to qualify children with the disorder whose disability is comparable in severity to other children with disabilities currently determined to be eligible for special education and related services under part B of the Education of the Handicapped Act.

(C) What specific manifestations of the disorder, if any, should be included in the definition.

(D) Whether the definition should include references to characteristics or circumstances that produce transient inattentive behaviors that, in and of themselves, would not make a child eligible for special education and related services under the definition of the disorder.

(E) Whether the definition should address the concurrence of this disorder with other disabilities such as specific learning disabilities or serious emotional disturbance, and if so addressed, the manner in which such is to be accomplished.

(F) Whether guidelines should be provided to State and local educational agencies regarding their obligation to conduct an evaluation of a child suspected of having this disorder, and a description of such guidelines.

(G) Who should be authorized to conduct an assessment of a child having or suspected of having the disorder and whether the assessment should be conducted by more than one individual (such as a teacher and a psychologist).

(H) What provisions should be included in the definition and what additional steps, if any, not currently required by the regulations implementing part B of the Education of the Handicapped Act, should be included to ensure that racial, ethnic, and linguistic minorities are not misclassified under this definition.

(c) REPORT TO COMMITTEES.—Not later than 30 days after the close of the comment period referred to in subsection (b)(1), the Secretary shall transmit the public comments received in response to the Notice of Inquiry in a usable form, accompanied by a document summarizing such comments, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

SEC. 103. ABROGATION OF STATE SOVEREIGN IMMUNITY.

Part A (20 U.S.C. 1400 et seq.) is amended by inserting after section 603 the following new section:

"ABROGATION OF STATE SOVEREIGN IMMUNITY

20 USC 1403.

"SEC. 604. (a) A State shall not be immune under the eleventh amendment to the Constitution of the United States from suit in Federal court for a violation of this Act.

"(b) In a suit against a State for a violation of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in the suit against any public entity other than a State.

"(c) The provisions of subsections (a) and (b) shall take effect with respect to violations that occur in whole or part after the date of the enactment of the Education of the Handicapped Act Amendments of 1990.".

SEC. 104. REPORTS, EVALUATIONS, FINDINGS, AND OTHER PROVISIONS GENERALLY APPLICABLE TO PARTS C THROUGH G.

Part A (20 U.S.C. 1400 et seq.) is amended by adding at the end the following new section:

"ADMINISTRATIVE PROVISIONS APPLICABLE TO PARTS C THROUGH G AND SECTION 618

20 USC 1409.

"SEC. 610. (a) The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 618 and parts C through G. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

"(b) In awarding grants, contracts, and cooperative agreements under parts C through G, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds. Infants and children. Minorities.

"(c) In awarding grants, contracts, or cooperative agreements under parts C through G the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

"(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

"(2) the transition between residential placement and community-based special education services; and

"(3) the transition between a separate educational placement and the regular classroom setting.

"(d) The Secretary shall conduct directly, or by contract or cooperative agreement with appropriate entities, independent evaluations of the programs authorized under section 618 and under parts C through G, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection. Government contracts.

"(e) The Secretary shall report on the program plans required in subsection (a) and findings from the evaluations under subsection (d) in the annual report to the Congress required under section 618.

"(f) The Secretary shall develop effective procedures for acquiring and disseminating information derived from programs and projects funded under parts C through G, as well as information generated from studies conducted and data collected under section 618.

"(g) The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under parts C through G to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such procedures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Programs (TAPP) assisted under parts C and D, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental Health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

"(h)(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 618 and parts C through G.

"(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

"(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

"(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

"(5) The Secretary may use funds available under section 618 and parts C through G to pay expenses and fees of non-Federal members of the panels.

"(i) The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving $300,000 or more annually under parts C through G.

"(j)(1) With respect to the discretionary programs authorized by parts C through G, the Congress finds as follows:

"(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

"(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

"(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American.

"(iv) Taken together as a group, it is a more frequent phenomenon for minorities to comprise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

"(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

"(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral,

assessment, and services for our Nation's students from non-English language backgrounds.

"(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

"(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

"(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

"(iv) Although African-Americans represent 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

"(v) The drop out rate is 68 percent higher for minorities than for whites.

"(vi) More than 50 percent of minority students in large cities drop out of school.

"(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

"(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

"(iii) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

"(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

"(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

"(vi) As recently as 1984–85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

"(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

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"(viii) In 1986-87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

"(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

"(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

"(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

"(B) This policy should focus on—

"(i) the recruitment of minorities into teaching; and

"(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

"(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of parts C through G.

"(ii) The entities referred to in clause (i) are—

"(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

"(II) eligible institutions as defined in section 312 of the Higher Education Act of 1965;

"(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(IV) underrepresented populations.

"(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out parts C through G.

"(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

"(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

"(i) a full explanation of any progress toward meeting the goals of this subsection; and

"(ii) a plan to meet the goals, if necessary.".

TITLE II—ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED INDIVIDUALS

SEC. 201. SETTLEMENTS AND ALLOCATIONS.

Section 611(f) (20 U.S.C. 1411(f)) is amended—

(1) in paragraph (1), in the first sentence, by inserting "(A)" after "reservations" and by inserting before the period the following: ", and (B) for whom services were provided through contract with an Indian tribe or organization prior to fiscal year 1989"; and

(2) by adding at the end the following new paragraph:

"(3) Before March 1, 1991, the Secretary of the Interior shall submit to the appropriate Committees of the Congress a plan for the provision of services under this Act to all children with disabilities residing on reservations, whether or not such reservation is served by a B.I.A. funded school. Such plan shall provide for the coordination of services benefiting these children from whatever source, including Tribes, the State in which the child resides and entities of such State, the Indian Health Service, other B.I.A. divisions and other Federal agencies. In developing such a plan, the Secretary shall consult with all interested and involved parties. Such a plan may not be based upon a blanket assumption or interpretation that denies Federal or Interior responsibility for any group or class of children or settings, but shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of service agreements between the B.I.A. and other entities.".

SEC. 202. STATE PLANS.

Section 613(a)(3) (20 U.S.C. 1413(a)(3)) is amended to read as follows:

"(3) describe, consistent with the purposes of this Act, a comprehensive system of personnel development that shall include—

"(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel, including—

"(i) the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

"(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

"(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of

higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

"(I) the numbers of students enrolled in such programs, and

"(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

"(iii) the development, updating, and implementation of a plan that—

"(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

"(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

"(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared, including—

"(i) a system for the continuing education of regular and special education and related services personnel;

"(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

"(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.".

Grant programs.
Government contracts.
20 USC 1418.

SEC. 203. EVALUATION.

Section 618 is amended to read as follows:

"EVALUATION AND PROGRAM INFORMATION

"SEC. 618. (a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

"(1) to assess progress in the implementation of this Act;

"(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

"(A) free appropriate public education to children and youth with disabilities; and

"(B) early intervention services to infants and toddlers with disabilities; and

"(3) to provide—

"(A) Congress with information relevant to policymaking; and

"(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

"(b)(1) In carrying out subsection (a), the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under part H (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including— Infants and children.

"(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

"(i) in age groups 0-2 and 3-5, and

"(ii) in age groups 6-11, 12-17, and 18-21, by disability category;

"(B) the number of children and youth with disabilities in each State, by disability category, who—

(i) are participating in regular educational programs (consistent with the requirements of section 612(5)(B) and 614(a)(1)(C)(iv));

(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

(iii) have been otherwise removed from the regular education environment;

"(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

"(D) the number and type of personnel that are employed in the provision of—

"(i) special education and related services to children and youth with disabilities, by disability category served; and

"(ii) early intervention services to infants and toddlers with disabilities; and

"(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12-17 and 18-21 who have left the educational system.

"(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 613(a)(3)(A), including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel. Reports.

"(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs (1) and (2) to achieve accurate and comparable information.

"(c)(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose

of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

"(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

"(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

"(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

"(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

"(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

"(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

"(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

"(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

"(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

"(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

"(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

"(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this Act. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public

Federal Register, publication.

comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under section 618 every 3 years.

"(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this Act, and in a form for inclusion in the annual report to Congress authorized under subsection (g).

"(d)(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this Act.

"(2) The agreements referred to in paragraph (1) shall—

"(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this Act; and

"(B) be developed in consultation with the State Advisory Panel established under section 613(a)(12), local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

"(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

"(e)(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this Act, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

Federal Register, publication.

"(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

"(A) completing a longitudinal study of a sample of students with disabilities, examining—

"(i) the full range of disabling conditions;

"(ii) the educational progress of students with disabilities while in special education; and

"(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

"(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

"(C) conducting pursuant to this subsection a study that examines the degree of disparity among States with regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent that such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

"(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this Act, and examines the current disparity among States in the percentage of children so classified.

"(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs in their communities, and the factors that facilitate or impede such transition.

"(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

"(f) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

"(g)(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

"(i) a free appropriate public education to all children and youth with disabilities; and

"(ii) early intervention services for infants and toddlers with disabilities.

Reports.

"(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

"(2) The Secretary shall include in each annual report under paragraph (1)—

"(A) a compilation and analysis of data gathered under subsection (b) and under part H; and

"(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this part.

"(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through G; and

"(B) data reported under sections 622 and 634.

"(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under part E that the Secretary determines are relevant to the effective implementation of this Act.

"(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools). Infants and children.

"(h) There are authorized to be appropriated $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.". Appropriation authorizations.

TITLE III—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS

SEC. 301. REGIONAL RESOURCE AND FEDERAL CENTERS.

(a) AMENDMENTS TO SUBSECTION (a).—Section 621(a) (20 U.S.C. 1421(a)) is amended—

(1) in the first sentence, by striking "regional resource centers." and inserting the following: "regional resource centers that focus on special education and related services and early intervention services.";

(2) in the second sentence—

(A) by striking "training to State" and inserting "training, as requested, to State"; and

(B) by inserting after "agencies providing" the following: "special education and related services and";

(3) in the third sentence, by striking "center" the second place such term appears and all that follows and inserting "center."; and

(4) in paragraph (3), by striking "relevant projects conducted by" and inserting "relevant programs and projects conducted under parts C through G and by".

(b) AMENDMENTS TO SUBSECTION (b).—Section 621(b) (20 U.S.C. 1421(b)) is amended by striking "shall consider" and inserting "shall

utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f), and, to the extent appropriate, consistent with requirements under section 610, and shall consider".

(c) AMENDMENTS TO SUBSECTION (d).—Section 621(d) (20 U.S.C. 1421(d)) is amended by inserting at the end thereof the following new sentence: "Such coordinating technical assistance center is authorized to—

"(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G, and shall make such information available to the regional resource centers on request;

"(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

"(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

"(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.".

(d) NEW SUBSECTION.—Section 621 (20 U.S.C. 1421) is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

"(2) Such guidelines and criteria shall include—

"(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

"(B) a description of the geographic region each Center is expected to serve;

"(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

"(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

"(E) a description of how a Center will be evaluated; and

"(F) other guidelines and criteria deemed necessary.

Federal Register, publication.

"(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.".

SEC. 302. SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.

(a) AMENDMENTS TO SUBSECTION (a).—Section 622(a) (20 U.S.C. 1422(a)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by inserting "local educational agencies, and designated lead agencies under part H" after "State educational agencies";

(B) in subparagraph (A) by—

(i) inserting "infants, toddlers," before "children and youth"; and

(ii) striking "special education and related services" and inserting in lieu thereof "special education, early intervention, and related services";

(C) in subparagraph (B), by amending such subparagraph to read as follows:

"(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) For purposes of this section, the term 'deaf-blind', with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.";

(3) by amending paragraph (3) (as redesignated by paragraph (2) of this subsection) to read as follows:

"(3)(A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

"(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

"(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

"(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

"(iv) pilot projects that are designed to—

"(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

"(II) encourage eventual assumption of funding responsibility by State and local authorities;

"(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

"(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

"(B) The programs described in subparagraph (A) may include—

"(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

"(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

"(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.";

(4) in paragraph (4) (as so redesignated)—

(A) in subparagraph (A), (i) by striking "organizations serving, or proposing to serve," and inserting the following: "organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve,", and (ii) by striking "who have attained age twenty-two years"; and

(B) in subparagraph (C), by inserting "supervised," after "rehabilitative,";

(5) in paragraph (5) (as so redesignated), by amending such paragraph to read as follows:

"(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf-blindness and their families.".

(b) AMENDMENTS TO SUBSECTION (c).—Section 622(c)(1) (20 U.S.C. 1422(c)(1)) is amended—

(1) in clause (A), by inserting "sex," after "severity,";

(2) in clause (C), by inserting before the period the following: "and the setting in which the services are provided"; and

(3)(A) by striking "and" at the end of clause (B);

(B) by striking the period at the end of clause (C) and inserting "; and"; and

(C) by adding at the end the following new clause: "(D) student outcomes, where appropriate.".

(c) AMENDMENTS TO SUBSECTION (d).—Section 622(d) (20 U.S.C. 1422(d)) is amended to read as follows:

Grant programs. Government contracts.

"(d) The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

"(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

"(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

"(3) to maintain a computerized data base on local, regional, and national resources; and

"(4) to respond to information requests from professionals, parents, and members of the community.".

(d) AMENDMENTS TO SUBSECTION (e).—Section 622(e) (20 U.S.C. 1422(e)) is amended to read as follows:

"(e) In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.";

(e) AMENDMENTS TO SUBSECTION (f).—Section 622(f) (20 U.S.C. 1422(f)) is amended by striking "with," and all that follows and inserting the following: "with organizations or public or nonprofit

private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

"(1) research to identify and meet the full range of special needs of such children and youth; and

"(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.".

SEC. 303. EARLY EDUCATION FOR HANDICAPPED CHILDREN.

(a) AMENDMENTS TO SUBSECTION (a).—Section 623(a)(1) (20 U.S.C. 1423(a)(1)) is amended—

(1) in the matter preceding subparagraph (A), in the first sentence, by striking "problems of such children." and inserting "needs of these children.";

(2) in subparagraph (A), by inserting "or other communication mode and" after "speech"; and

(3) in subparagraph (B), by inserting before "encourage" the following: "provide family education and include a parent or their representative of such child, as well as";

(4) in subparagraph (C), by striking "problems" and inserting "special needs";

(5) in subparagraph (D)—

(A) by inserting after "practices" the following: ", including interdisciplinary models and practices,"; and

(B) by inserting before the comma the following: "and to the parents of such children";

(6) in subparagraph (E), by inserting before the period the following: ", including the involvement of adult role models with disabilities at all levels of the program"; and

(7) by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by adding after subparagraph (E) the following:

"(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

"(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under part H is not the State educational agency),

"(H) promote the use of assistive technology devices and assistive technology services, where appropriate, to enhance the development of infants and toddlers with disabilities, and

"(I) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.".

(b) AMENDMENTS TO SUBSECTION (b).—Section 623(b) (20 U.S.C. 1423(b)) is amended by adding at the end the following: "This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children. Information from the system should be

aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefits at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.".

(c) AMENDMENTS TO SUBSECTION (c).—Section 623(c) (20 U.S.C. 1423(c)) is amended by adding at the end the following: "Such institutes shall disseminate this information in the manner prescribed in section 610(g).".

(d) AMENDMENTS TO SUBSECTION (d).—Section 623(d) (20 U.S.C. 1423(d)) is amended by inserting before the period the following: ", including programs to integrate children with disabilities into regular preschool programs".

(e) AMENDMENTS TO SUBSECTION (f).—Section 623(f) (20 U.S.C. 1423(f)) is amended by inserting before the period the following: ", including infants and toddlers with disabilities".

(f) NEW SUBSECTION (g).—Section 623 (20 U.S.C. 1423) is amended by adding at the end the following:

"(g) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate, and present such knowledge so it can be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.".

SEC. 304. PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.

(a) AMENDMENT TO SECTION HEADING.—The heading for section 624 (20 U.S.C. 1424) is amended to read as follows:

"PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES".

(b) AMENDMENTS TO SUBSECTION (a).—Section 624(a) (20 U.S.C. 1424(a)) is amended—

(1) in the matter preceding paragraph (1), by amending such matter to read as follows: "The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children, and youth with severe disabilities through—";

(2) in paragraph (1), (A) by inserting after "special needs" the following: ", including transportation to and from school", and (B) by inserting "education, related services, and early intervention" after "special";

(3) in paragraph (3), (A) by inserting "special and regular education, related services, and early intervention" before "personnel", (B) by inserting "infants, toddlers," after "such", and (C) by striking "youth, and" and inserting the following: "youth, including training of regular teachers, instructors, and administrators in strategies (the goal of which is to serve infants, toddlers, children, and youth with disabilities) that include integrated settings for educating such children along side their nondisabled peers,";

(4) in paragraph (4), by striking "children and youth." and inserting the following: "children and youth by utilizing existing networks as prescribed in section 610(g) and"; and

(5) by adding at the end the following new paragraph:

"(5) statewide projects, in conjunction with the State's plan under part B, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.".

(b) NEW SUBSECTION.—Section 624 (20 U.S.C. 1424) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.".

(c) FURTHER NEW SUBSECTION.—Section 624, as amended by subsection (b) of this section, is amended by adding at the end the following new subsection:

"(e) In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.".

SEC. 305. POSTSECONDARY EDUCATION.

(a) AMENDMENTS TO SUBSECTION (a).—Section 625(a) (20 U.S.C. 1424a(a)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "Such model programs may include joint projects that coordinate with special education and transition services.";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "and" after the semicolon;

(B) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities."; and

(3) in paragraph (6), by striking "$2,000,000" and inserting "$4,000,000".

(b) AMENDMENTS TO SUBSECTION (b).—Section 625(b) (20 U.S.C. 1424a(b)) is amended to read as follows:

"(b) For purposes of subsection (a), the term 'individuals with disabilities' means individuals—

"(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(2) who, by reason thereof, need special education and related services.".

SEC. 306. SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABILITIES.

(a) AMENDMENTS TO SUBSECTION (a).—Section 626(a)(1) (20 U.S.C. 1425(a)(1)) is amended by inserting "independent and community living," after "continuing education,".

(b) AMENDMENTS TO SUBSECTION (b).—Section 626(b) (20 U.S.C. 1425(b)) is amended—

(1) in paragraph (2), by inserting "independent living," after "training,";

(2) in paragraph (8), by striking "handicapped youth" and all that follows and inserting the following: "some youth with disabilities remain to complete school programs while others drop out,";

(3) in paragraph (9), by striking "developing" and all that follows through "techniques" and inserting "developing curriculum and instructional techniques in special education and related services";

(4) in paragraph (10)—

(A) by inserting "or adapted" after "specially designed"; and

(B) by striking "to increase" and all that follows and inserting the following: "to facilitate the full participation of youths with disabilities in community programs."; and

(5) by striking "and" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting in lieu thereof ", and", and by adding after paragraph (10) the following:

"(11) developing and disseminating exemplary programs and practices that meet the unique needs of students who utilize assistive technology devices and assistive technology services as such students make the transition to postsecondary education, vocational training, competitive employment (including supported employment), and continuing education or adult services.".

(c) AMENDMENTS TO SUBSECTION (d).—Section 626(d)(3) (20 U.S.C. 1425(d)(3)) is amended by striking "to the extent appropriate,".

(d) NEW SUBSECTION (e).—Section 626 (20 U.S.C. 1425) is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and by inserting after subsection (d) the following new subsection:

Grant programs.

"(e)(1) The Secretary shall make one-time, 5-year grants, on a competitive basis, to States in which the State vocational rehabilitation agency and State educational agency submit a joint application to develop, implement, and improve systems to provide transition services for youth with disabilities from age 14 through the age they exit school.

"(2) In the case of a State whose vocational rehabilitation agency does not participate regarding a joint application described in paragraph (1), the Secretary may make a grant under such paragraph to the State if a joint application for the grant is submitted by the State educational agency and one other State agency that provides transition services to individuals who are leaving programs under this Act.

"(3) States that receive grants shall use grant funds to:

"(A) Increase the availability, access, and quality of transition assistance through the development and improvement of poli-

cies, procedures, systems, and other mechanisms for youth with disabilities and their families as such youth prepare for and enter adult life.

"(B) Improve the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from 'student' to 'adult'.

"(C) Improve working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the Job Training Partnership Act (JTPA), and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities.

"(D) Create an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

"(4)(A) In order to receive funding under this subsection, a State vocational rehabilitation agency and State educational agency shall describe in their application how they will use the first year, if necessary, to plan how to implement transition services, the second through fourth years to develop and implement transition services, and the fifth year to evaluate transition services. The application shall describe how the grant funds will be used during the planning period and phased out during the evaluation period to ensure the continuation of transition services. Such applications shall also include—

"(i) a description of the current availability, access, and quality of transition services for eligible youth and a description of how, over 5 years, the State will improve and expand the availability, access, and quality of transition services for youth with disabilities and their families as such youth prepare for and enter adult life;

"(ii) a description of how the State will improve and increase the ability of professionals, parents, and advocates to work with such youth in ways that promote the understanding of and the capability to successfully make the transition from 'student' to 'adult';

"(iii) a description of how the State will improve and increase working relationships among education personnel, both within LEAs and in postsecondary training programs, relevant State agencies, the private sector (especially employers), rehabilitation personnel, local and State employment agencies, local Private Industry Councils (PICS) authorized by the JTPA, and families of students with disabilities and their advocates to identify and achieve consensus on the general nature and specific application of transition services to meet the needs of youth with disabilities; and

"(iv) a description of how the State will use grant funds as an incentive for accessing and using the expertise and resources of programs, projects, and activities related to transition funded through this section and with other sources.

"(B) The Secretary shall give preference to those applications that, in addition to clearly addressing the requirements under subparagraph (A), describe how the State will—

"(i) target resources to school settings, such as providing access to rehabilitation counselors for students with disabilities who are in school settings;

"(ii) target a substantial amount of grant funds, received under this subsection, to case management, program evaluation and documentation of, and dissemination of information about, transition services;

"(iii) provide incentives for interagency and private sector resource pooling and otherwise investing in transition services, especially in the form of cooperative agreements, particularly with PICS authorized by the JTPA and local branches of State employment agencies;

"(iv) provide for early, ongoing information and training for those involved with or who could be involved with transition services—professionals, parents, youth with disabilities, including self-advocacy training for such youth, and advocates for such youth as well as PICS authorized by the JTPA and local branches of State employment agencies;

"(v) provide for the early and direct involvement of all relevant parties, including PICS authorized by the JTPA and local branches of State employment agencies, in operating and planning improvements in transition services, and the early and direct involvement of all relevant parties in planning and implementing transition services for individual youth;

"(vi) provide access to training for eligible youth that matches labor market needs in their communities;

"(vii) integrate transition services with relevant opportunities in communities, including those sponsored by PICS authorized by the JTPA and local employment agencies;

"(viii) use a transition services evaluation plan that is outcome oriented and that focuses on individual youth-focused benefits; and

"(ix) ensure that, when appropriate and no later than age 22, eligible youth who participate in transition services under this program would be served as appropriate in the State section 110 and/or title VI, part C program authorized under the Rehabilitation Act of 1973.".

(e) AMENDMENTS TO FORMER SUBSECTION (e).—Section 626(f), as redesignated by subsection (d) of this section, is amended—

(1)(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end of paragraph (1) (as so designated) the following new sentence: "Such organizations and institutions shall disseminate such materials and information as prescribed under section 610(g).";

(2) by adding after paragraph (1) (as so designated) the following new paragraph:

"(2) The Secretary shall fund one or more demonstration models designed to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary school students as they make the transition to vocational rehabilitation, employment, postsecondary education, or adult services. Such demonstration models shall include, as appropriate—

"(A) cooperative agreements with the Rehabilitation Services Administration and/or State vocational rehabilitation agencies that ensure continuity of funding for assistive technology devices and services to such students; and

"(B) methods for dissemination of exemplary practices that can be adapted or adopted by transitional programs for secondary school students with disabilities."; and

(3) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall award one, five-year cooperative agreement through a separate competition to an institution of higher education, or nonprofit public or private organization. The purpose of this agreement will be to evaluate and document the approaches and outcomes of the projects funded under subsection (e). The results of this agreement shall be disseminated through the appropriate clearinghouses, networks, and through direct communication with Federal, State, and local agencies. Government contracts.

"(B) The evaluation carried out pursuant to subparagraph (A) of transition services under subsection (e) shall include an evaluation of—

"(i) the outcomes of the transition services provided under such subsection, including the effect of the services regarding postsecondary education, job training, employment, and other appropriate matters;

"(ii) the impact of including in the individualized education program a statement of needed transition services (as required under section 602(a)(20)(D));

"(iii) the extent to which, in the provision of the transition services, agencies are cooperating effectively, including evaluation of the extent of coordination of the staff of the agencies, of procedures regarding confidentiality, assessment of needs, and referrals, and coordination regarding data bases and training;

"(iv) the extent to which obstacles exist regarding cooperation and coordination among agencies in the provision of the transition services, and the extent to which Federal law creates disincentives to such cooperation and coordination; and

"(v) the extent to which the transition services have been provided in a cost-effective manner.

"(C) The evaluation carried out pursuant to subparagraph (A) shall include recommendations on the manner in which the program under subsection (e) can be improved.

"(D) In the annual report required under section 618(g), the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A).".

(f) AMENDMENTS TO FORMER SUBSECTION (f).—Section 626(g), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: ", the Job Training Partnership Act (JTPA), and the Carl D. Perkins Vocational and Applied Technology Education Act".

SEC. 307. PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE.

Section 627 (20 U.S.C. 1426) is amended to read as follows:

"PROGRAMS FOR CHILDREN AND YOUTH WITH SERIOUS EMOTIONAL DISTURBANCE

"SEC. 627. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, State and local educational agencies, and other appropriate public and private nonprofit institutions or agencies to establish projects for the purpose of improving special education and

related services to children and youth with serious emotional disturbance. Such projects may include—

"(1) studies regarding the present state of special education and related services to such children and youth and their families, including information and data to enable assessments of the status of such services over time;

"(2) developing methodologies and curricula designed to improve special education and related services for these children and youth;

"(3) developing and demonstrating strategies and approaches to reduce the use of out-of-community residential programs and the increased use of school district-based programs (which may include day treatment programs, after-school programs, and summer programs);

"(4) developing the knowledge, skills, and strategies for effective collaboration among special education, regular education, related services, and other professionals and agencies; or

"(5) developing and demonstrating innovative approaches to assist and to prevent children with emotional and behavioral problems from developing serious emotional disturbances that require the provision of special education and related services.

"(b)(1) The Secretary is authorized to make grants, on a competitive basis, to local educational agencies in collaboration with mental health entities to provide services for children and youth with serious emotional disturbance. Such demonstration projects shall—

"(A) increase the availability, access, and quality of community services for such children and youth and their families;

"(B) improve working relationships among education, school, and community mental health and other relevant personnel, families of such children and youth, and their advocates;

"(C) target resources to school settings, such as providing access to school and/or community mental health professionals and other community resources for students with serious emotional disturbance who are in community school settings; and

"(D) take into account the needs of minority children and youth in all phases of project activity.

"(2) Funds received under this subsection may also be used to facilitate interagency and private sector resource pooling to improve services for such children and youth and to provide information and training for those involved with, or who could be involved with, such children and youth.

"(c) Each project assisted under this section shall—

"(1) apply existing research outcomes from multi-disciplinary fields;

"(2) use a grant evaluation plan that is outcome-oriented and that focuses on the benefits to individual children and youth;

"(3) report on the effectiveness of such project; and

"(4) disseminate the findings of such project, where appropriate, in accordance with section 610(g).".

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 628 (20 U.S.C. 1427) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 628. (a) There are authorized to be appropriated to carry out section 621 $8,525,000 for fiscal year 1991, $9,300,000 for fiscal year

1992, $10,140,000 for fiscal year 1993, and $11,052,000 for fiscal year 1994.

"(b) There are authorized to be appropriated to carry out section 622 $21,900,000 for fiscal year 1991, $24,100,000 for fiscal year 1992, $26,500,000 for fiscal year 1993, and $29,200,000 for fiscal year 1994.

"(c) There are authorized to be appropriated to carry out section 623 $31,400,000 for fiscal year 1991, $34,235,000 for fiscal year 1992, $37,325,000 for fiscal year 1993, and $40,705,000 for fiscal year 1994.

"(d) There are authorized to be appropriated to carry out section 624 $9,500,000 for fiscal year 1991, $10,500,000 for fiscal year 1992, $11,600,000 for fiscal year 1993, and $12,700,000 for fiscal year 1994.

"(e) There are authorized to be appropriated to carry out section 625 $9,470,000 for fiscal year 1991, $10,230,000 for fiscal year 1992, $11,050,000 for fiscal year 1993, and $11,930,000 for fiscal year 1994.

"(f) There are authorized to be appropriated to carry out section 626 (except subsection (e)) $9,800,000 for fiscal year 1991, $10,800,000 for fiscal year 1992, $11,900,000 for fiscal year 1993, and $13,050,000 for fiscal year 1994.

"(g) There are authorized to be appropriated to carry out section 626(e) $27,500,000 for fiscal year 1991, $30,250,000 for fiscal year 1992, $33,275,000 for fiscal year 1993, and $36,602,000 for fiscal year 1994.

"(h) There are authorized to be appropriated to carry out section 627 $6,500,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, $9,500,000 for fiscal year 1993, and $11,500,000 for fiscal year 1994.".

TITLE IV—TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS

SEC. 401. GRANTS FOR PERSONNEL TRAINING.

(a) AMENDMENTS TO SUBSECTION (a)(1).—Section 631(a)(1) (20 U.S.C. 1431(a)(1)) is amended—

(1) in subsection (a)(1), by striking "special education and early intervention" and inserting "special education, related services, and early intervention";

(2) in subparagraph (A), by striking "adaptive physical education" and inserting "adapted physical education and instructional and assistive technology services";

(3) in subparagraphs (B) through (D), by amending such subparagraphs to read as follows:

"(B) related services to children and youth with disabilities in educational settings, and other settings,

"(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

"(D) special education leadership, including supervision and administration (at the advanced graduate, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), and".

(b) FURTHER AMENDMENTS TO SUBSECTION (a).—Section 631(a) (20 U.S.C. 1431(a)) is amended—

(1) in paragraph (2)(A), (A) by striking "for the personnel" and inserting "for special education, related services, early intervention, and other personnel", and (B) after "shortages" inserting ", including the need for personnel in the provision of special education to children of limited English proficiency";

(2) in paragraph (2)(B), by inserting before the period the following: ", and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities";

Scholarships and fellowships. Minorities.

(3) in paragraph (3), by adding at the end the following new sentence: "Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.".

(c) NEW PARAGRAPHS IN SUBSECTION (a).—Section 631(a) (20 U.S.C. 1431(a)) is amended by adding at the end the following new paragraphs:

"(5) In making grants under subsection (a)(1), the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) shall require practica to demonstrate the delivery of related services in an array of regular and special education and community settings.

"(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefiting or participating in training activities conducted under this subsection on a preservice or inservice basis.

Grant programs. Minorities.

"(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.".

(d) AMENDMENTS TO SUBSECTION (b).—Section 631(b) (20 U.S.C. 1431(b)) is amended by striking "nonprofit agencies" and all that follows and inserting the following: "nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with infants, toddlers, children, and youth with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in the use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. Both preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.".

(e) AMENDMENT TO SUBSECTION (c).—

(1) Section 631(c)(2) (20 U.S.C. 1431(c)(2)) is amended—

(A) by amending subparagraph (A) to read as follows:

"(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;";

(B) in subparagraph (B)—

(i) by striking "children" and inserting "infants, toddlers, children, and youth"; and

(ii) by striking "handicapping" and inserting "disabling"; and

(C) in subparagraph (C), by inserting before the period the following: ", and, for purposes of paragraph (1), network with clearinghouses, including those established under section 633 and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children".

(2) Section 631(c)(2) (20 U.S.C. 1431(c)(2)) is amended by adding after subparagraph (C) the following: "Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.".

(f) AMENDMENTS TO SUBSECTION (c)(4).—Section 631(c)(4) (20 U.S.C. 1431(c)(4)) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a comma; and

(3) by adding at the end the following new subparagraphs:

"(C) serve parents of minority children with disabilities representative to the proportion of the minority population in the areas being served, and

"(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.".

(g) NEW PARAGRAPH IN SUBSECTION (c).—Section 631(c) (20 U.S.C. 1431(c)) is amended by adding at the end the following new paragraph:

"(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of

children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

"(10) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

"(A) the number of parents provided information and training by disability category of their children,

"(B) the types and modes of information or training provided,

"(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities,

"(D) the number of parents served as a result of activities described under subparagraph (C),

"(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)(C), and

"(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels.

The Secretary shall include a summary of this information in the annual report to Congress as required in section 618(g).".

(h) FURTHER AMENDMENTS TO SUBSECTION (c).—Section 631(c) (20 U.S.C. 1431(c)) is amended—

(1) in paragraph (1), in the first and second sentences, by striking "parents of handicapped children" each place such term appears and inserting "parents of infants, toddlers, children, and youth with disabilities";

(2) in paragraph (5)—

(A) in subparagraph (E), by amending such subparagraph to read as follows:

"(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and"; and

(B) in subparagraph (F), by striking "handicapped" and all that follows and inserting the following: "infants, toddlers, children, and youth with disabilities under this Act."; and

(3) in paragraph (7)—

(A) by striking "with appropriate agencies which" and inserting the following: "and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that"; and

(B) by striking "handicapped children and youth" and inserting "infants, toddlers, children, and youth with disabilities and their families".

SEC. 402. GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.

Section 632 (20 U.S.C. 1432) is amended—

(1) in subsection (c) by—

(A) inserting "special and regular education, related services and early intervention" after "prepare"; and

(B) by striking the period at the end thereof and inserting a comma and "and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities."; and

(2) by inserting at the end thereof the following new subsection:

"(d) The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 613(a)(3).".

SEC. 403. CLEARINGHOUSES.

Section 633 (20 U.S.C. 1433) is amended to read as follows:

"CLEARINGHOUSES

"SEC. 633. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education, to—

"(1) collect, develop, and disseminate information,

"(2) provide technical assistance,

"(3) conduct coordinated outreach activities,

"(4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,

"(5) respond to individuals and organizations seeking information, and

"(6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

"(b) The national clearinghouse for children and youth with disabilities shall:

"(1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this Act and other Federal laws.

"(2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection, and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

"(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

"(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

"(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

"(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

"(c) The national clearinghouse on postsecondary education for individuals with disabilities shall:

"(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

"(2) Identify areas of need for additional information.

"(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

"(4) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

"(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

Employment.

"(d) The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of children and youth with disabilities shall:

"(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

"(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowances).

"(3) Identify training programs available around the country.

"(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

"(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

"(e)(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

"(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the na-

tional level) in providing informational services to minorities and minority organizations.

"(f)(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

"(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

"(B) a description of responses utilized;

"(C) a listing of new products developed and disseminated; and

"(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

"(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 618.".

SEC. 404. REPORTS TO SECRETARY.

Section 634(a) (20 U.S.C. 1434(a)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) information described in section 631(c)(9) and section 633(f)(1), as applicable.".

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

Section 635(a) (20 U.S.C. 1435(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to carry out this part (other than sections 631(a)(7), 631(c), and 633) $94,725,000 for fiscal year 1991, $103,255,000 for fiscal year 1992, $113,580,000 for fiscal year 1993, and $123,760,000 for fiscal year 1994.

"(2) There are authorized to be appropriated to carry out section 631(a)(7) $19,250,000 for fiscal year 1991, $21,175,000 for fiscal year 1992, $23,292,500 for fiscal year 1993, and $25,621,750 for fiscal year 1994.

"(3) There are authorized to be appropriated to carry out section 631(c) $11,000,000 for fiscal year 1991, $12,100,000 for fiscal year 1992, $13,300,000 for fiscal year 1993, and $14,600,000 for fiscal year 1994.

"(4) There are authorized to be appropriated to carry out section 633 $2,900,000 for fiscal year 1991, $2,465,000 for fiscal year 1992, $2,710,000 for fiscal year 1993, and $2,960,000 for fiscal year 1994.".

TITLE V—RESEARCH IN EDUCATION OF INDIVIDUALS WITH DISABILITIES

SEC. 501. RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF CHILDREN WITH DISABILITIES.

Section 641 (20 U.S.C. 1441) is amended to read as follows:

"RESEARCH AND RELATED ACTIVITIES

"SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local edu-

cational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

"(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

"(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

"(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

"(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

"(D) the evaluation of approaches and interventions;

"(E) the development of instructional strategies, techniques, and activities;

"(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

"(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

"(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

"(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

"(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

"(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

"(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies

for effectively facilitating such learning in preservice, in-service, and continuing education;

"(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

"(C) the expansion and improvement of networks that exchange knowledge and practice information.

"(b) In carrying out subsection (a), the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

"(c) The Secretary shall publish proposed priorities under this part in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period. Federal Register, publication.

"(d) The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this part in the prior fiscal year in the annual report described under section 618.

"(e) The Secretary shall—

"(1) coordinate the priorities established under subsection (b) with research priorities established by the National Institute for Disability and Rehabilitation Research and other appropriate agencies conducting research pertaining to the education of individuals with disabilities; and

"(2) provide information concerning priorities established under subsection (b) to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

"(f)(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following: Grant programs. Government contracts.

"(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

"(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

"(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

"(D) Developmental and learning characteristics.

"(E) Instructional strategies, techniques, and activities.

"(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

"(G) Strategies, techniques, and activities related to involvement of families.

"(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

"(A) demonstrated knowledge concerning the disorder;

"(B) proven effectiveness in performing the functions established in this subsection; and

"(C) the ability to—

"(i) conduct such projects;

"(ii) communicate with intended consumers of information; and

"(iii) maintain the necessary communication with national, regional, State, and local agencies.

Grant programs. Government contracts.

"(g)(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

"(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under part B of this Act.

"(3) Ombudsman services for programs under paragraph (1) shall be provided by social workers, parent advocates, psychologists, and persons with similar qualifications designated by the Secretary.".

SEC. 502. RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR CHILDREN WITH DISABILITIES.

Section 642 (20 U.S.C. 1442) is amended by striking "recreation for handicapped children" each place such term appears and inserting "recreation for children with disabilities, including therapeutic recreation".

SEC. 503. PANELS OF EXPERTS.

20 USC 1443, 1444.

Part E (20 U.S.C. 1441 et seq.) is amended by striking section 643 and by redesignating section 644 as section 643.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Section 643, as redesignated by section 503 of this Act, is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 643. For purposes of carrying out this part, there are authorized to be appropriated $21,100,000 for fiscal year 1990, $24,650,000 for fiscal year 1991, $27,400,000 for fiscal year 1992, $30,200,000 for fiscal year 1993, and $33,200,000 for fiscal year 1994.".

TITLE VI—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

SEC. 601. PURPOSES.

Section 651 (20 U.S.C. 1451) is amended—

(1) by striking the subsection designation;
(2) in paragraph (1)—
(A) by inserting "and hard of hearing" after "deaf" each place it appears;
(B) in subparagraph (A), by inserting "and television programs" after "those films"; and
(C) in subparagraph (B), by inserting "and television programs" after "these films";
(2) in paragraph (2), by striking "and" after the semicolon at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and", and by adding at the end the following new subparagraph:
"(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;"; and
(3) by striking the period at the end of paragraph (2) and inserting "; and" and by adding at the end the following new paragraph:
"(3) the general welfare of visually impaired individuals by—
"(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and
"(B) ensuring access to television programming and other video materials.".

SEC. 602. CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES.

Section 652 (20 U.S.C. 1452) is amended—
(1) in the heading for such section, by inserting ", TELEVISION, DESCRIPTIVE VIDEO," after "FILMS";
(2) in subsection (a), by inserting ", descriptive video," after "captioned films";
(3) in subsection (b)—
(A) in paragraph (3), by striking "captioning of films" and inserting "captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials"; and
(B) in paragraph (4)—
(i) by striking "captioned films" and inserting "captioned and video-described films, video materials,"; and
(ii) inserting "or entities" after "agencies";
(C) in paragraph (8), by inserting "and hard of hearing" after "deaf";
(4) in subsection (c), by—
(A) inserting "and other appropriate non-profit organizations" after "Inc."; and
(B) striking "theatrical" and inserting "cultural";
(5) in subsection (c)(1), by inserting "and hard of hearing" after "deaf";
(6) in subsection (c)(2), by inserting "and hard of hearing" after "deaf"; and
(7) in subsection (c)(3), (A) by inserting "and hard of hearing" after "deaf", and (B) by inserting ", educational, and social" after "cultural".
(8) by adding at the end the following new subsection:

"(d)(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

"(2) For the purpose of this subsection, the term 'print-handicapped' refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Section 653 (20 U.S.C. 1454) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 653. For the purpose of carrying out section 652 there are authorized to be appropriated $20,010,000 for fiscal year 1991, $22,010,000 for fiscal year 1992, $24,200,000 for fiscal year 1993, and $26,600,000 for fiscal year 1994.".

TITLE VII—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

SEC. 701. FINANCIAL ASSISTANCE.

Section 661 (20 U.S.C. 1461) is amended—

(1) in the matter preceding paragraph (1), in the first sentence, by striking "provision of early intervention" and inserting "provision of related services and early intervention services";

(2) in paragraph (1)—

(A) by inserting "assistive technology," after "technology,"; and

(B) by striking "more effectively" and inserting "most effectively, efficiently, and appropriately";

(3) in paragraphs (2) through (4), by striking "new technology," each place such term appears and inserting "technology, assistive technology,";

(4) in paragraph (4), by inserting before the period at the end the following: ", where appropriate, to entities described in section 610(g)";

(5)(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting a comma; and

(C) by adding at the end the following:

"(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988, as such Act relates to the education of students with disabilities, and

"(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities."; and

(6) by inserting "(a)" after the section designation and by adding at the end the following new subsection:

"(b)(1) With respect to new technology, media, and materials utilized with funds under this part to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

"(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated, as appropriate, with the State entity receiving funds under title I of Public Law 100-407.".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 662 (20 U.S.C. 1462) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 662. For the purpose of carrying out this part, there are authorized to be appropriated $11,900,000 for fiscal year 1991, $12,860,000 for fiscal year 1992, $13,890,000 for fiscal year 1993, and $15,000,000 for fiscal year 1994.".

TITLE VIII—INFANTS AND TODDLERS WITH DISABILITIES

SEC. 801. DEFINITIONS.

Section 672(2)(E) (20 U.S.C. 1472(2)(E)) is amended—

(1) by striking "and" after the comma at the end of clause (ix) and inserting "and" after the comma at the end of clause (x); and

(2) by adding at the end the following new clause:

"(xi) social work services,".

SEC. 802. REQUIREMENTS FOR STATEWIDE SYSTEM.

Section 676(b) (20 U.S.C. 1476(b)) is amended—

(1) in paragraph (6), by inserting before the comma the following: ", including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services as required under this paragraph to parents of infants with disabilities"; and

(2) in paragraph (8), by inserting before the comma the following: ", including training of primary referral sources respecting the basic components of early intervention services available in the State".

TITLE IX—TECHNICAL AMENDMENTS

SEC. 901. TERMINOLOGY AND TECHNICAL AMENDMENTS.

(a) REVISION IN SHORT TITLE.—

(1) Section 601(a) (20 U.S.C. 1400(a)) is amended by striking "This title" and all that follows and inserting in lieu thereof the

Individuals with Disabilities Education Act.

following: "This title may be cited as the 'Individuals with Disabilities Education Act'.".

(2) The following Acts are each amended by striking "Education of the Handicapped Act" each place it occurs and inserting in lieu thereof "Individuals with Disabilities Education Act": Carl D. Perkins Vocational Education and Applied Technology Act; Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988; Department of Education Organization Act; Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987; Education for All Handicapped Children Act of 1975; Education of the Deaf Act of 1986; Elementary and Secondary Education Act of 1965; Medicare Catastrophic Coverage Act of 1988; Omnibus Trade and Competitiveness Act of 1988; Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978; and Technology-Related Assistance for Individuals With Disabilities Act of 1988.

20 USC 2301 et seq.; 42 USC 201 et seq.; 20 USC 3401 et seq.; 42 USC 6000 et seq.; 20 USC 1400 et seq.; 20 USC 4301 et seq.; 20 USC 2701 et seq.; 42 USC 1305 et seq.; 19 USC 2901 et seq.; 29 USC 701 et seq.; 29 USC 2201 et seq.

(3) Any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act.

20 USC 1400 note.

(b) TERMINOLOGY AMENDMENTS.—The Education for the Handicapped Act is amended in—

(1) section 601(b)(1) (20 U.S.C. 1400(b)(1)) by striking "handicapped children" and inserting "children with disabilities";

(2) section 601(b)(3) (20 U.S.C. 1400(b)(3)) by striking "handicapped children" and inserting "children with disabilities";

(3) section 601(b)(4) (20 U.S.C. 1400(b)(4)) by striking "handicapped children" and inserting "children with disabilities";

(4) section 601(b)(5) (20 U.S.C. 1400(b)(5)) by striking "handicapped children" and inserting "children with disabilities";

(5) section 601(b)(5) (20 U.S.C. 1400(b)(5)) by striking "handicaps" each place such term appears and inserting "disabilities";

(6) section 601(b)(7) (20 U.S.C. 1400(b)(7)) by striking "handicapped children" and inserting "children with disabilities";

(7) section 601(b)(8) (20 U.S.C. 1400(b)(8)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(8) section 601(b)(9) (20 U.S.C. 1400(b)(9)) by striking "handicapped children" and inserting "children with disabilities";

(9) section 601(c) (20 U.S.C. 1400(c)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(10) section 602(a)(1) (20 U.S.C. 1401(a)(1)) by striking "handicapped children" and inserting "children with disabilities";

(11) section 602(a)(13) (20 U.S.C. 1401(a)(13)) by striking "handicapped children" and inserting "children with disabilities";

(12) section 602(a)(15) (20 U.S.C. 1401(a)(15)) by striking "handicaps" each place such term appears and inserting "disabilities";

(13) section 602(a)(16) (20 U.S.C. 1401(a)(16)) by striking "handicapped child" and inserting "child with a disability";

(14) section 602(a)(17) (20 U.S.C. 1401(a)(17)) by striking "handicapped child" and inserting "child with a disability";

(15) section 602(a)(17) (20 U.S.C. 1401(a)(17)) by striking "handicapping" and inserting "disabling";

(16) section 602(a)(19) (20 U.S.C. 1401(a)(19)) by striking "handicapped child" and inserting "child with a disability";

(17) section 602(a)(19) (20 U.S.C. 1401(a)(19)) by striking "handicapped children" and inserting "children with disabilities";

(18) section 602(a)(22) (20 U.S.C. 1401(a)(22)) by striking "handicapped children" and inserting "children with disabilities";

(19) section 602(b) (20 U.S.C. 1401(b)) by striking "handicapped youth" and inserting "youth with a disability";

(20) section 602(b) (20 U.S.C. 1401(b)) by striking "handicapped child" and inserting "child with a disability";

(21) section 603(a) (20 U.S.C. 1402(a)) by striking "the handicapped" and inserting "individuals with disabilities";

(22) the section heading to section 606 (20 U.S.C. 1405) by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(23) section 606 (20 U.S.C. 1405) by striking "handicapped individuals" and inserting "individuals with disabilities";

(24) section 608(b) (20 U.S.C. 1407(b)) by striking "handicapped children" and inserting "children with disabilities";

(25) section 611(a)(1)(A) (20 U.S.C. 1411(a)(1)(A)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(26) section 611(a)(3) (20 U.S.C. 1411(a)(3)) by striking "handicapped children" and inserting "children with disabilities";

(27) section 611(a)(5)(A)(i) (20 U.S.C. 1411(a)(5)(A)(i)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(28) section 611(a)(5)(A)(ii) (20 U.S.C. 1411(a)(5)(A)(ii)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(29) section 611(a)(5)(A)(iii) (20 U.S.C. 1411(a)(5)(A)(iii)) by striking "handicapped children" and inserting "children with disabilities";

(30) section 611(c)(4)(B) (20 U.S.C. 1411(c)(4)(B)) by striking "handicapped children" and inserting "children with disabilities";

(31) section 611(d) (20 U.S.C. 1411(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(32) section 611(f) (20 U.S.C. 1411(f)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(33) section 612(1) (20 U.S.C. 1412(1)) by striking "handicapped children" and inserting "children with disabilities";

(34) section 612(2)(A) (20 U.S.C. 1412(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(35) section 612(2)(B) (20 U.S.C. 1412(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(36) section 612(2)(C) (20 U.S.C. 1412(2)(C)) by striking "handicapped," and inserting "disabled,";

(37) section 612(2)(C) (20 U.S.C. 1412(2)(C)) by striking "handicap," and inserting "disability,";

(38) section 612(3) (20 U.S.C. 1412(3)) by striking "handicapped children," each place such term appears and inserting "children with disabilities,";

(39) section 612(3) (20 U.S.C. 1412(3)) by striking "handicaps" and inserting "disabilities";

(40) section 612(4) (20 U.S.C. 1412(4)) by striking "handicapped child," and inserting "child with a disability,";

(41) section 612(5) (20 U.S.C. 1412(5)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(42) section 612(5) (20 U.S.C. 1412(5)) by striking "handicapped," and inserting "disabled,";

(43) section 612(5) (20 U.S.C. 1412(5)) by striking "handicap" and inserting "disability";

(44) section 612(6) (20 U.S.C. 1412(6)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(45) section 612(7) (20 U.S.C. 1412(7)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(46) section 612(7) (20 U.S.C. 1412(7)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(47) section 613(a)(2) (20 U.S.C. 1413(a)(2)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(48) section 613(a)(4)(A) (20 U.S.C. 1413(a)(4)(A)) by striking "handicapped children" and inserting "children with disabilities";

(49) section 613(a)(4)(B)(i) (20 U.S.C. 1413(a)(4)(B)(i)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(50) section 613(a)(9)(B) (20 U.S.C. 1413(a)(9)(B)) by striking "handicapped children" and inserting "children with disabilities";

(51) section 613(a)(11) (20 U.S.C. 1413(a)(11)) by striking "handicapped children" and inserting "children with disabilities";

(52) section 613(a)(12) (20 U.S.C. 1413(a)(12)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(53) section 613(a)(12) (20 U.S.C. 1413(a)(12)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(54) section 613(a)(13)(A) (20 U.S.C. 1413(a)(13)(A)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(55) section 613(b) (20 U.S.C. 1413(b)) by striking "handicapped children" and inserting "children with disabilities";

(56) section 613(d)(1) (20 U.S.C. 1413(d)(1)) by striking "handicapped children" and inserting "children with disabilities";

(57) section 613(d)(2)(A) (20 U.S.C. 1413(d)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(58) section 613(e) (20 U.S.C. 1413(e)) by striking "handicapped children" and inserting "children with disabilities";

(59) section 614(a)(1)(A) (20 U.S.C. 1414(a)(1)(A)) by striking "handicapped" and inserting "disabled";

(60) section 614(a)(1)(A) (20 U.S.C. 1414(a)(1)(A)) by striking "handicap" and inserting "disability".

(61) section 614(a)(1)(C) (20 U.S.C. 1414(a)(1)(C)) by striking "handicapped children" and inserting "children with disabilities";

(62) section 614(a)(1)(C)(ii) (20 U.S.C. 1414(a)(1)(C)(ii)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(63) section 614(a)(1)(C)(ii) (20 U.S.C. 1414(a)(1)(C)(ii)) by striking "handicaps" and inserting "disabilities";

(64) section 614(a)(2)(B) (20 U.S.C. 1414(a)(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(65) section 614(a)(3) (20 U.S.C. 1414(a)(3)) by striking "handicapped children" and inserting "children with disabilities";

(66) section 614(a)(5) (20 U.S.C. 1414(a)(5)) by striking "handicapped child" and inserting "child with a disability";

(67) section 614(c)(1) (20 U.S.C. 1414(c)(1)) by striking "handicapped children" and inserting "children with disabilities";

(68) section 614(d) (20 U.S.C. 1414(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(69) section 614(e) (20 U.S.C. 1414(e)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(70) section 614(f) (20 U.S.C. 1414(f)) by striking "handicapped children" and inserting "children with disabilities";

(71) section 615(a) (20 U.S.C. 1415(a)) by striking "handicapped children" and inserting "children with disabilities";

(72) section 615(b)(1)(A) (20 U.S.C. 1415(b)(1)(A)) by striking "handicapped child" and inserting "child with a disability";

(73) section 615(d)(1) (20 U.S.C. 1415(d)(1)) by striking "handicapped children" and inserting "children with disabilities";

(74) section 615(e)(4)(B) (20 U.S.C. 1415(e)(4)(B)) by striking "handicapped child or youth" and inserting "child or youth with a disability";

(75) section 615(f) (20 U.S.C. 1415(f)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(76) section 616(a)(2)(B) (20 U.S.C. 1416(a)(2)(B)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(77) section 617(a)(1)(A) (20 U.S.C. 1417(a)(1)(A)) by striking "handicapped children" and inserting "children with disabilities";

(78) section 617(a)(1)(D) (20 U.S.C. 1417(a)(1)(D)) by striking "handicapped children" and inserting "children with disabilities";

(79) section 619(a)(1)(C) (20 U.S.C. 1419(a)(1)(C)) by striking "handicapped children" and inserting "children with disabilities";

(80) section 619(a)(2)(A)(i) (20 U.S.C. 1419(a)(2)(A)(i)) by striking "handicapped child" and inserting "child with a disability";

(81) section 619(a)(2)(A)(ii) (20 U.S.C. 1419(a)(2)(A)(ii)) by striking "handicapped children" and inserting "children with disabilities";

(82) section 619(a)(2)(A)(ii)(I) (20 U.S.C. 1419(a)(2)(A)(ii)(I)) by striking "handicapped child" and inserting "child with a disability";

(83) section 619(a)(2)(A)(ii)(II) (20 U.S.C. 1419(a)(2)(A)(ii)(II)) by striking "handicapped children" and inserting "children with disabilities";

(84) section 619(a)(2)(D) (20 U.S.C. 1419(a)(2)(D)) by striking "handicapped child" and inserting "child with a disability";

(85) section 619(a)(2)(F)(i) (20 U.S.C. 1419(a)(2)(F)(i)) by striking "handicapped child" each place such term appears and inserting "child with a disability";

(86) section 619(b)(1)(B) (20 U.S.C. 1419(b)(1)(B)) by striking "handicapped children" and inserting "children with disabilities";

(87) section 619(b)(3) (20 U.S.C. 1419(b)(3)) by striking "handicapped child" and inserting "child with a disability";

(88) section 619(c)(1)(A) (20 U.S.C. 1419(c)(1)(A)) by striking "handicapped children" and inserting "children with disabilities";

(89) section 619(c)(1)(B) (20 U.S.C. 1419(c)(1)(B)) by striking "handicapped children" and inserting "children with disabilities";

(90) section 619(c)(2)(A) (20 U.S.C. 1419(c)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(91) section 619(c)(2)(B) (20 U.S.C. 1419(c)(2)(B)) by striking "handicapped children" and inserting "children with disabilities";

(92) section 619(c)(3)(A) (20 U.S.C. 1419(c)(3)(A)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(93) section 619(c)(3)(B) (20 U.S.C. 1419(c)(3)(B)) by striking "handicapped children" and inserting "children with disabilities";

(94) the heading to part C by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(95) section 621(a)(1) (20 U.S.C. 1421(a)(1)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(96) section 621(a)(1) (20 U.S.C. 1421(a)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(97) section 621(a)(2) (20 U.S.C. 1421(a)(2)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(98) section 621(a)(2) (20 U.S.C. 1421(a)(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(99) section 621(a)(4) (20 U.S.C. 1421(a)(4)) by striking "handicapped infants, toddlers, children, and youth" and inserting "infants, toddlers, children, and youth with disabilities";

(100) the heading to section 623 (20 U.S.C. 1423) by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES";

(101) section 623(a)(1) (20 U.S.C. 1423(a)(1)) by striking "handicapped children" and inserting "children with disabilities";

(102) section 623(a)(1)(D) (20 U.S.C. 1423(a)(1)(D)) by striking "handicapped children" and inserting "children with disabilities";

(103) section 623(b) (20 U.S.C. 1423(b)) by striking "handicapped children" and inserting "children with disabilities";

(104) section 623(c) (20 U.S.C. 1423(c)) by striking "handicapped children" and inserting "children with disabilities";

(105) section 623(d) (20 U.S.C. 1423(d)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(106) section 623(f) (20 U.S.C. 1423(f)) by striking "handicapped children" and inserting "children with disabilities";

(107) the heading to section 624 (20 U.S.C. 1424) by striking "SEVERELY HANDICAPPED CHILDREN" and inserting "CHILDREN WITH SEVERE DISABILITIES";

(108) section 624(a) (20 U.S.C. 1424(a)) by striking "severely handicapped children and youth" and inserting "children and youth with severe disabilities";

(109) section 624(a)(1) (20 U.S.C. 1424(a)(1)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(110) section 624(a)(2) (20 U.S.C. 1424(a)(2)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(111) section 625(a)(1) (20 U.S.C. 1425(a)(1)) by striking "handicapped individuals" and inserting "individuals with disabilities"; 20 USC 1424a.

(112) section 625(a)(2) (20 U.S.C. 1425(a)(2)) by striking "handicapping" and inserting "disabling"; 20 USC 1424a.

(113) section 625(a)(2)(A) (20 U.S.C. 1425(a)(2)(A)) by striking "handicapped individuals" and inserting "individuals with disabilities"; 20 USC 1424a.

(114) section 625(a)(2)(B) (20 U.S.C. 1425(a)(2)(B)) by striking "handicapped individuals" and inserting "individuals with disabilities"; 20 USC 1424a.

(115) section 625(a)(2)(B) (20 U.S.C. 1425(a)(2)(B)) by striking "nonhandicapped" and inserting "nondisabled"; 20 USC 1424a.

(116) section 625(a)(3) (20 U.S.C. 1425(a)(3)) by striking "handicapped persons" and inserting "persons with disabilities"; 20 USC 1424a.

(117) section 625(b) (20 U.S.C. 1425(b)) by striking "handicapped individuals" and inserting "individuals with disabilities"; 20 USC 1424a.

(118) section 625(b) (20 U.S.C. 1425(b)) by striking "visually handicapped" and inserting "visually disabled"; 20 USC 1424a.

(119) the heading to section 626 (20 U.S.C. 1426) by striking "HANDICAPPED CHILDREN AND YOUTH" and inserting "CHILDREN AND YOUTH WITH DISABILITIES"; 20 USC 1425.

(120) section 626(a)(1) (20 U.S.C. 1426(a)(1)) by striking "handicapped youth" and inserting "youth with disabilities"; 20 USC 1425.

(121) section 626(a)(3) (20 U.S.C. 1426(a)(3)) by striking "handicapped students" and inserting "students with disabilities"; 20 USC 1425.

(122) section 626(b) (20 U.S.C. 1426(b)) by striking "handicapped youth" each place such term appears and inserting "youth with disabilities"; 20 USC 1425.

(123) section 626(b) (20 U.S.C. 1426(b)) by striking "handicapping" each place such term appears and inserting "disabling"; 20 USC 1425.

20 USC 1425.

(124) section 626(b)(9) (20 U.S.C. 1426(b)(9)) by striking "handicapped students' acquisition of the skills" and inserting "the acquisition of skills by students with disabilities";

20 USC 1425.

(125) section 626(d)(2) (20 U.S.C. 1426(d)(2)) by striking "handicapped youth" and inserting "youth with disabilities";

20 USC 1425.

(126) section 626(d)(3) (20 U.S.C. 1426(d)(3)) by striking "handicapped students" each place such term appears and inserting "students with disabilities";

20 USC 1425.

(127) section 626(e) (20 U.S.C. 1426(e)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

20 USC prec. 1431.

(128) the heading to part D by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES";

(129) section 631(a)(1)(B) (20 U.S.C. 1431(a)(1)(B)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(130) section 631(b) (20 U.S.C. 1431(b)) by striking "handicapped children" and inserting "children with disabilities";

(131) section 631(c)(1) (20 U.S.C. 1431(c)(1)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(132) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapped children" and inserting "children with disabilities";

(133) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(134) section 631(c)(2)(A) (20 U.S.C. 1431(c)(2)(A)) by striking "handicapping" and inserting "disabling";

(135) section 631(c)(2)(B) (20 U.S.C. 1431(c)(2)(B)) by striking "handicapping" and inserting "disabling";

(136) section 631(c)(4)(B) (20 U.S.C. 1431(c)(4)(B)) by striking "handicapped children" and inserting "children with disabilities";

(137) section 631(c)(5)(A) (20 U.S.C. 1431(c)(5)(A)) by striking "handicapping" and inserting "disabling";

(138) section 631(c)(5)(B) (20 U.S.C. 1431(c)(5)(B)) by striking "handicapped children's educational programs" and inserting "educational programs of children with disabilities";

(139) section 631(c)(5)(D) (20 U.S.C. 1431(c)(5)(D)) by striking "handicapped child's individualized educational program" and inserting "the individualized educational program of a child with a disability";

(140) section 631(c)(5)(E) (20 U.S.C. 1431(c)(5)(E)) by striking "handicapped children" and inserting "children with disabilities";

(141) section 631(c)(5)(F) (20 U.S.C. 1431(c)(5)(F)) by striking "handicapped children" and inserting "children with disabilities";

(142) section 631(c)(7) (20 U.S.C. 1431(c)(7)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(143) section 632(c) (20 U.S.C. 1432(c)) by striking "handicapped infants, toddlers, children, and youth" and inserting "infants, toddlers, children, and youth with disabilities";

(144) section 633(c) (20 U.S.C. 1433(c)) by striking "handicapped children and youth" and inserting "children and youth with disabilities";

(145) the heading to section 643 (20 U.S.C. 1443) by striking "HANDICAPPED CHILDREN" and inserting "CHILDREN WITH DISABILITIES"; 20 USC 1442.

(146) section 643 (20 U.S.C. 1443) by striking "handicapped children" each place such term appears and inserting "children with disabilities"; 20 USC 1442.

(147) section 644(a)(1) (20 U.S.C. 1444(a)(1)) by striking "handicapped individuals" and inserting "individuals with disabilities"; 20 USC 1443.

(148) section 644(a)(2) (20 U.S.C. 1444(a)(2)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities"; 20 USC 1443.

(149) the heading to part F by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES"; 20 USC prec. 1451.

(150) section 651(a)(2) (20 U.S.C. 1451(a)(2)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(151) section 652(a) (20 U.S.C. 1452(a)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(152) section 652(b)(5) (20 U.S.C. 1452(b)(5)) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(153) the heading to part G by striking "HANDICAPPED INDIVIDUALS" and inserting "INDIVIDUALS WITH DISABILITIES"; 20 USC prec. 1461.

(154) section 661 (20 U.S.C. 1461) by striking "handicapped students" each place such term appears and inserting "students with disabilities";

(155) section 661 (20 U.S.C. 1461) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(156) section 661 (20 U.S.C. 1461) by striking "handicapped individuals" each place such term appears and inserting "individuals with disabilities";

(157) the heading to part H by striking "HANDICAPPED INFANTS AND TODDLERS" and inserting "INFANTS AND TODDLERS WITH DISABILITIES"; 20 USC prec. 1471.

(158) section 671(a) (20 U.S.C. 1471(a)) by striking "handicapped infants and toddlers" each place such term appears and inserting "infants and toddlers with disabilities";

(159) section 671(a)(3) (20 U.S.C. 1471(a)(3)) by striking "handicapped individuals" and inserting "individuals with disabilities";

(160) section 671(b)(1) (20 U.S.C. 1471(b)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(161) section 671(b)(3) (20 U.S.C. 1471(b)(3)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(162) section 672(1) (20 U.S.C. 1472(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(163) section 672(2) (20 U.S.C. 1472(2)) by striking "a handicapped infant's or toddler's developmental needs" and inserting

"the developmental needs of an infant or toddler with a disability";

(164) section 673 (20 U.S.C. 1473) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(165) section 675(d) (20 U.S.C. 1475(d)) by striking "handicapped children" and inserting "children with disabilities";

(166) section 676(a) (20 U.S.C. 1476(a)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(167) section 676(b)(2) (20 U.S.C. 1476(b)(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(168) section 676(b)(3) (20 U.S.C. 1476(b)(3)) by striking "handicapped infant and toddler" and inserting "infant and toddler with a disability";

(169) section 676(b)(3) (20 U.S.C. 1476(b)(3)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(170) section 676(b)(4) (20 U.S.C. 1476(b)(4)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(171) section 676(b)(6) (20 U.S.C. 1476(b)(6)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(172) section 676(b)(9)(D) (20 U.S.C. 1476(b)(9)(D)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(173) section 676(b)(14) (20 U.S.C. 1476(b)(14)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(174) section 677(a) (20 U.S.C. 1477(a)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(175) section 677(d)(2) (20 U.S.C. 1477(d)(2)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(176) section 677(d)(7) (20 U.S.C. 1477(d)(7)) by striking "handicapped toddler" and inserting "toddler with a disability";

(177) section 678(b)(5) (20 U.S.C. 1478(b)(5)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities";

(178) section 679 (20 U.S.C. 1479) by striking "handicapped infants and toddlers" each place such term appears and inserting "infants and toddlers with disabilities";

(179) section 680(4) (20 U.S.C. 1480(4)) by striking "handicapped infant or toddler" and inserting "infant or toddler with a disability";

(180) section 680(5) (20 U.S.C. 1480(5)) by striking "handicapped infant or toddler" each place such term appears and inserting "infant or toddler with a disability";

(181) section 681(b) (20 U.S.C. 1481(b)) by striking "handicapped infants and toddlers" and inserting "infants or toddlers with disabilities";

(182) section 682(e)(3) (20 U.S.C. 1482(e)(3)) by striking "handicapped infants and toddlers" and inserting "infants or toddlers with disabilities";

(183) section 683(2) (20 U.S.C. 1483(2)) by striking "handicapped children" each place such term appears and inserting "children with disabilities";

(184) section 683(2) (20 U.S.C. 1483(2)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities"; and

(185) section 684(b)(1) (20 U.S.C. 1484(b)(1)) by striking "handicapped infants and toddlers" and inserting "infants and toddlers with disabilities".

(c) TECHNICAL AMENDMENT.—Section 612(3) (20 U.S.C. 1412(3)) is amended by inserting "category" after "disability".

(d) HEAD START ACT.—Section 640(d) of the Head Start Act (42 U.S.C. 9835(d)) is amended by—

(1) striking "handicapped children" and inserting "children with disabilities"; and

(2) striking "handicapping" and inserting "disabling".

(e) HIGHER EDUCATION ACT OF 1965.—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended by striking "handicapped children" each place such term appears and inserting "children with disabilities".

(f) IMPACT AID.—Public Law 81-874 (20 U.S.C. 258) is amended in—

(1) section 3(d)(2)(C), by striking "handicapped children" each place such term appears and inserting "children with disabilities"; and 20 USC 238.

(2) section 403(10), by striking "handicapped" and inserting "disabled". 20 USC 244.

(g) TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES ACT OF 1986.—Section 205(d)(2) of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117c(d)(2)) is amended by striking "handicapped children" and inserting "children with disabilities".

TITLE X—GENERAL PROVISION

SEC. 1001. EFFECTIVE DATE. 20 USC 238 note.

The amendments made by this Act shall take effect October 1, 1990.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S. 1824 (H.R. 1013):

HOUSE REPORTS: No. 101-544 accompanying H.R. 1013 (Comm. on Education and Labor) and No. 101-787 (Comm. of Conference).
SENATE REPORTS: No. 101-204 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 16, considered and passed Senate.
Vol. 136 (1990): June 18, H.R. 1013 considered and passed House; S. 1824, amended, passed in lieu.
Oct. 2, Senate agreed to conference report.
Oct. 15, House agreed to conference report.

Public Law 101-477
101st Congress

An Act

Oct. 30, 1990
[S. 2167]

To reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

(a) STUDENT COUNT.—(1) Section 108(a)(1) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)) is amended to read as follows:

"(1) the Indian student count at such college during the academic year preceding the academic year for which such funds are being made available, as determined by the Secretary in accordance with section 2(a)(7); and".

(2) Section 108(b)(1) of such Act is amended to read as follows:

Grant programs.

"(1) The Secretary shall make payments, pursuant to grants under this Act, of not less than 95 percent of the funds available for allotment by October 15 or no later than 14 days after appropriations become available, with a payment equal to the remainder of any grant to which a grantee is entitled to be made no later than January 1 of each fiscal year.".

(3) The last subsection of section 108 of such Act, which is designated as subsection (c), is hereby designated as subsection (d).

(b) AUTHORIZATIONS.—(1) Section 110(a)(1) of such Act (25 U.S.C. 1810(a)(1)) is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(2) Section 110(a)(2) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, such sums as may be necessary".

(3) Section 110(a)(3) of such Act is amended by deleting "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

25 USC 1811.

(c) ALLOCATION.—(1) Section 111(a)(1)(A) of such Act is amended to read as follows:

"(A) the Secretary shall first allocate to each such applicant which received funds under section 107 for the preceding fiscal year an amount equal to 95 percent of the payment received by such applicant under section 108;".

(2) Section 111(a)(1)(B)(ii) of such Act is amended to read as follows:

"(ii) the applicant's projected Indian student count for the academic year for which payment is being made;".

(d) ENDOWMENTS.—(1) Title III of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1831 et seq.) is amended—

25 USC 1832.

(A) by striking out "equal to" in section 302(b)(2)(B) and inserting in lieu thereof "(or of a value) equal to half of",

(B) by striking out "an equal amount of Federal capital contribution" in section 302(b)(4) and inserting in lieu thereof "an amount of Federal capital contribution equal to twice the amount of (or value of) such withdrawal",

(C) by adding at the end of section 304 the following: "Any real or personal property received by a tribally controlled community college as a donation or gift on or after the date of the enactment of this sentence may, to the extent of its fair market value as determined by the Secretary, be used by such college as its contribution pursuant to section 302(b)(2)(B), or as part of such contribution, as the case may be. In any case in which any such real or personal property so used is thereafter sold or otherwise disposed of by such college, the proceeds therefrom shall be deposited pursuant to section 302(b)(2)(B) but shall not again be considered for Federal capital contribution purposes.";

Real property acquisition. Gifts and property. 25 USC 1834.

(D) by inserting "twice the value of the property or" after "equal to" in section 305 each place it appears,

25 USC 1835.

(E) by striking out "$350,000" in section 305(a) and inserting in lieu thereof "$750,000", and

(F) by striking out "and 1990" in section 306(a) and inserting in lieu thereof "1990 and 1991, and for fiscal year 1992, $10,000,000".

25 USC 1836.

(2) The amendments made by paragraphs (A) through (E) of subsection (a) shall take effect October 1, 1991.

Effective date. 25 USC 1832 note.

SEC. 2. NAVAJO COMMUNITY COLLEGE.

(a) AUTHORIZATION.—Paragraph (1) of section 5(a) of the Navajo Community College Act (25 U.S.C. 640c-1) is amended by striking out "1987, 1988, 1989, and 1990" and inserting in lieu thereof "1990, 1991, and 1992".

(b) INVENTORY.—Section 4 of such Act (25 U.S.C. 640c) is amended by adding at the end thereof the following new subsection:

"(c) No later than March 1991, an inventory prepared by the Navajo Community College identifying repairs, alterations, and renovations to facilities required to meet health and safety standards shall be submitted to the Secretary and appropriate committees of Congress. Within 60 days following the receipt of such inventory, the Secretary shall review the inventory, evaluating the needs identified, and transmit the written comments of the Department of the Interior to the appropriate committees of Congress, together with the Department's evaluation prepared by the health and safety division of the Bureau of Indian Affairs.".

TITLE I—NATIVE AMERICAN LANGUAGES ACT

Native American Languages Act.

SHORT TITLE

SEC. 101. This title may be cited as the "Native American Languages Act".

25 USC 2901 note.

FINDINGS

SEC. 102. The Congress finds that—

25 USC 2901.

(1) the status of the cultures and languages of Native Americans is unique and the United States has the responsibility to act together with Native Americans to ensure the survival of these unique cultures and languages;

(2) special status is accorded Native Americans in the United States, a status that recognizes distinct cultural and political rights, including the right to continue separate identities;

(3) the traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;

(4) there is a widespread practice of treating Native Americans languages as if they were anachronisms;

(5) there is a lack of clear, comprehensive, and consistent Federal policy on treatment of Native American languages which has often resulted in acts of suppression and extermination of Native American languages and cultures;

(6) there is convincing evidence that student achievement and performance, community and school pride, and educational opportunity is clearly and directly tied to respect for, and support of, the first language of the child or student;

(7) it is clearly in the interests of the United States, individual States, and territories to encourage the full academic and human potential achievements of all students and citizens and to take steps to realize these ends;

(8) acts of suppression and extermination directed against Native American languages and cultures are in conflict with the United States policy of self-determination for Native Americans;

(9) languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people; and

(10) language provides a direct and powerful means of promoting international communication by people who share languages.

DEFINITIONS

25 USC 2902.

SEC. 103. For purposes of this title—

(1) The term "Native American" means an Indian, Native Hawaiian, or Native American Pacific Islander.

(2) The term "Indian" has the meaning given to such term under section 5351(4) of the Indian Education Act of 1988 (25 U.S.C. 2651(4)).

(3) The term "Native Hawaiian" has the meaning given to such term by section 4009 of Public Law 100-297 (20 U.S.C. 4909).

(4) The term "Native American Pacific Islander" means any descendent of the aboriginal people of any island in the Pacific Ocean that is a territory or possession of the United States.

(5) The terms "Indian tribe" and "tribal organization" have the respective meaning given to each of such terms under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(6) The term "Native American language" means the historical, traditional languages spoken by Native Americans.

(7) The term "traditional leaders" includes Native Americans who have special expertise in Native American culture and Native American languages.

(8) The term "Indian reservation" has the same meaning given to the term "reservation" under section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1452).

DECLARATION OF POLICY

SEC. 104. It is the policy of the United States to— 25 USC 2903.

(1) preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages;

(2) allow exceptions to teacher certification requirements for Federal programs, and programs funded in whole or in part by the Federal Government, for instruction in Native American languages when such teacher certification requirements hinder the employment of qualified teachers who teach in Native American languages, and to encourage State and territorial governments to make similar exceptions;

(3) encourage and support the use of Native American languages as a medium of instruction in order to encourage and support—

(A) Native American language survival,

(B) educational opportunity,

(C) increased student success and performance,

(D) increased student awareness and knowledge of their culture and history, and

(E) increased student and community pride;

(4) encourage State and local education programs to work with Native American parents, educators, Indian tribes, and other Native American governing bodies in the implementation of programs to put this policy into effect;

(5) recognize the right of Indian tribes and other Native American governing bodies to use the Native American languages as a medium of instruction in all schools funded by the Secretary of the Interior;

(6) fully recognize the inherent right of Indian tribes and other Native American governing bodies, States, territories, and possessions of the United States to take action on, and give official status to, their Native American languages for the purpose of conducting their own business;

(7) support the granting of comparable proficiency achieved through course work in a Native American language the same academic credit as comparable proficiency achieved through course work in a foreign language, with recognition of such Native American language proficiency by institutions of higher education as fulfilling foreign language entrance or degree requirements; and

(8) encourage all institutions of elementary, secondary and higher education, where appropriate, to include Native American languages in the curriculum in the same manner as foreign languages and to grant proficiency in Native American languages the same full academic credit as proficiency in foreign languages.

NO RESTRICTIONS

SEC. 105. The right of Native Americans to express themselves through the use of Native American languages shall not be re- 25 USC 2904.

stricted in any public proceeding, including publicly supported education programs.

EVALUATIONS

President.
25 USC 2905.

SEC. 106. (a) The President shall direct the heads of the various Federal departments, agencies, and instrumentalities to—

(1) evaluate their policies and procedures in consultation with Indian tribes and other Native American governing bodies as well as traditional leaders and educators in order to determine and implement changes needed to bring the policies and procedures into compliance with the provisions of this title;

(2) give the greatest effect possible in making such evaluations, absent a clear specific Federal statutory requirement to the contrary, to the policies and procedures which will give the broadest effect to the provisions of this title; and

(3) evaluate the laws which they administer and make recommendations to the President on amendments needed to bring such laws into compliance with the provisions of this title.

Reports.

(b) By no later than the date that is 1 year after the date of enactment of this title, the President shall submit to the Congress a report containing recommendations for amendments to Federal laws that are needed to bring such laws into compliance with the provisions of this title.

USE OF ENGLISH

25 USC 2906.

SEC. 107. Nothing in this title shall be construed as precluding the use of Federal funds to teach English to Native Americans.

Approved October 30, 1990.

LEGISLATIVE HISTORY—S. 2167 (H.R. 5040):

SENATE REPORTS: No. 101-371 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 23, H.R. 5040 considered and passed House.
July 30, considered and passed Senate, amended.
Oct. 11, S. 2167 considered and passed Senate.
Oct. 12, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Oct. 30, Presidential statement.

Public Law 101-478
101st Congress

An Act

To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.

Oct. 30, 1990
[S. 3091]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An Act to incorporate The American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods; April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; August 24, 1982, to July 31, 1984; December 20, 1989, to January 31, 1990; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforesaid terminal dates.".

Approved October 30, 1990.

LEGISLATIVE HISTORY—S. 3091 (H.R. 5652):

HOUSE REPORTS: No. 101-866 accompanying H.R. 5652 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 15, H.R. 5652 and S. 3091 considered and passed House.

Public Law 101-479
101st Congress

An Act

Oct. 31, 1990
[H.R. 3888]

To allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL USE AUTHORIZED.

Subject to the requirements of this Act, the County of Rockingham, Commonwealth of Virginia, hereafter referred to as "the county", is authorized to permit use of the land described in section 3, hereafter referred to as "the land", for purposes of a child care center, notwithstanding the restrictions on use of such land otherwise applicable under the terms of the conveyance of such land to the county by the United States.

SEC. 2. REQUIREMENTS.

(a) A use permitted under this Act shall be confined to buildings in existence as of the date of enactment of this Act (which may be appropriately modified or altered so as to meet other applicable requirements of law) and shall involve fencing or enclosing of no more than 3,500 square feet of the open space portions of the lands, and shall not preclude use of any of the land for other permissible purposes, subject to reasonable restrictions necessary to allow a use authorized under this Act.

(b) The authority of the county under this Act shall be limited to the authorization of use of the land by a child care center serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States and the Commonwealth of Virginia.

(c) Except as specified in this Act, this Act shall not increase or diminish the authority or responsibility of the county with respect to the land.

(d)(1) If the county, pursuant to this Act, authorizes use of the lands for a child care center, the county shall include information concerning such use in the biennial reports to the Secretary of the Interior required under the terms of the conveyance of the land to the county by the United States and shall also provide a copy of such information to appropriate officials of the United States and the Commonwealth of Virginia responsible for implementation of laws concerning the operation of child care centers.

(2) Any violation of the provisions of this Act shall be deemed to be a breach of the conditions and covenants under which the lands were conveyed to the county by the United States, and shall have the same effect, as provided in the deed whereby the United States conveyed the lands to the county.

49-139 O - 90 (479)

SEC. 3. LAND DESCRIPTION.

The land referred to in sections 1 and 2 is that parcel comprised of approximately 3.03 acres of land transferred by the United States on April 11, 1989, to the county of Rockingham, Virginia, in deed book number 953 at page 600, together with improvements thereon.

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.R. 3888:

HOUSE REPORTS: No. 101-578 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-525 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed House.
Oct. 17, considered and passed Senate.

Public Law 101-480
101st Congress

An Act

Oct. 31, 1990
[H.R. 5749]

To amend the Act entitled "An Act to incorporate the American University", approved February 24, 1893, to clarify the relationship between the Board of Trustees of the American University and the General Board of Higher Education and Ministry of the United Methodist Church.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

American University Incorporation Amendments Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "American University Incorporation Amendments Act of 1990".

SEC. 2. CLARIFICATION OF RELATIONSHIP BETWEEN BOARD OF TRUSTEES AND UNITED METHODIST CHURCH.

(a) IN GENERAL.—The Act entitled "An Act to incorporate the American University", approved February 24, 1893, is amended—

27 Stat. 476.

(1) in section 1, by striking "three-fifths of whom shall at all times be members of the Methodist Church" and inserting "including individuals who are members of the United Methodist Church, including (subject to their acceptance) the Bishop of the Washington Episcopal Area and the General Secretary of the General Board of Higher Education and Ministry of the United Methodist Church,"; and

27 Stat. 476.

(2) in section 2—

(A) in subsection (a)(2), by striking "and subject to the terms and provisions of the Discipline of the Methodist Church;" and inserting a semicolon,

(B) by striking "the Methodist Church" each place it appears and inserting "the United Methodist Church", and

(C) by striking "Board of Education" each place it appears and inserting "General Board of Higher Education and Ministry".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect December 31, 1990.

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.R. 5749:

HOUSE REPORTS: No. 101-805 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 17, considered and passed Senate.

Public Law 101-481
101st Congress
Joint Resolution

Oct. 31, 1990
[H.J. Res. 519]

Designating August 29, 1990, as "National Sarcoidosis Awareness Day".

Whereas sarcoidosis is a systemic disease of unknown causes that can affect any part of the body;

Whereas sarcoidosis affects between 20 and 50 individuals in the United States in 100,000;

Whereas most victims of the disease range in age between 20 and 40 years, with blacks being affected at least 10 times more often than other ethnic groups in the United States;

Whereas between 10 to 20 percent of individuals stricken with sarcoidosis eventually develop serious disabling conditions caused by damage to vital organs, such as lungs, heart, and central nervous system;

Whereas sarcoidosis is an enigma in the realm of medicine and disease requires extensive and ongoing study and research in an effort to develop an effective treatment and eventually a cure;

Whereas individuals with sarcoidosis and family members across the United States are seeking treatment and support services to assist in controlling the effects of the disease;

Whereas grassroot support groups and nonprofit organizations are forming across the United States to encourage public awareness of the mysterious and debilitating disease;

Whereas the Federal Government has a responsibility to lead a nationwide effort to find a cure for the disabling disease; and

Whereas the Federal Government should make research into the causes of the life-threatening ailment a greater priority and provide the public with more information about potential treatments for individuals with sarcoidosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 29, 1990, is designated as "National Sarcoidosis Awareness Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.J. Res. 519:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 3, considered and passed House.
Oct. 16, considered and passed Senate.

49-139 O - 90 (481)

Public Law 101-482
101st Congress
Joint Resolution

Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day".

Oct. 31, 1990
[H.J. Res. 566]

Whereas Congress recognizes and supports Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas in times of war and military action military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 67 percent of officers and 50 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than 2,900,000 of the more than 5,000,000 in the active duty community, and spouses and children of members of the Reserves in paid status account for more than 1,500,000 of the more than 2,700,000 in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly 500,000 and these family members at times face feelings of cultural isolation and financial hardship; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

That—

(1) Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

49-139 O - 90 (482)

(2) November 19, 1990, is designated as "National Military Families Recognition Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.J. Res. 566:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 16, considered and passed House.
Oct. 17, considered and passed Senate.

Public Law 101-483
101st Congress

Joint Resolution

Committing to the private sector the responsibility for support of the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.

Oct. 31, 1990
[H.J. Res. 587]

Whereas the continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations;

Whereas numerous studies have documented the need to improve the level of civic literacy of American young people;

Whereas students in the fifth grade through the eighth grade are at a critical stage for development of values, character, and attitudes;

Whereas Congress established the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives in 1987 to assist in providing such students with a meaningful and relevant supplement to the social studies curriculum;

Whereas the Program has helped students to master knowledge of American history, geography, government, economics, culture, and current events, and to develop library, research and critical thinking skills;

Whereas participating students have volunteered hundreds of thousands of hours in civic action and community service activities since the inception of the program;

Whereas the Close Up Foundation and the National Association of Elementary School Principals are to be commended for the development and conduct of the Program and for generating private sector support;

Whereas private sector support for the Program has enabled participation to grow from 60,000 students to more than 400,000 students for the current academic year and will ensure the continued success and expansion of the Program in 1991 and beyond; and

Whereas private sector support will enable continuing and broadening participation in the Program without continued assistance from the Congress: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint Resolution entitled "Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives", approved November 9, 1987 (2 U.S.C. 1001 et seq.), is repealed.

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.J. Res. 587:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 101-484
101st Congress

An Act

To provide for the restoration of Federal recognition to the Ponca Tribe of Nebraska, and for other purposes.

Oct. 31, 1990
[S. 1747]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ponca Restoration Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Ponca Restoration Act". 25 USC 983 note.

DEFINITIONS

SEC. 2. For purposes of this Act— 25 USC 983.

(1) The term "Tribe" means the Ponca Tribe of Nebraska.

(2) The term "Secretary" means the Secretary of the Interior or the designated representative of the Secretary of the Interior.

(3) The term "Interim Council" means the Board of Directors of the Northern Ponca Restoration Committee, Inc.

(4) The term "member" means a person who is enrolled on the membership roll of the Tribe of June 10, 1965, that was compiled by the Bureau of Indian Affairs or is entitled to be enrolled as a member of the Tribe under section 7.

(5) The term "State" means the State of Nebraska.

FEDERAL RECOGNITION

SEC. 3. Federal recognition is hereby extended to the Ponca Tribe of Nebraska. All Federal laws of general application to Indians and Indian tribes (including the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461, et seq.), popularly known as the Indian Reorganization Act) shall apply with respect to the Tribe and to the members. 25 USC 983a.

RESTORATION OF RIGHTS

SEC. 4. (a) All rights and privileges of the Tribe which may have been abrogated or diminished before the date of enactment of this Act by reason of any provision of Public Law 87-629 are hereby restored and such law shall no longer apply with respect to the Tribe or the members. 25 USC 983b.

(b) Nothing in this Act may be construed to diminish any rights or privileges of the Tribe, or of the members, that exist prior to the enactment of this Act.

(c) The Secretary shall accept not more than 1,500 acres of any real property located in Knox or Boyd Counties, Nebraska, that is transferred to the Secretary for the benefit of the Tribe. Such real property shall be accepted by the Secretary (subject to any rights, liens, or taxes that exist prior to the date of such transfer) in the name of the United States in trust for the benefit of the Tribe and shall be exempt from all taxes imposed by the Federal Government or any State or local government after such transfer. The Secretary Real property acquisition.

may accept any additional acreage in Knox or Boyd Counties pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(d) Except as otherwise specifically provided in any other provision of this Act, nothing in this Act may be construed as altering or affecting—

(1) any rights or obligations with respect to property,

(2) any rights or obligations under any contract,

(3) any hunting, fishing, trapping, gathering, or water rights of the Tribe or the members, or

(4) any obligation to pay a tax levied before the date of enactment of this Act.

(e) Reservation status shall not be granted any land acquired by or for the Tribe.

SERVICES

25 USC 983c.

SEC. 5. Notwithstanding any other provision of law, the Tribe and its members shall be eligible, on or after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized tribes without regard to the existence of a reservation for the Tribe. In the case of Federal services available to members of federally recognized tribes residing on or near a reservation, members of the Tribe residing in Knox, Boyd, Madison, Douglas, or Lancaster Counties of Nebraska or Charles Mix County of South Dakota shall be deemed to be residing on or near a reservation.

South Dakota.

INTERIM GOVERNMENT

25 USC 983d.

SEC. 6. Until such time as a constitution for the Tribe is adopted in accordance with section 8(a) and tribal officials are elected under section 8(b), the Tribe shall be governed by the Interim Council.

MEMBERSHIP ROLL

25 USC 983e.

SEC. 7. (a) Until a tribal constitution is adopted in accordance with section 8, the Interim Council shall take such measures as will insure the continuing accuracy of the membership roll of the Tribe.

(b)(1) Until a tribal constitution is adopted in accordance with section 8, an individual shall be eligible for membership in the Tribe, and the name of the individual shall be placed on the membership roll of the Tribe, if—

(A) the individual is living and is not an enrolled member of another Indian tribe that is recognized by the Federal Government, and

(B) the individual—

(i) was listed on the tribal membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs,

(ii) notwithstanding the application or appeal deadline dates, was entitled to be listed on the membership roll of June 18, 1965, that was compiled by the Bureau of Indian Affairs, but was not listed, or

(iii) is a lineal descendant of an individual, living or deceased, who is described in clause (i) or (ii).

(2) Any individual who is excluded from the membership roll of the Tribe by the Interim Council may appeal to the Secretary for a determination of the eligibility of the individual for membership in the Tribe. Such determination by the Secretary shall be final. The

Interim Council shall include on the membership roll any such individual that the Secretary determines in such an appeal to be eligible for membership in the Tribe.

(c) After adoption of a tribal constitution in accordance with section 8, the constitution of the Tribe shall govern membership in the Tribe.

TRIBAL CONSTITUTION

SEC. 8. (a) Upon the completion of the tribal membership roll and upon the written request of the Interim Council, the Secretary shall conduct, by secret ballot, an election to adopt a constitution for the Tribe. Such constitution shall be submitted by the Interim Council to the Secretary no later than 1 year following the date of enactment of this Act. Absentee balloting shall be permitted regardless of voter residence. In every other regard, the election shall be held according to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended. 25 USC 983f.

(b) Not later than 120 days after the Tribe adopts a tribal constitution, the Secretary shall conduct an election by secret ballot for the purpose of electing tribal officials as provided in the constitution. Said election shall be conducted according to the procedures stated in subsection (a) of this section except to the extent that said procedures conflict with the tribal constitution.

(c) Notwithstanding any other provision of law, the governing body of the Tribe established under the constitution of the Tribe that is adopted under subsection (a) shall be treated as an Indian tribal government for purposes of the Internal Revenue Code of 1986.

REGULATIONS

SEC. 9. The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this Act. 25 USC 983g.

ECONOMIC DEVELOPMENT PLAN

SEC. 10. (a) The Secretary shall— 25 USC 983h.

(1) enter into negotiations with the governing body of the Tribe to establish a plan for economic development for the Tribe;

(2) in accordance with this section, establish such a plan; and

(3) upon the approval of such plan by the governing body of the Tribe (and after consultation with the State and local officials pursuant to subsection (b)), shall submit such plan to the Congress by no later than the date that is 2 years after the date of enactment of this Act.

(b)(1) To ensure that legitimate State and local interests are not prejudiced by the economic development plan established under subsection (a), the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State with respect to the proposed economic development plan. The Secretary shall provide complete information on the proposed economic development plan to such officials, including the restrictions imposed on such plan by subsection (c).

(2) During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary

may possess and shall request comments and additional information on the extent of any State or local service to the Tribe.

(c) Any economic development plan established by the Secretary under subsection (a) shall provide that—

(1) real property acquired by or for the Tribe located in Knox or Boyd Counties, Nebraska, shall be taken by the Secretary in the name of the United States in trust for the benefit of the Tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land held by any person at the time of acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax, and

(B) foreclosure or sale in accordance with the laws of the State of Nebraska pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) The Secretary shall append to the economic development plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any individual named in paragraph (1).

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 1747:

HOUSE REPORTS: No. 101-776 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-330 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 18, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 16, Senate concurred in House amendments.

Public Law 101-485
101st Congress

An Act

To establish the Weir Farm National Historic Site in the State of Connecticut.

Oct. 31, 1990
[S. 2059]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Weir Farm National Historic Site Establishment Act of 1990. National parks. Art.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Weir Farm National Historic Site Establishment Act of 1990".

SEC. 2. DEFINITIONS.

As used in this Act—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Weir Farm National Historic Site established in section 4.

SEC. 3. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Weir Farm in Connecticut is listed on the National Register of Historic Places as a historic site associated with major American artists and several artistic developments;

(2) the Weir Farm, acquired in 1882 by J. Alden Weir, a founder and principal exponent of American Impressionism, has been continuously occupied by working artists and their families who have maintained its significance and integrity as a historic site; and

J. Alden Weir.

(3) the Weir Farm, including the house, barns, studios, pond, field, and woods thereon, and the approximately 113 acres of adjacent natural areas owned by the Nature Conservancy and the Town of Ridgefield, Connecticut, provide opportunities for illustrating and interpreting cultural themes of our Nation's heritage and provide opportunities for public use and enjoyment.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve a significant site of the tradition of American Impressionism;

(2) to maintain the integrity of a setting that inspired artistic expression and encourages public enjoyment; and

(3) to offer opportunities for the inspirational benefit and education of the American people.

SEC. 4. ESTABLISHMENT OF WEIR FARM NATIONAL HISTORIC SITE.

16 USC 461 note.

(a) IN GENERAL.—There is established, as a unit of the National Park System, the Weir Farm National Historic Site in the State of Connecticut.

(b) DESCRIPTION.—The historic site shall consist of—

(1) the approximately 2-acre core parcel containing the Weir house, studio, and barn; and

(2) the approximately 60 acres and improvements thereon owned by the State of Connecticut;

both as generally depicted on a map entitled "Land Ownership Map, Weir Farm Historic Site", Figure 5, dated October 1989, as contained in the National Park Service Weir Farm Suitability/Feasibility Study, February, 1990. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ACQUISITION OF REAL AND PERSONAL PROPERTY AND SERVICES.

(a) REAL AND PERSONAL PROPERTY.—The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds, the lands and improvements within the boundaries of the historic site, except that any such lands and improvements owned by the State of Connecticut may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site: *Provided,* That the Secretary may acquire works of art associated with the Weir family, J. Alden Weir, and other artists who lived at or visited the site only by donation or purchase with donated funds.

(b) OTHER PROPERTY, FUNDS, AND SERVICES.—The Secretary is authorized to accept and use donated funds, property, and services to carry out this Act.

SEC. 6. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national historic significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.), except that the Secretary shall take no action with respect to the 60 acres owned by the State of Connecticut within the boundaries of the historic site until such time as the State has transferred all right, title, and interests therein to the Secretary.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with the Weir Farm Heritage Trust, the State of Connecticut, the American Academy of Arts and Letters, and other organizations and groups in the development, presentation and funding of art exhibits, resident artist programs, and other appropriate activities related to the preservation, development, and use of the historic site.

(2) The Secretary may consult and enter into cooperative agreements with the Nature Conservancy and the towns of Ridgefield and Wilton for the purpose of coordinating activities on the historic site with activities on the Nature Conservancy's Weir Preserve and lands adjoining the historic site owned by the towns.

(c) EXHIBITS.—The Secretary may display, and accept for the purpose of display, works of art associated with J. Alden Weir, the Weir Farm, and the American Impressionist movement, as may be necessary for the interpretation of the historic site.

(d) GENERAL MANAGEMENT PLAN.—Within 2 complete fiscal years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a gen-

eral management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and other applicable law.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, except that not more than $1,500,000 may be appropriated for the acquisition of real and personal property.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 2059:

HOUSE REPORTS: No. 101-782 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-318 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 14, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 17, Senate concurred in House amendment.

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Public Law 101-486
101st Congress

An Act

Oct. 31, 1990
[S. 2203]

To authorize appropriation of funds to the Zuni Indian Tribe for reservation land conservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Zuni Land Conservation Act of 1990.

SHORT TITLE

SECTION 1. This Act may be cited as the "Zuni Land Conservation Act of 1990".

ZUNI RESOURCE DEVELOPMENT PLAN

SEC. 2. (a) Before the first day of the third fiscal year beginning after the date of enactment of this Act, the Secretary of the Interior and the Zuni Indian Tribe shall jointly formulate a Zuni resource development plan for the Zuni Indian Reservation, which shall include (but not be limited to)—

(1) a methodology for sustained development of renewable resources;

(2) a program of watershed rehabilitation;

(3) a computerized system of resource management and monitoring;

(4) programs for funding and training of Zuni Indians to fill professional positions that implement the overall plan;

(5) proposals for cooperative programs with the Bureau of Indian Affairs and other private or public agencies to provide technical assistance in carrying out the plan; and

(6) identification and acquisition of lands necessary to sustain Zuni resource development.

(b) The Resource Development Plan shall be implemented in a manner that protects resources owned and controlled by the Zuni Tribe and promotes sustained yield development.

TRUST FUND

SEC. 3. (a) There is hereby established within the Treasury of the United States the Zuni Indian Resource Development Trust Fund (hereafter in this Act referred to as the "Trust Fund"). The Trust Fund shall consist of amounts appropriated to the Trust Fund and all interest and investment income that accrues on such amounts.

(b)(1) The Secretary of the Interior shall be the trustee of the Trust Fund and shall invest the funds in the Trust Fund with a financial institution.

(2) The Secretary of the Interior shall not deduct any amount from the Trust Fund for administrative expenses or charge the Zuni Indian Tribe for expenses incurred by the Secretary in acting as trustee.

(c)(1) The funds appropriated to the Trust Fund under the authority of section 4 shall constitute the corpus of the Trust Fund and

may be expended, subject to paragraph (2), only for the following purposes:

(A) payment of any loans, debts, or future expenses incurred by the Zuni Indian Tribe to any person for the purchase of land or obtaining or defending rights of access to the area described in Public Law 98-408;

(B) payment of up to $600,000 per year for two years for the formulation of the Zuni resource development plan described in section 2;

(C) payment of all costs, attorneys' fees, and expenses incurred prior to September 30, 1990, by the Zuni Indian Tribe in the prosecution of docket numbers 327-81L and 224-84L of the United States Claims Court; and

(D) payment of all invoices submitted by any person to the Zuni Indian Tribe for which proper vouchers have been received prior to September 30, 1990, and subsequently approved by the Secretary of the Interior.

(2) The total amount of the corpus of the Trust Fund that may be expended under paragraph (1) shall not exceed $8,000,000.

(3) The interest and investment income that accrues on the corpus of the Trust Fund may be expended by the Secretary of the Interior pursuant to the Zuni resource development plan described in section 2.

(4) No funds appropriated under the authority of this Act may be used to make per capita payments to members of the Zuni Indian Tribe.

(5) All sums paid pursuant to this Act shall be offset against any judgment entered in favor of the Zuni Indian Tribe in docket numbers 327-81L and 224-84L, but not against any judgment entered in docket number 161-79L, of the United States Claims Court.

(6) Nothing in this Act shall be construed to affect in any way the trust status of Zuni Indian Reservation land or resources.

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. There are authorized to be appropriated to the Zuni Indian Resource Development Trust Fund $25,000,000. Such funds shall remain available without fiscal year limitation.

ADDITIONAL LANDS

SEC. 5. The first section of the Act entitled "An Act to convey certain lands to the Zuni Indian Tribe for religious purposes", approved August 28, 1984 (98 Stat. 1533), is amended by adding at the end thereof the following: "Also, all of sections 13 and 23, township 14 north, range 26 east, Gila and Salt River Meridian, such

lands to be acquired and held in accordance with sections 2 and 3 of this Act.".

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 2203 (H.R. 4143):

HOUSE REPORTS: No. 101-727 accompanying H.R. 4143 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-306 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 21, considered and passed Senate.
Oct. 10, H.R. 4143 considered and passed House; S. 2203, amended, passed in lieu.
Oct. 15, Senate concurred in House amendments.

Public Law 101-487
101st Congress

An Act

To designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center".

Oct. 31, 1990
[S. 3032]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THE SPARK M. MATSUNAGA DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER.

The medical center planned to be constructed in Honolulu, Hawaii, by the Department of Veterans Affairs shall be known and designated as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center" in honor of the late United States Senator from the State of Hawaii, Spark M. Matsunaga.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 3032:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 17, considered and passed Senate.
Oct. 20, considered and passed House.

Public Law 101-488
101st Congress

An Act

Oct. 31, 1990
[S. 3216]

To designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Department of Veterans Affairs Medical Center located in Charleston, South Carolina, after the date of enactment of this Act shall be known and designated as the "Ralph H. Johnson Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Ralph H. Johnson Department of Veterans Affairs Medical Center.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 3216:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 17, considered and passed Senate.
Oct. 20, considered and passed House.

Public Law 101-489
101st Congress

Joint Resolution

To designate November 16, 1990, as "National Philanthropy Day".

Oct. 31, 1990
[S.J. Res. 293]

Whereas there are more than 800,000 nonprofit philanthropic organizations in the United States;
Whereas such organizations employ more than 10,000,000 persons, including approximately 4,500,000 volunteers;
Whereas the people of the United States contributed approximately $104,000,000,000 in 1988 to support such organizations;
Whereas philanthropic organizations are responsible for enhancing the quality of life of people throughout this Nation and the world;
Whereas the people of this Nation owe a great debt to the schools, churches, museums, art and music centers, youth groups, hospitals, research institutions, community service institutions, and organizations that aid and comfort the disadvantaged, sick, and elderly; and
Whereas the people of the United States should demonstrate gratitude and support for philanthropic organizations and for the efforts, skills, and resources of the people who carry out the missions of such organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1990, is designated as "National Philanthropy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 293:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

Public Law 101-490
101st Congress

Joint Resolution

Oct. 31, 1990
[S.J. Res. 307]

Designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week".

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;
Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;
Whereas women veterans have contributed greatly to the security of the Nation through honorable military service, which often involved great hardship and danger;
Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;
Whereas the special needs of women veterans, especially in the areas of health care, have often been overlooked or inadequately addressed by the Federal Government;
Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled;
Whereas women are performing a wider range of tasks in the Armed Forces of the Nation, as demonstrated recently by the activities of women in the military action in Panama; and
Whereas designating a week to recognize women veterans in November 1990 will help to promote important gains made by women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 11 through November 17, 1990, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 307:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

Public Law 101-491
101st Congress

Joint Resolution

Designating June 2 through 8, 1991, as a "Week for the National Observance of the 50th Anniversary of World War II".

Oct. 31, 1990
[S.J. Res. 324]

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over 400,000 Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history, and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1990 and 1995, over 9,000,000 American veterans of World War II will hold reunions and conferences and otherwise commemorate the 50th anniversaries of various events relating to World War II; and

Whereas June 4, 1990, marks the anniversary of the Battle of Midway and June 6, 1990, marks the anniversary of the D-Day battle: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 2 through June 8, 1991, is designated as a "Week for the National Observance of the 50th Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate activities and ceremonies.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 324:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed Senate.
Oct. 16, considered and passed House, amended.
Oct. 19, Senate concurred in House amendments.

Public Law 101-492
101st Congress

Joint Resolution

Oct. 31, 1990
[S.J. Res. 353]

To designate September of 1991 as "National Rice Month".

Whereas rice is the staple grain for two-thirds of the population of the World, and the significance of rice cannot be overemphasized;
Whereas 8 out of 10 people in the World depend on rice for 40 percent of their energy needs;
Whereas rice is the fifth most valuable food crop in this Nation, as rice represents a two-billion dollar cash crop, and is vital to the economic stability of rice farmers and millers in Arkansas, California, Louisiana, Texas, Mississippi, Missouri, and Florida;
Whereas intense research and development in rice technology has resulted in approximately 12 percent of the rice production in the World being carried out on only 2 percent of the available acreage for such production by rice farmers in this Nation, making such rice one of the most land-efficient and cost-efficient crops grown;
Whereas the United States is one of the largest exporters of rice, as this Nation exports rice to over 120 countries and supplies about 20 percent of the rice for world trade;
Whereas wild rice, the only cereal grain to be domesticated from a wild crop in the United States, is a growing segment of the rice industry and is important to the communities where it is grown;
Whereas wild rice is gaining popularity among consumers as an individual dish and in combinations with other rices;
Whereas millions of people in this Nation, as well as countless people in other countries, enjoy rice in a variety of forms, including the use of rice as an edible grain, in flour, bran, cooking oil, cereals, rice cakes, and health food snacks;
Whereas the people of this Nation consume an average of approximately 18 pounds of rice per person per year, an amount that represents twice the per capita consumption of rice 30 years ago;
Whereas rice is an important source of nutritional value, as rice provides an excellent source of complex carbohydrates, contains only a trace of fat, and is cholesterol-free and sodium-free;
Whereas scientists are now beginning to uncover the benefits of rice bran and rice bran oil in lowering the levels of cholesterol in humans;
Whereas new knowledge of the nutritional benefits of the rice kernel and the recent health consciousness of the people of this Nation is producing a growing appreciation of rice by such people;
Whereas rice is recognized worldwide as an economical food and an important part of feeding the expanding population in Third World nations;
Whereas rice provides an important contribution to the diet, to the economy of this Nation, and to the nourishment of other countries; and
Whereas the harvest of rice in this Nation is celebrated each September: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September of 1991 is designated as "National Rice Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 353:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed Senate.
Oct. 16, considered and passed House.

Public Law 101-493
101st Congress

An Act

Oct. 31, 1990
[H.R. 5209]

To amend title 39, United States Code, to make nonmailable any unsolicited sample of a drug or other hazardous household substance which does not meet child-resistant packaging requirements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Drug and Household Substance Mailing Act of 1990.
39 USC 3001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug and Household Substance Mailing Act of 1990".

SEC. 2. MEASURES TO PREVENT INDIVIDUALS FROM BEING INVOLUNTARILY EXPOSED TO POTENTIALLY HAZARDOUS SUBSTANCES RECEIVED THROUGH THE MAILS.

Section 3001 of title 39, United States Code, is amended by redesignating subsections (f) and (g) as subsections (h) and (i), respectively, and by inserting after subsection (e) the following:

"(f) Any matter which is unsolicited by the addressee, which contains a 'household substance' (as defined by section 2 of the Poison Prevention Packaging Act of 1970), and which does not comply with the requirements for special child-resistant packaging established for that substance by the Consumer Product Safety Commission, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(g)(1) Matter otherwise legally acceptable in the mails which contains or includes a fragrance advertising sample is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless the sample is sealed, wrapped, treated, or otherwise prepared in a manner reasonably designed to prevent individuals from being unknowingly or involuntarily exposed to the sample.

Regulations.

"(2) The Postal Service shall by regulation establish the standards or requirements which a fragrance advertising sample must satisfy in order for the mail matter involved not to be considered nonmailable under this subsection.".

39 USC 3001 note.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect 180 days after the date of enactment of this Act, and shall apply with respect to any matter mailed on or after that effective date.

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.R. 5209:

HOUSE REPORTS: No. 101-758 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 16, considered and passed Senate.

Public Law 101-494
101st Congress

An Act

To provide for the temporary extension of the certain laws relating to housing and community development.

Oct. 31, 1990
[H.R. 5933]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECTIVE DATE OF TEMPORARY EXTENSION OF EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987 AND CORRECTION OF ANY REPEAL.

12 USC 1715*l* note.

(a) EFFECTIVE DATE OF EXTENDER.—Public Law 101-402 shall be deemed to have taken effect as if such law were enacted on September 29, 1990.

(b) STATUS OF ACT.—The Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) shall be deemed to have been in effect on and after September 29, 1990, as if Public Law 101-402 had been enacted on September 29, 1990.

(c) CORRECTION OF ANY REPEAL.—The provisions of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note), other than section 203, are amended to read as such provisions were in effect on September 29, 1990. The amendment made by this subsection shall take effect as if this Act were enacted on September 29, 1990.

(d) EFFECTIVE DATE.—If the Cranston-Gonzalez National Affordable Housing Act is enacted before the enactment of this Act, this section shall be deemed to have taken effect immediately before the enactment of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 2. ADDITIONAL TEMPORARY EXTENSION OF EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987.

(a) EXTENSION.—Section 203(a) of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715l note) is amended by striking "October 31, 1990" and inserting "November 30, 1990, or the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, whichever is earlier".

(b) EFFECTIVE DATE.—If the Cranston-Gonzalez National Affordable Housing Act is enacted on or after October 31, 1990, this section shall be deemed to have taken effect on October 30, 1990.

12 USC 1715*l* note.

SEC. 3. INTERAGENCY COUNCIL ON THE HOMELESS.

42 USC 11319 note.

(a) EXTENSION.—If upon enactment of this Act, section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) provides for the termination of the Interagency Council on the Homeless on October 31, 1990, then notwithstanding such section, the Interagency Council on the Homeless shall cease to exist, and the requirements of title II of the Stewart B. McKinney Homeless Assistance Act shall terminate, on November 30, 1990.

(b) LIMITATIONS.—If upon enactment of this Act such section 209 provides for termination of the Council (referred to in subsection (a))

on a date other than October 31, 1990, this section shall not apply. This section shall not apply with respect to any amendment to section 209 of the Stewart B. McKinney Homeless Assistance Act made after the date of the enactment of this Act.

12 USC 1709 note.

SEC. 4. FHA MORTGAGE LIMIT.

(a) EXTENSION.—If upon enactment of this Act, section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) provides for an increase in the maximum dollar amount limitations on the principal obligations of mortgages insured under such section until October 31, 1990, then notwithstanding such section, such maximum dollar amount limitations may be increased (to the percent specified in such section) until November 30, 1990.

(b) LIMITATIONS.—If upon enactment of this Act such section 203(b)(2) provides for an increase in the maximum dollar amount limitations (referred to in subsection (a)) until a date other than October 31, 1990, this section shall not apply. This section shall not apply with respect to any amendment to section 203(b)(2) of the National Housing Act made after the date of the enactment of this Act.

SEC. 5. MINIMUM STATE ALLOCATION.

Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended by inserting after the first sentence the following: "The Secretary may allocate assistance under the preceding sentence in such a manner that each State shall receive not less than one-half of one percent of the amount of funds available for each program referred to in subsection (a)(1) in each fiscal year.".

Approved October 31, 1990.

LEGISLATIVE HISTORY—H.R. 5933:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 26, considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 101-495
101st Congress

An Act

To require the Secretary of the Treasury to mint a silver dollar coin in commemoration of the thirty-eighth anniversary of the ending of the Korean War and in honor of those who served.

Oct. 31, 1990
[S. 2737]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

31 USC 5112 note.

(a) FINDINGS.—The Congress finds that—

(1) on June 25, 1950, the Republic of Korea was invaded by the North Korean Army,

(2) United States forces in a United Nations action defended South Korea and repelled the attackers,

(3) further aggression by the Chinese Communists was also repelled,

(4) an armistice was signed on July 27, 1953,

(5) American combat deaths totaled 33,629, and more than 8,000 remains are still unaccounted for,

(6) an additional several thousand nonbattle deaths occurred on or around the Korean peninsula,

(7) 103,284 Americans were wounded, with many disabled and handicapped,

(8) this war, waged under the United Nations aegis, halted communist aggression in Northeast Asia, preserved the human rights of 40 million people, and restored the territorial integrity of the Republic of Korea,

(9) the desire to memorialize American gratitude to the courageous men and women who served has led to the Korean War Veterans Memorial authorization,

(10) this memorial must be built by private donations, and

(11) the moneys must be raised by the thirty-eighth anniversary of the ending of the war.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the thirty-eighth anniversary of the ending of the Korean War should not go unrecognized,

(2) that the United States should recognize this anniversary and the veterans of the Korean War by minting and issuing a silver dollar coin; and

(3) that issuance of this coin will enable the Korean War Veterans Memorial to be built in the Nation's capital on schedule, with all donations to be deposited in the United States Treasury Memorial Fund.

31 USC 5112 note.

SEC. 3. KOREAN WAR VETERANS COMMEMORATIVE COIN.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter referred to as the "Secretary") shall mint and issue not more than 1,000,000 one-dollar silver coins to commemorate the thirty-eighth anniversary of the ending of the Korean War.

(b) SPECIFICATIONS.—Each silver coin minted under this Act shall—

(1) have a diameter of 1.500 inches; and

(2) by composed of 90 percent silver and 10 percent copper.

(c) DESIGN.—The design of the coins minted in accordance with this section shall be symbolic of the Korean War Veterans' heroic service. Each coin shall bear a designation of the value of the coin, an inscription of the years "1953–1991", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". The design for the coins authorized by this Act shall be selected by the Secretary after consultation with the Korean War Veterans Memorial Advisory Board and the American Battle Monuments Commission (hereinafer referred to as the "Advisory Board" and the "Commission", respectively).

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

31 USC 5112 note.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Materials Stock Piling Act.

31 USC 5112 note.

SEC. 5. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities, except that only one facility of the United States Mint may be used to strike each quality of coins.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1991.

(c) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1991.

31 USC 5112 note.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) SURCHARGES.—Sales of coins minted under this Act shall include a surcharge of $7 for each one-dollar coin.

(c) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(d) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount to reflect the benefit of prepayment.

SEC. 7. FINANCIAL ASSURANCES. 31 USC 5112 note.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

SEC. 8. USE OF SURCHARGES. 31 USC 5112 note.

(a) DISPOSITION OF SURCHARGES.—Surcharges received from the sale of coins minted under this Act shall be deposited in the Korean War Veterans Memorial Fund in the United States Treasury.

(b) USE OF SURCHARGES.—

(1) CONSTRUCTION.—All surcharges collected shall be available to the Commission—

(A) to establish and erect the Korean War Veterans Memorial in the Nation's capital to honor those who served;

(B) to make the donation required by section 8(b) of Public Law 99-652; and

(C) to make the deposit described in section 3(c) of Public Law 99-572.

Any surcharges in excess of the amounts needed for the purposes of this paragraph shall be used as provided in paragraphs (2) and (3).

(2) MAINTENANCE AND PERPETUAL CARE.—Excess funds above the funds required for paragraph (1) shall be available to provide maintenance and perpetual care for the memorial. Any additional excess funds shall be used to establish interpretive centers and to disseminate information. Public information.

(3) NATIONAL PARK SERVICE FUNDS.—Any remaining excess funds shall be donated to the National Park Service for maintenance of memorials under its jurisdiction and authorized by Congress during the 20th century relating to the commemoration of military conflicts in which the United States was involved.

(c) AUDIT.—The Comptroller General of the United States shall have the right to examine the books, records, documents, and other data of the Commission relating to the expenditure of amounts paid under subsection (b).

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS. 31 USC 5112 note.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

31 USC 5112 note.

SEC. 10. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 8 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 2737:

CONGRESSIONAL RECORD, Vol. 136 (1990):
July 27, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 17, Senate concurred in House amendment.

Public Law 101-496
101st Congress

An Act

To revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

Oct. 31, 1990
[S. 2753]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Developmental Disabilities Assistance and Bill of Rights Act of 1990. 42 USC 6000 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

42 USC 6000.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

42 USC 6001.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired

commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.".

SEC. 5. FEDERAL SHARE.

42 USC 6002.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

42 USC 6006.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Secu-

rity Act and each correction or reduction plan prepared pursuant to section 1922 of such Act;"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended— 42 USC 6007.

(1) by inserting after "Developmental Disabilities" the second place such term appears the following: "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public. Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur.". Public information. Federal Register, publication.

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973". 42 USC 6008.

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pt. II)" and inserting "June 3, 1988". 42 USC 6009.

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of". 42 USC 6021.

SEC. 11. STATE PLAN.

Section 122 of the Act is amended— 42 USC 6022.

(1) in paragraph (1)(B) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated

State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

Reports. "(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of

the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.".

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended— 42 USC 6024.

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs (3), (4), (5) and (6) of subsection (a) of section 125 of the Act are amended to read as follows: 42 USC 6025.

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $200,000; and Territories.

"(ii) to any other State may not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be

allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $65,000,000, the allotment under paragraph (1) for such fiscal year—

Territories.

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $210,000; and

Puerto Rico. District of Columbia.

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

42 USC 6030.

Section 130 of the Act is amended by striking "$62,200,000" and all that follows through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 15. SYSTEM REQUIRED.

42 USC 6042.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university

affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act.";

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever— Health care. Safety.

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;"; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than ⅓ of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

Health records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise.".

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

42 USC 6043.

Section 143 of the Act is amended by striking "$20,000,000" and all that follows through the period at the end thereof and inserting "$24,200,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 17. GRANT AUTHORITY.

Colleges and universities. Educational study programs. Medical research. 42 USC 6062.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation

with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of $90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed $150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

Consumer protection.

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended— 42 USC 6063. Colleges and universities.

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).".

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS. 42 USC 6064.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated $11,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated $5,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).".

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabil- 42 USC 6081.

ities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

42 USC 6082.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

42 USC 6083.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) LIMITATION.—At least 8 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2).".

Approved October 31, 1990.

LEGISLATIVE HISTORY—S. 2753 (H.R. 5679):

HOUSE REPORTS: No. 101-803 accompanying H.R. 5679 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 101-376 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Aug. 2, considered and passed Senate.

Oct. 10, H.R. 5679 considered and passed House; S. 2753, amended, passed in lieu.

Oct. 12, Senate concurred in House amendments.

Public Law 101-497
101st Congress

Joint Resolution

Waiving certain enrollment requirements with respect to S. 2830, the Food, Agriculture, Conservation and Trade Act of 1990.

Oct. 31, 1990
[S.J. Res. 388]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING OF ENROLLMENT OF CERTAIN MEASURES.

1 USC 106 note.

(a) WAIVER.—The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of S. 2830.

(b) CERTIFICATION OF ENROLLMENT BY THE SECRETARY OF THE SENATE.—The enrollment of S. 2830 shall be in such form as the Secretary of the Senate certifies to be a true enrollment.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENT.

1 USC 106 note.

(a) PREPARATION.—

(1) IN GENERAL.—If S. 2830 is presented to the President in the form of a hand enrollment pursuant to the authority of section 1, then upon the enactment of that bill the Secretary of the Senate shall prepare a printed enrollment of the bill as in the case of a bill to which sections 106 and 107 of title 1, United States Code, apply.

(2) TYPOGRAPHICAL CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in indentation, type face, and type size and may include notations (in the margins or as otherwise appropriate) of obvious errors in spelling or punctuation in the hand enrollment.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a), after being certified by the Secretary of the Senate to be a correct printing of the hand enrollment, shall be signed by the presiding officer of each House of Congress and transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; PRESERVATION IN ARCHIVES.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment, such printed enrollment shall be transmitted to the Archivist of the United States, who shall preserve it with the hand enrollment.

(d) PUBLICATION OF LAW.—In preparing the bill or joint resolution for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

39-194 O - 91 - 8 : QL 3 Part 2

1 USC 106 note.

SEC. 3. DEFINITIONS.

As used in this resolution:

(1) HAND ENROLLMENT.—The term "hand enrollment" means the enrollment, as authorized by section 1, of a bill or joint resolution for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

Approved October 31, 1990.

LEGISLATIVE HISTORY—S.J. Res. 388:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 27, considered and passed Senate and House.

Public Law 101-498
101st Congress

An Act

To amend the Mining and Mineral Resources Research Institute Act of 1984, and for other purposes.

Nov. 2, 1990
[H.R. 4111]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Strategic and Critical Minerals Act of 1990.
Natural resources.
30 USC 1201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Strategic and Critical Minerals Act of 1990".

SEC. 2. ESTABLISHMENT OF GENERIC CENTER.

The Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221 and following) is amended by adding the following new section at the end thereof:

"SEC. 12. STRATEGIC RESOURCES GENERIC MINERAL TECHNOLOGY CENTER. 30 USC 1230a.

"(a) ESTABLISHMENT.—The Secretary of Interior is authorized and directed to establish a Strategic Resources Mineral Technology Center (hereinafter referred to as the 'center') for the purpose of improving existing, and developing new, technologies that will decrease the dependence of the United States on supplies of strategic and critical minerals.

"(b) FUNCTIONS.—The center shall—

Research.
Science and technology.

"(1) provide for studies and technology development in the areas of mineral extraction and refining processes, product substitution and conservation of mineral resources through recycling and advanced processing and fabrication methods;

"(2) identify new deposits of strategic and critical mineral resources; and

"(3) facilitate the transfer of information, studies, and technologies developed by the center to the private sector.

"(c) CRITERIA.—The Secretary shall establish the center referred to in subsection (a) at a university that—

"(1) does not currently host a generic mineral technology center;

"(2) has established advanced degree programs in geology and geological engineering, and metallurgical and mining engineering;

"(3) has expertise in materials and advanced processing research; and

"(4) is located west of the 100th meridian.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.".

Approved November 2, 1990.

LEGISLATIVE HISTORY—H.R. 4111:

HOUSE REPORTS: No. 101-465 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-496 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed House.
Oct. 16, considered and passed Senate.

Public Law 101-499
101st Congress

An Act

To authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes.

Nov. 2, 1990
[S. 2846]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Louisiana.
Historic preservation.

SECTION 1. SUITABILITY AND FEASIBILITY STUDY.

(a) IN GENERAL.—In order to determine an appropriate means of preserving and interpreting the origins, development and progression of the music known as jazz, a music that has gained worldwide influence and respect and represents this Nation's unique contribution to the musical arts, the Secretary of the Interior (hereinafter referred to as the "Secretary"), in consultation with the Secretary of the Smithsonian Institution, shall conduct a study of the suitability and feasibility of preserving and interpreting the origins of jazz in New Orleans, including establishing, or adding to, a unit of the National Park System, or providing technical and financial assistance. Such study shall recognize the origins of jazz in New Orleans, the city in which the cultural strains that became jazz were fused to form this unique American music, and the birthplace of such major jazz artists as Jelly Roll Morton, Sidney Bechet, and Louis Armstrong.

Jelly Roll Morton.
Sidney Bechet.
Louis Armstrong.

(b) SITES OR STRUCTURES.—(1) The study shall include a determination as to which sites or structures in New Orleans associated with the origin and early history of jazz exhibit the necessary historical and physical integrity to make them suitable and feasible for administration, protection, and preservation by the National Park System for the use and benefit of the public. Prior to making any such determination, the Secretary shall consult with and carefully consider the views of affected local citizens and neighborhood groups.

(2) With respect to any such site or structure determined to be suitable and feasible, the study shall include an analysis of potential management alternatives that involve the participation of public and private entities in the preservation of jazz as an American art form, including interpretive performances pursuant to cooperative agreements with the Secretary.

(3) In the event appropriate sites or structures cannot be identified, the study shall also consider and make recommendations concerning sites which would serve as an appropriate location to commemorate the origins and early history of jazz in New Orleans.

(c) ADDITIONAL RECOMMENDATIONS.—The study shall also include recommendations for—

(1) public outreach programs;

(2) the establishment of a jazz education center;

(3) the appropriate Federal role, including through cooperative agreements, in supporting second line bands and in preserv-

ing the unique contributions to the development of jazz made by neighborhood social and pleasure clubs, including recommendations for interpretive performances by such clubs and other programs to assure that the contributions of such clubs are preserved; and

(4) the need for the preservation and dissemination of information about existing public and private archival collections (with potential alternatives for an appropriate Federal role) and possible management alternatives including cooperative agreements with existing public and private facilities and institutions.

SEC. 2. JEAN LAFITTE NATIONAL HISTORICAL PARK.

The study shall also assess and include a recommendation concerning the desirability and feasibility of including any site or structure identified pursuant to section 1(b) to be managed as a unit of the Jean Lafitte National Historical Park.

SEC. 3. SUBMISSION OF STUDY.

The Secretary shall submit the study referred to in section 1 to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives no later than one year after the date funds are made available for such study, together with any recommendations for further legislation.

SEC. 4. PRESERVATION OF JAZZ ADVISORY COMMISSION.

(a) ESTABLISHMENT OF THE COMMISSION.—There is hereby established the Preservation of Jazz Advisory Commission (hereinafter referred to as the "Commission"). The Commission shall consist of fifteen members who shall be appointed within ninety days after enactment of this Act as follows:

(1) one member to be appointed jointly by the Speaker of the United States House of Representatives and the President Pro Tempore of the United States Senate;

(2) the Mayor of the city of New Orleans or the Mayor's designee;

(3) one member who shall have experience in music education programs emphasizing jazz, to be appointed by the Secretary from among recommendations submitted by the Mayor of New Orleans;

(4) one member who is knowledgeable about tourism, to be appointed by the Secretary from among recommendations submitted by local business and economic development groups;

(5) one member to be appointed by the Secretary from among recommendations submitted by the producers of the New Orleans Jazz and Heritage Festival who shall have experience in the production of such Festival;

(6) one member to be appointed by the Secretary from among recommendations submitted by representatives of local historic preservation groups;

(7) one member who is a recognized musician with knowledge and experience in the development of jazz in New Orleans, to be appointed by the Chairman of the National Endowment of the Arts;

(8) one member who is a recognized local expert on the history and development of jazz in New Orleans and is familiar with

existing local archival materials, to be appointed jointly by the Chairman of the National Endowment on the Humanities and the Librarian of Congress;

(9) three members with recognized expertise in jazz, cultural or folklife preservation and interpretation, to be appointed by the Secretary of the Smithsonian Institution;

(10) one member to be appointed by the Secretary who shall be a resident of the Treme neighborhood of New Orleans;

(11) one member who shall be selected from recommendations submitted by local social and pleasure clubs, to be appointed by the Chairman of the National Endowment of the Arts;

(12) one member to be appointed by the Governor of Louisiana who shall be a member of the Louisiana State Music Commission; and

(13) the Chairman of the Delta Region Preservation Commission who shall serve as an ex officio member of the Commission.

(b) DUTIES OF THE COMMISSION.—The Commission shall advise the Secretary in the preparation of the suitability and feasibility study required by section 1, and the views of the Commission members shall be included in the study transmitted to the Congress as provided in section 3.

(c) MEMBERSHIP.—No person who is an employee of the Department of the Interior shall be appointed to serve as a member of the Commission.

(d) COMPENSATION.—Members of the Commission shall serve without compensation. Members of the Commission shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The Commission shall elect a chairperson from among its members.

(f) QUORUM.—A simple majority of the members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the Chairperson or a majority of its members.

(h) PUBLIC HEARINGS.—The Commission shall hold no less than three public hearings in New Orleans to consider the views of the public concerning the most appropriate means to commemorate jazz in the United States. At least one such hearing shall be held in the Treme neighborhood of New Orleans.

(i) STAFF.—The National Park Service shall provide staff support and technical assistance as may be necessary to carry out the functions of the Commission.

(j) TERMINATION OF COMMISSION.—The Commission shall terminate 60 days after the transmittal of the report to Congress.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved November 2, 1990.

LEGISLATIVE HISTORY—S. 2846:

HOUSE REPORTS: No. 101-879 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-469 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 26, considered and passed Senate.
Oct. 15, considered and passed House, amended.
Oct. 19, Senate concurred in House amendment.

Public Law 101-500
101st Congress

An Act

To prohibit certain food transportation practices and to provide for regulation by the Secretary of Transportation that will safeguard food and certain other products from contamination during motor or rail transportation, and for other purposes.

Nov. 3, 1990
[H.R. 3386]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Sanitary Food Transportation Act of 1990.
49 USC app. 2801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sanitary Food Transportation Act of 1990".

49 USC app. 2801.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are entitled to receive food and other consumer products that are not made unsafe as a result of certain transportation practices;

(2) the American public is threatened by the transportation of products potentially harmful to consumers in motor vehicles and rail vehicles which are used to transport food and other consumer products; and

(3) the risks posed to consumers by such transportation practices are unnecessary, and such practices must be terminated.

49 USC app. 2802.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) FOOD, FOOD ADDITIVES, DRUGS, DEVICES, OR COSMETICS.—The terms "food", "food additives", "drugs", "devices", and "cosmetics" have the meanings given to them by section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(2) NONFOOD PRODUCT.—The term "nonfood product" means any material, substance, or product (including refuse and solid waste, as such term is defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) which (except as provided under section 4(a)(2)) is not a food, food additive, drug, device, or cosmetic. Such term includes any class of such materials, substances, or products.

(3) REFUSE.—The term "refuse" means any discarded material to be transported to or disposed of in a landfill or incinerator, or required by law to be transported to or disposed of in a landfill or incinerator.

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(5) STATE.—The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, and any other territory or possession of the United States.

(6) TRANSPORTS OR TRANSPORTATION.—The term "transports" or "transportation" means any movement of property in commerce (including intrastate commerce) by motor vehicle or rail vehicle.

(7) UNITED STATES.—The term "United States" means all of the States.

49 USC app. 2803.

SEC. 4. REGULATIONS.

(a) IN GENERAL.—

(1) RESPONSIBILITY OF SECRETARY.—In accordance with this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall issue regulations, pursuant to a rulemaking proceeding, with respect to the transportation of food, food additives, drugs, devices, and cosmetics in motor vehicles and rail vehicles which are used to transport either refuse or other nonfood products which, when so transported, would make such food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

(2) TREATMENT AS NONFOOD PRODUCTS.—If a drug, device, or cosmetic is transported in a motor or rail vehicle at the same time or before a food or food additive is transported in such vehicle, the Secretary shall treat such drug, device, or cosmetic as a nonfood product if such transportation would make such food or food additive unsafe to the health of humans or animals.

(b) SPECIAL REQUIREMENTS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall establish standards, requirements, and other provisions relating to—

(1) appropriate recordkeeping, identification, marking, certification, or other means of verification required to promote compliance with the requirements of sections 5, 6, and 7;

(2) appropriate decontamination, removal, disposal, and isolation standards with respect to regulations implementing sections 5 and 6; and

(3) appropriate materials for construction of tank trucks, rail tank cars, cargo tanks, and accessory equipment to comply with regulations implementing section 5.

(c) CONSIDERATIONS.—In issuing regulations under subsection (a)(1), the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall consider each of the following and may establish standards, requirements, or other provisions relating to any or all of the following:

(1) The extent to which packaging or similar means of protecting and isolating commodities are adequate to ameliorate or eliminate the potential risks of transporting food, food additives, drugs, devices, or cosmetics in motor vehicles or rail vehicles used to transport nonfood products. If packaging standards are found to be adequate by the Secretary, regulations issued under subsection (a)(1) shall not apply to food, food additives, drugs, devices, or cosmetics or nonfood products which are packaged in packages which meet such standards.

(2) Appropriate compliance and enforcement measures for carrying out this Act.

(3) Appropriate minimum insurance or other liability requirements for any person covered by this Act.

(d) DEADLINES.—The rulemaking proceeding referred to in subsection (a)(1) shall be initiated within 30 days after the date of enactment of this Act. The regulations referred to in subsection (a)(1) shall be issued within 270 days after such date of enactment.

SEC. 5. TANK TRUCKS, RAIL TANK CARS, AND CARGO TANKS. 49 USC app. 2804.

(a) PROHIBITION.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a tank truck, rail tank car, or cargo tank used in motor vehicle transportation or rail transportation of food, food additives, drugs, devices, or cosmetics, if such tank truck, rail tank car, or cargo tank is used to transport a nonfood product (other than any nonfood product which is included on a list published under subsection (b)).

(b) LIST OF ACCEPTABLE NONFOOD PRODUCTS.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined do not make food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a tank truck, rail tank car, or cargo tank which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend such list by publication in the Federal Register. Federal Register, publication.

(c) IDENTIFICATION.—The regulations issued under section 4(a)(1) shall, at a minimum, provide that—

(1) no person shall use, offer for use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of only food, food additives, drugs, devices, or cosmetics or nonfood products which are included on the list published under subsection (b) unless such tank truck or cargo tank is identified, by a permanent marking on such tank truck or cargo tank, as transporting such food, food additives, drugs, devices, or cosmetics or nonfood products;

(2) no person shall use, offer for use, or arrange for the use of a tank truck or a cargo tank to provide motor vehicle transportation of a nonfood product which is not included on the list published under subsection (b) if such tank truck or cargo tank is identified pursuant to paragraph (1) as a tank truck or cargo tank transporting only food, food additives, drugs, devices, or cosmetics and nonfood products included on such a list; and

(3) no person shall receive, except for lawful disposal purposes, any food, food additive, drug, device, or cosmetic or nonfood product which has been transported in a tank truck or cargo tank in violation of paragraph (1) or (2).

(d) DISCLOSURE.—Any person who arranges for the use of a tank truck or a cargo tank used in motor vehicle transportation for the transportation of a food, food additive, drug, device, or cosmetic or nonfood product shall in making such arrangement disclose to the motor carrier or other appropriate person if the food, food additive, drug, device, or cosmetic or nonfood product being transported is to be used—

(1) as, or in the preparation of, a food or food additive, or

(2) as a nonfood product which is included in the list published under subsection (b).

49 USC app. 2805.

SEC. 6. MOTOR AND RAIL TRANSPORTATION OF NONFOOD PRODUCTS.

(a) PROHIBITION.—At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or a rail vehicle, other than a tank truck, rail tank car, or cargo tank described in section 5, to provide transportation of food, food additives, drugs, devices, or cosmetics, if such vehicle is used to transport nonfood products included on a list published under subsection (b).

(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.—

Federal Register, publication.

(1) PUBLICATION.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of nonfood products which the Secretary has determined would make food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals as a result of transportation in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics. The Secretary may periodically amend the list by publication in the Federal Register.

(2) CARDBOARD, PALLETS, BEVERAGE CONTAINERS, AND OTHER FOOD PACKAGING.—The list published under paragraph (1) shall not include cardboard, pallets, beverage containers, and other food packaging except to the extent the Secretary determines that the transportation of cardboard, pallets, beverage containers, or other food packaging in a motor vehicle or rail vehicle which is used to transport food, food additives, drugs, devices, or cosmetics would make the food, food additives, drugs, devices, or cosmetics unsafe to the health of humans or animals.

49 USC app. 2806.

SEC. 7. DEDICATED VEHICLES.

At a minimum, the regulations issued under section 4(a)(1) shall prohibit any person from using, offering for use, or arranging for the use of a motor vehicle or rail vehicle to provide transportation of asbestos, in forms or quantities determined by the Secretary to be necessary, or of products which present an extreme danger to human or animal health, despite any decontamination, removal, disposal, packaging, or other isolation procedures, unless such motor vehicle or rail vehicle is used only to provide transportation of one or more of the following: asbestos, such extremely dangerous products, refuse. The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, shall publish in the Federal Register a list of the products covered by this section. The Secretary may periodically amend such list by publication in the Federal Register.

Federal Register, publication.

49 USC app. 2807.

SEC. 8. WAIVER AUTHORITY.

The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency, may waive, in whole or in part, application of any provision of this Act or any regulations issued under this Act with respect to any class of persons, class of motor vehicles, class of rail vehicles, class of food, food additives, drugs, devices, or cosmetics, class of refuse, or class of nonfood products, if the Secretary determines that such waiver would not result in transportation of food, food additives, drugs,

devices, or cosmetics that would be unsafe to human or animal health and otherwise is not contrary to the public interest and this Act. Any waiver under this section shall be published in the Federal Register, together with the reasons for such waiver.

Federal Register, publication.

SEC. 9. FOOD TRANSPORTATION INSPECTIONS.

49 USC app. 2808.

(a) INSPECTION AUTHORITY.—With respect to commercial motor vehicles, the Secretary may carry out the requirements of this Act and assist in carrying out compatible State laws and regulations through means that include inspections conducted by State employees which are funded with money authorized under sections 402 through 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2302-2304) to carry out the motor carrier safety assistance program, if the recipient States agree to assist in the enforcement of this Act or are enforcing compatible State laws and regulations.

(b) ASSISTANCE OF OTHER AGENCIES.—Upon request by the Secretary, the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal agencies shall provide assistance, to the extent such assistance is available, to the Secretary for the purpose of carrying out this Act, including assistance in the training of personnel under a program established under subsection (c).

(c) TRAINING PROGRAM.—The Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, the Administrator of the Environmental Protection Agency, and the heads of appropriate State transportation and food safety agencies, shall develop and carry out a training program for inspectors to conduct vigorous enforcement of this Act and regulations issued under this Act or compatible State laws and regulations. As part of such training program, the inspectors, including State inspectors or personnel paid with funds under the motor carrier safety assistance program, shall be trained in the recognition of adulteration problems associated with the transportation of food, food additives, drugs, devices, and cosmetics and in the procedures for securing the assistance of the appropriate Federal and State agencies to support such enforcement.

SEC. 10. POWERS AND DUTIES OF THE SECRETARY.

49 USC app. 2809.

The Secretary shall have the same powers, duties, and authorities under this Act with respect to transportation regulated under this Act as the Secretary has under section 109 (other than subsections (c)(1), (d), and (e) of such section) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) with respect to transportation regulated under such Act.

SEC. 11. VIOLATIONS, PENALTIES, AND SPECIFIC RELIEF.

49 USC app. 2810.

(a) VIOLATIONS, PENALTIES.—Civil and criminal violations of regulations or orders issued under this Act shall be determined, and civil and criminal penalties for such violations shall be imposed, in the same manner and to the same extent that violations are determined and penalties are imposed under section 110 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1809).

(b) EQUITABLE RELIEF.—The Secretary shall request equitable relief and take action to eliminate or ameliorate an imminent hazard with respect to any violation of regulations issued under this

Act, or of an order issued under this Act, in the same manner and to the same extent that the Secretary is authorized to take under section 111 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1810).

Indians.
49 USC app. 2811.

SEC. 12. RELATIONSHIP TO OTHER LAWS.

The provisions of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) relating to the relationship of that Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe shall apply with respect to the relationship of this Act to a law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or of an Indian tribe which concerns a subject covered under this Act.

49 USC app. 2812.

SEC. 13. COORDINATION PROCEDURES.

Not later than 1 year after the date of enactment of this Act, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and agencies of the States with regulatory authority over motor carrier safety and railroad safety with respect to implementation and enforcement of this Act.

Effective dates.
49 USC app. 2801 note.

SEC. 14. APPLICABILITY.

This Act shall take effect on the date of enactment of this Act, except that sections 11 and 12 shall only apply to transportation occurring on or after the date that regulations issued under section 4(a)(1) take effect.

Motor Carrier Safety Act of 1990.
49 USC app. 2501 note.

SEC. 15. MOTOR CARRIER SAFETY.

(a) SHORT TITLE.—This section may be cited as the "Motor Carrier Safety Act of 1990".

(b) MOTOR CARRIER SAFETY RATINGS.—

(1) AMENDMENT.—The Hazardous Materials Transportation Act (49 U.S.C. App. 1801 et seq.) is amended by adding at the end the following new section:

49 USC app. 1814.

"SEC. 117. UNSATISFACTORY SAFETY RATINGS.

"(a) PROHIBITION ON TRANSPORTATION.—Effective January 1, 1991, if a motor carrier receives a safety rating from the Secretary which is unsatisfactory, such motor carrier shall have 45 days to take such action as may be necessary to improve such safety rating to conditional or satisfactory. After the last day of such 45-day period, if such motor carrier has not received a safety rating from the Secretary which is conditional or satisfactory, such motor carrier shall not operate a commercial motor vehicle (as defined in section 204(1) of the Motor Carrier Safety Act of 1984)—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver,

until such motor carrier has received such a safety rating from the Secretary.

"(b) REVIEW OF RATING.—If a motor carrier who has received an unsatisfactory safety rating from the Secretary requests the Secretary to review the conditions and other factors which resulted in such motor carrier receiving the unsatisfactory safety rating, the

Secretary shall conduct such review within 30 days after the date of such request.

"(c) PROHIBITION ON FEDERAL AGENCY USE.—No Federal agency may use a motor carrier who has an unsatisfactory safety rating from the Secretary—

"(1) to provide transportation of hazardous materials for which placarding of motor vehicles is required in accordance with the regulations issued under this title, or

"(2) to transport more than 15 passengers, including the driver.".

(2) PUBLIC AVAILABILITY OF SAFETY RATINGS.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Interstate Commerce Commission, shall issue a final rule amending the Federal motor carrier safety regulations contained in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to periodically update, the safety ratings of motor carriers which have been assigned unsatisfactory safety ratings by the Secretary. Regulations.

(c) IMMINENT HAZARDS TO SAFETY.—Not later than January 1 of 1992 and 1993, the Secretary shall submit to Congress a report describing the actions taken under section 521(b)(5) of title 49, United States Code, with respect to any violation, or combination of violations, that poses an imminent hazard to safety. Reports.

(d) PROCEDURES TO ENSURE TIMELY CORRECTION OF SAFETY VIOLATIONS.—

(1) ISSUANCE OF FINAL RULE.—The Secretary shall, within 9 months after the date of enactment of this Act, issue a final rule establishing procedures to ensure the proper and timely correction of commercial motor vehicle safety violations noted during inspections funded with moneys authorized under section 404 of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2304) to carry out the motor carrier safety assistance program.

(2) VERIFICATION PROGRAM.—Such final rule shall establish a verification program for Federal inspectors and States which are participating in the motor carrier safety assistance program to ensure that commercial motor vehicles and operators thereof found in violation of safety requirements have subsequently been brought into compliance with such safety requirements. The final rule shall, among other things, institute—

(A) a nationwide system for random reinspection of the commercial motor vehicles and operators thereof that have been declared out-of-service as a result of such safety violations, the main purpose of which system shall be to verify that the violations have been corrected on a timely basis;

(B) a program of accountability for correcting all safety violations, which shall provide that—

(i) the operator of a commercial motor vehicle for which a safety violation has been noted shall be issued a form prescribed by the Secretary;

(ii) the making of the repairs necessary to correct such violation and the date, location, and time of such repairs shall be certified on such form by the person making such repairs;

(iii) the motor carrier responsible for such commercial motor vehicle or operator shall certify on such

form that, based on the knowledge of the carrier, the repairs necessary to correct such violation have been made; and

(iv) appropriate State penalties shall be assessed for false statements on such forms or for failure to return such forms to the appropriate State entity; and

(C) a system for ensuring that appropriate State penalties are assessed for failure to correct any such safety violation.

(e) SERIOUS SAFETY VIOLATIONS.—

(1) FINDINGS.—Congress finds that—

(A) the present system for ensuring compliance with Federal motor carrier safety laws and regulations needs improvement;

(B) relying primarily upon voluntary compliance methods has not resulted in an acceptable level of commercial motor vehicle safety; and

(C) improvements in the existing enforcement authorities are required to bring about greater safety.

(2) OPERATIONAL PROCEDURES.—In light of the findings in paragraph (1), section 521(b)(1) of title 49, United States Code, is amended—

(A) by redesignating the existing text as subparagraph (A); and

(B) by adding at the end the following new subparagraph:

Records. "(B) The Secretary shall, not later than 60 days after the date of enactment of this subparagraph, establish operational procedures to require a highway safety specialist or other appropriate representative of the Secretary to initiate, at the time of a safety review, compliance review, or other inspection or audit activity, or within a reasonable time thereafter, an enforcement action whenever any of the offenses referred to in paragraph (2) (A) and (B) can be documented, except recordkeeping violations not specified by the Secretary as serious. The procedures shall—

"(i) specify those serious recordkeeping violations for which an enforcement action shall be initiated, including instances in which the falsification of records of duty status or drivers' medical certificates is required or permitted, and such other recordkeeping violations as the Secretary determines to be serious; and

"(ii) authorize, but not require, initiation of an enforcement action for recordkeeping violations not specified by the Secretary as serious.".

(f) TRUCK VISIBILITY.—

(1) INITIATION OF RULEMAKING PROCEEDING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall initiate a rulemaking proceeding on the need to adopt methods for making trucks or any category of trucks more visible to motorists so as to reduce accidents, particularly at night, taking into consideration such factors as truck illumination and truck color.

(2) COMPLETION OF PROCEEDING.—The proceeding under this subsection shall be completed not later than 2 years after the date of enactment of this Act or, if the Secretary determines that it is not feasible to complete the proceeding within such 2-year period, such proceeding may be extended by the Secretary for up to 1 additional year.

(g) DEFINITIONS.—As used in this section—

(1) COMMERCIAL MOTOR VEHICLE.—The term "commercial motor vehicle" has the meaning given such term in section 204(1) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1)).

(2) TRUCK.—The term "truck" means a commercial motor vehicle that meets the description set forth in section 204(1) (A) or (C) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2503(1) (A) or (C)).

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 3386 (S. 2393):

HOUSE REPORTS: No. 101-390 Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-332 accompanying S. 2393 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 27, considered and passed House.
Sept. 20, considered and passed Senate, amended, in lieu of S. 2393.
Oct. 15, House concurred in Senate amendment with amendments.
Oct. 19, Senate concurred in House amendments.

Public Law 101-501
101st Congress

An Act

Nov. 3, 1990
[H.R. 4151]

To authorize appropriations for fiscal years 1991 through 1994 to carry out the Head Start Act, the Follow Through Act, and the Community Services Block Grant Act; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Augustus F. Hawkins Human Services Reauthorization Act of 1990.
Education.
Infants and children.
Intergovernmental relations.
42 USC 9801 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins Human Services Reauthorization Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Section 1. Short title; table of contents.

TITLE I—HEAD START

Subtitle A—Amendments to the Head Start Act

Sec. 101. Short title.
Sec. 102. Statement of purpose and policy.
Sec. 103. Authorization of appropriations.
Sec. 104. Reservation of funds.
Sec. 105. Guidelines for local service delivery models; maintenance of current services.
Sec. 106. Comprehensive Head Start report.
Sec. 107. Conditions on renewed funding of grantees.
Sec. 108. Designation of Head Start agencies.
Sec. 109. Powers and functions of Head Start agencies.
Sec. 110. Technical amendments.
Sec. 111. Administrative costs.
Sec. 112. Neutrality.
Sec. 113. Participation in Head Start programs.
Sec. 114. Authority of Secretary.
Sec. 115. Notice and hearing.
Sec. 116. Staff qualifications.
Sec. 117. Requirements applicable to the Secretary.
Sec. 118. Cooperative research.
Sec. 119. Report on status of children.
Sec. 120. Study of Head Start participants.
Sec. 121. Poverty line.
Sec. 122. Comparability of wages.
Sec. 123. Extended Head Start services.

Subtitle B—Head Start Transition Project

Sec. 131. Short title.
Sec. 132. Definitions.
Sec. 133. Head Start transition grants.
Sec. 134. Eligibility.
Sec. 135. Requirements.
Sec. 136. Application.
Sec. 137. Evaluation and report.
Sec. 138. Payments; Federal share.
Sec. 139. Coordination with Follow Through.
Sec. 140. Availability of funds.

TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

Sec. 201. Technical amendments.
Sec. 202. Financial assistance for Follow Through programs.
Sec. 203. Applications and funding.
Sec. 204. Program improvement.

Sec. 205. Research and evaluation contracts.
Sec. 206. Evaluation.
Sec. 207. General and administrative provisions.
Sec. 208. Participation in other educational activities.
Sec. 209. Technical amendment.

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

Sec. 301. Amendments to the State Dependent Care Development Grants Act.
Sec. 302. Waiver of existing percentage setaside of allotments.
Sec. 303. Operation costs of after school care programs authorized.
Sec. 304. Report by grant recipients.
Sec. 305. Technical amendments.

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

Sec. 401. Authorization of appropriations.
Sec. 402. Eligible entities.
Sec. 403. State allocations.
Sec. 404. Applications and requirements.
Sec. 405. Discretionary authority of Secretary.
Sec. 406. Community food and nutrition.
Sec. 407. Annual report.
Sec. 408. Technical amendment.

TITLE V—AMENDMENTS TO THE CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

Sec. 501. Adequacy of scholarships.
Sec. 502. Definitions.
Sec. 503. Authorization of appropriations.

TITLE VI—AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR

Sec. 601. Programs for special populations.
Sec. 602. Authorization of appropriations.

TITLE VII—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

Sec. 701. Forward funding of LIHEAP.
Sec. 702. Reauthorization.
Sec. 703. State allotments.
Sec. 704. Application.
Sec. 705. Authority to use funds for weatherization.
Sec. 706. Authority to carry funds over.
Sec. 707. Leveraging incentive program.
Sec. 708. Withholding of funds.

TITLE VIII—AMENDMENTS TO THE COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

Sec. 801. Authorization of appropriations.

TITLE IX—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

Sec. 901. Short title.
Sec. 902. Findings.
Sec. 903. Definitions.

Subtitle A—Establishment of Administration and Awarding of Grants for Programs

CHAPTER 1—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

Sec. 915. Establishment of the Administration on Children, Youth, and Families.
Sec. 916. Functions of the Commissioner.
Sec. 917. Federal agency consultations.
Sec. 918. Federal Council on Children, Youth, and Families.
Sec. 919. Administration.

CHAPTER 2—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES

Sec. 925. Purpose.
Sec. 926. Definitions.
Sec. 927. Establishment of programs.
Sec. 928. Administration.
Sec. 929. State plan.
Sec. 930. Independent State body.
Sec. 931. State coordination of services.
Sec. 932. Supportive services.
Sec. 933. Family resource and support program grants.
Sec. 934. Authorization of appropriation and allotment.

CHAPTER 3—NATIONAL CLEARINGHOUSE

Sec. 955. Short title.
Sec. 956. Findings and purpose.
Sec. 957. Definition.
Sec. 958. Establishment of National Center on Family Resource and Support Programs.
Sec. 959. Evaluation.
Sec. 960. Authorization of appropriations.

Subtitle B—White House Conference on Children, Youth, and Families

Sec. 981. Short title.
Sec. 982. Findings.
Sec. 983. Authority of the President and Secretary; final report.
Sec. 984. Conference administration.
Sec. 985. Conference committees.
Sec. 986. Report of the conference.
Sec. 987. Definitions.
Sec. 988. Authorization of appropriations.

TITLE X—EFFECTIVE DATES

Sec. 1001. Effective dates.

TITLE I—HEAD START

Subtitle A—Amendments to the Head Start Act

Head Start Expansion and Quality Improvement Act.
42 USC 9801 note.

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "Head Start Expansion and Quality Improvement Act".

SEC. 102. STATEMENT OF PURPOSE AND POLICY.

Section 636(b) of the Head Start Act (42 U.S.C. 9831(b)) is amended by inserting ", non-English language background," after "migrant".

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by striking "$1,198,000,000" and all that follows through "1989, and", and

(2) by inserting after "1990" the following: ", $2,386,000,000 for fiscal year 1991, $4,273,000,000 for fiscal year 1992, $5,924,000,000 for fiscal year 1993, and $7,660,000,000 for fiscal year 1994".

SEC. 104. RESERVATION OF FUNDS.

(a) RESERVATION OF FUNDS.—Section 640(a) of the Head Start Act (42 U.S.C. 9835(a)) is amended—

(1) in paragraph (1) by striking "and (3)" and inserting "through (5)",

(2) in paragraph (2)—

(A) in subparagraph (A) by striking "children, except that there shall be made available for use by Indian" and all that follows through "1985" and inserting ", except that there shall be made available for each fiscal year for use by Indian and migrant Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian and migrant Head Start programs for fiscal year 1990",

(B) in subparagraph (B) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of",

(C) in subparagraph (C) by striking "the amount expended" and all that follows through "1982" and inserting "2 percent of the amount appropriated for any such fiscal year",

(D) by striking the penultimate sentence, and

(E) in the last sentence by inserting "or paragraph (3)" after "this paragraph",

(3) in paragraph (3) by striking "87 percent of the",

(4) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively,

(5) by inserting after paragraph (2) the following:

"(3)(A) For any fiscal year for which the amount appropriated under section 639(a) exceeds the adjusted appropriation, the Secretary shall reserve the quality improvement funds for such fiscal year, for one or more of the following quality improvement activities:

"(i)(I) Not less than one-half of the amount reserved under this subparagraph, to improve the compensation (including benefits) of staff of Head Start agencies and thereby enhance recruitment and retention of such staff. The expenditure of funds under this clause shall be subject to section 653. Wages.

"(II) If a Head Start agency certifies to the Secretary for such fiscal year that part of the funds set aside under subclause (I) to improve wages cannot be expended by such agency to improve wages because of the operation of section 653, then such agency may expend such part for any of the uses specified in the subparagraph (other than wages).

"(ii) To pay transportation costs incurred by Head Start agencies to enable eligible children to participate in a Head Start program.

"(iii) To employ additional Head Start staff, including staff necessary to reduce the child-staff ratio and staff necessary to coordinate a Head Start program with other services available to children participating in such program and to their families.

"(iv) To pay costs incurred by Head Start agencies to purchase insurance (other than employee benefits) and thereby maintain or expand Head Start services.

"(v) To make nonstructural and minor structural changes, and to acquire and install equipment, for the purpose of improving facilities necessary to expand the availability, or enhance the quality, of Head Start programs.

"(vi) To supplement amounts provided under section 640(a)(2)(C) to provide training necessary to improve the qualifications of the staff of the Head Start agencies, and to support

staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.

Grant programs.

"(B)(i) Funds reserved under subparagraph (A) for the first and second fiscal years for which funds are so reserved shall be allotted by the Secretary as follows:

"(I) 80 percent of such funds shall be allotted among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective fiscal year.

"(II) 20 percent of such funds shall be allotted among the States, and used to make grants to Head Start agencies, at the discretion of the Secretary.

"(ii) Funds reserved under subparagraph (A) for any fiscal year subsequent to the second fiscal year for which funds are so reserved shall be allotted by the Secretary among the States in the same proportion as the Secretary allots funds among the States under paragraph (5) for the respective subsequent fiscal year.

"(iii) To be expended for the activities specified in subparagraph (A) in the first fiscal and second fiscal years for which funds are required by such subparagraph to be reserved, funds allotted under clause (i)(I) shall be used by the Secretary to make a grant to each Head Start agency that receives a grant from funds allotted under paragraph (5) for such fiscal year, in the amount that bears the same ratio to the amount allotted under clause (i)(I) for such fiscal year for the State in which such agency is located as the number of children participating in the Head Start program of such agency in such fiscal year bears to the number of children participating in all Head Start programs in such State in such fiscal year.

"(iv) To be expended for the activities specified in subparagraph (A) in each subsequent fiscal year for which funds are required by such subparagraph to be reserved, funds allotted under clause (ii) shall be used by the Secretary to make grants to Head Start agencies that receive grants from funds allotted under paragraph (5) for such fiscal year, in such amounts as the Secretary considers to be appropriate. The aggregate amount of grants made under this clause to Head Start agencies in a State for a fiscal year may not exceed the amount allotted under clause (ii) for such State for such fiscal year.

"(v) If a Head Start agency certifies for such fiscal year to the Secretary that it does not need any funds under subparagraph (A), or does not need part of such funds it would otherwise receive under clause (iii) or (iv), then unneeded funds shall be used by the Secretary to make grants under this subparagraph without regard to such agency.

"(vi) Funds received under this subparagraph shall be used to supplement, not to supplant, funds received under paragraphs (2), (4), and (5).

Grant programs.

"(4)(A)(i) If the amount appropriated under section 639(a) for fiscal year 1991 exceeds the adjusted appropriation, the Secretary shall reserve $30,000,000 for fiscal year 1991, to make grants to Head Start agencies to carry out early childhood intervention programs, to be known as 'Parent-Child Centers', within Head Start programs.

"(ii) The Secretary shall reserve $31,200,000 for fiscal year 1992, $32,448,000 for fiscal year 1993, and $33,745,920 for fiscal year 1994

to make grants to Head Start agencies to carry out such early childhood intervention programs.

"(B)(i) Such early childhood intervention programs shall be designed—

"(I) to enhance the development of children who are less than 3 years of age; and

"(II) to strengthen the family unit by providing opportunities for increasing the child development skills and knowledge of their parents.

Disadvantaged persons.

"(ii) Such early childhood intervention programs shall provide comprehensive services (such as social, health, and educational services) to low-income families with children who are less than 3 years of age. Such programs may provide such services to any eligible family during any period of time and may be center-based, home-based, or a combination of both.

"(C) Funds reserved under subparagraph (A) for a fiscal year shall be allotted as follows:

Indians.

"(i) For Indian and migrant early childhood intervention programs, the Secretary shall allot the amount that represents the same proportion as such programs collectively received of the funds appropriated under section 639 for fiscal year 1990.

"(ii)(I) Subject to subclause (II) and after making the allotment under clause (i), the Secretary shall allot the remainder of such funds among the States in the same proportion as funds are allotted among the States under paragraph (5), except that the amount allotted for each State shall not be less than $200,000 or the amount that represents the same proportion of the funds appropriated under section 639 for fiscal year 1990 that were allotted for such State and used to carry out early childhood intervention programs, whichever is greater.

"(II) In any fiscal year for which such remainder is insufficient to allot the minimum amount required by subclause (I), the Secretary shall reduce ratably the minimum allotment required by such subclause.

"(D) The Secretary may not make a grant under this paragraph to a Head Start agency for a fiscal year unless—

"(i) such agency certifies that carrying out the early childhood intervention program for which such grant is requested will not reduce services provided by such agency to children who participate in other programs provided by such agency under this subchapter; and

"(ii) such agency certifies that to the maximum extent practicable, it will provide continuous service to children who receive services under this paragraph through compulsory school age, either through the early childhood intervention programs authorized by this paragraph or through other Head Start programs.

"(E) For purposes of this paragraph, the term 'low-income family' means a family that satisfies the eligibility requirements applicable under section 645(a).", and

(6) in paragraph (6), as so redesignated by paragraph (4)—

(A) by inserting "the Commonwealth of" before "the Northern Mariana", and

(B) by striking "or the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau".

(b) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832) is amended—

(1) in paragraph (2) by striking "the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, Palau", and

(2) by adding at the end the following:

"(4) The term 'adjusted appropriation' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the sum of—

"(i) $35,000,000; and

"(ii) 110 percent of the amount appropriated under section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A); and

"(B) with respect to each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, the amount appropriated under section 639(a) for the preceding fiscal year adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers (issued by the Bureau of Labor Statistics) occurring in the 1-year period ending immediately before the fiscal year with respect to which a determination is made under section 640(a)(3)(A).

"(5) The term 'quality improvement funds' means—

"(A) with respect to the first fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 10 percent of the amount appropriated under section 639(a) for such fiscal year; and

"(B) with respect to each subsequent fiscal year for which funds are required by section 640(a)(3)(A) to be reserved, 25 percent of the portion of the amount appropriated under section 639(a) for such fiscal year that exceeds the adjusted appropriation for such fiscal year.".

SEC. 105. GUIDELINES FOR LOCAL SERVICE DELIVERY MODELS; MAINTENANCE OF CURRENT SERVICES.

Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(1) in subsection (d) by striking the last sentence, and

(2) by adding at the end the following:

"(f) The Secretary shall establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs.

"(g) If in any fiscal year, the amounts appropriated to carry out the program under this subchapter exceed the amount appropriated in the prior fiscal year, the Secretary shall, prior to using such additional funds to serve an increased number of children, allocate such funds in a manner that makes available the funds necessary to maintain the level of services provided during the prior year, taking into consideration the percentage change in the Consumer Price Index for all Urban Consumers, as published by the Bureau of Labor Statistics.".

SEC. 106. COMPREHENSIVE HEAD START REPORT.

The Head Start Act (42 U.S.C. 9801 et seq.) is amended by inserting after section 640 the following:

"COMPREHENSIVE REPORT

"SEC. 640A. (a) The Secretary shall prepare, through the Assistant Secretary for Planning and Evaluation, and shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate— 42 USC 9835a.

"(1) not later than July 1, 1993, an interim comprehensive report; and

"(2) not later than Janaury 1, 1994, a final comprehensive report;

in accordance with this section.

"(b) The reports required by subsection (a) shall contain—

"(1) information concerning transportation, facilities, and methods for identifying and locating eligible children in both urban and rural areas, including cost, problems encountered, and innovative solution to such problems;

"(2) a description of the effect of the 1990 Decennial Census on the allotment of funds under this subchapter;

"(3) a description of the extent to which Head Start programs coordinate their respective activities with other programs serving young children, including local educational agencies;

"(4) separate descriptions of how this subchapter is administered by the headquarters of the Department of Health and Human Services and by its regional offices, including an analysis of the negotiations that occur between such regional offices and applicants for grants under this subchapter;

"(5) summaries of evaluations and studies of Head Start programs, conducted during the period covered by such report;

"(6) a description of the impact of expending funds under section 640(a)(3) on staff qualifications, staff wages, and staff turnover of Head Start agencies; and

"(7) information concerning the parents of children participating in programs receiving Head Start funding, including the—

"(i) employment status of such parents (including any change that occurred while the child was enrolled in Head Start);

"(ii) education level of such parents;

"(iii) the training or education that such parents received while their children were enrolled in Head Start programs; and

"(iv) the impact of parents' schedules on their ability to access Head Start services and participate in the program.

"(c) The Secretary shall meet periodically with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate to inform the committees of the progress made in preparing the reports required by subsection (a).".

SEC. 107. CONDITIONS ON RENEWED FUNDING OF GRANTEES.

(a) IN GENERAL.—Section 641(c) of the Head Start Act (42 U.S.C. 9836(c)) is amended—

(1) by redesignating paragraph (1) as subparagraph (A),

(2) by inserting "(1)" after "(c)", and

(3) by striking paragraph (2) and the matter following such paragraph and inserting the following:

"(B) except that, if there is no agency of the type referred to in subparagraph (A) because of any change in the assistance furnished to programs for economically disadvantaged persons, the Secretary shall give priority in the designation of Head Start agencies to any successor agency that is operating a Head Start program in substantially the same manner as the predecessor agency that did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

"(2) The Secretary shall conduct a full review of each designated Head Start agency at least once during each 3-year period, and shall determine whether each agency meets program and fiscal requirements established by the Secretary.

"(3) In carrying out a review of each Head Start agency under paragraph (2), the Secretary shall—

"(A) to the maximum extent practicable, carry out such review by using employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

"(B) ensure that an employee of the Department of Health and Human Services who is knowledgeable about Head Start programs supervises such review at the site of such agency;

"(C) measure the compliance of the programs of such agency with the performance standards in effect under section 651(b); and

"(D) identify the types and conditions of facilities in which such programs are located.

"(4) The results of a review conducted under this subsection shall not be sufficient alone for the purpose of determining whether to continue, or to discontinue, providing funds to a particular Head Start agency.".

SEC. 108. DESIGNATION OF HEAD START AGENCIES.

Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended by adding at the end the following: "In selecting from among qualified applicants for designation as a Head Start agency and subject to the preceding sentence, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

"(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

"(2) the plan of such applicant to provide comprehensive health, nutritional, educational, social, and other services needed to aid participating children in attaining their full potential;

"(3) the plan of such applicant to coordinate the Head Start program it proposes to carry out, with other preschool programs and with the educational programs such children will enter at the age of compulsory school attendance;

"(4) the plan of such applicant to involve parents of children who will participate in the proposed Head Start program in appropriate educational services (in accordance with the performance standards in effect under section 651(b) or through referral of such parents to educational services available in the

community) in order to aid their children to attain their full potential;

"(5) the ability of such applicant to carry out the plans described in paragraphs (2), (3), and (4);

"(6) other factors related to the requirements of this subchapter; and

"(7) the plan of such applicant to meet the needs of non-English language children in the community.".

SEC. 109. POWERS AND FUNCTIONS OF HEAD START AGENCIES.

Section 642 of the Head Start Act (42 U.S.C. 9837) is amended—

(1) in subsection (b) by striking "and (4)" and inserting the following: "(4) involve parents of children participating in its Head Start program in appropriate educational services (in accordance with the performance standards in effect upon section 651(b) or through referral of such parents to educational services available in the community) in order to aid their children to attain their full potential; and (5)", and

(2) in subsection (c) by striking "with other State" and all that follows through the end and inserting "with schools that will subsequently serve children in Head Start programs, the State agency responsible for administering section 402(g) of the Social Security Act, and other programs serving the children and families served by the Head Start agency to carry out the provisions of this subtitle.".

SEC. 110. TECHNICAL AMENDMENTS.

Section 643 of the Head Start Act (42 U.S.C. 9838) is amended—

(1) by striking "Governor" the first place it appears and inserting "chief executive officer", and

(2) by striking "Governor" the second and third places it appears and inserting "such officer".

SEC. 111. ADMINISTRATIVE COSTS.

The first sentence of section 644(b) of the Head Start Act (42 U.S.C. 9839(b)) is amended by inserting "the required" after "including".

SEC. 112. NEUTRALITY.

Section 644 of the Head Start Act (42 U.S.C. 9839) is amended by adding at the end the following:

"(e) Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.".

SEC. 113. PARTICIPATION IN HEAD START PROGRAMS.

The last sentence of section 645(a)(2) of the Head Start Act (42 U.S.C. 9840(a)(2)) is amended by striking "1990" and inserting "1994".

SEC. 114. AUTHORITY OF SECRETARY.

Section 645(c) of the Head Start Act (42 U.S.C. 9840(c)) is amended by adding at the end the following: "The Secretary may not issue or enforce any rule (as defined in section 551(4) of title 5 of the United States Code) or guideline that forbids any Head Start agency to carry out a Head Start program in accordance with the authority described in the preceding sentence.".

SEC. 115. NOTICE AND HEARING.

Section 646 of the Head Start Act (42 U.S.C. 9841) is amended—

(1) by inserting "(a)" after "SEC. 646.",

(2) in paragraph (3) by inserting "or reduced" after "terminated", and

(3) by adding at the end the following:

"(b) The Secretary may not prescribe any procedure that would modify the operation of section 1303.21 or 1303.33, or any of subdivisions (a) through (f) of section 1303.35, of title 45 of the Code of Federal Regulations as in effect on April 1, 1990.".

SEC. 116. STAFF QUALIFICATIONS.

(a) IN GENERAL.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) by striking the section heading and inserting the following:

"TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS",

(2) by inserting "(a)" before "The Secretary shall",

(3) by inserting "training for personnel providing services to non-English language background children," after "such personnel,", and

(4) by adding at the end the following:

"(b)(1) The Secretary shall ensure that not later than September 30, 1994, each Head Start classroom in a center-based program is assigned one teacher who has—

"(A) a child development associate (CDA) credential that is appropriate to the age of the children being served in center-based programs;

"(B) a State awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential;

"(C) an associate, baccalaureate, or advanced degree in early childhood education; or

"(D) a degree in a field related to early childhood education with experience in teaching preschool children and a State awarded certificate to teach in a preschool program.

"(2) On request, the Secretary shall grant a 180-day waiver of the applicability of paragraph (1) with respect to an individual who—

"(A) is first employed after September 30, 1994, by a Head Start agency as a teacher for a Head Start classroom;

"(B) is enrolled in a program that grants a child development credential (CDA); and

"(C) will receive such credential under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

The Secretary may not grant more than one such waiver with respect to such individual.".

(b) DEFINITION.—Section 637 of such Act (42 U.S.C. 9832), as amended by section 104(b), is amended by adding at the end the following:

"(6) The term 'Head Start classroom' means a group of children supervised and taught by two paid staff members (a teacher and a teacher's aide or two teachers) and, where possible, a volunteer.".

SEC. 117. REQUIREMENTS APPLICABLE TO THE SECRETARY.

(a) IN GENERAL.—Section 649 of the Head Start Act (42 U.S.C. 9844) is amended—

(1) in the section heading by striking "AND PILOT PROJECTS" and inserting "PILOT PROJECTS, STUDIES, AND REPORTS", and

(2) by adding at the end the following:

"(d) Subject to subsections (a) through (c), the Secretary shall conduct, through grants or contracts made or entered into with qualified persons, a study of various approaches to providing early, continuous, and comprehensive intervention to low-income or at-risk children from birth to age 3 and to the families of such children. Such study shall describe and assess a variety of approaches to providing such services, including— Grant programs. Government contracts.

"(1) programs funded under the Comprehensive Child Development Act; and

"(2) Parent-Child Centers, home-based Head Start programs, Head Start family day care, and center-based Head Start (including migrant and nonmigrant programs), that are in compliance with the performance standards under section 651(b).

Such study shall assess such approaches based on their appropriateness for specific populations of children, including those from dysfunctional families, children of substance abusers, and children who experience chronic violence in their communities.

"(e) The Secretary shall conduct, through grants or contracts made or entered into with qualified persons, a study of Head Start family day care that is in compliance with the performance standards under section 651(b). Such study shall consider the effectiveness of providing Head Start services in a family day care setting and assess the program characteristics that are necessary to ensure the programs are effective. Grant programs. Government contracts.

"(f) Not later than October 1, 1993, the Secretary shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report summarizing the results of the studies conducted under subsections (d) and (e).". Reports.

(b) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by sections 104(b) and 116(b), is amended by adding at the end the following:

"(7) The term 'Head Start family day care' means Head Start services provided in a private residence other than the residence of the child receiving such services.

"(8) The term 'home-based Head Start program' means a Head Start program that provides Head Start services in the private residence of the child receiving such services.".

(c) CONFORMING AMENDMENTS.—Section 650 of the Head Start Act (42 U.S.C. 9845) is amended—

(1) by striking the section heading and inserting the following:

"ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, PILOT PROJECTS, STUDIES, AND REPORT CONTRACTS",

(2) in subsection (a)(1) by striking "or pilot project" and inserting "pilot project, study, or report", and

(3) in subsection (c) by inserting "reports," after "studies,".

SEC. 118. COOPERATIVE RESEARCH.

Section 651(c)(2) of the Head Start Act (42 U.S.C. 9846(c)(2)) is amended by adding at the end the following: "The Secretary is encouraged to provide funds for community-based cooperative research efforts to enable Head Start directors to conduct evaluations of their programs with the assistance of qualified researchers not directly involved in the administration of the program or project operation.".

SEC. 119. REPORT ON STATUS OF CHILDREN.

Section 651 of the Head Start Act (42 U.S.C. 9846) is amended by adding at the end the following:

"(g)(1) At least once during every 2-year period, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the status of children (including disabled and non-English language background children) in Head Start programs, including the number of children and the services being provided to such children. Such report shall include—

"(1) a statement for the then most recently concluded fiscal year specifying—

"(A) the amount of funds received by Head Start agencies designated under section 641 to provide Head Start services in a period before such fiscal year; and

"(B) the amount of funds received by Head Start agencies newly designated under section 641 to provide such services in such fiscal year;

"(2) a description of the distribution of Head Start services relative to the distribution of children who are eligible to participate in Head Start programs, including geographic distribution within States;

"(3) a statement identifying how funds expended under section 640(a)(2), and funds allotted under section 640(a)(3), were distributed and used at national, regional, and local levels;

"(4) a statement specifying the amount of funds provided by the State, and by local sources, to carry out Head Start programs;

"(5) cost per child and how such cost varies by region;

"(6) a description of the level and nature of participation of parents in Head Start programs as volunteers and in other capacities;

"(7) information concerning Head Start staff, including salaries, education, training, experience, and staff turnover;

"(8) information concerning children participating in programs that receive Head Start funding, including information on family income, racial and ethnic background, disability, and receipt of benefits under part A of title IV of the Social Security Act;

"(9) the use and source of funds to extend Head Start services to operate full-day and year round;

"(10) using data from the evaluations conducted under section 641(c)(2)—

"(A) a description of the extent to which programs funded under this subchapter comply with performance standards and regulations in effect under this subchapter;

"(B) a description of the types and condition of facilities in which such programs are located;

"(C) the types of organizations that receive Head Start funds under such programs; and

"(D) the number of children served under each program option;

"(11) the information contained in the documents entitled 'Program Information Report' and 'Head Start Cost Analyses System' (or any document similar to either), prepared with respect to Head Start programs; and

"(12) a description of the types of services provided to children and their families, both on-site and through referrals, including health, mental health, dental care, parenting education, physicial fitness, and literacy training.

Promptly after submitting such report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall publish in the Federal Register a notice indicating that such report is available to the public and specifying how such report may be obtained.".

Federal Register, publication. Public information.

SEC. 120. STUDY OF HEAD START PARTICIPANTS.

(a) LONGITUDINAL STUDY REQUIRED.—The Head Start Act is amended by inserting after section 651 (42 U.S.C. 9846) the following:

"SEC. 651A. LONGITUDINAL STUDY OF HEAD START PARTICIPANTS.

42 USC 9846a.

"(a) IN GENERAL.—The Secretary shall conduct, through grants or contracts made or entered into with persons that have the qualifications specified in paragraphs (1) and (2) of subsection (b), a longitudinal study of the effects that the participation in Head Start programs has on the development of participants and their families and the manner in which such effects are achieved.

Grant programs. Government contracts.

"(b) ADVISORY PANEL.—In carrying out the study required by subsection (a), the Secretary shall establish an advisory panel to provide advice and guidance to the Secretary, and to the individuals who carry out such study, concerning the design and execution of such study. Such panel shall be composed of—

"(1) individuals who have—

"(A) expertise in the current operation of Head Start programs;

"(B) professional backgrounds in child development and related fields; and

"(C) experience in the evaluation of Head Start programs or comparable programs; and

"(2) individuals who have expertise in designing and executing large-scale longitudinal studies.

"(c) CHILDREN AND FAMILIES TO BE STUDIED.—The study required by subsection (a) shall follow the progress of children and their families—

"(1) who have attended Head Start programs (including Parent-Child Centers) that are in compliance with Head Start Performance Objectives;

"(2) who represent specific subpopulations, including children from dysfunctional families; and

"(3) who have attended Head Start programs that represent the various program options and that are located in both urban and rural areas.

"(d) SUBCONTRACTING.—Persons selected to conduct the study required by subsection (a) may subcontract elements of the study to other persons with the approval of the Secretary. Such study may be carried out through a series of several small studies focused on specific program options and subpopulations.

"(e) FOCUS.—The study required under subsection (a) shall consider the degree to which social, physical, and academic development, including grade retention, motivation to achieve, special education placement, health (including long- and short-term health), secondary school graduation, delinquency, substance abuse, teenage pregnancy, literacy, college attendance, employment, and welfare participation of children and the parenting skills, employment, literacy, education level, motivation to achieve, and welfare participation of parents are affected by—

"(1) the program options selected by the Head Start program;

"(2) the number and configuration of hours, days, and years the child participates in Head Start;

"(3) the Head Start program quality, including training and experience of Head Start teachers and teacher aides, staff to child ratios, and group size;

"(4) the level of parental involvement in the Head Start program;

"(5) the supportive services provided to children and their parents through the Head Start program;

"(6) the Head Start curriculum;

"(7) the characteristics of a subsequent schooling of the child and family characteristics and behaviors that affect social, physical, health (including long- and short-term health), and academic development as such children move through the primary grades; and

"(8) other factors identified by the advisory panel, including the variables that sustain gains as such children move through the primary grades.

"(f) COMPARISION.—To the maximum extent feasible, the study required under subsection (a) shall provide for comparisons with appropriate groups composed of individuals who do not participate in Head Start programs.

"(g) COORDINATION.—The study required under subsection (a) shall be coordinated with the National Longitudinal Study conducted under chapter 1 that is administered by the Department of Education.

"(h) INTERIM REPORT.—Not later than January 1, 1994, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, an interim report concerning the design and progress of the study conducted under this section, including interim results of such study.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 639 of the Head Start Act (42 U.S.C. 9834) is amended—

(1) by inserting "(a)" after "SEC. 639.",

(2) by inserting "(other than section 651A)" after "subchapter", and

(3) by adding at the end the following:

"(b) There are authorized to be appropriated to carry out section 651A, such sums as may be necessary for fiscal years 1991 through 1996.". Appropriation authorization.

SEC. 121. POVERTY LINE.

(a) ISSUANCE OF POVERTY LINE.—Subsection (a) of section 652 of the Head Start Act (42 U.S.C. 9847(a)) is amended to read as follows:

"(a) The Secretary shall issue annually (or at any shorter interval the Secretary considers to be feasible and desirable) a poverty line which, except as provided in section 645, shall be used as a criterion of eligibility for participation in Head Start programs.".

(b) DEFINITION.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by sections 104(b), 116(b), and 117(b), is amended by adding at the end the following:

"(9) The term 'poverty line' means—

"(A) the official poverty line (as defined by the Office of Management and Budget) adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; or

"(B) the poverty line (including any revision thereof) applicable to this subchapter for fiscal year 1990, adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the period beginning October 1, 1989, and ending immediately before the date such adjustment is made;

whichever is greater.".

(c) TECHNICAL AMENDMENTS.—Section 652 of the Head Start Act (42 U.S.C. 9847) is amended—

(1) by striking subsection (b), and

(2) in subsection (c) by striking "(c) Revisions required by subsection (a) shall be made and issued" and inserting "(b) The poverty line shall be determined by the Secretary".

SEC. 122. COMPARABILITY OF WAGES.

Section 653 of the Head Start Act (42 U.S.C. 9848) is amended by adding at the end the following: "The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.".

SEC. 123. EXTENDED HEAD START SERVICES.

(a) DEFINITIONS.—Section 637 of the Head Start Act (42 U.S.C. 9832), as amended by sections 104(b), 116(b), 117(b), and 121(b), is amended by adding at the end the following:

"(10) The term 'full calendar year' means all days of the year other than Saturday, Sunday, and a legal public holiday.

"(11) The term 'full-working-day' means not less than 10 hours per day.".

(b) EXTENDED HEAD START SERVICES.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(h) Each Head Start program may provide full-working-day Head Start services to any eligible child throughout the full calendar year.".

Head Start Transition Project Act.
42 USC 9801 note.

Subtitle B—Head Start Transition Project

SEC. 131. SHORT TITLE.

This subtitle may be cited as the "Head Start Transition Project Act".

42 USC 9855.

SEC. 132. DEFINITIONS.

As used in this subtitle:

(1) DEVELOPMENTALLY APPROPRIATE CURRICULUM.—The term "developmentally appropriate curriculum" means a curriculum that is appropriate for the child's age and all areas of the individual child's development, including educational, physical, emotional, social, cognitive, and communication.

(2) FAMILY SERVICES COORDINATOR.—The term "family services coordinator" means an individual who is trained to assist families in obtaining supportive services. Such individual may be an existing employee of the local educational agency or Head Start agency.

(3) HEAD START AGENCY.—The term "Head Start agency" means any agency designated as a Head Start agency under the Head Start Act.

(4) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Department of Health and Human Services.

(6) SUPPORTIVE SERVICE.—The term "supportive service" means service that will enhance the physical, social, emotional, and intellectual development of low-income children, including providing necessary support to the parents of such children and other family members.

42 USC 9855a.

SEC. 133. HEAD START TRANSITION GRANTS.

(a) IN GENERAL.—With funds made available under section 639(c) of the Head Start Act to carry out this subtitle, the Secretary may make demonstration grants to Head Start agencies and local educational agencies to develop and operate programs that assist low-income elementary school students grades kindergarten through 3 (giving priority to students entering their first year of elementary school) and their families in—

(1) obtaining supportive services that build on the strength of families, including health, immunization, mental health, nutrition, parenting education, literacy, and social services (including substance abuse treatment, education, and prevention services); and

(2) supporting the active involvement of parents in the education of their children.

(b) TERM OF GRANT.—Each grant awarded under this subtitle shall be for a period of 3 years and shall be not less than $200,000.

42 USC 9855b.

SEC. 134. ELIGIBILITY.

(a) HEAD START AGENCY.—A Head Start agency shall be eligible for a grant under this subtitle if such Head Start agency has formed a consortium with one or more local educational agencies that received funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and that serves children who have been served by such Head Start agency.

(b) LOCAL EDUCATIONAL AGENCY.—A local educational agency shall be eligible for a grant under this subtitle if such agency receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and has formed a consortium with one or more Head Start agencies serving children who will enroll in any elementary school located within the school district of such local educational agency.

(c) COOPERATING AGENCY.—A nonprofit agency or institution of higher education with experience in child development may participate in any consortium formed under subsection (a) or (b) in developing, operating, and evaluating programs assisted under this subtitle.

(d) FOLLOW THROUGH GRANTEES.—A local educational agency that is receiving assistance through a program under the Follow Through Act shall also be eligible for a grant under this subtitle if such agency meets the requirements of subsection (b).

SEC. 135. REQUIREMENTS.

Grant programs. Rural areas. Urban areas. 42 USC 9855c.

(a) IN GENERAL.—The Secretary shall award grants under this subtitle to Head Start agencies and local educational agencies in both rural and urban areas.

(b) SPECIAL RULE.—The Secretary shall award at least one grant to one eligible applicant in each State before the Secretary may award a second grant within any one State.

(c) CONSIDERATION.—In awarding grants under this subtitle, the Secretary shall consider—

(1) the commitment of the Head Start agency and local educational agency to the program for which assistance under this subtitle is requested;

(2) the quality of the Head Start program operated by a Head Start agency desiring financial assistance under this subtitle, as measured by compliance with Head Start program performance standards;

(3) the proportion of low-income children in the school attendance area where the program assisted under this subtitle will be located;

(4) the suitability of the proposed program for replication in other locations;

(5) the quality of information and plans in the application; and

(6) the commitment of the community to the proposed program, as evidenced by additional resources, in cash and in kind, available to the applicant to support the program.

(d) PRIORITY.—The Secretary shall give priority to applicants that will operate a program under this subtitle at a school designated for a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965.

SEC. 136. APPLICATION.

42 USC 9855d.

(a) IN GENERAL.—Each Head Start agency or local educational agency desiring a grant under this subtitle shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(1) a description of the activities and services for which assistance is sought;

(2) a description of members of the consortium established in accordance with section 134, including any cooperating agency;

(3) a self-assessment of the Head Start agency's and local educational agency's programs to address the health, immuniza-

tion, mental health, nutrition, parenting education, literacy, social service (including substance abuse treatment, education, and prevention), and educational needs of low-income students and their families, including the use of a developmentally appropriate curriculum such as a model approach under the Follow Through Act;

(4) a plan for the development of a supportive services team of family service coordinators to—

(A) assist families, administrators and teachers to respond to health, immunization, mental health, nutrition, social service and educational needs of students;

(B) conduct home visits and help students and their families to obtain health, immunization, mental health, nutrition, parenting education, literacy, education (including tutoring and remedial services), and social services (including substance abuse treatment, education and prevention), for which such students and their families are eligible;

(C) coordinate a family outreach and support program, including a plan for involving parents in the management of the program assisted under this subtitle, in cooperation with parental involvement efforts undertaken pursuant to the Follow Through Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), and the Education of the Handicapped Act of 1975;

(D) assist families, administrators, and teachers in enhancing developmental continuity between the programs assisted under the Head Start Act and elementary school classes; and

(E) prepare a plan for the transition of each child from Head Start or comparable programs to kindergarten, including—

(i) a meeting of the early childhood development program teacher with the kindergarten teacher and the child's parents to discuss the transition of each child and to address any particular educational needs of such child; and

(ii) the transfer of knowledge about the child, including the transfer (with parental consent) of written records from the early childhood development program teacher to the kindergarten teacher to become part of the school record of the child;

(5) the designation of a member of the supportive services team described in paragraph (4) who will serve as the supervisor of such supportive services team;

(6) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency have been consulted in the preparation of the plan described in paragraph (4);

(7) assurances that State agencies, local agencies, and community-based organizations that provide supportive services to low-income students served by such Head Start agency or local educational agency will designate an individual who will act as a liaison to the supportive services team described in paragraph (4);

(8) a description of the target population to be served by the supportive services team described in paragraph (4) including

families previously served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), or comparable early childhood development programs;

(9) a description of the supportive services to be provided, directly or through referral;

(10) a plan to ensure the smooth transition of children served under the Head Start Act, part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (Even Start), Education of the Handicapped Act of 1975, and comparable early childhood development programs to elementary schools;

(11) assurances that, and a plan describing how, families will be involved in the design and operation of the program assisted under this subtitle;

(12) a description of the Federal and non-Federal resources that will be used to carry out the program;

(13) if the applicant has applied for, or is receiving, assistance through a program under the Follow Through Act—

(A) a description of the activities that will be funded under this subtitle and the activities that will be funded with assistance provided under the Follow Through Act; and

(B) a description of the manner in which activities funded under this subtitle and activities funded with assistance provided under the Follow Through Act will be coordinated within the elementary school;

(14) assurances that the supportive services team described in paragraph (4) will be equipped to assist children and families with limited English proficiency and disabilities, if appropriate;

(15) a plan describing how the program assisted under this subtitle will be sustained, with chapter 1 funding or other Federal and non-Federal funding sources, after the grant has expired;

(16) program goals; and

(17) such other information as the Secretary may reasonably require.

(b) SPECIAL RULE.—Each supportive services team developed pursuant to paragraph (4) of subsection (a) shall include at least 1 family service coordinator for every 35 children to be served.

SEC. 137. EVALUATION AND REPORT.

42 USC 9855e.

Grant programs. Government contracts.

(a) EVALUATION.—The Secretary shall, through grants, contracts or cooperative agreements, provide for the continuing evaluation of the programs assisted under this subtitle in order to determine the effectiveness of such programs in achieving stated goals, the impact of such programs on related programs, and the implications of the design and operation of such programs for the effective delivery of services.

(b) LOCAL EVALUATION AND INFORMATION.—

(1) REQUIREMENT.—Each Head Start agency or local educational agency receiving a grant under this subtitle shall carry out an evaluation of the program assisted under this subtitle in order to determine the effectiveness of the program in achieving stated goals, the impact of the program on the families served and the community, the problems encountered in the design and operation of the program and ways in which such problems were addressed, and the impact of the program on the Head Start agency and local educational agency.

(2) INFORMATION.—Each Head Start agency or local educational agency receiving a grant under this subtitle shall furnish to the Secretary any information the Secretary shall

request in order to carry out the evaluation described in subsection (a).

(c) REPORT.—Not later than September 30, 1993, the Secretary shall, prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning evaluations conducted pursuant to subsections (a) and (b), including the strengths and weaknesses in the design and operation of programs assisted under this subtitle and the effectiveness of such programs in achieving stated goals.

42 USC 9855f.

SEC. 138. PAYMENTS; FEDERAL SHARE.

Grant programs.

(a) PAYMENTS.—The Secretary shall make a grant to each Head Start agency or local educational agency having an application approved under section 136, to pay the Federal share of the cost of the activities described in the application.

(b) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share shall be 80 percent of the cost of the activities described in the approved application.

(2) NON-FEDERAL SHARE.—The non-Federal share of such cost may be in cash or in kind fairly evaluated, including planned equipment or services.

(c) SUPPLEMENTATION OF FUNDING.—

(1) IN GENERAL.—All Federal funds and funds paid as a part of the non-Federal share under this subtitle shall be used to supplement the level of State and local public funds expended for services assisted under this subtitle in the previous fiscal year.

(2) SATISFACTION OF REQUIREMENT.—The supplementation requirement of this subsection shall be satisfied with respect to a particular program if the aggregate expenditure in the program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure in the program in the previous year, excluding Federal and non-Federal funds provided under this subtitle.

42 USC 9855g.

SEC. 139. COORDINATION WITH FOLLOW THROUGH.

The Secretary shall arrange with the Secretary of Education to coordinate the programs established under this subtitle with the programs established under the Follow Through Act to enable local educational agencies to submit a single application for funding under both such programs, and shall, to the extent practicable, coordinate the promulgation of regulations that apply to such programs.

42 USC 9834.

SEC. 140. AVAILABILITY OF FUNDS.

Section 639 of the Head Start Act, as amended by section 120(b), is amended by adding at the end the following:

"(c)(1) If the amount appropriated under subsection (a) for fiscal year 1991 exceeds the adjusted appropriation, the Secretary shall make available not less than $20,000,000 to carry out the Head Start Transition Project Act.

"(2) The Secretary shall make available not less than $20,000,000 for each of the fiscal years 1992, 1993, and 1994 to carry out the Head Start Transition Project Act.".

TITLE II—AMENDMENTS TO THE FOLLOW THROUGH ACT

SEC. 201. TECHNICAL AMENDMENTS.

The Follow Through Act (42 U.S.C. 9861-9877) is amended—

(1) by inserting after section 661 the following: "PART I—DIRECT SERVICES", and

(2) in section 668— 42 USC 9867.

(A) by striking "this subchapter" each place it appears and inserting "part I", and

(B) in subsection (a) by inserting "programs and" after "participating in".

SEC. 202. FINANCIAL ASSISTANCE FOR FOLLOW THROUGH PROGRAMS.

(a) PRIORITY.—Section 662(a) of the Follow Through Act (42 U.S.C. 9861(a)) is amended by adding at the end the following: "For the purpose of making grants under this section, the Secretary shall give priority to any local educational agency that requests the grant for purposes of carrying out a Follow Through program in a school that—

"(1) is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965; and

"(2) has a high concentration of children described in the first sentence of this subsection.".

(b) PROVISION OF ASSISTANCE.—Section 662 of the Follow Through Act (42 U.S.C. 9861) is amended—

(1) in the first sentence of subsection (a) by inserting "quality pre-school" after "similar",

(2) in subsection (c)—

(A) in the first sentence by striking "this section shall provide such" and inserting "this part shall use model Follow Through approaches for which financial assistance is provided under section 664A and shall provide directly, through referral or a program established under the Head Start Transition Project Act, or by using any combination of these methods,",

(B) in the second sentence by striking "projects" and inserting "programs", and

(C) in the last sentence by striking "project" and inserting "program", and

(3) by adding at the end the following:

"(d) The Secretary may not refuse to provide financial assistance under subsection (a) to an applicant solely because such applicant proposes to carry out a Follow Through program during a period in which school is not in regular session, at more than one site, or both.

"(e)(1) In making grants under subsection (a), the Secretary shall provide sufficient funds to enable programs to meet the requirements of subsection (c).

"(2) If the aggregate amount appropriated for a fiscal year to carry out this subchapter exceeds $15,000,000, the amount of each such grant shall be not less than $200,000.

"(f) Notwithstanding subsection (c), any local educational agency that receives a grant under subsection (a) for purposes of carrying out a Follow Through program in an elementary school that—

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may use such grant to serve all children attending such school in kindergarten through grade 3.".

(c) TECHNICAL AMENDMENT.—Section 662(c) of the Follow Through Act (42 U.S.C. 9861(c)) is amended by striking "projects" and inserting "programs".

SEC. 203. APPLICATIONS AND FUNDING.

The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 663 and inserting the following:

"CONSIDERATION OF APPLICATIONS

42 USC 9862.

"SEC. 663. (a) IN GENERAL.—A grant under this part may be made only to an applicant that submits an application to the Secretary containing such information as may be required by the Secretary by rule.

"(b) CONTENTS OF APPLICATION.—Each application for a grant under this part shall—

"(1) provide that the program for which assistance is requested will be administered by or under the supervison of the applicant;

Reports.

"(2) contain an assurance that the applicant will prepare, and submit to the Secretary, regular evaluations of and reports concerning such program;

"(3) estimate the number of children who are eligible for Follow Through services in the geographical area served by such program and the approximate number to be served by such program;

"(4) describe which model Follow Through approach the applicant intends to use, and the manner in which the applicant will implement such approach;

"(5) provide evidence that the applicant has made a formal arrangement to receive technical assistance and training relative to such approach from an appropriate agency, institution, or organization that receives funds under section 664A;

"(6) provide an assurance that the instructional program, including textbooks and other materials provided by the applicant, is appropriate to the ages and developmental needs of the children to be served by such program and to the model Follow Through approach selected;

"(7) specify the manner in which the applicant will provide comprehensive services, including through agreements with public or private entities to provide, make referrals to, or coordinate the provision of such services to children and their families through the program established under subchapter B, the Head Start Transition Project Act, or another comprehensive program;

"(8) provide for direct participation of parents, as provided in section 662(c), and include a cerification that such application has been approved by a committee (established in accordance with rules issued by the Secretary) that represents parents of children who participate, and parents of children who are likely to participate, in such program;

"(9) describe how the applicant proposes to coordinate services under this part with services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Bilingual Education Act, and the Education of the Handicapped Act of 1975;

"(10) demonstrate that—

"(A) the applicant has entered into a formal arrangement with local Head Start programs and other preschool programs for such cooperation and activities as are necessary to ensure an effective transition of eligible children entering the Follow Through program carried out by such applicant; and

"(B) the Follow Through activities to be provided by the applicant have been specifically designed to coordinate with, and build on, those activities provided to participants in local Head Start or other similar preschool programs;

"(11) describe the expected or, if possible, actual impact of such program on the applicant's regular school program; and

"(12) contain—

"(A) a certification that the applicant submitted such application to the State educational agency (as defined in section 1471(23) of the Elementary and Secondary Education Act of 1965) for a reasonable period for comment before submitting such application to the Secretary; and

"(B) any comments received from such agency during such period.".

SEC. 204. PROGRAM IMPROVEMENT.

(a) RESEARCH, EVALUATION, AND RELATED MATTERS.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 664 and inserting the following:

"PART II—PROGRAM IMPROVEMENT

"RESEARCH

"SEC. 664. The Secretary may provide financial assistance, through grants and contracts, to public and private nonprofit agencies, institutions, and organizations to conduct research— 42 USC 9863.

"(1) to improve Follow Through approaches;

"(2) to develop model Follow Through approaches; and

"(3) to meet the special needs of children who are eligible to participate in Follow Through programs.

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 664A. (a) The Secretary shall make grants to public and private nonprofit agencies, institutions, and organizations— Grant programs. 42 USC 9863a.

"(1) to provide technical assistance to assist in the development, implementation, and expanded use of model Follow Through approaches; and

"(2) to provide training in conjunction with the operation of Follow Through programs or other programs that adopt such approaches.

"(b)(1) Technical assistance with respect to a particular model Follow Through approach may not be provided under subsection (a)(1) in more than 5 fiscal years to a particular recipient of financial assistance under section 662(a).

"(2) In the case of a recipient of financial assistance under section 662(a) that has received technical assistance prior to the date of enactment of this part, the Secretary may limit the provision of technical assistance with respect to a particular Follow Through approach under subsection (a)(1) to 3 fiscal years.

"RESOURCE AND EXPANSION

42 USC 9863b.

"SEC. 664B. The Secretary may make grants to entities which operate, or previously operated, Follow Through programs that the Secretary finds to be effective—

"(1) to act as Follow Through resources to develop and provide information on the operation of their respective programs;

"(2) to promote the adoption of similar programs by local educational agencies; and

"(3) to assist agencies, institutions, and organizations that receive funds under section 664A, in providing technical assistance and training.

"NATIONAL CLEARINGHOUSE

Grant programs.
42 USC 9863c.

"SEC. 664C. (a) If the amount appropriated to carry out this subchapter is not less than $30,000,000, then the Secretary shall make a grant to an organization that represents entities referred to in sections 662, 664A, and 664B to establish a national clearinghouse on Follow Through programs (hereinafter in this section referred to as the clearinghouse), which shall provide information, without charge or at such reasonable cost as the Secretary may determine, to the public concerning—

"(1) programs that receive financial assistance under section 662;

"(2) model Follow Through approaches;

"(3) the kinds of technical assistance and training available under section 664A;

"(4) the procedure to obtain technical assistance and training available under section 664A; and

"(5) Follow Through research and evaluations.

"(b) The Secretary shall make available to the clearinghouse all research and evaluations that relate to Follow Through programs and for which the Secretary provides, or has ever provided, funds.

"(c)(1) The Secretary shall promote the awareness and use of model Follow Through approaches by—

"(A) providing information to recipients of grants and contracts under section 1562 of the Elementary and Secondary Education Act of 1965 concerning programs and activities that receive assistance under this title; and

"(B) making information concerning such programs and activities available to such recipients without charge.

"(2) From amounts appropriated for each fiscal year to carry out this part, the Secretary shall expend—

"(A) not less than $100,000 to pay for the costs incurred by such recipients to disseminate information relating to programs and activities funded under this part; and

"(B) not less than $300,000 to carry out subsection (a).".

42 USC 9866.

(b) CONFORMING AMENDMENT.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by striking section 667.

SEC. 205. RESEARCH AND EVALUATION CONTRACTS.

Section 665 of the Follow Through Act (42 U.S.C. 9864) is amended—

(1) in the heading of such section by striking ", DEMONSTRATION, AND PILOT PROJECT" and inserting "AND EVALUATION", and

(2) in subsection (a)(1) by striking ", demonstration, or pilot project" and inserting "or evaluation".

SEC. 206. EVALUATION.

Section 666(a) of the Follow Through Act (42 U.S.C. 9865(a)) is amended—

(1) by striking the last sentence and inserting "Such continuing evaluation shall measure the impact of such programs on participating parents and on entire schools and school districts in which such programs are carried out.",

(2) by inserting "(1)" after "(a)", and

(3) by adding at the end the following:

"(2) The evaluation required by paragraph (1) shall include evaluations of local educational agencies that receive Follow Through grants for use in a school that is designated as a schoolwide project under section 1015(a) of the Elementary and Secondary Education Act of 1965. Such evaluation shall compare children who only receive services under a grant under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 with children who receive services under such a grant and under a Follow Through grant for the purposes of determining whether the comprehensive services provided to the latter children through the model Follow Through approach had a positive effect on their educational progress and overall developmental progress. To the extent practicable, such comparison shall be made on the basis of results of evaluations conducted under such chapter and evaluations conducted under this subsection, and shall take into account the amount of funds provided to the project.".

SEC. 207. GENERAL AND ADMINISTRATIVE PROVISIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The Follow Through Act (42 U.S.C. 9861-9877) is amended by inserting after section 666 the following:

"PART III—GENERAL AND ADMINISTRATIVE PROVISIONS

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 667. (a) There are authorized to be appropriated to carry out this subchapter $20,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994. 42 USC 9866.

"(b) Of the amount appropriated for each fiscal year to carry out this subchapter—

"(1) 70 percent shall be available to carry out part I; and

"(2) 30 percent shall be available to carry out part II.

"(c)(1) Except as provided in paragraph (4), financial assistance provided under part I for a Follow Through program shall not exceed 80 percent of the approved costs of the program assisted, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines, in accordance with rules establishing objective criteria, that such action is required to carry out such part.

"(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

"(3) The Secretary may not require non-Federal contributions in excess of 20 percent of the approved costs of the Follow Through program assisted.

"(4) Financial assistance provided under part I for a Follow Through program carried out in an elementary school that—

"(A) receives funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(B) is designated as a schoolwide project under section 1015(a) of such Act;

may be expended to pay 100 percent of the approved costs of the program assisted.

"(d) An application for assistance under this subchapter may not be approved unless the Secretary is satisfied that the services to be provided under this chapter by such applicant will be in addition to, and not in substitution for, services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such rules as the Secretary may issue.".

(b) CONFORMING AMENDMENT.—Section 670 of the Follow Through Act (42 U.S.C. 9861 note) is repealed.

SEC. 208. PARTICIPATION IN OTHER EDUCATIONAL ACTIVITIES.

The Follow Through Act (42 U.S.C. 9861-9877) is amended by inserting after section 669 the following:

"PARTICIPATION IN OTHER EDUCATIONAL ACTIVITIES

42 USC 9869.

"SEC. 669A. (a) The Secretary shall facilitate the participation of entities that receive funds under sections 664A and 664B in training and technical assistance activities carried out under other Federal programs that provide assistance to children in elementary schools, including programs and activities carried out under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) The Secretary shall consult with the Secretary of Health and Human Services in the coordination of the program established under this Act with the programs established under the Head Start Transition Project Act to enable local educational agencies to submit a single application for funding under both such programs and shall, to the extent practicable, coordinate the issuance of regulations governing such programs.".

SEC. 209. TECHNICAL AMENDMENT.

Section 668(a) of the Follow Through Act (42 U.S.C. 9867(a)) is amended by inserting "programs and" before "projects".

TITLE III—AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT

SEC. 301. AMENDMENTS TO THE STATE DEPENDENT CARE DEVELOPMENT GRANTS ACT.

Section 670A of the State Dependent Care Development Grants Act (42 U.S.C. 9871) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "1987, 1988, 1989, and", and

(3) by inserting after "1990" the following: "and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

SEC. 302. WAIVER OF EXISTING PERCENTAGE SETASIDE OF ALLOTMENTS.

Section 670D(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(2) by striking "Of" and inserting "(1) Except as provided in paragraph (2), of", and

(3) by adding at the end the following:

"(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

"(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

"(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.".

SEC. 303. OPERATION COSTS OF AFTER SCHOOL CARE PROGRAMS AUTHORIZED.

(a) USE OF ALLOTMENTS.—

(1) IN GENERAL.—Section 670D(a)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(a)(1)) is amended by inserting "operation," after "establishment,".

(2) OPERATION AND SITES.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1)) is amended—

(A) by inserting "operation," after "establishment,", and

(B) by striking "in public" and all that follows through "communities".

(3) PARTICIPATION OF CERTAIN CHILDREN.—Section 670D(b)(1) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(b)(1)) is amended by adding at the end the following: "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.".

(4) RESOURCE AND REFERRAL SYSTEM.—Section 670D(f) of the State Dependent Care Development Grants Act (42 U.S.C. 9871(f)) is amended by inserting "operate," after "expand,". 42 USC 9874.

(b) LIMITATIONS.—Section 670D(d) of the State Dependent Care Development Grants Act (42 U.S.C. 9874(d)) is amended—

(1) by striking paragraph (1),

(2) by redesignating paragraph (2) as paragraph (1),

(3) by striking paragraph (3), and

(4) by redesignating paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

SEC. 304. REPORT BY GRANT RECIPIENTS.

(a) IN GENERAL.—Section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following:

"(2) The chief executive officer of each State shall include in such a description of—

"(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

"(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

"(C) the salary level and benefits paid to employees in such child care programs; and

"(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.".

(b) DATE OF REVISION.—Subsection (c)(1) of section 670E of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)), as so redesignated by subsection (a), is amended by striking out "September 30, 1987" and inserting "September 30, 1991".

SEC. 305. TECHNICAL AMENDMENTS.

(a) USE OF ALLOTMENTS.—Section 670D of the State Dependent Care Development Grants Act (42 U.S.C. 9874) is amended—

(1) in the first sentence of subsection (a)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(2) in the first sentence of subsection (b)(1) by striking "for fiscal year 1985 and fiscal year 1986",

(3) in subsection (b)(2)—

(A) in subparagraph (D)—

(i) by inserting "school-age children," after "diverse", and

(ii) by inserting a comma after "children" the last place it appears, and

(B) in subparagraph (F)—

(i) by striking "Governor" and inserting "chief executive officer of the State", and

(ii) by striking "the provisions of",

(4) in subsection (d)(1) by striking "subsection (a)" and inserting "subsections (a) and (b)",

(5) in subsection (f) by striking ", which prior to the date of enactment of this subchapter, are provided" and inserting "which are provided before the date of the enactment of this subchapter,", and

(6) in subsection (g) by striking "operating activities to be carried out" and inserting "carrying out activities".

(b) APPLICATION AND DESCRIPTION OF ACTIVITIES.—The last sentence of section 670E(c) of the State Dependent Care Development Grants Act (42 U.S.C. 9875(c)) is amended by striking "until September 30, 1987,".

(c) DEFINITIONS.—Section 670G of the State Dependent Care Development Grants Act (42 U.S.C. 9877), is amended—

(1) in paragraph (2)(C) by striking "a person" and inserting "an individual",

(2) in paragraph (7) by inserting "in" after "State" the first place it appears, and

(3) in paragraph (10) by striking "Trust Territory of the Pacific Islands," and inserting "Federated States of Micronesia, the Republic of the Marshall Islands, Palau,".

TITLE IV—AMENDMENTS TO THE COMMUNITY SERVICES BLOCK GRANT ACT

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Section 672(b) of the Community Services Block Grant Act (42 U.S.C. 9901(b)) is amended—

(1) by striking "is authorized" and all that follows through "1989, and", and inserting "are authorized to be appropriated",

(2) by inserting after "1990," the following: "$451,500,000 for fiscal year 1991, $460,000,000 for fiscal year 1992, $480,000,000 for fiscal year 1993, and $500,000,000 for fiscal year 1994", and

(3) by inserting "(other than section 681A)" after "subtitle".

(b) AUTHORIZATION OF APPRORPRIATIONS FOR COMMUNITY FOOD AND NUTRITION PROGRAMS.—Section 681A(c) of the Community Services Block Grant Act (42 U.S.C. 9910a(c)) is amended—

(1) by striking "each of the fiscal years 1987, 1988, 1989, and" and inserting "fiscal year", and

(2) by inserting after "1990" the following: ", $10,000,000 for fiscal year 1991, $15,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994".

SEC. 402. ELIGIBLE ENTITIES.

The third sentence of section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)) is amended—

(1) by striking "In" and inserting "If",

(2) by striking "not presently" and inserting "is not, or ceases to be,",

(3) by striking "Governor" and inserting "chief executive officer",

(4) in subparagraph (C) by inserting after "new area." the following: "In making a designation under this subparagraph, such chief executive officer shall give priority to such organization.", and

(5) by striking "The Governor's" and inserting "Such officer's".

SEC. 403. STATE ALLOCATIONS.

Section 674(a) of the Community Services Block Grant Act (42 U.S.C. 9903(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) the following:

"(2)(A) Subject to subparagraphs (B) and (C), if the amount appropriated under section 672 for each fiscal year which remains after—

"(i) the Secretary makes the apportionment required in subsection (b)(1); and

"(ii) the Secretary determines the amount necessary for the purposes of section 681(c);

exceeds $345,000,000, the Secretary shall allot to each State not less than one-half of 1 percent of the amount appropriated under section 672 for such fiscal year.

"(B) Subparagraph (A) shall not apply with respect to a fiscal year if the amount allotted under paragraph (1) to any State is less than the amount allotted under such paragraph to such State for fiscal year 1990.

"(C) The amount allotted under subparagraph (A) to a State shall be reduced, if necessary, so that the aggregate amount allotted to such State under such subparagraph and paragraph (1) does not exceed 140 percent of the aggregate amount so allotted to such State for the fiscal year preceding the fiscal year for which a determination is made under this paragraph.".

SEC. 404. APPLICATIONS AND REQUIREMENTS.

(a) ASSURANCE BY STATE.—Section 675(c)(11) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(11)) is amended—

(1) by inserting ", or reduced below the proportional share of funding it received in the previous fiscal year," after "under this Act" the last place it appears,

(2) by inserting "or such reduction" after "such termination", and

(3) by adding at the end the following:

"For purposes of making a determination with respect to a funding reduction, the term 'cause' includes—

"(A) a statewide redistribution of funds under this subtitle to respond to—

"(i) the results of the most recently available census or other appropriate data;

"(ii) the establishment of a new eligible entity;

"(iii) severe economic dislocation; and

"(B) the failure of an eligible entity to comply with the terms of its agreement to provide services under this subtitle.".

(b) OPPORTUNITY FOR COMMENT.—Section 675(c) of the Community Services Block Grant Act (42 U.S.C. 9904(c)) is amended—

(1) in paragraph (10) by striking "and" at the end,

(2) in paragraph (11) by striking the period at the end and inserting "; and", and

(3) by inserting after paragraph (11) the following:

Disadvantaged persons.

"(12) in the case of a State which applied for and received a waiver from the Secretary under Public Law 98-139, provide assurances that funds will not be provided under this subtitle by such State to an organization to which such State made a grant under this subtitle in fiscal year 1984 unless such organization allows, before expending such funds, low-income individuals to comment on the uses for which such organization proposes to expend such funds.".

42 USC 9905a.

(c) PROCEDURES FOR REVIEW OF REDUCTION OF FUNDING.—Section 676A of the Community Services Block Grant Act (42 U.S.C. 9906) is amended—

(1) in the heading by inserting "OR REDUCTION" after "TERMINATION",

(2) in the first sentence of subsection (a) by inserting "or reduces" after "terminates", and

(3) in the first sentence of subsection (b) by inserting "or reduction" after "termination".

SEC. 405. DISCRETIONARY AUTHORITY OF SECRETARY.

(a) PLANNING AND DEVELOPMENT OF RURAL RENTAL HOUSING.—Section 681(a)(2)(D) of the Community Services Block Grant Act (42 U.S.C. 9910(a)(2)(D)) is amended by striking "rural housing and community facilities development" and inserting "the planning and

development of rural housing (including rental housing for low-income individuals) and community facilities".

(b) ACTIVITIES FOR LOW-INCOME YOUTH.—Section 681 of the Community Services Block Grant Act (42 U.S.C. 9910) is amended—

(1) in subsection (a)(2)(F) by striking "recreational activities" and inserting "instructional activities described in subsection (b)",

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(3) by inserting after subsection (a) the following:

"(b) Any instructional activity carried out under subsection (a)(2)(F) shall be carried out on the campus of an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965) and shall include—

"(1) access to the facilities and resources of such institution;

"(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

"(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

"(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in sections 1471(8) and 1471(21) of the Elementary and Secondary Education Act of 1965); and

"(5) enrichment instruction and information on matters relating to the well-being of youth, such as educational opportunities and study practices, the prevention of drug and alcohol abuse, health and nutrition, career opportunities, and job responsibilities.".

SEC. 406. COMMUNITY FOOD AND NUTRITION.

(a) CONFORMING AMENDMENT.—Section 681A(a) of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended by striking "local, and statewide" and inserting "local, Statewide, and national".

(b) AMOUNT OF GRANTS.—Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by striking subsection (b),

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following:

"(b)(1) Of the amount appropriated for a fiscal year to carry out this section, the Secretary shall allot funds for grants under subsection (a) as follows:

"(A) From 60 percent of such amount (but not to exceed $3,600,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to 60 percent of the amount appropriated for such fiscal year as the low-income and unemployed population of such State bear to the low-income and unemployed populations of all the States.

"(B) From 40 percent of such amount (but not to exceed $2,400,000), the Secretary shall allot for grants on a competitive basis to eligible agencies for local and statewide programs.

"(2) Any amounts appropriated for a fiscal year to carry out this section in excess of $6,000,000 shall be allotted as follows:

"(A) The Secretary shall use 40 percent of such excess to make allotments for grants under subsection (a) to eligible agencies for statewide programs in each State in an aggregate amount that bears the same ratio to 40 percent of such excess as the low-income and unemployed populations of such State bears to the low-income and unemployed populations of all States.

"(B) The Secretary shall use 40 percent of such excess to award grants under subsection (a) on a competitive basis to eligible agencies for local and statewide programs.

Indians.
Migrant labor.

"(C) The Secretary shall use the remaining 20 percent of such excess to award grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Native Americans and migrant farm workers. In any fiscal year, the Secretary may not make grants under this subparagraph to a particular eligible agency in an aggregate amount exceeding $300,000.

"(3) For purposes of paragraphs (1)(A) and (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

"(4) From the amounts allocated under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

"(A) $15,000 if the total amount appropriated to carry out this section is not less than $7,000,000 but less than $10,000,000;

"(B) $20,000 if the total amount appropriated to carry out this section is not less than $10,000,000 but less than $15,000,000; or

"(C) $30,000 if the total amount appropriated to carry out this section is not less than $15,000,000.

For purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(5) From funds allotted under paragraphs (1)(B) and (2)(B) in any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000.".

(c) REPORTS.—Section 681A of the Community Services Block Grant Act (42 U.S.C. 9910a) is amended—

(1) by redesignating subsection (c) as subsection (d), and

(2) by inserting after subsection (b) the following:

"(c) For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants awarded under this section. Such report shall include—

"(1) a list of grantees;

"(2) the amount of funding awarded to each grantee; and

"(3) a summary of the activities performed by grantees with funds awarded under this section and a description of the manner in which such activities meet the objectives described in subsection (a).".

SEC. 407. ANNUAL REPORT.

(a) REPORT REQUIRED.—The Community Services Block Grant Act (42 U.S.C. 9901-9912) is amended by striking section 682 and inserting the following:

"ANNUAL REPORT

Contracts.
42 USC 9911.

"SEC. 682. (a)(1) For each fiscal year beginning after September 30, 1991, the Secretary shall, by contract with an entity that is knowledgeable about programs and projects assisted under this subtitle, prepare a report containing the following information:

"(A) The identity of each eligible entity, agency, organization, and person that receives, directly or indirectly, funds to carry out this subtitle in such fiscal year.

"(B) With respect to each particular purpose or activity referred to in section 675(c)(1)—

"(i) the aggregate amount of such funds expended in such fiscal year to achieve such purpose or carry out such activity; and

"(ii) the number of individuals who directly benefited from the amount so expended.

"(2) For any fiscal year beginning after September 30, 1991, the Secretary may, by contract, include in such report any additional information the Secretary considers to be appropriate to carry out this subtitle, except that the Secretary may not require a State to provide such additional information until the expiration of the 1-year period beginning on the date the Secretary notifies such State that such additional information will be required to be provided by such State.

"(3) The Secretary may not carry out this subsection by entering into a contract with any State, eligible entity, agency, organization, or person that receives, directly or indirectly, funds to carry out this subtitle.

"(b) Not later than 180 days after the end of the fiscal year for which a report is required by subsection (a) to be prepared, the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate—

"(1) such report in the form in which it was received by the Secretary; and

"(2) any comments the Secretary may have with respect to such report.

"(c) Of the funds made available under section 681(d), not more than $250,000 shall be available to carry out this section.".

(b) CONFORMING AMENDMENT.—Section 681(d) of the Community Services Block Grant Act (42 U.S.C. 9910), as so redesignated by section 405(b)(2), is amended by inserting ", section 682," after "this section".

SEC. 408. TECHNICAL AMENDMENT.

Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) is amended by striking "for all Urban" and inserting "For All Urban".

TITLE V—AMENDMENTS TO THE CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE ACT OF 1985

SEC. 501. ADEQUACY OF SCHOLARSHIPS.

(a) TRAINING ASSISTANCE.—Section 603(b)(1)(C) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)(1)(C)) is amended by inserting "(including, at the option of the State, any training necessary for credentialing)" after "credentialing".

(b) LIMITATION.—Section 603(b) of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10902(b)) is amended—

(1) in paragraph (1)(C) by striking "and" at the end,

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following:

"(2) not more than 35 percent of the funds received under this title by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and".

SEC. 502. DEFINITIONS.

Section 604 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10903) is amended—

(1) in paragraph (1) by striking "poverty line, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))" and inserting "130 percent of the lower living standard income level",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(3) by inserting after paragraph (1) the following:

"(2) the term 'lower living standard income level' means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;".

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

42 USC 10905.

Section 606 of the Child Development Associate Scholarship Assistance Act of 1985 (42 U.S.C. 10904) is amended—

(1) by striking "is authorized" and inserting "are authorized",

(2) by striking "each of the fiscal years 1987, 1988, and 1989, and" and inserting "fiscal year", and

(3) by inserting after "1990" the following: ", $3,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994".

TITLE VI—AMENDMENTS RELATING TO DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR

SEC. 601. PROGRAMS FOR SPECIAL POPULATIONS.

Section 408 of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b) is amended—

(1) in subsection (e)—

(A) in paragraph (2) by striking "subsection (c)" and inserting "subsection (d)", and

(B) in paragraph (4) by striking "subsection (d)(2)" each place it appears and inserting "subsection (e)(2)",

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively, and

(3) by inserting after subsection (b) the following:

Grant programs.

"(c) PROGRAMS DIRECTED TO SPECIAL POPULATIONS.—(1) In addition to the grant programs described in subsection (a), the Secretary shall make grants to eligible entities for the purpose of demonstrating new and innovative approaches to addressing the problems of, and providing opportunities for leadership development, community involvement, and educational success to, disadvantaged persons between the ages of 14 and 25 from populations experiencing conditions such as a high poverty rate, high unemployment, high dropout rate, low labor force participation, low enrollment in college or participation in other post high school training classes, high incidence of involvement in violence, and a high rate of incarceration. Services provided through approaches funded by such grants may include assessment and development of employability plans, remedial education, motivational activities, life skills instruction, community service, mentoring, access to information on available financial aid, campus visits, career education, cultural enrichment, and employment training, placement, and follow-up.

"(2) Such grants may be made only with respect to applications that—

"(A) identify and describe the population to be served, the problems to be addressed, the overall approach and methods of outreach and recruitment to be used, and the services to be provided;

"(B) describe how the approach to be used differs from other approaches used for the population to be served by the project;

"(C) describe the objectives of the project and contain a plan for measuring progress toward meeting those objectives; and

"(D) contain assurances that the grantee will report on the progress and results of the demonstration at such times and in such manner as the Secretary shall require.

"(3) Notwithstanding subsection (b), such grants shall not exceed 80 percent of the cost of such programs.

"(4) Such grants shall be made annually on such terms and conditions as the Secretary shall specify to eligible entities that serve the populations described in paragraph (1) and that are located within those areas where such populations are concentrated.".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

Section 408(h) of the Human Services Reauthorization Act of 1986 (42 U.S.C. 9910b(g)), as so redesignated by section 601, is amended—

(1) by inserting "(1)" after "(h)",

(2) by striking "$5,000,000" and all that follows through "1990", and inserting "$10,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992, 1993, and 1994",

(3) by inserting "(other than subsection (c))" before the period, and

(4) by adding at the end the following:

"(2) There are authorized to be appropriated $10,000,000 for fiscal year 1991 and such sums as may be necessary in each of the fiscal years 1992 through 1994, to carry out subsection (c).".

TITLE VII—AMENDMENTS TO THE LOW-INCOME HOME ENERGY ASSISTANCE ACT OF 1981

SEC. 701. FORWARD FUNDING OF LIHEAP.

Section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621) is amended by adding at the end the following:

"(c)(1) In fiscal year 1993 and each fiscal year thereafter, amounts appropriated under this section for any fiscal year for programs and activities under this Act shall be made available for obligation only on the basis of a program year. The program year shall begin on July 1 of the fiscal year for which the appropriation is made.

"(2) Amounts appropriated for fiscal year 1993 shall be available both to fund activities for the period between October 1, 1992, and July 1, 1993, and for the program year beginning July 1, 1993.

Appropriation authorization.

"(3) There are authorized to be appropriated such additional sums as may be necessary for the transition to carry out this subsection.".

SEC. 702. REAUTHORIZATION.

Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended—

(1) by striking "$2,050,000,000" and all that follows through "1989, and", and

(2) by inserting after "1990" the following: ", $2,150,000,000 for fiscal year 1991, $2,230,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994. The authorizations of appropriations contained in this subsection are subject to the program year provisions of subsection (c).".

SEC. 703. STATE ALLOTMENTS.

Section 2604(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(f)) is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively,

(2) by inserting "(1)" after "(f)",

(3) in the matter preceding subparagraph (A), as so redesignated by paragraph (1), by striking "up to 10 percent" and inserting "in accordance with paragraph (2) a percentage",

(4) in the matter following subparagraph (C), as so redesignated by paragraph (1)—

(A) by striking "any" the first place it appears and inserting "a", and

(B) by striking "paragraphs (1), (2), and (3)" and inserting "subparagraphs (A), (B), and (C)", and

(5) by adding at the end the following:

"(2)(A) Not to exceed 10 percent of the funds payable to a State under this section for each of the fiscal years 1991 through 1993 may be transferred under paragraph (1).

"(B) Beginning in fiscal year 1994, no funds payable to a State under this section shall be transferred under paragraph (1).".

SEC. 704. APPLICATION.

(a) CERTIFICATIONS.—Section 2605(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)) is amended—

(1) in paragraph (12) by inserting "timely and meaningful" after "provide for",

(2) in paragraph (13) by striking "and" at the end,

(3) in paragraph (14) by striking the period and inserting "; and", and

(4) by adding at the end the following:

"(15) beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging, and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer intake functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.".

(b) STATE PLAN.—Section 2605(c)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(c)(2)) is amended by inserting "timely and meaningful" after "will facilitate".

SEC. 705. AUTHORITY TO USE FUNDS FOR WEATHERIZATION.

Section 2605(k) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B),

(2) by striking "Not" and inserting "(1) Except as provided in paragraph (2), not", and

(3) by adding at the end the following:

"(2)(A) If a State receives a waiver granted under subparagraph (B) for a fiscal year, the State may use not more than the greater of 25 percent of—

"(i) the funds allotted to a State under this title for such fiscal year; or

"(ii) the funds available to such State under this title for such fiscal year;

for residential weatherization or other energy-related home repair for low-income households.

"(B) For purposes of subparagraph (A), the Secretary may grant a waiver to a State for a fiscal year if the State submits a written request to the Secretary after March 31 of such fiscal year and if the Secretary determines, after reviewing such request and any public comments, that—

"(i)(I) the number of households in the State that will receive benefits, other than weatherization and energy-related home repair, under this title in such fiscal year will not be fewer than the number of households in the State that received benefits, other than weatherization and energy-related home repair, under this title in the preceding fiscal year;

"(II) the aggregate amounts of benefits that will be received under this title by all households in the State in such fiscal year will not be less than the aggregate amount of such benefits that were received under this title by all households in the State in the preceding fiscal year; and

"(III) such weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households; or

"(ii) in accordance with rules issued by the Secretary, the State demonstrates good cause for failing to satisfy the requirements specified in clause (i).".

SEC. 706. AUTHORITY TO CARRY FUNDS OVER.

Section 2607(b)(2)(B) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(b)(2)(B)) is amended by striking "15 percent" and inserting "10 percent".

SEC. 707. LEVERAGING INCENTIVE PROGRAM.

(a) ESTABLISHMENT.—The Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621-8629) is amended by inserting after section 2607 the following:

"INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES

42 USC 8626a.

"SEC. 2607A. (a) Beginning in fiscal year 1992, the Secretary may allocate amounts appropriated under section 2602(d) to provide supplementary funds to States that have acquired non-Federal leveraged resources for the program established under this title.

"(b) For purposes of this section, the term 'leveraged resources' means the benefits made available to the low-income home energy assistance program of the State, or to federally qualified low-income households, that—

"(1) represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such households through the purchase of energy at commonly available household rates; and

"(2)(A) result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid; or

"(B) are appropriated or mandated by the State for distribution—

"(i) through the State program; or

"(ii) under the plan referred to in section 2605(c)(1)(A) to federally qualified low-income households and such benefits

are determined by the Secretary to be integrated with the State program.

"(c)(1) Distribution of amounts made available under this section shall be based on a formula developed by the Secretary that is designed to take into account the success in leveraging existing appropriations in the preceding fiscal year as measured under subsection (d). Such formula shall take into account the size of the allocation of the State under this title and the ratio of leveraged resources to such allocation.

"(2) A State may expend funds allocated under this title as are necessary, not to exceed .0008 percent of such allocation or $35,000 each fiscal year, whichever is greater, to identify, develop, and demonstrate leveraging programs. Funds allocated under this section shall only be used for increasing or maintaining benefits to households.

"(d) Each State shall quantify the dollar value of leveraged resources received or acquired by such State under this section by using the best available data to calculate such leveraged resources less the sum of any costs incurred by the State to leverage such resources and any cost imposed on the federally eligible low-income households in such State.

"(e) Not later than July 31, of each year, each State shall prepare and submit, to the Secretary, a report that quantifies the leveraged resources of such State in order to qualify for assistance under this section for the following fiscal year. Reports.

"(f) The Secretary shall determine the share of each State of the amounts made available under this section based on the formula described in subsection (c) and the State reports. The Secretary shall promulgate regulations for the calculation of the leveraged resources of the State and for the submission of supporting documentation. The Secretary may request any documentation that the Secretary determines necessary for the verification of the application of the State for assistance under this section.". Regulations.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 2602 of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), as amended by section 701, is amended—

(1) by inserting "(other than section 2607A)" after "title", and

(2) by adding at the end the following:

"(d) There are authorized to be appropriated to carry out section 2607A, $25,000,000 in fiscal year 1992, and $50,000,000 in each of the fiscal years 1993 and 1994.".

SEC. 708. WITHHOLDING OF FUNDS.

Section 2608(a)(2) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8626(a)(2)) is amended by striking "in an expeditious and speedy manner to" and inserting "in writing in no more than 60 days to matters raised in". 42 USC 8627.

TITLE VIII—AMENDMENTS TO THE COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

Section 670T(a) of the Comprehensive Child Development Act (42 U.S.C. 9887) is amended by striking "appropriated" and all that

follows through "1993", and inserting "appropriated, $50,000,000 for each of the fiscal years 1991, 1992, 1993, and 1994".

Claude Pepper Young Americans Act of 1990.

TITLE IX—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

42 USC 12301 note.

SEC. 901. SHORT TITLE.

This title may be cited as the "Claude Pepper Young Americans Act of 1990".

42 USC 12301.

SEC. 902. FINDINGS.

Congress finds that—

(1) children and youth are inherently the most valuable resource of the United States;

(2) the welfare, protection, healthy development, and positive role of children and youth in society are essential to the United States;

(3) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive employment opportunities, and preparation for responsible participation in community life;

(4) children and youth have increasing opportunities to participate in the decisions that affect their lives;

(5) the family is the primary caregiver and source of social learning and must be supported and strengthened;

(6) when a family is unable to ensure the satisfaction of basic needs of children and youth it is the responsibility of society to assist such family; and

(7) it is the joint and several responsibility of the Federal Government, each State, and the political subdivisions of each State to assist children and youth to secure, to the maximum extent practicable, equal opportunity to full and free access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) a high level of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment and participation in decisions affecting their lives;

(E) a wide range of civic, cultural, and recreational activities that recognize young Americans as resources and promote self-esteem and a stake in the communities of such Americans; and

(F) comprehensive community services that are efficient, coordinated, readily available, and involve families of young individuals.

42 USC 12302.

SEC. 903. DEFINITIONS.

As used in this title:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families, as established under section 915.

(2) COUNCIL.—The term "Council" means the Federal Council on Children, Youth, and Families, as established under section 918(a).

(3) NONPROFIT.—The term "'nonprofit", as applied to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) YOUNG INDIVIDUAL.—The term "young individual" means any child or youth from birth to 21 years of age.

Subtitle A—Establishment of Administration and Awarding of Grants for Programs

CHAPTER 1—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

SEC. 915. ESTABLISHMENT OF THE ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES. 42 USC 12311.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an Administration on Children, Youth, and Families.

(b) COMMISSIONER.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administration on Children, Youth, and Families, as established under subsection (a), shall be headed by a Commissioner on Children, Youth, and Families.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Commissioner, Administration on Children, Youth, and Families.".

(2) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commissioner. President.

SEC. 916. FUNCTIONS OF THE COMMISSIONER. 42 USC 12312.

(a) IN GENERAL.—The Commissioner shall—

(1) serve as the effective and visible advocate for children, youth, and families within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities, as appropriate, concerning Federal policies affecting young individuals, and the families of young individuals;

(2) collect and disseminate information related to the problems of young individuals and the families of such individuals;

(3) assist the Secretary in appropriate matters pertaining to young individuals, and the families of such individuals;

(4) administer the grants authorized under this subtitle;

(5) develop plans and conduct research in the field of young individuals, and the families of such individuals;

(6) assist, to the maximum extent practicable, in the establishment and implementation of programs designed to meet the needs of young individuals for supportive services including—

(A) health and mental health services;

(B) housing and shelter assistance;

(C) education and training services;

(D) protective services;

(E) foster care;

(F) teen parenting support;

(G) child care;

(H) family support and preservation;

(I) teen pregnancy prevention and counseling;

(J) counseling on the effects of violence in the communities of such individuals and their families;

(K) recreational and volunteer opportunities; and

(L) comprehensive early childhood development;

(7) provide technical assistance and consultation to States and the political subdivisions of such States with respect to programs for young individuals;

(8) prepare, publish, and disseminate educational materials concerning the welfare of young individuals;

(9) gather statistics concerning young individuals, and the families of such individuals, that other Federal agencies are not collecting;

(10) to the maximum extent practicable coordinate activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to young individuals and the families of such individuals;

(11) stimulate more effective uses of existing resources and available services for young individuals and the families of such individuals;

(12) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under this title;

(13) convene conferences of authorities and officials of organizations, including Federal, State, and local agencies, and nonprofit private organizations, of programs for children, youth and their families for the development and implementation of policies related to the priorities and purposes of this title, including topics such as the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(14) conduct periodic evaluations of the programs and activities related to the purposes of this title; and

(15) develop, in coordination with other agencies, methods to ensure adequate training for personnel concerning children, youth and families and to ensure the adequate dissemination of such information to appropriate State and community agencies.

(b) ENCOURAGEMENT OF VOLUNTEERISM.—In executing the duties and functions of the Administration under this subtitle and in carrying out the programs and activities authorized under this title, the Commissioner, in consultation with the Director of the ACTION Agency, shall take necessary steps to coordinate with and seek the

advice of voluntary agencies and organizations that provide services related to the purposes of this title.

SEC. 917. FEDERAL AGENCY CONSULTATIONS. 42 USC 12313.

(a) IN GENERAL.—The Commissioner shall consult and cooperate with the heads of all appropriate Federal agencies or departments administering programs or services that are substantially related to the purposes of this title.

(b) INTERAGENCY AGREEMENTS.—To the extent practicable, the Commissioner shall facilitate cooperation through the entering into of interagency agreements.

SEC. 918, FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES. 42 USC 12314.

(a) ESTABLISHMENT.—There is established a Federal Council on Children, Youth, and Families.

(b) NUMBER OF MEMBERS.—The Council shall be composed of 18 members to be appointed in accordance with subsection (d).

(c) TERM OF MEMBERSHIP.—Each member of the Council shall serve for a 3-year term without regard to title 5, United States Code.

(d) APPOINTMENT OF MEMBERS.—

(1) IN GENERAL.—The Council shall be composed of—

(A) six members who posess such skills and qualifications so as to be representative of—

(i) rural and urban populations; and

(ii) national organizations with an interest in young individuals, families, early childhood development, elementary and secondary education, business, labor, minorities, and the general public;

(B) six members who are representatives of public, State or local agencies that serve children, youth and their families and include representatives of child welfare and child mental health agencies; and

(C) six members who are cabinet-level representatives of Federal agencies that have responsibility for programs relating to children, youth and families.

(2) AGE OF MEMBERS.—At least one of the individuals appointed to the Council under paragraph (1)(A) shall be under the age of 21 at the time of such appointment.

(3) APPOINTING AUTHORITY.—Of the members of the Council who are appointed under paragraph (1)—

(A) six of the members described under subparagraphs (A) and (B) shall be appointed by the President pro tempore of the Senate on the recommendation of the Majority and Minority Leaders of the Senate;

(B) six of the members described under subparagraphs (A) and (B) shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority and Minority Leaders of the House of Representatives; and

(C) the members described under subparagraph (C) shall be appointed by the President.

(e) VACANCY.—

(1) FILLING VACANCY.—A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) POWERS OF BOARD.—A vacancy on the Council shall not affect the powers of the Council.

(3) TERM OF APPOINTMENT.—A member of the Council who is appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(f) REAPPOINTMENT.—Each member of the Council shall be eligible for reappointment to the Council.

(g) EXPIRATION OF TERM.—Each member of the Council may serve after the expiration of the term of membership until the successor of such member has taken office.

(h) TRAVEL EXPENSES.—Each member of the Council, while serving on business of the Council away from the home or regular place of business of such member, may be allowed subsistence in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

President.

(i) CHAIRPERSON.—The President shall designate the Secretary of Health and Human Services to serve as the Chairperson of the Council. In the event that the Secretary chooses to designate the functions of Chairperson under this subsection, such designation may only be made to the Commissioner.

(j) MEETINGS.—Not less than once during each 6-month period, the Chairperson of the Council shall call a meeting of the Council.

(k) DUTIES OF THE COUNCIL.—The Council shall—

(1) advise and assist the President on matters relating to the special needs of young individuals;

(2) review, evaluate, and inventory on a continuing basis Federal policies, programs and other activities affecting young individuals that are conducted or assisted by all Federal departments and agencies for the purpose of appraising the value and the impact of such policies, programs, and activities on the lives of young individuals, and of identifying duplication of services for young individuals and the families of such individuals;

(3) make recommendations to the President, the Secretary, the Commissioner, the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning changes in such policies and programs that can streamline services, reduce duplication of services and encourage the coordination of services provided to young individuals and the families of such individuals at the State and local level; and

(4) provide public forums, including public hearings, conferences, workshops, and other meetings, for discussing and publicizing the problems and needs of young individuals and obtaining information relating to such individuals.

(l) STAFF.—The Chairperson shall appoint staff personnel to assist the Chairperson in carrying out the duties required under subsection (k).

(m) INFORMATION AND ASSISTANCE.—The head of each Federal department and agency shall make available to the Chairperson such information and other assistance as the Chairperson may require to carry out the duties required under subsection (k).

(n) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—In fiscal year 1992 and each fiscal year thereafter, the Chairperson shall prepare and submit—

(A) interim reports as the Chairperson considers to be appropriate; and

(B) an annual report of the findings and recommendations of the Council concerning the matters described in paragraphs (2) and (3) of subsection (k);

to the President not later than March 31 of each year.

(2) REVIEW AND SUBMISSION TO CONGRESS.—

(A) COMMENTS AND RECOMMENDATIONS.—The President may make comments and recommendations concerning reports submitted under paragraph (1).

(B) SUBMISSION TO CONGRESS.—The President shall submit such comments, recommendations, and reports to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate. President.

(o) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section $200,000 for each of the fiscal years 1991 through 1994.

(p) TERMINATION.—The Council shall terminate on September 30, 1995.

SEC. 919. ADMINISTRATION. 42 USC 12315.

(a) DUTIES OF COMMISSIONER.—In carrying out this subtitle, the Commissioner is authorized to—

(1) provide consultative services, technical assistance, and short-term training to the independent State bodies;

(2) conduct research and demonstrations;

(3) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subtitle;

(4) provide staff and other technical assistance to the Council;

(5) evaluate the effectiveness of programs authorized under this subtitle and periodically publish analyses of the results of such evaluations; and

(6) not later than 180 days after the end of each fiscal year, prepare and submit, to the President and the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out under this subtitle and concerning such other activities as the Secretary determines appropriate. Reports.

(b) UTILIZATION OF SERVICES AND FACILITIES.—

(1) IN GENERAL.—Subject to agreements made between the Commissioner and the head of such agency or organization, in carrying out the duties referred to in subsection (a) the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organizations.

(2) PAYMENT.—The Commissioner may pay for such services and facilities, in advance or by way of reimbursement, as may be provided in such agreement.

(c) RESERVATION OF FUNDS.—Of the aggregate amount appropriated to carry out this title in any fiscal year, the Secretary may reserve not more than 10 percent for salaries and expenses of the Administration on Children, Youth, and Families related to the administration of this title.

CHAPTER 2—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES

42 USC 12331.

SEC. 925. PURPOSE.

It is the purpose of this chapter to encourage and assist State and local agencies to coordinate resources, reduce barriers to services, and develop new capacities to ensure that State and community services designed to serve children, youth, and families are more effective and comprehensive.

42 USC 12332.

SEC. 926. DEFINITIONS.

As used in this chapter:

(1) COMMUNITY REFERRAL SERVICES.—The term "community referral services" means services to assist families in obtaining community resources, including health care, mental health care, employability development and job training, and other social services.

(2) CORE SERVICES.—The term "core services" means—

(A) educational and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children; and

(B) the early developmental screening of children to assess any needs of such children and to identify specific types of support that may be provided;

(C) outreach services;

(D) community referral services; and

(E) follow up services.

(3) FOLLOW UP SERVICES.—The term "follow up services" means services provided to ensure that necessary services are received by families and are effective in meeting their needs.

(4) INDEPENDENT STATE BODY.—The term "independent State body" means the entity established under section 930.

(5) LEAD AGENCY.—The term "lead agency" means an existing State agency, or other public or nonprofit private entity designated by the chief executive officer of the State as the agency responsible for the development and implementation of local family resource and support programs. Such agency shall have demonstrated ability to work with other State and community based agencies, to provide training and technical assistance, and shall also have a commitment to parental participation in the design and administration of family resource and support programs.

(6) OTHER SERVICES.—The term "other services" and "other support services" includes—

(A) child care, early childhood development and intervention programs;

(B) employability development services (including skill training);

(C) educational services, such as scholastic tutoring, literacy training, and General Educational Degree (GED) services;

(D) nutritional education;

(E) life management skills training;

(F) peer counseling and crisis intervention, family violence counseling and referrals for such services;

(G) referral for substance abuse counseling and treatment referral; and

(H) referral for primary health and mental health services.

(7) OUTREACH SERVICES.—The term "outreach services" means services provided to ensure (through home visits or other methods) that parents are aware of and able to participate in family resource and support program activities.

SEC. 927. ESTABLISHMENT OF PROGRAMS. 42 USC 12333.

Grant programs.

The Commissioner shall make grants—

(1) in each State under section 931 to improve State planning and coordination of services, and under section 932 to expand supportive services, in order to promote the availability of developmental, preventive, and remedial services to children, youth and their families that are designed to ensure—

(A) adequate and safe physical shelter whether in their own homes or, if necessary, in out-of-home programs;

(B) high quality physical and mental health care;

(C) the enhancement of the development of children to ensure that children enter school prepared and ready to learn;

(D) highest quality educational opportunity;

(E) effective training and apprenticeships to increase the likelihood of employment;

(F) opportunities for community service and productive employment, and for participation by children and youth in decisions affecting the lives of such children and youth; and

(G) a wide range of civic, cultural, and recreational activities that recognize young individuals as resources and promote self-esteem and a sense of community; and

(2) to States on a competitive basis under section 933 to establish family resource programs (including family support centers) in order to enhance the ability of families to remain together and to thrive through the provision of community based services that—

(A) promote and build family and parenting skills;

(B) promote and assist families in the use of formal and informal family support services;

(C) create a support network to strengthen and reinforce good parenting; and

(D) are closely linked with, but not duplicative of, other community resources.

SEC. 928. ADMINISTRATION. 42 USC 12334.

(a) IN GENERAL.—The Commissioner shall administer programs under this chapter through the Administration on Children, Youth, and Families.

(b) TECHNICAL ASSISTANCE.—In carrying out this chapter, the Commissioner may request the technical assistance and cooperation of the Secretary of Education, the Secretary of Labor, the Attorney General, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Community Services, and such other agencies and departments of the Federal Government as may be appropriate.

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42 USC 12335.

SEC. 929. STATE PLAN.

(a) SUBMISSION OF PLAN.—The chief executive officer of a State, in order to be eligible for grants from an allotment under section 931, 932, or 933 for any fiscal year, shall prepare and submit to the Commissioner a State plan for a 3-year period.

(b) REVISIONS OF PLAN.—Each chief executive officer of a State may make annual revisions of the State plan referred to in subsection (a).

(c) CONTENT OF PLAN.—The chief executive officer of a State shall include within the State plan of that State assurances as required under sections 931, 932, or 933, and a description of the proposed multi-year plans of the State for program development and implementation.

(d) TYPE OF APPLICATION.—A State may apply for funds under one or more of the following categories:

(1) section 931;

(2) sections 931 and 932 jointly; or

(3) section 933.

In the case of each category, the State application and plan shall comply only with the requirements of the appropriate section.

(e) APPROVAL OF PLAN.—

(1) IN GENERAL.—The Commissioner shall approve any State plan under sections 931 and 932 that the Commissioner determines meets the requirements of such sections.

(2) NOTICE AND OPPORTUNITY TO CORRECT DEFICIENCIES.—The Commissioner shall not make a final determination disapproving any State plan, modifying such plan, or declaring a State to be ineligible to receive funds under sections 931 and 932 without previously affording such State reasonable notice and opportunity to correct deficiencies in its application.

42 USC 12336.

SEC. 930. INDEPENDENT STATE BODY.

(a) DESIGNATION.—A State shall not be eligible to receive a grant from an allotment under section 931 or 932 unless—

(1) the chief executive officer of such State designates an independent State body that is composed of—

(A) cabinet level representatives from each agency of such State that has responsibilities for programs affecting young individuals who shall comprise a majority of the independent State body; and

(B) individuals appointed from among—

(i) private nonprofit providers of services to young individuals;

(ii) advocacy and citizens groups concerned with young individuals;

(iii) committees of the legislature of such State that have responsibility for young individuals;

(iv) leaders who are young individuals, including such leaders who are recipients of services provided under this subtitle;

(v) representatives of the business community;

(vi) representatives of employees of providers of services to young individuals;

(vii) representatives of general purpose local government; and

(viii) such staff as shall be necessary to—

(I) develop a State plan to be submitted to the Commissioner for approval under section 931;

(II) administer and monitor the State plan within such State;

(III) assist in the coordination of all State activities related to the purpose of the title;

(IV) serve as an effective and visible advocate for young individuals by reviewing and commenting on all State plans, budgets, and policies that affect such individuals and the families of such individuals by providing technical assistance to any agency, organization, association, or individual representing the needs of young individuals; and

(2) the independent State body designated under paragraph (1)—

(A) develops a system for the distribution within the State of funds received under sections 931 and 932 by the chief executive officer;

(B) submits a description of such system to the Commissioner for review and comment; and

(C) ensures that preference will be given in such distribution of funds to developing or supporting local service delivery systems that—

(i) provide a range of services organized to tailor responses to needs rather than a predetermined array of services;

(ii) are rooted in and part of the communities that such systems are designed to serve as measured by the degree to which public and private community leaders and young individuals participate in the planning of such systems; and

(iii) demonstrate an ability to develop systematic collaboration among service providers on behalf of children, youth and families, including joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that promote more effective service systems for such individuals.

(b) EXISTING ENTITY.—The Commissioner may approve a State plan in which the chief executive officer of the State designates as the independent State body an existing State entity that is comprised of the parties described in subsection (a) and that is authorized to conduct the same range of interagency planning and coordination activities.

SEC. 931. STATE COORDINATION OF SERVICES.

42 USC 12337.

Grant programs.

(a) AUTHORITY.—The Commissioner shall make grants under this section to States on a formula basis for the purpose of improving the coordination of services provided to children, youth, and families.

(b) APPLICATION.—To be eligible to receive a grant under this section, the chief executive officer of a State shall prepare and submit to the Commissioner an application containing a plan providing assurances that—

(1) the independent State body is committed to interagency planning that results in statewide policies promoting systematic collaboration among agencies on behalf of young individuals as demonstrated by joint planning, joint financing, joint service delivery, common intake and assessment, and other arrange-

ments that reduce barriers to services and promote more effective local service delivery systems for young individuals;

Reports. (2) such plan will be based on needs as identified through an analysis of updated reports (such as "State of the Child" reports) prepared by the State, including detailed information gathered by the State, to the extent practicable, on young individuals and the families of such individuals concerning—

(A) age, sex, race, and ethnicity;

(B) the residences of such individuals;

(C) the incidence of homelessness among such individuals;

(D) the composition of families of such individuals;

(E) the economic situations of such individuals;

(F) the incidence of poverty among such individuals;

(G) experiences in the care of such individuals away from home;

(H) the health of such individuals;

(I) violence in the homes or communities of such individuals;

(J) the nature of the attachment of such individuals to school and work;

(K) dropout rates of such individuals from school; and

(L) the character of the communities in which such individuals reside;

(3) the system to be used for the distribution of funds within the State will require that—

(A) each area have an equal opportunity to apply for or receive funds under this chapter; and

(B) the public be given an opportunity to express views concerning the development and administration of such plan;

(4) the independent State body will provide an inventory of existing public and private services for children, youth and their families and will evaluate the need for supportive services within the State to address the purposes of this title and determine the extent to which existing public and private programs meet such need;

Reports. (5) the independent State body will make such reports, in such form, and containing such information, as the Commissioner may require;

(6) such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this chapter to the chief executive officer of the State, including any such funds paid to the recipients of a grant or contract;

(7) the independent State body will conduct periodic evaluations of activities and projects carried out pursuant to sections 931 and 932 and will report the results and recommendations to the chief executive officer of the State and the State legislature;

(8) the chief executive officer of the State will provide technical assistance or in-service training opportunities for personnel responsible for carrying out the purposes of sections 931 and 932; and

(9) the chief executive officer of each State will provide for the implementation of the requirements of section 932, relating to supportive services.

(c) USE OF GRANTS TO STATES.—Notwithstanding section 934(g), the amounts made available to each State under section 934(a) may be

used to make grants to a State to enable such State to pay such percentages as the independent State body of such State determines to be appropriate, of the cost of administering the State plan of such State including—

(1) the costs of the preparation of such plan and the provision of technical assistance to local areas;

(2) the costs of the evaluation of activities carried out under such plan;

(3) the costs of the collection of data and the carrying out of analyses related to the need for supportive services within the State;

(4) the costs of the dissemination of information obtained under paragraph (3); and

(5) the costs of the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this chapter.

(e) SUPPLEMENT NOT SUPPLANT.—Amounts received by a State under sections 931 and 932 shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the purposes for which grants are made under sections 931 and 932. In no event shall such expenditures be used to satisfy the matching requirements of any other Federal program.

(f) RELATIONSHIP TO FAMILY RESOURCE AND SUPPORT PROGRAM GRANTS.—If a State intends to apply for a grant under section 933 to be used for the same calendar year as the grant under this section, such State shall include in the application for a grant under this section a description of plans for family resource and support programs and for the coordination of the use of all funds received under this chapter.

SEC. 932. SUPPORTIVE SERVICES. 42 USC 12338.

(a) AUTHORITY.—The Commissioner shall carry out a program for making grants to a State, that has designated an independent State body under section 930 and provided for coordinated services under section 931, for distribution by the chief executive officer under a State plan approved under section 931 to demonstrate successful program approaches to fill service gaps identified through State planning and advocacy efforts for any of the areas specified in paragraph (2).

(b) ELIGIBLE SERVICES.—The services eligible to be provided under subsection (a) are services—

(1) that are designed to facilitate the provision of comprehensive community based services that are efficient, coordinated, and readily available through such activities as case planning, case management, intake and assessment, and information and referral; and

(2) that serve any of the following purposes—

(A) provide adequate and safe physical shelter to young individuals and the families of such individuals, especially in emergency circumstances;

(B) provide transitional living services to young individuals who are homeless;

(C) enable young individuals to attain and maintain physical and mental well-being;

(D) provide health screening to detect or prevent illnesses, or both, that occur most frequently in young individuals as well as better treatment and counseling;

(E) enhance the development of children to ensure that such children enter school prepared and ready to learn;

(F) promote the highest quality of educational opportunity, especially through drop-out prevention programs, remediation for young individuals who have dropped out of school, and vocational education;

(G) provide effective training apprenticeships and employment opportunities;

(H) promote participation in community service and civic, cultural, and recreational activities that value young individuals as resources and promote self-esteem and a stake in the community;

(I) promote the participation of young individuals in decisions concerning planning and managing the lives of such individuals;

(J) encourage young individuals and the families of such individuals to use any community facilities and services that are available to such individuals;

(K) ensure that young individuals who are unable to live with the biological families of such individuals have a safe place to live until such individuals can return home or move into independent adult life; and

(L) prevent the abuse, neglect, or exploitation of young individuals.

42 USC 12339.

SEC. 933. FAMILY RESOURCE AND SUPPORT PROGRAM GRANTS.

(a) AUTHORITY.—The Commissioner shall make grants under this section to States on a competitive basis, for the purpose of developing, expanding, and operating a network of local family resource and support programs in collaboration with existing health, mental health, education, employment and training, child welfare, and other social services agencies within the State.

(b) AMOUNT OF GRANT.—The amount of a grant awarded under this section for the first year in which a program is operated or expanded under this section shall not exceed $6,000,000 nor be less than $1,500,000 based on an assessment by the Commissioner of the application submitted by the State under subsection (d), the scope of the proposed program to be operated or expanded, and the population to be served by the program.

(c) DURATION.—

(1) IN GENERAL.—A grant awarded under this section shall be for a term of 3 years.

(2) LIMITATION.—

(A) USE.—During the 12-month period immediately after the date on which the grant is awarded to a State under this section, the State may use the funds received under such grant exclusively for program development. Subsequent to such period grant funds shall be used for program implementation and operation unless the Commissioner grants a waiver from this limitation.

(B) REPORTING REQUIREMENTS.—To receive funds after the period referred to in subparagraph (A) and after the 12-month period immediately following such initial period, the

State shall report to the Commissioner concerning the plans of the State for—

(i) the establishment and expansion of a network of family resource and support programs in the State;

(ii) the number of family resource and support programs that have been expanded or newly established with grant funds under this section;

(iii) the nature of those programs, including the populations served and services provided; and

(iv) the extent of local community and parental participation in the development, operation, and governance of the programs.

(d) APPLICATION.—To be eligible to receive a grant under this section a State shall prepare and submit, to the Commissioner, an application at such time, in such form, and containing such information as the Commissioner shall require, including—

(1) an assurance that the chief executive officer of the State will designate a lead agency to assume responsibility for the development and implementation of family resource and support programs;

(2) an assurance that the State has a process for effective program development that—

(A) does not duplicate current processes or programs;

(B) makes publicly available a written plan for the establishment of a network of local family resource and support programs; and

(C) involves appropriate personnel in the development process, including—

(i) parents and prospective participants in family resource and support programs;

(ii) staff of existing family resource and support programs;

(iii) representatives of State and local government social service, health, mental health, education, employment, and economic development agencies;

(iv) representatives of the business community;

(v) representatives of general purpose local government;

(vi) representatives of local communities in which family resource and support programs are likely to be located; and

(vii) other individuals with expertise in the services that the family resource and support programs of the State intend to offer;

(3) a description of the current family support programs in the State, the current unmet need for such services, and the intended scope of the State family resource and support program, the population to be served, the manner in which the program will be operated, and the manner in which such program will relate to other community services and public agencies;

(4) a description of the projected level of financial commitment by the State to developing a family resource and support program;

(5) a description of the core services, as required under this chapter, and other support services to be provided by the program and the manner in which such services will be provided;

(6) assurances that the State program will maintain cultural diversity;

(7) a description of the guidelines for requiring parental involvement in State and local program development, policy design, and governance and the process for assessing and demonstrating that parental involvement in program development, operation, and governance occurs;

(8) an assurance that, in awarding local grants, priority will be given to programs serving low-income communities and programs serving young parents;

(9) a description of the local interagency planning process to be utilized to develop and implement local family resource and support programs;

(10) a description of the criteria that the State will utilize for awarding grants for local programs so that they meet the requirements of subsection (f);

(11) a plan for providing training, technical assistance, and other assistance to local communities in program development;

(12) a description of the methods to be utilized to evaluate the implementation and effectiveness of the family resource and support programs within the State; and

(13) a description of proposed actions by the State that will reduce practical and regulatory barriers to the provision of comprehensive services to families, including family resource and support programs.

(e) CRITERIA.—In determining whether to award a grant to a State under this section the Commissioner shall consider—

(1) the plans for program development, expansion, and operation by the State, including the amount of training, technical assistance and other support that the State will provide to local communities in the development and operation of their programs;

(2) the established guidelines for requiring and assessing parental involvement in local program development, policy design, and goverance;

(3) the budget of the State for the expenditure of Federal and State funds and the ability of the program to secure financial commitments from a variety of sources, including public and private entities; and

(4) any other factors determined appropriate by the Commissioner.

(f) LOCAL PROGRAM REQUIREMENTS.—A State that receives a grant under such section shall use such grant to establish local family resource and support programs that—

(1) implement a community planning process involving parents, local public and private non-profit agencies responsible for providing health, education, employment training, Head Start and other early childhood, child welfare, and other social services to determine local family needs, and identify appropriate community agencies to administer such programs locally;

(2) provide core services, and other services directly or through contracts or agreements with other local agencies; and

(3) involve parents in the development, operation, and governance of the program.

SEC. 934. AUTHORIZATION OF APPROPRIATION AND ALLOTMENT. 42 USC 12340.

(a) ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES; STATE COORDINATION; SUPPORTIVE SERVICES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out sections 919, 931, and 932 of this title, $30,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992, 1993, and 1994. Funds appropriated under this paragraph shall remain available for expenditure in the fiscal year succeeding the fiscal year for which such funds are appropriated.

(2) AVAILABILITY OF APPROPRIATION.—Of the amount appropriated under paragraph (1) for any fiscal year—

(A) not more than 10 percent shall be available to carry out section 919; and

(B) not less than 90 percent shall be available to carry out sections 931 and 932.

(3) ALLOTMENT FORMULA.—Except as provided in paragraph (4), from the amount available under paragraph (2)(B) for each fiscal year, a State shall be allotted an amount that bears the same ratio to the amount appropriated for such fiscal year as the population of the State that is under the age of 21 bears to the population of all States that is under the age of 21.

(4) EXCEPTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to the availability of appropriations under paragraph (1), no State shall be allotted less than $300,000 under the formula established under paragraph (3).

(B) LIMITATION ON ALLOTMENT.—Notwithstanding subparagraph (A), Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $75,000 under the formula established under paragraph (2). Territories.

(b) DETERMINATION OF AGE.—The number of individuals under the age of 21 in each State shall be determined by the Commissioner on the basis of the most recent data available to the Commissioner.

(c) TRANSFER OF ALLOTTED FUNDS.—Whenever the Commissioner determines that—

(1) any amount allotted to a State for a fiscal year under section 931 or 932 will not be used by such State for carrying out the purpose for which such allotment was made; or

(2) a State has failed to qualify under the State plan required under section 929;

the Commissioner shall make such allotment available for carrying out such purposes to other participating States in a proportional manner based on the relative population of the State of individuals under the age of 21.

(d) FAMILY RESOURCE AND SUPPORT PROGRAMS.—There are authorized to be appropriated to carry out section 933, $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

(e) LIMITATION.—A State shall not use in excess of 10 percent of a grant awarded under section 932 or 933 for administrative activities at the State level.

(f) GRANTS FOR INDIANS.—The Commissioner shall use 1 percent of the amount appropriated under this section for each fiscal year to

make allotments to Indian tribes and tribal organizations (such terms having the same meaning given to such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b (b) and (c))) that submit to the Commissioner a plan that meets criteria consistent with the provisions of this chapter and that comply with other requirements established by the Commissioner.

(g) LIMITATION.—Grants made under this subtitle may be used to pay not more than 80 percent of the cost of—

(1) the preparation, administration, and evaluation of State plans under section 931;

(2) the development of comprehensive, efficient, coordinated supportive services under section 932; and

(3) the development, expansion, and operation of local family support and resource programs under section 933.

The remaining 20 percent of such cost shall be paid by the State with funds from non-Federal sources.

Family Resource Act.

CHAPTER 3—NATIONAL CLEARINGHOUSE

42 USC 12301 note.

SEC. 955. SHORT TITLE.

This chapter may be cited as the "Family Resource Act".

42 USC 12351.

SEC. 956. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) fundamental changes in the demographics and economics of family life in the United States over the past 20 years have had a profound effect on children and their parents;

(2) since 1966, the number of women working outside the home has increased by 92 percent and the number of two earner families has increased by over 50 percent;

(3) 61 percent of the children born today will live in a single-parent family before reaching the age of 20, with one out of every three single female heads of households living on income below the Federal poverty level;

(4) one out of every four children under the age of 6 in the United States currently lives below the Federal poverty level;

(5) over the past 10 years, parents have increasingly come together with other parents to organize family resource and support programs that promote healthy child development and increase parental competency, particularly families at risk; and

(6) Federal investment in promoting the development of family resource and support programs will reap long-term benefits for individual families and the nation as a whole.

(b) PURPOSE.—It is the purpose of this Act to—

(1) stimulate the development and expansion of family resource and support programs that are prevention oriented;

(2) encourage early intervention of such programs with families to ameliorate problem situations before such situations become crises; and

(3) assist parents in enhancing their children's development to ensure that their children enter school prepared and ready to learn.

42 USC 12352.

SEC. 957. DEFINITION.

As used in this chapter, the term "family resource and support programs" means community-based services that offer sustained

assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(1) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(2) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(3) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

SEC. 958. ESTABLISHMENT OF NATIONAL CENTER ON FAMILY RESOURCE AND SUPPORT PROGRAMS.

42 USC 12353.

(a) ESTABLISHMENT.—The Commissioner shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to all types of family resource and support programs, to be known as the "National Center on Family Resource and Support Programs".

Grant programs. Government contracts.

(b) FUNCTIONS.—The national center established under subsection (a) shall serve as a national information and data clearinghouse, training, technical assistance, and material development source for family resource and support programs. Such center shall—

(1) develop and maintain a system for disseminating information on all types of family resource and support programs and on the state of family resource and support program development, including information concerning the most effective model programs;

(2) develop and sponsor a variety of training institutes and curricula for family resource and support program staff;

(3) identify several model programs representing the various types of family resource and support programs to develop technical assistance materials and activities to assist other agencies in establishing family resource and support programs; and

(4) develop State-wide networks of family resource and support programs for the purpose of sharing and disseminating information.

SEC. 959. EVALUATION.

42 USC 12354.

The Commissioner shall, through grants or contracts awarded or entered into with independent auditors, conduct evaluations and related activities, of family resource and support programs, including—

Grant programs. Government contracts.

(1) evaluations of on-going programs;

(2) process evaluations focusing on implementation strategies; and

(3) the development of simple evaluation models for use by local family resource and support programs.

SEC. 960. AUTHORIZATION OF APPROPRIATIONS.

42 USC 12355.

(a) ESTABLISHMENT OF CENTER.—To carry out section 958, there are authorized to be appropriated $2,300,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

(b) EVALUATION.—To carry out section 959, there are authorized to be appropriated $700,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1994.

1993 White House Conference on Children, Youth, and Families.

Subtitle B—White House Conference on Children, Youth, and Families

42 USC 12301 note.

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "1993 White House Conference on Children, Youth, and Families".

42 USC 12371.

SEC. 982. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) children and youth are inherently our most valuable resource and their welfare, protection, healthy development, and positive role in society are essential to the Nation;

(2) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive work, and preparation for responsible participation in community life;

(3) an increasing opportunity for children and youth to participate in the decisions that affect their lives is essential;

(4) the family is the primary caregiver and the source of social learning which must be supported and strengthened, but when families are unable to ensure the satisfaction of the needs of children and youth, it is society's responsibility to assist them;

(5) at a minimum, all children and youth need and deserve access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) the highest quality of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment;

(E) the widest range of civic, cultural, and recreational activities which recognize young Americans as resources and promote self-esteem and a stake in their communities;

(F) comprehensive community services which are efficient, coordinated, and readily available; and

(G) genuine participation in decisions concerning the planning and managing of their lives; and

(6) there is a great need for a comprehensive national policy with respect to young individuals, designed to engage Federal, State, and local government agencies, youth organizations, and other voluntary organizations.

(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenge and needs of young individuals.

42 USC 12372.

SEC. 983. AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT.

(a) CALLING OF THE CONFERENCE.—The President shall call a White House Conference on Children, Youth, and Families in 1993 in order to develop recommendations for further action in the field of children, youth, and families which will further the policy set forth in section 982(b). The Conference shall be planned and con-

ducted under the direction of the Secretary in cooperation with the Commissioner and with the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) PURPOSES OF THE CONFERENCE.—The purposes of the Conference shall be—

(1) to increase the public awareness of the value and needs of young individuals;

(2) to examine the well-being of young individuals as well as the problems which they face;

(3) to describe the extent to which young individuals with identified needs do not receive services to meet such needs;

(4) to determine the reasons why young individuals are not receiving needed services; and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to improve the well-being of youth and their families.

(c) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of the Conference, the Conference shall bring together—

(A) representatives of Federal, State, and local governments, including representatives of the General Accounting Office;

(B) professionals who are working in the field of children, youth, and families; and

(C) representatives of the general public, particularly young individuals.

(2) SELECTION OF DELEGATES.—The delegates to attend the Conference shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of children, youth, and families.

SEC. 984. CONFERENCE ADMINISTRATION. 42 USC 12373.

(a) ADMINISTRATION.—For purposes of carrying out this subtitle, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate;

(2) furnish all reasonable assistance to State agencies administering programs related to children, youth and families, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which reflects, to the greatest extent possible, the major issues facing children, youth, and families consistent with subsection (a);

(4) prepare and make available background materials which the Secretary deems necessary for the use of delegates to the Conference; and

(5) engage such additional personnel as may be necessary to carry out this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, ensure that—

(1) the conferences under subsection (a)(2) will be conducted so as to ensure broad participation of young individuals;

Federal Register, publication.

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

Federal Register, publication.

(3) the final agenda for the Conference, taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) to the extent practicable, current and adequate statistical data (including decennial census data) and other information on the well-being of young individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to children and youth. In carrying out this subparagraph, the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations.

42 USC 12374.

SEC. 985. CONFERENCE COMMITTEES.

(a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representatives from the Federal Council on Children, Youth, and Families, public agencies and nonprofit private organizations as appropriate.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) COMPOSITION OF COMMITTEES.—Each committee established under this section shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups.

(d) COMPENSATION.—Members of any committee established under this section (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily rate payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

42 USC 12375.

SEC. 986. REPORT OF THE CONFERENCE.

(a) PROPOSED REPORT.—A proposed report of the Conference which shall include a statement of comprehensive coherent national policy

on children, youth, and families together with recommendations for the implementation of such policy, shall be published and submitted to the chief executive officers of the States not later than 180 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be available immediately to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the proposed report of the Conference, shall submit to the Secretary, not later than 180 days after receiving such report, their views and findings on the recommendations of the Conference.

(c) FINAL REPORT.—Not later than 180 days after submission of the views and comments of the chief executive officers of the States, the Secretary shall—

(1) prepare a final report on the conference, which shall include—

(A) a statement of the policy and recommendations of the Conference;

(B) the views and comments of the chief executive officers of the States; and

(C) the recommendations of the Secretary, after taking into consideration the views and comments of such officers, for administrative and legislative action necessary to implement the recommendations of the Conference; and

(2) publish and transmit such report to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate.

SEC. 987. DEFINITIONS. 42 USC 12376.

For purposes of this subtitle—

(1) the term "Conference" means the 1993 White House Conference on Children, Youth, and Families; and

(2) the terms "child", "youth", and "young individual" means an individual who is less than 21 years of age.

SEC. 988. AUTHORIZATION OF APPROPRIATIONS. 42 USC 12377.

(a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1993 and 1994, to carry out this subtitle. Sums appropriated under this subsection shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this subtitle shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of the 1-year period referred to in subsection (a) shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

TITLE X—EFFECTIVE DATES

SEC. 1001. EFFECTIVE DATES. 42 USC 8621 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) SPECIAL EFFECTIVE DATES.—(1) The amendment made by section 207(b) shall take effect immediately before October 1, 1990.

(2) Section 646(b) of the Head Start Act, as added by section 115, shall take effect on April 1, 1990.

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 4151:

HOUSE REPORTS: No. 101-480 (Comm. on Education and Labor) and No. 101-816 (Comm. of Conference).
SENATE REPORTS: No. 101-421 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May. 16, considered and passed House.
Sept. 18, considered and passed Senate, amended.
Oct. 10, House agreed to conference report.
Oct. 18, Senate agreed to conference report.

Public Law 101-502
101st Congress

An Act

To amend the Public Health Service Act to extend various programs with respect to vaccine-preventable diseases.

Nov. 3, 1990
[H.R. 4238]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Vaccine and Immunization Amendments of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vaccine and Immunization Amendments of 1990".

SEC. 2. GRANTS FOR IMMUNIZATIONS.

Appropriation authorization.
42 USC 247b.

(a) EXTENSION OF GENERAL PROGRAM.—Section 317(j)(1) of the Public Health Service Act (42 U.S.C. 247B(j)(1)) is amended—

(1) in subparagraph (A), by striking "there are authorized" and all that follows in the first sentence and inserting the following: "there are authorized to be appropriated $205,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.";

(2) in subparagraph (B), by striking "after the date" and all that follows and inserting the following: "after October 1, 1990, there are authorized to be appropriated such sums as may be necessary."; and

(3) by striking subparagraph (C).

Infants and children.
42 USC 300aa-2 note.

(b) DEMONSTRATION PROJECTS FOR OUTREACH PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, may make grants to public and nonprofit private entities for the purpose of carrying out demonstration projects—

(A) to provide, without charge, immunizations against vaccine-preventable diseases to children not more than 2 years of age who reside in communities whose population includes a significant number of low-income individuals; and

(B) to provide outreach services to identify such children and to inform the parents (or other guardians) of the children of the availability from the entities of the immunizations specified in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

SEC. 3. SUPPLY OF VACCINES.

42 USC 300aa-2 note.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period. Any proceeds received by the Secretary from the sale of vaccines from such supply shall be available to the Secretary for the purpose of purchasing vaccines for

the supply. Such proceeds shall remain available for such purpose until expended.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.

Appropriation authorization.

SEC. 4. EXTENSION OF NATIONAL VACCINE PROGRAM.

Section 2106 of the Public Health Service Act (42 U.S.C. 300aa-6) is amended—

(1) in subsection (a), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $4,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995."; and

(2) in subsection (b), by striking "there are authorized" and all that follows and inserting the following: "there are authorized to be appropriated $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.".

Claims. Courts.

SEC. 5. TECHNICAL AMENDMENTS.

(a) SECTION 2111.—Section 2111 of the Public Health Service Act (42 U.S.C. 300aa-11) is amended—

(1) in subsection (a)(2)(A), by striking "unless" and all that follows in that subsection and inserting the following:

"unless a petition has been filed, in accordance with section 2116, for compensation under the Program for such injury or death and—

"(i)(I) the United States Claims Court has issued a judgment under section 2112 on such petition, and

"(II) such person elects under section 2121(a) to file such an action, or

"(ii) such person elects to withdraw such petition under section 2121(b) or such petition is considered withdrawn under such section.",

(2) in subsection (a)(5)(A), by striking "without prejudice" the second time it occurs,

(3) in subsection (a)(5)(B), by striking "plaintiff who" and inserting "plaintiff",

(4) in subsection (d), by striking "(d) except as provided in paragraph (3)," before "(d) ADDITIONAL INFORMATION", and

(5) in subsection (e), by striking "(e)" before "(e) SCHEDULE".

(b) SECTION 2112.—

(1) SUSPENSION OF PROCEEDINGS.—Section 2112(d)(3) of the Public Health Service Act (42 U.S.C. 300aa-12(d)(3)) is amended by adding at the end the following:

"(D) If, in reviewing proceedings on petitions for vaccine-related injuries or deaths associated with the administration of vaccines before the effective date of this part, the chief special master determines that the number of filings and resultant workload place an undue burden on the parties or the special master involved in such proceedings, the chief special master may, in the interest of justice, suspend proceedings on any petition for up to 180 days in addition to the suspension time under subparagraph (C).".

(2) NOTICE.—Section 2112 of the Public Health Service Act (42 U.S.C. 300aa-12) is amended by adding at the end the following:

"(g) NOTICE.— If—

"(1) a special master fails to make a decision on a petition within the 240 days prescribed by subsection (d)(3)(A)(ii) (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)), or

"(2) the United States Claims Court fails to enter a judgment under this section on a petition within 420 days (excluding (A) any period of suspension under subsection (d)(3)(C) or (d)(3)(D), and (B) any days the petition is before a special master as a result of a remand under subsection (e)(2)(C)) after the date on which the petition was filed,

the special master or court shall notify the petitioner under such petition that the petitioner may withdraw the petition under section 2121(b) and the petition will be considered withdrawn under such section if the petitioner, the special master, or the court do not take certain actions.".

(c) SECTION 2113.—Section 2113(c) of the Public Health Service Act (42 U.S.C. 300aa-13(c)) is amended by inserting "the" after "special masters of".

(d) SECTION 2115.—Section 2115 of the Public Health Service Act (42 U.S.C. 300aa-15) is amended—

(1) in subsection (e)(2), by striking "the Program," the second time it occurs and all that follows through "limited to the costs" and inserting the following: "the Program, in awarding compensation on such petition the special master or court may include an amount of compensation limited to the costs",

(2) in subsection (f)—

(A) in the second sentence of paragraph (2), by striking "section 2121(b)" and inserting "section 2121(a)", and

(B) in the last sentence of paragraph (4)(B), by striking "subsection (i)" and inserting "subsection (j)" and by striking "section 2111(a)" and inserting "the limitation on civil actions prescribed by section 2121(a)", and

(3) in the first sentence of subsection (j), by inserting before the period ", and $80,000,000 for each succeeding fiscal year in which a payment of compensation is required under subsection (f)(4)(B)".

(e) SECTION 2116.—Section 2116 of the Public Health Service Act (42 U.S.C. 300aa-16) is amended—

(1) in subsection (a)(1)—

(A) by striking "24 months" and inserting "28 months", and

(B) by inserting before the comma at the end the following: "and no such petition may be filed if the first symptom or manifestation of onset or of the significant aggravation of such injury occurred more than 36 months after the date of administration of the vaccine", and

(2) in subsection (c), by striking "and ending on the date a final judgment is entered on the petition" and inserting "and ending on the date (1) an election is made under section 2121(a) to file the civil action, (2) an election is made under section 2121(b) to withdraw the petition, or (3) the petition is considered withdrawn under section 2121(b)".

(f) SECTION 2121.—

(1) LIMITATION ON ACTIONS.—Section 2121(a) of the Public Health Service Act (42 U.S.C. 300aa-21(a)) is amended—

(A) by inserting before the last sentence the following: "If a person elects to receive compensation under a judgment of the court in an action for a vaccine-related injury or death associated with the administration of a vaccine before the effective date of this part or is deemed to have accepted the judgment of the court in such an action, such person may not bring or maintain a civil action for damages against a vaccine administrator or manufacturer for the vaccine-related injury or death for which the judgment was entered.", and

(B) by inserting after "actions" in the last sentence the following: "for vaccine-related injuries or deaths associated with the administration of a vaccine after the effective date of this part".

(2) WITHDRAWAL OF PETITION.—Section 2121(b) of the Public Health Service Act (42 U.S.C. 300aa-21(b)) is amended to read as follows:

"(b) WITHDRAWAL OF PETITION.—

"(1) A petitioner under a petition filed under section 2111 may submit to the United States Claims Court a notice in writing withdrawing the petition if—

"(A) a special master fails to make a decision on such petition within the 240 days prescribed by section 2112(d)(3)(A)(ii) (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)), or

"(B) the court fails to enter a judgment under section 2112 on the petition within 420 days (excluding (i) any period of suspension under section 2112(d)(3)(C) or 2112(d)(3)(D), and (ii) any days the petition is before a special master as a result of a remand under section 2112(e)(2)(C)) after the date on which the petition was filed.

Such a notice shall be filed within 30 days of the provision of the notice required by section 2112(g). If such a notice is not filed before the expiration of such 30 days, the petition with respect to which the notice was to be filed shall be considered withdrawn under this paragraph.

"(2) If a special master or the court does not enter a decision or make a judgment on a petition filed under section 2111 within 30 days of the provision of the notice in accordance with section 2112(g), the special master or court shall no longer have jurisdiction over such petition and such petition shall be considered as withdrawn under paragraph (1).".

(g) SECTION 322.—Section 322 of the National Childhood Vaccine Injury Act of 1986 (42 U.S.C. 300aa-1 note) is amended—

(1) in subsection (a)—

(A) by striking "of title XXI" and inserting "part A or B of subtitle 2 of title XXI", and

(B) by striking "such title XXI" and inserting "both such parts", and

(2) by adding at the end the following:

42 USC 300aa-12 note.

"(c) REVIEW UNDER SECTION 2112(f).—If the review authorized by section 2112(f) is held invalid because the judgment of the United States Claims Court being reviewed did not arise from a case or controversy under Article III of the Constitution, such judgment shall be reviewed by a 3-judge panel of the United States Claims

Court. Such panel shall not include the judge who participated in such judgment.".

(h) EFFECTIVE DATE.—The amendments made by subsections (f)(1) and (g) shall take effect as of November 14, 1986, and the amendments made by subsections (a) through (e) and subsection (f)(2) shall take effect as of September 30, 1990. 42 USC 300aa-11 note.

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 6601(r) of the Omnibus Reconciliation Act of 1989 (Public Law 101-239) is amended— 103 Stat. 2292.

(1) in paragraph (1), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992",

(2) in paragraph (2), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992", and

(3) in paragraph (3), by striking "$1,500,000 for each of the fiscal years 1990 and 1991", and inserting "$2,500,000 for each of the fiscal years 1991 and 1992".

(j) RECORDS AND REPORTS.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by striking out "or (j)" and inserting in lieu thereof "or (k)".

(k) COMMISSIONED CORPS.—

(1) APPOINTMENT OF COMMISSIONED OFFICER.—Section 206(a) of the Public Health Service Act (42 U.S.C. 207(a)) is amended by inserting after the first sentence the following new sentence: "During the period of appointment to the position of Assistant Secretary for Health, a commissioned officer of the Public Health Service shall have the grade corresponding to the grade of General of the Army.".

(2) CONFORMING AMENDMENT.—Section 201(a) of title 37, United States Code, is amended by inserting "Assistant Secretary for Health." in the fourth column of the table corresponding with pay grade O-10.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the first day of the month immediately following the month in which this Act was enacted. 37 USC 201 note.

SEC. 6. TECHNICAL AMENDENTS IN CERTAIN PROGRAMS PROVIDING SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) FORMULA FOR EMERGENCY RELIEF GRANTS.—Section 2603(a)(3) of the Public Health Service Act, as added by section 101(3) of Public Law 101-381, is amended to read as follows: 42 USC 300ff-13.

"(3) AMOUNT OF GRANT.—

"(A) IN GENERAL.—

"(i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

"(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

"(II) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

"(ii) For purposes of clause (i)(II), the term 'distribution factor' means the sum of—

"(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

"(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

"(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control by the applicable date specified in section 2601(a); to

"(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

"(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount determined in this subparagraph is an amount equal to the ratio of—

"(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

"(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).".

(b) SET-ASIDE REGARDING CATEGORICAL GRANTS TO CERTAIN ENTITIES FOR EARLY INTERVENTION SERVICES.—Section 2649(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended— 42 USC 300ff-49.

(1) by striking "(c) CERTAIN ALLOCATIONS" and all that follows through "After determining" and inserting the following:

"(c) CERTAIN ALLOCATIONS BY SECRETARY.—

"(1) DISCRETIONARY GRANTS TO CERTAIN STATES.—After determining"; and

(2) by adding at the end the following new paragraph:

"(2) GRANTS TO CERTAIN POLITICAL SUBDIVISIONS.—

"(A)(i) In the case of a State containing any political subdivision described in clause (ii), the Secretary shall, subject to subparagraph (B), make a reduction in the amount of the allotment under subsection (a) for the State for each fiscal year in an amount necessary for carrying out subparagraphs (B) and (C) with respect to the political subdivision. Any such reduction shall be in addition to the reduction required in paragraph (1) for the fiscal year involved.

"(ii) The political subdivision referred to in clause (i) is any political subdivision that received a cooperative agreement from the Secretary, acting through the Director of the

Centers for Disease Control, for fiscal year 1990 for programs to provide counseling and testing with respect to acquired immune deficiency syndrome.

"(B) In the case of a State described in subparagraph (A), the Secretary shall, from the amounts made available as a result of reductions under such subparagraph, make a grant each fiscal year to each political subdivision described in such subparagraph that exists in the State if the political subdivision involved agrees that the provisions of subparts II and III will apply to the political subdivision to the same extent and in the same manner as such subparts apply to entities receiving grants under section 2651(a).

"(C) Grants under subparagraph (B) for a fiscal year for a political subdivision shall be provided in an amount equal to the amount received by the political subdivision in fiscal year 1990 under the cooperative agreement described in subparagraph (A).".

(c) MISCELLANEOUS AMENDMENT.—Section 2647(c) of the Public Health Service Act, as added by section 301(a) of Public Law 101-381, is amended— 42 USC 300ff-47.

(1) in the first sentence, by striking "are adequate" and inserting the following: "certifies to the Secretary that the laws of the State are adequate"; and

(2) in the second sentence, by striking "subsection (a)" and inserting "subsection (a),".

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 4238 (S. 2629):

HOUSE REPORTS: No. 101-611 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-390 accompanying S. 2629 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 23, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendments.

Public Law 101-503
101st Congress

An Act

Nov. 3, 1990
[H.R. 5367]

To provide for the renegotiation of certain leases of the Seneca Nation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Seneca Nation Settlement Act of 1990.
New York.
25 USC 1774 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Seneca Nation Settlement Act of 1990".

25 USC 1774.

SEC. 2. FINDINGS AND PURPOSES.

(a) CITY OF SALAMANCA AND CONGRESSIONAL VILLAGES.—The Congress finds and declares that:

(1) Disputes concerning leases of tribal lands within the city of Salamanca and the congressional villages, New York, have strained relations between the Indian and non-Indian communities and have resulted in adverse economic impacts affecting both communities.

(2) Some of the significant historical events which have led to the present situation include—

(A) beginning in the mid-nineteenth century, several railroads obtained grants or leases of rights of way through the Allegany Reservation without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(B) after construction of these railroads, Allegany Reservation lands were leased to railroad employees, persons associated with the railroads, residents of the city and farmers without Federal authorization or approval and on terms which did not adequately protect the interests of the Seneca Nation;

(C) none of these leases had Federal authorization or approval and, after the courts ruled these leases invalid, Congress enacted the Act of February 19, 1875 (18 Stat. 330), confirming existing leases of Allegany Reservation lands, authorizing further leasing by the Seneca Nation, and making the confirmed leases renewable for a twelve year period;

(D) the Act of September 30, 1890 (26 Stat. 558), amended the 1875 Act by substituting a renewal term of "not exceeding ninety-nine years" for the original renewal term of twelve years; and

(E) in 1952 the Seneca Nation filed a claim with the Indian Claims Commission against the United States for use of improper lease fees, and in 1977 a settlement was reached regarding such claim, providing for the payment of $600,000 to the Seneca Nation covering the period beginning in 1870 to the end of 1946.

(3) An analysis of historic land values indicates that the payments made under the original lease agreement and under the settlement described in paragraph (2)(E) were well below the actual lease value of the property.

(4) The approaching expiration of the Salamanca and congressional village leases on February 19, 1991, has created significant uncertainty and concern on the part of the city of Salamanca and Salamanca residents, and among the residents of the congressional villages, many of whose families have resided on leased lands for generations.

(5) The future economic success of the Seneca Nation, city, and congressional villages is tied to the securing of a future lease agreement.

(6) The Federal and State governments have agreed that there is a moral responsibility on the part of both governments to help secure a fair and equitable settlement for past inequities.

(b) PURPOSE.—It is the purpose of this Act—

(1) to effectuate and support the Agreement between the city and the Seneca Nation, and facilitate the negotiation of new leases with lessees in the congressional villages;

(2) to assist in resolving the past inequities involving the 1890 leases and to secure fair and equitable compensation for the Seneca Nation based on the impact of these leases on the economy and culture of the Seneca Nation;

(3) to provide a productive environment between the Seneca Nation and lessees for negotiating the leases provided for under the Agreement;

(4) to provide stability and security to the city and the congressional villages, their residents, and businesses;

(5) to promote the economic growth of the city and the congressional villages;

(6) to promote economic self-sufficiency for the Seneca Nation and its members;

(7) to promote cooperative economic and community development efforts on the part of the Seneca Nation and the city; and

(8) to avoid the potential legal liability on the part of the United States that could be a direct consequence of not reaching a settlement.

SEC. 3. DEFINITIONS. 25 USC 1774a.

For the purposes of this Act—

(1) the term "1890 lease" means a lease made by the Seneca Nation which is subject to—

(A) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved February 19, 1875 (chap. 90, 18 Stat. 330); and

(B) the Act entitled "An Act to authorize the Seneca Nation of New York Indians to lease lands within the Cattaraugus and Allegany Reservations, and to confirm existing leases" approved September 30, 1890 (chap. 1132, 26 Stat. 558);

(2) the term "Agreement" means the document executed by the Seneca Nation and the city entitled "Agreement between

the Seneca Nation of Indians and the City of Salamanca", including the appendix to the Agreement;

(3) the term "city" means the city of Salamanca, New York;

(4) the term "lessee" means the holder of an 1890 lease which either expires in 1991 or is one of the leases listed in document 1 of the Technical Documents, including any lessee who holds an 1890 lease by reason of assignment, inheritance, or other manner as provided by the Act referred to in paragraph (1)(A);

(5) the term "memorandum of understanding" means an agreement between the State and the Seneca Nation pertaining to the payment of the funds to be provided pursuant to this Act, which memorandum of understanding reflects an agreement between the Seneca Nation and the State concerning a mechanism and schedule of payments for the funds described in section 6(c);

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Seneca Nation" means the Seneca Nation of Indians of the Allegany, Cattaraugus, and Oil Spring Reservations;

(8) the term "State" means the State of New York;

(9) the term "Technical Documents" means the documents which comprise the appendix to the Agreement; and

(10) the term "congressional villages" means the villages of Carrollton, Great Valley, and Vandalia in the State of New York.

25 USC 1774b.

SEC. 4. NEW LEASES AND EXTINGUISHMENT OF CLAIMS.

(a) NEW LEASES.—If the Seneca Nation offers new leases in accordance with the Agreement, this Act shall apply with respect to the Seneca Nation. The Seneca Nation shall supply copies of such leases to the Secretary and shall certify in writing that it has supplied the Secretary with copies of written offers to all lessees entitled to an offer.

(b) EXTINGUISHMENT OF CLAIMS.—The Seneca Nation shall execute appropriate documents relinquishing all claims against the United States, the State, the city, the congressional villages, and all prior lessees for payment of annual rents prior to February 20, 1991, with respect to all prior and existing leases.

(c) EFFECTIVE DATE OF LEASES AND RELINQUISHMENTS.—(1) The relinquishment of claims against the United States shall be effective upon payment by the United States to the Seneca Nation of the funds provided in section 6 of this Act.

(2) The offers, and any acceptances thereof, referred to in subsection (a), and the relinquishment of claims against the State, the city, the congressional villages, and all prior lessees for payment of annual rents referred to in subsection (b) shall not be binding on the Seneca Nation until after the later of the dates on which (1) Congress, or (2) the legislature of the State appropriates the amount of funds set forth in section 6 or the Seneca Nation and the State agree upon a schedule and mechanism for payments for funds pursuant to section 6(c). Such agreement shall render the offers, acceptances and the relinquishment effective so long as the payments are made as agreed upon by the Seneca Nation and the State.

SEC. 5. RESPONSIBILITIES AND RESTRICTIONS. 25 USC 1774c.

(a) SENECA NATION.—The Congress finds that the Seneca Nation is solely responsible for negotiation of the leases under the Agreement in its own interest and approval of any such lease by the United States is not required.

(b) LESSEES.—The Congress finds that—

(1) the lessees of leases with the Seneca Nation are responsible for representing their own interest in lease negotiations with the Seneca Nation; and

(2) nothing in this Act shall be construed to prevent the lessees from collectively negotiating with the Seneca Nation regarding such leases, whether through informal groups or as delegations formally sanctioned by either the State or local governments.

(c) UNITED STATES.—(1) The United States shall not serve in a capacity to approve leases of the Seneca Nation.

(2) Federal funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease, except for funds that may be available under a conventional, nationwide program.

(d) STATE.—(1) The State shall not serve in a capacity to approve leases of the Seneca Nation.

(2) State funds may not be obligated or expended, directly or indirectly, for annual payments under any such lease.

SEC. 6. SETTLEMENT FUNDS. 25 USC 1774d.

(a) IN GENERAL.—In recognition of the findings and purposes specified in section 2, the settlement funds provided pursuant to this Act shall be provided by the United States and the State. The Secretary may not obligate or expend funds provided under subsection (b) until the Secretary determines that there is an agreed upon and signed memorandum of understanding.

(b) FUNDS PROVIDED BY UNITED STATES.—

(1) CASH PAYMENT.—The Secretary shall pay to the Seneca Nation the amount of $30,000,000, which is the Federal share of the cash payment to be managed, invested, and used by the Nation to further specific objectives of the Nation and its members, all as determined by the Nation in accordance with the Constitution and laws of the Nation.

(2) ECONOMIC DEVELOPMENT.—(A) In addition to the amount provided under paragraph (1), the Secretary shall pay to the Seneca Nation the amount of $5,000,000 to be used for the economic and community development of the Seneca Nation, including the city of Salamanca, which is an integral part of the Seneca Nation's Allegany Reservation. Such amount shall be deposited by the Secretary, administered, and disbursed in accordance with subparagraph (B).

(B)(i) The sum of $2,000,000 shall be deposited in a separate interest bearing account of the Seneca Nation. The account shall be administered, and the principal and interest thereon disbursed, by the Seneca Nation in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation. Until the principal is expended pursuant to such plan, the income accruing from such sum shall be disbursed to the treasurer of the Seneca Nation on a quarterly basis to fund tribal government operations and to provide for the general

welfare of the Seneca Nation and its members. The Seneca Nation may in its discretion add the accrued income to the principal.

(ii) The sum of $3,000,000 shall be deposited in an escrow account which shall be owned by the Seneca Nation. The escrow agent shall be selected by agreement of the Seneca Nation and the city. The escrow account shall remain in existence for a period of ten years from the date on which the principal is deposited or until all payments provided for under section V.D. of the Agreement have been made. The escrow account shall be held and disbursed for economic and community development as set forth in section V.D. of the Agreement. Upon the expiration of the ten-year period, the $3,000,000 principal shall be disbursed in accordance with a plan approved by the Council of the Seneca Nation to promote the economic and community development of the Seneca Nation.

(c) FUNDS TO BE PROVIDED BY THE STATE.—The State, in accordance with its laws and regulations, shall provide the sum of $16,000,000 in cash payments and $9,000,000 for economic or community development subject to the provisions of the memorandum of understanding.

(d) TIME OF PAYMENTS.—The payments required by this section on the part of the United States shall be made within 30 days of the Secretary's determination that the Seneca Nation has complied with section 4, or upon the availability of the amounts necessary to carry out this Act, if such determination has previously been made. If the Secretary determines that the Seneca Nation has not complied with section 4, he shall advise the Seneca Nation in writing of all steps it must take to comply.

(e) LIMITATION.—The only amounts available to carry out this Act shall be those amounts specifically appropriated by the Congress or the legislature of the State to carry out this Act.

25 USC 1774e.

SEC. 7. CONDITIONS PRECEDENT TO PAYMENT OF UNITED STATES AND STATE FUNDS.

Amounts may not be expended from—

(1) the $30,000,000 and the $5,000,000 provided by the United States under section 6(b), and

(2) the $16,000,000 and $9,000,000 provided by the State under section 6(c),

until after the authorized officials of the Seneca Nation execute new leases with all lessees who accept the Seneca Nation's offer of a new lease, as filed with the Secretary under section 4(a), and execute appropriate documents relinquishing all claims for payment of annual rents prior to February 20, 1991, with respect to such leases.

25 USC 1774f.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) LIENS AND FORFEITURES, ETC.—Subject to subsection (b), the provisions of section 7 of the Indian Tribal Judgment Funds Use and Distribution Act (25 U.S.C. 1407) shall apply to any payment of funds authorized to be appropriated under this Act and made to individual members of the Seneca Nation. None of the payments, funds, or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, which may be received under this Act by the Seneca Nation or individual members of the Seneca Nation, shall be subject to levy, execution, forfeiture, garnishment, lien, encumbrance, seizure, or State or local taxation.

(b) ELIGIBILITY FOR GOVERNMENT PROGRAMS.—None of the payments, funds or distributions authorized, established, or directed by this Act, and none of the income derived therefrom, shall affect the eligibility of the Seneca Nation or its members for, or be used as a basis for denying or reducing funds under, any Federal program.

(c) LAND ACQUISITION.—Land within its aboriginal area in the State or situated within or near proximity to former reservation land may be acquired by the Seneca Nation with funds appropriated pursuant to this Act. State and local governments shall have a period of 30 days after notification by the Secretary or the Seneca Nation of acquisition of, or intent to acquire such lands to comment on the impact of the removal of such lands from real property tax rolls of State political subdivisions. Unless the Secretary determines within 30 days after the comment period that such lands should not be subject to the provisions of section 2116 of the Revised Statutes (25 U.S.C. 177), such lands shall be subject to the provisions of that Act and shall be held in restricted fee status by the Seneca Nation. Based on the proximity of the land acquired to the Seneca Nation's reservations, land acquired may become a part of and expand the boundaries of the Allegany Reservation, the Cattaraugus Reservation, or the Oil Spring Reservation in accordance with the procedures established by the Secretary for this purpose.

SEC. 9. LIMITATION OF ACTION. 25 USC 1774g.

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this Act shall be barred unless the action is filed on or before the date which is 180 days after the date of enactment of this Act. Exclusive jurisdiction over any such action is hereby vested in the United States District Court for the Western District of New York.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS. 25 USC 1774h.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 5367 (S. 2895):

HOUSE REPORTS: No. 101-832 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-511 accompanying S. 2895 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 16, considered and passed Senate.

Public Law 101-504
101st Congress

An Act

Nov. 3, 1990
[H.R. 5794]

To amend the Age Discrimination Claims Assistance Act of 1988 to extend the statute of limitations applicable to certain additional claims under the Age Discrimination in Employment Act of 1967.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Age Discrimination Claims Assistance Amendments of 1990.
29 USC 626 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination Claims Assistance Amendments of 1990".

SEC. 2. AMENDMENTS.

(a) EXTENSION OF STATUTE OF LIMITATIONS.—Section 3 of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S.C. 626 note) is amended—

(1) by inserting "(a) EXTENSION.—" before "Notwithstanding",

(2) in the matter preceding paragraph (1) by striking "540-day period beginning on the date of the enactment of this Act" and inserting "applicable extension period",

(3) in paragraph (1)—

(A) by inserting "(A)" after "(1)", and

(B) by adding at the end the following:

"(B) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after April 6, 1985,",

(4) by amending paragraph (3) to read as follows:

"(3)(A) with respect to a claim described in paragraph (1)(A) the statute of limitations applicable under such section 7(e) ran before the date of the enactment of this Act, or

"(B) with respect to a claim described in paragraph (1)(B) the statute of limitations applicable under such section 7(e) runs after April 6, 1988, but before the expiration of the 180-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990.", and

(5) by adding at the end the following:

"(b) DEFINITION.—The term 'extension period' means—

"(1) with respect to a charge described in paragraph (1)(A), the 450-day period beginning on the date of the enactment of this Act, and

"(2) with respect to a charge described in paragraph (1)(B), the 450-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, and".

(b) NOTICE OF STATUTE OF LIMITATIONS.—Section 4 of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S.C. 626 note) is amended—

(1) in subsection (a)—

(A) by striking "Not" and inserting "(1) Not",

(B) by inserting "before April 7, 1985," after "filed", and

(C) by adding at the end the following:

"(2) Not later than 60 days after the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, the Commission shall provide the notice specified in subsection (b) to each person who filed after April 6, 1985, a charge to which section 3 applies and with respect to which the statute of limitation ran before the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990.

"(3) Not later than 60 days after the expiration of the 180-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990, the Commission shall provide the notice specified in subsection (b) to each person who filed after April 6, 1985, a charge to which section 3 applies and with respect to which the statute of limitations runs in such 180-day period.", and

(2) in subsection (b)(2) by striking "(which is 540 days after the date of the enactment of this Act)".

(c) REPORTS.—Section 5(a) of the Age Discrimination Claims Assistance Act of 1988 (Public Law 100-283; 29 U.S.C. 626 note) is amended by inserting "and each 150-day period in the 450-day period beginning on the date of the enactment of the Age Discrimination Claims Assistance Amendments of 1990," after "this Act,".

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.R. 5794:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 11, considered and passed House.
Oct. 18, considered and passed Senate.

Public Law 101-505
101st Congress

Joint Resolution

Nov. 3, 1990
[H.J. Res. 520]

Granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.

Whereas the Commonwealth of Virginia, the State of Maryland, and the Commissioners of the District of Columbia entered into and executed the Washington Metropolitan Area Transit Regulation Compact on December 22, 1960;

Whereas Congress gave its consent under Public Law 86-794 (74 Stat. 1031) to the entry into the Compact by the Commonwealth of Virginia and the State of Maryland, and authorized and directed the Commissioners of the District of Columbia to enter into and execute the Compact on behalf of the United States for the District of Columbia;

Whereas Congress gave its consent under Public Law 87-767 (76 Stat. 764) to the Commonwealth of Virginia and the State of Maryland to effectuate certain amendments to the Compact, and authorized and directed the Commissioners of the District of Columbia to effectuate those amendments on behalf of the United States for the District of Columbia;

Whereas the Washington Metropolitan Area Transit Regulation Compact Review Committee, a review committee appointed by the signatories to the Compact, has recommended that the Compact be amended; and

Whereas the Commonwealth of Virginia, the State of Maryland, and the District of Columbia have adopted identical amendments to the Compact: Now, therefore, be it

State listing.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.—The consent of Congress is hereby given to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to effectuate the amendments to the Washington Metropolitan Area Transit Regulation Compact adopted by such States and the District under which the Compact is amended to read as follows:

"TITLE I

"GENERAL COMPACT PROVISIONS

"ARTICLE I

"There is created the Washington Metropolitan Area Transit District, referred to as the Metropolitan District, which shall include: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of

Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties; and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of those counties, cities, and airports.

"ARTICLE II

"1. The signatories hereby create the 'Washington Metropolitan Area Transit Commission', hereafter called the 'Commission', which shall be an instrumentality of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and shall have the powers and duties set forth in the Compact and those additional powers and duties conferred upon it by subsequent action of the signatories.

"2. The Commission shall have jurisdiction coextensive with the Metropolitan District for the regulation of passenger transportation within the Metropolitan District on a coordinated basis, without regard to political boundaries within the Metropolitan District, as set forth in this Compact.

"ARTICLE III

"1. (a) The Commission shall be composed of three members, one member appointed by the Governor of Virginia from the State Corporation Commission of the Commonwealth of Virginia, one member appointed by the Governor of Maryland from the Maryland Public Service Commission, and one member appointed by the Mayor of the District of Columbia from the Public Service Commission of the District of Columbia.

"(b) A member appointed shall serve for a term coincident with the term of that member on the agency of the signatory, and a member may be removed or suspended from office as the law of the appointing signatory provides.

"(c) Vacancies shall be filled for an unexpired term in the same manner as an original appointment.

"2. A person in the employment of or holding an official relation to a person or company subject to the jurisdiction of the Commission or having an interest of any nature in a person or company or affiliate or associate thereof, may not hold the office of Commissioner or serve as an employee of the Commission or have any power or duty or receive any compensation in relation to the Commission.

"3. (a) The Commission shall select a chairman from among its members.

"(b) The chairman shall be responsible for the Commission's work and shall have all powers to discharge that duty.

"4. A signatory may pay the Commissioner from its jurisdiction the salary or expenses, if any, that it considers appropriate.

"5. (a) The Commission may employ engineering, technical, legal, clerical, and other personnel on a regular, part-time, or consulting basis to assist in the discharge of its functions.

"(b) The Commission is not bound by any statute or regulation of a signatory in the employment or discharge of an officer or employee of the Commission, except that contained in this Compact.

"6. The Commission shall establish its office at a location to be determined by the Commission within the Metropolitan District and shall publish rules and regulations governing the conduct of its operations.

"ARTICLE IV

"1. (a) The signatories shall bear the expenses of the Commission in the manner set forth here.

"(b) The Commission shall submit to the Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia, when requested, a budget of its requirements for the period required by the laws of the signatories for presentation to the legislature.

"(c) The Commission shall allocate its expenses among the signatories in the proportion that the population of each signatory within the Metropolitan District bears to the total population of the Metropolitan District.

"(d)(i) The Commission shall base its allocation on the latest available population statistics of the Bureau of the Census; or

"(ii) If current population data are not available, the Commission may, upon the request of a signatory, employ estimates of population prepared in a manner approved by the Commission and by the signatory making the request.

"(e) The Governors of the two states and the Mayor of the District of Columbia shall approve the allocation made by the Commission.

"2. (a) The signatories shall appropriate their proportion of the budget for the expenses of the Commission and shall pay that appropriation to the Commission.

"(b) The budget of the Commission and the appropriations of the signatories may not include a sum for the payment of salaries or expenses of the Commissioners.

"(c) The provisions of section 2.1-30 (1979) of the Code of Virginia do not apply to any official or employee of the Commonwealth of Virginia acting or performing services under this Act.

"3. (a) If the Commission requests and a signatory makes available personnel, services, or material which the Commission would otherwise have to employ or purchase, the Commission shall—

"(i) determine an amount; and

"(ii) reduce the expenses allocable to a signatory.

"(b) If any services in kind are rendered, the Commission shall return to the signatory an amount equivalent to the savings to the Commission represented by the contribution in kind.

"4. (a) The Commission shall have the power to establish fees under regulations, including but not limited to filing fees and annual fees.

"(b) The Commission shall return to the signatories fees established by it in proportion to the share of the Commission's expenses borne by each signatory in the fiscal year during which the fees were collected.

Records.

"5. (a) The Commission shall keep accurate books of account, showing in full its receipts and disbursements.

"(b) The books of account shall be open for inspection by representatives of the respective signatories at any reasonable time.

"ARTICLE V

"1. An action by the Commission may not be effective unless a majority of the members concur.

"2. An order entered by the Commission under the provisions of Title II of this Act which affects operations or matters solely intrastate or solely within the District of Columbia may not be effective unless the Commissioner from the affected signatory concurs.

"3. Two members of the Commission are a quorum.

"4. The Commission may delegate by regulation the tasks that it considers appropriate.

"ARTICLE VI

"This Compact does not amend, alter, or affect the power of the signatories and their political subdivisions to levy and collect taxes on the property or income of any person or company subject to this Act or upon any material, equipment, or supplies purchased by that person or company or to levy, assess, and collect franchise or other similar taxes, or fees for the licensing of vehicles and their operation.

"ARTICLE VII

"This amended Compact shall become effective 90 days after the signatories adopt it. Effective date.

"ARTICLE VIII

"1. (a) This Compact may be amended from time to time without the prior consent or approval of the Congress of the United States and any amendment shall be effective unless, within one year, the Congress disapproves that amendment.

"(b) An amendment may not be effective unless adopted by each of the signatories.

"2. (a) A signatory may withdraw from the Compact upon written notice to the other signatories.

"(b) In the event of a withdrawal, the Compact shall be terminated at the end of the Commission's next full fiscal year following the notice.

"3. Upon the termination of this Compact, the jurisdiction over the matters and persons covered by this Act shall revert to the signatories and the federal government, as their interests may appear, and the applicable laws of the signatories and the federal government shall be reactivated without further legislation.

"ARTICLE IX

"Each of the signatories pledges to each of the other signatories faithful cooperation in the regulation of passenger transportation within the Metropolitan District and agrees to enact any necessary legislation to achieve the objectives of the Compact for the mutual benefit of the citizens living in the Metropolitan District.

"ARTICLE X

"1. If a provision of this Act or its application to any person or circumstance is held invalid in a court of competent jurisdiction, the invalidity does not affect other provisions or any other application of

this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

"2. In accordance with the ordinary rules for construction of interstate compacts, this Act shall be liberally construed to effectuate its purposes.

"TITLE II

"COMPACT REGULATORY PROVISIONS

"ARTICLE XI

"1. This Act shall apply to the transportation for hire by any carrier of persons between any points in the Metropolitan District, including but not limited to—

"(a) as to interstate and foreign commerce, transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District if—

"(i) the majority of passengers transported over that regular route are transported between points within the Metropolitan District; and

"(ii) that regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission; and

"(b) the rates, charges, regulations, and minimum insurance requirements for taxicabs and other vehicles that perform a bona fide taxicab service, where the taxicab or other vehicle—

"(i) has a seating capacity of 9 persons or less, including the driver; and

"(ii) provides transportation from one signatory to another within the Metropolitan District.

"2. Solely for the purposes of this section and section 18 of this Article—

"(a) the Metropolitan District shall include that portion of Anne Arundel County, Maryland, occupied by the Baltimore-Washington International Airport; and

"(b) jurisdiction of the Commission shall apply to taxicab rates, charges, regulations, and minimum insurance requirements for interstate transportation between the Baltimore-Washington International Airport and other points in the Metropolitan District, unless conducted by a taxicab licensed by the State of Maryland or a political subdivision of the State of Maryland, or operated under a contract with the State of Maryland.

"3. Excluded from the application of this Act are—

"(a) transportation by water, air, or rail;

"(b) transportation performed by the federal government, the signatories to this Compact, or any political subdivision of the signatories;

"(c) transportation performed by the Washington Metropolitan Area Transit Authority;

"(d) transportation by a motor vehicle employed solely in transporting teachers and school children through grade 12 to or from public or private schools;

"(e) transportation performed over a regular route between a point in the Metropolitan District and a point outside the Metropolitan District, including transportation between those points on the regular route that are within the Metropolitan District, if—

"(i) the majority of passengers transported over the regular route are not transported between points in the Metropolitan District; and

"(ii) the regular route is authorized by a certificate of public convenience and necessity issued by the Interstate Commerce Commission;

"(f) matters other than rates, charges, regulations, and minimum insurance requirements relating to vehicles and operations described in Sections 1(b) and 2 of this Article;

"(g) transportation solely within the Commonwealth of Virginia and the activities of persons performing that transportation; and

"(h) the exercise of any power or the discharge of any duty conferred or imposed upon the State Corporation Commission of the Commonwealth of Virginia by the Virginia Constitution.

"Definitions

"4. In this Act the following words have the meanings indicated:

"(a) 'Carrier' means a person who engages in the transportation of passengers by motor vehicle or other form or means of conveyance for hire.

"(b) 'Motor vehicle' means an automobile, bus, or other vehicle propelled or drawn by mechanical or electrical power on the public streets or highways of the Metropolitan District and used for the transportation of passengers.

"(c) 'Person' means an individual, firm, copartnership, corporation, company, association or joint stock association, and includes a trustee, receiver, assignee, or personal representative of them.

"(d) 'Taxicab' means a motor vehicle for hire (other than a vehicle operated under a Certificate of Authority issued by the Commission) having a seating capacity of 9 persons or less, including the driver, used to accept or solicit passengers along the public streets for transportation.

"General Duties of Carriers

"5. Each authorized carrier shall—

"(a) provide safe and adequate transportation service, equipment, and facilities; and

"(b) observe and enforce Commission regulations established under this Act.

"Certificates of Authority

"6. (a) A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation.

"(b) On the effective date of this Act a person engaged in transportation subject to this Act under an existing 'Certificate of Public

Convenience and Necessity' or order issued by the Commission shall be issued a new 'Certificate of Authority' within 120 days after the effective date of this amendment.

"(c)(i) Pending issuance of the new Certificate of Authority, the continuance of operations shall be permitted under an existing certificate or order issued by the Commission which will continue in effect on the effective date of this Act.

"(ii) The operations described in paragraph (i) of this subsection shall be performed according to the rates, regulations, and practices of the certificate holder on file with the Commission on the effective date of this Act.

"7. (a) When an application is made under this section for a Certificate of Authority, the Commission shall issue a certificate to any qualified applicant, authorizing all or any part of the transportation covered by the application, if it finds that—

"(i) the applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

"(ii) that the transportation is consistent with the public interest.

"(b) If the Commission finds that the requirements of subsection (a) of this section have not been met, the application shall be denied by the Commission.

"(c) The Commission shall act upon applications under this Act as soon as possible.

"(d) The Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.

"(e) A term, condition, or limitation imposed by the Commission may not restrict the right of a carrier to add to equipment and facilities over the routes or within the territory specified in the certificate, as business development and public demand may require.

"(f) A person applying for or holding a Certificate of Authority shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay any final judgment against a carrier for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a motor vehicle or other equipment in performing transportation subject to this Act.

"(g) A Certificate of Authority is not valid unless the holder is in compliance with the insurance requirements of the Commission.

"8. Application to the Commission for a certificate under this Act shall be—

"(a) made in writing;

"(b) verified; and

"(c) in the form and with the information that the Commission regulations require.

"9. (a) A Certificate of Authority issued by the Commission shall specify the route over which a regularly scheduled commuter service or other regular-route service will operate.

"(b) A certificate issued by the Commission authorizing irregular-route service shall be coextensive with the Metropolitan District.

"(c) A carrier subject to this Act may not provide any passenger transportation for hire on an individual fare paying basis in com-

petition with an existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority, notwithstanding any Certificate of Authority.

"(d) A certificate for the transportation of passengers may include authority to transport newspapers, passenger baggage, express, or mail in the same vehicle, or to transport passenger baggage in a separate vehicle.

"10. (a) Certificates shall be effective from the date specified on them and shall remain in effect until amended, suspended, or terminated.

"(b) Upon application by the holder of a certificate, the Commission may suspend, amend, or terminate the Certificate of Authority.

"(c) Upon complaint or the Commission's own initiative, the Commission, after notice and hearing, may suspend or revoke all or part of any Certificate of Authority for willful failure to comply with—

"(i) a provision of this Act;

"(ii) an order, rule, or regulation of the Commission; or

"(iii) a term, condition, or limitation of the certificate.

"(d) The Commission may direct that a carrier cease an operation conducted under a certificate if the Commission finds the operation, after notice and hearing, to be inconsistent with the public interest.

"11. (a) A person may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest.

"(b) A person other than the person to whom an operating authority is issued by the Commission may not lease, rent, or otherwise use that operating authority.

"12. (a) A carrier may not abandon any scheduled commuter service operated under a Certificate of Authority issued to the carrier under this Act, unless the Commission authorizes the carrier to do so by a Commission order.

"(b) Upon application by a carrier, the Commission shall issue an order, after notice and hearing, if it finds that abandonment of the route is consistent with the public interest.

"(c) The Commission, by regulation or otherwise, may authorize the temporary suspension of a route if it is consistent with the public interest.

"(d) As long as the carrier has an opportunity to earn a reasonable return in all its operations, the fact that a carrier is operating a service at a loss will not, of itself, determine the question of whether abandonment of service is consistent with the public interest.

"13. (a) When the Commission finds that there is an immediate need for service that is not available, the Commission may grant temporary authority for that service without a hearing or other proceeding up to a maximum of 180 consecutive days, unless suspended or revoked for good cause.

"(b) A grant of temporary authority does not create any presumption that permanent authority will be granted at a later date.

"Rates and Tariffs

"14. (a) Each carrier shall file with the Commission, publish, and keep available for public inspection tariffs showing—

"(i) fixed-rates and fixed-fares for transportation subject to this Act; and

"(ii) practices and regulations including those affecting rates and fares, required by the Commission.

"(b) Each effective tariff shall—

"(i) remain in effect for at least 60 days from its effective date, unless the Commission orders otherwise; and

"(ii) be published and kept available for public inspection in the form and manner prescribed by the Commission.

"(c) A carrier may not charge a rate or fare for transportation subject to this Act other than the applicable rate or fare specified in a tariff filed by the carrier under this Act and in effect at the time.

"15. (a) A carrier proposing to change a rate, fare, regulation, or practice specified in an effective tariff shall file a tariff showing the change in the form and manner, and with the information, justification, notice, and supporting material prescribed by the Commission.

"(b) Each tariff filed under Subsection (a) of this Section shall state a date on which the tariff shall take effect, which shall be at least 7 calendar days after the date on which the tariff is filed, unless the Commission orders an earlier effective date or rejects the tariff.

"(c)(i) A tariff filed for approval with the Commission may be refused acceptance for filing if it is not consistent with this Act and Commission regulations.

"(ii) A tariff refused for filing shall be void.

"16. (a) The Commission may hold a hearing upon complaint or upon the Commission's own initiative after reasonable notice to determine whether a rate, fare, regulation, or practice relating to a tariff is unjust, unreasonable, unduly discriminatory, or unduly preferential between classes of riders or between locations within the Metropolitan District.

"(b) Within 120 days of the hearing, the Commission shall pass an order prescribing the lawful rate, fare, regulation, or practice, or affirming the tariff.

"Through Routes, Joint Fares

"17. With the approval of the Commission, any carrier subject to this Act may establish through routes and joint fares with any other lawfully authorized carrier.

"Taxicab Fares

"18. (a) The Commission shall prescribe reasonable rates for transportation by taxicab, only when—

"(i) the trip is between a point in the jurisdiction of one signatory and a point in the jurisdiction of another signatory; and

"(ii) both points are within the Metropolitan District.

"(b) The fare or charge for taxicab transportation may be calculated on a mileage basis, a zone basis, or on any other basis approved by the Commission.

"(c) The Commission may not require the installation of a taximeter in any taxicab when a taximeter is not permitted or required by the jurisdiction licensing and otherwise regulating the operation and service of the taxicab.

"(d) A person licensed by a signatory to own or operate a taxicab shall comply with Commission regulations regarding maintenance of a surety bond, insurance policy, self-insurance qualification, or other security or agreement in an amount that the Commission may require to pay a final judgment for bodily injury or death of a person, or for loss or damage to property of another, resulting from the operation, maintenance, or use of a taxicab in performing transportation subject to this Act.

"ARTICLE XII

"Accounts, Records, and Reports

"1. (a) The Commission may prescribe that any carrier subject to this Act—

"(i) submit special reports and annual or other periodic reports;

"(ii) make reports in a form and manner required by the Commission;

"(iii) provide a detailed answer to any question about which the Commission requires information;

"(iv) submit reports and answers under oath; and

"(v) keep accounts, records, and memoranda of its activity, including movement of traffic and receipt and expenditure of money in a form and for a period required by the Commission.

"(b) The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.

"(c) This section shall apply to any person controlling, controlled by, or under common control with a carrier subject to this Act, whether or not that person otherwise is subject to this Act.

"(d) A carrier that has its principal office outside of the Metropolitan District and operates both inside and outside of the Metropolitan District may keep all accounts, records, and memoranda at its principal office, but the carrier shall produce those materials before the Commission when directed by the Commission.

"(e) This section does not relieve a carrier from recordkeeping or reporting obligations imposed by a state or federal agency or regulatory commission for transportation service rendered outside the Metropolitan District.

"Issuance of Securities

"2. This Act does not impair any authority of the federal government and the signatories to regulate the issuance of securities by a carrier.

"Consolidations, Mergers, and Acquisition of Control

"3. (a) A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to—

"(i) consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;

"(ii) purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District; or

"(iii) acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

"(b) Application for Commission approval of a transaction under this Section shall be made in the form and with the information that the regulations of the Commission require.

"(c) If the Commission finds, after notice and hearing, that the proposed transaction is consistent with the public interest, the Commission shall pass an order authorizing the transaction.

"(d) Pending determination of an application filed under this section, the Commission may grant 'temporary approval' without a hearing or other proceeding up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest.

"ARTICLE XIII

"Investigations by the Commission and Complaints

"1. (a) A person may file a written complaint with the Commission regarding anything done or omitted by a person in violation of a provision of this Act, or in violation of a requirement established under it.

"(b)(i) If the respondent does not satisfy the complaint and the facts suggest that there are reasonable grounds for an investigation, the Commission shall investigate the matter.

"(ii) If the Commission determines that a complaint does not state facts which warrant action, the Commission may dismiss the complaint without hearing.

"(iii) The Commission shall notify a respondent that a complaint has been filed at least 10 days before a hearing is set on the complaint.

"(c) The Commission may investigate on its own motion a fact, condition, practice, or matter to—

"(i) determine whether a person has violated or will violate a provision of this Act or a rule, regulation, or order;

"(ii) enforce the provisions of this Act or prescribe or enforce rules or regulations under it; or

"(iii) obtain information to recommend further legislation.

"(d) If, after hearing, the Commission finds that a respondent has violated a provision of this Act or any requirement established under it, the Commission shall—

"(i) issue an order to compel the respondent to comply with this Act; and

"(ii) effect other just and reasonable relief.

"(e) For the purpose of an investigation or other proceeding under this Act, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.

"Hearings; Rules of Procedure

"2. (a) Hearings under this Act shall be held before the Commission, and records shall be kept.

"(b) Rules of practice and procedure adopted by the Commission shall govern all hearings, investigations, and proceedings under this Act, but the Commission may apply the technical rules of evidence when appropriate.

"Administrative Powers of Commission; Rules, Regulations, and Orders

"(3). (a) The Commission shall perform any act, and prescribe, issue, make, amend, or rescind any order, rule, or regulation that it finds necessary to carry out the provisions of this Act.

"(b) The rules and regulations of the Commission shall prescribe the form of any statement, declaration, application, or report filed with the Commission, the information it shall contain, and the time of filing.

"(c) The rules and regulations of the Commission shall be effective 30 days after publication in the manner which the Commission shall prescribe, unless a different date is specified. Effective date.

"(d) Orders of the Commission shall be effective on the date and in the manner which the Commission shall prescribe.

"(e) For the purposes of its rules and regulations, the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for them.

"(f) Commission rules and regulations shall be available for public inspection during reasonable business hours.

"Reconsideration of Orders

"4. (a) A party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for the reconsideration.

"(b) The Commission shall grant or deny the application within 30 days after it has been filed.

"(c) If the Commission does not grant or deny the application by order within 30 days, the application shall be deemed denied.

"(d) If the application is granted, the Commission shall rescind, modify, or affirm its order or decision with or without a hearing, after giving notice to all parties.

"(e) Filing an application for reconsideration may not act as a stay upon the execution of a Commission order or decision, or any part of it unless the Commission orders otherwise.

"(f) An appeal may not be taken from an order or decision of the Commission until an application for reconsideration has been filed and determined.

"(g) Only an error specified as a ground for reconsideration may be used as a ground for judicial review.

"Judicial Review

"5. (a) Any party to a proceeding under this Act may obtain a review of the Commission's order in the United States Court of

Appeals for the Fourth Circuit, or in the United States Court of Appeals for the District of Columbia Circuit, by filing within 60 days after Commission determination of an application for reconsideration, a written petition praying that the order of the Commission be modified or set aside.

Records.

"(b) A copy of the petition shall be delivered to the office of the Commission and the Commission shall certify and file with the court a transcript of the record upon which the Commission order was entered.

Courts.

"(c) The Court shall have exclusive jurisdiction to affirm, modify, remand for reconsideration, or set aside the Commission's order.

"(d) The court's judgment shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in Title 28 U.S.C. sections 1254 and 2350.

"(e) The commencement of proceedings under subsection (a) of this section may not operate as a stay of the Commission's order unless specifically ordered by the court.

"(f) The Commission and its members, officers, agents, employees, or representatives are not liable to suit or action or for any judgment or decree for damages, loss, or injury resulting from action taken under the Act, nor required in any case arising or any appeal taken under this Act to make a deposit, pay costs, or pay for service to the clerks of a court or to the marshal of the United States or give a supersedeas bond or security for damages.

"Enforcement of Act; Penalty for Violations

"6. (a) Whenever the Commission determines that a person is engaged or will engage in an act or practice which violates a provision of this Act or a rule, regulation, or order under it, the Commission may bring an action in the United States District Court in the district in which the person resides or conducts business or in which the violation occurred to enjoin the act or practice and to enforce compliance with this Act or a rule, regulation, or order under it.

"(b) If the court makes a determination under subsection (a) of this section, that a person has violated or will violate this Act or a rule, regulation, or order under the Act, the court shall grant a permanent or temporary injunction or decree or restraining order without bond.

"(c) Upon application of the Commission, the United States District Court for the district in which the person resides or conducts business, or in which the violation occurred, shall have jurisdiction to issue an order directing that person to comply with the provisions of this Act or a rule, regulation, or order of the Commission under it, and to effect other just and reasonable relief.

"(d) The Commission may employ attorneys necessary for—

"(i) The conduct of its work;

"(ii) Representation of the public interest in Commission investigations, cases, or proceedings on the Commission's own initiative or upon complaint; or

"(iii) Representation of the Commission in any court case.

"(e) The expenses of employing an attorney shall be paid out of the funds of the Commission, unless otherwise directed by the court.

"(f)(i) A person who knowingly and willfully violates a provision of this Act, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil

forfeiture of not more than $1,000 for the first violation and not more than $5,000 for any subsequent violation.

"(ii) Each day of the violation shall constitute a separate violation.

"(iii) Civil forfeitures shall be paid to the Commission with interest as assessed by the court.

"(iv) The Commission shall pay to each signatory a share of the civil forfeitures and interest equal to the proportional share of the Commission's expenses borne by each signatory in the fiscal year during which the civil forfeiture is collected by the Commission.

"ARTICLE XIV

"Expenses of Investigations and Other Proceedings

"1. (a) A carrier shall bear all expenses of an investigation or other proceeding conducted by the Commission concerning the carrier, and all litigation expenses, including appeals, arising from an investigation or other proceeding.

"(b) When the Commission initiates an investigation or other proceeding, the Commission may require the carrier to pay to the Commission a sum estimated to cover the expenses that will be incurred under this section.

"(c) Money paid by the carrier shall be deposited in the name and to the credit of the Commission, in any bank or other depository located in the Metropolitan District designated by the Commission, and the Commission may disburse that money to defray expenses of the investigation, proceeding, or litigation in question.

"(d) The Commission shall return to the carrier any unexpended balance remaining after payment of expenses.

"Applicability of Other Laws

"2. (a) The applicability of each law, rule, regulation, or order of a signatory relating to transportation subject to this Act shall be suspended on the effective date of this Act.

"(b) The provisions of subsection (a) of this section do not apply to a law of a signatory relating to inspection of equipment and facilities.

"(c) During the existence of the Compact, the jurisdiction of the Interstate Commerce Commission is suspended to the extent it is in conflict with the provisions of this Act.

"Existing Rules, Regulations, Orders, and Decisions

"3. All Commission rules, regulations, orders, or decisions that are in force on the effective date of this Act shall remain in effect and be enforceable under this Act, unless otherwise provided by the Commission.

"Pending Actions or Proceedings

"4. A suit, action, or other judicial proceeding commenced prior to the effective date of this Act by or against the Commission is not affected by the enactment of this Act and shall be prosecuted and determined under the law applicable at the time the proceeding was commenced.

"Annual Report of the Commission

"5. The Commission shall make an annual report for each fiscal year ending June 30, to the Governor of Virginia and the Governor of Maryland, and to the Mayor of the District of Columbia as soon as practicable after June 30, but no later than the first day of January of each year, which may contain, in addition to a report of the work performed under this Act, other information and recommendations concerning passenger transportation within the Metropolitan District as the Commission considers advisable.".

SEC. 2. Notwithstanding the first section of this joint resolution, the consent and approval of Congress set forth in such first section is given on the express condition that section 1 of article VIII shall not be exercised, and no amendment to the compact following the date this joint resolution becomes law shall be effective, unless Congress has first consented to and approved such amendment by a law or resolution adopted or enacted after such date.

SEC. 3. The right to alter, amend or repeal this resolution is hereby expressly reserved.

Approved November 3, 1990.

LEGISLATIVE HISTORY—H.J. Res. 520:

HOUSE REPORTS: No. 101-504 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Sept. 27, considered and passed Senate, amended.
Oct. 15, House concurred in Senate amendments.

Public Law 101-506
101st Congress

An Act

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5268]

Be it enacted by the Senate and House of Representatives of the United United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1991, and for other purposes; namely:

Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,943,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $477,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $4,971,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $544,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $49,305,000, of which

$3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $25,093,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,407,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $24,757,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $23,002,000; and in addition, for payment of the USDA share of the National Communications System, $50,000; making a total of $23,052,000 for Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which

not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

WORKING CAPITAL FUND

To increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies, $3,750,000 (7 U.S.C. 2235).

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, $1,095,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,442,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $440,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $55,580,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $23,130,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $529,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $54,400,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $76,451,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $2,196,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $512,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $621,585,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations on

7 USC 2254.

7 USC 2254.

Idaho.

purchase of land shall not apply to the purchase of land at Kimberly, Idaho: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,500,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $41,016,000: *Provided,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities.

20 USC 191 note.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $162,293,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, and penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,820,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a-582-a7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $26,346,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges including Tuskegee University; $61,976,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $73,000,000 for competitive research grants including administrative expenses; $5,551,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $1,168,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $800,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural

Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $7,500,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,152,000 for grants to States for the operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $6,725,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and $17,933,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $8,250,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University, of which and not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $388,489,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $62,867,000: *Provided,* That the $2,853,000 appropriated in fiscal year 1990 for the Center for Research on Human Nutrition and Chronic Disease Prevention at Wake Forest University, Winston-Salem, North Carolina, shall be made available for planning and construction of the facility.

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $252,608,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $60,525,000; payments for the urban gardening program under section 3(d) of the Act, $3,557,000; payments for the pest management program under section 3(d) of the Act, $7,450,000; payments for the farm safety program under section 3(d) of the Act, $1,970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,230,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until

expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $991,000; payments for a groundwater quality program under section 3(d) of the Act, $10,375,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $2,550,000; payments for youth-at-risk programs under section 3(d) of the Act, $7,500,000; payments for a food safety program under section 3(d) of the Act, $1,500,000; payments for Indian reservation agents under section 3(d) of the Act, $1,000,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978 under section 3(d) of the Act, $2,765,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $22,794,000; in all, $389,273,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $9,205,000, of which not less than $2,300,000 is for Home Economics.

National Agricultural Library

For necessary expenses of the National Agricultural Library, $16,798,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $675,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $425,000 shall be available for a grant pursuant to section 1472 of the National Agricultural, Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818), in addition to other funds available in this appropriation for grants under this section.

Office of the Assistant Secretary for Marketing and Inspection Services

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $497,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b-c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426-426b); and to protect the environment, as authorized by law, $381,120,000, of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts. 21 USC 129.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $21,396,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $440,882,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed

$75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $9,706,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $37,164,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,864,000; of which $99,000 shall be available for a field office in Hawaii: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $47,914,000; of which not less than $1,934,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $40,162,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the Agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $8,255,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,429,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise pro-

vided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $10,687,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $506,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301-1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301-1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241-273); and laws pertaining to the Commodity Credit Corporation, not to exceed $630,406,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any

referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), such sums as necessary: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $337,365,000, of which up to $117,368,000 is to reimburse the Federal Crop Insurance Corporation Fund for agents' commission and loss adjustment obligations incurred during prior years, but not previously reimbursed, as provided for under the provisions of section 516(a) of the Act.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1991, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $6,100,000,000 in the President's fiscal year 1991 Budget Request (H. Doc. 101-122)), but not to exceed $5,000,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1989 and 1990 include $566,000,000 in connection with carrying out the Export Enhancement Program (EEP), $200,000,000 in connection with carrying out the Targeted Export Assistance Program (TEA), $150,000,000 in connection with carrying out the Federal Crop Insurance Program, $472,326,000 in connection with domestic donations, $208,412,000 in connection with export donations, and $3,403,262,000 in connection with carrying out the commodity programs.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,803,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world

markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments. Reports.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $530,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, $1,978,581,000, of which not less than $1,857,981,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718). During fiscal year 1991, commitments to guarantee loans may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed $100,000,000.

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $308,100,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount not less than $128,158,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,214,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $174,728,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1991

shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1987, 1988, 1989 and 1990, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e), and 1490a(c)), including $40,000 as authorized by section 521(c) of the Act, also including not to exceed $11,800,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $2,667,186,000. For an additional amount as authorized by section 521(c) of the Act, such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $542,000,000, of which $509,000,000 shall be guaranteed loans; $7,000,000 for water development, use, and conservation loans, of which $1,500,000 shall be guaranteed loans; operating loans, $3,500,000,000, of which $2,600,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101-5106), $3,750,000.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $6,014,356,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $535,000,000, of which $35,000,000 shall be for guaranteed loans; guaranteed industrial development loans, $100,000,000; and community facility loans, $125,000,000, of which $25,000,000 shall be for guaranteed loans.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior

years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,666,160,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $32,500,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $2,000,000 and from funds appropriated to this account, $30,500,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $300,000,000, to remain available until expended, pursuant to section 306(d) of the above Act: *Provided,* That these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,750,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $23,000,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310B(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $20,750,000: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance and training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further,* That $2,000,000 shall be available for grants to statewide private, non-profit public television systems in predominantly rural States to provide information and services on rural economics and agriculture.

SOLID WASTE MANAGEMENT GRANTS

For grants for pollution abatement and control projects authorized under section 310B(b) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act, $1,500,000: *Provided,* That such assistance shall include regional technical assistance for improvement of solid waste management.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For emergency community water assistance grants as authorized by title V of the Disaster Assistance Act of 1989 (Public Law 101-82), $10,000,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III-A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $439,854,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation

may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $3,529,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

Loan programs.
Housing.
7 USC 1981a note.

CITY OF BURLINGTON

Hereafter, the area within the present city limits of the city of Burlington, Ward County, State of North Dakota, shall be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

North Dakota.
Loan programs.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1991 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1991, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $266,603,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,264,000.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For grants and loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $5,000,000, to remain available until expended: *Provided,* That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $229,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1991, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of

the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $32,826,000: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank: *Provided further,* That not less than $500,000 of this appropriation shall be expended to provide community and economic development technical assistance to rural electric and telephone systems by Rural Electrification Administration employees who are located within REA and assigned to REA's Rural Development Coordinator and who may not be reassigned or relocated to the Rural Information Center or other agency or office.

CONSERVATION

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $520,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $509,056,000, of which not less than $5,563,000 is for snow survey and water forecasting and not less than $7,873,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $370,000,000 is for personnel compensation and benefits: *Provided further,* That except for $2,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no

16 USC 590e-1.

part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

16 USC 590e-2.

State listing.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,783,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $9,176,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $185,705,000 (of which $26,766,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7

U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $29,900,000: *Provided,* That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $24,637,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $190,152,000, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion

of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $13,620,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201-2205), $10,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $14,783,000, to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies. Mexico.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,314,926,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws

enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $485,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789); $5,577,199,000, to remain available through September 30, 1992, of which $880,698,000 is hereby appropriated and $4,696,501,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $3,653,000 shall be available for independent verification of school food service claims: *Provided further,* That $1,143,000 shall be available to operate the Food Service Management Institute.

State governments.
42 USC 1776a.
42 USC 1776b.
Claims.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $19,268,000, to remain available through September 30, 1992. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds

Claims.

appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary. Reports.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR

WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,350,000,000, to remain available through September 30, 1992, of which up to $2,750,000 may be used to carry out the farmer's market coupon demonstration project.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $81,928,000: *Provided,* That funds provided herein shall remain available through September 30, 1992: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2029), $19,050,901,000; of which $823,513,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided,* That funds provided herein shall remain available through September 30, 1991, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $974,220,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028, of which $10,825,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $228,138,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $32,000,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $96,778,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $9,923,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $125,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $105,048,000: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a

competitive basis: *Provided further,* That, hereafter, notwithstanding any other provision of law, upon the request of the Secretary of Agriculture, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Foreign Agricultural Service officer assigned to any United States mission abroad: *Provided further,* That the number of senior Foreign Agricultural Service officers accorded such diplomatic title at any time shall not exceed twelve. 7 USC 5231 note.

AMERI FLORA '92 EXPOSITION

To enable the Secretary to meet any extra expenses of participating in the planning, organizing and carrying out of the Ameri Flora '92 Exposition, the first international horticulture and environment exposition to be held in the United States, $500,000 as authorized by section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $880,000,000, of which $314,853,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $696,000,000, of which $696,000,000, is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title of this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $6,879,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization

in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,062,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $656,519,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That of the sums provided herein, not to exceed $2,000,000 shall remain available until expended, and shall become available only to the extent necessary to meet unanticipated costs of emergency activities not provided for in budget estimates and after maximum absorption of such costs within the remainder of the account has been achieved.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment of facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,350,000.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by Section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1991, as authorized, $90,000,000: *Provided,* That not to exceed $2,017,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further,* That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

12 USC 2278a-3 note.

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $43,960,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $40,290,000 (from assessments collected from farm credit institutions) and not to exceed $608,000 (from assessments collected from the Federal Agricultural Mortgage Corporation); in all, $40,898,000, shall be available for administrative expenses as authorized under 12 U.S.C. 2249, of which not to exceed $1,500 shall be available for official reception and representation expenses.

TITLE VI—GENERAL PROVISIONS

Government procurement. Public information.

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1991 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 612 passenger motor vehicles, of which 607 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

7 USC 1623a.

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

Marijuana.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, $5,000,000 for the Grasshopper and Mormon Cricket Control Programs, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities, and up to $10,000,000 of funds made available for construction at the Beltsville Agricultural Research Center; Cooperative State Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $3,500,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95–113, as amended (7 U.S.C. 3152(a)(3)(B)); $8,250,000 for a program of capacity building

grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University; and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

Manpower. Disaster assistance.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

Securities. Insurance. Rural areas.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

Surplus agricultural commodities. Foreign trade.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

Surplus agricultural commodities. Disadvantaged persons. 7 USC 612c note.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with

Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

Polish People's Republic. Credit. President. Reports.

SEC. 620. During fiscal year 1991, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1990 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

Flood control.

SEC. 622. In fiscal year 1991, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

Bilingual education.

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

Hawaii.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

Veterinarians.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,259; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1991 shall be first offered to the borrowers for prepayment.

SEC. 633. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $175,000,000.

SEC. 634. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be $900,000,000 in the President's fiscal year 1991 Budget Request (H. Doc. 101-122)) if the aggregate amount of funds and/or commodities under such program exceeds $425,000,000.

SEC. 635. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

Surplus agricultural commodities. Foreign trade.

SEC. 636. The Secretary shall use the authority available under section 32 and the Charter of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices, as authorized by law, to regain and retain the United States' fair share of world markets. In fiscal year 1991, section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, and such purchases shall be used to facilitate additional

sales of such oils in world markets at competitive prices, so as to compete with other countries.

SEC. 637. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 638. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 639. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total direct costs under each award.

SEC. 640. None of the funds in this Act may be used to establish any new office, organization or center for which funds have not been provided in advance in Appropriations Acts, except the Department may carry out planning activities.

7 USC 2277.

SEC. 641. Funds available to the Animal and Plant Health Inspection Service (APHIS) under this and subsequent appropriations shall be available for contracting with individuals for services to be performed outside of the United States, as determined by APHIS to be necessary or appropriate for carrying out programs and activities abroad. Such individuals shall not be regarded as officers or employees of the United States under any law administered by the Office of Personnel Management.

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5268:

HOUSE REPORTS: No. 101-598 (Comm. on Appropriations) and No. 101-907 (Comm. of Conference).
SENATE REPORTS: No. 101-468 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 18, considered and passed House.
Sept. 20, 25, considered and passed Senate, amended.
Oct. 22, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.

Public Law 101-507
101st Congress

An Act

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5158]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1991, and for other purposes, namely:

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $15,684,551,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $502,500,000, to remain available until expended: *Provided,* That, funds shall be available to pay any court order, court award or any compromise settlement arising from litigation involving the vocational training program authorized by section 18 of Public Law 98-77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C.

chapter 19; 70 Stat. 887; 72 Stat. 487), $15,410,000, to remain available until expended.

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $670,200,000, to remain available until expended.

During 1991, the resources of the loan guaranty revolving fund shall be available for expenses for operations related to property acquisition, disposition, and other loan guaranty and insurance operations as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1991, for transfer to the loan guaranty revolving fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Secretary of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1991, within the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

GUARANTY AND INDEMNITY FUND

For purposes of making the credits to the Guaranty and Indemnity Fund authorized by law (38 U.S.C. 1825 and 1829), such sums as may be necessary to remain available until expended.

DIRECT LOAN REVOLVING FUND

During 1991, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

VETERANS HEALTH SERVICE AND RESEARCH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as au-

thorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $12,310,490,000, plus reimbursements: *Provided,* That of the sum appropriated, $7,870,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That of the funds made available under this heading, $278,000,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1992, $216,795,000, plus reimbursements: *Provided,* That of the sum appropriated, $1,000,000 is available only for a survey and evaluation of the scientific evidence relating to dioxin and other toxic herbicides.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of Health Professional Scholarship Program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $41,434,000, plus reimbursements.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $484,000, to remain available until September 30, 1992.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of four passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $902,514,000, including $616,658,000 for the Veterans Benefits Administration: *Provided,* That, during fiscal year 1991, jurisdictional average employment shall not be less than

12,550 for the Veterans Benefits Administration: *Provided,* That funds shall be available, and authority granted, to enable the Secretary to enter into enhanced-use agreements under the terms and conditions of section 704 of S. 2100 (101st Cong., 2d sess. (1990)), as reported by the Senate Committee on Veterans Affairs, with respect to facilities located at the Department of Veterans Affairs Medical Center, Baltimore, Maryland (Loch Raven).

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $24,859,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $580,000,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation for fiscal year 1991, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1991, and (2) by the awarding of a construction contract by September 30, 1992: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That not to exceed $3,300,000 of the funds available shall be used for the settlement of contractor claims arising from the modernization of a hospital at the Department of Veterans Affairs Medical Center, New Orleans, LA: *Provided further,* That not to

Government contracts.

Reports.

exceed $3,100,000 of the funds available shall be used for the settlement of contractor claims arising from the construction of outpatient improvements at the Department of Veterans Affairs Medical Center, Pittsburgh, PA.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $130,640,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided*, That not more than $44,420,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further*, That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $28,900,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $70,000,000, to remain available until September 30, 1993.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $3,946,000, to remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities",

and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1991 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1991 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1990.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1991 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100-86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION AND TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $9,525,000,000, to remain available until expended: *Provided,* That of the new budget authority provided herein, $233,361,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $733,760,000 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $2,500,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including funds for the comprehensive testing, abatement, and risk assessment of lead, of which $5,000,000 shall be for technical assistance and training under section 20 of the Act (42 U.S.C. 1437r); $1,073,202,000 shall be for the section 8 existing housing certificate

program (42 U.S.C. 1437f), including project-based section 8 assistance to help implement plans of action approved under title II of the Housing and Community Development Act of 1987, of which $65,150,000 shall be for eligible tenants affected by the demolition or disposition of public housing units (including units occupied by Indian families) and $48,863,000 shall be for certificates to be used as replacement for units of public housing (including those for Indian families) lost through demolition or disposition; $811,898,000 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437(o)); $1,810,442,000 for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended; up to $283,125,000 shall be available for section 8 assistance for property disposition; $440,600,000 shall be for loan management, of which $200,000,000, may be used for housing preservation assistance, incentives, and grants upon enactment into law of authorizing legislation; and any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that is less than five years: *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families, who as a result of rental rehabilitation action are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 per centum of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under section 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $9,525,000,000 provided herein, $35,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242), but such amount shall be obligated under title VI of the Housing and Community Development Act of 1987, notwithstanding the sunset provision in section 613 thereof, and, notwithstanding the language preceding the first proviso of this paragraph, $54,250,000 shall be used for special purpose grants in accordance with the terms and conditions specified for such grants in the committee of conference report and statement of managers (H. Rept. 101-900) accompanying this Act: *Provided further,* That, notwithstanding any other provision of law, of the funds available under the "Community development grants" appropriation in Public Law 101-144, as amended, for grants under section 106 of the Housing and Community Development Act of 1974, $14,000,000 may be made available under section 107 of such Act: *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisiton costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and except as hereinafter provided for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1991, shall be rescinded: *Provided further,* That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per

Rent subsidies.

centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628, 102 Stat. 3224, 3268) shall not be rescinded, or in the case of cash, shall not be remitted to the Treasury, and such amounts of budget authority or cash shall be used by State housing finance agencies in accordance with such section: *Provided further,* That notwithstanding the 20 per centum limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That the paragraph under the Administrative Provisions head in title II of Public Law 101-144 (approved November 9, 1989) (103 Stat. 839, 852-854), setting aside amounts for indemnification with respect to all or parts of claims arising from lead-based paint testing or abatement, is hereby amended by striking out "1992" and inserting "1998".

Of the $9,525,000,000 provided under this head, $610,115,000 shall be used for capital advances for supportive housing for the elderly under section 202 of the Housing Act of 1959 (as amended by section 801 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph)), which provision, and other provisions of the bill cited in this paragraph and the three paragraphs that follow are deemed as enacted as of the enactment date of this Appropriations Act, of which $60,000,000 shall be for amendments for contracts for projects previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), including under section 801(d) of the bill, to remain available until expended: *Provided,* That to the extent such funds include an amount for a project that does not convert under section 801(c)(1) of the bill to assistance under section 202 (as amended by section 801 of the bill), such amounts shall be transferred to the section 202 Direct Loan Account for obligation for such project; and such account shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959, as it existed before the date on which the bill was deemed enacted: *Provided further,* That to the extent that any funds remain after allocations under section 202(e), (as amended by section 801 of the bill), the Secretary shall make grants for retrofitting housing for the elderly in accordance with section 802 of the bill: *Provided further,* That the Secretary may transfer for use under this paragraph any funds reserved under section 202 (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 801 of the bill), as provided by section 801(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: *Provided further,* That at the election of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 801(c)(1), and any amount for amendments to be

12 USC 1701q note.

Grant programs. Aged.

provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 Direct Loan Account for obligation for such project: *Provided further,* That of the amounts available under this paragraph, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 202(k)(1) (as amended by section 801 of the bill).

Of the amounts made available under this head, $449,619,000 shall be used for project rental assistance for supportive housing for the elderly under section 202 of the Housing Act of 1959, as amended by section 801 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph), of which $186,000,000 shall be for amendments for contracts for projects for the elderly previously reserved under section 202 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: *Provided,* That to the extent such funds include an amount for a project that does not convert to assistance under section 202 (as amended by section 801 of the bill), such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 (as it existed before the date on which the bill was deemed enacted): *Provided further,* That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 for assistance for projects for the elderly under section 202 (as it existed before the date on which the bill was deemed enacted), for which no loan has been executed and recorded, to which the Secretary applies section 202 (as amended by section 801 of the bill) as provided by 801(c) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise available under this paragraph: *Provided further,* That following the election under section 801(c)(2) of a sponsor of a project under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved section 8 amounts that remain available shall be transferred and merged with any other amounts available under this paragraph, and made available for other supportive housing for the elderly under section 202 (as amended by the bill). Aged.

Of the $9,525,000,000 provided under this head, $121,709,000 shall be used for capital advances under section 811 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for supportive housing for persons with disabilities (including 500 units for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $15,000,000 shall be for amendments for contracts for projects for the handicapped previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: *Provided,* That to the extent such funds include an amount for a project that does not convert under section 811(m)(1) of the bill to assistance under section 811 of the bill, such amount shall be transferred to the section 202 Direct Loan Account for obligation for such project; and such amount shall be maintained as authorized under section 202(a)(4) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted): *Provided further,* That the Secretary may transfer for use under this paragraph any funds reserved under

section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted) for which no loan has been executed and recorded, to which the Secretary applies section 811 of the bill, as provided in section 811(m) of the bill, and any funds so transferred shall be added to and merged with the amounts otherwise made available under this paragraph: *Provided further,* That at the election of a sponsor of a project for housing for the handicapped under section 202 or 202(h) (as it existed before the date on which the bill was deemed enacted), the Secretary shall provide funding for amendments either under section 202 (as it existed before or after the date on which the bill was deemed enacted) or under section 811, and any amount for amendments to be provided under section 202 (as it existed before the date on which the bill was deemed enacted) shall be transferred to the section 202 Direct Loan Account for obligation for such project: *Provided further,* That of the amounts available under this head, up to $5,000,000 shall be available for contracts for technical assistance in accordance with section 811(j)(1) of the bill.

Of the amounts provided under this head, $156,000,000 shall be used for project rental assistance for supportive housing under section 811 of S. 566 (101st Cong., 2d Sess.), the National Affordable Housing Act (the "bill" in this paragraph) for persons with disabilities (including 500 units of housing for persons disabled as a result of infection with the human acquired immunodeficiency virus), of which $52,000,000 shall be for amendments for contracts for projects previously reserved under section 202(h) of the Housing Act of 1959 (as it existed before the date on which the bill was deemed enacted), to remain available until expended: *Provided,* That to the extent such funds include an amount for a project for housing for the handicapped that does not convert to assistance under section 811 of the bill, such amount shall be for obligation for such project as authorized under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 (as such sections existed before the date on which the bill was deemed enacted): *Provided further,* That the Secretary may transfer for use under this paragraph any funds previously reserved under section 8 of the United States Housing Act of 1937 and section 202(h) of the Housing Act of 1959 for which no loan has been executed and recorded, to which the Secretary applies section 811 of the bill, as provided by section 811(m) of the bill, and any funds so transferred shall be added to and merged with amounts otherwise available under this paragraph: *Provided further,* That following the election under section 811(m)(2) of a sponsor of a project for the handicapped under section 202 (as it existed before the date on which the bill was deemed enacted) as to whether the Secretary shall provide funding either under section 202, as it existed before or after the date on which the bill was deemed enacted, any theretofore reserved amounts under section 8 and section 202(h), (as such sections existed before the date on which the bill was deemed enacted) that remain shall be transferred and merged with any other amounts available for use under this paragraph, and made available for other housing under section 202, as amended by the bill.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(INCLUDING TRANSFER OF FUNDS)

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $7,734,985,400, to remain available until expended, of which $3,654,519,750 shall be for existing certificates, $3,102,872,600 shall be for housing vouchers and $977,593,050 shall be for loan management under section 8: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further,* That to the extent the amount in this paragraph is insufficient, the Secretary may, from the Annual Contributions for Assisted Housing paragraph, transfer to, add to, and merge with the amounts appropriated under this paragraph up to $150,000,000 to fund such insufficiency, and the $1,810,442,000 earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, in the Annual Contributions for Assisted Housing paragraph, shall be reduced by an amount equal to the amount transferred: *Provided further,* That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o), $70,000,000, to remain available until September 30, 1993.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1991 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1991, direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), using any resources transferred to the fund pursuant to the first proviso of the second paragraph and the first proviso of the fourth paragraph under the head "Annual Contributions for Assisted Housing" in title II of this Act: *Provided,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, any such obligations shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

12 USC 1701q note.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $9,500,000, to remain available until September 30, 1992.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,100,000,000: *Provided,* That of the funds made available under this heading, $150,000,000 shall not become available for obligation until September 20, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That the Secretary of Housing and Urban Development shall report to the Committees on Appropriations by February 1, 1991, as to whether or not funds provided under this heading are sufficient to satisfy 100 percent of the performance funding system for fiscal year 1991, unadjusted by unrealized or estimated savings.

Reports.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), and section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $8,000,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1990, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1991, to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $317,366,000, to remain available until expended.

During fiscal year 1991, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1991, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $75,000,000,000.

During fiscal year 1991, gross obligations for direct loans of not to exceed $151,125,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1991, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $1,100,000.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901-11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921-11925, $150,000,000, to remain available until expended: *Provided,* That $1,000,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training): *Provided further,* That funds made available under this heading, with the exception of the $1,000,000 specified in the previous proviso, shall not be made available until September 1, 1991, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1991, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $80,000,000,000 of loan principal.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $73,164,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $150,000,000, to remain available until expended.

SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS

For grants for supplemental assistance for facilities to assist the homeless as authorized under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), as amended, $11,263,000, to remain available until expended.

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $105,000,000, to remain available until expended.

SOLAR ENERGY AND ENERGY CONSERVATION BANK

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

All funds previously appropriated under this head that are recaptured or that otherwise are or become available for obligation in fiscal year 1991 or thereafter, including all such amounts affected by the order of the United States District Court, Southern District of New York, in Dabney v. Reagan, 82 Civ. 2231-CSH, dated March 20, 1985, shall be withdrawn, pursuant to 31 U.S.C. 1555 et seq.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,200,000,000, to remain available until September 30, 1993: *Provided,* That $31,930,000 shall be available for grants to Indian tribes pursuant to section 106(b)(7)(A) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301) and not to exceed $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of such Act: *Provided further,* That not to exceed 20 per centum of any grant made

with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following provisos) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* That $5,000,000 shall be made available from the foregoing $3,200,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z-6 note): *Provided further,* That $2,000,000 shall be made available from the foregoing $3,200,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181): *Provided further,* That after September 30, 1990, no funds provided or heretofore provided in this or any other appropriations Act shall be used to establish or supplement a revolving fund under section 104(h) of the Housing and Community Development Act of 1974, as amended, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change. 42 USC 5304 note.

During fiscal year 1991, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $140,000,000 of contingent liability for loan principal.

REHABILITATION LOAN FUND

During fiscal year 1991, collections, unexpended balances of prior appropriations (including any recoveries of prior obligations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1990, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Secretary of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Secretary of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, and for reimbursement to the Resolution Trust Corporation for properties conveyed by such Corporation for such use, in accordance with section 810(g)(3) of such Act, $13,000,000, to remain available until expended, and of which not to exceed $250,000 shall be available to provide technical assistance as authorized by section 810(c) of such Act.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $28,500,000, to remain available until September 30, 1992.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $12,410,000, to remain available until September 30, 1992: *Provided,* That not less than $5,810,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987 and the demonstration period authorized in section 561(e) of such Act shall be deemed to be September 30, 1991.

42 USC 3616 note.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $825,500,000, of which $396,000,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1991, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,411 for public and Indian housing programs and an average field employment of at least 1,950 staff years for multifamily insured mortgage programs and activities.

Manpower. Indians. Public housing.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,283,000, of which $10,000,000 shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

Community development. Pennsylvania.

Notwithstanding any other provision of law or other requirement, the City of Lebanon, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the financially closed-out Southside Urban Renewal Project (R-635(C)) not

paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lebanon shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Massachusetts.

Notwithstanding any other provision of law or other requirement, the City of Lawrence, Massachusetts, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Theater Row Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Lawrence shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Eastern New Mexico Natural Gas Association, Inc.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the Eastern New Mexico Natural Gas Association, Inc., a nonprofit organization, relating to the public facilities loan (Project No. NM-29-PFL0025), dated June 1, 1967, under title II of the Housing Amendments of 1955. The Eastern New Mexico Natural Gas Association, Inc., is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

That on the date of enactment of this Act, the note or other obligation represented by loan number 070024914 under such section 312, together with any promise to repay the unpaid principal, unpaid interest that has accrued on the note or obligation, and any other fees and charges payable in connection with it, shall be forgiven, and any other term or condition specified by the note or other obligation shall be canceled.

Pennsylvania.

Notwithstanding any other provision of law or other requirement, the City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the County of Luzerne and in the Commonwealth of Pennsylvania, are authorized to retain any categorical settlement grant funds, urban renewal grant funds, and land disposition proceeds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the City of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the Borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the Borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such funds, including any interest.

Massachusetts.

Notwithstanding any other provision of law or other requirement, the City of Pittsfield in the Commonwealth of Massachusetts, is authorized to retain any land disposition proceeds from the financially closed-out Columbus Urban Renewal Project, Parcel 5 (No. Mass. R-90) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the

requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Pittsfield shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Of the funds heretofore provided in Public Law 99-500 and Public Law 99-591 for grants pursuant to section 17(d)(4)(G) of the United States Housing Act of 1937, $1,450,000 shall be available for obligation for Dunes East Housing Development Grant project, number GA008HG501, through September 30, 1991, notwithstanding section 152 of the Housing and Community Development Act of 1987 and section 17(d)(4)(G) of the United States Housing Act of 1937.

Connecticut. Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

Pennsylvania. Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, in the Commonwealth of Pennsylvania, is authorized to retain any land disposition proceeds from the closed-out Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use all past and future earnings from such proceeds, including any interest.

Virginia. Notwithstanding any other provision of law or other requirement, the City of Roanoke, in the Commonwealth of Virginia, is authorized to retain any land disposition proceeds from the financially closed-out Downtown East Urban Renewal Project (R-42) not paid to the Department of Housing and Urban Development and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The City of Roanoke shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this paragraph, all past and future earnings from such proceeds, including any interest.

Maryland. The Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (Project No. MD-18-PFL0003) issued July 1, 1969, under title II of the Housing Amendments of 1955. The Town of Fairmount Heights is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall approve the use by the Housing Authority of the City of Seattle of excess residual reserve

receipts from the Bay View Tower (No. 127-38044) and Market House Projects (No. WA19-8023-005) for any purpose which inures to the benefit of the low-income tenants of federally or locally financed projects owned by the Authority. Excess residual receipt funds are those receipts in excess of 25 percent of the average annual operating costs during the immediately preceding five-year period.

California.

The $784,000 in the Housing Development Action Grant (HoDAG) funding previously awarded to the City of Santa Cruz, California by the Department of Housing and Urban Development under Section 17 of the United States Housing Act of 1937 (42 U.S.C. 1437o), as amended, are hereby restored to the City of Santa Cruz from previously appropriated funds for the construction of low-income housing at the site known as the Alborada project.

Maryland. California.

Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended by inserting after "or State of Vermont" the following: "or State of Maryland or City of West Hollywood, California". This amendment to section 17(f) shall also apply retroactively to any structure assisted under a program of the City of West Hollywood.

42 USC 1437o note.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "(185 percent during fiscal year 1990)" and inserting the following: "(185 percent during fiscal year 1991)".

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Department of Housing and Urban Development shall not exceed: (1) 28 staff years for the Immediate Office of the Secretary/Under Secretary, (2) 18 staff years for the Deputy Under Secretary for Field Coordination, (3) 20 staff years for the Office of Public Affairs, (4) 28 staff years for the Office of Legislation and Congressional Relations, (5) 1,152 staff years for the Assistant Secretary for Housing—Federal Housing Commissioner, of which 25 staff years shall be for data management reform and preservation activities only, (6) 162 staff years for the Assistant Secretary for Public and Indian Housing, (7) 274 staff years for the Assistant Secretary for Community Planning and Development, (8) 162 staff years for the Assistant Secretary for Policy Development and Research, (9) 172 staff years for the Assistant Secretary for Fair Housing and Equal Opportunity, and (10) 224 staff years for the Office of General Counsel, of which not more than 15 staff years shall be for the Immediate Office of the General Counsel: *Provided,* That the Office of Drug-Free Neighborhoods shall be transferred from the Office of General Counsel to the Assistant Secretary for Public and Indian Housing and included within the staff years provided herein therefor: *Provided further,* That no funds may be used from any amounts provided in this or any other Act for details of employees from any organization in the Department of Housing and Urban Development to any organization included under the budget activity "Departmental Management".

Notwithstanding any other provision of law, regulation or other requirement, the Secretary shall not require any public housing agency or Indian housing authority to seek competitive bids for the procurement of any line of insurance when such public housing agency or Indian housing authority purchases such line of insurance from a nonprofit insurance entity, owned and controlled by public housing agencies or Indian housing authorities, and approved by the Secretary. In establishing standards for approval of such nonprofit

insurance entities, the Secretary shall be assured that such entities have sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry. The Secretary shall not place restrictions on the investment of funds of any such entity that is regulated by the insurance department of any State that describes the types of investments insurance companies licensed in such State may make. With regard to such entities that are not so regulated, the Secretary may establish investment guidelines that are comparable to State law regulating the investments of insurance companies.

Census data.

Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.". The amendment made by this paragraph shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

42 USC 5302 note.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $15,900,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memo-

36 USC 121b.

36 USC 122.

36 USC 122a.

rial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For use in establishing and paying the salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), $2,000,000.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), $55,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $37,109,000: *Provided,* That not more than $365,000 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. 4051-4091, $7,481,000: *Provided,* That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, and not to exceed $1,000 for official reception and representation expenses; $12,236,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $5,000 for official reception and representation expenses; $974,700,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, $37,000,000, of which $13,107,000 shall be derived from the Hazardous Substance Superfund trust fund and $575,000 shall be derived from the Leaking Underground Storage Tank Trust Fund.

RESEARCH AND DEVELOPMENT

For research and development activities, $254,900,000, to remain available until September 30, 1992: *Provided,* That not more than $35,600,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $1,006,525,000, to remain available until September 30, 1992: *Provided,* That up to $2,800,000 shall be available for grants and cooperative agreements to develop and implement asbestos training and accreditation programs: *Provided further,* That notwithstanding any other provision of law, the lease or purchase of a computer, from funds appropriated under this paragraph, to support the regional acid deposition monitoring program, and the planning and site acquisition for a new EPA Center for Ecology Research and Training, shall be established in the Bay City, Michigan, vicinity: *Provided further,* That notwithstanding any other provision of law, from funds appropriated under this heading, the Administrator is authorized to make grants to "Federally recognized Indian tribes" on such terms and conditions as he deems appropriate for the development of multimedia environmental programs: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic

Government contracts. Michigan.

and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $40,000,000, to remain available until expended: *Provided,* That none of the funds previously appropriated for the design and renovation of a Superfund laboratory at Edison, New Jersey to test and evaluate innovative technologies, except for those funds necessary for education outreach or permit applications, including design work essential to such applications, shall be spent in fiscal year 1991.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,616,228,000, consisting of $755,328,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $860,900,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $135,000,000 during fiscal year 1991, with all of such funds to remain available until expended: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further,* That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $48,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1991: *Provided further,* That the Administrator of the Environmental Protection Agency shall pay not more than $7,000 in interest to the City of New Brighton, Minnesota: *Provided further,* That no more than $233,000,000 of these funds shall be available for administrative expenses. Minnesota.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $65,000,000, to remain available until expended: *Provided,* That no more than $6,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,100,000,000, to remain available until expended, of which $2,047,800,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; and $35,700,000 shall be for title V of the Water Quality Act of 1987, consisting of $15,700,000 for section 510 and $20,000,000 for section 513: *Provided,* That notwithstanding any other provision of law, the $15,700,000 for section 510 and all funds that have been or will be appropriated under section 510 or Public Law 98-386, as amended by Public Law 99-88, shall be used to construct an international sewage treatment plant and related facilities in San Diego to treat Tijuana wastewater, and to carry out all activities, including planning, design, right-of-way acquisition, and building, which are necessary to complete that construction: *Provided further,* That, notwithstanding sections 602(b)(6) or 201(g)(1) of the Federal Water Pollution Control Act, as amended, of the funds appropriated in this paragraph, amounts awarded in a capitalization grant to an agency of any State, including funds transferred pursuant to section 205(m), shall be available for providing assistance in that State for the construction of publicly owned treatment works as defined in section 212 of that Act.

ADMINISTRATIVE PROVISIONS

Government contracts.
Disadvantaged persons.
Colleges and universities.
Grant programs.
Loan programs.
Minority groups.

The Administrator of the Environmental Protection Agency shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Notwithstanding any provision of the Federal Water Pollution Control Act, the Delavan Lake Sanitary District shall be entitled to retain all funds received under EPA construction grants c550549-01 and c550549-02.

Employment.
Manpower.

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 45 workyears for the Immediate Office of the Administrator, including 1 to support the Superfund program; (2) 52 workyears for the Office of Congressional and Legislative Affairs, including 2 to support the Superfund program; (3) 66 workyears for the Office of Communications and Public Affairs, including 3 to support the Superfund program; (4) 169 workyears for the Office of General Counsel, including 12 to support the Superfund program, 11 to support program management, 1 to support the Leaking Underground Storage Tank Trust Fund program, and 1 to support the implementation of the

Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988; (5) 52 workyears for the Office of International Activities; (6) 35 workyears for the Office of Federal Activities; (7) 270 workyears for the Office of Policy, Planning, and Evaluation, including 13 to support the Superfund program and 1 to support the Leaking Underground Storage Tank Trust Fund program; (8) 1,367 workyears for the Office of Administration and Resources Management, including 263 to support the Superfund program, 9 to support the Leaking Underground Storage Tank Trust Fund program, and 13 to support the implementation of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.

The Administrator of the Environmental Protection Agency is required, by November 30, 1990, to issue a final decision on the Sanitation Districts of Los Angeles County's pending 301(h) application.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $1,873,000.

NATIONAL SPACE COUNCIL

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,363,000: *Provided,* That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $3,560,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

POINTS OF LIGHT FOUNDATION

For necessary expenses of the President in carrying out title III of the National and Community Service Act of 1990 (S. 1430, as passed by the Senate on October 16, 1990), relating to the Points of Light Foundation's promotion of local problem solving through voluntary community service, $5,000,000: *Provided,* That not later than 6 months after the date of enactment of this Act, the President shall prepare and submit to the appropriate committees of Congress a

Reports.

report describing the use of funds made available by this appropriation.

FEDERAL EMERGENCY MANAGEMENT AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $143,000,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,351,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $282,624,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $11,078,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $46,023,000 shall, upon enactment of the Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1992. In fiscal year 1991, no funds in excess of (1) $32,000,000 for operating expenses, (2) $183,500,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available

from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $134,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77, as amended: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

ADMINISTRATIVE PROVISION

The Superintendent of the Fire Academy, in exercising the powers and authority provided by section 7 of the Federal Fire Prevention Control Act of 1974, shall be subject to the exclusive direction of the Administrator, United States Fire Administration: *Provided,* That all funds appropriated by this or any other Act, with respect for any fiscal year, or otherwise made available, for the National Fire Academy in Emmitsburg, Maryland, or any Fire Academy field programs, shall be placed under the exclusive control of the United States Fire Administration. 15 USC 2206 note.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,540,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1991 shall not exceed $2,172,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1991 in excess of $5,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,964,000.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), as amended, $1,083,000, to remain available until expended: *Provided,* That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the 42 USC 11313 note.

departments and agencies represented on the Council pursuant to section 202(a) of such Act.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $6,023,600,000, to remain available until September 30, 1992.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $6,334,132,000, to remain available until September 30, 1992, of which $1,209,732,000 shall be used only for the purpose of payment, to the Federal Financing Bank, for the Tracking and Data Relay Satellite System (TDRSS) loan: *Provided,* That such payment shall constitute settlement of all amounts owed on said loan: *Provided further,* That of the amounts provided herein for development and production of the Advanced Solid Rocket Motor (ASRM), $15,000,000 shall be available without fiscal year limitation for the competitive award of a contract to develop either (1) a second domestic source for the development and production of the ASRM carbon/carbon integral throat entrance (ITE) or (2) a second domestic source for the production of the ASRM carbon/carbon ITE unless the Administrator of NASA certifies to the Congress by February 1, 1991, that such application of funds is not in the best interest of the United States space program on the basis of cost, added assurance of reliable supply, expanded technology base, and technical risk reduction.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, and, notwithstanding the limitations on the availability of funds appropriated under this heading by this appropriations Act, an amount of $10,000,000 appropriated hereunder is to remain available without fiscal year limitation and is appropriated for the operation and maintenance of a new visitor center on the Lyndon B. Johnson Space Center to be constructed solely through the use of nonappropriated funds and for the provision of ancillary features such as roads, parking lots, utility services, and exhibits, and with-

out regard to 31 U.S.C. 3302, such amount or portions thereof may be invested in securities of the United States Government and the interest earned thereon may be retained and used for the aforesaid purposes, except that these appropriated funds and interest earned thereon shall not be used to construct the new visitor center building nor for the payment, directly and indirectly, of principal or interest on any debt obligation incurred with respect to the new visitor center building, $497,900,000, to remain available until September 30, 1993: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefore, as authorized by law (5 U.S.C. 5901-5902); awards, lease, hire, maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $200,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $2,211,900,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,500,000.

ADMINISTRATIVE PROVISIONS

Government contracts. Disadvantaged persons. Colleges and universities. Minority groups.

The NASA Administrator shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Employment. Manpower.

During fiscal year 1991, notwithstanding any other provision of law, average employment in the headquarter's offices of the National Aeronautics and Space Administration shall not exceed: (1) 48 staff years for the Office of the Administrator; (2) 184 staff years for the Headquarters Operations; (3) 44 staff years for the Office of Commercial Programs; (4) 10 staff years for the Office of Explorations; (5) 40 staff years for the Office of General Counsel; (6) 189 staff years for Agency Management; (7) 75 staff years for the Office of External Relations; (8) 29 staff years for the Office of Legislative Affairs; (9) 229 staff years for the Office of Space Science and Applications; (10) 144 staff years for the Office of Aeronautics and Space Technology; (11) 482 staff years for the Office of Space Flight, including Level I and Level II activities for the Space Station; (12) 61 staff years for the Office of Space Operations; (13) 111 staff years for the Office of the Comptroller: *Provided,* That no funds may be used from amounts provided in this or any other Act for details of employees from any organization in the National Aeronautics and Space Administration to any organization included under the budget activity "Research and program management", except those details which involve developmental or critical short-term staffing assignments.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1991, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1991 shall not exceed $893,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880-1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $1,694,200,000 to remain available until September 30, 1992: *Provided,* That receipts for scientific support services and materials furnished by the National

Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

ACADEMIC RESEARCH FACILITIES

For necessary expenses in carrying out an academic research facilities program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $20,478,000, to remain available until September 30, 1992.

PROGRAM DEVELOPMENT AND MANAGEMENT

For necessary program development and management expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $101,000,000, to remain available until September 30, 1992: *Provided,* That contracts may be entered into under program development and management in fiscal year 1991 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $100,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance, and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhance-

ments of safety; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $75,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $322,350,000, to remain available until September 30, 1992: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,000,000, to remain available until September 30, 1992.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $25,554,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,635,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further,* That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1991 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1991, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101-73 are insufficient, $22,000,000,000: *Provided,* That the Chairman of the Federal Deposit Insurance Corporation shall provide quarterly reports to the Committees on Appropriations beginning November 15, 1989, on the receipts, disbursements, cash balance, estimated Treasury payments required by fiscal year, and total estimated costs to the FSLIC Resolution Fund. Reports.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $10,785,000.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the

Robert T. Stafford Disaster Relief and Emergency Assistance Act; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of in-

terest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS-18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Government contracts. Public information.

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Government contracts. Reports.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

Wages. Government employees.

SEC. 515. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. After January 1, 1991, and for the duration of fiscal year 1991, within the Department of Housing and Urban Development, the number of noncareer appointees to the Senior Executive Service shall not exceed 13 per centum of the total number of Senior Executive Service positions in such department, unless the Office of Personnel Management approves a waiver to exceed that limitation in accordance with 5 U.S.C. 3134. The Office of Personnel Management, in consultation with the Office of Management and Budget, shall undertake an expedited review of Senior Executive Service positions in the Department of Housing and Urban Development and report its findings, recommendations, and justification for any waiver determination to the Congress by December 15, 1990.

SEC. 517. None of the funds appropriated in title II of this Act, or otherwise available to the Department of Housing and Urban Development, shall be used for first class travel of any Department official or employee unless required by medical necessity or on airplane flights longer than seven hours.

SEC. 518. None of the funds appropriated under title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations.

Reports.

SEC. 519(a). The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform

under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5158:

HOUSE REPORTS: No. 101-556 (Comm. on Appropriations) and No. 101-900 (Comm. of Conference).
SENATE REPORTS: No. 101-474 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 28, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 20, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to another.
Oct. 25, Senate agreed to conference report; concurred in certain House amendments, in others with amendments; and receded from another.
Oct. 26, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, VOL. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-508
101st Congress

An Act

Nov. 5, 1990
[H.R. 5835]

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for fiscal year 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Budget Reconciliation Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1990".

SEC. 2. TABLE OF TITLES.

Title I. Agriculture and related programs.
Title II. Banking, housing, and related programs.
Title III. Student loans and labor provisions.
Title IV. Medicare, medicaid, and other health-related programs.
Title V. Income security, human resources, and related programs.
Title VI. Energy and environmental programs.
Title VII. Civil service and postal service programs.
Title VIII. Veterans' programs.
Title IX. Transportation.
Title X. Miscellaneous user fees and other provisions.
Title XI. Revenue provisions.
Title XII. Pensions.
Title XIII. Budget enforcement.

Agricultural Reconciliation Act of 1990.

TITLE I—AGRICULTURE AND RELATED PROGRAMS

SEC. 1001. SHORT TITLE; TABLE OF CONTENTS.

7 USC 1421 note.

(a) SHORT TITLE.—This title may be cited as the "Agricultural Reconciliation Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents of this title is as follows:

Sec. 1001. Short title; table of contents.

Subtitle A—Commodity Programs

Sec. 1101. Triple base for deficiency payments.
Sec. 1102. Calculation of deficiency payments based on 12-month average.
Sec. 1103. Acreage reduction program for 1991 crop.
Sec. 1104. Acreage reduction programs for 1992 through 1995 crops.
Sec. 1105. Loan origination fees and other savings.

Subtitle B—Other Agricultural Programs

Sec. 1201. Authorization levels for rural electric and telephone loans.
Sec. 1202. Authorization levels for FmHA loans.
Sec. 1203. APHIS inspection user fee on international passengers.
Sec. 1204. Additional savings and other provisions.

Subtitle C—Effective Date

Sec. 1301. Effective date.
Sec. 1302. Readjustment of support levels.

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 682, waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the One Hundred First Congress, and providing for the subsequent preparation and certification of printed enrollments, this printed enrollment contains corrections in indentation, typeface, and type size and includes footnotes identifying obvious errors in spelling or punctuation in the hand enrollment.

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*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

Subtitle A—Commodity Programs

SEC. 1101. TRIPLE BASE FOR DEFICIENCY PAYMENTS.

(a) WHEAT.—Section 107B(c)(1)(C)(ii) of the Agricultural Act of 1949 (as added by section 301 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended by striking "100 percent" and inserting "85 percent". 7 USC 1445b-3a.

(b) FEED GRAINS.—Section 105B(c)(1)(C)(ii) of the Agricultural Act of 1949 (as added by section 401 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended by striking "100 percent" and inserting "85 percent". 7 USC 1444f.

(c) UPLAND COTTON.—Section 103B(c)(1)(C)(ii) of the Agricultural Act of 1949 (as added by section 501 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended by striking "100 percent" and inserting "85 percent". 7 USC 1444-2.

(d) RICE.—Section 101B(c)(1)(C)(ii) of the Agricultural Act of 1949 (as added by section 601 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended by striking "100 percent" and inserting "85 percent". 7 USC 1441-2.

SEC. 1102. CALCULATION OF DEFICIENCY PAYMENTS BASED ON 12-MONTH AVERAGE.

(a) WHEAT.—Clause (ii) of section 107B(c)(1)(B) of the Agricultural Act of 1949 (as added by section 301 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended to read as follows:

"(ii) PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(I) the lesser of—

"(aa) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

"(bb) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; or

"(II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) for the marketing year for the crop of wheat.".

(b) FEED GRAINS.—Clause (ii) of section 105B(c)(1)(B) of the Agricultural Act of 1949 (as added by section 401 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended to read as follows:

"(ii) PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the respective crop of feed grains exceeds the higher of—

"(I) the lesser of—

"(aa) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

"(bb) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 7 cents per bushel; or

"(II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) for the marketing year for the respective crop of feed grains.".

7 USC 1441-2.

(c) RICE.—Clause (ii) of section 101B(c)(1)(B) of the Agricultural Act of 1949 (as added by section 601 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended to read as follows:

"(ii) PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

"(I) the lesser of—

"(aa) the national average market price received by producers during the calendar year that contains the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(bb) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus an appropriate amount that is fair and equitable in relation to wheat and feed grains (as determined by the Secretary); or

"(II) the loan level determined for the crop.".

7 USC 1445j.

(d) CONFORMING AMENDMENT.—Section 114(c) of the Agricultural Act of 1949 (as amended by section 1121(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 and redesignated by section 1161(a)(1) of such Act) by striking "wheat, feed grains, and rice which payments are calculated on the basis of the national weighted average market price (or, in the case of rice, the national average market price) for the marketing year for the crop" and inserting "wheat and feed grains which payments are calculated as provided in sections 107B(c)(1)(B)(ii), 107B(p), or 105B(c)(1)(B)(ii)".

SEC. 1103. ACREAGE REDUCTION PROGRAM FOR 1991 CROP.

7 USC 1445b-3a note.

(a) WHEAT.—In the case of the 1991 crop of wheat, the Secretary of Agriculture shall provide for an acreage limitation program as described in section 107B(e)(1)(F) of the Agricultural Act of 1949 (as added by section 301 of the Food, Agriculture, Conservation, and Trade Act of 1990).

7 USC 1444f.

(b) FEED GRAINS.—Subparagraph (F) of section 105B(e)(1) of the Agricultural Act of 1949 (as added by section 401 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended to read as follows:

"(F) ACREAGE LIMITATION PROGRAM FOR 1991 CROP.—In the case of the 1991 crop of corn, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 7.5 percent.".

SEC. 1104. ACREAGE REDUCTION PROGRAMS FOR 1992 THROUGH 1995 CROPS. 7 USC 1445-3a note.

(a) IN GENERAL.—Notwithstanding any other provision of law, except as provided in subsections (b) and (c), the Secretary of Agriculture shall announce an acreage limitation program for each of the 1992 through 1995 crops of—

(1) wheat under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by—

(A) in the case of the 1992 crop of wheat, not less than 6 percent;

(B) in the case of the 1993 crop of wheat, not less than 5 percent;

(C) in the case of the 1994 crop of wheat, not less than 7 percent; and

(D) in the case of the 1995 crop of wheat, not less than 5 percent; and

(2) corn, grain sorghum, and barley under which the acreage planted to the respective feed grain for harvest on a farm would be limited to the respective feed grain crop acreage base for the farm for the crop reduced by not less than 7½ percent.

(b) STOCKS-TO-USE RATIO.—Subsection (a) shall not apply to a crop if the Secretary estimates for such crop that the stocks-to-use ratio will be less than—

(1) in the case of wheat, 34 percent; and

(2) in the case of corn, grain sorghum, and barley, 20 percent.

(c) TERMINATION.—If the Secretary determines that the quantity of soybeans on hand in the United States on the first day of the marketing year for the 1991 crop of soybeans (not including any quantity of soybeans of the 1991 crop) will be less than 325,000,000 bushels, subsection (a) shall not apply to any of the 1992 through 1995 crops of wheat and feed grains.

SEC. 1105. LOAN ORIGINATION FEES AND OTHER SAVINGS.

(a) OILSEEDS.—Section 205 of the Agricultural Act of 1949 (as added by section 701(2) of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended— 7 USC 1446f.

(1) by redesignating subsection (m) as subsection (n); and

(2) by inserting after subsection (1) the following new subsection:

"(m) LOAN ORIGINATION FEE.—

"(1) LOANS.—The Secretary shall charge a producer a loan origination fee for a crop of oilseeds, in connection with making a loan, equal to the product obtained by multiplying—

"(A) the loan level determined for the crop under subsection (c); by

"(B) 2 percent; by

"(C) the quantity of oilseeds for which the producer obtains the loan.

"(2) LOAN DEFICIENCY PAYMENTS.—The Secretary shall deduct, from the amount of any loan deficiency payment made under subsection (e), an amount equal to the amount of the loan origination fee that would otherwise be paid under paragraph (1) if the producer obtained a loan rather a loan deficiency payment.".

(b) PEANUTS.—

7 USC 1445c-3.

(1) IN GENERAL.—Section 108B of the Agricultural Act of 1949 (as added by section 806 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(A) by redesignating subsection (g) as subsection (h); and

(B) by inserting after subsection (f) the following new subsection:

"(g) MARKETING ASSESSMENT.—

"(1) IN GENERAL.—The Secretary shall provide, by regulation, for a nonrefundable marketing assessment applicable to each of the 1991 through 1995 crops of peanuts. The assessment shall be made in accordance with this subsection and shall be on a per pound basis in an amount equal to 1 percent of the national average quota or additional peanut support rate per pound, as applicable, for the applicable crop. No peanuts shall be assessed more than 1 percent of the applicable support rate under this subsection.

"(2) FIRST PURCHASERS.—

"(A) IN GENERAL.—Except as provided under paragraphs (3) and (4), the first purchaser of peanuts shall—

"(i) collect from the producer a marketing assessment equal to ½ percent of the applicable national average support rate times the quantity of peanuts acquired;

"(ii) pay, in addition to the amount collected under clause (i), a marketing assessment in an amount equal to ½ percent of the applicable national average support rate times the quantity of peanuts acquired; and

"(iii) remit the amounts required under clauses (i) and (ii) to the Commodity Credit Corporation in a manner specified by the Secretary.

"(B) DEFINITION.—For purposes of this subsection, the term 'first purchaser' means a person acquiring peanuts from a producer except that in the case of peanuts forfeited by a producer to the Commodity Credit Corporation, such term means the person acquiring the peanuts from the Commodity Credit Corporation.

"(3) OTHER PRIVATE MARKETINGS.—In the case of a private marketing by a producer directly to a consumer through a retail or wholesale outlet or in the case of a marketing by the producer outside of the continental United States, the producer shall be responsible for the full amount of the assessment and shall remit the assessment by such time as is specified by the Secretary.

"(4) LOAN PEANUTS.—In the case of peanuts that are pledged as collateral for a price support loan made under this section, ½ of the assessment shall be deducted from the proceeds of the loan. The remainder of the assessment shall be paid by the first purchaser of the peanuts. For purposes of computing net gains on peanuts under this section, the reduction in loan proceeds shall be treated as having been paid to the producer.

"(5) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of peanuts involved in the violation; by

"(B) the national average quota peanut price support level for the applicable crop year.

"(6) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.".

(2) CONFORMING AMENDMENT.—Section 108B(a)(2) of the Agricultural Act of 1949 (as added by section 806(3) of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended by inserting after "cost of land" the following: "and the cost of any assessments required under subsection (g)". 7 USC 1445c-3.

(c) SUGAR.—Section 206 of the Agricultural Act of 1949 (as added by section 901(2) of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended— 7 USC 1446g.

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) MARKETING ASSESSMENT.—

"(1) SUGARCANE.—Effective only for each of the 1991 through 1995 crops of sugarcane, the first processor of sugarcane shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .18 cents per pound of raw cane sugar processed by the processor from domestically produced sugarcane.

"(2) SUGAR BEETS.—Effective only for each of the 1991 through 1995 crops of sugar beets, the first processor of sugar beets shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .193 cents per pound of beet sugar processed by the processor from domestically produced sugar beets.

"(3) COLLECTION.—Marketing assessments required under this subsection shall be collected and remitted to the Commodity Credit Corporation in the manner prescribed by the Secretary and shall be nonrefundable.

"(4) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of cane sugar or beet sugar involved in the violation; by

"(B) the support level for the applicable crop of sugarcane or sugar beets.

"(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.".

(d) HONEY.—Section 207 of the Agricultural Act of 1949 (as added by section 1001 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended— 7 USC 1446h.

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

"(i) MARKETING ASSESSMENT.—

"(1) IN GENERAL.—Effective only for each of the 1991 through 1995 crops of honey, producers and producer-packers of honey (as defined in paragraphs (5) and (9), respectively, of section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602)) shall remit to the Commodity Credit Corporation a nonrefundable marketing assessment on a per pound

basis in an amount equal to 1 percent of the national price support level for each such crop as otherwise provided in this section.

"(2) COLLECTION.—The assessment shall be collected and remitted by the first handler of honey in the manner prescribed by the Secretary which, to the extent practicable, shall be as provided for in the Honey Research, Promotion, and Consumer Information Act.

"(3) EXEMPTIONS.—All persons who are exempt from the payment of the assessment authorized by such Act, and all imported honey, shall be exempt from the payment of the assessment required by this subsection.

"(4) PENALTIES.—If any person fails to collect or remit the reduction required by this subsection or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out this subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of honey involved in the violation; by

"(B) the support level for the applicable crop of honey.

"(5) ENFORCEMENT.—The Secretary may enforce this subsection in the courts of the United States.".

(e) WOOL AND MOHAIR.—Section 704 of the National Wool Act of 1954 (7 U.S.C. 1783) (as amended by section 201(b) of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended by adding at the following new subsection:

"(c) MARKETING ASSESSMENTS.—Effective only for each of the 1991 through 1995 marketing years for wool and mohair, the Secretary shall deduct an amount from the payment to be made available to producers of wool and mohair under subsection (a) equal to 1 percent of the payment.".

(f) TOBACCO.—Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end the following new subsection:

"(g)(1) Effective only for each of the 1991 through 1995 crops of tobacco for which price support is made available under this Act, producers and purchasers of such tobacco shall each remit to the Commodity Credit Corporation a nonrefundable marketing assessment in an amount equal to .5 percent of the national price support level for each such crop as otherwise provided for in this section.

"(2) Such producer assessments and purchaser assessments shall be—

"(A) collected in the same manner as provided for in section 106A(d)(2) or 106B(d)(3), as applicable; and

"(B) enforced in the same manner as provided in section 106A(h) or 106B(j), as applicable.

"(3) The Secretary may enforce this subsection in the courts of the United States.".

7 USC 1446e.

(g) OTHER SAVINGS.—Section 204 of the Agricultural Act of 1949 (as added by section 101 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in subsection (g)—

(A) in paragraph (1), by striking "1991 through 1994" and inserting "1992 through 1995";

(B) in the matter preceding subparagraph (A) of paragraph (2)—

(i) by inserting after "purchases" the following: "in the following calendar year"; and

(ii) by inserting after "producers" the following: "in such following calendar year"; and

(C) in paragraph (2)(B), by striking "that calendar year" and inserting "such following calendar year";

(2) by redesignating subsections (h) and (i) as subsections (j) and (k), respectively; and

(3) by inserting after subsection (g) the following new subsections:

"(h) REDUCTION IN PRICE RECEIVED.—

"(1) IN GENERAL.—Beginning January 1, 1991, the Secretary shall provide for a reduction in the price received by producers for all milk produced in the United States and marketed by producers for commercial use, in addition to any reduction in price required under subsection (g).

"(2) AMOUNT.—The amount of the reduction under paragraph (1) in the price received by producers shall be—

"(A) during calendar year 1991, 5 cents per hundredweight of milk marketed; and

"(B) during each of the calendar years 1992 through 1995, 11.25 cents per hundredweight of milk marketed, which rate shall be adjusted on or before May 1 of each of the calendar years 1992 through 1995 by an amount per hundredweight that is necessary to compensate for refunds made under paragraph (3) on the basis of marketings in the previous calendar year.

"(3) REFUND.—The Secretary shall provide a refund of the entire reduction under paragraph (2) in the price of milk received by a producer during a calendar year, if the producer provides evidence that the producer did not increase marketings in the calendar year that such reduction was in effect when compared to the immediately preceding calendar year.

"(i) ENFORCEMENT.—

"(1) COLLECTION.—Reductions in price required under subsection (g) or (h) shall be collected and remitted to the Commodity Credit Corporation in the manner prescribed by the Secretary.

"(2) PENALTIES.—If any person fails to collect or remit the reduction required by subsection (g) or (h) or fails to comply with such requirements for recordkeeping or otherwise as are required by the Secretary to carry out such subsection, the person shall be liable to the Secretary for a civil penalty up to an amount determined by multiplying—

"(A) the quantity of milk involved in the violation; by

"(B) the support rate for the applicable calendar year for milk.

"(3) ENFORCEMENT.—The Secretary may enforce subsection (g) or (h) in the courts of the United States.".

Subtitle B—Other Agricultural Programs

SEC. 1201. AUTHORIZATION LEVELS FOR RURAL ELECTRIC AND TELEPHONE LOANS.

Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by adding at the end the following new section:

7 USC 940d.

"SEC. 314. AUTHORIZATION LEVELS FOR RURAL ELECTRIC AND TELEPHONE LOANS.

"(a) IN GENERAL.—Subject to the other provisions of this section and notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, insured loans may be made in accordance with this title from the Rural Electrification and Telephone Revolving Fund established under section 301 in amounts equal to the following levels:

"(1) For fiscal year 1991, $896,000,000.
"(2) For fiscal year 1992, $932,000,000.
"(3) For fiscal year 1993, $969,000,000.
"(4) For fiscal year 1994, $1,008,000,000.
"(5) For fiscal year 1995, $1,048,000,000.

"(b) REDUCTION.—Notwithstanding any other provision of law, for each of fiscal years 1991 through 1995, the Administrator shall—

"(1) reduce the amounts otherwise made available for insured loans made from the Rural Electrification and Telephone Revolving Fund by—

"(A) $224,000,000 for fiscal year 1991;
"(B) $234,000,000 for fiscal year 1992;
"(C) $244,000,000 for fiscal year 1993;
"(D) $256,000,000 for fiscal year 1994; and
"(E) $267,000,000 for fiscal year 1995; and

"(2) use the funds made available from such reductions in each fiscal year to guarantee loans under subsection (d).

"(c) MANDATORY LEVELS.—Notwithstanding any other provision of law, the Administrator shall make insured loans at the levels authorized by this section for each of fiscal years 1991 through 1995 taking into account any reductions under subsection (b).

"(d) GUARANTEED LOANS—

"(1) IN GENERAL.—Except as otherwise provided in this subsection and subsection (e) and notwithstanding any other provision of law, in carrying out this Act, the Administrator shall guarantee loans made by legally organized lending agencies to the extent of the reduction in insured loans as provided in subsection (b).

"(2) AMOUNT OF GUARANTEE.—The guarantees authorized under paragraph (1) shall be 90 percent of the principal of and interest on the loan and shall be made only upon the request of the borrower.

"(3) NO FEDERAL INSTRUMENTALITY.—The Administrator may not provide any such guarantee for a loan made by the Federal Financing Bank, the Rural Telephone Bank, or any other lending agency that is an agency or instrumentality of the United States other than banks for cooperatives.

"(4) AUTHORITY.—The Administrator is authorized to approve such guarantees subject to full use being made during each fiscal year of insured loan amounts made available during the fiscal year.

"(5) CONSTRUCTION.—Nothing in this subsection shall be construed as modifying the authority provided in section 306.

"(e) IMPLEMENTATION.—

"(1) IN GENERAL.—The Administrator shall implement the reduction in insured loans provided by subsection (b) in a manner that will lessen its adverse effect.

"(2) ALLOCATION BETWEEN ELECTRIC AND TELEPHONE PROGRAMS.—The reductions required by subsection (b) shall be allocated between the electric and telephone programs for each fiscal year in proportion to the amount of insured funds made available for each such program during the fiscal year in annual appropriations Acts.

"(3) ELECTRIC BORROWER'S OPTION.—If the amount of an insured electric loan is reduced as a result of the requirements of subsection (b), the electric borrower may, at the option of such borrower, obtain capital to replace the amount of the reduction—

"(A) with the assistance of a loan guarantee (as provided by subsection (d));

"(B) from internally generated funds of the electric borrower;

"(C) from private credit sources with a lien accommodation provided by the Administrator; or

"(D) from other private sources.".

SEC. 1202. AUTHORIZATION LEVELS FOR FmHA LOANS.

(a) IN GENERAL.—Subsection (b) of section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)) is amended to read as follows:

"(b)(1) For each of the fiscal years 1991 through 1995, real estate and operating loans may be insured, made to be sold and insured, or guaranteed in accordance with subtitles A and B, respectively, from the Agricultural Credit Insurance Fund established under section 309 in amounts equal to the following levels:

"(A) For fiscal year 1991, $4,175,000,000, of which not less than $827,000,000 shall be for farm ownership loans under subtitle A.

"(B) For fiscal year 1992, $4,343,000,000, of which not less than $861,000,000 shall be for farm ownership loans under subtitle A.

"(C) For fiscal year 1993, $4,516,000,000, of which not less than $895,000,000 shall be for farm ownership loans under subtitle A.

"(D) For fiscal year 1994, $4,697,000,000, of which not less than $931,000,000 shall be for farm ownership loans under subtitle A.

"(E) For fiscal year 1995, $4,885,000,000, of which not less than $968,000,000 shall be for farm ownership loans under subtitle A.

"(2) Subject to paragraph (3), such amounts set forth in paragraph (1) shall be apportioned as follows:

"(A) For fiscal year 1991—

"(i) $1,019,000,000 for insured loans, of which not less than $83,000,000 shall be for farm ownership loans; and

"(ii) $3,156,000,000 for guaranteed loans, of which not less than $744,000,000 shall be for guarantees of farm ownership loans.

"(B) For fiscal year 1992—

"(i) $1,060,000,000 for insured loans, of which not less than $87,000,000 shall be for farm ownership loans; and

"(ii) $3,283,000,000 for guaranteed loans, of which not less than $774,000,000 shall be for guarantees of farm ownership loans.

"(C) For fiscal year 1993—

"(i) $1,102,000,000 for insured loans, of which not less than $90,000,000 shall be for farm ownership loans; and

"(ii) $3,414,000,000 for guaranteed loans, of which not less than $805,000,000 shall be for guarantees of farm ownership loans.

"(D) For fiscal year 1994—

"(i) $1,147,000,000 for insured loans, of which not less than $94,000,000 shall be for farm ownership loans; and

"(ii) $3,550,000,000 for guaranteed loans, of which not less than $837,000,000 shall be for guarantees of farm ownership loans.

"(E) For fiscal year 1995—

"(i) $1,192,000,000 for insured loans, of which not less than $97,000,000 shall be for farm ownership loans; and

"(ii) $3,693,000,000 for guaranteed loans, of which not less than $871,000,000 shall be for guarantees of farm ownership loans.

"(3) Notwithstanding any other provision of law:

"(A) The Secretary shall—

"(i) reduce the amounts otherwise made available for insured loans by—

"(I) $482,000,000, for fiscal year 1991;

"(II) $614,000,000, for fiscal year 1992;

"(III) $760,000,000, for fiscal year 1993;

"(IV) $859,000,000, for fiscal year 1994; and

"(V) $907,000,000, for fiscal year 1995; and

"(ii) use the funds made available from such reductions in each fiscal year to guarantee loans under section 351.

"(B) The total amount of insured loans shall bear the same ratio to the amount of insured farm ownership loans as the dollar amount specified in paragraph (2)(A)(i) for insured loans bears to the dollar amount specified therein for insured farm ownership loans.

"(C) If more than 70 percent of the number of loans guaranteed under section 351 in a fiscal year have been guaranteed to persons to whom the Secretary had not previously made an insured loan under this Act, in lieu of the dollar amounts specified in subparagraph (A) for the immediately succeeding fiscal year, the dollar amounts which shall apply shall each be the product obtained by multiplying—

"(i) such dollar amount; by

"(ii) the quotient of—

"(I) the number of persons provided with guaranteed loans under section 351 in the fiscal year to whom the Secretary had not previously made an insured or a guaranteed loan under this Act; divided by

"(II) the total number of persons provided with guaranteed loans under section 351 in the fiscal year.

"(4) Notwithstanding subsection (a), the Secretary shall, as soon as practicable after the date of enactment of this subsection, make, insure, or guarantee loans at the levels authorized by this subsection for each of the fiscal years 1991 through 1995.".

(b) INTEREST RATE REDUCTION PROGRAM.—

(1) IN GENERAL.—Section 351 of such Act (7 U.S.C. 1999) is amended—

(A) in subsection (c)—

(i) by striking "50 percent" and inserting "100 percent"; and

(ii) by striking "2 percent" and inserting "4 percent"; and

(B) in subsection (d), by striking ", or 3 years, whichever is less".

(2) EXTENSION OF PROGRAM FOR 2 YEARS.—Section 1320 of the Food Security Act of 1985 (7 U.S.C. 1999 note) is amended by striking "1993" and inserting "1995".

(c) DEMONSTRATION PROJECT FOR PURCHASE OF SYSTEM LAND.—Section 351(h)(1) of such Act (7 U.S.C. 1999(h)(1)) is amended by striking "3-year" and inserting "4-year".

SEC. 1203. APHIS INSPECTION USER FEE ON INTERNATIONAL PASSENGERS.

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended— 21 USC 136a.

(1) in paragraph (1), by striking "a commercial vessel, commercial aircraft, commercial truck, or railroad car," and inserting "an international passenger, commercial vessel, commercial aircraft, commercial truck, or railroad car."; and

(2) in paragraph (3)(B)—

(A) by adding at the end of clause (ii) the following: "Any such reimbursement shall be subject to appropriations under clause (v)."; and

(B) by adding at the end the following new clause:

"(v) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year amounts in the Fund for use for quarantine or inspection services.".

SEC. 1204. ADDITIONAL SAVINGS AND OTHER PROVISIONS.

(a) INTEGRATED FARM MANAGEMENT PROGRAM.—Section 1451 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended— 7 USC 5822.

(1) in subsection (d), by striking "enroll not more than" and inserting "enroll not less than"; and

(2) in subsection (h)(7)(A), by striking "shall not be eligible" and inserting "shall be eligible".

(b) FOOD AID ASSISTANCE.—The Agricultural Trade, Development, and Assistance Act of 1954 (as amended by section 1512 of the Food, Agriculture, Conservation, and Trade Act of 1990) is amended—

(1) in section 202(e)(1), by striking "private" and all that follows through "Administrator" and inserting "the Administrator, not less than $10,000,000, and not more than $13,500,000, shall be made available in each fiscal year to private voluntary organizations and cooperatives"; 7 USC 1722.

(2) in section 406, by adding at the end the following new subsection: 7 USC 1736.

"(d) AVAILABILITY OF FUNDS.—Funds shall be available under this Act only to the extent provided in advance in appropriation Acts."; and

(3) in section 407(c)(4), by striking "providing ocean" and inserting "providing ocean transportation or". 7 USC 1736a.

(c) TOBACCO PROGRAM ADJUSTMENT.—Section 213 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is amended—

(1) in subsection (d), by inserting before the period the following: ", subsection (e), and subsection (f)"; and

(2) in subsection (f), by adding at the end the following new paragraph:

"(4) Subsection (d) shall apply with respect to fees and charges imposed to cover the costs of such end user identification, certification, and reporting activities.".

7 USC 1421 note.

(d) EMERGENCY LOANS.—Section 2269 of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by—

(1) striking "(7 U.S.C. 1981(b))" and inserting "(7 U.S.C. 1961(b))"; and

(2) striking "1988" and inserting "1990".

7 USC 136w note.

(e) FIFRA USER FEES.—Notwithstanding any provision of the Omnibus Budget Reconciliation Act of 1990, nothing in this title or the other provisions of this Act shall be construed to require or authorize the Administrator of the Environmental Protection Agency to assess or collect any fees or charges for services and activities authorized under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

Subtitle C—Effective Date

7 USC 511r note.

SEC. 1301. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective 1 day after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990, or December 1, 1990, whichever is earlier.

7 USC 1421 note.

SEC. 1302. READJUSTMENT OF SUPPORT LEVELS.

(a) FAILURE TO ENTER INTO AGREEMENT.—If by June 30, 1992, the United States does not enter into (within the context of section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902)) an agricultural trade agreement in the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade (GATT), agricultural acreage limitation and price support and production adjustment programs and export promotion levels shall be reconsidered and adjusted by the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") in accordance with subsection (b), as appropriate to protect the interests of American agricultural producers and ensure the international competitiveness of United States agriculture.

(b) REQUIRED MEASURES.—Pursuant to subsection (a), in order to protect the interests of American agricultural producers and ensure the competitive position of United States agriculture, the Secretary—

(1) is authorized to waive any minimum level for any acreage limitation program required or authorized for any of the 1993 through 1995 crops of wheat, feed grains, upland cotton, or rice established under section 107B(e), 105B(e), 103B(e), or 101B(e) of the Agricultural Act of 1949 (as amended by sections 301, 401, 501, and 601 of the Food, Agriculture, Conservation, and Trade Act of 1990), respectively;

(2) shall increase by $1,000,000,000 for the period beginning October 1, 1993, and ending September 30, 1995, the level of export promotion programs authorized under the Agricultural Trade Act of 1978 (as amended by section 1531 of the Food,

Agriculture, Conservation, and Trade Act of 1990), in addition to any amounts otherwise required or made available under such programs; and

(3) shall permit producers to repay price support loans for any of the 1993 through 1995 crops of wheat and feed grains at the levels provided under sections 107B(a)(4) and 105B(a)(4) of the Agricultural Act of 1949, respectively.

(c) FAILURE OF AGREEMENT TO ENTER INTO FORCE.—If by June 30, 1993, an agricultural trade agreement under the Uruguay Round of multilateral trade negotiations under the General Agreement on Tariffs and Trade has not entered into force for the United States, agricultural price support and other programs and export promotion levels shall be reconsidered and adjusted by the Secretary in accordance with subsection (d), if the Secretary determines such action is appropriate to protect the interests of American agricultural producers and ensure the international competitiveness of United States agriculture.

(d) SPECIFIC MEASURES.—

(1) MEASURES TO BE CONSIDERED.—Pursuant to subsection (c), the Secretary shall consider—

(A) waiving all or part of the requirements of this title, and the amendments made by this title, requiring reductions in agricultural spending;

(B) increasing the level of funds made available for the programs authorized under the Agricultural Trade Act of 1978; and

(C) permitting producers to repay price support loans for any of the 1993 through 1995 crops of wheat and feed grains at the levels provided under sections 107B(a)(4) and 105B(a)(4) of the Agricultural Act of 1949, respectively.

(2) AUTHORITY.—The Secretary is authorized to implement the measures specified in subparagraphs (A), (B), and (C) of paragraph (1). This authority shall be in addition to, and not in place of, any other authority under any other provision of law.

(3) IMPLEMENTATION.—If the Secretary determines the action is appropriate pursuant to subsection (c), the Secretary shall implement measures specified in subparagraph (A) of paragraph (1) and either or both of the measures specified in subparagraph (B) or (C) of paragraph (1).

(e) LIMITATION.—This section shall not be construed to authorize the Secretary to reduce the level of income support provided to agricultural producers in the United States.

(f) TERMINATION.—The provisions of subsections (a) and (b) shall cease to be effective if the President certifies to Congress that the failure referred to in subsection (a) to enter into an agricultural trade agreement in the Uruguay Round of multilateral trade negotiations under the GATT is a result in whole or in part of the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191), or essentially similar provisions, not applying or in effect not applying during the period ending May 31, 1991 (or during the period June 1, 1991, through May 31, 1993, if the condition of section 1103(b)(1)(B)(i) is satisfied) to implementing bills submitted with respect to such an agreement entered into during the applicable period under section 1102(b) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2902(b)).

TITLE II—BANKING, HOUSING, AND RELATED PROGRAMS

Subtitle A—Federal Deposit Insurance Assessments

Sec. 2001. Short title.
Sec. 2002. FDIC authorized to increase assessment rates as necessary to protect insurance funds.
Sec. 2003. FDIC authorized to make mid-year adjustments in assessment rates.
Sec. 2004. FDIC authorized to set designated reserve ratio as necessary in face of significant risk of substantial losses to insurance fund.
Sec. 2005. FDIC authorized to borrow from Federal Financing Bank.

Subtitle B—FHA Mortgage Insurance

Sec. 2101. Increase in mortgage limit.
Sec. 2102. Mortgagor equity.
Sec. 2103. Mortgage insurance premiums.
Sec. 2104. Mutual mortgage insurance fund distributions.
Sec. 2105. Actuarial soundness of mutual mortgage insurance fund.
Sec. 2106. Home equity conversion mortgage insurance demonstration.

Subtitle C—Auction of Federally Insured Mortgages

Sec. 2201. Auction of multifamily mortgages.

Subtitle D—Crime and Flood Insurance Programs

Sec. 2301. Crime insurance program.
Sec. 2302. Flood insurance program.

Subtitle E—Effective Date

Sec. 2401. Effective date.

TITLE II—BANKING, HOUSING, AND RELATED PROGRAMS

Subtitle A—Federal Deposit Insurance Assessments

FDIC Assessment Rate Act of 1990.

12 USC 1811 note.

SEC. 2001. SHORT TITLE.

This Act may be cited as the "FDIC Assessment Rate Act of 1990".

SEC. 2002. FDIC AUTHORIZED TO INCREASE ASSESSMENT RATES AS NECESSARY TO PROTECT INSURANCE FUNDS.

(a) BANK INSURANCE FUND.—Section 7(b)(1)(C) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(C)) is amended to read as follows:

"(C) ASSESSMENT RATE FOR BANK INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—The assessment rate for Bank Insurance Fund members shall be the greater of 0.15 percent or such rate as the Board of Directors, in its sole discretion, determines to be appropriate—

"(I) to maintain the reserve ratio at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

"(ii) FACTORS TO BE CONSIDERED.—In making any determination under clause (i), the Board of Directors shall consider the Bank Insurance Fund's expected operating expenses, case resolution expenditures, and income, the effect of the assessment rate on members' earnings and

capital, and such other factors as the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.".

(b) SAVINGS ASSOCIATION INSURANCE FUND.—Section 7(b)(1)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(D)) is amended to read as follows:

"(D) ASSESSMENT RATE FOR SAVINGS ASSOCIATION INSURANCE FUND MEMBERS.—

"(i) IN GENERAL.—The assessment rate for Savings Association Insurance Fund members shall be the greater of 0.15 percent or such rate as the Board of Directors, in its sole discretion, determines to be appropriate—

"(I) to maintain the reserve ratio at the designated reserve ratio; or

"(II) if the reserve ratio is less than the designated reserve ratio, to increase the reserve ratio to the designated reserve ratio within a reasonable period of time.

"(ii) FACTORS TO BE CONSIDERED.—In making any determination under clause (i), the Board of Directors shall consider the Savings Association Insurance Fund's expected operating expenses, case resolution expenditures, and income, the effect of the assessment rate on members' earnings and capital, and such other factors as the Board of Directors may deem appropriate.

"(iii) MINIMUM ASSESSMENT.—Notwithstanding clause (i), the assessment shall not be less than $1,000 for each member in each year.

"(iv) TRANSITION RULE.—Until December 31, 1997, the assessment rate for Savings Association Insurance Fund members shall not be less than the following:

"(I) From January 1, 1990, through December 31, 1990, 0.208 percent.

"(II) From January 1, 1991, through December 31, 1993, 0.23 percent.

"(III) From January 1, 1994, through December 31, 1997, 0.18 percent.".

(c) CLERICAL AMENDMENTS REFLECTING $1,000 MINIMUM ASSESSMENT PROVISIONS OF CURRENT LAW.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)) is amended—

(1) by inserting "or subparagraph (C)(iii) or (D)(iii) of subsection (b)(1)" after "subsection (c)(2)"; and

(2) in clauses (i) and (ii), by inserting "the greater of $500 or an amount" before "equal to the product of".

SEC. 2003. FDIC AUTHORIZED TO MAKE MID-YEAR 'ADJUSTMENTS IN ASSESSMENT RATES.

(a) ASSESSMENT RATES.—Section 7(b)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)) is amended to read as follows:

"(A) ASSESSMENT RATES PRESCRIBED.—

"(i) AUTHORITY TO SET RATES.—Subject to clause (iii), the Corporation shall set assessment rates for insured depository institutions at such times as the Corporation, in its sole discretion, determines to be appropriate.

"(ii) RATE FOR EACH FUND TO BE SET INDEPENDENTLY.—The Corporation shall fix the assessment rate of Bank Insurance Fund members independently from the assessment rate for Savings Association Insurance Fund members.

"(iii) DEADLINE FOR ANNOUNCING RATE CHANGES.—The Corporation shall announce any change in assessment rates.—

"(I) for the semiannual period beginning on January 1 and ending on June 30, not later than the preceding November 1; and

"(II) for the semiannual period beginning on July 1 and ending on December 31, not later than the preceding May 1.".

(b) ASSESSMENT PROCEDURES.—Section 7(b)(2)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)(A)), as amended by section 2(c) of this Act, is amended—

(1) by striking "annual" each time it appears;

(2) in clause (i)(I), by inserting "during that semiannual period" after "member"; and

(3) in clause (ii)(I), by inserting "during that semiannual period" after "member".

(c) CONFORMING AMENDMENT ON TIMING OF ASSESSMENT CREDITS.—Section 7(d)(1)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(1)(A)) is amended to read as follows:

"(A) The Corporation shall prescribe and publish the aggregate amount to be credited to insured depository institutions—

"(i) in the semiannual period beginning on January 1 and ending on June 30, not later than the preceding November 1; and

"(ii) in the semiannual period beginning on July 1 and ending on December 31, not later than the preceding May 1.".

SEC. 2004. FDIC AUTHORIZED TO SET DESIGNATED RESERVE RATIO AS NECESSARY IN FACE OF SIGNIFICANT RISK OF SUBSTANTIAL LOSSES TO INSURANCE FUND.

Section 7(b)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(B)) is amended—

(1) by striking ", not exceeding 1.50 percent," each time it appears;

(2) in clause (iii)—

(A) by inserting "and" at the end of subclause (I);

(B) by striking subclauses (II) and (III); and

(C) by redesignating subclause (IV) as subclause (II); and

(3) in clause (iv)—

(A) by inserting "and" at the end of subclause (I);

(B) by striking subclauses (II) and (III); and

(C) by redesignating subclause (IV) as subclause (II).

SEC. 2005. FDIC AUTHORIZED TO BORROW FROM FEDERAL FINANCING BANK.

Section 14 of the Federal Deposit Insurance Act (12 U.S.C. 1824) is amended—

(1) in the heading, by striking "SEC. 14." and inserting:

"SEC. 14. BORROWING AUTHORITY.

"(a) BORROWING FROM TREASURY.—";

(2) in subsection (a), as designated by paragraph (1)—

(A) by striking "this section" each time it appears and inserting "this subsection", and

(B) by striking "The Corporation may employ such funds" and inserting "The Corporation may employ any funds obtained under this section"; and

(3) by adding after subsection (a), as amended by paragraph (2), the following new subsection:

"(b) BORROWING FROM FEDERAL FINANCING BANK.—The Corporation is authorized to issue and sell the Corporation's obligations, on behalf of the Bank Insurance Fund or Savings Association Insurance Fund, to the Federal Financing Bank established by the Federal Financing Bank Act of 1973. The Federal Financing Bank is authorized to purchase and sell the Corporation's obligations on terms and conditions determined by the Federal Financing Bank. Any such borrowings shall be obligations subject to the obligation limitation of section 15(c) of this Act. This subsection does not affect the eligibility of any other entity to borrow from the Federal Financing Bank.".

Subtitle B—FHA Mortgage Insurance

SEC. 2101. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31, 1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 2102. MORTGAGOR EQUITY.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 2103. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling and executed on or after October 1, 1994, that is an obligation of the Mutual Mortgage Insurance Fund, shall be subject to the following requirements:

"(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount equal to

2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph.

"(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

"(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

"(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).".

12 USC 1709 note.

(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National Housing Act (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) 1991 AND 1992.—For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) 1993 AND 1994.—For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. 12 USC 1709 note.

SEC. 2104. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 2105. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent

within 24 months after the date of the enactment of this subsection and maintains such ratio thereafter, subject to paragraph (2).

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(C) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c) or section 2103(b) of the Omnibus Budget Reconciliation Act of 1990. Upon determining that a premium change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit;

"(C) minimizing the risk to the Fund and to homeowners from homeowner default; and

"(D) avoiding adverse selection.".

SEC. 2106. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) TERMINATION DATE.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

Subtitle C—Auction of Federally Insured Mortgages

SEC. 2201. AUCTION OF MULTIFAMILY MORTGAGES.

Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715l(g)(4)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as 'participation certificates'). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

"(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

"(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

"(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances

may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

"(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

"(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

"(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

"(I) the maturity date of the loan;

"(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

"(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

"(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

"(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

"(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date

of enactment of this subparagraph and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of the enactment of this subparagraph.

"(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

"(viii) This subparagraph shall not apply after September 30, 1995. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.".

Subtitle D—Crime and Flood Insurance Programs

SEC. 2301. CRIME INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1201(b) of the National Housing Act (12 U.S.C. 1749bbb(b)) is amended by striking "September 30, 1991" in the matter preceding paragraph (1) and inserting "September 30, 1995".

(b) CONTINUATION OF EXISTING CONTRACTS.—Section 1201(b)(1) of the National Housing Act (12 U.S.C. 1749bbb(b)(1)) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 542(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 1749bbb-10c note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

SEC. 2302. FLOOD INSURANCE PROGRAM.

(a) EXTENSION OF GENERAL AUTHORITY.—Section 1319 of the National Flood Insurance Act of 1968 (42 U.S.C. 4026) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) EXTENSION OF EMERGENCY PROGRAM.—Section 1336(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4056(a)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(c) EXTENSION OF LIMITATION ON PREMIUMS.—Section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(d) EXTENSION OF EROSION PROVISIONS.—Section 1306(c)(7) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(7)) is

amended by striking "September 30, 1991" and inserting "September 30, 1995".

(e) INCLUSION OF COSTS IN PREMIUMS.—

(1) ESTIMATES OF PREMIUM RATES.—Section 1307(a) of the National Flood Insurance Act of 1968 (42 U.S.C. 4014(a)) is amended—

(A) in paragraph (1)(B)(i), by striking "and" at the end;

(B) in paragraph (1)(B)(ii), by inserting "and" after the comma at the end;

(C) in paragraph (1)(B), by inserting at the end the following new clause:

"(iii) any remaining administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360) not included under clause (ii), which shall be recovered by a fee charged to policyholders and such fee shall not be subject to any agents' commissions, company expense allowances, or State or local premium taxes,"; and

(D) in paragraph (2), by inserting after "title" the following: ", and which, together with a fee charged to policyholders that shall not be not subject to any agents' commission, company expenses allowances, or State or local premium taxes, shall include any administrative expenses incurred in carrying out the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360)".

(2) ESTABLISHMENT OF CHARGEABLE PREMIUM RATES.—Section 1308 of the National Flood Insurance Act of 1968 (42 U.S.C. 4015) is amended—

(A) in subsection (b)—

(i) by striking "and" at the end of paragraph (2);

(ii) by redesignating paragraph (3) as paragraph (4); and

(iii) by inserting after paragraph (2), the following new paragraph:

"(3) adequate, together with the fee under paragraph (1)(B)(iii) or (2) of section 1307(a), to provide for any administrative expenses of the flood insurance and floodplain management programs (including the costs of mapping activities under section 1360), and"; and

(B) by striking subsection (d) and inserting the following new subsection:

"(d) With respect to any chargeable premium rate prescribed under this section, a sum equal to the portion of the rate that covers any administrative expenses of carrying out the flood insurance and floodplain management programs which have been estimated under paragraphs (1)(B)(ii) and (1)(B)(iii) of section 1307(a) or paragraph (2) of such section (including the fees under such paragraphs), shall be paid to the Director. The Director shall deposit the sum in the National Flood Insurance Fund established under section 1310.".

(3) NATIONAL FLOOD INSURANCE FUND.—Section 1310(a)(4) of the National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)(4)) is amended to read as follows:

"(4) to the extent approved in appropriations Acts, to pay any administrative expenses of the flood insurance and floodplain

management programs (including the costs of mapping activities under section 1360); and".

(4) ADMINISTRATIVE EXPENSES.—Section 1375 of the National Flood Insurance Act of 1968 (42 U.S.C. 4126) is amended by striking "program" and all that follows and inserting the following: "and floodplain management programs authorized under this title may be paid with amounts from the National Flood Insurance Fund (as provided under section 1310(a)(4)), subject to approval in appropriations Acts.".

(5) EXCEPTION TO LIMITATION ON PREMIUM INCREASES.—Notwithstanding section 541(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 4015 note) (as amended by this section), the premium rates charged for flood insurance under any program established pursuant to the National Flood Insurance Act of 1968 may be increased by more than 10 percent during fiscal year 1991, except that any increase in such rates not resulting from the inclusion in chargeable premium rates of administrative expenses of the flood insurance and floodplain management programs (pursuant to the amendments made by this subsection) may not exceed 10 percent.

42 USC 4015 note.

Subtitle E—Effective Date

SEC. 2401. EFFECTIVE DATE.

If the Cranston-Gonzalez National Affordable Housing Act is enacted before the enactment of this Act, the provisions of subtitles B and C (of this title) and the amendments made by such subtitles shall not take effect. This section shall apply notwithstanding any provision relating to effective date or applicability contained in subtitle B or C.

TITLE III—STUDENT LOANS AND LABOR PROVISIONS

Subtitle A—Student Loan Program Savings

Student Loan Default Prevention Initiative Act of 1990.
20 USC 1001 note.

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the "Student Loan Default Prevention Initiative Act of 1990".

SEC. 3002. SUPPLEMENTAL PRECLAIMS ASSISTANCE PAYMENTS.

(a) ELIMINATION OF SUPPLEMENTAL PRECLAIMS ASSISTANCE REIMBURSEMENTS.—Section 428(c) of the Higher Education Act of 1965 (20 U.S.C. 1078(c)) is amended—

(1) in the first sentence of paragraph (1)(A), by striking ", including the administrative costs of supplemental preclaim assistance for default prevention as defined in paragraph (6)(C)";

(2) in paragraph (6)(C)(i), by striking "this paragraph" and inserting "subsection (l)";

(3) in paragraph (6)(C)(i)(I), by striking "required or permitted under paragraph (2)(A) of this subsection and subsection (f)" and inserting "generally comparable in intensiveness to the level of

preclaims assistance performed, prior to the 120th day of delinquency, by the guaranty agency as of October 16, 1990";

(4) in paragraph (6)(C)(ii)—

(A) by striking "reimbursement" and inserting "payment under subsection (l)"; and

(B) by striking "which the guaranty agency is required or permitted to provide pursuant to paragraph (2)(A) of this subsection and subsection (f)" and inserting "described in division (i)(I) of this subparagraph"; and

(5) by striking the first sentence of paragraph (6)(C)(iv).

(b) FIXED PAYMENTS FOR PRECLAIMS ASSISTANCE.—Section 428 of such Act is further amended by adding at the end thereof the following new subsection:

"(l) PRECLAIMS ASSISTANCE AND SUPPLEMENTAL PRECLAIMS ASSISTANCE.—

"(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender, a guaranty agency having an agreement with the Secretary under subsection (c) of this section shall engage in preclaims assistance activities (as described in subsection (c)(6)(C)(i)(I)) and supplemental preclaims assistance activities (as described in subsection (c)(6)(C)) with respect to each loan covered by such agreement.

"(2) PAYMENTS FOR SUPPLEMENTAL PRECLAIMS ASSISTANCE.—The Secretary shall make payments in accordance with the provisions of this paragraph to any guaranty agency that engages in supplemental preclaims assistance (as defined in subsection (c)(6)(C)) on a loan guaranteed under this part. Such payments shall be equal to $50.00 for each loan on which such assistance is performed and for which a default claim is not presented to the guaranty agency by the lender on or before the 150th day after the loan becomes 120 days delinquent.".

SEC. 3003. INITIAL DISBURSEMENT AND ENDORSEMENT REQUIREMENTS.

(a) AMENDMENT.—Section 428G(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-7(b)(1)) is amended to read as follows:

"(1) FIRST YEAR STUDENTS.—The first installment of the proceeds of any loan made, insured, or guaranteed under this part that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this part, shall not (regardless of the amount of such loan or the duration of the period of enrollment) be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.".

20 USC 1078-7 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective for loans made on or after the date of enactment of this Act to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.

SEC. 3004. INELIGIBILITY BASED ON HIGH DEFAULT RATES.

20 USC 1085.

(a) IN GENERAL.—Section 435(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)) is amended by adding at the end thereof the following new paragraph:

"(3) INELIGIBILITY BASED ON HIGH DEFAULT RATES.—(A) An institution whose cohort default rate is equal to or greater than the threshold percentage specified in subparagraph (B) for each

of the three most recent fiscal years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and for the two succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of its eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after its submission. Such decision may permit the institution to continue to participate in a program under this part if—

"(i) the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort default rate is not accurate, and that recalculation would reduce its cohort default rate for any of the three fiscal years below the threshold percentage specified in subparagraph (B); or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances that would make the application of this paragraph inequitable.

During such appeal, the Secretary may permit the institution to continue to participate in a program under this part.

"(B) For purposes of determinations under subparagraph (A), the threshold percentage is—

"(i) 35 percent for fiscal year 1991 and 1992; and

"(ii) 30 percent for any succeeding fiscal year.

"(C) Until July 1, 1994, this paragraph shall not apply to any institution that is—

"(i) a part B institution within the meaning of section 322(2) of this Act;

"(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

"(iii) a Navajo Community College under the Navajo Community College Act.".

(b) REFUSAL TO PROVIDE STATEMENT TO LENDER.—Section 428(a)(2)(F) of such Act (20 U.S.C. 1078(a)(2)(F)) is amended by inserting before the period at the end thereof the following: ", except that, in individual cases where the institution determines that the portion of the student's expenses to be covered by the loan can be met more appropriately, either by the institution or directly by the student, from other sources, the institution may refuse to provide such statement or may reduce the determination of need contained in such statement".

(c) EXTENSION OF DEFAULT RATE LIMITATIONS ON SLS LOANS.—Section 2003(a)(3) of the Omnibus Budget Reconciliation Act of 1989 is amended— 20 USC 1078-1 note.

(1) by inserting "paragraph (1) of" after "amendments made by"; and

(2) by striking out "October 1, 1991" and inserting "October 1, 1996".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective July 1, 1991, except that the amendment made by subsection (b) shall be effective upon enactment. 20 USC 1085 note.

SEC. 3005. ABILITY TO BENEFIT.

(a) IN GENERAL.—Section 484(d) of the Higher Education Act of 1965 (20 U.S.C. 1091(d)) is amended to read as follows:

"(d) ABILITY TO BENEFIT.—In order for a student who is admitted on the basis of ability to benefit from the education or training offered to be eligible for any grant, loan, or work assistance under this title, the student shall, prior to enrollment, pass an independently administered examination approved by the Secretary.".

(b) CONFORMING AMENDMENT.—Section 481(b) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)) is amended in the fourth sentence by inserting ", except in accordance with section 484(d) of this Act," after "shall not".

20 USC 1088 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any grant, loan, or work assistance to cover the cost of instruction for periods of enrollment beginning on or after January 1, 1991.

SEC. 3006. MAXIMUM SLS LOAN AMOUNTS.

20 USC 1078-1 note.

(a) EFFECTIVE DATE EXTENSION.—Section 2003(b)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1991" and inserting "1996".

(b) PERIOD FOR DETERMINATION OF MAXIMUM LOAN AMOUNTS.—Section 428A(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)) is amended by striking "9 consecutive" and inserting "7 consecutive".

SEC. 3007. AMENDMENTS TO BANKRUPTCY LAWS.

(a) AUTOMATIC STAY AND PROPERTY OF THE ESTATE.—(1) Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (12), by striking "or" at the end thereof;

(B) in paragraph (13), by striking the period at the end thereof and inserting a semicolon; and

(C) by inserting immediately following paragraph (13) the following new paragraphs:

"(14) under subsection (a) of this section, of any action by an accrediting agency regarding the accreditation status of the debtor as an educational institution;

"(15) under subsection (a) of this section, of any action by a State licensing body regarding the licensure of the debtor as an educational institution; or

"(16) under subsection (a) of this section, of any action by a guaranty agency, as defined in section 435(j) of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or the Secretary of Education regarding the eligibility of the debtor to participate in programs authorized under such Act.".

(2) Section 541(b) of title 11, United States Code, is amended—

(A) in paragraph (1), by striking "or" at the end thereof;

(B) in paragraph (2), by striking the period at the end thereof and inserting a semicolon and "or"; and

(C) by adding at the end thereof the following new paragraph:

"(3) any eligibility of the debtor to participate in programs authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.; 42 U.S.C. 2751 et seq.), or any accreditation status or State licensure of the debtor as an educational institution.".

11 USC 362 note.

(3) The amendments made by this subsection shall be effective upon date of enactment of this Act.

(b) TREATMENT OF CERTAIN EDUCATION LOANS IN BANKRUPTCY PROCEEDINGS.—(1) Section 1328(a)(2) of title 11, United States Code, is amended by striking "section 523(a)(5)" and inserting "paragraph (5) or (8) of section 523(a)".

(2) The amendment made by paragraph (1) shall not apply to any case under the provisions of title 11, United States Code, commenced before the date of the enactment of this Act. 11 USC 1328 note.

SEC. 3008. SUNSET PROVISION. 11 USC 362 note.

The amendments made by this subtitle shall cease be effective on October 1, 1996.

Subtitle B—Labor Related Penalties

SEC. 3101. OCCUPATIONAL SAFETY AND HEALTH.

Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (a), by striking "$10,000 for each violation" and inserting "$70,000 for each violation, but not less than $5,000 for each willful violation; [1] and

(2) in subsections (b), (c), (d), and (i), by striking "$1,000" and inserting "$7,000".

SEC. 3102. MINE SAFETY AND HEALTH.

Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820) is amended—

(1) in subsection (a), by striking "$10,000" and inserting "$50,000"; and

(2) in subsection (b), by striking "1,000" and inserting "$5,000", and [2]

SEC. 3103. FAIR LABOR STANDARDS.

Section 16(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 216(e)) is amended—

(1) in the first sentence—

(A) by striking "or any person who repeatedly or willfully violates section 6 or 7"; and

(B) by striking "not to exceed $1,000 for each such violation" and inserting "not to exceed $10,000 for each employee who was the subject of such a violation";

(2) by inserting after the first sentence the following: "Any person who repeatedly or willfully violates section 6 or 7 shall be subject to a civil penalty of not to exceed $1,000 for each such violation.",

(3) by striking "such penalty" each place the term appears except after "appropriateness of" and inserting "any penalty under this subsection", and

(4) in the last sentence, by striking "Sums" and inserting "Except for civil penalties collected for violations of section 12, sums"; and

(5) by inserting at the end the following new sentence: "Civil penalties collected for violations of section 12 shall be deposited in the general fund of the Treasury.".

[1] So in original. Probably should be "violation";".

[2] So in original. The ", and" probably should be a period.

TITLE IV—MEDICARE, MEDICAID, AND OTHER HEALTH-RELATED PROGRAMS

Subtitle A—Medicare

SEC. 4000. REFERENCES IN SUBTITLE; TABLE OF CONTENTS.

(a) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(b) TABLE OF CONTENTS.—The table of contents of this subtitle is as follows:

Sec. 4000. References in subtitle; table of contents.

PART 1—PROVISIONS RELATING TO PART A

Sec. 4001. Payments for capital-related costs of inpatient hospital services.
Sec. 4002. Prospective payment hospitals.
Sec. 4003. Expansion of DRG payment window.
Sec. 4004. Payments for medical education costs.
Sec. 4005. PPS-exempt hospitals.
Sec. 4006. Hospice benefit extension.
Sec. 4007. Freeze in payments under part A through December 31.
Sec. 4008. Miscellaneous and technical provisions relating to part A.

PART 2—PROVISIONS RELATING TO PART B

Subpart A—Payment for Physicians' Services

Sec. 4101. Certain overvalued procedures.
Sec. 4102. Radiology services.
Sec. 4103. Anesthesia services.
Sec. 4104. Physician pathology services.
Sec. 4105. Update for physicians' services.
Sec. 4106. New physicians and other new health care practitioners.
Sec. 4107. Assistants at surgery.
Sec. 4108. Technical components of certain diagnostic tests.
Sec. 4109. Interpretation of electrocardiograms.
Sec. 4110. Reciprocal billing arrangements.
Sec. 4111. Study of prepayment medical review screens.
Sec. 4112. Practicing physicians advisory council.
Sec. 4113. Study of aggregation rule for claims for similar physicians' services.
Sec. 4114. Utilization screens for physician visits in rehabilitation hospitals.
Sec. 4115. Study of regional variations in impact of medicare physician payment reform.
Sec. 4116. Limitation on beneficiary liability.
Sec. 4117. Statewide fee schedule areas for physicians' services.
Sec. 4118. Technical corrections.

Subpart B—Other Items and Services

Sec. 4151. Payments for hospital outpatient services.
Sec. 4152. Durable medical equipment.
Sec. 4153. Provisions relating to orthotics and prosthetics.
Sec. 4154. Clinical diagnostic laboratory tests.
Sec. 4155. Coverage of nurse practitioners in rural areas.
Sec. 4156. Coverage of injectable drugs for treatment of osteoporosis.
Sec. 4157. Separate payment under part B for services of certain health practitioners.
Sec. 4158. Reduction in payments under part B during final 2 months of 1990.
Sec. 4159. Payments for medical education costs.
Sec. 4160. Certified registered nurse anesthetists.

Sec. 4161. Community health centers and rural health clinics.
Sec. 4162. Partial hospitalization in community mental health centers.
Sec. 4163. Coverage of screening mammography.
Sec. 4164. Miscellaneous and technical provisions relating to part B.

PART 3—PROVISIONS RELATING TO PARTS A AND B

Sec. 4201. Provisions relating to end stage renal disease.
Sec. 4202. Staff-assisted home dialysis demonstration project.
Sec. 4203. Extension of secondary payor provisions.
Sec. 4204. Health maintenance organizations.
Sec. 4205. Peer review organizations.
Sec. 4206. Medicare provider agreements assuring the implementation of a patient's right to participate in and direct health care decisions affecting the patient.
Sec. 4207. Miscellaneous and technical provisions relating to parts A and B.

PART 4—PROVISIONS RELATING TO PART B PREMIUM AND DEDUCTIBLE

Sec. 4301. Part B premium.
Sec. 4302. Part B deductible.

PART 5—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

Sec. 4351. Simplification of medicare supplemental policies.
Sec. 4352. Guaranteed renewability.
Sec. 4353. Enforcement of standards.
Sec. 4354. Preventing duplication.
Sec. 4355. Loss ratios and refund of premiums.
Sec. 4356. Clarification of treatment of plans offered by health maintenance organizations.
Sec. 4357. Pre-existing condition limitations and limitation on medical underwriting.
Sec. 4358. Medicare select policies.
Sec. 4359. Health insurance advisory services for medicare beneficiaries.
Sec. 4360. Health insurance information, counseling, and assistance grants.
Sec. 4361. Medicare and medigap information by telephone.

PART 1—PROVISIONS RELATING TO PART A

SEC. 4001. PAYMENTS FOR CAPITAL-RELATED COSTS OF INPATIENT HOSPITAL SERVICES.

(a) REDUCTION IN PAYMENTS FOR FISCAL YEAR 1991.—Section 1886(g)(3)(A)(v) (42 U.S.C. 1395ww(g)(3)(A)(v)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(b) IMPLEMENTATION OF PROSPECTIVE PAYMENT FOR CAPITAL-RELATED COSTS.—Section 1886(g)(1)(A) (42 U.S.C. 1395ww(g)(1)) is amended by adding at the end the following: "Aggregate payments made under subsection (d) and this subsection during fiscal years 1992 through 1995 shall be reduced in a manner that results in a reduction (as estimated by the Secretary) in the amount of such payments equal to a 10 percent reduction in the amount of payments attributable to capital-related costs that would otherwise have been made during such fiscal year had the amount of such payments been based on reasonable costs (as defined in section 1861(v)).".

(c) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1886(g)(3)(B) is amended by striking "subsection (d)(5)(D)(iii))." and inserting "subsection (d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

SEC. 4002. PROSPECTIVE PAYMENT HOSPITALS.

(a) CHANGES IN UPDATE FACTORS.—

(1) IN GENERAL.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)) is amended—

(A) by striking "and" at the end of subclause (V);

(B) in subclause (VI)—

(i) by striking "1991" and inserting "1994", and

(ii) by redesignating such subclause as subclause (IX); and

(C) by inserting after subclause (V) the following new subclauses:

"(VI) for fiscal year 1991, the market basket percentage increase minus 2.0 percentage points for hospitals in all areas,

"(VII) for fiscal year 1992, the market basket percentage increase minus 1.6 percentage points for hospitals in all areas,

"(VIII) for fiscal year 1993, the market basket percentage increase minus 1.55 percentage point for hospitals in all areas, and".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to payments for discharges occurring on or after January 1, 1991.

(b) CHANGES IN DISPROPORTIONATE SHARE PAYMENTS.—

(1) INCREASE FOR URBAN HOSPITALS WITH MORE THAN 100 BEDS.—Section 1886(d)(5)(F)(vii) (42 U.S.C. 1395ww(d)(5)(F)(vii)) is amended—

(A) in subclause (I), by striking "greater than 20.2," and all that follows and inserting the following: "greater than 20.2—

"(a) for discharges occurring on or after April 1, 1990, and on or before December 31, 1990, (P-20.2)(.65) + 5.62,

"(b) for discharges occurring on or after January 1, 1991, and on or before September 30, 1993, (P-20.2)(.7) + 5.62,

"(c) for discharges occurring on or after October 1, 1993, and on or before September 30, 1994, (P-20.2)(.8) + 5.88, and

"(d) for discharges occurring on or after October 1, 1994, (P-20.2)(.825) + 5.88; or"; and

(B) in subclause (II), by striking "hospital, (P-15)(.6) + 2.5," and inserting the following: "hospital—

"(a) for discharges occurring on or after April 1, 1990, and on or before December 31, 1990, (P-15)(.6) + 2.5,

"(b) for discharges occurring on or after January 1, 1991, and on or before September 30, 1993, (P-15)(.6) + 2.5,

"(c) for discharges occurring on or after October 1, 1993, (P-15)(.65) + 2.5,".

(2) INCREASE FOR HOSPITALS WITH DISPROPORTIONATE INDIGENT CARE REVENUES.—Section 1886(d)(5)(F)(iii) (42 U.S.C. 1395ww(d)(5)(F)(iii)) is amended by striking "30 percent" and inserting "35 percent".

(3) REPEAL OF SUNSET.—

(A) IN GENERAL.—Section 1886(d) (42 U.S.C. 1395ww(d)) is amended by striking "and before October 1, 1995," each place it appears in paragraph (2)(C)(iv) and paragraph (5)(F)(i).

(B) CONFORMING AMENDMENTS.—(A) Section 1886(d)(5)(B)(ii) (42 U.S.C. 1395ww(d)(5)(B)) is amended to read as follows:

"(ii) For purposes of clause (i)(II), the indirect teaching adjustment factor for discharges occurring on or after May 1, 1986, is equal to 1.89 × (((1 + r) to the nth power) − 1), where 'r' is the ratio of the hospital's full-time equivalent interns and residents to beds and 'n' equals .405.".

(B) Section 1886(d)(3)(C)(ii) (42 U.S.C. 1395ww(d)(3)(C)(ii)) is amended by striking "occurring—" and all that follows and inserting the following: "occurring on or after October 1, 1986, of an amount equal to the estimated reduction in the payment amounts under paragraph (5)(B) that would have resulted from the enactment of the amendments made by section 9104 of the Medicare and Medicaid Budget Reconciliation Amendments of 1985 and by section 4003(a)(1) of the Omnibus Budget Reconciliation Act of 1987 if the factor described in clause (ii)(II) of paragraph (5)(B) (determined without regard to amendments made by the Omnibus Budget Reconciliation Act of 1990) were applied for discharges occurring on or after such date instead of the factor described in clause (ii) of that paragraph.".

(4) NO RESTANDARDIZING FOR RECENT ADJUSTMENTS.—

(A) ADJUSTMENTS UNDER OBRA 1989.—Section 1886(d)(2)(C)(iv) (42 U.S.C. 1395ww(d)(2)(C)(iv)) is amended by striking the period at the end and inserting the following: ", except that the Secretary shall not exclude additional payments under such paragraph made as a result of the enactment of section 6003(c) of the Omnibus Budget Reconciliation Act of 1989.".

(B) ADJUSTMENTS UNDER OBRA 1990.—Section 1886(d)(2)(C)(iv), as amended by subparagraph (A), is further amended by striking "1989." and inserting "1989 or the enactment of section 4002(b) of the Omnibus Budget Reconciliation Act of 1990.".

(5) EFFECTIVE DATE.—The amendments made by paragraphs (1), (3), and (4)(B) shall apply to discharges occurring on or after January 1, 1991, the amendment made by paragraph (2) shall apply to discharges occurring on or after October 1, 1991, and the amendment made by paragraph (4)(A) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989. 42 USC 1395ww note.

(c) PAYMENTS TO RURAL HOSPITALS.—

(1) PHASE-OUT OF SEPARATE AVERAGE STANDARDIZED AMOUNTS.—Section 1886(b)(3)(B)(i) (42 U.S.C. 1395ww(b)(3)(B)(i)), as amended by subsection (a)(1), is further amended—

(A) in subclause (VI), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase minus 0.7 percentage point for hospitals located in a rural area ,";

(B) in subclause (VII), by striking "in all areas," and inserting "in a large urban or other urban area, and the market basket percentage increase minus 0.6 percentage point for hospitals located in a rural area,";

(C) in subclause (VIII), by striking "in all areas, and" and inserting "in a large urban or other urban area, and the market basket percentage increase minus 0.55 for hospitals located in a rural area,";

(D) in subclause (IX)—

(i) by striking "1994" and inserting "1996", and

(ii) by redesignating such subclause as subclause (XI); and

(E) by inserting after subclause (VIII) the following new subclauses:

"(IX) for fiscal year 1994, the market basket percentage increase for hospitals located in a large urban or other urban area, and the market basket percentage increase plus 1.5 percentage points for hospitals located in a rural area,

"(X) for fiscal year 1995, the market basket percentage increase for hospitals located in a large urban or other urban area, and such percentage increase for hospitals located in a rural area as will provide for the average standardized amount determined under subsection (d)(3)(A) for hospitals located in a rural area being equal to such average standardized amount for hospitals located in an urban area (other than a large urban area), and".

(2) CONFORMING AMENDMENTS.—(A) Section 1886(b)(3)(B) (42 U.S.C. 1395ww(b)(3)) is amended—

(i) in clause (ii), by striking "(A) and (E)," and inserting "(A), (C), (D), and (E),";

(ii) in subparagraphs (C)(ii) and (D)(ii), by striking "(B)(i)" each place it appears and inserting "(B)(ii)".

(B) Section 1886(d) (42 U.S.C. 1395ww(d)) is amended—

(i) in paragraph (1)(A)(iii), by striking "rural, large urban, or other urban area" and inserting "large urban or other area";

(ii) in paragraph (3)(A)—

(I) in clause (ii), by striking "the Secretary" and inserting "and ending on or before September 30, 1994, the Secretary",

(II) by redesignating clause (iii) as clause (v), and

(III) by inserting after clause (ii) the following new clauses:

"(iii) For discharges occurring in the fiscal year beginning on October 1, 1994, the average standardized amount for hospitals located in a rural area shall be equal to the average standardized amount for hospitals located in an other urban area.

"(iv) For discharges occurring in a fiscal year beginning on or after October 1, 1995, the Secretary shall compute an average standardized amount for hospitals located in a large urban area and for hospitals located in other areas within the United States and within each region equal to the respective average standardized amount computed for the previous fiscal year under this subparagraph increased by the applicable percentage increase under subsection (b)(3)(B)(i) with respect to hospitals located in the respective areas for the fiscal year involved.";

(iii) in paragraph (3)(B), by striking "for hospitals located in an urban area" and all that follows and inserting the following: "by a factor equal to the proportion of payments under this subsection (as estimated by the Secretary) based on DRG prospective payment amounts which are additional payments described in paragraph (5)(A) (relating to outlier payments).";

(iv) in paragraph (3)(D)(i)—

(I) in the matter preceding subclause (I), by striking "an urban area (or," and all that follows through "area)," and inserting "a large urban area", and

(II) in subclause (I), by striking "an urban area" and inserting "a large urban area";

(v) in paragraph (3)(D)(ii), by striking "a rural area" each place it appears and inserting "other areas"; and

(vi) in paragraph (8)(D)—

(I) in the first sentence, by striking "for hospitals located in an urban area", and

(II) by striking the second sentence.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) and paragraph (2)(A) shall apply to payments for discharges occurring on or after January 1, 1991, and the amendments made by paragraph (2)(B) shall take effect October 1, 1994. 42 USC 1395ww note.

(d) AREA WAGE INDEX.—

(1) DETERMINATION OF AREA WAGE INDEX.—(A) For purposes of section 1886(d)(3)(E) of the Social Security Act for discharges occurring on or after January 1, 1991, and before October 1, 1993, the Secretary of Health and Human Services shall apply an area wage index determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section. 42 USC 1395ww note.

(B) The Secretary shall apply the wage index described in subparagraph (A) without regard to a previous survey of wages and wage-related costs.

(2) STUDY OF AREA WAGE INDEX ADJUSTMENTS BASED ON PROFESSIONAL OCCUPATIONAL COMPONENT.—

(A) STUDY.—The Prospective Payment Assessment Commission shall examine available data from States and other sources measuring earnings and paid hours of employment of hospital workers by occupational category, and shall include in such examination an analysis of the impact of variation in occupational mix on the computation of the area wage index determined under section 1886(d)(3)(E) of the Social Security Act.

(B) REPORT TO CONGRESS.—In its March 1991 report, the Commission shall include recommendations regarding the feasibility and desirability of modifying such area wage index to take into account occupational mix, including variations in occupational mix resulting from differences in State codes and requirements.

(e) EXTENSION OF REGIONAL FLOOR ON STANDARDIZED AMOUNTS.—

(1) IN GENERAL.—Section 1886(d)(1)(A)(iii) (42 U.S.C. 1395ww(d)(1)(A)(iii)) is amended by striking "beginning on or after" and all that follows through "1990" and inserting "beginning on or after April 1, 1988, and ending on September 30, 1993,".

(2) STUDY.—(A) The Secretary of Health and Human Services shall collect sufficient data on the input prices associated with the non-wage-related portion of the adjusted average standardized amounts established under section 1886(d)(3) of the Social Security Act to identify the extent to which variations in such amounts among hospitals located in different geographic areas are attributable to differences in such prices. 42 USC 1395ww note.

(B) Not later than June 1, 1993, the Secretary shall submit a report to Congress analyzing such data, and shall include in such report recommendations regarding a methodology for adjusting such average standardized amounts to reflect such variations.

(C) The provisions of chapter 35 of title 44, United States Code, shall not apply to data collected by the Secretary under subparagraph (A).

42 USC 1395ww note.

(4) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to discharges occurring on or after October 1, 1990.

(f) ELIMINATION OF HOSPITAL OFF-SET FOR SERVICES OF PHYSICIAN ASSISTANTS.—

42 USC 1395x note.

(1) IN GENERAL.—Section 9338 of the Omnibus Budget Reconciliation Act of 1986 is amended by striking subsection (d).

42 USC 1395x note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986.

(g) RESPONSIBILITIES AND REPORTING REQUIREMENTS OF PROSPECTIVE PAYMENT ASSESSMENT COMMISSION.—

(1) EXPANSION OF RESPONSIBILTIES [3].—Section 1886(e)(2) (42 U.S.C. 1395ww(e)(2)) is amended—

(A) by striking "(2)" and inserting "(2)(A)"; and

(B) by adding at the end the following new subparagraphs:

"(B) In order to promote the efficient and effective delivery of high-quality health care services, the Commission shall, in addition to carrying out its functions under subparagraph (A), study and make recommendations for each fiscal year regarding changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates and the development of new institutional reimbursement policies under this title, including recommendations relating to payments during such fiscal year under the prospective payment system established under this section for determining payments for the operating costs of inpatient hospital services, including changes in the number of diagnosis-related groups used to classify inpatient hospital discharges under subsection (d), adjustments to such groups to reflect severity of illness, and changes in the methods by which hospitals are reimbursed for capital-related costs, together with general recommendations on the effectiveness and quality of health care delivery systems in the United States and the effects on such systems of institutional reimbursements under this title.

"(C) By not later than June 1 of each year, the Commission shall submit a report to Congress containing an examination of issues affecting health care delivery in the United States, including issues relating to—

"(i) trends in health care costs;

"(ii) the financial condition of hospitals and the effect of the level of payments made to hospitals under this title on such condition;

"(iii) trends in the use of health care services; and

"(iv) new methods used by employers, insurers, and others to constrain growth in health care costs.".

(2) REPORTING REQUIREMENTS FOR COMMISSION AND SECRETARY; ELIMINATION OF OTA REPORTING REQUIREMENTS.—Section 1886 (42 U.S.C. 1395ww) is amended—

(A) by striking subparagraph (D) of subsection (d)(4);

(B) in the second sentence of subsection (e)(2)(A), as amended by paragraph (1)(A), by striking "In addition" and all that follows through "the Commission" and inserting "The Commission";

(C) in subsection (e)(3)(A)—

(i) by striking "the Secretary" and inserting "Congress", and

[3] So in original. Probably should be "RESPONSIBILITIES".

(ii) by striking the period at the end and inserting the following: ", together with its general recommendations under paragraph (2)(B) regarding the effectiveness and quality of health care delivery systems in the United States.";

(D) in subsection (e)(4)—

(i) by striking "(4)" and inserting "(4)(A)", and

(ii) by adding at the end the following new subparagraph:

"(B) In addition to the recommendation made under subparagraph (A), the Secretary shall, taking into consideration the recommendations of the Commission under paragraph (2)(B), recommend for each fiscal year (beginning with fiscal year 1992) other appropriate changes in each existing reimbursement policy under this title under which payments to an institution are based upon prospectively determined rates.";

(E) in subsection (e)(5)—

(i) by striking "recommendation" each place it appears and inserting "recommendations", and

(ii) by adding at the end the following new sentence: "To the extent that the Secretary's recommendations under paragraph (4) differ from the Commission's recommendations for that fiscal year, the Secretary shall include in the publication referred to in subparagraph (A) an explanation of the Secretary's grounds for not following the Commission's recommendations."; and

(F) in subsection (e)(6)(G)—

(i) by striking clause (i), and

(ii) by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(3) CONFORMING AMENDMENT.—Section 1845(c)(1)(D) (42 U.S.C. 1395w-1(c)(1)(D)) is amended by striking "reports and".

(4) PROPAC STUDY OF MEDICAID PAYMENTS TO HOSPITALS.—

(A) STUDY.—The Prospective Payment Assessment Commission shall conduct a study of hospital payment rates under State plans for medical assistance under title XIX of the Social Security Act, and shall specifically examine in such study the relationship between payments under such plans and payments made to hospitals under title XVIII of such Act, and the financial condition of hospitals receiving payments under such plans, with particular attention to hospitals in urban areas which treat large numbers of individuals eligible for medical assistance under title XIX of such Act and other low-income individuals.

(B) REPORT.—By not later than October 1, 1991, the Commission shall submit a report to Congress on the study conducted under subparagraph (A) and shall include in such report such recommendations relating to requirements for payments to hospitals under title XIX of such Act as the Commission deems appropriate.

(5) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act. 42 USC 1395ww note.

(h) PROVISIONS RELATING TO GEOGRAPHIC CLASSIFICATION OF HOSPITALS.—

(1) PAYMENTS TO RECLASSIFIED HOSPITALS.—

(A) IN GENERAL.—Section 1886(d)(8)(C) (42 U.S.C. 1395ww(d)(8)(C)) is amended—

(i) in clause (i), in the matter preceding subclause (I), by striking "area—" and inserting "area, or by treating hospitals located in one urban area as being located in another urban area—";

(ii) by amending clause (i)(II) to read as follows:

"(II) reduces the wage index for that urban area by more than 1 percentage point (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection separately to hospitals located in such urban area (excluding all the hospitals so treated) and to the hospitals so treated (as if such hospitals were located in such urban area).";

(iii) by striking clause (ii); and

(iv) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii).

42 USC 1395ww note.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply to discharges occurring on or after January 1, 1991.

(2) GEOGRAPHIC CLASSIFICATION REVIEW BOARD.—

42 USC 1395ww note.

(A) DEADLINE FOR SUBMISSION OF APPLICATIONS.—For purposes of determining whether a hospital requesting a change in geographic classification for fiscal year 1992 under section 1886(d)(10) of the Social Security Act has met the deadline described in subparagraph (C)(ii) of such section, an application submitted under such subparagraph shall be considered to have been submitted by the first day of the preceding fiscal year if it is submitted within 60 days of the date of publication of the guidelines described in subparagraph (D)(i) of such section.

(B) TECHNICAL CORRECTIONS.—Section 1886(d)(10) (42 U.S.C. 1395ww(d)(10)) is amended—

(i) in subparagraph (A), by striking "Geographical" and inserting "Geographic";

(ii) in subparagraph (B)(i)—

(I) by striking "representatives" and inserting "representative", and

(II) by striking "1 member shall be a member of the Prospective Payment Assessment Commission, and at least";

(iii) in subparagraph (B)(ii), by striking "all" and inserting "initial"; and

(iv) in subparagraph (10)(C)(iii)(II)—

(I) by striking the first 2 sentences and inserting the following: "Appeal of decisions of the Board shall be subject to the provisions of section 557b of title 5, United States Code.", and

(II) by striking "after" and inserting "after the date on which".

SEC. 4003. EXPANSION OF DRG PAYMENT WINDOW.

(a) IN GENERAL.—The first sentence of section 1886(a)(4) (42 U.S.C. 1395ww(a)(4)) is amended by striking the period and inserting the following: ", and includes the costs of all services for which payment may be made under this title that are provided by the hospital (or by an entity wholly owned or operated by the hospital) to the patient during the 3 days immediately preceding the date of the patient's admission if such services are diagnostic services (including clinical

diagnostic laboratory tests) or are other services related to the admission (as defined by the Secretary).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply— 42 USC 1395ww note.

(1) in the case of any services provided during the day immediately preceding the date of a patient's admission (without regard to whether the services are related to the admission), to services furnished on or after the date of the enactment of this Act and before October 1, 1991;

(2) in the case of diagnostic services (including clinical diagnostic laboratory tests), to services furnished on or after January 1, 1991; and

(3) in the case of any other services, to services furnished on or after October 1, 1991.

(c) ISSUANCE OF INTERIM FINAL REGULATION.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this section. 42 USC 1395ww note.

SEC. 4004. PAYMENTS FOR MEDICAL EDUCATION COSTS. 42 USC 1395ww note.

(a) HOSPITAL GRADUATE MEDICAL EDUCATION RECOUPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not, before October 1, 1991, recoup payments from a hospital because of alleged overpayments to such hospital under part A of title XVIII of the Social Security Act due to a determination that the amount of payments made for graduate medical education programs exceeds the amount allowable under section 1886(h).

(2) CAP ON ANNUAL AMOUNT OF RECOUPMENT.—With respect to overpayments to a hospital described in paragraph (1), the Secretary may not recoup more than 25 percent of the amount of such overpayments from the hospital during a fiscal year.

(3) EFFECTIVE DATE.—Paragraphs (1) and (2) shall take effect October 1, 1990.

(b) UNIVERSITY HOSPITAL NURSING EDUCATION.—

(1) IN GENERAL.—The reasonable costs incurred by a hospital (or by an educational institution related to the hospital by common ownership or control) during a cost reporting period for clinical training (as defined by the Secretary) conducted on the premises of the hospital under approved nursing and allied health education programs that are not operated by the hospital shall be allowable as reasonable costs under part A of title XVIII of the Social Security Act and reimbursed under such part on a pass-through basis.

(2) CONDITIONS FOR REIMBURSEMENT.—The reasonable costs incurred by a hospital during a cost reporting period shall be reimbursable pursuant to paragraph (1) only if—

(A) the hospital claimed and was reimbursed for such costs during the most recent cost reporting period that ended on or before October 1, 1989;

(B) the proportion of the hospital's total allowable costs that is attributable to the clinical training costs of the approved program, and allowable under (b)(1) during the cost reporting period does not exceed the proportion of total allowable costs that were attributable to the clinical training costs during the cost reporting period described in subparagraph (A);

(C) the hospital receives a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students participating in such program; and

(D) the costs incurred by the hospital for such program do not exceed the costs that would be incurred by the hospital if it operated the program itself.

(3) PROHIBITION AGAINST RECOUPMENT OF COSTS BY SECRETARY.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not recoup payments from (or otherwise reduce or adjust payments under part A of title XVIII of the Social Security Act to) a hospital because of alleged overpayments to such hospital under such title due to a determination that costs which were reported by the hospital on its medicare cost reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to approved nursing and allied health education programs did not meet the requirements for allowable nursing and allied health education costs (as developed by the Secretary pursuant to section 1861(v) of such Act).

(B) REFUND OF AMOUNTS RECOUPED.—If, prior to the date of the enactment of this Act, the Secretary has recouped payments from (or otherwise reduced or adjusted payments under part A of title XVIII of the Social Security Act to) a hospital because of overpayments described in subparagraph (A), the Secretary shall refund the amount recouped, reduced, or adjusted from the hospital.

(4) SPECIAL AUDIT TO DETERMINE COSTS.—In determining the amount of costs incurred by, claimed by, and reimbursed to, a hospital for purposes of this subsection, the Secretary shall conduct a special audit (or use such other appropriate mechanism) to ensure the accuracy of such past claims and payments.

(5) EFFECTIVE DATE.—Except as provided in paragraph (3), the provisions of this subsection shall apply to cost reporting periods beginning on or after October 1, 1990.

SEC. 4005. PPS-EXEMPT HOSPITALS.

(a) ADJUSTMENT TO PAYMENT AMOUNTS.—

(1) IN GENERAL.—Section 1886(b)(1)(B) (42 U.S.C. 1395ww(b)(1)(B)) is amended by striking "(ii) in the case of" and all that follows through the semicolon and inserting the following: "(ii) in the case of cost reporting periods beginning on or after October 1, 1991, an additional amount equal to 50 percent of the amount by which the operating costs exceed the target amount (except that such additional amount may not exceed 10 percent of the target amount) after any exceptions or adjustments are made to such target amount for the cost reporting period;".

42 USC 1395ww note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to cost reporting periods beginning on or after October 1, 1991.

42 USC 1395ww note.

(b) DEVELOPMENT OF NATIONAL PROSPECTIVE PAYMENT RATES FOR CURRENT NON-PPS HOSPITALS.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which hospitals that are not subsection (d) hos-

pitals (as defined in section 1886(d)(1)(B) of the Social Security Act) receive payment for the operating and capital-related costs of inpatient hospital services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of nationally-determined average standardized amounts. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a hospital's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to adjust payments under the system to take into account factors such as a disproportionate share of low-income patients, costs related to graduate medical education programs, differences in wages and wage-related costs among hospitals located in various geographic areas, and other factors the Secretary considers appropriate; and

(E) provide for the appropriate allocation of operating and capital-related costs of hospitals not subject to the new prospective payment system and distinct units of such hospitals that would be paid under such system.

(2) REPORTS.—(A) By not later than April 1, 1992, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than June 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(c) APPEALS OF TARGET AMOUNTS.—

(1) DEADLINES FOR REVIEW AND DECISION.—(A) Section 1816(f) (42 U.S.C. 1395h(f)) is amended—

(i) by striking "(1)" and "(2)" and inserting "(A)" and "(B)";

(ii) by striking "(f)" and inserting "(f)(1)"; and

(iii) by striking "Such standards and criteria" and all that follows and inserting the following:

"(2) The standards and criteria established under paragraph (1) shall include—

"(A) with respect to claims for services furnished under this part by any provider of services other than a hospital—

"(i) whether such agency or organization is able to process 75 percent of reconsiderations within 60 days (except in

the case of fiscal year 1989, 66 percent of reconsiderations) and 90 percent of reconsiderations within 90 days, and

"(ii) the extent to which such agency or organization's determinations are reversed on appeal; and

"(B) with respect to applications for an exemption from or exception or adjustment to the target amount applicable under section 1886(b) to a hospital that is not a subsection (d) hospital (as defined in section 1886(d)(1)(B))—

[4]"(i) if such agency or organization receives a completed application, whether such agency or organization is able to process such application not later than 75 days after the application is filed, and

"(ii) if such agency or organization receives an incomplete application, whether such agency or organization is able to return the application with instructions on how to complete the application not later than 60 days after the application is filed.".

(B) Section 1886(b)(4)(A) (42 U.S.C. 1395ww(b)(4)(A)) is amended by adding at the end the following new sentence: "The Secretary shall announce a decision on any request for an exemption, exception, or adjustment under this paragraph not later than 180 days after receiving a completed application from the intermediary for such exemption, exception, or adjustment, and shall include in such decision a detailed explanation of the grounds on which such request was approved or denied.".

(2) STANDARDS FOR ASSIGNMENT OF NEW BASE PERIOD.—Section 1886(b)(4) (42 U.S.C. 1395ww(b)(4)) is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) In determining under subparagraph (A) whether to assign a new base period which is more representative of the reasonable and necessary cost to a hospital of providing inpatient services, the Secretary shall take into consideration—

"(i) changes in applicable technologies and medical practices, or differences in the severity of illness among patients, that increase the hospital's costs;

"(ii) whether increases in wages and wage-related costs for hospitals located in the geographic area in which the hospital is located exceed the average of the increases in such costs paid by hospitals in the United States; and

"(iii) such other factors as the Secretary considers appropriate in determining increases in the hospital's costs of providing inpatient services.".

42 USC 1395ww note.

(3) GUIDANCE TO INTERMEDIARIES AND HOSPITALS.—The Administrator of the Health Care Financing Administration shall provide guidance to agencies and organizations performing functions pursuant to section 1816 of the Social Security Act and to hospitals that are not subsection (d) hospitals (as defined in section 1886(d)(1)(B) of such Act) to assist such agencies, organizations, and hospitals in filing complete applications with the Administrator for exemptions, exceptions, and adjustments under section 1886(b)(4)(A) of such Act.

42 USC 1395ww note.

(4) EFFECTIVE DATES.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act, and the amendments made by paragraph (2) shall take effect as if

[4] So in original. Probably should be " "(i)".

included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 4006. HOSPICE BENEFIT EXTENSION.

(a) IN GENERAL.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(4), by striking "90 days each" and all that follows through "with respect to" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to"; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "90 days each" and all that follows through "lifetime" and inserting the following: "90 days each, a subsequent period of 30 days, and a subsequent extension period during the individual's lifetime", and

(B) in paragraph (2)(B), by striking "a 90- or 30-day period," and inserting "a 90- or 30-day period or a subsequent extension period,".

(b) CONFORMING AMENDMENT.—Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) in clause (i), by striking "and" at the end;

(2) in clause (ii), by striking the semicolon at the end and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to care and services furnished on or after January 1, 1990. 42 USC 1395d note.

SEC. 4007. FREEZE IN PAYMENTS UNDER PART A THROUGH DECEMBER 31. 42 USC 1395ww note.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the amount of payment for items or services under part A of title XVIII of the Social Security Act (including payments under section 1886 of such Act attributable to or allocated under such part) during the period described in subsection (b):

(1) The market basket percentage increase (described in section 1886(b)(3)(B)(iii) of the Social Security Act) shall be deemed to be 0 for discharges occurring during such period.

(2) The percentage increase or decrease in the medical care expenditure category of the consumer price index applicable under section 1814(i)(2)(B) of such Act shall be deemed to be 0.

(3) The area wage index applicable to a subsection (d) hospital under section 1886(d)(3)(E) of such Act shall be deemed to be the area wage index applicable to such hospital as of September 30, 1990.

(4) The percentage change in the consumer price index applicable under section 1886(h)(2)(D) of such Act shall be deemed to be 0.

(b) DESCRIPTION OF PERIOD.—The period referred to in subsection (a) is the period beginning on October 21, 1990, and ending on December 31, 1990.

SEC. 4008. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART A.

(a) WAIVER OF LIABILITY FOR SKILLED NURSING FACILITIES AND HOSPICES.—

(1) SKILLED NURSING FACILITIES.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking "October 31, 1990" and inserting "December 31, 1995".

42 USC 1395y note.

(2) HOSPICES.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1990" and inserting "December 31, 1995".

42 USC 1395y note.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect on the date of the enactment of this Act.

42 USC 1395y note.

(b) HOSPITAL OBLIGATIONS WITH RESPECT TO TREATMENT OF EMERGENCY MEDICAL CONDITIONS.—

(1) CIVIL MONETARY PENALTIES.—Section 1867(d)(2)(A) (42 U.S.C. 1395dd(d)(2)(A)) is amended by striking "knowingly" and inserting "negligently".

(2) APPLICATION OF PENALTIES TO SMALL HOSPITALS.—Section 1867(d)(2)(A) (42 U.S.C. 1395dd(d)(2)(A)) is amended by inserting "(or not more than $25,000 in the case of a hospital with less than 100 beds)" after "$50,000".

(3) TERMINATION OF HOSPITAL PROVIDER AGREEMENTS.—

(A) Section 1867 (42 U.S.C. 1395dd) is further amended—

(i) by striking paragraph (1) of subsection (d),

(ii) by redesignating paragraphs (2) and (3) of subsection (d) as paragraph (1) and (2), respectively, and

(iii) in subsection (c)(2)(C), by striking "(d)(2)(C)" and inserting "(d)(1)(C)".

(B) Section 1866(a)(1)(I)(i) (42 U.S.C. 1395cc(a)(1)(I)(i)) is amended by inserting "and to meet the requirements of such section" before the comma at the end.

42 USC 1395cc note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

42 USC 1395dd note.

(c) INSPECTOR GENERAL STUDY OF PROHIBITION ON HOSPITAL EMPLOYMENT OF PHYSICIANS.—

(1) STUDY.—The Secretary of Health and Human Services (acting through the Inspector General of the Department of Health and Human Services) shall conduct a study of the effect of State laws prohibiting the employment of physicians by hospitals on the availability and accessibility of trauma and emergency care services, and shall include in such study an analysis of the effect of such laws on the ability of hospitals to meet the requirements of section 1867 of the Social Security Act relating to the examination and treatment of individuals with an emergency medical condition and women in labor.

(2) REPORT.—By not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1).

(d) DESIGNATION OF RURAL PRIMARY CARE HOSPITALS.—

(1) PRIORITY DESIGNATIONS OF BORDER STATE HOSPITALS.—Section 1820(i)(2)(C) (42 U.S.C. 1395i-4(i)(2)(C)) is amended by adding at the end the following new sentence: "In designating facilities

as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities not meeting the requirements of clause (i) of subparagraph (A) that have entered into an agreement described in subsection (g)(2) with a rural health network located in a State receiving a grant under subsection (a)(1).".

(2) ELIGIBILITY OF CERTAIN CLOSED HOSPITALS.—Section 1820(f)(1)(B) (42 U.S.C. 1395i-4(f)(1)(B)) is amended by striking "is a hospital," and inserting the following: "is a hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),".

(3) ELIGIBILITY OF URBAN HOSPITALS.—Section 1820(f)(1)(A) (42 U.S.C. 1395i-4(f)(1)(A)) is amended by striking the semicolon and inserting the following: ", or is located in a county whose geographic area is substantially larger than the average geographic area for urban counties in the United States and whose hospital service area is characteristic of service areas of hospitals located in rural areas;".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1), (2), and (3) shall take effect on the date of the enactment of this Act. 42 USC 1395i-4 note.

(e) SKILLED NURSING FACILITY ROUTINE COST LIMITS.—

(1) IN GENERAL.—Section 6024 of the Omnibus Budget Reconciliation Act of 1989 is amended by adding at the end the following new sentence: "The Secretary shall update such costs under such section for cost reporting periods beginning on or after October 1, 1989, by using cost reports submitted by skilled nursing facilities for cost reporting periods ending not earlier than January 31, 1988, and not later than December 31, 1988.". 42 USC 1395yy note.

(2) 2-YEAR UPDATES REQUIRED.—Section 1888(a) (42 U.S.C. 1395yy(a)) is amended in the matter following paragraph (4) by striking the period and inserting the following: ", and shall, for cost reporting periods beginning on or after October 1, 1992 and every 2 years thereafter, provide for an update to the per diem cost limits described in this subsection".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989. 42 USC 1395yy note.

(f) CLARIFICATION OF EXTENSION OF WAIVER FOR FINGER LAKES AREA HOSPITAL CORPORATION.—

(1) IN GENERAL.—The second sentence of section 1886(c)(4) (42 U.S.C. 1395ww(c)(4)) is amended by striking "rate of increase from" and inserting "payments under the State system as compared to aggregate payments which would have been made under the national system since".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989. 42 USC 1395ww note.

(g) ENROLLMENT IN PART A FOR HMO MEMBERS.—

(1) IN GENERAL.—Section 1818(c) (42 U.S.C. 1395i-2(c)) is amended—

(A) by striking "and" at the end of paragraph (5),

(B) by striking the period at the end of paragraph (6) and inserting a semicolon, and

(C) by adding at the end the following new paragraphs:

"(7) an individual who meets the conditions of subsection (a) may enroll under this part during a special enrollment period that includes any month during any part of which the individual is enrolled under section 1876 with an eligible organization and ending with the last day of the 8th consecutive month in which the individual is at no time so enrolled;

"(8) in the case of an individual who enrolls during a special enrollment period under paragraph (7)—

"(A) in any month of the special enrollment period in which the individual is at any time enrolled under section 1876 with an eligible organization or in the first month following such a month, the coverage period shall begin on the first day of the month in which the individual so enrolls (or, at the option of the individual, on the first day of any of the following three months), or

"(B) in any other month of the special enrollment period, the coverage period shall begin on the first day of the month following the month in which the individual so enrolls; and

"(9) in applying the provisions of section 1839(b), there shall not be taken into account months for which the individual can demonstrate that the individual was enrolled under section 1876 with an eligible organization.".

42 USC 1395i-2 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on February 1, 1991.

(h) NURSING HOME REFORM.—

(1) NURSE AIDE TRAINING AND COMPETENCY EVALUATION.—

42 USC 1395aa note.

(A) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services may not refuse to enter into an agreement or cancel an existing agreement with a State under section 1864 of the Social Security Act on the basis that the State failed to meet the requirement of section 1819(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1819(f)(2)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.

42 USC 1395i-3.

(B) PART-TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING.—Section 1819(b)(5)(A) (42 U.S.C. 1396r(b)(5)(A)) is amended—

(i) by striking "A skilled nursing facility" and inserting "(i) Except as provided in clause (ii), a skilled nursing facility";

(ii) by striking "(on a full-time, temporary, per diem, or other basis) and inserting "on a full-time basis";

(iii) by striking "(i)" and "(ii)" and inserting "(I)" and "(II)"; and

(iv) by adding at the end the following:

"(ii) A skilled nursing facility must not use on a temporary, per diem, leased, or on any basis other than as a permanent employee any individual as a nurse aide in the facility on or after January 1, 1991, unless the individual meets the requirements described in clause (i).".

(C) REQUIREMENT TO OBTAIN INFORMATION FROM NURSE AIDE REGISTRY.—Section 1819(b)(5)(C) (42 U.S.C. 1395i-

3(b)(5)(C)) is amended by striking "the State registry established under subsection (e)(2)(A) as to information in the registry" and inserting "any State registry established under subsection (e)(2)(A) that the facility believes will include information".

(D) RETRAINING OF NURSE AIDES.—Section 1819(b)(5)(D) (42 U.S.C. 1395i-3(b)(5)(D)) is amended by striking the period at the end and inserting ", or a new competency evaluation program.".

(E) CLARIFICATION OF NURSE AIDES NOT SUBJECT TO CHARGES.—Section 1819(f)(2)(A)(iv) (42 U.S.C. 1395i-3(f)(2)(A)(iv)) is amended—

(i) in subclause (I), by striking "and" at the end;

(ii) in subclause (II), by inserting after "nurse aide" the following: "who is employed by (or who has received an offer of employment from) a facility on the date on which the aide begins either such program";

(iii) in subclause (II), by striking the period at the end and inserting ", and"; and

(iv) by adding at the end the following new subclause:

"(III) in the case of a nurse aide not described in subclause (II) who is employed by (or who has received an offer of employment from) a facility not later than 12 months after completing either such program, the State shall provide for the reimbursement of costs incurred in completing such program on a prorata basis during the period in which the nurse aide is so employed.".

(F) MODIFICATION OF NURSING FACILITY DEFICIENCY STANDARDS.—

(i) IN GENERAL.—Section 1819(f)(2)(B)(iii)(I) (42 U.S.C. 1395i-3(f)(2)(B)(iii)(I)) is amended to read as follows:

"(I) offered by or in a skilled nursing facility which, within the previous 2 years—

"(a) has operated under a waiver under subsection (b)(4)(C)(ii)(II);

"(b) has been subject to an extended (or partial extended) survey under subsection (g)(2)(B)(i) or section 1919(g)(2)(B)(i); or

"(c) has been assessed a civil money penalty described in subsection (h)(2)(B)(ii) or section 1919(h)(2)(A)(ii) of not less than $5,000, or has been subject to a remedy described in clauses (i) or (iii) of subsection (h)(2)(B), subsection (h)(4), section 1919(h)(1)(B)(i), or in clauses (i), (iii), or (iv) of section 1919(h)(2)(A), or".

(ii) EFFECTIVE DATE.—The amendments made by clause (i) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, except that a State may not approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility which, pursuant to any Federal or State law within the 2-year period beginning on October 1, 1988— 42 USC 1395i-3 note.

(I) had its participation terminated under title XVIII of the Social Security Act or under the State plan under title XIX of such Act;

(II) was subject to a denial of payment under either such title;

(III) was assessed a civil money penalty not less than $5,000 for deficiencies in nursing facility standards;

(IV) operated under a temporary management appointed to oversee the operation of the facility and to ensure the health and safety of the facility's residents; or

(V) pursuant to State action, was closed or had its residents transferred.

(G) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1819(f)(2)(B) (42 U.S.C. 1395i-3(f)(2)(B)) is amended in the second sentence by inserting "(through subcontract or otherwise)" after "may not delegate".

42 USC 1395i-3 note.

(H) EFFECTIVE DATE.—Except as provided in subparagraph (F), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(2) OTHER AMENDMENTS.—

(A) ASSURANCE OF APPROPRIATE PAYMENT AMOUNTS.—(i) Section 1861(v)(1)(E) (42 U.S.C. 1395x(v)(1)(E)) is amended in the second sentence by striking "the costs of such facilities" and inserting "the costs (including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title) of such facilities".

42 USC 1395yy.

(ii) Section 1888(d)(1) (42 U.S.C. 1395xx(d)(1)) is amended in the first sentence by striking "(and capital-related costs)" and inserting "(including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title) and capital-related costs".

(B) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1819(b)(1)(B) (42 U.S.C. 1395i-3(b)(1)(B)) is amended by adding at the end the following new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(C) PERIOD FOR RESIDENT ASSESSMENT.—Section 1819(b)(3)(C)(i)(I) (42 U.S.C. 1395i-3(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "not later than 14 days".

(D) CLARIFICATION OF RESPONSIBILITY FOR SERVICES FOR MENTALLY ILL AND MENTALLY RETARDED RESIDENTS.—Section 1819(b)(4)(A) (42 U.S.C. 1395i-3(b)(4)(A)) is amended—

(i) by striking "and" at the end of clause (v),

(ii) by striking the period at the end of clause (vi) and inserting "; and", and

(iii) by inserting after clause (vi) the following new clause:

"(vii) treatment and services required by mentally ill and mentally retarded residents not otherwise provided or arranged for (or required to be provided or arranged for) by the State.".

(E) NOTIFICATION OF SECRETARIAL WAIVER.—Section 1819(b)(4)(C)(ii) (42 U.S.C. 1395i-3(b)(4)(C)(ii)) is amended—

(i) by striking "and" at the end of subclause (II);

(ii) by striking the period at the end of subclause (III) and inserting a comma; and

(iii) by adding at the end the following new subclauses:

"(IV) the Secretary provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

"(V) the facility that is granted such a waiver notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.".

(F) CLARIFICATION OF DEFINITION OF NURSE AIDE.—Section 1819(b)(5)(F)(i) (42 U.S.C. 1395i-3(b)(5)(F)(i)) is amended by striking "(G))," and inserting "(G)) or a registered dietician,".

(G) RESIDENTS' RIGHTS TO REFUSE INTRA-FACILITY TRANSFERS FOR NON-MEDICAL REASONS.—Section 1819(c)(1)(A) (42 U.S.C. 1395i-3(c)(1)(A)) is amended—

(i) by redesignating clause (x) as clause (xi) and by inserting after clause (ix) the following new clause:

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purpose of the transfer is to relocate the resident from a portion of the facility that is a skilled nursing facility (for purposes of this title) to a portion of the facility that is not such a skilled nursing facility."; and

(B) by adding at the end the following: "A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to benefits under this title or to medical assistance under title XIX of this Act.".

(H) RESIDENT ACCESS TO CLINICAL RECORDS.—Section 1819(c)(1)(A)(iv) (42 U.S.C. 1395i-3(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request".

(I) INCLUSION OF STATE NOTICE OF RIGHTS IN FACILITY NOTICE OF RIGHTS.—Section 1819(c)(1)(B)(ii) (42 U.S.C. 1395i-3(c)(1)(B)(ii)) is amended by inserting "including the notice (if any) of the State developed under section 1919(e)(6)" after "in such rights)".

(J) SPECIFICATION OF REQUIRED PROGRAMS.—Section 1819(e)(1)(A) (42 U.S.C. 1395i-3(e)(1)(A)) is amended by striking "clause (i) or (ii) of subsection (f)(2)(A)" and inserting "subsection (f)(2)".

(K) CLARIFICATION OF NURSE AIDE REGISTRY REQUIREMENTS.—Section 1819(e)(2) (42 U.S.C. 1395i-3(e)(2)) is amended—

(i) in subparagraph (A), by striking the period and inserting the following: ", or any individual described in subsection (f)(2)(B)(ii) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989."; and

(ii) by adding at the end the following new subparagraph:

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).".

(L) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1819(g)(1)(C) (42 U.S.C. 1395i-3(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.".

(M) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1819(g)(5)(A)(i) (42 U.S.C. 1395i-3(g)(5)(A)(i)) is amended by striking "deficiencies and plans" and inserting "deficiencies, within 14 calendar days after such information is made available to those facilities, and approved plans".

(N) OMBUDSMAN PROGRAM COORDINATION WITH STATE SURVEY AND CERTIFICATION AGENCIES.—Section 1819(g)(5)(B) (42 U.S.C. 1395i-3(g)(5)(B)) is amended by striking "with respect" and inserting "or of any adverse action taken against a skilled nursing facility under paragraphs (1), (2), or (4) of subsection (h), with respect".

42 USC 1395i-3 note.

(O) MAINTAINING REGULATORY STANDARDS FOR CERTAIN SERVICES.—Any regulations promulgated and applied by the Secretary of Health and Human Services after the date of the enactment of the Omnibus Budget Reconciliation Act of 1987 with respect to services described in clauses (ii), (iv), and (v) of section 1819(b)(4)(A) of the Social Security Act shall include requirements for providers of such services that are at least as strict as the requirements applicable to providers of such services prior to the enactment of the Omnibus Budget Reconciliation Act of 1987.

42 USC 1395i-3 note.

(P) EFFECTIVE DATES.—The amendments made by this paragraph shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(i) CLARIFICATION OF SECRETARIAL WAIVER AUTHORITY.—

42 USC 1395b-1 note.

(1) RURAL HOSPITAL DEMONSTRATION.—The Secretary of Health and Human Services is authorized to waive such provisions of title XVIII of the Social Security Act as are necessary to conduct any demonstration project for limited-service rural hospitals with respect to which the Secretary has entered into an agreement before the date of the enactment of the Omnibus Budget Reconciliation Act of 1989.

(2) NURSING HOME DEMONSTRATIONS.—Section 6901(d)(3)(B) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(A) by striking "Wisconsin" and inserting "Wisconsin and nursing home case-mix demonstration projects in other States"; and

(B) by striking the second sentence.

(3) STATE WAIVER AUTHORITY.—Section 1814(b) (42 U.S.C. 1395f(b)) is amended—

(A) in paragraph (3)(B), by striking "October 1, 1983" and inserting "January 1, 1981";

(B) in the second sentence, by striking "seventh month" and inserting "37th month"; and

(C) by adding at the end the following: "If, by the end of such 36-month period, the Secretary determines, based on evidence submitted by the Governor of the State, that neither of the conditions described in subparagraph (A) or (B) of paragraph (3) continues to apply, the Secretary shall continue without interruption payment to hospitals in the State under the State's system. If, by the end of such 36-month period, the Secretary determines, based on such evidence, that either of the conditions described in subparagraph (A) or (B) of such paragraph continues to apply, the Secretary shall (i) collect any net excess reimbursement to hospitals in the State during such 36-month period (basing such net excess reimbursement on the net difference, if any, in the rate of increase in costs per hospital inpatient admission under the State system compared to the rate of increase in such costs with respect to all hospitals in the United States over the 36-month period, as measured by including the cumulative savings under the State system based on the difference in the rate of increase in costs per hospital inpatient admission under the State system as compared to the rate of increase in such costs with respect to all hospitals in the United States between January 1, 1981, and the date of the Secretary's initial notice), and (ii) provide a reasonable period, not to exceed 2 years, for transition from the State system to the national payment system.".

(4) EFFECTIVE DATE.—The amendment made by paragraphs (1) and (2) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

(j) DETERMINATION OF REASONABLE COSTS RELATING TO SWING BEDS.—

(1) IN GENERAL.—Section 1883(a)(2)(B)(ii)(II) (42 U.S.C. 1395tt(a)(2)(B)(ii)(II)) is amended by striking "the previous calendar year" and all that follows through the period and inserting "the most recent year for which cost reporting data are available with respect to such services (increased in a compounded manner by the applicable increase for payments for routine service costs of skilled nursing facilities under section 1888 for subsequent cost reporting periods and up to and including such calendar year) under this title to freestanding skilled nursing facilities in the region (as defined in section 1886(d)(2)(D)) in which the facility is located.".

(2) HOLD HARMLESS.—If, as a result of the amendment made by paragraph (1), the reasonable cost of routine services furnished by a hospital during a calendar year (as determined under section 1883 of the Social Security Act) is less than the reasonable cost of such services determined under such section for the previous calendar year, the reasonable cost of such services furnished by the hospital during the calendar year under such section shall be equal to the reasonable cost determined under such section for the previous calendar year. 42 USC 1395tt note.

42 USC 1395tt note.

(3) SWING BEDS CERTIFIED PRIOR TO MAY 1, 1987.—Notwithstanding the requirement of section 1883(b)(1) of the Social Security Act that the Secretary may not enter into an agreement under such section with a hospital that is not located in a rural area, any agreement entered into under such section on or before May 1, 1987, between the Secretary of Health and Human Services and a hospital located in an urban area shall remain in effect.

42 USC 1395tt note.

(4) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after October 1, 1990.

42 USC 1395yy note.

(k) PROSPECTIVE PAYMENT SYSTEM FOR SKILLED NURSING FACILITY SERVICES.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which skilled nursing facilities receive payment for extended care services under part A of the medicare program or a proposal to replace such system with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program without jeopardizing access to extended care services for individuals unable to care for themselves;

(B) provide for adjustments to prospectively determined rates to account for changes in a facility's case mix, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of stay or costs of treatment greatly exceed the length of stay or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to adjust payments under the system to take into account factors such as a disproportionate share of low-income patients, differences in wages and wage-related costs among facilities located in various geographic areas, and other factors the Secretary considers appropriate; and

(E) take into consideration the appropriateness of classifying patients and payments upon functional disability, cognitive impairment, and other patient characteristics.

(2) REPORTS.—(A) By not later than April 1, 1991, the Secretary (acting through the Administrator of the Health Care Financing Administration) shall submit any research studies to be used in developing the proposal under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than September 1, 1991, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(C) By not later than March 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the

Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(l) REVIEW OF HOSPITAL REGULATIONS WITH RESPECT TO RURAL HOSPITALS.— 42 USC 1395ww note.

(1) IN GENERAL.—The Secretary of Health and Human Services shall review the requirements applicable under title XVIII of the Social Security Act to determine which requirements could be made less administratively and economically burdensome (without diminishing the quality of care) for hospitals defined in section 1886(d)(1)(B) of such Act that are located in a rural area (as defined in section 1886(d)(2)(D) of such Act). Such review shall specifically include standards related to staffing requirements.

(2) REPORT.—The Secretary of Health and Human Services shall report to Congress by April 1, 1992, on the results of the review conducted under subsection (a), and include conclusions on which regulations, if any, should be modified with respect to hospitals described in subsection (a).

(m) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) APPLICATION OF PREENTITLEMENT PSYCHIATRIC HOSPITAL SERVICES TO LIMIT ON INPATIENT HOSPITAL SERVICES.—Effective as if included in the enactment of the Medicare Catastrophic Coverage Repeal Act of 1989, section 101(b)(1)(B) is amended by inserting "(other than the limitation under section 1812(c) of such Act)" after "limitation". 42 USC 1395e note.

(2) PROVISIONS RELATING TO HOSPITALS.—

(A) Section 1886(d)(5)(D)(iii) (42 U.S.C. 1395ww(d)(5)(D)(iii)), as amended by section 6003(e)(1)(A)(iv) of Omnibus Budget Reconciliation Act of 1989 (in this subsection referred to as "OBRA-1989"), is amended by striking "The term" and inserting "For purposes of this title, the term".

(B) Section 1820 of such Act (42 U.S.C. 1395i-4), as added by section 6003(g)(1)(A) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subsection (d)(1), by striking "demonstration";

(ii) in subsection (g)(1)(A)(ii), by striking "rural referral center" and inserting "regional referral center"; and

(iii) in subsection (j), by inserting "and part C" after "this part".

(C) Section 6003(g)(3)(C)(vii)(I) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "each place it appears". 42 USC 1395*l*.

(D) Section 1835(c) of the Social Security Act (42 U.S.C. 1395n(c)) is amended—

(i) in the first sentence, by striking "a hospital" and inserting "a hospital or a rural primary care hospital";

(ii) in the second sentence, by striking "1833(a)(2)" and inserting "1833(a)(2) (or, in the case of a rural primary care hospital, in accordance with section 1833(a)(6))"; and

(iii) by striking the third sentence.

(3) TECHNICAL CORRECTIONS RELATING TO OTHER PROVIDERS OF SERVICES.—

(A) Section 1814(i)(1)(C)(i) (42 U.S.C. 1395f(i)(1)(C)(i)), as amended by section 6005(a)(2) of the Omnibus Budget Rec-

onciliation Act of 1989, is amended by striking "during fiscal year 1990" and inserting "on or after January 1, 1990, and on or before September 30, 1990,".

42 USC 1395f note.

(B) Section 6005(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "subsection (a)" and inserting "subsections (a) and (b)".

(C) Section 1818A(d)(1) (42 U.S.C. 1395i-2a(d)(1)), as inserted by section 6012(a)(2) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(i) in subparagraph (A), by inserting "for enrollment under this section" after "Premiums", and

(ii) by striking subparagraph (C).

(D) Section 1818(g)(2)(B) (42 U.S.C. 1395i-2(g)(2)(B)), as added by section 6013(a) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (c)" and inserting "subsection (c)(6)".

(F) Section 1819(f)(2)(A)(ii) (42 U.S.C. 1395i-3(f)(2)(A)(ii)) is amended by striking "and" at the end.

(G) Section 1866(a)(1)(F) (42 U.S.C. 1395cc(a)(1)(F) is amended—

(i) in clause (i), by striking the comma at the end and inserting "),", and

(ii) in clause (ii), by striking "(4)(A)" and inserting "(3)(A)" and by striking the semicolon at the end and inserting a comma.

PART 2—PROVISIONS RELATING TO PART B

Subpart A—Payment for Physicians' Services

SEC. 4101. CERTAIN OVERVALUED PROCEDURES.

(a) PREVIOUSLY IDENTIFIED PROCEDURES.—Section 1842(b)(14) (42 U.S.C. 1395u(b)(14)) is amended—

(1) by inserting "(i)" after "(14)(A)"; and

(2) by adding at the end of subparagraph (A) the following new clause:

"(ii) In determining the reasonable charge for a physicians' service specified in subparagraph (C)(i) and furnished during 1991, the prevailing charge for such service shall be the prevailing charge otherwise recognized for such service for the period during 1990 beginning on April 1, reduced by the same amount as the amount of the reduction effected under this paragraph (as amended by the Omnibus Budget Reconciliation Act of 1990) for such service during such period.".

(b) UNSURVEYED SURGICAL AND TECHNICAL PROCEDURES.—(1) Section 1842(b) (42 U.S.C. 1395u(b)) is amended by adding at the end the following new paragraph:

"(16)(A) In determining the reasonable charge for all physicians' services other than physicians' services specified in subparagraph (B) furnished during 1991, the prevailing charge for a locality shall be 6.5 percent below the prevailing charges used in the locality under this part in 1990 after March 31.

"(B) For purposes of subparagraph (A), the physicians' services specified in this subparagraph are as follows:

"(i) Radiology, anesthesia and physician pathology services, the technical components of diagnostic tests specified in para-

graph (17) and physicians' services specified in paragraph (14)(C)(i).

"(ii) Primary care services specified in subsection (i)(4), hospital inpatient medical services, consultations, other visits, preventive medicine visits, psychiatric services, emergency care facility services, and critical care services.

"(iii) Partial, simple and subcutaneous mastectomy; tendon sheath injections; small joint arthrocentesis; femoral fracture treatments; trochanteric fracture treatments; endotracheal intubation; thoracentesis; thoracostomy; lobectomy; aneurysm repair; enterectomy; colectomy; cholecystectomy; cystourethroscopy; transurethral fulguration; transurerethral resection; sacral laminectomy; tympanoplasty with mastoidectomy; and ophthalmoscopy.".

(2) In applying section 1842(b)(16) of the Social Security Act: 42 USC 1395u note.

(A) The codes for the procedures specified in clause (ii) are as follows: Hospital inpatient medical services (HCPCS codes 90200 through 90292), consultations (HCPCS codes 90600 through 90654), other visits (HCPCS code 90699), preventive medicine visits (HCPCS codes 90750 through 90764), psychiatric services (HCPCS codes 90801 through 90862), emergency care facility services (HCPCS codes 99062 through 99065), and critical care services (HCPCS codes 99160 through 99174).

(B) The codes for the procedures specified in clause (iii) are as follows: Partial, simple and subcutaneous mastectomy (HCPCS codes 19160 and 19162); tendon sheath injections and small joint arthrocentesis (HCPCS codes 20550, 20600, 20605, and 20610); femoral fracture and trochanteric fracture treatments (HCPCS codes 27230, 27232, 27234, 27238, 27240, 27242, 27246, and 27248); endotracheal intubation (HCPCS code 31500); thoracentesis (HCPCS code 32000); thoracostomy (HCPCS codes 32020, 32035, and 32036); aneurysm repair (HCPCS codes 35111); cystourethroscopy (HCPCS code 52340); transurethral fulguration and resection (HCPCS codes 52606 and 52620); tympanoplasty with mastoidectomy (HCPCS code 69645); and ophthalmoscopy (HCPCS codes 92250, and 92260).".[5]

SEC. 4102. RADIOLOGY SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D) 1991 FEE SCHEDULES.—For radiologist services (other than portable X-ray services) furnished under this part during 1991, the conversion factors used in a locality under this subsection shall be determined as follows:

"(i) NATIONAL WEIGHTED AVERAGE CONVERSION FACTOR.—The Secretary shall estimate the national weighted average of the conversion factors used under this subsection for services furnished during 1990 beginning on April 1, using the best available data.

"(ii) REDUCED NATIONAL WEIGHTED AVERAGE.—The national weighted average estimated under clause (i) shall be reduced by 13 percent.

[5] So in original. The " "." should probably be deleted.

"(iii) COMPUTATION OF 1990 LOCALITY INDEX RELATIVE TO NATIONAL AVERAGE.—The Secretary shall establish an index which reflects, for each locality, the ratio of the conversion factor used in the locality under this subsection to the national weighted average estimated under clause (i).

"(iv) LOCAL ADJUSTMENT.—Subject to clause (vii), the conversion factor to be applied to the professional or technical component of a service in a locality is the sum of ½ of the locally-adjusted amount determined under clause (v) and ½ of the GPCI-adjusted amount determined under clauses (vi).

"(v) LOCALLY-ADJUSTED AMOUNT.—For purposes of clause (iv), the locally adjusted amount determined under this clause is the product of (I) the national weighted average conversion factor computed under clause (ii), and (II) the index value established under clause (iii) for the locality.

"(vi) GPCI-ADJUSTED AMOUNT.—For purposes of clause (iv), the GPCI-adjusted amount determined under this clause is the sum of—

"(I) the product of (a) the portion of the reduced national weighted average conversion factor computed under clause (ii) which is attributable to physician work and (b) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (a) the remaining portion of the reduced national weighted average conversion factor computed under clause (ii), and (b) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause with respect to the professional component of a service, 80 percent of the conversion factor shall be considered to be attributable to physician work and with respect to the technical component of the service, 0 percent shall be considered to be attributable to physician work.

"(vii) LIMITS ON CONVERSION FACTOR.—The conversion factor to be applied to a locality under this subparagraph to the professional or technical component of a service shall not be more than 9.5 percent below the conversion factor applied in the locality under subparagraph (C) to such component, but in no case shall the conversion factor be less than 60 percent of the national weighted average of the conversion factors (computed under clause (i)).".

(b) SPECIAL RULE FOR TRANSITION FOR RADIOLOGY SERVICES.—Section 1848(a)(2)(C) (42 U.S.C. 1395w-4(a)(2)(C)) is amended—

(1) by inserting "AND RADIOLOGY" after "SPECIAL RULE FOR ANESTHESIA", and

(2) by adding at the end the following: "With respect to radiology services, '109 percent' and '9 percent' shall be substituted for '115 percent' and '15 percent', respectively, in subparagraph (A)(ii).

(c) REDUCTION IN PREVAILING CHARGE LEVEL FOR OTHER RADIOLOGY SERVICES.— 42 USC 1395m note.

(1) IN GENERAL.—In applying part B of title XVIII of the Social Security Act, the prevailing charge for physicians' services, furnished during 1991, which are radiology services may not exceed the fee schedule amount established under section 1834(b) of such Act with respect to such services.

(2) EXCEPTION.—Paragraph (1) shall not apply to radiology services which are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989.

(d) REDUCTION IN PAYMENTS FOR TECHNICAL COMPONENTS OF CERTAIN SCANNING SERVICES.—Section 1834(b)(4) (42 U.S.C. 1395m(b)(4)) is amended by inserting after subparagraph (D) the following new paragraph:

"(E) In the case of the technical components of magnetic resonance imaging (MRI) services and computer assisted tomography (CAT) services furnished after December 31, 1990, the amount otherwise payable shall be reduced by 10 percent.".

(e) LIMITATION ON ADJUSTMENTS.—For radiologist services furnished during 1991 for which payment is made under section 1834(b) of the Social Security Act— 42 USC 1395m note.

(1) a carrier may not make any adjustment, under section 1842(b)(3)(B) of such Act, in the payment amount for the service under section 1834(b) on the basis that the payment amount is higher than the charge applicable, for a comparable service and under comparable circumstances, to the policyholders and subscribers of the carrier,

(2) no payment adjustment may be made under section 1842(b)(8) of such Act, and

(3) section 1842(b)(9) of such Act shall not apply.

(f) USE OF LOCALITIES.—Section 1834(b)(1)(B) (42 U.S.C. 1395m(b)(1)(B)) is amended by inserting "locality," after "statewide,".

(g) TREATMENT OF NUCLEAR MEDICINE PHYSICIANS.—

(1) CONTINUATION OF SPECIAL RULE.—Section 6105(b) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking all that follows "Social Security Act" the second place it appears and inserting the following: "beginning April 1, 1990, and ending December 31, 1991, there shall be substituted for the fee schedule otherwise applicable a fee schedule based ⅓ on the fee schedule computed under such section (without regard to this subsection) and ⅔ on 101 percent of the 1988 prevailing charge for such services.". 42 USC 1395m note.

(2) ADJUSTED HISTORICAL PAYMENT BASIS.—Section 1848(a)(2)(D) (42 U.S.C. 1395w-4(a)(2)(D)) is amended—

(A) in clause (ii) by inserting ", but excluding nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989" after "section 1834(b)(6))", and

(B) by adding at the end the following:

"(iii) NUCLEAR MEDICINE SERVICES.—In applying clause (i) in the case of physicians' services which are nuclear medicine services that are subject to section 6105(b) of the Omnibus Budget Reconciliation Act of 1989, there shall be substituted for the weighted aver-

age prevailing charge the amount provided under such section.".

(h) EXTENSION OF SPLIT BILLING RULE FOR INTERVENTIONAL RADIOLOGISTS.—Section 6105(c) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "or 1991" after "1990" each place it appears.

42 USC 1395m note.

(i) EFFECTIVE DATES.—

42 USC 1395m note.

(1) Except as otherwise provided, the amendments made by this section shall apply to services furnished on or after January 1, 1991.

(2) The amendment made by subsection (f) shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

SEC. 4103. ANESTHESIA SERVICES.

(a) REDUCTION IN FEE SCHEDULE.—Section 1842(q)(1) (42 U.S.C. 1395u(q)(1)) is amended—

(1) by inserting "(A)" after "(q)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) For physician anesthesia services furnished under this part during 1991, the prevailing charge conversion factor used in a locality under this subsection shall be determined as follows:

"(i) The Secretary shall estimate the national weighted average of the prevailing charge conversion factors used under this subsection for services furnished during 1990 after March 31, using the best available data.

"(ii) The national weighted average estimated under clause (i) shall be reduced by 7 percent.

"(iii) Subject to clause (iv), the prevailing charge conversion factor to be applied in a locality is the sum of—

"(I) the product of (a) the portion of the reduced national weighted average prevailing charge conversion factor computed under clause (ii) which is attributable to physician work and (b) the geographic work index value for the locality (specified in Addendum C to the Model Fee Schedule for Physician Services (published on September 4, 1990, 55 Federal Register pp. 36238-36243)); and

"(II) the product of (a) the remaining portion of the reduced national weighted average prevailing charge conversion factor computed under clause (ii) and (b) the geographic practice cost index value specified in section 1842(b)(14)(C)(iv) for the locality.

In applying this clause, 70 percent of the prevailing charge conversion factor shall be considered to be attributable to physician work.

"(iv) The prevailing charge conversion factor to be applied to a locality under this subparagraph shall not be reduced by more than 15 percent below the prevailing charge conversion factor applied in the locality for the period during 1990 after March 31, but in no case shall the prevailing charge conversion factor be less than 60 percent of the national weighted average of the prevailing charge conversion factors (computed under clause (i)).".

(b) EXTENSION OF REDUCTION FOR SUPERVISION OF CONCURRENT SERVICES.—Section 1842(b)(13) (42 U.S.C. 1395u(b)(13)) is amended by striking "1991" each place it appears and inserting "1996".

SEC. 4104. PHYSICIAN PATHOLOGY SERVICES.

(a) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES.—Subsection (f) of section 1834 (42 U.S.C. 1395m) is amended to read as follows:

"(f) REDUCTION IN PAYMENTS FOR PHYSICIAN PATHOLOGY SERVICES DURING FISCAL YEAR 1991.—

"(1) IN GENERAL.—For physician pathology services furnished under this part during 1991, the prevailing charges used in a locality under this part shall be 7 percent below the prevailing charges used in the locality under this part in 1990 after March 31.

"(2) LIMITATION.—The prevailing charge for the technical and professional components of an physician pathology service furnished by a physician through an independent laboratory shall not be reduced pursuant to paragraph (1) to the extent that such reduction would reduce such prevailing charge below 115 percent of the prevailing charge for the professional component of such service when furnished by a hospital-based physician in the same locality. For purposes of the preceding sentence, an independent laboratory is a laboratory that is independent of a hospital and separate from the attending or consulting physicians' office.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(1)(J) of such Act (42 U.S.C. 1395l(a)(1)) is amended by striking "or physician pathology services" and by striking "or section 1834(f), respectively".

(2) Section 1848(a)(1) of such Act (42 U.S.C. 1395w-4(a)(1)) is amended by striking "or 1834(f)".

(3) Section 4050 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

42 USC 1395l note.
42 USC 1395w-4 note.

(c) ANCILLARY POLICY.—The Secretary of Health and Human Services, in establishing ancillary policies under section 1848(c)(3) of the Social Security Act, shall consider an appropriate adjustment to reflect the technical component of furnishing physician pathology services through a laboratory that is independent of a hospital and separate from an attending or consulting physician's office.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

42 USC 1395l note.

SEC. 4105. UPDATE FOR PHYSICIANS' SERVICES.

(a) PERCENTAGE INCREASE IN MEI FOR 1991.—

(1) IN GENERAL.—Section 1842(b)(4)(E) (42 U.S.C. 1395u(b)(4)(E)) is amended by adding at the end the following new clause:

"(v) For purposes of this part for items and services furnished in 1991, the percentage increase in the MEI is—

"(I) 0 percent for services (other than primary care services), and

"(II) 2 percent for primary care services (as defined in subsection (i)(4)).".

(2) CUSTOMARY CHARGES FOR 1991.—Section 1842(b)(4)(B) (42 U.S.C. 1395u(b)(4)(B)) is amended by adding at the end the following new clause:

"(iv) In determining the reasonable charge under paragraph (3) for physicians' services (other than primary care services, as defined in subsection (i)(4)) furnished during 1991, the customary charges shall be the same customary charges as were recognized under this

section for the 9-month period beginning April 1, 1990. In a case in which subparagraph (F) applies (relating to new physicians) so as to limit the customary charges of a physician during 1990 to a percent of prevailing charges, the previous sentence shall not prevent such limit on customary charges under such subparagraph from increasing in 1991 to a higher percent of such prevailing charges.".

(3) CHANGE IN PAYMENT FOR YEARS AFTER 1991.—Section 1848 of such Act (42 U.S.C. 1395w-4) is amended in subsection (d)(3)(A)—

(A) in clause (i), by inserting "except as provided in clause (iii)," after "subparagraph (B),", and

(B) by adding at the end the following new clause:

"(iii) ADJUSTMENT IN PERCENTAGE INCREASE.—In applying clause (i) for services furnished in 1992 for which the appropriate update index is the index described in clause (ii)(I), the percentage increase in the appropriate update index shall be reduced by 0.4 percentage points.".

(b) INCREASE IN PREVAILING CHARGE FLOOR FOR PRIMARY CARE SERVICES.—

(1) IN GENERAL.—Section 1842(b)(4)(A)(vi) of such Act (42 U.S.C. 1395u(b)(4)(A)(vi)) is amended by striking "50 percent" and inserting "60 percent".

42 USC 1395w-4 note.

(2) BUDGET NEUTRAL IMPLEMENTATION.—In computing the conversion factor under section 1848(d)(1)(B) of the Social Security Act for 1992, the Secretary of Health and Human Services shall determine the estimated aggregate amount of payments under part B of title XVIII of such Act for physicians' services in 1991 assuming that the amendments made by this subsection did not apply.

42 USC 1395u note.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to services furnished on or after January 1, 1991.

(c) VOLUME PERFORMANCE STANDARD FOR FISCAL YEAR 1991.—Section 1848(f) (42 U.S.C. 1395w-4(f)) is amended—

(1) in paragraph (1)(C), by striking "1990" the first place it appears and inserting "1991", and

(2) by adding at the end of paragraph (2) the following:

"(C) Notwithstanding subparagraph (A), the performance standard rate of increase for a category of physicians' services for fiscal year 1991 shall be the sum of—

"(i) the Secretary's estimate of the percentage by which actual expenditures for the category of physicians' services under this part for fiscal year 1991 exceed actual expenditures for such category of services in fiscal year 1990 (determined without regard to the amendments made by the Omnibus Budget Reconciliation Act of 1990), and

"(ii) the Secretary's estimate of the percentage increase or decrease in expenditures for the category of services in fiscal year 1991 (compared with fiscal year 1990) that will result from changes in law and regulations (including the Omnibus Budget Reconciliation Act of 1990), reduced by 2 percentage points.".

42 USC 1395w-4 note.

(d) Not later than 45 days after the date of the enactment of this Act, the Secretary of Health and Human Services, based on the most recent data available, shall estimate and publish in the Federal

Register the performance standard rates of increase specified in section 1848(f)(2)(C) of the Social Security Act for fiscal year 1991.

SEC. 4106. NEW PHYSICIANS AND OTHER NEW HEALTH CARE PRACTITIONERS.

(a) EXTENSION OF CUSTOMARY CHARGE LIMIT AND INCLUSION OF HEALTH CARE PRACTITIONERS.—

(1) IN GENERAL.—Subparagraph (F) of section 1842(b)(4) (42 U.S.C. 1395u(b)(4)) is amended to read as follows:

"(F)(i) In the case of physicians' services and professional services of a health care practitioner (other than primary care services and other than services furnished in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area) furnished during the physician's or practitioner's first through fourth years of practice (if payment for those services is made separately under this part and on other than a cost-related basis), the prevailing charge or fee schedule amount to be applied under this part shall be 80 percent for the first year of practice, 85 percent for the second year of practice, 90 percent for the third year of practice, and 95 percent for the fourth year of practice, of the prevailing charge or fee schedule amount for that service under the other provisions of this part.

"(ii) For purposes of clause (i):

"(I) The term 'health care practitioner' means a physician assistant, certified nurse-midwife, qualified psychologist, nurse practitioner, clinical social worker, physical therapist, occupational therapist, respiratory therapist, certified registered nurse anesthetist, or any other practitioner as may be specified by the Secretary.

"(II) The term 'first year of practice' means, with respect to a physician or practitioner, the first calendar year during the first 6 months of which the physician or practitioner furnishes professional services for which payment is made under this part, and includes any period before such year.

"(III) The terms 'second year of practice', 'third year of practice', and 'fourth year of practice' mean the second, third, and fourth calendar years, respectively, following the first year of practice.".

(2) CONFORMING AMENDMENTS.—Section 6108(a)(2)(A) of the Omnibus Budget Reconciliation Act of 1989 is amended— 42 USC 1395u note.

(A) by inserting "or 1991" after "1990", and

(B) by inserting "or 1990" after "1989".

(b) APPLICATION UNDER FEE SCHEDULE.—

(1) IN GENERAL.—Section 1848(a) (42 U.S.C. 1395w-4(a)) is amended by adding at the end the following new paragraph:

"(4) TREATMENT OF NEW PHYSICIANS.—In the case of physicians' services furnished by a physician before the end of the physician's first full calendar year of furnishing services for which payment may be made under this part, and during each of the 3 succeeding years, the fee schedule amount to be applied shall be 80 percent, 85 percent, 90 percent, and 95 percent, respectively, of the fee schedule amount applicable to physicians who are not subject to this paragraph. The preceding sentence shall not apply to primary care services or services furnished in a rural area (as defined in section 1886(d)(2)) that is

designated under section 322(a)(1)(A) of the Public Health Service Act as a health manpower shortage area.".

42 USC 1395u.

(2) CONFORMING AMENDMENTS.—Section 1842(b)(4)(F), as amended by subsection (a), is amended—

(A) in clause (i), by striking "physicians' services and",

(B) in clause (i), by striking "physician's or", and

(C) in clause (ii)(II), by striking "physician or" each place it appears.

42 USC 1395w-4 note.

(c) CONFORMING ADJUSTMENT IN CONVERSION FACTOR COMPUTATION.—In computing the conversion factor under section 1848(d)(1)(B) for 1992, the Secretary of Health and Human Services shall determine the estimated aggregate amount of payments under part B for physicians' services in 1991 assuming that the amendments made by this section (notwithstanding subsection (d)) applied to all services furnished during such year.

42 USC 1395u note.

(d) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to services furnished after 1990, except that—

(A) the provisions concerning the third and fourth years of practice apply only to physicians' services furnished after 1990 and 1991, respectively, and

(B) the provisions concerning the second, third, and fourth years of practice apply only to services of a health care practitioner furnished after 1991, 1992, and 1993, respectively.

(2) The amendments made by subsection (b) shall apply to services furnished after 1991.

SEC. 4107. ASSISTANTS AT SURGERY.

(a) PHYSICIANS AS ASSISTANTS-AT-SURGERY.—

(1) IN GENERAL.—Section 1848(i) (42 U.S.C. 1395w-4(i)) is amended by adding at the end the following:

"(2) ASSISTANTS-AT-SURGERY.—

"(A) IN GENERAL.—Subject to subparagraph (B), in the case of a surgical service furnished by a physician, if payment is made separately under this part for the services of a physician serving as an assistant-at-surgery, the fee schedule amount shall not exceed 16 percent of the fee schedule amount otherwise determined under this section for the global surgical service involved.

"(B) DENIAL OF PAYMENT IN CERTAIN CASES.—If the Secretary determines, based on the most recent data available, that for a surgical procedure (or class of surgical procedures) the national average percentage of such procedure performed under this part which involve the use of a physician as an assistant at surgery is less than 5 percent, no payment may be made under this part for services of an assistant at surgery involved in the procedure.".

42 USC 1395w-4 note.

(2) APPLICATION IN 1991.—Section 1848(i)(2) of the Social Security Act, as added by the amendment made by paragraph (1), shall apply to services furnished in 1991 in the same manner as it applies to services furnished after 1991. In applying the previous sentence, the prevailing charge shall be substituted for the fee schedule amount.

(b) CONFORMING AMENDMENT.—Section 1862(a)(15) of such Act (42 U.S.C. 1395y(a)(15)) is amended—

(1) by inserting "(A)" after "(15)",

(2) by striking "; or" at the end and inserting ", or", and
(3) by adding at the end the following new subparagraph:
"(B) which are for services of an assistant at surgery to which section 1848(i)(2)(B) applies; or".

(c) EFFECTIVE DATE.—The amendment made by subsection shall apply with respect to services furnished on or after January 1, 1992. 42 USC 1395y note.

SEC. 4108. TECHNICAL COMPONENTS OF CERTAIN DIAGNOSTIC TESTS.

(a) IN GENERAL.—Section 1842(b) of the Social Security Act (42 U.S.C. 1395u(b)), as amended by section 4101, is further amended by adding at the end the following new paragraph:

"(18) With respect to payment under this part for the technical (as distinct from professional) component of diagnostic tests (other than clinical diagnostic laboratory tests and radiology services, including portable x-ray services) which the Secretary shall designate (based on their high volume of expenditures under this part), the reasonable charge for such technical component (including the applicable portion of a global service) may not exceed the national median of such charges for all localities, as estimated by the Secretary using the best available data.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to tests and services furnished on or after January 1, 1991. 42 USC 1395u note.

SEC. 4109. INTERPRETATION OF ELECTROCARDIOGRAMS.

(a) IN GENERAL.—Section 1848(b) of the Social Security Act (42 U.S.C. 1395w-4(b)) is amended by adding at the end the following new paragraph:

"(3) TREATMENT OF INTERPRETATION OF ELECTROCARDIOGRAMS.—If payment is made under this part for a visit to a physician or consultation with a physician and, as part of or in conjunction with the visit or consultation there is an electrocardiogram performed or ordered to be performed, no payment may be made under this part with respect to the interpretation of the electrocardiogram and no physician may bill an individual enrolled under this part separately for such an interpretation. If a physician knowingly and willfully bills one or more individuals in violation of the previous sentence, the Secretary may apply sanctions against the physician or entity in accordance with section 1842(j)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1992. In applying section 1848(d)(1)(B) of the Social Security Act (in computing the initial budget-neutral conversion factor for 1991), the Secretary shall compute such factor assuming that section 1848(b)(3) of such Act (as added by the amendment made by subsection (a)) had applied to physicians' services furnished during 1991. 42 USC 1395w-4 note.

SEC. 4110. RECIPROCAL BILLING ARRANGEMENTS.

(a) IN GENERAL.—The first sentence of section 1842(b)(6) of the Social Security Act (42 U.S.C. 1395u(b)(6)) is amended—
(1) by striking "and" before "(C)", and
(2) by inserting before the period at the end the following: ", and (D) payment may be made to a physician who arranges for visit services (including emergency visits and related services) to be provided to an individual by a second physician on an occasional, reciprocal basis if (i) the first physician is unavail-

able to provide the visit services, (ii) the individual has arranged or seeks to receive the visit services from the first physician, (iii) the claim form submitted to the carrier includes the second physician's unique identifier (provided under the system established under subsection (r)) and indicates that the claim is for such a 'covered visit service (and related services)', and (iv) the visit services are not provided by the second physician over a continuous period of longer than 60 days".

42 USC 1395u note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after the first day of the first month beginning more than 60 days after the date of the enactment of this Act.

42 USC 1395u note.

SEC. 4111. STUDY OF PREPAYMENT MEDICAL REVIEW SCREENS.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the effect of the release of medicare prepayment medical review screen parameters on physician billings for the services to which the parameters apply.

(b) LIMITATIONS.—The study shall be based upon the release of the screen parameters at a minimum of six carriers.

(c) REPORT.—The Secretary shall report the results of the study to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than October 1, 1992.

SEC. 4112. PRACTICING PHYSICIANS ADVISORY COUNCIL.

Title XVIII of the Social Security Act is amended by inserting after section 1867 the following new section:

"PRACTICING PHYSICIANS ADVISORY COUNCIL

42 USC 1395ee.

"SEC. 1868. (a) The Secretary shall appoint, based upon nominations submitted by medical organizations representing physicians, a Practicing Physicians Advisory Council (in this section referred to as the 'Council') to be composed of 15 physicians, each of whom has submitted at least 250 claims for physicians' services under this title in the previous year. At least 11 of the members of the Council shall be physicians described in section 1861(r)(1) and the members of the Council shall include both participating and nonparticipating physicians and physicians practicing in rural areas and underserved urban areas.

"(b) The Council shall meet once during each calendar quarter to discuss certain proposed changes in regulations and carrier manual instructions related to physician services identified by the Secretary. To the extent feasible and consistent with statutory deadlines, such consultation shall occur before the publication of such proposed changes.

"(c) Members of the Council shall be entitled to receive reimbursement of expenses and per diem in lieu of subsistence in the same manner as other members of advisory councils appointed by the Secretary are provided such reimbursement and per diem under this title.".

42 USC 1395ff note.

SEC. 4113. STUDY OF AGGREGATION RULE FOR CLAIMS FOR SIMILAR PHYSICIANS' SERVICES.

The Secretary of Health and Human Services shall carry out a study of the effects of permitting the aggregation of claims that involve common issues of law and fact furnished in the same carrier

area to two or more individuals by two or more physicians within the same 12-month period for purposes of appeals provided for under section 1869(b)(2). Such study shall be conducted in at least four carrier areas. The Secretary shall report on the results of such study and any recommendations to the Committee on Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives by December 31, 1992.

SEC. 4114. UTILIZATION SCREENS FOR PHYSICIAN VISITS IN REHABILITATION HOSPITALS.

42 USC 1395u note.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidelines to assure a uniform level of review of physician visits to patients of a rehabilitation hospital or unit patients after the medical review screen parameter established under section 4085(h) of the Omnibus Budget Reconciliation Act of 1987 has been exceeded.

SEC. 4115. STUDY OF REGIONAL VARIATIONS IN IMPACT OF MEDICARE PHYSICIAN PAYMENT REFORM.

42 USC 1395w-4 note.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of—

(1) factors that may explain geographic variations in Medicare reasonable charges for physicians' services that are not attributable to variations in physician practice costs (including the supply of physicians in an area and area variations in the mix of services furnished);

(2) the extent to which the geographic practice cost indices applied under the fee schedule established under section 1848 of the Social Security Act accurately reflect variations in practice costs and malpractice costs (and alternative sources of information upon which to base such indices);

(3) the impact of the transition to a national, resource-based fee schedule for physicians' services under Medicare on access to physicians' services in areas that experience a disproportionately large reduction in payments for physicians' services under the fee schedule by reason of such variations; and

(4) appropriate adjustments or modifications in the transition to, or manner of determining payments under, the fee schedule established under section 1848 of the Social Security Act, to compensate for such variations and ensure continued access to physicians' services for Medicare beneficiaries in such areas.

(b) REPORT.—By not later than July 1, 1992, the Secretary shall submit to Congress a report on the study conducted under subsection (a).

SEC. 4116. LIMITATION ON BENEFICIARY LIABILITY.

Section 1848(g)(2)(A) (42 U.S.C. 1395w-4(g)(2)(A)) is amended by adding at the end thereof the following:

"In the case of evaluation and management services (as specified in section 1842(b)(16)(B)(ii)), the preceding sentence shall be applied by substituting '40 percent' for '25 percent'.".

SEC. 4117. STATEWIDE FEE SCHEDULE AREAS FOR PHYSICIANS' SERVICES.

42 USC 1395w-4 note.

(a) IN GENERAL.—Notwithstanding section 1848(j)(2) of the Social Security Act (42 U.S.C. 1395w-4(j)(2)), in the case of the States of Nebraska and Oklahoma, if the respective State meets the require-

ments specified in subsection (b) on or before April 1, 1991, the Secretary of Health and Human Services (Secretary) shall treat the State as a single fee schedule area for purposes of determining—

(1) the adjusted historical payment basis (as defined in section 1848(a)(2)(D) of such Act (42 U.S.C. 1395w-4(a)(2)(D))), and

(2) the fee schedule amount (as referred to in section 1848(a) (42 U.S.C. 1395w-4(a)) of such Act),

for physicians' services (as defined in section 1848(j)(3) of such Act (42 U.S.C. 1395w-4(j)(3))) furnished on or after January 1, 1992.

(b) REQUIREMENTS.—The requirements specified in this subsection are that (on or before April 1, 1991) there are written expressions of support for treatment of the State as a single fee schedule area (on a budget-neutral basis) from—

(1) each member of the congressional delegation from the State, and

(2) organizations representing urban and rural physicians in the State.

(c) BUDGET NEUTRALITY.—Notwithstanding section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)), the Secretary shall provide for treatment of a State as a single fee schedule area (as described in subsection (a)) in a manner that ensures that total payments for physicians' services (as so defined) furnished by physicians in the State during 1992 are not greater or less than total payments for such services would have been but for such treatment.

(d) CONSTRUCTION.—Nothing in this section shall be construed as limiting the availability (to the Secretary, the appropriate agency or organization with a contract under section 1842, or physicians in a State) of otherwise applicable administrative procedures for modifying the fee schedule area or areas in the State after implementation of subsection (a) with respect to the State.

SEC. 4118. TECHNICAL CORRECTIONS.

(a) OVERVALUED PROCEDURES.—

(1) Section 1842(b)(14) of the Social Security Act (42 U.S.C. 1395u(b)(14)) is amended—

(A) in subparagraph (B)(iii)(I), by striking "practice expense ratio for the service (specified in table #1 in the Joint Explanatory Statement referred to in subparagraph (C)(i))" and inserting "practice expense component (percent), divided by 100, specified in appendix A (pages 187 through 194) of the Report of the Medicare and Medicaid Health Budget Reconciliation Amendments of 1989, prepared by the Subcommittee on Health and the Environment of the Committee on Energy and Commerce, House of Representatives, (Committee Print 101-M, 101st Congress, 1st Session) for the service";

(B) in subparagraph (B)(iii)(II), by striking "practice expense ratio" and inserting "practice expense component (percent), divided by 100";

(C) in subparagraph (C)(i), by striking "physicians' services specified in Table #2 in the Joint Explanatory Statement of the Committee of Conference submitted with the Conference Report to accompany H.R. 3299 (the 'Omnibus Budget Reconciliation Act of 1989'), 101st Congress," and inserting "procedures specified (by code and description) in the Overvalued Procedures List for Finance Committee,

Revised September 20, 1989, prepared by the Physician Payment Review Commission";

(D) in subparagraph (C)(iii), by striking "The 'percent change' specified in this clause, for a physicians' service specified in clause (i), is the percent change specified for the service in table #2 in the Joint Explanatory Statement" and inserting "The 'percentage change' specified in this clause, for a physicians' service specified in clause (i), is the percent difference (but expressed as a positive number) specified for the service in the list"; and

(E) in subparagraph (C)(iv), by striking "such value specified for the locality in table #3 in the Joint Explanatory Statement referred to in clause (i)" and inserting "the Geographic Overhead Costs Index specified for the locality in table 1 of the September 1989 Supplement to the Geographic Medicare Economic Index: Alternative Approaches (prepared by the Urban Institute and the Center for Health Economics Research)".

(2) Section 1842(b)(4)(E)(iv)(I) of such Act (42 U.S.C. 1395u(b)(4)(E)(iv)(I)) is amended by striking "Table #2" and all that follows through "101st Congress" and inserting "the list referred to in paragraph (14)(C)(i)".

(3) The amendments made by paragraphs (1) and (2) apply to services furnished after March 1990. 42 USC 1395u note.

(b) MVPS AS MULTIPLICATIVE, NOT ADDITIVE.—Section 1848(f)(2)(A) (42 U.S.C. 1395w-4(f)(2)(A)) is amended—

(1) in the matter preceding clause (i) by striking "sum" and inserting "product";

(2) in clauses (i) through (iv), by inserting "1 plus" before "the Secretary's" each place it appears, [6]

(3) in clause (i), by inserting "(divided by 100)" after "percentage increase", [7]

(4) in clauses (ii) and (iv), by inserting "(divided by 100)" after "decrease", [8]

(5) in clause (iii), by inserting "(divided by 100)" after "percentage growth",[9] and

(6) in the matter following clause (iv), by striking "reduced" and inserting "minus 1, multiplied by 100, and reduced".

(c) PERIODIC REVIEW OF GEOGRAPHIC ADJUSTMENT FACTORS.—Section 1848(e)(1) of such Act is amended—

(1) in subparagraph (A), by striking "subparagraph (B)" and inserting "subparagraphs (B) and (C)", and

(2) by adding at the end the following new subparagraph:

"(C) PERIODIC REVIEW AND ADJUSTMENTS IN GEOGRAPHIC ADJUSTMENT FACTORS.—The Secretary, not less often than every 3 years, shall review the indices established under subparagraph (A) and the geographic index values applied under this subsection for all fee schedule areas. Based on such review, the Secretary may revise such index and adjust such index values, except that, if more than 1 year has elasped since the last previous adjustment, the adjustment to be applied in the first year of the next adjustment shall be ½ of the adjustment that otherwise would be made.".

(d) ELIMINATION OF RESTRICTION ON INCORPORATION OF TIME IN VISIT CODES.—Section 1848(c)(4) (42 U.S.C. 1395w-4(c)(4)) is amended by striking "only for services furnished on or after January 1, 1993".

[6] So in original. Probably should be ";".
[7] So in original. Probably should be ";".
[8] So in original. Probably should be ";".
[9] So in original. Probably should be ";".

(e) TREATMENT OF PRICE INCREASE IN DETERMINING PERFORMANCE STANDARD RATES OF INCREASE.—Section 1848(f)(2)(A)(iv) (42 U.S.C. 1395w-4(f)(2)(A)(iv)) is amended by inserting "including changes in law and regulations affecting the percentage increase described in clause (i)" after "law or regulations".

(f) MISCELLANEOUS FEE SCHEDULE CORRECTIONS.—

(1) CHANGES IN SECTION 1848.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended—

(A) in subsection (c)(1)(B), by striking the last sentence;

(B) in subsections (c)(3)(C)(ii)(II) and (c)(3)(C)(iii)(II), by striking "by" the first place it appears in each respective subsection, [10]

(C) in subsection (c), by redesignating the second paragraph (3), and paragraphs (4) and (5), as paragraphs (4) through (6), respectively;

(D) in subsection (c)(4), as redesignated by subparagraph (C),is amended by striking "subsection" and inserting "section";

(E) in subsection (d)(1)(A), by striking "subparagraph (C)" and inserting "paragraph (3)";

(F) in subsection (d)(1)—

(i) in subparagraph (A)—

(I) by inserting "(or factors)" after "conversion factor" each place it appears,

(II) by inserting "or updates" after "update", and

(III) by striking "subparagraph (C)" and inserting "paragraph (3)"; and

(ii) in subparagraph (C)—

(I) in clause (i), by striking "(or factors)", and

(II) in clause (ii), by inserting "the conversion factor (or factors) which will apply to physicians' services for the following year and" before "the update (or updates)", and by striking "the following" and inserting "such";

(G) in subsection (d)(2)(A), in the matter preceding clause (i), by striking "services" the first place it appears and inserting "services (as defined in subsection (f)(5)(A))";

(H) in subsection (d)(2)(A)(ii)—

(i) by striking "(as defined in subsection (f)(5)(A))" and inserting "and for the services involved", and

(ii) by striking "all such physicians'" and inserting "such"; and

(I) in the last sentence of subsection (d)(2)(A), by striking "proportion of HMO enrollees" and inserting "proportion of individuals who are enrolled under this part who are HMO enrollees";

(J) in subsection (d)(2)(E)(i), by inserting "the" after "as set forth in";

(K) in subsection (d)(2)(E)(ii)(I), by inserting "payments for" after "under this part for";

(L) in subsection (d)(3)(B)—

(i) in clause (i)—

(I) by striking "update for" and inserting "update for a category of physicians' services for"; and

[10] So in original. Probably should be ";".

(II) by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "services in such category";

(ii) in clause (ii)—

(I) by inserting "more than" after "decrease of"; and

(II) in subclause (I), by striking "more than";

(M) in paragraphs (1)(D)(i) and (2)(A)(i) of subsection (f), by striking "calendar years" and inserting "portions of calendar years";

(N) in subsection (f)(2)(A)—

(i) by striking "each performance standard rate of increase" and inserting "the performance standard rate of increase, for all physicians' services and for each category of physicians' services,",

(ii) in clause (i), by striking "physicians' services (as defined in subsection (f)(5)(A) [11]" and inserting "all physicians' services or for the category of physicians' services, respectively,",

(iii) in clause (iii), by striking "physicians' services" and inserting "all physicians' services or of the category of physicians' services, respectively,", and

(iv) in clause (iv), by striking "physicians' services (as defined in subsection (f)(5)(A))" and inserting "all physicians' services or of the category of physicians' services, respectively,";

(O) in subsection (f)(4)(A), by striking "paragraph (B)" and inserting "subparagraph (B)";

(P) in subsection (f)(4)(B), by striking "Congress specifically approves the plan" and inserting "specifically approved by law";

(Q) in subparagraphs (A) and (B) of subsection (g)(2), by inserting "other than radiologist services subject to section 1834(b)," after "during 1991," and after "during 1992,", respectively;

(R) in subsection (i)(1)(A), by striking "historical payment basis (as defined in subsection (a)(2)(C)(i))" and inserting "adjusted historical payment basis (as defined in subsection (a)(2)(D)(i))"; and

(S) in subsection (j)(1), by striking ", and such other" and all that follows through the period and inserting "(as defined by the Secretary) and all other physicians' services.".

(2) MISCELLANEOUS.—

(A) Effective as if included in the Omnibus Budget Reconciliation Act of 1989, section 6102(e)(4) of such Act is amended by inserting "determined" after "prevailing charge rate". 42 USC 1395u.

(B) Effective January 1, 1991, section 1842(b)(3)(G) of the Social Security Act, as amended by section 6102(e)(2) of Omnibus Budget Reconciliation Act of 1989, is amended by striking "subsection (j)(1)(C)" and inserting "section 1848(g)(2)". 42 USC 1395u.

(C) Section 1842(b)(12)(A)(ii)(II) of the Social Security Act, as amended by section 6102(e)(4) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

[11] So in original. Probably should be "(A))".

42 USC 1395*l*.

(D) Section 1833(a)(1)(H) of the Social Security Act, as amended by section 6102(e)(5) of the Omnibus Budget Reconciliation Act of 1989, is amended by striking ", as the case may be".

(E) Section 6102(e)(11) of the Omnibus Budget Reconciliation Act of 1989 is amended by inserting "of Health and Human Services" after "Secretary".

42 USC 1395w-4 note.

(F) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, section 922(d)(1) of the Public Health Service Act (42 U.S.C. 299c-1(d)(1)) is amended—

(i) by inserting "(other than of dissemination activities)" after "evaluations", and

(ii) by inserting "research, demonstration projects, or evaluations of" after "applications with respect to".

(g) REPEAL OF REPORTS NO LONGER REQUIRED.—

(1) Subsection (b) of section 4043 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

42 USC 1395*l* note.

(2) Subsection (c) of section 4048 of such Act is repealed.

42 USC 1395u note.

(3) Section 4049(b)(1) of such Act is amended by striking ", and shall report" and all that follows up to the period at the end.

42 USC 1395m note.

(4) Section 4056(a)(1) of such Act, as redesignated by section 411(f)(14) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking the last sentence.

42 USC 1395u note.

42 USC 1395w-1 note.

(5) Section 4056(b)(2) of such Act is amended by striking the second sentence.

(h) ADJUSTMENT OF EFFECTIVE DATES.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987—

42 USC 1395u note.

(1) section 4048(b) of such Act is amended by striking "January 1, 1989" and inserting "March 1, 1989", and

42 USC 1395m note.

(2) section 4049(b)(2) of such Act is amended by striking "January 1, 1989" and inserting "April 1, 1989".

(i) TRANSFER OF PROVISION INTO TITLE XVIII.—

(1) Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

"(r) The Secretary shall establish a system which provides for a unique identifier for each physician who furnishes services for which payment may be made under this title.".

(2) Section 9202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking subsection (g).

42 USC 1395ww note.

(j) PPRC.—(1) Section 1845 of such Act (42 U.S.C. 1395w-1) is amended—

(A) in subsection (a)(3), by striking "include physicians" and inserting "include (but need not be limited to) physicians";

(B) by striking subsection (b)(3);

(C) in subsection (b)(2)—

(i) by striking "and" at the end of subparagraph (H),

(ii) by striking the period at the end of subparagraph (I) and inserting a semicolon,

(iii) by striking subparagraphs (A), (B), (C), and (F),

(iv) by redesignating subparagraphs (D), (E), (G), (H), and (I) as subparagraphs (A), (B), (C), (D), and (E), and

(v) by adding at the end the following new subparagraphs:

"(F) make recommendations regarding major issues in the implementation of the resource-based relative value scale established under section 1848(c);

"(G) make recommendations regarding further development of the volume performance standards established under section 1848(f), including the development of State-based programs;

"(H) consider policies to provide payment incentives to increase patient access to primary care and other physician services in large urban and rural areas, including policies regarding payments to physicians pursuant to title XIX;

"(I) review and consider the number and practice specialties of physicians in training and payments under this title for graduate medical education costs;

"(J) make recommendations regarding issues relating to utilization review and quality of care, including the effectiveness of peer review procedures and other quality assurance programs applicable to physicians and providers under this title and physician certification and licensing standards and procedures;

"(K) make recommendations regarding options to help constrain the costs of health insurance to employers, including incentives under this title;

"(L) comment on the recommendations affecting physician payment under the medicare program that are included in the budget submitted by the President pursuant to section 1105 of title 31, United States Code; and

"(M) make recommendations regarding medical malpractice liability reform and physician certification and licensing standards and procedures."; and

(D) by striking subsection (e) and redesignating subsection (f) as subsection (e). 42 USC 1395w-1.

(2) In section 1842(b)(2)(A) is amended by striking "section 1845(f)(2)" and inserting "section 1845(e)(2)". 42 USC 1395u.

(k) PROHIBITION OF CERTAIN ADJUSTMENTS.—Section 1848(i) is amended by adding at the end the following new paragraph: 42 USC 1395w-4.

"(3) NO COMPARABILITY ADJUSTMENT.—For physicians' services for which payment under this part is determined under this section—

"(A) a carrier may not make any adjustment in the payment amount under section 1842(b)(3)(B) on the basis that the payment amount is higher than the charge applicable, for a [12] comparable services and under comparable circumstances, to the policyholders and subscribers of the carrier,

"(B) no payment adjustment may be made under section 1842(b)(8), and

"(C) section 1842(b)(9) shall not apply .".

Subpart B—Provisions Relating to Other Items and Services

SEC. 4151. PAYMENTS FOR OUTPATIENT HOSPITAL SERVICES.

(a) REDUCTION IN PAYMENTS FOR CAPITAL-RELATED COSTS.—

(1) IN GENERAL.—Section 1861(v)(1)(S)(ii)(I) (42 U.S.C. 1395x(v)(1)(S)(ii)(I)) is amended by inserting before the period at the end the following: ", by 15 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1991, and by 10 percent for payments attributable to portions of cost reporting periods occurring during fiscal year 1992, 1993, 1994, or 1995".

[12] So in original. "a" probably should be omitted.

(2) EXEMPTION FOR RURAL PRIMARY CARE HOSPITALS.—Section 1861(v)(1)(S)(ii)(II) (42 U.S.C. 1395x(v)(1)(S)(ii)(II)) is amended by striking "1886(d)(5)(D)(iii))." and inserting "1886(d)(5)(D)(iii) or a rural primary care hospital (as defined in section 1861(mm)(1))."

(b) REDUCTION IN REASONABLE COSTS OF HOSPITAL OUTPATIENT SERVICES.—

(1) IN GENERAL.—Section 1861(v)(1)(S)(ii) (42 U.S.C. 1395x(v)(1)(S)(ii)) is amended—

(A) in subclause (II)—

(i) by striking "Subclause (I)" and inserting "Subclauses (I) and (II)", and

(ii) by striking "capital-related costs of any hospital" and inserting "costs of hospital outpatient services provided by any hospital";

(B) in subclause (III)—

(i) by striking "subclause (I)" and inserting "subclauses (I) and (II)", and

(ii) by striking "capital-related" and inserting "the";

(C) by redesignating subclauses (II) and (III) as subclauses (III) and (IV); and

(D) by inserting after subclause (I) the following new subclause:

"(II) The Secretary shall reduce the reasonable cost of outpatient hospital services (other than the capital-related costs of such services) otherwise determined pursuant to section 1833(a)(2)(B)(i)(I) by 5.8 percent for payments attributable to portions of cost reporting periods occurring during fiscal years 1991, 1992, 1993, 1994, or 1995.".

42 USC 1320b-5 note.

(2) PROSPECTIVE PAYMENT SYSTEM FOR HOSPITAL OUTPATIENT SERVICES.—

(A) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to replace the current system under which payment is made for hospital outpatient services under title XVIII of the Social Security Act with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph, the Secretary shall consider—

(i) the need to provide for appropriate limits on increases in expenditures under the medicare program;

(ii) the need to adjust prospectively determined rates to account for changes in a hospital's outpatient case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(iii) providing hospitals with incentives to control the costs of providing outpatient services;

(iv) the feasibility and appropriateness of including payment for outpatient services not currently paid on a cost-related basis under the medicare program (including clinical diagnostic laboratory tests and dialysis services) in the system;

(v) the need to increase payments under the system to hospitals that treat a disproportionate share of low-income patients, teaching hospitals, and hospitals located in geographic areas with high wages and wage-related costs;

(vi) the feasibility and appropriateness of bundling services into larger units, such as episodes or visits, in establishing the basic unit for making payments under the system; and

(vii) the feasibility and appropriateness of varying payments under the system on the basis of whether services are provided in a free-standing or hospital-based facility.

(B) REPORTS.—(i) By not later than January 1, 1991, the Administrator of the Health Care Financing Administration shall submit research findings relating to prospective payments for hospital outpatient services to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives.

(ii) By not later than September 1, 1991, the Secretary shall submit the proposal developed under subparagraph (A) to such Committees.

(iii) By not later than March 1, 1992, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under subparagraph (A) to such Committees.

(c) PAYMENTS FOR AMBULATORY SURGICAL PROCEDURES AND RADIOLOGY SERVICES.—

(1) MODIFICATION OF COST AND ASC PROPORTIONS OF ASC BLEND AMOUNTS.—

(A) IN GENERAL.—Section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended—

(i) in subclause (I), by striking "and 50 percent for other cost reporting periods." and inserting "50 percent for reporting periods beginning on or after October 1, 1988, and on or before December 31, 1990, and 42 percent for portions of cost reporting periods beginning on or after January 1, 1991."; and

(ii) in subclause (II), by striking "and 50 percent for other cost reporting periods." and inserting "50 percent for reporting periods beginning on or after October 1, 1988, and on or before December 31, 1990, and 58 percent for portions of cost reporting periods beginning on or after January 1, 1991.".

(B) EXTENSION OF ASC BLEND AMOUNTS FOR EYE AND EYE AND EAR SPECIALTY HOSPITALS.—The last sentence of section 1833(i)(3)(B)(ii) (42 U.S.C. 1395l(i)(3)(B)(ii)) is amended by striking "in fiscal year 1989 or fiscal year 1990" and inserting "on or after October 1, 1988, and before January 1, 1995".

(2) MODIFICATION OF COST AND CHARGE PROPORTIONS FOR RADIOLOGY SERVICES.—Section 1833(n)(1)(B)(ii)(I) (42 U.S.C. 1395l(n)(1)(B)(ii)(I)) is amended by striking the period at the end and inserting ", and such term means 42 percent in the case of outpatient radiology services for portions of cost reporting periods beginning on or after January 1, 1991.".

(3) 2-YEAR FREEZE IN ALLOWANCE FOR INTRAOCULAR LENSES.— Notwithstanding section 1833(i)(2)(A)(iii) of the Social Security Act, the amount of payment determined under such section for the insertion of an intraocular lens during or subsequent to cataract surgery furnished to an individual in an ambulatory

42 USC 1395l note.

surgical center on or after the date of the enactment of this Act and on or before December 31, 1992, shall be equal to $200.

SEC. 4152. DURABLE MEDICAL EQUIPMENT.

(a) PAYMENTS FOR SEAT-LIFT AND TENS.—

(1) 15 PERCENT REDUCTION IN PAYMENTS FOR TRANSCUTANEOUS ELECTRICAL NERVE STIMULATORS.—Section 1834(a)(1)(D) of the Social Security Act (42 U.S.C. 1395m(a)(1)(D)) is amended by inserting before the period at the end the following: ", and, in the case of a transcutaneous electrical nerve stimulator furnished on or after January 1, 1991, the Secretary shall further reduce such payment amount (as previously reduced) by 15 percent".

(2) SEAT-LIFTS.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by adding at the end the following: "With respect to a seat-lift chair, such term includes only the seat-lift mechanism and does not include the chair.".

42 USC 1395m note.

(3) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to items furnished on or after January 1, 1991.

(b) DEVELOPMENT AND APPLICATION OF NATIONAL LIMITS ON FEES.—

(1) INEXPENSIVE AND ROUTINELY PURCHASED DURABLE MEDICAL EQUIPMENT AND ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Paragraphs (2) and (3) of section 1834(a) of such Act (42 U.S.C. 1395m(a)) are each amended—

(A) in subparagraph (B)(i), by striking "or" at the end;

(B) by striking clause (ii) of subparagraph (B) and inserting the following:

"(ii) in 1991 is the sum of (I) 67 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(I) for 1991, and (II) 33 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1991;

"(iii) in 1992 is the sum of (I) 33 percent of the local payment amount for the item or device computed under subparagraph (C)(i)(II) for 1992, and (II) 67 percent of the national limited payment amount for the item or device computed under subparagraph (C)(ii) for 1992; and

"(iv) in 1993 and each subsequent year is the national limited payment amount for the item or device computed under subparagraph (C)(ii) for that year."; and

(C) by adding at the end the following new subparagraph:

"(C) COMPUTATION OF LOCAL PAYMENT AMOUNT AND NATIONAL LIMITED PAYMENT AMOUNT.—For purposes of subparagraph (B)—

"(i) the local payment amount for an item or device for a year is equal to—

"(I) for 1991, the amount specified in subparagraph (B)(i) for 1990 increased by the covered item update for 1991, and

"(II) for 1992, the amount determined under this clause for the preceding year increased by the covered item update for 1992; and

"(ii) the national limited payment amount for an item or device for a year is equal to—

"(I) for 1991, the local payment amount determined under clause (i) for such item or device for that year, except that the national limited payment amount may not exceed 100 percent of the weighted average of all local payment amounts determined under such clause for such item for that year and may not be less than 85 percent of the weighted average of all local payment amounts determined under such clause for such item, and

"(II) for each subsequent year, the amount determined under this clause for the preceding year increased by the covered item update for such subsequent year.".

(2) MISCELLANEOUS ITEMS AND OTHER COVERED ITEMS.—Section 1834(a)(8) (42 U.S.C. 1395m(a)(8)) is amended—

(A) in subparagraph (A)(ii)—

(i) by striking "or" at the end of subclause (I);

(ii) in subclause (II)—

(I) by striking "1991 or", and

(II) by striking "the percentage increase" and all that follows through the period and inserting "the covered item update for the year.";

(iii) by redesignating subclause (II) as subclause (III); and

(iv) by inserting after subclause (I) the following new subclause:

"(II) in 1991, equal to the local purchase price computed under this clause for the previous year, increased by the covered item update for 1991, and decreased by the percentage by which the average of the reasonable charges for claims paid for all items described in paragraph (7) is lower than the average of the purchase prices submitted for such items during the final 9 months of 1988; or";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED PURCHASE PRICE.—With respect to the furnishing of a particular item in a year, the Secretary shall compute a national limited purchase price—

"(i) for 1991, equal to the local purchase price computed under subparagraph (A)(ii) for the item for the year, except that such national limited purchase price may not exceed 100 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local purchase prices for the item computed under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional purchase price" each place it appears and inserting "national limited purchase price",

(ii) by striking "and subject to subparagraph (D)",

(iii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iv) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33" and by striking "(A)(ii)(II)" and inserting "(A)(ii)(III)"; and

(II) in subclause (II), by striking "50" and inserting "67"; and

(D) by striking subparagraph (D).

(3) OXYGEN AND OXYGEN EQUIPMENT.—Section 1834(a)(9) of such Act (42 U.S.C. 1395m(a)(9)) is amended—

(A) in subparagraph (A)(ii)(II), by striking "the percentage increase" and all that follows through the period and inserting "the covered item increase for the year.";

(B) by amending subparagraph (B) to read as follows:

"(B) COMPUTATION OF NATIONAL LIMITED MONTHLY PAYMENT RATE.—With respect to the furnishing of an item in a year, the Secretary shall compute a national limited monthly payment rate equal to—

"(i) for 1991, the local monthly payment rate computed under subparagraph (A)(ii)(II) for the item for the year, except that such national limited monthly payment rate may not exceed 100 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year, and may not be less than 85 percent of the weighted average of all local monthly payment rates computed for the item under such subparagraph for the year; and

"(ii) for each subsequent year, equal to the amount determined under this subparagraph for the preceding year increased by the covered item update for such subsequent year.";

(C) in subparagraph (C)—

(i) by striking "regional monthly payment rate" each place it appears and inserting "national limited monthly payment rate",

(ii) in clause (ii)—

(I) by striking "75" and inserting "67"; and

(II) by striking "25" and inserting "33", and

(iii) in clause (iii)—

(I) in subclause (I), by striking "50" and inserting "33"; and

(II) in subclause (II), by striking "50" and inserting "67" and by striking "(B)(i)" and inserting "(B)(ii)"; and

(D) by striking subparagraph (D).

(4) DEFINITION.—Section 1834(a) (42 U.S.C. 1395m(a)) is amended by adding at the end the following new paragraph:

"(14) COVERED ITEM UPDATE.—In this subsection, the term 'covered item update' means, with respect to a year—

"(A) for 1991 and 1992, [13] reduction of 1 percentage point; and

"(B) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year.".

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[13] So in original. Probably should be "a reduction".

(5) CONFORMING AMENDMENT.—Section 1834(a)(12) (42 U.S.C. 1395m(a)(12)) is amended by striking "defined for purposes of paragraphs (8)(B) and (9)(B)".

(c) TREATMENT OF "RENTAL CAP" ITEMS.—

(1) LIMITATION ON MONTHLY RECOGNIZED RENTAL AMOUNTS FOR MISCELLANEOUS ITEMS.—Section 1834(a)(7)(A)(i) (42 U.S.C. 1395m(a)(7)(A)(i)) is amended—

(A) by striking "for each such month" and inserting "for each of the first 3 months of such period"; and

(B) by striking the semicolon at the end and inserting the following: ", and for each of the remaining months of such period is 7.5 percent of such purchase price;".

(2) OFFER OF OPTION TO PURCHASE FOR MISCELLANEOUS ITEMS; ESTABLISHMENT OF REASONABLE LIFETIME.—Section 1834(a)(7) of such Act (42 U.S.C. 1395m(a)(7)(A)) is amended—

(A) in subparagraph (A)(i), by striking "15 months" and inserting "15 months, or, in the case of an item for which a purchase agreement has been entered into under clause (iii), a period of continuous use of longer than 13 months";

(B) in subparagraph (A)(ii)—

(i) by striking "(ii) during the succeeding 6-month period of medical need," and inserting "(iv) in the case of an item for which a purchase agreement has not been entered into under clause (ii) or clause (iii), during the first 6-month period of medical need that follows the period of medical need during which payment is made under clause (i),", and

(ii) by striking "and" at the end;

(C) in subparagraph (A)(iii)—

(i) by striking "(iii)" and inserting "(v) in the case of an item for which a purchase agreement has not been entered into under clause (ii) or clause (iii),", and

(ii) by striking the period at the end and inserting "; and";

(D) by inserting after clause (i) of subparagraph (A) the following new clauses:

"(ii) in the case of a power-driven wheelchair, at the time the supplier furnishes the item, the supplier shall offer the individual patient the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the patient exercises such option;

"(iii) during the 10th continuous month during which payment is made for the rental of an item under clause (i), the supplier of such item shall offer the individual patient the option to enter into a purchase agreement under which, if the patient notifies the supplier not later than 1 month after the supplier makes such offer that the patient agrees to accept such offer and exercise such option—

"(I) the supplier shall transfer title to the item to the individual patient on the first day that begins after the 13th continuous month during which payment is made for the rental of the item under clause (i),

"(II) after the supplier transfers title to the item under subclause (I), maintenance and servicing

payments shall be made in accordance with clause (v);";

(E) by inserting after clause (v) of subparagraph (A) (as amended by subparagraph (C)) the following new clause:

"(vi) in the case of an item for which a purchase agreement has been entered into under clause (ii) or clause (iii), maintenance and servicing payments may be made (for parts and labor not covered by the supplier's or manufacturer's warranty, as determined by the Secretary to be appropriate for the particular type of durable medical equipment), and such payments shall be in an amount established by the Secretary on the basis of reasonable charges in the locality for maintenance and servicing."; and

(F) by adding at the end the following new subparagraph:

"(C) REPLACEMENT OF ITEMS.—

"(i) ESTABLISHMENT OF REASONABLE USEFUL LIFETIME.—In accordance with clause (iii), the Secretary shall determine and establish a reasonable useful lifetime for items of durable medical equipment for which payment may be made under this paragraph or paragraph (3).

"(ii) PAYMENT FOR REPLACEMENT ITEMS.—If the reasonable lifetime of such an item, as so established, has been reached during a continuous period of medical need, or the carrier determines that the item is lost or irreparably damaged, the patient may elect to have payment for an item serving as a replacement for such item made—

"(I) on a monthly basis for the rental of the replacement item in accordance with subparagraph (A); or

"(II) in the case of an item for which a purchase agreement has been entered into under subparagraph (A)(ii) or (A)(iii), in a lump-sum amount for the purchase of the item.

"(iii) LENGTH OF REASONABLE USEFUL LIFETIME.—The reasonable useful lifetime of an item of durable medical equipment under this subparagraph shall be equal to 5 years, except that, if the Secretary determines that, on the basis of prior experience in making payments for such an item under this title, a reasonable useful lifetime of 5 years is not appropriate with respect to a particular item, the Secretary shall establish an alternative reasonable lifetime for such item.".

(3) APPLICATION OF REASONABLE USEFUL LIFETIME FOR ITEMS REQUIRING FREQUENT AND SUBSTANTIAL SERVICING.—Section 1834(a)(3) (42 U.S.C. 1395m(a)(3)), as amended by subsection (b)(1), is further amended by adding at the end the following new subparagraph:

"(D) REPLACEMENT OF ITEMS.—If the reasonable useful lifetime of such an item, as established under paragraph (7)(C), has been reached during a continuous period of medical need, or the Secretary determines on the basis of investigation by the carrier that the item is lost or irreparably damaged, payment for an item serving as a replacement for such item shall be made on a monthly basis for the

rental of the replacement item in accordance with subparagraph (A).".

(4) TREATMENT OF POWER-DRIVEN WHEELCHAIRS AS MISCELLANEOUS ITEMS OF DURABLE MEDICAL EQUIPMENT.—

(A) IN GENERAL.—Section 1834(a)(2)(A) (42 U.S.C. 1395m(a)(2)(A)) is amended—

(i) in clause (i), by inserting "or" at the end;

(ii) in clause (ii), by striking "or" at the end; and

(iii) by striking clause (iii).

(B) CRITERIA FOR TREATMENT OF WHEELCHAIR AS CUSTOMIZED ITEM.—(i) Section 1834(a)(4) (42 U.S.C. 1395m(a)(4)) is amended by adding at the end the following: "In the case of a wheelchair furnished on or after January 1, 1992, the wheelchair shall be treated as a customized item for purposes of this paragraph if the wheelchair has been measured, fitted, or adapted in consideration of the patient's body size, disability, period of need, or intended use, and has been assembled by a supplier or ordered from a manufacturer who makes available customized features, modifications, or components for wheelchairs that are intended for an individual patient's use in accordance with instructions from the patient's physician.".

(ii) The amendment made by clause (i) shall apply to items furnished on or after January 1, 1992, unless the Secretary develops specific criteria before that date for the treatment of wheelchairs as customized items for purposes of section 1834(a)(4) of the Social Security Act (in which case the amendment made by such clause shall not become effective). 42 USC 1395m note.

(d) FREEZE IN REASONABLE CHARGES FOR PARENTERAL AND ENTERAL NUTRIENTS, SUPPLIES, AND EQUIPMENT DURING 1991.—In determining the amount of payment under part B of title XVIII of the Social Security Act for enteral and parenteral nutrients, supplies, and equipment furnished during 1991, the charges determined to be reasonable with respect to such nutrients, supplies, and equipment may not exceed the charges determined to be reasonable with respect to such items for 1990. 42 USC 1395u note.

(e) REQUIRING PRIOR APPROVAL FOR POTENTIALLY OVERUSED ITEMS.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by subsection (b), is amended by adding at the end the following new paragraph:

"(15) CARRIER DETERMINATIONS OF POTENTIALLY OVERUSED ITEMS IN ADVANCE.—

"(A) DEVELOPMENT OF LIST OF ITEMS BY SECRETARY.—The Secretary shall develop and periodically update a list of items for which payment may be made under this subsection that the Secretary determines, on the basis of prior payment experience, are frequently subject to unnecessary utilization, and shall include in such list seat-lift mechanisms, transcutaneous electrical nerve stimulators, and motorized scooters.

"(B) DETERMINATIONS OF COVERAGE IN ADVANCE.—A carrier shall determine in advance whether payment for an item included on the list developed by the Secretary under subparagraph (A) may not be made because of the application of section 1862(a)(1).".

(f) PROHIBITION AGAINST DISTRIBUTION OF MEDICAL NECESSITY FORMS BY SUPPLIERS.—

(1) IN GENERAL.—Section 1834(a) (42 U.S.C. 1395m(a)), as amended by subsections (b) and (e), is further amended by adding at the end the following new paragraph:

"(16) PROHIBITION AGAINST DISTRIBUTION BY SUPPLIERS OF FORMS DOCUMENTING MEDICAL NECESSITY.—

"(A) IN GENERAL.—A supplier of a covered item under this subsection may not distribute to physicians or to individuals entitled to benefits under this part for commercial purposes any completed or partially completed forms or other documents required by the Secretary to be submitted to show that a covered item is reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member.

"(B) PENALTY.—Any supplier of a covered item who knowingly and willfully distributes a form or other document in violation of subparagraph (A) is subject to a civil money penalty in an amount not to exceed $1,000 for each such form or document so distributed. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under this subparagraph in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

42 USC 1395m note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to forms and documents distributed on or after January 1, 1991.

(g) RECERTIFICATION FOR CERTAIN PATIENTS RECEIVING HOME OXYGEN THERAPY SERVICES.—

(1) IN GENERAL.—Section 1834(a)(5) (42 U.S.C. 1395m(a)(5)) is amended—

(A) in subparagraph (A), by striking "(B) and (C)" and inserting "(B), (C), and (E)"; and

(B) by adding at the end the following new subparagraph:

"(E) RECERTIFICATION FOR PATIENTS RECEIVING HOME OXYGEN THERAPY.—In the case of a patient receiving home oxygen therapy services who, at the time such services are initiated, has an initial arterial blood gas value at or above a partial pressure of 55 or an arterial oxygen saturation at or above 89 percent (or such other values, pressures, or criteria as the Secretary may specify) no payment may be made under this part for such services after the expiration of the 90-day period that begins on the date the patient first receives such services unless the patient's attending physician certifies that, on the basis of a follow-up test of the patient's arterial blood gas value or arterial oxygen saturation conducted during the final 30 days of such 90-day period, there is a medical need for the patient to continue to receive such services.".

42 USC 1395m note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to patients who first receive home oxygen therapy services on or after January 1, 1991.

(h) TECHNICAL CORRECTIONS.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section 4062(e) of such Act is amended—

42 USC 1395f note.

(1) by inserting "(other than oxygen and oxygen equipment)" after "covered items", and

(2) by inserting before the period at the end the following: "and to oxygen and oxygen equipment furnished on or after June 1, 1989".

(i) EFFECTIVE DATE.—Except as otherwise provided, the amendments made by this section shall apply to items furnished on or after January 1, 1991. 42 USC 1395m note.

SEC. 4153. PROVISIONS RELATING TO ORTHOTICS AND PROSTHETICS.

(a) PAYMENTS FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

(1) MAINTAINING CURRENT PAYMENT METHODOLOGY.—Section 1834 (42 U.S.C. 1395m) is amended by adding at the end the following new subsection:

"(h) PAYMENT FOR PROSTHETIC DEVICES AND ORTHOTICS AND PROSTHETICS.—

"(1) GENERAL RULE FOR PAYMENT.—

"(A) IN GENERAL.—Payment under this subsection for prosthetic devices and orthotics and prosthetics shall be made in a lump-sum amount for the purchase of the item in an amount equal to 80 percent of the payment basis described in subparagraph (B).

"(B) PAYMENT BASIS.—Except as provided in subparagraph (C), the payment basis described in this subparagraph is the lesser of—

"(i) the actual charge for the item; or

"(ii) the amount recognized under paragraph (2) as the purchase price for the item.

"(C) EXCEPTION FOR CERTAIN PUBLIC HOME HEALTH AGENCIES.—Subparagraph (B)(i) shall not apply to an item furnished by a public home health agency (or by another home health agency which demonstrates to the satisfaction of the Secretary that a significant portion of its patients are low income) free of charge or at nominal charges to the public.

"(D) EXCLUSIVE PAYMENT RULE.—This subsection shall constitute the exclusive provision of this title for payment for prosthetic devices, orthotics, and prosthetics under this part or under part A to a home health agency.

"(2) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1), the amount that is recognized under this paragraph as the purchase price for prosthetic devices, orthotics, and prosthetics is the amount described in subparagraph (C) of this paragraph, determined as follows:

"(A) COMPUTATION OF LOCAL PURCHASE PRICE.—Each carrier under section 1842 shall compute a base local purchase price for the item as follows:

"(i) The carrier shall compute a base local purchase price for each item equal to the average reasonable charge in the locality for the purchase of the item for the 12-month period ending with June 1987.

"(ii) The carrier shall compute a local purchase price, with respect to the furnishing of each particular item—

"(I) in 1989 and 1990, equal to the base local purchase price computed under clause (i) increased by the percentage increase in the consumer price index for all urban consumers (United States city

average) for the 6-month period ending with December 1987, or

"(II) in 1991, 1992 or 1993, equal to the local purchase price computed under this clause for the previous year increased by the applicable percentage increase for the year.

"(B) COMPUTATION OF REGIONAL PURCHASE PRICE.—With respect to the furnishing of a particular item in each region (as defined by the Secretary), the Secretary shall compute a regional purchase price—

"(i) for 1992, equal to the average (weighted by relative volume of all claims among carriers) of the local purchase prices for the carriers in the region computed under subparagraph (A)(ii)(II) for the year, and

"(ii) for each subsequent year, equal to the regional purchase price computed under this subparagraph for the previous year increased by the applicable percentage increase for the year.

"(C) PURCHASE PRICE RECOGNIZED.—For purposes of paragraph (1) and subject to subparagraph (D), the amount that is recognized under this paragraph as the purchase price for each item furnished—

"(i) in 1989, 1990, or 1991, is 100 percent of the local purchase price computed under subparagraph (A)(ii);

"(ii) in 1992, is the sum of (I) 75 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1992, and (II) 25 percent of the regional purchase price computed under subparagraph (B) for 1992;

"(iii) in 1993, is the sum of (I) 50 percent of the local purchase price computed under subparagraph (A)(ii)(II) for 1993, and (II) 50 percent of the regional purchase price computed under subparagraph (B) for 1993; and

"(iv) in 1994 or a subsequent year, is the regional purchase price computed under subparagraph (B) for that year.

"(D) RANGE ON AMOUNT RECOGNIZED.—The amount that is recognized under subparagraph (C) as the purchase price for an item furnished—

"(i) in 1992, may not exceed 125 percent, and may not be lower than 85 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year; and

"(ii) in a subsequent year, may not exceed 120 percent, and may not be lower than 90 percent, of the average of the purchase prices recognized under such subparagraph for all the carrier service areas in the United States in that year.

"(3) APPLICABILITY OF CERTAIN PROVISIONS RELATING TO DURABLE MEDICAL EQUIPMENT.—Paragraph (12) and subparagraphs (A) and (B) of paragraph (10) and paragraph (11) of subsection (a) shall apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items under such subsection.

"(4) DEFINITIONS.—In this subsection—

"(A) the term 'applicable percentage increase' means—

"(i) for 1991, 0 percent, and

"(ii) for a subsequent year, the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year;

"(B) the term 'prosthetic devices' has the meaning given such term in section 1861(s)(8), except that such term does not include parenteral and enteral nutrition nutrients, supplies, and equipment; and

"(C) the term 'orthotics and prosthetics' has the meaning given such term in section 1861(s)(9), but does not include intraocular lenses or medical supplies (including catheters, catheter supplies, ostomy bags, and supplies related to ostomy care) furnished by a home health agency under section 1861(m)(5).".

(2) CONFORMING AMENDMENTS.—(A) Section 1832(a)(2) (42 U.S.C. 1395k(a)(2)) is amended—

(i) in subparagraphs (A) and (B), by striking "subparagraph (G)" each place it appears and inserting "subparagraph (G) or subparagraph (I)";

(ii) by striking "and" at the end of subparagraph (G);

(iii) by striking the period at the end of subparagraph (H) and inserting "; and"; and

(iv) by adding at the end the following new subparagraph:

"(I) prosthetic devices and orthotics and prosthetics (described in section 1834(h)(4)) furnished by a provider of services or by others under arrangements with them made by a provider of services.".

(B) Section 1833(a)(1) (42 U.S.C. 1395l(a)(1) is amended—

(i) by striking ", and (L)" and inserting ", (L)"; and

(ii) by striking "subparagraph and (N)" and inserting the following: "subparagraph, (M) with respect to prosthetic devices and orthotics and prosthetics (as defined in section 1834(h)(4)), the amounts paid shall be the amounts described in section 1834(h)(1), and (N)".

(C) Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(i) in paragraph (2), in the matter before subparagraph (A), by striking "and (H)" and inserting "(H), and (I)";

(ii) by striking "and" at the end of paragraph (5);

(iii) by striking the period at the end of paragraph (6) and inserting "; and"; and

(iv) by adding at the end the following new paragraph:

"(7) in the case of prosthetic devices and orthotics and prosthetics (as described in section 1834(h)(4)), the amounts described in section 1834(h).".

(D) Section 1834(a) (42 U.S.C. 1395m(a)), is amended—

(i) in the heading, by striking ", PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS";

(ii) in paragraph (2)(A), by striking "(13)(A)" and inserting "(13)"; and

(iii) in paragraph (13), by striking "means—" and all that follows and inserting the following: "means durable medical equipment (as defined in section 1861(n)), including such equipment described in section 1861(m)(5)).

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to items furnished on or after January 1, 1991. 42 USC 1395k note.

(b) PROVISIONS RELATING TO EYEGLASSES.—

42 USC 1395u note.

(1) PROHIBITION ON REGULATIONS.—(A) Notwithstanding any other provision of law (except as provided in subparagraph (B)) the Secretary of Health and Human Services (referred to in this subsection as the "Secretary") may not issue any regulation that changes the coverage of conventional eyewear furnished to individuals (enrolled under part B of title XVIII of the Social Security Act) following cataract surgery with insertion of an intraocular lens.

(B) Paragraph (1) shall not apply to any regulation issued for the sole purpose of implementing the amendments made by paragraph (2).

(2) CLARIFYING COVERAGE OF POST-CATARACT EYEGLASSES.—(A) Section 1861(s)(8) (42 U.S.C. 1395x(s)(8)) is amended by inserting after "such devices" the following ", and including one pair of conventional eyeglasses or contact lenses furnished subsequent to each cataract surgery with insertion of an intraocular lens".

(B) Section 1862(a)(7) (42 U.S.C. 1395y(a)(7)) is amended by inserting after "eyeglasses" the first place it appears the following: "(other than eyewear described in section 1861(s)(8))".

42 USC 1395x note.

(C) The amendments made by subparagraphs (A) and (B) shall apply to items furnished on or after January 1, 1991.

42 USC 1395m note.

(c) GAO STUDY OF MEDICARE PAYMENTS FOR PROSTHETIC DEVICES, ORTHOTICS, AND PROSTHETICS.—

(1) STUDY.—The Comptroller General shall conduct a study of the feasibility and desirability of establishing a separate fee schedule for use in determining the amount of payments for covered items under section 1834(a) of the Social Security Act with respect to suppliers of prosthetic devices, orthotics, and prosthetics who provide professional services that would take into account the costs to such providers of providing such services.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit a report on the study conducted under subparagraph (A) to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate, and shall include in such report any recommendations regarding payments for prosthetic devices, orthotics, and prosthetics under the medicare program that the Comptroller General considers appropriate.

(d) CLARIFICATION OF COVERAGE OF OSTOMY SUPPLIES.—

(1) IN GENERAL.—Section 1866(a)(1)(P) (42 U.S.C. 1395cc(a)(1)(P)) is amended by striking "ostomy supplies" and inserting "catheters, catheter supplies, ostomy bags, and supplies related to ostomy care".

42 USC 1395cc note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconiliation[14] Act of 1989.

SEC. 4154. CLINICAL DIAGNOSTIC LABORATORY TESTS.

(a) LIMIT ON ANNUAL FEE SCHEDULE INCREASES.—Section 1833(h)(2)(A)(ii) (42 U.S.C. 13951(h)(2)(A)(ii)) is amended—

(1) by striking "any other provision of this subsection" and inserting "clause (i)";

(2) by striking "and" at the end of subclause (I);

(3) by striking the period at the end of subclause (II) and inserting ", and"; and

[14] So in original. Probably should be "Reconciliation".

(4) by adding at the end the following new subclause:

"(III) the annual adjustment in the fee schedules determined under clause (i) for each of the years 1991, 1992, and 1993 shall be 2 percent.".

(b) REDUCTION IN NATIONAL CAP ON FEE SCHEDULES.—

(1) IN GENERAL.—Section 1833(h)(4)(B) (42 U.S.C. 1395l(h)(4)(B)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii)—

(i) by inserting "and before January 1, 1991," after "1989,", and

(ii) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new clause:

"(iv) after December 31, 1990, is equal to 88 percent of the median of all the fee schedules established for that test for that laboratory setting under paragraph (1).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to tests furnished on or after January 1, 1991. 42 USC 1395*l* note.

(c) CLARIFICATION OF MANDATORY ASSIGNMENT FOR CLINICAL DIAGNOSTIC LABORATORY TESTS PERFORMED BY PHYSICIANS.—

(1) IN GENERAL.—(A) Section 1833(h)(5)(C) of such Act (42 U.S.C. 1395l(h)(5)(C)) is amended by striking "test performed by a laboratory other than a rural health clinic" and inserting "test, including a test performed in a physician's office but excluding a test performed by a rural health clinic".

(B) Section 1833(h)(5)(D) of such Act (42 U.S.C. 1395l(i)(5)(D)) is amended by striking "test performed by a laboratory, other than a rural health clinic" and inserting "test, including a test performed in a physician's office but excluding a test performed by a rural health clinic,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985, and the amendment made by paragraph (1)(B) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987. 42 USC 1395*l* note.

(d) AGREEMENTS WITH STATES TO DETERMINE COMPLIANCE OF CLINICAL LABORATORIES WITH PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended in the first sentence by striking "1861(s)," and inserting "1861(s) or (in the case of a laboratory that does not participate or seek to participate in the medicare program) the requirements of section 353 of the Public Health Service Act,".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the enactment of the Clinical Laboratory Improvement Amendments of 1988. 42 USC 1395aa note.

(e) TECHNICAL CORRECTIONS.—

(1) Section 1833(h)(5)(A)(ii) of such Act (42 U.S.C. 1395l(h)(5)(A)(ii)) is amended—

(A) in subclause (II), by striking "a wholly-owned subsidiary of" and inserting "wholly owned by";

(B) in subclause (III), by striking "laboratory" and inserting "laboratory (but not including a laboratory described in subclause (II)),"; and

(C) in subclause (III), by striking "submits bills or requests for payment in any year" and inserting "receives

requests for testing during the year in which the test is performed".

42 USC 1395w-2. (2) The heading of section 1846 of such Act is amended by striking "OF" and inserting "OR SUPPLIERS OF".

(3) Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986, section 9339(b) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking paragraph (3).

42 USC 1395l note.

(4) Section 6111(b)(2) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "January 1, 1990" and inserting "May 1, 1990".

42 USC 1395l note.

42 USC 1395l note.

(5) The amendments made by paragraphs (1)(A)[15] (1)(B), (2), and (4) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989, and the amendment made by paragraph (1)(C) shall take effect January 1, 1991.

SEC. 4155. COVERAGE OF NURSE PRACTITIONERS IN RURAL AREAS.

(a) IN GENERAL.—Section 1861(s)(2)(K) (42 U.S.C. 1395x(s)(2)(K)) is amended—

(1) in clause (ii), by striking "and" at the end;

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) services which would be physicians' services if furnished by a physician (as defined in subsection (r)(1)) and which are performed by a nurse practitioner or clinical nurse specialist (as defined in subsection (aa)(3)) working in collaboration (as defined in subsection (aa)(4)) with a physician (as defined in subsection (r)(1)) in a rural area (as defined in section 1886(d)(2)(D)) which the nurse practitioner or clinical nurse specialist is authorized to perform by the State in which the services are performed, and such services and supplies furnished as an incident to such services as would be covered under subparagraph (A) if furnished as an incident to a physician's professional service, and".

(b) PAYMENT.—

(1) DIRECT PAYMENT.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended—

(A) in clause (ii), by striking "and" at the end;

(B) in clause (iii), by striking the semicolon and inserting a comma; and

(C) by adding at the end the following new clause:

"(iv) services of a nurse practitioner or clinical nurse specialist provided in a rural area (as defined in section 1886(d)(2)(D)); and".

(2) AMOUNT.—Section 1833(a)(1) (42 U.S.C. 1395l(a)(1)) as amended by section 4153(a)(2)(B), is amended—

(A) by striking "and" at the end of subparagraph (K); and

(B) by inserting after subparagraph (L) the following new subparagraph: "(M) with respect to services described in section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area), the amounts paid shall be 80 percent of the lesser of the actual charge or the prevailing charge that would be recognized (or, for services furnished on or after January 1, 1992, the fee schedule amount provided under section 1848) if the

[15] So in original. Probably should be "(1)(A),".

services had been performed by a physician (subject to the limitation described in subsection (r)(2))".

(3) CAP ON PREVAILING CHARGE; BILLING ONLY ON ASSIGNMENT-RELATED BASIS.—Section 1833 (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r)(1) With respect to services described in section 1861(s)(2)(K)(iii) (relating to nurse practitioner or clinical nurse specialist services provided in a rural area), payment may be made on the basis of a claim or request for payment presented by the nurse practitioner or clinical nurse specialist furnishing such services, or by a hospital, rural primary care hospital, skilled nursing facility or nursing facility (as defined in section 1919(a)), physician, group practice, ambulatory surgical center, with which the nurse practitioner or clinical nurse specialist has an employment or contractual relationship that provides for payment to be made under this part for such services to such hospital, physician, group practice, ambulatory surgical center.

"(2)(A) For purposes of subsection (a)(1)(M), the prevailing charge for services described in section 1861(s)(2)(K)(iii) may not exceed the applicable percentage (as defined in subparagraph (B)) of the prevailing charge (or, for services furnished on or after January 1, 1992, the fee schedule amount provided under section 1848) determined for such services performed by physicians who are not specialists.

"(B) In subparagraph (A), the term 'applicable percentage' means—

"(i) 75 percent in the case of services performed in a hospital, and

"(ii) 85 percent in the case of other services.

"(3)(A) Payment under this part for services described in section 1861(s)(2)(K)(iii) may be made only on an assignment-related basis, and any such assignment agreed to by a nurse practitioner or clinical nurse specialist shall be binding upon any other person presenting a claim or request for payment for such services.

"(B) Except for deductible and coinsurance amounts applicable under this section, any person who knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in section 1861(s)(2)(K)(iii) in violation of subparagraph (A) is subject to a civil money penalty of not to exceed $2,000 for each such bill or request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(4) No hospital or rural primary care hospital that presents a claim or request for payment under this part for services described in section 1861(s)(2)(K)(iii) may treat any uncollected coinsurance amount imposed under this part with respect to such services as a bad debt of such hospital for purposes of this title.".

(c) CONFORMING AMENDMENT.—Section 1842(b) (42 U.S.C. 1395u(b)) is amended by striking "section 1861(s)(2)(K)" each place it appears in paragraphs (6) and (12) and inserting "clauses (i), (ii), or (iv) of section 1861(s)(2)(K)".

(d) DEFINITION.—Section 1861(aa)(3) (42 U.S.C. 1395x(aa)(3)) is amended by striking "The term" and all that follows through "who performs" and inserting the following: "The term 'physician assistant', the term 'nurse practitioner', and the term 'clinical nurse

specialist' mean, for purposes of this Act, a physician assistant, nurse practitioner, or clinical nurse specialist who performs".

42 USC 1395k note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after January 1, 1991.

SEC. 4156. COVERAGE OF INJECTABLE DRUGS FOR TREATMENT OF OSTEOPOROSIS.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking "and" at the end of subparagraph (M),

(B) by inserting "and" at the end of subparagraph (N), and

(C) by inserting after subparagraph (N) the following new subparagraph:

"(O) a covered osteoporosis drug and its administration (as defined in subsection (jj)) furnished on or after January 1, 1991, and on or before December 31, 1995; and"; and

(2) by inserting after subsection (ii) the following new subsection:

"Covered Osteoporosis Drug

"(jj) The term 'covered osteoporosis drug' means an injectable drug approved for the treatment of a bone fracture related to post-menopausal osteoporosis provided to an individual if, in accordance with regulations promulgated by the Secretary—

"(1) the individual's attending physician certifies that the patient is unable to learn the skills needed to self-administer such drug or is otherwise physically or mentally incapable of self-administering such drug; and

"(2) the individual is confined to the individual's home (except when receiving items and services referred to in subsection (m)(7)).".

42 USC 1395x note.

(b) STUDY OF EFFECTS OF COVERAGE.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study analyzing the effects of coverage of osteoporosis drugs under part B of title XVIII of the Social Security Act (as amended by subsection (a)) on the health of individuals enrolled under such part and the utilization of inpatient hospital and extended care services by such individuals.

(2) REPORT.—By not later than October 1, 1994, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in such report such recommendations regarding expansion of coverage under the medicare program of items and services for individuals with post-menopausal osteoporosis as the Secretary considers appropriate.

SEC. 4157. SEPARATE PAYMENT UNDER PART B FOR SERVICES OF CERTAIN HEALTH PRACTITIONERS.

(a) SERVICES OF CERTAIN HEALTH PRACTITIONERS NOT TO BE INCLUDED IN INPATIENT HOSPITAL SERVICES.—Section 1861(b) (42 U.S.C. 1395x(b)) is amended—

(1) in paragraph (3), by striking "(including clinical psychologist (as defined by the Secretary))", and

(2) in paragraph (4), by striking everything after "intern" and inserting ", services described by subsection (s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist; and".

(b) TREATMENT OF SERVICES FURNISHED IN INPATIENT SETTING.—Section 1832(a)(2)(B)(iii) (42 U.S.C. 1395k(a)(2)(B)(iii)) is amended to read as follows:

"(iii) services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist;".

(c) CONFORMING AMENDMENTS.—

(1) Section 1862(a)(14) (42 U.S.C. 1395y) is amended—

(A) by striking "or are services of a certified registered nurse anesthetist", and

(B) by inserting after "this paragraph)" a comma and the following: "services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist,".

(2) The matter in section 1866(a)(1)(H) (42 U.S.C. 1395x(a)(1)(H)) preceding clause (i) is amended by inserting after "and other than" the following: "services described by section 1861(s)(2)(K)(i), certified nurse-midwife services, qualified psychologist services, and". 42 USC 1395cc.

(d) EFFECTIVE DATE.—The amendments made by the preceding subsections apply to services furnished on or after January 1, 1991. 42 USC 1395k note.

SEC. 4158. REDUCTION IN PAYMENTS UNDER PART B DURING FINAL 2 MONTHS OF 1990. 42 USC 1395*l* note.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any other provision of this Act, other than subsection (b)(4)), payments under part B of title XVIII of the Social Security Act for items and services furnished during the period beginning on November 1, 1990, and ending on December 31, 1990, shall be reduced by 2 percent, in accordance with subsection (b).

(b) SPECIAL RULES FOR APPLICATION OF REDUCTION.—

(1) PAYMENT ON THE BASIS OF COST REPORTING PERIODS.—In the case in which payment for services of a provider of services is made under part B of such title on a basis relating to the reasonable cost incurred for the services during a cost reporting period of the provider, the reduction made under subsection (a) shall be applied to payment for costs for such services incurred at any time during each cost reporting period of the provider any part of which occurs during the period described in such subsection, but only in the same proportion as the fraction of the cost reporting period that occurs during such period.

(2) NO INCREASE IN BENEFICIARY CHARGES IN ASSIGNMENT-RELATED CASES.—If a reduction in payment amounts is made under subsection (a) for items or services for which payment under part B of such title is made on an assignment-related basis (as defined in section 1842(i)(1) of the Social Security Act), the person furnishing the items or services shall be considered to have accepted payment of the reasonable charge for the items or services, less any reduction in payment amount made under subsection (a), as payment in full.

(3) TREATMENT OF PAYMENTS TO HEALTH MAINTENANCE ORGANIZATIONS.—Subsection (a) shall not apply to payments under risk-sharing contracts under section 1876 of the Social Security Act or under similar contracts under section 402 of the Social Security Amendments of 1967 or section 222 of the Social Security Amendments of 1972.

42 USC 1395ww note.

SEC. 4159. PAYMENTS FOR MEDICAL EDUCATION COSTS.

(a) HOSPITAL GRADUATE MEDICAL EDUCATION RECOUPMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services may not, before October 1, 1991, recoup payments from a hospital because of alleged overpayments to such hospital under part B of title XVIII of the Social Security Act due to a determination that the amount of payments made for graduate medical education programs exceeds the amount allowable under section 1886(h).

(2) CAP ON ANNUAL AMOUNT OF RECOUPMENT.—With respect to overpayments to a hospital described in paragraph (1), the Secretary may not recoup more than 25 percent of the amount of such overpayments from the hospital during a fiscal year.

(3) EFFECTIVE DATE.—Paragraphs (1) and (2) shall take effect October 1, 1990.

(b) UNIVERSITY HOSPITAL NURSING EDUCATION.—

(1) IN GENERAL.—The reasonable costs incurred by a hospital (or by an educational institution related to the hospital by common ownership or control) during a cost reporting period for clinical training (as defined by the Secretary) conducted on the premises of the hospital under approved nursing and allied health education programs that are not operated by the hospital shall be allowable as reasonable costs under part B of title XVIII of the Social Security Act and reimbursed under such part on a pass-through basis.

(2) CONDITIONS FOR REIMBURSEMENT.—The reasonable costs incurred by a hospital during a cost reporting period shall be reimbursable pursuant to paragraph (1) only if—

(A) the hospital claimed and was reimbursed for such costs during the most recent cost reporting period that ended on or before October 1, 1989;

(B) the proportion of the hospital's total allowable costs that is attributable to the clinical training costs of the approved program, and allowable under (b)(1) during the cost reporting period does not exceed the proportion of total allowable costs that were attributable to clinical training costs during the cost reporting period described in subparagraph (A);

(C) the hospital receives a benefit for the support it furnishes to such program through the provision of clinical services by nursing or allied health students participating in such program; and

(D) the costs incurred by the hospital for such program do not exceed the costs that would be incurred by the hospital if it operated the program itself.

(3) PROHIBITION AGAINST RECOUPMENT OF COSTS BY SECRETARY.—

(A) IN GENERAL.—The Secretary of Health and Human Services may not recoup payments from (or otherwise reduce or adjust payments under part B of title XVIII of the

Social Security Act to) a hospital because of alleged overpayments to such hospital under such title due to a determination that costs which were reported by the hospital on its medicare cost reports for cost reporting periods beginning on or after October 1, 1983, and before October 1, 1990, relating to approved nursing and allied health education programs did not meet the requirements for allowable nursing and allied health education costs (as developed by the Secretary pursuant to section 1861(v) of such Act).

(B) REFUND OF AMOUNTS RECOUPED.—If, prior to the date of the enactment of this Act, the Secretary has recouped payments from (or otherwise reduced or adjusted payments under part B of title XVIII of the Social Security Act to) a hospital because of overpayments described in subparagraph (A), the Secretary shall refund the amount recouped, reduced, or adjusted from the hospital.

(4) SPECIAL AUDIT TO DETERMINE COSTS.—In determining the amount of costs incurred by, claimed by, and reimbursed to, a hospital for purposes of this subsection, the Secretary shall conduct a special audit (or use such other appropriate mechanism) to ensure the accuracy of such past claims and payments.

(5) EFFECTIVE DATE.—Except as provided in paragraph (3), the provisions of this subsection shall apply to cost reporting periods beginning on or after October 1, 1990.

SEC. 4160. CERTIFIED REGISTERED NURSE ANESTHETISTS.

Section 1833(l) (42 U.S.C. 1395l) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end the following:

"(B) In establishing the fee schedule under this paragraph the Secretary may utilize a system of time units, a system of base and time units, or any appropriate methodology.

"(C) The provisions of this subsection shall not apply to certain services furnished in certain hospitals in rural areas under the provisions of section 9320(k) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6132 of the Omnibus Budget Reconciliation Act of 1989.";

(2) by striking the second sentence of paragraph (2); and

(3) by striking paragraph (4) and inserting the following:

"(4)(A) Except as provided in subparagraphs (C) and (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is not medically directed—

"(i) the conversion factor shall be—

"(I) for services furnished in 1991, $15.50,

"(II) for services furnished in 1992, $15.75,

"(III) for services furnished in 1993, $16.00,

"(IV) for services furnished in 1994, $16.25,

"(V) for services furnished in 1995, $16.50,

"(VI) for services furnished in 1996, $16.75, and

"(VII) for services furnished in calendar years after 1996, the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year;

"(ii) the payment areas to be used shall be the fee schedule areas used under section 1848 (or, in the case of services fur-

nished during 1991, the localities used under section 1842(b)) for purposes of computing payments for physicians' services that are anesthesia services;

"(iii) the geographic adjustment factors to be applied to the conversion factor under clause (i) for services in a fee schedule area or locality is—

"(I) in the case of services furnished in 1991, the geographic work index value and the geographic practice cost index value specified in section 1842(q)(1)(B) for physicians' services that are anesthesia services furnished in the area or locality, and

"(II) in the case of services furnished after 1991, the geographic work index value, the geographic practice cost index value, and the geographic malpractice index value used for determining payments for physicians' services that are anesthesia services under section 1848,

with 70 percent of the conversion factor treated as attributable to work and 30 percent as attributable to overhead for services furnished in 1991 (and the portions attributable to work, practice expenses, and malpractice expenses in 1992 and thereafter being the same as is applied under section 1848).

"(B)(i) Except as provided in clause (ii) and subparagraph (D), in determining the amount paid under the fee schedule under this subsection for services furnished on or after January 1, 1991, by a certified registered nurse anesthetist who is medically directed, the Secretary shall apply the same methodology specified in subparagraph (A).

"(ii) The conversion factor used under clause (i) shall be—

"(I) for services furnished in 1991, $10.50,

"(II) for services furnished in 1992, $10.75,

"(III) for services furnished in 1993, $11.00,

"(IV) for services furnished in 1994, $11.25,

"(V) for services furnished in 1995, $11.50,

"(VI) for services furnished in 1996, $11.70, and

"(VII) for services furnished in calendar years after 1997, the previous year's conversion factor increased by the update determined under section 1848(d)(3) for physician anesthesia services for that year.

"(C) Notwithstanding subclauses (I) through (V) of subparagraph (A)(i)—

"(i) in the case of a 1990 conversion factor that is greater than $16.50, the conversion factor for a calendar year after 1990 and before 1996 shall be the 1990 conversion factor reduced by the product of the last digit of the calendar year and one-fifth of the amount by which the 1990 conversion factor exceeds $16.50; and

"(ii) in the case of a 1990 conversion factor that is greater than $15.49 but less than $16.51, the conversion factor for a calendar year after 1990 and before 1996 shall be the greater of—

"(I) the 1990 conversion factor, or

"(II) the conversion factor specified in subparagraph (A)(i) for the year involved.

"(D) Notwithstanding subparagraph (C), in no case may the conversion factor used to determine payment for services in a fee schedule area or locality under this subsection, as adjusted by the adjustment factors specified in subparagraphs (A)(iii), exceed the

conversion factor used to determine the amount paid for physicians' services that are anesthesia services in the area or locality.".

SEC. 4161. COMMUNITY HEALTH CENTERS AND RURAL HEALTH CLINICS.

(a) COMMUNITY HEALTH CENTERS.—

(1) COVERAGE.—Section 1861(s)(2)(E) of the Social Security Act (42 U.S.C. 1395x(s)(2)(E)) is amended by inserting "and Federally qualified health center services" after "rural health clinic services".

(2) SERVICES DEFINED.—Section 1861(aa) of such Act is amended—

(A) in the heading, by adding at the end the following: "and Federally Qualified Health Center Services",

(B) in paragraph (3), by striking "paragraphs (1) and (2)" and inserting "the previous provisions of this subsection" and by redesignating such paragraph and paragraph (4) as paragraph (5) and (6), respectively, and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) The term 'Federally qualified health center services' means—

"(A) services of the type described in subparagraphs (A) through (C) of paragraph (1), and

"(B) preventive primary health services that a center is required to provide under sections 329, 330, and 340 of the Public Health Service Act,

when furnished to an individual as an outpatient of a Federally qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in paragraph (2)(B) is deemed a reference to a Federally qualified health center or a physician at the center, respectively.

"(4) The term 'Federally qualified health center' means an entity which—

"(A)(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act, or

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and (II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;

"(B) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant; or

"(C) was treated by the Secretary, for purposes of part B, as a comprehensive Federally funded health center as of January 1, 1990.".

(3) PAYMENTS.—

(A) IN GENERAL.—Section 1832(a)(2)(D) of such Act (42 U.S.C. 1395k(a)(2)(D)) is amended by inserting "(i)" after "(D)" and by inserting "and (ii) Federally qualified health center services" after "rural health clinic services".

(B) DEDUCTIBLE DOES NOT APPLY.—The first sentence of section 1833(b) of such Act (42 U.S.C. 1395l(b)) is amended—

(i) by striking "and" before "(4)",

(ii) by inserting before the period at the end the following: ", and (5) such deductible shall not apply to Federally qualified health center services".

(C) EXCLUSION FROM PAYMENT REMOVED.—Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(i) in paragraph (2), by inserting ", except in the case of Federally qualified health center services" before the semicolon at the end, and

(ii) in paragraph (3), by inserting ", in the case of Federally qualified health center services, as defined in section 1861(aa)(3)," after "1861(aa)(1),", and

(iii) by adding at the end the following new sentence: "Paragraph (7) shall not apply to Federally qualified health center services described in section 1861(aa)(3)(B).".

(4) WAIVER OF ANTI-KICKBACK REQUIREMENT.—Section 1128B(b)(3) of such Act (42 U.S.C. 1320a-7b(b)(3)) is amended—

(A) by striking "and" at the end of subparagraph (C),

(B) by redesignating subparagraph (D) as subparagraph (E), and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) a waiver of any coinsurance under part B of title XVIII by a Federally qualified health care center with respect to an individual who qualifies for subsidized services under a provision of the Public Health Service Act; and".

(5) CONFORMING AMENDMENTS.—Section 1861 of such Act (42 U.S.C. 1395x) is further amended—

(A) in subsections (s)(2)(H)(i) and (s)(2)(K), by striking "subsection (aa)(3)" and "subsection (aa)(4)" each place either appears inserting "subsection (aa)(5)" and "subsection (aa)(6)", respectively, and

(B) in subsection (aa)(1)(B), by striking "paragraph (3)" and inserting "paragraph (5)".

(6) PRRB REVIEW OF COST REPORTS FOR FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1878 of the Social Security Act (42 U.S.C. 1395oo) is amended by adding at the end the following new subsection:

"(j) In this section, the term 'provider of services' includes a Federally qualified health center.".

42 USC 254b note.

(7) GAO STUDY OF HOSPITAL STAFF PRIVILEGES FOR PHYSICIANS PRACTICING IN COMMUNITY HEALTH CENTERS.—

(A) STUDY.—The Comptroller General shall conduct a study of whether physicians practicing in community and migrant health centers are able to obtain admitting privileges at local hospitals. The study shall review—

(i) how many physicians practicing in such centers are without hospital admitting privileges or have been denied admitting privileges at a local hospital, and

(i)(I) the criteria hospitals use in deciding whether to grant admitting privileges and (II) whether such criteria act as significant barriers to health center physicians obtaining hospital privileges.

(B) REPORT.—By not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit a report on the study under subparagraph (A) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and shall include in such report such recommendations as the Comptroller General deems appropriate.

(8) EFFECTIVE DATE.—(A) Subject to subparagraphs (B) and (C), the amendments made by this section shall apply to services furnished on or after October 1, 1991. 42 USC 1395k note.

(B) In the case of a Federally qualified health care center that has elected, as of January 1, 1990, under part B of title XVIII of the Social Security Act, to have the amount of payments for services under such part determined on a reasonable-charge basis, the amendment made by paragraph (3)(A) shall only apply on and after such date (not earlier than October 1, 1991) as the center may elect.

(C) The amendment made by paragraph (6) shall apply to cost reports for periods beginning on or after October 1, 1991.

(b) RURAL HEALTH CLINIC SERVICES.—

(1) EXPEDITED CERTIFICATION.—Section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)) is amended by adding at the end the following: "If a State agency has determined under section 1864(a) that a facility is a rural health clinic and the facility has applied to the Secretary for certification as such a clinic, the Secretary shall notify the facility of the the Secretary's approval or disapproval of the certification not later than 60 days after the date of the State agency determination or the application (whichever is later).".

(2) TEMPORARY WAIVER OF STAFFING REQUIREMENTS.—Section 1861(aa) of such Act, as amended by subsection (a), is further amended by adding at the end the following new paragraph:

"(7)(A) The Secretary shall waive for a 1-year period the requirements of paragraph (2) that a rural health clinic employ a physician assistant, nurse practitioner or certified nurse midwife or that such clinic require such providers to furnish services at least 50 percent of the time that the clinic operates for any facility that requests such waiver if the facility demonstrates that the facility has been unable, despite reasonable efforts, to hire a physician assistant, nurse practitioner, or certified nurse-midwife in the previous 90-day period.

"(B) The Secretary may not grant such a waiver under subparagraph (A) to a facility if the request for the waiver is made less than 6 months after the date of the expiration of any previous such waiver for the facility.

"(C) A waiver which is requested under this paragraph shall be deemed granted unless such request is denied by the Secretary within 60 days after the date such request is received.".

(3) PRODUCTIVITY SCREENS.—In employing any screening guideline in determining the productivity of physicians, physician assistants, nurse practitioners, and certified nurse-midwives in a rural health clinic, the Secretary of Health and Human Services shall provide that the guideline shall take into account the combined services of such staff (and not merely the service within each class of practitioner). 42 USC 1395x note.

(4) PRRB REVIEW OF COST REPORTS FOR RURAL HEALTH CENTERS.—Section 1878(j) of the Social Security Act (42 U.S.C. 1395oo(j)), as added by subsection (a)(6), is amended by inserting "a rural health clinic and" after "includes".

(5) EFFECTIVE DATE.—This subsection shall take effect on October 1, 1991, except that the amendment made by paragraph (4) shall apply to cost reports for periods beginning on or after October 1, 1991. 42 USC 1395x note.

SEC. 4162. PARTIAL HOSPITALIZATION IN COMMUNITY MENTAL HEALTH CENTERS.

(a) IN GENERAL.—Section 1861(ff)(3) of the Social Security Act (42 U.S.C. 1395x(ff)(3)) is amended—

(1) by striking "(3)" and inserting "(3)(A)";

(2) by striking "outpatients" and inserting "outpatients or by a community mental health center (as defined in subparagraph (B)),"; and

(3) by adding at the end the following new subparagraph:

"(B) For purposes of subparagraph (A), the term 'community mental health center' means an entity—

"(i) providing the services described in section 1916(c)(4) of the Public Health Service Act; and

"(ii) meeting applicable licensing or certification requirements for community mental health centers in the State in which it is located.".

(b) CONFORMING AMENDMENTS.—(1) Section 1832(a)(2) of such Act (42 U.S.C. 1395k(a)(2)) as amended by section 4153(a)(2)(A), is amended—

(A) by striking "and" at the end of subparagraph (H);

(B) by striking the period at the end of subparagraph (I) and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(J) partial hospitalization services provided by a community mental health center (as described in section 1861(ff)(2)(B)).".

(2) Section 1866(e) of such Act (42 U.S.C. 1395cc(e))[16] is amended by striking "include a clinic" and all that follows through the period and inserting the following: "include—

"(1) a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1861(p)(4)(A) (or meets the requirements of such section through the operation of section 1861(g)), or if, in the case of a public health agency, such agency meets the requirements of section 1861(p)(4)(B) (or meets the requirements of such section through the operation of section 1861(g)), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1861(g)) with respect to the furnishing of outpatient occupational therapy services; and

"(2) a community mental health center (as defined in section 1861(ff)(3)(B)), but only with respect to the furnishing of partial hospitalization services (as described in section 1861(ff)(1)).".

42 USC 1395k note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to partial hospitalization services provided on or after October 1, 1991.

SEC. 4163. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) in paragraph (11), by striking all that follows "(bb))" and inserting a semicolon,

(B) in paragraph (12)(C), by striking all that follows "area)" and inserting "; and", and

(C) by inserting after paragraph (12) the following new paragraph:

[16] So in original. Probably should be "(e))".

"(13) screening mammography (as defined in subsection (jj));"; and

(2) by inserting after subsection (ii) the following new subsection:

"Screening Mammography

"(jj) The term 'screening mammography' means a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physician's interpretation of the results of the procedure.".

(b) PAYMENT AND COVERAGE.—Section 1834 of such Act (42 U.S.C. 1395m) is amended—

(1) in subsection (b)(1)(B), by inserting "and subject to subsection (c)(1)(A)" after "conversion factors", and

(2) by inserting after subsection (b) the following new subsection:

"(c) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part, with respect to expenses incurred for screening mammography (as defined in section 1861(jj))—

"(A) payment may be made only for screening mammography conducted consistent with the frequency permitted under paragraph (2);

"(B) payment may be made only if the screening mammography meets the quality standards established under paragraph (3); and

"(C) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) or the fee schedule established under section 1848, whichever is applicable, with respect to both the professional and technical components of the screening mammography, or

"(iii) the limit established under paragraph (4) for the screening mammography.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this part for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this part for only 1 screening mammography performed on a woman over 34 years of age, but under 40 years of age.

"(iii) In the case of a woman over 39 years of age, but under 50 years of age, who—

"(I) is at a high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this part for a screening mammography performed within the 11 months following the month in which a previous screening mammography was performed, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the 23 months following the month in which a previous screening mammography was performed.

"(iv) In the case of a woman over 49 years of age, but under 65 years of age, payment may not be made under this part for screening mammography performed within 11 months following the month in which a previous screening mammography was performed.

"(v) In the case of a woman over 64 years of age, payment may not be made for screening mammography performed within 23 months following the month in which a previous screening mammography was performed.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to screening mammography performed before January 1, 1992.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of screening mammography performed under this part. Such standards shall include the requirements that—

"(A) the equipment used to perform the mammography must be specifically designed for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by such an appropriate organization as the Secretary specifies in regulations;

"(C) the results of the mammography must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret screening mammography procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first screening mammography performed on a woman for which payment is made under this part, there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman.

"(4) LIMIT.—

"(A) $55, INDEXED.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for screening mammography performed in 1991, is $55, and

"(ii) for screening mammography performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the percentage increase in the MEI for that subsequent year.

"(B) REDUCTION OF LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to screening mammography performed in a year after 1992, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that screening mammography of an appropriate quality is readily and conveniently available during the year.

"(C) APPLICATION OF LIMIT IN HOSPITAL OUTPATIENT SETTING.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient screening mammography (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of mammography screening performed on or after January 1, 1991, for which payment is made under this subsection, if a nonparticipating physician or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B), or if less, as defined in subsection (b)(5)(B) or as defined in section 1848(g)(2)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to screening mammography performed—

"(i) in 1991, 125 percent of the limit established under paragraph (4),

"(ii) in 1992, 120 percent of the limit established under paragraph (4), or

"(iii) after 1992, 115 percent of the limit established under paragraph (4).

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(c) CERTIFICATION OF SCREENING MAMMOGRAPHY QUALITY STANDARDS.—

(1) Section 1863 of such Act (42 U.S.C. 1395z) is amended by inserting "or whether screening mammography meets the standards established under section 1834(c)(3)," after "1832(a)(2)(F)(i),".

(2) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by inserting before the period the following: ", or whether screening mammography meets the standards established under section 1834(c)(3)".

(3) Section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting "1834(c)(3)," after "1832(a)(2)(F)(i),".

(d) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(2)(E) of such Act (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting ", but excluding screening mammography" after "imaging services".

(2) Section 1862(a) of such Act (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B), (C), (D), or (E)" and inserting "a succeeding subparagraph",

(ii) in subparagraph (D), by striking "and" at the end,

(iii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

(iv) by adding at the end the following new subparagraph:

"(F) in the case of screening mammography, which is performed more frequently than is covered under section 1834(c)(2) or which does not meet the standards established under section 1834(c)(3), and, in the case of screening pap smear, which is performed more frequently than is provided under section 1861(nn);"; and

(B) in paragraph (7), by inserting "or under paragraph (1)(F)" after "(1)(B)".

42 USC 1395*l* note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography performed on or after January 1, 1991.

SEC. 4164. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PART B.

(a) EXTENSION OF DEMONSTRATIONS.—

42 USC 1395b-1 note.

(1) PREVENTION DEMONSTRATIONS.—Section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9344 of the Omnibus Budget Reconciliation Act of 1986, is amended—

(A) in subsection (a), by striking "4-year" and inserting "5-year";

(B) in subsection (e)(2), by striking "Not later than five years after the date of the enactment of this Act, the Secretary shall submit a final report" and inserting "Not later than April 1, 1993, the Secretary shall submit an interim report";

(C) in subsection (e), by adding at the end the following new paragraph:

"(3) Not later than April 1, 1995, the Secretary shall submit a final report to those Committees on the demonstration program and shall include in the report a comprehensive evaluation of the long-term effects of the program.".[17];

(D) in subsection (f), by striking "$5,900,000" and inserting "$7,500,000"; and

[17] So in original. Probably should be "program.";".

(E) in subsection (f), by inserting before the period at the end the following: "and shall not exceed $3,000,000 for the comprehensive evaluation referred to in subsection (e)(3)".

(2) ALZHEIMER'S DISEASE DEMONSTRATION PROJECTS.—Section 9342 of the Omnibus Budget Reconciliation Act of 1986 is amended— 42 USC 1395b-1 note.

(A) in subsection (c)(1), by striking "3 years" and inserting "4 years";

(B) in subsection (d)(1), by striking "third year" and inserting "fourth year";

(C) in subsection (f)—

(i) by striking "$40,000,000" and inserting "$55,000,000", and

(ii) by striking "$2,000,000" and inserting "$3,000,000".

(b) DISCLOSURE OF OWNERSHIP.—

(1) IN GENERAL.—Title XI of the Social Security Act is amended by inserting after section 1124 the following new section:

"DISCLOSURE REQUIREMENTS FOR OTHER PROVIDERS UNDER PART B OF MEDICARE

"SEC. 1124A. (a) DISCLOSURE REQUIRED TO RECEIVE PAYMENT.—No payment may be made under part B of title XVIII for items or services furnished by any disclosing part B provider unless such provider has provided the Secretary with full and complete information— 42 USC 1320a-3.

"(1) on the identity of each person with an ownership or control interest in the provider or in any subcontractor (as defined by the Secretary in regulations) in which the provider directly or indirectly has a 5 percent or more ownership interest; and

"(2) with respect to any person identified under paragraph (1) or any managing employee of the provider—

"(A) on the identity of any other entities providing items or services for which payment may be made under title XVIII of the Social Security Act with respect to which such person or managing employee is a person with an ownership or control interest at the time such information is supplied or at any time during the 3-year period ending on the date such information is supplied, and

"(B) as to whether any penalties, assessments, or exclusions have been assessed against such person or managing employee under section 1128, 1128A, or 1128B.

"(b) UPDATES TO INFORMATION SUPPLIED.—A disclosing part B provider shall notify the Secretary of any changes or updates to the information supplied under subsection (a) not later than 180 days after such changes or updates take effect.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'disclosing part B provider' means any entity receiving payment on an assignment-related basis for furnishing items or services for which payment may be made under part B of title XVIII, except that such term does not include an entity described in section 1124(a)(2);

"(2) the term 'managing employee' means, with respect to a provider, a person described in section 1126(b); and

"(3) the term 'person with an ownership or control interest' means, with respect to a provider—

"(A) a person described in section 1124(a)(3), or

"(B) a person who has one of the 5 largest direct or indirect ownership or control interests in the provider.".

(2) CRIMINAL PENALTY FOR PROVIDING FALSE INFORMATION.—Section 1128B(c) of such Act (42 U.S.C. 1320a-7b(c)) is amended by striking "health care program" and inserting "health care program, or with respect to information required to be provided under section 1124A,".

(3) FAILURE TO PROVIDE INFORMATION AS GROUNDS FOR PERMISSIVE EXCLUSION FROM PROGRAM.—Section 1128(b)(9) of such Act (42 U.S.C. 1320a-7(b)(9)) is amended by striking "1124" and inserting "1124, section 1124A,".

42 USC 1320a-3a note.

(4) EFFECTIVE DATE.—The amendments made by paragraph (1), (2), and (3) shall apply with respect to items or services furnished on or after—

(A) January 1, 1993, in the case of items or services furnished by a provider who, on or before the date of the enactment of this Act, has furnished items or services for which payment may be made under part B of title XVIII of the Social Security Act; or

(B) January 1, 1992, in the case of items or services furnished by any other provider.

42 USC 1395u note.

(c) DIRECTORY OF UNIQUE PHYSICIAN IDENTIFIER NUMBERS.—Not later than March 31, 1991, the Secretary of Health and Human Services shall publish a directory of the unique physician identification numbers of all physicians providing services for which payment may be made under part B of title XVIII of the Social Security Act, and shall include in such directory the names, provider numbers, and billing addressess of all listed physicians.

PART 3—PROVISIONS RELATING TO PARTS A AND B

SEC. 4201. PROVISIONS RELATING TO END STAGE RENAL DISEASE.

42 USC 1395rr note.

(a) INCREASE IN COMPOSITE RATES.—Section 9335(a)(1) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 6203(a)(1) of the Omnibus Budget Reconciliation Act of 1989, is amended—

(1) by striking "October 1, 1990," and inserting "December 31, 1990,"; and

(2) by inserting after the first sentence the following: "With respect to services furnished on or after January 1, 1991, such base rate shall be equal to the respective rate in effect as of September 30, 1990 (determined without regard to any reductions imposed pursuant to section 6201 of the Omnibus Budget Reconciliation Act of 1989), increased by $1.00.".

42 USC 1395rr note.

(b) PROPAC STUDY ON ESRD COMPOSITE RATES.—

(1) IN GENERAL.—

(A) STUDY.—The Prospective Payment Assessment Commission (in this subsection referred to as the "Commission") shall conduct a study to determine the costs and services and profits associated with various modalities of dialysis treatments provided to end stage renal disease

patients provided under title XVIII of the Social Security Act.

(B) RECOMMENDATIONS.—Based on information collected for the study described in subparagraph (A), the Commission shall make recommendations to Congress regarding the method or methods and the levels at which the payments made for the facility component of dialysis services by providers of service and renal dialysis facilities under title XVIII of the Social Security Act should be established for dialysis services furnished during fiscal year 1993 and the methodology to be used to update such payments for subsequent fiscal years. In making recommendations concerning the appropriate methodology the Commission shall consider—

(i) hemodialysis and other modalities of treatment,

(ii) the appropriate services to be included in such payments,

(iii) the adjustment factors to be incorporated including facility characteristics, such as hospital versus freestanding facilities, urban versus rural, size and mix of services,

(iv) adjustments for labor and nonlabor costs,

(v) comparative profit margins for all types of renal dialysis providers of service and renal dialysis facilities,

(vi) adjustments for patient complexity, such as age, diagnosis, case mix, and pediatric services, and

(vii) efficient costs related to high quality of care and positive outcomes for all treatment modalities.

(2) REPORT.—Not later than June 1, 1992, the Commission shall submit a report to the Committee on Finance of the Senate, and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on the study conducted under paragraph (1)(A) and shall include in the report the recommendations described in paragraph (1)(B), taking into account the factors described in paragraph (1)(B).

(3) ANNUAL REPORT.— The Commission, not later than March 1 before the beginning of each fiscal year (beginning with fiscal year 1993) shall report its recommendations to the Committee on Finance of the Senate and the Committees on Ways and Means and Energy and Commerce of the House of Representatives on an appropriate change factor which should be used for updating payments for services rendered in that fiscal year. The Commission in making such report to Congress shall consider conclusions and recommendations available from the Institute of Medicine.

(c) PAYMENT RATES FOR ERYTHROPOIETIN.—

(1) IN GENERAL.—Section 1881(b)(11) of the Social Security Act (42 U.S.C. 1395rr(b)) is amended—

(A) by striking "(11)" and inserting "(11)(A)"; and

(B) by adding at the end the following new subparagraph:

"(B) Erythropoietin, when provided to a patient determined to have end stage renal disease, shall not be included as a dialysis service for purposes of payment under any prospective payment amount or comprehensive fee established under this section, and payment for such item shall be made separately—

"(i) in the case of erythropoietin provided by a physician, in accordance with section 1833; and

"(ii) in the case of erythropoietin provided by a provider of services, renal dialysis facility, or other supplier of home dialysis supplies and equipment—

"(I) for erythropoietin provided during 1991, in an amount equal to $11 per thousand units (rounded to the nearest 100 units), and

"(II) for erythropoietin provided during a subsequent year, in an amount determined to be appropriate by the Secretary, except that such amount may not exceed the amount determined under this clause for the previous year increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce) for the second quarter of the preceding year over the implicit price deflator for the second quarter of the second preceding year.".

42 USC 1395rr note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to erythropoietin furnished on or after January 1, 1991.

(d) SELF-ADMINISTERED ERYTHROPOIETIN.—

(1) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)) as amended by section 4156(a)(1), is amended—

(A) by striking "and" at the end of subparagraph (N);

(B) by adding "and" at the end of subparagraph (O); and

(C) by adding at the end the following new subparagraph:

"(P) erythropoietin for home dialysis patients competent to use such drug without medical or other supervision with respect to the administration of such drug, subject to methods and standards established by the Secretary by regulation for the safe and effective use of such drug, and items related to the administration of such drug;".

(2) COVERAGE FOR METHOD II PATIENTS.—Section 1881(b) (42 U.S.C. 1395rr(b)) is further amended—

(A) in paragraph (1)—

(B) by striking "and (B)" and inserting "(B),[18] and

(C) by striking "equipment." and inserting "equipment, and (C) payments to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for self-administered erythropoietin as described in section 1861(s)(2)(Q) if the Secretary finds that the patient receiving such drug from such a supplier can safely and effectively administer the drug (in accordance with the applicable methods and standards established by the Secretary pursuant to such section).''; and

(3) by adding at the end of paragraph (11), as amended by subsection (c), the following new subparagraph:

"(C) The amount payable to a supplier of home dialysis supplies and equipment that is not a provider of services, a renal dialysis facility, or a physician for erythropoietin shall be determined in the same manner as the amount payable to a renal dialysis facility for such item.".

42 USC 1395x note.

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to items and services furnished on or after July 1, 1991.

42 USC 1395rr note.

SEC. 4202. STAFF-ASSISTED HOME DIALYSIS DEMONSTRATION PROJECT.

(a) ESTABLISHMENT.—

[18] So in original. Probably should be " "(B)", ".

(1) IN GENERAL.—Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish and carry out a 3-year demonstration project to determine whether the services of a home dialysis staff assistant providing services to a patient during hemodialysis treatment at the patient's home may be covered under the medicare program in a cost-effective manner that ensures patient safety.

(2) NUMBER OF PARTICIPANTS.—The total number of eligible patients receiving services under the demonstration project established under paragraph (1) may not exceed 800.

(b) PAYMENTS TO PARTICIPATING PROVIDERS AND FACILITIES.—

(1) SERVICES FOR WHICH PAYMENT MAY BE MADE.—

(A) IN GENERAL.—Under the demonstration project established under subsection (a), the Secretary shall make payments for 3 years under title XVIII of the Social Security Act to providers of services (other than a skilled nursing facility) or renal dialysis facilities for services of a home hemodialysis staff assistant provided to an individual described in subsection (c) during hemodialysis treatment at the individual's home in an amount determined under paragraph (2).

(B) SERVICES DESCRIBED.—For purposes of subparagraph (A), the term "services of a home hemodialysis staff assistant" means—

(i) technical assistance with the operation of a hemodialysis machine in the patient's home and with such patient's care during in-home hemodialysis; and

(ii) administration of medications within the patient's home to maintain the patency of the extra corporeal circuit.

(2) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Payment to a provider of services or renal dialysis facility participating in the demonstration project established under subsection (a) for the services described in paragraph (1) shall be prospectively determined by the Secretary, made on a per treatment basis, and shall be in an amount determined under subparagraph (B).

(B) DETERMINATION OF PAYMENT AMOUNT.—(i) The amount of payment made under subparagraph (A) shall be the product of—

(I) the rate determined under clause (ii) with respect to a provider of services or a renal dialysis facility; and

(II) the factor by which the labor portion of the composite rate determined under section 1881(b)(7) of the Social Security Act is adjusted for differences in area wage levels.

(ii) The rate determined under this clause, with respect to a provider of services or renal dialysis facility, shall be equal to the difference between—

(I) two-thirds of the labor portion of the composite rate applicable under section 1881(b)(7) of such Act to the provider or facility (as adjusted to reflect differences in area wage levels), and

(II) the product of the national median hourly wage for a home hemodialysis staff assistant and the national median time expended in the provision of home

hemodialysis staff assistant services (taking into account time expended in travel and predialysis patient care).

(iii) For purposes of clause (ii)(II)—

(I) the national median hourly wage for a home hemodialysis staff assistant and the national median average time expended for home hemodialysis staff assistant services shall be determined annually on the basis of the most recent data available, and

(II) the national median hourly wage for a home hemodialysis staff assistant shall be the sum of 65 percent of the national median hourly wage for a licensed practical nurse and 35 percent of the national median hourly wage for a registered nurse.

(C) PAYMENT AS ADD-ON TO COMPOSITE RATE.—The amount of payment determined under this paragraph shall be in addition to the amount of payment otherwise made to the provider of services or renal dialysis facility under section 1881(b) of such Act.

(c) INDIVIDUALS ELIGIBLE TO RECEIVE SERVICES UNDER PROJECT.—

(1) IN GENERAL.—An individual may receive services from a provider of services or renal dialysis facility participating in the demonstration project if—

(A) the individual is not a resident of a skilled nursing facility;

(B) the individual is an end stage renal disease patient entitled to benefits under title XVIII of the Social Security Act;

(C) the individual's physician certifies that the individual is confined to a bed or wheelchair and cannot transfer themselves from a bed to a chair;

(D) the individual has a serious medical condition (as specified by the Secretary) which would be exacerbated by travel to and from a dialysis facility;

(E) the individual is eligible for ambulance transportation to receive routine maintenance dialysis treatments, and, based on the individual's medical condition, there is reasonable expectation that such transportation will be used by the individual for a period of at least 6 consecutive months, such that the cost of ambulance transportation can reasonably be expected to meet or exceed the cost of home hemodialysis staff assistance as provided under subsection (b)(4); and

(F) no family member or other individual is available to provide such assistance to the individual.

(2) COVERAGE OF INDIVIDUALS CURRENTLY RECEIVING SERVICES.—Any individual who, on the date of the enactment of this Act, is receiving staff assistance under the experimental authority provided under section 1881(f)(2) of the Social Security Act shall be deemed to be an eligible individual for purposes of this subsection.

(3) CONTINUATION OF COVERAGE UPON TERMINATION OF PROJECT.—Notwithstanding any provision of title XVIII of the Social Security Act, any individual receiving services under the demonstration project established under subsection (a) as of the date of the termination of the project shall continue to be eligible for home hemodialysis staff assistance after such date

under such title on the same terms and conditions as applied under the demonstration project.

(d) QUALIFICATIONS FOR HOME HEMODIALYSIS STAFF ASSISTANTS.—For purposes of subsection (b), a home dialysis aide is qualified if the aide—

(1) meets minimum qualifications as specified by the Secretary; and

(2) meets any applicable qualifications as specified under the law of the State in which the home hemodialysis staff assistant is providing services.

(e) REPORTS.—

(1) INTERIM STATUS REPORT.—Not later than December 1, 1992, the Secretary shall submit to Congress a preliminary report on the status of the demonstration project established under subsection (a).

(2) FINAL REPORT.—Not later than December 31, 1995, the Secretary shall submit to Congress a final report evaluating the project, and shall include in such report recommendations regarding appropriate eligibility criteria and cost-control mechanisms for medicare coverage of the services of a home dialysis aide providing medical assistance to a patient during hemodialysis treatment at the patient's home.

(f) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund (established under section 1841 of the Social Security Act) of not more than the following amounts to carry out the demonstration project established under subsection (a) (without regard to amounts appropriated in advance in appropriation Acts):

(1) For fiscal year 1991, $4,000,000.
(2) For fiscal year 1992, $4,000,000.
(3) For fiscal year 1993, $3,000,000.
(4) For fiscal year 1994, $2,000,000.
(5) For fiscal year 1995, $1,000,000.

SEC. 4203. EXTENSION OF SECONDARY PAYOR PROVISIONS.

(a) EXTENSION OF TRANSFER OF DATA.—

(1) Section 1862(b)(5)(C)(iii) (42 U.S.C. 1395y(b)(5)(C)(iii)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(2) Section 6103(l)(12)(F) of the Internal Revenue Code of 1986 is amended— 26 USC 6103.

(A) in clause (i), by striking "September 30, 1991" and inserting "September 30, 1995";

(B) in clause (ii)(I), by striking "1990" and inserting "1994"; and

(C) in clause (ii)(II), by striking "1991" and inserting "1995".

(b) EXTENSION OF APPLICATION TO DISABLED BENEFICIARIES.—Section 1862(b)(1)(B)(iii) (42 U.S.C. 1395y(b)(1)(B)(iii)) is amended by striking "January 1, 1992" and inserting "October 1, 1995".

(c) INDIVIDUALS WITH END STAGE RENAL DISEASE.—

(1) IN GENERAL.—Section 1862(b)(1)(C) (42 U.S.C. 1395y(b)(1)(C)) is amended—

(A) in clause (i), by striking "during the 12-month period" and all that follows and inserting "during the 12-month period which begins with the first month in which the individual becomes entitled to benefits under part A under

the provisions of section 226A, or, if earlier, the first month in which the individual would have been entitled to benefits under such part under the provisions of section 226A if the individual had filed an application for such benefits; and"

(B) in the matter following clause (ii), by adding at the end the following: "Effective for items and services furnished on or after February 1, 1991, and on or before January 1, 1996, (with respect to periods beginning on or after February 1, 1990), clauses (i) and (ii) shall be applied by substituting '18-month' for '12-month' each place it appears.".

42 USC 1395y note.

(2) GAO STUDY OF EXTENSION OF SECONDARY PAYER PERIOD.—(A) The Comptroller General shall conduct a study of the impact of the application of clause (iii) of section 1862(b)(1)(C) of the Social Security Act on individuals entitled to benefits under title XVIII of such Act by reason of section 226A of such Act, and shall include in such report information relating to—

(i) the number (and geographic distribution) of such individuals for whom medicare is secondary;

(ii) the amount of savings to the medicare program achieved annually by reason of the application of such clause;

(iii) the effect on access to employment, and employment-based health insurance, for such individuals and their family members (including coverage by employment-based health insurance of cost-sharing requirements under medicare after such employment-based insurance becomes secondary);

(iv) the effect on the amount paid for each dialysis treatment under employment-based health insurance;

(v) the effect on cost-sharing requirements under employment-based health insurance (and on out-of-pocket expenses of such individuals) during the period for which medicare is secondary;

(vi) the appropriateness of applying the provisions of section 1862(b)(1)(C) to all group health plans.

(B) The Comptroller General shall submit a preliminary report on the study conducted under subparagraph (A) to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate not later than January 1, 1993, and a final report on such study not later than January 1, 1995.

26 USC 6103 note.

(d) EFFECTIVE DATE.—The amendments made this subsection shall take effect on the date of the enactment of this Act and the amendment made by subsection (a)(2)(B) shall apply to requests made on or after such date.

SEC. 4204. HEALTH MAINTENANCE ORGANIZATIONS.

(a) REGULATION OF INCENTIVE PAYMENTS TO PHYSICIANS.—

(1) IN GENERAL.—Section 1876(i) (42 U.S.C. 1395mm(i)) is amended by adding at the end the following new paragraph:

"(8)(A) Each contract with an eligible organization under this section shall provide that the organization may not operate any physician incentive plan (as defined in subparagraph (B)) unless the following requirements are met:

"(i) No specific payment is made directly or indirectly under the plan to a physician or physician group as an inducement to

reduce or limit medically necessary services provided with respect to a specific individual enrolled with the organization.

"(ii) If the plan places a physician or physician group at substantial financial risk (as determined by the Secretary) for services not provided by the physician or physician group, the organization—

"(I) provides stop-loss protection for the physician or group that is adequate and appropriate, based on standards developed by the Secretary that take into account the number of physicians placed at such substantial financial risk in the group or under the plan and the number of individuals enrolled with the organization who receive services from the physician or the physician group, and

"(II) conducts periodic surveys of both individuals enrolled and individuals previously enrolled with the organization to determine the degree of access of such individuals to services provided by the organization and satisfaction with the quality of such services.

"(iii) The organization provides the Secretary with descriptive information regarding the plan, sufficient to permit the Secretary to determine whether the plan is in compliance with the requirements of this subparagraph.

"(B) In this paragraph, the term 'physician incentive plan' means any compensation arrangement between an eligible organization and a physician or physician group that may directly or indirectly have the effect of reducing or limiting services provided with respect to individuals enrolled with the organization.".

(2) PENALTIES.—Section 1876(i)(6)(A)(vi) (42 U.S.C. 1395mm(i)(6)(A)(vi)) is amended by striking "(g)(6)(A);" and inserting "(g)(6)(A) or paragraph (8);".

(3) REPEAL OF PROHIBITION.—Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended—

(A) by striking ", an eligible organization" and all that follows through "section 1876,",

(B) by adding "and" at the end of subparagraph (A),

(C) by striking subparagraph (B),

(D) by redesignating subparagraph (C) as subparagraph (B), and

(E) by striking "or organization".

(4) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply with respect to contract years beginning on or after January 1, 1992, and the amendments made by paragraph (3) shall take effect on the date of the enactment of this Act. 42 USC 1395mm note.

(b) REQUIREMENTS WITH RESPECT TO ACTUARIAL EQUIVALENCE OF AAPCC.—(1) Not later than January 1, 1992, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall submit a proposal to Congress that provides for a modified payment method for organizations with a risk contract under section 1876(g) of the Social Security Act that is more accurate than the current payment methodology in predicting the actual service utilization and annual medical expenditures of the beneficiary population enrolled in a specific organization. 42 USC 1395mm note.

(2) The proposal shall include—

(A)(i) recommendations on modifying the current adjusted average per capita cost formula, by adding predictors of medical

utilization such as health status adjustors or prior utilization measures; or

(ii) recommendations for a new payment methodology as an alternative to the adjusted average per capita cost;

(B) data to support any recommended changes in payment methodology for organizations with risk contracts under section 1876(g) of the Social Security Act; and

(C) analysis demonstrating that any proposed or revised payment methodology under this section is effective in explaining at least 15 percent of the variation in health care utilization and costs (as determined in consultation with the American Academy of Actuaries) among individuals enrolled in such organizations.

(3) Not later than March 1, 1992, the Secretary shall cause to have published in the Federal Register a proposed rule providing for the implementation of the payment methodology specified in the proposal submitted pursuant to paragraph (1).

(4) Not later than May 1, 1992, the Comptroller General shall review the proposal and recommendations made pursuant to paragraphs (1) and (2), and shall report to Congress on appropriate modifications in such payment methodology.

(5) Taking into account the recommendations made pursuant to paragraph (4), on or after August 1, 1992, the Secretary shall issue a final rule implementing a payment methodology that meets the requirements of paragraph (1), effective for contract years beginning on or after January 1, 1993.

(c) APPLICATION OF NATIONAL COVERAGE DECISIONS.—

(1) IN GENERAL.—Section 1876(c)(2) (42 U.S.C. 1395mm(c)(2)) is amended—

(A) by redesignating clauses (i) and (ii) and subparagraphs (A) and (B) as subclauses (I) and (II) and clauses (i) and (ii), respectively;

(B) by inserting "(A)" after "(2)"; and

(C) by adding at the end the following new subparagraph:

"(B) If there is a national coverage determination made in the period beginning on the date of an announcement under subsection (a)(1)(A) and ending on the date of the next announcement under such subsection that the Secretary projects will result in a significant [19] change in the costs to the organization of providing the benefits that are the subject of such national coverage determination and that was not incorporated in the determination of the per capita rate of payment included in the announcement made at the beginning of such period—

"(i) such determination shall not apply to risk-sharing contracts under this section until the first contract year that begins after the end of such period; and

"(ii) if such coverage determination provides for coverage of additional benefits or under additional circumstances, subsection (a)(3) shall not apply to payment for such additional benefits or benefits provided under such additional circumstances until the first contract year that begins after the end of such period,

unless otherwise required by law.".

(2) CONFORMING AMENDMENT.—Section 1876(a)(6) of such Act is amended by striking "subsection (c)(7)" and inserting "subsections (c)(2)(B)(ii) and (c)(7)".

[19] So in original. Probably should be "significant".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to national coverage determinations that are not incorporated in the determination of the per capita rate of payment for individuals enrolled for 1991 with an eligible organization which has entered into a risk-sharing contract under section 1876 of the Social Security Act. 42 USC 1395mm note.

(d) PAYMENTS FOR SERVICES FURNISHED BY NON-CONTRACT PROVIDERS.—

(1) IN GENERAL.—Section 1876(j) (42 U.S.C. 1395mm(j)) is amended—

(A) in paragraph (1)(A)—

(i) by striking "physician" each place it appears and inserting "physician or provider of services or renal dialysis facility",

(ii) by striking "physicians' services" and inserting "physicians' services or renal dialysis services", and

(iii) by striking "participation agreement under section 1842(h)(1)" and inserting "applicable participation agreement",

(B) in paragraph (2)—

(i) by striking "physicians' services" each place it appears and inserting "physicians' services or renal dialysis services", and

(ii) by striking "which—" and all that follows and inserting "which are furnished to an enrollee of an eligible organization under this setion [20] by a physician, provider of services, or renal dialysis facility who is not under a contract with the organization.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to items and services furnished on or after January 1, 1991. 42 USC 1395mm note.

(e) RETROACTIVE ENROLLMENT.—

(1) IN GENERAL.—Section 1876(a)(1)(E) (42 U.S.C. 1395mm(a)(1)(E)) is amended—

(A) by striking "(E)" and inserting "(E)(i)"; and

(B) by adding at the end the following new clause:

"(ii)(I) Subject to subclause (II), the Secretary may make retroactive adjustments under clause (i) to take into account individuals enrolled during the period beginning on the date on which the individual enrolls with an eligible organization (which has a risk-sharing contract under this section) under a health benefit plan operated, sponsored, or contributed to, by the individual's employer or former employer (or the employer or former employer of the individual's spouse) and ending on the date on which the individual is enrolled in the plan under this section, except that for purposes of making such retroactive adjustments under this clause, such period may not exceed 90 days.

"(II) No adjustment may be made under subclause (I) with respect to any individual who does not certify that the organization provided the individual with the explanation described in subsection (c)(3)(E) at the time the individual enrolled with the organization.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to individuals enrolling with an eligible organization (which has a risk-sharing contract under section 1876 of the Social Security Act) under a health benefit plan operated, sponsored, or contributed to, by the individual's em- 42 USC 1395mm note.

[20] So in original. Probably should be "section".

ployer or former employer (or the employer or former employer of the individual's spouse) on or after January 1, 1991.

42 USC 1395mm note.

(f) STUDY OF CHIROPRACTIC SERVICES.—

(1) The Secretary shall conduct a study of the extent to which health maintenance organizations with contracts under section 1876 of the Social Security Act make available to enrollees entitled to benefits under title XVIII of such Act chiropractic services that are covered under such title.

(2) The study shall examine the arrangements under which such services are made available and the types of practitioners furnishing such services to such enrollees.

(3) The study shall be based on contracts entered into or renewed on or after January 1, 1991, and before January 1, 1993.

(4) The Secretary shall issue a final report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate on the results of the study not later than January 1, 1993. The report shall include recommendations with respect to any legislative and regulatory changes that the Secretary determines are necessary to ensure access to such services.

(g) PROHIBITING CERTAIN EMPLOYER MARKETING ACTIVITIES.—

(1) IN GENERAL.—Section 1862(b)(3) (42 U.S.C. 1395y(b)(3)) is amended by adding at the end the following new subparagraph:

"(C) PROHIBITION OF FINANCIAL INCENTIVES NOT TO ENROLL IN A GROUP HEALTH PLAN.—It is unlawful for an employer or other entity to offer any financial or other incentive for an individual entitled to benefits under this title not to enroll (or to terminate enrollment) under a group health plan which would (in the case of such enrollment) be a primary plan (as defined in paragraph (2)(A)), unless such incentive is also offered to all individuals who are eligible for coverage under the plan. Any entity that violates the previous sentence is subject to a civil money penalty of not to exceed $5,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

42 USC 1395y note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to incentives offered on or after the date of the enactment of this Act.

SEC. 4205. PEER REVIEW ORGANIZATIONS.

(a) USE OF CORRECTIVE ACTION PLANS.—

(1) IN GENERAL.—Section 1156(b)(1) (42 U.S.C. 1320c-5(b)(1)) is amended—

(A) by inserting "and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan," after "concerned,"; and

(B) by inserting after the second sentence the following: "In determining whehter [21] a practitioner or person has demonstrated an unwillingness or lack of ability substan-

[21] So in original. Probably should be "whether".

tially to comply with such obligations, the Secretary shall consider the practitioner's or person's willingness or lack of ability, during the period before the organization submits its report and recommendations, to enter into and successfully complete a corrective action plan.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to initial determinations made by organizations on or after the date of the enactment of this Act. 42 USC 1320c-5 note.

(b) TREATMENT OF OPTOMETRISTS AND PODIATRISTS.—

(1) IN GENERAL.—Section 1154 (42 U.S.C. 1320c-3) is amended—

(A) in subsection (a)(7)(A)(i), by inserting ", optometry, and podiatry" after "dentistry"; and

(B) in subsection (c), by striking "or dentistry" each place it appears and inserting "dentistry, optometry, or podiatry".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contracts entered into or renewed on or after the date of the enactment of this Act. 42 USC 1320c-3 note.

(c) COORDINATION OF PROs AND CARRIERS.— 42 USC 1320c note.

(1) DEVELOPMENT AND IMPLEMENTATION OF PLAN.—The Secretary of Health and Human Services shall develop and implement a plan to coordinate the physician review activities of peer review organizations and carriers. Such plan shall include—

(A) the development of common utilization and medical review criteria;

(B) criteria for the targetting of reviews by peer review organizations and carriers; and

(C) improved methods for exchange of information among peer review organizations and carriers.

(2) REPORT.—Not later than January 1, 1992, the Secretary shall submit to Congress a report on the development of the plan described under paragraph (1) and shall include in the report such recommendations for changes in legislation as may be appropriate.

(d) PEER REVIEW NOTICE.—

(1) NOTICE OF PROPOSED SANCTIONS.—

(A) REQUIREMENT.—Section 1154(a)(9) (42 U.S.C. 1320c-3(a)(9)) is amended—

(i) by inserting "(A)" after "(9)"; and

(ii) by adding at the end the following:

"(B) If the organization finds, after notice and hearing, that a physician has furnished services in violation of this subsection, the organization shall notify the State board or boards responsible for the licensing or disciplining of the physician of its finding and decision.".

(B) DISCLOSURE.—Section 1160(b)(1) (42 U.S.C. 1320c-9(b)(1)) is amended—

(i) by striking "and" at the end of subparagraph (B),

(ii) by adding "and" at the end of subparagraph (C), and

(iii) by adding at the end the following new subparagraph:

"(D) to provide notice to the State medical board in accordance with section 1154(a)(9)(B) when the organization submits a report and recommendations to the Secretary

under section 1156(b)(1) with respect to a physician whom the board is responsible for licensing;".

42 USC 1320c-3 note.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to notices of proposed sanctions issued more than 60 days after the date of the enactment of this Act.

(2) NOTICE TO STATE MEDICAL BOARDS WHEN ADVERSE ACTIONS TAKEN BY SECRETARY.—

(A) IN GENERAL.—Section 1156(b) (42 U.S.C. 1320c-5(b)) is amended by adding at the end the following new paragraph:

"(6) When the Secretary effects an exclusion of a physician under paragraph (2), the Secretary shall notify the State board responsible for the licensing of the physician of the exclusion.".

42 USC 1320c-5 note.

(B) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to sanctions effected more than 60 days after the date of the enactment of this Act.

(e) CONFIDENTIALITY OF PEER REVIEW DELIBERATIONS.—

(1) IN GENERAL.—Section 1160(d) (42 U.S.C. 1320c-9(d)) is amended by adding at the end the following: "No document or other information produced by such an organization in connection with its deliberations in making determinations under section 1154(a)(1)(B) or 1156(a)(2) shall be subject to subpena or discovery in any administrative or civil proceeding; except that such an organization shall provide, upon request of a practitioner or other person adversely affected by such a determination, a summary of the organization's findings and conclusions in making the determination.".

42 USC 1320c-9 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to all proceedings as of the date of the enactment of this Act.

(f) CLARIFICATION OF LIMITATION ON LIABILITY.—Section 1157(b) (42 U.S.C. 1320c-6(b)) is amended—

(1) by inserting "organization having a contract with the Secretary under this part and no" after "No",

(2) by striking "by him", and

(3) by striking "he has exercised due care" and inserting "due care was exercised in the performance of such duty, function, or activity".

(g) MISCELLANEOUS AND TECHNICAL AMENDMENTS RELATING TO PEER REVIEW ORGANIZATIONS.—

(1) CLARIFICATION OF PATIENT NOTIFICATION REQUIREMENTS FOR DENIAL OF PAYMENT BY PRO.—

(A) IN GENERAL.—Section 1154(a)(3)(E) (42 U.S.C. 1320c-3(a)(3)(E)) is amended—

(i) by striking "(E)" and inserting "(E)(i)";

(ii) by inserting after "items" the following: "provided by a physician that were";

(iii) by striking "physician and hospital." and inserting "physician."; and

(iv) by adding at the end the following new clause:

"(ii) In the case of services or items provided by an entity or practitioner other than a physician, the Secretary may substitute the entity or practitioner which provided the services or items for the term 'physician' in the notice described in clause (i).".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the enactment of the Omnibus Budget Reconiliation [22] Act of 1989. 42 USC 1320c-3 note.

(2) CLARIFICATION OF APPLICATION OF CRITERIA FOR DENIAL OF PAYMENT.—

(A) IN GENERAL.—Section 1154(a)(2) (42 U.S.C. 1320c-3(a)(2)) is amended by striking the third sentence and inserting the following: "The organization shall identify cases for which payment should not be made by reason of paragraph (1)(B) only through the use of criteria developed pursuant to guidelines established by the Secretary.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985. 42 USC 1320c-3 note.

SEC. 4206. MEDICARE PROVIDER AGREEMENTS ASSURING THE IMPLEMENTATION OF A PATIENT'S RIGHT TO PARTICIPATE IN AND DIRECT HEALTH CARE DECISIONS AFFECTING THE PATIENT.

(a) IN GENERAL.—Section 1866(a)(1) (42 U.S.C. 1395cc(a)(1)) is amended—

(1) in subsection (a)(1)—

(A) by striking "and" at the end of subparagraph (O),

(B) by striking the period at the end of subparagraph (P) and inserting ", and", and

(C) by inserting after subparagraph (P) the following new subparagraph:

"(Q) in the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to comply with the requirement of subsection (f) (relating to maintaining written policies and procedures respecting advance directives).";

and

(2) by inserting after subsection (e) the following new subsection:

"(f)(1) For purposes of subsection (a)(1)(Q) and sections 1819(c)(2)(E), 1833(r), 1876(c)(8), and 1891(a)(6), the requirement of this subsection is that a provider of services or prepaid or eligible organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the written policies of the provider or organization respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State)

[22] So in original. Probably should be "Reconciliation".

respecting advance directives at facilities of the provider or organization; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

"(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

"(B) in the case of a skilled nursing facility, at the time of the individual's admission as a resident,

"(C) in the case of a home health agency, in advance of the individual coming under the care of the agency,

"(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

"(E) in the case of an eligible organization (as defined in section 1876(b)) or an organization provided payments under section 1833(a)(1)(A), at the time of enrollment of the individual with the organization.

"(3) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State) and relating to the provision of such care when the individual is incapacitated.".

(b) APPLICATION TO PREPAID ORGANIZATIONS.—

(1) ELIGIBLE ORGANIZATIONS.—Section 1876(c) of such Act (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8) A contract under this section shall provide that the eligible organization shall meet the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(2) OTHER PREPAID ORGANIZATIONS.—Section 1833 of such Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

"(r) The Secretary may not provide for payment under subsection (a)(1)(A) with respect to an organization unless the organization provides assurances satisfactory to the Secretary that the organization meets the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

42 USC 1395cc note.

(c) EFFECT ON STATE LAW.—Nothing in subsections (a) and (b) shall be construed to prohibit the application of a State law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which, as a matter of conscience, cannot implement an advance directive.

(d) CONFORMING AMENDMENTS.—

(1) Section 1819(c)(1) of such Act (42 U.S.C. 1395i-3(c)(1)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A skilled nursing facility must comply with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(2) Section 1891(a) of such Act (42 U.S.C. 1395bbb(a)) is amended by adding at the end the following:

"(6) The agency complies with the requirement of section 1866(f) (relating to maintaining written policies and procedures respecting advance directives).".

(e) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (d) shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act. 42 USC 1395i-3 note.

(2) The amendments made by subsection (b) shall apply to contracts under section 1876 of the Social Security Act and payments under section 1833(a)(1)(A) of such Act as of first day of the first month beginning more than 1 year after the date of the enactment of this Act. 42 USC 1395*l* note.

SEC. 4027. MISCELLANEOUS AND TECHNICAL PROVISIONS RELATING TO PARTS A AND B.

(a) HOSPITAL AND PHYSICIAN OBLIGATIONS WITH RESPECT TO EMERGENCY MEDICAL CONDITIONS.—

(1) PEER REVIEW.—(A) Section 1867(d) (42 U.S.C. 1395dd(d)), as amended by section 4008(b)(3), is amended by adding at the end the following new paragraph:

"(3) CONSULTATION WITH PEER REVIEW ORGANIZATIONS.—In considering allegations of violations of the requirements of this section in imposing sanctions under paragraph (1), the Secretary shall request the appropriate utilization and quality control peer review organization (with a contract under part B of title XI) to assess whether the individual involved had an emergency medical condition which had not been stabilized, and provide a report on its findings. Except in the case in which a delay would jeopardize the health or safety of individuals, the Secretary shall request such a review before effecting a sanction under paragraph (1) and shall provide a period of at least 60 days for such review.[23]

(B) Section 1154(a) (42 U.S.C. 1320c-4(a)) is amended by adding at the end the following new paragraph: 42 USC 1320c-3 note.

"(16) The organization shall provide for a review and report to the Secretary when requested by the Secretary under section 1867(d)(3). The organization shall provide reasonable notice of the review to the physician and hospital involved. Within the time period permitted by the Secretary, the organization shall provide a reasonable opportunity for discussion with the physician and hospital involved, and an opportunity for the physician and hospital to submit additional information, before issuing its report to the Secretary under such section.".

(C) The amendment made by subparagraph (A) shall take effect on the first day of the first month beginning more than 60 days after the date of the enactment of this Act. The amendment made by subparagraph (B) shall apply to contracts under part B of title XI of the Social Security Act as of the first day of the first month beginning more than 60 days after the date of the enactment of this Act. 42 USC 1320c-3 note.

(2) CIVIL MONETARY PENALTIES.—Section 1867(d)(2)(B) (42 U.S.C. 1395dd(d)(2)(B)) is amended by striking "knowingly" and inserting "negligently".

(3) EXCLUSION.—Section 1867(d)(2)(B) (42 U.S.C. 1395dd(d)(2)(B)) is amended by striking "knowing and willful or negligent" and inserting "is gross and flagrant or is repeated".

[23] So in original. Probably should be "review.".

42 USC 1395dd note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(b) EXTENSIONS OF EXPIRING PROVISIONS.—

42 USC 1395ww note.

(1) PROHIBITION ON COST SAVINGS POLICIES BEFORE BEGINNING OF FISCAL YEAR.—Notwithstanding any other provision of law, the Secretary of Health and Human Services may not issue any proposed or final regulation, instruction, or other policy which is estimated by the Secretary to result in a net reduction in expenditures under title XVIII of the Social Security Act in a fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1993, or, if later, the last fiscal year for which there is a maximum deficit amount specified under section 3(7) of the Congressional Budget and Impoundment Control Act of 1974) of more than $50,000,000, except as follows:

(A) The Secretary may issue such a proposed regulation, instruction, or other policy with respect to the fiscal year before the May 15 preceding the beginning of the fiscal year.

(B) The Secretary may issue such a final regulation, instruction, or other policy with respect to the fiscal year on or after October 15 of the fiscal year.

(C) The Secretary may, at any time, issue such a proposed or final regulation, instruction, or other policy with respect to the fiscal year if required to implement specific provisions under statute.

42 USC 1395ww note.

(2) PROHIBITION OF PAYMENT CYCLE CHANGES.—Notwithstanding any other provision of law, the Secretary of Health and Human Services is not authorized to issue, after the date of the enactment of this Act, any final regulation, instruction, or other policy change which is primarily intended to have the effect of slowing down or speeding up claims processing, or delaying payment of claims, under title XVIII of the Social Security Act.

42 USC 1395pp note.

(3) WAIVER OF LIABILITY FOR HOME HEALTH AGENCIES.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 426(d) of the Medicare Catastrophic Coverage Act of 1988, is amended by striking "November 1, 1990" and inserting "December 31, 1995".

(4) EXTENSION AND EXPANSION OF WAIVERS FOR SOCIAL HEALTH MAINTENANCE ORGANIZATIONS.—

(A) EXTENSION OF CURRENT WAIVERS.—Section 4018(b) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(i) in paragraph (1), by striking "September 30, 1992" and inserting "December 31, 1995"; and

(ii) in paragraph (4)—

(I) by striking "final" and inserting "second interim", and

(II) by striking the period at the end and inserting the following: ", and shall submit a final report on the demonstration projects conducted under section 2355 of the Deficit Reduction Act of 1984 not later than March 31, 1996.".

(B) EXPANSION OF DEMONSTRATIONS.—Section 2355 of the Deficit Reduction Act of 1984 is amended—

(i) in subsection (a), by adding at the end the following: "Not later than 12 months after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990, the Secretary shall approve such applications or protocols for not more than 4 additional projects described in subsection (b).";

(ii) by amending paragraph (1) of subsection (b) to read as follows:

"(1) to demonstrate—

"(A) the concept of a social health maintenance organization with the organizations as described in Project No. 18-P-9 7604/1-04 of the University Health Policy Consortium of Brandeis University, or

"(B) in the case of a project conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990, the effectiveness and feasibilitly [24] of innovative approaches to refining targeting and financing methodologies and benefit design, including the effectiveness of feasibility of—

"(i) the benefits of expanded post-acute and community care case management through links between chronic care case management services and acute care providers;

"(ii) refining targeting or reimbursement methodologies;

"(iii) the establishment and operation of a rural services delivery system; or

"(iv) the effectiveness of second-generation sites in reducing the costs of the commencement and management of health care service delivery;";

(iii) in subsection (b)—

(I) by inserting "and" at the end of paragraph (3),

(II) by striking the semicolon at the end of paragraph (4) and inserting a period, and

(III) by striking paragraphs (5), (6), and (7).[25]

(iv) in subsection (c)—

(I) by striking "and" at the end of paragraph (1),

(II) by striking the period at the end of paragraph (2) and inserting "; and", and

(III) by adding at the end the following new paragraph:

"(3) in the case of a project conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990, any requirements of titles XVIII or XIX of the Social Security Act that, if imposed, would prohibit such project from being conducted."; and

(v) by adding at the end the following new subsection:

"(e) There are authorized to be appropriated $3,500,000 for the costs of technical assistance and evaluation related to projects conducted as a result of the amendments made by section 12907(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1990.".

42 USC 1395x note.

(c) DEVELOPMENT OF PROSPECTIVE PAYMENT SYSTEM FOR HOME HEALTH SERVICES.—

(1) DEVELOPMENT OF PROPOSAL.—The Secretary of Health and Human Services shall develop a proposal to modify the current system under which payment is made for home health services under title XVIII of the Social Security Act or a proposal to

[24] So in original. Probably should be "feasibility".

[25] So in original. Probably should be "(7);".

replace such system with a system under which such payments would be made on the basis of prospectively determined rates. In developing any proposal under this paragraph to replace the current system with a prospective payment system, the Secretary shall—

(A) take into consideration the need to provide for appropriate limits on increases in expenditures under the medicare program;

(B) provide for adjustments to prospectively determined rates to account for changes in a provider's case mix, severity of illness of patients, volume of cases, and the development of new technologies and standards of medical practice;

(C) take into consideration the need to increase the payment otherwise made under such system in the case of services provided to patients whose length of treatment or costs of treatment greatly exceed the length or cost of treatment provided for under the applicable prospectively determined payment rate;

(D) take into consideration the need to adjust payments under the system to take into account factors such as differences in wages and wage-related costs among agencies located in various geographic areas and other factors the Secretary considers appropriate; and

(E) analyze the feasibility and appropriateness of establishing the episode of illness as the basic unit for making payments under the system.

(2) REPORTS.—(A) By not later than April 1, 1993, the Secretary of Health and Human Services shall submit the research findings upon which the proposal described in paragraph (1) shall be based to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(B) By not later than September 1, 1993, the Secretary shall submit the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(C) By not later than March 1, 1994, the Prospective Payment Assessment Commission shall submit an analysis of and comments on the proposal developed under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(d) HOME HEALTH WAGE INDEX.—

(1) IN GENERAL.—Section 1861(v)(1)(L)(iii) (42 U.S.C. 1395x(v)(1)(L)(iii)) is amended to read as follows:

"(iii) Not later than July 1, 1991, and annually thereafter, the Secretary shall establish limits under this subparagraph for cost reporting periods beginning on or after such date by utilizing the area wage index applicable under section 1886(d)(3)(E) as of such date to hospitals located in the geographic area in which the home health agency is located (determined without regard to whether such hospitals have been reclassified to a new geographic area pursuant to section 1886(d)(8)(B), a decision of the Medicare Geographic Classification Review Board under section 1886(d)(10), or a decision of the Secretary).".

42 USC 1395x note.

(2) APPLICATION ON BUDGET-NEUTRAL BASIS.—In updating the wage index for establishing limits under section 1861(v)(1)(L)(iii)

of the Social Security Act, the Secretary shall ensure that aggregate payments to home health agencies under title XVIII of such Act will be no greater or lesser than such payments would have been without regard to such update.

(3) TRANSITION PROVISION.—Notwithstanding section 1861(v)(1)(L)(iii) of the Social Security Act, the Secretary of Health and Human Services shall, in determining the limits of reasonable costs under title XVIII of such Act with respect to services furnished by a home health agency, utilize a wage index equal to— 42 USC 1395x note.

(A) for cost reporting periods beginning on or after July 1, 1991, and on or before June 30, 1992, a combined area wage index consisting of—

(i) 67 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 33 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section; and

(B) for cost reporting periods beginning on or after July 1, 1992, and on or before June 30, 1993, a combined area wage index consisting of—

(i) 33 percent of the area wage index applicable under section 1861(v)(1)(L)(iii) of such Act to such home health agency, determined using the survey of the 1982 wages and wage-related costs of hospitals in the United States conducted under such section, and

(ii) 67 percent of the area wage index applicable under section 1886(d)(3)(E) of such Act to hospitals located in the geographic area in which the home health agency is located, determined using the survey of the 1988 wages and wage-related costs of hospitals in the United States conducted under such section.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to home health agency cost reporting periods beginning on or after July 1, 1991. 42 USC 1395x note.

(e) CLARIFICATION OF DEFINITIONS AND REPORTING REQUIREMENTS RELATING TO PHYSICIAN OWNERSHIP AND REFERRAL.—

(1) CLARIFYING DEFINITIONS.—Section 1877(h) of the Social Security Act (42 U.S.C. 1395nn(h)) is amended—

(A) in paragraph (6)(A), by striking "in the case of" and all that follows through "the service," and inserting "in the case of an item or service for which payment may be made under part B, the request by a physician for the item or service,";

(B) in paragraph (6)(B), by striking "in the case of another clinical laboratory service,", and

(C) by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) INVESTOR.—The term 'investor' means, with respect to an entity, a person with a financial relationship specified in subsection (a)(2) with the entity.".

(2) EXEMPTION FOR FINANCIAL RELATIONSHIPS WITH HOSPITAL UNRELATED TO THE PROVISION OF CLINICAL LABORATORY SERVICES.—Section 1877(b) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) HOSPITAL FINANCIAL RELATIONSHIP UNRELATED TO THE PROVISION OF CLINICAL LABORATORY SERVICES.—In the case of a financial relationship with a hospital if the financial relationship does not relate to the provision of clinical laboratory services.".

(3) REVISION OF REPORTING REQUIREMENTS.—Section 1877(f) (42 U.S.C. 1395nn(f)) is amended—

(A) by amending paragraph (2) to read as follows:

"(2) the names and unique physician identification numbers of all physicians with an ownership or investment interest (as described in subsection (a)(2)(A)) in the entity, or whose immediate relatives have such an ownership or investment.";

(B) in the third sentence, by striking "1 year after the date of the enactment of this section" and inserting "October 1, 1991"; and

(C) by adding at the end the following new sentences: "The requirement of this subsection shall not apply to covered items and services provided outside the United States or to entities which the Secretary determines provides services for which payment may be made under this title very infrequently. The Secretary may waive the requirements of this subsection (and the requirements of chapter 35 of title 44, United States Code, with respect to information provided under this subsection) with respect to reporting by entities in a State (except for entities providing clinical laboratory services) so long as such reporting occurs in at least 10 States, and the Secretary may waive such requirements with respect to the providers in a State required to report so long as such requirements are not waived with respect to parenteral and enteral suppliers, end stage renal disease facilities, suppliers of ambulance services, hospitals, entities providing physical therapy services, and entities providing diagnostic imaging services of any type.".

42 USC 1395nn note.

(4) DATE OF ISSUANCE OF REPORTS AND REGULATIONS.—(A) Section 6204 of the Omnibus Budget Reconciliation Act of 1989 is amended by striking subsection (f) and inserting the following:

"(f) STATISTICAL SUMMARY OF COMPARATIVE UTILIZATION.—Not later than June 30, 1992, the Secretary of Health and Human Services shall submit to Congress a statistical profile comparing utilization of items and services by medicare beneficiaries served by entities in which the referring physician has a direct or indirect financial interest and by medicare beneficiaries served by other entities, for the States and entities specified in section 1877(f) of the Social Security Act (other than entities providing clinical laboratory services).".

42 USC 1395nn note.

(B) Section 6204(d) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "October 1, 1990" and inserting "October 1, 1991".

(5) EFFECTIVE DATE.—The amendments made by this subsection shall be effective as if included in the enactment of section 6204 of the Omnibus Budget Reconciliation Act of 1989. 42 USC 1395nn note.

(f) CASE MANAGEMENT DEMONSTRATION PROJECT.— 42 USC 1395b-1 note.

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall resume the 3 case management demonstration projects described in paragraph (2) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this subsection referred to as "MCCA").

(2) PROJECT DESCRIPTIONS.—The demonstration projects referred to in paragraph (1) are—

(A) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(B) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(C) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost medicare beneficiaries as described in Project No. 18-P-99396/5.

(3) TERMS AND CONDITIONS.—Except as provided in paragraph (4), the demonstration projects resumed pursuant to paragraph (1) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to paragraph (1), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

(4) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 425(g) of MCCA, there are authorized to be appropriated for administrative costs in carrying out the demonstration projects resumed pursuant to paragraph (1) $2,000,000 in each of fiscal years 1991 and 1992.

(g) PROHIBITION OF USER FEES FOR SURVEY AND CERTIFICATION.—Section 1864 (42 U.S.C. 1395aa) is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the Secretary may not impose, or require a State to impose, any fee on any facility or entity subject to a determination under subsection (a), or any renal dialysis facility subject to the requirements of section 1881(b)(1), for any such determination or any survey relating to determining the compliance of such facility or entity with any requirement of this title.".

(h) DELEGATION OF AUTHORITY TO INSPECTOR GENERAL.—Section 1128A(j) (42 U.S.C. 1320a-7a(j)) is amended—

(i) by striking "(j)" and inserting "(j)(1)"; and

(ii) by adding at the end the following new paragraph:

"(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.".

(i) MODIFICATION OF HOME HEALTH AGENCY DEFICIENCY STANDARDS.—

(1) IN GENERAL.—Effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, section

1891(a)(3)(D)(iii) of the Social Security Act (42 U.S.C. 1395bbb(a)(3)(D)(iii)) is amended by striking "which has been determined" and all that follows and inserting the following: "which, within the previous 2 years—

"(I) has been determined to be out of compliance with subparagraph (A), (B), or (C);

"(II) has been subject to an extended (or partial extended) survey under subsection (c)(2)(D);

"(III) has been assessed a civil money penalty described in subsection (f)(2)(A)(i) of not less than $5,000; or

"(IV) has been subject to the remedies described in subsection (e)(1) or in clauses (ii) or (iii) of subsection (f)(2)(A).".

42 USC 1395bbb note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, except that the Secretary may not permit approval of a training and competency evaluation program or a competency evaluation program offered by or in a home health agency which, pursuant to any Federal or State law within the 2-year period beginning on October 1, 1988—

(i) had its participation terminated under title XVIII of the Social Security Act;

(ii) was assessed a civil money penalty not less than $5,000 for deficiencies in applicable quality standards for home health agencies;

(iii) was subject to suspension by the Secretary of all or part of the payments to which it would otherwise be entitled under such title.[26]

(iv) operated under a temporary management appointed to oversee the operation of the agency and to ensure the health and safety of the agency's patients; or

(v) pursuant to State action, was closed or had its residents transferred.

42 USC 1395hh note.

(j) USE OF INTERIM FINAL REGULATIONS.—The Secretary of Health and Human Services shall issue such regulations (on an interim or other basis) as may be necessary to implement this title and the amendments made by this title.

(k) MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) The third sentence of subsections (a) and (b)(1) of section 1882 of the Social Security Act (42 U.S.C. 1395ss), as amended by section 203(a)(1)(A) of the Medicare Catastrophic Coverage Repeal Act, is amended by striking "(k)(4),".

42 USC 1395nn.

(2) Section 1877(g)(5) of the Social Security Act, as added by section 6204(a) of OBRA-1989, is amended by adding at the end the following new sentence: "The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

42 USC 1395dd.

(3) Subsection (i) of section 1867 of the Social Security Act, as added by section 6211(f) of the Omnibus Budget Reconciliation Act of 1989, is amended to read as follows:

"(i) WHISTLEBLOWER PROTECTIONS.—A participating hospital may not penalize or take adverse action against a qualified medical person described in subsection (c)(1)(A)(iii) or a physician because the

[26] So in original. Probably should be ";".

person or physician refuses to authorize the transfer of an individual with an emergency medical condition that has not been stabilized or against any hospital employee because the employee reports a violation of a requirement of this section.".

(4) Section 6213(d) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "take effect" and inserting "apply to services furnished on or after". 42 USC 1395x note.

(5) Section 6217(a) of the Omnibus Budget Reconciliation Act of 1989 is amended in the matter preceding paragraph (1) by inserting after "payments" the following: "out of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund (in such proportions as the Secretary determines to be appropriate in a year)". 42 USC 1395ww note.

(6) Section 1139(d) of the Social Security Act, as amended by section 6221 of Omnibus Budget Reconciliation Act of 1989, is amended by striking "interim report" and all that follows through "setting forth" and inserting the following: "interim report no later than March 31, 1990, and a final report no later than March 31, 1991, setting forth". 42 USC 1320b-9.

PART 4—PROVISIONS RELATING TO MEDICARE PART B PREMIUM AND DEDUCTIBLE

SEC. 4301. PART B PREMIUM.

Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(1) by inserting "(A)" after "(e)(1)", and

(2) by adding at the end the following new subparagraph:

"(B) Notwithstanding the provisions of subsection (a), the monthly premium for each individual enrolled under this part for each month in—

"(i) 1991 shall be $29.90,

"(ii) 1992 shall be $31.80,

"(iii) 1993 shall be $36.60,

"(iv) 1994 shall be $41.10, and

"(v) 1995 shall be $46.10.".

SEC. 4302. PART B DEDUCTIBLE.

Section 1833(b) (42 U.S.C. 1395l) is amended by inserting after "$75" the following: "for calendar years before 1991 and $100 for 1991 and subsequent years".

PART 5—MEDICARE SUPPLEMENTAL INSURANCE POLICIES

SEC. 4351. SIMPLIFICATION OF MEDICARE SUPPLEMENTAL POLICIES.

(a) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "through (4)" and inserting "through (5)";

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (3),

(B) by striking the period at the end of paragraph (4) and inserting "; and", and

(C) by inserting after paragraph (4) the following new paragraph:

"(5) meets the applicable requirements of subsections (o) through (t).";

and

(3) by adding at the end the following new subsections:

"(o) The requirements of this subsection are as follows:

"(1) Each medicare supplemental policy shall provide for coverage of a group of benefits consistent with subsection (p).

"(2) If the medicare supplemental policy provides for coverage of a group of benefits other than the core group of basic benefits described in subsection (p)(2)(B), the issuer of the policy must make available to the individual a medicare supplemental policy with only such core group of basic benefits.

"(3) The issuer of the policy has provided, before the sale of the policy, an outline of coverage that uses uniform language and format (including layout and print size) that facilitates comparison among medicare supplemental policies and comparison with medicare benefits.

"(p)(1)(A) If, within 9 months after the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') promulgates—

"(i) limitations on the groups or packages of benefits that may be offered under a medicare supplemental policy consistent with paragraphs (2) and (3) of this subsection,

"(ii) uniform language and definitions to be used with respect to such benefits,

"(iii) uniform format to be used in the policy with respect to such benefits, and

"(iv) other standards to meet the additional requirements imposed by the amendments made by the Omnibus Budget Reconciliation Act of 1990,

(such limitations, language, definitions, format, and standards referred to collectively in this subsection as 'NAIC standards'), subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the NAIC standards.

"(B) If the Association does not promulgate NAIC standards within the 9-month period specified in subparagraph (A), the Secretary shall promulgate, not later than 9 months after the end of such period, limitations, language, definitions, format, and standards described in clauses (i) through (iv) of such subparagraph (in this subsection referred to collectively as 'Federal standards') and subsection (g)(2)(A) shall be applied in each State, effective for policies issued to policyholders on and after the date specified in subparagraph (C), as if the reference to the Model Regulation adopted on June 6, 1979, included a reference to the Federal standards.

"(C)(i) Subject to clause (ii), the date specified in this subparagraph for a State is the date the State adopts the NAIC standards or the Federal standards or 1 year after the date the Association or the Secretary first adopts such standards, whichever is earlier.

"(ii) In the case of a State which the Secretary identifies, in consultation with the Association, as—

"(I) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet the NAIC or Federal standards, but

"(II) having a legislature which is not scheduled to meet in 1992 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1992. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(D) In promulgating standards under this paragraph, the Association or Secretary shall consult with a working group composed of representatives of issuers of medicare supplemental policies, consumer groups, medicare beneficiaries, and other qualified individuals. Such representatives shall be selected in a manner so as to assure balanced representation among the interested groups.

"(E) If benefits (including deductibles and coinsurance) under this title are changed and the Secretary determines, in consultation with the Association, that changes in the NAIC or Federal standards are needed to reflect such changes, the preceding provisions of this paragraph shall apply to the modification of standards previously established in the same manner as they applied to the original establishment of such standards.

"(2) The benefits under the NAIC or Federal standards shall provide—

"(A) for such groups or packages of benefits as may be appropriate taking into account the considerations specified in paragraph (3) and the requirements of the succeeding subparagraphs;

"(B) for identification of a core group of basic benefits common to all policies, and

"(C) that, subject to paragraph (5)(B), the total number of different benefit packages (counting the core group of basic benefits described in subparagraph (B) and each other combination of benefits that may be offered as a separate benefit package) that may be established in all the States and by all issuers shall not exceed 10.

"(3) The benefits under paragraph (2) shall, to the extent possible—

"(A) provide for benefits that offer consumers the ability to purchase the benefits that are available in the market as of the date of the enactment of this subsection; and

"(B) balance the objectives of (i) simplifying the market to facilitate comparisons among policies, (ii) avoiding adverse selection, (iii) providing consumer choice, (iv) providing market stability, and (v) promoting competition.

"(4)(A)(i) Except as provided in subparagraph (B), no State with a regulatory program approved under subsection (b)(1) may provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy unless such grouping meets the applicable standards.

"(ii) Except as provided in subparagraph (B), the Secretary may not provide for or permit the grouping of benefits (or language or format with respect to such benefits) under a medicare supplemental policy seeking approval by the Secretary unless such grouping meets the applicable standards.

"(B) With the approval of the State (in the case of a policy issued in a State with an approved regulatory program) or the Secretary (in the case of any other policy), the issuer of a medicare supplemental policy may offer new or innovative benefits in addition to the benefits provided in a policy that otherwise complies with the

applicable standards. Any such new or innovative benefits may include benefits that are not otherwise available and are cost-effective and shall be offered in a manner which is consistent with the goal of simplification of medicare supplemental policies.

"(5)(A) Except as provided in subparagraph (B), this subsection shall not be construed as preventing a State from restricting the groups of benefits that may be offered in medicare supplemental policies in the State.

"(B) A State with a regulatory program approved under subsection (b)(1) may not restrict under subparagraph (A) the offering of a medicare supplemental policy consisting only of the core group of benefits described in paragraph (2)(B).

"(6) The Secretary may waive the application of standards in regard to the limitation of benefits described in paragraph (4) in those States that on the date of enactment of this subsection had in place an alternative simplification program.

"(7) This subsection shall not be construed as preventing an issuer of a medicare supplemental policy who otherwise meets the requirements of this section from providing, through an arrangement with a vendor, for discounts from that vendor to policyholder or certificateholders for the purchase of items or services not covered under its medicare supplemental policies.

"(8) Any person who sells or issues a medicare supplemental policy, after the effective date of the NAIC or Federal standards with respect to the policy, in violation of the previous requirements of this subsection is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a seller who is not an issuer of a policy) for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(9)(A) Anyone who sells a medicare supplemental policy to an individual shall make available for sale to the individual a medicare supplemental policy with only the core group of basic benefits (described in paragraph (2)(B)).

"(B) Anyone who sells a medicare supplemental policy to an individual shall provide the individual, before the sale of the policy, an outline of coverage which describes the benefits under the policy. Such outline shall be on a standard form approved by the State regulatory program or the Secretary (as the case may be) consistent with the NAIC or Federal standards under this subsection.

"(C) Whoever sells a medicare supplemental policy in violation of this paragraph is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a seller who is not the issuer of the policy) for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(10) No penalty may be imposed under paragraph (8) or (9) in the case of a seller who is not the issuer of a policy until the Secretary has published a list of the groups of benefit packages that may be sold or issued consistent with this subsection.".

SEC. 4352. GUARANTEED RENEWABILITY.

Section 1882 is amended by adding at the end the following new subsection: 42 USC 1395ss.

"(q) The requirements of this subsection are as follows:

"(1) Each medicare supplemental policy shall be guaranteed renewable and—

"(A) the issuer may not cancel or nonrenew the policy solely on the ground of health status of the individual; and

"(B) the issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation.

"(2) If the medicare supplemental policy is terminated by the group policyholder and is not replaced as provided under paragraph (2), the issuer shall offer certificateholders an individual medicare supplemental policy which (at the option of the certificateholder)—

"(A) provides for continuation of the benefits contained in the group policy, or

"(B) provides for such benefits as otherwise meets the requirements of this section.

"(3) If an individual is a certificateholder in a group medicare supplemental policy and the individual terminates membership in the group, the issuer shall—

"(A) offer the certificateholder the conversion opportunity described in paragraph (2), or

"(B) at the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy.

"(4) If a group medicare supplemental policy is replaced by another group medicare supplemental policy purchased by the same policyholder, the succeeding issuer shall offer coverage to all persons covered under the old group policy on its date of termination. Coverage under the new group policy shall not result in any exclusion for preexisting conditions that would have been covered under the group policy being replaced.".

SEC. 4353. ENFORCEMENT OF STANDARDS.

(a) REQUIRING CONFORMITY WITH STANDARDS.—Section 1882 is amended—

(1) in the heading, by striking "VOLUNTARY"; and

(2) in subsection (a)—

(A) by inserting "(1)" after "(a)",

(B) by adding at the end the following new paragraph:

"(2) No medicare supplemental policy may be issued in a State on or after the date specified in subsection (p)(1)(C) unless—

"(A) the State's regulatory program under subsection (b)(1) provides for the application and enforcement of the standards and requirements set forth in such subsection (including the NAIC standards or the Federal standards (as the case may be)) by the date specified in subsection (p)(1)(C); or

"(B) if the State's program does not provide for the application and enforcement of such standards and requirements, the policy has been certified by the Secretary under paragraph (1) as meeting the standards and requirements set forth in subsection (c) (including such applicable standards) by such date.

Any person who issues a medicare supplemental policy, after the effective date of the NAIC or Federal standards with respect to the

policy, in violation of this paragraph is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(b) PERIODIC REVIEW OF STATE REGULATORY PROGRAMS.—Section 1882(b) is amended— 42 USC 1395ss.

(1) in paragraph (1), by striking "Supplemental Health Insurance Panel (established under paragraph (2))" and inserting "the Secretary",

(2) in paragraph (1), by striking "the Panel" and inserting "the Secretary",

(3) in subparagraphs (A) and (D) of paragraph (1), by inserting "and enforcement" after "application", and

(4) by amending paragraph (2) to read as follows:

"(2) The Secretary periodically shall review State regulatory programs to determine if they continue to meet the standards and requirements specified in paragraph (1). If the Secretary finds that a State regulatory program no longer meets the standards and requirements, before making a final determination, the Secretary shall provide the State an opportunity to adopt such a plan of correction as would permit the State regulatory program to continue to meet such standards and requirements. If the Secretary makes a final determination that the State regulatory program, after such an opportunity, fails to meet such standards and requirements, the program shall no longer be considered to have in operation a program meeting such standards and requirements.".

(c) ENFORCEMENT BY STATES.—Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by inserting "and" at the end of subparagraph (E);

(3) by inserting after subparagraph (E) the following:

"(F) reports to the Secretary on the implementation and enforcement of standards and requirements of this paragraph at intervals established by the Secretary,"; and

(5) by adding at the end the following new sentence: "The report required under subsection (F) shall include information on loss ratios of policies sold in the State, frequency and types of instances in which policies approved by the State fail to meet the standards of this paragraph, actions taken by the State to bring such policies into compliance, and information regarding State programs implementing consumer protection provisions, and such further information as the Secretary in consultation with the National Association of Insurance Commissioners, may specify.".

(d) REQUIRING APPROVAL OF STATE FOR SALE IN THE STATE.—

(1) IN GENERAL.—Section 1882(d)(4)(B) (42 U.S.C. 1395ss(d)(4)(B)) is amended by striking the second sentence.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to policies mailed, or caused to be mailed, on and after July 1, 1991. 42 USC 1395ss note.

SEC. 4354. PREVENTING DUPLICATION.

(a) IN GENERAL.—Subsection (d)(3) of section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subparagraph (A)—

(A) by striking "Whoever knowingly sells" and inserting "It is unlawful for a person to sell or issue",

(B) by striking "substantially",

(C) by striking ", shall be fined" and inserting ". Whoever violates the previous sentence shall be fined",

(D) in subparagraph (A), by inserting "or title XIX" after "other than this title",

(E) in subparagraph (A), by striking "$5,000" and inserting "$25,000 (or $15,000 in the case of a person other than the issuer of the policy)", and

(F) by adding at the end the following: "A seller (who is not the issuer of a health insurance policy) shall not be considered to violate the previous sentence if the policy is sold in compliance with subparagraph (B) and the statement under such subparagraph indicates on its face that the sale of the policy will not duplicate health benefits to which the individual is otherwise entitled. This subsection shall not apply to such a seller until such date as the Secretary publishes a list of the standardized benefit packages that may be offered consistent with subsection (p).";

(2) by amending subparagraph (B) to read as follows:

"(B)(i) It is unlawful for a person to issue or sell a medicare supplemental policy to an individual entitled to benefits under part A or enrolled under part B, whether directly, through the mail, or otherwise, unless—

"(I) the person obtains from the individual, as part of the application for the issuance or purchase and on a form described in clause (ii), a written statement signed by the individual stating, to the best of the individual's knowledge, what health insurance policies the individual has, from what source, and whether the individual is entitled to any medical assistance under title XIX, whether as a qualified medicare beneficiary or otherwise, and

"(II) the written statement is accompanied by a written acknowledgment, signed by the seller of the policy, of the request for and receipt of such statement.

"(ii) The statement required by clause (i) shall be made on a form that—

"(I) states in substance that a medicare-eligible individual does not need more than one medicare supplemental policy,

"(II) states in substance that individuals 65 years of age or older may be eligible for benefits under the State medicaid program under title XIX and that such individuals who are entitled to benefits under that program usually do not need a medicare supplemental policy and that benefits and premiums under any such policy shall be suspended upon request of the policyholder during the period (of not longer than 24 months) of entitlement to benefits under such title and may be reinstituted upon loss of such entitlement, and

"(III) states that counseling services may be available in the State to provide advice concerning the purchase of medicare supplemental policies and enrollment under the medicaid program and may provide the telephone number for such services.

"(iii)(I) Except as provided in subclauses (II) and (III), if the statement required by clause (i) is not obtained or indicates that the individual has another medicare supplemental policy or indicates that the individual is entitled to any medical assistance under title

XIX, the sale of such a policy shall be considered to be a violation of subparagraph (A).

"(II) Subclause (I) shall not apply in the case of an individual who has another policy, if the individual indicates in writing, as part of the application for purchase, that the policy being purchased replaces such other policy and indicates an intent to terminate the policy being replaced when the new policy becomes effective and the issuer or seller certifies in writing that such policy will not, to the best of the issuer or seller's knowledge, duplicate coverage (taking into account any such replacement).

"(III) Subclause (I) also shall not apply if a State medicaid plan under title XIX pays the premiums for the policy, or pays less than an individual's (who is described in section 1905(p)(1)) full liability for medicare cost sharing as defined in section 1905(p)(3)(A).

"(iv) Whoever issues or sells a medicare supplemental policy in violation of this subparagraph shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $25,000 (or $15,000 in the case of a seller who is not the issuer of a policy) for each such violation.".

(b) SUSPENSION OF POLICY DURING MEDICAID ENTITLEMENT.—Section 1882(q), as added by section 4352, is amended by adding at the end the following new paragraph:

"(5)(A) Each medicare supplemental policy shall provide that benefits and premiums under the policy shall be suspended at the request of the policyholder for the period (not to exceed 24 months) in which the policyholder has applied for and is determined to be entitled to medical assistance under title XIX of the Social Security Act, but only if the policyholder notifies the issuer of such policy within 90 days after the date the individual becomes entitled to such assistance. If such suspension occurs and if the policyholder or certificate holder loses entitlement to such medical assistance, such policy shall be automatically reinstituted (effective as of the date of termination of such entitlement) under terms described in subsection (n)(6)(A)(ii) as of the termination of such entitlement if the policyholder provides notice of loss of such entitlement within 90 days after the date of such loss.

"(B) Nothing in this section shall be construed as affecting the authority of a State, under title XIX of the Social Security Act, to purchase a medicare supplemental policy for an individual otherwise entitled to assistance under such title.

"(C) Any person who issues a medicare supplemental policy and fails to comply with the requirements of this paragraph is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

42 USC 1395ss note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued or sold more than 1 year after the date of the enactment of this Act.

SEC. 4355. LOSS RATIOS AND REFUND OF PREMIUMS.

(a) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) is further amended—

(1) in subsection (c), by amending paragraph (2) to read as follows:

"(2) meets the requirements of subsection (r);";

(2) by striking the sentence following subsection (c)(4); and

(3) by adding at the end the following new subsection:

"(r)(1) A medicare supplemental policy may not be issued or sold in any State unless—

"(A) the policy can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such periods and in accordance with a uniform methodology, including uniform reporting standards, developed by the National Association of Insurance Commissioners [27], to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 65 percent in the case of individual policies; and

"(B) the issuer of the policy provides for the issuance of a proportional refund, or a credit against future premiums of a proportional amount, based on the premium paid and in accordance with paragraph (2), of the amount of premiums received necessary to assure that the ratio of aggregate benefits provided to the aggregate premiums collected (net of such refunds or credits) complies with the expectation required under subparagraph (A).

For purposes of applying subparagraph (A) only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

"(2)(A) Paragraph (1)(B) shall be applied with respect to each type of policy by policy number. Paragraph (1)(B) shall not apply to a policy with respect to the first 2 years in which it is in effect. The Comptroller General, in consultation with the National Association of Insurance Commissioners, shall submit to Congress a report containing recommendations on adjustments in the percentages under paragraph (1)(A) that may be appropriate in order to apply paragraph (1)(B) to the first 2 years in which policies are effective.

"(B) A refund or credit required under paragraph (1)(B) shall be made to each policyholder insured under the applicable policy as of the last day of the year involved.

"(C) Such a refund or credit shall include interest from the end of the policy year involved until the date of the refund or credit at a rate as specified by the Secretary for this purpose from time to time which is not less than the average rate of interest for 13-week Treasury notes.

"(D) For purposes of this paragraph and paragraph (1)(B), refunds or credits against premiums due shall be made, with respect to a policy year, not later than the third quarter of the succeeding policy year.

"(3) The provisions of this subsection do not preempt a State from requiring a higher percentage than that specified in paragraph (1)(A).

"(4) The Secretary shall submit in February of each year (beginning with 1993) a report to the Committees on Energy and Commerce and Ways and Means of the House of Representatives and the Committee on Finance of the Senate on loss-ratios under medicare supplemental policies and the use of sanctions, such as a required

[27] So in original. Probably should be "Commissioners),".

rebate or credit or the disllowance [28] of premium increases, for policies that fail to meet the requirements of this subsection (relating to loss-ratios). Such report shall include a list of the policies that failed to comply with such loss-ratio requirements or other requirements of this section.

"(5)(A) The Comptroller General shall periodically, not less often than once every 3 years, perform audits with respect to the compliance of medicare supplemental policies with the loss ratio requirements of this subsection and shall report the results of such audits to the State involved and to the Secretary.

"(B) The Secretary may independently perform such compliance audits.

"(6)(A) A person who issues a policy in violation of the loss ratio requirements of this subsection is subject to a civil money penalty of not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(B) Each issuer of a policy subject to the requirements of paragraph (1)(B) shall be liable to policyholders for credits required under such paragraph.".

(b) ASSURING ACCESS TO LOSS RATIO INFORMATION.—Section 1882(b)(1)(C) (42 U.S.C. 1395ss(b)(1)(C)) is amended by striking the semicolon at the end and inserting a comma and the following:

"and that a copy of each such policy, the most recent premium for each such policy, and a listing of the ratio of benefits provided to premiums collected for the most recent 3-year period for each such policy issued or sold in the State is maintained and made available to interested persons;".

(c) IMPLEMENTATION OF PROCESS TO APPROVE PREMIUM INCREASES.—Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)) is further amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by adding "and" at the end of subparagraph (F);

(3) by adding at the end thereof the following new subparagraph:

"(G) provides for a process for approving or disapproving proposed premium increases with respect to such policies, and establishes a policy for the holding of public hearings prior to approval of a premium increase,".

42 USC 1395ss note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to policies sold or issued more than 1 year after the date of the enactment of this Act.

SEC. 4356. CLARIFICATION OF TREATMENT OF PLANS OFFERED BY HEALTH MAINTENANCE ORGANIZATIONS.

(a) IN GENERAL.—The first sentence of section 1882(g)(1) is amended by inserting before the period at the end the following: "and does not include a policy or plan of a health maintenance organization or other direct service organization which offers benefits under this title, including such services under a contract under under section 1876 or an agreement under section 1833".

42 USC 1395ss note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

[28] So in original. Probably should be "disallowance".

SEC. 4357. PRE-EXISTING CONDITION LIMITATIONS AND LIMITATION ON MEDICAL UNDERWRITING.

(a) IN GENERAL.—Section 1882 is amended—

(1) in subsection (c), in the matter before paragraph (1), by inserting "or the requirement described in subsection (s)" after "paragraph (3)", and

(2) by adding at the end the following new subsection:

"(s)(1) If a medicare supplemental policy replaces another medicare supplemental policy, the issuer of the replacing policy shall waive any time periods applicable to preexisting conditions, waiting period, elimination periods and probationary periods in the new medicare supplemental policy for similar benefits to the extent such time was spent under the original policy.

"(2)(A) The issuer of a medicare supplemental policy may not deny or condition the issuance or effectiveness of a medicare supplemental policy, or discriminate in the pricing of the policy, because of health status, claims experience, receipt of health care, or medical condition for which an application is submitted during the 6 month period beginning with the first month in which the individual (who is 65 years of age or older) first is enrolled for benefits under part B.

"(B) Subject to subparagraph (C), subparagraph (A) shall not be construed as preventing the exclusion of benefits under a policy, during its first 6 months, based on a pre-existing condition for which the policyholder received treatment or was otherwise diagnosed during the 6 months before it became effective.

"(C) If a medicare supplemental policy or certificate replaces another such policy or certificate which has been in effect for 6 months or longer, the replacing policy may not provide any time period applicable to pre-existing conditions, waiting periods, elimination periods, and probationary periods in the new policy or certificate for similar benefits.

"(3) Any issuer of a medicare supplemental policy that fails to meet the requirements of paragraphs (1) and (2) is subject to a civil money penalty of not to exceed $5,000 for each such failure. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 1 year after the date of the enactment of this Act. 42 USC 1395ss note.

SEC. 4358. MEDICARE SELECT POLICIES.

(a) IN GENERAL.—Section 1882 (42 U.S.C. 1395ss) is further amended by adding at the end the following:

"(t)(1) If a policy meets the NAIC Model Standards and otherwise complies with the requirements of this section except that benefits under the policy are restricted to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), the policy shall nevertheless be treated as meeting those standards if—

"(A) full benefits are provided for items and services furnished through a network of entities which have entered into contracts with the issuer of the policy;

"(B) full benefits are provided for items and services furnished by other entities if the services are medically necessary and immediately required because of an unforeseen illness, injury,

or condition and it is not reasonable given the circumstances to obtain the services through the network;

"(C) the network offers sufficient access;

"(D) the issuer of the policy has arrangements for an ongoing quality assurance program for items and services furnished through the network;

"(E)(i) the issuer of the policy provides to each enrollee at the time of enrollment an explanation of (I) the restrictions on payment under the policy for services furnished other than by or through the network, (II) out of area coverage under the policy, (III) the policy's coverage of emergency services and urgently needed care, and (IV) the availability of a policy through the entity that meets the NAIC standards without reference to this subsection and the premium charged for such policy, and

"(ii) each enrollee prior to enrollment acknowledges receipt of the explanation provided under clause (i); and

"(F) the issuer of the policy makes available to individuals, in addition to the policy described in this subsection, any policy (otherwise offered by the issuer to individuals in the State) that meets the NAIC standards and other requirements of this section without reference to this subsection.

"(2) If the Secretary determines that an issuer of a policy approved under paragraph (1)—

"(A) fails substantially to provide medically necessary items and services to enrollees seeking such items and services through the issuer's network, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual,

"(B) imposes premiums on enrollees in excess of the premiums approved by the State,

"(C) acts to expel an enrollee for reasons other than nonpayment of premiums, or

"(D) does not provide the explanation required under paragraph (1)(E)(i) or does not obtain the acknowledgment required under paragraph (1)(E)(ii),

is subject to a civil money penalty in an amount not to exceed $25,000 for each such violation. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(3) The Secretary may enter into a contract with an entity whose policy has been certified under paragraph (1) or has been approved by a State under subsection (b)(1)(H) to determine whether items and services (furnished to individuals entitled to benefits under this title and under that policy) are not allowable under section 1862(a)(1). Payments to the entity shall be in such amounts as the Secretary may determine, taking into account estimated savings under contracts with carriers and fiscal intermediaries and other factors that the Secretary finds appropriate. Paragraph (1), the first sentence of paragraph (2)(A), paragraph (2)(B), paragraph (3)(C), paragraph (3)(D), and paragraph (3)(E) of section 1842(b) shall apply to the entity.".

(b) CONFORMING AMENDMENTS.—(1) Section 1882(c)(1) (42 U.S.C. 1395ss(c)(1)) is amended by inserting "(except as otherwise provided by subsection (t))" before the semicolon.

(2) Section 1882(b)(1) (42 U.S.C. 1395ss(b)(1)), as previously amended, is amended—

(A) in subparagraph (A), by inserting ", except as otherwise provided by subparagraph (H)" before the semicolon;

(B) by striking "and" at the end of subparagraph (F);

(C) by inserting "and" at the end of subparagraph (G); and

(D) by adding after subparagraph (G) the following:

"(H) in the case of a policy that meets the standards under subparagraph (A) except that benefits under the policy are limited to items and services furnished by certain entities (or reduced benefits are provided when items or services are furnished by other entities), provides for the application of requirements equal to or more stringent than the requirements under subsection (t),".

(3) The first sentence of section 1154(a)(4)(B) (42 U.S.C. 1320c-3(a)(4)(B)) is amended by inserting "(or subject to review under section 1882(t))" after "section 1876".

(c) EFFECTIVE DATE.—The amendments made by this section shall only apply in 15 States (as determined by the Secretary of Health and Human Services) and only during the 3-year period beginning with 1992. 42 USC 1320c-3 note.

(d) EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation of the amendments made by this section and shall report to Congress on such evaluation by not later than January 1, 1995. 42 USC 1395ss note.

SEC. 4359. HEALTH INSURANCE ADVISORY SERVICE FOR MEDICARE BENEFICIARIES. 42 USC 1395b-3.

(a) IN GENERAL.—The Secretary of Health and Human Services shall establish a health insurance advisory service program (in this section referred to as the "beneficiary assistance program") to assist medicare-eligible individuals with the receipt of services under the medicare and medicaid programs and other health insurance programs.

(b) OUTREACH ELEMENTS.—The beneficiary assistance program shall provide assistance—

(1) through operation using local Federal offices that provide information on the medicare program,

(2) using community outreach programs, and

(3) using a toll-free telephone information service.

(c) ASSISTANCE PROVIDED.—The beneficiary assistance program shall provide for information, counseling, and assistance for medicare-eligible individuals with respect to at least the following:

(1) With respect to the medicare program—

(A) eligibility,

(B) benefits (both covered and not covered),

(C) the process of payment for services,

(D) rights and process for appeals of determinations,

(E) other medicare-related entities (such as peer review organizations, fiscal intermediaries, and carriers), and

(F) recent legislative and administrative changes in the medicare program.

(2) With respect to the medicaid program—

(A) eligibility, benefits, and the application process,

(B) linkages between the medicaid and medicare programs, and

(C) referral to appropriate State and local agencies involved in the medicaid program.

(3) With respect to medicare supplemental policies—

(A) the program under section 1882 of the Social Security Act and standards required under such program,

(B) how to make informed decisions on whether to purchase such policies and on what criteria to use in evaluating different policies,

(C) appropriate Federal, State, and private agencies that provide information and assistance in obtaining benefits under such policies, and

(D) other issues deemed appropriate by the Secretary.

The beneficiary assistance program also shall provide such other services as the Secretary deems appropriate to increase beneficiary understanding of, and confidence in, the medicare program and to improve the relationship between beneficiaries and the program.

(d) EDUCATIONAL MATERIAL.—The Secretary, through the Administrator of the Health Care Financing Administration, shall develop appropriate educational materials and other appropriate techniques to assist employees in carrying out this section.

(e) NOTICE TO BENEFICIARIES.—The Secretary shall take such steps as are necessary to assure that medicare-eligible beneficiaries and the general public are made aware of the beneficiary assistance program.

(f) REPORT.—The Secretary shall include, in an annual report transmitted to the Congress, a report on the beneficiary assistance program and on other health insurance informational and counseling services made available to medicare-eligible individuals. The Secretary shall include in the report recommendations for such changes as may be desirable to improve the relationship between the medicare program and medicare-eligible individuals.

42 USC 1395b-4.

SEC. 4360. HEALTH INSURANCE INFORMATION, COUNSELING, AND ASSISTANCE GRANTS.

(a) GRANTS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall make grants to States, with approved State regulatory programs under section 1882 of the Social Security Act, that submit applications to the Secretary that meet the requirements of this section for the purpose of providing information, counseling, and assistance relating to the procurement of adequate and appropriate health insurance coverage to individuals who are eligible to receive benefits under title XVIII of the Social Security Act (in this section referred to as "eligible individuals"). The Secretary shall prescribe regulations to establish a minimum level of funding for a grant issued under this section.

(b) GRANT APPLICATIONS.—

(1) In submitting an application under this section, a State may consolidate and coordinate an application that consists of parts prepared by more than one agency or department of such State.

(2) As part of an application for a grant under this section, a State shall submit a plan for a State-wide health insurance information, counseling, and assistance program. Such program shall—

(A) establish or improve upon a health insurance information, counseling, and assistance program that pro-

vides counseling and assistance to eligible individuals in need of health insurance information, including—

(i) information that may assist individuals in obtaining benefits and filing claims under titles XVIII and XIX of the Social Security Act;

(ii) policy comparison information for medicare supplemental policies (as described in section 1882(g)(1) of the Social Security Act [29] and information that may assist individuals in filing claims under such medicare supplemental policies;

(iii) information regarding long-term care insurance; and

(iv) information regarding other types of health insurance benefits that the Secretary determines to be appropriate;

(B) in conjunction with the health insurance information, counseling, and assistance program described in subparagraph (A), establish a system of referral to appropriate Federal or State departments or agencies for assistance with problems related to health insurance coverage (including legal problems), as determined by the Secretary;

(C) provide for a sufficient number of staff positions (including volunteer positions) necessary to provide the services of the health insurance information, counseling, and assistance program;

(D) provide assurances that staff members (including volunteer staff members) of the health insurance information, counseling, and assistance program have no conflict of interest in providing the services described in subparagraph (A);

(E) provide for the collection and dissemination of timely and accurate health care information to staff members;

(F) provide for training programs for staff members (including volunteer staff members);

(G) provide for the coordination of the exchange of health insurance information between the staff of departments and agencies of the State government and the staff of the health insurance information, counseling, and assistance program;

(H) make recommendations concerning consumer issues and complaints related to the provision of health care to agencies and departments of the State government and the Federal Government responsible for providing or regulating health insurance;

(I) establish an outreach program to provide the health insurance information and counseling described in subparagraph (A) and the assistance described in subparagraph (B) to eligible individuals; and

(J) demonstrate, to the satisfaction of the Secretary, an ability to provide the counseling and assistance required under this section.

(c) SPECIAL GRANTS.—

(1) A State that is conducting a health insurance information, counseling, and assistance program that is substantially similar to a program described in subsection (b)(2) shall, as a requirement for eligibility for a grant under this section, demonstrate, to the satisfaction of the Secretary, that such State shall main-

[29] So in original. Probably should be "Act)".

tain the activities of such program at least at the level that such activities were conducted immediately preceding the date of the issuance of any grant during the period of time covered by such grant under this section and that such activities will continue to be maintained at such level.

(2) If the Secretary determines that the existing health insurance information, counseling, and assistance program is substantially similar to a program described in subsection (b)(2), the Secretary may waive some or all of the requirements described in such subsection and issue a grant to the State for the purpose of increasing the number of services offered by the health insurance information, counseling, and assistance program, experimenting with new methods of outreach in conducting such program, or expanding such program to geographic areas of the State not previously served by the program.

(d) CRITERIA FOR ISSUING GRANTS.—In issuing a grant under this section, the Secretary shall consider—

(1) the commitment of the State to carrying out the health insurance information, counseling, and assistance program described in subsection (b)(2), including the level of cooperation demonstrated—

(A) by the office of the chief insurance regulator of the State, or the equivalent State entity;

(B) other officials of the State responsible for overseeing insurance plans issued by nonprofit hospital and medical service associations; and

(C) departments and agencies of such State responsible for—

(i) administering funds under title XIX of the Social Security Act, and

(ii) administering funds appropriated under the Older Americans Act;

(2) the population of eligible individuals in such State as a percentage of the population of such State; and

(3) in order to ensure the needs of rural areas in such State, the relative costs and special problems associated with addressing the special problems of providing health care information, counseling, and assistance to the rural areas of such State.

(e) ANNUAL STATE REPORT.—A State that receives a grant under subsection (c) or (d) [30] shall, not later than 180 days after receiving such grant, and annually thereafter, issue an annual report to the Secretary that includes information concerning—

(1) the number of individuals served by the State-wide health insurance information, counseling and assistance program of such State;

(2) an estimate of the amount of funds saved by the State, and by eligible individuals in the State, in the implementation of such program; and

(3) the problems that eligible individuals in such State encounter in procuring adequate and appropriate health care coverage.

(f) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this section, and annually thereafter, the Secretary shall issue a report to the Committee on Finance of the Senate, the Special Committee on Aging of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Energy and Commerce of the House of Representa-

[30] So in original. Probably should be "(a) or (c)".

tives, and the Select Committee on Aging of the House of Representatives that—

(1) summarizes the allocation of funds authorized for grants under this section and the expenditure of such funds;

(2) summarizes the scope and content of training conferences convened under this section;

(3) outlines the problems that eligible individuals encounter in procuring adequate and appropriate health care coverage;

(4) makes recommendations that the Secretary determines to be appropriate to address the problems described in paragraph (3); and

(5) in the case of the report issued 2 years after the date of enactment of this section, evaluates the effectiveness of counseling programs established under this program, and makes recommendations regarding continued authorization of funds for these purposes.

(f) AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $10,000,000 for each of fiscal years 1991, 1992, and 1993, to fund the grant programs described in this section.

SEC. 4361. MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE.

(a) IN GENERAL.—Title XVIII (42 U.S.C. 1395 et seq.) is amended by inserting after section 1888 the following:

"MEDICARE AND MEDIGAP INFORMATION BY TELEPHONE

"SEC. 1889. The Secretary shall provide information via a toll-free telephone number on the programs under this title and on medicare supplemental policies as defined in section 1882(g)(1) (including the relationship of State programs under title XIX to such policies).". 42 USC 1395zz.

(b) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services is authorized to conduct demonstration projects in up to 5 States for the purpose of establishing statewide toll-free telephone numbers for providing information on medicare benefits, medicare supplemental policies available in the State, and benefits under the State medicaid program. 42 USC 1395zz note.

Subtitle B—Medicaid

PART 1—REDUCTION IN SPENDING

Sec. 4401. Reimbursement for prescribed drugs.
Sec. 4402. Requiring medicaid payment of premiums and cost-sharing for enrollment under group health plans where cost-effective.

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

Sec. 4501. Phased-in extension of medicaid payments for medicare premiums for certain individuals with income below 120 percent of the official poverty line.

PART 3—IMPROVEMENTS IN CHILD HEALTH

Sec. 4601. Medicaid child health provisions.
Sec. 4602. Mandatory use of outreach locations other than welfare offices.
Sec. 4603. Mandatory continuation of benefits throughout pregnancy or first year of life.
Sec. 4604. Adjustment in payment for hospital services furnished to low-income children under the age of 6 years.
Sec. 4605. Presumptive eligibility.
Sec. 4606. Role in paternity determinations.

Sec. 4607. Report and transition on errors in eligibility determinations.

PART 4—MISCELLANEOUS

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Sec. 4701. State medicaid matching payments through voluntary contributions and State taxes.
Sec. 4702. Disproportionate share hospitals: counting of inpatient days.
Sec. 4703. Disproportionate share hospitals: alternative State payment adjustments and systems.
Sec. 4704. Federally-qualified health centers.
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Sec. 4706. Limitation on disallowances or deferral of Federal financial participation for certain inpatient psychiatric hospital services for individuals under age 21.
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SUBPART B—ELIGIBILITY AND COVERAGE

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Sec. 4722. Medicaid coverage of alcoholism and drug dependency treatment services.
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SUBPART C—HEALTH MAINTENANCE ORGANIZATIONS

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Sec. 4741. Home and community-based waivers.
Sec. 4742. Timely payment under waivers of freedom of choice of hospital services.
Sec. 4744. Provisions relating to frail elderly demonstration project waivers.
Sec. 4745. Demonstration projects to study the effect of allowing States to extend medicaid coverage to certain low-income families not otherwise qualified to receive medicaid benefits.
Sec. 4746. Medicaid respite demonstration project extended.
Sec. 4747. Demonstration project to provide medicaid coverage for HIV-positive individuals.

SUBPART E—MISCELLANEOUS

Sec. 4751. Requirements for advanced directives under State plans for medical assistance.
Sec. 4752. Improvement in quality of physician services.
Sec. 4753. Clarification of authority of Inspector General.
Sec. 4754. Notice to State medical boards when adverse actions taken.
Sec. 4755. Miscellaneous provisions.

PART 5—PROVISIONS RELATING TO NURSING HOME REFORM

Sec. 4801. Technical corrections relating to nursing home reform.

PART 1—REDUCTIONS IN SPENDING

SEC. 4401. REIMBURSEMENT FOR PRESCRIBED DRUGS.

(a) IN GENERAL.—

(1) DENIAL OF FEDERAL FINANCIAL PARTICIPATION UNLESS REBATE AGREEMENTS AND DRUG USE REVIEW IN EFFECT.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (9) and inserting "; or", and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) with respect to covered outpatient drugs of a manufacturer dispensed in any State unless, (A) except as provided in section 1927(a)(3), the manufacturer complies with the rebate requirements of section 1927(a) with respect to the drugs so dispensed in all States, and (B) effective January 1, 1993, the State provides for drug use review in accordance with section 1927(g).".

(2) PROHIBITING STATE PLAN DRUG ACCESS LIMITATIONS FOR DRUGS COVERED UNDER A REBATE AGREEMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(A) by striking "and" at the end of paragraph (52),

(B) by striking the period at the end of paragraph (53) and inserting "; and", and

(C) by inserting after paragraph (53) the following new paragraph:

"(54)(A) provide that, any formulary or similar restriction (except as provided in section 1927(d)) on the coverage of covered outpatient drugs under the plan shall permit the coverage of covered outpatient drugs of any manufacturer which has entered into and complies with an agreement under section 1927(a), which are prescribed for a medically accepted indication (as defined in subsection 1927(k)(6)), and

"(B) comply with the reporting requirements of section 1927(b)(2)(A) and the requirements of subsections (d) and (g) of section 1927.".

(3) REBATE AGREEMENTS FOR COVERED OUTPATIENT DRUGS, DRUG USE REVIEW, AND RELATED PROVISIONS.—Title XIX of the Social Security Act is amended by redesignating section 1927 as section 1928 and by inserting after section 1926 the following new section: 42 USC 1396s.

"PAYMENT FOR COVERED OUTPATIENT DRUGS

"SEC. 1927. (a) REQUIREMENT FOR REBATE AGREEMENT.— 42 USC 1396r-8.

"(1) IN GENERAL.—In order for payment to be available under section 1903(a) for covered outpatient drugs of a manufacturer, the manufacturer must have entered into and have in effect a rebate agreement described in subsection (b) with the Secretary, on behalf of States (except that, the Secretary may authorize a State to enter directly into agreements with a manufacturer). Any agreement between a State and a manufacturer prior to April 1, 1991, shall be deemed to have been entered into on January 1, 1991, and payment to such manufacturer shall be retroactively calculated as if the agreement between the manufacturer and the State had been entered into on January 1, 1991. If a manufacturer has not entered into such an agreement

before March 1, 1991, such an agreement, subsequently entered into, shall not be effective until the first day of the calendar quarter that begins more than 60 days after the date the agreement is entered into.

"(2) EFFECTIVE DATE.—Paragraph (1) shall first apply to drugs dispensed under this title on or after January 1, 1991.

"(3) AUTHORIZING PAYMENT FOR DRUGS NOT COVERED UNDER REBATE AGREEMENTS.—Paragraph (1), and section 1903(i)(10)(A), shall not apply to the dispensing of a single source drug or innovator multiple source drug if (A)(i) the State has made a determination that the availability of the drug is essential to the health of beneficiaries under the State plan for medical assistance; (ii) such drug has been given a rating of 1-A by the Food and Drug Administration; and (iii)(I) the physician has obtained approval for use of the drug in advance of its dispensing in accordance with a prior authorization program described in subsection (d), or (II) the Secretary has reviewed and approved the State's determination under subparagraph (A); or (B) the Secretary determines that in the first calendar quarter of 1991, there were extenuating circumstances.

"(4) EFFECT ON EXISTING AGREEMENTS.—In the case of a rebate agreement in effect between a State and a manufacturer on the date of the enactment of this section, such agreement, for the initial agreement period specified therein, shall be considered to be a rebate agreement in compliance with this section with respect to that State, if the State agrees to report to the Secretary any rebates paid pursuant to the agreement and such agreement provides for a minimum aggregate rebate of 10 percent of the State's total expenditures under the State plan for coverage of the manufacturer's drugs under this title. If, after the initial agreement period, the State establishes to the satisfaction of the Secretary that an agreement in effect on the date of the enactment of this section provides for rebates that are at least as large as the rebates otherwise required under this section, and the State agrees to report any rebates under the agreement to the Secretary, the agreement shall be considered to be a rebate agreement in compliance with the section for the renewal periods of such agreement.

"(b) TERMS OF REBATE AGREEMENT.—

"(1) PERIODIC REBATES.—

"(A) IN GENERAL.—A rebate agreement under this subsection shall require the manufacturer to provide, to each State plan approved under this title, a rebate each calendar quarter (or periodically in accordance with a schedule specified by the Secretary) in an amount specified in subsection (c) for covered outpatient drugs of the manufacturer dispensed under the plan during the quarter (or such other period as the Secretary may specify). Such rebate shall be paid by the manufacturer not later than 30 days after the date of receipt of the information described in paragraph (2) for the period involved.

"(B) OFFSET AGAINST MEDICAL ASSISTANCE.—Amounts received by a State under this section (or under an agreement authorized by the Secretary under subsection (a)(1) or an agreement described in subsection (a)(4)) in any quarter shall be considered to be a reduction in the amount ex-

pended under the State plan in the quarter for medical assistance for purposes of section 1903(a)(1).

"(2) STATE PROVISION OF INFORMATION.—

"(A) STATE RESPONSIBILITY.—Each State agency under this title shall report to each manufacturer not later than 60 days after the end of each calendar quarter and in a form consistent with a standard reporting format established by the Secretary, information on the total number of dosage units of each covered outpatient drug dispensed under the plan during the quarter, and shall promptly transmit a copy of such report to the Secretary.

"(B) AUDITS.—A manufacturer may audit the information provided (or required to be provided) under subparagraph (A). Adjustments to rebates shall be made to the extent that information indicates that utilization was greater or less than the amount previously specified.

"(3) MANUFACTURER PROVISION OF PRICE INFORMATION.—

"(A) IN GENERAL.—Each manufacturer with an agreement in effect under this section shall report to the Secretary—

"(i) not later than 30 days after the last day of each quarter (beginning on or after January 1, 1991), on the average manufacturer price (as defined in subsection (k)(1)) and, (for single source drugs and innovator multiple source drugs), the manufacturer's best price (as defined in subsection (c)(2)(B)) for covered outpatient drugs for the quarter, and

"(ii) not later than 30 days after the date of entering into an agreement under this section on the average manufacturer price (as defined in subsection (k)(1)) as of October 1, 1990 [31] for each of the manufacturer's covered outpatient drugs.

"(B) VERIFICATION SURVEYS OF AVERAGE MANUFACTURER PRICE.—The Secretary may survey wholesalers and manufacturers that directly distribute their covered outpatient drugs, when necessary, to verify manufacturer prices reported under subparagraph (A). The Secretary may impose a civil monetary penalty in an amount not to exceed $100,000 on a wholesaler, manufacturer, or direct seller, if the wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request for information about charges or prices by the Secretary in connection with a survey under this subparagraph or knowingly provides false information. The provisions of section 1128A (other than subsections (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(C) PENALTIES.—

"(i) FAILURE TO PROVIDE TIMELY INFORMATION.—In the case of a manufacturer with an agreement under this section that fails to provide information required under subparagraph (A) on a timely basis, the amount of the penalty shall be increased by $10,000 for each day in which such information has not been provided and such amount shall be paid to the Treasury, and, if such

[31] So in original. Probably should be "1990,".

information is not reported within 90 days of the deadline imposed, the agreement shall be suspended for services furnished after the end of such 90-day period and until the date such information is reported (but in no case shall such suspension be for a period of less than 30 days).

"(ii) FALSE INFORMATION.—Any manufacturer with an agreement under this section that knowingly provides false information is subject to a civil money penalty in an amount not to exceed $100,000 for each item of false information. Such civil money penalties are in addition to other penalties as may be prescribed by law. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) CONFIDENTIALITY OF INFORMATION.—Notwithstanding any other provision of law, information disclosed by manufacturers or wholesalers under this paragraph is confidential and shall not be disclosed by the Secretary or a State agency (or contractor therewith) in a form which discloses the identity of a specific manufacturer or wholesaler, prices charged for drugs by such manufacturer or wholesaler, except as the Secretary determines to be necessary to carry out this section and to permit the Comptroller General to review the information provided.

"(4) LENGTH OF AGREEMENT.—

"(A) IN GENERAL.—A rebate agreement shall be effective for an initial period of not less than 1 year and shall be automatically renewed for a period of not less than one year unless terminated under subparagraph (B).

"(B) TERMINATION.—

"(i) BY THE SECRETARY.—The Secretary may provide for termination of a rebate agreement for violation of the requirements of the agreement or other good cause shown. Such termination shall not be effective earlier than 60 days after the date of notice of such termination. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

"(ii) BY A MANUFACTURER.—A manufacturer may terminate a rebate agreement under this section for any reason. Any such termination shall not be effective until such period after the date of the notice as the Secretary may provide (but not beyond the term of the agreement).

"(iii) EFFECTIVENESS OF TERMINATION.—Any termination under this subparagraph shall not affect rebates due under the agreement before the effective date of its termination.

"(C) DELAY BEFORE REENTRY.—In the case of any rebate agreement with a manufacturer under this section which is terminated, another such agreement with the manufacturer (or a successor manufacturer) may not be entered into until a period of 1 calendar quarter has elapsed since the

date of the termination, unless the Secretary finds good cause for an earlier reinstatement of such an agreement.

"(c) AMOUNT OF REBATE.—

"(1) BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.—With respect to single source drugs and innovator multiple source drugs, each manufacturer shall remit a basic rebate to the State medical assistance plan. Except as otherwise provided in this subsection, the amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to each dosage form and strength of single source drugs and innovator multiple source drugs shall be equal to the product of—

"(A) the total number of units of each dosage form and strength dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2); and

"(B)(i) for quarters (or periods) beginning after December 31, 1990, and before January 1, 1993, the greater of—

"(I) the difference between the average manufacturer price (after deducting customary prompt payment discounts) and 87.5 percent of such price for the quarter (or other period), or

"(II) the difference between the average manufacturer price for a drug and the best price (as defined in paragraph (2)(B)) for such quarter (or period) for such drug (except that for calendar quarters beginning after December 31, 1990, and ending before January 1, 1992, the rebate shall not exceed 25 percent of the average manufacturer price, and for calendar quarters beginning after December 31, 1991, and ending before January 1, 1993, the rebate shall not exceed 50 percent of the average manufacturer price); and

"(ii) for quarters (or other periods) beginning after December 31, 1992, the greater of—

"(I) the difference between the average manufacturer price for a drug and 85 percent of such price, or

"(II) the difference between the average manufacturer price for a drug and the best price (as defined in paragraph (2)(B)) for such quarter (or period) for such drug.

"(C) For the purposes of this paragraph, the term 'best price' means, with respect to a single source drug or innovator multiple source drug of a manufacturer, the lowest price available from the manufacturer to any wholesaler, retailer, nonprofit entity, or governmental entity within the United States (excluding depot prices and single award contract prices, as defined by the Secretary, of any agency of the Federal Government). The best price shall be inclusive of cash discounts, free goods, volume discounts, and rebates (other than rebates under this section) and shall be determined without regard to special packaging, labeling, or identifiers on the dosage form or product or package, and shall not take into account prices that are merely nominal in amount; [32]

"(D) In the case of a covered outpatient drug approved for marketing after October 1, 1990, any reference in this paragraph to 'October 1, 1990' shall be a reference to the first day of the first month during which the drug was marketed.

[32] So in original. Probably should be ".".

"(2) ADDITIONAL REBATE FOR SINGLE SOURCE AND INNOVATOR MULTIPLE SOURCE DRUGS.—(A) Each manufacturer shall remit an additional rebate to the State medical assistance plan in an amount equal to:

"(i) For calendar quarters (or other periods) beginning after December 31, 1990 and ending before January 1, 1994—

"(I) the total number of each dosage form and strength of a single source or innovator multiple source drug dispensed during the calendar quarter (or other period); multiplied by

"(II)(aa) the average manufacturer price for each dosage form and strength, minus

"(bb) the average manufacturer price for each such dosage form and strength in effect on October 1, 1990, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. average) from October 1, 1990, to the month before the beginning of the calendar quarter (or other period) involved; [33]

"(ii) For calendar quarters (or other periods) beginning after December 31, 1993—

"(I) the total number of each dosage form and strength of a single source or innovative multiple source drug dispensed during the calendar quarter (or other period); multiplied by

"(II) the amount, if any, by which the weighted average manufacturer price for single source and innovator multiple source drugs of a manufacturer exceeds the weighted average manufacturer price for the manufacturer as of October 1, 1990, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. average) from October 1, 1990, to the month before the beginning of the calendar quarter (or other period) involved.

"(B)(i) For the purposes of subparagraph (A)(ii), the term 'weighted average manufacturer price' means (with respect to a calendar quarter or other period) the ratio of—

"(I) the sum of the products (for all covered drugs of the manufacturer purchased under a State program under this title) of—

"(aa) the average manufacturer price for each such covered drug; and

"(bb) the number of units of the covered drug sold to any State program under this title during such period, to

"(II) the total number of units of all such covered drugs sold under a State program under this title in such period, except that the Secretary may exclude certain new drugs from the calculation of the weighted average if the inclusion of any such drug in such calculation has the effect of—

"(aa) reducing the rebate otherwise calculated pursuant to subparagraph (A)(ii); or

"(bb) increasing the rebate otherwise calculated pursuant to subparagraph (A)(ii) (in cases where such calculation under the conditions outlined in clause (ii).[34]

[33] So in original. Probably should be ".".
[34] So in original. Probably should be "(ii))".

"(ii)(I) The Secretary may exclude drugs approved by the Food and Drug Administration on or after October 1, 1990, from the calculation of weighted average manufacturer price if inclus [35] manufacturer demonstrates through a petition, in a form and manner prescribed by the Secretary, undue hardship on such manufacturer as a result of the inclusion of such drug in such calculation).[36]

"(II) The Secretary may promulgate guidelines to restrict the conditions under which the Secretary may consider such petitions.

"(C) For each of 8 calendar quarters beginning after December 31, 1991, the Secretary shall compare the aggregate amount of the rebates under subparagraph (A)(i) to the aggregate amount of rebates under subparagraph (A)(ii). Based on any such comparison, the Secretary may propose and utilize an alternative formula for the purpose of calculating an aggregate rebate.

"(3) REBATE FOR OTHER DRUGS.—The amount of the rebate to a State for a calendar quarter (or other period specified by the Secretary) with respect to covered outpatient drugs (other than single source drugs and innovator multiple source drugs) shall be equal to the product of—

"(A) the applicable percentage (as described in paragraph (4) [37] of the average manufacturer price for each dosage form and strength of such drugs (after deducting customary prompt payment discounts) for the quarter (or other period), and

"(B) the number of units of such form and dosage dispensed under the plan under this title in the quarter (or other period) reported by the State under subsection (b)(2).

"(4) For the purposes of paragraph (3), the applicable percentage is—

"(A) with respect to calendar quarters beginning after December 31, 1990, and ending before January 1, 1994, 10 percent; and

"(B) with respect to calendar quarters beginning on or after December 31, 1993, 11 percent.

"(d) LIMITATIONS ON COVERAGE OF DRUGS.—

"(1) PERMISSIBLE RESTRICTIONS.—(A) Except as provided in paragraph (6), a State may subject to prior authorization any covered outpatient drug. Any such prior authorization program shall comply with the requirements of paragraph (5).

"(B) A State may exclude or otherwise restrict coverage of a covered outpatient drug if—

"(i) the prescribed use is not for a medically accepted indication (as defined in (k)(6));

"(ii) the drug is contained in the list referred to in paragraph (2); or

"(iii) the drug is subject to such restrictions pursuant to an agreement between a manufacturer and a State authorized by the Secretary under subsection (a)(1) or in effect pursuant to subsection (a)(4).

"(2) LIST OF DRUGS SUBJECT TO RESTRICTION.—The following drugs or classes of drugs, or their medical uses, may be excluded from coverage or otherwise restricted:

"(A) Agents when used for anorexia or weight gain.

"(B) Agents when used to promote fertility.

[35] So in original. The "inclus" probably should be "the".
[36] So in original. Probably should be "calculation.".
[37] So in original. Probably should be "(4))".

"(C) Agents when used for cosmetic purposes or hair growth.

"(D) Agents when used for the symptomatic relief of cough and colds.

"(E) Agents when used to promote smoking cessation.

"(F) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations.

"(G) Nonprescription drugs.

"(H) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee.

"(I) Drugs described in section 107(c)(3) of the Drug Amendments of 1962 and identical, similar, or related drugs (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations ('DESI' drugs)).

"(J) Barbiturates.

"(K) Benzodiazepines.

"(3) UPDATE OF DRUG LISTINGS.—The Secretary shall (except with respect to new drugs approved by the FDA for the first 6 months following the date of approval of such drugs shall not be subject to being listed in paragraph (2) under the provisions of this paragraph), by regulation, periodically update the list of drugs described in paragraph (2) or classes of drugs, or their medical uses, which the Secretary has determined, based on data collected by surveillance and utilization review programs of State medical assistance programs, to be subject to clinical abuse or inappropriate use.

"(4) INNOVATOR MULTIPLE-SOURCE DRUGS.—Innovator multiple-source drugs shall be treated under applicable State and Federal law and regulation.

"(5) PRIOR AUTHORIZATION PROGRAMS.—A State plan under this title may not require, as a condition of coverage or payment for a covered outpatient drug for which Federal financial participation is available in accordance with this section, the approval of the drug before its dispensing for any medically accepted indication (as defined in subsection (k)(6)) unless the system providing for such approval—

"(A) provides response by telephone or other telecommunication device within 24 hours of a request for prior authorization; and

"(B) except with respect to the drugs on the list referred to in paragraph (2), provides for the dispensing of at least a 72-hour supply of a covered outpatient prescription drug in an emergency situation (as defined by the Secretary).

"(6) TREATMENT OF NEW DRUGS.—A State may not exclude for coverage, subject to prior authorization, or otherwise restrict any new biological or drug approved by the Food and Drug Administration after the date of enactment of this section, for a period of 6 months after such approval.

"(7) OTHER PERMISSIBLE RESTRICTIONS.—A State may impose limitations, with respect to all such drugs in a therapeutic class, on the minimum or maximum quantities per prescription or on the number of refills, provided such limitations are necessary to discourage waste. Nothing in this section shall restrict the ability of a State to address individual instances of fraud or abuse in any manner authorized under the Social Security Act.

"(8) DELAYED EFFECTIVE DATE.—The provisions of paragraph (5) shall become effective with respect to drugs dispensed under this title on or after July 1, 1991.

"(e) DENIAL OF FEDERAL FINANCIAL PARTICIPATION IN CERTAIN CASES.—The Secretary shall provide that no payment shall be made to a State under section 1903(a) for an innovator multiple-source drug dispensed on or after July 1, 1991, if, under applicable State law, a less expensive noninnovator multiple source drug (other than the innovator multiple-source drug) could have been dispensed.

"(f) PHARMACY REIMBURSEMENT.—

"(1) NO REDUCTIONS IN REIMBURSEMENT LIMITS.—(A) During the period of time beginning on January 1, 1991, and ending on December 31, 1994, the Secretary may not modify by regulation the formula used to determine reimbursement limits described in the regulations under 42 CFR 447.331 through 42 CFR 447.334 (as in effect on the date of the enactment of the Omnibus Budget Reconciliation Act of 1990) to reduce such limits for covered outpatient drugs.

(B) [38] During the period of time described in subparagraph (A), any State that was in compliance with the regulations described in subparagraph (A) may not reduce the limits for covered outpatient drugs described in subparagraph (A) or dispensing fees for such drugs.

"(2) ESTABLISHMENT OF UPPER PAYMENT LIMITS.—HCFA shall establish a Federal upper reimbursement limit for each multiple source drug for which the FDA has rated three or more products therapeutically and pharmaceutically equivalent, regardless of whether all such additional formulations are rated as such and shall use only such formulations when determining any such upper limit.

"(g) DRUG USE REVIEW.—

"(1) IN GENERAL.—

"(A) In order to meet the requirement of section 1903(i)(10)(B), a State shall provide, by not later than January 1, 1993, for a drug use review program described in paragraph (2) for covered outpatient drugs in order to assure that prescriptions (i) are appropriate, (ii) are medically necessary, and (iii) are not likely to result in adverse medical results. The program shall be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists, and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs including education on therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse.

"(B) The program shall assess data on drug use against predetermined standards, consistent with the following:

"(i) compendia which shall consist of the following:

[38] So in original. Probably should be " "(B)".

"(I) American Hospital Formulary Service Drug Information;

"(II) United States Pharmacopeia-Drug Information; and

"(III) American Medical Association Drug Evaluations; and

"(ii) the peer-reviewed medical literature.

"(C) The Secretary, under the procedures established in section 1903, shall pay to each State an amount equal to 75 per centum of so much of the sums expended by the State plan during calendar years 1991 through 1993 as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of this subsection.

"(D) States shall not be required to perform additional drug use reviews with respect to drugs dispensed to residents of nursing facilities which are in compliance with the drug regimen review procedures prescribed by the Secretary for such facilities in regulations implementing section 1919, currently at section 483.60 of title 42, Code of Federal Regulations.

"(2) DESCRIPTION OF PROGRAM.—Each drug use review program shall meet the following requirements for covered outpatient drugs:

"(A) PROSPECTIVE DRUG REVIEW.—(i) The State plan shall provide for a review of drug therapy before each prescription is filled or delivered to an individual receiving benefits under this title, typically at the point-of-sale or point of distribution. The review shall include screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), incorrect drug dosage or duration of drug treatment, drug-allergy interactions, and clinical abuse/misuse. Each State shall use the compendia and literature referred to in paragraph (1)(B) as its source of standards for such review.

"(ii) As part of the State's prospective drug use review program under this subparagraph applicable State law shall establish standards for counseling of individuals receiving benefits under this title by pharmacists which includes at least the following:

"(I) The pharmacist must offer to discuss with each individual receiving benefits under this title or caregiver of such individual (in person, whenever practicable, or through access to a telephone service which is toll-free for long-distance calls) who presents a prescription, matters which in the exercise of the pharmacist's professional judgment (consistent with State law respecting the provision of such information), the pharmacist deems significant including the following:

"(aa) The name and description of the medication.

"(bb) The route, dosage form, dosage, route of administration, and duration of drug therapy.

"(cc) Special directions and precautions for preparation, administration and use by the patient.

"(dd) Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.

"(ee) Techniques for self-monitoring drug therapy.

"(ff) Proper storage.

"(gg) Prescription refill information.

"(hh) Action to be taken in the event of a missed dose.

"(II) A reasonable effort must be made by the pharmacist to obtain, record, and maintain at least the following information regarding individuals receiving benefits under this title:

"(aa) Name, address, telephone number, date of birth (or age) and gender.

"(bb) Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive list of medications and relevant devices.

"(cc) Pharmacist comments relevant to the individuals drug therapy.

Nothing in this clause shall be construed as requiring a pharmacist to provide consultation when an individual receiving benefits under this title or caregiver of such individual refuses such consultation.

"(B) RETROSPECTIVE DRUG USE REVIEW.—The program shall provide, through its mechanized drug claims processing and information retrieval systems (approved by the Secretary under section 1903(r)) or otherwise, for the ongoing periodic examination of claims data and other records in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and individuals receiving benefits under this title, or associated with specific drugs or groups of drugs.

"(C) APPLICATION OF STANDARDS.—The program shall, on an ongoing basis, assess data on drug use against explicit predetermined standards (using the compendia and literature referred to in subsection (1)(B) as the source of standards for such assessment) including but not limited to monitoring for therapeutic appropriateness, overutilization and underutilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse and, as necessary, introduce remedial strategies, in order to improve the quality of care and to conserve program funds or personal expenditures.

"(D) EDUCATIONAL PROGRAM.—The program shall, through its State drug use review board established under paragraph (3), either directly or through contracts with accredited health care educational institutions, State medical societies or State pharmacists associations/societies or other organizations as specified by the State, and using data

provided by the State drug use review board on common drug therapy problems, provide for active and ongoing educational outreach programs (including the activities described in paragraph (3)(C)(iii) of this subsection) to educate practitioners on common drug therapy problems with the aim of improving prescribing or dispensing practices.

"(3) STATE DRUG USE REVIEW BOARD.—

"(A) ESTABLISHMENT.—Each State shall provide for the establishment of a drug use review board (hereinafter referred to as the 'DUR Board') either directly or through a contract with a private organization.

"(B) MEMBERSHIP.—The membership of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:

"(i) The clinically appropriate prescribing of covered outpatient drugs.

"(ii) The clinically appropriate dispensing and monitoring of covered outpatient drugs.

"(iii) Drug use review, evaluation, and intervention.

"(iv) Medical quality assurance.

The membership of the DUR Board shall be made up at least ⅓ but no more than 51 percent licensed and actively practicing physicians and at least ⅓ * * * licensed and actively practicing pharmacists.

"(C) ACTIVITIES.—The activities of the DUR Board shall include but not be limited to the following:

"(i) Retrospective DUR as defined in section (2)(B).

"(ii) Application of standards as defined in section (2)(C).

"(iii) Ongoing interventions for physicians and pharmacists, targeted toward therapy problems or individuals identified in the course of retrospective drug use reviews performed under this subsection. Intervention programs shall include, in appropriate instances, at least:

"(I) information dissemination sufficient to ensure the ready availability to physicians and pharmacists in the State of information concerning its duties, powers, and basis for its standards;

"(II) written, oral, or electronic reminders containing patient-specific or drug-specific (or both) information and suggested changes in prescribing or dispensing practices, communicated in a manner designed to ensure the privacy of patient-related information;

"(III) use of face-to-face discussions between health care professionals who are experts in rational drug therapy and selected prescribers and pharmacists who have been targeted for educational intervention, including discussion of optimal prescribing, dispensing, or pharmacy care practices, and follow-up face-to-face discussions; and

"(IV) intensified review or monitoring of selected prescribers or dispensers.

The Board shall re-evaluate interventions after an appropriate period of time to determine if the intervention im-

proved the quality of drug therapy, to evaluate the success of the interventions and make modifications as necessary.

"(D) ANNUAL REPORT.—Each State shall require the DUR Board to prepare a report on an annual basis. The State shall submit a report on an annual basis to the Secretary which shall include a description of the activities of the Board, including the nature and scope of the prospective and retrospective drug use review programs, a summary of the interventions used, an assessment of the impact of these educational interventions on quality of care, and an estimate of the cost savings generated as a result of such program. The Secretary shall utilize such report in evaluating the effectiveness of each State's drug use review program.

"(h) ELECTRONIC CLAIMS MANAGEMENT.—

"(1) IN GENERAL.—In accordance with chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), the Secretary shall encourage each State agency to establish, as its principal means of processing claims for covered outpatient drugs under this title, a point-of-sale electronic claims management system, for the purpose of performing online, real time eligibility verifications, claims data capture, adjudication of claims, and assisting pharmacists (and other authorized persons) in applying for and receiving payment.

"(2) ENCOURAGEMENT.—In order to carry out paragraph (1)—

"(A) for calendar quarters during fiscal years 1991 and 1992, expenditures under the State plan attributable to development of a system described in paragraph (1) shall receive Federal financial participation under section 1903(a)(3)(A)(i) (at a matching rate of 90 percent) if the State acquires, through applicable competitive procurement process in the State, the most cost-effective telecommunications network and automatic data processing services and equipment; and

"(B) the Secretary may permit, in the procurement described in subparagraph (A) in the application of part 433 of title 42, Code of Federal Regulations, and parts 95, 205, and 307 of title 45, Code of Federal Regulations, the substitution of the State's request for proposal in competitive procurement for advance planning and implementation documents otherwise required.

"(i) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year the Secretary shall transmit to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives a report on the the operation of this section in the preceding fiscal year.

"(2) DETAILS.—Each report shall include information on—

"(A) ingredient costs paid under this title for single source drugs, multiple source drugs, and nonprescription covered outpatient drugs;

"(B) the total value of rebates received and number of manufacturers providing such rebates;

"(C) how the size of such rebates compare with the size or rebates offered to other purchasers of covered outpatient drugs;

"(D) the effect of inflation on the value of rebates required under this section;

"(E) trends in prices paid under this title for covered outpatient drugs; and

"(F) Federal and State administrative costs associated with compliance with the provisions of this title.

"(j) EXEMPTION OF ORGANIZED HEALTH CARE SETTINGS.—(1) Covered outpatient drugs dispensed by * * * Health Maintenance Organizations, including those organizations that contract under section 1903(m), are not subject to the requirements of this section.

"(2) The State plan shall provide that a hospital (providing medical assistance under such plan) that dispenses covered outpatient drugs using drug formulary systems, and bills the plan no more than the hospital's purchasing costs for covered outpatient drugs (as determined under the State plan) shall not be subject to the requirements of this section.

"(3) Nothing in this subsection shall be construed as providing that amounts for covered outpatient drugs paid by the institutions described in this subsection should not be taken into account for purposes of determining the best price as described in subsection (c).

"(k) DEFINITIONS.—In this section—

"(1) AVERAGE MANUFACTURER PRICE.—The term 'average manufacturer price' means, with respect to a covered outpatient drug of a manufacturer for a calendar quarter, the average price paid to the manufacturer for the drug in the United States by wholesalers for drugs distributed to the retail pharmacy class of trade.

"(2) COVERED OUTPATIENT DRUG.—Subject to the exceptions in paragraph (3), the term 'covered outpatient drug' means—

"(A) of those drugs which are treated as prescribed drugs for purposes of section 1905(a)(12), a drug which may be dispensed only upon prescription (except as provided in paragraph (5)), and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the

Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for some or all conditions of use prescribed, recommended, or suggested in its labeling; and

"(B) a biological product, other than a vaccine which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) LIMITING DEFINITION.—The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made under this title as part of payment for the following and not as direct reimbursement for the drug):

"(A) Inpatient hospital services.

"(B) Hospice services.

"(C) Dental services, except that drugs for which the State plan authorizes direct reimbursement to the dispensing dentist are covered outpatient drugs.

"(D) Physicians'services.

"(E) Outpatient hospital services * * * * [39] emergency room visits.

"(F) Nursing facility sevices.

"(G) Other laboratory and x-ray services.

"(H) Renal dialysis.

Such term also does not include any such drug or product which is used for a medical indication which is not a medically accepted indication.

"(4) NONPRESCRIPTION DRUGS.—If a State plan for medical assistance under this title includes coverage of prescribed drugs as described in section 1905(a)(12) and permits coverage of drugs which may be sold without a prescription (commonly referred to as 'over-the-counter' drugs), if they are prescribed by a physician (or other person authorized to prescribe under State law), such a drug shall be regarded as a covered outpatient drug.

"(5) MANUFACTURER.—The term 'manufacturer' means any entity which is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(6) MEDICALLY ACCEPTED INDICATION.—The term 'medically accepted indication' means any use for a covered outpatient drug which is approved under the Federal Food, Drug, and Cosmetic Act, which appears in peer-reviewed medical lit-

[39] So in original. Probably should be "services emergency".

erature or which is accepted by one or more of the following compendia: the American Hospital Formulary Service-Drug Information, the American Medical Association Drug Evaluations, and the United States Pharmacopeia-Drug Information.

"(7) MULTIPLE SOURCE DRUG; INNOVATOR MULTIPLE SOURCE DRUG; NONINNOVATOR MULTIPLE SOURCE DRUG; SINGLE SOURCE DRUG.—

"(A) DEFINED.—

"(i) MULTIPLE SOURCE DRUG.—The term 'multiple source drug' means, with respect to a calendar quarter, a covered outpatient drug (not including any drug described in paragraph (5)) for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in subparagraph (B), are pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed in the State during the period.

"(ii) INNOVATOR MULTIPLE SOURCE DRUG.—The term 'innovator multiple source drug' means a multiple source drug that was originally marketed under an original new drug application approved by the Food and Drug Administration.

"(iii) NONINNOVATOR MULTIPLE SOURCE DRUG.—The term 'noninnovator multiple source drug' means a multiple source drug that is not an innovator multiple source drug.

"(iv) SINGLE SOURCE DRUG.—The term 'single source drug' means a covered outpatient drug which is produced or distributed under an original new drug application approved by the Food and Drug Administration, including a drug product marketed by any cross-licensed producers or distributers [40] operating under the new drug application.

"(B) EXCEPTION.—Subparagraph (A)(i)(II) shall not apply if the Food and Drug Administration changes by regulation the requirement that, for purposes of the publication described in subparagraph (A)(i)(I), in order for drug products to be rated as therapeutically equivalent, they must be pharmaceutically equivalent and bioequivalent, as defined in subparagraph (C).

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) drug products are pharmaceuutically [41] equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity;

"(ii) drugs are bioequivalent if they do not present a known or potential bioequivalence problem, or, if they do present such a problem, they are shown to meet an appropriate standard of bioequivalence; and

[40] So in original. Probably should be "distributors".
[41] So in original. Probably should be "pharmaceutically".

"(iii) a drug product is considered to be sold or marketed in a State if it appears in a published national listing of average wholesale prices selected by the Secretary, provided that the listed product is generally available to the public through retail pharmacies in that State.

"(8) STATE AGENCY.—The term 'State agency' means the agency designated under section 1902(a)(5) to administer or supervise the administration of the State plan for medical assistance.".

(b) FUNDING.—

(1) DRUG USE REVIEW PROGRAMS.—Section 1903(a)(3) (42 U.S.C. 1936b(a)(3)) is amended— 42 USC 1396b.

(A) by striking "plus" at the end of subparagraph (C) and inserting "and", and

(B) by adding at the end the following new subparagraph:

"(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g); plus".

(2) TEMPORARY INCREASE IN FEDERAL MATCH FOR ADMINISTRATIVE COSTS.—The per centum to be applied under section 1903(a)(7) of the Social Security Act for amounts expended during calendar quarters in fiscal year 1991 which are attributable to administrative activities necessary to carry out section 1927 (other than subsection (g)) of such Act shall be 75 percent, rather than 50 percent; after fiscal year 1991, the match shall revert back to 50 percent. 42 USC 1396b note.

(c) DEMONSTRATION PROJECTS.— 42 USC 1396r-8 note.

(1) PROSPECTIVE DRUG UTILIZATION REVIEW.—

(A) The Secretary of Health and Human Services shall provide, through competitive procurement by not later than January 1, 1992, for the establishment of at least 10 statewide demonstration projects to evaluate the efficiency and cost-effectiveness of prospective drug utilization review (as a component of on-line, real-time electronic point-of-sales claims management) in fulfilling patient counseling and in reducing costs for prescription drugs.

(B) Each of such projects shall establish a central electronic repository for capturing, storing, and updating prospective drug utilization review data and for providing access to such data by participating pharmacists (and other authorized participants).

(C) Under each project, the pharmacist or other authorized participant shall assess the active drug regimens of recipients in terms of duplicate drug therapy, therapeutic overlap, allergy and cross-sensitivity reactions, drug interactions, age precautions, drug regiment compliance, prescribing limits, and other appropriate elements.

(D) Not later than January 1, 1994, the Secretary shall submit to Congress a report on the demonstration projects conducted under this paragraph.

(2) DEMONSTRATION PROJECT ON COST-EFFECTIVENESS OF REIMBURSEMENT FOR PHARMACISTS' COGNITIVE SERVICES.—

(A) The Secretary of Health and Human Services shall conduct a demonstration project to evaluate the impact on

quality of care and cost-effectiveness of paying pharmacists under title XIX of the Social Security Act, whether or not a drug is dispensed, for drug use review services. For this purpose, the Secretary shall provide for no fewer than 5 demonstration sites in different States and the participation of a significant number of pharmacists.

(B) Not later than January 1, 1995, the Secretary shall submit a report to the Congress on the results of the demonstration project conducted under subparagraph (A).

42 USC 1396r-8 note.

(d) STUDIES.—

(1) STUDY OF DRUG PURCHASING AND BILLING ACTIVITIES OF VARIOUS HEALTH CARE SYSTEMS.—

(A) The Comptroller General shall conduct a study of the drug purchasing and billing practices of hospitals, other institutional facilities, and managed care plans which provide covered outpatient drugs in the medicaid program. The study shall compare the ingredient costs of drugs for medicaid prescriptions to these facilities and plans and the charges billed to medical assistance programs by these facilities and plans compared to retail pharmacies.

(B) The study conducted under this subsection shall include an assessment of—

(i) the prices paid by these institutions for covered outpatient drugs compared to prices that would be paid under this section,

(ii) the quality of outpatient drug use review provided by these institutions as compared to drug use review required under this section, and

(iii) the efficiency of mechanisms used by these institutions for billing and receiving payment for covered outpatient drugs dispensed under this title.

(C) By not later than May 1, 1991, the Comptroller General shall report to the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the study conducted under subparagraph (A).

(2) REPORT ON DRUG PRICING.—By not later than May 1 of each year, the Comptroller General shall submit to the Secretary, the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and House of Representatives an annual report on changes in prices charged by manufacturers for prescription drugs to the Department of Veterans Affairs, other Federal programs, retail and hospital pharmacies, and other purchasing groups and managed care plans.

(3) STUDY ON PRIOR APPROVAL PROCEDURES.—

(A) The Secretary, acting in consultation with the Comptroller General, shall study prior approval procedures utilized by State medical assistance programs conducted under title XIX of the Social Security Act, including—

(i) the appeals provisions under such programs; and

(ii) the effects of such procedures on beneficiary and provider access to medications covered under such programs.

(B) By not later than December 31, 1991, the Secretary and the Comptroller General shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A) and shall make recommendations with respect to which procedures are appropriate or inappropriate to be utilized by State plans for medical assistance.

(4) STUDY ON REIMBURSEMENT RATES TO PHARMACISTS.—

(A) The Secretary shall conduct a study on (i) the adequacy of current reimbursement rates to pharmacists under each State medical assistance programs conducted under title XIX of the Social Security Act; and (ii) the extent to which reimbursement rates under such programs have an effect on beneficiary access to medications covered and pharmacy services under such programs.

(B) By not later than December 31, 1991, the Secretary shall report to the Committee on Finance of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Aging of the Senate and the House of Representatives on the results of the study conducted under subparagraph (A).

(5) STUDY OF PAYMENTS FOR VACCINES.—The Secretary of Health and Human Services shall undertake a study of the relationship between State medical assistance plans and Federal and State acquisition and reimbursement policies for vaccines and the accessibility of vaccinations and immunization to children provided under this title. The Secretary shall report to the Congress on the Study not later than one year after the date of the enactment of this Act.

(6) STUDY ON APPLICATION OF DISCOUNTING OF DRUGS UNDER MEDICARE.—The Comptroller General shall conduct a study examining methods to encourage providers of items and services under title XVIII of the Social Security Act to negotiate discounts with suppliers of prescription drugs to such providers. The Comptroller General shall submit to Congress a report on such study no later than 1 year after the date of enactment of this subsection.

SEC. 4402. REQUIRING MEDICAID PAYMENT OF PREMIUMS AND COST-SHARING FOR ENROLLMENT UNDER GROUP HEALTH PLANS WHERE COST-EFFECTIVE.

(a) IN GENERAL.—Title XIX (42 U.S.C. 1396 et seq.) is amended—

(1) in section 1902(a)(25) (42 U.S.C. 1396a(a)(25))—

(A) by striking "and" at the end of subparagraph (E),

(B) by adding "and" at the end of subparagraph (F), and

(C) by adding at the end the following new subparagraph:

"(G) that the State plan shall meet the requirements of section 1906 (relating to enrollment of individuals under group health plans in certain cases);"; and

(2) by inserting after section 1905 the following new section:

"ENROLLMENT OF INDIVIDUALS UNDER GROUP HEALTH PLANS

"SEC. 1906. (a) For purposes of section 1902(a)(25)(G) and subject to subsection (d), each State plan— 42 USC 1396e.

"(1) shall implement guidelines established by the Secretary, consistent with subsection (b), to identify those cases in which enrollment of an individual otherwise entitled to medical assistance under this title in a group health plan (in which the individual is otherwise eligible to be enrolled) is cost-effective (as defined in subsection (e)(2));

"(2) shall require, in case of an individual so identified and as a condition of the individual being or remaining eligible for medical assistance under this title and subject to subsection (b)(2), notwithstanding any other provision of this title, that the individual (or in the case of a child, the child's parent) apply for enrollment in the group health plan; and

"(3) in the case of such enrollment (except as provided in subsection (c)(1)(B)), shall provide for payment of all enrollee premiums for such enrollment and all deductibles, coinsurance, and other cost-sharing obligations for items and services otherwise covered under the State plan under this title (exceeding the amount otherwise permitted under section 1916), and shall treat coverage under the group health plan as a third party liability (under section 1902(a)(25)).

"(b)(1) In establishing guidelines under subsection (a)(1), the Secretary shall take into account that an individual may only be eligible to enroll in group health plans at limited times and only if other individuals (not entitled to medical assistance under the plan) are also enrolled in the plan simultaneously.

"(2) If a parent of a child fails to enroll the child in a group health plan in accordance with subsection (a)(2), such failure shall not affect the child's eligibility for benefits under this title.

"(c)(1)(A) In the case of payments of premiums, deductibles, coinsurance, and other cost-sharing obligations under this section shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(B) If all members of a family are not eligible for medical assistance under this title and enrollment of the members so eligible in a group health plan is not possible without also enrolling members not so eligible—

"(i) payment of premiums for enrollment of such other members shall be treated as payments for medical assistance for eligible individuals, if it would be cost-effective (taking into account payment of all such premiums), but

"(ii) payment of deductibles, coinsurance, and other cost-sharing obligations for such other members shall not be treated as payments for medical assistance for eligible individuals.

"(2) The fact that an individual is enrolled in a group health plan under this section shall not change the individual's eligibility for benefits under the State plan, except insofar as section 1902(a)(25) provides that payment for such benefits shall first be made by such plan.

"(d)(1) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) This section, and section 1902(a)(25)(G), shall only apply to a State that is one of the 50 States or the District of Columbia.

"(e) In this section:

"(1) The term 'group health plan' has the meaning given such term in section 5000(b)(1) of the Internal Revenue Code of 1986, and includes the provision of continuation coverage by such a plan pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

"(2) The term 'cost-effective' means, as established by the Secretary, that the reduction in expenditures under this title with respect to an individual who is enrolled in a group health plan is likely to be greater than the additional expenditures for premiums and cost-sharing required under this section with respect to such enrollment.".

(b) TREATMENT OF ERRONEOUS EXCESS PAYMENTS FOR MEDICAL ASSISTANCE.—Section 1903(u)(1)(C)(iv) (42 U.S.C. 1396b(u)(1)(C)(iv)) is amended by inserting before the period at the end the following: "or with respect to payments made in violation of section 1906".

(c) OPTIONAL MINIMUM 6-MONTH ELIGIBILITY.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(11)(A) In the case of an individual who is enrolled with a group health plan under section 1906 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such plan.

"(B) For purposes of subparagraph (A), the term 'minimum enrollment period' means, with respect to an individual's enrollment with a group health plan, a period established by the State, of not more than 6 months beginning on the date the individual's enrollment under the plan becomes effective.".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (E)—

(A) by striking "and" at the end of subdivision (IX);

(B) by inserting "and" at the end of subdivision (X); and

(C) by adding at the end the following new subdivision:

"(XI) the making available of medical assistance to cover the costs of premiums, deductibles, coinsurance, and other cost-sharing obligations for certain individuals for private health coverage as described in section 1906 shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of services of the same amount, duration, and scope of such private coverage to any other individuals;".

(2) Section 1905(a) (42 U.S.C. 1396d(a)) is amended by adding at the end the following: "The payment described in the first sentence may include expenditures for medicare cost-sharing and for premiums under part B of title XVIII for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom

there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), and, except in the case of individuals 65 years of age or older and disabled individuals entitled to health insurance benefits under title XVIII who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof.".

(3) Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by striking "(including expenditures for" and all that follows through "or the cost thereof)".

42 USC 1396a note.

(e) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

PART 2—PROTECTION OF LOW-INCOME MEDICARE BENEFICIARIES

SEC. 4501. PHASED-IN EXTENSION OF MEDICAID PAYMENTS FOR MEDICARE PREMIUMS FOR CERTAIN INDIVIDUALS WITH INCOME BELOW 120 PERCENT OF THE OFFICIAL POVERTY LINE.

(a) 1-YEAR ACCELERATION OF BUY-IN OF PREMIUMS AND COST SHARING FOR QUALIFIED MEDICARE BENEFICIARIES UP TO 100 PERCENT OF POVERTY LINE.—Section 1905(p)(2) (42 U.S.C. 1396d(p)(2)) is further amended—

(1) in subparagraph (B)—

(A) by adding "and" at the end of clause (ii);

(B) in clause (iii), by striking "95 percent, and" and inserting "100 percent."; and

(C) by striking clause (iv); and

(2) in subparagraph (C)—

(A) in clause (iii), by striking "90" and inserting "95";

(B) by adding "and" at the end of clause (iii);

(C) in clause (iv), by striking "95 percent, and" and inserting "100 percent."; and

(D) by striking clause (v).

42 USC 1396a.

(b) ENTITLEMENT.—Section 1902(a)(10)(E) (42 U.S.C. 1395b(a)(10)(E)(ii)) is amended—

(1) by striking ", and" at the end of clause (i) and inserting a semicolon;

(2) by adding "and" at the end of clause (ii); and

(3) by adding at the end the following new clause:

"(iii) for making medical assistance available for medicare cost sharing described in section 1905(p)(3)(A)(ii) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 110 percent in 1993 and 1994, and 120 percent in 1995 and years thereafter of the official poverty line (referred to in such section) for a family of the size involved;".

(c) APPLICATION IN CERTAIN STATES AND TERRITORIES.—Section 1905(p)(4) (42 U.S.C. 1396d(p)(4)) is amended—

(1) in subparagraph (B), by inserting "or 1902(a)(10)(E)(iii)" after "subparagraph (B)", and

(2) by adding at the end the following:

"In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title."

(d) CONFORMING AMENDMENT.—Section 1843(h) (42 U.S.C. 1395v(h)) is amended by adding at the end the following new paragraph:

"(3) In this subsection, the term 'qualified medicare beneficiary' also includes an individual described in section 1902(a)(10)(E)(iii).".

(e) DELAY IN COUNTING SOCIAL SECURITY COLA INCREASES UNTIL NEW POVERTY GUIDELINES PUBLISHED.—

(1) IN GENERAL.—Section 1905(p) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(D)" after "supplementary social security income program", and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(D)(i) In determining under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

"(ii) For purposes of clause (i), the term 'transition month' means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.".

(2) CONFORMING AMENDMENTS.—Section 1902(m) (42 U.S.C. 1396a(m)) is amended—

(A) in paragraph (1)(B), by inserting ", except as provided in paragraph (2)(C)" after "supplemental security income program", and

(B) by adding at the end of paragraph (2) the following new subparagraph:

"(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).".

42 USC 1396a note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar quarters beginning on or after January 1, 1991, without regard to whether or not regulations to implement such amendments are promulgated by such date; except that the amendments made by subsection (e) shall apply to determinations of income for months beginning with January 1991.

PART 3—IMPROVEMENTS IN CHILD HEALTH

SEC. 4601. MEDICAID CHILD HEALTH PROVISIONS.

(a) PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(i)—

(i) by striking "or" at the end of subclause (V),

(ii) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(iii) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(B) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(C) in subsection (l)—

(i) in subparagraph (C) of paragraph (1) by inserting "children" after "(C)";

(ii) by striking subparagraph (D) of paragraph (1) and inserting the following:

"(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age,";

(iii) by striking subparagraph (C) of paragraph (2) and inserting the following:

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(iv) in paragraph (3) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)";

(v) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(vi) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)" ", and inserting "(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(D) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(2) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) (42 U.S.C. 1396d(n)(2)) is amended by striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 19".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(i) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),", and

(ii) by inserting "1902(a)(10)(A)(i)(VII)," after "1902(a)(10)(A)(i)(VI),".

(B) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(b) EFFECTIVE DATE.—(1) The amendments made by this subsection apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. 42 USC 1396a note.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4602. MANDATORY USE OF OUTREACH LOCATIONS OTHER THAN WELFARE OFFICES.

(a) IN GENERAL.—Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 4401(a)(2) of this title, is amended—

(1) by striking "and" at the end of paragraph (53),

(2) by striking the period at the end of paragraph (54) and inserting "; and", and

(3) by inserting after paragraph (54) the following new paragraph:

"(55) provide for receipt and initial processing of applications of individuals for medical assistance under subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)—

"(A) at locations which are other than those used for the receipt and processing of applications for aid under part A of title IV and which include facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(1)(2)(B), and

"(B) using applications which are other than those used for applications for aid under such part.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calenar [42] quarters beginning on or after July 1, 1991, without 42 USC 1396a note.

[42] So in original. Probably should be "calendar".

regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4603. MANDATORY CONTINUATION OF BENEFITS THROUGHOUT PREGNANCY OR FIRST YEAR OF LIFE.

(a) IN GENERAL.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended—

(1) in the first sentence of paragraph (4), by inserting "(or would remain if pregnant)" after "remains"; and

(2) in paragraph (6)—

(A) by striking "At the option of a State, in" and inserting "In";

(B) by striking "the State plan may nonetheless treat the woman as being" and inserting "the woman shall be deemed to continue to be"; and

(C) by adding at the end the following new sentence: "The preceding sentence shall not apply in the case of a woman who has been provided ambulatory prenatal care pursuant to section 1920 during a presumptive eligibility period and is then, in accordance with such section, determined to be ineligible for medical assistance under the State plan.".

42 USC 1396a note.

(b) EFFECTIVE DATE.—

(1) INFANTS.—The amendment made by subsection (a)(1) shall apply to individuals born on or after January 1, 1991, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) PREGNANT WOMEN.—The amendments made by subsection (a)(2) shall apply with respect to determinations to terminate the eligibility of women, based on change of income, made on or after January 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4604. ADJUSTMENT IN PAYMENT FOR HOSPITAL SERVICES FURNISHED TO LOW-INCOME CHILDREN UNDER THE AGE OF 6 YEARS.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(s) In order to meet the requirements of subsection (a)(55), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

"(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

"(2) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

"(3) not be limited by the imposition of dollar limits (other than such limits resulting from prospective payments as adjusted pursuant to paragraph (1)) with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged).".

(b) CONFORMING AMENDMENT.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by section 4401(a)(2), is further amended—

(1) by striking "and" at the end of paragraph (53);

(2) by striking the period at the end of paragraph (54) and by inserting "; and"; and

(3) by inserting after paragraph (54) and before the end matter the following new paragraph:

"(55) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services.".

(c) PROHIBITION ON WAIVER.—Section 1915(b) (42 U.S.C. 1396n(b)) is amended in the matter preceding paragraph (1) by inserting "(other than subsection (s))" after "Section 1902".

(d) EFFECTIVE DATE.—(1) The amendments made by this subsection shall become effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date. 42 USC 1396a note.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4605. PRESUMPTIVE ELIGIBILITY.

(a) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD.—Section 1920 (42 U.S.C. 1396r-1) is amended—

(1) in subsection (b)(1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by amending clause (iii) to read as follows:

"(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and"; and

(2) in subsections (c)(2)(B) and (c)(3), by striking "within 14 calendar days after the date on which" and inserting "by not later than the last day of the month following the month during which".] [43]

(b) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(c) EFFECTIVE DATES.— 42 USC 1396r-1 note.

(1) The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to

[43] So in original. Probably should be "which". ".

whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendment made by subsection (b) shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4606. ROLE IN PATERNITY DETERMINATIONS.

(a) IN GENERAL.—Section 1912(a)(1)(B) (42 U.S.C. 1396k(a)(1)(B)) is amended by inserting "the individual is described in section 1902(l)(1)(A) or" after "unless (in either case)".

42 USC 1396k note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

42 USC 1396b note.

SEC. 4607. REPORT AND TRANSITION ON ERRORS IN ELIGIBILITY DETERMINATIONS.

(a) REPORT.—The Secretary of Health and Human Services shall report to Congress, by not later than July 1, 1991, on error rates by States in determining eligibility of individuals described in subparagraph (A) or (B) of section 1902(l)(1) of the Social Security Act for medical assistance under plans approved under title XIX of such Act. Such report may include data for medical assistance provided before July 1, 1989.

(b) ERROR RATE TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which—

(1) are attributable to medical assistance for individuals described in subparagraph (A) or (B) of section 1902(l)(1) of such Act, and

(2) are made on or after July 1, 1989, and before the first calendar quarter that begins more than 12 months after the date of submission of the report under subsection (a).

PART 4—MISCELLANEOUS

Subpart A—Payments

SEC. 4701. STATE MEDICAID MATCHING PAYMENTS THROUGH VOLUNTARY CONTRIBUTIONS AND STATE TAXES.

(a) EXTENSION OF PROVISION ON VOLUNTARY CONTRIBUTIONS AND PROVIDER-SPECIFIC TAXES.—Section 8431 of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "December 31, 1990" and inserting "December 31, 1991".

(b) STATE TAX CONTRIBUTIONS.—(1) Section 1902 (42 U.S.C. 1396a) as amended by section 4604, is further amended by adding at the end the following new subsection:

"(t) Except as provided in section 1903(i), nothing in this title (including sections 1903(a) and 1905(a)) shall be construed as authorizing the Secretary to deny or limit payments to a State for expenditures, for medical assistance for items or services, attributable to taxes (whether or not of general applicability) imposed with respect to the provision of such items or services.".

(2) Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (9) and inserting "; or"; and

(B) by adding at the end the following new paragraph:

"(10) with respect to any amount expended for medical assistance for care or services furnished by a hospital, nursing facil-

ity, or intermediate care facility for the mentally retarded to reimburse the hospital or facility for the costs attributable to taxes imposed by the State soley [44] with respect to hospitals or facilities.".

(c) EFFECTIVE DATES.—The amendment made by subsection (b) shall take effect on January 1, 1991. 42 USC 1396b note.

SEC. 4702. DISPROPORTIONATE SHARE HOSPITALS: COUNTING OF INPATIENT DAYS.

(a) CLARIFICATION OF MEDICAID DISPROPORTIONATE SHARE ADJUSTMENT CALCULATION.—Section 1923(b)(2) (42 U.S.C. 1396r-4(b)(2)) is amended by adding at the end the following new sentence: "In this paragraph, the term 'inpatient day' includes each day in which an individual (including a newborn) is an inpatient in the hospital, whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1990. 42 USC 1396r-4 note.

SEC. 4703. DISPROPORTIONATE SHARE HOSPITALS: ALTERNATIVE STATE PAYMENT ADJUSTMENTS AND SYSTEMS.

(a) ALTERNATIVE STATE PAYMENT ADJUSTMENTS.—Section 1923(c) (42 U.S.C. 1396r-4(c)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) provide for a minimum specified additional payment amount (or increased percentage payment) that varies according to type of hospital under a methodology that—

"(A) applies equally to all hospitals of each type; and

"(B) results in an adjustment for each type of hospital that is reasonably related to the costs, volume, or proportion of services provided to patients eligible for medical assistance under a State plan approved under this title or to low-income patients.".

(b) CLARIFICATION OF SPECIAL RULE FOR STATE USING HEALTH INSURING ORGANIZATION.—Section 1923(e)(2) (42 U.S.C. 1396r-4(e)(2)) is amended by striking "during the 3-year period".

(c) CONFORMING AMENDMENT.—Section 1923(c)(2) (42 U.S.C. 1396r-4(c)(2)) is amended by inserting after "State" "or the hospital's low-income utilization rate (as defined in paragraph (b)(3))".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 412(a)(2) of the Omnibus Budget Reconciliation Act of 1987. 42 USC 1396r-4 note.

SEC. 4704. FEDERAILY [45] QUALIFIED HEALTH CENTERS.

(a) CLARIFICATION OF USE OF MEDICARE PAYMENT METHODOLOGY.—Section 1902(a)(13)(E) (42 U.S.C. 1396a(a)(13)(E)) is amended—

(1) by striking "may prescribe" the first place it appears and inserting "prescribes", and

(2) by striking "on such tests of reasonableness as the Secretary may prescribe in regulations under this subparagraph" and inserting "on the same methodology used under section 1833(a)(3)".

[44] So in original. Probably should be "solely".
[45] So in original. Probably should be "FEDERALLY".

(b) MINIMUM PAYMENT RATES BY HEALTH MAINTENANCE ORGANIZATIONS.—(1) Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(A) by striking "and" at the end of clause (vii),

(B) by striking the period at the end of clause (viii) and inserting ", and", and

(C) by adding at the end the following new clause:

"(ix) such contract provides, in the case of an entity that has entered into a contract for the provision of services of such center with a federally qualified health center, that (I) rates of prepayment from the State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and (II) at the election of such center payments made by the entity to such a center for services described in 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E).".

(2) Section 1903(m)(2)(B) (42 U.S.C. 1396b(m)(2)(A)) is amended by striking "(A)" and inserting "(A) except with respect to clause (ix) of subparagraph (A),".

(3) Section 1915(b) (42 U.S.C. 1396n(b)) is amended by inserting after "section 1902" "(other than sections 1902(a)(13)(E) and 1902(a)(10)(A) insofar as it requires provision of the care and services described in section 1905(a)(2)(C))".

(c) CLARIFICATION IN TREATMENT OF OUTPATIENTS.—Section 1905(l)(2) (42 U.S.C. 1396d(l)(2)) is amended—

(1) in subparagraph (A), by striking "outpatient" and inserting "patient",

(2) in subparagraph (B), by striking "facility" and inserting "entity", and

(3) by redesignating clause (ii) as clause (iii) and by inserting after clause (i) the following new clause:

"(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and

"(II) meets the requirements to receive a grant under section 329, 330, or 340 of such Act;".

(d) TREATMENT OF INDIAN TRIBES.—The first sentence of section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended—

(1) by striking the period at the end and inserting a comma, and

(2) by adding, after and below clause (ii), the following:

"and includes an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).".

(e) TECHNICAL CORRECTION.—Section 6402 of the Omnibus Budget Reconciliation Act of 1989 is amended—

42 USC 1396a, 1396d. 42 USC 1396a note.

(1) by striking subsection (c), and

(2) by amending subsection (d) to read as follows:

"(c) EFFECTIVE DATE.—The amendments made by this section (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.".

42 USC 1396a note.

(f) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989.

SEC. 4705. HOSPICE PAYMENTS.

(a) IN GENERAL.—Section 1905(o)(3) (42 U.S.C. 1396d(o)(3)) is amended—

(1) by striking "a State which elects" and all that follows through "with respect to" the first place it appears,

(2) by striking "skilled nursing or intermediate care facility" in subparagraphs (A) and (C) and inserting "nursing facility or intermediate care facility for the mentally retarded";

(3) by striking "the amounts allocated under the plan for room and board in the facility, in accordance with the rates established under section 1902(a)(13)," and inserting "the additional amount described in section 1902(a)(13)(D)", and

(4) by striking the last sentence.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the amendments made by section 6408(c)(1) of the Omnibus Budget Reconciliation Act of 1989. 42 USC 1396d note.

SEC. 4706. LIMITATION ON DISALLOWANCES OR DEFERRAL OF FEDERAL FINANCIAL PARTICIPATION FOR CERTAIN INPATIENT PSYCHIATRIC HOSPITAL SERVICES FOR INDIVIDUALS UNDER AGE 21. 42 USC 1396d note.

(a) IN GENERAL.—(1) If the Secretary of Health and Human Services makes a determination that a psychiatric facility has failed to comply with certification of need requirements for inpatient psychiatric hospital services for individuals under age 21 pursuant to section 1905(h) of the Social Security Act, and such determination has not been subject to a final judicial decision, any disallowance or deferral of Federal financial participation under such Act based on such determination shall only apply to the period of time beginning with the first day of noncompliance and ending with the date by which the psychiatric facility develops documentation (using plan of care or utilization review procedures) of the need for inpatient care with respect to such individuals.

(2) Any disallowance of Federal financial participation under title XIX of the Social Security Act relating to the failure of a psychiatric facility to comply with certification of need requirements—

(A) shall not exceed 25 percent of the amount of Federal financial participation for the period described in paragraph (1); and

(B) shall not apply to any fiscal year before the fiscal year that is 3 years before the fiscal year in which the determination of noncompliance described in paragraph (1) is made.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to disallowance actions and deferrals of Federal financial participation with respect to services provided before the date of enactment of this Act.

SEC. 4707. TREATMENT OF INTEREST ON INDIANA DISALLOWANCE.

With respect to any disallowance of Federal financial participation under section 1903(a) of the Social Security Act for intermediate care facility services, intermediate care facility services for the mentally retarded, or skilled nursing facility services on the ground that the facilities in the State of Indiana were not certified in accordance with law during the period beginning June 1, 1982, and ending September 30, 1984, payment of such disallowance may be deferred without interest that would otherwise accrue without regard to this subsection, until every opportunity to appeal has been exhausted.

SEC. 4708. BILLING FOR SERVICES OF SUBSTITUTE PHYSICIAN.

(a) UNDER MEDICAID.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32))—

(1) by striking "and" before "(B)",
(2) by inserting "and" at the end of subparagraph (B), and
(3) by adding at the end the following:

"(C) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services.".

42 USC 1396a note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

Subpart B—Eligibility and Coverage

SEC. 4711. HOME AND COMMUNITY-BASED CARE AS OPTIONAL SERVICE.

(a) PROVISION AS OPTIONAL SERVICE.—Section 1905(a) (42 U.S.C. 1396d(a)), as amended by section 6201, is further amended—

(1) by striking "and" at the end of paragraph (22);
(2) by redesignating paragraph (23) as paragraph (24); and
(3) by inserting after paragraph (22) the following new paragraph:

"(23) home and community care (to the extent allowed and as defined in section 1929) for functionally disabled elderly individuals; and".

(b) HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS.—Title XIX (42 U.S.C. 1396 et seq.) as amended by section 4402 is further amended—

(1) by redesignating section 1929 as section 1930; and
(2) by inserting after section 1928 the following new section:

"HOME AND COMMUNITY CARE FOR FUNCTIONALLY DISABLED ELDERLY INDIVIDUALS

42 USC 1396t.

"SEC. 1929. (a) HOME AND COMMUNITY CARE DEFINED.—In this title, the term 'home and community care' means one or more of the following services furnished to an individual who has been determined, after an assessment under subsection (c), to be a functionally disabled elderly individual, furnished in accordance with an individual community care plan (established and periodically reviewed and revised by a qualified community care case manager under subsection (d)):

"(1) Homemaker/home health aide services.
"(2) Chore services.
"(3) Personal care services.
"(4) Nursing care services provided by, or under the supervision of, a registered nurse.
"(5) Respite care.
"(6) Training for family members in managing the individual.
"(7) Adult day care.

"(8) In the case of an individual with chronic mental illness, day treatment or other partial hospitalization, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility).

"(9) Such other home and community-based services (other than room and board) as the Secretary may approve.

"(b) FUNCTIONALLY DISABLED ELDERLY INDIVIDUAL DEFINED.—

"(1) IN GENERAL.—In this title, the term 'functionally disabled elderly individual' means an individual who—

"(A) is 65 years of age or older,

"(B) is determined to be a functionally disabled individual under subsection (c), and

"(C) subject to section 1902(f) (as applied consistent with section 1902(r)(2)), is receiving supplemental security income benefits under title XVI (or under a State plan approved under title XVI) or, at the option of the State, is described in section 1902(a)(10)(C).

"(2) TREATMENT OF CERTAIN INDIVIDUALS PREVIOUSLY COVERED UNDER A WAIVER.—(A) In the case of a State which—

"(i) at the time of its election to provide coverage for home and community care under this section has a waiver approved under section 1915(c) or 1915(d) with respect to individuals 65 years of age or older, and

"(ii) subsequently discontinues such waiver, individuals who were eligible for benefits under the waiver as of the date of its discontinuance and who would, but for income or resources, be eligible for medical assistance for home and community care under the plan shall, notwithstanding any other provision of this title, be deemed a functionally disabled elderly individual for so long as the individual would have remained eligible for medical assistance under such waiver.

"(B) In the case of a State which used a health insuring organization before January 1, 1986, and which, as of December 31, 1990, had in effect a waiver under section 1115 that provides under the State plan under this title for personal care services for functionally disabled individuals, the term 'functionally disabled elderly individual' may include, at the option of the State, an individual who—

"(i) is 65 years of age or older or is disabled (as determined under the supplemental security income program under title XVI);

"(ii) is determined to meet the test of functional disability applied under the waiver as of such date; and

"(iii) meets the resource requirement and income standard that apply in the State to individuals described in section 1902(a)(10)(A)(ii)(V).

"(3) USE OF PROJECTED INCOME.—In applying section 1903(f)(1) in determining the eligibility of an individual (described in section 1902(a)(10)(C)) for medical assistance for home and community care, a State may, at its option, provide for the determination of the individual's anticipated medical expenses (to be deducted from income) over a period of up to 6 months.

"(c) DETERMINATIONS OF FUNCTIONAL DISABILITY.—

"(1) IN GENERAL.—In this section, an individual is 'functionally disabled' if the individual—

"(A) is unable to perform without substantial assistance from another individual at least 2 of the following 3 activities of daily living: toileting, transferring, and eating; or

"(B) has a primary or secondary diagnosis of Alzheimer's disease and is (i) unable to perform without substantial human assistance (including verbal reminding or physical cueing) or supervision at least 2 of the following 5 activities of daily living: bathing, dressing, toileting, transferring, and eating; or (ii) cognitively impaired so as to require substantial supervision from another individual because he or she engages in inappropriate behaviors that pose serious health or safety hazards to himself or herself or others.

"(2) ASSESSMENTS OF FUNCTIONAL DISABILITY.—

"(A) REQUESTS FOR ASSESSMENTS.—If a State has elected to provide home and community care under this section, upon the request of an individual who is 65 years of age or older and who meets the requirements of subsection (b)(1)(C) (or another person on such individual's behalf), the State shall provide for a comprehensive functional assessment under this subparagraph which—

"(i) is used to determine whether or not the individual is functionally disabled,

"(ii) is based on a uniform minimum data set specified by the Secretary under subparagraph (C)(i), and

"(iii) uses an instrument which has been specified by the State under subparagraph (B).

No fee may be charged for such an assessment.

"(B) SPECIFICATION OF ASSESSMENT INSTRUMENT.—The State shall specify the instrument to be used in the State in complying with the requirement of subparagraph (A)(iii) which instrument shall be—

"(i) one of the instruments designated under subparagraph (C)(ii); or

"(ii) an instrument which the Secretary has approved as being consistent with the minimum data set of core elements, common definitions, and utilization guidelines specified by the Secretary in subparagraph (C)(i).

"(C) SPECIFICATION OF ASSESSMENT DATA SET AND INSTRUMENTS.—The Secretary shall—

"(i) not later than July 1, 1991—

"(I) specify a minimum data set of core elements and common definitions for use in conducting the assessments required under subparagraph (A); and

"(II) establish guidelines for use of the data set; and

"(ii) by not later than July 1, 1991, designate one or more instruments which are consistent with the specification made under subparagraph (A) and which a State may specify under subparagraph (B) for use in complying with the requirements of subparagraph (A).

"(D) PERIODIC REVIEW.—Each individual who qualifies as a functionally disabled elderly individual shall have the individual's assessment periodically reviewed and revised not less often than once every 12 months.

"(E) CONDUCT OF ASSESSMENT BY INTERDISCIPLINARY TEAMS.—An assessment under subparagraph (A) and a review under subparagraph (D) must be conducted by an

interdisciplinary team designated by the State. The Secretary shall permit a State to provide for assessments and reviews through teams under contracts—

"(i) with public organizations; or

"(ii) with nonpublic organizations which do not provide home and community care or nursing facility services and do not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, community care or nursing facility services.

"(F) CONTENTS OF ASSESSMENT.—The interdisciplinary team must—

"(i) identify in each such assessment or review each individual's functional disabilities and need for home and community care, including information about the individual's health status, home and community environment, and informal support system; and

"(ii) based on such assessment or review, determine whether the individual is (or continues to be) functionally disabled.

The results of such an assessment or review shall be used in establishing, reviewing, and revising the individual's ICCP under subsection (d)(1).

"(G) APPEAL PROCEDURES.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals adversely affected by determinations under subparagraph (F).

"(d) INDIVIDUAL COMMUNITY CARE PLAN (ICCP).—

"(1) INDIVIDUAL COMMUNITY CARE PLAN DEFINED.—In this section, the terms 'individual community care plan' and 'ICCP' mean, with respect to a functionally disabled elderly individual, a written plan which—

"(A) is established, and is periodically reviewed and revised, by a qualified case manager after a face-to-face interview with the individual or primary caregiver and based upon the most recent comprehensive functional assessment of such individual conducted under subsection (c)(2);

"(B) specifies, within any amount, duration, and scope limitations imposed on home and community care provided under the State plan, the home and community care to be provided to such individual under the plan, and indicates the individual's preferences for the types and providers of services; and

"(C) may specify other services required by such individual.

An ICCP may also designate the specific providers (qualified to provide home and community care under the State plan) which will provide the home and community care described in subparagraph (B). Nothing in this section shall be construed as authorizing an ICCP or the State to restrict the specific persons or individuals (who are competent to provide home and community care under the State plan) who will provide the home and community care described in subparagraph (B).

"(2) QUALIFIED COMMUNITY CARE CASE MANAGER DEFINED.—In this section, the term 'qualified community care case manager' means a nonprofit or public agency or organization which—

"(A) has experience or has been trained in establishing, and in periodically reviewing and revising, individual community care plans and in the provision of case management services to the elderly;

"(B) is responsible for (i) assuring that home and community care covered under the State plan and specified in the ICCP is being provided, (ii) visiting each individual's home or community setting where care is being provided not less often than once every 90 days, and (iii) informing the elderly individual or primary caregiver on how to contact the case manager if service providers fail to properly provide services or other similar problems occur;

"(C) in the case of a nonpublic agency, does not provide home and community care or nursing facility services and does not have a direct or indirect ownership or control interest in, or direct or indirect affiliation or relationship with, an entity that provides, home and community care or nursing facility services;

"(D) has procedures for assuring the quality of case management services that includes a peer review process;

"(E) completes the ICCP in a timely manner and reviews and discusses new and revised ICCPs with elderly individuals or primary caregivers; and

"(F) meets such other standards, established by the Secretary, as to assure that—

"(i) such a manager is competent to perform case management functions;

"(ii) individuals whose home and community care they manage are not at risk of financial exploitation due to such a manager; and

"(iii) meets such other standards as the State may establish.

The Secretary may waive the requirement of subparagraph (C) in the case of a nonprofit agency located in a rural area.

"(3) APPEALS PROCESS.—Each State which elects to provide home and community care under this section must have in effect an appeals process for individuals who disagree with the ICCP established.

"(e) CEILING ON PAYMENT AMOUNTS AND MAINTENANCE OF EFFORT.—

"(1) CEILING ON PAYMENT AMOUNTS.—Payments may not be made under section 1903(a) to a State for home and community care provided under this section in a quarter to the extent that the medical assistance for such care in the quarter exceeds 50 percent of the product of—

"(A) the average number of individuals in the quarter receiving such care under this section;

"(B) the average per diem rate of payment which the Secretary has determined (before the beginning of the quarter) will be payable under title XVIII (without regard to coinsurance) for extended care services to be provided in the State during such quarter; and

"(C) the number of days in such quarter.

"(2) MAINTENANCE OF EFFORT.—

"(A) ANNUAL REPORTS.—As a condition for the receipt of payment under section 1903(a) with respect to medical assistance provided by a State for home and community

care (other than a waiver under section 1915(c) and other than home health care services described in section 1905(a)(7) and personal care services specified under regulations under section 1905(a)(23)), the State shall report to the Secretary, with respect to each Federal fiscal year (beginning with fiscal year 1990) and in a format developed or approved by the Secretary, the amount of funds obligated by the State with respect to the provision of home and community care to the functionally disabled elderly in that fiscal year.

"(B) REDUCTION IN PAYMENT IF FAILURE TO MAINTAIN EFFORT.—If the amount reported under subparagraph (A) by a State with respect to a fiscal year is less than the amount reported under subparagraph (A) with respect to fiscal year 1989, the Secretary shall provide for a reduction in payments to the State under section 1903(a) in an amount equal to the difference between the amounts so reported.

"(f) MINIMUM REQUIREMENTS FOR HOME AND COMMUNITY CARE.—

"(1) REQUIREMENTS.—Home and Community care provided under this section must meet such requirements for individuals' rights and quality as are published or developed by the Secretary under subsection (k). Such requirements shall include—

"(A) the requirement that individuals providing care are competent to provide such care; and

"(B) the rights specified in paragraph (2).

"(2) SPECIFIED RIGHTS.—The rights specified in this paragraph are as follows:

"(A) The right to be fully informed in advance, orally and in writing, of the care to be provided, to be fully informed in advance of any changes in care to be provided, and (except with respect to an individual determined incompetent) to participate in planning care or changes in care.

"(B) The right to voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances, and to be told how to complain to State and local authorities.

"(C) The right to confidentiality of personal and clinical records.

"(D) The right to privacy and to have one's property treated with respect.

"(E) The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

"(F) The right to education or training for oneself and for members of one's family or household on the management of care.

"(G) The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in an individual's ICCP.

"(H) The right to be fully informed orally and in writing of the individual's rights.

"(I) Guidelines for such minimum compensation for individuals providing such care as will assure the availability and continuity of competent individuals to provide such care for functionally disabled individuals who have functional disabilities of varying levels of severity.

"(J) Any other rights established by the Secretary.

"(g) MINIMUM REQUIREMENTS FOR SMALL COMMUNITY CARE SETTINGS.—

"(1) SMALL COMMUNITY CARE SETTINGS DEFINED.—In this section, the term 'small community care setting' means—

"(A) a nonresidential setting that serves more than 2 and less than 8 individuals; or

"(B) a residential setting in which more than 2 and less than 8 unrelated adults reside and in which personal services (other than merely board) are provided in conjunction with residing in the setting.

"(2) MINIMUM REQUIREMENTS.—A small community care setting in which community care is provided under this section must—

"(A) meet such requirements as are published or developed by the Secretary under subsection (k);

"(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

"(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting;

"(D) meet any applicable State or local requirements regarding certification or licensure;

"(E) meet any applicable State and local zoning, building, and housing codes, and State and local fire and safety regulations; and

"(F) be designed, constructed, equipped, and maintained in a manner to protect the health and safety of residents.

"(h) MINIMUM REQUIREMENTS FOR LARGE COMMUNITY CARE SETTINGS.—

"(1) LARGE COMMUNITY CARE SETTING DEFINED.—In this section, the term 'large community care setting' means—

"(A) a nonresidential setting in which more than 8 individuals are served; or

"(B) a residential setting in which more than 8 unrelated adults reside and in which personal services are provided in conjunction with residing in the setting in which home and community care under this section is provided.

"(2) MINIMUM REQUIREMENTS.—A large community care setting in which community care is provided under this section must—

"(A) meet such requirements as are published or developed by the Secretary under subsection (k);

"(B) meet the requirements of paragraphs (1)(A), (1)(C), (1)(D), (3), and (6) of section 1919(c), to the extent applicable to such a setting;

"(C) inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives home and community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting; and

"(D) meet the requirements of paragraphs (2) and (3) of section 1919(d) (relating to administration and other mat-

ters) in the same manner as such requirements apply to nursing facilities under such section; except that, in applying the requirement of section 1919(d)(2) (relating to life safety code), the Secretary shall provide for the application of such life safety requirements (if any) that are appropriate to the setting.

"(3) DISCLOSURE OF OWNERSHIP AND CONTROL INTERESTS AND EXCLUSION OF REPEATED VIOLATORS.—A community care setting—

"(A) must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3)) in the setting; and

"(B) may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under this title or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard or to have failed to meet the requirements of paragraph (2).

"(i) SURVEY AND CERTIFICATION PROCESS.—

"(1) CERTIFICATIONS.—

"(A) RESPONSIBILITIES OF THE STATE.—Under each State plan under this title, the State shall be responsible for certifying the compliance of providers of home and community care and community care settings with the applicable requirements of subsections (f), (g) and (h). The failure of the Secretary to issue regulations to carry out this subsection shall not relieve a State of its responsibility under this subsection.

"(B) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall be responsible for certifying the compliance of State providers of home and community care, and of State community care settings in which such care is provided, with the requirements of subsections (f), (g) and (h).

"(C) FREQUENCY OF CERTIFICATIONS.—Certification of providers and settings under this subsection shall occur no less frequently than once every 12 months.

"(2) REVIEWS OF PROVIDERS.—

"(A) IN GENERAL.—The certification under this subsection with respect to a provider of home or community care must be based on a periodic review of the provider's performance in providing the care required under ICCP's in accordance with the requirements of subsection (f).

"(B) SPECIAL REVIEWS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a provider of home or community care with any of the requirements of subsection (f), the Secretary may conduct a review of the provider and, on the basis of that review, make independent and binding determinations concerning the extent to which the provider meets such requirements.

"(3) SURVEYS OF COMMUNITY CARE SETTINGS.—

"(A) IN GENERAL.—The certification under this subsection with respect to community care settings must be based on a survey. Such survey for such a setting must be conducted without prior notice to the setting. Any individual who notifies (or causes to be notified) a community care setting of the time or date on which such a survey is scheduled to

be conducted is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall review each State's procedures for scheduling and conducting such surveys to assure that the State has taken all reasonable steps to avoid giving notice of such a survey through the scheduling procedures and the conduct of the surveys themselves.

"(B) SURVEY PROTOCOL.—Surveys under this paragraph shall be conducted based upon a protocol which the Secretary has provided for under subsection (k).

"(C) PROHIBITION OF CONFLICT OF INTEREST IN SURVEY TEAM MEMBERSHIP.—A State and the Secretary may not use as a member of a survey team under this paragraph an individual who is serving (or has served within the previous 2 years) as a member of the staff of, or as a consultant to, the community care setting being surveyed (or the person responsible for such setting) respecting compliance with the requirements of subsection (g) or (h) or who has a personal or familial financial interest in the setting being surveyed.

"(D) VALIDATION SURVEYS OF COMMUNITY CARE SETTINGS.—The Secretary shall conduct onsite surveys of a representative sample of community care settings in each State, within 2 months of the date of surveys conducted under subparagraph (A) by the State, in a sufficient number to allow inferences about the adequacies of each State's surveys conducted under subparagraph (A). In conducting such surveys, the Secretary shall use the same survey protocols as the State is required to use under subparagraph (B). If the State has determined that an individual setting meets the requirements of subsection (g), but the Secretary determines that the setting does not meet such requirements, the Secretary's determination as to the setting's noncompliance with such requirements is binding and supersedes that of the State survey.

"(E) SPECIAL SURVEYS OF COMPLIANCE.—Where the Secretary has reason to question the compliance of a community care setting with any of the requirements of subsection (g) or (h), the Secretary may conduct a survey of the setting and, on the basis of that survey, make independent and binding determinations concerning the extent to which the setting meets such requirements.

"(4) INVESTIGATION OF COMPLAINTS AND MONITORING OF PROVIDERS AND SETTINGS.—Each State and the Secretary shall maintain procedures and adequate staff to investigate complaints of violations of applicable requirements imposed on providers of community care or on community care settings under subsections (f), (g) and (h).

"(5) INVESTIGATION OF ALLEGATIONS OF INDIVIDUAL NEGLECT AND ABUSE AND MISAPPROPRIATION OF INDIVIDUAL PROPERTY.—The State shall provide, through the agency responsible for surveys and certification of providers of home or community care and community care settings under this subsection, for a process for the receipt, review, and investigation of allegations of individual neglect and abuse (including injuries of unknown

source) by individuals providing such care or in such setting and of misappropriation of individual property by such individuals. The State shall, after notice to the individual involved and a reasonable opportunity for hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that an individual has neglected or abused an individual receiving community care or misappropriated such individual's property, the State shall notify the individual against whom the finding is made. A State shall not make a finding that a person has neglected an individual receiving community care if the person demonstrates that such neglect was caused by factors beyond the control of the person. The State shall provide for public disclosure of findings under this paragraph upon request and for inclusion, in any such disclosure of such findings, of any brief statement (or of a clear and accurate summary thereof) of the individual disputing such findings.

"(6) DISCLOSURE OF RESULTS OF INSPECTIONS AND ACTIVITIES.—

"(A) PUBLIC INFORMATION.—Each State, and the Secretary, shall make available to the public—

"(i) information respecting all surveys, reviews, and certifications made under this subsection respecting providers of home or community care and community care settings, including statements of deficiencies,

"(ii) copies of cost reports (if any) of such providers and settings filed under this title,

"(iii) copies of statements of ownership under section 1124, and

"(iv) information disclosed under section 1126.

"(B) NOTICES OF SUBSTANDARD CARE.—If a State finds that—

"(i) a provider of home or community care has provided care of substandard quality with respect to an individual, the State shall make a reasonable effort to notify promptly (I) an immediate family member of each such individual and (II) individuals receiving home or community care from that provider under this title, or

"(ii) a community care setting is substandard, the State shall make a reasonable effort to notify promptly (I) individuals receiving community care in that setting, and (II) immediate family members of such individuals.

"(C) ACCESS TO FRAUD CONTROL UNITS.—Each State shall provide its State medicaid fraud and abuse control unit (established under section 1903(q)) with access to all information of the State agency responsible for surveys, reviews, and certifications under this subsection.

"(j) ENFORCEMENT PROCESS FOR PROVIDERS OF COMMUNITY CARE.—

"(1) STATE AUTHORITY.—

"(A) IN GENERAL.—If a State finds, on the basis of a review under subsection (i)(2) or otherwise, that a provider of home or community care no longer meets the requirements of this section, the State may terminate the provider's participation under the State plan and may provide in addition for a civil money penalty. Nothing in this subparagraph shall be construed as restricting the remedies

available to a State to remedy a provider's deficiencies. If the State finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the State may provide for a civil money penalty under paragraph (2)(A) for the period during which it finds that the provider was not in compliance with such requirements.

"(B) CIVIL MONEY PENALTY.—

"(i) IN GENERAL.—Each State shall establish by law (whether statute or regulation) at least the following remedy: A civil money penalty assessed and collected, with interest, for each day in which the provider is or was out of compliance with a requirement of this section. Funds collected by a State as a result of imposition of such a penalty (or as a result of the imposition by the State of a civil money penalty under subsection (i)(3)(A)) may be applied to reimbursement of individuals for personal funds lost due to a failure of home or community care providers to meet the requirements of this section. The State also shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(ii) DEADLINE AND GUIDANCE.—Each State which elects to provide home and community care under this section must establish the civil money penalty remedy described in clause (i) applicable to all providers of community care covered under this section. The Secretary shall provide, through regulations or otherwise by not later than July 1, 1990, guidance to States in establishing such remedy; but the failure of the Secretary to provide such guidance shall not relieve a State of the responsibility for establishing such remedy.

"(2) SECRETARIAL AUTHORITY.—

"(A) FOR STATE PROVIDERS.—With respect to a State provider of home or community care, the Secretary shall have the authority and duties of a State under this subsection, except that the civil money penalty remedy described in subparagraph (C) shall be substituted for the civil money remedy described in paragraph (1)(B)(i).

"(B) OTHER PROVIDERS.—With respect to any other provider of home or community care in a State, if the Secretary finds that a provider no longer meets a requirement of this section, the Secretary may terminate the provider's participation under the State plan and may provide, in addition, for a civil money penalty under subparagraph (C). If the Secretary finds that a provider meets such requirements but, as of a previous period, did not meet such requirements, the Secretary may provide for a civil money penalty under subparagraph (C) for the period during which the Secretary finds that the provider was not in compliance with such requirements.

"(C) CIVIL MONEY PENALTY.—If the Secretary finds on the basis of a review under subsection (i)(2) or otherwise that a home or community care provider no longer meets the requirements of this section, the Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). The Secretary shall specify criteria, as to when and how this remedy is to be applied and the amounts of any penalties. Such criteria shall be designed so as to minimize the time between the identification of violations and final imposition of the penalties and shall provide for the imposition of incrementally more severe penalties for repeated or uncorrected deficiencies.

"(k) SECRETARIAL RESPONSIBILITIES.—

"(1) PUBLICATION OF INTERIM REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by December 1, 1991, a proposed regulation that sets forth interim requirements, consistent with subparagraph (B), for the provision of home and community care and for community care settings, including—

"(i) the requirements of subsection (c)(2) (relating to comprehensive functional assessments, including the use of assessment instruments), of subsection (d)(2)(E) (relating to qualifications for qualified case managers), of subsection (f) (relating to minimum requirements for home and community care), of subsection (g) (relating to minimum requirements for small community care settings), and of subsection (h) (relating to minimum requirements for large community care settings, [46] and

"(ii) survey protocols (for use under subsection (i)(3)(A)) which relate to such requirements.

"(B) MINIMUM PROTECTIONS.—Interim requirements under subparagraph (A) and final requirements under paragraph (2) shall assure, through methods other than reliance on State licensure processes, that individuals receiving home and community care are protected from neglect, physical and sexual abuse, financial exploitation, inappropriate involuntary restraint, and the provision of health care services by unqualified personnel in community care settings.

"(2) DEVELOPMENT OF FINAL REQUIREMENTS.—The Secretary shall develop, by not later than October 1, 1992—

"(A) final requirements, consistent with paragraph (1)(B), respecting the provision of appropriate, quality home and community care and respecting community care settings under this section, and including at least the requirements referred to in paragraph (1)(A)(i), and

"(B) survey protocols and methods for evaluating and assuring the quality of community care settings.

The Secretary may, from time to time, revise such requirements, protocols, and methods.

"(3) NO DELEGATION TO STATES.—The Secretary's authority under this subsection shall not be delegated to States.

[46] So in original. Probably should be "settings),".

"(4) NO PREVENTION OF MORE STRINGENT REQUIREMENTS BY STATES.—Nothing in this section shall be construed as preventing States from imposing requirements that are more stringent than the requirements published or developed by the Secretary under this subsection.

"(l) WAIVER OF STATEWIDENESS.—States may waive the requirement of section 1902(a)(1) (related to State wideness) [47] for a program of home and community care under this section.

"(m) LIMITATION ON AMOUNT OF EXPENDITURES AS MEDICAL ASSISTANCE.—

"(1) LIMITATION ON AMOUNT.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $40,000,000, for fiscal year 1992, $70,000,000, for fiscal year 1993, $130,000,000, for fiscal year 1994, $160,000,000, and for fiscal year 1995, $180,000,000.

"(2) ASSURANCE OF ENTITLEMENT TO SERVICE.—A State which receives Federal medical assistance for expenditures for home and community care under this section must provide home and community care specified under the Individual Community Care Plan under subsection (d) to individuals described in subsection (b) for the duration of the election period, without regard to the amount of funds available to the State under paragraph (1). For purposes of this paragraph, an election period is the period of 4 or more calendar quarters elected by the State, and approved by the Secretary, for the provision of home and community care under this section.

"(3) LIMITATION ON ELIGIBILITY.—The State may limit eligibility for home and community care under this section during an election period under paragraph (2) to reasonable classifications (based on age, degree of functional disability, and need for services).

"(4) ALLOCATION OF MEDICAL ASSISTANCE.—The Secretary shall establish a limitation on the amount of Federal medical assistance available to any State during the State's election period under paragraph (2). The limitation under this paragraph shall take into account the limitation under paragraph (1) and the number of elderly individuals age 65 or over residing in such State in relation to the number of such elderly individuals in the United States during 1990. For purposes of the previous sentence, elderly individuals shall, to the maximum extent practicable, be low-income elderly individuals.".

(c) PAYMENT FOR HOME AND COMMUNITY CARE.—

(1) REASONABLE AND ADEQUATE PAYMENT RATES.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(13)—

(i) by striking "and" at the end of subparagraph (D),

(ii) by inserting "and" at the end of subparagraph (E), and

(iii) by adding at the end the following new subparagraph:

"(F) for payment for home and community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards;"; and

[47] So in original. Probably should be "Statewideness)".

(B) in subsection (h), by adding before the period at the end the following: "or to limit the amount of payment that may be made under a plan under this title for home and community care".

(2) DENIAL OF PAYMENT FOR CIVIL MONEY PENALTIES, ETC.—Section 1903(i)(8) of such Act (42 U.S.C. 1396b(i)(8)) is amended by inserting "(A)" after "medical assistance" and by inserting before the semicolon at the end the following: "or (B) for home and community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case".

(d) CONFORMING AMENDMENTS.—

(1) Section 1902(j) (42 U.S.C. 1396a(j)) is amended by striking "(21)" and inserting "(22)".

(2) Section 1902(a)(10)(C)(iv) (42 U.S.C. 1396a(a)(10)(C)(iv)) is amended by striking "through (20)" and inserting "through (21)".

(e) EFFECTIVE DATES.— 42 USC 1396a note.

(1) Except as provided in this subsection, the amendments made by this section shall apply to home and community care furnished on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2)(A) The amendments made by subsection (c)(1) shall apply to home and community care furnished on or after July 1, 1991, or, if later, 30 days after the date of publication of interim regulations under section 1929(k)(1).

(B) The amendment made by subsection (c)(2) shall apply to civil money penalties imposed after the date of the enactment of this Act.

(f) WAIVER OF PAPERWORK REDUCTION, ETC.—Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act. 44 USC 3501 note.

SEC. 4712. COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.

(a) PROVISION AS OPTIONAL SERVICE.—Section 1905(a) (42 U.S.C. 1396d(a)) as amended by section 4711 is further amended—

(1) by striking "and" at the end of paragraph (23);

(2) by redesignating paragraph (24) as paragraph (25); and

(3) by inserting after paragraph (23) the following new paragraph:

"(24) community supported living arrangements services (to the extent allowed and as defined in section 1930).".

(b) COMMUNITY SUPPORTED LIVING ARRANGEMENTS.—Title XIX (42 U.S.C. 1396 et seq.) as amended by sections 4402 and 4711 is further amended—

(1) by redesignating section 1930 as section 1931; and

(2) by inserting after section 1929 the following new section:

"COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES

"SEC. 1930. (a) COMMUNITY SUPPORTED LIVING ARRANGEMENTS SERVICES.—In this title, the term 'community supported living 42 USC 1396u.

arrangements services' means one or more of the following services meeting the requirements of subsection (h) provided in a State eligible to provide services under this section (as defined in subsection (d)) to assist a developmentally disabled individual (as defined in subsection (b)) in activities of daily living necessary to permit such individual to live in the individual's own home, apartment, family home, or rental unit furnished in a community supported living arrangement setting:

"(1) Personal assistance.

"(2) Training and habilitation services (necessary to assist the individual in achieving increased integration, independence and productivity).

"(3) 24-hour emergency assistance (as defined by the Secretary).

"(4) Assistive technology.

"(5) Adaptive equipment.

"(6) Other services (as approved by the Secretary, except those services described in subsection (g)).

"(7) Support services necessary to aid an individual to participate in community activities.

"(b) DEVELOPMENTALLY DISABLED INDIVIDUAL DEFINED.—In this title the term, 'developmentally disabled individual' means an individual who as defined by the Secretary is described within the term 'mental retardation and related conditions' as defined in regulations as in effect on July 1, 1990, and who is residing with the individual's family or legal guardian in such individual's own home in which no more than 3 other recipients of services under this section are residing and without regard to whether or not such individual is at risk of institutionalization (as defined by the Secretary).

"(c) CRITERIA FOR SELECTION OF PARTICIPATING STATES.—The Secretary shall develop criteria to review the applications of States submitted under this section to provide community supported living arrangement services. The Secretary shall provide in such criteria that during the first 5 years of the provision of services under this section that no less than 2 and no more than 8 States shall be allowed to receive Federal financial participation for providing the services described in this section.

"(d) QUALITY ASSURANCE.—A State selected by the Secretary to provide services under this section shall in order to continue to receive Federal financial participation for providing services under this section be required to establish and maintain a quality assurance program, that provides that—

"(1) the State will certify and survey providers of services under this section (such surveys to be unannounced and average at least 1 a year);

"(2) the State will adopt standards for survey and certification that include—

"(A) minimum qualifications and training requirements for provider staff;

"(B) financial operating standards; and

"(C) a consumer grievance process;

"(3) the State will provide a system that allows for monitoring boards consisting of providers, family members, consumers, and neighbors;

"(4) the State will establish reporting procedures to make available information to the public;

"(5) the State will provide ongoing monitoring of the health and well-being of each recipient;

"(6) the State will provide the services defined in subsection (a) in accordance with an individual support plan (as defined by the Secretary in regulations); and

"(7) the State plan amendment under this section shall be reviewed by the State Planning Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, and the Protection and Advocacy System established under section 142 of such Act.".[48]

The Secretary shall not approve a quality assurance plan under this subsection and allow a State to continue to receive Federal financial participation under this section unless the State provides for public hearings on the plan prior to adoption and implementation of its plan under this subsection.

"(e) MAINTENANCE OF EFFORT.—States selected by the Secretary to receive Federal financial participation to provide services under this section shall maintain current levels of spending for such services in order to be eligible to continue to receive Federal financial participation for the provision of such services under this section.

"(f) EXCLUDED SERVICES.—No Federal financial participation shall be allowed for the provision of the following services under this section:

"(1) Room and board.

"(2) Cost of prevocational, vocational and supported employment.

"(g) WAIVER OF REQUIREMENTS.—The Secretary may waive such provisions of this title as necessary to carry out the provisions of this section including the following requirements of this title—

"(1) comparability of amount, duration, and scope of services; and

"(2) statewideness.

"(h) MINIMUM PROTECTIONS.—

"(1) PUBLICATION OF INTERIM AND FINAL REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall publish, by July 1, 1991, a regulation (that shall be effective on an interim basis pending the promulgation of final regulations), and by October 1, 1992, a final regulation, that sets forth interim and final requirements, respectively, consistent with subparagraph (B), to protect the health, safety, and welfare of individuals receiving community supported living arrangements services.

"(B) MINIMUM PROTECTIONS.—Interim and final requirements under subparagraph (A) shall assure, through methods other than reliance on State licensure processes or the State quality assurance programs under subsection (d), that—

"(i) individuals receiving community supported living arrangements services are protected from neglect, physical and sexual abuse, and financial exploitation;

"(ii) a provider of community supported living arrangements services may not use individuals who have been convicted of child or client abuse, neglect, or mistreatment or of a felony involving physical harm to an individual and shall take all reasonable steps to determine whether applicants for employment by the provider have histories indicating involvement in child

[48] So in original. Probably should be "Act.".

or client abuse, neglect, or mistreatment or a criminal record involving physical harm to an individual;

"(iii) individuals or entities delivering such services are not unjustly enriched as a result of abusive financial arrangements (such as owner lease-backs); and

"(iv) individuals or entities delivering such services to clients, or relatives of such individuals, are prohibited from being named beneficiaries of life insurance policies purchased by (or on behalf of) such clients.

"(2) SPECIFIED REMEDIES.—If the Secretary finds that a provider has not met an applicable requirement under subsection (h), the Secretary shall impose a civil money penalty in an amount not to exceed $10,000 for each day of noncompliance. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(i) TREATMENT OF FUNDS.—Any funds expended under this section for medical assistance shall be in addition to funds expended for any existing services covered under the State plan, including any waiver services for which an individual receiving services under this program is already eligible.

"(j) LIMITATION ON AMOUNTS OF EXPENDITURES AS MEDICAL ASSISTANCE.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be for fiscal year 1991, $5,000,000, for fiscal year 1992, $10,000,000, for fiscal year 1993, $20,000,000, for fiscal year 1994, $30,000,000, for fiscal year 1995, $35,000,000, and for fiscal years thereafter such sums as provided by Congress.".

42 USC 1396u note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to community supported living arrangements services furnished on or after the later of July 1, 1991, or 30 days after the publication of regulations setting forth interim requirements under subsection (h) without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) APPLICATION PROCESS.—The Secretary of Health and Human Services shall provide that the applications required to be submitted by States under this section shall be received and approved prior to the effective date specified in paragraph (1).

SEC. 4713. PROVIDING FEDERAL MEDICAL ASSISTANCE FOR PAYMENTS FOR PREMIUMS FOR "COBRA" CONTINUATION COVERAGE WHERE COST EFFECTIVE.

(a) OPTIONAL PAYMENT OF COBRA PREMIUMS FOR QUALIFIED COBRA CONTINUATION BENEFICIARIES.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)—

(A) by striking "and" at the end of subparagraph (D),

(B) by adding "and" at the end of subparagraph (E),

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) at the option of a State, for making medical assistance available for COBRA premiums (as defined in subsection (u)(2)) for qualified COBRA continuation beneficiaries described in section 1902(u)(1);", and

(D) in the matter following subparagraph (E), by striking "and" before "(X)" and by inserting before the semicolon at the end the following: ", and (XI) the medical assistance made available to an individual described in subsection (u)(1) who is eligible for medical assistance only because of subparagraph (F) shall be limited to medical assistance for COBRA continuation premiums (as defined in subsection (u)(2))"; and

(2) by adding after the subsections added by section 4604 and 4701(b) the following new subsection:

"(u)(1) Individuals described in this paragraph are individuals—

"(A) who are entitled to elect COBRA continuation coverage (as defined in paragraph (3)),

"(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

"(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program, and

"(D) with respect to whose enrollment for COBRA continuation coverage the State has determined that the savings in expenditures under this title resulting from such enrollment is likely to exceed the amount of payments for COBRA premiums made.

"(2) For purposes of subsection (a)(10)(F) and this subsection, the term 'COBRA premiums' means the applicable premium imposed with respect to COBRA continuation coverage.

"(3) In this subsection, the term 'COBRA continuation coverage' means coverage under a group health plan provided by an employer with 75 or more employees provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

"(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(XI)—

"(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

"(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(10)(B) or (a)(17), require or permit such treatment for other individuals.".

(b) CONFORMING AMENDMENT.—Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(1) by striking "or" at the end of clause (viii),

(2) by adding "or" at the end of clause (ix), and

(3) by inserting after clause (ix) the following new clause:

"(x) individuals described in section 1902(u)(1),".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to medical assistance furnished on or after January 1, 1991. 42 USC 1396a note.

SEC. 4714. PROVISIONS RELATING TO SPOUSAL IMPOVERISHMENT.

42 USC 1396r-5.

(a) CLARIFICATION OF NON-APPLICATION OF STATE COMMUNITY PROPERTY LAWS.—Section 1924(b)(2) (42 U.S.C. 1396r-1(b)(2)) as amended by subsection (a), is further amended by striking ", after the institutionalized spouse has been determined or redetermined to be eligible for medical assistance" and inserting "for purposes of the post-eligibility income determination described in subsection (d)".

(b) CLARIFICATION OF TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—Section 1924(f)(1) (42 U.S.C. 1396r-5(f)(1)) is amended by striking "section 1917" and inserting "section 1917(c)(1)".

42 USC 1396r-5.

(c) CLARIFICATION OF PERIOD OF CONTINUOUS ELIGIBILITY.—Section 1924(c)(1) (42 U.S.C. 1396r-1(c)(1)) is amended by striking "the beginning of a continuous period of institutionalization of the institutionalized spouse" each place it appears and inserting "the beginning of the first continuous period of institutionalization (beginning on or after September 30, 1989) of the institutionalized spouse".

42 USC 1396r-5 note.

(d) EFFECTIVE DATE.—The amendments made this section shall take effect as if included in the enactment of section 303 of the Medicare Catastrophic Coverage Act of 1988.

SEC. 4715. DISREGARDING GERMAN REPARATION PAYMENTS FROM POST-ELIGIBILITY TREATMENT OF INCOME UNDER THE MEDICAID PROGRAM.

(a) IN GENERAL.—Section 1902(r)(1) (42 U.S.C. 1396a(r)(1)) is amended by inserting "there shall be disregarded reparation payments made by the Federal Republic of Germany and" after "under such a waiver".

42 USC 1396a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to treatment of income for months beginning more than 30 days after the date of the enactment of this Act.

SEC. 4716. AMENDMENTS RELATING TO MEDICAID TRANSITION PROVISION.

42 USC 1396r-6.

(a) AMENDMENTS.—Subsection (f) of section 1925 (42 U.S.C. 1396s) is amended—

(1) in subsection (b)(2)(B)(i), by inserting at the end the following: "A State may permit such additional extended assistance under this subsection notwithstanding a failure to report under this clause if the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis.";

(2) in subsection (b)(2)(B), by adding at the end the following new clause:

"(iii) CLARIFICATION ON FREQUENCY OF REPORTING.—A State may not require that a family receiving extended assistance under this subsection or subsection (a) report more frequently than as required under clause (i) or (ii).";

and

(3) in subsection (b)(3)(B), by adding at the end the following: "No such termination shall be effective earlier than 10 days after the date of mailing of such notice.".

42 USC 1396r-6 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective as if included in the enactment of the Family Support Act of 1988.

SEC. 4717. CLARIFYING EFFECT OF HOSPICE ELECTION.

Section 1905(o)(1)(A) (42 U.S.C. 1396d(o)(1)(A)) is amended by inserting "and for which payment may otherwise be made under title XVIII" after "described in section 1812(d)(2)(A)".

SEC. 4718. MEDICALLY NEEDY INCOME LEVELS FOR CERTAIN 1-MEMBER FAMILIES. 42 USC 1396b note.

(a) IN GENERAL.—For purposes of section 1903(f)(1)(B), for payments made before, on, or after the date of the enactment of this Act, a State described in subparagraph (B) may use, in determining the "highest amount which would ordinarily be paid to a family of the same size" (under the State's plan approved under part A of title IV of such Act) in the case of a family consisting only of one individual and without regard to whether or not such plan provides for aid to families consisting only of one individual, an amount reasonably related to the highest money payment which would ordinarily be made under such a plan to a family of two without income or resources.

(b) STATES COVERED.—Subsection (a) shall only apply to a State the State plan of which (under title XIX of the Social Security Act) as of June 1, 1989, provided for the policy described in such paragraph. For purposes of the previous sentence, a State plan includes all the matter included in a State plan under section 2373(c)(5) of the Deficit Reduction Act of 1984 (as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987).

SEC. 4719. CODIFICATION OF COVERAGE OF REHABILITATION SERVICES.

(a) IN GENERAL.—Section 1905(a)(13) (42 U.S.C. 1396d(a)(13)) is amended by inserting before the semicolon at the end the following: ", including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental disability and restoration of an individual to the best possible functional level".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4720. PERSONAL CARE SERVICES FOR MINNESOTA.

(a) CLARIFICATION OF COVERAGE.—In applying section 1905 of the Social Security Act with respect to Minnesota, medical assistance shall include payment for personal care services described in subsection (b).

(b) PERSONAL CARE SERVICES DEFINED.—For purposes of this section, the term "personal care services" means services— 42 USC 1396d note.

(1) prescribed by a physician for an individual in accordance with a plan of treatment,

(2) provided by a person who is qualified to provide such services who is not a member of the individual's family,

(3) supervised by a registered nurse, and

(4) furnished in a home or other location;

but does not include such services furnished to an inpatient or resident of a hospital or nursing facility.

(c) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act and shall apply with respect to—

(1) personal care services furnished before such date pursuant to regulations in effect as of July 1, 1989; and
(2) such services furnished before October 1, 1994.

SEC. 4721. MEDICAID COVERAGE OF PERSONAL CARE SERVICES OUTSIDE THE HOME.

(a) IN GENERAL.—Section 1905(a)(7) (42 U.S.C. 1396d(a)(7)) is amended by striking "services" and inserting "services including personal care services (A) prescribed by a physician for an individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; but not including such services furnished to an inpatient or resident of a nursing facility".

42 USC 1396d note.

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective with respect to personal care services provided on or after October 1, 1994.

SEC. 4722. MEDICAID COVERAGE OF ALCOHOLISM AND DRUG DEPENDENCY TREATMENT SERVICES.

Section 1905(a) of the Social Security Act is amended by adding at the end the following new sentence: "No service (including counseling) shall be excluded from the definition of 'medical assistance' solely because it is provided as a treatment service for alcoholism or drug dependency.".

SEC. 4723. MEDICAID SPENDDOWN OPTION.

(a) IN GENERAL.—Section 1903(f)(2) (42 U.S.C. 1396b(f)(2)) is amended by—
(1) inserting "(A)" after "(2)"; and
(2) by adding before the period at the end the following: "or, (B) notwithstanding section 1916 at State option, an amount paid by such family, at the family's option, to the State, provided that the amount, when combined with costs incurred in prior months, is sufficient when excluded from the family's income to reduce such family's income below the applicable income limitation described in paragraph (1). The amount of State expenditures for which medical assistance is available under subsection (a)(1) will be reduced by amounts paid to the State pursuant to this subparagraph."

(b) CONFORMING AMENDMENT.—Section 1902(a)(17) (42 U.S.C. 1396a(a)(17)) is amended by inserting after "insurance premiums" ", payments made to the State under section 1903(f)(2)(B),".

SEC. 4724. OPTIONAL STATE MEDICAID DISABILITY DETERMINATIONS INDEPENDENT OF THE SOCIAL SECURITY ADMINISTRATION.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) as amended by this title, is further amended by adding at the end the following new subsection:

"(v)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blind-

ness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.".

Subpart C—Health Maintenance Organizations

SEC. 4731. REGULATION OF INCENTIVE PAYMENTS TO PHYSICIANS.

(a) PHYSICIAN PAYMENT PLAN.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) as amended by this title is further amended—

(1) by striking ", and" at the end of clause (viii) and inserting a semicolon;

(2) by striking the period at the end of clause (ix) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(x) any physician incentive plan that it operates meets the requirements described in section 1876(i)(8).".

(b) REPEAL OF PROHIBITION AGAINST PHYSICIAN INCENTIVE PAYMENTS.—Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is—

(1) REPEAL OF PROHIBITION.—Section 1128A(b)(1) (42 U.S.C. 1320a-7a(b)(1)) is amended by striking "or an entity with a contract under section 1903(m)".

(2) PENALTIES.—Section 1903(m)(5)(A) (42 U.S.C. 1396b(m)(5)(A)) is amended—

(A) by striking "or" at the end of clause (iii);

(B) by adding "or" at the end of clause (iv); and

(C) by adding at the end the following new clause:

"(v) fails to comply with the requirements of section 1876(i)(8),".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b)(2) shall apply with respect to contract years beginning on or after January 1, 1992, and the amendments made by subsection (b)(1) shall take effect on the date of the enactment of this Act. 42 USC 1396b note.

SEC. 4732. SPECIAL RULES.

(a) WAIVER OF 75 PERCENT RULE FOR PUBLIC ENTITIES.—Section 1903(m)(2)(D) (42 U.S.C. 1396b(m)(2)(D)) is amended by striking "(i) special circumstances warrant such modification or waiver, and (ii)".

(b) EXTENDING SPECIAL TREATMENT TO MEDICARE COMPETITIVE MEDICAL PLANS.—

(1) 6-MONTH MINIMUM ENROLLMENT PERIOD OPTION.—Section 1902(e)(2)(A) (42 U.S.C. 1396a(e)(2)(A)) is amended by inserting "or with an eligible organization with a contract under section 1876" after "1903(m)(2)(A)".

(2) ENROLLMENT LOCK-IN.—Section 1903(m)(2)(F)(i) (42 U.S.C. 1396b(m)(2)(F)(i)) is amended—

(A) by striking "(G) or" and inserting "(G),", and

(B) adding at the end the following: "or with an eligible organization with a contract under section 1876 which meets the requirement of subparagraph (A)(ii), or".

(c) AUTOMATIC 1-MONTH REENROLLMENT FOR SHORT PERIODS OF INELIGIBILITY.—Section 1903(m)(2) is amended by adding at the end the following new subparagraph:

"(H) In the case of an individual who—

"(i) in a month is eligible for benefits under this title and enrolled with a health maintenance organization with a contract under this paragraph,

"(ii) in the next month (or in the next 2 months) is not eligible for such benefits, but

"(iii) in the succeeding month is again eligible for such benefits,

the State plan, subject to subparagraph (A)(vi), may enroll the individual for that succeeding month with the health maintenance organization described in clause (i) if the organization continues to have a contract under this paragraph with the State.".

(d) ELIMINATION OF PROVISIONAL QUALIFICATION FOR HMOs.—Section 1903(m) is amended— 42 USC 1396b.

(1) in paragraph (2)(A)(i), by striking "(or the State as authorized by paragraph (3))", and

(2) by striking paragraph (3).

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act. 42 USC 1396a note.

SEC. 4733. EXTENSION AND EXPANSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Section 507 of the Family Support Act of 1988 is amended—

(1) by striking "1991" and inserting "1996"; and

(2) by striking the period at the end and inserting the following: ", and shall amend such waiver to permit the State to expand such demonstration project to other counties if the amount of medical assistance provided under title XIX of such Act after such expansion will not exceed the amount of medical assistance provided under such title had the project not been expanded to other counties.".

SEC. 4734. TREATMENT OF CERTAIN COUNTY-OPERATED HEALTH INSURING ORGANIZATIONS.

Section 9517(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended— 42 USC 1396b note.

(1) in paragraph (2)(A), by inserting "and in paragraph (3)" after "subparagraph (B)", and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (C), in the case of up to 3 health insuring organizations which are described in subparagraph (B), which first become operational on or after January 1, 1986, and which are designated by the Governor, and approved by the Legislature, of California, the amendments made by paragraph (1) shall not apply.

"(B) A health insuring organization described in this subparagraph is one that—

"(i) is operated directly by a public entity established by a county government in the State of California under a State enabling statute;

"(ii) enrolls all medicaid beneficiaries residing in the county in which it operates;

"(iii) meets the requirements for health maintenance organizations under the Knox-Keene Act (Cal. Health and Safety Code, section 1340 et seq.) and the Waxman-Duffy Act (Cal. Welfare and Institutions Code, section 14450 et seq.);

"(iv) assures a reasonable choice of providers, which includes providers that have historically served medicaid beneficiaries and which does not impose any restriction which substantially impairs access to covered services of adequate quality where medically necessary;

"(v) provides for a payment adjustment for a disproportionate share hospital (as defined under State law consistent with section 1923 of the Social Security Act) in a manner consistent with the requirements of such section; and

"(vi) provides for payment, in the case of childrens' hospital services provided to medicaid beneficiaries who are under 21 years of age, who are children with special health care needs under title V of the Social Security Act, and who are receiving care coordination services under such title, at rates determined by the California Medical Assistance Commission.

"(C) Subparagraph (A) shall not apply with respect to any period for which the Secretary of Health and Human Services determines that the number of medicaid beneficiaries enrolled with health insuring organizations described in subparagraph (B) exceeds 10 percent of the number of such beneficiaries in the State of California.

"(D) In this paragraph, the term 'medicaid beneficiary' means an individual who is entitled to medical assistance under the State plan under title XIX of the Social Security Act, other than a qualified medicare beneficiary who is only entitled to such assistance because of section 1902(a)(10)(E) of such title.".

Subpart D—Demonstration Projects and Home and Community-Based Waivers

SEC. 4741. HOME AND COMMUNITY-BASED WAIVERS.

(a) TREATMENT OF ROOM AND BOARD.—(1) Subsections (c)(1) and (d)(1) of section 1915 (42 U.S.C. 1396n) are each amended by adding at the end the following: "For purposes of this subsection, the term 'room and board' shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.".

(b) ADJUSTMENT TO 1915(d) CEILING TO TAKE INTO ACCOUNT THE ADDED COSTS OF OBRA 87.—Section 1915(d)(5)(B)(iv) (42 U.S.C. 1396n(d)(5)(B)(iv)) is amended by striking "this title" the first place it appears and inserting "this title whose provisions become effective on or after such date".

SEC. 4742. TIMELY PAYMENT UNDER WAIVERS OF FREEDOM OF CHOICE OF HOSPITAL SERVICES.

(a) IN GENERAL.—Section 1915(b)(4) (42 U.S.C. 1396n(b)(4)) is amended by inserting before the period at the end the following: "and if providers under such restriction are paid on a timely basis in the same manner as health care practitioners must be paid under section 1902(a)(37)(A)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of the first calendar quarter beginning more than 30 days after the date of the enactment of this Act. 42 USC 1396n note.

(c) TREATMENT OF PERSONS WITH MENTAL RETARDATION OR A RELATED CONDITION IN A DECERTIFIED FACILITY.—

(1) IN GENERAL.—Section 1915(c)(7) (42 U.S.C. 1396n(c)(7)) is amended by adding at the end the following new subparagraph:

"(C) In making estimates under paragraph (2)(D) in the case of a waiver to the extent that it applies to individuals with mental retardation or a related condition who are resident in an intermediate care facility for the mentally retarded the participation of which under the State plan is terminated, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals without regard to any such termination.".

42 USC 1396n note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981, but shall only apply to facilities the participation of which under a State plan under title XIX of the Social Security Act is terminated on or after the date of the enactment of this Act.

(d) SCOPE OF RESPITE CARE.—

42 USC 1396n.

(1) IN GENERAL.—Section 1915(c)(4) is amended by adding at the end the following:

"Except as provided under paragraph (2)(D), the Secretary may not restrict the number of hours or days of respite care in any period which a State may provide under a waiver under this subsection.".

42 USC 1396n note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the enactment of the Omnibus Budget Reconciliation Act of 1981.

42 USC 1396n note.

(e) PERMITTING ADJUSTMENT IN ESTIMATES TO TAKE INTO ACCOUNT PREADMISSION SCREENING REQUIREMENT.—In the case of a waiver under section 1915(c) of the Social Security Act for individuals with mental retardation or a related condition in a State, the Secretary of Health and Human Services shall permit the State to adjust the estimate of average per capita expenditures submitted under paragraph (2)(D) of such section, with respect to such expenditures made on or after January 1, 1989, to take into account increases in expenditures for, or utilization of, intermediate care facilities for the mentally retarded resulting from implementation of section 1919(e)(7)(A) of such Act.

SEC. 4744. PROVISIONS RELATING TO FRAIL ELDERLY DEMONSTRATION PROJECT WAIVERS.

(a) EXPANSION OF WAIVERS.—Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) in paragraph (1), by striking "10" and inserting "15"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of an organization receiving an initial waiver under this subsection on or after October 1, 1990, the Secretary (at the request of the organization) shall not require the organization to provide services under title XVIII of the Social Security Act on a capitated or other risk basis during the first 2 years of the waiver.".

(b) APPLICATION OF SPOUSAL IMPOVERISHMENT RULES.—(1) Section 1924(a) (42 U.S.C. 1396r-5(a)) is amended by adding at the end the following new paragraph:

"(5) APPLICATION TO INDIVIDUALS RECEIVING SERVICES FROM ORGANIZATIONS RECEIVING CERTAIN WAIVERS.—This section applies to individuals receiving institutional or noninstitutional services from any organization receiving a frail elderly demonstration project waiver under section 9412(b) of the Omnibus Budget Reconciliation Act of 1986.".

(2) Section 9412(b) of the Omnibus Budget Reconciliation Act of 1986, as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(4) Section 1924 of the Social Security Act shall apply to any individual receiving services from an organization receiving a waiver under this subsection.".

SEC. 4745. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

42 USC 1396a note.

(a) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—(A) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with 3 and no more than 4 States submitting applications under this section for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medicaid benefits for certain low-income individuals.

(B) In entering into agreements with States under this section the Secretary shall provide that at least 1 and no more than 2 of the projects are conducted on a substate basis.

(2) REQUIREMENTS.—(A) The Secretary may not enter into an agreement with a State to conduct a project unless the Secretary determines that—

(i) the project can reasonably be expected to improve access to health insurance coverage for the uninsured;

(ii) with respect to projects for which the statewideness requirement has not been waived, the State provides, under its plan under title XIX of the Social Security Act, for eligibility for medical assistance for all individuals described in subparagraphs (A), (B), (C), and (D) of paragraph (1) of section 1902(l) of such Act (based on the State's election of certain eligibility options the highest income standards and, based on the State's waiver of the application of any resource standard);

(iii) eligibility for benefits under the project is limited to individuals in families with income below 150 percent of the income official poverty line and who are not individuals receiving benefits under title XIX of the Social Security Act;

(iv) if the Secretary determines that it is cost-effective for the project to utilize employer coverage (as described in section 1925(b)(4)(D) of the Social Security Act), the project must require an employer contribution and benefits under the State plan under title XIX of such Act will continue to be made available to the extent they are not available under the employer coverage;

(v) the project provides for coverage of benefits consistent with subsection (b); and

(vi) the project only imposes premiums, coinsurance, and other cost-sharing consistent with subsection (c).

(B) The Secretary may waive the requirements of clause (ii) of this paragraph with respect to those projects described in subparagraph (B) of paragraph (1).

(3) PERMISSIBLE RESTRICTIONS.—A project may limit eligibility to individuals whose assets are valued below a level specified by the State. For this purpose, any evaluation of such assets shall be made in a manner consistent with the standards for valuation of assets under the State plan under title XIX of the Social Security Act for individuals entitled to assistance under part A of title IV of such Act. Nothing in this section shall be construed as requiring a State to provide for eligibility for individuals for months before the month in which such eligibility is first established.

(4) EXTENSION OF ELIGIBILITY.—A project may provide for extension of eligibility for medical assistance for individuals covered under the project in a manner similar to that provided under section 1925 of the Social Security Act to certain families receiving aid pursuant to a plan of the State approved under part A of title IV of such Act.

(5) WAIVER OF REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary may waive such requirements of title XIX of the Social Security Act (except section 1903(m) of the Social Security Act) as may be required to provide for additional coverage of individuals under projects under this section.

(B) NONWAIVABLE PROVISIONS.—Except with respect to those projects described in subparagraph (B) of paragraph (1), the Secretary may not waive, under subparagraph (A), the statewideness requirement of section 1902(a)(1) of the Social Security Act or the Federal medical assistance percentage specified in section 1905(b) of such Act.

(b) BENEFITS.—

(1) IN GENERAL.—Except as provided in this subsection, the amount, duration, and scope of medical assistance made available under a project shall be the same as the amount, duration, and scope of such assistance made available to individuals entitled to medical assistance under the State plan under section 1902(a)(10)(A)(i) of the Social Security Act.

(2) LIMITS ON BENEFITS.—

(A) REQUIRED.—Except with respect to those projects described in subparagraph (B) of paragraph (1), no medical assistance shall be made available under a project for nursing facility services or community-based long-term care services (as defined by the Secretary) or for pregnancy-related services. No medical assistance shall be made available under a project to individuals confined to a State correctional facility, county jail, local or county detention center, or other State institution.

(B) PERMISSIBLE.—A State, with the approval of the Secretary, may limit or otherwise deny eligibility for medical assistance under the project and may limit coverage of items and services under the project, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(3) USE OF UTILIZATION CONTROLS.—Nothing in this subsection shall be construed as limiting a State's authority to impose controls over utilization of services, including preadmission requirements, managed care provisions, use of preferred providers, and use of second opinions before surgical procedures.

(c) PREMIUMS AND COST-SHARING.—

(1) NONE FOR THOSE WITH INCOME BELOW THE POVERTY LINE.—Under a project, there shall be no premiums, coinsurance, or other cost-sharing for individuals whose family income level does not exceed 100 percent of the income official poverty line (as defined in subsection (g)(1)) applicable to a family of the size involved.

(2) LIMIT FOR THOSE WITH INCOME ABOVE THE POVERTY LINE.—Under a project, for individuals whose family income level exceeds 100 percent, but is less than 150 percent, of the income official poverty line applicable to a family of the size involved, the monthly average amount of premiums, coinsurance, and other cost-sharing for covered items and services shall not exceed 3 percent of the family's average gross monthly earnings.

(3) INCOME DETERMINATION.—Each project shall provide for determinations of income in a manner consistent with the methodology used for determinations of income under title XIX of the Social Security Act for individuals entitled to benefits under part A of title IV of such Act.

(d) DURATION.—Each project under this section shall commence not later than July 1, 1991 and shall be conducted for a 3-year period; except that the Secretary may terminate such a project if the Secretary determines that the project is not in substantial compliance with the requirements of this section.

(e) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—(A) The Secretary in conducting projects shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than $12,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than $4,000,000 in fiscal year 1994.

(B) Of the amounts appropriated under subparagraph (A), the Secretary shall provide that no more than one-third of such amounts shall be used to carry out the projects described in paragraph (1)(B) of subsection (a) (for which the statewideness requirement has been waived).

(2) NO FUNDING OF CURRENT BENEFICIARIES.—No funding shall be available under a project with respect to medical assistance provided to individuals who are otherwise eligible for medical assistance under the plan without regard to the project.

(3) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under a project with respect to expenditures made for medical assistance made available under the project may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(f) EVALUATION AND REPORT.—

(1) EVALUATIONS.—For each project the Secretary shall provide for an evaluation to determine the effect of the project with respect to—

(A) access to, and costs of, health care,

(B) private health care insurance coverage, and

(C) premiums and cost-sharing.

(2) REPORTS.—The Secretary shall prepare and submit to Congress an interim report on the status of the projects not later than January 1, 1993, and a final report containing such summary together with such further recommendations as the Sec-

retary may determine appropriate not later than January 1, 1995.

(g) DEFINITIONS.—In this section:

(1) The term "income official poverty line" means such line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(2) The term "project" refers to a demonstration project under subsection (a).

SEC. 4746. MEDICAID RESPITE DEMONSTRATION PROJECT EXTENDED.

Section 9414 of the Omnibus Budget Reconciliation Act of 1986 is amended—

(1) by amending subsection (e) to read as follows:

"(e) DURATION.—The project under this section may continue until September 30, 1992."; and

(2) in subsection (d), by striking the last sentence and inserting in lieu thereof the following new sentence: "For the period beginning October 1, 1990, and ending September 30, 1992, Federal payments for the project shall not exceed amounts expended under the project in the preceding fiscal year.".

42 USC 1396a note.

SEC. 4747. DEMONSTRATION PROJECT TO PROVIDE MEDICAID COVERAGE FOR HIV-POSITIVE INDIVIDUALS.

(a) IN GENERAL.—Not later than 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide for 2 demonstration projects to be administered by States that submit an application under this section, through programs administered by the States under title XIX of the Social Security Act. Such demonstration projects shall provide coverage for the services described in subsection (c) to individuals whose income and resources do not exceed the maximum allowable amount for eligibility for any individual in any category of disability under the State plan under section 1902 of the Social Security Act, and who have tested positive for the presence of HIV virus (without regard to the presence of any symptoms of AIDS or opportunistic diseases related to AIDS).

(b) SERVICES AVAILABLE UNDER A DEMONSTRATION PROJECT.—(1) The medical assistance made available to individuals described in section 1902(a)(10)(A) of the Social Security Act shall be made available to individuals described in subsection (a) who receive services under a demonstration project under such paragraph.

(2) A demonstration project under subsection (a) shall provide services in addition to the services described in paragraph (1) which shall be limited only on the basis of medical necessity or the appropriateness of such services. To the extent not provided as described in paragraph (1), such additional services shall include—

(A) general and preventative [49] medical care services (including inpatient, outpatient, residential care, physician visits, clinic visits, and hospice care);

(B) prescription drugs, including drugs for the purposes of preventative health care services;

(C) counseling and social services;

(D) substance abuse treatment services (including services for multiple substances abusers);

[49] So in original. Probably should be "preventive".

(E) home care services (including assistance in carrying out activities of daily living);
(F) case management;
(G) health education services;
(H) respite care for caregivers;
(I) dental services; and
(J) diagnostic and laboratory services [50]

(c) AGREEMENTS WITH STATES.—(1) Each State conducting a demonstration project under subsection (a) shall enter into an agreement with a hospital and at least one other nonprofit organization submitting applications to the State. The State shall require that such hospital and other entity have a demonstrated record of case management of patients who have tested positive for the presence of HIV virus and have access to a control group of such type of patients who are not receiving State or Federal payments for medical services (or other payments from private insurance coverage) before developing symptoms of AIDS. Under such agreement, the State shall agree to pay each such entity for the services provided under subsection (b) and not later than 12 months after the commencement of a demonstration project, institute a system of monthly payment to each such entity based on the average per capita cost of the services described in subsection (c) provided to individuals described in paragraphs (1) and (2) of subsection (a).

(2) A demonstration project described in subsection (a) shall be limited to an enrollment of not more than 200 individuals.

(3) A demonstration project conducted under subsection (a) shall commence not later than 9 months after the date of the enactment of this Act and shall terminate on the date that is 3 years after the date of commencement.

(4)(A) The Secretary shall provide for an evaluation of the comparative costs of providing services to individuals who have tested positive for the presence of HIV virus at an early stage after detection of such virus and those that are treated at a later stage after such detection.

(B) The Secretary shall report to Congress on the results of the evaluation conducted under subparagraph (A) no later than 6 months after the date of termination of the demonstration projects described in this section.

(d) FEDERAL SHARE OF COSTS.—The Federal share of the cost of services described in paragraph (3) furnished under a demonstration project conducted under paragraph (1) shall be determined by the otherwise applicable Federal matching assistance percentage pursuant to section 1905(b) of the Social Security Act.

(e) WAIVER OF REQUIREMENTS OF THE SOCIAL SECURITY ACT.—The Secretary may waive such requirements of the Social Security Act as the Secretary determines to be necessary to carry out the purposes of this section.

(f) LIMITATION ON AMOUNT OF EXPENDITURES.—The amount of funds that may be expended as medical assistance to carry out the purposes of this section shall be $5,000,000 for fiscal year 1991, $12,000,000 for fiscal year 1992, and $13,000,000 for fiscal year 1993.

[50] So in original. Probably should be "services.".

Subpart E—Miscellaneous

SEC. 4751. REQUIREMENTS FOR ADVANCED DIRECTIVES UNDER STATE PLANS FOR MEDICAL ASSISTANCE.

(a) IN GENERAL.—Section 1902 (42 U.S.C. 1396a(a)), as amended by sections 4401(a)(2), 4601(d), 4701(a), 4711(a), and 4722 of this title, is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (55),

(B) by striking the period at the end of paragraph (56) and inserting "; and", and

(C) by inserting after paragraph (56) the following new paragraphs:

"(57) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirements of subsection (w);

"(58) provide that the State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives that would be distributed by providers or organizations under the requirements of subsection (w)."; and

(2) by adding at the end the following new subsection:

"(w)(1) For purposes of subsection (a)(57) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

"(A) to provide written information to each such individual concerning—

"(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

"(ii) the provider's or organization's written policies respecting the implementation of such rights;

"(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

"(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

"(D) to ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State) respecting advance directives; and

"(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

"(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

"(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

"(B) in the case of a nursing facility, at the time of the individual's admission as a resident,

"(C) in the case of a provider of home health care or personal care services, in advance of the individual coming under the care of the provider,

"(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

"(E) in the case of a health maintenance organization, at the time of enrollment of the individual with the organization.

"(3) Nothing in this section shall be construed to prohibit the application of a State law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which as a matter of conscience cannot implement an advance directive.". [51]

"(4) In this subsection, the term 'advance directive' means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State) and relating to the provision of such care when the individual is incapacitated. [52]

(b) CONFORMING AMENDMENTS.—

(1) Section 1903(m)(1)(A) (42 U.S.C. 1396b(m)(1)(A)) is amended—

(A) by inserting "meets the requirement of section 1902(w)" after "which" the first place it appears, and

(B) by inserting "meets the requirement of section 1902(a) and" after "which" the second place it appears.

(2) Section 1919(c)(2) of such Act (42 U.S.C. 1396r(c)(2)) is amended by adding at the end the following new subparagraph:

"(E) INFORMATION RESPECTING ADVANCE DIRECTIVES.—A nursing facility must comply with the requirement of section 1902(w) (relating to maintaining written policies and procedures respecting advance directives).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after the first day of the first month beginning more than 1 year after the date of the enactment of this Act. 42 USC 1396a note.

(d) PUBLIC EDUCATION CAMPAIGN.— 42 USC 1396a note.

(1) IN GENERAL.—The Secretary, no later than 6 months after the date of enactment of this section, shall develop and implement a national campaign to inform the public of the option to execute advance directives and of a patient's right to participate and direct health care decisions.

(2) DEVELOPMENT AND DISTRIBUTION OF INFORMATION.—The Secretary shall develop or approve nationwide informational materials that would be distributed by providers under the requirements of this section, to inform the public and the medical and legal profession of each person's right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the existence of advance directives.

(3) PROVIDING ASSISTANCE TO STATES.—The Secretary shall assist appropriate State agencies, associations, or other private entities in developing the State-specific documents that would be distributed by providers under the requirements of this section. The Secretary shall further assist appropriate State

[51] So in original. Probably should be "directive.".
[52] So in original. Probably should be "incapacitated.".".

agencies, associations, or other private entities in ensuring that providers are provided a copy of the documents that are to be distributed under the requirements of the section.

(4) DUTIES OF SECRETARY.—The Secretary shall mail information to Social Security recipients, add a page to the medicare handbook with respect to the provisions of this section.

SEC. 4752. IMPROVEMENT IN QUALITY OF PHYSICIAN SERVICES.

(a) USE OF UNIQUE PHYSICIAN IDENTIFIERS.—

(1) ESTABLISHMENT OF SYSTEM.—

(A) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) as amended by sections 4601(d), 4701(a), 4711(a), 4722(a), and 4751(a) is further amended by adding at the end the following new subsection:

"(x) The Secretary shall establish a system, for implementation by not later than July 1, 1991, which provides for a unique identifier for each physician who furnishes services for which payment may be made under a State plan approved under this title.".

42 USC 1396a note.

(B) DEADLINE AND CONSIDERATIONS.—The system established under the amendment made by subparagraph (A) may be the same as, or different from, the system established under section 9202(g) of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(2) REQUIRING INCLUSION WITH CLAIMS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by this title, is amended—

(A) by striking the period at the end of paragraph (11) and inserting "; or", and

(B) by inserting after paragraph (11) the following new paragraph:

"(12) with respect to any amount expended for physicians' services furnished on or after the first day of the first quarter beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(x), unless the claim for the services includes the unique physician identifier provided under such system.".

(b) MAINTENANCE OF ENCOUNTER DATA BY HEALTH MAINTENANCE ORGANIZATIONS.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)), as amended by this title, is amended—

(A) by striking "and" at the end of clause (ix),

(B) by striking the period at the end of clause (x) and inserting "; and", and

(C) by adding at the end the following new clause:

"(xi) such contract provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.".

42 USC 1396a note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to contract years beginning after the date of the establishment of the system described in section 1902(x) of the Social Security Act.

(c) MAINTENANCE OF LIST OF PHYSICIANS BY STATES.—

(1) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by this title, is further amended—

(A) by striking "and" at the end of paragraph (56),

(B) by striking the period at the end of paragraph (57) and inserting "; and", and

(C) by inserting after paragraph (57) the following new paragraph:

"(58) maintain a list (updated not less often than monthly, and containing each physician's unique identifier provided under the system established under subsection (v)) of all physicians who are certified to participate under the State plan.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to medical assistance for calendar quarters beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(x) of the Social Security Act. 42 USC 1396a note.

(d) FOREIGN MEDICAL GRADUATE CERTIFICATION.— 42 USC 1396a note.

(1) PASSAGE OF FMGEMS EXAMINATION IN ORDER TO OBTAIN IDENTIFIER.—The Secretary of Health and Human Service [53] shall provide, in the identifier system established under section 1902(x) of the Social Security Act, that no foreign medical graduate (as defined in section 1886(h)(5)(D) of such Act) shall be issued an identifier under such system unless the individual—

(A) has passed the FMGEMS examination (as defined in section 1886(h)(5)(E) of such Act);

(B) has previously received certification from, or has previously passed the examination of, the Educational Commission for Foreign Medical Graduates; or

(C) has held a license from 1 or more States continuously since 1958.

(2) EFFECTIVE DATE.—Paragraph (1) shall apply with respect to issuance of an identifier applicable to services furnished on or after January 1, 1992.

(e) MINIMUM QUALIFICATIONS FOR BILLING FOR PHYSICIANS' SERVICES TO CHILDREN AND PREGNANT WOMEN.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by this title and subsection (a)(2) of this section, is further amended—

(1) by striking the period at the end of paragraph (13) and inserting "; or"; and

(2) by inserting after paragraph (13) the following new paragraph:

"(14) with respect to any amount expended for physicians' services furnished by a physician on or after January 1, 1992, to—

"(A) a child under 21 years of age, unless the physician—

"(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics,

"(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

"(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

"(iv) is a member of the National Health Service Corps,

"(v) documents a current, formal, consultation and referral arrangement with a pediatrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital, or

[53] So in original. Probably should be "Services".

"(vi) has been certified by the Secretary as qualified to provide physicians' services to a child under 21 years of age; or

"(B) to a pregnant woman (or during the 60 day period beginning on the date of termination of the pregnancy) unless the physician—

"(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics,

"(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

"(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

"(iv) is a member of the National Health Service Corps,

"(v) documents a current, formal, consultation and referral arrangement with an obstetrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital, or

"(vi) has been certified by the Secretary as qualified to provide physicians' services to pregnant women.".

(f) REPORTING OF MISCONDUCT OR SUBSTANDARD CARE.—

(1) IN GENERAL.—Section 1921(a) (42 U.S.C. 1396r-2(a)) is amended—

(A) in paragraph (1), in the matter before subparagraph (A), by inserting "(or any peer review organization or private accreditation entity reviewing the services provided by health care practitioners)" after "health care practitioners"; and

(B) in paragraph (1), by adding at the end the following new subparagraph:

"(D) Any negative action or finding by such authority, organization, or entity regarding the practitioner or entity.".

42 USC 1396r-2 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to State information reporting systems as of January 1, 1992, without regard to whether or not the Secretary of Health and Human Services has promulgated any regulations to carry out such amendments by such date.

SEC. 4753. CLARIFICATION OF AUTHORITY OF INSPECTOR GENERAL.

Section 1128A(j) (42 U.S.C. 1320a-7a(j)) is amended—

(1) by striking "(j)" and inserting "(j)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.".

SEC. 4754. NOTICE TO STATE MEDICAL BOARDS WHEN ADVERSE ACTIONS TAKEN.

(a) IN GENERAL.—Section 1902(a)(41) (42 U.S.C. 1396a(a)(41)) is amended by inserting "and, in the case of a physician and notwithstanding paragraph (7), the State medical licensing board" after "shall promptly notify the Secretary".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sanctions effected more than 60 days after the date of the enactment of this Act. 42 USC 1396a note.

SEC. 4755. MISCELLANEOUS PROVISIONS.

(a) PSYCHIATRIC HOSPITALS.—

(1) CLARIFICATION OF COVERAGE OF INPATIENT PSYCHIATRIC HOSPITAL SERVICES.—

(A) IN GENERAL.—Section 1905(h)(1)(A) (42 U.S.C. 1396d(h)(1)(A)), as amended by section 2340(b) of the Deficit Reduction Act of 1984, is amended by inserting "or in another inpatient setting that the Secretary has specified in regulations" after "1861(f)".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of the Deficit Reduction Act of 1984. 42 USC 1396d note.

(2) INTERMEDIATE SANCTIONS FOR PSYCHIATRIC HOSPITALS.—Section 1902 (42 U.S.C. 1396a) as amended by this title is further amended by adding at the end the following new subsection:

"(y)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

"(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

"(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

"(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

"(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

"(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

"(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

"(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the requirements than to terminate the certification of the hospital,

"(B) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

"(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action

is not taken in accordance with the approved plan and timetable.".

(b) STATE UTILIZATION REVIEW SYSTEMS.—Section 9432 of the Omnibus Budget Reconciliation Act of 1986 is amended— 42 USC 1396a note.

(1) in subsection (a)—

(A) by inserting "(1)" after "IN GENERAL.—",

(B) by striking ", during the period" and all that follows through "Congress,", and

(C) by adding at the end the following new paragraph:

"(2) The Secretary may not, during the period beginning on the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 and ending on the date that is 180 days after the date on which the report required by subsection (d) is submitted to the Congress, publish final or interim final regulations requiring a State plan approved under title XIX of the Social Security Act to include a program for ambulatory surgery, preadmission testing, or same-day surgery.";

(2) in subsection (b)(4), by inserting "and subsection (d)" after "In this subsection"; and

(3) by adding at the end the following new subsection:

"(d) REPORT.—The Secretary shall report to Congress, by not later than January 1, 1993, for each State in a representative sample of States—

"(1) an analysis of the procedures for which programs for ambulatory surgery, preadmission testing, and same-day surgery are appropriate for patients who are covered under the State medicaid plan, and

"(2) the effects of such programs on access of such patients to necessary care, quality of care, and costs of care.

In selecting such a sample of States, the Secretary shall include some States with medicaid plans that include such programs.".

(c) ADDITIONAL MISCELLANEOUS PROVISIONS.—

(1) Effective July 1, 1990— 42 USC 1396a.

(A) section 1902(a)(10)(C)(iv) of the Social Security Act is amended by striking "through (20)" and inserting "through (21)", and

(B) section 1902(j) of such Act is amended by striking "through (21)" and inserting "through (22)".

(2) Effective as if included in subtitle D of title VI of the Omnibus Budget Reconciliation Act of 1989, section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)) is amended by adding at the end the following: "This paragraph does not authorize the withholding of information from either House of Congress or from, to the extent of matter within its jurisdiction, any committee or subcommittee of such committee or any joint committee of Congress or any subcommittee of such joint committee.".

(3) Section 505(b) (42 U.S.C. 705(b)) is amended in the matter preceding paragraph (1) by striking "requirement" and inserting "requirements".

PART 5—PROVISIONS RELATING TO NURSING HOME REFORM

SEC. 4801. TECHNICAL CORRECTIONS RELATING TO NURSING HOME REFORM.

(a) NURSE AIDE TRAINING AND COMPETENCY EVALUATION.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(1)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1919(f)(2)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date. 42 USC 1396r note.

(2) PART-TIME NURSE AIDES NOT ALLOWED DELAY IN TRAINING.—Section 1919(b)(5)(A) (42 U.S.C. 1396r(b)(5)(A)) is amended—

(i) by striking "A nursing facility" and inserting "(i) Except as provided in clause (ii), a nursing facility";

(ii) by striking "(on a full-time, temporary, per diem, or other basis) [54] and inserting "on a full-time basis";

(iii) by striking "(i)" and "(ii)" and inserting "(I)" and "(II)"; and

(iv) by adding at the end the following:

"(ii) A nursing facility must not use on a temporary, per diem, leased, or on any other basis other than as a permanent employee any individual as a nurse aide in the facility on or after January 1, 1991, unless the individual meets the requirements described in clause (i).".

(3) REQUIREMENT TO OBTAIN INFORMATION FROM NURSE AIDE REGISTRY.—Section 1919(b)(5)(C) (42 U.S.C. 1396r(b)(5)(C)) is amended by striking "the State registry established under subsection (e)(2)(A) as to information in the registry" and inserting "any State registry established under subsection (e)(2)(A) that the facility believes will include information".

(4) RETRAINING OF NURSE AIDES.—Section 1919(b)(5)(D) (42 U.S.C. 1396r(b)(5)(D)) is amended by striking the period at the end and inserting ", or a new competency evaluation program.".

(5) CLARIFICATION OF NURSE AIDES NOT SUBJECT TO CHARGES.—Section 1919(f)(2)(A)(iv) (42 U.S.C. 1396r(f)(2)(A)(iv)) is amended—

(A) in subclause (I), by striking "and" at the end;

(B) in subclause (II), by inserting after "nurse aide" the following: "who is employed by (or who has received an offer of employment from) a facility on the date on which the aide begins either such program";

(C) in subclause (II), by striking the period at the end and inserting ", and"; and

(D) by adding at the end the following new subclause:

"(III) in the case of a nurse aide not described in subclause (II) who is employed by (or who has received an offer of employment from) a facility not later than 12 months after completing either such program, the State shall provide for the reimbursement of costs incurred in completing such

[54] So in original. Probably should be "basis)" ".

program on a prorata basis during the period in which the nurse aide is so employed.".

(6) MODIFICATION OF NURSING FACILITY DEFICIENCY STANDARDS.—

(A) IN GENERAL.—Section 1919(f)(2)(B)(iii)(I) (42 U.S.C. 1396r(f)(2)(B)(iii)(I)) is amended to read as follows:

"(I) offered by or in a nursing facility which, within the previous 2 years—

"(a) has operated under a waiver under subsection (b)(4)(C)(ii) that was granted on the basis of a demonstration that the facility is unable to provide the nursing care required under subsection (b)(4)(C)(i) for a period in excess of 48 hours during a week;

"(b) has been subject to an extended (or partial extended) survey under section 1819(g)(2)(B)(i) or subsection (g)(2)(B)(i); or

"(c) has been assessed a civil money penalty described in section 1819(h)(2)(B)(ii) or subsection (h)(2)(A)(ii) of not less than $5,000, or has been subject to a remedy described in subsection (h)(1)(B)(i), clauses (i), (iii), or (iv) of subsection (h)(2)(A), clauses (i) or (iii) of section 1819(h)(2)(B), or section 1819(h)(4), or".

42 USC 1396r note.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, except that a State may not approve a training and competency evaluation program or a competency evaluation program offered by or in a nursing facility which, pursuant to any Federal or State law within the 2-year period beginning on October 1, 1988—

(i) had its participation terminated under title XVIII of the Social Security Act or under the State plan under title XIX of such Act;

(ii) was subject to a denial of payment under either such title;

(iii) was assessed a civil money penalty not less than $5,000 for deficiencies in nursing facility standards;

(iv) operated under a temporary management appointed to oversee the operation of the facility and to ensure the health and safety of the facility's residents; or

(v) pursuant to State action, was closed or had its residents transferred.

(7) CLARIFICATION OF STATE RESPONSIBILITY TO DETERMINE COMPETENCY.—Section 1919(f)(2)(B) (42 U.S.C. 1396r(f)(2)(B)) is amended in the second sentence by inserting "(through subcontract or otherwise)" after "may not delegate".

(8) EXTENSION OF ENHANCED MATCH RATE UNTIL OCTOBER 1, 1990.—Section 1903(a)(2)(B) (42 U.S.C. 1396b(a)(2)(B)) is amended by striking "July 1, 1990" and inserting "October 1, 1990".

42 USC 1396b note.

(9) EFFECTIVE DATE.—Except as provided in paragraph (6), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(b) PREADMISSION SCREENING AND ANNUAL RESIDENT REVIEW.—

(1) NO COMPLIANCE ACTIONS BEFORE EFFECTIVE DATE OF GUIDELINES.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 or section 1919(e)(7)(D) of the Social Security Act on the basis of the State's failure to meet the requirement of section 1919(e)(7)(A) of such Act before the effective date of guidelines, issued by the Secretary, establishing minimum criteria under section 1919(f)(8)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date. 42 USC 1396r note.

(2) CLARIFICATION WITH RESPECT TO ADMISSIONS AND READMISSION FROM A HOSPITAL.—Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(3)(F), by striking "A nursing facility" and by inserting "Except as provided in clauses (ii) and (iii) of subsection (e)(7)(A), a nursing facility"; and

(B) in subsection (e)(7)(A)—

(i) by redesignating the first 2 sentences as clause (i) with the following heading (and appropriate indentation):

"(i) IN GENERAL.—", and

(ii) by adding at the end the following:

"(ii) CLARIFICATION WITH RESPECT TO CERTAIN READMISSIONS.—The preadmission screening program under clause (i) need not provide for determinations in the case of the readmission to a nursing facility of an individual who, after being admitted to the nursing facility, was transferred for care in a hospital.

"(iii) EXCEPTION FOR CERTAIN HOSPITAL DISCHARGES.—The preadmission screening program under clause (i) shall not apply to the admission to a nursing facility of an individual—

"(I) who is admitted to the facility directly from a hospital after receiving acute inpatient care at the hospital,

"(II) who requires nursing facility services for the condition for which the individual received care in the hospital, and

"(III) whose attending physician has certified, before admission to the facility, that the individual is likely to require less than 30 days of nursing facility services.".

(3) DENIAL OF PAYMENTS FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY SERVICES.—Section 1919(e)(7) (42 U.S.C. 1395r(e)(7)) is amended— 42 USC 1396r.

(A) in subparagraph (D)—

(i) in the heading, by striking "WHERE FAILURE TO CONDUCT PREADMISSION SCREENING",

(ii) by designating the first sentence as clause (i) with the following heading (and appropriate indentation):

"(i) FOR FAILURE TO CONDUCT PREADMISSION SCREENING OR ANNUAL REVIEW.—", and

(iii) by adding at the end the following new clause:

"(ii) FOR CERTAIN RESIDENTS NOT REQUIRING NURSING FACILITY LEVEL OF SERVICES.—No payment may be made

under section 1903(a) with respect to nursing facility services furnished to an individual (other than an individual described in subparagraph (C)(i)) who does not require the level of services provided by a nursing facility."; and

(B) in subparagraph (E), by striking "the requirement of this paragraph" and inserting "the requirements of subparagraphs (A) through (C) of this paragraph".

(4) NO DELEGATION OF AUTHORITY TO CONDUCT SCREENING AND REVIEWS.—Section 1919 is further amended—

(A) in subsection (b)(3)(F), by adding at the end the following: "A State mental health authority and a State mental retardation or developmental disability authority may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility)."; and

(B) in subsection (e)(7)(B), by adding at the end the following new clause:

"(iv) PROHIBITION OF DELEGATION.—A State mental health authority, a State mental retardation or developmental disability authority, and a State may not delegate (by subcontract or otherwise) their responsibilities under this subparagraph to a nursing facility (or to an entity that has a direct or indirect affiliation or relationship with such a facility).".

(5) ANNUAL REPORTS.—

(A) STATE REPORTS.—Section 1919(e)(7)(C) (42 U.S.C. 1396r(e)(7)(C)) is amended by adding at the end the following new clause:

"(iv) ANNUAL REPORT.—Each State shall report to the Secretary annually concerning the number and disposition of residents described in each of clauses (ii) and (iii).".

42 USC 1396r note.

(B) SECRETARIAL REPORT.—Section 4215 of the Omnibus Budget Reconciliation Act of 1987 is amended by adding at the end the following new sentence: "Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act.".

(6) REVISION OF ALTERNATIVE DISPOSITION PLANS.—Section 1919(e)(7)(E) (42 U.S.C. 1396r(e)(7)(E)) is amended by adding at the end the following: "The State may revise such an agreement, subject to the approval of the Secretary, before October 1, 1991, but only if, under the revised agreement, all residents subject to the agreement who do not require the level of services of such a facility are discharged from the facility by not later than April 1, 1994.".

(7) DEFINITION OF MENTALLY ILL.—Section 1919(e)(7)(G)(i) (42 U.S.C. 1396r(e)(7)(G)(i)) is amended—

(A) by striking "primary or secondary" and all that follows through "3rd edition)" and inserting "serious mental illness (as defined by the Secretary in consultation with the National Institute of Mental Health)",

(B) by inserting before the period "or a diagnosis (other than a primary diagnosis) of dementia and a primary diagnosis that is not a serious mental illness".

(8) SUBSTITUTION OF "SPECIALIZED SERVICES" FOR "ACTIVE TREATMENT".—Sections 1919(b)(3)(F) and 1919(e)(7) (42 U.S.C. 1396r(b)(3)(F), 1396r(e)(7)) are each amended by striking "active treatment" and "ACTIVE TREATMENT" each place either appears and inserting "specialized services" and "SPECIALIZED SERVICES", respectively.

(9) EFFECTIVE DATES.— 42 USC 1396r note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) EXCEPTION.—The amendments made by paragraphs (4), (6), and (8) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated.

(c) ENFORCEMENT PROCESS.—The Secretary of Health and Human Services shall not take (and shall not continue) any action against a State under section 1904 of the Social Security Act on the basis of the State's failure to meet the requirements of section 1919(h)(2) of such Act before the effective date of guidelines, issued by the Secretary, regarding the establishment of remedies by the State under such section, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirements before such effective date. 42 USC 1396r note.

(d) SUPERVISION OF HEALTH CARE OF RESIDENTS OF NURSING FACILITIES BY NURSE PRACTITIONERS, CLINICAL NURSE SPECIALISTS, AND PHYSICIAN ASSISTANTS ACTING IN COLLABORATION WITH PHYSICIANS.—

(1) IN GENERAL.—Section 1919(b)(6)(A) (42 U.S.C. 1396r(b)(6)(A)) is amended by inserting "(or, at the option of a State, under the supervision of a nurse practitioner, clinical nurse specialist, or physician assistant who is not an employee of the facility but who is working in collaboration with a physician)" after "physician".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies with respect to nursing facility services furnished on or after October 1, 1990, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date. 42 USC 1396r note.

(e) OTHER AMENDMENTS.—

(1) ASSURANCE OF APPROPRIATE PAYMENT AMOUNTS.—

(A) IN GENERAL.—Section 1902(a)(13)(A) (42 U.S.C. 1396a(a)(13)(A)) is amended by inserting "(including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title)" after "take into account the costs".

(B) DETAILS IN PLAN AMENDMENT.—Section 4211(b)(2) of the Omnibus Budget Reconciliation Act of 1987 is amended by inserting after the first sentence the following: "Each such amendment shall include a detailed description of the specific methodology to be used in determining the appropriate adjustment in payment amounts for nursing facility services.". 42 USC 1396a note.

(2) DISCLOSURE OF INFORMATION OF QUALITY ASSESSMENT AND ASSURANCE COMMITTEES.—Section 1919(b)(1)(B) (42 U.S.C. 1396r(b)(1)(B)) is amended by adding at the end the following

new sentence: "A State or the Secretary may not require disclosure of the records of such committee except insofar as such disclosure is related to the compliance of such committee with the requirements of this subparagraph.".

(3) PERIOD FOR RESIDENT ASSESSMENT.—Section 1919(b)(3)(C)(i)(I) (42 U.S.C. 1396r(b)(3)(C)(i)(I)) is amended by striking "4 days" and inserting "not later than 14 days".

(4) CLARIFICATION OF RESPONSIBILITY FOR SERVICES FOR MENTALLY ILL AND MENTALLY RETARDED RESIDENTS.—Section 1919(b)(4)(A) (42 U.S.C. 1396r(b)(4)(A)) is amended—

(A) by striking "and" at the end of clause (v),

(B) by striking the period at the end of clause (vi) and inserting "; and", and

(C) by inserting after clause (vi) the following new clause:

"(vii) treatment and services required by mentally ill and mentally retarded residents not otherwise provided or arranged for (or required to be provided or arranged for) by the State.".

(5) CLARIFICATION OF EXTENT OF STATE WAIVER AUTHORITY; NOTIFICATION OF WAIVERS.—Section 1919(b)(4)(C)(ii) (42 U.S.C. 1396r(b)(4)(C)(ii)) is amended—

(A) by striking "A State" and all that follows through "a facility if" and inserting "To the extent that a facility is unable to meet the requirements of clause (i), a State may waive such requirements with respect to the facility if";

(B) by striking "and" at the end of subclause (II);

(C) by striking the period at the end of subclause (III) and inserting a comma; and

(D) by adding at the end the following new subclauses:

"(IV) the State agency granting a waiver of such requirements provides notice of the waiver to the State long-term care ombudsman (established under section 307(a)(12) of the Older Americans Act of 1965) and the protection and advocacy system in the State for the mentally ill and the mentally retarded, and

"(V) the nursing facility that is granted such a waiver by a State notifies residents of the facility (or, where appropriate, the guardians or legal representatives of such residents) and members of their immediate families of the waiver.".

(6) CLARIFICATION OF DEFINITION OF NURSE AIDE.—Section 1919(b)(5)(F)(i) (42 U.S.C. 1396r(b)(5)(F)(i)) is amended by striking "(G))," and inserting "(G)) or a registered dietician,".

(7) CHARGES APPLICABLE IN CASES OF CERTAIN MEDICAID-ELIGIBLE INDIVIDUALS.—

(A) IN GENERAL.—Section 1919(c) (42 U.S.C. 1396r(c)) is amended—

(i) by redesignating paragraph (7) as paragraph (8); and

(ii) by inserting after paragraph (6) the following new paragraph:

"(7) LIMITATION ON CHARGES IN CASE OF MEDICAID-ELIGIBLE INDIVIDUALS.—

"(A) IN GENERAL.—A nursing facility may not impose charges, for certain medicaid-eligible individuals for nursing facility services covered by the State under its plan

under this title, that exceed the payment amounts established by the State for such services under this title.

"(B) CERTAIN MEDICAID INDIVIDUALS DEFINED.—In subparagraph (A), the term 'certain medicaid-eligible individual' means an individual who is entitled to medical assistance for nursing facility services in the facility under this title but with respect to whom such benefits are not being paid because, in determining the amount of the individual's income to be applied monthly to payment for the costs of such services, the amount of such income exceeds the payment amounts established by the State for such services under this title.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect on the date of the enactment of this Act, without regard to whether or not regulations to implement such amendments have been promulgated. 42 USC 1396r note.

(8) RESIDENTS' RIGHTS TO REFUSE INTRA-FACILITY TRANSFERS TO MOVE THE RESIDENT TO A MEDICARE-QUALIFIED PORTION.—Section 1919(c)(1)(A) (42 U.S.C. 1396r(c)(1)(A)) is amended—

(A) by redesignating clause (x) as clause (xi) and by inserting after clause (ix) the following new clause:

"(x) REFUSAL OF CERTAIN TRANSFERS.—The right to refuse a transfer to another room within the facility, if a purpose of the transfer is to relocate the resident from a portion of the facility that is not a skilled nursing facility (for purposes of title XVIII) to a portion of the facility that is such a skilled nursing facility."; and

(B) by adding at the end the following: "A resident's exercise of a right to refuse transfer under clause (x) shall not affect the resident's eligibility or entitlement to medical assistance under this title or a State's entitlement to Federal medical assistance under this title with respect to services furnished to such a resident.".

(9) RESIDENT ACCESS TO CLINICAL RECORDS.—Section section [55] 1919(c)(1)(A)(iv) (42 U.S.C. 1396r(c)(1)(A)(iv)) is amended by inserting before the period at the end the following: "and to access to current clinical records of the resident upon request by the resident or the resident's legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request".

(10) INCLUSION OF STATE NOTICE OF RIGHTS IN FACILITY NOTICE OF RIGHTS.—Section 1919(c)(1)(B)(ii) (42 U.S.C. 1396r(c)(1)(B)(ii)) is amended by inserting "including the notice (if any) of the State developed under subsection (e)(6)" after "in such rights)".

(11) REMOVAL OF DUPLICATIVE REQUIREMENT FOR QUALIFICATIONS OF NURSING HOME ADMINISTRATORS.—Effective on the date on which the Secretary promulgates standards regarding the qualifications of nursing facility administrators under section 1919(f)(4) of the Social Security Act—

(A) paragraph (29) of section 1902(a) of such Act (42 U.S.C. 1396a(a)) is repealed; and

(B) section 1908 of such Act (42 U.S.C. 1396g) is repealed.

(12) CLARIFICATION OF NURSE AIDE REGISTRY REQUIREMENTS.—Section 1919(e)(2) (42 U.S.C. 1396r(e)(2)) is amended—

(A) in subparagraph (A), by striking the period and inserting the following: ", or any individual described in subsec-

[55] So in original. Probably should be "Section 1919(c)(1)(A)(iv)".

tion (f)(2)(B)(ii) or in subparagraph (B), (C), or (D) of section 6901(b)(4) of the Omnibus Budget Reconciliation Act of 1989."; and

(B) by adding at the end the following new subparagraph:

"(C) PROHIBITION AGAINST CHARGES.—A State may not impose any charges on a nurse aide relating to the registry established and maintained under subparagraph (A).".

(13) CLARIFICATION ON FINDINGS OF NEGLECT.—Section 1919(g)(1)(C) (42 U.S.C. 1396r(g)(1)(C)) is amended by adding at the end the following: "A State shall not make a finding that an individual has neglected a resident if the individual demonstrates that such neglect was caused by factors beyond the control of the individual.".

(14) TIMING OF PUBLIC DISCLOSURE OF SURVEY RESULTS.—Section 1919(g)(5)(A)(i) (42 U.S.C. 1396r(g)(5)(A)(i)) is amended by striking "deficiencies and plans" and inserting "deficiencies, within 14 calendar days after such information is made available to those facilities, and approved plans".

(15) OMBUDSMAN PROGRAM COORDINATION WITH STATE SURVEY AND CERTIFICATION AGENCIES.—Section 1919(g)(5)(B) (42 U.S.C. 1396r(g)(5)(B)) is amended by striking "with respect" and inserting "or of any adverse action taken against a nursing facility under paragraphs (1), (2), or (3) of subsection (h), with respect".

(16) DENIAL OF PAYMENT OF LEGAL FEES FOR FRIVOLOUS LITIGATION.—

(A) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), [[as amended by section X???(a)(1)(B) of this Act]], is amended—

(i) by striking "or" at the end of paragraph (9);

(ii) by striking the period at the end of paragraph (10) and inserting "; or"; and

(iii) by inserting after paragraph (10) the following new paragraph:

"(11) with respect to any amount expended to reimburse (or otherwise compensate) a nursing facility for payment of legal expenses associated with any action initiated by the facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action."

42 USC 1396b note.

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall apply with respect to actions initiated on or after the date of the enactment of this Act.

42 USC 1396r note.

(17) PROVISIONS RELATING TO STAFFING REQUIREMENTS.—

(A) MAINTAINING REGULATORY STANDARDS FOR CERTAIN SERVICES.—Any regulations promulgated and applied by the Secretary of Health and Human Services after the date of the enactment of the Omnibus Budget Reconciliation Act of 1987 with respect to services described in clauses (ii), (iv), and (v) of section 1919(b)(4)(A) of the Social Security Act shall include requirements for providers of such services that are at least as strict as the requirements applicable to providers of such services prior to the enactment of the Omnibus Budget Reconciliation Act of 1987.

(B) STUDY ON STAFFING REQUIREMENTS IN NURSING FACILITIES.—The Secretary shall conduct a study and report to Congress no later than January 1, 1992, on the appropriateness of establishing minimum caregiver to resident ratios and minimum supervisor to caregiver ratios for skilled nursing facilities serving as providers of services under title

XVIII of the Social Security Act and nursing facilities receiving payments under a State plan under title XIX of the Social Security Act, and shall include in such study recommendations regarding appropriate minimum ratios.

(18) STATE REQUIREMENTS RELATING TO PROGRAMS.—Amend 1919(e)(1)(A) to strike "under clause (i) or (ii) of subsection (f)(2)(A) and insert "under subsection (f)(2)". 42 USC 1396r.

(19) EFFECTIVE DATES.—Except as provided in paragraphs (7), (11), and (16), the amendments made by this subsection shall take effect as if they were included in the enactment of the Omnibus Budget Reconciliation Act of 1987. 42 USC 1396a note.

TITLE V—INCOME SECURITY, HUMAN RESOURCES, AND RELATED PROGRAMS

Subtitle A—Human Resource and Family Policy Amendments

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SEC. 502. AMENDMENT OF SOCIAL SECURITY ACT.

Except as otherwise expressly provided, wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

CHAPTER 1—CHILD SUPPORT ENFORCEMENT

SEC. 5011. EXTENSION OF IRS INTERCEPT FOR NON-AFDC FAMILIES.

(a) AUTHORITY OF STATES TO REQUEST WITHHOLDING OF FEDERAL TAX REFUNDS FROM PERSONS OWING PAST DUE CHILD SUPPORT.—Section 464(a)(2)(B) (42 U.S.C. 664(a)(2)(B)) is amended by striking ", and before January 1, 1991".

(b) WITHHOLDING OF FEDERAL TAX REFUNDS AND COLLECTION OF PAST DUE CHILD SUPPORT ON BEHALF OF DISABLED CHILD OF ANY AGE, AND OF SPOUSAL SUPPORT INCLUDED IN ANY CHILD SUPPORT ORDER.—Section 464(c) (42 U.S.C. 664(c)) is amended—

(1) in paragraph (2), by striking "minor child." and inserting "qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent)."; and

(2) by adding at the end the following:

"(3) For purposes of paragraph (2), the term 'qualified child' means a child—

"(A) who is a minor; or

"(B)(i) who, while a minor, was determined to be disabled under title II or XVI; and

"(ii) for whom an order of support is in force.".

42 USC 664 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on January 1, 1991.

SEC. 5012. EXTENSION OF COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) REAUTHORIZATION.—Section 126 of the Family Support Act of 1988 (42 U.S.C. 666 note; Public Law 100-485) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by striking "1990" and inserting "1991"; and

(B) in paragraph (2), by striking "1991" and inserting "1992";

(2) in subsection (e), by adding at the end the following:

"(5)(A) Individuals may be appointed to serve the Commission without regard to the provisions of title 5 that govern appointments in the competitive service, without regard to the competitive service, and without regard to the classification system in chapter 53 of title 5, United States Code. The chairman of the Commission may fix the compensation of the Executive Director at a rate that shall not exceed the maximum rate of the basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

"(B) The Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(C) On the request of the chairman, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section without regard to section 3341 of title 5, United States Code."; and

(3) in subsection (f)(1), by striking "1991" and inserting "1992".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 666 note.

SEC. 5013. CHILD SUPPORT ENFORCEMENT WAIVER.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with the State of Texas waiving (with respect to cases where a court has issued an order for child support) the following requirements under the State plan for child and spousal support that are described in subparagraphs (A) and (B) of section 454(6) of the Social Security Act, with respect to a project, based in the county of Bexar, of delinquency monitoring for child support enforcement:

(1) The submission of a written application by an individual requesting child support collection services.

(2) The payment of an application fee with respect to an application for such services.

(b) CONTENTS OF WAIVER AGREEMENT.—In the agreement between the Secretary and the State of Texas described in subsection (a), the waiver granted under such agreement shall provide the following:

(1) The waiver shall apply only with respect to the provision of child support collection services.

(2) Before the provision of any child support collection services, the organizational unit designated under section 454(3) of the Social Security Act (in this section referred to as the "State

agency") shall provide written notification to each custodial parent of the right of such parent to refuse such services.

(3) The State shall ensure that, to the extent possible, each parent of the child on behalf of whom such services are provided (regardless of whether such parent is a custodial parent) is to receive written notice at the time such services are provided, explaining—

(A) the legal rights of parents with respect to the child support collection services provided; and

(B) the responsibilities of the State agency in providing such child support collection services (including the monitoring of delinquent child support payments).

(4) A case record shall be deemed to have been established by the State agency upon notification of a custodial parent of the option to receive the child support enforcement services described in this subsection.

(5) Any period of enforcement by the State agency under this section with respect to the collection of delinquent child support payments shall be deemed to begin on the first day of any such delinquency.

(d) STUDY AND REPORT.—

(1) STUDY REQUIRED.—As a condition precedent to granting the waiver described in subsection (a), the State agency shall agree to conduct a study of the cost-effectiveness to the Federal Government and to the State of Texas of the monitoring of delinquent child support payments under the State plan under section 454 of the Social Security Act.

(2) CONDUCT OF STUDY.—

(A) IN GENERAL.—The study required by paragraph (1) shall be conducted in accordance with the criteria established by the Secretary in accordance with subparagraph (B).

(B) CRITERIA.—Not later than February 1, 1991, the Secretary shall establish the criteria required by subparagraph (A), in consultation with—

(i) 1 or more representatives of organizations representing child support administrators;

(ii) 1 or more representatives of the General Accounting Office;

(iii) 1 or more representatives of the State of Texas; and

(iv) such other individuals or organizations with experience in the evaluation of child support programs, as the Secretary may designate.

(3) REPORT.—Not later than 3 months after the expiration of the waiver described in subsection (a), the State agency shall submit to the Secretary and to the Congress a report that includes the findings of the study required by this subsection.

(e) DURATION OF WAIVER.—The waiver described in subsection (a) shall be effective for not more than 2 years.

(f) MATCHING PAYMENTS.—

(1) GENERAL EXPENDITURES.—In lieu of any payment under section 455 of the Social Security Act with respect to expenditures of the State of Texas to carry out child support enforcement programs with respect to which the waiver described in subsection (a) applies, the Secretary shall pay the State an amount equal to the lesser of—

(A) 66 percent of such expenditures; or
(B) $500,000.

(2) STUDY EXPENDITURES.—In lieu of any payment under section 455 of the Social Security Act with respect to expenditures of the State of Texas to carry out the study required by subsection (d), the Secretary shall pay the State an amount equal to 66 percent of such expenditures.

CHAPTER 2—UNEMPLOYMENT COMPENSATION

SEC. 5021. AMOUNTS TRANSFERRED TO STATE UNEMPLOYMENT COMPENSATION PROGRAM ACCOUNTS.

(a) ALLOCATION OF AMOUNTS.—Paragraph (2) of section 903(a) (42 U.S.C. 1103(a)(2)) is amended to read as follows:

"(2) Each State's share of the funds to be transferred under this subsection as of any October 1—

"(A) shall be determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury before such date, and

"(B) shall bear the same ratio to the total amount to be so transferred as—

"(i) the amount of wages subject to tax under section 3301 of the Internal Revenue Code of 1986 during the preceding calendar year which are determined by the Secretary of Labor to be attributable to the State, bears to

"(ii) the total amount of wages subject to such tax during such year."

(b) USE OF TRANSFERRED AMOUNTS.—Paragraph (2) of section 903(c) (42 U.S.C. 1103(c)(2)) is amended—

(1) by striking "and" at the end of subparagraph (C), and

(2) by striking so much of such paragraph as follows subparagraph (C) and inserting the following:

"(D)(i) the appropriation law limits the total amount which may be obligated under such appropriation at any time to an amount which does not exceed, at any such time, the amount by which—

"(I) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b), exceeds

"(II) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State, and

"(ii) for purposes of clause (i), amounts used by a State for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into, and

"(E) the use of the money is accounted for in accordance with standards established by the Secretary of Labor."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after the date of the enactment of this Act. 42 USC 1103 note.

CHAPTER 3—SUPPLEMENTAL SECURITY INCOME

SEC. 5031. EXCLUSION FROM INCOME AND RESOURCES OF VICTIMS' COMPENSATION PAYMENTS.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting "; and"; and

(3) by adding at the end the following:

"(17) any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following:

"(9) for the 9-month period beginning after the month in which received, any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime, to the extent that such individual (or such spouse) demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.".

(c) VICTIMS COMPENSATION AWARD NOT REQUIRED TO BE ACCEPTED AS CONDITION OF RECEIVING BENEFITS.—Section 1631(a) (42 U.S.C. 1383(a)) is amended by adding at the end the following:

"(9) Benefits under this title shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount offered as compensation for a crime of which the individual was a victim.".

42 USC 1382a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5032. ATTAINMENT OF AGE 65 NOT TO SERVE AS BASIS FOR TERMINATION OF ELIGIBILITY UNDER SECTION 1619(b).

42 USC 1382h.

(a) IN GENERAL.—Section 1619(b)(1) (42 U.S.C. 1392h(b)(1)) is amended by striking "under age 65".

42 USC 1382h note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5033. EXCLUSION FROM INCOME OF IMPAIRMENT-RELATED WORK EXPENSES.

(a) IN GENERAL.—Section 1612(b)(4)(B)(ii) (42 U.S.C. 1382a(b)(4)(B)(ii)) is amended by striking "(for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)".

42 USC 1382a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act.

SEC. 5034. TREATMENT OF ROYALTIES AND HONORARIA AS EARNED INCOME.

(a) IN GENERAL.—Section 1612(a) (42 U.S.C. 1382a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (C); and

(B) by adding at the end the following:

"(E) any royalty earned by an individual in connection with any publication of the work of the individual, and that portion of any honorarium which is received for services rendered; and"; and

(2) in paragraph (2)(F), by inserting "not described in paragraph (1)(E)" before the period.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months beginning on or after the first day of the 13th calendar month following the month in which this Act is enacted. 42 USC 1382a note.

SEC. 5035. CERTAIN STATE RELOCATION ASSISTANCE EXCLUDED FROM SSI INCOME AND RESOURCES.

(a) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)), as amended by section 5031(a) of this Act, is amended—

(1) by striking "and" at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting a semicolon; and

(3) by inserting after paragraph (17) the following:

"(18) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)), as amended by section 5031(b) of this Act, is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting "; and"; and

(3) by inserting after paragraph (9) the following:

"(10) for the 9-month period beginning after the month in which received, relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for calendar months beginning in the 3-year period that begins on the first day of the 6th calendar month following the month in which this Act is enacted. 42 USC 1382a note.

SEC. 5036. EVALUATION OF CHILD'S DISABILITY BY PEDIATRICIAN OR OTHER QUALIFIED SPECIALIST.

(a) IN GENERAL.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)) is amended by adding at the end the following:

"(H) In making any determination under this title with respect to the disability of a child who has not attained the age of 18 years and to whom section 221(h) does not apply, the Secretary shall make reasonable efforts to ensure that a qualified pediatrician or other

individual who specializes in a field of medicine appropriate to the disability of the child (as determined by the Secretary) evaluates the case of such child.".

42 USC 1382c note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to determinations made 6 or more months after the date of the enactment of this Act.

SEC. 5037. REIMBURSEMENT FOR VOCATIONAL REHABILITATION SERVICES FURNISHED DURING CERTAIN MONTHS OF NONPAYMENT OF SSI BENEFITS.

(a) IN GENERAL.—Section 1615 (42 U.S.C. 1382d) is amended by adding at the end the following:

"(e) The Secretary may reimburse the State agency described in subsection (d) for the costs described therein incurred in the provision of rehabilitation services—

"(1) for any month for which an individual received—

"(A) benefits under section 1611 or 1619(a);

"(B) assistance under section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616 of this Act or section 212(b) of Public Law 93-66; and

"(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

"(A) benefits under section 1611 or 1619(a);

"(B) assistance under section 1619(b); or

"(C) a federally administered State supplementary payment under section 1616 of this Act or section 212(b) of Public Law 93-66.".

42 USC 1382d note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to claims for reimbursement pending on or after such date.

SEC. 5038. EXTENSION OF PERIOD OF PRESUMPTIVE ELIGIBILITY FOR BENEFITS.

(a) IN GENERAL.—Section 1631(a)(4)(B) (42 U.S.C. 1383(a)(4)(B)) is amended by striking "3" and inserting "6".

42 USC 1383 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5039. CONTINUING DISABILITY OR BLINDNESS REVIEWS NOT REQUIRED MORE THAN ONCE ANNUALLY.

(a) IN GENERAL [56]—Section 1619 (42 U.S.C. 1382h) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) Subsection (a)(2) and section 1631(j)(2)(A) shall not be construed, singly or jointly, to require more than 1 determination during any 12-month period with respect to the continuing disability or blindness of an individual.".

(b) CONFORMING AMENDMENT.—Section 1631(j)(2)(A) (42 U.S.C. 1383(j)(2)(A)) is amended by inserting "(other than subsection (c) thereof)" after "1619" the 1st place such term appears.

42 USC 1382h note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

[56] So in original. Probably should be "GENERAL.—".

SEC. 5040. CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED INDIVIDUALS.

Section 1631 (42 U.S.C. 1383) is amended—

(1) in subsection (m), by striking the second sentence; and

(2) by adding at the end the following:

"CONCURRENT SSI AND FOOD STAMP APPLICATIONS BY INSTITUTIONALIZED INDIVIDUALS

"(n) The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subsection shall also be permitted to apply at the same time for participation in the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).".

SEC. 5041. NOTIFICATION OF CERTAIN INDIVIDUALS ELIGIBLE TO RECEIVE RETROACTIVE BENEFITS.

In notifying individuals of their eligibility to receive retroactive supplemental security income benefits as a result of Sullivan v. Zebley, 110 S. Ct. 2658 (1990), the Secretary shall include written notice, in language that is easily understandable, explaining—

(1) the 6-month limitation on the exclusion from resources under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7));

(2) the potential effects under title XVI of the Social Security Act, attributable to the receipt of such payment, including—

(A) potential discontinuation of eligibility; and

(B) potential reductions in the amount of benefits;

(3) the possibility of establishing a trust account that would not be considered as income or resources for the purposes of such title if the trust met certain conditions; and

(4) that legal assistance in establishing such a trust may be available through legal referral services offered by a State or local bar association, or through the Legal Services Corporation.

CHAPTER 4—AID TO FAMILIES WITH DEPENDENT CHILDREN

SEC. 5051. OPTIONAL MONTHLY REPORTING AND RETROSPECTIVE BUDGETING.

(a) OPTIONAL MONTHLY REPORTING.—Section 402(a)(14) (42 U.S.C. 602(a)(14)) is amended—

(1) by striking "with respect to" and all that follows through "(A) provide" and insert "provide, at the option of the State and with respect to such category or categories as the State may select and identify in its State plan (A)";

(2) by striking "(with the prior approval of the Secretary in recent work history and earned income cases)"; and

(3) by striking "upon a determination" and all that follows through "paragraph".

(b) OPTIONAL RETROSPECTIVE BUDGETING.—Section 402(a)(13) (42 U.S.C. 602(a)(13)) is amended by striking all that precedes subparagraph (A) and inserting the following:

"(13) at the option of the State, but only with respect to any one or more categories of families required to report monthly to the State agency pursuant to paragraph (14), provide that—".

42 USC 602 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect with respect to reports pertaining to, or aid payable for, months beginning in or after October 1990.

SEC. 5052. CHILDREN RECEIVING FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS NOT TREATED AS MEMBER OF FAMILY UNIT FOR PURPOSES OF DETERMINING ELIGIBILITY FOR, OR AMOUNT OF, AFDC BENEFIT.

(a) IN GENERAL.—Part A of title IV (42 U.S.C. 601 et seq.) is amended by inserting after section 408 the following:

"EXCLUSION FROM AFDC UNIT OF CHILD FOR WHOM FEDERAL, STATE, OR LOCAL FOSTER CARE MAINTENANCE OR ADOPTION ASSISTANCE PAYMENTS ARE MADE

42 USC 609.

"SEC. 409. (a) Notwithstanding any other provision of this title (other than subsection (b))—

"(1) a child with respect to whom foster care maintenance payments or adoption assistance payments are made under part E or under State or local law shall not, for the period for which such payments are made, be regarded as a member of a family for purposes of determining the amount of benefits of the family under this part; and

"(2) the income and resources of such child shall be excluded from the income and resources of a family under this part.

"(b) Subsection (a) shall not apply in the case of a child with respect to whom adoption assistance payments are made under part E or under State or local law, if application of such subsection would reduce the benefits under this part of the family of which the child would otherwise be regarded as a member.".

(b) CONFORMING REPEAL.—Section 478 (42 U.S.C. 678) is hereby repealed.

42 USC 609 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) and the repeal made by subsection (b) shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted.

SEC. 5053. ELIMINATION OF TERM "LEGAL GUARDIAN".

(a) IN GENERAL.—Section 402(a)(39) (42 U.S.C. 602(a)(39)) is amended—

(1) by striking "or legal guardian"; and

(2) by striking "or legal guardians".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5054. REPORTING OF CHILD ABUSE AND NEGLECT.

(a) CONCERNING AFDC APPLICANTS AND RECIPIENTS.—

(1) IN GENERAL.—Section 402(a)(16) (42 U.S.C. 602(a)(16)) is amended to read as follows:

"(16) provide that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 402(a)(9) (42 U.S.C. 602(a)(9)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (16) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(b) CONCERNING RECIPIENTS OF FOSTER CARE OR ADOPTION ASSISTANCE.—

(1) IN GENERAL.—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended to read as follows:

"(9) provides that the State agency will—

"(A) report to an appropriate agency or official, known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving aid under part B or this part under circumstances which indicate that the child's health or welfare is threatened thereby; and

"(B) provide such information with respect to a situation described in subparagraph (A) as the State agency may have;".

(2) CONFORMING AMENDMENTS.—Section 471(a)(8) (42 U.S.C. 671(a)(8)) is amended—

(A) in subparagraph (C), by striking "and"; and

(B) by inserting ", and (E) reporting and providing information pursuant to paragraph (9) to appropriate authorities with respect to known or suspected child abuse or neglect" before the 1st semicolon.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted. 42 USC 602 note.

SEC. 5055. DISCLOSURE OF INFORMATION ABOUT AFDC APPLICANTS AND RECIPIENTS AUTHORIZED FOR PURPOSES DIRECTLY CONNECTED TO STATE FOSTER CARE AND ADOPTION ASSISTANCE PROGRAMS.

(a) IN GENERAL.—Section 402(a)(9)(A) (42 U.S.C. 602(a)(9)(A)) is amended by striking "or D" and inserting ", D, or E".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 602 note.

SEC. 5056. REPATRIATION.

(a) IN GENERAL.—Section 1113 (42 U.S.C. 1313) is amended—

(1) in subsection (d), by striking "on or after October 1, 1989" and inserting "after September 30, 1991"; and

(2) by adding at the end the following:

"(e)(1) The Secretary may accept on behalf of the United States gifts, in cash or in kind, for use in carrying out the program established under this section. Gifts in the form of cash shall be credited to the appropriation account from which this program is funded, in addition to amounts otherwise appropriated, and shall remain available until expended.

"(2) Gifts accepted under paragraph (1) shall be available for obligation or other use by the United States only to the extent and in the amounts provided in appropriation Acts.".

42 USC 1313 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective for fiscal years beginning after September 30, 1989.

SEC. 5057. TECHNICAL AMENDMENT TO NATIONAL COMMISSION ON CHILDREN.

Section 1139(d) (42 U.S.C. 1320b-9(d)) is amended in the matter preceding paragraph (1), by striking "an interim report no later than March 31, 1991, and a final report no later than September 30, 1990" and inserting "an interim report no later than September 30, 1990, and a final report no later than March 31, 1991".

SEC. 5058. EXTENSION OF PROHIBITION AGAINST IMPLEMENTATION OF PROPOSED REGULATIONS ON EMERGENCY ASSISTANCE AND AFDC SPECIAL NEEDS.

Section 8005 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 606 note) is amended in each of subsections (a)(2) and (c) by striking "1990" and inserting "1991".

SEC. 5059. AMENDMENTS TO MINNESOTA FAMILY INVESTMENT PLAN DEMONSTRATION.

Section 8015 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 602 note) is amended—

(1) in subsection (a), by striking "part A" and inserting "parts A and F";

(2) in subsection (b)(3), by striking "(e)" and inserting "(d)";

(3) in subsection (b)(6), by inserting "or that is assigned to and found eligible for the project" after "in the project";

(4) in subsection (b)(8)(B)(ii), by inserting "(except that the age of the youngest child may be age 1 under the project even if the State plan specifies age 3)" after "such compliance";

(5) in subsection (b)(8)(B)(ii)(I), by inserting "and" after the semicolon;

(6) in subsection (b)(8)(B)(ii), by striking "; and" after "age of 1 year" and all that follows through the end of subclause (III) and inserting "(except that, in a 2-parent family, this clause applies only to 1 parent).";

(7) by amending subsection (b)(9) to read as follows:

"(9) AVAILABILITY OF EDUCATION, EMPLOYMENT, AND TRAINING SERVICES.—The State will make available education, employment, and training services equivalent to those services available under the State plan approved under part F of title IV of the Social Security Act to families required to enter into and comply with a contract with a county agency under the 1989 Minnesota Laws, section 10 of article 5 of chapter 282.";

(8) in subsection (b)(10)(A)—

(A) by inserting ", except when a sanction is implemented under the 1989 Minnesota Laws, subdivision 3 of section 10 of article 5 of chapter 282," after "ensure that"; and

(B) by striking "cash";

(9) in subsection (b), by adding at the end the following:

"(12) LIABILITY FOR COSTS.—For each fiscal year, the Secretary shall not be liable for any costs related to carrying out the project in excess of those that the Secretary would have been

liable for had the project not been implemented, except for costs for evaluating the project.";

(10) in subsection (c)(1)(B), by striking "50" and inserting "25";

(11) in subsection (c)(2), by striking "part A" and inserting "parts A and F";

(12) in subsection (d)(1)(B)(ii)—

(A) by inserting "except when a sanction is implemented under the 1989 Minnesota Laws, subdivision 3 of section 10 of article 5 of chapter 282," before "permit"; and

(B) by striking "cash";

(13) in subsection (d)(1)(B)(iii), by striking "section 402(a)(19)(C) of such Act" and inserting "subparagraph (C), (D), or (E) of section 402(a)(19) of such Act (except that the exemption for a parent with a child under 1 year of age need not be specified in the State plan)"; and

(14) by adding at the end the following:

"(i) CONSTRUCTION.—For purposes of any Federal, State, or local law other than part A of title IV of the Social Security Act, the Food Stamp Act of 1977, or this section—

"(1) families participating in the project shall be considered to be recipients of aid under such part; and

"(2) cash assistance provided under the project to any such family and not designated by the State as food assistance shall be treated as if such assistance were aid received under such part.".

SEC. 5060. GOOD CAUSE EXCEPTION TO REQUIRED COOPERATION FOR TRANSITIONAL CHILD CARE BENEFITS.

(a) IN GENERAL.—Section 402(g)(1)(A)(vi)(II) (42 U.S.C. 602(g)(1)(A)(vi)(II)) is amended to read as follows:

"(II) refused to cooperate with the State in establishing and enforcing his or her child support obligations, without good cause as determined by the State agency in accordance with standards prescribed by the Secretary which shall take into consideration the best interests of the child for whom child care is to be provided.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 602 note.

SEC. 5061. TECHNICAL CORRECTIONS REGARDING PENALTY FOR FAILURE TO PARTICIPATE IN JOBS PROGRAM.

(a) IN GENERAL.—Section 407(b)(1)(B) (42 U.S.C. 607(b)(1)(B))) [57] is amended—

(1) in clause (iii)—

(A) by striking "—" and all that follows through "(II)"; and

(B) by striking "and " at the end;

(2) in clause (iv), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(v) that, if and for so long as the child's parent described in subparagraph (A)(i), unless meeting a condition of section 402(a)(19)(C), is, without good cause, not participating (or available for participation) in a program under part F, or if exempt under such section by reason of clause (vii) thereof or because there has not been established or provided under part F a program in which such parent can effectively participate, is not registered with the public employment

[57] So in original. Probably should be "607(b)(1)(B))".

offices in the State, the needs of such parent shall not be taken into account in determining the need of such parent's family under section 402(a)(7), and the needs of such parent's spouse shall not be so taken into account unless such spouse is participating in such a program, or if not participating solely by reason of section 402(a)(19)(C)(vii) or because there has not been established or provided under part F a program in which such spouse can effectively participate, is registered with the public employment offices of the State; and if neither parents' needs are so taken into account, the payment provisions of section 402(a)(19)(G)(i)(I) shall apply.".

42 USC 607 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect at the same time and in the same manner as the amendments made by title II of the Family Support Act of 1988 take effect.

SEC. 5062. TECHNICAL CORRECTIONS REGARDING AFDC-UP ELIGIBILITY REQUIREMENTS.

(a) IN GENERAL.—Section 407(d)(1) (42 U.S.C. 607(d)(1)) is amended—

(1) by striking "a calendar quarter (A)" and inserting "(A) a calendar quarter";

(2) by striking "or" at the end of subparagraph (A); and

(3) by inserting ", and (C) a calendar quarter ending before October 1990 in which such individual participated in a community work experience program under section 409 (as in effect for a State immediately before the effective date for that State of the amendments made by title II of the Family Support Act of 1988) or the work incentive program established under part C (as in effect for a State immediately before such effective date)" before the semicolon.

42 USC 607 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5063. FAMILY SUPPORT ACT DEMONSTRATION PROJECTS.

42 USC 1315 note.

Section 505 of the Family Support Act of 1988 (42 U.S.C. 1315; P.L. 100-385) is amended—

(1) in subsection (a), by inserting "in each of the fiscal years 1990, 1991, and 1992," before "shall"; and

(2) in subsection (e), by striking "September 30, 1989" and inserting "September 30 of the fiscal year specified in the agreement described in subsection (a)".

SEC. 5064. STUDY OF JOBS PROGRAMS OPERATED BY INDIAN TRIBES AND ALASKA NATIVE ORGANIZATIONS.

(a) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Comptroller General of the United States (in this section referred to as the "Comptroller") shall conduct a study of the implementation of section 482(i) of the Social Security Act (42 U.S.C. 682(i)) relating to job opportunities and basic skills training programs (in this section referred to as "JOBS programs") operated by Indian tribes and Alaska Native organizations (as defined in paragraph (5) of such section 482(i)).

(b) REQUIREMENTS FOR STUDY.—In conducting the study described in subsection (a), the Comptroller shall—

(1) identify any problems associated with the implementation of section 482(i) of the Social Security Act; and

(2) assess (to the extent practicable) the effectiveness of the JOBS programs operated by Indian tribes and Alaska Native organizations.

(c) REPORT.—Upon completion of the study described in subsection (a), the Comptroller shall submit a report to the appropriate committees of the Congress that includes—

(1) a summary of the findings of the study; and

(2) recommendations with respect to proposed legislation or changes in administrative policy to improve the effectiveness of JOBS programs conducted pursuant to section 482(i) of the Social Security Act.

CHAPTER 5—CHILD WELFARE AND FOSTER CARE

SEC. 5071. ACCOUNTING FOR ADMINISTRATIVE COSTS.

(a) RECLASSIFICATION.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended by inserting "provision of child placement services and for the" before "proper and efficient".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 674 note.

SEC. 5072. SECTION 427 TRIENNIAL REVIEWS.

(a) AMENDMENTS TO SECTION 10406 OF OBRA 1989.—Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note) is amended—

(1) by striking "1991" and inserting "1992";

(2) by striking "1990" and inserting "1991"; and

(3) in the section heading, by striking "1990" and inserting "1991".

(b) CONFORMING AMENDMENT.—The item relating to section 10406 in the table of contents appearing immediately after section 10000 of such Act is amended by striking "1990" and inserting "1991".

SEC. 5073. INDEPENDENT LIVING INITIATIVES.

(a) IN GENERAL.—Section 477(a)(2)(C) (42 U.S.C. 677(a)(2)(C)) is amended—

(1) by inserting "who has not attained age 21" after "may at the option of the State also include any child"; and

(2) by striking ", but such child" and all that follows through "care".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made under part E of title IV of the Social Security Act for fiscal years beginning in or after fiscal year 1991. 42 USC 677 note.

CHAPTER 6—CHILD CARE

SEC. 5081. GRANTS TO STATES FOR CHILD CARE.

(a) RULES GOVERNING PROVISION OF CHILD CARE TO ELIGIBLE FAMILIES.—Section 402 (42 U.S.C. 602) is amended by adding at the end the following:

"(i)(1) Each State agency may, to the extent that it determines that resources are available, provide child care in accordance with paragraph (2) to any low income family that the State determines—

"(A) is not receiving aid under the State plan approved under this part;

"(B) needs such care in order to work; and

"(C) would be at risk of becoming eligible for aid under the State plan approved under this part if such care were not provided.

"(2) The State agency may provide child care pursuant to paragraph (1) by—

"(A) providing such care directly;

"(B) arranging such care through providers by use of purchase of service contracts or vouchers;

"(C) providing cash or vouchers in advance to the family;

"(D) reimbursing the family; or

"(E) adopting such other arrangements as the agency deems appropriate.

"(3)(A) A family provided with child care under paragraph (1) shall contribute to such care in accordance with a sliding scale formula established by the State agency based on the family's ability to pay.

"(B) The State agency shall make payment for the cost of child care provided under paragraph (1) with respect to a family in an amount that is the lesser of—

"(i) the actual cost of such care; and

"(ii) the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

"(4) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this subsection—

"(A) shall not be treated as income or as a deductible expense for purposes of any other Federal or federally assisted program that bases eligibility for or amount of benefits upon need; and

"(B) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(5) Amounts expended by the State agency for child care under paragraph (1) shall be treated as amounts for which payment may be made to a State under section 403(n) only to the extent that—

"(A) such amounts are paid in accordance with paragraph (3)(B);

"(B) the care involved meets applicable standards of State and local law;

"(C) the provider of the care—

"(i) in the case of a provider who is not an individual that provides such care solely to members of the family of the individual, is licensed, regulated, or registered by the State or locality in which the care is provided; and

"(ii) allows parental access; and

"(D) such amounts are not used to supplant any other Federal or State funds used for child care services.

"(6)(A)(i) Each State shall prepare reports annually, beginning with fiscal year 1993, on the activities of the State carried out with funds made available under section 403(n).

"(ii) The State shall make available for public inspection within the State copies of each report required by this paragraph, shall transmit a copy of each such report to the Secretary, and shall provide a copy of each such report, on request, to any interested public agency.

"(iii) The Secretary shall annually compile, and submit to the Congress, the State reports transmitted to the Secretary pursuant to clause (ii).

"(B) Each report prepared and transmitted by a State under subparagraph (A) shall set forth with respect to child care services provided under this subsection—

"(i) showing separately for center-based child care services, group home child care services, family child care services, and relative care services, the number of children who received such services and the average cost of such services;

"(ii) the criteria applied in determining eligibility or priority for receiving services, and sliding fee schedules;

"(iii) the child care licensing and regulatory (including registration) requirements in effect in the State with respect to each type of service specified in clause (i); and

"(iv) the enforcement policies and practices in effect in the State which apply to licensed and regulated child care providers (including providers required to register).

"(C) Within 12 months after the date of the enactment of this subsection, the Secretary shall establish uniform reporting requirements for use by the States in preparing the information required by this paragraph, and make such other provision as may be necessary or appropriate to ensure that compliance with this subsection will not be unduly burdensome on the States.

"(D) Not later than July 1, 1992, the Secretary shall issue a report on the implementation of this subsection, based on such information as as has [58] been made available to the Secretary by the States.".

(b) PAYMENTS TO STATES.—Section 403 (42 U.S.C. 603) is amended by adding at the end the following:

"(n)(1) In addition to any payment under subsection (a) or (l), each State shall be entitled to payment from the Secretary of an amount equal to the lesser of—

"(A) the Federal medical assistance percentage (as defined in section 1905(b)) of the expenditures by the State in providing child care services pursuant to section 402(i), and in administering the provision of such child care services, for any fiscal year; and

"(B) the limitation determined under paragraph (2) with respect to the State for the fiscal year.

"(2)(A) The limitation determined under this paragraph with respect to a State for any fiscal year is the amount that bears the same ratio to the amount specified in subparagraph (B) for such fiscal year as the number of children residing in the State in the second preceding fiscal year bears to the number of children residing in the United States in the second preceding fiscal year.

"(B) The amount specified in this subparagraph is—

"(i) $300,000,000 for fiscal year 1991;

"(ii) $300,000,000 for fiscal year 1992;

"(iii) $300,000,000 for fiscal year 1993;

"(iv) $300,000,000 for fiscal year 1994; and

"(v) $300,000,000 for fiscal year 1995, and for each fiscal year thereafter.

"(C) If the limitation determined under subparagraph (A) with respect to a State for a fiscal year exceeds the amount paid to the State under this subsection for the fiscal year, the limitation determined under this paragraph with respect to the State for the

[58] So in original. Probably should be "information as has".

immediately succeeding fiscal year shall be increased by the amount of such excess.

"(3) Amounts appropriated for a fiscal year to carry out this part shall be made available for payments under this subsection for such fiscal year.".

(c) AMENDMENTS TO GRANTS TO STATES TO IMPROVE CHILD CARE LICENSING AND REGISTRATION REQUIREMENTS, AND TO MONITOR CHILD CARE PROVIDED TO CHILDREN RECEIVING AFDC.—

(1) GRANTS INCREASED AND EXTENDED.—Section 402(g)(6)(D) (42 U.S.C. 602(g)(6)(D)) is amended by inserting ", and $50,000,000 for each of fiscal years 1992, 1993, and 1994" before the period.

(2) NEW PURPOSES FOR GRANTS.—Section 402(g)(6)(A) (42 U.S.C. 602(g)(6)(A)) is amended by striking "and to monitor child care provided to children receiving aid under the State plan approved under subsection (a)" and inserting "to enforce standards with respect to child care provided to children under this part, and to provide for the training of child care providers".

(3) HALF OF GRANT REQUIRED TO BE EXPENDED FOR TRAINING OF CHILD CARE PROVIDERS.—Section 402(g)(6) (42 U.S.C. 602(g)(6)) is amended by adding at the end the following:

"(E) Each State to which the Secretary makes a grant under this paragraph shall expend not less than 50 percent of the amount of the grant to provide for the training of child care providers.".

(d) COORDINATION WITH OTHER PROGRAMS FOR CHILDREN.—Section 402(g)(7) (42 U.S.C. 602(g)(7)) is amended by inserting "and subsection (i)" after "this subsection".

42 USC 602 note.

(e) EFFECTIVE DATE.—Except as otherwise expressly provided, the amendments made by this section shall take effect on October 1, 1990.

SEC. 5082. CHILD CARE AND DEVELOPMENT BLOCK GRANT.

Chapter 8 of subtitle A of title IV of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) is amended—

(1) by redesignating subchapters C, D, and E, as subchapters D, E, and F, respectively; and

(2) by inserting after subchapter B the following new subchapter:

Child Care and Development Block Grant Act of 1990.

"Subchapter C—Child Care and Development Block Grant

42 USC 9801 note.

"SEC. 658A. SHORT TITLE.

"This subchapter may be cited as the 'Child Care and Development Block Grant Act of 1990'.

42 USC 9858.

"SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, $750,000,000 for fiscal year 1991, $825,000,000 for fiscal year 1992, $925,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

42 USC 9858a.

"SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

"The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

42 USC 9858b.

"SEC. 658D. LEAD AGENCY.

"(a) DESIGNATION.—The chief executive officer of a State desiring to receive a grant under this subchapter shall designate, in an

application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.

"(b) DUTIES.—

"(1) IN GENERAL.—The lead agency shall—

"(A) administer, directly or through other State agencies, the financial assistance received under this subchapter by the State;

"(B) develop the State plan to be submitted to the Secretary under section 658E(a);

"(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State to provide to the public an opportunity to comment on the provision of child care services under the State plan; and

"(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

"(2) DEVELOPMENT OF PLAN.—In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government. Such consultations may include consideration of local child care needs and resources, the effectiveness of existing child care and early childhood development services, and the methods by which funds made available under this subchapter can be used to effectively address local shortages.

"SEC. 658E. APPLICATION AND PLAN. 42 USC 9858c.

"(a) APPLICATION.—To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including—

"(1) an assurance that the State will comply with the requirements of this subchapter; and

"(2) a State plan that meets the requirements of subsection (c).

"(b) PERIOD COVERED BY PLAN.—The State plan contained in the application under subsection (a) shall be designed to be implemented—

"(1) during a 3-year period for the initial State plan; and

"(2) during a 2-year period for subsequent State plans.

"(c) REQUIREMENTS OF A PLAN.—

"(1) LEAD AGENCY.—The State plan shall identify the lead agency designated under section 658D.

"(2) POLICIES AND PROCEDURES.—The State plan shall:

"(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

"(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter, other than through assistance provided under paragraph (3)(C), are given the option either—

"(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

"(II) to receive a child care certificate as defined in section 658P(2);

"(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

"(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

except that nothing in this subparagraph shall require a State to have a child care certificate program in operation prior to October 1, 1992.

"(B) UNLIMITED PARENTAL ACCESS.—Provide assurances that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers.

"(C) PARENTAL COMPLAINTS.—Provide assurances that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request.

"(D) CONSUMER EDUCATION.—Provide assurances that consumer education information will be made available to parents and the general public within the State concerning licensing and regulatory requirements, complaint procedures, and policies and practices relative to child care services within the State.

"(E) COMPLIANCE WITH STATE AND LOCAL REGULATORY REQUIREMENTS.—Provide assurances that—

"(i) all providers of child care services within the State for which assistance is provided under this subchapter comply with all licensing or regulatory requirements (including registration requirements) applicable under State and local law; and

"(ii) providers within the State that are not required to be licensed or regulated under State or local law are required to be registered with the State prior to payment being made under this subchapter, in accordance with procedures designed to facilitate appropriate payment to such providers, and to permit the State to furnish information to such providers, including information on the availability of health and safety training, technical assistance, and any relevant information pertaining to regulatory requirements in the State, and that such providers shall be permitted to register with the State after selection by the parents of eligible children and before such payment is made.

This subparagraph shall not be construed to prohibit a State from imposing more stringent standards and licensing or regulatory requirements on child care providers within the State that provide services for which assistance is provided under this subchapter than the standards or requirements imposed on other child care providers in the State.

"(F) ESTABLISHMENT OF HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements shall include—

"(i) the prevention and control of infectious diseases (including immunization);

"(ii) building and physical premises safety; and

"(iii) minimum health and safety training appropriate to the provider setting.

Nothing in this subparagraph shall be construed to require the establishment of additional health and safety requirements for child care providers that are subject to health and safety requirements in the categories described in this subparagraph on the date of enactment of this subchapter under State or local law.

"(G) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.—Provide assurances that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

"(H) REDUCTION IN STANDARDS.—Provide assurances that if the State reduces the level of standards applicable to child care services provided in the State on the date of enactment of this subchapter, the State shall inform the Secretary of the rationale for such reduction in the annual report of the State described in section 658K.

"(I) REVIEW OF STATE LICENSING AND REGULATORY REQUIREMENTS.—Provide assurances that not later than 18 months after the date of the submission of the application under section 658E, the State will complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State unless the State has reviewed such law, requirements, and policies in the 3-year period ending on the date of the enactment of this subchapter.

"(J) SUPPLEMENTATION.—Provide assurances that funds received under this subchapter by the State will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs in the State.

"(3) USE OF BLOCK GRANT FUNDS.—

"(A) GENERAL REQUIREMENT.—The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs (B) and (C).

"(B) CHILD CARE SERVICES.—Subject to the reservation contained in subparagraph (C), the State shall use amounts provided to the State for each fiscal year under this subchapter for—

"(i) child care services, that meet the requirements of this subchapter, that are provided to eligible children

in the State on a sliding fee scale basis using funding methods provided for in section 658E(c)(2)(A), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs; and

"(ii) activities designed to improve the availability and quality of child care.

"(C) ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE AND TO INCREASE THE AVAILABILITY OF EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL CARE SERVICES.—The State shall reserve 25 percent of the amounts provided to the State for each fiscal year under this subchapter to carry out activities designed to improve the quality of child care (as described in section 658G) and to provide before- and after-school and early childhood development services (as described in section 658H).

"(4) PAYMENT RATES.—

"(A) IN GENERAL.—The State plan shall provide assurances that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs. Such payment rates shall take into account the variations in the costs of providing child care in different settings and to children of different age groups, and the additional costs of providing child care for children with special needs.

"(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create a private right of action.

"(5) SLIDING FEE SCALE.—The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing by the families that receive child care services for which assistance is provided under this subchapter.

"(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

42 USC 9858d.

SEC. 658F.[59] LIMITATIONS ON STATE ALLOTMENTS.

"(a) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subchapter shall be construed—

"(1) to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit; or

"(2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

"(b) CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—No funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

"(2) SECTARIAN AGENCY OR ORGANIZATION.—In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in

[59] So in original. Probably should be " "SEC. 658F.".

paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(F).

"SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE. 42 USC 9858e.

"A State that receives financial assistance under this subchapter shall use not less than 20 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year for one or more of the following:

"(1) RESOURCE AND REFERRAL PROGRAMS.—Operating directly or providing financial assistance to private nonprofit organizations or public organizations (including units of general purpose local government) for the development, establishment, expansion, operation, and coordination of resource and referral programs specifically related to child care.

"(2) GRANTS OR LOANS TO ASSIST IN MEETING STATE AND LOCAL STANDARDS.—Making grants or providing loans to child care providers to assist such providers in meeting applicable State and local child care standards.

"(3) MONITORING OF COMPLIANCE WITH LICENSING AND REGULATORY REQUIREMENTS.—Improving the monitoring of compliance with, and enforcement of, State and local licensing and regulatory requirements (including registration requirements).

"(4) TRAINING.—Providing training and technical assistance in areas appropriate to the provision of child care services, such as training in health and safety, nutrition, first aid, the recognition of communicable diseases, child abuse detection and prevention, and the care of children with special needs.

"(5) COMPENSATION.—Improving salaries and other compensation paid to full- and part-time staff who provide child care services for which assistance is provided under this subchapter.

"SEC. 658H. EARLY CHILDHOOD DEVELOPMENT AND BEFORE- AND AFTER-SCHOOL SERVICES. 42 USC 9858f.

"(a) IN GENERAL.—A State that receives financial assistance under this subchapter shall use not less than 75 percent of the amounts reserved by such State under section 658E(c)(3)(C) for each fiscal year to establish or expand and conduct, through the provision of grants or contracts, early childhood development or before- and after-school child care programs, or both.

"(b) PROGRAM DESCRIPTION.—Programs that receive assistance under this section shall—

"(1) in the case of early childhood development programs, consist of services that are not intended to serve as a substitute for a compulsory academic programs but that are intended to provide an environment that enhances the educational, social, cultural, emotional, and recreational development of children; and

"(2) in the case of before- and after-school child care programs—

"(A) be provided Monday through Friday, including school holidays and vacation periods other than legal public holidays, to children attending early childhood development programs, kindergarten, or elementary or secondary school classes during such times of the day and on such

days that regular instructional services are not in session; and

"(B) not be intended to extend or replace the regular academic program.

"(c) PRIORITY FOR ASSISTANCE.—In awarding grants and contracts under this section, the State shall give the highest priority to geographic areas within the State that are eligible to receive grants under section 1006 of the Elementary and Secondary Education Act of 1965, and shall then give priority to—

"(1) any other areas with concentrations of poverty; and

"(2) any areas with very high or very low population densities.

42 USC 9858g.

"SEC. 658I. ADMINISTRATION AND ENFORCEMENT.

"(a) ADMINISTRATION.—The Secretary shall—

"(1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

"(2) collect, publish and make available to the public a listing of State child care standards at least once every 3 years; and

"(3) provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.

"(b) ENFORCEMENT.—

"(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State, and shall have the power to terminate payments to the State in accordance with paragraph (2).

"(2) NONCOMPLIANCE.—

"(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

"(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

"(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and that no further payments may be made to such State under this subchapter (or, in the case of noncompliance in the operation of a program or activity, that no further payments to the State will be made with respect to such program or activity) until the Secretary is satisfied that there is no longer any such failure to comply or that the noncompliance will be promptly corrected.

"(B) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

"(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

"(3) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

"(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

"(B) imposing sanctions under this section.

"SEC. 658J. PAYMENTS. 42 USC 9858h.

"(a) IN GENERAL.—Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year in an amount equal to its allotment under section 658O for such fiscal year.

"(b) METHOD OF PAYMENT.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

"(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 658O for any fiscal year may be expended by the State in that fiscal year or in the succeeding fiscal year.

"SEC. 658K. ANNUAL REPORT AND AUDITS. 42 USC 9858i.

"(a) ANNUAL REPORT.—Not later than December 31, 1992, and annually thereafter, a State that receives assistance under this subchapter shall prepare and submit to the Secretary a report—

"(1) specifying the uses for which the State expended funds specified under paragraph (3) of section 658E(c) and the amount of funds expended for such uses;

"(2) containing available data on the manner in which the child care needs of families in the State are being fulfilled, including information concerning—

"(A) the number of children being assisted with funds provided under this subchapter, and under other Federal child care and pre-school programs;

"(B) the type and number of child care programs, child care providers, caregivers, and support personnel located in the State;

"(C) salaries and other compensation paid to full- and part-time staff who provide child care services; and

"(D) activities in the State to encourage public-private partnerships that promote business involvement in meeting child care needs;

"(3) describing the extent to which the affordability and availability of child care services has increased;

"(4) if applicable, describing, in either the first or second such report, the findings of the review of State licensing and regulatory requirements and policies described in section 658E(c), including a description of actions taken by the State in response to such reviews;

"(5) containing an explanation of any State action, in accordance with section 658E, to reduce the level of child care standards in the State, if applicable; and

"(6) describing the standards and health and safety requirements applicable to child care providers in the State, including a description of State efforts to improve the quality of child care;

during the period for which such report is required to be submitted.

"(b) AUDITS.—

"(1) REQUIREMENT.—A State shall, after the close of each program period covered by a [60] application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

"(2) INDEPENDENT AUDITOR.—Audits under this subsection shall be conducted by an entity that is independent of any agency administering activities that receive assistance under this subchapter and be in accordance with generally accepted auditing principles.

"(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

"(4) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitles under this subchapter.

42 USC 9858j.

"SEC. 658L. REPORT BY SECRETARY.

"Not later than July 31, 1993, and annually thereafter, the Secretary shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

42 USC 9858k.

"SEC. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

"(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

"(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for—

"(1) any services provided to such students during the regular school day;

"(2) any services for which such students receive academic credit toward graduation; or

"(3) any instructional services which supplant or duplicate the academic program of any public or private school.

[60] So in original. Probably should be "an".

"SEC. 658N. NONDISCRIMINATION. 42 USC 9858*l*.

"(a) RELIGIOUS NONDISCRIMINATION.—

"(1) CONSTRUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

"(B) EXCEPTION.—A sectarian organization may require that employees adhere to the religious tenets and teachings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

"(2) DISCRIMINATION AGAINST CHILD.—

"(A) IN GENERAL.—A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

"(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

"(3) EMPLOYMENT IN GENERAL.—

"(A) PROHIBITION.—A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

"(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

"(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

"(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary respon-

sibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

"(b) EFFECT ON STATE LAW.—Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expenditure in or by sectarian institutions of any Federal funds provided under this subchapter.

42 USC 9858m.

"SEC. 6580. AMOUNTS RESERVED; ALLOTMENTS.

"(a) AMOUNTS RESERVED.—

"(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to be allotted in accordance with their respective needs.

"(2) INDIANS TRIBES.—The Secretary shall reserve not more than 3 percent of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

"(b) STATE ALLOTMENT.—

"(1) GENERAL RULE.—From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

"(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

"(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

"(2) YOUNG CHILD FACTOR.—The term 'young child factor' means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

"(3) SCHOOL LUNCH FACTOR.—The term 'school lunch factor' means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

"(4) ALLOTMENT PERCENTAGE.—

"(A) IN GENERAL.—The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

"(B) LIMITATIONS.—If an allotment percentage determined under subparagraph (A)—

"(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

"(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

"(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

"(i) determined at 2-year intervals;

"(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

"(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

"(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

"(1) GENERAL AUTHORITY.—From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

"(2) APPLICATIONS AND REQUIREMENTS.—An application for a grant or contract under this section shall provide that:

"(A) COORDINATION.—The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

"(B) SERVICES ON RESERVATIONS.—In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

"(C) REPORTS AND AUDITS.—The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

"(3) CONSIDERATION OF SECRETARIAL APPROVAL.—In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

"(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

"(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

"(4) THREE-YEAR LIMIT.—Grants or contracts under this section shall be for periods not to exceed 3 years.

"(5) DUAL ELIGIBILITY OF INDIAN CHILDREN.—The awarding of a grant or contract under this section for programs or activities to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to

participate in programs and activities carried our [61] under a grant to the State or States under this subchapter.

"(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

"(e) REALLOTMENTS.—

"(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

"(2) LIMITATIONS.—

"(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

"(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

"(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

"(f) DEFINITION.—For the purposes of this section, the term 'State' includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

42 USC 9858n.

"SEC. 658P. DEFINITIONS.

"As used in this subchapter:

"(1) CAREGIVER.—The term 'caregiver' means an individual who provides a service directly to an eligible child on a person-to-person basis.

"(2) CHILD CARE CERTIFICATE.—The term 'child care certificate' means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

"(3) ELEMENTARY SCHOOL.—The term 'elementary school' means a day or residential school that provides elementary education, as determined under State law.

"(4) ELIGIBLE CHILD.—The term 'eligible child' means an individual—

"(A) who is less than 13 years of age;

"(B) whose family income does not exceed 75 percent of the State median income for a family of the same size; and

"(C) who—

"(i) resides with a parent or parents who are working or attending a job training or educational program; or

[61] So in original. Probably should be "out".

"(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

"(5) ELIGIBLE CHILD CARE PROVIDER.—The term 'eligible child care provider' means—

"(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

"(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(E); and

"(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(F); applicable to the child care services it provides; or

"(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, niece, or nephew of such provider, if such provider is registered and complies with any State requirements that govern child care provided by the relative involved.

"(6) FAMILY CHILD CARE PROVIDER.—The term 'family child care provider' means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given it in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).

"(8) LEAD AGENCY.—The term 'lead agency' means the agency designated under section 658B(a).

"(9) PARENT.—The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(10) SECONDARY SCHOOL.—The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services unless the context specifies otherwise.

"(12) SLIDING FEE SCALE.—The term 'sliding fee scale' means a system of cost sharing by a family based on income and size of the family.

"(13) STATE.—The term 'State' means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(14) TRIBAL ORGANIZATION.—The term 'tribal organization' has the meaning given it in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)).

"SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES. 42 USC 9858o.

"Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

"SEC. 658R. SEVERABILITY. 42 USC 9858p.

"If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not

affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.".

SUBTITLE B—OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

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SEC. 5101. AMENDMENT OF THE SOCIAL SECURITY ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 5102. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1), in the matter following subparagraph (C), by inserting "or" after "hearing,", and by striking "pending, or (iii) June 1991." and inserting "pending."; and

(2) by striking paragraph (3).

SEC. 5103. REPEAL OF SPECIAL DISABILITY STANDARD FOR WIDOWS AND WIDOWERS.

(a) IN GENERAL.—Section 223(d)(2) (42 U.S.C. 423(d)(2)) is amended—

(1) in subparagraph (A), by striking "(except a widow, surviving divorced wife, widower, or surviving divorced husband for purposes of section 202(e) or (f))";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) CONFORMING AMENDMENTS.—

(1) The third sentence of section 216(i)(1) (42 U.S.C. 416(i)(1)) is amended by striking "(2)(C)" and inserting "(2)(B)".

(2) Section 223(f)(1)(B) (42 U.S.C. 423(f)(1)(B)) is amended to read as follows:

"(B) the individual is now able to engage in substantial gainful activity; or".

(3) Section 223(f)(2)(A)(ii) (42 U.S.C. 423(f)(2)(A)(ii)) is amended to read as follows:

"(ii) the individual is now able to engage in substantial gainful activity, or".

(4) Section 223(f)(3) (42 U.S.C. 423(f)(3)) is amended by striking "therefore—" and all that follows and inserting "therefore the individual is able to engage in substantial gainful activity; or".

(5) Section 223(f) is further amended, in the matter following paragraph (4), by striking "(or gainful activity in the case of a widow, surviving divorced wife, widower, or surviving divorced husband)" each place it appears.

(c) TRANSITIONAL RULES RELATING TO MEDICAID AND MEDICARE ELIGIBILITY.—

(1) DETERMINATION OF MEDICAID ELIGIBILITY.—Section 1634(d) (42 U.S.C. 1383c(d)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking "(d) If any person—" and inserting "(d)(1) This subsection applies with respect to any person who—";

(C) in subparagraph (A) (as redesignated), by striking "as required" and all that follows through "but not entitled" and inserting "being then not entitled";

(D) in subparagraph (B) (as redesignated), by striking "section 1616(a)," and inserting "section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66).''; and

(E) by striking "such person shall" and all that follows and inserting the following new paragraph:

"(2) For purposes of title XIX, each person with respect to whom this subsection applies—

"(A) shall be deemed to be a recipient of supplemental security income benefits under this title if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

"(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) if such person received such a payment for the month

before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments (or payments of the type described in section 212(a) of Public Law 93-66), in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of title XVIII.".

(2) INCLUSION OF MONTHS OF SSI ELIGIBILITY WITHIN 5-MONTH DISABILITY WAITING PERIOD AND 24-MONTH MEDICARE WAITING PERIOD.—

(A) WIDOW'S BENEFITS BASED ON DISABILITY.—Section 202(e)(5) (42 U.S.C. 402(e)(5)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(5)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widow or surviving divorced wife is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(B) WIDOWER'S BENEFITS BASED ON DISABILITY.—Section 202(f)(6) (42 U.S.C. 402(f)(6)) is amended—

(i) in subparagraph (B), by striking "(i)" and "(ii)" and inserting "(I)" and "(II)", respectively;

(ii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(iii) by inserting "(A)" after "(6)"; and

(iv) by adding at the end the following new subparagraph:

"(B) For purposes of paragraph (1)(F)(i), each month in the period commencing with the first month for which such widower or surviving divorced husband is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the months of such waiting period for which the requirements of subparagraph (A) have been met.".

(C) MEDICARE BENEFITS.—Section 226(e)(1) (42 U.S.C. 426(e)(1)) is amended—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after "(e)(1)"; and

(iii) by adding at the end the following new subparagraph:

"(B) For purposes of subsection (b)(2)(A)(iii), each month in the period commencing with the first month for which an individual is first eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) of this Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), shall be included as one of the 24 months for which such individual must have been entitled to widow's or widower's insurance benefits on the basis of disability in order to become entitled to hospital insurance benefits on that basis.".

(d) DEEMED DISABILITY FOR PURPOSES OF ENTITLEMENT TO WIDOW'S AND WIDOWER'S INSURANCE BENEFITS FOR WIDOWS AND WIDOWERS ON SSI ROLLS.—

(1) WIDOW'S INSURANCE BENEFITS.—Section 202(e) (42 U.S.C. 402(e)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(2) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) (42 U.S.C. 402(f)) is amended by adding at the end the following new paragraph:

"(9) An individual shall be deemed to be under a disability for purposes of paragraph (1)(B)(ii) if such individual is eligible for supplemental security income benefits under title XVI, or State supplementary payments of the type referred to in section 1616(a) (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for the month for which all requirements of paragraph (1) for entitlement to benefits under this subsection (other than being under a disability) are met.".

(e) EFFECTIVE DATE.— 42 USC 402 note.

(1) IN GENERAL.—The amendments made by this section (other than paragraphs (1) and (2)(C) of subsection (c)) shall apply with respect to monthly insurance benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The amendments made by subsection (c)(1) shall apply with respect to medical assistance provided after December 1990. The amendments made by subsection (c)(2)(C) shall apply with respect to items and services furnished after December 1990.

(2) APPLICATION REQUIREMENTS FOR CERTAIN INDIVIDUALS ON BENEFIT ROLLS.—In the case of any individual who—

(A) is entitled to disability insurance benefits under section 223 of the Social Security Act for December 1990 or is eligible for supplemental security income benefits under title XVI of such Act, or State supplementary payments of

the type referred to in section 1616(a) of such Act (or payments of the type described in section 212(a) of Public Law 93-66) which are paid by the Secretary under an agreement referred to in such section 1616(a) (or in section 212(b) of Public Law 93-66), for January 1991,

(B) applied for widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act during 1990, and

(C) is not entitled to such benefits under such subsection (e) or (f) for any month on the basis of such application by reason of the definition of disability under section 223(d)(2)(B) of the Social Security Act (as in effect immediately before the date of the enactment of this Act), and would have been so entitled for such month on the basis of such application if the amendments made by this section had been applied with respect to such application,

for purposes of determining such individual's entitlement to such benefits under subsection (e) or (f) of section 202 of the Social Security Act for months after December 1990, the requirement of paragraph (1)(C)(i) of such subsection shall be deemed to have been met.

SEC. 5104. DEPENDENCY REQUIREMENTS APPLICABLE TO A CHILD ADOPTED BY A SURVIVING SPOUSE.

(a) IN GENERAL.—Section 216(e) (42 U.S.C. 416(e)) is amended in the second sentence—

(1) by striking "at the time of such individual's death living in such individual's household" and inserting "either living with or receiving at least one-half of his support from such individual at the time of such individual's death"; and

(2) by striking "; except" and all that follows and inserting a period.

42 USC 416 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits payable for months after December 1990, but only on the basis of applications filed after December 31, 1990.

SEC. 5105. REPRESENTATIVE PAYEE REFORMS.

(a) IMPROVEMENTS IN THE REPRESENTATIVE PAYEE SELECTION AND RECRUITMENT PROCESS.—

(1) AUTHORITY FOR CERTIFICATION OF PAYMENTS TO REPRESENTATIVE PAYEES.—

(A) TITLE II.—Section 205(j)(1) (42 U.S.C. 405(j)) is amended to read as follows:

"REPRESENTATIVE PAYEES

"(j)(1) If the Secretary determines that the interest of any individual under this title would be served thereby, certification of payment of such individual's benefit under this title may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual, or an organization, with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's 'representative payee'). If the Secretary or a court of competent jurisdiction determines that a representative payee has misused any individual's

benefit paid to such representative payee pursuant to this subsection or section 1631(a)(2), the Secretary shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternative representative payee or to the individual.".

(B) TITLE XVI.—

(i) IN GENERAL.—Section 1631(a)(2)(A) (42 U.S.C. 1383(a)(2)(A)) is amended to read as follows:

"(A)(i) Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

"(ii) Upon a determination by the Secretary that the interest of such individual would be served thereby, or in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual, or an organization, with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's 'representative payee') for the use and benefit of the individual or eligible spouse.

"(iii) If the Secretary or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to clause (ii) or section 205(j)(1), the Secretary shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse.".

(ii) CONFORMING AMENDMENTS.—Section 1631(a)(2)(C) (42 U.S.C. 1383(a)(2)(C)) is amended—

(I) in clause (i), by striking "a person other than the individual or spouse entitled to such payment" and inserting "representative payee of an individual or spouse";

(II) in clauses (ii), (iii), and (iv), by striking "other person to whom such payment is made" each place it appears and inserting "representative payee"; and

(III) in clause (v)—

(aa) by striking "person receiving payments on behalf of another" and inserting "representative payee"; and

(bb) by striking "person receiving such payments" and inserting "representative payee".

(2) PROCEDURE FOR SELECTING REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j)(2) (42 U.S.C. 405(j)(2)) is amended to read as follows:

"(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

"(i) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such certification and shall, to the extent practicable, include a face-to-face interview with such person, and

"(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Secretary in regulations).

"(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity has been submitted with an application for benefits under this title or title XVI,

"(II) verify such person's social security account number (or employer identification number),

"(III) determine whether such person has been convicted of a violation of section 208 or 1632, and

"(IV) determine whether certification of payment of benefits to such person has been revoked pursuant to this subsection or payment of benefits to such person has been terminated pursuant to section 1631(a)(2)(A)(iii) by reason of misuse of funds paid as benefits under this title or title XVI.

"(ii) The Secretary shall establish and maintain a centralized file, which shall be updated periodically and which shall be in a form which renders it readily retrievable by each servicing office of the Social Security Administration. Such file shall consist of—

"(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1631(a)(2)(A)(iii), by reason of misuse of funds paid as benefits under this title or title XVI, and

"(II) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 208 or 1632.

"(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

"(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

"(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(IV), or payment of benefits to such person pursuant to section 1631(a)(2)(A)(ii) has previously been terminated as described in section 1631(a)(2)(B)(ii)(IV), or

"(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(ii) The Secretary shall prescribe regulations under which the Secretary may grant exemptions to any person from the provisions of clause (i)(II) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

"(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual,

"(II) a legal guardian or legal representative of such individual,

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary,

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

"(III) no other more suitable representative payee can be found.

"(D)(i) Subject to clause (ii), if the Secretary makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

"(ii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Secretary's determination, legally incompetent or under the age of 15.

"(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Secretary determines is in the best interest of the individual entitled to such benefits.

"(E)(i) Any individual who is dissatisfied with a determination by the Secretary to certify payment of such individual's benefit to a representative payee under paragraph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Secretary to the same extent as is provided in subsection (b), and to judicial review of the Secretary's final decision as is provided in subsection (g).

"(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Secretary shall provide written notice of the Secretary's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(iii) Any notice described in clause (ii) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or of such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

(ii) TITLE XVI.—Section 1631(a)(2)(B) (42 U.S.C. 1383(a)(2)(B)) is amended to read as follows:

"(B)(i) Any determination made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

"(I) an investigation by the Secretary of the person to serve as representative payee, which shall be conducted in advance of such payment, and shall, to the extent practicable, include a face-to-face interview with such person; and

"(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Secretary in regulations).

"(ii) As part of the investigation referred to in clause (i)(I), the Secretary shall—

"(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under title II or this title;

"(II) verify the social security account number (or employer identification number) of such person;

"(III) determine whether such person has been convicted of a violation of section 208 or 1632; and

"(IV) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(iii), and whether certification of payment of benefits to such person has been revoked pursuant to section 205(j), by reason of misuse of funds paid as benefits under title II or this title.

"(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

"(I) such person has previously been convicted as described in clause (ii)(III);

"(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(IV), or certification of payment of benefits to such person under section 205(j) has previously been revoked as described in section 205(j)(2)(B)(i)(IV); or

"(III) except as provided in clause (v), such person is a creditor of such individual who provides such individual with goods or services for consideration.

"(iv) The Secretary shall prescribe regulations under which the Secretary may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best

interest of the individual or eligible spouse whose benefits under this title would be paid to such person pursuant to subparagraph (A)(ii).

"(v) Clause (iii)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

"(I) a relative of such individual if such relative resides in the same household as such individual;

"(II) a legal guardian or legal representative of such individual;

"(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

"(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the payment of benefits under this title to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of such individual; or

"(V) an individual who is determined by the Secretary, on the basis of written findings and under procedures which the Secretary shall prescribe by regulation, to be acceptable to serve as a representative payee.

"(vi) The procedures referred to in clause (v)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Secretary, that—

"(I) such individual poses no risk to the beneficiary;

"(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

"(III) no other more suitable representative payee can be found.

"(vii) Subject to clause (viii), if the Secretary makes a determination described in subparagraph (A)(ii) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Secretary may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

"(viii)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (vii) shall be for a period of not more than 1 month.

"(II) Subclause (I) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Secretary's determination, legally incompetent, under the age 15 years, or a drug addict or alcoholic referred to in section 1611(e)(3)(A).

"(ix) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual, or to the representative payee upon such selection, as a single sum or over such period of time as the Secretary determines is in the best interests of the individual entitled to such benefits.

"(x) Any individual who is dissatisfied with a determination by the Secretary to pay such individual's benefits to a representative payee under this title, or with the designation of a particular person to serve as representative payee, shall be entitled to a hearing by

the Secretary, and to judicial review of the Secretary's final decision, to the same extent as is provided in subsection (c).

"(xi) In advance of the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Secretary shall provide written notice of the Secretary's initial determination to make any such payment. Such notice shall be provided to such individual, except that, if such individual—

"(I) is under the age of 15,

"(II) is an unemancipated minor under the age of 18, or

"(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

"(xii) Any notice described in clause (xi) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (x) of such individual or of such individual's legal guardian or legal representative—

"(I) to appeal a determination that a representative payee is necessary for such individual,

"(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

"(III) to review the evidence upon which such designation is based and submit additional evidence.".

42 USC 405 note.

(B) REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act, of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(3) PROVISION FOR COMPENSATION OF QUALIFIED ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES.—

(A) IN GENERAL.—

(i) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (4) as paragraph (5), and by inserting after paragraph (3) the following new paragraph:

"(4)(A) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

"(i) 10 percent of the monthly benefit involved, or

"(ii) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

"(B) For purposes of this paragraph, the term 'qualified organization' means any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee and which, in accordance with any applicable regulations of the Secretary—

"(i) regularly provides services as the representative payee, pursuant to this subsection or section 1631(a)(2), concurrently to 5 or more individuals,

"(ii) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual, and

"(iii) was in existence on October 1, 1988.

The Secretary shall prescribe regulations under which the Secretary may grant an exception from clause (ii) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

"(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(D) This paragraph shall cease to be effective on July 1, 1994.".

(ii) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(I) by redesignating subparagraph (D) as subparagraph (E);

(III) [62] by inserting after subparagraph (C) the following:

"(D)(i) A qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

"(I) 10 percent of the monthly benefit involved, or

"(II) $25.00 per month.

Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of such individual's benefits.

"(ii) For purposes of this subparagraph, the term 'qualified organization' means any community-based nonprofit social service agency which—

"(I) is bonded or licensed in each State in which the agency serves as a representative payee;

"(II) in accordance with any applicable regulations of the Secretary—

"(aa) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 205(j)(4) concurrently to 5 or more individuals;

"(bb) demonstrates to the satisfaction of the Secretary that such agency is not otherwise a creditor of any such individual; and

"(cc) was in existence on October 1, 1988.

[62] So in original. Probably should be "(II)".

The Secretary shall prescribe regulations under which the Secretary may grant an exception from subclause (II)(bb) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

"(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 6 months, or both.

"(iv) This subparagraph shall cease to be effective on July 1, 1994.".

42 USC 405 note.

(B) STUDIES AND REPORTS.—

(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A).

(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.

42 USC 405 note.

(4) STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.

42 USC 405 note.

(5) EFFECTIVE DATES.—

(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) shall take effect July 1, 1991, and shall apply only with respect to—

(i) certifications of payment of benefits under title II of the Social Security Act to representative payees made on or after such date; and

(ii) provisions for payment of benefits under title XVI of such Act to representative payees made on or after such date.

(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) shall take effect July 1,

1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date.

(b) IMPROVEMENTS IN RECORDKEEPING AND AUDITING REQUIREMENTS.—

(1) IMPROVED ACCESS TO CERTAIN INFORMATION.—

(A) IN GENERAL.—Section 205(j)(3) (42 U.S.C. 605(j)(3)) is amended— 42 USC 405.

(i) by striking subparagraph (B);

(ii) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively;

(iii) in subparagraph (D) (as so redesignated), by striking "(A), (B), (C), and (D)" and inserting "(A), (B), and (C)"; and

(iv) by adding at the end the following new subparagraphs:

"(E) The Secretary shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

"(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection or section 1631(a)(2), and

"(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection or section 1631(a)(2).

"(F) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and community-based nonprofit social service agencies which are qualified to serve as representative payees pursuant to this subsection or section 1631(a)(2) and which are located in the area served by such servicing office.".

(B) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act (as amended by subparagraph (A) of this paragraph) are satisfied as of such date. 42 USC 405 note.

(2) STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES.— 42 USC 405 note.

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act, which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

(ii) periodic, random audits of records which would be kept under such a system,

in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term "high-risk representative payee" means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (42 U.S.C. 405(j) and 1383(a)(2), respectively) (other than a Federal or State institution) who—

(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

(iii) is a creditor of such individual, or

(iv) is in such other category of payees as the Secretary may determine appropriate.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).

42 USC 405 note.

(3) DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES.—

(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in all or part of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II, benefits under title XVI, or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving

benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

(E) STATE.—For purposes of this paragraph, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(c) RESTITUTION.—

(1) TITLE II.—Section 205(j) (42 U.S.C. 405(j)) is amended by redesignating paragraph (5) (as so redesignated by subsection (a)(3)(A)(i) of this section) as paragraph (6) and by inserting after paragraph (4) (as added by subsection (a)(3)(A)(i)) the following new paragraph:

"(5) In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall certify for payment to the beneficiary or the beneficiary's alternative representative payee an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(2) TITLE XVI.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended by redesignating subparagraph (E) (as so redesignated by subsection (a)(3)(A)(ii)(I) of this section) as subparagraph (F) and by inserting after subparagraph (D) (as added by subsection (a)(3)(A)(i)(III)) the following new subparagraph:

"(E) RESTITUTION.—In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee.".

(d) REPORTS TO THE CONGRESS.—

(1) IN GENERAL.—

(A) TITLE II.—Section 205(j)(5) (as so redesignated by subsection (c)(1) of this section) is amended to read as follows:

"(5) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a

misuse of funds, how any such cases were dealt with by the Secretary, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Secretary determines to be appropriate.".

(B) TITLE XVI.—Section 1631(a)(2)(E) (42 U.S.C. 1383(a)(2)(E)), as so redesignated by subsection (c)(2) of this section, is amended to read as follows:

"(E) The Secretary shall include as a part of the annual report required under section 704 information with respect to the implementation of the preceding provisions of this paragraph, including—

"(i) the number of cases in which the representative payee was changed;

"(ii) the number of cases discovered where there has been a misuse of funds;

"(iii) how any such cases were dealt with by the Secretary;

"(iv) the final disposition of such cases (including any criminal penalties imposed); and

"(v) such other information as the Secretary determines to be appropriate.".

42 USC 405 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to annual reports issued for years after 1991.

(3) FEASIBILITY STUDY REGARDING INVOLVEMENT OF DEPARTMENT OF VETERANS AFFAIRS.—As soon as practicable after the date of the enactment of this Act, the Secretary of Health and Human Services, in cooperation with the Secretary of Veterans Affairs, shall conduct a study of the feasibility of designating the Department of Veterans Affairs as the lead agency for purposes of selecting, appointing, and monitoring representative payees for those individuals who receive benefits paid under title II or XVI of the Social Security Act and benefits paid by the Department of Veterans Affairs. Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the results of such study, together with any recommendations.

SEC. 5106. FEES FOR REPRESENTATION OF CLAIMANTS IN ADMINISTRATIVE PROCEEDINGS.

(a) IN GENERAL.—

(1) TITLE II.—Subsection (a) of section 206 (42 U.S.C. 406(a)) is amended—

(A) by inserting "(1)" after "(a)";

(B) in the fifth sentence, by striking "Whenever" and inserting "Except as provided in paragraph (2)(A), whenever"; and

(C) by striking the sixth sentence and all that follows through "Any person who" in the seventh sentence and inserting the following:

"(2)(A) In the case of a claim of entitlement to past-due benefits under this title, if—

"(i) an agreement between the claimant and another person regarding any fee to be recovered by such person to compensate such person for services with respect to the claim is presented in

writing to the Secretary prior to the time of the Secretary's determination regarding the claim,

"(ii) the fee specified in the agreement does not exceed the lesser of—

"(I) 25 percent of the total amount of such past-due benefits (as determined before any applicable reduction under section 1127(a)), or

"(II) $4,000, and

"(iii) the determination is favorable to the claimant,

then the Secretary shall approve that agreement at the time of the favorable determination, and (subject to paragraph (3)) the fee specified in the agreement shall be the maximum fee. The Secretary may from time to time increase the dollar amount under clause (ii)(II) to the extent that the rate of increase in such amount, as determined over the period since January 1, 1991, does not at any time exceed the rate of increase in primary insurance amounts under section 215(i) since such date. The Secretary shall publish any such increased amount in the Federal Register.

"(B) For purposes of this subsection, the term 'past-due benefits' excludes any benefits with respect to which payment has been continued pursuant to subsection (g) or (h) of section 223.

"(C) In the case of a claim with respect to which the Secretary has approved an agreement pursuant to subparagraph (A), the Secretary shall provide the claimant and the person representing the claimant a written notice of—

"(i) the dollar amount of the past-due benefits (as determined before any applicable reduction under section 1127(a)) and the dollar amount of the past-due benefits payable to the claimant,

"(ii) the dollar amount of the maximum fee which may be charged or recovered as determined under this paragraph, and

"(iii) a description of the procedures for review under paragraph (3).

"(3)(A) The Secretary shall provide by regulation for review of the amount which would otherwise be the maximum fee as determined under paragraph (2) if, within 15 days after receipt of the notice provided pursuant to paragraph (2)(C)—

"(i) the claimant, or the administrative law judge or other adjudicator who made the favorable determination, submits a written request to the Secretary to reduce the maximum fee, or

"(ii) the person representing the claimant submits a written request to the Secretary to increase the maximum fee.

Any such review shall be conducted after providing the claimant, the person representing the claimant, and the adjudicator with reasonable notice of such request and an opportunity to submit written information in favor of or in opposition to such request. The adjudicator may request the Secretary to reduce the maximum fee only on the basis of evidence of the failure of the person representing the claimant to represent adequately the claimant's interest or on the basis of evidence that the fee is clearly excessive for services rendered.

"(B)(i) In the case of a request for review under subparagraph (A) by the claimant or by the person representing the claimant, such review shall be conducted by the administrative law judge who made the favorable determination or, if the Secretary determines that such administrative law judge is unavailable or if the determination was not made by an administrative law judge, such review

shall be conducted by another person designated by the Secretary for such purpose.

"(ii) In the case of a request by the adjudicator for review under subparagraph (A), the review shall be conducted by the Secretary or by an administrative law judge or other person (other than such adjudicator) who is designated by the Secretary.

"(C) Upon completion of the review, the administrative law judge or other person conducting the review shall affirm or modify the amount which would otherwise be the maximum fee. Any such amount so affirmed or modified shall be considered the amount of the maximum fee which may be recovered under paragraph (2). The decision of the administrative law judge or other person conducting the review shall not be subject to further review.

"(4)(A) Subject to subparagraph (B), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Secretary shall, notwithstanding section 205(i), certify for payment out of such past-due benefits (as determined before any applicable reduction under section 1127(a)) to such attorney an amount equal to so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1127(a)).

"(B) The Secretary shall not in any case certify any amount for payment to the attorney pursuant to this paragraph before the expiration of the 15-day period referred to in paragraph (3)(A) or, in the case of any review conducted under paragraph (3), before the completion of such review.

"(5) Any person who".

(2) TITLE XVI.—Paragraph (2)(A) of section 1631(d) (42 U.S.C. 1383(d)(2)(A)) is amended to read as follows:

"(2)(A) The provisions of section 206(a) (other than paragraph (4) thereof) shall apply to this part to the same extent as they apply in the case of title II, except that paragraph (2) thereof shall be applied—

"(i) by substituting 'section 1127(a) or 1631(g)' for 'section 1127(a)'; and

"(ii) by substituting 'section 1631(a)(7)(A) or the requirements of due process of law' for 'subsection (g) or (h) of section 223'.".

(b) PROTECTION OF ATTORNEY'S FEES FROM OFFSETTING SSI BENEFITS.—Subsection (a) of section 1127 (42 U.S.C. 1320a-6(a)) is amended by adding at the end the following new sentence: "A benefit under title II shall not be reduced pursuant to the preceding sentence to the extent that any amount of such benefit would not otherwise be available for payment in full of the maximum fee which may be recovered from such benefit by an attorney pursuant to section 206(a)(4).".

(c) LIMITATATION OF TRAVEL EXPENSES FOR REPRESENTATION OF CLAIMANTS AT ADMINISTRATIVE PROCEEDINGS.—Section 201(j) (42 U.S.C. 401(j)), section 1631(h) (42 U.S.C. 1383(h)), and section 1817(i) (42 U.S.C. 1395i(i)) are each amended by adding at the end the following new sentence: "The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made on or after July 1, 1991, and to reimbursement for travel expenses incurred on or after April 1, 1991. 42 USC 401 note.

SEC. 5107. APPLICABILITY OF ADMINISTRATIVE RES JUDICATA; RELATED NOTICE REQUIREMENTS.

(a) IN GENERAL.—

(1) TITLE II.—Section 205(b) (42 U.S.C. 405(b)) is amended by adding at the end the following new paragraph:

"(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible entitlement to benefits under this title of choosing to reapply in lieu of requesting review of the determination.".

(2) TITLE XVI.—Section 1631(c)(1) (42 U.S.C. 1383(c)(1)) is amended—

(A) by inserting "(A)" after "(c)(1)"; and

(B) by adding at the end the following:

"(B)(i) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this title or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this title if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 221.

"(ii) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Secretary shall describe in clear and specific language the effect on possible eligibility to receive payments under this title of choosing to reapply in lieu of requesting review of the determination.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to adverse determinations made on or after July 1, 1991. 42 USC 405 note.

SEC. 5108. DEMONSTRATION PROJECTS RELATING TO ACCOUNTABILITY FOR TELEPHONE SERVICE CENTER COMMUNICATIONS. 42 USC 902 note.

(a) IN GENERAL.—The Secretary of Health and Human Services shall develop and carry out demonstration projects designed to

implement the accountability procedures described in subsection (b) in each of not fewer than 3 telephone service centers operated by the Social Security Administration. Telephone service centers shall be selected for implementation of the accountability procedures so as to permit a thorough evaluation of such procedures as they would operate in conjunction with the service technology most recently employed by the Social Security Administration. Each such demonstration project shall commence not later than 180 days after the date of the enactment of this Act and shall remain in operation for not less than 1 year and not more than 3 years.

(b) ACCOUNTABILITY PROCEDURES.—

(1) IN GENERAL.—During the period of each demonstration project developed and carried out by the Secretary of Health and Human Services with respect to a telephone service center pursuant to subsection (a), the Secretary shall provide for the application at such telephone service center of accountability procedures consisting of the following:

(A) In any case in which a person communicates with the Social Security Administration by telephone at such telephone service center and provides in such communication his or her name, address, and such other identifying information as the Secretary determines necessary and appropriate for purposes of this subparagraph, the Secretary must thereafter promptly provide such person a written receipt which sets forth—

(i) the name of any individual representing the Social Security Administration with whom such person has spoken in such communication,

(ii) the date of the communication;

(iii) a description of the nature of the communication,

(iv) any action that an individual representing the Social Security Administration has indicated in the communication will be taken in response to the communication, and

(v) a description of the information or advice offered in the communication by an individual representing the Social Security Administration.

(B) Such person must be notified during the communication by an individual representing the Social Security Administration that, if adequate identifying information is provided to the Administration, a receipt described in subparagraph (A) will be provided to such person.

(C) A copy of any receipt required to be provided to any person under subparagraph (A) must be—

(i) included in the file maintained by the Social Security Administration relating to such person, or

(ii) if there is no such file, otherwise retained by the Social Security Administration in retrievable form until the end of the 5-year period following the termination of the project.

(2) EXCLUSION OF CERTAIN ROUTINE TELEPHONE COMMUNICATIONS.—The Secretary may exclude from demonstration projects carried out pursuant to this section routine telephone communications which do not relate to potential or current eligibility or entitlement to benefits.

(c) REPORT.—

(1) IN GENERAL [63]—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report on the progress of the demonstration projects conducted pursuant to this section, together with any related data and materials which the Secretary may consider appropriate. The report shall be submitted not later than 90 days after the termination of the project.

(2) SPECIFIC MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall—

(A) assess the costs and benefits of the accountability procedures,

(B) identify any major difficulties encountered in implementing the demonstration project, and

(C) assess the feasibility of implementing the accountability procedures on a national basis.

SEC. 5109. NOTICE REQUIREMENTS.

(a) REQUIREMENTS.—

(1) TITLE II.—Section 205 (42 U.S.C. 405) is amended by inserting after subsection (r) the following new subsection:

"NOTICE REQUIREMENTS

"(s) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(2) TITLE XVI.—Section 1631 (42 U.S.C. 1383) is amended by adding at the end the following:

"NOTICE REQUIREMENTS

"(n) The Secretary shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this title by the Secretary or by a State agency—

"(1) is written in simple and clear language, and

"(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to notices issued on or after July 1, 1991. 42 USC 405 note.

[63] So in original. Probably should be "GENERAL.—".

42 USC 902 note.

SEC. 5110. TELEPHONE ACCESS TO THE SOCIAL SECURITY ADMINISTRATION.

(a) REQUIRED MINIMUM LEVEL OF ACCESS TO LOCAL OFFICES.—In addition to such other access by telephone to offices of the Social Security Administration as the Secretary of Health and Human Services may consider appropriate, the Secretary shall maintain access by telephone to local offices of the Social Security Administration at the level of access generally available as of September 30, 1989.

(b) TELEPHONE LISTINGS.—The Secretary shall make such requests of local telephone utilities in the United States as are necessary to ensure that the listings subsequently maintained and published by such utilities for each locality include the address and telephone number for each local office of the Social Security Administration to which direct telephone access is maintained under subsection (a) in such locality. Such listing may also include information concerning the availability of a toll-free number which may be called for general information.

(c) REPORT BY SECRETARY.—Not later than January 1, 1993, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report which—

(1) assesses the impact of the requirements established by this section on the Social Security Administration's allocation of resources, workload levels, and service to the public, and

(2) presents a plan for using new, innovative technologies to enhance access to the Social Security Administration, including access to local offices.

(d) GAO REPORT.—The Comptroller General of the United States shall review the level of telephone access by the public to the local offices of the Social Security Administration. The Comptroller General shall file an interim report with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate describing such level of telephone access not later than 120 days after the date of the enactment of this Act and shall file a final report with such Committees describing such level of access not later than 210 days after such date.

(e) EFFECTIVE DATE.—The Secretary of Health and Human Services shall meet the requirements of subsections (a) and (b) as soon as possible after the date of the enactment of this Act but not later 180 days after such date.

SEC. 5111. AMENDMENTS RELATING TO SOCIAL SECURITY ACCOUNT STATEMENTS.

(a) IN GENERAL.—Section 1142 (42 U.S.C. 1320b-13), as added by section 10308 of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2485), is amended—

(1) by striking "SEC. 1142." and inserting "SEC. 1143."; and

(2) in subsection (c)(2), by striking " a biennial" and inserting "an annual".

(b) DISCLOSURE OF ADDRESS INFORMATION BY INTERNAL REVENUE SERVICE TO SOCIAL SECURITY ADMINISTRATION.—

(1) IN GENERAL.—Section 6103(m) of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

26 USC 6103.

"(7) SOCIAL SECURITY ACCOUNT STATEMENT FURNISHED BY SOCIAL SECURITY ADMINISTRATION.—Upon written request by the Commissioner of Social Security, the Secretary may disclose the mailing address of any taxpayer who is entitled to receive a social security account statement pursuant to section 1143(c) of the Social Security Act, for use only by officers, employees or agents of the Social Security Administration for purposes of mailing such statement to such taxpayer.".

(2) SAFEGUARDS.—Section 6103(p)(4) of such Code (relating to safeguards) is amended, in the matter following subparagraph (f)(iii), by striking "subsection (m)(2), (4), or (6)" and inserting "paragraph (2), (4), (6), or (7) of subsection (m)".

(3) UNAUTHORIZED DISCLOSURE PENALTIES.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m)(2), (4), or (6)" and inserting "(m)(2), (4), (6), or (7)".

SEC. 5112. TRIAL WORK PERIOD DURING ROLLING FIVE-YEAR PERIOD FOR ALL DISABLED BENEFICIARIES.

(a) IN GENERAL.—Section 222(c) (42 U.S.C. 422(c)) is amended—

(1) in paragraph (4)(A), by striking ", beginning on or after the first day of such period," and inserting ", in any period of 60 consecutive months,"; and

(2) by striking paragraph (5).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1992. 42 USC 422 note.

SEC. 5113. CONTINUATION OF BENEFITS ON ACCOUNT OF PARTICIPATION IN A NON-STATE VOCATIONAL REHABILITATION PROGRAM.

(a) IN GENERAL.—Section 225(b) (42 U.S.C. 425(b)) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

"(1) such individual is participating in a program of vocational rehabilitation services approved by the Secretary, and"; and

(2) in paragraph (2), by striking "Commissioner of Social Security" and inserting "Secretary".

(b) PAYMENTS AND PROCEDURES.—Section 1631(a)(6) (42 U.S.C. 1383(a)(6)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) such individual is participating in a program of vocational rehabilitation services approved by the Secretary, and"; and

(2) in subparagraph (B), by striking "Commissioner of Social Security" and inserting "Secretary".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to benefits payable for months after the eleventh month following the month in which this Act is enacted and shall apply only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month. 42 USC 425 note.

SEC. 5114. LIMITATION ON NEW ENTITLEMENT TO SPECIAL AGE-72 PAYMENTS.

(a) IN GENERAL.—Section 228(a)(2) (42 U.S.C. 428(a)(2)) is amended by striking "(B)" and inserting "(B)(i) attained such age after 1967 and before 1972, and (ii)".

42 USC 428 note.

(b) EFFECTIVE DATE—The amendment made by subsection (a) shall apply with respect benefits payable on the basis of applications filed after the date of the enactment of this Act.

SEC. 5115. ELIMINATION OF ADVANCED CREDITING TO THE TRUST FUNDS OF SOCIAL SECURITY PAYROLL TAXES.

(a) IN GENERAL.—Section 201(a) (42 U.S.C. 401(a)) is amended—

(1) in the first sentence following clause (4)—

(A) by striking "monthly on the first day of each calendar month" both places it appears and inserting "from time to time";

(B) by striking "to be paid to or deposited into the Treasury during such month" and inserting "paid to or deposited into the Treasury"; and

(2) in the last sentence, by striking "Fund;" and inserting "Fund. Notwithstanding the preceding sentence, in any case in which the Secretary of the Treasury determines that the assets of either such Trust Fund would otherwise be inadequate to meet such Fund's obligations for any month, the Secretary of the Treasury shall transfer to such Trust Fund on the first day of such month the amount which would have been transferred to such Fund under this section as in effect on October 1, 1990; and".

42 USC 401 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the month following the month in which this Act is enacted.

SEC. 5116. ELIMINATION OF ELIGIBILITY FOR RETROACTIVE BENEFITS FOR CERTAIN INDIVIDUALS ELIGIBLE FOR REDUCED BENEFITS.

(a) IN GENERAL.—Section 202(j)(4) (42 U.S.C. 402(j)(4)) is amended—

(1) in subparagraph (A), by striking "if the effect" and all that follows and inserting "if the amount of the monthly benefit to which such individual would otherwise be entitled for any such month would be subject to reduction pursuant to subsection (q).''; and

(2) in subparagraph (B), by striking clauses (i) and (iv) and by redesignating clauses (ii), (iii), and (v) as clauses (i), (ii), and (iii), respectively.

42 USC 402 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to applications for benefits filed on or after January 1, 1991.

SEC. 5117. CONSOLIDATION OF OLD METHODS OF COMPUTING PRIMARY INSURANCE AMOUNTS.

(a) CONSOLIDATION OF COMPUTATION METHODS.—

(1) IN GENERAL.—Section 215(a)(5) (42 U.S.C. 415(a)(5)) is amended—

(A) by striking "For purposes of" and inserting "(A) Subject to subparagraphs (B), (C), (D) and (E), for purposes of",

(B) by striking the last sentence; and

(C) by adding at the end the following new subparagraphs:

"(B)(i) Subject to clauses (ii), (iii), and (iv), and notwithstanding any other provision of law, the primary insurance amount of any individual described in subparagraph (C) shall be, in lieu of the

primary insurance amount as computed pursuant to any of the provisions referred to in subparagraph (D), the primary insurance amount computed under subsection (a) of section 215 as in effect in December 1978, without regard to subsection (b)(4) and (c) of such section as so in effect.

"(ii) The computation of a primary insurance amount under this subparagraph shall be subject to section 104(j)(2) of the Social Security Amendments of 1972 (relating to the number of elapsed years under section 215(b)).

"(iii) In computing a primary insurance amount under this subparagraph, the dollar amount specified in paragraph (3) of section 215(a) (as in effect in December 1978) shall be increased to $11.50.

"(iv) In the case of an individual to whom section 215(d) applies, the primary insurance amount of such individual shall be the greater of—

"(I) the primary insurance amount computed under the preceding clauses of this subparagraph, or

"(II) the primary insurance amount computed under section 215(d).

"(C) An individual is described in this subparagraph if—

"(i) paragraph (1) does not apply to such individual by reason of such individual's eligibility for an old-age or disability insurance benefit, or the individual's death, prior to 1979, and

"(ii) such individual's primary insurance amount computed under this section as in effect immediately before the date of the enactment of the Omnibus Budget Reconciliation Act of 1990 would have been computed under the provisions described in subparagraph (D).

"(D) The provisions described in this subparagraph are—

"(i) the provisions of this subsection as in effect prior to the enactment of the Social Security Amendments of 1965, if such provisions would preclude the use of wages prior to 1951 in the computation of the primary insurance amount,

"(ii) the provisions of section 209 as in effect prior to the enactment of the Social Security Act Amendments of 1950, and

"(iii) the provisions of section 215(d) as in effect prior to the enactment of the Social Security Amendments of 1977.

"(E) For purposes of this paragraph, the table for determining primary insurance amounts and maximum family benefits contained in this section in December 1978 shall be revised as provided by subsection (i) for each year after 1978.".

(2) COMPUTATION OF PRIMARY INSURANCE BENEFIT UNDER 1939 ACT.—

(A) DIVISION OF WAGES BY ELAPSED YEARS.—Section 215(d)(1) (42 U.S.C. 415(d)(1)) is amended—

(i) in subparagraph (A), by inserting "and subject to section 104(j)(2) of the Social Security Amendments of 1972" after "thereof"; and

(ii) by striking "(B) For purposes" in subparagraph (B) and all that follows through clause (ii) of such subparagraph and inserting the following:

"(B) For purposes of subparagraphs (B) and (C) of subsection (b)(2) (as so in effect)—

"(i) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual—

"(I) shall, in the case of an individual who attained age 21 prior to 1950, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the year in which the individual attained age 20, or 1936 if later, and prior to the earlier of the year of death or 1951, except that such divisor shall not include any calendar year entirely included in a period of disability, and in no case shall the divisor be less than one, and

"(II) shall, in the case of an individual who died before 1950 and before attaining age 21, be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after the second year prior to the year of death, or 1936 if later, and prior to the year of death, and in no case shall the divisor be less than one; and

"(ii) the total wages prior to 1951 (as defined in subparagraph (C) of this paragraph) of an individual who either attained age 21 after 1949 or died after 1949 before attaining age 21, shall be divided by the number of years (hereinafter in this subparagraph referred to as the 'divisor') elapsing after 1949 and prior to 1951.".

(B) CREDITING OF WAGES TO YEARS.—Clause (iii) of section 215(d)(1)(B) (42 U.S.C. 415(d)(1)(B)(iii)) is amended to read as follows:

"(iii) if the quotient exceeds $3,000, only $3,000 shall be deemed to be the individual's wages for each of the years which were used in computing the amount of the divisor, and the remainder of the individual's total wages prior to 1951 (I) if less than $3,000, shall be deemed credited to the computation base year (as defined in subsection (b)(2) as in effect in December 1977) immediately preceding the earliest year used in computing the amount of the divisor, or (II) if $3,000 or more, shall be deemed credited, in $3,000 increments, to the computation base year (as so defined) immediately preceding the earliest year used in computing the amount of the divisor and to each of the computation base years (as so defined) consecutively preceding that year, with any remainder less than $3,000 being credited to the computation base year (as so defined) immediately preceding the earliest year to which a full $3,000 increment was credited; and".

(C) APPLICABILITY.—Section 215(d) is further amended—

(i) in paragraph (2)(B), by striking "except as provided in paragraph (3),";

(ii) by striking paragraph (2)(C) and inserting the following:

"(C)(i) who becomes entitled to benefits under section 202(a) or 223 or who dies, or

"(ii) whose primary insurance amount is required to be recomputed under paragraph (2), (6), or (7) of subsection (f) or under section 231."; and

(iii) by striking paragraphs (3) and (4).

(3) CONFORMING AMENDMENTS.—

(A) Section 215(i)(4) (42 U.S.C. 415(i)(4)) is amended in the first sentence by inserting "and as amended by section 5117

of the Omnibus Budget Reconciliation Act of 1990" after "as then in effect".

(B) Section 203(a)(8) (42 U.S.C. 403(a)(8)) is amended in the first sentence by inserting "and as amended by section 5117 of the Omnibus Budget Reconciliation Act of 1990," after "December 1978" the second place it appears.

(C) Section 215(c) (42 U.S.C. 415(c)) is amended by striking "This" and inserting "Subject to the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990, this".

(D) Section 215(f)(7) (42 U.S.C. 415(f)(7)) is amended by striking the period at the end of the first sentence and inserting ", including a primary insurance amount computed under any such subsection whose operation is modified as a result of the amendments made by section 5117 of the Omnibus Budget Reconciliation Act of 1990".

(E)(i) Section 215(d) (42 U.S.C. 415(d)) is further amended by redesignating paragraph (5) as paragraph (3).

(ii) Subsections (a)(7)(A), (a)(7)(C)(ii), and (f)(9)(A) of section 215 (42 U.S.C. 415) are each amended by striking "subsection (d)(5)" each place it appears and inserting "subsection (d)(3)".

"(iii) Section 215(f)(9)(B) (42 U.S.C. 415(f)(9)(B)) is amended by striking "subsection (a)(7) or (d)(5)" each place it appears and inserting "subsection (a)(7) or (d)(3)".

(4) EFFECTIVE DATE.— 42 USC 403 note.

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to the computation of the primary insurance amount of any insured individual in any case in which a person becomes entitled to benefits under section 202 or 223 on the basis of such insured individual's wages and self-employment income for months after the 18-month period following the month in which this Act is enacted, except that such amendments shall not apply if any person is entitled to benefits based on the wages and self-employment income of such insured individual for the month preceding the initial month of such person's entitlement to such benefits under section 202 or 223.

(B) RECOMPUTATIONS.—The amendments made by this subsection shall apply with respect to any primary insurance amount upon the recomputation of such primary insurance amount if such recomputation is first effective for monthly benefits for months after the 18-month period following the month in which this Act is enacted.

(b) BENEFITS IN CASE OF VETERANS.—Section 217(b) (42 U.S.C. 417(b)) is amended—

(1) in the first sentence of paragraph (1), by striking "Any" and inserting "Subject to paragraph (3), any"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The preceding provisions of this subsection shall apply for purposes of determining the entitlement to benefits under section 202, based on the primary insurance amount of the deceased World War II veteran, of any surviving individual only if such surviving individual makes application for such benefits before the end of the 18-month period after the month in which the Omnibus Budget Reconciliation Act of 1990 was enacted.

"(B) Subparagraph (A) shall not apply if any person is entitled to benefits under section 202 based on the primary insurance amount of such veteran for the month preceding the month in which such application is made.".

(c) APPLICABILITY OF ALTERNATIVE METHOD FOR DETERMINING QUARTERS OF COVERAGE WITH RESPECT TO WAGES IN THE PERIOD FROM 1937 TO 1950.—

(1) APPLICABILITY WITHOUT REGARD TO NUMBER OF ELAPSED YEARS.—Section 213(c) (42 U.S.C. 413(c)) is amended—

(A) by inserting "and 215(d)" after "214(a)"; and

(B) by striking "except where—" and all that follows and inserting the following: "except where such individual is not a fully insured individual on the basis of the number of quarters of coverage so derived plus the number of quarters of coverage derived from the wages and self-employment income credited to such individual for periods after 1950.".

42 USC 413 note.

(2) APPLICABILITY WITHOUT REGARD TO DATE OF DEATH.—Section 155(b)(2) of the Social Security Amendments of 1967 is amended by striking "after such date".

42 USC 413 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to individuals who—

(A) make application for benefits under section 202 of the Social Security Act after the 18-month period following the month in which this Act is enacted, and

(B) are not entitled to benefits under section 227 or 228 of such Act for the month in which such application is made.

SEC. 5118. SUSPENSION OF DEPENDENT'S BENEFITS WHEN THE WORKER IS IN AN EXTENDED PERIOD OF ELIGIBILITY.

42 USC 423.

(a) IN GENERAL.—Section 223(e) (42 U.S.C. 623(e)) is amended by—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) No benefit shall be payable under section 202 on the basis of the wages and self-employment income of an individual entitled to a benefit under subsection (a)(1) of this section for any month for which the benefit of such individual under subsection (a)(1) is not payable under paragraph (1).".

42 USC 423 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits for months after the date of the enactment of this Act.

SEC. 5119. ENTITLEMENT TO BENEFITS OF DEEMED SPOUSE AND LEGAL SPOUSE.

(a) CONTINUED ENTITLEMENT OF DEEMED SPOUSE DESPITE ENTITLEMENT OF LEGAL SPOUSE.—Section 216(h)(1) (42 U.S.C. 416(h)(1)) is amended—

(1) in subparagraph (A)—

(A) by inserting "(i)" after "(h)(1)(A)"; and

(B) by striking "If such courts" in the second sentence and inserting the following:

"(ii) If such courts"; and

(2) in subparagraph (B)—

(A) by inserting "(i)" after "(B)";

(B) by striking "The provisions of the preceding sentence" in the second sentence and inserting the following:

"(ii) The provisions of clause (i)";

(C) by striking "(i) if another" in the second sentence and all that follows through "or (ii)";

(D) by striking "The entitlement" in the third sentence and inserting the following:

"(iii) The entitlement";

(E) by striking "subsection (b), (c), (e), (f), or (g)" the first place it appears in the third sentence and inserting "subsection (b) or (c)",

(F) by striking "wife, widow, husband, or widower" the first place it appears in the third sentence and inserting "wife or husband";

(G) by striking "(i) in which" in the third sentence and all that follows through "in which such applicant entered" and inserting "in which such person enters";

(H) by striking "For purposes" in the fourth sentence and inserting the following:

"(iv) For purposes";

and

(I) by striking "(i)" and "(ii)" in the fourth sentence and inserting "(I)" and "(II)", respectively.

(b) TREATMENT OF DIVORCE IN THE CONTEXT OF INVALID MARRIAGE.—Section 216(h)(1)(B)(i) (as amended by subsection (a)) is further amended—

(1) by striking "where under subsection (b), (c), (f), or (g) such applicant is not the wife, widow, husband, or widower of such individual" and inserting "where under subsection (b), (c), (d), (f), or (g) such applicant is not the wife, divorced wife, widow, surviving divorced wife, husband, divorced husband, widower, or surviving divorced husband of such individual";

(2) by striking "and such applicant" and all that follows through "files the application,";

(3) by striking "subsections (b), (c), (f), and (g)" and inserting "subsections (b), (c), (d), (f), and (g)"; and

(4) by adding at the end the following new sentences: "Notwithstanding the preceding sentence, in the case of any person who would be deemed under the preceding sentence a wife, widow, husband, or widower of the insured individual, such marriage shall not be deemed to be a valid marriage unless the applicant and the insured individual were living in the same household at the time of the death of the insured individual or (if the insured individual is living) at the time the applicant files the application. A marriage that is deemed to be a valid marriage by reason of the preceding sentence shall continue to be deemed a valid marriage if the insured individual and the person entitled to benefits as the wife or husband of the insured individual are no longer living in the same household at the time of the death of such insured individual.".

(c) TREATMENT OF MULTIPLE ENTITLEMENTS UNDER THE FAMILY MAXIMUM.—Section 203(a)(3) (42 U.S.C. 403(a)(3)) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) In any case in which—

"(i) two or more individuals are entitled to monthly benefits for the same month as a spouse under subsection (b) or (c) of section 202, or as a surviving spouse under subsection (e), (f), or (g) of section 202,

"(ii) at least one of such individuals is entitled by reason of subparagraph (A)(ii) or (B) of section 216(h)(1), and

"(iii) such entitlements are based on the wages and self-employment income of the same insured individual,

the benefit of the entitled individual whose entitlement is based on a valid marriage (as determined without regard to subparagraphs (A)(ii) and (B) of section 216(h)(1)) to such insured individual shall, for such month and all months thereafter, be determined without regard to this subsection, and the benefits of all other individuals who are entitled, for such month or any month thereafter, to monthly benefits under section 202 based on the wages and self-employment income of such insured individual shall be determined as if such entitled individual were not entitled to benefits for such month.".

(d) CONFORMING AMENDMENT.—Section 203(a)(6) (42 U.S.C. 403(a)(6)) is amended by inserting "(3)(D)," after "(3)(C),".

42 USC 403 note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

(2) APPLICATION REQUIREMENT.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), the amendments made by this section shall apply only with respect to benefits for which application is filed with the Secretary of Health and Human Services after December 31, 1990.

(B) EXCEPTION FROM APPLICATION REQUIREMENT.—Subparagraph (A) shall not apply with respect to the benefits of any individual if such individual is entitled to a benefit under subsection (b), (c), (e), or (f) of section 202 of the Social Security Act for December 1990 and the individual on whose wages and self-employment income such benefit for December 1990 is based is the same individual on the basis of whose wages and self-employment income application would otherwise be required under subparagraph (A).

42 USC 1310 note.

SEC. 5120. VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Pursuant to section 505 of the Social Security Disability Amendments of 1980, the Secretary of Health and Human Services shall develop and carry out under this section demonstration projects in each of not fewer than three States. Each such demonstration project shall be designed to assess the advantages and disadvantages of permitting disabled beneficiaries (as defined in paragraph (3)) to select, from among both public and private qualified vocational rehabilitation providers, providers of vocational rehabilitation services directed at enabling such beneficiaries to engage in substantial gainful activity. Each such demonstration project shall commence as soon as practicable after the date of the enactment of this Act and shall remain in operation until the end of fiscal year 1993.

(2) SCOPE AND PARTICIPATION.—Each demonstration project shall be of sufficient scope and open to sufficient participation by disabled beneficiaries so as to permit meaningful determinations under subsection (b).

(3) DISABLED BENEFICIARY.—For purposes of this section, the term "disabled beneficiary" means an individual who is entitled to disability insurance benefits under section 223 of the Social

Security Act or benefits under section 202 of such Act based on such individual's own disability.

(b) MATTERS TO BE DETERMINED.—In the course of each demonstration project conducted under this section, the Secretary shall determine the following:

(1) the extent to which disabled beneficiaries participate in the process of selecting providers of rehabilitation services, and their reasons for participating or not participating;

(2) notable characteristics of participating disabled beneficiaries (including their impairments), classified by the type of provider selected;

(3) the various needs for rehabilitation demonstrated by participating disabled beneficiaries, classified by the type of provider selected;

(4) the extent to which providers of rehabilitation services which are not agencies or instrumentalities of States accept referrals of disabled beneficiaries under procedures in effect under section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for such services and the most effective way of reimbursing such providers in accordance with such provisions;

(5) the extent to which providers participating in the demonstration projects enter into contracts with third parties for services and the types of such services;

(6) whether, and if so the extent to which, disabled beneficiaries who select their own providers of rehabilitation services are more likely to engage in substantial gainful activity and thereby terminate their entitlement under section 202 or 223 of the Social Security Act than those who do not;

(7) the cost effectiveness of permitting disabled beneficiaries to select their providers of vocational rehabilitation services, and the comparative cost effectiveness of different types of providers; and

(8) the feasibility of establishing a permanent national program for allowing disabled beneficiaries to choose their own qualified vocational rehabilitation provider and any additional safeguards which would be necessary to assure the effectiveness of such a program.

(c) PROCEDURAL REQUIREMENTS.—

(1) SELECTION OF PARTICIPANTS.—The Secretary shall select for participation in each demonstration project under this section disabled beneficiaries for whom there is a reasonable likelihood that rehabilitation services provided to them will result in performance by them of substantial gainful activity for a continuous period of nine months prior to termination of the project.

(2) SELECTION OF PROVIDERS OF REHABILITATION SERVICES.—The Secretary shall select qualified rehabilitation agencies to serve as providers of rehabilitation services in the geographic area covered by each demonstration project conducted under this section. The Secretary shall make such selection after consultation with disabled individuals and organizations representing such individuals. With respect to each demonstration project, the Secretary may approve on a case-by-case basis additional qualified rehabilitation agencies from outside the geographic area covered by the project to serve particular disabled beneficiaries.

(3) REIMBURSEMENT OF PROVIDERS.—

(A) Except as provided in subparagraph (B), providers of rehabilitation services under each demonstration project under this section shall be reimbursed in accordance with the procedures in effect under the provisions of section 222(d) of the Social Security Act as of the date of the enactment of this Act relating to reimbursement for services provided under such section.

(B) The Secretary may contract with providers of rehabilitation services under each demonstration project under this section on a fee-for-service basis in order to—

(i) conduct vocational evaluations directed at identifying those disabled beneficiaries who have reasonable potential for engaging in substantial gainful activity and thereby terminating their entitlement to benefits under section 202 or 223 of the Social Security Act if provided with vocational rehabilitation services as participants in the project, and

(ii) develop jointly with each disabled beneficiary so identified an individualized, written rehabilitation program.

(C) Each written rehabilitation program developed pursuant to subparagraph (B)(ii) for any participant shall include among its provisions—

(i) a statement of the participant's rehabilitation goal,

(ii) a statement of the specific rehabilitation services to be provided and of the identity of the provider to furnish such services,

(iii) the projected date for the initiation of such services and their anticipated duration, and

(iv) objective criteria and an evaluation procedure and schedule for determining whether the stated rehabilitation goal is being achieved.

(d) REPORTS.—The Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an interim written report on the progress of the demonstration projects conducted under this section not later than April 1, 1992, together with any related data and materials which the Secretary considers appropriate. The Secretary shall submit a final written report to such Committees addressing the matters to be determined under subsection (b) not later than April 1, 1994.

(e) STATE.—For purposes of this section, the term "State" means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

(f) CONTINUATION OF DEMONSTRATION AUTHORITY.—Section 505(c) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) is amended to read as follows:

"(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section (other than demonstration projects conducted under section 5120 of the Omnibus Budget Reconciliation of 1990) no later than October 1, 1993.".

SEC. 5121. EXEMPTION FOR CERTAIN ALIENS, RECEIVING AMNESTY UNDER THE IMMIGRATION AND NATIONALITY ACT, FROM PROSECUTION FOR MISREPORTING OF EARNINGS OR MISUSE OF SOCIAL SECURITY ACCOUNT NUMBERS OR SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 208 (42 U.S.C. 408) is amended by adding at the end the following:

"(d)(1) Except as provided in paragraph (2), an alien—

"(A) whose status is adjusted to that of lawful temporary resident under section 210 or 245A of the Immigration and Nationality Act or under section 902 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989,

"(B) whose status is adjusted to that of permanent resident—

"(i) under section 202 of the Immigration Reform and Control Act of 1986, or

"(ii) pursuant to section 249 of the Immigration and Nationality Act, or

"(C) who is granted special immigrant status under section 101(a)(27)(I) of the Immigration and Nationality Act,

shall not be subject to prosecution for any alleged conduct described in paragraph (6) or (7) of subsection (a) if such conduct is alleged to have occurred prior to 60 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1990.

"(2) Paragraph (1) shall not apply with respect to conduct (described in subsection (a)(7)(C)) consisting of—

"(A) selling a card that is, or purports to be, a social security card issued by the Secretary,

"(B) possessing a social security card with intent to sell it, or

"(C) counterfeiting a social security card with intent to sell it.

"(3) Paragraph (1) shall not apply with respect to any criminal conduct involving both the conduct described in subsection (a)(7) to which paragraph (1) applies and any other criminal conduct if such other conduct would be criminal conduct if the conduct described in subsection (a)(7) were not committed.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—So much of section 208 as precedes subsection (d) (as added by subsection (a) of this section) is amended—

(1) in subsection (a), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) in subsection (g), by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a) through (h) as paragraphs (1) through (8), respectively;

(4) by inserting "(a)" before "Whoever";

(5) by inserting "(b)" at the beginning of the next-to-last undesignated paragraph; and

(6) by inserting "(c)" at the beginning of the last undesignated paragraph.

SEC. 5122. REDUCTION OF AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE APPLICABLE IN DETERMINING SPECIAL MINIMUM PRIMARY INSURANCE AMOUNT.

(a) IN GENERAL.—Section 215(a)(1)(C)(ii) (42 U.S.C. 415(a)(1)(C)(ii)) is amended by striking "of not less than 25 percent" the first place it appears and all that follows through "1977) if" and inserting "of not less than 25 percent (in the case of a year after 1950 and before 1978) of the maximum amount which (pursuant to subsection (e)) may be

counted for such year, or 25 percent (in the case of a year after 1977 and before 1991) or 15 percent (in the case of a year after 1990) of the maximum amount which (pursuant to subsection (e)) could be counted for such year if".

(b) RETENTION OF CURRENT AMOUNT OF WAGES NEEDED TO EARN A YEAR OF COVERAGE FOR PURPOSES OF WINDFALL ELIMINATION PROVISION.—Section 215(a)(7)(D) (42 U.S.C. 415(a)(7)(D)) is amended—

(1) in the first sentence, by striking "(as defined in paragraph (1)(C)(ii))"; and

(2) by adding at the end (after the table) the following new flush sentence:

"For purposes of this subparagraph, the term 'year of coverage' shall have the meaning provided in paragraph (1)(C)(ii), except that the reference to '15 percent' therein shall be deemed to be a reference to '25 percent'.".

SEC. 5123. CHARGING OF EARNINGS OF CORPORATE DIRECTORS.

(a) IN GENERAL.—

(1) Title II is amended by moving the last undesignated paragraph of section 211(a) of such title (as added by section 9022(a) of the Omnibus Budget Reconciliation Act of 1987) to the end of section 203(f)(5) of such title. 42 USC 411, 403.

(2) The undesignated paragraph moved to section 203(f)(5) of the Social Security Act by paragraph (1) is amended— 42 USC 403.

(A) by striking "Any income of an individual which results from or is attributable to" and inserting "(E) For purposes of this section, any individual's net earnings from self-employment which result from or are attributable to",

(B) by striking "the income is actually paid" and inserting "the income, on which the computation of such net earnings from self-employment is based, is actually paid"; and

(C) by striking "unless it was" and inserting "unless such income was".

(3) The last undesignated paragraph of section 1402(a) of the Internal Revenue Code of 1986 (as added by section 9022(b) of the Omnibus Budget Reconciliation Act of 1987) is repealed. 26 USC 1402.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to income received for services performed in taxable years beginning after December 31, 1990. 42 USC 403 note.

SEC. 5124. COLLECTION OF EMPLOYEE SOCIAL SECURITY AND RAILROAD RETIREMENT TAXES ON TAXABLE GROUP-TERM LIFE INSURANCE PROVIDED TO RETIREES.

(a) SOCIAL SECURITY TAXES.—Section 3102 of the Internal Revenue Code of 1986 (relating to deduction of tax from wages) is amended by adding at the end thereof the following new subsection: 26 USC 3102.

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the wages which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3101 on such payments, and

"(C) the tax imposed by section 3101 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes wages, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(b) RAILROAD RETIREMENT TAXES.—Section 3202 of such Code (relating to deduction of tax from compensation) is amended by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR CERTAIN TAXABLE GROUP-TERM LIFE INSURANCE BENEFITS.—

"(1) IN GENERAL.—In the case of any payment for group-term life insurance to which this subsection applies—

"(A) subsection (a) shall not apply,

"(B) the employer shall separately include on the statement required under section 6051—

"(i) the portion of the compensation which consists of payments for group-term life insurance to which this subsection applies, and

"(ii) the amount of the tax imposed by section 3201 on such payments, and

"(C) the tax imposed by section 3201 on such payments shall be paid by the employee.

"(2) BENEFITS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any payment for group-term life insurance to the extent—

"(A) such payment constitutes compensation, and

"(B) such payment is for coverage for periods during which an employment relationship no longer exists between the employee and the employer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to coverage provided after December 31, 1990. 26 USC 3102 note.

SEC. 5125. TIER 1 RAILROAD RETIREMENT TAX RATES EXPLICITLY DETERMINED BY REFERENCE TO SOCIAL SECURITY TAXES.

(a) TAX ON EMPLOYEES.—Subsection (a) of section 3201 of the Internal Revenue Code of 1986 (relating to rate of tax) is amended— 26 USC 3201.

(1) by striking "following" and inserting "applicable", and

(2) by striking "employee:" and all that follows and inserting "employee. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 for the calendar year."

(b) TAX ON EMPLOYEE REPRESENTATIVES.—Paragraph (1) of section 3211(a) of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "representative:" and all that follows and inserting "representative. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3101 and subsections (a) and (b) of section 3111 for the calendar year."

(c) TAX ON EMPLOYERS.—Subsection (a) of section 3221 of such Code (relating to rate of tax) is amended—

(1) by striking "following" and inserting "applicable", and

(2) by striking "employer:" and all that follows and inserting "employer. For purposes of the preceding sentence, the term 'applicable percentage' means the percentage equal to the sum of the rates of tax in effect under subsections (a) and (b) of section 3111 for the calendar year."

SEC. 5126. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

45 USC 231n note.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

SEC. 5127. WAIVER OF 2-YEAR WAITING PERIOD FOR INDEPENDENT ENTITLEMENT TO DIVORCED SPOUSE'S BENEFITS.

(a) WAIVER FOR PURPOSES OF DEDUCTIONS ON ACCOUNT OF WORK.—Section 203(b)(2) (42 U.S.C. 403(b)(2)) is amended—

(1) by striking "(2) When" and all that follows through "2 years, the benefit" and inserting the following:

"(2)(A) Except as provided in subparagraph (B), in any case in which—

"(i) any of the other persons referred to in paragraph (1)(B) is entitled to monthly benefits as a divorced spouse under section 202(b) or (c) for any month, and

"(ii) such person has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new subparagraph:

"(B) Clause (ii) of subparagraph (A) shall not apply with respect to any divorced spouse in any case in which the individual referred to in paragraph (1) became entitled to old-age insurance benefits under section 202(a) before the date of the divorce.".

(b) WAIVER IN CASE OF NONCOVERED WORK OUTSIDE THE UNITED STATES.—Section 203(d)(1)(B) (42 U.S.C. 403(d)(1)(B)) is amended—

(1) by striking "(B) When" and all that follows through "2 years, the benefit" and inserting the following:

"(B)(i) Except as provided in clause (ii), in any case in which—

"(I) a divorced spouse is entitled to monthly benefits under section 202(b) or (c) for any month, and

"(II) such divorced spouse has been divorced for not less than 2 years,

the benefit"; and

(2) by adding at the end the following new clause:

"(ii) Subclause (II) of clause (i) shall not apply with respect to any divorced spouse in any case in which the individual entitled to old-age insurance benefits referred to in subparagraph (A) became entitled to such benefits before the date of the divorce.".

42 USC 403 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to benefits for months after December 1990.

SEC. 5128. MODIFICATION OF THE PREEFFECTUATION REVIEW REQUIREMENT APPLICABLE TO DISABILITY INSURANCE CASES.

(a) IN GENERAL.—Section 221(c)(3) (42 U.S.C. 421(c)(3)) is amended to read as follows:

"(3)(A) In carrying out the provisions of paragraph (2) with respect to the review of determinations made by State agencies pursuant to

this section that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(i) at least 50 percent of all such determinations made by State agencies on applications for benefits under this title, and

"(ii) other determinations made by State agencies pursuant to this section to the extent necessary to assure a high level of accuracy in such other determinations.

"(B) In conducting reviews pursuant to subparagraph (A), the Secretary shall, to the extent feasible, select for review those determinations which the Secretary identifies as being the most likely to be incorrect.

"(C) Not later than April 1, 1992, and annually thereafter, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report setting forth the number of reviews conducted under subparagraph (A)(ii) during the preceding fiscal year and the findings of the Secretary based on such reviews of the accuracy of the determinations made by State agencies pursuant to this section.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to determinations made by State agencies in fiscal years after fiscal year 1990. 42 USC 421 note.

SEC. 5129. RECOVERY OF OASDI OVERPAYMENTS BY MEANS OF REDUCTION IN TAX REFUNDS.

(a) ADDITIONAL METHOD OF RECOVERY.—Section 204(a)(1)(A) (42 U.S.C. 404(a)(1)(A)) is amended by inserting after "payments to such overpaid person," the following: "or shall obtain recovery by means of reduction in tax refunds based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code,".

(b) RECOVERY BY MEANS OF REDUCTION IN TAX REFUNDS.—Section 3720A of title 31, United States Code (relating to collection of debts owed to Federal agencies) is amended—

(1) in subsection (a), by striking "OASDI overpayment and";

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting the following new subsection after subsection (e):

"(f)(1) Subsection (a) shall apply with respect to an OASDI overpayment made to any individual only if such individual is not currently entitled to monthly insurance benefits under title II of the Social Security Act.

"(2)(A) The requirements of subsection (b) shall not be treated as met in the case of the recovery of an OASDI overpayment from any individual under this section unless the notification under subsection (b)(1) describes the conditions under which the Secretary of Health and Human Services is required to waive recovery of an overpayment, as provided under section 204(b) of the Social Security Act.

"(B) In any case in which an individual files for a waiver under section 204(b) of the Social Security Act within the 60-day period referred to in subsection (b)(2), the Secretary of Health and Human Services shall not certify to the Secretary of the Treasury that the debt is valid under subsection (b)(4) before rendering a decision on the waiver request under such section 204(b). In lieu of payment, pursuant to subsection (c), to the Secretary of Health and Human Services of the amount of any reduction under this subsection based

on an OASDI overpayment, the Secretary of the Treasury shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary of the Treasury as appropriate by the Secretary of Health and Human Services.".

(c) INTERNAL REVENUE CODE PROVISIONS.—

26 USC 6402.

(1) IN GENERAL.—Subsection (d) of section 6402 of the Internal Revenue Code of 1986 (relating to collection of debts owed to Federal agencies) is amended—

(A) in paragraph (1), by striking "any OASDI overpayment and"; and

(B) by striking paragraph (3) and inserting the following new paragraph:

"(3) TREATMENT OF OASDI OVERPAYMENTS.—

"(A) REQUIREMENTS.—Paragraph (1) shall apply with respect to an OASDI overpayment only if the requirements of paragraphs (1) and (2) of section 3720A(f) of title 31, United States Code, are met with respect to such overpayment.

"(B) NOTICE; PROTECTION OF OTHER PERSONS FILING JOINT RETURN.—

"(i) NOTICE.—In the case of a debt consisting of an OASDI overpayment, if the Secretary determines upon receipt of the notice referred to in paragraph (1) that the refund from which the reduction described in paragraph (1)(A) would be made is based upon a joint return, the Secretary shall—

"(I) notify each taxpayer filing such joint return that the reduction is being made from a refund based upon such return, and

"(II) include in such notification a description of the procedures to be followed, in the case of a joint return, to protect the share of the refund which may be payable to another person.

"(ii) ADJUSTMENTS BASED ON PROTECTIONS GIVEN TO OTHER TAXPAYERS ON JOINT RETURN.—If the other person filing a joint return with the person owing the OASDI overpayment takes appropriate action to secure his or her proper share of the refund subject to reduction under this subsection, the Secretary shall pay such share to such other person. The Secretary shall deduct the amount of such payment from amounts which are derived from subsequent reductions in refunds under this subsection and are payable to a trust fund referred to in subparagraph (C).

"(C) DEPOSIT OF AMOUNT OF REDUCTION INTO APPROPRIATE TRUST FUND.—In lieu of payment, pursuant to paragraph (1)(B), of the amount of any reduction under this subsection to the Secretary of Health and Human Services, the Secretary shall deposit such amount in the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund, whichever is certified to the Secretary as appropriate by the Secretary of Health and Human Services.

"(D) OASDI OVERPAYMENT.—For purposes of this paragraph, the term 'OASDI overpayment' means any overpayment of benefits made to an individual under title II of the Social Security Act.".

(2) PRESERVATION OF REMEDIES.—Subsection (e) of section 6402 of such Code (relating to review of reductions) is amended in the last sentence by inserting before the period the following: "or any such action against the Secretary of Health and Human Services which is otherwise available with respect to recoveries of overpayments of benefits under section 204 of the Social Security Act".

(d) EFFECTIVE DATE.—The amendments made by this section— 26 USC 6402 note.
(1) shall take effect January 1, 1991, and
(2) shall not apply to refunds to which the amendments made by section 2653 of the Deficit Reduction Act of 1984 (98 Stat. 1153) do not apply.

SEC. 5130. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) IN GENERAL.—
(1) AMENDMENT RELATING TO SECTION 7088 OF PUBLIC LAW 100-690.—Section 208 (42 U.S.C. 408) is amended, in the last undesignated paragraph, by striking "section 405(c)(2) of this title" and inserting "section 205(c)(2)".
(2) AMENDMENTS RELATING TO SECTION 322 OF PUBLIC LAW 98-21.—Paragraphs (1) and (2) of section 322(b) of the Social Security Amendments of 1983 (Public Law 98-21, 97 Stat. 121) are each amended by inserting "the first place it appears" before "the following". 42 USC 411; 26 USC 1402.
(3) AMENDMENT RELATING TO SECTION 1011B(b)(4) OF PUBLIC LAW 100-647.—Section 211(a) (42 U.S.C. 411(a)) is amended by redesignating the second paragraph (14) as paragraph (15).
(4) AMENDMENT RELATING TO SECTION 2003(d) OF PUBLIC LAW 100-647.—Paragraph (3) of section 3509(d) of the Internal Revenue Code of 1986 (as amended by section 2003(d) of the Technical and Miscellaneous Revenue Act of 1988 (Public Law 100-647; 102 Stat. 3598)) is further amended by striking "subsection (d)(4)" and inserting "subsection (d)(3)". 26 USC 3509.
(5) AMENDMENT RELATING TO SECTION 10208 OF PUBLIC LAW 101-239.—Section 209(a)(7)(B) (42 U.S.C. 409(a)(7)(B)) is amended by striking "subparagraph (B)" in the matter following clause (ii) and inserting "clause (ii)".

(b) EFFECTIVE DATES.—The amendments made by subsection (a) shall be effective as if included in the enactment of the provision to which it relates. 26 USC 1402 note.

TITLE VI—ENERGY AND ENVIRONMENTAL PROGRAMS

Subtitle A—Abandoned Mine Reclamation

Abandoned Mine Reclamation Act of 1990. 30 USC 1201 note.

SEC. 6001. SHORT TITLE.

This subtitle may be cited as the "Abandoned Mine Reclamation Act of 1990".

SEC. 6002. ABANDONED MINE RECLAMATION FUND.

(a) SOURCES OF DEPOSITS.—Section 401(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(b)) is amended as follows:

(1) Amend paragraph (1) to read as follows:

"(1) the reclamation fees levied under section 402;".

(2) Strike "and" at the end of paragraph (3); strike the period at the end of paragraph (4) and insert "; and"; and add the following new paragraph at the end:

"(5) interest credited to the fund under subsection (e).".

(b) USE OF MONEY.—Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)) is amended as follows:

(1) In paragraph (1), strike "402(g)(2)" and insert "402(g)(1)".

(2) Amend paragraph (2) to read as follows:

"(2) for transfer on an annual basis to the Secretary of Agriculture for use under section 406;".

(3) In paragraph (6), strike "by contract" and insert "conducted in accordance with section 3501 of the Omnibus Budget Reconciliation Act of 1986" after "projects".

(4) Strike "and" at the end of paragraph (9).

(5) Strike paragraph (10) and insert the following:

"(10) for use under section 411;

"(11) for the purpose of section 507(c), except that not more than $10,000,000 shall annually be available for such purpose; and

"(12) all other necessary expenses to accomplish the purposes of this title.".

(c) INTEREST.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended by adding the following new subsection at the end:

"(e) INTEREST.—The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities suitable for the needs of such fund and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.".

SEC. 6003. RECLAMATION FEES.

(a) DUE DATE.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "fifteen years after the date of enactment of this Act unless extended by an Act of Congress" and inserting "September 30, 1995".

(b) STATEMENT.—Section 402(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(c)) is amended by adding the following at the end thereof: "Such statement shall include an identification of the permittee of the surface coal mining operation, any operator in addition to the permittee, the owner of the coal, the preparation plant, tripple,[64] or loading point for the coal, and the person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 506 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database.".

[64] So in original. Probably should be "tipple".

(c) AUDITS.—Section 402(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(d)) is amended by inserting "(1)" after "(d)" and by adding the following at the end thereof:

"(2) The Secretary shall conduct such audits of coal production and the payment of fees under this title as may be necessary to ensure full compliance with the provisions of this title. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representative of the Secretary) shall, at all reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this title. The Secretary may at any time conduct audits of any surface coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to ensure full and complete payment of the fees under this title.".

(d) NOTICE.—Section 402(f) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(f)) is amended by adding the following at the end thereof: "Whenever the Secretary believes that any person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for ensuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986.".

SEC. 6004. ALLOCATION OF FUNDS.

Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended to read as follows:

"(g) ALLOCATION OF FUNDS.—(1) Moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this title as follows:

"(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following:

"(i) An approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a)) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

"(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Secretary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following:

"(i) an approved abandoned mine reclamation program pursuant to section 405.

"(ii) Lands and waters which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

"(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

"(D) To the extent not expended within 3 years after the date of any grant award under this paragraph, such grant shall be available for expenditure by the Secretary in any area under paragraph (2), (3), (4), or (5).

"(2) 20 percent of the amounts available in the fund in any fiscal year which are not allocated under paragraph (1) in that fiscal year (including that interest accruing as provided in section 401(e) and including funds available for reallocation pursuant to paragraph (1)(D)), shall be allocated to the Secretary only for the purpose of making the annual transfer to the Secretary of Agriculture under section 401(c)(2).

"(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraphs (2) and (5) are authorized to be expended by the Secretary for any of the following:

"(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(11).

"(B) For the purpose of section 410 (relating to emergencies).

"(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands and waters pursuant to section 404 in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

"(D) For the administration of this title by the Secretary.

"(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which are mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

"(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

"(i) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for a State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(ii) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date of enactment of this paragraph, and that the surety of such mining operator became insolvent during such period, and as of the date of enactment of this paragraph, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

"(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

"(D) Amounts collected from the assessment of civil penalties under section 518 are authorized to be appropriated to carry out this paragraph.

"(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

"(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

"(5) The Secretary shall allocate 40 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

"(6) Any State may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 10 percent of the total of the grants made annually to such State under paragraphs (1) and (5) if such amounts are deposited into either—

"(A) a special trust fund established under State law pursuant to which such amounts (together with all interest earned on such amounts) are expended by the State solely to achieve the priorities stated in section 403(a) after September 30, 1995, or

"(B) an acid mine drainage abatement and treatment fund established under State law as provided in paragraph (7).

"(7)(A) Any State may establish under State law an acid mine drainage abatement and treatment fund from which amounts (together with all interest earned on such amounts) are expended by the State to implement, in consultation with the Soil Conservation Service, acid mine drainage abatement and treatment plans approved by the Secretary. Such plans shall provide for the comprehensive abatement of the causes and treatment of the effects of acid mine drainage within qualified hydrologic units affected by coal mining practices.

"(B) The plan shall include, but shall not be limited to, each of the following:

"(i) An identification of the qualified hydrologic unit.

"(ii) The extent to which acid mine drainage is affecting the water quality and biological resources within the hydrologic unit.

"(iii) An identification of the sources of acid mine drainage within the hydrologic unit.

"(iv) An identification of individual projects and the measures proposed to be undertaken to abate and treat the causes or effects of acid mine drainage within the hydrologic unit.

"(v) The cost of undertaking the proposed abatement and treatment measures.

"(vi) An identification of existing and proposed sources of funding for such measures.

"(vii) An analysis of the cost-effectiveness and environmental benefits of abatement and treatment measures.

"(C) The Secretary may approve any plan under this paragraph only after determining that such plan meets the requirements of this paragraph. In conducting an analysis of the items referred to in clauses (iv), (v), and (vii) the Director of the Office of Surface Mining shall obtain the comments of the Director of the Bureau of Mines. In approving plans under this paragraph, the Secretary shall give a priority to those plans which will be implemented in coordination with measures undertaken by the Secretary of Agriculture under section 406.

"(D) For purposes of this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

"(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner which adversely impacts biological resources; and

"(ii) which contains lands and waters which are—

"(I) eligible pursuant to section 404 and include any of the priorities stated in paragraph (1), (2), or (3) of section 403(a); and

"(II) proposed to be the subject of the expenditures by the State (from amounts available from the forfeiture of bonds required under section 509 or from other State sources) to mitigate acid mine drainage.

"(8) Of the funds available for expenditure under this subsection in any fiscal year, the Secretary shall allocate annually not less than $2,000,000 for expenditure in each State, and for each Indian tribe, having an approved abandoned mine reclamation program pursuant to section 405 and eligible lands and waters pursuant to section 404 so long as an allocation of funds to such State or such tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).".

SEC. 6005. FUND OBJECTIVES.

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended as follows:

(1) Insert "(a) PRIORITIES.—" after "SEC. 403.".

(2) Insert ", except as provided for under section 411," after "title".

(3) Add at the end the following new subsections:

"(b) UTILITIES AND OTHER FACILITIES.—(1) Any State or Indian tribe not certified under section 411(a) may expend up to 30 percent of the funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the purpose of protecting, repairing, replacing,

constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

"(2) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (1) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977.

"(c) INVENTORY.—For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved abandoned mine reclamation programs pursuant to section 405 may offer amendments to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this title shall be so noted on the inventory under standardized procedures established by the Secretary.".

SEC. 6006. ELIGIBLE LANDS AND WATERS.

Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by inserting ", except as provided for under section 411" after "processes", and by adding the following at the end thereof: "For other provisions relating to lands and waters eligible for such expenditures, see section 402(g)(4), section 403(b)(1), and section 409.".

SEC. 6007. STATE RECLAMATION PROGRAMS.

Section 405 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235) is amended by adding the following at the end thereof:

"(1) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.".

SEC. 6008. CLARIFICATION.

Section 406(d) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(d)) is amended by striking "experimental".

SEC. 6009. VOIDS AND TUNNELS.

Section 409 of the the [65] Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1239) is amended—

(1) in subsection (a) by striking "chairman of any tribe" and inserting in lieu thereof "the governing body of an Indian tribe";

(2) in subsection (b), by striking "or Indian reservations under the provisions of subsection 402(g)" and inserting "or Indian tribes under the provisions of paragraphs (1) and (5) of section 402(g)"; and

(3) by amending subsection (c) to read as follows:

"(c)(1) The Secretary may make expenditures and carry out the purposes of this section in such States where requests are made by the Governor or governing body of an Indian tribe for those reclamation projects which meet the priorities stated in section 403(a)(1), except that for the purposes of this section the reference to coal in section 403(a)(1) shall not apply.

"(2) The provisions of section 404 shall apply to this section, with the exception that such mined lands need not have been mined for coal.

"(3) The Secretary shall not make any expenditures for the purposes of this section in those States which have made the certification referred to in section 411(a).".

SEC. 6010. CERTIFICATION.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended as follows:

30 USC 1241-1243.

(1) Redesignate sections 411, 412, and 413 as sections 412, 413, and 414, respectively.

(2) Insert after section 410 the following new section:

30 USC 1240a.

"SEC. 411. CERTIFICATION.

"(a) CERTIFICATION OF COMPLETION OF COAL RECLAMATION.—The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405 may certify to the Secretary that all of the priorities stated in section 403(a) for eligible lands and waters pursuant to section 404 have been achieved. The Secretary, after notice in the Federal Register and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

"(b) ELIGIBLE LANDS, WATERS, AND FACILITIES.—If the Secretary has concurred in a State or tribal certification under subsection (a), for purposes of determining the eligibility of lands and waters for annual grants under section 402(g)(1), section 404 shall not apply, and eligible lands, waters, and facilities shall be those—

"(1) which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and

"(2) for which there is no continuing reclamation responsibility under State or other Federal laws. In determining the eligibility under this subsection of Federal lands, waters, and facilities under the jurisdiction of the Forest Service or Bureau of Land Management, in lieu of the August 3, 1977, date referred to in paragraph (1) the applicable date shall be August 28, 1974, and November 26, 1980, respectively.

[65] So in original. Probably should be "of the Surface".

"(c) PRIORITIES.—Expenditures of moneys for lands, waters, and facilities referred to in subsection (b) shall reflect the following objectives and priorities in the order stated (in lieu of the priorities set forth in section 403):

"(1) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

"(2) The protection of public health, safety, and general welfare from adverse effects of mineral mining and processing practices.

"(3) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

"(d) SPECIFIC SITES AND AREAS NOT ELIGIBLE.—Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 and following) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601 and following) shall not be eligible for expenditures from the Fund under this section.

"(e) UTILITIES AND OTHER FACILITIES.—Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities, such as those relating to water supply, roads, and such other facilities serving the public adversely affected by mineral mining and processing practices, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (c).

"(f) Notwithstanding subsection (e), where the Secretary has concurred in the certification referenced in subsection (a) and where the Governor of a State or the head of a governing body of an Indian tribe determines there is a need for activities or construction of specific public facilities related to the coal or minerals industry in States impacted by coal or minerals development and the Secretary concurs in such need, then the State or Indian tribe, as the case may be, may use annual grants made available under section 402(g)(1) to carry out such activities or construction.

"(g) APPLICATION OF OTHER PROVISIONS.—The provisions of sections 407 and 408 shall apply to subsections (a) through (e) of this section, except that for purposes of this section the references to coal in sections 407 and 408 shall not apply.".

SEC. 6011. SMALL OPERATOR ASSISTANCE.

Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended by striking "100,000" and inserting "300,000".

SEC. 6012. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TABLE OF CONTENTS.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) is amended as follows:

(1) Redesignate the items relating to sections 411, 412, and 413 as items 412, 413, and 414, respectively.

(2) Insert after the item relating to section 410 the following:

"Sec. 411. Certification.".

(b) REFERENCE.—Section 712 (b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended to read as follows:

"(b) For the implementation and funding of section 507(c), see the provisions of section 401(c)(11).".

(c) REPEAL.—Section 406(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(i)) is repealed.

(d) TECHNICAL CORRECTIONS.—The following provisions of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 and following) are amended as follows:

30 USC 1235. (1) Section 405(a) is amended by striking out "perparation" and inserting "preparation".

(2) Section 405(h) is amended by striking out "Upon approved" and inserting "Upon approval".

30 USC 1236. (3) Section 406(a) is amended by striking out "including owners" and inserting "(including owners".

30 USC 1237. (4) Section 407(a)(4) is amended by striking out the period and inserting a semicolon.

(5) Section 407(a) is amended by striking out "Then" and inserting "then".

(6) Section 407(e) is amended by striking out "paragraph (1), of this subsection" and inserting "paragraph (1) of subsection (c)".

(7) Section 407(g)(2) is amended by striking out "the use of" and inserting "the use or".

30 USC 1231 note. SEC. 6013. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to affect the certifications made by the State of Wyoming, the State of Montana, and the State of Louisiana to the Secretary of the Interior prior to the date of enactment of this subtitle that such State has completed the reclamation of eligible abandoned coal mine lands.

30 USC 1231 note. SEC. 6014. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect at the beginning of the first fiscal year immediately following the fiscal year in which this subtitle is enacted.

Subtitle B—NRC User Fees and Annual Charges

42 USC 2214. SEC. 6101. NRC USER FEES AND ANNUAL CHARGES.

(a) ANNUAL ASSESSMENT.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Nuclear Regulatory Commission (in this section referred to as the "Commission") shall annually assess and collect such fees and charges as are described in subsections (b) and (c).

(2) FIRST ASSESSMENT.—The first assessment of fees under subsection (b) and annual charges under subsection (c) shall be made not later than September 30, 1991.

(3) LAST ASSESSMENT OF ANNUAL CHARGES.—The last assessment of annual charges under subsection (c) shall be made not later than September 30, 1995.

(b) FEES FOR SERVICE OR THING OF VALUE.—Pursuant to section 9701 of title 31, United States Code, any person who receives a service or thing of value from the Commission shall pay fees to cover

the Commission's costs in providing any such service or thing of value.

(c) ANNUAL CHARGES.—

(1) PERSONS SUBJECT TO CHARGE.—Any licensee of the Commission may be required to pay, in addition to the fees set forth in subsection (b), an annual charge.

(2) AGGREGATE AMOUNT OF CHARGES.—The aggregate amount of the annual charge collected from all licensees shall equal an amount that approximates 100 percent of the budget authority of the Commission in the fiscal year in which such charge is collected, less any amount appropriated to the Commission from the Nuclear Waste Fund and the amount of fees collected under subsection (b) in such fiscal year.

(3) AMOUNT PER LICENSEE.—The Commission shall establish, by rule, a schedule of charges fairly and equitably allocating the aggregate amount of charges described in paragraph (2) among licensees. To the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees.

(d) DEFINITION.—As used in this section, the term "Nuclear Waste Fund" means the fund established pursuant to section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)).

(e) CONFORMING AMENDMENT TO COBRA.—Paragraph (1)(A) of section 7601 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking "except that for fiscal year 1990 such maximum amount shall be estimated to be equal to 45 percent of the costs incurred by the Commission for fiscal year 1990" and inserting "except as otherwise provided by law". 42 USC 2213.

Subtitle C—Amendments to Coastal Zone Management Act of 1972

Coastal Zone Act Reauthorization Amendments of 1990.

SEC. 6201. SHORT TITLE. 16 USC 1451 note.

This subtitle may be cited as the "Coastal Zone Act Reauthorization Amendments of 1990".

SEC. 6202. FINDINGS AND PURPOSE OF THIS SUBTITLE. 16 USC 1451 note.

(a) FINDINGS.—Congress finds and declares the following:

(1) Our oceans, coastal waters, and estuaries constitute a unique resource. The condition of the water quality in and around the coastal areas is significantly declining. Growing human pressures on the coastal ecosystem will continue to degrade this resource until adequate actions and policies are implemented.

(2) Almost one-half of our total population now lives in coastal areas. By 2010, the coastal population will have grown from 80,000,000 in 1960 to 127,000,000 people, an increase of approximately 60 percent, and population density in coastal counties will be among the highest in the Nation.

(3) Marine resources contribute to the Nation's economic stability. Commercial and recreational fishery activities support an industry with an estimated value of $12,000,000,000 a year.

(4) Wetlands play a vital role in sustaining the coastal economy and environment. Wetlands support and nourish fishery and marine resources. They also protect the Nation's shores from storm and wave damage. Coastal wetlands contribute an estimated $5,000,000,000 to the production of fish and shellfish in the United States coastal waters. Yet, 50 percent of the Nation's coastal wetlands have been destroyed, and more are likely to decline in the near future.

(5) Nonpoint source pollution is increasingly recognized as a significant factor in coastal water degradation. In urban areas, storm water and combined sewer overflow are linked to major coastal problems, and in rural areas, run-off from agricultural activities may add to coastal pollution.

(6) Coastal planning and development control measures are essential to protect coastal water quality, which is subject to continued ongoing stresses. Currently, not enough is being done to manage and protect our coastal resources.

(7) Global warming results from the accumulation of man-made gases, released into the atmosphere from such activities as the burning of fossil fuels, deforestation, and the production of chlorofluorocarbons, which trap solar heat in the atmosphere and raise temperatures worldwide. Global warming could result in significant global sea level rise by 2050 resulting from ocean expansion, the melting of snow and ice, and the gradual melting of the polar ice cap. Sea level rise will result in the loss of natural resources such as beaches, dunes, estuaries, and wetlands, and will contribute to the salinization of drinking water supplies. Sea level rise will also result in damage to properties, infrastructures, and public works. There is a growing need to plan for sea level rise.

(8) There is a clear link between coastal water quality and land use activities along the shore. State management programs under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) are among the best tools for protecting coastal resources and must play a larger role, particularly in improving coastal zone water quality.

(9) All coastal States should have coastal zone management programs in place that conform to the Coastal Zone Management Act of 1972, as amended by this Act.

(b) PURPOSE.—It is the purpose of Congress in this subtitle to enhance the effectiveness of the Coastal Zone Management Act of 1972 by increasing our understanding of the coastal environment and expanding the ability of State coastal zone management programs to address coastal environmental problems.

SEC. 6203. FINDINGS AND POLICY OF COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) FINDINGS.—(1) Section 302(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451(d)) is amended by inserting "habitat areas of the" immediately before "coastal zone".

(2) Section 302(f) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451(f)) is amended by inserting "exclusive economic zone," immediately after "territorial sea,".

(3) Section 302 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451) is amended by adding at the end the following new subsections:

"(k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.

"(l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.

"(m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.".

(b) POLICY.—(1) Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)) is amended by striking "as well as the needs for" and inserting in lieu thereof "as well as the needs for compatible".

(2) Section 303(2)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)(B)) is amended by striking "of subsidence" and inserting in lieu thereof the following: "likely to be affected by or vulnerable to sea level rise, land subsidence,".

(3) Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)), as amended by paragraph (1), is amended—

(A) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively; and

(B) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters,".

(4) Section 303(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(2)), as amended by paragraphs (1) and (3), is further amended—

(A) by striking "and" at the end of subparagraph (I), as so redesignated by paragraph (3);

(B) by striking the semicolon in subparagraph (J), as so redesignated by paragraph (3), and inserting in lieu thereof a comma; and

(C) by adding at the end the following new subparagraph:

"(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and".

(5) Section 303(3) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452(3)) is amended by inserting "including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes," immediately after "hazardous areas,".

(6) Section 303 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452) is amended by striking "and" at the end of paragraph (3); by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and by adding at the end the following new paragraphs:

"(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and

international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

"(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.".

SEC. 6204. DEFINITIONS.

(a) COASTAL ZONE.—The third sentence of section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)) is amended—

(1) by inserting ", and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise" immediately before the period at the end; and

(2) by striking "the United States territorial sea." and inserting in lieu thereof "the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Act of March 2, 1917 (48 U.S.C. 749), the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 (48 U.S.C. 1681 note), or section 1 of the Act of November 20, 1963 (48 U.S.C. 1705, [66] as applicable.".

(b) ENFORCEABLE POLICY.—Section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) is amended by inserting after paragraph (6) the following' [67]

"(6a) [68] The term 'enforceable policy' means State policies which are legally binding through constitutional provisions, laws, regulations, land use plans, ordinances, or judicial or administrative decisions, by which a State exerts control over private and public land and water uses and natural resources in the coastal zone.".

(c) WATER USE.—Section 304(18) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(18)) is amended by striking all after "means" and inserting in lieu thereof "a use, activity, or project conducted in or on waters within the coastal zone.".

SEC. 6205. MANAGEMENT PROGRAM DEVELOPMENT GRANTS.

Section 305 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1454) is amended to read as follows:

"MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) In fiscal years 1991, 1992, and 1993, the Secretary may make a grant annually to any coastal state without an approved program if the coastal state demonstrates to the satisfaction of the Secretary that the grant will be used to develop a management program consistent with the requirements set forth in section 306. The amount of any such grant shall not exceed $200,000 in any fiscal year, and shall require State matching funds according to a 4-to-1 ratio of Federal-to-State contributions. After an initial grant is made to a coastal state pursuant to this subsection, no subsequent grant shall be made to that coastal state pursuant to this subsection unless the Secretary finds that the coastal state is satisfactorily

[66] So in original. Probably should be "1705),".
[67] So in original. Probably should be "following:".
[68] So in original. Probably should be "(6)(a)".

developing its management program. No coastal State is eligible to receive more than two grants pursuant to this subsection.

"(b) Any coastal State which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306.".

SEC. 6206. ADMINISTRATIVE GRANTS.

(a) IN GENERAL.—Section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended to read as follows:

"ADMINISTRATIVE GRANTS

"SEC. 306. (a) The Secretary may make grants to any coastal State for the purpose of administering that State's management program, if the State matches any such grant according to the following ratios of Federal-to-State contributions for the applicable fiscal year:

"(1) For those States for which programs were approved prior to enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 1 to 1 for any fiscal year.

"(2) For programs approved after enactment of the Coastal Zone Act Reauthorization Amendments of 1990, 4 to 1 for the first fiscal year, 2.3 to 1 for the second fiscal year, 1.5 to 1 for the third fiscal year, and 1 to 1 for each fiscal year thereafter.

"(b) The Secretary may make a grant to a coastal State under subsection (a) only if the Secretary finds that the management program of the coastal State meets all applicable requirements of this title and has been approved in accordance with subsection (d);

"(c) Grants under this section shall be allocated to coastal States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the program, population of the area, and other relevant factors. The Secretary shall establish, after consulting with the coastal States, maximum and minimum grants for any fiscal year to promote equity between coastal States and effective coastal management.

"(d) Before approving a management program submitted by a coastal State, the Secretary shall find the following:

"(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this title and is consistent with the policy declared in section 303.

"(2) The management program includes each of the following required program elements:

"(A) An identification of the boundaries of the coastal zone subject to the management program.

"(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

"(C) An inventory and designation of areas of particular concern within the coastal zone.

"(D) An identification of the means by which the State proposes to exert control over the land uses and water uses

referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

"(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

"(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, areawide, State, regional, and interstate agencies in the management process.

"(G) A definition of the term 'beach' and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

"(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

"(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

"(3) The State has—

"(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

"(i) existing on January 1 of the year in which the State's management program is submitted to the Secretary; and

"(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this title; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

"(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

"(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

"(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

"(I) shall consider the comments;

"(II) may, in its discretion, hold a public hearing on the comments; and

"(III) may not take any action within the 30-day period to implement the management program decision.

"(4) The State has held public hearings in the development of the management program.

"(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

"(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

"(7) The State is organized to implement the management program.

"(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

"(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

"(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(A) to administer land use and water use regulations to control development to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

"(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

"(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

"(B) Direct State land and water use planning and regulation.

"(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

"(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

"(13) The management program provides for—

"(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

"(B) specific and enforceable standards to protect such resources.

"(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

"(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

"(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990.

"(e) A coastal state may amend or modify a management program which it has submitted and which has been approved by the Secretary under this section, subject to the following conditions:

"(1) The State shall promptly notify the Secretary of any proposed amendment, modification, or other program change and submit it for the Secretary's approval. The Secretary may suspend all or part of any grant made under this section pending State submission of the proposed amendments, modification, or other program change.

"(2) Within 30 days after the date the Secretary receives any proposed amendment, the Secretary shall notify the State whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days after the date the Secretary received the proposed amendment. The Secretary may extend this period only as necessary to meet the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). If the Secretary does not notify the coastal State that the Secretary approves or disapproves the amendment within that period, then the amendment shall be conclusively presumed as approved.

"(3)(A) Except as provided in subparagraph (B), a coastal State may not implement any amendment, modification, or other change as part of its approved management program unless the amendment, modification, or other change is approved by the Secretary under this subsection.

"(B) The Secretary, after determining on a preliminary basis, that an amendment, modification, or other change which has been submitted for approval under this subsection is likely to meet the program approval standards in this section, may permit the State to expend funds awarded under this section to begin implementing the proposed amendment, modification, or change. This preliminary approval shall not extend for more than 6 months and may not be renewed. A proposed amendment, modification, or change which has been given preliminary approval and is not finally approved under this paragraph shall not be considered an enforceable policy for purposes of section 307.".

42 USC 1455 note.

(b) ADDITIONAL PROGRAM REQUIREMENTS.—Each State which submits a management program for approval under section 306 of the Coastal Zone Management Act of 1972, as amended by this subtitle

(including a State which submitted a program before the date of enactment of this Act), shall demonstrate to the Secretary—

(1) that the program complies with section 306(d)(14) and (15) of that Act, by not later than 3 years after the date of the enactment of this Act; and

(2) that the program complies with section 306(d)(16) of that Act, by not later than 30 months after the date of publication of final guidance under section 6217(g) of this Act.

SEC. 6207. RESOURCE MANAGEMENT IMPROVEMENT GRANTS.

Section 306A(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a(b)(1)) is amended by adding before the period at the end the following: ", or for the purpose of restoring and enhancing shellfish production by the purchase and distribution of clutch material on publicly owned reef tracts".

SEC. 6208. COASTAL ZONE MANAGEMENT CONSISTENCY.

(a) FEDERAL AGENCY ACTIVITIES.—Section 307(c)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(1)) is amended to read as follows:

"(c)(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

"(B) After any final judgment, decree, or order of any Federal court that is appealable under section 1291 or 1292 of title 28, United States Code, or under any other applicable provision of Federal law, that a specific Federal agency activity is not in compliance with subparagraph (A), and certification by the Secretary that mediation under subsection (h) is not likely to result in such compliance, the President may, upon written request from the Secretary, exempt from compliance those elements of the Federal agency activity that are found by the Federal court to be inconsistent with an approved State program, if the President determines that the activity is in the paramount interest of the United States. No such exemption shall be granted on the basis of a lack of appropriations unless the President has specifically requested such appropriations as part of the budgetary process, and the Congress has failed to make available the requested appropriations.

"(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.".

(b) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 307(c)(2) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(2)) is amended by inserting "the enforceable policies of" before "approved State management programs".

(2) Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(A)) is amended in the first sentence—

(A) by inserting ", in or outside of the coastal zone," after "to conduct an activity";

(B) by striking "land or water uses in" and inserting "any land or water use or natural resource of"; and

(C) by inserting "the enforceable policies of" after the words "the proposed activity complies with".

(3) Section 307(c)(3)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)) is amended in the first sentence—

(A) by striking "land use or water use in" and inserting "land or water use or natural resource of"; and

(B) by inserting "the enforceable policies of" after "such plan complies".

(4) Section 307(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(d)) is amended—

(A) by striking "affecting" and inserting ", in or outside of the coastal zone, affecting any land or water use of natural resource of"; and

(B) by inserting "the enforceable policies of" after "that are inconsistent with".

(c) FEDERAL FEE.—Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) is amended by adding at the end the following:

"(i) With respect to appeals under subsections (c)(3) and (d) which are submitted after the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, the Secretary shall collect an application fee of not less than $200 for minor appeals and not less than $500 for major appeals, unless the Secretary, upon consideration of an applicant's request for a fee waiver, determines that the applicant is unable to pay the fee. The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).".

SEC. 6209. COASTAL ZONE MANAGEMENT FUND.

Section 308 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456) is amended to read as follows:

"COASTAL ZONE MANAGEMENT FUND

16 USC 1456a.

"SEC. 308. (a)(1) The obligations of any coastal State or unit of general purpose local government to repay loans made pursuant to this section as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990, and any repayment schedule established pursuant to this Act as in effect before that date of enactment, are not altered by any provision of this title. Such loans shall be repaid under authority of this subsection and the Secretary may issue regulations governing such repayment. If the Secretary finds that any coastal State or unit of local government is unable to meet its obligations pursuant to this subsection because the actual increases in employment and related population resulting from coastal energy activity and the facilities associated with such activity do not provide adequate revenues to enable such State or unit to meet such obligations in accordance with the appropriate repayment schedule, the Secretary shall, after review of the information submitted by such State or unit, take any of the following actions:

"(A) Modify the terms and conditions of such loan.

"(B) Refinance the loan.

"(C) Recommend to the Congress that legislation be enacted to forgive the loan.

"(2) Loan repayments made pursuant to this subsection shall be retained by the Secretary as offsetting collections, and shall be deposited into the Coastal Zone Management Fund established under subsection (b).

"(b)(1) The Secretary shall establish and maintain a fund, to be known as the 'Coastal Zone Management Fund' (hereinafter in this section referred to as the 'Fund'), which shall consist of amounts retained and deposited into the Fund under subsection (a).

"(2) Subject to amounts provided in appropriation Acts, amounts in the Fund shall be available to the Secretary for use for the following:

"(A) Expenses incident to the administration of this title, in an amount not to exceed—

"(i) $5,000,000 for fiscal year 1991;
"(ii) $5,225,000 for fiscal year 1992;
"(iii) $5,460,125 for fiscal year 1993;
"(iv) $5,705,830 for fiscal year 1994; and
"(v) $5,962,593 for fiscal year 1995.

"(B) After use under subparagraph (A)—

"(i) projects to address management issues which are regional in scope, including interstate projects;

"(ii) demonstration projects which have high potential for improving coastal zone management, especially at the local level;

"(iii) emergency grants to State coastal zone management agencies to address unforeseen or disaster-related circumstances;

"(iv) appropriate awards recognizing excellence in coastal zone management as provided in section 314;

"(v) program development grants as authorized by section 305; and

"(vi) to provide financial support to coastal States for use for investigating and applying the public trust doctrine to implement State management programs approved under section 306.

"(3) On December 1 of each year, the Secretary shall transmit to the Congress an annual report on the Fund, including the balance of the Fund and an itemization of all deposits into and disbursements from the Fund in the preceding fiscal year.".

SEC. 6210. COASTAL ZONE ENHANCEMENT GRANTS.

Section 309 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1452b) is amended to read as follows:

"COASTAL ZONE ENHANCEMENT GRANTS

"SEC. 309. (a) For purposes of this section, the term 'coastal zone enhancement objective' means any of the following objectives: 16 USC 1456b.

"(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

"(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

"(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to

coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

"(4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

"(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

"(6) Preparing and implementing special area management plans for important coastal areas.

"(7) Planning for the use of ocean resources.

"(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

"(b) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal States to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

"(c) The Secretary shall evaluate and rank State proposals for funding under this section, and make funding awards based on those proposals, taking into account the criteria established by the Secretary under subsection (d). The Secretary shall ensure that funding decisions under this section take into consideration the fiscal and technical needs of proposing States and the overall merit of each proposal in terms of benefits to the public.

"(d) Within 12 months following the date of enactment of this section, and consistent with the notice and participation requirements established in section 317, the Secretary shall promulgate regulations concerning coastal zone enhancement grants that establish—

"(1) specific and detailed criteria that must be addressed by a coastal state (including the State's priority needs for improvement as identified by the Secretary after careful consultation with the State) as part of the State's development and implementation of coastal zone enhancement objectives;

"(2) administrative or procedural rules or requirements as necessary to facilitate the development and implementation of such objectives by coastal states; and

"(3) other funding award criteria as are necessary or appropriate to ensure that evaluations of proposals, and decisions to award funding, under this section are based on objective standards applied fairly and equitably to those proposals.

"(e) A State shall not be required to contribute any portion of the cost of any proposal for which funding is awarded under this section.

"(f) Beginning in fiscal year 1991, not less than 10 percent and not more than 20 percent of the amounts appropriated to implement sections 306 and 306A of this title shall be retained by the Secretary for use in implementing this section, up to a maximum of $10,000,000 annually.

"(g) If the Secretary finds that the State is not undertaking the actions committed to under the terms of the grant, the Secretary shall suspend the State's eligibility for further funding under this section for at least one year.".

SEC. 6211. TECHNICAL ASSISTANCE.

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended by inserting immediately after section 309 the following new section:

"TECHNICAL ASSISTANCE

"SEC. 310. (a) The Secretary shall conduct a program of technical assistance and management-oriented research necessary to support the development and implementation of State coastal management program amendments under section 309, and appropriate to the furtherance of international cooperative efforts and technical assistance in coastal zone management. Each department, agency, and instrumentality of the executive branch of the Federal Government may assist the Secretary, on a reimbursable basis or otherwise, in carrying out the purposes of this section, including the furnishing of information to the extent permitted by law, the transfer of personnel with their consent and without prejudice to their position and rating, and the performance of any research, study, and technical assistance which does not interfere with the performance of the primary duties of such department, agency, or instrumentality. The Secretary may enter into contracts or other arrangements with any qualified person for the purposes of carrying out this subsection. 16 USC 1456c.

"(b)(1) The Secretary shall provide for the coordination of technical assistance, studies, and research activities under this section with any other such activities that are conducted by or subject to the authority of the Secretary.

"(2) The Secretary shall make the results of research and studies conducted pursuant to this section available to coastal states in the form of technical assistance publications, workshops, or other means appropriate.

"(3) The Secretary shall consult with coastal states on a regular basis regarding the development and implementation of the program established by this section.".

SEC. 6212. COASTAL ZONE MANAGEMENT REVIEW.

(a) PUBLIC PARTICIPATION.—Subsection (b) of section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is amended to read as follows:

"(b) In evaluating a coastal State's performance, the Secretary shall conduct the evaluation in an open and public manner, and provide full opportunity for public participation, including holding public meetings in the State being evaluated and providing opportunities for the submission of written and oral comments by the public. The Secretary shall provide the public with at least 45 days' notice of such public meetings by placing a notice in the Federal Register, by publication of timely notices in newspapers of general circulation within the State being evaluated, and by communications with persons and organizations known to be interested in the evaluation. Each evaluation shall be prepared in report form and shall include written responses to the written comments received during the evaluation process. The final report of the evaluation shall be completed within 120 days after the last public meeting held in the State being evaluated. Copies of the evaluation shall be immediately provided to all persons and organizations participating in the evaluation process.".

(b) INTERIM SANCTIONS.—Subsection (c) of section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458(c)) is amended to read as follows:

"(c)(1) The Secretary may suspend payment of any portion of financial assistance extended to any coastal State under this title, and may withdraw any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to (A) the management program or a State plan developed to manage a national estuarine reserve established under section 315 of this title, or a portion of the program or plan approved by the Secretary, or (B) the terms of any grant or cooperative agreement funded under this title.

"(2) Financial assistance may not be suspended under paragraph (1) unless the Secretary provides the Governor of the coastal state with—

"(A) written specifications and a schedule for the actions that should be taken by the State in order that such suspension of financial assistance may be withdrawn; and

"(B) written specifications stating how those funds from the suspended financial assistance shall be expended by the coastal state to take the actions referred to in subparagraph (A).

"(3) The suspension of financial assistance may not last for less than 6 months or more than 36 months after the date of suspension.".

(c) FINAL SANCTIONS.—Section 312(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458(d)) is amended to read as follows:

"(d) The Secretary shall withdraw approval of the management program of any coastal state and shall withdraw financial assistance available to that State under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state has failed to take the actions referred to in subsection (c)(2)(A).".

(d) REPEAL.—Subsection (f) of section 312 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458) is repealed.

SEC. 6213. COASTAL ZONE MANAGEMENT AWARDS.

The Coastal Zone Management Act of 1972 is amended by inserting after section 313 the following:

"WALTER B. JONES EXCELLENCE IN COASTAL ZONE MANAGEMENT AWARDS

16 USC 1460.

"SEC. 313. (a) The Secretary shall, using sums in the Coastal Zone Management Fund established under section 308, implement a program to promote excellence in coastal zone management by identifying and acknowledging outstanding accomplishments in the field.

"(b) The Secretary shall elect annually—

"(1) one individual, other than an employee or officer of the Federal Government, whose contribution to the field of coastal zone management has been the most significant;

"(2) 5 local governments which have made the most progress in developing and implementing the coastal zone management principles embodied in this title; and

"(3) up to 10 graduate students whose academic study promises to contribute materially to development of new or improved approaches to coastal zone management.

"(c) In making selections under subsection (b)(2) the Secretary shall solicit nominations from the coastal states, and shall consult with experts in local government planning and land use.

"(d) In making selections under subsection (b)(3) the Secretary shall solicit nominations from coastal states and the National Sea Grant College Program.

"(e) Using sums in the Coastal Zone Management Fund established under section 308, the Secretary shall establish and execute appropriate awards, to be known as the 'Walter B. Jones Awards', including—

"(1) cash awards in an amount not to exceed $5,000 each;

"(2) research grants; and

"(3) public ceremonies to acknowledge such awards.".

SEC. 6214. NATIONAL ESTUARINE RESEARCH RESERVE SYSTEM.

(a) AMENDMENT TO SECTION HEADING.—The heading for section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) is amended by striking "RESERVE RESEARCH" and inserting in lieu thereof "RESEARCH RESERVE".

(b) GRANTS FOR ACQUISTION OF LANDS AND WATERS.—Section 315(e)(3)(A) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461(e)(3)(A)) is amended by striking "per centum" and inserting in lieu thereof "percent", and by striking "$4,000,000" and inserting in lieu thereof "$5,000,000".

(c) GRANTS FOR OPERATIONS AND EDUCATION.—Section 315(e)(3)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461(e)(3)(B)) is amended—

(1) by striking "50 per centum" and inserting in lieu thereof "70 percent"; and

(2) by inserting immediately before the period at the end the following: "; except that the amount of the financial assistance provided under paragraph (1)(A)(iii) may be up to 100 percent of any costs for activities that benefit the entire System".

(d) CLERICAL AMENDMENT.—Section 315(e)(3) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461(e)) is amended by striking "of subsection (e)" each place it appears.

SEC. 6215. AUTHORIZATION OF APPROPRIATIONS.

Section 318(a) of the Coastal Zone Management Act of 1972 (16 U.S.C 1464) is amended by striking all after "Secretary—" and inserting in lieu thereof the following:

"(1) such sums, not to exceed $750,000 for each of the fiscal years occurring during the period beginning October 1, 1990, and ending September 30, 1993, as may be necessary for grants under section 305, to remain available until expended;

"(2) such sums, not to exceed $42,000,000 for the fiscal year ending September 30, 1991, $48,890,000 for the fiscal year ending September 30, 1992, $58,870,000 for the fiscal year ending September 30, 1993, $67,930,000 for the fiscal year ending September 30, 1994, and $90,090,000 for the fiscal year ending September 30, 1995, as may be necessary for grants under sections 306, 306A, and 309, to remain available until expended;

"(3) such sums, not to exceed $6,000,000 for the fiscal year ending September 30, 1991, $6,270,000 for the fiscal year ending September 30, 1992, $6,552,000 for the fiscal year ending September 30, 1993, $6,847,000 for the fiscal year ending

September 30, 1994, and $7,155,000 for the fiscal year ending September 30, 1995, as may be necessary for grants under section 315, to remain available until expended; and

"(4) such sums, not to exceed $10,000,000 for each of the fiscal years occurring during the period beginning October 1, 1990, and ending September 30, 1995, as may be necessary for activities under section 310 and for administrative expenses incident to the administration of this title; except that expenditures for such administrative expenses shall not exceed $5,000,000 in any such fiscal year.".

SEC. 6216. CONFORMING AMENDMENTS.

(a) Section 306a(b)(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a(b)(1)) is amended by striking "306(c)(9)" and inserting in lieu thereof "306(d)(9)".

(b) Section 312(a) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1458(a)) is amended by striking "through (I)" and inserting in lieu thereof "through (K)".

16 USC 1455b.

SEC. 6217. PROTECTING COASTAL WATERS.

(a) IN GENERAL.—

(1) PROGRAM DEVELOPMENT.—Not later than 30 months after the date of the publication of final guidance under subsection (g), each State for which a management program has been approved pursuant to section 306 of the Coastal Zone Management Act of 1972 shall prepare and submit to the Secretary and the Administrator a Coastal Nonpoint Pollution Control Program for approval pursuant to this section. The purpose of the program shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities.

(2) PROGRAM COORDINATION.—A State program under this section shall be coordinated closely with State and local water quality plans and programs developed pursuant to sections 208, 303, 319, and 320 of the Federal Water Pollution Control Act (33 U.S.C. 1288, 1313, 1329, and 1330) and with State plans developed pursuant to the Coastal Zone Management Act of 1972, as amended by this Act. The program shall serve as an update and expansion of the State nonpoint source management program developed under section 319 of the Federal Water Pollution Control Act, as the program under that section relates to land and water uses affecting coastal waters.

(b) PROGRAM CONTENTS.—Each State program under this section shall provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g), to protect coastal waters generally, and shall also contain the following:

(1) IDENTIFYING LAND USES.—The identification of, and a continuing process for identifying, land uses which, individually or cumulatively, may cause or contribute significantly to a degradation of—

(A) those coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, as determined by the State pursuant to its water quality planning processes; or

(B) those coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources.

(2) IDENTIFYING CRITICAL COASTAL AREAS.—The identification of, and a continuing process for identifying, critical coastal areas adjacent to coastal waters referred to in paragraph (1)(A) and (B), within which any new land uses or substantial expansion of existing land uses shall be subject to management measures in addition to those provided for in subsection (g).

(3) MANAGEMENT MEASURES.—The implementation and continuing revision from time to time of additional management measures applicable to the land uses and areas identified pursuant to paragraphs (1) and (2) that are necessary to achieve and maintain applicable water quality standards under section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313) and protect designated uses.

(4) TECHNICAL ASSISTANCE.—The provision of technical and other assistance to local governments and the public for implementing the measures referred to in paragraph (3), which may include assistance in developing ordinances and regulations, technical guidance, and modeling to predict and assess the effectiveness of such measures, training, financial incentives, demonstration projects, and other innovations to protect coastal water quality and designated uses.

(5) PUBLIC PARTICIPATION.—Opportunities for public participation in all aspects of the program, including the use of public notices and opportunities for comment, nomination procedures, public hearings, technical and financial assistance, public education, and other means.

(6) ADMINISTRATIVE COORDINATION.—The establishment of mechanisms to improve coordination among State agencies and between State and local officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety, through the use of joint project review, memoranda of agreement, or other mechanisms.

(7) STATE COASTAL ZONE BOUNDARY MODIFICATION.—A proposal to modify the boundaries of the State coastal zone as the coastal management agency of the State determines is necessary to implement the recommendations made pursuant to subsection (e). If the coastal management agency does not have the authority to modify such boundaries, the program shall include recommendations for such modifications to the appropriate State authority.

(c) PROGRAM SUBMISSION, APPROVAL, AND IMPLEMETATION.—

(1) REVIEW AND APPROVAL.—Within 6 months after the date of submission by a State of a program pursuant to this section, the Secretary and the Administrator shall jointly review the program. The program shall be approved if—

(A) the Secretary determines that the portions of the program under the authority of the Secretary meet the requirements of this section and the Administrator concurs with that determination; and

(B) the Administrator determines that the portions of the program under the authority of the Administrator meet the requirements of this section and the Secretary concurs with that determination.

(2) IMPLEMENTATION OF APPROVED PROGRAM.—If the program of a State is approved in accordance with paragraph (1), the State shall implement the program, including the management measures included in the program pursuant to subsection (b), through—

(A) changes to the State plan for control of nonpoint source pollution approved under section 319 of the Federal Water Pollution Control Act; and

(B) changes to the State coastal zone management program developed under section 306 of the Coastal Zone Management Act of 1972, as amended by this Act.

(3) WITHHOLDING COASTAL MANAGEMENT ASSISTANCE.—If the Secretary finds that a coastal State has failed to submit an approvable program as required by this section, the Secretary shall withhold for each fiscal year until such a program is submitted a portion of grants otherwise available to the State for the fiscal year under section 306 of the Coastal Zone Management Act of 1972, as follows:

(A) 10 percent for fiscal year 1996.

(B) 15 percent for fiscal year 1997.

(C) 20 percent for fiscal year 1998.

(D) 30 percent for fiscal year 1999 and each fiscal year thereafter.

The Secretary shall make amounts withheld under this paragraph available to coastal States having programs approved under this section.

(4) WITHHOLDING WATER POLLUTION CONTROL ASSISTANCE.—If the Administrator finds that a coastal State has failed to submit an approvable program as required by this section, the Administrator shall withhold from grants available to the State under section 319 of the Federal Water Pollution Control Act, for each fiscal year until such a program is submitted, an amount equal to a percentage of the grants awarded to the State for the preceding fiscal year under that section, as follows:

(A) For fiscal year 1996, 10 percent of the amount awarded for fiscal year 1995.

(B) For fiscal year 1997, 15 percent of the amount awarded for fiscal year 1996.

(C) For fiscal year 1998, 20 percent of the amount awarded for fiscal year 1997.

(D) For fiscal year 1999 and each fiscal year thereafter, 30 percent of the amount awarded for fiscal year 1998 or other preceding fiscal year.

The Administrator shall make amounts withheld under this paragraph available to States having programs approved pursuant to this subsection.

(d) TECHNICAL ASSISTANCE.—The Secretary and the Administrator shall provide technical assistance to coastal States and local governments in developing and implementing programs under this section. Such assistance shall include—

(1) methods for assessing water quality impacts associated with coastal land uses;

(2) methods for assessing the cumulative water quality effects of coastal development;

(3) maintaining and from time to time revising an inventory of model ordinances, and providing other assistance to coastal

States and local governments in identifying, developing, and implementing pollution control measures; and

(4) methods to predict and assess the effects of coastal land use management measures on coastal water quality and designated uses.

(e) INLAND COASTAL ZONE BOUNDARIES.—

(1) REVIEW.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall, within 18 months after the effective date of this title, review the inland coastal zone boundary of each coastal State program which has been approved or is proposed for approval under section 306 of the Coastal Zone Management Act of 1972, and evaluate whether the State's coastal zone boundary extends inland to the extent necessary to control the land and water uses that have a significant impact on coastal waters of the State.

(2) RECOMMENDATION.—If the Secretary, in consultation with the Administrator, finds that modifications to the inland boundaries of a State's coastal zone are necessary for that State to more effectively manage land and water uses to protect coastal waters, the Secretary, in consultation with the Administrator, shall recommend appropriate modifications in writing to the affected State.

(f) FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—Upon request of a State having a program approved under section 306 of the Coastal Zone Management Act of 1972, the Secretary, in consultation with the Administrator, may provide grants to the State for use for developing a State program under this section.

(2) AMOUNT.—The total amount of grants to a State under this subsection shall not exceed 50 percent of the total cost to the State of developing a program under this section.

(3) STATE SHARE.—The State share of the cost of an activity carried out with a grant under this subsection shall be paid from amounts from non-Federal sources.

(4) ALLOCATION.—Amounts available for grants under this subsection shall be allocated among States in accordance with regulations issued pursuant to section 306(c) of the Coastal Zone Management Act of 1972, except that the Secretary may use not more than 25 percent of amounts available for such grants to assist States which the Secretary, in consultation with the Administrator, determines are making exemplary progress in preparing a State program under this section or have extreme needs with respect to coastal water quality.

(g) GUIDANCE FOR COASTAL NONPOINT SOURCE POLLUTION CONTROL.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary and the Director of the United States Fish and Wildlife Service and other Federal agencies, shall publish (and periodically revise thereafter) guidance for specifying management measures for sources of nonpoint pollution in coastal waters.

(2) CONTENT.—Guidance under this subsection shall include, at a minimum—

(A) a description of a range of methods, measures, or practices, including structural and nonstructural controls

and operation and maintenance procedures, that constitute each measure;

(B) a description of the categories and subcategories of activities and locations for which each measure may be suitable;

(C) an identification of the individual pollutants or categories or classes of pollutants that may be controlled by the measures and the water quality effects of the measures;

(D) quantitative estimates of the pollution reduction effects and costs of the measures;

(E) a description of the factors which should be taken into account in adapting the measures to specific sites or locations; and

(F) any necessary monitoring techniques to accompany the measures to assess over time the success of the measures in reducing pollution loads and improving water quality.

(3) PUBLICATION.—The Administrator, in consultation with the Secretary, shall publish—

(A) proposed guidance pursuant to this subsection not later than 6 months after the date of the enactment of this Act; and

(B) final guidance pursuant to this subsection not later than 18 months after such effective date.

(4) NOTICE AND COMMENT.—The Administrator shall provide to coastal States and other interested persons an opportunity to provide written comments on proposed guidance under this subsection.

(5) MANAGEMENT MEASURES.—For purposes of this subsection, the term "management measures" means economically achievable measures for the control of the addition of pollutants from existing and new categories and classes of nonpoint sources of pollution, which reflect the greatest degree of pollutant reduction achievable through the application of the best available nonpoint pollution control practices, technologies, processes, siting criteria, operating methods, or other alternatives.

(h) AUTHORIZATIONS OF APPROPRIATIONS.—

(1) ADMINISTRATOR.—There is authorized to be appropriated to the Administrator for use for carrying out this section not more than $1,000,000 for each of fiscal years 1992, 1993, and 1994.

(2) SECRETARY.—(A) Of amounts appropriated to the Secretary for a fiscal year under section 318(a)(4) of the Coastal Zone Management Act of 1972, as amended by this Act, not more than $1,000,000 shall be available for use by the Secretary for carrying out this section for that fiscal year, other than for providing in the form of grants under subsection (f).

(B) There is authorized to be appropriated to the Secretary for use for providing in the form of grants under subsection (f) not more than—

(i) $6,000,000 for fiscal year 1992;
(ii) $12,000,000 for fiscal year 1993;
(iii) $12,000,000 for fiscal year 1994; and
(iv) $12,000,000 for fiscal year 1995.

(i) DEFINITIONS.—In this section—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "coastal State" has the meaning given the term "coastal state" under section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453);

(3) each of the terms "coastal waters", and "coastal zone" has the meaning that term has in the Coastal Management Act of 1972;

(4) the term "coastal management agency" means a State agency designated pursuant to section 306(d)(6) of the Coastal Zone Management Act of 1972;

(5) the term "land use" includes a use of waters adjacent to coastal waters; and

(6) the term "Secretary" means the Secretary of Commerce.

Subtitle D—Extension of Superfund for 3 Years

SEC. 6301. 3-YEAR EXTENSION OF COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980.

Section 111 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9611) is amended—

(1) by inserting after "Reauthorization Act of 1986," in subsection (a) the following: "and not more than $5,100,000,000 for the period commencing October 1, 1991, and ending September 30, 1994,";

(2) by striking "5-fiscal-year period" in subsection (c)(11) and inserting "8-fiscal year period";

(3) by striking "and 1991" in subsection (c)(12) and inserting "1991, 1992, 1993, and 1994";

(4) by striking "1990 and 1991" in subsection (m) and inserting "1990, 1991, 1992, 1993, and 1994";

(5) by striking "and 1991" in subsection (n)(1) and inserting "1991, 1992, 1993, and 1994";

(6) by striking subsection (n)(2)(E) and inserting the following new subparagraph:

"(E) For each of the fiscal years 1991, 1992, 1993, and 1994, $35,000,000.";

(7) by striking "and 1991" in subsection (n)(3) and inserting "1991, 1992, 1993, and 1994"; and

(8) by inserting after subparagraph (E) of subsection (p)(1) the following new subparagraphs:

"(F) For fiscal year 1992, $212,500,000.

"(G) For fiscal year 1993, $212,500,000.

"(H) For fiscal year 1994, $212,500,000.".

Subtitle E—Shale Oil Contract Modification

SEC. 6401. SHALE OIL CONTRACT MODIFICATION.

Section 7404(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by adding at the end the following sentence: "The Secretary of the Treasury shall have the authority to negotiate and execute agreements modifying an existing contract relating to the production of synthetic crude oil from oil shale, entered into under the Defense Production Act Amendments of 1980 and subsequently transferred to the Secretary

42 USC 8791 note.

of the Treasury for administration, provided the terms and conditions of any modification(s) are revenue neutral or result in a fiscal savings to the United States Government, and in no event would increase the financial exposure of the United States Government under the contract: *Provided, however,* That the Secretary of the Treasury shall have no authority to increase the total amount of funds originally authorized for the existing contract: *And provided further,* That the Secretary shall have no authority to negotiate and execute any agreement modifying the existing contract if such modification(s) would increase or accelerate the financial support per unit for the synthetic fuel to be produced under the contract.".

Subtitle F—Environmental Protection Agency Fees

42 USC 4370c.

SEC. 6501. ENVIRONMENTAL PROTECTION AGENCY FEES.

(a) ASSESSMENT AND COLLECTION.—The Administrator of the Environmental Protection Agency shall, by regulation, assess and collect fees and charges for services and activities carried out pursuant to laws administered by the Environmental Protection Agency.

(b) AMOUNT OF FEES AND CHARGES.—Fees and charges assessed pursuant to this section shall be in such amounts as may be necessary to ensure that the aggregate amount of fees and charges collected pursuant to this section, in excess of the amount of fees and charges collected under current law—

(1) in fiscal year 1991, is not less than $28,000,000; and

(2) in each of fiscal years 1992, 1993, 1994, and 1995, is not less than $38,000,000.

(c) LIMITATION ON FEES AND CHARGES.—(1) The maximum aggregate amount of fees and charges in excess of the amounts being collected under current law which may be assessed and collected pursuant to this section in a fiscal year—

(A) for services and activities carried out pursuant ot [69] the Federal Water Pollution Control Act is $10,000,000; and

(B) for services and activities in programs within the jurisdiction of the House Committee on Energy and Commerce and administered by the Environmental Protection Agency through the Administrator, shall be limited to such sums collected as of the date of enactment of this Act pursuant to sections 26(b) and 305(e)(2) of the Toxic Substances Control Act, and such sums specifically authorized by the Clean Air Act Amendments of 1990.

(2) Any remaining amounts required to be collected under this section shall be collected from services and programs administered by the Environmental Protection Agency other than those specified in subparagraphs (A) and (B) of paragraph (1).

(d) RULE OF CONSTRUCTION.—Nothing in this section increases or diminishes the authority of the Administrator to promulgate regulations pursuant to the Independent Office Appropriations Act (31 U.S.C. 9701).

(e) USES OF FEES.—Fees and charges collected pursuant to this section shall be deposited into a special account for environmental services in the Treasury of the United States. Subject to appropriation Acts, such funds shall be available to the Environmental Protection Agency to carry out the activities for which such fees and

[69] So in original. Probably should be "to".

charges are collected. Such funds shall remain available until expended.

SEC. 6601. SHORT TITLE.

Pollution Prevention Act of 1990. 42 USC 13101 note.

This subtitle may be cited as the "Pollution Prevention Act of 1990".

SEC. 6602. FINDINGS AND POLICY.

42 USC 13101.

(a) FINDINGS.—The Congress finds that:

(1) The United States of America annually produces millions of tons of pollution and spends tens of billions of dollars per year controlling this pollution.

(2) There are significant opportunities for industry to reduce or prevent pollution at the source through cost-effective changes in production, operation, and raw materials use. Such changes offer industry substantial savings in reduced raw material, pollution control, and liability costs as well as help protect the environment and reduce risks to worker health and safety.

(3) The opportunities for source reduction are often not realized because existing regulations, and the industrial resources they require for compliance, focus upon treatment and disposal, rather than source reduction; existing regulations do not emphasize multi-media management of pollution; and businesses need information and technical assistance to overcome institutional barriers to the adoption of source reduction practices.

(4) Source reduction is fundamentally different and more desirable than waste management and pollution control. The Environmental Protection Agency needs to address the historical lack of attention to source reduction.

(5) As a first step in preventing pollution through source reduction, the Environmental Protection Agency must establish a source reduction program which collects and disseminates information, provides financial assistance to States, and implements the other activities provided for in this subtitle.

(b) POLICY.—The Congress hereby declares it to be the national policy of the United States that pollution should be prevented or reduced at the source whenever feasible; pollution that cannot be prevented should be recycled in an environmentally safe manner, whenever feasible; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner whenever feasible; and disposal or other release into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

SEC. 6603. DEFINITIONS.

42 USC 13102.

For purposes of this subtitle—

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "Agency" means the Environmental Protection Agency.

(3) The term "toxic chemical" means any substance on the list described in section 313(c) of the Superfund Amendments and Reauthorization Act of 1986.

(4) The term "release" has the same meaning as provided by section 329(8) of the Superfund Amendments and Reauthorization Act of 1986.

(5)(A) The term "source reduction" means any practice which—

(i) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(ii) reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

The term includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(B) The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

(6) The term "multi-media" means water, air, and land.

(7) The term "SIC codes" refers to the 2-digit code numbers used for classification of economic activity in the Standard Industrial Classification Manual.

42 USC 13103.

SEC. 6604. EPA ACTIVITIES.

(a) AUTHORITIES.—The Administrator shall establish in the Agency an office to carry out the functions of the Administrator under this subtitle. The office shall be independent of the Agency's single-medium program offices but shall have the authority to review and advise such offices on their activities to promote a multimedia approach to source reduction. The office shall be under the direction of such officer of the Agency as the Administrator shall designate.

(b) FUNCTIONS.—The Administrator shall develop and implement a strategy to promote source reduction. As part of the strategy, the Administrator shall—

(1) establish standard methods of measurement of source reduction;

(2) ensure that the Agency considers the effect of its existing and proposed programs on source reduction efforts and shall review regulations of the Agency prior and subsequent to their proposal to determine their effect on source reduction;

(3) coordinate source reduction activities in each Agency Office and coordinate with appropriate offices to promote source reduction practices in other Federal agencies, and generic research and development on techniques and processes which have broad applicability;

(4) develop improved methods of coordinating, streamlining and assuring public access to data collected under Federal environmental statutes;

(5) facilitate the adoption of source reduction techniques by businesses. This strategy shall include the use of the Source Reduction Clearinghouse and State matching grants provided in this subtitle to foster the exchange of information regarding source reduction techniques, the dissemination of such information to businesses, and the provision of technical assistance to

businesses. The strategy shall also consider the capabilities of various businesses to make use of source reduction techniques;

(6) identify, where appropriate, measurable goals which reflect the policy of this subtitle, the tasks necessary to achieve the goals, dates at which the principal tasks are to be accomplished, required resources, organizational responsibilities, and the means by which progress in meeting the goals will be measured;

(8) establish an advisory panel of technical experts comprised of representatives from industry, the States, and public interest groups, to advise the Administrator on ways to improve collection and dissemination of data;

(9) establish a training program on source reduction opportunities, including workshops and guidance documents, for State and Federal permit issuance, enforcement, and inspection officials working within all agency program offices.

(10) identify and make recommendations to Congress to eliminate barriers to source reduction including the use of incentives and disincentives;

(11) identify opportunities to use Federal procurement to encourage source reduction;

(12) develop, test and disseminate model source reduction auditing procedures designed to highlight source reduction opportunities; and

(13) establish an annual award program to recognize a company or companies which operate outstanding or innovative source reduction programs.

SEC. 6605. GRANTS TO STATES FOR STATE TECHNICAL ASSISTANCE PROGRAMS. 42 USC 13104.

(a) GENERAL AUTHORITY.—The Administrator shall make matching grants to States for programs to promote the use of source reduction techniques by businesses.

(b) CRITERIA.—When evaluating the requests for grants under this section, the Administrator shall consider, among other things, whether the proposed State program would accomplish the following:

(1) Make specific technical assistance available to businesses seeking information about source reduction opportunities, including funding for experts to provide onsite technical advice to business seeking assistance and to assist in the development of source reduction plans.

(2) Target assistance to businesses for whom lack of information is an impediment to source reduction.

(3) Provide training in source reduction techniques. Such training may be provided through local engineering schools or any other appropriate means.

(c) MATCHING FUNDS.—Federal funds used in any State program under this section shall provide no more than 50 per centum of the funds made available to a State in each year of that State's participation in the program.

(d) EFFECTIVENESS.—The Administrator shall establish appropriate means for measuring the effectiveness of the State grants made under this section in promoting the use of source reduction techniques by businesses.

(e) INFORMATION.—States receiving grants under this section shall make information generated under the grants available to the Administrator.

42 USC 13105.

SEC. 6606. SOURCE REDUCTION CLEARINGHOUSE.

(a) AUTHORITY.—The Administrator shall establish a Source Reduction Clearinghouse to compile information including a computer data base which contains information on management, technical, and operational approaches to source reduction. The Administrator shall use the clearinghouse to—

(1) serve as a center for source reduction technology transfer;

(2) mount active outreach and education programs by the States to further the adoption of source reduction technologies; and

(3) collect and compile information reported by States receiving grants under section 6605 on the operation and success of State source reduction programs.

(b) PUBLIC AVAILABILITY.—The Administrator shall make available to the public such information on source reduction as is gathered pursuant to this subtitle and such other pertinent information and analysis regarding source reduction as may be available to the Administrator. The data base shall permit entry and retrieval of information to any person.

42 USC 13106.

SEC. 6607. SOURCE REDUCTION AND RECYCLING DATA COLLECTION.

(a) REPORTING REQUIREMENTS.—Each owner or operator of a facility required to file an annual toxic chemical release form under section 313 of the Superfund Amendments and Reauthorization Act of 1986 ("SARA") for any toxic chemical shall include with each such annual filing a toxic chemical source reduction and recycling report for the preceeding [70] calendar year. The toxic chemical source reduction and recycling report shall cover each toxic chemical required to be reported in the annual toxic chemical release form filed by the owner or operator under section 313(c) of that Act. This section shall take effect with the annual report filed under section 313 for the first full calendar year beginning after the enactment of this subtitle.

(b) ITEMS INCLUDED IN REPORT.—The toxic chemical source reduction and recycling report required under subsection (a) shall set forth each of the following on a facility-by-facility basis for each toxic chemical:

(1) The quantity of the chemical entering any waste stream (or otherwise released into the environment) prior to recycling, treatment, or disposal during the calendar year for which the report is filed and the percentage change from the previous year. The quantity reported shall not include any amount reported under paragraph (7). When actual measurements of the quantity of a toxic chemical entering the waste streams are not readily available, reasonable estimates should be made based on best engineering judgment.

(2) The amount of the chemical from the facility which is recycled (at the facility or elsewhere) during such calendar year, the percentage change from the previous year, and the process of recycling used.

(3) The source reduction practices used with respect to that chemical during such year at the facility. Such practices shall be reported in accordance with the following categories unless

[70] So in original. Probably should be "preceding".

the Administrator finds other categories to be more appropriate:

(A) Equipment, technology, process, or procedure modifications.

(B) Reformulation or redesign of products.

(C) Substitution of raw materials.

(D) Improvement in management, training, inventory control, materials handling, or other general operational phases of industrial facilities.

(4) The amount expected to be reported under paragraph (1) and (2) for the two calendar years immediately following the calendar year for which the report is filed. Such amount shall be expressed as a percentage change from the amount reported in paragraphs (1) and (2).

(5) A ratio of production in the reporting year to production in the previous year. The ratio should be calculated to most closely reflect all activities involving the toxic chemical. In specific industrial classifications subject to this section, where a feedstock or some variable other than production is the primary influence on waste characteristics or volumes, the report may provide an index based on that primary variable for each toxic chemical. The Administrator is encouraged to develop production indexes to accommodate individual industries for use on a voluntary basis.

(6) The techniques which were used to identify source reduction opportunities. Techniques listed should include, but are not limited to, employee recommendations, external and internal audits, participative team management, and material balance audits. Each type of source reduction listed under paragraph (3) should be associated with the techniques or multiples of techniques used to identify the source reduction technique.

(7) The amount of any toxic chemical released into the environment which resulted from a catastrophic event, remedial action, or other one-time event, and is not associated with production processess during the reporting year.

(8) The amount of the chemical from the facility which is treated (at the facility or elsewhere) during such calendar year and the percentage change from the previous year. For the first year of reporting under this subsection, comparison with the previous year is required only to the extent such information is available.

(c) SARA PROVISIONS.—The provisions of sections 322, 325(c), and 326 of the Superfund Amendments and Reauthorization Act of 1986 shall apply to the reporting requirements of this section in the same manner as to the reports required under section 313 of that Act. The Administrator may modify the form required for purposes of reporting information under section 313 of that Act to the extent he deems necessary to include the additional information required under this section.

(d) ADDITIONAL OPTIONAL INFORMATION.—Any person filing a report under this section for any year may include with the report additional information regarding source reduction, recycling, and other pollution control techniques in earlier years.

(e) AVAILABILITY OF DATA.—Subject to section 322 of the Superfund Amendments and Reauthorization Act of 1986, the Administrator shall make data collected under this section publicly

available in the same manner as the data collected under section 313 of the Superfund Amendments and Reauthorization Act of 1986.

42 USC 13107.

SEC. 6608. EPA REPORT.

(a) BIENNIAL REPORTS.—The Administrator shall provide Congress with a report within eighteen months after enactment of this subtitle and biennially thereafter, containing a detailed description of the actions taken to implement the strategy to promote source reduction developed under section 4(b) and of the results of such actions. The report shall include an assessment of the effectiveness of the clearinghouse and grant program established under this subtitle in promoting the goals of the strategy, and shall evaluate data gaps and data duplication with respect to data collected under Federal environmental statutes.

(b) SUBSEQUENT REPORTS.—Each biennial report submitted under subsection (a) after the first report shall contain each of the following:

(1) An analysis of the data collected under section 6607 on an industry-by-industry basis for not less than five SIC codes or other categories as the Administrator deems appropriate. The analysis shall begin with those SIC codes or other categories of facilities which generate the largest quantities of toxic chemical waste. The analysis shall include an evaluation of trends in source reduction by industry, firm size, production, or other useful means. Each such subsequent report shall cover five SIC codes or other categories which were not covered in a prior report until all SIC codes or other categories have been covered.

(2) An analysis of the usefulness and validity of the data collected under section 6607 for measuring trends in source reduction and the adoption of source reduction by business.

(3) Identification of regulatory and nonregulatory barriers to source reduction, and of opportunities for using existing regulatory programs, and incentives and disincentives to promote and assist source reduction.

(4) Identification of industries and pollutants that require priority assistance in multi-media source reduction [71]

(5) Recommendations as to incentives needed to encourage investment and research and development in source reduction.

(6) Identification of opportunities and development of priorities for research and development in source reduction methods and techniques.

(7) An evaluation of the cost and technical feasibility, by industry and processes, of source reduction opportunities and current activities and an identification of any industries for which there are significant barriers to source reduction with an analysis of the basis of this identification.

(8) An evaluation of methods of coordinating, streamlining, and improving public access to data collected under Federal environmental statutes.

(9) An evaluation of data gaps and data duplication with respect to data collected under Federal environmental statutes.

In the report following the first biennial report provided for under this subsection, paragraphs (3) through (9) may be included at the discretion of the Administrator.

[71] So in original. Probably should be "reduction.".

SEC. 6609. SAVINGS PROVISIONS. 42 USC 13108.

(a) Nothing in this subtitle shall be construed to modify or interfere with the implementation of title III of the Superfund Amendments and Reauthorization Act of 1986.

(b) Nothing contained in this subtitle shall be construed, interpreted or applied to supplant, displace, preempt or otherwise diminish the responsibilities and liabilities under other State or Federal law, whether statutory or common.

SEC. 6610. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13109.

There is authorized to be appropriated to the Administrator $8,000,000 for each of the fiscal years 1991, 1992 and 1993 for functions carried out under this subtitle (other than State Grants), and $8,000,000 for each of the fiscal years 1991, 1992 and 1993, for grant programs to States issued pursuant to section 6605.

TITLE VII—CIVIL SERVICE AND POSTAL SERVICE PROGRAMS

Subtitle A—Civil Service

SEC. 7001. ELIMINATION OF LUMP-SUM RETIREMENT BENEFIT.

(a) LUMP-SUM BENEFIT.—(1) Sections 8343a and 8420a of title 5, United States Code, are each amended by adding at the end the following:

"(f)(1) Notwithstanding any other provision of this section, and except as provided in paragraph (2), an alternative form of annuity under this section may not be elected if the commencement date of the annuity would be later than December 1, 1990.

"(2) Nothing in this subsection shall prevent an election from being made by any individual—

"(A) who is separated from Government service involuntarily (other than for cause on charges of misconduct or delinquency), excluding—

"(i) any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

"(ii) the Vice President;

"(iii) any individual holding a position placed in the Executive Schedule under sections 5312 through 5317;

"(iv) any individual appointed to a position by the President (or his designee) or the Vice President under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, if the maximum rate of basic pay for such position is at or above the rate for level V of the Executive Schedule;

"(v) any noncareer appointee in the Senior Executive Service or noncareer member of the Senior Foreign Service; and

"(vi) any individual holding a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(B) as to whom the application of paragraph (1) would be against equity and good conscience, due to a life-threatening affliction or other critical medical condition affecting such individual.

"(3) This subsection shall cease to be effective as of October 1, 1995.".

5 USC 8343a note.

(2) Section 4005 of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2135) is amended—

(A) in subsection (a), by striking "October 1, 1990." and inserting "December 2, 1990."; and

(B) by adding at the end the following:

"(f) CONTINUED APPLICABILITY.—The preceding provisions of this section (disregarding the provision in subsection (a) limiting this section's applicability to annuities commencing before the date specified in such provision) shall also apply in the case of any employee or Member whose election of an alternative form of annuity would not have been allowable under section 8343a(f) or 8420a(f) of title 5, United States Code (as the case may be), but for—

"(1) paragraph (2)(A) thereof; or

"(2) section 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990.".

5 USC 8343a note.

(C)(i) Section 6001(b)(2) of the Omnibus Budget Reconciliation Act of 1987 (5 U.S.C. 8343a note) and section 4005(b)(2) of the Omnibus Budget Reconciliation Act of 1989 (103 Stat. 2135) are each amended by striking "described in paragraph (1)." and inserting "on which the payment described in paragraph (1) is paid.".

5 USC 8343a note.

(ii) The amendments made by clause (i) shall not apply in any case in which the first half of the lump-sum payment involved was paid before the beginning of the 11-month period which ends on the date of the enactment of this Act.

5 USC 8343a note.

(D) Section 2 of Public Law 101-227 (103 Stat. 1943) is repealed.

(3) Section 8348(a)(1)(B) of title 5, United States Code, is amended by inserting "in administering alternative forms of annuities under sections 8343a and 8420a (and related provisions of law)," before "and in withholding".

5 USC 8343a note.

(4)(A) In applying the provisions of section 8343a(f) or 8420a(f) of title 5, United States Code (as amended by paragraph (1)) to any individual described in subparagraph (B), the reference in such provisions to "December 1, 1990" shall be deemed to read "December 1, 1991".

(B) This paragraph applies with respect to any individual who—

(i)(I) is a member of the Armed Forces of the United States who, before December 1, 1990, was called or ordered to active duty (other than for training) pursuant to section 672, 673, 673b, 674, 675, or 688 of title 10, United States Code, in connection with Operation Desert Shield; or

(II) is an employee of the Department of Defense who is certified by the Secretary of Defense to have performed, after November 30, 1990, duties essential for the support of Operation Desert Shield; and

(ii) would have been eligible to make an election under section 8343a or 8420a of title 5, United States Code (as amended by paragraph (1)) as of November 30, 1990.

(C) The Office of Personnel Management may prescribe such regulations as may be necessary to carry out this paragraph.

(b) PRIOR REFUNDS.—(1) Section 8334(d) of title 5, United States Code, is amended—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following:

"(2)(A) This paragraph applies with respect to any employee or Member who—

"(i) separates before October 1, 1990, and receives (or elects, in accordance with applicable provisions of this subchapter, to receive) a refund (described in paragraph (1)) which relates to a period of service ending before October 1, 1990;

"(ii) is entitled to an annuity under this subchapter (other than a disability annuity) which is based on service of such employee or Member, and which commences on or after December 2, 1990; and

"(iii) does not make the deposit (described in paragraph (1)) required in order to receive credit for the period of service with respect to which the refund relates.

"(B) Notwithstanding the second sentence of paragraph (1), the annuity to which an employee or Member under this paragraph is entitled shall (subject to adjustment under section 8340) be equal to an amount which, when taken together with the unpaid amount referred to in subparagraph (A)(iii), would result in the present value of the total being actuarially equivalent to the present value of the annuity which would otherwise be provided the employee or Member under this subchapter, as computed under subsections (a)-(i) and (n) of section 8339 (treating, for purposes of so computing the annuity which would otherwise be provided under this subchapter, the deposit referred to in subparagraph (A)(iii) as if it had been timely made).

"(C) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this paragraph.".

(2)(A) Section 8334 of title 5, United States Code, is amended in paragraphs (1) and (2) of subsection (e), and in subsection (h), by striking "(d)," and inserting "(d)(1),".

(B) Section 8334(f) and section 8339(i)(1) of title 5, United States Code, are amended by striking "(d)" and inserting "(d)(1)".

(C) Section 8339(e) of title 5, United States Code, is amended by striking "8334(d)" and inserting "8334(d)(1)".

(D) The second sentence of section 8342(a) of title 5, United States Code, is amended by inserting "or 8334(d)(2)" after "8343a".

(3) The amendments made by this subsection shall be effective with respect to any annuity having a commencement date later than December 1, 1990. 5 USC 8334 note.

SEC. 7002. REFORMS IN THE HEALTH BENEFITS PROGRAM.

(a) HOSPITALIZATION-COST-CONTAINMENT MEASURES.—Section 8902 of title 5, United States Code, is amended by adding at the end the following:

"(n) A contract for a plan described by section 8903 (1), (2). or (3), or section 8903a, shall require the carrier—

"(1) to implement hospitalization-cost-containment measures, such as measures—

"(A) for verifying the medical necessity of any proposed treatment or surgery;

"(B) for determining the feasibility or appropriateness of providing services on an outpatient rather than on an inpatient basis;

"(C) for determining the appropriate length of stay (through concurrent review or otherwise) in cases involving inpatient care; and

"(D) involving case management, if the circumstances so warrant; and

"(2) to establish incentives to encourage compliance with measures under paragraph (1).".

(b) IMPROVED CASH MANAGEMENT.—Section 8909(a) of title 5, United States Code, is amended by adding at the end (as a flush left sentence) the following:

"Payments from the Fund to a plan participating in a letter-of-credit arrangement under this chapter shall, in connection with any payment or reimbursement to be made by such plan for a health service or supply, be made, to the maximum extent practicable, on a checks-presented basis (as defined under regulations of the Department of the Treasury).".

(c) EXEMPTION FROM STATE PREMIUM TAXES.—Section 8909 of title 5, United States Code, is amended by adding at the end the following:

"(f)(1) No tax, fee, or other monetary payment may be imposed, directly or indirectly, on a carrier or an underwriting or plan administration subcontractor of an approved health benefits plan by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, with respect to any payment made from the Fund.

"(2) Paragraph (1) shall not be construed to exempt any carrier or underwriting or plan administration subcontractor of an approved health benefits plan from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by such carrier or underwriting or plan administration subcontractor from business conducted under this chapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(d) IMPROVED COORDINATION WITH MEDICARE.—Section 8910 of title 5, United States Code, is amended by adding at the end the following:

"(d) The Office, in consultation with the Department of Health and Human Services, shall develop and implement a system through which the carrier for an approved health benefits plan described by section 8903 or 8903a will be able to identify those annuitants or other individuals covered by such plan who are entitled to benefits under part A or B of title XVIII of the Social Security Act in order to ensure that payments under coordination of benefits with Medicare do not exceed the statutory maximums which physicians may charge Medicare enrollees.".

(e) AMENDMENTS TO PUBLIC LAW 101-76.—Public Law 101-76 (103 Stat. 556) is amended— 5 USC 8906 note.

(1) in subsection (a)(1), by striking "contract year 1990 or 1991," and inserting "each of contract years 1990 through 1993 (inclusive),"; and

(2) in subsection (c), by striking "contract year 1991," and inserting "a contract year (or any period thereafter),".

(f) APPLICATION OF CERTAIN MEDICARE LIMITS TO FEDERAL EMPLOYEE HEALTH BENEFITS ENROLLEES AGE 65 OR OLDER.—(1) Section 8904 of title 5, United States Code, is amended by inserting "(a)" before the first sentence and by adding at the end of the section the following new subsection:

"(b)(1) A plan, other than a prepayment plan described in section 8903(4) of this title, may not provide benefits, in the case of any retired enrolled individual who is age 65 or older and is not covered to receive Medicare hospital and insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), to pay

a charge imposed by any health care provider, for inpatient hospital services which are covered for purposes of benefit payments under this chapter and part A of title XVIII of the Social Security Act, to the extent that such charge exceeds applicable limitations on hospital charges established for Medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww). Hospital providers who have in force participation agreements with the Secretary of Health and Human Services consistent with sections 1814(a) and 1866 of the Social Security Act (42 U.S.C. 1395f(a) and 1395cc), whereby the participating provider accepts Medicare benefits as full payment for covered items and services after applicable patient copayments under section 1813 of such Act (42 U.S.C. 1395e) have been satisfied, shall accept equivalent benefit payments and enrollee copayments under this chapter as full payment for services described in the preceding sentence. The Office of Personnel Management shall notify the Secretary of Health and Human Services if a hospital is found to knowingly and willfully violate this subsection on a repeated basis and the Secretary may invoke appropriate sanctions in accordance with section 1866(b)(2) of the Social Security Act (42 U.S.C. 1395cc(b)(2)) and applicable regulations.

"(2) Notwithstanding any other provision of law, the Secretary of Health and Human Services and the Director of the Office of Personnel Management, and their agents, shall exchange any information necessary to implement this subsection.

"(3)(A) Not later than December 1, 1991, and periodically thereafter, the Secretary of Health and Human Services (in consultation with the Director of the Office of Personnel Management) shall supply to carriers of plans described in paragraphs (1) through (3) of section 8903 the Medicare program information necessary for them to comply with paragraph (1).

"(B) For purposes of this paragraph, the term 'Medicare program information' includes the limitations on hospital charges established for Medicare purposes under section 1886 of the Social Security Act (42 U.S.C. 1395ww) and the identity of hospitals which have in force agreements with the Secretary of Health and Human Services consistent with section 1814(a) and 1866 of the Social Security Act (42 U.S.C. 1395f(a) and 1395cc).".

(2) The amendments made by this subsection shall apply with respect to contract years beginning on or after January 1, 1992. 5 USC 8904 note.

(g) EFFECTIVE DATE.—Except as provided in subsection (f), the amendments made by this section shall apply with respect to contract years beginning on or after January 1, 1991. 5 USC 8902 note.

Subtitle B—Postal Service

SEC. 7101. FUNDING OF COLAS FOR POSTAL SERVICE ANNUITANTS AND SURVIVOR ANNUITANTS.

(a) EXPANDED SCOPE OF COVERAGE; CHANGE IN PRORATION RULE.—Section 8348(m)(1) of title 5, United States Code, is amended by striking "October 1, 1986," each place it appears and inserting "July 1, 1971,".

(b) REPEAL OF PROVISION RELATING TO CERTAIN EARLIER COLAS.—Section 4002(b) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101-239; 103 Stat. 2134) is repealed. 5 USC 8348 note.

(c) PROVISION RELATING TO PRE-1991 COLAS.—(1) For the purpose of this subsection— 5 USC 8348 note.

(A) the term "pre-1991 COLA" means a cost-of-living adjustment which took effect in any of the fiscal years specified in subparagraphs (A)–(N) of paragraph (3);

(B) the term "post-1990 fiscal year" means a fiscal year after fiscal year 1990; and

(C) the term "pre-1991 fiscal year" means a fiscal year before fiscal year 1991.

(2) Notwithstanding any other provision of law, an installment (equal to an amount determined by reference to paragraph (3)) shall be payable by the United States Postal Service in a post-1990 fiscal year, with respect to a pre-1991 COLA, if such fiscal year occurs within the 15-fiscal-year period which begins with the first fiscal year in which that COLA took effect, subject to section 7104.

(3) Notwithstanding any provision of section 8348(m) of title 5, United States Code, or any determination thereunder (including any made under such provision, as in effect before October 1, 1990), the estimated increase in the unfunded liability referred to in paragraph (1) of such section 8348(m) shall be payable, in accordance with this subsection, based on annual installments equal to—

(A) $6,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1977;

(B) $7,000,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1978;

(C) $10,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1979;

(D) $20,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1980;

(E) $26,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1981;

(F) $28,100,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1982;

(G) $30,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1983;

(H) $5,700,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1984;

(I) $19,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1985;

(J) $7,400,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1986;

(K) $8,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1987;

(L) $36,800,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1988;

(M) $51,600,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1989; and

(N) $63,500,000 each, with respect to the cost-of-living adjustment which took effect in fiscal year 1990.

(4) Any installment payable under this subsection shall be paid by the Postal Service at the same time as when it pays any installments due in that same fiscal year under section 8348(m) of title 5, United States Code.

(5) An installment payable under this subsection in a fiscal year, with respect to a pre-1991 COLA, shall be in lieu of any other installment for which the Postal Service might otherwise be liable in such fiscal year, with respect to such COLA, under section 8348(m) of title 5, United States Code.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on October 1, 1990. 5 USC 8348 note.

SEC. 7102. FUNDING OF HEALTH BENEFITS FOR POSTAL SERVICE RETIREES AND SURVIVORS OF POSTAL SERVICE EMPLOYEES OR RETIREES.

(a) EXPANDED SCOPE OF COVERAGE.—Section 8906(g)(2) of title 5, United States Code, is amended by striking "October 1, 1986," each place it appears and inserting "July 1, 1971,".

(b) CONTRIBUTIONS TO BE PRORATED.—Section 8906(g)(2) of title 5, United States Code, as amended by subsection (a), is further amended—

(1) by striking "(2)" and inserting "(2)(A)"; and

(2) by adding at the end the following:

"(B) In determining any amount for which the Postal Service is liable under this paragraph, the amount of the liability shall be prorated to reflect only that portion of total service which is attributable to civilian service performed (by the former postal employee or by the deceased individual referred to in subparagraph (A), as the case may be) after June 30, 1971, as estimated by the Office of Personnel Management.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1990, and shall apply with respect to amounts payable for periods beginning on or after that date. 5 USC 8906 note.

SEC. 7103. PAYMENTS RELATING TO AMOUNTS WHICH WOULD HAVE BEEN DUE BEFORE FISCAL YEAR 1987. 5 USC 8348 note.

(a) DEFINITION.—For the purpose of this section, the term "pre-1987 fiscal year" means a fiscal year before fiscal year 1987.

(b) FOR PAST RETIREMENT COLAS.—As payment for any amounts which would have been due in any pre-1987 fiscal year under the provisions of section 8348(m) of title 5, United States Code (as amended by section 7101) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Civil Service Retirement and Disability Fund—

(1) $216,000,000, not later than September 30, 1991;

(2) $266,000,000, not later than September 30, 1992;

(3) $316,000,000, not later than September 30, 1993;

(4) $416,000,000, not later than September 30, 1994; and

(5) $471,000,000, not later than September 30, 1995.

(c) FOR PAST HEALTH BENEFITS.—As payment for any amounts which would, for any period ending before the start of fiscal year 1987, have been payable under the provisions of section 8906(g)(2) of title 5, United States Code (as amended by section 7102) if such provisions had been in effect as of July 1, 1971, the United States Postal Service shall pay into the Employees Health Benefits Fund—

(1) $56,000,000, not later than September 30, 1991;

(2) $47,000,000, not later than September 30, 1992;

(3) $62,000,000, not later than September 30, 1993;

(4) $56,000,000, not later than September 30, 1994; and

(5) $234,000,000, not later than September 30, 1995.

Subtitle C—Miscellaneous

Computer Matching and Privacy Protection Amendments of 1990.
5 USC 552a note.

SEC. 7201. COMPUTER MATCHING OF FEDERAL BENEFITS INFORMATION AND PRIVACY PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Computer Matching and Privacy Protection Amendments of 1990".

(b) VERIFICATION REQUIREMENTS AMENDMENT.—(1) Subsection (p) of section 552a of title 5, United States Code, is amended to read as follows:

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in a matching program, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual, as a result of information produced by such matching program, until—

"(A)(i) the agency has independently verified the information; or

"(ii) the Data Integrity Board of the agency, or in the case of a non-Federal agency the Data Integrity Board of the source agency, determines in accordance with guidance issued by the Director of the Office of Management and Budget that—

"(I) the information is limited to identification and amount of benefits paid by the source agency under a Federal benefit program; and

"(II) there is a high degree of confidence that the information provided to the recipient agency is accurate;

"(B) the individual receives a notice from the agency containing a statement of its findings and informing the individual of the opportunity to contest such findings; and

"(C)(i) the expiration of any time period established for the program by statute or regulation for the individual to respond to that notice; or

"(ii) in the case of a program for which no such period is established, the end of the 30-day period beginning on the date on which notice under subparagraph (B) is mailed or otherwise provided to the individual.

"(2) Independent verification referred to in paragraph (1) requires investigation and confirmation of specific information relating to an individual that is used as a basis for an adverse action against the individual, including where applicable investigation and confirmation of—

"(A) the amount of any asset or income involved;

"(B) whether such individual actually has or had access to such asset or income for such individual's own use; and

"(C) the period or periods when the individual actually had such asset or income.

"(3) Notwithstanding paragraph (1), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during any notice period required by such paragraph.".

5 USC 552a note.

(2) Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall

publish guidance under subsection (p)(1)(A)(ii) of section 552a of title 5, United States Code, as amended by this Act. 5 USC 552a note.

(c) LIMITATION ON APPLICATION OF VERIFICATION REQUIREMENT.—Section 552a(p)(1)(A)(ii)(II) of title 5, United States Code, as amended by section 2, shall not apply to a program referred to in paragraph (1), (2), or (4) of section 1137(b) of the Social Security Act (42 U.S.C. 1320b-7), until the earlier of—

(1) the date on which the Data Integrity Board of the Federal agency which administers that program determines that there is not a high degree of confidence that information provided by that agency under Federal matching programs is accurate; or

(2) 30 days after the date of publication of guidance under section 2(b).

SEC. 7202. PORTABILITY OF BENEFITS FOR EMPLOYEES CONVERTING TO THE CIVIL SERVICE SYSTEM.

Portability of Benefits for Nonappropriated Fund Employees Act of 1990. 5 USC 2101 note.

(a) SHORT TITLE.—This section may be cited as the "Portability of Benefits for Nonappropriated Fund Employees Act of 1990".

(b) DEFINITIONAL AMENDMENT.—Section 2105(c) of title 5, United States Code, is amended—

(1) by amending paragraph (1) to read as follows:

"(1) laws administered by the Office of Personnel Management, except—

"(A) section 7204;

"(B) as otherwise specifically provided in this title;

"(C) the Fair Labor Standards Act of 1938; or

"(D) for the purpose of entering into an interchange agreement to provide for the noncompetitive movement of employees between such instrumentalities and the competitive service; or"; and

(2) in paragraph (2), by striking "chapter 84" and inserting "chapter 84 (except to the extent specifically provided therein)".

(c) AMENDMENT RELATING TO ORDER OF RETENTION.—Section 3502(a)(C) of title 5, United States Code, is amended to read as follows:

"(C) is entitled to credit for—

"(i) service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(ii) service rendered as an employee described in section 2105(c) if such employee moves or has moved, on or after January 1, 1987, without a break in service of more than 3 days, from a position in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

(d) AMENDMENT RELATING TO PAY ON A CHANGE OF POSITION.—Section 5334 of title 5, United States Code, is amended by adding at the end the following:

"(g) An employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) who moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, may have such

employee's initial rate of basic pay fixed at the minimum rate of the appropriate grade or at any step of such grade that does not exceed the highest previous rate of basic pay received by that employee during the employee's service described in section 2105(c). In the case of a nonappropriated fund employee who is moved involuntarily from such nonappropriated fund instrumentality without a break in service of more than 3 days and without substantial change in duties to a position that is subject to this subchapter, the employee's pay shall be set at a rate (not above the maximum for the grade, except as may be provided for under section 5365) that is not less than the employee's rate of basic pay under the nonappropriated fund instrumentality immediately prior to so moving.".

(e) AMENDMENT RELATING TO PERIODIC STEP INCREASES.—Section 5335 of title 5, United States Code, is amended by adding at the end the following:

"(g) In computing periods of service under subsection (a) in the case of an employee who moves without a break in service of more than 3 days from a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) to a position under the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter, service under such instrumentality shall, under regulations prescribed by the Office, be deemed service in a position subject to this subchapter.".

(f) AMENDMENT RELATING TO GRADE AND PAY RETENTION.—Section 5365(b) of title 5, United States Code, is amended by adding at the end, as a flush left sentence, the following:

"Individuals with respect to whom authority under paragraph (2) may be exercised include individuals who are moved without a break in service of more than 3 days from employment in nonappropriated fund instrumentalities of the Department of Defense or the Coast Guard described in section 2105(c) to employment in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c).".

(g) AMENDMENT RELATING TO PAY FOR ACCUMULATED AND ACCRUED LEAVE.—Section 5551(a) of title 5, United States Code, is amended by adding at the end the following new sentence: "For the purposes of this subsection, movement to employment described in section 2105(c) shall not be deemed separation from the service in the case of an employee whose annual leave is transferred under section 6308(b).".

(h) AMENDMENTS RELATING TO TRANSFERS BETWEEN POSITIONS UNDER DIFFERENT LEAVE SYSTEMS.—Section 6308 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "The annual"; and

(2) by adding at the end the following:

"(b) The annual leave, sick leave, and home leave to the credit of a nonappropriated fund employee of the Department of Defense or the Coast Guard described in section 2105(c) who moves without a break in service of more than 3 days to a position in the Department of Defense or the Coast Guard, respectively, that is subject to this subchapter shall be transferred to the employee's credit. The annual leave, sick leave, and home leave to the credit of an employee of the Department of Defense or the Coast Guard who is subject to this subchapter and who moves without a break in service of more than 3 days to a position under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively,

described in section 2105(c), shall be transferred to the employee's credit under the nonappropriated fund instrumentality. The Secretary of Defense or the Secretary of Transportation, as appropriate, may provide for a transfer of funds in an amount equal to the value of the transferred annual leave to compensate the gaining entity for the cost of a transfer of annual leave under this subsection.".

(i) AMENDMENTS TO INCLUDE ADDITIONAL SERVICE FOR LEAVE ACCRUAL PURPOSES.—(1) Section 6312 is amended to read as follows:

"§ 6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees

"(a) Credit shall be given in determining years of service for the purpose of section 6303(a) for—

"(1) service as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Allotment Act or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act; and

"(2) service under a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c) by an employee who has moved without a break in service of more than 3 days to a position subject to this subchapter in the Department of Defense or the Coast Guard, respectively.

"(b) The provisions of subsections (a) and (b) of section 6308 for transfer of leave between leave systems shall apply to the leave systems established for such county office employees and employees of such Department of Defense and Coast Guard nonappropriated fund instrumentalities, respectively.".

(2) The item relating to section 6312 in the table of sections for chapter 63 of title 5, United States Code, is amended to read as follows:

"6312. Accrual and accumulation for former ASCS county office and nonappropriated fund employees.".

(j) AMENDMENTS RELATING TO THE CIVIL SERVICE RETIREMENT SYSTEM.—(1) Section 8331 of title 5, United States Code, is amended—

(A) by striking "and" at the end of paragraph (1)(J);

(B) by inserting "and" after the semicolon at the end of paragraph (1)(K);

(C) by inserting after paragraph (1)(K) the following:

"(L) an employee described in section 2105(c) who has made an election under section 8347(p)(1) to remain covered under this subchapter;";

(D) in paragraph (1)(ii), by striking the matter following "Government employees" through the semicolon and inserting "(besides any employee excluded by clause (x), but including any employee who has made an election under section 8347(p)(2) to remain covered by a retirement system established for employees described in section 2105(c));"; and

(E) in paragraph (7), by striking "and Gallaudet College;" and inserting "Gallaudet College, and, in the case of an employee described in paragraph (1)(L), a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(2) Section 8347 of title 5, United States Code, is amended by adding at the end the following:

"(p)(1) Under regulations prescribed by the Office of Personnel Management, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this subchapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this subchapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office of Personnel Management, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described in section 2105(c); and

"(D) is excluded from coverage under chapter 84 by section 8402(b),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined in section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described in section 2105(c) rather than be subject to this subchapter.".

(k) AMENDMENTS RELATING TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—(1) Section 8401 of title 5, United States Code, is amended—

(A) in paragraph (11)—

(i) by striking "and" at the end of subparagraph (A);

(ii) by inserting "and" after the semicolon at the end of subparagraph (B);

(iii) by inserting after subparagraph (B) the following:

"(C) an employee described in section 2105(c) who has made an election under section 8461(n)(1) to remain covered under this chapter;";

(iv) by striking "or" at the end of clause (ii);

(v) by inserting "or" after the semicolon at the end of clause (iii); and

(vi) by inserting after clause (iii) the following:

"(iv) an employee who has made an election under section 8461(n)(2) to remain covered by a retirement system established for employees described in section 2105(c);"; and

(B) in paragraph (15), by striking "and Gallaudet College;" and inserting ", Gallaudet College, and, in the case of an employee described in paragraph (11)(C), a nonappropriated

fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c);".

(2) Section 8461 of title 5, United States Code, is amended by adding at the end the following:

"(n)(1) Under regulations prescribed by the Office, an employee of the Department of Defense or the Coast Guard who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) has 5 or more years of civilian service creditable under this chapter; and

"(C) moves, without a break in service of more than 3 days, to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, described in section 2105(c),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered as an employee under this chapter during any employment described in section 2105(c) after such move.

"(2) Under regulations prescribed by the Office, an employee of a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard described in section 2105(c), who—

"(A) has not previously made or had an opportunity to make an election under this subsection;

"(B) is a vested participant in a retirement system established for employees described in section 2105(c), as the term 'vested participant' is defined by such system;

"(C) moves, without a break in service of more than 3 days, to a position in the Department of Defense or the Coast Guard, respectively, that is not described by section 2105(c); and

"(D) is not eligible to make an election under section 8347(p),

shall be given the opportunity to elect irrevocably, within 30 days after such move, to remain covered, during any subsequent employment as an employee as defined by section 2105(a) or section 2105(c), by the retirement system applicable to such employee's current or most recent employment described by section 2105(c) rather than be subject to this chapter.".

(l) AMENDMENTS RELATING TO HEALTH BENEFITS.—Section 8901(3)(A) of title 5, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by inserting "or" after the semicolon at the end of clause (iii); and

(3) by inserting after clause (iii) the following:

"(iv) on an immediate annuity under a retirement system established for employees described in section 2105(c), in the case of an individual who elected under section 8347(p)(2) or 8461(n)(2) to remain subject to such a system;".

(m) APPLICABILITY.—(1) The amendments made by this section shall apply with respect to any individual who, on or after January 1, 1987— 5 USC 2105 note.

(A) moves without a break in service of more than 3 days from employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard that is described in section 2105(c) of title 5, United States Code, to employment in the Department of Defense or the Coast Guard, respectively, that is not described in such section 2105(c); or

(B) moves without a break in service from employment in the Department of Defense or the Coast Guard that is not described in such section 2105(c) to employment in a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, respectively, that is described in such section 2105(c).

(2) The Secretary of Defense, the Secretary of Transportation, the Director of the Office of Personnel Management, and the Executive Director of the Federal Retirement Thrift Investment Board, as applicable, shall take such actions as may be practicable to ensure that each individual who has moved as described under paragraph (1) on or after January 1, 1987, and before the date of enactment of this Act, receives the benefit of the amendments made by this section as if such amendments had been in effect at the time such individual so moved. Each such individual who wishes to make an election of retirement coverage under the amendments made by subsection (j) or (k) of this section shall complete such election within 180 days after the date of enactment of this Act.

5 USC 2105 note.

(n) CLARIFYING PROVISIONS RELATING TO TREATMENT OF INDIVIDUALS ELECTING TO REMAIN SUBJECT TO THEIR FORMER RETIREMENT SYSTEM.—(1) For the purpose of this section, the term "nonappropriated fund instrumentality" means a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard, described in section 2105(c) of title 5, United States Code.

(2)(A) If an individual makes an election under section 8347(p)(1) of title 5, United States Code, to remain covered by subchapter III of chapter 83 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and contribute to the Thrift Savings Fund such sums as are required for such individual in accordance with section 8351 of such title.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8347(p)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with subsection (m)(2), make any election described in section 8432(b)(1)(A) of such title.

(3)(A) If an individual makes an election under section 8461(n)(1) of title 5, United States Code, to remain covered by chapter 84 of such title, any nonappropriated fund instrumentality thereafter employing such individual shall deduct from such individual's pay and shall contribute to the Thrift Savings Fund the funds deducted, together with such other sums as are required for such individual under subchapter III of such chapter.

(B) Notwithstanding subsection (a) or (b) of section 8432 of title 5, United States Code, any individual who, as of the date of enactment of this Act, becomes eligible to make an election under section 8461(n)(1) of such title may, within 30 days after such individual makes an election thereunder in accordance with subsection (m)(2), make any election described in section 8432(b)(1)(A) of such title.

(4) If an individual makes an election under section 8347(p)(2) or 8461(n)(2) of title 5, United States Code, to remain covered by a retirement system established for employees described in section 2105(c) of such title, any Government agency thereafter employing such individual shall, in lieu of any deductions or contributions for which it would otherwise be responsible with respect to such individual under chapter 83 or 84 of such title, make such deductions from pay and such contributions as would be required (under the retire-

ment system for nonappropriated fund employees involved) if it were a nonappropriated fund instrumentality. Any such deductions and contributions shall be remitted to the Department of Defense or the Coast Guard, as applicable, for transmission to the appropriate retirement system.

Subtitle D—Coordination

SEC. 7301. COORDINATION. 5 USC 2101 note.

For purposes of section 202 of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, this title and the amendments made by this title shall be considered an exception under subsection (b) of such section.

TITLE VIII—VETERANS' PROGRAMS

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Subtitle A—Compensation, DIC, and Pension

SEC. 8001. LIMITATION ON COMPENSATION BENEFITS FOR CERTAIN INCOMPETENT VETERANS.

(a) IN GENERAL.—(1) Chapter 55 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3205. Limitation on compensation payments for certain incompetent veterans

"(a) In any case in which a veteran having neither spouse, child, nor dependent parent is rated by the Secretary in accordance with regulations as being incompetent and the value of the veteran's estate (excluding the value of the veteran's home) exceeds $25,000, further payment of compensation to which the veteran would otherwise be entitled may not be made until the value of such estate is reduced to less than $10,000.

"(b)(1) Subject to paragraph (2) of this subsection, if a veteran denied payment of compensation pursuant to subsection (a) is subsequently rated as being competent, the Secretary shall pay to the veteran a lump sum equal to the total of the compensation which was denied the veteran pursuant to such paragraph. The Secretary shall make the lump-sum payment as soon as practicable after the end of the 90-day period beginning on the date of the competency rating.

"(2) A lump-sum payment may not be made under paragraph (1) to a veteran who, within such 90-day period, dies or is again rated by the Secretary as being incompetent.

"(3) The costs of administering this subsection shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

"(c) This section expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3205. Limitation on compensation payments for certain incompetent veterans."

38 USC 3205 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to payment of compensation for months after October 1990.

SEC. 8002. ELIMINATION OF PRESUMPTION OF TOTAL DISABILITY IN DETERMINATION OF PENSION FOR CERTAIN VETERANS.

(a) ELIMINATION OF PRESUMPTION.—That portion of subsection (a) of section 502 of title 38, United States Code, preceding paragraph (1) is amended to read as follows:

"(a) For the purposes of this chapter, a person shall be considered to be permanently and totally disabled if such a person is unemployable as a result of disability reasonably certain to continue throughout the life of the disabled person, or is suffering from—".

38 USC 502 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to claims filed after October 31, 1990.

SEC. 8003. REDUCTION IN PENSION FOR CERTAIN VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) IN GENERAL.—Section 3203 of title 38, United States Code, is amended by adding at the end the following:

"(f)(1) For the purposes of this subsection—

"(A) the term 'Medicaid plan' means a State plan for medical assistance referred to in section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)); and

"(B) the term 'nursing facility' means a nursing facility described in section 1919 of such Act (42 U.S.C. 1396r).

"(2) If a veteran having neither spouse nor child is covered by a Medicaid plan for services furnished such veteran by a nursing facility, no pension in excess of $90 per month shall be paid to or for

the veteran for any period after the month of admission to such nursing facility.

"(3) Notwithstanding any provision of title XIX of the Social Security Act, the amount of the payment paid a nursing facility pursuant to a Medicaid plan for services furnished a veteran may not be reduced by any amount of pension permitted to be paid such veteran under paragraph (2) of this subsection.

"(4) A veteran is not liable to the United States for any payment of pension in excess of the amount permitted under this subsection that is paid to or for the veteran by reason of the inability or failure of the Secretary to reduce the veteran's pension under this subsection unless such inability or failure is the result of a willful concealment by the veteran of information necessary to make a reduction in pension under this subsection.

"(5) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

"(6) This subsection expires on September 30, 1992.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 1, 1990, or the date of the enactment of this Act, whichever is later. 38 USC 3203 note.

SEC. 8004. INELIGIBILITY OF REMARRIED SURVIVING SPOUSES OR MARRIED CHILDREN FOR REINSTATEMENT OF BENEFITS ELIGIBILITY UPON BECOMING SINGLE.

(a) IN GENERAL.—Section 103 of title 38, United States Code, is amended—

(1) in subsection (d)—

(A) by striking out "(1)"; and

(B) by striking out paragraphs (2) and (3); and

(2) in subsection (e)—

(A) by striking out "(1)"; and

(B) by striking out paragraph (2).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to claims filed after October 31, 1990, and shall not operate to reduce or terminate benefits to any individual whose benefits were predicated on section 103(d)(2), 103(d)(3), or 103(e)(2) before the effective date of those amendments. 38 USC 103 note.

SEC. 8005. COST-OF-LIVING INCREASES IN COMPENSATION RATES. 38 USC 301 note.

(a) POLICY REGARDING FISCAL YEAR 1991.—The fiscal year 1991 cost-of-living adjustments in the rates of compensation payable under chapter 11 of title 38, United States Code, and of the dependency and indemnity compensation payable under chapter 13 of such title will be no more than a 5.4 percent increase, with all increased monthly rates rounded down to the next lower dollar. The effective date for such adjustments will not be earlier than January 1, 1991.

(b) INCREASE PAYABLE AS OF JANUARY 1992.—The amount of compensation or dependency and indemnity compensation payable to any individual for the month of January 1992 who is entitled to such benefits as of January 1, 1992, shall be increased for such month by the amount equal to the amount of the monthly increase provided for that individual's benefit level as of January 1, 1991, pursuant to the adjustments described in subsection (a).

Subtitle B—Health-Care Benefits

SEC. 8011. MEDICAL-CARE COST RECOVERY.

(a) APPLICABILITY.—Section 629(a)(2) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (C);

(2) by striking out the period at the end of clause (D) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(E) for which care and services are furnished before October 1, 1993, under this chapter to a veteran who—

"(i) has a service-connected disability; and

"(ii) is entitled to care (or payment of the expenses of care) under a health-plan contract.".

(b) MAXIMUM AMOUNT RECOVERABLE.—Clause (B) of section 629(c)(2) of such title is amended by striking out "in accordance with the prevailing rates at which the third party makes payments under comparable health-plan contracts with" and inserting in lieu thereof "if provided by".

(c) ESTABLISHMENT OF MEDICAL-CARE COST RECOVERY FUND.—Section 629(g) of such title is amended to read as follows:

"(g)(1) There is established in the Treasury a fund to be known as the Department of Veterans Affairs Medical-Care Cost Recovery Fund (hereafter referred to in this section as the 'Fund').

"(2) Amounts recovered or collected under this section shall be deposited in the Fund.

"(3) Sums in the Fund shall be available to the Secretary for the following:

"(A) Payment of necessary expenses for the identification, billing, and collection of the cost of care and services furnished under this chapter, and for the administration and collection of payments required under section 610(f) of this title for hospital care or nursing home care, under section 612(f) of this title for medical services, and under section 622A of this title for medications, including—

"(i) the costs of computer hardware and software, word processing and telecommunications equipment, other equipment, supplies, and furniture;

"(ii) personnel training and travel costs;

"(iii) personnel and administrative costs for attorneys in the Office of General Counsel of the Department and for support personnel of such office;

"(iv) other personnel and administrative costs; and

"(v) the costs of any contract for identification, billing, or collection services.

"(B) Payment of the Secretary for reasonable charges, as determined by the Secretary, imposed for (i) services and utilities (including light, water, and heat) furnished by the Secretary, (ii) recovery and collection activities under this section, and (iii) administration of the Fund.

"(4) Not later than January 1 of each year, there shall be deposited into the Treasury as miscellaneous receipts an amount equal to the amount of the unobligated balance remaining in the Fund at the close of business on September 30 of the preceding year minus any part of such balance that the Secretary determines is necessary in order to enable the Secretary to defray, during the fiscal year in

which the deposit is made, the expenses, payments, and costs described in paragraph (3).".

(d) TRANSFER TO FUND.— 38 USC 629 note.

(1) AMOUNT TO BE TRANSFERRED.—The Secretary of the Treasury shall transfer $25,000,000 from the Department of Veterans Affairs Loan Guaranty Revolving Fund to the Department of Veterans Affairs Medical-Care Cost Recovery Fund established by section 629(g) of title 38, United States Code (as amended by subsection (c)). The amount so transferred shall be available until the end of September 30, 1991, for the support of the equivalent of 800 full-time employees and other expenses described in paragraph (3) of such section.

(2) REIMBURSEMENT OF LOAN GUARANTY REVOLVING FUND.—Notwithstanding section 629(g) of title 38, United States Code (as amended by subsection (c)), the first $25,000,000 recovered or collected by the Department of Veterans Affairs during fiscal year 1991 as a result of third-party medical recovery activities shall be credited to the Department of Veterans Affairs Loan Guaranty Revolving Fund.

(3) THIRD-PARTY MEDICAL RECOVERY ACTIVITIES DEFINED.—For the purposes of this subsection, the term "third-party medical recovery activities" means recovery and collection activities carried out under section 629 of title 38, United States Code.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 1, 1990. 38 USC 629 note.

SEC. 8012. COPAYMENT FOR MEDICATIONS.

(a) COPAYMENT REQUIRED.—(1) Subchapter III of chapter 17 of title 38, United States Code, is amended by inserting after section 622 the following new section:

"§ 622A. Copayment for medications

"(a)(1) Subject to paragraph (2), the Secretary shall require a veteran (other than a veteran with a service-connected disability rated 50 percent or more) to pay the United States $2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

"(2) The Secretary may not require a veteran to pay an amount in excess of the cost to the Secretary for medication described in paragraph (1).

"(b) Amounts collected under this section shall be deposited in the Department of Veterans Affairs Medical-Care Cost Recovery Fund.

"(c) The provisions of subsection (a) expire on September 30, 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 622 the following new item:

"622A. Copayment for medications.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to medication furnished to a veteran after October 31, 1990, or the date of the enactment of this Act, whichever is later. 38 USC 622A note.

SEC. 8013. MODIFICATION OF HEALTH-CARE CATEGORIES AND COPAYMENTS.

(a) INPATIENT CARE.—(1) Subsection (a) of section 610 of title 38, United States Code, is amended—

(A) in paragraph (1)(I), by striking out "622(a)(1)" and inserting in lieu thereof "622(a)"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) In the case of a veteran who is not described in paragraph (1) of this subsection, the Secretary may, to the extent resources and facilities are available, furnish hospital care and nursing home care to a veteran which the Secretary determines is needed for a nonservice-connected disability, subject to the provisions of subsection (f) of this section.".

(2) Subsection (f) of such section is amended—

(A) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(f)(1) The Secretary may not furnish hospital care or nursing home care under this section to a veteran who is eligible for such care under subsection (a)(2) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) of this subsection.

"(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to—

"(A) the lesser of—

"(i) the cost of furnishing such care, as determined by the Secretary; or

"(ii) the amount determined under paragraph (3) of this subsection; and

"(B) an amount equal to $10 for every day the veteran receives hospital care and $5 for every day the veteran receives nursing home care."; and

(B) in subparagraphs (A) and (B) of paragraph (3), by striking out "(2)(B)" each place it appears and inserting in lieu thereof "(2)(A)(ii)".

(b) OUTPATIENT CARE.—Subsection (f) of section 612 of such title is amended—

(1) in paragraph (1), by striking out "610(a)(2)(B)" and inserting in lieu thereof "610(a)(2)";

(2) by redesignating paragraphs (5) and (7) as (3) and (4), respectively; and

(3) by striking paragraphs (3), (4), and (6).

(c) INCOME THRESHOLDS.—(1) Subsection (a) of section 622 of such title is amended—

(A) in paragraph (1)—

(i) by striking out "(1)" at the beginning of the subsection;

(ii) by redesignating clauses (A), (B), and (C) as paragraphs (1), (2), and (3), respectively; and

(iii) by striking out "Category A threshold" in paragraph (3), as so redesignated, and inserting in lieu thereof "amount set forth in subsection (b)";

(B) by striking out paragraph (2).

(2) Subsection (b) of such section is amended to read as follows:

"(b)(1) For purposes of subsection (a)(3), the income threshold for the calendar year beginning on January 1, 1990, is—

"(A) $17,240 in the case of a veteran with no dependents; and

"(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

"(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.".

(3) Subsection (c) of such section is amended by striking out "paragraphs (1) and (2) of".

(4) Paragraph (2) of subsection (d) of such section is amended to read as follows:

"(2) A determination described in this paragraph is a determination that for purposes of subsection (a)(3) of this section a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out "the Category A threshold or the Category B threshold, as appropriate" and inserting in lieu thereof "the amount determined under subsection (b) of this section"; and

(B) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

"(A) the veteran has an attributable income greater than the amount determined under subsection (b) of this section; and

"(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the amount determined under subsection (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to hospital care and medical services received after October 31, 1990, or the date of the enactment of this Act, whichever is later. 38 USC 610 note.

(e) SUNSET.—The amendments made by this section expire on September 30, 1991. 38 USC 610 note.

Subtitle C—Education and Employment

SEC. 8021. LIMITATION OF REHABILITATION PROGRAM ENTITLEMENT TO SERVICE-DISABLED VETERANS RATED AT 20 PERCENT OR MORE.

(a) IN GENERAL.—Section 1502(1) of title 38, United States Code, is amended by inserting "at a rate of 20 percent or more" after "compensable" both places it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after November 1, 1990. 38 USC 1502 note.

Subtitle D—Housing and Loan Guaranty Assistance

SEC. 8031. ELECTION OF CLAIM UNDER GUARANTY OF MANUFACTURED HOME LOANS.

(a) IN GENERAL.—Paragraph (3) of section 1812(c) of title 38, United States Code, is amended to read as follows:

"(3)(A) The Secretary's guaranty may not exceed the lesser of (i) the lesser of $20,000 or 40 percent of the loan, or (ii) the maximum amount of the guaranty entitlement available to the veteran as specified in paragraph (4) of this subsection.

"(B) A claim under the Secretary's guaranty shall, at the election of the holder of a loan, be made by the filing of an accounting with the Secretary—

"(i) within a reasonable time after the receipt by such holder of an appraisal by the Secretary of the value of the security for the loan; or

"(ii) after liquidation of the security for the loan.

"(C) If the holder of a loan applies for payment of a claim under clause (i) of subparagraph (B) of this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

"(i) the amount equal to the excess, if any, of the total indebtedness over the amount of the appraisal referred to in such clause; or

"(ii) the amount equal to the guaranty under this section.

"(D) If the holder of a loan files for payment of a claim under clause (ii) of subparagraph (B) this paragraph, the amount of such claim payable by the Secretary shall be the lesser of—

"(i) the amount equal to the excess, if any, of the total indebtedness over the greater of the value of the property securing the loan, as determined by the Secretary, or the amount of the liquidation or resale proceeds; or

"(ii) the amount equal to the guaranty under this section.

"(E) In any accounting filed pursuant to subparagraph (B)(ii) of this subsection, the Secretary shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Secretary may establish, and the Secretary shall allow the holder of the loan to charge against the liquidation or resale proceeds accrued interest from the cutoff date established to such further date as the Secretary may determine and such costs and expenses as the Secretary determines to be reasonable and proper.

"(F) The liability of the United States under the guaranty provided for by this paragraph shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.".

38 USC 1812 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims filed with the Secretary of Veterans Affairs on or after the date of the enactment of this Act.

SEC. 8032. LOAN FEE.

Section 1829(a) of title 38, United States Code, is amended—

(1) in paragraph (2), by striking out "The amount" and inserting in lieu thereof "Except as provided in paragraph (6) of this subsection, the amount"; and

(2) by adding at the end the following:

"(6) With respect to each loan closed during the period beginning on November 1, 1990, and ending on September 30, 1991, each amount specified in paragraph (2) of this subsection shall be increased by 0.625 percent of the total loan amount.".

Subtitle E—Burial and Grave Marker Benefits

SEC. 8041. HEADSTONE OR MARKER ALLOWANCE.

(a) IN GENERAL.—Section 906 of title 38, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

(b) EFFECTIVE DATE.—This section shall apply to deaths occurring on or after November 1, 1990. 38 USC 906 note.

SEC. 8042. PLOT ALLOWANCE ELIGIBILITY.

(a) IN GENERAL.—Section 903(b)(2) of title 38, United States Code, is amended by inserting "(other than a veteran whose eligibility for benefits under this subsection is based on being a veteran of any war)" after "(2) if such veteran".

(b) EFFECTIVE DATE.—This section shall apply to deaths occurring on or after November 1, 1990. 38 USC 903 note.

Subtitle F—Miscellaneous

SEC. 8051. USE OF INTERNAL REVENUE SERVICE AND SOCIAL SECURITY ADMINISTRATION DATA FOR INCOME VERIFICATION.

(a) DISCLOSURE OF TAX INFORMATION.—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended— 26 USC 6103.

(A) by striking out "and" at the end of clause (vi);

(B) by striking out the period at the end of clause (vii) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(viii)(I) any needs-based pension provided under chapter 15 of title 38, United States Code, or under any other law administered by the Secretary of Veterans Affairs;

"(II) parents' dependency and indemnity compensation provided under section 415 of title 38, United States Code;

"(III) health-care services furnished under section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of such title; and

"(IV) compensation paid under chapter 11 of title 38, United States Code, at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

Only return information from returns with respect to net earnings from self-employment and wages may be disclosed under this paragraph for use with respect to any program described in clause (viii)(IV). Clause (viii) shall not apply after September 30, 1992."

(2) The heading of paragraph (7) of section 6103(l) of such Code is amended by striking out "OR THE FOOD STAMP ACT OF 1977" and inserting in lieu thereof ", THE FOOD STAMP ACT OF 1977, OR TITLE 38, UNITED STATES CODE".

(b) USE OF INCOME INFORMATION FOR NEEDS-BASED PROGRAMS.—(1) Chapter 53 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 3117. Use of income information from other agencies: notice and verification

"(a) The Secretary shall notify each applicant for a benefit or service described in subsection (c) of this section that income information furnished by the applicant to the Secretary may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986. The Secretary shall periodically transmit to recipients of such benefits and services additional notifications of such matters.

"(b) The Secretary may not, by reason of information obtained from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986, terminate, deny, suspend, or reduce any benefit or service described in subsection (c) of this section until the Secretary takes appropriate steps to verify independently information relating to the following:

"(1) The amount of the asset or income involved.

"(2) Whether such individual actually has (or had) access to such asset or income for the individual's own use.

"(3) The period or periods when the individual actually had such asset or income.

"(c) The benefits and services described in this subsection are the following:

"(1) Needs-based pension benefits provided under chapter 15 of this title or under any other law administered by the Secretary.

"(2) Parents' dependency and indemnity compensation provided under section 415 of this title.

"(3) Health-care services furnished under sections 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B) of this title.

"(4) Compensation paid under chapter 11 of this title at the 100 percent rate based solely on unemployability and without regard to the fact that the disability or disabilities are not rated as 100 percent disabling under the rating schedule.

"(d) In the case of compensation described in subsection (c)(4) of this section, the Secretary may independently verify or otherwise act upon wage or self-employment information referred to in subsection (b) of this section only if the Secretary finds that the amount and duration of the earnings reported in that information clearly indicate that the individual may no longer be qualified for a rating of total disability.

"(e) The Secretary shall inform the individual of the findings made by the Secretary on the basis of verified information under subsection (b) of this section, and shall give the individual an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility for the benefit or service involved.

"(f) The Secretary shall pay the expenses of carrying out this section from amounts available to the Department for the payment of compensation and pension.

"(g) The authority of the Secretary to obtain information from the Secretary of the Treasury or the Secretary of Health and Human Services under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 expires on September 30, 1992.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3117. Use of income information from other agencies: notice and verification.".

(c) NOTICE TO CURRENT BENEFICIARIES.—(1) The Secretary of Veterans Affairs shall notify individuals who (as of the date of the enactment of this Act) are applicants for or recipients of the benefits described in subsection (c) (other than paragraph (3)) of section 3117 of title 38, United States Code (as added by subsection (b)), that income information furnished to the Secretary by such applicants and recipients may be compared with information obtained by the Secretary from the Secretary of Health and Human Services or the Secretary of the Treasury under clause (viii) of section 6103(l)(7)(D) of the Internal Revenue Code of 1986 (as added by subsection (a)). 38 USC 3117 note.

(2) Notification under paragraph (1) shall be made not later than 90 days after the date of the enactment of this Act.

(3) The Secretary of Veterans Affairs may not obtain information from the Secretary of Health and Human Services or the Secretary of the Treasury under section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 (as added by subsection (a)) until notification under paragraph (1) is made.

(d) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the effectiveness of the amendments made by this section and shall submit a report on such study to the Committees on Veterans' Affairs and Ways and Means of the House of Representatives and the Committees on Veterans' Affairs and Finance of the Senate not later than January 1, 1992. 38 USC 3117 note.

SEC. 8052. LINE OF DUTY.

(a) ELIMINATION OF COMPENSATION IN CERTAIN CASES.—Title 38, United States Code, is amended—

(1) in section 105(a), by striking out "the result of the person's own willful misconduct" in the first sentence and inserting in lieu thereof "a result of the person's own willful misconduct or abuse of alcohol or drugs";

(2) in section 310, by striking out "the result of the veteran's own willful misconduct" and inserting in lieu thereof "a result of the veteran's own willful misconduct or abuse of alcohol or drugs"; and

(3) in section 331, by striking out "the result of the veteran's own willful misconduct" and inserting in lieu thereof "a result of the veteran's own willful misconduct or abuse of alcohol or drugs".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to claims filed after October 31, 1990. 38 USC 105 note.

SEC. 8053. REQUIREMENT FOR CLAIMANTS TO REPORT SOCIAL SECURITY NUMBERS; USES OF DEATH INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS.

(a) MANDATORY REPORTING OF SOCIAL SECURITY NUMBERS.—Section 3001 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) Any person who applies for or is in receipt of any compensation or pension benefit under laws administered by the Secretary shall, if requested by the Secretary, furnish the Secretary with the social security number of such person and the social security number of any dependent or beneficiary on whose behalf, or based upon whom, such person applies for or is in receipt of such benefit. A person is not required to furnish the Secretary with a social security number for any person to whom a social security number has not been assigned.

"(2) The Secretary shall deny the application of or terminate the payment of compensation or pension to a person who fails to furnish the Secretary with a social security number required to be furnished pursuant to paragraph (1) of this subsection. The Secretary may thereafter reconsider the application or reinstate payment of compensation or pension, as the case may be, if such person furnishes the Secretary with such social security number.

"(3) The costs of administering this subsection shall be paid for from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.".

(b) REVIEW OF DEPARTMENT OF HEALTH AND HUMAN SERVICES DEATH INFORMATION TO IDENTIFY DECEASED RECIPIENTS OF COMPENSATION AND PENSION BENEFITS.—(1) Chapter 53 of title 38, United States Code, as amended by section 8051(b), is further amended by adding at the end the following new section:

"§ 3118. Review of Department of Health and Human Services death information

"(a) The Secretary shall periodically compare Department of Veterans Affairs information regarding persons to or for whom compensation or pension is being paid with information in the records of the Department of Health and Human Services relating to persons who have died for the purposes of—

"(1) determining whether any such persons to whom compensation and pension is being paid are deceased;

"(2) ensuring that such payments to or for any such persons who are deceased are terminated in a timely manner; and

"(3) ensuring that collection of overpayments of such benefits resulting from payments after the death of such persons is initiated in a timely manner.

"(b) The Department of Health and Human Services death information referred to in subsection (a) of this section is death information available to the Secretary from or through the Secretary of Health and Human Services, including death information available to the Secretary of Health and Human Services from a State, pursuant to a memorandum of understanding entered into by such Secretaries. Any such memorandum of understanding shall include safeguards to assure that information made available under it is not used for unauthorized purposes or improperly disclosed.".

(2) The table of sections at the beginning of such chapter, as amended by section 8051(b), is further amended by adding at the end the following:

"3118. Review of Department of Health and Human Services death information.".

TITLE IX—TRANSPORTATION

Subtitle A—Surface Transportation

SEC. 9001. SENSE OF CONGRESS THAT HIGHWAY USER TAXES SHOULD BE DEDICATED TO THE HIGHWAY TRUST FUND.

(a) FINDINGS.—Congress finds that—

(1) highway motor fuel taxes have in the past been dedicated to the Highway Trust Fund and used for the development of the surface transportation system;

(2) extraordinary budget pressures have led to consideration of the need for a temporary, 5-year highway motor fuels tax for deficit reduction;

(3) any portion of the new taxes deposited into the Highway Trust Fund shall be available to accommodate our country's vital transportation needs;

(4) adequate funding of transportation is a key component of a national strategy for economic growth; and

(5) use of the highway motor fuels taxes for deficit reduction should be temporary so that we can return as soon as possible to the dedicated user fee principle in order to ensure fairness to highway users and to ensure that needed transportation infrastructure improvements are made.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) any increase in motor fuel excise taxes that are deposited in the Highway Trust Fund shall be available for surface transportation purposes;

(2) the Budget Resolutions for fiscal years 1991 through 1995 should accommodate the Nation's transportation needs and the section 302(a) allocations should provide budget authority and outlays attributable to the increase in deposits into the Highway Trust Fund as a result of any increases in motor fuels taxes through implementation of this Act;

(3) Congress reaffirms the principle that highway motor fuel taxes should be deposited in the Highway Trust Fund; and

(4) to the extent the highway motor fuel taxes are used for deficit reduction during the 5-year period beginning with fiscal year 1991, the Congress should return to the dedicated user fee principle as soon as possible but no later than the end of fiscal year 1995.

Subtitle B—Aviation Safety and Capacity Expansion

Aviation Safety and Capacity Expansion Act of 1990.

SEC. 9101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Aviation Safety and Capacity Expansion Act of 1990". 49 USC app. 2201 note.

(b) TABLE OF CONTENTS.—

Sec. 9101. Short title; table of contents.
Sec. 9102. Construction of firefighting training facilities.
Sec. 9103. Declaration of policy.
Sec. 9104. Airport improvement program.
Sec. 9105. Airway improvement program.
Sec. 9106. FAA operations.
Sec. 9107. Operation and maintenance of aviation system.
Sec. 9108. Weather service.
Sec. 9109. Military airport program.
Sec. 9110. Passenger facility charges.
Sec. 9111. Reduction in airport improvement program apportionments for large and medium hub airports imposing passenger facility charges.
Sec. 9112. Use of PFC reduced apportionment funds.
Sec. 9113. Small community air service program.
Sec. 9114. State block grant pilot program.
Sec. 9115. Auxiliary flight service station program.
Sec. 9116. Airport and airway improvements for the Virgin Islands.
Sec. 9117. Engine condition monitoring systems.
Sec. 9118. Procurement authority.
Sec. 9119. Expanded east coast plan.
Sec. 9120. Transfer of format of geodetic navigation information.
Sec. 9121. Sensitive security information.
Sec. 9122. Reports.
Sec. 9123. Atlantic City airport.
Sec. 9124. Natural disaster regulation.
Sec. 9125. Flight takeoff or landing requirement for State taxation.
Sec. 9126. Allocation of existing capacity at certain airports.
Sec. 9127. Certificate transfers.
Sec. 9128. Severability.
Sec. 9129. Buy American.
Sec. 9130. Prohibition against fraudulent use of "made in America" labels.
Sec. 9131. Restrictions on contract awards.

SEC. 9102. CONSTRUCTION OF FIREFIGHTING TRAINING FACILITIES.

Section 503(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any acquisition of land for, or work involved to construct, a burn area training structure on or off the airport for the purpose of providing live fire drill training for aircraft rescue and firefighting personnel required to receive such training by a regulation of the Department of Transportation, including basic equipment and minimum structures to support such training in accordance with standards of the Federal Aviation Administration.".

SEC. 9103. DECLARATION OF POLICY.

Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is amended—

(1) in paragraph (5) by inserting ", including as they may be applied between category and class of aircraft" after "discriminatory practices"; and

(2) in paragraph (13) by inserting "and should not unjustly discriminate between categories and classes of aircraft" after "attempted".

SEC. 9104. AIRPORT IMPROVEMENT PROGRAM.

Section 505 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204) is amended—

(1) in subsection (a) by striking " '13,816,700,000" and inserting [72] '$13,916,700,000"; and

(2) in subsection (b) by striking "September 30, 1987" and inserting "September 30, 1992".

SEC. 9105. AIRWAY IMPROVEMENT PROGRAM.

(a) RENAMING OF AIRWAY PLAN.—Section 504(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)(1)) is amended by inserting after the second sentence the following new sentence: "For fiscal year 1991 and thereafter, the revised plan shall be known as the 'Airway Capital Investment Plan'.".

(b) AIRWAY FACILITIES AND EQUIPMENT.—The first sentence of section 506(a)(1) of such Act (49 U.S.C. App. 2205(a)(1)) is amended by striking "September 30, 1981," and all that follows through the period and inserting the following: "September 30, 1990, aggregate amounts not to exceed $2,500,000,000 for fiscal year 1991 and $5,500,000,000 for the fiscal years ending before October 1, 1992.".

SEC. 9106. FAA OPERATIONS.

Section 106 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS FOR OPERATIONS.—There is authorized to be appropriated for operations of the Administration $4,088,000,000 for fiscal year 1991 and $4,412,600,000 for fiscal year 1992.".

SEC. 9107. OPERATION AND MAINTENANCE OF AVIATION SYSTEM.

(a) ELIMINATION OF PENALTY.—Section 506(c)(3)(B)(i) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(c)(3)(B)(i)) is amended—

(1) by inserting "and" after "1989"; and

(2) by striking "$3,770,000,000" and all that follows through "1992,".

(b) FUNDING.—Section 506(c) of such Act (49 U.S.C. App. 2205(c)) is amended by adding at the end the following new paragraph:

"(4) FISCAL YEARS 1991-1992.—The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1991 and 1992 may not exceed—

"(A) 75 percent of the amount of funds made available under section 505, subsections (a) and (b) of this section, and section 106(k) of title 49, United States Code, for such fiscal year; less

"(B) the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.".

SEC. 9108. WEATHER SERVICE.

The second sentence of section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended—

(1) by striking "and" the first place it appears and inserting a comma; and

(2) by inserting before the period the following: ", $34,521,000 for fiscal year 1991, and $35,389,000 for fiscal year 1992".

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[72] So in original. Probably should be " "$13,916,700,000"; and".

SEC. 9109. MILITARY AIRPORT PROGRAM.

(a) DECLARATION OF POLICY.—Section 502(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201(a)) is further amended—

(1) by striking "and" at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding at the end the following:

"(14) special emphasis should be placed on the conversion of appropriate former military air bases to civil use and on the identification and improvement of additional joint-use facilities.".

49 USC app. 2207.

(b) SET-ASIDE.—Section 508(d) of such Act (49 U.S.C. App. 2204(d)) is amended by striking paragraph (5) and inserting the following:

"(5) MILITARY AIRPORT SET-ASIDE.—Not less than 1.5 percent of the funds made available under section 505 in each of fiscal years 1991 and 1992 shall be distributed during such fiscal year to sponsors of current or former military airports designated by the Secretary under subsection (f) for the purpose of developing current and former military airports to improve the capacity of the national air transportation system.

"(6) REALLOCATION.—If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), (4), or (5) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.".

49 USC app. 2207.

(c) DESIGNATION OF FORMER MILITARY AIRPORTS.—Section 508 of such Act is further amended by adding at the end the following new subsection:

"(f) DESIGNATION OF CURRENT OR FORMER MILITARY AIRPORTS.—

"(1) DESIGNATION.—The Secretary shall designate not more than 8 current or former military airports for participation in the grant program established under subsection (d)(5) and this subsection. At least 2 such airports shall be designated within 6 months after the date of the enactment of this subsection and the remaining airports shall be designated for participation no later than September 30, 1992.

"(2) SURVEY.—The Secretary shall conduct a survey of current and former military airports to identify which ones have the greatest potential to improve the capacity of the national air transportation system. The survey shall also identify the capital development needs of such airports in order to make them part of the national air transportation system and shall identify which capital development needs are eligible for grants under section 505. The survey shall be completed by September 30, 1991.

"(3) LIMITATION.—In selecting airports for participation in the program established under subsection (d)(5) and this subsection and in conducting the survey under paragraph (2), the Secretary shall consider only those current or former military airports whose conversion in whole or in part to civilian commercial or reliever airport as part of the national air transportation

system would enhance airport and air traffic control system capacity in major metropolitan areas and reduce current and projected flight delays.

"(4) PERIOD OF ELIGIBILITY.—An airport designated by the Secretary under this subsection shall remain eligible to participate in the program under subsection (d)(5) and this subsection for the 5 fiscal years following such designation. An airport that does not attain a level of enplaned passengers during such 5 fiscal year period which qualifies it as a small hub airport as defined as of January 1, 1990, or reliever airport may be redesignated by the Secretary for participation in the program for such additional fiscal years as may be determined by the Secretary.

"(5) ADDITIONAL FUNDING.—Notwithstanding the provisions of section 513(b), not to exceed $5,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for any fiscal year may be used by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of terminal building facilities, including terminal gates used by aircraft for enplaning and deplaning revenue passengers. Under no circumstances shall any gates constructed, improved, or repaired with Federal funding under this paragraph be subject to long-term leases for periods exceeding 10 years or majority in interest clauses.".

SEC. 9110. PASSENGER FACILITY CHARGES.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended—

(1) in subsection (a) by inserting "except as provided in subsection (e) and" before "except that"; and

(2) by adding at the end the following new subsection:

"(e) AUTHORITY FOR IMPOSITION OF PASSENGER FACILITY CHARGES.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, the Secretary may grant a public agency which controls a commercial service airport authority to impose a fee of $1.00, $2.00, or $3.00 for each paying passenger of an air carrier enplaned at such airport to finance eligible airport-related projects to be carried out in connection with such airport or any other airport which such agency controls. For purposes of this subsection, financing an eligible airport-related project includes making payments for debt service on bonds and other indebtedness incurred to carry out such project.

"(2) USE OF REVENUES AND RELATIONSHIP BETWEEN FEES AND REVENUES.—The Secretary may grant a public agency which controls a commercial service airport authority to impose a fee under this subsection to finance specific projects only if the Secretary finds, on the basis of an application submitted for such authority—

"(A) that the amount and duration of the proposed fee will result in revenues (including interest and other returns on such revenues) which do not exceed amounts necessary to finance the specific projects; and

"(B) that each of the specific projects is an eligible airport-related project which will—

"(i) preserve or enhance capacity, safety, or security of the national air transportation system,

"(ii) reduce noise resulting from an airport which is part of such system, or

"(iii) furnish opportunities for enhanced competition between or among air carriers.

"(3) LIMITATION REGARDING PASSENGERS OF AIR CARRIERS RECEIVING ESSENTIAL AIR SERVICE COMPENSATION.—If a passenger of an air carrier is being provided air service to an eligible point under section 419 for which compensation is being paid under such section, a public agency which controls any other airport may not impose a fee pursuant to this subsection for enplanement of such passenger with respect to such air service.

"(4) LIMITATION REGARDING OBLIGATIONS.—No fee may be imposed pursuant to this subsection for a project which is not approved by the Secretary under this subsection on or before September 30, 1992—

"(A) if, during fiscal years 1991 and 1992, the amount available for obligation, in the aggregate, under section 505 of Airport and Airway Improvement Act of 1982 is less than $3,700,000,000; or

"(B)(i) if, during fiscal year 1991, the amount available for obligation, in the aggregate, under section 419 is less than $26,600,000; or

"(ii) if, during fiscal year 1992, the amount available for obligation, in the aggregate, under section 419 is less than $38,600,000.

"(5) LINKAGE.—The Secretary may not grant a public agency authority to impose a fee pursuant to this subsection unless the Secretary has—

"(A) issued a final rule establishing a program for reviewing airport noise and access restrictions on operations of Stage 2 and Stage 3 aircraft pursuant to section 9304(a) of the Airport Noise and Capacity Act of 1990; and

"(B) issued a notice of proposed rulemaking to consider more efficient allocation of existing capacity at high density airports under section 9126 of the Aviation Safety and Capacity Expansion Act of 1990.

"(6) TWO ENPLANEMENTS PER TRIP LIMITATION.—Enplaned passengers on whom a fee may be imposed by a public agency pursuant to this subsection include passengers of air carriers originating or connecting at the commercial service airport which the agency controls. A fee may not be collected pursuant to this subsection from a passenger with respect to any enplanement of such passenger, on a one-way trip and on a trip in each direction of a round trip, after the second enplanement for which a fee has been collected pursuant to this subsection from such passenger.

"(7) AIR CARRIER RATES, FEES, AND CHARGES.—

"(A) TREATMENT OF FEE REVENUES.—Revenues derived from fees collected pursuant to this subsection shall not be treated as airport revenues for the purpose of establishing a rate, fee, or charge pursuant to a contract between a public agency which controls a commercial service airport and an air carrier.

"(B) CAPITAL COSTS.—Except as provided by subparagraph (C), a public agency which controls a commercial service airport shall not include in its rate base by means of

depreciation, amortization, or any other method that portion of the capital costs of a project paid for using revenues derived from fees collected pursuant to this subsection for the purpose of establishing a rate, fee, or charge pursuant to a contract between such agency and an air carrier.

"(C) FACILITIES FINANCED WITH FEE REVENUES.—With respect to a project for terminal development, gates and related areas, or a facility which is occupied or utilized by 1 or more air carriers on an exclusive or preferential basis, the rates, fees, and charges payable by air carriers which use such facilities shall be no less than the rates, fees, and charges paid by carriers using similar facilities at the airport which were not financed using revenues derived from collection of a fee imposed pursuant to this subsection.

"(8) EXCLUSIVITY OF AUTHORITY.—No State or political subdivision or agency thereof which is not a public agency controlling a commercial service airport shall prohibit, limit, or regulate the imposition of fees by the public agency pursuant to this subsection, collection of such fees, or use of revenues derived therefrom. No contract between an air carrier and a public agency which controls a commercial service airport entered into before, on, or after the date of the enactment of this subsection shall impair the authority of the public agency to impose fees pursuant to this subsection and to use the revenues derived from such fees in accordance with this subsection.

"(9) NONEXCLUSIVITY OF CONTRACTUAL AGREEMENTS.—No project carried out through the use of a fee collected pursuant to this subsection may be subject to an exclusive long-term lease or use agreement of an air carrier, as defined by the Secretary by regulation. No lease or use agreement of an air carrier with respect to a project constructed or expanded through the use of such fee may restrict the public agency which controls the airport from funding, developing, or assigning new capacity at the airport with revenues derived from fees imposed pursuant to this subsection.

"(10) COLLECTION AND HANDLING OF FEES BY AIR CARRIERS.—The regulations issued by the Secretary to carry out this subsection shall—

"(A) require air carriers and their agents to collect fees imposed by public agencies pursuant to this subsection;

"(B) establish procedures regarding handling and remittance of the amounts so collected;

"(C) ensure that such amounts are promptly paid to the public agency for which they are collected less a uniform amount determined by the Secretary as reflecting average necessary and reasonable expenses (net of interest accruing to the air carrier and agent after collection and prior to remittance) incurred in the collection and handling of such fees; and

"(D) require that the amount of fees collected pursuant to this subsection with respect to any air transportation be noted on the ticket for such air transportation.

"(11) APPLICATION PROCESS.—

"(A) SUBMISSION.—A public agency which controls a commercial service airport and is interested in imposing a fee pursuant to this subsection shall submit to the Secretary an application for authority to impose such fee.

"(B) CONTENT.—An application submitted under this paragraph shall contain such information and be in such form as the Secretary may require by regulation.

"(C) OPPORTUNITY FOR CONSULTATION.—Before submission of an application under this paragraph, a public agency shall provide reasonable notice to, and an opportunity for consultation with, air carriers operating at the airport. The Secretary shall issue regulations which define reasonable notice and contain the following requirements at a minimum:

"(i) A public agency must provide written notice—

"(I) of individual projects being considered for funding through imposition of a fee pursuant to this subsection; and

"(II) of the date and location of a meeting to present such projects to air carriers operating at the airport.

"(ii) Not later than 30 days after the issuance of a written notice under clause (i), each air carrier operating at the airport must provide to the public agency written notice of receipt of such notice. Failure of an air carrier to provide such notice may be deemed as certification of agreement with the project by such air carrier under clause (iv).

"(iii) Not later than 45 days after the issuance of written notice under clause (i), the public agency must conduct a meeting to provide air carriers—

"(I) descriptions of projects;

"(II) justifications for projects; and

"(III) a detailed financial plan for projects.

"(iv) Not later than 30 days after the date of such meeting, each air carrier must provide the public agency with certification of agreement or disagreement with projects (or total plan for such projects). The failure of an air carrier to submit such certification shall be deemed as certification of agreement with the project by such air carrier. Any certification of disagreement shall contain the reasons for such disagreement. The absence of such reasons will void the certification of disagreement.

"(D) NOTICE AND OPPORTUNITY FOR COMMENT.—After receiving an application under this paragraph, the Secretary shall provide notice and an opportunity for comment by air carriers and other interested persons concerning such application.

"(E) APPROVAL.—A fee may only be imposed pursuant to this subsection if the Secretary approves an application granting authority for the imposition of such fee. Not later than 120 days after the date of receipt of such an application, the Secretary shall make a final decision regarding approval of such application.

"(12) RECORDKEEPING AND AUDITS.—

"(A) WITH RESPECT TO COLLECTION OF FEES.—The Secretary shall issue regulations requiring such recordkeeping and auditing of accounts maintained by an air carrier and any agency thereof which is collecting a fee imposed pursuant to this subsection and by the public agency which is

imposing such fee as may be necessary to ensure compliance with this subsection.

"(B) WITH RESPECT TO USE OF REVENUES.—The Secretary shall periodically audit and review the use by a public agency which controls an airport of revenues derived from a fee imposed pursuant to this subsection. Upon such review and after a public hearing, the Secretary may terminate the authority of such agency to impose such fee, in whole or in part, to the extent the Secretary determines that revenues derived therefrom are not being used in accordance with this subsection.

"(C) SET-OFF.—If the Secretary determines that a fee imposed pursuant to this subsection is excessive or that the revenues derived from such fee are not being used in accordance with this subsection, the Secretary may set off such amounts as may be necessary to ensure compliance with this subsection against amounts otherwise payable to the public agency under the Airport and Airway Improvement Act of 1982.

"(13) TERMS AND CONDITIONS.—Authority granted to impose a fee pursuant to this subsection shall be subject to such terms and conditions as the Secretary may establish to carry out the objectives of this subsection.

"(14) ISSUANCE OF REGULATIONS.—Not later than 180 days after the date of the enactment of this subsection, the Secretary shall issue such regulations as may be necessary to carry out this subsection. Such regulations may prescribe the time and form by which a fee imposed pursuant to this subsection shall take effect.

"(15) DEFINITIONS.—For purposes of this subsection, the following definitions apply:

"(A) AIR CARRIER.—The term 'air carrier' includes a foreign air carrier.

"(B) AIRPORT, COMMERCIAL SERVICE AIRPORT, AND PUBLIC AGENCY.—The terms 'airport', 'commercial service airport', and 'public agency' have the meaning such terms have under section 503 of the Airport and Airway Improvement Act of 1982.

"(C) ELIGIBLE AIRPORT-RELATED PROJECT.—The term 'eligible airport-related project' means—

"(i) a project for airport development under the Airport and Airway Improvement Act of 1982;

"(ii) a project for airport planning under such Act;

"(iii) a project for terminal development described in section 513(b) of such Act;

"(iv) a project for airport noise capability planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979;

"(v) a project to carry out noise compatibility measures which are eligible for assistance under section 104 of the Aviation Safety and Noise Abatement Act of 1979 without regard to whether or not a program has been approved for such measures under such section; and

"(vi) a project for construction of gates and related areas at which passengers are enplaned or deplaned.

"(D) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.".

SEC. 9111. REDUCTION IN AIRPORT IMPROVEMENT PROGRAM APPORTIONMENTS FOR LARGE AND MEDIUM HUB AIRPORTS IMPOSING PASSENGER FACILITY CHARGES.

Section 507(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(b)) is amended by adding at the end the following new paragraph:

"(7) REDUCTION IN APPORTIONMENTS TO CERTAIN LARGE AND MEDIUM HUBS.—

"(A) GENERAL RULE.—The amount which, but for this paragraph, would be apportioned under this section (other than subsection (a)(2)) for a fiscal year to a sponsor of an airport that annually has 0.25 percent or more of the total annual enplanements in the United States and for which a fee is imposed in such fiscal year pursuant to section 1113(e) of the Federal Aviation Act of 1958 shall be reduced by an amount equal to 50 percent of the projected revenues derived from such fee in such fiscal year.

"(B) LIMITATIONS.—The maximum reduction in an apportionment to a sponsor of an airport as a result of this paragraph in a fiscal year shall be 50 percent of the amount which, but for this paragraph, would be apportioned to such airport under this section.".

SEC. 9112. USE OF PFC REDUCED APPORTIONMENT FUNDS.

(a) ADDITION OF FUNDS TO EXISTING DISCRETIONARY FUND.—Section 507(c)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(c)(1)) is amended by inserting after the first sentence the following new sentences: "Twenty-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall be added to such discretionary fund. Fifty percent of amounts added to such discretionary fund pursuant to the preceding sentence shall be used for making grants for projects at small hub airports (as such term is defined in section 419(k) of the Federal Aviation Act of 1958).".

(b) SMALL AIRPORT FUND.—Section 507 of such Act is amended by redesignating subsections (d) and (e), and any references thereto, as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) SMALL AIRPORT FUND.—

"(1) ESTABLISHMENT.—Seventy-five percent of the amounts which are not apportioned under this section as a result of subsection (b)(7) shall constitute a small airport fund to be distributed at the discretion of the Secretary.

"(2) SET-ASIDE FOR GENERAL AVIATION AIRPORTS.—One-third of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of public-use airports (other than commercial service airports) for any purpose for which funds are made available under section 505.

"(3) SET-ASIDE FOR NONHUB AIRPORTS.—Two-thirds of the amounts in the small airport fund established by this subsection and distributed by the Secretary under this subsection in a fiscal year shall be used for making grants to sponsors of

commercial service airports each of which annually has less than 0.05 percent of the total annual enplanements in the United States for any purpose for which funds are made available under section 505.

"(4) TREATMENT OF AIRPORTS PARTICIPATING IN STATE BLOCK PROGRAM.—An airport in a State which is participating in the State block grant program under section 534 shall be eligible to receive grants pursuant to this subsection to the same extent that the airport would be eligible to receive such grants if the State was not participating in such program.".

(c) PROHIBITION ON REDUCED FUNDING.—It is the sense of Congress that the Secretary should not reduce funding under the discretionary fund established under section 507(c) of the Airport and Airway Improvement Act of 1982 for small commercial service and general aviation airports as a result of additional funds made available to such airports under this section, including amendments made by this section. 49 USC app. 2206 note.

SEC. 9113. SMALL COMMUNITY AIR SERVICE PROGRAM.

(a) DEFINITION OF ELIGIBLE POINT.—Section 419(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1389(a)) is amended to read as follows:

"(a) ELIGIBLE POINT DEFINED.—

"(1) GENERAL RULE.—For purposes of this section, the term 'eligible point' means any point in the United States—

"(A) which was defined as an eligible point under this section as in effect before October 1, 1988;

"(B) which received scheduled air transportation at any time after January 1, 1990; and

"(C) which is not listed in the Department of Transportation Orders 89-9-37 and 89-12-52 as being a point no longer eligible for compensation under this section.

"(2) LIMITATION ON USE OF PER PASSENGER SUBSIDY.—The Secretary may not determine that a point described in paragraph (1) is not an eligible point on the basis of the per passenger subsidy at the point or on any other basis not specifically set forth in this section.".

(b) FUNDING.—

(1) IN GENERAL.—Section 419 of such Act is amended by redesignating subsection (l), and any reference thereto, as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) FUNDING.—

"(1) CONTRACT AUTHORITY.—The Secretary is authorized to enter into agreements and to incur obligations from the Airport and Airway Trust Fund for the payment of compensation under this section. Approval by the Secretary of such an agreement shall be deemed a contractual obligation of the United States for payment of the Federal share of such compensation.

"(2) AMOUNTS AVAILABLE.—There shall be available to the Secretary from the Airport and Airway Trust Fund to incur obligations under this section $38,600,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998. Such amounts shall remain available until expended.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1991. 49 USC app. 1389 note.

(c) CONFORMING AMENDMENTS.—Section 333 of Public Law 100-457 and section 325(a) of Public Law 101-164 are repealed.

SEC. 9114. STATE BLOCK GRANT PILOT PROGRAM.

Section 534 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2227) is amended—

(1) in subsection (a) by striking "1991" and inserting "1992"; and

(2) in subsection (d) by striking "not later than 90 days before its scheduled termination" and inserting "not later than January 31, 1992".

49 USC app. 1348 note.

SEC. 9115. AUXILIARY FLIGHT SERVICE STATION PROGRAM.

(a) GENERAL RULE.—The Secretary of Transportation shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress with the plan and schedule for implementation of this section.

SEC. 9116. AIRPORT AND AIRWAY IMPROVEMENTS FOR THE VIRGIN ISLANDS.

(a) AIR SPACE STUDY.—The Administrator of the Federal Aviation Administration shall conduct an air space study of the Caribbean and Miami air traffic control regions for the purpose of determining methods of improving air safety and report to Congress the results of such study.

(b) OPERATIONS OF AIRPORT TOWERS FOR ST. THOMAS AND ST. CROIX.—The Administrator may not enter into contracts with private persons for operation of the airport control towers for St. Thomas and St. Croix, Virgin Islands, before the 30th day following the date on which a report is submitted to Congress under subsection (a).

(c) REPLACEMENT OF RADAR FACILITIES FOR ST. THOMAS.—The Administrator shall take such action as may be necessary to ensure that the radar facilities for the airport on St. Thomas, Virgin Islands, which were destroyed by Hurricane Hugo are replaced and operational by the 120th day following the date of the enactment of this Act.

SEC. 9117. ENGINE CONDITION MONITORING SYSTEMS.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the potential use of engine condition monitoring systems on aircraft. In conducting such study, the Administrator shall evaluate—

(1) the availability of technology for such systems;

(2) the capabilities of such systems in terms of enhancing safety and reducing maintenance costs associated with civil and military aircraft;

(3) the commercial viability of developing computer software to enable maintenance workers to efficiently use data gathered by such systems;

(4) the costs and benefits of using such systems as compared to engine fault detection methods which rely on the use of data relating to historical performance and statistical failure;

(5) the types of aircraft engine failures which may be prevented by using such systems; and

(6) the operational reliability of such systems.

(b) REPORT TO CONGRESS.—Not later than 12 months after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study conducted pursuant to this section together with such legislative and administrative recommendations as the Administrator considers appropriate.

SEC. 9118. PROCUREMENT AUTHORITY.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended to read as follows:

"SEC. 303. PROCUREMENT AUTHORITY.

"(a) ACQUISITION AND DISPOSAL OF PROPERTY.—Subject to subsection (b), the Administrator, on behalf of the United States, is authorized, where appropriate—

"(1) within the limits of available appropriations made by the Congress therefor, to acquire by purchase, condemnation, lease for a term not to exceed 20 years, or otherwise, personal property or services and real property or interests therein, including, in the case of air navigation facilities (including airports) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and needed in connection therewith;

"(2) for adequate compensation, by sale, lease, or otherwise, to dispose of any real or personal property or interest therein; except that, other than for airport and airway property and technical equipment used for the special purposes of the Federal Aviation Administration, such disposition shall be made in accordance with the Federal Property and Administrative Services Act of 1949; and

"(3) to construct, improve, or renovate laboratories and other test facilities and to purchase or otherwise acquire real property required therefor.

"(b) SPECIAL RULES FOR CERTAIN ACQUISITIONS.—

"(1) ACQUISITIONS BY CONDEMNATION.—Any acquisition by condemnation under subsection (a) may be made in accordance with the provision of the Act of August 1, 1888 (40 U.S.C. 257; 25 Stat. 357), the Act of February 26, 1931 (40 U.S.C. 258a-258e-1; 46 Stat. 1421), or any other applicable Act; except that, in the case of condemnations of easements through or other interests in airspace, in fixing condemnation awards, consideration may be given to the reasonable probable future use of the underlying land.

"(2) ACQUISITIONS OF PUBLIC BUILDINGS.—The Administrator may, under subsection (a) construct or acquire by purchase, condemnation, or lease a public building, or interest in a public building (as defined in section 13 of the Public Buildings Act of

1959 (40 U.S.C. 612)) only under a delegation of authority from the Administrator of General Services.

"(c) PROCUREMENT PROCEDURES.—In procuring personal property or services and real property and interests therein under subsection (a), the Administrator may use procedures other than competitive procedures in circumstances which are set forth in section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)).

"(d) SOLE SOURCE APPROVAL BY ADMINISTRATOR.—For procurements by the Federal Aviation Administration, the Administrator shall be the senior procurement executive referred to in paragraph (3) of section 16 of Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purposes of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii)).

"(e) MULTIYEAR SERVICE CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, the Administrator may enter into contracts for periods of not more than 5 years for the following types of services (and items of supply related to such services) for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

"(A) operation, maintenance, and support of facilities and installations;

"(B) operation, maintenance, or modification of aircraft, vehicles, and other highly complex equipment;

"(C) specialized training necessitating high quality instructor skills (for example, pilot and aircrew members; foreign language training); and

"(D) base services (for example, ground maintenance, in-plane refueling; bus transportation; refuse collection and disposal).

"(2) FINDINGS.—The Administrator may enter into a contract described in paragraph (1) only if the Administrator finds that—

"(A) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

"(B) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized workforce; and

"(C) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

"(3) GUIDANCE PRINCIPLES.—In entering into contracts described in paragraph (1), the Administrator shall be guided by the following principles:

"(A) The portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, the due consideration given

to such factors as location of facilities, specialized nature thereof, and obsolescence.

"(B) Consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed 3 years, at prices not to include charges for plant, equipment, and other nonrecurring costs, already amortized.

"(C) Consideration shall be given to the desirability of reserving in the Federal Aviation Administration the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

"(4) TERMINATION.—In the event funds are not made available for the continuation of a contract described in paragraph (1) into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(f) MULTIYEAR PROPERTY ACQUISITION CONTRACTS.—

"(1) IN GENERAL.—Notwithstanding section 1341(a)(1)(B) of title 31, United States Code, to the extent that funds are otherwise available for obligation, the Administrator may make multiyear contracts (other than contracts described in paragraph (6)) for the purchase of property, whenever the Administrator finds—

"(A) that the use of such a contract will promote the safety or efficiency of the National Airspace System and will result in reduced total costs under the contract;

"(B) that the minimum need for the property to be purchased is expected to remain substantially unchanged during the contemplated contract period in terms of production rate, procurement rate, and total quantities;

"(C) that there is a reasonable expectation that throughout the contemplated contract period the Administrator will request funding for the contract at the level required to avoid contract cancellation;

"(D) that there is a stable design for the property to be acquired and that the technical risks associated with such property are not excessive; and

"(E) that the estimates of both the cost of the contract and the anticipated cost avoidance through the use of a multiyear contract are realistic.

"(2) REGULATIONS.—

"(A) GENERAL RULE.—The Administrator shall issue regulations for acquisition of property under this subsection to promote the use of multiyear contracting as authorized by paragraph (1) in a manner that will allow the most efficient use of multiyear contracting.

"(B) CANCELLATION PROVISIONS.—The regulations issued under this paragraph may provide for cancellation provisions in multiyear contracts described in paragraph (1) to the extent that such provisions are necessary and in the

best interests of the United States. Such cancellation provisions may include consideration of both recurring and nonrecurring costs of the contractor associated with the production of the items to be delivered under the contract.

"(C) BROADENING INDUSTRIAL BASE.—In order to broaden the aviation industrial base, the regulations issued under this paragraph shall provide that, to the extent practicable—

"(i) multiyear contracting under paragraph (1) shall be used in such a manner as to seek, retain, and promote the use under such contracts of companies that are subcontractors, vendors, or suppliers; and

"(ii) upon accrual of any payment or other benefit under such a multiyear contract to any subcontract, vendor, or supplier company participating in such contractor, such payment or benefit shall be delivered to such company in the most expeditious manner practicable.

"(D) PROTECTION OF FEDERAL INTERESTS.—The regulations issued under this paragraph shall also provide that, to the extent practicable, the administration of this subsection, and of the regulations issued under this subsection, shall not be carried out in a manner to preclude or curtail the existing ability of the Federal Aviation Administration to—

"(i) provide for competition in the production of items to be delivered under such a contract; or

"(ii) provide for termination of a prime contract the performance of which is deficient with respect to cost, quality, or schedule.

"(3) SPECIAL RULE FOR CONTRACTS WITH HIGH CANCELLATION CEILING.—Before any contract described in paragraph (1) that contains a clause setting forth a cancellation ceiling in excess of $100,000,000 may be awarded, the Administrator shall give written notification of the proposed contract and of the proposed cancellation ceiling for that contract to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives, and such contract may not then be awarded until the end of a period of 30 days beginning on the date of such notification.

"(4) ADVANCE PROCUREMENT.—Contracts made under this subsection may be used for the advance procurement of components, parts, and materials necessary to the manufacture of equipment to be used in the National Airspace System, and contracts may be made under this subsection for such advance procurement, if feasible and practicable, in order to achieve economic-lot purchases and more efficient production rates.

"(5) TERMINATION.—In the event funds are not made available for the continuation of a contract made under this subsection into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from—

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of property concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments.

"(6) LIMITATION ON APPLICABILITY.—This subsection does not apply to contracts for the construction, alteration, or major repair or improvements to real property or contracts for the purchase of property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies.

"(7) MULTIYEAR CONTRACT DEFINED.—For the purposes of this subsection, a multiyear contract is a contract for the purchase of property or services for more than 1, but not more than 5, fiscal years. Such a contract may provide that performance under the contract during the second and subsequent years of the contract is contingent upon the appropriation of funds and (if it does so provide) may provide for a cancellation payment to be made to the contractor if such appropriations are not made.

"(8) PRICE OPTIONS.—The Administrator may incorporate into a proposed multiyear contract negotiated priced options for varying the quantities of end items to be procured over the period of the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended to read as follows:

"Sec. 303. Procurement authority.
"(a) Acquisition and disposal of property.
"(b) Special rules for acquisitions.
"(c) Procurement procedures.
"(d) Sole source approval by Administrator.
"(e) Multiyear service contracts.
"(f) Multiyear property acquisition contracts.".

SEC. 9119. EXPANDED EAST COAST PLAN.

(a) ENVIRONMENTAL IMPACT STATEMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue an environmental impact statement pursuant to the National Environmental Policy Act of 1969 on the effects of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(b) AIR SAFETY INVESTIGATION.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall conduct an investigation to determine the effects on air safety of changes in aircraft flight patterns over the State of New Jersey caused by implementation of the Expanded East Coast Plan.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the environmental impact statement and investigation conducted pursuant to this section. Such report shall also contain such recommendations for modification of the Expanded East Coast Plan as the Administrator considers appropriate or an explanation of why modification of such plan is not appropriate.

(d) IMPLEMENTATION OF MODIFICATIONS.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall implement modifications to the Expanded East Coast Plan recommended under subsection (c).

SEC. 9120. TRANSFER OF FORMAT OF GEODETIC NAVIGATION INFORMATION.

Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration and the Administrator of the National Oceanic and Atmospheric Administration shall complete the transfer of geodetic coordinate navigation information from NAD-27 format to NAD-83 format.

SEC. 9121. SENSITIVE SECURITY INFORMATION.

Section 316(d)(2) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357(d)(2)) is amended—

(1) by inserting "security or" before "research and development activities"; and

(2) by striking "subsection" and inserting "title".

SEC. 9122. REPORTS.

Section 107 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1307) is amended in subsections (b) and (c) by striking "each April 1 thereafter" each place it appears and inserting "through April 1, 1990".

SEC. 9123. ATLANTIC CITY AIRPORT.

Section 312 of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1528) is repealed.

SEC. 9124. NATURAL DISASTER REGULATION.

Title VI of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421-1432) is amended by inserting after section 612 the following new section:

49 USC app. 1433.

"SEC. 613. SAFETY REGULATION.

"(a) NATIONAL DISASTER AREAS.—Before the 180th day following the date of the enactment of this section, the Administrator, for safety and humanitarian reasons, shall issue such regulations as may be necessary to prohibit or otherwise restrict aircraft overflights of any inhabited area which has been declared a national disaster area in the State of Hawaii.

"(b) EXCEPTIONS.—Regulations issued pursuant to subsection (a) shall not be applicable in the case of aircraft overflights involving an emergency or a ligitimate [73] scientific purpose.

"(c) STATUS OF STUDIES.—Not later than the 90th day following the date of the enactment of this section, the Administrator shall report to Congress on the status of the studies and reports required by the Act entitled 'An Act to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national airport system units', approved August 18, 1987 (101 Stat. 674-678; 16 U.S.C. 1a-1 note).".

SEC. 9125. FLIGHT TAKEOFF OR LANDING REQUIREMENT FOR STATE TAXATION.

Section 1113 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513) is amended by adding at the end the following new subsection:

"(f) FLIGHT TAKEOFF OR LANDING REQUIREMENT FOR STATE TAXATION.—No State (as such term is defined under subsection (d)(2)(E)) or political subdivision thereof shall levy or collect any tax on or with respect to any flight of a commercial aircraft or any activity or service on board such aircraft unless such aircraft takes off or lands in such State or political subdivision as part of such flight.".

[73] So in original. Probably should be "legitimate".

SEC. 9126. ALLOCATION OF EXISTING CAPACITY AT CERTAIN AIRPORTS.

(a) RULEMAKING.— The Secretary of Transportation shall, by July 1, 1991, initiate a rulemaking proceeding to consider more efficient methods of allocating existing capacity at high density traffic airports in order to provide improved opportunities for operations by new entrant air carriers.

(b) DEFINITION.—In this section, the term "new entrant air carrier", as used with respect to a high density traffic airport, means an air carrier having less than 12 operating rights at such airport.

SEC. 9127. CERTIFICATE TRANSFERS.

Section 401(h) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1371(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new paragraphs:

"(2) CERTIFICATION.—The Secretary of Transportation shall, upon any transfer of a certificate, certify to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives that the transfer is consistent with the public interest.

"(3) ACCOMPANYING REPORT.—A certification under this subsection shall be accompanied by a report analyzing the effects of the transfer on—

"(A) the viability of each of the carriers involved in the transfer;

"(B) competition in the domestic airline industry,[74] and

"(C) the trade position of the United States in the international air transportation market.".

SEC. 9128. SEVERABILITY.

49 USC app. 2201 note.

If any provision of this subtitle (including an amendment made by this subtitle), or the application thereof to any person or circumstance, is held invalid, the remainder of this subtitle and the application of such provision to other persons of circumstances shall not be affected thereby.

SEC. 9129. BUY AMERICAN.

49 USC app. 2226a.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary of Transportation shall not obligate, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this subtitle, section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b)) for any project unless steel and manufactured products used in such project are produced in the United States.

(b) LIMITATIONS ON APPLICABILITY.—The provisions of subsection (a) of this section shall not apply where the Secretary finds—

(1) that their application would be inconsistent with the public interest;

(2) that such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) in the case of the procurement of facilities and equipment under the Airport and Airway Improvement Act of 1982 that (A) the cost of components and subcomponents which are produced in the United States is more than 60 percent of the cost of all components of the facility or equipment described in this

[74] So in original. Probably should be "industry;".

paragraph, and (B) final assembly of the facility or equipment described in this paragraph has taken place in the United States; or

(4) that inclusion of domestic material will increase the cost of the overall project contract by more than 25 percent.

(c) CALCULATION OF COMPONENTS COSTS.—For purposes of this section, in calculating components' costs, labor costs involved in final assembly shall not be included in the calculation.

49 USC app. 2226b.

SEC. 9130. PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract or grant in conjunction with the issuance of any contract made under this subtitle for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

49 USC app. 2226c.

SEC. 9131. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this subtitle if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990. 49 USC app. 2201 note.

Subtitle C—Federal Aviation Administration Research, Engineering, and Development

SEC. 9201. SHORT TITLE.

This subtitle may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990".

SEC. 9202. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Paragraph (2) of section 506(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows through the period at the end of such paragraph and inserting the following:

"(A) for fiscal year 1991—

"(i) $135,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $70,100,000 solely for aircraft safety projects and activities; and

"(vii) $5,400,000 solely for environmental projects and activities; and

"(B) for fiscal year 1992—

"(i) $135,800,000 solely for air traffic control projects and activities;

"(ii) $19,100,000 solely for air traffic control advanced computer projects and activities;

"(iii) $3,400,000 solely for navigation projects and activities;

"(iv) $9,700,000 solely for aviation weather projects and activities;

"(v) $16,500,000 solely for aviation medicine projects and activities;

"(vi) $70,100,000 solely for aircraft safety projects and activities; and

"(vii) $5,400,000 solely for environmental projects and activities.

Not less than 3 percent of the funds made available under this paragraph for a fiscal year shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

SEC. 9203. ENHANCED AIRPORT CAPACITY.

Section 506(b)(4) of the Airport and Airway Improvement Act of 1982 (49 App. U.S.C. 2205(b)(4)) is amended—

(1) in subparagraph (A) by striking "and 1990" and inserting "1990, 1991, and 1992"; and

(2) in subparagraph (B) by striking "and 1990" and inserting "1990, 1991, and 1992".

SEC. 9204. WEATHER SERVICES.

Section 506(d) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(d)) is amended by striking the second sentence and inserting the following: "Expenditures for the purposes of carrying out this subsection shall be limited to $34,521,000 for fiscal year 1991 and $35,389,000 for fiscal year 1992.".

SEC. 9205. AVIATION RESEARCH GRANT PROGRAM.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding the following new subsection:

"(g) RESEARCH GRANT PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations to conduct aviation research into areas deemed by the Administrator to be required for the long-term growth of civil aviation.

"(2) APPLICATIONS.—A university, college, or nonprofit organization interested in receiving a grant under this subsection may submit to the Administrator an application for such grant. Such application shall be in such form and contain such information as the Administrator may require.

"(3) SELECTION.—The Administrator shall establish a solicitation, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit

and relevancy to the mission of the Federal Aviation Administration, (B) an equitable geographical distribution of grant funds under this subsection, and (C) the inclusion of historically black colleges and universities and other minority institutions for funding consideration under this subsection.

"(4) RECORDS.—Each person awarded a grant under this subsection shall maintain such records as the Administrator may require as being necessary to facilitate an effective audit and evaluation of the use of grant funds.

"(5) REPORTS.—The Administrator shall make an annual report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the research grant program conducted under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(g) Research grant program.".

SEC. 9206. STUDY BY THE GENERAL ACCOUNTING OFFICE OF MULTIYEAR CONTRACTING AUTHORITY.

The Comptroller General of the United States shall conduct a study of the advisability of granting to the Administrator of the Federal Aviation Administration specific statutory authority—

(1) to lease real property or interests therein for terms not to exceed 20 years, including, in the case of air navigation facilities and airports (as such terms are defined in section 101 (8) and (9) of the Federal Aviation Act of 1958) owned by the United States and operated under the direction of the Administrator, easements through or other interests in airspace immediately adjacent thereto and in connection therewith;

(2) to procure personal property or services and real property and interests therein with procedures other than competitive procedures under section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c));

(3) to serve as the senior procurement executive under section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) for the purpose of approving the justification for the use of noncompetitive procedures required under section 303(f)(1)(B)(iii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)(1)(B)(iii));

(4) to let multiyear contracts for services, including the operation, maintenance, and support of facilities and installations; the operation, maintenance, and modification of aircraft, vehicles, and other highly complex equipment; specialized training necessitating high quality instructor skills; and base services; and

(5) to let multiyear contracts for the purchase of property.

The study also shall examine the implementation of section 2306(g) and (h) of title 10, United States Code, by the Department of Defense, and shall assess the usefulness of granting similar authority to the Federal Aviation Administration. The Comptroller General shall submit a report on the results of the study, along with any comments of the Administrator of the Federal Aviation Administra-

tion, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the date of enactment of this Act.

SEC. 9207. BUY-AMERICAN REQUIREMENT.

49 USC app. 2226d.

(a) DETERMINATION BY ADMINISTRATOR.—If the Administrator, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Administrator is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this subtitle that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Administrator shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this subtitle for which—

(1) amounts are authorized by this subtitle (including the amendments made by this subtitle) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Administrator shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1991 and 1992 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Administrator shall also report to the Congress on the number of contracts covered under this subtitle (including the amendments made by this subtitle) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Federal Aviation Administration;

(2) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(3) the term "foreign firm" means a business entity not described in paragraph (2).

SEC. 9208. CATASTROPHIC FAILURE PREVENTION RESEARCH PROGRAM.

(a) GENERAL AUTHORITY.—Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after "inflight aircraft fires," the following; [75] "to develop technologies and methods to assess the risk of and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft,".

(b) GRANT PROGRAM.—Section 312 of such Act is amended by adding at the end the following new subsection:

"(h) CATASTROPHIC FAILURE PREVENTION RESEARCH GRANT PROGRAM.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to colleges, universities, and nonprofit research organizations (A) to conduct aviation research relating to development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft, and (B) to establish centers of excellence for continuing such research.

"(2) SELECTION AND EVALUATION PROCESSES.—The Administrator shall establish a solicitation, application, review, and evaluation process that ensures (A) the funding under this subsection of proposals having adequate merit and relevancy to the research described in paragraph (1).".

(c) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(h) Catastrophic failure prevention research grant program.".

SEC. 9209. AVIATION RESEARCH AND CENTERS OF EXCELLENCE.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353) is amended by adding at the end the following new subsection:

"(i) AVIATION RESEARCH AND CENTERS OF EXCELLENCE.—

"(1) GENERAL AUTHORITY.—The Administrator may make grants to one or more colleges or universities to establish and operate several regional centers of air transportation excellence, whose locations shall be geographically equitable.

"(2) RESPONSIBILITIES.—The responsibilities of each regional center of air transportation excellence established under this subsection shall include, but not be limited to, the conduct of research concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system, and the interpretation, publication, and dissemination of the results of such research. In conducting such

[75] So in original. Probably should be "following:".

research, each center may contract with nonprofit research organizations and other appropriate persons.

"(3) APPLICATION.—Any college or university interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) SELECTION CRITERIA.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The extent to which the needs of the State in which the applicant is located are representative of the needs of the region for improved air transportation services and facilities.

"(B) The demonstrated research and extension resources available to the applicant for carrying out this subsection.

"(C) The capability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate air transportation problems.

"(D) The extent to which the applicant has an established air transportation program.

"(E) The demonstrated ability of the applicant to disseminate results of air transportation research and educational programs through a statewide or regionwide continuing education program.

"(F) The projects which the applicant proposes to carry out under the grant.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional center of air transportation excellence and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall be 50 percent of the costs of establishing and operating the regional center of air transportation excellence and related research activities carried out by the grant recipient.

"(7) ALLOCATION OF FUNDS.—Funds made available to carry out this subsection shall be allocated by the Administrator in a geographically equitable manner.".

(b) RESEARCH ADVISORY COMMITTEE.—

(1) Section 312(f)(2) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(2)) is amended by adding at the end the following new sentence: "In addition, the committee shall review the research and training to be carried out by the regional centers of air transportation excellence established under subsection (h).".

(2) Section 312(f)(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(f)(3)) is amended—

(A) by striking "20" and inserting "30"; and

(B) by striking the last sentence and inserting the following: "The Administrator in appointing the members of the committee shall ensure that the research centers of air

transportation excellence, universities, corporations, associations, consumers, and other Government agencies are represented.".

(c) RESEARCH AUTHORITY OF ADMINISTRATOR.—Section 312(c) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1353(c)) is amended by inserting after the third sentence the following: "The Administrator shall undertake or supervise research programs concerning airspace and airport planning and design, airport capacity enhancement techniques, human performance in the air transportation environment, aviation safety and security, the supply of trained air transportation personnel including pilots and mechanics, and other aviation issues pertinent to developing and maintaining a safe and efficient air transportation system.".

(d) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to section 312 of that Act is amended by adding at the end the following:

"(i) Aviation research and centers of excellence.".

Airport Noise and Capacity Act of 1990.

Subtitle D—Aviation Noise Policy

49 USC app. 2151 note.

SEC. 9301. SHORT TITLE.

This subtitle may be cited as the "Airport Noise and Capacity Act of 1990".

49 USC app. 2151.

SEC. 9302. FINDINGS.

The Congress finds that—

(1) aviation noise management is crucial to the continued increase in airport capacity;

(2) community noise concerns have led to uncoordinated and inconsistent restrictions on aviation which could impede the national air transportation system;

(3) a noise policy must be implemented at the national level;

(4) local interest in aviation noise management shall be considered in determining the national interest;

(5) community concerns can be alleviated through the use of new technology aircraft, combined with the use of revenues, including those available from passenger facility charges, for noise management;

(6) federally controlled revenues can help resolve noise problems and carry with them a responsibility to the national airport system;

(7) revenues derived from a passenger facility charge may be applied to noise management and increased airport capacity; and

(8) a precondition to the establishment and collection of passenger facility charges is the issuance by the Secretary of Transportation of a final rule establishing procedures for reviewing airport noise and access restrictions on operations of Stage 2 and Stage 3 aircraft.

49 USC app. 2152.

SEC. 9303. NATIONAL AVIATION NOISE POLICY.

(a) DEVELOPMENT.—Not later than July 1, 1991, the Secretary of Transportation (hereinafter in this subtitle referred to as the "Secretary") shall issue regulations establishing a national aviation noise policy which takes into account the findings, determinations,

and provisions of this subtitle, including the phaseout and nonaddition of Stage 2 aircraft as provided in this subtitle and implementation dates and reporting requirements consistent with this subtitle and existing law.

(b) BASIS.—The national aviation noise policy shall be based upon a detailed economic analysis of the impact of the phaseout date for Stage 2 aircraft on competition in the airline industry, including the ability of air carriers to achieve capacity growth consistent with the projected rate of growth for the airline industry, the impact of competition within the airline and aircargo industries, the impact on nonhub and small community air service, and the impact on new entry into the airline industry.

(c) RECOMMENDATIONS.—Not later than July 1, 1991, the Secretary shall transmit to Congress recommendations on—

(1) the need for changes in the standards and procedures which govern the rights of State and local governments (including airport authorities) to restrict aircraft operations for the purpose of limiting aircraft noise;

(2) the need for changes in the standards and procedures which govern law suits by persons adversely affected by aircraft noise;

(3) the need for changes in standards and procedures for Federal regulation of airspace (including the pattern of operations for the air traffic control system) in order to take better account of environmental effects;

(4) the need for changes in the Federal program providing assistance for noise abatement planning and programs, including the need for greater incentives or mandatory requirements for local restrictions on the use of land impacted by aircraft noise;

(5) whether any changes in policy recommended in paragraphs (1) through (4) should be accomplished through regulatory, administrative, or legislative action; and

(6) specific legislative proposals necessary for implementing the national aviation noise policy.

SEC. 9304. NOISE AND ACCESS RESTRICTION REVIEWS. 49 USC 2153.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The national aviation noise policy to be established under this subtitle shall require the establishment, by regulation, in accordance with the provisions of this section of a national program for reviewing airport noise and access restrictions on operations of Stage 2 and Stage 3 aircraft. Such program shall provide for adequate public notice and comment opportunities on such restrictions.

(2) LIMITATIONS ON APPLICABILITY.—

(A) APPLICABILITY DATE FOR STAGE 2 AIRCRAFT.—With respect to Stage 2 aircraft, the requirements set forth in subsection (c) shall apply only to restrictions proposed after October 1, 1990.

(B) APPLICABILITY DATE FOR STAGE 3 AIRCRAFT.—With respect to Stage 3 aircraft, the requirements set forth in subsections (b) and (d) shall apply only to restrictions that first become effective after October 1, 1990.

(C) SPECIFIC EXEMPTIONS.—Subsections (b), (c), and (d) shall not apply to—

(i) a local action to enforce a negotiated or executed airport aircraft noise or access agreement between the airport operator and the aircraft operator in effect on the date of the enactment of this Act;

(ii) a local action to enforce a negotiated or executed airport aircraft noise or access restriction the airport operator and the aircraft operators agreed to before the date of the enactment of this Act;

(iii) an intergovernmental agreement including airport aircraft noise or access restriction in effect on the date of the enactment of this Act;

(iv) a subsequent amendment to an airport aircraft noise or access agreement or restriction in effect on the date of the enactment of this Act that does not reduce or limit aircraft operations or affect aircraft safety;

(v)(I) a restriction which was adopted by an airport operator on or before October 1, 1990, and which was stayed as of October 1, 1990, by a court order or as a result of litigation, if such restriction or a part thereof is subsequently allowed by a court to take effect; and

(II) in any case in which a restriction described in subclause (I) is either partially or totally disallowed by a court, any new restriction imposed by an airport operator to replace such disallowed restriction if such new restriction would not prohibit aircraft operations in effect as of the date of the enactment of this Act; and

(vi) a local action which represents the adoption of the final portion of a program of a staged airport aircraft noise or access restriction where the initial portion of such program was adopted during calendar year 1988 and was in effect on the date of the enactment of this Act.

(D) ADDITIONAL WORKING GROUP EXEMPTIONS.—Subsections (b) and (d) shall not apply where the Federal Aviation Administration has prior to the date of the enactment of this Act formed a working group (outside the process established by part 150 of title 14 of the Code of Federal Regulations) with a local airport operator to examine the noise impact of air traffic control procedure changes. In any case in which an agreement relating to noise reductions at such airport is entered into between the airport proprietor and an air carrier or air carrier constituting a majority of the air carrier users of such airport, subsections (b) and (d) shall apply only to local actions to enforce such agreement.

(b) LIMITATION ON STAGE 3 AIRCRAFT RESTRICTIONS.—No airport noise or access restriction on the operation of a Stage 3 aircraft, including but not limited to—

(1) a restriction as to noise levels generated on either a single event or cumulative basis;

(2) a limit, direct or indirect, on the total number of Stage 3 aircraft operations;

(3) a noise budget or noise allocation program which would include Stage 3 aircraft;

(4) a restriction imposing limits on hours of operations; and

(5) any other limit on Stage 3 aircraft;

shall be effective unless it has been agreed to by the airport proprietor and all aircraft operators or has been submitted to and ap-

proved by the Secretary pursuant to an airport or aircraft operator's request for approval in accordance with the program established pursuant to this section.

(c) LIMITATION ON STAGE 2 AIRCRAFT RESTRICTIONS.—No airport noise or access restriction shall include a restriction on operations of Stage 2 aircraft, unless the airport operator publishes the proposed noise or access restriction and prepares and makes available for public comment at least 180 days before the effective date of the restriction—

(1) an analysis of the anticipated or actual costs and benefits of the existing or proposed noise or access restriction;

(2) a description of alternative restrictions; and

(3) a description of the alternative measures considered which do not involve aircraft restrictions, and a comparison of the costs and benefits of such alternative measures to the costs and benefits of the proposed noise or access restriction.

(d) APPROVAL OF STAGE 3 AIRCRAFT RESTRICTIONS.—

(1) IN GENERAL.—Not later than the 180th day after the date on which the Secretary receives an airport or aircraft operator's request for approval of a noise or access restriction on the operation of a Stage 3 aircraft, the Secretary shall approve or disapprove such request.

(2) REQUIRED FINDINGS.—The Secretary shall not approve a noise or access restriction applying to Stage 3 aircraft operations unless the Secretary finds the following conditions to be supported by substantial evidence:

(A) The proposed restriction is reasonable, nonarbitrary, and nondiscriminatory.

(B) The proposed restriction does not create an undue burden on interstate or foreign commerce.

(C) The proposed restriction is not inconsistent with maintaining the safe and efficient utilization of the navigable airspace.

(D) The proposed restriction does not conflict with any existing Federal statute or regulation.

(E) There has been an adequate opportunity for public comment with respect to the restriction.

(F) The proposed restriction does not create an undue burden on the national aviation system.

(e) INELIGIBILITY FOR PFC'S AND AIP FUNDS.—Sponsors of facilities operating under airport aircraft noise or access restrictions on Stage 3 aircraft operations that first became effective after October 1, 1990, shall not be eligible to impose a passenger facility charge under section 1113(e) of the Federal Aviation Act of 1958 and shall not be eligible for grants authorized by section 505 of the Airport and Airway Improvement Act of 1982 after the 90th day following the date on which the Secretary issues a final rule under section 9304(a) of this Act, unless such restrictions have been agreed to by the airport proprietor and aircraft operators or the Secretary has approved the restrictions under this subtitle or the restrictions have been rescinded.

(f) REEVALUATION.—The Secretary may reevaluate any noise restrictions previously agreed to or approved under subsection (d) upon the request of any aircraft operator able to demonstrate to the satisfaction of the Secretary that there has been a change in the noise environment of the affected airport and that a review and reevaluation pursuant to the criteria established under subsection

(d) of the previously approved or agreed to noise restriction is therefore justified.

(g) PROCEDURES FOR REEVALUATION.—The Secretary shall establish by regulation procedures under which reevaluations under subsection (f) are to be accomplished. A reevaluation under subsection (f) of a restriction shall not occur less than 2 years after a determination under subsection (d) has been made with respect to such restriction.

(h) EFFECT ON EXISTING LAW.—Except to the extent required by the application of the provisions of this section, nothing in this subtitle shall be deemed to eliminate, invalidate, or supersede—

(1) existing law with respect to airport noise or access restrictions by local authorities;

(2) any proposed airport noise or access regulation at a general aviation airport where the airport proprietor has formally initiated a regulatory or legislative process on or before October 1, 1990; and

(3) the authority of the Secretary to seek and obtain such legal remedies as the Secretary considers appropriate, including injunctive relief.

49 USC app. 2154.

SEC. 9305. DETERMINATION REGARDING NOISE RESTRICTIONS ON CERTAIN STAGE 2 AIRCRAFT.

The Secretary shall determine by a study the applicability of subsections (a), (b), (c), and (d) of section 9304 to noise restrictions on the operations of Stage 2 aircraft weighing less than 75,000 pounds. In making such determination, the Secretary shall consider—

(1) noise levels produced by such aircraft relative to other aircraft;

(2) the benefits to general aviation and the need for efficiency in the national air transportation system;

(3) the differences in the nature of operations at airports and the areas immediately surrounding such airports;

(4) international standards and accords with respect to aircraft noise; and

(5) such other factors which the Secretary deems necessary.

49 USC app. 2155.

SEC. 9306. FEDERAL LIABILITY FOR NOISE DAMAGES.

In the event that a proposed airport aircraft noise or access restriction is disapproved, the Federal Government shall assume liability for noise damages only to the extent that a taking has occurred as a direct result of such disapproval. Action for the resolution of such a case shall be brought solely in the United States Claims Court.

49 USC app. 2156.

SEC. 9307. LIMITATION ON AIRPORT IMPROVEMENT PROGRAM REVENUE.

Under no conditions shall any airport receive revenues under the provisions of the Airport and Airway Improvement Act of 1982 or impose or collect a passenger facility charge under section 1113(e) of the Federal Aviation Act of 1958 unless the Secretary assures that the airport is not imposing any noise or access restriction not in compliance with this subtitle.

49 USC app. 2157.

SEC. 9308. PROHIBITION ON OPERATION OF CERTAIN AIRCRAFT NOT COMPLYING WITH STAGE 3 NOISE LEVELS.

(a) GENERAL RULE.—After December 31, 1999, no person may operate to or from an airport in the United States any civil subsonic

turbojet aircraft with a maximum weight of more than 75,000 pounds unless such aircraft complies with the Stage 3 noise levels, as determined by the Secretary.

(b) WAIVER.—

(1) APPLICATION.—If, by July 1, 1999, at least 85 percent of the aircraft used by an air carrier to provide air transportation comply with the Stage 3 noise levels, such carrier may apply for a waiver of the prohibition set forth in subsection (a) for the remaining 15 or less percent of the aircraft used by the carrier to provide air transportation. Such application must be filed with the Secretary no later than January 1, 1999, and must include a plan with firm orders for making all aircraft used by the air carrier to provide air transportation to comply with such noise levels not later than December 31, 2003.

(2) GRANTING OF WAIVER.—The Secretary may grant a waiver under this subsection if the Secretary finds that granting such waiver is in the public interest. In making such a finding, the Secretary shall consider the effect of granting such waiver on competition in air carrier industry and on small community air service.

(3) LIMITATION.—A waiver granted under this subsection may not permit the operation of Stage 2 aircraft in the United States after December 31, 2003.

(c) COMPLIANCE SCHEDULE.—The Secretary shall, by regulation, establish a schedule for phased-in compliance with the prohibition set forth in subsection (a). The period of such phase-in shall begin on the date of the enactment of this Act and end before December 31, 1999. Such regulations shall establish interim compliance dates. Such schedule for phased-in compliance shall be based upon a detailed economic analysis of the impact of the phaseout date for Stage 2 aircraft on competition in the airline industry, including the ability of air carriers to achieve capacity growth consistent with the projected rates of growth for the airline industry, the impact of competition within the airline and air cargo industries, the impact on nonhub and small community air service, and the impact on new entry into the airline industry, and on an analysis of the impact of aircraft noise on persons residing near airports.

(d) EXEMPTION FOR NONCONTIGUOUS AIR SERVICE.—This section and section 9309 shall not apply to aircraft which are used solely to provide air transportation outside the 48 contiguous States. Any civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds which is imported into a noncontiguous State or a territory or possession of the United States on or after the date of the enactment of this Act may not be used to provide air transportation in the 48 contiguous States unless such aircraft complies with the Stage 3 noise levels.

(e) VIOLATIONS.—Violations of this section and section 9309 and regulations issued to carry out such sections shall be subject to the same civil penalties and procedures as are provided by title IX of the Federal Aviation Act of 1958 for violations of title VI.

(f) JUDICIAL REVIEW.—Actions taken by the Secretary under this section and section 9309 shall be subject to judicial review in accordance with section 1006 of the Federal Aviation Act of 1958.

(g) REPORTS.—Beginning with calendar year 1992, each air carrier shall submit to the Secretary an annual report on the progress such carrier is making toward complying with the requirements of this section (including the regulations issued to carry out this section),

and the Secretary shall transmit to Congress an annual report on the progress being made toward such compliance.

(h) DEFINITIONS.—As used in this section, the following definitions apply:

(1) AIR CARRIER; AIR TRANSPORTATION; UNITED STATES.—The terms "air carrier", "air transportation", and "United States" have the meanings such terms have under section 101 of the Federal Aviation Act of 1958.

(2) STAGE 3 NOISE LEVELS.—The term "Stage 3 noise levels" means the Stage 3 noise levels set forth in part 36 of title 14, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

49 USC app. 2158.

SEC. 9309. NONADDITION RULE.

(a) GENERAL RULE.—Except as provided in subsection (b) of this section, no person may operate a civil subsonic turbojet aircraft with a maximum weight of more than 75,000 pounds which is imported into the United States on or after the date of the enactment of this Act unless—

(1) it complies with the Stage 3 noise levels, or

(2) it was purchased by the person who imports the aircraft into the United States under a written contract executed before such date of enactment.

(b) EXEMPTION FOR COMPLYING MODIFICATIONS.—The Secretary may provide an exemption from the requirements of subsection (a) to permit a person to obtain modifications to an aircraft to meet the Stage 3 noise levels.

(c) LIMITATION ON STATUTORY CONSTRUCTION.—For the purposes of this section, an aircraft shall not be considered to have been imported into the United States if such aircraft—

(1) on the date of the enactment of this Act, is owned—

(A) by a corporation, trust, or partnership which is organized under the laws of the United States or any State (including the District of Columbia);

(B) by an individual who is a citizen of the United States; or

(C) by any entity which is owned or controlled by a corporation, trust, partnership, or individual described in this paragraph; and

(2) enters into the United States not later than 6 months after the date of the expiration of a lease agreement (including any extensions thereof) between an owner described in paragraph (1) and a foreign air carrier.

TITLE X—MISCELLANEOUS USER FEES AND OTHER PROVISIONS

Subtitle A—Customs User Fees and Other Trade Provisions

PART I—CUSTOMS USER FEES

SEC. 10001. CUSTOMS USER FEES.

(a) EXTENSION OF EFFECTIVE PERIOD FOR FEES.—Paragraph (3) of section 13031(j) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking out "1991" and inserting "1995".

(b) ADJUSTMENT OF FEES FOR FORMALLY-ENTERED MERCHANDISE.—Paragraph (9) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(9)) is amended to read as follows:

"(9)(A) For the processing of merchandise that is formally entered or released during any fiscal year, a fee in an amount equal to 0.17 percent ad valorem, unless adjusted under subparagraph (B).

"(B)(i) The Secretary of the Treasury may adjust the ad valorem rate specified in subparagraph (A) to an ad valorem rate (but not to a rate of more than 0.19 percent nor less than 0.15 percent) that would, if charged, offset the salaries and expenses that will likely be incurred by the Customs Service in the processing of such entries and releases during the fiscal year in which such costs are incurred.

"(ii) In determining the amount of any adjustment under clause (i), the Secretary of the Treasury shall take into account whether there is a surplus or deficit in the fund established under section 613A of the Tariff Act of 1930 with respect to the provision of customs services for the processing of formal entries and releases of merchandise.

"(iii) An adjustment may not be made under clause (i) with respect to the fee charged during any fiscal year unless the Secretary of the Treasury—

"(I) not later than 45 days after the date of the enactment of the Act providing full-year appropriations for the Customs Service for that fiscal year, publishes in the Federal Register a notice of intent to adjust the fee under this paragraph and the amount of such adjustment;

"(II) provides a period of not less than 30 days following publication of the notice described in subclause (I) for public comment and consultation with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the proposed adjustment and the methodology used to determine such adjustment;

"(III) upon the expiration of the period provided under subclause (II), notifies such committees in writing regarding the final determination to adjust the fee, the amount of such adjustment, and the methodology used to determine such adjustment; and

"(IV) upon the expiration of the 15-day period following the written notification described in subclause (III), submits for publication in the Federal Register notice of the final determination regarding the adjustment of the fee.

"(iv) The 15-day period referred to in clause (iii)(IV) shall be computed by excluding—

"(I) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

"(II) any Saturday and Sunday, not excluded under subclause (I), when either House is not in session.

"(v) An adjustment made under this subparagraph shall become effective with respect to formal entries and releases made on or after the 15th calendar day after the date of publication of the notice described in clause (iii)(IV) and shall remain in effect until adjusted under this subparagraph.

"(C) If for any fiscal year, the Secretary of the Treasury determines not to make an adjustment under subparagraph (B), the Secretary shall, within the time prescribed under subparagraph (B)(iii)(I), submit a written report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives detailing the reasons for maintaining the current fee and the methodology used for computing such fee.

"(D) Any fee charged under this paragraph, whether or not adjusted under subparagraph (B), is subject to the limitations in subsection (b)(8)(A).".

(c) AGGREGATION OF MERCHANDISE PROCESSING FEES.—Section 111(f)(1)(B) of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "determined in" and inserting "currently in effect under".

19 USC 58c note.

(d) CUSTOMS SERVICE ADMINISTRATION.—Section 113 of the Customs and Trade Act of 1990 is amended—

19 USC 2082.

(1) by inserting "and" after the semicolon at the end of subsection (a)(1);

(2) by striking out the semicolon at the end of subsection (a)(2) and inserting a period;

(3) by striking out paragraphs (3), (4), and (5) of subsection (a); and

(4) by striking out "Committees referred to in subsection (a)(5)" in subsection (b) and inserting "Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate".

(e) MERCHANDISE PROCESSING FEES FOR CERTAIN SMALL AIRPORTS.—

(1) Section 13031(a)(10)(C) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)(10)(C)) is amended by striking "applies," and inserting "applies, if more than 25,000 informal entries were cleared through such airport or facility during the fiscal year preceding such entry or release,".

(2) Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended by inserting ", if more than 25,000 informal entries were cleared through such airport or facility during the preceding fiscal year" in subparagraph (B)(ii) before the end period.

(7) The article descriptions for subheadings 6116.10.08, 6116.92.08, 6116.93.08, 6116.99.35, 6216.00.08, 6216.00.35, and 6216.00.46, as redesignated by subsection (a), are each amended to read as follows: "Other gloves, mittens, and mitts, all the foregoing specially designed for use in sports, including ski and snowmobile gloves, mittens, and mitts".

(8) The superior heading for subheadings 8712.00.25 and 8712.00.35, as redesignated by subsection (a), is amended by striking out "65" and inserting "63.5".

(9) Heading 9902.30.07 is amended by striking out "2929.90.10" and inserting "2929.10.40".

(10) Heading 9902.30.08 is amended by striking out "2907.29.30" and inserting "2907.19.50".

(11) Heading 9902.30.42 is amended by striking out "19532-03-07" and inserting "19532-03-7".

(12) The article description for heading 9902.30.56 is amended by striking out "hydroxethyl" and inserting "hydroxyethyl".

(13) Heading 9902.30.83 (as enacted by section 388 of the Customs and Trade Act of 1990) is redesignated as heading 9902.31.11 and, as so redesignated, is amended by striking out "piperadinyl" and inserting "piperidinyl".

(14) Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.70.20	Fiberglass tire cord fabric woven from electrically nonconductive continuous fiberglass filaments 9 microns in diameter or 10 microns in diameter and impregnated with resorcinol formaldehyde latex treatment for adhesion to polymeric compounds (provided for in subheading 7019.20.10, 7019.20.20, or 7019.20.50).....	Free	*No change*	*No change*	*On or before 12/31/92*	".

(15) Heading 9902.84.83 is amended by striking out "(A,C,E,IL)" and inserting "(A,C,CA,E,IL)".

(16) Heading 9902.87.14 is amended by striking out "brakes," the first place it appears.

(17) The article description for heading 9902.94.01 is amended by striking out "Furniture seats" and inserting "Furniture, seats,".

(c) EFFECTIVE DATE.—

(1) Subject to paragraphs (2) and (3), the amendments made by subsections (a) and (b) apply with respect to articles entered, or

withdrawn from warehouse for consumption, on or after October 1, 1990.

(2) Any amendment made by subsection (a) or (b) to a provision of the Harmonized Tariff Schedule of the United States that was the subject of an amendment made by title III of the Customs and Trade Act of 1990 shall—

(A) be treated as applying to that provision as established or amended by such title III; and

(B) if the amendment made by such title III has retroactive application under section 485(b) of such Act, be treated as applying with respect to entries made after the relevant applicable date (as defined in paragraph (2)(A) of such section 485(b)).

(3) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer before April 1, 1991, any entry—

(A) which was made after December 31, 1988, and before October 1, 1990; and

(B) with respect to which there would have been a lesser duty if any amendment made by subsection (b) (1) through (7) applied to such entry;

shall be liquidated or reliquidated as though such amendment applied to such entry.

SEC. 10012. TECHNICAL AMENDMENTS TO CERTAIN CUSTOMS LAWS.

(a) CUSTOMS FORFEITURE FUND.—

19 USC 1613b. (1) Paragraph (5) of section 121 of the Customs and Trade Act of 1990 is repealed and subsection (f) of section 613A of the Tariff Act of 1930 shall be applied as if the amendment made by such paragraph (5) had not been enacted.

19 USC 1613b. (2) Paragraph (2) of such section 613A(f) of the Tariff Act of 1930 (as in effect after the application of paragraph (1)) is amended to read as follows:

"(2)(A) Subject to subparagraph (B), there are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(B) Of the amount authorized to be appropriated under subparagraph (A), not to exceed the following, shall be available to carry out the purposes set forth in subsection (a)(3):

"(i) $14,855,000 for fiscal year 1991.

"(ii) $15,598,000 for fiscal year 1992.".

(b) CERTAIN ENTRIES.—Section 484 of the Customs and Trade Act of 1990 (Public Law 101-382) is amended by striking out "1801-000027" and inserting "1801-7-000027".

19 USC 1613b note. (c) EFFECTIVE DATE.—The provisions of this section take effect August 21, 1990.

SEC. 10013. STAGED RATE REDUCTION FOR ETBE.

(a) IN GENERAL.—Section 484G(b) of the Customs and Trade Act of 1990 is amended to read as follows:

"(b) STAGED RATE REDUCTION.—The President may proclaim such modifications to the rates of duty set forth in subheading 9901.00.52 with respect to goods originating in the territory of Canada as will result in reduction of such rates in equal annual stages and will make such products free of duty effective January 1, 1998.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 484G of the Customs and Trade Act of 1990.

Subtitle B—Patent and Trademark Office User Fees

SEC. 10101. PATENT AND TRADEMARK OFFICE USER FEES.

(a) SURCHARGES.—There shall be a surcharge, during fiscal years 1991 through 1995, of 69 percent, rounded by standard arithmetic rules, on all fees authorized by subsections (a) and (b) of section 41 of title 35, United States Code. 35 USC 41 note.

(b) USE OF SURCHARGES.—Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 1991, all surcharges collected by the Patent and Trademark Office— 35 USC 41 note.

(1) in fiscal year 1991—

(A) shall be credited to a separate account established in the Treasury and ascribed to the Patent and Trademark Office activities in the Department of Commerce as offsetting receipts, and

(B) $91,000,000 shall be available only to the Patent and Trademark Office, to the extent provided in appropriation Acts, and the additional surcharge receipts, totalling $18,807,000, shall be available only to the Patent and Trademark Office without appropriation, for all authorized activities and operations of the office, including all direct and indirect costs of services provided by the office,

(2) in fiscal years 1992 through 1995—

(A) shall be credited to a separate account established in the Treasury and ascribed to the Patent and Trademark Office activities in the Department of Commerce as offsetting receipts, and

(B) shall be available only to the Patent and Trademark Office, to the extent provided in appropriation Acts, for all authorized activities and operations of the office, including all direct and indirect costs of services provided by the office, and

(3) shall remain available until expended.

(c) REVISIONS.—In fiscal years 1991 through 1995, surcharges established under subsection (a) may be revised periodically by the Commissioner of Patents and Trademarks, subject to the provisions of section 553 of title 5, United States Code, in order to ensure that the following amounts, but not more than the following amounts, of patent and trademark user fees are collected: 35 USC 41 note.

(1) $109,807,000 in fiscal year 1991.
(2) $95,000,000 in fiscal year 1992.
(3) $99,000,000 in fiscal year 1993.
(4) $103,000,000 in fiscal year 1994.
(5) $107,000,000 in fiscal year 1995.

(d) REPEAL.—Section 105(a) of Public Law 100-703 (102 Stat. 4675) is repealed.

(e) REPORT ON FEES.—The Commissioner of Patents and Trademarks shall study the structure of all fees collected by the Patent and Trademark Office and, not later than May 1, 1991, shall submit to the Congress a report on all fees to be collected by the office in

fiscal years 1992 through 1995. The report shall include a proposed schedule of fees that would distribute the surcharges provided by subsection (a) among all fees collected by the office, and recommendations for any statutory changes that may be necessary to implement the proposals contained in the report.

35 USC 1 note.

SEC. 10102. FEDERAL AGENCY STATUS.

For the purposes of Federal law, the Patent and Trademark Office shall be considered a Federal agency. In particular, the Patent and Trademark Office shall be subject to all Federal laws pertaining to the procurement of goods and services that would apply to a Federal agency using appropriated funds, including the Federal Property and Administrative Services Act of 1949 and the Office of Federal Procurement Policy Act.

35 USC 41 note.

SEC. 10103. EFFECT ON OTHER LAW.

Except for section 10101(d), nothing in this subtitle affects the provisions of Public Law 100-703 (102 Stat. 4674 and following).

Subtitle C—Science and Technology User Fees

SEC. 10201. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION USER FEES.

(a) AMENDMENTS.—Section 409 of the Act of November 17, 1988 (15 U.S.C. 1534) is amended—

(1) in subsection (a), by striking "archived" and all that follows and inserting in lieu thereof "and information and products derived therefrom collected and/or archived by the National Oceanic and Atmospheric Administration.";

(2) in subsection (b)(1)—

(A) by inserting ", information, and products" immediately after "data" the first place it appears; and

(B) by striking "data is" and inserting in lieu thereof "data, information, and products are";

(3) in subsection (b)(2)—

(A) by inserting ", information, or products" immediately after "data" the first place it appears; and

(B) by striking "data exchange basis" and inserting in lieu thereof "basis of exchanging such data, information, and products";

(4) in subsection (b), by inserting at the end the following new paragraph:

"(3) The Secretary shall waive the assessment of fees authorized by subsection (a) as necessary to continue to provide weather warnings, watches, and similar products and services essential to the mission of the National Oceanic Atmospheric Administration.";

(5) by amending paragraph (1) of subsection (d) to read as follows:

"(1) The initial schedule of fees established by the National Environmental Satellite, Data, and Information Service for archived data shall remain in effect for the 3-year period beginning on the date that the fees under that schedule take effect.";

(6) in subsections (d), (e), and (f)(1), by inserting "by the National Environmental Satellite, Data, and Information Service for archived data" immediately after "under this section" each place it appears; and

(7) in subsection (g), by striking the period at the end and inserting in lieu thereof the following: ", including the authority of the Secretary pursuant to section 1307 of title 44, United States Code. Nothing in this section shall be construed to authorize the Secretary to assess fees for nautical and aeronautical products of the National Oceanic and Atmospheric Administration in addition to those fees authorized under section 1307 of title 44, United States Code.".

(b) EFFECT OF AMENDMENTS.—(1) The increase in revenues to the United States attributable to the amendments made by subsection (a) shall not exceed— 15 USC 1534 note.

(A) $2,000,000 for each of the fiscal years 1991, 1992, and 1993; and

(B) $3,000,000 for each of the fiscal years 1994 and 1995.

(2) Increases in revenues to the United States described in paragraph (1) shall be achieved by the Secretary of Commerce through fair and equitable increases in fees for services offered by the various programs of the National Oceanic and Atmospheric Administration.

(3) The Secretary of Commerce shall notify the Congress of any changes in fee schedules under section 409 of the Act of November 17, 1988 (15 U.S.C. 1534), before such changes take effect.

SEC. 10202. RADON MEASUREMENT PROFICIENCY.

Section 305(e) of the Toxic Substances Control Act is amended by adding at the end the following new paragraphs: 15 USC 2665.

"(5) RESEARCH.—The Administrator shall, in conjunction with other Federal agencies, conduct research to develop, test, and evaluate radon and radon progeny measurement methods and protocols. The purpose of such research shall be to assess the ability of those methods and protocols to accurately assess exposure to radon progeny. Such research shall include—

"(A) conducting comparisons among radon and radon progeny measurement techniques;

"(B) developing measurement protocols for different building types under varying operating conditions; and

"(C) comparing the exposures estimated by stationary monitors and protocols to those measured by personal monitors, and issue guidance documents that—

"(i) provide information on the results of research conducted under this paragraph; and

"(ii) describe model State radon measurement and mitigation programs.

"(6) MANDATORY PROFICIENCY TESTING PROGRAM STUDY.—(A) The Administrator shall conduct a study to determine the feasibility of establishing a mandatory proficiency testing program that would require that—

"(i) any product offered for sale, or device used in connection with a service offered to the public, for the measurement of radon meets minimum performance criteria; and

"(ii) any operator of a device, or person employing a technique, used in connection with a service offered to the public for the measurement of radon meets a minimum level of proficiency.

"(B) The study shall also address procedures for—

"(i) ordering the recall of any product sold for the measurement of radon which does not meet minimum performance criteria;

"(ii) ordering the discontinuance of any service offered to the public for the measurement of radon which does not meet minimum performance criteria; and

"(iii) establishing adequate quality assurance requirements for each company offering radon measurement services to the public to follow.

The study shall identify enforcement mechanisms necessary to the success of the program. The Administrator shall report the findings of the study with recommendations to Congress by March 1, 1991.

"(7) USER FEE.—In addition to any charge imposed pursuant to paragraph (2), the Administrator shall collect user fees from persons seeking certification under the radon proficiency program in an amount equal to $1,500,000 to cover the Environmental Protection Agency's cost of conducting research pursuant to paragraph (5) for each of the fiscal years 1991, 1992, 1993, 1994, and 1995. Such funds shall be deposited in the account established pursuant to paragraph (3).".

SEC. 10203. DEPARTMENT OF ENERGY USER FEE STUDY.

The Secretary of Energy shall undertake a study of the Department of Energy's user fee assessment and collection practices, and shall make recommendations on ways to—

(1) reasonably increase revenues to the United States through user fees, consistent with the mission of the Department; and

(2) improve user fee collection practices.

The Secretary of Energy shall submit a report containing such findings and recommendations to the Congress within 6 months after the date of enactment of this Act. There are authorized to be appropriated to the Secretary of Energy for carrying out this section not to exceed $500,000 for fiscal year 1991, from funds otherwise available to the Department of Energy.

SEC. 10204. DEPARTMENT OF TRANSPORTATION COMMERCIAL SPACE LAUNCH STUDY.

(a) The Secretary of Transportation shall report on actions by the Department of Transportation for the assessment and collection of licensing fees under the Commercial Space Launch Act (49 U.S.C. App. 2601 et seq.).

(b) The Secretary shall submit a report containing such findings to the Congress within 6 months after the date of enactment of this Act.

SEC. 10205. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY COST RECOVERY STUDY.

(a) The Secretary of Commerce shall undertake a study of current practices at, and any suggested improvements consistent with the mission of, the National Institute of Standards and Technology for recovering the costs of services and materials provided to private and nonprofit organizations, including services provided on a proprietary basis to users of Institute facilities.

(b) The Secretary shall submit a report containing such findings to the Congress within 6 months after the date of enactment of this Act.

Subtitle D—Travel and Tourism Facilitation Fee

SEC. 10301. UNITED STATES TRAVEL AND TOURISM FACILITATION FEE.

(a) UNITED STATES TRAVEL AND TOURISM ADMINISTRATION FACILITATION FEE.—The International Travel Act of 1961 (22 U.S.C. 2121 et seq.) is amended by adding at the end the following:

"SEC. 306. (a) To the extent not inconsistent with treaties or international agreements entered into by the United States, the Secretary, on a calendar quarterly basis beginning January 1, 1991, shall charge and collect from each commercial airline and passenger cruise ship line transporting passengers to the United States, a United States Travel and Tourism Administration Facilitation Fee, in an amount determined under subsection (b). 22 USC 2128.

"(b)(1) During the period from January 1, 1991, through December 31, 1991, the Secretary shall charge each commercial airline and passenger cruise ship line an amount equal to one dollar multiplied by the number of aliens described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) arriving at any port within the United States aboard a commercial aircraft or cruise ship of such airline or passenger cruise ship line during that calendar quarter.

"(2) Commencing in 1991, the Secretary shall each year determine and publish the amount of the fee described in subsection (a) for the 12-month period commencing on January 1 of the succeeding calendar year, as follows:

"(A) The Secretary (in consultation with the Attorney General and the Secretary of State) shall estimate the number of aliens described in section 101(a)(15)(B) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)) expected to enter the United States during such succeeding calendar year, based upon the number of such aliens who entered the United States during the previous calendar year (as reported or estimated by the Attorney General) and such other available information as the Secretary deems reliable.

"(B) The Secretary shall divide the amount appropriated to the United States Travel and Tourism Administration for the fiscal year during which such determination is made by the number of aliens described in subparagraph (A) expected by the Secretary to enter the United States during the calendar year described in such subparagraph, as estimated by the Secretary under such subparagraph, and shall round the result up to the nearest quarter-dollar.

"(C) The Secretary shall publish in the Federal Register the estimate required by subparagraph (A), together with a description of the information supporting such estimate, and the amount of the fee determined under subparagraph (B) which shall be applicable during the 12-month period commencing on January 1 of the succeeding calendar year.

"(D) For each calendar quarter beginning after December 31, 1991, the Secretary shall charge each commercial airline and passenger cruise ship line an amount equal to the fee amount determined under subparagraph (B) and applicable under subparagraph (C) multiplied by the number of aliens described in section 101(a)(15)(B) of the Immigration and Nationality Act

(8 U.S.C. 1101(a)(15)(B)) arriving at any port within the United States aboard a commercial aircraft or cruise ship of such airline or passenger cruise ship line during that calendar quarter.

"(3) Neither the estimate of the Secretary under paragraph (2)(A) nor the amount determined by the Secretary under paragraph (2)(B) shall be subject to judicial review.

"(c) Each commercial airline and passenger cruise ship line shall remit the fee charged by the Secretary under subsection (b), in United States dollars, no later than 31 days after the close of the calendar quarter of the arrival of the aliens on which the calculation of the fee is based.

"(d) The Secretary shall deposit the fees received pursuant to subsection (c) in the general fund of the Treasury as offsetting receipts and ascribed to the travel and tourism activities of the Secretary.

"(e) Beginning on October 1, 1992, the aggregate amounts collected for the fee charged under this section shall at least equal the appropriations made for the travel and tourism activities of the Secretary under this Act, but at no time shall the aggregate of amounts collected for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

"(f) The Secretary may prescribe such rules and regulations as may be necessary to carry out the provisions of this section.".

(b) CIVIL PENALTIES AND ENFORCEMENT.—The International Travel Act of 1961, as amended by subsection (a), is amended by adding at the end the following:

22 USC 2129.

"SEC. 307. (a) Any commercial airline or commercial cruise ship line which is found by the Secretary or the Secretary's designee, after notice and an opportunity for a hearing, to have failed to pay to the Secretary, by the due date, the fee charged by the Secretary under section 306(a), may be ordered by the Secretary or the Secretary's designee to pay any fee amount outstanding plus interest on any late payment and, in addition, to pay a civil penalty not to exceed $5,000 for each day payment to the Secretary is not made or was made late. The amount of such civil penalty shall be assessed by the Secretary or the Secretary's designee by written notice. In determining the amount of such penalty, the Secretary or the Secretary's designee shall take into account the nature, circumstances, extent, and gravity of the violation, and, with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require. Each day a payment to the Secretary required by this Act is late shall constitute a separate violation of this Act.

"(b) If any commercial airline or cruise ship line fails to pay as ordered by the Secretary or the Secretary's designee, the Attorney General may, upon request of the Secretary, bring a civil action in any appropriate United States district court for the recovery of the amount ordered to be paid.

"(c) Before requesting the Attorney General to bring a civil action, the Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under subsection (a).

"(d) For the purpose of conducting any hearing under subsection (a), the Secretary or the Secretary's designee may issue subpoenas for the attendance and testimony of witnesses and the production of

relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the United States district court for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or the Secretary's designee or to appear and produce papers, books, and documents before the Secretary or the Secretary's designee, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.".

Subtitle E—Coast Guard User Fees

SEC. 10401. ESTABLISHMENT AND COLLECTION OF FEES FOR COAST GUARD SERVICES.

(a) IN GENERAL.—Section 2110 of title 46, United States Code, is amended to read as follows:

"§ 2110. Fees

"(a)(1) Except as otherwise provided in this title, the Secretary shall establish a fee or charge for a service or thing of value provided by the Secretary under this subtitle, in accordance with section 9701 of title 31.

"(2) The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a non-self-propelled tank vessel under part B of this title that is more than $500 annually.

"(3) The Secretary may, by regulation, adjust a fee or charge collected under this subsection to accommodate changes in the cost of providing a specific service or thing of value, but the adjusted fee or charge may not exceed the total cost of providing the service or thing of value for which the fee or charge is collected, including the cost of collecting the fee or charge.

"(4) The Secretary may not collect a fee or charge under this subsection that is in conflict with the international obligations of the United States.

"(5) The Secretary may not collect a fee or charge under this subsection for any search or rescue service.

"(b)(1) The Secretary shall establish a fee or charge as provided in paragraph (2) of this subsection, and collect it annually in fiscal years 1991, 1992, 1993, 1994, and 1995, from the owner or operator of each recreational vessel that is greater than 16 feet in length.

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) for vessels greater than 16 feet in length but less than 20 feet, not more than $25;

"(B) for vessels of at least 20 feet in length but less than 27 feet, not more than $35;

"(C) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(D) for vessels of at least 40 feet in length, not more than $100.

"(3) The fee or charge established under this subsection applies only to vessels operated on the navigable waters of the United States where the Coast Guard has a presence.

"(4) The fee or charge established under this subsection does not apply to a—

"(A) public vessel; or

"(B) vessel deemed to be a public vessel under section 827 of title 14.

"(c) In addition to the collection of fees and charges established under subsections (a) and (b), the Secretary may recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges.

"(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section. A private enterprise or business selected by the Secretary to collect fees or charges—

"(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

"(B) shall provide appropriate accounting to the Secretary; and

"(C) may not institute litigation as part of that collection.

"(2) A Federal agency shall account for the agency's costs of collecting the fee or charge under this subsection as a reimbursable expense, and the costs shall be credited to the account from which expended.

"(e) A person that violates this section by failing to pay a fee or charge established under this section is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

"(f) When requested by the Secretary, the Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) to a vessel for which a fee or charge established under this section has not been paid until the fee or charge is paid or until a bond is posted for the payment.

"(g) The Secretary may exempt a person from paying a fee or charge established under this section if the Secretary determines that it is in the public interest to do so.

"(h) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

"(i) The collection of a fee or charge under this section does not alter or expand the functions, powers, responsibilities, or liability of the United States under any law for the performance of services or the provision of a thing of value for which a fee or charge is collected under this section.".

(b) CLERICAL AMENDMENT.—The analysis of chapter 21 of title 46, United States Code, is amended by striking the item relating to section 2110 and inserting the following:

"2110. Fees.".

SEC. 10402. TONNAGE DUTIES.

(a) VESSELS ENTERING FROM FOREIGN PORT OR PLACE.—Section 36 of the Act entitled "An Act to provide revenue, equalize duties and encourage the industries of the United States, and for other pur-

poses", approved August 5, 1909,[76] (36 Stat. 111; 46 App. U.S.C. 121) is amended in the second paragraph—

(1) by striking "two cents per ton, not to exceed in the aggregate ten cents per ton in any one year," and inserting "9 cents per ton, not to exceed in the aggregate 45 cents per ton in any one year, for fiscal years 1991, 1992, 1993, 1994, and 1995, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter";

(2) by inserting after "Newfoundland," the following: "and on all vessels (except vessels of the United States, recreational vessels, and barges, as those terms are defined in section 2101 of title 46, United States Code) that depart a United States port or place and return to the same port or place without being entered in the United States from another port or place,"; and

(3) by striking "six cents per ton, not to exceed thirty cents per ton per annum," and inserting "27 cents per ton, not to exceed $1.35 per ton per annum, for fiscal years 1991, 1992, 1993, 1994, and 1995, and 6 cents per ton, not to exceed 30 cents per ton per annum, for each fiscal year thereafter".

(b) CONFORMING AMENDMENT.—The Act entitled "An Act concerning tonnage duties on vessels entering otherwise than by sea", approved March 8, 1910 (36 Stat. 234; 46 App. U.S.C. 132), is amended by striking "two cents per ton, not to exceed in the aggregate ten cents per ton in any one year" and inserting "9 cents per ton, not to exceed in the aggregate 45 cents per ton in any one year, for fiscal years 1991, 1992, 1993, 1994, and 1995, and 2 cents per ton, not to exceed in the aggregate 10 cents per ton in any one year, for each fiscal year thereafter".

(c) OFFSETTING RECEIPTS.—Increased tonnage charges collected as a result of the amendments made by subsection (a) shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. 46 USC app. 121 note.

Subtitle F—Railroad User Fees

SEC. 10501. AMENDMENTS TO FEDERAL RAILROAD SAFETY ACT OF 1970.

(a) USER FEES.—The Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"SEC. 216. USER FEES. 45 USC 447.

"(a)(1) The Secretary shall establish by regulation, after notice and comment, a schedule of fees to be assessed equitably to railroads, in reasonable relationship to an appropriate combination of criteria such as revenue ton-miles, track miles, passenger miles, or other relevant factors, but shall not be based on the proportion of industry revenues attributable to a railroad or class of railroads.

"(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

"(3) Fees established under this section shall be assessed to railroads subject to this Act and shall cover the costs of administering this Act, other than activities described in section 202(a)(2).

[76] So in original. Probably should be "1909 (36".

"(b) The Secretary shall assess and collect fees described in subsection (a) with respect to each fiscal year before the end of such fiscal year.

"(c) All fees collected under subsection (b) shall be deposited into the general fund of the United States Treasury as offsetting receipts and shall be used, to the extent provided in advance in appropriations Acts, only to carry out activities under this Act.

"(d) Fees established under subsection (a) shall be assessed in an amount sufficient to cover activities described in subsection (c) beginning on March 1, 1991, but at no time shall the aggregate of fees received for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.

"(e)(1) Within 90 days after the end of each fiscal year in which fees are collected pursuant to this section, the Secretary shall report to the Congress—

"(A) the amount of fees collected during that fiscal year;

"(B) the impact of such fee collections on the financial health of the railroad industry and its competitive position relative to each competing mode of transportation; and

"(C) the total cost of Federal safety activities for each such other mode of transportation, including the portion of that total cost, if any, defrayed by Federal user fees.

"(2) With respect to any fiscal year for which the Secretary's report submitted under paragraph (1) finds—

"(A) any impact of fees collected under this section either on the financial health of the railroad industry, or on its competitive position relative to competing modes of transportation; or

"(B) any significant difference in the burden of Federal user fees borne by the railroad industry and those applicable to competing modes of transportation,

the Secretary shall, within 90 days after submission of such report, prepare and submit to the Congress specific recommendations for legislation to correct any such impact or difference.

"(f) This section shall expire on September 30, 1995.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act not to exceed $46,884,000 for fiscal year 1991.".

Revenue Reconciliation Act of 1990.

TITLE XI—REVENUE PROVISIONS

SEC. 11001. SHORT TITLE; ETC.

26 USC 1 note.

(a) SHORT TITLE.—This title may be cited as the "Revenue Reconciliation Act of 1990".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

26 USC 15 note.

(c) SECTION 15 NOT TO APPLY.—Except as otherwise expressly provided in this title, no amendment made by this title shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

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SEC. 11101. ELIMINATION OF PROVISION REDUCING MARGINAL TAX RATE FOR HIGH-INCOME TAXPAYERS.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $32,450	15% of taxable income.
Over $32,450 but not over $78,400	$4,867.50, plus 28% of the excess over $32,450.
Over $78,400	$17,733.50, plus 31% of the excess over $78,400.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $26,050	15% of taxable income.
Over $26,050 but not over $67,200	$3,907.50, plus 28% of the excess over $26,500.
Over $67,200	$15,429.50, plus 31% of the excess over $67,200.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $19,450	15% of taxable income.
Over $19,450 but not over $47,050	$2,917.50, plus 28% of the excess over $19,450.
Over $47,050	$10,645.50, plus 31% of the excess over $47,050.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $16,225	15% of taxable income.
Over $16,225 but not over $39,200	$2,433.75, plus 28% of the excess over $16,225.
Over $39,200	$8,866.75, plus 31% of the excess over $39,200.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,300	15% of taxable income.
Over $3,300 but not over $9,900	$495, plus 28% of the excess over $3,300.
Over $9,900	$2,343, plus 31% of the excess over $9,900."

(b) REPEAL OF PHASEOUT.—

(1) IN GENERAL.—Section 1 is amended by striking subsection (g) (relating to phaseout of 15-percent rate and personal exemptions).

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) (relating to adjustments for inflation) is amended by striking "subsection (g)(4),".

(c) 28 PERCENT MAXIMUM CAPITAL GAINS RATE.—Subsection (j) of section 1 (relating to maximum capital gains rate) is amended to read as follows:

"(j) MAXIMUM CAPITAL GAINS RATE.—If a taxpayer has a net capital gain for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount of the net capital gain, or

"(B) the amount of taxable income taxed at a rate below 28 percent, plus

"(2) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(d) TECHNICAL AMENDMENTS.—

(1)(A) Subsection (f) of section 1 is amended—

(i) by striking "1988" in paragraph (1) and inserting "1990", and

(ii) by striking "1987" in paragraph (3)(B) and inserting "1989".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1987" and inserting "1989".

(C) Subparagraph (C) of section 41(e)(5) is amended—

(i) by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end of clause (i),

(ii) by striking "1987" in clause (ii) and inserting "1989", and

(iii) by adding at the end of clause (ii) the following new sentence: "Such substitution shall be in lieu of the substitution under clause (i).".

(D) Subparagraph (B) of section 63(c)(4) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(E) Clause (ii) of section 135(b)(2)(B) is amended by striking ", determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof".

(F) Subparagraph (B) of section 151(d)(3) is amended by striking "1987" and inserting "1989".

(G) Clause (ii) of section 513(h)(2)(C) is amended by inserting ", by substituting 'calendar year 1987' for 'calendar year 1989' in subparagraph (B) thereof" before the period at the end.

(2) Section 1 is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (g) and (h), respectively.

(3) Subsection (j) of section 59 is amended—

(A) by striking "section 1(i)" each place it appears and inserting "section 1(g)", and

(B) by striking "section 1(i)(3)(B)" in paragraph (2)(C) and inserting "section 1(g)(3)(B)".

(4) Paragraph (4) of section 691(c) is amended by striking "1(j)" and inserting "1(h)".

(5)(A) Clause (i) of section 904(b)(3)(D) is amended by striking "subsection (j)" and inserting "subsection (h)".

(B) Subclause (I) of section 904(b)(3)(E)(iii) is amended by striking "section 1(j)" and inserting "section 1(h)".

(6) Clause (iv) of section 6103(e)(1)(A) is amended by striking "section 1(j)" and inserting "section 1(g)".

(7)(A) Subparagraph (A) of section 7518(g)(6) is amended by striking "1(j)" and inserting "1(h)".

(B) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking "1(j)" and inserting "1(h)". 46 USC app. 1177.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990. 26 USC 1 note.

SEC. 11102. INCREASE IN RATE OF INDIVIDUAL ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subparagraph (A) of section 55(b)(1) (relating to tentative minimum tax) is amended by striking "21 percent" and inserting "24 percent".

26 USC 55 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

SEC. 11103. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

(a) IN GENERAL.—Part I of subchapter B of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 68. OVERALL LIMITATION ON ITEMIZED DEDUCTIONS.

"(a) GENERAL RULE.—In the case of an individual whose adjusted gross income exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the taxable year shall be reduced by the lesser of—

"(1) 3 percent of the excess of adjusted gross income over the applicable amount, or

"(2) 80 percent of the amount of the itemized deductions otherwise allowable for such taxable year.

"(b) APPLICABLE AMOUNT.—

"(1) IN GENERAL.—For purposes of this section, the term 'applicable amount' means $100,000 ($50,000 in the case of a separate return by a married individual within the meaning of section 7703).

"(2) INFLATION ADJUSTMENTS.—In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof."

"(c) EXCEPTION FOR CERTAIN ITEMIZED DEDUCTIONS.—For purposes of this section, the term 'itemized deductions' does not include—

"(1) the deduction under section 213 (relating to medical, etc. expenses),

"(2) any deduction for investment interest (as defined in section 163(d)), and

"(3) the deduction under section 165(a) for losses described in subsection (c)(3) or (d) of section 165.

"(d) COORDINATION WITH OTHER LIMITATIONS.—This section shall be applied after the application of any other limitation on the allowance of any itemized deduction.

"(e) EXCEPTION FOR ESTATES AND TRUSTS.—This section shall not apply to any estate or trust.

"(f) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1995."

(b) COORDINATION WITH MINIMUM TAX.—Paragraph (1) of section 56(b) is amended by adding at the end thereof the following new subparagraph:

"(F) SECTION 68 NOT APPLICABLE.—Section 68 shall not apply."

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 1(f)(6) is amended by inserting "section 68(b)(2)" after "section 63(c)(4),".

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 1 is amended by adding a [77] the end thereof the following new item:

"Sec. 68. Overall limitation on itemized deductions."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990. 26 USC 1 note.

SEC. 11104. PHASEOUT OF PERSONAL EXEMPTIONS.

(a) GENERAL RULE.—Subsection (d) of section 151 is amended to read as follows:

"(d) EXEMPTION AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'exemption amount' means $2,000.

"(2) EXEMPTION AMOUNT DISALLOWED IN CASE OF CERTAIN DEPENDENTS.—In the case of an individual with respect to whom a deduction under this section is allowable to another taxpayer for a taxable year beginning in the calendar year in which the individual's taxable year begins, the exemption amount applicable to such individual for such individual's taxable year shall be zero.

"(3) PHASEOUT.—

"(A) IN GENERAL.—In the case of any taxpayer whose adjusted gross income for the taxable year exceeds the threshold amount, the exemption amount shall be reduced by the applicable percentage.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means 2 percentage points for each $2,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds the threshold amount. In the case of a married individual filing a separate return, the preceding sentence shall be applied by substituting '$1,250' for '$2,500'. In no event shall the applicable percentage exceed 100 percent.

"(C) THRESHOLD AMOUNT.—For purposes of this paragraph, the term 'threshold amount' means—

"(i) $150,000 in the case of a joint of a return or a surviving spouse (as defined in section 2(a)),

"(ii) $125,000 in the case of a head of a household (as defined in section 2(b) [78],

"(iii) $100,000 in the case of an individual who is not married and who is not a surviving spouse or head of a household, and

"(iv) $75,000 in the case of a married individual filing a separate return.

For purposes of this paragraph, marital status shall be determined under section 7703.

"(D) COORDINATION WITH OTHER PROVISIONS.—The provisions of this paragraph shall not apply for purposes of determining whether a deduction under this section with respect to any individual is allowable to another taxpayer for any taxable year.

"(E) TERMINATION.—This paragraph shall not apply to any taxable year beginning after December 31, 1995.

"(4) INFLATION ADJUSTMENTS.—

"(A) ADJUSTMENT TO BASIC AMOUNT OF EXEMPTION.—In the case of any taxable year beginning in a calendar year

[77] So in original. Probably should be "at".
[78] So in original. Probably should be "2(b))".

after 1989, the dollar amount contained in paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1988' for 'calendar year 1989' in subparagraph (B) thereof.

"(B) ADJUSTMENT TO THRESHOLD AMOUNTS FOR YEARS AFTER 1991.—In the case of any taxable year beginning in a calendar year after 1991, each dollar amount contained in paragraph (3)(C) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1990' for 'calendar year 1989' in subparagraph (B) thereof."

(b) CONFORMING AMENDMENT.—Paragraph (6) of section 1(f) is amended—

(1) by striking "section 151(d)(3)" in subparagraph (A) and inserting "section 151(d)(4)", and

(2) by striking "section 151(d)(3)" in subparagraph (B) and inserting "section 151(d)(4)(A)".

26 USC 1 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

PART II—MODIFICATIONS OF EARNED INCOME CREDIT

SEC. 11111. MODIFICATIONS OF EARNED INCOME TAX CREDIT.

(a) IN GENERAL.—So much of section 32 (relating to earned income credit) as precedes subsection (d) thereof is amended to read as follows:

"SEC. 32. EARNED INCOME.

"(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the sum of—

"(1) the basic earned income credit, and

"(2) the health insurance credit.

"(b) COMPUTATION OF CREDIT.—For purposes of this section—

"(1) BASIC EARNED INCOME CREDIT.—

"(A) IN GENERAL.—The term 'basic earned income credit' means an amount equal to the credit percentage of so much of the taxpayer's earned income for the taxable year as does not exceed $5,714.

"(B) LIMITATION.—The amount of the basic earned income credit allowable to a taxpayer for any taxable year shall not exceed the excess (if any) of—

"(i) the credit percentage of $5,714, over

"(ii) the phaseout percentage of so much of the adjusted gross income (or, if greater the earned income) of the taxpayer for the taxable year as exceeds $9,000.

"(C) PERCENTAGES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the percentages shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	23	16.43
2 or more qualifying children	25	17.86

"(ii) TRANSITION PERCENTAGES.—

"(I) For taxable years beginning in 1991, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	16.7	11.93
2 or more qualifying children	17.3	12.36

"(II) For taxable years beginning in 1992, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.6	12.57
2 or more qualifying children	18.4	13.14

"(III) For taxable years beginning in 1993, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	18.5	13.21
2 or more qualifying children	19.5	13.93

"(D) SUPPLEMENTAL YOUNG CHILD CREDIT.—In the case of a taxpayer with a qualifying child who has not attained age 1 as of the close of the calendar year in which or with which the taxable year of the taxpayer ends—

"(i) the credit percentage shall be increased by 5 percentage points, and

"(ii) the phaseout percentage shall be increased by 3.57 percentage points.

If the taxpayer elects to take a child into account under this subparagraph, such child shall not be treated as a qualifying individual under section 21.

"(2) HEALTH INSURANCE CREDIT.—

"(A) IN GENERAL.—The term 'health insurance credit' means an amount determined in the same manner as the basic earned income credit except that—

"(i) the credit percentage shall be equal to 6 percent, and

"(ii) the phaseout percentage shall be equal to 4.285 percent.

"(B) LIMITATION BASED ON HEALTH INSURANCE COSTS.—The amount of the health insurance credit determined under subparagraph (A) for any taxable year shall not exceed the amounts paid by the taxpayer during the taxable year for insurance coverage—

"(i) which constitutes medical care (within the meaning of section 213(d)(1)(C)), and

"(ii) which includes at least 1 qualifying child.

For purposes of this subparagraph, the rules of section 213(d)(6) shall apply.

"(C) SUBSIDIZED EXPENSES.—A taxpayer may not take into account under subparagraph (B) any amount to the extent that—

"(i) such amount is paid, reimbursed, or subsidized by the Federal Government, a State or local government, or any agency or instrumentality thereof; and

"(ii) the payment, reimbursement, or subsidy of such amount is not includible in the gross income of the recipient.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—

"(A) IN GENERAL.—The term 'eligible individual' means any individual who has a qualifying child for the taxable year.

"(B) QUALIFYING CHILD INELIGIBLE.—If an individual is the qualifying child of a taxpayer for any taxable year of such taxpayer beginning in a calendar year, such individual shall not be treated as an eligible individual for any taxable year of such individual beginning in such calendar year.

"(C) 2 OR MORE ELIGIBLE INDIVIDUALS.—If 2 or more individuals would (but for this subparagraph and after application of subparagraph (B)) be treated as eligible individuals with respect to the same qualifying child for taxable years beginning in the same calendar year, only the individual with the highest adjusted gross income for such taxable years shall be treated as an eligible individual with respect to such qualifying child.

"(D) EXCEPTION FOR INDIVIDUAL CLAIMING BENEFITS UNDER SECTION 911.—The term 'eligible individual' does not include any individual who claims the benefits of section 911 (relating to citizens or residents living abroad) for the taxable year.

"(2) EARNED INCOME.—

"(A) The term 'earned income' means—

"(i) wages, salaries, tips, and other employee compensation, plus

"(ii) the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of section 1402(a)), but such net earnings shall be determined with regard to the deduction allowed to the taxpayer by section 164(f).

"(B) For purposes of subparagraph (A)—

"(i) the earned income of an individual shall be computed without regard to any community property laws,

"(ii) no amount received as a pension or annuity shall be taken into account, and

"(iii) no amount to which section 871(a) applies (relating to income of nonresident alien individuals not connected with United States business) shall be taken into account.

"(3) QUALIFYING CHILD.—

"(A) IN GENERAL.—The term 'qualifying child' means, with respect to any taxpayer for any taxable year, an individual—

"(i) who bears a relationship to the taxpayer described in subparagraph (B),

"(ii) except as provided in subparagraph (B)(iii), who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,

"(iii) who meets the age requirements of subparagraph (C), and

"(iv) with respect to whom the taxpayer meets the identification requirements of subparagraph (D).

"(B) RELATIONSHIP TEST.—

"(i) IN GENERAL.—An individual bears a relationship to the taxpayer described in this subparagraph if such individual is—

"(I) a son or daughter of the taxpayer, or a descendant of either,

"(II) a stepson or stepdaughter of the taxpayer, or

"(III) an eligible foster child of the taxpayer.

"(ii) MARRIED CHILDREN.—Clause (i) shall not apply to any individual who is married as of the close of the taxpayer's taxable year unless the taxpayer is entitled to a deduction under section 151 for such taxable year with respect to such individual (or would be so entitled but for paragraph (2) or (4) of section 152(e)).

"(iii) ELIGIBLE FOSTER CHILD.—For purposes of clause (i)(III), the term 'eligible foster child' means an individual not described in clause (i) (I) or (II) who—

"(I) the taxpayer cares for as the taxpayer's own child, and

"(II) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year.

"(iv) ADOPTION.—For purposes of this subparagraph, a child who is legally adopted, or who is placed with the taxpayer by an authorized placement agency for adoption by the taxpayer, shall be treated as a child by blood.

"(C) AGE REQUIREMENTS.—An individual meets the requirements of this subparagraph if such individual—

"(i) has not attained the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins,

"(ii) is a student (as defined in section 151(c)(4)) who has not attained the age of 24 as of the close of such calendar year, or

"(iii) is permanently and totally disabled (as defined in section 22(e)(3)) at any time during the taxable year.

"(D) IDENTIFICATION REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if—

"(I) the taxpayer includes the name and age of each qualifying child (without regard to this subparagraph) on the return of tax for the taxable year, and

"(II) in the case of an individual who has attained the age of 1 year before the close of the taxpayer's taxable year, the taxpayer includes the taxpayer identification number of such individual on such return of tax for such taxable year.

"(ii) INSURANCE POLICY NUMBER.—In the case of any taxpayer with respect to which the health insurance credit is allowed under subsection (a)(2), the Secretary may require a taxpayer to include an insurance policy

number or other adequate evidence of insurance in addition to any information required to be included in clause (i).

"(iii) OTHER METHODS.—The Secretary may prescribe other methods for providing the information described in clause (i) or (ii).

"(E) ABODE MUST BE IN THE UNITED STATES.—The requirements of subparagraphs (A)(ii) and (B)(iii)(II) shall be met only if the principal place of abode is in the United States."

(b) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—Section 32 is amended by adding at the end thereof the following new subsection:

"(j) COORDINATION WITH CERTAIN MEANS-TESTED PROGRAMS.—For purposes of—

"(1) the United States Housing Act of 1937,

"(2) title V of the Housing Act of 1949,

"(3) section 101 of the Housing and Urban Development Act of 1965,

"(4) sections 221(d)(3), 235, and 236 of the National Housing Act, and

"(5) the Food Stamp Act of 1977,

any refund made to an individual (or the spouse of an individual) by reason of this section, and any payment made to such individual (or such spouse) by an employer under section 3507, shall not be treated as income (and shall not be taken into account in determining resources for the month of its receipt and the following month)."

(c) ADVANCE PAYMENT OF CREDIT.—Subparagraphs (B) and (C) of section 3507(c)(2) are amended to read as follows:

"(B) if the employee is not married, or if no earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit provided by section 32 as if it were a credit—

"(i) of not more than the credit percentage under section 32(b)(1) (without regard to subparagraph (D) thereof) for an eligible individual with 1 qualifying child and with earned income not in excess of the amount of earned income taken into account under section 32(a)(1), which

"(ii) phases out between the amount of earned income at which the phaseout begins under section 32(b)(1)(B)(ii) and the amount of income at which the credit under section 32(a)(1) phases out for an eligible individual with 1 qualifying child, or

"(C) if an earned income eligibility certificate is in effect with respect to the spouse of the employee, shall treat the credit as if it were a credit determined under subparagraph (B) by substituting ½ of the amounts of earned income described in such subparagraph for such amounts."

(d) COORDINATION WITH DEDUCTIONS.—

(1) MEDICAL DEDUCTION.—Section 213 is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH HEALTH INSURANCE CREDIT UNDER SECTION 32.—The amount otherwise taken into account under subsection (a) as expenses paid for medical care shall be reduced by the amount (if any) of the health insurance credit allowable to the taxpayer for the taxable year under section 32."

(2) SELF-EMPLOYED INDIVIDUALS.—Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION, ETC.—

"(A) MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a).

"(B) HEALTH INSURANCE CREDIT.—The amount otherwise taken into account under paragraph (1) as paid for insurance which constitutes medical care shall be reduced by the amount (if any) of the health insurance credit allowable to the taxpayer for the taxable year under section 32."

(e) CONFORMING AMENDMENTS.—Paragraph (2) of section 32(i) is amended—

(1) by striking "or (ii)" in subparagraph (A)(i) thereof,

(2) by striking "clause (iii)" in subparagraph (A)(ii) and inserting "clause (ii)", and

(3) by amending subparagraph (B) to read as follows:

"(B) DOLLAR AMOUNTS.—The dollar amounts referred to in this subparagraph are—

"(i) the $5,714 dollar amounts contained in subsection (b)(1), and

"(ii) the $9,000 amount contained in subsection (b)(1)(B)(ii)."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990. 26 USC 32 note.

SEC. 11112. REQUIREMENT OF IDENTIFYING NUMBER FOR CERTAIN DEPENDENTS.

(a) GENERAL RULE.—Paragraph (2) of section 6109(e) (relating to furnishing number for certain dependents) is amended by striking "2 years" and inserting "1 year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns for taxable years beginning after December 31, 1990. 26 USC 6109 note.

SEC. 11113. STUDY OF ADVANCE PAYMENTS. 26 USC 3507 note.

(a) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the Secretary of the Treasury, conduct a study of advance payments required by section 3507 of the Internal Revenue Code of 1986 to determine—

(1) the effectiveness of the advance payment system (including an analysis of why so few employees take advantage of such system), and

(2) the manner in which such system can be implemented to alleviate administrative complexity, if any, for small business, and

(3) if there are any other problems in the administration of such system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this title, the Comptroller shall report the results of the study conducted under subsection (a), together with any recommendations, to the Committee on Finance of the United States Senate and the Committee on Ways and Means of the House of Representatives.

26 USC 21 note.

SEC. 11114. PROGRAM TO INCREASE PUBLIC AWARENESS.

Not later than the first calendar year following the date of the enactment of this subtitle, the Secretary of the Treasury, or the Secretary's delegate, shall establish a taxpayer awareness program to inform the taxpaying public of the availability of the credit for dependent care allowed under section 21 of the Internal Revenue Code of 1986 and the earned income credit and child health insurance under section 32 of such Code. Such public awareness program shall be designed to assure that individuals who may be eligible are informed of the availability of such credit and filing procedures. The Secretary shall use appropriate means of communication to carry out the provisions of this section.

SEC. 11115. EXCLUSION FROM INCOME AND RESOURCES OF EARNED INCOME TAX CREDIT UNDER TITLES IV, XVI, AND XIX OF THE SOCIAL SECURITY ACT.

(a) EXCLUSIONS UNDER TITLE IV.—

(1) EXCLUSIONS FROM RESOURCES.—Section 402(a)(7)(B) of the Social Security Act (42 U.S.C. 602(a)(7)(B)) is amended—

(A) by striking "or" before "(iii)"; and

(B) by inserting ", or (iv) for the month of receipt and the following month, any refund of Federal income taxes made to such family by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit), and any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit)" before the semicolon.

(2) EXCLUSIONS FROM INCOME.—Section 402(a)(18) of the Social Security Act (42 U.S.C. 602(a)(18)) is amended by inserting "or 8(A)(viii)" after "other than paragraph 8(A)(v)".

(b) EXCLUSIONS UNDER TITLE XVI.—

(1) EXCLUSIONS FROM INCOME.—Section 1612(b) of the Social Security Act (42 U.S.C. 1382a(b)), as amended by sections 5031(a) and 5035(a) of this Act, is amended—

(A) by striking "and" at the end of paragraph (17);

(B) by striking the period at the end of paragraph (18) and inserting "; and"; and

(C) by adding at the end the following:

"(19) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit).".

(2) EXCLUSIONS FROM RESOURCES.—Section 1613(a) of the Social Security Act (42 U.S.C. 1382b(a)), as amended by sections 5031(b) and 5035(b) of this Act, is amended—

(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end of paragraph (9) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(10) for the month of receipt and the following month, any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under

section 3507 of such Code (relating to advance payment of earned income credit).".

(c) EXCLUSIONS UNDER TITLE XIX.—Pursuant to section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)), the Secretary of Health and Human Services shall promulgate regulations to exempt from any determination of income and resources (for the month of receipt and the following month) under title XIX of the Social Security Act any refund of Federal income taxes made to an individual by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to an individual by an employer under section 3507 of such Code (relating to advance payment of earned income credit). 42 USC 1396a note.

(d) AFDC WAIVER OF OVERPAYMENT.—For the purposes of section 402(a)(18) of the Social Security Act (42 U.S.C. 602(a)(18)), a State agency designated under a State plan under section 402(a)(3) of such Act may waive any overpayment of aid that resulted from the receipt by a family of a refund of Federal income taxes by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) or any payment made to such family by an employer under section 3507 of such Code (relating to advance payment of earned income credit) during the period beginning on January 1, 1990, and ending on December 31, 1990. 42 USC 602 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) though [79] (c) shall apply to determinations of income or resources made for any period after December 31, 1990. 42 USC 602 note.

SEC. 11116. COORDINATION WITH REFUND PROVISION. 31 USC 1324 note.

For purposes of section 1324(b)(2) of title 31 of the United States Code, section 32 of the Internal Revenue Code of 1986 (as amended by this Act) shall be considered to be a credit provision of the Internal Revenue Code of 1954 enacted before January 1, 1978.

Subtitle B—Excise Taxes

PART I—TAXES RELATED TO HEALTH AND THE ENVIRONMENT

SEC. 11201. INCREASE IN EXCISE TAXES ON DISTILLED SPIRITS, WINE, AND BEER.

(a) DISTILLED SPIRITS.—

(1) IN GENERAL.—Paragraphs (1) and (3) of section 5001(a) (relating to rate of tax on distilled spirits) are each amended by striking "$12.50" and inserting "$13.50".

(2) TECHNICAL AMENDMENT.—Paragraphs (1) and (2) of section 5010(a) (relating to credit for wine content and for flavors content) are each amended by striking "$12.50" and inserting "$13.50".

(b) WINE.—

(1) TAX INCREASES.—

(A) WINES CONTAINING NOT MORE THAN 14 PERCENT ALCOHOL.—Paragraph (1) of section 5041(b) (relating to rates of tax on wines) is amended by striking "17 cents" and inserting "$1.07".

(B) WINES CONTAINING MORE THAN 14 (BUT NOT MORE THAN 21) PERCENT ALCOHOL.—Paragraph (2) of section

[79] So in original. Probably should be "through".

5041(b) is amended by striking "67 cents" and inserting "$1.57".

(C) WINES CONTAINING MORE THAN 21 (BUT NOT MORE THAN 24) PERCENT ALCOHOL.—Paragraph (3) of section 5041(b) is amended by striking "$2.25" and inserting "$3.15".

(D) ARTIFICIALLY CARBONATED WINES.—Paragraph (5) of section 5041(b) is amended by striking "$2.40" and inserting "$3.30".

(2) CREDIT FOR SMALL DOMESTIC PRODUCERS.—Section 5041 is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) CREDIT FOR SMALL DOMESTIC PRODUCERS.—

"(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (2), in the case of a person who produces not more than 250,000 wine gallons of wine during the calendar year, there shall be allowed as a credit against any tax imposed by this title (other than chapters 2, 21, and 22) of 90 cents per wine gallon on the 1st 100,000 wine gallons of wine (other than wine described in subsection (b)(4)) which are removed during such year for consumption or sale and which have been produced at qualified facilities in the United States.

"(2) REDUCTION IN CREDIT.—The credit allowable by paragraph (1) shall be reduced (but not below zero) by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year.

"(3) TIME FOR DETERMINING AND ALLOWING CREDIT.—The credit allowable by paragraph (1)—

"(A) shall be determined at the same time the tax is determined under subsection (a) of this section, and

"(B) shall be allowable at the time any tax described in paragraph (1) is payable as if the credit allowable by this subsection constituted a reduction in the rate of such tax.

"(4) CONTROLLED GROUPS.—Rules similar to rules of section 5051(a)(2)(B) shall apply for purposes of this subsection.

"(5) DENIAL OF DEDUCTION.—Any deduction under subtitle A with respect to any tax against which a credit is allowed under this subsection shall only be for the amount of such tax as reduced by such credit.

"(6) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the credit provided in this subsection from benefiting any person who produces more than 250,000 wine gallons of wine during a calendar year and to assure proper reduction of such credit for persons producing more than 150,000 wine gallons of wine during a calendar year."

(3) CONFORMING AMENDMENT.—Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(c) BEER.—

(1) IN GENERAL.—Paragraph (1) of section 5051(a) (relating to imposition and rate of tax on beer) is amended by striking "$9" and inserting "$18".

(2) REGULATIONS.—Paragraph (2) of section 5051(a) is amended by adding at the end thereof the following new subparagraph:

"(C) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary to prevent the reduced

rates provided in this paragraph from benefiting any person who produces more than 2,000,000 barrels of beer during a calendar year."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991. 26 USC 5001 note.

(e) FLOOR STOCKS TAXES.— 26 USC 5001 note.

(1) IMPOSITION OF TAX.—

(A) IN GENERAL.—In the case of any tax-increased article—

(i) on which tax was determined under part I of subchapter A of chapter 51 of the Internal Revenue Code of 1986 or section 7652 of such Code before January 1, 1991, and

(ii) which is held on such date for sale by any person, there shall be imposed a tax at the applicable rate on each such article.

(B) APPLICABLE RATE.—For purposes of subparagraph (A), the applicable rate is—

(i) $1 per proof gallon in the case of distilled spirits,

(ii) $0.90 per wine gallon in the case of wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and

(iii) $9 per barrel in the case of beer.

In the case of a fraction of a gallon or barrel, the tax imposed by subparagraph (A) shall be the same fraction as the amount of such tax imposed on a whole gallon or barrel.

(C) TAX-INCREASED ARTICLE.—For purposes of this subsection, the term "tax-increased article" means distilled spirits, wine described in paragraph (1), (2), (3), or (5) of section 5041(b) of such Code, and beer.

(2) EXCEPTION FOR SMALL DOMESTIC PRODUCERS.—

(A) In the case of wine held by the producer thereof on January 1, 1991, if a credit would have been allowable under section 5041(c) of such Code (as added by this section) on such wine had the amendments made by subsection (b) applied to all wine removed during 1990 and had the wine so held been removed for consumption on December 31, 1990, the tax imposed by paragraph (1) on such wine shall be reduced by the credit which would have been so allowable.

(B) In the case of beer held by the producer thereof on January 1, 1991, if the rate of the tax imposed by section 5051 of such Code would have been determined under subsection (a)(2) thereof had the beer so held been removed for consumption on December 31, 1990, the tax imposed by paragraph (1) on such beer shall not apply.

(C) For purposes of this paragraph, an article shall not be treated as held by the producer if title thereto had at any time been transferred to any other person.

(3) EXCEPTION FOR CERTAIN SMALL WHOLESALE OR RETAIL DEALERS.—No tax shall be imposed by paragraph (1) on tax-increased articles held on January 1, 1991, by any dealer if—

(A) the aggregate liquid volume of tax-increased articles held by such dealer on such date does not exceed 500 wine gallons, and

(B) such dealer submits to the Secretary (at the time and in the manner required by the Secretary) such information

as the Secretary shall require for purposes of this paragraph.

(4) CREDIT AGAINST TAX.—Each dealer shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to—

(A) $240 to the extent such taxes are attributable to distilled spirits,

(B) $270 to the extent such taxes are attributable to wine, and

(C) $87 to the extent such taxes are attributable to beer.

Such credit shall not exceed the amount of taxes imposed by paragraph (1) with respect to distilled spirits, wine, or beer, as the case may be, for which the dealer is liable.

(5) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding any tax-increased article on January 1, 1991, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before June 30, 1991.

(6) CONTROLLED GROUPS.—

(A) CORPORATIONS.—In the case of a controlled group—

(i) the 500 wine gallon amount specified in paragraph (3), and

(ii) the $240, $270, and $87 amounts specified in paragraph (4),

shall be apportioned among the dealers who are component members of such group in such manner as the Secretary shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the phrase "more than 50 percent" shall be substituted for the phrase "at least 80 percent" each place it appears in such subsection.

(B) NONINCORPORATED DEALERS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of dealers under common control where 1 or more of such dealers is not a corporation.

(7) OTHER LAWS APPLICABLE.—

(A) IN GENERAL.—All provisions of law, including penalties, applicable to the comparable excise tax with respect to any tax-increased article shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1) to the same extent as if such taxes were imposed by the comparable excise tax.

(B) COMPARABLE EXCISE TAX.—For purposes of subparagraph (A), the term "comparable excise tax" means—

(i) the tax imposed by section 5001 of such Code in the case of distilled spirits,

(ii) the tax imposed by section 5041 of such Code in the case of wine, and

(iii) the tax imposed by section 5051 of such Code in the case of beer.

(8) DEFINITIONS.—For purposes of this subsection—

(A) IN GENERAL.—Terms used in this subsection which are also used in subchapter A of chapter 51 of such Code shall have the respective meanings such terms have in such part.

(B) PERSON.—The term "person" includes any State or political subdivision thereof, or any agency or instrumentality of a State or political subdivision thereof.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(9) TREATMENT OF IMPORTED PERFUMES CONTAINING DISTILLED SPIRITS.—For purposes of this subsection, any article described in section 5001(a)(3) of such Code shall be treated as distilled spirits; except that the tax imposed by paragraph (1) shall be imposed on a wine gallon basis in lieu of a proof gallon basis. To the extent provided by regulations prescribed by the Secretary, the preceding sentence shall not apply to any article held on January 1, 1991, on the premises of a retail establishment.

SEC. 11202. INCREASE IN EXCISE TAXES ON TOBACCO PRODUCTS.

(a) CIGARS.—Subsection (a) of section 5701 is amended—

(1) by striking "75 cents per thousand" in paragraph (1) and inserting "$1.125 cents per thousand (93.75 cents per thousand on cigars removed during 1991 or 1992)", and

(2) by striking "equal to" and all that follows in paragraph (2) and inserting "equal to—

"(A) 10.625 percent of the price for which sold but not more than $25 per thousand on cigars removed during 1991 or 1992, and

"(B) 12.75 percent of the price for which sold but not more than $30 per thousand on cigars removed after 1992."

(b) CIGARETTES.—Subsection (b) of section 5701 is amended—

(1) by striking "$8 per thousand" in paragraph (1) and inserting "$12 per thousand ($10 per thousand on cigarettes removed during 1991 or 1992)", and

(2) by striking "$16.80 per thousand" in paragraph (2) and inserting "$25.20 per thousand ($21 per thousand on cigarettes removed during 1991 or 1992)".

(c) CIGARETTE PAPERS.—Subsection (c) of section 5701 is amended by striking "½ cent" and inserting "0.75 cent (0.625 cent on cigarette papers removed during 1991 or 1992)".

(d) CIGARETTE TUBES.—Subsection (d) of section 5701 is amended by striking "1 cent" and inserting "1.5 cents (1.25 cents on cigarette tubes removed during 1991 or 1992)".

(e) SMOKELESS TOBACCO.—Subsection (e) of section 5701 is amended—

(1) by striking "24 cents" in paragraph (1) and inserting "36 cents (30 cents on snuff removed during 1991 or 1992)", and

(2) by striking "8 cents" in paragraph (2) and inserting "12 cents (10 cents on chewing tobacco removed during 1991 or 1992)".

(f) PIPE TOBACCO.—Subsection (f) of section 5701 is amended by striking "45 cents" and inserting "67.5 cents (56.25 cents on pipe tobacco removed during 1991 or 1992)".

(g) DETERMINATION OF PRICE.—Subsection (m) of section 5702 is amended to read as follows:

"(m) DETERMINATION OF PRICE ON CIGARS.—In determining price for purposes of section 5701(a)(2)—

"(1) there shall be included any charge incident to placing the article in condition ready for use,

"(2) there shall be excluded—

"(A) the amount of the tax imposed by this chapter or section 7652, and

"(B) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(3) rules similar to the rules of section 4216(b) shall apply."

26 USC 5701 note.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to articles removed after December 31, 1990.

26 USC 5701 note.

(i) FLOOR STOCKS TAXES ON CIGARETTES.—

(1) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before any tax-increase date and held on such date for sale by any person, there shall be imposed the following taxes:

(A) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(B) LARGE CIGARETTES.—On cigarettes weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6½ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(2) EXCEPTION FOR CERTAIN AMOUNTS OF CIGARETTES.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1) on cigarettes held on any tax-increase date by any person if—

(i) the aggregate number of cigarettes held by such person on such date does not exceed 30,000, and

(ii) such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subparagraph.

For purposes of this subparagraph, in the case of cigarettes measuring more than 6½ inches in length, each 2¾ inches (or fraction thereof) of the length of each shall be counted as one cigarette.

(B) AUTHORITY TO EXEMPT CIGARETTES HELD IN VENDING MACHINES.—To the extent provided in regulations prescribed by the Secretary, no tax shall be imposed by paragraph (1) on cigarettes held for retail sale on any tax-increase date by any person in any vending machine. If the Secretary provides such a benefit with respect to any person, the Secretary may reduce the 30,000 amount in subparagraph (A) and the $60 amount in paragraph (3) with respect to such person.

(3) CREDIT AGAINST TAX.—Each person shall be allowed as a credit against the taxes imposed by paragraph (1) an amount equal to $60. Such credit shall not exceed the amount of taxes imposed by paragraph (1) for which such person is liable.

(4) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding cigarettes on any tax-increase date to which any tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe by regulations.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before the 1st June 30 following the tax-increase date.

(5) DEFINITIONS.—For purposes of this subsection—

(A) TAX-INCREASE DATE.—The term "tax-increase date" means January 1, 1991, and January 1, 1993.

(B) OTHER DEFINITIONS.—Terms used in this subsection which are also used in section 5702 of the Internal Revenue Code of 1986 shall have the respective meanings such terms have in such section.

(C) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(6) CONTROLLED GROUPS.—Rules similar to the rules of section 11201(e)(6) shall apply for purposes of this subsection.

(7) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 5701 of such Code shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply to the floor stocks taxes imposed by paragraph (1), to the same extent as if such taxes were imposed by such section 5701.

SEC. 11203. ADDITIONAL CHEMICALS SUBJECT TO TAX ON OZONE-DEPLETING CHEMICALS.

(a) GENERAL RULE.—

(1) The table set forth in section 4682(a)(2) (defining ozone-depleting chemical) is amended by striking the period after the last item and by adding at the end thereof the following new items:

"Carbon tetrachloride	Tetrachloromethane
Methyl chloroform	1,1,1-trichloroethane
CFC-13	CF_3Cl
CFC-111	C_2FCl_5
CFC-112	$C_2F_2Cl_4$
CFC-211	C_3FCl_7
CFC-212	$C_3F_2Cl_6$
CFC-213	$C_3F_3Cl_5$
CFC-214	$C_3F_4Cl_4$
CFC-215	$C_3F_5Cl_3$
CFC-216	$C_3F_6Cl_2$
CFC-217	C_3F_7Cl."

(2) The table set forth in section 4682(b) is amended by striking the period after the last item and by adding at the end thereof the following new items:

"Carbon tetrachloride	1.1
Methyl chloroform	0.1
CFC-13	1.0
CFC-111	1.0
CFC-112	1.0
CFC-211	1.0
CFC-212	1.0
CFC-213	1.0
CFC-214	1.0
CFC-215	1.0
CFC-216	1.0
CFC-217	1.0."

(b) SEPARATE APPLICATION OF EXPORT CREDIT LIMIT FOR NEWLY LISTED CHEMICALS.—Paragraph (3) of section 4682(d) is amended by adding at the end thereof the following new subparagraph:

"(C) SEPARATE APPLICATION OF LIMIT FOR NEWLY LISTED CHEMICALS.—

"(i) IN GENERAL.—Subparagraph (B) shall be applied separately with respect to newly listed chemicals and other chemicals.

"(ii) APPLICATION TO NEWLY LISTED CHEMICALS.—In applying subparagraph (B) to newly listed chemicals—

"(I) subparagraph (B) shall be applied by substituting '1989' for '1986' each place it appears, and

"(II) clause (i)(II) thereof shall be applied by substituting for the regulations referred to therein any regulations (whether or not prescribed by the Secretary) which the Secretary determines are comparable to the regulations referred to in such clause with respect to newly listed chemicals.

"(iii) NEWLY LISTED CHEMICAL.—For purposes of this subparagraph, the term 'newly listed chemical' means any substance which appears in the table contained in subsection (a)(2) below Halon-2402."

(c) SEPARATE BASE TAX AMOUNT FOR NEWLY LISTED CHEMICALS.—Subparagraphs (B) and (C) of section 4681(b)(1) are amended to read as follows:

"(B) BASE TAX AMOUNT.—

"(i) INITIALLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1995 with respect to any ozone-depleting chemical other than a newly listed chemical (as defined in section 4682(d)(3)(C)) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1990 or 1991	$1.37
1992	1.67
1993 or 1994	2.65.

"(ii) NEWLY LISTED CHEMICALS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical which is a newly listed chemical (as so defined) is the amount determined under the following table for such calendar year:

"Calendar Year	Base Tax Amount
1991 or 1992	$1.37
1993	1.67
1994	3.00
1995	3.10.

"(C) BASE TAX AMOUNT FOR LATER YEARS.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use of an ozone-depleting chemical during a calendar year after the last year specified in the table under subparagraph (B) applicable to such chemical shall be the base tax amount for such last year increased by 45 cents for each year after such last year."

(d) OTHER AMENDMENTS.—

(1) The last sentence of section 4682(c)(2) is amended by inserting "(other than methyl chloroform)" after "ozone-depleting chemical".

(2) Paragraph (3) of section 4682(h) is amended by striking "April 1" and inserting "June 30".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991. 26 USC 4681 note.

(f) DEPOSITS FOR 1ST QUARTER OF 1991.—No deposit of any tax imposed by subchapter D of chapter 38 of the Internal Revenue Code of 1986 on any substance treated as an ozone-depleting chemical by reason of the amendment made by subsection (a)(1) shall be required to be made before April 1, 1991. 26 USC 4682 note.

PART II—USER-RELATED TAXES

SEC. 11211. INCREASE AND EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) INCREASE IN TAX ON GASOLINE.—

(1) IN GENERAL.—Subparagraph (A) of section 4081(a)(2) (relating to rate of tax) is amended—

(A) by striking "and" at the end of clause (i),

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate."

(2) RATES OF TAX.—Subparagraph (B) of section 4081(a)(2) is amended—

(A) by striking "9 cents a gallon, and" and inserting "11.5 cents a gallon,",

(B) by striking the period at the end of clause (ii) and inserting ", and", and

(C) by adding at the end thereof the following new clause:

"(iii) the deficit reduction rate is 2.5 cents a gallon."

(3) TERMINATION OF DEFICIT REDUCTION RATE.—Subsection (d) of section 4081 is amended by adding at the end thereof the following new paragraph:

"(3) DEFICIT REDUCTION RATE—On and after October 1, 1995, the deficit reduction rate under subsection (a)(2) shall not apply."

(4) 15-CENT TAX ON GASOLINE USED IN NONCOMMERCIAL AVIATION.—Paragraph (3) of section 4041(c) is amended—

(A) by striking "12 cents" and inserting "15 cents", and

(B) by striking "the Highway Trust Fund financing rate" and inserting "the sum of the Highway Trust Fund financing rate plus the deficit reduction rate".

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4081(c) is amended—

(i) by striking "applied by" and all that follows through "in the case" and inserting "applied by substituting rates which are 10/9th of the otherwise applicable rates in the case", and

(ii) by adding at the end thereof the following: "For purposes of this subsection, in the case of the Highway Trust Fund financing rate, the otherwise applicable rate is 6.1 cents a gallon."

(B) Paragraph (2) of section 4081(c) is amended by striking "at a rate equivalent to 3 cents" and inserting "at a Highway Trust Fund financing rate equivalent to 6.1 cents".

(C) Subsection (c) of section 4081 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) LOWER RATE ON GASOHOL MADE OTHER THAN FROM ETHANOL.—In the case of gasohol none of the alcohol in which consists of ethanol, paragraphs (1) and (2) shall be applied by substituting '5.5 cents' for '6.1 cents'.

(D) Subparagraph (B) of section 9503(b)(4) is amended by striking "4081" and inserting "4041, 4081,".

(E) Subparagraph (A) of section 9503(c)(2) is amended by adding at the end thereof the following new sentence: "The amounts payable from the Highway Trust Fund under this subparagraph or paragraph (3) shall be determined by taking into account only the Highway Trust Fund financing rate applicable to any fuel."

(F) Subsection (b) of section 9503 is amended by adding at the end thereof the following new paragraph:

"(5) GENERAL REVENUE DEPOSITS OF CERTAIN TAXES ON ALCOHOL MIXTURES.—For purposes of this section, the amounts which would (but for this paragraph) be required to be appropriated under subparagraphs (A), (E), and (F) of paragraph (1) shall be reduced by—

"(A) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

"(B) 0.67 cent per gallon in the case of gasoline or diesel fuel used in producing a mixture described in subparagraph (A)."

26 USC 4041 note.

(6) EFFECTIVE DATE.—Except as otherwise provided in this subsection, the amendments made by this subsection shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) after November 30, 1990.

(b) INCREASE IN OTHER TAXES.—

(1) DEFICIT REDUCTION RATE.—

(A) Clause (i) of section 4091(b)(1)(A) is amended by inserting "and the diesel fuel deficit reduction rate" after "financing rate".

(B) Subsection (b) of section 4091 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) DIESEL FUEL DEFICIT REDUCTION RATE.—For purposes of paragraph (1), except as provided in subsection (c), the diesel fuel deficit reduction rate is 2.5 cents per gallon."

(C) Paragraph (6) of section 4091(b), as redesignated by subparagraph (A), is amended by adding at the end thereof the following new subparagraph:

"(D) The diesel fuel deficit reduction rate shall not apply on and after October 1, 1995."

(2) INCREASE IN HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (2) of section 4091(b) is amended by striking "15 cents" and inserting "17.5 cents".

(3) INCREASE IN TAX ON SPECIAL MOTOR FUELS.—Paragraph (2) of section 4041(a) is amended by striking "of 9 cents a gallon" and by inserting at the end thereof the following new sentence: "The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the deficit reduction rate in effect under section 4081 at the time of such sale or use."

(4) DEFICIT REDUCTION TAX TO APPLY TO FUEL USED IN TRAINS.—

(A) Paragraph (2) of section 4093(c) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel sold for use in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section."

(B)(i) Subsection (l) of section 6427 is amended by adding at the end thereof the following new paragraph:

"(4) NO REFUND OF DEFICIT REDUCTION TAX ON FUEL USED IN TRAINS.—In the case of fuel used in a diesel-powered train, paragraph (1) also shall not apply to so much of the tax imposed by section 4091 as is attributable to the diesel fuel deficit reduction rate imposed by such section."

(ii) Paragraph (1) of section 6427(l) is amended by striking "paragraph (3)" and inserting "paragraphs (3) and (4)".

(5) INCREASES IN TAXES NOT TO APPLY TO CERTAIN BUSES.—Subparagraph (A) of section 6427(b)(2) is amended by striking "shall not exceed 12 cents" and inserting "shall be 3.1 cents per gallon less than the aggregate rate at which tax was imposed on such fuel by section 4041(a) or 4091, as the case may be".

(6) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4091(c) is amended—

(i) by striking "9 cents" and inserting "12.1 cents" and by striking "10 cents" and inserting "13.44 cents", and

(ii) by striking "shall be 1/9 cent per gallon" and inserting "and the diesel fuel deficit reduction rate shall be 10/9th of the otherwise applicable such rates".

(B) Paragraph (2) of section 4091(c) is amended by striking "9 cents" and inserting "12.1 cents".

(C)(i) Paragraph (1) of section 4041(a) is amended by striking "of 15 cents a gallon" and by inserting before the last sentence the following new sentence:

"The rate of the tax imposed by this paragraph shall be the sum of the Highway Trust Fund financing rate and the diesel fuel deficit reduction rate in effect under section 4091 at the time of such sale or use."

(ii) Subsection (a) of section 4041 is amended by striking paragraph (3).

(D) Clause (i) of section 4041(b)(2)(A) is amended to read as follows:

"(i) the Highway Trust Fund financing rate applicable under subsection (a)(2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon in the case of a mixture none of the alcohol in which consists of ethanol), and".

(E)(i) Paragraph (1) of section 4041(k) is amended by striking subparagraphs (A), (B), and (C) and inserting the following new subparagraphs:

"(A) the Highway Trust Fund financing rates under paragraphs (1) and (2) of subsection (a) shall be the comparable rates under sections 4081(c) and 4091(c), as the case may be,

"(B) no tax shall be imposed by subsection (c)(1), and

"(C) no tax shall be imposed by subsection (c)(2)."

(ii) Subsection (q) of section 6427 is amended to read as follows:

"(q) GASOHOL USED IN NONCOMMERCIAL AVIATION.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4081 at a rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(2) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)),

the Secretary shall pay (without interest) to the ultimate purchaser of such gasohol an amount equal to 1.4 cents (2 cents in the case of a mixture none of the alcohol in which consists of ethanol) multiplied by the number of gallons of gasohol so used."

(F) Subparagraph (A) of section 4041(m)(1) is amended to read as follows:

"(A) under subsection (a)(2) the Highway Trust Fund financing rate shall be 5.75 cents per gallon and the deficit reduction rate shall be 1.25 cents per gallon, and".

(G) Subsection (d) of section 9502 is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS FOR REFUNDS AND CREDITS NOT TO EXCEED TRUST FUND REVENUES ATTRIBUTABLE TO FUEL USED.—The amounts payable from the Airport and Airway Trust Fund under paragraph (2) or (3) shall not exceed the amounts required to be appropriated to such Trust Fund with respect to fuel so used."

(H) Subparagraph (D) of section 9503(c)(4) is amended by striking "(to the extent attributable to the Highway Trust Fund financing rate)" and by inserting before the period ", but only to the extent such taxes are attributable to the Highway Trust Fund financing rates under such sections".

26 USC 4041 note.

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

(c) EXTENSION OF TAXES.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4051(c) (relating to tax on heavy trucks and trailers sold at retail).

(2) Section 4071(d) (relating to tax on tires and tread rubber).

(3) Section 4081(d)(1) (relating to gasoline tax).

(4) Section 4091(b)(6)(A) (relating to diesel fuel tax), as redesignated by subsection (b).

(5) Sections 4481(e), 4482(c)(4), and 4482(d) (relating to highway use tax).

(d) EXTENSION OF EXEMPTIONS.—The following provisions are each amended by striking "1993" each place it appears and inserting "1995":

(1) Section 4041(f)(3) (relating to exemptions for farm use).

(2) Section 4041(g) (relating to other exemptions).

(3) Section 4221(a) (relating to certain tax-free sales).

(4) Section 4483(g) (relating to termination of exemptions for highway use tax).

(5) Section 6420(h) (relating to gasoline used on farms).

(6) Section 6421(i) (relating to gasoline used for certain nonhighway purposes, etc.).

(7) Section 6427(g)(5) (relating to advance repayment of increased diesel fuel tax).

(8) Section 6427(o) (relating to fuels not used for taxable purposes).

(e) EXTENSION OF REDUCED RATES OF TAX ON FUELS CONTAINING ALCOHOL.—The following provisions are each amended by striking "1993" each place it appears and inserting "2000":

(1) Section 4041(b)(2)(C) (relating to qualified methanol and ethanol fuel).

(2) Section 4041(k)(3) (relating to fuels containing alcohol).

(3) Section 4081(c)(5) (relating to gasoline mixed with alcohol), as redesignated by subsection (a).

(4) Subsections (c)(3) and (d)(3) of section 4091 (relating to diesel fuel and aviation fuel mixed with alcohol and aviation fuel used to produce certain alcohol fuels).

(f) OTHER PROVISIONS.—

(1) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.—Section 6156(e)(2) (relating to installment payments of tax on use of highway motor vehicles) is amended by striking "1993" and inserting "1995".

(g) EXTENSION OF DEPOSITS INTO TRUST FUND.—

(1) IN GENERAL.—Subsection (b), and paragraphs (2), (3), and (4) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "1993" each place it appears and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(2) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-11) is amended—

(A) by striking "1993" and inserting "1995", and

(B) by striking "1994" each place it appears and inserting "1996".

(h) INCREASE IN TRANSFERS TO MASS TRANSIT ACCOUNT.—

(1) IN GENERAL.—Paragraph (2) of section 9503(e) is amended by striking "1 cent" and inserting "1.5 cents".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts attributable to taxes imposed on or after December 1, 1990. 26 USC 9503 note.

(i) TRANSFERS OF SMALL-ENGINE FUEL TAXES INTO SPORT FISH RESTORATION ACCOUNT.—

(1) IN GENERAL.—Section 9503(c) (relating to expenditures from highway trust fund) is amended by adding at the end thereof the following new paragraph:

"(5) TRANSFERS FROM THE TRUST FUND FOR SMALL-ENGINE FUEL TAXES.—

"(A) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the Sport Fish Restoration Account in the Aquatic Resources Trust Fund amounts (as determined by him) equivalent to the small-engine fuel taxes received on or after December 1, 1990, and before October 1, 1995.

"(B) SMALL-ENGINE FUEL TAXES.—For purposes of this paragraph, the term 'small-engine fuel taxes' means the taxes under section 4081 with respect to gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment, but only to the extent such taxes are attributable to the Highway Trust Fund financing rate under such section."

(2) CONFORMING AMENDMENT.—Section 9504(a)(2) (relating to accounts in aquatic resources trust fund) is amended by inserting "section 9503(c)(5)," after "section 9503(c)(4),".

(3) EXPENDITURES FOR COASTAL WETLANDS RESTORATION.—Section 9504(b)(2) (relating to expenditures from sport fish restoration account) is amended to read as follows:

"(2) EXPENDITURES FROM ACCOUNT.—Amounts in the Sport Fish Restoration Account shall be available, as provided by appropriation Acts, for making expenditures—

"(A) to carry out the purposes of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950 (as in effect on October 1, 1988), and

"(B) to carry out the purposes of any law which is substantially identical to S. 3252 of the 101st Congress, as introduced.

Amounts transferred to such account under section 9503(c)(5) may be used only for making expenditures described in subparagraph (B) of this paragraph."

26 USC 9503 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

26 USC 4081 note.

(j) FLOOR STOCKS TAXES.—

(1) IMPOSITION OF TAX.—In the case of—

(A) gasoline and diesel fuel on which tax was imposed under section 4081 or 4091 of such Code before December 1, 1990, and which is held on such date by any person, or

(B) diesel fuel on which no tax was imposed under section 4091 of such Code at the Highway Trust Fund financing rate before December 1, 1990, and which is held on such date by any person for use as a fuel in a train,

there is hereby imposed a floor stocks tax on such gasoline and diesel fuel.

(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) shall be—

(A) 5 cents per gallon in the case of fuel described in paragraph (1)(A), and

(B) 2.5 cents per gallon in the case of fuel described in paragraph (1)(B).

In the case of any fuel held for use in producing a mixture described in section 4081(c)(1) or section 4091(c)(1)(A) of such Code, subparagraph (A) shall be applied by substituting "6.22

cents" for "5 cents". If no alcohol in such mixture is ethanol, the preceding sentence shall be applied by substituting "5.56 cents" for "6.22 cents".

(3) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding gasoline or diesel fuel on December 1, 1990, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be paid in such manner as the Secretary shall prescribe.

(C) TIME FOR PAYMENT.—The tax imposed by paragraph (1) shall be paid on or before May 31, 1991.

(4) DEFINITIONS.—For purposes of this subsection—

(A) HELD BY A PERSON.—Gasoline and diesel fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(B) GASOLINE.—The term "gasoline" has the meaning given such term by section 4082 of such Code.

(C) DIESEL FUEL.—The term "diesel fuel" has the meaning given such term by section 4092 of such Code.

(D) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(5) EXCEPTION FOR EXEMPT USES.—The tax imposed by paragraph (1) shall not apply to gasoline or diesel fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code, as the case may be, is allowable for such use.

(6) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by paragraph (1) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(7) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(A) IN GENERAL.—No tax shall be imposed by paragraph (1)—

(i) on gasoline held on December 1, 1990, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(ii) on diesel fuel held on December 1, 1990, by any person if the aggregate amount of diesel fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(B) EXEMPT FUEL.—For purposes of subparagraph (A), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by paragraph (1) by reason of paragraph (5) or (6).

(C) CONTROLLED GROUPS.—For purposes of this paragraph, rules similar to the rules of paragraph (6) of section 11201(e) of this Act shall apply.

(8) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and section 4091 of such Code in the case of diesel fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by para-

graph (1) to the same extent as if such taxes were imposed by such section 4081 or 4091.

(9) TRANSFER OF PORTION OF FLOOR STOCKS REVENUE TO HIGHWAY TRUST FUND.—For purposes of determining the amount transferred to the Highway Trust Fund, the tax imposed by paragraph (1) on fuel described in subparagraph (A) thereof shall be treated as imposed at a Highway Trust Fund financing rate to the extent of 2.5 cents per gallon.

SEC. 11212. IMPROVEMENTS IN ADMINISTRATION OF GASOLINE EXCISE TAX.

(a) IN GENERAL.—Paragraph (1) of section 4081(a) is amended to read as follows:

"(1) TAX ON REMOVAL, ENTRY, OR SALE.—

"(A) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on—

"(i) the removal of gasoline from any refinery,

"(ii) the removal of gasoline from any terminal,

"(iii) the entry into the United States of gasoline for consumption, use, or warehousing, and

"(iv) the sale of gasoline to any person who is not registered under section 4101 unless there was a prior taxable removal or entry of such gasoline under clause (i), (ii), or (iii).

"(B) EXCEPTION FOR BULK TRANSFERS TO REGISTERED TERMINALS.—The tax imposed by this paragraph shall not apply to any removal or entry of gasoline transferred in bulk to a terminal if the person removing or entering the gasoline and the operator of such terminal are registered under section 4101."

(b) CHANGES IN REGISTRATION RULES.—

(1) IN GENERAL.—Section 4101 is amended to read as follows:

"SEC. 4101. REGISTRATION AND BOND.

"(a) REGISTRATION.—Every person required by the Secretary to register under this section with respect to the tax imposed by section 4081 or 4091 shall register with the Secretary at such time, in such form and manner, and subject to such terms and conditions, as the Secretary may by regulations prescribe. A registration under this section may be used only in accordance with regulations prescribed under this section.

"(b) BONDS AND LIENS.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the Secretary may require, as a condition of permitting any person to be registered under subsection (a), that such person—

"(A) give a bond in such sum as the Secretary determines appropriate, and

"(B) agree to the imposition of a lien—

"(i) on such property (or rights to property) of such person used in the trade or business for which the registration is sought, or

"(ii) with the consent of such person, on any other property (or rights to property) of such person as the Secretary determines appropriate.

Rules similar to the rules of section 6323 shall apply to the lien imposed pursuant to this paragraph.

"(2) RELEASE OR DISCHARGE OF LIEN.—If a lien is imposed pursuant to paragraph (1), the Secretary shall issue a certificate of discharge or a release of such lien in connection with a transfer of the property if there is furnished to the Secretary (and accepted by him) a bond in such sum as the Secretary determines appropriate or the transferor agrees to the imposition of a substitute lien under paragraph (1)(B) in such sum as the Secretary determines appropriate. The Secretary shall respond to any request to discharge or release a lien imposed pursuant to paragraph (1) in connection with a transfer of property not later than 90 days after the date the request for such a discharge or release is made.

"(c) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Rules similar to the rules of section 4222(c) shall apply to registration under this section.

"(d) INFORMATION REPORTING.—The Secretary may require—

"(1) information reporting by any person registered under this section, and

"(2) information reporting by such other persons as the Secretary deems necessary to carry out this part."

(2) CLARIFICATION OF GENERAL REGISTRATION RULES.—Subsection (c) of section 4222 is amended—

(A) by striking "revoked or suspended" in the material preceding paragraph (1) and inserting "denied, revoked, or suspended",

(B) by striking "revocation or suspension" each place it appears and inserting "denial, revocation, or suspension", and

(C) by striking in the heading "REVOCATION OR SUSPENSION" and inserting "DENIAL, REVOCATION, OR SUSPENSION".

(3) DISCLOSURE PERMITTED OF REGISTRATION INFORMATION.—Subsection (k) of section 6103 is amended by adding at the end thereof the following new paragraph:

"(7) DISCLOSURE OF EXCISE TAX REGISTRATION INFORMATION.—To the extent the Secretary determines that disclosure is necessary to permit the effective administration of subtitle D, the Secretary may disclose—

"(A) the name, address, and registration number of each person who is registered under any provision of subtitle D (and, in the case of a registered terminal operator, the address of each terminal operated by such operator), and

"(B) the registration status of any person."

(4) CONFORMING AMENDMENT.—Section 4093 is amended by striking subsection (e) (relating to special administrative rules) and by redesignating subsection (f) as subsection (e).

(c) CERTAIN ADDITIONAL PERSONS LIABLE FOR TAX WHERE WILLFUL FAILURE TO PAY.—Subpart C of part III of subchapter A of chapter 32 is amended by adding at the end thereof the following new section:

"SEC. 4103. CERTAIN ADDITIONAL PERSONS LIABLE FOR TAX WHERE WILLFUL FAILURE TO PAY.

"In any case in which there is a willful failure to pay the tax imposed by section 4081 or 4091, each person—

"(1) who is an officer, employee, or agent of the taxpayer who is under a duty to assure the payment of such tax and who willfully fails to perform such duty, or

"(2) who willfully causes the taxpayer to fail to pay such tax, shall be jointly and severally liable with the taxpayer for the tax to which such failure relates."

(d) REFUNDS IN CERTAIN CASES.—

(1) IN GENERAL.—Section 4081 is amended by adding at the end thereof the following new subsection:

"(e) REFUNDS IN CERTAIN CASES.—Under regulations prescribed by the Secretary, if any person who paid the tax imposed by this section with respect to any gasoline establishes to the satisfaction of the Secretary that a prior tax was paid (and not credited or refunded) with respect to such gasoline, then an amount equal to the tax paid by such person shall be allowed as a refund (without interest) to such person in the same manner as if it were an overpayment of tax imposed by this section."

(2) DENIAL OF CREDITS.—Subsection (d) of section 6416 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to the tax imposed by section 4081 in the case of refunds described in section 4081(e)."

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6724(d) is amended by striking "or" at the end of clause (x), by striking ", or subsection (e)," in clause (xi), by striking the period at the end of clause (xi) and inserting ", or", and by inserting after clause (xi) the following new clause:

"(xii) section 4101(d) (relating to information reporting with respect to fuels taxes)."

(2) Subsection (a) of section 4081 is amended by striking paragraph (3).

(3) The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end thereof the following new item:

"Sec. 4103. Certain additional persons liable for tax where willful failure to pay."

26 USC 4081 note.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 1991.

(2) REGISTRATION, ETC.—The amendments made by subsections (b), (c), and (e) (other than paragraph (2) thereof) shall take effect on December 1, 1990.

SEC. 11213. INCREASE AND EXTENSION OF AVIATION-RELATED TAXES AND TRUST FUND; REPEAL OF REDUCTION IN RATES.

(a) INCREASE IN RATES ON TRANSPORTATION.—

(1) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 are each amended by striking "8 percent" and inserting "10 percent".

(2) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 is amended by striking "5 percent" and inserting "6.25 percent".

26 USC 4261 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to transportation beginning after November 30, 1990, but shall not apply to amounts paid on or before such date.

(b) INCREASE IN RATES ON FUEL.—

(1) IN GENERAL.—Paragraph (3) of section 4091(b) is amended—

(A) by striking "14 cents" and inserting "17.5 cents", and

(B) by inserting "except as provided in subsection (d)," after "paragraph (1),".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 4041(c) is amended by striking "14 cents" and inserting "17.5 cents".

(B)(i) Subparagraph (B) of section 4041(k)(1), as amended by section 11211, is amended to read as follows:

"(B) the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(d), and".

(ii) Subparagraph (B) of section 4041(m)(1) is amended to read as follows:

"(B) the rate of the tax imposed by subsection (c)(1) shall be the comparable rate under section 4091(d)(1)."

(C)(i) Paragraphs (1) and (2) of section 4091(d) are amended to read as follows:

"(1) IN GENERAL.—The Airport and Airway Trust Fund financing rate shall be—

"(A) 4.1 cents per gallon in the case of the sale of any mixture of aviation fuel if—

"(i) at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)), and

"(ii) the aviation fuel in such mixture was not taxed under subparagraph (B), and

"(B) 4.56 cents per gallon in the case of the sale of aviation fuel for use (at the time of such sale) in producing a mixture described in subparagraph (A).

In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon.

"(2) LATER SEPARATION.—If any person separates the aviation fuel from a mixture of the aviation fuel and alcohol on which tax was imposed under subsection (a) at the Airport and Airway Trust Fund financing rate equivalent to 4.1 cents per gallon by reason of this subsection (or with respect to which a credit or payment was allowed or made by reason of section 6427(f)(1)), such person shall be treated as the producer of such aviation fuel. The amount of tax imposed on any sale of such aviation fuel by such person shall be reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel."

(ii) The heading for subsection (d) of section 4091 is amended by striking "EXEMPTION FROM" and inserting "REDUCED RATE OF".

(D) Section 4091 is amended by adding at the end thereof the following new subsection:

"(e) LOWER RATES OF TAX ON ALCOHOL MIXTURES NOT MADE FROM ETHANOL.—In the case of a mixture described in subsection (c)(1)(A)(i) or (d)(1)(A)(i) none of the alcohol in which is ethanol—

"(1) subsections (c)(1)(A) and (c)(2), and subsections (d)(1)(A) and (d)(2), shall each be applied by substituting rates which are 0.6 cents less than the rates contained therein, and

"(2) subsections (c)(1)(B) and (d)(1)(B) shall be applied by substituting rates which are 10/9 of the rates determined under paragraph (1)."

(3) Subsection (f) of section 6427 is amended to read as follows:

"(f) GASOLINE, DIESEL FUEL, AND AVIATION FUEL USED TO PRODUCE CERTAIN ALCOHOL FUELS.—

"(1) IN GENERAL.—Except as provided in subsection (k), if any gasoline, diesel fuel, or aviation fuel on which tax was imposed by section 4081 or 4091 at the regular tax rate is used by any person in producing a mixture described in section 4081(c), 4091(c)(1)(A), or 4091(d)(1)(A) (as the case may be) which is sold or used in such person's trade or business the Secretary shall pay (without interest) to such person an amount equal to the excess of the regular tax rate over the incentive tax rate with respect to such fuel.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(B) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(3) COORDINATION WITH OTHER REPAYMENT PROVISIONS.—No amount shall be payable under paragraph (1) with respect to any gasoline, diesel fuel, or aviation fuel with respect to which an amount is payable under subsection (d), (e), or (l) of this section or under section 6420 or 6421.

"(4) TERMINATION.—This subsection shall not apply with respect to any mixture sold or used after September 30, 1995."

26 USC 4041 note.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on December 1, 1990.

26 USC 4041 note.

(5) FLOOR STOCKS TAXES.—

(A) IMPOSITION OF TAX.—In the case of aviation fuel on which tax was imposed under section 4041(c)(1) or 4091 of the Internal Revenue Code of 1986 before December 1, 1990, and which is held on such date by any person, there is hereby imposed a floor stocks tax on such fuel.

(B) RATE OF TAX.—The rate of the tax imposed by subparagraph (A) shall be 3.5 cents per gallon.

(C) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding fuel on December 1, 1990, to which the tax imposed by this paragraph applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by this paragraph shall be paid in such manner as the Secretary shall prescribe.

(iii) TIME FOR PAYMENT.—The tax imposed by this paragraph shall be paid on or before May 31, 1991.

(D) DEFINITIONS.—For purposes of this paragraph—

(i) HELD BY A PERSON.—Fuel shall be considered as "held by a person" if title thereto has passed to such person (whether or not delivery to the person has been made).

(ii) AVIATION FUEL.—The term "aviation fuel" has the meaning given such term by section 4092(a) of such Code.

(iii) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(E) EXCEPTION FOR EXEMPT USES.—The tax imposed by this paragraph shall not apply to fuel held by any person exclusively for any use which is a nontaxable use (as defined in section 6427(l) of such Code).

(F) OTHER LAWS APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4091 of such Code shall, insofar as applicable and not inconsistent with the provisions of this paragraph, apply with respect to the floor stock taxes imposed by this paragraph to the same extent as if such taxes were imposed by such section 4091.

(c) SPECIAL RULES FOR DEPOSITS OF TAX REVENUES.—

(1) Section 9502 is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR TRANSFERS INTO TRUST FUND.—

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts which would (but for this paragraph) be required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be 3 cents per gallon less (3.5 cents per gallon less in the case of taxes imposed by section 4041(c)(1) and 4091) than the amounts which would (but for this sentence) be appropriated under such paragraphs.

"(2) CERTAIN TAXES ON ALCOHOL MIXTURES TO REMAIN IN GENERAL FUND.—For purposes of this section, the amounts which would (but for this paragraph) be required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be reduced by—

"(A) 0.6 cent per gallon in the case of taxes imposed on any mixture at least 10 percent of which is alcohol (as defined in section 4081(c)(3)) if any portion of such alcohol is ethanol, and

"(B) 0.67 cent per gallon in the case of fuel used in producing a mixture described in subparagraph (A)."

(2) Paragraph (2) of section 9502(b) is amended by inserting "and the deficit reduction rate" after "financing rate".

(d) EXTENSION OF TAXES AND TRUST FUND.—

(1) TRANSPORTATION TAXES.—Sections 4261(g) and 4271(d) are each amended by striking "January 1, 1991" and inserting "January 1, 1996".

(2) FUEL TAXES.—

(A) Subparagraph (B) of section 4091(b)(6), as redesignated by section 11211, is amended by striking "January 1, 1991" and inserting "January 1, 1996".

(B) Paragraph (5) of section 4041(c) is amended by striking "December 31, 1990" and inserting "December 31, 1995".

(3) DEPOSITS INTO TRUST FUND.—Subsection (b) of section 9502 (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes) is amended by striking "January 1, 1991" each place it appears and inserting "January 1, 1996".

(4) EXPENDITURE PURPOSES TO INCLUDE THE FEDERAL AVIATION ADMINISTRATION RESEARCH, ENGINEERING, AND DEVELOPMENT AUTHORIZATION ACT OF 1990 AND THE AVIATION SAFETY AND CAPACITY EXPANSION ACT OF 1990.—Subparagraph (A) of section 9502(d)(1) is amended by striking "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)" and inserting "or the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 or the Aviation Safety and Capacity Expansion Act of 1990 (as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)".

(e) REPEAL OF REDUCTION IN RATES.—

(1) Section 4283 (relating to reduction in aviation related taxes in certain cases) is hereby repealed.

(2) The table of sections for part III of subchapter C of chapter 33 is amended by striking the item relating to section 4283.

(3) Subsection (c) of section 4041 is amended by striking paragraph (6).

(f) COORDINATION WITH OTHER PROVISIONS.—No amendment or any other provision of this section shall take effect unless the Airport Noise and Capacity Act of 1990, the Aviation Safety and Capacity Expansion Act of 1990, and the Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1990 are enacted as part of this Act and are identical to the provisions of such Acts as included in the conference report on H.R. 5835 of the 101st Congress.

SEC. 11214. INCREASE IN HARBOR MAINTENANCE TAX.

(a) IN GENERAL.—Subsection (b) of section 4461 is amended by striking "0.04 percent" and inserting "0.125 percent".

26 USC 4461 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1991.

SEC. 11215. EXTENSION OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.

(a) IN GENERAL.—Paragraph (2) of section 4081(d) is amended to read as follows:

"(2) LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—The Leaking Underground Storage Tank Trust Fund financing rate under subsection (a)(2) shall not apply after December 31, 1995."

26 USC 4081 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 1, 1990.

SEC. 11216. AMENDMENTS TO GAS GUZZLER TAX.

(a) INCREASE IN RATE OF TAX.—Subsection (a) of section 4064 (relating to gas guzzler tax) is amended to read as follows:

"(a) IMPOSITION OF TAX.—There is hereby imposed on the sale by the manufacturer of each automobile a tax determined in accordance with the following table:

If the fuel economy of the model type in which the automobile falls is:	The tax is:
At least 22.5	$0
At least 21.5 but less than 22.5	1,000
At least 20.5 but less than 21.5	1,300
At least 19.5 but less than 20.5	1,700
At least 18.5 but less than 19.5	2,100
At least 17.5 but less than 18.5	2,600
At least 16.5 but less than 17.5	3,000
At least 15.5 but less than 16.5	3,700
At least 14.5 but less than 15.5	4,500
At least 13.5 but less than 14.5	5,400
At least 12.5 but less than 13.5	6,400
Less than 12.5	7,700."

(b) LIMOUSINES INCLUDED WITHOUT REGARD TO WEIGHT.—Subparagraph (A) of section 4064(b)(1) is amended by adding at the end thereof the following new sentence:

"In the case of a limousine, the preceding sentence shall be applied without regard to clause (ii)."

(c) REPEAL OF EXCEPTION FOR LENGTHENING EXISTING AUTOMOBILES.—Subparagraph (B) of section 4064(b)(5) (defining manufacturer) is amended to read as follows:

"(B) LENGTHENING TREATED AS MANUFACTURE.—For purposes of this section, subchapter G of this chapter, and section 6416(b)(3), the lengthening of an automobile by any person shall be treated as the manufacture of an automobile by such person."

(d) REPEAL OF SPECIAL RULES FOR SMALL MANUFACTURERS.—Section 4064 is amended by striking subsection (d).

(e) EFFECTIVE DATES.— 26 USC 4064 note.

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to sales after December 31, 1990.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on January 1, 1991.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall take effect on the date of the enactment of this section.

SEC. 11217. TELEPHONE EXCISE TAX MODIFIED AND MADE PERMANENT.

(a) TAX MADE PERMANENT.—Paragraph (2) of section 4251(b) is amended by striking "percent;" and all that follows and inserting "percent."

(b) ACCELERATION OF DEPOSIT REQUIREMENTS.—

(1) IN GENERAL.—Subsection (e) of section 6302 (relating to time for deposit of taxes of airline tickets) is amended—

(A) by inserting "COMMUNICATIONS SERVICES AND" before "AIRLINE", and

(B) by inserting "section 4251 or" before "subsection (a) or (b)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments of taxes considered collected during semimonthly periods beginning after December 31, 1990. 26 USC 6302 note.

(c) ONE-TIME FILING OF TELEPHONE EXCISE TAX EXEMPTION CERTIFICATES.—

(1) IN GENERAL.—Section 4253 is amended by adding at the end thereof the following new subsection:

"(k) FILING OF EXEMPTION CERTIFICATES.—

"(1) IN GENERAL.—In order to claim an exemption under subsection (c), (h), (i), or (j), a person shall provide to the provider of communications services a statement (in such form and manner as the Secretary may provide) certifying that such person is entitled to such exemption.

"(2) DURATION OF CERTIFICATE.—Any statement provided under paragraph (1) shall remain in effect until—

"(A) the provider of communications services has actual knowledge that the information provided in such statement is false, or

"(B) such provider is notified by the Secretary that the provider of the statement is no longer entitled to an exemption described in paragraph (1).

If any information provided in such statement is no longer accurate, the person providing such statement shall inform the provider of communications services within 30 days of any change of information."

26 USC 4253 note.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The amendment made by paragraph (1) shall apply to any claim for exemption made after the date of the enactment of this Act.

(B) DURATION OF EXISTING CERTIFICATES.—Any annual certificate of exemption effective on the date of the enactment of this Act shall remain effective until the end of the annual period.

26 USC 5001 note.

SEC. 11218. FLOOR STOCKS TAX TREATMENT OF ARTICLES IN FOREIGN TRADE ZONES.

Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, any article which is located in a foreign trade zone on the effective date of any increase in tax under the amendments made by this part or part I shall be subject to floor stocks taxes imposed by such parts if—

(1) internal revenue taxes have been determined, or customs duties liquidated, with respect to such article before such date pursuant to a request made under the 1st proviso of section 3(a) of such Act, or

(2) such article is held on such date under the supervision of a customs officer pursuant to the 2d proviso of such section 3(a).

PART III—TAXES ON LUXURY ITEMS

SEC. 11221. TAXES ON LUXURY ITEMS.

(a) IN GENERAL.—Chapter 31 (relating to retail excise taxes) is amended by redesignating subchapters A and B as subchapters B and C, respectively, and by inserting before subchapter B (as so redesignated) the following new subchapter:

"SUBCHAPTER A—CERTAIN LUXURY ITEMS

"Part I. Imposition of taxes.
"Part II. Rules of general applicability.

"PART I. IMPOSITION OF TAXES

"Subpart A. Passenger vehicles, boats, and aircraft.
"Subpart B. Jewelry and furs.

"Subpart A—Passenger Vehicles, Boats, and Aircraft

"Sec. 4001. Passenger vehicles.
"Sec. 4002. Boats.
"Sec. 4003. Aircraft.
"Sec. 4004. Rules applicable to subpart A.

"SEC. 4001. PASSENGER VEHICLES.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"SEC. 4002. BOATS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any boat a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $100,000.

"(b) EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any boat for use by the purchaser exclusively in the active conduct of—

"(1) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(2) any other trade or business unless the boat is to be used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement, or recreation.

"SEC. 4003. AIRCRAFT.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any aircraft a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $250,000.

"(b) AIRCRAFT.—For purposes of this section, the term 'aircraft' means any aircraft—

"(1) which is propelled by a motor, and

"(2) which is capable of carrying 1 or more individuals.

"(c) 80 PERCENT GENERAL BUSINESS USE.—

"(1) IN GENERAL.—The tax imposed by this section shall not apply to the sale of any aircraft if 80 percent of the use by the purchaser is in any trade or business.

"(2) PROOF OF BUSINESS USE.—On the income tax return for each of the 1st 2 taxable years ending after the date an aircraft on which no tax was imposed by this section by reason of paragraph (1) was placed in service, the taxpayer filing such return shall demonstrate to the satisfaction of the Secretary that the use of such aircraft during each such year met the requirement of paragraph (1).

"(3) IMPOSITION OF LUXURY TAX WHERE FAILURE OF PROOF.—If the requirement of paragraph (2) is not met for either of the taxable years referred to therein, the taxpayer filing such returns shall pay the tax which would (but for paragraph (1)) have been imposed on such aircraft plus interest determined under subchapter C of chapter 67 during the period beginning on the date such tax would otherwise have been imposed. If such taxpayer fails to pay the tax imposed pursuant to the preceding sentence, no deduction shall be allowed under section 168 for any taxable year with respect to the aircraft involved.

"(d) OTHER EXCEPTIONS.—The tax imposed by this section shall not apply to the sale of any aircraft for use by the purchaser exclusively—

"(1) in the aerial application of fertilizers or other substances,

"(2) in the case of a helicopter, in a use described in paragraph (1) or (2) of section 4261(e),

"(3) in a trade or business of providing flight training, or

"(4) in a trade or business of transporting persons or property for compensation or hire.

"SEC. 4004. RULES APPLICABLE TO SUBPART A.

"(a) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed under this subpart on the sale of any article—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(b) SEPARATE PURCHASE OF ARTICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any article taxable under this subpart (determined without regard to price) installs (or causes to be installed) any part or accessory on such article, and

"(B) such installation is not later than the date 6 months after the date the article was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle, boat, or aircraft was sold, over

"(B) $30,000 in the case of a passenger vehicle, $100,000 in the case of a boat, and $250,000 in the case of an aircraft.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory, or

"(B) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the taxable article does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(c) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF ARTICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any article by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such article is resold by the purchaser or such purchaser makes a substantial non-exempt use of such article,

then such sale or use of such article by such purchaser shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of an article if the 1st retail sale of such article is not taxable under this subchapter by reason of such use.

"Subpart B—Jewelry and Furs

"Sec. 4006. Jewelry.
"Sec. 4007. Furs.

"SEC. 4006. JEWELRY.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any jewelry a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $10,000.

"(b) JEWELRY.—For purposes of subsection (a), the term 'jewelry' means all articles commonly or commercially known as jewelry, whether real or imitation, including watches.

"(c) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person, in the course of a trade or business, produces jewelry from material furnished directly or indirectly by a customer, and

"(2) the jewelry is for the use of, and not for resale by, such customer,

the delivery of such jewelry to such customer shall be treated as the 1st retail sale of such jewelry for a price equal to its fair market value at the time of such delivery.

"SEC. 4007. FURS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of the following articles a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $10,000:

"(1) Articles made of fur on the hide or pelt.

"(2) Articles of which such fur is a major component.

"(b) MANUFACTURE FROM CUSTOMER'S MATERIAL.—If—

"(1) a person, in the course of a trade or business, produces an article of the kind described in subsection (a) from fur on the hide or pelt furnished, directly or indirectly, by a customer, and

"(2) the article is for the use of, and not for resale by, such customer,

the delivery of such article to such customer shall be treated as the 1st retail sale of such article for a price equal to its fair market value at the time of such delivery.

"PART II—RULES OF GENERAL APPLICABILITY

"Sec. 4011. Definitions and special rules.
"Sec. 4012. Termination.

"SEC. 4011. DEFINITIONS AND SPECIAL RULES.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses an article taxable under this subchapter (including any use after importation) before the 1st retail sale of such article, then such person shall be liable for tax under this subchapter in the same manner as if such article were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of an article as material in the manufacture or production of, or as a component part of, another article taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE OF PASSENGER VEHICLES.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN ARTICLES.—Paragraph (1) shall not apply to the use of an article after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the article occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar articles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of an article (including any renewal or any extension of a lease or any subsequent lease of such article) by any person shall be considered a sale of such article at retail.

"(2) SPECIAL RULES FOR CERTAIN LEASES OF PASSENGER VEHICLES, BOATS, AND AIRCRAFT.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle, boat, or aircraft to a person engaged in a leasing or rental trade or business of the article involved for leasing by such person in a qualified lease shall not be treated as the 1st retail sale of such article.

"(B) QUALIFIED LEASE.—For purposes of subparagraph (A), the term 'qualified lease' means—

"(i) any lease in the case of a boat or an aircraft, and

"(ii) any long-term lease (as defined in section 4052) in the case of any passenger vehicle.

"(C) SPECIAL RULES.—In the case of a qualified lease of an article which is treated as the 1st retail sale of such article—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the article is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a qualified lease if the lessee's use of the article under such lease is an exempt use (as defined in section 4004(c)) of such article.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

Subparagraph (B)(iii) shall not apply for purposes of the taxes imposed by sections 4006 and 4007.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"(e) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any article taxable under this subchapter shall be treated as part of the article.

"(f) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c),

rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter.

"SEC. 4012. TERMINATION.

"The taxes imposed by this subchapter shall not apply to any sale or use after December 31, 1999."

(b) EXEMPTION FOR EXPORTS.—

(1) The material preceding paragraph (1) of section 4221(a) is amended by striking "section 4051" and inserting "subchapter A or C of chapter 31".

(2) Subsection (a) of section 4221 is amended by adding at the end thereof the following new sentence: "In the case of taxes imposed by subchapter A of chapter 31, paragraphs (1), (3), (4), and (5) shall not apply."

(c) EXEMPTION FOR SALES TO THE UNITED STATES.—Section 4293 is amended by inserting "subchapter A of chapter 31," before "section 4041".

(d) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "section 4053(a)(6)" and inserting "section 4001(c), 4002(b), 4003(c), 4004(a), or 4053(a)(6)".

(2) Paragraph (1) of section 4221(d) is amended by striking "the tax imposed by section 4051" and inserting "taxes imposed by subchapter A or C of chapter 31".

(3) Subsection (d) of section 4222 is amended by striking "sections 4053(a)(6)" and inserting "sections 4001(c), 4002(b), 4003(c), 4004(a), 4053(a)(6)".

(e) CLERICAL AMENDMENT.—The table of subchapters for chapter 31 is amended to read as follows:

"Subchapter A. Certain luxury items.
"Subchapter B. Special fuels.
"Subchapter C. Heavy trucks and trailers."

26 USC 4001 note.

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1991.

(2) EXCEPTION FOR BINDING CONTRACTS.—In determining whether any tax imposed by subchapter A of chapter 31 of the Internal Revenue Code of 1986, as added by this section, applies to any sale after December 31, 1990, there shall not be taken into account the amount paid for any article (or any part or accessory therefor) if the purchaser held on September 30, 1990, a contract (which was binding on such date and at all times thereafter before the purchase) for the purchase of such article (or such part or accessory).

PART IV—4-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND

SEC. 11231. 4-YEAR EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND.

(a) EXTENSION OF TAXES.—

(1) The following provisions of the Internal Revenue Code of 1986 are each amended by striking "January 1, 1992" and inserting "January 1, 1996":

(A) Section 59A(e)(1) (relating to application of environmental tax).

(B) Paragraphs (1) and (3) of section 4611(e) (relating to application of Hazardous Substance Superfund financing rate).

(2) Paragraph (2) of section 4611(e) of such Code is amended—

(A) by striking "1989" and inserting "1993",

(B) by striking "1990" each place it appears and inserting "1994", and

(C) by striking "1991" each place it appears and inserting "1995".

(b) INCREASE IN AGGREGATE TAX WHICH MAY BE COLLECTED.—Paragraph (3) of section 4611(e) of such Code is amended by striking "$6,650,000,000" each place it appears and inserting "$11,970,000,000" and by striking "December 31, 1991" and inserting "December 31, 1995".

(c) EXTENSION OF REPAYMENT DEADLINE FOR SUPERFUND BORROWING.—Subparagraph (B) of section 9507(d)(3) is amended by striking "December 31, 1991" and inserting "December 31, 1995".

(d) EXTENSION OF AUTHORIZATION OF APPROPRIATIONS TO TRUST FUND.—Subsection (b) of section 517 of the Superfund Revenue Act of 1986 (26 U.S.C. 9507 note) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraphs:

"(6) 1992, $250,000,000,

"(7) 1993, $250,000,000,

"(8) 1994, $250,000,000, and

"(9) 1995, $250,000,000."

Subtitle C—Other Revenue Increases

PART I —INSURANCE PROVISIONS

Subpart A—Provisions Related to Policy Acquisition Costs

SEC. 11301. CAPITALIZATION OF POLICY ACQUISITION EXPENSES.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 848. CAPITALIZATION OF CERTAIN POLICY ACQUISITION EXPENSES.

"(a) GENERAL RULE.—In the case of an insurance company—

"(1) specified policy acquisition expenses for any taxable year shall be capitalized, and

"(2) such expenses shall be allowed as a deduction ratably over the 120-month period beginning with the first month in the second half of such taxable year.

"(b) 5-YEAR AMORTIZATION FOR FIRST $5,000,000 OF SPECIFIED POLICY ACQUISITION EXPENSES.—

"(1) IN GENERAL.—Paragraph (2) of subsection (a) shall be applied with respect to so much of the specified policy acquisition expenses of an insurance company for any taxable year as does not exceed $5,000,000 by substituting '60-month' for '120-month'.

"(2) PHASE-OUT.—If the specified policy acquisition expenses of an insurance company exceed $10,000,000 for any taxable year, the $5,000,000 amount under paragraph (1) shall be reduced (but not below zero) by the amount of such excess.

"(3) SPECIAL RULE FOR MEMBERS OF CONTROLLED GROUP.—In the case of any controlled group—

"(A) all insurance companies which are members of such group shall be treated as 1 company for purposes of this subsection, and

"(B) the amount to which paragraph (1) applies shall be allocated among such companies in such manner as the Secretary may prescribe.

For purposes of the preceding sentence, the term 'controlled group' means any controlled group of corporations as defined in section 1563(a); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply, and subsection (b)(2)(C) of section 1563 shall not apply to the extent it excludes a foreign corporation to which section 842 applies.

"(4) EXCEPTION FOR ACQUISITION EXPENSES ATTRIBUTABLE TO CERTAIN REINSURANCE CONTRACTS.—Paragraph (1) shall not apply to any specified policy acquisition expenses for any taxable year which are attributable to premiums or other consideration under any reinsurance contract.

"(c) SPECIFIED POLICY ACQUISITION EXPENSES.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified policy acquisition expenses' means, with respect to any taxable year, so much of the general deductions for such taxable year as does not exceed the sum of—

"(A) 1.75 percent of the net premiums for such taxable year on specified insurance contracts which are annuity contracts,

"(B) 2.05 percent of the net premiums for such taxable year on specified insurance contracts which are group life insurance contracts, and

"(C) 7.7 percent of the net premiums for such taxable year on specified insurance contracts not described in subparagraph (A) or (B).

"(2) GENERAL DEDUCTIONS.—The term 'general deductions' means the deductions provided in part VI of subchapter B (sec. 161 and following, relating to itemized deductions) and in part I of subchapter D (sec. 401 and following, relating to pension, profit sharing, stock bonus plans, etc.).

"(d) NET PREMIUMS.—For purposes of this section—

"(1) IN GENERAL.—The term 'net premiums' means, with respect to any category of specified insurance contracts set forth in subsection (c)(1), the excess (if any) of—

"(A) the gross amount of premiums and other consideration on such contracts, over

"(B) return premiums on such contracts and premiums and other consideration incurred for reinsurance of such contracts.

The rules of section 803(b) shall apply for purposes of the preceding sentence.

"(2) AMOUNTS DETERMINED ON ACCRUAL BASIS.—In the case of an insurance company subject to tax under part II of this subchapter, all computations entering into determinations of

net premiums for any taxable year shall be made in the manner required under section 811(a) for life insurance companies.

"(3) TREATMENT OF CERTAIN POLICYHOLDER DIVIDENDS AND SIMILAR AMOUNTS.—Net premiums shall be determined without regard to section 808(e) and without regard to other similar amounts treated as paid to, and returned by, the policyholder.

"(4) SPECIAL RULES FOR REINSURANCE.—

"(A) Premiums and other consideration incurred for reinsurance shall be taken into account under paragraph (1)(B) only to the extent such premiums and other consideration are includible in the gross income of an insurance company taxable under this subchapter or are subject to tax under this chapter by reason of subpart F of part III of subchapter N.

"(B) The Secretary shall prescribe such regulations as may be necessary to ensure that premiums and other consideration with respect to reinsurance are treated consistently by the ceding company and the reinsurer.

"(e) CLASSIFICATION OF CONTRACTS.—For purposes of this section—

"(1) SPECIFIED INSURANCE CONTRACT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'specified insurance contract' means any life insurance, annuity, or noncancellable accident and health insurance contract (or any combination thereof).

"(B) EXCEPTIONS.—The term 'specified insurance contract' shall not include—

"(i) any pension plan contract (as defined in section 818(a)),

"(ii) any flight insurance or similar contract, and

"(iii) any qualified foreign contract (as defined in section 807(e)(4) without regard to paragraph (5) of this subsection).

"(2) GROUP LIFE INSURANCE CONTRACT.—The term 'group life insurance contract' means any life insurance contract—

"(A) which covers a group of individuals defined by reference to employment relationship, membership in an organization, or similar factor,

"(B) the premiums for which are determined on a group basis, and

"(C) the proceeds of which are payable to (or for the benefit of) persons other than the employer of the insured, an organization to which the insured belongs, or other similar person.

"(3) TREATMENT OF ANNUITY CONTRACTS COMBINED WITH NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE.—Any annuity contract combined with noncancellable accident and health insurance shall be treated as a noncancellable accident and health insurance contract and not as an annuity contract.

"(4) TREATMENT OF GUARANTEED RENEWABLE CONTRACTS.—The rules of section 816(e) shall apply for purposes of this section.

"(5) TREATMENT OF REINSURANCE CONTRACT.—A contract which reinsures another contract shall be treated in the same manner as the reinsured contract.

"(f) SPECIAL RULE WHERE NEGATIVE NET PREMIUMS.—

"(1) IN GENERAL.—If for any taxable year there is a negative capitalization amount with respect to any category of specified insurance contracts set forth in subsection (c)(1)—

"(A) the amount otherwise required to be capitalized under this section for such taxable year with respect to any other category of specified insurance contracts shall be reduced (but not below zero) by such negative capitalization amount, and

"(B) such negative capitalization amount (to the extent not taken into account under subparagraph (A))—

"(i) shall reduce (but not below zero) the unamortized balance (as of the beginning of such taxable year) of the amounts previously capitalized under subsection (a) (beginning with the amount capitalized for the most recent taxable year), and

"(ii) to the extent taken into account as such a reduction, shall be allowed as a deduction for such taxable year.

"(2) NEGATIVE CAPITALIZATION AMOUNT.—For purposes of paragraph (1), the term 'negative capitalization amount' means, with respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

"(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

"(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

"(g) TREATMENT OF CERTAIN CEDING COMMISSIONS.—Nothing in any provision of law (other than this section) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any contract which reinsures a specified insurance contract.

"(h) SECRETARIAL AUTHORITY TO ADJUST CAPITALIZATION AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may provide that a type of insurance contract will be treated as a separate category for purposes of this section (and prescribe a percentage applicable to such category) if the Secretary determines that the deferral of acquisition expenses for such type of contract which would otherwise result under this section is substantially greater than the deferral of acquisition expenses which would have resulted if actual acquisition expenses (including indirect expenses) and the actual useful life for such type of contract had been used.

"(2) ADJUSTMENT TO OTHER CONTRACTS.—If the Secretary exercises his authority with respect to any type of contract under paragraph (1), the Secretary shall adjust the percentage which would otherwise have applied under subsection (c)(1) to the category which includes such type of contract so that the exercise of such authority does not result in a decrease in the amount of revenue received under this chapter by reason of this section for any fiscal year.

"(i) TREATMENT OF QUALIFIED FOREIGN CONTRACTS UNDER ADJUSTED CURRENT EARNINGS PREFERENCE.—For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

"(j) TRANSITIONAL RULE.—In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year."

(b) REPEAL OF SPECIAL TREATMENT OF ACQUISITION EXPENSES UNDER MINIMUM TAX.—Paragraph (4) of section 56(g) is amended by striking subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 848. Capitalization of certain policy acquisition expenses."

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986. 26 USC 848 note.

(2) SUBSECTION (b).— 26 USC 56 note.

(A) IN GENERAL.—The amendment made by subsection (b) shall apply to taxable years beginning on or after September 30, 1990, except that, in the case of a small insurance company, such amendment shall apply to taxable years beginning after December 31, 1989. For purposes of this paragraph, the term "small insurance company" means any insurance company which meets the requirements of section 806(a)(3) of the Internal Revenue Code of 1986; except that paragraph (2) of section 806(c) of such Code shall not apply.

(B) SPECIAL RULES FOR YEAR WHICH INCLUDES SEPTEMBER 30, 1990.—In the case of any taxable year which includes September 30, 1990, the amount of acquisition expenses which is required to be capitalized under section 56(g)(4)(F) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subsection (b)) by a company which is not a small insurance company shall be the amount which bears the same ratio to the amount which (but for this subparagraph) would be so required to be capitalized as the number of days in such taxable year before September 30, 1990, bears to the total number of days in such taxable year. A similar reduction shall be made in the amount amortized for such taxable year under such section 56(g)(4)(F).

SEC. 11302. TREATMENT OF CERTAIN NONLIFE RESERVES OF LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Subsection (e) of section 807 (relating to special rules for computing reserves) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR TREATMENT OF CERTAIN NONLIFE RESERVES.—

"(A) IN GENERAL.—The amount taken into account for purposes of subsections (a) and (b) as—

"(i) the opening balance of the items referred to in subparagraph (C), and

"(ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

"(B) TRANSITIONAL RULE.—

"(i) IN GENERAL.—In the case of any taxable year beginning on or after September 30, 1990, and before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3 1/3 percent of such company's closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

"(ii) TERMINATION AS LIFE INSURANCE COMPANY.—Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

"(C) DESCRIPTION OF ITEMS.—For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums received in advance under insurance contracts not described in section 816(b)(1)(B)."

26 USC 807 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after September 30, 1990.

SEC. 11303. TREATMENT OF LIFE INSURANCE RESERVES OF INSURANCE COMPANIES WHICH ARE NOT LIFE INSURANCE COMPANIES.

(a) GENERAL RULE.—Paragraph (4) of section 832(b) (defining premiums earned) is amended by striking "section 807, pertaining" and all that follows down through the period at the end of the first sentence which follows subparagraph (C) and inserting "section 807.".

(b) TECHNICAL AMENDMENT.—Subparagraph (A) of section 832(b)(7) is amended—

(1) by striking "amounts included in unearned premiums under the 2nd sentence of such subparagraph" and inserting "insurance contracts described in section 816(b)(1)(B)", and

(2) by striking "such amounts into account" and inserting "such contracts into account".

26 USC 832 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning on or after September 30, 1990.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing reserves—

(A) such change shall be treated as a change in a method of accounting,

(B) such change shall be treated as initiated by the taxpayer,

(C) such change shall be treated as having been made with the consent of the Secretary, and

(D) the net adjustments which are required by section 481 of the Internal Revenue Code of 1986 to be taken into account by the taxpayer shall be taken into account over a period not to exceed 4 taxable years beginning with the taxpayer's first taxable year beginning on or after September 30, 1990.

(3) COORDINATION WITH SECTION 832(b)(4)(C).—The amendments made by this section shall not affect the application of section 832(b)(4)(C) of the Internal Revenue Code of 1986.

Subpart B—Treatment of Salvage Recoverable

SEC. 11305. TREATMENT OF SALVAGE RECOVERABLE.

(a) GENERAL RULE.—Subparagraph (A) of section 832(b)(5) (defining losses incurred) is amended to read as follows:

"(A) IN GENERAL.—The term 'losses incurred' means losses incurred during the taxable year on insurance contracts computed as follows:

"(i) To losses paid during the taxable year, deduct salvage and reinsurance recovered during the taxable year.

"(ii) To the result so obtained, add all unpaid losses on life insurance contracts plus all discounted unpaid losses (as defined in section 846) outstanding at the end of the taxable year and deduct all unpaid losses on life insurance contracts plus all discounted unpaid losses outstanding at the end of the preceding taxable year.

"(iii) To the results so obtained, add estimated salvage and reinsurance recoverable as of the end of the preceding taxable year and deduct estimated salvage and reinsurance recoverable as of the end of the taxable year.

The amount of estimated salvage recoverable shall be determined on a discounted basis in accordance with procedures established by the Secretary."

(b) CONFORMING AMENDMENT.—Subsection (g) of section 846 is amended by adding "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(c) EFFECTIVE DATE.— 26 USC 832 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) AMENDMENTS TREATED AS CHANGE IN METHOD OF ACCOUNTING.—

(A) IN GENERAL.—In the case of any taxpayer who is required by reason of the amendments made by this section to change his method of computing losses incurred—

(i) such change shall be treated as a change in a method of accounting,

(ii) such change shall be treated as initiated by the taxpayer, and

(iii) such change shall be treated as having been made with the consent of the Secretary.

(B) ADJUSTMENTS.—In applying section 481 of the Internal Revenue Code of 1986 with respect to the change referred to in subparagraph (A)—

(i) only 13 percent of the net amount of adjustments (otherwise required by such section 481 to be taken into account by the taxpayer) shall be taken into account, and

(ii) the portion of such net adjustments which is required to be taken into account by the taxpayer (after the application of clause (i)) shall be taken into account over a period not to exceed 4 taxable years beginning with the taxpayer's 1st taxable year beginning after December 31, 1989.

(3) TREATMENT OF COMPANIES WHICH TOOK INTO ACCOUNT SALVAGE RECOVERABLE.—In the case of any insurance company which took into account salvage recoverable in determining losses incurred for its last taxable year beginning before January 1, 1990, 87 percent of the discounted amount of estimated salvage recoverable as of the close of such last taxable year shall be allowed as a deduction ratably over its 1st 4 taxable years beginning after December 31, 1989.

(4) SPECIAL RULE FOR OVERESTIMATES.—If for any taxable year beginning after December 31, 1989—

(A) the amount of the section 481 adjustment which would have been required without regard to paragraph (2) and any discounting, exceeds

(B) the sum of the amount of salvage recovered taken into account under section 832(b)(5)(A)(i) for the taxable year and any preceding taxable year beginning after December 31, 1989, attributable to losses incurred with respect to any accident year beginning before 1990 and the undiscounted amount of estimated salvage recoverable as of the close of the taxable year on account of such losses,

87 percent of such excess (adjusted for discounting used in determining the amount of salvage recoverable as of the close of the last taxable year of the taxpayer beginning before January 1, 1990) shall be included in gross income for such taxable year.

(5) EFFECT ON EARNINGS AND PROFITS.—The earnings and profits of any insurance company for its 1st taxable year beginning after December 31, 1989, shall be increased by the amount of the section 481 adjustment which would have been required but for paragraph (2). For purposes of applying sections 56, 902, 952(c)(1), and 960 of the Internal Revenue Code of 1986, earnings and profits of a corporation shall be determined by applying the principles of paragraph (2)(B).

Subpart C—Waiver of Estimated Tax Penalties

26 USC 6655 note.

SEC. 11307. WAIVER OF ESTIMATED TAX PENALTIES.

No addition to tax shall be made under section 6655 of the Internal Revenue Code of 1986 for any period before March 16, 1991, with respect to any underpayment to the extent such underpayment was created or increased by any provision of this part.

PART II—COMPLIANCE PROVISIONS

SEC. 11311. SUSPENSION OF STATUTE OF LIMITATIONS DURING PROCEEDINGS TO ENFORCE CERTAIN SUMMONSES.

(a) GENERAL RULE.—Section 6503 (relating to suspension of running of period of limitation) is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) EXTENSION IN CASE OF CERTAIN SUMMONSES.—

"(1) IN GENERAL.—If any designated summons is issued by the Secretary with respect to any return of tax by a corporation, the running of any period of limitations provided in section 6501 on the assessment of such tax shall be suspended—

"(A) during any judicial enforcement period—

"(i) with respect to such summons, or

"(ii) with respect to any other summons which is issued during the 30-day period which begins on the date on which such designated summons is issued and which relates to the same return as such designated summons, and

"(B) if the court in any proceeding referred to in paragraph (3) requires any compliance with a summons referred to in subparagraph (A), during the 120-day period beginning with the 1st day after the close of the suspension under subparagraph (A).

If subparagraph (B) does not apply, such period shall in no event expire before the 60th day after the close of the suspension under subparagraph (A).

"(2) DESIGNATED SUMMONS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'designated summons' means any summons issued for purposes of determining the amount of any tax imposed by this title if—

"(i) such summons is issued at least 60 days before the day on which the period prescribed in section 6501 for the assessment of such tax expires (determined with regard to extensions), and

"(ii) such summons clearly states that it is a designated summons for purposes of this subsection.

"(B) LIMITATION.—A summons which relates to any return shall not be treated as a designated summons if a prior summons which relates to such return was treated as a designated summons for purposes of this subsection.

"(3) JUDICIAL ENFORCEMENT PERIOD.—For purposes of this subsection, the term 'judicial enforcement period' means, with respect to any summons, the period—

"(A) which begins on the day on which a court proceeding with respect to such summons is brought, and

"(B) which ends on the day on which there is a final resolution as to the summoned person's response to such summons."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax (whether imposed before, on, or after the date of the enactment of this Act) if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of such tax (determined with regard to extensions) has not expired on such date of the enactment. 26 USC 6503 note.

SEC. 11312. ACCURACY-RELATED PENALTY TO APPLY TO SECTION 482 ADJUSTMENTS.

(a) GENERAL RULE.—Subsection (e) of section 6662 (defining substantial valuation overstatement under chapter 1) is amended to read as follows:

"(e) SUBSTANTIAL VALUATION MISSTATEMENT UNDER CHAPTER 1.—

"(1) IN GENERAL.—For purposes of this section, there is a substantial valuation misstatement under chapter 1 if—

"(A) the value of any property (or the adjusted basis of any property) claimed on any return of tax imposed by chapter 1 is 200 percent or more of the amount determined to be the correct amount of such valuation or adjusted basis (as the case may be), or

"(B)(i) the price for any property or services (or for the use of property) claimed on any such return in connection with any transaction between persons described in section 482 is 200 percent or more (or 50 percent or less) of the amount determined under section 482 to be the correct amount of such price, or

"(ii) the net section 482 transfer price adjustment for the taxable year exceeds $10,000,000.

"(2) LIMITATION.—No penalty shall be imposed by reason of subsection (b)(3) unless the portion of the underpayment for the taxable year attributable to substantial valuation misstatements under chapter 1 exceeds $5,000 ($10,000 in the case of a corporation other than an S corporation or a personal holding company (as defined in section 542)).

"(3) NET SECTION 482 TRANSFER PRICE ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'net section 482 transfer price adjustment' means, with respect to any taxable year, the net increase in taxable income for the taxable year (determined without regard to any amount carried to such taxable year from another taxable year) resulting from adjustments under section 482 in the price for any property or services (or for the use of property).

"(B) CERTAIN ADJUSTMENTS EXCLUDED IN DETERMINING THRESHOLD.—For purposes of determining whether the $10,000,000 threshold requirement of paragraph (1)(B)(ii) is met, there shall be excluded—

"(i) any portion of the net increase in taxable income referred to in subparagraph (A) which is attributable to any redetermination of a price if it is shown that there was a reasonable cause for the taxpayer's determination of such price and that the taxpayer acted in good faith with respect to such price, and

"(ii) any portion of such net increase which is attributable to any transaction solely between foreign corporations unless, in the case of any of such corporations, the treatment of such transaction affects the determination of income from sources within the United States or taxable income effectively connected with the conduct of a trade or business within the United States.

"(C) SPECIAL RULE.—If the regular tax (as defined in section 55(c)) imposed by chapter 1 on the taxpayer is

determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of this paragraph."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (3) of section 6662(b) is amended to read as follows:

"(3) Any substantial valuation misstatement under chapter 1."

(2) Subparagraph (A) of section 6662(h)(2) is amended to read as follows:

"(A) any substantial valuation misstatement under chapter 1 as determined under subsection (e) by substituting—

"(i) '400 percent' for '200 percent' each place it appears,

"(ii) '25 percent' for '50 percent', and

"(iii) '$20,000,000' for '$10,000,000',".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 6662 note.

SEC. 11313. TREATMENT OF PERSONS PROVIDING SERVICES.

(a) GENERAL RULE.—Subsection (n) of section 6103 (relating to certain other persons) is amended—

(1) by striking "and the programming" and inserting "the programming", and

(2) by inserting after "of equipment," the following "and the providing of other services,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 6103 note.

SEC. 11314. APPLICATION OF AMENDMENTS MADE BY SECTION 7403 OF REVENUE RECONCILIATION ACT OF 1989 TO TAXABLE YEARS BEGINNING ON OR BEFORE JULY 10, 1989. 26 USC 6038A note.

(a) GENERAL RULE.—The amendments made by section 7403 of the Revenue Reconciliation Act of 1989 shall apply to—

(1) any requirement to furnish information under section 6038A(a) of the Internal Revenue Code of 1986 (as amended by such section 7403) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038A(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038A(e)(1) of such Code (as so amended) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began. Such amendments shall also apply in any case to which they would apply without regard to this section.

(b) CONTINUATION OF OLD FAILURES.—In the case of any failure with respect to a taxable year beginning on or before July 10, 1989, which first occurs on or before the date of the enactment of this Act but which continues after such date of enactment, section 6038A(d)(2) of the Internal Revenue Code of 1986 (as amended by subsection (c) of such section 7403) shall apply for purposes of determining the amount of the penalty imposed for 30-day periods

referred to in such section 6038A(d)(2) which begin after the date of the enactment of this Act.

SEC. 11315. OTHER REPORTING REQUIREMENTS.

(a) GENERAL RULE.—Subpart A of part III of subchapter A of chapter 61 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6038B the following new section:

"SEC. 6038C. INFORMATION WITH RESPECT TO FOREIGN CORPORATIONS ENGAGED IN U.S. BUSINESS.

"(a) REQUIREMENT.—If a foreign corporation (hereinafter in this section referred to as the 'reporting corporation') is engaged in a trade or business within the United States at any time during a taxable year—

"(1) such corporation shall furnish (at such time and in such manner as the Secretary shall by regulations prescribe) the information described in subsection (b), and

"(2) such corporation shall maintain (at the location, in the manner, and to the extent prescribed in regulations) such records as may be appropriate to determine the liability of such corporation for tax under this title as the Secretary shall by regulations prescribe (or shall cause another person to so maintain such records).

"(b) REQUIRED INFORMATION.—For purposes of subsection (a), the information described in this subsection is—

"(1) the information described in section 6038A(b), and

"(2) such other information as the Secretary may prescribe by regulations relating to any item not directly connected with a transaction for which information is required under paragraph (1).

"(c) PENALTY FOR FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.—The provisions of subsection (d) of section 6038A shall apply to—

"(1) any failure to furnish (within the time prescribed by regulations) any information described in subsection (b), and

"(2) any failure to maintain (or cause another to maintain) records as required by subsection (a),

in the same manner as if such failure were a failure to comply with the provisions of section 6038A.

"(d) ENFORCEMENT OF REQUESTS FOR CERTAIN RECORDS.—

"(1) AGREEMENT TO TREAT CORPORATION AS AGENT.—The rules of paragraph (3) shall apply to any transaction between the reporting corporation and any related party who is a foreign person unless such related party agrees (in such manner and at such time as the Secretary shall prescribe) to authorize the reporting corporation to act as such related party's limited agent solely for purposes of applying sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to any such transaction or with respect to any summons by the Secretary for such records or testimony. The appearance of persons or production of records by reason of the reporting corporation being such an agent shall not subject such persons or records to legal process for any purpose other than determining the correct treatment under this title of any transaction between the reporting corporation and such related party.

"(2) RULES WHERE INFORMATION NOT FURNISHED.—If—

"(A) for purposes of determining the amount of the reporting corporation's liability for tax under this title, the Secretary issues a summons to such corporation to produce (either directly or as an agent for a related party who is a foreign person) any records or testimony,

"(B) such summons is not quashed in a proceeding begun under paragraph (4) of section 6038A(e) (as made applicable by paragraph (4) of this subsection) and is not determined to be invalid in a proceeding begun under section 7604(b) to enforce such summons, and

"(C) the reporting corporation does not substantially comply in a timely manner with such summons and the Secretary has sent by certified or registered mail a notice to such reporting corporation that such reporting corporation has not so substantially complied,

the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which such summons relates (whether or not the Secretary begins a proceeding to enforce such summons). If the reporting corporation fails to maintain (or cause another to maintain) records as required by subsection (a), and by reason of that failure, the summons is quashed in a proceeding described in subparagraph (B) or the reporting corporation is not able to provide the records requested in the summons, the Secretary may apply the rules of paragraph (3) with respect to any transaction or item to which the records relate.

"(3) APPLICABLE RULES.—If the rules of this paragraph apply to any transaction or item, the treatment of such transaction (or the amount and treatment of any such item) shall be determined by the Secretary in the Secretary's sole discretion from the Secretary's own knowledge or from such information as the Secretary may obtain through testimony or otherwise.

"(4) JUDICIAL PROCEEDINGS.—The provisions of section 6038A(e)(4) shall apply with respect to any summons referred to in paragraph (2)(A); except that subparagraph (D) of such section shall be applied by substituting 'transaction or item' for 'transaction'.

"(e) DEFINITIONS.—For purposes of this section, the terms 'related party', 'foreign person', and 'records' have the respective meanings given to such terms by section 6038A(c)."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6038A(a) is amended by striking "or is a foreign corporation engaged in trade or business within the United States".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6038B the following new item:

"Sec. 6038C. Information with respect to foreign corporations engaged in U.S. business."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to— 26 USC 6038A note.

(1) any requirement to furnish information under section 6038C(a) of the Internal Revenue Code of 1986 (as added by this section) if the time for furnishing such information under such section is after the date of the enactment of this Act,

(2) any requirement under such section 6038C(a) to maintain records which were in existence on or after March 20, 1990,

(3) any requirement to authorize a corporation to act as a limited agent under section 6038C(d)(1) of such Code (as so added) if the time for authorizing such action is after the date of the enactment of this Act, and

(4) any summons issued after such date of enactment,

without regard to when the taxable year (to which the information, records, authorization, or summons relates) began.

26 USC 482 note.

SEC. 11316. STUDY OF SECTION 482.

(a) GENERAL RULE.—The Secretary of the Treasury or his delegate shall conduct a study of the application and administration of section 482 of the Internal Revenue Code of 1986. Such study shall include examination of—

(1) the effectiveness of the amendments made by this part in increasing levels of compliance with such section 482,

(2) use of advanced determination agreements with respect to issues under such section 482,

(3) possible legislative or administrative changes to assist the Internal Revenue Service in increasing compliance with such section 482, and

(4) coordination of the administration of such section 482 with similar provisions of foreign tax laws and with domestic nontax laws.

(b) REPORT.—Not later than March 1, 1992, the Secretary of the Treasury or his delegate shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 11317. 10-YEAR PERIOD OF LIMITATION ON COLLECTION AFTER ASSESSMENT.

(a) IN GENERAL.—Subsection (a) of section 6502 (relating to collection after assessment) is amended—

(1) by striking "6 years" in paragraph (1) and inserting "10 years", and

(2) by striking "6-year period" each place it appears in paragraph (2) and inserting "10-year period".

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 6323(g) is amended by striking "6 years" each place it appears and inserting "10 years".

26 USC 6323 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) taxes assessed after the date of the enactment of this Act, and

(2) taxes assessed on or before such date if the period specified in section 6502 of the Internal Revenue Code of 1986 (determined without regard to the amendments made by subsection (a)) for collection of such taxes has not expired as of such date.

SEC. 11318. RETURN REQUIREMENT WHERE CASH RECEIVED IN TRADE OR BUSINESS.

(a) CERTAIN MONETARY INSTRUMENTS TREATED AS CASH.—Subsection (d) of section 6050I (relating to returns relating to cash received in trade or business) is amended to read as follows:

"(d) CASH INCLUDES FOREIGN CURRENCY AND CERTAIN MONETARY INSTRUMENTS.—For purposes of this section, the term 'cash' includes—

"(1) foreign currency, and

"(2) to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than $10,000.

Paragraph (2) shall not apply to any check drawn on the account of the writer in a financial institution referred to in subsection (c)(1)(B)."

(b) INCREASE IN PENALTY FOR INTENTIONAL DISREGARD OF REPORTING REQUIREMENT.—Paragraph (2) of section 6721(e) (relating to penalty for intentional disregard) is amended—

(1) by inserting "6050I," after "6050H," in subparagraph (A),

(2) by striking "or" at the end of subparagraph (A),

(3) by striking "and" at the end of subparagraph (B) and inserting "or", and

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) in the case of a return required to be filed under section 6050I(a) with respect to any transaction (or related transactions), the greater of—

"(i) $25,000, or

"(ii) the amount of cash (within the meaning of section 6050I(d)) received in such transaction (or related transactions) to the extent the amount of such cash does not exceed $100,000, and".

(c) CLARIFICATION OF APPLICATION OF PROVISION PROHIBITING EVASION TECHNIQUES.—The heading of subsection (f) of section 6050I is amended to read as follows:

"(f) STRUCTURING TRANSACTIONS TO EVADE REPORTING REQUIREMENTS PROHIBITED.—".

(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the operation of section 6050I of the Internal Revenue Code of 1986. Such study shall include an examination of—

(1) the extent of compliance with the provisions of such section,

(2) the effectiveness of the penalties in ensuring compliance with the provisions of such section,

(3) methods to increase compliance with the provisions of such section and ways Form 8300 could be simplified, and

(4) appropriate methods to increase the usefulness and availability of information submitted under the provisions of such section.

Not later than March 31, 1991, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this subsection, together with such recommendations as he may deem advisable.

(e) EFFECTIVE DATES.— 26 USC 6050I note.

(1) The amendments made by subsections (a) and (b) shall apply to amounts received after the date of the enactment of this Act.

(2) The amendment made by subsection (c) shall take effect on the date of the enactment of this Act.

(3) Not later than June 1, 1991, the Secretary of the Treasury or his delegate shall prescribe regulations under section

6050I(d)(2) of the Internal Revenue Code of 1986 (as amended by this section).

SEC. 11319. 5-YEAR EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

26 USC 7801 note.

(a) GENERAL RULE.—Subsection (c) of section 10511 of the Revenue Act of 1987 (relating to fees for requests for ruling, determination, and similar letters) is amended by adding at the end thereof the following new sentence: "Subsection (a) shall also apply with respect to requests made after September 30, 1990, and before October 1, 1995."

26 USC 7801 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 29, 1990, except that no advance payment shall be required for any fee for any requests filed after September 29, 1990, and before the 30th day after the date of the enactment of this Act.

PART III—CORPORATE PROVISIONS

SEC. 11321. RECOGNITION OF GAIN BY DISTRIBUTING CORPORATION IN CERTAIN SECTION 355 TRANSACTIONS.

(a) GENERAL RULE.—Section 355 (relating to distribution of stock and securities of a controlled corporation) is amended by striking subsection (c) and inserting the following new subsections:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of subparagraph (A), the term 'qualified property' means any stock or securities in the controlled corporation.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1).

"(d) RECOGNITION OF GAIN ON CERTAIN DISTRIBUTIONS OF STOCK OR SECURITIES IN CONTROLLED CORPORATION.—

"(1) IN GENERAL.—In the case of a disqualified distribution, any stock or securities in the controlled corporation shall not be treated as qualified property for purposes of subsection (c)(2) of this section or section 361(c)(2).

"(2) DISQUALIFIED DISTRIBUTION.—For purposes of this subsection, the term 'disqualified distribution' means any distribution to which this section (or so much of section 356 as relates to this section) applies if, immediately after the distribution—

"(A) any person holds disqualified stock in the distributing corporation which constitutes a 50-percent or greater interest in such corporation, or

"(B) any person holds disqualified stock in the controlled corporation (or, if stock of more than 1 controlled corporation is distributed, in any controlled corporation) which constitutes a 50-percent or greater interest in such corporation.

"(3) DISQUALIFIED STOCK.—For purposes of this subsection, the term 'disqualified stock' means—

"(A) any stock in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, and

"(B) any stock in any controlled corporation—

"(i) acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution, or

"(ii) received in the distribution to the extent attributable to distributions on—

"(I) stock described in subparagraph (A), or

"(II) any securities in the distributing corporation acquired by purchase after October 9, 1990, and during the 5-year period ending on the date of the distribution.

"(4) 50-PERCENT OR GREATER INTEREST.—For purposes of this subsection, the term '50-percent or greater interest' means stock possessing at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock.

"(5) PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'purchase' means any acquisition but only if—

"(i) the basis of the property acquired in the hands of the acquirer is not determined (I) in whole or in part by reference to the adjusted basis of such property in the hands of the person from whom acquired, or (II) under section 1014(a), and

"(ii) the property is not acquired in an exchange to which section 351, 354, 355, or 356 applies.

"(B) CERTAIN SECTION 351 EXCHANGES TREATED AS PURCHASES.—The term 'purchase' includes any acquisition of property in an exchange to which section 351 applies to the extent such property is acquired in exchange for—

"(i) any cash or cash item,

"(ii) any marketable stock or security, or

"(iii) any debt of the transferor.

"(C) CARRYOVER BASIS TRANSACTIONS.—If—

"(i) any person acquires property from another person who acquired such property by purchase (as determined under this paragraph with regard to this subparagraph), and

"(ii) the adjusted basis of such property in the hands of such acquirer is determined in whole or in part by reference to the adjusted basis of such property in the hands of such other person,

such acquirer shall be treated as having acquired such property by purchase on the date it was so acquired by such other person.

"(6) SPECIAL RULE WHERE SUBSTANTIAL DIMINUTION OF RISK.—

"(A) IN GENERAL.—If this paragraph applies to any stock or securities for any period, the running of any 5-year period set forth in subparagraph (A) or (B) of paragraph (3) (whichever applies) shall be suspended during such period.

"(B) PROPERTY TO WHICH SUSPENSION APPLIES.—This paragraph applies to any stock or securities for any period during which the holder's risk of loss with respect to such stock or securities, or with respect to any portion of the activities of the corporation, is (directly or indirectly) substantially diminished by—

"(i) an option,

"(ii) a short sale,

"(iii) any special class of stock, or

"(iv) any other device or transaction.

"(7) AGGREGATION RULES.—

"(A) IN GENERAL.—For purposes of this subsection, a person and all persons related to such person (within the meaning of 267(b) or 707(b)(1)) shall be treated as one person.

"(B) PERSONS ACTING PURSUANT TO PLANS OR ARRANGEMENTS.—If two or more persons act pursuant to a plan or arrangement with respect to acquisitions of stock or securities in the distributing corporation or controlled corporation, such persons shall be treated as one person for purposes of this subsection.

"(8) ATTRIBUTION FROM ENTITIES.—

"(A) IN GENERAL.—Paragraph (2) of section 318(a) shall apply in determining whether a person holds stock or securities in any corporation (determined by substituting '10 percent' for '50 percent' in subparagraph (C) of such paragraph (2) and by treating any reference to stock as including a reference to securities).

"(B) DEEMED PURCHASE RULE.—If—

"(i) any person acquires by purchase an interest in any entity, and

"(ii) such person is treated under subparagraph (A) as holding any stock or securities by reason of holding such interest,

such stock or securities shall be treated as acquired by purchase by such person on the later of the date of the purchase of the interest in such entity or the date such stock or securities are acquired by purchase by such entity.

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations to prevent the avoidance of the purposes of this subsection through the use of related persons, intermediaries, pass-thru entities, options, or other arrangements, and

"(B) regulations modifying the definition of the term 'purchase'."

(b) TECHNICAL AMENDMENT.—Subsection (c) of section 361 is amended by adding at the end thereof the following new paragraph:

"(5) CROSS REFERENCE.—

"For provision providing for recognition of gain in certain distributions, see section 355(d)."

(c) EFFECTIVE DATE.— 26 USC 355 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to distributions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any distribution pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such distribution.

(3) TRANSITIONAL RULES.—For purposes of subparagraphs (A) and (B) of section 355(d)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), an acquisition shall be treated as occurring on or before October 9, 1990, if—

(A) such acquisition is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition,

(B) such acquisition is pursuant to a transaction which was described in documents filed with the Securities and Exchange Commission on or before October 9, 1990, or

(C) such acquisition is pursuant to a transaction—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is the subject of a subsequent filing with the Securities and Exchange Commission before January 1, 1991.

SEC. 11322. MODIFICATIONS TO REGULATIONS ISSUED UNDER SECTION 305(c).

(a) GENERAL RULE.—Subsection (c) of section 305 (relating to certain transactions treated as distributions) is amended by adding at the end thereof the following new sentence: "Regulations prescribed under the preceding sentence shall provide that—

"(1) where the issuer of stock is required to redeem the stock at a specified time or the holder of stock has the option to require the issuer to redeem the stock, a redemption premium resulting from such requirement or option shall be treated as reasonable only if the amount of such premium does not exceed the amount determined under the principles of section 1273(a)(3),

"(2) a redemption premium shall not fail to be treated as a distribution (or series of distributions) merely because the stock is callable, and

"(3) in any case in which a redemption premium is treated as a distribution (or series of distributions), such premium shall be

taken into account under principles similar to the principles of section 1272(a)."

26 USC 305 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to stock issued after October 9, 1990.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any stock issued after October 9, 1990, if—

(A) such stock is issued pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance,

(B) such stock is issued pursuant to a registration or offering statement filed on or before October 9, 1990, with a Federal or State agency regulating the offering or sale of securities and such stock is issued before the date 90 days after the date of such filing, or

(C) such stock is issued pursuant to a plan filed on or before October 9, 1990, in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986).

SEC. 11323. MODIFICATIONS TO SECTION 1060.

(a) EFFECT OF ALLOCATION AGREEMENTS.—Subsection (a) of section 1060 (relating to special allocation rules for certain asset allocations) is amended by adding at the end thereof the following new sentence: "If in connection with an applicable asset acquisition, the transferee and transferor agree in writing as to the allocation of any consideration, or as to the fair market value of any of the assets, such agreement shall be binding on both the transferee and transferor unless the Secretary determines that such allocation (or fair market value) is not appropriate."

(b) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTEREST IN ENTITIES.—

(1) IN GENERAL.—Section 1060 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INFORMATION REQUIRED IN CASE OF CERTAIN TRANSFERS OF INTERESTS IN ENTITIES.—

"(1) IN GENERAL.—If—

"(A) a person who is a 10-percent owner with respect to any entity transfers an interest in such entity, and

"(B) in connection with such transfer, such owner (or a related person) enters into an employment contract, covenant not to compete, royalty or lease agreement, or other agreement with the transferee,

such owner and the transferee shall, at such time and in such manner as the Secretary may prescribe, furnish such information as the Secretary may require.

"(2) 10-PERCENT OWNER.—For purposes of this subsection—

"(A) IN GENERAL.—The term '10-percent owner' means, with respect to any entity, any person who holds 10 percent or more (by value) of the interests in such entity immediately before the transfer.

"(B) CONSTRUCTIVE OWNERSHIP.—Section 318 shall apply in determining ownership of stock in a corporation. Similar principles shall apply in determining the ownership of interests in any other entity.

"(3) RELATED PERSON.—For purposes of this subsection, the term 'related person' means any person who is related (within the meaning of section 267(b) or 707(b)(1)) to the 10-percent owner."

(2) TECHNICAL AMENDMENT.—Clause (x) of section 6724(d)(1)(B) is amended by striking "section 1060(b)", and inserting "subsection (b) or (e) of section 1060".

(c) INFORMATION REQUIRED IN SECTION 338(h)(10) TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (10) of section 338(h) is amended by adding at the end thereof the following new subparagraph:

"(C) INFORMATION REQUIRED TO BE FURNISHED TO THE SECRETARY.—Under regulations, where an election is made under subparagraph (A), the purchasing corporation and the common parent of the selling consolidated group shall, at such times and in such manner as may be provided in regulations, furnish to the Secretary the following information:

"(i) The amount allocated under subsection (b)(5) to goodwill or going concern value.

"(ii) Any modification of the amount described in clause (i).

"(iii) Any other information as the Secretary deems necessary to carry out the provisions of this paragraph."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 6724(d)(1) is amended by striking "or" at the end of clause (x), by striking the period at the end of clause (xi) and inserting ", or", and by inserting after clause (xi) the following new clause:

"(xii) subparagraph (C) of section 338(h)(10) (relating to information required to be furnished to the Secretary in case of elective recognition of gain or loss)."

(d) EFFECTIVE DATE.— 26 USC 338 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 11324. MODIFICATION TO CORPORATION EQUITY REDUCTION LIMITATIONS ON NET OPERATING LOSS CARRYBACKS.

(a) REPEAL OF EXCEPTION FOR ACQUISITIONS OF SUBSIDIARIES.—Clause (ii) of section 172(m)(3)(B) (relating to exceptions) is amended to read as follows:

"(ii) EXCEPTION.—The term 'major stock acquisition' does not include a qualified stock purchase (within the meaning of section 338) to which an election under section 338 applies."

(b) EFFECTIVE DATE.— 26 USC 172 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by subsection (a) shall apply to acquisitions after October 9, 1990.

(2) BINDING CONTRACT EXCEPTION.—The amendment made by subsection (a) shall not apply to any acquisition pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such acquisition.

SEC. 11325. ISSUANCE OF DEBT OR STOCK IN SATISFACTION OF INDEBTEDNESS.

(a) ISSUANCE OF DEBT INSTRUMENT.—

(1) Subsection (e) of section 108 (relating to general rules for discharge of indebtedness) is amended by adding at the end thereof the following new paragraph:

"(11) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter."

(2) Subsection (a) of section 1275 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) LIMITATION ON STOCK FOR DEBT EXCEPTION.—

(1) IN GENERAL.—Subparagraph (B) of section 108(e)(10) is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN STOCK IN TITLE 11 CASES AND INSOLVENT DEBTORS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply to any transfer of stock of the debtor (other than disqualified stock)—

"(I) by a debtor in a title 11 case, or

"(II) by any other debtor but only to the extent such debtor is insolvent.

"(ii) DISQUALIFIED STOCK.—For purposes of clause (i), the term 'disqualified stock' means any stock with a stated redemption price if—

"(I) such stock has a fixed redemption date,

"(II) the issuer of such stock has the right to redeem such stock at one or more times, or

"(III) the holder of such stock has the right to require its redemption at one or more times."

(2) CONFORMING AMENDMENT.—Paragraph (8) of section 108(e) is amended by adding at the end thereof the following new sentence:

"Any stock which is disqualified stock (as defined in paragraph (10)(B)(ii)) shall not be treated as stock for purposes of this paragraph."

26 USC 108 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to debt instruments issued, and stock transferred, after October 9, 1990, in satisfaction of any indebtedness.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to any debt instrument issued, or stock transferred, in

satisfaction of any indebtedness if such issuance or transfer (as the case may be)—

(A) is in a title 11 or similar case (as defined in section 368(a)(3)(A) of the Internal Revenue Code of 1986) which was filed on or before October 9, 1990,

(B) is pursuant to a written binding contract in effect on October 9, 1990, and at all times thereafter before such issuance or transfer,

(C) is pursuant to a transaction which was described in documents filed with the Securities and Exchange Commission on or before October 9, 1990, or

(D) is pursuant to a transaction—

(i) the material terms of which were described in a written public announcement on or before October 9, 1990,

(ii) which was the subject of a prior filing with the Securities and Exchange Commission, and

(iii) which is the subject of a subsequent filing with the Securities and Exchange Commission before January 1, 1991.

PART IV—EMPLOYMENT TAX PROVISIONS

SEC. 11331. INCREASE IN DOLLAR LIMITATION ON AMOUNT OF WAGES SUBJECT TO HOSPITAL INSURANCE TAX.

(a) HOSPITAL INSURANCE TAX.—

(1) IN GENERAL.—Paragraph (1) of section 3121(a) is amended—

(A) by striking "contribution and benefit base (as determined under section 230 of the Social Security Act)" each place it appears and inserting "applicable contribution base (as determined under subsection (x))", and

(B) by striking "such contribution and benefit base" and inserting "such applicable contribution base".

(2) APPLICABLE CONTRIBUTION BASE.—Section 3121 is amended by adding at the end thereof the following new subsection:

"(x) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the taxes imposed by sections 3101(a) and 3111(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the taxes imposed by section 3101(b) and 3111(b), the applicable contribution base is—

"(A) $125,000 for calendar year 1991, and

"(B) for any calendar year after 1991, the applicable contribution base for the preceding year adjusted in the same manner as is used in adjusting the contribution and benefit base under section 230(b) of the Social Security Act."

(b) SELF-EMPLOYMENT TAX.—

(1) IN GENERAL.—Subsection (b) of section 1402 is amended by striking "the contribution and benefit base (as determined under section 230 of the Social Security Act)" and inserting "the

applicable contribution base (as determined under subsection (k))".

(2) APPLICABLE CONTRIBUTION BASE.—Section 1402 is amended by adding at the end thereof the following new subsection:

"(k) APPLICABLE CONTRIBUTION BASE.—For purposes of this chapter—

"(1) OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE.—For purposes of the tax imposed by section 1401(a), the applicable contribution base for any calendar year is the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(2) HOSPITAL INSURANCE.—For purposes of the tax imposed by section 1401(b), the applicable contribution base for any calendar year is the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(c) RAILROAD RETIREMENT TAX.—Clause (i) of section 3231(e)(2)(B) is amended to read as follows:

"(i) TIER 1 TAXES.—

"(I) IN GENERAL.—Except as provided in subclause (II) of this clause and in clause (ii), the term 'applicable base' means for any calendar year the contribution and benefit base determined under section 230 of the Social Security Act for such calendar year.

"(II) HOSPITAL INSURANCE TAXES.—For purposes of applying so much of the rate applicable under section 3201(a) or 3221(a) (as the case may be) as does not exceed the rate of tax in effect under section 3101(b), and for purposes of applying so much of the rate of tax applicable under section 3211(a)(1) as does not exceed the rate of tax in effect under section 1401(b), the term 'applicable base' means for any calendar year the applicable contribution base determined under section 3121(x)(2) for such calendar year."

(d) TECHNICAL AMENDMENT.—

(1) Paragraph (3) of section 6413(c) is amended to read as follows:

"(3) SEPARATE APPLICATION FOR HOSPITAL INSURANCE TAXES.—In applying this subsection with respect to—

"(A) the tax imposed by section 3101(b) (or any amount equivalent to such tax), and

"(B) so much of the tax imposed by section 3201 as is determined at a rate not greater than the rate in effect under section 3101(b),

the applicable contribution base determined under section 3121(x)(2) for any calendar year shall be substituted for 'contribution and benefit base (as determined under section 230 of the Social Security Act)' each place it appears."

(2) Sections 3122 and 3125 are each amended by striking "contribution and benefit base limitation" each place it appears and inserting "applicable contribution base limitation".

26 USC 1402 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to 1991 and later calendar years.

SEC. 11332. COVERAGE OF CERTAIN STATE AND LOCAL EMPLOYEES UNDER SOCIAL SECURITY.

(a) EMPLOYMENT UNDER OASDI.—Paragraph (7) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(7)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 211(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self employment;

for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary of the Treasury, the term 'retirement system' has the meaning given such term by section 218(b)(4);".

(b) EMPLOYMENT UNDER FICA.—Paragraph (7) of section 3121(b) of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the semicolon at the end of subparagraph (E) and inserting ", or"; and

(3) by adding at the end the following new subparagraph:

"(F) service in the employ of a State (other than the District of Columbia, Guam, or American Samoa), of any political subdivision thereof, or of any instrumentality of any one or more of the foregoing which is wholly owned thereby, by an individual who is not a member of a retirement system of such State, political subdivision, or instrumentality, except that the provisions of this subparagraph shall not be applicable to service performed—

"(i) by an individual who is employed to relieve such individual from unemployment;

"(ii) in a hospital, home, or other institution by a patient or inmate thereof;

"(iii) by any individual as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or other similar emergency;

"(iv) by an election official or election worker if the remuneration paid in a calendar year for such service is less than $100; or

"(v) by an employee in a position compensated solely on a fee basis which is treated pursuant to section 1402(c)(2)(E) as a trade or business for purposes of inclusion of such fees in net earnings from self-employment;

for purposes of this subparagraph, except as provided in regulations prescribed by the Secretary, the term 'retirement system' has the meaning given such term by section 218(b)(4) of the Social Security Act;".

(c) MANDATORY EXCLUSION OF CERTAIN EMPLOYEES FROM STATE AGREEMENTS.—Section 218(c)(6) of the Social Security Act (42 U.S.C. 418(c)(6)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(F) service described in section 210(a)(7)(F) which is included as 'employment' under section 210(a).".

26 USC 3121 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to service performed after July 1, 1991.

SEC. 11333. EXTENSION OF FUTA SURTAX.

(a) IN GENERAL.—Section 3301 (relating to rate of FUTA tax) is amended—

(1) by striking "1988, 1989, and 1990" in paragraph (1) and inserting "1988 through 1995", and

(2) by striking "1991" in paragraph (2) and inserting "1996".

26 USC 3301 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to wages paid after December 31, 1990.

SEC. 11334. DEPOSITS OF PAYROLL TAXES.

(a) IN GENERAL—[80] Subsection (g) of section 6302 is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY TAXES AND WITHHELD INCOME TAXES.—If, under regulations prescribed by the Secretary, a person is required to make deposits of taxes imposed by chapters 21 and 24 on the basis of eighth-month periods, such person shall make deposits of such taxes on the 1st banking day after any day on which such person has $100,000 or more of such taxes for deposit."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of section 7632(b) of the Revenue Reconciliation Act of 1989 is hereby repealed.

26 USC 6302 note.

26 USC 6302 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts required to be deposited after December 31, 1990.

PART V—MISCELLANEOUS PROVISIONS

SEC. 11341. INCREASE IN RATE OF INTEREST PAYABLE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Section 6621 (relating to determination of rate of interest) is amended by adding at the end thereof the following new subsection:

"(c) INCREASE IN UNDERPAYMENT RATE FOR LARGE CORPORATE UNDERPAYMENTS.—.

[80] So in original. Probably should be "GENERAL.—".

"(1) IN GENERAL.—For purposes of determining the amount of interest payable under section 6601 on any large corporate underpayment for periods after the applicable date, paragraph (2) of subsection (a) shall be applied by substituting '5 percentage points' for '3 percentage points'.

"(2) APPLICABLE DATE.—For purposes of this subsection—

"(A) IN GENERAL.—The applicable date is the 30th day after the earlier of—

"(i) the date on which the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals is sent, or

"(ii) the date on which the deficiency notice under section 6212 is sent.

"(B) SPECIAL RULES.—

"(i) NONDEFICIENCY PROCEDURES.—In the case of any underpayment of any tax imposed by this subtitle to which the deficiency procedures do not apply, subparagraph (A) shall be applied by taking into account any letter or notice provided by the Secretary which notifies the taxpayer of the assessment or proposed assessment of the tax.

"(ii) EXCEPTION WHERE AMOUNTS PAID IN FULL.—For purposes of subparagraph (A), a letter or notice shall be disregarded if, during the 30-day period beginning on the day on which it was sent, the taxpayer makes a payment equal to the amount shown as due in such letter or notice, as the case may be.

"(3) LARGE CORPORATE UNDERPAYMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'large corporate underpayment' means any underpayment of a tax by a C corporation for any taxable period if the amount of such underpayment for such period exceeds $100,000.

"(B) TAXABLE PERIOD.—For purposes of subparagraph (A), the term 'taxable period' means—

"(i) in the case of any tax imposed by subtitle A, the taxable year, or

"(ii) in the case of any other tax, the period to which the underpayment relates."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1990. 26 USC 6621 note.

SEC. 11342. DENIAL OF DEDUCTION FOR UNNECESSARY COSMETIC SURGERY.

(a) IN GENERAL.—Section 213(d) (defining medical care) is attended by adding at the end thereof the following new paragraph:

"(9) COSMETIC SURGERY.—

"(A) IN GENERAL.—The term 'medical care' does not include cosmetic surgery or other similar procedures, unless the surgery or procedure is necessary to ameliorate a deformity arising from, or directly related to, a congenital abnormality, a personal injury resulting from an accident or trauma, or disfiguring disease.

"(B) COSMETIC SURGERY DEFINED.—For purposes of this paragraph, the term 'cosmetic surgery' means any proce-

dure which is directed at improving the patient's appearance and does not meaningfully promote the proper function of the body or prevent or treat illness or disease."

26 USC 213 note. (b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 11343. SPECIAL RULES WHERE GRANTOR OF TRUST IS A FOREIGN PERSON.

(a) IN GENERAL.—Section 672 (relating to definitions and rules) is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE WHERE GRANTOR IS FOREIGN PERSON.—

"(1) IN GENERAL.—If—

"(A) but for this subsection, a foreign person would be treated as the owner of any portion of a trust, and

"(B) such trust has a beneficiary who is a United States person,

such beneficiary shall be treated as the grantor of such portion to the extent such beneficiary has made transfers of property by gift (directly or indirectly) to such foreign person. For purposes of the preceding sentence, any gift shall not be taken into account to the extent such gift would be excluded from taxable gifts under section 2503(b).

"(2) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection."

26 USC 672 note. (b) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) any trust created after the date of the enactment of this Act, and

(2) any portion of a trust created on or before such date which is attributable to amounts contributed to the trust after such date.

SEC. 11344. TREATMENT OF CONTRIBUTIONS OF APPRECIATED PROPERTY UNDER MINIMUM TAX.

Subparagraph (B) of section 57(a)(6) (relating to appreciated property charitable deduction) is amended by adding at the end thereof the following new sentence: "In the case of any taxable year beginning in 1991, such term shall not include any tangible personal property."

Subtitle D—1-Year Extension of Certain Expiring Tax Provisions

SEC. 11401. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES.

(a) EXTENSION.—Paragraph (5) of section 864(f) (relating to allocation of research and experimental expenditures) is amended to read as follows:

"(5) YEARS TO WHICH RULE APPLIES.—This subsection shall apply to the taxpayer's first 2 taxable years beginning after August 1, 1989, and on or before August 1, 1991."

26 USC 864 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after August 1, 1989.

SEC. 11402. RESEARCH CREDIT.

(a) EXTENSION.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "December 31, 1990" each place it appears and inserting "December 31, 1991", and

(2) by striking "January 1, 1991" each place it appears and inserting "January 1, 1992".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) of section 7110 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2). 26 USC 41 note.

(2) Subparagraph (D) of section 28(b)(1) is amended by striking "December 31, 1990" and inserting "December 31, 1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989. 26 USC 28 note.

SEC. 11403. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) REPEAL OF LIMITATION ON GRADUATE LEVEL ASSISTANCE.—Section 127(c)(1) is amended by striking the last sentence.

(c) CONFORMING AMENDMENT.—Subsection (a) of section 7101 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2). 26 USC 127 note.

(d) EFFECTIVE DATES.— 26 USC 127 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1990.

SEC. 11404. GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7102 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2). 26 USC 120 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989. 26 USC 120 note.

SEC. 11405. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Act of 1981 is amended by striking "fiscal year 1982" and all that follows through "necessary" and inserting "each fiscal year such sums as may be necessary". 26 USC 51 note.

(c) EFFECTIVE DATES.— 26 USC 51 note.

(1) CREDIT.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after September 30, 1990.

(2) AUTHORIZATION.—The amendment made by subsection (b) shall apply to fiscal years beginning after 1990.

SEC. 11406. ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

The table contained in section 46(b)(2)(A) (relating to energy percentage) is amended by striking "Sept. 30, 1990" in clauses (viii) and (ix) and inserting "Dec. 31, 1991".

SEC. 11407. LOW-INCOME HOUSING CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Subsection (o) of section 42 (relating to low-income housing credit) is amended—

(A) by striking "1990" each place it appears in paragraph (1) and inserting "1991", and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) EXCEPTION FOR BOND-FINANCED BUILDINGS IN PROGRESS.—For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1992 if—

"(A) the bonds with respect to such building are issued before 1992,

"(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1991, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1993, and

"(C) such building is placed in service before January 1, 1994."

(2) CONFORMING AMENDMENT.—Subsection (a) of section 7108 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2).

26 USC 42 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to calendar years after 1989.

26 USC 42 note.

(b) ADDITIONAL AMENDMENTS.—

(1) CLARIFICATION OF TENANT RIGHTS OF 1ST REFUSAL.—Paragraph (7) of section 42(i), as redesignated by subtitle G of this title, is amended by striking "the tenants of such building" and inserting "the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency".

(2) MONITORING NONCOMPLIANCE.—Clause (iv) of section 42(m)(1)(B) is amended to read as follows:

"(iv) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of."

(3) TREATMENT OF SECTION 515 RENTS.—Subparagraph (B) of section 42(g)(2) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iii) and inserting ", and", and by inserting after clause (iii) the following new clause:

"(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949."

(4) QUALIFIED CENSUS TRACT DETERMINATIONS WHERE DATA NOT AVAILABLE.—Subclause (I) of section 42(d)(5)(C)(ii) is amended by

adding at the end thereof the following new sentence: "If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts."

(5) EXCEPTION TO CREDIT DENIAL FOR MODERATE REHABILITATION ASSISTANCE.—

(A) IN GENERAL.—The last sentence of paragraph (2) of section 42(c), as added by subtitle G of this title, is amended by inserting before the period "(other than assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of the enactment of this sentence))".

(6) AFDC RECIPIENT STUDENTS NOT TO DISQUALIFY UNIT.—Subparagraph (D) of section 42(i)(3) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is—

"(i) a student and receiving assistance under title IV of the Social Security Act, or

"(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws."

(7) INTERMEDIARY COSTS CONSIDERED AT EVALUATION STAGE.—

(A) IN GENERAL.—Subparagraph (B) of section 42(m)(2) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end thereof the following:

"(iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas."

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 42(m)(1) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(8) 10-YEAR RULE NOT TO APPLY TO ACQUISITION OF CERTAIN SINGLE-FAMILY RESIDENCES.—Clause (ii) of section 42(d)(2)(D) is amended by striking "or" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", or", and by adding at the end thereof the following:

"(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence."

(9) APPLICATION OF NONPROFIT SET-ASIDE.—Section 42(h)(5) is amended—

(A) by inserting "own an interest in the project (directly or through a partnership) and" after "nonprofit organization is to" in subparagraph (B),

(B) by striking "and" at the end of clause (i) of subparagraph (C), by redesignating clause (ii) of such subparagraph as clause (iii), and by inserting after clause (i) of such subparagraph the following new clause:

"(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and", and

(C) by inserting "ownership and" before "material participation" in subparagraph (D).

26 USC 42 note.

(10) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1990, or

(ii) buildings placed in service after December 31, 1990, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) TENANT RIGHTS, ETC.—The amendments made by paragraphs (1), (6), (8), and (9) shall take effect on the date of the enactment of this Act.

(C) MONITORING.—The amendment made by paragraph (2) shall take effect on January 1, 1992, and shall apply to buildings placed in service before, on, or after such date.

(D) STUDY.—The Inspector General of the Department of Housing and Urban Development and the Secretary of the Treasury shall jointly conduct a study of the effectiveness of the amendment made by paragraph (5) in carrying out the purposes of section 42 of the Internal Revenue Code of 1986. The report of such study shall be submitted not later than January 1, 1993, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

26 USC 42 note.

(c) ELECTION TO ACCELERATE CREDIT INTO 1990.—

(1) IN GENERAL.—At the election of an individual, the credit determined under section 42 of the Internal Revenue Code of 1986 for the taxpayer's first taxable year ending on or after October 25, 1990, shall be 150 percent of the amount which would (but for this paragraph) be so allowable with respect to investments held by such individual on or before October 25, 1990.

(2) REDUCTION IN AGGREGATE CREDIT TO REFLECT INCREASED 1990 CREDIT.—The aggregate credit allowable to any person under section 42 of such Code with respect to any investment for taxable years after the first taxable year referred to in paragraph (1) shall be reduced on a pro rata basis by the amount of the increased credit allowable by reason of paragraph (1) with respect to such first taxable year. The preceding sentence shall not be construed to affect whether any taxable year is part of the credit, compliance, or extended use periods.

(3) ELECTION.—The election under paragraph (1) shall be made at the time and in the manner prescribed by the Secretary of the Treasury or his delegate, and, once made, shall be irrevocable. In the case of a partnership, such election shall be made by the partnership.

SEC. 11408. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "September 30, 1990" each place it appears and inserting "December 31, 1991".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 (relating to interest on certain home mortgages) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(c) MODIFICATION AND SIMPLIFICATION OF RECAPTURE RULES.—

(1) MODIFICATION OF HOLDING PERIOD PERCENTAGE.—

(A) Clause (i) of section 143(m)(4)(C) is amended to read as follows:

"(i) IN GENERAL.—The term 'holding period percentage' means the percentage determined in accordance with the following table:

"If the disposition occurs during a year after the testing date which is:	The holding period percentage is:
The 1st such year	20
The 2d such year	40
The 3d such year	60
The 4th such year	80
The 5th such year	100
The 6th such year	80
The 7th such year	60
The 8th such year	40
The 9th such year	20."

(B) Subparagraph (C) of section 143(m)(4) is amended by striking clause (ii) and by redesignating clause (iii) as clause (ii).

(C) Subparagraph (B) of section 143(m)(2) is amended by striking "10 years" and inserting "9 years".

(2) MODIFICATION OF RECAPTURE AMOUNT BASED ON TAXPAYER'S INCOME.—

(A) Subparagraph (A) of section 143(m)(4) is amended by striking "and" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", and", and by adding at the end thereof the following new clause:

"(iii) the income percentage."

(B) Paragraph (4) of section 143(m) is amended by adding at the end thereof the following new subparagraph:

"(E) INCOME PERCENTAGE.—The term 'income percentage' means the percentage (but not greater than 100 percent) which—

"(i) the excess of—

"(I) the modified adjusted gross income of the taxpayer for the taxable year in which the disposition occurs, over

"(II) the adjusted qualifying income for such taxable year, bears to

"(ii) $5,000.

The percentage determined under the preceding sentence shall be rounded to the nearest whole percentage point (or, if it includes a half of a percentage point, shall be increased to the nearest whole percentage point)."

(C)(i) Paragraph (5) of section 143(m) is amended by striking all that precedes subparagraph (C) and inserting the following:

"(5) ADJUSTED QUALIFYING INCOME; MODIFIED ADJUSTED GROSS INCOME.—

"(A) ADJUSTED QUALIFYING INCOME.—For purposes of paragraph (4), the term 'adjusted qualifying income' means the product of—

"(i) the highest family income which (as of the date the financing was provided) would have met the requirements of subsection (f) with respect to the residents, and

"(ii) 1.05 to the nth power where 'n' equals the number of full years during the period beginning on the date the financing was provided and ending on the date of the disposition.

For purposes of clause (i), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition."

(ii) Subparagraph (C) of section 143(m)(5) is redesignated as subparagraph (B) and is amended by striking "this paragraph" and inserting "paragraph (4)".

(3) OTHER CHANGES.—

(A) Paragraph (1) of section 143(m) is amended by striking "increased by" and all that follows and inserting "increased by the lesser of—

"(A) the recapture amount with respect to such indebtedness, or

"(B) 50 percent of the gain (if any) on the disposition of such interest."

(B) Paragraph (6) of section 143(m) is amended—

(i) by striking "LIMITATION" in the heading and inserting "SPECIAL RULES RELATING TO LIMITATION",

(ii) by striking the first sentence of subparagraph (A), and

(iii) by striking "the preceding sentence" in subparagraph (A) and inserting "paragraph (1)".

(C) Clause (ii) of section 143(m)(7)(B) is amended to read as follows:

"(ii) the adjusted qualifying income (as defined in paragraph (5)) for each category of family size for each year of the 9-year period beginning on the date the financing was provided."

26 USC 143 note.

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after September 30, 1990.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after September 30, 1990.

(3) SIMPLIFICATION.—The amendment made by subsection (c) shall take effect as if included in the amendments made by section 4005 of the Technical and Miscellaneous Revenue Act of 1988.

SEC. 11409. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

26 USC 144 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to bonds issued after September 30, 1990.

SEC. 11410. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "September 30, 1990" and inserting "December 31, 1991".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 7107 of the Revenue Reconciliation Act of 1989 is amended by striking paragraph (2). 26 USC 162 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989. 26 USC 162 note.

SEC. 11411. EXPENSES FOR DRUGS FOR RARE CONDITIONS.

Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "December 31, 1990" and inserting "December 31, 1991".

Subtitle E—Energy Incentives

PART I—MODIFICATIONS OF EXISTING CREDITS

SEC. 11501. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM NONCONVENTIONAL SOURCE.

(a) EXTENSION.—Section 29(f)(1) of the Internal Revenue Code of 1986 (relating to application of section) is amended—

(1) by striking "1991" in clauses (i) and (ii) of subparagraph (A) and inserting "1993", and

(2) by striking "2001" in subparagraph (B) and inserting "2003".

(b) MODIFICATION WITH RESPECT TO GAS FROM TIGHT FORMATIONS.—

(1) IN GENERAL.—Subparagraph (B) of section 29(c)(2) of such Code is amended to read as follows:

"(B) SPECIAL RULES FOR GAS FROM TIGHT FORMATIONS.—The term 'gas produced from a tight formation' shall only include gas from a tight formation—

"(i) which, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the Natural Gas Policy Act of 1978, as in effect on the date of the enactment of this clause), or

"(ii) which is produced from a well drilled after such date of enactment."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to gas produced after December 31, 1990. 26 USC 29 note.

(c) COORDINATION WITH ENHANCED OIL RECOVERY CREDIT.—

(1) IN GENERAL.—Section 29(b) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) CREDIT REDUCED FOR ENHANCED OIL RECOVERY CREDIT.—The amount allowable as a credit under subsection (a) with respect to any project for any taxable year (determined after application of paragraphs (1), (2), (3), and (4)) shall be reduced by the excess (if any) of—

"(A) the aggregate amount allowed under section 38 for the taxable year and any prior taxable year by reason of

any enhanced oil recovery credit determined under section 43 with respect to such project, over

"(B) the aggregate amount recaptured with respect to the amount described in subparagraph (A) under this paragraph for any prior taxable year."

26 USC 29 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1990.

SEC. 11502. CREDIT FOR SMALL PRODUCERS OF ETHANOL; MODIFICATION OF ALCOHOL FUELS CREDIT.

(a) ALLOWANCE OF CREDIT.—Section 40(a) (relating to alcohol used as fuel) is amended—

(1) by striking the period at the end of paragraph (2) and inserting ", plus", and

(2) by adding at the end thereof the following new paragraph:

"(3) in the case of an eligible small ethanol producer, the small ethanol producer credit."

(b) SMALL ETHANOL PRODUCER CREDIT.—Subsection (b) of section 40 is amended—

(1) by redesignating paragraph (4) as paragraph (5),

(2) by inserting after paragraph (3) the following new paragraph:

"(4) SMALL ETHANOL PRODUCER CREDIT.—

"(A) IN GENERAL.—The small ethanol producer credit of any eligible small ethanol producer for any taxable year is 10 cents for each gallon of qualified ethanol fuel production of such producer.

"(B) QUALIFIED ETHANOL FUEL PRODUCTION.—For purposes of this paragraph, the term 'qualified ethanol fuel production' means any alcohol which is ethanol which is produced by an eligible small ethanol producer, and which during the taxable year—

"(i) is sold by such producer to another person—

"(I) for use by such other person in the production of a qualified mixture in such other person's trade or business (other than casual off-farm production),

"(II) for use by such other person as a fuel in a trade or business, or

"(III) who sells such ethanol at retail to another person and places such ethanol in the fuel tank of such other person, or

"(ii) is used or sold by such producer for any purpose described in clause (i).

"(C) LIMITATION.—The qualified ethanol fuel production of any producer for any taxable year shall not exceed 15,000,000 gallons.

"(D) ADDITIONAL DISTILLATION EXCLUDED.—The qualified ethanol fuel production of any producer for any taxable year shall not include any alcohol which is purchased by the producer and with respect to which such producer increases the proof of the alcohol by additional distillation."; and

(3) by striking "AND ALCOHOL CREDIT" in the heading for such subsection and inserting ", ALCOHOL CREDIT, AND SMALL ETHANOL PRODUCER CREDIT".

(c) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT.—Section 40 is amended by adding at the end thereof the following new subsection:

"(g) DEFINITIONS AND SPECIAL RULES FOR ELIGIBLE SMALL ETHANOL PRODUCER CREDIT.—For purposes of this section—

"(1) ELIGIBLE SMALL ETHANOL PRODUCER.—The term 'eligible small ethanol producer' means a person who, at all times during the taxable year, has a productive capacity for alcohol (as defined in subsection (d)(1)(A) without regard to clauses (i) and (ii)) not in excess of 30,000,000 gallons.

"(2) AGGREGRATION RULE.—For purposes of the 15,000,000 gallon limitation under subsection (b)(4)(C) and the 30,000,000 gallon limitation under paragraph (1), all members of the same controlled group of corporations (within the meaning of section 267(f)) and all persons under common control (within the meaning of section 52(b) but determined by treating an interest of more than 50 percent as a controlling interest) shall be treated as 1 person.

"(3) PARTNERSHIP, S CORPORATIONS, AND OTHER PASS-THRU ENTITIES.—In the case of a partnership, trust, S corporation, or other pass-thru entity, the limitations contained in subsection (b)(4)(C) and paragraph (1) shall be applied at the entity level and at the partner or similar level.

"(4) ALLOCATION.—For purposes of this subsection, in the case of a facility in which more than 1 person has an interest, productive capacity shall be allocated among such persons in such manner as the Secretary may prescribe.

"(5) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary—

"(A) to prevent the credit provided for in subsection (a)(3) from directly or indirectly benefiting any person with a direct or indirect productive capacity of more than 30,000,000 gallons of alcohol during the taxable year, or

"(B) to prevent any person from directly or indirectly benefiting with respect to more than 15,000,000 gallons during the taxable year."

(d) ALCOHOL NOT USED AS FUEL.—

(1) IN GENERAL.—Section 40(d)(3) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) PRODUCER CREDIT.—If—

"(i) any credit was determined under subsection (a)(3), and

"(ii) any person does not use such fuel for a purpose described in subsection (b)(4)(B),

then there is hereby imposed on such person a tax equal to 10 cents a gallon for each gallon of such alcohol."

(2) CONFORMING AMENDMENT.—Section 40(d)(3)(D), as redesignated by paragraph (1), is amended by striking "subparagraph (A) or (B)" and inserting "subparagraph (A), (B), or (C)".

(e) REDUCED CREDIT FOR ETHANOL BLENDERS.—

(1) IN GENERAL.—Section 40, as amended by subsection (c), is amended by adding at the end thereof the following new subsection:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—In the case of any alcohol mixture credit or alcohol credit with respect to any alcohol which is ethanol—

"(1) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting '54 cents' for '60 cents';

"(2) subsection (b)(3) shall be applied by substituting '40 cents' for '45 cents' and '54 cents' for '60 cents'; and

"(3) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting '54 cents' for '60 cents' and '40 cents' for '45 cents'."

(2) CONFORMING AMENDMENT.—Section 40(b) is amended by inserting ", and except as provided in subsection (h)" in the matter preceding paragraph (1) thereof.

(f) TERMINATION.—Subsection (e) of section 40 is amended to read as follows:

"(e) TERMINATION.—

"(1) IN GENERAL.—This section shall not apply to any sale or use—

"(A) for any period after December 31, 2000, or

"(B) for any period before January 1, 2001, during which the Highway Trust Fund financing rate under section 4081(a)(2) is not in effect.

"(2) NO CARRYOVERS TO CERTAIN YEARS AFTER EXPIRATION.—If this section ceases to apply for any period by reason of paragraph (1), no amount attributable to any sale or use before the first day of such period may be carried under section 39 by reason of this section (treating the amount allowed by reason of this section as the first amount allowed by this subpart) to any taxable year beginning after the 3-taxable-year period beginning with the taxable year in which such first day occurs."

(g) CONFORMING AMENDMENTS TO TARIFF SCHEDULE.—

(1) Heading 9901.00.50 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) is amended—

(A) by striking "15.85¢" each place it appears and inserting "14.27¢",

(B) by striking "12.6¢" and inserting "11.34¢", and

(C) by striking the date in the effective period column and inserting "Before 10/1/2000, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect."

(2) Heading 9901.00.52 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking "6.66¢" each place it appears and inserting "5.99¢",

(B) by striking "5.29¢" and inserting "4.76¢", and

(C) by striking "The earlier of 12/31/92, or the date on which Treasury regulation § 1.40–1 is withdrawn or declared invalid." in the effective period column and inserting: "Before the earlier of 10/1/2000, or the date on which Treas. Reg. § 1.40–1 is withdrawn or declared invalid, except that the rate for articles described in this heading shall not apply during any period before 10/1/2000 during which the Highway Trust Fund financing rate under section 4081(a)(2) of the Internal Revenue Code of 1986 is not in effect."

26 USC 40 note.

(h) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to alcohol produced, and sold or used, in taxable years beginning after December 31, 1990.

(2) The amendments made by subsection (g) shall apply to articles entered or withdrawn from warehouse on or after January 1, 1991.

PART II—ENHANCED OIL RECOVERY CREDIT

SEC. 11511. TAX CREDIT FOR ENHANCED OIL RECOVERY.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 43. ENHANCED OIL RECOVERY CREDIT.

"(a) GENERAL RULE.—For purposes of section 38, the enhanced oil recovery credit for any taxable year is an amount equal to 15 percent of the taxpayer's qualified enhanced oil recovery costs for such taxable year.

"(b) PHASE-OUT OF CREDIT AS CRUDE OIL PRICES INCREASE.—

"(1) IN GENERAL.—The amount of the credit determined under subsection (a) for any taxable year shall be reduced by an amount which bears the same ratio to the amount of such credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year preceding the calendar year in which the taxable year begins exceeds $28, bears to

"(B) $6.

"(2) REFERENCE PRICE.—For purposes of this subsection, the term 'reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

"(3) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1991, there shall be substituted for the $28 amount under paragraph (1)(A) an amount equal to the product of—

"(i) $28, multiplied by

"(ii) the inflation adjustment factor for such calendar year.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990. For purposes of the preceding sentence, the term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Secretary of Commerce. Not later than April 1 of any calendar year, the Secretary shall publish the inflation adjustment factor for the preceding calendar year.

"(c) QUALIFIED ENHANCED OIL RECOVERY COSTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified enhanced oil recovery costs' means any of the following:

"(A) Any amount paid or incurred during the taxable year for tangible property—

"(i) which is an integral part of a qualified enhanced oil recovery project, and

"(ii) with respect to which depreciation (or amortization in lieu of depreciation) is allowable under this chapter.

"(B) Any intangible drilling and development costs—

"(i) which are paid or incurred in connection with a qualified enhanced oil recovery project, and

"(ii) with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(C) Any qualified tertiary injectant expenses which are paid or incurred in connection with a qualified enhanced oil recovery project and for which a deduction is allowable under section 193 for the taxable year.

"(2) QUALIFIED ENHANCED OIL RECOVERY PROJECT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified enhanced oil recovery project' means any project—

"(i) which involves the application (in accordance with sound engineering principles) of 1 or more tertiary recovery methods (as defined in section 193(b)(3)) which can reasonably be expected to result in more than an insignificant increase in the amount of crude oil which will ultimately be recovered,

"(ii) which is located within the United States (within the meaning of section 638(1)), and

"(iii) with respect to which the first injection of liquids, gases, or other matter commences after December 31, 1990.

"(B) CERTIFICATION.—A project shall not be treated as a qualified enhanced oil recovery project unless the operator submits to the Secretary (at such times and in such manner as the Secretary provides) a certification from a petroleum engineer that the project meets (and continues to meet) the requirements of subparagraph (A).

"(3) AT-RISK LIMITATION.—For purposes of determining qualified enhanced oil recovery costs, rules similar to the rules of section 49(a)(1), section 49(a)(2), and section 49(b) shall apply.

"(4) SPECIAL RULE FOR CERTAIN GAS DISPLACEMENT PROJECTS.—For purposes of this section, immiscible non-hydrocarbon gas displacement shall be treated as a tertiary recovery method under section 193(b)(3).

"(d) OTHER RULES.—

"(1) DISALLOWANCE OF DEDUCTION.—Any deduction allowable under this chapter for any costs taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such costs.

"(2) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is determined under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(e) ELECTION TO HAVE CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe."

(b) ADDITION TO GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(6) the enhanced oil recovery credit under section 43(a)."

(2) CARRYBACKS.—Section 39(d) is amended by adding at the end thereof the following new paragraph:

"(5) NO CARRYBACK OF ENHANCED OIL RECOVERY CREDIT BEFORE 1991.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 43(a) (relating to enhanced oil recovery credit) may be carried to a taxable year beginning before January 1, 1991."

(3) DEDUCTION FOR UNUSED CREDIT.—Section 196(c) is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(5) the enhanced oil recovery credit determined under section 43(a)."

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 43. Enhanced oil recovery credit."

(2) Subsection (m) of section 6501 is amended by striking "44B" each place it appears and inserting "43 or 44B".

(d) EFFECTIVE DATES.— 26 USC 43 note.

(1) IN GENERAL.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1990.

(2) SPECIAL RULE FOR SIGNIFICANT EXPANSION OF PROJECTS.—For purposes of section 43(c)(2)(A)(iii) of the Internal Revenue Code of 1986 (as added by subsection (a)), any significant expansion after December 31, 1990, of a project begun before January 1, 1991, shall be treated as a project with respect to which the first injection commences after December 31, 1990.

PART III—MODIFICATIONS OF PERCENTAGE DEPLETION

SEC. 11521. PERCENTAGE DEPLETION PERMITTED AFTER TRANSFER OF PROVEN PROPERTY.

(a) IN GENERAL.—Subsection (c) of section 613A (relating to limitations on percentage depletion in the case of oil and gas wells) is

amended by striking paragraphs (9) and (10) and by redesignating paragraphs (11), (12), and (13) as paragraphs (9), (10), and (11), respectively.

(b) TECHNICAL AMENDMENT.—Paragraph (11) of section 613A(c), as redesignated by subsection (a), is amended by striking subparagraphs (C) and (D).

26 USC 613A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after October 11, 1990.

SEC. 11522. NET INCOME LIMITATION ON PERCENTAGE DEPLETION INCREASED FROM 50 PERCENT TO 100 PERCENT OF PROPERTY NET INCOME FOR OIL AND GAS PROPERTIES.

(a) IN GENERAL.—The second sentence of subsection (a) of section 613 (relating to percentage depletion) is amended by inserting "(100 percent in the case of oil and gas properties)" after "50 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subparagraph (C) of section 613A(c)(7) is amended by striking "50-percent" and inserting "taxable income".

(2) Section 614(d) is amended by striking "50 percent" and inserting "taxable income".

26 USC 613 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

SEC. 11523. INCREASE IN PERCENTAGE DEPLETION ALLOWANCE FOR MARGINAL PRODUCTION.

(a) IN GENERAL.—Paragraph (6) of section 613A(c) is amended to read as follows:

"(6) OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.—

"(A) IN GENERAL.—Except as provided in subsection (d) and subparagraph (B), the allowance for depletion under section 611 shall be computed in accordance with section 613 with respect to—

"(i) so much of the taxpayer's average daily marginal production of domestic crude oil as does not exceed the taxpayer's depletable oil quantity (determined without regard to paragraph (3)(A)(ii)), and

"(ii) so much of the taxpayer's average daily marginal production of domestic natural gas as does not exceed the taxpayer's depletable natural gas quantity (determined without regard to paragraph (3)(A)(ii)),

and the applicable percentage shall be deemed to be specified in subsection (b) of section 613 for purposes of subsection (a) of that section.

"(B) ELECTION TO HAVE PARAGRAPH APPLY TO PRO RATA PORTION OF MARGINAL PRODUCTION.—If the taxpayer elects to have this subparagraph apply for any taxable year, the rules of subparagraph (A) shall apply to the average daily marginal production of domestic crude oil or domestic natural gas of the taxpayer to which paragraph (1) would have applied without regard to this paragraph.

"(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means the percentage (not greater than 25 percent) equal to the sum of—

"(i) 15 percent, plus

"(ii) 1 percentage point for each whole dollar by which $20 exceeds the reference price for crude oil for the calendar year preceding the calendar year in which the taxable year begins.

For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year, the reference price determined for such calendar year under section 29(d)(2)(C).

"(D) MARGINAL PRODUCTION.—The term 'marginal production' means domestic crude oil or domestic natural gas which is produced during any taxable year from a property which—

"(i) is a stripper well property for the calendar year in which the taxable year begins, or

"(ii) is a property substantially all of the production of which during such calendar year is heavy oil.

"(E) STRIPPER WELL PROPERTY.—For purposes of this paragraph, the term 'stripper well property' means, with respect to any calendar year, any property with respect to which the amount determined by dividing—

"(i) the average daily production of domestic crude oil and domestic natural gas from producing wells on such property for such calendar year, by

"(ii) the number of such wells,

is 15 barrel equivalents or less.

"(F) HEAVY OIL.—For purposes of this paragraph, the term 'heavy oil' means domestic crude oil produced from any property if such crude oil had a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Fahrenheit).

"(G) AVERAGE DAILY MARGINAL PRODUCTION.—For purposes of this subsection—

"(i) the taxpayer's average daily marginal production of domestic crude oil or natural gas for any taxable year shall be determined by dividing the taxpayer's aggregate marginal production of domestic crude oil or natural gas, as the case may be, during the taxable year by the number of days in such taxable year, and

"(ii) in the case of a taxpayer holding a partial interest in the production from any property (including any interest held in any partnership), such taxpayer's production shall be considered to be that amount of such production determined by multiplying the total production of such property by the taxpayer's percentage participation in the revenues from such property."

(b) CONFORMING AMENDMENTS.—Section 613A(c)(3)(A) is amended—

(1) by striking clause (ii) and inserting:

"(ii) except in the case of a taxpayer making an election under paragraph (6)(B), the taxpayer's average daily marginal production for the taxable year.", and

(2) by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990. 26 USC 613A note.

PART IV—MINIMUM TAX TREATMENT

SEC. 11531. SPECIAL ENERGY DEDUCTION FOR MINIMUM TAX.

(a) IN GENERAL.—Section 56 (relating to adjustments in computing alternative minimum taxable income) is amended by adding at the end thereof the following new subsection:

"(h) ADJUSTMENT BASED ON ENERGY PREFERENCES.—

"(1) IN GENERAL.—In computing the alternative minimum taxable income of any taxpayer other than an integrated oil company for any taxable year beginning after 1990, there shall be allowed as a deduction an amount equal to the lesser of—

"(A) the alternative tax energy preference deduction, or

"(B) 40 percent of alternative minimum taxable income.

"(2) PHASE-OUT OF DEDUCTION AS OIL PRICES INCREASE.—The amount of the deduction under paragraph (1) (determined without regard to this paragraph) shall be reduced (but not below zero) by the amount which bears the same ratio to such amount as—

"(A) the excess of the reference price of crude oil for the calendar year preceding the calendar year in which the taxable year begins over $28, bears to

"(B) $6.

For purposes of this paragraph, the reference price for any calendar year shall be determined under section 29(d)(2)(C) and the $28 amount under subparagraph (A) shall be adjusted at the same time and in the same manner as under section 43(b)(3).

"(3) ALTERNATIVE TAX ENERGY PREFERENCE DEDUCTION.—For purposes of paragraph (1), the term 'alternative tax energy preference deduction' means an amount equal to the sum of—

"(A) in the case of the intangible drilling cost preference, an amount equal to the sum of—

"(i) 75 percent of the portion of the intangible drilling cost preference attributable to qualified exploratory costs, plus

"(ii) 15 percent of the excess (if any) of—

"(I) the intangible drilling cost preference, over

"(II) the portion of the intangible drilling cost preference attributable to qualified exploratory costs, plus

"(B) 50 percent of the marginal production depletion preference.

"(4) INTANGIBLE DRILLING COST PREFERENCE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2) and subsection (g)(4)(D)(i).

"(B) PORTION ATTRIBUTABLE TO QUALIFIED EXPLORATORY COSTS.—For purposes of subparagraph (A), the portion of the intangible drilling cost preference attributable to qualified exploratory costs is an amount which bears the same ratio to the intangible drilling cost preference as—

"(i) the qualified exploratory costs of the taxpayer for the taxable year, bear to

"(ii) the total intangible drilling and development costs with respect to which the taxpayer may make an election under section 263(c) for the taxable year.

"(5) MARGINAL PRODUCTION DEPLETION PREFERENCE.—For purposes of this subsection, the term 'marginal production depletion preference' means the amount by which alternative minimum taxable income would be reduced if it were computed as if section 57(a)(1) and subsection (g)(4)(G) did not apply to any allowance for depletion determined under section 613A(c)(6).

"(6) QUALIFIED EXPLORATORY COSTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified exploratory costs' means intangible drilling and development costs of a taxpayer other than an integrated oil company which—

"(i) the taxpayer may elect to deduct as expenses under section 263(c), and

"(ii) are paid or incurred in connection with the drilling of an exploratory well located in the United States (within the meaning of section 638(1)).

"(B) EXPLORATORY WELL.—The term 'exploratory well' means any of the following oil or gas wells:

"(i) An oil or gas well which is completed (or if not completed, with respect to which drilling operations cease) before the completion of any other well which—

"(I) is located within 1.25 miles from the well, and

"(II) is capable of production in commercial quantities.

"(ii) An oil or gas well which is not described in clause (i) but which has a total depth which is at least 800 feet below the deepest completion depth of any well within 1.25 miles which is capable of production in commercial quantities.

"(iii) An oil or gas well capable of production in commercial quantities which is not described in clause (i) or (ii) but which is completed into a new reservoir, except that this clause shall not apply to a gas well if the gas is produced (or to be produced) from Devonian shale, coal seams, or a tight formation (determined in a manner similar to the manner under section 29(c)(2)).

A well shall not be treated as an exploratory well unless the operator submits to the Secretary (at such time and in such manner as the Secretary may provide) a certification from a petroleum engineer that the well is described in one of the preceding clauses.

"(C) CERTAIN COSTS NOT INCLUDED.—The term 'qualified exploratory costs' shall not include any cost paid or incurred—

"(i) in constructing, acquiring, transporting, erecting, or installing an offshore platform, or

"(ii) with respect to the drilling of a well from an offshore platform unless it is the first well which penetrates a reservoir.

"(D) INTEGRATED OIL COMPANY.—For purposes of this paragraph, the term 'integrated oil company' means, with respect to any taxable year, any producer of crude oil to

whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d).

"(7) SPECIAL RULES.—

"(A) ALTERNATIVE MINIMUM TAXABLE INCOME.—For purposes of paragraphs (1)(B), (4)(A), and (5), alternative minimum taxable income shall be determined without regard to the deduction allowable under this subsection and the alternative tax net operating loss deduction under subsection (a)(4).

"(B) GEOTHERMAL DEPOSITS.—For purposes of this subsection, intangible drilling and development costs shall not include costs with respect to wells drilled for any geothermal deposits (as defined in section 613(e)(3)).

"(8) REGULATIONS.—The Secretary may by regulation provide for appropriate adjustments in computing alternative minimum taxable income or adjusted current earnings for any taxable year following a taxable year for which a deduction was allowed under this subsection to ensure that no double benefit is allowed by reason of such deduction."

(b) CONFORMING AMENDMENTS.—

(1) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed the excess (if any) of—

"(i) 90 percent of alternative minimum taxable income determined without regard to such deduction and the deduction under subsection (h), over

"(ii) the deduction under subsection (h), and".

(2) Section 59(a)(2)(A)(ii) is amended by inserting "and the alternative tax energy preference deduction under section 56(h)" after "deduction".

(3) Section 59A(b)(1) is amended by inserting "or the alternative tax energy preference deduction under section 56(h)" before ", and".

26 USC 56 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

Subtitle F—Small Business Incentives

PART I—TREATMENT OF ESTATE TAX FREEZES

SEC. 11601. REPEAL OF SECTION 2036(c).

(a) IN GENERAL.—Section 2036 (relating to transfers with retained life estate) is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(b) CONFORMING AMENDMENTS.—

(1) Section 2207B is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively,

(B) by striking "subsections (a) and (b)" in subsection (c) (as so redesignated) and inserting "subsection (a)", and

(C) by striking "subsections (a), (b), and (c)" in subsection (c) (as so redesignated) and inserting "subsections (a) and (b)".

(2) Section 2501(d) is amended by striking paragraph (3).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of property transferred after December 17, 1987. 26 USC 2036 note.

SEC. 11602. SPECIAL VALUATION RULES.

(a) IN GENERAL.—Subtitle B is amended by adding at the end thereof the following new chapter:

"CHAPTER 14—SPECIAL VALUATION RULES

"Sec. 2701. Special valuation rules in case of transfers of certain interests in corporations or partnerships.
"Sec. 2702. Special valuation rules in case of transfers of interests in trusts.
"Sec. 2703. Certain rights and restrictions disregarded.
"Sec. 2704. Treatment of certain lapsing rights and restrictions.

"SEC. 2701. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF CERTAIN INTERESTS IN CORPORATIONS OR PARTNERSHIPS.

"(a) VALUATION RULES.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer of an interest in a corporation or partnership to (or for the benefit of) a member of the transferor's family is a gift (and the value of such transfer), the value of any right—

"(A) which is described in subparagraph (A) or (B) of subsection (b)(1), and

"(B) which is with respect to any applicable retained interest that is held by the transferor or an applicable family member immediately after the transfer,

shall be determined under paragraph (3). This paragraph shall not apply to the transfer of any interest for which market quotations are readily available (as of the date of transfer) on an established securities market.

"(2) EXCEPTIONS FOR MARKETABLE RETAINED INTERESTS, ETC.—Paragraph (1) shall not apply to any right with respect to an applicable retained interest if—

"(A) market quotations are readily available (as of the date of the transfer) for such interest on an established securities market,

"(B) such interest is of the same class as the transferred interest, or

"(C) such interest is proportionally the same as the transferred interest, without regard to nonlapsing differences in voting power (or, for a partnership, nonlapsing differences with respect to management and limitations on liability).

Subparagraph (C) shall not apply to any interest in a partnership if the transferor or an applicable family member has the right to alter the liability of the transferee of the transferred property. Except as provided by the Secretary, any difference described in subparagraph (C) which lapses by reason of any Federal or State law shall be treated as a nonlapsing difference for purposes of such subparagraph.

"(3) VALUATION OF RIGHTS TO WHICH PARAGRAPH (1) APPLIES.—

"(A) IN GENERAL.—The value of any right described in paragraph (1), other than a distribution right which consists of a right to receive a qualified payment, shall be treated as being zero.

"(B) VALUATION OF QUALIFIED PAYMENTS.—If—

"(i) any applicable retained interest confers a distribution right which consists of the right to a qualified payment, and

"(ii) there are 1 or more liquidation, put, call, or conversion rights with respect to such interest,

the value of all such rights shall be determined as if each liquidation, put, call, or conversion right were exercised in the manner resulting in the lowest value being determined for all such rights.

"(4) MINIMUM VALUATION OF JUNIOR EQUITY.—

"(A) IN GENERAL.—In the case of a transfer described in paragraph (1) of a junior equity interest in a corporation or partnership, such interest shall in no event be valued at an amount less than the value which would be determined if the total value of all of the junior equity interests in the entity were equal to 10 percent of the sum of—

"(i) the total value of all of the equity interests in such entity, plus

"(ii) the total amount of indebtedness of such entity to the transferor (or an applicable family member).

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) JUNIOR EQUITY INTEREST.—The term 'junior equity interest' means common stock or, in the case of a partnership, any partnership interest under which the rights as to income and capital are junior to the rights of all other classes of equity interests.

"(ii) EQUITY INTEREST.—The term 'equity interest' means stock or any interest as a partner, as the case may be.

"(b) APPLICABLE RETAINED INTERESTS.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable retained interest' means any interest in an entity with respect to which there is—

"(A) a distribution right, but only if, immediately before the transfer described in subsection (a)(1), the transferor and applicable family members hold (after application of subsection (e)(3)) control of the entity, or

"(B) a liquidation, put, call, or conversion right.

"(2) CONTROL.—For purposes of paragraph (1)—

"(A) CORPORATIONS.—In the case of a corporation, the term 'control' means the holding of at least 50 percent (by vote or value) of the stock of the corporation.

"(B) PARTNERSHIPS.—In the case of a partnership, the term 'control' means—

"(i) the holding of at least 50 percent of the capital or profits interests in the partnership, or

"(ii) in the case of a limited partnership, the holding of any interest as a general partner.

"(c) DISTRIBUTION AND OTHER RIGHTS; QUALIFIED PAYMENTS.—For purposes of this section—

"(1) DISTRIBUTION RIGHT.—

"(A) IN GENERAL.—The term 'distribution right' means—

"(i) a right to distributions from a corporation with respect to its stock, and

"(ii) a right to distributions from a partnership with respect to a partner's interest in the partnership.

"(B) EXCEPTIONS.—The term 'distribution right' does not include—

"(i) a right to distributions with respect to any junior equity interest (as defined in subsection (a)(4)(B)(i)),

"(ii) any liquidation, put, call, or conversion right, or

"(iii) any right to receive any guaranteed payment described in section 707(c) of a fixed amount.

"(2) LIQUIDATION, ETC. RIGHTS.—

"(A) IN GENERAL.—The term 'liquidation, put, call, or conversion right' means any liquidation, put, call, or conversion right, or any similar right, the exercise or nonexercise of which affects the value of the transferred interest.

"(B) EXCEPTION FOR FIXED RIGHTS.—

"(i) IN GENERAL.—The term 'liquidation, put, call, or conversion right' does not include any right which must be exercised at a specific time and at a specific amount.

"(ii) TREATMENT OF CERTAIN RIGHTS.—If a right is assumed to be exercised in a particular manner under subsection (a)(3)(B), such right shall be treated as so exercised for purposes of clause (i).

"(C) EXCEPTION FOR CERTAIN RIGHTS TO CONVERT.—The term 'liquidation, put, call, or conversion right' does not include any right which—

"(i) is a right to convert into a fixed number (or a fixed percentage) of shares of the same class of stock in a corporation as the transferred stock in such corporation under subsection (a)(1) (or stock which would be of the same class but for nonlapsing differences in voting power),

"(ii) is nonlapsing,

"(iii) is subject to proportionate adjustments for splits, combinations, reclassifications, and similar changes in the capital stock, and

"(iv) is subject to adjustments similar to the adjustments under subsection (d) for accumulated but unpaid distributions.

A rule similar to the rule of the preceding sentence shall apply for partnerships.

"(3) QUALIFIED PAYMENT.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'qualified payment' means any dividend payable on a periodic basis under any cumulative preferred stock (or a comparable payment under any partnership interest) to the extent that such dividend (or comparable payment) is determined at a fixed rate.

"(B) TREATMENT OF VARIABLE RATE PAYMENTS.—For purposes of subparagraph (A), a payment shall be treated as fixed as to rate if such payment is determined at a rate which bears a fixed relationship to a specified market interest rate.

"(C) ELECTIONS.—

"(i) WAIVER OF QUALIFIED PAYMENT TREATMENT.—A transferor or applicable family member may elect with respect to payments under any interest specified in

such election to treat such payments as payments which are not qualified payments.

"(ii) ELECTION TO HAVE INTEREST TREATED AS QUALIFIED PAYMENT.—A transferor or any applicable family member may elect to treat any distribution right as a qualified payment, to be paid in the amounts and at the times specified in such election. The preceding sentence shall apply only to the extent that the amounts and times so specified are not inconsistent with the underlying legal instrument giving rise to such right.

"(iii) ELECTIONS IRREVOCABLE.—Any election under this subparagraph with respect to an interest shall, once made, be irrevocable.

"(d) TRANSFER TAX TREATMENT OF CUMULATIVE BUT UNPAID DISTRIBUTIONS.—

"(1) IN GENERAL.—If a taxable event occurs with respect to any distribution right to which subsection (a)(3)(B) applied, the following shall be increased by the amount determined under paragraph (2):

"(A) The taxable estate of the transferor in the case of a taxable event described in paragraph (3)(A)(i).

"(B) The taxable gifts of the transferor for the calendar year in which the taxable event occurs in the case of a taxable event described in paragraph (3)(A) (ii) or (iii).

"(2) AMOUNT OF INCREASE.—

"(A) IN GENERAL.—The amount of the increase determined under this paragraph shall be the excess (if any) of—

"(i) the value of the qualified payments payable during the period beginning on the date of the transfer under subsection (a)(1) and ending on the date of the taxable event determined as if—

"(I) all such payments were paid on the date payment was due, and

"(II) all such payments were reinvested by the transferor as of the date of payment at a yield equal to the discount rate used in determining the value of the applicable retained interest described in subsection (a)(1), over

"(ii) the value of such payments paid during such period computed under clause (i) on the basis of the time when such payments were actually paid.

"(B) LIMITATION ON AMOUNT OF INCREASE.—

"(i) IN GENERAL.—The amount of the increase under subparagraph (A) shall not exceed the applicable percentage of the excess (if any) of—

"(I) the value (determined as of the date of the taxable event) of all equity interests in the entity which are junior to the applicable retained interest, over

"(II) the value of such interests (determined as of the date of the transfer to which subsection (a)(1) applied).

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the percentage determined by dividing—

"(I) the number of shares in the corporation held (as of the date of the taxable event) by the trans-

feror which are applicable retained interests of the same class, by

"(II) the total number of shares in such corporation (as of such date) which are of the same class as the class described in subclause (I).

A similar percentage shall be determined in the case of interests in a partnership.

"(iii) DEFINITION.—For purposes of this subparagraph, the term 'equity interest' has the meaning given such term by subsection (a)(4)(B).

"(C) GRACE PERIOD.—For purposes of subparagraph (A), any payment of any distribution during the 4-year period beginning on its due date shall be treated as having been made on such due date.

"(3) TAXABLE EVENTS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'taxable event' means any of the following:

"(i) The death of the transferor if the applicable retained interest conferring the distribution right is includible in the estate of the transferor.

"(ii) The transfer of such applicable retained interest.

"(iii) At the election of the taxpayer, the payment of any qualified payment after the period described in paragraph (2)(C), but only with respect to the period ending on the date of such payment.

"(B) EXCEPTION WHERE SPOUSE IS TRANSFEREE.—

"(i) DEATHTIME TRANSFERS.—Subparagraph (A)(i) shall not apply to any interest includible in the gross estate of the transferor if a deduction with respect to such interest is allowable under section 2056 or 2106(a)(3).

"(ii) LIFETIME TRANSFERS.—A transfer to the spouse of the transferor shall not be treated as a taxable event under subparagraph (A)(ii) if such transfer does not result in a taxable gift by reason of—

"(I) any deduction allowed under section 2523, or

"(II) consideration for the transfer provided by the spouse.

"(iii) SPOUSE SUCCEEDS TO TREATMENT OF TRANSFEROR.—If an event is not treated as a taxable event by reason of this subparagraph, the transferee spouse or surviving spouse (as the case may be) shall be treated in the same manner as the transferor in applying this subsection with respect to the interest involved.

"(4) SPECIAL RULES FOR APPLICABLE FAMILY MEMBERS.—

"(A) FAMILY MEMBER TREATED IN SAME MANNER AS TRANSFEROR.—For purposes of this subsection, an applicable family member shall be treated in the same manner as the transferor with respect to any distribution right retained by such family member to which subsection (a)(3)(B) applied.

"(B) TRANSFER TO APPLICABLE FAMILY MEMBER.—In the case of a taxable event described in paragraph (3)(A)(ii) involving the transfer of an applicable retained interest to an applicable family member (other than the spouse of the transferor), the applicable family member shall be treated in the same manner as the transferor in applying this

subsection to distributions accumulating with respect to such interest after such taxable event.

"(5) TRANSFER TO INCLUDE TERMINATION.—For purposes of this subsection, any termination of an interest shall be treated as a transfer.

"(e) OTHER DEFINITIONS AND RULES.—For purposes of this section—

"(1) MEMBER OF THE FAMILY.—The term 'member of the family' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) a lineal descendant of the transferor or the transferor's spouse, and

"(C) the spouse of any such descendant.

"(2) APPLICABLE FAMILY MEMBER.—The term 'applicable family member' means, with respect to any transferor—

"(A) the transferor's spouse,

"(B) an ancestor of the transferor or the transferor's spouse, and

"(C) the spouse of any such ancestor.

"(3) ATTRIBUTION RULES.—

"(A) INDIRECT HOLDINGS AND TRANSFERS.—An individual shall be treated as holding any interest to the extent such interest is held indirectly by such individual through a corporation, partnership, trust, or other entity. If any individual is treated as holding any interest by reason of the preceding sentence, any transfer which results in such interest being treated as no longer held by such individual shall be treated as a transfer of such interest.

"(B) CONTROL.—For purposes of subsections [81] (b)(1), an individual shall be treated as holding any interest held by the individual's brothers, sisters, or lineal descendants.

"(4) EFFECT OF ADOPTION.—A relationship by legal adoption shall be treated as a relationship by blood.

"(5) CERTAIN CHANGES TREATED AS TRANSFERS.—Except as provided in regulations, a contribution to capital or a redemption, recapitalization, or other change in the capital structure of a corporation or partnership shall be treated as a transfer of an interest in such entity to which this section applies if the taxpayer or an applicable family member—

"(A) receives an applicable retained interest in such entity pursuant to such contribution to capital or such redemption, recapitalization, or other change, or

"(B) under regulations, otherwise holds, immediately after the transfer, an applicable retained interest in such entity.

This paragraph shall not apply to any transaction (other than a contribution to capital) if the interests in the entity held by the transferor, applicable family members, and members of the transferor's family before and after the transaction are substantially identical.

"(6) ADJUSTMENTS.—Under regulations prescribed by the Secretary, if there is any subsequent transfer, or inclusion in the gross estate, of any applicable retained interest which was valued under the rules of subsection (a), appropriate adjustments shall be made for purposes of chapter 11, 12, or 13 to reflect the increase in the amount of any prior taxable gift made by the transferor or decedent by reason of such valuation.

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[81] So in original. Probably should be "subsection".

"(7) TREATMENT AS SEPARATE INTERESTS.—The Secretary may by regulation provide that any applicable retained interest shall be treated as 2 or more separate interests for purposes of this section.

"SEC. 2702. SPECIAL VALUATION RULES IN CASE OF TRANSFERS OF INTERESTS IN TRUSTS.

"(a) VALUATION RULES.—

"(1) IN GENERAL.—Solely for purposes of determining whether a transfer of an interest in trust to (or for the benefit of) a member of the transferor's family is a gift (and the value of such transfer), the value of any interest in such trust retained by the transferor or any applicable family member (as defined in section 2701(e)(2)) shall be determined as provided in paragraph (2).

"(2) VALUATION OF RETAINED INTERESTS.—

"(A) IN GENERAL.—The value of any retained interest which is not a qualified interest shall be treated as being zero.

"(B) VALUATION OF QUALIFIED INTEREST.—The value of any retained interest which is a qualified interest shall be determined under section 7520.

"(3) EXCEPTIONS.—

"(A) IN GENERAL.—This subsection shall not apply to any transfer—

"(i) to the extent such transfer is an incomplete transfer, or

"(ii) if such transfer involves the transfer of an interest in trust all the property in which consists of a residence to be used as a personal residence by persons holding term interests in such trust.

"(B) INCOMPLETE TRANSFER.—For purposes of subparagraph (A), the term 'incomplete transfer' means any transfer which would not be treated as a gift whether or not consideration was received for such transfer.

"(b) QUALIFIED INTEREST.—For purposes of this section, the term 'qualified interest' means—

"(1) any interest which consists of the right to receive fixed amounts payable not less frequently than annually,

"(2) any interest which consists of the right to receive amounts which are payable not less frequently than annually and are a fixed percentage of the fair market value of the property in the trust (determined annually), and

"(3) any noncontingent remainder interest if all of the other interests in the trust consist of interests described in paragraph (1) or (2).

"(c) CERTAIN PROPERTY TREATED AS HELD IN TRUST.—For purposes of this section—

"(1) IN GENERAL.—The transfer of an interest in property with respect to which there is 1 or more term interests shall be treated as a transfer of an interest in a trust.

"(2) JOINT PURCHASES.—If 2 or more members of the same family acquire interests in any property described in paragraph (1) in the same transaction (or a series of related transactions), the person (or persons) acquiring the term interests in such property shall be treated as having acquired the entire property and then transferred to the other persons the interests acquired

by such other persons in the transaction (or series of transactions). Such transfer shall be treated as made in exchange for the consideration (if any) provided by such other persons for the acquisition of their interests in such property.

"(3) TERM INTEREST.—The term 'term interest' means—

"(A) a life interest in property, or

"(B) an interest in property for a term of years.

"(4) VALUATION RULE FOR CERTAIN TERM INTERESTS.—If the nonexercise of rights under a term interest in tangible property would not have a substantial effect on the valuation of the remainder interest in such property—

"(A) subparagraph (A) of subsection (a)(2) shall not apply to such term interest, and

"(B) the value of such term interest for purposes of applying subsection (a)(1) shall be the amount which the holder of the term interest establishes as the amount for which such interest could be sold to an unrelated third party.

"(d) TREATMENT OF TRANSFERS OF INTERESTS IN PORTION OF TRUST.—In the case of a transfer of an income or remainder interest with respect to a specified portion of the property in a trust, only such portion shall be taken into account in applying this section to such transfer.

"(e) MEMBER OF THE FAMILY.—For purposes of this section, the term 'member of the family' shall have the meaning given such term by section 2704(c)(2).

"SEC. 2703. CERTAIN RIGHTS AND RESTRICTIONS DISREGARDED.

"(a) GENERAL RULE.—For purposes of this subtitle, the value of any property shall be determined without regard to—

"(1) any option, agreement, or other right to acquire or use the property at a price less than the fair market value of the property (without regard to such option, agreement, or right), or

"(2) any restriction on the right to sell or use such property.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to any option, agreement, right, or restriction which meets each of the following requirements:

"(1) It is a bona fide business arrangement.

"(2) It is not a device to transfer such property to members of the decedent's family for less than full and adequate consideration in money or money's worth.

"(3) Its terms are comparable to similar arrangements entered into by persons in an arms' length transaction.

"SEC. 2704. TREATMENT OF CERTAIN LAPSING RIGHTS AND RESTRICTIONS.

"(a) TREATMENT OF LAPSED VOTING OR LIQUIDATION RIGHTS.—

"(1) IN GENERAL.—For purposes of this subtitle, if—

"(A) there is a lapse of any voting or liquidation right in a corporation or partnership, and

"(B) the individual holding such right immediately before the lapse and members of such individual's family hold, both before and after the lapse, control of the entity,

such lapse shall be treated as a transfer by such individual by gift, or a transfer which is includible in the gross estate of the decedent, whichever is applicable, in the amount determined under paragraph (2).

"(2) AMOUNT OF TRANSFER.—For purposes of paragraph (1), the amount determined under this paragraph is the excess (if any) of—

"(A) the value of all interests in the entity held by the individual described in paragraph (1) immediately before the lapse (determined as if the voting and liquidation rights were nonlapsing), over

"(B) the value of such interests immediately after the lapse.

"(3) SIMILAR RIGHTS.—The Secretary may by regulations apply this subsection to rights similar to voting and liquidation rights.

"(b) CERTAIN RESTRICTIONS ON LIQUIDATION DISREGARDED.—

"(1) IN GENERAL.—For purposes of this subtitle, if—

"(A) there is a transfer of an interest in a corporation or partnership to (or for the benefit of) a member of the transferor's family, and

"(B) the transferor and members of the transferor's family hold, immediately before the transfer, control of the entity,

any applicable restriction shall be disregarded in determining the value of the transferred interest.

"(2) APPLICABLE RESTRICTION.—For purposes of this subsection, the term 'applicable restriction' means any restriction—

"(A) which effectively limits the ability of the corporation or partnership to liquidate, and

"(B) with respect to which either of the following applies:

"(i) The restriction lapses, in whole or in part, after the transfer referred to in paragraph (1).

"(ii) The transferor or any member of the transferor's family, either alone or collectively, has the right after such transfer to remove, in whole or in part, the restriction.

"(3) EXCEPTIONS.—The term 'applicable restriction' shall not include—

"(A) any commercially reasonable restriction which arises as part of any financing by the corporation or partnership with a person who is not related to the transferor or transferee, or a member of the family of either, or

"(B) any restriction imposed, or required to be imposed, by any Federal or State law.

"(4) OTHER RESTRICTIONS.—The Secretary may by regulations provide that other restrictions shall be disregarded in determining the value of the transfer of any interest in a corporation or partnership to a member of the transferor's family if such restriction has the effect of reducing the value of the transferred interest for purposes of this subtitle but does not ultimately reduce the value of such interest to the transferee.

"(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CONTROL.—The term 'control' has the meaning given such term by section 2701(b)(2).

"(2) MEMBER OF THE FAMILY.—The term 'member of the family' means, with respect to any individual—

"(A) such individual's spouse,

"(B) any ancestor or lineal descendant of such individual or such individual's spouse,

"(C) any brother or sister of the individual, and

"(D) any spouse of any individual described in subparagraph (B) or (C).

"(3) ATTRIBUTION.—The rule of section 2701(e)(3)(A) shall apply for purposes of determining the interests held by any individual."

(b) EXTENSION OF STATUTE OF LIMITATIONS.—Subsection (c) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new paragraph:

"(9) GIFT TAX ON CERTAIN GIFTS NOT SHOWN ON RETURN.—If any gift of property the value of which is determined under section 2701 or 2702 (or any increase in taxable gifts required under section 2701(d)) is required to be shown on a return of tax imposed by chapter 12 (without regard to section 2503(b)), and is not shown on such return, any tax imposed by chapter 12 on such gift may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time. The preceding sentence shall not apply to any item not shown as a gift on such return if such item is disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the Secretary of the nature of such item."

(c) CONFORMING AMENDMENT.—The table of chapters for subtitle B is amended by adding at the end thereof the following item:

"CHAPTER 14. Special Valuation Rules."

26 USC 2701 note.

(d) STUDY.—The Secretary of the Treasury shall conduct a study of—

(1) the prevalence and types of options and agreements used to distort the valuation of property for purposes of subtitle B of the Internal Revenue Code of 1986, and

(2) other methods using discretionary rights to distort the value of property for such purposes.

The Secretary shall, not later than December 31, 1992, report the results of such study, together with such legislative recommendations as the Secretary considers necessary, to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

26 USC 2701 note.

(e) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—The amendments made by subsection (a)—

(i) to the extent such amendments relate to sections 2701 and 2702 of the Internal Revenue Code of 1986 (as added by such amendments), shall apply to transfers after October 8, 1990,

(ii) to the extent such amendments relate to section 2703 of such Code (as so added), shall apply to—

(I) agreements, options, rights, or restrictions entered into or granted after October 8, 1990, and

(II) agreements, options, rights, or restrictions which are substantially modified after October 8, 1990, and

(iii) to the extent such amendments relate to section 2704 of such Code (as so added), shall apply to restrictions or rights (or limitations on rights) created after October 8, 1990.

(B) EXCEPTION.—For purposes of subparagraph (A)(i), with respect to property transferred before October 9, 1990—

(i) any failure to exercise a right of conversion,

(ii) any failure to pay dividends, and

(iii) any failure to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to gifts after October 8, 1990. 26 USC 6501 note.

PART II—DISABLED ACCESS CREDIT

SEC. 11611. CREDIT FOR COST OF PROVIDING ACCESS FOR DISABLED INDIVIDUALS.

(a) GENERAL RULE.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by subtitle E, is amended by adding at the end thereof the following new section:

"SEC 44. EXPENDITURES TO PROVIDE ACCESS TO DISABLED INDIVIDUALS.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible small business, the amount of the disabled access credit determined under this section for any taxable year shall be an amount equal to 50 percent of so much of the eligible access expenditures for the taxable year as exceed $250 but do not exceed $10,250.

"(b) ELIGIBLE SMALL BUSINESS.—For purposes of this section, the term 'eligible small business' means any person if—

"(1) either—

"(A) the gross receipts of such person for the preceding taxable year did not exceed $1,000,000, or

"(B) in the case of a person to which subparagraph (A) does not apply, such person employed not more than 30 full-time employees during the preceding taxable year, and

"(2) such person elects the application of this section for the taxable year.

For purposes of paragraph (1)(B), an employee shall be considered full-time if such employee is employed at least 30 hours per week for 20 or more calendar weeks in the taxable year.

"(c) ELIGIBLE ACCESS EXPENDITURES.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible access expenditures' means amounts paid or incurred by an eligible small business for the purpose of enabling such eligible small business to comply with applicable requirements under the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

"(2) CERTAIN EXPENDITURES INCLUDED.—The term 'eligible access expenditures' includes amounts paid or incurred—

"(A) for the purpose of removing architectural, communication, physical, or transportation barriers which prevent a business from being accessible to, or usable by, individuals with disabilities,

"(B) to provide qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments,

"(C) to provide qualified readers, taped texts, and other effective methods of making visually delivered materials available to individuals with visual impairments,

"(D) to acquire or modify equipment or devices for individuals with disabilities, or

"(E) to provide other similar services, modifications, materials, or equipment.

"(3) EXPENDITURES MUST BE REASONABLE.—Amounts paid or incurred for the purposes described in paragraph (2) shall include only expenditures which are reasonable and shall not include expenditures which are unnecessary to accomplish such purposes.

"(4) EXPENSES IN CONNECTION WITH NEW CONSTRUCTION ARE NOT ELIGIBLE.—The term 'eligible access expenditures' shall not include amounts described in paragraph (2)(A) which are paid or incurred in connection with any facility first placed in service after the date of the enactment of this section.

"(5) EXPENDITURES MUST MEET STANDARDS.—The term 'eligible access expenditures' shall not include any amount unless the taxpayer establishes, to the satisfaction of the Secretary, that the resulting removal of any barrier (or the provision of any services, modifications, materials, or equipment) meets the standards promulgated by the Secretary with the concurrence of the Architectural and Transportation Barriers Compliance Board and set forth in regulations prescribed by the Secretary.

"(d) DEFINITION OF DISABILITY; SPECIAL RULES.—For purposes of this section—

"(1) DISABILITY.—The term 'disability' has the same meaning as when used in the Americans With Disabilities Act of 1990 (as in effect on the date of the enactment of this section).

"(2) CONTROLLED GROUPS.—

"(A) IN GENERAL.—All members of the same controlled group of corporations (within the meaning of section 52(a)) and all persons under common control (within the meaning of section 52(b)) shall be treated as 1 person for purposes of this section.

"(B) DOLLAR LIMITATION.—The Secretary shall apportion the dollar limitation under subsection (a) among the members of any group described in subparagraph (A) in such manner as the Secretary shall by regulations prescribe.

"(3) PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership, the limitation under subsection (a) shall apply with respect to the partnership and each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

"(4) SHORT YEARS.—The Secretary shall prescribe such adjustments as may be appropriate for purposes of paragraph (1) of subsection (b) if the preceding taxable year is a taxable year of less than 12 months.

"(5) GROSS RECEIPTS.—Gross receipts for any taxable year shall be reduced by returns and allowances made during such year.

"(6) TREATMENT OF PREDECESSORS.—The reference to any person in paragraph (1) of subsection (b) shall be treated as including a reference to any predecessor.

"(7) DENIAL OF DOUBLE BENEFIT.—In the case of the amount of the credit determined under this section—

"(A) no deduction or credit shall be allowed for such amount under any other provision of this chapter, and

"(B) no increase in the adjusted basis of any property shall result from such amount.

"(e) REGULATIONS.—The Secretary shall prescribe regulations necessary to carry out the purposes of this section."

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38, as amended by subtitle E, is amended by striking "plus" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", plus" and by adding at the end thereof the following new paragraph:

"(7) in the case of an eligible small business (as defined in section 44(b)), the disabled access credit determined under section 44(a)."

(2) CARRYBACKS.—Section 39(d) is amended by adding at the end thereof the following new paragraph:

"(5) NO CARRYBACK OF SECTION 44 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the disabled access credit determined under section 44 may be carried to a taxable year ending before the date of the enactment of section 44."

(c) DEDUCTION REDUCED FOR ARCHITECTURAL AND TRANSPORTATION BARRIER REMOVAL EXPENSES.—Section 190(c) (relating to expenditures to remove architectural and transportation barriers to the handicapped and elderly) is amended by striking "$35,000" and inserting "$15,000".

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by subtitle E, is amended by adding at the end thereof the following new item:

"Sec. 44. Expenditures to provide access to disabled individuals."

(e) EFFECTIVE DATES.— 26 USC 38 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to expenditures paid or incurred after the date of the enactment of this Act.

(2) SUBSECTION (c).—The amendment made by subsection (c) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—OTHER PROVISIONS

SEC. 11621. REVIEW OF IMPACT OF REGULATIONS ON SMALL BUSINESS.

(a) GENERAL RULE.—Subsection (f) of section 7805 (relating to review of impact of regulations on small business) is amended to read as follows:

"(f) REVIEW OF IMPACT OF REGULATIONS ON SMALL BUSINESS.—

"(1) SUBMISSIONS TO SMALL BUSINESS ADMINISTRATION.—After publication of any proposed or temporary regulation by the Secretary, the Secretary shall submit such regulation to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of such regulation on small business. Not later than the date 4 weeks after the date of such submission, the Chief Counsel for Advocacy shall submit comments on such regulation to the Secretary.

"(2) CONSIDERATION OF COMMENTS.—In prescribing any final regulation which supersedes a proposed or temporary regula-

tion which had been submitted under this subsection to the Chief Counsel for Advocacy of the Small Business Administration—

"(A) the Secretary shall consider the comments of the Chief Counsel for Advocacy on such proposed or temporary regulation, and

"(B) the Secretary shall discuss any response to such comments in the preamble of such final regulation.

"(3) SUBMISSION OF CERTAIN FINAL REGULATIONS.—In the case of the promulgation by the Secretary of any final regulation (other than a temporary regulation) which does not supersede a proposed regulation, the requirements of paragraphs (1) and (2) shall apply; except that—

"(A) the submission under paragraph (1) shall be made at least 4 weeks before the date of such promulgation, and

"(B) the consideration (and discussion) required under paragraph (2) shall be made in connection with the promulgation of such final regulation."

26 USC 7805 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to regulations issued after the date which is 30 days after the date of the enactment of this Act.

SEC. 11622. GRAPHIC PRESENTATION OF MAJOR CATEGORIES OF FEDERAL OUTLAYS AND INCOME.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7523. GRAPHIC PRESENTATION OF MAJOR CATEGORIES OF FEDERAL OUTLAYS AND INCOME.

"(a) GENERAL RULE.—In the case of any booklet of instructions for Form 1040, 1040A, or 1040EZ prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include in a prominent place—

"(1) a pie-shaped graph showing the relative sizes of the major outlay categories, and

"(2) a pie-shaped graph showing the relative sizes of the major income categories.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of subsection (a)—

"(1) MAJOR OUTLAY CATEGORIES.—The term 'major outlay categories' means the following:

"(A) Defense, veterans, and foreign affairs.

"(B) Social security, medicare, and other retirement.

"(C) Physical, human, and community development.

"(D) Social programs.

"(E) Law enforcement and general government.

"(F) Interest on the debt.

"(2) MAJOR INCOME CATEGORIES.—The term 'major income categories' means the following:

"(A) Social security, medicare, and unemployment and other retirement taxes.

"(B) Personal income taxes.

"(C) Corporate income taxes.

"(D) Borrowing to cover the deficit.

"(E) Excise, customs, estate, gift, and miscellaneous taxes.

"(3) REQUIRED FOOTNOTES.—The pie-shaped graph showing the major outlay categories shall include the following footnotes:

"(A) A footnote to the category referred to in paragraph (1)(A) showing the percentage of the total outlays which is for defense, the percentage of total outlays which is for veterans, and the percentage of total outlays which is for foreign affairs.

"(B) A footnote to the category referred to in paragraph (1)(C) showing that such category consists of agriculture, natural resources, environment, transportation, education, job training, economic development, space, energy, and general science.

"(C) A footnote to the category referred to in paragraph (1)(D) showing the percentage of the total outlays which is for medicaid, food stamps, and aid to families with dependent children and the percentage of total outlays which is for public health, unemployment, assisted housing, and social services.

"(4) DATA ON WHICH GRAPHS ARE BASED.—The graphs required under subsection (a) shall be based on data for the most recent fiscal year for which complete data is available as of the completion of the preparation of the instructions by the Secretary."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7523. Graphic presentation of major categories of Federal outlays and income."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to instructions prepared for taxable years beginning after 1990. 26 USC 7523 note.

Subtitle G—Tax Technical Corrections

SEC. 11700. COORDINATION WITH OTHER SUBTITLES. 26 USC 1 note.

For purposes of applying the amendments made by any subtitle of this title other than this subtitle, the provisions of this subtitle shall be treated as having been enacted immediately before the provisions of such other subtitles.

SEC. 11701. AMENDMENTS RELATED TO REVENUE RECONCILIATION ACT OF 1989.

(a) AMENDMENTS RELATED TO SECTION 7108.—

(1)(A) Paragraph (2) of section 42(c) is amended by adding at the end thereof the following new sentence: "Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937."

(B) Paragraph (1) of section 42(b) is amended by striking the last sentence.

(2) Subclause (I) of section 42(d)(5)(C)(ii) is amended—

(A) by inserting "which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract," after "census tract", and

(B) by inserting before the period "for such year".

(3)(A) Clause (i) of section 42(g)(2)(D) is amended by inserting before the period "and such unit continues to be rent-restricted".

26 USC 42 note.

(B) In the case of a building to which (but for this subparagraph) the amendment made by subparagraph (A) does not apply, such amendment shall apply to—

(i) determinations of qualified basis for taxable years beginning after the date of the enactment of this Act, and

(ii) determinations of qualified basis for taxable years beginning on or before such date except that determinations for such taxable years shall be made without regard to any reduction in gross rent after August 3, 1990, for any period before August 4, 1990.

(4) Clause (ii) of section 42(g)(2)(D) is amended by adding at the end thereof the following new sentence: "In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting '170 percent' for '140 percent' and by substituting 'any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income' for 'any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation'."

(5)(A) Subparagraph (A) of section 42(g)(3) is amended by striking "the 12-month period beginning on the date the building is placed in service" and inserting "the 1st year of the credit period for such building".

26 USC 42 note.

(B) In the case of a building to which the amendment made by subparagraph (A) does not apply, the period specified in section 42(g)(3)(A) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subparagraph (A)) shall not expire before the close of the taxable year following the taxable year in which the building is placed in service.

(6)(A) The second sentence of section 42(h)(3)(C) is amended by striking "the amount described in clause (i)" and inserting "the sum of the amounts described in clauses (i) and (iii)".

(B) Subclause (II) of section 42(h)(3)(D)(ii) is amended by striking "the amount described in clause (i)" and inserting "the sum of the amounts described in clauses (i) and (iii)".

(7)(A) Clause (i) of section 42(h)(6)(B) is amended by inserting before the comma "and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)(ii)".

(B) Clause (ii) of section 42(h)(6)(B) is amended by striking "requirement" and inserting "requirement and prohibitions".

(8)(A) Subparagraph (B) of section 42(h)(6) is amended by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively, and by inserting after clause (ii) the following new clause:

"(iii) which prohibits the disposition to any person of any portion of the building to which such agreement applies unless all of the building to which such agreement applies is disposed of to such person,".

(B) Paragraph (6) of section 42(h) is amended by striking subparagraph (J) and by redesignating subparagraphs (K) and (L) as subparagraphs (J) and (K), respectively.

(C) Subclause (II) of section 42(h)(6)(E)(ii) is amended by inserting before the period "not otherwise permitted under this section".

(D) Subparagraph (F) of section 42(h)(6) is amended by inserting "the nonlow-income portion of the building for fair market value and" before "the low-income portion".

(9) Subclause (I) of section 42(h)(6)(E)(i) is amended by inserting before the comma "unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period".

(10) Paragraph (8) of section 42(i) is redesignated as paragraph (7).

(11) Paragraph (2) of section 7108(r) of the Revenue Reconciliation Act of 1989 is amended by inserting before the period "but only with respect to bonds issued after such date". 26 USC 42 note.

(12) Paragraph (6) of section 7108(r) of the Revenue Reconciliation Act of 1989 is amended by inserting "after" after "issued".

(b) AMENDMENTS RELATED TO SECTION 7202.—

(1) Subparagraph (A) of section 163(e)(5) is amended by striking the last sentence and inserting the following: "For purposes of this paragraph, rules similar to the rules of subsection (i)(3)(B) shall apply in determining the amount of the original issue discount and when the original issue discount is paid."

(2) Paragraph (3) of section 163(i) is amended—

(A) by striking "(or stock)" each place it appears in subparagraph (B), and

(B) by adding at the end thereof the following new sentence: "Except for purposes of paragraph (1)(B), any reference to an obligation in subparagraph (B) of this paragraph shall be treated as including a reference to stock."

(c) AMENDMENTS RELATED TO SECTION 7210.—

(1) Subparagraph (C) of section 163(j)(2) is amended by striking "less such" and inserting "reduced (but not below zero) by such".

(2) Clause (ii) of section 163(j)(2)(A) is amended by striking "and on such other days" and inserting "or on any other day".

(d) AMENDMENTS RELATED TO SECTION 7211.—Clause (iii) of section 172(b)(1)(M) is amended—

(1) by striking "a C corporation" in the material preceding subclause (I),

(2) by striking "which acquires" in subclause (I) and inserting "a C corporation which acquires",

(3) by striking "a corporation" in subclause (II) and inserting "a C corporation", and

(4) by striking "any successor corporation" in subclause (III) and inserting "any C corporation which is a successor".

(e) AMENDMENTS RELATED TO SECTION 7301.—

(1) Paragraph (2) of section 4978B(e) is amended to read as follows:

"(2) SECTION 133 SECURITIES.—The term 'section 133 securities' means employer securities acquired by an employee stock ownership plan in a transaction to which section 133 applied."

(2) Subsection (d) of section 4978B is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH OTHER TAXES.—This section shall not apply to any disposition which is subject to tax under section 4978 or section 4978A (as in effect on the day before the date of enactment of this section)."

(f) AMENDMENT RELATED TO SECTION 7401.—Paragraph (2) of section 6038(e) is amended by adding at the end thereof the following new sentence: "In the case of a specified foreign corporation (as defined in section 898), the taxable year of such corporation shall be treated as its annual accounting period."

(g) AMENDMENTS RELATED TO SECTION 7506.—

(1) The material preceding subclause (I) in section 4682(d)(3)(B)(i) is amended by striking "or produced" and inserting ", produced, or imported".

(2) Subclause (I) of section 4682(d)(3)(B)(i) is amended to read as follows:

"(I) the amount equal to the 1986 export percentage of the aggregate tax which would (but for this subsection and subsection (g)) be imposed by this subchapter with respect to the maximum quantity of ozone-depleting chemicals permitted to be manufactured or produced by such person during such calendar year under regulations prescribed by the Environmental Protection Agency (other than chemicals with respect to which subclause (II) applies),".

(3) Subclause (II) of section 4682(d)(3)(B)(i) is amended by striking "tax imposed" and inserting "tax which would (but for this subsection and subsection (g)) be imposed".

(4) Clause (i) of section 4682(d)(3)(B) is amended by striking the period at the end of subclause (II) and inserting ", and" and by adding at the end thereof the following new subclause:

"(III) the aggregate tax which was imposed by this subchapter with respect to ozone-depleting chemicals imported by such person during the calendar year.".

(5) The last sentence of clause (ii) of section 4682(d)(3)(B) is amended to read as follows: "The percentage determined under the preceding sentence shall be computed by taking into account the sum of such person's direct 1986 exports (as determined by the Environmental Protection Agency) and such person's indirect 1986 exports (as allocated to such person by such Agency in determining such person's consumption and production rights for ozone-depleting chemicals).".

(h) AMENDMENT RELATED TO SECTION 7601.—Effective with respect to transfers after August 3, 1990, paragraph (3) of section 1031(f) is amended by striking "section 267(b)" and inserting "section 267(b) or 707(b)(1)".

(i) AMENDMENT RELATED TO SECTION 7622.—Paragraph (4) of section 1253(d) is amended by striking "or any period of amortization under this section" and inserting "under this section or any period of amortization under this subtitle for any payment described in this section".

(j) AMENDMENTS RELATED TO SECTION 7652.—

(1) Subclause (II) of section 148(f)(4)(B)(i) is amended to read as follows:

"(II) the requirements of paragraph (2) are met with respect to amounts not required to be spent as provided in subclause (I) (other than earnings on amounts in any bona fide debt service fund)."

(2) The last sentence of clause (i) of section 148(f)(4)(B) is amended by striking "replacement fund" and all that follows and inserting "replacement fund, and gross proceeds which arise after such 6 months and which were not reasonably

anticipated as of the date of issuance, shall not be considered gross proceeds for purposes of subclause (I) only."

(3) Paragraph (4) of section 148(f) is amended—

(A) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and

(B) by inserting after subparagraph (B) the following new subparagraph:

"(C) EXCEPTION FROM REBATE FOR CERTAIN PROCEEDS TO BE USED TO FINANCE CONSTRUCTION EXPENDITURES.—

"(i) IN GENERAL.—In the case of a construction issue, paragraph (2) shall not apply to the available construction proceeds of such issue if the spending requirements of clause (ii) are met.

"(ii) SPENDING REQUIREMENTS.—The spending requirements of this clause are met if at least—

"(I) 10 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 6-month period beginning on the date the bonds are issued,

"(II) 45 percent of such proceeds are spent for such purposes within the 1-year period beginning on such date,

"(III) 75 percent of such proceeds are spent for such purposes within the 18-month period beginning on such date, and

"(IV) 100 percent of such proceeds are spent for such purposes within the 2-year period beginning on such date.

"(iii) EXCEPTION FOR REASONABLE RETAINAGE.—The spending requirement of clause (ii)(IV) shall be treated as met if—

"(I) such requirement would be met at the close of such 2-year period but for a reasonable retainage (not exceeding 5 percent of the available construction proceeds of the construction issue), and

"(II) 100 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 3-year period beginning on the date the bonds are issued.

"(iv) CONSTRUCTION ISSUE.—For purposes of this subparagraph, the term 'construction issue' means any issue if—

"(I) at least 75 percent of the available construction proceeds of such issue are to be used for construction expenditures with respect to property which is to be owned by a governmental unit or a 501(c)(3) organization, and

"(II) all of the bonds which are part of such issue are qualified 501(c)(3) bonds, bonds which are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

For purposes of this subparagraph, the term 'construction' includes reconstruction and rehabilitation, and

rules similar to the rules of section 142(b)(1)(B) shall apply.

"(v) PORTIONS OF ISSUES USED FOR CONSTRUCTION.—If—

"(I) all of the construction expenditures to be financed by an issue are to be financed from a portion thereof, and

"(II) the issuer elects to treat such portion as a construction issue for purposes of this subparagraph,

then, for purposes of this subparagraph and subparagraph (B), such portion shall be treated as a separate issue.

"(vi) AVAILABLE CONSTRUCTION PROCEEDS.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'available construction proceeds' means the amount equal to the issue price (within the meaning of sections 1273 and 1274) of the construction issue, increased by earnings on the issue price, earnings on amounts in any reasonably required reserve or replacement fund not funded from the issue, and earnings on all of the foregoing earnings, and reduced by the amount of the issue price in any reasonably required reserve or replacement fund and the issuance costs financed by the issue.

"(II) EARNINGS ON RESERVE INCLUDED ONLY FOR CERTAIN PERIODS.—The term 'available construction proceeds' shall not include amounts earned on any reasonably required reserve or replacement fund after the earlier of the close of the 2-year period described in clause (ii) or the date the construction is substantially completed.

"(III) PAYMENTS ON ACQUIRED PURPOSE OBLIGATIONS EXCLUDED.—The term 'available construction proceeds' shall not include payments on any obligation acquired to carry out the governmental purposes of the issue and shall not include earnings on such payments.

"(IV) ELECTION TO REBATE ON EARNINGS ON RESERVE.—At the election of the issuer, the term 'available construction proceeds' shall not include earnings on any reasonably required reserve or replacement fund.

"(vii) ELECTION TO PAY PENALTY IN LIEU OF REBATE.—

"(I) IN GENERAL.—At the election of the issuer, paragraph (2) shall not apply to available construction proceeds which do not meet the spending requirements of clause (ii) if the issuer pays a penalty, with respect to each 6-month period after the date the bonds were issued, equal to 1½ percent of the amount of the available construction proceeds of the issue which, as of the close of such 6-month period, is not spent as required by clause (ii).

"(II) TERMINATION.—The penalty imposed by this clause shall cease to apply only as provided in

clause (viii) or after the latest maturity date of any bond in the issue (including any refunding bond with respect thereto).

"(viii) ELECTION TO TERMINATE 1½ PERCENT PENALTY.—At the election of the issuer (made not later than 90 days after the earlier of the end of the initial temporary period or the date the construction is substantially completed), the penalty under clause (vii) shall not apply to any 6-month period after the initial temporary period under subsection (c) if the requirements of subclauses (I), (II), and (III) are met.

"(I) 3 PERCENT PENALTY.—The requirement of this subclause is met if the issuer pays a penalty equal to 3 percent of the amount of available construction proceeds of the issue which is not spent for the governmental purposes of the issue as of the close of such initial temporary period multiplied by the number of years (including fractions thereof) in the initial temporary period.

"(II) YIELD RESTRICTION AT CLOSE OF TEMPORARY PERIOD.—The requirement of this subclause is met if the amount of the available construction proceeds of the issue which is not spent for the governmental purposes of the issue as of the close of such initial temporary period is invested at a yield not exceeding the yield on the issue or which is invested in any tax-exempt bond which is not investment property.

"(III) REDEMPTION OF BONDS AT EARLIEST CALL DATE.—The requirement of this subclause is met if the amount of the available construction proceeds of the issue which is not spent for the governmental purposes of the issue as of the earliest date on which bonds may be redeemed is used to redeem bonds on such date.

"(ix) ELECTION TO TERMINATE 1½ PERCENT PENALTY BEFORE END OF TEMPORARY PERIOD.—If—

"(I) the construction to be financed by a construction issue is substantially completed before the end of the initial temporary period,

"(II) the issuer identifies an amount of available construction proceeds which will not be spent for the governmental purposes of the issue,

"(III) the issuer has made the election under clause (viii), and

"(IV) the issuer makes an election under this clause before the close of the initial temporary period and not later than 90 days after the date the construction is substantially completed,

then clauses (vii) and (viii) shall be applied to the available construction proceeds so identified as if the initial temporary period ended as of the date the election is made.

"(x) FAILURE TO PAY PENALTIES.—In the case of a failure (which is not due to willful neglect) to pay any penalty required to be paid under clause (vii) or (viii) in the amount or at the time prescribed therefor, the

Secretary may treat such failure as not occurring if, in addition to paying such penalty, the issuer pays a penalty equal to the sum of—

"(I) 50 percent of the amount which was not paid in accordance with clauses (vii) and (viii), plus

"(II) interest (at the underpayment rate established under section 6621) on the portion of the amount which was not paid on the date required for the period beginning on such date.

The Secretary may waive all or any portion of the penalty under this clause. Bonds which are part of an issue with respect to which there is a failure to pay the amount required under this clause (and any refunding bond with respect thereto) shall be treated as not being, and as never having been, tax-exempt bonds.

"(xi) ELECTION FOR POOLED FINANCING BONDS.—At the election of the issuer of an issue the proceeds of which are to be used to make or finance loans (other than nonpurpose investments) to 2 or more persons, the periods described in clauses (ii) and (iii) shall begin on—

"(I) the date the loan is made, in the case of loans made within the 1-year period after the date the bonds are issued, and

"(II) the date following such 1-year period, in the case of loans made after such 1-year period.

If such an election applies to an issue, the requirements of paragraph (2) shall apply to amounts earned before the beginning of the periods determined under the preceding sentence.

"(xii) PAYMENTS OF PRINCIPAL NOT TO AFFECT REQUIREMENTS.—For purposes of this subparagraph, payments of principal on the bonds which are part of the construction issue shall not be treated as an expenditure of the available construction proceeds of the issue.

"(xiii) REFUNDING BONDS.—

"(I) IN GENERAL.—Except as provided in this clause, clause (vii)(II), and the last sentence of clause (x), this subparagraph shall not apply to any refunding bond and no proceeds of a refunded bond shall be treated for purposes of this subparagraph as proceeds of a refunding bond.

"(II) DETERMINATION OF CONSTRUCTION PORTION OF ISSUE.—For purposes of clause (v), any portion of an issue which is used to refund any issue (or portion thereof) shall be treated as a separate issue.

"(III) COORDINATION WITH REBATE REQUIREMENT ON REFUNDING BONDS.—The requirements of paragraph (2) shall be treated as met with respect to earnings for any period if a penalty is paid under clause (vii) or (viii) with respect to such earnings for such period.

"(xiv) DETERMINATION OF INITIAL TEMPORARY PERIOD.—For purposes of this subpargraph, the end of the initial temporary period shall be determined without regard to section 149(d)(3)(A)(iv).

"(xv) ELECTIONS.—Any election under this subparagraph (other than clauses (viii) and (ix)) shall be made on or before the date the bonds are issued; and, once made, shall be irrevocable.

"(xvi) TIME FOR PAYMENT OF PENALTIES.—Any penalty under this subparagraph shall be paid to the United States not later than 90 days after the period to which the penalty relates."

(4) Clause (iv) of section 148(f)(4)(B) is amended to read as follows:

"(iv) PAYMENTS OF PRINCIPAL NOT TO AFFECT REQUIREMENTS.—For purposes of this subparagraph, payments of principal on the bonds which are part of an issue shall not be treated as expended for the governmental purposes of the issue."

(5) Subparagraph (D) of section 148(c)(2) is amended—

(A) by striking "subsection (f)(4)(B)(iv)(IV)" and inserting "subsection (f)(4)(C)(iv)", and

(B) by striking "subsection (f)(4)(B)(iv)(VIII)" and inserting "subsection (f)(4)(C)(v)".

(6) Subsection (c) of section 7652 of the 1989 Act is amended by striking "Subparagraph (A) of section 148(c)(2)" and inserting "Section 148(c)(2)". 26 USC 148.

(7) In the case of a bond issued before the date of the enactment of this Act, the period for making the election under section 148(f)(4)(C)(viii) of the Internal Revenue Code of 1986 (as added by this subsection) shall not expire before the date which is 180 days after such date of enactment. 26 USC 148 note.

(8) Section 148(f)(4)(C)(xiii)(II) of such Code (as added by this subsection) shall apply only to refunding bonds issued after August 3, 1990. 26 USC 148 note.

(k) AMENDMENT RELATED TO SECTION 7811.—The second sentence of section 403(b)(12)(A) is amended by inserting "involving a one-time irrevocable election" after "similar arrangement".

(l) AMENDMENTS RELATED TO SECTION 7815.—

(1) Subsection (d) of section 2056 is amended by redesignating the paragraph relating to reformations permitted as paragraph (5).

(2) The period during which a proceeding may be commenced under section 2056(d)(5)(A)(ii) of the Internal Revenue Code of 1986 (as redesignated by paragraph (1)) shall not expire before the date 6 months after the date of the enactment of this Act. 26 USC 2056 note.

(3) Paragraph (16) of section 7815(d) of the Revenue Reconciliation Act of 1989 is amended by inserting "(or would have been so treated if the donor were a citizen of the United States)" after "of such Code". 26 USC 2040 note.

(m) AMENDMENT RELATED TO SECTION 7881.—Paragraph (13) of section 4975(d) is amended by inserting before the semicolon at the end thereof the following: "or which is exempt from section 406 of such Act by reason of section 408(b) of such Act".

(n) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provision of the Revenue Reconciliation Act of 1989 to which such amendment relates. 26 USC 42 note.

SEC. 11702. AMENDMENTS RELATED TO TECHNICAL AND MISCELLANEOUS REVENUE ACT OF 1988.

(a) AMENDMENTS RELATED TO SECTION 1006.—

(1) Paragraph (5) of section 367(a) is amended by striking "section 361" and inserting "subsection (a) or (b) of section 361".

(2) Subsection (d) of section 453B is amended to read as follows:

"(d) EXCEPTION FOR DISTRIBUTIONS TO WHICH SECTION 337(a) APPLIES.—Subsection (a) shall not apply to any distribution to which section 337(a) applies."

(b) AMENDMENTS RELATED TO SECTION 1008.—

(1) Subparagraph (B) of section 447(g)(4) is amended to read as follows:

"(B) QUALIFIED FARMING TRADE OR BUSINESS.—

"(i) IN GENERAL.—The term 'qualified farming trade or business' means the trade or business of farming—

"(I) sugar cane,

"(II) any plant with a preproductive period (as defined in section 263A(e)(3)) of 2 years or less, and

"(III) any other plant (other than any citrus or almond tree) if an election by the corporation under this subparagraph is in effect.

In the case of a partnership and for purposes of paragraph (3)(A), subclauses (II) and (III) shall not apply.

"(ii) EFFECT OF ELECTION.—For purposes of paragraphs (1) and (2) of section 263A(e), any election under this subparagraph shall be treated as if it were an election under subsection (d)(3) of section 263A.

"(iii) ELECTION.—Unless the Secretary otherwise consents, an election under this subparagraph may be made only for the corporation's 1st taxable year which begins after December 31, 1986, and during which the corporation engages in a farming business. Any such election, once made, may be revoked only with the consent of the Secretary."

(2) Subparagraph (A) of section 447(g)(1) is amended by striking "qualified farming trade or business" and inserting "trade or business of farming".

(c) AMENDMENT RELATED TO SECTION 1012.—Subsection (b) of section 6114 is amended by striking "by regulations".

(d) AMENDMENTS RELATED TO SECTION 1014.—

(1) Subparagraph (B) of section 59(j)(1) is amended by inserting "(or, if greater, the child's share of the unused parental minimum tax exemption)" before the period at the end thereof.

(2) Subsection (j) of section 59 is amended by adding at the end thereof the following new paragraph:

"(3) UNUSED PARENTAL MINIMUM TAX EXEMPTION.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'unused parental minimum tax exemption' means the excess (if any) of—

"(i) the exemption amount applicable to the parent under section 55(d), over

"(ii) the parent's alternative minimum taxable income.

"(B) CERTAIN RULES MADE APPLICABLE.—A child's share of any unused parental minimum tax exemption shall be

determined under rules similar to the rules of section 1(i)(3)(B), and rules similar to the rules of paragraphs (3)(D) and (5) of section 1(i) shall apply for purposes of this paragraph."

(3) Subparagraph (D) of section 59(j)(2), is amended by striking "paragraphs (5) and (6)" and inserting "paragraphs (3)(D), (5), and (6)".

(e) AMENDMENTS RELATED TO SECTION 1018.—

(1) Subsection (e) of section 468B is amended by striking "This section" and inserting "This section (other than subsection (g))".

(2) Subsection (c) of section 355 is amended to read as follows:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation on any distribution to which this section (or so much of section 356 as relates to this section) applies and which is not in pursuance of a plan of reorganization.

"(2) DISTRIBUTION OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than stock or securities in the controlled corporation, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) COORDINATION WITH SECTIONS 311 AND 336(a).—Sections 311 and 336(a) shall not apply to any distribution referred to in paragraph (1)."

(f) AMENDMENT RELATED TO SECTION 3011.—Paragraph (1) of section 4980B(d) is amended to read as follows:

"(1) any failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary if the qualifying event with respect to such beneficiary occurred during the calendar year immediately following a calendar year during which all employers maintaining such plan normally employed fewer than 20 employees on a typical business day,".

(g) AMENDMENTS RELATED TO SECTION 5033.—

(1) Subsection (i) of section 2523 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any transfer resulting from the acquisition of rights under a joint and survivor annuity described in subsection (f)(6)."

(2)(A) Paragraph (1) of section 2056A(a) is amended to read as follows:

"(1) the trust instrument—

"(A) requires that at least 1 trustee of the trust be an individual citizen of the United States or a domestic corporation, and

"(B) provides that no distribution (other than a distribution of income) may be made from the trust unless a trustee who is an individual citizen of the United States or a domestic corporation has the right to withhold from such distribution the tax imposed by this section on such distribution,".

(B) Subsection (b) of section 2056A is amended by adding at the end thereof the following new paragraphs:

"(14) COORDINATION WITH TERMINABLE INTEREST RULES.—Any interest in a qualified domestic trust shall not be treated as failing to meet the requirements of paragraph (5) or (7) of section 2056(b) merely by reason of any provision of the trust instrument permitting the withholding from any distribution of an amount to pay the tax imposed by paragraph (1) on such distribution.

"(15) NO TAX ON CERTAIN DISTRIBUTIONS.—No tax shall be imposed by paragraph (1) on any distribution to the surviving spouse to the extent such distribution is to reimburse such surviving spouse for any tax imposed by subtitle A on any item of income of the trust to which such surviving spouse is not entitled under the terms of the trust."

(3)(A) Subsection (d) of section 2056A is amended by adding at the end thereof the following new sentence: "No election may be made under this section on any return if such return is filed more than one year after the time prescribed by law (including extensions) for filing such return."

26 USC 2056A note.

(B) The amendment made by subparagraph (A) shall not apply to any election made before the date 6 months after the date of the enactment of this Act.

(4) Subparagraph (A) of section 2056A(b)(10) is amended by striking "section 2032" and inserting "section 2011, 2014, 2032".

(5) Paragraph (3) of section 2056(d) is amended by striking "section 2056A(b)(6)" and inserting "section 2056A(b)(7)".

(h) AMENDMENTS RELATED TO SECTION 6009.—

(1) Subparagraph (B) of section 135(b)(2) is amended by striking "each dollar amount" and inserting "the $40,000 and $60,000 amounts".

(2) Subparagraph (C) of section 135(b)(2) is amended by striking "(A) or".

(i) AMENDMENTS RELATED TO SECTION 6282.—Subsection (e) of section 216 is amended—

(1) by striking "ASSOCIATIONS" in the subsection heading and inserting "CORPORATIONS", and

(2) by striking "association" and inserting "corporation".

26 USC 59 note.

(j) EFFECTIVE DATE.—Any amendment made by this section shall take effect as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988 to which such amendment relates.

SEC. 11703. MISCELLANEOUS AMENDMENTS.

(a) SALES TO COMPLY WITH CONFLICT-OF-INTEREST REQUIREMENTS.—

(1) IN GENERAL.—Subsection (a) of section 1043 is amended by striking "reduced by any basis adjustment under subsection (c)

attributable to a prior sale" and inserting "to the extent not previously taken into account under this subsection".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales after November 30, 1989. 26 USC 1043 note.

(b) CONFORMING AMENDMENT TO REPEAL OF SECTION 89.—

(1) IN GENERAL.—Subparagraph (B) of section 414(n)(2) is amended by striking "(6 months in the case of core health benefits)".

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986. 26 USC 414 note.

(c) AMENDMENTS TO GENERATION-SKIPPING TRANSFER TAX.—

(1) Subparagraph (B) of section 2642(c)(2) is amended by striking "such individual dies before the trust is terminated" and inserting "the trust does not terminate before the individual dies".

(2) Paragraph (2) of section 2642(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 2652(c)(3) shall apply for purposes of subparagraph (A)."

(3) Subparagraph (C) of section 1433(b)(2) of the Tax Reform Act of 1986 shall not exempt any generation-skipping transfer from the amendments made by subtitle D of title XVI of such Act to the extent such transfer is attributable to property transferred by gift or by reason of the death of another person to the decedent (or trust) referred to in such subparagraph after August 3, 1990. 26 USC 2601 note.

(4) The amendments made by paragraphs (1) and (2) shall apply to transfers after March 31, 1988. 26 USC 2642 note.

(d) TREATMENT OF CERTAIN PARTNERSHIP INTEREST UNDER SECTION 1031.—

(1) IN GENERAL.—Paragraph (2) of section 1031(a) is amended by adding at the end thereof the following new sentence: "For purposes of this section, an interest in a partnership which has in effect a valid election under section 761(a) to be excluded from the application of all of subchapter K shall be treated as an interest in each of the assets of such partnership and not as an interest in a partnership."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to transfers after July 18, 1984. 26 USC 1031 note.

(e) TREATMENT OF CERTAIN SEPARATED EMPLOYEES.—

(1) IN GENERAL.—Paragraph (6) of section 79(d) is amended by striking "any retired employee" and inserting "any former employee".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to employees separating from service after the date of the enactment of this Act. 26 USC 79 note.

(f) TREATMENT OF CERTAIN MEDICAL CARE REIMBURSEMENTS UNDER WAGE WITHHOLDING.—

(1) IN GENERAL.—Subsection (a) of section 3401 is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting "; or", and by adding at the end thereof the following new paragraph:

"(20) for any medical care reimbursement made to or for the benefit of an employee under a self-insured medical reimbursement plan (within the meaning of section 105(h)(6))."

26 USC 3401 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply as if included in the amendments made by section 1151 of the Tax Reform Act of 1986 but shall not apply to any amount paid before the date of the enactment of this Act which the employer treated as wages for purposes of chapter 24 of the Internal Revenue Code of 1986 when paid.

(g) TREATMENT OF CERTAIN INTERESTS UNDER WINDFALL PROFIT TAX.—

(1) IN GENERAL.—Paragraph (1) of section 1879(o) of the Tax Reform Act of 1986 is amended by striking "held by" and inserting "held by the Protestant Episcopal Church Foundation of the Diocese of Oklahoma or held by".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in section 1879(o) of the Tax Reform Act of 1986.

SEC. 11704. MISCELLANEOUS CLERICAL CHANGES.

(a) GENERAL RULE.—

(1) Clause (ii) of section 56(g)(4)(D) is amended by striking "year" and inserting "years".

(2) The heading of subparagraph (B) of section 172(m)(4) is amended by striking "SUBSECTION (B)(2)" and inserting "SUBSECTION (b)(2)".

(3) Paragraph (2) of section 351(e) is amended by striking "are used" and inserting "is used".

(4) The heading of subparagraph (B) of section 413(c)(7) is amended by striking "ASSET" and inserting "ASSETS".

(5) Subparagraph (C) of section 461(i)(3) is amended to read as follows:

"(C) any tax shelter (as defined in section 6662(d)(2)(C)(ii))."

(6) Subparagraph (A) of section 469(m)(3) is amended by striking "preenactment" and inserting "pre-enactment".

(7) Subsection (c) of section 597 is amended by striking "The purposes of" and inserting "For purposes of".

(8) The last sentence of subsection (a) of section 860D is amended by inserting a closing parenthesis before the period at the end thereof.

(9) Subparagraph (A) of section 860G(a)(3) is amended by striking the comma after "secured".

(10) Subparagraph (B) of section 927(g)(2) is amended by striking "prescribed" and inserting "prescribe".

(11) Paragraph (1) of section 936(e) is amended by striking "subsection (a)(1)" each place it appears and inserting "subsection (a)(2)".

(12) Subparagraph (C) of section 1017(b)(4) is amended by striking "subparagraph" and inserting "subparagraphs".

(13) The material preceding subparagraph (A) of section 1245(a)(3) is amended by striking "or (3)" and inserting "or (3))".

(14) Paragraph (2) of section 1441(b) is amended by inserting "section" before "170(b)(1)(A)(ii)".

(15) Clause (ii) of section 2056A(b)(2)(B) is amended by striking "therefore" and inserting "therefor".

(16) The item relating to section 2056A in the table of sections for part IV of subchapter A of chapter 11 is amended by striking "trusts" and inserting "trust".

(17) Subclause (I) of section 2642(d)(2)(B)(i) is amended by striking "state" and inserting "State".

(18) The heading of chapter 23A is amended by striking "CHAPTER 23A. RAILROAD" and inserting "CHAPTER 23A—RAILROAD".

(19) Paragraphs (9) and (10) of section 3231(e) are redesignated as paragraphs (8) and (9), respectively.

(20) Subparagraph (D) of section 4093(c)(4) is amended by striking "reduced tax sale" and inserting "reduced-tax sale".

(21) Paragraph (3) of section 5061(b) is amended to read as follows:

"(3) section 5041(e),".

(22) Paragraph (3) of section 6013(e) is amended by striking "section 6661(b)(2)(A)" and inserting "section 6662(d)(2)(A)".

(23) Subsection (c) of section 6038A is amended by redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively.

(24) Paragraph (3) of section 6039D(d) is amended by striking all that follows "plan (and not" and inserting "the employer)."

(25) Paragraph (4) of section 6045(e) is amended by striking "broker" and inserting "reporting person".

(26) The heading for subsection (a) of section 6323 is amended by striking "PURCHASES" and inserting "PURCHASERS".

(27) Subsection (a) of section 6332 is amended by striking "subsections (b) and (c)" and inserting "this section".

(28) The last sentence of section 6655(g)(3) is amended by striking all that follows: "'11 months'" and inserting "in clause (i)(IV)."

(29) Paragraph (3) of section 7519(c) is amended by striking "payable on later of" and inserting "payable on the later of".

(30) The section 7521 added by section 6233 of the Technical and Miscellaneous Revenue Act of 1988 is redesignated as section 7522.

(31) The table of sections for chapter 77 is amended by striking the item added by such section 6233 and inserting the following:

"Sec. 7522. Content of tax due, deficiency, and other notices."

(32) Subparagraph (B) of section 7608(c)(1) is amended by striking the comma after "operations".

(33) Subparagraph (C) of section 7608(c)(5) is amended—

(A) by striking "interested" in clause (i)(I) and inserting "interest", and

(B) by striking "title 3" in clause (ii) and inserting "title 31".

(34) Subparagraph (C) of section 7701(j)(1) is amended by striking so much of such subparagraph as precedes "contributions to the Thrift" and inserting the following:

"(C) subject to section 401(k)(4)(B) and any dollar limitation on the application of section 402(a)(8),".

(35) Paragraph (1) of section 1012(t) of the Technical and Miscellaneous Revenue Act of 1988 is amended by inserting "(as amended by paragraph (2))" after "clause (ii)". 26 USC 892.

(36) Subparagraph (F) of section 1014(g)(4) of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "subparagraph" in clause (ii) and inserting "paragraph". 26 USC 892.

26 USC 857.

(37) Paragraph (28) of section 1018(u) of the Technical and Miscellaneous Revenue Act of 1988 is amended by inserting "net" before "capital loss" each place it appears.

26 USC 4091.

(38) Subparagraph (C) of section 2001(d)(6) of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "a gallon" and inserting "per gallon".

(39) Paragraph (3) of section 5033(a) of the Technical and Miscellaneous Revenue Act of 1988 is amended by striking "chapter 1" and inserting "chapter 11".

45 USC 231n note.

(40) Paragraph (2) of section 232(a) of the Railroad Retirement Revenue Act of 1983 is amended by striking "section 516(b)" each place it appears and inserting "section 7106(b)".

26 USC 56 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle H—Repeal of Expired or Obsolete Provisions

PART I—REPEAL OF EXPIRED OR OBSOLETE PROVISIONS

Subpart A—General Provisions

SEC. 11801. REPEAL OF EXPIRED OR OBSOLETE PROVISIONS.

(a) REPEALS.—The following provisions are hereby repealed:

(1) Section 23 (relating to residential energy credit).

(2) Paragraph [82] (1), (2), (3), and (4) of section 39(d) (relating to transitional rules).

(3) Subsection (f) of section 56 (relating to adjustments for book income of corporations).

(4) Subsection (h) of section 63 (relating to transitional rule for taxable years beginning in 1987).

(5) Subsection (i) of section 83 (relating to transitional rules).

(6) Section 110 (relating to income tax paid by lessee corporation).

(7) Section 113 (relating to mustering-out payments for members of the Armed Forces).

(8) Section 114 (relating to sports programs conducted for the American National Red Cross).

(9) Section 124 (relating to qualified transportation provided by employers).

(10) Section 128 (relating to interest on certain savings certificates).

(11) Subsection (i) of section 170 (relating to rule for nonitemization of deductions).

(12) Section 184 (relating to amortization of certain railroad rolling stock).

(13) Section 188 (relating to amortization of certain expenditures for child care facilities).

(14) Subsection (d) of section 190 (relating to application of section).

(15) Section 250 (relating to certain payments to the National Railroad Passenger Corporation).

(16) Subsection (b) of section 263 (relating to expenditures for advertising and good will).

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[82] So in original. Probably should be "Paragraphs".

(17) Subsection (e) of section 305 (relating to dividend reinvestment in stock of public utilities).

(18) Subsection (h) of section 306 (relating to stock received in transactions to which 1939 Code applies).

(19) Part IV of subchapter C of chapter 1 (relating to insolvency reorganizations).

(20) Section 422 (relating to qualified stock options).

(21) Section 424 (relating to restricted stock options).

(22) Subsection (d) of section 503 (relating to special rule for loans).

(23) Paragraph (14) of section 512(b) (relating to modifications applicable in computing unrelated business taxable income).

(24) Subsection (c) of section 545 (relating to special adjustment to taxable income).

(25) Paragraphs (2), (3), and (4) of section 582(c) (relating to bond, etc., losses and gains of financial institutions).

(26) Paragraph (2) of section 585(b) (relating to percentage method).

(27) Subsection (i) of section 617 (relating to certain pre-1970 exploration expenditures).

(28) Part II of subchapter I of chapter 1 (relating to payments to encourage exploration, etc., for defense purposes).

(29) Subparagraphs (C) and (D) of section 861(a)(1) (relating to source rule for interest).

(30) Subsection (k) of section 897 (relating to foreign corporations acquired before enactment).

(31) Subsection (e) of section 904 (relating to transitional rules for carrybacks and carryovers on the per-country limitation).

(32) Subsections (e) and (f)(3)(C) of section 907 (relating to transitional rules).

(33) Section 1039 (relating to certain sales of low-income housing projects).

(34) Part VIII of subchapter O of chapter 1 (relating to distributions pursuant to Bank Holding Company Act).

(35) Section 1238 (relating to amortization in excess of depreciation).

(36) Subsection (c) of section 1401 (relating to credit against self-employment taxes).

(37) Chapter 4 (relating to rules applicable to recovery of excessive profits on Government contracts).

(38) Section 1564 (relating to transitional rules in the case of certain controlled corporations).

(39) Subsection (b) of section 2010 (relating to phase-in of credit).

(40) Subsection (b) of section 2505 (relating to phase-in of credit).

(41) Paragraph (3) of section 3402(a) (relating to changes made by section 101 of the Economic Recovery Tax Act of 1981).

(42) Section 3510 (relating to credit for increased social security employee taxes and railroad retirement tier 1 employee taxes imposed during 1984).

(43) Paragraph (3) of section 6018(a) (relating to phase-in of filing requirement amount).

(44) Section 6158 (relating to installment payment of tax attributable to divestitures pursuant to Bank Holding Company Act Amendments of 1970).

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(45) Subchapter E of chapter 64 (relating to collection of State individual income taxes).

(46) Subsection (e) of section 6427 (relating to use in certain taxicabs).

(47) Section 6428 (relating to 1981 rate reduction tax credit).

(48) Chapter 37 (relating to excise tax on sugar).

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 23.

(2) The table of sections for part III of subchapter B of chapter 1 is amended by striking the items relating to sections 110, 113, 114, 124, and 128.

(3) The table of sections for part VI of subchapter B of chapter 1 is amended by striking the items relating to sections 184 and 188.

(4) The table of sections for part VIII of subchapter B of chapter 1 is amended by striking the item relating to section 250.

(5) The table of parts for subchapter C of chapter 1 is amended by striking the item relating to part IV.

(6) The table of sections for part II of subchapter D of chapter 1 is amended by striking the items relating to sections 422 and 424.

(7) The table of parts for subchapter I of chapter 1 is amended by striking the item relating to part II.

(8) The table of sections for part III of subchapter O of chapter 1 is amended by striking the item relating to section 1039.

(9) The table of parts for subchapter O of chapter 1 is amended by striking the item relating to part VIII.

(10) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the item relating to section 1238.

(11) The table of chapters for subtitle A is amended by striking the item relating to chapter 4.

(12) The table of sections for part II of subchapter B of chapter 6 is amended by striking the item relating to section 1564.

(13) The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6158.

(14) The table of subchapters for chapter 64 is amended by striking the item relating to subchapter E.

(15) The table of sections for subchapter B of chapter 65 is amended by striking the item relating to section 6428.

(16) The table of sections for chapter 25 is amended by striking the item relating to section 3510.

(17) The table of chapters for subtitle D is amended by striking the item relating to chapter 37.

(c) CONFORMING AMENDMENTS.—

(1) AMENDMENT RELATING TO REPEAL OF SECTION 23.—Subsection (a) of section 1016 is amended by striking paragraph (20) and by redesignating the following paragraphs accordingly.

(2) AMENDMENTS RELATING TO REPEAL OF SECTION 56(f).—

(A) Paragraph (1) of section 56(c) is amended to read as follows:

"(1) ADJUSTMENT FOR ADJUSTED CURRENT EARNINGS.—Alternative minimum taxable income shall be adjusted as provided in subsection (g)."

(B) Paragraphs (1) and (2) of section 59(g) are each amended by striking "beginning after 1989".

(C) Clause (iii) of section 56(g)(4)(C) is amended to read as follows:

"(iii) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(I) IN GENERAL.—For purposes of determining the alternative minimum foreign tax credit, 75 percent of any withholding or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(II) LIMITATION.—If the aggregate amount of the dividends referred to in subclause (I) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as tax paid to a foreign country under subclause (I) shall not exceed the amount which would be so treated without regard to this subclause multiplied by a fraction the numerator of which is the excess referred to in paragraph (1) and the denominator of which is the aggregate amount of such dividends.

"(III) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this clause, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(D) Paragraph (1) of section 59(a) is amended by inserting "and" at the end of subparagraph (B), by striking subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(E) Paragraph (2) of section 59A(b) is amended by striking "(and the last sentence of section 56(f)(2)(B))".

(3) AMENDMENT RELATING TO REPEAL OF SECTION 124.—Subsection (f) of section 125 is amended by striking "section 117, 124," and inserting "section 117,".

(4) AMENDMENT RELATING TO REPEAL OF SECTION 128.—Paragraph (2) of section 265(a) is amended by striking "subtitle" and all that follows down through the period at the end thereof and inserting "subtitle."

(5) AMENDMENT RELATING TO REPEAL OF SECTION 170(i).—Section 170 is amended by redesignating subsections (j), (k), (l), (m), and (n) as subsections (i), (j), (k), (l), and (m), respectively.

(6) AMENDMENTS RELATING TO REPEAL OF AMORTIZATION PROVISIONS.—

(A) Subsection (a) of section 48 is amended by striking paragraph (8).

(B) Subsection (f) of section 642 is amended by striking "sections 169, 184, 187, and 188" and inserting "section 169".

(C) Paragraph (2) of section 861(e) is amended by striking "referred to in subparagraph (B) of section 184(d)(1)" and inserting "all of whose stock is owned by one or more domestic common carriers by railroad".

(D) Subparagraph (B) of section 1082(a)(2) is amended by striking "169, 184, or 188" and inserting "169".

(E) Subparagraph (C) of section 1245(a)(3) is amended by striking "188," and inserting "188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990),".

(F) Paragraph (3) of section 1250(b) is amended by striking "188," and inserting "188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990),".

(7) AMENDMENTS RELATING TO REPEAL OF SECTION 305(e).—

(A) Paragraph (1) of section 305(d) is amended by striking "(other than subsection (e))".

(B) Subsection (f) of section 305 is redesignated as subsection (e).

(8) AMENDMENTS RELATED TO REPEAL OF SPECIAL TREATMENT OF INSOLVENCY REORGANIZATIONS.—

(A) Subsection (b) of section 47 is amended by inserting "or" at the end of paragraph (1), by striking out ", or" at the end of paragraph (2), and inserting a period, and by striking paragraph (3).

(B) Subparagraph (B) of section 168(i)(7) is amended by striking "371(a), 374(a),".

(C) Subparagraph (D) of section 247(b)(2) is amended by striking ", a transaction to which section 371 (relating to insolvency reorganization) applies,".

(D) Subsection (d) of section 354 is hereby repealed.

(E) Clause (i) of section 356(d)(2)(B) is amended by striking "or (d)".

(F)(i) Section 357 is amended by striking "351, 361, 371, or 374" each place it appears and inserting "351 or 361".

(ii) Paragraph (2) of section 357(c) is amended by inserting "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(G) Section 358 is amended—

(i) in subsection (a), by striking "361, 371(b), or 374" and inserting "or 361", and

(ii) by striking subsection (b)(3).

(H) Paragraph (3) of section 1245(b) is amended by striking "371(a), 374(a),".

(I) Paragraph (3) of section 1250(d) is amended by striking "371(a), 374(a),".

(9) AMENDMENTS RELATING TO REPEAL OF SECTIONS 422 AND 424.—

(A)(i) Section 422A is redesignated as section 422 and section 425 is redesignated as section 424.

(ii) The table of sections for part II of subchapter D of chapter 1 is amended by redesignating the items relating to sections 422A and 425 as items relating to sections 422 and 424, respectively.

(B) Section 421 is amended—

(i) in subsection (a)—

(I) by striking "422(a), 422A(a), 423(a), or 424(a)" and inserting "422(a) or 423(a)",

(II) by striking "except as provided in section 422(c)(1)," in paragraph (1), and

(III) by striking "425(a)" in paragraph (2) and inserting "424(a)";

(ii) in subsection (b)—

(I) by striking "422(a), 422A(a), 423(a), or 424(a)" and inserting "422(a) or 423(a)", and

(II) by striking "422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1)," and inserting "422(a)(1) or 423(a)(1),";

(iii) in subsection (c)—

(I) by striking "422(a), 422A(a), 423(a), and 424(a)" in paragraph (1)(A) and inserting "422(a) and 423(a)",

(II) by striking "sections 423(c) and 424(c)(1)" in paragraph (1)(B) and inserting "section 423(c)",

(III) by striking "422(c)(1), 423(c), or 424(c)(1)" each place it appears in paragraphs (2) and (3)(A) and inserting "423(c)",

(IV) by striking "sections 422(c)(1), 423(c), and 424(c)(1)" in paragraph (3)(B) and inserting "section 423(c)", and

(V) by striking "such sections" in paragraph (3)(B) and inserting "such section".

(C) Section 422 (as redesignated by subparagraph (A)) is amended—

(i) by striking "425(a)" in subsection (a)(2) and inserting "424(a)", and

(ii) by striking paragraph (5) of subsection (c) and by redesignating paragraphs (6), (7), and (8), of subsection (c) as paragraphs (5), (6), and (7), respectively.

(D) Subsection (a) of section 423 is amended—

(i) by striking "(other than a restricted stock option granted pursuant to a plan described in section 424(c)(3)(B))", and

(ii) by striking "425(a)" and inserting "424(a)".

(E) Subsection (b) of section 423 is amended by striking "425(d)" in paragraph (3) and inserting "424(d)".

(F) Section 424 (as redesignated by subparagraph (A)) is amended—

(i) by striking "425(a)" in subsection (a) and inserting "424(a)",

(ii) by striking "422(a)(1), 422A(a)(1), 423(a)(1), or 424(a)(1)" in subsection (c)(3)(A)(ii) and inserting "422(a)(1) or 423(a)(1)",

(iii) by striking "422(b)(7), 422A(b)(6), 423(b)(3), and 424(b)(3)" in subsection (d) and inserting "422(b)(6) and 423(b)(3)",

(iv) in subsection (g)—

(I) by striking "422(a)(2), 422A(a)(2), 423(a)(2), and 424(a)(2)" and inserting "422(a)(2) and 423(a)(2)", and

(II) by striking "425(a)" and inserting "424(a)", and

(v) in subsection (h)—

(I) by striking paragraph (2) and inserting the following:

"(2) SPECIAL RULE FOR SECTION 423 OPTIONS.—In the case of the transfer of stock pursuant to the exercise of an option to which section 423 applies and which has been so modified, extended, or renewed, the fair market value of such stock at the time of the granting of the option shall be considered as whichever of the following is the highest—

"(A) the fair market value of such stock on the date of the original granting of the option,

"(B) the fair market value of such stock on the date of the making of such modification, extension, or renewal, or

"(C) the fair market value of such stock at the time of the making of any intervening modification, extension, or renewal."

(II) by striking "sections 422(b)(6), 423(b)(9), and 424(b)(2)" in paragraph (3)(B) and inserting "section 423(b)(9)", and

(III) by striking the sentence following paragraph (3)(C).

(G) Paragraph (3) of section 56(b) is amended—

(i) by striking "section 422A" and inserting "section 422", and

(ii) by striking "section 422A(c)(2)" and inserting "section 422(c)(2)".

(H) Clause (ii) of section 1042(c)(2)(B) is amended by striking "section 83, 422, 422A, 423, or 424 applies" and inserting "section 83, 422, or 423 applied (or to which section 422 or 424 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) applied)".

(I)(i) Subparagraph (B) of section 402(a)(3) is amended by striking "section 425" and inserting "section 424".

(ii) Clause (i) of section 402(a)(6)(B) is amended by striking "section 425(f)" and inserting "section 424(f)".

(J) Section 6039 is amended—

(i) by striking paragraphs (1) and (2) of subsection (a) and inserting the following:

"(1) which in any calendar year transfers a share of stock pursuant to such person's exercise of an incentive stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock),",

(ii) by striking "a qualified stock option, incentive stock option, a restricted stock option, or an" in subsection (b)(1) and inserting "an incentive stock option or an", and

(iii) by amending subsection (c) to read as follows:

"(c) CROSS REFERENCES.—

"For definition of—

"(1) the term 'incentive stock option', see section 422(b), and

"(2) the term 'employee stock purchase plan' see section 423(b)."

(10) AMENDMENTS RELATING TO REPEAL OF SECTION 545(c).—

(A) Paragraph (15) of section 381(c) is hereby repealed.

(B) Section 545 is amended by redesignating subsection (d) as subsection (c).

(11) AMENDMENTS RELATING TO REPEAL OF PARAGRAPHS (2), (3), AND (4) OF SECTION 582(c).—Subsection (c) of section 582 is amended—

(A) by striking "paragraph (5)" in paragraph (1) and inserting "paragraph (2)", and

(B) by redesignating paragraph (5) as paragraph (2).

(12) AMENDMENTS RELATING TO REPEAL OF SECTION 585 (b) (2).—

(A) Paragraph (4) of section 57(a) is amended by striking "585 or".

(B) Subparagraph (A) of section 291(e)(1) is hereby repealed.

(C) Paragraph (1) of section 585(b) is amended by striking "shall not exceed" and all that follows down through the period at the end thereof and inserting "shall not exceed the addition to the reserve for losses on loans determined under the experience method as provided in paragraph (2)."

(D) Subsection (b) of section 585 is amended by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(E) Paragraph (3) of section 585(b) (as redesignated by subparagraph (A)) is amended to read as follows:

"(3) REGULATIONS; DEFINITION OF LOAN.—The Secretary shall define the term loan and prescribe such regulations as may be necessary to carry out the purposes of this section."

(F) Paragraphs (1) (A) and (E) of section 593(b) are each amended by striking "section 585(b)(3)" and inserting "section 585(b)(2)".

(13) AMENDMENT RELATING TO REPEAL OF SECTION 617 (i).—Section 617 is amended by redesignating subsection (j) as subsection (i).

(14) AMENDMENTS RELATING TO REPEAL OF SECTION 861 (a)(1) (C) AND (D).—Paragraph (1) of section 861(a) is amended by inserting "and" at the end of subparagraph (A) and by striking the comma at the end of subparagraph (B) and inserting a period.

(15) AMENDMENTS RELATING TO REPEAL OF SECTION 1039.—

(A) Paragraphs (1)(A)(i) and (2)(B)(ii) of section 1250(a) are each amended by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "section 1039(b)(1)(B)".

(B) Subsection (d) of section 1250 is amended by striking paragraph (8).

(C) Section 1250 is amended by striking subsection (g) and by redesignating subsections (h) and (i) as subsections (g) and (h), respectively.

(16) AMENDMENT RELATING TO REPEAL OF SECTION 1401(c).—Section 1401 is amended by redesignating subsection (d) as subsection (c).

(17) AMENDMENTS RELATING TO RENEGOTIATION PROVISIONS.—

(A) Section 6422 is amended by striking paragraph (6) and redesignating the succeeding paragraphs accordingly.

(B) Subparagraph (A) of section 6511(d)(2) is amended by striking "; except that" and all that follows down through

the period at the end of the first sentence and inserting a period.

(C) Section 6515 is amended by striking paragraph (2) and redesignating the succeeding paragraphs accordingly.

(18) AMENDMENT RELATING TO REPEAL OF SECTION 1564.—Paragraph (5) of section 535(c) is amended by striking "sections 1561 and 1564" and inserting "section 1561".

(19) AMENDMENTS RELATED TO REPEAL OF UNIFIED CREDIT PHASE-IN PROVISIONS.—

(A) Section 2010 is amended by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(B) Section 2505 is amended by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(C) Subsection (a) of section 6018 is amended by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(20) AMENDMENTS RELATED TO REPEAL OF SECTION 6158.—

(A) Section 6503 is amended by striking subsection (h) and redesignating subsections (i), (j), and (k) as subsections (h), (i), and (j), respectively.

(B) Paragraph (2) of section 6601(b) is amended—

(i) by striking "or 6158(a)" in the material preceding subparagraph (A),

(ii) by striking "or 6158(a), as the case may be" in subparagraph (A), and

(iii) by striking the last sentence.

(21) AMENDMENTS RELATING TO REPEAL OF SUBCHAPTER E OF CHAPTER 64.—

(A) Section 6405 is amended by striking subsection (d).

(B) Section 7463 is amended by striking subsection (f).

(22) AMENDMENTS RELATING TO REPEAL OF CHAPTER 37.—

(A) Subsection (b) of section 6302 is amended by striking "chapter 21" and all that follows down through "chapter 37," and inserting "chapter 21, 31, 32, or 33, or by section 4481".

(B)(i) Section 6418 is hereby repealed.

(ii) The table of sections for subchapter B of chapter 65 is amended by striking the item relating to section 6418.

(C) Subsection (e) of section 6511 is hereby repealed.

(D)(i) Section 7240 is hereby repealed.

(ii) The table of sections for part II of subchapter A of chapter 75 is amended by striking the item relating to section 7240.

(E)(i) Subsection (a) of section 7655 is amended by striking the semicolon at the end of paragraph (2) and inserting a period and by striking paragraph (3).

(ii) Subsection (b) of section 7655 is amended by striking the semicolon at the end of paragraph (2) and inserting a period and by striking paragraph (3).

(23) AMENDMENTS RELATED TO REPEAL OF SECTION 6427(e).—

(A) Paragraph (1) of section 6427(i) is amended by striking "(e),".

(B) Subparagraph (A) of section 6427(i)(2) is amended to read as follows:

"(A) IN GENERAL.—If $1,000 or more is payable under subsections (a), (b), (d), (g), (h), and (q) to any person with respect to fuel used (or a qualified diesel powered highway

vehicle purchased) during any of the first 3 quarters of his taxable year, a claim may be filed under this section with respect to fuel used (or a qualified diesel powered highway vehicle purchased), during such quarter."

(C) Paragraph (2) of section 6427(i) is amended by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

SEC. 11802. MISCELLANEOUS PROVISIONS.

(a) REPEAL OF SECTION 72(t)(2)(C).—Subsection (t) of section 72 is amended—

(1) by striking subparagraph (C) of paragraph (2),

(2) by redesignating subparagraph (D) of paragraph (2) as subparagraph (C), and

(3) by striking "(C), and (D)" in paragraph (3)(A) and inserting "and (C)".

(b) REPEAL OF OBSOLETE PROVISIONS IN SECTION 274.—

(1) Paragraph (2) of section 274(l) is amended to read as follows:

"(2) SKYBOXES, ETC.—In the case of a skybox or other private luxury box leased for more than 1 event, the amount allowable as a deduction under this chapter with respect to such events shall not exceed the sum of the face value of non-luxury box seat tickets for the seats in such box covered by the lease. For purposes of the preceding sentence, 2 or more related leases shall be treated as 1 lease."

(2) Subsection (n) of section 274 is amended—

(A) in paragraph (2)—

(i) by striking subparagraph (D) and redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively,

(ii) by striking "described in subparagraph (E)" and inserting "described in subparagraph (D)", and

(iii) by striking "of subparagraph (F)" and inserting "of subparagraph (E)", and

(B) by striking paragraph (3).

(c) REPEAL OF SECTION 468(a)(2)(B)(ii).—Subparagraph (B) of section 468(a)(2) is amended to read as follows:

"(B) INCREASE FOR INTEREST.—A reserve shall be increased each taxable year by an amount equal to the amount of interest which would have been earned during such taxable year on the opening balance of such reserve for such taxable year if such interest were computed—

"(i) at the Federal short-term rate or rates (determined under section 1274) in effect, and

"(ii) by compounding semiannually."

(d) REPEAL OF OBSOLETE PROVISIONS IN SECTION 556(b)(1).—

(1) Paragraph (1) of section 556(b) is amended by striking the last 2 sentences.

(2) The amendment made by paragraph (1) shall not apply to any corporation with respect to which an election under the second sentence of section 556(b)(1) of the Internal Revenue Code of 1986 (as in effect before the amendment made by paragraph (1)) is in effect unless such corporation elects to have such amendment apply and agrees to such adjustments as the Secretary of the Treasury or his delegate may require. 26 USC 556 note.

(e) ELIMINATION OF UNNECESSARY SECTION RELATING TO JURY DUTY PAY REMITTED TO EMPLOYER.—

(1) Paragraph (13) of section 62(a) is amended to read as follows:

"(13) JURY DUTY PAY REMITTED TO EMPLOYER.—Any deduction allowable under this chapter by reason of an individual remitting any portion of any jury pay to such individual's employer in exchange for payment by the employer of compensation for the period such individual was performing jury duty. For purposes of the preceding sentence, the term 'jury pay' means any payment received by the individual for the discharge of jury duty."

(2) Part VII of subchapter B of chapter 1 is amended by striking out section 220 and redesignating section 221 as section 220.

(3) The table of sections for part VII of subchapter B of chapter 1 is amended by striking the items relating to sections 220 and 221 and inserting in lieu thereof the following:

"Sec. 220. Cross reference."

(f) OTHER PROVISIONS.—

(1) Section 541 is amended by striking "(38.5 percent in the case of taxable years beginning in 1987)".

(2) Subsection (e) of section 665 is amended to read as follows:

"(e) PRECEDING TAXABLE YEAR.—For purposes of this subpart—

"(1) In the case of a foreign trust created by a United States person, the term 'preceding taxable year' does not include any taxable year of the trust to which this part does not apply.

"(2) In the case of a preceding taxable year with respect to which a trust qualified, without regard to this subpart, under the provisions of subpart B, for purposes of the application of this subpart to such trust for such taxable year, such trust shall, in accordance with regulations prescribed by the Secretary, be treated as a trust to which subpart C applies."

(3) Subsection (c) of section 668 is amended to read as follows:

"(c) INTEREST CHARGE NOT DEDUCTIBLE.—The interest charge determined under this section shall not be allowed as a deduction for purposes of any tax imposed by this title."

(4) Paragraph (1) of section 1503(c) is amended by striking the last 2 sentences thereof.

(5) Paragraph (2) of section 2032A(a) is amended to read as follows:

"(2) LIMITATION ON AGGREGATE REDUCTION IN FAIR MARKET VALUE.—The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed $750,000."

Subpart B—Modifications to Specific Provisions

SEC. 11811. ELIMINATION OF EXPIRED PROVISIONS IN SECTION 172.

(a) GENERAL RULE.—Subsection (b) of section 172 is amended to read as follows:

"(b) NET OPERATING LOSS CARRYBACKS AND CARRYOVERS.—

"(1) YEARS TO WHICH LOSS MAY BE CARRIED.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, a net operating loss for any taxable year—

"(i) shall be a net operating loss carryback to each of the 3 taxable years preceding the taxable year of such loss, and

"(ii) shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss.

"(B) SPECIAL RULES FOR REIT'S.—

"(i) IN GENERAL.—A net operating loss for a REIT year shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss.

"(ii) SPECIAL RULE.—In the case of any net operating loss for a taxable year which is not a REIT year, such loss shall not be carried back to any taxable year which is a REIT year.

"(iii) REIT YEAR.—For purposes of this subparagraph, the term 'REIT year' means any taxable year for which the provisions of part II of subchapter M (relating to real estate investment trusts) apply to the taxpayer.

"(C) SPECIFIED LIABILITY LOSSES.—In the case of a taxpayer which has a specified liability loss (as defined in subsection (f)) for a taxable year, such specified liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of such loss.

"(D) BAD DEBT LOSSES OF COMMERCIAL BANKS.—In the case of any bank (as defined in section 585(a)(2)), the portion of the net operating loss for any taxable year beginning after December 31, 1986, and before January 1, 1994, which is attributable to the deduction allowed under section 166(a) shall be a net operating loss carryback to each of the 10 taxable years preceding the taxable year of the loss and a net operating loss carryover to each of the 5 taxable years following the taxable year of such loss.

"(E) EXCESS INTEREST LOSS.—

"(i) IN GENERAL.—If—

"(I) there is a corporate equity reduction transaction, and

"(II) an applicable corporation has a corporate equity reduction interest loss for any loss limitation year ending after August 2, 1989,

then the corporate equity reduction interest loss shall be a net operating loss carryback and carryover to the taxable years described in subparagraph (A), except that such loss shall not be carried back to a taxable year preceding the taxable year in which the corporate equity reduction transaction occurs.

"(ii) LOSS LIMITATION YEAR.—For purposes of clause (i) and subsection (m), the term 'loss limitation year' means, with respect to any corporate equity reduction transaction, the taxable year in which such transaction occurs and each of the 2 succeeding taxable years.

"(iii) APPLICABLE CORPORATION.—For purposes of clause (i), the term 'applicable corporation' means—

"(I) a C corporation which acquires stock, or the stock of which is acquired in a major stock acquisition,

"(II) a C corporation making distributions with respect to, or redeeming, its stock in connection with an excess distribution, or

"(III) a C corporation which is a successor of a corporation described in subclause (I) or (II).

"(iv) OTHER DEFINITIONS.—

"For definitions of terms used in this subparagraph, see subsection (h).

"(2) AMOUNT OF CARRYBACKS AND CARRYOVERS.—The entire amount of the net operating loss for any taxable year (hereinafter in this section referred to as the 'loss year') shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried. For purposes of the preceding sentence, the taxable income for any such prior taxable year shall be computed—

"(A) with the modifications specified in subsection (d) other than paragraphs (1), (4), and (5) thereof, and

"(B) by determining the amount of the net operating loss deduction without regard to the net operating loss for the loss year or for any taxable year thereafter,

and the taxable income so computed shall not be considered to be less than zero.

"(3) ELECTION TO WAIVE CARRYBACK.—Any taxpayer entitled to a carryback period under paragraph (1) may elect to relinquish the entire carryback period with respect to a net operating loss for any taxable year. Such election shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss for which the election is to be in effect. Such election, once made for any taxable year, shall be irrevocable for such taxable year."

(b) CONFORMING AMENDMENTS.—

(1) Section 172 is amended by striking subsections (g), (h), (i), and (k), and by redesignating subsections (j), (l), (m), and (n) as subsections (f), (g), (h), and (i), respectively.

(2)(A) Subsection (f) of section 172 (as redesignated by paragraph (1)) is amended to read as follows:

"(f) RULES RELATING TO SPECIFIED LIABILITY LOSS.—For purposes of this section—

"(1) IN GENERAL.—The term 'specified liability loss' means the sum of the following amounts to the extent taken into account in computing the net operating loss for the taxable year:

"(A) Any amount allowable as a deduction under section 162 or 165 which is attributable to—

"(i) product liability, or

"(ii) expenses incurred in the investigation or settlement of, or opposition to, claims against the taxpayer on account of product liability.

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter with respect to a liability which arises under a Federal or State law or out of any tort of the taxpayer if—

"(i) in the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year, or

"(ii) in the case of a liability arising out of a tort, such liability arises out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurs at least 3 years before the beginning of the taxable year.

A liability shall not be taken into account under subparagraph (B) unless the taxpayer used an accrual method of accounting throughout the period or periods during which the acts or failures to act giving rise to such liability occurred.

"(2) LIMITATION.—The amount of the specified liability loss for any taxable year shall not exceed the amount of the net operating loss for such taxable year.

"(3) SPECIAL RULE FOR NUCLEAR POWERPLANTS.—Except as provided in regulations prescribed by the Secretary, that portion of a specified liability loss which is attributable to amounts incurred in the decommissioning of a nuclear powerplant (or any unit thereof) may, for purposes of subsection (b)(1)(C), be carried back to each of the taxable years during the period—

"(A) beginning with the taxable year in which such plant (or unit thereof) was placed in service, and

"(B) ending with the taxable year preceding the loss year.

"(4) PRODUCT LIABILITY.—The term 'product liability' means—

"(A) liability of the taxpayer for damages on account of physical injury or emotional harm to individuals, or damage to or loss of the use of property, on account of any defect in any product which is manufactured, leased, or sold by the taxpayer, but only if

"(B) such injury, harm, or damage arises after the taxpayer has completed or terminated operations with respect to, and has relinquished possession of, such product.

"(5) COORDINATION WITH SUBSECTION (b)(2).—For purposes of applying subsection (b)(2), a specified liability loss for any taxable year shall be treated as a separate net operating loss for such taxable year to be taken into account after the remaining portion of the net operating loss for such taxable year.

"(6) ELECTION.—Any taxpayer entitled to a 10-year carryback under subsection (b)(1)(C) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(C). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer's return for the taxable year of the net operating loss. Such election, once made for any taxable year, shall be irrevocable for that taxable year."

(B) The portion of any loss which is attributable to a deferred statutory or tort liability loss (as defined in section 172(k) of the Internal Revenue Code of 1986 as in effect on the day before the date of the enactment of this Act) may not be carried back to any taxable year beginning before January 1, 1984, by reason of the amendment made by subparagraph (A). 26 USC 172 note.

(3) Paragraph (2) of section 172(g) (as redesignated by paragraph (1)) is amended to read as follows:

"(2) COORDINATION WITH SUBSECTION (b)(2).—For purposes of subsection (b)(2), the portion of a net operating loss for any taxable year which is attributable to the deduction allowed under section 166(a) shall be treated in a manner similar to the manner in which a specified liability loss is treated."

(4) Subparagraph (B) of section 172(h)(4) (as redesignated by paragraph (1)) is amended to read as follows:

"(B) COORDINATION WITH SUBSECTION (b)(2).—For purposes of subsection (b)(2)

"(i) a corporate equity reduction interest loss shall be treated in a manner similar to the manner in which a specified liability loss is treated, and

"(ii) in determining the net operating loss deduction for any prior taxable year referred to in the 3rd sentence of subsection (b)(2), the portion of any net operating loss which may not be carried to such taxable year under subsection (b)(1)(E) shall not be taken into account."

26 USC 172 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to net operating losses for taxable years beginning after December 31, 1990.

SEC. 11812. ELIMINATION OF OBSOLETE PROVISIONS IN SECTION 167.

(a) GENERAL RULE.—Section 167 is amended—

(1) by striking subsections (b), (c), (d), (e), (f), (j), (k), (l), (m), (p), and (q) and by redesignating subsections (g), (h), (r), and (s) as subsections (c), (d), (e), and (f), respectively, and

(2) by inserting after subsection (a) the following new subsection:

"(b) CROSS REFERENCE.—

"For determination of depreciation deduction in case of property to which section 168 applies, see section 168."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 167 (as redesignated by subsection (a)) is amended by striking "(h)" each place it appears in paragraphs (3)(B) and (4)(B) and inserting "(d)".

(2)(A) Subparagraph (A) of section 168(e)(2) is amended to read as follows:

"(A) RESIDENTIAL RENTAL PROPERTY.—

"(i) RESIDENTIAL RENTAL PROPERTY.—The term 'residential rental property' means any building or structure if 80 percent or more of the gross rental income from such building or structure for the taxable year is rental income from dwelling units.

"(ii) DEFINITIONS.—For purposes of clause (i)—

"(I) the term 'dwelling unit' means a house or apartment used to provide living accommodations in a building or structure, but does not include a unit in a hotel, motel, or other establishment more than one-half of the units in which are used on a transient basis, and

"(II) if any portion of the building or structure is occupied by the taxpayer, the gross rental income from such building or structure shall include the rental value of the portion so occupied."

(B) Paragraph (10) of section 168(i) is amended to read as follows:

"(10) PUBLIC UTILITY PROPERTY.—The term 'public utility property' means property used predominantly in the trade or business of the furnishing or sale of—

"(A) electrical energy, water, or sewage disposal services,

"(B) gas or steam through a local distribution system,

"(C) telephone services, or other communication services if furnished or sold by the Communications Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701), or

"(D) transportation of gas or steam by pipeline,

if the rates for such furnishing or sale, as the case may be, have been established or approved by a State or political subdivision thereof, by any agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof."

(C) Paragraph (2) of section 168(f) is amended by striking "section 167(l)(3)(A)" and inserting "subsection (i)(10)".

(D) Paragraph (1) of section 168(i) is amended by adding at the end thereof the following new sentence: "The reference in this paragraph to subsection (m) of section 167 shall be treated as a reference to such subsection as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990."

(E) Clause (ii) of section 168(i)(9)(A) is amended by striking "(determined without regard to section 167(l))".

(3) Sections 42(d)(2)(D)(i)(I) and 42(d)(5)(B) are each amended by striking "section 167(k)" and inserting "section 167(k) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(4) Subparagraph (D) of section 56(a)(1) is amended by striking "section 167(l)(3)(A)" and inserting "section 168(i)(10)".

(5) Paragraph (2) of section 312(k) is amended to read as follows:

"(2) EXCEPTION.—If for any taxable year a method of depreciation was used by the taxpayer which the Secretary has determined results in a reasonable allowance under section 167(a) and which is the unit-of-production method or other method not expressed in a term of years, then the adjustment to earnings and profits for depreciation for such year shall be determined under the method so used (in lieu of the straight line method)."

(6)(A) Paragraph (6) of section 381(c) is amended by striking "subsections (b), (j), and (k) of section 167" and inserting "sections 167 and 168".

(B) Subsection (c) of section 381 is amended by striking paragraph (24) and redesignating paragraphs (25) and (26) as paragraphs (24) and (25), respectively.

(7) Subparagraph (C) of section 404(a)(1) is amended by striking "section 167(l)(3)(A)(iii)" and inserting "section 168(i)(10)(C)".

(8) Clause (i) of section 460(e)(6)(A) is amended by striking "section 167(k)" and inserting "section 168(e)(2)(A)(ii)".

(9) Subsection (e) of section 642 is amended by striking "167(h)" and inserting "167(d)".

(10) Paragraph (2) of section 1016(a) is amended by striking "under section 167(b)(1)" and inserting "under the straight line method".

(11) Subsection (a) of section 1250 is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE.—For purposes of this subsection, any reference to section 167(k) or 167(j)(2)(B) shall be treated as a reference to such section as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990."

(12) Paragraph (4) of section 1250(b) is amended by striking "167(k)" each place it appears and inserting "167(k) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(13) Subparagraph (B) of section 7701(e)(5) is amended by inserting before the period at the end thereof the following: "(as in effect on the day before the date of the enactment of the Revenue Reconcilation Act of 1990)".

26 USC 42 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after the date of the enactment of this Act.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property to which section 168 of the Internal Revenue Code of 1986 does not apply by reason of subsection (f)(5) thereof.

(3) EXCEPTION FOR PREVIOUSLY GRANDFATHER EXPENDITURES.—The amendments made by this section shall not apply to rehabilitation expenditures described in section 252(f)(5) of the Tax Reform Act of 1986 (as added by section 1002(l)(31) of the Technical and Miscellaneous Revenue Act of 1988).

SEC. 11813. ELIMINATION OF EXPIRED OR OBSOLETE INVESTMENT TAX CREDIT PROVISIONS.

(a) GENERAL RULE.—Subpart E of part IV of subchapter A of chapter 1 is amended to read as follows:

"Subpart E—Rules for Computing Investment Credit

"Sec. 46. Amount of credit.
"Sec. 47. Rehabilitation credit.
"Sec. 48. Energy credit; reforestation credit.
"Sec. 49. At-risk rules.
"Sec. 50. Other special rules.

"SEC. 46. AMOUNT OF CREDIT.

[83] For purposes of section 38, the amount of the investment credit determined under this section for any taxable year shall be the sum of—

"(1) the rehabilitation credit,
"(2) the energy credit, and
"(3) the reforestation credit.

"SEC. 47. REHABILITATION CREDIT.

"(a) GENERAL RULE.—For purposes of section 46, the rehabilitation credit for any taxable year is the sum of—

"(1) 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure, and

"(2) 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.

[83] So in original. Probably should be " "For".

"(b) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—

"(1) IN GENERAL.—Qualified rehabilitation expenditures with respect to any qualified rehabilitated building shall be taken into account for the taxable year in which such qualified rehabilitated building is placed in service.

"(2) COORDINATION WITH SUBSECTION (d).—The amount which would (but for this paragraph) be taken into account under paragraph (1) with respect to any qualified rehabilitated building shall be reduced (but not below zero) by any amount of qualified rehabilitation expenditures taken into account under subsection (d) by the taxpayer or a predecessor of the taxpayer (or, in the case of a sale and leaseback described in section 50(a)(2)(C), by the lessee), to the extent any amount so taken into account has not been required to be recaptured under section 50(a).

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED REHABILITATED BUILDING.—

"(A) IN GENERAL.—The term 'qualified rehabilitated building' means any building (and its structural components) if—

"(i) such building has been substantially rehabilitated,

"(ii) such building was placed in service before the beginning of the rehabilitation,

"(iii) in the case of any building other than a certified historic structure, in the rehabilitation process—

"(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

"(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

"(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

"(iv) depreciation (or amortization in lieu of depreciation) is allowable with respect to such building.

"(B) BUILDING MUST BE FIRST PLACED IN SERVICE BEFORE 1936.—In the case of a building other than a certified historic structure, a building shall not be a qualified rehabilitated building unless the building was first placed in service before 1936.

"(C) SUBSTANTIALLY REHABILITATED DEFINED.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(i), a building shall be treated as having been substantially rehabilitated only if the qualified rehabilitation expenditures during the 24-month period selected by the taxpayer (at the time and in the manner prescribed by regulation) and ending with or within the taxable year exceed the greater of—

"(I) the adjusted basis of such building (and its structural components), or

"(II) $5,000.

The adjusted basis of the building (and its structural components) shall be determined as of the beginning of the 1st day of such 24-month period, or of the holding period of the building, whichever is later. For purposes

of the preceding sentence, the determination of the beginning of the holding period shall be made without regard to any reconstruction by the taxpayer in connection with the rehabilitation.

"(ii) SPECIAL RULE FOR PHASED REHABILITATION.—In the case of any rehabilitation which may reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins, clause (i) shall be applied by substituting '60-month period' for '24-month period'.

"(iii) LESSEES.—The Secretary shall prescribe by regulation rules for applying this subparagraph to lessees.

"(D) RECONSTRUCTION.—Rehabilitation includes reconstruction.

"(2) QUALIFIED REHABILITATION EXPENDITURE DEFINED.—

"(A) IN GENERAL.—The term 'qualified rehabilitation expenditure' means any amount properly chargeable to capital account—

"(i) for property for which depreciation is allowable under section 168 and which is—

"(I) nonresidential real property,

"(II) residential rental property,

"(III) real property which has a class life of more than 12.5 years, or

"(IV) an addition or improvement to property described in subclause (I), (II), or (III), and

"(ii) in connection with the rehabilitation of a qualified rehabilitated building.

"(B) CERTAIN EXPENDITURES NOT INCLUDED.—The term 'qualified rehabilitation expenditure' does not include—

"(i) STRAIGHT LINE DEPRECIATION MUST BE USED.—Any expenditure with respect to which the taxpayer does not use the straight line method over a recovery period determined under subsection (c) or (g) of section 168. The preceding sentence shall not apply to any expenditure to the extent the alternative depreciation system of section 168(g) applies to such expenditure by reason of subparagraph (B) or (C) of section 168(g)(1).

"(ii) COST OF ACQUISITION.—The cost of acquiring any building or interest therein.

"(iii) ENLARGEMENTS.—Any expenditure attributable to the enlargement of an existing building.

"(iv) CERTIFIED HISTORIC STRUCTURE, ETC.—Any expenditure attributable to the rehabilitation of a certified historic structure or a building in a registered historic district, unless the rehabilitation is a certified rehabilitation (within the meaning of subparagraph (C)). The preceding sentence shall not apply to a building in a registered historic district if—

"(I) such building was not a certified historic structure,

"(II) the Secretary of the Interior certified to the Secretary that such building is not of historic significance to the district, and

"(III) if the certification referred to in subclause (II) occurs after the beginning of the rehabilitation

of such building, the taxpayer certifies to the Secretary that, at the beginning of such rehabilitation, he in good faith was not aware of the requirements of subclause (II).

"(v) TAX-EXEMPT USE PROPERTY.—

"(I) IN GENERAL.—Any expenditure in connection with the rehabilitation of a building which is allocable to the portion of such property which is (or may reasonably be expected to be) tax-exempt use property (within the meaning of section 168(h)).

"(II) CLAUSE NOT TO APPLY FOR PURPOSES OF PARAGRAPH (1)(C).—This clause shall not apply for purposes of determining under paragraph (1)(C) whether a building has been substantially rehabilitated.

"(vi) EXPENDITURES OF LESSEE.—Any expenditure of a lessee of a building if, on the date the rehabilitation is completed, the remaining term of the lease (determined without regard to any renewal periods) is less than the recovery period determined under section 168(c).

"(C) CERTIFIED REHABILITATION.—For purposes of subparagraph (B), the term 'certified rehabilitation' means any rehabilitation of a certified historic structure which the Secretary of the Interior has certified to the Secretary as being consistent with the historic character of such property or the district in which such property is located.

"(D) NONRESIDENTIAL REAL PROPERTY; RESIDENTIAL RENTAL PROPERTY; CLASS LIFE.—For purposes of subparagraph (A), the terms 'nonresidential real property,' 'residential rental property,' and 'class life' have the respective meanings given such terms by section 168.

"(3) CERTIFIED HISTORIC STRUCTURE DEFINED.—

"(A) IN GENERAL.—The term 'certified historic structure' means any building (and its structural components) which—

"(i) is listed in the National Register, or

"(ii) is located in a registered historic district and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

"(B) REGISTERED HISTORIC DISTRICT.—The term 'registered historic district' means—

"(i) any district listed in the National Register, and

"(ii) any district—

"(I) which is designated under a statute of the appropriate State or local government, if such statute is certified by the Secretary of the Interior to the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district, and

"(II) which is certified by the Secretary of the Interior to the Secretary as meeting substantially all of the requirements for the listing of districts in the National Register.

"(d) PROGRESS EXPENDITURES.—

"(1) IN GENERAL.—In the case of any building to which this subsection applies, except as provided in paragraph (3)—

"(A) if such building is self-rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year for which such expenditure is properly chargeable to capital account with respect to such building, and

"(B) if such building is not self-rehabilitated property, any qualified rehabilitation expenditure with respect to such building shall be taken into account for the taxable year in which paid.

"(2) PROPERTY TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—This subsection shall apply to any building which is being rehabilitated by or for the taxpayer if—

"(i) the normal rehabilitation period for such building is 2 years or more, and

"(ii) it is reasonable to expect that such building will be a qualified rehabilitated building in the hands of the taxpayer when it is placed in service.

Clauses (i) and (ii) shall be applied on the basis of facts known as of the close of the taxable year of the taxpayer in which the rehabilitation begins (or, if later, at the close of the first taxable year to which an election under this subsection applies).

"(B) NORMAL REHABILITATION PERIOD.—For purposes of subparagraph (A), the term 'normal rehabilitation period' means the period reasonably expected to be required for the rehabilitation of the building—

"(i) beginning with the date on which physical work on the rehabilitation begins (or, if later, the first day of the first taxable year to which an election under this subsection applies), and

"(ii) ending on the date on which it is expected that the property will be available for placing in service.

"(3) SPECIAL RULES FOR APPLYING PARAGRAPH (1).—For purposes of paragraph (1)—

"(A) COMPONENT PARTS, ETC.—Property which is to be a component part of, or is otherwise to be included in, any building to which this subsection applies shall be taken into account—

"(i) at a time not earlier than the time at which it becomes irrevocably devoted to use in the building, and

"(ii) as if (at the time referred to in clause (i)) the taxpayer had expended an amount equal to that portion of the cost to the taxpayer of such component or other property which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such building.

"(B) CERTAIN BORROWING DISREGARDED.—Any amount borrowed directly or indirectly by the taxpayer from the person rehabilitating the property for him shall not be treated as an amount expended for such rehabilitation.

"(C) LIMITATION FOR BUILDINGS WHICH ARE NOT SELF-REHABILITATED.—

"(i) IN GENERAL.—In the case of a building which is not self-rehabilitated, the amount taken into account under paragraph (1)(B) for any taxable year shall not exceed the amount which represents the portion of the

overall cost to the taxpayer of the rehabilitation which is properly attributable to the portion of the rehabilitation which is completed during such taxable year.

"(ii) CARRY-OVER OF CERTAIN AMOUNTS.—In the case of a building which is not a self-rehabilitated building, if for the taxable year—

"(I) the amount which (but for clause (i)) would have been taken into account under paragraph (1)(B) exceeds the limitation of clause (i), then the amount of such excess shall be taken into account under paragraph (1)(B) for the succeeding taxable year, or

"(II) the limitation of clause (i) exceeds the amount taken into account under paragraph (1)(B), then the amount of such excess shall increase the limitation of clause (i) for the succeeding taxable year.

"(D) DETERMINATION OF PERCENTAGE OF COMPLETION.—The determination under subparagraph (C)(i) of the portion of the overall cost to the taxpayer of the rehabilitation which is properly attributable to rehabilitation completed during any taxable year shall be made, under regulations prescribed by the Secretary, on the basis of engineering or architectural estimates or on the basis of cost accounting records. Unless the taxpayer establishes otherwise by clear and convincing evidence, the rehabilitation shall be deemed to be completed not more rapidly than ratably over the normal rehabilitation period.

"(E) NO PROGRESS EXPENDITURES FOR CERTAIN PRIOR PERIODS.—No qualified rehabilitation expenditures shall be taken into account under this subsection for any period before the first day of the first taxable year to which an election under this subsection applies.

"(F) NO PROGRESS EXPENDITURES FOR PROPERTY FOR YEAR IT IS PLACED IN SERVICE, ETC.—In the case of any building, no qualified rehabilitation expenditures shall be taken into account under this subsection for the earlier of—

"(i) the taxable year in which the building is placed in service, or

"(ii) the first taxable year for which recapture is required under section 50(a)(2) with respect to such property,

or for any taxable year thereafter.

"(4) SELF-REHABILITATED BUILDING.—For purposes of this subsection, the term 'self-rehabilitated building' means any building if it is reasonable to believe that more than half of the qualified rehabilitation expenditures for such building will be made directly by the taxpayer.

"(5) ELECTION.—This subsection shall apply to any taxpayer only if such taxpayer has made an election under this paragraph. Such an election shall apply to the taxable year for which made and all subsequent taxable years. Such an election, once made, may be revoked only with the consent of the Secretary.

"SEC. 48. ENERGY CREDIT; REFORESTATION CREDIT.

"(a) ENERGY CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the energy credit for any taxable year is the energy percentage of the basis of each energy property placed in service during such taxable year.

"(2) ENERGY PERCENTAGE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the energy percentage is 10 percent.

"(B) TERMINATION.—Effective with respect to periods after December 31, 1991, the energy percentage is zero. For purposes of the preceding sentence, rules similar to the rules of section 48(m) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply.

"(C) COORDINATION WITH REHABILITATION CREDIT.—The energy percentage shall not apply to that portion of the basis of any property which is attributable to qualified rehabilitation expenditures.

"(3) ENERGY PROPERTY.—For purposes of this subpart, the term 'energy property' means any property—

"(A) which is—

"(i) equipment which uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat, or

"(ii) equipment used to produce, distribute, or use energy derived from a geothermal deposit (within the meaning of section 613(e)(2)), but only, in the case of electricity generated by geothermal power, up to (but not including) the electrical transmission stage,

"(B)(i) the construction, reconstruction, or erection of which is completed by the taxpayer, or

"(ii) which is acquired by the taxpayer if the original use of such property commences with the taxpayer,

"(C) with respect to which depreciation (or amortization in lieu of depreciation) is allowable, and

"(D) which meets the performance and quality standards (if any) which—

"(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and

"(ii) are in effect at the time of the acquisition of the property.

The term 'energy property' shall not include any property which is public utility property (as defined in section 46(f)(5) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

"(4) SPECIAL RULE FOR PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING OR INDUSTRIAL DEVELOPMENT BONDS.—

"(A) REDUCTION OF BASIS.—For purposes of applying the energy percentage to any property, if such property is financed in whole or in part by—

"(i) subsidized energy financing, or

"(ii) the proceeds of a private activity bond (within the meaning of section 141) the interest on which is exempt from tax under section 103,

the amount taken into account as the basis of such property shall not exceed the amount which (but for this subpara-

graph) would be so taken into account multiplied by the fraction determined under subparagraph (B).

"(B) DETERMINATION OF FRACTION.—For purposes of subparagraph (A), the fraction determined under this subparagraph is 1 reduced by a fraction—

"(i) the numerator of which is that portion of the basis of the property which is allocable to such financing or proceeds, and

"(ii) the denominator of which is the basis of the property.

"(C) SUBSIDIZED ENERGY FINANCING.—For purposes of subparagraph (A), the term 'subsidized energy financing' means financing provided under a Federal, State, or local program a principal purpose of which is to provide subsidized financing for projects designed to conserve or produce energy.

"(5) CERTAIN PROGRESS EXPENDITURE RULES MADE APPLICABLE.—Rules similar to the rules of subsections (c)(4) and (d) of section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.

"(b) REFORESTATION CREDIT.—

"(1) IN GENERAL.—For purposes of section 46, the reforestation credit for any taxable year is 10 percent of the portion of the amortizable basis of any qualified timber property which was acquired during such taxable year and which is taken into account under section 194 (after the application of section 194(b)(1)).

"(2) DEFINITIONS.—For purposes of this subpart, the terms 'amortizable basis' and 'qualified timber property' have the respective meanings given to such terms by section 194.

"SEC. 49. AT-RISK RULES.

"(a) GENERAL RULE.—

"(1) CERTAIN NONRECOURSE FINANCING EXCLUDED FROM CREDIT BASE.—

"(A) LIMITATION.—The credit base of any property to which this paragraph applies shall be reduced by the nonqualified nonrecourse financing with respect to such credit base (as of the close of the taxable year in which placed in service).

"(B) PROPERTY TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any property which—

"(i) is placed in service during the taxable year by a taxpayer described in section 465(a)(1), and

"(ii) is used in connection with an activity with respect to which any loss is subject to limitation under section 465.

"(C) CREDIT BASE DEFINED.—For purposes of this paragraph, the term 'credit base' means—.

"(i) the portion of the basis of any qualified rehabilitated building attributable to qualified rehabilitation expenditures,

"(ii) the basis of any energy property, and

"(iii) the amortizable basis of any qualified timber property.

"(D) NONQUALIFIED NONRECOURSE FINANCING.—

"(i) IN GENERAL.—For purposes of this paragraph and paragraph (2), the term 'nonqualified nonrecourse financing' means any nonrecourse financing which is not qualified commercial financing.

"(ii) QUALIFIED COMMERCIAL FINANCING.—For purposes of this paragraph, the term 'qualified commercial financing' means any financing with respect to any property if—

"(I) such property is acquired by the taxpayer from a person who is not a related person,

"(II) the amount of the nonrecourse financing with respect to such property does not exceed 80 percent of the credit base of such property, and

"(III) such financing is borrowed from a qualified person or represents a loan from any Federal, State, or local government or instrumentality thereof, or is guaranteed by any Federal, State, or local government.

Such term shall not include any convertible debt.

"(iii) NONRECOURSE FINANCING.—For purposes of this subparagraph, the term 'nonrecourse financing' includes—

"(I) any amount with respect to which the taxpayer is protected against loss through guarantees, stop-loss agreements, or other similar arrangements, and

"(II) except to the extent provided in regulations, any amount borrowed from a person who has an interest (other than as a creditor) in the activity in which the property is used or from a related person to a person (other than the taxpayer) having such an interest.

In the case of amounts borrowed by a corporation from a shareholder, subclause (II) shall not apply to an interest as a share-holder.

"(iv) QUALIFIED PERSON.—For purposes of this paragraph, the term 'qualified person' means any person which is actively and regularly engaged in the business of lending money and which is not—

"(I) a related person with respect to the taxpayer,

"(II) a person from which the taxpayer acquired the property (or a related person to such person), or

"(III) a person who receives a fee with respect to the taxpayer's investment in the property (or a related person to such person).

"(v) RELATED PERSON.—For purposes of this subparagraph, the term 'related person' has the meaning given such term by section 465(b)(3)(C). Except as otherwise provided in regulations prescribed by the Secretary, the determination of whether a person is a related person shall be made as of the close of the taxable year in which the property is placed in service.

"(E) APPLICATION TO PARTNERSHIPS AND S CORPORATIONS.—For purposes of this paragraph and paragraph (2)—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, in the case of any partnership or S corporation, the determination of whether a partner's or shareholder's allocable share of any financing is nonqualified nonrecourse financing shall be made at the partner or shareholder level.

"(ii) SPECIAL RULE FOR CERTAIN RECOURSE FINANCING OF S CORPORATION.—A shareholder of an S corporation shall be treated as liable for his allocable share of any financing provided by a qualified person to such corporation if—

"(I) such financing is recourse financing (determined at the corporate level), and

"(II) such financing is provided with respect to qualified business property of such corporation.

"(iii) QUALIFIED BUSINESS PROPERTY.—For purposes of clause (ii), the term 'qualified business property' means any property if—

"(I) such property is used by the corporation in the active conduct of a trade or business,

"(II) during the entire 12-month period ending on the last day of the taxable year, such corporation had at least 3 full-time employees who were not owner-employees (as defined in section 465(c)(7)(E)(i)) and substantially all the services of whom were services directly related to such trade or business, and

"(III) during the entire 12-month period ending on the last day of such taxable year, such corporation had at least 1 full-time employee substantially all of the services of whom were in the active management of the trade or business.

"(iv) DETERMINATION OF ALLOCABLE SHARE.—The determination of any partner's or shareholder's allocable share of any financing shall be made in the same manner as the credit allowable by section 38 with respect to such property.

"(F) SPECIAL RULES FOR ENERGY PROPERTY.—Rules similar to the rules of subparagraph (F) of section 46(c)(8) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this paragraph.

"(2) SUBSEQUENT DECREASES IN NONQUALIFIED NONRECOURSE FINANCING WITH RESPECT TO THE PROPERTY.—

"(A) IN GENERAL.—If, at the close of a taxable year following the taxable year in which the property was placed in service, there is a net decrease in the amount of nonqualified nonrecourse financing with respect to such property, such net decrease shall be taken into account as an increase in the credit base for such property in accordance with subparagraph (C).

"(B) CERTAIN TRANSACTIONS NOT TAKEN INTO ACCOUNT.—For purposes of this paragraph, nonqualified nonrecourse financing shall not be treated as decreased through the surrender or other use of property financed by nonqualified nonrecourse financing.

"(C) MANNER IN WHICH TAKEN INTO ACCOUNT.—

"(i) CREDIT DETERMINED BY REFERENCE TO TAXABLE YEAR PROPERTY PLACED IN SERVICE.—For purposes of determining the amount of credit allowable under section 38 and the amount of credit subject to the early disposition or cessation rules under section 50(a), any increase in a taxpayer's credit base for any property by reason of this paragraph shall be taken into account as if it were property placed in service by the taxpayer in the taxable year in which the property referred to in subparagraph (A) was first placed in service.

"(ii) CREDIT ALLOWED FOR YEAR OF DECREASE IN NONQUALIFIED NONRECOURSE FINANCING.—Any credit allowable under this subpart for any increase in qualified investment by reason of this paragraph shall be treated as earned during the taxable year of the decrease in the amount of nonqualified nonrecourse financing.

"(b) INCREASES IN NONQUALIFIED NONRECOURSE FINANCING.—

"(1) IN GENERAL.—If, as of the close of the taxable year, there is a net increase with respect to the taxpayer in the amount of nonqualified nonrecourse financing (within the meaning of subsection (a)(1)) with respect to any property to which subsection (a)(1) applied, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in credits allowed under section 38 for all prior taxable years which would have resulted from reducing the credit base (as defined in subsection (a)(1)(C)) taken into account with respect to such property by the amount of such net increase. For purposes of determining the amount of credit subject to the early disposition or cessation rules of section 50(a), the net increase in the amount of the nonqualified nonrecourse financing with respect to the property shall be treated as reducing the property's credit base in the year in which the property was first placed in service.

"(2) TRANSFERS OF DEBT MORE THAN 1 YEAR AFTER INITIAL BORROWING NOT TREATED AS INCREASING NONQUALIFIED NONRECOURSE FINANCING.—For purposes of paragraph (1), the amount of nonqualified nonrecourse financing (within the meaning of subsection (a)(1)(D)) with respect to the taxpayer shall not be treated as increased by reason of a transfer of (or agreement to transfer) any evidence of any indebtedness if such transfer occurs (or such agreement is entered into) more than 1 year after the date such indebtedness was incurred.

"(3) SPECIAL RULES FOR CERTAIN ENERGY PROPERTY.—Rules similar to the rules of section 47(d)(3) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply for purposes of this subsection.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A, B, D, or G.

"SEC. 50. OTHER SPECIAL RULES.

"(a) RECAPTURE IN CASE OF DISPOSITIONS, ETC.—Under regulations prescribed by the Secretary—

"(1) EARLY DISPOSITION, ETC.—

"(A) GENERAL RULE.—If, during any taxable year, investment credit property is disposed of, or otherwise ceases to

be investment credit property with respect to the taxpayer, before the close of the recapture period, then the tax under this chapter for such taxable year shall be increased by the recapture percentage of the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero any credit determined under this subpart with respect to such property.

"(B) RECAPTURE PERCENTAGE.—For purposes of subparagraph (A), the recapture percentage shall be determined in accordance with the following table:

"If the property ceases to be investment credit property within—	The recapture percentage is:
(i) One full year after placed in service	100
(ii) One full year after the close of the period described in clause (i)	80
(iii) One full year after the close of the period described in clause (ii)	60
(iv) One full year after the close of the period described in clause (iii)	40
(v) One full year after the close of the period described in clause (iv)	20

"(2) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—

"(A) IN GENERAL.—If during any taxable year any building to which section 47(d) applied ceases (by reason of sale or other disposition, cancellation or abandonment of contract, or otherwise) to be, with respect to the taxpayer, property which, when placed in service, will be a qualified rehabilitated building, then the tax under this chapter for such taxable year shall be increased by an amount equal to the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted solely from reducing to zero the credit determined under this subpart with respect to such building.

"(B) CERTAIN EXCESS CREDIT RECAPTURED.—Any amount which would have been applied as a reduction under paragraph (2) of section 47(b) but for the fact that a reduction under such paragraph cannot reduce the amount taken into account under section 47(b)(1) below zero shall be treated as an amount required to be recaptured under subparagraph (A) for the taxable year during which the building is placed in service.

"(C) CERTAIN SALES AND LEASEBACKS.—Under regulations prescribed by the Secretary, a sale by, and leaseback to, a taxpayer who, when the property is placed in service, will be a lessee to whom the rules referred to in subsection (c)(4) apply shall not be treated as a cessation described in subparagraph (A) to the extent that the amount which will be passed through to the lessee under such rules with respect to such property is not less than the qualified rehabilitation expenditures properly taken into account by the lessee under section 47(d) with respect to such property.

"(D) COORDINATION WITH PARAGRAPH (1).—If, after property is placed in service, there is a disposition or other cessation described in paragraph (1), then paragraph (1) shall be applied as if any credit which was allowable by

reason of section 47(d) and which has not been required to be recaptured before such disposition, cessation, or change in use were allowable for the taxable year the property was placed in service.

"(E) SPECIAL RULES.—Rules similar to the rules of this paragraph shall apply in cases where qualified progress expenditures were taken into account under the rules referred to in section 48(a)(5)(A).

"(3) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any cessation described in paragraph (1) or (2), the carrybacks and carryovers under section 39 shall be adjusted by reason of such cessation.

"(4) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—Paragraphs (1) and (2) shall not apply to—

"(A) a transfer by reason of death, or

"(B) a transaction to which section 381(a) applies.

For purposes of this subsection, property shall not be treated as ceasing to be investment credit property with respect to the taxpayer by reason of a mere change in the form of conducting the trade or business so long as the property is retained in such trade or business as investment credit property and the taxpayer retains a substantial interest in such trade or business.

"(5) DEFINITIONS AND SPECIAL RULES.—

"(A) INVESTMENT CREDIT PROPERTY.—For purposes of this subsection, the term 'investment credit property' means any property eligible for a credit determined under this subpart.

"(B) TRANSFER BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(i) the foregoing provisions of this subsection shall not apply, and

"(ii) the same tax treatment under this subsection with respect to the transferred property shall apply to the transferee as would have applied to the transferor.

"(C) SPECIAL RULE.—Any increase in tax under paragraph (1) or (2) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A, B, D, or G.

"(b) CERTAIN PROPERTY NOT ELIGIBLE.—No credit shall be determined under this subpart with respect to—

"(1) PROPERTY USED OUTSIDE UNITED STATES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no credit shall be determined under this subpart with respect to any property which is used predominantly outside the United States.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any property described in section 168(g)(4).

"(2) PROPERTY USED FOR LODGING.—No credit shall be determined under this subpart with respect to any property which is used predominantly to furnish lodging or in connection with the furnishing of lodging. The preceding sentence shall not apply to—

"(A) nonlodging commercial facilities which are available to persons not using the lodging facilities on the same basis as they are available to persons using the lodging facilities.[84]

[84] So in original. Probably should be "facilities;".

"(B) property used by a hotel or motel in connection with the trade or business of furnishing lodging where the predominant portion of the accommodations is used by transients;

"(C) a certified historic structure to the extent of that portion of the basis which is attributable to qualified rehabilitation expenditures; and

"(D) any energy property.

"(3) PROPERTY USED BY CERTAIN TAX-EXEMPT ORGANIZATION.—No credit shall be determined under this subpart with respect to any property used by an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by this chapter unless such property is used predominantly in an unrelated trade or business the income of which is subject to tax under section 511. If the property is debt-financed property (as defined in section 514(b)), the amount taken into account for purposes of determining the amount of the credit under this subpart with respect to such property shall be that percentage of the amount (which but for this paragraph would be so taken into account) which is the same percentage as is used under section 514(a), for the year the property is placed in service, in computing the amount of gross income to be taken into account during such taxable year with respect to such property. If any qualified rehabilitated building is used by the tax-exempt organization pursuant to a lease, this paragraph shall not apply for purposes of determining the amount of the rehabilitation credit.

"(4) PROPERTY USED BY GOVERNMENTAL UNITS OR FOREIGN PERSONS OR ENTITIES.—

"(A) IN GENERAL.—No credit shall be determined under this subpart with respect to any property used—

"(i) by the United States, any State or political subdivision thereof, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

"(ii) by any foreign person or entity (as defined in section 168(h)(2)(C)), but only with respect to property to which section 168(h)(2)(A)(iii) applies (determined after the application of section 168(h)(2)(B)).

"(B) EXCEPTION FOR SHORT-TERM LEASES.—This paragraph and paragraph (3) shall not apply to any property by reason of use under a lease with a term of less than 6 months (determined under section 168(i)(3)).

"(C) EXCEPTION FOR QUALIFIED REHABILITATED BUILDINGS LEASED TO GOVERNMENTS, ETC.—If any qualified rehabilitated building is leased to a governmental unit (or a foreign person or entity) this paragraph shall not apply for purposes of determining the rehabilitation credit with respect to such building.

"(D) SPECIAL RULES FOR PARTNERSHIPS, ETC.—For purposes of this paragraph and paragraph (3), rules similar to the rules of paragraphs (5) and (6) of section 168(h) shall apply.

"(E) CROSS REFERENCE.—

"For special rules for the application of this paragraph and paragraph (3), see section 168(h)."

"(c) BASIS ADJUSTMENT TO INVESTMENT CREDIT PROPERTY.—

"(1) IN GENERAL.—For purposes of this subtitle, if a credit is determined under this subpart with respect to any property, the basis of such property shall be reduced by the amount of the credit so determined.

"(2) CERTAIN DISPOSITIONS.—If during any taxable year there is a recapture amount determined with respect to any property the basis of which was reduced under paragraph (1), the basis of such property (immediately before the event resulting in such recapture) shall be increased by an amount equal to such recapture amount. For purposes of the preceding sentence, the term 'recapture amount' means any increase in tax (or adjustment in carrybacks or carryovers) determined under subsection (a).

"(3) SPECIAL RULE.—In the case of any energy credit or reforestation credit—

"(A) only 50 percent of such credit shall be taken into account under paragraph (1), and

"(B) only 50 percent of any recapture amount attributable to such credit shall be taken into account under paragraph (2).

"(4) RECAPTURE OF REDUCTIONS.—

"(A) IN GENERAL.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

"(B) SPECIAL RULE FOR SECTION 1250.—For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.

"(5) ADJUSTMENT IN BASIS OF INTEREST IN PARTNERSHIP OR S CORPORATION.—The adjusted basis of—

"(A) a partner's interest in a partnership, and

"(B) stock in an S corporation,

shall be appropriately adjusted to take into account adjustments made under this subsection in the basis of property held by the partnership or S corporation (as the case may be).

"(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of the following provisions (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall apply:

"(1) Section 46(e) (relating to limitations with respect to certain persons).

"(2) Section 46(f) (relating to limitation in case of certain regulated companies).

"(3) Section 46(h) (relating to special rules for cooperatives).

"(4) Paragraphs (2) and (3) of section 48(b) (relating to special rule for sale-leasebacks).

"(5) Section 48(d) (relating to certain leased property).

"(6) Section 48(f) (relating to estates and trusts).

"(7) Section 48(r) (relating to certain 501(d) organizations)."

(b) CONFORMING AMENDMENTS.—

(1)(A) Subclause (III) of section 29(b)(3)(A)(i) is amended by striking "section 48(l)(11)(C)" and inserting "section 48(a)(4)(C)".

(B) Paragraph (4) of section 29(b) is amended by striking "section 47" each place it appears and inserting "section 49(b) or 50(a)".

(C) Paragraph (3) of section 29(c) is amended to read as follows:

"(3) BIOMASS.—The term 'biomass' means any organic material other than—

"(A) oil and natural gas (or any product thereof), and

"(B) coal (including lignite) or any product thereof."

(2)(A) Paragraph (1) of section 38(b) is amended by striking "section 46(a)" and inserting "section 46".

(B) Subsection (c) of section 38 is amended by striking paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(C) Subparagraph (C) of section 38(c)(2) (as redesignated by subparagraph (B)) is amended—

(i) by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "46(e)(1)", and

(ii) by inserting "(as so in effect)" after "46(e)(2)".

(D) Subsection (d) of section 38 is amended—

(i) by striking "sections 46(f), 47(a), 196(a), and any other provision" and inserting "any provision",

(ii) by amending paragraph (2) to read as follows:

"(2) COMPONENTS OF INVESTMENT CREDIT.—The order in which the credits listed in section 46 are used shall be determined on the basis of the order in which such credits are listed in section 46 as of the close of the taxable year in which the credit is used.", and

(iii) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B) the credit determined under section 46—

"(i) to the extent attributable to the employee plan percentage (as defined in section 46(a)(2)(E) as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as a credit listed after paragraph (1) of section 46, and

"(ii) to the extent attributable to the regular percentage (as defined in section 46(b)(1) as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) shall be treated as the first credit listed in section 46."

(3) Subsection (k) of section 42 is amended—

(A) in paragraph (1)—

(i) by striking "46(c)(8)" and inserting "49(a)(1)",

(ii) by striking "46(c)(9)" and inserting "49(a)(2)", and

(iii) by striking "47(d)(1)" and inserting "49(b)(1)", and

(B) by striking "46(c)(8)(D)(iv)(II)" in paragraphs (2)(A)(ii) and (2)(D) and inserting "49(a)(1)(D)(iv)(II)".

(4) Subsection (e) of section 52 is amended by striking "section 46" and inserting "section 46 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)".

(5) Paragraph (1) of section 55(c) is amended by striking "section 47" and inserting "section 49(b) or 50(a)".

(6) Subparagraph (B) of section 108(g)(1) is amended by striking "section 46(c)(8)(D)(iv)" and inserting "section 49(a)(1)(D)(iv)".

(7) Paragraph (4) of section 145(d) is amended—

(A) by striking "section 48(g)(1)(C)" each place it appears and inserting "section 47(c)(1)(C)", and

(B) by striking "section 48(g)(1)(C)(i)" and inserting "section 47(c)(1)(C)(i)".

(8) Subparagraph (B) of section 147(d)(3) is amended by striking "section 48(g)(2)(B)" and inserting "section 47(c)(2)(B)".

(9)(A) Clause (vi) of section 168(e)(3)(B) is amended—

(i) by striking "paragraph (3)(A)(viii), (3)(A)(ix) or (4) of section 48(l)" in subclause (I) and inserting "subparagraph (A) of section 48(a)(3) (or would be so described if 'solar and wind' were substituted for 'solar' in clause (i) thereof)", and

(ii) by inserting "(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)" after "48(l)" in subclause (II).

(B)(i) Subparagraph (D)(i) of section 168(e)(3) is amended by striking "section 48(p)" and inserting "subsection (i)(13)".

(ii) Subsection (i) of section 168 is amended by adding at the end thereof the following new paragraph:

"(13) SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURE.—

"(A) IN GENERAL.—The term 'single purpose agricultural or horticultural structure' means—

"(i) a single purpose livestock structure, and

"(ii) a single purpose horticultural structure.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) SINGLE PURPOSE LIVESTOCK STRUCTURE.—The term 'single purpose livestock structure' means any enclosure or structure specifically designed, constructed, and used—

"(I) for housing, raising, and feeding a particular type of livestock and their produce, and

"(II) for housing the equipment (including any replacements) necessary for the housing, raising, and feeding referred to in subclause (I).

"(ii) SINGLE PURPOSE HORTICULTURAL STRUCTURE.—The term 'single purpose horticultural structure' means—

"(I) a greenhouse specifically designed, constructed, and used for the commercial production of plants, and

"(II) a structure specifically designed, constructed, and used for the commercial production of mushrooms.

"(iii) STRUCTURES WHICH INCLUDE WORK SPACE.—An enclosure or structure which provides work space shall be treated as a single purpose agricultural or horticultural structure only if such work space is solely for—

"(I) the stocking, caring for, or collecting of livestock or plants (as the case may be) or their produce,

"(II) the maintenance of the enclosure or structure, and

"(III) the maintenance or replacement of the equipment or stock enclosed or housed therein.

"(iv) LIVESTOCK.—The term 'livestock' includes poultry."

(C) Paragraph (4) of section 168(g) is amended to read as follows:

"(4) EXCEPTION FOR CERTAIN PROPERTY USED OUTSIDE UNITED STATES.—Subparagraph (A) of paragraph (1) shall not apply to—

"(A) any aircraft which is registered by the Administrator of the Federal Aviation Agency and which is operated to and from the United States or is operated under contract with the United States;

"(B) rolling stock which is used within and without the United States and which is—

"(i) of a domestic railroad corporation providing transportation subject to subchapter I of chapter 105 of title 49, or

"(ii) of a United States person (other than a corporation described in clause (i)) but only if the rolling stock is not leased to one or more foreign persons for periods aggregating more than 12 months in any 24-month period;

"(C) any vessel documented under the laws of the United States which is operated in the foreign or domestic commerce of the United States;

"(D) any motor vehicle of a United States person (as defined in section 7701(a)(30)) which is operated to and from the United States;

"(E) any container of a United States person which is used in the transportation of property to and from the United States;

"(F) any property (other than a vessel or an aircraft) of a United States person which is used for the purpose of exploring for, developing, removing, or transporting resources from the outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act, as amended and supplemented; (43 U.S.C. 1331));

"(G) any property which is owned by a domestic corporation (other than a corporation which has an election in effect under section 936) or by a United States citizen (other than a citizen entitled to the benefits of section 931 or 933) and which is used predominantly in a possession of the United States by such a corporation or such a citizen, or by a corporation created or organized in, or under the law of, a possession of the United States;

"(H) any communications satellite (as defined in section 103(3) of the Communications Satellite Act of 1962, 47 U.S.C. 702(3)), or any interest therein, of a United States person;

"(I) any cable, or any interest therein, of a domestic corporation engaged in furnishing telephone service to which section 168(i)(10)(C) applies (or of a wholly owned domestic subsidiary of such a corporation), if such cable is part of a submarine cable system which constitutes part of a communication link exclusively between the United States and one or more foreign countries;

"(J) any property (other than a vessel or an aircraft) of a United States person which is used in international or territorial waters within the northern portion of the Western Hemisphere for the purpose of exploring for, develop-

ing, removing, or transporting resources from ocean waters or deposits under such waters;

"(K) any property described in section 48(a)(3)(A)(iii) which is owned by a United States person and which is used in international or territorial waters to generate energy for use in the United States; and

"(L) any satellite (not described in subparagraph (H)) or other spacecraft (or any interest therein) held by a United States person if such satellite or other spacecraft was launched from within the United States.

For purposes of subparagraph (J), the term 'northern portion of the Western Hemisphere' means the area lying west of the 30th meridian west of Greenwich, east of the international dateline, and north of the Equator, but not including any foreign country which is a country of South America."

(10) Subparagraph (B) of section 170(h)(4) is amended by striking "section 48(g)(3)(B)" and inserting "section 47(c)(3)(B)".

(11)(A) Paragraph (1) of section 179(d) is amended by striking "section 38 property" and inserting "section 1245 property (as defined in section 1245(a)(3))".

(B) Paragraph (5) of section 179(d) is amended to read as follows:

"(5) SECTION NOT TO APPLY TO CERTAIN NONCORPORATE LESSORS.—This section shall not apply to any section 179 property which is purchased by a person who is not a corporation and with respect to which such person is the lessor unless—

"(A) the property subject to the lease has been manufactured or produced by the lessor, or

"(B) the term of the lease (taking into account options to renew) is less than 50 percent of the class life of the property (as defined in section 168(i)(1)), and for the period consisting of the first 12 months after the date on which the property is transferred to the lessee the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) exceeds 15 percent of the rental income produced by such property."

(12)(A) Paragraph (1) of section 196(c) is amended—

(i) by striking "section 46(a)" and inserting "section 46", and

(ii) by striking "section 48(q)" and inserting "section 50(c)".

(B) Paragraph (1) of section 196(d) is amended—

(i) by striking "section 46(a)" and inserting "section 46", and

(ii) by striking "other than a credit to which section 48(q)(3) applies" and inserting "other than the rehabilitation credit".

(13)(A) Subsection (a) of section 280F is amended—

(i) by striking paragraphs (1) and (4) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

(ii) by striking "the credit determined under section 46(a) or" in paragraph (2)(B) (as redesignated by clause (i)).

(B) Subsection (b) of section 280F is amended by striking paragraph (1) and redesignating the following paragraphs accordingly.

(C) The paragraph heading for paragraph (1) of section 280F(c) is amended by striking "credits and".

(D) Subparagraph (A) of section 280F(d)(3) is amended by striking "the amount of any credit allowable under section 38 to the employee or".

(E) The section heading of section 280F is amended by striking "INVESTMENT TAX CREDIT AND".

(F) The table of sections for part IX of subchapter B of chapter 1 is amended by striking "investment credit and" in the item relating to section 280F.

(14) Paragraph (5) of section 312(k) is amended by striking "section 48(q)" and inserting "section 50(c)".

(15) Subparagraph (D) of section 465(b)(6) is amended by striking "46(c)(8)(D)(iv)" each place it appears and inserting "49(a)(1)(D)(iv)".

(16)(A) Paragraphs (3)(B) and (6)(B)(ii) of section 469(i) are each amended by striking "rehabilitation investment credit (within the meaning of section 48(o))" and inserting "rehabilitation credit determined under section 47".

(B) Paragraph (1) of section 469(k) is amended by striking "rehabilitation investment credit (within the meaning of section 48(o))" and inserting "rehabilitation credit determined under section 47".

(17) Subparagraph (A) of section 861(e)(1) is amended by striking "which is section 38 property (or would be section 38 property but for section 48(a)(5)" and inserting "which is section 1245 property (as defined in section 1245(a)(3))".

(18) Subparagraph (B) of section 865(c)(3) is amended by striking "section 48(a)(2)(B)" and inserting "section 168(g)(4)".

(19) Paragraph (21) of section 1016(a) is amended by striking "section 48(q) and inserting "section 50(c)".

(20) Subparagraph (A) of section 1033(g)(3) is amended by striking "with respect to which the investment credit determined under section 46(a) is or has been claimed or".

(21) Subparagraph (D) of section 1245(a)(3) is amended by striking "section 48(p)" and inserting "section 168(i)(13)".

(22) Subsection (b) of section 1274A is amended by inserting ", as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990" after "section 48(b)".

(23) Subsection (d) of section 1371 is amended—

(A) by striking "section 47(b)" in paragraph (1) and inserting "section 50(a)(4)", and

(B) by striking "section 47" in paragraphs (2) and (3) and inserting "section 49(b) or 50(a)".

(24) Section 1388 is amended by striking subsection (k).

(25) Subparagraph (B) of section 1503(e)(3) is amended by striking "section 48(q)" and inserting "section 50(c)".

(26) The table of subparts for part IV of subchapter A of chapter 1 is amended by striking the item relating to subpart E and inserting the following:

"Subpart E. Rules for computing investment credit."

(c) EFFECTIVE DATE.— 26 USC 29 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1990.

(2) EXCEPTIONS.—The amendments made by this section shall not apply to—

(A) any transition property (as defined in section 49(e) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act),

(B) any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of such Code (as so in effect), and

(C) any property described in section 46(b)(2)(C) of such Code (as so in effect).

SEC. 11814. ELIMINATION OF OBSOLETE PROVISIONS IN SECTION 243(b).

(a) IN GENERAL.—Subsection (b) of section 243 is amended to read as follows:

"(b) QUALIFYING DIVIDENDS.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualifying dividend' means any dividend received by a corporation—

"(A) if at the close of the day on which such dividend is received, such corporation is a member of the same affiliated group as the corporation distributing such dividend, and

"(B) if—

"(i) such dividend is distributed out of the earnings and profits of a taxable year of the distributing corporation which ends after December 31, 1963, for which an election under section 1562 was not in effect, and on each day of which the distributing corporation and the corporation receiving the dividend were members of such affiliated group, or

"(ii) such dividend is paid by a corporation with respect to which an election under section 936 is in effect for the taxable year in which such dividend is paid.

"(2) AFFILIATED GROUP.—For purposes of this subsection, the term 'affiliated group' has the meaning given such term by section 1504(a), except that for such purposes sections 1504(b)(2), 1504(b)(4), and 1504(c) shall not apply.

"(3) SPECIAL RULE FOR GROUPS WHICH INCLUDE LIFE INSURANCE COMPANIES.—

"(A) IN GENERAL.—In the case an affiliated group which includes 1 or more insurance companies under section 801, no dividend by any member of such group shall be treated as a qualifying dividend unless an election under this paragraph is in effect for the taxable year in which the dividend is received. The preceding sentence shall not apply in the case of a dividend described in paragraph (1)(B)(ii).

"(B) EFFECT OF ELECTION.—If an election under this paragraph is in effect with respect to any affiliated group—

"(i) part II of subchapter B of chapter 6 (relating to certain controlled corporations) shall be applied with respect to the members of such group without regard to sections 1563(a)(4) and 1563(b)(2)(D), and

"(ii) for purposes of this subsection, a distribution by any member of such group which is subject to tax under section 801 shall not be treated as a qualifying dividend if such distribution is out of earnings and profits for a taxable year for which an election under this paragraph is not effective and for which such distributing corporation was not a component member of a controlled group of corporations within the meaning of section 1563 solely by reason of section 1563(b)(2)(D).

"(C) ELECTION.—An election under this paragraph shall be made by the common parent of the affiliated group and at such time and in such manner as the Secretary shall by regulations prescribe. Any such election shall be binding on all members of such group and may be revoked only with the consent of the Secretary."

(b) CONFORMING AMENDMENT.—Clause (i) of section 1504(c)(2)(B) is amended—

(1) by striking "section 243(b)(6)" and inserting "section 243(b)(3)", and

(2) by striking "section 243(b)(5)" and inserting "243(b)(2)".

(c) EFFECTIVE DATE.— 26 USC 243 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1990.

(2) TREATMENT OF OLD ELECTIONS.—For purposes of section 243(b)(3) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any reference to an election under such section shall be treated as including a reference to an election under section 243(b) of such Code (as in effect on the day before the date of the enactment of this Act).

SEC. 11815. ELIMINATION OF EXPIRED PROVISIONS IN PERCENTAGE DEPLETION.

(a) SECTION 613A.—

(1) GENERAL RULE.—Subsection (c) of section 613A is amended—

(A) by striking "the applicable percentage (determined in accordance with the table contained in paragraph (5))" in paragraph (1) and inserting "15 percent",

(B) by amending subparagraph (B) of paragraph (3) to read as follows:

"(B) TENTATIVE QUANTITY.—For purposes of subparagraph (A), the tentative quantity is 1,000 barrels.", and

(C) by striking paragraphs (5), and (7)(E).

(2) CONFORMING AMENDMENTS.—

(A) Subparagraphs (A) and (B) of section 613A(c)(7) are each amended by striking "specified in paragraph (5)" and inserting "specified in paragraph (1)".

(B) Paragraphs (8)(B), (8)(C), and (9) are each amended by striking "determined under the table contained in paragraph (3)(B)" each place it appears and inserting "determined under paragraph (3)(B)".

(b) SECTION 613(e).—

(1) Subsection (e) of section 613 is amended by striking paragraph (2) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(2) Subparagraph (B) of section 613(e)(1) is amended to read as follows:

"(B) 15 percent shall be deemed to be the percentage specified in subsection (b),".

(3) Sections 57(a)(2)(D)(ii), 263(c), and 465(c)(1)(E) are each amended by striking "section 613 (e)(3)" and inserting "section 613(e)(2)".

SEC. 11816. ELIMINATION OF EXPIRED PROVISIONS IN SECTION 29.

(a) GENERAL RULE.—Paragraph (1) of section 29(c) is amended by inserting "and" at the end of subparagraph (B), by striking the comma at the end of subparagraph (C) and inserting a period, and by striking subparagraphs (D) and (E).

(b) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 29 is amended by striking paragraphs (4) and (5).

(2) Paragraph (4) of section 29(d) is amended to read as follows:

"(4) GAS FROM GEOPRESSURED BRINE, DEVONIAN SHALE, COAL SEAMS, OR A TIGHT FORMATION.—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before January 1, 1980."

(3) Subsection (d) of section 29 is amended by striking paragraph (5) and redesignating the following paragraphs accordingly.

(4) Paragraph (5) of section 29(d) (as redesignated by paragraph (3)) is amended by striking "subparagraph (C), (D), or (E)" and inserting "subparagraph (C)".

(5) Subsection (f) of section 29 is amended to read as follows:

"(f) APPLICATION OF SECTION.—This section shall apply with respect to qualified fuels—

"(1) which are—

"(A) produced from a well drilled after December 31, 1979, and before January 1, 1993, or

"(B) produced in a facility placed in service after December 31, 1979, and before January 1, 1993, and

"(2) which are sold before January 1, 2003."

Subpart C—Effective Date

26 USC 29 note.

SEC. 11821. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this part, the amendments made by this part shall take effect on the date of the enactment of this Act.

(b) SAVINGS PROVISION.—If—

(1) any provision amended or repealed by this part applied to—

(A) any transaction occurring before the date of the enactment of this Act,

(B) any property acquired before such date of enactment, or

(C) any item of income, loss, deduction, or credit taken into account before such date of enactment, and

(2) the treatment of such transaction, property, or item under such provision would (without regard to the amendments made by this part) affect liability for tax for periods ending after such date of enactment,

nothing in the amendments made by this part shall be construed to affect the treatment of such transaction, property, or item for purposes of determining liability for tax for periods ending after such date of enactment.

PART II—PROVISIONS RELATING TO STUDIES

SEC. 11831. EXTENSION OF DATE FOR FILING REPORTS ON CERTAIN STUDIES.

(a) GENERAL RULE.—The date for the submission of the report on any study listed in subsection (b) is hereby extended to the due date for such study determined under subsection (b).

(b) LIST OF STUDIES AND DUE DATES.—

In the case of the study required under:	The due date is:	
Section 1211(d) of the Tax Reform Act of 1986 (relating to source rule on sales of personal property)	January 1, 1992	26 USC 865 note.
Section 407 of the Compact of Free Association Act of 1985 (relating to tax provisions on Micronesia Compact of Free Association)	January 1, 1991	48 USC 1681 note.
Section 634 of the Tax Reform Act of 1986 (relating to reform of subchapter C)	January 1, 1992	26 USC 301 note.
Section 9301(c)(3) of the Omnibus Budget Reconciliation Act of 1987 (relating to full funding limitation)	April 15, 1991	
Section 6056 of the Technical and Miscellaneous Revenue Act of 1988 (relating to minimum participation rules)	February 15, 1991	
Section 6072 of the Technical and Miscellaneous Revenue Act of 1988 (relating to treatment of certain technical personnel)	February 15, 1991	
Section 6305(e) of the Technical and Miscellaneous Revenue Act of 1988 (relating to treatment of certain family services providers)	January 1, 1992	26 USC 3121 note.
Section 6064(d)(4) of the Technical and Miscellaneous Revenue Act of 1988 (relating to deferred compensation plans of State and local governments and tax-exempt organizations)	January 1, 1992	26 USC 457 note.
Section 6067(b) of the Technical and Miscellaneous Revenue Act of 1988 (relating to spin-off of defined benefit plan assets to bridge banks)	January 1, 1992	26 USC 414 note.
Section 7612(f) of the Revenue Reconciliation Act of 1989 (relating to depreciation treatment of certain vehicles)	April 15, 1991	
Section 1012(c)(2) of the Tax Reform Act of 1986 (relating to fraternal beneficiary associations)	July 1, 1992	26 USC 833 note.
Section 1025 of the Tax Reform Act of 1986 (relating to property and casualty insurance companies)	January 1, 1992	26 USC 832 note.

SEC. 11832. REPEAL OF CERTAIN STUDIES.

The following provisions are hereby repealed:

(1) Section 5041(f) of the Technical and Miscellaneous Revenue Act of 1988 (relating to long-term contracts). 26 USC 382 note.

(2) Section 560 of the Deficit Reduction Act of 1984 (relating to employee welfare benefit plans). 26 USC 382 note.

(3) Section 621(d) of the Tax Reform Act of 1986 (relating to depreciation, built-in deductions, and informal bankruptcy workouts). 26 USC 382 note.

(4) Section 702 of the Tax Reform Act of 1986 (relating to book earnings and profits adjustments). 26 USC 56 note.

(5) Section 675(d) of the Tax Reform Act of 1986, as amended by section 1006(w) of the Technical and Miscellaneous Revenue 26 USC 860A note.

Act of 1988 (relating to impact of REMIC provisions on thrift industry).

SEC. 11833. MODIFICATIONS TO STUDY OF AMERICANS WORKING ABROAD.

26 USC 911 note.

(a) DUE DATE FOR REPORTS.—Subsection (a) of section 208 of the Foreign Earned Income Act of 1978 (as amended by section 114 of the Economic Recovery Tax Act of 1981) is amended by striking so much of such subsection as precedes "the Secretary of the Treasury" and inserting the following:

"(a) GENERAL RULE.—As soon as practicable after December 31, 1993, and as soon as practicable after the close of each fifth calendar year thereafter,".

(b) INFORMATION FROM FEDERAL AGENCIES.—Subsection (b) of such section 208 (as so amended) is amended by striking "shall furnish" and inserting "shall keep such records and furnish".

SEC. 11834. INCREASE IN THRESHOLD FOR JOINT COMMITTEE REPORTS ON REFUNDS AND CREDITS.

(a) GENERAL RULE.—Subsections (a) and (b) of section 6405 are each amended by striking "$200,000" and inserting "$1,000,000".

26 USC 6405 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, except that such amendment shall not apply with respect to any refund or credit with respect to a report has been made before such date of enactment under section 6405 of the Internal Revenue Code of 1986.

Subtitle I—Public Debt Limit

SEC. 11901. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code, is amended by striking the dollar limitation contained in such subsection and inserting "$4,145,000,000,000".

31 USC 3101 note.

(b) RESTORATION OF TRUST FUNDS FOR 1990.—

(1) IN GENERAL.—

(A) OBLIGATIONS ISSUED.—Except as provided in paragraph (2), within 30 days after the expiration of any debt issuance suspension period to which this subsection applies, the Secretary of the Treasury shall issue to each Federal fund obligations under chapter 31 of title 31, United States Code, which bear such issue dates, interest rates, and maturity dates as are necessary to ensure that, after such obligations are issued, the holdings of such Federal fund will replicate to the maximum extent practicable the obligations that would have been held by such Federal fund if any—

(i) failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of section 3101(b) of title 31, United States Code, had not occurred, and

(ii) issuance of such obligations had occurred immediately on the expiration of the debt issuance suspension period.

(B) INTEREST CREDITED.—On the first normal interest payment date or within 30 days after the expiration of any debt issuance suspension period (whichever is later) to which this subsection applies, the Secretary of the Treasury

shall credit to each Federal fund an amount determined by the Secretary, after taking into account the actions taken pursuant to subparagraph (A), to be equal to the income lost by such Federal fund by reason of any failure to invest amounts in such Federal fund (or any disinvestment) resulting from the limitation of such section 3101(b), including any income lost between the expiration of the debt issuance suspension period and the date of the credit.

(2) INTEREST ON MARKET-BASED OBLIGATIONS.—With respect to any Federal fund which invests in market-based special obligations, on the expiration of a debt issuance suspension period to which this subsection applies, the Secretary of the Treasury shall immediately credit to such fund an amount equal to the interest that would have been earned by such fund during the debt issuance suspension period if the daily balance in such fund that the Secretary was unable to invest by reason of the limitation of such section 3101(b) had been invested each day during such period, overnight, in obligations under chapter 31 of title 31, United States Code, earning interest at a rate determined by the Secretary in accordance with the standard practice of the Department of the Treasury.

(3) DEBT ISSUANCE SUSPENSION PERIODS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to debt issuance suspension periods beginning on or after October 15, 1990, and ending before January 1, 1991.

(4) CREDITED AMOUNTS TREATED AS INTEREST.—All amounts credited under this subsection shall be treated as interest on obligations issued under chapter 31 of title 31, United States Code, for all purposes of Federal law.

(5) DEFINITIONS.—For purposes of this subsection—

(A) DEBT ISSUANCE SUSPENSION PERIOD.—The term "debt issuance suspension period" means any period for which the Secretary of the Treasury determines that the issuance of obligations of the United States sufficient to conduct the orderly financial operations of the United States may not be made without exceeding the limitation imposed by section 3101(b) of title 31, United States Code.

(B) FEDERAL FUND.—The term "Federal fund" means any Federal trust fund or Government account established pursuant to Federal law to which the Secretary of the Treasury has issued or is expressly authorized by law directly to issue obligations under chapter 31 of title 31, United States Code, in respect of public money, money otherwise required to be deposited in the Treasury, or amounts appropriated; except that such term shall not include the Civil Service Retirement and Disability Fund or the Thrift Savings Fund of the Federal Employees' Retirement System.

TITLE XII—PENSIONS

Subtitle A—Treatment of Reversions of Qualified Plan Assets to Employers

SEC. 12001. INCREASE IN REVERSION TAX.

26 USC 4980.

Section 4980(a) (relating to tax on reversion of qualified plan assets to employer) is amended by striking "15 percent" and inserting "20 percent".

SEC. 12002. ADDITIONAL TAX IF NO REPLACEMENT PLAN.

(a) IN GENERAL.—Section 4980 is amended by adding at the end thereof the following new subsection:

"(d) INCREASE IN TAX FOR FAILURE TO ESTABLISH REPLACEMENT PLAN OR INCREASE BENEFITS.—

"(1) IN GENERAL.—Subsection (a) shall be applied by substituting '50 percent' for '20 percent' with respect to any employer reversion from a qualified plan unless—

"(A) the employer establishes or maintains a qualified replacement plan, or

"(B) the plan provides benefit increases meeting the requirements of paragraph (3).

"(2) QUALIFIED REPLACEMENT PLAN.—For purposes of this subsection, the term 'qualified replacement plan' means a qualified plan established or maintained by the employer in connection with a qualified plan termination (hereinafter referred to as the 'replacement plan') with respect to which the following requirements are met:

"(A) PARTICIPATION REQUIREMENT.—At least 95 percent of the active participants in the terminated plan who remain as employees of the employer after the termination are active participants in the replacement plan.

"(B) ASSET TRANSFER REQUIREMENT.—

"(i) 25 PERCENT CUSHION.—A direct transfer from the terminated plan to the replacement plan is made before any employer reversion, and the transfer is in an amount equal to the excess (if any) of—

"(I) 25 percent of the maximum amount which the employer could receive as an employer reversion without regard to this subsection, over

"(II) the amount determined under clause (ii).

"(ii) REDUCTION FOR INCREASE IN BENEFITS.—The amount determined under this clause is an amount equal to the present value of the aggregate increases in the accrued benefits under the terminated plan of any participants or beneficiaries pursuant to a plan amendment which—

"(I) is adopted during the 60-day period ending on the date of termination of the qualified plan, and

"(II) takes effect immediately on the termination date.

"(iii) TREATMENT OF AMOUNT TRANSFERRED.—In the case of the transfer of any amount under clause (i)—

"(I) such amount shall not be includible in the gross income of the employer,

"(II) no deduction shall be allowable with respect to such transfer, and

"(III) such transfer shall not be treated as an employer reversion for purposes of this section.

"(C) ALLOCATION REQUIREMENTS.—

"(i) IN GENERAL.—In the case of any defined contribution plan, the portion of the amount transferred to the replacement plan under subparagraph (B)(i) is—

"(I) allocated under the plan to the accounts of participants in the plan year in which the transfer occurs, or

"(II) credited to a suspense account and allocated from such account to accounts of participants no less rapidly than ratably over the 7-plan-year period beginning with the year of the transfer.

"(ii) COORDINATION WITH SECTION 415 LIMITATION.—If, by reason of any limitation under section 415, any amount credited to a suspense account under clause (i)(II) may not be allocated to a participant before the close of the 7-year period under such clause—

"(I) such amount shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants by reason of any such limitation, shall be allocated to the participant as provided in section 415.

"(iii) TREATMENT OF INCOME.—Any income on any amount credited to a suspense account under clause (i)(II) shall be allocated to accounts of participants no less rapidly than ratably over the remainder of the period determined under such clause (after application of clause (ii)).

"(iv) UNALLOCATED AMOUNTS AT TERMINATION.—If any amount credited to a suspense account under clause (i)(II) is not allocated as of the termination date of the replacement plan—

"(I) such amount shall be allocated to the accounts of participants as of such date, except that any amount which may not be allocated by reason of any limitation under section 415 shall be allocated to the accounts of other participants, and

"(II) if any portion of such amount may not be allocated to other participants under subclause (I) by reason of such limitation, such portion shall be treated as an employer reversion to which this section applies.

"(3) PRO RATA BENEFIT INCREASES.—

"(A) IN GENERAL.—The requirements of this paragraph are met if a plan amendment to the terminated plan is adopted in connection with the termination of the plan which provides pro rata increases in the accrued benefits of all qualified participants which—

"(i) have an aggregate present value not less than 20 percent of the maximum amount which the employer

could receive as an employer reversion without regard to this subsection, and

"(ii) take effect immediately on the termination date.

"(B) PRO RATA INCREASE.—For purposes of subparagraph (A), a pro rata increase is an increase in the present value of the accrued benefit of each qualified participant in an amount which bears the same ratio to the aggregate amount determined under subparagraph (A)(i) as—

"(i) the present value of such participant's accrued benefit (determined without regard to this subsection), bears to

"(ii) the aggregate present value of accrued benefits of the terminated plan (as so determined).

Notwithstanding the preceding sentence, the aggregate increases in the present value of the accrued benefits of qualified participants who are not active participants shall not exceed 40 percent of the aggregate amount determined under subparagraph (A)(i) by substituting 'equal to' for 'not less than'.

"(4) COORDINATION WITH OTHER PROVISIONS.—

"(A) LIMITATIONS.—A benefit may not be increased under paragraph (2)(B)(ii) or (3)(A), and an amount may not be allocated to a participant under paragraph (2)(C), if such increase or allocation would result in a failure to meet any requirement under section 401(a)(4) or 415.

"(B) TREATMENT AS EMPLOYER CONTRIBUTIONS.—Any increase in benefits under paragraph (2)(B)(ii) or (3)(A), or any allocation of any amount (or income allocable thereto) to any account under paragraph (2)(C), shall be treated as an annual benefit or annual addition for purposes of section 415.

"(C) 10-YEAR PARTICIPATION REQUIREMENT.—Except as provided by the Secretary, section 415(b)(5)(D) shall not apply to any increase in benefits by reason of this subsection to the extent that the application of this subparagraph does not discriminate in favor of highly compensated employees (as defined in section 414(q)).

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED PARTICIPANT.—The term 'qualified participant' means an individual who—

"(i) is an active participant,

"(ii) is a participant or beneficiary in pay status as of the termination date,

"(iii) is a participant not described in clause (i) or (ii)—

"(I) who has a nonforfeitable right to an accrued benefit under the terminated plan as of the termination date, and

"(II) whose service, which was creditable under the terminated plan, terminated during the period beginning 3 years before the termination date and ending with the date on which the final distribution of assets occurs, or

"(iv) is a beneficiary of a participant described in clause (iii)(II) and has a nonforfeitable right to an

accrued benefit under the terminated plan as of the termination date.

"(B) PRESENT VALUE.—Present value shall be determined as of the termination date and on the same basis as liabilities of the plan are determined on termination.

"(C) REALLOCATION OF INCREASE.—Except as provided in paragraph (2)(C), if any benefit increase is reduced by reason of the last sentence of paragraph (3)(A)(ii) or paragraph (4), the amount of such reduction shall be allocated to the remaining participants on the same basis as other increases (and shall be treated as meeting any allocation requirement of this subsection).

"(D) PLANS TAKEN INTO ACCOUNT.—For purposes of determining whether there is a qualified replacement plan under paragraph (2), the Secretary may provide that—

"(i) 2 or more plans may be treated as 1 plan, or

"(ii) a plan of a successor employer may be taken into account.

"(E) SPECIAL RULE FOR PARTICIPATION REQUIREMENT.—For purposes of paragraph (2)(A), all employers treated as 1 employer under section 414 (b), (c), (m), or (o) shall be treated as 1 employer.

"(6) SUBSECTION NOT TO APPLY TO EMPLOYER IN BANKRUPTCY.—This subsection shall not apply to an employer who, as of the termination date of the qualified plan, is in bankruptcy liquidation under chapter 7 of title 11 of the United States Code or in similar proceedings under State law."

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT.—

(1) FIDUCIARY RESPONSIBILITY.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end thereof the following new subsection:

"(d)(1) If, in connection with the termination of a pension plan which is a single-employer plan, there is an election to establish or maintain a qualified replacement plan, or to increase benefits, as provided under section 4980(d) of the Internal Revenue Code of 1986, a fiduciary shall discharge the fiduciary's duties under this title and title IV in accordance with the following requirements:

"(A) In the case of a fiduciary of the terminated plan, any requirement—

"(i) under section 4980(d)(2)(B) of such Code with respect to the transfer of assets from the terminated plan to a qualified replacement plan, and

"(ii) under section 4980(d)(2)(B)(ii) or 4980(d)(3) of such Code with respect to any increase in benefits under the terminated plan.

"(B) In the case of a fiduciary of a qualified replacement plan, any requirement—

"(i) under section 4980(d)(2)(A) of such Code with respect to participation in the qualified replacement plan of active participants in the terminated plan,

"(ii) under section 4980(d)(2)(B) of such Code with respect to the receipt of assets from the terminated plan, and

"(iii) under section 4980(d)(2)(C) of such Code with respect to the allocation of assets to participants of the qualified replacement plan.

"(2) For purposes of this subsection—

"(A) any term used in this subsection which is also used in section 4980(d) of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section, and

"(B) any reference in this subsection to the Internal Revenue Code of 1986 shall be a reference to such Code as in effect immediately after the enactment of the Omnibus Budget Reconciliation Act of 1990."

(2) CONFORMING AMENDMENTS.—

(A) Section 404(a)(1)(D) of such Act (29 U.S.C. 1104(a)(1)(D)) is amended by striking "or title IV" and inserting "and title IV".

(B) Section 4044(d) of such Act (29 U.S.C. 1344(d)) is amended by adding at the end thereof the following new paragraph:

"(4) Nothing in this subsection shall be construed to limit the requirements of section 4980(d) of the Internal Revenue Code of 1986 (as in effect immediately after the enactment of the Omnibus Budget Reconciliation Act of 1990) or section 404(d) of this Act with respect to any distribution of residual assets of a single-employer plan to the employer."

(C) Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end thereof the following new paragraph:

"(41) The term 'single-employer plan' means a plan which is not a multiemployer plan."

26 USC 4980 note.

SEC. 12003. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to reversions occurring after September 30, 1990.

(b) EXCEPTION.—The amendments made by this subtitle shall not apply to any reversion after September 30, 1990, if—

(1) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 1, 1990,

(2) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before October 1, 1990,

(3) in the case of plans not subject to title I or IV of such Act, a request for a determination letter with respect to the termination was filed with the Secretary of the Treasury or the Secretary's delegate before October 1, 1990, or

(4) in the case of plans not subject to title I or IV of such Act and having only 1 participant, a resolution terminating the plan was adopted by the employer before October 1, 1990.

Subtitle B—Transfers to Retiree Health Accounts

SEC. 12011. TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pension, profit-sharing, and stock bonus plans) is amended by adding at the end thereof the following new subpart:

"Subpart E—Treatment of Transfers to Retiree Health Accounts

"Sec. 420. Transfers of excess pension assets to retiree health accounts.

"SEC. 420. TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS. 26 USC 420.

"(a) GENERAL RULE.—If there is a qualified transfer of any excess pension assets of a defined benefit plan (other than a multiemployer plan) to a health benefits account which is part of such plan—

"(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

"(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

"(3) such transfer shall not be treated—

"(A) as an employer reversion for purposes of section 4980, or

"(B) as a prohibited transaction for purposes of section 4975, and

"(4) the limitations of subsection (d) shall apply to such employer.

"(b) QUALIFIED TRANSFER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified transfer' means a transfer—

"(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

"(B) which does not contravene any other provision of law, and

"(C) with respect to which the following requirements are met in connection with the plan—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum cost requirements of subsection (c)(3).

"(2) ONLY 1 TRANSFER PER YEAR.—

"(A) IN GENERAL.—No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

"(B) EXCEPTION.—A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

"(3) LIMITATION ON AMOUNT TRANSFERRED.—The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(4) SPECIAL RULE FOR 1990.—

"(A) IN GENERAL.—Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

"(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

"(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

"(II) the date such return is filed, and

"(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

"(B) DEDUCTION REDUCED.—The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

"(C) COORDINATION WITH REDUCTION RULE.—Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

"(5) EXPIRATION.—No transfer in any taxable year beginning after December 31, 1995, shall be treated as a qualified transfer.

"(c) REQUIREMENTS OF PLANS TRANSFERRING ASSETS.—

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer for such taxable year, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(C) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be

treated as paid first out of the assets and income described in subparagraph (A).

"(2) REQUIREMENTS RELATING TO PENSION BENEFITS ACCRUING BEFORE TRANSFER.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

"(B) SPECIAL RULE FOR 1990.—In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

"(3) MINIMUM COST REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

"(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

"(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

"(I) without regard to any reduction under subsection (e)(1)(B), and

"(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

"(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

"(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

"(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

"(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) NO CONTRIBUTIONS ALLOWED.—An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

"(e) DEFINITION AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED CURRENT RETIREE HEALTH LIABILITIES.—For purposes of this section—

"(A) IN GENERAL.—The term 'qualified current retiree health liabilities' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

"(i) such benefits were provided directly by the employer, and

"(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

"(B) REDUCTIONS FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.

"(C) APPLICABLE HEALTH BENEFITS.—The term 'applicable health benefits' mean health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

"(ii) their spouses and dependents.

"(D) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing

qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the amount determined under section 412(c)(7)(A)(ii), over

"(B) the greater of—

"(i) the amount determined under section 412(c)(7)(A)(i), or

"(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.

"(3) HEALTH BENEFITS ACCOUNT.—The term "health benefits account" means an account established and maintained under section 401(h).

"(4) COORDINATION WITH SECTION 412.—In the case of a qualified transfer to a health benefits account—

"(A) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

"(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)) and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(b) CONFORMING AMENDMENT.—Section 401(h) is amended by inserting ", and subject to the provisions of section 420" after "Secretary". 26 USC 401.

(c) EFFECTIVE DATES.— 26 USC 420 note.

(1) IN GENERAL.—The amendments made by this section shall apply to transfers in taxable years beginning after December 31, 1990.

(2) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or section 6655 of the Internal Revenue Code of 1986 for the taxable year preceding the taxpayer's 1st taxable year beginning after December 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of section 420(b)(4)(B) of such Code (as added by subsection (a)).

SEC. 12012. APPLICATION OF ERISA TO TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) EXCLUSIVE BENEFIT REQUIREMENT.—Section 403(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(c)(1)) is amended by inserting ", or under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)" after "insured plans)".

(b) EXEMPTIONS FROM PROHIBITED TRANSACTIONS.—Section 408(b) of such Act (29 U.S.C. 1108(b)) is amended by adding at the end thereof the following new paragraph:

"(13) Any transfer in a taxable year beginning before January 1, 1996, of excess pension assets from a defined benefit plan to a retiree health account in a qualified transfer permitted under section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991)."

(c) FUNDING LIMITATIONS.—Section 302 of such Act (29 U.S.C. 1082) is amended by redesignating subsection (g) as subsection (h) and by adding at the end thereof the following new subsection:

"(g) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—For purposes of this section, in the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986)—

"(1) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of subsection (c)(7), be treated as assets in the plan as of the valuation date for such year, and

"(2) the plan shall be treated as having a net experience loss under subsection (b)(2)(B)(iv) in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the plan under section 420(c)(1)(B) of such Code) and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such subsection shall be applied to such amount by substituting '10 plan years' for '5 plan years'."

(d) NOTICE REQUIREMENTS.—

(1) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) NOTICE OF TRANSFER OF EXCESS PENSION ASSETS TO HEALTH BENEFITS ACCOUNTS.—

"(1) NOTICE TO PARTICIPANTS.—Not later than 60 days before the date of a qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the administrator of the plan shall notify (in such manner as the Secretary may prescribe) each participant and beneficiary under the plan of such transfer. Such notice shall include information with respect to the amount of excess pension assets, the portion to be transferred, the amount of health benefits liabilities expected to be provided with the assets transferred, and the amount of pension benefits of the participant which will be nonforfeitable immediately after the transfer.

"(2) NOTICE TO SECRETARIES, ADMINISTRATOR, AND EMPLOYEE ORGANIZATIONS.—

"(A) IN GENERAL.—Not later than 60 days before the date of any qualified transfer by an employee pension benefit plan of excess pension assets to a health benefits account, the employer maintaining the plan from which the transfer is made shall provide the Secretary, the Secretary of the Treasury, the administrator, and each employee organization representing participants in the plan a written notice of such transfer. A copy of any such notice shall be available for inspection in the principal office of the administrator.

"(B) INFORMATION RELATING TO TRANSFER.—Such notice shall identify the plan from which the transfer is made, the amount of the transfer, a detailed accounting of assets projected to be held by the plan immediately before and

immediately after the transfer, and the current liabilities under the plan at the time of the transfer.

"(C) AUTHORITY FOR ADDITIONAL REPORTING REQUIREMENTS.—The Secretary may prescribe such additional reporting requirements as may be necessary to carry out the purposes of this section.

"(3) DEFINITIONS.—For purposes of paragraph (1), any term used in such paragraph which is also used in section 420 of the Internal Revenue Code of 1986 (as in effect on January 1, 1991) shall have the same meaning as when used in such section."

(2) PENALTIES.—

(A) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by inserting "or section 101(e)(1)" after "section 606".

(B) Section 502(c)(3) of such Act (29 U.S.C. 1132(c)(3)) is amended—

(i) by inserting "or who fails to meet the requirements of section 101(e)(2) with respect to any person" after "beneficiary" the first place it appears, and

(ii) by inserting "or to such person" after "beneficiary" the second place it appears.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified transfers under section 420 of the Internal Revenue Code of 1986 made after the date of the enactment of this Act. 29 USC 1021 note.

Subtitle C—Premium Rates

SEC. 12021. INCREASE IN PREMIUM RATES.

(a) INCREASE IN BASIC PREMIUM.—

(1) IN GENERAL.—Clause (i) of section 4006(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended by striking "for plan years beginning after December 31, 1987, an amount equal to the sum of $16" and inserting "for plan years beginning after December 31, 1990, an amount equal to the sum of $19".

(2) CONFORMING AMENDMENT.—Section 4006(c)(1)(A) of such Act (29 U.S.C. 1306(c)(1)(A)) is amended by adding at the end the following new clause:

"(iv) with respect to each plan year beginning after December 31, 1987, and before January 1, 1991, an amount equal to $16 for each individual who was a participant in such plan during the plan year, and".

(b) INCREASE IN ADDITIONAL PREMIUM.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

(1) by striking "$6.00" in clause (ii) and inserting "$9.00", and

(2) by striking "$34" in clause (iv)(I) and inserting "$53".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990. 29 USC 1306 note.

TITLE XIII—BUDGET ENFORCEMENT

Budget Enforcement Act of 1990.

SEC. 13001. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Budget Enforcement Act of 1990". 2 USC 900 note.

(b) TABLE OF CONTENTS.—

TITLE XIII—BUDGET ENFORCEMENT

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

Sec. 13001. Short title; table of contents.

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

Sec. 13101. Sequestration.

PART II—RELATED AMENDMENTS

Sec. 13111. Temporary amendments to the Congressional Budget Act of 1974.
Sec. 13112. Conforming amendments.

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

Sec. 13201. Credit accounting.
Sec. 13202. Codification of provision regarding revenue estimates.
Sec. 13203. Debt increase as measure of deficit; display of Federal Retirement Trust Fund balances.
Sec. 13204. Pay-as-you-go procedures.
Sec. 13205. Amendments to section 303.
Sec. 13206. Amendments to section 308.
Sec. 13207. Standardization of language regarding points of order.
Sec. 13208. Standardization of additional deficit control provisions.
Sec. 13209. Codification of precedent with regard to conference reports and amendments between Houses.
Sec. 13210. Superseded deadlines and conforming changes.
Sec. 13211. Definitions.
Sec. 13212. Savings transfers between fiscal years.
Sec. 13213. Conforming change to title 31.
Sec. 13214. The Byrd Rule on extraneous matter in reconciliation.

Subtitle C—Social Security

Sec. 13301. Off-budget status of OASDI trust funds.
Sec. 13302. Protection of OASDI trust funds in the House of Representatives.
Sec. 13303. Social Security firewall and point of order in the Senate.
Sec. 13304. Report to the Congress by the Board of Trustees of the OASDI trust funds regarding the actuarial balance of the trust funds.
Sec. 13305. Exercise of rulemaking power.
Sec. 13306. Effective date.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

Sec. 13401. Restoration of funds sequestered.

Subtitle E—Government-Sponsored Enterprises

Sec. 13501. Financial safety and soundness of Government-sponsored enterprises.

Subtitle A—Amendments to the Balanced Budget and Emergency Deficit Control Act of 1985 and Related Amendments

PART I—AMENDMENTS TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

SEC. 13101. SEQUESTRATION.

(a) SECTIONS 250 THROUGH 254.—Sections 251 (except for subsection (a)(6)(I)) through 254 of part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) are amended to read as follows:

"SEC. 250. TABLE OF CONTENTS; STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION; DEFINITIONS. 2 USC 900.

"(a) TABLE OF CONTENTS.—

"Sec. 250. Table of contents; budget enforcement statement; definitions.
"Sec. 251. Enforcing discretionary spending limits.
"Sec. 252. Enforcing pay-as-you-go.
"Sec. 253. Enforcing deficit targets.
"Sec. 254. Reports and orders.
"Sec. 255. Exempt programs and activities.
"Sec. 256. Special rules.
"Sec. 257. The baseline.
"Sec. 258. Suspension in the event of war or low growth.
"Sec. 258A. Modification of presidential order.
"Sec. 258B. Alternative defense sequestration.
"Sec. 258C. Special reconciliation process.

"(b) GENERAL STATEMENT OF BUDGET ENFORCEMENT THROUGH SEQUESTRATION.—This part provides for the enforcement of the deficit reduction assumed in House Concurrent Resolution 310 (101st Congress, second session) and the applicable deficit targets for fiscal years 1991 through 1995. Enforcement, as necessary, is to be implemented through sequestration—

"(1) to enforce discretionary spending levels assumed in that resolution (with adjustments as provided hereinafter);

"(2) to enforce the requirement that any legislation increasing direct spending or decreasing revenues be on a pay-as-you-go basis; and

"(3) to enforce the deficit targets specifically set forth in the Congressional Budget and Impoundment Control Act of 1974 (with adjustments as provided hereinafter);

applied in the order set forth above.

"(c) DEFINITIONS.—

"As used in this part:

"(1) The terms 'budget authority', 'new budget authority', 'outlays', and 'deficit' have the meanings given to such terms in section 3 of the Congressional Budget and Impoundment Control Act of 1974 (but including the treatment specified in section 257(b)(3) of the Hospital Insurance Trust Fund) and the terms 'maximum deficit amount' and 'discretionary spending limit' shall mean the amounts specified in section 601 of that Act as adjusted under sections 251 and 253 of this Act.

"(2) The terms 'sequester' and 'sequestration' refer to or mean the cancellation of budgetary resources provided by discretionary appropriations or direct spending law.

"(3) The term 'breach' means, for any fiscal year, the amount (if any) by which new budget authority or outlays for that year (within a category of discretionary appropriations) is above that category's discretionary spending limit for new budget authority or outlays for that year, as the case may be.

"(4) The term 'category' means:

"(A) For fiscal years 1991, 1992, and 1993, any of the following subsets of discretionary appropriations: defense, international, or domestic. Discretionary appropriations in each of the three categories shall be those so designated in the joint statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990. New accounts or activities shall be categorized in consultation with the Committees on Appropriations and the Budget of the House of Representatives and the Senate.

"(B) For fiscal years 1994 and 1995, all discretionary appropriations.

Contributions to the United States to offset the cost of Operation Desert Shield shall not be counted within any category.

"(5) The term 'baseline' means the projection (described in section 257) of current-year levels of new budget authority, outlays, receipts, and the surplus or deficit into the budget year and the outyears.

"(6) The term 'budgetary resources' means—

"(A) with respect to budget year 1991, new budget authority; unobligated balances; new loan guarantee commitments or limitations; new direct loan obligations, commitments, or limitations; direct spending authority; and obligation limitations; or

"(B) with respect to budget year 1992, 1993, 1994, or 1995, new budget authority; unobligated balances; direct spending authority; and obligation limitations.

"(7) The term 'discretionary appropriations' means budgetary resources (except to fund direct-spending programs) provided in appropriation Acts.

"(8) The term 'direct spending' means—

"(A) budget authority provided by law other than appropriation Acts;

"(B) entitlement authority; and

"(C) the food stamp program.

"(9) The term 'current' means, with respect to OMB estimates included with a budget submission under section 1105(a) of title 31, United States Code, the estimates consistent with the economic and technical assumptions underlying that budget and with respect to estimates made after submission of the fiscal year 1992 budget that are not included with a budget submission, estimates consistent with the economic and technical assumptions underlying the most recently submitted President's budget.

"(10) The term 'real economic growth', with respect to any fiscal year, means the growth in the gross national product during such fiscal year, adjusted for inflation, consistent with Department of Commerce definitions.

"(11) The term 'account' means an item for which appropriations are made in any appropriation Act and, for items not provided for in appropriation Acts, such term means an item for which there is a designated budget account identification code number in the President's budget.

"(12) The term 'budget year' means, with respect to a session of Congress, the fiscal year of the Government that starts on October 1 of the calendar year in which that session begins.

"(13) The term 'current year' means, with respect to a budget year, the fiscal year that immediately precedes that budget year.

"(14) The term 'outyear' means, with respect to a budget year, any of the fiscal years that follow the budget year through fiscal year 1995.

"(15) The term 'OMB' means the Director of the Office of Management and Budget.

"(16) The term 'CBO' means the Director of the Congressional Budget Office.

"(17) For purposes of sections 252 and 253, legislation enacted during the second session of the One Hundred First Congress shall be deemed to have been enacted before the enactment of this Act.

"(18) As used in this part, all references to entitlement authority shall include the list of mandatory appropriations included in the joint explanatory statement of managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1990.

"(19) The term 'deposit insurance' refers to the expenses of the Federal Deposit Insurance Corporation and the funds it incorporates, the Resolution Trust Corporation, the National Credit Union Administration and the funds it incorporates, the Office of Thrift Supervision, the Comptroller of the Currency Assessment Fund, and the RTC Office of Inspector General.

"(20) The term 'composite outlay rate' means the percent of new budget authority that is converted to outlays in the fiscal year for which the budget authority is provided and subsequent fiscal years, as follows:

"(A) For the international category, 46 percent for the first year, 20 percent for the second year, 16 percent for the third year, and 8 percent for the fourth year.

"(B) For the domestic category, 53 percent for the first year, 31 percent for the second year, 12 percent for the third year, and 2 percent for the fourth year.

"SEC. 251. ENFORCING DISCRETIONARY SPENDING LIMITS. 2 USC 901.

"(a) FISCAL YEARS 1991-1995 ENFORCEMENT.—

"(1) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session and on the same day as a sequestration (if any) under section 252 and section 253, there shall be a sequestration to eliminate a budget-year breach, if any, within any category.

"(2) ELIMINATING A BREACH.—Each non-exempt account within a category shall be reduced by a dollar amount calculated by multiplying the baseline level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category; except that the health programs set forth in section 256(e) shall not be reduced by more than 2 percent and the uniform percent applicable to all other programs under this paragraph shall be increased (if necessary) to a level sufficient to eliminate that breach. If, within a category, the discretionary spending limits for both new budget authority and outlays are breached, the uniform percentage shall be calculated by—

"(A) first, calculating the uniform percentage necessary to eliminate the breach in new budget authority, and

"(B) second, if any breach in outlays remains, increasing the uniform percentage to a level sufficient to eliminate that breach.

"(3) MILITARY PERSONNEL.—If the President uses the authority to exempt any military personnel from sequestration under section 255(h), each account within subfunctional category 051 (other than those military personnel accounts for which the authority provided under section 255(h) has been exercised) shall be further reduced by a dollar amount calculated by multiplying the enacted level of non-exempt budgetary re-

sources in that account at that time by the uniform percentage necessary to offset the total dollar amount by which outlays are not reduced in military personnel accounts by reason of the use of such authority.

"(4) PART-YEAR APPROPRIATIONS.—If, on the date specified in paragraph (1), there is in effect an Act making or continuing appropriations for part of a fiscal year for any budget account, then the dollar sequestration calculated for that account under paragraphs (2) and (3) shall be subtracted from—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation.

"(5) LOOK-BACK.—If, after June 30, an appropriation for the fiscal year in progress is enacted that causes a breach within a category for that year (after taking into account any sequestration of amounts within that category), the discretionary spending limits for that category for the next fiscal year shall be reduced by the amount or amounts of that breach.

"(6) WITHIN-SESSION SEQUESTRATION.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach within a category for that year (after taking into account any prior sequestration of amounts within that category), 15 days later there shall be a sequestration to eliminate that breach within that category following the procedures set forth in paragraphs (2) through (4).

"(7) OMB ESTIMATES.—As soon as practicable after Congress completes action on any discretionary appropriation, CBO, after consultation with the Committees on the Budget of the House of Representatives and the Senate, shall provide OMB with an estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation. Within 5 calendar days after the enactment of any discretionary appropriation, OMB shall transmit a report to the House of Representatives and to the Senate containing the CBO estimate of that legislation, an OMB estimate of the amount of discretionary new budget authority and outlays for the current year (if any) and the budget year provided by that legislation, and an explanation of any difference between the two estimates. For purposes of this paragraph, amounts provided by annual appropriations shall include any new budget authority and outlays for those years in accounts for which funding is provided in that legislation that result from previously enacted legislation. Those OMB estimates shall be made using current economic and technical assumptions. OMB shall use the OMB estimates transmitted to the Congress under this paragraph for the purposes of this subsection. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(b) ADJUSTMENTS TO DISCRETIONARY SPENDING LIMITS.—(1) When the President submits the budget under section 1105(a) of title 31, United States Code, for budget year 1992, 1993, 1994, or 1995 (except

as otherwise indicated), OMB shall calculate (in the order set forth below), and the budget shall include, adjustments to discretionary spending limits (and those limits as cumulatively adjusted) for the budget year and each outyear through 1995 to reflect the following:

"(A) CHANGES IN CONCEPTS AND DEFINITIONS.—The adjustments produced by the amendments made by title XIII of the Omnibus Budget Reconciliation Act of 1990 or by any other changes in concepts and definitions shall equal the baseline levels of new budget authority and outlays using up-to-date concepts and definitions minus those levels using the concepts and definitions in effect before such changes. Such other changes in concepts and definitions may only be made in consultation with the Committees on Appropriations, the Budget, Government Operations, and Governmental Affairs of the House of Representatives and Senate.

"(B) CHANGES IN INFLATION.—(i) For a budget submitted for budget year 1992, 1993, 1994, or 1995, the adjustments produced by changes in inflation shall equal the levels of discretionary new budget authority and outlays in the baseline (calculated using current estimates) subtracted from those levels in that baseline recalculated with the baseline inflators for the budget year only, multiplied by the inflation adjustment factor computed under clause (ii).

"(ii) For a budget year the inflation adjustment factor shall equal the ratio between the level of year-over-year inflation measured for the fiscal year most recently completed and the applicable estimated level for that year set forth below:

"For 1990, 1.041
"For 1991, 1.052
"For 1992, 1.041
"For 1993, 1.033

Inflation shall be measured by the average of the estimated gross national product implicit price deflator index for a fiscal year divided by the average index for the prior fiscal year.

"(C) CREDIT REESTIMATES.—For a budget submitted for fiscal year 1993 or 1994, the adjustments produced by reestimates to costs of Federal credit programs shall be, for any such program, a current estimate of new budget authority and outlays associated with a baseline projection of the prior year's gross loan level for that program minus the baseline projection of the prior year's new budget authority and associated outlays for that program.

"(2) When OMB submits a sequestration report under section 254(g) or (h) for fiscal year 1991, 1992, 1993, 1994, or 1995 (except as otherwise indicated), OMB shall calculate (in the order set forth below), and the sequestration report, and subsequent budgets submitted by the President under section 1105(a) of title 31, United States Code, shall include, adjustments to discretionary spending limits (and those limits as adjusted) for the fiscal year and each succeeding year through 1995, as follows:

"(A) IRS FUNDING.—To the extent that appropriations are enacted that provide additional new budget authority or result in additional outlays (as compared with the CBO baseline constructed in June 1990) for the Internal Revenue Service compliance initiative in any fiscal year, the adjustments for that year shall be those amounts, but shall not exceed the amounts set forth below—

"(i) for fiscal year 1991, $191,000,000 in new budget authority and $183,000,000 in outlays;

"(ii) for fiscal year 1992, $172,000,000 in new budget authority and $169,000,000 in outlays;

"(iii) for fiscal year 1993, $183,000,000 in new budget authority and $179,000,000 in outlays;

"(iv) for fiscal year 1994, $187,000,000 in new budget authority and $183,000,000 in outlays; and

"(v) for fiscal year 1995, $188,000,000 in new budget authority and $184,000,000 in outlays; and

the prior-year outlays resulting from these appropriations of budget authority.

"(B) DEBT FORGIVENESS.—If, in calendar year 1990 or 1991, an appropriation is enacted that forgives the Arab Republic of Egypt's foreign military sales indebtedness to the United States and any part of the Government of Poland's indebtedness to the United States, the adjustment shall be the estimated costs (in new budget authority and outlays, in all years) of that forgiveness.

"(C) IMF FUNDING.—If, in fiscal year 1991, 1992, 1993, 1994, or 1995 an appropriation is enacted to provide to the International Monetary Fund the dollar equivalent, in terms of Special Drawing Rights, of the increase in the United States quota as part of the International Monetary Fund Ninth General Review of Quotas, the adjustment shall be the amount provided by that appropriation.

"(D) EMERGENCY APPROPRIATIONS.—(i) If, for fiscal year 1991, 1992, 1993, 1994, or 1995, appropriations for discretionary accounts are enacted that the President designates as emergency requirements and that the Congress so designates in statute, the adjustment shall be the total of such appropriations in discretionary accounts designated as emergency requirements and the outlays flowing in all years from such appropriations.

"(ii) The costs for operation Desert Shield are to be treated as emergency funding requirements not subject to the defense spending limits. Funding for Desert Shield will be provided through the normal legislative process. Desert Shield costs should be accommodated through Allied burden-sharing, subsequent appropriation Acts, and if the President so chooses, through offsets within other defense accounts. Emergency Desert Shield costs mean those incremental costs associated with the increase in operations in the Middle East and do not include costs that would be experienced by the Department of Defense as part of its normal operations absent Operation Desert Shield.

"(E) SPECIAL ALLOWANCE FOR DISCRETIONARY NEW BUDGET AUTHORITY.—(i) For each of fiscal years 1992 and 1993, the adjustment for the domestic category in each year shall be an amount equal to 0.1 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the domestic category);

"(ii) for each of fiscal years 1992 and 1993, the adjustment for the international category in each year shall be an amount equal to 0.079 percent of the sum of the adjusted discretionary spending limits on new budget authority for all categories for

fiscal years 1991, 1992, and 1993 (cumulatively), together with outlays associated therewith (calculated at the composite outlay rate for the international category); and

"(iii) if, for fiscal years 1992 and 1993, the amount of new budget authority provided in appropriation Acts exceeds the discretionary spending limit on new budget authority for any category due to technical estimates made by the Director of the Office of Management and Budget, the adjustment is the amount of the excess, but not to exceed an amount (for 1992 and 1993 together) equal to 0.042 percent of the sum of the adjusted discretionary limits on new budget authority for all categories for fiscal years 1991, 1992, and 1993 (cumulatively).

"(F) SPECIAL OUTLAY ALLOWANCE.—If in any fiscal year outlays for a category exceed the discretionary spending limit for that category but new budget authority does not exceed its limit for that category (after application of the first step of a sequestration described in subsection (a)(2), if necessary), the adjustment in outlays is the amount of the excess, but not to exceed $2,500,000,000 in the defense category, $1,500,000,000 in the international category, or $2,500,000,000 in the domestic category (as applicable) in fiscal year 1991, 1992, or 1993, and not to exceed $6,500,000,000 in fiscal year 1994 or 1995 less any of the outlay adjustments made under subparagraph (E) for a category for a fiscal year.

"SEC. 252. ENFORCING PAY-AS-YOU-GO. 2 USC 902.

"(a) FISCAL YEARS 1992–1995 ENFORCEMENT.—The purpose of this section is to assure that any legislation (enacted after the date of enactment of this section) affecting direct spending or receipts that increases the deficit in any fiscal year covered by this Act will trigger an offsetting sequestration.

"(b) SEQUESTRATION; LOOK-BACK.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 253, there shall be a sequestration to offset the amount of any net deficit increase in that fiscal year and the prior fiscal year caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any prior sequestration as provided by paragraph (2)). OMB shall calculate the amount of deficit increase, if any, in those fiscal years by adding—

"(1) all applicable estimates of direct spending and receipts legislation transmitted under subsection (d) applicable to those fiscal years, other than any amounts included in such estimates resulting from—

"(A) full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of this section, and

"(B) emergency provisions as designated under subsection (e); and

"(2) the estimated amount of savings in direct spending programs applicable to those fiscal years resulting from the prior year's sequestration under this section or section 253, if any (except for any amounts sequestered as a result of a net deficit increase in the fiscal year immediately preceding the prior fiscal year), as published in OMB's end-of-session sequestration report for that prior year.

"(c) ELIMINATING A DEFICIT INCREASE.—(1) The amount required to be sequestered in a fiscal year under subsection (b) shall be obtained from non-exempt direct spending accounts from actions taken in the following order:

"(A) FIRST.—All reductions in automatic spending increases specified in section 256(a) shall be made.

"(B) SECOND.—If additional reductions in direct spending accounts are required to be made, the maximum reductions permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(C) THIRD.—(i) If additional reductions in direct spending accounts are required to be made, each remaining non-exempt direct spending account shall be reduced by the uniform percentage necessary to make the reductions in direct spending required by paragraph (1); except that the medicare programs specified in section 256(d) shall not be reduced by more than 4 percent and the uniform percentage applicable to all other direct spending programs under this paragraph shall be increased (if necessary) to a level sufficient to achieve the required reduction in direct spending.

"(ii) For purposes of determining reductions under clause (i), outlay reductions (as a result of sequestration of Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

"(2) For purposes of this subsection, accounts shall be assumed to be at the level in the baseline.

"(d) OMB ESTIMATES.—As soon as practicable after Congress completes action on any direct spending or receipts legislation enacted after the date of enactment of this section, after consultation with the Committees on the Budget of the House of Representatives and the Senate, CBO shall provide OMB with an estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation. Within 5 calendar days after the enactment of any direct spending or receipts legislation enacted after the date of enactment of this section, OMB shall transmit a report to the House of Representatives and to the Senate containing such CBO estimate of that legislation, an OMB estimate of the amount of change in outlays or receipts, as the case may be, in each fiscal year through fiscal year 1995 resulting from that legislation, and an explanation of any difference between the two estimates. Those CMB estimates shall be made using current economic and technical assumptions. OMB and CBO shall prepare estimates under this paragraph in conformance with scorekeeping guidelines determined after consultation among the House and Senate Committees on the Budget, CBO, and OMB.

"(e) EMERGENCY LEGISLATION.—If, for fiscal year 1991, 1992, 1993, 1994, or 1995, a provision of direct spending or receipts legislation is enacted that the President designates as an emergency requirement and that the Congress so designates in statute, the amounts of new budget authority, outlays, and receipts in all fiscal years through 1995 resulting from that provision shall be designated as an emergency requirement in the reports required under subsection (d).

"SEC. 253. ENFORCING DEFICIT TARGETS. 2 USC 903.

"(a) SEQUESTRATION.—Within 15 calendar days after Congress adjourns to end a session (other than of the One Hundred First Congress) and on the same day as a sequestration (if any) under section 251 and section 252, but after any sequestration required by section 251 (enforcing discretionary spending limits) or section 252 (enforcing pay-as-you-go), there shall be a sequestration to eliminate the excess deficit (if any remains) if it exceeds the margin.

"(b) EXCESS DEFICIT; MARGIN.—The excess deficit is, if greater than zero, the estimated deficit for the budget year, minus—

"(1) the maximum deficit amount for that year;

"(2) the amounts for that year designated as emergency direct spending or receipts legislation under section 252(e); and

"(3) for any fiscal year in which there is not a full adjustment for technical and economic reestimates, the deposit insurance reestimate for that year, if any, calculated under subsection (h).

The 'margin' for fiscal year 1992 or 1993 is zero and for fiscal year 1994 or 1995 is $15,000,000,000.

"(c) DIVIDING THE SEQUESTRATION.—To eliminate the excess deficit in a budget year, half of the required outlay reductions shall be obtained from non-exempt defense accounts (accounts designated as function 050 in the President's fiscal year 1991 budget submission) and half from non-exempt, non-defense accounts (all other non-exempt accounts).

"(d) DEFENSE.—Each non-exempt defense account shall be reduced by a dollar amount calculated by multiplying the level of sequestrable budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (c), except that, if any military personnel are exempt, adjustments shall be made under the procedure set forth in section 251(a)(3).

"(e) NON-DEFENSE.—Actions to reduce non-defense accounts shall be taken in the following order:

"(1) FIRST.—All reductions in automatic spending increases under section 256(a) shall be made.

"(2) SECOND.—If additional reductions in non-defense accounts are required to be made, the maximum reduction permissible under sections 256(b) (guaranteed student loans) and 256(c) (foster care and adoption assistance) shall be made.

"(3) THIRD.—(A) If additional reductions in non-defense accounts are required to be made, each remaining non-exempt, non-defense account shall be reduced by the uniform percentage necessary to make the reductions in non-defense outlays required by subsection (c), except that—

"(i) the medicare program specified in section 256(d) shall not be reduced by more than 2 percent in total including any reduction of less than 2 percent made under section 252 or, if it has been reduced by 2 percent or more under section 252, it may not be further reduced under this section; and

"(ii) the health programs set forth in section 256(e) shall not be reduced by more than 2 percent in total (including any reduction made under section 251),

and the uniform percent applicable to all other programs under this subsection shall be increased (if necessary) to a level sufficient to achieve the required reduction in non-defense outlays.

"(B) For purposes of determining reductions under subparagraph (A), outlay reduction (as a result of sequestration of

Commodity Credit Corporation commodity price support contracts in the fiscal year of a sequestration) that would occur in the following fiscal year shall be credited as outlay reductions in the fiscal year of the sequestration.

"(f) BASELINE ASSUMPTIONS; PART-YEAR APPROPRIATIONS.—

"(1) BUDGET ASSUMPTIONS.—For purposes of subsections (b), (c), (d), and (e), accounts shall be assumed to be at the level in the baseline minus any reductions required to be made under sections 251 and 252.

"(2) PART-YEAR APPROPRIATIONS.—If, on the date specified in subsection (a), there is in effect an Act making or continuing appropriations for part of a fiscal year for any non-exempt budget account, then the dollar sequestration calculated for that account under subsection (d) or (e), as applicable, shall be subtracted from—

"(A) the annualized amount otherwise available by law in that account under that or a subsequent part-year appropriation; and

"(B) when a full-year appropriation for that account is enacted, from the amount otherwise provided by the full-year appropriation; except that the amount to be sequestered from that account shall be reduced (but not below zero) by the savings achieved by that appropriation when the enacted amount is less than the baseline for that account.

"(g) ADJUSTMENTS TO MAXIMUM DEFICIT AMOUNTS.—

"(1) ADJUSTMENTS.—

"(A) When the President submits the budget for fiscal year 1992, the maximum deficit amounts for fiscal years 1992, 1993, 1994, and 1995 shall be adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions. When the President submits the budget for fiscal year 1993, the maximum deficit amounts for fiscal years 1993, 1994, and 1995 shall be further adjusted to reflect up-to-date reestimates of economic and technical assumptions and any changes in concepts or definitions.

"(B) When submitting the budget for fiscal year 1994, the President may choose to adjust the maximum deficit amounts for fiscal years 1994 and 1995 to reflect up-to-date reestimates of economic and technical assumptions. If the President chooses to adjust the maximum deficit amount when submitting the fiscal year 1994 budget, the President may choose to invoke the same adjustment procedure when submitting the budget for fiscal year 1995. In each case, the President must choose between making no adjustment or the full adjustment described in paragraph (2). If the President chooses to make that full adjustment, then those procedures for adjusting discretionary spending limits described in sections 251(b)(1)(C) and 251(b)(2)(E), otherwise applicable through fiscal year 1993 or 1994 (as the case may be), shall be deemed to apply for fiscal year 1994 (and 1995 if applicable).

"(C) When the budget for fiscal year 1994 or 1995 is submitted and the sequestration reports for those years under section 254 are made (as applicable), if the President does not choose to make the adjustments set forth in

subparagraph (B), the maximum deficit amount for that fiscal year shall be adjusted by the amount of the adjustment to discretionary spending limits first applicable for that year (if any) under section 251(b).

"(D) For each fiscal year the adjustments required to be made with the submission of the President's budget for that year shall also be made when OMB submits the sequestration update report and the final sequestration report for that year, but OMB shall continue to use the economic and technical assumptions in the President's budget for that year.

Each adjustment shall be made by increasing or decreasing the maximum deficit amounts set forth in section 601 of the Congressional Budget Act of 1974.

"(2) CALCULATIONS OF ADJUSTMENTS.—The required increase or decrease shall be calculated as follows:

"(A) The baseline deficit or surplus shall be calculated using up-to-date economic and technical assumptions, using up-to-date concepts and definitions, and, in lieu of the baseline levels of discretionary appropriations, using the discretionary spending limits set forth in section 601 of the Congressional Budget Act of 1974 as adjusted under section 251.

"(B) The net deficit increase or decrease caused by all direct spending and receipts legislation enacted after the date of enactment of this section (after adjusting for any sequestration of direct spending accounts) shall be calculated for each fiscal year by adding—

"(i) the estimates of direct spending and receipts legislation transmitted under section 252(d) applicable to each such fiscal year; and

"(ii) the estimated amount of savings in direct spending programs applicable to each such fiscal year resulting from the prior year's sequestration under this section or section 252 of direct spending, if any, as contained in OMB's final sequestration report for that year.

"(C) The amount calculated under subparagraph (B) shall be subtracted from the amount calculated under subparagraph (A).

"(D) The maximum deficit amount set forth in section 601 of the Congressional Budget Act of 1974 shall be subtracted from the amount calculated under subparagraph (C).

"(E) The amount calculated under subparagraph (D) shall be the amount of the adjustment required by paragraph (1).

"(h) TREATMENT OF DEPOSIT INSURANCE.—

"(1) INITIAL ESTIMATES.—The initial estimates of the net costs of federal deposit insurance for fiscal year 1994 and fiscal year 1995 (assuming full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of the submission of the budget for fiscal year 1993) shall be set forth in that budget.

"(2) REESTIMATES.—For fiscal year 1994 and fiscal year 1995, the amount of the reestimate of deposit insurance costs shall be calculated by subtracting the amount set forth under paragraph (1) for that year from the current estimate of deposit insurance costs (but assuming full funding of, and continuation of, the

deposit insurance guarantee commitment in effect on the date of submission of the budget for fiscal year 1993).

2 USC 904.

"SEC. 254. REPORTS AND ORDERS.

"(a) TIMETABLE.—The timetable with respect to this part for any budget year is as follows:

"Date:	Action to be completed:
January 21	Notification regarding optional adjustment of maximum deficit amount.
5 days before the President's budget submission.	CBO sequestration preview report.
The President's budget submission	OMB sequestration preview report.
August 10	Notification regarding military personnel.
August 15	CBO sequestration update report.
August 20	OMB sequestration update report.
10 days after end of session	CBO final sequestration report.
15 days after end of session	OMB final sequestration report; Presidential order.
30 days later	GAO compliance report.

"(b) SUBMISSION AND AVAILABILITY OF REPORTS.—Each report required by this section shall be submitted, in the case of CBO, to the House of Representatives, the Senate and OMB and, in the case of OMB, to the House of Representatives, the Senate, and the President on the day it is issued. On the following day a notice of the report shall be printed in the Federal Register.

"(c) OPTIONAL ADJUSTMENT OF MAXIMUM DEFICIT AMOUNTS.—With respect to budget year 1994 or 1995, on the date specified in subsection (a) the President shall notify the House of Representatives and the Senate of his decision regarding the optional adjustment of the maximum deficit amount (as allowed under section 253(g)(1)(B)).

"(d) SEQUESTRATION PREVIEW REPORTS.—

"(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a preview report regarding discretionary, pay-as-you-go, and deficit sequestration based on laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORT.—The preview reports shall set forth estimates for the current year and each subsequent year through 1995 of the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(3) PAY-AS-YOU-GO SEQUESTRATION REPORTS.—The preview reports shall set forth, for the current year and the budget year, estimates for each of the following:

"(A) The amount of net deficit increase or decrease, if any, calculated under subsection 252(b).

"(B) A list identifying each law enacted and sequestration implemented after the date of enactment of this section included in the calculation of the amount of deficit increase or decrease and specifying the budgetary effect of each such law.

"(C) The sequestration percentage or (if the required sequestration percentage is greater than the maximum allowable percentage for medicare) percentages necessary to eliminate a deficit increase under section 252(c).

"(4) DEFICIT SEQUESTRATION REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The maximum deficit amount, the estimated deficit calculated under section 253(b), the excess deficit, and the margin.

"(B) The amount of reductions required under section 252, the excess deficit remaining after those reductions have been made, and the amount of reductions required from defense accounts and the reductions required from non-defense accounts.

"(C) The sequestration percentage necessary to achieve the required reduction in defense accounts under section 253(d).

"(D) The reductions required under sections 253(e)(1) and 253(e)(2).

"(E) The sequestration percentage necessary to achieve the required reduction in non-defense accounts under section 253(e)(3).

The CBO report need not set forth the items other than the maximum deficit amount for fiscal year 1992, 1993, or any fiscal year for which the President notifies the House of Representatives and the Senate that he will adjust the maximum deficit amount under the option under section 253(g)(1)(B).

"(5) EXPLANATION OF DIFFERENCES.—The OMB reports shall explain the differences between OMB and CBO estimates for each item set forth in this subsection.

"(e) NOTIFICATION REGARDING MILITARY PERSONNEL.—On or before the date specified in subsection (a), the President shall notify the Congress of the manner in which he intends to exercise flexibility with respect to military personnel accounts under section 255(h).

"(f) SEQUESTRATION UPDATE REPORTS.—On the dates specified in subsection (a), OMB and CBO shall issue a sequestration update report, reflecting laws enacted through those dates, containing all of the information required in the sequestration preview reports.

"(g) FINAL SEQUESTRATION REPORTS.—

"(1) REPORTING REQUIREMENT.—On the dates specified in subsection (a), OMB and CBO shall issue a final sequestration report, updated to reflect laws enacted through those dates.

"(2) DISCRETIONARY SEQUESTRATION REPORTS.—The final reports shall set forth estimates for each of the following:

"(A) For the current year and each subsequent year through 1995 the applicable discretionary spending limits for each category and an explanation of any adjustments in such limits under section 251.

"(B) For the current year and the budget year the estimated new budget authority and outlays for each category and the breach, if any, in each category.

"(C) For each category for which a sequestration is required, the sequestration percentages necessary to achieve the required reduction.

"(D) For the budget year, for each account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions.

"(3) PAY-AS-YOU-GO AND DEFICIT SEQUESTRATION REPORTS.—The final reports shall contain all the information required in the pay-as-you-go and deficit sequestration preview reports. In addition, these reports shall contain, for the budget year, for each

account to be sequestered, estimates of the baseline level of sequestrable budgetary resources and resulting outlays and the amount of budgetary resources to be sequestered and resulting outlay reductions. The reports shall also contain estimates of the effects on outlays of the sequestration in each outyear through 1995 for direct spending programs.

"(4) EXPLANATION OF DIFFERENCES.—The OMB report shall explain any differences between OMB and CBO estimates of the amount of any net deficit change calculated under subsection 252(b), any excess deficit, any breach, and any required sequestration percentage. The OMB report shall also explain differences in the amount of sequesterable resources for any budget account to be reduced if such difference is greater than $5,000,000.

"(5) PRESIDENTIAL ORDER.—On the date specified in subsection (a), if in its final sequestration report OMB estimates that any sequestration is required, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

"(h) WITHIN-SESSION SEQUESTRATION REPORTS AND ORDER.—If an appropriation for a fiscal year in progress is enacted (after Congress adjourns to end the session for that budget year and before July 1 of that fiscal year) that causes a breach, 10 days later CBO shall issue a report containing the information required in paragraph (g)(2). Fifteen days after enactment, OMB shall issue a report containing the information required in paragraphs (g)(2) and (g)(4). On the same day as the OMB report, the President shall issue an order fully implementing without change all sequestrations required by the OMB calculations set forth in that report. This order shall be effective on issuance.

"(i) GAO COMPLIANCE REPORT.—On the date specified in subsection (a), the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which each order issued by the President under this section complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(2) the extent to which each report issued by OMB or CBO under this section complies with all of the requirements contained in this part, either certifying that the report fully and accurately complies with such requirements or indicating the respects in which it does not.

"(j) LOW-GROWTH REPORT.—At any time, CBO shall notify the Congress if—

"(1) during the period consisting of the quarter during which such notification is given, the quarter preceding such notification, and the 4 quarters following such notification, CBO or OMB has determined that real economic growth is projected or estimated to be less than zero with respect to each of any 2 consecutive quarters within such period; or

"(2) the most recent of the Department of Commerce's advance preliminary or final reports of actual real economic growth indicate that the rate of real economic growth for each of the most recently reported quarter and the immediately preceding quarter is less than one percent.

"(k) ECONOMIC AND TECHNICAL ASSUMPTIONS.—In all reports required by this section, OMB shall use the same economic and technical assumptions as used in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code.".

(b) SECTION 250: DEFINITIONS.—Paragraph (12) of section 257 of such Act (as in effect immediately before the date of enactment of this Act) is redesignated as a new paragraph (21) of section 250(c). 2 USC 900, 907.

(c) SECTION 255: EXEMPT PROGRAMS AND ACTIVITIES.—

(1) Section 255(a) of such Act is amended to read as follows: 2 USC 905.

"(a) SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act, and benefits payable under section 3(a), 3(f)(3), 4(a), or 4(f) of the Railroad Retirement Act of 1974, shall be exempt from reduction under any order issued under this part.".

(2) Section 255(e) of such Act is amended to read as follows:

"(e) NON-DEFENSE UNOBLIGATED BALANCES.—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.".

(3) Section 255(g)(1)(B) of such Act is amended by inserting after the item relating to Railroad retirement tier II the following:

"Railroad supplemental annuity pension fund (60-8012-0-7-602);".

(4) Section 255 of such Act is amended by inserting at the end the following:

"(h) OPTIONAL EXEMPTION OF MILITARY PERSONNEL.—

"(1) The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

"(2) The President may not use the authority provided by paragraph (1) unless he notifies the Congress of the manner in which such authority will be exercised on or before the initial snapshot date for the budget year.".

(d) SECTION 256: EXCEPTIONS, LIMITATIONS, AND SPECIAL RULES.—

(1) Section 256(a) of such Act is amended to read as follows: 2 USC 906.

"(a) AUTOMATIC SPENDING INCREASES.—Automatic spending increases are increases in outlays due to changes in indexes in the following programs:

"(1) National Wool Act;

"(2) Special milk program; and

"(3) Vocational rehabilitation basic State grants.

In those programs all amounts other than the automatic spending increases shall be exempt from reduction under any order issued under this part.".

(2) Section 256 of such Act is amended by redesignating subsection (b) as subsection (h), subsection (c) as subsection (b), subsection (e) as subsection (f), subsection (f) as subsection (c), subsection (h) as subsection (i), and subsection (k) as subsection (e), by repealing subsections (i) and (l), and by inserting at the end the following:

"(k) SPECIAL RULES FOR THE JOBS PORTION OF AFDC.—

"(1) FULL AMOUNT OF SEQUESTRATION REQUIRED.—Any order issued by the President under section 254 shall accomplish the

full amount of any required sequestration of the job opportunities and basic skills training program under section 402(a)(19), and part F of title VI, of the Social Security Act, in the manner specified in this subsection. Such an order may not reduce any Federal matching rate pursuant to section 403(l) of the Social Security Act.

"(2) NEW ALLOTMENT FORMULA.—

"(A) GENERAL RULE.—Notwithstanding section 403(k) of the Social Security Act, each State's percentage share of the amount available after sequestration for direct spending pursuant to section 403(l) of such Act for the fiscal year to which the sequestration applies shall be equal to—

"(i) the lesser of—

"(I) that percentage of the total amount paid to the States pursuant to such section 403(l) for the prior fiscal year that is represented by the amount paid to such State pursuant to such section 403(l) for the prior fiscal year; or

"(II) the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

"(B) REALLOTMENT OF AMOUNTS REMAINING UNALLOTTED AFTER APPLICATION OF GENERAL RULE.—Any amount made available after sequestration for direct spending pursuant to section 403(l) of the Social Security Act for the fiscal year to which the sequestration applies that remains unallotted as a result of subparagraph (A) of this paragraph shall be allotted among the States in proportion to the absolute difference between the amount allotted, respectively, to each State as a result of such subparagraph and the amount that would have been allotted to such State pursuant to section 403(k) of such Act had the sequestration not been in effect, except that a State may not be allotted an amount under this subparagraph that results in a total allotment to the State under this paragraph of more than the amount that would have been allotted to such State pursuant to such section 403(k) had the sequestration not been in effect.

"(l) EFFECTS OF SEQUESTRATION.—The effects of sequestration shall be as follows:

"(1) Budgetary resources sequestered from any account other than a trust or special fund account shall be permanently cancelled.

"(2) Except as otherwise provided, the same percentage sequestration shall apply to all programs, projects, and activities within a budget account (with programs, projects, and activities as delineated in the appropriation Act or accompanying report for the relevant fiscal year covering that account, or for accounts not included in appropriation Acts, as delineated in the most recently submitted President's budget).

"(3) Administrative regulations or similar actions implementing a sequestration shall be made within 120 days of the sequestration order. To the extent that formula allocations differ at different levels of budgetary resources within an account, program, project, or activity, the sequestration shall be interpreted as producing a lower total appropriation, with the remaining amount of the appropriation being obligated in a manner consistent with program allocation formulas in substantive law.

"(4) Except as otherwise provided, obligations in sequestered accounts shall be reduced only in the fiscal year in which a sequester occurs.

"(5) If an automatic spending increase is sequestered, the increase (in the applicable index) that was disregarded as a result of that sequestration shall not be taken into account in any subsequent fiscal year.

"(6) Except as otherwise provided, sequestration in trust and special fund accounts for which obligations are indefinite shall be taken in a manner to ensure that obligations in the fiscal year of a sequestration are reduced, from the level that would actually have occurred, by the applicable sequestration percentage.".

(3) Section 256 of such Act is amended by striking "section 252" each place it appears and by inserting "section 254". 2 USC 906.

(4) Section 256(c) (as redesignated) of such Act is amended by inserting after the first sentence the following: "No State's matching payments from the Federal Government for foster care maintenance payments or for adoption assistance maintenance payments may be reduced by a percentage exceeding the applicable domestic sequestration percentage.".

(5) Section 256(d)(1) of such Act is amended to read as follows:

"(1) CALCULATION OF REDUCTION IN INDIVIDUAL PAYMENT AMOUNTS.—To achieve the total percentage reduction in those programs required by sections 252 and 253, and notwithstanding section 710 of the Social Security Act, OMB shall determine, and the applicable Presidential order under section 254 shall implement, the percentage reduction that shall apply to payments under the health insurance programs under title XVIII of the Social Security Act for services furnished after the order is issued, such that the reduction made in payments under that order shall achieve the required total percentage reduction in those payments for that fiscal year as determined on a 12-month basis.".

(6) Section 256(d)(2)(C) of such Act is repealed.

(e) THE BASELINE.—(1) Section 257 of such Act is amended to read as follows: 2 USC 907.

"SEC. 257. THE BASELINE.

"(a) IN GENERAL.—For any budget year, the baseline refers to a projection of current-year levels of new budget authority, outlays, revenues, and the surplus or deficit into the budget year and the outyears based on laws enacted through the applicable date.

"(b) DIRECT SPENDING AND RECEIPTS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions:

"(1) IN GENERAL.—Laws providing or creating direct spending and receipts are assumed to operate in the manner specified in those laws for each such year and funding for entitlement authority is assumed to be adequate to make all payments required by those laws.

"(2) EXCEPTIONS.—(A) No program with estimated current-year outlays greater than $50 million shall be assumed to expire in the budget year or outyears.

"(B) The increase for veterans' compensation for a fiscal year is assumed to be the same as that required by law for veterans'

pensions unless otherwise provided by law enacted in that session.

"(C) Excise taxes dedicated to a trust fund, if expiring, are assumed to be extended at current rates.

"(3) HOSPITAL INSURANCE TRUST FUND.—Notwithstanding any other provision of law, the receipts and disbursements of the Hospital Insurance Trust Fund shall be included in all calculations required by this Act.

"(c) DISCRETIONARY APPROPRIATIONS.—For the budget year and each outyear, the baseline shall be calculated using the following assumptions regarding all amounts other than those covered by subsection (b):

"(1) INFLATION OF CURRENT-YEAR APPROPRIATIONS.—Budgetary resources other than unobligated balances shall be at the level provided for the budget year in full-year appropriation Acts. If for any account a full-year appropriation has not yet been enacted, budgetary resources other than unobligated balances shall be at the level available in the current year, adjusted sequentially and cumulatively for expiring housing contracts as specified in paragraph (2), for social insurance administrative expenses as specified in paragraph (3), to offset pay absorption and for pay annualization as specified in paragraph (4), for inflation as specified in paragraph (5), and to account for changes required by law in the level of agency payments for personnel benefits other than pay.

"(2) EXPIRING HOUSING CONTRACTS.—New budget authority to renew expiring multiyear subsidized housing contracts shall be adjusted to reflect the difference in the number of such contracts that are scheduled to expire in that fiscal year and the number expiring in the current year, with the per-contract renewal cost equal to the average current-year cost of renewal contracts.

"(3) SOCIAL INSURANCE ADMINISTRATIVE EXPENSES.—Budgetary resources for the administrative expenses of the following trust funds shall be adjusted by the percentage change in the beneficiary population from the current year to that fiscal year: the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account.

"(4) PAY ANNUALIZATION; OFFSET TO PAY ABSORPTION.—Current-year new budget authority for Federal employees shall be adjusted to reflect the full 12-month costs (without absorption) of any pay adjustment that occurred in that fiscal year.

"(5) INFLATORS.—The inflator used in paragraph (1) to adjust budgetary resources relating to personnel shall be the percent by which the average of the Bureau of Labor Statistics Employment Cost Index (wages and salaries, private industry workers) for that fiscal year differs from such index for the current year. The inflator used in paragraph (1) to adjust all other budgetary resources shall be the percent by which the average of the estimated gross national product fixed-weight price index for that fiscal year differs from the average of such estimated index for the current year.

"(6) CURRENT-YEAR APPROPRIATIONS.—If, for any account, a continuing appropriation is in effect for less than the entire current year, then the current-year amount shall be assumed to equal the amount that would be available if that continuing

appropriation covered the entire fiscal year. If law permits the transfer of budget authority among budget accounts in the current year, the current-year level for an account shall reflect transfers accomplished by the submission of, or assumed for the current year in, the President's original budget for the budget year.

"(d) UP-TO-DATE CONCEPTS.—In deriving the baseline for any budget year or outyear, current-year amounts shall be calculated using the concepts and definitions that are required for that budget year.".

(2) Section 251(a)(6)(I) of such Act (as in effect immediately before the date of enactment of this Act) is redesignated as section 257(e) of such Act. Section 257(e) is amended by striking "assuming, for purposes of this paragraph and subparagraph (A)(i) of paragraph (3), that the" and inserting "The". 2 USC 901, 907.

(f) Such Act is amended by inserting after section 257 the following:

"SEC. 258. SUSPENSION IN THE EVENT OF WAR OR LOW GROWTH. 2 USC 907a.

"(a) PROCEDURES IN THE EVENT OF A LOW GROWTH REPORT.—

"(1) TRIGGER.—Whenever CBO issues a low-growth report under section 254(j), the Majority Leader of the House of Representatives may, and the Majority Leader of the Senate shall, introduce a joint resolution (in the form set forth in paragraph (2)) declaring that the conditions specified in section 254(j) are met and suspending the relevant provisions of this title, titles III and VI of the Congressional Budget Act of 1974, and section 1103 of title 31, United States Code.

"(2) FORM OF JOINT RESOLUTION.—

"(A) The matter after the resolving clause in any joint resolution introduced pursuant to paragraph (1) shall be as follows: 'That the Congress declares that the conditions specified in section 254(j) of the Balanced Budget and Emergency Deficit Control Act of 1985 are met, and the implementation of the Congressional Budget and Impoundment Control Act of 1974, chapter 11 of title 31, United States Code, and part C of the Balanced Budget and Emergency Deficit Control Act of 1985 are modified as described in section 258(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(B) The title of the joint resolution shall be 'Joint resolution suspending certain provisions of law pursuant to section 258(a)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985.'; and the joint resolution shall not contain any preamble.

"(3) COMMITTEE ACTION.—Each joint resolution introduced pursuant to paragraph (1) shall be referred to the appropriate committees of the House of Representatives or the Committee on the Budget of the Senate, as the case may be; and such Committee shall report the joint resolution to its House without amendment on or before the fifth day on which such House is in session after the date on which the joint resolution is introduced. If the Committee fails to report the joint resolution within the five-day period referred to in the preceding sentence, it shall be automatically discharged from further consideration of the joint resolution, and the joint resolution shall be placed on the appropriate calendar.

"(4) CONSIDERATION OF JOINT RESOLUTION.—

"(A) A vote on final passage of a joint resolution reported to the Senate or discharged pursuant to paragraph (3) shall be taken on or before the close of the fifth calendar day of session after the date on which the joint resolution is reported or after the Committee has been discharged from further consideration of the joint resolution. If prior to the passage by one House of a joint resolution of that House, that House receives the same joint resolution from the other House, then—

"(i) the procedure in that House shall be the same as if no such joint resolution had been received from the other House, but

"(ii) the vote on final passage shall be on the joint resolution of the other House.

When the joint resolution is agreed to, the Clerk of the House of Representatives (in the case of a House joint resolution agreed to in the House of Representatives) or the Secretary of the Senate (in the case of a Senate joint resolution agreed to in the Senate) shall cause the joint resolution to be engrossed, certified, and transmitted to the other House of the Congress as soon as practicable.

"(B)(i) In the Senate, a joint resolution under this paragraph shall be privileged. It shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(ii) Debate in the Senate on a joint resolution under this paragraph, and all debatable motions and appeals in connection therewith, shall be limited to not more than five hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(iii) Debate in the Senate on any debatable motion or appeal in connection with a joint resolution under this paragraph shall be limited to not more than one hour, to be equally divided between, and controlled by, the mover and the manager of the joint resolution, except that in the event the manager of the joint resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee.

"(iv) A motion in the Senate to further limit debate on a joint resolution under this paragraph is not debatable. A motion to table or to recommit a joint resolution under this paragraph is not in order.

"(C) No amendment to a joint resolution considered under this paragraph shall be in order in the Senate.

"(b) SUSPENSION OF SEQUESTRATION PROCEDURES.—Upon the enactment of a declaration of war or a joint resolution described in subsection (a)—

"(1) the subsequent issuance of any sequestration report or any sequestration order is precluded;

"(2) sections 302(f), 310(d), 311(a), and title VI of the Congressional Budget Act of 1974 are suspended; and

"(3) section 1103 of title 31, United States Code, is suspended.

"(c) RESTORATION OF SEQUESTRATION PROCEDURES.—

"(1) In the event of a suspension of sequestration procedures due to a declaration of war, then, effective with the first fiscal

year that begins in the session after the state of war is concluded by Senate ratification of the necessary treaties, the provisions of subsection (b) triggered by that declaration of war are no longer effective.

"(2) In the event of a suspension of sequestration procedures due to the enactment of a joint resolution described in subsection (a), then, effective with regard to the first fiscal year beginning at least 12 months after the enactment of that resolution, the provisions of subsection (b) triggered by that resolution are no longer effective.

"SEC. 258A. MODIFICATION OF PRESIDENTIAL ORDER. 2 USC 907b.

"(a) INTRODUCTION OF JOINT RESOLUTION.—At any time after the Director of OMB issues a final sequestration report under section 254 for a fiscal year, but before the close of the twentieth calendar day of the session of Congress beginning after the date of issuance of such report, the majority leader of either House of Congress may introduce a joint resolution which contains provisions directing the President to modify the most recent order issued under section 254 or provide an alternative to reduce the deficit for such fiscal year. After the introduction of the first such joint resolution in either House of Congress in any calendar year, then no other joint resolution introduced in such House in such calendar year shall be subject to the procedures set forth in this section.

"(b) PROCEDURES FOR CONSIDERATION OF JOINT RESOLUTIONS.—

"(1) REFERRAL TO COMMITTEE.—A joint resolution introduced in the Senate under subsection (a) shall not be referred to a committee of the Senate and shall be placed on the calendar pending disposition of such joint resolution in accordance with this subsection.

"(2) CONSIDERATION IN THE SENATE.—On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is introduced under subsection (a), notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution (to which the motion applies) is introduced. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(3) DEBATE IN THE SENATE.—

"(A) In the Senate, debate on a joint resolution introduced under subsection (a), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(B) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to

reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order, and a motion to recommit the joint resolution is not in order.

"(C)(i) No amendment that is not germane to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

"(ii) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(4) VOTE ON FINAL PASSAGE.—Immediately following the conclusion of the debate on a joint resolution introduced under subsection (a), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under paragraph (3), the vote on final passage of the joint resolution shall occur.

"(5) APPEALS.—Appeals from the decisions of the Chair shall be decided without debate.

"(6) CONFERENCE REPORTS.—In the Senate, points of order under titles III, IV, and VI of the Congressional Budget Act of 1974 are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(7) RESOLUTION FROM OTHER HOUSE.—If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (a), the Senate receives from the House of Representatives a joint resolution introduced under subsection (a), then the following procedures shall apply:

"(A) The joint resolution of the House of Representatives shall not be referred to a committee and shall be placed on the calendar.

"(B) With respect to a joint resolution introduced under subsection (a) in the Senate—

"(i) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(ii)(I) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(II) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

"(C) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(8) SENATE ACTION ON HOUSE RESOLUTION.—If the Senate receives from the House of Representatives a joint resolution introduced under subsection (a) after the Senate has disposed of a Senate originated resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.".

(g) Such Act is amended by inserting after section 258A the following:

"SEC. 258B. FLEXIBILITY AMONG DEFENSE PROGRAMS, PROJECTS, AND ACTIVITIES. 2 USC 907c.

"(a) Subject to subsections (b), (c), and (d), new budget authority and unobligated balances for any programs, projects, or activities within major functional category 050 (other than a military personnel account) may be further reduced beyond the amount specified in an order issued by the President under section 254 for such fiscal year. To the extent such additional reductions are made and result in additional outlay reductions, the President may provide for lesser reductions in new budget authority and unobligated balances for other programs, projects, or activities within major functional category 050 for such fiscal year, but only to the extent that the resulting outlay increases do not exceed the additional outlay reductions, and no such program, project, or activity may be increased above the level actually made available by law in appropriation Acts (before taking sequestration into account). In making calculations under this subsection, the President shall use account outlay rates that are identical to those used in the report by the Director of OMB under section 254.

"(b) No actions taken by the President under subsection (a) for a fiscal year may result in a domestic base closure or realignment that would otherwise be subject to section 2687 of title 10, United States Code.

"(c) The President may not exercise the authority provided by this paragraph for a fiscal year unless—

"(1) the President submits a single report to Congress specifying, for each account, the detailed changes proposed to be made for such fiscal year pursuant to this section;

"(2) that report is submitted within 5 calendar days of the start of the next session of Congress; and

"(3) a joint resolution affirming or modifying the changes proposed by the President pursuant to this paragraph becomes law.

"(d) Within 5 calendar days of session after the President submits a report to Congress under subsection (c)(1) for a fiscal year, the majority leader of each House of Congress shall (by request) introduce a joint resolution which contains provisions affirming the changes proposed by the President pursuant to this paragraph.

"(e)(1) The matter after the resolving clause in any joint resolution introduced pursuant to subsection (d) shall be as follows: 'That the

report of the President as submitted on [Insert Date] under section 258B is hereby approved.'.

"(2) The title of the joint resolution shall be 'Joint resolution approving the report of the President submitted under section 258B of the Balanced Budget and Emergency Deficit Control Act of 1985.'.

"(3) Such joint resolution shall not contain any preamble.

"(f)(1) A joint resolution introduced in the Senate under subsection (d) shall be referred to the Committee on Appropriations, and if not reported within 5 calendar days (excluding Saturdays, Sundays, and legal holidays) from the date of introduction shall be considered as having been discharged therefrom and shall be placed on the appropriate calendar pending disposition of such joint resolution in accordance with this subsection. In the Senate, no amendment proposed in the Committee on Appropriations shall be in order other than an amendment (in the nature of a substitute) that is germane or relevant to the provisions of the joint resolution or to the order issued under section 254. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense).

"(2) On or after the third calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after a joint resolution is placed on the Senate calendar, notwithstanding any rule or precedent of the Senate, including Rule XXII of the Standing Rules of the Senate, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of the joint resolution. The motion is not in order after the eighth calendar day (excluding Saturdays, Sundays, and legal holidays) beginning after such joint resolution is placed on the appropriate calendar. The motion is not debatable. The joint resolution is privileged in the Senate. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the Senate shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the joint resolution shall remain the unfinished business of the Senate until disposed of.

"(g)(1) In the Senate, debate on a joint resolution introduced under subsection (d), amendments thereto, and all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours, which shall be divided equally between the majority leader and the minority leader (or their designees).

"(2) A motion to postpone, or a motion to proceed to the consideration of other business is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order. In the Senate, a motion to recommit the joint resolution is not in order.

"(h)(1) No amendment that is not germane or relevant to the provisions of the joint resolution or to the order issued under section 254 shall be in order in the Senate. For purposes of this paragraph, an amendment shall be considered to be relevant if it relates to function 050 (national defense). In the Senate, an amendment, any amendment to an amendment, or any debatable motion or appeal is debatable for not to exceed 30 minutes to be equally divided between, and controlled by, the mover and the majority leader (or their designees), except that in the event that the majority leader favors the amendment, motion, or appeal, the minority leader (or

the minority leader's designee) shall control the time in opposition to the amendment, motion, or appeal.

"(2) In the Senate, an amendment that is otherwise in order shall be in order notwithstanding the fact that it amends the joint resolution in more than one place or amends language previously amended, so long as the amendment makes or maintains mathematical consistency. It shall not be in order in the Senate to vote on the question of agreeing to such a joint resolution or any amendment thereto unless the figures then contained in such joint resolution or amendment are mathematically consistent.

"(3) It shall not be in order in the Senate to consider any amendment to any joint resolution introduced under subsection (d) or any conference report thereon if such amendment or conference report would have the effect of decreasing any specific budget outlay reductions below the level of such outlay reductions provided in such joint resolution unless such amendment or conference report makes a reduction in other specific budget outlays at least equivalent to any increase in outlays provided by such amendment or conference report.

"(4) For purposes of the application of paragraph (3), the level of outlays and specific budget outlay reductions provided in an amendment shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(i) Immediately following the conclusion of the debate on a joint resolution introduced under subsection (d), a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate, and the disposition of any pending amendments under subsection (h), the vote on final passage of the joint resolution shall occur.

"(j) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution described in subsection (d) shall be decided without debate.

"(k) In the Senate, points of order under titles III and IV of the Congressional Budget Act of 1974 (including points of order under sections 302(c), 303(a), 306, and 401(b)(1)) are applicable to a conference report on the joint resolution or any amendments in disagreement thereto.

"(l) If, before the passage by the Senate of a joint resolution of the Senate introduced under subsection (d), the Senate receives from the House of Representatives a joint resolution introduced under subsection (d), then the following procedures shall apply:

"(1) The joint resolution of the House of Representatives shall not be referred to a committee.

"(2) With respect to a joint resolution introduced under subsection (d) in the Senate—

"(A) the procedure in the Senate shall be the same as if no joint resolution had been received from the House; but

"(B)(i) the vote on final passage shall be on the joint resolution of the House if it is identical to the joint resolution then pending for passage in the Senate; or

"(ii) if the joint resolution from the House is not identical to the joint resolution then pending for passage in the Senate and the Senate then passes the Senate joint resolution, the Senate shall be considered to have passed the House joint resolution as amended by the text of the Senate joint resolution.

"(3) Upon disposition of the joint resolution received from the House, it shall no longer be in order to consider the joint resolution originated in the Senate.

"(m) If the Senate receives from the House of Representatives a joint resolution introduced under subsection (d) after the Senate has disposed of a Senate originated joint resolution which is identical to the House passed joint resolution, the action of the Senate with regard to the disposition of the Senate originated joint resolution shall be deemed to be the action of the Senate with regard to the House originated joint resolution. If it is not identical to the House passed joint resolution, then the Senate shall be considered to have passed the joint resolution of the House as amended by the text of the Senate joint resolution.

2 USC 907d.

"SEC. 258C. SPECIAL RECONCILIATION PROCESS.

"(a) REPORTING OF RESOLUTIONS AND RECONCILIATION BILLS AND RESOLUTIONS, IN THE SENATE.—

"(1) COMMITTEE ALTERNATIVES TO PRESIDENTIAL ORDER.—After the submission of an OMB sequestration update report under section 254 that envisions a sequestration under section 252 or 253, each standing committee of the Senate may, not later than October 10, submit to the Committee on the Budget of the Senate information of the type described in section 301(d) of the Congressional Budget Act of 1974 with respect to alternatives to the order envisioned by such report insofar as such order affects laws within the jurisdiction of the committee.

"(2) INITIAL BUDGET COMMITTEE ACTION.—After the submission of such a report, the Committee on the Budget of the Senate may, not later than October 15, report to the Senate a resolution. The resolution may affirm the impact of the order envisioned by such report, in whole or in part. To the extent that any part is not affirmed, the resolution shall state which parts are not affirmed and shall contain instructions to committees of the Senate of the type referred to in section 310(a) of the Congressional Budget Act of 1974, sufficient to achieve at least the total level of deficit reduction contained in those sections which are not affirmed.

"(3) RESPONSE OF COMMITTEES.—Committees instructed pursuant to paragraph (2), or affected thereby, shall submit their responses to the Budget Committee no later than 10 days after the resolution referred to in paragraph (2) is agreed to, except that if only one such Committee is so instructed such Committee shall, by the same date, report to the Senate a reconciliation bill or reconciliation resolution containing its recommendations in response to such instructions. A committee shall be considered to have complied with all instructions to it pursuant to a resolution adopted under paragraph (2) if it has made recommendations with respect to matters within its jurisdiction which would result in a reduction in the deficit at least equal to the total reduction directed by such instructions.

"(4) BUDGET COMMITTEE ACTION.—Upon receipt of the recommendations received in response to a resolution referred to in paragraph (2), the Budget Committee shall report to the Senate a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revisions. In the event that a committee instructed in a resolution referred to in paragraph (2) fails to submit any rec-

ommendation (or, when only one committee is instructed, fails to report a reconciliation bill or resolution) in response to such instructions, the Budget Committee shall include in the reconciliation bill or reconciliation resolution reported pursuant to this subparagraph legislative language within the jurisdiction of the noncomplying committee to achieve the amount of deficit reduction directed in such instructions.

"(5) POINT OF ORDER.—It shall not be in order in the Senate to consider any reconciliation bill or reconciliation resolution reported under paragraph (4) with respect to a fiscal year, any amendment thereto, or any conference report thereon if—

"(A) the enactment of such bill or resolution as reported;

"(B) the adoption and enactment of such amendment; or

"(C) the enactment of such bill or resolution in the form recommended in such conference report,

would cause the amount of the deficit for such fiscal year to exceed the maximum deficit amount for such fiscal year, unless the low-growth report submitted under section 254 projects negative real economic growth for such fiscal year, or for each of any two consecutive quarters during such fiscal year.

"(6) TREATMENT OF CERTAIN AMENDMENTS.—In the Senate, an amendment which adds to a resolution reported under paragraph (2) an instruction of the type referred to in such paragraph shall be in order during the consideration of such resolution if such amendment would be in order but for the fact that it would be held to be non-germane on the basis that the instruction constitutes new matter.

"(7) DEFINITION.—For purposes of paragraphs (1), (2), and (3), the term "day" shall mean any calendar day on which the Senate is in session.

"(b) PROCEDURES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in the Senate the provisions of sections 305 and 310 of the Congressional Budget Act of 1974 for the consideration of concurrent resolutions on the budget and conference reports thereon shall also apply to the consideration of resolutions, and reconciliation bills and reconciliation resolutions reported under this paragraph and conference reports thereon.

"(2) LIMIT ON DEBATE.—Debate in the Senate on any resolution reported pursuant to subsection (a)(2), and all amendments thereto and debatable motions and appeals in connection therewith, shall be limited to 10 hours.

"(3) LIMITATION ON AMENDMENTS.—Section 310(d)(2) of the Congressional Budget Act shall apply to reconciliation bills and reconciliation resolutions reported under this subsection.

"(4) BILLS AND RESOLUTIONS RECEIVED FROM THE HOUSE.—Any bill or resolution received in the Senate from the House, which is a companion to a reconciliation bill or reconciliation resolution of the Senate for the purposes of this subsection, shall be considered in the Senate pursuant to the provisions of this subsection.

"(5) DEFINITION.—For purposes of this subsection, the term 'resolution' means a simple, joint, or concurrent resolution.".

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PART II—RELATED AMENDMENTS

SEC. 13111. TEMPORARY AMENDMENTS TO THE CONGRESSIONAL BUDGET ACT OF 1974.

Title VI of the Congressional Budget Act of 1974 is amended to read as follows:

"TITLE VI—BUDGET AGREEMENT ENFORCEMENT PROVISIONS

2 USC 665.

"SEC. 601. DEFINITIONS AND POINT OF ORDER.

"(a) DEFINITIONS.—As used in this title and for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985:

"(1) MAXIMUM DEFICIT AMOUNT.—The term 'maximum deficit amount' means—

"(A) with respect to fiscal year 1991, $327,000,000,000;
"(B) with respect to fiscal year 1992, $317,000,000,000;
"(C) with respect to fiscal year 1993, $236,000,000,000;
"(D) with respect to fiscal year 1994, $102,000,000,000; and
"(E) with respect to fiscal year 1995, $83,000,000,000;

as adjusted in strict conformance with sections 251, 252, and 253 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(2) DISCRETIONARY SPENDING LIMIT.—The term 'discretionary spending limit' means—

"(A) with respect to fiscal year 1991—
"(i) for the defense category: $288,918,000,000 in new budget authority and $297,660,000,000 in outlays;
"(ii) for the international category: $20,100,000,000 in new budget authority and $18,600,000,000 in outlays; and
"(iii) for the domestic category: $182,700,000,000 in new budget authority and $198,100,000,000 in outlays;
"(B) with respect to fiscal year 1992—
"(i) for the defense category: $291,643,000,000 in new budget authority and $295,744,000,000 in outlays;
"(ii) for the international category: $20,500,000,000 in new budget authority and $19,100,000,000 in outlays; and
"(iii) for the domestic category: $191,300,000,000 in new budget authority and $210,100,000,000 in outlays;
"(C) with respect to fiscal year 1993—
"(i) for the defense category: $291,785,000,000 in new budget authority and $292,686,000,000 in outlays;
"(ii) for the international category: $21,400,000,000 in new budget authority and $19,600,000,000 in outlays; and
"(iii) for the domestic category: $198,300,000,000 in new budget authority and $221,700,000,000 in outlays;
"(D) with respect to fiscal year 1994, for the discretionary category: $510,800,000,000 in new budget authority and $534,800,000,000 in outlays; and
"(E) with respect to fiscal year 1995, for the discretionary category: $517,700,000,000 in new budget authority and $540,800,000,000 in outlays;

as adjusted in strict conformance with section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) POINT OF ORDER IN THE SENATE ON AGGREGATE ALLOCATIONS FOR DEFENSE, INTERNATIONAL, AND DOMESTIC DISCRETIONARY SPENDING.—

"(1) Except as provided in paragraph (3), it shall not be in order in the Senate to consider any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995 (or amendment, motion, or conference report on such a resolution), or any appropriations bill or resolution (or amendment, motion, or conference report on such an appropriations bill or resolution) for fiscal year 1992 or 1993 that would exceed the allocations in this section or the suballocations made under section 602(b) based on these allocations.

"(3) For purposes of this subsection, the levels of new budget authority and outlays for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

"(4) This subsection shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

"SEC. 602. COMMITTEE ALLOCATIONS AND ENFORCEMENT. 2 USC 665a.

" (a) COMMITTEE SPENDING ALLOCATIONS.—

"(1) HOUSE OF REPRESENTATIVES.—

"(A) ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include allocations, consistent with the resolution recommended in the conference report, of the appropriate levels (for each fiscal year covered by that resolution and a total for all such years) of—

"(i) total new budget authority,

"(ii) total entitlement authority, and

"(iii) total outlays;

among each committee of the House of Representatives that has jurisdiction over legislation providing or creating such amounts.

"(B) NO DOUBLE COUNTING.—Any item allocated to one committee of the House of Representatives may not be allocated to another such committee.

"(C) FURTHER DIVISION OF AMOUNTS.—The amounts allocated to each committee for each fiscal year, other than the Committee on Appropriations, shall be further divided between amounts provided or required by law on the date of filing of that conference report and amounts not so provided or required. The amounts allocated to the Committee on Appropriations for each fiscal year shall be further divided between discretionary and mandatory amounts or programs, as appropriate.

"(2) SENATE ALLOCATION AMONG COMMITTEES.—The joint explanatory statement accompanying a conference report on a budget resolution shall include an allocation, consistent with the resolution recommended in the conference report, of the appropriate levels of—

"(A) total new budget authority;

"(B) total outlays; and

"(C) social security outlays;

among each committee of the Senate that has jurisdiction over legislation providing or creating such amounts.

"(3) AMOUNTS NOT ALLOCATED.—(A) In the House of Representatives, if a committee receives no allocation of new budget authority, entitlement authority, or outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, entitlement authority, or outlays.

"(B) In the Senate, if a committee receives no allocation of new budget authority, outlays, or social security outlays, that committee shall be deemed to have received an allocation equal to zero for new budget authority, outlays, or social security outlays.

"(b) SUBALLOCATIONS BY COMMITTEES.—

"(1) SUBALLOCATIONS BY APPROPRIATIONS COMMITTEES.—As soon as practicable after a budget resolution is agreed to, the Committee on Appropriations of each House (after consulting with the Committee on Appropriations of the other House) shall suballocate each amount allocated to it for the budget year under subsection (a)(1)(A) or (a)(2) among its subcommittees. Each Committee on Appropriations shall promptly report to its House suballocations made or revised under this paragraph.

"(2) SUBALLOCATIONS BY OTHER COMMITTEES OF THE SENATE.—Each other committee of the Senate to which an allocation under subsection (a)(2) is made in the joint explanatory statement may subdivide each amount allocated to it under subsection (a) among its subcommittees or among programs over which it has jurisdiction and shall promptly report any such suballocations to the Senate. Section 302(c) shall not apply in the Senate to committees other than the Committee on Appropriations.

"(c) APPLICATION OF SECTION 302(f) TO THIS SECTION.—In fiscal years through 1995, reference in section 302(f) to the appropriate allocation made pursuant to section 302(b) for a fiscal year shall, for purposes of this section, be deemed to be a reference to any allocation made under subsection (a) or any suballocation made under subsection (b), as applicable, for the fiscal year of the resolution or for the total of all fiscal years made by the joint explanatory statement accompanying the applicable concurrent resolution on the budget. In the House of Representatives, the preceding sentence shall not apply with respect to fiscal year 1991.

"(d) APPLICATION OF SUBSECTIONS (a) AND (b) TO FISCAL YEARS 1992 TO 1995.—In the case of concurrent resolutions on the budget for fiscal years 1992 through 1995, allocations shall be made under subsection (a) instead of section 302(a) and shall be made under subsection (b) instead of section 302(b). For those fiscal years, all references in sections 302(c), (d), (e), (f), and (g) to section 302(a) shall be deemed to be to subsection (a) (including revisions made under section 604) and all such references to section 302(b) shall be deemed to be to subsection (b) (including revisions made under section 604).".

"(e) PAY-AS-YOU-GO EXCEPTION IN THE HOUSE.—Section 302(f)(1) and, after April 15 of any calendar year section 303(a), shall not apply to any bill, joint resolution, amendment thereto, or conference report thereon if, for each fiscal year covered by the most recently agreed to concurrent resolution on the budget—

"(1) the enactment of such bill or resolution as reported;

"(2) the adoption and enactment of such amendment; or

"(3) the enactment of such bill or resolution in the form recommended in such conference report,

would not increase the deficit for any such fiscal year, and, if the sum of any revenue increases provided in legislation already enacted during the current session (when added to revenue increases, if any, in excess of any outlay increase provided by the legislation proposed for consideration) is at least as great as the sum of the amount, if any, by which the aggregate level of Federal revenues should be increased as set forth in that concurrent resolution and the amount, if any, by which revenues are to be increased pursuant to pay-as-you-go procedures under section 301(b)(8) if included in that concurrent resolution.

"(2) REVISED ALLOCATIONS.—

"(A) As soon as practicable after Congress agrees to a bill or joint resolution that would have been subject to a point of order under section 302(f)(1) but for the exception provided in paragraph (1), the chairman of the Committee on the Budget of the House of Representatives may file with the House appropriately revised allocations under section 302(a) and revised functional levels and budget aggregates to reflect that bill.

"(B) such revised allocations, functional levels, and budget aggregates shall be considered for the purposes of this Act as allocations, functional levels, and budget aggregates contained in the most recently agreed to concurrent resolution on the budget.

"SEC. 603. CONSIDERATION OF LEGISLATION BEFORE ADOPTION OF BUDGET RESOLUTION FOR THAT FISCAL YEAR. 2 USC 665b.

"(a) ADJUSTING SECTION ALLOCATION OF DISCRETIONARY SPENDING.—If a concurrent resolution on the budget is not adopted by April 15, the chairman of the Committee on the Budget of the House of Representatives shall submit to the House, as soon as practicable, a section 602(a) allocation to the Committee on Appropriations consistent with the discretionary spending limits contained in the most recent budget submitted by the President under section 1105(a) of title 31, United States Code. Such allocation shall include the full allowance specified under section 251(b)(2)(E)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(b) As soon as practicable after a section 602(a) allocation is submitted under this section, the Committee on Appropriations shall make suballocations and promptly report those suballocations to the House of Representatives.

"SEC. 604. RECONCILIATION DIRECTIVES REGARDING PAY-AS-YOU-GO REQUIREMENTS. 2 USC 665c.

"(a) INSTRUCTIONS TO EFFECTUATE PAY-AS-YOU-GO IN THE HOUSE OF REPRESENTATIVES.—If legislation providing for a net reduction in revenues in any fiscal year (that, within the same measure, is not fully offset in that fiscal year by reductions in direct spending) is enacted, the Committee on the Budget of the House of Representatives may report, within 15 legislative days during a Congress, a pay-as-you-go reconciliation directive in the form of a concurrent resolution—

"(1) specifying the total amount by which revenues sufficient to eliminate the net deficit increase resulting from that legislation in each fiscal year are to be changed; and

"(2) directing that the committees having jurisdiction determine and recommend changes in the revenue law, bills, and resolutions to accomplish a change of such total amount.

"(b) CONSIDERATION OF PAY-AS-YOU-GO RECONCILIATION LEGISLATION IN THE HOUSE OF REPRESENTATIVES.—In the House of Representatives, subsections (b) through (d) of section 310 shall apply in the same manner as if the reconciliation directive described in subsection (a) were a concurrent resolution on the budget.

2 USC 665d.

"SEC. 605. APPLICATION OF SECTION 311; POINT OF ORDER.

"(a) APPLICATION OF SECTION 311(a).—(1) In the House of Representatives, in the application of section 311(a)(1) to any bill, resolution, amendment, or conference report, reference in section 311 to the appropriate level of total budget authority or total budget outlays or appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate level for that year and the 4 succeeding years.

"(2) In the Senate, in the application of section 311(a)(2) to any bill, resolution, motion, or conference report, reference in section 311 to the appropriate level of total revenues set forth in the most recently agreed to concurrent resolution on the budget for a fiscal year shall be deemed to be a reference to the appropriate level for that fiscal year and to the total of the appropriate levels for that year and the 4 succeeding years.

"(b) MAXIMUM DEFICIT AMOUNT POINT OF ORDER IN THE SENATE.—After Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would result in a deficit for the first fiscal year covered by that resolution that exceeds the maximum deficit amount specified for such fiscal year in section 601(a).

2 USC 665e.

"SEC. 606. 5-YEAR BUDGET RESOLUTIONS; BUDGET RESOLUTIONS MUST CONFORM TO BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.

"(a) 5-YEAR BUDGET RESOLUTIONS.—In the case of any concurrent resolution on the budget for fiscal year 1992, 1993, 1994, or 1995, that resolution shall set forth appropriate levels for the fiscal year beginning on October 1 of the calendar year in which it is reported and for each of the 4 succeeding fiscal years for the matters described in section 301(a).

"(b) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—It shall not be in order in the House of Representatives to consider any concurrent resolution on the budget for a fiscal year or conference report thereon under section 301 or 304 that exceeds the maximum deficit amount for each fiscal year covered by the concurrent resolution or conference report as determined under section 601(a), including possible revisions under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(c) POINT OF ORDER IN THE SENATE.—It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year under section 301, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if the level of total budget outlays for the first fiscal year that is set forth in such concurrent resolution or con-

ference report exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 601(a), or if the adoption of such amendment would result in a level of total budget outlays for that fiscal year which exceeds the recommended level of Federal revenues for that fiscal year, by an amount that is greater than the maximum deficit amount for such fiscal years as determined under section 601(a).

"(d) ADJUSTMENTS.—(1) Notwithstanding any other provision of law, concurrent resolutions on the budget for fiscal years 1992, 1993, 1994, and 1995 under section 301 or 304 may set forth levels consistent with allocations increased by—

"(A) amounts not to exceed the budget authority amounts in section 251(b)(2)(E)(i) and (ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 and the composite outlays per category consistent with them; and

"(B) the budget authority and outlay amounts in section 251(b)(1) of that Act.

"(2) For purposes of congressional consideration of provisions described in sections 251(b)(2)(A), 251(b)(2)(B), 251(b)(2)(C), 251(b)(2)(D), and 252(e), determinations under sections 302, 303, and 311 shall not take into account any new budget authority, new entitlement authority, outlays, receipts, or deficit effects in any fiscal year of those provisions.

"SEC. 607. EFFECTIVE DATE. 2 USC 665 note.

This title shall take effect upon its date of enactment and shall apply to fiscal years 1991 to 1995.".

SEC. 13112. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO THE CONGRESSIONAL BUDGET AND IMPOUNDMENT CONTROL ACT OF 1974.—

(1) TABLE OF CONTENTS.—Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended to reflect the new section numbers and headings resulting from amendments made by this title.

(2) SECTION 3.—Section 3 of such Act is amended— 2 USC 622.

(A) by striking paragraphs (6), (7), and (8) and inserting the following:

"(6) The term 'deficit' means, with respect to a fiscal year, the amount by which outlays exceeds receipts during that year.

"(7) The term 'surplus' means, with respect to a fiscal year, the amount by which receipts exceeds outlays during that year.

"(8) The term 'government-sponsored enterprise' means a corporate entity created by a law of the United States that—

"(A)(i) has a Federal charter authorized by law;

"(ii) is privately owned, as evidenced by capital stock owned by private entities or individuals;

"(iii) is under the direction of a board of directors, a majority of which is elected by private owners;

"(iv) is a financial institution with power to—

"(I) make loans or loan guarantees for limited purposes such as to provide credit for specific borrowers or one sector; and

"(II) raise funds by borrowing (which does not carry the full faith and credit of the Federal Government) or to guarantee the debt of others in unlimited amounts; and

"(B)(i) does not exercise powers that are reserved to the Government as sovereign (such as the power to tax or to regulate interstate commerce);

"(ii) does not have the power to commit the Government financially (but it may be a recipient of a loan guarantee commitment made by the Government); and

"(iii) has employees whose salaries and expenses are paid by the enterprise and are not Federal employees subject to title 5 of the United States Code.".

2 USC 602. (3) SECTION 202.—Section 202(a)(1) and the second sentence of 202(f)(1) of such Act are amended by striking "budget authority" and inserting "new budget authority" .

2 USC 631. (4) SECTION 300.—Section 300 of such Act is amended by striking "First Monday after January 3" and by inserting "First Monday in February".

2 USC 632. (5) SECTION 301(d).—Section 301(d) of such Act is amended by striking "On or before February 25 of each year" and inserting "Within 6 weeks after the President submits a budget under section 1105(a) of title 31, United States Code".

2 USC 633. (6) SECTION 302(a).—Section 302(a)(2) of such Act is amended by striking "the House of Representatives and".

(7) SECTION 302(f).—Section 302(f)(2) of such Act is amended—

(A) by inserting after "in excess of" the following: "(A)";

(B) by striking "under subsection (b)" and inserting "under subsection (a), or (B) the appropriate allocation (if any) of such outlays or authority reported under subsection (b)"; and

(C) by inserting at the end the following:

"Subparagraph (A) shall not apply to any bill, resolution, amendment, motion, or conference report that is within the jurisdiction of the Committee on Appropriations.".

2 USC 635. (8) SECTION 304.—Section 304 of such Act is amended by striking subsection (b) and by striking "(c)" and inserting "(b)".

2 USC 641. (9) SECTION 310(g).—Section 310(g) of such Act is amended by striking "resolution pursuant" and inserting "joint resolution pursuant" and by striking "254(b)" and inserting "258C".

2 USC 642. (10) SECTION 311(a).—Section 311(a) of such Act is amended by striking "or, in the Senate" and all that follows thereafter through "paragraph (2) of such subsection" and inserting "except in the case that a declaration of war by the Congress is in effect".

2 USC 621 note. (11) SECTION 904(a).—Section 904(a) of such Act is amended by striking "and" after "III", by inserting ", V, and VI (except section 601(a))" after "IV", and by striking "606,".

(b) CONFORMING AMENDMENT TO THE BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985.—Subsection (b) of section 275 of the Balanced Budget and Emergency Deficit Control Act of 2 USC 900 note. 1985 is amended to read as follows:

"(b) EXPIRATION.—Part C of this title, section 271(b) of this Act, and sections 1105(f) and 1106(c) of title 31, United States Code, shall expire September 30, 1995.".

(c) CONFORMING AMENDMENTS TO SECTION 1105 OF TITLE 31, UNITED STATES CODE.—

(1) SECTION 1105(a).—Section 1105(a) of title 31, United States Code, is amended by striking "On or before the first Monday after January 3 of each year (or on or before February 5 in 1986)" and by inserting "On or after the first Monday in

January but not later than the first Monday in February of each year"

(2) SECTION 1105(f).—Section 1105(f) of title 31, United States Code, is amended to read as follows:

"(f) The budget transmitted pursuant to subsection (a) for a fiscal year shall be prepared in a manner consistent with the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985 that apply to that and subsequent fiscal years.".

(d) CONFORMING AMENDMENTS TO THE RULES OF THE HOUSE OF REPRESENTATIVES.—

(1) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of the Rules of the House of Representatives is amended by striking "(a)(4)".

(2) CROSS-REFERENCE.—Clause 1(e)(2) of rule X of Rules of the House of Representatives is amended by striking "Act, and any resolution pursuant to section 254(b) of the Balanced Budget and Emergency Deficit Control Act of 1985" and inserting "Act".

(3) JURISDICTION.—Clause 1(j) of rule X of the Rules of the House of Representatives is amended by inserting after paragraph (6) the following new paragraph:

"(7) Measures providing exemption from reduction under any order issued under part C of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(4) ALLOCATIONS.—Clause 4(h) of rule X of the Rules of the House of Representatives is amended by inserting "or section 602 (in the case of fiscal years 1991 through 1995)" after "section 302".

(5) MULTIYEAR REVENUE ESTIMATES.—Clause 7(a)(1) of rule XIII of the Rules of the House of Representatives is amended by striking ", except that, in the case of measures affecting the revenues, such reports shall require only an estimate of the gain or loss in revenues for a one-year period".

(e) CONFORMING AMENDMENT TO THE FULL EMPLOYMENT AND BALANCED GROWTH ACT OF 1978.—Section 103(a) of the Full Employment and Balanced Growth Act of 1978 (15 U.S.C. 1022(a) is amended by striking "transmit to the Congress during the first twenty days of each regular session" and inserting "annually transmit to the Congress not later than 10 days after the submission of the budget under section 1105(a) of title 31, United States Code".

(f) FILING REQUIREMENT.—After the convening of the One Hundred Second Congress, the chairman of the Committee on the Budget of the Senate shall file with the Senate revised and outyear budget aggregates and allocations under section 602(a) consistent with this Act.

Subtitle B—Permanent Amendments to the Congressional Budget and Impoundment Control Act of 1974

SEC. 13201. CREDIT ACCOUNTING.

(a) CREDIT ACCOUNTING.—Title V of the Congressional Budget Act of 1974 is amended to read as follows:

Federal Credit Reform Act of 1990.

"TITLE V—CREDIT REFORM

2 USC 621 note.

"SEC. 500. SHORT TITLE.

"This title may be cited as the 'Federal Credit Reform Act of 1990'.

2 USC 661.

"SEC. 501. PURPOSES.

"The purposes of this title are to—

"(1) measure more accurately the costs of Federal credit programs;

"(2) place the cost of credit programs on a budgetary basis equivalent to other Federal spending;

"(3) encourage the delivery of benefits in the form most appropriate to the needs of beneficiaries; and

"(4) improve the allocation of resources among credit programs and between credit and other spending programs.

2 USC 661a.

"SEC. 502. DEFINITIONS.

"For purposes of this title—

"(1) The term 'direct loan' means a disbursement of funds by the Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

"(2) The term 'direct loan obligation' means a binding agreement by a Federal agency to make a direct loan when specified conditions are fulfilled by the borrower.

"(3) The term 'loan guarantee' means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

"(4) The term 'loan guarantee commitment' means a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

"(5)(A) The term 'cost' means the estimated long-term cost to the Government of a direct loan or loan guarantee, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

"(B) The cost of a direct loan shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows:

"(i) loan disbursements;

"(ii) repayments of principal; and

"(iii) payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties and other recoveries.

"(C) The cost of a loan guarantee shall be the net present value when a guaranteed loan is disbursed of the cash flow from—

"(i) estimated payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments, and

"(ii) the estimated payments to the Government including origination and other fees, penalties and recoveries.

"(D) Any Government action that alters the estimated net present value of an outstanding direct loan or loan guarantee (except modifications within the terms of existing contracts or through other existing authorities) shall be counted as a change in the cost of that direct loan or loan guarantee. The calculation of such changes shall be based on the estimated present value of the direct loan or loan guarantee at the time of modification.

"(E) In estimating net present values, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the direct loan or loan guarantee for which the estimate is being made.

"(6) The term 'credit program account' means the budget account into which an appropriation to cover the cost of a direct loan or loan guarantee program is made and from which such cost is disbursed to the financing account.

"(7) The term 'financing account' means the non-budget account or accounts associated with each credit program account which holds balances, receives the cost payment from the credit program account, and also includes all other cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made on or after October 1, 1991.

"(8) The term 'liquidating account' means the budget account that includes all cash flows to and from the Government resulting from direct loan obligations or loan guarantee commitments made prior to October 1, 1991.

These accounts shall be shown in the budget on a cash basis.

"(9) The term 'Director' means the Director of the Office of Management and Budget.

"SEC. 503. OMB AND CBO ANALYSIS, COORDINATION, AND REVIEW. 2 USC 661b.

"(a) IN GENERAL.—For the executive branch, the Director shall be responsible for coordinating the estimates required by this title. The Director shall consult with the agencies that administer direct loan or loan guarantee programs.

"(b) DELEGATION.—The Director may delegate to agencies authority to make estimates of costs. The delegation of authority shall be based upon written guidelines, regulations, or criteria consistent with the definitions in this title.

"(c) COORDINATION WITH THE CONGRESSIONAL BUDGET OFFICE.—In developing estimation guidelines, regulations, or criteria to be used by Federal agencies, the Director shall consult with the Director of the Congressional Budget Office.

"(d) IMPROVING COST ESTIMATES.—The Director and the Director of the Congressional Budget Office shall coordinate the development of more accurate data on historical performance of direct loan and loan guarantee programs. They shall annually review the performance of outstanding direct loans and loan guarantees to improve estimates of costs. The Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate the development and improvement of estimates of costs.

"(e) HISTORICAL CREDIT PROGRAM COSTS.—The Director shall review, to the extent possible, historical data and develop the best possible estimates of adjustments that would convert aggregate historical budget data to credit reform accounting.

"(f) ADMINISTRATIVE COSTS.—The Director and the Director of the Congressional Budget Office shall each analyze and report to Congress on differences in long-term administrative costs for credit programs versus grant programs by January 31, 1992. Their reports shall recommend to Congress any changes, if necessary, in the treatment of administrative costs under credit reform accounting.

2 USC 661c.

"SEC. 504. BUDGETARY TREATMENT.

"(a) PRESIDENT'S BUDGET.—Beginning with fiscal year 1992, the President's budget shall reflect the costs of direct loan and loan guarantee programs. The budget shall also include the planned level of new direct loan obligations or loan guarantee commitments associated with each appropriations request.

"(b) APPROPRIATIONS REQUIRED.—Notwithstanding any other provision of law, new direct loan obligations may be incurred and new loan guarantee commitments may be made for fiscal year 1992 and thereafter only to the extent that—

"(1) appropriations of budget authority to cover their costs are made in advance;

"(2) a limitation on the use of funds otherwise available for the cost of a direct loan or loan guarantee program is enacted; or

"(3) authority is otherwise provided in appropriation Acts.

"(c) EXEMPTION FOR MANDATORY PROGRAMS.—Subsection (b) shall not apply to a direct loan or loan guarantee program that—

"(1) constitutes an entitlement (such as the guaranteed student loan program or the veterans' home loan guaranty program); or

"(2) all existing credit programs of the Commodity Credit Corporation on the date of enactment of this title.

"(d) BUDGET ACCOUNTING.—

"(1) The authority to incur new direct loan obligations, make new loan guarantee commitments, or directly or indirectly alter the costs of outstanding direct loans and loan guarantees shall constitute new budget authority in an amount equal to the cost of the direct loan or loan guarantee in the fiscal year in which definite authority becomes available or indefinite authority is used. Such budget authority shall constitute an obligation of the credit program account to pay to the financing account.

"(2) The outlays resulting from new budget authority for the cost of direct loans or loan guarantees described in paragraph (1) shall be paid from the credit program account into the financing account and recorded in the fiscal year in which the direct loan or the guaranteed loan is disbursed or its costs altered.

"(3) All collections and payments of the financing accounts shall be a means of financing.

"(e) MODIFICATIONS.—A direct loan obligation or loan guarantee commitment shall not be modified in a manner that increases its cost unless budget authority for the additional cost is appropriated, or is available out of existing appropriations or from other budgetary resources.

"(f) REESTIMATES.—When the estimated cost for a group of direct loans or loan guarantees for a given credit program made in a single fiscal year is reestimated in a subsequent year, the difference between the reestimated cost and the previous cost estimate shall be displayed as a distinct and separately identified subaccount in the credit program account as a change in program costs and a change in net interest. There is hereby provided permanent indefinite authority for these reestimates.

"(g) ADMINISTRATIVE EXPENSES.—All funding for an agency's administration of a direct loan or loan guarantee program shall be displayed as distinct and separately identified subaccounts within the same budget account as the program's cost.

"SEC. 505. AUTHORIZATIONS. 2 USC 661d.

"(a) AUTHORIZATION OF APPROPRIATIONS FOR COSTS.—There are authorized to be appropriated to each Federal agency authorized to make direct loan obligations or loan guarantee commitments, such sums as may be necessary to pay the cost associated with such direct loan obligations or loan guarantee commitments.

"(b) AUTHORIZATION FOR FINANCING ACCOUNTS.—In order to implement the accounting required by this title, the President is authorized to establish such non-budgetary accounts as may be appropriate.

"(c) TREASURY TRANSACTIONS WITH THE FINANCING ACCOUNTS.—The Secretary of the Treasury shall borrow from, receive from, lend to, or pay to the financing accounts such amounts as may be appropriate. The Secretary of the Treasury may prescribe forms and denominations, maturities, and terms and conditions for the transactions described above. The authorities described above shall not be construed to supercede or override the authority of the head of a Federal agency to administer and operate a direct loan or loan guarantee program. All of the transactions provided in this subsection shall be subject to the provisions of subchapter II of chapter 15 of title 31, United States Code. Cash balances of the financing accounts in excess of current requirements shall be maintained in a form of uninvested funds and the Secretary of the Treasury shall pay interest on these funds.

"(d) AUTHORIZATION FOR LIQUIDATING ACCOUNTS.—If funds in liquidating accounts are insufficient to satisfy the obligations and commitments of said accounts, there is hereby provided permanent, indefinite authority to make any payments required to be made on such obligations and commitments.

"(e) AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION EXPENSES.—There are authorized to be appropriated to existing accounts such sums as may be necessary for salaries and expenses to carry out the responsibilities under this title.

"(f) REINSURANCE.—Nothing in this title shall be construed as authorizing or requiring the purchase of insurance or reinsurance on a direct loan or loan guarantee from private insurers. If any such reinsurance for a direct loan or loan guarantee is authorized, the cost of such insurance and any recoveries to the Government shall be included in the calculation of the cost.

"(g) ELIGIBILITY AND ASSISTANCE.—Nothing in this title shall be construed to change the authority or the responsibility of a Federal agency to determine the terms and conditions of eligibility for, or the amount of assistance provided by a direct loan or a loan guarantee.

2 USC 661e.

"SEC. 506. TREATMENT OF DEPOSIT INSURANCE AND AGENCIES AND OTHER INSURANCE PROGRAMS.

"(a) IN GENERAL.—

"(1) This title shall not apply to the credit or insurance activities of the Federal Deposit Insurance Corporation, National Credit Union Administration, Resolution Trust Corporation, Pension Benefit Guaranty Corporation, National Flood Insurance, National Insurance Development Fund, Crop Insurance, or Tennessee Valley Authority.

"(2) The Director and the Director of the Congressional Budget Office shall each study whether the accounting for Federal deposit insurance programs should be on a cash basis on the same basis as loan guarantees, or on a different basis. Each Director shall report findings and recommendations to the President and the Congress on or before May 31, 1991.

"(3) For the purposes of paragraph (2), the Office of Management and Budget and the Congressional Budget Office shall have access to all agency data that may facilitate these studies.

2 USC 661f.

"SEC. 507. EFFECT ON OTHER LAWS.

"(a) EFFECT ON OTHER LAWS.—This title shall supersede, modify, or repeal any provision of law enacted prior to the date of enactment of this title to the extent such provision is inconsistent with this title. Nothing in this title shall be construed to establish a credit limitation on any Federal loan or loan guarantee program.

"(b) CREDITING OF COLLECTIONS.—Collections resulting from direct loans obligated or loan guarantees committed prior to October 1, 1991, shall be credited to the liquidating accounts of Federal agencies. Amounts so credited shall be available, to the same extent that they were available prior to the date of enactment of this title, to liquidate obligations arising from such direct loans obligated or loan guarantees committed prior to October 1, 1991, including repayment of any obligations held by the Secretary of the Treasury or the Federal Financing Bank. The unobligated balances of such accounts that are in excess of current needs shall be transferred to the general fund of the Treasury. Such transfers shall be made from time to time but, at least once each year.".

(b) CONFORMING AMENDMENTS.—

2 USC 622.

(1) DEFINITION.—Section 3(2) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The term includes the cost for direct loan and loan guarantee programs, as those terms are defined by title V".

2 USC 633.

(2) POINT OF ORDER FOR FISCAL YEAR 1991.—Effective January 1, 1991, for fiscal year 1991 only, section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting after "new budget authority" the following: "or new credit authority".

(3) SUNSET OF POINT OF ORDER IN FISCAL YEAR 1992.—Effective for fiscal years beginning after September 30, 1991, section 302 of the Congressional Budget Act is amended—

(A) in subsection (a)(1)—

(i) by striking "total entitlement authority, and total credit authority" and inserting "and total entitlement authority";

(ii) by striking "such entitlement authority, or such credit authority" and inserting "or such entitlement authority"; and

(iii) by striking "entitlement authority, and credit authority" and inserting "and entitlement authority";

(B) in subsection (a)(2), by striking "total budget outlays, total new budget authority and new credit authority" and inserting "total budget outlays and total new budget authority";

(C) in subsection (b)(1)(A), by striking "budget outlays, new budget authority, and new credit authority" and inserting "budget outlays and new budget authority";

(D) in subsection (c)—

(i) in paragraph (1), by inserting "or" at the end thereof; and

(ii) by striking "or (3) new credit authority for a fiscal year;"; and

(E) in subsection (f)(1)—

(i) by striking "year, new entitlement authority effective during such fiscal year, or new credit authority for such fiscal year," and inserting "year or new entitlement authority effective during such fiscal year,"; and

(ii) by striking "authority, new entitlement authority, or new credit authority" and inserting "authority or new entitlement authority".

SEC. 13202. CODIFICATION OF PROVISION REGARDING REVENUE ESTIMATES.

(a) REDESIGNATION.—Section 201 of the Congressional Budget Act of 1974 is amended by redesignating subsection (f) as subsection (g). 2 USC 601.

(b) TRANSFER.—The text of section 273 of the Balanced Budget and Emergency Deficit Control Act of 1985 is transferred to section 201 of the Congressional Budget Act of 1974 and is designated as subsection (g). 2 USC 921, 601c.

(c) CONFORMING CHANGES.—Section 201(g) of the Congressional Budget Act of 1974 (as redesignated by subsection (b)) is amended by—

(1) striking "this title and the Congressional Budget and Impoundment Control Act of 1974" and inserting "this Act"; and

(2) inserting "REVENUE ESTIMATES.—" before the first sentence.

SEC. 13203. DEBT INCREASE AS MEASURE OF DEFICIT; DISPLAY OF FEDERAL RETIREMENT TRUST FUND BALANCES.

Section 301(b) of the Congressional Budget Act of 1974 is amended by striking "and" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a semicolon, and by adding at the end the following new paragraphs: 2 USC 632.

"(5) include a heading entitled 'Debt Increase as Measure of Deficit' in which the concurrent resolution shall set forth the amounts by which the debt subject to limit (in section 3101 of title 31 of the United States Code) has increased or would increase in each of the relevant fiscal years; and

"(6) include a heading entitled 'Display of Federal Retirement Trust Fund Balances' in which the concurrent resolution shall set forth the balances of the Federal retirement trust funds.".

SEC. 13204. PAY-AS-YOU-GO PROCEDURES.

2 USC 632.

Section 301(b) of the Congressional Budget Act of 1974 (as amended by section 13203) is further amended by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting a semicolon, and by adding at the end the following new paragraphs:

"(7) set forth pay-as-you-go procedures for the Senate whereby—

"(A) budget authority and outlays may be allocated to a committee for legislation that increases funding for entitlement and mandatory spending programs within its jurisdiction if that committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in the concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either deficit reduction in the bill or previously passed deficit reduction) in the resolution for the first fiscal year covered by the concurrent resolution on the budget, and will not increase the total deficit for the period of fiscal years covered by the concurrent resolution on the budget;

"(B) upon the reporting of legislation pursuant to subparagraph (A), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this paragraph;

"(C) such revised allocations, functional levels, and aggregates shall be considered for the purposes of this Act as allocations, functional levels, and aggregates contained in the concurrent resolution on the budget; and

"(D) the appropriate committee shall report appropriately revised allocations pursuant to section 302(b) to carry out this paragraph; and

"(8) set forth procedures to effectuate pay-as-you-go in the House of Representatives.".

SEC. 13205. AMENDMENTS TO SECTION 303.

2 USC 634.

(a) IN GENERAL.—Section 303(a) of the Congressional Budget Act of 1974 is amended—

(1) by repealing paragraph (5),

(2) by striking "or" at the end of paragraph (4),

(3) by inserting after paragraph (4) the following new paragraphs:

"(5) in the Senate only, new spending authority (as defined in section 401(c)(2)) for a fiscal year; or

"(6) in the Senate only, outlays,"; and

(4) by inserting after "the concurrent resolution on the budget for such fiscal year" the following: "(or, in the Senate, a concurrent resolution on the budget covering such fiscal year)".

(b) EXCEPTIONS.—Section 303(b) of such Act is amended—

(1) by striking "Subsection (a)" and inserting "(1) In the House of Representatives, subsection (a)" and by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(2) by inserting at the end the following new paragraph:

"(2) In the Senate, subsection (a) does not apply to any bill or resolution making advance appropriations for the fiscal year to which the concurrent resolution applies and the two succeeding fiscal years.".

SEC. 13206. AMENDMENTS TO SECTION 308.

(a) REPORTS AND SUMMARIES OF CONGRESSIONAL BUDGET ACTIONS.—(1) Section 308(a)(1) of that Act is amended— 2 USC 639.

(1) in the matter preceding subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)";

(2) in subparagraph (A) by inserting after "fiscal year" the following: "(or fiscal years)"; and

(3) in subparagraph (C) by inserting after "such fiscal year" the following: "(or fiscal years)".

(b) CONFORMING AMENDMENT.—Section 308(a)(2) of that Act is amended by inserting after "fiscal year" the following: "(or fiscal years)".

(c) ADDITIONAL CONFORMING AMENDMENT.—Section 308(b)(1) of that Act is amended—

(1) by striking "for a fiscal year" in the first sentence and inserting "for each fiscal year covered by a concurrent resolution on the budget"; and

(2) by striking "such fiscal year" in the second sentence and inserting "the first fiscal year covered by the appropriate concurrent resolution".

SEC. 13207. STANDARDIZATION OF LANGUAGE REGARDING POINTS OF ORDER.

(a) IN GENERAL.—The Congressional Budget Act of 1974 is amended—

(1)(A) in section 302(c), by striking "bill or resolution, or amendment thereto" and inserting "bill, joint resolution, amendment, motion, or conference report"; 2 USC 633.

(B) in section 302(f)(1), by inserting "joint" before "resolution" the second and third places it appears and in section 302(f)(2), by striking "bill or resolution (including a conference report thereon), or any amendment to a bill or resolution" and inserting "bill, joint resolution, amendment, motion, or conference report";

(C) in section 303(a), by striking "bill or resolution (or amendment thereto)" and inserting "bill, joint resolution, amendment, motion, or conference report"; 2 USC 634.

(D) in section 306, by striking "bill or resolution, and no amendment to any bill or resolution" and inserting "bill, resolution, amendment, motion, or conference report"; 2 USC 637.

(E) in section 311(a), by— 2 USC 642.

(i) striking "bill, resolution, or amendment" and inserting "bill, joint resolution, amendment, motion, or conference report"; and

(ii) striking "or any conference report on any such bill or resolution";

(F) in section 401(a), by— 2 USC 651.

(i) striking "bill, resolution, or conference report" and inserting "bill, joint resolution, amendment, motion, or conference report"; and

(ii) striking "(or any amendment which provides such new spending authority)";

2 USC 651. (G) in section 401(b)(1), by—

(i) striking "bill or resolution" and inserting "bill, joint resolution, amendment, motion, or conference report, as reported to its House"; and

(ii) striking "(or any amendment which provides such new spending authority)"; and

2 USC 652. (H) in section 402(a), by—

(i) striking "bill, resolution, or conference report" and inserting "bill, joint resolution, amendment, motion, or conference report"; and

(ii) striking "or any amendment"; and

2 USC 633. (2) in section 302(f)(2), by striking "outlays or new budget authority" and inserting "outlays, new budget authority, or new spending authority (as defined in section 401(c)(2))".

(b) POINTS OF ORDER IN THE SENATE.—

(1) Title III of the Congressional Budget Act of 1974 is amended by adding at the end the following new section:

"EFFECTS OF POINTS OF ORDER

2 USC 643. "SEC. 312. POINTS OF ORDER IN THE SENATE AGAINST AMENDMENTS BETWEEN THE HOUSES.—Each provision of this Act that establishes a point of order against an amendment also establishes a point of order in the Senate against an amendment between the Houses. If a point of order under this Act is raised in the Senate against an amendment between the Houses, and the Presiding Officer sustains the point of order, the effect shall be the same as if the Senate had disagreed to the amendment.

"(b) EFFECT OF A POINT OF ORDER ON A BILL IN THE SENATE.—In the Senate, if the Chair sustains a point of order under this Act against a bill, the Chair shall then send the bill to the committee of appropriate jurisdiction for further consideration.".

(2) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item relating to section 311 the following new item:

"Sec. 312. Effect of points of order.".

(c) ADJUSTMENT IN THE SENATE OF ALLOCATIONS AND AGGREGATES TO REFLECT CHANGES PURSUANT TO SECTION 310(c).—Section 310(c)

2 USC 641. of the Congressional Budget Act of 1974 is amended by—

(1) inserting "(1)" before "Any committee";

(2) redesignating subparagraphs (A) and (B) of paragraph (1) as clauses (i) and (ii), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(4) inserting at the end the following new paragraph:

"(2)(A) Upon the reporting to the Committee on the Budget of the Senate of a recommendation that shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of that committee may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(B) Upon the submission to the Senate of a conference report recommending a reconciliation bill or resolution in which a committee shall be deemed to have complied with such directions solely by virtue of this subsection, the chairman of the

Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to carry out this subsection.

"(C) Allocations, functional levels, and aggregates revised pursuant to this paragraph shall be considered to be allocations, functional levels, and aggregates contained in the concurrent resolution on the budget pursuant to section 301.

"(D) Upon the filing of revised allocations pursuant to this paragraph, the reporting committee shall report revised allocations pursuant to section 302(b) to carry out this subsection.".

(d) RECONCILIATION INSTRUCTIONS.—Section 310(a)(4) of the Congressional Budget Act of 1974 is amended by inserting after "(3)" the following: "(including a direction to achieve deficit reduction)". 2 USC 641.

SEC. 13208. STANDARDIZATION OF ADDITIONAL DEFICIT CONTROL PROVISIONS.

(a) Section 904 of the Congressional Budget Act of 1974 is amended— 2 USC 621 note.

(1) by amending subsection (c) to read as follows:

"(c) WAIVER.—Sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. Sections 301(i), 302(c), 302(f), 310(d)(2), 310(f), 311(a), 313, 601(b), and 606(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(i), 258B(f)(1), 258B(h)(1), 258B(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn. "; and

(2) in subsection (d) by inserting at the end the following: "An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 305(b)(2), 305(c)(4), 306, 904(c), and 904(d). An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under sections 301(i), 302(c), 302(f), 310(d)(2), 310(f), 311(a), 313, 601(b), and 606(c) of this Act and sections 258(a)(4)(C), 258A(b)(3)(C)(i), 258B(f)(1), 258B(h)(1), 258B(h)(3), 258C(a)(5), and 258C(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985".

(b) Section 275(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended— 2 USC 900 note.

(1) in subparagraph (C), by striking the final word "and";

(2) in subparagraph (D), by striking the final period and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(E) the second sentence of section 904(c) of the Congressional Budget and Impoundment Control Act of 1974 and the final sentence of section 904(d) of that Act."

SEC. 13209. CODIFICATION OF PRECEDENT WITH REGARD TO CONFERENCE REPORTS AND AMENDMENTS BETWEEN HOUSES.

Section 305(c) of the Congressional Budget Act 1974 is amended— 2 USC 636.

(1) in paragraph (1)—

(A) by striking the first sentence; and

(B) by inserting after "consideration of the conference report" the following: "on any concurrent resolution on the budget (or a reconciliation bill or resolution)"; and

(2) in paragraph (2), by inserting "(or a message between Houses)" after "conference report" each place it appears.

SEC. 13210. SUPERSEDED DEADLINES AND CONFORMING CHANGES.

The Congressional Budget Act of 1974 is amended—

2 USC 636. (1) in section 305, by striking subsection (d) and redesignating subsection (e) as subsection (d); and

2 USC 641. (2) in section 310(f), by striking paragraph (1) and by striking "(2) POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.—".

SEC. 13211. DEFINITIONS.

(a) BUDGET AUTHORITY.—Section 3(2) of the Congressional Budget and Impoundment Control Act of 1974 is amended to read as follows: 2 USC 622.

"(2) BUDGET AUTHORITY AND NEW BUDGET AUTHORITY.—

"(A) IN GENERAL.—The term 'budget authority' means the authority provided by Federal law to incur financial obligations, as follows:

"(i) provisions of law that make funds available for obligation and expenditure (other than borrowing authority), including the authority to obligate and expend the proceeds of offsetting receipts and collections;

"(ii) borrowing authority, which means authority granted to a Federal entity to borrow and obligate and expend the borrowed funds, including through the issuance of promissory notes or other monetary credits;

"(iii) contract authority, which means the making of funds available for obligation but not for expenditure; and

"(iv) offsetting receipts and collections as negative budget authority, and the reduction thereof as positive budget authority.

"(B) LIMITATIONS ON BUDGET AUTHORITY.—With respect to the Federal Hospital Insurance Trust Fund, the Supplementary Medical Insurance Trust Fund, the Unemployment Trust Fund, and the railroad retirement account, any amount that is precluded from obligation in a fiscal year by a provision of law (such as a limitation or a benefit formula) shall not be budget authority in that year.

"(C) NEW BUDGET AUTHORITY.—The term 'new budget authority' means, with respect to a fiscal year—

"(i) budget authority that first becomes available for obligation in that year, including budget authority that becomes available in that year s [85] a result of a reappropriation; or

"(ii) a change in any account in the availability of unobligated balances of budget authority carried over from a prior year, resulting from a provision of law first effective in that year;

and includes a change in the estimated level of new budget authority provided in indefinite amounts by existing law.".

2 USC 622 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective for fiscal year 1992 and subsequent fiscal years.

[85] So in original. Probably should be "as".

SEC. 13212. SAVINGS TRANSFERS BETWEEN FISCAL YEARS.

Section 202 of Public Law 100-119 is repealed. 2 USC 909.

SEC. 13213. CONFORMING CHANGE TO TITLE 31.

(a) LIMITATIONS ON EXPENDING AND OBLIGATING.—Section 1341(a)(1) of title 31, United States Code, is amended—

(1) in subparagraph (A), by striking the final word "or";

(2) in subparagraph (B), by striking the final period and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) make or authorize an expenditure or obligation of funds required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985; or

"(D) involve either government in a contract or obligation for the payment of money required to be sequestered under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(b) LIMITATION ON VOLUNTARY SERVICES.—Section 1342 of title 31, United States Code, is amended by inserting at the end the following: "As used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.".

SEC. 13214. THE BYRD RULE ON EXTRANEOUS MATTER IN RECONCILIATION.

(a) THE BYRD RULE ON EXTRANEOUS MATTER IN RECONCILIATION.—Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended— 2 USC 644.

(1) in subsection (a)—

(A) by inserting after "(a)" the following: "IN GENERAL.—";

(B) by inserting after "1974" the following: "(whether that bill or resolution originated in the Senate or the House) or section 258C of the Balanced Budget and Emergency Deficit Control Act of 1985";

(2) in subsection (d) by inserting after "(d)" the following: "EXTRANEOUS PROVISIONS.—";

(3) in subsection (d)(1)(A) by inserting before the semicolon "(but a provision in which outlay decreases or revenue increases exactly offset outlay increases or revenue decreases shall not be considered extraneous by virtue of this subparagraph)";

(4) in subsection (d)(1)(D) by striking "and" after the semicolon;

(5) in subsection (d)(1)(E), by striking the period at the end and inserting "; and";

(6) in subsection (d)(1) by adding at the end the following new subparagraph:

"(F) a provision shall be considered extraneous if it violates section 310(g).";

(7) in subsection (d)(2), by inserting after "A" the first place it appears the following: "Senate-originated"; and

(8) by adding at the end the following new subsections:

"(e) EXTRANEOUS MATERIALS.—Upon the reporting or discharge of a reconciliation bill or resolution pursuant to section 310 in the

Senate, and again upon the submission of a conference report on such a reconciliation bill or resolution, the Committee on the Budget of the Senate shall submit for the record a list of material considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of this section to the instructions of a committee as provided in this section. The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

"(f) GENERAL POINT OF ORDER.—Notwithstanding any other law or rule of the Senate, it shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions (including provisions of an amendment, motion, or conference report) against which the Senator raised the point of order, then only those provisions (including provisions of an amendment, motion, or conference report) against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

"(g) DETERMINATION OF LEVELS.—For purposes of this section, the levels of new budget authority, budget outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.".

(b) TRANSFER OF BYRD RULE.—(1) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by subsection (a), is transferred to the end of title III of the Congressional Budget Act of 1974, and designated as section 313 of that Act.

2 USC 644.

2 USC 644.

(2) Section 313 of the Congressional Budget Act of 1974 is amended by—

(A) adding at the beginning the following center heading:

"EXTRANEOUS MATTER IN RECONCILIATION LEGISLATION";

(B) striking subsection (b), subsection (c), and the last sentence of subsection (a); and

(C) redesignating subsections (d) [86] (e), (f), and (g) as subsections (b), (c), (d) and (e), respectively.

(3) Subsection (a) of the first section of Senate Resolution 286 (99th Congress, 1st Session), as amended by Senate Resolution 509 (99th Congress, 2d Session) is enacted as subsection (c) of section 313 of the Congressional Budget Act of 1974.

2 USC 644.

(4) Section 313 of the Congressional Budget Act of 1974 is amended—

(A) in subsections (a), (b)(1)(A), and (c), by striking "of the Congressional Budget Act of 1974";

(B) in subsection (a), by striking "(d)" and inserting "(b)";

(C) in subsection (b)(2)(C), by adding "or" at the end thereof;

[86] So in original. Probably should be "(d),".

(D) in subsection (c), by striking "when" and inserting "When";

(E) in subsection (c)(1), by striking "(d)(1)(A) or (d)(1)(D) of section 20001 of the Consolidated Omnibus Budget Reconciliation Act of 1985" and inserting "(b)(1)(A), (b)(1)(B), (b)(1)(D), (b)(1)(E), or (b)(1)(F)"; and

(F) in subsection (c)(2), by striking "this resolution" and inserting "this subsection".

(5) The table of contents for the Congressional Budget and Impoundment Control Act of 1974 is amended by adding after the item for section 312 the following new item:

"Sec. 313. Extraneous matter in reconciliation legislation.".

Subtitle C—Social Security

SEC. 13301. OFF-BUDGET STATUS OF OASDI TRUST FUNDS.

2 USC 632 note.

(a) EXCLUSION OF SOCIAL SECURITY FROM ALL BUDGETS.—Notwithstanding any other provision of law, the receipts and disbursements of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund shall not be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President,

(2) the congressional budget, or

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

2 USC 632.

(b) EXCLUSION OF SOCIAL SECURITY FROM CONGRESSIONAL BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by adding at the end the following: "The concurrent resolution shall not include the outlays and revenue totals of the old age, survivors, and disability insurance program established under title II of the Social Security Act or the related provisions of the Internal Revenue Code of 1986 in the surplus or deficit totals required by this subsection or in any other surplus or deficit totals required by this title.".

SEC. 13302. PROTECTION OF OASDI TRUST FUNDS IN THE HOUSE OF REPRESENTATIVES.

2 USC 632 note.

(a) IN GENERAL.—It shall not be in order in the House of Representatives to consider any bill or joint resolution, as reported, or any amendment thereto or conference report thereon, if, upon enactment—

(1)(A) such legislation under consideration would provide for a net increase in OASDI benefits of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net increase, for such 75-year period, in OASDI taxes of the amount by which the net increase in such benefits exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period,

(2)(A) such legislation under consideration would provide for a net increase in OASDI benefits (for the 5-year estimating period for such legislation under consideration), (B) such net increase,

together with the net increases in OASDI benefits resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds $250,000,000, and (C) such legislation under consideration does not provide at least a net increase, for the 5-year estimating period for such legislation under consideration, in OASDI taxes which, together with net increases in OASDI taxes resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net increase derived under subparagraph (B) exceeds $250,000,000;

(3)(A) such legislation under consideration would provide for a net decrease in OASDI taxes of at least 0.02 percent of the present value of future taxable payroll for the 75-year period utilized in the most recent annual report of the Board of Trustees provided pursuant to section 201(c)(2) of the Social Security Act, and (B) such legislation under consideration does not provide at least a net decrease, for such 75-year period, in OASDI benefits of the amount by which the net decrease in such taxes exceeds 0.02 percent of the present value of future taxable payroll for such 75-year period, or

(4)(A) such legislation under consideration would provide for a net decrease in OASDI taxes (for the 5-year estimating period for such legislation under consideration), (B) such net decrease, together with the net decreases in OASDI taxes resulting from previous legislation enacted during that fiscal year or any of the previous 4 fiscal years (as estimated at the time of enactment) which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, exceeds $250,000,000, and (C) such legislation under consideration does not provide at least a net decrease, for the 5-year estimating period for such legislation under consideration, in OASDI benefits which, together with net decreases in OASDI benefits resulting from such previous legislation which are attributable to those portions of the 5-year estimating periods for such previous legislation that fall within the 5-year estimating period for such legislation under consideration, equals the amount by which the net decrease derived under subparagraph (B) exceeds $250,000,000.

(b) APPLICATION.—In applying paragraph (3) or (4) of subsection (a), any provision of any bill or joint resolution, as reported, or any amendment thereto, or conference report thereon, the effect of which is to provide for a net decrease for any period in taxes described in subsection (c)(2)(A) shall be disregarded if such bill, joint resolution, amendment, or conference report also includes a provision the effect of which is to provide for a net increase of at least an equivalent amount for such period in medicare taxes.

(c) DEFINITIONS.—For purposes of this subsection:

(1) The term "OASDI benefits" means the benefits under the old-age, survivors, and disability insurance programs under title II of the Social Security Act.

(2) The term "OASDI taxes" means—

(A) the taxes imposed under sections 1401(a), 3101(a), and 3111(a) of the Internal Revenue Code of 1986, and

(B) the taxes imposed under chapter 1 of such Code (to the extent attributable to section 86 of such Code).

(3) The term "medicare taxes" means the taxes imposed under sections 1401(b), 3101(b), and 3111(b) of the Internal Revenue Code of 1986.

(4) The term "previous legislation" shall not include legislation enacted before fiscal year 1991.

(5) The term "5-year estimating period" means, with respect to any legislation, the fiscal year in which such legislation becomes or would become effective and the next 4 fiscal years.

(6) No provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of OASDI taxes referred to in paragraph (2)(B) unless such provision changes the income tax treatment of OASDI benefits.

SEC. 13303. SOCIAL SECURITY FIREWALL AND POINT OF ORDER IN THE SENATE.

(a) CONCURRENT RESOLUTION ON THE BUDGET.—Section 301(a) of the Congressional Budget Act of 1974 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting a semicolon; and by adding after paragraph (5) the following new paragraphs: 2 USC 632.

"(6) For purposes of Senate enforcement under this title, outlays of the old-age, survivors, and disability insurance program established under title II of the Social Security Act for the fiscal year of the resolution and for each of the 4 succeeding fiscal years; and

"(7) For purposes of Senate enforcement under this title, revenues of the old-age, survivors, and disability insurance program established under title II of the Social Security Act (and the related provisions of the Internal Revenue Code of 1986) for the fiscal year of the resolution and for each of the 4 succeeding fiscal years.".

(b) POINT OF ORDER.—Section 301(i) of the Congressional Budget Act of 1974 is amended to read as follows:

"(i) It shall not be in order in the Senate to consider any concurrent resolution on the budget as reported to the Senate that would decrease the excess of social security revenues over social security outlays in any of the fiscal years covered by the concurrent resolution. No change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.".

(c) COMMITTEE ALLOCATIONS.—

(1) Section 302(a)(2) of the Congressional Budget Act of 1974 is amended by inserting after "appropriate levels of" the following: "social security outlays for the fiscal year of the resolution and for each of the 4 succeeding fiscal years,". 2 USC 633.

(2) Section 302(f)(2) of the Congressional Budget Act of 1974 is amended by inserting before the period the following: "or provides for social security outlays in excess of the appropriate allocation of social security outlays under subsection (a) for the

fiscal year of the resolution or for the total of that year and the 4 succeeding fiscal years".

2 USC 633. (3) Section 302(f)(2) of such Act is further amended by adding at the end the following: "In applying this paragraph—

"(A) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) over the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget;

"(B) estimated social security outlays shall be deemed increased by the shortfall of estimated social security revenues (including social security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this paragraph is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(C) no provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

The Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under subsection (a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to subsection (b).".

(d) POINT OF ORDER UNDER SECTION 311.—(1) Subsection (a) of 2 USC 642. section 311(a) of the Congressional Budget Act of 1974 is redesignated as subsection (a)(1) and paragraphs (1), (2), and (3) are redesignated as subparagraphs (A), (B), and (C).

(2) Section 311(a) of such Act is amended by inserting at the end the following new paragraph:

"(2)(A) After the Congress has completed action on a concurrent resolution on the budget, it shall not be in order in the Senate to consider any bill, resolution, amendment, motion, or conference report that would cause the appropriate level of total new budget authority or total budget outlays or social security outlays set forth for the first fiscal year in the most recently agreed to concurrent resolution on the budget covering such fiscal year to be exceeded, or would cause revenues to be less than the appropriate level of total revenues (or social security revenues to be less than the appropriate level of social security revenues) set forth for the first fiscal year covered by the resolution and for the period including the first fiscal year plus the following 4 fiscal years in such concurrent resolution.

"(B) In applying this paragraph—

"(i)(I) estimated social security outlays shall be deemed to be reduced by the excess of estimated social security revenues (including those provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) over the appropriate level of Social Security revenues

specified in the most recently agreed to concurrent resolution on the budget;

"(II) estimated social security revenues shall be deemed to be increased to the extent that estimated social security outlays are less (taking into account the effect of the bill, resolution, amendment, or conference report to which this subsection is being applied) than the appropriate level of social security outlays in the most recently agreed to concurrent resolution on the budget; and

"(ii)(I) estimated Social Security outlays shall be deemed to be increased by the shortfall of estimated social security revenues (including Social Security revenues provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) below the appropriate level of social security revenues specified in the most recently adopted concurrent resolution on the budget; and

"(II) estimated social security revenues shall be deemed to be reduced by the excess of estimated social security outlays (including social security outlays provided for in the bill, resolution, amendment, or conference report with respect to which this subsection is applied) above the appropriate level of social security outlays specified in the most recently adopted concurrent resolution on the budget; and

"(iii) no provision of any bill or resolution, or any amendment thereto or conference report thereon, involving a change in chapter 1 of the Internal Revenue Code of 1986 shall be treated as affecting the amount of social security revenues unless such provision changes the income tax treatment of social security benefits.

The chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under section 302(a) and revised functional levels and aggregates to reflect the application of the preceding sentence. Such revised allocations, functional levels, and aggregates shall be considered as allocations, functional levels, and aggregates contained in the most recently agreed to concurrent resolution on the budget, and the appropriate committees shall report revised allocations pursuant to section 302(b)."

SEC. 13304. REPORT TO THE CONGRESS BY THE BOARD OF TRUSTEES OF THE OASDI TRUST FUNDS REGARDING THE ACTUARIAL BALANCE OF THE TRUST FUNDS.

Section 201(c) of the Social Security Act (42 U.S.C. 401(c)) is amended by inserting after the first sentence following clause (5) the following new sentence: "Such statement shall include a finding by the Board of Trustees as to whether the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, individually and collectively, are in close actuarial balance (as defined by the Board of Trustees).".

SEC. 13305. EXERCISE OF RULEMAKING POWER. 2 USC 900 note.

This title and the amendments made by it are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as a part of the rules of each House, respectively, or of that House to which they specifically apply,

and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

2 USC 632 note.

SEC. 13306. EFFECTIVE DATE.

Sections 13301, 13302, and 13303 and any amendments made by such sections shall apply with respect to fiscal years beginning on or after October 1, 1990. Section 13304 shall be effective for annual reports of the Board of Trustees issued in or after calendar year 1991.

Subtitle D—Treatment of Fiscal Year 1991 Sequestration

2 USC 902 note.

SEC. 13401. RESTORATION OF FUNDS SEQUESTERED.

(a) ORDER RESCINDED.—Upon the enactment of this Act, the orders issued by the President on August 25, 1990, and October 15, 1990, pursuant to section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 are hereby rescinded.

(b) AMOUNTS RESTORED.—Any action taken to implement the orders referred to in subsection (a) shall be reversed, and any sequestrable resource that has been reduced or sequestered by such orders is hereby restored, revived, or released and shall be available to the same extent and for the same purpose as if the orders had not been issued.

(c) FURLOUGHED EMPLOYEES.—(1) Federal employees furloughed as a result of the lapse in appropriations from midnight October 5, 1990, until the enactment of House Joint Resolution 666 shall be compensated at their standard rate of compensation for the period during which there was a lapse in appropriations.

(2) All obligations incurred in anticipation of the appropriations made and authority granted by House Joint Resolution 666 for the purposes of maintaining the essential level of activity to protect life and property and bringing about orderly termination of government functions are hereby ratified and approved if otherwise in accord with the provisions of that Act.

Subtitle E—Government-sponsored Enterprises

2 USC 621 note.

SEC. 13501. FINANCIAL SAFETY AND SOUNDNESS OF GOVERNMENT-SPONSORED ENTERPRISES.

(a) DEFINITION.—For purposes of this section, the terms "Government-sponsored enterprise" and "GSE" mean the Farm Credit System (including the Farm Credit Banks, Banks for Cooperatives, and Federal Agricultural Mortgage Corporation), the Federal Home Loan Bank System, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

(b) TREASURY DEPARTMENT STUDY AND PROPOSED LEGISLATION.—

(1) The Department of the Treasury shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs and recommended legislation.

(2) The study shall include an objective assessment of the financial soundness of GSEs, the adequacy of the existing regulatory structure for GSEs, the financial exposure of the Federal Government posed by GSEs, and the effects of GSE activities on Treasury borrowing.

(c) CONGRESSIONAL BUDGET OFFICE STUDY.—

(1) The Congressional Budget Office shall prepare and submit to Congress no later than April 30, 1991, a study of GSEs.

(2) The study shall include an analysis of the financial risks each GSE assumes, how Congress may improve its understanding of those risks, the supervision and regulation of GSEs' risk management, the financial exposure of the Federal Government posed by GSEs, and the effects of GSE activities on Treasury borrowing. The study shall also include an analysis of alternative models for oversight of GSEs and of the costs and benefits of each alternative model to the Government and to the markets and beneficiaries served by GSEs.

(d) ACCESS TO RELEVANT INFORMATION.—

(1) For the studies required by this section, each GSE shall provide full and prompt access to the Secretary of the Treasury and the Director of the Congressional Budget Office to its books and records and other information requested by the Secretary of the Treasury or the Director of the Congressional Budget Office.

(2) In preparing the studies required by this section, the Secretary of the Treasury and the Director of the Congressional Budget Office may request information from, or the assistance of, any Federal department or agency authorized by law to supervise the activities of a GSE.

(e) CONFIDENTIALITY OF RELEVANT INFORMATION.—

(1) The Secretary of the Treasury and the Director of the Congressional Budget Office shall determine and maintain the confidentiality of any book, record, or information made available by a GSE under this section in a manner consistent with the level of confidentiality established for the material by the GSE involved.

(2) The Department of the Treasury shall be exempt from section 552 of title 5, United States Code, for any book, record, or information made available under subsection (d) and determined by the Secretary of the Treasury to be confidential under this subsection.

(3) Any officer or employee of the Department of the Treasury shall be subject to the penalties set forth in section 1906 of title 18, United States Code, if—

(A) by virtue of his or her employment or official position, he or she has possession of or access to any book, record, or information made available under and determined to be confidential under this section; and

(B) he or she discloses the material in any manner other than—

(i) to an officer or employee of the Department of the Treasury; or

(ii) pursuant to the exception set forth in such section 1906.

(4) The Congressional Budget Office shall be exempt from section 203 of the Congressional Budget Act of 1974 with respect to any book, record, or information made available under this subsection and determined by the Director to be confidential under paragraph (1).

(f) REQUIREMENT TO REPORT LEGISLATION.—(1) The committees of jurisdiction in the House shall prepare and report to the House no later than September 15, 1991, legislation to ensure the financial soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

(2) It is the sense of the Senate that the committees of jurisdiction in the Senate shall prepare and report to the Senate no later than September 15, 1991, legislation to ensure the financial safety and soundness of GSEs and to minimize the possibility that a GSE might require future assistance from the Government.

(f) PRESIDENT'S BUDGET.—The President's annual budget submission shall include an analysis of the financial condition of the GSEs and the financial exposure of the Government, if any, posed by GSEs.

Approved November 5, 1990.

Certified February 22, 1991.

Editorial note: This printed version of the original hand enrollment is published pursuant to section 2(c) of Public Law 101-466. The following memorandum for the Archivist of the United States was signed by the President on January 10, 1991, and was printed in the *Federal Register* on January 14, 1991:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollment of H.R. 5835, the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508), approved on November 5, 1990, is a correct printing of the hand enrollment and if so to make on my behalf the certification specified in Section 2(c) of H.J. Res. 682 (Public Law 101-466).

Attached is the printed enrollment that was received at the White House on January 7, 1991.

This memorandum shall be published in the *Federal Register.*

The Archivist on February 22, 1991, certified this to be a correct printing of the hand enrollment of Public Law 101-508.

LEGISLATIVE HISTORY—H.R. 5835 (S. 3209):

HOUSE REPORTS: No. 101-881 (Comm. on the Budget) and No. 101-964 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 16, considered and passed House.

Oct. 17, S. 3209 considered in Senate.

Oct. 18, H.R. 5835 considered and passed Senate, amended, in lieu of S. 3209.

Oct. 26, House agreed to conference report.

Oct. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 5, Presidential statement.

Public Law 101-509
101st Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5241]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes, namely:

Treasury, Postal Service and General Government Appropriations Act, 1991.

TITLE I

Treasury Department Appropriations Act, 1991.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $2,212,000 and 40 full-time equivalent positions for the Office of Foreign Assets Control; not to exceed $1,649,000, to remain available until expended, for systems modernization requirements; not to exceed $1,000,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $63,883,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $29,717,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $1,543,000 to remain available until expended, for systems modernization requirements; $21,296,000.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; and not to exceed $3,000 for official reception and representation expenses; $16,488,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed thirty for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept gifts: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona; $40,265,000: *Provided further,* That the Federal Law Enforcement Training Center shall hire up to and maintain an

42 USC 3771 note.
Decorations, medals, awards.

average of not less than 441 direct full-time equivalent positions for fiscal year 1991.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $20,775,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $218,742,000, of which not to exceed $13,287,000 shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $301,854,000, of which $21,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1991, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That this provision shall not preclude ATF from assisting the International Civil Aviation Organization in the development of a detection agent for explosives or from enforcing any legislation implementing the Convention on the Marking of Plastic and Sheet Explosives for the Purpose of Detection: *Provided further,* That funds made available under this Act shall be used to achieve a minimum level of 4,073 full-time equivalent positions for fiscal year 1991, of which no fewer than 1,037 full-time equivalent

positions shall be allocated for the Armed Career Criminal Apprehension Program.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,135,961,000, of which $7,000,000 shall be for the Interagency Border Inspection System, and of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed $4,000,000, to remain available until expended, for research, and not to exceed $3,395,000, to remain available until expended, for renovation and expansion of the Canine Enforcement Training Center: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 17,162 full-time equivalent positions in fiscal year 1991, of which a minimum level of 10,421 full-time equivalent positions shall be allocated to commercial operations activities, and of which a minimum level of 930 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service, and of which a minimum level of 222 full-time equivalent positions shall be allocated to the Nogales District of the United States Customs Service: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1991: *Provided further,* That not less than $500,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District: *Provided further,* That $1,750,000 shall be expended to increase by 30 the number of full-time employees of the United States Customs Service in the Honolulu Customs District: *Provided further,* That Customs shall increase by 10 the number of full-time inspectors in the Charleston, South Carolina Customs District: *Provided further,* That Customs shall increase by 75 the number of full-time inspectors in the San Diego, California Customs District: *Provided further,* That the express designations of Customs positions provided for in this Act and in the

accompanying House and Senate Reports shall only apply to positions in excess of those positions funded in Public Law 101-136, and shall not adversely impact staffing increases which are otherwise provided for in fiscal year 1991.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $110,347,000, to remain available until expended: *Provided,* That no aircraft or other related equipment with the exception of the aerostat program which will be transferred to the Department of Defense, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1991: *Provided further,* That the United States Customs Service shall commence procurement of long-lead items and conduct all advanced planning required in preparation for the procurement of one additional P-3 airborne early warning (AEW) aircraft in fiscal year 1992.

Government procurement.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $14,855,000, as authorized by Public Law 100-690; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $2,152,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $51,429,000, including amounts for purchase and maintenance of uniforms not to exceed $275 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties.

EXPANSION AND IMPROVEMENTS

For expansion and improvements to existing Mint facilities and for renovation of such facilities as may be acquired, $550,000, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

Effective date.

For necessary expenses connected with any public-debt issues of the United States; $175,139,000: *Provided,* That such sums as are necessary are appropriated to reimburse Federal Reserve Banks for services required by the Secretary to be performed by such banks as fiscal agents of the United States in support of administering the public debt, effective October 1, 1991.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722), $500,000, to remain available until expended.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; executive direction, management services, and internal audit and security; including purchase (not to exceed 89 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $142,279,000, of which not to exceed $25,000 for official reception and representation expenses; and of which not to exceed $500,000 shall remain available until expended for research.

PROCESSING TAX RETURNS AND ASSISTANCE

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; statistics of income; providing assistance to taxpayers; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,521,595,000, of which $3,000,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; the purchase (not to exceed 451, for replacement only, for police-type use), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $3,501,119,000, of which not to exceed $70,000 shall be for official reception and representation expenses in connection with the 1991 General Assembly of the Inter-American Center of Tax Administrators, to be hosted by the United States: *Provided,* That additional amounts above fiscal year 1990 levels for international tax enforcement shall be used for the establishment and

operation of a task force comprised of senior Internal Revenue Service attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in non-compliance with the Internal Revenue Code.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: returns processing and services; compliance and enforcement; program support; and tax systems modernization; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: $942,932,000, of which not less than $247,878,000 shall remain available until expended for tax systems modernization, and of which $60,000,000 shall remain available until expended for other systems development projects: *Provided,* That of the $247,878,000 provided for tax systems modernization up to $15,000,000 may be available until expended for the establishment of a federally-funded research and development center and may be utilized to conduct and evaluate market surveys, develop and evaluate requests for proposals, and assist with systems engineering, technical evaluations, and independent technical reviews in conjunction with tax systems modernization.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; not to

exceed $15,000 to assist in hosting the Biennial Conference of the Organization of Women in Federal Law Enforcement; to be held during fiscal year 1991; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations, in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $406,700,000, of which $2,500,000 shall remain available until expended for renovations at the temporary official residence of the Vice President and $1,600,000 to remain available until expended for renovations of the New York Field Office; and of which not to exceed $300,000 shall be made available for the protection at the one nongovernmental property designated by the President of the United States under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note).

TREASURY DEPARTMENT—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. Notwithstanding any authority to transfer funds between appropriations contained in any other Act, no transfer may increase or decrease any appropriation in this Act by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

This title may be cited as the "Treasury Department Appropriations Act, 1991".

Postal Service Appropriations Act, 1991.

TITLE II

UNITED STATES POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $472,592,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That

39 USC 403 note.

none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1991.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $38,142,000.

UNITED STATES POSTAL SERVICE

GENERAL PROVISIONS

SECTION. 1. ELIMINATION OF SUBSIDIES FOR BULK THIRD-CLASS MAIL CONTAINING CERTAIN ADVERTISING MATTER.

(a) IN GENERAL.—Section 3626 of title 39, United States Code, is amended by adding at the end the following:

"(j)(1) In the administration of this section, the rates for mail under former section 4452(b) or 4452(c) of this title shall not apply to mail which advertises, promotes, offers, or, for a fee or consideration, recommends, describes, or announces the availability of—

"(A) any credit, debit, or charge card, or similar financial instrument or account, provided by or through an arrangement with any person or organization not authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title;

"(B) any insurance policy, unless the organization which promotes the purchase of such policy is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the policy is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization, and the coverage provided by the policy is not generally otherwise commercially available; or

"(C) any travel arrangement, unless the organization which promotes the arrangement is authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title, the travel contributes substantially (aside from the cultivation of members, donors, or supporters, or the acquisition of income or funds) to one or more of the purposes which constitutes the basis for the organization's authorization to mail at such rates, and the arrangement is designed for and primarily promoted to the members, donors, supporters, or beneficiaries of the organization.

"(2) Matter shall not be excluded from being mail at the rates for mail under former section 4452(b) or 4452(c) of this title, by an organization authorized to mail at those rates solely because—

"(A) such matter contains, but is not primarily devoted to, acknowledgements of organizations or individuals who have made donations to the authorized organization; or

"(B) such matter contains, but is not primarily devoted to, references to and a response card or other instructions for making inquiries concerning services or benefits available as a result of membership in the authorized organization: *Provided,* That advertising, promotional, or application materials specifically concerning such services or benefits are not included.

"(3) Upon request, an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of this title shall furnish evidence to the Postal Service concerning the eligibility of any of its mail matter or mailings to be sent at those rates.

"(k)(1) No person or organization shall mail, or cause to be mailed by contractual agreement or otherwise, at the rates for mail under former section 4452(b) or 4452(c) of this title, any matter to which those rates do not apply.

"(2) The Postal Service may assess a postage deficiency in the amount of the unpaid postage against any person or organization which violates paragraph (1) of this subsection. This assessment shall be deemed the final decision of the Postal Service, unless the party against whom the deficiency is assessed appeals it in writing within thirty days to the postmaster of the office where the mailing was entered. Such an appeal shall be considered by an official designated by the Postal Service, other than the postmaster of the office where the mailing was entered, who shall issue a decision as soon as practicable. This decision shall be deemed final unless the party against whom the deficiency was assessed appeals it in writing within thirty days to a further reviewing official designated by the Postal Service, who shall issue the final decision on the matter.

"(3) The Postal Service shall maintain procedures for the prompt collection of postage deficiencies arising from the violation of paragraph (1) of this subsection, and may in its discretion, follow the issuance of a final decision regarding a deficiency under paragraph (2) of this subsection deduct the amount of that deficiency incurred during the previous 12 months from any postage accounts or other monies of the violator in its possession.".

(b) CONFORMING AMENDMENT.—Section 2401(c) of title 39, United States Code, is amended by striking "3626(a)-(h)" and inserting "3626(a)-(h) and (j)-(k)".

39 USC 2401 note.

(c) EFFECTIVE DATE.—The amendment enacted by this section shall become effective ninety days after the date of enactment of this Act.

39 USC 3626 note.

SEC. 2. FORBEARANCE REGARDING CERTAIN POSTAGE DEFICIENCIES.

(a) IN GENERAL.—The United States Postal Service may forbear from the collection of any postage deficiency assessed against an organization authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, if the assessment of that deficiency arises from a violation of the cooperative mailing regulations of the Postal Service set forth at section 625.5 of the Domestic Mail Manual, and the Postal Service has made no determination that the organization knowingly or willfully violated such regulations. If any organizations authorized to mail at the rates for mail under former section 4452(b) or 4452(c) of title 39, United States Code, has paid on its own behalf all or part of a postage deficiency which the Postal Service would forbear from collecting under this section, the Postal Service may refund to that organization the amount which it has paid.

(b) EFFECTIVE DATE AND APPLICABILITY.—The provisions of this section shall become effective on the date of enactment of this Act, and shall apply to mailings which were sent on or between July 1, 1986, and the effective date of this section.

SEC. 3. Section 3626 of title 39, United States Code, as amended by the General Provisions of title II, is further amended by adding at the end the following:

"(k) In the administration of this section, the term 'advertising', as used in former section 4358(j)(2) of this title, does not include the publisher's own advertising in a publication published by the official highway or development agency of a State.".

This title may be cited as the "Postal Service Appropriations Act, 1991".

TITLE III

Executive Office Appropriations Act, 1991.

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $25,410,000, of which not less than $500,000 shall remain available until expended for the White House Conference on Indian Education, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $32,799,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $8,495,000, of which $500,000 for the rehabilitation of the White House kitchens shall remain available until expended, and of which $1,202,000 for the repair of the face of the Executive Residence shall remain available until expended, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $626,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,587,000.

COUNCIL OF ECONOMIC ADVISERS

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $3,064,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,395,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $400,000: *Provided,* That a minimum level of 5 permanent full-time equivalent

positions shall be hired and maintained by the National Critical Materials Council for fiscal year 1991.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,893,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $48,343,000, of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,914,000.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100-690; not to exceed $7,500 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $99,000,000, of which $82,000,000 shall be available for drug control activities which are consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas: *Provided,* That of the $82,000,000 made available, $50,000,000 shall be transferred to Federal agencies and departments for implementing approved strategies and shall be obligated by the end of fiscal year 1991: *Provided further,* That of the $82,000,000, not less than $32,000,000 shall be transferred to the Department of Justice and the Department of the Treasury for disbursement to State and local entities for drug control activities which are consistent with the approved strategy for each designated High Intensity Drug Trafficking Area: *Provided further,* That in the case of the Southwest Border High Intensity Drug Trafficking Area such funds shall be available only for drug control activities which are consistent with the approved strategy and approved by the Drug Advisory Board of the affected State: *Provided further,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100-690, $46,000,000 to be derived from deposits in the Special Forfeiture Fund; of which $4,548,000 shall be transferred to Federal Bureau of Investigation, "Salaries and expenses"; of which $2,637,000 shall be transferred to Immigration and Naturalization Service, "Salaries and expenses"; of which $6,941,000 shall be transferred to Interagency Law Enforcement, "Organized Crime Drug Enforcement"; of which $18,884,000 shall be transferred to United States Customs Service, "Salaries and expenses"; of which $3,856,000 shall be transferred to Bureau of Alcohol, Tobacco and Firearms, "Salaries and expenses"; of which $3,059,000 shall be transferred to Internal Revenue Service, "Tax law enforcement"; of which $91,000 shall be transferred to Secret Service, "Salaries and expenses"; of which $4,984,000 shall remain available until expended for automated data processing enhancements at the El Paso Intelligence Center; and of which $1,000,000 shall remain available until expended to implement section 7604 of Public Law 100-690, the National Commission on Measured Responses to Achieve a Drug-Free America by 1995 Authorization Act: *Provided,* That amounts transferred under this heading shall be used for salaries and expenses of drug enforcement personnel.

Wages. Government employees.

OFFICE OF NATIONAL DRUG CONTROL POLICY

GENERAL PROVISION

SECTION 1. Section 524(c)(9) of title 28, United States Code is amended by deleting the second sentence and inserting the following: "For each of fiscal years 1991, 1992, and 1993, the Attorney General shall transfer not to exceed $150,000,000 in unobligated amounts available in the Fund to the Special Forfeiture Fund: *Provided,* That such amounts will be transferred on a quarterly basis: *Provided further,* That, upon each transfer, not to exceed $15,000,000, or, if determined by the Attorney General to be necessary to meet forfeiture program expenses, an amount not to exceed one-tenth of the previous year's obligations shall be retained in the Fund and remain available for payment of authorized expenses: *Provided further,* That, any unobligated amounts in excess of $150,000,000 shall remain on deposit in the Fund.".

UNANTICIPATED NEEDS

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1991".

TITLE IV

Independent Agencies Appropriations Act, 1991.

INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $2,079,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,300,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $207,000: *Provided,* That the

Reports.

annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28 $1,160,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $17,150,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $1,645,733,000 to be deposited into said Fund. The revenues and collections deposited into said Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $5,268,651,800 of which (1) not to exceed $1,460,678,000 shall remain available until expended for construction of additional projects at

locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Arizona:

Flagstaff, a grant to Northern Arizona University, Southwest Forestry Science Complex, $4,500,000

California:

East Los Angeles, a grant to California State University, $350,000

Los Angeles, a grant to the Japanese American National Museum, $39,000

Los Angeles, a grant to Marymount Loyola University, $4,000,000

Menlo Park, U.S. Geological Survey, Laboratory Building A, $22,000,000

Sacremento, John E. Moss Federal Building U.S. Courthouse, Extension, $5,801,000

San Diego, a grant to Children's Hospital, $1,750,000

Colorado:

Denver, a grant to the National Research Center for Environmental Lung Disease, $1,000,000

District of Columbia:

A grant to the American Indian Higher Education Consortium, $1,908,000

A grant to the D.C. Children's National Medical Center, $1,750,000

Federal Bureau of Investigation, Field Office, $37,800,000: *Provided,* That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works

Department of Transportation, Headquarters, site, $50,000,000: *Provided,* That such funds shall be obligated only upon the advance approval of the House and Senate Committees on Appropriations and the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works

Southeast Federal Center, $88,000,000: *Provided,* That such funds shall be obligated only upon the advance approval of the House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works

Florida:

Miami, a grant to Mt. Sinai Medical Center, $1,750,000

Georgia:

Athens, a grant to University of Georgia, Dean Rusk Center for International and Comparative Law, $1,000,000

Augusta, U.S. Courthouse, $353,000

Idaho:

Moscow, a grant to University of Idaho, Environmental Laboratory, $5,800,000

Illinois:

Chicago, John C. Kluczynski Federal Building, Claim, $455,000

Iowa:

Ames, a grant to Iowa State University, Midwest Supercomputer Access Center, $2,200,000

Kansas:
Kansas City, Federal Building U.S. Courthouse, $29,475,000
Pittsburg, a grant to Pittsburg State University, School of Technology Complex, $5,000,000
Louisiana:
Shreveport, Federal Building and U.S. Courthouse, $24,669,000
Maryland:
Baltimore, a grant for planning and design of Christopher Columbus Center on Marine Research and Exploration, $4,000,000
College Park, a grant to the University of Maryland for superconducting materials research, $1,375,000
Prince Georges County, Internal Revenue Service, $206,502,000
Prince Georges County, U.S. Courthouse, $21,883,000
Massachusetts:
Boston, Federal Building U.S. Courthouse, $184,200,000
Waltham, a grant to establish and construct a National Center for Complex Systems at Brandeis University, $4,000,000
Woods Hole, a grant for the continued development of the Marine Biomedical Institute for Advanced Studies, $4,750,000
Michigan:
Houghton, a grant to Michigan Technological University for construction of a center for applied metallurgical, minerals, and materials research, $1,750,000
Minnesota:
Minneapolis, Federal Building and U.S. Courthouse, $68,772,000
Montana:
Great Falls, a grant to the McLaughlin Research Institute for Biomedical Sciences, $5,000,000
Nebraska:
Lincoln, a grant to University of Nebraska, George W. Beadle Center for Genetic and Biomaterials Research, $4,500,000
Omaha, a grant to Creighton University, Criss Research Building, $2,000,000
Nevada:
Carson City, Federal Building-Post Office, parking construction, $50,000
New Jersey:
Camden, Post Office and Courthouse Annex, Escalation, $8,903,000
New Mexico:
Alamogordo, a grant to the Primate Research Institute, Site and Facilities, to be constructed on a site leased from the United States Air Force at Holloman Air Force Base, $4,000,000
Albuquerque, a grant to Sandia National Laboratory for research in environmentally conscious manufacturing, $3,000,000
New York:

New York, a grant to Columbia University, Center for Disease Prevention, $1,000,000
Rochester, a grant to Rochester Institute of Technology for a strategic materials research center, $1,750,000
White Plains, Courthouse, $26,350,000
Oregon:
Portland, Courthouse Annex, $33,320,000
Pennsylvania:
Philadelphia, a grant to the Philadelphia Urban League for the administration of a community-based drug prevention program, $778,000
Wilkes-Barre, Social Security Administration Data Operations Center, escalations, $11,905,000
Tennessee:
Knoxville, U.S. Courthouse-Post Office, $3,431,000
Texas:
College Station, a grant to Texas A&M University for the establishment of the Institute for National Drug Abatement Research at the Texas Engineering Experiment Station, $1,000,000
El Paso, a grant to the University of Texas, $1,750,000
Virginia:
Alexandria, U.S. Courthouse, $58,202,000
Northern Virginia Naval Systems Commands, $273,000,000
West Virginia:
Charleston, Federal Building U.S. Courthouse, $80,407,000
Nonprospectus construction projects, $5,000,000

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1992 and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $790,251,800 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Repairs and Alterations:
California:
Sacramento, John E. Moss Federal Building U.S. Courthouse, $10,990,000
San Diego, Federal Building and U.S. Courthouse, $7,836,000
San Francisco, Appraisers Building, $3,958,000
San Francisco, Customhouse, $9,508,000

Colorado:
Lakewood, Denver Federal Center, Building 56, $8,584,000
District of Columbia:
Washington, DC Area Elevators, $16,500,000
Hubert H. Humphrey Federal Building, $7,300,000
National Building Museum, Pension Building, $4,500,000
Veterans' Administration Building, $26,000,000
Georgia:
Richard B. Russell Federal Building and United States Courthouse, $3,544,000
Illinois:
Chicago, Customhouse (phase 2), $10,260,000
Chicago, Everett McKinley Dirksen Building (phase 2), $37,700,000
Chicago, Federal Building, 536 S. Clark Street (phase 2), $6,248,000
Indiana:
Indianapolis, Federal Building and Courthouse, $3,908,000
Minnesota:
Saint Paul, Warren E. Burger Federal Building and United States Courthouse, $7,633,000
New Jersey:
Newark, Peter W. Rodino, Jr. Federal Building, $3,755,000
New York:
New York, Bowling Green Customhouse (phase 1), $4,727,000
New York, Emanuel Celler Federal Building and U.S. Courthouse, $3,915,000
New York, Jacob K. Javits Federal Building, $13,721,000
Rochester, Kenneth B. Keating Federal Building and U.S. Courthouse, $1,994,000
Oklahoma:
Oklahoma City, Post Office and Courthouse, $11,242,000
Pennsylvania:
Philadelphia, Customhouse, $20,166,000
Pittsburgh, Post Office and Courthouse, $2,700,000
Tennessee:
Nashville, Estes Kefauver Federal Building and U.S. Courthouse Annex, $4,616,000
Texas:
Dallas, Federal Building (Terminal Annex), $4,307,000
Maryland:
Avondale, Federal Executive Training Center, $10,000,000
Virginia:
Arlington, Pentagon, $35,500,000
Portsmouth, Federal Building, $1,700,000
Washington:
Seattle, Federal Office Building, $17,932,000
Spokane, Federal Building and Post Office, $5,071,000

Capital Improvements of United States-Mexico Border Facilities, $211,659,800 as follows:
Arizona:
Naco, New Border Station, $3,497,500

Nogales, Grand Avenue, Border Station, site and drainage, $3,200,000
Sasabe, New Border Station, $3,185,000
California:
Andrade, New Border Station, $6,400,700
Calexico, New Border Station, $41,395,000
Otay Mesa, New Border Station, $14,112,700
San Ysidro, Border Station, $8,000,000
Tecate, New Border Station, $10, 367,500
New Mexico:
Santa Teresa, New Border Station, $6,000,000
Sunland Park, New Border Station, planning, $500,000
Texas:
Brownsville, New Border Station, $17,520,000
Brownsville, Gateway Bridge, Border Station, $3,500,000
Columbia/West Laredo, New Border Station, $12,991,000
Del Rio, Border Station, $13,042,000
El Paso, Bridge of the Americas, Border Station, $5,291,000
Laredo/Juarez-Lincoln Bridge, Border Station, $25,679,400
Los Indios, New Border Station, $7,934,000
Ysleta, New Border Station, $9,044,000
Southwest Border:
New Border Stations, $20,000,000

Minor Repairs and Alterations, $272,777,000, including $1,600,000 for Building No. 6, World Trade Center, New York, New York: *Provided,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1992, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $136,579,000 for installment acquisition payments including payments on purchase contracts; (4) not to exceed $1,473,804,000 for rental of space; (5) not to exceed $1,037,200,000 for real property operations; (6) not to exceed $90,781,000 for program direction and centralized services; and (7) not to exceed $247,665,000 for design and construction services of which $5,500,000 shall be available for payment to a public entity in fiscal year 1991 to house the Bureau of Mines, the United States Geological Survey and the National Weather Service in Tucson, Arizona, such location to be designated by the housed agencies and such agencies are to be housed rent free, exclusive of operating expenses, in such location; for design and construction services which shall remain available until expended, including expenses for preliminary design for a 300,000 square foot Government-owned facility for the Center for Disease Control at their campus on Clifton Road in Atlanta, Georgia, such expenses to be reimbursed to GSA by the Center for Disease Control: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be,

under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those of Capital Improvements of United States-Mexico Border Facilities; the Augusta, Georgia, United States Courthouse; the Boston, Massachusetts, Federal Building United States Courthouse; the Carson City, Nevada, Federal Building-Post Office parking facility; the Shreveport, Louisiana, Federal Building and United States Courthouse; the District of Columbia Pension Building, National Building Museum; the Knoxville, Tennessee, United States Courthouse-Post Office; the Charleston, West Virginia, Federal Building United States Courthouse; Building No. 6, World Trade Center, New York, New York; and the Tuscon, Arizona, United States Geological Survey, National Weather Service, and Bureau of Mines space expansion shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1991 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $5,268,651,800 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $53,957,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $13,386,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $8,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That $2,500,000 of this amount shall be made available to pay expenses related to the relocation of the United States Fish and Wildlife Service regional office authorized and directed by Public Law 101-136: *Provided further,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided, for Policy Direction, Board of Contract Appeals, and accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services

authorized by 5 U.S.C. 3109, $35,100,000: *Provided,* That this appropriation shall be available, for general administrative and staff support services, subject to reimbursement by the applicable organization or agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $39,961,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General $30,997,000 of which not to exceed $1,000,000 shall remain available until expended for procurement and installment of an automation program in support of audits and investigations: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,964,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

Public lands.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers

proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1991 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary to meet program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

Maryland.

SEC. 5. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the General Services Administration, without consideration, that parcel of land known as the Avondale site comprising approximately 17.8 acres of land located at 4900 LaSalle Road in the Avondale section of Prince Georges County, Maryland, together with any improvements, structures and fixtures located thereon: *Provided,* That the Administrator of General Services after consultation with the Office of Personnel Management shall provide for such design and alterations to the structures and fixtures located thereon, as may be required, to prepare the site for use as a training and seminar center: *Provided further,* That upon completion of such alterations the Administrator of General Services shall make the property available to the Director of the Office of Personnel Management for use as a Federal Executive Training Center (Center) and shall delegate to the Director of the Office of Personnel Management any authority necessary to operate the Center: *Provided further,* That the Administrator of General Services is authorized and directed to charge the Office of Personnel Management, at the time of the delegation, and for a period of not to exceed five additional years at rates equal to the net revenue generated by operation of the Center in each of such years, and that such rates may be less, but not more than, those rates provided for under section 210(J) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided further,* That the General Services Administration and the Office of Personnel Management shall negotiate annual rates in subsequent years that will, in the aggregate, including the rates and operating costs charged in the first five years and the recovery of the costs of the alterations and additions that are in excess of $10,000,000, and that there will be no further charges to the Office of Personnel Management, except for routine operational expenses and costs in anticipation of future repairs subsequent to the recovery of the costs of alteration and additions in excess of $10,000,000: *Provided further,* That the $6,500,000 previously authorized for Avondale is no longer available for obligation.

SEC. 6. Notwithstanding any other provision of law, such property as may be necessary, but not to exceed twenty acres, at the Beltsville Agricultural Research Center located in Beltsville, Maryland, may be provided at fair market value to the General Services Administration for the purpose of constructing a Federal Courthouse and that any amount resulting from the acquisition of the property shall be placed in an escrow account to be available hereafter for use in the renovation and restoration of the Beltsville Agricultural Research Center, to be released as specified in advance in appropriations Acts.

SEC. 7. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the General Services Administration, without consideration, approximately 14 acres of the United States Geological Survey Western Region Headquarters together

with any improvements, structures and fixtures located thereon. The General Services Administration shall construct additional facilities for the United States Geological Survey on this site.

40 USC 490f.

SEC. 8. (a) Notwithstanding any other provision of law, agencies are hereafter authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

SEC. 9. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfolk Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 10. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

Massachusetts.

SEC. 11. Notwithstanding any other provision of law, the Administrator of General Services is authorized to sell by publicly advertising for bids and on such terms and conditions as the Administrator deems proper, the John W. McCormack Post Office and Courthouse located at One Post Office Square in Boston, Massachusetts. All proceeds from such sale, less direct expenses incurred in the sale, shall be deposited into the fund established under section 210(f) of the Federal Property and Administrative Services Act.

SEC. 12. Notwithstanding any other provision of law, the Administrator of General Services is authorized and directed to provided not less than 120,000 square feet of storage space, together with additional space as necessary for office use, to establish a National Long Term Records Center in Pittsfield, Massachusetts for the specialized storage of Federal agency records by the National Archives and Records Administration: *Provided,* That notwithstanding any other provision of law, the Administrator of General Services is authorized and directed to provide not less than 3,000 square feet of public space in Pittsfield, Massachusetts for a satellite facility of the New England Regional Archives: *Provided further,* That the Archivist of the United States shall assign adequate personnel to operate the satellite facility established by this section: *Provided further,* That the Administrator of General Services and the Archivist of the United States shall report on a quarterly basis to the House and Senate Committees on Appropriations on the progress made to implement the directives in this section and the resources necessary to complete the Long Term Records Center and the satellite facility.

Reports.

SEC. 13. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

SEC. 14. The Administrator of General Services is directed to coordinate its requirements for office and other space to house Government activities by utilizing assets of the Resolution Trust Corporation and its receivers and conservators.

SEC. 15. Notwithstanding any other provision of law, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), is authorized to receive any revenues, collections, or other income received during fiscal year 1991 in the form of rebates, cash incentives or otherwise, related to energy savings, all of which shall remain in the Fund until expended, and remain available for Federal energy management improvement programs as may be authorized by law or as may be deemed appropriate by the Administrator of General Services. The General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority, in such activity or activities of the Fund as may be necessary; *Provided,* That the General Services Administration shall provide the House and Senate Committees on Appropriations with a plan to ensure a balanced and equitable approach for the relocation of Federal agencies in the Washington, D.C. metropolitan area by March 31, 1991.

West Virginia.

SEC. 16. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, the Federal Building located at 500 Quarrier Street in Charleston, West Virginia, and to deposit such proceeds into the Federal Buildings Fund.

Minnesota.

SEC. 17. (a) Notwithstanding any other provision of law, the Administrator of General Services is authorized to sell on such terms and conditions as the Administrator deems proper, the Federal Building and United States Courthouse located at 110 South Fourth Street in Minneapolis, Minnesota. All proceeds from such sale, less direct expenses, shall be deposited into the fund established under section 210(f) of the Federal Property and Administrative Services Act, and the General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority in the Construction and Acquisition of Facilities activity of the Federal Buildings Fund for the construction of a new Federal Building and United States Courthouse in Minneapolis, Minnesota.

(b) In addition, the General Services Administration is hereby authorized to accept donations from the City of Minneapolis, Minnesota and to deposit such donations into the fund established under section 210(f) of the Federal Property and Administrative Services Act, and the General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Construction and Acquisition of Facilities activity

of the Federal Buildings Fund for the construction of a new Federal Building and United States Courthouse in Minneapolis, Minnesota.

(c) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary for carrying out the purposes of subsections (a) and (b).

SEC. 18. The Administrator of General Services shall issue a request for proposals for the procurement of move management services within thirty days after enactment of this Act.

New York.

SEC. 19. The General Services Administration is authorized to utilize and lease space in the Harlem International Trade Center located at 125th Street in the county of New York, New York, for future Federal long-term office space needs in the Metropolitan New York City area up to 200,000 square feet pursuant to the availability of Federal tenants.

The lease rate for such office space shall not exceed comparable rates for equivalent space in the surrounding area or comparable rates in the Harlem International Trade Center.

SEC. 20. Notwithstanding any other provision of law, the General Services Administration is directed to maintain during the fiscal year ending September 30, 1991, the vehicle rental rates and per mile rates charged to schools and dormitories funded by the Bureau of Indian Affairs that were in effect on June 30, 1990, except for subsequent per mile rate adjustments related to fuel cost increases.

SEC. 21. Notwithstanding any other provision of this Act, the amount available in the Federal Buildings Fund for program direction and centralized services shall not exceed $122,474,000.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $138,219,000, of which $5,250,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended and of which $8,000,000 shall remain available until expended for renovations and improvements to the John F. Kennedy Library.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

GENERAL PROVISION

44 USC 2102 note.

SECTION 1. (a)(1) The position of Director of the Center for Legislative Archives within the National Archives and Records Administration shall be established without regard to chapter 51 title 5. Effective on the first day of the first applicable pay period beginning on or after the date of the enactment of this Act, the basic rate of pay for such position shall be the minimum rate of pay grade GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(2) There is established within the Center for Legislative Archives within the National Archives and Records Administration the position of Specialist in Congressional History.

(b) There shall be made available from funds appropriated in each fiscal year to the National Archives and Records Administration, $20,000 for the administrative expenses of the Advisory Committee on the Records of Congress established under section 2701 of title 44, United States Code. 44 USC 2102 note.

(c) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of subsections (a) and (b) of this section. 44 USC 2102 note.

(d)(1) Title 44, United States Code, is amended by inserting after chapter 25, the following new chapter:

"CHAPTER 27—ADVISORY COMMITTEE ON THE RECORDS OF CONGRESS

"Sec.
"2701. Advisory Committee on the Records of Congress.
"2702. Membership; chairman; meetings.
"2703. Functions of the Committee.
"2704. Powers of the Committee.
"2705. Compensation and travel expenses.
"2706. Administrative provisions.

"§ 2701. Advisory Committee on the Records of Congress.

Establishment.

"(a) There is established the Advisory Committee on the Records of Congress (hereafter in this chapter referred to as the Committee).

"(b) The Committee shall be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), except that the Committee shall be of permanent duration, notwithstanding any provision of section 14 of the Federal Advisory Committee Act.

"§ 2702. Membership; chairman; meetings.

"(a)(1) The Committee shall consist of the eleven members including—

"(A)(i) the Secretary of the Senate;
"(ii) the Clerk of the House of Representatives;
"(iii) the Archivist of the United States;
"(iv) the Historian of the Senate; and
"(v) the Historian of the House of Representatives; and
"(B) six members of whom one shall be appointed by each of the following:
"(i) the Speaker of the House of Representatives;
"(ii) the Minority Leader of the House of Representatives;
"(iii) the Majority Leader of the Senate;
"(iv) the Minority Leader of the Senate;
"(v) the Secretary of the Senate; and
"(vi) the Clerk of the House of Representatives.

"(2) Each member appointed under paragraph (1)(B) shall have knowledge or expertise in United States history, archival management, publishing, library science, or use of legislative records.

"(b) The Secretary of the Senate shall serve as Chairman during the two-year period beginning on January 1, 1991, and the Clerk of the House of Representatives shall serve as Chairman during the two-year period beginning on January 1, 1993. Thereafter, such members shall alternate serving as Chairman for a term of two years.

"(c)(1) Members of the Committee referred to in subsection (a)(1)(A) shall serve only while holding such offices. Members appointed to the Committee under subsection (a)(1)(B) shall serve for a

term of two years, and may be reappointed without limitation. The initial appointments for such terms shall begin on January 1, 1991.

"(2) Any vacancy on the Committee shall not affect the powers of the Committee. Any vacancy in an appointed position on the Committee shall be filled in the same manner in which the original appointment was made.

"(d)(1) No later than thirty days after the date on which the first session of the 102d Congress begins, the Committee shall hold its first meeting. Thereafter, the Committee shall meet semiannually or at the call of a majority of its members.

"(2) Seven members of the Committee shall constitute a quorum, but a lesser number may hold hearings.

"§ 2703. Functions of the Committee

Reports.
Archives and records.

"The Committee shall—

"(1) review the management and preservation of the records of Congress;

"(2) report to and advise the Congress and the Archivist of the United States on such management and preservation; and

"(3)(A) no later than December 31, 1991, conduct a study and submit a report to the Congress on—

"(i) the effect any transfer of records of the National Archives and Records Administration from facilities located in Washington, D.C., to any location outside of Washington, D.C., shall have on the management and preservation of the records of Congress; and

"(ii) the five year plan for the management and preservation of the records of Congress; and

"(B) no later than December 31, 1995, conduct a study to update the report submitted under subparagraph (A)(ii), and submit a report to the Congress.

"§ 2704. Powers of the Committee

"(a) For purposes of carrying out the duties referred to under section 2703, the Committee or, on the authorization of the Committee, any subcommittee or member thereof, may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as is appropriate.

"(b) The Committee may secure directly from any department or agency of the United States such information as the Committee may require to carry out the duties referred to under section 2703. Upon request of the Chairman of the Committee, the head of such department or agency shall furnish such information to the Committee.

"§ 2705. Compensation and travel expenses

"A member of the Committee may not be paid compensation for service performed as a member of the Committee. However, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of service for the Committee.

"§ 2706. Administrative provisions

"(a) Upon request of the Committee, the head of any Federal agency is authorized to detail to the Committee, on a nonreimbursable basis, any of the personnel of such agency to assist

the Committee in carrying out the duties referred to under section 2703 and such detail shall be without interruption or loss of civil service status or privilege.

"(b) For purposes of supporting the Committee, the Archivist may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the minimum annual rate of basic pay payable for GS-16 of the General Schedule under section 5332 of such title.".

(2) The table of chapters for title 44, United States Code, is amended by insering after the item relating to chapter 25 of such title the following:

"27. Advisory Committee on the Records of Congress ..... 2701".

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100-598, and the Ethics Reform Act of 1989, Public Law 101-194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses: $3,725,000.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: *Provided,* That, notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts for goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1991. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $114,461,000, of which up to $250,000 shall be made available to continue the use of job sharing arrangements in agencies as authorized in section 3402 of title 5, United States Code, and of which not less than $400,000 nor more than $1,000,000 shall be made

available for the establishment of Federal health promotion and disease prevention programs for Federal employees; and in addition $74,379,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs: *Provided further,* That amounts authorized to be transferred from the appropriate trust funds for implementation of the Federal Employees' Retirement System automated recordkeeping system in this or prior Acts, may be transferred at any time the Office of Personnel Management deems appropriate: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1991, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles: $4,607,000; and in addition, not to exceed $3,043,000 for administrative expenses to audit the Office of Personnel Management's insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $3,509,563,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of

title 5, United States Code, $8,700,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $5,687,105,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended and the Act of August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 33 USC 776.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

OFFICE OF PERSONNEL MANAGEMENT

GENERAL PROVISION

SECTION 1. Section 8902(k)(1) of title 5, United States Code, is amended—

(1) by striking out "performed by a clinical psychologist or optometrist" and inserting in lieu thereof "performed by a clinical psychologist, optometrist, nurse midwife, or nurse practitioner/clinical specialist"; and

(2) by striking out "qualified clinical social worker or optometrist" and inserting in lieu thereof "qualified clinical social worker, optometrist, nurse midwife, or nurse practitioner/nurse clinical specialist".

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $22,564,000, together with not to exceed $1,500,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of

1978, the Civil Service Reform Act of 1978 (Public Law 95-454), and the Whistleblower Protection Act of 1989 (Public Law 101-12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $6,608,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $18,443,000: *Provided,* That public members of the Federal Services Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $31,598,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge.

26 USC 7443 note.

This title may be cited as the "Independent Agencies Appropriations Act, 1991".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from

hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Government procurement.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

40 USC 490c.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center

of the General Services Administration located in Sacramento, California.

SEC. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

Abortion.

SEC. 515. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 516. The provision of section 515 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 517. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 518. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty

years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 519. Funds under this Act shall be available as authorized by sections 4501–4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1991.

SEC. 520. (a) Notwithstanding any other provision of law, during fiscal year 1991, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1991 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code— Wages.

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1991, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 521. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 522. The Office of Personnel Management may, during the fiscal year ending September 30, 1991, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

SEC. 523. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

Reports.

SEC. 524. (1) The Secretary of the Treasury shall issue, no later than one hundred and eighty days after the enactment of this Act, to the House Committee on Appropriations and the Senate Committee on Appropriations a report making recommendations on appropriate measures to reduce the Federal expenditures incurred when former Presidents and spouses of former Presidents travel for the purpose of speaking or making an appearance for a payment of money or any thing of value, in excess of any actual and necessary travel expenses.

(2) The Secretary of the Treasury, in consultation with the advisory committee established by Public Law 90-331, shall consider among other expenses, administrative expenses and expenses associated with Secret Service protection, and shall determine what methods of reimbursement would be feasible to offset expenditures by the Federal Government that are associated with such speeches or appearances by former Presidents or spouses of former Presidents.

SEC. 525. The United States Secret Service may, during the fiscal year ending September 30, 1991, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

SEC. 526. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

SEC. 527. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

SEC. 528. (a) Notwithstanding any other law and in any fiscal year— 28 USC 509 note.

(1) The Attorney General shall accept, and Federal departments and agencies, including the United States Secret Service, the Internal Revenue Service, the Resolution Trust Corporation, and the appropriate Federal banking agency, may provide, without reimbursement, the services of attorneys, law enforcement personnel, and other employees of any other departments or agencies of the Federal Government to assist the Department of Justice, subject to the supervision of the Attorney General, in the investigation and prosecution of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation; Government employees.

(2) any attorney of a department or agency whose services are accepted pursuant to paragraph (1) may, subject to the supervision of the Attorney General, conduct any kind of legal proceeding, civil or criminal, including grand jury proceedings and proceedings before committing magistrates, and perform any other investigative or prosecutorial function, which United States attorneys are authorized by law to conduct or perform whether or not the attorney is a resident of the district in which the proceeding is brought; and

(3) law enforcement personnel of the United States Secret Service are authorized, subject to the supervision of the Attorney General, to conduct or perform any kind of investigation, civil or criminal, related to fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, which the Department of Justice law enforcement personnel are authorized by law to conduct or perform: *Provided,* That the Secret Service shall not initiate investigations pursuant to this section independent of the supervision of the Attorney General.

(b) This section—

(1) shall not, except as expressly provided herein, alter the authority of any Federal law enforcement agency; and

(2) shall expire with the authority of the Resolution Trust Corporation or its successor.

(c) This section applies notwithstanding any other provision of law enacted by the 101st Congress after October 15, 1990, that by its terms would grant authority to, or otherwise affect the authority of, the Secret Service or other departments or agencies of the Federal Government to conduct or to assist the Department of Justice in conducting investigations or prosecutions of fraud or other criminal or unlawful activity in or against any federally insured financial institution or the Resolution Trust Corporation, and any other such provision shall not be effective in granting or otherwise affecting any such authority.

SEC. 529. FEDERAL EMPLOYEES PAY COMPARABILITY ACT OF 1990.

Federal Employees Pay Comparability Act of 1990. 5 USC 5301 note.

SECTION 1. SHORT TITLE; RULES OF CONSTRUCTION.

(a) SHORT TITLE.—This section, and the sections immediately following this section through section 412, inclusive, may be cited as the "Federal Employees Pay Comparability Act of 1990" (hereinafter in this section referred to as "FEPCA").

(b) RULES OF CONSTRUCTION.—(1) Except as otherwise expressly provided, any reference (actual or implicit) in FEPCA (outside of this

section) to "this Act" (or to any title, section, or other designated provision of "this Act") shall be construed to be a reference to FEPCA (or the corresponding provision within FEPCA).

(2) Except as otherwise expressly provided, any reference (actual or implicit) in any provision of this Act outside of FEPCA to "this Act" (or to any title, section, or other designated provision of "this Act"), and any reference made in any provision of law outside of this Act to the "Treasury, Postal Service and General Government Appropriations Act, 1991" (or to any title, section, or other designated provision of such Act), shall be construed disregarding the provisions of FEPCA.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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Sec. 1. Short title; rules of construction.
Sec. 2. Table of contents.

TITLE I—AMENDMENTS RELATING TO BASIC PAY

Sec. 101. Annual adjustments to statutory pay rates; locality-based comparability adjustments; other matters.
Sec. 102. Pay for positions above GS-15 and certain other positions.
Sec. 103. Pay for critical positions.
Sec. 104. Administrative law judges and contract appeals board members.
Sec. 105. Special occupational pay systems.
Sec. 106. Elimination of GS-11 threshold for new appointees to be paid above minimum rates.
Sec. 107. Advances of pay.
Sec. 108. Reemployment of retirees.
Sec. 109. New pay structure for the police forces of the Bureau of Engraving and Printing and the United States Mint.
Sec. 110. Compensation of standing trustees appointed under titles 11 and 28, United States Code.
Sec. 111. Pay-for-performance labor-management committee.
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TITLE II—AMENDMENTS RELATING TO AWARDS, ALLOWANCES, DIFFERENTIALS, AND OTHER RELATED MATTERS

Sec. 201. Time off from duty as an incentive award.
Sec. 202. Uniform allowances.
Sec. 203. Differential for physical hardship or hazard.
Sec. 204. Exception from limitation on premium pay.
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Sec. 207. Performance-based cash awards.
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TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Budget Act compliance.
Sec. 302. Interim geographic adjustments.
Sec. 303. Pay rates for current employees.
Sec. 304. Senior Biomedical Research Service.
Sec. 305. Effective date.
Sec. 306. Additional rule of construction.

TITLE IV—FEDERAL LAW ENFORCEMENT PAY REFORM

Sec. 401. Short title.
Sec. 402. Definition.
Sec. 403. Special rates for law enforcement officers.
Sec. 404. Special pay adjustments for law enforcement officers in selected cities.
Sec. 405. Same benefits for other law enforcement officers.

Sec. 406. FBI New York Field Division.
Sec. 407. Relocation payments.
Sec. 408. Incentive bonus for foreign language capabilities.
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Sec. 410. Overtime rates.
Sec. 411. Other premium pay.
Sec. 412. Reporting requirement.

TITLE I—AMENDMENTS RELATING TO BASIC PAY

SEC. 101. ANNUAL ADJUSTMENTS TO STATUTORY PAY RATES; LOCALITY-BASED COMPARABILITY PAYMENTS; OTHER MATTERS.

(a) GENERALLY.—(1) Subchapter I of chapter 53 of title 5, United States Code, is amended to read as follows:

"SUBCHAPTER I—PAY COMPARABILITY SYSTEM

"§ 5301. Policy

"It is the policy of Congress that Federal pay fixing for employees under the General Schedule be based on the principles that—

"(1) there be equal pay for substantially equal work within each local pay area;

"(2) within each local pay area, pay distinctions be maintained in keeping with work and performance distinctions;

"(3) Federal pay rates be comparable with non-Federal pay rates for the same levels of work within the same local pay area; and

"(4) any existing pay disparities between Federal and non-Federal employees should be completely eliminated.

"§ 5302. Definitions

"For the purpose of this subchapter—

"(1) the term 'statutory pay system' means a pay system under—

"(A) subchapter III, relating to the General Schedule;

"(B) section 403 of the Foreign Service Act of 1980, relating to the Foreign Service of the United States; or

"(C) chapter 73 of title 38, relating to the Veterans Health Services and Research Administration;

"(2) the term 'ECI' means the Employment Cost Index (wages and salaries, private industry workers) published quarterly by the Bureau of Labor Statistics;

"(3) the 'base quarter' for any year is the 3-month period ending on September 30 of such year;

"(4) the term 'pay agent' means the agent designated by the President under section 5304(d)(1);

"(5) the term 'locality' or 'pay locality' means any locality, as established or modified under section 5304;

"(6) the term 'pay disparity', as used with respect to a locality, means the extent to which rates of pay payable under the General Schedule are generally lower than the rates paid for the same levels of work by non-Federal workers in the same locality; except as otherwise required in this subchapter, a pay disparity shall be expressed as a single percentage which, if uniformly applied to employees within the locality who are receiving rates of pay under the General Schedule, would cause the rates payable to such employees to become substantially equal (when considered in the aggregate) to the rates paid to

non-Federal workers for the same levels of work in the same locality;

"(7) the term 'comparability payment' means a payment payable under section 5304;

"(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means—

"(A) the rates of basic pay set forth in the General Schedule; and

"(B) in the case of an employee covered by the performance management and recognition system, the rates of basic pay under chapter 54; and

"(9) the term 'General Schedule position' means any position to which subchapter III applies (including any position under the performance management and recognition system).

"§ 5303. Annual adjustments to pay schedules

"(a) Effective as of the first day of the first applicable pay period beginning on or after January 1 of each calendar year, the rates of basic pay for each statutory pay system shall be increased by the percentage (rounded to the nearest one-tenth of 1 percent) equal to one-half of 1 percentage point less than the percentage by which the ECI for the base quarter of the year before the preceding calendar year exceeds the ECI for the base quarter of the second year before the preceding calendar year (if at all).

President. "(b)(1) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the pay adjustment which would otherwise be required by subsection (a) in any year to be inappropriate, the President shall—

"(A) prepare and transmit to Congress before September 1 of the preceding calendar year a plan for such alternative pay adjustments as he considers appropriate, together with the reasons therefor; and

"(B) adjust the rates of pay of each statutory pay system, in accordance with such plan, effective on the same day as the increase under subsection (a) would otherwise take effect.

"(2) In evaluating an economic condition affecting the general welfare under this subsection, the President shall consider pertinent economic measures including, but not limited to, the Indexes of Leading Economic Indicators, the Gross National Product, the unemployment rate, the budget deficit, the Consumer Price Index, the Producer Price Index, the Employment Cost Index, and the Implicit Price Deflator for Personal Consumption Expenditures.

"(3) The President shall include in the report to Congress under paragraph (1)(A) his assessment of the impact that the alternative pay adjustments under this subsection will have on the Government's ability to recruit and retain well-qualified employees.

"(c) The rates of basic pay that take effect under this section—

"(1) shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith, any prior rates of basic pay under the statutory pay system involved (as last adjusted under this section or prior provisions of law); and

Federal Register, publication. "(2) shall be printed in the Federal Register and the Code of Federal Regulations.

"(d) An increase in rates of basic pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335.

"(e) This section does not impair any authority pursuant to which rates of basic pay may be fixed by administrative action.

"(f) Pay may not be paid, by reason of any provision of this section (disregarding any comparability payment payable), at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

"(g) Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agency or agencies as the President may designate.

"§ 5304. Locality-based comparability payments

"(a) Pay disparities shall be identified and reduced as follows:

"(1) Comparability payments shall be payable within each locality determined to have a pay disparity greater than 5 percent.

"(2)(A) The localities having pay disparities, and the size of those disparities, shall, for purposes of any comparability payment scheduled to take effect in any calendar year, be determined in accordance with the appropriate report, as prepared and submitted to the President under subsection (d)(1) for purposes of such calendar year.

"(B) Any computation necessary to determine the size of the comparability payment to become payable for any locality in a year (as well as any determination as to the size of any pay disparity remaining after that comparability payment is made) shall likewise be made using data contained in the appropriate report (described in subparagraph (A)) so prepared and submitted for purposes of such calendar year.

"(3) Subject to paragraphs (4) and (5), the amount of the comparability payments payable under this subsection in a calendar year within any locality in which a comparative payment is payable shall be computed using such percentage as the President determines for such locality under subsection (d)(2), except that—

"(A) the percentage for the first calendar year in which any amounts are payable under this section may not be less than ⅕ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(B) the percentage for the second calendar year in which any amounts are payable under this section may not be less than ³⁄₁₀ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(C) the percentage for the third calendar year in which any amounts are payable under this section may not be less than ⅖ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(D) the percentage for the fourth calendar year in which any amounts are payable under this section may not be less than ½ of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(E) the percentage for the fifth calendar year in which any amounts are payable under this section may not be less

than 3/5 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(F) the percentage for the sixth calendar year in which any amounts are payable under this section may not be less than 7/10 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(G) the percentage for the seventh calendar year in which any amounts are payable under this section may not be less than 4/5 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(H) the percentage for the eighth calendar year in which any amounts are payable under this section may not be less than 9/10 of the amount needed to reduce the pay disparity of the locality involved to 5 percent;

"(I) the percentage for the ninth calendar year in which any amounts are payable under this section, and any year thereafter, may not be less than the full amount necessary to reduce the pay disparity of the locality involved to 5 percent;

"(4) Nothing in this section shall be considered to preclude the President, in his discretion, from adjusting comparability payments to a level higher than the minimum level otherwise required in a calendar year, including to the level necessary to eliminate a locality's pay disparity completely.

"(b) After the ninth calendar year (referred to in subsection (a)(3)(I)), the level of comparability payments payable within such locality may be reduced for any subsequent calendar year, but only if, or to the extent that, the reduction would not immediately create another pay disparity in excess of 5 percent within the locality (taking into consideration any comparability payments remaining payable).

"(c)(1) The amount of the comparability payment payable within any particular locality during a calendar year—

"(A) shall be stated as a single percentage, which shall be uniformly applicable to General Schedule positions within the locality; and

"(B) shall, for any employee entitled to receive a comparability payment, be computed by applying that percentage to such employee's scheduled rate of basic pay (or, if lower due to a limitation on the rate payable, the rate actually payable), subject to subsection (g).

"(2) A comparability payment—

"(A) shall be considered to be part of basic pay for purposes of retirement under chapter 83 or 84, as applicable, life insurance under chapter 87, and premium pay under subchapter V of chapter 55, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe; and

"(B) shall be paid in the same manner and at the same time as the basic pay payable to such employee pursuant to any provision of law outside of this section.

"(3) Nothing in this subchapter shall be considered to permit or require that any portion of a comparability payment be taken into account for purposes of any adjustment under section 5303.

"(4)(A) Only employees receiving scheduled rates of basic pay (subject to any pay limitation which may apply) shall be eligible for comparability payments under this section.

"(B) Comparability payments shall not be payable for service performed in any position which may not, under subsection (f)(1)(A), be included within a pay locality.

"(d) In order to carry out this section, the President shall— President.

"(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under subsection (e) (but not later than 13 months before the start of the calendar year for purposes of which it is prepared), a report that—

"(A) compares the rates of pay under the General Schedule with the rates of pay generally paid to non-Federal workers for the same levels of work within each pay locality, as determined on the basis of appropriate annual surveys that shall be conducted by the Bureau of Labor Statistics;

"(B) based on data from such surveys, identifies each locality in which a pay disparity exists and specifies the size of each such pay disparity (before and after taking into consideration any comparability payments payable);

"(C) makes recommendations for appropriate comparability payments, in conformance with applicable requirements of this section; and

"(D) includes the views and recommendations submitted under subsection (e);

"(2) after considering the report of his agent (including the views and recommendations referred to in subsection (e)(2)(C), provide for or adjust comparability payments in conformance with applicable requirements of this section, effective as of the beginning of the first applicable pay period commencing on or after January 1 of the applicable year; and

"(3) transmit to Congress a report of the actions taken under paragraph (2) (together with a copy of the report submitted to him by his agent, including the views and recommendations referred to in subsection (e)(2)(C)) which shall— Reports.

"(A) identify each pay locality;

"(B) specify which localities have pay disparities in excess of 5 percent, and the size of the disparity existing in each of those localities, according to the pay agent's most recent report under paragraph (1) (before and after taking into consideration any comparability payments payable); and

"(C) indicate the size of the respective comparability payments (expressed as percentages) which will be in effect under paragraph (2) for the various pay localities specified under subparagraph (B) for the applicable calendar year.

"(e)(1) The President shall establish a Federal Salary Council of 9 President. members, of whom—

"(A) 3 shall be chosen from among persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy; and

"(B) 6 shall be representatives of employee organizations which represent substantial numbers of employees holding General Schedule positions, and who shall be selected giving due consideration to such factors as the relative numbers of employees represented by the various organizations, except that not more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

Members of the Council shall not receive pay by reason of their service on the Council, nor shall members who are not otherwise employees of the United States be considered employees by reason of any such service. The President shall designate one of the members to serve as Chairman of the Federal Salary Council. One of the 3 members under subparagraph (A) may be the Chairman of the Federal Prevailing Rate Advisory Committee, notwithstanding the restriction under section 5347(a)(1), and such individual may also be designated to serve as Chairman of the Federal Salary Council.

"(2) The pay agent shall—

"(A) provide for meetings with the Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

"(i) the establishment or modification of pay localities;

"(ii) the coverage of the annual survey conducted by the Bureau of Labor Statistics under subsection (d)(1)(A) (including, but not limited to, the occupations, establishment sizes, and industries, to be surveyed, and how pay localities are to be surveyed);

"(iii) the process of comparing the rates of pay payable under the General Schedule with rates of pay for the same levels of work performed by non-Federal workers; and

"(iv) the level of comparability payments that should be paid in order to eliminate or reduce pay disparities in accordance with the requirements of this section;

"(B) give thorough consideration to the views and recommendations of employee organizations not represented on the Council regarding the subjects in subparagraph (A)(i)–(iv); and

"(C) include in its report to the President the views and recommendations submitted as provided in this subsection by the Council, by any member of the Council, and by employee organizations not represented on the Council.

"(f)(1) The pay agent may provide for such pay localities as the pay agent considers appropriate, except that—

"(A) each General Schedule position (excluding any outside the continental United States, as defined in section 5701(6)) shall be included with a pay locality; and

"(B) the boundaries of pay localities shall be determined based on appropriate factors which may include local labor market patterns, commuting patterns, and practices of other employers.

Regulations.

"(2)(A) The establishment or modification of any such boundaries shall be effected by regulations which, notwithstanding subsection (a)(2) of section 553, shall be promulgated in accordance with the notice and comment requirements of such section.

"(B) Judicial review of any regulation under this subsection shall be limited to whether or not it was promulgated in accordance with the requirements referred to in subparagraph (A).

"(g)(1) Except as provided in paragraph (2), comparability payments may not be paid at a rate which, when added to the rate of basic pay otherwise payable to the employee involved, would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

"(2) For positions under subparagraphs (A)–(E) of subsection (h)(1), the applicable maximum under this subsection shall be level III of the Executive Schedule.

"(h)(1) For the purpose of this subsection, the term 'position' means—

"(A) a position to which section 5376 applies (relating to certain senior-level positions);

"(B) a Senior Executive Service position under section 3132;

"(C) a position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151;

"(D) a position to which section 5372 applies (relating to administrative law judges appointed under section 3105);

"(E) a position to which section 5372a applies (relating to contract appeals board members); and

"(F) a position within an Executive agency not covered under any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) less than the rate payable for level V of the Executive Schedule;

but does not include—

"(i) a position to which subchapter IV applies (relating to prevailing rate systems); or

"(ii) a position as to which a rate of pay is authorized under section 5377 (relating to critical positions).

"(2)(A) Notwithstanding subsection (c)(4) or any other provision of this section, but subject to subparagraph (B) and paragraph (3), upon the request of the head of an Executive agency with respect to 1 or more categories of positions, the President may provide that each employee of such agency who holds a position within such category, and within the particular locality involved, shall be entitled to receive comparability payments.

"(B) A request by an agency head or exercise of authority by the President under subparagraph (A) shall cover—

"(i) with respect to the positions under subparagraphs (A) through (E) of paragraph (1), all positions described in the subparagraph or subparagraphs involved (excluding any under clause (i) or (ii) of such paragraph); and

"(ii) with respect to positions under paragraph (1)(F), such positions as may be considered appropriate (excluding any under clause (i) or (ii) of paragraph (1)).

"(3) Comparability payments under this subsection—

"(A) may be paid only in any calendar year in which comparability payments under the preceding provisions of this section are payable with respect to General Schedule positions within the same locality;

"(B) shall be payable, within the locality involved, for the entirety of each calendar year for which authority is granted by the President;

"(C) shall be computed using the same percentage as is applicable, for the calendar year involved, with respect to General Schedule positions within the same locality; and

"(D) shall be subject to the applicable limitation under subsection (g).

"(i) The Office of Personnel Management may prescribe regulations, consistent with the provisions of this section, governing the payment of comparability payments to employees.

"§ 5304a. Authority to fix an alternative level of comparability payments

President.

"(a) If, because of national emergency or serious economic conditions affecting the general welfare, the President should consider the level of comparability payments which would otherwise be payable under section 5304 in any year to be inappropriate, the President shall—

Reports.

"(1) prepare and transmit to Congress, at least 1 month before those comparability payments (disregarding this section) would otherwise become payable, a report describing the alternative level of payments which the President instead intends to provide, including the reasons why such alternative level is considered necessary; and

"(2) implement the alternative level of payments beginning on the same date as would otherwise apply, for the year involved, under section 5304.

"(b) The requirements set forth in paragraphs (2) and (3), respectively, of section 5303(b) shall apply with respect to any decision to exercise any authority to fix an alternative level of comparability payments under this section.

"§ 5305. Special pay authority

"(a) Whenever the President finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped, due to any of the circumstances described in subsection (b), he may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of basic pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum pay rate prescribed by statute for the grade or level by more than 30 percent, and no rate may be established under this section (disregarding any amount payable under subsection (g)) in excess of the rate of basic pay payable for level V of the Executive Schedule. The President may authorize the exercise of the authority conferred on him by this section by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.

"(b) The circumstances referred to in subsection (a) are—

"(1) rates of pay offered by non-Federal employers being significantly higher than those payable by the Government within the area, location, occupational group, or other class of positions under the pay system involved;

"(2) the remoteness of the area or location involved;

"(3) the undesirability of the working conditions or the nature of the work involved (including exposure to toxic substances or other occupational hazards); or

"(4) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of subsection (a)) considers appropriate.

"(c) Authority under subsection (a) may be exercised with respect to positions paid under—

"(1) a statutory pay system; or

"(2) any other pay system established by or under Federal statute for civilian positions within the executive branch.

"(d) Within the limitations applicable under the preceding provisions of this section, rates of pay established under this section may be revised from time to time by the President or by such agency as he may designate. The actions and revisions have the force and effect of statute.

"(e) An increase in a rate of basic pay established under this section is not an equivalent increase in pay within the meaning of section 5335.

"(f) The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system specified in subsection (c) of this section, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate.

"(g)(1) The benefit of any comparability payments under section 5304 shall be available to individuals receiving rates of basic pay established under this section to such extent as the President (or his designated agency) considers appropriate, subject to paragraph (2) and subsection (h).

"(2) Payments under this subsection may not be made if, or to the extent that, when added to basic pay otherwise payable, such payments would cause the total to exceed the rate of basic pay payable for level IV of the Executive Schedule.

"(h) The rate of basic pay payable to an individual under this section may not, at any time, be less than the rate which would then be payable to such individual (taking comparability payments under section 5304 into account) if this section had never been enacted.

"§ 5306. Pay fixed by administrative action

"(a) Notwithstanding sections 1341, 1342, and 1349–1351 and subchapter II of chapter 15 of title 31—

"(1) the rates of pay of—

"(A) employees in the legislative, executive, and judicial branches of the Government of the United States (except employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) and of the government of the District of Columbia, whose rates of pay are fixed by administrative action under law and are not otherwise adjusted under this subchapter;

"(B) employees under the Architect of the Capitol, whose rates of pay are fixed under section 166b–3 of title 40, and the Superintendent of Garages, House office buildings; and

"(C) persons employed by the county committees established under section 590h(b) of title 16; and

"(2) and minimum or maximum rate of pay (other than a maximum rate equal to or greater than the maximum rate then currently being paid under the General Schedule as a result of a pay adjustment under section 5303 (or prior corresponding provision of law)), and any monetary limitation on or monetary

allowance for pay, applicable to employees described in subparagraphs (A), (B), and (C) of paragraph (1);

may be adjusted, by the appropriate authority concerned, effective at the beginning of the first applicable pay period commencing on or after the day on which a pay adjustment becomes effective under section 5303 (or prior provision of law), by whichever of the following methods the appropriate authority concerned considers appropriate—

"(i) by an amount or amounts not in excess of the pay adjustment provided under section 5303 for corresponding rates of pay in the appropriate schedule or scale of pay;

"(ii) if there are no corresponding rates of pay, by an amount or amounts equal or equivalent, insofar as practicable and with such exceptions and modifications as may be necessary to provide for appropriate pay relationships between positions, to the amount of the pay adjustment provided under section 5303; or

"(iii) in the case of minimum or maximum rates of pay, or monetary limitations of allowances with respect to pay, by an amount rounded to the nearest $100 and computed on the basis of a percentage equal or equivalent, insofar as practicable and with such variations as may be appropriate, to the percentage of the pay adjustment provided under section 5303.

"(b) An adjustment under subsection (a) in rates of pay, minimum or maximum rates of pay, the monetary limitations or allowances with respect to pay, shall be made in such manner as the appropriate authority concerned considers appropriate.

"(c) This section does not authorize any adjustment in the rates of pay of employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

"(d) This section does not impair any authority under which rates of pay may be fixed by administrative action.

"(e) Pay may not be paid, by reason of any exercise of authority under this section, at a rate in excess of the rate of basic pay payable for level V of the Executive Schedule.

"§ 5307. Limitation on certain payments

"(a) Except as otherwise permitted by or under law, no allowance, differential, bonus, award, or other similar cash payment under this title may be paid to an employee in a calendar year if, or to the extent that, when added to the total basic pay paid or payable to such employee for service performed in such calendar year as an employee in the executive branch (or as an employee outside the executive branch to whom chapter 51 applies), such payment would cause to the total to exceed the annual rate of basic pay payable for level I of the Executive Schedule, as of the end of such calendar year.

"(b)(1) Any amount which is not paid to an employee in a calendar year because of the limitation under subsection (a) shall be paid to such employee in a lump sum at the beginning of the following calendar year.

"(2) Any amount paid under this subsection in a calendar year shall be taken into account for purposes of appying the limitations under subsection (a) with respect to such calendar year.

"(3) Paragraph (1) shall not apply to an amount if, or to the extent that, it is attributable to a payment the authority for which would derive from section 4505a(d), 5753(e), or 5754(e).

"(c) The Office of Personnel Management shall prescribe such regulations as may be necessary to carry out this section, including regulations (consistent with section 5582) concerning how a lump-sum payment under subsection (b) shall be made with respect to any employee who dies before an amount payable to such employee under subsection (b) is made.". Regulations.

(2) The table of sections for chapter 53 of title 5, United States Code, is amended by striking the matter relating to subchapter I and inserting the following new matter:

"SUBCHAPTER I—PAY COMPARABILITY SYSTEM

"Sec.
"5301. Policy.
"5302. Definitions.
"5303. Annual adjustments to pay schedules.
"5304. Locality-based comparability payments.
"5304a. Authority to fix an alternative level of comparability payments.
"5305. Special pay authority.
"5306. Pay fixed by administrative action.
"5307. Limitation on certain payments.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 403 of the Foreign Service Act of 1980 (22 U.S.C. 3963) is amended by striking "subchapter I of chapter 53" and inserting "section 5303".

(2)(A) Section 256(g)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(g)(2)(A)) is amended by striking "5301(c)" and inserting "5302(1)".

(B) Section 732(b)(6) of title 31, United States Code, is amended by striking "5301(a)" and inserting "5301".

(3)(A) Section 3326(b)(2) of title 5, United States Code, is amended by striking "5303" and inserting "5305".

(B) Section 5363(a)(2) of title 5, United States Code, is amended by striking "5303 of this title;" and inserting "5305 of this title (or corresponding prior provision of this title);".

(C) Section 5405(f) of title 5, United States Code, is amended—

(i) by striking "5303 of this title," and inserting "5305 of this title (or corresponding prior provision of this title),"; and

(ii) by striking "such section 5303." and inserting "such section 5305 (or corresponding prior provision).".

(D) Section 325(b)(2) of title 31, United States Code, is amended by striking "(except section 5303)," and inserting "(except section 5305, or corresponding prior provision of such title),".

(E) Sections 5542(a), 5543, and 5545(c)(1) of title 5, United States Code, are amended by inserting after "GS-10" each place it occurs the following: "(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)".

(4)(A) Section 5318 of title 5, United States Code, is amended by striking "5305" and inserting "5303".

(B) Section 5382(c) of title 5, United States Code, is amended—

(i) in the first sentence, by striking "5305" and inserting "5303"; and

(ii) by striking the second sentence.

(C) Section 5403(a) of title 5, United States Code, is amended by striking "5305" and inserting "5303".

(D) Section 601(a)(2) of the Legislative Reorganization Act of 1946 (2 U.S.C. 31(2)) is amended by striking "5305" and inserting "5303".

(E) Section 4 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a-1) is amended by striking "5305" each place it appears and inserting "5303".

(F) Section 5 of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a-2) is amended—

(i) in subsection (a) (in the matter before paragraph (1)), by striking "(a)" through "then" and inserting "(a) Whenever an adjustment under section 5303 becomes effective with respect to rates of pay under the General Schedule,";

(ii) in subsection (a)(1)(A), by striking "pay adjustment by the President);" and inserting "adjustment);"; and

(iii) in subsection (a)(1) (in the matter after subparagraph (B)), by striking "pay adjustment made by the President;" and inserting "adjustment under such section 5303;".

(G) The provisions of House Resolution 1495, Ninety-fourth Congress (as enacted into law by section 115 of the Legislative Branch Appropriations Act, 1978 (2 U.S.C. 84a-1)) is amended by striking "5305" each place it appears and inserting "5303".

(H) Section 256(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 906(g)(1)) is amended—

(i) by inserting "(as increased by any amount payable under section 5304 of title 5, United States Code, or section 302 of the Federal Employees Pay Comparability Act of 1990)" after "any such statutory pay system"; and

(ii) by striking "5305" and inserting "5303".

(I) Section 104 of title 3, United States Code, is amended by striking "5305" and inserting "5303".

(J) Section 461(a) of title 28, United States Code, is amended by striking "5305" and inserting "5303".

42 USC 254*l*. (K) Section 338A(g)(3) of the Public Health Service Act (42 U.S.C. 2541(g)(3)) is amended by striking "(as set forth in the report transmitted to the Congress under section 5305 of title 5, United States Code)" and inserting "(under section 5303 of title 5, United States Code)".

(5) The second proviso under the head "Senate Office Buildings" contained in the Legislative Branch Appropriation Act, 1972, as amended by Public Law 94-59 (40 U.S.C. 174j-8) is amended by striking "5307" and inserting "5306".

(6)(A) Section 5382(b) of title 5, United States Code, is amended by striking "5308" and inserting "5306(e)".

(B) Section 8431 of title 5, United States Code, is amended by striking "5308" and inserting "5303(e), 5304(g),".

(C) Section 9314 of title 10, United States Code, is amended by striking "5308" and inserting "5306(e)".

(7) Section 5383(b)(1) of title 5, United States Code, is amended by striking "5304(j)," after 4507,".

(8)(A) Section 207 of title 18, United States Code, as amended by section 101 of Public Law 101-194 (103 Stat. 1716) and section 2 of Public Law 101-280 (104 Stat. 149) is amended—

(i) in subsection (c)(2) by striking subparagraph (A)(ii) and inserting the following:

"(ii) employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or

greater than the rate of basic pay payable for level V of the Executive Schedule;"; and

(ii) in subsection (e) by striking paragraph (6) and inserting the following:

"(6) LIMITATION ON RESTRICTIONS.—(A) The restrictions contained in paragraphs (2), (3), and (4) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

"(B) The restrictions contained in paragraph (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the basic rate of pay payable for level V of the Executive Schedule.".

(B) The amendments made by subparagraph (A) take effect on January 1, 1991. Effective date. 18 USC 207 note.

(9)(A) Section 3132(a)(2) of title 5, United States Code, is amended by striking "in GS–16, 17, or 18 of the General Schedule" and inserting "classified above GS–15 pursuant to section 5108".

(B) Section 3304a(a) of title 5, United States Code, is amended by striking "in GS–16, 17, or 18)" and inserting "in a position classified above GS–15 pursuant to section 5108)".

(C)(i) Section 3324(a) of title 5, United States Code, is amended by striking "in GS–16, 17, or 18" and inserting "classified above GS–15 pursuant to section 5108".

(ii) The heading for such section 3324 is amended by striking "at GS–16, 17, or 18" and inserting "to positions classified above GA–15".

(iii) The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3324 and inserting the following:

"3324. Appointments to positions classified above GS–15.".

(D) Section 3405(b) of title 5, United States Code, is amended by striking "fixed for GS–16 of the General Schedule." and inserting "payable under section 5376.".

(E) Section 3594(c)(1)(A) of title 5, United States Code, is amended by striking "at GS–15 or above of the General Schedule" and inserting "at GS–15 of the General Schedule or classified above GS–15 pursuant to section 5108,".

(F) Section 5102(c)(25) of title 5, United States Code, is amended by striking "maximum rate for GS–18;" and inserting "rate for level V of the Executive Schedule;".

(G) Section 5109(b) of title 5, United States Code, is amended by striking "is classified at GS–18" through the period and inserting "shall be considered a position classified above GS–15 pursuant to section 5108.".

(H) Section 5373 of title 5, United States Code, is amended by striking "maximum rate for GS–18." and inserting "rate for level IV of the Executive Schedule.".

(I) The first sentence of section 5382(b) of title 5, United States Code, is amended by striking "for GS-16 of the General Schedule" and inserting "under section 5376".

(J) Section 5595(a)(2)(i) of title 5, United States Code, is amended—

(i) by striking "employee, other" and inserting "employee (other";

(ii) by inserting "or an employee whose pay is fixed under section 5376)" before "whose rate"; and

(iii) by striking "GS-18;" and inserting "the Executive Schedule;".

(K) Section 8476(d)(1) of title 5, United States Code, is amended by striking "grade GS-18 of the General Schedule" and inserting "level IV of the Executive Schedule".

2 USC 60a-2.

(10) Section 3(b) of Public Law 92-298 and section 14(b) of Public Law 92-392 shall be treated as if (as of their respective dates of enactment) the phrase "to read as follows:" contained in each, had instead read "by striking the matter before subparagraph (A) and inserting the following:".

5 USC 5376 note.

(c) OTHER REFERENCES.—Until otherwise provided by law—

(1) any reference in a provision of law (which is outside title 5, United States Code, and in effect immediately before this section takes effect, excluding any reference in a provision of law amended by this Act)—

(A)(i) to the rate of pay for grade GS-18 of the General Schedule, or to the maximum rate of pay under the General Schedule, shall be considered a reference to the maximum rate payable under section 5376 of such title (as amended by section 102(a));

(ii) to the minimum rate of pay for grade GS-16 of the General Schedule shall be considered a reference to the minimum rate payable under section 5376 of such title (as amended by section 102(a)); and

(iii) to a rate of pay for grade GS-16 or 17 of the General Schedule shall (except as provided in clause (ii)) be considered a reference to a rate of pay for a position classified above GS-15 pursuant to section 5108 of such title (as amended by section 102(b)(2)); and

(B) to a rate of pay under the General Schedule shall not include any comparability payment payable under section 5304 of such title (as amended by this section) or any geographic adjustment payable under section 302; and

(2) any authority granted by a provision of law (which is outside such title, and in effect immediately before this section takes effect) to fix pay in accordance with chapter 51 and subchapter III of chapter 53 of such title—

(A) shall not be considered to include any authority under section 5304 of such title (as amended by this section) or section 302; but

(B) shall be considered to include authority under section 5376 of such title (as amended by section 102(a)), if applicable.

5 USC 5376 note.

(d) REGULATIONS.—The Office of Personnel Management may prescribe regulations, consistent with subsection (c)(1)(B) and section 303, governing the conversion or adjustment of rates of pay, where necessary because of the abolishment of grades GS-16, 17, and 18 of the General Schedule.

(e) SENSE OF CONGRESS.—It is the sense of the Congress that the total funds dedicated to adjustments under sections 5303 and 5304 for any year be no less than the total funds that would have been dedicated to adjustments under such section 5303 for such year had the full change in the ECI been applied to pay rates for such year.

SEC. 102. PAY FOR POSITIONS ABOVE GS-15 AND CERTAIN OTHER POSITIONS.

(a) IN GENERAL.—(1) Subchapter VII of chapter 53 of title 5, United States Code, is amended by adding after section 5375 the following new section:

"§ 5376. Pay for certain senior-level positions

"(a) This section applies to—

"(1) positions that are classified above GS-15 pursuant to section 5108; and

"(2) scientific or professional positions established under section 3104;

but does not apply to—

"(A) any Senior Executive Service position under section 3132; or

"(B) any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service under section 3151.

"(b)(1) Subject to such regulations as the Office of Personnel Management prescribes, the head of the agency concerned shall fix the rate of basic pay for any position within such agency to which this section applies. A rate fixed under this section shall be—

"(A) not less than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule; and

"(B) not greater than the rate of basic pay payable for level IV of the Executive Schedule.

The payment of a rate of basic pay under this section shall not be subject to the pay limitation of section 5306(e) or 5373.

"(2) Subject to paragraph (1), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section for positions within an agency shall be adjusted by such amount as the head of such agency considers appropriate.".

(2) The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following new item:

"5376. Pay for certain senior-level positions.".

(b) AMENDMENTS TO CHAPTER 51 OF TITLE 5, UNITED STATES CODE.—(1) Section 5104 of title 5, United States Code, is amended—

(A) in the second sentence, by striking "18"; and

(B) by striking paragraphs (16) through (18).

(2) Section 5108 of title 5, United States Code, is amended to read as follows:

"§ 5108. Classification of positions above GS-15

"(a) The Office of Personnel Management may, for any Executive agency—

"(1) establish, and from time to time revise, the maximum number of positions which may at any one time be classified above GS-15; and

"(2) establish standards and procedures (including requiring agencies, where necessary in the judgment of the Office, to obtain the prior approval of the Office) in accordance with which positions may be classified above GS-15;

President. "(b) The President, rather than the Office, shall exercise the authority under subsection (a) in the case of positions proposed to be placed in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.".

(c) EXCLUSION FROM SUBCHAPTER III OF CHAPTER 53.—Section 5331(b) of title 5, United States Code, is amended to read as follows:

"(b) This subchapter applies to employees and positions to which chapter 51 applies, other than Senior Executive Service positions, positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and positions to which section 5376 applies.".

SEC. 103. PAY FOR CRITICAL POSITIONS.

(a) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, is amended by section 102, is further amended by adding at the end the following new section:

"§ 5377. Pay authority for critical positions

"(a) For the purpose of this section—

"(1) the term 'agency' has the meaning given it by section 5102; and

"(2) the term 'position' means—

"(A) a position to which chapter 51 applies, including a position in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

"(B) a position under the Executive Schedule under sections 5312-5317;

"(C) a position to which section 5372 applies (or would apply, but for this section); and

"(D) a position to which section 5372a applies (or would apply, but for this section).

"(b) Authority under this section—

"(1) may be granted or exercised only with respect to a position—

"(A) which requires expertise of an extremely high level in a scientific, technical, professional, or administrative field; and

"(B) which is critical to the agency's successful accomplishment of an important mission; and

"(2) may be granted or exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

"(c) The Office of Management and Budget, in consultation with the Office of Personnel Management, may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.

"(d)(1) The rate of basic pay fixed under this section by an agency head may not be less than the rate of basic pay (including any

comparability payments) which would then otherwise be payable for the position involved if this section had never been enacted.

"(2) Basic pay may not be fixed under this section at a rate greater than the rate payable for level I of the Executive Schedule, except upon written approval of the President.

"(e) The authority to fix the rate of basic pay under this section for a position shall terminate—

"(1) whenever the Office of Management and Budget determines (in accordance with such procedures and subject to such terms or conditions as such Office by regulation prescribes) that 1 or more of the requirements of subsection (b) are no longer met; or

"(2) as of such date as such Office may otherwise specify, except that termination under this paragraph may not take effect before the authority has been available for such position for at least 1 calendar year.

"(f) The Office of Management and Budget may not authorize the exercise of authority under this section with respect to more than 800 positions at any time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

"(g) The Office of Management and Budget shall consult with the Office of Personnel Management before prescribing regulations under this section or making any decision to grant or terminate any authority under this section.

"(h) The Office of Management and Budget shall report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate each year, in writing, on the operation of this section. Each report under this subsection shall include— Reports.

"(1) the number of positions, in the aggregate and by agency, for which higher rates of pay were authorized or paid under this section during any part of the period covered by such report; and

"(2) the name of each employee to whom a higher rate of pay was paid under this section during any portion of the period covered by such report, the rate on rates paid under this section during such period, the dates between which each such higher rate was paid, and the rate or rates that would have been paid but for this section.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, as amended by section 102, is further amended by adding at the end the following new item:

"5377. Pay authority for critical positions.".

SEC. 104. ADMINISTRATIVE LAW JUDGES AND CONTRACT APPEALS BOARD MEMBERS.

(a) PAY PROVISIONS.—(1) Section 5372 of title 5, United States Code, is amended to read as follows:

"§ 5372. Administrative law judges

"(a) For the purposes of this section, the term 'administrative law judge' means an administrative law judge appointed under section 3105.

"(b)(1) There shall be 3 levels of basic pay for administrative law judges (designated as AL–1, 2, and 3, respectively), and each such judge shall be paid at 1 of those levels, in accordance with the

provisions of this section. The rates of basic pay for those levels shall be as follows:

"AL-3, rate A	65 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-3, rate B	70 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-3, rate C	75 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-3, rate D	80 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-3, rate E	85 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-3, rate F	90 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-2	95 percent of the rate of basic pay for level IV of the Executive Schedule.
"AL-1	The rate of basic pay for level IV of the Executive Schedule.

Regulations.

"(2) The Office of Personnel Management shall determine, in accordance with procedures which the Office shall by regulation prescribe, the level in which each administrative-law-judge position shall be placed and the qualifications to be required for appointment to each level.

"(3)(A) Upon appointment to a position in AL-3, an administrative law judge shall be paid at rate A of AL-3, and shall be advanced successively to rates B, C, and D of that level upon completion of 52 weeks of service in the next lower rate, and to rates E and F of that level upon completion of 104 weeks of service in the next lower rate.

"(B) The Office of Personnel Management may provide for appointment of an administrative law judge in AL-3 at an advanced rate under such circumstances as the Office may determine appropriate.

Regulations.

"(c) The Office of Personnel Management shall, prescribe regulations necessary to administer this section.".

(2) Subchapter VII of chapter 53 of title 5, United States Code, is amended by inserting before section 5373 the following new section:

"§ 5372a. Contract appeals board members

"(a) For the purpose of this section—

"(1) the term 'contract appeals board member' means a member of an agency board of contract appeals appointed under section 8 of the Contract Disputes Act of 1978; and

"(2) the term 'appeals board' means an agency board of contract appeals established pursuant to section 8 of the Contract Disputes Act of 1978.

"(b) Rates of basic pay for contract appeals board members shall be as follows:

"(1) Chairman of an appeals board—the rate of basic pay payable for level IV of the Executive Schedule.

"(2) Vice chairman of an appeals board—97 percent of the rate under paragraph (1).

"(3) Other members of an appeals board—94 percent of the rate under paragraph (1).

Federal Register, publication.

"(c) Rates of pay taking effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by inserting before the item relating to section 5373 the following new item:

"5372a. Contract appeals board members.".

(c) AMENDMENTS TO 5 U.S.C. 5311.—Section 5311 of title 5, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking "(a)".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 5102(c) of title 5, United States Code, is amended—

(A) in paragraph (27), by striking "or";

(B) in paragraph (28), by striking the period and inserting a semicolon; and

(C) by adding at the end the following new items:

"(29) administrative law judges appointed under section 3105; or

"(30) members of agency boards of contract appeals appointed under section 8 of the Contract Disputes Act of 1978.".

(2) Section 5335(a)(B) of title 5, United States Code, is amended by striking ", except an administrative law judge appointed under section 3105 of this title,".

(3) Section 428(b) of the Black Lung Benefits Act (30 U.S.C. 938(b)) is amended by striking the sentence beginning "Each administrative law judge presiding" and inserting "Each administrative law judge presiding under this section and under the provisions of titles I, II and III of this Act shall receive compensation at a rate determined under section 5372 of title 5, United States Code.".

(4) Section 8(b) of the Contract Disputes Act of 1978 is amended— 41 USC 607.

(A) in paragraph (1), by striking the last 2 sentences thereof and inserting the following: "Compensation for the chairman, the vice chairman, and all other members of an agency board shall be determined under section 5372a of title 5, United States Code."; and

(B) in paragraph (2), by striking the last 2 sentences thereof and inserting the following: "The chairman and all other members of such board shall receive compensation, at the daily equivalent of the rates determined under section 5372a of title 5, United States Code, for each day they are engaged in the actual performance of their duties as members of the board.".

(e) CONVERSION RULE FOR ALJS.—In making initial pay adjustments for administrative law judges after this section and the amendments made by this section take effect, the rate of basic pay for any such judge shall, upon conversion to the new pay system, be at least equal to the rate which was payable to that individual immediately before such conversion. 5 USC 5372 note.

SEC. 105. SPECIAL OCCUPATIONAL PAY SYSTEMS.

(a) IN GENERAL.—(1) Chapter 53 of title 5, United States Code, is amended by inserting after subchapter VIII the following new subchapter:

"SUBCHAPTER IX—SPECIAL OCCUPATIONAL PAY SYSTEMS

"5391. Definitions.
"5392. Establishment of special occupational pay systems.

"§ 5391. Definitions

"For the purposes of this subchapter, 'agency', 'employee', and 'position' have the meanings given them by section 5102.

"§ 5392. Establishment of special occupational pay systems

"(a) Authority under this section may be exercised with respect to any occupation or group of occupations to which subchapter III applies (or would apply but for this section).

"(b) Subject to subsection (a), the President's pay agent (as referred to in section 5304(d)) may establish one or more special occupational pay systems for any positions within occupations or groups of occupations that the pay agent determines, for reasons of good administration, should not be classified under chapter 51 or subject to subchapter III.

"(c) In establishing special occupational pay systems, the pay agent shall—

"(1) identify occupations or groups of occupations for which chapter 51 and subchapter III do not function adequately;

"(2) consider alternative approaches for determining the pay for employees in positions in such occupations or groups of occupations;

"(3) give thorough consideration to the views of agencies employing such employees and labor organizations representing such employees, as well as other interested parties;

Federal Register, publication.

"(4) publish a proposed plan for determining the pay of such employees in the Federal Register;

"(5) conduct one or more public hearings;

Reports.

"(6) provide each House of Congress with a report at least 90 days in advance of the date the system is to take effect setting forth the details of the proposed plan; and

Federal Register, publication.

"(7) not later than 30 days before the date the system is to take effect, publish in the Federal Register the details of the final plan for the special occupational pay system.

"(d) A special occupational pay system may not—

"(1) provide for a waiver of any law, rule, or regulation that could not be waived under section 4703(c); or

"(2) provide a rate of basic pay for any employee in excess of the rate payable for level V of the Executive Schedule.

"(e) Subject to subsection (d)(2), effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5303 in the rates of pay under the General Schedule, each rate of pay established under this section shall be adjusted by such amount as the Office considers appropriate.".

(2) The table of sections for chapter 53 of title 5, United States Code, is amended by adding at the end the following new matter:

"SUBCHAPTER IX—SPECIAL OCCUPATIONAL PAY SYSTEMS

"Sec.
"5391. Definitions.
"5392. Establishment of special occupational pay systems.".

(b) PAY RETENTION.—(1) Section 5361(5) of title 5, United States Code, is amended by inserting "a special occupational pay system under subchapter IX," before "or".

(2) Section 5363(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking "or" after the semicolon;

(B) in paragraph (3), by inserting "or" after the semicolon; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) who is in a position subject to this subchapter and who is subject to a reduction or termination of a rate of pay established under subchapter IX of chapter 53;".

SEC. 106. ELIMINATION OF GS-11 THRESHOLD FOR NEW APPOINTEES TO BE PAID ABOVE MINIMUM RATES.

Section 5333(a) of title 5, United States Code, is amended by striking "in GS-11 or above".

SEC. 107. ADVANCES OF PAY.

(a) IN GENERAL.—Subchapter III of chapter 55 of title 5, United States Code, is amended by inserting after section 5524 the following new section:

"§ 5524a. Advance payments for new appointees

"(a) The head of each agency may provide for the advance payment of basic pay, covering not more than 2 pay periods, to any individual who is newly appointed to a position in the agency.

"(b)(1) Subject to adjustment of the account of an employee under paragraph (2) and other applicable statutes, the advance payment of basic pay shall be made, under agency procedures governing advance payments under this section, at the initial rate of basic pay to be payable to the employee upon the commencement of service in the position to which appointed.

"(2) The head of each agency shall provide for—

"(A) the review of the account of each employee of the agency in receipt of any payment under this section; and

"(B) the adjustment of the amount of any such payment on the basis of the rate of basic pay to which the employee would have been entitled under applicable statute other than this section for the respective periods covered by the payments, if the employee had performed active service under the terms of such employee's appointment during each period in the position to which appointed.

"(c) An advance payment under this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or such employee's estate by—

"(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

"(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance payment under this section if it is shown that the recovery would be against equity and good conscience or against the public interest.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5524 the following new item:

"5524a. Advance payments for new appointees.".

SEC. 108. REEMPLOYMENT OF RETIREES.

(a) AMENDMENT TO 5 U.S.C. 5532.—Section 5532 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

Regulations. "(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).".

(b) AMENDMENT TO 5 U.S.C. 8344.—Section 8344 of title 5, United States Code, is amended by adding at the end the following new subsection;

"(i)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

Regulations. "(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

"(3) An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the purposes of this chapter or chapter 84 while such waiver is in effect.".

(c) AMENDMENT TO 5 U.S.C. 8468.—Section 8468 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

Regulations. "(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise

of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

"(3) An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the purposes of chapter 83 or this chapter while such waiver is in effect.".

SEC. 109. NEW PAY STRUCTURE FOR THE POLICE FORCES OF THE BUREAU OF ENGRAVING AND PRINTING AND THE UNITED STATES MINT.

(a) AMENDMENTS.—(1)(A) Subchapter VII of chapter 53 of title 5, United States Code, as amended by sections 102 and 103, is further amended by adding at the end the following new section:

"§ 5378. Police forces of the Bureau of Engraving and Printing and the United States Mint

"(a) The Secretary of the Treasury shall fix the rates of basic pay for positions within the police forces of the Bureau of Engraving and Printing and the United States Mint in accordance with the following:

"(1) Entry-level police officer—not more than the maximum rate payable for GS–6.

"(2) Journeyman-level police officer—not more than the maximum rate payable for GS–7.

"(3) Corporal—not more than the maximum rate payable for GS–8.

"(4) Sergeant—not more than the maximum rate payable for GS–9.

"(5) Lieutenant—not more than the maximum rate payable for GS–10.

"(6) Deputy Inspector—not more than the maximum rate payable for GS–11.

"(7) Inspector—not more than the maximum rate payable for GS–12.

"(b) For the purpose of this section, the term 'police forces of the Bureau of Engraving and Printing and the United States Mint' means the employees of the Department of the Treasury who are appointed, under the authority of the Secretary of the Treasury, as police officers for the protection of the Bureau of Engraving and Printing and the United States Mint buildings and property.".

(B) The table of sections for subchapter VII of chapter 53 of title 5, United States Code, as amended by sections 102 and 103, is further amended by adding at the end the following new item:

"5378. Police forces of the Bureau of Engraving and Printing and the United States Mint.".

(2) Section 5102(c)(5) of title 5, United States Code, is amended—

(A) by striking "and members" and inserting "members"; and

(B) by adding "and members of the police forces of the Bureau of Engraving and Printing and the United States Mint whose pay is fixed under section 5378 of this title;" after the last semicolon.

(b) SPECIAL PAY RATES NOT AFFECTED.—Nothing in this section or in any amendment made by this section shall— 5 USC 5378 note.

(1) affect any special pay rate under section 5305 of title 5, United States Code, established before this section takes effect; or

(2) impair any authority to fix or adjust special pay rates under such section 5305 (or a succeeding provision of law) for positions within the police forces of the Bureau of Engraving and Printing and the United States Mint.

5 USC 5378 note.

(c) EFFECTIVE DATE; CONVERSION AND SAVINGS PROVISIONS.—(1) This section and the amendments made by this section shall become effective on the first day of the first applicable pay period beginning on or after the 30th day following the date of enactment of this Act.

(2)(A) A special pay rate (as defined in subparagraph (B)) shall apply to an individual holding a position if—

(i) as a result of the initial exercise of authority with respect to such position under the amendment made by subsection (a)(1)(A), such individual would (but for this paragraph) be paid—

(I) at the step of the grade for which such special pay rate is then in effect; or

(II) at a level which is between steps for which special pay rates are then in effect; and

(ii) such position is within the area or location with respect to which that special pay rate or those special pay rates, as applicable, are then in effect.

Regulations.

The Secretary of the Treasury shall prescribe regulations for determining which special pay rate shall apply in a situation described in clause (i)(II).

(B) For the purpose of this paragraph, the term "special pay rate" means a rate which—

(i) is established under section 5303 of title 5, United States Code (or a succeeding provision of law);

(ii) is applicable to positions within the police forces of the Bureau of Engraving and Printing and the United States Mint; and

(iii) has been in effect (including any adjustments under section 5303(d) of such title) since on or before the effective date of this section.

(3) No rate of basic pay in effect immediately before this section takes effect shall be reduced by reason of the enactment of this section.

SEC. 110. COMPENSATION OF STANDING TRUSTEES APPOINTED UNDER TITLES 11 AND 28, UNITED STATES CODE.

(a) COMPENSATION.—Section 586(e)(1)(A) of title 28, United States Code, is amended to read as follows:

"(A) a maximum annual compensation for such individual consisting of—

"(i) an amount not to exceed the highest annual rate of basic pay in effect for level V of the Executive Schedule; and

"(ii) the cash value of employment benefits comparable to the employment benefits provided by the United States to individuals who are employed by the United States at the same rate of basic pay to perform similar services during the same period of time; and".

28 USC 586 note.

(b) APPLICATION TO ALL STANDING TRUSTEES.—The amendment made by subsection (a) shall apply to any trustee to whom the provisions of section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-54; 100 Stat. 3121) apply.

SEC. 111. PAY-FOR-PERFORMANCE LABOR-MANAGEMENT COMMITTEE. 5 USC 5301 note.

(a) POLICY.—It is the policy of Congress that—

(1) the Federal Government should institute systems for determining pay for its General Schedule employees under which the linkage between their performance and their pay will be strengthened;

(2) the design of such systems should be developed by the Office of Personnel Management, in conjunction with the Pay-for-Performance Labor-Management Committee;

(3) the systems should provide flexibility to adapt to the different needs of different agencies and organizational components in the Federal Government; and

(4) any legislation needed to implement the systems should be enacted in a timely fashion so as to permit implementation of the system by October 1, 1993.

(b) ESTABLISHMENT.—The Office of Personnel Management shall establish a Pay-for-Performance Labor-Management Committee to advise the Office on the design and establishment of systems for strengthening the linkage between the performance of General Schedule employees and their pay.

(c) MEMBERSHIP.—The members of the Committee shall be—

(1) a Chairman, who shall be appointed by the Director of the Office of Personnel Management on the basis of the appointee's education, training, and experience as an expert in compensation practices, and after consultation with the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives, respectively;

(2) an employee of the Office of Personnel Management, designated by the Director of such Office;

(3) an employee of the Department of Defense, designated by the Secretary of Defense;

(4) 3 individuals, each of whom shall be an employee designated by the head of each of 3 other departments or agencies selected by the Director of the Office of Personnel Management from among departments and agencies having substantial numbers of General Schedule employees; and

(5) 6 individuals appointed by the Director of the Office of Personnel Management to serve as representatives of employee organizations which represent substantial numbers of General Schedule employees, and who shall be selected with due consideration to such factors as the relative numbers of General Schedule employees represented by the various organizations, except that not more than 3 members of the Committee at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations.

(d) PAY FOR MEMBERS.—The Chairman shall be paid at a rate of basic pay for the Senior Executive Service, to be determined by the Director of the Office of Personnel Management. The members of the Committee who are otherwise employees of the Federal Government shall not receive any additional pay by reason of their service on the Committee. The members of the Committee who are not otherwise employees of the Federal Government shall not be paid for their service on the Committee and shall not be considered

employees of the Federal Government for any purpose by reason of their service on the Committee.

(e) ADMINISTRATIVE SUPPORT.—The Office of Personnel Management may provide staff and administrative support for the Committee.

(f) FUNCTIONS.—The Committee shall review available reports and studies on performance evaluation and performance-based pay systems (including a report to be prepared by the National Academy of Sciences) and any other pertinent information.

(g) REPORT TO THE OFFICE OF PERSONNEL MANAGEMENT.—No later than 1 year after the date of enactment of this Act, the Committee shall submit a report to the Director of the Office of Personnel Management, which shall include recommendations as to—

(1) the types of pay raises to be covered;

(2) guidelines for pay-for-performance systems, including the criteria to be used in determining eligibility for and the amount of increases in basic pay above the midpoint of the pay range;

(3) the role organization performance should play in pay-for-performance systems;

(4) any differences in pay-for-performance systems for different categories of employees;

(5) the role for employee organizations in the implementation and operation of pay-for-performance systems; and

(6) whether demonstration projects on pay-for-performance are desirable.

42 USC 3501 note.

SEC. 112. POSITION TITLES IN CERTAIN DEPARTMENTS.

(a) CHANGE IN POSITION TITLE.—(1) The position of Under Secretary of Health and Human Services, established by section 2 of Reorganization Plan No. 1 of 1953 (67 Stat. 631), is retitled the Deputy Secretary of Health and Human Services.

(2) The Act of May 9, 1935 (49 Stat. 177, 43 U.S.C. 1452) is amended by striking "Under Secretary" and inserting "Deputy Secretary".

(3) The Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

(A) in section 104(3) (20 U.S.C. 3404(3)), by striking "Under Secretary" both places it appears and inserting "Deputy Secretary"; and

(B) in section 202(a) (20 U.S.C. 3412(a))—

(i) in the first sentence, by striking "an Under Secretary" and inserting "a Deputy Secretary"; and

(ii) in subsequent sentences, by striking "Under Secretary" each place it appears and inserting "Deputy Secretary".

(4) The first sentence of section 4(a) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(a)) is amended by striking "an Under Secretary" and inserting "a Deputy Secretary".

(b) COMPENSATION OF DEPUTY SECRETARIES.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Secretary of Health and Human Services.

"Deputy Secretary of the Interior.

"Deputy Secretary of Education.

"Deputy Secretary of Housing and Urban Development.".

20 USC 3404 note.

(c) CONSTRUCTION OF REFERENCES.—Any reference in any statute, reorganization plan, regulation, executive order, or any document issued pursuant thereto in force on the date this section takes effect

to the Under Secretary of Health and Human Services, the Under Secretary of the Interior, the Under Secretary of Education, or the Under Secretary of Housing and Urban Development shall be deemed to be a reference to the Deputy Secretary of Health and Human Services, the Deputy Secretary of the Interior, the Deputy Secretary of Education, or the Deputy Secretary of Housing and Urban Development, respectively.

(d) CONFORMING AMENDMENTS.—Section 5314 of title 5, United States Code, is amended by striking the following:

"Under Secretary of Health and Human Services.

"Under Secretary of the Interior.

"Under Secretary of Education.

"Under Secretary of Housing and Urban Development.".

(e) EFFECTIVE DATE; CONTINUED SERVICE BY INCUMBENTS.—(1) This section shall take effect on the first day of the first pay period that begins on or after the date of enactment of this Act. 20 USC 3404 note.

(2)(A) The incumbent in the position of Under Secretary of Health and Human Services on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Health and Human Services at the pleasure of the President after such day.

(B) The incumbent in the position of Under Secretary of the Interior on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of the Interior at the pleasure of the President after such day.

(C) The incumbent in the position of Under Secretary of Education on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Education at the pleasure of the President after such day.

(D) The incumbent in the position of Under Secretary of Housing and Urban Development on the day immediately preceding the date this section takes effect may serve as Deputy Secretary of Housing and Urban Development at the pleasure of the President after such day.

SEC. 113. DIRECTOR OF THE CENSUS BUREAU.

Title 5, United States Code, is amended—

(1) in section 5316, by striking the item relating to the Director, Bureau of the Census, Department of Commerce; and

(2) in section 5315, by adding at the end the following:

"Director, Bureau of the Census, Department of Commerce.".

TITLE II—AMENDMENTS RELATING TO AWARDS, ALLOWANCES, DIFFERENTIALS, AND OTHER RELATED MATTERS

SEC. 201. TIME OFF FROM DUTY AS AN INCENTIVE AWARD.

Section 4502 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding section 4501(2), for the purpose of this subsection, 'employee' includes an employee covered by the performance management and recognition system established under chapter 54.

"(2) The Office of Personnel Management may by regulation permit agencies to grant employees time off from duty, without loss of pay or charge to leave, as an award in recognition of superior accomplishment or other personal effort that contributes to the quality, efficiency, or economy of Government operations.".

SEC. 202. UNIFORM ALLOWANCES.

(a) AMENDMENTS TO SECTION 5901 OF TITLE 5, UNITED STATES CODE.—Section 5901(a) of title 5, United States Code, is amended—

(1) in the first sentence, by striking "an amount' through the period and inserting "such sums as may be necessary to carry out this subchapter."; and

(2) by striking "$125 a year" each place it appears and inserting "$400 a year (or such higher maximum amount as the Office of Personnel Management may establish under section 5902).".

(b) AMENDMENTS TO SECTIONS 5902 AND 5903 OF TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended by striking sections 5902 and 5903 and inserting the following:

"§ 5902. Increase in maximum uniform allowance

"The Office of Personnel Management may, from time to time, by regulation adjust the maximum amount for the cost of uniforms and the maximum allowance for uniforms under section 5901.

"§ 5903. Regulations

"The Office of Personnel Management may prescribe such regulations as it considers necessary for the administration of this subchapter.".

SEC. 203. DIFFERENTIAL FOR PHYSICAL HARDSHIP OR HAZARD.

Section 5545(D) of title 5, United States Code, is amended—

(1) in the first sentence, by striking "irregular or intermittent"; and

(2) in paragraph (1), by striking "thereof;" and inserting "thereof, except in such circumstances as the Office may by regulation prescribe;".

SEC. 204. EXCEPTION FROM LIMITATION ON PREMIUM PAY.

Section 5547 of title 5, United States Code, is amended—

(1) in subsection (a), by inserting after "GS–15" the following: "(including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law)"; and

(2) by amending subsection (b) to read as follows:

"(b)(1) Subject to regulations prescribed by the Office of Personnel Management, the first sentence of subsection (a) shall not apply to an employee who is paid premium pay by reason of work in connection with an emergency which involves a direct threat to life or property, including a forest wildfire emergency.

"(2) Notwithstanding paragraph (1), no employee referred to in such paragraph may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) if, or to the extent that, the aggregate of such employee's basic pay and premium pay under those provisions would, in any calendar year, exceed the maximum rate payable for GS–15 in effect at the end of such calendar year.".

SEC. 205. HEALTH CARE POSITIONS.

(A) IN GENERAL.—Section 5371 of title 5, United States Code, is amended to read as follows:

"§ 5371. Health care positions

"(a) For the purposes of this section, 'health care' means direct patient-care services or services incident to direct patient-care services.

"(b) The Office of Personnel Management may, with respect to any employee described in subsection (c), provide that 1 or more provisions of chapter 73 of title 38 shall apply—

"(1) in lieu of any provision of chapter 51 or 61, or any other provision of this chapter; or

"(2) notwithstanding any lack of specific authority for a matter with respect to which chapter 51 or 61, or this chapter, relates.

"(c) Authority under subsection (b) may be exercised with respect to any employee holding a position—

(1) to which chapter 51 applies, excluding any Senior Executive Service position and any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service; and

(2) which involves health care responsibilities.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by striking the item relating to section 5371 and inserting the following:

"5371. Health care positions.".

SEC. 206. TRAVEL AND TRANSPORTATION EXPENSES FOR CANDIDATES AND NEW APPOINTEES.

(a) INTERVIEW EXPENSES.—(1) Chapter 57 of title 5, United States Code, is amended by inserting after section 5706a the following new section:

"§ 5706b. Interview expenses

"An individual being considered for employment by an agency may be paid travel or transportation expenses under this subchapter for travel to and from pre-employment interviews determined necessary by the agency.".

(2) The table of sections for chapter 57 of title 5, United States Code, is amended by inserting after the item relating to section 5706a the following new item:

"5706b. Interview expenses.".

(b) OTHER EXPENSES.—Section 5723(a)(1) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking "a position" through "shortage," and inserting "any position,"; and

(2) in subparagraph (C), by striking "the minimum rate of pay prescribed for GS-16; and" and inserting "the minimum rate of pay payable for a position classified above GS-15 pursuant to section 5108; and".

SEC. 207. PERFORMANCE-BASED CASH AWARDS.

(a) IN GENERAL.—Chapter 45 of title 5, United States Code, is amended by inserting after section 4505 the following new section:

"§ 4505a. Performance-based cash awards

"(a)(1) An employee whose most recent performance rating was at the fully successful level or higher (or the equivalent thereof) may be paid a cash award under this section.

"(2)(A) A cash award under this section shall be equal to an amount determined appropriate by the head of the agency, but may not be more than 10 percent of the employee's annual rate of basic pay. Notwithstanding the preceding sentence, the agency head may authorize a cash award equal to an amount exceeding 10 percent of the employee's annual rate of basic pay if the agency head determines that exceptional performance by the employee justifies such an award, but in no case may an award under this section exceed 20 percent of the employee's annual rate of basic pay.

"(B) For purposes of computing a percentage of a rate of basic pay under subparagraph (A), the rate of basic pay used shall be determined without taking into account any comparability payment under section 5304.

"(b)(1) A cash award under this section shall be paid as a lump sum, and may not be considered to be part of the basic pay of an employee.

"(2) The failure to pay a cash award under this section, or the amount of such an award, may not be appealed. The preceding sentence shall not be construed to extinguish or lessen any right or remedy under subchapter II of chapter 12 or under any of the laws referred to in section 2302(d).

Regulations.

"(c) The Office shall prescribe such regulations as it considers necessary for the administration of subsections (a) and (b).

"(d) At the request of the head of an Executive agency, the President may authorize the application of the preceding provisions of this section with respect to 1 or more categories of employees within such agency who would not otherwise be covered by this section (including authority under subsection (c) to prescribe any necessary regulations).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 45 of title 5, United States Code, is amended by inserting after the item relating to section 4505 the following new item:

"4505a. Performance-based cash awards.".

SEC. 208. RECRUITMENT, RELOCATION, AND RETENTION PAYMENTS.

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, is amended by adding at the end the following new sections:

"§ 5753. Recruitment and relocation bonuses

"(a) The Office of Personnel Management may authorize the head of an agency to pay a bonus to an employee who is newly appointed to a position under the General Schedule, or to an employee under the General Schedule or under any other pay authority in the executive, legislative, or judicial branch who must relocate to accept a position under the General Schedule, if the Office determines that the agency would be likely, in the absence of such a bonus, to encounter difficulty in filling the position.

"(b)(1)(A) The amount of a bonus under this section shall be determined by regulations of the Office, but may not exceed 25 percent of the annual rate of basic pay of the position to which the employee is being appointed or relocated.

"(B) For purposes of computing a percentage of a rate of basic pay under subparagraph (A), the rate of basic pay used shall be determined without taking into account any comparability payment under section 5304.

"(2) Payment of a bonus under this section shall be contingent upon the employee entering into an agreement with the agency to complete a period of employment with the agency, with the required period determined pursuant to regulations of the Office. If the employee voluntarily fails to complete such period of service or is separated from the service before completion of such period of service for cause on charges of misconduct or delinquency, the employee shall repay the bonus on a pro rata basis. Government contracts.

"(3) A bonus under this section shall be paid as a lump sum, and may not be considered to be part of the basic pay of an employee.

"(4) Under regulations of the Office, a recruitment bonus may be paid to a newly-hired employee before the employee enters on duty.

"(c) For the purpose of this section—

"(1) the terms 'agency' and 'employee' have the meanings given them by section 5102; and

"(2) any reference to 'a position under the General Schedule' or 'an employee under the General Schedule' shall be considered to be a reference to any position or employee to which subchapter III of chapter 53 applies.

"(d) The Office shall prescribe such regulations as it considers necessary for the administration of subsections (a) through (c). Regulations.

"(e) At the request of the head of an Executive agency, the President may authorize the application of the preceding provisions of this section with respect to 1 or more categories of employees within such agency who would not otherwise be covered by this section (including authority under subsection (d) to prescribe any necessary regulations).

"§ 5754. Retention allowances

"(a) The Office of Personnel Management may authorize the head of an agency to pay an allowance to an employee under the General Schedule if—

"(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

"(2) the agency determines that the employee would be likely to leave in the absence of a retention allowance.

"(b)(1) A retention allowance, which shall be stated as a percentage of the rate of basic pay (excluding any comparability payments under section 5304) of the employee, may not exceed 25 percent of such rate of basic pay.

"(2) A retention allowance may not be considered to be part of the basic pay of an employee, and the reduction or elimination of a retention allowance may not be appealed. The preceding sentence shall not be construed to extinguish or lessen any right or remedy under subchapter II of chapter 12 or under any of the laws referred to in section 2302(d).

"(3) A retention allowance shall be paid at the same time and in the same manner as the employee's basic pay is paid.

"(c) For the purpose of this section—

"(1) the terms 'agency' and 'employee' have the meanings given them by section 5102; and

"(2) any reference to 'an employee under the General Schedule' shall be considered to be a reference to any employee holding a position to which subchapter III of chapter 53 applies.

"(d) The Office shall prescribe such regulations as it considers necessary for the administration of subsections (a) through (c). Regulations.

"(e) At the request of the head of an Executive agency, the President may authorize the application of the preceding provisions of this section with respect to 1 or more categories of employees within such agency who would not otherwise be covered by this section (including authority under subsection (d) to prescribe any necessary regulations).".

(b) TABLE OF SECTIONS.—The table of sections for chapter 57 of title 5, United States Code, is amended by adding after the item relating to section 5752 the following new items:

"5753. Recruitment and relocation bonuses.
"5754. Retention allowances.

5 USC 5305 note.

SEC. 209. STAFFING DIFFERENTIALS.

(a) IN GENERAL.—Effective on the first day of the first applicable pay period beginning on or after January 1, 1991, the President may establish staffing differentials equal to 5 percent of basic pay, which may be paid to each General Schedule employee whose position is in—

(1) grade GS–5 or 7 of the General Schedule; or

(2) a 2-grade-interval occupational series, as determined by the Office of Personnel Management.

(b) MANNER OF PAYMENT; REDUCTION OR ELIMINATION.—A staffing differential under this section—

(1) shall be paid in the same manner and at the same time as the employee's basic pay is paid, but may not be considered to be part of basic pay for any purpose; and

(2) may be reduced or eliminated by the Office of Personnel Management in its sole discretion as the amendments made by this Act take effect, except that no such reduction or elimination shall have the effect of reducing the total amount of pay (determined by adding basic pay and staffing differential) which any employee is receiving.

SEC. 210. PREMIUM PAY AMENDMENTS.

Subchapter V of chapter 55 of title 5, United States Code, is amended—

(1) in section 5542, by adding at the end the following new subsection:

"(c) Subsection (a) shall not apply to an employee who is subject to the overtime pay provisions of section 7 of the Fair labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.";

(2) in section 5543(a)(1), by inserting after "payment" the following: "under section 5542 or section 7 of the Fair Labor Standards Act of 1938"; and

(3) in section 5544, by adding at the end of subsection (a) "This section, other than the sixth sentence, shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to this section, hours of work in excess of 8 hours in a day shall be deemed to be overtime hours for the purposes of such section 7 and hours in a paid nonwork status shall be deemed to be hours of work.".

SEC. 211. SUPERVISORY DIFFERENTIALS.

(a) IN GENERAL.—Subchapter IV of chapter 57 of title 5, United States Code, as amended by section 208, is further amended by adding at the end the following:

§ 5755. Supervisory differentials

"(a)(1) The Office of Personnel Management may authorize the head of an agency to pay a differential to an employee under the General Schedule who has supervisory responsibility for 1 or more employees not under the General Schedule, if 1 or more of the subordinate employees would, in the absence of such a differential, be paid more than the supervisory employee.

"(2) For the purposes of comparing the pay of a supervisory employee under the General Schedule with the pay of a subordinate employee not under the General Schedule, comparability payments under section 5304, differentials, and allowances that are not a part of basic pay may be taken into consideration, as provided by regulations of the Office.

"(b)(1) A supervisory differential, which shall be stated as a percentage of the supervisory employee's rate of basic pay (excluding any comparability payments under section 5304) or as a dollar amount, may not cause the supervisory employee's pay to exceed the pay of the highest paid subordinate employee by more than 3 percent.

"(2) A supervisory differential may not be considered to be part of the basic pay of an employee, and the reduction or elimination of a supervisory differential may not be appealed. The preceding sentence shall not be construed to extinguish or lessen any right or remedy under subchapter II of chapter 12 or under any of the laws referred to in section 2302(d).

"(3) A supervisory differential shall be paid in the same manner and at the same time as the employee's basic pay is paid.

"(c) For the purpose of this section—

"(1) the terms 'agency' and 'employee' have the meanings given them by section 5102; and

"(2) any reference to 'an employee under the General Schedule' shall be considered to be a reference to any employee holding a position to which subchapter III of chapter 53 applies.

"(d) The Office shall prescribe such regulations as it considers necessary for the administration of this section.". Regulations.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 5333 of title 5, United States Code, is amended—

(A) in the section heading, by striking "; higher rates for supervisors of prevailing rate employees";

(B) in subsection (a), by striking "(a)"; and

(C) by striking subsection (b).

(2) The table of sections for chapter 53 of title 5, United States Code, is amended by striking the item relating to section 5333 and inserting the following:

"5333. Minimum rate for new appointments.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. BUDGET ACT COMPLIANCE. 5 USC 5301 note.

For purposes of the Congressional Budget Act of 1974, any authority to make payments under this Act or any amendment made by

this Act shall be effective only to the extent provided for in advance in appropriation Acts.

5 USC 5304 note.

SEC. 302. INTERIM GEOGRAPHIC ADJUSTMENTS.

(A) DEFINITIONS.—For the purpose of this section—

(1) the term "area" means any consolidated metropolitan statistical area, primary metropolitan statistical area, or metropolitan statistical area, with at least 5,000 General Schedule employees; and

(2) the term "pay relative" shall have the meaning given such term under regulations prescribed by the Bureau of Labor Statistics.

(b) AUTHORITY.—(1) The President may establish geographic adjustments of up to 8 percent of basic pay which may be paid to each General Schedule employee (including an employee covered by the performance management and recognition system) whose duty station is within any area where such adjustment is needed (as determined under paragraph (2)).

President.

(2) In determining areas where an interim geographic adjustment is needed, the President shall consider available evidence of significant pay disparities, including BLS information on pay relatives and relevant commercial surveys, and recruitment or retention problems.

(c) ADMINISTRATION.—(1) An adjustment under this section shall be administered, to the extent practicable, in the same manner as locality-based comparability payments under subchapter I of chapter 53 of title 5, United States Code (as amended by this Act), including in terms of—

(A) the basic pay to which a percentage is applied in computing an amount payable under this section;

(B) the purposes for which any amount under this section is to be considered part of basic pay;

(C) the time and manner in which amounts under this section are to be paid (including any maximum rate limitation); and

(D) the authority of the President, upon request of an agency head, to extend this section to employees who would not otherwise be covered.

(2) No amount payable under this section shall be taken into account in any survey or computation under, or for any other purpose in the administration of, section 5304 of title 5, United States Code (as so amended).

President.

(c) COMMENCEMENT AND TERMINATION RULES.—(1) The effective date of an adjustment under this section shall be as determined by the President, but not later than January 1, 1994.

(2)(A) The size of any payments under this section may be reduced or terminated after the amendments made by section 101 of this Act take effect, except that the reduction or termination of a payment under this section may not have the effect of reducing, for the individual involved, the total rate at which additional forms of basic pay (as defined in subparagraph (B)) are payable to such individual.

(B) The total rate to which subparagraph (A) applies is the sum of—

(i) the rate at which comparability payments (under section 5304 of title 5, United States Code, as amended by such Act) are payable; and

(ii) the rate at which payments under this section are payable.

(d) EMPLOYEES RECEIVING SPECIAL PAY RATES.—The President (or his designated agent) shall determine what, if any, geographic adjustment shall be payable under this section in the case of an employee whose rate of pay is fixed under section 5303 of title 5, United States Code, as in effect before the date of enactment of this Act. President.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

SEC. 303. PAY RATES FOR CURRENT EMPLOYEES. 5 USC 5301 note.

Nothing in this Act or in any amendment made by this Act shall have the effect of diminishing the rate of basic pay payable to any individual employed by the United States on the date of the enactment of this Act to a rate below the rate payable to such individual on such date, so long as that individual continues in such position without a break in service.

SEC. 304. SENIOR BIOMEDICAL RESEARCH SERVICE.

(a) IN GENERAL.—Title II of the Public Health Service Act is amended by adding at the end the following:

"SENIOR BIOMEDICAL RESEARCH SERVICE

"SEC. 228. (a) There shall be in the Public Health Service a Senior Biomedical Research Service (hereinafter in this section referred to as the 'Service'), not to exceed 350 members at any time. Establishment. 42 USC 237.

"(b) The Service shall be appointed by the Secretary without regard to the provisions of title 5, United States Code, regarding appointment, and shall consist of individuals outstanding in the field of biomedical research or clinical research evaluation. No individual may be appointed to the Service unless such individual (1) has earned a doctoral level degree in biomedicine or a related field, and (2) meets the qualification standards prescribed by the Office of Personnel Management for appointment to a position at GS–15 of the General Schedule. Notwithstanding any previous applicability to an individual who is a member of the Service, the provisions of subchapter I of chapter 35 (relating to retention preference), chapter 43 (relating to performance appraisal and performance actions), chapter 51 (relating to classification), subchapter III of chapter 53 (relating to General Schedule pay rates), and chapter 75 (relating to adverse actions) of title 5, United States Code, shall not apply to any member of the Service.

"(c) The Secretary shall develop a performance appraisal system designed to—

"(1) provide for the systematic appraisal of the performance of members, and

"(2) encourage excellence in performance by members.

"(d)(1) The Secretary shall determine, subject to the provisions of this subsection, the pay of members of the Service.

"(2) The pay of a member of the Service shall not be less than the minimum rate payable for GS–15 of the General Schedule and shall not exceed the rate payable for level I of the Executive Schedule unless approved by the President under section 5377(d)(2) of title 5, United States Code.

"(e) The Secretary may, upon the request of a member who—

"(1) performed service in the employ of an institution of higher education immediately prior to his appointment as a member of the Service, and

"(2) retains the right to continue to make contributions to the retirement system of such institution,

contribute an amount not to exceed 10 percent per annum of the member's basic pay to such institution's retirement system on behalf of such member. A member who requests that such contribution be made shall not be covered by, or earn service credit under, any retirement system established for employees of the United States under title 5, United States Code, but such service shall be creditable for determining years of service under section 6303(a) of such title.

"(f) Subject to the following sentence, the Secretary may, notwithstanding the provisions of title 5, United States Code, regarding appointment, appoint an individual who is separated from the Service involuntarily and without cause to a position in the competitive civil service at GS-15 of the General Schedule, and such appointment shall be a career appointment. In the case of such an individual who immediately prior to his appointment to the Service was not a career appointee in the civil service or the Senior Executive Service, such appointment shall be in the excepted civil service and may not exceed a period of 2 years.

Regulations. "(g) The Secretary shall promulgate such rules and regulations, not inconsistent with this section, as may be necessary for the efficient administration of the Service.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 211(d) of
42 USC 212. the Public Health Service Act is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) adding at the end thereof a new paragraph as follows:

"(4) service performed as a member of the Senior Biomedical Research Service established by section 228, except that, if there are more than 5 years of such service, only the last 5 years thereof may be included.".

42 USC 212 note. (c) EFFECTIVE DATE.—Except as otherwise provided, the provisions of this section shall be effective on the 90th day following the date of the enactment of this Act.

5 USC 5301 note. **SEC. 305. EFFECTIVE DATE.**

(a) GENERALLY.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after the date of enactment of this Act.

(b) SPECIAL RULE.—The first calendar year in which comparability payments under section 5304 of title 5, United States Code (as amended by this Act), are paid shall be the calendar year beginning on January 1, 1994.

5 USC 5301 note. **SEC. 306. ADDITIONAL RULE OF CONSTRUCTION.**

Notwithstanding section 1(b), a reference in any of the preceding provisions of this title to "this Act" (other than a reference in section 301) shall not be considered to include any provision of title IV.

TITLE IV—FEDERAL LAW ENFORCEMENT PAY REFORM

Federal Law Enforcement Pay Reform Act of 1990.

SEC. 401. SHORT TITLE.

5 USC 5305 note.

This title may be cited as the "Federal Law Enforcement Pay Reform Act of 1990".

SEC. 402. DEFINITION.

5 USC 5305 note.

For the purposes of this title, except as otherwise provided, the term "law enforcement officer" means any law enforcement officer within the meaning of section 8331(20) or section 8401(17) of title 5, United States Code, with respect to whom the provisions of chapter 51 of such title apply.

SEC. 403. SPECIAL RATES FOR LAW ENFORCEMENT OFFICERS.

5 USC 5305 note.

(a) Notwithstanding the procedures of section 5305 of title 5, United States Code, as amended by section 101 of this Act, or similar provision of law, higher minimum rates and corresponding increases in all step rates of each designated General Schedule grade shall be established for law enforcement officers in accordance with the provisions of this section.

(b)(1) Effective on the first day of the first applicable pay period beginning on or after January 1, 1992, the higher minimum rates to be established are as follows:

GS–3	Step 4
GS–4	Step 4
GS–5	Step 4
GS–6	Step 3
GS–7	Step 3
GS–8	Step 3
GS–9	Step 2
GS–10	Step 2

(2) Effective on the first day of the first applicable pay period beginning on or after January 1, 1993, the higher minimum rates to be established are as follows:

GS–3	Step 7
GS–4	Step 7
GS–5	Step 8
GS–6	Step 6
GS–7	Step 5
GS–8	Step 3
GS–9	Step 2
GS–10	Step 2

(c) The higher minimum rates and corresponding higher rates for each step rate of each designated grade shall apply to every law enforcement officer in the designated grades (except in the case of any law enforcement officer for whom a higher rate is authorized under section 5305 of title 5, United States Code, as amended by section 101 of this Act, or similar provision of law) in the same manner as rates established under section 5305 of such title, as so amended, and may be increased in accordance with subsection (f) of such section 5305.

(d) Any interim entry-level adjustment under section 303 of this Act which a law enforcement officer is receiving shall be eliminated on the day before the effective date of the higher minimum rates under subsection (b)(1).

5 USC 5305 note.

SEC. 404. SPECIAL PAY ADJUSTMENTS FOR LAW ENFORCEMENT OFFICERS IN SELECTED CITIES.

(a) A law enforcement officer shall be paid any applicable special pay adjustment in accordance with the provisions of this section, but such special pay adjustment shall be reduced by the amount of any applicable interim geographic adjustment under section 302 of this Act, any applicable locality-based comparability payment under section 5304 of title 5, United States Code, as amended by section 101 of this Act, and any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law.

(b) Except as provided in subsection (a), effective on the first day of the first applicable pay period beginning on or after January 1, 1992, each law enforcement officer whose post of duty is in one of the following areas shall receive an adjustment, which shall be a percentage of the officer's rate of basic pay, as follows:

Area	Differential
Boston-Lawrence-Salem, MA-NH Consolidated Metropolitan Statistical Area	16%
Chicago-Gary-Lake County, IL-IN-WI Consolidated Metropolitan Statistical Area	4%
Los Angeles-Anaheim-Riverside, CA Consolidated Metropolitan Statistical Area	16%
New York-Northern New Jersey-Long Island, NY-NJ-CT Consolidated Metropolitan Statistical Area	16%
Philadelphia-Wilmington-Trention, PA-NJ-DE-MD Consolidated Metropolitan Statistical Area	4%
San Francisco-Oakland-San Jose, CA Consolidated Metropolitan Statistical Area	16%
San Diego, CA Metropolitan Statistical Area	8%
Washington, DC-MD-VA Metropolitan Statistical Area	4%

(c)(1) A special pay adjustment under this section shall be administered, to the extent practicable, in the same manner as a locality-based comparability payment under section 5304 of title 5, United States Code, as amended by section 101 of this Act, and shall be considered part of basic pay to the same degree as such a locality-based comparability payment.

(2) The Office of Personnel Management may prescribe such regulations as it considers necessary concerning the payment of special pay adjustments to law enforcement officers under this section.

5 USC 5305 note.

SEC. 405. SAME BENEFITS FOR OTHER LAW ENFORCEMENT OFFICERS.

Regulations.

(a) The appropriate agency head (as defined in subsection (c)) shall prescribe regulations under which the purposes of sections 403 and 404 shall be carried out with respect to individuals holding positions described in subsection (b).

(b) This subsection applies with respect to any—

(1) member of the United States Secret Service Uniformed Division;

(2) member of the United States Park Police;

(3) special agent within the Diplomatic Security Service;

(4) probation officer (referred to in section 3672 of title 18, United States Code); or

(5) pretrial services officer (referred to in section 3153 of title 18, United States Code).

(c) For the purposes of this section, the term "appropriate agency head" means—

(1) with respect to any individual under subsection (b)(1), the Secretary of the Treasury;

(2) with respect to any individual under subsection (b)(2), the Secretary of the Interior;

(3) with respect to any individual under subsection (b)(3), the Secretary of State;

(4) with respect to any individual under subsection (b)(4) or (b)(5), the Director of the Administrative Office of the United States Courts.

SEC. 406. FBI NEW YORK FIELD DIVISION. 5 USC 5305 note.

Notwithstanding section 601(a)(2) of Public Law 100-453, as amended, the Office of Personnel Management shall reduce the rate of periodic payments under such section as the provisions of this Act are implemented: *Provided,* That no such reduction results in a reduction of the total pay for any employee of the New York Field Division of the Federal Bureau of Investigation. Notwithstanding such section 601(a)(2), the Office of Personnel Management may make such periodic payments inapplicable to employees newly appointed to, or transferred to, the New York Field Division on or after January 1, 1992.

SEC. 407. RELOCATION PAYMENTS. 5 USC 5305 note.

Notwithstanding section 5753(b)(1)(A) of title 5, United States Code, as added by this Act, a law enforcement officer whose rate of basic pay is less than $60,000 may receive a relocation payment of up to $15,000 under section 5753.

SEC. 408. INCENTIVE BONUS FOR FOREIGN LANGUAGE CAPABILITIES.

(a) Chapter 45 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—AWARD TO LAW ENFORCEMENT OFFICER FOR FOREIGN LANGUAGE CAPABILITIES

"§ 4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' has the same meaning as under section 5949(a).

"§ 4522. General provision

"An award under this subchapter is in addition to the basic pay of the recipient.

"§ 4523. Award authority

"(a) An agency may pay a cash award, up to 5 percent of basic pay, to any law enforcement officer employed in or under such agency who possesses and makes substantial use of 1 or more foreign languages in the performance of official duties.

"(b) Awards under this section shall be paid under regulations prescribed by the head of the agency involved (or designee thereof). Regulations prescribed by an agency head (or designee) under this subsecton shall include— Regulations.

"(1) procedures under which foreign language proficiency shall be ascertained;

"(2) criteria for the selection of individuals for recognition under this section; and

"(3) any other provisions which may be necessary to carry out the purposes of this subchapter.".

(b) The table of sections for chapter 45 of title 5, United States Code, is amended by adding at the end the following:

SUBCHAPTER III—AWARDS TO LAW ENFORCEMENT OFFICERS FOR FOREIGN LANGUAGE CAPABILITIES

"4521. Definition.
"4522. General provision.
"4523. Award authority.".

5 USC 5541 note.

(c) Section 6401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4370) is amended—

(1) by inserting "(a) IN GENERAL.—" before the first sentence; and

(2) by adding at the end the following:

"(b) LIMITATION.—The provisions of this section shall apply only to an employee who has received a bonus under this section before January 1, 1992. The provisions of subchapter III of chapter 45 of title 5, United States Code, shall apply to any employee who would otherwise be eligible to receive a bonus under this section, on and after such date.".

Effective date.
5 USC 4521 note.

(d) The amendments made by this section shall be effective on January 1, 1992.

SEC. 409. AGE FOR MANDATORY RETIREMENT.

(a) Section 8335(b) of title 5, United States Code, is amended—

(1) in the first sentence, by striking "law enforcement officer of a"; and

(2) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8336(c) shall be separated from the service on the last day of the month in which that officer becomes 57 years of age or completes 20 years of service if then over that age.".

(b) Section 8425(b) of title 5, United States Code, is amended—

(1) in the first sentence, by striking "law enforcement officer or" each place it appears; and

(2) by inserting after the first sentence the following: "A law enforcement officer who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which that law enforcement officer become 57 years of age or completes 20 years of service if then over that age.".

Effective date.
5 USC 8335 note.

(c) For the purposes of this section, the effective date shall be the date of enactment of this Act.

SEC. 410. OVERTIME RATES.

(a) Section 5542(a) of title 5, United States Code, is amended by adding at the end the following:

"(4) Notwithstanding paragraph (2) of this subsection, for an employee who is a law enforcement officer (within the meaning of section 8331(20) or 8401(17)), and whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law), the overtime hourly rate of pay is an amount equal to the greater of—

"(A) one and one-half times the minimum hourly rate of basic pay for GS-10 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(B) the hourly rate of basic pay of the employee,

and all that amount is premium pay.".

(b) Section 5547 of title 5, United States Code, is amended by adding at the end the following:

"(c)(1) Subsections (a) and (b) shall not apply to a law enforcement officer.

"(2) A law enforcement officer may be paid premium pay under the provisions of law cited in the first sentence of subsection (a) only to the extent that the payment does not cause the officer's aggregate rate of pay for any pay period to exceed the lesser of—

"(A) 150 percent of the minimum rate payable for GS-15 (including any applicable locality-based comparability payment under section 5304 or similar provision of law and any applicable special rate of pay under section 5305 or similar provision of law); or

"(B) the rate payable for level V of the Executive Schedule.

"(3) For the purposes of this subsection, 'law enforcement officer' means any law enforcement officer within the meaning of section 8331(20) or section 8401(17).".

SEC. 411. OTHER PREMIUM PAY.

(a) Section 5541(2)(iv) of title 5, United States Code, is amended to read as follows:

"(iv) a member of—

"(I) the Metropolitan Police or the Fire Department of the District of Columbia; or

"(II) a member of the United States Secret Service Uniformed Division, a member of the United States Park Police, other than for purposes of section 5545(a) and 5546;".

(b) The amendment made by this section shall be effective on January 1, 1992.

Effective date.
5 USC 5541 note.

SEC. 412. REPORTING REQUIREMENT.

5 USC 5305 note.

Not later than January 1, 1993, the Office of Personnel Management, in consultation with Federal law enforcement agencies and law enforcement employee groups, shall submit to Congress, in writing, a plan to establish a separate pay and classification system for law enforcement officers and specifications for legislation to implement such plan.

SEC. 530. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

SEC. 531. (a) Section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note) is amended by striking out "Expenditures for this reimbursement are authorized not to exceed $160,000 in any one fiscal year" and inserting in lieu thereof "Expenditures for this reimbursement are authorized not to exceed $300,000 in any one fiscal year".

(b) Funds appropriated for fiscal year 1991 for reimbursements for Presidential protection assistance authorized under section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note)

shall be made available for any such reimbursements claimed during fiscal year 1990.

SEC. 532. Title 41, United States Code, chapter 4, subchapter IV, is amended by inserting at the end thereof, the following new section:

41 USC 261.

"The Internal Revenue Service may use competitive procedures or procedures other than competitive procedures to procure the services of experts for use in the examination of tax returns or litigating any action under the Internal Revenue Code in the United States Tax Court, whether or not the expert is expected to testify at trial. The Internal Revenue Service need not provide any written justification for the use of procedures other than competitive procedures when procuring expert services for cases involving the Internal Revenue Code and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.".

SEC. 533. Notwithstanding any other provision of this Act, the amount appropriated to the Federal Labor Relations Authority for salaries and expenses is $18,693,000.

SEC. 534. Notwithstanding any other provision of this Act, the appropriation for salaries and expenses for the Advisory Committee on Federal Pay shall be $100,000.

5 USC 1101 note.

SEC. 535. REPORT ON PRODUCTIVITY OF THE FEDERAL WORKFORCE.

(a) IN GENERAL.—The Office of Personnel Management shall review and report on the productivity of the Federal workforce. The report shall include recommendations with regard to the following:

(1) How productivity within the Federal workforce can be increased, the delivery of Government services improved, and the payroll costs of Government controlled through improved organization, training, advanced technology, and modern management practices.

(2) The size, structure, and composition of the Federal workforce.

(3) Criteria for use by departments and agencies to determine the level of personnel necessary to accomplish their functions and goals.

(4) Changes in Federal law, regulations, and administrative practices to promote economy, productivity, effectiveness, and managerial accountability within the Federal workforce.

(b) DEADLINE.—This report shall be submitted to Congress no later than 24 months after the date of enactment of this Act.

5 USC 6307 note.

SEC. 536. (a) Notwithstanding any other provision of law, sick leave provided by section 6307 of title 5, United States Code, may be approved for purposes related to the adoption of a child in order to test the feasibility of this concept during fiscal year 1991.

Termination date.

(b) Subsection (a) shall cease to be effective as of September 30, 1991.

SEC. 537. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

31 USC 1343 note.

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance

with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may be exceeded by not more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies. 5 USC 3101 note.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corpora-

tions and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per

square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 612. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1991, or September 30, 1992, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title— 5 USC 5343 note.

(1) during the period from the date of expiration of the limitation imposed by section 612 of the Treasury, Postal Service, and General Government Appropriations Act, 1990, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 612; and

(2) during the period consisting of the remainder, if any, of fiscal year 1991, and that portion of fiscal year 1992, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1992, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1991.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1990, shall be determined under regulations prescribed by the Office of Personnel Management. Regulations.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1990, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1990. Wages. Effective date.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay. Employee benefit plans.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

Reports.
5 USC note prec. 3341.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House

Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. No funds appropriated in this or any other Act for fiscal year 1991 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.".

Wages.
5 USC 5303 note.

SEC. 618. (a) Notwithstanding any other provision of law, in the case of fiscal year 1991, the overall average percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

(b) Any increase in a pay rate or schedule which takes effect under such section 5305 in fiscal year 1991 (in accordance with subsection (a)) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1991.

SEC. 619. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 620. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

Drug abuse. Government employees.

SEC. 621. No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1991, or under any other Act appropriating funds for fiscal year 1991, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 622. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 623. Notwithstanding section 1346 of title 31, United States Code, or section 608 of this Act, funds made available for fiscal year 1991 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 624. Notwithstanding any provisions of this Act or any other Act, during the fiscal year ending September 30, 1991, any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated in this or any other Act to install telephone lines, necessary equipment, and pay monthly charges, in any private residence or private apartment: *Provided,* That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.

SEC. 625. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97-258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

New College of California, Inc. Public lands.

SEC. 626. (a) Notwithstanding any other provision of law, the Secretary of Education, by appropriate release instrument, shall release New College of California, Inc., from the requirement not to

mortgage, or encumber the property as specified in condition subsequent No. 2 as set forth at page 3 of that quitclaim Deed dated April 14, 1975, wherein the United States of America conveyed to New College of California, Inc., certain real property identified in that deed instrument. The intent purpose of such release and waiver being to enable New College of California, Inc., to secure needed financing for repairs to the facility, as identified in paragraph (b) necessitated by earthquake activity of October, 1989; such purpose to be included in the instrument releasing the requirement not to mortgage.

(b) The property, sometimes known as 50 Fell Street, is described as: A parcel of land situated in the City and County of San Francisco, State of California, said parcel being described in the Judgment on Declaration of Taking entered 11 March 1946 in Civil Action No. 25791 in the District Court of the United States in and for the Northern District of California, Southern Division, which was filed March 22, 1946, in the Office of the Recorder, City and County of San Francisco, California. Beginning at a point on the northerly line of Fell Street distant therefrom 100 feet easterly from the easterly line of Van Ness Avenue and running thence easterly along said line of Fell Street 109 feet; thence at a right angle northerly 120 feet; thence at a right angle westerly 109 feet; thence at a right angle southerly 120 feet to the Point of Beginning, being a portion of Western Addition, Block No. 69, and known on the assessor's map as Lot 10, Block 814, City and County of San Francisco, California.

Government contracts.

SEC. 627. (a) Agencies receiving funds appropriated by any Act and which award contracts under the Federal Acquisition Regulations shall provide to the General Accounting Office during October 1991, the following information for contracts awarded during fiscal year 1991—

(1) the number and total dollar value of contracts awarded which required bonding of the contractors;

(2) the number and total dollar value of contracts for which individual sureties were used to meet the bonding requirements;

(3) the number of defaults by contractors using individual sureties and percentage they represent of total defaults;

(4) the number of individual sureties who defaulted on their obligation and the total dollar value of such defaults; and

(5) the number of contracts awarded to Minority Business Enterprises which required bonding of contractors and the number of these which used individual sureties to meet the bonding requirements.

Reports.

(b) The General Accounting Office shall compile the information collected under subsection (a) and provide a report to the Senate and House Appropriations Committees no later than April 1, 1992. Such report shall include—

(1) the percentage of contracts for which individual sureties were used to meet bonding requirements;

(2) the percentage of total defaults by contractors using individual sureties;

(3) the percentage of individual sureties which default on their obligations; and

(4) the percentage of contracts awarded to Minority Business Enterprises for which individual sureties were used to meet bonding requirements.

SEC. 628. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

5 USC note prec. 7901.

SEC. 629. (a) A Federal agency may participate in any program established by a State or local government that encourages employees to use public transportation. Such programs may involve the sale of discounted transit passes or other incentives that reduce the cost to the employee of using public transportation.

(b) Notwithstanding the provisions of section 5536 of title 5, United States Code, or any other provision of law, an employee may participate in a program described under subsection (a).

(c)(1) For purposes of this section the term "Federal agency" shall mean an Executive agency as defined under section 105 of title 5, United States Code, and shall include any agency of the legislative or judicial branch of Government.

(2) For purposes of subsection (b), the term "employee" shall mean an employee as defined under section 2105 of title 5, United States Code, and shall include an employee of any legislative or judicial agency.

Reports.
Government employees.
Wages.

(d) No later than June 30, 1993, the General Accounting Office shall conduct a study and submit a report on the implementation of programs under subsection (a) and the employees (including information of the employing agencies and rates of pay of such employees) who have participated in such programs.

Repeal.

(e) The provisions of this section are repealed effective December 31, 1993.

Iraq.
Kuwait.

SEC. 630. (a) The Senate finds that—

(1) democracy and freedom of the independent Arab nations have been threatened by the invasion and illegal annexation of Kuwait by the Government of the Republic of Iraq;

(2) the safety of American citizens and those of other countries have been directly threatened by the decision of the Government of Iraq to move them and use them as "human shields" at strategic defense and industrial installations;

(3) the stability of world oil production and marketing has been threatened by the illegal Iraqi seizure of Kuwaiti ports and oil production facilities; Oil imports.

(4) the United Nations has condemned Iraq's invasion of Kuwait, has voted to impose an economic embargo on Iraq, and has declared null and void the annexation of Kuwait;

(5) the United Nations Security Council has approved the use of appropriate military force by individual nations to enforce United Nations sanctions;

(6) the President of the United States has taken the lead in unifying world opinion and directing international efforts against the Iraqi aggression and in defense of Saudi Arabia and the other Gulf states; President.

(7) a majority of Arab nations have condemned Iraq's actions and have supported Arab military and diplomatic efforts to defend the Gulf states and to ensure Iraq's withdrawal from Kuwait;

(8) the United States is deploying tens of thousands of American troops and military hardware to the Persian Gulf in defense of the strategic interests of the United States in the region at costs estimated to be in excess of $40 million a day, during a time of an increasing budget deficit; Armed Forces.

(9) a principle position of the United States and its NATO and major non-NATO allies is one of burdensharing in the collective defense of the Western alliance;

(10) the Senate and the American people are deeply concerned about the need for a reduced budget deficit and improved economic growth; and

(11) President George Bush has announced his intention to develop an economic action plan under which nations benefitting from the economic embargo and the military actions in the Persian Gulf assist those nations which are committing their military personnel and materiel to support these United Nations actions. President.

(b) It is the sense of the Senate that—

(1) the President of the United States should be congratulated for taking the diplomatic initiative to encourage other nations to share the international financial burden of the defense of Saudi Arabia; and

(2) the President of the United States—

(A) in consultation with the allies of the United States in the Persian Gulf defense operation, should—

(i) take steps to ensure that United States allies are sharing an appropriate portion of the collective defense of their interests in the Gulf;

(ii) take steps to ensure that those allies who are precluded from any overt military participation in the Gulf, or who decide against participating in these defensive actions, or who only provide minimal participation are assuming an appropriate financial share of the collective defense commensurate with their national means; and

(iii) take steps to ensure that those oil producing nations which may benefit from increased individual oil production and world oil prices as a result of the embargo of Iraqi and Kuwaiti oil proportionally share the burden of the costs of the embargo, either directly

with those nations providing the defense, or by equivalent "inkind" payments, or by assuming some of the other international financial burdens of the major defense-providing nations;

(B) in concert with the Secretary of State, the Secretary of Defense, the Secretary of the Treasury, and the Director of the Office of Management and Budget, shall consult with Congress on the steps the President is taking to meet the goals enumerated in subparagraph (A) and shall provide a report to the Congress no later than November 30, 1990, detailing the progress of such steps to date;

(C) during his consultations with other international leaders, should consider stressing, among other points, that failure by any country to actively contribute in the most appropriate manner for that country could have a detrimental impact on its bilateral relationship with the United States; and

(D) should also inform Congress of any legislative initiatives which need to be taken to meet the goals enumerated in subparagraphs (A) through (C).

SEC. 631. (a) Section 3401(a) of title 39, United States Code, is amended in clause (1)(A) by striking out "or" the first time it appears in such clause and inserting ", or temporarily deployed overseas for an operational contingency in arduous circumstances, as determined by the Secretary of Defense" after "belligerent".

Military personnel.

(b) This section shall apply to military personnel participating in "Operation Desert Shield".

39 USC 3401 note.

SEC. 632. CONVENTION ON THE RIGHTS OF THE CHILD.—(a) FINDINGS.—The Senate finds that—

(1) the future peace and prosperity of all nations depend upon the good health and well-being of the world's children;

(2) the Congress has long recognized the vulnerability of children and has enacted numerous laws that afford them special protections in this country;

(3) similar protections for children are either totally lacking or inadequately enforced in much of the world;

(4) in part as a result of this lack of protection, millions of children are threatened daily by poverty, malnutrition, homelessness, exploitation and abuse, depriving both family and society of their productivity and potential;

(5) the Child Survival and Development Revolution, launched in 1982 to attack the root causes of infant mortality and child ill-health through low-cost means such as universal child immunization and oral rehydration therapy, is saving the lives of more than 3,000,000 children each year and has demonstrated that the number of child deaths can be reduced significantly if available resources are used appropriately;

(6) despite these gains and an emerging international consensus about the importance of protecting children, children both here and abroad will continue to face poverty, sickness, and ill-treatment.

(7) on November 20, 1989, the United States and other members of the United Nations unanimously endorsed the Convention on the Rights of the Child and urged national governments to ratify the Convention and make possible its application as international law;

(8) this Convention, if implemented, will help establish universal legal standards for the care and protection of children against neglect, exploitation, and abuse;

(9) the United States Government, scores of private voluntary organizations, and hundreds of American citizens were actively involved in the drafting of this Convention; and

(10) the United States must continue playing a leading role in the implementation of the Convention to ensure that it becomes a force for improving the lot of children, both in this country and abroad.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the issue of children's rights and their well-being is important both to the United States and the world at large and that, in consideration thereof, the President should promptly seek the advice and consent of the Senate to the ratification of the Convention on the Rights of the Child, adopted by the United Nations with the support of the United States on November 29, 1989.

DISCRETIONARY AUTHORITY PROVISION

SEC. 633. METHOD FOR MAKING ANNUAL ADJUSTMENTS TO PAY SCHEDULES IN FISCAL YEARS 1992, 1993, AND 1994. 5 USC 5303 note.

(a) IN GENERAL.—Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 and any provision of law amended by such Act), for purposes of any adjustment scheduled to take effect under section 5303 of title 5, United States Code (as amended by section 101) during the period beginning on October 1, 1991, and ending on September 30, 1994, the provisions of section 5303 of such title (as so amended) shall be applied in accordance with the following:

(1) For purposes of the adjustment taking effect in each of fiscal years 1992 and 1993, respectively, deem subsection (a) to be amended by striking "one-half of 1 percentage point less than".

(2) Deem subsection (b) to be amended as follows:

(A) In paragraph (1), strike "if" and all that follows thereafter through "welfare," and insert "Subject to paragraph (2), if".

(B) Redesignate paragraphs (2) and (3) as paragraphs (3) and (4), respectively.

(C) Insert after paragraph (1) the following:

"(2) Authority to provide alternative pay adjustments under this subsection in any year may not be exercised except in accordance with the following:

"(A) If the adjustment which (but for this subsection) would otherwise take effect under this section in a fiscal year would be 5 percent or less, no reduction may be made unless necessary because a state of war or severe economic conditions exist.

"(B) If the adjustment which (but for this subsection) would otherwise take effect under this section in a fiscal year would be greater than 5 percent, no reduction may be made—

"(i) to a level of 5 percent or greater, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

"(ii) to a level of less than 5 percent, unless necessary because of either of the reasons set forth in subparagraph (A).".

(D) Add after paragraph (4) (as so redesignated by subparagraph (B) the following:

"(5) For the purpose of this subsection, 'severe economic conditions' shall be considered to exist relative to an adjustment scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.".

(b) REFERENCES.—Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 and any provision of law amended made by such Act), effective for purposes of any pay adjustment scheduled to take effect during the period described in subsection (a), any reference in a provision of law to section 5303 of title 5, United States Code, as amended by section 101 (or to the effective date of a pay adjustment, the size of an adjustment, a rate payable after an adjustment, or other related matter under such section 5303) shall be considered a reference to such section as applied in accordance with this section (or to the corresponding matter, as determined under such section 5303, as applied in accordance with this section).

5 USC 5304a note.

SEC. 634. SPECIAL RULE RELATING TO COMPARABILITY PAYMENTS IN 1994.

Notwithstanding any other provision of law (including any provision of the Federal Employees Pay Comparability Act of 1990 and any provision of law amended by such Act), for purposes of any comparability payments scheduled to take effect under section 5304 of title 5, United States Code (as amended by such Act) during calendar year 1994—

(1) deem section 5304a of such title (as so amended) to be amended as follows:

(A) in subsection (a), strike "If" and all that follows thereafter through "welfare," and insert "Subject to subsection (c), if"; and

(B) add after subsection (b) the following:

"(c)(1) For the purpose of this section—

"(A) the 'threshold amount' is $1,800,000,000; and

"(B) 'severe economic conditions' shall be considered to exist relative to comparability payments scheduled to take effect on a given date if, during the 12-month period ending 2 calendar quarters before such date, there occurred 2 consecutive quarters of negative growth in the GNP.

"(2) Authority under this section to provide an alternative level of comparability payments in any year may not be exercised except in accordance with the following:

"(A) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be equal to the threshold amount or less, no alternative level may be fixed under this section unless necessary because a state of war or severe economic conditions exist.

"(B) If the estimated cost of the comparability payments which (but for this section) would otherwise be payable in such year would be greater than the threshold amount, no alternative level may be fixed—

"(i) at a level which would result in an estimated cost equal to or greater than the threshold amount, unless necessary because of national emergency or serious economic conditions affecting the general welfare; or

"(ii) at a level which would result in an estimated cost less than the threshold amount, unless necessary because of either of the reasons set forth in subparagraph (A).

"(d)(1) The President's agent (as referred to in section 5304(d)) shall develop and include in the appropriate report under section 5304(d)(1) the methodology for estimating any costs under this section, and any estimate under this section shall be in accordance with such methodology.

"(2) In making any estimate under this section, costs attributable to any authority under section 5304(h) may not be taken into account."; and

(2) the President's pay agent (referred to in section 5304(d) of such title, as so amended) may use appropriate estimates in lieu of BLS survey data if such data is not available for use in preparing the agent's report with respect to comparability payments payable during calendar year 1994.

SEC. 635. (a) The Congress finds that—

Saddam Hussein. Iraq. Kuwait.

(1) President Saddam Hussein of Iraq has attempted to evade the consequences of his illegal invasion of Kuwait by the taking of civilian hostages;

(2) Saddam Hussein has violated standards of civilized conduct by willfully seeking to endanger the lives of foreign civilians in Kuwait and Iraq;

(3) He has further violated international diplomatic practice by laying siege to Western embassies in Kuwait;

(4) Iraq's conduct both at home and on the battlefield during the recent war with Iran has demonstrated a willingness to use the most barbaric methods of warfare, including the gassing of civilian women and children;

(5) The Nuremberg principles, while denying national guilt for acts of war, do also stipulate that individual leaders may be held responsible for violations of the conventions of war and of civilized behavior;

(6) The taking of hostages, the use of gas, the terrorizing of civilians and diplomats, and other such acts in both peace and war have long been considered crimes against humanity for which prosecution is justifiable.

(b) It is the sense of the Senate that in the event of hostilities between the United States and the government of Iraq it shall be the policy of the United States to pursue Saddam Hussein, other Iraqi leaders, and other such perpetrators as may be determined responsible in order to bring them to justice as war criminals, and to seek their prosecution and punishment under the auspices of an international tribunal with relevant jurisdiction.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5241:

HOUSE REPORTS: No. 101-589 (Comm. on Appropriations) and No. 101-906 (Comm. of Conference).
SENATE REPORTS: No. 101-411 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 13, considered and passed House.
Sept. 10, 11, considered and passed Senate, amended.
Oct. 22, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 23, Senate agreed to conference report; concurred in certain House amendments, in another with an amendment.
Oct. 24, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-510
101st Congress

An Act

To authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Nov. 5, 1990
[H.R. 4739]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1991.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1991".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Economic Adjustment, Diversification, Conversion, and Stabilization.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Army in the amount of $1,274,383,000, of which $566,489,200 is for modification of aircraft.

(b) MISSILES.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Army in the amount of $2,081,123,000, of which $135,374,000 is for modification of missiles.

(c) WEAPONS AND TRACKED COMBAT VEHICLES.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of weapons and tracked combat vehicles for the Army in the amount of $2,063,672,000.

(d) AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of ammunition for the Army in the amount of $1,346,832,000.

(e) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for other procurement for the Army in the amount of $2,541,884,000, of which—

(1) $609,575,000 is for tactical and support vehicles;

(2) $1,118,747,000 is for communications and electronics equipment; and

(3) $813,562,000 is for other support equipment.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Navy in the amount of $8,107,698,000, of which $1,243,642,000 is for modification of aircraft.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of weapons (including missiles and torpedoes) for the Navy in the amount of $5,981,191,000. Amounts authorized under the preceding sentence are available as follows:

(1) For missile programs other than ballistic missile programs, $3,095,276,000.

(2) For torpedo programs, $841,318,000 as follows:

For the MK-48 torpedo program, $350,291,000.

For the MK-50 torpedo program, $328,266,000.

For the ASW target program, $26,409,000.

For the ASROC program, $20,156,000.

For the torpedo support equipment program, $55,278,000.

For the antisubmarine warfare range support program, $24,382,000.

For first destination transportation, $8,700,000.

(3) For other weapons, $202,146,000, of which—

(A) $61,958,000 is for the MK-15 close-in weapon system; and

(B) $81,292,000 is for the close-in weapon system modification program.

(4) For other ordnance, $233,241,000.

(5) For spares and repair parts, $69,209,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1991 for shipbuilding and conversion for the Navy in the amount of $9,414,800,000. Amounts authorized under the preceding sentence are available as follows:

For the Trident submarine program, $1,145,629,000.

For the SSN-21 nuclear attack submarine program, $2,106,000,000.

For the aircraft carrier service life extension program (SLEP), $113,068,000.

For the DDG-51 guided missile destroyer program, $3,222,003,000.

For the LHD-1 amphibious assault ship program, $959,800,000.

For the LSD-41 cargo variant program, $240,000,000.

For the oceanographic research ship program, $43,100,000.

For service craft and landing craft, $27,300,000.

For the landing craft, air cushion (LCAC) program, $267,900,000.

For outfitting and post delivery, $335,600,000.

For first destination transportation, $5,800,000.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1991 for other procurement for the Navy in the amount of $5,488,599,000. Amounts authorized under the preceding sentence are available for certain programs as follows:

(1) For the ship support equipment program, $1,214,555,000.

(2) For the communications and electronics equipment program, $1,796,957,000.

(3) For aviation support equipment, $370,787,000.

(4) For the ordnance support equipment program, $544,836,000.

(5) For civil engineering support equipment, $81,658,000.

(6) For supply support equipment, $270,760,000.

(7) For personnel and command support equipment, $743,728,000.

(8) For spares and repair parts, $465,278,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement for the Marine Corps in the amount of $752,479,000.

SEC. 103. AIR FORCE

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Air Force in the amount of $9,805,933,000, of which $1,471,231,000 is available for modification of aircraft.

(b) MISSILES.—Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of missiles for the Air Force in the amount of $6,109,469,000, of which $111,273,000 is available for modification of missiles.

(c) OTHER PROCUREMENT.—Funds are hereby authorized to be appropriated for fiscal year 1991 for other procurement for the Air Force in the amount of $7,826,452,000, of which—

(1) $416,480,000 is for munitions and associated support equipment;

(2) $137,963,000 is for vehicular equipment;

(3) $1,376,092,000 is for electronics and telecommunications equipment; and

(4) $5,895,917,000 is for other base maintenance and support equipment.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement for the Defense Agencies in the amount of $2,149,954,000, of which—

(1) $161,500,000 is for electronic warfare procurement; and

(2) $637,096,000 is for the Special Operations Command.

SEC. 105. DEFENSE INSPECTOR GENERAL

Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement for the Inspector General of the Department of Defense the amount of $981,000.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1991 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $690,900,000.

(2) For the Air National Guard, $389,700,000.

(3) For the Army Reserve, $46,100,000.

(4) For the Navy Reserve, $478,300,000.

(5) For the Air Force Reserve, $137,700,000.

(6) For the Marine Corps Reserve, $129,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1991 for the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 747) in the amount of $382,600,000.

SEC. 108. MULTIYEAR AUTHORIZATIONS

The Secretary of the military department concerned may use funds appropriated for fiscal year 1991 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the following programs:

(1) For the Department of the Army:

(A) UH-60L Helicopter Program.

(B) Pedestal-Mounted Stinger (Avenger) Program.

(C) Family of Medium Trucks.

(2) For the Department of the Air Force:

(A) The GPS Navstar Satellite Program.

(B) The Defense Support Program.

SEC. 109. REPEAL OF PRIOR MILESTONE AUTHORIZATIONS

(a) PROCUREMENT PROGRAMS.—Section 106 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1034) is repealed.

(b) RDT&E PROGRAMS.—Section 216 of such Act (101 Stat. 1051) is repealed.

PART B—B-2 AIRCRAFT PROGRAM

SEC. 121. LIMITATION ON OBLIGATIONS

Of the amount appropriated pursuant to section 103 for procurement of aircraft for the Air Force, not more than $2,349,308,000 may be obligated for procurement of B-2 aircraft.

PART C—OTHER STRATEGIC PROGRAMS

SEC. 131. SRAM II MISSILE PROGRAM

None of the funds appropriated for fiscal year 1991 for procurement for the Air Force may be obligated for the SRAM II missile program (other than funds for peculiar support equipment and the industrial modernization improvement program) until the Secretary of Defense certifies to the congressional defense committees that development flight tests for that missile demonstrate that the missile (including the rocket motor propellant) meets the established performance criteria.

SEC. 132. GROUND-WAVE EMERGENCY NETWORK

None of the funds appropriated pursuant to this or any other Act may be obligated or expended for site preparation or construction of any tower or related support facility for the Ground-Wave Emergency Network (GWEN) System until—

(1) the Secretary of Defense provides for the conduct of an independent study of such system on the health effects and environmental impact of the system on surrounding local jurisdictions; and

(2) a report containing the results of such study, together with the Secretary's comments and recommendations concerning the report, has been submitted to the congressional defense committees and a period of 15 days has elapsed after the report is received. Reports.

SEC. 133. B-1B AIRCRAFT PROGRAM

Section 121(e)(3)(C) of Public Law 101-189 (103 Stat. 1380) is amended by striking out "in the late 1990s" and inserting in lieu thereof "in 2010".

SEC. 134. PROHIBITION ON OBLIGATION OR EXPENDITURE OF FISCAL YEAR 1990 FUNDS FOR MX RAIL GARRISON PROCUREMENT

Funds appropriated for fiscal year 1990 for procurement of missiles for the Air Force may not be obligated or expended for the MX Rail Garrison program.

SEC. 135. REPORT ON ALTERNATIVE MX MISSILE TEST PLANS

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on alternative MX missile test plans. The report shall be submitted, in both classified and unclassified forms, by August 1, 1991.

(b) CONTENT OF REPORT.—The report required by subsection (a) shall include the following matters:

(1) A description of the guidelines established by the Chairman of the Joint Chiefs of Staff for assessing the reliability of the MX missile during Phase II Operational Testing.

(2) A description of the currently planned Phase II Operational Test program for the MX missile.

(3) A complete assessment of the extent to which the guidelines described in paragraph (1) will be met under the MX missile Phase II Operational Test program described in paragraph (2).

(4) A complete assessment of the extent to which the guidelines described in paragraph (1) could be met under the MX missile Phase II Operational Test program if the total number of MX missiles procured were reduced from the planned 173 missiles to (A) 126 missiles, and (B) 150 missiles.

(5) A description and net assessment of any other significant effects of reducing the number of MX test missiles as described in paragraph (4), including (A) an estimate of the associated cost savings, and (B) a description of the effect on existing contractual obligations and how the associated costs could be minimized.

(6) A full description of how information from sources other than missile flight testing, including inspection of missile silos, aging and surveillance programs, production quality control, experience with previously deployed missile systems, and simulation, is factored into the assessment of missile reliability.

SEC. 136. LIMITATION ON ADVANCE PROCUREMENT OF ADVANCED CRUISE MISSILE

Of the amount appropriated pursuant to section 103 for Missile Procurement, Air Force, that is available for advance procurement of the Advanced Cruise Missile, not more than $64,400,000 may be obligated until—

(1) a Defense Acquisition Board determines—

(A) the total number of Advanced Cruise Missiles that will be acquired;

(B) the acquisition strategy that will be used to acquire the missiles; and

(C) the suitability of the program to enter into a full production rate of 250 missiles annually;

(2) the scheduled follow-on operational flight tests are completed in fiscal year 1991;

(3) the Secretary of Defense certifies to the congressional defense committees that the results of those flight tests demonstrate that the performance of the Advanced Cruise Missile meets the established requirements to proceed to a full-rate production decision; and

Reports.

(4) the Secretary of Defense submits to the congressional defense committees a report on the determinations of the Defense Acquisition Board made under paragraph (1).

SEC. 137. LIMITATION ON OBLIGATION OF FUNDS FOR KC-135R AIRCRAFT RE-ENGINING MODIFICATION PROGRAM

(A) LIMITATION.—Funds appropriated pursuant to this Act may not be obligated for the KC-135R tanker aircraft re-engining modification program until the Secretary of Defense—

(1) conducts a defense-wide reassessment of requirements for tanker aircraft and the cost effectiveness of additional conver-

sions of the E and Q models of the KC-135 aircraft to the R configuration as compared with maintaining the A models of that aircraft; and

(2) submits a report on the results of the reassessment to the congressional defense committees.

(b) REASSESSMENT.—In carrying out the reassessment, the Secretary shall take into consideration—

(1) current and planned force structure reductions;

(2) changes in the Single Integrated Operating Plan (SIOP); and

(3) changes in United States contingency planning.

PART D—ARMY PROGRAMS

SEC. 141. ADATS MISSILE SYSTEM

(a) LIMITATION.—The Secretary of the Army may not obligate any funds after the date of the enactment of this Act for a payment under the ADATS air defense program for contractor corrections of system reliability deficiencies to meet original program specifications for the system.

(b) EXCEPTION.—This section does not preclude the obligation of funds to pay for product improvements approved by the Government before Initial Operational Test and Evaluation.

SEC. 142. M-1 ABRAMS TANK PROGRAM

(a) LIMITATION.—Of the funds appropriated or otherwise made available for procurement of weapons and tracked combat vehicles for the Army for fiscal year 1991, the Secretary of the Army, subject to subsection (b), may use any or all of the $150,000,000 provided for advance procurement (1) to buy M1 tanks in the M1A2 configuration, or (2) to initiate an M1-to-M1A2 conversion program.

(b) CERTIFICATION.—The advance procurement funds described in subsection (a) may not be used for a purpose described in that subsection until the Secretary of the Army certifies to the congressional defense committees that the M1A2 tank has successfully completed development and operational tests.

SEC. 143. PROCUREMENT OF AHIP SCOUT HELICOPTERS

Section 133(b)(1) of Public Law 101-189 (103 Stat. 1383) is amended—

(1) by striking out "Subject to subsection (c), the" and inserting in lieu thereof "The";

(2) by striking out "and" at the end of subparagraph (B);

(3) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following:

"(D) the obligation of not more than $200,000,000 from funds appropriated pursuant to an authorization of appropriations for the OH-58D AHIP Scout aircraft program during fiscal year 1991 for procurement of not more than 36 OH-58D Armed AHIP Scout aircraft and for payment of costs necessary to terminate the AHIP Scout aircraft program.".

SEC. 144. PROVISION OF CH-47 AIRCRAFT FOR THE ARMY NATIONAL GUARD

(a) TRANSFER OF AIRCRAFT TO AIR NATIONAL GUARD.—Of the modified CH-47 aircraft procured with funds appropriated or other-

wise made available in fiscal year 1991, the Secretary of the Army shall distribute not less than 24 such aircraft to the Army National Guard of the United States, as provided in subsection (b).

(b) PLAN REQUIRED.—(1) The Secretary of the Army shall develop a plan to retire—

(A) not less than 24 CH-54 aircraft assigned to the Army National Guard of the United States not later than September 30, 1992; and

(B) all remaining CH-54 aircraft assigned to the Army National Guard of the United States not later than September 30, 1993.

(2) For each CH-54 aircraft assigned to the Army National Guard of the United States that is retired by the Secretary of the Army on or after the date of enactment of this Act, the Secretary shall transfer one of the CH-47 aircraft referred to in subsection (a) to the Army National Guard of the United States.

PART E—NAVY AND MARINE CORPS PROGRAMS

SEC. 151. A-12 AIRCRAFT PROGRAM

(a) FUNDING.—Of the funds authorized to be appropriated or otherwise made available for aircraft procurement for the Navy for fiscal year 1991, $610,000,000 shall be available for the A-12 aircraft program. Such funds—

(1) may be used only for an A-12 program—

(A) that conforms to the pricing provisions of existing contracts, adjusted for quantity and inflation, as appropriate; or

(B) that is restructured to reduce technical and schedule risks arising from concurrency and for which the new program price is based on actual contract cost data from the pre-restructured program; and

(2) may not be obligated or expended until 45 days after the date on which the Secretary of Defense submits to the congressional defense committees the report described in subsection (d).

(b) DEFENSE SCIENCE BOARD PANEL.—The Secretary of Defense shall establish a special panel of the Defense Science Board to examine the requirements of the Navy established for the A-12 aircraft and to assess the inherent suitability of the current A-12 design and its projected execution for meeting the requirements of the Navy for medium-attack aircraft (including low observability) through the projected life of the system.

(c) NAVY REVIEW COMMITTEE.—The Secretary of the Navy shall establish an A-12 review committee to be independent of the A-12 program office. The review committee shall be chaired by the Inspector General of the Navy. The committee shall submit quarterly reports to the Secretary of the Navy and the Secretary of Defense on the cost, schedule, and performance status of the program (including technical performance and projected operating weight) until the A-12 aircraft completes its first deployment.

Reports.

(d) REPORT.—The report required by subsection (a) shall include the following:

(1) A program cost estimate for the A-12 program as determined by the Department of Defense Cost Analysis Improvement Group (CAIG).

(2) An assessment of when flight testing of the A-12 aircraft will begin.

(3) A summary of the report of the panel established under subsection (b), together with such comments as the Secretary considers appropriate.

(4) Certification that the review committee required by subsection (c) has been established.

(5) The views of the Secretary on the appropriateness of fixed-price type contracts for full-scale development of the A-12 aircraft, including any views concerning possible renegotiation of any A-12 contracts with the prime contractors.

(6) Any other views or recommendations of the Secretary of Defense that the Secretary considers appropriate.

SEC. 152. V-22 AIRCRAFT PROGRAM

(a) FUNDING.—Of the funds authorized to be appropriated or otherwise made available for aircraft procurement for the Navy for fiscal year 1991, $165,000,000 shall be available for the V-22 aircraft program.

(b) LIMITATION.—Funds described in subsection (a) and the amount of $200,000,000 appropriated for the Navy for fiscal year 1989 for procurement of aircraft that remains available for obligation for the V-22 program may be used only for advance procurement of production representative V-22 aircraft, support equipment, and related activities, as required to conduct the operational tests approved by the Director of Operational Test and Evaluation (DOT&E) pursuant to section 138 of title 10, United States Code.

(c) STATUS AS MAJOR DEFENSE ACQUISITION PROGRAM.—The V-22 aircraft program shall be considered to be a major defense acquisition program within the meaning of section 2430 of title 10, United States Code, and shall be managed and reported accordingly.

SEC. 153. PROCUREMENT OF M1A1 MAIN BATTLE TANKS FOR THE MARINE CORPS

Of the funds appropriated for advanced procurement for the Marine Corps for fiscal year 1990, not more than $62,400,000 of any such funds that remain available for obligation shall be available for procurement of M1A1 main battle tanks.

SEC. 154. POLICY FOR SSN-21 SUBMARINE PROCUREMENT

The funds authorized to be appropriated by this Act for fiscal year 1991 for the SSN-21 nuclear attack submarine program are to be obligated in accordance with applicable law, policies, and regulations. This section may not be construed as expressing a preference for any particular method of contracting for the SSN-21 submarine authorized by this Act.

SEC. 155. MH-53 MINESWEEPER HELICOPTER

Of the amounts authorized to be appropriated pursuant to section 106 for reserve component equipment, $336,000,000 shall be available for procurement of MH-53 minesweeper helicopters for the Navy Reserve.

SEC. 156. AH-1W HELICOPTERS

(a) FISCAL YEAR 1990 FUNDS.—Of the amounts appropriated for National Guard and Reserve equipment for fiscal year 1990, $58,600,000 is authorized to be available for procurement of six AH-1W helicopters for the Marine Corps Reserve.

(b) FISCAL YEAR 1991 FUNDS.—Of the amounts authorized to be appropriated pursuant to section 106 for reserve component equipment, $79,000,000 shall be available for procurement of eight AH-1W helicopters for the Marine Corps Reserve.

SEC. 157. LABORATORY EQUIPMENT FOR NAVY INDUSTRIAL-FUNDED ACTIVITIES

Of the amount authorized to be appropriated pursuant to section 102 for other procurement for the Navy, $98,000,000 shall be available (as provided in the President's budget) for acquisition of laboratory equipment for Navy industrial-funded activities.

PART F—NONSTRATEGIC AIR FORCE PROGRAMS

SEC. 161. C-17 AIRCRAFT PROGRAM FUNDING AND LIMITATIONS FOR FISCAL YEAR 1991

(a)(1) AMOUNT AUTHORIZED.—Of the amounts appropriated pursuant to section 103(1)—

(A) not more than $400,000,000 may be obligated for procurement of C-17 aircraft;

(B) not more than $60,000,000 may be obligated for advance procurement of C-17 aircraft;

(C) not more than $80,000,000 may be obligated for procurement of initial spare parts C-17 aircraft.

(2) Nothing in this provision shall preclude the obligation of additional funds for the C-17 aircraft program out of funds transferred under section 1401.

(b) LIMITATION.—The Secretary of the Air Force may not obligate any funds appropriated pursuant to section 103 for procurement of the C-17 aircraft (other than funds for advance procurement for fiscal year 1992) until the Secretary of Defense certifies to the congressional defense committees that a production C-17 aircraft has successfully completed it first flight.

SEC. 162. TACIT RAINBOW PROGRAM

Reports.

The Secretary of the Air Force may not obligate any funds to establish a second source for procurement of the TACIT Rainbow system until the Secretary submits to the congressional defense committees a report describing total program quantities to be procured and the cost effectiveness of proceeding with two sources of production.

SEC. 163. CHEMICAL-BIOLOGICAL COLLECTIVE PROTECTION SYSTEMS

(a) TERMINATION OF PROCUREMENT OF SURVIVABLE COLLECTIVE PROTECTION SYSTEM.—After the date of the enactment of this Act, no funds may be obligated for procurement of the Survivable Collective Protection System.

Reports.

(b) LIMITATION ON PROCUREMENT OF TRANSPORTABLE COLLECTIVE PROTECTION SYSTEM.—None of the funds appropriated pursuant to this Act may be obligated for procurement of the Transportable Collective Protection System until the Secretary of Defense submits to the congressional defense committees a report setting forth—

(1) the overall requirements for the program;

(2) the rationale for the program in light of the chemical weapons arms control agreement between the United States and the Soviet Union and the efforts to achieve a multilateral ban on all chemical weapons;

(3) the anticipated distribution of assets to be procured under the program, shown by geographic region and by military forces; and

(4) total program costs.

(c) EXCEPTION FOR OPERATION DESERT SHIELD.—The limitation in subsection (b) shall not apply with respect to any procurement in connection with Operation Desert Shield.

SEC. 164. RE-ENGINING FOR CERTAIN RECONNAISSANCE AIRCRAFT

Of the funds appropriated pursuant to section 103, $54,600,000 shall be available for re-engining the TR-1 and U-2 reconnaissance aircraft.

PART G—CHEMICAL MUNITIONS

SEC. 171. ANNUAL REPORT ON SAFETY OF CHEMICAL WEAPONS STOCKPILE

(a) ADDITIONAL ITEMS FOR ANNUAL REPORT ON CHEMICAL WEAPONS DEMILITARIZATION PROGRAM.—Subsection (g)(3) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) an assessment of the safety status and the integrity of the stockpile of lethal chemical agents and munitions subject to this section, including—

"(i) an estimate on how much longer that stockpile can continue to be stored safely;

"(ii) a site-by-site assessment of the safety of those agents and munitions; and

"(iii) a description of the steps taken (to the date of the report) to monitor the safety status of the stockpile and to mitigate any further deterioration of that status.".

(b) TECHNICAL AMENDMENTS.—Subsections (a)(1) and (h)(1) of such section are amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "November 8, 1985".

SEC. 172. FUNDING CLARIFICATION FOR CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM

Subsection (c) of section 1412 of Public Law 99-145 (50 U.S.C. 1521) is amended by adding at the end the following paragraph:

"(3) In order to carry out subparagraph (A) of paragraph (1), the Secretary may make grants to State and local governments (either directly or through the Federal Emergency Management Agency) to assist those governments in carrying out functions relating to emergency preparedness and response in connection with the disposal of the lethal chemical agents and munitions referred to in subsection (a). Funds available to the Department of Defense for the purpose of carrying out this section may be used for such grants.".

SEC. 173. CHEMICAL WEAPONS STOCKPILE SAFETY CONTINGENCY PLAN

50 USC 1511 note.

(a) DEVELOPMENT OF PLAN.—The Secretary of Defense shall develop a plan setting forth the steps the Department of Defense would take if the chemical weapons stockpile of the United States began an accelerated rate of deterioration (or experienced any other event which called into question its continued safe storage) before a

comprehensive full-scale chemical weapons disposal capability is developed. The plan shall address—

(1) the schedule that would have to be followed to put the plan into effect;

(2) the level of funding that would be required to put the plan into effect;

(3) the equipment and other resources that would be required to put the plan into effect; and

(4) an assessment of how quickly the plan could be placed into effect in the event of an emergency.

(b) UPDATES.—The Secretary shall periodically update the plan developed pursuant to subsection (a) as needed.

(c) SUBMISSION TO CONGRESS.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a copy of the plan developed pursuant to subsection (a). The submission shall be made not later than 180 days after the date of the enactment of this Act.

PART H—OTHER PROGRAMS

SEC. 181. PROGRAM TERMINATIONS

(a) 155-MILLIMETER NUCLEAR PROJECTILE PROGRAM.—Funds appropriated for the Department of Defense for fiscal year 1991 or for any fiscal year thereafter may not be obligated for the W-82 155-millimeter nuclear projectile program.

(b) FOLLOW-ON TO LANCE PROGRAM.—Funds appropriated for the Department of Defense for fiscal year 1991 or any fiscal year thereafter may not be obligated for the Follow-on to Lance Program.

(c) STATUTORY CONSTRUCTION.—A provision of law enacted after the date of enactment of this Act may not be construed as modifying or superseding any provision of this section unless that provision specifically refers to this section and specifically states that such provision of law modifies or supersedes this section.

SEC. 182. ELECTRONIC WARFARE PROCUREMENT

(a) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to this Act may be obligated or expended for procurement for a program described in subsection (d) only at levels sufficient to sustain existing production capabilities at minimum essential levels. The limitation in the preceding sentence shall cease to apply with respect to any such program when a certification under subsection (b) with respect to that program is made.

(b) PRODUCTION DECISION.—A decision to proceed with production of a program described in subsection (d) at a rate beyond that permitted under subsection (a) may not be made within the Department of Defense until the Director of Operational Test and Evaluation of the Department of Defense certifies to the congressional defense committees—

(1) that the program has undergone thorough and effective operational testing; and

(2) that, on the basis of that testing, the Director has determined that the program meets or exceeds all operational criteria established for the program.

(c) MODERNIZATION PROGRAM.—The Under Secretary of Defense for Acquisition shall establish an affordable, cost-effective joint electronic warfare modernization program for the Navy and Air Force that eliminates redundancy among the programs described in

subsection (d), maximizes commonality among those programs, and meets essential operational requirements. Such program shall be established not later than March 1, 1991.

(d) COVERED PROGRAMS.—This section applies to the Airborne Self Protection Jammer (ASPJ), the ALQ-135 device, the ALQ-184 device, and a classified Air Force program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,732,749,000.
(2) For the Navy, $9,417,934,000.
(3) For the Air Force, $12,664,662,000.
(4) For the Defense Agencies, $8,280,558,000 of which—
  (A) $251,619,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and
  (B) $15,000,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNTS FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT

(a) FISCAL YEAR 1991.—Of the amounts appropriated pursuant to section 201, $3,770,233,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. V-22 OSPREY AIRCRAFT PROGRAM

(a) FUNDING.—Of the amount authorized to be appropriated pursuant to section 201, $238,000,000 shall be available for research, development, test, and evaluation in connection with the V-22 aircraft program.

(b) PROHIBITION OF ALTERNATIVES.—None of the funds appropriated pursuant to section 201 may be used for research, development, test, and evaluation for a replacement aircraft to perform the medium-lift mission other than the V-22 aircraft.

SEC. 212. ARMY SCOUT ATTACK HELICOPTER PROGRAM

The Secretary of the Army shall establish a technical demonstration program for a combat helicopter by restructuring the light helicopter program to produce prototypes of such a helicopter for evaluation before a decision is made to proceed with full-scale development.

SEC. 213. ADVANCED TACTICAL FIGHTER PROGRAM

(a) IN GENERAL.—The Secretary of the Air Force shall complete the demonstration and validation phase and the design selection process for the Advanced Tactical Fighter for the Air Force.

(b) PROHIBITION ON FULL-SCALE DEVELOPMENT.—Funds appropriated or otherwise made available pursuant to this or any other Act for the Air Force for fiscal year 1991, or a prior fiscal year, may not be obligated for full-scale development activities in connection with the Advanced Tactical Fighter of the Air Force.

SEC. 214. ARMORED GUN SYSTEM

The Secretary of the Army shall prescribe an acquisition plan for the procurement of an armored gun system. The plan shall provide—

(1) for acquisition of an armored gun system which is a nondevelopmental item; and

(2) for fielding of such system to the first unit during fiscal year 1995 if there is an approved program start for such system by the Office of the Secretary of Defense during fiscal year 1991.

SEC. 215. FLEET ELECTRONIC WARFARE SUPPORT GROUP

(a) RETIREMENT OF CURRENT AIRCRAFT.—The Secretary of the Navy shall retire the ERA-3B aircraft currently assigned to the Fleet Electronic Warfare Support Group not later than September 30, 1993.

(b) ACQUISITION OF REPLACEMENT AIRCRAFT.—The Secretary of the Navy shall initiate a competition to acquire a replacement aircraft for the Fleet Electronic Warfare Support Group within 60 days after the date of the enactment of this Act. The Secretary shall acquire such aircraft by direct procurement or by lease entered into under section 328 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1957).

SEC. 216. VANDENBERG AIR FORCE BASE TITAN IV LAUNCH FACILITY

Funds appropriated for the Air Force for fiscal year 1991 may be obligated for an additional Titan IV launch facility only if the funds are used to convert the existing Space Launch Complex Six facility at Vandenberg Air Force Base, California, for use as a Titan IV launch facility.

SEC. 217. ADVANCED COMMUNICATIONS SATELLITE RELAY SYSTEM

(a) SYSTEM REQUIREMENTS.—The Secretary of Defense shall develop and carry out a plan for a system other than, and in the place of, the currently planned MILSTAR communications satellite system to meet requirements for an advanced communications satellite relay system. The system to be developed and carried out shall either be a restructured MILSTAR program or an alternative advanced communications satellite relay system and shall be developed with the objectives of—

(1) substantially reducing the cost of the program compared to the present cost of the MILSTAR program as currently planned;

(2) increasing the utility of the program for tactical forces; and

(3) eliminating unnecessary capabilities for protracted nuclear warfighting missions and operations.

(b) REPORT.—Not later than April 1, 1991, the Secretary of Defense shall submit to the congressional defense committees a report on the

system planned under subsection (a), as provided in the classified and unclassified joint statement of managers accompanying the conference report on H.R. 4739 of the One Hundred First Congress.

(c) FUNDING LIMITATION.—Except as provided in subsection (d), of the funds appropriated to the Department of Defense for fiscal year 1991, not more than a total of $600,000,000 may be obligated or expended for the following:

(1) The MILSTAR program.

(2) The restructured MILSTAR program or the proposed alternative system required under subsection (a), whichever is developed.

(d) TRANSFER AUTHORITY.—(1) The Secretary of Defense may transfer to the MILSTAR program (including the restructured MILSTAR program or the alternative system) amounts of authoriza- applicable reprogramming procedures. The amount of the limitation in subsection (c) shall be increased by any amount so transferred.

(2) The authority to transfer funds under this section is not in addition to the transfer authority provided in section 1401.

(3) The Secretary shall promptly notify the congressional defense committees of any transfer proposed to be made under this subsection.

(e) TRANSFERS WITHIN THE MILSTAR PROGRAM.—(1) Subject to the limitation in subsection (c), the Secretary of Defense may transfer amounts of authorizations made available for the restructured MILSTAR program or the alternative system between title I and title II for use for the restructured MILSTAR program or the alternative system.

(2) The authority to transfer funds under this section is not in addition to the transfer authority provided in section 1401.

(3) The Secretary shall promptly notify the congressional defense committees of any transfer made under this subsection.

(f) INAPPLICABILITY OF SECTION.—This section does not apply—

(1) to the extremely high frequency communications package for the ultra high frequency follow-on satellite program; or

(2) to the extremely high frequency terminal programs of the Navy.

SEC. 218. PROHIBITION ON TESTING MID-INFRARED ADVANCED CHEMICAL LASER AGAINST AN OBJECT IN SPACE

The Secretary of Defense may not carry out a test of the Mid-Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space during 1991 unless such testing is specifically authorized by law.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. STRATEGIC DEFENSE INITIATIVE PROGRAM STRUCTURE AND LIMITATIONS ON SPENDING

10 USC 2431 note.

(a) PROGRAM ELEMENTS.—(1) The following program elements shall be the exclusive program elements for the Strategic Defense Initiative:

(A) Phase I Defenses.

(B) Limited Protection Systems.

(C) Theater and ATBM Defenses.

(D) Follow-On Systems.

(E) Research and Support Activities.

(2) The program elements in paragraph (1) shall be the only program elements used in the program and budget information concerning the Strategic Defense Initiative submitted to Congress by the Secretary of Defense in support of the budget submitted to Congress by the President under section 1105 of title 31, United States Code, for any fiscal year after fiscal year 1991.

(b) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OBJECTIVES.—

(1) PHASE I DEFENSES.—The Phase I Defenses program element shall include programs, projects, and activities which have as a primary objective the development of systems, components, and architectures for a strategic defense system capable of providing low to moderate defensive capabilities against a large-scale ballistic missile attack against the United States. Such activities may include those necessary to develop systems, components, and architectures capable of providing an early deployment option against limited attacks, including accidental, unauthorized, or deliberate launch of a small number of ballistic missiles.

(2) LIMITED PROTECTION SYSTEMS.—The Limited Protection Systems program element shall include programs, projects, and activities which have as a primary objective the development of systems and components which, if deployed as a limited defense, would not be in violation of the 1972 ABM Treaty. For purposes of planning, evaluation, design, and effectiveness studies, such programs, projects, and activities may take into consideration both the current numerical limitations of the 1972 ABM Treaty and modest changes to those numerical limitations.

(3) THEATER AND ATBM DEFENSES.—The Theater and ATBM Defenses program element shall include programs, projects, and activities which have as a primary objective—

(A) the development of deployable and rapidly relocatable anti-tactical ballistic missile (ATBM) defenses for forward deployed and expeditionary United States armed forces, and

(B) cooperation with friendly and allied nations in the development of theater defenses against tactical ballistic missiles.

(4) FOLLOW-ON SYSTEMS.—The Follow-On Systems program element shall include programs, projects, and activities which have as a primary objective the development of technologies capable of supporting systems, components, and architectures that could produce highly effective defenses for deployment after the beginning of the twenty-first century.

(5) RESEARCH AND SUPPORT ACTIVITIES.—The Research and Support Activities program element shall include programs, projects, and activities which have as a primary objective—

(A) the provision of basic research and technical, engineering, and managerial support to the programs, projects, and activities within the program elements in paragraphs (1) through (4);

(B) innovative science and technology projects;

(C) the provision of test and evaluation services; and

(D) program management.

(c) FUNDING LIMITATIONS.—(1) Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for

fiscal year 1991, not more than $2,890,000,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amount described in paragraph (1)—

(A) not more than $817,300,000 shall be available for programs, projects, and activities within the Phase I Defenses program element;

(B) not more than $389,000,000 shall be available for programs, projects, and activities within the Limited Protection Systems program element;

(C) not more than $180,000,000 shall be available for programs, projects, and activities within the Theater and ATBM Defenses program element;

(D) not more than $754,300,000 shall be available for programs, projects, and activities within the Follow-On Systems program element; and

(E) not more than $749,400,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(3) Funds may be obligated for programs, projects, and activities which have as their primary purpose the support of the Brilliant Pebbles space-based interceptor system only through programs, projects, and activities within the Phase I Defenses program element.

(4) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1991. The report shall specify the amount of such funds allocated for each program, project, and activity of the Strategic Defense Initiative and shall list each program, project, and activity under the appropriate program element. Reports.

(5)(A) Before the submission of the report required under paragraph (4) and notwithstanding the limitations in paragraph (2), the Secretary of Defense may transfer funds among the program elements described in paragraph (2).

(B) The total amount that may be transferred to or from any program element described in paragraph (2)—

(i) may not exceed 10 percent of the amount provided in such paragraph for the program element from which the transfer is made; and

(ii) may not result in an increase of more than 10 percent of the amount provided in such paragraph for the program element to which the transfer is made.

(C) Amounts transferred pursuant to subparagraph (A) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) DEFINITION.—In this section, the term "1972 ABM Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitations of Anti-Ballistic Missiles, signed at Moscow on May 26, 1972.

SEC. 222. LIMITATION ON DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991, or for any fiscal year before 1991, shall be subject to the limitations prescribed in paragraph (2).

(2) Funds described in paragraph (1) may not be obligated or expended—

(A) for the development or testing of any antiballistic missile system or component, except for development and testing consistent with the development and testing described in the May 1990 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the May 1990 SDIO Report.

(3) The limitations in paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1991 if the transfer is made in accordance with section 1501 of this Act.

(b) DEFINITION.—As used in this section, the term "May 1990 SDIO Report" means the report entitled "1990 Report to Congress on the Strategic Defense Initiative", dated May 1990, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense on June 7, 1990, pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1398; 10 U.S.C. 2431 note).

SEC. 223. PROHIBITION ON OPERATIONAL TEST AND EVALUATION OF STRATEGIC DEFENSE SYSTEMS

(a) PROHIBITION.—Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991, or for any fiscal year before fiscal year 1991, may not be obligated for any operational test and evaluation activity in support of—

(1) a strategic defense system; or

(2) a program, project, or activity of the Strategic Defense Initiative.

(b) RULE OF CONSTRUCTION.—Notwithstanding subsection (a), the Strategic Defense Initiative Organization may engage in planning activities (including studies, design activities, and computer simulations) related to testing of Strategic Defense Initiative systems or elements.

SEC. 224. BOOST SURVEILLANCE AND TRACKING SYSTEM

(a) PROHIBITION ON FULL-SCALE DEVELOPMENT.—None of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for fiscal year 1991 for research, development, test, and evaluation may be obligated for full-scale development of the Boost Surveillance and Tracking System (BSTS).

(b) TRANSFER OF BSTS SYSTEM TO AIR FORCE.—The Secretary of Defense shall transfer immediately responsibility for the direction, management, and funding for the development and procurement of the Boost Surveillance and Tracking System from the Strategic Defense Initiative Organization to the Secretary of the Air Force.

SEC. 225. THEATER MISSILE DEFENSE PROGRAMS

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) The proliferation of ballistic missiles and chemical and nuclear weapons technology applicable to missile warhead development is potentially destabilizing, is a threat to United States forces, and poses a significant threat to the national security of friends and allies of the United States around the world.

(2) Of the funds authorized for the Strategic Defense Initiative (SDI) for fiscal year 1991, $198,000,000 should be made available for the development of anti-tactical ballistic missiles (ATBM) systems to counter such threats. In this regard, development of systems such as the Extended Range Interceptor and the Theater High Altitude Air Defense should be accelerated.

(3) The SDI organization should ensure that the Navy and Marine Corps are involved in developmental programs for future ATBM systems suitable for deployment with their projection and expeditionary forces.

(4) The Secretary of the Army should establish a vigorous program to develop and test a rapidly deployable ATBM capability for United States military forces with the near-term focus of that development and test effort on the Patriot II system.

(5) Congress endorses a continuing program of cooperative research and development, jointly funded by the United States and the government of Israel, on the Arrow Tactical Anti-Missile program with a view to proving out (through such cooperative research and development) the feasibility and practicality of the system.

(b) DIRECTION ON ATBM TECHNOLOGY PROGRAMS.—

(1) ARROW TACTICAL ANTI-MISSILE PROGRAM.—(A) Subject to subparagraph (B), the Secretary of Defense may obligate, from funds made available for fiscal year 1991 for the Strategic Defense Initiative, up to $42,000,000 for the purpose of initiating the Tactical Demonstration Program (constituting Phase II of research and development work on the Arrow program).

(B) Funds may not be obligated for the purpose described in subparagraph (A) until the United States and the government of Israel enter into a memorandum of agreement governing the conduct and funding of the Technical Demonstration Program. Israel.

(2) PATRIOT II ATBM DEVELOPMENT PROGRAM.—(A) The Secretary of the Army may obligate from funds made available for fiscal year 1991 for Research, Development, Test, and Evaluation for the Army up to $50,000,000 to conduct additional tests of the Patriot II system against existing types of ballistic missile threats. The authority under the preceding sentence is in addition to any other authority provided in this Act regarding the Patriot II system.

(B) From within the funds referred to in subparagraph (A), the Army may obligate part of such funds for the development of support systems (such as tracking and attack assessment radars) for existing and future ATBM systems.

PART D—STRATEGIC PROGRAMS

SEC. 231. FUNDING AND SENSE OF CONGRESS FOR ICBM MODERNIZATION PROGRAM

(a) PROGRAM FUNDING.—Of the amount appropriated for the Department of Defense for fiscal year 1991, not more than $687,671,000 shall be available for the intercontinental ballistic missile (ICBM) modernization program, of which not more than $680,208,000 shall be available for the rail garrison MX (RGMX) program and the small ICBM (SICBM) program.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) research and development of the RGMX and SICBM is a prudent and necessary hedge (A) against the robust Soviet strategic nuclear modernization program and, in particular, Soviet rail- and road-mobile ICBM programs, (B) against possible future threats to the invulnerability of the sea-based leg of the strategic Triad, and (C) to help ensure the continued stability of the strategic balance as the United States negotiates reductions in its strategic forces under the prospective Strategic Arms Reduction Talks (START) agreement and the planned follow-on negotiations for further reductions;

(2) the two-missile mobile ICBM modernization program has failed to achieve the political consensus necessary for deployment of both systems;

(3) as long as peaceful trends continue in the Soviet Union, the defense budget of the United States is likely to continue to decline in the future, making the deployment of both the RGMX system and the SICBM system unaffordable;

(4) at a minimum the United States should continue to develop the SICBM system for deployment in silos to meet future United States ICBM modernization requirements and arms control objectives, while preserving a realistic option for subsequent mobile basing should future strategic or arms control developments so require; and

(5) any funds obligated or expended for the RGMX system should be used only to conduct critical activities needed to complete research, development, test, and evaluation and maintain the key technologies for that system on a stand-by or "moth ball" status.

SEC. 232. DEPRESSED TRAJECTORY BALLISTIC MISSILES AND OTHER SHORT-TIME-OF-FLIGHT BALLISTIC MISSILES

Soviet Union.

Congress commends the President for proposing to the Soviet Union that the United States and the Soviet Union observe an interim mutual restraint on the flight testing of depressed trajectory and other short-time-of-flight ballistic missiles and expresses disappointment that the Soviet Union has not agreed to this proposal. Congress urges the President to continue to pursue such interim restraint and to further explore the possibility of a permanent agreement banning flight tests of such missiles.

PART E—OTHER MATTERS

SEC. 241. BIOLOGICAL DEFENSE RESEARCH PROGRAM

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2369 the following new section:

"§ 2370. Biological Defense Research Program

"(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress an annual report on research, development, test, and evaluation conducted by the Department of Defense during the preceding fiscal year for the purposes of biological defense. The report shall be submitted in both classified and unclassified form and shall be submitted each year in conjunction with the submission of the budget to Congress for the next fiscal year.

"(b) CONTENTS OF REPORT.—Each report under this section shall provide the following information:

"(1) A description of each biological or infectious agent or toxin that was used in, or that was the subject of, research, development, test, and evaluation conducted for the purposes of biological defense during the fiscal year covered by the report and not previously listed in publications of the Centers for Disease Control (CDC).

"(2) A description of the biological properties of each such agent.

"(3) A statement of the location of each biological defense research facility and the amount spent by the Department of Defense during the fiscal year covered by the report at each such facility for research, development, test, and evaluation for biological defense research.

"(4) A statement of the biosafety level used at each such facility in conducting that research, development, test, and evaluation.

"(5) A statement that documentation of annual coordination with local health, fire, and police officials for the provision of emergency support services has been included in the facility safety plan for each biological defense research facility.

"(c) TYPES OF RESEARCH COVERED.—This section applies to all research, development, test, and evaluation activities conducted by the Department of Defense for the purpose of biological defense.

"(d) DEFINITIONS.—In this section:

"(1) The term 'biosafety level' means the applicable biosafety level described in the publication entitled 'Biosafety in Microbiological and Biomedical Laboratories' (CDC-NIH, 1984).

"(2) The term 'biological defense research facility' means a location at which research, development, test, and evaluation for purposes of biological defense involving any biological or infectious agent or toxin (whether or not listed in a CDC publication) is conducted.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2369 the following new item:

"2370. Biological Defense Research Program.".

SEC. 242. FUNDING FOR FACILITY FOR COLLABORATIVE RESEARCH AND TRAINING FOR MILITARY MEDICAL PERSONNEL

(a) FUNDING.—Of the amounts authorized to be appropriated pursuant to section 201 for fiscal year 1991, $18,000,000 shall be available, subject to subsection (b)(3), to the Secretary of Defense as a contribution toward the construction of a facility as part of a complex to enable collaborative research and training for Department of Defense military medical personnel in the following fields:

(1) Trauma care.
(2) Head, neck, and spinal injury.
(3) Paralysis.
(4) Neurosciences and neurodegenerative diseases.

(b) REQUIREMENTS.—(1) Such a contribution may be made only for a facility that will—

(A) support education, training, treatment, and rehabilitative services related to the fields described in subsection (a); and

(B) support neuroscience research with relevance for the medical mission of the Department of Defense.

(2) Such a contribution may be made only for a facility to be located at an institutional setting that—

(A) has received national recognition for its work in the fields listed in subsection (a); and

(B) can best facilitate interagency collaborative research, education, and training activities.

(3) The amount of a contribution under subsection (a) may not exceed 33 percent of the total cost of such complex.

SEC. 243. GRANT FOR AN INSTITUTE FOR ADVANCED SCIENCE AND TECHNOLOGY

(a) AUTHORITY TO MAKE GRANT.—Of the amount authorized to be appropriated pursuant to section 201 for the Defense Agencies, $10,000,000 shall be available for a grant to be awarded through the use of competitive procedures to an institution of higher education to establish an institute for advanced science and technology.

(b) QUALIFICATIONS.—The Secretary of Defense shall select an institution for award of a grant under subsection (a) based upon demonstrated competence of the institution's faculty. The institution selected for the grant must—

(1) be a nationally recognized center conducting artificial intelligence research and education in the areas of natural language and speech processing and task oriented computer animation;

(2) be carrying out research on electronically and ionically conducted organic polymers; and

(3) have demonstrated competence in research and education in nonlinear optics and visual analysis.

(c) COST-SHARING REQUIREMENT.—The grant shall be available for initial construction of a facility, the Federal share of which may not exceed 50 percent of the total cost.

(d) PURPOSE OF GRANTS.— The grant shall be designed to support development of critical technologies as identified by the Department of Defense in its Critical Technologies Plan as required by Public Law 100-456.

SEC. 244. SUPPORT FOR ADVANCED RESEARCH PROJECTS

Of the amounts authorized to be appropriated pursuant to section 201, $50,000,000 shall be available for the support (through the Defense Advanced Research Projects Agency) of advanced precompetitive research provided for in cooperative agreements and other transactions authorized by section 2371 of title 10, United States Code.

SEC. 245. COMPETITION IN CONTRACTING FOR COMPUTERS AND SOFTWARE

(a) CONGRESSIONAL CONCERNS REGARDING DEFENSE COMPUTER PROCUREMENT.—The Congress notes the concern regarding the manner in which solicitations are performed for computer procurement for components of the Department of Defense.

(b) GAO REVIEW.—The Comptroller General of the United States shall conduct a review of a selected number of planned and recently completed computer procurements for components of the Department of Defense to determine if those solicitations provide any barriers to full and open competition for United States computer suppliers. The procurements reviewed shall include the Air Force procurement for Tactical Air Force Workstations under solicitation F19630-90-R-0014 and the Army procurement for Light Weight Computer Unit under solicitation DAAB07-90-R-L100.

(c) MATTERS TO BE INCLUDED IN REVIEW.—The review shall determine in the case of each solicitation reviewed—

(1) whether unnecessary or non-germane specifications, evaluation factors, unwarranted performance requirements, packaging requirements, or other limiting bias factors are present;

(2) whether the solicitation contains restrictive requirements in excess of minimum Government needs;

(3) whether Government developed applications software is favored over commercial "off the shelf" software solutions and the sufficiency of the rationale to support Government development;

(4) the need for components of the Department of Defense to agree upon a standard prescribed architecture and operating system; and

(5) the cost effectiveness of computer procurements based on the realism of specifications as compared to intended use.

Statements regarding the degree of assessment supporting the specification development and rigidity as they limit or tend to limit offerers or contract awards are to be included.

(d) REPORT TO CONGRESS.—The Comptroller General shall complete the study and submit a report on the results of the study to the Committees on Armed Services of the Senate and House of Representatives not later than three months after the date of the enactment of this Act.

SEC. 246. ADVISORY COMMISSION ON CONSOLIDATION AND CONVERSION OF DEFENSE RESEARCH AND DEVELOPMENT LABORATORIES

(a) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Consolidation and Conversion of Defense Research and Development Laboratories" (hereinafter in this section referred to as the "Commission").

(b) DUTIES.—(1) The Commission shall conduct a study to determine the feasibility and desirability of various means to improve the operation of laboratories of the Department of Defense.

(2) In conducting the study described in this subsection, the Commission shall—

(A) consider such means as—

(i) conversion of some or all such laboratories to Government-owned, contractor-operated laboratories;

(ii) modification of the missions and functions of some or all such laboratories; and

(iii) consolidation or closure of some or all such laboratories; and

(B) determine—

(i) the short-term costs and long-term cost savings that are likely to result from such consolidation, closure, or conversion; and

(ii) a proposed schedule for each consolidation, closure, or conversion of a laboratory considered appropriate by the Commission.

(c) COMPOSITION.—(1) The Commission shall be composed of 13 members, as follows:

(A) The Director of Defense Research and Engineering who shall be the chairman of the Commission.

(B) Six members appointed by the Secretary of Defense from among officers and employees of the Federal Government, including at least one director of a research and development laboratory of each military department.

(C) Six members appointed by the Secretary from among persons in the private sector.

(2) The Secretary of Defense shall make all appointments under subparagraphs (B) and (C) of paragraph (1) within 60 days after the date of the enactment of this Act.

(3) Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) MEETINGS; QUORUM.—(1) The Commission shall convene its first meeting within 15 days after the first date on which all members of the Commission have been appointed. Thereafter, the Commission shall meet at the discretion of its Chairman or at the call of a majority of its members.

(2) Seven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) COMPENSATION OF MEMBERS; TRAVEL EXPENSES.—(1) Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(2) The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(3) Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(f) REPORT TO SECRETARY.—Not later than September 30, 1991, the Commission shall submit to the Secretary a report containing the Commission's recommendations regarding the matters considered and determined by the Commission pursuant to subsection (b).

(g) REPORT BY SECRETARY.—Not later than 30 days after the date of the submission of the report pursuant to subsection (f), the Secretary shall transmit such report to each House of the Congress, together with any comments that the Secretary considers appropriate.

(h) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission submits its report to the Secretary pursuant to subsection (g).

SEC. 247. NATIONAL DEFENSE SCIENCE AND ENGINEERING EDUCATION

(a) IN GENERAL.—(1) Chapter 111 of title 10, United States Code, is amended by adding at the end the following:

"§ 2192. Science, mathematics, and engineering education

"(a) The Secretary of Defense, in consultation with the Secretary of Education, shall, on a continuing basis—

"(1) identify actions which the Department of Defense may take to improve education in the scientific, mathematics, and engineering skills necessary to meet the long-term national defense needs of the United States for personnel proficient in such skills; and

"(2) establish and conduct programs to carry out such actions.

"(b) The Secretary shall designate an individual within the Office of the Secretary of Defense to advise and assist the Secretary regarding matters relating to science, mathematics, and engineering education and training.

"§ 2193. Science and mathematics education improvement program

"(a)(1) The Secretary of Defense may, in accordance with the provisions of this subsection, carry out a program for awarding grants to students who have been accepted for enrollment in, or who are enrolled in, an institution of higher education as undergraduate or graduate students in scientific and engineering disciplines critical to the national security functions of the Department of Defense. Grant programs.

"(2) Grant proceeds shall be disbursed on behalf of students awarded grants under this subsection to the institutions of higher education at which the students are enrolled. No grant proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

"(3) The amount of a grant awarded a student under this subsection may not exceed the student's cost of attendance.

"(4) The amount of a grant awarded a student under this subsection shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

"(5) The Secretary shall give priority to awarding grants under this subsection in a manner likely to stimulate the interest of women and members of minority groups in pursuing scientific and engineering careers. The Secretary may consider the financial need of applicants in making awards in accordance with such priority.

"(b) The Secretary of Defense, in coordination with the Secretary of Education, may establish programs for the purpose of improving the mathematics and scientific knowledge and skills of elementary and secondary school students and faculty members.

"(c) In this section:

"(1) The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(2) The term 'cost of attendance' has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 10871l).

Government contracts.

"§ 2194. Education partnerships

"(a) The Secretary of Defense shall authorize the director of each defense laboratory to enter into one or more education partnership agreements with educational institutions in the United States for the purpose of encouraging and enhancing study in scientific disciplines at all levels of education. The educational institutions referred to in the preceding sentence are local education agencies, colleges, universities, and any other nonprofit institutions that are dedicated to improving science, mathematics, and engineering education.

"(b) Under a partnership agreement entered into with an educational institution under this section, the director of a defense laboratory may provide assistance to the educational institution by—

"(1) loaning defense laboratory equipment to the institution;

"(2) transferring to the institution defense laboratory equipment determined by the director to be surplus;

"(3) making laboratory personnel available to teach science courses or to assist in the development of science courses and materials for the institution;

"(4) involving faculty and students of the institution in defense laboratory research projects;

"(5) cooperating with the institution in developing a program under which students may be given academic credit for work on defense laboratory research projects; and

"(6) providing academic and career advice and assistance to students of the institution.

Minority groups.

"(c) The Secretary of Defense shall ensure that the director of each defense laboratory shall give a priority under this section to entering into an education partnership agreement with one or more historically Black colleges and universities and other minority institutions referred to in paragraphs (3), (4), and (5) of section 312(b) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)).

Women. Minority groups.

"(d) The Secretary of Defense shall ensure that, in entering into education partnership agreements under this section, the director of a defense laboratory gives a priority to providing assistance to educational institutions serving women, members of minority groups, and other groups of individuals who traditionally are involved in the engineering and science professions in disproportionately low numbers.

"(e) In this section, the term 'local education agency' has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"§ 2195. Department of Defense cooperative education programs

"(a) The Secretary of Defense shall ensure that the director of each defense laboratory establishes, in association with one or more public or private colleges or universities in the United States or one or more consortia of colleges or universities in the United States,

cooperative work-education programs for undergraduate and graduate students.

"(b) Under a cooperative work-education program established under subsection (a), a director referred to in that subsection may, without regard to any applicable non-statutory limitation on the number of authorized personnel or on the aggregate amount of any personnel cost—

"(1) make an offer for participation in the cooperative work-education program directly to a student and appoint such student to an entry-level position of employment in the laboratory of such director;

"(2) pay such person a rate of basic pay, not to exceed the maximum rate of pay provided for grade GS-9 under the General Schedule under section 5332 of title 5, that is competitive with compensation levels provided for entry-level positions in similar industry-sponsored cooperative work-education programs;

"(3) pay all travel expenses between the college or university in which the student is enrolled and the laboratory concerned for not more than six round trips per year; and

"(4) pay all or part of such fees, charges, and costs related to the participation of such student in the cooperative work-education program as tuition, matriculation fees, charges for library and laboratory services, materials, and supplies, and the purchase or rental price of books.

"(c) A director of a defense laboratory may—

"(1) require a student, as a condition for receiving payments referred to in subsection (b)(4), to enter into a written agreement to continue employment in such defense laboratory for a period of service specified in the agreement; or

"(2) make such payments without requiring such an agreement.

"§ 2196. Definition

"In this chapter, 'defense laboratory' means a laboratory operated by the Department of Defense or owned by the Department of Defense and operated by a contractor or a facility of a Defense Agency at which research and development activities are conducted.".

(2)(A) The heading of chapter 111 of such title is amended to read as follows:

"CHAPTER 111—SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION".

(B) The tables of chapters at the beginning of subtitle A of such title and at the beginning of part III of such subtitle are each amended by striking out the item relating to chapter 111 and inserting in lieu thereof the following:

"111. Support of Science, Mathematics, and Engineering Education..... 2191".

(C) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2192. Science, mathematics, and engineering education.
"2193. Science and mathematics education improvement program.
"2194. Education partnerships.

"2195. Department of Defense cooperative education programs.
"2196. Definition.".

(b) RECOMMENDATIONS OF THE SECRETARY OF DEFENSE TO THE DIRECTOR OF THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall transmit to the Director of the Office of Science and Technology Policy the Secretary's determinations regarding measures initially identified pursuant to section 2192(a)(1) of title 10, United States Code (as added by subsection (a)), as actions which the Department of Defense may take to improve education in the scientific, mathematics, and engineering skills necessary to meet the long-term national defense needs of the United States for personnel proficient in those skills.

SEC. 248. ESTABLISHMENT OF DEPARTMENT OF DEFENSE TECHNOLOGY OFFICE IN JAPAN

(a) IN GENERAL.—The Secretary of Defense shall establish an office of the Department of Defense in Japan to investigate, evaluate, and facilitate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Department of Defense.

(b) DEADLINE.—The Secretary of Defense shall establish such office no later than September 30, 1991.

SEC. 249. GRANT FOR STUDY AND ANALYSIS OF THE SOVIET UNION AND CERTAIN OTHER COUNTRIES

Of the amounts authorized to be appropriated pursuant to section 201, $600,000 shall be available for making a grant to one or more qualified nonprofit organizations for the support of research and analyses by emigrants from the Soviet Union, the countries of Eastern Europe (including Albania), and Cuba regarding political, economic, social, and other developments in those countries.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATION OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $21,899,881,000.
(2) For the Navy, $23,165,935,000.
(3) For the Marine Corps, $1,892,200,000.
(4) For the Air Force, $20,624,110,000.
(5) For the Defense Agencies, $8,317,421,000.
(6) For the Army Reserve, $909,100,000.
(7) For the Naval Reserve, $998,000,000.
(8) For the Marine Corps Reserve, $84,800,000.
(9) For the Air Force Reserve, $1,065,900,000.
(10) For the Army National Guard, $1,980,400,000.
(11) For the Air National Guard, $2,247,200,000.
(12) For the National Board for the Promotion of Rifle Practice, $4,000,000.
(13) For the Defense Inspector General, $98,519,000.

(14) For Drug Interdiction and Counter-drug Activities, Defense, $1,084,100,000.
(15) For the Court of Military Appeals, $5,400,000.
(16) For Environmental Restoration, Defense, $1,062,527,000.
(17) For Humanitarian Assistance, $13,000,000.

(b) SPECIAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1991, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—
(1) for unbudgeted increases in fuel costs; and
(2) for unbudgeted increases as a result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1991 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:
(1) For the Army Stock Fund, $302,500,000.
(2) For the Air Force Stock Fund, $887,900,000.
(3) For the Army Industrial Fund, $151,100,000.
(4) For the Navy Industrial Fund, $238,700,000.
(5) For the Defense Industrial Fund, $4,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(a)(17) for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union.
(2) Of the funds authorized to be appropriated for fiscal year 1991 pursuant to such section for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian nonCommunist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to such section for fiscal year 1991 for humanitarian assistance, other than the funds described in subsection (a)(2), to provide for—
(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and
(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to such section for humanitarian assistance shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such

transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to such section for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS TO CONGRESS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance under the humanitarian relief laws specified in paragraph (4).

(2) A report required by paragraph (1) shall be submitted—

(A) not later than 60 days after the date of the enactment of this Act;

(B) not later than June 1, 1991; and

(C) not later than June 1 of each year thereafter until all funds available for humanitarian assistance under the humanitarian relief laws specified in paragraph (4) have been obligated.

(3) A report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (4).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(4) The humanitarian relief laws referred to in paragraphs (1), (2), and (3) are the following:

(A) This section.

(B) Section 305 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 617).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

(D) Section 303 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1948).

(E) Section 304 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1409).

(5) Section 304(f)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1409) is amended by striking out subsection (f).

SEC. 304. ASSISTANCE TO THE 1990 WINTER WORLD SERIES TORCH RUN AND THE 1991 FREESTYLE WORLD CHAMPIONSHIPS

Of the amounts authorized to be available to the Department of Defense for the provision of logistical support and personnel services for the 1990 Goodwill Games, $100,000 may be used by the Secretary of Defense to provide medical and ambulance support for—

(1) the Winter World Series Torch Run to be held in the State of New York between November 1, 1990, and December 7, 1990;

(2) the Freestyle World Championships to be held at the Olympic Center in Lake Placid, New York, between February 10, 1991, and March 3, 1991.

SEC. 305. EXTENDED COLD WEATHER CLOTHING SYSTEMS

Of the amount authorized to be appropriated under section 301(a)(1) for operation and maintenance for the Army for fiscal year 1991, $39,951,000 may be used for the acquisition of clothing under the Extended Cold Weather Clothing System.

PART B—LIMITATIONS

SEC. 311. LIMITATION ON OBLIGATIONS AGAINST STOCK FUNDS

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the stock funds of the Department of Defense during fiscal year 1991 in excess of 80 percent of the sales from such stock funds during that fiscal year.

(2) For purposes of determining the amount of obligations against, and sales from, the stock funds during fiscal year 1991, the Secretary shall exclude obligations and sales for fuel and subsistence items.

(b) EXCEPTION.—The Secretary of Defense may waive the limitation contained in subsection (a) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

SEC. 312. PROHIBITION ON MANAGEMENT OF CIVILIAN PERSONNEL BY END STRENGTHS DURING FISCAL YEAR 1991

(a) MANAGEMENT BY END STRENGTH.—Notwithstanding section 129(a)(3) of title 10, United States Code, the civilian personnel of the Department of Defense may not be managed during fiscal year 1991 on the basis of any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year or any constraint or limitation carried out through the measurement of full-time equivalent employees or other related methodology.

(b) WAIVER OF CIVILIAN PERSONNEL AUTHORIZATIONS.—Subsections (a)(4) and (b)(4) of section 115 of title 10, United States Code (as amended by section 1483(a)), shall not apply with respect to fiscal year 1991 or with respect to the appropriation of funds for that fiscal year.

PART C—CHANGES TO EXISTING LAW

SEC. 321. COMMISSARY AND OTHER PRIVILEGES FOR CERTAIN MEMBERS OF A RESERVE COMPONENT AND CERTAIN OTHER PERSONS

(a) USE OF COMMISSARY STORES BY MEMBERS OF THE READY RESERVE.—(1) Subsection (a) of section 1063 of title 10, United States Code, is amended to read as follows:

"(a) ELIGIBILITY OF MEMBERS OF READY RESERVE.—A member of the Ready Reserve who performs active duty for training (or annual training without compensation equivalent to active duty for training) shall accrue eligibility to use commissary stores of the Department of Defense for each day of that training. The Secretary concerned shall authorize the member to have one day of eligibility for using commissary stores, up to 12 days each calendar year, for the performance of that duty.".

(2) Section 1063(a) of title 10, United States Code (as amended by subsection (a)), shall apply with respect to active duty for training or

10 USC 1063 note.

annual training performed by a member of the Ready Reserve after the date of the enactment of this Act.

(b) USE OF COMMISSARY STORES BY CERTAIN OTHER PERSONS.—Chapter 54 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1064. Use of commissary stores by certain members and former members

"Under regulations prescribed by the Secretary of Defense, a person who would be eligible for retired pay under chapter 67 of this title but for the fact that the person is under 60 years of age shall be authorized to use commissary stores of the Department of Defense for 12 days each calendar year.".

(c) USE OF MORALE, WELFARE, AND RECREATION FACILITIES.—Chapter 54 of title 10, United States Code, is further amended by adding after section 1064, as added by subsection (b), the following new section:

"§ 1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents

"(a) UNRESTRICTED USE REQUIRED.—Members of the Selected Reserve in good standing (as determined by the Secretary concerned) and members who would be eligible for retired pay under chapter 67 of this title but for the fact that the member is under 60 years of age, and the dependents of such members, shall be permitted to use the exchange stores and other revenue generating facilities operated by nonappropriated fund activities of the Department of Defense for the morale, welfare, and recreation of members of the Armed Forces. Such use shall be permitted on the same basis as members on active duty.

"(b) ELIGIBILITY TO USE AUTHORIZED.—Subject to such regulations as the Secretary of Defense may prescribe, members of the Ready Reserve (other than members of the Selected Reserve) may be permitted to use the facilities referred to in subsection (a) on the same basis as members serving on active duty.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"1064. Use of commissary stores by certain members and former members.
"1065. Use of certain morale, welfare, and recreation facilities by members of reserve components and dependents.".

10 USC 1064 note.

(e) EFFECTIVE DATE AND DEADLINE FOR REGULATIONS.—(1) The amendments made by subsections (b) and (c) shall take effect 120 days after the date of the enactment of this Act.

(2) The Secretary of Defense shall prescribe such regulations as may be necessary for the proper administration of sections 1064 and 1065 of title 10, United States Code, as added by this section, not later than 90 days after the date of the enactment of this Act.

SEC. 322. GUIDELINES FOR FUTURE REDUCTIONS OF CIVILIAN EMPLOYEES OF INDUSTRIAL-TYPE OR COMMERCIAL-TYPE ACTIVITIES

(a) GUIDELINES REQUIRED.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1597. Employees of industrial-type or commercial-type activities: guidelines for future reductions

"(a) ESTABLISHMENT OF GUIDELINES.—The Secretary of Defense shall establish guidelines for reductions in the number of civilian employees of the Department of Defense who are employed by industrial-type activities or commercial-type activities described in section 2208 of this title. These guidelines shall include procedures for reviewing civilian positions for reductions in those activities according to the following order:

"(1) Positions filled by foreign national employees overseas.

"(2) All other positions filled by civilian employees overseas.

"(3) Overhead, indirect, and administrative positions in headquarters or field operating agencies in the United States.

"(4) Direct operating or production positions in the United States.

"(b) MASTER PLAN.—(1) Each agency or component of the Department of Defense that employs persons referred to in subsection (a) shall include in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense for fiscal year 1992 a five-year civilian personnel master plan that includes the following:

"(A) Demographic information on each activity, including number and type (overhead, administrative, or direct labor) of personnel in the activity.

"(B) Current and projected workload and manpower requirements for each activity.

"(2) Each agency or component of the Department of Defense that employs persons referred to in subsection (a) and whose budget request for a fiscal year would require a furlough for, or an involuntary reduction in, such employees shall include in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense for that fiscal year a five-year civilian personnel master plan that contains the following:

"(A) The information required under paragraph (1).

"(B) A listing of all activities within the component or agency planning the furlough or involuntary reduction.

"(C) An examination of the effect of such furlough or involuntary reduction on workload requirements.

"(D) A summary of the factors used by management to determine the size and location of the proposed furlough or involuntary reduction.

"(c) EXCEPTION.—The Secretary of Defense may permit deviations from the guidelines established under subsection (a) or a master plan prepared under subsection (b) if the Secretary determines that such deviation is critical to the national security of the United States. The Secretary shall immediately notify the Congress of any such deviation and the reasons for such deviation.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1597. Employees of industrial-type or commercial-type activities: guidelines for future reductions.".

(b) INVOLUNTARY REDUCTIONS OF CIVILIAN PERSONNEL IN FISCAL YEAR 1991.—After the date of the enactment of this Act, an agency or component of the Department of Defense may not implement any involuntary reductions or furloughs of civilian personnel in industrial-type or commercial-type activities in fiscal year 1991 until 45

10 USC 1597 note.

days after the date on which the agency or component submits a report to Congress outlining the reasons why such reductions or furloughs are required and including a description of any changes in workload and manpower requirements that will result from those reductions or furloughs.

SEC. 323. INVENTORY MANAGEMENT POLICIES

(a) IN GENERAL.—(1) Chapter 145 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2458. Inventory management policies

"(a) POLICY REQUIRED.—The Secretary of Defense shall issue a single, uniform policy on the management of inventory items of the Department of Defense. Such policy shall—

"(1) establish maximum levels for inventory items sufficient to achieve and maintain only those levels for inventory items necessary for the national defense; and

"(2) provide guidance to item managers and other appropriate officials on how effectively to eliminate wasteful practices in the acquisition and management of inventory items.

"(b) PERSONNEL EVALUATIONS.—The Secretary of Defense shall establish procedures to ensure that, with regard to item managers and other personnel responsible for the acquisition and management of inventory items of the Department of Defense, personnel appraisal systems for such personnel give appropriate consideration to efforts made by such personnel to eliminate wasteful practices and achieve cost savings in the acquisition and management of inventory items.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2458. Inventory management policies.".

10 USC 2458 note.

(b) DATE OF ISSUANCE OF POLICY.—The policy required by section 2458(a) of title 10, United States Code (as added by subsection (a)), shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 324. EXPANSION OF AUTHORITY TO DONATE FOOD TO CHARITABLE NONPROFIT FOOD BANKS

(a) INCLUSION OF MESS FOOD, MEALS READY-TO-EAT, AND OTHER FOOD.—Section 2485 of title 10, United States Code, is amended—

(1) by striking out "commissary store" in subsection (a);

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) Food that may be donated under this section is commissary store food, mess food, meals ready-to-eat (MREs), and other food available to the Secretary of a military department that—

"(1) is certified as edible by appropriate food inspection technicians;

"(2) would otherwise be destroyed as unusable; and

"(3) in the case of commissary store food, is unmarketable and unsaleable."; and

(3) by striking out "A donation" in subsection (c) and inserting in lieu thereof "In the case of commissary store food, a donation".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2485. Donation of unusable food: commissary stores and other activities".

(2) The item relating to such section in the table of sections at the beginning of chapter 147 of such title is amended to read as follows:

"2485. Donation of unusable food: commissary stores and other activities.".

SEC. 325. AUTHORITY TO EXCHANGE PROPERTY FOR SERVICES IN CONNECTION WITH HISTORICAL COLLECTIONS

Section 2572(b) of title 10, United States Code, is amended—

(1) by striking out the period at the end of paragraph (1) and inserting in lieu thereof "or for search, salvage, and restoration services which directly benefit the historical collection of the armed forces."; and

(2) in paragraph (2)—

(A) by inserting ", or services provided," in the first sentence after "property transferred" the first place it appears; and

(B) by inserting "in the case of an exchange of property for property" in the second sentence after "preceding sentence".

SEC. 326. AUTHORITY TO FURNISH TRANSPORTATION IN CERTAIN AREAS OUTSIDE THE UNITED STATES

(a) AUTHORITY TO FURNISH TRANSPORTATION.—(1) Chapter 157 of title 10, United States Code, is amended by inserting after section 2636 the following new section:

"§ 2637. Transportation in certain areas outside the United States

"The Secretary of Defense may authorize the commander of a unified combatant command to use Government owned or leased vehicles to provide transportation in an area outside the United States for members of the uniformed services and Federal civilian employees under the jurisdiction of that commander, and for the dependents of such members and employees, if the commander determines that public or private transportation in such area is unsafe or not available. Such transportation shall be provided in accordance with regulations prescribed by the Secretary of Defense.". Regulations.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2636 the following new item:

"2637. Transportation in certain areas outside the United States.".

(b) CONFORMING AMENDMENT.—Section 1344(c) of title 31, United States Code, is amended by inserting ", section 2637 of title 10," after "Act of 1956".

SEC. 327. AUTHORIZATION FOR CERTAIN BANDS OF THE ARMED FORCES TO PRODUCE RECORDINGS FOR COMMERCIAL SALE

(a) ARMY.—Section 3634 of title 10, United States Code, is amended—

(1) by striking out "No" and inserting in lieu thereof "(a) PROHIBITION.—Except as provided in subsection (b), no", and

(2) by adding at the end the following new subsection:

"(b) RECORDINGS.—(1) Any Army band designated as a special band may produce recordings for commercial sale.

"(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the Army for expenses of Army bands.

Regulations. "(3) The Secretary of the Army shall prescribe regulations governing the accounting of such proceeds.".

(b) NAVY AND MARINE CORPS.—(1) Section 6223 of such title is amended by adding at the end the following new subsection:

"(c) EXCEPTION FOR COMMERCIAL RECORDINGS.—(1) Notwithstanding any limitation contained in subsection (a) or (b), any Navy band or Marine Corps band designated as a special band may produce recordings for commercial sale.

"(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the Navy for expenses of Navy and Marine Corps bands.

Regulations. "(3) The Secretary of the Navy shall prescribe regulations governing the accounting of such proceeds.".

(2) Such section is further amended—

(A) by inserting "NAVY BANDS AND MEMBERS.—" after "(a)"; and

(B) by inserting "MEMBERS OF MARINE CORPS BANDS.—" after "(b)".

(c) AIR FORCE.—Section 8634 of such title is amended—

(1) by striking out "No" and inserting in lieu thereof "(a) PROHIBITION.—Except as provided in subsection (b), no", and

(2) by adding after subsection (a) the following new subsection:

"(b) RECORDINGS.—(1) Any Air Force band designated as a special band may produce recordings for commercial sale.

"(2) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Department of the Air Force for expenses of Air Force bands.

Regulations. "(3) The Secretary of the Air Force shall prescribe regulations governing the accounting of such proceeds.".

(d) COAST GUARD.—(1) Chapter 17 of title 14, United States Code, is amended by inserting after section 639 the following new section:

"§ 640. Coast Guard band recordings for commercial sale

"(a) The Coast Guard band may produce recordings for commercial sale.

"(b) Amounts received as proceeds from the sale of any such recordings may be credited to applicable appropriations of the Coast Guard for expenses of the Coast Guard band.

Regulations. "(c) The Secretary shall prescribe regulations governing the accounting of such proceeds.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 639 the following new item:

"640. Coast Guard band recordings for commercial sale.".

(e) CONFORMING AMENDMENT.—Section 974 of title 10, United States Code, is amended by striking out "section 6223 of this title" and inserting in lieu thereof "sections 3634, 6223, and 8634 of this title and section 640 of title 14,".

SEC. 328. ARMY PROGRAM TO PROMOTE CIVILIAN MARKSMANSHIP

(a) PROGRAM TO BE SELF-SUPPORTING.—Section 4313 of title 10, United States Code, is amended to read as follows:

"§ 4313. Promotion of civilian marksmanship: expenses

"(a) PROHIBITION ON APPROPRIATION OF FUNDS FOR CERTAIN EXPENSES AND SERVICES.—Funds may not be appropriated for the necessary or incidental expenses of, or personnel services connected with, any program conducted by the Department of the Army for the purpose of promoting marksmanship among civilians.

"(b) REIMBURSEMENT REQUIRED.—Funds available to the Department of Defense may be used to pay the costs of a program referred to in subsection (a) if the appropriation accounts used to pay those costs are reimbursed for the payment of those costs through fees paid by the persons or gun clubs participating in the program.

"(c) FEES.—The Secretary of the Army shall establish reasonable fees for persons and gun clubs participating in a program referred to in subsection (a). Such fees shall be established at a rate sufficient to cover the cost of operating the program, including the cost of pay and allowances earned by members of the armed forces while detailed under section 4307 or 4310 of this title, and members of the Army National Guard while detailed under section 316 of title 32, to assist in the promotion of civilian marksmanship.

"(d) RETENTION OF FUNDS.—Amounts collected by the Secretary of the Army under a program referred to in subsection (a) (including amounts collected from the sale of arms, ammunition, targets, and other supplies under section 4308 of this title) shall be retained by the Secretary to cover the cost of operating the program.".

(b) ABOLISHMENT OF ARMY'S ROLE IN THE CONSTRUCTION OF RIFLE RANGES FOR CIVILIAN RIFLE PRACTICE.—Section 4308(a)(1) of that title is amended by striking out "construction, equipment, maintenance, and operation" and inserting in lieu thereof "operation and maintenance".

(c) REQUIREMENT THAT SALES OF ARMY RIFLES AND AMMUNITION TO CIVILIANS BE MADE AT FAIR MARKET VALUE.—Section 4308(a)(5) of that title is amended by striking out "the sale" and all that follows through "rifled arms," and inserting in lieu thereof the following: "the sale (at fair market value) to citizens of the United States who are over the age of 18 and current members of a gun club,".

(d) ELIMINATION OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR THE INCIDENTAL EXPENSES OF THE NATIONAL BOARD.—Section 4308 of that title is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(e) USE OF RIFLE RANGES BY CIVILIANS.—Section 4309 of that title is amended to read as follows:

"§ 4309. Rifle ranges: available for use by members and civilians

"(a) RANGES AVAILABLE.—(1) All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by able-bodied persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) located on a military installation, the Secretary of the Army shall establish reasonable fees for the use by civilians of

that rifle range to cover any costs incurred by the Army to make that rifle range available to civilians.

"(2) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of those ranges by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section shall be prescribed by the authorities controlling the rifle range, subject to the approval of the Secretary of the Army.".

(f) SALE OF AMMUNITION FOR CIVILIAN RIFLE PRACTICE.—Section 4311 of that title is amended by inserting "the sale of" before "such quantities".

(g) CONFORMING AND CLERICAL AMENDMENTS.—(1) The heading of section 4308 of that title is amended to read as follows:

"§ 4308. Promotion of civilian marksmanship: authority of the Secretary of the Army".

(2) The table of sections at the beginning of chapter 401 of that title is amended—

(A) by striking out the items relating to sections 4308 and 4309 and inserting in lieu thereof the following:

"4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.
"4309. Rifle ranges: available for use by members and civilians."; and

(B) by striking out the item relating to section 4313 and inserting in lieu thereof the following:

"4313. Promotion of civilian marksmanship: expenses.".

10 USC 4308 note.

(h) APPLICATION OF AMENDMENTS.—The amendments made by this section shall take effect on October 1, 1992.

SEC. 329. SHIPS' STORES

(a) SALES OF GOODS AND SERVICES.—(1) Chapter 651 of title 10, United States Code, is amended by striking out section 7604 and inserting in lieu thereof the following:

"§ 7604. Ships' stores: sale of goods and services

"Under such regulations and at such prices as the Secretary of the Navy may prescribe, the Secretary may provide for the sale of goods and services from ships' stores to members of the naval service and to such other persons as provided by law.".

(2) The item relating to section 7604 in the table of sections at the beginning of that chapter is amended to read as follows:

"7604. Ships' stores: sale of goods and services.".

Regulations. 10 USC 7604 note.

(3) The regulations required to be prescribed under section 7604 of title 10, United States Code (as amended by paragraph (1)), shall be first prescribed not later than 90 days after the date of the enactment of this Act.

(b) REPORT ON OPERATION OF SHIPS' STORES.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report reviewing the operations of all ships' stores and including such recommendations for improving such operations as the Secretary considers appropriate.

(2) In conducting the review under paragraph (1), the Secretary shall consider the procurement and pricing policies of the ships' stores, the manner of organizing and managing the ships' stores,

and alternative methods by which the operations of the ships' stores may be funded.

SEC. 330. OPERATION OF THE INTER-AMERICAN AIR FORCES ACADEMY

(a) IN GENERAL.—Chapter 907 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9415. Inter-American Air Forces Academy

"(a) OPERATION.—The Secretary of the Air Force may operate the Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training to military personnel of Central and South American countries, Caribbean countries, and other countries eligible for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.).

"(b) COSTS.—The fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9415. Inter-American Air Forces Academy.".

SEC. 331. ASSISTANCE PROGRAM FOR EMPLOYEES OF A NONAPPROPRIATED FUND INSTRUMENTALITY ADVERSELY AFFECTED BY BASE CLOSURES

Section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (a)(1), by inserting after "time limitation)" the following: ", a nonappropriated fund instrumentality employee employed at a nonappropriated fund instrumentality operated in connection with such base or installation,";

(2) in subsection (b)(1), by adding at the end the following: "or employed by a nonappropriated fund instrumentality operated in connection with such base or installation,";

(3) in subsection (k), by striking "and (n) of this section" and inserting "(n), and (o)"; and

(4) by adding at the end the following new subsection:

"(o)(1) Assistance under this section shall be provided by the Secretary of Defense with respect to nonappropriated fund instrumentality employees adversely affected by the closure of a base or installation ordered to be closed, in whole or in part, after December 31, 1988.

"(2) Notwithstanding subsection (b), a civilian employee who is serving overseas and is entitled to reemployment by the Federal Government (including a nonappropriated fund instrumentality of the United States) at or in connection with a base or installation ordered to be closed, in whole or in part, shall be entitled to the benefits of this section to the same extent as an employee employed at or in connection with that base or installation.

"(3) All payments to a nonappropriated fund instrumentality employee under this section shall be made from the funds available to the Secretary of Defense under subsection (d).

"(4) For purposes of this section:

"(A) The term 'nonappropriated fund instrumentality employee' means a civilian employee who—

"(i) is a citizen of the United States; and

"(ii) is paid from nonappropriated funds of Army and Air Force Exchange Service, Navy Resale and Services Support Office, Marine Corps exchanges, or any other instrumentality of the United States under the jurisdiction of the Armed Forces which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

"(B) The term 'civilian employee' has the meaning given the term 'employee' in section 2105(a) of title 5, United States Code.".

PART D—ENVIRONMENTAL PROVISIONS

SEC. 341. ADDITIONAL REQUIREMENTS FOR ENVIRONMENTAL REPORT

Subsection (b) of section 2706 of title 10, United States Code, is amended to read as follows:

"(b) REPORT ON ENVIRONMENTAL COMPLIANCE.—(1) Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31), the Secretary of Defense shall submit to Congress a report containing the following:

"(A) A statement of the funding levels and full-time personnel required for the Department of Defense to comply with applicable environmental laws during the fiscal year for which the budget is submitted. The statement shall set forth separately the funding levels and personnel required for the Department of Defense as a whole and for each military installation.

"(B) A statement of the funding levels and full-time personnel requested for such purposes in the budget as submitted by the President, together with an explanation of any differences between the funding level and personnel requirements and the funding level and personnel requests in the budget. The statement shall set forth separately the funding levels and full-time personnel requested for the Department of Defense as a whole and for each military installation.

"(C) A projection of the funding levels and full-time personnel that will be required over the next five fiscal years for the Department of Defense to comply with applicable environmental laws, set forth separately for the Department of Defense as a whole and for each military installation.

"(D) An analysis of the effect that compliance with such environmental laws may have on the operations and mission capabilities of the Department of Defense as a whole and of each military installation.

"(E) A statement of the funding levels requested in the budget for carrying out research, development, testing, and evaluation for environmental purposes or environmental activities of the Department of Defense. The statement shall set forth separately the funding levels requested for the Department of Defense as a whole and for each military department and Defense Agency.

"(F) A description of the number and duties of current full-time personnel, both civilian and military, who carry out environmental activities (including research) for the Department of Defense, including a description of the organizational

structure of such personnel from the Secretary of Defense down to the military installation level.

"(2) In this subsection, the term 'military installation' means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military department which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, or Guam. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.".

SEC. 342. REPORTING REQUIREMENTS ON ENVIRONMENTAL COMPLIANCE AT OVERSEAS MILITARY INSTALLATIONS

(a) ADDITIONAL INFORMATION IN ENVIRONMENTAL BUDGET REPORT.—Paragraph (1) of section 2706(b) of title 10, United States Code, as amended by section 341, is amended by adding at the end the following new subparagraph:

"(G) A statement of the funding levels and personnel required for the Department of Defense to comply with applicable environmental requirements for military installations located outside the United States during the fiscal year for which the budget is submitted.".

(b) POLICIES AND REPORT ON OVERSEAS ENVIRONMENTAL COMPLIANCE.—(1) The Secretary of Defense shall develop a policy for determining applicable environmental requirements for military installations located outside the United States. In developing the policy, the Secretary shall ensure that the policy gives consideration to adequately protecting the health and safety of military and civilian personnel assigned to such installations. 10 USC 2701 note.

(2) The Secretary of Defense shall develop a policy for determining the responsibilities of the Department of Defense with respect to cleaning up environmental contamination that may be present at military installations located outside the United States. In developing the policy, the Secretary shall take into account applicable international agreements (such as Status of Forces agreements), multinational or joint use and operation of such installations, relative share of the collective defense burden, and negotiated accommodations.

(3) The Secretary of Defense shall develop a policy and strategy to ensure adequate oversight of compliance with applicable environmental requirements and responsibilities of the Department of Defense determined under the policies developed under paragraphs (1) and (2). In developing the policy, the Secretary shall consider using the Inspector General of the Department of Defense to ensure active and forceful oversight.

(4) At the same time the President submits to Congress his budget for fiscal year 1993 pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a report describing the policies developed under paragraphs (1), (2), and (3). The report also shall include a discussion of the role of the Inspector General of the Department of Defense in overseeing environmental compliance at military installations outside the United States.

(5) For purposes of this subsection, the term "military installation" means a base, camp, post, station, yard, center, or other activity under the jurisdiction of the Secretary of a military depart-

ment which is located outside the United States and outside any territory, commonwealth, or possession of the United States.

SEC. 343. EXTENSION OF DATE FOR COMPLETION OF STUDY ON WASTE RECYCLING

10 USC 2701 note.

Section 361(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1429) is amended by striking out "one year after the date of the enactment of this Act" and inserting in lieu thereof "March 1, 1991".

10 USC 2701 note.

SEC. 344. ENVIRONMENTAL EDUCATION PROGRAM FOR DEPARTMENT OF DEFENSE PERSONNEL

(a) REQUIREMENT TO ESTABLISH PROGRAM.—The Secretary of Defense shall establish a program for the purpose of educating Department of Defense personnel in environmental management.

(b) PROGRAM REQUIREMENTS.—Under the program, the Secretary shall—

(1) in consultation with environmental education personnel of colleges and universities in the United States that offer undergraduate and graduate level courses in a wide range of environmental disciplines, develop a curriculum of environmental management courses offered by such colleges and universities;

(2) provide opportunities for Department of Defense personnel to attend such courses at such colleges and universities; and

(3) develop the criteria for the selection of Department of Defense personnel to attend such courses.

(c) FISCAL YEAR 1991 FUNDING MATTERS.—Of the funds authorized to be appropriated pursuant to section 301, not more than $100,000 shall be available for the program established pursuant to subsection (a).

(d) RECOMMENDATIONS REGARDING CONTINUATION OF PROGRAM AFTER FISCAL YEAR 1991.—Not later than the date on which the President submits the budget for fiscal year 1992 to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives in writing his recommendations regarding whether the program established under subsection (a) should be continued after September 30, 1991.

10 USC 2701 note.

SEC. 345. USE OF OZONE DEPLETING SUBSTANCES WITHIN THE DEPARTMENT OF DEFENSE

(a) DOD REQUIREMENTS FOR OZONE DEPLETING CHEMICALS OTHER THAN CFCs.—(1) In addition to the functions of the advisory committee established pursuant to section 356(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 2701 note), it shall be the function of the Committee to study (A) the use of methyl chloroform, hydrochlorofluorcarbons (HCFCs), and carbon tetrachloride by the Department of Defense and by contractors in the performance of contracts for the Department of Defense, and (B) the costs and feasibility of using alternative compounds or technologies for methyl chloroform, HCFCs, and carbon tetrachloride.

(2) Within 120 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military specifications, standards, and other requirements that specify the use of methyl chloroform, HCFCs, or carbon tetrachloride.

(3) Within 150 days after the date of the enactment of this Act, the Secretary shall provide the Committee with a list of all military

specifications, standards, and other requirements that do not specify use of methyl chloroform, HCFCs, or carbon tetrachloride but cannot be met without the use of one or more of such substances.

(b) REQUIREMENT.—In preparing the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 and the report required by subsection (d) of this section, the Committee shall work closely with the Strategic Environmental Research and Development Program Council and shall provide to such Council such reports.

(c) EXTENSION OF REPORTING DEADLINE FOR CFCs.—The deadline for submitting to Congress the report required by section 356(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 concerning the uses of CFCs is hereby extended to June 30, 1991.

(d) REPORTING DEADLINE FOR METHYL CHLOROFORM, HCFCs, AND CARBON TETRACHLORIDE.—Not later than September 30, 1991, the Secretary shall submit to Congress a report containing the results of the study by the Committee required by subsection (a)(1) of this section.

SEC. 346. PROHIBITION ON PURCHASES OF PERFORMANCE BONDS AND SIMILAR GUARANTIES

Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1991 may not be obligated or expended for the purchase of surety bonds or other guaranties of financial responsibility to guarantee the performance of any direct function by the Department of Defense.

PART E—MISCELLANEOUS

SEC. 351. CONTINUATION OF AIR FORCE HURRICANE RECONNAISSANCE MISSION

The Secretary of the Air Force shall continue the operation of the hurricane reconnaissance mission of the Air Force during fiscal year 1991 at the same level as undertaken during fiscal year 1990 unless another Federal agency assumes responsibility for, and has funds to perform, such mission.

SEC. 352. ARMY RELIABILITY CENTERED-INSPECT AND REPAIR ONLY AS NECESSARY PROGRAM AT ANNISTON ARMY DEPOT

The Secretary of the Army may operate and maintain an Army Reliability Centered-Inspect and Repair Only as Necessary Program at Anniston Army Depot in Anniston, Alabama.

SEC. 353. VALIDATION OF PAYMENTS UNDER CERTAIN CONTRACTS FOR THE PROVISION OF MUNICIPAL SERVICES

Notwithstanding section 2465 of title 10, United States Code, or any other provision of law, any payment made before the date of the enactment of this Act under a contract entered into before that date by the Secretary of a military department with a unit of local government for the provision by such local government of police, fire, or other municipal service to the military department shall be held and considered to be a valid payment.

SEC. 354. MAINTENANCE OF FIREFIGHTING AND OTHER EMERGENCY SERVICES AT MILITARY INSTALLATIONS IN THE UNITED STATES

(a) MAINTENANCE OF SERVICES.—(1) Consistent with the requirements of section 2465 of title 10, United States Code, the Secretary of a military department shall ensure that each military installation described in paragraph (2) under the jurisdiction of that Secretary is provided during fiscal year 1991 with firefighting and other emergency services through personnel and facilities of the installation.

(2) A military installation referred to in paragraph (1) is a military installation in the United States that—

(A) is established during fiscal year 1991; or

(B) on October 1, 1990, had firefighting and other emergency services provided through personnel and facilities of that installation.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report that—

(1) identifies each military installation in the United States that has more than 300 employees and is not provided with firefighting and related emergency services through personnel and facilities of the installation; and

(2) contains a proposed plan that outlines the actions to be taken, related to cost and options, in providing such services.

SEC. 355. STAFF OF THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT

(a) REQUIREMENT FOR INCREASED STAFF.—The Secretary of Defense shall increase the size of the permanent staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in accordance with this section. To achieve such increase, the Secretary may not reduce the size of the permanent staff authorized for the Under Secretary of Defense for Policy.

(b) SIZE OF STAFF.—On and after May 1, 1991, the number of employees of the Department of Defense assigned or detailed to duty to assist the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in the performance of the functions of the Assistant Secretary may not be less than the equivalent of 92 full-time employees.

(c) NUMBER OF SENIOR LEVEL EMPLOYEES.—Nine of the employee positions designated for the staff of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict shall be senior level employees who are recognized by rank for their managerial and supervisory duties.

(d) INCREASE IN TOTAL NUMBER OF DEPARTMENT OF DEFENSE EMPLOYEES NOT AUTHORIZED.—This section does not authorize an increase in the number of civilian employees that may be employed by the Department of Defense.

(e) ASSESSMENT OF STAFF NEEDS.—The Secretary of Defense shall provide for an assessment, by an organization outside the Department of Defense, of the staff requirements of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict. The Secretary shall submit the results of that assessment to the Congress not later than 180 days after the date of the enactment of this Act, together with such comments and recommendations as the Secretary considers appropriate.

SEC. 356. DISCUSSIONS CONCERNING DEPARTMENT OF DEFENSE SUPPORT FOR 1996 SUMMER OLYMPICS

(a) REQUIREMENT FOR DISCUSSIONS.—The Secretary of Defense shall initiate discussions between military and civilian personnel of the Department of Defense and appropriate Federal, State, and local officials and the Atlanta Organizing Committee for the Olympic Games for the purpose of planning for security and logistical support that the Department of Defense may provide for the 1996 games of the XXVI Olympiad to be held in Atlanta, Georgia.

(b) REPORT.—Not later than April 15, 1991, the Secretary of Defense shall submit a report to the Committees on Armed Services of the Senate and the House of Representatives describing the results of the discussions held pursuant to subsection (a).

SEC. 357. SENSE OF CONGRESS REGARDING THE TRANSFER TO EUROPE OF MILITARY EQUIPMENT THAT WOULD THEN BE DESTROYED OR REMOVED AS A RESULT OF AN ARMS CONTROL AGREEMENT

(a) FINDINGS.—Congress finds the following:

(1) The Secretary of Defense has announced commencement of substantial withdrawals of United States military personnel from Europe in anticipation of concluding an agreement that will reduce conventional forces in Europe and in recognition of the reduced threat in Europe.

(2) The anticipated arms control agreement on conventional forces in Europe will require destruction or demilitarization of certain military equipment in excess of limits specified in the agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) funds appropriated for the Department of Defense should not be used to transfer to Europe any military equipment that would have to be destroyed as a result of the anticipated arms control agreement on conventional forces in Europe; and

(2) the Department of Defense should make every effort to avoid transferring to Europe any military equipment that would, after only a short period of time in Europe, have to be returned to the United States as a result of further withdrawals of United States military personnel from Europe.

PART F—STUDIES AND REPORTS

SEC. 361. AUTHORIZATION FOR SHORT-TERM LEASE OF AIRCRAFT FOR INITIAL ENTRY ROTORY WING PILOT TRAINING AND STUDY REGARDING LONG-TERM LEASE

(a) AUTHORIZATION.—(1) The Secretary of the Army may enter into a contract described in paragraph (2) for the lease of aircraft for initial entry helicopter pilot training to determine if the cost of leasing, operating, and maintaining such aircraft is less than the projected cost of operating and maintaining existing aircraft of the Army for the same purpose.

(2) A contract referred to in paragraph (1) is a contract other than a contract—

(A) described in subsection (a)(1)(A) of section 2401 of title 10, United States Code; or

(B) containing terms described in subsection (a)(1)(B) of that section.

(b) STUDY.—In addition to the short-term lease authorized under subsection (a), the Secretary of Defense shall prepare the analysis required under section 2401(e)(1) of title 10, United States Code, preparatory to requesting under that section an authorization of a long-term lease or charter of aircraft for initial entry helicopter pilot training or for an authorization of a lease or charter of aircraft for such purpose which provides for a substantial termination liability on the part of the United States.

SEC. 362. STUDY ON FLEXIBLE READINESS

(a) FLEXIBLE READINESS DEFINED.—For purposes of this section, the term "flexible readiness" means the allocation of resources and the adjustment of the readiness of military units based on—

(1) the military threats to the United States;

(2) the amount of warning time of potential hostilities;

(3) the likelihood that particular military units will be used in a military action; and

(4) the ability of the military departments to transport these units to the scene of a military action.

(b) SENSE OF CONGRESS.—(1) Under the concept of flexible readiness, the Secretary of Defense would keep certain high priority military forces, such as strategic forces, expeditionary forces, forward deployed forces, special operations forces, and selected intelligence units, at a high state of readiness.

(2) It is the sense of Congress that flexible readiness has significant potential for being an effective and efficient method by which resources are allocated to military units and a larger military force structure may be preserved in the future than would be possible without flexible readiness.

(c) REPORT.—Not later than March 15, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a detailed description of the extent to which the concept of flexible readiness could be implemented by the Secretary in the Department of Defense. The report shall—

(1) describe the extent to which resources have been and are currently allocated to active and reserve military units based on the projected threat, the likely warning time, and the projected deployment dates of units in a contingency;

(2) identify the types and numbers of military units which should be maintained at the highest levels of readiness in the future;

(3) analyze the effect of the use of flexible readiness on the future size of the active and reserve component force structure of the Armed Forces; and

(4) analyze the costs, benefits, and difficulties of applying the concept of flexible readiness to all active forces and reserve component forces of the Armed Forces.

SEC. 363. REPORT ON ESTABLISHING NEW NAVAL RESERVE TRAINING CENTER AT NEWPORT, RHODE ISLAND

Not later than six months after the date of the enactment of this Act, the Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the desirability of establishing a new Naval Reserve Training Center within the Naval Education and Training Center at Newport, Rhode Island, to serve as the principal Naval Reserve

training center on the East Coast for surface warfare. The report shall consider the desirability of including within the training facilities of such a Reserve Training Center the FF-1052 frigates stationed as of the date of the enactment of this Act at the Naval Education and Training Center at Newport, Rhode Island, and of planning for the use of those frigates in the event of a mobilization.

SEC. 364. REPORT ON THE TRANSPORTATION OF CHEMICAL WEAPONS FROM THE FEDERAL REPUBLIC OF GERMANY TO JOHNSTON ISLAND

(a) REPORT REQUIRED.—The Secretary of the Army shall prepare a report analyzing the safety aspects of the project to remove and transport chemical weapons stored in the Federal Republic of Germany to Johnston Island, with special emphasis on measures undertaken to ensure safety during the actual transportation of the weapons.

(b) USE OF REPORT.—The report required by subsection (a) shall be used as part of each Phase I site specific environmental impact statement study of chemical weapons storage sites in the United States (including the Aberdeen Proving Ground, Maryland, and the Lexington-Blue Grass Army Depot, Kentucky) that is initiated on or after the date of the enactment of this Act. These Phase I studies are being used to assist in determining the validity of the programmatic on-site disposal decisions that have been made for those sites. Information from the report shall be incorporated in any Phase I assessment of transportation alternatives for those sites.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to Congress not later than 60 days after the date the transportation project referred to in that subsection is completed.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

10 USC 115 note.

(a) FISCAL YEAR 1991.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1991, as follows:

(1) The Army, 702,170, of which not more than 99,291 may be officers.

(2) The Navy, 570,500, of which not more than 69,992 may be officers.

(3) The Marine Corps, 193,735, of which not more than 19,757 may be officers.

(4) The Air Force, 510,000, of which not more than 95,027 may be officers.

(b) FISCAL YEAR 1995.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1995, as follows:

(1) The Army, 520,000.

(2) The Navy, 501,000.

(3) The Marine Corps, 177,000.

(4) The Air Force, 415,000.

(c) WAIVER AUTHORITY FOR OFFICER END STRENGTHS.—The Secretary of Defense may waive the officer end strength prescribed in subsection (a) for any of the Armed Forces to the extent that the

waiver is necessary to prevent the involuntary separation of officers other than (1) the separation of officers under chapter 36 of title 10, United States Code, for reasons other than meeting such end strength limitation, (2) the separation of officers for physical disability, age, or cause, and (3) the separation of officers made without regard to that limitation (as determined by the Secretary of Defense).

(d) CONFORMING AMENDMENT.—Section 401 of Public Law 101-189 (103 Stat. 1431) is amended by striking out subsection (b).

10 USC 115 note.

SEC. 402. UNIFORM PROCESS FOR IMPLEMENTING REDUCTIONS IN STRENGTH

(a) LIMITATION.—After the end of the 90-day period beginning on the date of the enactment of this Act, the Secretary of a military department may not carry out the involuntary separation of a member of the Armed Forces under the Secretary's jurisdiction who is described in subsection (b) unless the Secretary of Defense has certified to the Committees on Armed Services of the Senate and the House of Representatives that the Secretary of that military department has implemented procedures to do the following:

(1) Limit the number of persons without previous military service that may be accessed for active duty service as officers in the Armed Force concerned during each fiscal year of the five-year period beginning on October 1, 1990, to a number not greater than the number necessary to meet the requirements of that Armed Force for officers within the end strength specified in section 401(b) for that Armed Force.

(2) Limit the number of persons without previous military service that may be accessed for active duty service as enlisted members in that Armed Force concerned during each fiscal year of the five-year period beginning on October 1, 1990, to a number not greater than the number necessary to meet the requirements of that Armed Force enlisted personnel within the end strength specified in section 401(b) for that Armed Force.

(3) Reduce as of September 30 of each year during the five-year period beginning on October 1, 1990, the number of members of that Armed Force serving on active duty who, upon separation, would be immediately eligible for retired or retainer pay to a number not greater than the number necessary to meet the requirements of that Armed Force within the end strength specified in section 401(b) for that Armed Force.

(4) Limit the number of members of that Armed Force serving on active duty who have completed two but less than six years of active service to a number not greater than the number necessary to meet the requirements of that Armed Force for members with two but less than six years of active service within the end strength specified in section 401(b) for that Armed Force.

(b) APPLICABILITY.—The limitation on involuntary separation in subsection (a) applies to a member of the Army, Navy, Air Force, or Marine Corps who—

(1) is serving on active duty or full-time National Guard duty;

(2) has six or more years of active service in the Armed Forces;

(3) if involuntarily separated, would not be immediately eligible for retired or retainer pay; and

(4) if involuntarily separated, would be eligible for separation pay under section 1174 of title 10, United States Code (as amended by section 501 of this Act).

(c) DEFINITION.—For purposes of this section, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code, as added by section 502 of this Act.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. Such regulations shall apply uniformly for the military departments.

SEC. 403. AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY

(a) FIVE-YEAR REDUCTION.—Effective on September 30, 1991, the text of section 526 of title 10, United States Code, is amended to read as follows:

"(a) LIMITATIONS.—The number of general officers on active duty in the Army, Air Force, and Marine Corps, and the number of flag officers on active duty in the Navy, may not exceed the number specified for the armed force concerned as follows:

"(1) For the Army, 386 before October 1, 1995, and 302 on and after that date.

"(2) For the Navy, 250 before October 1, 1995, and 216 on and after that date.

"(3) For the Air Force, 326 before October 1, 1995, and 279 on and after that date.

"(4) For the Marine Corps, 68 before October 1, 1995, and 61 on and after that date.

"(b) During the period before October 1, 1995, the Secretary of Defense may increase the number of general officers on active duty in the Army, Air Force, or Marine Corps, or the number of flag officers on active duty in the Navy, above the applicable number specified in subsection (a) by a total of not more than five. Whenever any such increase is made, the Secretary shall make a corresponding reduction in the number of such officers that may serve on active duty in general or flag officer grades in one of the other armed forces.".

(b) CONFORMING AMENDMENTS.—(1) Chapter 331 of title 10, United States Code, is amended—

(A) by striking out section 3202; and

(B) in the table of sections at the beginning of such chapter, by striking out the item relating to section 3202.

(2) Chapter 533 of such title is amended—

(A) by striking out sections 5442, 5443, 5444, and 5446; and

(B) in the table of sections at the beginning of such chapter, by striking out the items relating to sections 5442, 5443, 5444, and 5446.

(3) Chapter 831 of such title is amended—

(A) by striking out section 8202; and

(B) in the table of sections at the beginning of the chapter, by striking out the item relating to section 8202.

SEC. 404. REDUCTION FOR FISCAL YEAR 1992 IN NUMBER OF ACTIVE DUTY AIR FORCE COLONELS

Section 402 of Public Law 101-189 (10 U.S.C. 523 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal year 1992".

SEC. 405. AUTHORITY FOR EXEMPTION FROM GRADE LIMITATIONS FOR CERTAIN THREE-STAR GENERAL AND FLAG OFFICER POSITIONS ON JOINT STAFF

(a) IN GENERAL.—Section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) An officer while serving in a position designated under subparagraph (B), if serving in the grade of lieutenant general or vice admiral, is in addition to the number that would otherwise be permitted for that officer's armed force for that grade under paragraph (1) or (2).

"(B) The President, with the advice and assistance of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff, may designate not more than six positions within the Joint Staff (provided for under section 155 of this title) as positions referred to in subparagraph (A). The authority of the President under the preceding sentence may not be delegated.".

(b) TECHNICAL AMENDMENT.—Paragraph (3) of such section is amended by striking out "authorized" and inserting in lieu thereof "that would otherwise be permitted for".

SEC. 406. REDUCTION IN THE AUTHORIZED END STRENGTH FOR THE NUMBER OF MILITARY PERSONNEL IN EUROPE

(a) REDUCTION.—Subsection (c)(1) of section 1002 of the Department of Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended in the first sentence—

(1) by striking out "After September 30, 1985, none of the funds appropriated pursuant to an authorization contained in this Act or any other Act enacted after the date of the enactment of this Act" and inserting in lieu thereof "No appropriated funds"; and

(2) by striking out "326,414" and inserting in lieu thereof "261,855".

(b) WAIVER AUTHORITY.—Such section is further amended by adding at the end the following: "In any fiscal year for which the permanent ceiling specified in the first sentence of this subsection is 261,855, the President may authorize an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of the North Atlantic Treaty Organization at a level not to exceed 311,855 if the President determines that the national security interests of the United States require such authorization. Whenever the President exercises the authority provided under the preceding sentence, the President shall notify Congress of that determination and of the necessity for exceeding such permanent ceiling.".

President.

(c) CONFORMING AMENDMENT.—Section 911 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1523) is repealed.

22 USC 1928 note.

PART B—RESERVE FORCES

10 USC 261 note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1991, as follows:

(1) The Army National Guard of the United States, 457,300.

(2) The Army Reserve, 318,700.

(3) The Naval Reserve, 153,400.
(4) The Marine Corps Reserve, 43,900.
(5) The Air National Guard of the United States, 117,035.
(6) The Air Force Reserve, 85,591.
(7) The Coast Guard Reserve, 12,700.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary the end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

(d) CONFORMING AMENDMENT.—Section 411 of Public Law 101-189 (101 Stat. 1432) is amended by striking out subsection (b). 10 USC 261 note.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES 10 USC 261 note.

(a) FISCAL YEAR 1991.—Within the end strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1991, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(A) The Army National Guard of the United States, 26,199.
(B) The Army Reserve, 13,344.
(C) The Naval Reserve, 22,997.
(D) The Marine Corps Reserve, 2,401.
(E) The Air National Guard of the United States, 8,468.
(F) The Air Force Reserve, 655.

(b) ARMY RESERVE COMPONENT STRENGTHS FOR FISCAL YEARS 1992-1997.—(1) Within the end strengths authorized by law after the date of the enactment of this Act for each of the fiscal years listed in the table in paragraph (2), the reserve components of the Army are authorized the total number of members specified in such table for such fiscal year to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the Army reserve components.

(2) The table referred to in paragraph (1) is as follows:

Fiscal Year	Army Reserve	Army National Guard
1992	12,673	24,889
1993	12,006	23,579
1994	11,339	22,269
1995	10,672	20,959
1996	10,005	19,649
1997	9,341	18,340

(c) IMPLEMENTATION OF REDUCTIONS.—(1) In implementing the reductions in the end strengths for reserves on active duty in support of the Army reserve components required in subsection (b), no member of the Reserves serving on full-time active duty on the date of the enactment of this Act, or in the case of members of the National Guard, full-time National Guard duty, for the purpose of organizing, administering, recruiting, instructing or training the Army reserve components may be involuntarily separated.

(2) As used in this section, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code, as added by section 502 of this Act.

Regulations.

(3) The end strengths prescribed in subsection (b) may be exceeded to the extent necessary to comply with this subsection, as determined under regulations prescribed by the Secretary of Defense.

(4) Accessions of members of the Reserves to be serving on full-time active duty or, in the case of members of the National Guard on full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the Army reserve components for a fiscal year shall be two percent of the total authorized end strength provided in subsection (b) for that fiscal year.

(d) USE OF ACTIVE COMPONENT MEMBERS.—(1) The Secretary of Defense shall examine the validity of the information submitted in support of the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1992 with respect to the number of reserve members on active duty or full-time National Guard duty to support the Army reserve components and shall, to the extent that the information remains valid, assign active component members to reserve units to meet the requirement of the reserve components.

(2) The Secretary shall include in the detailed justification of estimates for military personnel for the Army, Navy, Air Force, and Marine Corps that accompanies the budget submitted to Congress for fiscal years 1992 and 1993 pursuant to section 1105 of title 31, United States Code, the number of such personnel that are programmed to be assigned in support of the reserve components to meet requirements for full-time support of the reserve components.

(e) ARMY RESERVE COMPONENTS.—For purposes of this section, the Army reserve components are the Army National Guard of the United States and the Army Reserve.

PART C—MILITARY TRAINING STUDENT LOADS

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1991, the components of the Armed Forces are authorized average military training loads as follows:

(1) The Army, 66,525.

(2) The Navy, 59,675.

(3) The Marine Corps, 20,880.
(4) The Air Force, 26,880.
(5) The Army National Guard of the United States, 16,611.
(6) The Army Reserve, 15,337.
(7) The Naval Reserve, 3,112.
(8) The Marine Corps Reserve, 3,520.
(9) The Air National Guard of the United States, 2,765.
(10) The Air Force Reserve, 1,628.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

PART D—OTHER PERSONNEL STRENGTH MATTERS

SEC. 431. REPORT ON CADRE CONCEPT

The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report evaluating the cadre concept for both active duty divisions and reserve component divisions. The report shall describe any change in laws that would be required in order to implement the cadre concept on a test program basis. The report shall be submitted not later than February 1, 1991.

TITLE V—MILITARY PERSONNEL

PART A—PERSONNEL READJUSTMENT BENEFITS

SEC. 501. SEPARATION PAY

(a) AUTHORITY FOR SEPARATION PAY FOR REGULAR ENLISTED MEMBERS.—Section 1174 of title 10, United States Code, is amended—

(1) by inserting "REGULAR OFFICERS.—(1)" in subsection (a) after "(a)";

(2) by redesignating subsection (b) as paragraph (2) of subsection (a); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) REGULAR ENLISTED MEMBERS.—(1) A regular enlisted member of an armed force who is discharged involuntarily or as the result of the denial of the reenlistment of the member and who has completed six or more, but less than 20, years of active service immediately before that discharge is entitled to separation pay computed under subsection (d) unless the Secretary concerned determines that the conditions under which the member is discharged do not warrant payment of such pay.

"(2) Separation pay of an enlisted member shall be computed under paragraph (1) of subsection (d), except that such pay shall be computed under paragraph (2) of such subsection in the case of a member who is discharged under criteria prescribed by the Secretary of Defense.".

(b) PERIOD OF SERVICE REQUIRED FOR ELIGIBILITY.—Such section is further amended—

(1) by striking out "five or more" in subsection (a)(2) (as redesignated by subsection (a)(2) of this section) and in subsection (c)(1) and inserting in lieu thereof "six or more"; and

(2) by striking out "at least five years" in subsection (c)(3) and inserting in lieu thereof "at least six years".

(c) REPEAL OF LIMITATION ON AMOUNT OF SEPARATION PAY.—(1) Subsection (d) of such section is amended—

(A) by striking out "or $30,000, whichever is less" in paragraph (1); and

(B) by striking out ", but in no event more than $15,000".

(2) Subsection (g) of such section is amended—

(A) by striking out "(1)" after "(g)"; and

(B) by striking out paragraph (2).

(d) REQUIREMENT FOR SERVICE IN READY RESERVE; EXCLUSION FOR MEMBERS DISCHARGED DURING INITIAL PERIOD OF SERVICE.—Subsection (e) of such section is amended to read as follows:

Government contracts.

"(e) REQUIREMENT FOR SERVICE IN READY RESERVE; EXCEPTIONS TO ELIGIBILITY.—(1)(A) As a condition of receiving separation pay under this section, a person otherwise eligible for that pay shall be required to enter into a written agreement with the Secretary concerned to serve in the Ready Reserve of a reserve component for a period of not less than three years following the person's discharge or release from active duty. If the person has a service obligation under section 651 of this title or under any other provision of law that is not completed at the time the person is discharged or released from active duty, the three-year obligation under this subsection shall begin on the day after the date on which the person completes the person's obligation under such section or other provision of law.

"(B) Each person who enters into an agreement referred to in subparagraph (A) who is not already a Reserve of an armed force and who is qualified shall, upon such person's discharge or release from active duty, be enlisted or appointed, as appropriate, as a Reserve and be transferred to a reserve component.

"(2) A member who is discharged or released from active duty is not eligible for separation pay under this section if the member—

"(A) is discharged or released from active duty at his request;

"(B) is discharged or released from active duty during an initial term of enlistment or an initial period of obligated service;

"(C) is released from active duty for training; or

"(D) upon discharge or release from active duty, is immediately eligible for retired or retainer pay based on his military service.".

10 USC 1174 note.

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), subsection (b) of section 1174 of title 10, United States Code, as added by subsection (a), and the amendments made by subsections (b), (c), and (d) shall apply with respect to a member of the Armed Forces who is discharged, or released from active duty, after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall not apply in the case of a member (other than a regular enlisted member) of the Armed Forces who (A) is serving on active duty on the date of the enactment of this Act, (B) is discharged, or released from active duty, after that date; and (C) on that date has five or more, but less than six, years of active service in the Armed Forces.

(f) CONFORMING CROSS-REFERENCE AMENDMENTS.—(1) Section 1186(c) of title 10, United States Code, is amended by striking out "section 1174(b)" and inserting in lieu thereof "section 1174(a)(2)".

(2) Section 6383(h) of such title is amended by striking out "section 1174(a)" and inserting in lieu thereof "section 1174(a)(1)".

(g) TECHNICAL AMENDMENTS.—(1) Subsection (a) of section 1174 of such title (as amended by subsection (a) of this section) is further amended—

(A) by striking out "or release"; and

(B) by striking out ", under section 564" and all that follows through "Management Act" and inserting in lieu thereof "or under section 564 or 6383 of this title".

(2) Subsection (c)(1) of such section is amended by striking out "after September 14, 1981,".

(h) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "OTHER MEMBERS.—" in subsection (c) after "(c)";

(2) by inserting "AMOUNT OF SEPARATION PAY.—" in subsection (d) after "(d)";

(3) by inserting "COUNTING FRACTIONAL YEARS OF SERVICE.—" in subsection (f) after "(f)";

(4) by inserting "COORDINATION WITH OTHER SEPARATION OR SEVERANCE PAY BENEFITS.—" in subsection (g) after "(g)";

(5) by inserting "COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—" in subsection (h) after "(h)"; and

(6) by inserting "REGULATIONS; CREDITING OF OTHER COMMISSIONED SERVICE.—" in subsection (i) after "(i)".

SEC. 502. OTHER TRANSITION BENEFITS AND SERVICES

(a) BENEFITS AND SERVICES.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 57 the following new chapter:

"CHAPTER 58—BENEFITS AND SERVICES FOR MEMBERS BEING SEPARATED OR RECENTLY SEPARATED

"Sec.
"1141. Involuntary separation defined.
"1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs.
"1143. Employment assistance: Department of Defense.
"1144. Employment assistance, job training assistance, and other transitional services: Department of Labor.
"1145. Health benefits.
"1146. Commissary and exchange benefits.
"1147. Use of military family housing.
"1148. Relocation assistance for personnel overseas.
"1149. Excess leave and permissive temporary duty.
"1150. Affiliation with Guard and Reserve units: waiver of certain limitations.

"§ 1141. Involuntary separation defined

"A member of the Army, Navy, Air Force, or Marine Corps shall be considered to be involuntarily separated for purposes of this chapter if the member was on active duty or full-time National Guard duty on September 30, 1990, and—

"(1) in the case of a regular officer (other than a retired officer), the officer is involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned;

"(2) in the case of a reserve officer who is on the active-duty list or, if not on the active-duty list, is on full-time active duty

(or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the officer is involuntarily discharged or released from active duty or full-time National Guard (other than a release from active duty or full-time National Guard duty incident to a transfer to retired status) under other than adverse conditions, as characterized by the Secretary concerned;

"(3) in the case of a regular enlisted member serving on active duty, the member is (A) denied reenlistment, or (B) involuntarily discharged under other than adverse conditions, as characterized by the Secretary concerned; and

"(4) in the case of a reserve enlisted member who is on full-time active duty (or in the case of a member of the National Guard, full-time National Guard duty) for the purpose of organizing, administering, recruiting, instructing, or training the reserve components, the member (A) is denied reenlistment, or (B) is involuntarily discharged or released from active duty (or full-time National Guard) under other than adverse conditions, as characterized by the Secretary concerned.

"§ 1142. Preseparation counseling; transmittal of medical records to Department of Veterans Affairs

"(a) REQUIREMENT.—(1) Upon the discharge or release from active duty of a member of the armed forces, the Secretary concerned shall provide for individual preseparation counseling of the member. A notation of the provision of such counseling with respect to each matter specified in subsection (b), signed by the member, shall be placed in the service record of each member receiving such counseling.

"(2) In carrying out this section, the Secretary concerned may use the services available under section 1144 of this title.

"(b) MATTERS TO BE COVERED BY COUNSELING.—Counseling under this section shall include the following:

"(1) A discussion of the educational assistance benefits to which the member is entitled under the Montgomery GI Bill and other educational assistance programs because of the member's service in the armed forces.

"(2) A description (to be developed with the assistance of the Secretary of Veterans Affairs) of the compensation and vocational rehabilitation benefits to which the member may be entitled under laws administered by the Secretary of Veterans Affairs, if the member is being medically separated or is being retired under chapter 61 of this title.

"(3) An explanation of the procedures for and advantages of affiliating with the Selected Reserve.

"(4) Information concerning Government and private-sector programs for job search and job placement assistance.

"(5) If the member has a spouse, job placement counseling for the spouse;

"(6) Information concerning the availability of relocation assistance services and other benefits and services available to persons leaving military service, as provided under section 1144 of this title.

"(7) Information concerning the availability of medical and dental coverage following separation from active duty, includ-

ing the opportunity to elect into the conversion health policy provided under section 1145 of this title.

"(8) Counseling (for the member and dependents) on the effect of career change on individuals and their families.

"(9) Financial planning assistance.

"(c) TRANSMITTAL OF MEDICAL INFORMATION TO DEPARTMENT OF VETERANS AFFAIRS.—In the case of a member being medically separated or being retired under chapter 61 of this title, the Secretary concerned shall ensure (subject to the consent of the member) that a copy of the member's service medical record (including any results of a Physical Evaluation Board) is transmitted to the Secretary of Veterans Affairs within 60 days of the separation or retirement.

"§ 1143. Employment assistance: Department of Defense

"(a) EMPLOYMENT SKILLS VERIFICATION.—The Secretary of Defense shall provide to members of the armed forces under the jurisdiction of the Secretary who are discharged or released from active duty a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector. The preceding sentence shall be carried out in conjunction with the Secretary of Labor.

"(b) EMPLOYMENT ASSISTANCE CENTERS.—The Secretary of Defense shall establish permanent employment assistance centers at appropriate military installations. Establishment.

"(c) INFORMATION TO CIVILIAN ENTITIES.—For the purpose of assisting members covered by subsection (a) and their spouses in locating civilian employment and training opportunities, the Secretary of Defense shall establish and implement procedures to release to civilian employers, organizations, State employment agencies, and other appropriate entities the names (and other pertinent information) of such members and their spouses. Such names may be released for such purpose only with the consent of such members and spouses.

"(d) EMPLOYMENT PREFERENCE BY NONAPPROPRIATED FUND INSTRUMENTALITIES.—The Secretary of Defense shall take such steps as necessary to provide that members of Army, Navy, Air Force, or Marine Corps who are involuntarily separated, and the dependents of such members, shall be provided a preference in hiring by nonappropriated fund instrumentalities of the Department. Such preference shall be administered in the same manner as the preference for military spouses provided under section 806(a)(2) of the Military Family Act of 1985, except that a preference under that section shall have priority over a preference under this subsection. A person may receive a preference in hiring under this subsection only once.

"§ 1144. Employment assistance, job training assistance, and other transitional services: Department of Labor

"(a) IN GENERAL.—(1) The Secretary of Labor, in conjunction with the Secretary of Defense and the Secretary of Veterans Affairs, shall establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces under the jurisdiction of the Secretary of a military department who are being separated from active duty and the spouses of such members. Such

services shall be provided to a member during the 180-day period before the member is separated from active duty.

"(2) The Secretary of Defense and the Secretary of Veterans Affairs shall cooperate with the Secretary of Labor in establishing and maintaining the program under this section.

Government contracts.

"(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section. The agreement shall be entered into no later than 60 days after the date of the enactment of this section.

"(b) ELEMENTS OF PROGRAM.—In establishing and carrying out a program under this section, the Secretary of Labor shall do the following:

Public information.

"(1) Provide information concerning employment and training assistance, including (A) labor market information, (B) civilian work place requirements and employment opportunities, (C) instruction in resume preparation, and (D) job analysis techniques, job search techniques, and job interview techniques.

"(2) In providing information under paragraph (1), use experience obtained from implementation of the pilot program established under section 408 of Public Law 101-237.

"(3) Provide information concerning Federal, State, and local programs, and programs of military and veterans service organization, that may be of assistance to such members after separation from the Armed Forces, including, as appropriate, the information and services to be provided under section 1142 of this title.

"(4) Inform such members that the Department of Defense is required under section 1143(a) of this title to provide proper certification or verification of job skills and experience acquired while on active duty that may have application to employment in the civilian sector for use in seeking civilian employment and in obtaining job search skills.

Grant programs.

"(5) Provide information and other assistance to such members in their efforts to obtain loans and grants from the Small Business Administration and other Federal, State, and local agencies.

"(6) Provide information about the geographic areas in which such members will relocate after separation from the armed forces, including, to the degree possible, information about employment opportunities, the labor market, and the cost of living in such area (including, to the extent practicable, the cost and availability of housing, child care, education, and medical and dental care).

"(7) Work with military and veterans' service organizations and other appropriate organizations in promoting and publicizing job fairs for such members.

"(c) PARTICIPATION.—The Secretary of Defense shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.

"(d) USE OF PERSONNEL AND ORGANIZATIONS.—In carrying out the program established under this section, the Secretaries may—

"(1) provide, as the case may be, for the use of disabled veterans outreach program specialists, local veterans' employment representatives, and other employment service personnel funded by the Department of Labor to the extent that the Secretary of Labor determines that such use will not signifi-

cantly interfere with the provision of services or other benefits to eligible veterans and other eligible recipients of such services or benefits;

"(2) use military and civilian personnel of the Department of Defense;

"(3) use personnel of the Veterans Benefits Administration of the Department of Veterans Affairs and other appropriate personnel of that Department;

"(4) use representatives of military and veterans' service organizations;

"(5) enter into contracts with public or private entities; and

"(6) take other necessary action to develop and furnish the information and services to be provided under this section.

"(e) FUNDING.—(1) There is authorized to be appropriated to the Department of Labor to carry out this section $4,000,000 for fiscal year 1991 and $9,000,000 for each of fiscal years 1992 and 1993.

"(2) There is authorized to be appropriated to the Department of Veterans Affairs to carry out this section $1,000,000 for fiscal year 1991 and $4,000,000 for each of fiscal years 1992 and 1993.

"§ 1145. Health benefits

"(a) TRANSITIONAL HEALTH CARE.—(1) For the applicable time period described in paragraph (2), a member of the armed forces who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990 (and the dependents of the member), shall be entitled to receive—

"(A) medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

"(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

"(2) Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is involuntarily separated as follows:

"(A) For members involuntarily separated with less than six years of active service, 60 days.

"(B) For members involuntarily separated with six or more years of active service, 120 days.

"(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member.

"(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member—

"(A) during the one-year period beginning on the date on which coverage under the conversion health policy begins; and

"(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

"(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

"(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces during the five-year period beginning on October 1, 1990, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

"(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

"(d) DEFINITION.—In this section, the term 'conversion health policy' means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

"§ 1146. Commissary and exchange benefits

Regulations.

"The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty.

"§ 1147. Use of military family housing

"(a) TRANSITION FOR INVOLUNTARILY SEPARATED MEMBERS.—The Secretary of a military department may, pursuant to regulations prescribed by the Secretary of Defense, permit individuals who are involuntarily separated during the five-year period beginning on October 1, 1990, to continue for not more than 180 days after the date of such separation to reside (along with other members of the individual's household) in military family housing provided or leased by the Department of Defense to such individual as a member of the armed forces.

"(b) RENTAL CHARGES.—The Secretary concerned, pursuant to such regulations, shall require a reasonable rental charge for the continued use of military family housing under subsection (a), except that such Secretary may waive all or any portion of such charge in any case of hardship.

"§ 1148. Relocation assistance for personnel overseas

"The Secretary of Defense shall develop a program specifically to assist members of the armed forces stationed overseas who are preparing for discharge or release from active duty, and the dependents of such members, in readjusting to civilian life. The program shall focus on the special needs and requirements of such members and dependents due to their overseas locations and shall include, to

the maximum extent possible, computerized job relocation assistance and job search information.

"§ 1149. Excess leave and permissive temporary duty

"Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned shall grant a member of the armed forces who is to be involuntarily separated such excess leave (for a period not in excess of 30 days), or such permissive temporary duty (for a period not in excess of 10 days), as the member requires in order to facilitate the member's carrying out necessary relocation activities (such as job search and residence search activities), unless to do so would interfere with military missions.

"§ 1150. Affiliation with Guard and Reserve units: waiver of certain limitations

"(a) PREFERENCE FOR CERTAIN PERSONS.—A person who is involuntarily separated from the armed forces during the five-year period beginning on October 1, 1990, and who applies to become a member of a National Guard or Reserve unit within one year after the date of such separation shall be given preference over other equally qualified applicants for existing or projected vacancies within the unit to which the member applies.

"(b) LIMITED WAIVER OF STRENGTH LIMITATIONS.—Under regulations prescribed by the Secretary of Defense, a person covered by subsection (a) who enters a National Guard or Reserve unit pursuant to an application described in such subsection may be retained in that unit for up to three years without regard to reserve-component strength limitations so long as the individual maintains good standing in that unit.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are amended by inserting after the item relating to chapter 57 the following new item:

"58. Benefits and Services for Members Being Separated or Recently Separated..... 1141".

(b) CONFORMING AMENDMENTS.—(1) Section 1046 of such title is repealed.

(2) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to section 1046.

(c) IMPLEMENTATION REPORTS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report setting forth the agreement entered into to carry out section 1144 of title 10, United States Code, as added by subsection (a). The report shall include a detailed description of the responsibilities of the Secretary of Labor, the Secretary of Defense, and the Secretary of Veterans Affairs in carrying out that section and of the steps that have been taken to carry out those responsibilities. 10 USC 1144 note.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report containing a detailed evaluation of the program carried out under that section to the date of the submission of the report.

(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Secretary of Defense and the Secretary of Labor.

10 USC 1148 note.

(d) PILOT PROGRAM.—During fiscal year 1991, the Secretary shall carry out the program required by section 1148 of title 10, United States Code, as added by subsection (a), at not less than 10 military installations located outside the United States.

SEC. 503. TRAVEL AND TRANSPORTATION ALLOWANCES RELATING TO MEMBERS INVOLUNTARILY SEPARATED

(a) MEMBERS.—(1) Subsection (c)(1) of section 404 of title 37, United States Code, is amended—

(A) by striking out "or" at the end of subparagraph (A);

(B) by inserting "or" at the end of subparagraph (B);

(C) by inserting after subparagraph (B) the following:

"(C) is involuntarily separated from active duty during the five-year period beginning on October 1, 1990," and

(D) by inserting "involuntarily separated," after "placed on that list," in the material following the subparagraphs.

(2) Subsection (f)(2)(B) of such section is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(v) who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990.".

(3) Such section is further amended by adding at the end the following new subsection:

"(j) In this section, the term 'involuntarily separated' has the meaning given that term in section 1141 of title 10.".

(b) DEPENDENTS, BAGGAGE, AND HOUSEHOLD EFFECTS.—(1) Subsection (a)(2)(B) of section 406 of such title is amended—

(A) by striking out "or" at the end of clause (iii);

(B) by striking out the period at the end of clause (iv) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(v) who is involuntarily separated from active duty during the five-year period beginning on October 1, 1990.".

(2) Subsection (g)(1) of such section is amended—

(A) by striking out "; or" at the end of subparagraph (A);

(B) by inserting "or" at the end of subparagraph (B);

(C) by inserting after subparagraph (B) the following:

"(C) is involuntarily separated from active duty during the five-year period beginning on October 1, 1990," and

(D) by inserting "involuntarily separated," after "placed on that list," in the material following the subparagraphs.

(3) Subsection (a) of such section is amended by adding at the end the following new paragraph:

"(4) In this section, the term 'involuntarily separated' has the meaning given that term in section 1141 of title 10.".

37 USC 406 note.

(c) STORAGE OF HOUSEHOLD EFFECTS.—(1) The Secretary of a military department shall exercise the authority provided by section 406 of title 37, United States Code, to provide nontemporary storage of baggage and household effects for a period not longer than one year in the case of individuals who are involuntarily separated during the five-year period beginning on October 1, 1990.

(2) For purposes of this subsection, the term "involuntarily separated" has the meaning given that term in section 1141 of title 10, United States Code.

SEC. 504. CONTINUATION OF ENROLLMENT IN SCHOOLS OF THE DEFENSE DEPENDENTS' EDUCATION SYSTEM FOR DEPENDENTS OF MEMBERS INVOLUNTARILY SEPARATED

(a) CONTINUATION OF ENROLLMENT.—Section 1407 of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) CONTINUATION OF ENROLLMENT FOR CERTAIN DEPENDENTS OF MEMBERS OF THE ARMED FORCES INVOLUNTARILY SEPARATED.—(1) A member of the Armed Forces serving on active duty on September 30, 1990, who is involuntarily separated during the five-year period beginning on October 1, 1990, and who has a dependent described in paragraph (2) who is enrolled in a school of the defense dependents' education system (or a school for which tuition is provided under subsection (b)) on the date of that separation shall be eligible to enroll or continue the enrollment of that dependent at that school (or another school serving the same community) for the final year of secondary education of that dependent in the same manner as if the member were still on active duty.

"(2) A dependent referred to in paragraph (1) is a dependent who on the date of the separation of the member has completed the eleventh grade and is likely to complete secondary education within the one-year period beginning on that date.".

(b) INVOLUNTARILY SEPARATED DEFINED.—Section 1414 of that Act (20 U.S.C. 932) is amended by adding at the end the following new paragraph:

"(5) The term 'involuntarily separated' has the meaning given that term in section 1141 of title 10, United States Code.".

PART B—DEFENSE OFFICER PERSONNEL MANAGEMENT POLICIES

SEC. 521. OFFICER RETENTION FLEXIBILITY

(a) IN GENERAL.—(1) Chapter 36 of title 10, United States Code, is amended by inserting after section 638 the following new section:

"§ 638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges

"(a) The Secretary of Defense may authorize the Secretary of a military department, during the five-year period beginning on October 1, 1990, to take any of the actions set forth in subsection (b) with respect to officers of an armed force under the jurisdiction of that Secretary.

"(b) Actions which the Secretary of a military department may take with respect to officers of an armed force when authorized to do so under subsection (a) are the following:

"(1) Shortening the period of the continuation on active duty established under section 637 of this title for a regular officer who is serving on active duty pursuant to a selection under that section for continuation on active duty.

"(2) Providing that regular officers on the active-duty list may be considered for early retirement by a selection board convened under section 611(b) of this title in the case of officers described in any of subparagraphs (A) through (C) as follows:

"(A) Officers in the regular grade of lieutenant colonel or commander who would be subject to consideration for selection for early retirement under section 638(a)(1)(A) of this title except that they have failed of selection for promotion only one time (rather than two or more times).

"(B) Officers in the regular grade of colonel or, in the case of the Navy, captain who would be subject to consideration for selection for early retirement under section 638(a)(1)(B) of this title except that they have served on active duty in that grade less than four years (but not less than two years).

"(C) Officers holding a regular grade below the grade of colonel or, in the case of the Navy, captain who are not eligible for retirement under section 3911, 6323, or 8911 of this title but who after two additional years of active service as a commissioned officer would be eligible for retirement under one of those sections and whose names are not on a list of officers recommended for promotion.

"(3) Suspending section 638(c) of this title.

"(4) Convening selection boards under section 611(b) of this title to consider for discharge regular officers on the active-duty list in a grade below lieutenant colonel or commander—

"(A) who have served at least one year of active duty in the grade currently held;

"(B) whose names are not on a list of officers recommended for promotion; and

"(C) who are not eligible to be retired under any provision of law and are not within two years of becoming so eligible.

"(c) In the case of an action under subsection (b)(2), the Secretary of the military department concerned shall specify the number of officers described in that subsection which a selection board convened under section 611(b) of this title pursuant to the authority of that subsection may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.

"(d)(1) In the case of an action under subsection (b)(4), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all officers described in that subsection in a particular grade and competitive category who also are in particular year groups or specialties, or both, within that competitive category.

"(2) The Secretary concerned shall specify the total number of officers to be recommended for discharge by a selection board convened pursuant to subsection (b)(4). That number may not be more than 30 percent of the number of officers considered—

"(A) in each grade in each competitive category; or

"(B) in each grade, year group, or specialty (or combination thereof) in each competitive category.

"(3) The total number of officers described in subsection (b)(4) from any of the armed forces (or from any of the armed forces in a particular grade) who may be recommended during a fiscal year for discharge by a selection board convened pursuant to the authority of that subsection may not exceed 70 percent of the decrease, as compared to the preceding fiscal year, in the number of officers of that armed force (or the number of officers of that armed force in

that grade) authorized to be serving on active duty as of the end of that fiscal year.

"(4) An officer who is recommended for discharge by a selection board convened pursuant to the authority of subsection (b)(4) and whose discharge is approved by the Secretary concerned shall be discharged on a date specified by the Secretary concerned.

"(5) Selection of officers for discharge under this subsection shall be based on the needs of the service.

"(e) The discharge or retirement of an officer pursuant to this section shall be considered to be involuntary for purposes of any other provision of law.".

(2) The table of sections at the beginning of subchapter IV of such chapter is amended by inserting after the item relating to section 638 the following new item:

"638a. Modification to rules for continuation on active duty; enhanced authority for selective early retirement and early discharges.".

(b) CONFORMING AMENDMENTS.—(1) Section 637 of title 10, United States Code, is amended—

(A) by adding at the end of subsection (c) the following new sentence: "The period of the continuation on active duty of an officer under this section may be reduced by the Secretary concerned in the case of any officer as provided in section 638a of this title.";

(B) by redesignating subsection (d) as subsection (e); and

(C) by inserting after subsection (c) the following new subsection:

"(d) For purposes of this section, a period of continuation on active duty under this section expires or is completed on the earlier of (1) the date originally established for the termination of such period, or (2) the date established for the termination of such period by any shortening of such period under section 638a of this title.".

(2)(A) Subsection (a) of section 638 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may also be considered for early retirement under the circumstances prescribed in section 638a of this title.".

(B) Subsection (b)(1) of such section is amended by inserting "or section 638a of this title" after "under this section".

SEC. 522. REDUCTION IN TIME-IN-GRADE REQUIREMENT FOR RETENTION OF GRADE UPON VOLUNTARY RETIREMENT

Section 1370(a)(2) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting after "not less than three years" at the end of the first sentence the following: ", except that the Secretary of Defense may authorize the Secretary of a military department to reduce such period to a period not less than two years in the case of retirements effective during the five-year period beginning on October 1, 1990";

(3) by designating the second, and third sentences as subparagraph (B) and by striking out "the preceding sentence" in the first sentence of such subparagraph (as so designated) and inserting in lieu thereof "subparagraph (A)"; and

(4) by adding at the end the following:

"(C) The number of officers in an armed force in a grade for whom a reduction is made during any fiscal year in the period of service-in-

grade otherwise required under this paragraph may not exceed the number equal to two percent of the authorized active-duty strength for that fiscal year for officers of that armed force in that grade.".

SEC. 523. REQUIRED LENGTH OF COMMISSIONED SERVICE FOR VOLUNTARY RETIREMENT AS AN OFFICER

(a) ARMY.—Section 3911 of title 10, United States Code, is amended—

(1) by inserting "(a)" at the beginning of the text of the section; and

(2) by adding at the end the following:

"(b) The Secretary of Defense may authorize the Secretary of the Army, during the five-year period beginning on October 1, 1990, to reduce the requirement under subsection (a) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary of the Army) of not less than eight years.".

(b) NAVY AND MARINE CORPS.—Section 6323(a) of such title is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) The Secretary of Defense may authorize the Secretary of the Navy, during the five-year period beginning on October 1, 1990, to reduce the requirement under paragraph (1) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary) of not less than eight years.".

(c) AIR FORCE.—Section 8911 of such title is amended—

(1) by inserting "(a)" at the beginning of the text of the section; and

(2) by adding at the end the following:

"(b) The Secretary of Defense may authorize the Secretary of the Air Force, during the five-year period beginning on October 1, 1990, to reduce the requirement under subsection (a) for at least 10 years of active service as a commissioned officer to a period (determined by the Secretary of the Air Force) of not less than eight years.".

10 USC 591 note.

SEC. 524. REPORT ON INITIAL APPOINTMENT OF ALL OFFICERS AS RESERVE OFFICERS AND ON THE APPROPRIATE ACTIVE DUTY OBLIGATION OF GRADUATES OF THE SERVICE ACADEMIES

(a) REPORT REQUIRED.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the advantages, disadvantages, and desirability of initially appointing all persons commissioned as officers in the Army, Navy, Air Force, or Marine Corps as Reserve officers, and

(2) what the appropriate active duty service obligation should be for graduates of the service academies.

(b) DEADLINE FOR REPORT.—(1) The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later than 60 days after the date of the enactment of this Act.

(2) If the report is not submitted within 60 days after the date of the enactment of this Act, then—

(A) all persons initially appointed as commissioned officers in the Army, Navy, Air Force, and Marine Corps after the 60th day following the date of the enactment of this Act shall be appointed as commissioned officers in a Reserve component of the Armed Forces; and

(B) all persons entering the service academies after the 60th day following the date of the enactment of this Act shall incur an obligation to serve on active duty for a period of five years.

(c) SERVICE ACADEMY DEFINED.—For purposes of this section, the term "service academies" means the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

PART C—OFFICER EDUCATION AND TRAINING

SEC. 531. REDUCTION IN THE NUMBER OF APPOINTMENTS FOR THE CLASS OF A SERVICE ACADEMY ENTERING IN 1991 AND IN 1995

10 USC 4342 note.

(a) REDUCTION REQUIRED.—The number of appointments made for the class entering a service academy in 1991 may not exceed the number that is 100 less than the number of appointments for the class that entered that service academy in 1990. The number of appointments made for the class entering a service academy in 1995 may not exceed 1,000. The reductions required by this section may not be achieved by reducing the number of appointments under section 4342(a), 6954(a), or 9342(a) of title 10, United States Code.

(b) SERVICE ACADEMY DEFINED.—For purposes of this section, the term "service academy" means the United States Military Academy, the United States Naval Academy, or the Air Force Academy.

SEC. 532. REPEAL OF AUTHORITY OF ADMINISTRATOR OF PANAMA CANAL COMMISSION TO NOMINATE CADETS AND MIDSHIPMEN

(a) MILITARY ACADEMY.—(1) Section 4342 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out clause (8); and

(ii) by redesignating clauses (9) and (10) as clauses (8) and (9), respectively;

(B) in subsection (d), by striking out "(2)–(7), (9), or (10)" and inserting in lieu thereof "(2) through (9)"; and

(C) in subsection (f), by striking out "(3)–(7), (9) and (10)" and inserting in lieu thereof "(3) through (9)".

(2) Section 9343 of such title is amended by striking out "(2)–(9)" and inserting in lieu thereof "(2) through (8)".

(b) NAVAL ACADEMY.—(1) Section 6954 of such title is amended—

(A) in subsection (a)—

(i) by striking out clause (8); and

(ii) by redesignating clauses (9) and (10) as clauses (8) and (9), respectively; and

(B) in subsection (d), by striking out "(2)–(7), (9), or (10)" and inserting in lieu thereof "(2) through (9)".

(2) Section 6956(c) of such title is amended by striking out "(2)–(9)" and inserting in lieu thereof "(2) through (8)".

(3) Section 6958(b) of such title is amended by striking out "(3)–(7), (9) and (10)" and inserting in lieu thereof "(3) through (9)".

(c) AIR FORCE ACADEMY.—(1) Section 9342 of such title is amended—

(A) in subsection (a)—

(i) by striking out clause (8); and

(ii) by redesignating clauses (9) and (10) as clauses (8) and (9), respectively;

(B) in subsection (d), by striking out "(2)–(7), (9), or (10)" and inserting in lieu thereof "(2) through (9)"; and

(C) in subsection (f), by striking out "(3)–(7), (9) and (10)" and inserting in lieu thereof "(3) through (9)".

(2) Section 9343 of such title is amended by striking out "(2)–(9)" and inserting in lieu thereof "(2) through (8)".

SEC. 533. MODIFICATION OF THE TEN-YEAR SERVICE OBLIGATION FOR GRADUATES OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

(a) REDUCTION IN REQUIRED ACTIVE-DUTY SERVICE.—Subsection (b) of section 2114 of title 10, United States Code, is amended by striking out "10 years" in the fourth sentence and inserting in lieu thereof "seven years".

(b) RESERVE SERVICE REQUIRED.—Such section is further amended—

(1) in subsection (b), by inserting after the fourth sentence the following new sentence: "Upon completion of, or release from, the active-duty service obligation, a member of the program who served on active-duty for less than 10 years shall serve in the Ready Reserve for the period specified in the following table:

"Period of Service on Active Duty	Ready Reserve Obligation
Less than 8 years	6 years
8 years or more, but less than 9	4 years
9 years or more, but less than 10	2 years".

(2) in subsection (c), by striking out "an active duty obligation" and inserting in lieu thereof "a commissioned service obligation"; and

(3) by adding at the end the following new subsection:

"(f) In this section, the term 'commissioned service obligation' means, with respect to an officer who is a graduate of the University, the period beginning on the date of the appointment of the officer in a regular component after graduation and ending on the tenth anniversary of that appointment.".

(c) CONFORMING AMENDMENT.—Section 511(e) of the National Defense Authorization Act for Fiscal years 1990 and 1991 (Public Law 101-189: 103 Stat. 1439) is amended by striking out "the Uniformed Services University of the Health Sciences or".

10 USC 2114 note.

10 USC 2114 note.

(d) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on December 31, 1991, and shall apply to persons who are first admitted to the Uniformed Services University of the Health Sciences after that date.

SEC. 534. ADVANCED EDUCATIONAL ASSISTANCE

Section 2005 of title 10, United States Code, is amended—

(1) in subsection (a)(3), by inserting "or fails to fulfill any term or condition prescribed pursuant to clause (4)," after "agreement,"; and

(2) in subsection (f)(1), by inserting "or fails to fulfill any term or condition prescribed pursuant to clause (4) of such subsection," after "agreement,".

PART E—MILITARY JUSTICE AMENDMENTS

SEC. 541. CLARIFICATION OF CERTAIN PROVISIONS IN UNIFORM CODE OF MILITARY JUSTICE

(a) PRETRIAL SESSIONS INVOLVING MILITARY JUDGE ACTING ALONE.—Section 839(a) of title 10, United States Code (article 39(a) of the Uniform Code of Military Justice), is amended by adding at the end the following new sentence: "These proceedings may be conducted notwithstanding the number of members of the court and without regard to section 829 of this title (article 29).".

(b) CHALLENGES TO MEMBERS OF COURTS-MARTIAL FOR CAUSE WHEN MEMBERSHIP BELOW MINIMUM NUMBER.—Subsection (a) of section 841 of title 10, United States Code (article 41 of the Uniform Code of Military Justice), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following:

"(2) If exercise of a challenge for cause reduces the court below the minimum number of members required by section 816 of this title (article 16), all parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any challenge for cause then apparent against the remaining members of the court before additional members are detailed to the court. However, peremptory challenges shall not be exercised at that time.".

(c) PEREMPTORY CHALLENGES WHEN MEMBERSHIP BELOW MINIMUM NUMBER.—Subsection (b) of such section (article) is amended to read as follows:

"(b)(1) Each accused and the trial counsel are entitled initially to one peremptory challenge of members of the court. The military judge may not be challenged except for cause.

"(2) If exercise of a peremptory challenge reduces the court below the minimum number of members required by section 816 of this title (article 16), the parties shall (notwithstanding section 829 of this title (article 29)) either exercise or waive any remaining peremptory challenge (not previously waived) against the remaining members of the court before additional members are detailed to the court.".

(d) ADDITIONAL PEREMPTORY CHALLENGES WHEN NEW MEMBERS DETAILED.—Such section (article) is further amended by adding at the end the following new subsection:

"(c) Whenever additional members are detailed to the court, and after any challenges for cause against such additional members are presented and decided, each accused and the trail counsel are entitled to one peremptory challenge against members not previously subject to peremptory challenge.".

(e) EFFECTIVE DATE.—The amendments made by subsections (a) through (d) shall apply only to a court-martial convened on or after the date of the enactment of this Act. 10 USC 839 note.

(f) COURT OF MILITARY APPEALS.—Section 942(b) of title 10, United States Code (article 142(b) of the Uniform Code of Military Justice), is amended—

(1) by striking out "civil life" in paragraph (1) and inserting in lieu thereof "civilian life"; and

(2) by adding at the end the following new paragraph:

"(4) For purposes of appointment of judges to the court, a person retired from the armed forces after 20 or more years of active

service (whether or not such person is on the retired list) shall not be considered to be in civilian life.".

PART F—MISCELLANEOUS

SEC. 551. SERVICES BY NOTARIES PUBLIC

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1044 the following new section:

"§ 1044a. Authority to act as notary

"(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

"(1) Members of any of the armed forces.

"(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

"(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

"(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

"(b) Persons with the powers described in subsection (a) are the following:

"(1) All judge advocates on active duty or performing inactive-duty training.

"(2) All civilian attorneys serving as legal assistance officers.

"(3) All adjutants, assistant adjutants, and personnel adjutants on active duty or performing inactive-duty training.

"(4) All other persons on active duty or performing inactive-duty training who are designated by regulations of the armed forces or by statute to have those powers.

"(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

"(d) The signature of any such person acting as notary, together with the title of that person's offices, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1044 the following new item:

"1044a. Authority to act as notary.".

(b) CONFORMING AMENDMENTS.—Section 936 of title 10, United States Code (article 136 of the Uniform Code of Military Justice), is amended—

(1) in subsection (a), by striking out ", and have the general powers" and all that follows through "United States" the third place it appears; and

(2) by striking out subsections (c) and (d).

SEC. 552. MEANING OF THE TERM "OFFICE" UNDER SECTION 2071(b) OF TITLE 18, UNITED STATES CODE

(a) NONAPPLICABILITY TO RETIRED OFFICERS.—Section 2071(b) of title 18, United States Code, is amended by adding at the end the

following: "As used in this subsection, the term 'office' does not include the office held by any person as a retired officer of the Armed Forces of the United States.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of January 1, 1989. 18 USC 2071 note.

SEC. 553. EXTENSION TO COAST GUARD OF LAW PROVIDING FOR IDENTIFICATION, TREATMENT, AND REHABILITATION OF MEMBERS OF THE ARMED FORCES WHO ARE DEPENDENT ON DRUGS OR ALCOHOL

Section 1090 of title 10, United States Code, is amended by inserting ", and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy," after "Secretary of Defense".

SEC. 554. ADVISORY COMMITTEE ON MENTAL HEALTH EVALUATION PROTECTIONS 10 USC 1074 note.

(a) REQUIREMENT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory committee to carry out the functions described in subsection (d). Establishment.

(b) MEMBERSHIP.—The advisory committee shall include not fewer than 12 members, including the following:

(1) Three board-certified psychiatrists who are officers of the Armed Forces, one of whom shall be an officer in the Medical Corps of the Army, one of whom shall be an officer in the Medical Corps of the Navy, and one of whom shall be an officer in the Air Force designated as a medical officer.

(2) One board-certified psychiatrist who is a civilian not employed by the Department of Defense, with expertise in procedures for the psychiatric commitment of civilian adults.

(3) Three clinical psychologists who are officers of the Armed Forces and who have been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology, one of whom shall be an officer in the Medical Service Corps of the Army, one of whom shall be an officer in the Medical Service Corps of the Navy, and one of whom shall be an officer in the Air Force who is designated as a biomedical sciences officer.

(4) One clinical psychologist who is a civilian not employed by the Department of Defense and who has been awarded a diploma as a Diplomate in Psychology by the American Board of Professional Psychology.

(5) Three judge advocates, one each from the Army, the Navy, and the Air Force, with expertise in pretrial restraint and other procedures associated with the mental health evaluation of individuals subject to the Uniform Code of Military Justice.

(6) An attorney who is a civilian not employed by the Department of Defense, with expertise in legal procedures associated with the psychiatric commitment of civilian adults.

(7) Such other civilian officials (employed by the Department of Defense or otherwise employed) and members of the Armed Forces as the Secretary considers appropriate.

(c) CHAIRMAN.—The Secretary of Defense shall appoint a chairman of the advisory committee from among the members of the committee.

Regulations.

(d) FUNCTIONS.—(1) The advisory committee shall develop and recommend to the Secretary regulations on procedural protections that should be afforded to any member of the Armed Forces who is referred by a commanding officer for a mental health evaluation by a mental health professional. The recommended regulations shall apply uniformly throughout the Department of Defense and shall include appropriate procedural protections according to whether the evaluations are to be carried out on an outpatient or inpatient basis and whether, based on the results of the evaluation, the member is to be involuntarily hospitalized in a mental health treatment facility. In developing the regulations with respect to procedural protections for evaluations conducted on an inpatient basis, the committee shall take into account any guidelines regarding psychiatric hospitalization of adults prepared by professional civilian mental health organizations.

(2)(A) The regulations developed under paragraph (1) shall include both of the following:

(i) A prohibition on the inappropriate referral for a mental health evaluation of a member of the Armed Forces as a reprisal against the member for making or preparing to make a communication described in subparagraph (B).

(ii) Procedural protections to be afforded to a member who is referred for a mental health evaluation following a communication described in subparagraph (B). Such protections shall provide the member with an appropriate opportunity to allow for a timely, prompt challenge to the referral.

(B) A communication referred to in subparagraph (A) is a lawful communication by a member of the Armed Forces of the type described in section 1034(c)(2) of title 10, United States Code, except that, for purposes of this section, such a communication shall include a communication to any appropriate authority in the chain of command of the member (as defined by the Secretary of Defense in regulations under subsection (g)).

(e) DEFINITIONS.—In this section:

(1) The term 'mental health evaluation' means a psychiatric examination or evaluation, a psychological examination or evaluation, an examination for psychiatric or psychological fitness for duty, or any other means of assessing a member's state of mental health.

(2) The term 'mental health professional' means a psychiatrist, a psychologist, a person with a master's degree in social work, or any other individual who conducts mental health evaluations for the Department of Defense.

(f) REPORT.—(1) Not later than six months after the date of the enactment of this Act, the advisory committee shall submit to the Secretary of Defense a report containing the recommended regulations and such other information as the committee considers appropriate.

(2) Not later than 30 days after receipt of the report under paragraph (1), the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives the report of the advisory committee, along with such additional comments and recommendations by the Secretary as the Secretary considers appropriate.

(g) REGULATIONS.—Not later than 180 days after receipt by the committees described in subsection (f)(2) of the report, comments, and recommendations described in that subsection, the Secretary of

Defense shall prescribe regulations based on such report, comments, and recommendations. The regulations shall provide that an inappropriate referral for a mental health evaluation or an involuntary hospitalization, when undertaken as a reprisal for a communication described in subsection (d)(2)(B), may be the basis for a proceeding under section 892 of title 10, United States Code (article 92 of the Uniform Code of Military Justice).

(h) TERMINATION OF COMMITTEE.—The advisory committee shall terminate on the date on which the Secretary prescribes regulations under subsection (g).

SEC. 555. AMENDMENTS TO THE UNIFORMED SERVICES FORMER SPOUSES' PROTECTION ACT

(a) PROHIBITION OF CERTAIN RETROACTIVE COURT ORDERS.—Subsection (c)(1) of section 1408 of title 10, United States Code, is amended by adding at the end the following new sentence: "A court may not treat retired pay as property in any proceeding to divide or partition any amount of retired pay of a member as the property of the member and the member's spouse or former spouse if a final decree of divorce, dissolution, annulment, or legal separation (including a court ordered, ratified, or approved property settlement incident to such decree) affecting the member and the member's spouse or former spouse (A) was issued before June 25, 1981, and (B) did not treat (or reserve jurisdiction to treat) any amount of retired pay of the member as property of the member and the member's spouse or former spouse.".

(b) REDUCTIONS ALLOWED FOR DETERMINATION OF DISPOSABLE RETIRED PAY.—Subsection (a)(4) of such section is amended—

(1) by striking out the semicolon at the end of subparagraph (A) and inserting in lieu thereof "for previous overpayments of retired pay and for recoupments required by law resulting from entitlement to retired pay;"

(2) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) are deducted from the retired pay of such member as a result of forfeitures of retired pay ordered by a court-martial or as a result of a waiver of retired pay required by law in order to receive compensation under title 5 or title 38;";

(3) by striking out subparagraphs (C) and (D); and

(4) by redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively.

(c) CLARIFICATION OF STATUS OF PAYMENTS TO SPOUSES AND FORMER SPOUSES.—Subsection (c)(2) of such section is amended by adding at the end the following new sentence: "Payments by the Secretary concerned under subsection (d) to a spouse or former spouse with respect to a division of retired pay as the property of a member and the member's spouse under this subsection may not be treated as amounts received as retired pay for service in the uniformed services.".

(d) CLARIFICATION OF LIMITS ON PAYMENTS OF RETIRED PAY.—(1) Paragraph (1) of subsection (e) of such section is amended by striking out "payable under subsection (d)" and inserting in lieu thereof "payable under all court orders pursuant to subsection (c)".

(2) Paragraph (4)(B) of such subsection is amended by striking out "the disposable retired or retainer pay payable to such member" and inserting in lieu thereof "the amount of the retired pay payable

to such member that is considered under section 462 of the Social Security Act (42 U.S.C. 662) to be remuneration for employment that is payable by the United States".

10 USC 1408 note.

(e) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall apply with respect to judgments issued before, on, or after the date of the enactment of this Act. In the case of a judgement issued before the date of the enactment of this Act, such amendment shall not relieve any obligation, otherwise valid, to make a payment that is due to be made before the end of the two-year period beginning on the date of the enactment of this Act.

(2) The amendments made by subsections (b), (c), and (d) apply with only respect to divorces, dissolutions of marriage, annulments, and legal separations that become effective after the end of the 90-day period beginning on the date of the enactment of this Act.

(f) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(7) The term 'retired pay' includes retainer pay."; and

(2) by striking out "or retainer" each place it appears.

(g) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by inserting "DEFINITIONS.—" in subsection (a) after "(a)";

(2) by inserting "EFFECTIVE SERVICE OF PROCESS.—" in subsection (b) after "(b)";

(3) by inserting "AUTHORITY FOR COURT TO TREAT RETIRED PAY AS PROPERTY OF THE MEMBER AND SPOUSE.—" in subsection (c) after "(c)";

(4) by inserting "PAYMENTS BY SECRETARY CONCERNED TO SPOUSE OR FORMER SPOUSE.—" in subsection (d) after "(d)";

(5) by inserting "LIMITATIONS.—" in subsection (e) after "(e)";

(6) by inserting "IMMUNITY OF OFFICERS AND EMPLOYEES OF UNITED STATES.—" in subsection (f) after "(f)";

(7) by inserting "NOTICE TO MEMBER OF SERVICE OF COURT ORDER ON SECRETARY CONCERNED.—" in subsection (g) after "(g)"; and

(8) by inserting "REGULATIONS.—" in subsection (h) after "(h)".

SEC. 556. AUTHORITY FOR COMMISSIONED OFFICERS TO SERVE ON INDEPENDENT SCHOOL BOARDS

Section 973 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) An officer to whom subsection (b) applies may seek and hold nonpartisan civil office on an independent school board that is located exclusively on a military reservation.".

SEC. 557. NAVY RATIONS

(a) IN GENERAL.—Section 6082 of title 10, United States Code, is amended to read as follows:

"§ 6082. Rations

"(a) The President may prescribe the components and quantities of the Navy ration. The President may direct the issuance of equivalent articles in place of the prescribed components of the ration if the President determines that economy and the health and comfort of the members of the naval service require such action.

"(b) An enlisted member of the naval service on active duty is entitled to one ration daily. If an emergency ration is issued, it is in addition to the regular ration.

"(c) Fresh or preserved fruits, milk, butter, and eggs necessary for the proper diet of the sick and injured in hospitals shall be provided under regulations prescribed by the Secretary of the Navy.

"(d) The Secretary of the Navy may increase the quantity of daily rations for members of the naval service on a vessel or at a station that has an authorized complement of less than 150 members if the President determines that the vessel or station is operating under conditions that warrant an increase in rations.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 6082 and inserting in lieu thereof the following:

"6082 Rations.".

SEC. 558. REPORT REGARDING REQUIREMENT FOR DUTY IN SUPPORT OF NATIONAL GUARD AND RESERVES

Not later than April 15, 1991, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the desirability of requiring active-duty list officers to serve a minimum of two years in support of a National Guard or Reserve unit as a condition of eligibility for consideration for promotion to the grade of colonel or, in the case of the Navy, captain.

SEC. 559. PROHIBITION ON CERTAIN RESERVE SERVICE

(a) LIMITATION ON DUTY WITH ROTC UNITS.—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 686 the following new section:

"§ 687. Limitation on duty with Reserve Officer Training Corp units

"A member of a reserve component serving on active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components may not be assigned to duty with a unit of the Reserve Officer Training Corps program.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 686 the following new item:

"687. Limitation on duty with Reserve Officer Training Corp units.".

(b) EFFECTIVE DATE.—Section 687 of title 10, United States Code, as added by subsection (a), shall take effect on September 30, 1991. 10 USC 687 note.

PART F—MONTGOMERY GI BILL

SEC. 561. OPPORTUNITY FOR CERTAIN PERSONNEL TO ENROLL IN MONTGOMERY GI BILL BEFORE BEING INVOLUNTARILY SEPARATED FROM SERVICE

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 1418 the following:

"§ 1418A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) after December 31, 1990, or the end of the 90-day period beginning on the date of the enactment of this section, whichever is later, is involuntarily separated (as such term is defined in section 1142 of title 10) with an honorable discharge;

Education.

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree;

"(3) in the case of any individual who has made an election under section 1411(c)(1) or 1412(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as a service in the Navy;

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

"(5) before such separation elects to receive assistance under this section pursuant to procedures referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) The basic pay of an individual described in subsection (a) of this section shall be reduced by $1,200.

"(c) A withdrawal referred to in subsection (a)(3) of this section is irrevocable.

"(d)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 1623(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 1622(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 1622 of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such

Account to make payments of benefits to such individual under section 1415(e) of this chapter.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 1418 the following new item:

"1418A. Opportunity for certain active-duty personnel to enroll before being involuntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 1413 of such title is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) Subject to section 1795 of this title, each individual entitled to educational benefits under section 1418A of this title is entitled to the lesser of—

"(1) 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance); or

"(2) the number of months of such educational assistance (or such equivalent thereof) that is equal to the number of months served by such individual on active duty.".

(2) Section 1415 of such title is amended by adding at the end the following new subsection:

"(e) In the case of an individual for whom the Secretary of Defense made contributions under section 1622(c) of this title and who is entitled to educational assistance under section 1418A of this chapter, the Secretary shall increase the rate of the basic educational assistance allowance applicable to such individual in excess of the rate provided under subsection (a) of this section in a manner consistent with, as determined by the Secretary of Defense, the agreement entered into with such individual pursuant to the rules and regulations issued by the Secretary of Defense under section 1622(c) of this title.".

(3) Section 1435(b) of such title is amended—

(A) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(B) by adding at the end the following:

"(3) Payment for entitlements established under section 1418A of this title shall be made—

"(A) except as provided in subparagraphs (B) and (C) of this paragraph, from the Department of Defense Education Benefits Fund established under section 2006 of title 10;

"(B) in the case of any individual described in section 1418A(a)(3) of this title, from funds appropriated, or otherwise available, to the Department of Veterans Affairs for the payment of readjustment benefits; and

"(C) in the case of the increase in payments made under section 1415(e) of this title, from the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of this title.".

SEC. 562. CLARIFYING AMENDMENTS TO MONTGOMERY GI BILL ACTIVE DUTY PROGRAM

(a) REASON FOR DISCHARGE.—(1) Subparagraph (A)(ii)(I) of section 1411(a)(1) of title 38, United States Code, is amended—

(A) by striking out "or for" and inserting in lieu thereof "for"; and

(B) by inserting after "hardship" the following: ", or for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy".

(2) Subparagraph (B)(ii)(I) of section 1411(a)(1) of such title is amended—

(A) by striking out "or for" and inserting in lieu thereof "for"; and

(B) by inserting after "hardship" the following: ", or for a physical or mental condition that was not characterized as a disability, as described in subparagraph (A)(ii)(I) of this paragraph".

(3) Section 1412(b)(1) of such title is amended—

(A) in subparagraph (A)—

(i) by striking out "or (v)" and inserting in lieu thereof "(v)"; and

(ii) by inserting immediately before the period the following: ", or (vi) for a physical or mental condition that was not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title";

(B) in subparagraph (B)(i)—

(i) by striking out "or for" and inserting in lieu thereof ", for"; and

(ii) by inserting immediately before ", if the individual" the following: ", or for a physical or mental condition not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title"; and

(C) in subparagraph (B)(ii)—

(i) by striking out "or (V)" and inserting in lieu thereof "(V)"; and

(ii) by inserting immediately before the period the following: ", or (VI) for a physical or mental condition not characterized as a disability, as described in section 1411(a)(1)(A)(ii)(I) of this title".

(4) Section 3103A(b)(3)(F) is amended—

(A) by striking out "or" at the end of clause (ii);

(B) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(C) by adding at the end the following:

"(iv) a discharge or release from active duty for a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as described in section 1411(a)(1)(A)(ii)(I) of this title.".

(b) INITIAL PERIOD OF DUTY.—Section 1411(d) of such title is amended—

(1) in paragraph (1), by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)"; and

(2) by adding at the end the following:

"(3) The period of service referred to in paragraph (1) is also any period of service on active duty which an individual in the Selected

Reserve was ordered to perform under section 672, 673, 673b, 674, or 675 of title 10 for a period of less than 2 years.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 19, 1984. 38 USC 1411 note.

SEC. 563. PARTICIPATION OF CERTAIN NATIONAL GUARD PERSONNEL IN MONTGOMERY GI BILL

(a) IN GENERAL.—Section 1402 of title 38, United States Code, is amended by adding at end the following:

"(7) The term 'active duty' includes full-time National Guard duty first performed after November 29, 1989, by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State for the purpose of organizing, administering, recruiting, instructing, or training the National Guard.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply only to individuals who before the date of entry on active duty, as defined in section 1402(7) of title 38, United States Code (as added by subsection (a)), have never served on active duty as defined in section 101(21) of that title. 38 USC 1402 note.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1991 37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1991 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1991, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 4.1 percent.

SEC. 602. MODIFICATION OF LIMITATION ON ADJUSTMENTS IN VARIABLE HOUSING ALLOWANCE

Section 403a of title 37, United States Code, is amended—

(1) in subsection (c)(2), by striking out ", except that the monthly amount" and all that follows through the period at the end and inserting in lieu thereof a period; and

(2) by adding at the end the following new subsection:

"(f) The monthly rate of a variable housing allowance for members of the uniformed services in the same pay grade and dependency status in an area may not be reduced pursuant to subsection (c)(2), a redetermination of median monthly costs of housing under that subsection, or any other law to the extent that the total amount of monthly basic pay, basic allowance for quarters, basic allowance for subsistence, and variable housing allowance for that grade and status is reduced, as a result of such a reduction in variable housing allowance, below the monthly total of those items of pay and allowances for the month preceding the effective date of the most recent increase in the rate of basic pay for that grade.".

PART B—BONUSES AND SPECIAL AND INCENTIVE PAY

SEC. 611. MULTIYEAR MEDICAL OFFICER RETENTION BONUS

(a) BONUS AUTHORIZED.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 301c the following new section:

"§ 301d. Multiyear retention bonus: medical officers of the armed forces

"(a) BONUS AUTHORIZED.—(1) A medical officer described in subsection (b) who executes a written agreement to remain on active duty for two, three, or four years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary of the military department concerned, be paid a retention bonus as provided in this section.

"(2) The amount of a retention bonus under paragraph (1) may not exceed $14,000 for each year covered by a four-year agreement. The maximum yearly retention bonus for two-year and three-year agreements shall be reduced to reflect the shorter service commitment.

"(b) ELIGIBLE OFFICERS.—This section applies to an officer of the armed forces who—

"(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

"(2) is in a pay grade below pay grade 0-7;

"(3) has at least eight years of creditable service (computed as described in section 302(g) of this title) or has completed any active-duty service commitment incurred for medical education and training; and

"(4) has completed initial residency training (or will complete such training before September 30 of the fiscal year in which the officer enters into an agreement under subsection (a)).

"(c) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

"(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owned to the United States.

"(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than five years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 301c the following new item:

"301d. Retention bonus: medical officers of the armed forces.".

37 USC 301d note.

(b) TERMINATION OF EXISTING RETENTION BONUS AGREEMENT.—(1) Subject to the approval of the Secretary of the military department concerned, a medical officer who is eligible to enter into a retention bonus agreement under section 301d of title 37, United States Code (as added by subsection (a)) may terminate any existing retention bonus agreement entered into by that officer under 612 of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), in order to enter into an agreement under section 301d of such

title containing an active-duty service obligation that is not less than the active-duty service obligation remaining under the existing agreement on the date of its termination.

(2) Subsection (e) of section 612 of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), shall not apply to the termination, pursuant to paragraph (1), of a retention bonus agreement under that section.

(c) REPORT ON IMPLEMENTATION.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing implementation of section 301d of title 37, United States Code (as added by subsection (a)). The report shall include a description of the process that will be used to reassess the assignment of medical specialties to the various categories of multiyear bonuses under that section and the means for ensuring that substantial changes to the total compensation of medical officers of the Armed Forces will be minimized. The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(d) CONFORMING AMENDMENT.—Section 303a of title 37, United States Code, is amended by inserting "301d," after "sections" each place it appears.

SEC. 612. INCREASE IN PHYSICIAN SPECIAL PAY FOR OFFICERS IN A PAY GRADE ABOVE O-6

Section 302(a)(3) of title 37, United States Code, is amended by striking out "$1,000" and inserting in lieu thereof "$7,000".

SEC. 613. EXTENSION OF NURSE INCENTIVE PROGRAMS

(a) NURSE ACCESSION BONUS.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1992,".

(b) SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1992,".

(c) NURSE CANDIDATES.—Section 2130a of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "September 30, 1991," and inserting in lieu thereof "September 30, 1992,"; and

(2) in subsections (a)(2) and (b)(1), by inserting "by the Secretary selecting the person" after "this title".

SEC. 614. EXTENSION OF SPECIAL PAY FOR NURSE ANESTHETISTS TO OTHER NURSING SPECIALTIES

(a) SPECIAL PAY AUTHORIZED.—Subsection (b) of section 302e of title 37, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" before "An officer"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary of Defense may extend the special pay authorized under subsection (a) to officers of the armed forces who serve in a nursing specialty (other than as nurse anesthetists) that—

"(A) is designated by the Secretary as critical to meet requirements (whether such specialty is designated as critical to meet wartime or peacetime requirements); and

"(B) requires postbaccalaureate education and training.".

(b) CONFORMING AMENDMENT.—Subsection (a)(1) of such section is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (b)(1)".

37 USC 302e note.

(c) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (b)(2) of section 302e of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report—

(1) justifying the need of the departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

SEC. 615. AUTHORITY TO TERMINATE SELECTIVE REENLISTMENT BONUS PAYMENTS

(a) TERMINATION AUTHORIZED.—Subsection (d) of section 308 of title 37, United States Code, is amended—

(1) by inserting (1) after "(d)"; and

(2) by adding at the end the following new paragraph:

"(2) If a refund is not required under paragraph (1) in the case of a member who fails to complete a term of enlistment, the Secretary of Defense with respect to the armed forces under the Secretary's jurisdiction, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, may decline to make any payment of a bonus installment under this section that is due to be paid to the member after the date on which the member fails to complete the term of enlistment for which the bonus is being paid. The Secretary of Defense and the Secretary of Transportation may prescribe the circumstances under which bonus installments may be terminated under this paragraph.".

37 USC 308 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any bonus paid under section 308 of title 37, United States Code, to a person in connection with the reenlistment or extension of the term of enlistment of the person in the Armed Forces on or after the date of the enactment of this Act.

SEC. 616. EXTENSION OF SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

Section 613(d) of the National Defense Authorization Act, Fiscal Year 1989 (37 U.S.C. 302 note), is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1993".

SEC. 617. RETENTION BONUS FOR OPTOMETRISTS

(a) RETENTION BONUS AUTHORIZED.—Section 302a of title 37, United States Code, is amended—

(1) by inserting "(a) REGULAR SPECIAL PAY.—" before "Each"; and

(2) by adding at the end the following new subsection:

"(b) RETENTION SPECIAL PAY.—(1) Under regulations prescribed under section 303a(a) of this title, an officer described in paragraph (2) may be paid retention special pay of not more than $6,000 for any twelve-month period during which the officer is not undergoing an internship or initial residency training.

"(2) An officer referred to in paragraph (1) is an officer of an armed force who—

"(A) is entitled to special pay under subsection (a);

"(B) has completed any initial active-duty service commitment incurred for education and training; and

"(C) is determined by the Secretary of the military department concerned to be qualified as an optometrist.

"(3) An officer may not be paid retention special pay under paragraph (1) for any twelve-month period unless the officer first executes a written agreement under which the officer agrees to remain on active duty for a period of not less than one year beginning on the date the officer accepts the award of such special pay.

"(4) The Secretary of the military department concerned may terminate at any time the eligibility of an officer to receive retention special pay under paragraph (1). If such eligibility is terminated, the officer concerned shall receive such special pay only for the part of the period of active duty that the officer served and may be required to refund any amount in excess of that amount.".

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (b) of section 302a of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report— 37 USC 302a note.

(1) justifying the need of the military departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

SEC. 618. PROVISION OF BOARD CERTIFICATION SPECIAL PAY FOR NONPHYSICIAN HEALTH CARE PROVIDERS

(a) SPECIAL PAY AUTHORIZED.—Section 302c of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) NONPHYSICIAN HEALTH CARE PROVIDERS.—The Secretary of Defense may authorize the payment of special pay at the rates specified in subsection (b) to an officer who—

"(1) is an officer in the Medical Services Corps of the Army or Navy or a biomedical sciences officer in the Air Force;

"(2) is a health care provider (other than a psychologist);

"(3) has a postbaccalaureate degree; and

"(4) is certified by a professional board in the officer's specialty.".

(b) IMPLEMENTATION OF AMENDMENT.—The Secretary of Defense may not implement subsection (d) of section 302c of title 37, United States Code (as added by subsection (a)), unless the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report— 37 USC 302c note.

(1) justifying the need of the military departments for the authority provided in such subsection; and

(2) describing the manner in which that authority will be implemented.

(c) CLERICAL AMENDMENTS.—(1) The heading of section 302e of title 37, United States Code, is amended to read as follows:

"§ 302c. Special pay: psychologists and nonphysician health care providers

(2) The table of sections at the beginning of chapter 5 of such title is amended by striking out the item relating to section 302c and inserting in lieu thereof the following:

"302c. Special pay: psychologists and nonphysician health care providers.".

PART C—TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 621. PERMANENT AUTHORITY TO PAY MEMBERS FOR LABOR FURNISHED IN CONNECTION WITH THE TRANSPORTATION OF BAGGAGE AND HOUSEHOLD GOODS

37 USC 406 and note.

Subsection (b) of section 614 of the Department of Defense Authorization Act, 1986 (37 U.S.C. note) is repealed. The amendments made by subsection (a) of that section are hereby revived effective as of October 1, 1989.

SEC. 622. BAGGAGE AND HOUSEHOLD WEIGHT ALLOWANCE FOR CADETS AND MIDSHIPMEN

(a) IN GENERAL.—Section 406(b)(1) of title 37, United States Code, is amended by adding at the end the following new subparagraph:

"(E) Under regulations prescribed by the Secretary of Defense, cadets at the United States Military Academy and the United States Air Force Academy, and midshipmen at the United States Naval Academy shall be entitled, in connection with a change of temporary or permanent station, to transportation of baggage and household effects as provided in subparagraph (A) of this paragraph. The weight allowance for such cadets and midshipmen shall be 350 pounds.".

37 USC 406 note.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall be applicable to baggage and household effects transported on or after the date of the enactment of this Act.

PART D—MISCELLANEOUS

SEC. 631. DELAY IN EFFECTIVE DATE OF OPTIONAL HIGH-TIER SURVIVOR BENEFIT PLAN COVERAGE AND OPEN ENROLLMENT PERIOD

The Military Survivor Benefits Improvement Act of 1989 (title XIV of Public Law 101-189) is amended—

10 USC 1331 note, note prec. 1431, 1456 note.

(1) in section 1404 (103 Stat. 1579), by striking out "October 1 1991" in subsections (a)(1), (a)(2), and (b)(3) and inserting in lieu thereof "April 1, 1992"; and

10 USC 1448 note.

(2) in section 1405(f) (103 Stat. 1587), by striking out "October 1 1991" and inserting in lieu thereof "April 1, 1992".

TITLE VII—HEALTH CARE PROVISIONS

PART A—HEALTH CARE SERVICES

SEC. 701. PROVISION OF PAP SMEARS AND MAMMOGRAMS UNDER CHAMPUS

(a) CARE AUTHORIZED.—Section 1079(a)(2) of title 10, United States Code, is amended by inserting before the semicolon the following: ", except that pap smears and mammograms may be provided on a diagnostic or preventive basis".

10 USC 1079 note.

(b) APPLICATION OF AMENDMENT.—The amendment made by subsection (a) shall apply to the provision of pap smears and mammograms under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act.

SEC. 702. REPEAL OF THE LIMITATION ON THE PAYMENT OF SERVICES OF MARRIAGE AND FAMILY THERAPISTS AS A MEDICAL EXPENSE

(a) REPEAL OF LIMITATION.—Section 1079(a) of title 10, United States Code, is amended—

(1) in paragraph (8)—

(A) by inserting "(other than certified marriage and family therapists) after "marital counselors"; and

(B) by adding before the semicolon the following: "and services of certified marriage and family therapists may be provided consistent with such rules as may be prescribed by the Secretary of Defense, including credentialing criteria and a requirement that the therapists accept payment under this section as full payment for all services provided"; and

(2) in paragraph (13), by inserting "certified marriage and family therapist," after "psychologist,".

(b) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply with respect to the services of certified marriage and family therapists provided under section 1079 or 1086 of title 10, United States Code, on or after the date of the enactment of this Act.

10 USC 1079 note.

SEC. 703. MENTAL HEALTH SERVICES

(a) REDUCTION IN AUTHORIZED INPATIENT CARE.—Subsection (a)(6) of section 1079 of title 10, United States Code, is amended by striking out "in excess of 60 days in any year;" and inserting in lieu thereof the following: "in excess of—

"(A) 30 days in any year, in the case of a patient 19 years of age or older;

"(B) 45 days in any year, in the case of a patient under 19 years of age; or

"(C) 150 days in any year, in the case of inpatient mental health services provided as residential treatment care;".

(b) MANAGEMENT OF MENTAL HEALTH SERVICES.—Subsection (i) of such section is amended to read as follows:

"(i)(1) The limitation in subsection (a)(6) does not apply in the case of inpatient mental health services—

"(A) provided under the program for the handicapped under subsection (d);

"(B) provided as partial hospital care; or

"(C) provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

"(2) Notwithstanding subsection (b) or section 1086(b) of this title, the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this section or section 1086 of this title. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries.

"(3) Except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this section or section 1086 of this title. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.".

(c) PLAN FOR REDUCING MENTAL HEALTH SERVICES COSTS.—Not later than February 1, 1991, the Secretary of Defense shall submit to the Congress a plan to reduce the costs incurred by the Department of Defense to provide mental health services under the Civilian Health and Medical Program of the Uniformed Services. The plan shall include a legislative proposal to implement the recommendation of the Secretary.

10 USC 1079 note.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on February 15, 1991, and shall apply with respect to mental health services provided under section 1079 or 1086 of title 10, United States Code, on or after that date.

PART B—HEALTH CARE MANAGEMENT

10 USC 115 note.

SEC. 711. LIMITATION ON REDUCTIONS IN MEDICAL PERSONNEL

(a) LIMITATION ON REDUCTION.—The Secretary of Defense may not reduce the number of medical personnel below the number of such medical personnel serving on September 30, 1989, unless the Secretary of Defense—

(1) certifies to the Congress that—

(A) the number of such personnel being reduced is excess to the current and projected needs of the military departments; and

(B) such reduction will not result in an increase in the cost of health care services provided under the Civilian Health and Medical Program of the Uniformed Services; and

(2) in the case of military personnel, includes in the certification the information specified in subsection (b).

(b) INFORMATION REQUIRED.—A certification made by the Secretary of Defense in compliance with subsection (a)(2) shall include the following:

(1) The strength levels for the individual category of medical personnel involved in the reduction as of September 30, 1989.

(2) The projected requirements of the Department of Defense over the five-fiscal year period following the fiscal year in which the certification is submitted for medical personnel in the category of medical personnel involved in the reduction.

(3) The strength level recommended for each component of the Armed Forces for the most recent fiscal year for which the Secretary submitted recommendations pursuant to section 115a(g)(1) of title 10, United States Code (as added by section 1483), for personnel in the category of medical personnel involved in the reduction.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code (as added by section 1483), except that such term includes civilian personnel of the Department of Defense assigned to military medical facilities.

(2) The term "category of medical personnel" means—

(A) each corps referred to in subparagraphs (A) and (C) of section 115a(g)(2) of such title (as added by section 1483);

(B) each designation referred to in subparagraph (B) of such section;

(C) the enlisted personnel referred to in subparagraph (D) of such section; and

(D) other medical personnel designated as medical personnel by the Secretary pursuant to subparagraph (E) of such section, if any.

SEC. 712. INCREASE IN ANNUAL DEDUCTIBLES UNDER CHAMPUS FOR CERTAIN COVERED BENEFICIARIES

(a) DEPENDENTS COVERED BY SECTION 1079.—(1) Subsection (b)(2) of section 1079 of title 10, United States Code, is amended—

(A) by striking out "$50" and inserting in lieu thereof "$150"; and

(B) by adding at the end the following new sentence: "Notwithstanding the preceding sentence, in the case of a dependent of an enlisted member in a pay grade below E–5, the initial deductible each fiscal year under this paragraph shall be limited to $50.".

(2) Subsection (b)(3) of such section is amended by striking out "$100" and inserting in lieu thereof "$300 (or in the case of the family group of an enlisted member in a pay grade below E–5, the first $100)".

(b) OTHER COVERED BENEFICIARIES.—(1) Subsection (b)(1) of section 1086 of such title is amended by striking out "$50" and inserting in lieu thereof "$150".

(2) Subsection (b)(2) of such section is amended by striking out "$100" and inserting in lieu thereof "$300".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall apply with respect to health care provided under sections 1079 and 1086 of title 10, United States Code, on or after April 1, 1991. 10 USC 1079 note.

SEC. 713. COLLECTION FROM THIRD-PARTY PAYERS OF REASONABLE COSTS OF HEALTH CARE SERVICES INCURRED ON BEHALF OF RETIRED PERSONS AND DEPENDENTS

(a) COLLECTION FOR OUTPATIENT CARE.—(1) Subsections (a)(1), (a)(2), (c), (f), and (g) of section 1095 of title 10, United States Code, are each amended by striking out "inpatient hospital care" and inserting in lieu thereof "health care services".

(b) COMPUTATION OF REASONABLE COSTS.—Subsection (f) of such section is further amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (4); and

(3) by inserting after paragraph (1) the following new paragraphs:

"(2) all-inclusive per visit rates;

"(3) diagnosis-related groups; or".

(c) ADDITIONAL THIRD-PARTY PAYERS.—Such section is further amended by striking out subsection (h) and inserting in lieu thereof the following new subsections:

"(h) In this section:

"(1) The term 'third-party payer' means an entity that provides an insurance, medical service, or health plan by contract

or agreement, including an automobile liability insurance or no fault insurance carrier.

"(2) The term 'insurance, medical service, or health plan' includes an insurance plan described as Medicare supplemental insurance.

"(i)(1) In the case of a third-party payer that is an automobile liability insurance or no fault insurance carrier, the right of the United States to collect under this section shall extend to health care services provided to a person entitled to health care under section 1074(a) of this title.

"(2) In cases in which a tort liability is created upon some third person, collection from a third-party payer that is an automobile liability insurance or no fault insurance carrier shall be governed by the provisions of Public Law 87-693 (42 U.S.C. 2651 et seq.).".

(d) TECHNICAL AND CLERICAL AMENDMENTS.—(1) Such section is further amended—

(A) in subsection (a)(1) (as amended by subsection (a)), by striking out "covered by section 1074(b), 1076(a), or 1076(b) of this title" and inserting in lieu thereof "covered beneficiary"; and

(B) in subsection (a)(2) (as amended by subsection (a)), by striking out "person covered by section 1074(b), 1076(a), or 1076(b) of this title" and inserting in lieu thereof "covered beneficiary".

(2) The heading of such section is amended to read as follows:

"§ 1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers".

(2) The item relating to such section in the table of sections at the beginning of chapter 55 of such title is amended to read as follows:

"1095. Health care services incurred on behalf of covered beneficiaries: collection from third-party payers.".

10 USC 1095 note.

(e) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to health care services provided in a medical facility of the uniformed services after the date of the enactment of this Act, but not with respect to collection under any insurance, medical service, or health plan agreement entered into before the date of the enactment of this Act that the Secretary of Defense determines clearly excludes payment for such services. Such an exception shall apply until the amendment or renewal of such agreement after that date.

SEC. 714. INCREASE IN THE PAY LIMIT FOR PERSONAL SERVICES CONTRACTS FOR DIRECT HEALTH CARE PROVIDERS

Section 1091(b) of title 10, United States Code, is amended by striking out "basic pay and allowances authorized by chapters 3 and 7 of title 37 for a commissioned officer" and inserting in lieu thereof "basic pay, special and incentive pays and bonuses, and allowances authorized by chapters 3, 5, and 7 of title 37 for a commissioned officer with comparable professional qualifications".

10 USC 1073 note.

SEC. 715. CONDITIONS ON EXPANSION OF CHAMPUS REFORM INITIATIVE

(a) CERTIFICATION OF COST-EFFECTIVENESS.—The Secretary of Defense may not proceed with the proposed expansion of the CHAMPUS reform initiative underway in the States of California

and Hawaii until not less than 90 days after the date on which the Secretary certifies to the Congress that—

(1) such CHAMPUS reform initiative has been demonstrated to be more cost-effective than the Civilian Health and Medical Program of the Uniformed Services or any other health care demonstration program being conducted by the Secretary;

(2) the contractor selected to underwrite the delivery of health care under the CHAMPUS reform initiative will accomplish the expansion without the disruption of services to beneficiaries under the Civilian Health and Medical Program of the Uniformed Services or delays in the processing of claims; and

(3) such contractor is currently, and projected to remain, financially able to underwrite the CHAMPUS reform initiative.

(b) REPORT ON CERTIFICATION.—Not later than 30 days after the date on which the Secretary of Defense submits the certification required by subsection (a), the Comptroller General of the United States and the Director of the Congressional Budget Office shall jointly submit to Congress a report evaluating such certification.

(c) CHAMPUS REFORM INITIATIVE DEFINED.—For purposes of this section, the term "CHAMPUS reform initiative" has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

SEC. 716. REQUIREMENTS PRIOR TO TERMINATION OF MEDICAL SERVICES AT MILITARY MEDICAL TREATMENT FACILITIES

10 USC 1073 note.

(a) PROHIBITION.—During the period beginning on the date of the enactment of this Act and ending on September 30, 1995, the Secretary of a military department may not take any action to close a military medical facility under the jurisdiction of that Secretary or reduce the level of care provided at such a medical facility until 90 days after the date on which the Secretary submits to Congress a report described in subsection (b).

(b) ELEMENTS OF REPORT.—A report referred to in subsection (a) shall include the following:

(1) The reason for the action.

(2) The projected savings to the Government from the action.

(3) The impact on CHAMPUS and MEDICARE costs in the catchment area of the facility.

(4) The impact on beneficiary cost-sharing.

(5) An examination of alternative ways to provide care to the persons served by the facility that the Secretary determines would not result in adverse consequences to such persons.

(6) An explanation of how care will be provided for and the cost, if any, to those persons to receive such care.

(c) EXCEPTION.—Subsection (a) shall not apply with respect to the closing of a military medical facility (or the reduction of the level of care provided at a military medical facility) as a result of a base closure or an operational deployment.

SEC. 717. LIMITATION ON AWARDING CONTRACT FOR FULL PRODUCTION OF MEDICAL INFORMATION SYSTEMS

(a) LIMITATION.—Subsection (g) of section 704 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3900), as added by section 733(d) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1122), is amended by striking out "until—" and all

that follows through the period and inserting in lieu thereof the following: "until the later of—

"(1) January 1, 1992; and

"(2) 30 days after the date of the submission of the report required under subsection (f).".

(b) REPORT OF COMPTROLLER GENERAL.—Subsection (f) of such section is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) whether the operational test and evaluation phase was conducted at a sufficient number of sites and with sufficient software in operation to warrant a full production decision.".

(c) CERTIFICATION TO EXPAND USE OF SYSTEM.—Such section is further amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"(h) LIMITATION ON EXPANSION OF USE OF SYSTEM.—(1) The Secretary may not authorize the use of the Composite Health Care System to replace an Independent Operating Capability system in any military medical treatment facility that is not involved in the operational test and evaluation phase referred to in subsection (b) on the date of the enactment of this amendment until the Secretary certifies to the Committees on Armed Services of the Senate and House of Representatives that use of the Composite Health Care System in that facility is the most cost-effective method for maintaining automated operations at the facility.

"(2) A certification required under paragraph (1) shall include the following assurances:

"(A) The Secretary has successfully tested the software version of the Composite Health Care System at several military medical treatment facilities that are representative of the facility at which the software will be used.

"(B) The Secretary has stabilized the software to be used at that facility in order to eliminate all critical system incidents.

"(C) The Secretary has properly sized the hardware to be installed at that facility to ensure adequate capacity when the full configuration of the system is installed at that military medical treatment facility.

"(D) The installation of the system at that facility will not adversely affect contractor capabilities for continuing the operational test and evaluation phase of the system at the military medical treatment facilities involved in that phase.

"(3) The limitation contained in paragraph (1) shall apply until the awarding of a contract for full production of a medical information system for use in all military medical treatment facilities.".

SEC. 718. UNIFORMED SERVICES TREATMENT FACILITIES

(a) DELAY OF TERMINATION EFFECTIVE DATE.—Subsection (e) of section 1252 of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d), is amended by striking out "1990" and inserting in lieu thereof "1993".

(b) LIMITATION ON EXPENDITURES.—Such section is further amended—

42 USC 248c.

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) LIMITATION ON EXPENDITURES.—The total amount of expenditures to carry out this section and section 911 of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c), may not exceed $154,000,000 for fiscal year 1991.". 42 USC 248d.

(c) MANAGED-CARE DELIVERY AND REIMBURSEMENT MODEL.—Not later than September 30, 1991, the Secretary of Defense shall complete negotiations with the Uniformed Services Treatment Facilities and begin implementation of a managed-care delivery and reimbursement model that will continue to utilize the Uniformed Services Treatment Facilities in the military health care delivery system.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

PART A—ACQUISITION MANAGEMENT IMPROVEMENT

SEC. 800. ADVISORY PANEL ON STREAMLINING AND CODIFYING ACQUISITION LAWS 10 USC 2301 note.

(a) ESTABLISHMENT.—Not later than January 15, 1991, the Under Secretary of Defense for Acquisition shall establish under the sponsorship of the Defense Systems Management College an advisory panel on streamlining and codifying acquisition laws.

(b) MEMBERSHIP.—The panel shall be composed of at least nine individuals who are recognized experts in acquisition laws and procurement policy. In making appointments to the advisory panel, the Under Secretary shall ensure that the members of the panel reflect diverse experiences in the public and private sectors.

(c) DUTIES.—The panel shall—

(1) review the acquisition laws applicable to the Department of Defense with a view toward streamlining the defense acquisition process;

(2) make any recommendations for the repeal or amendment of such laws that the panel considers necessary, as a result of such review, to—

(A) eliminate any such laws that are unnecessary for the establishment and administration of buyer and seller relationships in procurement;

(B) ensure the continuing financial and ethical integrity of defense procurement programs; and

(C) protect the best interests of the Department of Defense; and

(3) prepare a proposed code of relevant acquisition laws.

(d) REPORT.—(1) Not later than December 15, 1992, the advisory panel shall transmit a final report on the actions of the panel to the Under Secretary of Defense for Acquisition.

(2) The final report shall contain a detailed statement of the findings and conclusions of the panel, the proposed codification of acquisition laws prepared pursuant to subsection (c), and such additional recommendations for such legislation as the Panel considers appropriate.

(3) The Secretary of Defense shall transmit the final report of the Under Secretary of Defense for Acquisition, together with such

comments as he deems appropriate, to the congressional defense committees not later than January 15, 1993.

SEC. 801. AUTHORITY GOVERNING OPERATION OF WORKING-CAPITAL FUNDED ACTIVITIES

Section 2208(i) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraph:

"(1) Regulations under subsection (h) shall authorize a working-capital funded Army industrial facility (including a Department of the Army arsenal) that manufactures large caliber cannons, gun mounts, recoil mechanisms, ammunition, munitions, or components thereof to sell manufactured articles or services to a person outside the Department of Defense if—

"(A) in the case of an article, the article is sold to a United States manufacturer, assembler, developer, or other concern—

"(i) for use in developing new products;

"(ii) for incorporation into items to be sold to, or to be used in a contract with, an agency of the United States;

"(iii) for incorporation into items to be sold to, or to be used in a contract with, or to be used for purposes of soliciting a contract with, a friendly foreign government; or

"(iv) for use in commercial products;

"(B) in the case of an article, the purchaser is determined by the Department of Defense to be qualified to carry out the proposed work involving the article to be purchased;

"(C) the article or service is not readily available to the purchaser from a commercial source in the United States in a timely manner that meets the requirements of the purchaser;

"(D) the sale is to be made on a basis that does not interfere with performance of work by the facility for the Department of Defense or for a contractor of the Department of Defense; and

"(E) in the case of services, the services are related to an article authorized to be sold under this subsection and are to be performed in the United States for the purchaser.".

SEC. 802. PROCEDURES FOR CONTRACT SOLICITATION AND EVALUATION

(a) STATEMENT OF SIGNIFICANT FACTORS.—(1) Clause (i) of section 2305(a)(2)(A) of title 10, United States Code, is amended—

(A) by inserting "(and significant subfactors)" after "significant factors"; and

(B) by striking out "(including cost or price)" and inserting in lieu thereof the following: "(including cost or price, cost- or price-related factors, and noncost- or nonprice-related factors)".

(2) Clause (ii) of such section is amended by inserting "(and subfactors)" after "those factors".

(b) STATEMENT RELATING TO DISCUSSIONS.—Subclause (I) of section 2305(a)(2)(B)(ii) of title 10, United States Code, is amended to read as follows:

"(I) a statement that the proposals are intended to be evaluated with, and award made after, discussions with the offerors, or a statement that the proposals are intended to be evaluated, and award made, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification), unless discussions are determined to be necessary; and".

(c) RELATIVE IMPORTANCE OF EVALUATION FACTORS.—Paragraph (3) of section 2305(a) of title 10, United States Code, is amended by striking out "the quality of the services" and inserting in lieu thereof "the evaluation factors and subfactors, including the quality of the product or services".

(d) EVALUATION OF SEALED BIDS AND COMPETITIVE PROPOSALS.—(1) Paragraph (1) of section 2305(b) of title 10, United States Code, is amended by inserting "and make an award" after "competitive proposals".

(2) Paragraph (3) of such section is amended in the second sentence by inserting "in accordance with paragraph (1)" after "shall evaluate the bids".

(3) Paragraph (4) of such section is amended—

(A) in subparagraph (A), by striking out "competitive proposals" and all that follows and inserting in lieu thereof "competitive proposals in accordance with paragraph (1) and may award a contract—

"(i) after discussions with the offerors, provided that written or oral discussions have been conducted with all responsible offerors who submit proposals within the competitive range; or

"(ii) based on the proposals received, without discussions with the offerors (other than discussions conducted for the purpose of minor clarification) provided that the solicitation included a statement that proposals are intended to be evaluated, and award made, without discussions, unless discussions are determined to be necessary.";

(B) by striking out subparagraphs (B) and (C);

(C) by redesignating subparagraph (D) as subparagraph (B); and

(D) by redesignating subparagraph (E) as subparagraph (C) and in that subparagraph striking out "Subparagraph (D)" and inserting in lieu thereof "Subparagraph (B)".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to solicitations for sealed bids or competitive proposals issued after the end of the 120-day period beginning on the date of the enactment of this Act. 10 USC 2305 note.

(2) The Secretary of Defense may require the amendments made by this section to apply with respect to solicitations issued before the end of the period referred to in paragraph (1). The Secretary of Defense shall publish in the Federal Register notice of any such earlier effective date. Federal Register, publication.

SEC. 803. CERTIFIED COST OR PRICING DATA THRESHOLD

(a) INCREASE IN THRESHOLD FOR CERTIFIED COST OR PRICING DATA.—(1) Section 2306a(a)(1) of title 10, United States Code, is amended as follows:

(A) Subparagraph (A) of such section is amended by striking out "$100,000" and inserting in lieu thereof the following: "$500,000 or, in the case of a contract to be awarded after December 31, 1995, $100,000".

(B) Subparagraph (B) of such section is amended by striking out "$100,000" and inserting in lieu thereof the following: "$500,000 (or such lesser amount as may be prescribed by the head of the agency) or, in the case of a change or modification to a contract to be made after December 31, 1995, $100,000".

(C) Subparagraph (C) of such section is amended by striking out "$100,000" in clause (i) and inserting in lieu thereof the following: "$500,000 or, in the case of a subcontract to be awarded after December 31, 1995, $100,000".

(D) Subparagraph (D) of such section is amended by striking out "$100,000" and inserting in lieu thereof the following: "$500,000 (or such lesser amount as may be prescribed by the head of the agency) or, in the case of a change or modification to be made after December 31, 1995, $100,000".

10 USC 2306a note.

(2) The amendments made by this subsection shall apply to—

(A) contracts and subcontracts entered into after the date on which the Secretary of Defense issues guidance under subsection (c); and

(B) modifications or changes to such contracts and subcontracts.

10 USC 2306a note.

(b) REVIEW BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE.—(1) After the increase in the threshold for submission of cost or pricing data under section 2306a(a) of title 10, United States Code (as amended by subsection (a)) has been in effect for three years, the Inspector General of the Department of Defense shall conduct a review of the effects of the increase in the threshold.

(2) The review shall address whether increasing the threshold has improved the acquisition process in terms of reduced paperwork, financial or other savings to the government, an increase in the number of contractors participating in the defense contracting process, and the adequacy of information available to contracting officers in cases in which certified cost or pricing data are not required under section 2306a.

Reports.

(3) The Inspector General of the Department of Defense shall submit to the Secretary of Defense a report on the review conducted under paragraph (1). The Secretary of Defense shall submit such report to Congress, along with such comments as the Secretary considers appropriate, upon completion of the report (and comments) but not later than the date on which the President submits the budget to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1996.

10 USC 2306a note.

(c) REGULATIONS FOR BELOW-THRESHOLD PROCUREMENTS.—(1) The Secretary of Defense shall prescribe regulations identifying the type of procurements for which contracting officers should consider requiring the submission of certified cost or pricing data under section 2306a(c) of title 10, United States Code.

(2) The Secretary also shall prescribe regulations concerning the types of information that offerors must submit for a contracting officer to consider in determining whether the price of a procurement to the Government is fair and reasonable when certified cost or pricing data are not required to be submitted under section 2306a of such title because the price of the procurement to the United States is not expected to exceed $500,000. Such information, at a minimum, shall include appropriate information on the prices at which such offeror has previously sold the same or similar products.

(3) The regulations required under this subsection shall be prescribed not later than six months after the date of the enactment of this Act.

(d) DOCUMENTATION OF SUBMISSIONS UNDER SECTION 2306a(c).—Section 2306a(c) of title 10, United States Code, is amended by adding at the end the following: "In any case in which the head of the agency requires such data to be submitted under this subsection,

the head of the agency shall document in writing the reasons for such requirement.".

SEC. 804. REPEAL OF REQUIREMENTS RELATING TO COMMERCIAL PRICING FOR SPARE OR REPAIR PARTS

(a) REPEAL.—Section 2323 of title 10, United States Code, is hereby repealed.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 137 of such title is amended by striking out the item relating to section 2323.

SEC. 805. COMPETITIVE ALTERNATIVE SOURCE REQUIREMENT

Section 2438 of title 10, United States Code, is amended to read as follows:

"§2438. Major programs: competitive alternative sources

"(a)(1) Before full-scale development under a major program begins, the Secretary of Defense shall prepare an acquisition strategy for the program.

"(2) The Secretary shall ensure that contracts for each major program and each major subsystem under such major program are awarded in accordance with the acquisition strategy for such program. Government contracts.

"(b)(1) The acquisition strategy prepared under subsection (a)(1) shall ensure that the Secretary will have the option to use competitive alternative sources for major programs and for major subsystems under the major programs throughout the period from the beginning of full-scale development through the end of procurement in any case in which the establishment and maintenance of two or more sources—

"(A) would—

"(i) likely reduce technological risks associated with the program;

"(ii) likely result in reduced costs for such program; or

"(iii) likely result in an improvement in design commensurate with the additional cost;

"(B) would not result in unacceptable delays in fulfilling the needs of the Department of Defense; and

"(C) is otherwise in the national security interests of the United States.

"(2) In carrying out this subsection, the Secretary may provide that the requirement for competitive alternative sources of a major program or subsystem is satisfied even though the sources for that major program or subsystem do not develop or produce identical systems if the systems developed serve similar functions and compete effectively with each other.

"(c) In this section:

"(1) The term 'major program' means a major defense acquisition program, as such term is defined in section 2430 of this title.

"(2) The term 'major subsystem', with respect to a major program, means a subsystem of the system developed under the program, that is purchased directly by the United States and for which—

"(A) the amount for research, development, test, and evaluation is 10 percent or more of the amount specified in section 2430(2) of this title as the research, development,

test, and evaluation funding criterion for identification of a major defense acquisition program; or

"(B) the amount for procurement is 10 percent or more of the amount specified in section 2430(2) of this title as the procurement funding criterion for identification of a major defense acquisition program.".

SEC. 806. UNIFORM SMALL PURCHASE THRESHOLD FOR VARIOUS REQUIREMENTS APPLICABLE TO FEDERAL GOVERNMENT CONTRACTORS

(a) SMALL PURCHASE THRESHOLD DEFINED.—(1) Section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403) is amended—

(A) by striking out "and" at the end of paragraph (9);

(B) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(11) the term 'small purchase threshold' means $25,000, adjusted on October 1 of each year divisible by 5 to the amount equal to $25,000 in constant fiscal year 1990 dollars (rounded to the nearest $1,000).".

41 USC 403 note.

(2) The first adjustment under section 4(11) of such Act, as amended by paragraph (1), shall be made on October 1, 1995.

(b) AMENDMENTS TO TITLE 10.—Section 2304(g) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold";

(2) in paragraph (3), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold"; and

(3) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'small purchase threshold' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(c) AMENDMENTS TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) is amended—

(1) in paragraph (2), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold";

(2) in paragraph (3), by striking out "$25,000" and inserting in lieu thereof "the small purchase threshold"; and

(3) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'small purchase threshold' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(d) ADDITIONAL AMENDMENTS TO THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—Section 18(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(a)(1)) is amended—

(1) by striking out "$25,000" each place it appears and inserting in lieu thereof "the small purchase threshold"; and

(2) in clause (A)—

(A) by inserting "or" at the end of subclause (i);

(B) by striking out "; or" at the end of subclause (ii) and inserting in lieu thereof a comma; and

(C) by striking out subclause (iii).

(e) AMENDMENTS TO SMALL BUSINESS ACT.—The Small Business Act (15 U.S.C. 631 et seq.) is amended as follows:

(1) Section 3 of such Act is amended by adding at the end the following new subsection: 15 USC 632.

"(m) For purposes of this Act, the term 'small purchase threshold' has the meaning given such term in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).".

(2) Section 8 of such Act is amended— 15 USC 637.

(A) in subsection (d)(2)(A), by striking out "$10,000" and inserting in lieu thereof "the small purchase threshold"; and

(B) in subsection (e)(1)—

(i) by striking out "$25,000" each place it appears and inserting in lieu thereof "the small purchase threshold";

(ii) by inserting "or" at the end of subclause (i) of clause (A);

(iii) by striking out "; or" at the end of subclause (ii) of clause (A) and inserting in lieu thereof a comma; and

(iv) by striking out subclause (iii) of clause (A).

(3) Section 15(j) of such Act is amended by striking out "of less than $25,000" and inserting in lieu thereof "not in excess of the small purchase threshold". 15 USC 644.

SEC. 807. MEMBERSHIP ON FEDERAL ACQUISITION REGULATORY COUNCIL

Paragraph (2) of section 25(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(b)(2)) is amended by inserting before the semicolon at the end of clause (A) the following: "or, in the case of the Secretary of Defense, an official at an organizational level not lower than an Assistant Secretary of Defense within the Office of the Under Secretary of Defense for Acquisition".

SEC. 808. PROCEDURES APPLICABLE TO MULTIYEAR PROCUREMENT CONTRACTS

(a) COST DETERMINATIONS.—Paragraph (1) of section 2306(h) of title 10, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking out "(other than contracts described in paragraph (6))"; and

(2) in subparagraph (A), by striking out "reduced total costs under the contract" and inserting in lieu thereof "substantial savings of the total anticipated costs of carrying out the program through annual contracts".

(b) EXEMPTIONS.—Paragraph (6) of such section is amended by striking out "contracts for the construction, alteration, or major repair of improvements to real property or".

(c) REQUIREMENTS WITH RESPECT TO SPECIFICALLY AUTHORIZED PROGRAMS.—Paragraph (9) of such section is amended—

(1) by inserting "for a defense acquisition program that has been specifically authorized by law to be carried out using multiyear contract authority" in the matter preceding subparagraph (A) after "under this subsection"; and

(2) by striking out subparagraph (C).

SEC. 809. MAJOR DEFENSE ACQUISITION PILOT PROGRAM 10 USC 2430 note.

(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program for the purpose of determining the potential for increasing the efficiency and effectiveness of the acquisition process in major defense acquisition programs.

(b) DESIGNATION OF PARTICIPATING PROGRAMS.—(1) Subject to paragraph (2), the Secretary may designate not more than six major defense acquisition programs for participation in the pilot program.

(2) The Secretary may designate for participation in the pilot program only those major defense acquisition programs specifically authorized to be so designated in a law authorizing appropriations for such program enacted after the date of the enactment of this Act.

(c) CONDUCT OF PILOT PROGRAM.—(1) In the case of each major defense acquisition program designated for participation in the pilot program, the Secretary—

(A) shall conduct the program in accordance with standard commercial, industrial practices; and

(B) may waive or limit the applicability of any provision of law that is specifically authorized to be waived in the law authorizing appropriations referred to in subsection (b)(2) and that prescribes—

(i) procedures for the procurement of supplies or services;

(ii) a preference or requirement for acquisition from any source or class of sources;

(iii) any requirement related to contractor performance;

(iv) any cost allowability, cost accounting, or auditing requirements; or

(v) any requirement for the management of, testing to be performed under, evaluation of, or reporting on a major defense acquisition program.

(2) The waiver authority provided in paragraph (1)(B) does not apply to a provision of law if, as determined by the Secretary—

(A) a purpose of the provision is to ensure the financial integrity of the conduct of a Federal Government program; or

(B) the provision relates to the authority of the Inspector General of the Department of Defense.

(d) DESIGNATION AS DEFENSE ENTERPRISE PROGRAM.—The Secretary shall designate each participating major defense acquisition program as a defense enterprise program under section 2436 of title 10, United States Code. The Secretary may waive the applicability of the requirement of this subsection or any provision of such section 2436 to any such acquisition program if he determines that such a waiver is necessary for the purpose of the pilot program.

(e) REGULATIONS.—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary shall publish proposed regulations to implement this section and an invitation for public comment on the proposed regulations. Not later than one year after such date, the Secretary shall promulgate final regulations to implement this section.

(2)(A) The Secretary may not waive or limit the applicability of a law to a major defense acquisition program under subsection (c)(1)(B) unless the Secretary first prescribes regulations specifying the waiver or limitation.

(B) In the case of a waiver or limitation of the applicability of a requirement imposed by a statute, including a regulation prescribed to implement such statutory requirement, the following procedures shall apply:

(i) The Secretary shall publish the proposed waiver or limiting regulations and provide an opportunity for public comment on the proposed regulations for a period of not less than 60 days.

(ii) If a Federal Government official outside the Department of Defense has the responsibility for implementation of the statute, the Secretary shall consult with such official regarding the proposed waiver or limitation before publishing the proposed waiver or limiting regulations under clause (i).

(3) The Secretary may prescribe separate regulations for one or more major defense acquisition programs designated by the Secretary for participation in the pilot program.

(f) NOTIFICATION AND IMPLEMENTATION.—(1) The Secretary shall transmit to the congressional defense committees a written notification of each major defense acquisition program proposed to be designated by the Secretary for participation in the pilot program.

(2) If the Secretary proposes to waive or limit the applicability of any provision of law to a major defense acquisition program under the pilot program in accordance with this section, the Secretary shall include in the notification regarding that acquisition program—

(A) the provision of law proposed to be waived or limited;

(B) the effects of such provision of law on the acquisition, including specific examples;

(C) the actions taken to ensure that the waiver or limitation will not reduce the efficiency, integrity, and effectiveness of the acquisition process used for the major defense acquisition program; and

(D) specific budgetary and personnel savings, if any, that will result from the waiver or limitation.

(g) LIMITATION ON WAIVER AUTHORITY.—The applicability of the following requirements of law may not be waived or limited under subsection (c)(1)(B) with respect to a major defense acquisition program:

(1) The requirements of this section.

(2) The requirements contained in any law enacted on or after the date of the enactment of this Act if that law designates such major defense acquisition program as a participant in the pilot program, except to the extent that a waiver of such requirement is specifically authorized for such major defense acquisition program in a law enacted on or after such date.

(h) TERMINATION OF AUTHORITY.—The authority to waive or limit the applicability of any law under this section may not be exercised after September 30, 1992.

(i) DEFINITION.—In this section the term "major defense acquisition program" shall have the meaning given such term in section 2430 of title 10, United States Code.

SEC. 810. ACQUISITION OF COMMERCIAL PRODUCTS

Section 2325(a) of title 10, United States Code, is amended—

(1) in paragraph (2) by striking out "and";

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new paragraph:

"(4) prior to developing new specifications, the Department conducts market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.".

PART B—MODIFICATIONS TO EXISTING LAW

SEC. 811. CLARIFICATION OF SMALL BUSINESS CONCERNS COVERED BY SECTION 1207

Section 1207(a) of the Department of Defense Authorization Act, 1987 (Public Law 99-661; 10 U.S.C. 2301 note), is amended by amending paragraph (1) to read as follows:

"(1) small business concerns, including mass media and advertising firms, owned and controlled by socially and economically disadvantaged individuals (as such term is used in section 8(d) of the Small Business Act (15 U.S.C. 637(d) and regulations issued under that section), the majority of the earnings of which directly accrue to such individuals;".

SEC. 812. ADDITIONAL PROHIBITION ON CONVICTED INDIVIDUALS

(a) ADDITIONAL PROHIBITIONS ON INDIVIDUALS CONVICTED OF FELONIES RELATED TO DEFENSE CONTRACTS.—Paragraph (1) of section 2408(a) of title 10, United States Code, is amended—

(1) by inserting "or any first tier subcontract of a defense contract" before the period at the end of subparagraph (A);

(2) by inserting "or any subcontractor awarded a contract directly by a defense contractor" before the period at the end of subparagraph (B);

(3) by inserting "or any subcontractor awarded a contract directly by a defense contractor" before the period at the end of subparagraph (C); and

(4) by inserting "or first tier subcontract of a defense contract" before the period at the end of subparagraph (D).

(b) RELATED CRIMINAL PENALTY.—Section 2408(b) of such title is amended by inserting "or subcontractor" after "contractor" each place it appears.

SEC. 813. DISCLOSURE REQUIREMENT RELATING TO SUBCONTRACTORS

Section 2393 of title 10, United States Code, is amended by adding at the end the following new subsection:

Regulations.

"(d) The Secretary of Defense shall prescribe in regulations a requirement that each contractor under contract with the Department of Defense shall require each contractor to whom it awards a contract (in this section referred to as a subcontractor) to disclose to the contractor whether the subcontractor is or is not, as of the time of the award of the subcontract, debarred or suspended by the Federal government from Government contracting or subcontracting. The requirement shall apply to any subcontractor whose subcontract is in an amount above the small purchase amount established in section 2304(g) of this title.".

SEC. 814. AUTHORITY TO USE FUNDS FOR ADMINISTRATIVE COSTS OF PROCUREMENT TECHNICAL ASSISTANCE PROGRAM

(a) AUTHORITY.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2417 as section 2418; and

(B) by inserting after section 2416 the following new section:

"§ 2417. Administrative costs

"The Director of the Defense Logistics Agency may use, out of the amount appropriated for a fiscal year for operation and maintenance for the procurement technical assistance program authorized

by this chapter, an amount not exceeding three percent of such amount to defray the expenses of administering the provisions of this chapter during such fiscal year.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2417 and inserting in lieu thereof the following:

"2417. Administrative costs.
"2418. Regulations.".

(b) EFFECTIVE DATE.—Section 2417 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal year 1991 and each fiscal year thereafter. 10 USC 2417 note.

SEC. 815. POST-EMPLOYMENT RULES.

(a) SUSPENSION OF EFFECT OF CERTAIN PROVISIONS OF LAW.—The following provisions of law shall have no force or effect during the period beginning on December 1, 1990 and ending on May 31, 1991:

(1) Subsection (f) of section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423(f)). 41 USC 423 note.

(2) Sections 2397a and 2397b of title 10, United States Code. 10 USC 2397a note, 2397b note.

(3) Section 281 of title 18, United States Code. 18 USC 281 note.

(4) Sections 603 through 606, subsections (a) and (b) of section 607, and subsections (a) and (c) of section 608 of the Department of Energy Organization Act (42 U.S.C. 4101 et seq.). 42 USC 7213 note, 7214 note, 7215 note, 7216 note, 7217 note, 7218 note.

(b) CLARIFICATION OF FREQUENCY OF CERTIFICATION BY EMPLOYEES OF CONTRACTORS.—Not later than 30 days after the date of the enactment of this Act, the regulations implementing section 27(e)(1)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 423(e)(1)(B)) shall be revised to ensure that a contractor is required to obtain from each officer, employee, agent, representative, and consultant of the contractor only one certification (as described in clauses (i) and (ii) of that section) during the person's employment or association with the contractor and that such certification shall be made at the earliest possible date after the person begins his or her employment or association with the contractor. 41 USC 423 note.

PART C—DEFENSE INDUSTRIAL AND TECHNOLOGY BASE

SEC. 821. ANNUAL DEFENSE CRITICAL TECHNOLOGIES PLAN

(a) INCREASED INFORMATION RELATING TO FUNDING.—Section 2508(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon; and

(3) by inserting at the end the following new paragraphs:

"(3) identify each program element (contained in the budget information submitted to Congress by the Department of Defense in support of the budget submitted by the President pursuant to section 1105(a) of title 31 for the first fiscal year covered by the plan) for which funds are budgeted for the support of the development of any critical technology identified in the plan; and

"(4) for each such program element—

"(A) specify the amount included for each critical technology covered by the program element; and

"(B) include a comparison of that amount with the amount, if any, available to the Department of Defense for

development of such critical technology for the fiscal year preceding the first fiscal year covered by the plan.".

10 USC 2508 note.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to annual defense critical technologies plans submitted after March 1, 1991.

42 USC 6686.

SEC. 822. CRITICAL TECHNOLOGIES INSTITUTE

(a) ESTABLISHMENT.—There shall be established a federally funded research and development center to be known as the "Critical Technologies Institute" (hereinafter referred to in this section as the "Institute").

(b) INCORPORATION.—The Institute shall be incorporated as a nonprofit membership corporation.

(c) BOARD OF TRUSTEES.—(1) The Institute shall have a Board of Trustees (hereafter referred to in this section as the "Board") composed of 21 members as follows:

(A) The Director of the Office of Science and Technology Policy, who shall be Chairman of the Board.

(B) The Secretary of Defense, or the Secretary's designee.

(C) The Secretary of Energy, or the Secretary's designee.

(D) The Secretary of Health and Human Services, or the Secretary's designee.

(E) The Secretary of Commerce, or the Secretary's designee.

(F) The Administrator of the National Aeronautics and Space Administration, or the Administrator's designee.

(G) The Director of the National Science Foundation, or the Director's designee.

(H) Four members appointed by the Director of the Office of Science and Technology Policy from among the members of the Federal Coordinating Council on Science, Engineering, and Technology (other than members of such council named in subparagraphs (B) through (G)).

(I) Ten members appointed by the members of the Board referred to in subparagraphs (A) through (H) from among representatives of industry and colleges and universities in the United States.

(2)(A) The term of service of members of the Board appointed under paragraph (1)(H) shall be four years, except that of the four members first appointed, one shall be appointed for a term of one year, one shall be appointed for a term of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years, as specified by the Director of the Office of Science and Technology Policy at the time of the appointments.

(B) The term of office for each of the members of the Board appointed under paragraph (1)(I) shall be specified by the appointing members of the Board at the time of appointment.

(C) Members of the Board may be reappointed.

(D) A vacancy in a membership of the Board appointed pursuant to subparagraph (H) or (I) of paragraph (1) shall be filled in the same manner as the original appointment. A member appointed under this subparagraph shall serve for the remainder of the unexpired term of his predecessor.

(3) The Board shall meet at least twice each year.

(4)(A) The Board shall have an executive committee composed of the members referred to in subparagraphs (A) through (G) of paragraph (1) and six of the members appointed pursuant to subparagraph (I) of such paragraph.

(B) The executive committee shall meet at least six times each year.

(5) A member of the Board who is an officer or employee of the United States may not receive pay for service as a member, other than the pay provided for the member's position as an officer or employee of the United States.

(d) DUTIES OF THE INSTITUTE.—The Institute shall—

(1) survey the views of United States industry, colleges, and universities, and Federal and State agencies, involved in research, development, or utilization of critical technologies on—

(A) each critical technology identified in the most recent biennial report of the National Critical Technologies Panel established pursuant to section 601 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6681); and

(B) each technology that the Institute considers critical on the basis of its analysis of national and worldwide trends in basic and applied research and development;

(2) on the basis of such views and analysis by Institute personnel—

(A) identify suitable near-term, mid-term, and long-term national objectives for the research, development, and production capability of the United States with respect to such technologies; and

(B) prepare possible strategies for achieving the identified objectives, including a discussion of the appropriate roles of industry, colleges and universities, and Federal and State agencies;

(3) publish reports, as appropriate, discussing— Reports.

(A) such national objectives and strategies; and

(B) progress in implementing such strategies and achieving such objectives; and

(4) at the direction of the Director of the Office of Science and Technology Policy, provide technical support and assistance regarding policy formulation to the committees and panels of the Federal Coordinating Council for Science, Engineering, and Technology that are responsible for planning and coordinating Federal Government activities that advance the development of critical technologies and sustain and strengthen the science and technology base of the United States.

(e) SPONSORSHIP.—(1) The Director of the Office of Science and Technology shall be the sponsor of the Institute.

(2) The Director and the Board shall enter into a sponsor agreement consistent with the requirements prescribed by the Administrator for Federal Procurement Policy that are generally applicable to sponsor agreements. Government contracts.

(3) The sponsor agreement shall—

(A) require the Institute to perform such functions for the Office of Science and Technology Policy as the Director of that office may specify consistent with the requirements of subsection (d); and

(B) permit the Institute, subject to the concurrence of the Director, to perform functions for the member agencies of the Federal Coordinating Council on Science, Engineering, and Technology Policy.

(f) DEADLINE FOR CERTAIN ACTIONS.—The Director of the Office of Science and Technology Policy shall take such actions as may be

necessary to ensure that, not later than 90 days after the date of the enactment of this Act—

(1) the articles of incorporation for the Institute have been appropriately filed;

(2) the corporate bylaws have been adopted;

(3) the Board members have been identified or appointed, as appropriate;

(4) the initial officers of the Institute have been elected;

(5) the first regular business meeting of the Board has been conducted; and

(6) the sponsor agreement referred to in subsection (e) has been entered into.

(g) FUNDING.—(1) Subject to such limitations as may be provided in appropriation Acts, the Secretary of Defense shall make available to the Director of the Office of Science and Technology Policy, out of funds available for the Department of Defense, $5,000,000 for funding the activities of the Institute in the first fiscal year in which the Institute begins operations.

(2) There is authorized to be appropriated for the Institute for each fiscal year after the fiscal year referred to in paragraph (1) such sums as may be necessary for operation of the Institute.

SEC. 823. MANUFACTURING TECHNOLOGY

(a) IN GENERAL.—Title 10, United States Code, is amended—

(1) by redesignating chapter 149 as chapter 150;

(2) by redesignating section 2511 as section 2521; and

(3) by inserting after chapter 148 the following new chapter:

"CHAPTER 149—MANUFACTURING TECHNOLOGY

"Sec.
"2511. Definitions.
"2512. Management and planning.
"2513. National Defense Manufacturing Technology Plan.
"2514. Research and implementation.
"2515. Computer-integrated manufacturing technology.
"2516. Concurrent engineering.
"2517. Manufacturing extension programs.

"§ 2511. Definitions

"In this chapter:

"(1) The term 'manufacturing technology' means development of techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management and worker training, as well as manufacturing equipment and software.

"(2) The term 'manufacturing extension programs' means publicly-chartered organizations and services to transfer technology and help modernize small manufacturers through research, education and training, and outreach activities.

"§ 2512. Management and planning

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall—

"(1) provide centralized Department of Defense policy guidance and direction to the military departments and the Defense Agencies on all matters relating to manufacturing technology; and

"(2) direct the development and implementation of Department of Defense plans, programs, projects, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment.

"§ 2513. National Defense Manufacturing Technology Plan

"(a) The Secretary of Defense, in coordination with the Secretary of Commerce and the Secretary of Energy, shall develop and implement a National Defense Manufacturing Technology Plan (hereafter in this section referred to as the 'Plan'). Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duty of the Secretary under this subsection.

"(b) The Plan shall—

"(1) provide guidance (formulated in coordination with the Department of Commerce and other relevant public and private organizations) to the military departments and Defense Agencies and to the Department of Energy on the goals, priorities, and approaches to be taken in the defense manufacturing technology program;

"(2) provide a link between the manufacturing technology program and the industrial preparedness programs conducted by the Department of Defense and similar and related activities undertaken by government or the private sector, including programs, projects and activities carried out by the Secretary of Commerce pursuant to section 25 of the Act of March 3, 1901 (15 U.S.C. 278k) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note);

"(3) contain an analysis of the role of manufacturing extension services in—

"(A) improving the manufacturing quality, productivity, technology, and practices of defense industry subtier suppliers; and

"(B) disseminating to such suppliers such Department of Defense manufacturing concepts as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts; and

"(4) contain a description of how the Secretary of Defense will coordinate with each Federal agency and department in implementing the Plan.

"(c) In developing the Plan, the Secretaries referred to in subsection (a) shall consider and use, as appropriate, reports and studies conducted by Federal agencies and departments, the Office of Technology Assessment, the National Research Council, the Defense Science Board, industrial associations and organizations, and other entities.

"(d) The manufacturing technology program conducted by the Department of Defense may include only the projects and activities that are covered by the Plan and any projects or activities that, as determined by the Secretary of Defense, have a higher priority than the projects and activities covered by the Plan.

"§ 2514. Research and implementation

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, and in coordination with the Secretary of Commerce, the Secretary of Energy, and other relevant Federal

departments and agencies, shall enhance basic research in scientific disciplines relating to manufacturing technology—

"(1) by promoting research on those technologies applicable to improving manufacturing processes in colleges and universities in the United States, and in associated centers of excellence; and

"(2) by creating technology transfer and education and training mechanisms to ensure that the results of this research are readily available to United States industry.

"§ 2515. Computer-integrated manufacturing technology

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, and in coordination with the Secretary of Commerce and the Secretary of Energy, shall promote the use of computer-integrated manufacturing in order to improve manufacturing quality, reduce manufacturing costs, and reduce production lead times.

"§ 2516. Concurrent engineering

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall enhance Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"§ 2517. Manufacturing extension programs

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, and in coordination with the Secretary of Commerce and the Secretary of Energy, shall promote the improvement of the subtier defense industry through use of manufacturing extension programs and other existing organizations chartered to help small manufacturers for the purpose of disseminating such Department of Defense manufacturing concepts as best manufacturing practices, product data exchange specification, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts. Manufacturing extension programs so used shall include programs carried out by the Secretary of Commerce pursuant to section 25 of the Act of March 3, 1901 (15 U.S.C. 278k) and section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note).".

(b) TECHNICAL AMENDMENTS.—(1) The table of chapters at the beginning of subtitle A of title 10, United States Code, and the beginning of part IV of such subtitle are each amended by striking out the item relating to chapter 149 and inserting in lieu thereof the following new items:

"149. Maufacturing Technology 2511
"150. Issue to Armed Forces ..... 2521".

(2) The table of sections at the beginning of chapter 150 of such title, as redesignated by subsection (a) of this section, is amended by striking out the item relating to section 2511 and inserting in lieu thereof the following:

"2521. Reserve components: supplies, services, and facilities.".

SEC. 824. INDEPENDENT RESEARCH AND DEVELOPMENT ENHANCEMENT

(a) REVISION AND CODIFICATION OF PROVISION RELATING TO ALLOWABILITY OF INDEPENDENT RESEARCH AND DEVELOPMENT COSTS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2372. Independent research and development

"(a) The Secretary of Defense shall prescribe regulations governing the payment, by the Department of Defense, of independent research and development costs or bid and proposal costs. Regulations.

"(b) Payment may be made for independent research and development costs or bid and proposal costs when work for which payment is made is of potential interest to the Department of Defense.

"(c) The regulations shall encourage contractors to engage in research and development activities that—

"(1) strengthen the defense industrial and technology base of the United States;

"(2) enhance the industrial competitiveness of the United States;

"(3) promote the development of technologies identified as critical under section 2508 of this title;

"(4) increase the development of technologies useful for both the private commercial sector and the public sector; and

"(5) develop efficient and effective technologies for achieving such environmental benefits as improved environmental data gathering, environmental cleanup and restoration, pollution-reduction in manufacturing, environmental conservation, and environmentally safe management of facilities.

"(d)(1) Subject to paragraph (3), for each fiscal year following a fiscal year in which independent research and development costs or bid and proposal costs incurred by a person were paid by the Department of Defense in a total amount exceeding $7,000,000, the Secretary of Defense shall enter into an advance agreement with such person regarding the manner and extent to which the Department of Defense may pay independent research and development costs or bid and proposal costs incurred by such person. If such person is a business entity that has a product division that received payments for such costs from the Department of Defense in a total amount exceeding $700,000 during such preceding fiscal year, the Secretary may enter into an advance agreement, regarding payment of the independent research and development costs and bid and proposal costs incurred by such product division. Government contracts.

"(2) The agreement shall include the following provisions:

"(A) The maximum amount of the costs incurred by such person in that fiscal year that the Department may pay.

"(B) The costs that are payable under the agreement, which may be only those costs that are incurred in connection with work referred to in subsection (b) or the attainment of benefits described in subsection (c).

"(3) If a person referred to in paragraph (1) does not enter into an advance agreement with the Secretary under paragraph (1) for a fiscal year, the payment of the independent research and development costs and bid and proposal costs incurred by such person during such fiscal year shall be subject to such limitations as the Secretary of Defense may prescribe in the regulations under subsection (a).

"(4) On October 1, 1994, and October 1 of each third year thereafter, the Secretary may adjust the amounts in paragraph (1) to reflect changes in one or more economic indices that the Secretary considers appropriate for use in making adjustments under this paragraph.

"(5) The provisions of this section shall apply only to contracts for which the submission and certification of cost or pricing data are required in accordance with section 2306a of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2372. Independent research and development.".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 203 of Public Law 91-441 (10 U.S.C. 2358 note) is repealed.

SEC. 825. ANNUAL REPORT ON ACTIVITIES RELATING TO DEFENSE INDUSTRIAL BASE

(a) DEFENSE INDUSTRIAL BASE ANNUAL REPORT.—Chapter 148 of title 10, United States Code, is amended by inserting after section 2508 the following new section:

"§ 2509. Defense industrial base annual report

"(a) ANNUAL REPORT REQUIREMENT.—The Secretary of Defense (acting through the Under Secretary of Defense for Acquisition), in consultation with the Secretary of Commerce (acting through the Under Secretary of Commerce for Export Administration), shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on—

"(1) the actions taken pursuant to this chapter for the improvement of the defense industrial base of the United States; and

"(2) the effects of defense budgets and plans on the ability of the United States defense industrial base to meet the national security needs of the United States.

"(b) FINANCIAL ABILITY ANALYSIS.—The report required by this section shall include an analysis of the condition of the defense industrial base of the United States, particularly with respect to the financial ability of United States businesses—

"(1) to conduct research and development activities relating to critical defense technologies, including the critical technologies identified in the annual defense critical technologies plan submitted pursuant to section 2508 of this title in the year in which the annual report is submitted;

"(2) to apply those technologies to the production of goods and the furnishing of services;

"(3) to maintain a viable production base in critical areas of defense production and technology at the procurement levels for which funds are available to the Department of Defense and at planned Department of Defense procurement levels;

"(4) to expand the defense production base to respond to rapid increases in the demand for defense production and critical defense technologies;

"(5) to maintain a viable defense production base in each critical area of defense production and technology in which terminations of major Department of Defense procurement programs or reductions in planned Department of Defense procurement—

"(A) have taken place in the year before the year in which the report is submitted; or

"(B) are provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in the year in which the annual report is submitted; and

"(ii) in the five-year defense program submitted with such budget pursuant to section 114a of this title; and

"(6) to engage in any other activities determined by the Secretary to be critical to the national security.

"(c) ANALYSIS CONSIDERATIONS.—In the preparation of the analysis required in subsection (b), the following factors shall be considered:

"(1) Trends in the profitability, levels of capital investment, spending on research and development, and debt burden of businesses involved in research on, development of, and application of critical defense technologies.

"(2) The consequences of mergers, acquisitions, and takeovers of such businesses.

"(3) The consequences of terminations of major programs and reductions in levels of military procurements in the fiscal year in which the report is submitted and planned military procurement.

"(4) The effects of levels of concurrency in acquisition program strategies, levels of facilitization required by the Secretary of defense contractors, competition requirements, and efforts of the Department of Defense to expand the use of commercial technology and equipment.

"(5) The effects of dependence on foreign or foreign-owned suppliers.

"(6) The results of Department of Defense spending for critical defense technologies for the fiscal year in which the report is submitted.

"(7) The likely future level of Department of Defense spending for such technologies during the four fiscal years following the fiscal year in which the report is submitted and the likely results of that level of spending.

"(d) ANNUAL REPORT DATE.—The report under this section shall be submitted not later than March 15 of each year.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2509. Defense industrial base annual report.".

SEC. 826. DEFENSE INDUSTRIAL BASE FOR TEXTILE AND APPAREL PRODUCTS

(a) MONITORING AND FIVE-YEAR ANNUAL REPORT REQUIREMENT.—(1) Chapter 148 of title 10, United States Code (as amended by section 825(a)), is further amended by adding at the end the following new section:

"§ 2510. Defense industrial base for textile and apparel products

"(a) CAPABILITY OF DOMESTIC TEXTILE AND APPAREL INDUSTRIAL BASE.—The Secretary of Defense shall monitor the capability of the domestic textile and apparel industrial base to support defense mobilization requirements.

"(b) ANNUAL REPORT.—The Secretary shall submit to Congress not later than April 1 of each of the five years beginning with 1991 a report on the status of such industrial base. Each such report shall include the following:

"(1) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by the domestic industries.

"(2) An assessment of the effect any inadequacy in the textile and apparel industrial base would have on a defense mobilization.

"(3) Recommendations for ways to alleviate any inadequacy in such industrial base that the Secretary considers critical to defense mobilization requirements.".

(2) The table of sections at the beginning of such chapter (as amended by section 825(b)) is further amended by adding at the end the following new item:

"2510. Defense industrial base for textile and apparel products.".

10 USC 113 note.

(b) CONFORMING AMENDMENT.—Section 1456 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 762), is repealed.

SEC. 827. USE OF PARTNERSHIP INTERMEDIARIES

(a) PARTNERSHIP INTERMEDIARIES.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

15 USC 3715.

"SEC. 21. USE OF PARTNERSHIP INTERMEDIARIES.

"(a) AUTHORITY.—Subject to the approval of the Secretary or head of the affected department or agency, the Director of a Federal laboratory, or in the case of a federally funded research and development center, the Federal employee who is the contract officer, may—

"(1) enter into a contract or memorandum of understanding with a partnership intermediary that provides for the partnership intermediary to perform services for the Federal laboratory that increase the likelihood of success in the conduct of cooperative or joint activities of such Federal laboratory with small business firms; and

"(2) pay the Federal costs of such contract or memorandum of understanding out of funds available for the support of the technology transfer function pursuant to section 11(b) of this Act.

"(b) PARTNERSHIP PROGRESS REPORTS.—The Secretary shall include in each triennial report required under section 6(d) of this Act a discussion and evaluation of the activities carried out pursuant to this section during the period covered by the report.

"(c) DEFINITION.—For purposes of this section, the term 'partnership intermediary' means an agency of a State or local government, or a nonprofit entity owned in whole or in part by, chartered by, funded in whole or in part by, or operated in whole or in part by or on behalf of a State or local government, that assists, counsels, advises, evaluates, or otherwise cooperates with small business firms that need or can make demonstrably productive use of technology-related assistance from a Federal laboratory, including State programs receiving funds under cooperative agreements entered into

under section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 2781 note).".

(b) MODEL PROGRAM.—(1) In the administration of applicable provisions of the Stevenson-Wydler Technology Innovation Act of 1980 or section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988, the Secretary of Commerce shall develop, in consultation with the Secretary of Defense and the Secretary of Energy, model programs for national defense laboratories. 15 USC 3705 note.

(2) Model programs under this subsection shall involve Federal laboratories, small businesses, and partnership intermediaries. The purpose of the model programs is to demonstrate successful relationships between the Federal Government, State and local governments, and small businesses which encourage economic growth through the commercial application of technology resulting from federally funded research. Small businesses. Intergovernmental relations.

(3) In this subsection, the term "national defense laboratory" means any laboratory, federally funded research and development center (FFRDC), or other center established under section 6 or 8 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3705, 3707) that is owned by the Federal Government, whether operated by the Federal Government or by a contractor, and—

(A) is under the jurisdiction of the Secretary of Defense; or

(B) is under the jurisdiction of the Secretary of Energy, but only if the primary function of the laboratory, FFRDC, or other center under the Secretary's jurisdiction is to support the national defense activities of the Department of Defense or the Department of Energy.

SEC. 828. TECHNOLOGY TRANSFER CONTRACT PROVISIONS

(a) PROVISIONS TO BE INCLUDED.—Section 3133(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1675) is amended— 15 USC 3710a note.

(1) in paragraph (1), by inserting after "to the extent not already included" the following: "and subject to paragraph (6)"; and

(2) by adding at the end the following new paragraph:

"(6) Contract provisions referred to in paragraph (1) shall include only such provisions as are necessary to carry out paragraphs (1) and (2) of this subsection.".

(b) EFFECTIVE DATE.—Paragraph (6) of 3133(d) of such Act, as added by subsection (a), shall apply only to contracts entered into after the date of enactment of this Act. 15 USC 3710a note.

PART D—MISCELLANEOUS

SEC. 831. MENTOR-PROTEGE PILOT PROGRAM 10 USC 2301 note.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary of Defense shall establish a pilot program to be known as the "Mentor-Protege Program".

(b) PURPOSE.—The purpose of the program is to provide incentives for major Department of Defense contractors to furnish disadvantaged small business concerns with assistance designed to enhance the capabilities of disadvantaged small business concerns to perform as subcontractors and suppliers under Department of Defense contracts and other contracts and subcontracts in order to increase the participation of such business concerns as subcontractors and Small businesses.

suppliers under Department of Defense contracts, other Federal Government contracts, and commercial contracts.

(c) PROGRAM PARTICIPANTS.—(1) A business concern meeting the eligibility requirements set out in subsection (d) may enter into agreements under subsection (e) and furnish assistance to disadvantaged small business concerns upon making application to the Secretary of Defense and being approved for participation in the pilot program by the Secretary. A business concern participating in the pilot program pursuant to such an approval shall be known, for the purposes of the program, as a "mentor firm".

(2) Disadvantaged small business concerns eligible for the award of Federal contracts may obtain assistance from one or more mentor firms upon entering into an agreement with the mentor firm or firms as provided in subsection (e). A disadvantaged small business concern receiving such assistance shall be known, for the purposes of the program, as a "protege firm".

(3) In entering into an agreement pursuant to subsection (e), a mentor firm may rely in good faith on a written representation of a business concern that such business concern is a disadvantaged small business concern. The Small Business Administration shall determine the status of such business concern as a disadvantaged small business concern in the event of a protest regarding the status of such business concern. If at any time the business concern is determined by the Small Business Administration not to be a disadvantaged small business concern, assistance furnished such business concern by the mentor firm after the date of the determination may not be considered assistance furnished under the program.

(d) MENTOR FIRM ELIGIBILITY.—Subject to subsection (c)(1), a mentor firm eligible for award of Federal contracts may enter into an agreement with one or more protege firms under subsection (e) and provide assistance under the program pursuant to that agreement if—

(1) during the fiscal year preceding the fiscal year in which the mentor firm enters into the agreement, the total amount of the Department of Defense contracts awarded such mentor firm and the subcontracts awarded such mentor firm under Department of Defense contracts was equal to or greater than $100,000,000; or

(2) the mentor firm demonstrates the capability to assist in the development of protege firms, and is approved by the Secretary of Defense pursuant to criteria specified in the regulations prescribed pursuant to subsection (k).

(e) MENTOR-PROTEGE AGREEMENT.—Before providing assistance to a protege firm under the program, a mentor firm shall enter into a mentor-protege agreement with the protege firm regarding the assistance to be provided by the mentor firm. The agreement shall include the following:

(1) A developmental program for the protege firm, in such detail as may be reasonable, including (A) factors to assess the protege firm's developmental progress under the program, and (B) the anticipated number and type of subcontracts to be awarded the protege firm.

(2) A program participation term, which shall not exceed five years and may be renewed upon its expiration for an additional term of not to exceed four years.

(3) Procedures for the mentor firm or protege firm to terminate the agreement voluntarily and for the mentor firm to terminate the agreement for cause.

(f) FORMS OF ASSISTANCE.—A mentor firm may provide a protege firm the following:

(1) Assistance, by using mentor firm personnel, in—

(A) general business management, including organizational management, financial management, and personnel management, marketing, business development, and overall business planning;

(B) engineering and technical matters such as production, inventory control, and quality assurance; and

(C) any other assistance designed to develop the capabilities of the protege firm under the developmental program referred to in subsection (e).

(2) Award of subcontracts on a noncompetitive basis to the protege firm under the Department of Defense or other contracts.

(3) Payment of progress payments for performance of the protege firm under such a subcontract in amounts as provided for in the subcontract, but in no event may any such progress payment exceed 100 percent of the costs incurred by the protege firm for the performance.

(4) Advance payments under such subcontracts.

(5) Loans.

(6) Cash in exchange for an ownership interest in the protege firm, not to exceed 10 percent of the total ownership interest.

(7) Assistance obtained by the mentor firm for the protege firm from one or more of the following—

(A) small business development centers established pursuant to section 21 of the Small Business Act (15 U.S.C. 648);

(B) entities providing procurement technical assistance pursuant to chapter 142 of title 10, United States Code; or

(C) a historically Black college or university or a minority institution of higher education.

(g) INCENTIVES FOR MENTOR FIRMS.—(1) The Secretary of Defense shall provide to a mentor firm reimbursement for the total amount of any progress payment or advance payment made under the program by the mentor firm to a protege firm in connection with a Department of Defense contract awarded the mentor firm.

(2) The Secretary of Defense shall provide to a mentor firm reimbursement for the costs of the assistance furnished to a protege firm pursuant to paragraphs (1) and (7) of subsection (f). The Secretary shall ensure that provision for payment of reimbursements under this paragraph is made in a Department of Defense contract awarded to the mentor firm to provide products or services or in another contract entered into between the Secretary and the mentor firm providing for the reimbursement of costs incurred under the program. Any such contract shall specify the maximum amount of any reimbursement to be made under that contract. The Secretary and the mentor firm may provide in such contract for the allocation of the costs to any Department of Defense cost-reimbursement contracts awarded the mentor firm. Government contracts.

(3)(A) Costs incurred by a mentor firm in providing assistance to a protege firm that are not reimbursed pursuant to paragraph (2) may be recognized as credit in lieu of subcontract awards for purposes of Credit.

determining whether the mentor firm attains a subcontracting participation goal applicable to such mentor firm under a Department of Defense contract or under a divisional or company-wide subcontracting plan negotiated with the Department of Defense or another Executive agency.

(B) The amount of the credit given a mentor firm for any such unreimbursed costs shall be equal to—

(i) four times the total amount of such costs attributable to assistance provided by entities described in subsection (f)(7);

(ii) three times the total amount of such costs attributable to assistance furnished by the mentor firm's employees; and

(iii) two times the total amount of any other such costs.

(C) Under regulations prescribed pursuant to subsection (k), the Secretary of Defense shall adjust the amount of credit given a mentor firm pursuant to subparagraphs (A) and (B) if the Secretary determines that the firm's performance regarding the award of subcontracts to disadvantaged small business concerns has declined without justifiable cause.

(4) A mentor firm shall receive credit toward the attainment of a subcontracting participation goal applicable to such mentor firm for each subcontract for a product or service awarded under such contract by a mentor firm to a business concern that, except for its size, would be a small business concern owned and controlled by socially and economically disadvantaged individuals, but only if—

(A) the size of such business concern is not more than two times the maximum size specified by the Administrator of the Small Business Administration for purposes of determining whether a business concern furnishing such product or service is a small business concern; and

(B) the business concern formerly had a mentor-protege agreement with such mentor firm that was not terminated for cause.

(h) NONAFFILIATION TREATMENT.—For purposes of the Small Business Act, a protege firm may not be considered an affiliate of a mentor firm solely on the basis that the protege firm is receiving assistance referred to in subsection (f) from such mentor firm under the program.

(i) PARTICIPATION IN MENTOR-PROTEGE PROGRAM NOT TO BE A CONDITION FOR AWARD OF A CONTRACT OR SUBCONTRACT.—A mentor firm may not require a business concern to enter into an agreement with the mentor firm pursuant to subsection (e) as a condition for being awarded a contract by the mentor firm, including a subcontract under a contract awarded to the mentor firm.

(j) DURATION OF PILOT PROGRAM.—(1) Business concerns eligible to participate in the program may enter into mentor-protege agreements pursuant to subsection (e) during the period commencing on October 1, 1991, and ending on September 30, 1994.

(2) A mentor firm may not incur costs furnishing developmental assistance to a protege firm that are eligible for reimbursement pursuant to subsection (g) prior to October 1, 1991, or after September 30, 1996.

(3) A mentor firm may receive credit toward the attainment of such firm's goals for subcontract awards to disadvantaged small business concerns for unreimbursed costs incurred in providing developmental assistance to the firm's protege firms, pursuant to subsection (g)(3), for the period beginning October 1, 1991, and ending September 30, 1999.

(k) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out the pilot Mentor-Protege Program. Such regulations shall include the requirements set forth in section 8(d) of the Small Business Act (15 U.S.C. 673(d)). The Secretary shall publish the proposed regulations not later than the date 180 days after the date of the enactment of this Act. The Secretary shall promulgate the final regulations not later than the date 270 days after the date of the enactment of this Act.

(l) GENERAL ACCOUNTING OFFICE ASSESSMENT.—(1) The General Accounting Office shall evaluate the implementation of the Mentor-Protege Program established pursuant to subsection (a) to determine whether the purposes of the program, as stated in subsection (b), have been attained.

(2) A report of the evaluation conducted by the General Accounting Office pursuant to subsection (a) shall be furnished to the Committees on Armed Services and Small Business of the Senate and House of Representatives by February 1, 1994. Such report shall cover the period October 1, 1991, through September 30, 1993. Recommendations shall be included regarding reauthorization of the program, and extending its application on a Government-wide basis.

(3) An interim report shall be furnished to the Committees on Armed Services of the Senate and House of Representatives by March 30, 1992. The interim report shall— Reports.

(A) evaluate the regulatory implementation of the program by the Department of Defense;

(B) assess initial participation by firms eligible to be mentor firms or protege firms;

(C) identify deficiencies, if any, in the statutory or regulatory framework of the program likely to impair the success of the program; and

(D) make recommendations to correct any implementational impediments identified.

(m) DEFINITIONS.—In this section:

(1) The term "small business concern" means a business concern that meets the requirements of section 3(a) of the Small Business Act (15 U.S.C. 632(a)) and the regulations promulgated pursuant thereto.

(2) The term "disadvantaged small business concern" means a small business concern owned and controlled by socially and economically disadvantaged individuals.

(3) The term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the meaning given such term in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)).

(4) The term "historically Black college and university" means any of the historically Black colleges and universities referred to in section 1207(a)(2) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).

(5) The term "minority institution of higher education" means an institution of higher education with a student body that reflects the composition specified in section 312(b)(3), (4), and (5) of the Higher Education Act of 1965 (20 U.S.C. 1058(b)(3), (4), and (5)).

(6) The term "subcontracting participation goal", with respect to a Department of Defense contract, means a goal for the extent of the participation by disadvantaged small business

concerns in the subcontracts awarded under such contract, as established pursuant to section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) and section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

SEC. 832. ENHANCING PARTICIPATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND MINORITY INSTITUTIONS IN DEFENSE RESEARCH

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "Except"; and

(B) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(2) by adding at the end the following new paragraph:

"(2) The Secretary of Defense shall establish a specific goal within the overall 5 percent goal for the award of prime contracts and subcontracts to historically Black colleges and universities and minority institutions in order to increase the participation of such colleges and universities in the program provided for by this section."; and

(3) by striking out subsection (c) and inserting in lieu thereof the following new subsection (c):

"(c) TYPES OF ASSISTANCE.—(1) To attain the goal specified in subsection (a)(1), the Secretary of Defense shall provide technical assistance to the entities referred to in that subsection and, in the case of historically Black colleges and universities and minority institutions, shall also provide infrastructure assistance.

"(2) Technical assistance provided under this section shall include information about the program, advice about Department of Defense procurement procedures, instruction in preparation of proposals, and other such assistance as the Secretary considers appropriate. If the resources of the Department of Defense are inadequate to provide such assistance, the Secretary may enter into contracts with minority private sector entities with experience and expertise in the design, development, and delivery of technical assistance services to eligible individuals, business firms and institutions, defense acquisition agencies, and defense prime contractors. Department of Defense contracts with such entities shall be awarded annually, based upon, among other things, the number of minority small business concerns, historically Black colleges and universities, and minority institutions that each such entity brings into the program.

Government contracts. Minority businesses.

"(3) Infrastructure assistance provided under this section to historically Black colleges and universities and to minority institutions may include programs to:

"(A) establish and enhance undergraduate, graduate, and doctoral programs in scientific disciplines critical to the national security functions of the Department of Defense;

"(B) make Department of Defense personnel available to advise and assist faculty at such colleges and universities in the performance of defense research and in scientific disciplines critical to the national security functions of the Department of Defense;

"(C) establish partnerships between defense laboratories and historically Black colleges and universities and minority institutions for the purpose of training students in scientific disciplines

critical to the national security functions of the Department of Defense;

"(D) award scholarships, fellowships, and the establishment of cooperative work-education programs in scientific disciplines critical to the national security functions of the Department of Defense;

"(E) attract and retain faculty involved in scientific disciplines critical to the national security functions of the Department of Defense;

"(F) equip and renovate laboratories for the performance of defense research;

"(G) expand and equip Reserve Officer Training Corps activities devoted to scientific disciplines critical to the national security functions of the Department of Defense; and

"(H) provide other assistance as the Secretary determines appropriate to strengthen scientific disciplines critical to the national security functions of the Department of Defense or the college infrastructure to support the performance of defense research.

"(4) The Secretary shall, to the maximum extent practical, carry out programs under this section at colleges, universities, and institutions that agree to bear a substantial portion of the cost associated with the programs.".

SEC. 833. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT

(a) LIMITATION.—Funds appropriated for procurement of aircraft for the Army for fiscal year 1991 may not be obligated for the procurement of C-23 Sherpa aircraft unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities in its employment practices for all individuals irrespective of race, color, religion, sex, or national origin.

(b) REPORT.—The Secretary of the Army shall require any contractor under contract with the Army for procurement of C-23 Sherpa aircraft to submit to the Secretary, not later than April 1, 1991, a report on the contractor's compliance with the commitment regarding recruitment and subcontracting agreements secured by the Secretary under subsection (a).

SEC. 834. EVALUATION OF CONTRACTS FOR PROFESSIONAL AND TECHNICAL SERVICES

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2331. Contracts for professional and technical services

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations to ensure, to the maximum extent practicable, that professional and technical services are acquired on the basis of the task to be performed rather than on the basis of the number of hours of services provided. Regulations.

"(b) CONTENT OF REGULATIONS.—With respect to contracts to acquire services on the basis of the number of hours of services provided, the regulations described in subsection (a) shall—

"(1) include standards and approval procedures to minimize the use of such contracts;

"(2) establish criteria to ensure that proposals for contracts for technical and professional services are evaluated on a basis which does not encourage contractors to propose uncompensated overtime;

"(3) ensure appropriate emphasis on technical and quality factors in the source selection process;

"(4) require identification of any hours in excess of 40-hour weeks included in a proposal;

"(5) ensure that offerors are notified that proposals which include unrealistically low labor rates or which do not otherwise demonstrate cost realism will be considered in a risk assessment and evaluated appropriately; and

"(6) provide guidance to contracting officers to ensure that any use of uncompensated overtime will not degrade the level of technical expertise required to perform the contract.

"(c) WAIVER OF TASK ORDER LIMITATION.—(1) The Secretary of Defense may waive the limitation in section 2304(j)(4) of this title on the total value of task orders on a case-by-case basis for specific contracting activities to the extent the Secretary considers necessary the use of master agreements in order to further the policy set forth in subsection (a) of this section.

"(2) During any fiscal year, such a waiver may not increase the total value of task orders under master agreements of a contracting activity by more than 20 percent of the value of all contracts for advisory and assistance services awarded by that contracting activity during fiscal year 1989.

Federal Register, publication.

"(3) Such a waiver shall not become effective until 60 days after the Secretary of Defense has published notice thereof in the Federal Register.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2330 the following new item:

"2331. Contracts for professional and technical services.".

10 USC 2331 note.

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall publish for public comment new regulations to carry out the requirements in this section. The Secretary shall promulgate final regulations to carry out such requirements not later than 270 days after the date of the enactment of this Act.

SEC. 835. REQUIREMENT TO USE DOMESTICALLY MANUFACTURED CARBONYL IRON POWDERS

(a) LIMITATION.—Section 2507 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) CARBONYL IRON POWDERS.—(1) The Secretary of Defense shall require that only domestically manufactured carbonyl iron powders may be used in a system or item procured by or provided to the Department of Defense.

"(2) The Secretary of Defense may waive the restriction required by paragraph (1) if the Secretary certifies that such a restriction is not in the national interest.

"(3) After September 30, 1994, the Secretary may terminate the restriction required under paragraph (1) if the Secretary determines that continuing the restriction is not in the national interest.

"(4) In this subsection:

"(A) The term 'domestically manufactured' means manufactured in a facility located in the United States or Canada by an entity more than 50 percent of which is owned or controlled by citizens of the United States or Canada.

"(B) The term 'carbonyl iron powders' means powders or particles produced from the thermal decomposition of iron penta carbonyl.".

(b) EFFECTIVE DATE.—Section 2507(e) of title 10, United States Code, as added by subsection (a), shall apply with respect to systems or items procured by or provided to the Department of Defense after the date of the enactment of this Act. 10 USC 2507 note.

SEC. 836. REDUCTION OR SUSPENSION OF CONTRACT PAYMENTS UPON FINDING OF FRAUD

(a) IN GENERAL.—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In any case in which the remedy coordination official of an agency finds that there is substantial evidence that the request of a contractor for advance, partial, or progress payment under a contract awarded by that agency is based on fraud, the remedy coordination official shall recommend that the head of the agency reduce or suspend further payments to such contractor.

"(2) The head of an agency receiving a recommendation under paragraph (1) in the case of a contractor's request for payment under a contract shall determine whether there is substantial evidence that the request is based on fraud. Upon making such a determination, the agency head may reduce or suspend further payments to the contractor under such contract.

"(3) The extent of any reduction or suspension of payments by the head of an agency under paragraph (2) on the basis of fraud shall be reasonably commensurate with the anticipated loss to the United States resulting from the fraud.

"(4) A written justification for each decision of the head of an agency whether to reduce or suspend payments under paragraph (2) and for each recommendation received by such agency head in connection with such decision shall be prepared and be retained in the files of such agency.

"(5) The head of an agency shall prescribe procedures to ensure that, before such agency head decides to reduce or suspend payments in the case of a contractor under paragraph (2), the contractor is afforded notice of the proposed reduction or suspension and an opportunity to submit matters to the head of the agency in response to such proposed reduction or suspension.

"(6) Not later than 180 days after the date on which the head of an agency reduces or suspends payments to a contractor under paragraph (2), the remedy coordination official of such agency shall—

"(A) review the determination of fraud on which the reduction or suspension is based; and

"(B) transmit a recommendation to the head of such agency whether the suspension or reduction should continue.

"(7) The head of an agency shall prepare for each year a report containing the recommendations made by the remedy coordination official of that agency to reduce or suspend payments under paragraph (2), the actions taken on the recommendations and the reasons for such actions, and an assessment of the effects of such actions on the Federal Government. The Secretary of each military department shall transmit the annual report of such department to Reports.

the Secretary of Defense. Each such report shall be available to any member of Congress upon request.

"(8) This subsection applies to the agencies named in paragraphs (1), (2), (3), and (4) of section 2303(a) of this title.

"(9) The head of an agency may not delegate responsibilities under this subsection to any person in a position below level IV of the Executive Schedule.

"(10) In this subsection, the term 'remedy coordination official', with respect to an agency, means the person or entity in that agency who coordinates within that agency the administration of criminal, civil, administrative, and contractual remedies resulting from investigations of fraud or corruption related to procurement activities.".

(b) INFORMATION FROM CONTRACTOR.—Subsection (e)(1) of such section is amended by adding at the end the following new sentence: "The contractor shall provide such information and evidence as the Secretary of Defense determines necessary to permit the Secretary to carry out the preceding sentence.".

10 USC 2307 note.

(c) EFFECTIVE DATE.—Section 2307(f) of title 10, United States Code, and the second sentence of section 2307(e)(1) of such title, as added by subsections (a) and (b), shall apply with respect to contracts entered into after the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 837. DEFENSE CONTRACTOR REQUIREMENTS WITH RESPECT TO EMPLOYEES WHO COMMUNICATE WITH GOVERNMENT OFFICIALS

(a) DEFENSE CONTRACTOR REQUIREMENT.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2409 the following new section:

"§ 2409a. Communicating with Government officials: defense contractor requirement to prohibit retaliatory personnel actions

"(a) REGULATIONS.—(1) The Secretary shall promulgate regulations containing the requirements described in subsections (b), (c), and (d) and such other provisions as the Secretary considers necessary to administer such requirements. Such regulations shall require that each contract described in paragraph (2) contain a clause requiring the contractor to comply with such regulations.

"(2) The regulations shall apply to each contract entered into by a contractor and the Department of Defense for an amount greater than $500,000, except that the regulations shall not apply to any contract in which the price is based solely on established catalog or market prices of commercial items sold in substantial quantities to the general public.

"(b) PROHIBITION.—The regulations promulgated under this section shall prohibit a defense contractor from discharging or otherwise discriminating against any employee with respect to such employee's compensation or terms and conditions of employment because the employee (or any person acting pursuant to a request of the employee) discloses to an appropriate Government official information concerning a contract between the defense contractor and the Department of Defense which the employee reasonably believes evidences a violation of any Federal law or regulation relating to Department of Defense procurement or the subject matter of the contract.

"(c) COMPLAINT AND INVESTIGATION.—The regulations promulgated under this section shall include the following provisions:

"(1) Any employee of a defense contractor who believes that he or she has been discharged or otherwise discriminated against by the defense contractor in violation of regulations promulgated under subsection (b) may file with the Secretary a complaint alleging such discharge or discrimination. Any such complaint may not be filed more than 180 days after the later of the date on which the violation is alleged to have occurred or was discovered.

"(2) A complaint filed under paragraph (1) must contain a certification, signed by the complainant, which states specifically the nature of the alleged discriminatory act and of the disclosure giving rise to such act. The certification must also contain one of the following statements:

"(A) All attempts at resolution through an internal company grievance procedure have been exhausted.

"(B) The company grievance procedure was not used because the complainant reasonably believed it to be ineffectual or to expose the complainant to employer reprisals.

"(C) The company has no company grievance procedure.

"(3) Upon receipt of a complaint filed under paragraph (1), the Secretary shall serve notice of the complaint on the defense contractor named in the complaint and the head of the agency which entered into the contract.

"(4)(A) Upon receipt of a complaint filed under paragraph (1), the Secretary shall conduct an initial investigation to determine whether the complaint is frivolous or merits further investigation. As part of such initial investigation, the Secretary shall find out whether the employee and the defense contractor have attempted to resolve the dispute. If the Secretary determines that the complaint merits further investigation, the Secretary shall, except as provided in subparagraph (B), complete an investigation of the complaint within 90 days after receipt of the complaint.

"(B) If the Secretary determines that it is not possible to complete an investigation of a complaint within the 90-day period prescribed in subparagraph (A), the Secretary shall notify the employee of the reasons why the investigation cannot be completed within such time period and of the date when the investigation will be completed. The Secretary also may defer action on a complaint at any time with the consent of the complainant and the defense contractor.

"(C) Not later than 30 days after an investigation is completed, the Secretary of Defense shall provide a written report of the results of the investigation to the complainant, any person acting on behalf of the complainant, and the defense contractor alleged to have committed the violation. Reports.

"(D) Within 90 days after providing a report of the results of an investigation of a complaint, the Secretary shall issue an order providing the relief prescribed in paragraph (5) or denying the complaint, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement agreement entered into by the Secretary and the defense contractor alleged to have committed such violation.

"(E) An order of the Secretary under this section shall be made on the record after notice and opportunity for an agency hearing. In issuing an order, the Secretary shall follow procedures that are as informal as practicable, consistent with principles of fundamental fairness. At a minimum, the Secretary shall afford the complainant and the defense contractor an opportunity to submit in writing information and arguments in opposition to the conclusion of the report of the results of the investigation.

"(F) The Secretary may not enter into a settlement agreement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(5) If, in response to a complaint filed under paragraph (1), the Secretary determines that a violation of regulations promulgated under subsection (b) has occurred, the Secretary may issue, separately or in combination, any of the following:

"(A) An order that the defense contractor who committed such violation take affirmative action to abate the violation.

"(B) An order that such contractor reinstate the complainant to the position held by such individual when discharged, together with the compensation (including back pay), employment benefits, and other terms and conditions of his or her employment.

"(C) An assessment against such contractor (at the request of the complainant) of a sum equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) reasonably incurred by the complainant for, or in connection with, bringing the complaint on which the order was issued, as determined by the Secretary.

"(6) In determining whether a violation of regulations promulgated under subsection (b) has occurred, the Secretary shall use the standard of proof that is used by the Merit Systems Protection Board in proceedings under section 1221 of title 5, as described in paragraphs (1) and (2) of section 1221(e) of that title.

"(d) REVIEW AND ENFORCEMENT.—(1) Any person adversely affected or aggrieved by an order issued under subsection (c)(5)(B) may obtain review of the order's conformance with this section and the regulations promulgated under this section in the United States court of appeals for the circuit in which the violation alleged in the order occurred. No petition seeking such review may be filed more than 60 days after issuance of the Secretary's order. Review shall conform to chapter 7 of title 5.

"(2) An order of the Secretary with respect to which review could have been obtained under paragraph (1) shall not be subject to judicial review in any criminal or other civil proceeding.

"(3) Whenever a person has failed to comply with an order issued under subsection (c)(5)(B), the Secretary shall file an action for enforcement of such order in the United States district court for the district in which the violation was found to have occurred. In any action brought under this subsection, the court may grant appropriate relief, including injunctive relief, and compensatory and exemplary damages.

"(4) Any nondiscretionary duty imposed by the regulations under this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28.

"(e) DEFINITIONS.—In this section:

"(1) The term 'appropriate Government official' includes—

"(A) an officer or employee of the Department of Defense responsible for command, direct staff assistance to a commander, contract administrator, program management, audit, inspection, investigation, or enforcement of any law or regulation relating to Government procurement or the subject matter of the contract;

"(B) a Member of Congress or an officer or employee of Congress, the General Accounting Office, the Congressional Budget Office, or the Office of Technology Assessment; and

"(C) any other officer or employee of the United States whose duties include the investigation or enforcement of any law, rule, or regulation relating to Government procurement or the subject matter of the contract.

"(2) The term 'defense contractor' means any employer providing goods or services, under contract, to the Department of Defense.

"(3) The term 'Secretary' means the Secretary of Defense.

"(4) The term 'information concerning a contract' means, with respect to a contract with the Department of Defense, information about cost, price, compliance with specifications, meeting the user's requirements, user safety, use or disposition of services, real property or personal property acquired under the contract, the procurement process (including competition, negotiation, award, and administration), and relationships with Government personnel, competitors, or subcontractors.".

(2) The table of sections at the beginning of chapter 141 of such title is amended by inserting after the item relating to section 2409 the following new item:

"2409a. Communicating with Government officials: defense contractor requirement to prohibit retaliatory personnel actions.".

(b) EFFECTIVE DATE.—Section 2409a of title 10, United States Code, as added by subsection (a), shall apply to contracts entered into during the period beginning on the date which is 180 days after the date of the enactment of this Act. Such section shall cease to be in effect on the date which is 4 years after such date of enactment. 10 USC 2409a note.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT MATTERS

PART A—GENERAL MANAGEMENT MATTERS

SEC. 901. NATIONAL MILITARY STRATEGY REPORTS 10 USC 113 note.

(a) REPORTS BY THE SECRETARY OF DEFENSE.—(1) The Secretary of Defense shall submit to Congress a national military strategy report during each of fiscal years 1992, 1993, and 1994. Each such report shall be submitted with the Secretary's annual report to Congress for that year under section 113(j) of title 10, United States Code.

(b) MATTERS TO BE COVERED IN REPORTS.—Each such report shall cover a period of at least ten years and shall address the following:

(1) The threats facing the United States and its allies.

(2) The degree to which military forces can contribute to the achievement of national objectives.

(3) The strategic military plan for applying those forces to the achievement of national objectives.

(4) The risk to the national security of the United States and its allies that ensues.

(5) The organization and structure of military forces to implement the strategy.

(6) The broad mission areas for various components of the forces and the broad support requirements to implement the strategy.

(7) The functions for which each military department should organize, train, and equip forces for the combatant commands responsible for implementing the strategy.

(8) The priorities assigned to major weapons and equipment acquisitions and to research and development programs in order to fill the needs and eliminate deficiencies of the combatant commands.

(c) RELATIONSHIP OF PLANS TO BUDGET.—The strategic military plans and other matters covered by each report shall be fiscally constrained and shall relate to the current Department of Defense Multiyear Defense Plan and resource levels projected by the Secretary of Defense to be available over the period covered by the report.

(d) EFFECTS OF ALTERNATIVE BUDGET LEVELS.—Each such report shall also include an assessment of the effect on the risk and the other components of subsection (b) in the event that (1) an additional $50,000,000,000 is available in budget authority in the fiscal year which is addressed by the budget request that the report accompanies, and (2) budget authority for that fiscal year is reduced by $50,000,000,000. For these assessments the Secretary of Defense shall make appropriate assumptions about the funds available for the remainder of the period covered by the report.

(e) ROLE OF CHAIRMAN OF JOINT CHIEFS OF STAFF.—In accordance with his role as principal military adviser to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff shall participate fully in the development of each such report. The Secretary of Defense shall provide the Chairman such additional guidance as is necessary to enable the Chairman to develop and recommend fiscally constrained strategic plans for the Secretary's consideration in accordance with section 153(a)(2) of title 10, United States Code. In accordance with additional responsibilities of the Chairman set out in section 153, the Chairman shall provide recommendations to the Secretary on the other components of paragraph (2).

(f) CLASSIFICATION OF REPORTS.—The reports submitted to Congress under subsection (a) shall be submitted in both classified and (to the extent practicable) unclassified versions.

SEC. 902. JOINT STAFF

Section 155 of title 10, United States Code, is amended by striking out subsection (g) and redesignating subsection (h) as subsection (g).

10 USC 3074 note.

SEC. 903. ARMY RESERVE COMMAND

(a) ESTABLISHMENT OF COMMAND.—The Secretary of the Army, with the advice and assistance of the Chief of Staff of the Army, shall establish a United States Army Reserve Command under the command of the Chief of Army Reserve. The Army Reserve Command shall be a major subordinate command of Forces Command.

(b) ASSIGNMENT OF FORCES.—The Secretary of the Army—

(1) shall assign all forces of the Army Reserve in the continental United States to the Army Reserve Command; and

(2) except as otherwise directed by the Secretary of Defense in the case of forces assigned to carry out functions of the Sec-

retary of the Army specified in section 3013 of title 10, United States Code, shall assign all such forces of the Army Reserve to the Commander-in-Chief, Forces Command.

(c) TEST PERIOD.—The establishment of the Army Reserve Command shall be for a test period ending two years after the date of the enactment of this Act.

(d) REPORTS BY SECRETARY OF THE ARMY.—The Secretary of the Army, during the test period under subsection (c), shall submit to the Committees on Armed Services of the Senate and House of Representatives a semiannual report on the United States Army Reserve Command. Each such report shall explain—

(1) command arrangements;
(2) responsibility for base operations support;
(3) personnel, logistics, and resource management; and
(4) engineering and information management support.

(e) REVIEW BY AN INDEPENDENT COMMISSION.—The Secretary of the Army shall establish an independent commission to assist the Secretary in assessing the progress and effectiveness of the United States Army Reserve Command after it has been in existence for a period of one year. Establishment.

SEC. 904. SECURITY INVESTIGATIONS

(a) SECURITY INVESTIGATIONS.—Subchapter I of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2244. Security investigations

"(a) Funds appropriated to the Department of Defense may not be used for the conduct of an investigation by the Department of Defense, or by any other Federal department or agency, for purposes of determining whether to grant a security clearance to an individual or a facility unless the Secretary of Defense determines both of the following:

"(1) That a current, complete investigation file is not available from any other department or agency of the Federal government with respect to that individual or facility.

"(2) That no other department or agency of the Federal government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

"(b) For purposes of subsection (a)(1), a current investigation file is a file on an investigation that has been conducted within the past five years.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2244. Security investigations.".

SEC. 905. TWENTY PERCENT REDUCTION IN DEFENSE ACQUISITION WORKFORCE 10 USC 1721 note.

(a) REDUCTION REQUIRED.—The Secretary of Defense shall take such action as is necessary to reduce the number of employees in the Department of Defense acquisition workforce on the last day of each of fiscal years 1991 through 1995 below the number of employees in such workforce on the last day of the preceding fiscal year by not

less than the number equal to 4 percent of the number of the employees in such workforce on September 30, 1990.

(b) DEFINITION.—In this section, the term "Department of Defense acquisition workforce" means all positions included in the description of the acquisition workforce in Appendix A of "Defense Management", a report of the Secretary of Defense to the President, dated July 1989.

SEC. 906. REDUCTION IN PERSONNEL ASSIGNED TO MANAGEMENT HEADQUARTERS ACTIVITIES AND HEADQUARTERS SUPPORT ACTIVITIES

(a) REDUCTION REQUIRED.—The Secretary of Defense shall take such action as is necessary to reduce the number of members of the Armed Forces and civilian employees who are assigned or detailed to duty in the management headquarters activities and headquarters support activities of the Department of Defense on the last day of each of the fiscal years 1991 through 1995 below the number of such personnel assigned or detailed to such duty on the last day of the preceding fiscal year by not less than the number equal to 4 percent of the number of such personnel assigned or detailed to such duty on September 30, 1990.

(b) DEFINITION.—For purposes of this section, the terms "management headquarters activities" and "headquarters support activities" have the meaning given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities" dated November 25, 1988.

50 USC 401 note.

SEC. 907. INTELLIGENCE PRIORITIES AND REORGANIZATION

(a) REVISION OF PRIORITIES AND CONSOLIDATION OF FUNCTIONS.—The Secretary of Defense, together with the Director of Central Intelligence, shall conduct a joint review of all intelligence and intelligence-related activities in the Tactical Intelligence and Related Activities (TIARA) programs and the National Foreign Intelligence Program (NFIP). The Secretary, together with the Director, shall take the following actions with respect to those activities:

(1) In cases in which redundancy or fragmentation exist, consolidate functions, programs, organizations, and operations to improve the efficiency and effectiveness of the conduct of those intelligence activities or programs.

(2) Revise intelligence collection and analysis priorities and resource allocations to reflect changes in the international security environment.

(3) Strengthen joint intelligence functions, operations, and organizations.

(4) Improve the quality and independence of intelligence support to the weapons acquisition process.

(5) Improve the responsiveness and utility of national intelligence systems and organizations to the needs of the combatant commanders.

(b) PERSONNEL REDUCTIONS.—(1) The number of personnel assigned or detailed to the National Foreign Intelligence Program and related Tactical Intelligence and Related Activities programs shall be reduced by not less than 5 percent of the number of such personnel described in paragraph (2) during each of fiscal years 1992 through 1996.

(2) The number of personnel referred to in paragraph (1) is the number of personnel assigned or detailed to such programs on September 30, 1990.

SEC. 908. ADDITIONAL FUNDING FOR UNIFIED AND SPECIFIED COMBATANT COMMANDS FOR FISCAL YEAR 1991

(a) CINC INITIATIVE FUND.—There is established for fiscal year 1991 a separate budget account to be managed by the Chairman of the Joint Chiefs of Staff. The Chairman may use the account to provide funds, upon request, to the commanders of the unified and specified combatant commands and the Commander, United States Element, North American Aerospace Defense Command. Such funds shall be provided, as specified by the Chairman, for any of the activities named in subsection (b).

(b) Permissible Activities.—(1) Activities for which funds may be made provided under subsection (a) are the following:

(A) Force training.
(B) Contingencies.
(C) Selected operations.
(D) Command and control.
(E) Joint exercises.
(F) Humanitarian and civic assistance.
(G) Military education and training to military and related civilian personnel of foreign countries.
(H) Personnel expenses of defense personnel for bilateral or regional cooperation programs.

(2) The Chairman of the Joint Chiefs of Staff, in considering requests for funds under this section, should give priority consideration to requests for funds to be used for activities which would enhance the warfighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds.

(c) AMOUNT AND SOURCE OF FUNDS.—(1) Of the amount authorized to be appropriated pursuant to section 301(a) for the Defense Agencies, $35,000,000 shall be made available by the Secretary of Defense for the account established in subsection (a).

(2) Any amount provided by the Chairman out of the account established under subsection (a) for an activity referred to in subsection (b) shall be in addition to amounts otherwise available for that activity for fiscal year 1991.

(d) LIMITATIONS.—(1) Not more than $7,000,000 of the funds provided from that account may be used to purchase items with a unit cost in excess of $15,000.

(2) Funds may not be provided under this section for any activity that has been denied authorization by Congress.

SEC. 909. STUDY AND PLAN REGARDING MOBILITY REQUIREMENTS

(a) STUDY AND PLAN REQUIRED.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall conduct a study to determine mobility requirements for the Armed Forces and shall develop an integrated plan to meet those requirements.

(b) REPORTS REQUIRED.—(1) The Secretary shall submit to the congressional defense committees two reports regarding the study required by subsection (a).

(2) The first report shall cover intertheater requirements, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than March 29, 1991.

(3) The second report shall cover intratheater requirements, surface requirements, and requirements for mobility within the continental United States, shall contain a copy of the integrated plan regarding such requirements, and shall be submitted not later than June 28, 1991.

(c) FORMAT AND CONTENT OF REPORTS.—(1) Each report shall be in the same format as the report submitted to Congress under section 203(b) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1080), and shall cover (in addition to the matters specified in paragraphs (2) and (3)) the same matters required under such section and the Joint Explanatory Statement of the Committee of Conference relating to such Act, as set out in Senate Report 96-895, 96th Congress, second session.

(2) The two reports together shall include an analysis of the total mix of airlift, sealift, amphibious lift, surface transportation, and prepositioned war material (both at sea and on land) necessary for the United States to respond to contingent threats against the national security interests of the United States during the remainder of the current decade and beyond. The analysis of prepositioned war material should identify where such material should be located. The analysis may not be limited to consideration of a single requirement for lift and material based upon the most demanding case, but shall include an assessment of a range of requirements for lift and material based upon various military contingencies and scenarios. The Operation Just Cause and Operation Desert Shield deployments shall be included among the scenarios examined. The analysis shall also include—

(A) an assessment of both intratheater and intertheater lift requirements; and

(B) an assessment of the total requirements for mobility, including support equipment and the equipment necessary for strategic mobility at unimproved ports, airfields, and other facilities.

(3) The two reports together shall also include the following:

(A) An assessment of how the total mix of mobility and prepositioning requirements has been affected by changing circumstances in Europe and elsewhere, including—

(i) an increase in the opportunities to detect any planned attack by the Soviet Union;

(ii) an increase in the time likely to be available to prepare for such an attack after detection;

(iii) a reduced level of Soviet threat to the national security interests of the United States;

(iv) the decreasing level of Armed Forces personnel deployed overseas;

(v) the changing threat in Northeast Asia; and

(vi) the changing threat in Southwest Asia.

(B) An assessment of how such requirements are being affected by the changing need for power projection capability in low-intensity and medium-intensity conflicts.

(C) An assessment of how such requirements would be affected by the loss of United States military bases, and the loss of access to other military bases, in such overseas locations as the Philippines.

(D) An assessment of how the reduced reliance expected to be placed by the Armed Forces on NATO and other allied shipping and military bases for employment of the Armed Forces unilat-

erally in contingent actions affects the requirements for airlift, sealift, amphibious lift, and prepositioned war material.

(E) An assessment of whether increased dependence should be placed upon sealift capabilities in view of the factors assessed pursuant to subparagraphs (A) through (D) and the potential benefits of sealift vessels which might be developed that would be faster than the sealift vessels currently available from commercial sources.

(F) A discussion of initiatives that can be undertaken to reduce the time required to move forces and material from home bases to combat areas, including measures that can be undertaken to reduce (i) the time necessary for loading and unloading personnel and equipment at airports and seaports, (ii) the time necessary for moving ground forces to airports and seaports, and (iii) the delivery times from points of debarkation to final destinations.

SEC. 910. ELIMINATION OF STATUTORY POSITION OF CHIEF OF NAVAL RESEARCH

(a) REPEAL.—Section 5021 of title 10, United States Code, is repealed.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Section 5022 of such title is amended—

(A) by redesignating subsections (a), (b) and (c) as subsections (b), (c) and (d), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a) There is in the Office of the Secretary of the Navy an Office of Naval Research.".

(2) The table of sections at the beginning of chapter 503 of such title is amended by striking out the item relating to section 5021.

PART B—PROFESSIONAL MILITARY EDUCATION

SEC. 911. PREPARATION OF BUDGET REQUESTS FOR OPERATION OF PROFESSIONAL MILITARY EDUCATION SCHOOLS

(a) UNIFORM BUDGET REQUESTS.—Chapter 108 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2162. Preparation of budget requests for operation of professional military education schools

"(a) UNIFORM COST ACCOUNTING.—The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall promulgate a uniform cost accounting system for use by the Secretaries of the military departments in preparing budget requests for the operation of professional military education schools.

"(b) PREPARATION OF BUDGET REQUESTS.—(1) Amounts requested for a fiscal year for the operation of each professional military education school shall be set forth as a separate budget request in the materials submitted by the Secretary of Defense to Congress in support of the budget request for the Department of Defense.

"(2) The Secretary of a military department preparing a budget request for a professional military education school shall carefully consider the views of the Chairman of the Joint Chiefs of Staff, particularly with respect to the amount of the request for the operation of the schools of the National Defense University and the

joint professional military education curricula of the other professional military education schools.

"(c) COMPARISON OF BUDGET REQUESTS.—Materials prepared in support of the budget request for a professional military education school shall describe whether the amount requested for that school is comparable to the amounts requested for other professional military education schools, taking into consideration the size and activities of the schools.

"(d) DEFINITIONS.—In this section:

"(1) The term 'professional military education school' means—

"(A) the National Defense University;

"(B) the Army War College;

"(C) the College of Naval Warfare;

"(D) the Air War College;

"(E) the United States Army Command and General Staff College;

"(F) the College of Naval Command and Staff;

"(G) the Air Command and Staff College; or

"(H) the Marine Corps Command and Staff College.

"(2) The term 'National Defense University' means the National War College, the Armed Forces Staff College, and the Industrial College of the Armed Forces.".

(b) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2162. Preparation of budget requests for operation of professional military education schools.".

(2) The heading of such chapter is amended to read as follows:

"CHAPTER 108—DEPARTMENT OF DEFENSE SCHOOLS".

(3) The items relating to such chapter in the table of chapters at the beginning of subtitle A, and at the beginning of part III of subtitle A, of title 10, United States Code, are amended to read as follows:

"108. Department of Defense Schools".

10 USC 2162 note.

(b) APPLICATION OF AMENDMENT.—Section 2162 of title 10, United States Code, as added by subsection (a), shall apply with respect to fiscal years after fiscal year 1991.

SEC. 912. AUTHORITY OF NAVAL WAR COLLEGE TO CONFER DEGREE OF MASTER OF ARTS IN NATIONAL SECURITY AND STRATEGIC STUDIES

(a) AUTHORITY.—Part III of subtitle C of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 609—PROFESSIONAL MILITARY EDUCATION SCHOOLS

"Sec.

"7101. Naval War College: master of arts in national security and strategic studies.

"§ 7101. Naval War College: master of arts in national security and strategic studies

"(a) AUTHORITY.—Upon the recommendation of the faculty of the Naval War College, the President of the college may confer the degree of master of arts in national security and strategic studies upon graduates of the college who fulfill the requirements for the degree.

"(b) REGULATIONS.—The authority provided by subsection (a) shall be exercised under regulations prescribed by the Secretary of the Navy.

"(c) NAVAL WAR COLLEGE DEFINED.—In this section, the term 'Naval War College' means the College of Naval Warfare and the College of Naval Command and Staff.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle C of title 10, United States Code, and at the beginning of part III of such subtitle, are amended by inserting after the item relating to chapter 607 the following new item:

"609. Professional Military Educational Schools..... 7101".

PART C—CONTRACTING OUT

SEC. 921. CONTINUATION OF AUTHORITY OF BASE COMMANDERS OVER CONTRACTING FOR COMMERCIAL ACTIVITIES

10 USC 2466 note.

Section 2468(f) of title 10, United States Code, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991".

SEC. 922. AUTHORIZATION OF PILOT PROGRAM FOR DEPOT MAINTENANCE WORKLOAD COMPETITION

(a) PILOT PROGRAM AUTHORIZED.—(1) Notwithstanding section 2466 of title 10, United States Code, the Secretary of Defense may conduct a depot maintenance workload competition pilot program during fiscal year 1991.

(b) ELEMENTS OF PROGRAM.—(1) The pilot program authorized by subsection (a) shall involve competition for a portion of the depot maintenance workload at one Army depot maintenance activity and one Air Force depot maintenance activity.

(2) Any competition under such pilot program shall be open to such maintenance activities of the Department of Defense as the Secretary of Defense may designate. The Secretary may also include private contractors in such competition.

(c) REPORT.—Not later than March 31, 1992, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) explaining the basis for selecting the installations and workload selected to participate in the pilot program authorized by subsection (a);

(2) containing a detailed explanation of the results of such pilot program; and

(3) comparing such results to the experience of one Navy depot maintenance activity that competed its workload during fiscal year 1991.

TITLE X—DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES

SEC. 1001. DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES FUNDING

Funds authorized to be appropriated pursuant to section 301(a)(14) for drug interdiction and counter-drug activities of the Department of Defense shall be available for the purposes and in the amounts specified as follows:

(1) For operation and maintenance, $585,600,000.

(2) For procurement, $345,300,000.

(3) For National Guard pay and allowances, $105,500,000.

(4) For research, development, test, and evaluation, $47,700,000.

SEC. 1002. OVER-THE-HORIZON RADAR

(a) STUDY.—(1) The Secretary of Defense, acting through the Joint Electronics Warfare Center, shall conduct a study to examine the need for an over-the-horizon radar in the central part of the United States directed toward Mexico.

(2) In carrying out such study, the Secretary shall assess—

(A) the capability of the over-the-horizon radar against small targets, including single engine aircraft of the type used in drug trafficking;

(B) the ability of the over-the-horizon radar to correlate such targets with existing civilian air traffic; and

(C) the relative cost and operational effectiveness of an over-the-horizon radar compared with continued investment in other types of radars, such as the Small Aerostat System, land based aerostats, and the Caribbean based radar system.

(3) The Secretary shall submit the results of the study required by paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(4) Of the amount made available for procurement under section 1001(2), $3,000,000 shall be available to carry out the study required by paragraph (1).

(b) TESTBED FACILITY.—Of the amount made available for procurement under section 1001(2) for the over-the-horizon radar, $6,000,000 shall be used for the procurement of a commercial testbed facility for the over-the-horizon radar to serve as an interim facility until the study required by subsection (a) is completed and the need for an over-the-horizon radar for drug interdiction is determined.

(c) LIMITATION ON OTHER SPENDING.—The balance of other funds made available for procurement under section 1001(2) for the over-the-horizon radar may not be obligated until 30 days after—

(1) the Secretary of Defense certifies to Congress, after conclusion of the study required by subsection (a), that such a system is needed, meets the requirements of the drug interdiction program, and would be the most cost effective system when compared with the cost of additional investment in other radar systems or other intelligence programs; and

(2) in the event the Over-The-Horizon Backscatter radar (OTH–B) is determined to be the most suitable over-the-horizon radar system, the Office of Test and Evaluation certifies to Congress that the East Coast System of the OTH–B meets all contract requirements and performance specifications con-

tained in the Test and Evaluation Master Plan and the Operation Test Plan for that system.

SEC. 1003. CIVIL AIR PATROL

Of the amount made available for operation and maintenance under section 1001(1), $1,000,000 shall be available to the Secretary of Defense for the purpose of paying expenses incurred by the Civil Air Patrol in conducting drug surveillance flights.

SEC. 1004. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES

(a) SUPPORT TO OTHER AGENCIES.—During fiscal year 1991, the Secretary of Defense may provide support for the counter-drug activities of any other department or agency of the Federal Government or of any State, local, or foreign law enforcement agency for any of the purposes set forth in subsection (b) if such support is requested—

(1) by the official who has responsibility for the counter-drug activities of the department or agency of the Federal Government, in the case of support for other departments or agencies of the Federal Government;

(2) by the appropriate official of a State or local government, in the case of support for State or local law enforcement agencies; or

(3) by an appropriate official of a department or agency of the Federal Government that has counter-drug responsibilities, in the case of support for foreign law enforcement agencies.

(b) TYPES OF SUPPORT.—The purposes for which the Secretary may provide support under subsection (a) are the following:

(1) The maintenance and repair of equipment that has been made available to any department or agency of the Federal Government or to any State or local government by the Department of Defense for the purposes of—

(A) preserving the potential future utility of such equipment for the Department of Defense; and

(B) upgrading such equipment to ensure compatibility of that equipment with other equipment used by the Department of Defense.

(2) The maintenance, repair, or upgrading of equipment (including computer software), other than equipment referred to in subparagraph (A) for the purpose of—

(A) ensuring that the equipment being maintained or repaired is compatible with equipment used by the Department of Defense; and

(B) upgrading such equipment to ensure the compatibility of that equipment with equipment used by the Department of Defense.

(3) The transportation of personnel of the United States and foreign countries (including per diem expenses associated with such transportation), and the transportation of supplies and equipment, for the purpose of facilitating counter-drug activities within or outside the United States.

(4) The establishment (including unspecified minor construction) and operation of bases of operations or training facilities for the purpose of facilitating counter-drug activities within or outside the United States.

(5) Counter-drug related training of law enforcement personnel of the Federal Government, of State and local governments,

and of foreign countries, including associated support expenses for trainees and the provision of materials necessary to carry out such training.

(6) Aerial and ground reconnaissance outside, at, or near the borders of the United States.

(7) Construction of roads and fences and installation of lighting to block drug smuggling corridors across international boundaries of the United States.

(8) Establishment of command, control, communications, and computer networks for improved integration of law enforcement, active military, and National Guard activities.

(c) CONTRACT AUTHORITY.—In carrying out subsection (a), the Secretary of Defense may acquire services or equipment by contract for support provided under that subsection if the Department of Defense would normally acquire such services or equipment by contract for the purpose of conducting a similar activity for the Department of Defense.

(d) LIMITED WAIVER OF PROHIBITION.—Notwithstanding section 376 of title 10, United States Code, the Secretary of Defense may provide support pursuant to subsection (a) in any case in which the Secretary determines that the provision of such support would adversely affect the military preparedness of the United States in the short term if the Secretary determines that the importance of providing such support outweighs such short-term adverse effect.

(e) CONDUCT OF TRAINING OR OPERATION TO AID CIVILIAN AGENCIES.—In providing support pursuant to subsection (a), the Secretary of Defense may plan and execute otherwise valid military training or operations (including training exercises undertaken pursuant to section 1206(a) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1564)) for the purpose of aiding civilian law enforcement agencies.

(f) RELATIONSHIP TO OTHER LAWS.—(1) The authority provided in this section for the support of counter-drug activities by the Department of Defense is in addition to, and except as provided in paragraph (2), not subject to the requirements of chapter 18 of title 10, United States Code.

(2) Support under this section shall be subject to the provisions of section 375 and, except as provided in subsection (d), section 376 of title 10, United States Code.

(g) AVAILABILITY OF FUNDS.—Of the amount made available for operation and maintenance under section 1001(1), $50,000,000 shall be available to the Secretary of Defense for the purpose of carrying out this section.

SEC. 1005. TRANSFER OF EXCESS DEFENSE ARTICLES

Pursuant to section 1208 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (10 U.S.C. 372 note) and section 372 of title 10, United States Code, the Secretary of Defense shall review the availability of equipment resulting from the withdrawal of United States forces from Europe and Asia for the purpose of identifying excess equipment that may be suitable for drug enforcement activities for transfer to appropriate Federal, State, or local civilian law enforcement authorities.

SEC. 1006. SENSE OF CONGRESS REGARDING THE EFFECTIVE USE OF COUNTER-DRUG FUNDS

It is the sense of Congress that the Secretary of Defense and the Chairman of the Joint Chiefs of Staff should continue to emphasize the commitment of the Department of Defense to its extremely important mission of combating illegal drugs so that the entire chain of command of the Department of Defense fully and effectively uses funds of the Department to ensure the maximum contribution of the Armed Forces to the national counter-drug effort.

SEC. 1007. REPORT ON DEFENSE SPENDING FOR COUNTER-DRUG ACTIVITIES

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees, the Senate Caucus on International Narcotics Control, and the Select Committee on Narcotics Abuse and Control of the House of Representatives a report examining the counter-drug budget and expenditures of the Department of Defense.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of the funds authorized and appropriated in fiscal years 1989 and 1990 for the counter-drug activities of the Department of Defense, including—

(A) an examination of how those funds were obligated and expended, including a month-by-month breakdown of obligations and expenditures;

(B) a determination of whether there were delays in obligating and expending those funds and the reasons for any such delays; and

(C) an accounting of the amount of funds available for counter-drug activities that lapsed at the end of each of the fiscal years.

(2) A determination of whether there has been a systemic failure in the timely obligation and expenditure of funds appropriated for the counter-drug activities of the Department of Defense for fiscal years 1989 and 1990.

(3) An analysis of the effectiveness of the role of the Department of Defense Coordinator for Drug Enforcement Policy and Support, including—

(A) a determination whether the responsibility of serving as both the Assistant Secretary of Defense for Reserve Affairs and Coordinator for Drug Enforcement Policy and Support complicates the ability of the Assistant Secretary to coordinate all entities within the Department of Defense in the counter-drug mission; and

(B) a determination regarding the adequacy of personnel levels in the Office of the Assistant Secretary to meet his responsibility for coordinating counter-drug activities within the Department of Defense and ensuring that funds appropriated for such activities are obligated and expended in a timely manner.

(4) Recommendations for correcting any problems found in the course of the review.

SEC. 1008. STUDY OF UTILITY OF OH-58D HELICOPTER IN DETECTION OF CROSS-BORDER INTRUSIONS BY DRUG SMUGGLERS

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study on the feasibility and effectiveness of using the OH-58D Scout helicopters for detecting, monitoring, and conducting surveillance of the ground movements of drug smugglers along the southwest border of the United States. In carrying out such study, the Secretary shall consider in particular the following matters:

(1) The suitability of the OH-58D helicopter for performing the missions described in the first sentence.

(2) The feasibility of having personnel of the Army National Guard operate and maintain OH-58D helicopters when such personnel are not in Federal service.

(b) INTERAGENCY COORDINATION.—The Secretary shall carry out the study required by subsection (a) in consultation with the Commissioner of the United States Customs Service.

(c) SUBMISSION OF REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not more than 180 days after the date of the enactment of this Act. The Secretary shall include in the report the conclusions of the Secretary based on the study together with such comments and recommendation as the Secretary considers appropriate.

SEC. 1009. ANDEAN ANTI-DRUG EFFORTS

(a) FINDINGS.—Congress makes the following findings:

(1) The support for democratic process and civilian governance in the Andean countries of Peru, Bolivia, and Colombia, the first two of which have only recently emerged from periods of military rule, is a necessary precondition for long-term stability in those countries and for the successful fight against the production and traffic of illegal drugs in those countries.

(2) The separation of military and civilian law enforcement functions has historically been a critical element in democracies around the world, including the United States.

(3) There is a need to determine whether the current policies of the United States unduly emphasize assistance to military entities of those countries rather than civilian law enforcement entities in carrying out anti-drug efforts in those countries and whether such policies might tend to undermine the dual long-term policy goals of the United States of stopping the traffic of drugs at their sources and the preservation of civilian control over the newly established democracies of the Andean countries.

(4) There is a need to assess the impact that United States assistance in the Andean anti-drug effort will have on reducing drug activity and supporting democratic processes in the Andean countries.

(b) REPORT REQUIRED.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of State and the Secretary of Defense shall, in consultation with the Director of the Office of National Drug Control Policy, jointly submit to Congress a report detailing current United States policies with respect to the Andean countries in general and with respect to the counter-drug enforcement activities and associated training programs of the United States in such countries in particular.

(2) Such report shall include an analysis of the impact that the involvement of the military forces of the Andean countries in counter-drug enforcement activities has on the democratic institutions of those countries and how the civilian institutions of those countries might be strengthened in order to assure the successful pursuit of a counter-drug strategy.

(3) Such report shall contain specific legislative recommendations for improving the assistance activities of the United States in the Andean countries in order to avoid unnecessary duplications and contradictions in meeting United States policy goals in those countries.

SEC. 1010. CREATION OF A MULTILATERAL COUNTER-DRUG STRIKE FORCE

(a) FINDINGS.—Congress makes the following findings:

(1) Congress has in the past sought approval for a multilateral strike force dedicated to the war on drugs.

(2) The proposal by the Prime Minister of Jamaica for the creation of a multilateral, international counter-drug strike force is the first operative proposal for the use of a multilateral force against the drug cartels in Latin America by a government leader in the Western Hemisphere and should be given serious consideration.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that—

(1) the Prime Minister of Jamaica is to be commended for his proposal;

(2) the President should call for international negotiations for the purpose of discussing the establishment of an international strike force to counter international drug traffickers; and

(3) the United States should work through the United Nations and other multilateral organizations to determine the feasibility of establishing and using a force and should assist in the establishment of such a force if the President determines the proposal to be feasible.

SEC. 1011. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER

Title I of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501 et seq.) is amended by inserting after section 1003 the following new section:

"SEC. 1003A. COUNTER-DRUG TECHNOLOGY ASSESSMENT CENTER 21 USC 1502a.

"(a) ESTABLISHMENT.—There is established within the Office of National Drug Control Policy, the Counter-Drug Technology Assessment Center (hereinafter in this section referred to as the 'Center'). The Center shall operate under the authority of the Director of National Drug Control Policy and shall serve as the central counter-drug enforcement research and development organization of the United States Government.

"(b) DIRECTOR.—There shall be at the head of the Center the Chief Scientist of Counter-Drug Technology (hereinafter in this section referred to as the 'Chief Scientist'). The Chief Scientist shall be appointed by the Director of National Drug Control Policy from among individuals qualified and distinguished in the area of science, engineering, or technology.

"(c) ADDITIONAL RESPONSIBILITIES OF THE DIRECTOR.—(1) The Director, acting through the Chief Scientist, shall—

"(A) identify and define the short, medium, and long-term scientific and technological needs of Federal, State, and local drug enforcement agencies, including—

"(i) advanced surveillance, tracking, and radar imaging;

"(ii) electronic support measures;

"(iii) communications;

"(iv) data fusion, advanced computer systems and artificial intelligence; and

"(v) chemical, biological, radiological (including neutron, electron, and graviton) and other means of detection;

"(B) make a priority ranking of such needs according to fiscal and technological feasibility, as part of a National Counter-Drug Enforcement Research and Development Strategy;

"(C) oversee and coordinate counter-drug technology initiatives with related activities of other Federal civilian and military departments; and

"(D) under the general authority of the Director of National Drug Control Policy, submit requests to Congress for the reprogramming or transfer of funds appropriated for counter-drug enforcement research and development.

"(2) The authority granted to the Director under this section shall not extend to the award of contracts, management of individual projects, or other operational activities.

President. "(d) COUNTER-DRUG BUDGET SUBMISSION.—Beginning with the budget submitted to Congress for fiscal year 1992 pursuant to section 1105 of title 31, United States Code, the President shall submit a separate and detailed request relating to those Federal departments and agencies having responsibility for counter-drug enforcement research and development programs.

"(e) PERSONNEL.—Subject to subsections (d) and (e) of section 1003, the Chief Scientist shall select and appoint a staff of not more than 10 employees with specialized experience in scientific, engineering, and technical affairs.".

TITLE XI—OPERATION DESERT SHIELD

PART A—FUNDING MATTERS

SEC. 1101. SUPPLEMENTAL FUNDS FOR FISCAL YEAR 1990

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—The appropriations and transfers made by title II of Public Law 101-403 are hereby authorized. The authorizations in the preceding sentence are in addition to the amounts authorized to be appropriated for fiscal year 1990 by the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189).

(b) PURPOSES FOR WHICH SUPPLEMENTAL FUNDS MAY BE USED.—Funds appropriated or otherwise made available by title II of Public Law 101-403 (other than for "Other Procurement, Army" and for "Research, Development, Test, and Evaluation, Navy") may be used only—

(1) for the purposes stated in section 201 of that Public Law; or

(2) to liquidate obligations incurred by the Department of Defense during fiscal year 1990 pursuant to authority under section 2201 of title 10, United States Code.

SEC. 1102. ACCOUNTING FOR COSTS OF OPERATION DESERT SHIELD

The Secretary of Defense shall maintain separate financial and cost records for Operation Desert Shield. Those records shall include records showing the amount and use of any contributions made by other nations.

PART B—MILITARY PERSONNEL MATTERS

SEC. 1111. MILITARY PAY AND ALLOWANCES

(a) IMMINENT DANGER PAY.—The Secretary of Defense may provide for the payment of imminent danger pay under section 310 of title 37, United States Code, to members of the Armed Forces assigned to duty in the Persian Gulf area in connection with Operation Desert Shield with respect to periods of duty served after August 1, 1990, and before the date of the enactment of this Act.

(b) VARIABLE HOUSING ALLOWANCE.—(1) In the case of Reserve members called or ordered to active duty (other than for training) and retired members called to active duty under section 688 of title 10, United States Code, in connection with Operation Desert Shield, the variable housing allowance under section 403a of title 37, United States Code, shall be paid to such members for fiscal year 1990 and during fiscal year 1991 without regard to the limitation in subsection (b)(3) of that section.

(2) The limitation in subsection (d) of that section on the total amount of variable housing allowance that may be paid for a fiscal year shall not apply for fiscal year 1991.

(c) SPECIAL PAY FOR RESERVE MEDICAL AND DENTAL OFFICERS.—(1) A reserve medical or dental officer described in paragraph (2) shall be eligible during fiscal years 1990 and 1991 for special pay under section 302 or 302b of title 37, United States Code (whichever applies), in the same manner as a regular medical or dental officer, notwithstanding the requirements in those sections that the call or order to active duty be for a period of not less than one year or that the officer execute a written agreement to remain on active duty for a period of not less than one year.

(2) A reserve medical or dental officer referred to in paragraph (1) is a reserve officer in an active status who—

(A) is an officer of the Medical or Dental Corps of the Army or the Navy or an officer of the Air Force designated as a medical or dental officer; and

(B) is on active duty (other than for training) under a call or order to active duty for a period of less than one year in connection with Operation Desert Shield.

(3) Payment of special pay under section 302 or 302b of title 37, United States Code, pursuant to this subsection may be made on a monthly basis. If the service on active duty of a reserve medical or dental officer referred to in paragraph (1) is terminated before the end of the period for which a payment is made under those sections to the officer, the officer is entitled to special pay under those sections only for the portion of that period that the officer actually served on active duty. The officer shall refund any amount received in excess of the amount that corresponds to the period of active duty of the officer.

(4) While a reserve medical officer referred to in paragraph (1) receives special pay under section 302 of title 37, United States Code,

by operation of that paragraph, the officer shall not be entitled to special pay under subsection (h) of that section.

SEC. 1112. SENSE OF CONGRESS CONCERNING ACTIVATION OF NATIONAL GUARD COMBAT BRIGADE

It is the sense of Congress that the President should order to active Federal service at least one Army National Guard combat brigade for deployment in the Persian Gulf region in connection with Operation Desert Shield.

SEC. 1113. TECHNICAL AMENDMENT CONCERNING MAILING PRIVILEGES FOR MEMBERS OF THE ARMED FORCES PARTICIPATING IN OPERATION DESERT SHIELD

Section 3401 of title 39, United States Code, is amended by striking out "sound-recorded" each place it appears and inserting in lieu thereof "sound- or video-recorded".

SEC. 1114. SAVINGS PROGRAM FOR OVERSEAS PERSONNEL

(a) ELIGIBILITY TO PARTICIPATE.—The Secretary of Defense may authorize a member of the Armed Forces who is serving outside the United States or its possessions under arduous conditions (as determined by the Secretary of Defense) during fiscal year 1990 or 1991 pursuant to an assignment or duty detail as part of Operation Desert Shield to make deposits of unallotted current pay and allowances, and to earn interest, under section 1035 of title 10, United States Code.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations establishing standards and procedures for the administration of this section.

SEC. 1115. TREATMENT OF ACCUMULATED LEAVE

(a) INAPPLICABILITY OF ELIGIBILITY LIMITATION.—The limitation in the second sentence of section 501(b)(3) of title 37, United States Code, does not apply with respect to the following leave during fiscal year 1990 or 1991:

(1) Leave accrued by a member of a reserve component of the Armed Forces while serving on active duty (other than for training) in connection with Operation Desert Shield pursuant to an order to active duty authorized under section 672, 673, 673b, or 674 of title 10, United States Code.

(2) Leave accrued by a member of the Armed Forces in the Retired Reserve while serving on active duty in connection with Operation Desert Shield pursuant to an order to active duty authorized by section 675 of title 10, United States Code.

(3) Leave accrued by a retired member of the Regular Army, Regular Navy, Regular Air Force, or Regular Marine Corps, a member of the Retired Reserve, or a member of the Fleet Reserve or Fleet Marine Corps Reserve while such retired member or member, as the case may be, is serving on active duty in connection with Operation Desert Shield pursuant to an order to active duty authorized by section 688 of title 10, United States Code.

(4) Leave accrued by a member referred to in paragraph (1), (2), or (3) while serving on active duty (other than for training) in connection with Operation Desert Shield pursuant to an order to such active duty issued with the consent of the member during a period in which members of the Armed Forces are

being ordered to active duty in connection with such operation pursuant to a provision of title 10, United States Code, referred to in such paragraph.

(b) SAVING PROVISION FOR CERTAIN ACCRUED LEAVE.—(1) Subject to paragraph (2), a member of the Armed Forces who, under section 701(f) of title 10, United States Code—

(A) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1991 shall be permitted to retain such leave until the end of fiscal year 1992; or

(B) would lose any accumulated leave in excess of 60 days at the end of fiscal year 1992 (other than by reason of clause (A)) shall be permitted to retain such leave until the end of fiscal year 1993.

(2) In no case may a member be permitted to accumulate leave under this section in excess of 90 days.

(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations establishing standards and procedures for the administration of this section.

SEC. 1116. REPORT ON OPTIONS FOR REFORMING THE BASIC ALLOWANCE FOR SUBSISTENCE ENTITLEMENT

The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on various options for reforming the basic allowance for subsistence entitlement provided for under section 402 of title 37, United States Code. The report shall address the problems resulting from termination of the allowance upon deployment for field or sea duty. The report shall be submitted not later than February 15, 1991.

SEC. 1117. END STRENGTH FLEXIBILITY

10 USC 115 note.

(a) AUTHORITY.—If the Secretary of Defense determines that the operational requirements of Operation Desert Shield require an increase in the end strengths of active duty personnel for fiscal year 1991 prescribed by section 401 in excess of the increases authorized under section 115(c)(1) of title 10, United States Code (as amended by section 1483 of this Act), the Secretary may (subject to subsection (b)) increase the total end strength authorized for the Army, Navy, Air Force, and Marine Corps by section 401 by an amount not greater than 0.5 percent of the total end strengths authorized by that section. The authority under the preceding sentence is in addition to the authority under section 115(c)(1) of title 10, United States Code (as amended by section 1483 of this Act).

(b) CERTIFICATION.—The Secretary of Defense may not exercise the authority provided in subsection (a) until after the Secretary certifies in writing to the Committees on Armed Services of the Senate and House of Representatives that the exercise of that authority is necessary because of the operational requirements of Operation Desert Shield.

PART C—PROCUREMENT MATTERS

SEC. 1121. PROCUREMENT FLEXIBILITY FOR SMALL PURCHASES

(a) INCREASED FLEXIBILITY FOR OPERATION DESERT SHIELD.—During fiscal year 1991, the small purchase procurement threshold in the case of any contract to be awarded and performed, or purchase to be made, outside the United States in support of Operation Desert

Shield shall be $100,000 (rather than the amount specified in section 2304(g)(2) of title 10, United States Code).

(b) SMALL PURCHASE PROCUREMENT THRESHOLD DEFINED.—For purposes of this section, the term "small purchase procurement threshold" means the maximum amount of a purchase or contract for which the special simplified procurement procedures established pursuant to section 2304(g)(1) of title 10, United States Code, may be used.

Defense Acquisition Workforce Improvement Act.
10 USC 1701 note.

TITLE XII—DEFENSE ACQUISITION WORKFORCE

SEC. 1201. SHORT TITLE

This title may be cited as the "Defense Acquisition Workforce Improvement Act".

SEC. 1202. DEFENSE ACQUISITION WORKFORCE

(a) DEFENSE ACQUISITION WORKFORCE.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 85 the following new section:

"CHAPTER 87—DEFENSE ACQUISITION WORKFORCE

"Subchapter		Sec.
"I.	General Authorities and Responsibilities	1701
"II.	Defense Acquisition Positions	1721
"III.	Acquisition Corps	1731
"IV.	Education and Training	1741
"V.	General Management Provisions	1761

"SUBCHAPTER I—GENERAL AUTHORITIES AND RESPONSIBILITIES

"Sec.

"1701. Management policies.
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"§ 1701. Management policies

"(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in acquisition positions in the Department of Defense.

"(b) UNIFORM IMPLEMENTATION.—The Secretary shall ensure that, to the maximum extent practicable, acquisition workforce policies and procedures established in accordance with this chapter are uniform in their implementation throughout the Department of Defense.

"§ 1702. Under Secretary of Defense for Acquisition: authorities and responsibilities

"Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall carry out all powers, functions, and duties of the Secretary of

Defense with respect to the acquisition workforce in the Department of Defense. The Under Secretary shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented throughout the Department of Defense.

"§ 1703. Director of Acquisition Education, Training, and Career Development

"The Under Secretary of Defense for Acquisition shall appoint a Director of Acquisition Education, Training, and Career Development within the office of the Under Secretary to assist the Under Secretary in the performance of his duties under this chapter.

"§ 1704. Service acquisition executives: authorities and responsibilities

"Subject to the authority, direction, and control of the Secretary of the military department concerned, the service acquisition executive for each military department shall carry out all powers, functions, and duties of the Secretary concerned with respect to the acquisition workforce within the military department concerned and shall ensure that the policies of the Secretary of Defense established in accordance with this chapter are implemented in that department.

"§ 1705. Directors of Acquisition Career Management in the military departments

"There shall be a Director of Acquisition Career Management for each military department within the office of the service acquisition executive to assist the executive in the performance of his duties under this chapter. The Secretary of the Navy, acting through the service acquisition executive, may appoint separate directors for the Navy and the Marine Corps.

"§ 1706. Acquisition career program boards

"(a) ESTABLISHMENT.—The Secretary of each military department, acting through the service acquisition executive, shall establish an acquisition career program board to advise the service acquisition executive in managing the accession, training, education, and career development of military and civilian personnel in the acquisition workforce and in selecting individuals for an Acquisition Corps under section 1731 of this title.

"(b) COMPOSITION OF BOARD.—Each acquisition career program board shall include the Director of Acquisition Career Management (or his representative), the Assistant Secretary with responsibility for manpower (or his representative), and the military and civilian senior officials with responsibility for personnel development in the various acquisition career fields. The service acquisition executive (or his representative) shall be the head of the board.

"(c) SUBORDINATE BOARDS.—The Secretary of a military department may establish a subordinate board structure in the department to which functions of the acquisition career program board may be delegated.

"§ 1707. Personnel in the Office of the Secretary of Defense and in the Defense Agencies

"(a) POLICIES.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and implement, in such manner as the Secretary considers appropriate,

policies and procedures for the effective management, including accession, education, training, and career development, of persons serving in acquisition positions in the Office of the Secretary of Defense and the Defense Agencies. Such policies and procedures shall include (1) the establishment of one or more Acquisition Corps with respect to such persons, and (2) the establishment of an acquisition career program board (and any appropriate subordinate board structure) with respect to such persons. The Secretary shall ensure that, to the maximum extent practicable, such policies and procedures are as uniform as practicable with the policies established under this chapter for the military departments.

"(b) MANAGEMENT.—The Director of Acquisition Education, Training, and Career Development appointed under section 1703 of this title shall serve as the Director of Acquisition Career Management for the Office of the Secretary of Defense and for the Defense Agencies.

"SUBCHAPTER II—DEFENSE ACQUISITION POSITIONS

"Sec.

"1721. Designation of acquisition positions.
"1722. Career development.
"1723. General education, training, and experience requirements.
"1724. Contracting positions: qualification requirements.
"1725. Office of Personnel Management approval.

"§ 1721. Designation of acquisition positions

Regulations.

"(a) DESIGNATION.—The Secretary of Defense shall designate in regulations those positions in the Department of Defense that are acquisition positions for purposes of this chapter.

"(b) REQUIRED POSITIONS.—In designating the positions under subsection (a), the Secretary shall include, at a minimum, all acquisition-related positions in the following areas:

"(1) Program management.
"(2) Systems planning, research, development, engineering, and testing.
"(3) Procurement, including contracting.
"(4) Industrial property management.
"(5) Logistics.
"(6) Quality control and assurance.
"(7) Manufacturing and production.
"(8) Business, cost estimating, financial management, and auditing.
"(9) Education, training, and career development.
"(10) Construction.
"(11) Joint development and production with other government agencies and foreign countries.

"(c) MANAGEMENT HEADQUARTERS ACTIVITIES.—The Secretary also shall designate as acquisition positions under subsection (a) those acquisition-related positions which are in management headquarters activities and in management headquarters support activities. For purposes of this subsection, the terms 'management headquarters activities' and 'management headquarters support activities' have the meanings given those terms in Department of Defense Directive 5100.73, entitled "Department of Defense Management Headquarters and Headquarters Support Activities," dated November 25, 1988.

"§ 1722. Career development

"(a) CAREER PATHS.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall ensure that appropriate career paths for civilian and military personnel who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the armed forces to the most senior acquisition positions. The Secretary shall make available published information on such career paths.

"(b) LIMITATION ON PREFERENCE FOR MILITARY PERSONNEL.—(1) The Secretary of Defense shall ensure that no requirement or preference for a member of the armed forces is used in the consideration of persons for acquisition positions, except as provided in the policy established under paragraph (2).

"(2)(A) The Secretary shall establish a policy permitting a particular acquisition position to be specified as available only to members of the armed forces if a determination is made, under criteria specified in the policy, that a member of the armed forces is required for that position by law, is essential for performance of the duties of the position, or is necessary for another compelling reason.

"(B) Not later than December 15 of each year, the Under Secretary of Defense for Acquisition shall submit to the Secretary a report that lists each acquisition position that is restricted to members of the armed forces under such policy and the recommendation of the Under Secretary as to whether such position should remain so restricted. Reports.

"(c) OPPORTUNITIES FOR CIVILIANS TO QUALIFY.—The Secretary of Defense shall ensure that civilian personnel are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior acquisition positions.

"(d) BEST QUALIFIED.—The Secretary of Defense shall ensure that the policies established under this chapter are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

"(e) MANAGEMENT OF WORKFORCE.—The Secretary of Defense shall ensure that the acquisition workforce is managed such that, for each fiscal year from October 1, 1991, through September 30, 1996, there is a substantial increase in the proportion of civilians (as compared to armed forces personnel) serving in critical acquisition positions in general, in program manager positions, and in division head positions over the proportion of civilians (as compared to armed forces personnel) in such positions on October 1, 1990.

"(f) ASSIGNMENTS POLICY.—(1) The Secretary of Defense shall establish a policy on assigning military personnel to acquisition positions that provides for a balance between (A) the need for personnel to serve in career broadening positions, and (B) the need for requiring service in each such position for sufficient time to provide the stability necessary to effectively carry out the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

"(2) In implementing the policy established under paragraph (1), the Secretaries of the military departments shall provide, as appropriate, for longer lengths of assignments to acquisition positions than assignments to other positions.

"(g) PERFORMANCE APPRAISALS.—The Secretary of each military department, acting through the service acquisition executive for

that department, shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in an acquisition position by a person serving in an acquisition position in the same acquisition career field.

Equal employment opportunity.

"(h) BALANCED WORKFORCE POLICY.—In the development of defense acquisition workforce policies under this chapter with respect to any civilian employees or applicants for employment, the Secretary of Defense or the Secretary of a military department (as applicable) shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

"§ 1723. General education, training, and experience requirements

"(a) QUALIFICATION REQUIREMENTS.—The Secretary of Defense shall establish education, training, and experience requirements for each acquisition position, based on the level of complexity of duties carried out in the position. Unless otherwise provided in this chapter, such requirements shall take effect not later than October 1, 1993. In establishing such requirements for positions other than critical acquisition positions designated pursuant to section 1733 of this title, the Secretary may state the requirements by categories of positions.

"(b) LIMITATION ON CREDIT FOR TRAINING OR EDUCATION.—Not more than one year of a period of time spent pursuing a program of academic training or education in acquisition may be counted toward fulfilling any requirement established under this chapter for a certain period of experience.

"§ 1724. Contracting positions: qualification requirements

"(a) CONTRACTING OFFICERS.—The Secretary of Defense shall require that, beginning on October 1, 1993, in order to qualify to serve in an acquisition position as a contracting officer with authority to award or administer contracts for amounts above the small purchase threshold referred to in section 2304(g) of this title, a person must (except as provided in subsections (c) and (d))—

"(1) have completed all mandatory contracting courses required for a contracting officer at the grade level, or in the position within the grade of the General Schedule (in the case of an employee), that the person is serving in;

"(2) have at least two years of experience in a contracting position;

"(3)(A) have received a baccalaureate degree from an accredited educational institution authorized to grant baccalaureate degrees, (B) have completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management, or (C) have passed an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education in any of the disciplines listed in subparagraph (B); and

"(4) meet such additional requirements, based on the dollar value and complexity of the contracts awarded or administered in the position, as may be established by the Secretary of Defense for the position.

"(b) GS-1102 SERIES.—The Secretary of Defense shall require that, beginning on October 1, 1993, a person may not be employed by the Department of Defense in the GS-1102 occupational series unless the person (except as provided in subsections (c) and (d)) meets the requirements set forth in subsection (a)(3).

"(c) EXCEPTIONS.—(1) The requirements set forth in subsections (a)(3) and (b) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions, in comparable positions in other government agencies or the private sector, or in similar positions in which an individual obtains experience directly relevant to the field of contracting.

"(2) The requirements of subsections (a) and (b) shall not apply to any employee for purposes of qualifying to serve in the position in which the employee is serving on October 1, 1993, or any other position in the same grade and involving the same level of responsibilities as the position in which the employee is serving on such date.

"(d) WAIVER.—The acquisition career program board of a military department may waive any or all of the requirements of subsections (a) and (b) with respect to an employee of that military department if the board certifies that the employee possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated job performance and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

"§ 1725. Office of Personnel Management approval

"(a) QUALIFICATION REQUIREMENTS.—The Secretary of Defense shall submit any requirement with respect to civilian employees that is established under section 1723 or under section 1724(a)(4) of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"(b) EXAMINATIONS.—The Secretary of Defense shall submit examinations to be given to civilian employees under subsection (a)(3) or (b) of section 1724 of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.

"SUBCHAPTER III—ACQUISITION CORPS

"Sec.

"1731. Acquisition Corps: in general.
"1732. Selection criteria and procedures.
"1733. Critical acquisition positions.
"1734. Career development.
"1735. Education, training, and experience requirements for critical acquisition positions.

"1736. Applicability.
"1737. Definitions and general provisions.

"§ 1731. Acquisition Corps: in general

"(a) ACQUISITION CORPS.—The Secretary of Defense shall ensure that an Acquisition Corps is established for each of the military departments and one or more Corps, as he considers appropriate, for the other components of the Department of Defense. A separate Acquisition Corps may be established for each of the Navy and the Marine Corps.

"(b) PROMOTION RATE FOR OFFICERS IN ACQUISITION CORPS.—The Secretary of Defense shall ensure that the qualifications of commissioned officers selected for an Acquisition Corps are such that those officers are expected, as a group, to be promoted at a rate not less than the rate for all line (or the equivalent) officers of the same armed force (both in the zone and below the zone) in the same grade.

"(c) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees established under section 1732 of this title to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"§ 1732. Selection criteria and procedures

"(a) SELECTION CRITERIA AND PROCEDURES.—Selection for membership in an Acquisition Corps shall be made in accordance with criteria and procedures established by the Secretary of Defense. Such criteria and procedures shall be in effect on and after October 1, 1993.

"(b) ELIGIBILITY CRITERIA.—Except as provided in subsections (c) and (d), only persons who meet all of the following requirements may be considered for service in the Corps:

"(1)(A) In the case of an employee, the person must be currently serving in a position within grade GS-13 or above of the General Schedule (including any employee covered by chapter 54 of title 5).

"(B) In the case of a member of the armed forces, the person must be currently serving in the grade of major or, in the case of the Navy, lieutenant commander, or a higher grade.

"(C) In the case of an applicant for employment, the person must have experience in government or industry equivalent to the experience of a person in a position described in subparagraph (A) or (B), as validated by the appropriate career program management board.

"(2) The person must meet the educational requirements prescribed by the Secretary of Defense. Such requirements, at a minimum, shall include both of the following:

"(A) A requirement that the person—

"(i) has received a baccalaureate degree at an accredited educational institution authorized to grant baccalaureate degrees, or

"(ii) has been certified by the acquisition career program board of the employing military department as possessing significant potential for advancement to levels of greater responsibility and authority, based on

demonstrated analytical and decisionmaking capabilities, job performance, and qualifying experience.

"(B) A requirement that the person has completed—

"(i) at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management; or

"(ii) at least 24 semester credit hours (or the equivalent) from an accredited institution of higher education in the person's career field and 12 semester credit hours (or the equivalent) from such an institution from among the disciplines listed in clause (i).

"(3) The person must meet experience requirements prescribed by the Secretary of Defense. Such requirements shall, at a minimum, include a requirement for at least four years of experience in an acquisition position in the Department of Defense or in a comparable position in industry or government.

"(4) The person must meet such other requirements as the Secretary of Defense or the Secretary of the military department concerned prescribes by regulation.

"(c) EXCEPTIONS.—(1) The requirements of subsections (b)(2)(A) and (b)(2)(B) shall not apply to any employee who, on October 1, 1991, has at least 10 years of experience in acquisition positions or in comparable positions in other government agencies or the private sector.

"(2) The requirements of subsections (b)(2)(A) and (b)(2)(B) shall not apply to any employee who is serving in an acquisition position on October 1, 1991, and who does not have 10 years of experience as described in paragraph (1) if the employee passes an examination considered by the Secretary of Defense to demonstrate skills, knowledge, or abilities comparable to that of an individual who has completed at least 24 semester credit hours (or the equivalent) of study from an accredited institution of higher education from among the following disciplines: accounting, business finance, law, contracts, purchasing, economics, industrial management, marketing, quantitative methods, and organization and management. The Secretary of Defense shall submit examinations to be given to civilian employees under this paragraph to the Director of the Office of Personnel Management for approval. If the Director does not disapprove an examination within 30 days after the date on which the Director receives the examination, the examination is deemed to be approved by the Director.

"(d) WAIVER.—(1) Except as provided in paragraph (2), the acquisition career program board of a military department may waive any or all of the requirements of subsection (b) with respect to an employee of that military department if the board certifies that the employee possesses significant potential for advancement to levels of greater responsibility and authority, based on demonstrated analytical and decisionmaking capabilities, job performance, and qualifying experience. With respect to each waiver granted under this subsection, the board shall set forth in a written document the rationale for its decision to waive such requirements. The document shall be submitted to and retained by the Director of Acquisition Education, Training, and Career Development.

"(2) The acquisition career program board of a military department may not waive the requirements of subsection (b)(2)(A)(ii).

"(e) MOBILITY STATEMENTS.—(1) The Secretary of Defense is authorized to require civilians in an Acquisition Corps to sign mobility statements.

"(2) The Secretary of Defense shall identify which categories of civilians in an Acquisition Corps, as a condition of serving in the Corps, shall be required to sign mobility statements. The Secretary shall make available published information on such identification of categories.

"§ 1733. Critical acquisition positions

"(a) REQUIREMENT FOR CORPS MEMBER.—On and after October 1, 1993, a critical acquisition position may be filled only by a member of an Acquisition Corps.

"(b) DESIGNATION OF CRITICAL ACQUISITION POSITIONS.—(1) The Secretary of Defense shall designate the acquisition positions in the Department of Defense that are critical acquisition positions. Such positions shall include the following:

"(A) Any acquisition position which—

"(i) in the case of employees, is required to be filled by an employee in a position within grade GS–14 or above of the General Schedule (including an employee covered by chapter 54 of title 5), or in the Senior Executive Service; or

"(ii) in the case of members of the armed forces, is required to be filled by a commissioned officer of the Army, Navy, Air Force, or Marine Corps who is serving in the grade of lieutenant colonel, or, in the case of the Navy, commander, or a higher grade.

"(B) Other selected acquisition positions not covered by subparagraph (A), including the following:

"(i) Program executive officer.

"(ii) Program manager of a major defense acquisition program (as defined in section 2430 of this title) or of a significant nonmajor defense acquisition program (as defined in section 1736(a)(3) of this title).

"(iii) Deputy program manager of a major defense acquisition program.

"(C) Any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

"(2) The Secretary shall periodically publish a list of the positions designated under this subsection.

"§ 1734. Career development

"(a) THREE-YEAR ASSIGNMENT PERIOD.—(1) Except as provided under subsection (b), the Secretary of each military department, acting through the service acquisition executive for that department, shall provide that, on and after October 1, 1993, any person who is assigned to a critical acquisition position shall be assigned to the position for not fewer than three years. Except as provided in subsection (d), the Secretary concerned may not reassign a person from such an assignment before the end of the three-year period.

"(2) A person may not be assigned to a critical acquisition position unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position for at

least three years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (b).

"(b) ASSIGNMENT PERIOD FOR PROGRAM MANAGERS.—(1) The Secretary of Defense shall prescribe in regulations— Regulations.

"(A) a requirement that, on and after October 1, 1991, a program manager and a deputy program manager of a major defense acquisition program be assigned to the position at least until completion of the major milestone that occurs closest in time to the date on which the person has served in the position for four years; and

"(B) a requirement that, on and after October 1, 1991, to the maximum extent practicable, a program manager who is the replacement for a reassigned program manager arrive at the assignment location before the reassigned program manager leaves.

Except as provided in subsection (d), the Secretary concerned may not reassign a program manager or deputy program manager from such an assignment until after such major milestone has occurred.

"(2) A person may not be assigned to a critical acquisition position as a program manager or deputy program manager of a major defense acquisition program unless the person executes a written agreement to remain on active duty (in the case of a member of the armed forces) or to remain in Federal service (in the case of an employee) in that position at least until completion of the first major milestone that occurs closest in time to the date on which the person has served in the position for four years. The service obligation contained in such a written agreement shall remain in effect unless and until waived by the Secretary concerned under subsection (d).

"(c) MAJOR MILESTONE REGULATIONS.—(1) The Secretary of Defense shall issue regulations defining what constitutes major milestones for purposes of this section. The service acquisition executive of each military department shall establish major milestones at the beginning of a major defense acquisition program consistent with such regulations and shall use such milestones to determine the assignment period for program managers and deputy program managers under subsection (b).

"(2) The regulations shall require that major milestones be clearly definable and measurable events that mark the completion of a significant phase in a major defense acquisition program and that such milestones be the same as the milestones contained in the baseline description established for the program pursuant to section 2435(a) of this title. The Secretary shall require that the major milestones as defined in the regulations be included in the Selected Acquisition Report required for such program under section 2432 of this title.

"(d) WAIVER OF ASSIGNMENT PERIOD.—(1) With respect to a person assigned to a critical acquisition position, the Secretary concerned may waive the prohibition on reassignment of that person (in subsection (a)(1) or (b)(1)) and the service obligation in an agreement executed by that person (under subsection (a)(2) or (b)(2)), but only in exceptional circumstances in which a waiver is necessary for reasons permitted in regulations prescribed by the Secretary of Defense.

"(2) The authority to grant such waivers may be delegated by the service acquisition executive of a military department only to the

Director of Acquisition Career Management for the military department.

"(3) With respect to each waiver granted under this subsection, the service acquisition executive (or his delegate) shall set forth in a written document the rationale for the decision to grant the waiver. The document shall be submitted to the Director of Acquisition Education, Training, and Career Development.

"(e) ROTATION POLICY.—(1) The Secretary of Defense shall establish a policy encouraging the rotation of members of an Acquisition Corps serving in critical acquisition positions to new assignments after completion of five years of service in such positions, or, in the case of a program manager, after completion of a major program milestone, whichever is longer. Such rotation policy shall be designed to ensure opportunities for career broadening assignments and an infusion of new ideas into critical acquisition positions.

"(2) The Secretary of Defense shall establish a procedure under which the assignment of each person assigned to a critical acquisition position shall be reviewed on a case-by-case basis, by the acquisition career program board of the department concerned, for the purpose of determining whether the Government and such person would be better served by a reassignment to a different position. Such a review shall be carried out with respect to each such person not later than five years after that person is assigned to a critical position.

Regulations.

"(f) CENTRALIZED JOB REFERRAL SYSTEM.—The Secretary of Defense shall prescribe regulations providing for the use of centralized lists to ensure that persons are selected for critical positions without regard to geographic location of applicants for such positions.

"(g) EXCHANGE PROGRAM.—(1) The Secretary of Defense shall establish, for purposes of broadening the experience of members of each Acquisition Corps, a test program in which members of a Corps serving in a military department or Defense Agency are assigned or detailed to an acquisition position in another department or agency. Under the test program, the Secretary of Defense shall ensure that, to the maximum extent practicable, at least 5 percent of the members of the Acquisition Corps shall serve in such exchange assignments each year. The test program shall operate for not less than a period of three years.

"(2) The Secretary of Defense shall submit the portion of the test program applicable to civilian employees to the Director of the Office of Personnel Management for approval. If the Director does not disapprove that portion of the test program within 30 days after the date on which the Director receives it, that portion of the test program is deemed to be approved by the Director.

"(h) RESPONSIBILITY FOR ASSIGNMENTS.—The Secretary of each military department, acting through the service acquisition executive for that department, is responsible for making assignments of civilian and military members of the Acquisition Corps of that military department to critical acquisition positions.

"§ 1735. Education, training, and experience requirements for critical acquisition positions

"(a) QUALIFICATION REQUIREMENTS.—In establishing the education, training, and experience requirements under section 1723 of this title for critical acquisition positions, the Secretary of Defense shall, at a minimum, include the requirements set forth in subsections (b) through (e).

"(b) PROGRAM MANAGERS AND DEPUTY PROGRAM MANAGERS.—Before being assigned to a position as a program manager or deputy program manager of a major defense acquisition program or a significant nonmajor defense acquisition program, a person—

"(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution determined to be comparable by the Secretary of Defense;

"(2) must have executed a written agreement as required in section 1734(b)(2); and

"(3) in the case of—

"(A) a program manager or deputy program manager of a major defense acquisition program, must have at least eight years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization; and

"(B) a program manager or deputy program manager of a significant nonmajor defense acquisition program, must have at least six years of experience in acquisition.

"(c) PROGRAM EXECUTIVE OFFICERS.—Before being assigned to a position as a program executive officer, a person—

"(1) must have completed the program management course at the Defense Systems Management College or a management program at an accredited educational institution in the private sector determined to be comparable by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition;

"(2) must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position; and

"(3) must have held a position as a program manager or a deputy program manager.

"(d) GENERAL AND FLAG OFFICERS AND CIVILIANS IN EQUIVALENT POSITIONS.—Before a general or flag officer, or a civilian serving in a position equivalent in grade to the grade of such an officer, may be assigned to a critical acquisition position, the person must have at least 10 years experience in an acquisition position, at least four years of which were performed while assigned to a critical acquisition position.

"(e) SENIOR CONTRACTING OFFICIALS.—Before a person may be assigned to a critical acquisition position as a senior contracting official, the person must have at least four years experience in contracting.

"§ 1736. Applicability

"(a) IN GENERAL.—Except as provided in subsections (b) and (c), the qualification requirements prescribed pursuant to section 1735 shall apply to all critical acquisition positions not later than October 1, 1992.

"(b) PROGRAM MANAGERS.—The qualification requirements prescribed pursuant to section 1735 shall apply with respect to program manager positions not later than October 1, 1991.

"(c) EXCEPTIONS.—The qualification requirements prescribed pursuant to sections 1733(a) and 1735(a) shall not apply—

"(1) to an employee who is serving in a critical acquisition position on October 1, 1992, for purposes of qualifying to continue to serve in such position; or

"(2) to a person who is serving in a program manager position on October 1, 1991, for purposes of qualifying to continue to serve in such position.

"§ 1737. Definitions and general provisions

"(a) DEFINITIONS.—In this subchapter:

"(1) The term 'program manager' means, with respect to a defense acquisition program, the member of an Acquisition Corps responsible for managing the program, regardless of the title given the member.

"(2) The term 'deputy program manager' means the person who has authority to act on behalf of the program manager in the absence of the program manager.

"(3) The term 'significant nonmajor defense acquisition program' means a Department of Defense acquisition program that is not a major defense acquisition program (as defined in section 2430 of this title) and that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $50,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure for procurement of more than $250,000,000 (based on fiscal year 1980 constant dollars).

"(4) The term 'program executive officer' has the meaning given such term in regulations prescribed by the Secretary of Defense.

"(5) The term 'senior contracting official' means a director of contracting, or a principal deputy to a director of contracting, serving in the office of the Secretary of a military department, the headquarters of a military department, the head of a Defense Agency, a subordinate command headquarters, or in a major systems or logistics contracting activity in the Department of Defense.

"(b) LIMITATION.—Any civilian or military member of the Corps who does not meet the education, training, and experience requirements for a critical acquisition position established under this subchapter may not carry out the duties or exercise the authorities of that position, except for a period not to exceed six months, unless a waiver of the requirements is granted under subsection (c).

"(c) WAIVER.—(1) The Secretary of each military department (acting through the service acquisition executive for that department) or the Secretary of Defense (acting through the Under Secretary of Defense for Acquisition) for Defense Agencies and other components of the Department of Defense may waive, on a case-by-case basis, the requirements established under this subchapter with respect to the assignment of an individual to a particular critical acquisition position. Such a waiver may be granted only if unusual circumstances justify the waiver or if the Secretary concerned (or official to whom the waiver authority is delegated) determines that the individual's qualifications obviate the need for meeting the education, training, and experience requirements established under this subchapter.

"(2) The authority to grant such waivers may be delegated—

"(A) in the case of the service acquisition executives of the military departments, only to the Director of Acquisition Career Management for the military department concerned; and

"(B) in the case of the Under Secretary of Defense for Acquisition, only to the Director of Acquisition, Education, Training, and Career Development.

"(d) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees established under this subchapter to the Director of the Office of Personnel Management for approval. If the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"SUBCHAPTER IV—EDUCATION AND TRAINING

"Sec.

"1741. Policies and programs: establishment and implementation.
"1742. Intern program.
"1743. Cooperative education program.
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"1745. Additional education and training programs available to acquisition personnel.
"1746. Defense acquisition university structure.

"§ 1741. Policies and programs: establishment and implementation

"(a) POLICIES AND PROCEDURES.—The Secretary of Defense shall establish policies and procedures for the establishment and implementation of the education and training programs authorized by this subchapter.

"(b) FUNDING LEVELS.—The Under Secretary of Defense for Acquisition each year shall recommend to the Secretary of Defense the funding levels to be requested in the defense budget to implement the education and training programs under this subchapter. The Secretary of Defense shall set forth separately the funding levels requested for such programs in the Department of Defense budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31.

"(c) PROGRAMS.—The Secretary of each military department, acting through the service acquisition executive for that department, shall establish and implement the education and training programs authorized by this subchapter. In carrying out such requirement, the Secretary concerned shall ensure that such programs are established and implemented throughout the military department concerned and, to the maximum extent practicable, uniformly with the programs of the other military departments.

"§ 1742. Intern program

"The Secretary of Defense shall require that each military department conduct an intern program for purposes of providing highly qualified and talented individuals an opportunity for accelerated promotions, career broadening assignments, and specified training to prepare them for entry into the Acquisition Corps.

"§ 1743. Cooperative education program

"The Secretary of Defense shall require that the Secretary of each military department conduct a department-wide cooperative education credit program under which students are employed by the Department of Defense in acquisition positions. Under the program, the Secretary shall enter into cooperative arrangements with one or more accredited institutions of higher education which provide for

such institutions to grant undergraduate credit for work performed in such a position.

"§ 1744. Scholarship program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a scholarship program for the purpose of qualifying personnel for acquisition positions in the Department of Defense.

"(b) ELIGIBILITY.—To be eligible to participate in the scholarship program, an individual must—

"(1) be accepted for enrollment or be currently enrolled as a full-time student at an accredited educational institution authorized to grant baccalaureate or graduate degrees (as appropriate);

"(2) be pursuing a course of education that leads toward completion of a bachelor's, master's, or doctor's degree (as appropriate) in a qualifying field of study, as determined by the Secretary of Defense;

"(3) sign an agreement described in subsection (c) under which the participant agrees to serve a period of obligated service in the Department of Defense in an acquisition position in return for payment of educational assistance as provided in the agreement; and

"(4) meet such other requirements as the Secretary prescribes.

"(c) AGREEMENT.—An agreement between the Secretary of Defense and a participant in the scholarship program established under this section shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Secretary's agreement to provide the participant with educational assistance for a specified number (from one to four) of school years during which the participant is pursuing a course of education in a qualifying field of study. The assistance may include payment of tuition, fees, books, laboratory expenses, and a stipend.

"(2) The participant's agreement (A) to accept such educational assistance, (B) to maintain enrollment and attendance in the course of education until completed, (C) while enrolled in such course, to maintain an acceptable level of academic standing (as prescribed by the Secretary), and (D) after completion of the course of education, to serve as a full-time employee in an acquisition position in the Department of Defense for a period of time of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the scholarship program.

"(d) REPAYMENT.—(1) Any person participating in a program established under this section shall agree to pay to the United States the total amount of educational assistance provided to the person under the program if the person is voluntarily separated from service or involuntarily separated for cause from the Department of Defense before the end of the period for which the person has agreed to continue in the service of the Department of Defense in an acquisition position.

"(2) If an employee fails to fulfill his agreement to pay to the Government the total amount of educational assistance provided to the person under the program, a sum equal to the amount of the educational assistance is recoverable by the Government from the employee or his estate by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

"(B) such other method as is provided by law for the recovery of amounts owing to the Government.

"(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"§ 1745. Additional education and training programs available to acquisition personnel

"(a) TUITION REIMBURSEMENT AND TRAINING.—The Secretary of Defense shall provide for tuition reimbursement and training (including a full-time course of study leading to a degree) under section 4107(d) of title 5 for acquisition personnel in the Department of Defense for the purposes described in that section. For purposes of such section 4107(d), there is deemed to be, until September 30, 2001, a shortage of qualified personnel to serve in acquisition positions in the Department of Defense.

"(b) REPAYMENT OF STUDENT LOANS.—The Secretary of Defense may repay all or part of a student loan under section 5379 of title 5 for an employee of the Department of Defense appointed to an acquisition position.

"§ 1746. Defense acquisition university structure

"(a) DEFENSE ACQUISITION UNIVERSITY STRUCTURE.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and maintain a defense acquisition university structure to provide for—

"(A) the professional educational development and training of the acquisition workforce; and

"(B) research and analysis of defense acquisition policy issues from an academic perspective.

"(b) CIVILIAN FACULTY MEMBERS.—(1) The Secretary of Defense may employ as many civilians as professors, instructors, and lecturers in the defense acquisition university structure as the Secretary considers necessary.

"(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

"(3) In this subsection, the term 'defense acquisition university' includes the Defense Systems Management College.

"SUBCHAPTER V—GENERAL MANAGEMENT PROVISIONS

"Sec.

"1761. Management information system.
"1762. Report to Secretary of Defense.
"1763. Reassignment of authority.
"1764. Authority to establish different minimum experience requirements.

"§ 1761. Management information system

"(a) IN GENERAL.—The Secretary of Defense shall prescribe regulations to ensure that the military departments and Defense Agencies establish a management information system capable of providing standardized information to the Secretary on persons serving in acquisition positions. Regulations.

"(b) MINIMUM INFORMATION.—The management information system shall, at a minimum, provide for—

Records.

"(1) the collection and retention of information concerning the qualifications, assignments, and tenure of persons in the acquisition workforce;

"(2) any exceptions and waivers granted with respect to the application of qualification, assignment, and tenure policies, procedures, and practices to such persons;

"(3) relative promotion rates for military personnel in the acquisition workforce; and

"(4) collection of the information necessary for the Under Secretary of Defense for Acquisition and the Secretary of Defense to comply with the requirements of section 1762 for the years in which that section is in effect.

"§ 1762. Report to Secretary of Defense

"(a) REPORT OF UNDER SECRETARY OF DEFENSE FOR ACQUISITION.—Each year the Under Secretary of Defense for Acquisition shall transmit to the Secretary of Defense a report on the status of the defense acquisition workforce. Each annual report shall include, for each military department and Defense Agency and the Office of the Secretary of Defense, information on each category of information referred to in subsection (c).

"(b) INCLUSION OF INFORMATION IN ANNUAL REPORT.—The Secretary of Defense shall include in the annual report of the Secretary to Congress under section 113(c) of this title the information in the report transmitted to the Secretary under subsection (a).

"(c) INFORMATION.—The following information shall be included in the report transmitted to the Secretary under subsection (a) for the period covered by the report (which shall be shown for the Department of Defense as a whole and, with respect to paragraphs (1) through (12), separately for the Army, Navy, Air Force, Marine Corps, Defense Agencies, and Office of the Secretary of Defense):

"(1) The number of acquisition positions specified under the policy established under section 1722(b)(2) of this title as being available, as of December 1 of the period covered by the report, only to members of the armed forces, set forth separately under each criterion established in the policy, together with a discussion of the types of positions that are so specified.

"(2) The total number of persons serving in the Acquisition Corps as of December 1 of the period covered by the report, set forth separately for members of the armed forces and civilian employees, by grade level and by functional specialty.

"(3) The total number of critical acquisition positions held as of December 1 of the period covered by the report, set forth separately for members of the armed forces and civilian employees, by grade level and by other appropriate categories (including by program manager, deputy program manager, and division head positions). For each such category, the report shall specify the number of civilians holding such positions compared to the total number of positions filled.

"(4)(A) The promotion rate for officers in an acquisition corps considered for promotion from within the promotion zone, compared with the promotion rate for other officers considered for promotion from within the promotion zone in the same pay grade, shown for all officers of the same armed force and for all line (or the equivalent) officers of the same armed force.

"(B) The promotion rate for officers in an acquisition corps considered for promotion from below the promotion zone, compared in the same manner as specified in subparagraph (A).

"(C) If the promotion rates fail to meet the objective of section 1731(b) of this title, the Secretary of Defense shall notify Congress of such failures and of what actions the Secretary has taken or plans to take in reaction to such failures.

"(5) The number of employees who met the requirement of section 1724(a)(3) or section 1724(b) of this title by passing an exam as described in section 1724(a)(3)(C), set forth separately for contracting officers and persons in the GS-1102 occupational series.

"(6) The number of employees to whom the requirements of subsections (b)(2)(A) and (b)(2)(B) of section 1732 of this title did not apply because of the exceptions provided in paragraphs (1) and (2) of section 1732(c) of this title, set forth separately by type of exception.

"(7) The number of employees certified by an acquisition career program board under section 1732(b)(2)(A)(ii) of this title.

"(8) The number of program managers and deputy program managers who were reassigned after completion of a major milestone occurring closest in time to the date on which the person has served in the position for four years (as required under section 1734(b) of this title), and the proportion of those reassignments to the total number of reassignments of program managers and deputy program managers, set forth separately for program managers and deputy program managers. The Secretary also shall include the average length of assignment served by program managers and deputy program managers so reassigned.

"(9) The number of persons, excluding those reported under paragraph (8), in critical acquisition positions who were reassigned after a period of three years or longer (as required under section 1734(a) of this title), and the proportion of those reassignments to the total number of reassignments of persons, excluding those reported under paragraph (8), in critical acquisition positions.

"(10) The number of times a waiver authority was exercised under section 1724(d), 1732(d), 1734(d), or 1736(c) of this title or any other provision of this chapter (or other provision of law) which permits the waiver of any requirement relating to the acquisition workforce, and in the case of each such authority, the reasons for exercising the authority. The Secretary may present the information provided under this paragraph by category or grouping of types of waivers and reasons.

"(11) The number of persons reviewed for reassignment pursuant to section 1734(e)(2) of this title and the number of persons reassigned as a result of such reviews, together with a discussion of the criteria used to determine reassignments.

"(12) The number of persons participating in each of the programs described in sections 1742 through 1745 of this title, as of December 1 of the period covered by the report.

"(13) The number of persons paid a bonus under section 317 of title 37 and the number of years of service agreed to, for each such bonus, by category.

"(14) Such other information and comparative data as the Secretary of Defense considers appropriate to demonstrate the

performance of the Department of Defense and the performance of each military department in carrying out this chapter.

"(d) EFFECTIVE DATE.—The requirements of this section shall apply to the years 1991 through 1998.

"§ 1763. Reassignment of authority

"On and after October 1, 1993, the Secretary of Defense may assign the responsibilities under this chapter of the Under Secretary of Defense for Acquisition to any other civilian official in the Office of the Secretary of Defense who is appointed by the President by and with the advice and consent of the Senate. If the Secretary takes action under the preceding sentence, he may authorize the secretaries of the military departments to assign the responsibilities of a senior acquisition executive under this chapter to any other civilian official in the military department who is appointed by the President by and with the advice and consent of the Senate.

"§ 1764. Authority to establish different minimum experience requirements

"(a) AUTHORITY.—During the six-year period beginning on October 1, 1992, and ending on September 30, 1998, the Secretary of Defense may prescribe a different minimum number of years of experience to be required for eligibility for appointment to an acquisition position referred to in subsection (b) than is required for such position under or pursuant to any provision of this chapter. Any requirement prescribed under this section for a position referred to in any paragraph of subsection (b) shall be applied uniformly to all positions referred to in such paragraph.

"(b) APPLICABILITY.—This section applies to the following acquisition positions in the Department of Defense:

"(1) Contracting officer.

"(2) Program executive officer.

"(3) Senior contracting official.

"(c) OPM APPROVAL.—The Secretary of Defense shall submit any requirement with respect to civilian employees that is prescribed under this section to the Director of the Office of Personnel Management for approval if the Director does not disapprove the requirement within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director.

"(d) REPORT.—The Secretary of Defense shall notify Congress of each requirement prescribed under subsection (a) together with his reasons for prescribing such requirement.".

(b) CLERICAL AMENDMENT.—The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part II of such subtitle are each amended by striking out the item relating to chapter 85 and inserting in lieu thereof the following:

"87. Defense Acquisition Workforce.....1701".

SEC. 1203. SPECIAL PAY FOR CERTAIN OFFICERS HOLDING CRITICAL ACQUISITION POSITIONS.

(a) AUTHORITY FOR SPECIAL PAY.—(1) Chapter 5 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 317. Special pay: officers in critical acquisition positions extending period of active duty

"(a) BONUS AUTHORIZED.—An officer described in subsection (b) who executes a written agreement to remain on active duty in a critical acquisition position for at least one year may, upon the acceptance of the agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

"(b) COVERED OFFICERS.—An officer referred to in subsection (a) is an officer of the Army, Navy, Air Force, or Marine Corps who—

"(1) is a member of an Acquisition Corps selected to serve in, or serving in, a critical acquisition position designated under section 1733 of title 10; and

"(2) is eligible to retire, or is assigned to such position for a period that will extend beyond the date on which the officer will be eligible to retire, under any provision of law.

"(c) AMOUNT OF BONUS.—The amount of a bonus paid under this section for each year a member agrees to remain on active duty may not be more than 15 percent of the annual rate of basic pay paid to the member at the time the member executes a written agreement under this section.

"(d) PAYMENT OF BONUS.—Upon the acceptance of a written agreement under subsection (a) by the Secretary concerned, the total amount payable pursuant to the agreement becomes fixed and may be paid by the Secretary in either a lump sum or installments.

"(e) ADDITIONAL PAY.—A bonus paid under this section is in addition to other pay and allowances to which an officer is entitled.

"(f) REPAYMENT OF BONUS.—(1) If an officer who has entered into a written agreement under subsection (a) and who has received all or part of a bonus under this section fails to complete the total period of active duty specified in the agreement, the Secretary concerned may require the officer to repay the United States, on a pro rata basis and to the extent that the Secretary determines conditions and circumstances warrant, all sums paid under this section.

"(2) An obligation to repay the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

"(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a) does not discharge the officer signing the agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11 after January 1, 1991.

"(g) PERIOD OF COMMITMENT.—The period of active duty agreed upon by an officer in a written agreement under this section is in addition to any other service commitment of the officer, except that any period of active duty agreed upon in a written agreement under subsection (a)(2) or (b)(2) of section 1734 of title 10 by the officer may be counted concurrently with the commitment under this section.

"(h) REGULATIONS.—The Secretaries concerned shall prescribe regulations to carry out this section. Regulations prescribed by the Secretary of a military department shall be subject to the approval of the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"317. Special pay: officers in critical acquisition positions extending period of active duty.".

37 USC 317 note.

(b) EFFECTIVE DATE.—Section 317 of title 37, United States Code, as added by subsection (a), shall take effect as of October 1, 1991.

SEC. 1204. DEFINITION OF SERVICE ACQUISITION EXECUTIVE

Section 101 of title 10, United States Code, is amended by adding at the end the following:

"(46) The term 'service acquisition executive' means the civilian official within a military department who is designated as the service acquisition executive for purposes of regulations and procedures providing for a service acquisition executive for that military department.".

10 USC 1746 note.

Regulations.

SEC. 1205. DEFENSE ACQUISITION UNIVERSITY STRUCTURE

(a) ESTABLISHMENT OF STRUCTURE.—Not later than October 1, 1991, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall prescribe regulations for the initial structure for a defense acquisition university under section 1746 of title 10, United States Code (as added by section 1202). The regulations shall include the following:

(1) Operation under a charter developed by the Secretary of Defense.

(2) Establishment of a university mission to achieve objectives formulated by the Secretary of Defense. Such objectives shall include—

(A) the achievement of more efficient and effective use of available acquisition resources by coordinating Department of Defense acquisition education and training programs and tailoring them to support the careers of personnel in acquisition positions; and

(B) the development of education, training, research, and publication capabilities in the area of acquisition.

(3) Establishment of appropriate lines of authority (including relationships between the university and each of the existing acquisition education and training institutions and activities) and accountability for the accomplishment of the university mission (as established by the Secretary).

(4) A coherent framework for the educational development of personnel in acquisition positions. Such framework shall cover courses of instruction from the basic level through intermediate and senior levels. At the senior level, the framework shall provide for a senior course as a substitute for, and equivalent to, existing senior professional military educational school courses, specifically designed for personnel serving in critical acquisition positions.

(5) Appropriate organizations, such as a policy guidance council, composed of senior Department of Defense officials, to recommend or establish policy, and a board of visitors, composed of persons selected for their preeminence in the fields of academia, business, and the defense industry, to advise on organization management, curricula, methods of instruction, facilities, and other matters of interest to the university.

(6) An appropriate centralized mechanism, under the Under Secretary of Defense for Acquisition, to control the allocation of resources for purposes of conducting mandatory acquisition courses and other training, education, and research activities to achieve the objectives of the university, such as funding for

students to attend courses of instruction, funding to conduct the courses, and funding to pay instructor salaries.

(b) IMPLEMENTATION.—Not later than October 1, 1991, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall prescribe and submit to the Committees on Armed Services of the Senate and House of Representatives an implementation plan, including a charter, for the defense acquisition university structure. Not later than August 1, 1992, the Secretary of Defense shall carry out the implementation plan.

SEC. 1206. ACQUISITION WORKFORCE ENHANCEMENTS

(a) DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended—

(1) in subsection (c), by striking "This" and inserting "Except as provided in subsection (d) of this section, this"; and

(2) by inserting after subsection (c) the following:

"(d)(1) The regulations prescribed under section 4118 of this title shall include provisions under which the head of an agency may provide training, or payment or reimbursement for the costs of any training, not otherwise allowable under subsection (c) of this section, if necessary to assist in the recruitment or retention of employees in occupations in which the Government has or anticipates a shortage of qualified personnel, especially in occupations involving critical skills (as defined under such regulations).

"(2) In exercising any authority under this subsection, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

"(3) No authority under this subsection may be exercised on behalf of any employee occupying or seeking to qualify for appointment to any position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.".

(b) REPAYMENT OF STUDENT LOANS.—(1) Subchapter VII of chapter 53 of title 5, United States Code, is amended by adding at the end the following:

"§ 5379. Student loan repayments

"(a)(1) For the purpose of this section—

"(A) the term 'agency' means an agency under subparagraph (A), (B), (C), (D), or (E) of section 4101(1) of this title; and

"(B) the term 'student loan' means—

"(i) a loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965;

"(ii) a loan made under part E of title IV of the Higher Education Act of 1965; and

"(iii) a health education assistance loan made or insured under part C of title VII of Public Health Service Act or under part B of title VIII of such Act.

"(2) An employee shall be ineligible for benefits under this section if such employee occupies a position which—

"(A) is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

"(B) is not subject to subchapter III of this chapter.

"(b)(1) The head of an agency may, in order to recruit or retain highly qualified professional, technical, or administrative personnel, establish a program under which the agency may agree to repay (by direct payments on behalf of the employee) any student loan previously taken out by such employee.

"(2) Payments under this section shall be made subject to such terms, limitations, or conditions as may be mutually agreed to by the agency and employee concerned, except that the amount paid by an agency under this section may not exceed—

"(A) $6,000 for any employee in any calendar year; or

"(B) a total of $40,000 in the case of any employee.

"(3) Nothing in this section shall be considered to authorize an agency to pay any amount to reimburse an employee for any repayments made by such employee prior to the agency's entering into an agreement under this section with such employee.

"(c)(1) An employee selected to receive benefits under this section must agree in writing, before receiving any such benefit, that the employee will—

"(A) remain in the service of the agency for a period specified in the agreement (not less than 3 years), unless involuntarily separated; and

"(B) if separated involuntarily on account of misconduct, or voluntarily, before the end of the period specified in the agreement, repay to the Government the amount of any benefits received by such employee from that agency under this section.

"(2) The payment agreed to under paragraph (1)(B) of this subsection may not be required of an employee who leaves the service of such employee's agency voluntarily to enter into the service of any other agency unless the head of the agency that authorized the benefits notifies the employee before the effective date of such employee's entrance into the service of the other agency that payment will be required under this subsection.

"(3) If an employee who is involuntarily separated on account of misconduct or who (excluding any employee relieved of liability under paragraph (2) of this subsection) is voluntarily separated before completing the required period of service fails to repay the amount agreed to under paragraph (1)(B) of this subsection, a sum equal to the amount outstanding is recoverable by the Government from the employee (or such employee's estate, if applicable) by—

"(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

"(B) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned may waive, in whole or in part, a right of recovery under this subsection if it is shown that recovery would be against equity and good conscience or against the public interest.

"(4) Any amount repaid by, or recovered from, an individual (or an estate) under this subsection shall be credited to the appropriation account from which the amount involved was originally paid. Any amount so credited shall be merged with other sums in such account and shall be available for the same purposes and period, and subject to the same limitations (if any), as the sums with which merged.

"(d) An employee receiving benefits under this section from an agency shall be ineligible for continued benefits under this section from such agency if the employee—

"(1) separates from such agency; or

"(2) does not maintain an acceptable level of performance, as determined under standards and procedures which the agency head shall by regulation prescribe.

"(e) In selecting employees to receive benefits under this section, an agency shall, consistent with the merit system principles set forth in paragraphs (1) and (2) of section 2301(b) of this title, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service. Equal employment opportunity.

"(f) Any benefit under this section shall be in addition to basic pay and any other form of compensation otherwise payable to the employee involved.

"(g) The Director of the Office of Personnel Management, after consultation with heads of a representative number and variety of agencies and any other consultation which the Director considers appropriate, shall prescribe regulations containing such standards and requirements as the Director considers necessary to provide for reasonable uniformity among programs under this section.". Regulations.

(2) The table of sections for chapter 53 of title 5, United States Code, is amended by adding after the item relating to section 5375 the following:

"5379. Student loan repayment.".

(c) RELOCATION EXPENSES.—Section 5724a(a)(2) of title 5, United States Code, is amended by striking out "continental" in the second sentence.

(d) EXPENSES RELATED TO DEATH OF EMPLOYEES IN SPECIFIED CIRCUMSTANCES.—Section 5742 of title 5, United States Code, is amended—

(1) in subsection (b), by inserting "continental" after "outside the" each place it appears in paragraphs (1) and (2); and

(2) by adding at the end the following new subsection:

"(e) Employees covered by this section include an employee who has been reassigned away from the employee's home of record pursuant to a mandatory mobility agreement executed as a condition of employment.".

(e) OPTIONAL EXCLUSION OF PERFORMANCE RATINGS FOR CERTAIN TEMPORARY EMPLOYEES.—Section 4301(2) of title 5, United States Code, is amended—

(1) by striking out "or" at the end of subparagraph (F);

(2) by striking out "and" at the end of subparagraph (G) and inserting in lieu thereof "or"; and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) an individual who (i) is serving in a position under a temporary appointment for less than one year, (ii) agrees to serve without a performance evaluation, and (iii) will not be considered for a reappointment or for an increase in pay based in whole or in part on performance; and ".

(f) SUSPENSION OF RESTRICTIONS ON APPOINTMENT OF RETIRED MEMBERS OF THE ARMED FORCES TO POSITIONS IN THE DEPARTMENT OF DEFENSE.—Section 3326 of title 5, United States Code, shall not be in effect for the period beginning on the date of the enactment of this Act and ending two years after such date. 5 USC 3326 note.

(g) ADJUSTMENT OF AMOUNT PAYABLE ON THE BASIS OF DUTY AT REMOTE WORKSITE.—Section 5942 of title 5, United States Code, is amended—

(1) by inserting "(a)" before "Notwithstanding"; and

(B) by adding at the end the following new subsection:

"(b) Under procedures prescribed by the President, the maximum allowance specified in subsection (a) may be adjusted from time to time in the interest of recruiting and retaining employees for performance of duty at remote worksites.".

(h) SEPARATE MAINTENANCE ALLOWANCE FOR EMPLOYEES IN PANAMA.—Section 5924(3) of title 5, United States Code, is amended by adding at the end the following: "Notwithstanding section 1217(d) of the Panama Canal Act of 1979 (22 U.S.C. 3657(d)), for the purposes of this paragraph, the term 'foreign area' includes the Republic of Panama.".

(i) CRITICAL-POSITION PAY AUTHORITY.—

(1) IN GENERAL.—Subchapter VII of chapter 53 of title 5, United States Code, as amended by subsection (b), is further amended by adding at the end the following new section:

"§ 5380. Pay authority for critical positions

"(a) For the purpose of this section—

"(1) the term 'agency' has the meaning given it by section 5102; and

"(2) the term 'position' means—

"(A) a position to which chapter 51 applies, including a position in the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;

"(B) a position under the Executive Schedule under sections 5312-5317 of this title;

"(C) a position to which section 5372 of this title applies (or would apply, but for this section); and

"(D) a position to which section 5372a of this title applies (or would apply, but for this section).

"(b) Authority under this section—

"(1) may be granted or exercised only with respect to a position—

"(A) which requires expertise of an extremely high level in a scientific, technical, professional, or administrative field; and

"(B) which is critical to the agency's successful accomplishment of an important mission; and

"(2) may be granted or exercised only to the extent necessary to recruit or retain an individual exceptionally well qualified for the position.

"(c) The Office of Personnel Management may, upon the request of the head of an agency, grant authority to fix the rate of basic pay for 1 or more positions in such agency in accordance with this section.

"(d)(1) The rate of basic pay fixed under this section by an agency head may not be less than the rate of basic pay (including any comparability payments) which would then otherwise be payable for the position involved if this section had never been enacted.

"(2) Basic pay may not be fixed under this section at a rate greater than the rate payable for level I of the Executive Schedule, except upon written approval of the President.

"(e) The authority to fix the rate of basic pay under this section for a position shall terminate—

"(1) whenever the Office determines (in accordance with such procedures and subject to such terms or conditions as the Office by regulation prescribes) that 1 or more of the requirements of subsection (b) are no longer met; or

"(2) as of such date as the Office may otherwise specify, except that termination under this paragraph may not take effect before the authority has been available for such position for at least 1 calendar year.

"(f) The Office may not authorize the exercise of authority under this section with respect to more than 800 positions at any time, of which not more than 30 may, at any such time, be positions the rate of basic pay for which would otherwise be determined under subchapter II.

"(g) The Office shall consult with the Office of Management and Budget before prescribing regulations under this section or making any decision to grant or terminate any authority under this section.

"(h) The Office of Personnel Management shall report to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate each year, in writing, on the operation of this section. Each report under this subsection shall include— Reports.

"(1) the number of positions, in the aggregate and by agency, for which higher rates of pay were authorized or paid under this section during any part of the period covered by such report; and

"(2) the name of each employee to whom a higher rate of pay was paid under this section during any portion of the period covered by such report, the rate or rates paid under this section during such period, the dates between which each such higher rate was paid, and the rate or rates that would have been paid but for this section.".

(2) TABLE OF SECTIONS.—The table of sections for chapter 53 of title 5, United States Code, is amended by adding at the end the following new item:

"5380. Pay authority for critical positions.".

(3) TERMINATION.—(A) Unless section 5380 of title 5, United States Code, as added by paragraph (1), does not take effect as provided in subparagraph (B), such section shall cease to be in effect on the earlier of October 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990. 5 USC 5380 note.

(B) Section 5380 of title 5, United States Code, as added by paragraph (1), shall not take effect if the Federal Employees Pay Comparability Act of 1990 is enacted before the date of the enactment of this Act.

(j) REEMPLOYMENT OF RETIREES.—

(1) AMENDMENT TO 5 U.S.C. 5532.—Section 5532 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for

which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

Regulations. "(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).".

(2) AMENDMENT TO 5 U.S.C. 8344.—Section 8344 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

Regulations. "(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

"(3) An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the purposes of this chapter or chapter 84 while such waiver is in effect.".

(3) AMENDMENT TO 5 U.S.C. 8468.—Section 8468 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f)(1) The Director of the Office of Personnel Management may, at the request of the head of an Executive agency—

"(A) waive the application of the preceding provisions of this section on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining a qualified employee; or

"(B) grant authority to the head of such agency to waive the application of the preceding provisions of this section, on a case-by-case basis, for an employee serving on a temporary basis, but only if, and for so long as, the authority is necessary due to an emergency involving a direct threat to life or property or other unusual circumstances.

Regulations. "(2) The Office shall prescribe regulations for the exercise of any authority under this subsection, including criteria for any exercise of authority and procedures for terminating a delegation of authority under paragraph (1)(B).

"(3) An employee to whom a waiver under subparagraph (A) or (B) of paragraph (1) applies shall not be deemed an employee for the

purposes of chapter 83 or this chapter while such waiver is in effect.".

(4) TERMINATION.—(A) Unless sections 5532(g), 8344(i), and 8468(f) of title 5, United States Code, as added by this subsection, do not take effect as provided in subparagraph (B), such sections shall cease to be in effect on the earlier of October 1, 1992, or the date of the enactment of the Federal Employees Pay Comparability Act of 1990. 5 USC 5532 note.

(B) Sections 5532(g), 8344(i), and 8468(f) of title 5, United States Code, as added by this subsection, shall not take effect if the Federal Employees Pay Comparability Act of 1990 is enacted before the date of the enactment of this Act.

SEC. 1207. REPEAL OF CERTAIN PROVISIONS

(a) ASSIGNMENT OF CONTRACTING OFFICERS.—Section 925 of the Department of Defense Authorization Act, 1986 (10 U.S.C. 2304 note) is hereby repealed.

(b) TOUR OF DUTY OF PROGRAM MANAGERS.—Subsection (c) of section 2435 of title 10, United States Code, is repealed, effective on October 1, 1991.

(c) CONFORMING CHAPTER 85 REPEALS.—(1) Section 1622 of title 10, United States Code (relating to program managers) is repealed effective October 1, 1991.

(2) For purposes of section 1623(b) of such title, beginning on October 1, 1991, and ending on September 30, 1992, general and flag officers must meet the education and experience requirements for program managers prescribed under section 1622(b) of such title as such requirements were in effect on October 1, 1990. 10 USC 1623 note.

(3) Section 1623 of such title is repealed effective October 1, 1992.

(4) Sections 1621 and 1624 of such title are repealed effective October 1, 1993.

SEC. 1208. EVALUATION BY COMPTROLLER GENERAL 10 USC 1701 note.

(a) EVALUATION.—The Comptroller General shall conduct an independent evaluation of the actions taken by the Secretary of Defense to carry out the requirements of this title and the amendments made by this title. Not later than two years after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the evaluation required by this subsection. Such report shall include— Reports.

(1) an analysis of the effectiveness of the actions taken by the Secretary to carry out the requirements of this Act and the amendments made by this title; and

(2) such legislative and administrative recommendations as the Comptroller General considers appropriate to meet the objectives of this title and the amendments made by this title.

(b) ANNUAL REPORTS.—(1) For each of the years 1991 through 1998, the Comptroller General shall review the waiver documents submitted to the Director of Acquisition Education, Training, and Career Development under sections 1724(d), 1732(d), and 1734(d) of this title. In conducting the review, the Comptroller General shall determine whether waivers were granted in compliance with this chapter.

(2) The Comptroller General shall submit to Congress a report on the results of each review conducted pursuant to paragraph (1). The report shall include a general discussion of the use of the waiver authority provided under this chapter and an identification of any

instances in which a waiver was not properly granted under this chapter.

(3) Each report required by paragraph (2) shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than February 1 of the year following a year for which a review is conducted pursuant to paragraph (1).

SEC. 1209. TRANSITION PROVISIONS.

10 USC 1705 note.

(a) LEVEL OF DIRECTOR OF ACQUISITION CAREER MANAGEMENT.—Effective during the three-year period beginning on the date of the enactment of this Act, the position of Director of Acquisition Career Management (as established by section 1705 of title 10, United States Code, as added by section 1202), may be held only by—

(1) a civilian employee in a position in the Civil Service the rate of pay for which is equal to or greater than the rate of basic pay payable for positions in level V of the Executive Schedule under section 5316 of title 5, United States Code; or

(2) a commissioned officer serving in the grade of major general or rear admiral or a higher grade.

10 USC 1721 note.

(b) DEADLINE FOR DESIGNATION OF ACQUISITION POSITIONS.—The designation of acquisition positions required by section 1721 of title 10, United States Code (as added by section 1202) shall be made by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, not later than October 1, 1991.

10 USC 1722 note.

(c) MILITARY POSITIONS POLICY DEADLINES.—(1) The policy required by paragraph (2) of section 1722(b) of title 10, United States Code (as added by section 1202), shall be established by the Secretary of Defense not later than October 1, 1991.

Reports.

(2) The first report required by section 1722(b)(2)(B) of title 10, United States Code (as added by section 1202), shall be submitted to the Secretary of Defense not later than September 30, 1993.

10 USC 1722 note.

(d) ASSIGNMENTS POLICY DEADLINE.—Not later than October 1, 1991, the Secretary of Defense shall establish, and require commencement of implementation of, an assignments policy pursuant to section 1722(f) of title 10, United States Code (as added by section 1202).

Regulations. 10 USC 1734 note.

(e) JOB REFERRAL SYSTEM DEADLINE.—Not later than October 1, 1991, the Secretary of Defense shall prescribe regulations required under section 1734(f) of title 10, United States Code (as added by section 1202).

10 USC 1733 note.

(f) EFFECTIVE DATE FOR REQUIREMENT FOR CORPS MEMBERS TO FILL CRITICAL ACQUISITION POSITIONS.—Notwithstanding section 1733(a) of title 10, United States Code (as added by section 1202), the Secretaries of the military departments shall make every effort to fill critical acquisition positions by Acquisition Corps members as soon as possible after the date of the enactment of this Act. For each of the first three years after the date of the enactment of this Act, the report of the Under Secretary of Defense for Acquisition to the Secretary of Defense under section 1762 of such title shall include, the number of critical acquisition positions filled by Acquisition Corps members.

10 USC 1733 note.

(g) PUBLICATION OF LIST OF CRITICAL ACQUISITION POSITIONS.—The Secretary of Defense shall publish the first list of positions designated as critical acquisition positions under section 1733(b)(2) of title 10, United States Code (as added by section 1202), not later than October 1, 1992.

(h) EFFECTIVE DATE AND CONFORMING AMENDMENT FOR CIVILIAN FACULTY AUTHORITY FOR DSMC.—(1) Subsection (b) of section 1746 of title 10, United States Code (as added by section 1202), shall take effect with respect to the Defense Systems Management College on the date of the enactment of this Act. 10 USC 1746 note.

(2) Section 5102(c)(10) of title 5, United States Code, is amended—

(A) by striking out "and" before "the Academic Dean"; and

(B) by adding after the last semicolon the following: "civilian professors, instructors, and lecturers in the defense acquisition university structure (including the Defense Systems Management College) whose pay is fixed under section 1746(b) of title 10;".

(i) CREDIT FOR EXPERIENCE IN CERTAIN POSITIONS.—For purposes of meeting any requirement under chapter 87 of title 10, United States Code (as added by section 1202), for a period of experience (such as requirements for experience in acquisition positions or in critical acquisition positions) and for purposes of coverage under the exceptions established by section 1724(c)(1) and section 1732(c)(1) of such title any period of time spent serving in a position later designated as an acquisition position or a critical acquisition position under such chapter may be counted as experience in such a position for such purposes. 10 USC 1724 note.

(j) TRANSITION PROVISION FOR REPORT REQUIREMENT.—Each of the first three annual reports under section 1762(a) of title 10, United States Code (as added by section 1202), shall include as much information as is available with respect to requirements imposed under, or prescribed pursuant to, chapter 87 of title 10, United States Code (as added by such section), that have not taken effect as of the date of the report. 10 USC 1762 note.

(k) ESTABLISHMENT OF MANAGEMENT INFORMATION SYSTEM.—(1) Not later than October 1, 1991, the Secretary of Defense shall prescribe in regulations the requirements under section 1761 of title 10, United States Code (as added by section 1202), including data elements, for the uniform management information system. 10 USC 1761 note.

(2) The Secretary of Defense shall ensure that the requirements prescribed pursuant to paragraph (1) are implemented not later than October 1, 1992.

SEC. 1210. REGULATIONS 10 USC 1701 note.

(a) IN GENERAL.—Unless otherwise provided in this title and in subsection (b), the Secretary of Defense shall promulgate regulations to implement this title and the amendments made by this title not later than one year after the date of the enactment of this Act.

(b) DEADLINES FOR QUALIFICATION REQUIREMENTS.—Not later than October 1, 1992, the Secretary of Defense shall prescribe regulations to implement sections 1723, 1724, and 1732 of title 10, United States Code (as added by section 1202).

SEC. 1211. EFFECTIVE DATE 10 USC 1701 note.

Except as otherwise provided in this title, this title and the amendments made by this title, including chapter 87 of title 10, United States Code (as added by section 1202), shall take effect on the date of the enactment of this Act.

TITLE XIII—REDUCTION IN REPORTING REQUIREMENTS

PART A—REPEAL OF EXISTING REPORT REQUIREMENTS

SEC. 1301. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE

Title 10, United States Code, is amended as follows:

(1) Section 117 is repealed.

(2) Section 118 is repealed.

(3) Section 125 is amended by striking out the second sentence of subsection (c).

(4) Section 836(b) is amended by striking out "and shall be reported to Congress".

(5) Section 1051 is amended—

(A) by striking out subsections (e) and (f); and

(B) by redesignating subsection (g) as subsection (e).

(6) Section 2208 is amended by striking out subsection (k).

(7) Section 2215 is repealed.

(8) Section 2216 is repealed.

(9) Section 2313 is amended by striking out the last sentence of subsection (c).

(10) Section 2324(e)(2) is amended—

(A) in subparagraph (A), by striking out "(A)"; and

(B) by striking out subparagraphs (B) and (C).

(11) Sections 2349 and 2357 are repealed.

(12) Section 2394(b) is amended by striking out "only—" and all that follows through the period and inserting in lieu thereof "only after the approval of the proposed contract by the Secretary of Defense.".

(13) Section 2431 is amended—

(A) by striking out subsection (b);

(B) by striking out "or (b)" in subsection (c); and

(C) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(14) Section 2463 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(15) Section 2779(b) is amended by striking out paragraph (4).

(16) Section 2805(b) is amended by striking out paragraph (3).

(17) Paragraph (4) of section 2822(b) is amended to read as follows:

"(4) Housing units acquired without consideration.".

(18) Section 2834 is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(19) Section 2856 is amended—

(A) in subsection (a), by striking out the subsection designation "(a)"; and

(B) by striking out subsection (b).

SEC. 1302. REPORTS AND NOTIFICATIONS REQUIRED BY ANNUAL AUTHORIZATION ACTS

(a) PUBLIC LAW 101-189.—Section 852 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1517) is amended by striking out subsection (b).

19 USC 2242 note.

(b) PUBLIC LAW 100-456.—Section 317 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 1951), is amended by striking out subsection (c).

(c) PUBLIC LAW 100-180.—Section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (as amended by section 1202 of Public Law 100-456) is amended by striking out subsection (e). 102 Stat. 2050.

(d) PUBLIC LAW 99-661.—Section 1207(g)(4) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) by striking out subparagraph (B); and

(2) by redesignating subparagraph (C) as subparagraph (B).

(e) PUBLIC LAW 99-145.—Section 106(a)(2) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 596) is amended by striking out "may be obligated—" and all that follows down through "(B) for acquisitions" and inserting in lieu thereof "may be obligated for acquisitions".

(f) PUBLIC LAW 98-115.—Section 803(b) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended—

(1) by striking out "in any year" and all that follows through "the Secretary determines" and inserting in lieu thereof "in any year if the Secretary determines";

(2) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (2).

SEC. 1303. REPORTS REQUIRED BY OTHER LAWS

(a) DEFENSE INDUSTRIAL RESERVE ACT.—Section 5 of the Defense Industrial Reserve Act (50 U.S.C. 454) is repealed.

(b) FOREIGN ASSISTANCE ACT OF 1961.—Section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out subsection (e).

(c) MILITARY SELECTIVE SERVICE ACT.—Section 18 of the Military Selective Service Act (50 U.S.C. App. 468) is amended in subsection (h)—

(1) by striking out "(1)" after "(h)"; and

(2) by striking out paragraph (2).

PART B—MODIFICATIONS TO EXISTING REPORT REQUIREMENTS

SEC. 1311. REPORTS REQUIRED BY TITLE 10, UNITED STATES CODE

Title 10, United States Code, is amended as follows:

(1) Section 128(d) is amended by striking out "on a quarterly basis" and inserting in lieu thereof "on an annual basis".

(2) Section 402(d) is amended—

(A) by striking out "At the end of each six-month period" and inserting in lieu thereof "Not later than July 31 each year"; and

(B) by striking out "such six-month period" and inserting in lieu thereof "the 12-month period ending on the preceding June 30".

(3) Section 662(b) is amended by striking out "the Secretary shall immediately notify Congress of such failure and of" in the second sentence and inserting in lieu thereof "the Secretary shall include in the periodic report required by this subsection information on such failure and on".

(4) Section 2361(c) is amended—

(A) by striking out "a semiannual report" in paragraph (1) and inserting in lieu thereof "an annual report"; and

(B) by striking out "the six-month periods" in paragraph (2) and all that follows in that paragraph and inserting in lieu thereof "the preceding calendar year and shall be submitted not later than February 1 of the year after the year covered by the report.".

(5) Section 2457(d) is amended by striking out "Before February 1 of each year," and inserting in lieu thereof "Before February 1, 1989, and biennially thereafter,".

(6) Section 2662(b) is amended by striking out "$5,000" and inserting in lieu thereof "the small purchase threshold under section 2304(g) of this title".

(7) Section 7434 is amended to read as follows:

"§ 7434. Annual report to Armed Services Committees

"The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives an annual report on the production from the naval petroleum reserves during the preceding calendar year. Each such report shall be submitted within 30 days after the end of a fiscal year.".

SEC. 1312. REPORTS REQUIRED BY ANNUAL AUTHORIZATION ACTS

(a) PUBLIC LAW 101-189.—Section 121(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1379) is amended—

(1) by striking out "BIMONTHLY" in the subsection heading and inserting in lieu thereof "QUARTERLY";

(2) by striking out "a report every two months" in paragraph (1) and inserting in lieu thereof "at the end of each fiscal-year quarter a report"; and

(3) by striking out the first sentence of paragraph (3).

(b) PUBLIC LAW 99-661.—Section 1207(g) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 10 U.S.C. 2301 note) is amended by transferring subparagraph (C) of paragraph (3) to the end of paragraph (4) (as amended by section 1302(d)).

(c) PUBLIC LAW 98-525.—The Department of Defense Authorization Act, 1985 (Public Law 98-525), is amended—

22 USC 1928 note.

(1) in section 1002(d)(1), by striking out "April 1, 1985, and each year thereafter," and inserting in lieu thereof "April 1, 1990, and biennially thereafter,";

(2) by adding at the end of section 1002(d)(2)(B) the following new clause:

"(xi) Other selected indicators of NATO capability."; and

22 USC 1928 note.

(3) in section 1003(c), by striking out "March 1" and inserting in lieu thereof "April 1".

SEC. 1313. REPORTS REQUIRED BY OTHER LAWS

The first section of Public Law 85-804 (50 U.S.C. 1431) is amended by striking out "and 60 days of continuous session" and all that follows in the third sentence and inserting in lieu thereof a period.

PART C—REPORT PROVISIONS PREVIOUSLY TERMINATED BY GOLDWATER-NICHOLS ACT

10 USC 111 note.

SEC. 1321. PURPOSE

(a) PURPOSE OF PART.—This part, with respect to Goldwater-Nichols terminations described in subsection (b)—

(1) in section 1322, repeals certain provisions of law containing terminated report requirements; and

(2) in section 1323, restores the effectiveness of selected other provisions of law containing such requirements.

(b) DESCRIPTION OF GOLDWATER-NICHOLS TERMINATIONS.—For purposes of subsection (a), Goldwater-Nichols terminations are those provisions of law that—

(1) set forth requirements for reports to Congress; and

(2) by reason of section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 10 U.S.C. 111 note), are no longer effective.

SEC. 1322. REPEAL OF STATUTORY PROVISIONS TERMINATED BY GOLDWATER-NICHOLS ACT

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 113 is amended—

(A) by striking out subsection (i); and

(B) by redesignating subsections (j) through (l) as (i) through (k), respectively.

(2) Section 2006(e)(3) is amended by striking out "and report periodically" through "of the Fund and shall recommend" and inserting in lieu thereof "and shall recommend to the President and Congress".

(3) Section 2113(j) is amended—

(A) by striking out "subject to paragraph (2)," in subparagraphs (B), (C), and (E) of paragraph (1);

(B) by striking out paragraph (2); and

(C) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(4) Section 2307 is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(5) Section 2359 is repealed.

(6) Section 2388 is amended by striking out subsection (d).

(7) Section 2394a(b) is amended—

(A) by striking out "(1)" after "(b)"; and

(B) by striking out paragraph (2).

(8) Section 2404 is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(9) Section 2455 is repealed.

(10) Section 2547 is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(11) Section 2675 is amended—

(A) by striking out "(a)" at the beginning of the text of such section; and

(B) by striking out subsection (b).

(12) Section 2721 is amended—

(A) by striking out "(a)"; and

(B) by striking out subsection (b).

(13) Section 4314 is amended by striking out the last sentence.

(14) Section 6956 is amended—

(A) by striking out subsection (a); and

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively.

(15) Section 7217 is repealed.

(b) TITLE 32, UNITED STATES CODE.—Section 314 of title 32, United States Code, is amended by striking out the last sentence of subsection (d).

(c) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Sections 301a and 301c are amended by striking out subsection (e).

(2) Section 303a(c) is amended by striking out the last sentence.

(3) Section 306 is amended by striking out subsection (f).

(4) Section 308b is amended—

(A) by striking out subsection (e); and

(B) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(5) Section 308c is amended—

(A) by striking out subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(6) Section 310 is amended by striking out subsection (d).

(7) Section 312b is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsection (d) as subsection (c).

(8) Section 312c is amended—

(A) by striking out subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(d) PUBLIC LAW 99-145.—The Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 583 et seq.), is amended as follows:

(1) Section 913 (10 U.S.C. 2301 note) is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsection (c) as subsection (b).

(2) Section 915 (10 U.S.C. 2431 note) is repealed.

(e) PUBLIC LAW 98-94.—Section 1260 of the Department of Defense Authorization Act, 1984 (Public Law 98-94; 97 Stat. 703), is amended by striking out the second sentence of subsection (b).

(f) PUBLIC LAW 96-418.—Section 802 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 10 U.S.C. 2431 note), is amended by striking out subsection (e).

(g) PUBLIC LAW 94-106.—Section 808 of the Department of Defense Appropriation Authorization Act, 1976 (Public Law 94-106; 10 U.S.C. 7291 note), is repealed.

10 USC 111 note.

SEC. 1323. RESTORATION OF CERTAIN REPORTING REQUIREMENTS OF TITLE 10, UNITED STATES CODE, TERMINATED BY GOLDWATER-NICHOLS ACT

(a) RESTORAL.—The effectiveness of the report and notification provisions named in subsection (b), previously terminated by section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 10 U.S.C. 111 note), is hereby restored.

(b) COVERED PROVISIONS.—Subsection (a) applies to the following report and notification provisions set forth in title 10, United States Code:

(1) The quarterly report required by section 127(c) of that title, relating to emergency and extraordinary expenses.

(2) The notifications required by section 2672a(b) of that title, relating to urgent acquisitions of interests in land.

(3) The notifications required by section 7308(c) of that title, relating to the transfer or gift of obsolete, condemned, or captured vessels.

(4) The notifications required by section 7309(b) of that title, relating to construction or repair of vessels in foreign shipyards.

SEC. 1324. REPEAL OF GOLDWATER-NICHOLS REPORTS TERMINATION SECTION

Section 602(c) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 10 U.S.C. 111 note) is repealed.

PART D—CLERICAL AMENDMENTS

SEC. 1331. CLERICAL AMENDMENTS

Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of chapter 2 is amended by striking out the items relating to sections 117 and 118.

(2) The table of sections at the beginning of chapter 131 is amended by striking out the items relating to sections 2215 and 2216.

(3) The table of sections at the beginning of subchapter I of chapter 138 is amended by striking out the item relating to section 2349.

(4) Section 2350a(g) is amended by striking out that portion of paragraph (4) preceding clause (A) and inserting in lieu thereof the following:

"(4) The Secretary of Defense shall submit to Congress each year, not later than March 1, a report containing information on—".

(5) The table of sections at the beginning of chapter 139 is amended by striking out the items relating to sections 2357 and 2359.

(6) The table of sections at the beginning of chapter 145 is amended by striking out the item relating to section 2455.

(7) The table of sections at the beginning of chapter 161 is amended by striking out the item relating to section 2721 and inserting in lieu thereof the following:

"2721. Basis.".

(8) The table of sections at the beginning of chapter 631 is amended by striking out the item relating to section 7217.

(9) The item relating to section 7434 in the table of sections at the beginning of chapter 641 is amended to read as follows:

"7434. Annual report to Armed Services Committees.".

TITLE XIV—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1401. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this

division between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1402. ANNUAL MULTIYEAR DEFENSE PLAN

(a) CLARIFICATION.—(1) Subsection (a) of section 114a of title 10, United States Code, is amended by striking out "the current" and inserting in lieu thereof "a".

(2) Such section is further amended—

(A) by striking out "five-year" each place it appears and inserting in lieu thereof "multiyear"; and

(B) by adding at the end of subsection (a) (as amended by subsection (a) of this section) the following new sentence: "Any such multiyear defense program shall cover the fiscal year with respect to which the budget is submitted and at least the four succeeding fiscal years.".

(3)(A) The heading of such section is amended by striking out "Five-year" and inserting in lieu thereof "Multiyear".

(B) The item relating to such section in the table of sections at the beginning of chapter 2 of such title is amended by striking out "Five-year" and inserting in lieu thereof "Multiyear".

10 USC 114a note.

(b) SUBMISSION TO CONGRESS OF MULTIYEAR DEFENSE PROGRAM AS REQUIRED BY LAW.—(1) If, as of the end of the 90-day period beginning on the date on which the President's budget for fiscal year 1992 is submitted to Congress, the Secretary of Defense has not submitted to Congress the fiscal year 1992 multiyear defense program, then during the 30-day period beginning on the last day of such 90-day period the Secretary may not obligate more than 10 percent of the fiscal year 1991 advance procurement funds that are available for obligation as of the end of that 90-day period. If, as of the end of such 30-day period, the Secretary of Defense has not submitted to Congress the fiscal year 1992 multiyear defense program, then the Secretary may not make any further obligation of fiscal year 1991 advance procurement funds until such program is submitted. If the Secretary submits the fiscal year 1992 multiyear defense program during the 30-day period described in the first sentence, the limitation on obligation of advance procurement funds prescribed in that

sentence shall cease to apply effective as of the date of the submission of such program.

(2) For purposes of this subsection:

(A) The term "fiscal year 1992 multiyear defense program" means the multiyear defense program (including associated annexes) covering fiscal years beginning with fiscal year 1992 required (by section 114a of title 10, United States Code) to be submitted to Congress in conjunction with the President's budget for fiscal year 1992.

(B) The term "fiscal year 1991 advance procurement funds" means funds appropriated for the Department of Defense for fiscal year 1991 that are available for advance procurement.

SEC. 1403. MULTIYEAR NATIONAL FOREIGN INTELLIGENCE PROGRAM 50 USC 404b.

(a) ANNUAL SUBMISSION OF MULTIYEAR NATIONAL FOREIGN INTELLIGENCE PROGRAM.—The Director of Central Intelligence shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives each year a multiyear national foreign intelligence program plan reflecting the estimated expenditures and proposed appropriations required to support that program. Any such multiyear national foreign intelligence program plan shall cover the fiscal year with respect to which the budget is submitted and at least four succeeding fiscal years.

(b) TIME OF SUBMISSION.—The Director shall submit the report required by subsection (a) each year at or about the same time that the budget is submitted to Congress pursuant to section 1105(a) of title 31, United States Code. Reports.

(c) CONSISTENCY WITH BUDGET ESTIMATES.—The Director of Central Intelligence and the Secretary of Defense shall ensure that the estimates referred to in subsection (a) are consistent with the budget estimates submitted to Congress pursuant to section 1105(a) of title 31, United States Code, for the fiscal year concerned and with the estimated expenditures and proposed appropriations for the multiyear defense program submitted pursuant to section 114a of title 10, United States Code.

SEC. 1404. MISSION ORIENTED PRESENTATION OF DEPARTMENT OF DEFENSE MATTERS IN THE BUDGET 10 USC 114a note.

(a) IN GENERAL.—In addition to requirements in any other provision of law regarding the format for the presentation in the budget submitted to Congress each year by the President of programs of the Department of Defense within major functional category 050 (National Defense), the President shall submit with each such budget a budget that organizes programs within such functional category on the basis of major roles and missions of the Department of Defense. President.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect with respect to the budget submitted for fiscal year 1993.

SEC. 1405. CONTROLS ON THE AVAILABILITY OF APPROPRIATION ACCOUNTS

(a) PROCEDURES FOR CLOSING APPROPRIATION ACCOUNTS.—(1) Subchapter IV of chapter 15 of title 31, United States Code (other than section 1558), is amended to read as follows:

"SUBCHAPTER IV—CLOSING ACCOUNTS

"§ 1551. Definitions and applications

"(a) In this subchapter—

"(1) An obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

"(2) An unobligated balance is the difference between the obligated balance and the total unexpended balance.

"(3) A fixed appropriation account is an appropriation account available for obligation for a definite period.

"(b) The limitations on the availability for expenditure prescribed in this subchapter apply to all appropriations unless specifically otherwise authorized by a law that specifically—

"(1) identifies the appropriate account for which the availability for expenditure is to be extended;

Records. "(2) provides that such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to that account; and

"(3) extends the availability for expenditure of the obligated balances.

"(c) This subchapter does not apply to—

"(1) appropriations for the District of Columbia government; or

"(2) appropriations to be disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

"§ 1552. Procedure for appropriation accounts available for definite periods

"(a) On September 30th of the 5th fiscal year after the period of availability for obligation of a fixed appropriation account ends, the account shall be closed and any remaining balance (whether obligated or unobligated) in the account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose.

"(b) Collections authorized or required to be credited to an appropriation account, but not received before closing of the account under subsection (a) or under section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

"§ 1553. Availability of appropriation accounts to pay obligations

"(a) After the end of the period of availability for obligation of a fixed appropriation account and before the closing of that account under section 1552(a) of this title, the account shall retain its fiscal-year identity and remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

"(b)(1) Subject to the provisions of paragraph (2), after the closing of an account under section 1552(a) or 1555 of this title, obligations and adjustments to obligations that would have been properly chargeable to that account, both as to purpose and in amount, before closing and that are not otherwise chargeable to any current appropriation account of the agency may be charged to any current appropriation account of the agency available for the same purpose.

"(2) The total amount of charges to an account under paragraph (1) may not exceed an amount equal to 1 percent of the total appropriations for that account.

"(c)(1) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount of obligations from that appropriation during a fiscal year for contract changes for that program, project, or activity to exceed $4,000,000, the obligation may only be made if the obligation is approved by the head of the agency (or an officer of the agency within the Office of the head of the agency to whom the head of the agency has delegated the authority to approve such an obligation).

"(2) In the case of a fixed appropriation account with respect to which the period of availability for obligation has ended, if an obligation of funds from that account to provide funds for a program, project, or activity to cover amounts required for contract changes would cause the total amount obligated from that appropriation during a fiscal year for that program, project, or activity to exceed $25,000,000, the obligation may not be made until—

"(A) the head of the agency submits to the appropriate authorizing committees of Congress and the Committees on Appropriations of the Senate and the House of Representatives a notice in writing of the intent to obligate such funds, together with a description of the legal basis for the proposed obligation and the policy reasons for the proposed obligation; and

"(B) a period of 30 days has elapsed after the notice is submitted.

"(3) In this subsection, the term 'contract change' means a change to a contract under which the contractor is required to perform additional work. Such term does not include adjustments to pay claims or increases under an escalation clause.

"(d)(1) Obligations under this section may be paid without prior action of the Comptroller General.

"(2) This subchapter does not—

"(A) relieve the Comptroller General of the duty to make decisions requested under law; or

"(B) affect the authority of the Comptroller General to settle claims and accounts.

"§ 1554. Audit, control, and reporting

"(a) Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability for obligation of that account.

"(b)(1) After the close of each fiscal year, the head of each agency shall submit to the President and the Secretary of the Treasury a report regarding the unliquidated obligations, unobligated balances, canceled balances, and adjustments made to appropriation accounts of that agency during the completed fiscal year. The report shall be submitted no later than 15 days after the date on which the President's budget for the next fiscal year is submitted to Congress under section 1105 of this title.

"(2) Each report required by this subsection shall—

"(A) provide a description, with reference to the fiscal year of appropriations, of the amount in each account, its source, and an itemization of the appropriations accounts;

"(B) describe all current and expired appropriations accounts;

"(C) describe any payments made under section 1553 of this title;

"(D) describe any adjustment of obligations during that fiscal year pursuant to section 1553 of this title;

"(E) contain a certification by the head of the agency that the obligated balances in each appropriation account of the agency reflect proper existing obligations and that expenditures from the account since the preceding review were supported by a proper obligation of funds and otherwise were proper;

"(F) describe all balances canceled under sections 1552 and 1555 of this title.

"(3) The head of each Federal agency shall provide a copy of each such report to the Speaker of the House of Representatives and the Committee on Appropriations, the Committee on Governmental Affairs, and other appropriate oversight and authorizing committees of the Senate.

"(c)(1) The Director of the Congressional Budget Office shall estimate each year the effect on the Federal deficit of payments and adjustments made with respect to sections 1552 and 1553 of this title. Such estimate shall be made separately for accounts of each agency.

"(2) The Director shall include in the annual report of the Director to the Committees on the Budget of the Senate and House of Representatives under paragraph (1) of section 202(f) of the Congressional Budget Act of 1974 a statement of the estimates made pursuant to paragraph (1) of this subsection during the preceding year (including any revisions to estimates contained in earlier reports under such paragraph). The Director shall include in any report under paragraph (2) of that section any revisions to such estimates made since the most recent report under paragraph (1) of such section.

"(d) The head of each agency shall establish internal controls to assure that an adequate review of obligated balances is performed to support the certification required by section 1108(c) of this title.

"§ 1555. Closing of appropriation accounts available for indefinite periods

"An appropriation account available for obligation for an indefinite period shall be closed, and any remaining balance (whether obligated or unobligated) in that account shall be canceled and thereafter shall not be available for obligation or expenditure for any purpose, if—

"(1) the head of the agency concerned or the President determines that the purposes for which the appropriation was made have been carried out; and

"(2) no disbursement has been made against the appropriation for two consecutive fiscal years.

"§ 1556. Comptroller General: reports on appropriation accounts

"(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

"(1) the head of the agency concerned;

"(2) the Secretary of the Treasury; and

"(3) the President.

"(b) A report under this section shall include an appraisal of unpaid obligations under fixed appropriation accounts for which the period of availability for obligation has ended.

"§ 1557. Authority for exemptions in appropriation laws

A provision of an appropriation law may exempt an appropriation from the provisions of this subchapter and fix the period for which the appropriation remains available for expenditure.".

(2) The table of sections at the beginning of chapter 15 of such title is amended by striking out the items relating to subchapter IV and sections 1551 through 1557 and inserting in lieu thereof the following:

"SUBCHAPTER IV-CLOSING ACCOUNTS

"1551. Definitions and application.
"1552. Audit, control, and reporting.
"1553. Availability of appropriation accounts to pay obligations.
"1554. Audit, control, and reporting.
"1555. Closing of appropriation accounts available for indefinite periods.
"1556. Comptroller General: reports on appropriation accounts.
"1557. Authority for exemptions in appropriation laws.".

(b) TRANSITION.— 31 USC 1551 note.

(1) APPLICATION OF AMENDMENTS.—The amendments made by subsection (a) shall apply to any appropriation account the obligated balance of which, on the date of the enactment of this Act, has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this section.

(2) RESTORATION OF CERTAIN UNOBLIGATED AMOUNTS.—The balance of any unobligated amount withdrawn under section 1552(a)(2) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act, from an account the obligated balance of which has not been transferred under section 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this section, is hereby restored to that account.

(3) CANCELLATION OF UNOBLIGATED BALANCES.—All balances of unobligated funds withdrawn from an account under subsection 1552(a)(2) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act (other than funds restored under paragraph (2)) are canceled, effective at the end of the 30-day period beginning on the date of the enactment of this Act.

(4) CANCELLATION OF OBLIGATED BALANCES.—On the third September 30th after the date of the enactment of this Act, all obligated balances transferred under subsection 1552(a)(1) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act, shall be canceled.

(5) OBLIGATION OF EXISTING BALANCES.—After the date of the enactment of this Act, an obligation of any part of a balance transferred before the date of the enactment of this Act under section 1552(a)(1) of title 31, United States Code, shall be subject to section 1553(c) of such title, as amended by subsection (a).

(6) CANCELLATION OF OLDEST OBLIGATED BALANCES.—(A) At the end of the 30-day period beginning on the date on which the President submits to Congress the budget for fiscal year 1992, any amount in an account established under paragraph (1) of section 1552 of title 31, United States Code, as in effect before the date of the enactment of this Act, that has been in that account as of that date for a period in excess of five years shall be deobligated and shall be withdrawn in the manner provided

in paragraph (2) of that section. Amounts so deobligated and withdrawn may not be restored.

(B) Subparagraph (A) shall not apply so as to require the deobligation of amounts—

(i) for which there is documentary evidence that payment will be required within 180 days of the date of the enactment of this Act; or

(ii) that are determined to be necessary for severance payments for foreign national employees.

(7) OBLIGATIONS AND ADJUSTMENT OF OBLIGATIONS.—(A) After cancellation of unobligated balances under paragraph (3) or cancellation of obligated balances under paragraph (4) or paragraph (6) and subject to the provisions of subparagraph (B), obligations and adjustments to obligations that would have been chargeable to those balances before such cancellations and that are not otherwise chargeable to current appropriations of the agency concerned may be charged to current appropriations of that agency available for the same purpose. Any charge made pursuant to this subsection shall be limited to the unobligated expired balances of the original appropriation available for the same purpose.

(B) Any charge made pursuant to subparagraph (A) shall be subject to the maximum amount chargeable under subsection (b) of section 1553 of title 31, United States Code, as amended by this section, and shall be included in the calculation of the total amount charged to any account under that section.

(c) CONFORMING REPEAL.—(1) Section 2782 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 165 of such title is amended by striking out the item relating to section 2782.

31 USC 1552 note.

SEC. 1406. AUDIT OF OBLIGATED BALANCES OF DEPARTMENT OF DEFENSE

(a) AUDIT REQUIREMENT.—The Secretary of Defense shall provide for an audit of each account of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, as in effect on the day before the date of the enactment of this Act. The audit shall, with respect to each such account, identify—

(1) the balance in the account;

(2) the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts required for valid obligations (as supported by documentary evidence as required by section 1501 of title 31) and the amount of such balance that is considered by the Secretary (as of the time of the audit) to represent amounts for obligations that are considered no longer valid;

(3) the sources of amounts in the account, shown by fiscal year and by amount for each fiscal year; and

(4) such other matters as the Secretary considers appropriate.

(b) DEOBLIGATION OF OBLIGATIONS NO LONGER VALID.—Any obligated amounts in accounts of the Department of Defense established under paragraph (1) of section 1552(a) of title 31, United States Code, that are determined pursuant to the audit under subsection (a) to represent amounts for obligations that are no longer valid shall be deobligated and canceled.

(c) REPORT ON AUDIT.—Not later than December 31, 1991, the Secretary of Defense shall submit to Congress a report containing the results of the audit conducted pursuant to subsection (a). The report shall set forth—

(1) the information required to be identified pursuant to subsection (a); and

(2) for each appropriation account (A) the average length of time funds have been obligated, (B) the average size of the obligation, and (iii) the object classification of the obligations, all shown for total obligations and separately for valid obligations and obligations that are no longer valid .

SEC. 1407. FULL LIFE-CYCLE COST INFORMATION FOR ALL MAJOR DEFENSE ACQUISITION PROGRAMS

(a) COVERAGE FOR SYSTEMS BEFORE FISCAL YEAR 1985—Subparagraph (A) of section 2432(c)(3) of title 10, United States Code, is amended to read as follows:

"(A) A full life-cycle cost analysis for each major defense acquisition program included in the report that is in the full-scale engineering development stage or has completed that stage.".

(b) DEFINITION.—Section 2432(a) of such title is amended by adding at the end the following new paragraph:

"(4) The term 'full life-cycle cost', with respect to a major defense acquisition program, has the meaning given the term 'cost of the program' in section 2434(c)(2) of this title.".

(c) COORDINATION OF LIFE-CYCLE COST CRITERIA.—Section 2432(c) of such title is amended by adding at the end the following new paragraph:

"(5) The Secretary of Defense shall ensure that paragraph (4) of section 2432(a) of title 10, United States Code, as added by subsection (a)(2), is implemented in a uniform manner, to the extent practicable, throughout the Department of Defense.".

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to Selected Acquisition Reports submitted under section 2342 of title 10, United States Code, after December 31, 1991. 10 USC 2432 note.

SEC. 1408. FUNDS IN DEFENSE COOPERATION ACCOUNT

There is hereby authorized to be appropriated for fiscal year 1991 from the Defense Cooperation Account established under section 2608 of title 10, United States Code, as added by section 202 of Public Law 101-403, the sum of $1,000,300,000 for programs, projects, and activities of the Department of Defense.

SEC. 1409. CLASSIFIED ANNEX 10 USC 114 note.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 4739 of the One Hundred First Congress and transmitted to the President shall have the force and effect of law as if enacted into law.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of President.

appropriate portions of the annex, within the executive branch of the Government.

PART B—NAVAL VESSELS AND SHIPYARDS

SEC. 1421. PROCUREMENT LIMITATIONS WITH RESPECT TO CERTAIN EQUIPMENT FOR NAVAL VESSELS

Section 2507 of title 10, United States Code, as amended by section 835, is further amended by adding at the end the following new subsection:

"(f) AIR CIRCUIT BREAKERS.—(1) The Secretary of Defense may not procure air circuit breakers for naval vessels unless—

"(A) the air circuit breakers are produced or manufactured in the United States; and

"(B) substantially all of the components of the air circuit breakers are produced or manufactured in the United States.

"(2) For purposes of paragraph (1)(B), substantially all of the components of air circuit breakers shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States.

"(3) Paragraph (1) does not prevent the procurement of spares and repair parts needed to support air circuit breakers produced or manufactured outside the United States.

"(4) The Secretary of Defense may waive the limitation in paragraph (1) on a case-by-case basis with respect to any procurement if the Secretary determines that carrying out a proposed procurement in accordance with the limitation in that case—

"(A) is not in the national security interests of the United States;

"(B) will have an adverse effect on a United States company; or

"(C) will result in procurement from a United States company that, with respect to the sale of air circuit breakers, fails to comply with applicable Government procurement regulations or the antitrust laws of the United States.

"(5) Whenever the Secretary proposes to grant a waiver under paragraph (4), the Secretary shall submit a notice of the proposed waiver, together with a statement of the reasons for the proposed waiver, to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives. The waiver may then be granted only after the end of the 30-day period beginning on the date on which the notice is received by those committees.".

SEC. 1422. POLICY FOR AREA IN WHICH SOLICITATIONS MUST BE ISSUED FOR CONTRACTS FOR OVERHAUL, ETC., OF NAVAL RESERVE FORCE SHIPS HOMEPORTED ON THE WEST COAST

Section 7299a(d)(3) of title 10, United States Code, is amended by striking out "apply—" and all that follows through the period and inserting in lieu thereof "apply in the case of voyage repairs.".

SEC. 1423. REPORT ON USE OF MAYPORT NAVAL STATION AS HOMEPORT FOR NUCLEAR AIRCRAFT CARRIERS

Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a plan for upgrading Mayport Naval Station, Jacksonville, Florida, to provide

that naval station with the capability to be able to service nuclear-powered aircraft carriers and otherwise to serve as a homeport for nuclear-powered aircraft carriers.

SEC. 1424. FAST SEALIFT PROGRAM

10 USC 7291 note.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of the Navy shall establish a program for the construction and operation of cargo vessels that incorporate features essential for military use of the vessels.

(b) PROGRAM REQUIREMENTS.—The program under this section shall be carried out as follows:

(1) The Secretary of the Navy shall establish the design requirements for vessels to be constructed under the program.

(2) In establishing the design requirements for vessels to be constructed under the program, the Secretary shall use commercial design standards and shall consult with the Administrator of the Maritime Administration.

(3) Construction of the vessels shall be accomplished in private United States shipyards.

(c) CHARTER OF VESSELS CONSTRUCTED.—(1) Except when the Secretary determines that having a vessel immediately available with a full or partial crew is in the national interest, the Secretary, in consultation with the Administrator of the Maritime Administration, shall charter each vessel constructed before October 1, 1995, under the program for commercial operation. Any such charter—

(A) shall not permit the operation of the vessel other than in the foreign commerce of the United States;

(B) may be made only with an individual or entity that is a citizen of the United States (which, in the case of a corporation, partnership, or association, shall be determined in the manner specified in section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)); and

(C) shall require that the vessel be documented (and remain documented) under the laws of the United States.

(2) The Secretary may enter into a charter under paragraph (1) only through the use of competitive bidding procedures that ensure that the highest charter rates are obtained by the United States consistent with good business practice, except that the Secretary may operate the vessel (or contract to have the vessel operated) in direct support of United States military forces during a time of war or national emergency and at other times when the Administrator of the Maritime Administration determines that that operation would not unfairly compete with another United States-flag vessel.

(3) If the Secretary determines that a vessel previously chartered under the program no longer has commercial utility, the Secretary may transfer the vessel to the National Defense Reserve Fleet.

(4) A contract for the charter of a vessel under paragraph (1) shall include a provision that the charter may be terminated for national security reasons without cost to the United States.

(d) REPORTS TO CONGRESS.—(1) Not later than six months after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress a report describing the Secretary's plan for implementing the fast sealift program authorized by this section.

(2) Not later than three years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the implementation of the plan described in the report submitted under paragraph (1). The report shall include a description of vessels built

or under contract to be built pursuant to this section, the use of such vessels, and the operating experience and manning of such vessels.

(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Administrator of the Maritime Administration.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated to the Department of Defense for any fiscal year for acquisition of fast sealift vessels may be used for the program under this section.

SEC. 1425. AUTHORIZATION FOR NAVAL SHIPYARDS AND AVIATION DEPOTS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES DURING FISCAL YEAR 1991

(a) AUTHORITY TO BID.—During fiscal year 1991, naval shipyards and Army, Navy, and Air Force aviation depots may, subject to the discretion of the Secretary of Defense, compete for contracts for the production of defense-related articles and contracts for the provision of services related to defense programs.

(b) REQUIRED ESTIMATES OF COST FACTORS.—The Secretary of the military department concerned shall ensure that any bid by a naval shipyard or an aviation depot on a contract referred to in subsection (a) includes estimates for all direct and indirect cost factors, including all direct and indirect cost factors included in bids submitted by private firms. Office of Management and Budget Circular A-76 shall not apply to competitions conducted under the authority of this section.

(c) LIMITATION.—This section shall not apply if the Secretary of the military department concerned determines that there are not adequate facilities or personnel available at naval shipyards or aviation depots, as the case may be, to provide the required articles.

(d) DEFENSE-RELATED ARTICLES COVERED.—For purposes of this section, the term "defense-related articles" does not include—

(1) ship construction, overhaul, repair, and maintenance,

(2) ship refueling,

(3) aircraft maintenance and repair, and

(4) aircraft engine manufacture, overhaul, and repair.

SEC. 1426. NAMING OF GUIDED MISSILE DESTROYER THE U.S.S. SAMUEL S. STRATTON

(a) FINDINGS.—The Congress finds that—

(1) the late Honorable Samuel S. Stratton served the people of the United States and the 23d District of New York as a Member of the House of Representatives for 30 consecutive years with loyalty, dedication, and warm personal friendship until his retirement at the conclusion of the 100th Congress;

(2) Samuel S. Stratton served as a member of the Committee on Armed Services of the House of Representatives for 30 years and did so with total dedication to the goal of maintaining a strong national defense;

(3) as a member of the Committee on Armed Services, Samuel S. Stratton served as chairman of three permanent subcommittees (the Military Personnel and Compensation Subcommittee, the Investigations Subcommittee, and the Procurement and Military Nuclear Systems Subcommittee) and as chairman of no fewer than five special subcommittees and panels having a major effect on every aspect of our country's defense establishment;

(4) Samuel S. Stratton played a major legislative and intellectual role in such diverse areas as strengthening the NATO alliance, modernization of Guard and Reserve forces, pursuit of verifiable arms control agreements, protection of the defense industrial base, development of missile and aviation programs, and improvement in the military medical care and military justice systems;

(5) through his singular and distinctive efforts, Samuel S. Stratton was successful in seeing enacted into law the requirement that women be admitted to the Nation's service academies; and

(6) Samuel S. Stratton's service to the Nation (including his wartime and reserve service as a naval officer and service as a Member of Congress) left an indelible mark on the history of the Nation and his unswerving goal of maintenance of a strong national defense knows no peer.

(b) SENSE OF CONGRESS.—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name the next guided missile destroyer (DDG–51) to be named after enactment of this Act the U.S.S. Samuel S. Stratton.

SEC. 1427. CLARIFICATION OF PROCEDURES FOR REVIEW OF CERTAIN VESSEL TRANSFERS

Section 7308(c) of title 10, United States Code, is amended—

(1) by inserting "and" at the end of paragraph (1);

(2) by striking out "; and" at the end of paragraph (2) and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

PART C—GUARD AND RESERVE INITIATIVE

SEC. 1431. SENSE OF THE CONGRESS ON GREATER USE OF THE RESERVE COMPONENTS OF THE ARMED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase use of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception in 1973.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take note of and be willing to exercise existing reserve call-up authority for the purpose of using reserve component forces to perform operational missions without the necessity for declaring a national emergency.

(b) CONGRESSIONAL DECLARATION.—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Forces should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active component and reserve component units should be promoted as a means of achieving the Total Force Policy of the Department of Defense.

SEC. 1432. FINDINGS AND SENSE OF CONGRESS REGARDING THE IMPORTANCE OF THE READY RESERVE

(a) FINDINGS.—The Congress finds that—

(1) as a result of the recent dramatic changes in Eastern Europe and the Soviet Union, the active military forces of the United States will be significantly reduced; and

(2) as a consequence of that reduction it will be necessary to rely increasingly, in the event of a threat to the national security, on the immediate availability of trained personnel of the Ready Reserve of the reserve components of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the finding in subsection (a), it is the sense of Congress that—

(1) the Secretary of Defense should take appropriate action to ensure that members of the Ready Reserve are made fully aware of their continuing obligation for immediate service in the active military forces in the event of a war or national emergency;

(2) the Secretary should use the annual muster provided for under section 687 of title 10, United States Code, as a means of alerting such personnel to that obligation; and

(3) the Secretary should ensure that adequate funds are made available, out of funds appropriated for the reserve components, to carry out the annual muster of such personnel.

SEC. 1433. COMMENDATION OF THE NATIONAL GUARD AND RESERVE

(a) FINDINGS.—Congress makes the following findings:

(1) Since the earliest days of this Nation, citizen-soldiers of the United States have protected their fellow citizens, defended the country, and provided heroic assistance during and following natural disasters.

(2) The citizen-soldier has played a key role in the protection of freedom since the days of the American Revolution.

(3) The National Guard and the Reserve have been accorded significantly increased status in the overall defense posture of the United States since the end of World War II.

(4) During a period in history when the Nation may face new and varied threats to peace, it is imperative that the combat capability of the National Guard and the Reserve be adequately maintained and supported.

(5) The excellence of the National Guard and Reserve is directly attributable to hard work and dedication of the

outstanding men and women who regularly perform duty in the Guard and Reserve.

(b) CONGRESSIONAL DECLARATION.—In light of the findings in subsection (a), Congress—

(1) acknowledges the valuable contribution that the men and women of the National Guard and the Reserve have made to the Nation's security; and

(2) continues to support the essential role that the National Guard and the Reserve perform in the total defense establishment of the United States.

SEC. 1434. SENSE OF CONGRESS CONCERNING UNITED STATES ARMORED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) Dramatic political and military changes have occurred recently in Eastern Europe.

(2) The Warsaw Pact is no longer a credible military threat to the North Atlantic Treaty Organization (NATO).

(3) It appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced as the result of arms control agreements or unilateral actions.

(4) There is a continued need for armor forces and many countries possess large inventories of modern tanks.

(5) The Soviet Union will still produce 1,400 new tanks in 1990.

(6) With significantly increased warning times of enemy attack, greater reliance will be placed on United States reserve component forces for armored heavy force reinforcement missions.

(7) There is a need to enhance the capabilities of armored forces of the reserve components to assume increased responsibilities for armored heavy force reinforcement missions.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of the Congress that—

(1) the Army should take timely and necessary steps to enhance the capabilities of armored forces of the reserve components;

(2) the United States Army Armor Center should continue as the center for training, education, doctrine, and combat development for the armored forces of the United States, both active and reserve; and

(3) the United States Army Armor Center should ensure that the armored forces of the reserve components are adequately prepared to accept the increased role in armored heavy force reinforcement missions that will be assigned to them.

SEC. 1435. PRESERVATION OF FORCE STRUCTURE IN THE RESERVE COMPONENTS

(a) IN GENERAL.—The Secretary of Defense shall ensure that the force structure of the Selected Reserve of the reserve components of the Armed Forces during fiscal year 1991 is equivalent to the force structure of those components on January 1, 1990.

(b) AUTHORITY TO CHANGE FORCE STRUCTURE.—The Secretary may make changes in the force structure of the Selected Reserve of the reserve components only to the extent that the Secretary determines that such changes enhance the capability of reserve units in the interests of national security.

SEC. 1436. AIR NATIONAL GUARD AND AIR FORCE RESERVE AIRCRAFT

(a) TRANSFER OF AIRCRAFT TO RESERVE COMPONENT.—The Secretary of the Air Force, by the transfer of aircraft from regular component squadrons to reserve component squadrons, shall ensure that on September 30, 1994—

(1) the average number of aircraft assigned to a tanker aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to a tanker aircraft squadron in the regular component of the Air Force;

(2) the average number of aircraft assigned to a fighter aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to a fighter aircraft squadron in the regular component of the Air Force; and

(3) the average number of aircraft assigned to an airlift aircraft squadron in the Air National Guard of the United States or the Air Force Reserve is equal to the average number of aircraft assigned to an airlift aircraft squadron in the regular component of the Air Force.

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may temporarily waive the requirement in subsection (a) with respect to a specific reserve component squadron if the Secretary determines that the squadron cannot operate the aircraft required to be transferred and that the transfer would be prejudicial to the national security of the United States.

(2) Temporary waivers under paragraph (1) shall be made on a case-by-case basis. Such a waiver shall be for a period not to exceed one year, but may be renewed for an additional period of one year under the conditions specified in paragraph (1).

SEC. 1437. P-3 AIRCRAFT

(a) TRANSFER OF AIRCRAFT TO RESERVE COMPONENTS.—(1) The Secretary of the Navy, by the transfer of aircraft from regular component squadrons to reserve component squadrons, shall ensure that on September 30, 1996, the average number of aircraft assigned to a P-3 aircraft squadron in the Naval Reserve is equal to the average number of aircraft assigned to a P-3 aircraft squadron in the regular Navy.

(2) The Secretary shall transfer no fewer than 32 P-3C aircraft pursuant to subsection (a).

(b) WAIVER AUTHORITY.—(1) The Secretary of Defense may temporarily waive the requirements in subsection (a) with respect to a specific reserve component squadron if the Secretary determines that—

(A) the submarine threat presented by the Soviet Union has increased; and

(B) the P-3B aircraft would be able to track and attack effectively the submarines that comprise the increase in the threat.

(2) Temporary waivers under paragraph (1) shall be made on a case-by-case basis. Such a waiver shall be for a period not to exceed one year, but may be renewed for an additional period of one year under the conditions specified in paragraph (1).

(c) PROHIBITION ON USE OF FUNDS.—Funds appropriated or otherwise made available for operation and maintenance for the Navy for

any fiscal year beginning on or after September 30, 1996, may not be used to operate or maintain P-3B aircraft.

SEC. 1438. TACTICAL AIRLIFT MISSION

(a) IN GENERAL.—Not later than September 30, 1992, the Secretary of Defense shall assign the tactical airlift mission of the Department of Defense to the Air Force Reserve and the Air National Guard of the United States.

(b) REQUIREMENT FOR TRANSFER PLAN.—The Secretary of the Air Force shall develop a plan for the transfer of all tactical airlift transport aircraft to the Air Force Reserve and the Air National Guard of the United States at the earliest practical date and shall complete the transfer in accordance with such plan not later than September 30, 1992.

(c) DEADLINE FOR SUBMISSION OF PLAN.—The Secretary of the Air Force shall submit to the congressional defense committees a copy of the plan referred to in subsection (b) not later than June 1, 1991.

SEC. 1439. REPLACEMENT OF OV-1 AND OV-10 AIRCRAFT WITH A-10 AIRCRAFT

(a) PROHIBITION ON USE OF FUNDS.—(1) Funds appropriated or otherwise made available to the Army for any fiscal year beginning after September 30, 1996, may not be used to operate or maintain OV-1 aircraft.

(2) Funds appropriated or otherwise made available to the Marine Corps after September 30, 1996, may not be used to operate or maintain OV-10 aircraft.

(b) RETIREMENT OF OV-1 and OV-10 AIRCRAFT.—(1) Not later than September 30, 1991, the Secretary of the Army shall retire not less than 20 percent of the OV-1 aircraft in the inventory of the Army on October 1, 1990.

(2) The Secretary of the Army and the Secretary of the Navy shall take such action as necessary to retire, by not later than September 30, 1996, all OV-1 and OV-10 aircraft in the inventory of the Army and Marine Corps, respectively. The Secretary of the military department concerned shall notify the Secretary of the Air Force at the time each such aircraft is retired, and the Secretary of the Air Force shall, upon such notification, transfer one A-10 aircraft and all required support equipment to such military department.

(c) TRAINING AND SUPPORT.—Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9316. Training and support for A-10 aircraft

"The Secretary of the Air Force shall provide each military department with flight training, fleet support, and depot maintenance with respect to all A-10 aircraft assigned to each such department.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"§ 9316. Training and support for A-10 aircraft.".

PART D—ARMS CONTROL MATTERS

SEC. 1441. SENSE OF CONGRESS ON ADDITIONAL NUCLEAR RISK REDUCTION MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) On June 1, 1990, the President of the United States and the President of the Soviet Union signed a document entitled "Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability".

(2) In that document, the two nations pledged to pursue additional confidence-building and predictability measures "that would reduce the possibility of an outbreak of nuclear war as a result of accident, miscalculation, terrorism, or unexpected technological breakthrough, and would prevent possible incidents between them".

(3) As a result of the recent increase in ethnic, national, economic, and political tensions within the Soviet Union, concern has heightened regarding the possible unauthorized or accidental use of Soviet nuclear weapons.

(4) It has been four years since the Department of Defense conducted a comprehensive review of its nuclear control procedures and failsafe mechanisms.

(5) The Joint Chiefs of Staff, in its 1990 Joint Military Net Assessment, concluded that with the recent changes in the global security environment "the risk of nuclear deterrence failing is assessed to be low and at this moment to be decreasing".

(6) While Congress is concerned about continued strategic offensive and defensive modernization by the Soviet Union and the unpredictable status of the domestic situation in the Soviet Union, at this stage the lessened prospects that nuclear weapons of the United States might have to be employed may afford an opportunity to reconsider past reluctance to use certain positive control measures, such as the installation of permissive action links (PALs) on nuclear weapons deployed at sea by the United States and the installation of post-launch destruct mechanisms on intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States, as long as appropriate security measures can be developed to protect the integrity of such destruct mechanisms.

(7) On September 15, 1987, the United States and the Soviet Union agreed to establish Nuclear Risk Reduction Centers (NRRCs) in Washington and Moscow.

(8) The NRRCs have made a useful contribution to lowering the risks of accidental or inadvertent nuclear war and are capable of taking on expanded roles.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the President of the United States and the President of the Union of Soviet Socialist Republics are to be commended for their June 1, 1990, joint statement to pursue additional nuclear confidence-building measures; and

(2) that, in keeping with that joint statement, the President—

(A) should invite the Soviet Union to join with the United States in conducting separate but parallel, comprehensive reviews of each nation's own nuclear control procedures and failsafe mechanisms; and

(B) should propose to the Soviet Union that representatives of the two nations engage in discussions with the objective of agreeing on additional roles and functions that could be assigned to the Nuclear Risk Reduction Centers to further lessen the risks of the outbreak of nuclear war as the result of misinterpretation, miscalculation, or accident.

(c) REPORT ON ADDITIONAL MEASURES.—Not later than March 1, 1991, the President shall submit to Congress a report (in both classified and unclassified form) assessing additional nuclear risk reduction measures which could be implemented pursuant to the joint statement of June 1, 1990, referred to in subsection (b), including the following:

(1) Assigning to the Nuclear Risk Reduction Centers (NRRCs) such expanded roles as the following:

(A) Serving as a forum for discussions between the two nations on responding to possible nuclear terrorism.

(B) Transmitting notifications that may be required under future arms control treaties.

(C) Transmitting non-urgent notifications and information requests required under Article 5 of the 1971 Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War Between the United States and the Union of Soviet Socialist Republics.

(D) Providing a forum for discussions between the United States and the Soviet Union on restricting nuclear, chemical, and missile proliferation.

(E) Serving as a meeting place for high-level military discussions on nuclear doctrines, forces and activities, and regional security concerns.

(2) Installation of post-launch destruct mechanisms on all intercontinental ballistic missiles (ICBMs) and submarine launched ballistic missiles (SLBMs) deployed by the United States.

(3) Installation by the United States of permissive action links (PALs) on all nuclear weapons at sea.

SEC. 1442. START AND STRATEGIC MODERNIZATION

(a) FINDINGS.—The Congress makes the following findings:

(1) The United States and the Soviet Union are engaged in the Strategic Arms Reduction Talks (START) in Geneva.

(2) In the Joint Statement on the Treaty on Strategic Offensive Arms signed in June 1990, the two sides reaffirmed their determination to have a START agreement completed and ready for signature by the end of 1990.

(3) Under the provisions of a START agreement, both sides will carry out significant reductions in strategic offensive arms.

(4) In the Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability, the United States and the Soviet Union agreed to pursue new talks on strategic offensive arms, and on the relationship between strategic offensive and defensive arms.

(5) The objectives of these negotiations will be to reduce further the risk of outbreak of war, particularly nuclear war, and to ensure strategic stability, transparency and predictability through further stabilizing reductions in the strategic arsenals of both countries.

(6) The President's effort to negotiate such agreements is dependent upon the maintenance of a vigorous research and development and modernization program as required for a prudent defense posture.

(7) The Soviet Union has maintained a robust strategic modernization program throughout the course of the START negotiations which continues today.

(b) It is the sense of the Congress that—

(1) the Congress fully supports United States efforts to enhance strategic stability; and

(2) the United States should pursue stabilizing strategic arms reduction agreements while maintaining a vigorous research and development and modernization program for United States strategic forces as required for a prudent defense posture.

SEC. 1443. STRATEGIC ARMS REDUCTION TALKS AGREEMENT

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President, before concluding an agreement in the Strategic Arms Reduction Talks, should provide to Congress—

(1) a report on whether the SS-23 INF missiles of Soviet manufacture, which the Soviet Union has confirmed have been stationed in the territory of the former German Democratic Republic and in the territories of Czechoslovakia and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that those missiles will be destroyed; and

(2) a report on whether the Krasnoyarsk radar, which the Foreign Minister of the Soviet Union admitted is a clear violation of the 1972 ABM Treaty, has been verifiably dismantled in accordance with United States criteria.

Classified information.

FORM OF REPORTS.—The reports under paragraphs (1) and (2) of subsection (a) should be submitted in both classified and unclassified form.

PART E—MATTERS RELATING TO ALLIES AND OTHER NATIONS

SEC. 1451. RECIPROCAL LOGISTICAL SUPPORT

(a) CROSS-SERVICING AGREEMENTS.—Subsection (a) of section 2342 of title 10, United States Code, is amended to read as follows:

"(a)(1) Subject to section 2343 of this title and to the availability of appropriations, and after consultation with the Secretary of State, the Secretary of Defense may enter into an agreement described in paragraph (2) with—

"(A) the government of a North Atlantic Treaty Organization country;

"(B) a subsidiary body of the North Atlantic Treaty Organization; or

"(C) the government of a country not a member of the North Atlantic Treaty Organization but which is designated by the Secretary of Defense, subject to the limitations prescribed in subsection (b), as a government with which the Secretary may enter into agreements under this section.

"(2) An agreement referred to in paragraph (1) is an agreement under which the United States agrees to provide logistic support, supplies, and services to military forces of a country or subsidiary body referred to in paragraph (1) in return for the reciprocal provisions of logistic support, supplies, and services by such government or subsidiary body to elements of the armed forces.".

(b) ADDITIONAL AUTHORITY IN CONNECTION WITH MUTUAL DEFENSE AGREEMENTS AND OCCUPATIONAL ARRANGEMENTS.—(1) Chapter 138 of title 10, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements

"(a) AUTHORITY TO ACCEPT.—The Secretary of Defense may accept from a foreign country, for the support of any element of the armed forces in an area of that country—

"(1) real property or the use of real property and services and supplies for the United States or for the use of the United States in accordance with a mutual defense agreement or occupational arrangement; and

"(2) services furnished as reciprocal international courtesies or as services customarily made available without charge.

"(b) QUARTERLY REPORTS.—(1) Not later than 30 days after the end of each quarter of each fiscal year, the Secretary of Defense shall submit to Congress a report on property, services, and supplies accepted by the Secretary under this section during the preceding quarter. The Secretary shall include in each such report a description of all property, services, and supplies having a value of more than $1,000,000.

"(2) In computing the value of any property, services, and supplies referred to in paragraph (1), the Secretary shall aggregate the value of—

"(A) similar items of property, services, and supplies accepted by the Secretary during the quarter concerned; and

"(B) components which, if assembled, would comprise all or a substantial part of an item of equipment or a facility.

"(c) AUTHORITY TO USE PROPERTY, SERVICES, AND SUPPLIES.—Property, services, or supplies referred to in subsection (a) may be used by the Secretary of Defense without specific authorization, except that such property, services, and supplies may not be used in connection with any program, project, or activity if the use of such property, services, or supplies would result in the violation of any prohibition or limitation otherwise applicable to that program, project, or activity.

"(d) ANNUAL AUDIT BY GAO.—The Comptroller General of the United States shall conduct an annual audit of property, services, and supplies accepted by the Secretary of Defense under this section and shall submit a copy of the results of each such audit to Congress.".

(2) The table of sections at the beginning of chapter 138 of such title is amended by adding at the end the following new item:

"2350g. Authority to accept use of real property, services, and supplies from foreign countries in connection with mutual defense agreements and occupational arrangements.".

(c) CONFORMING REPEAL.—Section 9008 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165; 103 Stat. 1130), is repealed. 10 USC 2341 note.

SEC. 1452. DEPARTMENT OF DEFENSE OMBUDSMAN FOR FOREIGN SIGNATORIES OF INTER-GOVERNMENTAL MEMORANDUMS OF AGREEMENT CONCERNING ACQUISITION MATTERS

(a) DESIGNATION OF OMBUDSMAN.—(1) Chapter 138 of title 10, United States Code, as amended by section 1451(b), is amended by adding at the end of subchapter II the following new section:

"§ 2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories

"The Secretary of Defense shall designate an official to act as ombudsman within the Department of Defense on behalf of foreign governments who are parties to memorandums of agreement with the United States concerning acquisition matters under the jurisdiction of the Secretary of Defense. The official so designated shall assist officials of those foreign governments in understanding and complying with procedures and requirements of the Department of Defense (and, as appropriate, other departments and agencies of the United States) insofar as they relate to any such memorandum of agreement.".

(2) The table of sections at the beginning of such subchapter, as amended by section 1451(b), is amended by adding at the end the following new item:

"2350h. Memorandums of agreement: Department of Defense ombudsman for foreign signatories.".

22 USC 2350h note.

(b) DEADLINE.—The official required to be designated under section 2350h of title 10, United States Code, as added by subsection (a), shall be designated by the Secretary of Defense not later than 90 days after the date of the enactment of this Act.

SEC. 1453. EXPANSION OF SCOPE OF REQUIREMENTS RELATING TO DEFENSE MEMORANDA OF UNDERSTANDING AND RELATED AGREEMENTS

Section 2504(a) of title 10, United States Code, is amended by inserting "or to the reciprocal procurement of defense items," after "defense equipment," in the matter above clause (1).

SEC. 1454. COOPERATION WITH JAPAN ON TECHNOLOGICAL RESEARCH AND DEVELOPMENT

(a) FINDINGS.—Congress makes the following findings:

(1) Japan has developed highly sophisticated research and manufacturing capabilities.

(2) Those capabilities have produced technologies that can be usefully applied to the development and manufacture of both commercial products and defense equipment.

(3) The availability of those technologies to the United States would greatly enhance the development and manufacture of defense equipment for the Armed Forces of the United States.

(4) Since the exchange of notes between the United States and Japan on the transfer of Japanese military technologies in 1983, the level and quality of technological cooperation between the two countries have been unsatisfactory.

(5) Effective cooperation in technology research and development between the United States and Japan would enhance the security of both countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States and Japan should strengthen their cooperation with regard to technology that would contribute to the security of both countries;

(2) technological cooperation between the two countries should be based upon an equitable and mutual sharing of the costs and benefits of that cooperation; and

(3) the Secretary of Defense should improve the staffing, funding, and organization of those activities within the Depart-

ment of Defense responsible for implementing and overseeing technological cooperation with Japan.

(c) COOPERATION ON RESEARCH AND DEVELOPMENT.—In light of the expressions in subsections (a) and (b), Congress urges and requests the President and directs the Secretary of Defense to pursue vigorously opportunities for the United States and Japan to cooperate in the development of technologies that benefit the security of both countries, particularly those technologies that have both commercial and military applications, commonly referred to as "dual-use" technologies.

(d) COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS.—(1) Subject to paragraphs (2) and (3), of the funds authorized to be appropriated pursuant to section 201 for basic research, exploratory development, and advanced technology, $10,000,000 shall be available for research and development projects conducted jointly by the United States and Japan, pursuant to a memorandum of understanding or other formal agreement, for the purpose of—

(A) developing new conventional defense equipment; or

(B) modifying existing defense equipment to meet United States defense requirements.

(2)(A) Funds made available for research and development projects under paragraph (1) may be obligated and expended for a particular research project only if the Secretary of Defense determines that—

(i) the particular project will improve, through the application of emerging technology, the conventional defense capabilities of the United States and Japan; and

(ii) the applicable memorandum of understanding or other formal agreement provides for the sharing of costs on an equitable basis.

(B) The Secretary may delegate the performance of the responsibility to make determinations under subparagraph (A) only to the Deputy Secretary of Defense or the Under Secretary of Defense for Acquisition.

(3) None of the funds made available for research and development projects under paragraph (1) may be used for research and development under the Strategic Defense Initiative.

(e) STAFFING.—The Secretary of Defense is urged to increase the number of personnel assigned to the Office of the Deputy Under Secretary of Defense (International Programs) for the specific purpose of providing oversight of the joint research and development projects of the United States and Japan for which funds are made available under subsection (d).

SEC. 1455. PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN AND CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN 10 USC 113 note.

(a) PURPOSE.—It is the purpose of this section to require Japan to offset the direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of United States military personnel in Japan.

(b) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—Funds appropriated pursuant to an authorization contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(c) SENSE OF CONGRESS ON ALLIED BURDEN SHARING.—(1) Congress recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq.

(2) It is the sense of Congress that—

(A) all countries that share the benefits of international security and stability should, commensurate with their national capabilities, share in the responsibility for maintaining that security and stability; and

(B) given the economic capability of Japan to contribute to international security and stability, Japan should make contributions commensurate with that capability.

President.

(d) NEGOTIATIONS.—At the earliest possible date after the date of the enactment of this Act, the President shall enter into negotiations with Japan for the purpose of achieving an agreement before September 30, 1991, under which Japan offsets all direct costs (other than pay and allowances for United States military and civilian personnel) incurred by the United States related to the presence of all United States military personnel stationed in Japan.

(e) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) This section may be waived by the President if the President—

(A) declares an emergency or determines that such a waiver is required by the national security interests of the United States; and

(B) immediately informs the Congress of the waiver and the reasons for the waiver.

SEC. 1456. LIMITATION ON THE COSTS TO THE UNITED STATES FOR PAYMENTS TO FOREIGN NATIONALS EMPLOYED AT BASES OUTSIDE THE UNITED STATES

(a) LIMITATION.—The costs incurred by the United States during fiscal year 1991 for the payment of salaries and other remuneration to foreign nationals who are employed at United States military installations located outside the United States shall be reduced by the Secretary of Defense at a rate necessary to achieve a 25 percent reduction in such costs by the end of fiscal year 1991 below the amount that was requested for such costs in the budget for fiscal year 1991 submitted by the President to Congress under section 1105 of title 31, United States Code.

(b) WAIVER AUTHORITY AND REQUIREMENT OF NOTIFICATION.—The Secretary of Defense may waive the requirement of subsection (a) if the Secretary determines that the national security interests of the United States require such action. If the requirement of subsection (a) is waived, the Secretary shall notify Congress of that action and include in that notification the reasons for such waiver.

50 USC 404c.

SEC. 1457. ANNUAL REPORT ON UNITED STATES SECURITY ARRANGEMENTS AND COMMITMENTS WITH OTHER NATIONS

President.

(a) REPORT REQUIREMENTS.—The President shall submit to the Committees on Armed Services and on Foreign Affairs of the House of Representatives and the Committees on Armed Services and Foreign Relations of the Senate each year a report (in both classified and unclassified form) on United States security arrangements with, and commitments to, other nations.

(b) MATTERS TO BE INCLUDED.—The President shall include in each such report the following:

(1) A description of—

(A) each security arrangement with, or commitment to, other nations, whether based upon (i) a formal document (including a mutual defense treaty, a pre-positioning arrangement or agreement, or an access agreement), or (ii) an expressed policy; and

(B) the historical origins of each such arrangement or commitment.

(2) An evaluation of the ability of the United States to meet its commitments based on the projected reductions in the defense structure of the United States.

(3) A plan for meeting each of those commitments with the force structure projected for the future.

(4) An assessment of the need to continue, modify, or discontinue each of those arrangements and commitments in view of the changing international security situation.

(c) DEADLINE FOR REPORT.—(1) Except as provided in paragraph (2), the President shall submit the report required by subsection (a) not later than February 1 of each year.

(2) In the case of the report required to be submitted in 1991, the evaluation, plan, and assessment referred to in paragraphs (2), (3), and (4) of subsection (b) may be submitted not later than May 1, 1991.

SEC. 1458. ECONOMIC SANCTIONS AGAINST THE REPUBLIC OF IRAQ

50 USC 1701 note.

If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited—

(A) the importation of products of Iraq into its customs territory, and

(B) the export of its products to Iraq; or

(2) given assurances satisfactory to the President that such import and export sanctions will be promptly implemented.

SEC. 1459. HUMANITARIAN ASSISTANCE FOR LITHUANIA

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide appropriate forms of humanitarian assistance for Lithuania. Such assistance is necessary as a result of the courageous efforts of the Lithuanian people to rebuild an independent society and state.

(b) AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Administrator of the Agency for International Development should—

(1) furnish such humanitarian assistance through the International Committee of the Red Cross, the Lithuanian Red Cross, CARITAS, and other voluntary relief agencies;

(2) solicit private sector donations of humanitarian assistance for Lithuania;

(3) cooperate with private relief agencies attempting to provide humanitarian assistance to Lithuania; and

(4) make all necessary arrangements to ensure that Lithuanians begin to receive critical humanitarian assistance as soon as possible.

(c) HUMANITARIAN ASSISTANCE FOR LATVIA, ESTONIA, ETC.—Where possible, appropriate humanitarian assistance should also be extended to Latvia and Estonia as well as needy republics of the Soviet Union.

(d) DEFINITION.—As used in this section, the term "humanitarian assistance" includes—

(1) medical supplies;

(2) oil, gas, and fuel for emergency vehicles and medical facilities;

(3) water purification supplies, materials for immunization, and other materials needed to prevent the outbreak of contagious diseases and to safeguard public health;

(4) food and clothing; and

(5) transportation of private donations of humanitarian assistance.

PART F—MISCELLANEOUS MATTERS

SEC. 1461. CONGRESSIONAL OVERSIGHT OF SPECIAL ACCESS PROGRAMS

(a) IN GENERAL.—Subsection (c) of section 119 of title 10, United States Code, is amended to read as follows:

Reports.

"(c)(1) Whenever a change in the classification of a special access program of the Department of Defense is planned to be made or whenever classified information concerning a special access program of the Department of Defense is to be declassified and made public, the Secretary of Defense shall submit to the defense committees a report containing a description of the proposed change, the reasons for the proposed change, and notice of any public announcement planned to be made with respect to the proposed change.

"(2) Except as provided in paragraph (3), any report referred to in paragraph (1) shall be submitted not less than 14 days before the date on which the proposed change or public announcement is to occur.

"(3) If the Secretary determines that because of exceptional circumstances the requirement of paragraph (2) cannot be met with respect to a proposed change or public announcement concerning a special access program of the Department of Defense, the Secretary may submit the report required by paragraph (1) regarding the proposed change or public announcement at any time before the proposed change or public announcement is made and shall include in the report an explanation of the exceptional circumstances.".

(b) AMENDMENT TO DEFINITION.—Subsection (f) of such section is amended by inserting "and Appropriations" after "Armed Services" in paragraph (1).

SEC. 1462. DEVELOPMENT AND PRODUCTION OF WEAPONS AND WEAPON SYSTEMS HAVING STANDOFF ATTACK CAPABILITIES AND EMPLOYING SENSOR-FUSED DEVICES

The Secretary of the Air Force—

(1) should complete development of weapons and weapon systems having standoff attack capabilities and employing sensor-fused devices;

(2) upon completion of such development, should proceed with the production of such weapons and weapon systems; and

(3) should provide that such production should take place at facilities so selected during the development phase of these weapons.

SEC. 1463. AUTHORITY TO REIMBURSE NORTH AMERICAN VAN LINES AND THE CHURCH OF GOD FOR CERTAIN DAMAGES CAUSED DURING OPERATION JUST CAUSE

(a) AUTHORITY TO REIMBURSE.—Notwithstanding any other provision of law, the Secretary of the Defense, subject to the approval of the Attorney General, may, to the extent that funds are available for obligation—

(1) reimburse North American Van Lines, a corporation operating under the laws of the State of Delaware, in an amount not to exceed $357,000, for damage to, or loss of, property owned by that corporation that—

(A) was located pursuant to the requirements of a contract with the Department of Defense at Albrook Air Force Base, Panama, on December 22, 1989; and

(B) was damaged or destroyed by United States Armed Forces during Operation Just Cause begun on December 22, 1989; and

(2) reimburse the Church of God in an amount not to exceed $325,000, for damage to, or loss of, property owned by that church that—

(A) was in the vicinity of Albrook Air Force Base, Panama, on December 22, 1989; and

(B) was damaged or destroyed by United States Armed Forces during Operation Just Cause begun on December 22, 1989.

(b) ADMINISTRATIVE REQUIREMENTS.—Reimbursement may be allowed under subsection (a) only if—

(1) a request for such reimbursement is presented in writing to the Secretary of Defense not later than December 22, 1991;

(2) the damage to, or loss of, property was not caused in whole or in part by a negligent or wrongful act of—

(A) North American Van Lines (or an agent or employee of North American Van Lines), in the case of property described in subsection (a)(1); and

(B) the Church of God (or an agent or employee of the Church of God), in the case of property described in subsection (a)(2); and

(3) the amount of damages is substantiated by the Secretary of Defense.

(c) LIMITATIONS.—(1) No funds may be paid pursuant to this section to North American Van Lines until North American Van Lines has made every reasonable effort (as determined by the Secretary of Defense) to secure compensation for the losses covered by this section through private means. No funds may be paid pursuant to this section to the Church of God until the Church of God has made every reasonable effort (as determined by the Secretary of Defense) to secure compensation for the losses covered by this section through private means.

(2) No more than 20 percent of the sum paid under this section to North American Van Lines may be paid to any attorneys for legal services rendered in connection with the damage to, or loss of, property with respect to which that amount is paid. No more than 20 percent of the sum paid under this section to the Church of God may be paid to any attorneys for legal services rendered in connection with the damage to, or loss of, property with respect to which that amount is paid.

(3) Acceptance of a payment by North American Van Lines under this section constitutes full and final settlement of any claim by North American Van Lines against the United States resulting from the damage to, or loss of, property described in subsection (a). Acceptance of a payment by the Church of God under this section constitutes full and final settlement of any claim by the Church of God against the United States resulting from the damage to, or loss of, property described in subsection (a).

SEC. 1464. EXTENSION OF DEADLINE FOR NATIONAL TEST CENTER INSTRUMENTATION

Section 166(b)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1391) is amended by striking out "July 1, 1990" and inserting in lieu thereof "January 1, 1993".

10 USC 2341 note.

SEC. 1465. OVERSEAS WORKLOAD PROGRAM

(a) IN GENERAL.—A firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) SITE FOR PERFORMANCE OF WORK.—A contract awarded during fiscal year 1991 to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) EXCEPTIONS.—The Secretary of a military department may restrict the geographic region in which a contract referred to in subsection (a) may be performed if the Secretary determines that performance of the contract outside the specific region—

(1) could adversely affect the military preparedness of the Armed Forces of the United States; or

(2) would violate the terms of an international agreement to which the United States is a party.

10 USC 4331 note.

SEC. 1466. DESIGNATION OF THE COLONEL THOMAS HAWKINS JOHNSON VISITING SCHOLAR PROGRAM AND LECTURE SERIES

(a) VISITING SCHOLAR PROGRAM.—(1) The Secretary of the Army shall establish a visiting scholar program at the United States Military Academy to be known as the "Thomas Hawkins Johnson Visiting Scholar Program". The Secretary shall select not more than two scholars to participate in the program for an academic year. A person selected to participate in the program shall serve as an instructor at the Academy for two weeks during the academic year and perform such duties as the Secretary may assign.

(2) There is authorized to be appropriated to the Secretary of the Army $25,000 for each fiscal year to carry out this subsection.

(b) LECTURE SERIES.—(1) The Secretary of Defense shall establish a lecture series at the National Defense University to be known as the "Thomas Hawkins Johnson Lecture Series". The Secretary shall use the lecture series to bring prominent persons to the National Defense University to deliver lectures on topics relating to public policy, national security, and science.

(2) There is authorized to be appropriated to the Secretary of Defense $25,000 for each fiscal year to carry out this subsection.

SEC. 1467. STUDY OF COMMERCIAL AVIATION ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE

(a) STUDY REQUIRED.—The Secretary of Defense and the Secretary of Transportation shall conduct a joint study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the Eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretaries shall submit to the Committees on Armed Services of the Senate and the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a joint report containing the results of the study required by subsection (a), together with such comments and recommendations as the Secretaries consider appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretaries shall include in the report the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian commercial access to restricted special use airspace.

(B) An accounting of civilian commercial aircraft access to such special use airspace during each of the years 1988 and 1989.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals for permitting increased access to such special use airspace, particularly during daylight hours, by civilian commercial aircraft.

(E) An analysis of the feasibility of providing such access.

(3) The report shall be submitted not later than 90 days after the date of the enactment of this Act.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretaries determine, on the basis of the study under subsection (a), that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary of Defense shall develop, in coordination with the Secretary of Transportation, procedures for providing such additional access for civilian commercial aircraft to such airspace.

SEC. 1468. CONSULTATION AND REPORT REQUIREMENTS RELATING TO RANCH HAND STUDY OF DEPARTMENT OF THE AIR FORCE

(a) CONSULTATION WITH ADVISORY COMMITTEE.—The Ranch Hand Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Ranch Hand Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists for purposes related to such study except as may

be necessary to prevent inappropriate disclosure of classified information.

(b) ANNUAL REPORTS.—The Secretary of Defense shall revise the schedule of reports prepared by the Secretary pursuant to section 1205(c) of Public Law 100-687 (102 Stat. 4126) so as to provide for the preparation and submission of annual reports under that section, to be submitted not later than February 1 of each year, and to provide for the preparation and submission of a final report under that section.

(c) DEFINITIONS.—In this section:

(1) The term "Ranch Hand Advisory Committee" means the committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants" established by the Secretary of Health and Human Services to monitor the conduct of the Ranch Hand Study.

(2) The term "Ranch Hand Study" means the special study conducted by the Secretary of the Air Force relating to the possible long-term effects of phenoxy herbicides and contaminants on Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era.

SEC. 1469. ANNUAL PRESENTATION FOR CONGRESSIONAL DEFENSE LEADERSHIP ON UNITED STATES NATIONAL MILITARY STRATEGY

(a) SENSE OF CONGRESS.—It is the sense of Congress that the President should provide for an annual presentation to be given to the congressional defense leaders named in subsection (b) on the national military strategy of the United States. That presentation should particularly cover the theater and strategic nuclear components of the national military strategy and should include a discussion of (1) nuclear targeting policy and requirements, and (2) the implications of such nuclear targeting policy and requirements for (A) theater and strategic nuclear force structure and operations, and (B) defense resources and their allocation.

(b) DEFINITION.—The congressional defense leaders referred to in subsection (a) are—

(1) the chairmen and ranking minority members of the Committees on Armed Services of the Senate and House of Representatives; and

(2) the chairmen and ranking minority members of the Defense Subcommittees of the Committees on Appropriations of the Senate and House of Representatives.

PART G—CONGRESSIONAL FINDINGS, POLICIES, AND COMMENDATIONS

SEC. 1471. COMMEMORATION OF THE EFFORTS OF THE BATTLE OF THE BULGE HISTORICAL FOUNDATION

(a) FINDINGS.—Congress makes the following findings:

(1) The Battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg, from December 16, 1944, to January 25, 1945, in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region.

(2) 600,000 members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces.

(3) The battle claimed 81,000 United States casualties, including 19,000 killed.

(4) In 1988, many of the veterans of the battle, including the 7,000 member organization known as the Veterans of the Battle of the Bulge, organized the Battle of the Bulge Historical Foundation to commemorate the heroic sacrifices made by the United States servicemembers who saw action during the Battle of the Bulge, to pay homage to the servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty.

(5) The efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the Battle of the Bulge, the participants in that battle, and World War II generally.

(6) The Museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of the Battle of the Bulge.

(7) Installation of a gallery at the museum devoted to the Battle of the Bulge will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle.

(8) The Battle of the Bulge Historical Foundation has set a goal of raising $1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of appropriately preserving the memory of the battle.

(b) RECOGNITION AND COMMENDATION.—In light of the findings in subsection (a), Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

SEC. 1472. COMMENDATION OF UNITED STATES MILITARY PERSONNEL FOR PHILIPPINE EARTHQUAKE RELIEF EFFORT

(a) FINDINGS.—Congress makes the following findings:

(1) The members of the United States Air Force, Marine Corps, and Navy serving in the Pacific region have given substantial and significant assistance to the Government and people of the Republic of the Philippines following a severe earthquake on July 16, 1990, in the Philippines which resulted in the deaths of over 1,600 people and severe dislocation and devastation.

(2) United States military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20, 1990.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations, to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from the Subic Bay naval facility have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by personnel of Clark Air Force Base and other Pacific Air Force bases and 120 units of blood were donated by personnel of the Subic Bay Naval Facility.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the earthquake relief assistance provided by United States military forces has played an essential role in the Philippine recovery from the July 16, 1990, earthquake; and

(2) that those members of the United States Armed Forces and their dependents who have assisted in Philippine earthquake relief should be commended by Congress for their considerable efforts on behalf of the Philippine people in their recovery efforts.

PART H—CODIFICATION OF CERTAIN PROVISIONS OF LAW AND TECHNICAL AMENDMENTS

SEC. 1481. RESTATEMENT IN TITLE 10, UNITED STATES CODE, OF SELECTED PERMANENT LAW PROVISIONS

(a) CREDITING OF CERTAIN RECEIPTS FROM FOREIGN MILITARY SALES.—(1) Section 114(c) of title 10, United States Code, is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Notwithstanding section 37(a) of the Arms Export Control Act (22 U.S.C. 2777(a)), amounts received by the United States pursuant to subparagraph (A) of section 21(a)(1) of that Act (22 U.S.C. 2761(a)(1))—

"(A) shall be credited to the Special Defense Acquisition Fund established pursuant to chapter 5 of that Act (22 U.S.C. 2795 et seq.), as authorized by section 51(b)(1) of that Act (22 U.S.C. 2795(b)(1)), but subject to the limitation in paragraph (1) and other applicable law; and

"(B) to the extent not so credited, shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31.".

Repeal.
10 USC 114 note.

(2) Section 9017 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(b) AUTHORITY TO PROCURE SERVICES OF EXPERTS AND CONSULTANTS.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 129a (as added by section 1483(b)) the following new section:

"§ 129b. Experts and consultants: authority to procure services

"(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense and the Secretaries of the military departments may—

"(1) procure the services of experts or consultants (or of organizations of experts or consultants) in accordance with section 3109 of title 5; and

"(2) pay in connection with such services travel expenses of individuals, including transportation and per diem in lieu of subsistence while such individuals are traveling from their homes or places of business to official duty stations and return as may be authorized by law.

"(b) CONDITIONS.—The services of experts or consultants (or organizations thereof) may be procured under subsection (a) only if the Secretary of Defense or the Secretary of the military department concerned, as the case may be, determines that—

"(1) the procurement of such services is advantageous to the United States; and

"(2) such services cannot adequately be provided by the Department of Defense.

"(c) REGULATIONS.—Procurement of the services of experts and consultants (or organizations thereof) under subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 129a (as added by section 1483(b)) the following new item:

"129b. Experts and consultants: authority to procure services of.".

(3) Section 9002 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed. Repeal. 10 USC 2241 note.

(c) MILITARY RELOCATION ASSISTANCE PROGRAMS.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end a new section 1056 consisting of—

(A) a heading as follows:

"§ 1056. Relocation assistance programs";

and

(B) a text consisting of the text of subsections (a) through (g) of section 661 of the National Defense Authorization Act of Fiscal Years 1990 and 1991 (Public Law 101-189), revised— 103 Stat. 1463.

(i) by replacing "Not later than October 1, 1990, the Secretary of Defense shall establish" at the beginning of subsection (a) with "The Secretary of Defense shall carry out"; and

(ii) by replacing "Armed Forces" each place it appears with "armed forces".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1056. Relocation assistance programs.".

(3) Section 661 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1463) is repealed. Repeal. 10 USC 113 note.

(4) The program required to be carried out by section 1056 of title 10, United States Code, as added by paragraph (1), shall be established by the Secretary of Defense not later than October 1, 1990. The Secretary shall prescribe regulations to implement that section not later than July 1, 1990. 10 USC 1056 note. Regulations.

(d) CIVILIAN PERSONNEL ADMINISTRATION.—(1) Section 1584 of title 10, United States Code, is amended—

(A) by inserting "(a) WAIVER OF EMPLOYMENT RESTRICTIONS FOR CERTAIN PERSONNEL.—" before "Laws prohibiting"; and

(B) by adding at the end the following:

"(b) NOTICE TO CONGRESS OF CERTAIN SALARY INCREASES.—The Secretary of Defense shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives when any salary increase granted to direct and indirect hire foreign national employees of the Department of Defense overseas, stated as a percentage, is greater than the higher of the following percentages:

"(1) The percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5.

"(2) The percentage increase provided to national government employees of the host nation.".

(2) The heading of such section is amended to read as follows:

"§ 1584. Employment of non-citizens".

(3) Section 1593 of such title is amended by adding at the end the following new subsection:

"(d) USE OF APPROPRIATED FUNDS FOR ALLOWANCE.—Amounts appropriated annually to the Department of Defense for the pay of civilian employees may be used for uniforms, or for allowance for uniforms, as authorized by this section and section 5901 of title 5.".

Repeal. (4)(A) Section 8114 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 10 U.S.C. 1584 note), is repealed.

Repeal. 10 USC 1593 note. (B) Section 9010 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(e) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) Subchapter I of chapter 134 of title 10, United States Code, is amended by adding after section 2244 (as added by section 904) the following new section:

"§ 2245. Use of aircraft for proficiency flying: limitation

Regulations. "(a) An aircraft under the jurisdiction of a military department may not be used by a member of the armed forces for the purpose of proficiency flying except in accordance with regulations prescribed by the Secretary of Defense.

"(b) Such regulations—

"(1) may not require proficiency flying by a member except to the extent required for the member to maintain flying proficiency in anticipation of the member's assignment to combat operations; and

"(2) may not permit proficiency flying in the case of a member who is assigned to a course of instruction of 90 days or more.

"(c) In this section, the term 'proficiency flying' has the meaning given that term in Department of Defense Directive 1340.4.".

(2) The table of sections at the beginning of such subchapter is amended by adding after the item relating to section 2244, as added by section 1036, the following new item:

"2245. Use of aircraft for proficiency flying: limitation.".

Repeal. 10 USC 2241 note. (3) Section 9006 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(f) REIMBURSEMENT REQUIRED FOR PROVISION OF MEDICAL CARE TO FOREIGN MILITARY AND DIPLOMATIC PERSONNEL.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2549. Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services

"(a) REIMBURSEMENT REQUIRED.—Except as provided in subsection (b), whenever the Secretary of Defense provides medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents, the Secretary shall require that the United States be reimbursed for the costs of providing such care. Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which charges were made for the provision of such care.

"(b) WAIVER WHEN RECIPROCAL SERVICES PROVIDED UNITED STATES MILITARY PERSONNEL.—Notwithstanding subsection (a), the Secretary of Defense may provide inpatient medical care in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel and their dependents in that foreign country.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2549. Provision of medical care to foreign military and diplomatic personnel: reimbursement required; waiver for provision of reciprocal services.".

(3) Section 9020 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed. Repeal. 10 USC 2241 note.

(g) LIMITATION ON LEASING OF AIRCRAFT AND VEHICLES TO NON-FEDERAL AGENCIES.—(1) Chapter 151 of title 10, United States Code, as amended by subsection (f), is further amended by adding at the end the following new section:

"§ 2550. Aircraft and vehicles: limitation on leasing to non-Federal agencies

"The Secretary of Defense (or Secretary of a military department) may not lease to a non-Federal agency in the United States any aircraft or vehicle owned or operated by the Department of Defense if suitable aircraft or vehicles are commercially available in the private sector. However, nothing in the preceding sentence shall affect authorized and established procedures for the sale of surplus aircraft or vehicles.".

(2) The table of sections at the beginning of such chapter, as amended by subsection (f), is further amended by adding at the end the following new item:

"2550. Aircraft and vehicles: limitation on leasing to non-Federal agencies.".

(3) Section 2550 of title 10, United States Code, as added by paragraph (1), does not prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 765).

(4) Section 9025 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed. Repeal. 10 USC 2241 note.

(h) ADMINISTRATION OF REAL PROPERTY.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2677 the following new section:

"§ 2678. Feral horses and burros: removal from military installations

"When feral horses or burros are found on an installation under the jurisdiction of the Secretary of a military department, the Secretary may use helicopters and motorized equipment for their removal.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2677 the following new item:

"2678. Feral horses and burros: removal from military installations.".

Repeal.
10 USC 2241 note.

(3) Section 9030 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(i) ENVIRONMENTAL RESTORATION.—(1) Section 2701 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(f) USE OF APPROPRIATED FUNDS AT FORMER DOD SITES.—Appropriations available to the Department of Defense may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense.

"(g) REMOVAL OF UNSAFE BUILDINGS AND DEBRIS BEFORE RELEASE FROM FEDERAL CONTROL.—In the case of property formerly used by the Department of Defense which is to be released from Federal Government control and at which there are unsafe buildings or debris of the Department of Defense, all actions necessary to comply with regulations of the General Services Administration on the transfer of property in a safe condition shall be completed before the property is released from Federal Government control, except in the case of property to be conveyed to an entity of State or local government or to a native corporation.".

Repeal.
10 USC 2701 note.

(2) Section 9038 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165), is repealed.

(j) FUNDS AVAILABLE FOR PAYMENT OF CLAIMS.—(1) Chapter 163 of title 10, United States Code, is amended by inserting after section 2731 the following new section:

"§ 2732. Payment of claims: availability of appropriations

"Appropriations available to the Department of Defense for operation and maintenance may be used for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including—

"(1) claims for damages arising under training contracts with carriers; and

"(2) repayment of amounts determined by the Secretary concerned to have been erroneously collected—

"(A) from military and civilian personnel of the Department of Defense; or

"(B) from States or territories or the District of Columbia (or members of the National Guard units thereof).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2731 the following new item:

"2732. Payment of claims: availability of appropriations.".

(3) Section 8098 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463; 10 U.S.C. 2241 note), is repealed. Repeal.

(4)(A) Section 2734(h) of title 10, United States Code, is amended by striking out "available to the" and all that follows and inserting in lieu thereof the following: "as provided in section 2732 of this title.".

(B) Section 2734a of such title is amended—

(i) in subsection (c), by striking out "for that purpose" and inserting in lieu thereof "as provided in section 2732 of this title"; and

(ii) in subsection (d), by striking out "the appropriation for claims of the Department of Defense" and inserting in lieu thereof "appropriations as provided in section 2732 of this title".

(C) Section 2734b(d) of such title is amended by striking out "for that purpose" and inserting in lieu thereof the following: "as provided in section 2732 of this title".

(k) LEGISLATIVE CONSTRUCTION.—(1) A reference to a law replaced by the provisions of title 10, United States Code, enacted by this section (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this section. 10 USC note prec. 101.

(2) A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this section shall continue in effect under the corresponding provision enacted by this title until repealed, amended, or superseded.

(3) An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this section shall be treated as having been taken or committed under the corresponding provision enacted by this title.

SEC. 1482. CODIFICATION OF CERTAIN RECURRING PROVISIONS OF ANNUAL DEFENSE APPROPRIATIONS ACTS

(a) NOTICE OF INITIATION OF SPECIAL ACCESS PROGRAMS.—Section 119 of title 10, United States Code, is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f) A special access program may not be initiated until—

"(1) the defense committees are notified of the program; and

"(2) a period of 30 days elapses after such notification is received.".

(b) EMPLOYMENT OF ALIENS.—Section 1584 of title 10, United States Code, is amended by striking out "any expert" and all that follows through "that department" and inserting in lieu thereof "personnel of the Department of Defense".

(c) PROCEDURE FOR TRANSFER OF APPROPRIATIONS.—(1) Chapter 131 of such title is amended by inserting after section 2212 the following new section:

"§ 2214. Transfer of funds: procedure and limitations

"(a) PROCEDURE FOR TRANSFER OF FUNDS.—Whenever authority is provided in an appropriation Act to transfer amounts in working capital funds or to transfer amounts provided in appropriation Acts for military functions of the Department of Defense (other than military construction) between such funds or appropriations (or any subdivision thereof), amounts transferred under such authority

shall be merged with and be available for the same purposes and for the same time period as the fund or appropriations to which transferred.

"(b) LIMITATIONS ON PROGRAMS FOR WHICH AUTHORITY MAY BE USED.—Such authority to transfer amounts—

"(1) may not be used except to provide funds for a higher priority item, based on unforeseen military requirements, than the items for which the funds were originally appropriated; and

"(2) may not be used if the item to which the funds would be transferred is an item for which Congress has denied funds.

"(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify the Congress of each transfer made under such authority to transfer amounts.

"(d) LIMITATIONS ON REQUESTS TO CONGRESS FOR REPROGRAMMINGS.—Neither the Secretary of Defense nor the Secretary of a military department may prepare or present to the Congress, or to any committee of either House of the Congress, a request with respect to a reprogramming of funds—

"(1) unless the funds to be transferred are to be used for a higher priority item, based on unforeseen military requirements, than the item for which the funds were originally appropriated; or

"(2) if the request would be for authority to reprogram amounts to an item for which the Congress has denied funds.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2212 the following new item:

"2214. Transfer of funds: procedure and limitations.".

10 USC 119 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1991.

SEC. 1483. RESTATEMENT OF LAW RELATING TO ANNUAL PERSONNEL STRENGTH AUTHORIZATIONS, ANNUAL MANPOWER REQUIREMENTS REPORTS, AND ANNUAL NATIONAL GUARD AND RESERVE COMPONENT PROCUREMENT REPORT

(a) RESTATEMENT OF CURRENT LAW.—Chapter 2 of title 10, United States Code, is amended by striking out section 115 and inserting in lieu thereof the following:

"§ 115. Personnel strengths: requirement for annual authorization

"(a) Congress shall authorize personnel strength levels for each fiscal year for each of the following:

"(1) The end strength for each of the armed forces (other than the Coast Guard) for (A) active-duty personnel who are to be paid from funds appropriated for active-duty personnel, and (B) active-duty personnel and full-time National Guard duty personnel who are to be paid from funds appropriated for reserve personnel.

"(2) The end strength for the Selected Reserve of each reserve component of the armed forces.

"(3) The average military training student loads for each of the armed forces (other than the Coast Guard).

"(4) The end strength for civilian personnel for each component of the Department of Defense.

"(b) No funds may be appropriated for any fiscal year to or for—

"(1) the use of active-duty personnel or full-time National Guard duty personnel of any of the armed forces (other than the Coast Guard) unless the end strength for such personnel of that armed force for that fiscal year has been authorized by law;

"(2) the use of the Selected Reserve of any reserve component of the armed forces unless the end strength for the Selected Reserve of that component for that fiscal year has been authorized by law;

"(3) training military personnel in the training categories described in subsection (f) of any of the armed forces (other than the Coast Guard) unless the average student load of that armed force for that fiscal year has been authorized by law; or

"(4) the use of the civilian personnel of any component of the Department of Defense unless the end strength for civilian personnel of that component for that fiscal year has been authorized by law.

"(c) Upon determination by the Secretary of Defense that such action is in the national interest, the Secretary may—

"(1) increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for any of the armed forces by a number equal to not more than 0.5 percent of that end strength; and

"(2) increase the end strength authorized pursuant to subsection (a)(1)(B) for a fiscal year for any of the armed forces by a number equal to not more than 2 percent of that end strength.

"(d) In counting active-duty personnel for the purpose of the end-strengths authorized pursuant to subsection (a)(1), persons in the following categories shall be excluded:

"(1) Members of the Ready Reserve ordered to active duty under section 673 of this title.

"(2) Members of the Selected Reserve of the Ready Reserve ordered to active duty under section 673b of this title.

"(3) Members of the National Guard called into Federal service under section 3500 or 8500 of this title.

"(4) Members of the militia called into Federal service under chapter 15 of this title.

"(5) Members of reserve components on active duty for training.

"(6) Members of reserve components on active duty for 180 days or less to perform special work.

"(7) Members on full-time National Guard duty for 180 days or less.

"(e) The authorized strength of the Navy under subsection (a)(1) is increased by the authorized strength of the Coast Guard during any period when the Coast Guard is operating as a service in the Navy.

"(f) Authorization under subsection (a)(3) is not required for unit or crew training student loads, but is required for student loads for the following individual training categories:

"(1) Recruit and specialized training.

"(2) Flight training.

"(3) Professional training in military and civilian institutions.

"(4) Officer acquisition training.

"§ 115a. Annual manpower requirements report

"(a) The Secretary of Defense shall submit to Congress, not later than February 15 of each fiscal year, an annual manpower require-

ments report. The report shall be in writing and shall contain the Secretary's recommendations for—

"(1) the annual active-duty end-strength level for each component of the armed forces for the next fiscal year; and

"(2) the annual civilian personnel end-strength level for each component of the Department of Defense for the next fiscal year.

"(b)(1) The Secretary shall include in each report under subsection (a) justification for the strength levels recommended and an explanation of the relationship between the personnel strength levels recommended for that fiscal year and the national security policies of the United States in effect at the time.

"(2) The justification and explanation shall specify in detail for all major military force units (including each land force division, carrier and other major combatant vessel, air wing, and other comparable unit) the following:

"(A) Unit mission and capability.

"(B) Strategy which the unit supports.

"(C) Area of deployment and illustrative areas of potential deployment, including a description of any United States commitment to defend such areas.

"(3) The justification and explanation shall also specify in detail the manpower required to perform the medical missions of each of the armed forces and of the Department of Defense.

"(c) The Secretary shall include in each report under subsection (a) a detailed discussion of the following:

"(1) The manpower required for support and overhead functions within the armed forces and the Department of Defense.

"(2) The relationship of the manpower required for support and overhead functions to the primary combat missions and support policies.

"(3) The manpower required to be stationed or assigned to duty in foreign countries and aboard vessels located outside the territorial limits of the United States, its territories, and possessions.

"(d) In each such report, the Secretary shall also—

"(1) identify, define, and group by mission and by region the types of military bases, installations, and facilities;

"(2) provide an explanation and justification of the relationship between this base structure and the proposed military force structure; and

"(3) a comprehensive identification of base operating support costs and an evaluation of possible alternatives to reduce those costs.

"(e) The Secretary shall also include in each such report, with respect to each armed force under the jurisdiction of the Secretary of a military department, the following:

"(1) The number of positions that require warrant officers or commissioned officers serving on active duty in each of the officer grades during the current fiscal year and the estimated number of such positions for each of the next five fiscal years.

"(2) The estimated number of officers that will be serving on active duty in each grade on the last day of the current fiscal year and the estimated numbers of officers that will be needed on active duty on the last day of each of the next five fiscal years.

"(3) An estimate and analysis for the current fiscal year and for each of the next five fiscal years of gains to and losses from the number of members on active duty in each officer grade, including a tabulation of—

"(A) retirements displayed by year of active commissioned service;

"(B) discharges;

"(C) other separations;

"(D) deaths;

"(E) promotions; and

"(F) reserve and regular officers ordered to active duty.

"(4) An analysis of the distribution of each of the following categories of officers serving on active duty on the last day of the preceding fiscal year by grade in which serving and years of active commissioned service:

"(A) Regular officers.

"(B) Reserve officers on the active-duty list.

"(C) Reserve officers described in clauses (B) and (C) of section 523(b)(1) of this title.

"(D) Officers other than those specified in subparagraphs (A), (B), and (C) serving in a temporary grade.

"(5) An analysis of the number of officers and enlisted members serving on active duty for training as of the last day of the preceding fiscal year under orders specifying an aggregate period in excess of 180 days and an estimate for the current fiscal year of the number that will be ordered to such duty, tabulated by—

"(A) recruit and specialized training;

"(B) flight training;

"(C) professional training in military and civilian institutions; and

"(D) officer acquisition training.

"(f) In each such report, the Secretary shall also include recommendations for the average student load for each category of training for each component of the armed forces for the next three fiscal years. The Secretary shall include in the report justification for, and explanation of, the average student loads recommended.

"(g)(1) In each such report, the Secretary shall also include recommendations for the end-strength levels for medical personnel for each component of the armed forces as of the end of the next fiscal year.

"(2) For purposes of this subsection, the term 'medical personnel' includes—

"(A) in the case of the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

"(B) in the case of the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

"(C) in the case of the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

"(D) enlisted members engaged in or supporting medically related activities; and

"(E) such other personnel as the Secretary considers appropriate.

"§ 115b. Annual report on National Guard and reserve component equipment

"(a) The Secretary of Defense shall submit to the Congress each year, not later than February 15, a written report concerning the equipment of the National Guard and the reserve components of the armed forces for each of the three succeeding fiscal years.

"(b) Each report under this section shall include the following:

"(1) Recommendations as to the type and quantity of each major item of equipment which should be in the inventory of the Selected Reserve of the Ready Reserve of each reserve component of the armed forces.

"(2) A statement of the quantity and average age of each type of major item of equipment which is expected to be physically available in the inventory of the Selected Reserve of the Ready Reserve of each reserve component as of the beginning of each fiscal year covered by the report.

"(3) A statement of the quantity and cost of each type of major item of equipment which is expected to be procured for the Selective Reserve of the Ready Reserve of each reserve component from commercial sources or to be transferred to each such Selected Reserve from the active-duty components of the armed forces.

"(4) A statement of the quantity of each type of major item of equipment which is expected to be retired, decommissioned, transferred, or otherwise removed from the physical inventory of the Selected Reserve of the Ready Reserve of each reserve component and the plans for replacement of that equipment.

"(5) A listing of each major item of equipment required by the Selected Reserve of the Ready Reserve of each reserve component indicating—

"(A) the full war-time requirement of that component for that item, shown in accordance with deployment schedules and requirements over successive 30-day periods following mobilization;

"(B) the number of each such item in the inventory of the component;

"(C) a separate listing of each such item in the inventory that is a deployable item and is not the most desired item;

"(D) the number of each such item projected to be in the inventory at the end of the third succeeding fiscal year; and

"(E) the number of nondeployable items in the inventory as a substitute for a required major item of equipment.

"(6) A narrative explanation of the plan of the Secretary concerned to provide equipment needed to fill the war-time requirement for each major item of equipment to all units of the Selected Reserve, including an explanation of the plan to equip units of the Selected Reserve that are short of major items of equipment at the outset of war.

"(7) For each item of major equipment reported under paragraph (3) in a report for one of the three previous years under this section as an item expected to be procured for the Selected Reserve or to be transferred to the Selected Reserve, the quantity of such equipment actually procured for or transferred to the Selected Reserve.

"(c) Each report under this section shall be expressed in the same format and with the same level of detail as the information pre-

sented in the annual Five Year Defense Program Procurement Annex prepared by the Department of Defense.".

(b) FURTHER RESTATEMENTS OF EXISTING LAW.—(1) Chapter 3 of title 10, United States Code, is amended by inserting after section 123 the following new section:

"§ 123a. Suspension of end-strength limitations in time of war or national emergency

"If at the end of any fiscal year there is in effect a war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the armed forces or of the Department of Defense. Any such deferral may not extend beyond November 30 of the following fiscal year.".

(2) Such chapter is further amended by inserting after section 129 the following new section:

"§129a. General personnel policy

"The Secretary of Defense shall use the least costly form of personnel consistent with military requirements and other needs of the Department. In developing the annual personnel authorization requests to Congress and in carrying out personnel policies, the Secretary shall—

"(1) consider particularly the advantages of converting from one form of personnel (military, civilian, or private contract) to another for the performance of a specified job; and

"(2) include in each manpower requirements report submitted under section 115a of this title a complete justification for converting from one form of personnel to another.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 2 of title 10, United States Code, is amended by striking out the item relating to section 115 and inserting in lieu thereof the following new items:

"115. Personnel strengths: requirement for annual authorization.
"115a. Annual manpower requirements report.
"115b. Annual report on National Guard and reserve component equipment.".

(2) The table of sections at the beginning of chapter 3 of such title is amended—

(A) by inserting after the item relating to section 123 the following new item:

"123a. Suspension of end-strength limitations in time of war or national emergency."; and

(B) by inserting after the item relating to section 129 the following new item:

"129a. General personnel policy.".

SEC. 1484. TECHNICAL AND CLERICAL AMENDMENTS

(a) DUPLICATE SECTION NUMBERS.—The second section 1592 of title 10, United States Code (added by section 501(a) of Public Law 101-193), is redesignated as section 1596, and the item relating to that section in the table of sections at the beginning of chapter 81 of such title is revised to reflect such redesignation.

(b) OBSOLETE PROVISIONS.—

(1) Section 130 of title 10, United States Code, is amended—

(A) by striking out "(1) Within" in subsection (b) and all that follows through "Such regulations" the first place it appears and inserting in lieu thereof "Regulations under this section"; and

(B) by striking out "(2) In this" and inserting in lieu thereof "(c) In this".

(2)(A) Section 2117 of title 10, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 104 of such title is amended by striking out the item relating to section 2117.

(3) Section 2382(d) of such title is amended by striking out "United States Court of Claims" and inserting in lieu thereof "United States Claims Court".

(4) Section 7307(b) of such title is amended—

(A) in paragraph (1)—

(i) by striking out "After August 5, 1974, no" and inserting in lieu thereof "A";

(ii) by inserting "not" after "may"; and

(iii) by striking out "disposition thereof has been approved by law enacted after such date" and inserting in lieu thereof "disposition of that vessel is approved by law enacted after August 5, 1974"; and

(B) in paragraph (2), by striking out "After August 5, 1974, any" and inserting in lieu thereof "A".

(c) CONFORMING AMENDMENTS TO PRIOR REPEALS.—

(1) Section 303a of title 37, United States Code, is amended by striking out "303, and 311" in subsections (a) and (c) and inserting in lieu thereof "and 303".

(2) Section 801 of such title is amended by striking out "(b)" before "Payment may not be made".

(d) DATE OF ENACTMENT REFERENCES.—

(1) Section 2130a of title 10, United States Code, is amended—

(A) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (a)(1) and inserting in lieu thereof "November 29, 1989,"; and

(B) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (d)(3) and inserting in lieu thereof "November 29, 1989".

(2) Section 302d of title 37, United States Code, is amended—

(A) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (a)(1) and inserting in lieu thereof "November 29, 1989,"; and

(B) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (d)(4) and inserting in lieu thereof "November 29, 1989".

(3) Section 302e of title 37, United States Code, is amended—

(A) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990 and 1991" in subsection (a) and inserting in lieu thereof "November 29, 1989,"; and

(B) by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1990

and 1991" in subsection (e)(3) and inserting in lieu thereof "November 29, 1989".

(4) Section 559(a)(1) of title 37, United States Code, is amended by striking out "the date of the enactment of the Victims of Terrorism Compensation Act" and inserting in lieu thereof "August 27, 1986".

(e) U.S.C. CITATIONS.—

(1) Section 430(b) of title 37, United States Code, is amended by inserting "(20 U.S.C. 921 et seq.)" after "Defense Dependents' Education Act of 1978".

(2) Section 559(c)(2) of such title is amended by inserting "(5 U.S.C. 5569 note)" after "Victims of Terrorism Compensation Act".

(f) AMENDMENTS FOR STYLISTIC CONSISTENCY.—

(1) The heading of each chapter of title 37, United States Code, is revised so as to appear in all capital letters.

(2) Section 2382(e) of title 10, United States Code, is amended by striking out "issued" and inserting in lieu thereof "prescribed".

(3) Section 2431(b) of such title, as redesignated by section 1301(13), is amended by striking out "covered, and specifically include, but not be limited to—" in the matter preceding paragraph (1) and inserting in lieu thereof "covered and shall specifically include—".

(4) Section 2432(c)(3) of such title, as amended by section 1407(a), is amended—

(A) by striking out "include—" in the matter preceding subparagraph (A) and inserting in lieu thereof "include the following:";

(B) by capitalizing the first letter of the first word of each of subparagraphs (B) and (C);

(C) by striking out "; and" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(D) in subparagraph (C)—

(i) by striking out "program)—" in the matter preceding clause (i) and inserting in lieu thereof "program) the following:";

(ii) by capitalizing the first letter of the first word of each of clauses (i) through (vii);

(iii) by striking out the semicolon at the end of each of clauses (i) through (v) and inserting in lieu thereof a period; and

(iv) by striking out "; and" at the end of clause (vi) and inserting in lieu thereof a period.

(g) DEFINITIONS.—

(1) Section 1079(j)(2)(B) of title 10, United States Code, is amended by inserting "the term" after "In subparagraph (A),".

(2) Section 2382(a)(3) of such title is amended by inserting "the term" after "In this subsection,".

(h) CROSS REFERENCE CORRECTIONS.—

(1) Section 1098(a) of title 10, United States Code, is amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsection (b)".

(2) Section 2330(b)(1) of such title is amended by striking out "section 114(g)" and inserting in lieu thereof "section 114a".

(3) Section 2382(a)(3) of such title is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)".

(4) Section 2436(d)(3) of such title is amended by striking out "section 2320(a)(4)" and inserting in lieu thereof "section 2302(6)".

(5) Effective as of November 29, 1989, section 433(a) of title 37, United States Code, is amended by striking out "section 691 of title 10" and inserting in lieu thereof "section 687 of title 10".

(6) Section 1013 of title 37, United States Code, is amended by striking out "or 1095" and inserting in lieu thereof "or 1095a".

10 USC 2366. (7) Section 804(a) of Public Law 101-189 is amended by striking out "(as amended by section 842)" and inserting in lieu thereof "(as amended by section 802(c))".

103 Stat. 1567. (8) Section 1213(b)(3) of Public Law 101-189 is amended by inserting "of title 10" after "chapter 18".

(i) HEADINGS, TABLES OF SECTIONS, ETC.—

(1) The table of sections at the beginning of subchapter IX of chapter 47 of title 10, United States Code, is amended by inserting after the item relating to section 867 (article 67) the following new item:

"867a. Art. 67a. Review by the Supreme Court.".

(2) The second subchapter XI of chapter 47 of such title (as added by section 1301(c) of Public Law 101-189) is redesignated as subchapter XII.

(3)(A) The heading of section 2004 of title 10, United States Code, is amended by striking out "**of the military departments**".

(B) The item relating to such section in the table of sections at the beginning of chapter 101 of such title is revised to conform to the amendment made by subparagraph (A).

(4)(A) The heading of section 2007 of title 10, United States Code, is amended by striking out the first two words and capitalizing the first letter of the third word.

(B) The item relating to that section in the table of sections at the beginning of chapter 101 of such title is revised to conform to the amendments made by subparagraph (A).

(5) The item relating to section 2185 in the table of sections at the beginning of chapter 110 of title 10, United States Code, is amended by inserting "administered by" after "progams".

(6) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2213.

(7) The table of subchapters at the beginning of chapter 138 of such title is amended by inserting "Sec." above "2341".

(8) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2407.

(9) The table in section 406(b)(1)(C) of title 37, United States Code, is amended by inserting a period at the end of footnote 2.

(j) Department of Veterans Affairs References.—

(1) Section 1074(b) of title 10, United States Code, is amended by striking out "Administrator" and inserting in lieu thereof "Secretary of Veterans Affairs".

(2) Section 2006(d) of such title is amended by striking out "Administrator" in the first sentence and inserting in lieu thereof "Secretary of Veterans Affairs".

(3) Section 2136(a) of such title is amended by striking out "Veterans' Administration" both places it appears and inserting in lieu thereof "Department of Veterans Affairs".

(4) Section 6160(c) of such title is amended by striking out "Veterans' Administration" and inserting in lieu thereof "Secretary of Veterans Affairs".

(k) MISCELLANEOUS TITLE 10 AMENDMENTS.—Title 10, United States Code, is further amended as follows:

(1) Section 138(a)(2) is amended—

(A) by striking out "(A)" and all that follows through "and evaluation" and inserting in lieu thereof "(A) The term 'operational test and evaluation"; and

(B) by striking out "(B)" and all that follows through "program" the first place it appears and inserting in lieu thereof "(B) The term 'major defense acquisition program".

(2) Section 513 is amended by striking out "paragraph (1)" in subsections (b) and (c) and inserting in lieu thereof "subsection (a)".

(3) Section 653 is amended—

(A) in subsection (a), by striking out "and" and inserting in lieu thereof "or"; and

(B) in subsection (c)—

(i) by inserting a comma after "training" the first place it appears in paragraphs (1) and (2); and

(ii) by inserting a comma after "naval flight officer" the first place it appears in paragraph (3).

(4) Section 978(c)(3) is amended by striking out "a" after "paragraph (1), or".

(5) Section 1460a(a) (as added effective on October 1, 1991) is amended by striking out "section" and inserting in lieu thereof "sections".

(6) Section 1594(d) is amended by striking out "in this section" and inserting in lieu thereof "In this section".

(7) Section 2121(c) is amended by striking out "sections" in the third sentence and inserting in lieu thereof "section".

(8) Section 2350f(d)(1)(A) is amended by striking out ", or" at the end and inserting in lieu thereof a semicolon.

(9) Section 2371(f) is amended by striking out "Committees of" and inserting in lieu thereof "Committees on".

(10) Section 2433(c) is amended by striking out "the" each place it appears before "such service acquisition executive".

(11) Section 2435(b)(1) is amended by striking out the closing parenthesis after "service acquisition executive designated by such Secretary".

(l) OTHER LAWS.—

(1) Section 638(a) of Public Law 100-180 (10 U.S.C. 113 note) is amended by striking out "under 18 years of age".

(2) Section 523 of Public Law 100-456 (32 U.S.C. 709 note) is amended in subsection (a) by striking out the second comma after "at the technician's option".

(3) Section 503(b)(3) of Public Law 101-189 (103 Stat. 1437) is amended by inserting "section" after "appointment under". 10 USC 3380 note.

(4) Title XIV of Public Law 101-189 (103 Stat. 1577 et seq.) is amended as follows:

(A) Section 1404(a)(2) is amended by striking out "Spouse Coverage for Survivor Benefit Plan Participants" in the matter to be inserted (effective on October 1, 1991) by the amendment made by that section and inserting in lieu thereof "Survivor Benefit Plan". 103 Stat. 1579.

10 USC 1448 note.

(B) Section 1405(a)(2) is amended by striking out "COVERGE" and inserting in lieu thereof "COVERAGE".

(C) Effective as of November 29, 1989, section 1407(a) is amended—

10 USC 1447.

(i) by striking out "both places" in paragraph (1)(A) and inserting in lieu thereof "each place"; and

10 USC 1452.

(ii) by inserting "the second place it appears" in paragraph (9)(B) before "and inserting".

10 USC 1601.

(5) Section 506(c)(3) of Public Law 101-194 is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) by striking out the period at the end of paragraph (7) and inserting in lieu thereof '; and'; and".

41 USC 423.

(6) The last subparagraph of section 27(f)(3) of the Office of Federal Procurement Policy Act is amended by striking out "(D)" and inserting in lieu thereof "(F)".

31 USC 5111 note.

PART I—CONGRESSIONAL MEDALS

SEC. 1491. CONGRESSIONAL GOLD MEDAL FOR MATTHEW B. RIDGWAY

(a) FINDINGS.—The Congress finds that—

(1) General Matthew B. Ridgway, United States Army (Retired), served his country with great honor and distinction for more than 40 years;

(2) during World War II, General Ridgway commanded the 82nd Airborne Division and later the XVIII Airborne Corps, leading his soldiers in some of the most difficult fighting of the European theater to achieve Allied victories in North Africa, Sicily, Italy, the Normandy invasion, the Battle of the Bulge, the Ruhr Pocket, and the crossing of the Rhine and Elbe Rivers.

(3) in Korea, during the depths of the bitter winter of 1950, General Ridgway took command of the seriously demoralized Eighth Army, motivated and inspired it to "Stand and Fight", and led it on the offensive again;

(4) under his leadership, the military forces of the United Nations Command in Korea recaptured territory that had been lost earlier to overwhelming enemy forces and forced the onset of armistice negotiations; and

(5) after his commands in the Korean war, General Ridgway continued his outstanding service to his country by serving in the positions of Supreme Commander of Allied Powers in Europe and Chief of Staff of the United States Army.

(b) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to General Matthew B. Ridgway, United States Army (Retired) a gold medal of appropriate design, in recognition of his distinguished service to the Nation.

(c) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (b), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated an amount not to exceed $25,000 to carry out this section.

(e) DUPLICATE MEDALS.—(1) The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to subsection (c) under such regulations as the Secretary may

prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(2) The appropriation used to carry out subsection (c) shall be reimbursed out of the proceeds of sales under paragraph (1).

SEC. 1492. CONGRESSIONAL MEDAL FOR VETERANS OF THE ATTACK ON PEARL HARBOR

(a) PURPOSE.—It is the purpose of this section—

(1) to commemorate the sacrifices made and service rendered to the United States by those veterans of the Armed Forces of the United States who defended Pearl Harbor and other military installations in Hawaii against attack by the Japanese on December 7, 1941; and

(2) to honor those veterans on the fiftieth anniversary of that attack.

(b) PRESENTATION AUTHORIZED.—The Speaker of the House of Representatives and the President pro tempore of the Senate are authorized jointly to present, on behalf of the Congress, to persons certified by the Secretary of Defense pursuant to subsection (e) a bronze medal 1½ inches in diameter commemorating the service of those persons to the United States. The presentation shall be made as close as feasible to the fiftieth anniversary of the attack on Pearl Harbor. The medal may be accepted by the next of kin of any such person who was killed in action during that attack or who has since died.

(c) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medal authorized by paragraph (1) in bronze with suitable emblems, devices, and inscriptions to be determined by the Secretary of the Treasury.

(d) ELIGIBILITY REQUIREMENTS.—(1) To be eligible to be presented the medal referred to in subsection (b), a person must have been a member of the Armed Forces of the United States who was present in Hawaii on December 7, 1941, and who participated in combat operations that day against Japanese military forces attacking Hawaii. A person who was killed or wounded in that attack shall be deemed to have participated in the combat operations.

(2) To establish the eligibility required by paragraph (1), a person must present to the Secretary of Defense an application with such supporting documentation as the person may have to support such person's eligibility or the eligibility of a next of kin. The Secretary of Defense shall determine, through the documentation provided and, if necessary, independent investigation whether the person meets the criteria prescribed in paragraph (1).

(e) CERTIFICATION.—The Secretary of Defense shall, within 12 months after the date of enactment of this Act, certify to the Speaker of the House of Representatives and the President pro tempore of the Senate the names of persons eligible to receive the medal.

(f) NEXT OF KIN.—If applications for a medal are filed by more than one next of kin of a person eligible to receive a medal under this section, the Secretary of Defense shall determine which next of kin will receive the medal.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sum as may be necessary to carry out this section.

SEC. 1493. YOSEMITE NATIONAL PARK CENTENNIAL MEDAL

(a) STRIKING AND DESIGN OF MEDALS.—In commemoration of the centennial of Yosemite National Park in 1990, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall strike medals with suitable emblems, devices, and inscriptions capturing the scenic and historic significance of the park. The design of the medals shall be determined by the Secretary in consultation with the Secretary of the Interior and the Commission on Fine Arts.

(b) SALE OF MEDALS.—(1) Notwithstanding any other provision of law, the medals issued under this section shall be sold by the Secretary at a price equal to the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses) and the surcharge provided for in paragraph (3).

(2) The Secretary shall make bulk sales at a reasonable discount.

(3) The sale of each medal shall include a surcharge of $2.

(c) DISTRIBUTION OF SURCHARGES.—Proceeds realized from surcharges on medals sold under this section shall be promptly paid by the Secretary to a permanent endowment fund for the benefit of Yosemite National Park. Such endowment shall be administered by the National Park Foundation. The net income from the fund shall be paid to the Secretary of the Interior for funding special supplemental projects relating to (1) back country trail development and rehabilitation, and (2) the preservation of Sequoia groves within the boundaries of Yosemite National Park.

(d) SALE OF MEDALS IN NATIONAL PARK FACILITIES.—The Secretary and the Secretary of the Interior shall enter into a memorandum of agreement to permit—

(1) the Secretary to deliver medals to the Secretary of the Interior; and

(2) the Secretary of the Interior to provide for the sale of the medals in National Park facilities.

(e) METAL CONTENT AND SIZE OF MEDALS.—The medals authorized to be struck and delivered under this section shall be struck in bronze and in the size determined by the Secretary in consultation with the Secretary of the Interior.

(f) EXAMINATION OF RECORDS.—The Comptroller General of the United States shall have the right to examine all books, documents, and other records of the National Park Foundation related to the medals authorized by this section.

SEC. 1494. NATIONAL MEDALS

The medals authorized by sections 1491, 1492, and 1493 are national medals for purposes of chapter 51 of title 31, United States Code.

TITLE XV—ARMED FORCES RETIREMENT HOME

Armed Forces Retirement Home Act of 1991.

SEC. 1501. SHORT TITLE

24 USC 401 note.

This title may be cited as the "Armed Forces Retirement Home Act of 1991".

24 USC 401.

SEC. 1502. DEFINITIONS

For purposes of this title:

(1) The term "Retirement Home" means the Armed Forces Retirement Home established under section 1511(a).

(2) The term "Retirement Home Board" means the Armed Forces Retirement Home Board.

(3) The term "Local Board" means a Board of Trustees established for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.

(4) The term "Director" means a Director of the Armed Forces Retirement Home appointed under section 1517(a).

(5) The term "Fund" means the Armed Forces Retirement Home Trust Fund established under section 1519(a).

(6) The term "Armed Forces" does not include the Coast Guard when it is not operating as a service in the Navy.

(7) The term "chief personnel officers" means—

(A) the Deputy Chief of Staff for Personnel of the Army;

(B) the Chief of Naval Personnel;

(C) the Deputy Chief of Staff, Manpower and Personnel of the Air Force; and

(D) the Deputy Chief of Staff for Manpower of the Marine Corps.

(8) The term "senior noncommissioned officers" means the following:

(A) The Sergeant Major of the Army.

(B) The Master Chief Petty Officer of the Navy.

(C) The Chief Master Sergeant of the Air Force.

(D) The Sergeant Major of the Marine Corps.

PART A—ESTABLISHMENT AND OPERATION OF RETIREMENT HOME

SEC. 1511. ESTABLISHMENT OF THE ARMED FORCES RETIREMENT HOME

24 USC 411.

(a) INCLUSION OF EXISTING HOMES.—The United States Soldiers' and Airmen's Home and the Naval Home are hereby incorporated into an independent establishment in the Executive branch of the Federal Government to be known as the Armed Forces Retirement Home.

(b) PURPOSE.—The purpose of the Retirement Home is to provide, through the United States Soldiers' and Airmen's Home and the Naval Home, a residence and related services for certain retired and former members of the Armed Forces.

(c) OPERATION.—Each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes shall be operated by a Director under the overall supervision of the Armed Forces Retirement Home Board.

(d) PROPERTY AND FACILITIES.—(1) The Retirement Home shall consist of such property and facilities as may be transferred to the Retirement Home or acquired by the Retirement Home Board for inclusion in the Retirement Home.

(2) On the effective date specified in section 1541(a), the property and facilities known and operated as the Naval Home and the United States Soldiers' and Airmen's Home shall be transferred to, and made a part of, the Retirement Home.

(e) ACCREDITATION.—The Retirement Home Board shall endeavor to secure for each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes the accreditation of that facility by a nationally recognized civilian accrediting organization, such as the Continuing Care

Accreditation Commission and the Joint Commission for Accreditation of Health Organizations.

24 USC 412.

SEC. 1512. RESIDENTS OF RETIREMENT HOME

(a) PERSONS ELIGIBLE TO BE RESIDENTS.—Except as provided in subsection (b), the following persons who served as members of the Armed Forces, at least one-half of whose service was not active commissioned service (other than as a warrant officer or limited-duty officer), are eligible to become residents of the Retirement Home:

(1) Persons who—

(A) are 60 years of age or over; and

(B) were discharged or released from service in the Armed Forces under honorable conditions after 20 or more years of active service.

(2) Persons who are determined under rules prescribed by the Retirement Home Board to be incapable of earning a livelihood because of a service-connected disability incurred in the line of duty in the Armed Forces.

(3) Persons who—

(A) served in a war theater during a time of war declared by Congress or were eligible for hostile fire special pay under section 310 of title 37, United States Code;

(B) were discharged or released from service in the Armed Forces under honorable conditions; and

(C) are determined under rules prescribed by the Retirement Home Board to be incapable of earning a livelihood because of injuries, disease, or disability.

(4) Persons who—

Women.

(A) served in a women's component of the Armed Forces before the enactment of the Women's Armed Services Integration Act of 1948; and

(B) are determined under rules prescribed by the Retirement Home Board to be eligible for admission because of compelling personal circumstances.

(b) PERSONS INELIGIBLE TO BE RESIDENTS.—A person described in subsection (a) who has been convicted of a felony or is not free of drug, alcohol, or psychiatric problems shall be ineligible to become a resident of the Retirement Home.

(c) ACCEPTANCE.—To apply for acceptance as a resident of a facility of the Retirement Home, a person eligible to be a resident shall submit to the Director of that facility an application in such form and containing such information as the Retirement Home Board may require.

(d) PRIORITIES FOR ACCEPTANCE.—The Retirement Home Board shall establish a system of priorities for the acceptance of residents so that the most deserving applicants will be accepted whenever the number of eligible applicants is greater than the Retirement Home can accommodate.

(e) EFFECT OF DEPARTURE.—A resident of the Retirement Home who leaves the Retirement Home for more than 45 consecutive days (other than for inpatient medical care) shall be required to reapply for acceptance as a resident.

(f) APPLICATION OF ELIGIBILITY REQUIREMENTS TO CURRENT RESIDENTS OF THE NAVAL HOME AND THE SOLDIERS' AND AIRMEN'S HOME.—Residents of the Naval Home and the United States Sol-

diers' and Airmen's Home as of the effective date specified in section 1541(a)—

(1) shall not be required to apply for acceptance as residents of the Retirement Home; and

(2) shall become residents of the Retirement Home on that date.

SEC. 1513. SERVICES PROVIDED RESIDENTS 24 USC 413.

(a) SERVICES PROVIDED.—Except as provided in subsection (b), a resident of the Retirement Home shall receive the services authorized by the Retirement Home Board.

(b) MEDICAL AND DENTAL CARE.—The Retirement Home shall provide for the overall health care needs of residents in a high quality and cost-effective manner, including on site primary care, medical care, and a continuum of long-term care services. Secondary and tertiary hospital care for residents that is not available at the Retirement Home shall be obtained through agreements with facilities administered by the Secretary of Veterans Affairs or the Secretary of Defense or at private facilities. The Retirement Home may not construct an acute care facility.

SEC. 1514. FEES PAID BY RESIDENTS 24 USC 414.

(a) MONTHLY FEES.—The Directors shall collect from each resident of the Retirement Home a monthly fee.

(b) DEPOSIT OF FEES.—The Directors shall deposit fees collected under subsection (a) in the Armed Forces Retirement Home Trust Fund.

(c) FIXING FEES.—(1) The Retirement Home Board shall from time to time fix the fee required by subsection (a) on the basis of the financial needs of the Retirement Home and the ability of the residents to pay.

(2) The fee shall be fixed as a percentage of Federal payments made to a resident, including monthly retired or retainer pay, monthly civil service annuity, monthly compensation or pension paid to the resident by the Secretary of Veterans Affairs, and Social Security payments. Residents who do not receive such Federal payments shall be required to pay a monthly fee that is equivalent to the average monthly fee paid by residents who receive Federal payments, subject to such adjustments in the fee as the Retirement Home Board may make. The percentage shall be the same for each establishment of the Retirement Home.

(d) APPLICATION OF FEES TO CURRENT RESIDENTS OF THE NAVAL HOME AND THE SOLDIERS' AND AIRMEN'S HOME.—(1) Each resident of the Naval Home who becomes a resident of the Retirement Home on the effective date specified in section 1541(a) shall begin paying a monthly fee that is equal to 12.5 percent of the Federal payments made to the resident. Each year thereafter, the fee for such resident under this subsection shall be increased 2.5 percent until the percentage fixed under subsection (c) has been reached. Such percentage increase may be adjusted so that the conversion to the fee fixed under subsection (c) is accomplished under this subsection within six years after such effective date.

(2) A resident of the United States Soldiers' and Airmen's Home who becomes a resident of the Retirement Home on such date and who received Federal payments referred to in subsection (c) that were not considered for purposes of determining the resident's monthly fee for the United States Soldiers' and Airmen's Home

shall have that fee increased by an amount that is equal to 12.5 percent of the monthly equivalent of those payments for the first year and 2.5 percent of the monthly equivalent of those payments each year thereafter until the percentage fixed pursuant to subsection (c) has been reached.

(e) APPLICATION OF FEES FOR NEW RESIDENTS.—A person who becomes a resident of the Retirement Home after the effective date specified in section 1541(a) shall be required to pay a monthly fee that is equal to 25 percent of Federal payments made to the resident, subject to such adjustments in the fee as may be made under subsection (c).

24 USC 415.

SEC. 1515. COMPOSITION AND OPERATION OF RETIREMENT HOME BOARD

(a) ESTABLISHMENT.—There is hereby established the Armed Forces Retirement Home Board. The Retirement Home Board shall exercise policy oversight over the Retirement Home and oversee the activities of any local boards of trustees.

(b) MEMBERS.—The Retirement Home Board shall consist of not less than 16 members who shall be appointed by the Secretary of Defense, unless otherwise indicated, as follows:

(1) One representative from the office of the Assistant Secretary of Defense (Force Management and Personnel).

(2) One representative from the Department of Defense Comptroller's office.

(3) One representative from the office of the Assistant Secretary of Defense (Health Affairs).

(4) One representative from the office of the General Counsel of the Department of Defense.

(5) Two persons who are experts in the operations of retirement homes and who are not officers or employees of the United States.

(6) Two persons who are gerontologists and who are not officers or employees of the United States.

(7) Two persons who are personnel chiefs of the Armed Forces.

(8) Two persons who are senior noncommissioned officers of the Armed Forces.

(9) One representative from the Office of Management and Budget who shall be designated by the Director of the Office of Management and Budget.

(10) One representative from a national noncommissioned officer association or a military retiree council who shall be a nonvoting member of the Board.

(11) One representative of the Secretary of Veterans Affairs who shall be designated by that Secretary.

(12) One officer or employee of the Department of Health and Human Services who shall be designated by the Secretary of Health and Human Services.

Reports.

(c) LOCAL BOARDS.—Each establishment of the Retirement Home shall have a Board of trustees which shall exercise operational oversight over the respective facility and provide reports to the Retirement Home Board at least twice annually. Each Local Board shall consist of at least 11 members appointed by the Secretaries of the military departments. The local boards shall consist of the following:

(1) One person who is a civilian expert in nursing home or retirement home administration and financing from the geographical area of each facility.

(2) One person who is a civilian expert in gerontology from the geographical area of each facility.

(3) One person who is a service expert in financial management.

(4) One representative from the Department of Veterans Affairs regional office nearest in proximity to each facility who shall be designated by the Secretary of Veterans Affairs.

(5) One representative from the resident advisory committee or council of the respective facility who shall be a nonvoting member.

(6) One enlisted representative of the Services' Retiree Advisory Council.

(7) The senior noncommissioned officer of an Armed Force.

(8) One senior representative from the military hospital nearest in proximity to each facility.

(9) One senior representative from the Judge Advocate General's Corps from one of the Armed Services.

(10) The director of the respective facility who shall be a nonvoting member.

(11) One senior representative of one of the chief personnel officers of the Armed Services.

(d) CHAIRMEN.—(1) The Secretary of Defense shall select one of the members of the Retirement Home Board to serve as chairman. The term of office of the chairman of the Retirement Home Board shall be five years.

(2) The Secretaries of the military departments shall select the chairman for each Local Board from the members of that board. The term of office of the chairman of a Local Board shall be three years.

(e) TERMS.—(1) Except as provided in subsection (f), the term of office of each member of the Retirement Home Board and each Local Board shall be five years.

(2) A member whose term of office has expired may continue to serve until the successor for the member is appointed or designated.

(f) FIRST APPOINTMENT AND DESIGNATION.—Not later than the effective date specified in section 1541(a), members of the Retirement Home Board and the members of each Local Board shall be first appointed to staggered terms.

(g) VACANCIES.—(1) A vacancy in the Retirement Home Board or a Local Board shall be filled in the manner in which the original appointment or designation was made.

(2) A member appointed or designated to fill a vacancy occurring before the end of the term of the predecessor of the member shall be appointed or designated, as the case may be, for the remainder of the term for which the predecessor was appointed.

(3) A vacancy in the Retirement Home Board or a Local Board shall not affect its authority to perform its duties.

(h) COMPENSATION.—(1) Except as provided in paragraph (2), members of the Retirement Home Board and members of the Local Boards shall—

(A) be provided a stipend consistent with the daily government consultant fee for each day in which the member is engaged in the performance of services for the Retirement Home Board or a Local Board; and

(B) while away from home or regular place of business in the performance of services for the Retirement Home Board or a Local Board, be allowed travel expenses (including per diem in lieu of subsistence) in the same manner as a person employed

intermittently in Government under sections 5701 through 5707 of title 5, United States Code.

(2) A member of the Retirement Home Board or a Local Board who is a member of the Armed Forces on active duty or a full-time officer or employee of the United States shall receive no additional pay by reason of service on the Retirement Home Board or a Local Board.

(i) MEETINGS.—(1) The Retirement Home Board shall meet twice a year, or at more frequent intervals, at the call of the chairman or a majority of the members.

(2) The first meeting of the Retirement Home Board shall be held during the 30-day period beginning on the later of—

(A) the effective date specified in section 1541(a); and

(B) the date on which the last of the five members required by subsection (b) to be appointed is first appointed.

24 USC 416.

SEC. 1516. DUTIES OF RETIREMENT HOME BOARD

(a) OVERALL OPERATION OF THE RETIREMENT HOME.—The Retirement Home Board shall be responsible for the overall operation of the Retirement Home. As part of such responsibilities, the Retirement Home Board shall perform the following duties:

(1) Issue and ensure compliance with appropriate rules for the operation of the Retirement Home.

(2) Periodically visit, and inspect the operation of, the facilities of the Retirement Home.

(3) Periodically examine and audit the accounts of the Retirement Home.

(4) Establish such advisory bodies as the Retirement Home Board considers to be necessary.

(b) SPECIAL DUTIES OF SPECIFIC MEMBERS.—The Retirement Home Board shall assign specific members of the Retirement Home Board appointed under section 1515(b) to oversee the operations of each facility of the Retirement Home maintained as a separate establishment of the Retirement Home for administrative purposes.

(c) ACQUISITION OF REAL PROPERTY.—The Retirement Home Board may acquire, for the benefit of the Retirement Home, property and facilities for inclusion in the Retirement Home.

(d) LIMITATION ON THE DISPOSAL OF REAL PROPERTY.—(1) Real property of the Retirement Home may not be disposed of by the Retirement Home Board by sale or otherwise unless the disposal of the property is specifically authorized by law.

(2) In any case in which any real property is sold by the Retirement Home Board, the Board shall deposit moneys received from the sale of the property in the Armed Forces Retirement Home Trust Fund.

(e) GIFTS.—(1) The Retirement Home Board may accept gifts of money, property, and facilities on behalf of the Retirement Home.

(2) Monies received as gifts, or realized from the disposition of property and facilities received as gifts, shall be deposited in the Fund.

(f) ANNUAL REPORT.—Not later than 90 days after the end of each fiscal year, the Retirement Home Board shall submit to the Secretary of Defense, for transmission to Congress, a report describing the financial and other affairs of the Retirement Home for that fiscal year.

SEC. 1517. DIRECTORS AND STAFF 24 USC 417.

(a) APPOINTMENT AND QUALIFICATIONS.—(1) The Secretary of Defense shall appoint a Director for each separate establishment of the Retirement Home.

(2) Each Director shall be appointed from among persons recommended by the Retirement Home Board who—

(A) are not officers of the Armed Forces on active duty; and

(B) have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and a significant military background.

(3) Each Director shall be required to pursue a course of study to receive certification as a retirement facilities director by an appropriate civilian certifying organization if the Director is not so certified at the time of appointment.

(b) APPLICATION OF CIVIL SERVICE LAWS TO APPOINTMENT AND FIXING PAY.—The Secretary of Defense may appoint the Director referred to in subsection (a) and Deputy Directors for the Retirement Home without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(c) TERM OF DIRECTOR.—The term of office of a Director shall be five years. A Director may be reappointed for one additional term upon the completion of the first term of office unless the Director has failed to successfully complete a course of study to receive certification as a retirement facilities director.

(d) DUTIES OF DIRECTORS.—(1) A Director shall be responsible for the day-to-day operation of the facility of the Retirement Home for which the Director is appointed, including the acceptance of applicants to be residents of that facility.

(2) The Director shall keep accurate and complete records of the operations of that facility of the Retirement Home.

(e) STAFF.—(1) A Director, subject to the approval of the Retirement Home Board, may appoint and fix the pay of such principal staff as the Director considers appropriate to assist the Director in operating the facility of the Retirement Home for which the Director is appointed.

(2) The staff shall include persons with experience and expertise in the operation and management of retirement homes and in the provision of long-term medical care for older persons.

(3) The Director may exempt four physicians employed at the Retirement Home from the provisions of subsections (a), (b), and (c) of section 5532 of title 5, United States Code, if the Director determines that the exemption is necessary to recruit or retain well-qualified physicians for the Retirement Home. An exemption granted under this section shall apply to the retired pay of the physician payable for the first month after the month in which the exemption is granted and shall terminate upon any break in employment with the Retirement Home of three days or more.

(f) INITIAL OPERATION.—(1) Until the date on which the Secretary of Defense first appoints the Director for the establishment of the Retirement Home known as the Naval Home, the Governor of the Naval Home shall operate that facility consistent with this Act and other laws applicable to the Retirement Home.

(2) Until the date on which the Secretary of Defense first appoints the Director for the facility of the Retirement Home known as the United States Soldiers' and Airmen's Home, the Governor of the

United States Soldiers' and Airmen's Home shall operate that establishment consistent with this Act and other laws applicable to the Retirement Home.

24 USC 418.

SEC. 1518. INSPECTION BY INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE

The Inspector General of the Department of Defense shall—

(1) conduct, not later than three years after the effective date specified in section 1541(a) (and at six-year intervals thereafter), an inspection of the Retirement Home and the records of the Retirement Home;

(2) cause the Inspector Generals of the military departments to conduct an inspection of the Retirement Home and its records at six-year intervals alternating with the inspections by the Inspector General of the Department of Defense so that each home is inspected every three years; and

(3) submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.

24 USC 419.

SEC. 1519. RETIREMENT HOME TRUST FUND

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a trust fund to be known as the Armed Forces Retirement Home Trust Fund. The Fund shall consist of the following:

(1) Such amounts as may be transferred to the Fund.

(2) Moneys deposited in the Fund by the Retirement Home Board realized from gifts or from the disposition of property and facilities.

(3) Amounts deposited in the Fund as monthly fees paid by residents of the Retirement Home under section 1514.

(4) Amounts of fines and forfeitures deposited in the Fund under section 2772 of title 10, United States Code.

(5) Amounts deposited in the Fund as deductions from the pay of enlisted members, warrant officers, and limited duty officers under section 1007(i) of title 37, United States Code.

(6) Interest from investments made under subsection (c).

(b) AVAILABILITY AND USE OF FUND.—Amounts in the Fund shall be available solely for the operation of the Retirement Home.

(c) INVESTMENTS.—The Secretary of the Treasury may invest in obligations issued or guaranteed by the United States any monies in the Fund that the Director determines are not currently needed to pay for the operation of the Retirement Home.

(d) TRANSITIONAL ACCOUNTS.—(1) During the period beginning on the date of the enactment of this Act and ending on September 30, 1994, the Fund shall contain a separate account for each establishment of the Retirement Home. During that period, contributions shall be collected under subsection (a) for the account of the Naval Home for the purpose of achieving a trust fund five times the estimated annual operating budget of the Naval Home.

(2) Beginning on the date of the enactment of this Act, funds required for the operation of the United States Soldiers' and Airmen's Home shall be drawn from the appropriate account. Beginning on October 1, 1991, funds required for the operation of the Naval Home shall be drawn from the account of the Naval Home.

(3) During the period beginning on the date of the enactment of this Act and ending on September 30, 1994—

(A) amounts collected as monthly fees paid by residents of the Naval Home and amounts referred to in subsections (a)(4) and (a)(5) derived from enlisted members, warrant officers, and limited duty officers of the Navy, Marine Corps, and Coast Guard shall be credited to the account relating to that establishment; and

(B) amounts collected as monthly fees paid by residents of the United States Soldiers' and Airmen's Home and amounts referred to in subsections (a)(4) and (a)(5) derived from members and warrant officers of the Army and Air Force shall be credited to the account relating to that establishment.

SEC. 1520. DISPOSITION OF EFFECTS OF DECEASED PERSONS; UNCLAIMED PROPERTY

24 USC 420.

(a) EFFECTS OF DECEASED PERSONS.—The Directors of the establishments of the Retirement Home shall safeguard and dispose of the effects of a deceased person delivered to the Retirement Home under section 4712(f) or 9712(f) of title 10, United States Code, and the estate and effects of a deceased resident of the Armed Forces Retirement Home as follows:

(1) A will or other paper involving property rights shall be promptly delivered to the proper court of record.

(2) If the heirs or legal representative of the deceased cannot sooner be ascertained, the Directors shall retain the remaining effects until three years after the death of the deceased, and then, if a right to the effects is established to the satisfaction of the Directors, shall deliver the effects to the living person highest on the following list who can be found:

(A) The surviving spouse or legal representative.

(B) A child of the deceased.

(C) A parent of the deceased.

(D) A brother or sister of the deceased.

(E) The next-of-kin of the deceased.

(F) A beneficiary named in the will of the deceased.

(b) SALE OF EFFECTS.—(1) After three years from the date of death of the deceased, the Directors may sell the effects to which a right has not been established under subsection (a) (except decorations, medals, and citations) by public or private sale, as the Directors consider most advantageous.

(2) After five years from the date of death of the deceased, the Directors shall dispose of effects that were not sold under paragraph (1) (including decorations, medals, and citations) and to which a right has not been established under subsection (a). The sale shall be made in the manner that the Directors consider most appropriate in the public interest. Disposal may include—

(A) retaining the effects for the use of the Retirement Home;

(B) delivering the effects to the Secretary of Veterans Affairs, to a State or other military home, to a museum, or to any other appropriate institution; or

(C) destroying the effects if the Retirement Home Board determines that they are valueless.

(c) TRANSFER OF PROCEEDS TO THE FUND.—The net proceeds received by the Directors from the sale of effects under subsection (b) shall be deposited in the Fund.

(d) SUBSEQUENT CLAIM.—(1) A claim for the net proceeds of the sale under subsection (b) of the effects of a deceased may be filed with the Comptroller General of the United States at any time

within six years after the death of the deceased, for action under section 2771 of title 10, United States Code.

(2) A claim referred to in paragraph (1) may not be considered by a court or the Comptroller General unless the claim is filed within the time period prescribed in such paragraph.

(3) A claim allowed by the Comptroller General under paragraph (1) shall be certified to the Secretary of the Treasury for payment from the Fund in the amount found due, including any interest relating to the amount. No claim may be allowed or paid in excess of the net proceeds of the estate deposited in the Fund under subsection (c) plus interest.

(e) UNCLAIMED PROPERTY.—In the case of property delivered to the Retirement Home under section 2575 of title 10, United States Code, the Directors shall deliver the property to the owner, the heirs or next of kin of the owner, or the legal representative of the owner, if a right to the property is established to the satisfaction of the Directors within two years after the delivery.

PART B—TRANSITIONAL PROVISIONS

24 USC 431.

SEC. 1531. TRANSFER OF TRUST FUNDS RELATING TO THE NAVAL HOME AND THE SOLDIERS' AND AIRMEN'S HOME

(a) INITIAL TRANSFER.—(1) On the date of the enactment of this Act, all monies in the funds named in paragraph (2) shall be transferred to the appropriate account in the Armed Forces Retirement Home Trust Fund, and those funds shall terminate.

(2) The funds referred to in paragraph (1) are the following:

(A) Soldiers' Home, permanent fund, referred to in paragraph (59) of section 1321(a) of title 31, United States Code.

(B) Soldiers' Home, interest fund, referred to in paragraph (81) of such section.

(C) Personal funds of deceased inmates, Naval Home, referred to in paragraph (5) of such section.

(D) Any new category of funds created for the Naval Home or the United States Soldiers' and Airmen's Home before that date.

(b) SUBSEQUENT TRANSFERS.—After the termination of the funds referred to in subsection (a), any monies that would be deposited into one of those funds but for the termination of that fund under subsection (a) shall be deposited into the Armed Forces Retirement Home Trust Fund.

SEC. 1532. REPEAL OF PROVISIONS RELATING TO THE NAVAL HOME AND THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

(a) LAWS RELATING TO THE NAVAL HOME.—The following provisions of law are repealed:

(1) Section 11 of the Act of August 2, 1946 (60 Stat. 854; 24 U.S.C. 21a).

(2) Section 9 of the Act of June 26, 1934 (48 Stat. 1229; 24 U.S.C. 21b).

(3) The second, third, fourth, and fifth provisos relating to the maintenance of the Naval Home under the heading "BUREAU OF NAVIGATION" in the Act of June 30, 1914 (38 Stat. 398; 24 U.S.C. 22, 23).

(4) The proviso relating to the maintenance of the Naval Home under the heading "BUREAU OF NAVIGATION" in the Act of March 4, 1917 (39 Stat. 1175; 24 U.S.C. 24).

(5) The first proviso relating to miscellaneous expenses of the Naval Home under the heading "BUREAU OF NAVIGATION" of the Act of August 22, 1912 (37 Stat. 334; 24 U.S.C. 25).

(b) LAWS RELATING TO THE SOLDIERS' AND AIRMEN'S HOME.—The following provisions of law are repealed:

(1) Chapter 2 of title LIX of the Revised Statutes of the United States (24 U.S.C. 41, 43, 45, 49, 50). 24 USC 54.

(2) The Act entitled "An Act prescribing regulations for the Soldiers' Home located at Washington in the District of Columbia, and for other purposes", approved March 3, 1883 (22 Stat. 564; 24 U.S.C. 41, 43, 46, 48, 59).

(3) The proviso relating to the military prison at Fort Leavenworth, Kansas, under the heading "MISCELLANEOUS OBJECTS, WAR DEPARTMENT" in the Act of March 4, 1909 (35 Stat. 1004; 24 U.S.C. 42).

(4) Section 1 of Public Law 94-454 (90 Stat. 1518; 24 U.S.C. 44b).

(5) The proviso under the heading "UNITED STATES SOLDIERS' HOME" in title II of the Act of April 9, 1935 (49 Stat. 147; 24 U.S.C. 46a).

(6) The proviso under the heading "UNITED STATES SOLDIERS' HOME" in the Act of July 19, 1937 (50 Stat. 519; 24 U.S.C. 46b).

SEC. 1533. CONFORMING AMENDMENTS

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Section 1089 is amended—

(A) in subsection (a) by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home"; and

(B) in subsection (g), by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the Armed Forces Retirement Home Board, in the case of an employee of the Armed Forces Retirement Home; and".

(2) Section 2575 is amended—

(A) in subsection (a), by striking out "section 4712, 4713, 6522, 9712, or 9713" and inserting in lieu thereof "section 4712, 6522, or 9712"; and

(B) in subsection (c)—

(i) by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home";

(ii) by striking out "the Secretary of the Army or the Secretary of the Air Force," and inserting in lieu thereof "the Secretary of a military department,"; and

(iii) by striking out the last sentence of such subsection.

(3) Effective on the date of the enactment of this Act, section 2772 is amended—

(A) by inserting "and forfeitures" after "fines" both places it appears; and

(B) by striking out "or warrant officer" each place it appears and inserting in lieu thereof ", warrant officer, or limited duty officer".

(4)(A) Section 2772 is amended to read as follows:

"§ 2772. Share of fines and forfeitures to benefit Armed Forces Retirement Home

"(a) DEPOSIT REQUIRED.—The Secretary of the military department concerned shall deposit in the Armed Forces Retirement Home Trust Fund a percentage (determined under subsection (b)) of the following amounts:

"(1) The amount of forfeitures and fines adjudged against an enlisted member, warrant officer, or limited duty officer of the armed forces by sentence of a court martial or under authority of section 815 of this title (article 15) over and above any amount that may be due from the member, warrant officer, or limited duty officer for the reimbursement of the United States or any individual.

"(2) The amount of forfeitures on account of the desertion of an enlisted member, warrant officer, or limited duty officer of the armed forces.

"(b) DETERMINATION OF PERCENTAGE.—The Armed Forces Retirement Home Board shall determine, on the basis of the financial needs of the Armed Forces Retirement Home, the percentage of the amounts referred to in subsection (a) to be deposited in the trust fund referred to in such subsection.

"(c) APPLICATION TO COAST GUARD.—In this section, the term 'armed forces' does not include the Coast Guard when it is not operating as a service in the Navy.".

(B) The item relating to such section in the table of sections at the beginning of chapter 165 is amended by striking out "retirement homes" and inserting in lieu thereof "Retirement Home".

(5)(A) Section 4624(c) is amended by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home".

(B) The heading of such section is amended to read as follows:

"§ 4624. Medical supplies: civilian employees of the Army; American National Red Cross; Armed Forces Retirement Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 439 is amended to read as follows:

"4624. Medical supplies: civilian employees of the Army; American National Red Cross; Armed Forces Retirement Home.".

(6) Section 4712 is amended—

(A) in subsection (a)(2), by striking out "an inmate of the United States Soldiers' and Airmen's Home" and inserting in lieu thereof "a resident of the Armed Forces Retirement Home"; and

(B) in subsection (f)—

(i) by striking out "for transmission to the United States Soldiers' and Airmen's Home"; and

(ii) by adding at the end the following: "The Secretary of the Army shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Army under this subsection.".

Repeal.

(7)(A) Section 4713 is repealed.

(B) The table of sections at the beginning of chapter 445 is amended by striking out the item relating to such section.

(8)(A) Section 9624(c) is amended by striking out "United States Soldiers' and Airmen's Home" and inserting in lieu thereof "Armed Forces Retirement Home".

(B) The heading of such section is amended to read as follows:

"§ 9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Armed Forces Retirement Home".

(C) The item relating to such section in the table of sections at the beginning of chapter 939 is amended to read as follows:

"9624. Medical supplies: civilian employees of the Air Force; American National Red Cross; Armed Forces Retirement Home.".

(9) Section 9712 is amended—

(A) in subsection (a)(2), by striking out "an inmate of the United States Soldiers' and Airmen's Home" and inserting in lieu thereof "a resident of the Armed Forces Retirement Home"; and

(B) in subsection (f)—

(i) by striking out "for transmission to the United States Soldiers' and Airmen's Home"; and

(ii) by adding at the end the following: "The Secretary of the Air Force shall deliver to the Armed Forces Retirement Home all items received by the executive part of the Department of the Air Force under this subsection."

(10)(A) Section 9713 is repealed. Repeal.

(B) The table of sections at the beginning of chapter 945 is amended by striking out the item relating to section 9713.

(b) TITLE 37.—Section 1007(i) of title 37, United States Code, is amended—

(1) in paragraphs (1), (2)(B), and (3), by striking out "and warrant officer" and inserting in lieu thereof ", warrant officer, and limited duty officer";

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) Amounts deducted under paragraph (1) shall be deposited in the Armed Forces Retirement Home Trust Fund.";

(3) in paragraph (3)—

(A) by striking out "the Governor" and all that follows through "Airmen's Home," and inserting in lieu thereof "the Armed Forces Retirement Home Board,"; and

(B) by striking out "the homes" and inserting in lieu thereof "the Armed Forces Retirement Home"; and

(4) in paragraph (5), by striking out "or warrant officer" and inserting in lieu thereof ", warrant officer, or limited duty officer".

(c) OTHER LAWS.—(1) Section 1321 of title 31, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) Armed Forces Retirement Home Trust Fund."; and

(ii) by striking out paragraphs (59) and (81); and

(B) in subsection (b), by striking out "Soldiers' Home, Permanent Fund" both places it appears and inserting in lieu thereof "Armed Forces Retirement Home Trust Fund".

(2) Section 3 of the Act of June 15, 1943 (chapter 125; 57 Stat. 153; 24 U.S.C. 6a) is amended by striking out "naval home or".

(3) Section 906 of title 44, United States Code, is amended in the undesignated subparagraph relating to the provision of the Congressional Record to the United States Soldiers' Home by striking out "the United States Soldiers' Home and" and inserting in lieu thereof "each separate establishment of the Armed Forces Retirement Home,".

PART C—EFFECTIVE DATE AND AUTHORIZATION OF APPROPRIATIONS

24 USC 401 note.

SEC. 1541. EFFECTIVE DATE

(a) IN GENERAL.—Except where otherwise specified, this title and the amendments made by this title shall take effect one year after the date of the enactment of this Act.

(b) ESTABLISHMENT OF FUND.—Sections 1519, 1531, and 1533(c)(1) shall take effect on the date of the enactment of this Act.

(c) APPOINTMENT OF BOARD.—The provisions of section 1515 relating to the appointment and designation of members of the Retirement Home Board and Local Boards shall take effect on October 1, 1991.

24 USC 441.

SEC. 1542. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES SOLDIERS' AND AIRMEN'S HOME

There is authorized to be appropriated for fiscal year 1991 from the Soldiers' Home, Permanent Fund, the sum of $53,999,000 for the operation of the United States Soldiers' and Airmen's Home. This section shall take effect on the date of the enactment of this Act.

TITLE XVI—CHARTER FOR 82ND AIRBORNE DIVISION ASSOCIATION, INCORPORATED

36 USC 4801.

SEC. 1601. CHARTER

The 82nd Airborne Division Association, Incorporated, a nonprofit corporation organized under the laws of the State of Illinois, is recognized as such and is granted a Federal charter.

36 USC 4802.

SEC. 1602. POWERS

The 82nd Airborne Division Association, Incorporated (hereinafter in this title referred to as the "corporation"), shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

36 USC 4803.

SEC. 1603. OBJECTS AND PURPOSES OF CORPORATION

The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) perpetuating the memory of members of the 82nd Airborne Division who fought and died for this Nation;

(2) furthering the common bond between retired and active members of the 82nd Airborne Division;

(3) providing educational assistance in the form of college scholarships and grants to the qualified children of current and former members of the 82nd Airborne Division;

(4) promoting civic and patriotic activities; and
(5) promoting the indispensable role of airborne defense to the national security of the United States.

SEC. 1604. SERVICE OF PROCESS 36 USC 4804.

With respect to service of process, the corporation shall comply with the laws of the State or States in which it is incorporated and the State or States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 1605. MEMBERSHIP 36 USC 4805.

(a) Subject to subsection (b), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

(b) Terms of membership and requirements for holding office within the corporation shall not discriminate on the basis of race, color, national origin, sex, religion, or handicapped status.

SEC. 1606. BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES 36 USC 4806.

The composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1607. OFFICERS OF CORPORATION 36 USC 4807.

The positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and shall be in conformity with the laws of the State or States in which it is incorporated.

SEC. 1608. RESTRICTIONS 36 USC 4808.

(a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual and necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

SEC. 1609. LIABILITY 36 USC 4809.

The corporation shall be liable for the acts of its officers and agents whenever such officer and agents have acted within the scope of their authority.

SEC. 1610. BOOKS AND RECORDS; INSPECTION 36 USC 4810.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation

involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 1611. AUDIT OF FINANCIAL TRANSACTIONS

The first session of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(74) 82nd Airborne Division Association, Incorporated.".

36 USC 4811.

SEC. 1612. ANNUAL REPORT

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the time as the report of the audit of the corporation required by section 2 of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101). The report shall not be printed as a public document.

36 USC 4812.

SEC. 1613. RESERVATION OF RIGHT TO AMEND, ALTER, OR REPEAL CHARTER

The right to amend, alter, or repeal this title is expressly reserved to the Congress.

36 USC 4813.

SEC. 1614. DEFINITION OF STATE

For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

36 USC 4814.

SEC. 1615. TAX-EXEMPT STATUS

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986.

36 USC 4815.

SEC. 1616. TERMINATION

If the corporation fails to comply with any of the restrictions or provisions of this title, the charter granted by this title shall expire.

TITLE XVII—MISSILE TECHNOLOGY CONTROLS

Sec. 1701. Policy.
Sec. 1702. Amendment to the Export Administration Act of 1979.
Sec. 1703. Amendment to the Arms Export Control Act of 1979.
Sec. 1704. Report on missile proliferation.

50 USC app. 2402 note.

SEC. 1701. POLICY

It should be the policy of the United States to take all appropriate measures—

(1) to discourage the proliferation, development, and production of the weapons, material, and technology necessary to

produce or acquire missiles that can deliver weapons of mass destruction;

(2) to discourage countries and private persons in other countries from aiding and abetting any states from acquiring such weapons, material, and technology;

(3) to strengthen United States and existing multilateral export controls to prohibit the flow of materials, equipment, and technology that would assist countries in acquiring the ability to produce or acquire missiles that can deliver weapons of mass destruction, including missiles, warheads and weaponization technology, targeting technology, test and evaluation technology, and range and weapons effect measurement technology; and

(4) with respect to the Missile Technology Control Regime ("MTCR") and its participating governments—

(A) to improve enforcement and seek a common and stricter interpretation among MTCR members of MTCR principles;

(B) to increase the number of countries that adhere to the MTCR; and

(C) to increase information sharing among United States agencies and among governments on missile technology transfer, including export licensing, and enforcement activities.

SEC. 1702. AMENDMENT TO THE EXPORT ADMINISTRATION ACT OF 1979

(a) MISSILE TECHNOLOGY CONTROLS.—Section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended—

(1) by redesignating subsections (k) through (p) as subsections (m) through (r), respectively; and

(2) by inserting after subsection (j) the following:

"(k) NEGOTIATIONS WITH OTHER COUNTRIES.—

"(1) COUNTRIES PARTICIPATING IN CERTAIN AGREEMENTS.—The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with those countries participating in the groups known as the Coordinating Committee, the Missile Technology Control Regime, the Australia Group, and the Nuclear Suppliers' Group, regarding their cooperation in restricting the export of goods and technology in order to carry out—

"(A) the policy set forth in section 3(2)(B) of this Act, and

"(B) United States policy opposing the proliferation of chemical, biological, nuclear, and other weapons and their delivery systems, and effectively restricting the export of dual use components of such weapons and their delivery systems, in accordance with this subsection and subsections (a) and (l).

Such negotiations shall cover, among other issues, which goods and technology should be subject to multilaterally agreed export restrictions, and the implementation of the restrictions consistent with the principles identified in section 5(b)(2)(C) of this Act.

"(2) OTHER COUNTRIES.—The Secretary of State, in consultation with the Secretary, the Secretary of Defense, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with countries and groups of

countries not referred to in paragraph (1) regarding their cooperation in restricting the export of goods and technology consistent with purposes set forth in paragraph (1). In cases where such negotiations produce agreements on export restrictions that the Secretary, in consultation with the Secretary of State and the Secretary of Defense, determines to be consistent with the principles identified in section 5(b)(2)(C) of this Act, the Secretary may treat exports, whether by individual or multiple licenses, to countries party to such agreements in the same manner as exports are treated to countries that are MTCR adherents.

"(3) REVIEW OF DETERMINATIONS.—The Secretary shall annually review any determination under paragraph (2) with respect to a country. For each such country which the Secretary determines is not meeting the requirements of an effective export control system in accordance with section 5(b)(2)(C), the Secretary shall restrict or eliminate any preferential licensing treatment for exports to that country provided under this subsection.

"(l) MISSILE TECHNOLOGY.—

"(1) DETERMINATION OF CONTROLLED ITEMS.—The Secretary, in consultation with the Secretary of State, the Secretary of Defense, and the heads of other appropriate departments and agencies—

(A) shall establish and maintain, as part of the control list established under this section, a list of all dual use goods and technology on the MTCR Annex; and

(B) may include, as part of the control list established under this section, goods and technology that would provide a direct and immediate impact on the development of missile delivery systems and are not included in the MTCR Annex but which the United States is proposing to the other MTCR adherents to have included in the MTCR Annex.

"(2) REQUIREMENT OF INDIVIDUAL VALIDATED LICENSES.—The Secretary shall require an individual validated license for—

"(A) any export of goods or technology on the list established under paragraph (1) to any country; and

"(B) any export of goods or technology that the exporter knows is destined for a project or facility for the design, development, or manufacture of a missile in a country that is not an MTCR adherent.

"(3) POLICY OF DENIAL OF LICENSES.—(A) Licenses under paragraph (2) should in general be denied if the ultimate consignee of the goods or technology is a facility in a country that is not an adherent to the Missile Technology Control Regime and the facility is designed to develop or build missiles.

"(B) Licenses under paragraph (2) shall be denied if the ultimate consignee of the goods or technology is a facility in a country the government of which has been determined under subsection (j) to have repeatedly provided support for acts of international terrorism.

"(4) CONSULTATION WITH OTHER DEPARTMENTS.—(A) A determination of the Secretary to approve an export license under paragraph (2) for the export of goods or technology to a country of concern regarding missile proliferation may be made only after consultation with the Secretary of Defense and the Sec-

retary of State for a period of 20 days. The countries of concern referred to in the preceding sentence shall be maintained on a classified list by the Secretary of State, in consultation with the Secretary and the Secretary of Defense.

"(B) Should the Secretary of Defense disagree with the determination of the Secretary to approve an export license to which subparagraph (A) applies, the Secretary of Defense shall so notify the Secretary within the 20 days provided for consultation on the determination. The Secretary of Defense shall at the same time submit the matter to the President for resolution of the dispute. The Secretary shall also submit the Secretary's recommendation to the President on the license application.

"(C) The President shall approve or disapprove the export license application within 20 days after receiving the submission of the Secretary of Defense under subparagraph (B). President.

"(D) Should the Secretary of Defense fail to notify the Secretary within the time period prescribed in subparagraph (B), the Secretary may approve the license application without awaiting the notification by the Secretary of Defense. Should the President fail to notify the Secretary of his decision on the export license application within the time period prescribed in subparagraph (C), the Secretary may approve the license application without awaiting the President's decision on the license application.

"(E) Within 10 days after an export license is issued under this subsection, the Secretary shall provide to the Secretary of Defense and the Secretary of State the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

"(5) INFORMATION SHARING.—The Secretary shall establish a procedure for information sharing with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.".

(b) SANCTIONS FOR MISSILE TECHNOLOGY PROLIFERATION.—The Export Administration Act of 1979 is amended by inserting after section 11A (50 U.S.C. App. 2410a) the following:

"MISSILE PROLIFERATION CONTROL VIOLATIONS President.

"SEC. 11B. (a) VIOLATIONS BY UNITED STATES PERSONS.— 50 USC app. 2410b.

"(1) SANCTIONS.—(A) If the President determines that a United States person knowingly—

"(i) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 (22 U.S.C. 2778) or chapter 7 of the Arms Export Control Act, section 5 or 6 of this Act, or any regulations or orders issued under any such provisions,

"(ii) conspires to or attempts to engage in such export, transfer, or trade, or

"(iii) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in subparagraph (B).

"(B) The sanctions which apply to a United States person under subparagraph (A) are the following:

"(i) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person, for a period of 2 years, licenses for the transfer of missile equipment or technology controlled under this Act.

"(ii) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR Annex, then the President shall deny to such United States person, for a period of not less than 2 years, all licenses for items the export of which is controlled under this Act.

"(2) DISCRETIONARY SANCTIONS.—In the case of any determination referred to in paragraph (1), the Secretary may pursue any other appropriate penalties under section 11 of this Act.

"(3) WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(A) the product or service is essential to the national security of the United States; and

"(B) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(b) TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS.—

"(1) SANCTIONS.—(A) Subject to paragraphs (3) through (7), if the President determines that a foreign person, after the date of the enactment of this section, knowingly—

"(i) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

"(ii) conspires to or attempts to engage in such export, transfer, or trade, or

"(iii) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 73(a) of the Arms Export Control Act, then the President shall impose on that foreign person the applicable sanctions under subparagraph (B).

"(B) The sanctions which apply to a foreign person under subparagraph (A) are the following:

"(i) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years, licenses for the transfer to such foreign person of missile equipment or technology the export of which is controlled under this Act.

"(ii) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years, licenses for

the transfer to such foreign person of items the export of which is controlled under this Act.

"(iii) If, in addition to actions taken under clauses (i) and (ii), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

"(2) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Paragraph (1) does not apply with respect to—

"(A) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

"(B) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

"(3) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in paragraph (1) may not be imposed under this subsection on a person with respect to acts described in such paragraph or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

"(4) ADVISORY OPINIONS.—The Secretary, in consultation with the Secretary of State and the Secretary of Defense, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this subsection. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(5) WAIVER AND REPORT TO CONGRESS.—(A) In any case other than one in which an advisory opinion has been issued under paragraph (4) stating that a proposed activity would not subject a person to sanctions under this subsection, the President may waive the application of paragraph (1) to a foreign person if the President determines that such waiver is essential to the national security of the United States.

"(B) In the event that the President decides to apply the waiver described in subparagraph (A), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver. Reports.

"(6) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(A) the product or service is essential to the national security of the United States; and

"(B) such person is a sole source supplier of the product or service, the product or service is not available from any

alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(7) EXCEPTIONS.—The President shall not apply the sanction under this subsection prohibiting the importation of the products of a foreign person—

"(A) in the case of procurement of defense articles or defense services—

"(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

"(ii) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

"(iii) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

"(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

"(C) to—

"(i) spare parts,

"(ii) component parts, but not finished products, essential to United States products or production,

"(iii) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

"(iv) information and technology essential to United States products or production.

"(c) DEFINITIONS.—For purposes of this section and subsections (k) and (l) of section 6—

"(1) the term 'missile' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

"(2) the term 'Missile Technology Control Regime' or 'MTCR' means the policy statement, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

"(3) the term 'MTCR adherent' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(4) the term 'MTCR Annex' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

"(5) the terms 'missile equipment or technology' and 'MTCR equipment or technology' mean those items listed in category I or category II of the MTCR Annex;

"(6) the term 'foreign person' means any person other than a United States person;

"(7)(A) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term 'person' means—

"(i) all activities of that government relating to the development or production of any missile equipment or technology; and

"(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

"(8) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.".

SEC. 1703. AMENDMENT TO THE ARMS EXPORT CONTROL ACT

The Arms Export Control Act is amended by inserting after chapter 6 (22 U.S.C. 2795b. et seq.) the following new chapter:

"CHAPTER 7—CONTROL OF MISSILES AND MISSILE EQUIPMENT OR TECHNOLOGY

"SEC. 71. LICENSING

22 USC 2797.

"(a) ESTABLISHMENT OF LIST OF CONTROLLED ITEMS.—The Secretary of State, in consultation with the Secretary of Defense and the heads of other appropriate departments and agencies, shall establish and maintain, as part of the United States Munitions List, a list of all items on the MTCR Annex the export of which is not controlled under section 6(l) of the Export Administration Act of 1979.

"(b) REFERRAL OF LICENSE APPLICATIONS.—(1) A determination of the Secretary of State to approve a license for the export of an item on the list established under subsection (a) may be made only after the license application is referred to the Secretary of Defense.

"(2) Within 10 days after a license is issued for the export of an item on the list established under subsection (a), the Secretary of State shall provide to the Secretary of Defense and the Secretary of Commerce the license application and accompanying documents issued to the applicant, to the extent that the relevant Secretary indicates the need to receive such application and documents.

"(c) INFORMATION SHARING.—The Secretary of State shall establish a procedure for sharing information with appropriate officials of the intelligence community, as determined by the Director of Central Intelligence, and with other appropriate Government agencies, that will ensure effective monitoring of transfers of MTCR equipment or technology and other missile technology.

"SEC. 72. DENIAL OF THE TRANSFER OF MISSILE EQUIPMENT OR TECHNOLOGY BY UNITED STATES PERSONS

President.
22 USC 2797a.

"(a) SANCTIONS.—(1) If the President determines that a United States person knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any item on the MTCR Annex, in violation of the provisions of section 38 of this Act, section 5 or 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2404, 2405), or any regulations or orders issued under any such provisions,

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

then the President shall impose the applicable sanctions described in paragraph (2).

"(2) The sanctions which apply to a United States person under paragraph (1) are the following:

"(A) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category II of the MTCR Annex, then the President shall deny to such United States person for a period of 2 years—

Government contracts.

"(i) United States Government contracts relating to missile equipment or technology; and

"(ii) licenses for the transfer of missile equipment or technology controlled under this Act.

"(B) If the item on the MTCR Annex involved in the export, transfer, or trade is missile equipment or technology within category I of the MTCR, then the President shall deny to such United States person for a period of not less than 2 years—

"(i) all United States Government contracts, and

"(ii) all export licenses and agreements for items on the United States Munitions List.

"(b) DISCRETIONARY SANCTIONS.—In the case of any determination made pursuant to subsection (a), the President may pursue any penalty provided in section 38(c) of this Act.

"(c) WAIVER.—The President may waive the imposition of sanctions under subsection (a) with respect to a product or service if the President certifies to the Congress that—

"(1) the product or service is essential to the national security of the United States; and

"(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

President.
22 USC 2797b.

"SEC. 73. TRANSFERS OF MISSILE EQUIPMENT OR TECHNOLOGY BY FOREIGN PERSONS

"(a) SANCTIONS.—(1) Subject to subsections (c) through (g), if the President determines that a foreign person, after the date of the enactment of this chapter, knowingly—

"(A) exports, transfers, or otherwise engages in the trade of any MTCR equipment or technology that contributes to the design, development, or production of missiles in a country that is not an MTCR adherent and would be, if it were United States-origin equipment or technology, subject to the jurisdiction of the United States under this Act,

"(B) conspires to or attempts to engage in such export, transfer, or trade, or

"(C) facilitates such export, transfer, or trade by any other person,

or if the President has made a determination with respect to a foreign person under section 11B(b)(1) of the Export Administration Act of 1979, then the President shall impose on that foreign person the applicable sanctions under paragraph (2).

"(2) The sanctions which apply to a foreign person under paragraph (1) are the following:

"(A) If the item involved in the export, transfer, or trade is within category II of the MTCR Annex, then the President shall deny, for a period of 2 years— Government contracts.

"(i) United States Government contracts relating to missile equipment or technology; and

"(ii) licenses for the transfer to such foreign person of missile equipment or technology controlled under this Act.

"(B) If the item involved in the export, transfer, or trade is within category I of the MTCR Annex, then the President shall deny, for a period of not less than 2 years—

"(i) all United States Government contracts with such foreign person; and

"(ii) licenses for the transfer to such foreign person of all items on the United States Munitions List.

"(C) If, in addition to actions taken under subparagraphs (A) and (B), the President determines that the export, transfer, or trade has substantially contributed to the design, development, or production of missiles in a country that is not an MTCR adherent, then the President shall prohibit, for a period of not less than 2 years, the importation into the United States of products produced by that foreign person.

"(b) INAPPLICABILITY WITH RESPECT TO MTCR ADHERENTS.—Subsection (a) does not apply with respect to—

"(1) any export, transfer, or trading activity that is authorized by the laws of an MTCR adherent, if such authorization is not obtained by misrepresentation or fraud; or

"(2) any export, transfer, or trade of an item to an end user in a country that is an MTCR adherent.

"(c) EFFECT OF ENFORCEMENT ACTIONS BY MTCR ADHERENTS.—Sanctions set forth in subsection (a) may not be imposed under this section on a person with respect to acts described in such subsection or, if such sanctions are in effect against a person on account of such acts, such sanctions shall be terminated, if an MTCR adherent is taking judicial or other enforcement action against that person with respect to such acts, or that person has been found by the government of an MTCR adherent to be innocent of wrongdoing with respect to such acts.

"(d) ADVISORY OPINIONS.—The Secretary of State, in consultation with the Secretary of Defense and the Secretary of Commerce, may, upon the request of any person, issue an advisory opinion to that person as to whether a proposed activity by that person would subject that person to sanctions under this section. Any person who relies in good faith on such an advisory opinion which states that the proposed activity would not subject a person to such sanctions, and any person who thereafter engages in such activity, may not be made subject to such sanctions on account of such activity.

"(e) WAIVER AND REPORT TO CONGRESS.—(1) In any case other than one in which an advisory opinion has been issued under subsection (d) stating that a proposed activity would not subject a person to sanctions under this section, the President may waive the application of subsection (a) to a foreign person if the President determines

that such waiver is essential to the national security of the United States.

"(2) In the event that the President decides to apply the waiver described in paragraph (1), the President shall so notify the Congress not less than 20 working days before issuing the waiver. Such notification shall include a report fully articulating the rationale and circumstances which led the President to apply the waiver.

"(f) ADDITIONAL WAIVER.—The President may waive the imposition of sanctions under paragraph (1) on a person with respect to a product or service if the President certifies to the Congress that—

"(1) the product or service is essential to the national security of the United States; and

"(2) such person is a sole source supplier of the product or service, the product or service is not available from any alternative reliable supplier, and the need for the product or service cannot be met in a timely manner by improved manufacturing processes or technological developments.

"(g) EXCEPTIONS.—The President shall not apply the sanction under this section prohibiting the importation of the products of a foreign person—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy requirements essential to the national security of the United States;

"(B) if the President determines that the person to which the sanctions would be applied is a sole source supplier of the defense articles and services, that the defense articles or services are essential to the national security of the United States, and that alternative sources are not readily or reasonably available; or

"(C) if the President determines that such articles or services are essential to the national security of the United States under defense coproduction agreements or NATO Programs of Cooperation;

"(2) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose the sanctions; or

"(3) to—

"(A) spare parts,

"(B) component parts, but not finished products, essential to United States products or production,

"(C) routine services and maintenance of products, to the extent that alternative sources are not readily or reasonably available, or

"(D) information and technology essential to United States products or production.

22 USC 2797c.

"SEC. 74. DEFINITIONS

For purposes of this chapter—

"(1) the term 'missile' means a category I system as defined in the MTCR Annex, and any other unmanned delivery system of similar capability, as well as the specially designed production facilities for these systems;

"(2) the term 'Missile Technology Control Regime' or 'MTCR' means the policy statement, between the United States, the

United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on the MTCR Annex, and any amendments thereto;

"(3) the term 'MTCR adherent' means a country that participates in the MTCR or that, pursuant to an international understanding to which the United States is a party, controls MTCR equipment or technology in accordance with the criteria and standards set forth in the MTCR;

"(4) the term 'MTCR Annex' means the Guidelines and Equipment and Technology Annex of the MTCR, and any amendments thereto;

"(5) the terms 'missile equipment or technology' and 'MTCR equipment or technology' mean those items listed in category I or category II of the MTCR Annex;

"(6) the term 'United States person' has the meaning given that term in section 16(2) of the Export Administration Act of 1979 (50 U.S.C. App. 2415(2));

"(7) the term 'foreign person' means any person other than a United States person;

"(8)(A) the term 'person' means a natural person as well as a corporation, business association, partnership, society, trust, any other nongovernmental entity, organization, or group, and any governmental entity operating as a business enterprise, and any successor of any such entity; and

"(B) in the case of countries where it may be impossible to identify a specific governmental entity referred to in subparagraph (A), the term 'person' means—

"(i) all activities of that government relating to the development or production of any missile equipment or technology; and

"(ii) all activities of that government affecting the development or production of aircraft, electronics, and space systems or equipment; and

"(9) the term 'otherwise engaged in the trade of' means, with respect to a particular export or transfer, to be a freight forwarder or designated exporting agent, or a consignee or end user of the item to be exported or transferred.".

SEC. 1704. REPORT ON MISSILE PROLIFERATION

22 USC 2797 note.

(a) CONTENTS OF REPORT.—Not later than 90 days after the date of the enactment of this Act, and every 180 days thereafter, the President shall submit to the Congress a report on international transfers of aircraft which the Secretary has reason to believe may be intended to be used for the delivery of nuclear, biological, or chemical weapons (hereinafter in this section referred to as "NBC capable aircraft") and international transfers of MTCR equipment or technology to any country that is not an MTCR adherent and is seeking to acquire such equipment or technology, other than those countries excluded in subsection (b). Each such report shall include—

(1) the status of missile and aircraft development programs in any such country, including efforts by such country to acquire MTCR equipment or technology and NBC capable aircraft and an assessment of the present and future capability of such country to produce and utilize such weapons;

(2) a description of assistance provided, after the date of the enactment of this Act, to any such country, in the development of missile systems, as defined in the MTCR, and NBC capable aircraft by persons and other countries, specifying those persons and other countries which continue to provide MTCR equipment or technology to such country as of the date of the report;

(3) a description of diplomatic measures that the United States has taken or that other MTCR adherents have made to the United States with respect to activities of private persons and countries suspected of violating the MTCR;

(4) an analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other MTCR adherents to control the export of MTCR equipment or technology;

(5) a determination of whether transfers of MTCR equipment or technology by any country pose a significant threat to the national security of the United States;

(6) a summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 and under section 73(d) of the Arms Export Control Act; and

(7) an explanation of United States policy regarding the tranfer of MTCR equipment or technology to foreign missile programs, including space launch vehicle programs.

(b) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, Denmark, the Federal Republic of Germany, France, Greece, Iceland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Turkey, and the United Kingdom.

(c) CLASSIFICATION.—The President shall make every effort to submit all of the information required by subsection (a) in unclassified form. Whenever the President submits any such information in classified form, he shall submit such classified information in an addendum and shall also submit simultaneously a detailed summary, in unclassified form, of such classified information.

(d) DEFINITIONS.—For purposes of this section, the terms "missile", "MTCR", "MTCR equipment or technology", and "MTCR adherent" have the meanings given those terms in section 74 of the Arms Export Control Act.

TITLE XVIII—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

SEC. 1801. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

(a) PROGRAM REQUIRED.—(1) Title 10, United States Code, is amended by inserting after chapter 171 the following new chapter:

"CHAPTER 172—STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM

"Sec.

"2901. Strategic Environmental Research and Development Program.
"2902. Strategic Environmental Research and Development Program Council.
"2903. Executive Director.
"2904. Strategic Environmental Research and Development Program Scientific Advisory Board.

"§ 2901. Strategic Environmental Research and Development Program

"(a) The Secretary of Defense shall establish a program to be known as the 'Strategic Environmental Research and Development Program'.

"(b) The purposes of the program are as follows:

"(1) To address environmental matters of concern to the Department of Defense and the Department of Energy through support for basic and applied research and development of technologies that can enhance the capabilities of the departments to meet their environmental obligations.

"(2) To identify research, technologies, and other information developed by the Department of Defense and the Department of Energy for national defense purposes that would be useful to governmental and private organizations involved in the development of energy technologies and of technologies to address environmental restoration, waste minimization, hazardous waste substitution, and other environmental concerns, and to share such research, technologies, and other information with such governmental and private organizations.

"(3) To furnish other governmental organizations and private organizations with data, enhanced data collection capabilities, and enhanced analytical capabilities for use by such organizations in the conduct of environmental research, including research concerning global environmental change.

"(4) To identify technologies developed by the private sector that are useful for Department of Defense and Department of Energy defense activities concerning environmental restoration, hazardous and solid waste minimization and prevention, hazardous material substitution, and provide for the use of such technologies in the conduct of such activities.

"§ 2902. Strategic Environmental Research and Development Program Council

"(a) There is a Strategic Environmental Research and Development Program Council (hereinafter in this chapter referred to as the 'Council').

"(b) The Council is composed of nine members as follows:

"(1) The Assistant Secretary of Defense responsible for matters relating to production and logistics.

"(2) The Director of Defense Research and Engineering.

"(3) The Vice Chairman of the Joint Chiefs of Staff.

"(4) The Assistant Secretary of the Air Force responsible for matters relating to space.

"(5) The Assistant Secretary of Energy for Defense programs.

"(6) The Director of the Department of Energy Office of Environmental Restoration and Waste Management.

"(7) The Director of the Department of Energy Office of Energy Research.

"(8) The Administrator of the Environmental Protection Agency.

"(9) The Executive Director of the Council (appointed pursuant to section 2903 of this title), who shall be a nonvoting member.

"(c) The Secretary of Defense shall designate a member of the Council as chairman for each odd numbered fiscal year. The Sec-

retary of Energy shall designate a member of the Council as chairman for each even-numbered fiscal year.

"(d) The Council shall have the following responsibilities:

"(1) To prescribe policies and procedures to implement the Strategic Environmental Research and Development Program.

"(2) To enter into contracts, grants, and other financial arrangements, in accordance with other applicable law, to carry out the purposes of the Strategic Environmental Research and Development Program.

"(3) To prepare an annual five-year strategic environmental research and development plan that shall cover the fiscal year in which the plan is prepared and the four fiscal years following such fiscal year.

"(4) To promote the maximum exchange of information, and to minimize duplication, regarding environmentally related research, development, and demonstration activities through close coordination with the military departments and Defense Agencies, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, other departments and agencies of the Federal Government or any State and local governments, including the Federal Coordinating Council on Science, Engineering, and Technology, and other organizations engaged in such activities.

"(5) To ensure that research and development activities under the Strategic Environmental Research and Development Program do not duplicate other ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, or any other department or agency of the Federal Government.

"(6) To ensure that the research and development programs identified for support pursuant to policies and procedures prescribed by the council utilize, to the maximum extent possible, the talents, skills, and abilities residing at the Federal laboratories, including the Department of Energy multiprogram and defense laboratories, the Department of Defense laboratories, and Federal contract research centers. To utilize the research capabilities of institutions of higher education and private industry to the extent practicable.

"(e) In carrying out subsection (d)(1), the Council shall prescribe policies and procedures that—

"(1) provide for appropriate access by Federal Government personnel, State and local government personnel, college and university personnel, industry personnel, and the general public to data under the control of, or otherwise available to, the Department of Defense that is relevant to environmental matters by—

"(A) identifying the sources of such data;

"(B) publicizing the availability and sources of such data by appropriately-targeted dissemination of information to such personnel and the general public, and by other means; and

"(C) providing for review of classified data relevant to environmental matters with a view to declassifying or preparing unclassified summaries of such data;

"(2) provide governmental and nongovernmental entities with analytic assistance, consistent with national defense missions, including access to military platforms for sensor deployment and access to computer capabilities, in order to facilitate environmental research;

"(3) provide for the identification of energy technologies developed for national defense purposes (including electricity generation systems, energy storage systems, alternative fuels, biomass energy technology, and applied materials technology) that might have environmentally sound, energy efficient applications for other programs of the Department of Defense and the Department of Energy national security programs, particularly technologies that have the potential for industrial, commercial, and other governmental applications, and to support programs of research in and development of such applications;

"(4) provide for the identification and support of programs of basic and applied research, development, and demonstration in technologies useful—

"(A) to facilitate environmental compliance, remediation, and restoration activities of the Department of Defense and at Department of Energy defense facilities;

"(B) to minimize waste generation, including reduction at the source, by such departments; or

"(C) to substitute use of nonhazardous, nontoxic, nonpolluting, and other environmentally sound materials and substances for use of hazardous, toxic, and polluting materials and substances by such departments;

"(5) provide for the identification and support of research, development, and application of other technologies developed for national defense purposes which not only are directly useful for programs, projects, and activities of such departments, but also have useful applications for solutions to such national and international environmental problems as climate change and ozone depletion;

"(6) provide for the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, in cooperation with other Federal and State agencies, as appropriate, to conduct joint research, development, and demonstration projects relating to innovative technologies, management practices, and other approaches for purposes of—

"(A) preventing pollution from all sources;

"(B) minimizing hazardous and solid waste, including recycling; and

"(C) treating hazardous and solid waste, including the use of thermal, chemical, and biological treatment technologies;

"(7) encourage transfer of technologies referred to in clauses (2) through (6) to the private sector under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) and other applicable laws;

"(8) provide for the identification of, and planning for the demonstration and use of, existing environmentally sound, energy-efficient technologies developed by the private sector that could be used directly by the Department of Defense;

"(9) provide for the identification of military specifications that prevent or limit the use of environmentally beneficial technologies, materials, and substances in the performance of

Department of Defense contracts and recommend changes to such specifications; and

"(10) to ensure that the research and development programs identified for support pursuant to the policies and procedures prescribed by the Council are closely coordinated with, and do not duplicate, ongoing activities sponsored by the Department of Defense, the Department of Energy, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, or other Federal agencies.

"(f)(1) To assist the Council in preparing the five-year strategic environmental research and development plan under subsection (d)(3), the Secretary of Defense and the Secretary of Energy may each submit to the Council a proposal for conducting environmental research under this chapter. The Secretary of each department shall ensure that the environmental research proposal of the department includes—

"(A) short- and long-term, cooperative, basic, and applied research systems engineering and development programs in environmental research;

"(B) short- and long-term, basic research in environmental restoration at the respective laboratories of each department; and

"(C) participation by industry and institutions of higher education.

"(2) The Secretary of each department shall ensure that, in the development of its environmental research proposal, consideration is given to—

"(A) the need for increased research in basic science, including basic materials, physics, molecular structures, chemistry, and biology related to environmental research at that Department's defense operations, production, research, and maintenance facilities; and

"(B) ways to identify and conduct research and development on technologies for environmental restoration, remediation and waste cleanup activities, waste minimization, and hazardous and toxic materials substitution potential in defense production and maintenance activities.

"(3) The Secretary of each department shall transmit the proposal to the Council not later than July 1 of each year.

"(g) The Council shall be subject to the authority, direction, and control of the Secretary of Defense in prescribing policies and procedures under subsection (d)(1).

Reports.

"(h)(1) Not later than February 1 of each year, the Council shall submit to the Secretary of Defense an annual report on the annual five-year strategic environmental research and development plan prepared pursuant to subsection (d)(3).

"(2) The report shall contain the following:

"(A) A description of the actions to be taken during the five-year period covered by the plan in order to prevent duplication of research and development activities referred to in the policies and procedures prescribed pursuant to subsection (d)(1).

"(B) A description of the involvement with Federal interagency coordinating entities such as the Federal Coordinating Council on Science, Engineering, and Technology.

"(C) A description of each project selected or recommended by the Council for support and funding, including the duration of, and the total estimated or (if known) actual cost of—

"(i) each such project supported during the fiscal year in which the plan is submitted and the preceding fiscal year; and

"(ii) each such project proposed for funding during the fiscal year in which the annual report is submitted and the following four fiscal years.

"(D) The amounts requested, in the budget submitted to Congress pursuant to section 1105(a) of title 31 for the fiscal year following the fiscal year in which the annual report is submitted, for the programs, projects, and activities of the Strategic Environmental Research and Development Program and the estimated expenditures under such programs, projects, and activities during such following fiscal year.

"(E) The amount requested in such budget for each Federal laboratory, including each Department of Defense and Department of Energy laboratory.

"(F) The amount made available, for the fiscal year in which the annual report is submitted, to each Federal laboratory, including each Department of Defense and Department of Energy laboratory.

"(G) A description of any changes in military specifications recommended by the Council, actions to be taken to effectuate any such recommended changes on an expedited basis, and the projected date for each such change.

"(H) A description of all contracts, agreements, or other documents for cooperative research and development activities entered into pursuant to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) during the fiscal year preceding the fiscal year in which the annual report is submitted.

"(I) Plans for transferring technology and information to other governmental agencies and to nongovernmental organizations involved in environmental research and related matters.

"(J) A description of plans to increase access to data described in subsection (e)(1).

"(K) Such additional recommendations or proposals, including proposals for legislation, relating to the Strategic Environmental Research and Development Program as the Council considers appropriate.

"(3) The Council shall make a draft of the five-year strategic environmental research and development plan covered by each report available for public comment for a period of at least 30 days.

"(4) Not later than March 15 of each year the Secretary of Defense and the Secretary of Energy shall transmit the annual report to the Congress. The Secretary of Defense and the Secretary of Energy may submit such comments on the annual report as each Secretary considers appropriate. Reports.

"§ 2903. Executive Director

"(a) There shall be an Executive Director of the Council appointed by the Secretary of Defense after consultation with the Secretary of Energy.

"(b) Subject to the authority, direction, and control of the Secretary of Defense, the Executive Director is responsible for the

management of the Strategic Environmental Research and Development Program in accordance with the policies established by the Council.

"(c) The Executive Director may enter into contracts or other agreements in accordance with applicable law, except that the Executive Director shall first obtain the approval of the Council for any contract or agreement in an amount equal to or in excess of $500,000 or such lesser amount as the Council may prescribe.

"(d)(1) The Executive Director, with the concurrence of the Council, may appoint such professional and clerical staff as may be necessary to carry out the responsibilities and policies of the Council.

"(2) The Executive Director, with the concurrence of the Council and without regard to the provisions of chapter 51 of title 5 and subchapter III of chapter 53 of such title, may establish the rates of basic pay for professional, scientific, and technical employees appointed pursuant to paragraph (1). The authority provided in the preceding sentence shall expire two years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991.

"§ 2904. Strategic Environmental Research and Development Program Scientific Advisory Board

"(a) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall jointly appoint a Strategic Environmental Research and Development Program Scientific Advisory Board (hereafter in this section referred to as the 'Advisory Board') consisting of not less than six and not more than 13 members.

"(b)(1) The Science Advisor to the President, or his designee, shall be a permanent member of the Advisory Board.

"(2) Other members of the Advisory Board shall be appointed from among persons eminent in the fields of basic sciences, engineering, ocean and environmental sciences, education, research management, international and security affairs, health physics, health sciences, or social sciences, with due regard given to the equitable representation of scientists and engineers who are women or who represent minority groups. At least one member of the Advisory Board shall be a representative of environmental public interest groups and one member shall be a representative of the interests of State governments.

"(3) The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall request—

"(A) that the head of the National Academy of Sciences, in consultation with the head of the National Academy of Engineering and the head of the Institutes of Medicine of the National Academy of Sciences, nominate persons for appointment to the Advisory Board;

"(B) that the Council on Environmental Quality nominate for appointment to the Advisory Board at least one person who is a representative of environmental public interest groups; and

"(C) that the National Association of Governors nominate for appointment to the Advisory Board at least one person who is representative of the interests of State governments.

"(4) Members of the Advisory Board shall be appointed for terms of three years.

"(c) A member of the Advisory Board who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee, except for the purposes of chapter 81 of title 5 (relating to compensation for work-related injuries) and chapter 171 of title 28 (relating to tort claims).

"(d) The Advisory Board shall prescribe procedures for carrying out its responsibilities. Such procedures shall define a quorum as a majority of the members, provide for annual election of the Chairman by the members of the Advisory Board, and require at least four meetings of the Advisory Board each year.

"(e) The Council shall refer to the Advisory Board, and the Advisory Board shall review, each proposed research project including its estimated cost, for research in and development of technologies related to environmental activities in excess of $1,000,000. The Advisory Board shall make any recommendations to the Council that the Advisory Board considers appropriate regarding such project or proposal.

"(f) The Advisory Board may make recommendations to the Council regarding technologies, research, projects, programs, activities, and, if appropriate, funding within the scope of the Strategic Environmental Research and Development Program.

"(g) The Advisory Board shall assist and advise the Council in identifying the environmental data and analytical assistance activities that should be covered by the policies and procedures prescribed pursuant to section 2902(d)(1) of this title.

"(h) Not later than March 15 of each year, the Advisory Board shall submit to the Congress an annual report setting forth its actions during the year preceding the year in which the report is submitted and any recommendations, including recommendations on projects, programs, and information exchange and recommendations for legislation, that the Advisory Board considers appropriate regarding the Strategic Environmental Research and Development Program. Reports.

"(i) Each member of the Advisory Board shall be required to file a financial disclosure report under title I of the Ethics in Government Act of 1978 (5 U.S.C. App.).".

(2) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and at the beginning of part IV of such subtitle, are each amended by inserting after the item relating to chapter 171 the following:

"172. Strategic Environmental Research and Development Program ..... 2901".

(b) INITIAL APPOINTMENTS OF ADVISORY BOARD MEMBERS.—(1) The Secretary of Defense and the Secretary of Energy shall make the appointments required by section 2904(a) of title 10, United States Code (as added by subsection (a)(1)), not later than 60 days after the date of the enactment of this Act. 10 USC 2904 note.

(2) Up to one-half of the members originally appointed to the Strategic Environmental Research and Development Program Scientific Advisory Board established under section 2904 of title 10, United States Code, as added by subsection (a)(1), may be appointed for terms of not more than six and not less than two years in order to provide for staggered expiration of the terms of members. The Secretary of Defense and the Secretary of Energy, in consultation with the Administrator of the Environmental Protection Agency, shall designate the members appointed for terms authorized under this paragraph and shall specify the terms for which such members are appointed.

10 USC 2902 note.

(c) FIRST ANNUAL REPORT OF THE STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM COUNCIL.—(1) The first annual report required by section 2902(h) of title 10, United States Code, as added by subsection (a)(1), shall be submitted to the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency not later than February 1, 1992.

(2) The Strategic Environmental Research and Development Program Council shall conduct and include as part of the first annual report required pursuant to section 2902(h) of title 10, United States Code, as added by subsection (a)(1), an assessment of the advisability of, and various alternatives to, charging fees for information released, as required pursuant to sections 2901(b)(3), 2902(e)(1) and (2), and 2902(g)(2)(I) of such title (as so added), to private sector entities operating for a profit.

(3) The Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency shall submit to the Congress, with the annual report referred to in paragraph (1), any recommendations for changes in the structure or personnel of the Council that the Secretaries and the Administrator consider necessary to carry out the environmental activities of the strategic environmental research and development program.

10 USC 2904 note.

(d) FIRST ANNUAL REPORT OF THE STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM SCIENTIFIC ADVISORY BOARD.—The first annual report of the Strategic Environmental Research and Development Program Scientific Advisory Board required by section 2904(h) of title 10, United States Code, as added by subsection (a)(1), shall be submitted not later than March 15, 1992.

SEC. 1802. AVAILABILITY OF FUNDS

Of the amounts authorized to be appropriated pursuant to section 201, $200,000,000 shall be available for the Strategic Environmental Research and Development Program established under chapter 172 of title 10, United States Code, as added by section 1001. To the extent provided in appropriation Acts, the amount made available by this section shall remain available until expended.

Military Construction Authorization Act for Fiscal Year 1991.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1991".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS INSIDE THE UNITED STATES

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $93,100,000.

Redstone Arsenal, $14,400,000.
Fort Rucker, $3,400,000.

ALASKA

Fort Wainwright, $13,900,000.

ARIZONA

Fort Huachuca, $1,050,000.

ARKANSAS

Pine Bluff Arsenal, $1,600,000.

CALIFORNIA

Fort Irwin, $4,200,000.
Fort Ord, $7,400,000.

COLORADO

Fort Carson, $23,500,000.
Falcon Air Force Base, $1,450,000.

GEORGIA

Fort Benning, $10,880,000.
Fort Gordon, $10,600,000.
Fort Stewart, $1,650,000.

HAWAII

Schofield Barracks, $9,700,000.

INDIANA

Fort Benjamin Harrison, $5,600,000.

KANSAS

Fort Leavenworth, $34,000,000.
Fort Riley, $14,900,000.

KENTUCKY

Fort Campbell, $2,300,000.
Fort Knox, $25,400,000.

LOUISIANA

Fort Polk, $22,000,000.

MARYLAND

Aberdeen Proving Ground, $45,100,000.
Fort Detrick, $530,000.

MISSOURI

Fort Leonard Wood, $12,750,000.

NEW YORK

Fort Drum, $9,408,000.

NORTH CAROLINA

Fort Bragg, $60,070,000.

OKLAHOMA

Fort Sill, $25,150,000.

PENNSYLVANIA

Carlisle Barracks, $26,200,000.
Fort Indiantown Gap, $6,350,000.
Tobyhanna Army Depot, $6,800,000.

SOUTH CAROLINA

Fort Jackson, $1,600,000.

TEXAS

Camp Swift, $100,000.
Fort Bliss, $20,000,000.
Fort Hood, $43,269,000.
Fort Sam Houston, $33,700,000.

UTAH

Dugway Proving Ground, $450,000.
Tooele Army Depot, $11,800,000.

VIRGINIA

Fort A. P. Hill, $3,200,000.
Fort Belvoir, $2,500,000.
Fort Eustis, $530,000.
Fort Lee, $520,000.
Fort Myer, $2,150,000.
Fort Story, $1,600,000.

WASHINGTON

Fort Lewis, $18,000,000.

WISCONSIN

Fort McCoy, $24,400,000.

CONUS CLASSIFIED

Classified Location, $3,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States.

GERMANY

Kaiserslautern, $5,000,000.
Various, $2,500,000.

KOREA

K-16 Airfield, $1,500,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land), using amounts appropriated pursuant to section 2104(a)(7)(A), at the

following location, in the number of units shown, and in the amount shown:

Hawaii, Oahu, Various Locations, one hundred and thirty-eight units, $15,000,000.

Kansas, Fort Riley, two hundred and four units, $12,500,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $2,700,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2104(a)(7)(A), improve existing military family housing in an amount not to exceed $44,100,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,285,237,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $582,207,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $9,000,000.

(3) For the construction of the Ammunition Demilitarization Facility, Phase II, Tooele Army Depot, Utah, as authorized by section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2088), $49,400,000.

(4) For unspecified minor construction projects authorized under section 2805 of title 10, United States Code, $7,603,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $89,577,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $10,400,000.

(7) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $74,300,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,457,650,000, of which not more than $434,316,000 may be obligated or expended for the leasing of military family housing worldwide.

(8) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $5,100,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this division may not exceed the total amount—

(1) authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,000,000 (the balance of the amount authorized under section 2101(a) for the construction of the Ammunition Demilitarization Facility, Anniston Army Depot, Alabama).

SEC. 2105. AMMUNITION DEMILITARIZATION FACILITY, TOOELE ARMY DEPOT, UTAH

(a) PROJECT AMOUNT.—Section 2101(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2088) is amended by striking out "Tooele Army Depot, $92,300,000." and inserting in lieu thereof "Tooele Army Depot, $141,700,000.".

(b) TITLE TOTAL.—Section 2105(b) of such Act (102 Stat. 2091) is amended—

(1) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(2) by adding after paragraph (2) the following:

"(3) $49,400,000 (the balance of the amount authorized under section 2101(a) for the construction of the Ammunition Demilitarization Facility, Tooele Army Depot, Utah).".

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECT.—Notwithstanding the provisions of section 606(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167, 99 Stat. 982), authorizations for the following project authorized in section 102 of that Act, as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1185), section 2106(b) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 101 Stat. 2092), and section 2105(b) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1619), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

Family housing, new construction, six units, in the amount of $596,000 at Fort Myer, Virginia.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECT.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180, 101 Stat. 1206), authorizations for the following project authorized in section 2102 of that Act, as extended by section 2105(d) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1619) shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

Family housing, new construction, twenty-five units, in the amount of $2,200,000 at Fort A.P. Hill, Virginia.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1989 (Public Law 100-456, 102 Stat. 2115), authorizations for the following projects authorized in sections 2101 and 2102 of that Act shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing

funds for military construction for fiscal year 1992, whichever is later:

(1) Land acquisition in the amount of $410,000 at Fort Rucker, Alabama.

(2) Battalion Headquarters in the amount of $2,300,000 at Fort Wainwright, Alaska.

(3) Test and Evaluation Center in the amount of $5,400,000 at Fort Huachuca, Arizona.

(4) Chemical area security upgrade in the amount of $3,050,000 at Pine Bluff Arsenal, Arkansas.

(5) Chemical area security upgrade in the amount of $3,200,000 at Pueblo Depot Activity, Colorado.

(6) Chemical area security upgrade in the amount of $770,000 at Lexington-Blue Grass Depot Activity, Kentucky.

(7) Regional sewage system connection in the amount of $2,500,000 at United States Military Academy, New York.

(8) Chemical area security upgrade in the amount of $3,600,000 at Umatilla Depot Activity, Oregon.

(9) Industrial waste treatment plant in the amount of $1,900,000 at Letterkenny Army Depot, Pennsylvania.

(10) Chemical area security upgrade in the amount of $5,700,000 at Tooele Army Depot, Utah.

(11) Central wash facility in the amount of $4,000,000 at Fort Pickett, Virginia.

(12) Petroleum Field Training Center in the amount of $4,800,000 at Fort Lee, Virginia.

(13) Operations facility in the amount of $5,300,000 at Location 276 (Turkey).

(14) Intermediate staging facility in the amount of $11,300,000 at unspecified foreign location.

(15) Pre-positioned war material facilities in the amount of $4,450,000 at unspecified foreign locations.

(16) Family housing, new construction, one hundred and eight units, in the amount of $9,100,000 at Fort Bliss, Texas.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALASKA

Adak, Naval Air Station, $4,250,000.
Adak, Naval Security Group Activity, $3,000,000.
Amchitka, Fleet Surveillance Support Command, $31,000,000.

ARIZONA

Yuma, Marine Corps Air Station, $3,720,000.

CALIFORNIA

Bridgeport, Mountain Warfare Training Center, $11,300,000.
Camp Pendleton, Amphibious Task Force, $8,470,000.

Camp Pendleton, Marine Corps Air Station, $4,110,000.
Camp Pendleton, Marine Corps Base, $19,910,000.
China Lake, Naval Weapons Center, $17,585,000.
Corona, Naval Weapons Station, Seal Beach Annex, $8,870,000.
El Toro, Marine Corps Air Station, $6,980,000.
Lemoore, Naval Air Station, $900,000.
Long Beach, Naval Station, $3,520,000.
Miramar, Naval Air Station, $9,010,000.
Monterey, Naval Postgraduate School, $8,810,000.
North Island, Naval Air Station, $1,510,000.
Point Mugu, Pacific Missile Test Center, $2,070,000.
Port Hueneme, Naval Construction Battalion Center, $2,010,000.
Port Hueneme, Naval Ship Weapon Systems Engineering Station, $10,150,000.
San Diego, Fleet Anti-Submarine Warfare Training Center, Pacific, $8,950,000.
San Diego, Naval Ocean Systems Center, $11,760,000.
San Diego, Naval Submarine Base, $4,670,000.
San Diego, Naval Supply Center, $8,800,000.
San Diego, Naval Training Center, $15,229,000.
San Diego, Navy Public Works Center, $3,320,000.
Twentynine Palms, Marine Corps Air-Ground Combat Center, $10,820,000.

CONNECTICUT

New London, Naval Submarine Base, $22,500,000.
New London, Naval Submarine School, $18,990,000.

DISTRICT OF COLUMBIA

Washington, Naval Research Laboratory, $9,850,000.

FLORIDA

Jacksonville, Naval Air Station, $9,140,000.
Jacksonville, Naval Aviation Depot, $14,670,000.
Key West, Naval Air Station, $7,030,000.
Mayport, Fleet Training Center, $4,300,000.
Mayport, Naval Station, $4,950,000.
Orlando, Naval Training Center, $10,960,000.
Panama City, Naval Coastal Systems Center, $4,330,000.
Pensacola, Navy Public Works Center, $3,460,000.

GEORGIA

Albany, Marine Corps Logistics Base, $1,360,000.
Kings Bay, Naval Submarine Base, $77,475,000.

HAWAII

Kaneohe Bay, Marine Corps Air Station, $1,650,000.
Lualualei, Naval Magazine, $1,660,000.
Pearl Harbor, Commander Oceanographic System Pacific, $12,780,000.
Pearl Harbor, Naval Submarine Base, $2,010,000.
Pearl Harbor, Navy Public Works Center, $6,940,000.

ILLINOIS

Great Lakes, Naval Training Center, $2,170,000.
Great Lakes, Navy Public Works Center, $2,460,000.

INDIANA

Crane, Naval Weapons Support Center, $13,520,000.

KENTUCKY

Louisville, Naval Ordnance Station, $5,660,000.

MAINE

Kittery, Portsmouth Naval Shipyard, $38,182,000.

MARYLAND

Bethesda, National Naval Medical Center, $9,040,000.
Indian Head, Naval Ordnance Station, $12,430,000.
Patuxent River, Naval Air Test Center, $11,040,000.
Patuxent River, Naval Hospital, $2,510,000.
St. Inigoes, Naval Electronic Systems Engineering Activity, $4,020,000.

MISSISSIPPI

Gulfport, Naval Construction Training Center, $8,710,000.

NEW JERSEY

Earle, Naval Weapons Station, $85,400,000.

NORTH CAROLINA

Camp Lejeune, Marine Corps Base, $29,170,000.
Cherry Point, Marine Corps Air Station, $13,950,000.

PENNSYLVANIA

Warminster, Naval Air Development Center, $10,770,000.

RHODE ISLAND

Newport, Naval Education and Training Center, $7,430,000.
Newport, Naval Underwater Support Center, $13,700,000.

SOUTH CAROLINA

Beaufort, Marine Corps Air Station, $6,700,000.
Charleston, Naval Station, $720,000.
Charleston, Naval Weapons Station, $27,030,000.
Parris Island, Marine Corps Recruit Depot, $3,410,000.

TEXAS

Lackland Air Force Base, Naval Technical Training Center Detachment, $11,850,000.

VIRGINIA

Arlington, Headquarters Marine Corps, $2,810,000.

Dahlgren, Naval Space Surveillance System, $9,850,000.
Dam Neck, Fleet Combat Direction Systems Support Activity, $6,500,000.
Little Creek, Naval Amphibious Base, $22,870,000.
Little Creek, Naval Amphibious School, $2,600,000.
Norfolk, Fleet Training Center, $16,080,000.
Norfolk, Naval Station, $10,950,000.
Norfolk, Navy Public Works Center, $4,020,000.
Norfolk, Naval Shipyard, $14,600,000.
Oceana, Naval Air Station, $3,670,000.
Quantico, Marine Corps Combat Development Command, $34,114,000.
Quantico, Naval Research Laboratory Annex, $2,600,000.
Wallops Island, AEGIS Combat Systems Center, $5,490,000.

WASHINGTON

Bangor, Trident Refit Facility, $3,020,000.
Bangor, Trident Training Facility, $3,610,000.
Bremerton, Puget Sound Naval Shipyard, $22,000,000.
Everett, Naval Station, $22,267,000.
Keyport, Naval Undersea Warfare Engineering Station, $18,590,000.
Oak Harbor, Naval Hospital, $2,180,000.
Silverdale, Strategic Weapons Facility Pacific, $56,480,000.
Whidbey Island, Naval Facility, $1,750,000.

VARIOUS LOCATIONS

Land Acquisition, $4,400,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GUAM

Naval Magazine, $9,319,000.
Navy Public Works Center, $7,500,000.

ICELAND

Keflavik, Naval Air Station, $2,440,000.

ITALY

Sicily, Naval Communication Station, $1,513,000.
Sigonella, Naval Air Station, $8,390,000.

SPAIN

Rota, Naval Communication Station, $1,105,000.

VARIOUS LOCATIONS

Host Nation Infrastructure Support, $1,000,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(7)(A),

construct or acquire family housing units (including land), at the following installations in the number of units shown, and in the amount shown, for each installation:

Camp Pendleton, Marine Corps Base, California, one hundred and sixteen units, $11,805,000.

Long Beach, Naval Station, California, three hundred units, $24,928,000.

San Diego, Navy Public Works Center, California, three hundred units, $31,880,000.

Fallon Naval Air Station, Nevada, eighty units, $10,500,000.

Little Creek, Naval Amphibious Base, Virginia, Family Housing Office, $372,000.

Norfolk, Navy Public Works Center, Virginia, two Community Centers, $834,000.

Guantanamo Bay, Naval Station, Cuba, one hundred and thirty-four units, $18,409,000.

Keflavik, Naval Air Station, Iceland, one hundred and twelve units, $27,479,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $6,200,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(7)(A), improve existing military family housing units in the amount of $42,420,000.

SEC. 2204. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Naval Station, Charleston, South Carolina, $2,000,000.

Various locations, $4,017,000.

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,014,223,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $959,802,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $31,267,000.

(3) For the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland, as authorized by section 2201(a) of the Military Construction Authorization Act, 1989, $55,048,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $13,311,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $76,951,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $6,017,000.

(7) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $174,827,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $697,000,000, of which not more than $53,775,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this division may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $65,300,000 (the balance of the amount authorized under section 2201(a) for the construction of trestles replacement at Naval Weapons Station, Earle, New Jersey).

SEC. 2206. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1988 PROJECTS.—Notwithstanding the provisions of section 2171(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1206), authorizations for the following projects authorized in section 2121 of that Act, as extended by section 2205 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1628), shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Physical security improvements in the amount of $2,460,000 at the Naval Air Station, Sigonella, Italy.

(2) Cold-iron utilities support in the amount of $7,480,000 at Naval Support Office, La Maddelena, Italy.

(b) EXTENSION OF CERTAIN PREVIOUS AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Act, 1989 (division B of Public Law 100-456; 102 Stat. 2115), authorizations for the following projects authorized in sections 2201 and 2202 of that Act shall remain in effect until October 1, 1991, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Community Center in the amount of $1,046,000 at Marine Corps Air Station, Tustin, California.

(2) Child Care Center in the amount of $1,930,000 at Marine Corps Air-Ground Combat Center, Twentynine Palms, California.

(3) Fire Station in the amount of $2,500,000 at Mare Island Naval Shipyard, Vallejo, California.

(4) Controlled Industrial Facility in the amount of $11,250,000 at Naval Submarine Base, Pearl Harbor, Hawaii.

COLORADO

Air Force Academy, $3,000,000.
Falcon Air Force Station, $710,000.
Lowry Air Force Base, $4,550,000.
Peterson Air Force Base, $4,050,000.

FLORIDA

Avon Park Range, $700,000.
Cape Canaveral Air Force Station, $5,353,000.
Eglin Air Force Base, $4,700,000.
Homestead Air Force Base, $7,900,000.
MacDill Air Force Base, $12,250,000.

GEORGIA

Moody Air Force Base, $4,400,000.
Robins Air Force Base, $21,200,000.

HAWAII

Hickam Air Force Base, $11,420,000.
Wheeler Air Force Base, $3,500,000.

IDAHO

Mountain Home Air Force Base, $1,350,000.

ILLINOIS

Scott Air Force Base, $10,060,000.

INDIANA

Grissom Air Force Base, $4,500,000.

KANSAS

McConnell Air Force Base, $9,100,000.

LOUISIANA

Barksdale Air Force Base, $8,530,000.

MAINE

Bangor Air National Guard Base, $970,000.

MARYLAND

Andrews Air Force Base, $6,900,000.
Fort George G. Meade, $1,800,000.

MASSACHUSETTS

Hanscom Air Force Base, $3,800,000.

MICHIGAN

K.I. Sawyer Air Force Base, $2,700,000.
Wurtsmith Air Force Base, $960,000.

MISSISSIPPI

Columbus Air Force Base, $3,100,000.

MISSOURI

Whiteman Air Force Base, $62,400,000.

NEBRASKA

Offutt Air Force Base, $2,600,000.

NEVADA

Indian Springs Auxiliary Field, $2,550,000.
Nellis Air Force Base, $12,520,000.

NEW JERSEY

McGuire Air Force Base, $7,850,000.

NEW MEXICO

Holloman Air Force Base, $78,010,000.
Kirtland Air Force Base, $4,200,000.

NEW YORK

Griffiss Air Force Base, $4,500,000.
Plattsburgh Air Force Base, $1,200,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $2,502,000.

NORTH DAKOTA

Grand Forks Air Force Base, $8,850,000.
Minot Air Force Base, $3,600,000.

OHIO

Newark Air Force Base, $5,100,000.
Wright-Patterson Air Force Base, $10,150,000.

OKLAHOMA

Altus Air Force Base, $21,700,000.
Tinker Air Force Base, $56,950,000.
Vance Air Force Base, $400,000.

SOUTH CAROLINA

Charleston Air Force Base, $14,090,000.
Shaw Air Force Base, $3,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $13,150,000.

TEXAS

Brooks Air Force Base, $4,100,000.
Carswell Air Force Base, $12,616,000.
Dyess Air Force Base, $7,550,000.
Goodfellow Air Force Base, $980,000.
Kelly Air Force Base, $10,300,000.
Lackland Air Force Base, $22,500,000.
Laughlin Air Force Base, $1,820,000.
Randolph Air Force Base, $1,750,000.
Reese Air Force Base, $5,090,000.
Sheppard Air Force Base, $8,400,000.

UTAH

Hill Air Force Base, $25,300,000.

VIRGINIA

Langley Air Force Base, $600,000.

WASHINGTON

Fairchild Air Force Base, $11,200,000.
McChord Air Force Base, $5,200,000.

WYOMING

F.E. Warren Air Force Base, $4,400,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Antigua Air Station, $8,200,000.

CANADA

Various locations, $6,300,000.

GREENLAND

Thule Air Base, $6,300,000.

JAPAN

Kadena Air Base, $2,950,000.

KOREA

Osan Air Base, $3,500,000.

SEYCHELLES ISLANDS

Mahe Missile Tracking Site, $4,600,000.

TURKEY

Incirlik Air Base, $1,100,000.
Pirinclik Air Station, $1,250,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may construct or acquire family housing units (including land) using amounts appropriated pursuant to section 2304(a)(7)(A), at the following installations in the amounts shown for each installation:

Nellis Air Force Base, Nevada, thirteen units, $1,600,000.

Nellis Air Force Base, Nevada, housing office, $235,000.

Holloman Air Force Base, New Mexico, housing maintenance facility, $219,000.

Seymour-Johnson Air Force Base, North Carolina, housing office, $365,000.

Charleston Air Force Base, South Carolina, housing office and maintenance facility, $592,000.

Myrtle Beach Air Force Base, South Carolina, housing office, $258,000.

Ellsworth Air Force Base, South Dakota, housing office, $313,000.

Andersen Air Force Base, Guam, housing and storage facility, $1,371,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $6,000,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(7)(A), improve existing military family housing units in an amount not to exceed $172,012,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,954,059,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $777,081,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $34,200,000.

(3) For the construction of the Large Rocket Test Facility, Arnold Engineering Development Center, Tennessee, as authorized by section 2301(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2087), and as amended by section 2307 of the Military Construction Authorization Act, 1990, Public Law 101-189, $66,000,000.

(4) For unspecified minor construction projects under section 2805 of title 10, United States Code, $10,272,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $107,741,000.

(6) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $9,000,000.

(7) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $182,965,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $766,800,000, of which not more than $110,911,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this division may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $39,000,000 (the balance of the amount authorized for the construction of support facilities for the 37th Tactical Fighter Wing at Holloman Air Force Base, New Mexico).

(c) LIMITATION.—None of the funds appropriated pursuant to the authorization in subsection (a)(1) may be expended for the construction of support facilities for the 37th Tactical Fighter Wing at Holloman Air Force Base, New Mexico, until after the 21-day period referred to in section 2308.

(d) AUTHORIZED EXPENDITURE.—Of the funds appropriated pursuant to subsection (a)(4), the Secretary of the Air Force may expend not more than $332,000 to purchase a facility at the operation and test evaluation center at Edwards Air Force Base, California.

SEC. 2305. AUTHORIZATION OF A FACILITY

The Secretary of the Air Force may acquire at no cost an existing building constructed on Eglin Air Force Base, Florida, in 1986 as part of a three-year incrementally funded research, development, test and evaluation contract.

SEC. 2306. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN MILITARY CONSTRUCTION PROJECT

(a) IN GENERAL.—Section 2301(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) is amended by striking out the following: 103 Stat. 1630.

"WYOMING

"F.E. Warren Air Force Base, $104,850,000.".

(b) CONFORMING AMENDMENTS.—Section 2304(a) of such Act is amended—

(1) by striking out "$2,193,638,000" and inserting in lieu thereof "$2,103,788,000"; and

(2) in paragraph (1), by striking out "$945,836,000" and inserting in lieu thereof "$855,986,000".

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of acquiring real property and carrying out military construction projects for which authority is provided under section 2301 of this Act, the Secretary of the Air Force may, to the extent provided in appropriation Acts, use funds that have been appropriated for the project to which subsection (a) is applicable.

SEC. 2307. DESIGNATION OF INSTALLATION

The Secretary of the Air Force shall provide that the installation which receives the last operational upgrade for the Minuteman II missile system shall be the installation from which the last Minuteman II missile is retired.

SEC. 2308. RESTRICTION ON RELOCATION OR REALIGNMENT AT TONOPAH RESEARCH SITE, NEVADA

None of the funds available to the Department of Defense during fiscal year 1991 may be used, directly or indirectly, to transfer, realign, relocate, or otherwise diminish any part of the 37th Tactical Fighter Wing at the Tonopah Research Site, Nevada, until after the 21-day period beginning on the date on which the Secretary of the Air Force transmits to the congressional defense committees a certification that any such action to be taken with respect to such Tactical Fighter Wing will be effective in meeting the Wing's mission and in reducing overall cost to the Air Force, taking into consideration the basing of units of the Air Force proposed in the multi-year defense plan in effect at the time of the certification. The Secretary shall include in any such certification an explanation and justification of the reasons for such conclusion.

SEC. 2309. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF A CERTAIN FISCAL YEAR 1987 PROJECT.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), authorization for the following project authorized in section 2301 of that Act, as extended by section 2305 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2115), shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

KC-135 CPT Simulator Facility in the amount of $890,000 at Beale Air Force Base, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2108), authorizations for the following projects authorized in sections 2301 and 2303 of that Act shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) F-111 Avionics Facility in the amount of $1,300,000 at Cannon Air Force Base, New Mexico.

(2) Aircraft Operational Apron-Phase I in the amount of $4,950,000; Intelligence Facility-Phase II in the amount of $2,250,000; Special Operations Forces Helicopter Maintenance Facility in the amount of $4,100,000; Special Operations Forces Hangar/Nose Dock in the amount of $2,100,000; and Special Operations Forces Hydrant Fueling System in the amount of $800,000 at Clark Air Base, Philippines.

(3) Defense Language Institute Language Training Laboratory in the amount of $12,000,000 at Lackland Air Force Base, Texas.

(4) Land Acquisition in the amount of $2,300,000 at Altus Air Force Base, Oklahoma.

(5) Alter Technical Training Management Facility in the amount of $1,750,000 at Randolph Air Force Base, Texas.

(6) Alter and Expand Headquarters Data Center, in the amount of $576,000 at Patrick Air Force Base, Florida.

(7) Security Police Complex, in the amount of $2,300,000 at McGuire Air Force Base, New Jersey.

(8) Over the Horizon-Backscatter (OTH-B) Operations Building in the amount of $17,500,000 at Elmendorf Air Force Base, Alaska.

(9) Fire Training Area in the amount of $2,200,000 at Peterson Air Force Base, Colorado.

(10) Alter Combat Intelligence Operations Center in the amount of $1,000,000 at Ramstein Air Base, Germany (authorized as part of Classified Locations in the amount of $16,473,000).

(11) Solid State Uninterrupted Power Supply in the amount of $1,300,000 at Ramstein Air Base, Germany.

(12) Add to and Alter Aircraft Support Equipment Shop in the amount of $2,850,000 at Shemya Air Force Base, Alaska.

(13) Post Office in the amount of $550,000 at Incirlik, Turkey.

(14) F-16 Aircraft Maintenance Unit Facility in the amount of $2,800,000 at Osan Air Base, Korea.

(15) Improve Military Family Housing, Phase II, in the amount of $4,018,000 at Bolling Air Force Base, District of Columbia.

(16) Improve On-Base Housing in the amount of $3,207,000 at McClellan Air Force Base, California.

(17) Off-Street Parking, Site Improvements in the amount of $1,919,000 at Scott Air Force Base, Illinois.

(18) Improve Family Housing, Phase I, in the amount of $7,869,000 at Carswell Air Force Base, Texas.

(19) Improve 16 Family Housing Units in the amount of $600,000 at Carswell Air Force Base, Texas.

(20) Modernize Capehart Housing, Phase IV, in the amount of $4,373,000 at K.I. Sawyer Air Force Base, Michigan.

(21) Improve Capehart Housing, Phase I, in the amount of $10,600,000 at Plattsburgh Air Force Base, New York.

(22) Improve General Officers Quarters in the amount of $74,000 at Peterson Air Force Base, Colorado.

(23) Upgrade Capehart Military Family Housing, Phase II, in the amount of $6,006,000 at Holloman Air Force Base, New Mexico.

(24) Improve Family Housing in the amount of $2,278,000 at Keesler Air Force Base, Mississippi.

(25) Addition to Physical Fitness Center in the amount of $3,800,000 at Peterson Air Force Base, Colorado.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amount shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Wheeler Air Force Base, Hawaii, $1,491,000.
Arlington Service Center, Virginia, $2,664,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Anniston Army Depot, Alabama, $2,370,000.
Defense Depot, Tracy, California, $1,700,000.
Defense Reutilization and Marketing Office, Eglin Air Force Base, Florida, $2,850,000.
Defense Reutilization and Marketing Office, Fort Meade, Maryland, $9,500,000.
Defense Depot, Mechanicsburg, Pennsylvania, $18,100,000.
Defense Personnel Support Center, Philadelphia, Pennsylvania, $3,940,000.
Defense Reutilization and Marketing Office, Fort Jackson, South Carolina, $500,000.
Defense Depot, Memphis, Tennessee, $14,900,000.
Defense General Supply Center, Richmond, Virginia, $7,000,000.
Defense Reutilization and Marketing Office, F.E. Warren Air Force Base, Wyoming, $1,700,000.

DEFENSE MEDICAL FACILITIES OFFICE

Marine Corps Base, Camp Pendleton, California, $1,750,000.
Walter Reed Army Medical Center, District of Columbia, $4,000,000.
MacDill Air Force Base, Florida, $2,900,000.
Fort Benning, Georgia, $2,000,000.
Tripler Army Medical Center, Hawaii $2,200,000.
Fort Riley, Kansas, $1,050,000.
Marine Corps Base, Camp Lejeune, North Carolina, $3,200,000.
Altus Air Force Base, Oklahoma, $500,000.
Philadelphia Naval Shipyard, Pennsylvania, $11,600,000.
Lackland Air Force Base, Texas, $2,250,000.
Cheatham Annex, Virginia, $6,500,000.
Dam Neck Flight Center, Virginia, $4,050,000.
Fort Lee, Virginia, $4,850,000.
Marine Corps Base, Quantico, Virginia, $2,450,000.

DEFENSE NUCLEAR AGENCY

White Sands Missile Range, New Mexico, $45,000,000.

NATIONAL SECURITY AGENCY

Fort George C. Meade, Maryland, $16,046,000.

OFFICE OF THE SECRETARY OF DEFENSE

Defense Language Institute, Monterey, California, $4,182,000.
Uniformed Services University of the Health Sciences, Bethesda, Maryland, $800,000.
Classified Locations, $26,600,000.

SECTION VI SCHOOLS

Fort Benning, Georgia, $9,400,000.
Dahlgren, Naval Surface Warfare Center, Virginia, $1,360,000.

SPECIAL OPERATIONS COMMAND

Coronado Naval Amphibious Base, California, $21,020,000.
Eglin Air Force Base, Florida, $11,750,000.
Fort Stewart/Hunter Army Air Field, Georgia, $4,900,000.
Norristown Army Reserve Center, Pennsylvania, $2,598,000.
Dam Neck Marine Environmental Facility, Virginia, $9,160,000.
Classified Location, $2,747,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Barking Sands Pacific Missile Range, Hawaii, $3,870,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE MEDICAL FACILITIES OFFICE

Rhein-Main Air Base, Germany, $870,000.
Camp Casey, Korea, $1,000,000.
Sinop, Turkey, $1,750,000.

DEFENSE NUCLEAR AGENCY

Johnston Island, $8,595,000.

NATIONAL SECURITY AGENCY

Classified Location, $2,375,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Location, $7,800,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may construct or acquire three family housing units (including land), using amounts appropriated pursuant to section 2405(a)(13)(A), at classified locations in the total amount not to exceed $400,000.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2405(a)(13)(A), improve existing military family housing units in an amount not to exceed $100,000.

SEC. 2404. CONFORMING STORAGE FACILITIES

100 Stat. 4037.

Section 2404(a) of the Military Construction Authorization Act, 1987 (Public Law 99-661) is amended to read as follows:

"(a) AUTHORITY.—The Secretary of Defense may carry out military construction projects not otherwise authorized by law for

conforming storage facilities using funds appropriated for such purpose.".

SEC. 2405. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $1,656,078,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $275,448,000.

(2) For military construction projects outside the United States authorized in section 2401(b), $22,390,000.

(3) For military construction projects at Nellis Air Force Base, Nevada, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991, $56,000,000.

(4) For military construction projects at Fort Sill, Oklahoma, authorized by section 2401(a) of the Military Construction Authorization Act, 1989, $10,400,000.

(5) For an energy conservation program, $30,000,000.

(6) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, $50,000,000.

(7) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991, $40,000,000.

(8) For unspecified minor construction projects under section 2805 of title 10, United States Code, $14,955,000.

(9) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(10) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $104,285,000.

(11) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $1,016,500,000.

(12) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $5,000,000.

(13) For military family housing functions:

(A) For construction and acquisition of military family housing facilities, $500,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $20,600,000, of which not more than $17,897,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2406. MEDICAL FACILITY, NELLIS AIR FORCE BASE, NEVADA

(a) PROJECT AMOUNT.—The item listed under the heading "Defense Medical Facilities Office" in section 2401 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) is amended by striking out "Nellis Air Force Base, Nevada, $62,000,000." and inserting in lieu thereof "Nellis Air Force Base, Nevada, $66,000,000.".

(b) TITLE TOTAL.—Section 2405(b)(3) of such Act is amended by striking out "$52,000,000" and inserting in lieu thereof "$56,000,000".

SEC. 2407. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4040), the authorizations for the following projects in section 2401(a) of that Act, shall remain in effect until October 1, 1991, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

(1) Road Improvements, in the amount of $4,370,000 at National Security Headquarters, Fort Meade, Maryland.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1989 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2115), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1991, or until the date of enactment of an Act authorizing funds for military construction for fiscal year 1992, whichever is later:

Laboratory/Pharmacy Addition, Fort Leonard Wood, Missouri, $1,450,000.

(2) Hospital Life Safety Upgrade, Corpus Christi Naval Air Station, Texas, $6,100,000.

(3) Hospital Life Safety Upgrade, Dyess Air Force Base, Texas, $950,000.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) IN GENERAL.—The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) funds made available for the North Atlantic Treaty Organization Infrastructure program should be used primarily for—

(A) verifying or implementing the terms of conventional arms control agreements;

(B) recoupment owed by the United States for projects completed before the date of the enactment of this Act; and

(C) the completion of any construction project the construction of which began before October 1, 1990; and

(2) the United States should work in consultation with the other countries of the North Atlantic Treaty Organization to restructure such program in such a manner that the funds provided to the program by the Secretary of Defense will be expended primarily for the purposes referred to in paragraph (1).

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1990, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure program as authorized by section 2501, in the amount of $192,700,000.

SEC. 2503. STUDY AND REPORT BY THE SECRETARY OF DEFENSE

(a) IN GENERAL.—(1) The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense under other provisions of law.

(2) In carrying out such a study, the Secretary shall consider—

(A) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(B) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall transmit, by not later than March 15, 1991, to the Committees on Armed Services of the Senate and House of Representatives a report containing the results of the study required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1990, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $297,544,000; and

(B) for the Army Reserve, $76,126,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $80,307,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $172,340,000; and

(B) for the Air Force Reserve, $37,700,000.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) shall expire on October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before October 1, 1992, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1993, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure program.

TITLE XXVIII—GENERAL PROVISIONS

PART A—CONSTRUCTION, LEASING, IMPROVEMENTS, DISPOSAL, AND UTILIZATION OF MILITARY INSTALLATIONS AND FACILITIES

SEC. 2801. DUAL BASING

(a) DEFINITION.—In this section—

(1) the term "dual basing" means the stationing of units of the Armed Forces on a permanent basis at military installations inside the United States with rotating short-term assignments to military installations outside the United States for purposes of training, carrying out exercises, meeting obligations to other nations, or carrying out other international security responsibilities of the United States; and

(2) the term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that dual basing has significant potential for being an effective and efficient method by which this Nation can reduce its defense spending and also meet its world-wide security responsibilities and assist in reducing tension and increasing stability internationally.

(c) REPORT.—The Secretary of Defense shall carry out a study of the manner in which dual basing could be implemented and shall transmit, by no later than March 15, 1991, to the Committees on Armed Services of the Senate and the House of Representatives a report containing a detailed description of how dual basing could be implemented, together with an assessment of the scheduling, costs, benefits, and difficulties involved in such an implementation as compared to the methods of basing military personnel used by the military departments on the date of the enactment of this Act.

SEC. 2802. LIMITATION ON CONSTRUCTION AT CROTONE, ITALY

(a) IN GENERAL.—None of the funds available to the Department of Defense, including contributions for the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may be obligated or expended (whether obligated before the date of enactment of this Act or not) in connection with relocating functions of the Department of Defense located at Torrejon Air Force Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy, or any other location outside the United States until the Secretary of Defense makes the certification and files the information required in subsection (b)(2).

(b) CONSIDERATION AND CERTIFICATION.—(1) Promptly after the date of enactment of this Act, the President shall notify the other member nations of the North Atlantic Treaty Organization that the United States seeks to have placed on the agenda of the next meeting of the North Atlantic Council of NATO the following questions: President.

(A) In light of the changed threat to NATO, is the retention of the 401st Tactical Fighter Wing in the Southern Region of NATO necessary?

(B) In light of the changes in Europe, is continuation of construction of a new airbase at Crotone, Italy, desirable?

(C) Are there existing airbases in NATO, and particularly in the Southern Region of NATO, which could serve as an adequate base for the 401st Tactical Fighter Wing, rendering construction of a new base unnecessary?

(D) Will the United States be authorized to use American aircraft based at Crotone, Italy, for military missions outside of the European theatre?

(2) After the North Atlantic Council of NATO meets, considers the questions listed in paragraph (1), and passes a resolution endorsing continuation of construction of a new airbase at Crotone, Italy, the Secretary of Defense shall certify to the congressional defense committees that such has occurred and shall transmit, along with such certification, a copy of the resolution adopted by the North Atlantic Council and a summary of the debate concerning each of the questions contained in paragraph (1).

SEC. 2803. RESTRICTIONS ON LEASING IN THE NATIONAL CAPITAL REGION

(a) LIMITATION.—(1)(A) Subject to paragraph (2), during the fiscal years specified in subparagraph (B), the Department of Defense (including all departments, agencies, and other instrumentalities thereof) may not enter into or amend any lease or other agreement (including leases entered into with any other Federal agency) for administrative space in the National Capital Region that would result in the Department leasing administrative space in excess of the maximum area specified for that fiscal year in subparagraph (B), unless the Secretary of Defense, in consultation with the Administrator of General Services, submits to the Congress, no later than April 15, 1991, a comprehensive plan addressing the long-term leased space needs of the Department of Defense in the National Capital Region. Such a plan shall be consistent with the force structure plan submitted under section 2903.

(B) The maximum area referred to in subparagraph (A) is as follows:

(i) During fiscal year 1991, the number of square feet being utilized in such Region for administrative space by such Depart-

ment on the date of enactment of this Act, other than such administrative space as is contained in the Pentagon Reservation.

(ii) During fiscal year 1992, 90 percent of the number of square feet specified in clause (i).

(iii) During fiscal year 1993, 80 percent of the number of square feet specified in clause (i).

(2) Any administrative space temporarily leased for exclusive use by personnel of the Department displaced from administrative space in the Pentagon Reservation as a result of the renovation of facilities within such reservation shall not be included in computing the maximum limitations provided for in paragraph (1)(B).

(3) The reduction of leased administrative space resulting from the implementation of this section shall be carried out in consultation with the Administrator of General Services.

(b) PROHIBITION.—After September 30, 1991, the Department of Defense may not use any space under any lease or other agreement in the area known as Buzzard's Point in Washington, D.C., including the facility located at 1900 Half Street, Southwest.

(c) DEFINITIONS.—As used in this section:

(1) The term "administrative space" means property used for the operation of an office, for storage of office equipment or materials, or to support activities carried out in an office, including property with special architectural features, fixed equipment, or utilities (such as laboratories, dark rooms, automatic data processing areas, food service areas, and security vaults).

(2) The term "National Capital Region" means the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.

(3) The term "Pentagon Reservation" has the same meaning given such term by section 2674(f)(1) of title 10, United States Code.

SEC. 2804. OPERATION AND CONTROL OF THE PENTAGON RESERVATION

(a) IN GENERAL.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2673 the following new section:

"§ 2674. Operation and control of the Pentagon Reservation

"(a)(1) Jurisdiction, custody, and control over, and responsibility for, the operation, maintenance, and management of the Pentagon Reservation is transferred to the Secretary of Defense.

Reports. "(2) Before March 1 of each year, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Public Works and Transportation of the House of Representatives a report on the state of the renovation of the Pentagon Reservation and a plan for the renovation work to be conducted in the fiscal year beginning in the year in which the report is transmitted.

"(b) The Secretary may appoint military or civilian personnel or contract personnel to perform law enforcement and security functions for property occupied by, or under the jurisdiction, custody,

and control of the Department of Defense, and located at the Pentagon Reservation. Such individuals—

"(1) may be armed with appropriate firearms required for personal safety and for the proper execution of their duties, whether on Department of Defense property or in travel status; and

"(2) shall have the same powers as sheriffs and constables to enforce the laws, rules, or regulations enacted for the protection of persons and property.

"(c)(1) The Secretary may prescribe such rules and regulations as the Secretary considers appropriate to ensure the safe, efficient, and secure operation of the Pentagon Reservation, including rules and regulations necessary to govern the operation and parking of motor vehicles on the Pentagon Reservation.

"(2) Any person who violates a rule or regulation prescribed under this subsection is liable to the United States for a civil penalty of not more than $1,000.

"(3) Any person who willfully violates any rule or regulation prescribed pursuant to this subsection commits a Class B misdeameanor.

"(d) The Secretary of Defense may establish rates and collect charges for space, services, protection, maintenance, construction, repairs, alterations, or facilities provided at the Pentagon Reservation.

"(e)(1) There is established in the Treasury of the United States a revolving fund to be known as the Pentagon Reservation Maintenance Revolving Fund (hereafter in this section referred to as the 'Fund'). There shall be deposited into the Fund funds collected by the Secretary for space and services and other items provided an organization or entity using any facility or land on the Pentagon Reservation pursuant to subsection (d).

"(2) Monies deposited into the Fund shall be available, without fiscal year limitation, for expenditure for real property management, operation, protection, construction, repair, alteration and related activities for the Pentagon Reservation.

"(f) In this section:

"(1) The term 'Pentagon Reservation' means that area of land (consisting of approximately 280 acres) and improvements thereon, located in Arlington, Virginia, on which the Pentagon Office Building, Federal Building Number 2, the Pentagon heating and sewage treatment plants, and other related facilities are located, including various areas designated for the parking of vehicles.

"(2) The term 'National Capital Region' means the geographic area located within the boundaries of (A) the District of Columbia, (B) Montgomery and Prince Georges Counties in the State of Maryland, (C) Arlington, Fairfax, Loudoun, and Prince William Counties and the City of Alexandria in the Commonwealth of Virginia, and (D) all cities and other units of government within the geographic areas of such District, Counties, and City.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2673 the following new item:

"2674. Operation and control of the Pentagon Reservation.".

(b) TRANSFER OF FUNDS FOR FISCAL YEAR 1991.—For fiscal year 1991, the Secretary of Defense may transfer into the Pentagon Reservation Maintenance Revolving Fund (established by section 2674(e) of title 10, United States Code), from funds appropriated to the military departments and the Defense Agencies, amounts equal to the amounts that would otherwise be paid by the military departments and the Defense Agencies to the General Services Administration for the use of the Pentagon Reservation.

SEC. 2805. REVENUE FROM TRANSFER OR DISPOSAL OF DEPARTMENT OF DEFENSE REAL PROPERTY

Section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) is amended—

(1) in subsection (a), by striking out "subsections (b), (c), (d), and (e)" and inserting in lieu thereof "subsections (b), (c), (d), (e), and (h)";

(2) in subsection (b), by striking out "All the proceeds" in the first sentence and inserting in lieu thereof "Except as provided in subsection (h), all the proceeds"; and

(3) by adding at the end thereof the following new subsection:

"(h)(1) If the Secretary of a military department determines that real property, and improvements thereon, under the control of that department (other than property at a military installation designated for closure or realignment) is excess to the needs of that department, the Secretary of Defense shall provide that the property be made available for transfer without reimbursement to the other military departments within the Department of Defense. If the property is not transferred to another military department, the Secretary of the military department concerned shall request the Administrator to transfer or dispose of such property in accordance with the provisions of this Act, section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)), or other applicable law.

"(2) The Administrator shall deposit any proceeds (less expenses of transferring or disposing of the property as provided in subsection (b)) in a special account in the Treasury of the United States. The amount deposited in such account with respect to the transfer or disposal of any such property shall be available, to the extent provided in appropriation Acts, as follows:

"(A) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the property is located.

"(B) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department that had jurisdiction over the property before it was disposed of or transferred.

"(3) As part of the annual request for authorizations of appropriations to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an accounting of each transfer and disposal made in accordance with this subsection during the fiscal year preceding the fiscal year in which the request is made, including a detailed explanation of each such transfer and disposal and of the use of the proceeds received from it by the Department of Defense.

"(4) For purposes of this subsection, the term 'military installation' shall have the meaning given that term in section 2687(e)(1) of title 10, United States Code.".

SEC. 2806. REVENUE FROM LEASING OUT DEPARTMENT OF DEFENSE ASSETS

Section 2667(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (2) as paragraph (4); and

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1)(A) All money rentals received pursuant to leases entered into by the Secretary of a military department under this section shall be deposited in a special account in the Treasury established for such military department, except—

"(i) amounts paid for utilities and services furnished lessees by the Secretary; and

"(ii) money rentals referred to in paragraph (4).

"(B) Sums deposited in a military department's special account pursuant to subparagraph (A) shall be available to such military department, as provided in appropriation Acts, as follows:

"(i) 50 percent of such amount shall be available for facility maintenance and repair or environmental restoration at the military installation where the leased property is located.

"(ii) 50 percent of such amount shall be available for facility maintenance and repair and for environmental restoration by the military department concerned.

"(2) Payments for utilities and services furnished lessees pursuant to leases entered into under this section shall be credited to the appropriation account from which the cost of furnishing the utilities and services was paid.

"(3)(A) As part of the request for authorizations of appropriations for fiscal year 1992 to the Committees on Armed Services of the Senate and of the House of Representatives, the Secretary of Defense shall include an explanation of each lease from which money rentals will be received and deposited under this subsection during fiscal year 1991, together with an estimate of the amount to be received from each such lease and an explanation of the anticipated expenditures of such receipts.

"(B) As part of the request for authorizations of appropriations to such Committees for each fiscal year after fiscal year 1992, the Secretary of Defense shall include—

"(i) an accounting of the receipt and use of all money rentals that were deposited and expended under this subsection during the fiscal year preceding the fiscal year in which the request is made; and

"(ii) a detailed explanation of each lease entered into, and of each amendment made to existing leases, during such preceding fiscal year.".

SEC. 2807. SENSE OF CONGRESS CONCERNING A MILITARY CONSTRUCTION MORATORIUM

It is the sense of the Congress that the Secretary of Defense should not issue an order during calendar year 1991 that prohibits, totally or generally, the military departments from entering into contracts for authorized military construction projects inside the United States or from exercising options under existing contracts for such projects.

PART B—MILITARY CONSTRUCTION PROGRAM CHANGES

SEC. 2811. ONE-YEAR EXTENSION OF MILITARY HOUSING RENTAL GUARANTEE PROGRAM

(a) IN GENERAL.—Section 802(h) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), is amended by striking out "1990" and inserting in lieu thereof "1991".

(b) LIMITATION.—Section 802 of such Act is amended by adding at the end the following new subsection:

"(i) Not more than six agreements may be entered into under this section during fiscal year 1991.".

SEC. 2812. FAMILY HOUSING IMPROVEMENT THRESHOLD

Section 2825(b)(1) of title 10, United States Code, is amended—

(1) in clause (A), by striking out "$40,000" and inserting in lieu thereof "$50,000"; and

(2) by adding at the end the following sentence: "The Secretary concerned may waive the limitations contained in the preceding sentence if (i) such Secretary determines that, considering the useful life of the structure to be improved and the useful life of a newly constructed unit and the cost of construction and of operation and maintenance of each kind of unit over its useful life, the improvement will be cost-effective, and (ii) a period of 21 days elapses after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives receive a notice from such Secretary of the proposed waiver, together with an economic analysis demonstrating that the improvement will be cost effective.".

PART C—LAND TRANSACTIONS

SEC. 2821. LAND CONVEYANCE, REDSTONE ARSENAL, ALABAMA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Army may convey to the Solid Waste Disposal Authority of the City of Huntsville, Alabama, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 20 acres, including improvements thereon, at the Redstone Arsenal, Alabama, that, on the date of the enactment of this Act, is leased to such Authority pursuant to Department of the Army lease DACA 01-1-87-225, dated December 14, 1987.

(b) CONSIDERATION.—In consideration for the conveyance specified in subsection (a), the Authority shall be required to provide to the Secretary, in accordance with requirements determined by the Secretary to be in the best interests of the United States—

(1) evidence that it has constructed on such real property, and is commercially operating, a refuse fired steam plant for the disposal of municipal solid waste;

(2) an executed agreement obligating the Authority to accept from the United States up to 50 tons per day of acceptable waste for processing, without reimbursement, at such site;

(3) an agreement indemnifying the United States from any liability with respect to the construction and operation of any waste disposal facility on the property; and

(4) an agreement obligating the Authority with respect to furnishing steam and electricity to the Department of the Army at such site.

(c) RESERVATIONS.—The deed of conveyance shall—

(1) reserve to the United States all mineral rights in the real property conveyed;

(2) reserve to the United States an easement for the maintenance and operation of ground water monitoring equipment located in the southeast corner of the parcel of real property and an easement for ingress and egress to the equipment;

(3) incorporate the easement granted by the Secretary of the Army to the city of Huntsville, Alabama, contained in the Road or Street Easement Numbered DACA 01-2-68-4, dated November 7, 1967, and recorded in Deed Book 458, pages 356-358, Probate Records, Madison County, Alabama; and

(4) be subject to any leases to which the real property conveyed under subsection (a) is subject at the time of the conveyance.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Authority.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2822. RELEASE AND CONVEYANCE, RESERVE CENTER AT LITTLE ROCK, ARKANSAS

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Army shall—

(1) release to the University of Arkansas, without consideration, all right, title, and interest of the United States in and to approximately 2.66 acres of land in Palaski County, Arkansas, leased by the United States from the University of Arkansas pursuant to Department of Army lease No. DA-34-066, dated March 31, 1950; and

(2) convey to the University of Arkansas, without consideration, all right, title, and interest of the United States in and to all improvements constructed on the land referred to in paragraph (1).

(b) CONDITIONS OF RELEASE AND CONVEYANCE.—The release and conveyance referred to in subsection (a) shall be subject to the condition that—

(1) the University of Arkansas accept responsibility for all costs related to removing or abating the hazard posed by asbestos contained in any of the improvements conveyed pursuant to subsection (a)(2); and

(2) the University of Arkansas agree to indemnify the United States against any liability for the presence of any asbestos or asbestos-containing material in any of the improvements referred to in subsection (a)(2).

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the release and conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2823. LAND CONVEYANCE, NAVAL WEAPONS STATION, CONCORD, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may sell and convey to the San Francisco Bay Area Rapid Transit District (hereafter in this section referred to as "BART") all right, title and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 40 acres comprising a portion of the Naval Weapons Station, Concord, California.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), BART shall be required to—

(A) pay to the United States an amount equal to not less than the fair market value of the property to be conveyed under subsection (a), as determined by the Secretary;

(B) pay for the cost of relocating certain railroad tracks located on such property;

(C) pay for the cost of relocating the existing security fence to conform with the new boundaries of the Naval Weapons Station after such conveyance; and

(D) pay for the costs of appraisals and other costs related to the sale and conveyance of property under this section.

(2) Costs incurred by BART in connection with the relocations referred to in subparagraphs (B) and (C) of paragraph (1) and for the costs referred to in subparagraph (D) of such paragraph may not be considered as any part of the fair market value of the property referred to in subsection (a).

(c) USE OF PROCEEDS.—The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by BART.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LEASE AT HUNTERS POINT NAVAL SHIPYARD, SAN FRANCISCO, CALIFORNIA

(a) IN GENERAL.—(1) The Secretary of the Navy shall, within one year after the date of the enactment of this Act, lease to the City of San Francisco, California, at fair market value and for at least 30 years, not less than 260 acres, including any improvements thereon, of the area known as the Hunters Point Naval Shipyard, San Francisco, California.

(2) In carrying out paragraph (1), the Secretary shall—

(A) determine the location of the property to be leased;

(B) provide that the property leased shall be used by the City subject to such terms and conditions as the Secretary determines appropriate to protect the interests of the United States; and

(C) take steps to minimize the disruption and displacement of tenants on Hunters Point to the maximum extent practicable.

(b) REPORT.—The Secretary shall transmit, by no later than February 1, 1991, to the Committees on Armed Services of the Senate and of the House of Representatives a report of the status of the negotiations carried out for the purpose of entering into a lease under subsection (a).

SEC. 2825. TRANSFER OF LANDS, PINON CANYON, COLORADO

(a) TRANSFER.—Notwithstanding any other provision of law and subject to subsections (b) through (d), the Secretary of the Army shall transfer administrative jurisdiction of approximately 16,707 acres of land at the Pinon Canyon Maneuver Site, Colorado, consisting of all parcels of land identified by the Secretary of the Army as uneconomic remnant lands, to the Secretary of Agriculture for inclusion in the Comanche National Grassland. The Secretary of Agriculture shall administer the transferred lands in accordance with laws applicable to the National Forest system.

(b) DESCRIPTION OF THE PROPERTY.—(1) The exact acreage and legal description of the property to be transferred under this section shall be determined by surveys satisfactory to the Secretary of the Army and the Secretary of Agriculture.

(2) The Secretary of Agriculture, with the concurrence of the Secretary of the Army, shall prepare a map of the lands to be conveyed. Such lands shall be known as the Picket Wire Canyonlands (hereafter in this section referred to as the "PWC").

(3) The legal description and map referred to in paragraphs (1) and (2) shall be kept on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) ADMINISTRATION OF LANDS.—(1) The Secretary of Agriculture shall administer the transferred lands so as to conserve and protect the paleontological, archaeological, wildlife, vegetative, aquatic, and other natural resources of the area.

(2) The management provisions of this section shall apply only to those parcels of the transferred lands comprising approximately 11,507 acres in the Purgatoire River Canyon.

(3) The Secretary of Agriculture may permit access to the PWC for the purpose of permitting scholarly research, interpretation to the public, and recreational activities to the extent that such access does not—

(A) impair (as determined by the Secretary of the Army) the use of the Pinon Canyon Maneuver Site for the purposes for which the area is intended to be used by the Army; or

(B) impair the conservation and protection of paleontological, archaeological, or natural resources of the area.

(4) The Secretary of Agriculture may permit livestock grazing in the PWC only to the extent that the Secretary determines necessary to benefit the natural resources of the area.

(5) Lands of the PWC are withdrawn from operation of the mining, mineral leasing, and other mineral entry laws of the United States.

(6) No activity shall be permitted in the PWC that would impair (as determined by the Secretary of the Army) the use of the Pinon Canyon Maneuver Site for the purposes for which the site is intended to be used by the Army or the conservation and protection of the paleontological, archaeological, and natural resources of the area, including production of or exploration for oil, gas, or minerals of any kind.

(7) Lands to be transferred may not be used for the storage or processing of nuclear waste, other hazardous waste, or any other waste.

(8) The Secretary of Agriculture, in consultation with the Director of the National Park Service, the Director of United States Fish and Wildlife Service, the Secretary of the Army, the head of the Colorado Department of Natural Resources, and the head of the Colorado State Historic Preservation Office, shall, after notice and opportunity for public comment, develop a management plan for the PWC that includes—

(A) a complete survey and an inventory of the paleontological and archaeological resources of the area; and

(B) a strategy for protecting and conserving the dinosaur track way in the Purgatoire River Canyon and other paleontological and archaeological resources in the PWC.

(d) INTERAGENCY AGREEMENT.—(1) When the lands referred to in subsection (a) are transferred, the Secretary of the Army and the Secretary of Agriculture shall enter into an interagency agreement providing for—

(A) access to the PWC through the Pinon Canyon Maneuver Site for the Secretary of Agriculture (for the purpose of taking action to conserve and protect the area's resources) and the public (for educational purposes) in such manner, at such times, and to such an extent as will not interfere (as determined by the Secretary of the Army) with the Army's use of the site; and

(B) cooperation between the Army and the Forest Service in the protection and conservation of the paleontological, archaeological, and natural resources in the PWC.

(2) In determining whether the manner, time, and extent of access through the Pinon Canyon Maneuver Site for a particular purpose will constitute interference with the Army's use of the site for the purpose of paragraph (1)(B), the Secretary of the Army shall—

(A) with respect to access by the Secretary of Agriculture for management purposes, take into consideration that the high importance of protecting and conserving the resources of the PWC may justify the imposition of some inconvenience to the Army, so long as the inconvenience does not prevent the Army from accomplishing its purposes on the Pinon Canyon Maneuver Site; and

(B) with respect to access by the public, take into consideration comments solicited from the public by the Secretary of Agriculture concerning the need for and the kind of access that should be provided.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Agriculture such sums as are necessary to carry out this section, including such sums as are necessary to pay for—

(1) a study of the paleontological resources of the PWC and action to prevent erosion of the dinosaur track way;

(2) a complete cadastral survey of the PWC; and

(3) an archaeological, paleontological, and historical survey of the PWC.

SEC. 2826. LAND CONVEYANCE, CAPE HENLOPEN, DELAWARE

(a) IN GENERAL.—(1) Subject to subsections (b) through (e), the Secretary of the Army shall convey, not later than one year after the date of the enactment of this Act, to the State of Delaware all

right, title, and interest of the United States in and to a parcel of real property located at Cape Henlopen, in Sussex County, Delaware, consisting of approximately 96 acres and known as the Fort Meade Recreation Area.

(2) The conveyance made pursuant to this section shall be without consideration except that required by subsection (b).

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by this section shall be subject to the following conditions:

(1) The State of Delaware shall indemnify the United States against all liability in connection with any hazardous materials, substances, or conditions which may be found on the property to be conveyed pursuant to this section.

(2) The State of Delaware shall permit members of the Armed Forces of the United States serving on active duty, their spouses, and their dependents to purchase each year, for a price not greater than the price charged residents of the State of Delaware, an annual pass to all Delaware State parks.

(3) The State of Delaware shall pay to the Secretary for credit to the Army Morale, Welfare, and Recreation Fund, the sum of $14,369, to reimburse the fund for sums expended to improve the property.

(c) USE OF PROPERTY; REVERSION.—(1) The real property conveyed pursuant to this section may be used by the State of Delaware only for public park or recreational purposes.

(2) If the Secretary of the Interior determines at any time that the real property conveyed pursuant to this section is not being used for a purpose specified in paragraph (1), all right, title, and interest in and to such real property shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the State of Delaware.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2827. LAND CONVEYANCE, EGLIN AIR FORCE BASE, FLORIDA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Air Force may convey to the City of Valparaiso, Florida, all right, title, and interest of the United States in and to approximately 3.5 acres of real property, including improvements thereon, located on Eglin Air Force Base, Florida.

(b) CONSIDERATION AND USE OF PROCEEDS.—(1) In consideration for the conveyance authorized by subsection (a), the City of Valparaiso, Florida, shall pay to the United States an amount equal to the fair market value of the property to be conveyed, as determined by the Secretary.

(2) The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(c) CONDITION OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the condition that the real property

so conveyed shall be used by the City of Valparaiso, Florida, as a public cemetery.

(d) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purpose specified in subsection (c), all right, title, and interest in and to the property, including improvements thereon, shall revert to the United States and the United States shall have the right of immediate reentry thereon.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City of Valparaiso, Florida.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, NAVAL AIR STATION, CECIL FIELD, JACKSONVILLE, FLORIDA.

(a) IN GENERAL.—(1) Subject to paragraphs (2) and (3) and subsection (c), the Secretary of the Navy may sell the real property and improvements owned by the United States in Duval County, Florida, comprising the Outlying Landing Field, Whitehouse.

(2) Such a sale may be carried out only after a fully operational replacement field has been completed, using not more than $500,000 of the funds appropriated pursuant to section 2205(a)(5) of this Act and other funds authorized and appropriated for that purpose.

(3) The sale of such property shall be by competitive procedures and at not less than the fair market value of the property (as determined by the Secretary).

(b) USE OF PROCEEDS.—The Secretary may use the proceeds from the sale authorized in subsection (a) to—

(1) acquire sufficient interests in additional land around the replacement facility to provide a safety and noise buffer zone necessary for the continued operation of the facility; and

(2) pay expenses related to the sale of property authorized by subsection (a).

(c) RESTRICTIONS ON SALE.—The Secretary shall not proceed with the sale authorized by subsection (a) unless the conditions of the sale are restricted to non-aviation use.

SEC. 2829. LAND EXCHANGE, FORT BENNING, GEORGIA

(a) AUTHORITY TO CONVEY.—Subject to subsections (b), (c), and (d), the Secretary of the Army may convey to the City of Columbus, Georgia, all right, title, and interest of the United States in and to a tract of real property, including improvements thereon, consisting of approximately 3,000 acres and comprising a portion of Fort Benning, Georgia.

(b) CONSIDERATION AND USE OF PROCEEDS.—(1) In consideration for the conveyance by the Secretary under subsection (a), the City of Columbus shall be required to convey to the United States approximately 3,300 acres of real property located adjacent to the southern boundary of Fort Benning.

(2) If the fair market value of the land conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed to the United States, as determined by the Secretary, the City of Columbus shall pay an amount equal to the difference to the

United States. The Secretary shall deposit any such amount into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(c) LEGAL DESCRIPTION OF LANDS.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCE, ROBINS AIR FORCE BASE, GEORGIA

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Air Force may sell and convey all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of a total of approximately 70 acres, and comprising a portion of Robins Air Force Base, Georgia.

(b) COMPETITIVE BID REQUIREMENT, MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of property referred to in subsection (a).

(2) In no event may any of the property referred to in subsection (a) be sold for an amount less than the fair market value, as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of such survey shall be borne by the purchaser.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2831. LAND CONVEYANCE, DILLINGHAM MILITARY RESERVATION, HAWAII

(a) IN GENERAL.—Subject to subsections (b), (c), and (d), the Secretary of the Army shall convey to the State of Hawaii, without consideration, all right, title, and interest of the United States in and to a parcel of land, together with improvements thereon, consisting of approximately 87 acres, that comprises a portion of Dillingham Military Reservation at Mokuleia, Hawaii, and which was previously ceded, without consideration, to the United States by the State of Hawaii for use by the Armed Forces of the United States.

(b) CONDITION.—The conveyance authorized by subsection (a) shall be made on condition that the State of Hawaii enter into an agreement with the Secretary of the Army that is acceptable to the Secretary and provides for joint civilian and military use of the property as an airfield by the State of Hawaii and the Army.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property referred to in subsection (a) shall be

determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State of Hawaii.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2832. LAND CONVEYANCE, SOUTH BEND, INDIANA

(a) IN GENERAL.—Subject to subsections (b) through (f), the Secretary of the Army shall convey to the Civic Foundation, Incorporated, a not-for-profit corporation organized and operating pursuant to the laws of the State of Indiana, or the City of South Bend, Indiana, or to both, all right, title, and interest of the United States in and to real property aggregating approximately 4.15 acres, including improvements thereon, located at 1733 East Northside Boulevard, South Bend, Indiana, and known as the Northside Army Reserve Training Center.

(b) CONSIDERATION.—(1) In consideration for the conveyance made under subsection (a), the Civic Foundation or the City, as the case may be, shall, in accordance with the agreement required by subsection (c), be required to—

(A) convey to the United States all right, title, and interest in and to a parcel of real property of approximately eight acres, together with improvements thereon, located at 2402 Rose Street, South Bend, Indiana, and known as the Maple Lane School;

(B) repair and rehabilitate the Maple Lane School in accordance with plans and specifications approved by the Secretary;

(C) construct an access driveway to the Maple Lane School property from Ironwood Drive; and

(D) design to Department of the Army standards and construct additional improvements on the Maple Lane School property in accordance with the requirements, and subject to the approval, of the Secretary.

(2) The cost of the repair, rehabilitation, construction work, and other improvements carried out under subparagraphs (B), (C), and (D) of paragraph (1) (including but not limited to the cost of any and all architectural, engineering design, environmental assessment and remediation, construction financing, and all legal and inspection fees for the additional improvements) shall be paid as follows:

(A) The Civic Foundation or the City, or both, shall pay a total of $500,000. Any funds expended by the Civic Foundation or the City pursuant to obligations under paragraph (1) before the execution of the agreement required by subsection (c) shall be considered as part of this payment.

(B) After payment by the Civic Foundation or the City, or both, as provided in subparagraph (A), the Secretary of the Army shall pay any remaining amount necessary to complete the work described in subparagraphs (B), (C), and (D) of paragraph (1), out of funds available for such purpose.

(3) The amount of $397,000 is hereby authorized to be appropriated to pay for the design and construction of improvements authorized by paragraph (1)(D).

(c) AGREEMENT.—In order to implement this section, the Secretary shall enter into an agreement with the Civic Foundation or the City, or both.

(d) OCCUPANCY.—The Department of the Army shall vacate the Northside Army Reserve Training Center upon beneficial occupancy of Maple Lane School.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the properties to be conveyed under this section shall be determined by surveys acceptable to the Secretary. The cost of such survey shall be borne by Civic Foundation, Incorporated, or by the City of South Bend, or both.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to carry out the provisions of this section and to protect the interests of the United States.

SEC. 2833. LAND EXCHANGE, LEXINGTON PARK, MARYLAND

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Navy may convey to the County of St. Mary's, Maryland, all right, title, and interest of the United States in and to approximately 32 acres of unimproved real property consisting of two severable parcels at the Naval Air Test Center, Patuxent River, Maryland.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the County shall be required to convey to the United States approximately 7.2 acres of real property, including improvements thereon, known as the former Frank Knox Elementary School, Lexington Park, Maryland.

(c) PAYMENT OF EXCESS INTO SPECIAL ACCOUNT.—If the fair market value of the land and improvements conveyed by the Secretary under subsection (a) exceeds the fair market value of the land conveyed to the United States by the County, the County shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any property to be conveyed or received under this section shall be determined by surveys satisfactory to the Secretary. The cost of such survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2834. LAND EXCHANGE AT MARINE CORPS FINANCE CENTER, KANSAS CITY, MISSOURI

(a) AUTHORITY TO CONVEY.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the City of Kansas City, Missouri, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 12 acres located near the family housing area of the Marine Corps Finance Center, Kansas City, Missouri, together with the improvements on such land.

(b) CONSIDERATION.—In consideration for the conveyance by the Secretary under subsection (a), the City of Kansas City shall convey to the United States approximately 10 acres of land adjacent to the family housing area of the Marine Corps Finance Center, Kansas City, Missouri.

(c) PAYMENT OF EXCESS INTO SPECIAL ACCOUNT.—If the fair market value of the land and improvements conveyed by the Secretary

under subsection (a) exceeds the fair market value of the land conveyed to the United States by the City of Kansas City, the City shall pay an amount equal to the difference to the United States, and the Secretary shall deposit such amount into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreages and legal descriptions of the lands to be conveyed under this section shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the City of Kansas City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transactions authorized by this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2835. EXCHANGE OF INTERESTS, CAMP WITHYCOMBE, OREGON

(a) RELEASE OF REVERSIONARY INTEREST.—Subject to subsections (b) through (d), the Secretary of the Army may release to the State of Oregon the reversionary interest of the United States in and to two parcels of real property totaling approximately 160 acres, including improvements thereon, at Camp Withycombe, Clackamas County, Oregon, that were conveyed by the United States to the State of Oregon by a quitclaim deed dated November 9, 1956.

Real property acquisition.

(b) CONSIDERATION.—(1) In consideration for the release under subsection (a), the State of Oregon shall be required to convey to the United States a contingent interest, described in paragraph (2), in approximately 166 acres of real property, including improvements thereon, comprising Camp Rilea, Clatsop County, Oregon.

(2) The contingent interest referred to in paragraph (1) is an interest that provides that—

(A) in the event that Camp Rilea ceases to be used by the State of Oregon for military purposes, title to such property, including improvements thereon, shall immediately vest in the United States without payment of consideration and the United States shall have the immediate right to enter thereon; and

(B) in the event of a war declared by Congress or a national emergency declared by Congress or the President, and upon a determination by the Secretary of Defense that any of such property is needed for military purposes, the United States shall have the right, without payment of consideration, to enter the property and use the property or any part thereof, including any improvements thereon, for such period as the Secretary determines necessary, but in no event for any period that extends beyond 180 days after the end of such war or national emergency.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property from which the reversionary interest referred to in subsection (a) is to be released, and the exact acreage and legal description of the property in which the contingent interest is to be conveyed to the United States under subsection (b), shall be determined by surveys satisfactory to the Secretary of the Army. The cost of such surveys shall be borne by the State.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the release of the reversionary interest under subsection (a) and the conveyance of the contingent interest under subsection (b) as the

Secretary determines appropriate to protect the interests of the United States.

SEC. 2836. CONVEYANCE OF FORT DOUGLAS, UTAH

(a) CONVEYANCE.—(1) Except as provided in paragraphs (2), (3), and (4), and subject to subsections (b) through (g), the Secretary of the Army shall convey to the University of Utah all right, title, and interest of the United States in and to the land comprising Fort Douglas, Utah, together with improvements thereon.

(2) The Secretary shall except from the land conveyed under paragraph (1) such land, not in excess of 64 acres, and improvements thereon as may be necessary for the Army to continue conducting Army Reserve activities at the Fort Douglas location.

(3) The Secretary shall also except from the land conveyed under paragraph (1) the land at Fort Douglas constituting the Fort Douglas Post Cemetery, consisting of approximately four acres.

(4) In connection with the land retained for Army Reserve activities and the land constituting the Army Post Cemetery, the Secretary shall reserve to the United States in the land conveyed such rights-of-way and other easements as may be necessary for ingress to and egress from the land retained.

(b) CONSIDERATION.—(1) The conveyance under subsection (a) shall be made only on the condition that the State of Utah and the University of Utah waive any entitlements that have not been exercised on behalf of the University of Utah before the date of the enactment of this section and that may be due to the State of Utah or the University of Utah on behalf of the University of Utah under—

(A) section 3 of the Act entitled "An Act to establish the office of Surveyor-General of Utah, and to grant Land for School and University Purposes", approved February 21, 1855 (10 Stat. 611); and

(B) sections 8 and 12 of the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on equal footing with the original States", approved July 16, 1894 (28 Stat. 110).

(2) The waiver referred to in paragraph (1) shall be executed in such manner as the Secretary of the Army, after consultation with the Attorney General of the United States, determines necessary to effectively waive any unexercised entitlements under those laws.

(c) CONDITION.—(1) The conveyance provided for in subsection (a) may be made only on condition that—

(A) the State of Utah agree to maintain and operate, as provided in paragraph (2), the Army museum located on the land conveyed to the University of Utah pursuant to this section; and

(B) the University of Utah agree—

(i) to maintain and operate, as provided in paragraph (2), the Army chapel and other historical buildings located on the land referred to in subparagraph (A); and

(ii) to preserve and maintain, as provided in paragraph (2), the parade grounds that are a part of the land referred to in subparagraph (A).

(2) The Army museum, Army chapel, and other historical buildings referred to in paragraph (1) shall be maintained and operated, and the parade grounds referred to in that paragraph shall be preserved and maintained, in a manner consistent with Federal

Historic preservation.

laws and regulations pertaining to the preservation of historical sites, buildings, and monuments, as specified by the Secretary of the Interior.

(d) REVERSIONARY RIGHT.—If the University of Utah uses the land conveyed pursuant to subsection (a) for a purpose other than educational or research purposes, all right, title, and interest in and to such land shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(e) DEADLINE FOR CONVEYANCE.—The conveyance under subsection (a) shall be made not later than one year after the date of the enactment of this section.

(f) JOINT USE OF UTILITY SYSTEMS.—The Secretary may enter into an agreement with the University of Utah under which the Army and the University would—

(1) jointly use the existing utility systems located at Fort Douglas at the time of the conveyance provided for under subsection (a);

(2) equitably share the cost of maintaining, operating, and replacing (as necessary) the systems; and

(3) pay on a pro rata basis for the utilities consumed by each of the parties.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance provided for under subsection (a) as the Secretary considers necessary to protect the interests of the United States.

(h) ADDITIONAL EXCESS LAND.—In the event that any lands constituting Fort Douglas, Utah, that are not conveyed pursuant to subsection (a) are declared excess to the needs of the Army after the date of the conveyance provided for in that subsection, the Secretary shall convey such lands to the University of Utah. Any lands conveyed pursuant to this subsection shall be conveyed subject to a reversionary clause in favor of the United States as provided in subsection (d).

SEC. 2837. LAND CONVEYANCE, NAVAL RESERVE CENTER, BURLINGTON, VERMONT

(a) IN GENERAL.—Subject to subsection (b) through (e), the Secretary of the Navy may convey to the City of Burlington, Vermont, all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 1.49 acres, including improvements thereon, comprising the Naval Reserve Center, Burlington, Vermont.

(b) USE OF PROCEEDS.—The Secretary may use the proceeds of the transaction authorized by this section to pay all or part of the cost of acquiring a new site in the Burlington, Vermont, area for a naval reserve center and for the construction on such site of a replacement naval reserve center facility.

(c) CONDITIONS OF SALE.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the City of Burlington—

(A) pay to the United States the sum of $1,500,000; and

(B) permit the Navy to continue to occupy, without consideration, the property referred to in such subsection until a replacement facility has been acquired by the Secretary.

(2) In the event that the conveyance authorized by subsection (a) is not made before January 1, 1992, because the City is unable to pay

the consideration required by paragraph (1)(A), the authority to convey is terminated.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. LAND TRANSFER, ARLINGTON, VIRGINIA

The property consisting of approximately 14.05 acres of real property, and improvements thereon, known as Barracks "K", located in Arlington, Virginia, shall be deemed excess property, and the Administrator of General Services may transfer the property to the Secretary of the Navy without consideration.

SEC. 2839. LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA

(a) CONVEYANCE AUTHORIZED.—Subject to subsections (b) through (e), the Secretary of the Army shall convey, without consideration, to the Commonwealth of Virginia all right, title, and interest of the United States in and to a parcel of land located at Fort A.P. Hill, Virginia, consisting of approximately 150 acres.

(b) USE OF PROPERTY; REVERSION.—(1) The land conveyed pursuant to this section shall be conveyed subject to the conditions that—

(A) the construction of a regional correctional facility on the land be completed not later than five years after the date of the enactment of this section;

(B) the land be used only for the purpose of operating a regional correctional facility which shall be subject to the conditions and limitations on its use as provided in title 53.1 of the Code of Virginia; and

(C) the Commonwealth of Virginia offer to Arlington County, Fairfax County, the City of Alexandria, Loudoun County, Fauquier County, Prince William County, Stafford County, and Caroline County, Virginia, and any other Virginia county that the Commonwealth of Virginia may choose, the opportunity to participate in the governmental entity created under the law of the Commonwealth of Virginia to construct and operate the regional correctional facility.

(2) If—

(A) a regional correctional facility is not constructed on the land conveyed pursuant to this section in accordance with paragraph (1)(A);

(B) such land is used for any purpose other than the purpose specified in paragraph (1)(B); or

(C) the counties referred to in paragraph (1)(C) are not offered the opportunity to participate in the entity referred to in such paragraph (as determined by the Secretary),

all right, title, and interest in and to such land (together with the improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—(1) The tract of land conveyed pursuant to this section shall be a tract of land that— Prisons.

(A) has soil and topographical conditions suitable for the construction of a low- to mid-rise institutional correctional facility, including recreation, parking, and other necessary support facilities; and

(B) is situated within reasonably close proximity to an existing sewer system.

(2) The cost of any new or expanded sewer system or utility shall not be the responsibility of the Department of Defense or Caroline County, Virginia.

(3) The exact acreage and legal description of the land to be conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary.

(d) PROHIBITION ON HOUSING CERTAIN PRISONERS.—The regional correctional facility constructed pursuant to this section may not be used to house Federal prisoners or prisoners convicted and sentenced in the courts of any jurisdiction other than the Commonwealth of Virginia (including all jurisdictions therein) without the written consent of the government of the county in which such facility is located.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance pursuant to this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 2840. EASEMENT CONVEYANCE, FORT LAWTON, SEATTLE, WASHINGTON

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the City of Seattle, Washington, certain easement interests of the United States in approximately 1.42 acres of real property comprising a portion of the Department of the Navy Fort Lawton family housing area, Seattle, Washington.

(b) CONSIDERATION.—(1) In consideration for the conveyance authorized in subsection (a), the City shall provide new waterline hookups at such Navy family housing area.

(2) If the fair market value of the easement interests to be conveyed under subsection (a) exceeds the fair market value of the consideration received under paragraph (1), as determined by the Secretary, the City shall pay the amount of the difference to the United States. Any such payment shall be deposited into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 485(h)).

(c) HOUSING UNITS.—(1) The City may be permitted to occupy, without consideration other than payment for utilities and services, the ten units of military family housing that will be impacted by the waterline hookups referred to in subsection (b)(1) until such time as is mutually agreed upon by the City and the Secretary.

(2) The City shall provide to the Secretary, without payment of consideration, ten replacement housing units comparable to the ten housing units referred to in paragraph (1) at a site within the Puget Sound area to be determined by the Secretary.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the

conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

PART D—DEPARTMENT OF DEFENSE ENERGY SAVINGS

SEC. 2851. DEPARTMENT OF DEFENSE ENERGY SAVINGS PROGRAM

(a) IN GENERAL.—Subchapter III of chapter 169 of title 10, United States Code, is amended by adding at the end the following:

"§ 2865. Energy savings at military installations

"(a)(1) The Secretary of Defense shall designate an energy performance goal for the Department of Defense for the years 1991 through 2000.

"(2) To achieve the goal designated under paragraph (1), the Secretary shall develop a comprehensive plan to identify and accomplish energy conservation measures to achieve maximum cost-effective energy savings.

"(3) For the purpose of implementing any energy performance plan, the Secretary shall provide that the selection of energy conservation measures under such plan shall be limited to those with a positive net present value over a period of 10 years or less.

"(b)(1) The Secretary shall provide that two-thirds of the portion of the funds appropriated to the Department of Defense for a fiscal year that is equal to the amount of energy cost savings realized by the Department, including financial benefits resulting from shared energy savings contracts and financial incentives described in paragraph (3)(B), for any fiscal year beginning after fiscal year 1990 shall remain available for obligation under paragraph (2) through the end of the fiscal year following the fiscal year for which the funds were appropriated, without additional authorization or appropriation.

"(2) The amount that remains available for obligation under paragraph (1) shall be utilized as follows:

"(A) One-half of the amount shall be used for the implementation of additional energy conservation measures at such buildings, facilities, or installations of the Department of Defense as the head of the department, agency, or instrumentality that realized the savings may designate in accordance with regulations prescribed by the Secretary of Defense.

"(B) One-half of the amount shall be used at the installation at which the savings were realized, as determined by the commanding officer of such installation consistent with applicable law and regulations, for—

"(i) improvements to existing military family housing units;

"(ii) any unspecified minor construction project that will enhance the quality of life of personnel; or

"(iii) any morale, welfare, or recreation facility or service.

"(3) The Secretary—

"(A) shall permit and encourage each military department, Defense Agency, and other instrumentality of the Department of Defense to participate in programs conducted by any gas or electric utility for the management of electricity demand or for energy conservation; and

"(B) may authorize any military installation to accept any financial incentive, generally available from any such utility, to

adopt technologies and practices that the Secretary determines are cost-effective for the Federal Government.

Government contracts.

"(c)(1) The Secretary of Defense shall develop a simplified method of contracting for shared energy savings contract services that will accelerate the use of these contracts with respect to military installations and will reduce the administrative effort and cost on the part of the Department as well as the private sector.

"(2)(A) In carrying out paragraph (1), the Secretary of Defense may—

"(i) request statements of qualifications (as prescribed by the Secretary of Defense), including financial and performance information, from firms engaged in providing shared energy savings contracting;

"(ii) designate from the statements received, with an update at least annually, those firms that are presumptively qualified to provide shared energy savings services;

"(iii) select at least three firms from the qualifying list to conduct discussions concerning a particular proposed project, including requesting a technical and price proposal from such selected firms for such project; and

"(iv) select from such firms the most qualified firm to provide shared energy savings services pursuant to a contractual arrangement that the Secretary determines is fair and reasonable, taking into account the estimated value of the services to be rendered and the scope and nature of the project.

"(B) In carrying out paragraph (1), the Secretary may also provide for the direct negotiation, by departments, agencies, and instrumentalities of the Department of Defense, of contracts with shared energy savings contractors that have been selected competitively and approved by any gas or electric utility serving the department, agency, or instrumentality concerned.

Reports.

"(d) Beginning with fiscal year 1991 and by no later than December 31, 1991, and of each year thereafter, the Secretary of Defense shall transmit an annual report to the Congress containing a description of the actions taken to carry out this section, and the savings realized from such actions, during the fiscal year ending in the year in which the report is made.".

(b) CLERICAL AMENDMENT.—The table of contents for such subchapter is amended by adding at the end the following:

"2865. Energy savings at military installations.".

SEC. 2852. TECHNICAL AMENDMENTS

(a) Section 2394a(c) of title 10, United States Code, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a system shall be made using the life-cycle cost methods and procedures established pursuant to section 544(a) of the National Energy Conservation Policy Act.".

(b) Section 2857(c) of title 10, United States Code, is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) A determination under paragraph (1) concerning whether a cost-differential can be recovered over the expected life of a facility shall be made using the life-cycle cost methods and procedures

established pursuant to section 544(a) of the National Energy Conservation Policy Act.".

PART E—MISCELLANEOUS PROVISIONS

SEC. 2861. RELOCATION OF THE FLORIDA SOLAR ENERGY CENTER

(a) IN GENERAL.—The Secretary of the Air Force may pay $2,953,000 to the State of Florida for the sole purpose of assisting that State to relocate the Florida Solar Energy Center from Cape Canaveral Air Force Station, Florida, to a new site provided by the State of Florida on other than federally owned land. The payment of such sum shall include all Federal Government contributions to the relocation project, including relocation costs.

(b) CONSIDERATION.—In consideration for payment of the amount provided for in (a), the State of Florida shall—

(1) release to the United States all leases, easements, and other land interests connected with the Florida Solar Energy Center on Cape Canaveral Air Force Station;

(2) convey to the United States title to all buildings, fixtures, and other improvements located on such lands;

(3) waive any claims against the United States arising out of the operation of the Florida Solar Energy Center from its inception until the final departure of all personnel and personal property connected with the Center from Cape Canaveral Air Force Station;

(4) accept sole responsibility for the disposal, removal, or remediation of all solid or hazardous wastes on the property and release the United States from any obligation with respect to such wastes without regard to who may have been responsible for placing the solid or hazardous waste on the property; and

(5) indemnify the United States against all claims, losses, damages, and costs arising out of or connected with any solid or hazardous wastes on the premises, to the extent permitted by the laws of the State of Florida.

(c) AGREEMENT.—No payment may be made to the State of Florida under this section until the Secretary and the State of Florida have entered into an agreement embodying the terms of this section, including a waiver by the State of all claims for the payment of any amount for relocation costs in addition to the amount specified in subsection (a).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions with respect to the payment by the Secretary pursuant to subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2862. MODIFICATION OF HEIGHT RESTRICTION IN AVIGATION EASEMENT

(a) IN GENERAL.—The Act of July 2, 1948 (62 Stat. 1229), is amended by adding at the end the following new section:

"SEC. 6. The height restriction in subsection d. of the first section of this Act shall not apply with respect to any public utility structure that does not exceed 160 feet above mean low-water level.".

(b) FILING.—The Secretary of the Air Force shall execute and file in the appropriate office any instrument necessary to effect the modification of the avigation easement referred to in the amendment made in subsection (a).

SEC. 2863. HENDERSON HALL, ARLINGTON, VIRGINIA

103 Stat. 1663.

Section 2843(a)(1) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189) is amended by striking out "62,000 square feet" and inserting in lieu thereof "77,000 square feet".

SEC. 2864. ADDITIONAL AUTHORITY FOR LEASE-PURCHASE

Section 2812(a)(2) of title 10, United States Code, is amended by adding at the end the following:

"(I) Classroom and laboratories."

SEC. 2865. SALE OF AGGREGATE, NAVAL AIR STATION, MIRAMAR, CALIFORNIA

(a) AUTHORITY.—(1) Subject to subsections (b) through (d), the Secretary of the Navy may extract, sell, and remove aggregate from the real property comprising the Naval Air Station, Miramar, California.

(2) Such extraction, sale, and removal shall be by competitive procedures except for that portion of the station where the City of San Diego operates a sanitary landfill. Within such area, the City may extract, sell, or remove the aggregate.

(b) CONSIDERATION.—In consideration for the rights authorized to the City of San Diego by subsection (a), the City shall pay to the United States fair market value, as determined by the Secretary, for any aggregate it extracts, sells, or removes.

(c) USE OF FUNDS.—The Secretary shall deposit proceeds received from the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions under this section as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2866. STUDY TO EVALUATE JOINT MILITARY-CIVILIAN USE OF MILITARY AIRFIELDS

(a) IN GENERAL.—The Secretary of Defense and the Secretary of Transportation shall conduct a joint study to evaluate the desirability and feasibility of converting airfields under the jurisdiction of each military department—

(1) to civilian use; or

(2) in the case of any such airfield which will continue to be used by the military department, to joint civilian and military use.

(b) SPECIFIC MATTERS TO BE CONSIDERED.—In conducting the study referred to in subsection (a), the Secretary of Defense and the Secretary of Transportation shall—

(1) prepare an inventory of airfields under the control of each military department;

(2) evaluate the present and future need of airfields for civilian use and for military use;

(3) evaluate the extent to which civilian or joint civilian-military use of such airfields would meet national aviation policy objectives;

(4) identify obstacles to and incentives for encouraging civilian or joint civilian-military use of such airfields;

(5) identify and assess means of reducing the cost to the Department of Defense of civilian or joint civilian-military use of such airfields, including—

(A) cost sharing agreements with civilian users of such airfields;

(B) use of funds from the Airport and Airway Trust Fund established under section 9502 of the Internal Revenue Code of 1986;

(C) the imposition of civilian aviation user fees;

(D) civil aviation user lease agreements; and

(6) assess the advisability of a joint-use agreement between the military department that controls the airfield and a commercial fixed-base operator.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense and the Secretary of Transportation shall submit to the Committees on Armed Services of the Senate and the House of Representatives and the Committee on Public Works and Transportation of the House and the Committee on Commerce, Science, and Transportation of the Senate a joint report on the results of the study referred to in subsection (a) together with such comments and recommendations for legislation as the Secretaries consider appropriate.

(d) FUNDING FOR STUDY.—The study referred to in this section shall be funded jointly by the Department of Defense and the Department of Transportation.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this section.

SEC. 2867. NEGOTIATIONS FOR JOINT CIVILIAN AND MILITARY USE OF THE AIRFIELD AT WHEELER AIR FORCE BASE, HAWAII

(a) IN GENERAL.—The Secretary of Defense shall enter into negotiations with the State of Hawaii with a view to entering into an agreement with the State of Hawaii under which the airfield facilities at Wheeler Air Force Base, Hawaii, would be jointly used for general civilian aviation purposes and military purposes.

(b) AGREEMENT AUTHORITY.—In the event that the negotiations referred to in subsection (a) are successful, the Secretary may enter into an agreement with the State of Hawaii providing for the joint civilian and military use of the airfield. Any such agreement shall provide for an equitable allocation between the State and the Department of Defense of the costs of maintaining and operating the airfield.

SEC. 2868. EXTENSION OF TERMINATION DATE FOR LAND CONVEYANCE AT EGLIN AIR FORCE BASE, FLORIDA

Section 808(d) of the Military Construction Act, 1983 (Public Law 97-321; 98 Stat. 1575) is amended by striking out "1990" and inserting in lieu thereof "1993".

TITLE XXIX—DEFENSE BASE CLOSURES AND REALIGNMENTS

PART A—DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION

Defense Base Closure and Realignment Act of 1990.
10 USC 2687 note.

SEC. 2901. SHORT TITLE AND PURPOSE

(a) SHORT TITLE.—This part may be cited as the "Defense Base Closure and Realignment Act of 1990".

(b) PURPOSE.—The purpose of this part is to provide a fair process that will result in the timely closure and realignment of military installations inside the United States.

10 USC 2687 note.

SEC. 2902. THE COMMISSION

(a) ESTABLISHMENT.—There is established an independent commission to be known as the "Defense Base Closure and Realignment Commission".

(b) DUTIES.—The Commission shall carry out the duties specified for it in this part.

(c) APPOINTMENT.—(1)(A) The Commission shall be composed of eight members appointed by the President, by and with the advise and consent of the Senate.

President.

(B) The President shall transmit to the Senate the nominations for appointment to the Commission—

(i) by no later than January 3, 1991, in the case of members of the Commission whose terms will expire at the end of the first session of the 102nd Congress;

(ii) by no later than January 25, 1993, in the case of members of the Commission whose terms will expire at the end of the first session of the 103rd Congress; and

(iii) by no later than January 3, 1995, in the case of members of the Commission whose terms will expire at the end of the first session of the 104th Congress.

(2) In selecting individuals for nominations for appointments to the Commission, the President should consult with—

(A) the Speaker of the House of Representatives concerning the appointment of two members;

(B) the majority leader of the Senate concerning the appointment of two members;

(C) the minority leader of the House of Representatives concerning the appointment of one member; and

(D) the minority leader of the Senate concerning the appointment of one member.

(3) At the time the President nominates individuals for appointment to the Commission for each session of Congress referred to in paragraph (1)(B), the President shall designate one such individual who shall serve as Chairman of the Commission.

(d) TERMS.—(1) Except as provided in paragraph (2), each member of the Commission shall serve until the adjournment of Congress sine die for the session during which the member was appointed to the Commission.

(2) The Chairman of the Commission shall serve until the confirmation of a successor.

(e) MEETINGS.—(1) The Commission shall meet only during calendar years 1991, 1993, and 1995.

(2)(A) Each meeting of the Commission, other than meetings in which classified information is to be discussed, shall be open to the public.

(B) All the proceedings, information, and deliberations of the Commission shall be open, upon request, to the following:

(i) The Chairman and the ranking minority party member of the Subcommittee on Readiness, Sustainability, and Support of the Committee on Armed Services of the Senate, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(ii) The Chairman and the ranking minority party member of the Subcommittee on Military Installations and Facilities of the Committee on Armed Services of the House of Representatives, or such other members of the Subcommittee designated by such Chairman or ranking minority party member.

(iii) The Chairmen and ranking minority party members of the Subcommittees on Military Construction of the Committees on Appropriations of the Senate and of the House of Representatives, or such other members of the Subcommittees designated by such Chairmen or ranking minority party members.

(f) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment, but the individual appointed to fill the vacancy shall serve only for the unexpired portion of the term for which the individual's predecessor was appointed.

(g) PAY AND TRAVEL EXPENSES.—(1)(A) Each member, other than the Chairman, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(B) The Chairman shall be paid for each day referred to in subparagraph (A) at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(2) Members shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) DIRECTOR OF STAFF.—(1) The Commission shall, without regard to section 5311(b) of title 5, United States Code, appoint a Director who has not served on active duty in the Armed Forces or as a civilian employee of the Department of Defense during the one-year period preceding the date of such appointment.

(2) The Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(i) STAFF.—(1) Subject to paragraphs (2) and (3), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(3) Not more than one-third of the personnel employed by or detailed to the Commission may be on detail from the Department of Defense.

(4) Upon request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in carrying out its duties under this part.

(5) The Comptroller General of the United States shall provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(j) OTHER AUTHORITY.—(1) The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) The Commission may lease space and acquire personal property to the extent funds are available.

(k) FUNDING.—(1) There are authorized to be appropriated to the Commission such funds as are necessary to carry out its duties under this part. Such funds shall remain available until expended.

(2) If no funds are appropriated to the Commission by the end of the second session of the 101st Congress, the Secretary of Defense may transfer, for fiscal year 1991, to the Commission funds from the Department of Defense Base Closure Account established by section 207 of Public Law 100-526. Such funds shall remain available until expended.

(l) TERMINATION.—The Commission shall terminate on December 31, 1995.

10 USC 2687 note.

SEC. 2903. PROCEDURE FOR MAKING RECOMMENDATIONS FOR BASE CLOSURES AND REALIGNMENTS

(a) FORCE-STRUCTURE PLAN.—(1) As part of the budget justification documents submitted to Congress in support of the budget for the Department of Defense for each of the fiscal years 1992, 1994, and 1996, the Secretary shall include a force-structure plan for the Armed Forces based on an assessment by the Secretary of the probable threats to the national security during the six-year period beginning with the fiscal year for which the budget request is made and of the anticipated levels of funding that will be available for national defense purposes during such period.

(2) Such plan shall include, without any reference (directly or indirectly) to military installations inside the United States that may be closed or realigned under such plan—

(A) a description of the assessment referred to in paragraph (1);

(B) a description (i) of the anticipated force structure during and at the end of each such period for each military department (with specifications of the number and type of units in the active and reserve forces of each such department), and (ii) of the units that will need to be forward based (with a justification thereof) during and at the end of each such period; and

(C) a description of the anticipated implementation of such force-structure plan.

(3) The Secretary shall also transmit a copy of each such force-structure plan to the Commission.

Federal Register, publication.

(b) SELECTION CRITERIA.—(1) The Secretary shall, by no later than December 31, 1990, publish in the Federal Register and transmit to the congressional defense committees the criteria proposed to be used by the Department of Defense in making recommendations for the closure or realignment of military installations inside the United States under this part. The Secretary shall provide an

opportunity for public comment on the proposed criteria for a period of at least 30 days and shall include notice of that opportunity in the publication required under the preceding sentence.

(2)(A) The Secretary shall, by no later than February 15, 1991, publish in the Federal Register and transmit to the congressional defense committees the final criteria to be used in making recommendations for the closure or realignment of military installations inside the United States under this part. Except as provided in subparagraph (B), such criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15, 1991. Federal Register, publication.

(B) The Secretary may amend such criteria, but such amendments may not become effective until they have been published in the Federal Register, opened to public comment for at least 30 days, and then transmitted to the congressional defense committees in final form by no later than February 15 of the year concerned. Such amended criteria shall be the final criteria to be used, along with the force-structure plan referred to in subsection (a), in making such recommendations unless disapproved by a joint resolution of Congress enacted on or before March 15 of the year concerned.

(c) DOD RECOMMENDATIONS.—(1) The Secretary may, by no later than April 15, 1991, April 15, 1993, and April 15, 1995, publish in the Federal Register and transmit to the congressional defense committees and to the Commission a list of the military installations inside the United States that the Secretary recommends for closure or realignment on the basis of the force-structure plan and the final criteria referred to in subsection (b)(2) that are applicable to the year concerned. Federal Register, publication.

(2) The Secretary shall include, with the list of recommendations published and transmitted pursuant to paragraph (1), a summary of the selection process that resulted in the recommendation for each installation, including a justification for each recommendation.

(3) In considering military installations for closure or realignment, the Secretary shall consider all military installations inside the United States equally without regard to whether the installation has been previously considered or proposed for closure or realignment by the Department.

(4) The Secretary shall make available to the Commission and the Comptroller General of the United States all information used by the Department in making its recommendations to the Commission for closures and realignments.

(d) REVIEW AND RECOMMENDATIONS BY THE COMMISSION.—(1) After receiving the recommendations from the Secretary pursuant to subsection (c) for any year, the Commission shall conduct public hearings on the recommendations.

(2)(A) The Commission shall, by no later than July 1 of each year in which the Secretary transmits recommendations to it pursuant to subsection (c), transmit to the President a report containing the Commission's findings and conclusions based on a review and analysis of the recommendations made by the Secretary, together with the Commission's recommendations for closures and realignments of military installations inside the United States. Reports.

(B) In making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary if the Commission determines that the Secretary deviated substantially

from the force-structure plan and final criteria referred to in subsection (c)(1) in making recommendations.

(3) The Commission shall explain and justify in its report submitted to the President pursuant to paragraph (2) any recommendation made by the Commission that is different from the recommendations made by the Secretary pursuant to subsection (c). The Commission shall transmit a copy of such report to the congressional defense committees on the same date on which it transmits its recommendations to the President under paragraph (2).

(4) After July 1 of each year in which the Commission transmits recommendations to the President under this subsection, the Commission shall promptly provide, upon request, to any Member of Congress information used by the Commission in making its recommendations.

Reports.

(5) The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the recommendations made by the Secretary pursuant to subsection (c); and

(B) by no later than May 15 of each year in which the Secretary makes such recommendations, transmit to the Congress and to the Commission a report containing a detailed analysis of the Secretary's recommendations and selection process.

Reports.

(e) REVIEW BY THE PRESIDENT.—(1) The President shall, by no later than July 15 of each year in which the Commission makes recommendations under subsection (d), transmit to the Commission and to the Congress a report containing the President's approval or disapproval of the Commission's recommendations.

(2) If the President approves all the recommendations of the Commission, the President shall transmit a copy of such recommendations to the Congress, together with a certification of such approval.

(3) If the President disapproves the recommendations of the Commission, in whole or in part, the President shall transmit to the Commission and the Congress the reasons for that disapproval. The Commission shall then transmit to the President, by no later than August 15 of the year concerned, a revised list of recommendations for the closure and realignment of military installations.

(4) If the President approves all of the revised recommendations of the Commission transmitted to the President under paragraph (3), the President shall transmit a copy of such revised recommendations to the Congress, together with a certification of such approval.

(5) If the President does not transmit to the Congress an approval and certification described in paragraph (2) or (4) by September 1 of any year in which the Commission has transmitted recommendations to the President under this part, the process by which military installations may be selected for closure or realignment under this part with respect to that year shall be terminated.

10 USC 2687 note.

SEC. 2904. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

(a) IN GENERAL.—Subject to subsection (b), the Secretary shall—

(1) close all military installations recommended for closure by the Commission in each report transmitted to the Congress by the President pursuant to section 2903(e);

(2) realign all military installations recommended for realignment by such Commission in each such report;

(3) initiate all such closures and realignments no later than two years after the date on which the President transmits a report to the Congress pursuant to section 2903(e) containing the recommendations for such closures or realignments; and

(4) complete all such closures and realignments no later than the end of the six-year period beginning on the date on which the President transmits the report pursuant to section 2903(e) containing the recommendations for such closures or realignments.

(b) CONGRESSIONAL DISAPPROVAL.—(1) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a joint resolution is enacted, in accordance with the provisions of section 2908, disapproving such recommendations of the Commission before the earlier of—

(A) the end of the 45-day period beginning on the date on which the President transmits such report; or

(B) the adjournment of Congress sine die for the session during which such report is transmitted.

(2) For purposes of paragraph (1) of this subsection and subsections (a) and (c) of section 2908, the days on which either House of Congress is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of a period.

SEC. 2905. IMPLEMENTATION

10 USC 2687 note.

(a) IN GENERAL.—(1) In closing or realigning any military installation under this part, the Secretary may—

(A) take such actions as may be necessary to close or realign any military installation, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from a military installation being closed or realigned to another military installation, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance;

(B) provide—

Community action programs.

(i) economic adjustment assistance to any community located near a military installation being closed or realigned, and

(ii) community planning assistance to any community located near a military installation to which functions will be transferred as a result of the closure or realignment of a military installation,

if the Secretary of Defense determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for economic adjustment assistance or community planning assistance;

(C) carry out activities for the purposes of environmental restoration and mitigation at any such installation, and may use for such purposes funds in the Account or funds appropriated to the Department of Defense for environmental restoration and mitigation;

Environmental protection.

(D) provide outplacement assistance to civilian employees employed by the Department of Defense at military installations being closed or realigned, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense for outplacement assistance to employees; and

(E) reimburse other Federal agencies for actions performed at the request of the Secretary with respect to any such closure or realignment, and may use for such purpose funds in the Account or funds appropriated to the Department of Defense and available for such purpose.

Environmental protection.

(2) In carrying out any closure or realignment under this part, the Secretary shall ensure that environmental restoration of any property made excess to the needs of the Department of Defense as a result of such closure or realignment be carried out as soon as possible with funds available for such purpose.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) The Administrator of General Services shall delegate to the Secretary of Defense, with respect to excess and surplus real property and facilities located at a military installation closed or realigned under this part—

(A) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(B) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484);

(C) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)); and

(D) the authority of the Administrator to determine the availability of excess or surplus real property for wildlife conservation purposes in accordance with the Act of May 19, 1948 (16 U.S.C. 667b).

(2)(A) Subject to subparagraph (C), the Secretary of Defense shall exercise the authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

(i) all regulations in effect on the date of the enactment of this Act governing the utilization of excess property and the disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations in effect on the date of the enactment of this Act governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by paragraph (1).

(C) The authority required to be delegated by paragraph (1) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

(D) The Secretary of Defense may transfer real property or facilities located at a military installation to be closed or realigned under this part, with or without reimbursement, to a military department or other entity (including a nonappropriated fund instrumentality) within the Department of Defense or the Coast Guard.

(E) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installa-

tion to be closed or realigned under this part, the Secretary of Defense shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

(c) APPLICABILITY OF NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to the actions of the President, the Commission, and, except as provided in paragraph (2), the Department of Defense in carrying out this part.

(2)(A) The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Department of Defense under this part (i) during the process of property disposal, and (ii) during the process of relocating functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated.

(B) In applying the provisions of the National Environmental Policy Act of 1969 to the processes referred to in subparagraph (A), the Secretary of Defense and the Secretary of the military departments concerned shall not have to consider—

(i) the need for closing or realigning the military installation which has been recommended for closure or realignment by the Commission;

(ii) the need for transferring functions to any military installation which has been selected as the receiving installation; or

(iii) military installations alternative to those recommended or selected.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), of any act or failure to act by the Department of Defense during the closing, realigning, or relocating of functions referred to in clauses (i) and (ii) of paragraph (2)(A), may not be brought more than 60 days after the date of such act or failure to act.

(d) WAIVER.—The Secretary of Defense may close or realign military installations under this part without regard to—

(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriations or authorization Act; and

(2) sections 2662 and 2687 of title 10, United States Code.

SEC. 2906. ACCOUNT

10 USC 2687 note.

(a) IN GENERAL.—(1) There is hereby established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account 1990" which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the congressional defense committees; and

(C) proceeds received from the transfer or disposal of any property at a military installation closed or realigned under this part.

(b) USE OF FUNDS.—(1) The Secretary may use the funds in the Account only for the purposes described in section 2905(a).

(2) When a decision is made to use funds in the Account to carry out a construction project under section 2905(a) and the cost of the project will exceed the maximum amount authorized by law for a minor military construction project, the Secretary shall notify in writing the congressional defense committees of the nature of, and justification for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

(c) REPORTS.—(1) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this part, the Secretary shall transmit a report to the congressional defense committees of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 2905(a) during such fiscal year.

(2) Unobligated funds which remain in the Account after the termination of the Commission shall be held in the Account until transferred by law after the congressional defense committees receive the report transmitted under paragraph (3).

(3) No later than 60 days after the termination of the Commission, the Secretary shall transmit to the congressional defense committees a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or otherwise expended under this part; and

(B) any amount remaining in the Account.

10 USC 2687 note.

SEC. 2907. REPORTS

As part of the budget request for fiscal year 1993 and for each fiscal year thereafter for the Department of Defense, the Secretary shall transmit to the congressional defense committees of Congress—

(1) a schedule of the closure and realignment actions to be carried out under this part in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

10 USC 2687 note.

SEC. 2908. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

(a) TERMS OF THE RESOLUTION.—For purposes of section 2904(b), the term "joint resolution" means only a joint resolution which is introduced within the 10-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Defense Base Closure and Realignment Commission as submitted by the President on ———", the blank space being filled in with the appropriate date; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Defense Base Closure and Realignment Commission.".

(b) REFERRAL.—A resolution described in subsection (a) that is introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) by the end of the 20-day period beginning on the date on which the President transmits the report to the Congress under section 2903(e), such committee shall be, at the end of such period, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 2 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as

the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

10 USC 2687 note.

SEC. 2909. RESTRICTION ON OTHER BASE CLOSURE AUTHORITY

(a) IN GENERAL.—Except as provided in subsection (c), during the period beginning on the date of the enactment of this Act and ending on December 31, 1995, this part shall be the exclusive authority for selecting for closure or realignment, or for carrying out any closure or realignment of, a military installation inside the United States.

(b) RESTRICTION.—Except as provided in subsection (c), none of the funds available to the Department of Defense may be used, other than under this part, during the period specified in subsection (a)—

(1) to identify, through any transmittal to the Congress or through any other public announcement or notification, any military installation inside the United States as an installation to be closed or realigned or as an installation under consideration for closure or realignment; or

(2) to carry out any closure or realignment of a military installation inside the United States.

(c) EXCEPTION.—Nothing in this part affects the authority of the Secretary to carry out—

(1) closures and realignments under title II of Public Law 100-526; and

(2) closures and realignments to which section 2687 of title 10, United States Code, is not applicable, including closures and

realignments carried out for reasons of national security or a military emergency referred to in subsection (c) of such section.

SEC. 2910. DEFINITIONS

10 USC 2687 note.

As used in this part:

(1) The term "Account" means the Department of Defense Base Closure Account 1990 established by section 2906(a)(1).

(2) The term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and of the House of Representatives.

(3) The term "Commission" means the Commission established by section 2902.

(4) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility.

(5) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions but does not include a reduction in force resulting from workload adjustments, reduced personnel or funding levels, or skill imbalances.

(6) The term "Secretary" means the Secretary of Defense.

(7) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

SEC. 2911. CLARIFYING AMENDMENT

Section 2687(e)(1) of title 10, United States Code, is amended—

(1) by inserting "homeport facility for any ship," after "center,"; and

(2) by striking out "under the jurisdiction of the Secretary of a military department" and inserting in lieu thereof "under the jurisdiction of the Department of Defense, including any leased facility,".

Part B—Other Provisions Relating to Defense Base Closures and Realignments

SEC. 2921. CLOSURE OF FOREIGN MILITARY INSTALLATIONS

10 USC 2687 note.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the termination of military operations by the United States at military installations outside the United States should be accomplished at the discretion of the Secretary of Defense at the earliest opportunity;

(2) in providing for such termination, the Secretary of Defense should take steps to ensure that the United States receives, through direct payment or otherwise, consideration equal to the fair market value of the improvements made by the United States at facilities that will be released to host countries;

(3) the Secretary of Defense, acting through the military component commands or the sub-unified commands to the combatant commands, should be the lead official in negotiations relating to determining and receiving such consideration; and

(4) the determination of the fair market value of such improvements released to host countries in whole or in part by

the United States should be handled on a facility-by-facility basis.

(b) RESIDUAL VALUE.—(1) For each installation outside the United States at which military operations were being carried out by the United States on October 1, 1990, the Secretary of Defense shall transmit, by no later than June 1, 1991, an estimate of the fair market value, as of January 1, 1991, of the improvements made by the United States at facilities at each such installation.

(2) For purposes of this section:

(A) The term "fair market value of the improvements" means the value of improvements determined by the Secretary on the basis of their highest use.

(B) The term "improvements" includes new construction of facilities and all additions, improvements, modifications, or renovations made to existing facilities or to real property, without regard to whether they were carried out with appropriated or nonappropriated funds.

(c) ESTABLISHMENT OF SPECIAL ACCOUNT.—(1) There is established on the books of the Treasury a special account to be known as the "Department of Defense Overseas Military Facility Investment Recovery Account". Any amounts paid to the United States, pursuant to any treaty, status of forces agreement, or other international agreement to which the United States is a party, for the residual value of real property or improvements to real property used by civilian or military personnel of the Department of Defense shall be deposited into such account.

(2) Money deposited in the Department of Defense Overseas Military Facility Investment Recovery Account shall be available to the Secretary of Defense for payment, as provided in appropriation Acts, of costs incurred by the Department of Defense in connection with facility maintenance and repair and environmental restoration at military installations in the United States. Funds in the Account shall remain available until expended.

SEC. 2922. MODIFICATION OF THE CONTENT OF BIANNUAL REPORT OF THE COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

(a) USES OF FACILITIES.—Section 2819(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2119; 10 U.S.C. 2391 note) is amended—

(1) in paragraph (2), by striking out "minimum security facilities for nonviolent prisoners" and inserting in lieu thereof "Federal confinement or correctional facilities including shock incarceration facilities";

(2) by striking out "and" at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following new paragraph (4):

"(4) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to meet the needs of States and local jurisdictions for confinement or correctional facilities; and".

10 USC 2391 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to the first report required to be submitted under section 2819 the National Defense Authorization Act, Fiscal Year 1989, after September 30, 1990.

SEC. 2923. FUNDING FOR ENVIRONMENTAL RESTORATION AT MILITARY INSTALLATIONS SCHEDULED FOR CLOSURE INSIDE THE UNITED STATES

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Department of Defense Base Closure Account for fiscal year 1991, in addition to any other funds authorized to be appropriated to that account for that fiscal year, the sum of $100,000,000. Amounts appropriated to that account pursuant to the preceding sentence shall be available only for activities for the purpose of environmental restoration at military installations closed or realigned under title II of Public Law 100-526, as authorized under section 204(a)(3) of that title.

(b) EXCLUSIVE SOURCE OF FUNDING.—(1) Section 207 of Public Law 100-526 is amended by adding at the end the following: 10 USC 2687 note.

"(b) BASE CLOSURE ACCOUNT TO BE EXCLUSIVE SOURCE OF FUNDS FOR ENVIRONMENTAL RESTORATION PROJECTS.—No funds appropriated to the Department of Defense may be used for purposes described in section 204(a)(3) except funds that have been authorized for and appropriated to the Account. The prohibition in the preceding sentence expires upon the termination of the authority of the Secretary to carry out a closure or realignment under this title.".

(2) The amendment made by paragraph (1) does not apply with respect to the availability of funds appropriated before the date of the enactment of this Act.

(c) TASK FORCE REPORT.—(1) Not later than 12 months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report containing the findings and recommendations of the task force established under paragraph (2) concerning— 10 USC 2687 note.

(A) ways to improve interagency coordination, within existing laws, regulations, and administrative policies, of environmental response actions at military installations (or portions of installations) that are being closed, or are scheduled to be closed, pursuant to title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526); and

(B) ways to consolidate and streamline, within existing laws and regulations, the practices, policies, and administrative procedures of relevant Federal and State agencies with respect to such environmental response actions so as to enable those actions to be carried out more expeditiously.

(2) There is hereby established an environmental response task force to make the findings and recommendations, and to prepare the report, required by paragraph (1). The task force shall consist of the following (or their designees):

(A) The Secretary of Defense, who shall be chairman of the task force.

(B) The Attorney General.

(C) The Administrator of the General Services Administration.

(D) The Administrator of the Environmental Protection Agency.

(E) The Chief of Engineers, Department of the Army.

(F) A representative of a State environmental protection agency, appointed by the head of the National Governors Association.

(G) A representative of a State attorney general's office, appointed by the head of the National Association of Attorney Generals.

(H) A representative of a public-interest environmental organization, appointed by the Speaker of the House of Representatives.

10 USC 2687 note.

SEC. 2924. COMMUNITY PREFERENCE CONSIDERATION IN CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

In any process of selecting any military installation inside the United States for closure or realignment, the Secretary of Defense shall take such steps as are necessary to assure that special consideration and emphasis is given to any official statement from a unit of general local government adjacent to or within a military installation requesting the closure or realignment of such installation.

SEC. 2925. RECOMMENDATIONS OF THE BASE CLOSURE COMMISSION

(a) NORTON AIR FORCE BASE.—(1) Consistent with the recommendations of the Commission on Base Realignment and Closure, the Secretary of the Air Force may not relocate, until after September 30, 1995, any of the functions that were being carried out at the ballistics missile office at Norton Air Force Base, California, on the date on which the Secretary of Defense transmitted a report to the Committees on Armed Services of the Senate and House of Representatives as described in section 202(a)(1) of Public Law 100-526.

(2) This subsection shall take effect as of the date on which the report referred to in subsection (a) was transmitted to such Committees.

(b) GENERAL DIRECTIVE.—Consistent with the requirements of section 201 of Public Law 100-526, the Secretary of Defense shall direct each of the Secretaries of the military departments to take all actions necessary to carry out the recommendations of the Commission on Base Realignment and Closure and to take no action that is inconsistent with such recommendations.

10 USC 2687 note.

SEC. 2926. CONTRACTS FOR CERTAIN ENVIRONMENTAL RESTORATION ACTIVITIES

(a) ESTABLISHMENT OF MODEL PROGRAM.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall establish a model program to improve the efficiency and effectiveness of the base closure environmental restoration program.

(b) ADMINISTRATOR OF PROGRAM.—The Secretary shall designate the Deputy Assistant Secretary of Defense for Environment as the Administrator of the model program referred to in subsection (a). The Deputy Assistant Secretary shall report to the Secretary of Defense through the Under Secretary of Defense for Acquisition.

Reports.

(c) APPLICABILITY.—This section shall apply to environmental restoration activities at installations selected by the Secretary pursuant to the provisions of subsection (d)(1).

(d) PROGRAM REQUIREMENTS.—In carrying out the model program, the Secretary of Defense shall:

(1) Designate for the model program two installations under his jurisdiction that have been designated for closure pursuant to the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) and for which

preliminary assessments, site inspections, and Environmental Impact Statements required by law or regulation have been completed. The Secretary shall designate only those installations which have satisfied the requirements of section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526).

(2) Compile a prequalification list of prospective contractors for solicitation and negotiation in accordance with the procedures set forth in title IX of the Federal Property and Administrative Services Act (Public Law 92-582; 40 U.S.C. 541 et seq., as amended). Such contractors shall satisfy all applicable statutory and regulatory requirements. In addition, the contractor selected for one of the two installations under this program shall indemnify the Federal Government against all liabilities, claims, penalties, costs, and damages caused by (A) the contractor's breach of any term or provision of the contract; and (B) any negligent or willful act or omission of the contractor, its employees, or its subcontractors in the performance of the contract.

(3) Within 180 days after the date of enactment of this Act, solicit proposals from qualified contractors for response action (as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)) at the installations designated under paragraph (1). Such solicitations and proposals shall include the following:

(A) Proposals to perform response action. Such proposals shall include provisions for receiving the necessary authorizations or approvals of the response action by appropriate Federal, State, or local agencies.

(B) To the maximum extent possible, provisions offered by single prime contractors to perform all phases of the response action, using performance specifications supplied by the Secretary of Defense and including any safeguards the Secretary deems essential to avoid conflict of interest.

(4) Evaluate bids on the basis of price and other evaluation criteria.

(5) Subject to the availability of authorized and appropriated funds to the Department of Defense, make contract awards for response action within 120 days after the solicitation of proposals pursuant to paragraph (3) for the response action, or within 120 days after receipt of the necessary authorizations or approvals of the response action by appropriate Federal, State, or local agencies, whichever is later.

(e) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the model program shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620).

(f) EXPEDITED AGREEMENTS.—The Secretary shall, with the concurrence of the Administrator of the Environmental Protection Agency, assure compliance with all applicable Federal statutes and regulations and, in addition, take all reasonable and appropriate measures to expedite all necessary administrative decisions, agreements, and concurrences.

(g) REPORT.—The Secretary of Defense shall include a description of the progress made during the preceding fiscal year in implementing and accomplishing the goals of this section within the annual

report to Congress required by section 2706 of title 10, United States Code.

(h) APPLICABILITY OF EXISTING LAW.—Nothing in this section affects or modifies, in any way, the obligations or liability of any person under other Federal or State law, including common law, with respect to the disposal or release of hazardous substances or pollutants or contaminants as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

DIVISION C—OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 3101. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,795,381,000, to be allocated as follows:

(A) For research and development, $1,092,218,000.

(B) For weapons testing, $437,268,000.

(C) For weapons safety, $160,000,000, to be derived from funds available under subparagraph (A) or (B) or both.

(D) For production and surveillance, $2,161,180,000.

(E) For program direction, $104,715,000.

(2) For defense nuclear materials production, $1,892,770,000, to be allocated as follows:

(A) For production reactor operations, $811,457,000.

(B) For processing of defense nuclear materials, including naval reactors fuel, $628,969,000.

(C) For supporting services, $292,043,000.

(D) For uranium enrichment for naval reactors, $117,801,000.

(E) For program direction, $42,500,000.

(3) For verification and control technology, $181,484,000.

(4) For nuclear materials safeguards and security technology development program, $83,934,000.

(5) For security investigations, $65,000,000.

(6) For new production reactors, $134,900,000.

(7) For naval reactors development, $569,200,000.

SEC. 3102. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1991 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized

in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project GPD-101, general plant projects, various locations, $27,100,000.

Project GPD-121, general plant projects, various locations, $36,350,000.

Project 91-D-122, short range attack missile tactical (SRAM-T) production facilities, various locations, $15,000,000.

Project 91-D-123, production assurance transformer replacement, Kansas City Plant, Kansas City, Missouri, $2,600,000.

Project 91-D-124, safeguards and security upgrades, Phase III, Mound Plant, Miamisburg, Ohio, $1,100,000.

Project 91-D-126, health physics calibration facility, Mound Plant, Miamisburg, Ohio, $1,000,000.

Project 91-D-127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $6,600,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $9,600,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $8,500,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $488,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,547,000.

Project 88-D-122, facilities capability assurance program, various locations, $106,806,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $18,244,000.

Project 88-D-124, fire protection upgrade, various locations, $1,481,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $8,840,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $1,600,000.

Project 87-D-104, safeguards and security enhancement II, Lawrence Livermore National Laboratory, Livermore, California, $1,150,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $8,634,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $2,360,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $4,242,000.

(2) For materials production:

Project GPD-146, general plant projects, various locations, $36,994,000.

Project 91-D-143, increase 751-A electrical substation capacity, Phase I, Savannah River, South Carolina, $6,000,000.

Project 91-D-145, new whole body counter facility, Savannah River, South Carolina, $4,350,000.

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $6,000,000.

Project 90-D-143, plutonium finishing plant fire safety and loss limitation, Richland, Washington, $2,500,000.

Project 90-D-149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $49,100,000.

Project 90-D-150, reactor safety assurance, Phases I and II, Savannah River, South Carolina, $32,600,000.

Project 90-D-151, engineering center, Savannah River, South Carolina, $4,000,000.

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $16,300,000.

Project 89-D-148, improved reactor confinement system, Savannah River, South Carolina, $12,800,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $1,000,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, IV, and V, Feed Materials Production Center, Fernald, Ohio, $14,133,000.

Project 86-D-149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations, $61,750,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $87,500,000.

Project 85-D-145, fuel production facility, Savannah River, South Carolina, $8,481,000.

(3) For verification and control technology:

Project 90-D-186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $5,000,000.

(4) For nuclear materials safeguards and security:

Project GPD-186, general plant projects, Central Training Academy, Albuquerque, New Mexico, $2,000,000.

(5) For new production reactors:

Project 88-D-154, new production reactor capacity, various locations, $231,300,000.

(6) For naval reactors development:

Project GPN-101, general plant projects, various locations, $8,600,000.

Project 90-N-102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $4,000,000.

Project 90-N-103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $1,800,000.

Project 90-N-104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $7,900,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $3,600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $1,500,000.

(7) For capital equipment not related to construction:
(A) For weapons activities, $272,231,000.
(B) For materials production, $105,622,000.
(C) For verification and control technology, $9,924,000.
(D) For nuclear safeguards and security, $5,066,000.
(E) For new production reactors, $8,800,000.
(F) For naval reactors development, $55,400,000.

SEC. 3103. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1991 for carrying out the environmental restoration and waste management programs necessary for national security programs as follows:

(1) For operating expenses, $2,391,428,000 to be allocated as follows:
(A) For environmental restoration, $833,215,000.
(B) For waste operations and projects, $1,252,927,000.
(C) For waste research and development, $183,480,000.
(D) For corrective action, $61,654,000.
(E) For transportation management, $14,660,000.
(F) For program direction, $24,106,000.
(G) For program direction/landlord, $21,386,000.
(2) For capital equipment, $119,917,000.
(3) For plant projects:
Project GPD-171, general plant projects, various locations, $63,689,000.
Project 91-D-171, waste receiving and processing facility module 1, Richland, Washington, $2,700,000.
Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $13,000,000.
Project 91-D-173, hazardous low-level waste processing tanks, Savannah River, South Carolina, $5,800,000.
Project 91-D-175, 300 area electrical distribution conversion and safety improvements, Phase I, Richland, Washington, $900,000.
Project 90-D-103, environment, safety, and health improvements, various locations, $4,200,000.
Project 90-D-125, steam plant ash disposal facility, Y-12 Plant, Oak Ridge, Tennessee, $6,000,000.
Project 90-D-171, laboratory ventilation and electrical system upgrade, Richland, Washington, $4,100,000.
Project 90-D-172, aging waste transfer lines, Richland, Washington, $4,000,000.
Project 90-D-173, B plant canyon crane replacement, Richland, Washington, $4,300,000.
Project 90-D-174, decontamination laundry facility, Richland, Washington, $9,900,000.
Project 90-D-175, landlord program safety compliance-I, Richland, Washington, $10,870,000.
Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $15,300,000.
Project 90-D-177, RWMC transuranic (TRU) waste treatment and storage facility, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $26,000,000.

Project 90-D-178, TSA retrieval containment building, Idaho National Engineering Laboratory, Idaho Falls, Idaho, $11,100,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $5,500,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $1,723,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $7,500,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $7,300,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $42,460,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $3,400,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina, $11,330,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $7,600,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $75,500,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, III, and IV, Feed Materials Production Center, Fernald, Ohio, $27,586,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $5,000,000.

(4) The total amount authorized to be appropriated by paragraph (3) is reduced by a total of $129,751,000 for anticipated savings and schedule slippages.

SEC. 3104. FUNDING LIMITATIONS

(a) FERNALD LITIGATION SETTLEMENT.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses, not more than $20,500,000 may be used to pay the second installment of the settlement entered into by the Department of Energy in the case of In re: Fernald Litigation No. C-1-85-149, United States District Court for the Southern District of Ohio.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1991 for operating expenses and plant and capital equipment, $175,000,000 shall be available for the defense inertial confinement fusion program.

(c) SPECIAL ISOTOPE SEPARATION.—No funds authorized to be appropriated to the Department of Energy for fiscal year 1991 shall be available for design or construction of a Special Isotope Separation facility.

42 USC 7273b.

(d) SECURITY INVESTIGATIONS.—(1) No funds appropriated to the Department of Energy may be obligated or expended for the conduct of an investigation by the Department of Energy or any other Federal department or agency for purposes of determining whether

to grant a security clearance to an individual or a facility unless the Secretary of Energy determines both of the following:

(A) That a current, complete investigation file is not available from any other department or agency of the Federal government with respect to that individual or facility.

(B) That no other department or agency of the Federal government is conducting an investigation with respect to that individual or facility that could be used as the basis for determining whether to grant the security clearance.

(2) For purposes of paragraph (1)(A), a current investigation file is a file on an investigation that has been conducted within the past five years.

PART B—RECURRING GENERAL PROVISIONS

SEC. 3121. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on the Committees on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional

obligations incurred in connection with the project above the total estimated cost whenever the current estimated cost of the construction project, which is authorized by section 3102 or 3103 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) NUCLEAR DIRECTED ENERGY WEAPONS CONCEPTS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1991 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research and testing for nuclear directed energy weapons concepts, including plant and capital equipment related thereto; and

(2) shall be merged with funds appropriated to the Department of Energy.

(c) INERTIAL CONFINEMENT FUSION PROGRAMS.—The Secretary of Defense may transfer to the Secretary of Energy not more than $12,000,000 of the funds appropriated to the Department of Defense for the inertial confinement fusion program. Funds so transferred shall be merged with funds appropriated to the Department of Energy national security programs for research and development.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives in writing of the details of

such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by sections 3102 and 3103, the Secretary of Energy may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS

SEC. 3131. REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS

(a) REPORT ON REMANUFACTURE OF NUCLEAR STOCKPILE WEAPONS.—The Secretary of Energy, in consultation with the Secretary of Defense, shall prepare a report on remanufacture of nuclear stockpile weapons that will require replacement at the end of their stockpile life. The report shall include the following information:

(1) A specification of the nuclear warheads and bombs now in the stockpile which will not be replaced at the end of their stockpile life.

(2) A case-by-case analysis of the technical requirements and estimated costs to prepare for the remanufacture of each certified nuclear weapon design scheduled for retention in the stockpile.

(3) A specification of certified weapons designs designated for retention in paragraph (2) that could be remanufactured and recertified for the stockpile without conducting a nuclear explosive test.

(4) Identification of those certified weapons designs included in paragraph (2) requiring changes to permit remanufacture which could be recertified with a single nuclear explosive proof test to demonstrate proper performance, and the minimum essential yield for each such test.

(5) Identification of those certified weapon designs planned for retention in paragraph (2) requiring modification for remanufacture to the degree that more than one test is indicated to

assure proper performance, and the minimum essential number and yield of tests required for each design so modified.

(6) A description of other options that may be employed in the event of reduced reliance on nuclear test explosions, ranging from increasingly extensive modifications of existing designs to the introduction of entirely new designs, and the costs in time, funds, numbers, and yields of tests, and the postulated national security benefits of each of these options clearly set forth in a manner which allows the relative costs and benefits of all the options presented to be directly compared.

Classified information.

(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit an unclassified report with a classified appendix not later than February 1, 1991.

42 USC 7257a.

SEC. 3132. LABORATORY-DIRECTED RESEARCH AND DEVELOPMENT PROGRAMS

(a) AUTHORITY.—Government-owned, contractor-operated laboratories that are funded out of funds available to the Department of Energy for national security programs are authorized to carry out laboratory-directed research and development.

(b) REGULATIONS.—The Secretary of Energy shall prescribe regulations for the conduct of laboratory-directed research and development at such laboratories.

(c) FUNDING.—Of the funds provided by the Department of Energy to such laboratories for national security activities, the Secretary shall provide a specific amount, not to exceed 6 percent of such funds, to be used by such laboratories for laboratory-directed research and development.

(d) DEFINITION.—For purposes of this section, the term "laboratory-directed research and development" means research and development work of a creative and innovative nature which, under the regulations prescribed pursuant to subsection (b), is selected by the director of a laboratory for the purpose of maintaining the vitality of the laboratory in defense-related scientific disciplines.

42 USC 7274 note.

SEC. 3133. NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE REPORT REQUIREMENT

(a) ENVIRONMENTAL REPORT.—Not later than 30 days after the end of each quarter of fiscal years 1991 and 1992, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and the House of Representatives a brief report on the Department of Energy's compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The report shall contain a brief description of each proposed action to be taken by the Department of Energy, the environmental impact of which is not clearly insignificant, and a description of the steps taken or proposed to be taken by the Department of Energy to assess the environmental impact of the proposed action. If the Secretary finds that the proposed action of the Department of Energy will have no significant impact, the Secretary shall include the rationale for that determination.

(b) SUBMISSION OF INITIAL REPORT.—The Secretary shall submit the first report not later than February 1, 1991, for the quarter ending December 31, 1990.

SEC. 3134. REPORT ON ENVIRONMENTAL RESTORATION EXPENDITURES 42 USC 7274c.

Each year, at the same time the President submits to Congress the budget for a fiscal year (pursuant to section 1105 of title 31, United States Code), the Secretary of Energy shall submit to Congress a report on how the environmental restoration and waste management funds for defense activities of the Department of Energy were expended during the fiscal year preceding the fiscal year during which the budget is submitted. The report shall include details on expenditures by operations office, installation, budget category, and activity. The report also shall include any schedule changes or modifications to planned activities for the fiscal year in which the budget is submitted.

SEC. 3135. DEPARTMENT OF ENERGY MANAGEMENT PLAN FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT ACTIVITIES 42 USC 7274c note.

(a) PLAN.—The Secretary of Energy shall develop a comprehensive five-year plan for the management of environmental restoration and waste management activities at facilities under the jurisdiction of the Department of Energy.

(b) REPORT.—Not later than June 1, 1991, the Secretary of Energy shall submit to Congress a report on the management plan developed under subsection (a). The report shall include the following:

(1) A description of management capabilities necessary to carry out environmental programs covered by the management plan for the next five years.

(2) A description of current Department of Energy management capabilities and inadequacies.

(3) A description of the technical resources, including staff and management information systems, needed to carry out the management plan.

(4) A description of assistance from other Federal agencies and private contractors included in the management plan.

(5) A description of the cost verification and quality control elements included in the management plan.

SEC. 3136. EXTENSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES TO COMMUNITY DEVELOPMENT ORGANIZATIONS NEAR HANFORD RESERVATION

(a) EXTENSION.—Subsection (c) of section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074) is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1992".

(b) CONFORMING AMENDMENT.—Subsection (a)(3) of such section is amended by striking out "fiscal years 1989 and 1990" and inserting in lieu thereof "fiscal years 1989, 1990, 1991, and 1992".

SEC. 3137. SAFETY MEASURES FOR WASTE TANKS AT HANFORD NUCLEAR RESERVATION

(a) IDENTIFICATION AND MONITORING OF TANKS.—Within 90 days after the date of the enactment of this Act, the Secretary of Energy shall identify which single-shelled or double-shelled high-level nuclear waste tanks at the Hanford Nuclear Reservation, Richland, Washington, may have a serious potential for release of high-level waste due to uncontrolled increases in temperature or pressure. After completing such identification, the Secretary shall determine whether continuous monitoring is being carried out to detect a

release or excessive temperature or pressure at each tank so identified. If such monitoring is not being carried out, as soon as practicable the Secretary shall install such monitoring, but only if a type of monitoring that does not itself increase the danger of a release can be installed.

(b) ACTION PLANS.—Within 120 days after the date of the enactment of this Act, the Secretary of Energy shall develop action plans to respond to excessive temperature or pressure or a release from any tank identified under subsection (a).

(c) PROHIBITION.—Beginning 120 days after the date of the enactment of this Act, no additional high-level nuclear waste (except for small amounts removed and returned to a tank for analysis) may be added to a tank identified under subsection (a) unless the Secretary determines that no safer alternative than adding such waste to the tank currently exists or that the tank does not pose a serious potential for release of high-level nuclear waste.

(d) REPORT.—Within six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on actions taken to promote tank safety, including actions taken pursuant to this section, and the Secretary's timetable for resolving outstanding issues on how to handle the waste in such tanks.

SEC. 3138. PROGRAMS FOR PERSONS WHO MAY HAVE BEEN EXPOSED TO RADIATION RELEASED FROM HANFORD NUCLEAR RESERVATION

(a) FUNDING.—Of the funds authorized to be appropriated to the Department of Energy under this title, the Secretary of Energy shall make available $3,000,000 to the State of Washington, $1,000,000 to the State of Oregon, and $1,000,000 to the State of Idaho. Such funds shall be used to develop and implement programs for the benefit of persons who may have been exposed to radiation released from the Department of Energy Hanford Nuclear Reservation (Richland, Washington) between the years 1944 and 1972.

(b) PROGRAMS.—The programs to be developed by the States may include only the following activities:

(1) Preparing and distributing information on the health effects of radiation to health care professionals, and to persons who may have been exposed to radiation.

(2) Developing and implementing mechanisms for referring persons who may have been exposed to radiation to health care professionals with expertise in the health effects of radiation.

(3) Evaluating and, if feasible, implementing, registration and monitoring of persons who may have been exposed to radiation released from the Hanford Nuclear Reservation.

State listing.

(c) PLAN AND REPORTS.—(1) The States of Washington, Oregon, and Idaho shall jointly develop a single plan for implementing this section.

(2) Not later than six months after the date of the enactment of this Act, such States shall submit to the Secretary of Energy and the Congress a copy of the plan developed under paragraph (1).

(3) Not later than 18 months after the date of the enactment of this Act, such States shall submit to the Secretary of Energy and the Congress a single report on the implementation of the plan developed under paragraph (1).

(4) In developing and implementing the plan, such States shall consult with persons carrying out current radiation dose and epidemiological research programs (including the Hanford Thyroid

Disease Study of the Centers for Disease Control and the Hanford Environmental Dose Reconstruction Project of the Department of Energy), and may not cause substantial damage to such research programs.

SEC. 3139. PAYMENTS FOR INJURIES BELIEVED TO ARISE OUT OF ATOMIC WEAPONS TESTING PROGRAM

(a) FINDINGS.—Section 2(a) of the Radiation Exposure Compensation Act (Public Law 101-426) is amended— 42 USC 2210 note.

(1) in paragraph (1), by striking "above-ground" and all that follows through "Arizona" and inserting "atmospheric nuclear tests exposed individuals";

(2) in paragraph (2), by striking "unwitting participants" and inserting "exposed to radiation"; and

(3) in paragraph (5), by striking "innocent" and all that follows through "involuntarily" and inserting "individuals who were exposed to radiation were".

(b) TRUST FUND.—Section 3 of that Act is amended— 42 USC 2210 note.

(1) in the first sentence of subsection (d), by striking "not later than" and all that follows through "amount, or"; and

(2) in subsection (e), by striking "$100,000,000" and inserting "such sums as may be necessary to carry out its purposes".

(c) CLAIMS RELATING TO ATMOSPHERIC NUCLEAR TESTING.—(1) The section caption for section 4 of that Act is amended by striking "OPEN AIR" and inserting "ATMOSPHERIC". 42 USC 2210 note.

(2) Section 4(a) of that Act is amended to read as follows:

"(a) CLAIMS.—

"(1) CLAIMS RELATING TO CHILDHOOD LEUKEMIA.—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence and between 2 and 30 years after first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive $50,000 if—

"(A) initial exposure occurred prior to age 21,

"(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

"(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who—

"(A) was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958,

"(B) was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, or

"(C) participated onsite in a test involving the atmospheric detonation of a nuclear device,

and who submits written medical documentation that he or she, after such period of physical presence or such participation (as the case may be), contracted a specified disease, shall receive $50,000 (in the case of an individual described in subparagraph

(A) or (B)) or $75,000 (in the case of an individual described in subparagraph (C)), if—

"(i) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

"(ii) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

"(3) CONFORMITY WITH SECTION 6.—Payments under this section may be made only in accordance with section 6.

"(4) EXCLUSION.—No payment may be made under this section on any claim of the Government of the Marshall Islands, or of any citizen or national of the Marshall Islands, that is referred to in Article X, Section 1 of the Agreement Between the Government of the United States and the Government of the Marshall Islands for the Implementation of section 177 of the Compact of Free Association (as approved by the Compact of Free Association Act of 1985 (Public Law 99-239)).".

42 USC 2210 note.

(3) Section 4(b)(2) of that Act is amended by striking "primary cancer of: the" and inserting "primary cancer of the:".

42 USC 2210 note.

(d) CLAIMS RELATING TO URANIUM MINING.—Section 5 of that Act is amended—

(1) in subsection (a) in the matter following "$100,000 if—", by striking "(1)" and inserting "(i)" and by striking "(2)" and inserting "(ii)"; and

(2) in subsection (b)(3) by striking "an uranium" and inserting "a uranium".

42 USC 2210 note.

(e) DETERMINATION AND PAYMENT OF CLAIMS.—(1) Section 6(b)(2) of that Act is amended—

(A) in subparagraph (A)—

(i) by striking "a specified disease under section 4" and inserting "leukemia under section 4(a)(1), a specified disease under section 4(a)(2),"; and

(ii) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and";

(C) by inserting after subparagraph (B) the following:

"(C) in consultation with the Secretary of Defense and the Secretary of Energy, establish guidelines for determining what constitutes documentation that an individual participated onsite in a test involving the atmospheric detonation of a nuclear device under section 4(a)(2)(C).."; and

(D) in the matter following subparagraph (C) (as added by subparagraph (C) of this paragraph)—

(i) by striking "and" after "(A),"; and

(ii) by inserting before the period the following:", and with the Secretary of Defense and the Secretary of Energy with respect to making determinations pursuant to the guidelines issued under subparagraph (C).".

(2) Section 6(c)(2) of that Act is amended to read as follows:

"(2) OFFSET FOR CERTAIN PAYMENTS.—(A) A payment to an individual, or to a survivor of that individual, under this section on a claim under subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4 or a claim under section 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

"(i) exposure to radiation, from atmospheric nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4, or

"(ii) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

"(B) A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4(a)(2)(C) shall be offset by the amount of—

"(i) any payment made pursuant to a final award or settlement on a claim, against any person, or

"(ii) any payment made by the Federal Government, that is based on injuries incurred by that individual on account of exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device. The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.".

(3) Section 6(c)(4)(C)(i) of that Act is amended by striking "means" and inserting "is". 42 USC 2210 note.

(4) Section 6(e) of that Act is amended—

(A) by striking "open air" and inserting "atmospheric";

(B) by striking "any period described in section 4(a), or" and inserting "the period described in subsection (a)(1), (a)(2)(A), or (a)(2)(B) of section 4,"; and

(C) by inserting before the period at the end the following: ", or exposure to radiation as a result of onsite participation in a test involving the atmospheric detonation of a nuclear device".

(f) CHOICE OF REMEDIES.—Section 7(b) of that Act is amended by inserting before the period at the end the following: ", and no individual may receive more than one payment under section 4 of this Act". 42 USC 2210 note.

(g) REPORT.—Section 12 of that Act is amended— 42 USC 2210 note.

(1) by inserting "REPORT.—" after "(a)"; and

(2) by inserting "COMPLETION.—" after "(b)".

SEC. 3140. REPEAL

The Radiation Exposure Compensation Act (Public Law 101-426) is amended by adding at the end the following:

"SEC. 13. REPEAL.

"Section 1631 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1985 (42 U.S.C. 2212) is repealed.".

SEC. 3141. CONTRACTOR LIABILITY FOR INJURY OR LOSS OF PROPERTY ARISING OUT OF ATOMIC WEAPONS TESTING PROGRAMS Atomic Testing Liability Act. 42 USC 2212.

(a) SHORT TITLE.—This section may be cited as the "Atomic Testing Liability Act".

(b) FEDERAL REMEDIES APPLICABLE; EXCLUSIVENESS OF REMEDIES.—

(1) REMEDY.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, by the Act of March 9, 1920 (46 U.S.C. App. 741–752), or by the Act of March 3, 1925 (46 U.S.C. App. 781–790), as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by

a contractor in carrying out an atomic weapons testing program under a contract with the United States.

(2) EXCLUSIVITY.—The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil liability arising from any act or omission of the contractor without regard to when the act or omission occurred. The employees of a contractor referred to in paragraph (1) shall be considered to be employees of the Federal Government, as provided in section 2671 of title 28, United States Code, for the purposes of any such civil action or proceeding; and the civil action or proceeding shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of such title and shall be subject to the limitations and exceptions applicable to those actions.

(c) PROCEDURE.—A contractor against whom a civil action or proceeding described in subsection (b) is brought shall promptly deliver all processes served upon that contractor to the Attorney General of the United States. Upon certification by the Attorney General that the suit against the contractor is within the provisions of subsection (b), a civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings shall be deemed a tort action brought against the United States under the provisions of section 1346(b), 2401(b), or 2402, or sections 2671 through 2680 of title 28, United States Code. For purposes of removal, the certification by the Attorney General under this subsection establishes contractor status conclusively.

(d) ACTIONS COVERED.—The provisions of this section shall apply to any action, within the provisions of subsection (b), which is pending on the date of the enactment of this Act or commenced on or after such date. Notwithstanding section 2401(b) of title 28, United States Code, if a civil action or proceeding to which this section applies is pending on the date of the enactment of this Act and is dismissed because the plaintiff in such action or proceeding did not file an administrative claim as required by section 2672 of that title, the plaintiff in that action or proceeding shall have 30 days from the date of the dismissal or two years from the date upon which the claim accrued, whichever is later, to file an administrative claim, and any claim or subsequent civil action or proceeding shall thereafter be subject to the provisions of section 2401(b) of title 28, United States Code.

(e) "CONTRACTOR" DEFINED.—For purposes of this section, the term "contractor" includes a contractor or cost reimbursement subcontractor of any tier participating in the conduct of the United States atomic weapons testing program for the Department of Energy (or its predecessor agencies, including the Manhattan Engineer District, the Atomic Energy Commission, and the Energy Research and Development Administration). Such term also includes facilities which conduct or have conducted research concerning health effects of ionizing radiation in connection with the testing under contract with the Department of Energy (or any of its predecessor agencies).

SEC. 3142. SENSE OF CONGRESS ON NEGOTIATING AGREEMENTS TO ACHIEVE A COMPREHENSIVE TEST BAN

The Congress, mindful of the commitment of the United States, the Soviet Union, and Great Britain in the Limited Test Ban Treaty of 1963 and in the Non-Proliferation Treaty of 1968 to seek the discontinuance of all test explosions of nuclear weapons for all time and of the commitment which shall be legally binding on the parties upon ratification of the Treaty on the Limitation of Underground Nuclear Weapons Tests to "continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapons tests", states that it is the sense of Congress that the United States shares a special responsibility with the Soviet Union to continue the bilateral Nuclear Testing Talks to achieve further limitations on nuclear testing, including the achievement of a verifiable comprehensive test ban.

PART D—INTERNATIONAL FISSILE MATERIAL AND WARHEAD CONTROL

SEC. 3151. PRODUCTION OF PLUTONIUM AND HIGHLY ENRICHED URANIUM FOR NUCLEAR WEAPONS AND DISPOSAL OF NUCLEAR STOCKPILES

(a) PRODUCTION BY THE SOVIET UNION.—Congress urges the President of the Soviet Union and the Supreme Soviet of the Soviet Union—

(1) to cease production by the Soviet Union of plutonium;

(2) to maintain the cessation in production by the Soviet Union of highly-enriched uranium for weapons that was announced on April 7, 1989.

(b) TECHNICAL ASPECTS OF FISSILE MATERIAL MONITORING AND NUCLEAR WARHEAD DISMANTLEMENT.—Should the President determine that future international agreements should provide for dismantlement of nuclear warheads and a ban on further production of fissile materials for weapons, then the Congress urges the President to seek to establish with the Soviet Union a joint technical working group to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the design and verification of these potential provisions.

(c) REPORT ON VERIFICATION TECHNIQUES.—(1) The President shall prepare a comprehensive technical report on the verification matters described in paragraph (2). President.

(2) The report shall describe the on-site monitoring techniques, inspection arrangements, and national technical means that could be used by the United States to verify the actions of other nations with respect to the following:

(A) Dismantlement of nuclear warheads in the event that a future agreement between the United States and the Soviet Union should provide for such dismantlement to be carried out in a mutually verifiable manner.

(B) A mutual United States-Soviet ban, leading to a multilateral, global ban, on the production of additional quantities of plutonium and highly-enriched uranium for nuclear weapons.

(C) The end use or ultimate disposal of any plutonium and highly enriched uranium recovered from the dismantlement of nuclear warheads.

(3) In order to prepare the report required by paragraph (1), the President shall establish a Technical Advisory Committee on Ver-

ification of Fissile Material and Nuclear Warhead Controls, to be composed of preeminent government and nongovernment experts in the fields of radiation detection, nondestructive examination, nuclear safeguards, nuclear materials production, and nuclear warhead dismantlement. Such committee, which shall be established not later than December 31, 1990, shall advise the President on the availability, use, and further development of techniques which could be applied to the verification of the prospective actions described in paragraph (2).

(4) The report required by paragraph (1) shall be submitted to Congress not later than April 30, 1991. The report shall be submitted in unclassified form with such classified appendices as may be necessary.

SEC. 3152. DEVELOPMENT AND DEMONSTRATION OF MEANS FOR WARHEAD DISMANTLEMENT VERIFICATION

The Secretary of Energy may use funds available to the Secretary for national security programs of the Department of Energy for fiscal year 1991 to carry out a program to develop and demonstrate a means for verifiable dismantlement of nuclear warheads.

PART E—DEPARTMENT OF ENERGY SCIENCE EDUCATION PROGRAMS

Department of Energy Science Education Enhancement Act.
42 USC 7381 note.

SEC. 3161. SHORT TITLE

This part may be cited as the "Department of Energy Science Education Enhancement Act".

42 USC 7381.

SEC. 3162. FINDINGS AND PURPOSES

(a) FINDINGS.—The Congress finds the following:

(1) Scientific, technical, and engineering competence is essential to the Nation's future well-being.

(2) The scientific, technical, and engineering capability at the Federal laboratories is unmatched throughout the world.

(3) Superb research, development, testing, and evaluation occur in Department of Energy research and development facilities.

(4) Department of Energy research and development facilities will play an increasing role in assuring that the United States remains competitive in world markets.

(5) Improvements in mathematics, science, and engineering education are needed desperately to provide the trained and educated citizenry essential to the future competitiveness of the United States.

(6) The future health and vitality of the economy of the United States is predicated on the availability of an adequate supply of scientists, mathematicians, and engineers to provide for growing needs and to replenish the workforce.

(7) United States college and university enrollment in science, mathematics, and engineering programs is sharply declining at undergraduate, graduate, and post-graduate levels.

(8) The Federal Government is the largest United States employer of research scientists, mathematicians, and engineers, and the Department of Energy has a growing need for scientists, mathematicians, and engineers at a time when these enrollments are declining.

(9) Women and minorities are grossly underrepresented in science and mathematics fields, and this group represents more

than 80 percent of the projected increase in the national workforce through the year 2000.

(b) PURPOSES.—The purposes of this part are—

(1) to encourage the development and implementation of science, mathematics, and engineering education programs at the Department of Energy and at its research and development facilities as part of a national effort to improve science, mathematics, and engineering education; and

(2) to provide more efficient coordination among science, mathematics, and engineering education programs.

SEC. 3163. MISSION

Section 102 of the Department of Energy Organization Act (42 U.S.C. 7112) is amended—

(1) in the second sentence, by striking out "Act—" and inserting in lieu thereof "Act:";

(2) in paragraph (17), by striking out "and" after the semicolon;

(3) in paragraphs (1) through (18)—

(A) by capitalizing the first letter of the first word of each such paragraph; and

(B) by striking out the semicolon at the end of each such paragraph and inserting in lieu thereof a period; and

(4) by adding at the end the following new paragraph:

"(19) To ensure that the Department can continue current support of mathematics, science, and engineering education programs by using the personnel, facilities, equipment, and resources of its laboratories and by working with State and local education agencies, institutions of higher education, and business and industry. The Department's involvement in mathematics, science, and engineering education should be consistent with its main mission and should be coordinated with all Federal efforts in mathematics, science, and engineering education, especially with the Department of Education and the National Science Foundation (which have the primary Federal responsibility for mathematics, science, and engineering education).".

SEC. 3164. SCIENCE EDUCATION PROGRAMS 42 USC 7381a.

(a) PROGRAMS.—The Secretary is authorized to establish programs to enhance the quality of mathematics, science, and engineering education. Any such programs shall be operated at or through the support of Department research and development facilities, shall use the scientific resources of the Department, and shall be consistent with the overall Federal plan for education and human resources in science and technology developed by the Federal Coordinating Council for Science, Engineering, and Technology.

(b) RELATIONSHIP TO OTHER DEPARTMENT ACTIVITIES.—The programs described in subsection (a) shall supplement and be coordinated with current activities of the Department, but shall not supplant them.

SEC. 3165. LABORATORY COOPERATIVE SCIENCE CENTERS AND OTHER AUTHORIZED EDUCATION ACTIVITIES 42 USC 7381b.

(a) ACTIVITIES.—The Secretary is authorized to:

(1) Support research appointments for college and university science and engineering students, and for faculty-student teams, at Department research and development facilities.

(2) Support research appointments for high school science teachers at Department research and development facilities.

(3) Support research apprenticeship appointments at Department research and development facilities for students underrepresented in science and technology careers.

(4) Support research experience programs at Department research and development facilities for nationally selected high school honor students.

(5) Operate mathematics and science education programs for elementary and secondary students at Department research and development facilities.

(6) Establish a museum-based science education program.

(7) Establish collaborative inner-city and rural partnership programs designed to meet the special mathematics and science education needs of students in inner-city and rural areas.

(8) Provide paid administrative leave for employees of the Department or Department research and development facilities who volunteer to interact with schools, colleges, universities, teachers, or students for the purpose of science, mathematics, and engineering education.

(9) Establish a talent pool of volunteer scientists, mathematicians, and engineers who have retired from the Department or Department research and development facilities to serve at schools and school districts for the purpose of (A) assisting teachers, with activities such as experiments, lectures, or the preparation of materials; (B) serving as counselors to students on science, mathematics, and engineering; and (C) otherwise assisting science, mathematics, and engineering classes. The Secretary, acting through Department research and development facilities, shall, wherever possible, identify and match schools and school districts with retired scientists, mathematicians, and engineers.

(J) Establish a Young Americans' Summer Science Camp Program to provide secondary school students with a hands-on science experience as well as exposure to working scientists and career counseling.

(K) Establish a program for mathematics and science teachers to provide teachers serving large numbers of disadvantaged students with new strategies for mathematics and science instruction.

(L) Support graduate students and, through university-based cooperative programs, undergraduate students for the purpose of encouraging more students to pursue scientific and technical careers, with a particular focus on the recruitment of women and minority students.

(M) Establish a prefreshman enrichment program in which middle-school students attend summer workshops on mathematics, science, and engineering conducted by universities on their campuses.

(b) USE OF FACILITIES.—Any of the activities authorized by subsection (a) may be conducted through Department research and development facilities. The Secretary may designate facilities conducting education activities as "Laboratory Cooperative Science Centers".

(c) FUNDING.—The Secretary is authorized to accept non-Federal funds to finance education activities described in subsection (a).

SEC. 3166. EDUCATION PARTNERSHIPS 42 USC 7381c.

(a) EDUCATION PARTNERSHIPS.—The Secretary may authorize each Department research and development facility, to the extent practicable and consistent with the provisions of the laboratory's management and operating contract, to enter into education partnership agreements with educational institutions in the United States (including local educational agencies, colleges, and universities) for the purpose of encouraging and enhancing study in scientific disciplines at all levels of education.

(b) TYPES OF ASSISTANCE.—Under a partnership agreement entered into with an educational institution under subsection (a) and as authorized by the Secretary, a Department research and development facility may provide assistance to the educational institution by—

(1) loaning equipment to the institution;

(2) transferring to the institution equipment determined by the director of the Department research and development facility to be surplus;

(3) making personnel of Department research and development facilities available to teach science courses or to assist in the development of science courses and materials for the institution;

(4) involving faculty and students of the institution in research programs of Department research and development facilities;

(5) cooperating with the institution in developing a program under which students may be given academic credit for work on research projects of Department research and development facilities; and

(6) providing academic and career advice and assistance to students of the institution.

SEC. 3167. DEFINITIONS 42 USC 7381d.

In this part:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Department" means the Department of Energy.

(3) The term "Department research and development facilities" means all Department of Energy single-purpose and multipurpose National Laboratories and research and development facilities and programs, and any other facility or program operated by a contractor funded from the Office of Energy Research of the Department of Energy.

(4) The term "local educational agency" has the meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 3168. AUTHORIZATION OF APPROPRIATIONS 42 USC 7381e.

There are authorized to be appropriated to the Secretary for carrying out university research support and other science, mathematics, and engineering education programs authorized by this part and administered by the Office of Energy Research of the Department of Energy, $40,000,000 for fiscal year 1991.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION

There are authorized to be appropriated for fiscal year 1991 $12,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

SEC. 3202. APPOINTMENT AND COMPENSATION OF SCIENTIFIC AND TECHNICAL PERSONNEL OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Section 313(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2286b) is amended—

(1) in paragraph (1), by inserting after "Board," the following: "including such scientific and technical personnel as the Board may determine necessary,";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) by inserting "(1)" after "STAFF.—"; and

(4) by adding at the end the following new paragraph:

"(2) The authority and requirements provided in section 161 d. with respect to officers and employees of the Commission shall apply with respect to scientific and technical personnel hired under paragraph (1)(A).".

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. AUTHORITY TO BARTER MATERIAL IN THE NATIONAL DEFENSE STOCKPILE TO FINANCE THE UPGRADING, REFINING, OR PROCESSING OF STOCKPILE MATERIAL

(a) BARTER AUTHORIZED.—Subsection (c) of section 6 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Notwithstanding section 3(c) or any other provision of law, whenever the President provides under subsection (a)(3) for the upgrading, refining, or processing of a material in the stockpile to convert that material into a form more suitable for storage, subsequent disposition, and immediate use in a national emergency, the President may barter a portion of the same material (or any other material in the stockpile that is authorized for disposal) to finance that upgrading, refining, or processing.".

(b) CONFORMING AMENDMENTS.—Section 6 of such Act is further amended—

(1) in subsection (a)(3)—

(A) by striking out "refining" and inserting in lieu thereof "upgrading, refining,";

(B) by inserting "(notwithstanding any intermediate stockpile quantity established for such material)" after "stockpile"; and

(C) by striking out "storage and subsequent disposition;" and inserting in lieu thereof "storage, subsequent disposition, and immediate use in a national emergency;";

(2) in subsection (c)(1)—

(A) by inserting "under subsection (a)(1)" after "the acquisition"; and

(B) by inserting "under subsection (a)(5) or (a)(6)" after "the disposal"; and

(3) in subsection (c)(2)—

(A) by striking out ", the disposition of which is authorized by law," and inserting in lieu thereof the following: "(the disposition of which is authorized by paragraph (3) to finance the upgrading, refining, or processing of a material in the stockpile, or is otherwise authorized by law)"; and

(B) by striking out "of refining" and inserting in lieu thereof "of upgrading, refining".

(c) EFFECT OF BARTERING.—Section 9 of such Act (50 U.S.C. 98h) is amended by adding at the end the following new subsection:

"(d) If, during a fiscal year, the National Defense Stockpile Manager barters materials in the stockpile for the purpose of acquiring, upgrading, refining, or processing other materials (or for services directly related to that purpose), the contract value of the materials so bartered shall—

"(1) be applied toward the total value of materials that are authorized to be disposed of from the stockpile during that fiscal year;

"(2) be treated as an acquisition for purposes of satisfying any requirement imposed on the National Defense Stockpile Manager to enter into obligations during that fiscal year under subsection (b)(2); and

"(3) not increase or decrease the balance in the fund.".

SEC. 3302. TRANSFER OF FUNDS

(a) TRANSFER.—The Secretary of Defense shall, subject to such limitations as may be provided in appropriations Acts, transfer $100,000,000 from the unobligated balance of the National Defense Stockpile Transaction Fund to the account established under section 2371(e) of title 10, United States Code.

(b) LIMITATION ON USE.—Funds transferred pursuant to subsection (a) may be used only for the purpose of—

(1) improving the quality and availability of materials stockpiled from time to time under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a et seq.); or

(2) developing new materials for the National Defense Stockpile.

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated $149,117,000 for fiscal year 1991 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

Panama Canal Commission Authorization Act for Fiscal Year 1991.

SEC. 3501. SHORT TITLE

This title may be referred to as the "Panama Canal Commission Authorization Act for Fiscal Year 1991".

SEC. 3502. AUTHORIZATION OF EXPENDITURES

(a) IN GENERAL.—The Panama Canal Commission is authorized to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, without regard to fiscal year limitations, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.), for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1991, except that not more than $52,000 for such fiscal year may be made available for official reception and representation expenses, of which—

(1) not more than $12,000 may be made available for such expenses of the supervisory board of the Commission;

(2) not more than $6,000 may be made available for such expenses of the Secretary of the Commission; and

(3) not more than $34,000 may be made available for such expenses of the Administrator of the Commission.

(b) PURCHASE OF PASSENGER MOTOR VEHICLES.—Funds available to the Panama Canal Commission for fiscal year 1991 shall be available for the purchase of passenger motor vehicles (including large heavy-duty vehicles) used to transport personnel of the Commission across the Isthmus of Panama. Such vehicles may be purchased without regard to price limitations prescribed by law or regulation.

SEC. 3503. GENERAL PROVISIONS

(a) PAY INCREASES.—Funds for the Panama Canal Commission may be obligated for fiscal year 1991, notwithstanding section 1341 of title 31, United States Code, to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law which are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the United States in comparable positions.

(b) EXPENSES IN ACCORDANCE WITH LAW.—Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3504. COMPENSATION FOR BOARD MEMBERS

Section 1102(b) of the Panama Canal Act of 1979 (22 U.S.C. 3612(b)) is amended by striking "grade GS-18 of the General Schedule under section 5332" in the last sentence and inserting "level V of the Executive Schedule under section 5316".

SEC. 3505. COMPENSATION FOR DEPUTY ADMINISTRATOR AND CHIEF ENGINEER

Section 1104(b) of the Panama Canal Act of 1979 (22 U.S.C. 3614(b)) is amended by inserting before the period ", and, if eligible, shall each be paid the overseas recruitment or retention differential provided for in section 1217 of this Act".

SEC. 3506. RETIREMENT

(a) ELIGIBILITY.—Section 8336(i) of title 5, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) An employee of the Panama Canal Commission employed by that body after September 30, 1979, who is separated from the

Panama Canal Commission before January 1, 2000, and who at the time of separation has a minimum of 11 years of continuous employment with the Commission (disregarding any break in service of 3 days or less) is entitled to an annuity if the employee is separated—

"(A) involuntarily, after completing 20 years of service or after becoming 48 years of age and completing 18 years of service, if the separation is a result of the implementation of any provision of the Panama Canal Treaty of 1977 and related agreements; or

"(B) voluntarily, after completing 23 years of service or after becoming 48 years of age and completing 18 years of service.".

(b) COMPUTATION.—Section 8339(d) of title 5, United States Code, is amended by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following:

"(3) The annuity of an employee retiring under this subchapter who is employed by the Panama Canal Commission at any time during the period beginning October 1, 1990, and ending December 31, 1999, is computed, with respect to any period of service with the Panama Canal Commission, by adding—

"(A) 2½ percent of the employee's average pay multiplied by so much of that service as does not exceed 20 years; plus

"(B) 2 percent of the employee's average pay multiplied by so much of that service as exceeds 20 years.".

(c) UNFUNDED LIABILITY.—Section 8348(i)(1) of title 5, United States Code, is amended by striking "1979." and inserting "1979, and the amendments made by section 3506 of the Panama Canal Commission Authorization Act for Fiscal Year 1991.".

SEC. 3507. AMENDMENTS TO PANAMA CANAL COMPENSATION FUND ACT OF 1988

Section 5 of the Panama Canal Commission Compensation Fund Act of 1988 (22 U.S.C. 3715c) is amended—

(1) by striking "Upon the termination of the Panama Canal Commission:";

(2) in subsection (a)—

(A) by striking "The Secretary of Labor" and inserting "Upon the termination of the Panama Canal Commission, the Secretary of Labor"; and

(B) by striking the last sentence;

(3) in subsection (b)—

(A) by inserting "under subsection (a)" after "Secretary of Labor"; and

(B) by striking "Employees Compensation"; and

(4) by adding at the end the following new subsection:

"(c) CONTINUITY OF THE FUND.—(1) Amounts in the Fund (including amounts transferred as a result of the final determination made under subsection (a)) shall be maintained by the Secretary of the Treasury, shall be made available for transfer to the Employees' Compensation Fund in such amounts as are requested by the Secretary of Labor pursuant to section 4, and may be discontinued only in accordance with paragraph (2).

"(2) At such time as the Secretary of Labor certifies that no further liability exists for workers compensation benefits or other payments described in section 3(a), the Secretary of the Treasury may discontinue the Fund in the manner provided by law.".

Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990.
10 USC 2391 note.

DIVISION D—ECONOMIC ADJUSTMENT, DIVERSIFICATION, CONVERSION, AND STABILIZATION

SEC. 4001. SHORT TITLE

This division may be cited as the "Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990".

SEC. 4002. FINDINGS AND POLICY

(a) FINDINGS.—Congress makes the following findings:

(1) There are likely to be significant reductions in the programs, projects, and activities of the Department of Defense during the first several fiscal years following fiscal year 1990.

(2) Such reductions will adversely affect the economies of many communities in the United States and small businesses and civilian workers throughout the United States.

(b) POLICY.—In view of the findings expressed in subsection (a), it is the policy of the United States that—

(1) assistance be provided under existing planning assistance programs and economic adjustment assistance programs of the Federal Government to substantially and seriously affected communities, businesses, and workers to the extent necessary to facilitate an orderly transition for such communities, small businesses, and workers from economic reliance on Department of Defense spending to economic reliance on other sources of business, employment, and revenue; and

(2) funding for such programs be increased by amounts necessary to meet the needs of such communities, small businesses, and workers without reducing the funding that would otherwise be available under those programs by reason of causes unrelated to the reductions referred to in subsection (a)(1).

SEC. 4003. DEFINITIONS

For purposes of this division:

(1) The term "major defense contract or subcontract" means—

(A) any defense contract in an amount not less than $5,000,000 (without regard to the date on which the contract was awarded); and

(B) any subcontract which—

(i) is entered into in connection with a contract (without regard to the effective date of the subcontract); and

(ii) involves not less than $500,000.

(2) The term "Economic Adjustment Committee" or "Committee" means the Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note).

(3) The term "defense facility" means any private or government facility producing goods or services pursuant to a defense contract.

(4) The term "military installation" means a base, camp, post, station, yard, center, or homeport facility for any ship in the United States, or any other facility under the jurisdiction of a military department located in the United States.

(5) The term "substantially and seriously affected" means—

(A) when such term is used in conjunction with the term "community", a community—

(i) which has within its administrative and political jurisdiction one or more military installations or defense facilities or which is economically affected by proximity to a military installation or defense facility;

(ii) in which the actual or threatened curtailment, completion, elimination, or realignment of a defense contract results in a workforce reduction of—

(I) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area or similar area (as defined by the Director of the Office of Management and Budget);

(II) 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or

(III) one percent of the total number of civilian jobs in that area; and

(iii) which establishes, by evidence, that any workforce reduction referred to in clause (ii) occurred as a direct result of changes in Department of Defense requirements or programs;

(B) when such term is used in conjunction with the term "businesses" any business which—

(i) holds a major defense contract or subcontract (or held such contract or subcontract before a reduction in the defense budget);

(ii) experiences a reduction, or the threat of a reduction, of—

(I) 25 percent or more in sales or production; or

(II) 80 percent or more of the workforce of such business in any division of such business or at any plant or other facility of such business; and

(iii) establishes, by evidence, that the reductions referred to in clause (ii) occurred as a direct result of a reduction in the defense budget; and

(C) when such term is used in conjunction with the term "group of workers", any group of 100 or more workers at a defense facility who are (or who are threatened to be), eligible to participate in the defense conversion adjustment program under section 325 of the Job Training Partnership Act (as added by section 4202 of this division).

SEC. 4004. CONTINUATION OF ECONOMIC ADJUSTMENT COMMITTEE

(a) TERMINATION OR ALTERATION PROHIBITED.—The Economic Adjustment Committee established in Executive Order 12049 (10 U.S.C. 111 note) may not be terminated and the duties of the Committee may not be significantly altered unless specifically authorized by a law.

(b) CHAIRMAN.—The chairmanship of the Economic Adjustment Committee shall rotate between the Secretary of Defense, the Secretary of Commerce, and the Secretary of Labor on a yearly basis.

(c) DUTIES OF COMMITTEE.—The Economic Adjustment Committee shall—

(1) coordinate and facilitate cooperative efforts among Federal agencies represented on the Committee to implement defense economic adjustment programs;

Inter-governmental relations.

(2) serve as an information clearinghouse for and between Federal, State, and local entities regarding their defense economic adjustment efforts; and

Reports.

(3) submit to the President and Congress, not later than December 1, 1991, and each December 1 thereafter, a report that—

(A) describes Federal economic adjustment programs available to communities, businesses, and groups of workers;

(B) describes the implementation of defense economic adjustment assistance during the preceding fiscal year; and

(C) specifies the number of communities, businesses, and workers affected by defense budget reductions during the preceding fiscal year and such number assisted by Federal economic adjustment programs during that fiscal year.

10 USC 2391 note.

TITLE XLI—ECONOMIC ADJUSTMENT PLANNING

SEC. 4101. NOTIFICATION

(a) IN GENERAL.—The Chairman of Economic Adjustment Committee shall establish procedures to ensure that the head of the appropriate Federal agencies promptly notify the appropriate official or other person or party described in subsection (b) with respect to any community, business, or group of workers that may be substantially and seriously affected as a result of—

(1) the annual budget of the President submitted to Congress pursuant to section 1105 of title 31, United States Code, and any longer-term guidance document of the Secretary of Defense;

(2) the public announcement of the realignment or closure of a military installation or defense facility; or

(3) the cancellation or curtailment of a major defense contract.

(b) PERSONS TO RECEIVE NOTICE.—The officials, persons, and other parties referred to in subsection (a) are—

(1) the chief elected executive official of an affected State;

(2) the mayor of an affected city;

(3) the executive or other appropriate representative of any other affected political subdivision of a State; and

(4) the head of a national or international labor organization, the headquarters of which is located in the United States, which represents a substantially and seriously affected group of workers.

(c) BENEFIT INFORMATION REQUIRED TO ACCOMPANY NOTICE.—Each notice under subsection (a) shall contain information describing Federal economic adjustment programs available to communities, businesses, and groups of workers.

(d) NOTIFICATION OF COMMUNITIES AFFECTED BY DEFENSE REALIGNMENT BEFORE DATE OF ENACTMENT.—The information provided under subsection (a) shall include information regarding actions referred to in such subsection which were—

(1) proposed in the budget of the President which was submitted to Congress during the period beginning on January 1, 1990, and ending on the date of the enactment of this Act; or

(2) otherwise announced during such period.

SEC. 4102. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE THROUGH THE DEPARTMENT OF DEFENSE

(a) IN GENERAL.—Any substantially and seriously affected community shall be eligible for economic adjustment planning assistance through the Office of Economic Adjustment in the Department of Defense under subsection (b) of section 2391 of title 10, United States Code, subject to subsection (e) of such section. Such assistance shall be provided in accordance with the standards, procedures, and priorities established by the Committee under this division.

(b) CONFORMING AMENDMENT TO TITLE 10.—Section 2391(b) of title 10, United States Code, is amended—

(1) by striking out paragraphs (3), (4), and (6);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) In the case of a publicly-announced planned reduction in Department of Defense spending, the cancellation or termination of a Department of Defense contract, or the failure to proceed with a previously approved major defense acquisition program, assistance may be made under paragraph (1) only if the reduction cancellation, termination, or failure will have a direct and significant adverse impact on a community and will result in the loss of—

"(A) 2,500 or more employee positions, in the case of a Metropolitan Statistical Area or similar area (as defined by the Director of the Office of Management and Budget);

"(B) 1,000 or more employee positions, in the case of a labor market area outside of a Metropolitan Statistical Area; or

"(C) one percent of the total number of civilian jobs in that area.".

SEC. 4103. COMMUNITY ECONOMIC ADJUSTMENT ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION

(a) IN GENERAL.—A community that has been determined by the Economic Development Administration of the Department of Commerce or the Office of Economic Adjustment of the Department of Defense, in accordance with the standards and procedures established by the Economic Adjustment Committee, to be a substantially and seriously affected community shall be eligible for economic adjustment assistance authorized under title IX of the Public Works and Economic Development Act of 1965, subject to the availability of appropriations for such purpose and subject to meeting the eligibility requirements of such title.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Defense for fiscal year 1991 $50,000,000 for purposes of carrying out subsection (a). Any amount appropriated pursuant to this subsection shall remain available until expended.

TITLE XLII—ADJUSTMENT ASSISTANCE FOR EMPLOYEES

10 USC 2391 note.

SEC. 4201. SECRETARY OF DEFENSE NOTICE REQUIREMENT

(a) INFORMATION TO BE PROVIDED.—The Secretary of Defense shall—

(1) provide timely information to the Secretary of Labor on—

(A) any proposed closure of, or substantial reduction in, military installations; and

(B) any proposed cancellation of, or reduction in, any contract for products or services for the Department of Defense,

if the proposed closure, cancellation, or reduction will have a substantial impact on employment;

(2) when feasible, identify the location at which employment which will be affected by such closure, cancellation, or reduction; and

(3) provide to the Secretary of Labor information with respect to such proposed closure, cancellation, or reduction.

(b) NOTIFICATION TO GOVERNOR OF STATE CONCERNED.—If the Secretary of Labor receives information under subsection (a), the Secretary shall notify the Governor of each State in which such proposed closure, cancellation, or reduction will occur pursuant to guidelines established by the Economic Adjustment Committee to avoid duplicative notification.

SEC. 4202. DEFENSE CONVERSION ADJUSTMENT PROGRAM

Part B of title III of the Job Training Partnership Act (29 U.S.C. 1662-1662c) is amended by adding at the end the following new section:

"DEFENSE CONVERSION ADJUSTMENT PROGRAM

Grant programs. 29 USC 1662d.

"SEC. 325. (a) IN GENERAL.—From the amount appropriated pursuant to section 4203 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990, the Secretary may make grants to States, substate grantees, employers, employer associations, and representatives of employees to provide training, adjustment assistance, and employment services to eligible employees adversely affected by reductions in expenditures by the United States for defense or by closures of United States military facilities. For purposes of this section, an eligible employee is an eligible dislocated worker as defined in section 301(a) who has been terminated or laid off, or has received a notice of termination or lay off, as a consequence of reductions in expenditures by the United States for defense or by closures of United States military facilities as determined in accordance with regulations of the Secretary.

"(b) APPLICATION.—In reviewing applications for grants under subsection (a), the Secretary shall give priority to applications from areas which have the greatest number of eligible employees.

"(c) USE OF FUNDS.—Grants under subsection (a) may be used for any purpose for which funds may be used under section 314 or this part.

"(d) DEMONSTRATION PROJECTS.—In carrying out the grant program established under subsection (a), the Secretary may make grants to entities referred to in that subsection for the purpose of developing demonstration projects to encourage and promote innovative responses to the dislocation resulting from reductions in expenditures by the United States for defense or by the closure of United States military installations. Such demonstration projects may include—

"(1) projects to facilitate the placement of eligible employees in occupations experiencing skill shortages that will make use of the skills acquired by the eligible employees during their employment;

"(2) projects to assist in retraining and reorganization efforts designed to avert layoffs that would otherwise occur as a result of such reductions or closures; and

"(3) projects to assist communities in addressing and reducing the impact of such economic dislocation.".

SEC. 4203. AUTHORIZATION OF APPROPRIATIONS

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Defense $150,000,000 for fiscal year 1991 to carry out section 4201 and the amendment made by section 4202. Amounts appropriated pursuant to this subsection shall remain available until expended.

(b) ADMINISTRATIVE EXPENSES.—Of amounts appropriated pursuant to this section, not more than five percent may be retained by the Secretary of Labor for the administration of the activities authorized by the amendment made by section 4202.

TITLE XLIII—EXPANSION OF BUSINESS CAPITAL ASSISTANCE PROGRAMS

10 USC 2391 note.

SEC. 4301. EXPANSION OF SMALL BUSINESS LOAN PROGRAM

President.

Not later than 180 days after the date of the enactment of this Act, the President, acting with the assistance of the Committee and after consulting experts in government and the private sector, shall transmit to the Congress recommendations regarding ways that assistance provided pursuant to the business loan program under section 7(a) of the Small Business Act of 1958 may be used to respond to the consequences of defense budget reductions.

SEC. 4302. ECONOMIC PLANNING ASSISTANCE FOR EXCEPTIONAL PROJECTS

(a) ASSISTANCE AUTHORIZED.—The Economic Development Administration, in the case of assistance under title IX of the Public Works and Economic Development Act of 1965, and the Office of Economic Adjustment, in the case of planning assistance under section 2391(b) of title 10, United States Code, may award planning assistance under those programs to any substantially and seriously affected community, on behalf of a business, group of businesses, or group of workers, if such planning funds are determined by the agency concerned to be necessary and appropriate as a catalyst for projects which the agency determines, on a case-by-case basis, have exceptional promise for achieving the objectives of this division.

(b) CONDITIONS ON ASSISTANCE.—Awards under this section shall be subject to the availability of appropriations for such purpose and shall be made in accordance with any other applicable provisions of law.

SEC. 4303. EXPANSION OF EXPORT FINANCING FOR GOODS AND SERVICES PRODUCED BY FIRMS AND EMPLOYEES FORMERLY ENGAGED IN DEFENSE PRODUCTION

(a) EXPORT-IMPORT BANK.—

(1) SENSE OF CONGRESS ON PLAN FOR EXPANSION.—It is the sense of Congress that the United States businesses undergoing transition from defense production to nondefense production will need assistance in seizing export markets overseas. Therefore, in order to provide financial support for such businesses, as well as meeting other normal demands on its resources, the

annual direct lending authority of the Export-Import Bank of the United States should be increased by at least 150 percent from the fiscal year 1990 level over the five-year period beginning October 1, 1990.

President.

(2) REPORT OF FEASIBILITY.—Before September 30, 1990, the President, acting with the assistance of the Committee and after consulting the Board of Directors of the Export-Import Bank of the United States and other experts in government and the private sector, shall transmit to the Congress a report assessing the feasibility and desirability of a program for increasing the amount of direct loan authority in the manner described in paragraph (1) and the factors considered in making such assessment.

(3) TRANSITION TO NONDEFENSE PRODUCTION REQUIRED TO BE CONSIDERED.—In determining whether to provide financial support for an export transaction, the Export-Import Bank of the United States shall take into account, to the extent feasible and in accordance with applicable standards and procedures established by the bank in consultation with the Committee, the fact that the product or service is produced or provided by any business or group of workers which—

(A) was substantially and seriously affected by defense budget reductions; and

(B) is in transition from defense to nondefense production.

(b) SBA USE OF AUTHORITY FOR EXPORT FINANCING ASSISTANCE.—In determining whether to provide financial or other assistance under the Small Business Act, title VIII of the Omnibus Trade and Competitiveness Act of 1988, or any program referred to in section 4301 to any small business involved in, or attempting to become involved in, the export of any product or service, the Administrator of the Small Business Administration shall take into account the fact that such product or service is produced or provided by any business or group of workers which—

(1) has been substantially and seriously affected by defense budget reductions; and

(2) is in transition from defense to nondefense production.

(c) COORDINATION AND INTEGRATION OF ACTIVITIES AND ASSISTANCE WITH OTHER AGENCIES.—In providing additional financial assistance pursuant to any increase in loan authority under this division—

(1) Federal agencies concerned with international trade shall participate in the process of coordination conducted by the Committee pursuant to section 4003(b); and

(2) such Federal agencies shall attempt, to the maximum extent practicable, to coordinate and integrate the activities and assistance of the agencies in support of exports, including financial assistance in the form of direct loans, loan guarantees, and insurance, general trade promotion, marketing assistance, and marketing and commercial information, in a manner consistent with the purposes of this division (and the amendments made by this division to other provisions of law).

(d) REPORTING.—The annual reports made by the Export-Import Bank of the United States and the Administrator of the Small Business Administration and the annual economic stabilization and adjustment report under section 4003 of this division shall include a description of the extent to which the bank and the Administrator are—

(1) providing financing described in subsections (a)(2) and (b), respectively, to businesses or groups of workers which were substantially and seriously affected by defense budget reductions; and

(2) coordinating and integrating export support and financing activities with other Federal agencies.

SEC. 4304. BENEFIT INFORMATION FOR BUSINESSES

(a) INFORMATION REQUIRED TO BE PROVIDED.—The Secretary of Commerce and the Administrator of the Small Business Administration shall provide any business affected by defense budget reductions with a complete description of available programs which provide any business, whether on an industrywide or an individual basis, with any planning assistance, financial, technical, or managerial assistance, worker retraining assistance, or other assistance authorized under this division.

(b) EFFECTIVE NOTIFICATION SYSTEM.—The Secretary of Commerce and the Administrator of the Small Business Administration shall take such action as may be appropriate to ensure, to the maximum extent practicable, that each business affected by defense budget reductions receives the information required to be provided under subsection (a) on a timely basis.

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 4739 (S. 2884):

HOUSE REPORTS: No. 101-665 (Comm. on Armed Services) and No. 101-923 (Comm. of Conference).
SENATE REPORTS: No. 101-384 accompanying S. 2884 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 1-4, S. 2884 considered and passed Senate.
Sept. 11, 12, 18, 19, H.R. 4739 considered and passed House.
Sept. 25, considered and passed Senate, amended, in lieu of S. 2884.
Oct. 24, House agreed to conference report.
Oct. 26, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

○

Public Law 101-511
101st Congress

An Act

Nov. 5, 1990
[H.R. 5803]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

Department of Defense Appropriations Act, 1991.
Armed Forces.
Arms and munitions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,869,226,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,065,967,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b)

of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,897,502,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,738,372,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,363,300,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,645,000,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $336,400,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $686,800,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,379,500,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,098,400,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $21,515,694,000: *Provided,* That $273,000 shall be available only for the 1991 Capitol Fourth Project.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,257,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $23,161,647,000: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A-76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That the Navy may provide notice in this fiscal year to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract: *Provided further,* That notwithstanding section 2805 of title 10, United States Code, of the funds appropriated herein, $2,000,000 shall be available only for a grant to the Cabot/Dedalo Museum Foundation. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That not less than $15,000,000 shall be made available only for the upgrade of port facilities in Israel in support of United States naval forces.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,892,200,000: *Provided,* That of the funds appropriated in this paragraph, none may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A-76 until the General Accounting Office completes their audit and validates the decision.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,433,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority

of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $20,060,735,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $8,448,957,000, of which not to exceed $35,000,000 may be available for the CINC initiative fund account; and of which not to exceed $14,661,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes; and of which $561,300,000 shall be available for the Special Operations Command: *Provided,* That of the funds appropriated by this paragraph, $200,000,000 shall be available until September 30, 1993, only to the Department of Defense Office of Economic Adjustment to assist State and local governments significantly impacted by reductions in defense industry employment or reductions in the number of Department of Defense military and civilian personnel residing in such States and communities: *Provided further,* That any unspecified reduction to be applied to appropriations available for civilian personnel costs required for fiscal year 1991 shall be applied on an equitable basis to all Defense agencies, the Office of the Secretary of Defense, and the Washington Headquarters Services: *Provided further,* That appropriations available for civilian personnel costs of the Special Operations Command shall not be included in determining the amount of reductions to be applied nor shall such reductions be applied to such personnel costs: *Provided further,* That $10,000,000 shall only be available during the current fiscal year for carrying out the purpose of section 306 of Public Law 101-189, except that the Secretary of Defense, in consultation with the Secretary of Education, shall consider a local education agency as described in subsection (a) of section 306, as eligible for payment only if such agency is unable, without the addition of such assistance, to provide a level of education for such students equivalent to the comparable level of education provided within the State in which such students reside (as determined by comparable student data), and at least 35 percent of the local educational agency's average daily attendance are military dependent students eligible for funding under sections 3(a) and/or 3(b) of Public Law 81-874: *Provided further,* That of this $10,000,000, $886,000 shall be available only for the Killeen, Texas, Independent School District and $167,000 shall be available only for the Copperas Cove, Texas, Independent School District: *Provided further,* That of the funds appropriated in this paragraph, $912,000 shall be available only for transfer to the Library of Congress: *Provided further,* That of the funds appropriated for the Special Operations Command, not less than $69,500,000 shall be transferred to the Operation and Maintenance appropriations of the Reserve Components for execution: *Provided further,* That $4,000,000 shall be available only for the establishment of the Japanese American Museum as a component of the Japanese American Cultural Center in Ontario, Oregon.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $909,100,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $998,000,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $84,800,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,065,900,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,980,400,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration

of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,247,200,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $5,000,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $5,400,000 and not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,062,527,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appro-

priation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $15,000,000, to remain available for obligation until September 30, 1992: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,096,182,000, to remain available for obligation until September 30, 1993.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,218,422,000 to remain available for obligation until September 30, 1993.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, includ-

ing the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,172,021,000, to remain available for obligation until September 30, 1993.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,367,549,000, to remain available for obligation until September 30, 1993.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 6 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $165,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,453,057,000, to remain available for obligation until September 30, 1993.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $7,810,452,000, to remain available for obligation until September 30, 1993.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,540,001,000;
Other Missile Programs, $2,935,256,000;
Mark-48 ADCAP Torpedo, $350,291,000;
Mark-50 Torpedo, $328,266,000;
ASW Targets, $26,409,000;
ASROC, $20,156,000;
Modification of Torpedoes, $11,740,000;
Quickstrike mine, $16,096,000;
Support Equipment and Logistics Support, $88,360,000;
Other Weapons, $202,146,000;
Other Ordnance, $306,450,000;

In all: $5,825,171,000, to remain available for obligation until September 30, 1993.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,331,201,000;

SSN-21 attack submarine program, $1,783,000,000: *Provided,* That the Secretary of Defense shall ensure the Secretary of the Navy considers all available options under applicable statutes and regulations in the development and promulgation of the acquisition strategy for the SSN-21: *Provided further,* That the Secretary of the Navy shall compete the award for the next SSN-21 submarine: *Provided further,* That the Secretary of the Navy shall consider all applicable factors in making an award including the desirability of a competitive acquisition strategy for the entire SSN-21 program;

Aircraft carrier service life extension program, $405,000,000: *Provided,* That these funds are available only for advance procurement of material and other efforts associated with the industrial availability of the U.S.S. KENNEDY at the Philadelphia Naval Shipyard leading to the extension of the service life of the carrier;

DDG-51 destroyer program, $3,113,003,000;

LHD-1 amphibious assault ship program, $959,800,000;
LSD-41 dock landing ship cargo variant program, $240,000,000;
MHC coastal mine hunter program, $204,000,000;
AOE combat support ship program, $398,200,000;
LCAC landing craft air cushion program, $267,900,000;
Oceanographic ship program, $43,100,000;
Sealift ship program, $900,000,000: *Provided,* That $30,000,000 shall be available only for the purchase of one existing petroleum product tanker;
For craft, outfitting, and post delivery, $409,800,000;
For first destination transportation, $5,800,000;
In all: $10,160,804,000, which includes $100,000,000 for the DDG-51 destroyer program in addition to funds provided heretofore in this paragraph, to remain available for obligation until September 30, 1995: *Provided,* That additional obligations may be incurred after September 30, 1995, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards: *Provided further,* That of the funds appropriated in this paragraph, not less than $23,000,000 shall be available only to procure thirty Advanced Video Processor units and associated display heads.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $165,000 per vehicle; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $5,627,160,000, to remain available for obligation until September 30, 1993, of which not less than $160,000,000 shall be for the procurement of sonobuoys: *Provided,* That of the funds appropriated in this paragraph, not less than $42,000,000 shall be available only to procure fifty-three Advanced Video Processor units and associated display heads.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and expansion of public and private plants,

including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; $719,141,000, to remain available for obligation until September 30, 1993.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $9,541,455,000, to remain available for obligation until September 30, 1993.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $5,813,532,000, to remain available for obligation until September 30, 1993.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $165,000 per vehicle; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $7,503,356,000, to remain available for obligation until September 30, 1993.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve

components of the Armed Forces; $2,463,700,000, to remain available for obligation until September 30, 1993.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $165,000 per vehicle; and the purchase of not to exceed 653 passenger motor vehicles of which 650 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $2,354,646,000, to remain available for obligation until September 30, 1993, of which $618,636,000 shall be available for the Special Operations Command.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $50,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless a Presidential determination has been made in accordance with the Defense Production Act: *Provided further*, That the Department of Defense shall notify the Committees on Appropriations of the House of Representatives and the Senate thirty days prior to the release of funds for any metal, mineral, or material not previously approved by Congress.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,607,379,000, to remain available for obligation until September 30, 1992, of which not less than $5,480,000 is available only for the Vectored Thrust Combat Agility Demonstrator flight test program utilizing the Vectored Thrust Ducted Propeller.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,037,684,000, to remain available for obligation

until September 30, 1992: *Provided,* That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced anti-submarine warfare acoustics issues with focus on ocean bottom acoustics—seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further,* That not less than $24,000,000 of the funds appropriated in this paragraph shall be made available to Competitive Technologies Incorporated for efforts associated with advanced shipbuilding design, materials, and manufacturing technologies: *Provided further,* That of the funds appropriated to the Navy in fiscal year 1990 for Research, Development, Test and Evaluation, not less than $10,000,000 is available only for the Skipper Missile Enhancement Program: *Provided further,* That not less than $71,000,000 of the funds appropriated in this paragraph is available only to continue development and testing of the Sea Lance weapon system, to produce a technical data package, and to pursue technology and production engineering improvements: *Provided further,* That $15,000,000 shall be obligated for a Fast Sealift Technologies Development Program within 90 days after enactment of this Act: *Provided further,* That during fiscal year 1991, in modification and supersession of the provisions of section 2361 of title 10, United States Code, the Secretary of the Navy shall award contracts or grants to the following universities in the amounts specified, to be provided from funds available under this heading for the Navy Defense Research Sciences and Industrial Preparedness programs: University of Hawaii at Manoa, $6,000,000; University of Utah, $8,900,000: *Provided further,* That the contracts or grants awarded pursuant to the previous proviso are to be awarded in contravention of section 2361(a) of title 10, United States Code: *Provided further,* That, in awarding such contracts or grants, the provisions of sections 2304 and 2361(b)(2) of title 10, United States Code, shall not apply to the contracts or grants covered by the preceding two provisos.

Government contracts.
Grant programs.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $11,961,310,000, to remain available for obligation until September 30, 1992, of which not less than $30,000,000 is available only for the National Center for Manufacturing Sciences: *Provided,* That not less than $3,000,000 of the funds appropriated in this paragraph is available only for continuing the research program on development of coal based high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,115,699,000, to remain available for obligation until September 30, 1992, of which $191,062,000 shall be available for the Special Operations Command: *Provided,* That not less than $2,000,000 of the funds appropriated in this paragraph is available only for miniature diagnostic proton accelerator research: *Provided further,* That not less than $25,000,000 of the funds appropriated in this paragraph shall be available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering (DICE): *Provided further,* That of the funds appropriated in this paragraph, not less than $103,000,000 is available only for the Extended Range Interceptor (ERINT) missile; not less than $45,400,000 is available only for the Patriot system; and not less than $42,000,000 is available only for the joint research and development of the advanced development program for the Arrow antitactical ballistic missile program: *Provided further,* That not less than $5,000,000 of the funds appropriated in this paragraph is available only to establish a coal utilization center: *Provided further,* That not less than $5,000,000 of the funds appropriated in this paragraph is available only to establish a materials research center: *Provided further,* That not less than $7,000,000 of the funds appropriated in this paragraph is available only to establish an Experimental Program to Stimulate Competitive Research (EPSCoR) in the Department of Defense: *Provided further,* That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to establish an Institute for Advanced Science and Technology at an institution of higher education which meets the criteria specified in section 243 of the National Defense Authorization Act for fiscal year 1991: *Provided further,* That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant only for facilities and equipment supporting the Center for Technology and Applied Research at the University of Scranton: *Provided further,* That not less than $6,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the Advanced Manufacturing Institute at the Stevens Institute of Technology: *Provided further,* That not less than $15,000,000 of the funds appropriated in this paragraph shall be made available as a grant to the Liberty Science Center: *Provided further,* That not less than $10,000,000 of the funds appropriated in this paragraph shall be made available as a grant to Drake University for a facility under the College of Pharmacy and Health Sciences: *Provided further,* That not less than $3,500,000 of the funds appropriated in this paragraph shall be made available as a grant to Loyola College to complete the Center for Advanced Information and Resource Management Studies: *Provided further,* That of the funds appropriated for fiscal year 1991 under the heading "Research, Development, Test and Evaluation, Defense Agencies," $18,000,000 shall be obligated within 90 days after enactment of this Act for a facility to enable collaborative research and training for

Department of Defense military medical personnel in trauma care, head, neck, and spinal injury, paralysis, and neuro-degenerative diseases: *Provided further,* That, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h), of funds provided under this heading which are available for the Defense Research Sciences Program, $10,000,000 is appropriated to the Fund to remain available until expended, for a grant to the South Carolina Research Authority pursuant to the purposes of sections 2 and 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a; 50 U.S.C. 98g) to construct, equip, and operate a prototype ferrochromium strategic materials processing facility.

GENERAL PROVISION

SEC. 401. Funds appropriated in this title that are directed to be made available for a grant to, or contract with, a college or university for the performance of research and development or for construction of a research or other facility shall be made available for that purpose without regard to, and (to the extent necessary) in contravention of, section 2361 of title 10, United States Code, which is hereby modified and superceded to the extent necessary to make each such grant or award each such contract, and any such grant or contract shall be made without regard to any of the conditions specified in subsection (b) of that section or section 2304 of title 10, United States Code.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering (Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $237,720,000, to remain available for obligation until September 30, 1992.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $15,000,000, to remain available for obligation until September 30, 1992.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $376,520,000.

NAVY STOCK FUND

For the Navy stock fund; $26,350,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $1,152,110,000.

DEFENSE STOCK FUND

For the Defense stock fund; $35,420,000.

ARMY INDUSTRIAL FUND

For the Army industrial fund; $151,100,000.

NAVY INDUSTRIAL FUND

For the Navy industrial fund; $238,700,000.

DEFENSE INDUSTRIAL FUND

For the Defense industrial fund; $4,000,000.

TITLE VI

OTHER DEPARTMENT OF DEFENSE APPROPRIATIONS

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986, as follows: for Operation and maintenance, $159,100,000; for Procurement, $115,100,000 to remain available until September 30, 1993; for Research, development, test and evaluation, $5,300,000 to remain available until September 30, 1992, only for cryofracture; for retrograde, $13,200,000 to remain available until September 30, 1992; In all: $292,700,000.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, $1,084,100,000; for transfer to appropriations available to the Department of Defense as follows: for Military Personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code, $105,500,000; for Operation and Maintenance, $585,600,000, of which $50,000,000 shall be available only for non-reimbursable support of Federal, State and local government agencies having counter-drug programs, and $1,000,000 shall be available only for the Civil Air Patrol; for Procurement, $345,300,000, of which not less than $52,000,000 shall be available only for drug interdiction equipment for the reserve components; for Research, Development, Test and Evaluation, $47,700,000: *Provided,* That funds appropriated by this paragraph shall be available for

obligation for the same period and for the same purpose as the appropriation to which transferred and the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act: *Provided further,* That of the funds appropriated by this paragraph, not less than $28,000,000 shall be available only for operation and maintenance expenses for the southwest border land-based aerostat drug surveillance program, of which $14,000,000 shall be obligated not later than November 30, 1990: *Provided further,* That of the funds appropriated by this paragraph, $123,000,000 shall be available only for the National Foreign Intelligence Program.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, as follows: for Operation and maintenance, $98,519,000; for Procurement, $981,000; In all: $99,500,000: *Provided,* That the amount provided for Procurement shall remain available until September 30, 1993.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $164,600,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $28,900,000.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress. 10 USC 1584 note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of the Philippines and foreign national employees of the Department of Defense in the Republic of Turkey: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980. 10 USC 1584 note. Aliens. Government employees. Wages. Government employees.

SEC. 8003. (a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program: *Provided,* That a firm of any member nation of the North Atlantic Treaty Organiza- Government contracts. 10 USC 2341 note.

tion (NATO) or of any major non-NATO ally or countries in the European Theater, shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) A contract awarded during fiscal year 1991, or thereafter, to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

Reports.

(c)(1) Not later than June 1, 1991, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate a report on the nature of the maintenance, repair, and overhaul work of the Department of Defense performed under the program of the Department of Defense known as the Overseas Workload Program.

(2) The report shall include the following:

(A) a description of the categories of work performed under that program and the costs associated with those categories of work;

(B) a description of the capabilities of facilities that United States firms have established in Europe to perform work under that program;

(C) a description of the capabilities to perform work under that program by firms in the United States, Canada, and countries that are major non-NATO allies of the United States;

(D) a description of the maintenance, repair, and overhaul work under that program that could be performed in the United States or Canada, or in a country that is a major non-NATO ally, on a cost-effective basis and without a significant adverse effect on the readiness of the Armed Forces of the United States;

(E) a description of the Air Force plans to expand the Overseas Workload Program to other depot maintenance activities including: prime weapon systems, aircraft exchangeables, engine overhaul and repair, engine exchangeables and other major end items.

Israel.
Government contracts.

(d) For purposes only of this section, Israel shall be considered in the European Theater in every respect, with its firms fully eligible for non-restrictive, non-discriminatory contract competition under the Overseas Workload Program.

Israel.

(e) The Secretary of Defense shall work with Israel to identify new specialized capabilities in depot maintenance and repair for which it is uniquely suited: *Provided,* That the Secretary of Defense shall report to the Committees on Appropriations of the House and Senate, not later than June 1, 1991, on its findings.

Reports.

(f) No funds appropriated for the Overseas Workload Program for fiscal year 1991 shall be used for contracts awarded in fiscal year 1991 which have not been opened for competition in a manner consistent with this provision.

SEC. 8004. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8005. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of reserve components or summer camp

training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 8006. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

(TRANSFER OF FUNDS)

SEC. 8007. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $2,250,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for

higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 8008. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds and to the "Foreign Currency Fluctuations, Defense" appropriation account in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

Coal.

SEC. 8009. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

Coal conversion program.

(b) None of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives: *Provided,* That this limitation shall apply to any authority granted pursuant to section 9008 of the Department of Defense Appropriations Act, 1990.

Germany. Energy.

(c) None of the funds available to the Department of Defense in this Act shall be used to enter into any agreement or contract to convert any heating facility at military installations in the Kaiserslautern Military Community (KMC) in the Federal Republic of Germany to district heat, direct natural gas, or other sources of fuel, except as provided in section 2690 of title 10, United States Code, and thirty days after the Secretary of Defense has notified the Committees on Appropriations of the Senate and House of Representatives, and until the Secretary of the Air Force has (1) ensured that the United States coal industry has had the opportunity to provide thermal energy supply to the KMC facilities through participation in a competitive solicitation for proposals for a third-party thermal energy supply, provided such solicitation allows evaluation of innovative technical proposals such as cogeneration to enhance the cost-effectiveness of coal derived thermal energy; (2) thoroughly evaluated the cost-effectiveness of all proposals received; (3) submitted evaluation results to the General Accounting Office for review; and (4) notified the Committees on Appropriations of the Senate and House of Representatives of the evaluation results.

SEC. 8010. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8011. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8012. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1990 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on an analysis similar to that used pursuant to title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent. The Secretary shall solicit public comment prior to promulgating regulations to implement this section. Health care.

SEC. 8013. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1992.

SEC. 8014. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Line of Sight-Rear (Avenger)—Pedestal Mounted Stinger;
Family of Medium Tactical Vehicles (FMTV);
LCAC Landing Craft;

LHD Amphibious Ship;
MK-45 Gun Mount/MK-6 Ammo Hoist;
NAVSTAR Global Positioning Satellite (GPS);
Defense Support Program Satellites 22 and 23.

(TRANSFER OF FUNDS)

SEC. 8015. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8016. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technican to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicans of the component concerned, below 71,823: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 48,692 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicans in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

SEC. 8016A. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1991 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1991, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1992 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1992 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1992.

SEC. 8017. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8018. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such

individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8019. None of the funds appropriated by this Act or hereafter shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

Animal welfare. 10 USC 2241 note.

SEC. 8020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

Petroleum.

SEC. 8021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for not more than 250 civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam: *Provided further,* That of the funds appropriated under this Act to the Department of Defense, not to exceed $15,000,000 shall be made available to the Office of Humanitarian Assistance for immediate emergency airlift assistance.

10 USC 401 note.

Education. Hawaii. Health care. Territories.

SEC. 8022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8023. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8024. (a) None of the funds appropriated by this Act, shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States

Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act:

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided,* That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further,* That no contribution to the Fund pursuant to section 2006(g) shall be made during the current fiscal year that represents liabilities arising from the Department of the Army: *Provided further,* That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this subsection applies only to active components of the Army.

Education.

SEC. 8025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Wagner O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

SEC. 8027. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8028. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8029. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8030. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8031. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 8032. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8033. None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

SEC. 8034. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8035. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided,* That this prohibition shall not apply to safety modifications.

SEC. 8036. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1991, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8037. Of the funds appropriated to the Army, $46,904,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

SEC. 8038. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a

major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8039. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8040. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8041. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided,* That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further,* That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further,* That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

(TRANSFER OF FUNDS)

SEC. 8042. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military

personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision.

SEC. 8043. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

Mental health programs.

SEC. 8044. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service in excess of thirty days in any year, in the case of a patient nineteen years of age or older, forty-five days in any year in the case of a patient under nineteen years of age, or one hundred and fifty days in any year in the case of inpatient mental health services provided as residential treatment care, or for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided,* That these limitations do not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care: *Provided further,* That the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this provision or section 1086 of title 10, United States Code. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries: *Provided further,* That except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this provision or section 1086 of title 10, United States Code. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission: *Provided further,* That not later than February 1, 1991, the Secretary of Defense shall submit to the Congress

a plan to reduce the costs incurred by the Department of Defense to provide mental health services under the Civilian Health and Medical Program of the Uniformed Services. The plan shall include a legislative proposal to implement the recommendation of the Secretary: *Provided further,* That this provision shall take effect on February 15, 1991, and shall apply with respect to mental health services provided under section 1079 or 1086 of title 10, United States Code, on or after that date.

SEC. 8045. None of the funds provided in this Act may be obligated or expended for the procurement of LANDSAT or SPOT remote sensing data except by the Defense Mapping Agency, in its role as primary action office for such purchases by Department of Defense agencies and military departments.

SEC. 8046. The designs of the Army LH helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998.

(TRANSFER OF FUNDS)

SEC. 8047. Notwithstanding any other provision of law, $300,000,000 of the funds appropriated or made available in this Act shall be transferred to the United States Coast Guard, of which $295,000,000 shall be transferred to "Operating Expenses" and $5,000,000 shall be transferred to "Acquisition, Construction, and Improvement" for Coast Guard family housing.

SEC. 8048. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided,* That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of the total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

Soviet Union. Treaties.

SEC. 8049. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further,* That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members engaged in activities related to the INF Treaty: *Provided further,* That this provision includes only

the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

Reports.

SEC. 8050. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $180,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1991, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided,* That this section does not apply to the reserve components: *Provided further,* That not more than $1,305,000,000 of the funds appropriated by this Act may be obligated or expended for the procurement of advisory or assistance services by the Department of Defense.

Vietnam era POW's and MIA's.

SEC. 8051. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

Hazardous waste. California.

SEC. 8052. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $17,000,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

Reports.

SEC. 8053. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing or Information Technology Facility consolidation plans, or (2) to make reductions or transfers in personnel end strengths, billets or missions that affect the Naval Regional Data Automation Center, the Enlisted Personnel Management Center, the Naval Reserve Personnel Center and related missions, functions and commands until sixty days after the Secretary of Defense submits a report to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions for all active and reserve personnel commands and field activities and Automatic Data Processing commands and field activities; and (2) certifying that such reduction, transfer or consolidation plans or operations do not duplicate functions presently conducted; are cost effective from a budgetary standpoint; will not adversely affect the mission, readi-

ness and strategic considerations of the Navy and Naval Reserve; and will not adversely impact on the quality of life and economic benefits of the individual serviceperson or have an adverse economic impact on a geographic area.

SEC. 8054. None of the funds appropriated in this Act may be available for offshore procurement of second or third generation night vision image intensifier tubes and devices: *Provided*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8055. None of the funds available to the Department of Defense, including expired appropriations and M account balances, may be used for the B-1B's ALQ-161A CORE program unless the Secretary of Defense has notified the Congress in advance of his intention to use funds for such purpose: *Provided*, That no funds available to the Department of Defense may be used for research, development, test, evaluation, installation, integration, or procurement of an advanced radar warning receiver for the B-1B.

New Hampshire.

SEC. 8056. (a) INDEMNIFICATION.—(1) The United States Air Force shall, except as provided in paragraph (2), hold harmless, defend, and indemnify in full—

(A) the State of New Hampshire;

(B) any political subdivision of the State; and

(C) the lenders, officers, agents and employees of the State or political subdivision of the State,

from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorney's fees arising out of, or in any manner predicated upon releases or threatened releases of hazardous substances, or pollutants or contaminants resulting from Department of Defense activities at Pease Air Force Base in New Hampshire.

(2)(A) With respect to the State of New Hampshire and the lenders, officers, agents and employees of the State, to the extent the State or its lenders, officers, agents or employees caused or contributed to any such releases or threatened releases, paragraph (1) shall not apply.

(B) With respect to any political subdivision of the State of New Hampshire and the lenders, officers, agents and employees of the political subdivision, to the extent the political subdivision or its lenders, officers, agents or employees caused or contributed to any such releases or threatened releases, paragraph (1) shall not apply.

(b) DEFINITIONS.—(1) As used in this section, the terms "hazardous substance," "facility," "pollutant or contaminant," "response," and "release" shall have the meanings provided in section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

(2) As used in this section, the term "lender" shall mean any person who, without participating in the management of the facility, holds indicia of ownership primarily to protect his security interest in a facility located at Pease Air Force Base in New Hampshire.

(3) As used in this section, the terms "the State of New Hampshire" and "the State" shall include the State's successors, assigns, transferees and lessees.

(4) As used in this section, the term "political subdivision of the State" shall include the political subdivision's successors, assigns, transferees and lessees.

SEC. 8057. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 8058. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8059. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8060. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 8061. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8062. Notwithstanding any other provision of law, funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8063. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

Health care.

SEC. 8064. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for the payment of the expenses under the Program for the first $150 of the charges for all types of care authorized under the provisions of section 1079(a) of title 10, United States Code, under plans contracted for under the provisions of section

1079 or section 1086 of title 10, United States Code, and received in an outpatient status after April 1, 1991: *Provided,* That the foregoing limitation shall not exceed the first $300 in the case of a family group of two or more persons covered by section 1079(a) of title 10, United States Code: *Provided further,* That higher deductible amounts and/or total or partial restrictions on the availability of care (other than emergency care) in facilities of the uniformed services may be prescribed by the Secretary of Defense in the case of beneficiaries eligible for enrollment under health care plans contracted for under section 1097 of title 10, United States Code, who chose not to enroll in such plans: *Provided further,* That the provisions of this section shall not apply in the case of dependents of military members in grades E-1 through E-4.

SEC. 8065. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 175,960 civilian workyears: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further,* That workyears expended in dependent student hiring programs for disadvantaged youth shall not be included in this workyear limitation.

SEC. 8066. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

SEC. 8067. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1991 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

Alcohol and alcoholic beverages. Intergovernmental relations. 10 USC 2488 note.

SEC. 8068. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the

installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

(TRANSFER OF FUNDS)

SEC. 8069. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period of the appropriation from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

CG-47 cruiser program, $25,000,000;

Strategic sealift program, $9,539,000;

For craft, outfitting, and post delivery, $14,736,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":

CG-47 cruiser program, $110,000,000;

LHD-1 amphibious assault ship program, $473,000;

For craft, outfitting, and post delivery, $33,568,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

For outfitting and post delivery, $11,344,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

TRIDENT ballistic missile submarine program, $99,000,000;

For craft, outfitting, post delivery, and ship special support equipment, $36,740,000; and

Under the heading, "Other Procurement, Navy, 1990/1992", $21,000,000;

Under the heading, "Aircraft Procurement, Navy, 1990/1992", $10,600,000; and

Under the heading, "Other Procurement, Navy, 1990/1992", $13,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1984/1988":

SSN-688, nuclear attack submarine program, $23,800,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":

SSN-688, nuclear attack submarine program, $54,300,000;

DDG-51, guided missile destroyer program, $41,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

MSH coastal mine hunter program, $36,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

SSN-688 attack submarine program, $14,000,000;

AOE fast combat support ship program, $13,300,000;

AO conversion program, $3,600,000;

T-AGOS ocean surveillance ship program, $2,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":

MHC coastal mine hunter program, $1,000,000;

AOE combat support ship program, $8,700,000;

T-AGOS surveillance ship program, $6,700,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

Aircraft carrier service life extension program, $21,000,000;

T-AGOS surveillance ship program, $28,800,000;

AOE combat support ship program, $27,900,000;

Oceanographic ship program, $36,100,000;

MHC coastal mine hunter program, $55,100,000;

For craft, outfitting, post delivery, and ship special support equipment, $10,600,000.

SEC. 8070. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $27,000,000. The Secretary of Defense shall allocate the amount of the reduction made by the preceding sentence in the procurement and research, development, test and evaluation accounts of the Army, Navy, Air Force, Marine Corps, and Defense Agencies as the Secretary determines appropriate to reflect savings resulting from increased use of discount air fares that (1) are granted by commercial air carriers for travel of Federal Government employees on official Government business under agreements entered into between the Administrator of General Services and such carriers, and (2) are available to contractor personnel traveling in connection with the performance of cost-reimbursable contracts awarded by the Department of Defense.

Education.

SEC. 8071. (a) Of the amounts available to the Department of Defense for fiscal year 1991, not less than $20,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

SEC. 8072. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided,* That the Secretary shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further,* That Office of Management and Budget Circular A-76 shall not apply to competitions conducted under this section.

SEC. 8073. Of the funds appropriated by this Act, no more than $4,000,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98-525.

SEC. 8074. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

SEC. 8075. For the purpose of increasing collections from third party payers of reasonable health care services costs incurred on behalf of retirees and dependents pursuant to section 1095 of title 10, United States Code, net receipts from such collections shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount: *Provided,* That for purposes of this section and section 1095, third party payers include: (a) Medicare supplemental insurance policy carriers, in which case the facility of the uniformed services shall be treated as if it were a Medicare-eligible provider and the services provided as if they were Medicare-covered services for policies issued after enactment of this Act; and (b) automobile liability insurance carriers and no-fault insurance carriers, in which case, should tort liability be a basis for payment, the standards of the Federal Medical Care Recovery Act (42 U.S.C. 2651) shall apply.

Wages.

SEC. 8076. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 8077. (a) Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d)(4)(B), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

(b) Section 201(2) of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes", approved April 11, 1968 (25 U.S.C. 1301(2)), is amended by adding at the end thereof the following: "means the inherent power of Indian tribes, hereby recognized and affirmed, to exercise criminal jurisdiction over all Indians;".

(c) Section 201 of such Act is amended (1) by deleting the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and"; and (2) by adding at the end thereof the following:

"(4) 'Indian' means any person who would be subject to the jurisdiction of the United States as an Indian under section

1153, title 18, United States Code, if that person were to commit an offense listed in that section in Indian country to which that section applies.".

(d) The effects of subsections (b) and (c) as those subsections affect the criminal misdemeanor jurisdiction of tribal courts over non-member Indians shall have no effect after September 30, 1991. 25 USC 1301 note.

SEC. 8078. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations in the House and Senate: *Provided,* That funds necessary for the care of animals covered by this contract are allowed.

SEC. 8079. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8080. (a) Upon the date of enactment of this Act, the balances of any unobligated amount of an appropriation of the Department of Defense which has been withdrawn under the provisions of section 1552(a)(2) of title 31, United States Code, the obligated balance of which has not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code, shall be restored to that appropriation. Thirty days following enactment of this Act all balances of unobligated funds withdrawn from any account of the Department of Defense under the provisions of section 1552(a)(2) of title 31, United States Code, prior to the enactment of this Act, (other than those restored pursuant to the provisions of this subsection) are cancelled. 10 USC 2241 note.

(b) During the current fiscal year and thereafter—

(1) on the 3rd September 30th after enactment of this section, all obligated balances transferred under section 1552(a)(1) of title 31, United States Code;

(2) on September 30th of the 5th fiscal year after the period of availability of an appropriation account of the Department of Defense available for obligation for a definite period ends or has ended, with respect to those accounts which, upon the date of enactment of this section have expired for obligation but whose obligated balances have not been transferred pursuant to the provisions of section 1552(a)(1) of title 31, United States Code; and

(3) with respect to any appropriation account made available to the Department of Defense for an indefinite period against which no obligations have been made for two consecutive years

and upon a determination by the Secretary of Defense or the President that the purposes of such indefinite appropriation have been carried out,

any remaining obligated or unobligated balance of such accounts are closed and thereafter shall not be available for obligation or expenditure for any purpose: *Provided,* That collections authorized to be credited to an account which were not credited to the account before it was closed shall be deposited in the Treasury as miscellaneous receipts: *Provided further,* That, without prior action by the Comptroller General but without relieving the Comptroller General of the duty to make decisions under any law or to settle claims and accounts, when an account is closed (including accounts covered by subsection (a) of this section) and currently applicable appropriations of the Department of Defense are not chargeable, obligations and adjustments to obligations that would have been chargeable to an account prior to closing, may be chargeable to currently applicable appropriations of the Department of Defense available for the same purpose in amounts equal to one percent of the total appropriation for the current account or the amount of the original appropriation, whichever is less: *Provided further,* That after the end of the period of availability of an appropriation account available for a definite period and before closing of that account under this section such account shall be available for recording, adjusting, and liquidating obligations properly chargeable to such account in amounts not to exceed the unobligated expired balances of such appropriation: *Provided further,* That with respect to a change to a contract under which the contractor is required to perform additional work, other than adjustments to pay claims or increases under an escalation clause (hereinafter referred to as a contract change), if such a charge for such a contract change with respect to a program, project or activity would cause the total amount of such obligations to exceed $4,000,000 in any single fiscal year for a program, project, or activity, the obligation may only be made if the obligation is approved by the Secretary of Defense or, if such a change would cause the total amount of such obligations to exceed $25,000,000 in any single fiscal year for a program, project or activity, the obligation may be made only after 30 days have elapsed after the Secretary of Defense submits to the Committees on Appropriations and Armed Services of the Senate and the House of Representatives a notice of the intention to obligate such funds, together with the legal basis and the policy reasons for making such an obligation.

Government contracts.

(c) The provisions of this section shall apply to any appropriation account now or hereafter made unless the appropriation Act for that account specifically provides for an extension of the availability of such account and provides an exception to the five year period of availability for recording, adjusting and liquidating obligations properly chargeable to that account.

10 USC 2687 note.

SEC. 8081. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five year period beginning on October 1, 1990, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed

closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

SEC. 8082. None of the funds appropriated in this Act shall be used to reduce the fiscal year 1991 2.5- or 5-ton truck maintenance workload at Letterkenny Army Depot as a direct result of either the proposed consolidation of truck maintenance or an increase in fiscal year 1991 truck maintenance at any other depot; neither shall funds be available for transfer of towed and self-propelled artillery maintenance from Letterkenny Army Depot.

SEC. 8083. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further,* That no funds appropriated or made available in this Act shall be used for the relocations into the National Capital Region of the acquisition function of the Special Operations Command and the Air Force Office of Medical Support located at Brooks Air Force Base.

Guam.

SEC. 8084. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

SEC. 8085. None of the funds in this Act shall be used to reduce the end strength and force structure of the reserve components of the Department of Defense below the levels funded in this Act: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such a reduction is required for national security purposes.

SEC. 8086. Funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia for the fiscal year ending September 30, 1991, may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 8087. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity: *Provided,* That this prohibition shall begin six months after the date of enactment of this Act for presently ongoing studies.

SEC. 8088. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

(TRANSFER OF FUNDS)

SEC. 8089. Of the funds appropriated or made available to the Department of Defense in this Act, $30,000,000 shall be transferred to the Department of Energy solely for the final decontamination and decommissioning of the Nuclear Fuel Facility, Apollo, Pennsylvania, by January 1993, to meet the National Regulatory Commission's limits for unrestricted use: *Provided,* That these funds shall remain available until expended.

SEC. 8090. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

10 USC 2113 note.

SEC. 8091. Notwithstanding any other provision of law, all authority of the Board of Regents of the Uniformed Services University of the Health Sciences is hereby transferred to the Secretary of Defense, and the Board hereafter shall be an advisory board to the Secretary of Defense.

10 USC 113 note.

SEC. 8092. Notwithstanding any other provision of law, after June 1, 1991, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

SEC. 8093. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 4107(g) of title 38, United States Code.

Energy conservation.

SEC. 8094. The Secretary of Defense shall issue directives promoting energy conservation in all peace-time activities of the Department of Defense identifying specific priority initiatives to reduce energy consumption: *Provided,* That specific personnel incentives shall be established to promote and encourage energy conservation:

Reports.

Provided further, That the Department of Defense shall report to Congress no later than April 30, 1991 on its plan to reduce energy consumption during fiscal year 1991, progress in implementing the plan, projected timetable for completing the plan, and the savings that will result from these actions.

President. Uranium. 50 USC 98e note.

SEC. 8095. Using funds available in the National Defense Stockpile Transaction Fund, the President shall acquire over a period of ten

years from current domestic sources not less than thirty-six million pounds of depleted uranium to be held in the National Defense Stockpile.

SEC. 8096. None of the funds appropriated by this Act shall be obligated to fund more than 95,000 permanent change of station moves of active military personnel ashore to Europe: *Provided,* That this limitation may be waived by the Secretary of Defense for national security considerations after notifying the Committees on Appropriations of the House of Representatives and the Senate.

SEC. 8097. None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes: *Provided,* That this training will be performed at Walter Reed Army Medical Center.

SEC. 8098. None of the funds appropriated by this Act shall be used to reduce the military and civilian work force at any military medical facility or medical support facility below the level maintained or authorized for fiscal year 1990: *Provided,* That the foregoing limitation shall not apply to any facility located at an installation scheduled for closure or realignment pursuant to the provisions of the Base Closure and Realignment Act (Public Law 100-526; 102 Stat. 2623).

(TRANSFER OF FUNDS)

SEC. 8099. (a) From funds appropriated in this Act, such amounts as may be necessary, but not to exceed $5,000,000 shall be made available only for a project for the design and construction of a parliament building in the Solomon Islands, such project to be carried out so as to be completed not later than November 1993. Funds for such project shall be identified and made available to the Secretary of the Navy not later than 60 days after the date of the enactment of this Act.

(b) Notwithstanding any other provision of law, from the funds appropriated in this Act, $5,000,000 to remain available until expended, shall be made available to the Secretary of the Army no later than sixty days after enactment of this Act, to be used by the Chief of Engineers only for the repair, improvement, and construction of port facilities and harbor improvements, including dredging, at the islands of Ofu and Ta'u in the Territory of American Samoa.

SEC. 8100. Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete destroyer U.S.S. Turner Joy to the Bremerton Historic Ships Association for use by the Association as a Navy museum and memorial.

SEC. 8101. Of the funds appropriated in fiscal year 1989 under the heading, "Aircraft Procurement, Navy", $200,000,000 shall be made available to the Department of the Navy for obligation for the V-22 Osprey tilt-rotor aircraft program.

(RESCISSIONS)

SEC. 8102. Of the funds provided in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Aircraft procurement, Army, 1990/1992, $15,300,000;
Missile procurement, Army, 1990/1992, $171,846,000;
Procurement of weapons and tracked combat vehicles, Army, 1989/1991, $25,808,000;
Procurement of ammunition, Army, 1989/1991, $72,000,000;
Procurement of ammunition, Army, 1990/1992, $18,000,000;
Other procurement, Army, 1989/1991, $24,100,000;
Other procurement, Army, 1990/1992, $11,000,000;
Weapons procurement, Navy, 1990/1992, $88,205,000;
Other procurement, Navy, 1989/1991, $9,400,000;
Other procurement, Navy, 1990/1992, $7,500,000;
Procurement, Marine Corps, 1989/1991, $7,000,000;
Procurement, Marine Corps, 1990/1992, $62,300,000;
Aircraft procurement, Air Force, 1989/1991, $8,400,000;
Aircraft procurement, Air Force, 1990/1992, $43,900,000;
Missile procurement, Air Force, 1989/1991, $53,968,000;
Missile procurement, Air Force, 1990/1992, $162,613,000;
Other procurement, Air Force, 1989/1991, $1,800,000;
Other procurement, Air Force, 1990/1992, $15,000,000.

SEC. 8103. None of the funds made available to the Department of Defense in this Act may be obligated or expended for the Ground-Wave Emergency Network (GWEN) System, until (1) the Secretary of Defense provides for the conduct of an independent study of such system on the health effects and environmental impact of the system on surrounding local jurisdictions; and (2) a report containing the results of such study, together with the Secretary's comments and recommendations concerning the report, has been submitted to the Congressional Defense Committees and a period of 15 days has elapsed after the report is received.

Reports.

(INCLUDING TRANSFER OF FUNDS)

50 USC 401 note.

SEC. 8104. **SECTION 1.** This section establishes the National Commission on Defense and National Security.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Recent revolutionary world events require a fundamental reassessment of the defense and national security policies of the United States.

(2) Emerging democracies around the world will require political, technical, and economic assistance, as well as military assistance, from the developed free nations in order to thrive and to become productive members of the world community.

(3) Real and potential military threats to the United States and its allies will continue to exist for the foreseeable future from not just the Soviet Union but also from terrorism and from Third World nations.

(4) Proliferation of both sophisticated conventional weapons and of nuclear weapons could produce a world more dangerous than we have faced in the past.

(5) Ethnic rivalries as well as economic inequalities may produce instabilities that could spark serious conflict.

(6) In order to formulate coherent national policies to meet these challenges of a new world environment, it is essential for the United States to achieve a bipartisan consensus such as that which emerged following World War II.

(7) Such a consensus can be fostered by the development of policy recommendations from a highly respected group of individuals who do not bear a partisan label and who possess critical expertise and experience.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as National Commission on Defense and National Security (hereinafter in this Act referred to as the "Commission").

SEC. 4. DUTIES OF COMMISSION.

(a) IN GENERAL.—The Commission shall analyze and make recommendations to the President and Congress concerning the national security and national defense policies of the United States.

(b) MATTERS TO BE ANALYZED.—Matters to be analyzed by the Commission shall include the following:

(1) The world-wide interests, goals, and objectives of the United States that are vital to the national security of the United States.

(2) The political, economic, and military developments around the world and the implications of those developments for United States national security interests, including—

(A) the developments in Eastern Europe and the Soviet Union;

(B) the question of German unification;

(C) the future of NATO and European economic integration;

(D) the future of the Pacific Basin; and

(E) potential instability resulting from regional conflicts or economic problems in the developing world.

(3) The foreign policy, world-wide commitments, and national defense capabilities of the United States necessary to deter aggression and implement the national security strategy of the United States, including the contribution that can be made by bilateral and multilateral political and economic associations in promoting interests that the United States shares with other members of the world community.

(4) The proposed short-term uses of the political, economic, military, and other elements of national power for the United States to protect or promote the interests and to achieve the goals and objectives referred to in paragraph (1).

(5) Long-term options that should be considered further for a number of potential courses of world events over the remainder of the century and into the next century.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 10 members, as follows:

(1) Three appointed by the President.

(2) Three appointed by the Speaker of the House of Representatives.

(3) One appointed by the minority leader of the House of Representatives.

(4) Two appointed by the majority leader of the Senate.

(5) One appointed by the minority leader of the Senate.

(b) QUALIFICATIONS.—Persons appointed to the Commission shall be persons who are not officers or employees of the Federal Government (including Members of Congress) and who are specially qualified to serve on the Commission by virtue of their education, training, or experience.

(c) TERMS.—Members shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) BASIC PAY.—Members of the Commission shall serve without pay.

(e) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) CHAIRMAN AND VICE CHAIRMAN.—The Chairman of the Commission shall be designated by the President from among the members appointed by the President. The Vice Chairman of the Commission shall be designated by the Speaker of the House of Representatives from among the members appointed by the Speaker.

(g) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(h) DEADLINE FOR APPOINTMENTS.—Members of the Commission shall be appointed not later than the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 6. REPORTS.

(a) INITIAL REPORT.—The Commission shall transmit to the President and to Congress an initial report not later than six months after the date on which the Commission is first constituted with a quorum.

(b) SUBSEQUENT ANNUAL REPORTS.—The Commission shall transmit to the President and to Congress an annual report for each of the first five years following the submission of the initial report under subsection (a). Each such report shall update the previous report under this section.

(c) CONTENTS OF REPORTS.—Each report under this section shall contain a detailed statement of the findings and conclusions of the Commission concerning the matters to be studied by the Commission under section 4, together with its recommendations for such legislation and administrative actions as it considers appropriate. Each such report shall include a comprehensive description and discussion of the matters set forth in section 4.

(d) REPORTS TO BE UNCLASSIFIED.—Each such report shall be submitted in unclassified form.

(e) ADDITIONAL AND MINORITY VIEWS.—Each report may include such additional and minority views as individual members of the Commission may request be included.

SEC. 7. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to

exceed the maximum rate of basic pay payable for GS-18 of the General Schedule.

(b) STAFF.—The Chairman may appoint and fix the pay of such additional personnel as the Chairman considers appropriate.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(e) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(c) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

SEC. 9. INITIAL FUNDING OF COMMISSION.

If funds are not otherwise available for the necessary expenses of the Commission for fiscal year 1991, the Secretary of Defense shall make available to the Commission, from funds available to the Secretary for the fiscal year concerned, such funds as the Commission requires. When funds are specifically appropriated for the expenses of the Commission, the Commission shall reimburse the Secretary from such funds for any funds provided to it under the preceding sentence.

10 USC 113 note.

SEC. 8105. CONTRIBUTIONS BY JAPAN TO THE SUPPORT OF UNITED STATES FORCES IN JAPAN.—

(a) PERMANENT CEILING ON UNITED STATES ARMED FORCES IN JAPAN.—After September 30, 1990, funds appropriated pursuant to an appropriation contained in this Act or any subsequent Act may not be used to support an end strength level of all personnel of the Armed Forces of the United States stationed in Japan at any level in excess of 50,000.

(b) ANNUAL REDUCTION IN CEILING UNLESS SUPPORT FURNISHED.—Unless the President certifies to Congress before the end of each fiscal year that Japan has agreed to offset for that fiscal year the direct costs incurred by the United States related to the presence of all United States military personnel in Japan, excluding the military personnel title costs, the end strength level for that fiscal year of all personnel of the Armed Forces of the United States stationed in Japan may not exceed the number that is 5,000 less than such end strength level for the preceding fiscal year.

(c) SENSE OF CONGRESS.—It is the sense of Congress that all those countries that share the benefits of international security and stability should share in the responsibility for that stability and security commensurate with their national capabilities. The Congress also recognizes that Japan has made a substantial pledge of financial support to the effort to support the United Nations Security Council resolutions on Iraq. The Congress also recognizes that Japan has a greater economic capability to contribute to international security and stability than any other member of the international community and wishes to encourage Japan to contribute commensurate with that capability.

(d) EXCEPTIONS.—(1) This section shall not apply in the event of a declaration of war or an armed attack on Japan.

(2) The President may waive the limitation in this section for any fiscal year if he declares that it is in the national interest to do so and immeditely informs Congress of the waiver and the reasons for the waiver.

(e) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

SEC. 8106. Notwithstanding any other provision of this Act, the Operation and Maintenance accounts and revolving and management funds shall be reduced by $400,000,000 to reduce inapplicable inventories.

SEC. 8107. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to:

(1) any chemical munition withdrawn from the Federal Republic of Germany under a European retrograde program; or

(2) any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The provisions of subsection (b)(1) shall not be construed to supersede or otherwise affect the decision of any court relating to the authority of the President or Secretary of Defense under any other law to transport chemical munitions to Johnston Atoll for demilitarization or to store or use Johnston Atoll for the demilitarization or storage of chemical munitions withdrawn from the

Federal Republic of Germany under a European retrograde program.

(d) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

(TRANSFER OF FUNDS)

SEC. 8108. In addition to the amounts appropriated or otherwise made available in this Act, $1,000,000,000 is appropriated for the modernization and expansion of automated data processing systems: *Provided*, That the Secretary of Defense shall, upon determining that such funds are necessary and further the objectives of the Corporate Information Management Initiative, transfer such amounts as necessary to the appropriate operation and maintenance appropriations provided in title II of this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That obligation and expenditure of these funds are subject to the review and approval of the Corporate Information Management Executive Level Group: *Provided further*, That this transfer authority shall be in addition to any other transfer authority contained in this Act.

SEC. 8109. None of the funds available in this or any other Act shall be available for the preparation of further studies on the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States. This prohibition does not apply to studies needed for environmental analyses required by the National Environmental Policy Act.

SEC. 8110. (a) Notwithstanding any other provision of law, funds made available to the Department of Defense in fiscal year 1991 and thereafter, shall be used to establish and maintain as part of the wartime energy reserve of the United States, a stockpile in Israel for petroleum fuels of military utility equal to 4,500,000 barrels.

(b) The stockpile referred to in subsection (a) shall be—

(1) configured to meet the wartime needs and combined military training requirements of the United States and Israel, and

(2) owned by the United States and operated jointly by the United States Department of Defense and Israel.

(c) In the event of a wartime emergency or a state of heightened military readiness on the part of Israel, the President of the United States may direct that Israel be permitted to draw upon all or part of the stockpile of petroleum product referred to in subsection (a), if the President—

(1) determines it is in the national interest of the United States, and

(2) so reports to Congress in accordance with section 652 of the Foreign Assistance Act of 1961 as amended.

(d) Negotiations, leading to an agreement by July 30, 1991, shall begin immediately to bring the fuel stockpile referred to in subsection (a) to full operational readiness no later than September 30, 1993.

(e) For purposes of this section, the term "petroleum product" shall refer to all petroleum, oils and lubricants required for military operations.

(f) The provisions of this section are effective immediately upon the enactment of this Act.

10 USC 114 note.

SEC. 8111. (a) The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 5803 of the One Hundred First Congress and transmitted to the President shall have the force and effect of law as if enacted into law.

(b) The amounts specified in the Classified Annex are not in addition to the amounts appropriated by other provisons of this Act.

(c) The President shall provide for appropriate distribution of the Classified Annex or of appropriate portions of the Annex, within the executive branch of the Government.

SEC. 8112. Of the funds made available in this Act, not less than $7,475,000 shall be available for the Civil Air Patrol.

SEC. 8113. Funds made available under this Act to the Air Force for "Operation and Maintenance" may be used to operate the United States Air Force education and training facility known as the Inter-American Air Forces Academy for the purpose of providing military education and training only to military personnel who are nationals of Central, South American and Caribbean countries: *Provided,* That only the fixed costs of operating and maintaining the Inter-American Air Forces Academy may be paid from funds available for operation and maintenance of the Air Force without reimbursement pursuant to section 37 of the Arms Export Control Act or section 632 of the Foreign Assistance Act or any other provision of law: *Provided further,* That no individual may be admitted to the Inter-American Air Forces Academy who has been convicted of a human rights violation, or is known to United States authorities to have committed, been an accessory to, or in an official capacity had knowledge of but failed to take remedial action concerning a human rights violation: *Provided further,* That the Air Force must provide concentrated instruction in democratic government and human rights protections to each attendee of IAAFA: *Provided further,* That the Air Force will provide the Committees on Appropriations of the House and Senate, no later than March 1, 1991, with a report on the operation of IAAFA and its curriculum, as well as a statistical and biographical profile of its students.

Reports.

SEC. 8114. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the Air Force and Air Force Reserve WC-130 Weather Reconnaissance Squadrons, except for the purpose of transferring the mission to the Air Force Reserve.

Israel.
Aircraft.

SEC. 8115. (a) Funds shall be made available to the Secretary of Defense for the study of:

(1) Israeli aerospace and avionics technology and their potential applications to ATF, NATF, CAS and LH aircraft programs, as well as other anticipated aircraft programs;

(2) Potential areas of joint United States-Israel collaboration in technology research and development projects including, but not limited to, tactical directed energy weapons; camouflage, concealment, deception and stealth measures; aerial and wide-area munitions; fiber optic guided missiles (FOG-M); and the adaptation of the HAVE NAP to the B-1 and B-2 bombers;

(3) The features and possible contributions of Israeli space technology to Department of Defense programs, including, but not limited to, Israeli launchers, and including, but not limited to, cost-effectiveness in design and production of such technologies and systems;

(4) Israeli anti-terrorism technologies, and their potential applications to Department of Defense programs and oper-

ations, including, but not limited to, remote-controlled robots, security fences of all types, specialized x-ray and detection machines, and fast patrol boats. The Secretary of Defense shall work with the Office of Technology Assessment in conducting an examination of these subjects;

(5) Possible applications of Israeli interdiction technologies to American efforts at drug interdiction, including, but not limited to, unmanned aerial vehicles, fast patrol boats, state-of-the-art ship and coastal radars, integrated command and control systems, and land interdiction systems such as visual and infra-red cameras, motion sensors and electronic fences. Drug traffic control.

(b) The Secretary of Defense shall submit these studies as a final report with concrete recommendations and plans for implementation as appropriate to the Committees on Appropriations of the House and Senate no later than September 1, 1991. Reports.

SEC. 8116. Of the funds available in this Act in the operation and maintenance accounts of the Department of Defense, $10,000,000 shall be available only to transport United States beef for resale in Department of Defense commissaries in foreign countries.

SEC. 8117. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense. Handicapped.

(b) During fiscal year 1991, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46-48).

(d) Within 180 days of the enactment of this Act, the Department of Defense Supplement to the Federal Acquisition Regulation shall be modified to implement paragraph (b).

SEC. 8118. Notwithstanding any other provision of law, of the funds made available by this Act to the Department of the Navy, $1,500,000, to remain available until September 30, 1992, shall be available only for the expenses of the Kahoolawe Island Commission which shall be established under the terms and conditions of S. 3088 as introduced in the Senate on September 10, 1990: *Provided*, That the Secretary of the Navy shall provide the Commission such assistance and facilities as may be necessary to carry out its proceedings.

SEC. 8119. None of the funds made available by this Act shall be available for any Military Department of the United States to conduct bombing training, gunnery training, or similar munitions delivery training on the parcel of land known as Kahoolawe Island, Hawaii.

SEC. 8120. (a) The Secretary of Defense shall establish a "Legacy Resource Management Program". Establishment.

(b) The purposes of the program are as follows:

(1) to establish a strategy, plan and priority list for identifying and managing all significant biological, geophysical, cultural and historical resources existing on, or involving, all Department of Defense lands, facilities and property;

(2) to provide for the stewardship of all Department of Defense controlled or managed air, land and water resources;

(3) to protect significant biological systems and species, including but not limited to, those contained on the Federal endangered list and those which are candidates for that list;

(4) to establish a standard Department of Defense methodology for the collection, storage and retrieval of all biological, geophysical, cultural and historical resource information which, in the case of biological information, should be compatible with that used by State Natural Heritage Programs;

(5) to establish programs to protect, inventory and conserve the artifacts of Native American civilization, settler communities and others deemed to have historical, cultural or spiritual significance;

(6) to establish inventories of all scientifically significant biological, geophysical, cultural and historical assets on Department of Defense lands. In addition to the specific attributes of the asset, these inventories are to catalog their scientific and/or cultural significance, as well as their inter-relationship to the surrounding environment, including the military mission carried out on the land upon which they reside;

(7) to establish programs for the restoration and rehabilitation of altered or degraded habitats;

(8) to establish educational, public access and recreation programs designed to increase public appreciation, awareness and support for these national environmental initiatives; and

(9) to establish and coordinate by fiscal year 1993 with other Federal departments, agencies and entities a project to inventory, protect and conserve the physical and literary property and relics of the Department of Defense, in the United States and overseas, connected with the origins and development of the Cold War, which are not already being carried out by other capable institutions or programs.

(c) The "Legacy Resource Management Program" shall be established under the Office of the Deputy Assistant Secretary of Defense for Environment.

(d) The Deputy Assistant Secretary of Defense for Environment shall seek the participation of Department of Defense components in the implementation of the Legacy Resource Management Program.

(e) $10,000,000 appropriated for "Operation and Maintenance, Defense Agencies" shall be available only for the establishment and support of the Legacy Resource Management Program.

William Langer Jewel Bearing Plant.

SEC. 8121. Of the funds available in this Act for the Defense Logistics Agency, $2,400,000 is available only for acquisition of jewel bearings from the William Langer Jewel Bearing Plant.

SEC. 8122. None of the funds available in this Act may be used to support and maintain more than 261,855 United States military personnel permanently assigned ashore in Europe on September 30, 1991: *Provided,* That the President may waive up to 50,000 of this 261,855 ceiling if it is determined that national security interests require such action and the Committees on Appropriations of the House and Senate are notified.

SEC. 8123. PARTNERSHIPS WITH SCHOOLS.—(a) DEFINITIONS.—For the purposes of this section—

(1) The term "school volunteer" means a person, beyond the age of compulsory schooling, working without financial remuneration under the direction of professional staff within a school or school district.

(2) The term "partnership program" means a cooperative effort between the military and an educational institution to enhance the education of students.

(3) The term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965 and does not exclude military schools.

(4) The term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965 and does not exclude military schools.

(5) The term "Secretary" means the Secretary of Defense.

(b) The Secretary shall design a comprehensive strategy to involve civilian and military employees of the Department of Defense in partnership programs with elementary schools and secondary schools civilian and military. This strategy shall include:

(1) A review of existing programs to identify and expand opportunities for such employees to be school volunteers.

(2) The designation of a senior official in each branch of the Armed Services who will be responsible for establishing school volunteer and partnership programs in each branch of the Armed Services and for developing school volunteer and partnership programs.

(3) The encouragement of civilian and military employees of the Department of Defense to participate in school volunteer and partnership programs.

SEC. 8124. Of the funds appropriated for the United States Naval Academy in this Act, $5,000,000 shall not be obligated or expended until the Secretary of the Navy has provided a report to the Armed Services and Appropriations Committees which outlines in detail the steps that have been taken to: (1) effectively implement the recommendations contained in reports by the General Accounting Office and the Board of Visitors of the Naval Academy during fiscal year 1990 and fiscal year 1991 on matters directly concerning the Academy, (2) put into place instruction on ethics as directed by the report accompanying the Senate-passed fiscal year 1991 Defense Authorization bill, and (3) provide assurances that the full range of intercollegiate sports programs being offered to midshipmen of the Naval Academy during academic year 1990-91 will continue to be offered during academic year 1991-92. The report should be delivered no later than June 1, 1991.

SEC. 8125. None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended for research, development, test, and evaluation for the space-based wide area surveillance project in the Air Force's space surveillance technology program element and for the Navy's program addressing the same requirements.

SEC. 8126. None of the funds appropriated by this Act may be available for compensation of military or civilian personnel assigned to the Office of the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict in excess of the number of

such personnel assigned to that Office as of September 30, 1990: *Provided,* That none of the funds provided by this Act may be available to locate the Special Operations Research, Development and Acquisition Center in the National Capital Region unless the Secretary of Defense certifies in writing to the Committees on Appropriations of the House of Representatives and Senate that such a move is required in the best interest of the Government.

SEC. 8127. Of the funds appropriated in "Drug Interdiction and Counter-Drug Activities, Defense", $10,000,000 shall be available only for the National Drug Intelligence Center.

SEC. 8128. The Department of the Army may use up to $3,100,000 in troop labor, installation equipment and supplies at Fort Sill to assist the Department of Interior in replacing an earth dam through a cooperative agreement which benefits each Department and includes such other terms as to protect the United States.

SEC. 8129. None of the funds available during fiscal year 1991 to the Department of Defense, any of its components, or any other Federal department, agency, or entity may be obligated or expended to complete an A-76 cost comparison study for the contracting out of firefighting or security guard functions at Indian Springs Air Force Auxiliary Field.

(TRANSFER OF FUNDS)

SEC. 8130. Funds available to the Department of Defense during the current fiscal year may be transferred to applicable appropriations or otherwise made available for obligation by the Secretary of Defense to repair or replace real property, facilities, equipment, and other Department of Defense assets damaged by Hurricane Hugo in September 1989: *Provided,* That funds transferred shall be available for the same purpose and the same time period as the appropriations to which transferred: *Provided further,* That the Secretary shall notify the Congress promptly, in accordance with standard notification procedures, of all transfers made pursuant to this authority and that such transfer authority shall be in addition to that provided elsewhere in this Act.

SEC. 8131. (a) No later than 90 days after the date of the enactment of this Act the Secretary of Defense shall submit to Congress:

(1) a detailed accounting of the monetary and material contributions provided to the United States for the support of Operation Desert Shield, to the United Nations, its agencies and activities in support of its embargo against Iraq, and to other bilateral and multilateral operations and efforts to counter Iraqi aggression in the Persian Gulf region;

(2) a detailed accounting of the level of revenues from the sale of oil that continue to accrue to the countries of the Organization of Petroleum Exporting Countries (OPEC) since August 2, 1990.

(b) The accounting referred to in subsection (1) shall include, but not be limited to, contributions in cash, personnel, equipment and supplies. Non-cash contributions shall be valued according to criteria established by the Secretary of Defense.

(c) It is the sense of the Congress that contributions from other upper income and industrialized countries should be primarily in the form of monetary contributions rather than supplies, goods, or services.

Operation Desert Shield. 10 USC 673b note.

SEC. 8132. During fiscal year 1991, in exercising the authority provided the President under section 673b of title 10, United States

Code, to authorize the order to active duty of units and members of the Selected Reserve, the President may use that authority in the case of orders to active duty in support of operations in and around the Arabian Peninsula and Operation Desert Shield as if "180 days" were substituted for "90 days" in subsection (a) of that section and "180 additional days" were substituted for "90 additional days" in subsection (i) of that section: *Provided,* That this section applies only to Selected Reserve combat units.

SEC. 8133. (a) Section 12(b)(7) of the Act of January 2, 1976, as amended (Public Law No. 94-204), is further amended as follows: 43 USC 1611 note.

(1) in subsection (i)(a) by:

(A) deleting the word "surplus" following the phrase "any other bidder for",

(B) inserting the phrase "as defined in subsection 12(b)(7)(vii)," following the word "property" the first time it appears in the subsection,

(C) deleting the phrase "Federal Property and Administrative Services Act of 1949 (40 U.S.C. sec. 484), as amended." and inserting in lieu thereof the phrase "applicable laws and regulations of the Federal agency or instrumentality offering such property for sale.", and

(D) deleting the phrase "for General Services Administration surplus property under this subparagraph and no additional advertising shall be required other than that prescribed in title 40, United States Code, section 484(c)(2) of the Federal Property and Administrative Services Act;" and inserting in lieu thereof the phrase "on property under this section 12(b)(7). There shall be no advertising other than that ordinarily required by such sale.".

(2) in subsection (iv) by:

(A) deleting the phrase "Federal surplus property" and inserting in lieu thereof the phrase "property, as defined in subsection 12(b)(7)(vii),",

(B) inserting the phrase "12(b)(7)" immediately preceding the phrase "(i) or (ii)",

(C) inserting the phrase "12(b)" following the phrase "document referred to in this subsection", and

(D) inserting the phrase "or payments of forfeited deposits, penalties, or other assessments imposed under a valid bid or sales contract on Cook Inlet Region, Incorporated" immediately preceding the period at the end of the subsection.

(3) in subsection (v), by deleting the phrase "subsection (iv)" and inserting in lieu thereof the phrase "subsection 12(b)(7)(iv) for sales or transfers of property made pursuant to the Federal Property and Administrative Services Act of 1949, 40 U.S.C. sec. 471 et seq., or any legislative or executive delegation under that Act,".

(4) adding at the end thereof the following new subsections:

"(vii) Notwithstanding the definition of 'property' found in the Federal Property and Administrative Services Act of 1949, as amended, as used in this section 12(b)(7), 'property' means any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, includ-

ing but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any Government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(viii) Any charge against the property account and any transfer of funds from the property account heretofore made for the purpose of consummating any prior sale or making a deposit or other payment to bind any contract of sale or paying any forfeiture of deposit, penalty or assessment is hereby authorized, ratified and affirmed.".

16 USC 396f note.

(b) Section 9102 of the Department of Defense Appropriations Act, 1990 (Public Law 101-165, 103 Stat. 1151), is amended as follows:

(1) in subsection (b)(1), by deleting the phrase "(b)(2)" and inserting in lieu thereof the phrase "(a)(2)",

(2) subsection (d) is amended to read as follows:

"(d) AGENCY DEFINED.—In this section the term 'agency' includes—

"(1) any instrumentality of the United States, or

"(2) any element of an agency, or

"(3) any wholly owned or mixed-owned United States Government corporation identified in chapter 91 of title 31, United States Code.".

(3) by adding at the end thereof the following new subsections:

"(e) PROPERTY DEFINED.—Notwithstanding the definition of 'property' found in the Federal Property and Administrative Services Act of 1949, as amended, in this section the term 'property' includes any property—real, personal, or mixed—owned, held, or controlled by the United States (including that in a corporate capacity or as a receiver or conservator, or such other similar fiduciary relationship), and offered for sale by any agency or instrumentality of the United States, including but not limited to the General Services Administration, Department of Defense, Department of the Interior, Department of Agriculture, Department of Housing and Urban Development, the United States Courts and any Government corporation, agency or instrumentality subject to chapter 91 of title 31, United States Code; real property as used in this section means any land or interest in land or option to purchase land, any improvements on such lands, or rights to their use or exploitation.

"(f) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the accounts described in subsection (a)(2) to receive deposits, to make deposits into escrow when an escrow is required for the sale of any property, and to reinstate to such accounts any unused escrow deposits if sales are not consummated.".

North Carolina.

SEC. 8134. Of the funds appropriated under "Operation and Maintenance, Army," up to $500,000 shall be available for the environmental protection program at Fort Bragg, North Carolina.

Drug traffic control.

SEC. 8135. It is the sense of the Congress that United States participation in a multinational anti-narcotics strike force, as called for in sections 4101 and 4103 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690), should include the full range of appropriate law enforcement and anti-drug abuse agencies, and that consider-

ation be given to aiding such a strike force by funding from appropriate sources for multilateral intelligence-sharing, multilateral training of law enforcement personnel; and multilateral support for crop substitution, drug treatment, drug research and drug education programs.

Funds made available under this Act for Department of Defense drug interdiction activities may be expended to fund the participation of United States Armed Forces in conjunction with appropriate United States law enforcement and anti-drug abuse agencies, in accordance with other applicable laws, in such a strike force.

SEC. 8136. (a) FINDINGS.—The Congress finds that—

(1) the President and Secretary of State have stated publicly that a new international order is being created;

(2) such order is characterized, among other things, by—

(A) a rough parity of financial and technological strength and of standards of living among Members of the Group of Seven;

(B) the successful culmination of allied postwar foreign policy in the emergence of political and economic freedom in formerly communist nations and the progressive integration of such nations into the world economy; and

(C) with the reduction of ideological and military tension between members of the North Atlantic Treaty Organization and the Warsaw Pact, the increased importance of economic strength in the ability of nations to provide for national security and promote foreign policy objectives;

(3) such rough parity of economic strength among Members of the Group of Seven as well as the large and growing net national and international debt of the United States affirm that the new international order should be accompanied by a more balanced distribution of the economic burden of providing for common security than that which accompanied the postwar international order; and

(4) it should be a priority of United States foreign policy in the new international order to attain at an early stage a more balanced distribution of the aggregate economic burden of common security among advanced industrial nations.

(b) NEGOTIATIONS.—It is the sense of the Congress that the President should negotiate within the Group of Seven to conclude agreements providing for— President.

(1) a commonly accepted methodology by which to measure relative rates of expenditures on common security objectives by each Member;

(2) through the application of such methodology, commonly accepted calculations of current rates of expenditures on common security objectives by each Member; and

(3) a framework, concrete agenda, and timetable of actions by each Member to converge substantially their aggregate rates of expenditures on common security objectives as a proportion of national income over a reasonable, finite period.

(c) REPORTS TO CONGRESS.—It is the sense of the Congress that the President should submit reports to Congress no later than August 1, 1991, and August 1, 1992, assessing progress toward the agreements referred to in subsection (b). In the absence of substantial progress toward the agreements referred to in subsection (b) at the time of issuance of such reports, the President should include in such reports a calculation and comparative analysis of current rates of

expenditures on common security objectives by each Member on the basis of the best and most current information available.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "Members" means the United Kingdom, France, Italy, Canada, the Federal Republic of Germany, Japan, the United States, and the European Community; and

(2) the term "expenditures on common security objectives" includes—

(A) expenditures on defense operations and activities outside a Member's territory which provide for the defense of two or more Members pursuant to a treaty or other arrangement between two or more Members;

(B) official development assistance to developing or emerging democracy country markets;

(C) contributions to multilateral development banks;

(D) untied export credit assistance to developing or emerging democracy markets;

(E) other non-military, untied economic or financial assistance to developing or emerging democracy country markets; and

(F) expenditures which address global environmental problems or which improve environmental conditions outside a Member's territory.

Bill Chappell.

SEC. 8137. The Secretary of Interior is authorized to use such sums as are needed to erect in the Canaveral National Seashore a suitable bronze marker to commemorate the dedicated leadership of Congressman Bill Chappell in the establishment of the Canaveral National Seashore.

SEC. 8138. Of the amount appropriated in this Act for Research, Development, Test and Evaluation, Navy, the sum of $31,000,000 may be obligated for an evaluation of the Assault Ballistic Rocket System.

Shipco General, Inc. New Mexico.

SEC. 8139. The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,625,000 to Shipco General, Inc., an Idaho corporation. The payment of such sum shall be in full satisfaction of any claim of Shipco General, Inc., against the United States arising out of the termination of a contract at Kirtland Air Force Base, New Mexico, for the rehabilitation of 155 housing units for Zia Park Housing (Contract No. F29650-82-C-0201).

It shall be unlawful for more than 10 percent of the sum made available by this section to be paid to or received by any agent or attorney for services rendered in connection with the claim described in such section. Any person who violates this section shall be fined not more than $1,000.

John Barren.

SEC. 8140. The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, the sum of $1,124,000 to John Barren, of Peckville, Pennsylvania, for damages incurred as a result of the failure of health care employees at the medical center of the Department of Veterans Affairs in Wilkes-Barre, Pennsylvania, to admit and treat him properly for a service-connected psychiatric condition. The payment of such sum shall be in full satisfaction of any claim against the United States arising out of the admission and treatment of John Barren described in this section: *Provided,* That no more than 10 percent of the sum appropriated pursuant to this section shall be paid to or received by any agent or attorney for services rendered in connection with the claim

described in this section: *Provided further,* That any person who violates this section shall be fined not more than $1,000.

SEC. 8141. In addition to funds appropriated or otherwise made available in this Act, $165,000,000 is appropriated only for military personnel in title I, and $85,000,000 is appropriated only for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) in title II: *Provided,* That $165,000,000 shall be transferred to the appropriate military personnel appropriations provided in title I of this Act and $85,000,000 shall be transferred to the appropriate operation and maintenance appropriations provided in title II of this Act to be merged with and available for the same purposes and time period as the appropriations to which transferred: *Provided further,* That this transfer authority shall be in addition to any other transfer authority contained in this Act.

SEC. 8142. Funds appropriated by this Act for the Advanced Tactical Fighter program may be obligated for full-scale development without regard to obligational limitations with respect to that program prescribed in the National Defense Authorization Act for Fiscal Year 1991: *Provided,* That, notwithstanding any other provision of law, none of the unobligated balances or any other funds contained in the National Defense Stockpile Transaction Fund may be transferred or otherwise made available during fiscal year 1991 to the account established under section 2371(e) of title 10, United States Code.

TITLE IX

DESERT SHIELD SUPPLEMENTAL APPROPRIATIONS

(TRANSFER OF FUNDS)

For incremental costs of Operation Desert Shield $1,000,000,000 is appropriated for transfer from the Defense Cooperation Account, established under section 2608 of title 10, United States Code, to operation and maintenance appropriations of the Department of Defense only to reimburse incremental expenditures made for fuel, transportation, equipment maintenance and purchases from stock

funds in support of Operation Desert Shield, to be merged with and to be available for the same purposes and the same time period as the appropriation to which transferred: *Provided,* That the foregoing transfer authority shall be in addition to any other transfer authority contained in this Act.

This Act may be cited as the "Department of Defense Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5803 (S. 3189):

HOUSE REPORTS: No. 101-822 (Comm. on Appropriations) and No. 101-938 (Comm. of Conference).
SENATE REPORTS: No. 101-521 accompanying S. 3189 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 12, considered and passed House.
Oct. 15, S. 3189 considered and passed Senate; H.R. 5803, amended, passed in lieu.
Oct. 16, passage of S. 3189 vitiated.
Oct. 25, House agreed to conference report.
Oct. 26, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-512
101st Congress

An Act

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5769]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

Department of the Interior and Related Agencies Appropriations Act, 1991.

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $500,112,000 of which the following amounts shall remain available until expended: not to exceed $1,200,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), and $20,000,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors.

FIREFIGHTING

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire presuppression, and other related emergency actions by the Department of the Interior, $168,765,000, to remain available until expended: *Provided,* That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $15,386,000 to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901-07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $15,649,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $84,476,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,188,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and

203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in

Oregon. California.

Alaska. Public lands.

43 USC 1752 note.

excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually: *Provided further,* That unobligated balances in the "Recreation Development and Operation of Recreation Facilities" account are to be deposited into the receipt account established by 16 U.S.C. 4601-6a(i): *Provided further,* That notwithstanding the provisions of the Federal Grants and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Bureau is authorized hereafter to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals, to implement challenge cost-share programs.

Cooperative agreements. 31 USC 6305 note.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $476,272,000 of which $6,671,000 to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $9,313,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended: *Provided,* That beginning October 1, 1990, and thereafter, the United States Fish and Wildlife Service can perform work for the Great Lakes Fishery Commission, authorized by 16 U.S.C. 931-939c, Great Lakes Fisheries Act of 1956, on the sea lamprey program on a reimbursable basis: *Provided further,* That such reimbursements are to be treated as Intragovernmental funds as defined in the publication titled "A Glossary of Terms Used in the Federal Budget Process".

16 USC 935 note.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $93,113,000 to remain available until expended, of which $1,800,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g): *Provided,* That notwithstanding any other provi-

Washington.

sion of law, procurements for the visitor center at the Patuxent Wildlife Research Center, the National Training Center, Crab Orchard National Wildlife Refuge dam, and the replacement laboratory for the National Fisheries Research Center—Seattle, Washington may be issued which include the full scope of the facility: *Provided further,* That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232.18: *Provided further,* That the Patuxent Wildlife Research Center (PWRC) is authorized to enter into a cooperative agreement with the Washington Suburban Sanitary Commission (WSSC) for the purposes of allowing the WSSC to place a water tower on land of the PWRC in return for which the WSSC will provide a continuous supply of potable water to the PWRC National Wildlife Visitor Center. The placement of said water tower will be near the present southern boundary of the PWRC adjacent to Springfield Road and shall encompass no more than five (5) acres of land: *Provided further,* That title 16 U.S.C. section 3832(a)(6) is amended by adding at the end thereof the following: *"Provided however,* no refund of rental payments and cost sharing payments shall be required when the land is purchased by or for the United States Fish and Wildlife Service;".

Cooperative agreements. Utilities. District of Columbia.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $101,150,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $11,000,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201-4203, 4211-4213, 4221-4225, 4241-4245, and 1538), $1,000,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101-233, $15,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 129 passenger motor vehicles, of which 117 are for replacement only (including 39 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency

expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

Gifts to Government. Aircraft.

Amounts collected prior to 1983 for "Special Recreation Use Fees," United States Fish and Wildlife Service, pursuant to 16 U.S.C. 460l-6a (b), (c), and (f) shall be transferred to the General Fund of the Treasury.

Amounts collected prior to October 1, 1984 from taxes imposed by section 4161(a) of the Internal Revenue Code; import duties under subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States (19 U.S.C. 1202), and on yachts and pleasure craft under subpart D schedule 6, shall be transferred to the Sport Fish Restoration account of the Aquatic Resources Trust Fund.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $492,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $881,317,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $55,500,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That of the funds provided herein, $600,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further,* That of the funds provided under this head in this Act and in subsequent annual appropriation Acts, $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use.

16 USC 20b note.

West Virginia.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $18,398,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $34,665,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1992: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $271,871,000, to remain available until expended and including $2,000,000 to assist local communities to protect Mammoth Cave National Park from groundwater pollution notwithstanding the fourth proviso under this head in Public Law 99-190: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $28,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further,* That for payments of obligations incurred for improvements to the George Washington Memorial Parkway, $9,700,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further,* That for payments of obligations incurred for improvements to the Baltimore Washington Parkway, $15,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended: *Provided further,* That not to exceed $7,500,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: *Provided further,* That of the funds provided under this heading, $4,500,000 shall be available for a grant for the restoration of the Keith Albee Theatre in Huntington, West Virginia, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)), such grant funds to be made available on an as needed basis.

URBAN PARK AND RECREATION FUND

For expenses necessary to carry out the provisions of the Urban Park and Recreation Recovery Act of 1978 (title 10 of Public Law 95-625) $20,000,000, to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

16 USC 460*l*-10a note.

The contract authority provided for fiscal year 1991 by 16 U.S.C. 460l-10a is rescinded.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $137,513,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $33,400,000 is for the State Assistance program including $3,400,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $23,000 shall be available in 1991 for administrative expenses of the State grant program: *Provided further,* That of the amount provided above, $320,000 is for acquisition of the Saxton House, 331 South Market Street, Canton, Ohio, as if authorized by the Historic Sites Act of 1935 (16 U.S.C. 462(e)): *Provided further,* That, of the amount provided herein $4,200,000 shall be made available by the National Park Service, pursuant to a grant agreement, to the State of Florida and Broward County so that the State may purchase the "Everglades Buffer Strip" located in Broward County, Florida and stretching approximately 13 miles between State Road 84 and the Dade County line: *Provided further,* That, management of the Buffer Strip shall be the responsibility of the State of Florida and the grant agreement shall provide that the Buffer Strip shall, after eradication of the exotic species of melaleuca plant, be preserved in its natural state.

Florida.

For the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 as amended (16 U.S.C. 460l-8(f)(3)), the Cap Erb Wildlife Preserve of approximately 6 acres that on the effective date of this section is proposed by the City of Boone, Iowa, to be substituted for land formerly in Blair Park that was converted to non-recreation use, shall be deemed by the Secretary of the Interior to be of equivalent usefulness and location as the land which was so converted: *Provided,* That if the proposed substitute land is not equal in fair market value, the difference shall be made up in land elsewhere by the State of Iowa.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $21,150,000, of which $13,500,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 1 new rotary-wing aircraft for replacement only and 468 passenger motor vehicles, of which 324 shall be for replacement only, including not to exceed 355 for police-type use, 12 buses, and 7 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That hereafter the Cedar Pass Visitor Center at Badlands National Park, South Dakota, shall be known as the Ben Reifel Visitor Center: *Provided further,* That Federal funds available to the National Park Service may be used for improvements to the National Park Service rail excursion line between Milepost 132.7 and 100.5 located in Northeastern, Pennsylvania: *Provided further,* That with respect to lands and waters under the jurisdiction of the Secretary of the Interior within the City of Rocks National Reserve established by title II of Public Law 100-696, the Secretary shall hereafter permit hunting in accordance with the otherwise applicable laws of the United States and the State of Idaho, except that he may designate zones where and periods when no hunting may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment: *Provided further,* That except in emergencies, any regulation prescribing such restrictions shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting activities: *Provided further,* That with respect to lands and waters under

Reports.

Federal buildings and facilities.
16 USC 441 note.

16 USC 460yy-1 note.

Regulations.
Effective date.

16 USC 431 note.

the jurisdiction of the Secretary within the Hagerman Fossil Beds National Monument, established by title III of Public Law 100-696, the Secretary shall hereafter permit hunting and fishing as well as maintenance of structures necessary to undertake such activities, including but not limited to duck and goose blinds on those lands within an area fifty feet in elevation above the high water level of the Snake River in accordance with otherwise applicable laws of the United States and the State of Idaho.

16 USC 459f-1.

The Act, establishing Assateague Island National Seashore, as amended (16 U.S.C. 459), is amended by striking out "ten acres" and inserting in lieu thereof "sixteen acres".

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $573,704,000, of which $66,109,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality: *Provided further,* That beginning October 1, 1990, and thereafter, funds received from any State, territory, possession, country, international organization, or political subdivision thereof, for topographic, geologic, or water resources mapping or investigations involving cooperation with such an entity shall be considered as intragovernmental funds as defined in the publication titled "A Glossary of Terms Used in the Federal Budget Process".

43 USC 50.

43 USC 50-1.

WORKING CAPITAL FUND

43 USC 50a.

There is hereby established in the Treasury of the United States a working capital fund to assist in the management of certain support activities of the Geological Survey (hereafter referred to as the "Survey"), Department of the Interior. The fund shall be available hereafter without fiscal year limitation for expenses necessary for furnishing materials, supplies, equipment, work, and services in support of Survey programs, and, as authorized by law, to agencies of the Federal Government and others. Such expenses may include computer operations and telecommunications services; requirements definition, systems analysis, and design services; acquisition or development of software; systems support services such as implementation assistance, training, and maintenance; acquisition and replacement of computer, telecommunications, and related automatic data processing equipment; and, such other activities as may be approved by the Secretary of the Interior.

There are authorized to be transferred to the fund, at fair and reasonable values at the time of transfer, inventories, equipment,

receivables, and other assets, less liabilities, related to the functions to be financed by the fund as determined by the Secretary of the Interior: *Provided,* That the fund shall be credited with appropriations and other funds of the Survey, and other agencies of the Department of the Interior, other Federal agencies, and other sources, for providing materials, supplies, equipment, work, and services as authorized by law and such payments may be made in advance or upon performance: *Provided further,* That charges to users will be at rates approximately equal to the costs of furnishing the materials, supplies, equipment, facilities, and services, including such items as depreciation of equipment and accrued annual leave: *Provided further,* That all existing balances as of the date of enactment of this Act from amortization fees resulting from the Survey providing telecommunications services and deposited in a special fund established on the books of the Treasury and available for payment of replacement or expansion of telecommunications services as authorized by Public Law 99-190, are hereby transferred to and merged with the working capital fund, to be used for the same purposes as originally authorized: *Provided further,* That funds that are not necessary to carry out the activities to be financed by the fund, as determined by the Secretary, shall be covered into miscellaneous receipts of the Treasury.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 26 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $197,028,000, of which not less than $65,552,000 shall be available for royalty management activities: *Provided,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for

reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding 5 U.S.C. 5901(a), as amended, hereafter the uniform allowance for each uniformed employee of the Minerals Management Service shall not exceed $400 annually: *Provided further,* That notwithstanding any other provision of law, $8,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further,* That notwithstanding 31 U.S.C. 3302, any moneys hereafter received as a result of the forfeiture of a bond or other security or payment of civil penalty by an Outer Continental Shelf permittee, lessee, or right-of-way holder which does not fulfill the requirements of its permit, lease, or right-of-way or does not comply with the regulations of the Secretary shall be credited to this account to cover the cost to the United States of any improvement, protection, or rehabilitation work rendered necessary by the action or inaction that led to the forfeiture or imposition of the civil penalty, to remain available until expended: *Provided further,* That any portion of the moneys so credited shall be returned to the permittee, lessee, or right-of-way holder to the extent that the money is in excess of the amount expended in performing the work necessitated by the action or inaction which led to their receipt or, if the bond or security was forfeited for failure to pay the civil penalty, in excess of the civil penalty imposed: *Provided further,* That notwithstanding any other provision of law, $68,200,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury.

43 USC 1338a.

BUREAU OF MINES

MINES AND MINERALS

(INCLUDING TRANSFER)

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $182,182,000, of which $102,182,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

Funds in the amount of $6,000,000 appropriated pursuant to 102 Stat. 2270-12, Public Law 100-463, and transferred from the Department of Defense to the Bureau of Mines pursuant to 103 Stat. 1124, Public Law 101-165, are to be transferred to the Secretary of Defense to carry out the Soledad Canyon Demonstration Project in Los Angeles County, California. These funds shall remain available until September 30, 1993.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts. Gifts to Government.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $109,927,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1991: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1991 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program: *Provided further,* That the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training. *Provided further,* That notwithstanding the requirements of section 705 of Public Law 95-87 (30 U.S.C. 1295) appropriations herein shall be available to fund the full costs to the States to implement the Applicant Violator System in compliance with the January 24, 1990 Settlement Agreement between Save Our Cumberland Mountains, Inc. et al. and Manuel Lujan, Jr., Secretary United States Department of the Interior, et al. 30 USC 1211 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, $200,006,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the

recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(4) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further,* That, notwithstanding any other provision of law, funds appropriated pursuant to Public Law 98-181 and derived from receipts of the Abandoned Mine Reclamation Fund shall be made available to and expended by the Commonwealth of Pennsylvania to provide for the acquisition of the ten properties along Route 61 near the Borough of Centralia, previously identified by the Commonwealth of Pennsylvania to the Office of Surface Mining Reclamation and Enforcement as needing acquisition but ineligible for funding pursuant to Public Law 98-181, and for the relocation of families and individuals residing in such properties who are threatened by the progressive movement of the mine fire currently burning in and around the Borough of Centralia: *Provided further,* That all acquisitions made by the Commonwealth of Pennsylvania under the authority provided herein shall be at fair market value without regard to the mine fire-related damages and such homeowners shall be treated in a manner that avoids any disparity with the treatment authorized and implemented pursuant to Public Law 98-181: *Provided further,* That land acquisition and relocation authorized herein shall not require any matching funding from the Commonwealth of Pennsylvania under section 407(e) of

Pennsylvania.

the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $1,326,997,000, including $210,000,000 for school operations costs of Bureau-funded schools which shall become available for obligation on July 1, 1991, and shall remain available for obligation until June 30, 1992, and of which amount, funds obligated pursuant to the authority of Public Law 93-638, as amended, shall remain available for expenditure by the contractor until June 30, 1993; and of which not to exceed $72,024,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1992, and of which $2,180,000 for litigation support shall remain available until expended, $3,000,000 for self-governance tribal compacts shall be made available on completion and submission of such compacts to the Congress, and shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1992: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,327,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $200,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete rec-

onciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further,* That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds: *Provided further,* That $300,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That $220,000 of the amounts provided for administrative services shall be available for payment to eliminate the tax liability of Leonard and Rita Felder of Barrow, Alaska and that $221,000 of these funds shall be paid into the Treasury of the United States in extinguishment of the tax liability of Leonard and Rita Felder and $19,000 of these funds shall be available for payment for the aggregate attorney and accountant fees: *Provided further,* That such amount shall not be included in gross income for purposes of Federal income taxation: *Provided further,* That $300,000 of the amounts provided for aid to tribal government shall be available until expended for operation of the Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives, authorized in Public Law 101-379: *Provided further,* That not more than $3,235,000 shall be made available for the Federal Financial System in fiscal year 1991: *Provided further,* That none of the funds provided in this Act may be used to prepare a reprogramming proposal to reorganize the Bureau of Indian Affairs until a task force consisting of tribal, Bureau and departmental representatives reviews any proposal to reorganize the Bureau and reports to the Committees on Appropriations regarding consultation and a review of the proposal: *Provided further,* That none of the funds provided in this Act may be used to undertake a reorganization pursuant to 64 Stat. 1262 or any other provision of law.

Leonard Felder.
Rita Felder.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; maintenance of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $168,536,000, to remain available until expended: *Provided,* That $1,000,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation: *Provided further,* That nothing herein shall prevent the Bureau of Indian Affairs or tribes from using, on a case-by-case basis, the technical expertise of

the Bureau of Reclamation: *Provided further,* That none of the funds provided for the Safety of Dams program are available for transfer pursuant to sections 101 and 102 of this Act.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, 100-383, 100-512, 100-580, and 100-585, including funds for necessary administrative expenses, $56,431,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated pursuant to Public Law 100-383 shall not be subject to the provisions of 43 U.S.C. 1606(i): *Provided further,* That income earned on funds appropriated by Public Law 101-121, October 23, 1989, 103 Stat. 701, 715 for the purposes of section 6(b) of the Puyallup Tribe of Indians Settlement Act of 1989, Public Law 101-41, June 21, 1989, 103 Stat. 83, may be utilized by the Permanent Trust Fund Board of Trustees to secure necessary and appropriate financial, auditing, accounting, insurance and other administrative services to fulfill the Board of Trustees' fiduciary and administrative responsibilities: *Provided further,* That no more than 5 per centum of the income in any year may be utilized for such purposes: *Provided further,* That 16 U.S.C. 1166(e) is amended by adding the following new subsection: "(3) There is authorized to be appropriated to the Secretary of the Interior $3,500,000 for distribution to the Trust for the purpose of preserving and maintaining municipal, community, and tribal functions while an economy not dependent on sealing is established.": *Provided further,* That $35,000,000 shall be made available on October 1, 1991, subject to enactment of H.R. 5367 as passed the House of Representatives on October 10, 1990 and as passed the Senate on October 16, 1990.

25 USC 1773d note.

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93-531, as amended (25 U.S.C. 640d-30), including necessary administrative expenses, $3,000,000, to remain available until expended.

REVOLVING FUND FOR LOANS

During fiscal year 1991, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $11,787,000, to remain available until expended, of which not to exceed $500,000 shall remain available for payment of losses on surety bonds guaranteed pursuant to the authority of said Act: *Provided,* That during fiscal year 1991, total commitments to guarantee loans pursuant to said Act may be made only to the extent that the total loan

principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 162 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $106,219,000, of which (1) $102,912,000 shall be available until expended for technical assistance; maintenance assistance; drug interdiction and abuse prevention; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $3,307,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That $1,025,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and maintenance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of

48 USC 1401f, 1423*l*, 1665.

48 USC 1469b.

local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets): *Provided further,* That funds provided herein for disaster hazard mitigation projects are not available for obligation until authorizing legislation is enacted.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $48,707,000 to remain available until expended, including $8,000,000 to reduce the accumulated deficit of the former Trust Territory Government and $4,200,000 for settlement purposes related to reef and beach damage on Kosrae Island resulting from airport construction: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further,* That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1991, shall be credited as an offset against fiscal year 1991 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1991: *Provided further,* That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $24,800,000, to remain available until expended, as authorized by Public Law 99-239: *Provided,* That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101-219.

Effective date.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

Dick A. Blenden.

For necessary expenses of the Office of the Secretary of the Interior, $58,736,000, of which not to exceed $10,000 may be for official reception and representation expenses and also of which not less than $55,000 shall be available to pay the claim of Dick A. Blenden of Carlsbad, New Mexico, made under Public Law 96-549, 94 Stat. 3219, and settled in United States v. Blenden, Civil Action Numbered 85-1587 JB (D.N.M.).

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $26,883,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $22,156,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,097,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100-497, $1,254,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made avail-

able to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further,* That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or

allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley.

SEC. 108. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities for Outer Continental Shelf Lease Sale 137 in the Eastern Gulf of Mexico.

SEC. 113. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities within an area of the Outer Continental Shelf, as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)), located in the Atlantic Ocean, bounded by the following line: from the intersection of the seaward limit of the Commonwealth of Massachusetts territorial sea and the 71 degree West longitude line south along that longitude line to its intersection with the line which passes between blocks 423 and 467 on Outer Continental Shelf protraction diagram NK 19-10; then southwesterly along a line 50 miles seaward of the States of Rhode Island, Connecticut, New York, New Jersey, Delaware, and Maryland, to its intersection with the 38 degree North latitude line; then westerly along the 38 degree North latitude line until its approximate intersection with the seaward limit of the State of Maryland territorial sea; then northeasterly along the seaward limit of the territorial sea to the point of beginning at the intersection of the seaward limit of the territorial sea and the 71 degree West longitude line.

SEC. 114. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 115. The provision of section 114 shall not apply if the transfer of management or control is ratified by law. 16 USC 18f-1.

SEC. 116. In fiscal year 1991 and thereafter, the Secretary may exercise the authorities granted in the Act of July 1, 1955 (16 U.S.C. 18f) in administration of the Department of the Interior Museum, and may dispose of objects no longer needed for the Museum or held in duplicate among museum properties and apply the proceeds to the purchase of museum objects, museum collections, and other personal properties at reasonable prices.

SEC. 117. Notwithstanding any other provision of law, any appropriations or funds available to the Department of the Interior in this Act may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Department of the Interior programs.

SEC. 118. Appropriations under this title may be made available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work for units of the Department of the Interior.

SEC. 119. None of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to evict, or demolish the homes or structures of those members of the Yakima Indian Tribe presently residing at Federal in lieu fishing sites located at Cooks Landing and Underwood in the State of Washington within the area ceded to the United States of America under the Treaty with the Yakima, 1855, 12 Stat. 698 (1859), until a final decision is issued by the court of jurisdiction in the case now pending. Indians. Washington. Housing.

SEC. 120. STATUTE OF LIMITATIONS.—Holders of mining claims subject to the injunction issued in Northern Alaska Environmental Center v. Hodel, Civil Case J-85-009, U.S. District Court, (District of Alaska) may file an action for inverse condemnation against the United States at least until December 31, 1999. Miners. Claims.

SEC. 121. APPRAISAL PROCEDURE.—(a) Holders of unpatented mining claims subject to the injunction issued in Northern Alaska Environmental Center v. Hodel, Civil Case J-85-009, U.S. District Court, (District of Alaska) may apply to the Department of the Interior for a validity determination. The validity determination shall be conducted jointly by the National Park Service and the Bureau of Land Management within two years of application, subject to the availability of appropriated funds. Upon completion of the validity determination, copies of the final written report, reviewed and approved by the Bureau of Land Management, shall be provided to the claimant. Miners. Claims. Reports.

(b) Upon receipt by the National Park Service of (1) a finding of validity pursuant to subsection (a), or evidence of a valid patent, and (2) an offer of sale of said mining claims, the National Park Service shall commence the appraisal process pursuant to subsection (c).

(c) Upon fulfillment of the requirements of subsection (b), a panel of three persons shall be selected pursuant to the procedures of the American Arbitration Association. The panel shall consist of an attorney familiar with mining law, a registered professional mining engineer/geologist familiar with mineral appraisal and methods of production for the type of claim in question, and in the case of patented mining claims an appraiser qualified to perform surface estate appraisals. The appraisal shall be completed within one year of the date the panel is selected. Nothing in this subsection shall require the conduct of a new appraisal for lands or claims for which a valid current government appraisal already exists.

(d) Within six months of completion of the appraisal process for a mining claim under subsection (c), the National Park Service shall, subject to the availability of appropriated funds, or as soon thereafter as funds become available, make an offer to the claimant to purchase said claim for the appraised value. The claimant shall have six months to accept or reject the offer.

SEC. 122. BOUNDARY MODIFICATION.—(a) BOUNDARIES OF CRANBERRY WILDERNESS.—Section 1 of the Act of January 13, 1983 (96 Stat. 2538, 16 U.S.C. 1132), is amended by deleting "on a map entitled 'Cranberry Wilderness—Proposed', dated May 1982" and inserting in lieu thereof "on a map entitled 'Cranberry Wilderness—Revised', dated February 1990".

16 USC 1132 note.

(b) PROTECTIVE STIPULATIONS.—The construction, maintenance, and use of any structure or facility on those National Forest lands excluded from the Cranberry Wilderness by the boundary adjustment made by this Act shall be restricted to protection and enhancement of the fishery and other natural values of the Cranberry River, the Cranberry Wilderness and its surrounding environment, and all such structures and facilities on such lands shall be constructed of materials that blend, and are compatible with, the immediate and surrounding landscape.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $168,512,000, to remain available until September 30, 1992.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $183,377,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $4,500,000 shall be available to Mercer County, West Virginia for the construction and equipping of a hardwood training center and a flexible manufacturing center.

West Virginia.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Firefighting", and "Land Acquisition", $1,302,687,000 to remain available for obligation until September 30, 1992, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l-6a(i)): *Provided,* That unexpended balances in the National Forest System account at the end of fiscal year 1990, shall be merged with and made a part of

the fiscal year 1991 National Forest System appropriation, and shall remain available for obligation until September 30, 1992: *Provided further,* That timber volume authorized or scheduled for sale during fiscal year 1990, but which remains unsold at the end of fiscal year 1990, shall be offered for sale during fiscal year 1991 in addition to the fiscal year 1991 timber sale volume to the extent possible: *Provided further,* That no more than $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

FOREST SERVICE FIREFIGHTING

For necessary expenses for firefighting on or adjacent to National Forest System lands or Department of the Interior lands, and for forest fire management and presuppression; and emergency operations on National Forest System lands, $299,507,000, to remain available until expended: *Provided,* That such funds are also to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes.

CONSTRUCTION

For necessary expense of the Forest Service, not otherwise provided for, for construction, $278,593,000, to remain available until expended, of which $83,245,000 is for construction and acquisition of buildings and other facilities; and $195,348,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532-538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1991 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $110,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $89,163,000, to be derived from the Land and Water Conservation Fund, to remain available until expended of which $300,000 is for acquisition of land and interests therein at and near the Old Chief Joseph Gravesite, Wallowa County, Oregon, as depicted on a map entitled "Old Chief Joseph Gravesite Acquisition—1990" on file with the Forest Service, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)): *Provided,* That of the funds previously appropriated under this head for land acquisition, the Forest Service shall match on a dollar-for-dollar basis, but not to exceed $769,000, any amount that the Bonneville Power Administration makes available to implement the Northwest Resource Information Center, Inc.'s water resource and fish enhancement proposal of April 20, 1990, as amended June 8, 1990, and September 6, 1990, and as certified by the Area Ranger of the Sawtooth National Recreation Area on October 1, 1990: *Provided further,* That the funds shall not be expended by the Forest Service to implement the proposal unless it is stipulated that the Federal government will receive from the owner of Busterback

Ranch the full interest and control of the water rights necessary to meet fully the anadromous fish requirements of the proposal.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

State listing.

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,103,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $30,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 202 passenger motor vehicles of which 27 will be used primarily for law enforcement purposes and of which 170 shall be for replacement only, of which acquisition of 144 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 97 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses

pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

All funds received for timber salvage sales may be credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided,* That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1991 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended: *Provided further,* That these payments shall not be made before October 1, 1991: *Provided further,* That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law or existing policy, the peak that is the second peak to the south of Mount Whitney, and is the highest point on Pinnacle Ridge where it reaches the Sierra Crest, located approximately ¼ mile to the south of the summit of Mount Whitney and approximately ½ mile to the north of the summit of Mount Muir, near Lone Pine, in the State of California, shall be known and designated as "Crooks Peak". Any reference in any law, regulation, document, record, map, or other paper of the United States to the peak is deemed to be a reference to "Crooks Peak".

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Cooperative agreements.

Notwithstanding the provisions of the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with public and private agencies, organizations, institutions, and individuals to continue the Challenge Cost-Share Program.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting or other forms of even-age management in hardwood stands in the Shawnee National Forest, Illinois.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided,* That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further,* That landscape architects shall be used to maintain a visually pleasing forest.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided,* That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

No funds made available under this Act may be used for the issuance of any permit or other authorization providing access to, or permitting the construction of, any motel-restaurant or similar overnight accommodations on lands located within the exterior boundaries of the Allegheny National Forest in the State of Pennsylvania, and no funds made available under this Act may be used to enter into any contract or lease for the construction of any such facilities.

Louisiana. Forests and forest products.

The Secretary of Agriculture may sell to the Louisiana Pacific Corporation, without complying with the advertisement and competitive bidding requirements of section 14 of the National Forest Management Act of 1976 (Public Law 94-599, 16 U.S.C. 472a) and of the regulations issued by the Secretary, replacement trees, portions of trees, or forest products located on National Forest System lands that are equal in total value to the trees, portions of trees, or forest products deleted by agreement of the Secretary and the Louisiana Pacific Corporation from the contract (numbered 001657) for the sale of timber in the Bowen Gulch area of the Arapaho National Forest, State of Colorado: *Provided,* That in selling such replacement trees, portions of trees, or forest products, the Secretary shall comply with all other laws and regulations applying to timber sales on National Forest System lands.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding section 705(a) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 539d(a)), $42,887,000 shall be available from the Tongass Timber Supply Fund for timber supply, protection and management, research, resource protection, and construction on the Tongass National Forest in fiscal year 1991: *Provided,* That all of the funds available from the Tongass Timber Supply Fund in fiscal year 1991 pursuant to section 705(a) of Public Law 96-487 shall be deemed obligated as of October 1, 1990 and shall remain available until expended: *Provided,* That this funding limitation shall not include those funds available to the Forest Service as National Forest System, Construction, Trust Funds, Permanent Funds (other than the Tongass Timber Supply Fund), or Purchaser Road Construction.

Notwithstanding any other provision of law, funds allocated by the Forest Service to a specific national forest in fiscal year 1992 for National Forest System trail construction; trail maintenance; wildlife and fish habitat management; soil, water and air management; cultural resource management; wilderness management; and reforestation and stand improvement shall be increased by 5 per centum on October 1, 1991 if the specific national forest attains the timber sale offer volume and timber pipeline preparation volume target established for fiscal year 1991: *Provided,* That these funds shall be made available in fiscal year 1992 from fiscal year 1991 timber receipts returned to the Federal Treasury and shall be available until expended: *Provided further,* That these funds are in

addition to any other funds appropriated for these activities and can be merged into regular appropriated accounts.

Disaster assistance.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

The Chief of the Forest Service is authorized to establish an advisory committee on the Ouachita National Forest to advise the Forest Supervisor on the new Forest Plan including principles of "New Perspectives" for forest management, and other land management activities. The committee shall be comprised of individuals who in the Chief's judgment, represent a diversity of views: *Provided,* That every effort shall be made to ensure that environmental and business concerns are equally represented on the committee. The committee may be formed without being subject to the Federal Advisory Committee Act (86 Stat. 770). Committee members shall serve without compensation but may be reimbursed for travel expenses at the prevailing Government rate.

Section 3 of Public Law 87-869 (16 U.S.C. 554d, 76 Stat. 1157) is hereby amended by striking the number "$35,000" and inserting in lieu thereof "$100,000".

The Forest Service is directed to begin the preparation of all environmental documents necessary to implement the management goals, policies, standards, and guidelines contained in the recently completed land and resource management plans on the national forests in Region 6, Oregon and Washington.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

The first paragraph under this head in Public Law 101-121 is amended by striking "$600,000,000 shall be made available on October 1, 1990, and shall remain available until expended, and $600,000,000 shall be made available on October 1, 1991, and shall remain available until expended" and inserting "$600,000,000 shall be made available as follows: $35,000,000 on September 1, 1991, $315,000,000 on October 1, 1991, and $250,000,000 on October 1, 1992, all such sums to remain available until expended for use in conjunction with a separate general request for proposals, and $600,000,000 shall be made available as follows: $150,000,000 on October 1, 1991, $225,000,000 on October 1, 1992, and $225,000,000 on October 1, 1993, all such sums to remain available until expended for use in conjunction with a separate general request for proposals": *Provided,* That these actions are taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909): *Provided further,* That a fourth general request for proposals shall be issued not later than February 1, 1991, and a fifth general request for proposals shall be issued not later than March 1, 1992: *Provided further,* That project proposals resulting from such solicitations shall be selected not later than eight months after the date of the general request for proposals: *Provided further,* That for clean coal solicitations required herein, provisions included for the repayment of government contributions to individual projects shall be identical to those included in the Program Opportunity Notice (PON) for Clean Coal Technology III (CCT-III)

Demonstration Projects (solicitation number DE-PS01-89 FE 61825), issued by the Department of Energy on May 1, 1989: *Provided further,* That funds provided under this head in this or any other appropriations Act shall be expended only in accordance with the provisions governing the use of such funds contained under this head in this or any other appropriations Act.

With regard to funds made available under this head in this and previous appropriations Acts, unobligated balances excess to the needs of the procurement for which they originally were made available may be applied to other procurements for use on projects for which cooperative agreements are in place, within the limitations and proportions of Government financing increases currently allowed by law: *Provided,* That the Department of Energy, for a period of up to five (5) years after completion of the operations phase of a cooperative agreement may provide appropriate protections, including exemptions from subchapter II of chapter 5 of title 5, United States Code, against the dissemination of information that results from demonstration activities conducted under the Clean Coal Technology Program and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in a Clean Coal Technology project: *Provided further,* That, in addition to the full-time permanent Federal employees specified in section 303 of Public Law 97-257, as amended, no less than 90 full-time Federal employees shall be assigned to the Assistant Secretary for Fossil Energy for carrying out the programs under this head using funds available under this head in this and any other appropriations Act and of which 35 shall be for PETC and 30 shall be for METC: *Provided further,* That reports on projects selected by the Secretary of Energy pursuant to authority granted under this heading which are received by the Speaker of the House of Representatives and the President of the Senate less than 30 legislative days prior to the end of the second session of the 101st Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department of Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate or at the end of the session, whichever occurs later.

Confidential business information.

Reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $461,167,000, to remain available until expended, of which $267,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909) and of which $2,969,000 is for the fuels program: *Provided further,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $40,250,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided,* That 35 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1991, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

Of the funds provided herein, $2,500,000 shall be for a grant for the National Research Center for Coal and Energy, and $2,000,000 shall be for a grant to be matched on an equal basis from other sources for the University of North Dakota Energy and Environmental Research Center.

Cooperative agreements.

Of the funds provided herein, $8,000,000 is to initiate a ten-year industry/government cooperative agreement to design, construct, and operate a proof-of-concept oil shale facility employing modified in-situ retorting and surface processing of mined shale and waste at Federal Prototype Oil Shale Lease Tract Cb near Meeker, Colorado: *Provided,* That the Federal contribution to the cooperative agreement shall not exceed $80,000,000 in 1989 dollars escalated yearly by the annual GNP deflator, or 40 per centum of the total equity in the project, whichever is less: *Provided further,* That at no time during the project shall the Federal contribution exceed 40 per centum of total equity in the project: *Provided further,* That in fiscal years 1992 and thereafter, the annual Federal contribution shall not exceed the annual portion of the remaining allowable Federal contribution distributed evenly over the remaining years of the project:

Reports.

Provided further, That construction of such facility shall not commence prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a report on such project including the results of the detailed design, cost estimate, and environmental compliance activities, and such additional facts and circumstances as necessary to support project construction and operation.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Northwest Bank of North Dakota, in such sums as are earned as of October 1, 1990, shall be deposited in this account and immediately transferred to the General Fund of the Treasury.

Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $224,310,000, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, revenues received from the sale of natural gas after the date of enactment of this Act from wells drilled or communitized in fiscal year 1990 and thereafter as part of gas protection activity at the Naval Oil Shale Reserves shall be deposited in this account, to remain available until expended, for use in further gas protection activity: *Provided further,* That sums in excess of $638,000,000 received during fiscal year 1991 from use and operation of the Naval Petroleum Reserves Numbered 1, 2, and 3 shall be deposited in the "SPR Petroleum Account", to remain available until expended, for the acquisition and transportation of petroleum and for other necessary purposes.

10 USC 7422 note.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $497,784,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1991 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided,* That $247,893,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same proportion for each program as in fiscal year 1990: *Provided further,* That $1,000,000 of the amount provided under this heading shall be for establishment of a National Metal Casting Research Institute at the University of Northern Iowa and $1,000,000 of the amount under this heading shall be for establishment of a National Metal Casting Research Institute at the University of Alabama, such institutes to be established consistent with the provisions of Public Law 101-425: *Provided further,* That $2,250,000 of the amount provided under this heading shall be available for a grant to the National Center for Alternate Transportation Fuels: *Provided further,* That $3,000,000 of the amount provided under this heading shall be available for a project to develop an integrated manufacturing information system for the steel industry, and the government share of the costs of such project shall not exceed 50 per centum using the same criteria for acceptance of contributions as for steel and aluminum research below: *Provided further,* That $17,500,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190), and implementation of steel and aluminum research authorized by Public Law 100-680: *Provided*

further, That existing facilities, equipment, and supplies, or previously expended research or development funds are not accepted as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $16,816,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $7,117,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $201,633,000, to remain available until expended: *Provided,* That appropriations herein made shall not be available for leasing of facilities for the storage of crude oil for the Strategic Petroleum Reserve unless the quantity of oil stored in or deliverable to Government-owned storage facilities by virtue of contractual obligations is equal to 750,000,000 barrels.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $196,188,000 shall be made available until expended beginning October 1, 1991: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided further,* That no funds made available by this or any other Act may be used for the leasing of crude oil from a foreign government, a foreign State-owned oil company, or an agent of either, except pursuant to the procedures of Section 174, Part C, title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.), as contained in Section 6 of Public Law 101-383: *Provided further,* That outlays in fiscal year 1991 resulting from the use of funds in this account other than funds deposited pursuant to 42 U.S.C. 6247 as a result of the sale of petroleum products in any drawdown and distribution of the Strategic Petroleum Reserve under 42 U.S.C. 6241 shall not exceed $378,000,000: *Provided further,* That this action is taken pursuant to section 202(b)(1) of Public Law 100-119 (2 U.S.C. 909).

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $69,303,000, of which

$1,000,000 for computer operations shall remain available until September 30, 1992 and $1,700,000 for end use energy consumption surveys shall remain available until expended.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

Gifts to Government.

The Secretary of Energy is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary of Energy pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

Reports.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Annual appropriations made in this Act and previous Interior and Related Agencies Appropriations Acts shall be available for obligations in connection with contracts issued by the Department of Energy for supplies and services for periods not in excess of twelve months beginning at any time during the fiscal year.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contract, agreement, or arrangement, including, but not limited to, a Management and Operating Contract as defined in the Federal Acquisition Regulations (17.601), with a profit-making or non-profit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma: *Provided,* That any contract, agreement, or arrangement shall contain provisions encouraging use of the Department of

Energy's Bartlesville facilities by interested third party sponsors: *Provided further,* That any contract, agreement, or arrangement entered into by the Secretary pursuant to this authority shall be submitted to the Senate Committee on Appropriations and the House Committee on Appropriations and a period of thirty days shall elapse while Congress is in session (in computing the thirty days, there shall be excluded the days on which either the Senate or the House is not in session because of adjournment for more than three days) before the contract, agreement, or arrangement shall become effective.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,418,600,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further,* That $17,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further,* That of the funds provided, $5,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal

contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1992: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100-713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended: *Provided further,* That notwithstanding the existing Indian Health Service facilities priority system, $1,500,000 shall remain available until expended for the purpose of funding a demonstration program to equip, supply, operate, and maintain up to three health centers to be selected by the Secretary of Health and Human Services, acting through the Service, for the provision of Indian Health Service funded health services: *Provided further,* That the centers shall be selected on a competitive basis from those tribal applicants who agree to provide an appropriate facility for use as a health center for a minimum of 20 years, under a no cost lease, in exchange for financial resources to equip, supply, operate and maintain such health centers. Reports.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $167,279,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That no later than 30 days after the end of each quarter of the fiscal year, the Indian Health Service is to report to the Committees on Appropriations of the United States House of Representatives and the United States Senate on any proposed adjustments to existing leases involving additional space or proposed additional leases for permanent structures to be used in the delivery of Indian health care services: *Provided further,* That non-Indian patients may be extended health Reports.

care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further,* That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act.

25 USC 1681.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $75,762,000, of which $56,556,000 shall be for subpart 1 and $16,304,000 shall be for subparts 2 and 3: *Provided,* That $1,578,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1992.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93-531, $33,749,000, to remain available until expended: *Provided,* That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99-498, as amended (20 U.S.C. 56, part A), $5,476,000, of which not to exceed $300,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund: *Provided,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Congress: *Provided further,* That the Institute shall act as its own certifying officer.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $274,321,000, of which not to exceed $18,332,000 for the instrumenta-

tion program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, and the repatriation of skeletal remains program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further,* That $15,000,000 of the amount appropriated under this head shall be made available to the Trustees of the John F. Kennedy Center for the Performing Arts for repayment of an accumulated operating deficit.

MUSEUM AND RELATED RESEARCH

(SPECIAL FOREIGN CURRENCY PROGRAM)

Funds previously appropriated in this account for the American Institute of Indian Studies Forward Funded Reserve may be invested in India by the United States Embassy in India in interest bearing accounts with the interest to be used along with other funds in the account to support the ongoing programs of the American Institute of Indian Studies.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $6,671,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $31,356,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $15,489,000, to remain available until expended, including $1,500,000 for the East Court building of the National Museum of Natural History, subject to authorization: *Provided,* That notwithstanding any other provision of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

Arizona.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $46,276,000, of which not to exceed $4,370,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $3,505,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $5,074,000.

PAYMENT TO ENDOWMENT CHALLENGE FUND

Funds appropriated pursuant to Public Law 100-446, 102 Stat. 1820, for payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars and not transferred to the Center as of September 30, 1990, shall remain available until September 30, 1992: *Provided,* That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $147,000,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,000,000, to remain available until September 30, 1992, to the National Endowment for the Arts, of which $15,000,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended $143,750,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $7,900,000 for the Office of Preservation shall remain available until September 30, 1992.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,150,000, to remain available until September 30, 1992, of which $15,150,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $26,000,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided,* That the National Museum Services Board shall not meet more than three times during fiscal year 1991.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $637,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $6,250,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $2,238,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $3,448,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1992.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,365,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $4,805,000, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $5,000,000, pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92-576, as amended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388, as amended, $7,554,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

TITLE III—GENERAL PROVISIONS

Government procurement.

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. None of the funds provided in this Act to the Department of the Interior may be obligated or expended to implement a transfer of property located within the city of Minneapolis from the Department of Housing and Urban Development to any Indian Tribe.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 307. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 308. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such Committees.

SEC. 309. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

Government contracts
Intergovernmental relations.

SEC. 310. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

SEC. 311. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 312. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

SEC. 313. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Claims.
Indians.
25 USC 450f.

SEC. 314. With respect to claims resulting from the performance of functions during fiscal year 1991 and thereafter, or claims asserted after September 30, 1990, but resulting from the performance of functions prior to fiscal year 1991, under a contract, grant agreement, or cooperative agreement authorized by the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.) or by title V, part B, Tribally Controlled School Grants of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended (102 Stat. 385; 25 U.S.C. 2501 et seq.), an Indian tribe, tribal organization or Indian contractor is deemed hereafter to be part of

the Bureau of Indian Affairs in the Department of the Interior or the Indian Health Service in the Department of Health and Human Services while carrying out any such contract or agreement and its employees are deemed employees of the Bureau or Service while acting within the scope of their employment in carrying out the contract or agreement: *Provided,* That after September 30, 1990, any civil action or proceeding involving such claims brought hereafter against any tribe, tribal organization, Indian contractor or tribal employee covered by this provision shall be deemed to be an action against the United States and will be defended by the Attorney General and be afforded the full protection and coverage of the Federal Tort Claims Act: *Provided further,* That beginning with the fiscal year ending September 30, 1991, and thereafter, the appropriate Secretary shall request through annual appropriations funds sufficient to reimburse the Treasury for any claims paid in the prior fiscal year pursuant to the foregoing provisions: *Provided further,* That nothing in this section shall in any way affect the provisions of section 102(d) of the Indian Self-Determination and Education Assistance Act of 1975, as amended (88 Stat. 2203; 25 U.S.C. 450 et seq.).

Oregon. California.

SEC. 315. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876) to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1991 receipts derived from the Oregon and California grant lands shall not be less than 90 per centum of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the three-year baseline period of fiscal years 1988 through 1990: *Provided,* That in no event shall this payment exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1991.

Wildlife.

SEC. 316. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for National Forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1991 receipts shall not be less than 90 per centum of the average annual payments to States, based on receipts collected on those National Forests during the three-year baseline period of fiscal years 1988 through 1990: *Provided,* That in no event shall these payments exceed the total amount of receipts collected from the affected National Forests during fiscal year 1991.

SEC. 317. (a) The sum of $500,000 is hereby appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (SEIS) for the proposed Early Winters Alpine Sports Site in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS.

Arts, Humanities, and Museums Amendments of 1990.
20 USC 951 note.

SEC. 318. SHORT TITLE.

This section may be cited as the "Arts, Humanities, and Museums Amendments of 1990".

TITLE I—AMENDMENTS TO THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES ACT OF 1965

SEC. 101. DECLARATION OF FINDINGS AND PURPOSES.

Section 2 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951) is amended to read as follows:

"DECLARATION OF FINDINGS AND PURPOSES

"SEC. 2. The Congress finds and declares the following:

"(1) The arts and the humanities belong to all the people of the United States.

"(2) The encouragement and support of national progress and scholarship in the humanities and the arts, while primarily a matter for private and local initiative, are also appropriate matters of concern to the Federal Government.

"(3) An advanced civilization must not limit its efforts to science and technology alone, but must give full value and support to the other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

"(4) Democracy demands wisdom and vision in its citizens. It must therefore foster and support a form of education, and access to the arts and the humanities, designed to make people of all backgrounds and wherever located masters of their technology and not its unthinking servants.

"(5) It is necessary and appropriate for the Federal Government to complement, assist, and add to programs for the advancement of the humanities and the arts by local, State, regional, and private agencies and their organizations. In doing so, the Government must be sensitive to the nature of public sponsorship. Public funding of the arts and humanities is subject to the conditions that traditionally govern the use of public money. Such funding should contribute to public support and confidence in the use of taxpayer funds. Public funds provided by the Federal Government must ultimately serve public purposes the Congress defines.

"(6) The arts and the humanities reflect the high place accorded by the American people to the nation's rich cultural heritage and to the fostering of mutual respect for the diverse beliefs and values of all persons and groups.

"(7) The practice of art and the study of the humanities require constant dedication and devotion. While no government can call a great artist or scholar into existence, it is necessary and appropriate for the Federal Government to help create and sustain not only a climate encouraging freedom of thought, imagination, and inquiry but also the material conditions facilitating the release of this creative talent.

"(8) The world leadership which has come to the United States cannot rest solely upon superior power, wealth, and technology, but must be solidly founded upon worldwide respect and admiration for the Nation's high qualities as a leader in the realm of ideas and of the spirit.

"(9) Americans should receive in school, background and preparation in the arts and humanities to enable them to recognize and appreciate the aesthetic dimensions of our lives,

the diversity of excellence that comprises our cultural heritage, and artistic and scholarly expression.

"(10) It is vital to a democracy to honor and preserve its multicultural artistic heritage as well as support new ideas, and therefore it is essential to provide financial assistance to its artists and the organizations that support their work.

"(11) To fulfill its educational mission, achieve an orderly continuation of free society, and provide models of excellence to the American people, the Federal Government must transmit the achievement and values of civilization from the past via the present to the future, and make widely available the greatest achievements of art.

"(12) In order to implement these findings and purposes, it is desirable to establish a National Foundation on the Arts and the Humanities.".

SEC. 102. DEFINITIONS.

(a) LOCAL ARTS AGENCY.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (b) by inserting "all those traditional arts practiced by the diverse peoples of this country." after "forms,", and

(2) by adding at the end the following:

"(h) The term 'local arts agency' means a community organization, or an agency of local government, that primarily provides financial support, services, or other programs for a variety of artists and arts organizations, for the benefit of the community as a whole.

"(i) The term 'developing arts organization' means a local arts organization of high artistic promise which—

"(1) serves as an important source of local arts programming in a community; and

"(2) has the potential to develop artistically and institutionally to broaden public access to the arts in rural and innercity areas and other areas that are underserved artistically.".

(b) TECHNICAL AMENDMENTS.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952) is amended—

(1) in subsection (b) by inserting "film, video," after "radio,",

(2) in subsection (c) by inserting "film, video," after "radio,", and

(3) in subsection (d)—

(A) in the first sentence by inserting "the widest" after "enhance", and

(B) in paragraph (2) by striking "sections 5(1)" and inserting "sections 5(p), 7(c)(10),".

(c) DETERMINED TO BE OBSCENE; FINAL JUDGMENT.—Section 3 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 952), as amended by subsection (a), is amended by adding at the end the following:

"(j) The term 'determined to be obscene' means determined, in a final judgment of a court of record and of competent jurisdiction in the United States, to be obscene.

"(k) The term 'final judgment' means a judgment that is either—

"(1) not reviewed by any other court that has authority to review such judgment; or

"(2) is not reviewable by any other court.

"(l) The term 'obscene' means with respect to a project, production, workshop, or program that—

"(1) the average person, applying contemporary community standards, would find that such project, production, workshop, or program, when taken as a whole, appeals to the prurient interest;

"(2) such project, production, workshop, or program depicts or describes sexual conduct in a patently offensive way; and

"(3) such project, production, workshop, or program, when taken as a whole, lacks serious literary, artistic, political, or scientific value.".

SEC. 103. NATIONAL ENDOWMENT FOR THE ARTS.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—Section 5(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) projects and productions which have substantial national or international artistic and cultural significance, giving emphasis to American creativity and cultural diversity and to the maintenance and encouragement of professional excellence;",

(2) in paragraph (2) by inserting "or tradition" after "authenticity",

(3) in paragraph (5) by inserting "education," after "knowledge,",

(4) in paragraph (7) by striking "and",

(5) by redesignating paragraph (8) as paragraph (10),

(6) by inserting after paragraph (7) the following:

"(8) projects that enhance managerial and organizational skills and capabilities;

"(9) projects, productions, and workshops of the kinds described in paragraphs (1) through (8) through film, radio, video, and similar media, for the purpose of broadening public access to the arts; and", and

(7) in the matter following paragraph (10), as so redesignated, by striking "clause (8)" and inserting "paragraph (10)".

(b) ARTISTIC EXCELLENCE AND OBSCENE MATTER.—Section 5(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(d)) is amended to read as follows:

"(d) No payment shall be made under this section except upon application therefor which is submitted to the National Endowment for the Arts in accordance with regulations issued and procedures established by the Chairperson. In establishing such regulations and procedures, the Chairperson shall ensure that— Regulations.

"(1) artistic excellence and artistic merit are the criteria by which applications are judged, taking into consideration general standards of decency and respect for the diverse beliefs and values of the American public; and

"(2) applications are consistent with the purposes of this section. Such regulations and procedures shall clearly indicate that obscenity is without artistic merit, is not protected speech, and shall not be funded. Projects, productions, workshops, and programs that are determined to be obscene are prohibited from receiving financial assistance under this Act from the National Endowment for the Arts.

The disapproval or approval of an application by the Chairperson shall not be construed to mean, and shall not be considered as evidence that, the project, production, workshop, or program for which the applicant requested financial assistance is or is not obscene.".

(c) TECHNICAL AMENDMENT.—Section 5(f) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(f)) is amended by striking "1954" and inserting "1986".

(d) STATE APPLICATIONS FOR ASSISTANCE.—Section 5(g)(2)(E) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(g)(2)(E)) is amended by striking clauses (i) and (ii), and inserting the following:

"(i) a description of the level of participation during the most recent preceding year for which information is available by artists, artists' organizations, and arts organizations in projects and productions for which financial assistance is provided under this subsection;

"(ii) for the most recent preceding year for which information is available, a description of the extent projects and productions receiving financial assistance from the State arts agency are available to all people and communities in the State; and".

(e) PURPOSES OF PROGRAM PROVIDING ASSISTANCE TO AGENCIES AND ORGANIZATIONS.—Section 5(l)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)(1)) is amended—

(1) in subparagraph (E) by striking "and" at the end,

(2) in subparagraph (F) by striking the period at the end and inserting "; and", and

(3) by inserting after subparagraph (F) the following:

"(G) stimulating artistic activity and awareness which are in keeping with the varied cultural traditions of this Nation.".

(f) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(m)) is amended—

(1) in the first sentence—

(A) by inserting "ongoing" after "shall, in",

(B) by striking "develop" and inserting "continue to develop and implement", and

(C) by inserting "and public dissemination" after "collection",

(2) by striking the fourth sentence, and

(3) in the last sentence by striking "1988, and biennially" and inserting "1992, and quadrennially".

(g) CONTENTS OF APPLICATIONS; INSTALLMENT PAYMENTS.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954) is amended—

(1) by redesignating subsections (i) through (m) as subsections (l) through (p), respectively, and

(2) by inserting after subsection (h) the following:

Reports. "(i) It shall be a condition of the receipt of financial assistance provided under this section by the Chairperson or the State agency that the applicant for such assistance include in its application—

"(1) a detailed description of the proposed project, production, workshop, or program for which the applicant requests such assistance;

"(2) a timetable for the completion of such proposed project, production, workshop, or program;

"(3) an assurance that the applicant will submit—

"(A) interim reports describing the applicant's—

"(i) progress in carrying out such project, production, workshop, or program; and

"(ii) compliance with this Act and the conditions of receipt of such assistance;

"(B) if such proposed project, production, workshop, or program will be carried out during a period exceeding 1 year, an annual report describing the applicant's—

"(i) progress in carrying out such project, production, workshop, or program; and

"(ii) compliance with this Act and the conditions of receipt of such assistance; and

"(C) not later than 90 days after—

"(i) the end of the period for which the applicant receives such assistance; or

"(ii) the completion of such project, production, workshop, or program;

whichever occurs earlier, a final report to the Chairperson or the State agency (as the case may be) describing the applicant's compliance with this Act and the conditions of receipt of such assistance; and

"(4) an assurance that the project, production, workshop, or program for which assistance is requested will meet the standards of artistic excellence and artistic merit required by this Act.

"(j) The Chairperson shall issue regulations to provide for the distribution of financial assistance to recipients in installments except in those cases where the Chairperson determines that installments are not practicable. In implementing any such installments, the Chairperson shall ensure that— Regulations.

"(1) not more than two-thirds of such assistance may be provided at the time such application is approved; and

"(2) the remainder of such assistance may not be provided until the Chairperson finds that the recipient of such assistance is complying substantially with this section and with the conditions under which such assistance is provided to such recipient.

"(k) The Inspector General of the Endowment shall conduct appropriate reviews to ensure that recipients of financial assistance under this section comply with the regulations under this Act that apply with respect to such assistance, including regulations relating to accounting and financial matters.".

(h) LIMITATION ON RECEIPT OF FINANCIAL ASSISTANCE.—Section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954), as amended by subsection (g), is amended—

(1) by redesignating subsections (l) through (p) as subsections (m) through (q), respectively, and

(2) by inserting after subsection (k) the following:

"(l)(1) If, after reasonable notice and opportunity for a hearing on the record, the Chairperson determines that a recipient of financial assistance provided under this section by the Chairperson or any non-Federal entity, used such financial assistance for a project, production, workshop, or program that is determined to be obscene, then the Chairperson shall require that until such recipient repays such assistance (in such amount, and under such terms and condi-

tions, as the Chairperson determines to be appropriate) to the Endowment; no subsequent financial assistance be provided under this section to such recipient.

"(2) Financial assistance repaid under this section to the Endowment shall be deposited in the Treasury of the United States and credited as miscellaneous receipts.

"(3)(A) This subsection shall not apply with respect to financial assistance provided before the effective date of this subsection.

"(B) This subsection shall not apply with respect to a project, production, workshop, or program after the expiration of the 7-year period beginning on the latest date on which financial assistance is provided under this section for such project, production, workshop, or program.".

(i) TECHNICAL AMENDMENTS.—(1) Section 5(m) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(i)), as so redesignated by subsections (g) and (h), is amended by striking "subsection (j)" and inserting "subsection (n)".

(2) Section 11(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A) by striking "section 5(l)(1)" each place it appears and inserting "section 5(p)(1)", and

(ii) in subparagraph (C) by striking "section 5(l)(1)" and inserting "section 5(p)(1)", and

(B) in paragraph (4) by striking "section 5(l)(1)" and inserting "section 5(p)(1)".

SEC. 104. INNOVATIVE PROGRAMS TO EXPAND PUBLIC ACCESS TO THE ARTS IN RURAL AND INNERCITY AREAS.

Section 5(p) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954(l)), as so redesignated and amended by section 103, is amended—

(1) in paragraph (3) by striking "section 5(c)" and inserting "subsection (c)",

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively,

(3) by inserting after paragraph (1) the following:

Government contracts. Grant programs. Intergovernmental relations.

"(2)(A) The Chairperson of the National Endowment for the Arts, with the advice of the National Council on the Arts, is authorized in accordance with this subsection, to establish and carry out a program of contracts with, or grants to, States for the purposes of—

"(i) raising the artistic capabilities of developing arts organizations by providing for—

"(I) artistic and programmatic development to enhance artistic capabilities, including staff development; and

"(II) technical assistance to improve managerial and organizational skills, financial systems management, and long-range fiscal planning; and

"(ii) stimulating artistic activity and awareness and broadening public access to the arts in rural and innercity areas and other areas that are underserved artistically.

"(B) For purposes of providing financial assistance under this paragraph, the Chairperson shall give priority to the activities described in subparagraph (A)(i).

"(C) The Chairperson may not provide financial assistance under this paragraph to a particular applicant in more than 3 fiscal years for the purpose specified in subparagraph (A)(i).".

SEC. 105. STRENGTHENING ARTS THROUGH ARTS EDUCATION.

The National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 951-960) is amended by inserting after section 5 the following:

"ACCESS TO THE ARTS THROUGH SUPPORT OF EDUCATION

"SEC. 5A. (a) The purposes of this section are— 20 USC 954a.

"(1) to increase accessibility to the arts through providing education to all Americans, including diverse cultures, urban and rural populations by encouraging and developing quality education in the arts at all levels, in conjunction with programs of nonformal education for all age groups, with formal systems of elementary, secondary, and postsecondary education;

"(2) to develop and stimulate research to teach quality education in the arts; and

"(3) to encourage and facilitate the work of artists, arts institutions, and Federal, State, regional, and local agencies in the area of education in the arts.

"(b) The Chairperson of the National Endowment for the Arts, is authorized to establish and carry out a program of contracts with, or grants to, any State or other public agency, individual, artist, any nonprofit society, performing and nonperforming arts and educational institution or organization, association, or museum in the United States, in order to foster and encourage exceptional talent, public knowledge, understanding, and appreciation of the arts, and to support the education, training, and development of this Nation's artists, through such activities as projects that will— Government contracts. Grant programs. Intergovernmental relations.

"(1) promote and improve the availability of arts instruction for American youth and life-long learning in the arts;

"(2) enhance the quality of arts instruction in programs of teacher education;

"(3) develop arts faculty resources and talents;

"(4) support and encourage the development of improved curriculum materials in the arts;

"(5) improve evaluation and assessment of education in the arts programs and instruction;

"(6) foster cooperative programs with the Department of Education and encourage partnerships between arts and education agencies at State and local levels, arts organizations, business colleges and universities;

"(7) support apprenticeships, internships, and other career oriented work-study experiences for artists and arts teachers, and encourage residencies of artists at all educational levels;

"(8) support the use of technology and improved facilities and resources in education in the arts programs at all levels; and

"(9) foster the development of demonstration projects, demonstration productions, demonstration workshops, and demonstration programs in arts education and collect, and make available to the public, information on their implementation and effectiveness.

"(c) In order to provide advice and counsel concerning arts education, the Chairperson shall appoint an advisory council on arts education.".

SEC. 106. NATIONAL COUNCIL FOR THE ARTS.

(a) MEMBERSHIP OF COUNCIL.—Section 6(b) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(b)) is amended by adding at the end the following: "Members of the Council shall be appointed so as to represent equitably all geographical areas in the United States.".

(b) MEETINGS AND RECORDS.—Section 6(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 955(d)) is amended—

(1) by inserting "(1)" after "(d)", and

Freedom of information. Records.

(2) by adding at the end the following:

"All policy meetings of the Council shall be open to the public.

"(2) The Council shall—

"(A) create written records summarizing—

"(i) all meetings and discussions of the Council; and

"(ii) the recommendations made by the Council to the Chairperson; and

"(B) make such records available to the public in a manner that protects the privacy of individual applicants, panel members, and Council members.".

(c) AUTHORITY OF COUNCIL.—Section 6(f) of the National Foundation of the Arts and the Humanities Act of 1965 (20 U.S.C. 955(f)) is amended—

(1) in the first sentence—

(A) by striking "(1)" and "(2)",

(B) by striking "thereon", and

(C) by inserting before the period the following: "with respect to the approval of each application and the amount of financial assistance (if any) to provide to each applicant",

(2) in the second sentence by striking ", unless" and all that follows through "time",

(3) in the last sentence—

(A) by striking "a delegation" and inserting "an expressed and direct delegation", and

(B) by striking "; *Provided,* That" and inserting ", and that such action shall be used with discretion and shall not become a normal practice of providing assistance under such subsections, except that",

(4) by inserting after the second sentence the following: "The Chairperson shall have final authority to approve each application, except that the Chairperson may only provide to an applicant the amount of financial assistance recommended by the Council and may not approve an application with respect to which the Council makes a negative recommendation.", and

(5) by inserting after the first sentence the following: "The Council shall make recommendations to the Chairperson concerning—

"(1) whether to approve particular applications for financial assistance under subsections (c) and (p) of section 5 that are determined by panels under section 10(c) to have artistic excellence and artistic merit; and

"(2) the amount of financial assistance the Chairperson should provide with respect to each such application the Council recommends for approval.".

SEC. 107. NATIONAL ENDOWMENT FOR THE HUMANITIES.

(a) TECHNICAL AMENDMENT.—Section 7(a) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(a)) is amended by striking "a" and inserting "the".

(b) AUTHORITY OF CHAIRPERSON.—Section 7(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(c)) is amended—

(1) in the matter preceding paragraph (1) by inserting "enter into arrangements, including contracts, grants, loans, and other forms of assistance, to" after "is authorized to",

(2) in paragraph (2) by striking "(including contracts, grants, loans, and other forms of assistance)",

(3) in paragraph (3)—

(A) by striking "award" and all that follows through "Fellowships", and inserting "initiate and support training and workshops in the humanities by making arrangements with institutions or individuals (fellowships", and

(B) by striking "time;" and inserting "time);",

(4) in paragraph (7) by striking "through grants or other arrangements",

(5) in paragraph (8) by striking "and",

(6) in paragraph (9) by striking the period and inserting "; and", and

(7) by inserting after paragraph (9) the following:

"(10) foster programs and projects that provide access to, and preserve materials important to research, education, and public understanding of, the humanities.".

(c) COORDINATION OF PROGRAMS.—Section 7(d) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(d)) is amended by striking "correlate" and inserting "coordinate".

(d) ADMINISTRATION BY STATE AGENCIES.—

(1) DESIGNATION.—Section 7(f)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)) is amended by striking "of the enactment of the Arts, Humanities, and Museums Amendments of 1985," and inserting "the State agency is established".

(2) APPLICATION FOR FINANCIAL ASSISTANCE.—Section 7(f)(2)(A)(viii) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(2)(A)(viii)) is amended—

(A) in subclause (I) by striking "previous two years" and inserting "most recent preceding year for which information is available", and

(B) in subclause (II) by inserting "for the most recent preceding year for which information is available," after "(II)".

(3) CONTENTS OF STATE PLAN.—Section 7(f)(3)(J) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(f)(3)(J)) is amended—

(A) in clause (i) by striking "previous two years" and inserting "most recent preceding year for which information is available", and

(B) in clause (ii) by inserting "for the most recent preceding year for which information is available," after "(ii)".

(e) CONDITION OF RECEIPT OF GRANTS.—The last sentence of section 7(g) of the National Foundation on the Arts and the Humanities Act

of 1965 (20 U.S.C. 956(g)) is amended by striking "not later" and all that follows through "1985".

(f) TECHNICAL AMENDMENT.—The last sentence of section 7(h)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(h)(2)(B)) is amended by striking "Endowment on" and inserting "Endowment for".

(g) SYSTEM OF NATIONAL INFORMATION AND DATA COLLECTION.—Section 7(k) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956(k)) is amended—

(1) in the first sentence—

(A) by inserting "ongoing" after "shall, in",

(B) by striking "develop" and inserting "continue to develop and implement", and

(C) by inserting "and public dissemination" after "collection",

(2) by striking the third sentence, and

(3) in the last sentence by striking "1988, and biennially" and inserting "1992, and quadrennially".

(h) RECEIPT OF FINANCIAL ASSISTANCE AND AWARDS.—Section 7 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 956) is amended by striking subsection (l) and inserting the following:

"(l) Any group shall be eligible for financial assistance under this section only if—

"(1) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals; and

"(2) donations to such group are allowable as a charitable contribution under the standards of section 170(c) of the Internal Revenue Code of 1986.

"(m) The Chairperson, with the advice of the National Council on the Humanities, is authorized to make the following annual awards:

"(1) The Jefferson Lecture in the Humanities Award to one individual for distinguished intellectual achievement in the humanities. The annual award shall not exceed $10,000.

"(2) The Charles Frankel Prize to honor individuals who have made outstanding contributions to the public understanding of the humanities. Not more than 5 individuals may receive such prize each year. Each prize shall not exceed $5,000.".

SEC. 108. FEDERAL COUNCIL ON THE ARTS AND THE HUMANITIES.

(a) DIALOGUE AMONG FEDERAL AGENCIES.—Section 9(c) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958(c)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(7) encourage an ongoing dialogue in support of the arts and the humanities among Federal agencies.".

(b) TECHNICAL AMENDMENT.—Section 9 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 958) is amended by striking subsection (d).

SEC. 109. REVIEW PANELS; TECHNICAL AMENDMENTS.

Section 10 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 959) is amended—

(1) in subsection (a)—

(A) in paragraph (4) by striking "from time to time, as appropriate,", and

(B) in paragraph (6) by striking "the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529)" and inserting "section 3324 of title 31, United States Code",

(2) in subsection (d)(3) by striking "the last sentence of subsection (a)" and inserting "subsection (c)(3)(A)",

(3) by striking subsections (e) and (f),

(4) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively,

(5) in the second sentence—

(A) by striking "In any case" and inserting the following: "(b)(1) In any case",

(B) by striking "(A)", and

(C) by striking "(B)",

(6) in the third sentence by striking "In any case" and inserting the following:

"(2) In any case",

(7) in the fourth sentence by striking "For the purposes" and inserting the following:

"(3) For the purposes",

(8) in the fifth sentence by striking "For the purpose" and inserting the following:

"(4) For the purpose", and

(9) by striking the sixth sentence and all that follows through "pending.", and inserting the following:

"(c) The Chairperson of the National Endowment for the Arts shall utilize advisory panels to review applications, and to make recommendations to the National Council on the Arts in all cases except cases in which the Chairperson exercises authority delegated under section 6(f). When reviewing applications, such panels shall recommend applications for projects, productions, and workshops solely on the basis of artistic excellence and artistic merit. The Chairperson shall issue regulations and establish procedures— Regulations.

"(1) to ensure that all panels are composed, to the extent practicable, of individuals reflecting a wide geographic, ethnic, and minority representation as well as individuals reflecting diverse artistic and cultural points of view;

"(2) to ensure that all panels include representation of lay individuals who are knowledgeable about the arts but who are not engaged in the arts as a profession and are not members of either artists' organizations or arts organizations;

"(3) to ensure that, when feasible, the procedures used by panels to carry out their responsibilities are standardized;

"(4) to require panels— Records.

"(A) to create written records summarizing—

"(i) all meetings and discussions of such panel; and

"(ii) the recommendations made by such panel to the Council; and

"(B) to make such records available to the public in a manner that protects the privacy of individual applicants and panel members;

"(5) to require, when necessary and feasible, the use of site visitations to view the work of the applicant and deliver a written report on the work being reviewed, in order to assist panelists in making their recommendations; and Reports.

"(6) to require that the membership of each panel change substantially from year to year and to provide that each individual is ineligible to serve on a panel for more than 3 consecutive years.

In making appointments to panels, the Chairperson shall ensure that an individual who has a pending application for financial assistance under this Act, or who is an employee or agent of an organization with a pending application, does not serve as a member of any panel before which such application is pending. The prohibition described in the preceding sentence shall commence with respect to such individual beginning on the date such application is submitted and shall continue for so long as such application is pending.".

SEC. 110. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS FOR THE NATIONAL ENDOWMENT FOR THE ARTS.—Section 11(a)(1)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(A)) is amended—

(1) by inserting "(i)" after "SEC. 11(a)(1)(A)",

(2) in the first sentence by striking "$121,678,000" and all that follows through "1990", and inserting: "$125,800,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(ii) For fiscal years—

"(I) 1991 and 1992 not less than 25 percent of the amount appropriated for the respective fiscal year; and

"(II) 1993 not less than 27.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out section 5(g).

Rural areas.
Urban areas.

"(iii) For fiscal years—

"(I) 1991 and 1992 not less than 5 percent of the amount appropriated for the respective fiscal year; and

"(II) 1993 not less than 7.5 percent of the amount appropriated for such fiscal year;

shall be for carrying out programs under section 5(p)(2) (relating to programs to expand public access to the arts in rural and innercity areas). Not less than 50 percent of the funds required by this clause to be used for carrying out such programs shall be used for carrying out such programs in rural areas.".

(b) GENERAL AUTHORIZATIONS FOR THE NATIONAL ENDOWMENT FOR THE HUMANITIES.—The first sentence of section 11(a)(1)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)(B)) is amended by striking "$95,207,000" and all that follows through "1990;", and inserting "$119,900,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(c) TECHNICAL AMENDMENT.—Section 11(a)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(1)) is amended by striking subparagraph (C).

(d) INCENTIVE AUTHORIZATIONS FOR THE ENDOWMENTS.—(1) Section 11(a)(2)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) in clause (ii) by striking "paragraph (8)" and inserting "paragraph (10)", and

(C) by striking "$8,820,000" and all that follows through "1990", and inserting "$13,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(2) Section 11(a)(2)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(2)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993",

(B) by striking "(9)" and inserting "(10)", and

(C) by striking "$10,780,000" and all that follows through "1990", and inserting "$12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(3) Section 11(a)(3)(A) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(A)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "$20,580,000" and all that follows through "1990", and inserting "$15,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(4) Section 11(a)(3)(B) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)(B)) is amended—

(A) by striking "1990" the first place it appears and inserting "1993", and

(B) by striking "$19,600,000" and all that follows through "1990", and inserting "$15,150,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(e) AUTHORITY TO TRANSFER FUNDS.—Section 11(a)(3) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(a)(3)) is amended—

(1) by striking subparagraph (C), and

(2) by redesignating subparagraph (D) as subparagraph (C).

(f) ADMINISTRATION: OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.—Section 11(c)(1) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(1)) is amended—

(A) by striking "$15,982,000" and all that follows through "1990", and inserting "$21,200,000" for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "$35,000" each place it appears and inserting "$50,000".

(2) Section 11(c)(2) of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960(c)(2)) is amended—

(A) by striking "$14,291,000" and all that follows through "1990", and inserting "$17,950,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993", and

(B) by striking "$35,000 each place it appears and inserting "$50,000".

(g) ARTS EDUCATION.—Section 11 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 960) is amended by adding at the end the following:

"(f)(1) Subject to subparagraph (2), in any fiscal year in which the aggregate amount appropriated to the National Endowment for the Arts exceeds $175,000,000, 50 percent of such excess shall be available to carry out section 5A.

"(2) In each fiscal year, the amount made available to carry out section 5A shall not exceed $40,000,000, in the aggregate.

"(3) Funds made available to carry out section 5A shall remain available until expended.".

20 USC 954 note.

SEC. 111. GAO STUDY REGARDING FEDERAL, STATE, AND LOCAL FUNDING OF THE ARTS.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study—

(1) to evaluate the roles and responsibilities of the National Endowment for the Arts, the States (including State agencies), and local arts agencies, in providing financial assistance under section 5 of the National Foundation on the Arts and the Humanities Act of 1965 (20 U.S.C. 954),

(2) the relative effectiveness of the Endowment, the States (including State agencies), and local arts agencies in maximizing the amount of financial assistance they make available under such section, and

(3) the existing capacity of the States to receive increased allocations under section 5 of such Act and the ability of the States to manage such increased allocations effectively.

(b) REPORT REQUIRED.—Not later than October 1, 1992, the Comptroller General shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report summarizing the results of the study conducted under subsection (a).

SEC. 112. GAO STUDY, FINDINGS, AND RECOMMENDATIONS REGARDING STAFFING AND CONTRACTORS OF THE NEA.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of—

(1) the program staffing policies and practices of,

(2) the use of consultants by, and

(3) the use of independent contractors as administrative staff of,

the National Endowment for the Arts.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing—

(1) the results of the study conducted under subsection (a), and

(2) findings and recommendations with respect to the matters specified in paragraphs (1), (2), and (3) of such subsection.

TITLE II—AMENDMENTS TO THE MUSEUM SERVICES ACT

SEC. 201. NATIONAL MUSEUM SERVICES BOARD.

(a) MEMBERSHIP.—Section 204(a)(1)(A) of the Museum Services Act (20 U.S.C. 963(a)(1)(A)) is amended by inserting "conservation," after "curatorial,".

(b) MEETINGS.—Section 204(d)(1) of the Museum Services Act (20 U.S.C. 963(d)(1)) is amended by striking "four" and inserting "three".

SEC. 202. DIRECTOR.

(a) COMPENSATION.—(1) Section 205(a)(1) of the Museum Services Act (20 U.S.C. 964(a)(1)) is amended by striking "be compensated at the rate provided for level V of the Executive Schedule (section 5316 of title 5), and shall".

(2) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Director of the Institute of Museum Services.".

(b) TECHNICAL AMENDMENT.—Section 205(a)(2) of the Museum Services Act (20 U.S.C. 964) is amended by striking "Chairperson's" and inserting "Director's".

SEC. 203. ACTIVITIES.

(a) CONSERVATION.—Section 206 (a)(5) of the Museum Services Act (20 U.S.C. 965(a)(5)) is amended by striking "artifacts and art objects" and inserting "their collections".

(b) AUTHORITY OF DIRECTOR.—Section 206 (b) of the Museum Services Act (20 U.S.C. 965(b)) is amended—

(1) in paragraph (1)—

(A) by striking "with professional museum organizations",

(B) by striking "to such organizations", and

(C) by striking "enable such organizations to",

(2) in paragraph (2)—

(A) by striking subparagraph (A), and

(B) in subparagraph (B)—

(i) by striking "(B)",

(ii) by striking "the", and

(iii) by striking "of any professional museum organization",

(3) in paragraph (3) by striking "to professional museum organizations", and,

(4) by striking paragraph (4).

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

(A) GENERAL AUTHORIZATION OF APPROPRIATIONS.—Section 209(a) of the Museum Services Act (20 U.S.C. 967(a)) is amended by striking "$21,600,000" and all that follows through "1990", and inserting "$24,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 and 1993".

(b) INCENTIVE AUTHORIZATION OF APPROPRIATIONS.—Section 209(d) of the Museum Services Act (20 U.S.C. 967(d)) is amended—

(1) by striking "during the period" and all that follows through "1990,",

(2) by inserting "for each fiscal year ending before October 1, 1993," after "appropriated", and

(3) by striking "such period" and inserting "such fiscal year".

SEC. 205. ASSESSMENT OF CERTAIN MUSEUMS.

The Museum Services Act (20 U.S.C. 961-968) is amended by adding at the end the following:

"ASSESSMENT OF CERTAIN MUSEUMS

"SEC. 211. The Director, subject to the policy direction of the Board and in consulation with appropriate representatives of the museum and cultural communities shall undertake an assessment of the needs of small, emerging, minority, and rural museums. The assessment, to be completed and presented to Congress within two years of enactment, shall include but not necessarily be limited to, the following subjects: 20 USC 969.

"(1) The need for resources to identify, collect, document, research, preserve and interpret tangible and nontangible

collections and to communicate with and involve their own communities and the general public.

"(2) The personnel staffing and training needs for small, emerging, minority, and rural museums, including needs for professional positions and for the community persons employed or utilized by museums who are expert in the history, culture, customs, and other human resources of the communities.

"(3) The building and construction needs, including impediments to accessing Federal and non-Federal funds for this purpose.

"(4) The maintenance, operation and repair needs, including impediments to accessing Federal and non-Federal funds for these purposes.

"(5) The status of the museums' current collections and the museums' interest in accessing, through gift, purchase, repatriation or borrowing, objects now held privately or in public collections.

"(b) As used in this subsection—

"(1) the term 'small, emerging, minority, and rural museums' includes tribal museums and museums of other ethnic and cultural groups; and

"(2) the term 'Indian tribe' has the meaning given in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(b)).".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 209 of the Museum Services Act (20 U.S.C. 967) is amended by adding at the end the following:

"(e)(1) Subject to paragraph (2), there are authorized to be appropriated $1,000,000 for each of two fiscal years to carry out section 211.

"(2) Paragraph (1) shall not be effective for any fiscal year for which the amount appropriated under subsection (a) is less than $24,000,000.".

TITLE III—AMENDMENTS TO THE ARTS AND ARTIFACTS INDEMNITY ACT

SEC. 301. INDEMNITY AGREEMENTS.

(a) LIMITATION APPLICABLE TO AGGREGATE LOSS.—Section 5(b) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974(b)) is amended by striking "$1,200,000,000" and inserting "$3,000,000,000".

(b) LIMITATION APPLICABLE TO SINGLE EXHIBIT.—(1) Section 5(c) of the Arts and Artifacts Indemnity Act (20 U.S.C. 974(c)) is amended by striking "$125,000,000" and inserting "$300,000,000".

(2) Section 5(d) of the Act (20 U.S.C. 974(d)) is amended—

(A) in paragraph (2) by striking "or" at the end,

(B) by amending paragraph (3) to read as follows:

"(3) not less than $10,000,000 but less than $125,000,000, then coverage under this Act shall extend to loss or damage in excess of the first $50,000 of loss or damage to items covered;", and

(C) by adding at the end the following:

"(4) not less than $125,000,000 but less than $200,000, then coverage under this Act shall extend to loss or damage in excess of the first $100,000 of loss or damage to items covered; or

"(5) $200,000,000 or more, then coverage under the Act shall extend only to loss or damage in excess of the first $200,000, of loss or damage to items covered.".

TITLE IV—MISCELLANEOUS

SEC. 401. SENSE OF CONGRESS.

Buy American.
20 USC 951 note.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of subsidy, aid, or other Federal assistance under the Acts amended by this Act should, in expending that assistance, purchase American-made equipment and products.

SEC. 402. NOTICE.

20 USC 951 note.

Any entity that provides a form of subsidy, aid, or other Federal assistance under the Acts amended by this Act shall provide to each recipient of such form of subsidy, aid, or other Federal assistance a notice describing the sense of the Congress stated under section 401.

SEC. 403. EFFECTIVE DATES.

20 USC 951 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on October 1, 1990.

(b) SPECIAL EFFECTIVE DATE.—The amendments made by sections 110, 204, and 301 shall take effect on the date of the enactment of this Act or October 1, 1990, whichever is earlier.

SEC. 319. None of the funds made available by this or any other Act with respect to any fiscal year may be used by the Department of the Interior or the Forest Service, Department of Agriculture to make any reimbursements to any other Federal department for litigation costs associated with the Prince William Sound oilspill.

SEC. 320. Section 1352(e)(2)(c) of subchapter III of chapter 13 of title 31, United States Code, as contained in section 319 of Public Law 101-121 is hereby amended by adding after "$150,000," the following: "or the single family maximum mortgage limit for affected programs, whichever is greater,".

SEC. 321. None of the funds provided in this Act may be expended by the Forest Service or the Bureau of Land Management to implement a new fee schedule or increase the fees charged for communication site use of lands administered by the Forest Service or Bureau of Land Management above the levels in effect on January 1, 1989.

SEC. 322. None of the funds appropriated by this Act may be used to ensure that hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture.

SEC. 323. Those public lands, more particularly described as the B½ NW¼ section 9, T13N, R70E, M.D.M. are hereby withdrawn and reserved as an administrative site under the jurisdiction of the National Park Service for the purposes of Great Basin National Park. The General Services Administration is hereby authorized to transfer to the National Park Service any excess lands and improvements under its jurisdiction within the aforesaid lands on a nonreimbursable basis.

SEC. 324. None of the funds available to the Advisory Council on Historic Preservation may be used to process comments on undertakings of Federal agencies, as specified in sections 106 and 110 of

the National Historic Preservation Act of 1966, as amended, on grants or contracts to institutions or facilities whose main activity is the conduct of scientific research and such agencies shall be relieved from the requirement of seeking comments on such undertakings unless requested in writing by the grantee.

SEC. 325. Each amount of budget authority for the fiscal year ending September 30, 1991, provided in this Act, for payments not required by law is hereby reduced by 0.524 per centum: *Provided,* That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

TRANSFER REPORT

SEC. 326. (a) The Secretary of the Interior is directed to report to Congress by March 1, 1991 the following:

(1) Identification of lands and properties that were transferred to Alaska Native Corporations under the Alaska Native Claims Settlement Act as amended, which at the time of transfer were represented or disclosed by the Federal Government as being free from contaminants, and which subsequent to transfer, were discovered to be contaminated; and

(2) Identification of lands and properties that the Federal Government knowingly transferred to Alaska Native Corporations with contaminants.

(b) For the purposes of this section "contaminants" are defined as hazardous substances as described in the Comprehensive Environmental Response, Compensation, and Liability Act, and asbestos as described in the Asbestos Hazard Emergency Response Act.

(c) Nothing in this section requires the Secretary to conduct an in-the-field survey to determine the presence or absence of contaminants on transferred lands or properties.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5769:

HOUSE REPORTS: No. 101-789 (Comm. on Appropriations) and No. 101-971 (Comm. of Conference).
SENATE REPORTS: No. 101-534 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 12, 15, considered and passed House.
Oct. 22-24, considered and passed Senate, amended.
Oct. 27, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-513
101st Congress

An Act

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5114]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1991, and for other purposes, namely:

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $110,592,409, to remain available until expended: *Provided,* That 25 per centum of the funds appropriated under this heading shall be withheld from obligation until the Secretary of the Treasury submits a report to the Committees on Appropriations which describes in detail the actions the International Bank for Reconstruction and Development has taken during the fiscal year 1990, and the actions it is contemplating for the fiscal year 1991, in support of energy and forestry conservation and family planning activities.

Reports.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,899,610,241.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,064,149,500, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That, before obligating funds made available under this heading, the President shall reduce from the amount obligated the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human

President.
Loan programs.
China.

needs since January 1, 1990: *Provided further,* That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further,* That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

President.
Reports.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $40,330,972, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $57,449,324, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,850,016, to remain available until expended: *Provided,* That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality against any member country, firm or person interested in providing such goods or services.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,235,076,561.

INTER-AMERICAN INVESTMENT CORPORATION

For payment to the Inter-American Investment Corporation by the Secretary of the Treasury, $13,000,000, for the United States share of the capital stock of the Corporation, to remain available until expended.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $126,854,000, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,451,500, for the United States contribution to

the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $10,135,766, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,389,294.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $70,020,600, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $163,381,400.

CONTRIBUTION TO THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY OF THE INTERNATIONAL MONETARY FUND

For payment to the Interest Subsidy Account of the Enhanced Structural Adjustment Facility of the International Monetary Fund, $10,602,000, to remain available until expended.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $284,730,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $109,000,000 for the United Nations Development Program; $75,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1991; $2,000,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Development Fund for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $200,000 for

the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,000,000 for the World Meteorological Organization Voluntary Cooperation Program; $500,000 for the World Meteorological Organization Special Fund for Climate Studies; $23,555,000 for the International Atomic Energy Agency; $15,800,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $750,000 for the Convention on International Trade in Endangered Species; $450,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $10,000,000 for the Organization of American States; $6,500,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $1,000,000 for the World Food Program; $680,000 for the International Union for the Conservation of Nature; $500,000 for the Tropical Forestry Action Plan; $250,000 for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat; and $30,000,000 for the United States contributions to the replenishment of the International Fund for Agricultural Development: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further,* That funds appropriated under this heading may be made available for the Tropical Forestry Action Plan (TFAP) only if the Secretary of State determines (and so reports to the Congress) that (1) the TFAP has been reorganized, with an international steering committee and secretariat independent of the Food and Agriculture Organization, and includes the participation of a broad range of experts in its administration, (2) the responsibilities of TFAP have been broadened to include areas outside the forestry sector, and (3) procedures exist to ensure increased participation in national TFAP plans by affected populations and interested individuals and organizations outside the forestry sector.

Reports. Israel.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1991, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $481,635,000: *Provided,* That not less than $5,000,000 shall be pro-

vided for new development projects of private entities and cooperatives for dairy development: *Provided further,* That not less than $10,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That not less than $225,000 shall be provided to support continued United States participation in the Associate Professional Officers Program of the international food agencies.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $250,000,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act: *Provided further,* That funds appropriated under this heading for family planning purposes shall not be reduced by a proportion greater than other functional development assistance accounts in order to comply with requirements to provide assistance from funds appropriated to carry out chapter 1 of part I or to carry out part I of the Foreign Assistance Act of 1961: *Provided further,* That of the funds appropriated under this heading, not less than 65 per centum shall be made available for the Office of Population of the Agency for International Development: *Provided further,* That in addition to funds otherwise available for such purposes, of the funds appropriated under this heading up to 5 per centum may be used for operating expenses for the administration of family planning assistance programs.

Abortion.

Religious discrimination.

Abortion.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $135,000,000: *Provided,* That of the funds appropriated under this heading not less than $5,000,000 shall be provided for activities relating to the control, prevention, and eradication of River Blindness.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $52,000,000, which shall be made available only for activities relating to research on, and the

treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds appropriated under this heading $23,000,000 shall be provided directly to the World Health Organization for its use in financing the Global Program on AIDS, including activities implemented by the Pan American Health Organization: *Provided further,* That funds appropriated under this heading may be made available notwithstanding any provision of law (except section 620A of the Foreign Assistance Act of 1961 and sections 512 and 556 of this Act) which restricts assistance to foreign countries.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $100,000,000.

EDUCATION AND HUMAN RESOURCES

DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $134,201,000: *Provided,* That not less than $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That $5,400,000 of the funds appropriated under this heading shall be provided for Soviet and East European research and training under the Department of State's Title VIII program on Soviet and regional studies, notwithstanding any other provision of law: *Provided further,* That $10,000,000 of the funds appropriated by this paragraph shall be made available to carry out section 206 (relating to the Center for Cultural and Technical Interchange Between North and South) of the House engrossed amendment (as passed the House of Representatives on May 24, 1990) to the bill S. 2364, and that section is hereby enacted: *Provided further,* That not less than $67,100,000 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That in fiscal year 1991 the Agency for International Development shall initiate three new bilateral projects in basic primary and secondary education, at least two of which shall be initiated in sub-Saharan Africa: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program (for the Cooperative Association of States for Scholarships and the East Central European Scholarship Program), of which $3,000,000 shall be available, notwithstanding any other provision of law, for students from Poland, Hungary, and Czechoslovakia.

22 USC 2075.

South Africa.

Poland.
Hungary.
Czechoslovakia.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $152,223,000: *Provided,* That not less than $7,500,000 shall be made available only for cooperative projects among the United States, Israel and developing countries of which not less than $5,000,000 shall be made available for the Cooperative Development Program, and of which not less than $2,500,000 shall be made available for cooperative development research projects: *Provided further,* That

not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project: *Provided further,* That not less than $150,000 shall be for technical assistance and training programs for Soviet and Czechoslovakian statisticians and economists administered by the Bureau of Labor Statistics, notwithstanding any other provision of law.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,624,000.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided,* That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further,* That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall reduce the amount earmarked for assistance for microenterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, as enacted by this Act, $800,000,000, to remain available until September 30, 1992: *Provided,* That up to $3,500,000 of the funds appropriated under this heading may be made available, notwithstanding any other provision of law, to support the participation of disadvantaged South Africans in private enterprise development in South Africa: *Provided further,* That such assistance provided to support the participation of disadvantaged South Africans in private enterprise shall not be used to provide support to organizations or groups which are financed or controlled by the Government of South Africa: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading may be made available to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further,* That up to 5 per centum of the funds made available under this heading may be used for operating expenses of the Agency for International Development for increasing (above the level of resources available for fiscal year 1989) the organizational resources which the Agency has available for development assistance activities for sub-Saharan Africa, and shall be in addition to amounts otherwise allocated to the Agency's Bureau for Africa.

ZAIRE

None of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided*, That this provision shall not be construed to prohibit nongovernmental organizations from working with appropriate ministries or departments of the Government of Zaire.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided*, That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies and United States private and voluntary organizations to children within Cambodia: *Provided*, That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance, including the provision of prostheses and vocational rehabilitation and training, for civilians who have been injured as a result of civil strife and warfare.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided*, That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

22 USC 2151u note.

22 USC 2151u.

22 USC 2151u note.

APPROPRIATE TECHNOLOGY

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $1,000,000 shall be available for Appropriate Technology International: *Provided,* That these funds shall be in addition to $3,000,000 in funds available to Appropriate Technology International under its existing cooperative agreement with the Agency for International Development: *Provided further,* That Appropriate Technology International shall qualify, along with any cooperative development organization, for development assistance funds appropriated or otherwise made available by this Act for United States private and voluntary organizations.

HUMANITARIAN ASSISTANCE FOR ROMANIA

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 (other than funds under the heading "Sub-Saharan Africa, Development Assistance"), not less than $3,000,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for humanitarian assistance for Romania. Of this amount—

(1) $1,500,000 shall be made available for activities related to—

(A) acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children, including the provision of food, medicine, and training of personnel;

(B) improving the facilities available for the care of abandoned children; and

(C) facilitating family reunification or adoption of abandoned children, including training of professional adoption specialists; and

(2) $1,500,000 shall be made available for family planning assistance, subject to the following:

(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 535 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall be applicable to funds made available under this paragraph.

(B) Any recipient of funds under this paragraph shall be required to maintain them in a separate account and not commingle them with any other funds.

International agreements. Family planning.

(C) Each agreement entered into by the United States to obligate funds made available under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning program in a country other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind.

PRIVATE SECTOR REVOLVING FUND

During fiscal year 1991, total commitments to guarantee loans shall not exceed $57,000,000 of contingent liability for loan principal: *Provided,* That, notwithstanding any other provision of law, the authority of section 108(i) of the Foreign Assistance Act of 1961 may be used to provide up to $10,000,000 in loan guarantees for each of two projects during the fiscal year 1991: *Provided further,* That, notwithstanding any other provision of law, there shall be held in reserve in the revolving fund account established pursuant to section 108 of that Act only such amounts as are estimated to be sufficient to cover the expected net liabilities on loan guarantees outstanding under the program authorized by section 108(i): *Provided further,* That to the extent that funds held in reserve are not adequate to discharge liabilities under guarantees provided under section 108(i), funds appropriated under the heading "Economic Support Fund" shall be made available to discharge such liabilities.

Loan programs.

During fiscal year 1991, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $15,000,000.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $29,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $40,000,000, to remain available until expended: *Provided,* That not less than $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

Infants and children.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,341,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $435,000,000: *Provided,* That in order to effectively monitor its program for the West Bank and Gaza, the Agency for International Development shall station one professional at either the Consulate General in Jerusalem or the Embassy in Tel Aviv.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $33,884,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to 3 per centum of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and fifty-one at September 30, 1991: *Provided further,* That up to $1,000,000 of the funds appropriated under the heading "Assistance for Eastern Europe" shall be made available for the Office of the Inspector General of the Agency for International Development to carry out audit and other responsibilities with regard to assistance programs for Eastern Europe: *Provided further,* That the Inspector General of the Agency for International Development may, at his discretion and after consultation with the Secretary of State, establish a regional office in Europe in order to carry out audit and other responsibilities with regard to assistance programs for Eastern Europe.

Manpower.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That guarantees issued under this heading shall guarantee 100 per centum of the principal and interest payable on such loans: *Provided further,* That no loans guaranteed under this heading shall be issued or held by the Federal Financing Bank: *Provided further,* That the limitation under this heading on total guarantee commitments which may be made in fiscal year 1991 shall not include the additional authority to enter into guarantee commitments provided in Public Law 101-302: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961, and notwithstanding the dollar limitation contained in that section, the borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1991: *Provided further,* That section 222(a) of the Foreign Assistance Act of 1961 is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992": *Provided further,* That section 223(j) of the Foreign Assistance Act of 1961 shall not apply to commitments to guaranty loans, for which authority is provided under this heading, for Chile and Poland.

President.
Loan programs.

22 USC 2182.

ECONOMIC SUPPORT FUND

Israel.
Egypt.
Grants.

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,141,000,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later: *Provided further,* That of the funds made available under this heading for Israel, during the period of the Desert Shield emergency up to $200,000,000 may be used by Israel, notwithstanding section 531(e) of the Foreign Assistance Act of 1961, for any of the purposes for which military assistance is provided: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading and allocated for El Salvador, up to $1,500,000 (or the equivalent in local currencies generated with funds provided to El Salvador under this heading) may be made available, notwithstanding section 660 of the Foreign Assistance Act of 1961, to assist the Government of El Salvador's Special Investigative Unit, including for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That none of the funds appropriated under this heading may be made available for El Salvador's Special Investigative Unit until 15 days after receipt by the Committees on Appropriations of a report from the Secretary of State which transmits a plan of the Government of El Salvador to transfer the Unit from military to civilian control, including the time period within which this transfer is to occur and the actions that will be taken to effect such a transfer: *Provided further,* That section 534(e) of the Foreign Assistance Act of 1961 is amended by (1) striking "fiscal year 1990" and inserting in lieu thereof "fiscal year 1991"; and (2) striking "September 30, 1990" and inserting in lieu thereof "September 30, 1991": *Provided further,* That not less than $35,000,000 shall be made available for Jordan: *Provided further,* That not less than $12,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus, including bicommunal projects and confidence building measures designed to reduce tensions and to promote peace and cooperation between the two communities on Cyprus, with highest priority given to the resettlement of the Famagusta/Varosha area under the auspices of the United Nations: *Provided further,* That

President.

22 USC 2346c.

Jordan.

Cyprus.

not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco: *Provided further,* That of the funds appropriated under this heading up to $62,500,000 may be used, subject to the regular notification procedures of the Committees on Appropriations, to provide economic, administration of justice, military and law enforcement assistance for the countries in the Andean region notwithstanding sections 531(e) and 660 of the Foreign Assistance Act of 1961: *Provided further,* That any funds made available under the authority of the previous proviso which are used for military and law enforcement assistance shall be considered Foreign Military Financing Program funds for purposes of the limitation on the use of such funds contained in section 559(a)(4) of this Act: *Provided further,* That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further,* That, prior to the initial obligation of assistance for El Salvador from funds appropriated under this heading, the President shall report to the Congress on the extent to which the Government of El Salvador has made demonstrable progress in settling outstanding expropriation claims of American citizens in compliance with the judgment of the Supreme Court of El Salvador: *Provided further,* That during fiscal years 1991 and 1992, of the local currencies generated from funds made available under this heading for El Salvador by this Act and prior appropriations Acts, the United States and El Salvador shall jointly program the El Salvador colones equivalent of a total of $10,000,000 for the purpose of retiring the debt owed by the University of Central America to the Inter-American Development Bank: *Provided further,* That not more than $300,000,000 of the funds appropriated under this heading may be made available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $300,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: *Provided further,* That up to $20,000,000 of the funds appropriated under this heading may be made available to provide grant assistance to capitalize an endowment to be used by nongovernmental organizations to enable such organizations to purchase the discounted commercial debt of Mexico as part of a debt-for-development exchange: *Provided further,* That a grant for the purposes of such an endowment may be made only if nongovernmental contributions have been made in an equal amount to capitalize the endowment: *Provided further,* That such debt-for-development exchanges for Mexico shall support the objectives of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided further,* That of the funds appropriated under this heading, not less than $200,000 shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State to be used only to implement the Antarctic Protection Act of 1990: *Provided further,* That none of the funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 may be used for tied-aid credits: *Provided further,* That for purposes of the previous proviso the term "tied-aid credits" means any credit, within the meaning of section 15(h)(1) of the Export-Import Bank Act of 1945, which is used for blended or parallel financing, as those terms are defined by sections 15(h) (4) and (5), respectively, of such Act: *Provided further,* That funds made available under this heading shall remain available until September 30, 1992.

El Salvador.
President.
Reports.
Claims.

Mexico.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II, $20,000,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until expended.

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, $160,000,000, of which $60,000,000 shall be derived by transfer, one-half from funds appropriated to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 and one-half from funds appropriated to carry out chapter 4 of part II of the Act, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided,* That not less than 75 per centum of the funds appropriated under this heading shall be made available for project and sector activities consistent with the purposes of sections 103 through 106 of such Act: *Provided further,* That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $20,000,000 of the funds appropriated under this heading and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further,* That up to a total of $40,000,000 of the funds appropriated to carry out sections 103 through 106 and chapter 4 of part II of such Act may be transferred to and consolidated and merged with the funds appropriated under this heading notwithstanding the limitations on transfers between accounts contained in section 514 of this Act and sections 109 and 610 of the Foreign Assistance Act of 1961: *Provided further,* That any funds transferred to carry out the purposes of the previous proviso shall be made available only for projects and activities which are consistent with the purposes of those funds as initially appropriated: *Provided further,* That of the total amount of funds transferred to carry out the purposes of this heading not less than 50 per centum shall be derived from funds appropriated to carry out chapter 4 of part II of the Foreign Assistance Act: *Provided further,* That transfers of any funds to carry out the purposes of this heading shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds made available under this heading shall remain available until September 30, 1992: *Provided further,* That none of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

President.

ASSISTANCE FOR EASTERN EUROPE

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $369,675,000, to remain available until expended, which shall be available, notwithstanding any other

provision of law, for economic assistance for Eastern Europe as follows—

(1) $113,675,000 shall be provided for technical assistance and training, including such activities as support for labor activities, scholarship programs, medical assistance, and support for private sector development;

(2) $15,000,000 shall be provided for technical and other assistance to support housing sectors;

(3) $75,000,000 shall be provided for environment and energy activities, with emphasis on assistance in developing policies encouraging, and providing incentives for, end-use energy efficiency (including preparation of least-cost energy plans), conservation, and reliance on renewable energy resources, and further including training, technical assistance for related energy and environmental investments or regulation, local production of environmental or energy-related equipment, promotion of United States technologies, and dealing with health problems directly associated with pollution;

(4) $19,000,000 shall be provided for activities to foster democratic pluralism, including support, based on recommendations of the bipartisan joint leadership of Congress for the newly elected parliaments in Eastern Europe through, among other things, exchanges involving members, staff, and support agencies of Congress and the parliaments in Eastern Europe;

(5) $90,000,000 shall be provided for the Polish-American and Hungarian-American Enterprise Funds;

(6) $27,000,000 shall be provided for other private enterprise activities, with emphasis on technical assistance and training for development of market-oriented policies, restructuring and creation of financial institutions (such as stock markets, insurance companies and banks), creation and management of private business organizations, and privatization of state business organizations; and

(7) $40,000,000, of which $10,000,000 shall be derived by transfer from funds provided for environment and energy activities under this heading, and which shall be provided for agricultural and rural development activities, with emphasis on technical assistance and training for development of rural economies and market-oriented policies, restructuring and creation of agricultural financial institutions and marketing systems, development of food processing, food transport and food storage systems, creation and management of agribusiness organizations (including farmer-owned cooperatives), and privatization of state farms, agribusiness and credit institutions.

(b)(1) Funds allocated by this Act for any of the paragraphs under subsection (a) may be reallocated for the purposes of any other such paragraph if, at least 15 days prior to such reallocation, the Committees on Appropriations are notified in accordance with regular notification procedures.

(2) None of the funds appropriated under this heading shall be made available except as provided through the regular notification procedures of the Committees on Appropriations.

(3) Not more than 50 per centum of the funds provided under subsections (a) (1) and (3) which are made available for environment and health-related assistance activities may be made available for any single country.

(c) Funds made available for the Polish-American and Hungarian-American Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

22 USC 5493 note.

(d) Up to $1,000,000 of the funds appropriated under this heading may be used for the administrative expenses incurred by the Agency for International Development in connection with administering programs for Eastern Europe: *Provided,* That the authority of this subsection shall supersede for fiscal year 1991 the provisions of section 803 of the Support for East European Democracy (SEED) Act of 1989.

(e) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $13,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $25,000,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1991 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $40,000,000.

During the fiscal year 1991, total commitments to guarantee loans shall not exceed $250,000,000 of contingent liability for loan principal.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $186,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions. Abortion.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $150,000,000: *Provided,* That of the funds appropriated under this heading not more than $117,792,000 may be obligated or expended until 15 days after the receipt by the Committees on Appropriations of a report from the Secretary of State describing measures being taken to correct management deficiencies in the Bureau of International Narcotics Matters identified in the report of the Inspector General of the Department of State dated January 1990. Reports.

ANTI-NARCOTICS RESOURCE REQUIREMENTS President.

(a) The President shall undertake an analysis of the requirements necessary to bolster anti-narcotic efforts and assets of transshipment countries identified in the President's strategy.

(b) The President shall submit to the Congress, at the time of the submission of the President's budget request for fiscal year 1992, a report describing the requirements indicated by the analysis under subsection (a). Reports.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $485,648,000: *Provided,* That not less than $45,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That not less than $500,000 shall be available for Tibetan refugees: *Provided further,* That not less than $1,500,000 shall be available for the Thai-Cambodian border protection program: *Provided further,* That not less than $1,500,000 shall be available for the antipiracy program: *Provided further,* That of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $5,000,000 to be derived in equal amounts from funds appropriated for each of those chapters, shall be made available for the affected Thai Village Program: *Provided further,* That not less than $10,000,000 shall be available for implementation of the Comprehensive Plan of Action: *Provided further,* That funds appropriated under this heading shall

National defense.

be administered in a manner that ensures equity in the treatment of all refugees receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That section 584(a)(1)(B) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking "during the period beginning on March 22, 1988, and ending on September 30, 1990", and inserting "on or after March 22, 1988": *Provided further,* That the ninth proviso under Migration and Refugee Assistance, Department of State, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 is amended by striking "and before the end" and all that follows through "subsection (a)(1)(B) of such section": *Provided further,* That effective as of December 22, 1987, section 584(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended by striking "the principal alien involved is unmarried and": *Provided further,* That not more than $8,528,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State: *Provided further,* That of the funds appropriated under this heading, $250,000 shall be made available, notwithstanding any other provision of law, for food, medicine, medical supplies, medical training, clothing, and other humanitarian assistance for any Burmese person in Burma or Thailand who is displaced as a result of events relating to civil conflict: *Provided further,* That the transfer of any funds appropriated under this heading to programs for refugee admissions shall be subject to the regular notification procedures of the Committees on Appropriations.

8 USC 1101 note.

8 USC 1101 note.

8 USC 1101 note.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $35,000,000, to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $12,026,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,196,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military

education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further,* That not less than $1,000,000 of the funds appropriated under this heading shall be made available for developing, initiating, conducting and evaluating courses and other programs for training foreign civilian and military officials in managing and administering military establishments and budgets, and for training foreign military and civilian officials in creating and maintaining effective military judicial systems and military codes of conduct, including observance of internationally recognized human rights: *Provided further,* That none of the funds appropriated under this hearing shall be available for Malaysia, Zaire, Liberia, Sudan, and Somalia: *Provided further,* That section 541 of the Foreign Assistance Act of 1961 is amended by inserting the following sentence immediately after the first sentence: "Such civilian personnel shall include foreign governmental personnel of ministries other than ministries of defense if the military education and training would (i) contribute to responsible defense resource management, (ii) foster greater respect for and understanding of the principle of civilian control of the military, or (iii) improve military justice systems and procedures in accordance with internationally recognized human rights." 22 USC 2347.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $4,663,420,800: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: *Provided further,* That of the funds appropriated by this paragraph for Israel $1,695,000,000 shall be disbursed within thirty days of enactment of this Act or by October 31, 1990, whichever is later: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a), and shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further,* That none of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed a grant agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $403,500,000: *Provided,* That any funds made available by this paragraph, except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures: *Provided further,* That during fiscal year 1991, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $403,500,000.

If Turkey receives any funds under this heading on a grant basis then not less than $30,000,000 of the funds provided for Greece shall be made available as grants: *Provided,* That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act, shall be used at any time hereafter only to finance sales made under the Arms Export Control Act: *Provided further,* That the second sentence of section 505(f) of the Foreign Assistance Act of 1961 is amended by striking out "1975" and inserting "1985" in lieu thereof: *Provided further,* That of the funds appropriated under this heading not more than $2,887,000 shall be available for non-lethal assistance for Guatemala: *Provided further,* That funds made available under this heading for Guatemala shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia or Somalia: *Provided further,* That not more than $300,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to non-lethal items such as transportation and communications equipment and uniforms: *Provided further,* That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not more than $27,920,800 of the funds appropriated under this heading may be

22 USC 2314.

Government contracts.
Business and industry.
Accounting.
Foreign relations.

obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further,* That of the funds appropriated under this heading not less than $43,000,000 shall be available for Morocco, $350,000,000 only shall be available for Greece, $500,000,000 only shall be available for Turkey and up to $100,000,000 shall be available for Portugal.

FOREIGN MILITARY SALES DEBT REFORM

Funds made available by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1991.

22 USC 2764 note.

GUARANTY RESERVE FUND

Securities.

If during fiscal year 1991 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $350,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1991, to remain

available for obligation until September 30, 1993: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $32,800,000.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $750,000,000: *Provided,* That there are hereby appropriated $150,000,000 to be made available for tied aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended, or, at the discretion of the Chairman of the Export-Import Bank, in accordance with the Trade and Development Enhancement Act of 1983, as amended: *Provided further,* That there are hereby appropriated $20,000,000 to be made available for interest subsidy payments in accordance with the Export-Import Bank Act of 1945, as amended: *Provided further,* That the funds made available under this heading for both grant and subsidy purposes, including tied aid financed in part through the combined use of concessional financing or grants offered by the Agency for International Development, shall be subject to the regular notification procedures of the Committees on Appropriations of the House of Representatives and the Senate: *Provided further,* That $150,000,000 of the funds made available for tied aid grant purposes and $20,000,000 of the funds made available for interest subsidy payments shall be subject to the limitation on the gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That the Bank shall use all amounts appropriated to carry out the interest subsidy program to make commitments to commercial lending institutions and other lenders, subject only to the availability of qualified lenders under the program: *Provided further,* That during the fiscal year 1991, total commitments to

guarantee loans shall not exceed $10,599,064,000 of contingent liability for loan principal: *Provided further,* That the direct loan, tied aid grant and interest subsidy authority provided under this heading shall remain available until September 30, 1992.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $23,171,000 (to be computed on an accrual basis) shall be available during fiscal year 1991 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $35,000,000.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1991 total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Central America pursuant to the authorities of section 224 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That section 224(c) of the Foreign Assistance Act of 1961, is amended by striking out "September 30, 1990" and inserting in lieu thereof "September 30, 1991". 22 USC 2184.

During fiscal year 1991, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" for Poland, pursuant to the authorities of section 225 of the Foreign Assistance Act of 1961, shall not exceed $200,000,000 of contingent liability for loan principal: *Provided,* That notwithstanding section 225(b) of such Act guarantees provided under this paragraph may be available for medium-term guarantees and insurance extended by the Export-Import Bank.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

Flood control.

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

Government procurement.

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence

expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars. Foreign currencies.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances. Foreign currencies.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia,

Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1991, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

31 USC 1108, 1501, 1502.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated in accordance with amendments of applicable grant or loan agreements, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further,* That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes. Reports.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided,* That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act for Nicaragua, and for any narcotics-related assistance in Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961, as amended, or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession Confidential business information.

of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

Exports. Surplus commodities.

SEC. 521. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

Employment.

Agricultural commodities.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

Mineral resources. Exports. Business and industry. 22 USC 262h.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

President. National defense. Arms and munitions.

CONSULTING SERVICES

Government procurement. Public information.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided,* That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1992.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 527. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 528. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with

section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 529. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 530. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

ASSISTANCE FOR EL SALVADOR

22 USC 2370 note.

SEC. 531. (a) STATEMENT OF POLICY.—United States military assistance to the Government of El Salvador shall seek three principal foreign policy objectives, as follows: (1) to promote a permanent settlement and cease-fire to the conflict in El Salvador, with the Secretary General of the United Nations serving as an active mediator between the opposing parties; (2) to foster greater respect for basic human rights, and the rule of law; and (3) to advance political accommodation and national reconciliation.

(b) MAXIMUM LEVEL OF MILITARY ASSISTANCE.—Of the funds available for United States military assistance for fiscal year 1991, not more than $85,000,000 shall be made available for El Salvador.

(c) PROHIBITION OF MILITARY ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States military assistance may be furnished to the Government of El Salvador if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the Government of El Salvador has declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict of El Salvador;

(B) the Government of El Salvador has rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(C) the Government of El Salvador has rejected a plan for the settlement of the conflict which—

(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 15 days from its announcement, by the FMLN and is being complied with by the FMLN;

(D) the Government of El Salvador has failed to conduct a thorough and professional investigation into, and prosecution of those responsible for the eight murders at the University of Central America on November 16, 1989; or

(E) the military and security forces of El Salvador are assassinating or abducting civilian noncombatants, are engaging in other acts of violence directed at civilian targets, or are failing to control such activities by elements subject to the control of those forces; or

(F) the Government of El Salvador has failed to actively seek and encourage a law enforcement service from outside El Salvador, such as Scotland Yard or INTERPOL, to accompany and monitor investigators of the Government of El Salvador in their investigation into the eight murders at the University of Central America on November 16, 1989.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(d) WITHHOLDING OF MILITARY ASSISTANCE.—(1) IN GENERAL.—Fifty per centum of the total United States military assistance allocated for El Salvador for fiscal year 1991 shall be withheld from obligation or expenditure (as the case may be) except as provided in paragraphs (2) and (3).

President. Reports.

(2) RELEASE OF ASSISTANCE.—The United States military assistance withheld pursuant to paragraph (1) may be obligated and expended only if the President determines and reports in writing to the Congress that—

(A) after he has consulted with the Secretary General of the United Nations, the representatives of the FMLN—

(i) have declined to participate in good faith in negotiations for a permanent settlement and cease-fire to the armed conflict in El Salvador, or

(ii) have rejected or otherwise failed to support an active role for the Secretary General of the United Nations in mediating that settlement;

(B) the FMLN has rejected a plan for the settlement of the conflict which—

(i) has been put forward by the Secretary General of the United Nations in accordance with the terms and procedures in the April 4, 1990 Geneva Communique and the May 21, 1990 Caracas Accord between the Government of El Salvador and the FMLN;

(ii) includes a proposal for an internationally monitored cease-fire; and

(iii) has been accepted, within 15 days from its announcement, by the Government of El Salvador and is being complied with by the Government of El Salvador;

(C) the survival of the constitutional Government of El Salvador is being jeopardized by substantial and sustained offensive military actions or operations by the FMLN;

(D) proof exists that the FMLN is continuing to acquire or receive significant shipments of lethal military assistance from outside El Salvador, and this proof has been shared with the Congress; or

(E) the FMLN is assassinating or abducting civilian noncombatants, is engaging in other acts of violence directed at civilian targets, or is failing to control such activities by elements subject to FMLN control.

(3) EXCEPTION.—Notwithstanding any other provision of law, funds withheld pursuant to paragraph (1) of this subsection may be disbursed to pay the cost of any contract penalties which may be incurred as a result of such withholding of funds under this subsection.

(e) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—(1) PROHIBITION.—Subject to paragraph (2), no United States assistance may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(f) ESTABLISHMENT OF A FUND FOR CEASE-FIRE MONITORING, DEMOBILIZATION, AND TRANSITION TO PEACE.—(1) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a fund to assist with the costs of monitoring a permanent settlement of the conflict, including a cease-fire, and the demobilization of combatants in the conflict in El Salvador, and their transition to peaceful pursuits, which shall be known as the "Demobilization and Transition Fund" (hereafter in this section referred to as the "Fund"). Amounts in this Fund shall be available for obligation and expenditure only upon notification by the President to the Congress that the Government of El Salvador and representatives of the FMLN have reached a permanent settlement of the conflict, including a final agreement on a cease-fire.

(2) TRANSFER OF CERTAIN MILITARY ASSISTANCE FUNDS.—Upon notification of the Congress of a permanent settlement of the conflict, including an agreement on a cease-fire, or on September 30, 1991, if no such notification has occurred prior to that date, the President shall transfer to the Fund any United States military assistance funds withheld pursuant to subsection (d) of this section.

(3) USE OF THE FUND.—Notwithstanding any other provision of law, amounts in the Fund shall be available for El Salvador solely to support costs of demobilization, retraining, relocation, and reemployment in civilian pursuits of former combatants in the conflict in El Salvador, and of the monitoring of the permanent settlement and cease-fire.

(4) DURATION OF AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts transferred to the Fund shall remain available until expended.

(g) STRENGTHENING CIVILIAN CONTROL OVER THE MILITARY.—In order to strengthen the control of the democratically-elected civilian Government of El Salvador over the armed forces of that country, United States military assistance for any fiscal year may be delivered to the armed forces of El Salvador only with the prior approval of the duly elected President of El Salvador.

(h) SUPPORT FOR DEMOCRACY.—(1) ESTABLISHING A PROGRAM.—The Secretary of State, through agreement with the National Endowment for Democracy or other qualified organizations, shall establish and carry out a program of education, training, and dialogue for the purpose of strengthening democratic political and legal institutions in El Salvador.

(2) ELECTION MONITORING.—Of the amounts made available to carry out this subsection, up to $2,000,000 may be used for support for monitoring the 1991 municipal and National Assembly elections in El Salvador, and for monitoring the registration and campaign processes leading up to those elections, by appropriate organizations such as the United Nations, the Organization of American States, the Carter Center, the National Democratic Institute for International Affairs, the National Republican Institute for International Affairs, and the Center for Electoral Assistance and Promotion (CAPEL) of San Jose, Costa Rica.

(3) ASSISTANCE.—Up to $10,000,000 of funds appropriated under the heading "Economic Support Fund" for fiscal year 1991 may be used to carry out this subsection.

President. (i) REPORTING REQUIREMENTS.—Sixty days after the date of enactment of this Act and every 180 days thereafter, the President shall submit to the Congress a report describing—

(1) the willingness or unwillingness of the Government of El Salvador and the FMLN to negotiate seriously and in good faith for the purpose of achieving a permanent settlement to the conflict in El Salvador, including a cease-fire, and providing appropriate information regarding criteria described in subsections (c) and (d)(2); and

(2) the status of investigations into the politically motivated murders listed in section 538 of this Act.

(j) DEFINITIONS.—For purposes of this section—

(1) the term "United States assistance" has the same meaning as is given to such term by section 481(i)(4) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(4)) and includes United States military assistance as defined in paragraph (2); and

(2) the term "United States military assistance" means—

(A) assistance to carry out chapter 2 (relating to grant military assistance) or chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961; and

(B) assistance to carry out section 23 of the Arms Export Control Act.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 532. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees

on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT AND GLOBAL WARMING

Natural resources. Energy conservation. 22 USC 262*l*.

SEC. 533. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to promote vigorously within each MDB the expansion of programs in areas which address the problems of global climate change through requirements to—

(1) expand programs in energy conservation, end use energy efficiency, and renewable energy and promotion by—

(A) continuing to augment and expand professional staffs with expertise in these areas;

(B) giving priority to these areas in the "least cost" energy sector investment plans;

(C) encouraging and promoting these areas in policy-based energy sector lending;

(D) developing loans for these purposes; and

(E) convening seminars for MDB staff and board members on these areas and alternative energy investment opportunities;

(2) provide analysis for each proposed loan to support additional power generating capacity comparing demand reduction costs to proposal costs;

(3) continue to assure that environmental impact assessments (EIA) of proposed energy projects are conducted early in the project cycle, include consideration of alternatives to the proposed project, and encourage public participation in the EIA process;

(4) continue to include the environmental costs of proposed projects with significant environmental impacts in economic assessments; and

(5) continue to provide technical assistance as a component of energy sector lending.

Reports.

(b) The Secretary of the Treasury shall, not later than March 1, 1991, submit an annual report to the Congress which shall include—

(1) a detailed description of how the natural resource management initiatives mandated by this section have been incorporated in the Administration's efforts to address Third World Debt (the Brady Plan);

(2) a detailed description of progress made by each of the MDBs in adopting and implementing programs meeting the standards set out in subsection (a) including, in particular, efforts by the Department of the Treasury to assure implementation of this section, progress made by each MDB in subsection (a)(1)(B), and the amounts and proportion of lending in the energy sector for projects or programs in subsection (a)(1);

(3) the progress the Inter-American Development Bank has made in implementing environmental reforms;

(4) an updated analysis of each MDB's forestry sector loans, and a current analysis of each MDB's energy sector loans, and their impact on emissions of CO_2 and the status of proposals for specific forestry and energy sector activities to reduce CO_2 emissions; and

(5) the progress the International Bank for Reconstruction and Development has made in implementing the recommendations set forth in the April 1, 1988, report on "Debt-for-Nature Swaps" by the World Bank.

(c)(1) The Administrator of the Agency for International Development shall update and issue guidance to all Agency missions and bureaus detailing the elements of the "Global Warming Initiative", which will continue to emphasize the need to reduce emissions of greenhouse gases, especially CO_2 and CFCs, through strategies consistent with continued economic development. This initiative shall continue to emphasize the need to accelerate sustainable development strategies in areas such as reforestation, biodiversity, end-use energy efficiency, least-cost energy planning, and renewable energy, and shall encourage mission directors to incorporate the elements of this initiative in developing their country programs.

(2) The Administrator shall pursue this initiative by, among other things—

(A) increasing the number and expertise of personnel devoted to this initiative in all bureaus and missions;

(B) devoting increased resources to technical training of mission directors;

(C) accelerating the activities of the Multi-Agency Working Group on Power Sector Innovation;

(D) focusing tropical forestry assistance programs on the key middle- and low-income developing countries (hereinafter "key countries") which are projected to contribute large amounts of greenhouse gases to the global environment;

(E) assisting countries in developing a systematic analysis of the appropriate use of their total tropical forest resources, with the goal of developing a national program for sustainable forestry;

(F) focusing energy assistance activities on the key countries, where assistance would have the greatest impact on reducing emissions from greenhouse gases; and

(G) continuing to follow the directives with respect to key countries and countries that receive large Economic Support Fund assistance contained in section 534(b)(3) of Public Law 101-167.

(3) None of the funds appropriated in this Act shall be available for any program, project or activity which would—

(A) result in any significant loss of tropical forests; or

(B) involve industrial timber extraction in primary tropical forest areas.

(4) Funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961, as amended, may be used by the Agency for International Development, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases with regard to the key countries in which deforestation and energy policy would make a significant contribution to global warming, except that such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(5) Funds appropriated by this Act to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 may be used for expenses (including related support costs) relating to the environment and energy sectors, of employees or individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warming Initiative" described in this subsection.

(d) Of the funds appropriated by this Act to carry out the provisions of part I of the Foreign Assistance Act of 1961, not less than $80,000,000 shall be made available for environment and energy activities, including funds earmarked under section 534 of this Act, as follows—

(1) not less than $15,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which: $3,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act, $500,000 shall be for neotropical migratory bird conservation in Latin America and the Caribbean, $100,000 shall be for the Charles Darwin Station, $750,000 shall be for Project Noah, and $1,500,000 shall be for the National Science Foundation's international biological diversity program;

(2) not less than $30,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available to support the "Global Warming Initiative" as described in this section;

(3) not less than $5,000,000 of the funds appropriated to carry out the provisions of sections 103, 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation; and

(4) not less than $20,000,000 of the funds appropriated to carry out the provisions of sections 103 and 106 of the Foreign Assistance Act of 1961 shall be made available for the Office of Energy of the Agency for International Development.

(e) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity.

(f) Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following new section:

"SEC. 518. NATURAL RESOURCES AND WILDLIFE MANAGEMENT.— 22 USC 2321*l*.

(a) AUTHORITY TO TRANSFER NONLETHAL EXCESS DEFENSE ARTICLES AND SMALL ARMS.—Subject to the limitations in this section, the President may transfer nonlethal excess defense articles and small arms to friendly countries and to international organizations and private and voluntary organizations for the purposes contained in section 119 of this Act.

"(b) LIMITATION ON TRANSFERS.—Transfers under this section shall be subject to the limitations contained in section 516(b).

"(c) TRANSPORTATION.—The Department is authorized to transport nonlethal excess defense articles and small arms made available pursuant to this section without charge on a space available basis.

"(d) WAIVER OF REQUIREMENTS FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of nonlethal excess defense articles and small arms under this

section or the transportation of such articles as authorized by subsection (c).

"(e) NOTIFICATION TO COMMITTEES OF CONGRESS.—The President may not transfer nonlethal excess defense articles and small arms under this section until 30 days after he has notified the Committees on Appropriations of the proposed transfer. This notification shall include a certification of the need for the transfer and an assessment of the impact of the transfer on the military readiness of the United States. Transfers under this section shall also be subject to the notification requirements of section 516(c) of this Act.".

(g) Notwithstanding any other provision of law, none of the funds appropriated by this Act for programs of the Agency for International Development may be made available for any project or activity except in accordance with the requirements of section 117(c) of the Foreign Assistance Act of 1961 and the regulations issued pursuant thereto (22 CFR 216).

MONTREAL PROTOCOL FACILITATION FUNDS

(INCLUDING TRANSFER OF FUNDS)

SEC. 534. Not less than $10,000,000 of the funds appropriated by this Act to carry out sections 103 and 106 of the Foreign Assistance Act of 1961 shall be used to support the creation of a fund to facilitate and support global participation in the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided,* That these funds shall be transferred to the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and shall be made available, after consultations with the Environmental Protection Agency, to the United Nations Environment Program in its role as Secretariat to the Protocol: *Provided further,* That the United States representative to the Secretariat shall seek assurances that none of these funds shall be contributed to any developing country that is not a party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 535. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress

reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 536. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to $70,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

Women.
Infants and children.
Refugees.
Pakistan.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 537. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

SEC. 538. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders, (3) pursued all legal avenues to bring to trial those who ordered and carried out the September 1988 massacre of ten peasants near the town of San Francisco, El Salvador, and to obtain a verdict, (4) pursued all legal avenues to bring to trial those who ordered and carried out the November 1989 murders of six Jesuit priests and their associates, and to obtain a verdict, and (5) pursued all legal avenues to bring to trial those responsible for the deaths of the ten unionists who were killed during the October 31, 1989 bombing of the FENASTRAS headquarters, and to obtain a verdict.

President.
Reports.
Michael Hammer.
Mark Pearlman.
Jose Rodolfo Viera.

REFUGEE RESETTLEMENT

SEC. 539. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support Fund", "Foreign Military Financing Program", "International Mili-

tary Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 540. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 541. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Chile, Yemen, Haiti, Guatemala, or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 542. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

Reports.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 543. Of the funds made available by this Act for assistance for health, child survival, and AIDS, up to $8,000,000 may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That such individuals shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

CHILE

SEC. 544. (a) Funds appropriated by this Act under the heading "Economic Support Fund" may be used under the authority of section 534(b) (4) and (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society. Assistance may be provided under this section without regard to the requirements of section 726(b) of the International Security and Development Cooperation Act of 1981.

(b) Section 726(c) of the International Security and Development Cooperation Act of 1981 is amended by striking out "and technical manuals for aircraft of the F-5E/F or A/T-37 type which were sold to the Chilean Air Force by the United States before January 1, 1976" and inserting in lieu thereof "components, parts, tools, technical manuals, time compliance to technical orders (TCTOs), or TCTO retrofits for aircraft of the F-5E/F, A/T-37, or C-130E/H type owned by the Chilean Air Force". 22 USC 2370 note.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 545. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States. President.

RECIPROCAL LEASING

SEC. 546. Section 61(a) of the Arms Export Control Act is amended by striking out "1990" and inserting in lieu thereof "1991". 22 USC 2796.

DEFENSE EQUIPMENT DRAWDOWN

SEC. 547. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 548. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on

Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 549. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

22 USC 2395a note.

SEC. 550. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further,* That the Secretary of State and the Secretary of the Treasury should in every feasible instance notify the Appropriations Committees of the Congress and such other Committees as appropriate not less than 15 days prior to any formal multilateral or bilateral negotiation for official debt restructuring, rescheduling, or relief: *Provided further,* That the Secretary of State or the Secretary of the Treasury, as appropriate, shall report not later than the first of February, 1991 and annually thereafter a consolidated statement of the budgetary implications of all debt-related agreements entered into force during the preceding fiscal year.

Reports.

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 551. (a) Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

(b) Section 556(b) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by striking out "September 30, 1990" and inserting in lieu thereof "July 31, 1991".

103 Stat. 1238.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

Taiwan.

SEC. 552. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank

should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 553. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Pakistan: *Provided,* That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

EARMARKS

SEC. 554. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided. President.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 555. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979. Loan programs.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 556. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1990, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

President. Federal Register, publication.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

COMMISSION ON FOREIGN ASSISTANCE MANAGEMENT

SEC. 557. (a) ESTABLISHMENT.—There is established the Commission on Management of the Agency for International Development Programs (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of 5 members appointed by the President after consultation with the Chairmen of the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Chairmen of the Committee on Appropriations and the Committee on Foreign Relations of the Senate. Individual members of the Commission shall be from the private sector. The President shall designate the Chairman of the Commission from among its members.

(c) DUTIES.—The Commission shall conduct a thorough study and recommend appropriate administrative action and legislation necessary in connection with the following:

(1) the adequacy of systems of program management, including evaluation and coordination, taking into consideration, among other things—

(A) the need to identify central foci within the Agency to coordinate its program and management responsibilities and to evaluate the Agency's program and management performance;

(B) the need to develop specific indicators of effective performance for both program and management functions;

(2) the adequacy of personnel management systems, taking into consideration, among other things—

(A) the need to systematically ensure the integration of program, operating expense, and personnel levels;

(B) the need to adjust personnel and operating expense levels among organizational units in order to meet changing program requirements;

(C) the capacity to meet changing requirements for program and management skills in headquarters offices and field missions;

(D) the significance of operating and program funding distinctions as they affect the ability of the Agency to adjust its personnel to program requirements;

(3) the adequacy of systems of personal accountability for program management, taking into consideration, among other things—

(A) the need to establish and identify clear lines of decisionmaking responsibility among headquarters offices and between headquarters and field missions;

(B) the need to ensure that an individual's performance in the implementation and management of the Agency's program portfolio is appropriately reflected in its promotion and assignment processes.

(d) REPORT.—The Commission shall submit a comprehensive report to the President and to the Congress, not later than six months from the date after which all members of the Commission have been appointed, containing the findings and recommendations of the Commission with respect to its study. The Commission should work with the General Accounting Office and consult with General Accounting Office reports and studies on management issues concerning the Agency for International Development in the conduct of its study. The Commission shall cease to exist on the thirtieth day after the date on which it files the comprehensive report under this subsection.

(e) COMPENSATION AND PER DIEM.—(1) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission.

(2) PER DIEM.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) AUTHORITIES.—(1) IN GENERAL.—The Commission or any member it authorizes may, for the purposes of carrying out this section, hold such hearings, sit and act at such times and places, request such attendance, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) APPOINTMENTS.—Subject to such rules as may be adopted by the Commission, the Chairman of the Commission, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classifications and General Schedule pay rates, may appoint and fix the compensation of a Director and such other staff as the Chairman considers necessary.

(3) TEMPORARY SERVICES.—The Chairman of the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay then in effect for grade GS-18 of the General Schedule (5 U.S.C. 5332(a)).

(4) ADMINISTRATIVE SUPPORT.—Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist it in carrying out its duties under this section. The Administrator of the Agency for

International Development shall provide to the Commission on a reimbursable basis such administrative support services as the Chairman of the Commission may request and the Administrator of the Agency for International Development may deem appropriate.

(5) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the United States appropriate information necessary to enable it to carry out this section. Upon the request of the Chairman of the Commission, the head of such department or agency shall furnish such appropriate information to the Commission.

(g) FUNDING.—In addition to funds otherwise available for such purposes, up to $500,000 of the unearmarked funds appropriated by this Act under the heading "Operating Expenses of the Agency for International Development" may be made available for purposes of this section.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 558. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 559. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", $59,900,000 may be made available for Bolivia, Ecuador, Jamaica, and Peru.

(2) In addition to funds made available under paragraph (1), of the funds appropriated by this Act under the heading "Economic Support Fund", $195,000,000 may be made available for Peru, Bolivia, Colombia, and Ecuador: *Provided,* That funds under this paragraph may be made available to a country only if such country is making significant progress, as appropriate, in (A) satisfying the goals agreed to in the applicable bilateral narcotics agreement between such country and the United States, or a comparable multilateral agreement, (B) preventing narcotic drugs and other controlled substances from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States, (C) preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and (D) preventing and punishing public corruption which facilitates the illicit production, processing, or shipment of narcotic drugs and other controlled substances, or which discourages the investigation and prosecution of such acts.

(3) For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, funds appropriated by this Act to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act may be made available for Bolivia, Peru, Colombia, Ecuador, and Jamaica to promote the production, processing, and the marketing of products which can be economically produced in those countries, notwithstanding section 521 of this Act.

(4) Of the funds appropriated by this Act under the heading "Foreign Military Financing Program", not more than $118,000,000 may be made available for Bolivia, Peru, and Colombia: *Provided,* That no funds may be made available under this paragraph to the

government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights.

(5)(A) Of the funds appropriated by this Act to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, up to $2,000,000, except through the regular notification procedures of the Committees on Appropriations, may be made available for Bolivia, Peru, Colombia, and Ecuador, notwithstanding section 660 of such Act, for—

(i) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts; and

(ii) the expenses of deploying, upon the request of the government of such foreign country, Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(B) Education and training under this paragraph may be provided only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(6) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and section 534 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided,* That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further,* That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(7) Funds made available under this subsection shall be available for obligation consistent with requirements to apply the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1990, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(B) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

(c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

Bolivia. Colombia. Ecuador. Peru. President. Coca.

(d) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

22 USC 2373 note.

SEC. 560. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

President. Reports.

COMMERCIAL LEASING OF DEFENSE ARTICLES

22 USC 2763 note.

SEC. 561. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

GENERAL AUTHORIZATIONS

SEC. 562. GENERAL AUTHORIZATIONS.—

SUB-SAHARAN AFRICA

(a) AUTHORIZATION.—Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 9 the following new chapter:

"CHAPTER 10—DEVELOPMENT FUND FOR AFRICA

22 USC 2293.

"SEC. 496. LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.—(a) FINDINGS.—The Congress finds that—

"(1) drought and famine have caused countless deaths and untold suffering among the people of sub-Saharan Africa;

"(2) drought and famine in combination with other factors such as desertification, government neglect of the agricultural sector, and inappropriate economic policies have severely affected long-term development in sub-Saharan Africa; and

"(3) the most cost-effective and efficient way of overcoming Africa's vulnerability to drought and famine is to address Africa's long-term development needs through a process that builds

upon the needs and capabilities of the African people, promotes sustained and equitable economic growth, preserves the environment, and protects the rights of the individual.

"(b) AUTHORITY TO FURNISH ASSISTANCE.—The President is authorized to furnish project and program assistance, on such terms and conditions as he may determine in accordance with the policies contained in this section, for long-term development in sub-Saharan Africa.

"(c) PURPOSE OF ASSISTANCE.—

"(1) PURPOSE.—The purpose of assistance under this section shall be to help the poor majority of men and women in sub-Saharan Africa to participate in a process of long-term development through economic growth that is equitable, participatory, environmentally sustainable, and self-reliant.

"(2) USE OF ASSISTANCE TO ENCOURAGE PRIVATE SECTOR DEVELOPMENT.—Assistance under this section should, in a manner consistent with paragraph (1), be used to promote sustained economic growth, encourage private sector development, promote individual initiatives, and help to reduce the role of central governments in areas more appropriate for the private sector.

"(d) APPLICATION OF DEVELOPMENT ASSISTANCE GENERAL AUTHORITIES AND POLICIES.—Except to the extent inconsistent with this section—

"(1) any reference in any law to chapter 1 of this part (including references to sections 103 through 106) shall be deemed to include a reference to this section; and

"(2) assistance under this section shall be provided consistent with the policies contained in section 102.

"(e) PRIVATE AND VOLUNTARY ORGANIZATIONS.—

"(1) CONSULTATION TO ENSURE LOCAL PERSPECTIVES.—The Agency for International Development shall take into account the local-level perspectives of the rural and urban poor in sub-Saharan Africa, including women, during the planning process for project and program assistance under this section. In order to gain that perspective the Agency for International Development should consult closely with African, United States, and other private and voluntary organizations that have demonstrated effectiveness in or commitment to the promotion of local, grassroots activities on behalf of long-term development in sub-Saharan Africa as described in subsection (c).

"(2) DEFINITION OF PRIVATE AND VOLUNTARY ORGANIZATIONS.—For purposes of this section, the term "private and voluntary organization" includes (in addition to entities traditionally considered to be private and voluntary organizations) cooperatives, credit unions, trade unions, women's groups, nonprofit development research institutions, and indigenous local organizations, which are private and nonprofit.

"(f) LOCAL INVOLVEMENT IN PROJECT IMPLEMENTATION.—Local people, including women, shall be closely consulted and involved in the implementation of every project under this section which as a local focus.

"(g) PARTICIPATION OF AFRICAN WOMEN.—The Agency for International Development shall ensure that development activities assisted under this section incorporate a significant expansion of the participation (including decisionmaking) and integration of African women in each of the critical sectors described in subsection (i).

"(h) TYPES OF ASSISTANCE.—

"(1) PROJECTS AND PROGRAMS TO ADDRESS CRITICAL SECTORAL PRIORITIES.—Assistance under this section shall emphasize primarily projects and programs to address critical sectoral priorities for long-term development described in subsection (i).

"(2) REFORM OF ECONOMIC POLICIES.—

"(A) USE OF PROGRAM ASSISTANCE.—Assistance under this section may also include program assistance to promote reform of sectoral economic policies affecting long-term development in sub-Saharan Africa as described in subsection (c), with primary emphasis on reform of economic policies to support the critical sectoral priorities described in subsection (i).

"(B) PROTECTION OF VULNERABLE GROUPS.—Assisted policy reforms shall also include provisions to protect vulnerable groups (especially poor, isolated, and female farmers, the urban poor, and children including displaced children) and long-term environmental interests from possible negative consequences of the reforms.

"(3) OTHER ASSISTANCE.—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with paragraphs (1) and (2). Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of sections 103 through 106 of this Act.

"(i) CRITICAL SECTORAL PRIORITIES.—The critical sectoral priorities for long-term development, as described in subsection (c), are the following:

"(1) AGRICULTURAL PRODUCTION AND NATURAL RESOURCES.—

"(A) AGRICULTURAL PRODUCTION.—Increasing agricultural production in ways which protect and restore the natural resource base, especially food production, through agricultural policy changes, agricultural research (including participatory research directly involving small farmers) and extension, development and promotion of agriculture marketing activities, credit facilities, and appropriate production packages, and the construction and improvement of needed production-related infrastructure such as farm-to-market roads, small-scale irrigation, and rural electrification. Within this process, emphasis shall be given to promoting increased equity in rural income distribution, recognizing the role of small farmers.

"(B) NATURAL RESOURCE BASE.—Maintaining and restoring the renewable natural resource base primarily in ways which increase agricultural production, through the following:

"(i) Small-scale, affordable, resource-conserving, low-risk local projects, using appropriate technologies (including traditional agricultural methods) suited to local environmental, resource, and climatic conditions, and featuring close consultation with and involvement of local people at all stages of project design and implementation. Emphasis shall be given to grants for African local government organizations, international or African nongovernmental organizations, and United States private and voluntary organizations.

"(ii) Support for efforts at national and regional levels to provide technical and other support for projects of the kinds described in clause (i) and to strengthen the capacities of African countries to provide effective extension and other services in support of environmentally sustainable increases in food production.

"(iii) Support for special training and education efforts to improve the capacity of countries in sub-Saharan Africa to manage their own environments and natural resources.

"(iv) Support for low-cost desalination activities in order to increase the availability of fresh water sources in sub-Saharan Africa.

"(2) HEALTH.—Improving health conditions, with special emphasis on meeting the health needs of mothers and children (including displaced children) through the establishment of primary health care systems that give priority to preventive health and that will be ultimately self-sustaining.

"(3) VOLUNTARY FAMILY PLANNING SERVICES.—Providing increased access to voluntary family planning services, including encouragement of private, community, and local government initiatives.

"(4) EDUCATION.—Improving the relevance, equity, and efficiency of education, with special emphasis on improving primary education.

"(5) INCOME-GENERATING OPPORTUNITIES.—Developing income-generating opportunities for the unemployed and underemployed in urban and rural areas through, among other things, support for off-farm employment opportunities in micro- and small-scale labor-intensive enterprises.

"(j) MINIMUM LEVELS OF ASSISTANCE FOR CERTAIN CRITICAL SECTORS.—The Agency for International Development should target the equivalent of 10 percent of the amount authorized to be appropriated for each fiscal year to carry out this chapter for each of the following:

"(1) The activities described in subsection (i)(1)(B), including identifiable components of agricultural production projects.

"(2) The activities described in subsection (i)(2).

"(3) The activities described in subsection (i)(3).

"(k) EFFECTIVE USE OF ASSISTANCE.—Assistance provided under this section shall be concentrated in countries which will make the most effective use of such assistance in order to fulfill the purpose specified in subsection (c), especially those countries (including those of the Sahel region) having the greatest need for outside assistance.

"(l) PROMOTION OF REGIONAL INTEGRATION.—Assistance under this section shall, to the extent consistent with this section, include assistance to promote the regional and subregional integration of African production structures, markets, and infrastructure.

"(m) DONOR COORDINATION MECHANISM.—Funds made available to carry out this section may be used to assist the governments of countries in sub-Saharan Africa to increase their capacity to participate effectively in donor coordination mechanisms at the country, regional, and sector levels.

"(n) RELATION TO OTHER AUTHORITIES.—

"(1) ASSISTANCE UNDER OTHER AUTHORITIES.—The authority granted by this section to provide assistance for long-term

development in sub-Saharan Africa is not intended to preclude the use of other authorities for that purpose. Centrally funded programs which benefit sub-Saharan Africa shall continue to be funded under chapter 1 of part I of this Act.

"(2) TRANSFER AUTHORITIES.—

"(A) The transfer authority contained in section 109 of this Act shall not apply with respect to this section.

"(B) The transfer authority contained in section 610(a) of this Act may not be used to transfer funds made available to carry out this section in order to allow them to be used in carrying out any other provision of this Act.

"(3) REPROGRAMMING NOTIFICATIONS.—Section 634A of this Act does not apply with respect to funds made available to carry out this section.

"(4) PROCUREMENT OF GOODS AND SERVICES.—In order to allow the assistance authorized by this section to be furnished as effectively and expeditiously as possible, section 604(a) of this Act, and similar provisions relating to the procurement of goods and services, shall not apply with respect to goods and services procured for use in carrying out this section. The exemption provided by this paragraph shall not be construed to apply to the Comprehensive Anti/Apartheid Act of 1986.

"(o) SUPPORT FOR SADCC PROJECTS.—

"(1) AUTHORITY TO PROVIDE ASSISTANCE.—To the extent funds are provided for such purpose in the annual Foreign Operations, Export Financing, and Related Programs Appropriations Act, funds made available to carry out this chapter may be used to assist sector projects, in the sectors specified in paragraph (2), that are supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the member states forming that regional institution.

"(2) SECTORS.—The sectors with respect to which assistance may be provided under this subsection are the following: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives).

"(3) RELATION TO DFA POLICIES AND AUTHORITIES.—To the maximum extent feasible, the assistance authorized by this subsection shall be provided consistent with the policies and authorities contained in the preceding subsection of this section.

22 USC 2294.

"SEC. 497. AUTHORIZATIONS OF APPROPRIATIONS FOR THE DEVELOPMENT FUND FOR AFRICA.—Funds appropriated to carry out this chapter are authorized to be made available until expended. It is the sense of the Congress that the authority of this subsection should be used to extend the period of availability of those funds whenever appropriate to improve the quality of assistance provided under section 496.".

(b) EVALUATIONS.—It is the sense of the Congress that there should be periodic evaluations of the progress of the Agency for International Development in achieving the purpose specified in section 496(c) of the Foreign Assistance Act of 1961.

22 USC 2293 note.

(c) REPORTS TO CONGRESS.—As part of the annual Congressional Presentation materials for economic assistance, the Administrator of the Agency for International Development shall include a descrip-

tion of the progress made during the previous fiscal year in carrying out chapter 10 of part I of the Foreign Assistance Act of 1961 in three countries in sub-Saharan Africa which represent differing economic situations and levels of progress. The description shall include—

(1) the nature and extent of consultation to ensure local perspectives, as described in subsections (e)(1) and (f) of section 496;

(2) the degree of involvement of local people in the implementation of projects having a local focus;

(3) the extent to which there has been expansion of the participation and integration of African women in each of the critical sectors specified in section 496(i);

(4) program assistance provided, including the amounts obligated, the criteria used for assisting reforms, and the provisions made pursuant to section 496(h)(2)(B) to protect vulnerable groups from possible negative consequences of the reforms; and

(5) a description of the assistance for the critical sector priorities specified in section 496(i), by sector, including the amounts obligated.

(d) CONFORMING AMENDMENTS.—The Foreign Assistance Act of 1961 is amended—

(1) in section 105(b)— 22 USC 2151c.

(A) by striking out "(b)(1)" and inserting in lieu thereof "(b)"; and

(B) by striking out paragraph (2);

(2) in section 113(b)(1), by inserting "and chapter 10 of this part" after "this chapter"; 22 USC 2151k.

(3) in section 116(e)(1)— 22 USC 2151n.

(A) by inserting ", chapter 10 of this part," after "available under this chapter"; and

(B) by inserting before the period at the end of the first sentence "or under chapter 10 of this part, except that funds made available under chapter 10 of this part may only be used under this subsection with respect to countries in sub-Saharan Africa";

(4) in subsection (c)(1) of section 117 (relating to environment and natural resources), by inserting "and chapter 10 of this part" after "this chapter"; 22 USC 2151p.

(5) by repealing section 121; 22 USC 2151s.

(6) in section 123— 22 USC 2151u.

(A) in subsection (b), by inserting "and chapter 10 of this part" after "this chapter"; and

(B) in subsection (g), by striking out "121, or 491" and inserting in lieu thereof "491, or 496";

(7) in section 126(b)(1), by inserting ", and chapter 10 of this part," after "this chapter"; and 22 USC 2151x.

(8) in section 531(a), by inserting "or, in the case of countries in sub-Saharan Africa, chapter 10 of part I" after "chapter 1 of part I". 22 USC 2346.

EXPORT-IMPORT BANK

The authorities made available under title IV of this Act for the Export-Import Bank may be used by the Bank, notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, or any agency or national thereof: *Provided,* That section

2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992".

POLAND ASSISTANCE

Section 2223(a) of the American Aid to Poland Act of 1988 (7 U.S.C. 1431 note) is amended by inserting "governmental and" after "used by": *Provided,* That section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended in the penultimate sentence—

(1) by striking out "such" and inserting in lieu thereof "governmental and nongovernmental"; and

(2) by inserting "governmental or" after "activities of".

FIRST CLASS AIR TRAVEL RESTRICTIONS

The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks and of the International Monetary Fund—

(1) to seek the adoption, within 12 months after the date of the enactment of this section, of administrative procedures prohibiting personnel of their respective banks and the affiliates of such banks, and of the Fund, from using first class air travel for business of such banks or of the Fund.

Reports.

(2) if such procedures are not so adopted, report to the Secretary and Congress on the estimated additional costs (if any) incurred by their respective banks or the Fund by reason of the use of first class air travel by personnel of such banks or of the Fund in lieu of coach or business class air travel, who shall make such report available to the Congress on request.

INTERNATIONAL BANKING PROVISIONS

(a) PROVISIONS RELATING TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT.—

(1) AUTHORITY OF THE UNITED STATES TO PARTICIPATE IN THE NINTH REPLENISHMENT OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION.—The International Development Association Act (22 U.S.C. 284 et seq.) is amended by adding at the end the following:

"SEC. 21. NINTH REPLENISHMENT.

"(a) IN GENERAL.—The United States Governor is hereby authorized to agree on behalf of the United States to pay to the Association $3,180,000,000 to the ninth replenishment of the resources of the Association, subject to obtaining the necessary appropriations.

"(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the United States contribution provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $3,180,000,000 for payment by the Secretary of the Treasury.".

(2) POLICY PROVISIONS.—The International Financial Institutions Act (22 U.S.C. 262c et seq.) is amended by redesignating section 1617 as section 1619 and by inserting after section 1616 the following:

"SEC. 1617. IMPROVEMENT OF INTERACTION BETWEEN INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT AND NONGOVERNMENTAL ORGANIZATIONS. 22 USC 262p-4l.

"(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to propose, and urge the Executive Board and the management of the bank to develop and implement specific mechanisms designed to—

"(1) substantially improve the ability of the staff of the bank to interact with nongovernmental organizations and other local groups that are affected by loans made by the bank to borrower countries; and

"(2) delegate to the field offices of the bank in borrowing countries greater responsibility for decisions with respect to proposals for projects in such countries that are to be financed by the bank.

"(b) CERTAIN MECHANISMS URGED.—The mechanisms described in subsection (a) shall include, at a minimum, the following measures:

"(1) An instruction to the management of the bank to undertake efforts to appropriately train and significantly increase the number of bank professional staff (based in Washington, District of Columbia, as of the date of the enactment of this section) assigned, on a rotating basis, to field offices of the bank in borrower countries.

"(2) The assignment to at least 1 professional in each field office of the bank in a borrower country of responsibility for relations with local nongovernmental organizations, and for the preparation and submission to appropriate staff of the bank of a report on the impact of project loans to be made by the bank to the country, based on views solicited from local people who will be affected by such loans, which shall be included as part of the project appraisal report.

"(3) The establishment of the Grassroots Collaboration Program described in section 1602(a).

"(4) Before a project loan is made to a borrower country, the country is to be required to hold open hearings on the proposed project during project identification and project preparation.

"(5) The establishment of assessment procedures which allow affected parties and nongovernmental organizations to review information describing a prospective project or policy loan design, in a timely manner, before the loan is submitted to the Executive Board for approval.

"SEC. 1618. POPULATION, HEALTH, AND NUTRITION PROGRAMS. 22 USC 262p-4m.

"The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development to urge the bank to support an increase in the amount the bank lends annually to support population, health, and nutrition programs of the borrower countries.".

(b) INTERNATIONAL FINANCIAL INSTITUTIONS PROVISIONS.—

(1) POLICY PROVISIONS.—The International Financial Institutions Act (22 U.S.C. 262c et seq.), as amended by subsection (a)(2) of this section, is amended by redesignating section 1619 as section 1620 and by inserting after section 1618 the following: 22 USC 262p-5.

"SEC. 1619. EQUAL EMPLOYMENT OPPORTUNITIES.

"The Secretary of the Treasury shall instruct the United States Executive Directors of the multilateral development banks and of the International Monetary Fund to use the voices and votes of the Executive Directors to urge their respective banks and the Fund to adopt a policy which provides, and implement procedures which ensure, that such banks and the Fund, and the affiliates of such banks and of the Fund, shall not discriminate against any person on the basis of race, ethnicity, gender, color, or religious affiliation in any determination related to employment.".

(2) MISCELLANEOUS TECHNICAL CORRECTIONS RELATING TO THE INTERNATIONAL DEVELOPMENT AND FINANCE ACT OF 1989.—Section 701(g) of the International Financial Institutions Act (22 U.S.C. 262d(g)) is amended—

(A) by striking "(2)"; and

(B) by striking "specified in paragraph (1)" and inserting "of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and of the Committee on Foreign Relations of the Senate".

(3) COMPARABLE STATUS FOR THE UNITED STATES EXECUTIVE DIRECTOR OF THE AFRICAN DEVELOPMENT BANK.—Section 1333(a) of the African Development Bank Act (22 U.S.C. 290i-1(a)) is amended by striking "Governor and an Alternate Governor" and inserting "Governor, an Alternate Governor, and a Director".

European Bank for Reconstruction and Development Act.
22 USC 290*l* note.

(c) EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT.—

(1) SHORT TITLE.—This subsection may be cited as the "European Bank for Reconstruction and Development Act".

22 USC 290*l*.

(2) ACCEPTANCE OF MEMBERSHIP.—The President is hereby authorized to accept membership for the United States in the European Bank for Reconstruction and Development (in this subsection referred to as the "Bank") provided for by the agreement establishing the Bank (in this subsection referred to as the "Agreement"), signed on May 29, 1990.

22 USC 290*l*-1.
President.

(3) GOVERNOR AND ALTERNATE GOVERNOR.—

(A) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Governor of the Bank, an alternate for the Governor, and a Director of the Bank.

(B) COMPENSATION.—Any person who serves as a Governor of the Bank or as an alternate for the Governor may not receive any salary or other compensation from the United States by reason of such service.

22 USC 290*l*-2.

(4) APPLICABILITY OF CERTAIN PROVISIONS OF THE BRETTON WOODS AGREEMENTS ACT.—Section 4 of the Bretton Woods Agreements Act shall apply to the Bank in the same manner in which such section applies to the International Bank for Reconstruction and Development and the International Monetary Fund.

22 USC 290*l*-3.

(5) FEDERAL RESERVE BANKS AS DEPOSITORIES.—Any Federal Reserve Bank which is requested to do so by the Bank may act as its depository, or as its fiscal agent, and the Board of Governors of the Federal Reserve System shall exercise general supervision over the carrying out of these functions.

22 USC 290*l*-4.

(6) SUBSCRIPTION OF STOCK.—

(A) SUBSCRIPTION AUTHORITY.—

(i) IN GENERAL.—The Secretary of the Treasury may subscribe on behalf of the United States to 100,000 shares of the capital stock of the Bank.

(ii) EFFECTIVENESS OF SUBSCRIPTION COMMITMENT.—Any commitment to make such subscription shall be effective only to such extent or in such amounts as are provided for in advance by appropriations Acts.

(B) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For payment by the Secretary of the Treasury of the subscription of the United States for shares described in subparagraph (A), there are authorized to be appropriated $1,167,010,000 without fiscal year limitation.

(C) DISPOSITION OF NET INCOME DISTRIBUTIONS BY THE BANK.—Any payment made to the United States by the Bank as a distribution of net income shall be covered into the Treasury as a miscellaneous receipt.

(7) JURISDICTION AND VENUE OF CIVIL ACTIONS BY OR AGAINST THE BANK.— 22 USC 290*l*–5.

(A) JURISDICTION.—The United States district courts shall have original and exclusive jurisdiction of any civil action brought in the United States by or against the Bank.

(B) VENUE.—For purposes of section 1391(b) of title 28, United States Code, the Bank shall be deemed to be a resident of the judicial district in which the principal office of the Bank in the United States, or its agent appointed for the purpose of accepting service or notice of service, is located.

(8) EFFECTIVENESS OF AGREEMENT.—The Agreement shall have full force and effect in the United States, its territories and possessions, and the Commonwealth of Puerto Rico, upon acceptance of membership by the United States in the Bank and the entry into force of the Agreement. 22 USC 290*l*–6.

(9) EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE BANK; REPORTS REQUIRED.— 22 USC 290*l*–7.

(A) EXEMPTION FROM SECURITIES LAWS; REPORTS TO SECURITIES AND EXCHANGE COMMISSION.—Any securities issued by the Bank (including any guaranty by the Bank, whether or not limited in scope) in connection with the raising of funds for inclusion in the Bank's ordinary capital resources as defined in article 7 of the Agreement and any securities guaranteed by the Bank as to both principal and interest to which the commitment in article 6, paragraph 4, of the Agreement is expressly applicable, shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 and section 3(a)(12) of the Securities Exchange Act of 1934. The Bank shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Bank and its operations and necessary in the public interest or for the protection of investors.

(B) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION TO SUSPEND EXEMPTION; REPORTS TO THE CONGRESS.—The Securities and Exchange Commission, acting in consultation with such agency or officer as the President shall designate, may suspend the provisions of subparagraph (A) at any time as to any or all securities issued or guaranteed

by the Bank during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this paragraph.

(10) TECHNICAL AMENDMENTS.—

(A) ANNUAL REPORT REQUIRED ON PARTICIPATION OF THE UNITED STATES IN THE BANK.—Section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)) is amended by inserting "European Bank for Reconstruction and Development," before "International Development Association,".

(B) EXEMPTION FROM LIMITATIONS AND RESTRICTIONS ON POWER OF NATIONAL BANKING ASSOCIATIONS TO DEAL IN AND UNDERWRITE INVESTMENT SECURITIES OF THE BANK.—The 7th sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by inserting "the European Bank for Reconstruction and Development," before "the Inter-American Development Bank,".

(C) BENEFITS FOR UNITED STATES CITIZEN-REPRESENTATIVES TO THE BANK.—Section 51 of the Act entitled "An Act to authorize United States participation in increases in the resources of certain international financial institutions, to provide for an annual audit of the Exchange Stabilization Fund by the General Accounting Office, and for other purposes." (Public Law 91-599; 22 U.S.C. 276c-2) is amended by inserting "the European Bank for Reconstruction and Development," before "the Inter-American Development Bank,".

22 USC 290*l*-8.

(11) CONGRESSIONAL CONSULTATIONS.—During negotiations on the establishment of operational guidelines for the Bank, the Secretary of the Treasury shall—

(A) consult on a regular and timely basis with the Committee on Banking, Finance and Urban Affairs and the Committee on Appropriations of the House of Representatives, and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(B) seek to ensure that procedures and mechanisms are established, including the creation of specific departments or staffs within the Bank, which will allow the Bank to assess the impact of any loans, guarantees, or other activities on the environment and on internationally recognized human rights in borrower countries; and

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(C) report, through consultation within 90 days after the date of the enactment of this Act, to the Committees specified in subparagraph (A) on the progress of efforts to create such procedures and mechanisms.

(d) EXPORT-IMPORT BANK PROVISIONS.—

(1) INCREASE IN AMOUNTS AUTHORIZED TO BE APPROPRIATED FOR THE TIED AID CREDIT FUND; EXTENSION OF AUTHORIZATION.—Section 15(e)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(e)(1)) is amended by striking "and for fiscal years 1990 and 1991, $300,000,000" and inserting "for fiscal year 1990, $300,000,000, and for each of fiscal years 1991 and 1992, $500,000,000".

(2) CONFORMING AMENDMENT.—Section 15(c)(2) of such Act (12 U.S.C. 635i-3(c)(2)) is amended by striking "1991" and inserting "1992".

(e) INTERNATIONAL FINANCE CORPORATION PROVISIONS.—

(1) EXEMPTION FROM SECURITIES LAWS FOR CERTAIN SECURITIES ISSUED BY THE INTERNATIONAL FINANCE CORPORATION.—

(A) EXEMPTION FROM SECURITIES LAWS; REPORTS REQUIRED.—The International Finance Corporation Act (22 U.S.C. 282 et seq.) is amended by adding at the end the following:

"SEC. 13. SECURITIES ISSUED BY THE CORPORATION. 22 USC 282k.

"(a) EXEMPTION FROM SECURITIES LAWS; REPORTS TO SECURITIES AND EXCHANGE COMMISSION.—Any securities issued by the Corporation (including any guaranty by the Corporation, whether or not limited in scope) and any securities guaranteed by the Corporation as to both principal and interest shall be deemed to be exempted securities within the meaning of section 3(a)(2) of the Securities Act of 1933 and section 3(a)(12) of the Securities Exchange Act of 1934. The Corporation shall file with the Securities and Exchange Commission such annual and other reports with regard to such securities as the Commission shall determine to be appropriate in view of the special character of the Corporation and its operations and necessary in the public interest or for the protection of investors.

"(b) AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION TO SUSPEND EXEMPTION: REPORTS TO THE CONGRESS.—The Securities and Exchange Commission, acting in consultation with the National Advisory Council on International Monetary and Financial Problems, is authorized to suspend the provisions of subsection (a) at any time as to any or all securities issued or guaranteed by the Corporation during the period of such suspension. The Commission shall include in its annual reports to the Congress such information as it shall deem advisable with regard to the operations and effect of this section.".

(B) EXEMPTION FROM LIMITATIONS AND RESTRICTIONS ON POWER OF NATIONAL BANKING ASSOCIATIONS TO DEAL IN AND UNDERWRITE INVESTMENT SECURITIES OF THE INTERNATIONAL FINANCE CORPORATION.—The 7th sentence of paragraph 7 of section 5136 of the Revised Statutes of the United States (12 U.S.C. 24) is amended by striking "the African Development Bank or the Inter-American Investment Corporation,", and inserting "the African Development Bank, the Inter-American Investment Corporation, or the International Finance Corporation,".

ASSISTANCE FOR CAMBODIAN DEMOCRACY

SEC. 562A. (a) ASSISTANCE.—(1) Not to exceed $20,000,000 of the funds appropriated by this Act under the headings "Economic Support Fund" and "development assistance" may be made available for humanitarian and development assistance for Cambodians, including the Cambodian non-Communist resistance, along the Thai-Cambodian border and throughout Cambodia, notwithstanding any other provision of law (other than sections 531(e) and 634A of the Foreign Assistance Act of 1961, section 523 of this Act, and the provisions of this section).

(2) Funds made available by paragraph (1) shall be obligated or expended, to the maximum extent possible, consistent with the priorities set forth in the report required by subsection (d). Not later than 6 months after the date of enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives a report describing the expenditure of funds under paragraph (1).

President. Reports.

(b) PROHIBITION ON DIRECT OR INDIRECT ASSISTANCE FOR THE KHMER ROUGE.—(1) Funds made available under this section shall be subject to the prohibitions contained in section 906 of the International Security Development Cooperation Act of 1985 (Public Law 99-83).

(2) The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

President.

(3) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an unclassified report describing the extent of military cooperation since 1986 between the Khmer Rouge and any individual group or faction of the noncommunist resistance.

President. Reports.

(c) ADMINISTRATION OF ASSISTANCE.—To the maximum extent possible, all funds made available under this section shall be administered directly by the United States Government.

(d) REPORTING REQUIREMENT.—(1) The Administrator of the Agency for International Development shall conduct within 180 days of enactment of this act an on-site assessment along the Thai-Cambodian border and within Cambodia, including Phnom Penh, determining the priorities of the humanitarian and development needs of the Cambodian people, including noncombatant civilians in all sectors of Cambodia.

President.

(2) Not later than January 1, 1991, the President shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report setting forth the priorities determined by the assessment made under paragraph (1).

(e) RELATION TO ASSISTANCE FOR CAMBODIAN CHILDREN.—(1) Any assistance provided under this section shall be in addition to the assistance provided for under the heading "humanitarian assistance for Cambodian children".

(2) Notwithstanding any other provision of this Act, funds made available under the heading "Humanitarian Assistance for Cambodian children" shall also be available to civilian victims of war.

(f) DEFINITIONS.—For purposes of this section—

(1) the term "development assistance" means assistance furnished to carry out any of the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961; and

(2) the term "humanitarian assistance" means food, clothing, medicine, or other humanitarian assistance, and it does not include the provision of weapons, weapons systems, ammunition, or other equipment, vehicles, or material which can be used to inflict serious bodily harm or death.

Trade sanctions. Congress. President.

(g) After the conclusion of the upcoming Paris Conference on Cambodia, Congress and the President shall consult within 30 days with the goal of lifting the Trading with the Enemy Act restrictions on Cambodia.

(h) Any funds made available during fiscal year 1991 to carry out the purposes of this section, either appropriated by this Act or derived by transfer from any other source, in excess of $7,500,000 shall be subject to the regular reprogramming procedures of the Committees on Appropriations.

COMPETITIVE INSURANCE

SEC. 563. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate. Government contracts.

IRELAND

SEC. 564. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ASSISTANCE TO AFGHANISTAN

SEC. 565. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 566. Not less than 25 per centum of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

DISADVANTAGED ENTERPRISES

SEC. 567. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for development assistance and assistance for famine recovery and development in Africa shall be made available only for activities of United States organizations and individuals that are— Africa.

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

Africa.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for famine recovery and development in Africa for fiscal year 1990.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except—

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

Government contracts. Advertising.

(3) Each person with contracting authority who is attached to the agency's headquarters in Washington, as well as all agency missions and regional offices, shall notify the agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

Reports.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year.

Regulations.

(6) The Administrator shall issue interim regulations to carry out this section within ninety days after the date of the enactment of this Act and final regulations within one hundred and eighty days after that date.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 568. (a) Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

(b) Section 566(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, is hereby repealed. 102 Stat. 2268-42.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 569. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF EXCESS CURRENCIES

SEC. 570. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section. 31 USC 1306 note.

DEBT-FOR-DEVELOPMENT

SEC. 571. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including debt-for-development and debt-for-nature exchanges, a nongovernmental organization may invest local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be used, including for the establishment of an endowment, for the purpose for which the assistance was provided to that organization. Investments.

LEBANON

SEC. 572. Of the fund appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 not less than $7,500,000 to be derived in equal amounts from funds appropriated to carry out chapter 1 of part I and chapter 4 of part II shall be made available for Lebanon and may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

LOCATION OF STOCKPILES

22 USC 2321h.

SEC. 573. (a) Section 514(c) of the Foreign Assistance Act of 1961 is amended by inserting "or major non-NATO allies," after "Organization,".

(b) Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h) is amended by striking out "$165,000,000 for fiscal year 1990" and inserting in lieu thereof $378,000,000 for fiscal year 1991, of which amount not less than $300,000,000 shall be for stockpiles in Israel".

ASSISTANCE FOR PAKISTAN

22 USC 2375.

SEC. 574. (a) Section 620E(d) of the Foreign Assistance Act of 1961 is amended by striking out "April 1, 1991" and inserting in lieu thereof "April 1, 1992".

President. Reports.

(b) Notwithstanding any other provision of law, none of the funds appropriated by this Act under the Headings "Economic Support Fund", "Foreign Military Financing Program", and "International Military Education and Training", may be made available for Pakistan unless the President certifies, and so reports to the Congress, that—

(1) the state of emergency in Pakistan did not interfere in the fair conduct of National Assembly elections;

(2) the Government of Pakistan held timely, free, fair, and internationally monitored National Assembly elections, open to the full participation of all legal parties and all legal candidates of those parties;

(3) the proceedings of the Special Courts established on August 8 and August 21, 1990, did not interfere with the conduct of free and fair elections; and

(4) the process of convening the National Assembly is progressing without interference.

(c) None of the funds appropriated in this Act shall be obligated or expended for Pakistan except as provided through the regular notification procedures of the Committees on Appropriations.

SEPARATE ACCOUNTS

22 USC 2359 note.

SEC. 575. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapter 1 of part I or chapter 4 of part II (as the case may be), for such purposes as:

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapter 1 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapter 1 of part I (including assistance for sub-Saharan Africa and the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98-1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification proce- President.

dures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

ELIGIBILITY FOR OVERSEAS PRIVATE INVESTMENT CORPORATION

22 USC 2199.

SEC. 576. (a) PROGRAMS.—Section 239(f) of the Foreign Assistance Act of 1961 is amended by inserting "or any other East European country," after "Hungary,".

Poland.
Hungary.

(b) PARTICIPATION BY NONGOVERNMENTAL SECTOR.—(1) In accordance with its mandate to foster private initiative and competition and enhance the ability of private enterprise to make its full contribution to the development process, the Overseas Private Investment Corporation shall support projects in Poland, Hungary, and other East European countries which will result in enhancement of the nongovernmental sector and reduction of state involvement in the economy.

(2) For purposes of this subsection the term "nongovernmental sector" includes private enterprises, cooperatives (insofar as they are not administered by the government), joint ventures (including partners which are not governments of East European countries or instrumentalities thereof), businesses that are wholly or partly owned by United States citizens, religious and ethnic groups (including the Catholic Church), and other independent social organizations.

(c) DEFINITION OF ELIGIBLE INVESTOR.—Notwithstanding subsection (b), the term "eligible investor" with respect to OPIC's programs in Eastern Europe has the same meaning as contained in section 238(c) of the Foreign Assistance Act of 1961.

(d) EXPIRATION DATE.—The authority of the Overseas Private Investment Corporation to issue insurance, reinsurance, and guarantees, and to provide any assistance under its direct loan and equity programs with respect to projects undertaken in Eastern Europe shall remain in effect until September 30, 1992.

ASSISTANCE FOR NICARAGUA

SEC. 577. (a) None of the funds appropriated by this Act shall be provided for any member of the Nicaraguan resistance who has not disarmed and is not abiding by the terms of the cease-fire agreement and the addendums to the Toncontin Agreement signed on April 19, 1990.

(b) Section 1 of the Act entitled "An Act to provide survival assistance to victims of civil strife in Central America", approved December 11, 1989 (Public Law 101-215), is amended by repealing subsection (c).

103 Stat. 1852.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 578. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United

States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

WITHHOLDING OF OBLIGATIONS FOR THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

Poland. Credit. President. International agreements.

SEC. 579. (a) None of the funds made available by this Act for the European Bank for Reconstruction and Development may be obligated until the President reaches an agreement or agreements, as necessary, with the Polish Government or with other creditors, the authority to enter into which he is hereby granted notwithstanding any other provision of law, which accurately reflect the real collectability of the debts of the Polish Government to the Government of the United States and which adjusts the amount of debt and debt service payable by the Polish Government to the Government of the United States accordingly, subject to the following conditions:

(1) an International Monetary Fund agreement is in effect with respect to Poland, and it is clear that it is the intent of the Polish Government to continue full implementation of that program, and

(2) the recent historic change of the Polish Government into a democracy has been maintained, and

(3) the Polish Government is seeking comparable treatment of both public and private external debt.

(b) If the President determines that, in order to substantially increase the probability of other creditor governments and commercial bankers taking actions adjusting or restructuring their Polish debt to reflect its real collectability, it is best for the United States to use the authority contained in subsection (a), then the President may exercise the authority of subsection (a) unilaterally.

(c) Funds may be obligated notwithstanding subsection (a) subject to the regular notification procedures of the Committees on Appropriations.

FMF FOR FMS DEBT REPAYMENT

22 USC 2763.

SEC. 580. Section 23 of the Arms Export Control Act is amended by inserting a new subsection (e), as follows:

"(e)(1) Funds made available to carry out this section may be used by a foreign country to make payments of principal and interest which it owes to the United States Government on account of credits previously extended under this section or loans previously guaranteed under section 24, subject to paragraph (2).

"(2) Funds made available to carry out this section may not be used for prepayment of principal or interest pursuant to the authority of paragraph (1).".

FUTURE ASSISTANCE PROJECTIONS

22 USC 2680 note.

SEC. 581. The Congress finds that, as is the case with most domestic programs, overall constraints on the Federal budget will have a significant impact on the ability of the United States Government to meet program requirements in the coming years. Therefore, in order to assist the Congress to make the difficult policy choices attendant to budget shortfalls, the Congressional Presentation Documents of departments and agencies included within this Act shall contain funding projections for each of its major program components for each of the three years following the year for which new budget or other authority is being requested. The requirements of this section shall be effective for the Congressional Presentation Documents submitted for the fiscal year 1992.

Effective date.

HUMAN RIGHTS

SEC. 582. Not later than thirty days after submission of the report required by section 502B(b) of the Foreign Assistance Act of 1961, the Secretary of State shall submit to the Committees on Appropriations a listing of those countries the governments of which are found, based upon the criteria and findings in the report required by section 502B(b) of the Foreign Assistance Act of 1961, to engage in a consistent pattern of gross violations of internationally recognized human rights. This list shall be accompanied by a report from the Secretary of State describing how, for each country receiving assistance under the Foreign Military Financing Program, such assistance will be conducted to promote and advance human rights and how the United States will avoid identification with activities which are contrary to internationally recognized standards of human rights.

Reports.

OTHER ASSISTANCE FOR EASTERN EUROPE

Poland. Foreign currencies.

SEC. 583. Notwithstanding any other provision of law, a total of $500,000 of the Polish currencies which are held by the United States as of the date of the enactment of this Act which are derived from programs administered by the Commodity Credit Corporation, or pursuant to the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, shall be made available for the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland: *Provided,* That such currencies shall be made available notwithstanding 31 U.S.C. 1306 and section 570 of this Act: *Provided further,* That local currencies made available for the Jagiellonian University under this heading shall be made available only to the extent that they do not diminish planned funding for the American Children's Hospital, Krakow, Poland.

EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

22 USC 2901-8 note.

SEC. 584. In all negotiations concerning the structure, bylaws, and operating procedures of the European Bank for Reconstruction and

Development (EBRD), the Secretary of the Treasury shall vigorously seek—

(1) establishment of procedures for environmental assessment of all proposed operations with potentially significant environmental impacts;

(2) establishment of an environmental unit with sufficient staff to review proposed operations, monitor compliance with environmental provisions, and provide overall policy guidance;

(3) establishment of procedures for systematic consultation with and involvement of the public and interested nongovernmental organizations, including an opportunity for comment by local communities which may be affected by EBRD operations and establishment of a system of public notification and comment during the development of EBRD policies and operating procedures; and

(4) agreement that a significant portion of the EBRD's funds shall be devoted to projects focused on environmental restoration and protection.

PROPERTY MANAGEMENT FUND

SEC. 585. (a) The proceeds of overseas property acquired by the Agency for International Development under the authority of section 636(c) of the Foreign Assistance Act of 1961 may be deposited in a separate fund, which shall be known as the Property Management Fund. Such proceeds shall be available for use only for the purposes of section 636(c) of that Act, and shall remain available until expended. The Administrator of the Agency for International Development shall report all uses of funds deposited into the Property Management Fund as part of the annual Congressional Presentation materials submitted by the Agency for International Development. 22 USC 2369a. Reports.

(b) The provisions of subsection (a) shall be applicable to property acquired prior to the date of enactment of this Act and at any time thereafter.

IRAQ SANCTIONS ACT OF 1990

Iraq Sanctions Act of 1990. 50 USC 1701 note.

SEC. 586. SHORT TITLE.

Sections 586 through 586J of this Act may be cited as the "Iraq Sanctions Act of 1990".

SEC. 586A. DECLARATIONS REGARDING IRAQ'S INVASION OF KUWAIT. 50 USC 1701 note.

The Congress—

(1) condemns Iraq's invasion of Kuwait on August 2, 1990;

(2) supports the actions that have been taken by the President in response to that invasion;

(3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;

(4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;

(5) supports the imposition and enforcement of multilateral sanctions against Iraq;

(6) calls on United States allies and other countries to support fully the efforts of the United Nations Security Council, and to

take other appropriate actions, to bring about an end to Iraq's occupation of Kuwait; and

(7) condemns the brutal occupation of Kuwait by Iraq and its gross violations of internationally recognized human rights in Kuwait, including widespread arrests, torture, summary executions, and mass extrajudicial killings.

50 USC 1701 note.

SEC. 586B. CONSULTATIONS WITH CONGRESS.

President.

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

50 USC 1701 note.

SEC. 586C. TRADE EMBARGO AGAINST IRAQ.

(a) CONTINUATION OF EMBARGO.—Except as otherwise provided in this section, the President shall continue to impose the trade embargo and other economic sanctions with respect to Iraq and Kuwait that the United States is imposing, in response to Iraq's invasion of Kuwait, pursuant to Executive Orders Numbered 12724 and 12725 (August 9, 1990) and, to the extent they are still in effect, Executive Orders Numbered 12722 and 12723 (August 2, 1990). Notwithstanding any other provision of law, no funds, credits, guarantees, or insurance appropriated or otherwise made available by this or any other Act for fiscal year 1991 or any fiscal year thereafter shall be used to support or administer any financial or commercial operation of any United States Government department, agency, or other entity, or of any person subject to the jurisdiction of the United States, for the benefit of the Government of Iraq, its agencies or instrumentalities, or any person working on behalf of the Government of Iraq, contrary to the trade embargo and other economic sanctions imposed in accordance with this section.

(b) HUMANITARIAN ASSISTANCE.—To the extent that transactions involving foodstuffs or payments for foodstuffs are exempted "in humanitarian circumstances" from the prohibitions established by the United States pursuant to United Nations Security Council Resolution 661 (1990), those exemptions shall be limited to foodstuffs that are to be provided consistent with United Nations Security Council Resolution 666 (1990) and other relevant Security Council resolutions.

(c) NOTICE TO CONGRESS OF EXCEPTIONS TO AND TERMINATION OF SANCTIONS.—

(1) NOTICE OF REGULATIONS.—Any regulations issued after the date of enactment of this Act with respect to the economic sanctions imposed with respect to Iraq and Kuwait by the United States under Executive Orders Numbered 12722 and 12723 (August 2, 1990) and Executive Orders Numbered 12724 and 12725 (August 9, 1990) shall be submitted to the Congress before those regulations take effect.

President.

(2) NOTICE OF TERMINATION OF SANCTIONS.—The President shall notify the Congress at least 15 days before the termination, in whole or in part, of any sanction imposed with respect to Iraq or Kuwait pursuant to those Executive orders.

(d) RELATION TO OTHER LAWS.—

(1) SANCTIONS LEGISLATION.—The sanctions that are described in subsection (a) are in addition to, and not in lieu of the sanctions provided for in section 586G of this Act or any other provision of law.

(2) NATIONAL EMERGENCIES AND UNITED NATIONS LEGISLATION.—Nothing in this section supersedes any provision of the National Emergencies Act or any authority of the President under the International Emergency Economic Powers Act or section 5(a) of the United Nations Participation Act of 1945.

SEC. 586D. COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ.

50 USC 1701 note.

(a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

SEC. 586E. PENALTIES FOR VIOLATIONS OF EMBARGO.

50 USC 1701 note.

Notwithstanding section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) and section 5(b) of the United Nations Participation Act of 1945 (22 U.S.C. 287c(b))—

(1) a civil penalty of not to exceed $250,000 may be imposed on any person who, after the date of enactment of this Act, violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive order; and

(2) whoever, after the date of enactment of this Act, willfully violates or evades or attempts to violate or evade Executive Order Numbered 12722, 12723, 12724, or 12725 or any license, order, or regulation issued under any such Executive order—

(A) shall, upon conviction, be fined not more than $1,000,000, if a person other than a natural person; or

(B) if a natural person, shall, upon conviction, be fined not more than $1,000,000, be imprisoned for not more than 12 years, or both.

Any officer, director, or agent of any corporation who knowingly participates in a violation, evasion, or attempt described in paragraph (2) may be punished by imposition of the fine or imprisonment (or both) specified in subparagraph (B) of that paragraph.

50 USC 1701 note.

SEC. 586F. DECLARATIONS REGARDING IRAQ'S LONG-STANDING VIOLATIONS OF INTERNATIONAL LAW.

(a) IRAQ'S VIOLATIONS OF INTERNATIONAL LAW.—The Congress determines that—

(1) the Government of Iraq has demonstrated repeated and blatant disregard for its obligations under international law by violating the Charter of the United Nations, the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925), as well as other international treaties;

(2) the Government of Iraq is a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights and is obligated under the Covenants, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

(3) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as "abysmal";

(4) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech, and the press, and the imprisonment, torture, and execution of children;

(5) since 1987, the Government of Iraq has intensified its severe repression of the Kurdish minority of Iraq, deliberately destroyed more than 3,000 villages and towns in the Kurdish regions, and forcibly expelled more than 500,000 people, thus effectively depopulating the rural areas of Iraqi Kurdistan;

(6) Iraq has blatantly violated international law by initiating use of chemical weapons in the Iran-Iraq war;

(7) Iraq has also violated international law by using chemical weapons against its own Kurdish citizens, resulting in tens of thousands of deaths and more than 65,000 refugees;

Saddam Hussein.

(8) Iraq continues to expand its chemical weapons capability, and President Saddam Hussein has threatened to use chemical weapons against other nations;

(9) persuasive evidence exists that Iraq is developing biological weapons in violation of international law;

(10) there are strong indications that Iraq has taken steps to produce nuclear weapons and has attempted to smuggle from the United States, in violation of United States law, components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party; and

(11) Iraqi President Saddam Hussein has threatened to use terrorism against other nations in violation of international law and has increased Iraq's support for the Palestine Liberation Organization and other Palestinian groups that have conducted terrorist acts.

(b) HUMAN RIGHTS VIOLATIONS.—The Congress determines that the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights. All provisions of law that impose sanctions against a country whose government is engaged in a consistent pattern of gross violations of internationally recognized human rights shall be fully enforced against Iraq.

(c) SUPPORT FOR INTERNATIONAL TERRORISM.—(1) The Congress determines that Iraq is a country which has repeatedly provided support for acts of international terrorism, a country which grants sanctuary from prosecution to individuals or groups which have committed an act of international terrorism, and a country which otherwise supports international terrorism. The provisions of law specified in paragraph (2) and all other provisions of law that impose sanctions against a country which has repeatedly provided support for acts of international terrorism, which grants sanctuary from prosecution to an individual or group which has committed an act of international terrorism, or which otherwise supports international terrorism shall be fully enforced against Iraq.

(2) The provisions of law referred to in paragraph (1) are—

(A) section 40 of the Arms Export Control Act;

(B) section 620A of the Foreign Assistance Act of 1961;

(C) sections 555 and 556 of this Act (and the corresponding sections of predecessor foreign operations appropriations Acts); and

(D) section 555 of the International Security and Development Cooperation Act of 1985.

(d) MULTILATERAL COOPERATION.—The Congress calls on the President to seek multilateral cooperation—

(1) to deny dangerous technologies to Iraq;

(2) to induce Iraq to respect internationally recognized human rights; and

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq and Kuwait, including the areas in northern Iraq traditionally inhabited by Kurds.

SEC. 586G. SANCTIONS AGAINST IRAQ.

50 USC 1701 note.

(a) IMPOSITION.—Except as provided in section 586H, the following sanctions shall apply with respect to Iraq:

(1) FMS SALES.—The United States Government shall not enter into any sale with Iraq under the Arms Export Control Act.

(2) COMMERCIAL ARMS SALES.—Licenses shall not be issued for the export to Iraq of any item on the United States Munitions List.

(3) EXPORTS OF CERTAIN GOODS AND TECHNOLOGY.—The authorities of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be used to prohibit the export to Iraq of any goods or technology listed pursuant to that section or section 5(c)(1) of that Act (50 U.S.C. App. 2404(c)(1)) on the control list provided for in section 4(b) of that Act (50 U.S.C. App. 2403(b)).

(4) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.—

(A) NRC LICENSES.—The Nuclear Regulatory Commission shall not issue any license or other authorization under the Atomic Energy Act of 1954 (42 U.S.C. 2011 and following) for the export to Iraq of any source or special nuclear

material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954 (42 U.S.C. 2139(b)), or any other material or technology requiring such a license or authorization.

(B) DISTRIBUTION OF NUCLEAR MATERIALS.—The authority of the Atomic Energy Act of 1954 shall not be used to distribute any special nuclear material, source material, or byproduct material to Iraq.

(C) DOE AUTHORIZATIONS.—The Secretary of Energy shall not provide a specific authorization under section 57b. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)(2)) for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

(5) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d).

Credit.

(6) ASSISTANCE THROUGH THE EXPORT-IMPORT BANK.—Credits and credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

(7) ASSISTANCE THROUGH THE COMMODITY CREDIT CORPORATION.—Credit, credit guarantees, and other assistance through the Commodity Credit Corporation shall be denied to Iraq.

(8) FOREIGN ASSISTANCE.—All forms of assistance under the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following) other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance, and under the Arms Export Control Act (22 U.S.C. 2751 and following) shall be denied to Iraq.

(b) CONTRACT SANCTITY.—For purposes of the export controls imposed pursuant to subsection (a)(3), the date described in subsection (m)(1) of section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) shall be deemed to be August 1, 1990.

50 USC 1701 note.

SEC. 586H. WAIVER AUTHORITY.

(a) IN GENERAL.—The President may waive the requirements of any paragraph of section 586G(a) if the President makes a certification under subsection (b) or subsection (c).

(b) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI POLICIES AND ACTIONS.—The authority of subsection (a) may be exercised 60 days after the President certifies to the Congress that—

(1) the Government of Iraq—

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

(B) is not acquiring, developing, or manufacturing (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses; and

(C) does not provide support for international terrorism;

(2) the Government of Iraq is in substantial compliance with its obligations under international law, including—

(A) the Charter of the United Nations;

(B) the International Covenant on Civil and Political Rights (done at New York, December 16, 1966) and the International Covenant on Economic, Social, and Cultural Rights (done at New York, December 16, 1966);

(C) the Convention on the Prevention and Punishment of the Crime of Genocide (done at Paris, December 9, 1948);

(D) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (done at Geneva, June 17, 1925);

(E) the Treaty on the Non-Proliferation of Nuclear Weapons (done at Washington, London, and Moscow, July 1, 1968); and

(F) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (done at Washington, London, and Moscow, April 10, 1972); and

(3) the President has determined that it is essential to the national interests of the United States to exercise the authority of subsection (a).

(c) CERTIFICATION OF FUNDAMENTAL CHANGES IN IRAQI LEADERSHIP AND POLICIES.—The authority of subsection (a) may be exercised 30 days after the President certifies to the Congress that—

(1) there has been a fundamental change in the leadership of the Government of Iraq; and

(2) the new Government of Iraq has provided reliable and credible assurance that—

(A) it respects internationally recognized human rights and it will demonstrate such respect through its conduct;

(B) it is not acquiring, developing, or manufacturing and it will not acquire, develop, or manufacture (i) ballistic missiles, (ii) chemical, biological, or nuclear weapons, or (iii) components for such weapons; has forsworn the first use of such weapons; and is taking substantial and verifiable steps to destroy or otherwise dispose of any such missiles and weapons it possesses;

(C) it is not and will not provide support for international terrorism; and

(D) it is and will continue to be in substantial compliance with its obligations under international law, including all the treaties specified in subparagraphs (A) through (F) of subsection (b)(2).

(d) INFORMATION TO BE INCLUDED IN CERTIFICATIONS.—Any certification under subsection (b) or (c) shall include the justification for each determination required by that subsection. The certification shall also specify which paragraphs of section 586G(a) the President will waive pursuant to that certification.

SEC. 586I. DENIAL OF LICENSES FOR CERTAIN EXPORTS TO COUNTRIES ASSISTING IRAQ'S ROCKET OR CHEMICAL, BIOLOGICAL, OR NUCLEAR WEAPONS CAPABILITY.

50 USC 1701 note.

(a) RESTRICTION ON EXPORT LICENSES.—None of the funds appropriated by this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines is assisting, or whose govern-

ment officials the President determines are assisting, Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability.

President. Computer technology. International agreements.

(b) NEGOTIATIONS.—The President is directed to begin immediate negotiations with those governments with which the United States has bilateral supercomputer agreements, including the Government of the United Kingdom and the Government of Japan, on conditions restricting the transfer to Iraq of supercomputer or associated technology.

President. 50 USC 1701 note.

SEC. 586J. REPORTS TO CONGRESS.

(a) STUDY AND REPORT ON THE INTERNATIONAL EXPORT TO IRAQ OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND BALLISTIC MISSILE TECHNOLOGY.—(1) The President shall conduct a study on the sale, export, and third party transfer or development of nuclear, biological, chemical, and ballistic missile technology to or with Iraq including—

(A) an identification of specific countries, as well as companies and individuals, both foreign and domestic, engaged in such sale or export of, nuclear, biological, chemical, and ballistic missile technology;

(B) a detailed description and analysis of the international supply, information, support, and coproduction network, individual, corporate, and state, responsible for Iraq's current capability in the area of nuclear, biological, chemical, and ballistic missile technology; and

(C) a recommendation of standards and procedures against which to measure and verify a decision of the Government of Iraq to terminate the development, production, coproduction, and deployment of nuclear, biological, chemical, and offensive ballistic missile technology as well as the destruction of all existing facilities associated with such technologies.

(2) The President shall include in the study required by paragraph (1) specific recommendations on new mechanisms, to include, but not be limited to, legal, political, economic and regulatory, whereby the United States might contribute, in conjunction with its friends, allies, and the international community, to the management, control, or elimination of the threat of nuclear, biological, chemical, and ballistic missile proliferation.

(3) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

(b) STUDY AND REPORT ON IRAQ'S OFFENSIVE MILITARY CAPABILITY.—(1) The President shall conduct a study on Iraq's offensive military capability and its effect on the Middle East balance of power including an assessment of Iraq's power projection capability, the prospects for another sustained conflict with Iran, joint Iraqi-Jordanian military cooperation, the threat Iraq's arms transfer activities pose to United States allies in the Middle East, and the extension of Iraq's political-military influence into Africa and Latin America.

(2) Not later than March 30, 1991, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and

the Committee on Foreign Affairs of the House of Representatives, a report, in both classified and unclassified form, setting forth the findings of the study required by paragraph (1).

(c) REPORT ON SANCTIONS TAKEN BY OTHER NATIONS AGAINST IRAQ.—(1) The President shall prepare a report on the steps taken by other nations, both before and after the August 2, 1990, invasion of Kuwait, to curtail the export of goods, services, and technologies to Iraq which might contribute to, or enhance, Iraq's nuclear, biological, chemical, and ballistic missile capability.

(2) The President shall provide a complete accounting of international compliance with each of the sanctions resolutions adopted by the United Nations Security Council against Iraq since August 2, 1990, and shall list, by name, each country which to his knowledge, has provided any assistance to Iraq and the amount and type of that assistance in violation of each United Nations resolution.

(3) The President shall make every effort to encourage other nations, in whatever forum or context, to adopt sanctions toward Iraq similar to those contained in this section.

(4) Not later than every 6 months after the date of enactment of this Act, the President shall submit to the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives, a report in both classified and unclassified form, setting forth the findings of the study required by paragraph (1) of this subsection.

MANDATORY RETIREMENT FOR CERTAIN INSPECTOR GENERAL STAFF

SEC. 587. (a) COMPUTATION OF ANNUITIES.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) utilizing the definition of average pay contained in section 8331(4) of title 5, United States Code, the annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who was appointed to a law enforcement position, as defined in section 8331(20) of title 5, United States Code, prior to January 1, 1984, and would have been eligible to retire pursuant to section 8336(c) of that title, after attaining 50 years of age and completing 20 years as a law enforcement officer had the employee remained in the civil service shall be computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of that title, except as provided in paragraph (3); and

"(B) the annuity of a Foreign Service criminal investigator/inspector of such office, who was appointed to a law enforcement position as defined in section 8401(17) of that title on or after January 1, 1984, and who would have been eligible to retire pursuant to section 8412(d) of that title, after attaining 50 years of age and completing 20 years of service as such a law enforcement officer, had the employee remained in the civil service, shall be computed in the same manner as that of a law enforcement officer pursuant to section 8415(d) of that title.

"(3) The annuity of a Foreign Service investigator/inspector of the Office of the Inspector General, Agency for International Development, appointed to a law enforcement position prior to January 1, 1984, who exercised election rights under section 860 of the Foreign Service Act of 1980, shall be computed as follows: for the period prior to election the annuity shall be computed in accordance with section 8339(d) of title 5, United States Code; for the period following election the annuity shall be computed in accordance with section 8415(d) of that title.

"(4) All service in a law enforcement position, as defined in section 8331(20) or 8401(17) of that title, as applicable, in any agency or combination of agencies shall be included in the computation of time for purposes of this paragraph.

"(5) The annuity of a Foreign Service criminal investigator/inspector of the Office of the Inspector General of the Agency for International Development who has not completed 20 years of service as a law enforcement officer, as defined in section 8331(20) or 8401(17) of that title, shall be computed in accordance with paragraph (1).

"(6) For purposes of paragraphs (2), (3), and (4) of this subsection, the term 'basic pay' includes pay as provided in accordance with section 412 of this Act or section 5545(a)(2) of title 5, United States Code.".

22 USC 4052.

(b) Section 812 of the Foreign Service Act of 1980 is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding the following new paragraph:

"(2) Notwithstanding paragraph (1), a Foreign Service criminal investigator/inspector of the Office of Inspector General of the Agency for International Development who would have been eligible for retirement pursuant to either section 8336(c) or 8412(d) of title 5, United States Code, as applicable, had the employee remained in civil service, shall be separated from the Service on the last day of the month in which that Foreign Service criminal investigator/inspector attains 55 years of age or completes 20 years of service if then over that age. If the head of the agency judges that the public interest so requires, that agency head may exempt such an employee from automatic separation under this subsection until that employee attains 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days before that date. Action to separate the employee is not effective without the consent of the employee, until the last day of the month in which the 60-day notice expires.".

PRESIDENTIAL FOREIGN ASSISTANCE CONTINGENCY AUTHORITIES

22 USC 2261.

SEC. 588. Section 451(a) of the Foreign Assistance Act of 1961 is amended by—

(1) striking out the phrases "not to exceed $10,000,000 of" and "in any fiscal year";

(2) striking out the phrase "emergency purposes" and inserting in lieu thereof "unanticipated contingencies"; and

(3) inserting the following immediately before the period: ", except that the authority of this subsection may not be used to authorize the use of more than $25,000,000 during any fiscal year".

EXCESS DEFENSE ARTICLES FOR COUNTRIES SUPPORTING DESERT SHIELD

SEC. 589. Section 516(a) of the Foreign Assistance Act of 1961 is amended by inserting after the second occurrence of the words "United States security assistance," the words "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,". 22 USC 2321j.

CHEMICAL WEAPONS PROLIFERATION

SEC. 590. None of the funds appropriated by this Act may be used to finance the procurement of chemicals, dual use chemicals, or chemical agents that may be used for chemical weapons production: *Provided,* That the provisions of this section shall not apply to any such procurement if the President determines that such chemicals, dual use chemicals, or chemical agents are not intended to be used by the recipient for chemical weapons production.

NOTIFICATIONS FOR EMERGENCY ASSISTANCE

SEC. 591. The prior notification requirements contained in section 523 of this Act may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided,* That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to this section shall contain an explanation of the circumstances necessitating the use of the authority of this section.

SUPPORT FOR EGYPTIAN MILITARY DEPLOYMENTS IN THE GULF

SEC. 592. MULTILATERAL DEBT NEGOTIATIONS.—The Congress finds that Egypt has official debt obligations that far exceed the amounts owed to the United States. The Congress further finds that Egypt's debt situation can be addressed effectively only in a multilateral context involving its major creditor governments and addressing both military and economic debt.

Therefore, before the authority contained in subsection (b) is exercised, the President shall seek to convene a multilateral conference of the major official creditors of the Government of Egypt for the purpose of adjusting Egypt's official debt in a manner which reflects the real collectability of that debt. President.

The President in such negotiations shall explicitly and strongly encourage other governments holding major amounts of Egyptian military debt to give that debt the same treatment that it is being accorded by the United States. President.

(a) DEBT MORATORIUM.—(1) There shall be a moratorium on the payment obligation by Egypt beginning on October 1, 1990, and ending on March 31, 1991, with respect to the notes described in paragraph (2).

(2) The notes with respect to which this moratorium shall apply are all notes made by Egypt evidencing amounts owed by Egypt to the United States (or any agency of the United States) as a result of loans made before October 1, 1990, by the United

States (or any of its agencies) to Egypt under the Arms Export Control Act (all such loans being hereinafter collectively referred to as the "AECA Loans").

(3) Section 518 of this Act, section 620(q) of the Foreign Assistance Act of 1961, and any other provision that similarly restricts the furnishing of assistance to countries in default on payment to the United States of principal or interest shall not apply during the moratorium described in paragraph (1) with respect to amounts owed by Egypt under the AECA Loans.

(4) Nothing in this subsection shall interfere with, or otherwise diminish, the obligation of the Secretary of Defense as guarantor with respect to the AECA Loans.

(b) DEBT CONSOLIDATION IN THE DEPARTMENT OF DEFENSE.—As soon as feasible after the enactment of this Act, the Secretary of Defense shall—

(1) issue to the Secretary of the Treasury sufficient notes or other obligations to purchase all notes made by Egypt evidencing amounts owed by Egypt to the United States (or any agency of the United States), other than amounts already owed to the Secretary of Defense, as a result of AECA Loans; and

(2) purchase all such notes made by Egypt, such purchase being considered to discharge the responsibilities of the Secretary of Defense as guarantor of such notes.

(c) PRESIDENTIAL REPORT ON THE REAL VALUE OF EGYPTIAN DEBT OWED TO THE UNITED STATES AND PRESIDENTIAL MILITARY DEBT REDUCTION AUTHORITY.—After the Department of Defense has taken the actions described in subsection (b)—

(1) the President shall submit a report to Congress in which he determines the value of the AECA Loans and all other loans owed by Egypt to the United States based on realistic payment expectations as of October 1, 1990, and an explanation of the factors considered by the President in determining the value; and

(2) after the President has submitted the report to Congress provided for in paragraph (1), the President may—

(A) reduce the amount owed by Egypt to the Secretary of Defense to an amount that equals the value of the AECA Loans as determined by the President in the report described in paragraph (1);

(B) direct the Secretary of Defense to amend, modify or otherwise alter the notes described in subsection (a)(2) so that the amended, modified or altered notes (the "amended notes") evidence a principal amount owed by Egypt to the Secretary of Defense equal to the value of the AECA Loans as determined under paragraph (1), and contain such terms and conditions as the President may determine consistent with the purposes of this section, provided that such terms and conditions shall not—

(i) reflect any interest accrued in respect of the period between October 1, 1990, and March 31, 1991; and

(ii) require Egypt to make any payment before March 31, 1991; and

(C) reduce the amount owed by the Secretary of Defense under all notes or other obligations issued by

the Secretary of Defense to the Secretary of the Treasury that are related to any guarantees of any AECA Loans (including all notes or other obligations issued under subsection (b)) by multiplying it by a fraction, the numerator of which shall equal the value of the AECA Loans as determined under paragraph (1), and the denominator of which shall equal the sum of (i) the amount owed by the Secretary of Defense under notes issued to the Secretary of the Treasury pursuant to subsection (b)(1), plus (ii) the amount owed by Egypt as a result of the AECA Loans to the Secretary of Defense as of October 1, 1990, plus (iii) the amount that Egypt would have owed as a result of the AECA Loans to the Secretary of Defense in respect of the period beginning October 1, 1990, and ending immediately before the President makes the reduction described in subsection (c)(2)(A).

The military debt reduction authority provided by this subsection shall be limited such that no reduction shall result in a decrease in the principal value of the AECA Loans below the discounted net present value which would result from a restructuring of the AECA Loans according to the terms and conditions which apply to the loans of the International Development Association (principal shall be repayable over 40 years and shall bear no interest, and there shall be a 10 year grace period after which period 2 per centum of the loan shall be repaid annually for a period of 10 years, and 4 per centum of the loan shall be repaid annually during the remaining years).

(d) DEBT CANCELLATION AUTHORITY.—(1) The President, notwithstanding any other provision of law, in the context of the multilateral debt negotiations provided for in this section may reduce to zero the amended notes (in the manner specified in subsection (e)(2) (A) and (B)) only if other major holders of Egyptian military debt agree to equal or comparable reductions. If such other creditors do not agree to comparable reductions in their Egyptian military debt the President shall so report to Congress. Reports.

(2) If the President reports to Congress under paragraph (1) then he may further determine that it is essential to the national security interests of the United States to unilaterally cancel the requirement of Egypt to repay the United States for such Egyptian military debt.

(e) CONSIDERATIONS.—(1) In making this determination under subsection (d)(2), the President may consider—

(A) the unique nature of Egypt's contribution to Desert Shield, and its leadership role in supporting international efforts in the face of Iraqi aggression in the Arabian Peninsula;

(B) the impact on the Egyptian economy of the events surrounding the Iraqi aggression;

(C) the long-term prospects for economic growth and stability in Egypt, and the effect on those prospects of such a determination;

(D) the role that Egypt's assumption of FMS debt played in furtherance of the common security interests of Egypt

and the United States, and the role if any that such debt was expected to have relative to other forms of official debt in generating income and promoting growth in the Egyptian economy;

(E) the willingness of other countries to participate in efforts to address the issue of official Egyptian military debt on a multilateral basis; and

(F) any other national security interests of the United States.

Operation Desert Shield.

(2) If the President determines in the report provided for in subsection (d) that doing so is essential to the success of Desert Shield, or to enhance peace and stability in the Middle East, then he is hereby authorized to reduce to zero—

(A) the amount owed by Egypt to the Secretary of Defense under the amended notes; and

(B) the amount owed by the Secretary of Defense under all notes or other obligations issued by the Secretary of Defense to the Secretary of the Treasury that are related to any guarantees of any AECA Loans, including all notes or other obligations issued under subsection (b)(1).

(f) The President may carry out the purposes of this section notwithstanding any other provision of law.

KENYA

President. Reports.

SEC. 593. Notwithstanding any other provision of law, none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program", may be made available for Kenya unless the President certifies, and so reports to the Congress, that the Government of Kenya is taking steps to—

(1) charge and try or release all prisoners, including any persons detained for political reasons;

(2) cease any physical abuse or mistreatment of prisoners;

(3) restore the independence of the judiciary; and

(4) restore freedoms of expression:

Provided, That none of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after such report is transmitted to the Congress.

POLICE TRAINING FOR EAST CARIBBEAN REGIONAL SECURITY SYSTEM

22 USC 2420.

SEC. 594. Section 660 of the Foreign Assistance Act of 1961 is amended by striking out "or" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting "; or" in lieu thereof, and by adding the following paragraph at the end of the subsection:

"(4) with respect to assistance provided to police forces in connection with their participation in the regional security system of the Eastern Caribbean states.".

ENTERPRISE FOR THE AMERICAS INITIATIVE

SEC. 595. (a) It is the sense of the Congress that the President's Enterprise for the Americas Initiative could encourage and support market-oriented reform and economic growth in Latin America and the Caribbean through interrelated actions to promote investment reforms, debt reduction and environmental protection.

(b) It is further the sense of the Congress that the President's proposal for the Enterprise for the Americas Initiative should be given prompt consideration.

EXCESS DEFENSE ARTICLES

SEC. 596. (a) The Congress finds that impending changes in the United States armed forces are likely to result in increased availability of excess defense articles to meet security assistance requirements. The Congress urges the President to make maximum use of available excess defense articles as a cost-effective supplement to funded security assistance programs to meet the legitimate defense requirements of eligible allies and friends. Accordingly, the President is urged to establish policies and procedures to ensure that excess assets are applied against such requirements. Accordingly, the Foreign Assistance Act of 1961 is amended as follows: 22 USC 2321m note.

(b) Chapter 2 of part II of the Foreign Assistance Act of 1961 is amended by adding the following at the end:

"SEC. 519. ADDITIONAL AUTHORITIES RELATING TO MODERNIZATION OF MILITARY CAPABILITIES.—(a) AUTHORITY TO TRANSFER EXCESS DEFENSE ARTICLES.—Notwithstanding any other provision of law (except title V of the National Security Act of 1947) and subject to subsection (b), the President may transfer to countries for whom a foreign military financing program was justified for the fiscal year in which the transfer is authorized, such nonlethal excess defense articles as the President determines necessary to help modernize the defense capabilities of such countries, in accordance with the provisions of this section. 22 USC 2321m.

"(b) LIMITATIONS ON TRANSFERS.—The President may transfer nonlethal excess defense articles under this section only if—

"(1) the equipment is drawn from existing stocks of the Department of Defense;

"(2) no funds available to the Department of Defense for the procurement of defense equipment are expended in connection with the transfer;

"(3) the President determines that the transfer of the nonlethal excess defense articles will not have an adverse impact on the military readiness of the United States; and

"(4) the President determines that transferring the articles under the authority of this section is preferable to selling them, after taking into account the potential proceeds from, and likelihood of, such sales, and the comparative foreign policy benefits that may accrue to the United States as the result of either a transfer or sale.

"(c) NOTIFICATION TO CONGRESS.—The President shall notify the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate, and the Committees on Appropriations, Armed Services, and Foreign Affairs of the House of Representatives fifteen days before transferring nonlethal excess defense articles under subsection (a), in accordance with the regular notification procedures of those committees. President.

"(d) WAIVER OF REQUIREMENT FOR REIMBURSEMENT OF DOD EXPENSES.—Section 632(d) shall not apply with respect to transfers of nonlethal excess defense articles under this section.

"(e) ANNUAL REPORT.—Commencing in 1991, not later than December 15 of each year, the President shall transmit to the committees described in subsection (c) a report with respect to the previous fiscal year which contains— President.

"(1) a list of the countries to which the President has furnished nonlethal excess defense articles under the authority of this section; and

"(2) the value of the excess nonlethal defense articles that were furnished to each such country.

"(f) TRANSPORTATION AND RELATED COSTS.—(1) Except as provided in paragraph (2), funds available to the Department of Defense shall not be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of this section.

"(2) Notwithstanding section 632(d) or any other provision of law, the President may direct the crating, packing, handling and transport of nonlethal excess defense articles without charge to a country if—

"(A) that country has an agreement providing the United States with base rights in that country;

"(B) that country is eligible for assistance from the International Development Association; and

"(C) the nonlethal excess defense articles are being provided to that country under the authority of this section.".

22 USC 2771.

(c) In section 31(d) of the Arms Export Control Act, insert the following after the word "law" ", and of any defense articles with respect to which the President submits a certification under section 36(b) of this Act.".

(d) During fiscal year 1991, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

JUDICIAL REFORM IN EL SALVADOR

President.

SEC. 597. (a) JUDICIAL REFORM PROGRAM.—An amount equivalent to 10 percent of the United States military assistance deposited in the Fund established pursuant to section 531(f) of this Act may be obligated and expended to assist in the carrying out of judicial reforms in El Salvador as described in this subsection only if the President certifies to Congress by October 1, 1991, that—

(1) the Government of El Salvador has made significant progress in establishing an independent civilian judiciary and prosecutorial and investigative system. For purposes of this paragraph "significant progress" means certification that—

(A) the Legislative Assembly and the Supreme Court are acting to consider the National Legislative Revisory Commission (CORELESAL) proposals which should include admission of co-conspirator testimony in murder cases and a commitment to the reform of labor law;

(B) the Salvadoran Government has reactivated the Judicial Protection Unit and that the safety of judges and witnesses is being adequately provided;

(C) the procedures for detaining suspects and the treatment of detainees are in compliance with standards set forth by the U.N. Human Rights Commission; and

(D) the Government of El Salvador has devised and commenced implementation of a plan to place the police force under civilian control, including the time period within which such plan is to be implemented and the actions that will be taken to effect its implementation; and

(2) the conditions set forth in section 538 of this Act with respect to investigation of murders are satisfied and reported by the President to the Committees on Appropriations. Reports.

(b) REFORMS.—Assistance for judiciary reform pursuant to subsection (a) shall be administered through the Administration of Justice program to support activities which further the progress described in paragraph (1).

EXTENSION OF PROVISIONS

SEC. 598. (a) Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended— 8 USC 1157 note.

(1) in subsection (b)(3), by striking "fiscal year 1990" and inserting "for each of fiscal years 1990, 1991, and 1992", and

(2) in subsection (e), by striking "October 1, 1990" each place it appears and inserting "October 1, 1992".

(b) Section 599E(b)(2) of such Act is amended by striking "September 30, 1990" and inserting "September 30, 1992". 8 USC 1255 note.

PRIORITY DELIVERY OF EQUIPMENT

SEC. 599. Notwithstanding any other provision of law, the delivery of excess defense articles that are to be transferred on a grant basis under Section 516 of the Foreign Assistance Act to NATO allies and to major non-NATO allies on the southern and southeastern flank of NATO shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

YUGOSLAVIA

SEC. 599A. Six months after the date of enactment of this Act, (1) none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to provide any direct assistance to the Federal Republic of Yugoslavia, and (2) the Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to use the voice and vote of the United States to oppose any assistance of the respective institutions to the Federal Republic of Yugoslavia: *Provided,* That this section shall not apply to assistance intended to support democratic parties or movements, emergency or humanitarian assistance, or the furtherance of human rights: *Provided further,* That this section shall not apply if all six of the individual Republics of the Federal Republic of Yugoslavia have held free and fair multiparty elections and are not engaged in a pattern of systematic gross violations of human rights: *Provided further,* That notwithstanding the failure of the individual Republics of the Socialist Federal Republic of Yugoslavia to have held free and fair multiparty elections within six months of the enactment of this Act, this section shall not apply if the Secretary of State certifies that the Socialist Federal Republic of Yugoslavia is making significant strides toward complying with the obligations of the Helsinki Accords and is encouraging any Republic which has not held free and fair multiparty elections to do so.

ISRAEL—MILITARY DRAWDOWN

SEC. 599B. (a) As a result of circumstances arising from the recent invasion by Iraq of Kuwait, Israel faces a heightened threat to its national security. In order to assist Israel in meeting this threat, the President may direct for the purposes of part II of the Foreign Assistance Act of 1961, the drawdown, for Israel, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value of $700,000,000 within nine months from the date of enactment of this Act.

(b) To the maximum extent feasible, drawdowns under subsection (a) shall be made from units withdrawn or to be withdrawn from Europe.

(c) In the event the President determines that the timing of the drawdown under subsection (a) would have an adverse impact on the readiness of the Armed Forces of the United States, the President may have such additional time as he deems appropriate to comply with the requirements of subsection (a). The President shall notify the Committees on Appropriations of any determination under this subsection, including an estimate as to when the total amount of the drawdown under subsection (a) will be completed.

President.

President. Reports.

(d) The President shall, within six months of the last drawdown under subsection (a), submit a report to the Committees on Appropriations which identifies the articles, services, and training drawn down under this section.

(e) Section 506(c) of the Foreign Assistance Act of 1961 (regarding the reimbursement of accounts) shall be applicable to the drawdown authority contained in this section.

(f) Section 632(d) of the Foreign Assistance Act of 1961 shall not apply with respect to drawdowns under this section.

BENEFITS FOR UNITED STATES HOSTAGES IN IRAQ AND KUWAIT AND UNITED STATES HOSTAGES CAPTURED IN LEBANON

5 USC 5561 note.

SEC. 599C. (a) ELIGIBILITY.—United States hostages in Iraq and Kuwait, and United States hostages captured in Lebanon, shall, subject to the availability of funds under subsection (e), be entitled to the benefits described in this section. Except as otherwise provided in this section or other provision of law, no such individual or any family member shall receive any benefit under the provisions of title 5, United States Code.

Regulations.

(b) PAYMENTS FOR DURATION OF HOSTAGE STATUS, LIFE INSURANCE, AND HEALTH INSURANCE.—(1) Not later than 30 days after the date of enactment of this Act, the Office of Personnel Management, after consultation with the Department of State, shall prescribe regulations, consistent with this section, for the application of the provisions of chapter 87 (relating to life insurance) and chapter 89 (relating to health insurance) of title 5, United States Code, to the United States hostages in Iraq or Kuwait, and United States hostages captured in Lebanon, and their family members for the period that such hostages remain in hostage status.

(2) United States hostages in Iraq or Kuwait, and United States hostages captured in Lebanon, shall, subject to the availability of funds under subsection (e), be paid at the rate of pay for a position at GS-9 of the General Schedule for the period in which such hostages remained in a hostage status without the hostages (or their family

members on their behalf) receiving salaries or wages from their employers.

(3) During the period of an individual's hostage status and during the 12-month period after the hostage status of that individual ceases, such individual and his family members shall, subject to the availability of funds under subsection (e), be entitled to health benefits covered by paragraph (1) if such benefits were not provided by any other insurance coverage.

(4) During the period of an individual's hostage status and during the 12-month period after the hostage status of that individual ceases, that individual shall, subject to the availability of funds under subsection (e), be entitled to life insurance benefits covered by paragraph (1) if such benefits were not provided by any other insurance coverage.

(c) ADMINISTRATION OF AUTHORITIES.—(1) For purposes of this section, the Secretary of State shall certify to such officer of the United States as may require such information the names of the United States hostages in Iraq and Kuwait, and United States hostages captured in Lebanon, and their family members.

(2) For purposes of the protection of the identity of any individual, the Secretary of State may submit any certification under this subsection in classified form.

(3) The Secretary of State may require of any individual such verification of hostage status as he may deem necessary.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "hostage status" means, with respect to United States hostages in Iraq and Kuwait, the status of being held in custody by governmental or military authorities of a country or taking refuge within that country in fear of being taken into such custody (including residing in any diplomatic mission or consular post in that country); and, with respect to United States hostages captured in Lebanon, the status of a person described in paragraph (4)(B);

(2) the term "family members" means spouses, dependents, and any individuals who are members of the households of United States hostages in Iraq and Kuwait or United States hostages captured in Lebanon;

(3) the term "United States economic sanctions against Iraq" means the exercise of authorities under the International Emergency Economic Powers Act by the President with respect to financial transactions with Iraq;

(4)(A) the term "United States hostages in Iraq and Kuwait" means United States nationals, or family members of United States nationals, who are in a hostage status in Iraq or Kuwait during the period beginning on August 2, 1990, and terminating on the date on which United States economic sanctions against Iraq are lifted; and

(B) the term "United States hostages captured in Lebanon" means United States nationals who have been forcibly detained, held hostage, or interned by an enemy government or its agents, or a hostile force, in Lebanon since January 1, 1990.

(5) the term "United States national" means any individual who is a citizen of the United States or who, though not a citizen of the United States, owes permanent allegiance to the United States.

(e) ALLOCATION OF FUNDS.—(1) Of the funds appropriated by this Act under the heading "Economic Support Fund", up to $10,000,000 shall be available to carry out this section.

(2) The authority to obligate funds under the authority provided by this section shall expire six months after the date of enactment of this Act.

PROTECTION OF CHILDREN

22 USC 2151n.

SEC. 599D. Amend Section 116 of the Foreign Assistance Act of 1961 to add a new subsection:

"(b) No assistance may be provided to any government failing to take appropriate and adequate measures, within their means, to protect children from exploitation, abuse or forced conscription into military or paramilitary services.".

INTERNATIONAL CRIMINAL COURT

SEC. 599E. (a) The Congress finds that—

(1) the international community has defined as criminal conduct in various international conventions, certain acts such as war crimes, crimes against humanity, torture, piracy and crimes on board commercial vessels, aircraft hijacking and sabotage of aircraft, crimes against diplomats and other internationally protected persons, hostage-taking, and illicit drug cultivation and trafficking;

(2) in spite of these international conventions, the effective prosecution of those who commit criminal acts has been seriously obstructed in certain cases because of problems of extradition and differences between the legal and judicial systems of individual nations;

(3) the jurisdiction of the International Court of Justice extends only to cases involving governments, and not to individual criminal cases;

(4) the concept of an international criminal court has been under consideration in the United Nations and other international fora for many years, including proposals and reviews undertaken in 1990 by the United Nations General Assembly, the International Law Commission, and the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders;

(5) the international military tribunals established in Nuremburg, Germany, and Tokyo, Japan, following World War II also establish a precedent for international criminal tribunals; and

(6) there is growing movement among nations of the world to formulate their economic, political and legal systems on a multilateral basis.

(b) It is the sense of Congress that—

(1) the United States should explore the need for the establishment of an International Criminal Court on a universal or regional basis to assist the international community in dealing more effectively with criminal acts defined in international conventions; and

(2) the establishment of such a court or courts for the more effective prosecution of international criminals should not dero-

gate from established standards of due process, the rights of the accused to a fair trial and the sovereignty of individual nations.

(c) The President shall report to the Congress by October 1, 1991, the results of his efforts in regard to the establishment of an International Criminal Court to deal with criminal acts defined in international conventions. President. Reports.

(d) The Judicial Conference of the United States shall report to the Congress by October 1, 1991, on the feasibility of, and the relationship to, the Federal judiciary of an International Criminal Court. Reports.

PROGRESS AND LEADERSHIP OF THE CITIZENS DEMOCRACY CORPS

SEC. 599F. The President shall report to Congress the name of a qualified individual from the private sector who will serve as the Chairman of the Citizens Democracy Corps (CDC) Commission who will select other private citizens from business, educational, agricultural, voluntary, or philanthropic activities to serve on the Commission; and by December 15, 1990, the President shall submit a report to Congress regarding the CDC's strategic implementation plan, to include: (1) private sector funding; (2) cumulative and planned government funding; (3) a strategy and timetable for making the CDC self-financing through private donations; (4) details on CDC volunteer assignments and assignment priorities in Eastern Europe; and (5) a plan for acquiring state and Federal charters for the CDC. President. Reports.

POLAND

SEC. 599G. (a)(1) The freely-elected Government of Poland has reshaped the country's economic policies with great courage and consistency in a manner that will foster the establishment of a functioning market economy in the near future;

(2) the Government of Poland and people alike have proven their willingness to endure economic hardships, such as a marked drop in the standard of living, in employment levels, and in the nation's industrial output, in order to create the necessary conditions for a comprehensive economic reform;

(3) the economic program is based on the recognition of the Polish authorities that a stable and easily convertible currency is paramount to the economic transformation of Poland;

(4) inflation in Poland has actually declined and the budget deficit been reduced as a consequence of the determination of Poland's policy makers;

(5) private ownership of the means of production has been achieved on a broad basis;

(6) the continued success of economic reform hinges upon tangible improvements in the economic conditions for each and every citizen;

(7) private sector companies from the United States and elsewhere have responded very favorably to the Government of Poland's determination to bring about meaningful reform;

(8) the greatest challenge for the new government is to service the staggering debt run up by the previous communist regime; and

(9) the servicing of this debt out of current revenues endangers a successful completion of the reform process because it consumes a large part of the resources needed for economic expansion: Now, therefore, be it

(b) The sense of the Congress that—

(1) Poland's debt service should be reduced in the appropriate manner to safeguard the promising reform concept;

(2) any solution of this problem should entail a broad range of approaches, such as outright debt reduction, debt service reduction, and lengthening of maturities, as well as an infusion of new capital;

(3) the Western governments, which are Poland's major creditors, should take speedy action in this area and private banks should also be prepared to contribute their share to this effort of reducing Poland's debt in order to allow the newly democratized country to bring its market reform program to a successful conclusion; and

(4) the President should undertake the appropriate measures on the part of the United States to bring the deliberations in the Paris Club to a favorable decision on the issue of reducing Poland's debt.

PRECURSOR CHEMICALS

22 USC 2291 note.

SEC. 599H. (a) NEGOTIATIONS.—(1) The Attorney General shall enter into negotiations with the appropriate law enforcement and judicial agencies and any other officials of any foreign country with jurisdiction over companies who manufacture, market, sell or purchase certain precursor and/or essential chemicals used in the production of illicit narcotics. The priority of negotiations should be determined based on an assessment by the Attorney General which countries have jurisdiction over companies that may be knowingly or unknowingly supplying chemicals for the illicit manufacture of controlled substances.

(2) The purposes of the negotiations shall be to (a) establish a list of precursor and essential chemicals contributing to the illicit manufacture of controlled substances, as defined in section 102 of the Controlled Substances Act (21 USC 802); (b) reach one or more international agreements on a method for maintaining records of transactions of these listed chemicals; (c) establish a procedure by which such records may be made available to (and kept confidential as necessary by) United States law enforcement authorities for the exclusive purpose of conducting an investigation relative to precursor chemicals, essential chemicals and/or controlled substances contributing to the manufacture of illicit narcotics; and (d) encourage chemical source countries to enact national chemical control legislation which would (i) impose specific record keeping and reporting requirements for domestic transactions involving listed chemicals; (ii) establish a system of permits or declarations for imports and exports of listed chemicals; and (iii) authorize government officials to seize or suspend shipments of listed chemicals based on evidence that they may be destined for the illicit manufacture of controlled substances.

International agreements. Records. Confidential business information.

(b) REPORTS.—Not later than one year after the date of enactment of this Act, the Attorney General shall submit an interim report to the Judiciary Committee and the Foreign Relations Committee of the Senate on progress in the negotiations. Not later than eighteen months from the date of enactment, the Attorney General shall submit a final report to the aforementioned Senate Committees on the result of negotiations identifying countries with which agreements have not been reached and which have jurisdiction over companies believed to be engaged in the manufacture, marketing,

sale or purchase of precursor and/or essential chemicals used in illicit manufacture of controlled substances.

President. Records. Business and industry.

(c) PENALTIES.—After consulting with the Attorney General and the Director of the Office of National Drug Control Policy, the President shall impose penalties or sanctions including temporarily or permanently prohibiting any corporation, partnership, individual or business association (i) refusing to maintain records for the purpose of monitoring and regulating transactions of listed precursor chemicals, or (ii) refusing to make such records available to United States law enforcement authorities for investigative purposes (in coordination with the local law enforcement agency in which such corporation, partnership, individual, or business association resides, is created or has its principal place of business) from engaging in any or all transactions, in goods or services, within the commerce of the United States.

(d) DEFINITIONS.—A record under subsection (a) shall be retrievable and include the date of the transaction, the identity of each party to the transaction, including the ultimate consignee, and accounting of the quantity and form of listed chemical(s) and a description of the method of transfer.

(e) This section shall not apply to the manufacture, distribution, sale, import or export of any drug which may, under the Federal Food, Drug and Cosmetic Act be lawfully sold over-the-counter without prescription.

VIETNAM TRAVEL

SEC. 599I. (a) The Senate hereby finds—

(1) the Government of the United States has maintained economic sanctions against the government of the Socialist Republic of Vietnam since April 30, 1975 under the auspices of the Trading with the Enemy Act, and as regulated by the Office of Foreign Assets Control of the United States Department of Treasury,

(2) individual citizens of the United States are authorized to travel in Vietnam but are limited in monetary expenditures to $100 per day, to be used only for personal travel related expenses, and are prohibited from conducting business dealings with Vietnam or citizens of Vietnam,

(3) the international community, exclusive of the United States, has significantly increased its commercial contacts within Vietnam, and that foreign investment in Vietnam doubled from January 1989 to January 1990,

(4) the government of the Socialist Republic of Vietnam has been cooperative in working with the United States and other nations toward a settlement of the Cambodian political situation,

(5) by the end of 1989, the government of Vietnam had completed a withdrawal of its combat troops from the territory of Cambodia, and

(6) pending a final Cambodian settlement, the remaining questions regarding United States POWs and MIAs are the most important factor in determining the future course of United States-Vietnamese relations.

(b) It is the sense of the Senate, that in recognition of the fact that the government of Vietnam has been cooperative in working toward a resolution of longstanding issues of conflict with the United

States, that the $100.00 per day limit on personal expenses of United States citizens travelling in Vietnam should be raised to an appropriate level.

WEST BANK SCHOOLS

SEC. 599J. The United States Congress commends Israel's decision to open the schools on the West Bank announced on June 22, 1989, including the opening of all colleges, the Al-Quds University on June 16, 1990, and Bethlehem University on August 30, 1990. The Congress understands that all schools will be opened at an early date, and expresses the hope that they will remain open, and will be respected and regarded by all parties as places of learning.

PUBLIC LAW 480

Agricultural commodities.

SEC. 599K. Funds appropriated in the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991 for title III of the Agricultural Trade Development and Assistance Act of 1954 shall be made available for the donation of commodities as authorized by law.

International Forestry Cooperation Act of 1990.

TITLE VI—INTERNATIONAL FORESTRY COOPERATION

SEC. 601. SHORT TITLE.

Environmental protection. 16 USC 4501 note.

This title may be cited as the "International Forestry Cooperation Act of 1990".

SEC. 602. FORESTRY AND RELATED NATURAL RESOURCE ASSISTANCE.

16 USC 4501.

(a) FOCUS OF ACTIVITIES.—To achieve the maximum impact from activities undertaken under the authority of this title, the Secretary shall focus such activities on the key countries which could have a substantial impact on emissions of greenhouse gases related to global warming.

(b) AUTHORITY FOR INTERNATIONAL FORESTRY ACTIVITIES.—In support of forestry and related natural resource activities outside of the United States and its territories and possessions, the Secretary of Agriculture (hereinafter referred to in this title as the Secretary) may—

(1) provide assistance that promotes sustainable development and global environmental stability, including assistance for—

(A) conservation and sustainable management of forest land;

(B) forest plantation technology and tree improvement;

(C) rehabilitation of cutover lands, eroded watersheds, and areas damaged by wildfires or other natural disasters;

(D) prevention and control of insects, diseases, and other damaging agents;

(E) preparedness planning, training, and operational assistance to combat natural disasters;

(F) more complete utilization of forest products leading to resource conservation;

(G) range protection and enhancement; and

(H) wildlife and fisheries habitat protection and improvement;

(2) share technical, managerial, extension, and administrative skills related to public and private natural resource administration;

(3) provide education and training opportunities to promote the transfer and utilization of scientific information and technologies;

(4) engage in scientific exchange and cooperative research with foreign governmental, educational, technical and research institutions; and

(5) cooperate with domestic and international organizations that further international programs for the management and protection of forests, rangelands, wildlife and fisheries, and related natural resource activities.

(c) ELIGIBLE COUNTRIES.—The Secretary shall undertake the activities described in subsection (b), in countries that receive assistance from the Agency for International Development only at the request, or with the concurrence, of the Administrator of the Agency for International Development.

SEC. 603. TROPICAL DEFORESTATION ASSESSMENT AND ASSISTANCE. 16 USC 4502.

In support of the Tropical Forestry Action Plan and to specifically address tropical deforestation and degradation, the Secretary may—

(1) support and actively participate in global and regional meetings that seek to reform such Plan;

(2) together with the United States Agency for International Development, and other Federal agencies, provide technical assistance to tropical countries for the formulation of national forestry sector development strategies; and

(3) cooperate with tropical countries on research, training, and technical programs aimed at implementing national forestry sector development strategies.

SEC. 604. INSTITUTE OF TROPICAL FORESTRY. 16 USC 4503.

(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities at the Caribbean National Forest and Institute of Tropical Forestry in Puerto Rico, as the Secretary determines necessary to support the purpose of this title, and as funds are appropriated for such expansion and construction.

(b) TROPICAL FORESTRY PLANS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and to the Committees on Appropriations of the Senate and House of Representatives, a tropical forestry plan for the expansion and construction of additional facilities under subsection (a). Such plan shall include provisions for—

(1) the construction or acquisition of a major center for education, interpretation, and appreciation of the benefits and methods of the intelligent management of tropical forests;

(2) the acquisition or construction of facilities for housing and classroom instruction near the Caribbean National Forest/ Luguillo Experimental Forest; and

(3) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish and plant species.

16 USC 4504.

SEC. 605. ADMINISTRATIVE PROVISIONS.

(a) COORDINATION OF ACTIVITIES.—The Secretary shall coordinate all activities outside of the United States under this title with other Federal officials, departments, agencies, and international organizations, as the President may require.

(b) ASSISTANCE.—The Secretary may provide assistance, as determined appropriate by the Secretary to carry out this title, including technical and financial assistance, equipment, and facilities without reimbursement.

16 USC 4505.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

SEC. 607. CONFORMING AMENDMENTS.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH ACT.—The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended—

(1) in section 2 (16 U.S.C. 1641)—

(A) by inserting "(1)" after "(a)";

(B) by adding at the end of subsection (a) the following new paragraph:

"(2) Congress further finds that the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other uses, over-grazing, over-harvesting, and other causes that pose a direct adverse threat to people, the global environment, and the world economy."; and

(C) by adding at the end thereof the following new subsection:

Agricultural research.

"(c) It is the purpose of this Act to authorize the Secretary to expand research activities to encompass international forestry and natural resource issues on a global scale."; and

(2) in the first section of section 4(c) (16 U.S.C. 1643(c)), by inserting "international," before "Federal".

(b) COOPERATIVE FORESTRY ASSISTANCE ACT.—The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. et seq.) is amended—

16 USC 2101.

(1) in section 2(a)—

(A) by striking "and" at the end of paragraph (16);

(B) by striking the period at the end of paragraph (17) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(18) the same forest resource supply, protection, and management issues that exist in the United States are also present on an international scale, and the forest and rangeland renewable resources of the world are threatened by deforestation due to conversion to agriculture of lands better suited to other purposes, over-grazing, over-harvesting, and other causes which pose a direct adverse threat to people, the global environment, and the world economy.";

(2) in section 2(b), by inserting "in the United States, and forest lands in foreign countries," after "non-Federal forest lands," the first place it appears and in paragraph (10); and

16 USC 2109.

(3) in section 12, by adding at the end thereof the following new subsection:

"(h) In addition to the authority provided elsewhere in this Act, the Secretary may provide assistance to other countries with respect to the activities described in paragraphs (1) through (10) of section 3(b), paragraphs (1) through (5) of section 7(b), and paragraphs (1) through (3) of section 9(b). For the purposes of providing assistance to other countries under this subsection, the term 'non-Federal forest land' shall mean any forest land and related renewable natural resources in such countries. In providing the assistance authorized under this subsection, the Secretary shall coordinate with other Federal officials, departments, agencies, or international organizations, as the President may direct. The references to 'State foresters or equivalent State officials' in this Act shall not apply to the assistance provided by the Secretary to other countries under this subsection.".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5114:

HOUSE REPORTS: No. 101-553 (Comm. on Appropriations), and No. 101-968 (Comm. of Conference).
SENATE REPORTS: No. 101-519 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 27, considered and passed House.
Oct. 12, 19, 22, 24, considered and passed Senate, amended.
Oct. 27, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-514
101st Congress

An Act

Nov. 5, 1990
[H.R. 5019]

Making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

Energy and Water Development Appropriations Act, 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $146,435,000, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1991 in the amounts specified:

Casino Beach, Chicago, Illinois, $220,000;
McCook and Thornton Reservoirs (CUP), Illinois, $2,000,000;
Lake George, Hobart, Indiana, $125,000;
Little Calumet River Basin (Cady Marsh Ditch), Indiana, $220,000;
Ste. Genevieve, Missouri, $600,000;
Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $1,900,000;
Miami River Sediments, Florida, $200,000;
Monroe County Beach Erosion (Smathers Beach), Florida, $193,000;
Wyoming Valley Levee Raising, Pennsylvania, $1,000,000:

Provided further, That not to exceed $27,200,000 shall be available for obligation for research and development activities: *Provided*

further, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete preconstruction engineering and design of the LaConner, Washington, project using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1990, Public Law 101-101: *Provided further,* That the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to conduct research and development associated with an advanced high speed magnetic levitation transportation system: *Provided further,* That notwithstanding any other provision of law, the funds appropriated to the Corps of Engineers in Public Law 101-101 for Magnetic Levitation Research and Development activities are hereby authorized for expenditure only in accordance with the directions contained in Senate Report 101-83 and House Report 101-235: *Provided further,* That with $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to resume preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $250,000 of the funds appropriated herein to complete the Los Angeles-Long Beach Harbors project feasibility study and is further directed to use $2,000,000 of the funds appropriated herein to initiate preconstruction engineering and design of that project upon release of the South Pacific Division Engineer's notice of completion of the feasibility report: *Provided further,* That with $200,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1990, Public Law 101-101, together with $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Red River Waterway, Index, Arkansas, to Denison Dam, Texas, project: *Provided further,* That with $800,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to accelerate preconstruction engineering and design for the Folly Beach, South Carolina, project and complete the General Design Memorandum by May 1991 so that project construction could begin in the fourth quarter of fiscal year 1992: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $300,000 of the funds appropriated herein to initiate and expedite a reconnaissance study to develop a recommended plan for flood damage prevention and other water resources problems along the Ohio River and its tributaries in Belmont and Jefferson Counties, Ohio: *Provided further,* That using $270,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete engineering and design of the Bethel, Alaska, bank stabilization project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, alteration and removal of obstructive bridges, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for

selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,050,450,000, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided,* That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1991 in the amounts specified:

O'Hare Reservoir, Illinois, $4,300,000;

Red River Emergency Bank Protection, Arkansas and Louisiana, $4,100,000, which is to be utilized to construct emergency bank stabilization measures including repairs to revetments and realignments upstream of Shreveport, Louisiana, to Index, Arkansas, that were significantly damaged in the May 1990 flood in the Red River Basin;

Hansen Dam, California, $272,000;

Kissimmee River, Florida, $6,000,000;

Wallisville Lake, Texas, $9,200,000;

Red River Basin Chloride Control, Texas and Oklahoma, $5,000,000;

Shinnecock Inlet, New York, $3,000,000;

Platte River Flood and Streambank Erosion Control Demonstration Project, Nebraska, $1,500,000;

San Diego River and Mission Bay, California, $975,000;

Tampa Bay (Port Sutton), Florida, $500,000:

Provided further, That with $7,500,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further,* That with $20,500,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further,* That $6,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the lower Mingo County, West Virginia element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367, in accordance with the costsharing principles of Public Law 99-662 using continuing contracts: *Provided further,* That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, and lower Mingo County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further,* That the project for flood protection for the town of Matewan, West Virginia, shall include all incorporated units within the town of Matewan: *Provided further,* That with funds herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is com-

plete in accordance with the terms and conditions of Public Law 101-101 for the O'Hare Reservoir, Illinois, and Wallisville Lake, Texas, projects: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the Kanawha River, Charleston, West Virginia, and Kanawha River, Saint Albans, West Virginia, projects using funds appropriated in the Energy and Water Development Appropriations Act, 1988, Public Law 100-202: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to permit the non-Federal sponsors for the Fort Toulouse, Elmore County, Alabama, and Mound State Park, Moundville, Alabama, projects to contribute, in lieu of cash, all or any portion of their share of the projects with work in-kind: *Provided further,* That using $400,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1) in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further,* That using $500,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to complete engineering and design and proceed with construction in fiscal year 1991 of riverbed gradient restoration facilities in the vicinity of mile 206 of the Sacramento River, California, pursuant to the authority provided in section 102 of Public Law 101-101, the Energy and Water Development Appropriations Act, 1990: *Provided further,* That with $550,000 of the funds herein appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, engineering, design, and construction of the Des Moines Recreational River and Greenbelt, Iowa, project in accordance with the terms and conditions for construction in Public Law 100-202: *Provided further,* That with $3,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to approve the remaining design memoranda and to continue land acquisition at Red Rock Lake and Dam, Iowa, in accordance with Public Law 99-190: *Provided further,* That using $975,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to repair and restore to a safe condition the existing Tulsa and West Tulsa Local Protection Project, Oklahoma, authorized by the Flood Control Act approved August 18, 1941, Public Law 73-228, at an estimated cost of $1,300,000. The non-Federal share of the project will be in accordance with the provisions of title I, section 103, of Public Law 99-662, for flood control purposes: *Provided further,* That using $550,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is hereby directed to study, design and construct streambank protection measures along the east shoreline of McGregor Park in the city of Clarksville, Tennessee, on Lake Barkley, under the authority of section 14 of Public Law 79-526: *Provided further,* That using $970,000 of funds appropriated herein, the Secretary of the Army is directed to relocate the Southeast Light on Block Island, Rhode Island to a more suitable location, subject to enactment into law of authorizing legislation: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary

is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use $1,000,000 of the funds appropriated herein to initiate the design; and, in addition, $92,636,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary is directed to continue the first phase of construction of Locks and Dams 4 and 5 that were initiated in 1990 and continue at an accelerated rate the design of the second phase contracts for Locks and Dams 4 and 5 in order to be prepared to initiate them in the second quarter of fiscal year 1992, to repair damages caused by the 1990 flood to project features that are complete or currently under construction, and to award continuing contracts in fiscal year 1991 for construction of the following features of the Red River Waterway which are not to be considered fully funded: Grappe Capout, Fausse Capout, Socot Capout, Grappe Realignment, McDade Revetment, Moss Revetment, Elm Grove Revetment, Cecile Revetment: *Provided further,* That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make available $150,000 for engineering, design, acquisition and construction of a support structure to serve as the foundation for the Seafarers Memorial in the Columbia River, in cooperation with the City of Hammond, Oregon.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $344,606,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further,* That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further,* That using $236,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the Horn Lake Creek and Tributaries (including Cow Pen Creek), Tennessee and Mississippi, project: *Provided further,* That the Secretary of the Army is hereby directed to expedite the acquisition, in fee simple, of lands, excluding minerals, for public access in the Atchafalaya Basin Floodway System, Louisiana, as authorized by Public Laws 99-88, 99-662, and 100-202. The Secretary is authorized to include in any transfer of real property, in fee simple, excluding minerals, for public access pursuant to Public Laws 99-88, 99-662, and 100-202, language requiring the United States, in the event that the property is no longer required for public access and prior to any subsequent sale, exchange, or other transfer of the property

acquired, to first offer such property to the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair market value. This authority is effective July 1, 1989, and the Secretary is further authorized to correct and amend deeds executed and delivered prior to said date to incorporate this provision: *Provided further,* That with $2,000,000 herein appropriated or with funds hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to award continuing contracts until construction is complete for the West Memphis and Vicinity, Arkansas, project authorized by section 401(a) of the Water Resources Development Act of 1986 as modified by the General Design Memorandum 101, dated May 1990: *Provided further,* That using $400,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the authorized Ouachita River Levees project in Louisiana and that rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this critical urban protection is to be accomplished at Federal expenses; and, in addition, the Bayou Rapides Drainage Structure and Pumping Plant is to be included as a feature of the Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee project, Lower Red River, South Bank Levee.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,450,669,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $20,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided,* That $3,630,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for the Long-Term Management Strategy for dredged material disposal in the San Francisco Bay, California, region: *Provided further,* That $2,500,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreation facilities at Sepulveda Dam, California: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $3,500,000 of the funds appropriated herein for the Federal share of construction of access facilities in the McAlpine Lock and Dam navigation pool. The non-Federal interests shall be credited for previous work related to access, including $3,000,000 for 1,060 feet of the new downtown wharf. Non-Federal interests shall provide necessary easements to the Federal Government for construction of improvements at no

cost to the Federal Government. Title for lands shall remain with non-Federal interests: *Provided further,* That $100,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the Sauk Lake, Minnesota, project: *Provided further,* That with $350,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to use continuing contracts to design and construct a riverfront park at Charleston, West Virginia, in accordance with the cost sharing principles of Public Law 99-662 and as generally described in the September 1989 Reconnaissance Report of the Huntington District entitled, Charleston Riverfront Park, Winfield Navigation Pool, Kanawha River: *Provided further,* That no fully allocated funding policy shall apply to construction of Charleston Riverfront Park, West Virginia: *Provided further,* That $200,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, using $900,000 of the funds appropriated herein, is directed to undertake a major rehabilitation of the Johnstown, Pennsylvania, project to insure that the project will continue to provide the authorized level of protection in the future. The Secretary is further directed to investigate those non-federally owned buildings, embankments and walls which were included in the line of protection for the convenience of the Government and to perform needed repair, rehabilitation or replacement at Federal expense subject to the following terms: (1) The City of Johnstown secures needed rights of access to such structures; (2) the City of Johnstown agrees to hold and save the United States free from damages due to construction or operation and maintenance of the work on the non-Federal structures, except for damages due to the fault or negligence of the United States or its contractors: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake improvements to roads, utilities, and other facilities at the Crowder Point East Recreation Area at Eufaula Lake, Oklahoma, using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371: *Provided further,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That of the funds appropriated herein, $7,000,000 is for a new bridge over the Chesapeake and Delaware Canal at Saint Georges, Delaware, as proposed by the State of Delaware, and as authorized by laws.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters, including bridges, and wetlands, $71,100,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the

Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $136,100,000, of which $9,500,000 shall be derived from funds appropriated to "General expenses" by Public Law 101-302; to remain available until expended: *Provided,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the conceptual study of potential field organization structures in accordance with Senate Report 101-83 and Conference Report 101-235 accompanying Public Law 101-101.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed $5,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 170 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Section 4(t)(3)(F) of the Water Resources Development Act of 1988, Public Law 100-676, is amended by striking "September 30, 1989: *Provided*, That the total amount forgiven shall not exceed $600,000." and inserting in lieu thereof "June 30, 1990.". 103 Stat. 650.

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct the Pennington Creek project with funds previously appropriated for dredging of Pennington Creek, Denison Dam-Lake Texoma, Texas, under Operations and Maintenance, General, and as outlined in the Tulsa District Engineer's report as submitted to the Chief of Engineers on February 22, 1989, at full Federal expense. Construction of this project is contingent upon a local sponsor signing an agreement to operate and maintain the project at non-Federal expense.

SEC. 103. The project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168) is modified to authorize the Secretary of the Army to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1989, as revised on January 1990, at a total cost

of $26,200,000 with an estimated Federal first cost of $16,090,000, and an estimated first non-Federal cost of $10,110,000.

SEC. 104. Notwithstanding the provisions of section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a) the Secretary of the Army is directed to credit and/or reimburse the local sponsor of the Maumee Bay State Park project in Ohio for work completed by the local sponsor on the eastern segment of the authorized project before November 17, 1988, in an amount equal to the Federal share of the costs of such work. Such credit and/or reimbursement shall be applied to the local sponsor's share of the construction costs of the western segment of the authorized project.

Government contracts.

SEC. 105. Section 228 of the Flood Control Act of 1970 (Public Law 91-611, 84 Stat. 1818, 1832), is modified to direct the Secretary of the Army to conclude a Local Cooperative Agreement for the facilities across the Missouri River in the vicinity of Ft. Yates, North Dakota, at an estimated total cost of $22,800,000. For fiscal year 1991 there is authorized and appropriated for planning, engineering, and design on this project, $250,000. The non-Federal share of the cost of work directed by this section shall be 10 percent. Upon completion, non-Federal interests shall own, operate, and maintain such bridge and approach facilities.

SEC. 106. SAN LUIS REY RIVER, CALIFORNIA.—The project for flood control, San Luis Rey River, California, approved by resolutions of the Committee on Public Works, United States Senate, and the Committee on Public Works and Transportation, House of Representatives, on December 17, 1970, and December 15, 1970, respectively, in accordance with the provisions of section 201 of the Flood Control Act of 1965 (Public Law 84-298) is modified substantially in accordance with the Supplemental Phase II General Design Memorandum dated December 1987, at an estimated total cost of $60,400,000, with a Federal first cost of $45,000,000, and a non-Federal first cost of $15,300,000.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $13,221,000: *Provided,* That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for

construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $642,897,000, of which $145,063,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $185,768,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further,* That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further,* That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further,* That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of

flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $221,516,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l-6a, as amended), may be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

43 USC 618d note.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422l), including expenses necessary for carrying out the program, $5,708,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $4,946,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions

as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $51,431,000, of which $600,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund. 43 USC 502 note.

WORKING CAPITAL FUND

For acquisition of computer capacity for the Business System Acquisition project, and other capital equipment and facilities, $4,831,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 460l-6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance

Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467), and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided,* That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

43 USC 377a.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.). Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Bureau of Reclamation, Department of the Interior, shall not exceed $400 annually.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. (a) AUTHORIZATION.—The Secretary is authorized and directed to enter into a contract with the McGee Creek Authority, Oklahoma City, Oklahoma, accepting a payment in an amount to be determined by the Secretary after appropriate investigation.

(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the McGee Creek Water Authority's obligation under contract between the Authority and the Secretary numbered 0-07-50-X0822, dated October 11, 1979, shall be terminated.

(c) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the McGee Creek Water Authority pursuant to section 205 (a) and (b) of this language or pursuant to any contract with the Secretary, title to project facilities of the McGee Creek Project, Oklahoma, shall remain with the United States.

SEC. 206. (a) Except as provided in subsection (b) of this section, none of the funds appropriated in this or any other Act shall be used to execute new long-term contracts for water supply from the Central Valley Project, California. California. Government contracts.

(b)(1) The Secretary of the Interior is authorized and directed to enter into the following contracts: (A) a municipal and industrial water supply contract with the Sacramento County Water Agency, not to exceed 22,000 acre-feet annually, to meet the immediate needs of Sacramento County and a municipal and industrial water supply contract with the San Juan Suburban Water District, not to exceed 13,000 acre-feet annually, for diversion from Folsom Lake, with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County, (ii) implement water conservation and metering programs within the areas served by the contract, and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and groundwater; and (B) a municipal and industrial water supply contract with the El Dorado County Water

Agency, not to exceed 15,000 acre-feet annually, for diversion from Folsom Lake or for exchange upstream on the American River or its tributaries, considering reasonable efforts to implement water conservation programs within areas to be served by the contracts. The contracts required by this subsection are intended as the first phase of a contracting program to meet the long-term water supply needs of Sacramento and El Dorado Counties. The Secretary shall promptly initiate the necessary analysis for the long-term water supply contracts. The Secretary shall include in these contracts terms and conditions to ensure that the contracts may be amended in any respect required to meet the Secretary's obligations under applicable State law and the Federal environmental laws.

(2) Prior to entering into the contracts specified in subsection (b)(1) of this section, the Secretary is directed to comply with the provision of the National Environmental Policy Act by preparing joint Environmental Impact Statements and California Environmental Quality Act Environmental Impact Reports. The Sacramento County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(A) of this section and the El Dorado County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(B), with the Bureau of Reclamation cooperating in all aspects of the environmental review process, but not controlling that process.

(3) Diversions from the American River under the contract for the Sacramento County Water Agency shall, to the maximum extent reasonable and feasible, take place at or near the mouth of the American River.

SEC. 207. The Secretary of the Interior is authorized and directed to pay, without reimbursement, $1,000,000 to the Fall River Rural Electric Cooperative in reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho. Such payment shall be made on the date the hydroelectric electric power facilities are placed in service and shall not affect cost allocations or repayment provisions for the Minidoka Project.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $2,527,082,000, to remain available until expended, of which $89,842,500 shall be available only for the following facilities: Advanced Technology Center, Indiana State University; Center for Energy Resources Management, University of New Orleans; Biomedical Research

Facility, University of Alabama at Birmingham; Biomedical Research Facility, Case Western Reserve University; Energy Science Research Facility at Boston College; Center for Nuclear Medicine Research in Alzheimer's Disease and Related Disorders, Health Sciences Center, West Virginia University; Gazes Cardiac Research Institute, Medical University of South Carolina; Biomedical Research Institute, Louisiana State University Medical Center, Shreveport, Louisiana; the Neurosensory Research Center, Oregon Health Sciences University; and the Physical Sciences Center, Fort Hays State University, Fort Hays, Kansas: *Provided further,* That of the amount appropriated herein, $5,500,000 shall be available only for the Boron Neutron Capture Therapy research program at the Idaho National Engineering Laboratory and $7,500,000 shall be available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, and the Secretary of Energy is directed to obligate and expend funds for these activities prior to the end of fiscal year 1991.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 60, of which 46 are for replacement only), $1,340,018,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,450,400,000, in fiscal year 1991 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1991 so as to result in a final fiscal year 1991 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only including one police-type vehicle), $1,148,732,000, to remain available until expended.

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NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $242,833,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided,* That of the amount herein appropriated, within available funds, not to exceed $4,146,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, $622,000 is to be available for the University of Nevada, Reno for infrastructure studies related to nuclear waste, and $207,000 is to be available to the University of Nevada, Las Vegas, to carry out transportation studies related to nuclear waste: *Provided further,* That not more than $4,892,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further,* That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further,* That none of the funds herein appropriated may be used for litigation expenses: *Provided further,* That of the amount appropriated herein, up to $4,146,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy, 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

42 USC 2061 note.

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided,* that such revenues and all funds provided under this head in Public Law 101-101 shall remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $10,914,014,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase

of passenger motor vehicles (not to exceed 308 for replacement only including 20 police-type vehicles, and purchase of one fixed-wing and one rotary-wing aircraft, for replacement only): *Provided,* That no funds in this Act shall be available for the Plutonium Recovery Modification project until 30 days after the Secretary of Energy has provided to the Congress his review of the Department of Energy's modernization report, except for $15,000,000 in operating expenses for nonsite specific design activities and activities in support of ongoing preparation of the Environmental Impact Statement, subject to authorization: *Provided further,* That no funds in this Act shall be available for Project 89-D-125, Plutonium Recovery Modification Project (PRMP), until authorizing legislation therefore is enacted into law.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $365,095,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $150,000,000 in fiscal year 1991 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1991 so as to result in a final fiscal year 1991 appropriation estimated at not more than $215,095,000: *Provided further,* That $1,300,000 of the funds appropriated under this heading shall be used to carry out the Reduced Enrichment in Research and Test Reactors Program.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $28,421,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,233,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for expenses of the Yakima Basin Screen Facilities Phase II; and for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1991, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $9,285,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $20,107,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $8,899,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the purchase, maintenance, and operation of one helicopter for replacement only, $293,762,000, to remain available until expended, of which $266,101,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $4,702,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided,* That in the operation of Shasta Dam, Central Valley Project, California, any increase in power purchase costs incurred by the Western Area Power Administration after January 1, 1986, resulting from bypass releases for temperature control purposes to preserve anadromous fisheries in the Sacramento River shall be nonreimbursable.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $122,750,000, to remain available until expended: *Provided,* That hereafter and notwithstanding any other provision of law, not to exceed $122,750,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1991, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1991, so as to result in a final fiscal year 1991 appropriation estimated at not more than $0: *Provided further,* That the Commission shall, upon the expiration of the one-year contract entered into as a result of solicitation No. DE-FB89-RC-00001, exercise its right under such contract not to renew the contract. The Commission shall solicit new bids, allowing for the submission of bids offering to pay the Government to perform stenographic services; that is, bonus bids, and shall accept, in accordance with Federal acquisition laws and regulations, the bid of a qualified contractor that is financially most advantageous to the Government.

42 USC 7171 note.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $80,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

Government property.

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

Colleges and universities. Small businesses. Women.

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a)(5) and (6))) and economically disadvantaged women.

Science and technology. Education.

SEC. 305. Funds appropriated to the Department of Energy may be available to carry out programs, including the granting of equipment, to improve mathematics, science, and engineering education and skill levels in the United States in order to ensure that a continuing supply of technical and scientific workers is available to accomplish national and energy security missions.

SEC. 306. The Secretary is directed, in cooperation with the University of Alaska Fairbanks, to determine the capability and type of supercomputing facility for research activity conducted by the Center for Global Change and Arctic Systems Research and the Geophysical Institute, with specific reference to the needs for auroral energy research. The Secretary is also directed, in cooperation with the National Center for Atmospheric Research, to determine the capability and type of supercomputing upgrade needed for atmospheric research conducted by the Center. The Secretary shall

Reports.

report the results of such determinations to the Appropriations Committees of the House and Senate by March 1, 1991.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $170,000,000.

40 USC app. 401 note.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, $11,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $224,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $457,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $538,000: *Provided,* That funds herein or hereafter appropriated may be used for the local sponsor's share of the study cost for the U.S. Army Corps of Engineers' Anacostia River and Tributaries study in Maryland and the District of Columbia.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $461,320,000, to remain available until expended, of which $19,650,000 shall be derived from the Nuclear Waste Fund: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $153,450,000 in fiscal year 1991 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1991 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1991 appropriation estimated at not more than $307,870,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, $3,680,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* That from this appropriation, transfers of sums may be made to other agencies of the Government

for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $211,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $290,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code. 16 USC 831b note.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Government contracts. Public information.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this

Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to procurement of domestic end product as defined in 48 CFR sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 509. None of the funds appropriated by this Act may be used for the purposes of land acquisition on the Monks Hollow Dam and Reservoir, Upper Diamond Fork Pipeline, or Last Chance Powerplant of the Bonneville Unit of the Central Utah Project.

42 USC 7133 note.

SEC. 510. Without fiscal year limitation and notwithstanding any other provision of law, no funds appropriated or made available under this or any other Act now or hereafter shall be used by the executive branch to change the employment levels determined by the Administrators of the Federal Power Marketing Administrations to be necessary to carry out their responsibilities under the Department of Energy Organization Act and related laws, or to change the employment levels of other Department of Energy programs to compensate for employment levels of the Federal Power Marketing Administrations.

41 USC 10b note.

SEC. 511. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any

supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

President. Federal Register, publication.

(b)(1) Not later than May 1, 1991, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

Reports.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Fedreal Register any modifications to such list that are made after publication of the original list.

Federal Register, publication.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" include any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5019:

HOUSE REPORTS: No. 101-536 (Comm. on Appropriations) and No. 101-889 (Comm. of Conference).
SENATE REPORTS: No. 101-378 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 19, considered and passed House.
Aug. 1, 2, considered and passed Senate, amended.
Oct. 19, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-515
101st Congress

An Act

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5021]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991.

TITLE I—DEPARTMENT OF COMMERCE

Department of Commerce Appropriations Act, 1991.

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $2,000 for official entertainment, $29,595,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $14,400,000.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $110,250,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $272,700,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $36,200,000.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants under the Trade Adjustment Assistance Program, as authorized by 19 U.S.C. 2024, and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $209,000,000: *Provided,* That during fiscal year 1991 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration: *Provided further,* That the Economic Development Administration shall not implement the funding policy for the university center program as stated in the Federal Register notice of May 24, 1990 to reduce the grant of each university center from the Fiscal Year 1990 level and that any changes in individual grant amounts be made on the basis of failing to conform to the EDA grant agreements in place in fiscal year 1990, other than the funding policy for the university center program as stated in the Federal Register notice of May 24, 1990: *Provided further,* That any reduction in an individual grant amount to a university center from the Fiscal Year 1990 level shall be subject to the reprogramming procedures stated in section 606 of this Act.

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $35,000,000 are rescinded.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $27,018,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1991, of which no more than two positions shall be designated as National Economic Development Representatives: *Provided further,* That such positions shall be maintained within an organizational structure that provides at least one full-time EDR in each State to which a full-time EDR was assigned as of December 31, 1987.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $330,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $185,620,000 to remain available until expended, of which $3,000,000 shall be for support costs of a new materials center in Ames, Iowa, and of which $7,175,000 is for the Office of Textiles and Apparels, including $3,315,000 for a grant to the Tailored Clothing Technology Corporation: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve. The Secretary of Commerce shall establish a foreign trade zone for Cedar Rapids, Iowa, not later than February 1, 1991, notwithstanding any other provision of law.

19 USC 2171 note.

Iowa.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger

motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $43,099,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $40,549,000, of which $24,873,000 shall remain available until expended: *Provided,* That not to exceed $15,676,000 shall be available for program management for fiscal year 1991.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; not to exceed $15,000 for representation expenses abroad; and grants to States or other eligible entities pursuant to 22 U.S.C. 2123 for the purpose of providing financial assistance for States whose tourism promotion needs have increased due to disasters; $19,596,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,353,156,000 to remain available until expended, of which $2,200,000 shall be available for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and to

33 USC 851.

acquire equipment and furnishings necessary for such facility which are consistent with the original plan for the facility, and of which $550,000 shall be available for operational expenses at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas, and of which $400,000 shall be available only for a semitropical research facility located at Key Largo, Florida; and in addition, $34,521,000 shall be derived from the Airport and Airways Trust Fund as authorized by 49 U.S.C. 2205(d); and in addition, $60,900,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $7,000,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000: *Provided further,* That in addition to the sums appropriated elsewhere in this paragraph, not to exceed $500,000 shall be available from the receipts deposited in the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries" for grant management and related activities: *Provided further,* That notwithstanding any other provision of law, $400,000 shall be available to the South Carolina Coastal Council for the Charleston Harbor Estuary Special Area Management Plan.

DAMAGE ASSESSMENT AND RESTORATION REVOLVING FUND

For contingency planning, response and natural resource damage assessment and restoration activities, pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended, the Federal Water Pollution Control Act, as amended, the Marine Protection, Research and Sanctuaries Act, as amended, and the Oil Pollution Act of 1990, $5,000,000 to remain available until expended: *Provided,* That notwithstanding any other provision of law, in fiscal year 1991 and thereafter, sums provided by any party or governmental entity for natural resource damage assessment, response or restoration activities conducted or to be conducted by the National Oceanic and Atmospheric Administration as a result of any injury to the marine environment and/or resources for which the National Oceanic and Atmospheric Administration acts as trustee of said marine environment and/or resources, shall be deposited in the Damage Assessment and Restoration Revolving Fund and said funds so deposited shall remain available until expended: *Provided further,* That for purposes of obligation and expenditure in fiscal year 1991 and thereafter, sums available in the Damage Assessment and Restoration Revolving Fund may be transferred, upon the approval of the Secretary of Commerce or his delegate, to the Operations, Research, and Facilities appropriation of the National Oceanic and Atmospheric Administration.

33 USC 2706 note.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, as amended, $2,000,000, to remain available until expended, shall be made available as authorized by said Act.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95-376, not to exceed $1,202,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $1,000,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,997,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $91,000,000 of which $88,000,000 shall be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided,* That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,200,000.

INFORMATION PRODUCTS AND SERVICES

Notwithstanding sections 212 (a)(1)(B) and (a)(3) of Public Law 100-519, there may be credited to this account not to exceed $500,000 for modernization, including operating expenses.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $166,228,000, to remain available until expended, of which not to exceed $9,772,000 may be transferred to the "Working

Capital Fund"; and of which not to exceed $10,095,000 shall be available for construction of research facilities.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology, and the Advanced Technology and State Extension Services programs of the National Institute of Standards and Technology, $49,100,000, to remain available until expended.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $15,252,000, to remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,833,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934 as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding the provisions of sections 391 and 392 of the Communications Act, as amended, not to exceed $1,000,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 103. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that were under the control of the United States Air Force or the United States Air Force Reserve as of June 1, 1990.

13 USC 23 note.

SEC. 104. None of the funds provided in this or any previous Act shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population.

SEC. 105. (a) Funds appropriated by this Act to the National Institute of Standards and Technology of the Department of Commerce for the Advanced Technology Program shall be available for award to companies or to joint ventures under the terms and conditions set forth in subsection (b) of this section, in addition to any terms and conditions established by rules issued by the Secretary of Commerce.

(b)(1) A company shall be eligible to receive financial assistance from the Secretary of Commerce only if—

(A) the Secretary of Commerce finds that the company's participation in the Advanced Technology Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided by the Secretary of Commerce to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(B) either—

(i) the company is a United States-owned company; or

(ii) the Secretary of Commerce finds that the company has a parent company which is incorporated in a country which affords the United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those funded through the Advanced Technology Program; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

(2) The Secretary of Commerce may, 30 days after notice to Congress, suspend a company or joint venture from receiving continued assistance through the Advanced Technology Program if the Secretary of Commerce determines that the company, the country of incorporation of the parent company of a company, or the joint venture has failed to satisfy any of the criteria set forth in this subsection, and that it is in the national interest of the United States to do so.

(3) As used in this section, the term "United States-owned company" means a company that has a majority ownership or control by individuals who are citizens of the United States.

This title may be cited as the "Department of Commerce Appropriations Act, 1991".

Department of Justice Appropriations Act, 1991.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $100,968,000, of which $970,000 shall remain available until expended: *Provided,* That not to exceed 11 permanent positions, 12 full-time equivalent workyears, and $1,400,000 shall be expended for the Office of Public Affairs and 18 permanent positions, 21 full-time equivalent workyears, and $2,100,000 shall be expended for the Office of Legislative Affairs: *Provided further,* That the two aforementioned Offices shall not be augmented by personnel details, temporary transfers of personnel on either a reimbursable or nonreimbursable basis, or any other type of formal or informal transfer or reimbursement of personnel or funds on either a temporary or long-term basis.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $25,140,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

WORKING CAPITAL FUND

For expenses necessary to convert the Department of Justice payroll/personnel system to the Department of Agriculture's National Finance Center payroll/personnel system, not to exceed $3,000,000, to remain available until expended, to be derived from current operating income.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,051,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $343,603,000, of which not to exceed $5,639,000 shall be available for the operation of the United States National Central Bureau, INTERPOL; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1992: *Provided,* That of the funds available in this appropria-

tion, not to exceed $17,000,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and expenses", General Administration.

For expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,000,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $53,730,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $33,730,000: *Provided,* That $53,730,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: *Provided further,* That fees made available to the Antitrust Division shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys, $673,095,000, of which not to exceed $5,000,000 shall be available until September 30, 1992, for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, and (3) paying the costs of sales of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $64,300,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $640,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $288,529,000, including purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year as authorized in Public Law 100-690 (102 Stat. 4513); of which not to exceed $12,653,000 for the renovation and construction of Marshals Service prisoner holding facilities shall be available until expended; and of which not to exceed $6,000 shall be available for official reception and representation expenses.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in the custody of the United States Marshals Service and as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General, $193,034,000, to remain available until expended; of which not to exceed $15,000,000 shall be available under the Cooperative Agreement Program.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $70,628,000, to remain available until expended, of which not to exceed $2,000,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,172,000, of which not to exceed $19,614,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1)(A)(ii), (B), (C), (F), and (G), as amended, $100,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, $328,000,000, of which $50,000,000 shall remain available until expended: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further,* That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in the succeeding fiscal year, subject to the reprogramming procedures described in section 606 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 3,136 passenger motor vehicles of which 2,125 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,687,962,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1992; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations: *Provided,* That for fiscal year 1991 and hereafter the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records and name checks for noncriminal justice, non-law enforcement employment and licensing purposes and for certain employees of private sector contractors with classified Government contracts, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services, and that the Director of the Federal Bureau of Investigation may establish such fees at a level to include an additional amount to establish a fund to remain available until expended to defray expenses for the automation of fingerprint identification services and associated costs: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $7,500,000 for a language translation system shall remain available until expended: *Provided further,* That $10,000,000 previously provided for the relocation of the FBI's Washington Metropolitan Field Office be made

28 USC 534 note.

available for construction of Pod C of the Engineering Research Facility at Quantico, Virginia.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase not to exceed 1,293 passenger motor vehicles of which 775 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $694,340,000, of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical and laboratory equipment and not to exceed $20,550,000 for the purchase of aircraft and equipment, shall remain available until September 30, 1992; and, of which not to exceed $10,000,000 shall remain available until expended for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for a new aviation facility: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 504, for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $884,000,000, of which not to exceed $400,000 for research and $17,188,000 for construction shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 330 of which 90 are for replacement only) and hire of law enforcement and passenger motor vehicles; $1,357,843,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $3,000 shall be available for official reception and representation expenses.

42 USC 250a.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $10,007,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase, leasing the Oklahoma City Airport Trust Facility, and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $374,358,000, to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,167,000 of the funds of the corporation shall be available for its administrative expenses for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amount shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

ADMINISTRATIVE PROVISION

Federal Prison Industries, Inc., is authorized and directed to enter into a contract to carry out an independent market study at a cost not to exceed $250,000. The study shall be conducted by a private sector market analysis firm, that is not affiliated in any way with the Federal Prison Industries or the Bureau of Prisons. Federal Prison Industries is directed to report the results of this study to Congress not later than nine (9) months from the enactment (or effective date) of this Act. The study shall include an analysis and appropriate recommendations to Congress concerning the following:

Government contracts.

Reports.

(1) identify potential new product lines for prison-made products, which will have a minimal impact on the private sector;

(2) analyze the impact that Federal Prison Industries has had on certain private sector industries (furniture, textiles, printing, electronics and apparel) in terms of production levels, employment levels, and annual sales to Federal Government departments and agencies;

(3) provide, after consulting with the Department of Labor and the Department of Commerce, an estimate of the number of jobs displaced in the private sector (on an industry-by-industry basis) by the operation of Federal Prison Industries;

(4) analyze whether Federal departments and agencies should consider placing limits on the market share that Federal Prison Industries can obtain in specific products or product lines; and

(5) determine whether the current law governing Federal procurement from the Federal Prison Industries should be retained or revised.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended by the Anti-Drug Abuse Act of 1988, including salaries and expenses in connection therewith, $87,916,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the

Omnibus Crime Control and Safe Streets Act of 1968, as amended, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, including salaries and expenses in connection therewith, $475,000,000, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340), and in addition, $17,000,000, to remain available until expended, shall be available to the Director of the Federal Bureau of Investigation for the National Crime Information Center 2000 project: *Provided,* That notwithstanding any other provision of law, the grant limitation established in Section 504(f) of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by Public Law 100-690 (102 Stat. 4333), is hereby waived for fiscal year 1991 for grants awarded to state and local governments for the purpose of participating in the multi-jurisdictional drug task forces.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $75,300,000, to remain available until expended as authorized by section 261(a), part D, of said Act (42 U.S.C. 5671(a)), of which $3,500,000 is for expenses authorized by part D of title II of said Act.

In addition, $4,963,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in state facilities for terms requiring incarceration for the full period October 1, 1990, through September 30, 1991, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1991, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1991, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

Federal Register, publication.
Intergovernmental relations.
Cuba.
Grant programs.
Intergovernmental relations.
Cuba.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended as authorized by section 6093 of Public Law 100-690 (102 Stat. 4339-4340).

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $30,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a

Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal year 1991 with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal year 1991, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the cerification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated

by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports. (3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports. 28 USC 533 note. (4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1991—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

28 USC 533 note. (5) For purposes of paragraph (4)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later.

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 203. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void. Abortion.

SEC. 204. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion. Abortion.

SEC. 205. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 204 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 206. Pursuant to the provisions of law set forth in 18 U.S.C. 3071-3077, not to exceed $100,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 207. Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 6091 of the Anti-Drug Abuse Act of 1988, and as amended by section 211 of the Department of Justice Appropriations Act, 1990, is amended by striking "1990" and inserting in lieu thereof "1991". 42 USC 3754.

SEC. 208. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System in 1989 may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

SEC. 209. None of the funds transferred from the Assets Forfeiture Fund of the Department of Justice and deposited in the Special Forfeiture Fund of the Office of National Drug Control Policy, and none of the funds made available by this Act, shall be available for personnel expenses, construction, acquisition of equipment or real property, or any related expenses for a National Drug Intelligence Center.

SEC. 210. (a) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (e)(1), after the word "passenger" the phrase ", other than aircraft passengers,";

Air rates and fares.

(2) by inserting ", except the fourth quarter payment for fees collected from airline passengers shall be made on the date that is ten days before the end of the fiscal year, and the first quarter payment shall include any collections made in the preceding quarter that were not remitted with the previous payment" after the words "in which fees are collected" in subsection (f)(3);

(3) by inserting ", within forty-five minutes of their presentation for inspection," after the word "provided" and before the words "when needed" in subsection (g);

(4) by striking the first two sentences of subsection (h)(1)(A) and inserting "There is established in the general fund of the Treasury a separate account which shall be known as the 'Immigration User Fee Account'. Notwithstanding any other section of this title, there shall be deposited as offsetting receipts into the Immigration User Fee Account all fees collected under subsection (d) of this section, to remain available until expended" before the words "At the end of each 2-year period".

(5) by replacing the previously repealed subsection (l) with the following new subsection—

"(l) REPORT TO CONGRESS.—In addition to the reporting requirements established pursuant to subsection (h), the Attorney General shall prepare and submit annually to the Congress, not later than March 31st of each year, a statement of the financial condition of the 'Immigration User Fee Account' including beginning account balance, revenues, withdrawals and their purpose, ending balance, projections for the ensuing fiscal year and a full and complete workload analysis showing on a port by port basis the current and projected need for inspectors. The statement shall indicate the success rate of the Immigration and Naturalization Service in meeting the forty-five minute inspection standard and shall provide detailed statistics regarding the number of passengers inspected within the standard, progress that is being made to expand the utilization of United States citizen by-pass, the number of passengers for whom the standard is not met and the length of their delay, locational breakdown of these statistics and the steps being taken to correct any nonconformity.".

8 USC 1356 note.

(b) The amendment made by subsection (a)(1) of this section shall apply to fees charged only with respect to immigration inspection or preinspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1990.

(c) Pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, the amendments made by this section which transfer receipts from one fiscal year to

the next are a necessary (but secondary) result of a significant policy change.

(d) Section 286 of the Immigration and Nationality Act of 1952 (8 U.S.C. 1356), as amended, is further amended—

(1) by inserting in subsection (m), after the phrase "shall be deposited" the phrase "as offsetting receipts";

(2) by inserting in subsection (m), after the phrase "the treasury of Guam" the following: ": *Provided further,* That fees for providing adjudication and naturalization services may be set at a level that will ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants. Such fees may also be set at a level that will recover any additonal costs associated with the administration of the fees collected"; Immigration.

(3) by inserting a new subsection after subsection (p) as follows:

"(q) LAND BORDER INSPECTION FEE ACCOUNT.—(1) Notwithstanding any other provision of law, the Attorney General is authorized to establish, by regulation, a project under which a fee may be charged and collected for inspection services provided at one or more land border points of entry. Such project may include the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General.

"(2) All of the fees collected under this subsection shall be deposited as offsetting receipts in a separate account within the general fund of the Treasury of the United States, to remain available until expended. Such account shall be known as the Land Border Inspection Fee Account.

"(3)(A) The Secretary of Treasury shall refund, at least on a quarterly basis amounts to any appropriations for expenses incurred in providing inspection services at land border points of entry. Such expenses shall include—

"(i) the providing of overtime inspection services;

"(ii) the expansion, operation and maintenance of information systems for nonimmigrant control;

"(iii) the hire of additional permanent and temporary inspectors;

"(iv) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration);

"(v) the detection of fraudulent documents used by passengers travelling to the United States;

"(vi) providing for the administration of said account.

"(B) The amounts required to be refunded from the Land Border Inspection Fee Account for fiscal years 1992 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided,* That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of Public Law 101-162.

"(4) The Attorney General will prepare and submit annually to the Congress statements of financial condition of the Land Border Immigration Fee Account, including beginning account balance, revenues, withdrawals, and ending account balance and projection for the ensuing fiscal year.

Termination date.

"(5)(A) The program authorized in this subsection shall terminate on September 30, 1993, unless further authorized by an Act of Congress.

Effective date.

"(B) The provisions set forth in this subsection shall take effect 30 days after submission of a written plan by the Attorney General detailing the proposed implementation of the project specified in subsection (q)(1).

"(C) If implemented, the Attorney General shall prepare and submit on a quarterly basis, until September 30, 1993, a status report on the land border inspection project.".

Iowa Power, Inc. Redlands, Inc.

SEC. 211. (A) Notwithstanding any other provision of law, in the specific case involving the Iowa Power Inc. and Redlands, Inc. ownership within the proposed Walnut Creek NWR, condemnation is authorized to determine the just compensation of the Iowa Power Inc. and Redlands Inc. lands, provided there is agreement by both parties involved.

National Commission to Support Law Enforcement Act.
42 USC 3721 note.

(B)(a) This subsection may be cited as the "National Commission to Support Law Enforcement Act".

(b) The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review twenty-five years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decrease funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

Establishment.

(c) There is established a national commission to be known as the "National Commission to Support Law Enforcement" (referred to in this section as the "Commission").

(d) The Commission shall study and recommend changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) The sufficiency of funding, including a review of grant programs at the Federal level.

(2) The conditions of law enforcement employment.

(3) The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) The status of law enforcement research and education and training.

(5) The adequacy of equipment, physical resources, and human resources.

(6) The cooperation among Federal, State, and local law enforcement agencies.

(7) The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(e) The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

(f) The Commission shall be composed of 19 members as follows:

(1) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) Five individuals from national law enforcement organizations representing law enforcement officers and management, appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate.

(3) Two individuals with academic expertise regarding law enforcement issues, appointed by the President.

(4) Two Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) Two Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) One individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) One individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(g)(1) Members of the Commission shall receive no additional pay, allowance, or benefit by reason of service on the Commission.

(2) Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) Upon request of the Commission, the head of any Federal agency is authorized to detail, on non-reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this section.

(j) The Administrator of General Services shall provide to the Commission administrative support services as the Commission may request.

(k) The Commission may, for purposes of this section, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(l) Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(m) The Commission may secure directly from any Federal agency information necessary to enable it to carry out this section. Upon request of the chairperson of the Commission, the head of an agency

shall furnish the information to the Commission to the extent permitted by law.

(n) The Commission may accept, use, and dispose of gifts or donations of services or property.

(o) The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

Reports.

(p) Not later than the expiration of the eighteen-month period beginning on the date of the enactment of this Act, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

Termination date.

(q) The Commission shall cease to exist upon the expiration of the sixty-day period beginning on the date on which the Commission submits its report under subsection (p).

SEC. 212. (a) Notwithstanding any other provision of law, for fiscal years 1991 and 1992, the provisions of the Office of Management and Budget Circular A-76 and any similar provisions in any other order or directive shall not apply to activities conducted by the Federal Bureau of Prisons, Federal Bureau of Investigation, Drug Enforcement Administration, Immigration and Naturalization Service, United States Attorneys, United States Marshals Service, the Office of Justice Programs, the Office of Inspector General, and any of the litigating activities of the Department of Justice, unless such provisions are specifically approved by an Act of Congress.

(b) For fiscal years 1991 and 1992, no reduction in resources for the Justice Department activities described in subsection (a) shall be effected pursuant to the provisions of the Office of Management and Budget Circular A-76 or any similar provision in any other order or directive unless specifically provided therefore by an Act of Congress.

This title may be cited as the "Department of Justice Appropriations Act, 1991".

Department of State Appropriations Act, 1991.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements and binational contracts and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, $1,860,017,000, of which not to exceed $2,000,000 may be available for rewards, and to publicize the availability of rewards, as authorized by section 36 of the State Department Basic Authorities Act, as amended (22 U.S.C. 2708), and in addition not to exceed $500,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of

1956 (section 118 of Public Law 101-246), and in addition not to exceed $1,013,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90-553) (as amended by section 120 of Public Law 101-246), and in addition not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (section 119 of public Law 101-246), and of the total amount appropriated in this paragraph, $350,000 may be available for the purpose of preparations for the 1992 United Nations Conference on Environment and Development: *Provided,* That the obligation of funds for the Department of State Telecommunications Network (DOSTN) shall be subject to the reprogramming provisions of section 606 of this Act: *Provided further,* That the Secretary of State shall submit a report to the appropriate committees of the Congress not later than December 1, 1990, which justifies the requirement for the Department of State Telecommunications Network (DOSTN). Reports.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $21,840,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,600,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $227,656,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,888,000,

to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $11,752,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $108,576,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

22 USC 269a note.

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $787,605,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, $115,000,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $7,300,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

22 USC 269a note.

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and

Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $10,500,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $10,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,400,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $12,147,000, to be available notwithstanding section 15(a) of the State Department Basic Authorities Act of 1956, as amended: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 403 of Public Law 101-179 and section 105 of Public Law 101-246, $4,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101-246, $13,978,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $900,000 of

which $450,000 shall be derived from the receipts collected pursuant to that Act, to remain available until expended.

FISHERMEN'S PROTECTIVE FUND

For expenses necessary to carry out the provisions of the Fishermen's Protective Act of 1967, as amended, $500,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C 1343(b).

SEC. 302. (a) Not to exceed .5 per centum of the appropriation, Administration of Foreign Affairs, "Salaries and expenses" may be transferred to Administration of Foreign Affairs, "Emergencies in the Diplomatic and Consular Service" or International Organizations and Conferences, "International Conferences and Contingencies" but no such appropriation shall be increased by more than 35 per centum by any such transfer: *Provided,* That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

(b) Funds appropriated in this Act under the heading "Contributions to International Organizations" for payment to the United Nations or any of its specialized agencies, which are not made available to the United Nations or any such specialized agency due to the operation of any provision of this or any other Act, may be transferred to any account under the heading "Administration of Foreign Affairs", notwithstanding any other provision of law: *Provided,* That the Department shall follow the normal reprogramming procedures of the Senate and House Appropriations Committees before obligating or expending any funds so transferred.

SEC. 303. None of the funds provided by this Act shall be available to the Department of State to produce the semiannual report as required under section 5 of Public Law 94-304.

SEC. 304. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202 (as amended by section 303(a) of Public Law 100-459)) is amended in the first sentence— 22 USC 276 note.

(1) by striking out "$340,000" and inserting in lieu thereof "$440,000"; and

(2) by striking out "section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985" and inserting in lieu thereof: "section 109 (b) and (c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985".

(b) Section 109(b) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended— 22 USC 276 note.

(1) by striking out "Of the amount" through "Spring 1984" and inserting in lieu thereof: "There are authorized to be appropriated each fiscal year $50,000, to be equally divided between delegations of the Senate and the House of Representatives, to assist in";

(2) by inserting after "meeting" the following: "the expenses of the United States Group";

(3) by striking out "which" through "United States"; and

(4) by inserting the following sentence at the end thereof: "Amounts appropriated under this section are authorized to remain available until expended.".

(c) MEXICO.—Section 2 of Public Law 86-420 is amended— 22 USC 276i.

(1) by striking out "$50,000" and inserting in lieu thereof "$100,000"; and

(2) by striking out "$25,000" both places it appears and inserting in lieu thereof "$50,000".

This title may be cited as the "Department of State Appropriations Act, 1991".

TITLE IV—THE JUDICIARY

The Judiciary Appropriations Act, 1991.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $19,029,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), $3,453,000, of which $1,106,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $9,711,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $8,721,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, $1,589,124,000 (including the purchase of firearms and ammunition); of which not to exceed $61,045,000 shall remain available until expended for space alteration projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions; and for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $1,500,000 to be appropriated from the Vaccine Injury Compensation Trust Fund, as authorized by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $132,761,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $57,997,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the

highest rate payable under section 5332 of title 5, United States Code: *Provided further,* That not to exceed $81,000 of the amounts appropriated herein shall be transferred to "Salaries and expenses", United States Court of International Trade, and not to exceed $4,919,000 of the amounts appropriated herein shall be transferred to "Salaries and expenses", Courts of Appeals, District Courts, and Other Judicial Services.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100-702); $71,261,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $37,400,000, of which not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $13,918,000.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIAL OFFICERS' RETIREMENT

AND JUDICIAL SURVIVORS' ANNUITY FUNDS

For payment to the Judicial Officers' Retirement Fund as authorized by Public Law 100-659, and to the Judicial Survivors Annuity Fund, as authorized by Public Law 99-336, $5,000,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $8,422,000.

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. Appropriations made in this title which are available for salaries and expenses shall be available, notwithstanding the limitations in 31 U.S.C. section 1345, for the Judicial Conference of the United States to sponsor and host the Fifth International Appellate Judges Conference in the United States: *Provided,* That an amount shall be available only if the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of any obligation or expenditure. The Judicial Conference may supplement such appropriations with other funds made available by any department or agency for the purposes of technical foreign aid, educational and cultural programs with the people of foreign countries, or commemorating the bicentennial anniversary of the United States Constitution and the Bill of Rights: *Provided,* That any supplementation shall be only for the expenses of the Fifth International Appellate Judges Conference. The Director of the Administrative Office may also accept and utilize gifts of funds, to be deposited as a special deposit account in the Treasury, for the expenses of the Fifth International Appellate Judges Conference for reimbursement of appropriations or direct expenditure, provided that any unexpended balance of the special deposit account shall be returned to the donor or donors. For the purpose of the conference, the Director is authorized to pay for local travel and incidental expenses of foreign participants and dependent members of their immediate household, to pay for per diem to such persons in lieu of subsistence at rates prescribed by the Director, and to conduct and pay for the activities set forth in subsections (1), (2), (9), (15), and (18) of section 804 of the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. section 1474). Appropriations for commemorating the bicentennial or for salaries and expenses of the Judiciary shall not be made available by this section for the travel and incidental expenses of dependents. Nothing in this section precludes payment for the travel and other expenses of foreign participants and their dependents by any other department or agency, or by the Director on their behalf, as authorized by law.

28 USC 1913 note.

SEC. 404. (a) The Judicial Conference shall prescribe reasonable fees, pursuant to sections 1913, 1914, 1926, and 1930 of title 28, United States Code, for collection by the courts under those sections for access to information available through automatic data processing equipment. These fees may distinguish between classes of persons, and shall provide for exempting persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. The Director, under the direction of the Judicial Conference of the United States, shall prescribe a schedule of reasonable fees for electronic access to

Public information.

information which the Director is required to maintain and make available to the public.

(b) The Judicial Conference and the Director shall transmit each schedule of fees prescribed under paragraph (a) to the Congress at least 30 days before the schedule becomes effective. All fees hereafter collected by the Judiciary under paragraph (a) as a charge for services rendered shall be deposited as offsetting collections to the Judiciary Automation Fund pursuant to 28 U.S.C. 612(c)(1)(A) to reimburse expenses incurred in providing these services.

This title may be cited as "The Judiciary Appropriations Act, 1991".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $261,200,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $69,000,000, to remain available until expended, and in addition $1,100,000 shall be derived from unobligated balances of "Ship Construction": *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated: *Provided further,* That the unexpended balances of the appropriation "Research and Development" shall be transferred to and merged with this appropriation.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $225,000,000, to remain available until expended: *Provided,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

Government procurement.
Government property.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING

SALARIES AND EXPENSES

For necessary expenses of the Advisory Commission on Conferences in Ocean Shipping, including services as authorized by section 18(d) of Public Law 98-237, $500,000, to remain available until expended.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $75,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $37,040,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871-2883), $197,750,000 of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98-375, $214,000, to remain available until December 31, 1993 as au-

thorized by section 11(b) of said Act, as amended by section 8 of Public Law 100-94.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99-603 (100 Stat. 3431-3434), $1,457,000, to remain available until expended.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution as authorized by Public Law 98-101 (97 Stat. 719-723), $14,973,000, to remain available until expended: *Provided,* That in carrying out the purposes of this Act, the Commission is authorized to enter into contracts, grants, or cooperative agreements as directed by the Federal Grant and Cooperative Agreement Act of 1977 (92 Stat. 3; 31 U.S.C. 6301): *Provided further,* That of the amount appropriated, $4,699,000 is for carrying out the provisions of Public Law 99-194, including $3,299,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $1,400,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,075,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities authorized by section 5 of Public Law 98-183: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further,* That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99-83, section 1303.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $991,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by Sec. 5209 of the Omnibus Trade and Competitiveness Act of 1988, $750,000, to remain available until expended.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); not to exceed $25,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $198,300,000.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed fourteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $115,794,000, of which not to exceed $300,000 of the forgoing amount shall remain available until September 30, 1992, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion

of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 U.S.C. App. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $15,894,000: *Provided,* That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $74,095,000 of which an estimated $20,000,000 shall be derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) so as to result in a final fiscal year 1991 appropriation of $54,095,000: *Provided,* That $74,095,000 shall be apportioned and shall be construed as being available for obligation without regard to 31 U.S.C. 1341: *Provided further,* That fees made available to the Federal Trade Commission shall remain available until expended but that any fees received in excess of $20,000,000 shall not be available for obligation in fiscal year 1991: *Provided further,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding sections 10(e), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374)).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $40,299,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,250,000; and an amount of Japanese currency not to exceed the equivalent of $1,544,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $327,186,000 of which $280,314,000 is for basic field programs, $7,445,000 is for the Native American programs, $10,282,000 is for migrant programs, $1,166,000 is for the law school clinics, $1,060,000 is for supplemental field programs, $662,000 is for regional training centers, $7,663,000 is for national support, $8,315,000 is for State support, $917,000 is for the Clearinghouse, $541,000 is for computer assisted legal research regional centers, and $8,821,000 is for Corporation management and administration.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $1,153,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98-399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $20,000,000, of which $2,500,000 shall remain available until expended: *Provided,* That not to exceed $89,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission including services as authorized by 5 U.S.C. 3109, and not to

exceed $3,000 for official reception and representation expenses, $157,485,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and, for 1991 only, not to exceed $100,000 shall be available to host a conference of the International Organizations of Securities Commissions, such sum to cover related translation, printing, facility and other necessary logistic and administrative expenses: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one-fortieth of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation to recover costs of services of the securities registration process: *Provided further,* That such fees shall remain available until expended. 15 USC 77f note.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 100-590, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $274,753,000, of which $1,500,000 shall be made available for a grant to St. Norbert College in De Pere, Wisconsin, for a regional center for rural economic development, of which $100,000 shall be made available for a grant to the School of Forestry of the University of Montana for a planning study for locating a Value-Added Wood Products Development, Marketing and Small Business Assistance Research Laboratory at the University of Montana, of which $200,000 shall be made available for a grant to Central Arkansas University to establish a national communications and data center for the Small Business Institute program, of which $1,500,000 shall be made available for a grant to the University of Kentucky's Somerset Community College for a regional center for rural economic development with a special emphasis on small business, of which $1,500,000 shall be made available for a grant to the West Philadelphia Economic Development Corporation for a national demonstration project for community economic development and small business assistance, of which $500,000 shall be made available for a Center for Manufacturing Productivity at the University of Massachusetts at Amherst, of which $1,200,000 is for the Small Business Development Center Technical Assistance Program, of which $15,000,000 shall be made available to implement section 24 of the Small Business Act, as amended, of which $1,000,000 shall be made available to implement section 25 of the Small Business Act, as amended, and of which $55,750,000 is for grants for performance in fiscal year 1991 or fiscal year 1992 for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by

this Act to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648), nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee. In addition, nothing herein shall preclude the Small Business Administration from preparing or formulating, but not publishing in the Federal Register, proposed rules, nor shall anything herein apply to uniform common rules applicable to multiple Federal departments and agencies, including the Small Business Administration; nor may any of the funds provided in this paragraph restrict in any way the right of association of participants in such program.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

SEC. 1. DEPUTY ADMINISTRATOR.

15 USC 633.

(a) Section 4 of the Small Business Act is amended by striking "The Administrator is authorized to appoint a Deputy Administrator and" from the fourth sentence of paragraph (1) of subsection (b) and inserting in lieu thereof the following: "The President also may appoint a Deputy Administrator, by and with the advice and consent of the Senate. The Administrator is authorized to appoint".

15 USC 633 note.

(b) The provisions of subsection (a) of this section shall apply to any vacancy in the position of Deputy Administrator of the Small Business Administration after the effective date of this Act.

SEC. 2. JOINT VENTURES WITH TRIBALLY OWNED PARTICIPANTS IN THE 8(a) PROGRAM.

Section 602 of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended—

(1) in subsection (c), by striking "two" and inserting "5", and

(2) in subsection (e), by striking "September 30, 1991" and inserting "September 30, 1992".

SEC. 3. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

15 USC 697 note.

Section 112 of the Small Business Administration Reauthorization and Amendment Act of 1988 (Public Law 100-590) is amended by striking from the end of subsection (c) "October 1, 1990" and by inserting in lieu thereof "October 1, 1994".

Intergovernmental relations.

SEC. 4. NATURAL RESOURCE DEVELOPMENT.

The Small Business Act is amended by adding the following new section:

15 USC 651.

"SEC. 24. (a) The Administrator is authorized to make grants to or to enter into contracts with any State for the purpose of contracting

with small businesses to plant trees on land owned or controlled by such State or local government. The Administrator shall require as a condition of any grant (or amendment or modification thereof) under this section that the applicant also contribute to the project a sum equal to at least 25 per centum of a particular project cost from sources other than the Federal Government. Such non-Federal money may include inkind contributions, including the cost or value of providing care and maintenance for a period of three years after the planting of the trees, but shall not include any value attributable to the land on which the trees are to be planted, nor may any part of any grant be used to pay for land or land charges: *Provided,* That not less than one-half of the amounts appropriated under this section shall be allocated to each State, the District of Columbia, and the Commonwealth of Puerto Rico on the basis of the population in each area as compared to the total population in all areas as provided by the Census Bureau of the Department of Commerce in the annual population estimate or the decennial census, whichever is most current. The Administrator may give a priority in awarding the remaining one-half of appropriated amounts to applicants who agree to contribute more than the requisite 25 per centum.

"(b) In order to accomplish the objectives of this section, the Administrator, in consultation with appropriate Federal agencies, shall be responsible for formulating a national small business tree planting program. Based on this program, a State may submit a detailed proposal for tree planting by contract.

"(c) To encourage and develop the capacity of small business concerns, to utilize this important segment of our economy, and to permit rapid increases in employment opportunities in local communities, grantees are directed to utilize small business contractors or concerns in connection with the program established by this section, and shall, to the extent practicable, divide the project to allow more than one small business concern to perform the work under the project.

"(d) For purposes of this section, agencies of the Federal Government are hereby authorized to cooperate with all grantees and with State foresters or other appropriate officials by providing without charge, in furtherance of this program, technical services with respect to the planting and growing of such trees.

"(e) There are authorized to be appropriated to carry out the objectives of this section, $15,000,000 for fiscal year 1991 and $30,000,000 for each of the fiscal years 1992 through 1994, and all of such sums may remain available until expended.

"(f) Notwithstanding any other law, rule, or regulation, the administration shall publish in the Federal Register proposed rules and regulations implementing this section within sixty days after the date of enactment of this section and shall publish final rules and regulations within one hundred and twenty days of the date of enactment of this section. Federal Register, publication. Regulations.

"(g) As used in this section:

"(1) the term 'local government' includes political subdivisions of a State such as counties, parishes, cities, towns and municipalities;

"(2) the term 'planting' includes watering, application of fertilizer and herbicides, pruning and shaping, and other subsequent care and maintenance for a period of three years after the trees are planted; and

"(3) the term 'State' includes any agency thereof.

Reports.

"(h) The Administrator shall submit annually to the President and the Congress a report on activities within the scope of this section.".

SEC. 5. SMALL BUSINESS DEVELOPMENT CENTERS.

15 USC 648.

(a) Section 21 of the Small Business Act is amended by striking the second proviso in subsection (a)(4) and inserting in lieu thereof the following: *Provided further,* That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $70,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population of the United States, plus $100,000 for each State, but no State shall receive less than $200,000.";

(b) Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302), as amended, is hereby repealed; and

15 USC 648 note.

Government contracts.

Grant programs.

15 USC 648 note.

(c) The amendments to the second proviso in subsection (a)(4) made by subsection (a) of this section shall apply to contracts, grants or cooperative agreements for performance commencing on or after October 1, 1991; contracts, grants or cooperative agreements for performance commencing prior thereto shall receive funding for the entire term of performance without regard to this amendment and according to the State's pro rata share of a $65,000,000 program as computed on the effective date of this section under population estimates used for calendar year 1990 agreements, plus $50,000 for each State, but no State shall receive less than $200,000.

SEC. 6. SBDC GRANTEE ELIGIBILITY.

Section 21 of the Small Business Act is amended by striking the period at the end of the first sentence of paragraph (1) of subsection (a) and inserting the following: ": *Provided,* That after December 31, 1990, the Administration shall not make a grant to any applicant other than an institution of higher education as a Small Business Development Center unless the applicant was receiving a grant (including a contract or cooperative agreement) on such date. The Administration shall require any applicant for a small business development center grant with performance commencing on or after January 1, 1992 to have its own budget and to primarily utilize institutions of higher education to provide services to the small business community.".

Czechoslovakia.
Poland.
Hungary.

SEC. 7. CENTRAL EUROPEAN ENTERPRISE DEVELOPMENT.

The Small Business Act is amended by adding the following new section:

Establishment.
15 USC 652.

"SEC. 25. (a) There is hereby established a Central European Small Business Enterprise Development Commission (hereinafter in this section referred to as the 'Commission'). The Commission shall be comprised of a representative of each of the following: the Small Business Administration, the Association of American Universities, and the Association of Small Business Development Centers.

"(b) The Commission shall develop in Czechoslovakia, Poland and Hungary (hereinafter referred to as 'designated Central European countries') a self-sustaining system to provide management and technical assistance to small business owners.

Government contracts.

"(1) Not later than 90 days after the effective date of this section, the Commission, in consultation with the Agency for International Development, shall enter a contract with one or more entities to—

"(A) determine the needs of small businesses in the designated Central European countries for management and technical assistance;

"(B) evaluate appropriate Small Business Development Center-programs which might be replicated in order to meet the needs of each of such countries; and

"(C) identify and assess the capability of educational institutions in each such country to develop a Small Business Development Center type program.

"(2) Not later than 18 months after the effective date of this section, the Commission shall review the recommendations submitted to it and shall formulate and contract for the establishment of a three-year management and technical assistance demonstration program.

Government contracts. Technical assistance.

"(c) In order to be eligible to participate, the educational institution in each designated Central European country shall—

"(1) obtain the prior approval of the government to conduct the program;

"(2) agree to provide partial financial support for the program, either directly or indirectly, during the second and third years of the demonstration program; and

"(3) agree to obtain private sector involvement in the delivery of assistance under the program.

"(d) The Commission shall meet and organize not later than 30 days after the date of enactment of this section.

"(e) Members of the Commission shall serve without pay, except they shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their functions in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

"(f) Two Commissioners shall constitute a quorum for the transaction of business. Meetings shall be at the call of the Chairperson who shall be elected by the Members of the Commission.

"(g) The Commission shall not have any authority to appoint staff, but upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such department or agency to the Commission to assist in carrying out the Commission's functions under this section without regard to section 3341 of title 5 of the United States Code. The Administrator of the General Services Administration shall provide, on a reimbursable basis, such administrative support services as the Commission may request.

"(h) The Commission shall report to Congress not later than December 1, 1991, and annually thereafter, on the progress in carrying out the provisions of this section.

Reports.

"(i) There are hereby authorized to be appropriated to the Small Business Administration the sum of $3,000,000 for fiscal year 1991, $5,000,000 for fiscal year 1992 and $8,000,000 for fiscal year 1993 to carry out the provisions of this section. Such sums shall be disbursed by the Small Business Administration as requested by the Commission and may remain available until expended. Any authority to enter contracts or other spending authority provided for in this section is subject to amounts provided for in advance in appropriations Acts.".

SEC. 8. LOAN SERVICING FEE.

In the Small Business Investment Act of 1958, insert the following new subsection:

15 USC 697. "SEC. 503 (e)(3). Notwithstanding any other provision of law, qualified State or local development companies shall be authorized to prepare applications for deferred participation loans under Section 7(a) of the Small Business Act, to service such loans and to charge a reasonable fee for servicing such loans.".

Science and technology Intergovernmental relations.

SEC. 9. SMALL BUSINESS DEVELOPMENT CENTER TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 21, the following new section:

15 USC 648a. "21A. SMALL BUSINESS DEVELOPMENT CENTER TECHNICAL ASSISTANCE PROGRAM.

"(a) The Administration is authorized to make grants to establish pilot programs at 5 Small Business Development Centers in order to increase access by small businesses in each center's service area to online data bases. The purpose of this program shall be to provide small businesses, in states selected to participate in this demonstration program, with improved online access to public and private technology, services and expertise, so as to accelerate the transfer of technology and expertise to small businesses and to improve the productivity and economic competitiveness of these small businesses.

"(b) Any Small Business Development Center which is funded by the Administration is eligible to receive an additional grant to provide access to online data bases as described in subsection (a) providing it contributes at least a fifty percent matching contribution.

"(c) The grants authorized by this section must be used to—

"(1) defray all or part of the cost of accessing data bases from private vendors for a limited period of time,

"(2) demonstrate to small businesses the benefits of accessing such data bases, and

"(3) train small businesses to use such data bases to access technical information and services.".

(b) AUTHORIZATION.—There is authorized to be appropriated to the Small Business Administration for each of fiscal years 1991 and 1992, $1,200,000 to carry out the terms of section 21A of the Small Business Act.

SEC. 10. CONTINUATION OF AUTHORITY.

Notwithstanding any other provision of law, an amount shall be made available from the unobligated balances in the Business Loan and Investment Fund to make a grant designated in Public Law 100-459 in subsection (c) under the heading "Economic Development Assistance Programs", at a funding level not less than the level provided during fiscal year 1990, and notwithstanding any other provision of law, an amount shall be made available from the unobligated balances in the Business Loan and Investment Fund to make a grant to the first entity designated in Public Law 100-459 in subsection (k) under the heading "Economic Development Assistance Programs" at a funding level not less than the level provided during fiscal year 1990 to such entity.

SEC. 11. COOPERATIVE AGREEMENTS.

Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) as amended, is further amended by striking "October 1, 1990" and inserting in lieu thereof "March 31, 1991".

SEC. 12. TRANSFER FROM DISASTER LOAN FUND.

In addition such sums as may be necessary for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund" as authorized by Public Law 100-590.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $9,000,000.

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $86,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $71,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note: *Provided,* That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $10,200,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,000,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100-690 (102 Stat. 4466-4467)), $13,000,000, to remain available until expended.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $652,757,000: *Provided,* That not to exceed $1,210,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $15,377,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2455(a)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further,* That not to exceed $6,000,000, to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1-11 as amended by Public Law 100-504), $4,023,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $163,151,000, of which up to $200,000 shall be available for the Claude and Mildred Pepper Scholarship Program of the Washington Workshops Foundation, and of which $500,000 shall be available only for a grant to the North Pacific Studies Center in Portland, Oregon.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $107,237,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $31,069,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided,* That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054-2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $23,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $25,000,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Government procurement.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Wages. Government employees.

SEC. 605. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Disadvantaged persons.

SEC. 607. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1991 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

Grant programs. Government contracts.

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1991 at not less than $9.22 per poor person within the geographical area of each grantee or contractor under the 1980 census or 5 cents per poor person more than the annual per-poor-person level at which funding was appropriated prior to the sequestration order issued pursuant to section 11002 of Public Law 101-239 for each grantee and contractor in fiscal year 1990, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $17.68 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit

against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter

where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expenses and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an activity prohibited in clause (1), (2), (3), or (4) of the previous proviso:

Aliens. *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Aliens. *Provided further,* That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear

of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or suspend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or

municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, or, with regard to national support centers, the locality where the organization maintains its principal headquarters: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1991, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1991, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicitly set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members, (2) the size, quorum requirements and committee operations of such governing bodies, and (3) any requirements on appointment of board members of national support centers that would preclude the bar associations in the States in which the center's principal offices are located from making all appointments required to be made by bar associations: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1991 migrant funds as

Abortion.

was used in fiscal year 1990: *Provided further,* That after October 1, 1991, (but not before) the Board of Directors of the Legal Services Corporation shall develop and implement a system for the competitive award of all grants and contracts, including support centers, except that nothing herein shall prohibit the Corporation Board, members, or staff from engaging in in-house reviews of or holding hearings on proposals for a system for the competitive award of all grants and contracts, including support centers, and that nothing herein shall apply to any competitive awards program currently in existence: *Provided further,* That the Corporation shall insure that all grants and contracts made for calendar year 1991 to all grantees receiving funds under sections 1006(a) (1)(A) and (3) of the Legal Services Corporation Act as of September 30, 1990, with funds appropriated by this Act or prior appropriations Acts, shall be made for a period of at least twelve months beginning on January 1, 1991, so as to insure that the total annual funding for each current grantee or contractor is no less than the amount provided pursuant to this Act: *Provided further,* That such grants or contracts shall not be subject to any amendments to regulations relating to fee-generating cases (45 CFR part 1609) or the use of private funds (45 CFR parts 1610 and 1611) not in operational effect on October 1, 1988: *Provided further,* That any changes in procedures in operational effect as of September 1, 1989, that would have the effect of imposing timekeeping requirements on recipients must be adopted as rules or regulations in accordance with section 1008(e) of the Legal Services Corporation Act and all of the requirements of this Act: *Provided further,* That any new rules or regulations, or revisions to existing rules or regulations adopted by the Board of the Legal Services Corporation after October 1, 1990, shall not become effective until after October 1, 1991.

42 USC 2996f note.
Grant programs.
Government contracts.

Grant programs.
Government contracts.

Regulations.

Regulations.
Effective date.

SEC. 608. (a) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose government the President determines to be assisting Iraq to improve its ballistic missile technology or chemical, biological, or nuclear weapons capability and so reports to the Congress.

Iraq.

(b) None of the funds in this or any other Act may be used to approve the licensing for export of any supercomputer to any country whose nationals are assisting Iraq to improve its rocket technology or chemical, biological, or nuclear weapons capability: *Provided,* That this provision shall apply only if the President determines that the government of the country has made inadequate efforts to restrict such involvement by its citizens or corporations and so reports to the Congress.

Iraq.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5021:

HOUSE REPORTS: No. 101-537 (Comm. on Appropriations) and No. 101-909 (Comm. of Conference).
SENATE REPORTS: No. 101-515 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 20, 26, considered and passed House.
Oct. 11, considered and passed Senate, amended.
Oct. 23, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and disagreed to another.
Oct. 24, Senate agreed to conference report; receded and concurred in certain House amendments, in another with an amendment. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-516
101st Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes.

Nov. 5, 1990
[H.R. 5229]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriations Act, 1991.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,215,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $412,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $6,420,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,500,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,390,000, including not to exceed $40,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,255,000.

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OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $26,745,000, of which $5,000,000 shall remain available until expended.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,389,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $918,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $508,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,353,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,500,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $3,465,000, of which $2,600,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided*, That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

OFFICE OF INTELLIGENCE AND SECURITY

For necessary expenses of the Office of Intelligence and Security, $1,200,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $2,947,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

OPERATIONS AND RESEARCH

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for operations and research activities related to commercial space transportation, $3,386,000, of which

$1,600,000 shall remain available until expended: *Provided,* That the unexpended balances of the appropriation "Transportation Planning, Research, and Development" associated with commercial space activities shall be transferred to and merged with this appropriation: *Provided further,* That notwithstanding any other provision of law, there may be credited up to $300,000 to this account funds received from user fees established for regulatory services.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $86,264,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $26,600,000, to remain available until expended: *Provided,* That none of the funds in this or any other Act shall be available for the implementation or execution of programs in excess of $26,600,000 for the Payments to Air Carriers program in fiscal year 1991: *Provided further,* That this limitation shall only be in effect if contract authority is enacted for the Payments to Air Carriers program for fiscal year 1991.

RENTAL PAYMENTS

For necessary expenses for rental of headquarters and field space and related services assessed by the General Services Administration, $107,668,000: *Provided,* That of this amount, $15,108,000 shall be derived from the Highway Trust Fund, $28,508,000 shall be derived from the Airport and Airway Trust Fund, and $419,000 shall be derived from the Pipeline Safety Fund.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,339,839,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1991; of which $2,039,839,000, of which $41,489,000 shall be derived from the Oil Spill Liability Trust Fund is hereby appropriated, of which $35,000,000 shall be expended from the Boat Safety Account, notwithstanding any other provision of law: *Provided,* That of the funds provided for operating expenses for fiscal year 1991, in this or any other Act, not less than $602,600,000 shall

be available for drug enforcement activities and not less than $197,000,000 shall be for marine environmental protection activities: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and twenty-two, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation.

14 USC 92 note.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $406,331,000, to remain available until September 30, 1995, of which $157,500,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; $90,010,000 shall be available to acquire new aircraft and increase aviation capability; $15,000,000 shall be available for other equipment; $106,885,000 shall be available for shore facilities and aids to navigation facilities; and $36,936,000 shall be available for personnel, survey and design, and related costs: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage: *Provided further,* That if necessary the Department of Transportation may transfer funds into the personnel, survey and design, and related costs subaccount from other subaccounts of the Acquisition, Construction and Improvements appropriation to cover personnel compensation and benefits for not to exceed five hundred eighty-six full time equivalent staff years during fiscal year 1991, provided that such transfer shall be subject to the established guidelines for prior approval reprogrammings as stated in House Report 101-315.

10 USC 2403 note. Regulations. Government contracts.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $21,500,000, of which $7,000,000 shall remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $3,747,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $437,300,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $74,306,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $25,000,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92-75, as amended, $35,000,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, establishment of air navigation facilities and the operation and maintenance of aircraft, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $4,037,000,000, of which $2,002,749,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities and for issuance of airmen and aircraft certificates,

including processing of major repair and alteration forms: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That, of the funds available under this head, $3,250,000 shall be made available for the Federal Aviation Administration to enter into contractual agreement with the Mid-American Aviation Resource Consortium in Minnesota to operate an air traffic controller training program.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities as authorized by the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1995, $2,095,407,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That with appropriations made for the Airway Science Program, as authorized below in this section, the Federal Aviation Administration may hereafter enter into competitive grant agreements with institutions of higher education having airway science curricula, for the Federal share of the allowable direct costs of the following categories of items, to the extent that such items are in support of airway science curricula: (a) the construction, purchase, or lease with option to purchase, of buildings and associated facilities, and (b) instructional materials and equipment. Such funds are hereby authorized to be appropriated and may remain available until expended, as provided in such Acts. The Federal Aviation Administration shall establish guidelines for determining the direct costs allowable under grants to be made pursuant to this section. The maximum Federal share of the allowable cost of any project assisted by such grants shall be fifty percent.

49 USC app. 1354a.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including construction of experimental facilities and acquisi-

tion of necessary sites by lease or grant, $205,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,400,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,800,000,000 in fiscal year 1991 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended, of which not to exceed $122,509,900 shall be available for letters of intent issued prior to July 30, 1990: *Provided further,* That, for each percentage point the amount made available for fiscal year 1991 from the Airport and Airway Trust Fund under sections 505, 506(a), 506(b), and 506(c) of the Airport and Airway Improvement Act of 1982 is less than 75 percent of the aggregate of the amount of funds made available for fiscal year 1991 under sections 505, 506(a), and 506(b) of such Act and the amount of funds made available for fiscal year 1991 for operations of the Federal Aviation Administration, the limitation on commitments shall be reduced by such percentage point but not to an amount less than $1,650,000,000.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are

49 USC app. 1324 note.

in excess of $9,970,000 during fiscal year 1991. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $256,415,000 shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $67,301,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

UNIVERSITY TRANSPORTATION CENTERS

(HIGHWAY TRUST FUND)

For necessary expenses for university transportation centers, as authorized by section 21(i)(2) of the Urban Mass Transportation Act of 1964, as amended, $5,000,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account).

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $5,450,000.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $10,000,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated

herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $10,000,000 in fiscal year 1991 for "Highway-Related Safety Grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $14,450,000, of which $9,633,333 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $14,500,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1991: *Provided,* That within the funds provided for interstate construction, and in accordance with authorized cost-sharing requirements, there shall be available the amounts necessary to provide the Federal share of construction costs of a bridge, designed as required for compliance with the coastal zone plan of the State of New Jersey, on Interstate 295 in the vicinity of Crosswicks Creek near Trenton, New Jersey. 23 USC 104 note.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $14,300,000,000, or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1991 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of

Transportation Act (80 Stat. 939-940), $40,000,000, of which $1,782,000 shall remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424 $63,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $61,500,000 for "Motor Carrier Safety Grants".

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $8,415,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $8,500,000, to be derived from the Highway Trust Fund.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $17,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $7,650,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $6,800,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $1,700,000, to remain available until expended.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

Of the amount appropriated to carry out a highway demonstration project in the vicinity of Jacksonville, Florida, by the Department of Transportation and Related Agencies Appropriations Act, 1990 (103 Stat. 1079), and not expended, $2,000,000 shall be available for 80 percent of expenses necessary to carry out construction of new roadways on Blount Island, Florida, without regard to whether or not such expenses are incurred in accordance with section 1.9 of title 23 of the Code of Federal Regulations.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $3,400,000, to remain available until expended.

INTERSECTION SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to complete Douglas Street in the vicinity of El Segundo, California, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,060,000, to remain available until expended.

CLIMBING LANE AND HIGHWAY SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project on U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $10,200,000, to remain available until expended.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for an improved route between Logansport and Peru, Indiana, for the purpose of dem-

onstrating the safety and economic benefits of widening and improving rural highways, $2,550,000, to remain available until expended.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve U.S. Route 231 between U.S. Route 90 and the City of Campbellton in Jackson County, Florida, for the purpose of demonstrating methods of expanding a two-lane segment of a U.S. highway to four lanes, $1,700,000, to remain available until expended.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary for the construction of a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $8,500,000, to remain available until expended.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,400,000, to remain available until expended.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $7,225,000, to remain available until expended.

URBAN HIGHWAY CORRIDOR AND BICYCLE TRANSPORTATION DEMONSTRATION PROJECTS

For 80 percent of the expenses necessary to improve and upgrade the M-59 urban highway corridor in southeast Michigan for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system, $8,500,000, to remain available until expended, together with $850,000, to remain available until expended, to provide for 80 percent of the expenses necessary for a bicycle transportation demonstration project in Macomb County, Michigan.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $9,350,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

PENNSYLVANIA RECONSTRUCTION DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to upgrade, widen, and reconstruct the sections of Pennsylvania Route 56 known as Haws Pike and the Windber By-Pass, for the purpose of demonstrating

methods of promoting economic development and highway safety, $17,000,000, to remain available until expended.

PENNSYLVANIA TOLL ROAD DEMONSTRATION PROJECT

For necessary expenses for the Monongahela Valley Expressway, $5,100,000, to remain available until expended: *Provided,* That these funds together with funds made available from the Highway Trust Fund, for Federal participation in the toll highway project being carried out under section 129(j) of title 23, United States Code, in the State of Pennsylvania shall be subject to section 129(j) of such title, relating to Federal share limitation.

HIGHWAY DEMONSTRATION PROJECTS

For up to 80 percent of the expenses necessary for certain highway projects that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $71,365,000, to remain available until expended.

HIGHWAY DEMONSTRATION PROJECTS—PRELIMINARY ENGINEERING

For up to 80 percent of the expenses necessary to carry out feasibility studies, preliminary engineering, environmental studies, and right-of-way acquisition for certain highway and bicycle transportation projects that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $48,293,000, to remain available until expended.

CORRIDOR H IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor H segment of the Appalachian Highway System, there is hereby appropriated $51,500,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORRIDOR G IMPROVEMENT PROGRAM

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor G segment of the Appalachian Highway System, there is hereby appropriated $33,275,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORRIDOR D IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of the Corridor D segment of the Appalachian Highway System, there is hereby appropriated $10,000,000, to remain available until expended: *Provided,* That all

funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

BYPASS CONSTRUCTION PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, improving highway safety and to promote economic benefits for the area affected by the construction of road improvements including a bypass near Weirton, West Virginia, there is hereby appropriated $42,500,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORNING BYPASS SAFETY DEMONSTRATION PROJECT

For the purpose of continuing a demonstration of traffic safety and flow improvement, there is hereby appropriated $17,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

TURQUOISE TRAIL PROJECT

For necessary expenses to carry out a demonstration project known as the Turquoise Trail Project, that demonstrates methods of enhancing safety and promoting economic development through converting a dirt roadway into an all weather, two lane highway, there is hereby appropriated $4,684,000, to remain available until expended: *Provided,* That such sums appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

TRADE ENHANCEMENT DEMONSTRATION PROJECT

For the purpose of implementing a demonstration of United States-Mexico trade enhancement benefits on approximately 2.6 miles of Federal-aid primary highway on State Route 189 connecting Interstate 19 to the United States-Mexico border, there is hereby appropriated $10,625,000 for engineering, design, construction and other costs incurred in the reconstruction of Mariposa Road, State Route 189 in Nogales, Arizona.

OTTUMWA ROAD EXTENSION PROJECT

For the purpose of carrying out a demonstration of economic growth and development benefits of a four lane highway in areas with industry producing heavy truck traffic, there is hereby appropriated $8,500,000 to remain available until expended, for the acquisition of rights-of-way, and other costs incurred in the upgrading and construction of a portion of a four lane facility between Oskaloosa and Ottumwa along existing State highways and new highway alignments: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

IOWA CONNECTOR PROJECT

For the purpose of carrying out a demonstration of improved access through a connector road, there is hereby appropriated $1,488,000 to remain available until expended, for the acquisition of rights-of-way, and other costs incurred in the construction of a highway facility connecting North 16th Street and North 25th Street in Council Bluffs, Iowa: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

HIGHWAY 20 REALIGNMENT PROJECT

For the purpose of carrying out a demonstration of the effect of improved highway and highway realignment, there is hereby appropriated $2,550,000 to remain available until expended, for the acquisition of right-of-way, and other costs incurred in the construction of an improved Highway 20 between Early, Iowa and Fort Dodge, Iowa: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

RAMP RELOCATION AND RECONSTRUCTION DEMONSTRATION PROJECT

For the purposes of carrying out a coordinated program of rehabilitation, relocation and reconstruction of those portions of I-94 and connecting roads impacted by the construction of a new stadium in Milwaukee, Wisconsin, $10,200,000, to demonstrate methods of reducing traffic congestion in urban areas and particularly around sports facilities, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for this project shall not be included in any calculations made under section 157 of title 23, United States Code, for fiscal year 1991 and each fiscal year thereafter.

U.S. 54 INTERCHANGE PROJECT

For the purpose of carrying out a demonstration of an improved interchange near a major municipal airport, there is hereby appropriated $9,265,000, to remain available until expended, for the acquisition of right-of-way, and other costs incurred in the construction of an improved interchange at Kellogg (U.S. 54) and Dugan Streets in Wichita, Kansas: *Provided,* That all funds appropriated under this heading shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs: *Provided further,* That $200,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is rescinded.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended)

and the National Traffic and Motor Vehicle Safety Act, $76,347,100; of which $5,000,000 shall be for carrying out 23 U.S.C. 410 and of which $38,229,500 shall remain available until expended.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $42,365,900, to remain available until expended.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $104,825,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $114,655,000 in fiscal year 1991 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $15,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That not to exceed $5,078,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1991.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $14,433,000, of which $1,669,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and

40 USC 817 note. Federal buildings and facilities.

after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That such additional sums as may be necessary, for payment on the first deed of trust, may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

LOCAL RAIL FREIGHT ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $10,000,000, to remain available until expended.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $34,362,000, of which $1,203,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities other than State rail safety inspectors participating in training pursuant to section 206 of the Federal Railroad Safety Act of 1970.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $22,147,000, to remain available until expended: *Provided,* That of this amount $1,000,000 is available until expended for a grant to the Long Island Rail Road to expand and extend an intermodal project including acquisition of intermodal equipment and related equipment, improvement of terminal facilities, and for a study on the potential impact of the Long Island Rail Road Intermodal Project, including the potential relief of bridge and highway congestion in the New York Metropolitan Area: *Provided further,* That any such grant shall be matched on a dollar for dollar basis by the State of New York and/or the State of New Jersey: *Provided further,* That up to $400,000 of the funds made available in fiscal year 1990 shall be made available for a grant to the National Railroad Passenger Corporation to undertake research to improve access to rail passenger cars from station platforms for individuals with disabilities and elderly persons: *Provided further,* That of this amount $500,000 is available until expended for a grant to the State of Washington for a study on preliminary corridor design and feasibility studies on magnetically levitated rail or other high speed rail options: *Provided further,* That any such grant shall be matched on a dollar for dollar basis by the State of Washington.

New York.
New Jersey.
Washington.

SETTLEMENTS OF RAILROAD LITIGATION

For the payment of promissory notes issued pursuant to section 210(f) of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $3,097,000, to remain available until expended, together with such sums as may be necessary for the payment of

interest due to the Secretary of the Treasury under the terms and conditions of such notes.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $179,000,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $475,080,000, of which $343,080,000 shall be available for operating losses incurred by the Corporation and for labor protection costs, and of which $132,000,000 shall be available for capital improvements. Funds made available for operating losses and for labor protection costs which remain unobligated as of September 30, 1991, may be available for capital improvements: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1991: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the third year of operation and 100 per centum of the short-term avoidable operating costs for each year thereafter: *Provided further,* That none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per

centum of the costs of such improvements shall be derived from non-Amtrak sources.

MANDATORY PASSENGER RAIL SERVICE PAYMENTS

Notwithstanding any other provision of law, funds provided under this head are available to enable the Secretary of Transportation to pay obligations of the National Railroad Passenger Corporation for repayment taxes due under section 3321 of the Internal Revenue Code of 1986.

To enable the Secretary of Transportation to pay obligations and liabilities of the National Railroad Passenger Corporation, $150,000,000: *Provided,* That of this amount $133,000,000 is available only for the payment of excise tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in fiscal year 1991 in excess of amounts needed to fund benefits for individuals who retired from the National Railroad Passenger Corporation and to beneficiaries of its employees: *Provided further,* That the remaining amount of $17,000,000 is available only for the payment of obligations of the National Railroad Passenger Corporation under section 358(a) of title 45 of the United States Code due in fiscal year 1991 in excess of its obligations calculated on an experience-rated basis.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1991: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $32,000,000 that are held by the Department of Transportation under authority of sections 502, 505-507, 509, and 511-513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1991: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Con-

Securities.

trol Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

REGIONAL RAIL REORGANIZATION PROGRAM

For the settlement of promissory notes pursuant to section 210 of the Regional Rail Reorganization Act of 1973 (Public Law 93-236), as amended, $284,979, to remain available until expended, together with such sums as may be necessary for the payment of interest due to the Secretary of the Treasury under the terms and conditions of such notes.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $5,000,000, to remain available until expended.

AMTRAK CORRIDOR IMPROVEMENT LOANS

Illinois.

For loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet and Granite City, Illinois, $3,500,000: *Provided,* That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further,* That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with Federal funds: *Provided further,* That any such loan shall be matched on a dollar for dollar basis by the State of Illinois: *Provided further,* That any such loan shall be made available no later than thirty days after enactment of this Act.

Securities.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $32,583,000: *Provided,* That none of the funds provided in this Act shall be used to implement or enforce the April 25, 1989, Notice of Proposed Rulemaking, "Major Capital Investment Projects".

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $8,000,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,600,000,000, together with $5,000,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act of 1964, as amended, to remain available until expended: *Provided,* That notwithstanding any other provision of law, of the funds provided under this head for formula grants, no more than $802,278,000 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended: *Provided further,* That notwithstanding any other provision of law, before apportionment of these funds, $13,000,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,400,000,000 in fiscal year 1991 for grants under the contract authority authorized in section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $900,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $160,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $64,100,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be nec- Government contracts.

essary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,250,000, of which $174,000 shall remain available until expended to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $15,833,000, of which $1,535,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $11,042,000, to be derived from the Pipeline Safety Fund, of which $5,925,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $31,875,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $2,700,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902), $31,470,000, of which not to exceed $1,000 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $43,777,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such. 49 USC 10344 note.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $48,928,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $459,000,000 in fiscal year 1991: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle).

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,500,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $200,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding 31 U.S.C. 1341 to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

20 USC 241 note.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center: *Provided,* That the Secretary may plan for further development of the Transportation Systems Center and for other compatible uses of the Center's real property, provided that any such planning does not alter the Federal status of the Center's research and development operation.

Government contracts.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing executive order issued pursuant to existing law.

Intergovernmental relations.
23 USC 104 note.

SEC. 310. (a) For fiscal year 1991 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1990, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection: *Provided,* That this subsection shall not apply to funds obligated for the Kennedy Expressway rehabilitation project in Chicago, Illinois.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1991, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United

States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1991 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99-500, Public Law 99-591 and Public Law 100-202; or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1991 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1991, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1991, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1991 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1991, has the amount distributed to such State under paragraph (a) for fiscal year 1991 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred and twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $1,350,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

SEC. 313. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation. 49 USC app. 1617 note.

SEC. 314. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 315. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

SEC. 316. Every 30 days, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant. Federal Register, publication. Grants.

SEC. 317. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, training, salaries, or research, and related costs thereof including necessary capital expenses, including site acquisition, construction and equipment, are available for such purposes to be conducted through contracts, grants, or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 318. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area. Florida.

SEC. 319. ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

SEC. 320. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided,* That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives. 49 USC app. 2212 note.

SEC. 321. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided,* That no appropriation shall be increased or decreased by more than 5 per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 322. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 323. VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

49 USC app. 2205 note.

SEC. 324. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment), the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment and it shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria.

SEC. 325. (a) INTERMODAL URBAN DEMONSTRATION PROJECT.—Funds appropriated in this Act for "Intermodal Urban Demonstration Project" shall remain available until expended.

New York.

(b) WESTSIDE CONNECTOR RAIL LINE PROJECT.—Notwithstanding any other provision of law, of the discretionary funds available to New York State under the Interstate Transfer Grants-Transit account of this Act, $11,000,000 shall be transferred to the Federal Railroad Administration, which shall make such funds available to Amtrak for the Westside Connector Rail Line Project in New York City.

SEC. 326. Notwithstanding any other provision of law, funds available to the Coast Guard under the head "Operating Expenses" in this Act shall be available for expenses incurred in fiscal year 1991 by the Coast Guard in responding to any oil spill.

SEC. 327. (a) MAXI-CUBE VEHICLES.—Section 411(d) of the Surface Transportation Assistance Act of 1982 (49 U.S.C. App. 2311(d)), relating to length limitations on federally assisted highways, is amended by inserting after "boat transporters" the following: "and maxi-cube vehicles".

49 USC 2311.

Government property. New York. Mary E. Shell. Edward Shell.

(b) INTERNATIONAL FLIGHT SERVICE TRANSMITTING FACILITY.—(1) Notwithstanding any other provision of law, and subject to the provisions of subsection (b)(2) below, title to a certain 102 acres of property located at West Sayville, town of Islip, Suffolk County, New York, as described in a deed dated November 4, 1918, from the Atlantic Communication Company, recorded in the office of the County Clerk of Suffolk County, New York on February 2, 1921, in Deed Liber 1016, page 433; a quit claim deed dated January 20, 1920, from Mary E. Shell; Executrix of the Estate of Edward Shell, recorded in the office of the County Clerk of Suffolk County, New York in Deed Liber 1016, page 438; and a deed dated September 2, 1920, from Atlantic Communication Company, recorded in the office of the County Clerk of Suffolk County, New York in Deed Liber 1016, page 443, and known as the Federal Aviation Administration's International Flight Service Transmitting Facility, shall be conveyed to the Fish and Wildlife Service of the United States Department of the Interior in order to ensure the continued protection of the sandplain gerardia (Agalinis acuta) a federally listed endangered plant species.

(2) The conveyance of the property identified in subsection (b)(1) shall become effective upon certification by the Administrator of the Federal Aviation Administration that the International Flight Service Transmitting Facility currently located on such property has been completely relocated to an alternate site in Barnegat, New Jersey, and that the relocated International Flight Service Transmitting Facility is fully functional. New Jersey.

(3) Pursuant to the provisions of 40 U.S.C. 484(k)(2), a certain 19.2 acres of property located on the west side of Cherry Avenue in West Sayville, town of Islip, County of Suffolk, New York, as described in a Declaration of Taking, Civil Number 60-CD-853, filed in United States District Court for the Eastern District of New York, dated September 9, 1960, shall be transferred, as a public benefit transfer and without cost, to said town of Islip for recreational purposes. New York.

SEC. 328. WESTSIDE LIGHT RAIL.—Notwithstanding any other provision of law, the Secretary shall, with regard to the Discretionary Grants program of the Urban Mass Transportation Administration, by September 30, 1991, issue a letter of intent and enter into a full funding agreement for the Westside Light Rail extension, including systems related costs, between downtown Portland, Oregon, and S.W. 185th Avenue. That full funding agreement shall provide for a future amendment under the same terms and conditions set forth above, for the extension known as the Hillsboro project which extends from S.W. 185th Avenue to the Transit Center in the City of Hillsboro, Oregon. Subject to a regional decision documented in the Hillsboro project's preferred alternatives report, the Secretary shall enter into an agreement with the Tri-County Metropolitan Transportation District in Portland, Oregon, to initiate preliminary engineering on the Hillsboro project, which shall proceed independent of and concurrent with the project between downtown Portland, Oregon, and S.W. 185th Avenue. Government contracts. Oregon.

SEC. 329. (a) Notwithstanding any other provision of law, the Secretary of Transportation shall reduce the aggregate amount which a State may obligate for Federal-aid highways and highway safety construction programs for fiscal year 1991 by 25 percent if such State has a public authority which provides mass transportation for an urbanized area of such State with a population of 3,000,000 or more as determined under the 1980 decennial census of the United States, and if by October 1, 1990— 23 USC 104 note.

(1) laws of such State do not authorize a general tax-based source of revenues to take effect on or before January 1, 1992, dedicated to paying the non-Federal share of projects for mass transportation eligible for assistance under the Urban Mass Transportation Act of 1964; or

(2) the laws of such State do not authorize the establishment of regional or local tax-based sources of revenues dedicated to pay such non-Federal share or for paying operating expenses of mass transit service so as to satisfy financial capacity standards as may be required by the Secretary of Transportation.

(b) The Secretary of Transportation may restore any reductions in obligation authority made under paragraph (a) in fiscal year 1991 for any such State which meets by July 1, 1991, subparagraph (1) or (2) of paragraph (a).

(c) For purposes of this section, the terms "mass transportation", "State", and "urbanized areas" have the meaning such terms have under section 12 of the Urban Mass Transportation Act of 1964.

49 USC app. 1348 note.

SEC. 330. (a) AUXILIARY FLIGHT SERVICE STATION PROGRAM.—The Administrator of the Federal Aviation Administration shall develop and implement a system of manned auxiliary flight service stations. The auxiliary flight service stations shall supplement the services of the planned consolidation to 61 automated flight service stations under the flight service station modernization program. Auxiliary flight service stations shall be located in areas of unique weather or operational conditions which are critical to the safety of flight. Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall report to Congress with the plan and schedule for implementation of this section.

Effective date.
Reports.

(b) NATIONAL WEATHER GRAPHICS SYSTEM.—None of the funds made available in this Act may be used by the Federal Aviation Administration for a new National Weather Graphics System.

23 USC 154 note.

SEC. 331. NATIONAL 55 MPH SPEED LIMIT ENFORCEMENT PENALTIES.—Notwithstanding sections 141(a) and 154 of title 23, United States Code, none of the funds in this or any previous or subsequent Act shall be used for the purpose of reducing or reserving any portion of a State's apportionment of Federal-aid highway funds as required by section 154(f) of title 23, United States Code, for reason of noncompliance with the criteria of that subsection during fiscal year 1989. The Secretary shall promptly restore any apportionments which, prior to enactment of this Act, were reduced or reserved from obligation for reason of noncompliance under section 154(f) during said fiscal year.

SEC. 332. Unless specifically provided in this Act, none of the funds in this Act shall be available to initiate multiyear contracts for a program which meets the criteria of a Level I or Level II major system acquisition as defined by Department of Transportation Order 4200.14 if the total value of procurement end items in the contract, including options, exceeds $100,000,000: *Provided,* That for the purposes of this section, a multiyear contract is defined as one which provides for more than one year's requirements of systems, subsystems, or components within a single contract: *Provided further,* That none of the funds in this Act shall be available to initiate contracts for major systems acquisition which include procurement options where funding for those options is scheduled to be provided prior to delivery to the Federal Government of at least fifty per centum of all units previously ordered under that contract.

23 USC 104 note.

SEC. 333. For each fiscal year the Secretary of Transportation shall withhold five per centum of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the second full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on such date.

Subsections (a)(2), (a)(3), (b), and (c) of section 104 of title 23, United States Code, are amended as follows:

"(2) The Secretary shall withhold 10 per centum (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the fourth full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if—

"(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense, and

"(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

"(B) The Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the date of enactment of this section a written certification stating that he is opposed to the enactment or enforcement in his State of a law described in subparagraph (A) relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

"(b)(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeed-

ing the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings.".

(b) The table of contents for chapter 1 of title 23, United States Code, is amended by adding at the end thereof the following new item:

"159. Revocation or suspension of the driver's license of individuals convicted of drug offenses.".

SEC. 334. Unobligated funds authorized to be appropriated by section 131(d)(2) of the Highway Improvement Act of 1982, Public Law 97-424, shall be available for obligation for the project described in section 149(a)(88) of the Federal-Aid Highway Act of 1987, Public Law 100-17, in the same manner and to the same extent provided in section 131(d)(3) of the Highway Improvement Act of 1982.

SEC. 335. Notwithstanding section 127 of title 23, United States Code, the State of Wyoming may permit the use of the National System of Interstate and Defense Highways located in Wyoming by vehicles in excess of 80,000 pounds gross weight, but meeting axle and bridge formula specifications in section 127 of title 23, United States Code: *Provided,* That this section shall remain in effect until December 31, 1991.

SEC. 336. 23 U.S.C. 410(e)(1)(C) is hereby amended by striking the words "within the time period specified in subparagraph (F)"; 23 U.S.C. 410(e)(2) is hereby amended by adding the words "a significant portion of" after the word "which", the first time it appears,

and by striking the words "convicted of" and inserting in lieu thereof the words "apprehended and fined for".

SEC. 337. Within 180 days of the effective date of this Act, the Federal Aviation Administration shall undertake and complete a study on the classification of air traffic controllers at level IV limited radar approach facilities which includes airspace complexity as a factor in determining grade classification. The results of this study, along with an implementation plan, shall be provided to the House and Senate Committees on Appropriations.

SEC. 338. Notwithstanding any provision of the Urban Mass Transportation Act of 1964, as amended, the Urban Mass Transportation Administration shall not withhold fiscal year 1989, 1990 or 1991 funds for any section 3 and section 9 operating and capital assistance grants for the City of Phoenix, Arizona, based on the inclusion of a "preference in hiring" provision in the employee protective arrangements developed pursuant to 49 U.S.C. 1609(c).

SEC. 339. Notwithstanding subsection (d) of section 402 of the Surface Transportation Assistance Act of 1982 (Public Law 97-424, 96 Stat. 2155, 2156) for States which have received only a development grant for fiscal year 1989 under such section 402 and which have participated in the Commercial Motor Carrier Safety Inspection and Weighing Demonstration Program, the Secretary shall only approve a plan under such section 402 for fiscal year 1991 which provides that the aggregate expenditure of funds of the State and political subdivisions thereof, exclusive of Federal funds, for commercial motor vehicle safety programs will be maintained at a level which does not fall below the average level of such expenditure for the last two full fiscal years preceding fiscal year 1990.

SEC. 340. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section. 41 USC 10b note.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver. President. Federal Register, publication. Government contracts.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign

country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

Reports.

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

Federal Register, publication.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

SEC. 341. (a) Notwithstanding any other provision of law, for the period January 1, 1992, through December 31, 1992, the Secretary of Transportation shall reduce the aggregate amount which a State may obligate for Federal-aid highways and highway safety construction programs by 25 percent if such State has a public authority which provides mass transportation for an urbanized area of such State with a population of 3,000,000 or more as determined under the 1980 decennial census of the United States, and if by October 1, 1991— 23 USC 104 note.

(1) laws of such State do not authorize a general tax-based source of revenues to take effect on or before January 1, 1992, dedicated to paying the non-Federal share of projects for mass transportation eligible for assistance under the Urban Mass Transportation Act of 1964; or

(2) the laws of such State do not authorize the establishment of regional or local tax-based sources of revenues dedicated to pay such non-Federal share or for paying operating expenses of mass transit service so as to satisfy financial capacity standards as may be required by the Secretary of Transportation.

(b) For purposes of this section, the terms "mass transportation", "State", and "urbanized areas" have the meaning such terms have under section 12 of the Urban Mass Transportation Act of 1964.

(c) Any withholding defined under this section shall be waived if the Governor of the State—

(1) submits to the Secretary by October 1, 1991, a written certification stating that he is opposed to the enactment in his State of a law described in subsections (a) (1) and (2) and that funding as described in subsections (a) (1) and (2) would not improve public transportation safety; and

(2) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution by a simple majority expressing its opposition to a law described in subsections (a) (1) and (2).

(d) This section shall remain in effect until December 31, 1992.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5229:

HOUSE REPORTS: No. 101-584 (Comm. on Appropriations) and No. 101-892 (Comm. of Conference).
SENATE REPORTS: No. 101-398 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 12, considered and passed House.
Aug. 4, considered and passed Senate, amended.
Oct. 19, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 26, Senate agreed to conference report and concurred in certain House amendments.
Oct. 27, Senate concurred in certain House amendment, in another with an amendment. House concurred in Senate amendment.

Public Law 101-517
101st Congress

An Act

Nov. 5, 1990
[H.R. 5257]

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1991, and for other purposes.

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991.
Department of Labor Appropriations Act, 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1991, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $71,480,000, together with not to exceed $54,301,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $4,098,236,000, plus reimbursements, to be available for obligation for the period July 1, 1991, through June 30, 1992, of which $61,097,000 shall be for carrying out section 401, $72,024,000 shall be for carrying out section 402, $9,345,000 shall be for carrying out section 441, $1,894,000 shall be for the National Commission for Employment Policy, $4,250,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $4,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act; and, in addition, $68,920,000 is appropriated for the Job Corps, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1991 through June 30, 1994; and in addition, $11,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

None of the funds in this Act shall be obligated to renovate or relocate the Job Corps center in Detroit, Michigan.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $312,000,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $88,000,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $269,500,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-491-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue code of 1986, $25,600,000, together with not to exceed $2,914,246,000 (including not to exceed $2,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1991, and of which $18,882,000 of the amount which may be expended from said trust fund shall be available for obligation for the period April 1, 1991, through December 31, 1991, for automation of the State activities under title III of the Social Security Act, as amended (42 U.S.C. 502-504 and 5 U.S.C. 8501-8523), and of which $21,700,000 together with not to exceed $803,300,000 of the amount which may be expended from said trust

fund shall be available for obligation for the period July 1, 1991, through June 30, 1992, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $12,500,000 of the amount which may be expended from said trust fund shall be available for obligation for the period October 1, 1991 through June 30, 1992, for automation of the State activities under section 6 of the Act of June 6, 1933, as amended, and of which $247,509,000 shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1991: *Provided,* That of the amounts appropriated under "School Improvement Programs" herein, $1,000,000 shall be available, to remain available until expended, for payment of the expenses incurred by the School Year Extension Study Commission if such a Commission is authorized by law, and of the amounts appropriated under "Education Research, Statistics, and Improvement" herein, $2,000,000 shall be available, if authorized in law, to remain available through fiscal year 1993, for expenses to be incurred in the operation of an independent National Council on Educational Goals, or any similar panel, council, commission, or other entity whose function shall include monitoring progress toward achieving the national education goals for 2000 or publishing a report that describes such progress, if—

(A) such entity has a majority of voting members who are neither Federal appointed or elected officials nor Governors of the States but who are citizens distinguished by training or experience in analyzing educational data or widely recognized experience in, knowledge of, and commitment to education and educational excellence;

(B) such entity has members appointed by the leadership of the National Governors' Association, the President, and the leadership of both Houses of Congress; and

(C) all action of such entity is taken by a simple majority of the members attending a duly called and constituted meeting.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1992, $328,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $90,051,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1991, for such Corporation: *Provided,* That not to exceed $42,669,000 shall be available for administrative expenses of the Corporation: *Provided further,* That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $222,388,000, together with $1,016,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $322,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided,* That balances of reimbursements from Federal Government agencies unobligated on September 30, 1990, shall

remain available for the payment of compensation, benefits, and expenses through September 30, 1991: *Provided further,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1991.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $918,796,000, of which $866,019,000 shall be available until September 30, 1992, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $29,051,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $23,355,000 for transfer to Departmental Management, Salaries and Expenses, and $371,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $293,743,000, including not to exceed $66,220,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule,

regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $179,267,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, 30 USC 962.

surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $210,274,000, together with not to exceed $52,760,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $4,200,000 for the President's Committee on Employment of People With Disabilities, $135,359,000, together with not to exceed $285,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $172,031,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $45,713,000, together with not to exceed $4,195,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

District of Columbia.

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1991".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Department of Health and Human Services Appropriations Act, 1991.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, X, XVI, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, and the Native Hawaiian Health Care Act of 1988, $2,139,382,000, of which $2,000,000, to remain available until expended, shall be available for renovating facilities related to the activities of the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, of which $488,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act, of which $4,129,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of nonacute care intermediate and long-term care facilities for AIDS patients, of which $1,000,000 shall be available until expended under section 1610(b) of the Public Health Service Act to make grants to be awarded competitively for the renovation or construction of tertiary perinatal facilities in those States whose infant mortality rate is significantly above the national average, and of which $226,000,000 shall be available for title XXVI of the Public Health Service Act: *Provided,* That the Secretary shall retain and distribute from the total provided for title XXVI of the Act such amounts as may be necessary to ensure the continuation of health care services through September 30, 1991 provided by grantees whose project periods extend through that date: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302: *Provided further,* That during fiscal year 1991, the Secretary of Health and Human Services may enter into commitments of not to exceed $260,000,000 for fiscal year 1991 to guarantee Health Education and Assistance Loans under subpart 1 of part C of title VII of the Public Health Service Act: *Provided further,* That none of the funds made avail-

able under this heading shall be used to carry out sections 638, 704 and 705 of Public Law 100-607.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $20,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

VACCINE INJURY COMPENSATION

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended, to remain available until expended: *Provided,* That for necessary administrative expenses, not to exceed $1,500,000 shall be available from the Trust Fund to the Secretary of the Department of Health and Human Services.

For compensation of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $62,920,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, VII, XVII, XIX, XXVII, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, Public Law 101-354 and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,350,747,000 of which $32,740,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees may be credited to this appropriation: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes

may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $19,000,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,766,324,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,158,650,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $153,272,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $632,272,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $556,864,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $933,235,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $779,250,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $492,745,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $260,159,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $249,092,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $332,782,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $198,442,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $138,497,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $343,796,000: *Provided,* That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $40,768,000.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $89,731,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities of the John E. Fogarty International Center, $18,059,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $94,416,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $100,575,000, including purchase of not to exceed five passenger motor vehicles for replacement only: *Provided,* That $15,000,000 of this amount shall be available for extramural facilities construction grants if awarded competitively: *Provided further,* That the funds for the AIDS Research Loan Repayment Program remain available through September 30, 1992: *Provided further,* That the Director may direct up to one percent of the total amount made available in this Act to all National Institutes of Health appropriations to high-priority activities the Director may so designate: *Provided further,* That no such appropriation shall be increased or decreased by more than one percent by any such transfers and that the Congress is promptly notified of the transfer.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $172,853,000, to remain available until expended.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, section 3521 of Public Law 100-690, section 621 of Public Law 100-628, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $2,966,898,000, of which $3,126,000 for renovation of government owned or leased intramural research facilities shall remain available until expended and of which $5,000,000 shall be available for grants on a competitive basis for the construction, renovation, operation and maintenance of research facilities: *Provided,* That funds available under this heading for block grants under subpart 1, part B of title XIX of the Public Health Service Act shall be expended by States in accordance with the same criteria and limitations as were applied to such grants for the fiscal year 1990.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $12,000,000, which shall be available in fiscal year 1991 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided,* That any amounts determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $69,540,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and Part A of title XI of the Social Security Act, $98,887,000 together with not to exceed $5,000,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,037,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,776,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $36,966,394,000, to remain available until expended.

For making, after May 31, 1991, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1991 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1992, $13,500,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such

quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $35,335,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, and section 4005(e) of Public Law 100-203, as amended, $105,466,000, together with not to exceed $2,029,138,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided,* That $136,500,000 of said trust funds shall be expended only to the extent necessary to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further,* That all funds collected in accordance with section 353 of the Public Health Service Act are to be credited to this appropriation to remain available until expended.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $46,958,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $626,081,000, to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1992, $203,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $14,031,394,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury: *Provided,* That all collections from repayments of overpayments shall be deposited in the general fund of the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1992, $3,550,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,316,974,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $150,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States.

42 USC 1383 note.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $10,172,346,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X,

XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1992, $3,300,000,000 to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,450,000,000, of which $74,610,000 shall become available for making payments on September 30, 1991.

ENERGY EMERGENCY CONTINGENCY FUND

For the purpose of establishing an "Energy Emergency Contingency Fund", in the United States Treasury to be available for grants to the fifty States, the District of Columbia, and Indian tribes and tribal organizations receiving direct funding in fiscal year 1991 under the Low-Income Home Energy Assistance Act of 1981, $200,000,000 which shall be available for obligation after January 15, 1991: *Provided,* That the national average retail price of home heating oil in any of the months December 1990, January 1991, or February 1991, as reported for Petroleum Marketing Monthly by the Energy Information Administration or the best available data from the Department of Energy on the last day of the month following such month, exceeds by 20 per centum or more the average of the national average retail price for home heating oil for the corresponding month as reported by the Department of Energy for 1986, 1987, 1988, and 1989: *Provided further,* That these funds shall be allotted to the fifty States and the District of Columbia in proportion to the consumption by low-income households in such jurisdiction (determined on the basis of the best data available at the time of allotment) of home heating oil: *Provided further,* That for allotment purposes only, home heating oil includes liquified petroleum gas and kerosene: *Provided further,* That Indian tribes and tribal organizations shall receive the same per centum of the allotment of the State or States in which they are located as they receive from that State's (or those States') allotment for fiscal year 1991 under section 2604 of the Low-Income Home Energy Assistance Act.

Low-income persons.

Indians.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $420,770,000, of which $240,000,000 shall be available for State cash and medical assistance.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

8 USC 1255a note.

Section 204(a)(1)(B) of the Immigration Reform and Control Act of 1986 is amended by striking the period at the end thereof and inserting in its place the following: ", and funds appropriated for fiscal year 1991 under this section are reduced by $566,854,000.".

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended—

(1) by striking "$1,000,000,000" and inserting in its place "$2,000,000,000";

(2) by inserting "for each of fiscal years 1990 and 1991" after "paragraph (2)"; and

(3) by striking the period at the end thereof and inserting in its place the following: "and fiscal year 1991.".

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $438,300,000, of which $21,000,000 shall be for carrying out section 681(a)(2)(A), $4,200,000 shall be for carrying out section 681(a)(2)(D), $3,100,000 shall be for carrying out section 681(a)(2)(E), $11,100,000 shall be for carrying out section 681(a)(2)(F), $250,000 shall be for carrying out section 681(a)(3), $4,150,000 shall be for carrying out section 408 of Public Law 99-425, and $2,500,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, $86,450,000, to be reduced by such sums as may be collected, which shall be credited to this account as offsetting collections, from fees authorized under section 453 of the Social Security Act: *Provided,* That funds appropriated in Public Law 101-166 for the Commission on Interstate Child Support shall remain available through September 30, 1991.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,800,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment

Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 95-266 (adoption opportunities), section 206 of the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Centers Act of 1988, the Abandoned Infants Assistance Act of 1988, section 10404 of Public Law 101-239 and part B of title IV and section 1110 of the Social Security Act, $3,519,699,000, of which $1,000,000 shall remain available until expended for the 1991 White House Conference on Aging.

For carrying out the Child Care and Development Block Grant Act of 1990, $750,000,000 which shall become available for obligation on September 7, 1991: *Provided,* That these funds shall only become available upon enactment into law of authorizing legislation.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,611,281,000, of which $520,911,000 shall be for payment of prior years' claims: *Provided,* That of the total amount provided, $27,352,000 shall be transferred to the "Human Development Services" account for part B of title IV of the Act.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $81,350,000, of which $20,995,000 shall be available for expenses necessary for the Office of the General Counsel, together with $31,100,000, of which $26,881,000 shall be available for expenses necessary for the Office of the General Counsel, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $53,500,000, together with not to exceed $43,723,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $17,585,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $9,167,000: *Provided,* That not less than $3,150,000 shall be obligated to con-

tinue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 202. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 206. Amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

SEC. 207. None of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Alcohol, Drug Abuse, and Mental Health Administration.

SEC. 208. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

Infants and children.
AIDS.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

Telecommunications.
Computer technology.
Government employees.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

SEC. 211. No funds appropriated under this Act shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 212. None of the funds appropriated by this title shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

SEC. 213. None of the funds appropriated in this title for the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $120,000 per year.

Educational study programs.
AIDS.

SEC. 214. Notwithstanding any other provision of this Act, AIDS education programs that receive assistance from the Centers for Disease Control and other education curricula dealing with sexual activity that receive assistance under this Act—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual; and

(2) with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information; and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1991".

Department of Education Appropriations Act, 1991.

TITLE III—DEPARTMENT OF EDUCATION

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $6,378,231,000, of which $6,350,158,000 shall become available on July 1, 1991 and shall remain available until September 30, 1992: *Provided,* That $5,125,500,000 shall be available for basic grants under section 1005, $569,500,000 shall be available for concentration grants under section 1006, $301,871,000 shall be available for migrant education activities under subpart 1 of part D, $152,537,000 shall be available for handicapped education activities under subpart 2 of part D, $37,000,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $60,600,000 shall be for State administration under section 1404, and $15,150,000 shall be for program improvement activities under section 1405: *Provided further,* That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further,* That no state shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404.

From the amounts appropriated for part A of chapter 1, an amount not to exceed $100,000,000 may be obligated to carry out a new Merit Schools program only if such program is specifically authorized in law prior to December 31, 1990.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81-815 and 81-874, as amended, $800,000,000, of which $600,000,000 shall be for payments under section 3(a), $140,000,000 shall be for payments under section 3(b), $14,000,000, to remain available until expended, shall be for disaster assistance payments under section 7, $17,000,000 shall be for Federal property payments under section 2, $2,000,000, to remain available until expended, shall be for payments under section 3(e) related to shifts in enrollment and $27,000,000, to remain available until expended, shall be for construction and renovation of school facilities including $10,000,000 for awards under section 10, $10,000,000 for awards under sections 14(a) and 14(b), and $7,000,000 for awards under sections 5 and 14(c): *Provided,* That, of the amounts appropriated for payments under sections 3(a) and 3(b), not to exceed $25,000,000 shall be available for payments under section 3(d)(2)(B): *Provided further,* That any school district that received a

payment under section 5(b)(2) of the Act for fiscal year 1986, but which the Department of Education has determined to be ineligible for section 2 assistance due to a review of the original assessed value of the real property involved at the time of acquisition of the Federal property, shall be deemed eligible for payments under section 2 for fiscal year 1991 only.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, without regard to sections 5112(a) and 5112(c)(2)(A), V, and VI of the Elementary and Secondary Education Act of 1965, as amended; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; and chapter 5 of subtitle A of title VI of Public Law 100-418; the Follow Through Act; and title IX of the Education for Economic Security Act, $1,621,735,000, of which $1,195,128,000 shall become available on July 1, 1991, and remain available until September 30, 1992: *Provided,* That of the amount appropriated, $1,000,000 shall be for an evaluation study of the chapter 2 block grant program, and $35,407,000 shall be for national programs under part B of chapter 2; $12,000,000 shall be for national program activities under section 2012 and $207,000,000 shall be for State grants under part A of title II of the Elementary and Secondary Education Act of 1965, as amended; $5,415,000 shall be for grants for schools and teachers under subpart 1 and $3,700,000 shall be for family-school partnerships under subpart 2 of part B of title III of Public Law 100-297: *Provided further,* That of the amounts appropriated herein, $2,000,000 shall be available for the National Writing Project, contingent upon enactment of authorizing legislation.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $202,904,000, of which $36,957,000 shall be for training activities under part C of title VII including not more than $4,000,000 for the support of not to exceed 400 fellowships under section 7043.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $2,528,378,000, of which $1,900,000,000 for section 611, $300,000,000 for section 619, and $120,000,000 for section 685 shall become available for obligation on July 1, 1991, and shall remain available through September 30, 1992.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100-407, and the Helen Keller National Center Act, as amended, $1,896,499,000, of which $18,822,000 shall be for special demonstration programs under sec-

tions 311 (a), (b), and (c): *Provided,* That, until October 1, 1991, the funds appropriated to carry out section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) shall be used to support entities currently receiving grants under the section.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,288,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $38,131,000, of which $336,000 shall be for the endowment program as authorized under section 408 and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $74,047,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended, and $2,500,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, the Stewart B. McKinney Homeless Assistance Act, and the Omnibus Trade and Competitiveness Act of 1988, $1,276,293,000 which shall become available for obligation on July 1, 1991, and shall remain available through September 30, 1992: *Provided,* That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act $25,290,000 shall be for national programs under title IV, including $7,000,000 for research, $13,290,000 for demonstrations and $5,000,000 for data collection and $2,500,000 shall be for tribally controlled postsecondary vocational institutions under title III, part H: *Provided further,* That of the amounts made available under the Adult Education Act, $1,000,000 shall be available only for demonstration programs under section 372(d), $3,000,000 shall be for national programs under section 383, and $5,000,000 shall be for literacy clearinghouse activities under section 384: *Provided further,* That $2,000,000 of the total appropriated herein shall be for commercial driver literacy if authorized in law.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $6,879,475,000, which shall remain available until September 30, 1992, and of which $113,000,000 shall only be available if such funds are necessary to pay a maximum grant of $2,400 during the 1991–

20 USC 1070a note.

1992 program year, which shall be the maximum Pell grant that a student may receive: *Provided,* That notwithstanding section 479A of the Higher Education Act of 1965 as amended, student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and the expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411F(1) of the Higher Education Act of 1965 as amended, the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further,* That notwithstanding section 411(b)(6)(B) of the Higher Education Act of 1965, no Pell grant for award year 1991–1992 shall be awarded to any student who is attending an institution of higher education on a less than half-time basis: *Provided further,* That notwithstanding sections 481(b) and 484 of the Higher Education Act of 1965 as amended, in order for a student to be eligible to receive any student financial aid authorized under title IV of the Higher Education Act of 1965 as amended, for award year 1991–1992, a student must have a high school diploma or its recognized equivalent, or, prior to enrollment in the course of study for which such assistance is sought, shall have secured a passing grade on a test of ability to complete successfully that course, and that the test shall be developed, administered, and graded by one or more organizations determined by the Secretary to be independent of the institutions using the test.

GUARANTEED STUDENT LOANS

(LIQUIDATION OF CONTRACT AUTHORITY)

For payment of obligations incurred under contract authority entered into pursuant to title IV, part B, of the Higher Education Act, as amended, $5,381,422,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided for, titles I, III, IV, V, VI, VII, VIII, IX, X, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, and the Library Services and Construction Act Amendments of 1984, section 612(b) of Public Law 101–162, section 140 of Public Law 100–202, title XIII, part H, subpart 1 of the Education Amendments of 1980, $781,470,000, of which $17,893,000 for endowment activities under section 332 of part C of title III of the Higher Education Act, $300,000 for section 777, and $20,900,000 for interest subsidies under part D of title VII of the Higher Education Act, $5,500,000 for section 612(b) of Public Law 101–162, $3,000,000 for section 140(a) and $1,000,000 for section 140(b) of Public Law 100–202 shall remain available until expended, and of which $3,000,000 shall be for carrying out section 304 of Public Law 98–480: *Provided,* That of the amounts provided herein, $700,000 shall be available for subpart 1 of part H of title XIII of the Education Amendments of 1980: *Provided further,* That $9,500,000

provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further*, That $1,000,000 of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for an evaluation of Special Programs for the Disadvantaged to examine the effectiveness of current programs and to identify program improvements: *Provided further,* That of the amounts provided herein, $1,000,000 shall be available to carry out a national science scholars program, if authorized in law: *Provided further,* That of the amounts provided herein, $4,000,000 shall remain available until expended for an award for carrying out part B of title VII of the Higher Education Act.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $200,036,000, of which $3,000,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480), and $6,000,000, to remain available until expended, shall be for emergency construction needs.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year. For the fiscal year 1991, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided*, That during fiscal year 1991, gross commitments for the principal amount of direct loans shall be $30,000,000.

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $8,449,000, to remain available until expended.

COLLEGE HOUSING LOANS

Government contracts.

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for

inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For necessary expenses to carry out section 405 and section 406 of the General Education Provisions Act, as amended, $133,404,000, of which $4,000,000 shall be for the rural education program conducted by the regional laboratories which shall be in addition to the amounts carried forward from fiscal year 1990 for this purpose. In addition to these amounts, $5,000,000 shall be available for teaching standards activities, if authorized, which shall be awarded to the National Board for Professional Teaching Standards if such a grant is specifically authorized in law.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, $146,428,000 of which $19,693,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act which shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $331,000,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $50,400,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $25,800,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so

desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

Magnet schools.

Religious discrimination.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

IMPACT AID

SEC. 306. Notwithstanding any other provision of law, in carrying out the provisions of section 7 of Public Law 81-874 (20 U.S.C. 241-1) (as amended) and section 16 of Public Law 81-815 (20 U.S.C. 646) (as amended), the Secretary of Education shall reduce or waive the administrative guideline of a 25 percent non-Federal share upon a showing of—

(1) financial hardship by the State or political subdivision thereof in the provision of; or

(2) a good faith effort by the State or political subdivision thereof to provide;

the non-Federal share for purposes related to the disaster for which Federal assistance is sought.

This title may be cited as the "Department of Education Appropriations Act, 1991".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $196,015,000: *Provided,* That $31,035,000 shall be available for title I, section 102, and $2,245,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1993, $326,505,000, of which $66,940,000 shall be available for section 396(k)(10) of said Act: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $27,705,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,292,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100–607, $3,000,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of

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1987, Public Law 100-203 as amended, $1,100,000, which shall remain available until expended.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-845), $750,000.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $400,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,475,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $151,103,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,675,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $6,401,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,871,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $3,971,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $335,000,000, which shall include amounts becoming available in fiscal year 1991 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided,* That the total amount provided herein shall be immediately credited to the account: *Provided further,* That the amount provided herein plus the interest earned thereon shall be available for payments through September 30, 1991.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $400,000, to remain available through September 30, 1992, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $71,663,000 to be derived from the railroad retirement accounts, of which $2,457,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board: *Provided,* That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be

available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $15,665,000 shall be apportioned for fiscal year 1991 from moneys credited to the railroad unemployment insurance administration fund of which $433,000 shall be available for the lease-to-purchase costs and contract services related to the installation of a mainframe computer only upon the delegation of procurement authority from the General Services Administration to the Railroad Retirement Board.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,000,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $41,583,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $11,500,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $8,600,000.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For carrying out activities under Public Law 100-382, $500,000.

TITLE V—GENERAL PROVISIONS

Government contracts. Public information.

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5

U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available

for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Wages.

SEC. 512. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Drugs.
Health.

SEC. 513. None of the funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not encourage the use of illegal drugs.

SEC. 514. (a) Notwithstanding any other provision of this Act, funds appropriated for salaries and expenses of the Department of Labor are hereby reduced by $9,000,000; salaries and expenses of the Department of Education are hereby reduced by $5,000,000; and salaries and expenses of the Department of Health and Human Services are hereby reduced by $50,000,000: *Provided,* That no trust fund limitation shall be reduced with the exception of the Social Security Administration, Limitation on Administrative Expenses, which is hereby reduced by $57,000,000.

(b) Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 2.41 per centum.

SEC. 515. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, transfers, if any, in the following accounts are a necessary (but secondary) result of significant policy changes: State Unemployment Insurance and Employment Service Operations; Low Income Home Energy Assistance; Interim Assistance to States for Legalization; and Human Development Services.

IMPACT AID

SEC. 516. Section 5(e)(1)(D) of Public Law 81-874 (as amended) (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991 as a result of families moving off base due to a landfill or health concern

or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for fiscal year 1991.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5257:

HOUSE REPORTS: No. 101-591 (Comm. on Appropriations) and No. 101-908 (Comm. of Conference).
SENATE REPORTS: No. 101-516 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 19, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 22, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Oct. 25, Senate agreed to conference report; concurred in certain House amendments, in others with amendments.
Oct. 26, House concurred in certain Senate amendment and disagreed to certain others. Senate receded from its amendments.

Public Law 101-518
101st Congress

An Act

Nov. 5, 1990
[H.R. 5311]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1991, and for other purposes.

District of Columbia Appropriations Act, 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1991, and for other purposes, namely:

Federal Payment to the District of Columbia

For payment to the District of Columbia for the fiscal year ending September 30, 1991, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 4,430, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

Federal Contribution to Retirement Funds

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

Transitional Payment for Saint Elizabeths Hospital

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Hospital Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $10,000,000.

Criminal Justice Initiative

The $70,300,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, September 30, 1989, and September 30, 1991, for the design and construction of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison: *Provided,* That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets:

Provided further, That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

Telephone. Public information.

DRUG EMERGENCY

For a Federal contribution to the District of Columbia, $26,708,000, to remain available until expended, to close open air drug markets, increase police visibility, and provide for speedier court processing of drug-related violent cases.

COMMISSION ON BUDGET AND FINANCIAL PRIORITIES

For payment to the District of Columbia for expenses incurred in fiscal year 1990 and fiscal year 1991 by the Commission on Budget and Financial Priorities, up to $1,000,000: *Provided,* That such funds shall become available only when equally matched with District funds.

BOARD OF EDUCATION

For a Federal contribution to the District of Columbia, $14,080,000, of which $10,000,000 shall be for maintenance improvements and emergency repairs to public school facilities, $2,000,000 shall be for renovations to public school athletic and recreational grounds and facilities, $80,000 shall be for the D.C. Schools Project for immigrant children, $1,000,000 shall be for expansion of the early childhood program, and $1,000,000 shall be for the Anacostia Project in Southeast Washington.

FIRE DEPARTMENT

For a Federal contribution to the District of Columbia for the Fire Department, $1,141,000.

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

For a Federal contribution to the District of Columbia for the After School Kids Program, $160,000, of which $80,000 shall be available to the Social Services Division of the Superior Court of the District of Columbia for other youth screening and diversion programs.

DISTRICT OF COLUMBIA GENERAL HOSPITAL

For a Federal contribution to the District of Columbia General Hospital, $5,000,000.

DEPARTMENT OF HUMAN SERVICES

For a Federal contribution to the District of Columbia, $3,041,000, of which $350,000 shall be to develop a program for boarder babies and children of substance abusers, $500,000 shall be to develop a

residential aftercare program for pregnant substance abusers, $1,500,000 shall be for outpatient aftercare for pregnant substance abusers and the general recovering addict population, $500,000 shall be for a program for early detection of breast and cervical cancer to be conducted by an independent organization or institution of national prominence, and $191,000 shall be for security fences and security lighting at the Oak Hill Juvenile Detention Facility and security lighting at the Cedar Knoll Facility.

DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

For a Federal contribution to the District of Columbia Institute for Mental Health to provide professional mental health care to low-income, underinsured, and indigent children, adults, and families in the District of Columbia, $1,000,000.

CHILDREN'S NATIONAL MEDICAL CENTER

For a Federal contribution to the Children's National Medical Center for a cost-shared National Child Protection Center, $3,000,000.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $112,879,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $9,077,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $818,000 shall be derived from the general fund and not to exceed $8,259,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report: *Provided further,* That of the Indirect Cost Allocation distributed by the District government, no less than $500,000 shall be provided to the Department of Administrative Services and no less than $500,000 shall be provided to the Office of Personnel.

Reports.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $135,541,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further,* That up to $275,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $920,464,000: *Provided,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's order 86-45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1991, shall be available for obligations incurred under that Act in each fiscal year since inception in the fiscal year ending September 30, 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1991, shall be available for obligations incurred under that Act in each

fiscal year since inception in the fiscal year ending September 30, 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the United States Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1991, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That at least 21 ambulances shall be maintained on duty 24 hours per day, 365 days a year: *Provided further,* That the staffing levels of each two-piece engine company within the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect: *Provided further,* That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Firefighting Division of the Department: *Provided further,* That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as published in the District of Columbia Register for July 25, 1986 (33 DCR 4453a): *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for the emergency services involved: *Provided further,* That

$17,630,000 for the Metropolitan Police Department and $2,600,000 for the District of Columbia Superior Court shall remain available until expended.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $737,240,000, to be allocated as follows: $528,764,000 for the public schools of the District of Columbia; $22,000,000 for pay-as-you-go capital projects for public schools; $81,200,000 for the District of Columbia Teachers' Retirement Fund; $76,913,000 for the University of the District of Columbia; $20,378,000 for the Public Library; $3,527,000 for the Commission on the Arts and Humanities; $3,940,000 for the District of Columbia School of Law; and $518,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That the amount allocated under this title for the public schools shall be increased, dollar for dollar up to $36,400,000, by the amount the annual Federal payment for fiscal year 1991 is increased above the current $430,500,000 Federal payment in fiscal year 1990: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1991, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: *Provided further,* That under this heading for the fiscal year ending September 30, 1991, the Public Library shall be considered a statutorily independent agency and thus shall be exempted from any and all across-the-board rescissions that may be applied to agencies under the control of the Mayor.

HUMAN SUPPORT SERVICES

Human support services, $876,431,000: *Provided,* That $20,848,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used to provide health care to homeless persons: *Provided further,* That not less than $191,000 of the funds appropriated under this heading shall be used by the Administrator of the Youth Services Administration to install security fences and security lighting at the Oak Hill Juvenile Detention Facility and security lighting at the Cedar Knoll Facility: *Provided further,* That of the funds provided for the provision of emergency shelter services in the Department of Human Services, three-fourths of the funds shall be available solely for allocation to a legally constituted private nonprofit organization in the District as defined in section 411(5) of the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 495; 42 U.S.C. 11371(5)): *Provided*

further, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services, if the District would not be qualified to receive reimbursement pursuant to the McKinney Act (42 U.S.C. 11301 et seq.): *Provided further,* That the Hurt Home located at 3050 R Street, Northwest, in the District of Columbia, shall not be occupied by residential or day patients or used as a residential treatment facility until a final decision is rendered by the District of Columbia Court of Appeals in Speyer v. Barry, Appeal No. 88-958.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $229,482,000: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further,* That any unobligated funds from the school transit subsidy shall be applied solely to the repayment of the general fund accumulated deficit.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $8,383,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual Convention Center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, space note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act Amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $252,740,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $213,403,000 general fund accumulated deficit as of September 30, 1989, $20,000,000, of which not less than $18,287,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided,* That if the Federal payment to the District of Columbia for fiscal year 1991 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), as amended, the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order: *Provided further,* That all net revenue the District of Columbia government may collect as a result of the District of Columbia government's pending appeal in the consolidated case of U.S. Sprint Communications, et al. v. District of Columbia et al., CA 10080-87 (court order filed November 14, 1988), shall be applied solely to the repayment of the general fund accumulated deficit.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $13,028,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,112,000.

SUPPLY, ENERGY, AND EQUIPMENT ADJUSTMENT

The Mayor shall reduce authorized supply, energy, and equipment appropriations and expenditures within object class 20 (supplies), 30a (energy), and 70 (equipment) in the amount of $10,000,000, within one or several of the various appropriation headings in this Act.

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $10,000,000, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $324,322,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 through 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Na-

tion's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $15,962,000 shall be available for project management and $17,521,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use by each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $22,000,000 for the public school system, $392,000 for the Department of Recreation and Parks, and $2,208,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1992, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1992: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $226,209,000, of which $36,608,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $28,730,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That $39,609,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriations Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95

Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,600,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,700,000.

GENERAL PROVISIONS

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Government contracts.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personnel compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1991, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 39,262.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1992, shall be transmitted to the Congress no later than April 15, 1991.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on General Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

SEC. 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term. Abortion.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections. Reports.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1990 shall be deemed to be the rate of pay payable for that position for September 30, 1990.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, a per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1991, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1991 revenue estimates as of the end of the first quarter of fiscal year 1991. These estimates shall be used in the budget request for the fiscal year ending September 30, 1992. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), as amended, is amended by striking out "sold before October 1, 1990" and inserting in lieu thereof "sold before October 1, 1991".

Government contracts.

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Code, sec. 1-1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather

than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 133. Section 133(e) of the District of Columbia Appropriations Act, 1990 is amended by striking "December 31, 1990" and inserting "December 31, 1991". Termination date. 103 Stat. 1280.

SEC. 134. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 135. For the fiscal year ending September 30, 1991, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 136. (a) IN GENERAL.—

(1) ATTORNEYS.—Section 906 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (section 1-610.6, D.C. Code) is amended—

(A) in subsection (a), by striking "Notwithstanding" and inserting "Except as provided in subsection (c) and notwithstanding"; and

(B) by adding at the end the following new subsection: "(c) Subsections (a) and (b) shall not apply to any person applying for or accepting any position in the Excepted Service as an attorney, and such person shall be covered by the provisions of section 801(e).".

(2) EMPLOYEES OF BOARDS AND COMMISSIONS.—Section 202(3) of such Act (section 1-602.2, D.C. Code) is amended by inserting after the second sentence the following: "Individuals serving as employees of boards and commissions shall be covered by the provisions of section 801(e).".

(3) CONFORMING AMENDMENT.—D.C. Law 3-36 is amended—

(A) in section 4(a)(4) (section 9-603(a)(4), D.C. Code), by striking the colon at the end of the second sentence and all that follows and inserting a semicolon; and

(B) in section 11 (section 9-610, D.C. Code), by striking "titles V and XVII" and inserting "titles V and XVII and section 801(e)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of the Residency Preference Amendment Act of 1988.

SEC. 137. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with, the offices of United States Senator or United States Representative under section 4(d) of D.C. Law 3-171 (sec. 1-113(d), D.C. Code).

SEC. 138. (a) The proviso under the heading "Public Works" in the Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990, approved May 25, 1990 (Public Law 101-302; 104 Stat. 241), shall remain in effect until September 30, 1991.

(b) Chapter IX of title II of the Dire Emergency Supplemental Appropriation for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990, approved May 25, 1990 (Public Law 101-302; 104 Stat. 241), is amended in the item relating to "Public Safety and Justice" by striking "current operating revenues collected during fiscal year 1991 and not from".

SEC. 139. (a) Up to 75 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1991 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 75 light duty positions that may become vacant under subsection (a) are filled, a civilian employee shall be hired to fill that position or shall be filled by an officer or member of the Metropolitan Police Department for a temporary period of time.

(d) The limited duty policy of the Metropolitan Police Department shall be that in effect prior to July 8, 1990, unless ordered by the relevant court.

SEC. 140. Notwithstanding any other provision of law, the Task Force on Substance Abusing Pregnant Women and Infants Exposed to Maternal Substance Abuse During Pregnancy shall report no later than March 29, 1991. Reports.

This Act may be cited as the "District of Columbia Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5311:

HOUSE REPORTS: No. 101-607 (Comm. on Appropriations); Nos. 101-897, 101-935, and 101-958 (all from Comm. of Conference).
SENATE REPORTS: No. 101-397 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 26, considered and passed House.
Sept. 11, 12, 14, 18, considered and passed Senate, amended.
Oct. 20, 25, House rejected conference reports.
Oct. 26, House and Senate agreed to conference report.

Public Law 101-519
101st Congress

An Act

Nov. 5, 1990
[H.R. 5313]

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes.

Military Construction Appropriations Act, 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, $746,137,000, to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed $89,577,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-173, $1,900,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 99-500 and Public Law 99-591, $14,905,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 100-202, $29,030,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 100-447, $26,910,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Army" under Public Law 101-148, $44,000,000 is hereby rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,132,606,000, to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed $74,451,000 shall

be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Navy" under Public Law 101-148, $6,200,000 is hereby rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $949,094,000 and rescission of $26,000,000 of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148 in addition to the rescissions listed subsequently in this paragraph, to remain available until September 30, 1995: *Provided,* That of this amount, not to exceed $94,241,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 100-447, $4,700,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Military Construction, Air Force" under Public Law 101-148, $20,690,000 is hereby rescinded: *Provided further,* That, herein and hereafter, the Ballistic Missile Organization shall not be relocated from Norton Air Force Base, California.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSIONS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $601,288,000, to remain available until September 30, 1995: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $94,285,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-447, $35,578,000 is hereby rescinded: *Provided further,* That of the funds appropriated for

"Military Construction, Defense Agencies" under Public Law 101-148, $32,541,000 is hereby rescinded.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $192,700,000, to remain available until expended: *Provided,* That none of the funds appropriated or otherwise available under the North Atlantic Treaty Organization Infrastructure Account in this or any other Act may be obligated for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing to Crotone, Italy.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $313,224,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $180,560,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $77,426,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $80,307,000, to remain available until September 30, 1995.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States

Code, and military construction authorization Acts, $38,600,000, to remain available until September 30, 1995.

FAMILY HOUSING, ARMY

(INCLUDING RESCISSIONS)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $74,300,000; for Operation and maintenance, and for debt payment, $1,463,967,000; in all $1,538,267,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 100-202, $4,264,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Army" under Public Law 100-447, $8,400,000 is hereby rescinded.

FAMILY HOUSING, NAVY AND MARINE CORPS

(INCLUDING RESCISSION)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $174,917,000; for Operation and maintenance, and for debt payment, $691,101,000; in all $866,018,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Navy and Marine Corps" under Public Law 101-148, $11,037,000 is hereby rescinded.

FAMILY HOUSING, AIR FORCE

(INCLUDING RESCISSIONS)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $162,957,000; for Operation and maintenance, and for debt payment, $771,442,000; in all $934,399,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 100-202, $1,941,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 100-447, $167,000 is hereby rescinded: *Provided further,* That of the funds appropriated for "Family Housing, Air Force" under Public Law 101-148, $43,856,000 is hereby rescinded.

FAMILY HOUSING, DEFENSE AGENCIES

(INCLUDING RESCISSIONS)

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $500,000; for Operation and maintenance, $20,514,000; in all $21,014,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1995: *Provided further,* That of the funds appropriated for "Family Housing, Defense Agencies" under Public Law 101-148, $300,000 is hereby rescinded.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $5,100,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526), $998,100,000, to remain available for obligation until September 30, 1995: *Provided,* That none of these funds may be obligated for base realignment and closure activities under Public Law 100-526 which would cause the Department's $2,400,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further,* That $100,000,000 of the funds appropriated herein shall be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing

Management Account during fiscal year 1991, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundred First Congress.

Reports.

SEC. 117. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1991, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1991 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 118. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

10 USC 2860 note.

SEC. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

SEC. 120. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $16,000,000 may be obligated for contract cleaning of family housing units.

SEC. 121. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 122. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 123. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 124. None of the funds herein or heretofore appropriated for Military Construction and Family Housing are available to fund

costs associated with military operations in Panama known as Operation Just Cause, notwithstanding transfer authority contained in section 211 of Public Law 101-302.

SEC. 125. The Congress disapproves the deferrals relating to the Department of Defense as set forth in the message from the Comptroller General transmitted to the Congress on June 28, 1990 (H. Doc. 101-210).

Real property acquisition. Maryland. Electric power. Rights-of-way.

SEC. 126. (a) Notwithstanding any other provision of law, the Secretary of the Army shall transfer, no later than September 30, 1991, and without reimbursement, to the Secretary of the Interior the real property, including improvements thereon, consisting of approximately 7,600 acres of Fort Meade, Maryland, located generally south of Maryland Route 198 extended and the power-line right-of-way, as determined under subsection (d).

Wildlife.

(b) The Secretary of the Interior shall administer the property transferred pursuant to subsection (a) consistent with wildlife conservation purposes and shall provide for the continued use of the property by Federal agencies to the extent such agencies are using it on the date of the enactment of this Act, including activities of the Department of Defense that are consistent with the recommendations of the Base Realignment and Closure Commission.

(c) The Secretary of the Interior may not convey, lease, transfer, declare excess or surplus, or otherwise dispose of any portion of the property transferred pursuant to subsection (a) unless approved by law.

(d) The exact acreage and legal description of the property to be transferred under this section shall be determined by a survey satisfactory to the Director of the United States Fish and Wildlife Service within the Department of the Interior, after consultation with the Department of the Army and appropriate State and local government officials.

Real property acquisition. Washington.

SEC. 127. (a) IN GENERAL.—(1) Subject to subsections (b) through (e), the Secretary of the Army may convey to the city of Tacoma, Washington, all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, located at 3009 North Star Street, Tacoma, Washington, consisting of approximately 6.7 acres.

(2) The conveyance under paragraph (1) shall be made in consideration for a 50-year leasehold interest in and to Pier 23, Port of Tacoma, made available by the State of Washington to the Department of the Army.

(b) CONDITIONS OF CONVEYANCE.—The conveyance authorized by subsection (a) shall be subject to the following conditions:

Public lands.

(1) The property conveyed shall be used for public purposes.

(2) The Secretary may reserve to the United States (and shall include in the instrument of conveyance) such easements and other interest in the property conveyed pursuant to this section as the Secretary determines necessary or convenient for the operations, activities, and functions of the United States.

(c) REVERSION.—If the Secretary determines at any time that the property conveyed pursuant to this section is not being used for the purposes specified in subsection (b)(1), all right, title, and interest in and to the property (including improvements thereon) shall revert to the United States and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be

determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the city.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary determines appropriate to protect the interests of the United States.

SEC. 128. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

Wages. Government employees.

SEC. 129. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Public lands. Utah. Real property acquisition.

SEC. 130. (a) CONVEYANCE.—(1) Except as provided in paragraphs (2), (3), and (4), and subject to subsections (c) and (g), the Secretary of the Army shall convey to the University of Utah all right, title, and interest of the United States in and to the land comprising Fort Douglas, Utah, together with improvements thereon.

(2) The Secretary shall except from the land conveyed under paragraph (1) such land, not in excess of 64 acres, and improvements thereon as may be necessary for the Army to continue conducting Army Reserve activities at the Fort Douglas location.

(3) The Secretary shall also except from the land conveyed under paragraph (1) the land at Fort Douglas constituting the Fort Douglas Post Cemetery, consisting of approximately four acres.

Rights-of-way.

(4) In connection with the land retained for Army Reserve activities and the land constituting the Army Post Cemetery, the Secretary shall reserve to the United States in the land conveyed such rights-of-way and other easements as may be necessary for ingress to and egress from the land retained.

(b) CONSIDERATION.—(1) The conveyance under subsection (a) shall be made only on the condition that the State of Utah and the University of Utah waive any entitlements that have not been exercised on behalf of the University of Utah before the date of the enactment of this section and that may be due to the State of Utah or the University of Utah on behalf of the University of Utah under—

(A) section 3 of the Act entitled "An Act to establish the office of Surveyor-General of Utah, and to grant Land for School and University Purposes", approved February 21, 1855 (10 Stat. 611); and

(B) sections 8 and 12 of the Act entitled "An Act to enable the people of Utah to form a constitution and State government, and to be admitted into the Union on equal footing with the original States", approved July 16, 1894 (28 Stat. 110).

(2) The waiver referred to in paragraph (1) shall be executed in such manner as the Secretary of the Army, after consultation with the Attorney General of the United States, determines necessary to effectively waive any unexercised entitlements under those laws.

(c) CONDITION.—(1) The conveyance provided for in subsection (a) may be made only on condition that—

(A) the State of Utah agrees to maintain and operate, as provided in paragraph (2), the Army museum located on the land conveyed to the University of Utah pursuant to this section; and

(B) the University of Utah agrees—

(i) to maintain and operate, as provided in paragraph (2), the Army chapel and other historical buildings located on the land referred to in subparagraph (A); and

(ii) to preserve and maintain, as provided in paragraph (2), the parade grounds that are a part of the land referred to in subparagraph (A).

(2) The Army museum, Army chapel, and other historical buildings referred to in paragraph (1) shall be maintained and operated, and the parade grounds referred to in that paragraph shall be preserved and maintained, in a manner consistent with Federal laws and regulations pertaining to the preservation of historical sites, buildings, and monuments, as specified by the Secretary of the Interior. Historical preservation. Federal buildings and facilities.

(d) REVERSIONARY RIGHT.—If the University of Utah uses the land conveyed pursuant to subsection (a) for other than educational or research purposes, all right, title, and interest in and to such land shall automatically revert to the United States and the United States shall have the right of immediate entry thereon.

(e) DEADLINE FOR CONVEYANCE.—The conveyance under subsection (a) shall be made not later than one year after the date of the enactment of this section.

(f) JOINT USE OF UTILITY SYSTEMS.—The Secretary may enter into an agreement with the University of Utah under which the Army and the University would—

(1) jointly use the existing utility systems located at Fort Douglas at the time of the conveyance provided for under subsection (a);

(2) equitably share the cost of maintaining, operating, and replacing (as necessary) the systems; and

(3) pay on a pro rata basis for the utilities consumed by each of the parties.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance provided for under subsection (a) as the Secretary considers necessary to protect the interests of the United States.

(h) ADDITIONAL EXCESS LAND.—In the event that any lands constituting Fort Douglas, Utah, that are not conveyed pursuant to subsection (a) are declared excess to the needs of the Army after the date of the conveyance provided for in that subsection, the Secretary shall convey such lands to the University of Utah. Any lands conveyed pursuant to this subsection shall be conveyed subject to a reversionary clause in favor of the United States as provided in subsection (d).

PAYMENT OF CLAIMS BY UNITED STATES NATIONALS AGAINST IRAQ

SEC. 131. (a) Notwithstanding any other provision of law, the President is authorized— 50 USC 1701 note.

(1) to vest title in a portion of the property in which transactions have been blocked pursuant to Executive Order 12722 of August 3, 1990, which portion shall be equal to the total amount of obligations owed to United States Government (including the Department of Agriculture and the Commodity Credit Corporation) and United States nationals for which Iraq has suspended repayment; and

(2) to liquidate such property and pay United States creditors the amount of the obligations referred to under paragraph (1).

(b) In the event that property liquidated under subsection (a)(2) is less than the total amount of obligations described in subsection (a)(1), then obligations the repayment of which is guaranteed by the Commodity Credit Corporation shall be given priority in payment of creditors.

ANTITERRORISM ACT OF 1990

Antiterrorism Act of 1990. 18 USC 2331 note.

SEC. 132. (a) SHORT TITLE.—This section may be cited as the "Antiterrorism Act of 1990".

(b) TERRORISM.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding immediately after section 2332 as redesignated the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his person, property, or business by reason of an act of international terrorism, or his estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPED UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 1472 (i), (k), (l), (n), or (r) of title 49 App. shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPED UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any district where the witness resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 3 years from the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be

maintained by the plaintiff, or any concealment of his whereabouts, shall not be reckoned within this period of limitation.

"§ 2336. Other limitations

"No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"§ 2337. Suits against government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

Courts.

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against government officials.
"2338. Exclusive Federal jurisdiction.".

(c) TABLE OF CONTENTS.—The table of contents of part 1, title 18, United States Code, is amended by striking:

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 2331."

and inserting in lieu thereof:

"113A. Terrorism ..... 2331.".

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case and any cause of action arising on or after 3 years before the date of enactment of this section. 18 USC 2331 note.

This Act may be cited as the "Military Construction Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5313:

HOUSE REPORTS: No. 101-608 (Comm. on Appropriations) and No. 101-888 (Comm. of Conference).
SENATE REPORTS: No. 101-410 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 30, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 19, House agreed to conference report; receded and concurred in certain Senate amendment, in others with amendments; and disagreed to certain others.
Oct. 27, Senate agreed to conference report; concurred in certain House amendments; and receded from its amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-520
101st Congress

An Act

Nov. 5, 1990
[H.R. 5399]

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes.

Legislative Branch Appropriations Act, 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1991, and for other purposes, namely:

Congressional Operations Appropriations Act, 1991.
2 USC 60a note.

TITLE I—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $60,276,000, to remain available until expended, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,290,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $311,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,746,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $608,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $694,000 for each such committee; in all, $1,388,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $340,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $154,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $9,476,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $29,932,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,031,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $14,000,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $2,601,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $768,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,142,000 for each such committee; in all, $2,284,000, to remain available until expended.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $70,773,000, to remain available until expended.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $803,000, to remain available until expended.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $89,756,000, to remain available until expended.

MISCELLANEOUS ITEMS

For miscellaneous items, $8,325,500, to remain available until expended: *Provided,* That not to exceed $100,000 shall be available to the Sergeant at Arms and Doorkeeper of the Senate, for the purchase of equipment to implement closed captioning of Senate proceedings: *Provided further,* That effective in the case of fiscal years beginning after September 30, 1990, section 120 of Public Law 97-51 (2 U.S.C. 61g-6) is amended by striking out "$50,000" and inserting in lieu thereof "$75,000".

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $171,000,000, to remain available until expended.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $30,000,000, to remain available until expended to be disbursed by the Secretary of the Senate: *Provided,* That funds appropriated for

such purpose for the fiscal year ending September 30, 1990, shall remain available until expended.

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during any fiscal year (commencing with the fiscal year ending September 30, 1991), at his election transfer not more than $75,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the Chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). 2 USC 61g-6a.

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for any fiscal year (commencing with the fiscal year ending September 30, 1991), may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate. 2 USC 61g-8.

SEC. 3. The second sentence of section 1304 of Public Law 94-440 (90 Stat. 1461) is repealed, effective on the first day of the first month which begins after the month in which this Act is enacted.

SEC. 4. (a) As used in this section, the term— 2 USC 58a-4.

(1) "Sergeant at Arms" means the Sergeant at Arms and Doorkeeper of the United States Senate; and

(2) "user" means any Senator, Officer of the Senate, Committee, office, or entity provided copiers by the Sergeant at Arms.

(b)(1) Subject to such regulations as may hereafter be issued by the Committee on Rules and Administration of the Senate, the Sergeant at Arms shall have the authority, with respect to metered charges on copying equipment provided by the Sergeant at Arms, solely for the purposes of this section, to make such certification as may be necessary to establish such services and equipment as official, issue invoices in conjunction therewith, and receive payment for such services and equipment by certification, voucher, or otherwise.

(2) All moneys, derived from the payment of metered charges on copying equipment provided from funds from the Appropriation Account within the contingent fund of the Senate for "Contingent Expenses, Sergeant at Arms and Doorkeeper of the Senate" under the line item for the Service Department, shall be deposited in and made a part of such Appropriation Account and under such line item, and shall be available for expenditure or obligation, or both, in like manner and subject to the same limitations as any other moneys in such account and under such line item.

(c) Paragraph (2) of section 506(a) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)) is amended to read as follows:

"(2)(A) stationery and other office supplies procured for use for official business, and

"(B) metered charges for use of copying equipment provided by the Sergeant at Arms and Doorkeeper of the Senate;".

Effective date.
2 USC 58 note.

(d) The provisions of subsections (a) and (b), and the amendment made by subsection (c) shall take effect on October 1, 1990.

2 USC 68-6a.

SEC. 5. The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper", such sums as he shall specify to the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

Effective date.

SEC. 6. Effective in the case of fiscal years which begin after September 30, 1990, section 117 of the Second Supplemental Appropriations Act, 1976 (2 U.S.C. 61f-1a) is amended to read as follows: "For the purpose of carrying out his duties, the Sergeant at Arms and Doorkeeper of the Senate is authorized to incur official travel expenses during each fiscal year not to exceed the sums made available for such purpose under appropriations Acts. With the approval of the Sergeant at Arms and Doorkeeper of the Senate and in accordance with such regulations as may be promulgated by the Senate Committee on Rules and Administration, the Secretary of the Senate is authorized to advance to the Sergeant at Arms or to any designated employee under the jurisdiction of the Sergeant at Arms and Doorkeeper, such sums as may be necessary to defray official travel expenses incurred in carrying out the duties of the Sergeant at Arms and Doorkeeper. The receipt of any such sum so advanced to the Sergeant at Arms and Doorkeeper or to any designated employee shall be taken and passed by the accounting officers of the Government as a full and sufficient voucher; but it shall be the duty of the traveler, as soon as practicable, to furnish to the Secretary of the Senate a detailed voucher of the expenses incurred for the travel with respect to which the sum was so advanced, and make settlement with respect to such sum. Payments under this section shall be made from funds included in the appropriations account, within the contingent fund of the Senate, for the Sergeant at Arms and Doorkeeper of the Senate, upon vouchers approved by the Sergeant at Arms and Doorkeeper.

SEC. 7. (a) The second sentence of section 105(g) of the Legislative Branch Appropriations Act, 1957 (2 U.S.C. 123b(g)) is amended to read as follows: "'There is also established in the Treasury of the United States a revolving fund, within the contingent fund of the Senate, which shall be known as the 'Senate Photographic Studio Revolving Fund', for the purpose of administering the duties of the Senate Photographic Studio; and there is established in the Treasury of the United States, a revolving fund, within the contingent fund of the Senate, which shall be known as the 'Senate Recording Studio Revolving Fund', for the purpose of administering the duties of the Senate Recording Studio.".

(b) The amendment made by subsection (a) shall take effect on April 1, 1991, and, of the monies in the revolving fund within the contingent fund of the Senate for the Recording and Photographic Studios, as such fund was in existence immediately prior to the amendment made by subsection (a), $100,000 shall be deposited in the Senate Photographic Studio Revolving Fund (as established by the amendment made by subsection (a)) and the remainder shall be deposited into the Senate Recording Studio Revolving Fund (as so established). Effective date. 2 USC 123b note.

(c) Effective April 1, 1991, the second sentence of section 105(h) of the Legislative Branch Appropriations Act (2 U.S.C. 123b(h)) is amended to read as follows: "All moneys received by the Senate Recording Studio shall be deposited in the Senate Recording Studio Revolving Fund established by subsection (g) and all funds received by the Senate Photographic Studio shall be deposited in the Senate Photographic Studio Revolving Fund established by such subsection; moneys in the Senate Recording Studio Revolving Fund shall be available for disbursement therefrom upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate for the care, maintenance, operation, and other expenses of the Senate Recording Studio, and moneys in the Senate Photographic Studio Revolving Fund shall be available for disbursement therefrom upon vouchers signed by the Sergeant at Arms and Doorkeeper of the Senate for the care, maintenance, operation, and other expenses of the Senate Photographic Studio.". Effective date.

(d) Effective April 1, 1991, subsection (a) of section 108 of the Supplemental Appropriations and Rescission Act, 1980 (Public Law 96-304, section 108(a); 2 U.S.C. 123b-1(a)) is amended to read as follows: Effective date.

"(a) The entity, in the Senate, known (prior to this amendment) as the 'Senate Recording and Photographic Studios' is abolished, and there is established in its stead the following two entities: the 'Senate Recording Studio', and the 'Senate Photographic Studio'; and there are transferred, from the entity known (prior to this amendment) as the 'Senate Recording and Photographic Studios' to the Senate Recording Studio all personnel, equipment, supplies, and funds which are available for, relate to, or are utilized in connection with, recording, and to the Senate Photographic Studio all personnel, equipment, supplies, and funds which are available for, relate to, or are utilized in connection with, photography.". Establishment.

SEC. 8. Effective in the case of any fiscal year which begins on or after October 1, 1990, clause (iii) of paragraph (3)(A) of section 506(b) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(b)) is amended to read as follows: Effective date.

"(iii) subject to subparagraph (B), in case the Senator represents Alabama, $68,000, Alaska, $176,000, Arizona, $81,000, Arkansas, $70,000, California, $122,000, Colorado, $76,000, Connecticut, $57,000, Delaware, $47,000, Florida, $72,000, Georgia, $68,000, Hawaii, $200,000, Idaho, $80,000, Illinois, $91,000, Indiana, $68,000, Iowa, $71,000, Kansas, $71,000, Kentucky, $67,000, Louisiana, $72,000, Maine, $62,000, Maryland, $52,000, Massachusetts, $66,000, Michigan, $76,000, Minnesota, $72,000, Mississippi, $70,000, Missouri, $73,000, Montana, $80,000, Nebraska, $72,000, Nevada, $82,000, New Hampshire, $58,000, New Jersey, $62,000, New Mexico, $77,000, New York, $98,000, North Carolina, $64,000, North Dakota, $71,000, Ohio, $82,000, Oklahoma, $75,000, Oregon, $85,000, Pennsylvania, $81,000, Rhode

Island, $56,000, South Carolina, $62,000, South Dakota, $72,000, Tennessee, $68,000, Texas, $102,000, Utah, $80,000, Vermont, $57,000, Virginia, $58,000, Washington, $88,000, West Virginia, $57,000, Wisconsin, $71,000, Wyoming, $75,000, plus".

SEC. 9. (a) The first sentence of section 506(h) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(h)), is amended by inserting after "one or more service academies" the following: "or one or more positions of United States Attorney or United States Marshal".

Effective date.
2 USC 58 note.

(b) The amendment made by subsection (a) shall be effective in the case of expenses incurred after September 30, 1989.

SEC. 10. Section 2(c) of S. Res. 66, agreed to February 28, 1989, is amended by inserting ", or (4) for payments to the Postmaster, United States Senate" after "Keeper of Stationery, United States Senate".

SEC. 11. Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking subparagraph (A).

Postal service.
2 USC 58c-1.

SEC. 12. Each Member of the Senate may, subject to the approval of the Committee on Appropriations of the Senate and the Committee on Rules and Administration of the Senate, during the fiscal year ending September 30, 1991, and each fiscal year thereafter, at his or her election, transfer a sum not to exceed the lesser of $100,000 or 50 percent of the amount allocated to such Member for mass mail by the Senate Committee on Rules and Administration from the Senate Official Mail Costs account, within the contingent fund of the Senate, to the Senator's Official Personnel and Office Expense Account, within the contingent fund of the Senate. Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such Member shall specify in writing to the Financial Clerk of the Senate. Any funds so transferred by the Member shall be available for the expenditure by such Member in a like manner and for the same purposes as are other moneys which are available for expenditure by such Member from the Senators' Official Personnel and Office Expense Account.

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $647,340,000, to remain available until expended, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $5,220,000, including: Office of the Speaker, $1,132,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,071,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,316,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $973,000, including $5,000 for official expenses of the Majority Whip and not to exceed $293,330, for the Chief Deputy Majority Whip; Office of the Minority Whip, $728,000, including

$5,000 for official expenses of the Minority Whip and not to exceed $88,220, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $198,533,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $66,832,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $379,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $61,100,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $208,544,000, including: Official Expenses of Members, $75,272,000; supplies, materials, administrative costs and Federal tort claims, $19,950,000; net expenses of purchase, lease and maintenance of office equipment, $10,770,000; furniture and furnishings, $1,910,000; stenographic reporting of committee hearings, $950,000; reemployed annuitants reimbursements, $1,000,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $98,570,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $622,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $6,120,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $58,984,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $44,628,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $19,300,000; Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,200,000; Office of the Doorkeeper, including overtime, as authorized by law, $9,200,000; Office of the Postmaster, $3,275,000, including $118,130 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $18,443 per annum each; Office of the Chaplain, $105,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $890,000; for salaries and expenses of the Office of the Historian, $300,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,302,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,161,000; six minority employees, $677,000; the House Democratic Steering Committee and Caucus, $1,305,000; the House Republican Conference, $1,305,000; and other authorized employees, $1,608,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1991 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", "OFFICIAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. The Clerk of the House, under the direction of the Committee on House Administration, is authorized to receive and expend funds for the conduct of a biennial equipment exposition for Members.

40 USC 206 note.

SEC. 103. The provisions of H. Res. 294, approved November 17, 1989, establishing five additional positions on the Capitol Police for duty with respect to the House of Representatives, shall be the permanent law with respect thereto.

2 USC 57 note.

SEC. 104. Effective as of the beginning of the 102d Congress, the authorization for the Clerk Hire Allowance, as established by the Committee on House Administration, is increased by $50,000.

40 USC 206 note.

SEC. 105. The provisions of H. Res. 420, approved June 26, 1990, establishing the position of Director of Employment Practices under the Capitol Police Board with respect to members of the Capitol Police, shall be the permanent law with respect thereto.

JOINT ITEMS

For joint committees, as follows:

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,675,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,269,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,203,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $1,000 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (5) $952,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,436,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $58,348,000, of which $28,914,000 is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $29,434,000 is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, and expenses associated with the awards program not to exceed $900, expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,951,000, to be disbursed by the Clerk of the House: *Provided,* That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1991 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department: *Provided further,* That no funds made available to the Capitol Police under this heading may be used to purchase any nondomestic motorcycle.

SEC. 106. (a) The Act of July 31, 1946, as amended (40 U.S.C. Sec. 212a), is amended to read as follows:

Federal buildings and facilities. Law enforcement.

"SEC. 9. The Capitol Police shall police the United States Capitol Buildings and Grounds under the direction of the Capitol Police Board, consisting of the Sergeant at Arms of the United States Senate, the Sergeant at Arms of the House of Representatives, and the Architect of the Capitol, and shall have the power to enforce the provisions of sections 193a to 193m, 212a, 212a-2, and 212b of this title and regulations promulgated under section 212b of this title, and to make arrests within the United States Capitol Buildings and Grounds for any violations of any law of the United States, of the District of Columbia, or of any State, or any regulation promulgated pursuant thereto: *Provided,* That for the fiscal year for which appropriations are made by this Act the Capitol Police shall have the additional authority to make arrests within the District of Columbia for crimes of violence, as defined in section 16 of title 18, committed within the Capitol Buildings and Grounds and shall have the additional authority to make arrests, without a warrant, for crimes of violence, as defined in section 16 of title 18, committed in the presence of any member of the Capitol Police performing official duties: *Provided further,* That the Metropolitan Police force of the District of Columbia are authorized to make arrests within the United States Capitol Buildings and Grounds for any violation of any such laws or regulations, but such authority shall not be construed as authorizing the Metropolitan Police force, except with the consent or upon the request of the Capitol Police Board, to enter such buildings to make arrests in response to complaints or to serve warrants or to patrol the United States Capitol Buildings and Grounds. For the purpose of this section, the word "grounds" shall

District of Columbia.

include the House Office Buildings parking areas and that part or parts of property which have been or hereafter are acquired in the District of Columbia by the Architect of the Capitol, or by an officer of the Senate or the House, by lease, purchase, intergovernment transfer, or otherwise, for the use of the Senate, the House, or the Architect of the Capitol.".

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $33,220,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,490,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $255,000, to be disbursed by the Secretary of the Senate.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the One Hundred First Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including official representation and reception expenses (not to exceed $3,500 from the Trust Fund), to be expended on the certification of the Director of the Office of Technology Assessment, expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, and 42 U.S.C. 1395w-1, $19,557,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in

accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,300 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $21,183,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63.

Government property. Government procurement. 2 USC 605.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $7,308,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $50,000.

40 USC 166a.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to

be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $26,680,000, of which $8,244,000 shall remain available until expended: *Provided,* That of the funds to remain available until expended, $5,020,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $4,659,000, of which $400,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $38,432,000, of which $10,196,000 shall remain available until expended: *Provided,* That none of the funds made available herein for improvements to the Senate subway system shall be obligated or expended until September 30, 1991 and pursuant to section 202 of Public Law 100-119, this action is a necessary (but secondary) result of a significant policy change.

ADMINISTRATIVE PROVISION

SEC. 107. (a) Notwithstanding any other provision of law, the Architect of the Capitol, subject to the approval of the Committee on Rules and Administration, is authorized to lease, for use by the United States Senate, and for such other purposes as such committee may approve, 150,000 square feet of space, more or less, in the property located at 2 Massachusetts Avenue, N.E., Washington, District of Columbia, known as the City Post Office Building: *Provided,* That rental payments shall be paid from the account 'Architect of the Capitol, Senate Office Buildings' upon vouchers approved by the Architect of the Capitol: *Provided further,* That nothing in this section shall be construed so as to obligate the Senate or any of its Members, officers, or employees to enter into any such lease or to imply any obligation to enter into any such lease. 2 USC 174b-1 note.

(b) Notwithstanding any other provision of law, property leased under authority of subsection (a) shall be maintained by the Architect of the Capitol as part of the "Senate Office Buildings" subject to the laws, rules, and regulations governing such buildings, and the Architect is authorized to incur such expenses as may be necessary to provide for such occupancy.

(c) There is hereby authorized to be appropriated to the "Architect of the Capitol, Senate Office Buildings" such sums as may be necessary to carry out the provisions of subsections (a) and (b).

(d) There is authorized to be appropriated to the Sergeant at Arms of the United States Senate such sums as may be necessary to provide for the planning and relocation of offices and equipment to

the property described in subsection (a), subject to direction by the Committee on Rules and Administration.

(e) The authority under this section shall continue until otherwise provided by law.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $30,800,000, of which $3,105,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $31,827,000, of which $3,000,000 shall remain available until expended: *Provided,* That of the funds to remain available until expended, $3,000,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended: *Provided further,* That not to exceed $2,400,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1991.

ADMINISTRATIVE PROVISIONS

Wages. Government employees. Effective date. 40 USC 166b-3b.

SEC. 108. (a) Effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act, the compensation of the Director of Engineering (under the Architect of the Capitol) shall be equal to the rate of basic pay payable for level V of the Executive Schedule.

(b)(1) Effective beginning with any pay period beginning on or after the date of enactment of this Act, the Architect of the Capitol may fix the rate of basic pay—

(A) for not more than one of the positions under paragraph (2) at a rate not to exceed the rate payable for grade GS-18 of the General Schedule; and

(B) for any other position under paragraph (2), at such rate as the Architect considers appropriate for such position, not to exceed the rate payable for step 2 of grade GS-17 of the General Schedule.

(2) Authority under paragraph (1) may be exercised with respect to any of the following positions under the jurisdiction of the Architect of the Capitol:

(A) The Senior Landscape Architect.

(B) The Administrative Assistant.

(C) The Executive Officer.

(D) The Budget Officer.
(E) The General Counsel.
(F) The Superintendent of the Senate Office Buildings.
(G) The Superintendent of the House Office Buildings.
(H) The Supervising Engineer of the United States Capitol.

SEC. 109. The Supplemental Appropriations Act, 1975 (Public Law 93-554, title I, chapter III, section 101, December 27, 1974, 88 Stat. 1777) is amended— 40 USC 166b-2.

(1) by striking out "grade 10" and inserting in lieu thereof "grade 11"; and

(2) by striking out "and compensated initially at the same steps in such grade, currently in effect for their present grades, so long as such positions are held by the present incumbents".

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $52,743,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. 2 USC 166 note.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $79,615,000: *Provided,* That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates

authorized under 44 U.S.C. 906: *Provided further,* That to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1991".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $3,519,000, of which $244,000 shall remain available until expended: *Provided,* That, hereafter, all appropriations made on account of the Botanic Garden shall be disbursed for that purpose in the same manner as other appropriations under the control of the Architect of the Capitol.

40 USC 216d.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $183,000,000, of which not more than $7,025,000 shall be derived from collections credited to this appropriation during fiscal year 1991 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,025,000: *Provided further,* That of the total amount appropriated, $6,998,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $23,118,000, of which not more than $11,000,000 shall be derived from collections credited to this appropriation during fiscal year 1991 under 17 U.S.C. 708(c), and not more than $1,860,000 shall be derived from collections during fiscal year 1991 under 17 U.S.C. 111(d)(3), 116(c)(1), and 119(b)(2): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $12,860,000: *Provided further,* That $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $41,136,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $5,000,000: *Provided,* That of the total amount appropriated, $1,422,000 is to remain available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $162,290, of which $51,700 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which— Government employees.

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

SEC. 204. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $15,268,000, of which $6,500,000 shall remain available until expended.

2 USC 141 note.

SEC. 205. (a) The Architect of the Capitol may acquire on behalf of the United States Government by purchase, condemnation, transfer, or otherwise (1) all publicly or privately owned real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (2) improvements to such real property.

(b) The first section of the Act of June 29, 1922 (42 Stat. 715; 2 U.S.C. 141), is amended by striking "the Library Building and on the grounds," and inserting "the Library of Congress buildings and grounds, (as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167(j))),".

Real property acquisition.

(c) The property and improvements acquired under subsection (a) shall be repaired and altered, to the maximum extent feasible as determined by the Architect of the Capitol, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes (including electrical codes, fire and life safety codes, plumbing codes, as determined appropriate by the Architect), using the latest edition of the nationally recognized codes referred to in this paragraph.

(d) Section 11 of the Act entitled "An Act relating to the policing of the buildings of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167j), is amended by adding at the end the following new subsection:

"(c) For the purpose of this Act, the term 'Library of Congress buildings and grounds' shall include (1) all real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (2) improvements to such real property.".

Effective date.

(e) Subsections (b) and (c) and the amendment made by subsection (d) shall take effect on the date the Architect of the Capitol acquires the property and improvements described in subsection (a).

(f) There is authorized to be appropriated to the Architect of the Capitol $5,000,000 for carrying out the purposes of this section, to remain available until expended.

Effective date.
Real property acquisition.

(g) Effective on the date on which the Architect of the Capitol acquires the property known as St. Cecilia's School (Lot 51 in square

869) in the District of Columbia, as provided by law, such property shall be available to the Librarian of Congress for use—

(1) as a day care center for children of employees of the Library of Congress and children of other employees of the legislative branch of the Government; Government employees. Day care.

(2) for staff training and development for employees of the Library of Congress; and

(3) for other purposes relating to the operations of the Library of Congress.

Any use of such property shall be subject to approval by the Joint Committee on the Library, the Committee on House Administration of the House of Representatives, and the Committee on Rules and Administration of the Senate.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $845,000, of which $718,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $26,500,000: *Provided,* That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $117,000.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That during the current fiscal year the revolving fund shall be available for the hire of twelve-passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as

Real property acquisition. District of Columbia.

authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS–18: *Provided further,* That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be purchased is identified as Parcels 45–D, 45–E, 45–F, and 47–A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 5,000 workyears: *Provided further,* That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further,* That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15, nor to any employee involved in the in-house production of printing and binding: *Provided further,* That expenses for attendance at meetings shall not exceed $95,000.

ADMINISTRATIVE PROVISIONS

44 USC 501 note.

SEC. 206. HEREAFTER.—(a) None of the funds appropriated for fiscal year 1991 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 207. Section 309(a) of title 44, United States Code, is amended by striking out "uniforms, or allowances therefor, as authorized by section 5901 of Title 5" and inserting in lieu thereof the following: "uniforms or uniform allowances".

SEC. 208. Section 1703 of title 44, United States Code, is amended by striking out ", the cost to be charged against the appropriation for printing and binding for Congress" from the first sentence. Section 1707 of such title is amended by striking out "The appropriation for printing and binding" from the last sentence, and inserting in lieu thereof the following: "The Revolving Fund".

Wages. Government employees.

SEC. 209. Section 303 of title 44, United States Code, is amended to read as follows: "The annual rate of pay for the Public Printer shall be a rate which is equal to the rate for level III of the Executive Schedule of subchapter II of chapter 53 of Title 5. The annual rate of

pay for the Deputy Public Printer shall be a rate which is equal to the rate for level IV of such Executive Schedule.".

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $413,215,000: *Provided,* That notwithstanding the provisions of section 782 of title 31, United States Code, hereinafter any payments of reimbursements received incident to the operation of the General Accounting Office Building shall be credited to the appropriation currently available to the General Accounting Office and remain available until expended, and not more than $5,915,000 of such funds shall be available for use in fiscal year 1991: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA cost as determined by the

31 USC 782 note.

Asbestos.

ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That $400,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust, not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Wages.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Government procurement.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Telecommunications. 40 USC 166 note.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded tele-

communications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

Telecommunications. 40 USC 166 note.

SEC. 306. (a) Hereafter, notwithstanding any other provision of law, any agency of the legislative branch is authorized to use telecommunications systems and services provided by the Architect of the Capitol or the House of Representatives or the Senate under the approved plan required by section 305 of Public Law 100-202 (101 Stat. 1329-308) if such systems and services—

(1) have been acquired competitively; and

(2) in the case of long distance service, have been determined by the Architect of the Capitol to be at least equal in quality to, and not greater in cost than, the systems and services available under the procurement conducted by the Administrator of General Services known as "FTS2000".

(b) As used in this section, the term "agency of the legislative branch" means the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office.

2 USC 142.

SEC. 307. Section 1 of the Act of June 29, 1922 (Chapter 251), is amended by striking the words "and the Botanic Garden" therefrom.

SEC. 308. Section 311(d) of the Legislative Branch Appropriations Act, 1988 (2 U.S.C. 60a-2a) is amended—

(1) by striking "(d)" and inserting "(d)(1)";

(2) by inserting "or whenever any of the events described in paragraph (2) occurs," after "Secretary of the Senate,"; and

(3) by striking "may," and all that follows through the period and inserting the following:

"may adjust the rates of pay (and any minimum or maximum rate, limitation, or allowance) applicable to personnel whose pay is disbursed by the Clerk of the House of Representatives to the extent necessary to ensure—

"(A) appropriate pay levels and relationships between and among positions held by personnel of the House of Representatives; and

"(B) appropriate pay relationships between—

"(i) positions referred to in subparagraph (A); and

"(ii)(I) positions under subparagraphs (A) through (D) of section 225(f) of the Federal Salary Act of 1967;

"(II) positions held by personnel whose pay is disbursed by the Secretary of the Senate; and

"(III) positions to which the General Schedule applies.

"(2) The other events permitting an exercise of authority under this subsection are either—

"(A) an adjustment under section 5305 of title 5, United States Code, in rates of pay under the General Schedule; or

"(B) an adjustment in rates of pay for Members of the House of Representatives (other than an adjustment which occurs by virtue of an adjustment described in subparagraph (A)).

"(3) For the purpose of this subsection, the term 'Member of the House of Representatives' means a Member of the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.".

Drug abuse.

SEC. 309. No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1991 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

2 USC 30a.

SEC. 310. (a) Notwithstanding any other provision of Federal, State or local law, no elected official of the legislative branch of the United States Government shall be required to serve on a grand or petit jury, convened by any Federal, State or local court, whether such service is requested by judicial summons or by some other means of compulsion.

(b) "Elected official of the legislative branch" shall mean each Member of the United States House of Representatives, the Delegates from the District of Columbia, Guam, the American Virgin Islands, and American Samoa, and the Resident Commissioner from Puerto Rico, and each United States Senator.

Postal service. Regulations. 2 USC 59e.

SEC. 311. (a) Except as otherwise provided in this section, funds appropriated by this Act or any other Act for expenses of official mail of any person entitled to use the congressional frank may be expended only in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate or the Committee on House Administration of the House of Representatives, as applicable. Such regulations shall require—

(1) individual accountability for use of official mail by each person entitled to use the congressional frank;

(2)(A) with respect to the House of Representatives, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session or to any other such person); and

(B) with respect to the Senate, allocation of funds for official mail to be made to each such person with respect to each session of Congress (with no transfer to any other session, other than transfers from the first session of a Congress to the second session of that Congress, or to any other such person); and

(3) with respect to the House of Representatives, that in addition to any other report or information made available to the public (through the House Commission on Congressional Mailing Standards or otherwise) regarding the use of the frank, the Clerk of the House of Representatives shall include in the quarterly report of receipts and expenditures submitted to the House of Representatives a statement (based solely on data provided for that purpose by the Committee on House Administration of the House of Representatives and the House Commission on Congressional Mailing Standards) of costs charged against the Official Mail Allowance for each person entitled to use the congressional frank.

(b) The Postmaster General, in consultation with the Committee on Rules and Administration of the Senate and the Committee on House Administration of the House of Representatives—

(1) shall monitor use of official mail by each person entitled to use the congressional frank;

(2) at least monthly, shall notify any person with an allocation under subsection (a)(2) as to the percentage of the allocation that has been used; and

(3) may not carry or deliver official mail the cost of which is in excess of an allocation under subsection (a)(2).

(c) Expenses of official mail of the Senate and the House of Representatives may be paid only from funds specifically appropriated for that purpose and funds so appropriated—

(1) may be supplemented by other appropriated funds only if such supplementation is provided for by law or by regulation under subsection (a); and

(2) may not be supplemented by funds from any other source, public or private.

(d) No Senator or Member of the House of Representatives may maintain or use, directly or indirectly, an unofficial office account or defray official expenses from—

(1) funds received from a political committee or derived from a contribution or expenditure (as such terms are defined in section 301 of the Federal Election Campaign Act of 1971);

(2) funds received as reimbursement for expenses incurred by the Senator or Member in connection with personal services provided by the Senator or Member to the person making the reimbursement; or

(3) any other funds that are not specifically appropriated for official expenses.

(e)(1) There is established in the House of Representatives an Official Mail Allowance for Members, officers, and employees of the House of Representatives who are persons entitled to use the congressional frank. Regulations for use of the Official Mail Allowance shall be prescribed— Regulations.

(A) by the Committee on House Administration of the House of Representatives, with respect to allocation and expenditures relating to the Allowance; and

(B) by the House Commission on Congressional Mailing Standards, with respect to matters under section 3210(a)(6)(D) of title 39, United States Code.

(2) The Official Mail Allowance—

(A) shall be available only for postage for franked mail sent at a first class, third class, or fourth class rate;

(B) with respect to a Member of the House of Representatives, shall be available, in a session of Congress, in a total amount, as determined under paragraph (1)(A), of not more than the product of (i) 3 times the single-piece rate applicable to first class mail, and (ii) the number (as determined by the Postmaster General) of addresses (other than business possible delivery stops) in the congressional district, as such addresses are described in section 3210(d)(7)(B) of title 39, United States Code;

(C) with respect to any other person entitled to use the congressional frank in the House of Representatives (including any Member of the House of Representatives who receives an allocation under subsection (a)(2) with respect to duties as an elected officer of, or holder of another position in, the House of

Representatives), shall be available, in a session of Congress, in a total amount determined under paragraph (1)(A); and

(D) shall not be available for payment of any nonpostage fee or charge, including any fee or charge for express mail, express mail drop shipment, certified mail, registered mail, return receipt, address correction, or postal insurance.

(3)(A) Subject to subparagraph (B), each Member of the House of Representatives may transfer amounts from the Official Expenses Allowance and the Clerk Hire Allowance of the Member to the Official Mail Allowance of the Member.

(B) The total amount a Member may so transfer with respect to a session of Congress may not exceed $25,000.

(4) The Official Expenses Allowance shall be available to a Member of the House of Representatives for the payment of nonpostage fees and charges referred to in paragraph (2)(D) and for postage for mail for official business sent outside the United States.

(f) A Member of the House of Representatives shall, before making any mass mailing, submit a sample or description of the mail matter involved to the House Commission on Congressional Mailing Standards for an advisory opinion as to whether such proposed mailing is in compliance with applicable provisions of law, rule, or regulation.

(g) As used in subsections (a) through (f)—

(1) the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress; and

(2) the term "person entitled to use the congressional frank" means a Senator, Member of the House of Representatives, or other person authorized to use the frank under section 3210(b) of title 39, United States Code.

(h)(1) Section 3210(a)(6)(E) of title 39, United States Code, is amended to read as follows:

"(E) As used in this section, the term 'mass mailing' means, with respect to a session of Congress, any mailing of newsletters or other pieces of mail with substantially identical content (whether such mail is deposited singly or in bulk, or at the same time or different times), totaling more than 500 pieces in that session, except that such term does not include any mailing—

"(i) of matter in direct response to a communication from a person to whom the matter is mailed;

"(ii) from a Member of Congress to other Members of Congress, or to Federal, State, or local government officials; or

"(iii) of a news release to the communications media.".

(2) Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking out "postage on," and all that follows through "Senate, and".

(3) Section 316 of the Legislative Branch Appropriations Act, 1990 (39 U.S.C. 3210 note) is amended—

(A) by striking out subsection (a); and

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(i) This section and the amendments made by this section shall apply with respect to sessions of Congress beginning with the first session of the One Hundred Second Congress, except that, with respect to the Senate, subsection (d) shall apply with respect to sessions of Congress beginning with the second session of the One Hundred Second Congress, and the funds referred to in paragraph

(3) of such subsection shall not include personal funds of a Senator or Member of the House of Representatives.

SEC. 312. (a) Notwithstanding any other provision of this Act, in order to reduce the total amount appropriated or otherwise made available by this Act for fiscal year 1991 (excluding any amounts required to be appropriated or otherwise made available by a provision of law)—

(1) of the amount appropriated for "House of Representatives" under the paragraph entitled "Salaries and Expenses", as set forth in title I, $4,500,000 shall be unavailable for obligation or expenditure in such fiscal year;

(2) of the amount appropriated for "Architect of the Capitol" under the paragraph entitled "Office of the Architect of the Capitol", "Salaries" as set forth in title I, $286,000 shall be unavailable for obligation or expenditure in such fiscal year;

(3) of the amount appropriated for "Architect of the Capitol" under the paragraph entitled "Capitol Buildings and Grounds", "Capitol Buildings", as set forth in title I, $4,590,000 shall be unavailable for obligation or expenditure in such fiscal year;

(4) of the amount appropriated for "Architect of the Capitol" under the paragraph entitled "Capitol Buildings and Grounds", "Capitol Grounds" as set forth in title I, $841,000 shall be unavailable for obligation or expenditure in such fiscal year;

(5) of the amount appropriated for "Architect of the Capitol" under the paragraph entitled "Senate Office Buildings", as set forth in title I, $4,700,000 shall be unavailable for obligation or expenditure in such fiscal year;

(6) of the amount appropriated for "Architect of the Capitol" under the paragraph entitled "Capitol Power Plant", as set forth in title I, $1,203,000 shall be unavailable for obligation or expenditure in such fiscal year;

(7) of the amount appropriated for "Library of Congress" under the paragraph entitled "Congressional Research Service", "Salaries and Expenses", as set forth in title I, $858,000 shall be unavailable for obligation or expenditure in such fiscal year;

(8) of the amount appropriated for "Government Printing Office" under the paragraph entitled "Congressional Printing and Binding", as set forth in title I, $2,250,000 shall be unavailable for obligation or expenditure in such fiscal year;

(9) of the amount appropriated for "Library of Congress" under the paragraph entitled "Salaries and Expenses", as set forth in title II, $2,607,000 shall be unavailable for obligation or expenditure in such fiscal year;

(10) of the amount appropriated for "Library of Congress" under the paragraph entitled "Copyright Office", "Salaries and Expenses", as set forth in title II, $217,000 shall be unavailable for obligation or expenditure in such fiscal year;

(11) of the amount appropriated for "Library of Congress" under the paragraph entitled "Books for the Blind and Physically Handicapped", "Salaries and Expenses", as set forth in title II, $1,005,000 shall be unavailable for obligation or expenditure in such fiscal year;

(12) of the amount appropriated for "Library of Congress" under the paragraph entitled "Furniture and Furnishings", as set forth in title II, $1,255,000 shall be unavailable for obligation or expenditure in such fiscal year;

(13) of the amount appropriated for "Architect of the Capitol" under the paragraph entitled "Library Buildings and Grounds", "Structural and Mechanical Care", as set forth in title II, $5,000,000 shall be unavailable for obligation or expenditure in such fiscal year;

(14) of the amount appropriated for "Government Printing Office" under the paragraph entitled "Office of Superintendent of Documents", "Salaries and Expenses", as set forth in title II, $755,000 shall be unavailable for obligation or expenditure in such fiscal year;

(15) of the amount appropriated for "General Accounting Office" under the paragraph entitled "Salaries and Expenses", as set forth in title II, $3,968,000 shall be unavailable for obligation or expenditure in such fiscal year;

(b) Any amount made unavailable for obligation or expenditure in fiscal year 1991 by subsection (a) shall remain available for obligation or expenditure (for that same purpose) in fiscal year 1992.

SEC. 313 (a) Section 116(d) of the John C. Stennis Center for Public Service Training and Development Act (2 U.S.C. 1105(d)) is amended to read as follows:

"(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREATED TO FUND.—In addition to the appropriations received pursuant to section 121, the interest on, and the proceeds from the sale or redemption of, any obligations held in the fund pursuant to section 119(a), shall be credited to and form a part of the fund.".

(b) Section 117(a) of such Act (2 U.S.C. 1106(a)) is amended to read as follows:

"(a) IN GENERAL.—The Secretary of the Treasury is authorized to pay to the Center from the interest and earnings of the fund, and moneys credited to the fund pursuant to section 119(a), such sums as the Board determines are necessary and appropriate to enable the Center to carry out the provisions of this subtitle.".

(c) Section 119(a) of such Act (2 U.S.C. 1108(a)) is amended—

(1) by deleting "and" at the end of paragraph (6); and

(2) by deleting paragraph (7) and inserting in lieu thereof the following:

"(7) make expenditures for official reception and representation expenses as well as expenditures for meals, entertainment and refreshments in connection with official training sessions or other authorized programs or activities;

"(8) apply for, receive and use for the purposes of the Center grants or other assistance from Federal sources;

"(9) establish, receive and use for the purposes of the Center fees or other charges for goods or services provided in fulfilling the Center's purposes to persons not enumerated in section 115(b);

"(10) invest, as specified in section 116(b), moneys authorized to be received under this section; and

"(11) make other necessary expenditures.".

SEC. 314. The funds appropriated to the Clerk of the House in the Fiscal Year 1986 Urgent Supplemental Appropriations Act, Public Law 99-349, and subsequently transferred to the Architect of the Capitol pursuant to the Legislative Branch Appropriations Act, 1989, Public Law 100-458 for Capitol Complex Security Enhancements shall be withheld from obligation and disbursement until September 30, 1991 and pursuant to section 202 of Public Law 100-119, this action is a necessary (but secondary) result of a signifi-

cant policy change: *Provided,* That not to exceed $300,000 of these funds may be obligated and disbursed before September 30, 1991, for vehicular barriers as proposed in the Capitol Complex Security Enhancements upon approval of the House and Senate Committees on Appropriations: *Provided further,* That upon approval by the House and Senate Committees on Appropriations, any part of these funds may be obligated and disbursed for planning and design of the visitors' centers proposed in the Capitol Complex Security Enhancements, with such enhancements, including the "Perimeter Security Plan," as may be approved by such committees: *Provided further,* That the committees responsible for review, approval, and other procedures under section 102 of the Legislative Branch Appropriations Act of 1989 shall complete review and approval of the improved security plan by July 1, 1991: *Provided further,* That nothing in this section shall have the effect of waiving any requirement relating to review and approval by the House and Senate Committees on Appropriations with respect to detailed documentation describing the scope, cost, and construction schedule of the work to be accomplished through the funds involved.

Wages.
2 USC 60a-1b.

SEC. 315. (a) Whenever, after the date of enactment of this Act, there is an adjustment in rates of pay for Senators (other than an adjustment which occurs by virtue of an adjustment under section 5305 of title 5, United States Code, in rates of pay under the General Schedule), the President pro tempore of the Senate may, notwithstanding any other provision of law, rule, or regulation, adjust the rate of pay (and any minimum or maximum rate, limitation, or allowance) applicable to personnel whose pay is disbursed by the Secretary of the Senate to the extent necessary to maintain the same pay relationships that existed on December 31, 1986, between personnel and Senators and between positions.

(b) Adjustments made by the President pro tempore under this section shall be made in such manner as he considers advisable and shall have the force and effect of law.

SEC. 316. Section 3210(a) of title 39, United States Code, is amended by adding at the end the following new paragraph:

Postal service.

"(7) A Member of the House of Representatives may not send any mass mailing outside the congressional district of the Member, except that—

"(A) a Member of the House of Representatives may send mass mailings to any area in a county, if any part of the county adjoins or is inside the congressional district of the Member; and

"(B) in the case of redistricting, on and after the date referred to in subsection (d)(1)(B), a Member of the House of Representatives may send mass mailings to the additional area described in that section.".

Wages.
Government employees.

SEC. 317. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

2 USC 59f.

SEC. 318. Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senate office a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senate office during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings.

The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Senate Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate. Such summary tabulation shall set forth for each Senate office the following information: the Senate office's name, the total number of pieces of mass mail mailed during the quarter, the total cost of such mail, and, in the case of Senators, the cost of such mail divided by the total population of the State from which the Senator was elected, and the total number of pieces of mass mail divided by the total population of the State from which the Senator was elected.

SEC. 319. SPARK M. MATSUNAGA MEDAL OF PEACE.—(a) IN GENERAL.—Section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604) is amended—

(1) in subsection (b)—

(A) by adding "and" after the semicolon at the end of paragraph (8);

(B) by striking out paragraph (9); and

(C) by redesignating paragraph (10) as paragraph (9);

(2) by redesignating subsections (c) through (n) as subsections (d) through (o), respectively; and

(3) by inserting after subsection (b) the following:

"(c)(1)(A) The Institute, acting through the Board, may each year make an award to such person or persons who it determines to have contributed in extraordinary ways to peace among the nations and peoples of the world, giving special attention to contributions that advance society's knowledge and skill in peacemaking and conflict management. The award shall include the public presentation to such person or persons of the Spark M. Matsunaga Medal of Peace and a cash award in an amount of not to exceed $25,000 for any recipient.

"(B)(i) The Secretary of the Treasury shall strike the Spark M. Matsunaga Medal of Peace with suitable emblems, devices, and inscriptions which capture the goals for which the Medal is presented. The design of the medals shall be determined by the Secretary of the Treasury in consultation with the Board and the Commission of Fine Arts.

"(ii) The Spark M. Matsunaga Medal of Peace shall be struck in bronze and in the size determined by the Secretary of the Treasury in consultation with the Board.

"(iii) The appropriate account of the Treasury of the United States shall be reimbursed for costs incurred in carrying out this subparagraph out of funds appropriated pursuant to section 1710(a)(1).

"(2) The Board shall establish an advisory panel composed of persons eminent in peacemaking, diplomacy, public affairs, and scholarship, and such advisory panel shall advise the Board during its consideration of the selection of the recipient of the award.

"(3) The Institute shall inform the Committee on Foreign Relations and the Committee on Labor and Human Resources of the Senate and the Committee on Foreign Affairs and the Committee on Education and Labor of the House of Representatives about the selection procedures it intends to follow, together with any other matters relevant to making the award and emphasizing its prominence and significance.".

(b) USE OF MEDAL NAME.—Section 1704(e)(1) of the United States Institute of Peace Act (22 U.S.C. 4603(e)(1)) is amended by inserting "'Spark M. Matsunaga Medal of Peace'," after "'International Peace',".

(c) CONFORMING AMENDMENT.—Section 1707(b) of the United States Institute of Peace Act (22 U.S.C. 4606(b)) is amended by striking out "section 1705(g)(3)" and inserting in lieu thereof "section 1705(h)(3)".

Postal service. 2 USC 59g.

SEC. 320. In fiscal year 1991 and thereafter, when a Senator disseminates information under the frank by a mass mailing (as defined in section 3210(a)(6)(E) of title 39, United States Code), the Senator shall register quarterly with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary a copy of the matter mailed and providing, on a form supplied by the Secretary, a description of the group or groups of persons to whom the mass mailing was mailed and the number of pieces mailed.

Wages. 28 USC 461 note.

SEC. 321. Pursuant to section 140 of Public Law 97-92, Justices and judges of the United States are authorized during calendar year 1991 to receive a salary adjustment in accordance with 28 U.S.C. section 461.

SEC. 322. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of sections 1535 and 1536 of title 31, United States Code, may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriation Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such other agency; or

(B) to such extent or in such amounts as are provided in appropriation Acts, with respect to any purpose not allowable under subparagraph (A).

Ante, p. 246.

SEC. 323. Section 316 of Public Law 101-302 is amended—

(1) in the first sentence of subsection (a) by—

(A) striking "1990" and inserting "1991".

Federal buildings and facilities.

SEC. 324. The Architect of the Capitol shall take such steps as may be necessary to ensure that room S-147 of the Capitol is prepared (to the extent of not less than 50 percent of its total square footage) for use by the Special Services Office. Any expenses necessary to carry out the preceding sentence may be paid out of any appropriations

available to the Architect of the Capitol under this Act, in fiscal year 1991, for "Contingent Expenses" or "Capitol Buildings".

Tele-communications.

SEC. 325. Two floor tracking cable TV channels are authorized, one for the Speaker and one for the Minority Leader.

This Act may be cited as the "Legislative Branch Appropriations Act, 1991".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5399 (S. 3207):

HOUSE REPORTS: No. 101-648 (Comm. on Appropriations) and No. 101-965 (Comm. of Conference).
SENATE REPORTS: No. 101-533 accompanying S. 3207 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 21, considered and passed House.
Oct. 24, 25, considered and passed Senate, amended.
Oct. 27, House and Senate agreed to conference report.

○

Public Law 101-521
101st Congress

An Act

To amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans.

Nov. 5, 1990
[H.R. 5759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(l)(2) of the Age Discrimination in Employment Act of 1967, as added by the Older Workers Benefit Protection Act, is amended— 29 USC 623.

(1) in subparagraph (A)—

(A) in clause (i) by striking "and" at the end,

(B) in clause (ii) by striking the comma at the end and inserting "; or", and

(C) by inserting after clause (ii) the following:

"(iii) the values described in both clauses (i) and (ii);", and

(2) in subparagraph (D)—

(A) by inserting after "For purposes of this paragraph" the following: "and solely in order to make the deduction authorized under this paragraph",

(B) by striking "and" at the end of clause (i),

(C) by striking the period at the end of clause (ii) and inserting "; or", and

(D) by adding at the end the following new clause:

"(iii) the package of benefits provided by the employer is as described in clauses (i) and (ii).".

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5759:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 2, considered and passed House.
Oct. 16, considered and passed Senate, amended.
Oct. 17, House concurred in Senate amendment.

49-139 O - 90 (521)

Public Law 101-522
101st Congress

An Act

Nov. 5, 1990
[H.R. 3840]

To establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT.

Historic preservation.
16 USC 431 note.

(a) IN GENERAL.—There is hereby established the Newberry National Volcanic Monument in the State of Oregon as a component of the National Forest System in order to preserve and protect for present and future generations its remarkable geologic landforms and for the purposes of providing for the conservation, protection, interpretation, and enhancement of its ecological, botanical, scientific, scenic, recreational, cultural, and fish and wildlife resources.

(b) AREA INCLUDED.—(1) The Monument shall comprise those lands generally depicted on the map entitled "Newberry National Volcanic Monument" and dated September 1990, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, Washington, District of Columbia.

(2) The Newberry Special Management Area, the Transferal Area, the Transferal Area Adjacent, and the Transferal Corridor shall comprise those lands generally depicted as such on the map referred to in paragraph (1).

(3) The Secretary may, by publication of a notice of availability of a revised map and after public comment, make corrections or minor changes to the boundary of the Monument or Special Management Area if such changes are—

(A) necessary to facilitate management of the Monument, Special Management Area and the immediately surrounding area,

(B) consistent with the purposes of this Act, and

(C) noncontroversial.

Any proposed boundary change shall be made pursuant to the National Environmental Policy Act of 1969.

SEC. 2. ADMINISTRATION.

(a) IN GENERAL.—Subject to valid existing rights, the Secretary shall administer the Monument and Special Management Area in accordance with the laws, rules, and regulations pertaining to the National Forest System and this Act as part of the Deschutes National Forest.

(b) TRANSFERAL AREA.—(1) Upon termination, cancellation, or relinquishment of all Federal geothermal leases (numbered OR-12008, OR-11612, and OR-11613), the lands and mineral rights encompassed by such leases, and other Federal land identified as the Transferal Area on the map referred to in section 1(b)(1), shall become part of the Monument and shall be administered under this Act.

(2) The Transferal Corridor is a part of the Transferal Area and shall be managed as such, except as otherwise provided in section 4.

(3) Prior to the termination, cancellation, or relinquishment of such geothermal leases, the Secretary of the Interior and the Secretary of Agriculture shall, to the extent practicable and consistent with the Geothermal Steam Act of 1970 and rights under such leases, manage the Transferal Area under the laws, rules, and regulations pertaining to the National Forest System in such a manner so as to preserve the natural values of the area which would qualify it for designation as a national monument.

(4) Upon discovery of commercial quantities of geothermal resources, paragraphs (1), (2), and (3) shall no longer apply.

(c) NEWBERRY SPECIAL MANAGEMENT AREA.—The area identified on the map referred to in section 1(b)(1) as the Newberry Special Management Area shall be managed as if it were part of the Monument, except as otherwise provided in section 4.

(d) TRANSFERAL AREA ADJACENT.—The area identified on the map referred to in section 1(b)(1) as the Transferal Area Adjacent is a part of the Special Management Area, except as otherwise provided in section 4.

(e) MANAGEMENT REQUIREMENTS.—The Monument and Special Management Area shall be administered in accordance with the following management requirements:

(1) Land management activities shall allow natural ecological succession of vegetation to continue to the maximum extent practical, as determined by the Secretary. Timber removal shall be permitted only to the extent the Secretary determines necessary to achieve the purposes of this Act and to protect health and safety. Timber within the Monument and Special Management Area shall not be considered part of the allowable sale quantity for the Deschutes National Forest.

(2) Recreation uses and interpretive facilities shall be provided, including (but not limited to) trails, campgrounds, resorts, and visitor centers, as identified in the management plan.

(3) Roads shall be permitted in the Monument and Special Management Area consistent with the purposes of this Act and in accordance with the management plan.

(f) SCIENTIFIC RESEARCH.—Scientific research shall be allowed consistent with the purposes for which the Monument was established.

(g) DISEASE, INSECT INFESTATION, AND FIRE HAZARD.—The Secretary is authorized to take action to the extent practicable to ensure that tree diseases, insect infestations, fire hazards, and fires within the Monument and Special Management Area do not seriously threaten resources outside the Monument and Special Management Area boundaries.

SEC. 3. EXCHANGES OF GEOTHERMAL LEASE RIGHTS.

(a) IN GENERAL.—Those holders of all Federal geothermal leases within the Monument as of the date of enactment of this Act and who are listed in subsection (c) of this section are authorized, without penalty, to relinquish all rights to such leases on the terms and conditions provided in this section and section 10 of the Geothermal Steam Act of 1970. Such leases are depicted on the map entitled "Geothermal Lease Compensation" which is a part of the Surface Resource Analysis of Newberry Volcano.

(b) GEOTHERMAL LEASE EXCHANGE.—Upon the acceptance by the Secretary of the Interior of a lease relinquished pursuant to subsection (a), the Secretary of the Interior shall immediately issue, in lieu thereof and in full compensation for such relinquishment, geothermal leases of like value as described in subsection (c). The leases issued in lieu of relinquished leases shall contain the terms and conditions prescribed in the Surface Resource Analysis of Newberry Volcano and the Land and Resource Management Plan for the Deschutes National Forest, dated August 1990. Consistent with such terms and conditions, such in-lieu leases shall be administered under the Geothermal Steam Act of 1970.

(c) DESCRIPTIONS.—(1) The parties (including their successors, or assignees), and lands referred to in subsection (a), are those specified on the map referred to in subsection (a).

(2) The leases to be issued pursuant to subsection (b) and the interests in lands subject to such leases are as follows:

(A) Within the Newberry Caldera Known Geothermal Resource Area, lease area 1, leases shall be issued with an undivided fractional interest distributed as follows:

(i) 62.37 percent to California Energy Co., Inc.

(ii) 35.09 percent to Christian F. Murer.

(iii) 2.54 percent to Delta Funds, Inc.

(B) Within the Newberry Caldera Known Geothermal Resource Area, lease area 2, leases shall be issued with an undivided fractional interest distributed as follows:

0.84 percent to L.H. Armour, Jr.

5.49 percent to Frances B. Bunn.

1.73 percent to Robert B. Bunn.

8.52 percent to Geo-Newberry Crater, Inc.

15.10 percent to Hawthorn Oil Co.

3.42 percent to Terry Allen Kramer.

64.90 percent to George W. Waters.

(C) Outside the Newberry Caldera Known Geothermal Resource Area, leases shall be issued for the approximate acreage noted:

(i) Lease Area 3—Robert B. Bunn—1,280.00 acres.

(ii) Lease Area 4—Frances B. Bunn—1,240.00 acres.

(iii) Lease Area 5—Geo-Newberry Crater, Inc.—2,928 acres.

(d) AVAILABILITY OF CERTAIN LANDS FOR GEOTHERMAL LEASING UNDER THE GEOTHERMAL STEAM ACT.—Following the expiration, relinquishment, or termination of any geothermal lease issued for lands identified in subsection (c), except for lands situated within the Special Management Area, such lands may be offered for lease under the Geothermal Steam Act of 1970.

(e) AVAILABILITY OF CERTAIN LANDS FOR GEOTHERMAL LEASING UNDER THIS ACT.—Following expiration, relinquishment, or termination of a geothermal lease on lands identified in subsection (c), within the Special Management Area, lands shall be offered for lease as provided in section 4(a)(5) of this Act.

(f) NONAPPLICABLE PROVISIONS.—The provisions of subsection (g) of section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005 (c) and (g)) shall not apply to any geothermal lease within the Monument existing on the date of enactment of this Act.

SEC. 4. SUBSURFACE RIGHTS.

(a) WITHDRAWAL.—

(1) MONUMENT.—Subject to valid existing rights, Federal lands within the Monument are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.

(2) TRANSFERAL AREA.—Subject to valid existing rights, Federal lands within the Transferal Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws. Upon completion of a well capable of producing geothermal steam in commercial quantities, as defined in section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) on valid existing leases within the Transferal Area, as determined by the Secretary of the Interior, the withdrawal made by this subsection shall be revoked, and such lands shall be restored to the operation of the public land laws, mining laws, and mineral and geothermal leasing laws.

(3) TRANSFERAL CORRIDOR.—Subject to valid existing rights, Federal lands within the Transferal Corridor are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry or patent under the mining laws, and from disposition under all mineral and geothermal leasing laws.

(4) TRANSFERAL AREA ADJACENT.—Subject to valid existing rights, Federal lands within the Transferal Area Adjacent are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and from disposition under all mineral leasing laws except the Geothermal Steam Act of 1970. Upon completion of a well capable of producing geothermal steam in commercial quantities, as defined in section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) within the Transferal Area, as determined by the Secretary of the Interior, this area will be managed as part of the Special Management Area and be governed by provisions in section 4(a)(5). Geothermal leases issued in this area shall contain stipulations that prohibit surface occupancy and no plans of operation will be approved by the Secretary until commercial quantities of geothermal resources are found within the Transferal Area.

(5) SPECIAL MANAGEMENT AREA.—Subject to valid existing rights, Federal lands within the Special Management Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, and under all mineral leasing laws except the Geothermal Steam Act of 1970. Geothermal leases issued in this area shall contain stipulations that prohibit surface occupancy and shall require that the Special Management Area be entered only by directional drilling from outside the Special Management Area boundaries. In the event that no commercial quantities of geothermal resources are developed under leases within 30 years after the date of enactment of this Act, the Secretary of the Interior is authorized and directed to withdraw such areas in perpetuity from all further leasing under the Geothermal Steam Act of 1970. Upon such withdrawal, the Special Management Area designations shall terminate and such areas shall become part of the Monument. All or

portions of the Special Management Area may be withdrawn from the Geothermal Steam Act of 1970 and made a part of the Monument earlier at the joint discretion of the Secretaries of Interior and Agriculture. This provision shall in no way restrict the Secretary's authority to acquire by purchase, donation or exchange any lease within the Special Management Area prior to the expiration of the term of years set forth in this paragraph.

(b) GEOTHERMAL LEASE SALES.—(1) Within one year after the date of the enactment of this Act, pursuant to the Geothermal Steam Act of 1970, the Secretary of the Interior shall offer for lease by competitive bid the lands depicted on the map entitled "Geothermal Lease Sale Parcels," which is part of the Surface Resource Analysis of Newberry Volcano, with stipulations as provided therein.

(2) Any of the lands described in paragraph (1) of this subsection which are not leased as a result of the first competitive bid offering, or any of the initial leases which are relinquished, terminated, or otherwise canceled, may be reoffered by the Secretary of the Interior for lease by competitive bid under the Geothermal Steam Act of 1970, except that all lands within the Special Management Area shall be subject to the leasing provisions of subsection (a)(5) of this Act.

(c) AUTHORITY FOR PLANS OF OPERATION.—The Secretary of Agriculture shall regulate all surface disturbing activities conducted pursuant to any lease issued under this section and section 3 and shall determine reclamation and all other actions as required in the interest of conservation of these resources. No permit to drill on a geothermal lease for areas covered under this Act may be granted without the analysis and approval by the Secretary of Agriculture of a plan of operations covering proposed surface disturbing activities within the lease area. In making such determination, the Secretary shall consider the effects of the proposed operations on the values for which the Monument and Special Management Area were established.

SEC. 5. FISH AND WILDLIFE.

Nothing in this Act shall be construed to affect the jurisdiction or responsibilities of the State of Oregon with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Department of Fish and Wildlife of the State of Oregon or its successor agency.

SEC. 6. MANAGEMENT PLAN.

(a) IN GENERAL.—(1) Within three fiscal years beginning after the date of enactment of this Act, the Secretary shall develop a management plan which shall address the lands established in section 1. The management plan shall be developed in consultation with the Council (established by section 7), interested Federal, State, and local government agencies, and the public.

(2) The management plan shall be periodically updated, amended, or revised as necessary and, at the discretion of the Secretary, such updates, amendments, or revisions may be done separately or in

conjunction with land management planning for other adjacent areas of the Deschutes National Forest.

(3) No actions taken under the authority of this Act shall require the reconsideration, amendment, or revision of the Deschutes National Forest Land and Resource Management Plan prepared pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The management plan required by paragraph (1) shall be incorporated into the Deschutes National Forest Land and Resource Management Plan upon the regular revision of the the Deschutes National Forest Land and Resource Management Plan.

(b) ISSUES TO BE ADDRESSED BY MANAGEMENT PLAN.—Consistent with the purposes for which the Monument and Special Management Area were established, the Management Plan shall address at least the following management issues:

(1) Recreation, including consideration of a full range of existing and appropriate new facilities and programs for recreation during all seasons of the year.

(2) Vegetation, including consideration of a full range of management options, and a program to reestablish old growth ponderosa pine ecosystems.

(3) Roads and facilities, including—

(A) consideration of the general location, design, construction, and maintenance criteria;

(B) standards for motorized vehicle use;

(C) traffic management; and

(D) criteria for the closing and obliteration of roads.

(4) Fire and fuel management prescriptions, including consideration of a full range of management options for fuel hazard reduction and prescribed fire and fire control strategies to minimize the risk of catastrophic wildfire and to meet other resource objectives.

(5) Wildlife management, including general prescriptions for wildlife habitat improvements.

(6) Research, including identification and prioritization of research opportunities.

(7) Monitoring, including monitoring needs for air, water, wildlife, soil, and other resources. The Secretary, in cooperation with the Secretary of the Interior, shall maintain a research and monitoring program for geothermal resources for the purpose of identifying and assessing the impact that present and proposed geothermal development in the vicinity of the Monument and Special Management Area may have on the values for which such Monument and Special Management Area were established.

(8) Conflicts, including consideration of potential conflicts among uses and resources.

SEC. 7. ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Newberry National Volcanic Monument Advisory Council for the purpose of advising the Secretary on the preparation of the initial management plan required by section 6(a) and on other matters at the Secretary's request.

(b) MEMBERSHIP.—The Council shall be composed of 11 members appointed by the Secretary, as follows:

(1) One member who represents the scientific community.

(2) One member who represents organized recreational interests.

(3) One member who represents organized timber industry interests.

(4) One member who represents organized geothermal industry interests.

(5) One member who represents organized tourism interests.

(6) One member of the Deschutes County Board of Commissioners.

(7) One member who represents organized environmental interests.

(8) One member who represents organized wildlife and fish interests.

(9) One at-large member from nominations submitted to the Secretary by the Governor of Oregon.

(10) The Forest Supervisor, Deschutes National Forest, and the District Manager, Prineville District, Bureau of Land Management, who shall serve as nonvoting, ex officio members.

(c) VACANCY.—A vacancy on the Council shall be filled in the same manner as the original appointment.

(d) QUORUM.—A quorum shall be 6 appointed members of the Council. The operations of the Council shall not be impaired by the fact that a member has not been appointed as long as a quorum has been attained.

(e) CHAIRPERSON AND PROCEDURES.—The Council shall elect a chairperson and establish such rules and procedures as it deems necessary or desirable.

(f) CONSULTATION.—The Secretary shall consult with the Council on a periodic and regular basis with respect to the management plan.

(g) PAY.—Members of the Council who are not full-time officers or employees of the United States shall serve without pay. Members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Council.

(h) SCIENTIFIC ADVISORY SUBCOMMITTEE.—The Council may appoint a Scientific Advisory Subcommittee, to be chaired by the Council member who represents the scientific community, for the purposes of advising the Council on matters related to the management plan. Subcommittee members shall be appointed for their expertise and need not be members of the Council.

(i) TERMINATION.—The Council and the Scientific Advisory Subcommittee, if any, shall cease to exist on the date upon which the management plan is officially adopted by the Secretary, or later at the discretion of the Secretary, except in no event shall the Council exist later than 5 years after the date of enactment of this Act.

SEC. 8. SAVINGS PROVISIONS.

(a) MANAGEMENT OUTSIDE BOUNDARIES OF MONUMENT.—Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the Monument or Special Management Area for the purpose of precluding activities outside the Monument and Special Management Area boundary which would otherwise be permitted under applicable law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the Monument and Special Management Area necessary to protect public health and safety in emergencies. The fact that activities

or uses outside the Monument and Special Management Area can be seen, heard, measured, or otherwise perceived within the Monument and Special Management Area shall not, of themselves, limit, restrict, or preclude such activities or uses up to the boundary of the Monument and the Special Management Area.

(b) CONTRACTS.—Nothing in this Act shall limit, restrict, or preclude the implementation of valid timber sale contracts or other contracts or agreements executed by the Secretary or the Secretary of the Interior prior to the date of enactment of this Act.

(c) ADMINISTRATION OF GEOTHERMAL STEAM ACT OF 1970.—Except as specifically provided in sections 3 and 4, nothing in this Act shall be construed to affect the authority of the Secretary of the Interior to administer the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

SEC. 9. DEFINITIONS.

As used in this Act:

(1) the term "allowable sale quantity" has the same meaning as such term has in section 13 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1611).

(2) The term "Council" means the Newberry National Volcanic Monument Advisory Council established by section 7.

(3) The term "Management Plan" means the plan developed under section 6.

(4) The term "Monument" means the Newberry National Volcanic Monument established by section 1.

(5) The term "Newberry Caldera Known Geothermal Resource Area" refers to the area established by the United States Geological Survey in 1974 and identified on the map referred to in section 3(a).

(6) The term "Special Management Area" means the Newberry Special Management Area established by section 1.

(7) The term "Secretary" means the Secretary of Agriculture.

(8) The term "Surface Resource Analysis of Newberry Volcano" means the document dated September 1990, prepared by the Forest Service and the Bureau of Land Management, and available for public inspection in the Office of the Chief, United States Forest Service, United States Department of Agriculture, Washington, District of Columbia.

(9) The terms "Transferal Area", "Transferal Corridor" and "Transferal Area Adjacent" mean the areas established by section 1.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 3840:

HOUSE REPORTS: No. 101-827 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 22, considered and passed Senate.

Public Law 101-523
101st Congress

An Act

To provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.

Nov. 5, 1990
[H.R. 5144]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATEMENT OF FINDINGS.

The Congress finds that—

(1) the city of Vancouver, Washington, has a unique array of contiguous historical sites which chronicle important steps in the settlement and development of the Northwest, including—

(A) Fort Vancouver National Historic Site, the site of the Hudson's Bay Company trading post established in 1825;

(B) Vancouver Barracks, an active military installation since 1849;

(C) Officers' Row National Register Historic District, 21 adaptively rehabilitated military officers' quarters;

(D) Pearson Airpark, an early United States Army airfield and one of the oldest operating airports in the country; and

(E) the Columbia River, an early Northwest exploration and settlement corridor, including the route of the Lewis and Clark expedition, center of Indian trade, shipbuilding, and fishing;

(2) these historical assets are owned and managed by several governmental entities, including the National Park Service, city of Vancouver, and the United States Army;

(3) sites within the Vancouver historical area are in a state of transition and are the focus of various proposals and initiatives;

(4) there is a lack of formal coordination of management or planning among the various entities; and

(5) failure to coordinate the planning and management within the Area may result in lost opportunities to preserve and enhance irreplaceable historical sites and open space.

SEC. 2. VANCOUVER HISTORICAL STUDY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a Vancouver Historical Study Commission which shall study and make recommendations regarding—

(1) the preservation, protection, enhancement, enjoyment, and utilization of the historic, cultural, natural, and recreational resources of the Area; and

(2) the feasibility of establishing a Vancouver National Historical Reserve.

(b) MEMBERSHIP.—The Commission shall consist of the following 5 members:

(1) The Director of the National Park Service, or his designee.

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(2) One individual appointed by the Secretary of the Interior from recommendations submitted by the Mayor of Vancouver to represent the city of Vancouver.

(3) The Secretary of the Army, or his designee.

(4) One individual appointed by the Secretary of the Interior from recommendations submitted by the Governor of Washington to represent the State Historic Preservation Office.

(5) One individual appointed by the Secretary of the Interior to represent the general public.

Members shall be appointed within 60 days after the date of enactment of this Act.

(c) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistance, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(e) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary.

(f) QUORUM.—Three members of the Commission shall constitute a quorum.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide to the Commission on a reimbursable basis information, personnel, property, and services to assist in carrying out its duties under this Act. The Secretary may accept the services of personnel detailed from the State of Washington or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(i) TERMINATION OF COMMISSION.—The Commission shall terminate upon submission of the study report as provided in section 3.

SEC. 3. DUTIES OF THE COMMISSION.

(a) REPORT.—(1) The Commission shall prepare a report—

(A) specifying the results of the study required by section 2(a); and

(B) containing—

(i) an inventory and assessment of the historic, cultural, natural, and recreational resources located within the Area;

(ii) specific preservation and interpretation goals;

(iii) proposed alternative management strategies whereby the funds, data, personnel, and authorities of public and private entities may be coordinated; and

(iv) recommendations concerning the continued operation of Pearson Airpark in a manner that will preserve and promote historic aviation and interpretation of the Area,

compatible with other historic and cultural resources of the Area, including Fort Vancouver National Historic Site.

(2) In making recommendations under paragraph (1)(B)(iv), the Commission shall assess—

(A) the impact of current airport operations on the preservation, use, and interpretation of historic and cultural resources in the Area; and

(B) future operation of the airport undertaking such mitigation measures as may be necessary to minimize the intrusion on adjacent historic and cultural resources.

(b) DEVELOPMENT OF STUDY.—

(1) In undertaking the study under section 2(a), the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In undertaking the study under section 2(a), the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In undertaking the study under section 2(a), the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purpose of providing interested persons with the opportunity to testify with respect to matters to be addressed by the study.

(c) TRANSMITTAL OF STUDY REPORT.—Not later than 18 months after the date of enactment of this Act, the Commission shall submit the report required under subsection (a) to the Secretary of the Interior and the Secretary of the Army. The Secretary of the Interior shall submit the report along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within 30 days after receipt of such report from the Commission.

SEC. 4. DETERMINATION OF SUITABILITY OF CERTAIN REAL PROPERTY.

(a) NOTIFICATION OF SECRETARY OF THE INTERIOR.—The Secretary of Defense shall notify the Secretary of the Interior upon any determination by the Secretary of Defense that any real property located at Vancouver Barracks is excess property of the Department of Defense.

(b) REVIEW OF PROPERTY BY SECRETARY OF THE INTERIOR.—Not later than 90 days after receiving notification from the Secretary of Defense under subsection (a), the Secretary of the Interior shall—

(1) review the property that is the subject of the notification with respect to the suitability of all or part of the property for administration by the Secretary of the Interior or the State of Washington or its political subdivisions; and

(2) report to the Congress the findings of that review and recommendations for any legislation. Reports.

SEC. 5. RESTRICTION ON DISPOSAL OR USE OF PROPERTY.

Notwithstanding any other provision of law, any real property located at Vancouver Barracks that is determined by the Secretary of Defense to be excess property of the Department of Defense may not be disposed of or used by any Federal agency before the end of the one-year period following submission of a report to the Congress regarding that property under section 4(b).

SEC. 6. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Area shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the provisions of this Act.

SEC. 7. DEFINITIONS.

As used in this Act—

(1) the term "Area" means the area which incorporates those resources listed in section (1);

(2) the term "Commission" means the Vancouver Historical Study Commission established by section 2; and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 5, 1990.

LEGISLATIVE HISTORY—H.R. 5144 (S. 2771):

HOUSE REPORTS: No. 101-740 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-502 accompanying S. 2771 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed House.
Oct. 15, S. 2771 considered in Senate; proceedings vacated and H.R. 5144 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 5, Presidential statement.

Public Law 101-524
101st Congress

An Act

To amend title 39, United States Code, to designate as nonmailable matter solicitations for the purchase of goods or services, or solicitation for donations which could reasonably be construed as implying any Federal Government connection or endorsement, unless such matter contains an appropriate, conspicuous disclaimer, and for other purposes.

Nov. 6, 1990
[H.R. 2331]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Deceptive Mailings Prevention Act of 1990.
39 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Mailings Prevention Act of 1990".

SEC. 2. AMENDMENTS TO TITLE 39.

Regulations.

(a) PROHIBITION OF DECEPTIVE MAILINGS.—Section 3001 of title 39, United States Code is amended by redesignating subsections (f) and (g) as subsections (i) and (j) respectively, and by inserting after subsection (e) the following:

"(f) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for the purchase of or payment for a product or service; and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: '**THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.**', or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: '**THIS IS NOT A GOVERNMENT DOCUMENT.**', or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.

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"(g) Matter otherwise legally acceptable in the mails which constitutes a solicitation by a nongovernmental entity for information or the contribution of funds or membership fees and contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement is nonmailable matter and shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless—

"(1) such nongovernmental entity has such expressed connection, approval or endorsement;

"(2)(A) such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe, the following notice: **'THIS ORGANIZATION HAS NOT BEEN APPROVED OR ENDORSED BY THE FEDERAL GOVERNMENT, AND THIS OFFER IS NOT BEING MADE BY AN AGENCY OF THE FEDERAL GOVERNMENT.'**, or a notice to the same effect in words which the Postal Service may prescribe; and

"(B) the envelope or outside cover or wrapper in which such matter is mailed bears on its face in capital letters and in conspicuous and legible type, in accordance with regulations which the Postal Service shall prescribe, the following notice: **'THIS IS NOT A GOVERNMENT DOCUMENT.'**, or a notice to the same effect in words which the Postal Service may prescribe; or

"(3) such matter is contained in a publication for which the addressee has paid or promised to pay a consideration or which he has otherwise indicated he desires to receive, except that this paragraph shall not apply if the solicitation is on behalf of the publisher of the publication.".

(b) DECEPTIVE MAILINGS AS FALSE REPRESENTATIONS.—Section 3005(a) of title 39, United States Code, is amended by striking out "section 3001(d)" each place that it appears and inserting in lieu thereof "section 3001 (d), (f), or (g)".

SEC. 3. REVIEW AND REPORT BY THE UNITED STATES POSTAL SERVICE.

No later than 90 days after the date of enactment of this Act, the United States Postal Service shall—

(1)(A) conduct a comprehensive review to determine if the provisions of section 123.33 of the Domestic Mail Manual (as in effect on such date of enactment) are being appropriately observed; and

(B) take appropriate measures to ensure that any misapplication or misunderstanding of such provisions is corrected among any postal personnel who are responsible for carrying them out;

(2) conduct a comprehensive review to determine the feasibility of establishing a procedure whereby a sender of mail matter which is denied entry into the mails on the basis of incorrect mail preparation, postage due, or addressing may, through expedited proceedings, obtain a final agency decision as to the mailability of such matter; and

(3) submit a written report to the Senate and the House of Representatives describing its findings and actions under this section.

SEC. 4. COORDINATION OF FUNCTIONS WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

39 USC 3001 note.

The United States Postal Service shall consult and coordinate the functions and administration of the provisions of this Act and the amendments made by this Act with the Secretary of the Department of Health and Human Services and the functions of the Secretary in the administration of section 428 of the Medicare Catastrophic Coverage Act of 1988 (42 U.S.C. 1320b-10).

SEC. 5. STATE DEPARTMENT POST OFFICES ABROAD.

(a) POSTAL SERVICES AT DIPLOMATIC POSTS.—Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 413. Postal services at diplomatic posts

Government contracts.

"(a) The Postal Service and the Department of State may enter into 1 or more agreements for field testing to ascertain the feasibility of providing postal services through personnel provided by the Department of State at branch post offices established by the Postal Service in United States diplomatic missions at locations abroad for which branch post offices are not established under section 406.

"(b) To the extent that the Postal Service and the Department of State conclude it to be feasible and in the public interest, the Postal Service may establish branch post offices at United States diplomatic missions in locations abroad for which branch post offices are not established under section 406, and the Department of State may enter into an agreement with the Postal Service to perform postal services at such branch post offices through personnel designated by the Department of State.

"(c) The Department of State shall reimburse the Postal Service for any amounts, determined by the Postal Service, equal to the additional costs incurred by the Postal Service, including transportation costs, incurred by the Postal Service in the performance of its obligations under any agreement entered into under this section.

"(d) Each agreement entered into under this section shall include—

"(1) provisions under which the Department of State shall make any reimbursements required under subsection (c);

"(2) provisions authorizing the Postal Service to terminate the agreement, and the services provided thereunder, in the event that the Department of State does not comply with the provisions under paragraph (1); and

"(3) any other provisions which may be necessary, including provisions relating to the closing of a post office under this section if necessary because a post office under section 406 is established in the same location.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following:

"413. Postal services at diplomatic posts.".

39 USC 3001 note.

SEC. 6. EFFECTIVE DATE.

The provisions of this Act shall take effect on the date of the enactment of this Act, except the amendments made by section 2 shall apply to matter deposited for mailing and delivery on or after 180 days after the date of the enactment of this Act.

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.R. 2331 (S. 273):

HOUSE REPORTS: No. 101-178 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 101-464 accompanying S. 273 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 31, considered and passed House.
Vol. 136 (1990): Oct. 4, considered and passed Senate, amended, in lieu of S. 273.
Oct. 19, House concurred in Senate amendments.

Public Law 101-525
101st Congress

An Act

To amend the Congressional Award Act to temporarily extend the Congressional Award Board, and to otherwise revise such Act.

Nov. 6, 1990
[H.R. 5275]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Congressional Award Amendments of 1990.
2 USC 801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Amendments of 1990".

SEC. 2. TEMPORARY EXTENSION OF CONGRESSIONAL AWARD BOARD.

(a) TERMINATION OF THE BOARD.—Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended to read as follows:

"TERMINATION

"SEC. 9. The Board shall terminate October 1, 1992.".

(b) SAVINGS PROVISION.—During the period of October 1, 1990, through the date of the enactment of this section, all actions and functions of the Congressional Award Board under the Congressional Award Act (2 U.S.C. 801 et seq.) shall have the same effect as though no lapse or termination of the Board ever occurred.

2 USC 808 note.

SEC. 3. ANNUAL REPORT.

Section 3(e) of the Congressional Award Act (2 U.S.C. 802(e)) is amended in the first sentence by striking "March 1" and inserting "April 1".

SEC. 4. DERIVATION OF APPOINTMENT.

Section 4(a) of the Congressional Award Act (2 U.S.C. 803(a)) is amended by adding at the end the following new paragraph:

"(4) For the purpose of determining the derivation of the appointment of any person appointed to the Board under this section, if there is a change in the status of majority and minority between the parties of the House or the Senate, each person appointed under this section shall be deemed to have been appointed by the leadership position set out in subsection (a)(1) of the party of the individual who made the initial appointment of such person.".

SEC. 5. TERMS OF APPOINTMENT.

Section 4(b) of the Congressional Award Act (2 U.S.C. 803(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated), by striking "but (unless" and all that follows and inserting the following: "and (unless reappointed under paragraph (3)) shall serve for a term of 4 years."; and

(3) by adding at the end the following new paragraphs:

"(2) For the purpose of adjusting the terms of Board members to allow for staggered appointments, the following distribution of

Board terms shall take effect at the first meeting of the Board occurring after the date of the enactment of the Congressional Award Amendments of 1990:

"(A) Those members who have served 10 years or more, as of the date of such meeting, shall have an appointment expiring on a date 2 years from October 1, 1990.

"(B) Those members who have served for 6 months or less, as of the date of such meeting, shall have an appointment expiring on a date 6 years from October 11, 1990.

"(C) All other members shall apportion the remaining Board positions between equal numbers of 2 and 4 year terms (providing that if there are an unequal number of remaining members, there shall be a predominance of 4 year terms), such apportionment to be made by lot.

"(3)(A) Subject to the limitations in subparagraphs (B) and (C) of this paragraph, members of the Board may be reappointed, provided that no member may serve more than 2 consecutive terms.

"(B) Members of the Board covered under paragraph (2)(A) of this section shall not be eligible for reappointment to the Board. Members of the Board covered under subparagraphs (B) and (C) of paragraph (2) of this section may be reappointed for 1 additional consecutive 4 year term.

"(C) Members of the Board who serve as chairman of the Board shall not have the time during which they serve as chairman used in the computation of their period of service for purposes of this paragraph and paragraph (2).".

SEC. 6. REMOVAL FROM BOARD.

Section 4 of the Congressional Award Act (2 U.S.C. 803) is amended by adding at the end the following new subsection:

"(j) Any member of the Board who fails to attend 4 consecutive Board meetings scheduled pursuant to the bylaws of the Board and for which proper notice has been given under such bylaws, or to send a designee of such member (approved in advance by the Board under provisions of its bylaws), is, by operation of this subsection, removed, for cause, from the Board as of the date of the last meeting from which they are absent. The Chairman of the Board shall take such steps as are necessary to inform members who have 3 absences of this subsection. The Chairman shall notify the House and the Senate, including the appropriate committees of each body, whenever there is a vacancy created by the operation of this subsection.".

SEC. 7. TECHNICAL AMENDMENT, STATEWIDE COUNCILS, ACCEPTANCE OF FUNDS AND RESOURCES.

(a) TECHNICAL AMENDMENT.—Section 7 of the Congressional Award Act (2 U.S.C. 806) is amended by inserting "(a)" after the section designation.

(b) STATEWIDE COUNCILS.—Section 7 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C)—

(i) by striking "conducting" and inserting "conduct"; and

(ii) by striking "State and";

(B) by redesignating subparagraphs (D) through (G) as subparagraphs (E) through (H), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) in addition to those activities authorized under subparagraph (C), conduct of outreach activities to encourage, where appropriate, the establishment and development of Statewide Congressional Award Councils;"; and

(C) in subparagraph (F) (as redesignated by subparagraph (B) of this paragraph), by striking "conducting" and inserting "conduct"; and

(2) by redesignating subsections (c) through (h) as subsections (d) through (i), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) In carrying out its functions with respect to Statewide Congressional Award Councils (hereinafter in this subsection referred to as Statewide Councils) under subsection (b), the Board shall develop guidelines, criteria, and standards for the formation of Statewide Councils. In order to create a Statewide Council, Members of Congress and Senators from each respective State are encouraged to work jointly with the Board.

"(2) The establishment of Statewide Councils is intended to—

"(A) facilitate expanded public participation and involvement in the program; and

"(B) promote greater opportunities for involvement by members of the State congressional delegation.

"(3) The duties and responsibilities of each Statewide Council established pursuant to this section shall include, but not be limited to, the following:

"(A) promoting State and local awareness of the Congressional Award Program;

"(B) review of participant records and activities;

"(C) review and verification of information on, and recommendation of, candidates to the national board for approval;

"(D) planning and organization of bronze and silver award ceremonies;

"(E) assisting gold award recipients with travel to and from the national gold award ceremony; and

"(F) designation of a Statewide coordinator to serve as a liaison between the State and local boards and the national board.

"(4) Each Statewide Council established pursuant to this section is authorized to receive public monetary and in-kind contributions, which may be made available to local boards to supplement or defray operating expenses. The Board shall adopt appropriate financial management methods in order to ensure the proper accounting of these funds.

"(5) Each Statewide Council established pursuant to this section shall comply with the standard charter requirements of the national board of directors.".

(c) ACCEPTANCE OF FUNDS AND RESOURCES.—Section 7(e) of the Congressional Award Act, as redesignated by subsection (b)(2) of this section, is amended to read as follows:

"(e)(1) Subject to the provisions of paragraph (2), the Board may seek and accept funds and other resources to carry out its activities. The Board may not accept any funds or other resources which are—

"(A) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Award Program or a specific regional or local program; and

"(B) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

Advertising.

The Board may permit donors to use the name of the Board or the name 'Congressional Award Program' in advertising.

"(2) Except as otherwise provided in this Act, the Board may not receive any Federal funds or resources. The Board may benefit from in-kind and indirect resources provided by Offices of Members of Congress or the Congress. Further, the Board is not prohibited from receiving indirect benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources.".

SEC. 8. GENERAL ACCOUNTING OFFICE AUDITS.

Section 8 of the Congressional Award Act (2 U.S.C. 807) is amended—

(1) in subsection (a), in the first sentence—

(A) by striking "section 7(h)" and inserting "section 7(i)"; and

(B) by striking "at least biennially" and inserting "annually"; and

(2) by striking subsections (b) through (d) and inserting the following:

Reports.

"(b) The Comptroller General shall submit to appropriate officers, committees, and subcommittees of the Congress, by May 15th of each calendar year, a report on the results of the audit of the financial records and on any such additional areas as the Comptroller General determines deserve or require evaluation.".

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.R. 5275:

HOUSE REPORTS: No. 101-618 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 23, considered and passed House.
Oct. 19, considered and passed Senate, amended.
Oct. 22, House concurred in Senate amendment.

Public Law 101-526
101st Congress

An Act

To waive the period of congressional review for certain District of Columbia acts authorizing the issuance of District of Columbia revenue bonds.

Nov. 6, 1990
[H.R. 5482]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Revenue Bond Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1990".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.

Effective dates.

(a) WAIVER.—The District of Columbia acts described in subsection (b) shall, if enacted by the Council of the District of Columbia, take effect on the date of the enactment of this Act, notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act or any provision to the contrary in those acts.

(b) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING ISSUANCE OF DISTRICT OF COLUMBIA REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of District of Columbia revenue bonds referred to in subsection (a) are as follows:

(1) The Army Distaff Foundation, Inc. Revenue Bond Act of 1989 (District of Columbia Bill 8-477, introduced in the Council of the District of Columbia on November 27, 1989) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $10,000,000.

(2) The Washington Hospital Center Corporation Revenue Bond Act of 1990 (District of Columbia Bill 8-507, introduced in the Council of the District of Columbia on January 30, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $120,000,000.

(3) The Howard University Revenue Bond Act of 1990 (District of Columbia Bill 8-606, introduced in the Council of the District of Columbia on June 13, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for the issuance of bonds under such Act may not exceed $27,000,000.

(4) The Georgetown University Revenue Bond Act of 1990 (District of Columbia Bill 8-607, introduced in the Council of the District of Columbia on June 13, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $463,000,000.

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(5) The Anthony Bowen Landmark Building Trust, Inc. Revenue Bond Act of 1990 (District of Columbia Bill 8-619, introduced in the Council of the District of Columbia on June 26, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $5,000,000.

(6) The Association of Community College Trustees Revenue Bond Act of 1990 (District of Columbia Bill 8-620, introduced in the Council of the District of Columbia on June 26, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $1,000,000.

(7) The Greater Washington Educational Telecommunication Association, Inc. Revenue Bond Act of 1990 (District of Columbia Bill 8-624, introduced in the Council of the District of Columbia on June 26, 1990) in such form as such Act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such Act may not exceed $32,000,000.

(8) The Anacostia River Sports Facility Revenue Bond Act of 1990 (District of Columbia Bill 8-652) in such form as such Act may be enacted by the Council of the District of Columbia, except that the proceeds of bonds issued under such Act shall be utilized solely for renovation and rehabilitation of a presently existing stadium and any related, necessary infrastructure improvements appurtenant to such stadium; and that the authorization for issuance of bonds under such Act may not exceed $25,000,000.

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.R. 5482:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 24, considered and passed House.
Oct. 16, considered and passed Senate, amended.
Oct. 22, House concurred in Senate amendment.

Public Law 101-527
101st Congress

An Act

To amend the Public Health Service Act to improve the health of individuals who are members of minority groups and who are from disadvantaged backgrounds, and for other purposes.

Nov. 6, 1990
[H.R. 5702]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Disadvantaged Minority Health Improvement Act of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Disadvantaged Minority Health Improvement Act of 1990".

(b) FINDINGS.—The Congress finds that— 42 USC 300u-6 note.

(1) racial and ethnic minorities are disproportionately represented among individuals from disadvantaged backgrounds;

(2) the health status of individuals from disadvantaged backgrounds, including racial and ethnic minorities, in the United States is significantly lower than the health status of the general population of the United States;

(3) minorities suffer disproportionately high rates of cancer, stroke, heart diseases, diabetes, substance abuse, acquired immune deficiency syndrome, and other diseases and disorders;

(4) the incidence of infant mortality among minorities is almost double that for the general population;

(5) Blacks, Hispanics, and Native Americans constitute approximately 12 percent, 7.9 percent, and 0.01 percent, respectively, of the population of the United States;

(6) Blacks, Hispanics, and Native Americans in the United States constitute approximately 3 percent, 4 percent, and less than 0.01 percent, respectively, of physicians, 2.7 percent, 1.7 percent, and less than 0.01 percent, respectively, of dentists, and 4.5 percent, 1.6 percent, and less than 0.01 percent, respectively, of nurses;

(7) the number of individuals who are from disadvantaged backgrounds in health professions should be increased for the purpose of improving the access of other such individuals to health services;

(8) minority health professionals have historically tended to practice in low-income areas and to serve minorities;

(9) minority health professionals have historically tended to engage in the general practice of medicine and specialties providing primary care;

(10) reports published in leading medical journals indicate that access to health care among minorities can be substantially improved by increasing the number of minority health professionals;

(11) increasing the number of minorities serving on the faculties of health professions schools can be an important factor in attracting minorities to pursue a career in the health professions;

(12) diversity in the faculty and student body of health professions schools enhances the quality of education for all students attending the schools;

(13) the Report of the Secretary's Task Force on Black and Minority Health (prepared for the Secretary of Health and Human Services and issued in 1985) described the health status problems of minorities, and made recommendations concerning measures that should be implemented by the Secretary with respect to improving the health status of minorities through programs for providing health information and education; and

(14) the Office of Minority Health, created in 1985 by the Secretary of Health and Human Services, should be authorized pursuant to statute and should receive increased funding to support efforts to improve the health of individuals from disadvantaged backgrounds, including minorities, including the implementation of the recommendations made by the Secretary's Task Force on Black and Minority Health.

SEC. 2. ESTABLISHMENT OF OFFICE OF MINORITY HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following new section:

"ESTABLISHMENT OF OFFICE OF MINORITY HEALTH

42 USC 300u-6.

"SEC. 1707. (a) IN GENERAL.—There is established an Office of Minority Health within the Office of the Assistant Secretary for Health. There shall be in the Department of Health and Human Services a Deputy Assistant Secretary for Minority Health, who shall be the head of the Office of Minority Health. The Secretary, acting through such Deputy Assistant Secretary, shall carry out this section.

"(b) DUTIES.—The Secretary shall, with respect to the health concerns of individuals from disadvantaged backgrounds, including racial and ethnic minorities—

"(1) establish short-range and long-range goals and objectives and coordinate all other activities within the Department of Health and Human Services that relate to disease prevention, health promotion, service delivery, and research concerning such individuals;

Government contracts.

"(2) enter into interagency agreements with other agencies of the Service to increase the participation of such individuals in health service and promotion programs;

Public information.

"(3) establish a national minority health resource center to facilitate the exchange of information regarding matters relating to health information and health promotion, preventive health services, and education in the appropriate use of health care, to facilitate access to such information, to assist in the analysis of issues and problems relating to such matters, and to provide technical assistance with respect to the exchange of such information (including facilitating the development of materials for such technical assistance);

"(4) support research, demonstrations and evaluations to test new and innovative models, to increase knowledge and understanding of health risk factors, and to develop mechanisms that support better information dissemination, education, prevention, and service delivery to individuals from disadvantaged backgrounds, including racial and ethnic minorities;

"(5) coordinate efforts to promote minority health programs and policies in the voluntary and corporate sectors; Volunteers.

"(6) develop health information and health promotion materials and teaching programs, including—

"(A) models for the training of health professionals;

"(B) model curriculums to be used in primary and secondary schools and institutions of higher learning; Education.

"(C) materials and programs for the continuing education of health professionals;

"(D) materials for public service use by the print and broadcast media; and Public information.

"(E) materials and programs to assist health care professionals in providing health education to their patients; and

"(7) assist providers of primary health care and preventive health services in obtaining, with respect to the provision of such care and services, the assistance of bilingual health professionals and other bilingual individuals (including such assistance in the provision of services regarding maternal and child health, nutrition, mental health, and substance abuse).

"(c) CERTAIN REQUIREMENTS REGARDING DUTIES.—

"(1) EQUITABLE ALLOCATION OF SERVICES.—In carrying out subsection (b), the Secretary shall ensure that services provided under such subsection are equitably allocated among all groups served under this section by the Secretary.

"(2) APPROPRIATE CONTEXT OF SERVICES.—In carrying out subsection (b), the Secretary shall ensure that information and services provided under such subsection are provided in the language and cultural context that is most appropriate for the individuals for whom the information and services are intended.

"(3) BILINGUAL ASSISTANCE REGARDING HEALTH CARE.—In carrying out subsection (b)(7), the Secretary shall give special consideration to the unique linguistic needs of health care providers serving Asians, and American Samoans and other Pacific Islanders, including such needs regarding particular subpopulations of such groups.

"(d) GRANTS AND CONTRACTS REGARDING DUTIES.—

"(1) AUTHORITY.—In carrying out subsection (b), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) EVALUATION AND DISSEMINATION.—

"(A) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out with financial assistance provided under paragraph (1) and for the dissemination of information developed as result of such projects.

"(B) Not later than January 20 of fiscal year 1993 and of each second year thereafter, the Secretary shall prepare a report summarizing evaluations carried out under subparagraph (A) during the preceding 2 fiscal years. The report shall be included in the report required in subsection (e) for the fiscal year involved.

"(e) REPORTS.—Not later than January 31 of fiscal year 1993 and of each second year thereafter, the Secretary shall submit to the Congress a report describing the activities carried out under this section during the preceding 2 fiscal years.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $25,000,000 for each of the fiscal year 1991 through 1993.

"(2) ALLOCATION OF FUNDS BY SECRETARY.—Of the amounts appropriated under paragraph (1) in excess of $15,000,000, the Secretary shall make available not less than $3,000,000 to carry out subsection (b)(7).".

SEC. 3. HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following new subpart:

"Subpart VI—Health Services for Residents of Public Housing

"HEALTH SERVICES FOR RESIDENTS OF PUBLIC HOUSING

Grant programs.
42 USC 256a.

"SEC. 340A. (a) ESTABLISHMENT.—

"(1) The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants for the purpose of enabling grantees, directly or through contracts, to provide to residents of public housing, subject to subsections (e) and (f)—

"(A) primary health services, including health screenings; and

"(B) health counseling and education services.

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to expend the grant to carry out each of subparagraphs (A) and (B) of such paragraph.

"(3) In carrying out the program established in paragraph (1), the Administrator shall consult with the Director of the Centers for Disease Control.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

Government contracts.

"(C) in the case of any service under this section that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State in which the service will be provided—

"(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with a public or nonprofit private organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement pursuant to paragraph (1)(C)(ii) regarding the provision of services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing services, impose a charge or accept reimbursement available

from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(c) PREFERENCES IN MAKING GRANTS.—The Secretary shall, in making grants under subsection (a), give preference to qualified applicants that—

"(1) are resident management corporations under section 20 of the United States Housing Act of 1937; or

"(2) are receiving funds under section 330 or 340.

"(d) REQUIREMENT OF MATCHING FUNDS FROM PUBLIC GRANTEES.—

"(1) In the case of a public entity applying for a grant under subsection (a), the Secretary may not make such a grant unless the public entity agrees that, with respect to the costs to be incurred by such entity in carrying out the purpose described in such subsection, the entity will make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

"(2) In determining the amount of non-Federal contributions in cash that a public entity has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the public entity by the Federal Government.

"(e) REQUIREMENTS REGARDING SERVICES.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will, directly or through contract—

"(1) provide services under this section on the premises of public housing projects or at other locations immediately accessible to residents of public housing;

"(2) refer such residents, as appropriate, to qualified facilities and practitioners for necessary follow-up services;

"(3) provide outreach services to inform such residents of the availability of such services; and

"(4) aid such residents in establishing eligibility for assistance, and in obtaining services, under Federal, State, and local programs providing health services, mental health services, or social services.

"(f) OPTIONAL PROVISION OF CERTAIN SERVICES.—

"(1) A grantee under subsection (a) may expend the grant—

"(A) to train residents of public housing to provide health screenings and to provide educational services; and

"(B) to provide health services to individuals who are not residents of public housing.

"(2) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that if, pursuant to paragraph (1)(B), the applicant provides health services to individuals who are not residents of public housing, the health services will be provided to such individuals under the same terms and conditions as such services are provided to residents of public housing (including all terms and conditions in effect pursuant to this section).

"(g) CONSULTATION WITH RESIDENTS.—The Secretary may not make a grant under subsection (a) unless, with respect to the residents of the public housing involved, the applicant for the grant—

"(1) has consulted with the residents in the preparation of the application for the grant; and

"(2) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

"(h) RESTRICTIONS ON USE OF GRANT FUNDS.—

"(1) The Secretary may not, except as provided in paragraph (2), make a grant under subsection (a) to an applicant unless the applicant agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

"(A) for any purpose other than the purposes authorized in this section;

"(B) to provide inpatient services;

"(C) to make cash payments to intended recipients of services under this section; or

"(D) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment or motor vehicles.

"(2) If the Secretary finds that the purpose described in subsection (a) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified applicant, waive the restriction established in paragraph (1)(D).

"(i) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that, whether the services are provided directly or through contract—

"(1) services under the grant will be provided without regard to ability to pay for the services; and

"(2) if a charge is imposed for the delivery of the services, such charge—

"(A) will be made according to a schedule of charges that is made available to the public;

"(B) will not be imposed on any resident of public housing with an income less than the official poverty level; and

"(C) will be adjusted to reflect the income and resources of the resident of public housing involved.

"(j) REQUIREMENTS REGARDING ADMINISTRATION.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant—

"(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant;

"(2) agrees to establish an ongoing program of quality assurance with respect to the services provided under the grant;

"(3) agrees to ensure the confidentiality of records maintained on residents of public housing that are receiving such services;

"(4) with respect to providing services to any population of such residents a substantial portion of which has a limited ability to speak the English language—

"(A) has developed and has the ability to carry out a reasonable plan to provide services under the grant through individuals who are able to communicate with the

population involved in the language and cultural context that is most appropriate; and

"(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan; and

"(5) agrees to submit to the Secretary an annual report that describes the utilization and costs of services provided under the grant and that provides such other information as the Secretary determines to be appropriate.

"(k) LIMITATION ON ADMINISTRATIVE EXPENSES OF GRANTEE.—The Secretary may not make a grant under subsection (a) to an applicant unless the applicant agrees that the applicant will not expend more than 10 percent of amounts received pursuant to such subsection for the purpose of administering the grant.

"(l) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for the assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(m) TECHNICAL ASSISTANCE.—

"(1) The Secretary may provide technical assistance to applicants and grantees under subsection (a) regarding the planning, development, and operation of programs to carry out the purpose described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

"(2) Any technical assistance provided by the Secretary under paragraph (1) shall be provided without charge to applicants and grantees under subsection (a).

"(3) Of the amounts appropriated pursuant to subsection (p)(1) for a fiscal year, the Secretary may expend not more than $2,000,000 for the purpose of carrying out paragraph (1).

"(n) ANNUAL REPORTS BY SECRETARY.—Not later than January 10 of each year, the Secretary shall submit to the Congress a report describing the utilization and costs of services provided under this section during the immediately preceding fiscal year.

"(o) DEFINITIONS.—For purposes of this section:

"(1) The term 'official poverty level' means the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(2) The term 'organization' includes individuals, corporations, partnerships, companies, and associations.

"(3) The term 'primary health services' has the meaning given such term in section 330(b)(1).

"(4) The term 'public housing' has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937.

"(p) FUNDING.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated $35,000,000 for fiscal year 1991,

and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) Amounts received by a grantee pursuant to subsection (a) remaining unobligated at the end of the fiscal year in which the amounts were received shall remain available to the grantee during the succeeding fiscal year for the purpose described in such subsection.".

SEC. 4. REVISIONS IN PROGRAM FOR CENTERS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION.

(a) IN GENERAL.—Section 782 of the Public Health Service Act (42 U.S.C. 295g-2) is amended to read as follows:

"PROGRAMS OF EXCELLENCE IN HEALTH PROFESSIONS EDUCATION FOR MINORITIES

Grant programs.

"SEC. 782. (a) IN GENERAL.—The Secretary shall make grants to health profession schools described in subsection (c) for the purpose of assisting the schools in supporting programs of excellence in health professions education for minority individuals.

"(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees to expend the grant—

"(1) to establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

"(2) to establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

"(3) to improve the capacity of such school to train, recruit, and retain minority faculty;

"(4) with respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

"(5) to facilitate faculty and student research on health issues particularly affecting minority groups.

"(c) CENTERS OF EXCELLENCE.—

"(1) IN GENERAL.—

"(A) The health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraph (B), and that—

"(i) meet each of the conditions specified in paragraph (2)(A);

"(ii) meet each of the conditions specified in paragraph (3);

"(iii) meet each of the conditions specified in paragraph (4); or

"(iv) meet each of the conditions specified in paragraph (5).

"(B) The conditions specified in this subparagraph are that a health professions school—

"(i) has a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

"(ii) has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

"(iii) has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals and encouraging minority students of secondary educational institutions to attend the health professions school; and

"(iv) has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

"(C) In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

"(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

"(A) The conditions specified in this subparagraph are that a health professions school—

"(i) is a school described in section 701(4); and

"(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

"(B) In addition to the purposes described in subsection (b), a grant under subsection (a) to a health professions school meeting the conditions described in subparagraph (A) may be expended—

"(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals; and

"(ii) to provide improved access to the library and informational resources of the school.

"(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this subparagraph are that—

"(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) apply to the health professions school involved; and

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals.

"(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

"(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) apply to the health professions school involved;

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

"(C) the health professions school agree, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

"(I) to identify Native American students of the institution who are interested in a career in the health profession or professions involved; and

"(II) to facilitate the educational preparation of such students to enter the health professions school; and

"(ii) the health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to subparagraph (A), and will assist Native American students regarding the completion of the educational requirements for a degree from the health professions school.

"(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that a health professions school has an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

"(d) DESIGNATION AS CENTER OF EXCELLENCE.—

"(1) IN GENERAL.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Minority Health Professions Education.

"(2) HISPANIC CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

"(3) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education.

"(e) DURATION OF GRANT.—The period during which payments are made under a grant under subsection (a) may not exceed 3 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(f) MAINTENANCE OF EFFORT.—

"(1) NON-FEDERAL FUNDS OF PUBLIC SCHOOLS.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not, in the case of a public health professions school, make such a grant to the school for any fiscal year unless the school agrees to maintain expenditures of non-Federal amounts for such activities at a level equal to not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive such a grant.

"(2) NON-FEDERAL FUNDS OF PRIVATE SCHOOLS.—

"(A) With respect to any non-Federal amounts received by a nonprofit private health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless, subject to subparagraph (B), the school agrees to maintain expenditures of such non-Federal amounts for such activities at a level equal to not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school applies after fiscal year 1990 to receive such a grant.

"(B) The Secretary may require a nonprofit private health professions school to comply with an agreement made under subparagraph (A) by the school only to the extent of the level of non-Federal amounts available to the school for the activities to which the agreement applies.

"(3) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless the school agrees that the school will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

"(g) DEFINITIONS.—For purposes of this section:

"(1)(A) The term 'health professions school' means, except as provided in subparagraph (B), a school of medicine, a school of dentistry, or a school of pharmacy.

"(B) The definition established in subparagraph (A) shall not apply to the use of the term 'health professions school' for purposes of subsection (c)(2).

"(2) The term 'program of excellence' means any program carried out by a health professions school with a grant made under subsection (a), if the program is for purposes for which the school involved is authorized in subsection (b) or (c) to expend the grant.

"(3) The term 'Native Americans' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available the first $12,000,000 for grants under subsection (a) to health professions schools meeting the conditions specified in paragraph (2)(A) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection); and

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $12,000,000, the Secretary shall make available the first $2,500,000 for grants under subsection (a) to health professions schools meeting the conditions specified in paragraph (3) or (4) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection).

"(3) ADDITIONAL PRIORITIES.—In making grants under subsection (a) for a fiscal year from such amounts as are available for the grants after compliance with paragraph (2), the Secretary shall give priority to making grants to health professions schools meeting the conditions specified in any of paragraphs (3) through (5) of subsection (c) (in addition to the conditions specified in paragraph (1)(B) of such subsection).".

SEC. 5. FEDERAL CAPITAL CONTRIBUTIONS TO CERTAIN STUDENT LOAN FUNDS FOR PURPOSES REGARDING DISADVANTAGED INDIVIDUALS.

(a) IN GENERAL.—Section 740 of the Public Health Service Act (42 U.S.C. 294m) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) With respect to amounts appropriated under subsection (c)(1) of section 742, each agreement entered into under this section with a school shall provide (in addition to the provisions required in subsection (b)) that—

"(A) any Federal capital contribution made to the student loan fund of the school from such amounts, together with the school contribution appropriate under subsection (b)(2)(B) to the amount of the Federal capital contribution, will be utilized only for the purpose of—

"(i) making loans to individuals who are individuals from disadvantaged backgrounds; and

"(ii) the costs of the collection of the loans and interest on the loans; and

"(B) collections of principal and interest on loans made pursuant to subparagraph (A), and any other earnings of the student loan fund attributable to amounts that are in the fund pursuant to such subparagraph, will be utilized only for the purpose described in such paragraph.

"(2) The Secretary may not make a Federal capital contribution for purposes of paragraph (1) for a fiscal year unless the health professions school involved—

"(A) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(B) is carrying out a program for recruiting and retaining minority faculty.

"(3) The Secretary may not make a Federal capital contribution for purposes of paragraph (1) for a fiscal year unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit private secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs

regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such individuals into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out each of the activities specified in any of subparagraphs (A) through (D) by not later than 1 year after the date on which the first Federal capital contribution is made to the school for purposes of paragraph (1); and

"(F) to continue carrying out such activities, and the activities specified in subparagraphs (A) and (B) of paragraph (2), throughout the period during which the student loan fund established pursuant to subsection (b) is in operation.

"(4) With respect to amounts appropriated under subsection (a) of section 742, Federal capital contributions made pursuant to an agreement under subsection (b) of this subsection to the student loan fund of a school from such amounts, together with the school contributions appropriate under subsection (b)(2)(B) to the amount of the Federal capital contributions, may be utilized for the purpose of making loans to individuals from disadvantaged backgrounds.".

(b) DEFINITION WITH RESPECT TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Section 740 of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end the following new subsection:

"(e) For purposes of this section, the term 'disadvantaged', with respect to an individual, shall be defined by the Secretary.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 742 of the Public Health Service Act (42 U.S.C. 294o) is amended by adding at the end the following new subsection:

"(c)(1) With respect to making Federal capital contributions to student loan funds for purposes of section 740(c), there is authorized to be appropriated for such contributions $15,000,000 for each of the fiscal years 1991 through 1993.

"(2) In making Federal capital contributions to student loan funds for purposes of section 740(c), the Secretary shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.".

SEC. 6. ASSISTANCE PROGRAMS FOR HEALTH PROFESSIONS STUDENTS FROM DISADVANTAGED BACKGROUNDS.

Part C of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VI—Assistance for Students From Disadvantaged Backgrounds

"SEC. 760. GRANTS FOR SCHOLARSHIPS AND OTHER PURPOSES. 42 USC 294bb.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary may make grants to health professions schools for the purpose of assisting such schools, subject to subsection (e), in providing scholarships to individuals who—

"(A) are individuals from disadvantaged backgrounds; and

"(B) are enrolled (or accepted for enrollment) as full-time students in such schools.

"(2) HEALTH PROFESSIONS SCHOOLS.—For purposes of this section, the term 'health professions schools' means schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or allied health, or schools offering graduate programs in clinical psychology.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health professions school—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(2) is carrying out a program for recruiting and retaining minority faculty.

"(c) PREFERENCES IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees that, in providing scholarships pursuant to the grant, the school will give preference to students—

"(1) who are from disadvantaged backgrounds; or

"(2) for whom the costs of attending the school would constitute a severe financial hardship.

"(d) USE OF SCHOLARSHIP.—A scholarship provided pursuant to subsection (a) for attendance at a health professions school—

"(1) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in such attendance; and

"(2) may not, for any year of such attendance for which the scholarship is provided, provide an amount exceeding the total amount required for the year for the expenses specified in paragraph (1).

"(e) PROVISIONS REGARDING PURPOSES OTHER THAN SCHOLARSHIPS.—

"(1) AUTHORITY REGARDING ASSISTANCE FOR UNDERGRADUATES.—With respect to undergraduates who have demonstrated a commitment to pursuing a career in the health professions, a health professions school may expend not more than 25 percent of a grant under subsection (a) for the purpose of providing financial assistance to such undergraduates in order to facilitate the completion of the educational requirements for such careers.

"(2) REQUIRED ACTIVITIES OF SCHOOL.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such students into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out the activities specified in subparagraphs (A) through (D) by not later than 1 year after the date on which a grant under subsection (a) is first made to the school; and

"(F) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the school is receiving a grant under subsection (a).

"(3) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) for a fiscal year unless the health professions school involved agrees that the grant will not be expended to carry out the activities specified in paragraph (1) or (2) of subsection (b), or in any of subparagraphs (A) through (D) of paragraph (2) of this subsection.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated $17,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(2) ALLOCATIONS BY SECRETARY.—In making grants under subsection (a), the Secretary—

"(A) shall make available 30 percent for grants under subsection (a) to health professions schools agreeing to expend the grants only for scholarships under such subsection for nurses; and

"(B) shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 761. LOAN REPAYMENT PROGRAM REGARDING SERVICE ON FACULTIES OF CERTAIN HEALTH PROFESSIONS SCHOOLS.

42 USC 294cc.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in subsection (b) under which the individuals agree to serve as members of the faculties of schools described in subsection (c) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals.

Government contracts.

"(b) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals from disadvantaged backgrounds who—

"(1) have a degree in medicine, osteopathic medicine, dentistry, or another health profession;

"(2) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(3) are enrolled as a full-time student—

"(A) in an accredited (as determined by the Secretary) school described in subsection (c); and

"(B) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

"(c) ELIGIBLE HEALTH PROFESSIONS SCHOOL.—The schools described in this subsection are schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in clinical psychology.

"(d) ADDITIONAL LIMITATION ON AMOUNT OF REPAYMENTS.—Payments made by the Secretary under subsection (a) regarding the educational loans of an individual may not, for any year for which the payments are made, exceed an amount equal to 50 percent of the principal and interest due on such loans for such year.

"(e) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under subsection (a) unless—

"(1) the individual involved has entered into a contract with a school described in subsection (c) to serve as a member of the faculty of the school for not less than 2 years; and

"(2) the contract referred to in paragraph (1) provides that—

"(A) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year; and

"(B) the payments made by the school pursuant to subparagraph (A) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty.

"(f) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in subsection (e)(2) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved. If the Secretary grants such a waiver, subsection (d) shall not apply with respect to the individual involved.

"(g) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall apply to the program established in subsection (a) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

"(h) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $4,000,000 for each of the fiscal years 1991 through 1993.".

SEC. 7. REVISION AND EXTENSION OF PROGRAM FOR NATIONAL CENTER FOR HEALTH STATISTICS.

(a) ANNUAL COLLECTION OF DATA.—

(1) DATA FROM RECORDS OF BIRTHS, DEATHS, ET CETERA, AMONG CERTAIN POPULATIONS.—Section 306(h) of the Public Health Service Act (42 U.S.C. 242k(h)) is amended by inserting after the second sentence the following new sentence: "The Secretary shall encourage States and registration areas to obtain detailed data on ethnic and racial populations, including subpopulations of Hispanics, Asian Americans, and Pacific Islanders with significant representation in the State or registration area.".

(2) DATA FROM SAMPLE REGARDING HEALTH, ILLNESS, AND DISABILITY STATUS.—Section 306(h) of the Public Health Service Act (42 U.S.C. 242k(h)), as amended by paragraph (1), is amended—

(A) by inserting "(1)" after the subsection designation; and

(B) by adding at the end the following new paragraph:

"(2) There shall be an annual collection of data from a statistically valid sample concerning the general health, illness, and disability status of the civilian noninstitutionalized population. Specific topics to be addressed under this paragraph, on an annual or periodic basis, shall include the incidence of illness and accidental injuries, prevalence of chronic diseases and impairments, disability, physician visits, hospitalizations, and the relationship between demographic and socioeconomic characteristics and health characteristics.".

(b) COLLECTION OF DATA SPECIFIC TO PARTICULAR POPULATIONS.—

(1) IN GENERAL.—Section 306 of the Public Health Service Act (42 U.S.C. 242k) is amended—

(A) by redesignating subsection (m) as subsection (o); and

(B) by inserting after subsection (l) the following new subsections:

"(m) In carrying out this section, the Secretary, acting through the Center, shall collect and analyze adequate health data that is specific to particular ethnic and racial populations, including data collected under national health surveys. Activities carried out under this subsection shall be in addition to any activities carried out under subsection (n).

"(n)(1) The Secretary, acting through the Center, may make grants to public and nonprofit private entities for—

"(A) the conduct of special surveys or studies on the health of ethnic and racial populations or subpopulations;

"(B) analysis of data on ethnic and racial populations and subpopulations; and

"(C) research on improving methods for developing statistics on ethnic and racial populations and subpopulations.

"(2) The Secretary, acting through the Center, may provide technical assistance, standards, and methodologies to grantees supported by this subsection in order to maximize the data quality and comparability with other studies.

"(3) Provisions of section 308(d) do not apply to surveys or studies conducted by grantees under this subsection unless the Secretary, in accordance with regulations the Secretary may issue, determines that such provisions are necessary for the conduct of the survey or

study and receives adequate assurance that the grantee will enforce such provisions.".

(2) APPLICATION AND PEER REVIEW.—Section 308(b)(2) of the Public Health Service Act (42 U.S.C. 242m(b)(2)) is amended—

(A) in subparagraph (A), in the first sentence, by inserting after "demonstration project," the following: "or for a grant under section 306(n),"; and

(B) in subparagraph (C), by inserting before the period at the end the following: ", except that peer review groups regarding grants under section 306(n) may include appropriately qualified such officers and employees".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 306(o), as redesignated by subsection (b) of this section, is amended to read as follows:

"(o)(1) For health statistical and epidemiological activities undertaken or supported under subsections (a) through (m), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

"(2) For activities authorized in subsection (n), there are authorized to be appropriated $5,000,000 for fiscal year 1991, $7,500,000 for fiscal year 1992, and $10,000,000 for fiscal year 1993. Of such amounts, the Secretary shall use not more than 10 percent for administration and for activities described in subsection (n)(2).".

(d) REPEAL OF CERTAIN RESTRICTION ON FUNDING.—Section 308(b)(3) of the Public Health Service Act (42 U.S.C. 242m(3)) is repealed.

SEC. 8. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C 241 et seq.) is amended by inserting before subpart IV of such part the following new section:

42 USC 254u.

"SEC. 338L. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of carrying out demonstration programs to increase the availability of primary health care in urban and rural health manpower shortage areas through assisting community organizations of such areas in educating individuals to serve as health professionals in such areas.

"(b) CERTAIN REQUIREMENTS FOR STATES.—

"(1) MINIMUM QUALIFICATIONS.—The Secretary may not make a grant under subsection (a) unless the State involved will, under any provision of this Act other than subsection (a), receive 1 or more grants, cooperative agreements, or contracts for the fiscal year for which the State is applying pursuant to subsection (h) to receive a grant under subsection (a).

"(2) ADMINISTRATION OF PROGRAM.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the program carried out by the State with the grant will be administered directly by a single State agency.

"(c) GRANTS BY STATES TO COMMUNITY ORGANIZATIONS FOR PROVISION OF SCHOLARSHIP CONTRACTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, subject to subsections (d) and (e), to carry out the purpose described in subsection (a) only through operating a program in which the State

makes grants to community organizations located in health manpower shortage areas in order to assist the organizations with the costs of entering into contracts under which—

"(1) the community organizations agree to provide scholarships to individuals for attendance at health professions schools; and

"(2) the individuals agree to provide, in the health manpower shortage areas in which the community organizations are located, primary health care for—

"(A) a number of years equal to the number of years for which the scholarships are provided, or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the individuals and the community organizations may agree.

"(d) REQUIREMENT OF STATE AND LOCAL MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of providing any scholarship pursuant to subsection (c), the Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) 40 percent of the costs of the scholarship will be paid from the grant made under subsection (a) to the State; and

"(B) 60 percent of such costs will be paid from non-Federal contributions made in cash by both the State and the community organization through which the scholarship is provided, subject to—

"(i) the State making available through such contributions not less than 15 percent, nor more than 25 percent, of such costs; and

"(ii) the community organization making available through such contributions not less than 35 percent, nor more than 45 percent, of such costs.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, in determining the amount of non-Federal contributions that have been provided in cash for purposes of paragraph (1), the State will not include any amounts provided by the Federal Government to the State or community organization involved, or to any other entity.

"(3) USE OF DONATIONS.—Non-Federal contributions required in paragraph (1) may be provided directly by the State and community organization involved, and may be provided through donations from public and private entities.

"(e) SPECIFICATIONS REGARDING SCHOLARSHIP CONTRACT.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the State will make a grant to a community organization for a contract described in subsection (c) only if—

"(1) the individual who is to receive the scholarship under the contract is a resident of the health manpower shortage area in which the community organization is located;

"(2) the individual is enrolled or accepted for enrollment as a full-time student in a health professions school that is approved by the Secretary for purposes of this section;

"(3) the individual agrees to maintain an acceptable level of academic standing at the school (as determined by the school in accordance with regulations issued by the Secretary for purposes of section 338A(f)(1)(B)(iii));

"(4) the individual and the community organization agree that the scholarship provided pursuant to the contract—

"(A) will be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the school; and

"(ii) payment to the individual of a monthly stipend of not more than the amount authorized for purposes of section 338A(g)(1)(B); and

"(B) will not, for any year of such attendance for which the scholarship is provided, be in an amount exceeding the total amount required for the year for the purposes authorized in subparagraph (A);

"(5) the individual agrees to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant; and

"(6) the individual agrees that, in providing primary health care pursuant to the scholarship, the individual—

"(A) will not, in the case of an individual seeking such care, discriminate against the individual on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(B) will accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and will enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(f) REPORTS TO SECRETARY.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) for each fiscal year for which such a grant is received by the State, to submit to the Secretary a report—

"(A) identifying the community organizations providing scholarships pursuant to subsection (c) and the health manpower shortage areas in which the organizations are located;

"(B) providing the names of individuals receiving the scholarships, the health professions in which the individuals will engage pursuant to the scholarships, the number of years of service the individuals are obligated to provide pursuant to the scholarships, and the extent of compliance with the contracts under subsection (c) on the part of the individuals and the community organizations; and

"(C) providing such information as the Secretary may determine to be necessary for carrying out this section; and

"(2) to submit each such report not later than January 10 of the fiscal year immediately following the fiscal year for which the report is prepared.

"(g) ESTIMATES REGARDING ALLOCATIONS BETWEEN URBAN AND RURAL AREAS.—The Secretary may not make a grant under subsection (a) unless the State involved submits to the Secretary, as part of the application required in subsection (h), an estimate of the amount of the grant that will be expended regarding the provision of

primary health care in urban health manpower shortage areas of the State, and an estimate of the amount of the grant that will be expended regarding the provision of such care in rural health manpower shortage areas of the State.

"(h) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(i) NONCOMPLIANCE.—

"(1) IN GENERAL.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(2) REDUCTION IN GRANT RELATIVE TO NUMBER OF BREACHED CONTRACTS.—

"(A) Before making a grant under subsection (a) to a State for a fiscal year, the Secretary shall determine the number of contracts provided under subsection (c) with respect to which there has been an initial breach by the community organizations or individuals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(B) In the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) to the State for the fiscal year involved by an amount equal to the sum of—

"(i) an amount equal to the expenditures of Federal funds made regarding the contracts involved; and

"(ii) an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

"(C) If a State is not receiving a grant under subsection (a) for a fiscal year for which a reduction under subparagraph (B) would have been made in the event that the State had received such a grant, the Secretary shall reduce the amount of payments due to the State under other grants, cooperative agreements, or contracts under this Act by the amount specified in such subparagraph.

"(D) With respect to contracts provided under subsection (c), the Secretary may carry out this paragraph on the basis of information submitted by the States involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(j) REPORTS TO CONGRESS.—

"(1) IN GENERAL.—Each fiscal year the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing information

received by the Secretary under subsection (f) for the preceding fiscal year.

"(2) DATE FOR SUBMISSION.—With respect to a fiscal year, the report required in paragraph (1) shall be submitted for purposes of such paragraph by not later than the date on which the report required in section 338A(i) is required to be submitted for purposes of such section.

"(k) DEFINITIONS.—For purposes of this section:

"(1) COMMUNITY ORGANIZATION.—The term 'community organization' means a public or nonprofit private entity.

"(2) PRIMARY HEALTH CARE.—The term 'primary health care' means health services regarding family medicine, internal medicine, pediatrics, or obstetrics and gynecology, that are provided by physicians, certified nurse practitioners, certified nurse midwives, or physician assistants.

District of Columbia.

"(3) STATE.—The term 'State' means each of the several States and the District of Columbia.

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(3) ALLOCATIONS FOR RURAL AREAS.—

"(A) In carrying out subsection (a), the Secretary shall, to the extent practicable, ensure that not less than 50 percent of the amounts appropriated under paragraph (1) are, in the aggregate, expended for making grants pursuant to subsection (c) to community organizations that are located in rural health manpower shortage areas.

"(B) Subparagraph (A) may not be construed to prohibit the Secretary from making grants under subsection (a) to States in which no rural health manpower shortage areas are located.

Reports.

"(C) With respect to any fiscal year for which the Secretary is unable to comply with subparagraph (A), the Secretary shall, not later than April 1 of the subsequent fiscal year, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report stating the fact of such noncompliance and an explanation of the reasons underlying such noncompliance.".

SEC. 9. COMMUNITY AND MIGRANT HEALTH CENTERS.

(a) COMMUNITY HEALTH CENTERS.—

(1) PARALLEL STATUS WITH MIGRANT HEALTH CENTERS REGARDING CERTAIN SERVICES.—Section 330 of the Public Health Service Act (42 U.S.C. 254c) is amended—

(A) in subsection (a)(5), by amending such section to read as follows:

"(5) information on the availability and proper use of health services and services which promote and facilitate optimal use of health services, including, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel

fluent in the language spoken by a predominant number of such individuals, and"; and

(B) in subsection (b)(2)—

(i) in subparagraph (L), by adding "and" after the semicolon at the end; and

(ii) by striking subparagraph (M) and redesignating subparagraph (N) as subparagraph (M).

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) of the Public Health Service Act (42 U.S.C. 254c(g)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "1989 and" and inserting "1989,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994"; and

(2) in paragraph (2)(A)—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994".

(b) AUTHORIZATION OF APPROPRIATIONS FOR MIGRANT HEALTH CENTERS.—Section 329(h) of the Public Health Service Act (42 U.S.C. 254b(h)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "1989 and" and inserting "1989,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994"; and

(2) in paragraph (2)(A)—

(A) by striking "and" after "1990,"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1992 through 1994".

SEC. 10. GRANTS FOR HEALTH SERVICES FOR PACIFIC ISLANDERS. 42 USC 254c-1.

(a) GRANTS.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall provide grants to, or enter into contracts with, public or private nonprofit agencies that have demonstrated experience in serving the health needs of Pacific Islanders living in the Territory of American Samoa, the Commonwealth of Northern Mariana Islands, the Territory of Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia.

(b) USE OF GRANTS OR CONTRACTS.—Grants or contracts made or entered into under subsection (a) shall be used, among other items—

(1) to continue, as a priority, the medical officer training program in Pohnpei, Federated States of Micronesia;

(2) to improve the quality and availability of health and mental health services and systems, with an emphasis therein on preventive health services and health promotion programs and projects, including improved health data systems;

(3) to improve the quality and availability of health manpower, including programs and projects to train new and upgrade the skills of existing health professionals by—

(A) establishing dental officer, dental assistant, nurse practitioner, or nurse clinical specialist training programs;

(B) providing technical training of new auxiliary health workers;

(C) upgrading the training of currently employed health personnel in special areas of need;

(D) developing long-term plans for meeting health profession needs;

(E) developing or improving programs for faculty enhancement or post-doctoral training; and

(F) providing innovative health professions training initiatives (including scholarships) targeted toward ensuring that residents of the Pacific Basin attend and graduate from recognized health professional programs;

(4) to improve the quality of health services, including laboratory, x-ray, and pharmacy, provided in ambulatory and inpatient settings through quality assurance, standard setting, and other culturally appropriate means;

(5) to improve facility and equipment repair and maintenance systems;

(6) to improve alcohol, drug abuse, and mental health prevention and treatment services and systems;

(7) to improve local and regional health planning systems; and

(8) to improve basic local public health systems, with particular attention to primary care and services to those most in need.

No funds under subsection (b) shall be used for capital construction.

(c) ADVISORY COUNCIL.—The Secretary of Health and Human Services shall establish a "Pacific Health Advisory Council" which shall consist of 12 members and shall include—

(1) the Directors of the Health Departments for the entities identified in subsection (a); and

Hawaii.

(2) 6 members, including a representative of the Rehabilitation Hospital of the Pacific, representing organizations in the State of Hawaii actively involved in the provision of health services or technical assistance to the entities identified in subsection (a). The Secretary shall solicit the advice of the Governor of the State of Hawaii in appointing the 5 Council members in addition to the representative of the Rehabilitation Hospital of the Pacific from the State of Hawaii.

The Secretary shall be responsible for providing sufficient staff support to the Council.

(d) ADVISORY COUNCIL FUNCTIONS.—The Council shall meet at least annually to—

(1) recommend priority areas of need for funding by the Public Health Service under this section; and

(2) review progress in addressing priority areas and make recommendations to the Secretary for needed program modifications.

(e) REPORT.—The Secretary, in consultation with the Council, shall annually prepare and submit to the appropriate committees of Congress a report describing the expenditure of the funds authorized to be appropriated under this section and any recommendations that the Secretary may have.

(f) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $10,000,000 for each of the fiscal years 1991 through 1993.

SEC. 11. MISCELLANEOUS PROVISIONS.

Section 639 of Public Law 100-607 (42 U.S.C. 292h note) is repealed.

SEC. 12. EFFECTIVE DATE.

42 USC 242k note.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.R. 5702:

HOUSE REPORTS: No. 101-804 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 16, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 6, Presidential statement.

Public Law 101-528
101st Congress

Joint Resolution

Nov. 6, 1990
[H.J. Res. 525]

Designating November 18 through 24, 1990, "National Family Caregivers Week".

Whereas the number of Americans who are age 65 or older is growing;
Whereas there has been an unprecedented increase in the number of persons who are age 85 or older;
Whereas the incidence of frailty and disability increases among persons of advanced age;
Whereas approximately 5,200,000 older persons have disabilities that leave them in need of help with their daily tasks, including food preparation, dressing, and bathing;
Whereas families provide older persons help with such tasks, in addition to providing between 80 and 90 percent of the medical care, household maintenance, transportation, and shopping needed by older persons;
Whereas families who give care to older persons face many additional expenses, including the costs of home modifications, equipment rental, and additional heating;
Whereas 80 percent of disabled elderly persons receive care from their family members, most of whom are their wives, daughters, and daughters-in-law, who often must sacrifice employment opportunities to provide such care;
Whereas the role of the aged spouse as a principal caregiver has generally been understated;
Whereas family caregivers are often physically and emotionally exhausted from the amount of time and stress involved in caregiving activities;
Whereas family caregivers need information about available community resources;
Whereas family caregivers need respite from the strains of their caregiving roles;
Whereas the contributions of family caregivers help maintain strong family ties and assure support among generations; and
Whereas there is a need for greater public awareness of and support for the care that family caregivers are providing: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 18-24, 1990, is designated "National Family Caregivers Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.J. Res. 525:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 16, considered and passed House.
Oct. 17, considered and passed Senate.

49-139 O - 90 (528)

Public Law 101-529
101st Congress

Joint Resolution

To designate November 16, 1990, as "National Federation of the Blind Day".

Nov. 6, 1990
[H.J. Res. 667]

Whereas the National Federation of the Blind was established in Wilkes Barre, Pennsylvania, on November 16, 1940;

Whereas the Federation is the largest organization for blind people in the United States;

Whereas the Federation was founded to provide a sense of security, equality, and opportunity, and an outlet for self-expression for the blind;

Whereas the Federation has over 50,000 members, national chapters in every State and the District of Columbia, and local chapters in almost every community;

Whereas the founders of the Federation, who are themselves blind, have been instrumental in instilling hope and self-assurance in the blind and in improving the public image of blind people;

Whereas programs conducted by the Federation assist the blind in obtaining and performing jobs and becoming productive members of society; and

Whereas the many functions, activities, and programs of the Federation have provided significant benefits to the blind and to the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 16, 1990, is designated as "National Federation of the Blind Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved November 6, 1990.

LEGISLATIVE HISTORY—H.J. Res. 667 (S.J. Res. 383):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 18, considered and passed House.
Oct. 23, considered and passed Senate.

49-139 O - 90 (529)

Public Law 101-530
101st Congress

An Act

Nov. 6, 1990
[S. 1890]

To amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government employees.

SECTION 1. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RETIREMENT CREDIT.

Section 8332(b) of title 5, United States Code, relating to creditable service, is amended by striking out "Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32 after December 31, 1968."

SEC. 2. ELIMINATION OF POST-1968 SERVICE AS A PREREQUISITE TO RECEIVING CREDIT FOR PURPOSES OF CERTAIN OTHER BENEFITS.

Section 3(c) of the National Guard Technicians Act of 1968 (82 Stat. 757; 32 U.S.C. 709 note) is amended by striking out the last sentence.

SEC. 3. APPLICABILITY.

5 USC 8332 note.

(a) RULE FOR SECTION 1.—

(1) GENERAL RULE.—

(A) ELIGIBILITY.—Except as provided in paragraph (2), the amendment made by section 1 applies only with respect to individuals who—

(i) separate from employment with the Government on or after the date of enactment of this Act; and

(ii) make an appropriate deposit, in accordance with section 8334(c) or 8411(f) of title 5, United States Code (as appropriate), for additional service that is creditable under such amendment.

(B) DEPOSIT.—Any such deposit—

(i) shall include interest, which shall be computed under section 8334(e) of such title (except that the rate of interest shall be 3 percent a year) from the midpoint of the period of additional service to the date deposit is made; and

(ii) shall be made before date of retirement.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—In the case of any individual who—

(i) was employed under section 709 of title 32, United States Code, relating to National Guard technicians, or any prior corresponding provision of law, before January 1, 1969, and

(ii) was separated from employment with the Government on or after January 1, 1969, and before the date of enactment of this Act,

any annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, based on such individual's service (as defined in section 8331(12) or 8401(26) of such title, as applicable) shall be determined or redetermined to take into account the amendment made by section 1, if application therefor is received by the Office of Personnel Management within 1 year after the date of enactment of this Act, and an appropriate deposit is made for any additional service that is creditable under such amendment. Any such deposit shall be computed, and must be paid either in a lump sum at the time of application or in installments over the 2-year period which begins on the date of application, or such shorter period as the Office may by regulation prescribe.

(B) EARLIER PAYMENTS NOT AFFECTED BY RECOMPUTATION.—Any change in an annuity resulting from a redetermination under subparagraph (A) shall apply only with respect to monthly payments accruing after the date the deposit required under subparagraph (A) is made (or, if payments are to be made in installments, after an agreement has been entered into regarding the manner in which such payments will be made).

(3) PAYMENT BY SURVIVORS.—For the purpose of survivor annuities, any deposit or installment payment required by paragraph (1) or (2) relating to service of an individual may also be made by a survivor of such individual.

(b) RULE FOR SECTION 2.— 32 USC 709 note.

(1) GENERAL RULE.—Except as provided in paragraph (2), the amendment made by section 2 applies only with respect to an individual performing service as an officer or employee of the Government on or after the date of enactment of this Act and only to determine—

(A) any annual leave accruing under section 6303 of title 5, United States Code, to the individual on or after such date; and

(B) the individual's length of service for the purposes of entitlement to Federal employee death and disability compensation, group life insurance and health benefits, severance pay, tenure, and status.

(2) EXCEPTION.—

(A) RULE FOR INDIVIDUALS SEPARATING AFTER DECEMBER 31, 1968, AND BEFORE THE ENACTMENT OF THIS ACT.—The amendment made by section 2 of this Act applies with respect to any individual who separated from Government employment after December 31, 1968, and before the date of the enactment of this Act, for the purpose of determining whether such individual satisfies the length of service requirement under section 8901(3)(A) of title 5, United States Code (relating to the definition of the term "annuitant", as in effect at the time of such individual's separation) for the purposes of chapter 89 of such title.

(B) CONDITIONS FOR ENROLLING IN A HEALTH BENEFITS PLAN.—Any individual who satisfies the length of service requirement referred to in subparagraph (A) as a result of

the application of the amendment made by section 2 shall be enrolled in a health benefits plan (described in section 8903 of such title) of such individual's choice, if—

(i) application for enrollment is received by the Office of Personnel Management within one year after the date of the enactment of this Act; and

(ii) such individual would have qualified under section 8905(b)(1) of such title at the time of such individual's separation.

5 USC 8332 note.

SEC. 4. REGULATIONS.

The Office of Personnel Management shall prescribe any regulations necessary for the implementation of this Act.

Approved November 6, 1990.

LEGISLATIVE HISTORY—S. 1890:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed Senate.
Oct 22, considered and passed House.

Public Law 101-531
101st Congress

An Act

To transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, Mississippi, to the States of Mississippi and Arkansas.

Nov. 6, 1990
[S. 3062]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) all the authorities conferred upon the city of Greenville, Mississippi, and Washington County, Mississippi, by the Act of June 14, 1938 (52 Stat. 681) to operate and maintain a bridge across the Mississippi River (known as the Greenville/Lake Village Bridge or the "Highway 82 Bridge") are transferred, upon the certification required by subsection (b), to the State Highway Commissions of Mississippi and Arkansas, acting jointly.

(b) Whenever the Secretary of Transportation determines that the States of Mississippi and Arkansas have entered into a suitable agreement for the continued operation and maintenance of the Highway 82 Bridge at Greenville, Mississippi, the Secretary shall so certify to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

Approved November 6, 1990.

LEGISLATIVE HISTORY—S. 3062:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 4, considered and passed Senate.
Oct. 22, considered and passed House.

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Public Law 101-532
101st Congress

Joint Resolution

Nov. 7, 1990
[H.J. Res. 669]

To salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.

Whereas, the Polish Constitution of 1791 was designed to protect Poland's sovereignty and national unity, and replaced a feudal system of rule in Poland with a progressive constitutional monarchy;

Whereas, the Polish Constitution secured individual freedom for all persons in Poland and guaranteed religious tolerance by assuring "to all persuasions and religions freedom and liberty", and formed a government composed of three distinct powers: Legislative, Executive, and Judicial, while declaring that "all power in civil society should be derived from the will of the people";

Whereas, the Polish Constitution revitalized the parliamentary system by placing preeminent lawmaking power in a House of Deputies, by subjecting the legislative Diet to majority rule, and by granting the Diet the power to remove ministers, appoint commissars, and choose magistrates;

Whereas, the Polish Constitution provided for significant economic, social, and political reforms for its time by removing inequalities between the nobility and bourgeois, recognizing town residents as "freemen" that had judicial autonomy and expanded rights, and extending the protection of law to the peasantry, which previously had no recourse against the arbitrary action of feudal lords; and

Whereas, the principles of the Polish Constitution endured and became the symbol around which a powerful new national consciousness was born, helping the Polish nation to survive long periods of misfortune over the next two centuries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the people of the United States of America salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991, and recognize that Poland's rebirth as a free nation is supported by the legacy of the Polish Constitution of 1791;

SEC. 2. The Library of Congress is authorized and directed to commemorate this anniversary with appropriate ceremonies and activities.

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SEC. 3. The President of the United States is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe this anniversary with appropriate ceremonies and activities.

Approved November 7, 1990.

LEGISLATIVE HISTORY—H.J. Res. 669:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 16, considered and passed House.
Oct. 17, considered and passed Senate.

Public Law 101-533
101st Congress

An Act

Nov. 7, 1990
[S. 2516]

To augment and improve the quality of international data compiled by the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act by allowing that agency to share statistical establishment list information compiled by the Bureau of the Census, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign Direct Investment and International Financial Data Improvements Act of 1990.
Business and industry.
22 USC 3141 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Foreign Direct Investment and International Financial Data Improvements Act of 1990".

22 USC 3141.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The United States Government collects substantial amounts of information from foreign owned or controlled business enterprises or affiliates operating in the United States.

(2) Additional analysis and presentation of this information is desirable to assist the public debate on the issue of foreign direct investments in the United States.

(3) Information collected from foreign owned or controlled firms by the Bureau of Economic Analysis has serious analytical limitations because it is largely collected on an "enterprise" basis that does not permit an adequate analysis by industry groupings.

(4) Statistical and analytic comparisons of the performance of foreign owned or controlled businesses operating within the United States with other business enterprises operating within the same industry can be accomplished under sections 2(b) and 5(c) of the International Investment and Trade in Services Survey Act, and under Executive Order Numbered 11961, without the need to collect additional information, by sharing with other authorized Government agencies the employer identification numbers maintained by the Bureau of Economic Analysis.

(5) Public disclosures of confidential business information collected by the United States Government relating to international direct investment flows could cause serious damage to the accuracy of the statistical data base.

(6) The General Accounting Office may have limited access to Government data on foreign direct investment.

22 USC 3142.

SEC. 3. REPORT BY SECRETARY OF COMMERCE.

(a) ANNUAL REPORT ON FOREIGN DIRECT INVESTMENT IN THE UNITED STATES.—Not later than 6 months after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, the Secretary of Commerce shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science,

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and Transportation of the Senate, and to the Joint Economic Committee of the Congress a report on the role and significance of foreign direct investment in the United States. Such report shall address the history, scope, trends, market concentrations, and effects on the United States economy of such investment. In addition, the Secretary of Commerce shall, if requested by any such committee, appear before that committee to provide testimony with respect to any report under this subsection.

(b) SOURCES OF DATA.—In preparing each report under subsection (a), the Secretary of Commerce, or the Secretary's designees, shall consider information collected by—

(1) the Bureau of Economic Analysis under the International Investment and Trade in Services Survey Act (22 U.S.C. 3101 and following);

(2) the Bureau of the Census on industry, manufacturing, research and development, and trade, under title 13, United States Code;

(3) the Bureau of Labor Statistics pertaining to information collected under the International Investment and Trade in Services Survey Act, but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(4) the Secretary of Commerce or the Secretary's designee pursuant to section 2 of Executive Order 11858 of May 7, 1975;

(5) the United States Department of Agriculture under the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3501 and following);

(6) the Department of the Treasury under section 6039C of the Internal Revenue Code of 1986 (26 U.S.C. 6039C), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(7) the Department of Energy under section 657(8) of the Department of Energy Organization Act (42 U.S.C. 7267(8)), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(8) other Federal agencies not referred to in paragraphs (1) through (7), but only to the extent that such information is in a form that cannot be associated with, or otherwise identify, directly or indirectly, a person, including any enterprise or establishment;

(9) foreign governments and agencies thereof; and

(10) private sector sources.

(c) ANALYSES.—(1) The analysis in each report prepared under subsection (a) shall, to the extent of available data, compare business enterprises controlled by foreign persons with other business enterprises in the United States with respect to employment, market share, value added, productivity, research and development, exports, imports, profitability, taxes paid, and investment incentives and services provided by State and local governments (including quasi-governmental entities).

(2) Each such analysis shall be done by significant industry sectors and geographical regions, except that information shall not be presented in a way in which any person, including any business enterprise or establishment, can be identified. The restriction con-

tained in the preceding sentence on presentation of information does not apply to information that is obtained from foreign governments or agencies thereof and that has been published pursuant to the lawful disclosure of the information. To the extent that data are available, each such analysis shall include an analysis, together with current levels and trends, of the number and market share of business enterprises at least 10 percent of the voting securities or other evidences of ownership of which are owned or controlled by a foreign person, and of the number and market share of the establishments of such business enterprises, that are engaged substantially in the production or coproduction of any critical technologies included in the most recent plan submitted to the Congress under section 2368 of title 10, United States Code, or included in the most recent report submitted to the President under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

22 USC 3143.

SEC. 4. REPORTS BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General, to the extent permitted by law, including section 8 of this Act, is authorized to review the information described in section 3(b) for purposes of preparing the report required under subsection (b) of this section. Nothing in this section authorizes disclosure of any individually identifiable data or information in any form that can be associated with or otherwise identify, directly or indirectly, any person, including any enterprise or establishment.

(b) REPORT.—Not later than 5 months after each report issued by the Secretary of Commerce under section 3, the Comptroller General of the United States shall submit to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, to the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress, a report—

(1) analyzing the report of the Secretary of Commerce;

(2) making recommendations for changes in the analysis done in the report due the following year under section 3;

(3) making recommendations for improving the collection by respective Federal agencies of data on foreign direct investment in the United States, including use of private sector data, and improving survey questionnaires to obtain useful and consistent information that avoids unnecessary redundancy among Federal agencies;

(4) reviewing the status and processes for reconciliation of data exchanged as required by this Act and the amendments made by this Act, and making any recommendations for improving and augmenting international financial data;

(5) making recommendations for possible additional policy coordination within the executive branch affecting foreign direct investment in the United States; and

(6) making recommendations for improvement of the coverage, industry classification, and consistency among Federal agencies of their respective surveys.

Reports under this subsection shall be issued only with respect to the first 3 reports issued by the Secretary of Commerce under section 3.

(c) OTHER REVIEWS AND REPORTS.—(1) The Comptroller General may, to the extent permitted by law, including section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) and section 8 of this Act, also review data and information at the Bureau of the Census, the Bureau of Labor Statistics, and the Bureau of Economic Analysis and from time to time report to the Committee on Energy and Commerce, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Joint Economic Committee of the Congress.

(2) The Comptroller General shall, in carrying out paragraph (1), comply with procedures relating to access to and disclosure of data and information established within the Federal statistical agencies referred to in paragraph (1), and maintain any and all individually identifiable data and information at the statistical agency where the information is reviewed.

(d) CONFIDENTIALITY; REVIEW BY OTHER AGENCIES.—In preparing any report under this section, the Comptroller General shall not—

(1) disclose any confidential business information or present any information in a way in which any person, including a business enterprise or establishment, can be identified; or

(2) combine, match, or use in any other way individually identifiable data or information maintained by any of the Federal statistical agencies referred to in subsection (c) with any other individually identifiable confidential data or information that is not collected by such statistical agencies.

Before issuing any such report, the Comptroller General shall in each instance submit the report to the head or heads of the agency or agencies from which confidential or identifiable information described in the preceding sentence was obtained. The agency or agencies concerned shall promptly review the report for the purpose of assuring that the confidentiality of such information and identity is maintained, and for any other purpose, and shall provide the Comptroller General with appropriate comments or other suggestions within 10 working days after receiving the report.

(e) RIGHT OF ACCESS.—The access by the Comptroller General to information under this Act shall be in conformity with section 716 of title 31, United States Code.

SEC. 5. ACCESS TO CENSUS DATA BY BUREAU OF ECONOMIC ANALYSIS.

(a) ACCESS TO DATA.—Title 13, United States Code, is amended by adding at the end the following:

"CHAPTER 10—EXCHANGE OF CENSUS INFORMATION

"Sec.
"401. Exchange of census information with Bureau of Economic Analysis.

"§ 401. Exchange of census information with Bureau of Economic Analysis.

"(a) EXCHANGE OF INFORMATION.—The Bureau of the Census shall exchange with the Bureau of Economic Analysis of the Department of Commerce information collected under this title, and under the International Investment and Trade in Services Survey Act, that pertains to any business enterprise that is operating in the United

States, if the Secretary of Commerce determines such information is appropriate to augment and improve the quality of data collected under the International Investment and Trade in Services Survey Act. Information provided to the Bureau of Economic Analysis by the Bureau of the Census shall be only those data collected directly from respondents by the Bureau of the Census.

"(b) REQUESTS FOR INFORMATION.—The Director of the Bureau requesting information under this section shall make the request in writing and shall certify that the information will be used only for statistical activities performed to improve the quality of data collected under the authority of title 13, United States Code, and the International Investment and Trade in Services Survey Act.

"(c) DEFINITION.—As used in subsection (a), the terms 'business enterprise' and 'United States' have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act.".

(b) CONFORMING AMENDMENTS.—(1) The table of chapters at the beginning of title 13, United States Code, is amended by adding at the end the following:

"10. Exchange of census information ..... 401".

(2) Section 9(a) of title 13, United States Code, is amended by inserting after "section 8" the following: "or chapter 10".

SEC. 6. AMENDMENTS TO THE INTERNATIONAL INVESTMENT AND TRADE IN SERVICES SURVEY ACT.

(A) PURPOSE.—Section 2(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3101(b)) is amended by inserting after "the impact of such investment and trade," in the first sentence the following: "to authorize the collection and use of information on direct investments owned or controlled directly or indirectly by foreign governments or persons,".

(b) REPORTING REQUIREMENT.—Section 4(a)(5) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103(a)(5)) is amended by inserting before the period the following: ", including, with respect to foreign direct investment in the United States, information on ownership by foreign governments of United States affiliates by country, and tables, on an aggregated basis, of business enterprises the ownership or control of which by foreign persons is more than 50 percent of the voting securities or other evidences of ownership of such enterprises, and business enterprises the ownership or control of which by foreign persons is 50 percent or less of the voting securities or other evidences of ownership of such enterprises".

(c) BUREAU OF ECONOMIC ANALYSIS REPORT.—Section 4 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3103) is amended by adding at the end the following new subsection:

"(h)(1) The President, or the designee of the President responsible for monitoring the impact of foreign investment in the United States, coordinating implementation of United States policy on investment, and investigating foreign acquisitions under section 721 of the Defense Production Act of 1950 (50 App. U.S.C. 2170), may request a report from the Bureau of Economic Analysis of the Department of Commerce. When such request is made in connection with an investigation under such section 721, the report shall be provided within 14 days after the request is made. When such

request is not made in connection with an investigation under such section 721, the report shall be provided within 60 days after the request.

"(2) A report requested under paragraph (1) shall contain the best available information on the extent of foreign direct investment in a given industry, including a breakdown of total investment in the industry, and any foreign government investment in the industry, by country of the foreign owner, and any other information that the Bureau of Economic Analysis or such designee of the President considers relevant. The industry information provided shall be at the most detailed level available of Standard Industrial Classification, subject to the requirements of section 5.".

(d) ACCESS TO INFORMATION.—Section 5 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) The Bureau of the Census of the Department of Commerce is authorized, for purposes of augmenting and improving the quality of data collected by the Bureau of the Census, to have, upon written request, access to data relating to business enterprises that is collected directly by the Bureau of Economic Analysis for purposes of this Act. The Bureau of Labor Statistics of the Department of Labor is authorized, for purposes of augmenting and improving the data collected by the Bureau of Labor Statistics, to have access, upon written request, to selected identification information on business enterprises and data on international services transactions, that is collected directly by the Bureau of Economic Analysis for purposes of this Act. Officers and employees of the Bureau of the Census and the Bureau of Labor Statistics shall, for purposes of subsection (c), be deemed to be officials or employees designated to perform functions under this Act.".

(e) CONFORMING AMENDMENTS.—Section 5 of the International Investment and Trade in Services Survey Act is amended—

(1) in subsection (c)(2) by striking "(d)" and inserting "(e)"; and

(2) in subsection (e), as redesignated by subsection (d)(1) of this section, by inserting "or (d)" after "(c)".

SEC. 7. ACCOUNTABILITY FOR TIMELY REPORTING.

(a) AFFIRMATION BY A RESPONSIBLE OFFICER.—Section 5(b) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(b)) is amended by adding at the end the following: "When a report under paragraph (2) is furnished under oath, such oath shall be by the officer of such person who is directly responsible for the maintenance and compilation of such information, and shall certify that the report was prepared in accordance with this Act, is complete, and is to such officer's best knowledge and belief, substantially accurate, except in a case in which, in accordance with rules and regulations issued under this Act, estimates have been provided because data are not available from customary accounting records or precise data could not be obtained without undue burden, and the data subject to such estimates has been noted in the report.".

(b) CIVIL PENALTIES.—Section 6(a) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3105(a)) is amended by striking "may be subject to a civil penalty not exceeding $10,000" and inserting "shall be subject to a civil penalty of not less than $2,500, and not more than $25,000,".

22 USC 3144.

SEC. 8. ACCESS TO INFORMATION; CONFIDENTIALITY.

(a) CONFIDENTIALITY.—(1) Those officers and employees who have access to information under this Act to which the provisions of section 9 of title 13, United States Code, apply must have been sworn, as provided for in section 23(c) of such title, to observe the limitations imposed by section 9(a) of such title and to be subject to the provisions of section 214 of such title to the same extent as such section applies to officers or employees of the Bureau of the Census.

(2) Only those officers and employees who have sworn to observe the provisions of section 5(c) of the International Investment and Trade in Services Survey Act (22 U.S.C. 3104(c)) may have access under this Act to information to which such provisions apply, and such officers and employees are subject to the penalties for improper disclosure of such information provided in section 5(e) of that Act to the same extent as such section applies to officers or employees designated to perform functions under that Act.

(3) Those officers and employees referred to in paragraphs (1) and (2) of this section shall be subject to any other restriction or penalty imposed by law with respect to disclosure of information to which such officers or employees have access under this Act.

(b) VIOLATIONS AND PENALTIES.—Whoever is in possession of information made available to any department or agency by virtue of this Act or the amendments made by this Act and discloses the information in any form which can be associated with, or otherwise identify, any person, including any business enterprise or establishment, shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(c) UNLAWFUL ACCESS.—Whoever procures, by fraud, misrepresentation, or other unlawful act, access to information made available to any department or agency by virtue of this Act or the amendments made by this Act shall be fined not less than $2,500 nor more than $25,000 or imprisoned not more than 5 years, or both.

(d) INFORMATION IMMUNE FROM PROCESS.—Information obtained under this Act shall be immune from legal process and shall not be used as evidence or for any purpose in any Federal, State, or local government action, suit, or other administrative or judicial proceeding except as necessary to enforce requirements imposed by law on the collection of information, to enforce the provisions of subsections (b) and (c).

(e) IMPLEMENTATION.—(1) The Secretary of Commerce shall be responsible for the implementation of the exchange of information under this Act between the Bureau of the Census and the Bureau of Economic Analysis, and shall resolve any questions on access to information, data, or methodology that may arise between the Bureau of the Census and the Bureau of Economic Analysis, except that the Secretary shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act. The Bureau of Economic Analysis and the Bureau of the Census shall agree in writing to the data to be shared under this Act.

(2) The Director of the Office of Management and Budget shall be responsible for the implementation of the exchange of information under this Act between the Bureau of Economic Analysis and the Bureau of Labor Statistics, and shall resolve any questions on access to information, data, or methodology that may arise between the

Bureau of Economic Analysis and the Bureau of Labor Statistics, except that the Director shall not construe this section in a manner which would prevent the augmentation and improvement of the quality of international data collected under the International Investment and Trade in Services Survey Act.

SEC. 9. CONSTRUCTION OF THE ACT. 22 USC 3145.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to require any business enterprise or any of its officers, directors, shareholders, or employees, or any other person, to provide information beyond that which is required before the enactment of this Act.

(b) IMPLEMENTATION.—All departments and agencies implementing this Act and the amendments made by this Act shall, with respect to surveys or questionnaires used in such implementation—

(1) eliminate questions that are no longer necessary,

(2) cooperate with one another in order to ensure that questions asked are consistent among the departments and agencies, and

(3) develop new questions in order to obtain more refined statistics and analyses,

consistent with the purposes of the provisions of law amended by this Act and the Paperwork Reduction Act of 1980.

SEC. 10. DEFINITIONS. 22 USC 3146.

For purposes of this Act—

(1) the terms "foreign", "direct investment", "international investment", "United States", "business enterprise", "foreign person", and "United States person" have the meanings given those terms in section 3 of the International Investment and Trade in Services Survey Act (22 U.S.C. 3102); and

(2) the term "foreign direct investment in the United States" means direct investment by foreign persons in any business enterprise that is a United States person.

Approved November 7, 1990.

LEGISLATIVE HISTORY—S. 2516 (H.R. 4520):

HOUSE REPORTS: No. 101-855, Pt. 1 (Comm. on Foreign Affairs) and Pt. 2 (Comm. on Energy and Commerce), both accompanying H.R. 4520.
SENATE REPORTS: No. 101-443 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 18, considered and passed Senate.
Oct. 23, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 7, Presidential statement.

Public Law 101-534
101st Congress

An Act

Nov. 7, 1990
[H.R. 3911]

To amend title 5 of the United States Code to increase the allowance for services of attendants.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Attendant Allowance Adjustment Act.
5 USC 8101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Attendant Allowance Adjustment Act".

SEC. 2. INCREASE IN AMOUNT.

Subsection (a) of section 8111 of title 5, United States Code is amended by striking out "$500" and inserting in lieu thereof "$1,500".

5 USC 8111 note.

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall take effect October 1, 1990.

Approved November 7, 1990.

LEGISLATIVE HISTORY—H.R. 3911:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 24, considered and passed Senate, amended.
Oct. 25, House concurred in Senate amendment.

49-139 O - 90 (534)

Public Law 101-535
101st Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods, and for other purposes.

Nov. 8, 1990
[H.R. 3562]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nutrition Labeling and Education Act of 1990.
21 USC 301 note.

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Nutrition Labeling and Education Act of 1990".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. NUTRITION LABELING.

(a) NUTRITION INFORMATION.—Section 403 (21 U.S.C. 343) is amended by adding at the end the following new paragraph:

"(q)(1) Except as provided in subparagraphs (3), (4), and (5), if it is a food intended for human consumption and is offered for sale, unless its label or labeling bears nutrition information that provides—

"(A)(i) the serving size which is an amount customarily consumed and which is expressed in a common household measure that is appropriate to the food, or

"(ii) if the use of the food is not typically expressed in a serving size, the common household unit of measure that expresses the serving size of the food,

"(B) the number of servings or other units of measure per container,

"(C) the total number of calories—

"(i) derived from any source, and

"(ii) derived from the total fat,

in each serving size or other unit of measure of the food,

"(D) the amount of the following nutrients: Total fat, saturated fat, cholesterol, sodium, total carbohydrates, complex carbohydrates, sugars, dietary fiber, and total protein contained in each serving size or other unit of measure,

"(E) any vitamin, mineral, or other nutrient required to be placed on the label and labeling of food under this Act before October 1, 1990, if the Secretary determines that such information will assist consumers in maintaining healthy dietary practices.

The Secretary may by regulation require any information required to be placed on the label or labeling by this subparagraph or subparagraph (2)(A) to be highlighted on the label or labeling by larger type, bold type, or contrasting color if the Secretary determines that such highlighting will assist consumers in maintaining healthy dietary practices.

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"(2)(A) If the Secretary determines that a nutrient other than a nutrient required by subparagraph (1)(C), (1)(D), or (1)(E) should be included in the label or labeling of food subject to subparagraph (1) for purposes of providing information regarding the nutritional value of such food that will assist consumers in maintaining healthy dietary practices, the Secretary may by regulation require that information relating to such additional nutrient be included in the label or labeling of such food.

"(B) If the Secretary determines that the information relating to a nutrient required by subparagraph (1)(C), (1)(D), or (1)(E) or clause (A) of this subparagraph to be included in the label or labeling of food is not necessary to assist consumers in maintaining healthy dietary practices, the Secretary may by regulation remove information relating to such nutrient from such requirement.

"(3) For food that is received in bulk containers at a retail establishment, the Secretary may, by regulation, provide that the nutrition information required by subparagraphs (1) and (2) be displayed at the location in the retail establishment at which the food is offered for sale.

Regulations. Agricultural commodities. Seafood.

"(4)(A) The Secretary shall provide for furnishing the nutrition information required by subparagraphs (1) and (2) with respect to raw agricultural commodities and raw fish by issuing voluntary nutrition guidelines, as provided by clause (B) or by issuing regulations that are mandatory as provided by clause (C).

"(B)(i) Upon the expiration of 12 months after the date of the enactment of the Nutrition Labeling and Education Act of 1990, the Secretary, after providing an opportunity for comment, shall issue guidelines for food retailers offering raw agricultural commodities or raw fish to provide nutrition information specified in subparagraphs (1) and (2). Such guidelines shall take into account the actions taken by food retailers during such 12-month period to provide to consumers nutrition information on raw agricultural commodities and raw fish. Such guidelines shall only apply—

"(I) in the case of raw agricultural commodities, to the 20 varieties of vegetables most frequently consumed during a year and the 20 varieties of fruit most frequently consumed during a year, and

"(II) to the 20 varieties of raw fish most frequently consumed during a year.

The vegetables, fruits, and raw fish to which such guidelines apply shall be determined by the Secretary by regulation and the Secretary may apply such guidelines regionally.

Regulations.

"(ii) Upon the expiration of 12 months after the date of the enactment of the Nutrition Labeling and Education Act of 1990, the Secretary shall issue a final regulation defining the circumstances that constitute substantial compliance by food retailers with the guidelines issued under subclause (i). The regulation shall provide that there is not substantial compliance if a significant number of retailers have failed to comply with the guidelines. The size of the retailers and the portion of the market served by retailers in compliance with the guidelines shall be considered in determining whether the substantial-compliance standard has been met.

Reports.

"(C)(i) Upon the expiration of 30 months after the date of the enactment of the Nutrition Labeling and Education Act of 1990, the Secretary shall issue a report on actions taken by food retailers to provide consumers with nutrition information for raw agricultural commodities and raw fish under the guidelines issued under clause

(A). Such report shall include a determination of whether there is substantial compliance with the guidelines.

"(ii) If the Secretary finds that there is substantial compliance with the guidelines, the Secretary shall issue a report and make a determination of the type required in subclause (i) every two years.

"(D)(i) If the Secretary determines that there is not substantial compliance with the guidelines issued under clause (A), the Secretary shall at the time such determination is made issue proposed regulations requiring that any person who offers raw agricultural commodities or raw fish to consumers to provide, in a manner prescribed by regulations, the nutrition information required by subparagraphs (1) and (2). The Secretary shall issue final regulations imposing such requirements 6 months after issuing the proposed regulations. The final regulations shall become effective 6 months after the date of their promulgation.

Regulations.
Effective date.

"(ii) Regulations issued under subclause (i) may require that the nutrition information required by subparagraphs (1) and (2) be provided for more than 20 varieties of vegetables, 20 varieties of fruit, and 20 varieties of fish most frequently consumed during a year if the Secretary finds that a larger number of such products are frequently consumed. Such regulations shall permit such information to be provided in a single location in each area in which raw agricultural commodities and raw fish are offered for sale. Such regulations may provide that information shall be expressed as an average or range per serving of the same type of raw agricultural commodity or raw fish. The Secretary shall develop and make available to the persons who offer such food to consumers the information required by subparagraphs (1) and (2).

"(iii) Regulations issued under subclause (i) shall permit the required information to be provided in each area of an establishment in which raw agricultural commodities and raw fish are offered for sale. The regulations shall permit food retailers to display the required information by supplying copies of the information provided by the Secretary, by making the information available in brochure, notebook or leaflet form, or by posting a sign disclosing the information. Such regulations shall also permit presentation of the required information to be supplemented by a video, live demonstration, or other media which the Secretary approves.

Public information.

"(E) For purposes of this subparagraph, the term 'fish' includes freshwater or marine fin fish, crustaceans, and mollusks, including shellfish, amphibians, and other forms of aquatic animal life.

"(F) No person who offers raw agricultural commodities or raw fish to consumers may be prosecuted for minor violations of this subparagraph if there has been substantial compliance with the requirements of this paragraph.

"(5)(A) Subparagraphs (1), (2), (3), and (4) shall not apply to food—

"(i) which is served in restaurants or other establishments in which food is served for immediate human consumption or which is sold for sale or use in such establishments,

"(ii) which is processed and prepared primarily in a retail establishment, which is ready for human consumption, which is of the type described in subclause (i), and which is offered for sale to consumers but not for immediate human consumption in such establishment and which is not offered for sale outside such establishment,

"(iii) which is an infant formula subject to section 412,

"(iv) which is a medical food as defined in section 5(b) of the Orphan Drug Act (21 U.S.C. 360ee(b)), or

"(v) which is described in section 405(2).

"(B) Subparagraphs (1) and (2) shall not apply to the label of a food if the Secretary determines by regulations that compliance with such subparagraphs is impracticable because the package of such food is too small to comply with the requirements of such subparagraphs and if the label of such food does not contain any nutrition information.

"(C) If a food contains insignificant amounts, as determined by the Secretary, of all the nutrients required by subparagraphs (1) and (2) to be listed in the label or labeling of food, the requirements of such subparagraphs shall not apply to such food if the label, labeling, or advertising of such food does not make any claim with respect to the nutritional value of such food. If a food contains insignificant amounts, as determined by the Secretary, of more than one-half the nutrients required by subparagraphs (1) and (2) to be in the label or labeling of the food, the Secretary shall require the amounts of such nutrients to be stated in a simplified form prescribed by the Secretary.

"(D) If a person offers food for sale and has annual gross sales made or business done in sales to consumers which is not more than $500,000 or has annual gross sales made or business done in sales of food to consumers which is not more than $50,000, the requirements of subparagraphs (1), (2), (3), and (4) shall not apply with respect to food sold by such person to consumers unless the label or labeling of food offered by such person provides nutrition information or makes a nutrition claim.

"(E) If a food to which section 411 applies (as defined in section 411(c)) contains one or more of the nutrients required by subparagraph (1) or (2) to be in the label or labeling of the food, the label or labeling of such food shall comply with the requirements of subparagraphs (1) and (2) in a manner which is appropriate for such food and which is specified in regulations of the Secretary.

"(F) Subparagraphs (1), (2), (3), and (4) shall not apply to food which is sold by a food distributor if the food distributor principally sells food to restaurants or other establishments in which food is served for immediate human consumption and does not manufacture, process, or repackage the food it sells.".

21 USC 343 note.

(b) REGULATIONS.—

(1) The Secretary of Health and Human Services shall issue proposed regulations to implement section 403(q) of the Federal Food, Drug, and Cosmetic Act within 12 months after the date of the enactment of this Act. Not later than 24 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement the requirements of such section. Such regulations shall—

Public information.

(A) require the required information to be conveyed to the public in a manner which enables the public to readily observe and comprehend such information and to understand its relative significance in the context of a total daily diet,

(B) include regulations which establish standards, in accordance with paragraph (1)(A), to define serving size or other unit of measure for food,

(C) permit the label or labeling of food to include nutrition information which is in addition to the information

required by such section 403(q) and which is of the type described in subparagraph (1) or (2) of such section, and

(D) permit the nutrition information on the label or labeling of a food to remain the same or permit the information to be stated as a range even though (i) there are minor variations in the nutritional value of the food which occur in the normal course of the production or processing of the food, or (ii) the food is comprised of an assortment of similar foods which have variations in nutritional value.

(2) If the Secretary of Health and Human Services does not promulgate final regulations under paragraph (1) upon the expiration of 24 months after the date of the enactment of this Act, the proposed regulations issued in accordance with paragraph (1) shall be considered as the final regulations upon the expiration of such 24 months. There shall be promptly published in the Federal Register notice of new status of the proposed regulations.

Federal Register, publication.

(3) If the Secretary of Health and Human Services does not promulgate final regulations under section 403(q)(4) of the Federal Food, Drug, and Cosmetic Act upon the expiration of 6 months after the date on which the Secretary makes a finding that there has been no substantial compliance with section 403(q)(4)(C) of such Act, the proposed regulations issued in accordance with such section shall be considered as the final regulations upon the expiration of such 6 months. There shall be promptly published in the Federal Register notice of new status of the proposed regulations.

Federal Register, publication. 21 USC 343 note.

(c) CONSUMER EDUCATION.—The Secretary of Health and Human Services shall carry out activities which educate consumers about—

(1) the availability of nutrition information in the label or labeling of food, and

(2) the importance of that information in maintaining healthy dietary practices.

SEC. 3. CLAIMS.

(a) LABELING REQUIRED.—Section 403 (21 U.S.C. 343) is amended by adding after the paragraph added by section 2 the following:

"(r)(1) Except as provided in clauses (A) through (C) of subparagraph (5), if it is a food intended for human consumption which is offered for sale and for which a claim is made in the label or labeling of the food which expressly or by implication—

"(A) characterizes the level of any nutrient which is of the type required by paragraph (q)(1) or (q)(2) to be in the label or labeling of the food unless the claim is made in accordance with subparagraph (2), or

"(B) characterizes the relationship of any nutrient which is of the type required by paragraph (q)(1) or (q)(2) to be in the label or labeling of the food to a disease or a health-related condition unless the claim is made in accordance with subparagraph (3) or 5(D).

A statement of the type required by paragraph (q) that appears as part of the nutrition information required or permitted by such paragraph is not a claim which is subject to this paragraph and a claim subject to clause (A) is not subject to clause (B).

"(2)(A) Except as provided in subparagraphs (4)(A)(ii) and (4)(A)(iii) and clauses (A) through (C) of subparagraph (5), a claim described in subparagraph (1)(A)—

"(i) may be made only if the characterization of the level made in the claim uses terms which are defined in regulations of the Secretary,

"(ii) may not state the absence of a nutrient unless—

"(I) the nutrient is usually present in the food or in a food which substitutes for the food as defined by the Secretary by regulation, or

"(II) the Secretary by regulation permits such a statement on the basis of a finding that such a statement would assist consumers in maintaining healthy dietary practices and the statement discloses that the nutrient is not usually present in the food,

Cholesterol.

"(iii) may not be made with respect to the level of cholesterol in the food if the food contains, as determined by the Secretary by regulation, fat or saturated fat in an amount which increases to persons in the general population the risk of disease or a health related condition which is diet related unless—

"(I) the Secretary finds by regulation that the level of cholesterol is substantially less than the level usually present in the food or in a food which substitutes for the food and which has a significant market share, or the Secretary by regulation permits a statement regarding the absence of cholesterol on the basis of a finding that cholesterol is not usually present in the food and that such a statement would assist consumers in maintaining healthy dietary practices and the regulation requires that the statement disclose that cholesterol is not usually present in the food, and

"(II) the label or labeling of the food discloses the level of such fat or saturated fat in immediate proximity to such claim and with appropriate prominence which shall be no less than one-half the size of the claim with respect to the level of cholesterol,

"(iv) may not be made with respect to the level of saturated fat in the food if the food contains cholesterol unless the label or labeling of the food discloses the level of cholesterol in the food in immediate proximity to such claim and with appropriate prominence which shall be no less than one-half the size of the claim with respect to the level of saturated fat,

"(v) may not state that a food is high in dietary fiber unless the food is low in total fat as defined by the Secretary or the label or labeling discloses the level of total fat in the food in immediate proximity to such statement and with appropriate prominence which shall be no less than one-half the size of the claim with respect to the level of dietary fiber, and

"(vi) may not be made if the Secretary by regulation prohibits the claim because the claim is misleading in light of the level of another nutrient in the food.

"(B) If a claim described in subparagraph (1)(A) is made with respect to a nutrient in a food, the label or labeling of such food shall contain, prominently and in immediate proximity to such claim, the following statement: 'See _____ for nutrition information.'. In the statement—

"(i) the blank shall identify the panel on which the information described in the statement may be found, and

"(ii) if the Secretary determines that the food contains a nutrient at a level which increases to persons in the general population the risk of a disease or health-related condition which is diet related, taking into account the significance of the food in the total daily diet, the statement shall also identify such nutrient.

"(C) Subparagraph (2)(A) does not apply to a claim described in subparagraph (1)(A) and contained in the label or labeling of a food if such claim is contained in the brand name of such food and such brand name was in use on such food before October 25, 1989, unless the brand name contains a term defined by the Secretary under subparagraph (2)(A)(i). Such a claim is subject to paragraph (a).

"(D) Subparagraph (2) does not apply to a claim described in subparagraph (1)(A) which uses the term 'diet' and is contained in the label or labeling of a soft drink if (i) such claim is contained in the brand name of such soft drink, (ii) such brand name was in use on such soft drink before October 25, 1989, and (iii) the use of the term 'diet' was in conformity with section 105.66 of title 21 of the Code of Federal Regulations. Such a claim is subject to paragraph (a).

"(E) Subclauses (i) through (v) of subparagraph (2)(A) do not apply to a statement in the label or labeling of food which describes the percentage of vitamins and minerals in the food in relation to the amount of such vitamins and minerals recommended for daily consumption by the Secretary.

"(3)(A) Except as provided in subparagraph (5), a claim described in subparagraph (1)(B) may only be made—

"(i) if the claim meets the requirements of the regulations of the Secretary promulgated under clause (B), and

"(ii) if the food for which the claim is made does not contain, as determined by the Secretary by regulation, any nutrient in an amount which increases to persons in the general population the risk of a disease or health-related condition which is diet related, taking into account the significance of the food in the total daily diet, except that the Secretary may by regulation permit such a claim based on a finding that such a claim would assist consumers in maintaining healthy dietary practices and based on a requirement that the label contain a disclosure of the type required by subparagraph (2)(B).

"(B)(i) The Secretary shall promulgate regulations authorizing claims of the type described in subparagraph (1)(B) only if the Secretary determines, based on the totality of publicly available scientific evidence (including evidence from well-designed studies conducted in a manner which is consistent with generally recognized scientific procedures and principles), that there is significant scientific agreement, among experts qualified by scientific training and experience to evaluate such claims, that the claim is supported by such evidence. Regulations.

"(ii) A regulation described in subclause (i) shall describe—

"(I) the relationship between a nutrient of the type required in the label or labeling of food by paragraph (q)(1) or (q)(2) and a disease or health-related condition, and

"(II) the significance of each such nutrient in affecting such disease or health-related condition.

"(iii) A regulation described in subclause (i) shall require such claim to be stated in a manner so that the claim is an accurate representation of the matters set out in subclause (ii) and so that the claim enables the public to comprehend the information provided in the claim and to understand the relative significance of such information in the context of a total daily diet.

"(4)(A)(i) Any person may petition the Secretary to issue a regulation under subparagraph (2)(A)(i) or (3)(B) relating to a claim described in subparagraph (1)(A) or (1)(B). Not later than 100 days after the petition is received by the Secretary, the Secretary shall issue a final decision denying the petition or file the petition for further action by the Secretary. If the Secretary denies the petition, the petition shall not be made available to the public. If the Secretary files the petition, the Secretary shall deny the petition or issue a proposed regulation to take the action requested in the petition not later than 90 days after the date of such decision.

Classified information. Regulations.

"(ii) Any person may petition the Secretary for permission to use in a claim described in subparagraph (1)(A) terms that are consistent with the terms defined by the Secretary under subparagraph (2)(A)(i). Within 90 days of the submission of such a petition, the Secretary shall issue a final decision denying the petition or granting such permission.

"(iii) Any person may petition the Secretary for permission to use an implied claim described in subparagraph (1)(A) in a brand name. After publishing notice of an opportunity to comment on the petition in the Federal Register and making the petition available to the public, the Secretary shall grant the petition if the Secretary finds that such claim is not misleading and is consistent with terms defined by the Secretary under subparagraph (2)(A)(i). The Secretary shall grant or deny the petition within 100 days of the date it is submitted to the Secretary and the petition shall be considered granted if the Secretary does not act on it within such 100 days.

Federal Register, publication.

"(B) A petition under clause (A)(i) respecting a claim described in subparagraph (1)(A) or (1)(B) shall include an explanation of the reasons why the claim meets the requirements of this subsection and a summary of the scientific data which supports such reasons.

"(C) If a petition for a regulation under subparagraph (3)(B) relies on a report from an authoritative scientific body of the United States, the Secretary shall consider such report and shall justify any decision rejecting the conclusions of such report.

"(5)(A) This paragraph does not apply to infant formulas subject to section 412(h) and medical foods as defined in section 5(b) of the Orphan Drug Act.

"(B) Subclauses (iii) through (v) of subparagraph (2)(A) and subparagraph (2)(B) do not apply to food which is served in restaurants or other establishments in which food is served for immediate human consumption or which is sold for sale or use in such establishments.

"(C) A subparagraph (1)(A) claim made with respect to a food which claim is required by a standard of identity issued under section 401 shall not be subject to subparagraph (2)(A)(i) or (2)(B).

"(D) A subparagraph (1)(B) claim made with respect to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances shall not be subject to subparagraph (3) but shall be subject to a procedure and standard, respecting the validity of such claim, established by regulation of the Secretary.".

21 USC 343 note.

(b) REGULATIONS.—

(1)(A) Within 12 months of the date of the enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations to implement section 403(r) of the Federal Food, Drug, and Cosmetic Act. Such regulations— Regulations.

(i) shall identify claims described in section 403(r)(1)(A) of such Act which comply with section 403(r)(2) of such Act,

(ii) shall identify claims described in section 403(r)(1)(B) of such Act which comply with section 403(r)(3) of such Act,

(iii) shall, in defining terms used to characterize the level of any nutrient in food under section 403(r)(2)(A)(i) of such Act, define—

(I) free,

(II) low,

(III) light or lite,

(IV) reduced,

(V) less, and

(VI) high,

unless the Secretary finds that the use of any such term would be misleading,

(iv) shall permit statements describing the amount and percentage of nutrients in food which are not misleading and are consistent with the terms defined in section 403(r)(2)(A)(i) of such Act,

(v) shall provide that if multiple claims subject to section 403(r)(1)(A) of such Act are made on a single panel of the food label or page of a labeling brochure, a single statement may be made to satisfy section 403(r)(2)(B) of such Act,

(vi) shall determine whether claims respecting the following nutrients and diseases meet the requirements of section 403(r)(3) of such Act: Calcium and osteoporosis, dietary fiber and cancer, lipids and cardiovascular disease, lipids and cancer, sodium and hypertension, and dietary fiber and cardiovascular disease,

(vii) shall not require a person who proposes to make a claim described in section 403(r)(1)(B) of such Act which is in compliance with such regulations to secure the approval of the Secretary before making such claim,

(viii) may permit a claim described in section 403(r)(1)(A) of such Act to be made for butter,

(ix) may, in defining terms under section 403(r)(2)(A)(i), include similar terms which are commonly understood to have the same meaning, and

(x) shall establish, as required by section 403(r)(5)(D), the procedure and standard respecting the validity of claims made with respect to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances and shall determine whether claims respecting the following nutrients and diseases meet the requirements of section 403(r)(5)(D) of such Act: folic acid and neural tube defects, antioxident vitamins and cancer, zinc and immune function in the elderly, and omega-3 fatty acids and heart disease.

(B) Not later than 24 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement section 403(r) of the Federal Food, Drug, and Cosmetic Act. Regulations.

(2) If the Secretary does not promulgate final regulations under paragraph (1)(B) upon the expiration of 24 months after

the date of the enactment of this Act, the proposed regulations issued in accordance with paragraph (1)(A) shall be considered as the final regulations upon the expiration of such 24 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

Federal Register, publication.

SEC. 4. STATE ENFORCEMENT.

Section 307 (21 U.S.C. 337) is amended by striking out "All such proceedings" and inserting in lieu thereof "(a) Except as provided in subsection (b), all such proceedings" and by adding at the end the following:

"(b)(1) A State may bring in its own name and within its jurisdiction proceedings for the civil enforcement, or to restrain violations, of sections 401, 403(b), 403(c), 403(d), 403(e), 403(f), 403(g), 403(h), 403(i), 403(k), 403(q), or 403(r) if the food that is the subject of the proceedings is located in the State.

"(2) No proceeding may be commenced by a State under paragraph (1)—

"(A) before 30 days after the State has given notice to the Secretary that the State intends to bring such proceeding,

"(B) before 90 days after the State has given notice to the Secretary of such intent if the Secretary has, within such 30 days, commenced an informal or formal enforcement action pertaining to the food which would be the subject of such proceeding, or

"(C) if the Secretary is diligently prosecuting a proceeding in court pertaining to such food, has settled such proceeding, or has settled the informal or formal enforcement action pertaining to such food.

In any court proceeding described in subparagraph (C), a State may intervene as a matter of right.", and

(2) in the last sentence, by striking out "any such proceeding" and inserting in lieu thereof "any proceeding under this section".

SEC. 5. CONFORMING AMENDMENTS.

(a) SECTION 405.—Section 405 (21 U.S.C. 345) is amended by adding at the end the following: "This section does not apply to the labeling requirements of sections 403(q) and 403(r).".

(b) DRUGS.—Section 201(g)(1) (21 U.S.C. 321(g)(1)) is amended by adding at the end the following: "A food for which a claim, subject to sections 403(r)(1)(B) and 403(r)(3) or sections 403(r)(1)(B) and 403(r)(5)(D), is made in accordance with the requirements of section 403(r) is not a drug under clause (B) solely because the label or labeling contains such a claim.".

SEC. 6. NATIONAL UNIFORM NUTRITION LABELING.

(a) PREEMPTION.—Chapter IV is amended by adding after section 403 the following new section:

21 USC 343-1.

"SEC. 403A. (a) Except as provided in subsection (b), no State or political subdivision of a State may directly or indirectly establish under any authority or continue in effect as to any food in interstate commerce—

"(1) any requirement for a food which is the subject of a standard of identity established under section 401 that is not identical to such standard of identity or that is not identical to the requirement of section 403(g),

"(2) any requirement for the labeling of food of the type required by section 403(c), 403(e), or 403(i)(2) that is not identical to the requirement of such section,

"(3) any requirement for the labeling of food of the type required by section 403(b), 403(d), 403(f), 403(h), 403(i)(1), or 403(k) that is not identical to the requirement of such section,

"(4) any requirement for nutrition labeling of food that is not identical to the requirement of section 403(q), except a requirement for nutrition labeling of food which is exempt under subclause (i) or (ii) of section 403(q)(5)(A), or

"(5) any requirement respecting any claim of the type described in section 403(r)(1) made in the label or labeling of food that is not identical to the requirement of section 403(r), except a requirement respecting a claim made in the label or labeling of food which is exempt under clause (B) of such section.

Paragraph (3) shall take effect in accordance with section 6(b) of the Nutrition Labeling and Education Act of 1990.

"(b) Upon petition of a State or a political subdivision of a State, the Secretary may exempt from subsection (a), under such conditions as may be prescribed by regulation, any State or local requirement that—

"(1) would not cause any food to be in violation of any applicable requirement under Federal law,

"(2) would not unduly burden interstate commerce, and

"(3) is designed to address a particular need for information which need is not met by the requirements of the sections referred to in subsection (a).".

(b) STUDY AND REGULATIONS.—

21 USC 343-1 note. Government contracts.

(1) For the purpose of implementing section 403A(a)(3), the Secretary of Health and Human Services shall enter into a contract with a public or nonprofit private entity to conduct a study of—

(A) State and local laws which require the labeling of food that is of the type required by sections 403(b), 403(d), 403(f), 403(h), 403(i)(1), and 403(k) of the Federal Food, Drug, and Cosmetic Act, and

(B) the sections of the Federal Food, Drug, and Cosmetic Act referred to in subparagraph (A) and the regulations issued by the Secretary to enforce such sections to determine whether such sections and regulations adequately implement the purposes of such sections.

(2) The contract under paragraph (1) shall provide that the study required by such paragraph shall be completed within 6 months of the date of the enactment of this Act.

(3)(A) Within 9 months of the date of the enactment of this Act, the Secretary shall publish a proposed list of sections which are adequately being implemented by regulations as determined under paragraph (1)(B) and sections which are not adequately being implemented by regulations as so determined. After publication of the lists, the Secretary shall provide 60 days for comments on such lists.

(B) Within 24 months of the date of the enactment of this Act, the Secretary shall publish a final list of sections which are adequately being implemented by regulations and a list of sections which are not adequately being implemented by regulations. With respect to a section which is found by the Secretary to be adequately implemented, no State or political subdivision

of a State may establish or continue in effect as to any food in interstate commerce any requirement which is not identical to the requirement of such section.

(C) Within 24 months of the date of the enactment of this Act, the Secretary shall publish proposed revisions to the regulations found to be inadequate under subparagraph (B) and within 30 months of such date shall issue final revisions. Upon the effective date of such final revisions, no State or political subdivision may establish or continue in effect any requirement which is not identical to the requirement of the section which had its regulations revised in accordance with this subparagraph.

(D)(i) If the Secretary does not issue a final list in accordance with subparagraph (B), the proposed list issued under subparagraph (A) shall be considered the final list and States and political subdivisions shall be preempted with respect to sections found to be adequate in such proposed list in accordance with subparagraph (B).

(ii) If the Secretary does not issue final revisions of regulations in accordance with subparagraph (C), the proposed revisions issued under such subparagraph shall be considered the final revisions and States and political subdivisions shall be preempted with respect to sections the regulations of which are revised by the proposed revisions.

(E) Subsection (b) of section 403A of the Federal Food, Drug, and Cosmetic Act shall apply with respect to the prohibition prescribed by subparagraphs (B) and (C).

21 USC 343-1 note.

(c) CONSTRUCTION.—

(1) The Nutrition Labeling and Education Act of 1990 shall not be construed to preempt any provision of State law, unless such provision is expressly preempted under section 403A of the Federal Food, Drug, and Cosmetic Act.

(2) The amendment made by subsection (a) and the provisions of subsection (b) shall not be construed to apply to any requirement respecting a statement in the labeling of food that provides for a warning concerning the safety of the food or component of the food.

(3) The amendment made by subsection (a), the provisions of subsection (b) and paragraphs (1) and (2) of this subsection shall not be construed to affect preemption, express or implied, of any such requirement of a State or political subdivision, which may arise under the Constitution, any provision of the Federal Food, Drug, and Cosmetic Act not amended by subsection (a), any other Federal law, or any Federal regulation, order, or other final agency action reviewable under chapter 7 of title 5, United States Code.

SEC. 7. INGREDIENTS.

Section 403(i) (21 U.S.C. 343(i)) is amended—

(1) by striking out "If it is not subject to paragraph (g) of this section unless" and inserting in lieu thereof "Unless",

(2) by inserting before "; except" the following: "and if the food purports to be a beverage containing vegetable or fruit juice, a statement with appropriate prominence on the information panel of the total percentage of such fruit or vegetable juice contained in the food", and

(3) by striking out "colorings" and inserting in lieu thereof "colors not required to be certified under section 706(c)".

SEC. 8. STANDARD OF IDENTITY REGULATION.

Section 701(e) (21 U.S.C. 371(e)) is amended by striking out "Any action for the issuance, amendment, or repeal of any regulation under section 401, 403(j), 404(a), 406, 501(b), or 502 (d) or (h) of this Act" and inserting in lieu thereof the following: "Any action for the issuance, amendment, or repeal of any regulation under section 403(j), 404(a), 406, 501(b), or 502 (d) or (h) of this Act, and any action for the amendment or repeal of any definition and standard of identity under section 401 of this Act for any dairy product (including products regulated under parts 131, 133 and 135 of title 21, Code of Federal Regulations) or maple sirup (regulated under section 168.140 of title 21, Code of Federal Regulations).

SEC. 9. CONSTRUCTION. 21 USC 343 note.

The amendments made by this Act shall not be construed to alter the authority of the Secretary of Health and Human Services and the Secretary of Agriculture under the Federal Food, Drug, and Cosmetic Act, the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act.

SEC. 10. EFFECTIVE DATE. 21 USC 343 note.

(a) IN GENERAL.—

(1) Except as provided in paragraph (2)—

(A) the amendments made by section 2 shall take effect 6 months after—

(i) the date of the promulgation of all final regulations required to implement section 403(q) of the Federal Food, Drug, and Cosmetic Act, or

(ii) if such regulations are not promulgated, the date proposed regulations are to be considered as such final regulations,

except that section 403(q)(4) of such Act shall take effect as prescribed by such section,

(B) the amendments made by section 3 shall take effect 6 months after—

(i) the date of the promulgation of final regulations to implement section 403(r) of the Federal Food, Drug, and Cosmetic Act, or

(ii) if such regulations are not promulgated, the date proposed regulations are to be considered as such final regulations, except that any person marketing a food the brand name of which contains a term defined by the Secretary under section 403(r)(2)(A)(i) of the Federal Food, Drug, and Cosmetic Act shall be given an additional 6 months to comply with section 3,

(C) the amendments made by section 4 shall take effect 24 months after the date of the enactment of this Act, and

(D) the amendments made by section 5 shall take effect on the date the amendments made by section 3 take effect.

(2) Section 403(q) of the Federal Food, Drug, and Cosmetic Act (as added by section 2) shall not apply with respect to food which was labeled before the effective date of the amendments made by section 2 and section 403(r) of the Federal Food, Drug, and Cosmetic Act (as added by section 3) shall not apply with respect to food which was labeled before the effective date of the amendments made by section 3.

(3)(A) If the Secretary finds that a person who is subject to section 403(q)(4) of such Act is unable to comply with the requirements of such section upon the effective date of final regulations to implement section 403(q) of such Act or of proposed regulations to be considered as such final regulations because the Secretary has not made available to such person the information required by such section, the Secretary shall delay the application of such section to such person for such time as the Secretary may require to provide such information.

(B) If the Secretary finds that compliance with section 403(q) or 403(r)(2) of such Act would cause an undue economic hardship, the Secretary may delay the application of such sections for no more than one year.

21 USC 343-1 note.

(b) SECTION 6.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 6 shall take effect—

(A) with respect to a requirement of a State or political subdivision described in paragraph (1) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, on the date of the enactment of this Act,

(B) with respect to a requirement of a State or political subdivision described in paragraph (2) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, one year after the date of the enactment of this Act,

(C) with respect to a requirement of a State or political subdivision described in paragraph (3) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, as prescribed by section 6(b) of the Nutrition Labeling and Education Act of 1990,

(D) with respect to a requirement of a State or political subdivision described in paragraph (4) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, on the date regulations to implement section 403(q) of such Act take effect, and

(E) with respect to a requirement of a State or political subdivision described in paragraph (5) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act, on the date regulations to implement section 403(r) of such Act take effect.

(2) EXCEPTION.—If a State or political subdivision submits a petition under section 403A(b) of the Federal Food, Drug, and Cosmetic Act for a requirement described in section 403A(a) of such Act within 18 months of the date of the enactment of this Act, paragraphs (3) through (5) of such section 403A(a) shall not apply with respect to such State or political subdivision requirement until—

(1) 24 months after the date of the enactment of this Act, or
(2) action on the petition,
whichever occurs later.

(c) SECTION 7.—The amendments made by section 7 shall take effect one year after the date of the enactment of this Act. 21 USC 343 note.

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.R. 3562:

HOUSE REPORTS: No. 101-538 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 30, considered and passed House.
Oct. 24, considered and passed Senate, amended.
Oct. 26, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 8, Presidential statement.

Public Law 101-536
101st Congress

An Act

Nov. 8, 1990
[H.R. 4090]

To authorize the establishment of the Glorieta National Battlefield in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pecos National Historical Park Expansion Act of 1990.
Historic preservation.
16 USC 1410rr note.
16 USC 1410rr-7 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pecos National Historical Park Expansion Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) the Civil War battle of Glorieta Pass, New Mexico, fought on March 26-28, 1862, was a decisive battle of the Civil War in the Far West;

(2) the battle was significant because the Confederate defeat at Glorieta Pass resulted in the collapse of the Confederacy's plan to capture the riches and support of the West, thus largely ending the Civil War in the West; and

(3) the campsite and headquarters of the Union forces during the Battle of Glorieta are currently within the boundary of Pecos National Historical Park.

(b) PURPOSE.—The purpose of this Act is to preserve and interpret the Battle of Glorieta and to enhance visitor understanding of the Civil War and the Far West by establishing a new unit of Pecos National Historical Park.

16 USC 1410rr-7.

SEC. 3. ESTABLISHMENT OF THE GLORIETA UNIT OF THE PECOS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, there is hereby established the Glorieta Unit of the Pecos National Historical Park (hereafter in this Act referred to as the "Glorieta Unit"). The Glorieta Unit shall be comprised of approximately 682 acres as generally depicted on the maps entitled "Glorieta Unit—Pecos National Historical Park", numbered 430-80,031, and dated July 1990. The boundary of Pecos National Historical Park, established by title II of Public Law 101-313 (104 Stat. 278), is hereby modified to include the Glorieta Unit.

(b) ADMINISTRATION.—The Secretary shall administer the Glorieta Unit to preserve and interpret the Battle of Glorieta for the benefit and enjoyment of present and future generations, in accordance with the provisions of this Act, applicable provisions of title II of Public Law 101-313, and provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), and the Act of August 21, 1935 (49 U.S.C. 666; 16 U.S.C. 461-7).

(c) ACQUISITION.—The Secretary is authorized to acquire lands, waters, and interests therein within the boundaries of the Glorieta

Unit by donation, purchase with donated or appropriated funds, or exchange. Lands may not be acquired for purposes of the Glorieta Unit without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the Glorieta Unit or on the management of the Glorieta Unit.

(d) TRANSFER.—Lands identified on the maps referred to in subsection (a) as being within unit number 26 in the "Historic Zone" are hereby transferred from the administration of the Secretary of Agriculture to the administration of the Secretary of the Interior, to be managed in accordance with the provisions of this Act.

(e) MANAGEMENT PLAN.—The Secretary shall incorporate management direction for the Glorieta Unit into the general management plan for the Pecos National Historical Park, including the identification of routes of travel associated with the Battle of Glorieta.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.R. 4090:

HOUSE REPORTS: No. 101-828 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 24, considered and passed Senate.

Public Law 101-537
101st Congress

An Act

Nov. 8, 1990
[H.R. 4299]

To authorize a study of the fishery resources of the Great Lakes, and for other purposes.

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—GREAT LAKES FISH AND WILDLIFE RESTORATION

Great Lakes Fish and Wildlife Restoration Act of 1990.
16 USC 941 note.

SECTION 1001. SHORT TITLE.

This title may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 1990".

16 USC 941.

SEC. 1002. FINDINGS.

The Congress finds and declares the following:

(1) As the human population of the Great Lakes Basin has expanded to over 35,000,000 people, great demands have been placed on the lakes for use for boating and other recreation, navigation, municipal and industrial water supply, waste disposal, power production, and other purposes. These growing and often conflicting demands exert pressure on the fish and wildlife resources of the Great Lakes Basin, including in the form of contaminants, invasion by nonindigenous species, habitat degradation and destruction, legal and illegal fishery resource harvest levels, and sea lamprey predation.

(2) The fishery resources of the Great Lakes support recreational fisheries enjoyed by more than 5,000,000 people annually and commercial fisheries providing approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4,400,000,000 annually to the United States.

(3) The availability of a suitable forage base is essential to lake trout, walleye, yellow perch, and other recreational and commercially valuable fishery resources of the Great Lakes Basin. Protecting and restoring productive fish habitat, including by protecting water quality, is essential to the successful recovery of Great Lakes Basin fishery resources.

(4) The Great Lakes Basin contains important breeding and migration habitat for all types of migratory birds. Many migratory bird species dependent on deteriorating Great Lakes Basin habitat have suffered serious population declines in recent years.

(5) Over 80 percent of the original wetlands in the Great Lakes Basin have been destroyed and such losses continue at a rate of 20,000 acres annually.

(6) Contaminant burdens in the fish and wildlife resources of the Great Lakes Basin are substantial and the impacts of those contaminants on the life functions of important fish and wildlife

resources are poorly understood. Concern over the effects of those contaminants on human health have resulted in numerous public health advisories recommending restricted or no consumption of Great Lakes fish.

(7) The lower Great Lakes are uniquely different from the upper Great Lakes biologically, physically, and in the degree of human use and shoreline development, and special fishery resource assessments and management activities are necessary to respond effectively to these special circumstances.

SEC. 1003. PURPOSE. 16 USC 941a.

The purposes of this Act are—

(1) to carry out a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin;

(2) to develop proposals to implement recommendations resulting from that study; and

(3) to provide assistance to the Great Lakes Fisheries Commission, States, Indian Tribes, and other interested entities to encourage cooperative conservation, restoration and management of the fish and wildlife resources and their habitat of the Great Lakes Basin.

SEC. 1004. DEFINITIONS. 16 USC 941b.

In this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "Director" means the Director of the United States Fish and Wildlife Service;

(3) the term "fish stock" means—

(A) a taxonomically distinct species or subspecies of fish; or

(B) any other aggregation of fish that are geographically, ecologically, behaviorally, or otherwise limited from breeding with individuals from other groups of fish and are capable of management as a unit;

(4) the term "Great Lakes Basin" means the air, land, water, and living organisms within the drainage basin of the Saint Lawrence River at or upstream from the point at which the river becomes the international boundary between Canada and the United States;

(5) the term "Indian Tribe" means any Indian tribe, band, village, nation, or other organized group or community that is recognized by the Bureau of Indian Affairs as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(6) the term "lower Great Lakes" means the region in which is located that portion of the Great Lakes Basin which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

(7) the term "upper Great Lakes" means that portion of the Great Lakes Basin which is upstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan.

(8) the term "nonindigenous species" means a species of plant or animal that did not occur in the Great Lakes Basin before European colonization of North America;

(9) the term "Secretary" means the Secretary of the Army; and

(10) the term "State Director" means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State.

16 USC 941c.

SEC. 1005. GREAT LAKES FISHERY RESOURCES RESTORATION STUDY.

(a) IN GENERAL.—The Director shall conduct a comprehensive study of the status of, and the assessment, management, and restoration needs of, the fishery resources of the Great Lakes Basin and shall provide the opportunity for the Secretary, the Administrator, State Directors, Indian Tribes, the Great Lakes Fishery Commission, appropriate Canadian Government entities, and other appropriate entities to participate in the study. The Director shall complete the study by October 1, 1994.

(b) MEMORANDUM OF UNDERSTANDING.—To provide opportunities for the full participation of all affected entities in the planning and conduct of the study, the Director shall invite the entities identified in subsection (a) to enter into a memorandum of understanding regarding the scope and focus of the study and the responsibilities of each participant for conducting the study.

(c) CONTENT OF STUDY.—A study under this section shall include, but not be limited to—

(1) identifying and describing the component drainages of the Great Lakes Basin (including the drainage for each of the Great Lakes), analyzing how the characteristics and current or expected land and water uses of those drainages have affected, and can be expected to affect in the future, the fishery resources and fish habitats of the Great Lakes Basin;

(2) analyzing historical fishery resource data for the Great Lakes Basin to identify the causes of past and continuing declines of the fishery resources and the impediments to restoring those resources;

(3) evaluating the adequacy, effectiveness, and consistency of current Great Lakes interagency fisheries management plans and Federal and State water quality programs, with respect to their effects on Great Lakes fishery resources;

(4) analyzing the impacts of, and management control alternatives for, recently introduced nonindigenous species, including the zebra mussel, the ruffe, and the spiny water flea in accordance with the Aquatic Nuisance Prevention and Control Act of 1990;

(5) developing recommendations regarding—

(A) an action plan to analyze the effects of contaminant levels on fishery resources;

(B) an action plan for the cooperative restoration and enhancement of depleted, nationally significant fish stocks, including lake trout, yellow perch, lake sturgeon, walleye, forage fish, and Atlantic salmon;

(C) planning and technical assistance that should be provided to the, Great Lakes Fisheries Commission, States, and Indian Tribes to assist their fishery resource restoration efforts;

(D) mitigation measures to restore and enhance fishery resources adversely affected by past Federal (including federally assisted or approved) water resource development projects and other activities;

(E) increasing the involvement of the International Joint Commission, the Great Lakes Commission, the Great Lakes Fishery Commission, and other interjurisdictional entities regarding fishery resources protection, restoration, and enhancement;

(F) research projects and data gathering initiatives regarding population trends of fish stocks, including population abundance and structure, interspecific competition, survival rates, and behavioral patterns;

(G) important fishery resource habitat and other areas that should be protected, restored, or enhanced for the benefit of Great Lakes fishery resources;

(H) how private conservation organizations, recreational and commercial fishing interests, the aquaculture industry, and the general public could contribute to the implementation of the fishery resource restoration and enhancement recommendations developed pursuant to this Act; and

(I) appropriate contributions that should be made by States and other non-Federal entities to the cost of activities undertaken to implement the recommendations, including a description of—

(i) the activities that shall be cost-shared;

(ii) the entities or individuals which shall share the costs of those activities;

(iii) the proportion of appropriate project and activity costs that shall be borne by non-Federal interests; and

(iv) how the entities or individuals who share costs should finance their contribution.

(d) PROPOSALS FOR IMPLEMENTING RECOMMENDATIONS.—The Director shall develop proposals for implementing the recommendations of the study developed under subsection (c)(5). The proposals shall be consistent with the goals of the Great Lakes Water Quality Agreement, as revised in 1987, the 1954 Great Lakes Fisheries Convention, State and tribal fishery management jurisdiction, and the 1980 Joint Strategic Plan for the management of Great Lakes fishery resources.

SEC. 1006. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES. 16 USC 941d.

In administering programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, the Director shall seek to achieve the following goals:

(1) Restoring and maintaining self-sustaining fishery resource populations.

(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

(5) Restoring threatened and endangered species to viable, self-sustaining levels.

(6) Protecting, managing, and conserving migratory birds.

16 USC 941e.

SEC. 1007. ESTABLISHMENT OF OFFICES.

(a) GREAT LAKES COORDINATION OFFICE.—The Director shall establish a centrally located facility for the coordination of all United States Fish and Wildlife Service activities in the Great Lakes Basin, to be known as the "Great Lakes Coordination Office". The functional responsibilities of the Great Lakes Coordination Office shall include intra- and interagency coordination, information distribution, and public awareness outreach. The Great Lakes Coordination Office shall include all administrative and technical support necessary to carry out its responsibilities.

(b) LOWER GREAT LAKES FISHERY RESOURCES OFFICE.—The Director shall establish an office with necessary administrative and technical support services to carry out all United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the lower Great Lakes. The office shall be known as the "Lower Great Lakes Fishery Resources Office", and shall be centrally located in the lower Great Lakes so as to facilitate fishery resource restoration and enhancement activities relating to the lower Great Lakes.

(c) UPPER GREAT LAKES FISHERY RESOURCES OFFICES.—The Director shall establish one or more offices with necessary administrative and technical support services to carry out United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the upper Great Lakes. Each of the offices shall be known as an "Upper Great Lakes Fishery Resources Office", and shall be appropriately located so as to facilitate fishery resource activities in the upper Great Lakes.

16 USC 941f.

SEC. 1008. ANNUAL REPORTS.

Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Director shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate. Each such report shall describe—

(1) the progress and findings of the studies conducted under section 1005, including recommendations of implementing activities, where appropriate, that would contribute to the restoration or improvement of one or more fish stocks of the Great Lakes Basin; and

(2) activities undertaken to accomplish the goals stated in section 1006.

16 USC 941g.

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director—

(1) for conducting a study under section 1005 not more than $4,000,000 for each of the fiscal years 1991 through 1994;

(2) to establish and operate the Great Lakes Coordination Office under section 1008(a) and Upper Great Lakes Fishery Resources Offices under section 1008(c) not more than $4,000,000 for each of the fiscal years 1991 through 1995; and

(3) to establish and operate the Lower Great Lakes Fishery Resources Office under section 1008(b), not more than $2,000,000 for each of the fiscal years 1991 through 1995.

TITLE II—GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT

Great Lakes Oil Pollution Research and Development Act.
33 USC 2701 note.

SEC. 2001. SHORT TITLE.

This title may be cited as the "Great Lakes Oil Pollution Research and Development Act".

SEC. 2002. GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT.

33 USC 2761.

Section 7001 of the Oil Pollution Act of 1990 (Public Law 101-380) is amended as follows:

(1) GREAT LAKES DEMONSTRATION PROJECT.—In subsection (c)(6), strike "3" and insert "4", strike "and" after "California,", and insert "and (D) a port on the Great Lakes" after "Louisiana,".

(2) FUNDING.—In subsection (f) strike "21,250,000" and insert "22,000,000" and in subsection (f)(2) strike "2,250,000" and insert "3,000,000".

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.R. 4299:

HOUSE REPORTS: No. 101-748 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 24, considered and passed Senate.

Public Law 101-538
101st Congress

An Act

Nov. 8, 1990
[H.R. 5004]

To amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY OF MILLS RIVER, NORTH CAROLINA.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287) is amended by adding the following new paragraph at the end thereof—

"( ) MILLS RIVER, NORTH CAROLINA.—The North Fork from the bottom of the spillway of the Hendersonville Reservoir downstream to its confluence with the South Fork; the South Fork from its confluence with the Pigeon Branch downstream to its confluence with the North Fork; and the main stem from the confluence of the North and South Forks downstream to a point 750 feet upstream from the centerline of North Carolina Highway 191/280.".

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.R. 5004:

HOUSE REPORTS: No. 101-780 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 24, considered and passed Senate.

Public Law 101-539
101st Congress

An Act

To direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes.

Nov. 8, 1990
[H.R. 5433]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Forests and forest products. Public lands. National parks.

SECTION 1. RELEASE OF CONDITION.

(a) RELEASE.—Notwithstanding section 32(c) of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011(c)), the Secretary of Agriculture is authorized and directed to release the condition that the lands to be exchanged by the State of West Virginia, as specified in subsection (b), be used for public purposes if the State agrees to attach the same condition to other State lands specified in subsection (c).

(b) LANDS DESCRIBED; RELEASE OF CONDITION.—The Secretary shall release the condition referred to in subsection (a) only with respect to that portion of the lands conveyed by the deed dated April 22, 1954, to the Conservation Commission of West Virginia (recorded in Webster County, West Virginia Deed Book 118, page 4) that is to be exchanged by the State of West Virginia for lands from the Sun Lumber Company for addition to Holy River State Park. The lands to be conveyed by the State are more particularly described in documents on file with the Chief of the Forest Service entitled "Description of 410.0± Acre Tract Being a Part of Tract Number 218"; "Description of 16.0± Acres"; and "Description of 208.4± Acres".

(c) ATTACHMENT OF CONDITION.—The State land to which the condition is to be attached under subsection (a) is the tract of land in Webster County, West Virginia more particularly described in documents on file with the Chief of the Forest Service entitled "Description of 18.7± Acres"; "Description of 43.2± Acres"; "Description of 133.3± Acres"; and "Description of 401.4± Acres".

SEC. 2. VENTANA LAND EXCHANGE.

Wilderness areas. 16 USC 1132 note.

(a) MAP.—The map entitled "New Los Padres Reservoir Expansion Project—Forest and Wilderness Boundary Adjustment—Los Padres National Forest" dated September 1989 (hereafter in this section referred to as the "map") shall describe the lands for which exchanges and other actions are authorized by this section. The map shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, District of Columbia.

(b) BOUNDARIES.—Upon completion of the exchange, the boundaries of the Ventana Wilderness and Los Padres National Forest are hereby modified as necessary to accommodate the land exchange authorized by this section.

California. Water supply.

(c) GENERAL AUTHORITY.—Subject to valid existing rights, the Secretary of Agriculture is authorized and directed to offer for exchange to the California-American Water Company the lands

comprising Parcel A and to receive, in exchange for Parcel A, all right, title and interest in Parcel B, as generally depicted on the map. The title to Parcel B shall be in the California-American Water Company and the title conveyed in the exchange shall be by general warranty deed and shall be otherwise acceptable to the Secretary of Agriculture. Such exchange is deemed to be an equal value exchange. Nothing in this section shall preclude the Secretary from exchanging Parcel A to the California-American Water Company in exchange for other lands utilizing existing exchange authorities in the event that the California-American Water Company does not acquire title to Parcel B.

(d) MANAGEMENT.—Upon acquisition by the United States, Parcel B shall be thereafter managed as National Forest Wilderness and shall be withdrawn from all forms of location and entry under the mining and mineral leasing laws and from the geothermal leasing laws.

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.R. 5433:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 24, considered and passed Senate.

Public Law 101-540
101st Congress

An Act

To amend title I of the Employee Retirement Income Security Act of 1974 to require qualifying employer securities to include interest in publicly traded partnerships.

Nov. 8, 1990
[H.R. 5872]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. QUALIFYING EMPLOYER SECURITY TO INCLUDE INTEREST IN PUBLICLY TRADED PARTNERSHIPS.

Paragraph (5) of section 407(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107(d)(5)) is amended to read as follows:

"(5) The term 'qualifying employer security' means an employer security which is—

"(A) stock,

"(B) a marketable obligation (as defined in subsection (e)), or

"(C) an interest in a publicly traded partnership (as defined in section 7704(b) of the Internal Revenue Code of 1986), but only if such partnership is an existing partnership as defined in section 10211(c)(2)(A) of the Revenue Act of 1987 (Public Law 100-203).

After December 17, 1987, in the case of a plan other than an eligible individual account plan, an employer security described in subparagraph (A) or (C) shall be considered a qualifying employer security only if such employer security satisfies the requirements of subsection (f)(1).".

SEC. 2. EFFECTIVE DATE.

29 USC 1107 note.

The amendment made by section 1 shall apply to interests in publicly traded partnerships acquired before, on, or after January 1, 1987.

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.R. 5872:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 22, considered and passed House.
Oct. 24, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 8, Presidential statement.

Public Law 101-541
101st Congress

Joint Resolution

Nov. 8, 1990
[H.J. Res. 649]

Approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia.

19 USC 2434 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the extension of nondiscriminatory treatment with respect to the products of Czechoslovakia transmitted by the President to the Congress on September 6, 1990.

Approved November 8, 1990.

LEGISLATIVE HISTORY—H.J. Res. 649 (S.J. Res. 361):

HOUSE REPORTS: No. 101-773 (Comm. on Ways and Means).
SENATE REPORTS: No. 101-537 accompanying S.J. Res. 361 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 17, considered and passed House.
Oct. 24, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 8, Presidential statement.

Public Law 101-542
101st Congress

An Act

To require institutions of higher education receiving Federal financial assistance to provide certain information with respect to the graduation rates of student-athletes at such institutions.

Nov. 8, 1990
[S. 580]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Student Right-To-Know and Campus Security Act. 20 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Student Right-To-Know and Campus Security Act".

TITLE I—STUDENT RIGHT-TO-KNOW

Student Right-To-Know Act. 20 USC 1001 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Student Right-To-Know Act".

20 USC 1092 note.

SEC. 102. FINDINGS.

The Congress finds that—

(1) education is fundamental to the development of individual citizens and the progress of the Nation as a whole;

(2) there is increasing concern among citizens, educators, and public officials regarding the academic performance of students at institutions of higher education;

(3) a recent study by the National Institute of Independent Colleges and Universities found that just 43 percent of students attending 4-year public colleges and universities and 54 percent of students entering private institutions graduated within 6 years of enrolling;

(4) the academic performance of student athletes, especially student athletes receiving football and basketball scholarships, has been a source of great concern in recent years;

(5) more than 10,000 athletic scholarships are provided annually by institutions of higher education;

(6) prospective students and prospective student athletes should be aware of the educational commitments of an institution of higher education; and

(7) knowledge of graduation rates would help prospective students and prospective student athletes make an informed judgment about the educational benefits available at a given institution of higher education.

SEC. 103. ADDITIONAL GENERAL DISCLOSURE REQUIREMENTS RELATING TO COMPLETION OR GRADUATION.

(a) DISCLOSURE OF COMPLETION OR GRADUATION RATES.—Section 485(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(1)) (in this Act referred to as the "Act") is amended—

(1) by striking "and" at the end of subparagraph (J);

(2) by striking the period at the end of subparagraph (K) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(L) the completion or graduation rate of certificate- or degree-seeking, full-time students entering such institutions.".

(b) CONSTRUCTION OF DISCLOSURE REQUIREMENTS.—Section 485(a) of such Act (42 U.S.C. 1092(a)) is further amended by inserting after paragraph (2) the following new paragraph:

"(3) In calculating the completion or graduation rate under subparagraph (L) of paragraph (1) of this subsection or under subsection (e), a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation. The information required to be disclosed under such subparagraph—

"(A) shall be available beginning on July 1, 1993, and each year thereafter to current and prospective students prior to enrolling or entering into any financial obligation;

"(B) shall cover the one-year period ending on June 30 of the preceding year; and

"(C) shall be updated not less than biennially.

"(4) For purposes of this section, institutions may exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.".

(c) ANALYSIS OF POTENTIAL INSTITUTIONAL OUTCOMES.—(1) In conjunction with representatives of institutions of higher education, the Secretary shall analyze the feasibility and desirability of making available to students and potential students—

(A) the completion or graduation rate of individuals at an institution broken down by program or field of study;

(B) the completion or graduation rate of an institution reported by individual schools or academic divisions within the institution;

(C) the rate at which individuals who complete or graduate from the program of an institution pass applicable licensure or certification examinations required for employment in a particular vocation, trade, or professional field;

(D) the rate at which individuals who complete or graduate from an occupationally specific program and who enter the labor market following completion of or graduation from such a program obtain employment in the occupation for which they are trained; and

(E) other institutional outcomes that may be appropriate.

(2) In calculating the completion or graduation rate under paragraph (1), a student shall be counted as a completion or graduation if, within 150 percent of the normal time for completion of or graduation from the program, the student has completed or graduated from the program, or enrolled in any program of an eligible institution for which the prior program provides substantial preparation.

(d) REPORT.—The Secretary shall submit a report to the appropriate committees of Congress before August 1, 1991 on the analysis conducted pursuant to subsection (c).

SEC. 104. REPORTING REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) AMENDMENT.—Section 485 of the Act (20 U.S.C. 1092) (as amended by section 103) is further amended by adding at the end thereof the following new subsection:

"(e) DISCLOSURES REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—(1) Each institution of higher education which participates in any program under this title and is attended by students receiving athletically related student aid shall annually submit a report to the Secretary which contains—

"(A) the number of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track, and all other sports combined;

"(B) the number of students at the institution of higher education, broken down by race and sex;

"(C) the completion or graduation rate for students at the institution of higher education who received athletically related student aid broken down by race and sex in the following sports: basketball, football, baseball, cross country/track and all other sports combined;

"(D) the completion or graduation rate for students at the institution of higher education, broken down by race and sex;

"(E) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education who received athletically related student aid broken down by race and sex in the following categories: basketball, football, baseball, cross country/track, and all other sports combined; and

"(F) the average completion or graduation rate for the 4 most recent completing or graduating classes of students at the institution of higher education broken down by race and sex.

"(2) When an institution described in paragraph (1) of this subsection offers a potential student athlete athletically related student aid, such institution shall provide to the student and his parents, his guidance counselor, and coach the information contained in the report submitted by such institution pursuant to paragraph (1).

"(3) For purposes of this subsection, institutions may exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the armed services, on official church missions, or with a recognized foreign aid service of the Federal Government.

"(4) Each institution of higher education described in paragraph (1) may provide supplemental information to students and the Secretary showing the completion or graduation rate when such completion or graduation rate includes students transferring into and out of such institution.

"(5) The Secretary, using the reports submitted under this subsection, shall compile and publish a report containing the information required under paragraph (1) broken down by—

"(A) individual institutions of higher education; and

"(B) athletic conferences recognized by the National Collegiate Athletic Association and the National Association of Intercollegiate Athletics.

"(6) The Secretary shall waive the requirements of this subsection for any institution of higher education that is a member of an athletic association or athletic conference that has voluntarily published completion or graduation rate data or has agreed to publish data that, in the opinion of the Secretary, is substantially comparable to the information required under this subsection.

"(7) The Secretary, in conjunction with the National Junior College Athletic Association, shall develop and obtain data on completion or graduation rates from two-year colleges that award athletically related student aid. Such data shall, to the extent practicable, be consistent with the reporting requirements set forth in this section.

"(8) For purposes of this subsection, the term 'athletically related student aid' means any scholarship, grant, or other form of financial assistance the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive such assistance.".

20 USC 1092 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect July 1, 1992, except that the first report to the Secretary of Education shall be due on July 1, 1993.

SEC. 105. ANALYSIS OF ATHLETIC ACTIVITY REVENUES.

(a) IN GENERAL.—The Secretary, in conjunction with institutions of higher education and collegiate athletic associations, shall analyze the feasibility of and make recommendations regarding a requirement that institutions of higher education compile and report on the revenues derived and expenditures made (per sport) by such institutions' athletic department and intercollegiate athletic activities.

(b) REPORTS.—The Secretary shall prepare a report on the activities described in subsection (a) and transmit such report to the appropriate committees of Congress before April 1, 1991.

Crime Awareness and Campus Security Act of 1990.

TITLE II—CRIME AWARENESS AND CAMPUS SECURITY

20 USC 1001 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Crime Awareness and Campus Security Act of 1990".

20 USC 1092 note.

SEC. 202. FINDINGS.

The Congress finds that—

(1) the reported incidence of crime, particularly violent crime, on some college campuses has steadily risen in recent years;

(2) although annual "National Campus Violence Surveys" indicate that roughly 80 percent of campus crimes are committed by a student upon another student and that approximately 95 percent of the campus crimes that are violent are alcohol- or drug-related, there are currently no comprehensive data on campus crimes;

(3) out of 8,000 postsecondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics directly through the Uniform Crime Report of the Federal Bureau of Investigation, and other institutions report data indirectly, through local police

agencies or States, in a manner that does not permit campus statistics to be separated;

(4) several State legislatures have adopted or are considering legislation to require reporting of campus crime statistics and dissemination of security practices and procedures, but the bills are not uniform in their requirements and standards;

(5) students and employees of institutions of higher education should be aware of the incidence of crime on campus and policies and procedures to prevent crime or to report occurrences of crime;

(6) applicants for enrollment at a college or university, and their parents, should have access to information about the crime statistics of that institution and its security policies and procedures; and

(7) while many institutions have established crime preventive measures to increase the safety of campuses, there is a clear need—

(A) to encourage the development on all campuses of security policies and procedures;

(B) for uniformity and consistency in the reporting of crimes on campus; and

(C) to encourage the development of policies and procedures to address sexual assaults and racial violence on college campuses.

SEC. 203. DISCLOSURE OF DISCIPLINARY PROCEEDING OUTCOMES TO CRIME VICTIMS.

Section 438(b) of the General Education Provisions Act (20 U.S.C. 1232g(b)) is amended by adding at the end thereof the following new paragraph:

"(6) Nothing in this section shall be construed to prohibit an institution of postsecondary education from disclosing, to an alleged victim of any crime of violence (as that term is defined in section 16 of title 18, United States Code), the results of any disciplinary proceeding conducted by such institution against the alleged perpetrator of such crime with respect to such crime.".

SEC. 204. DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.

(a) DISCLOSURE REQUIREMENTS.—Section 485 of the Act (20 U.S.C. 1092) (as amended by sections 103 and 104) is further amended by adding at the end thereof the following new subsection:

"(f) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—(1) Each eligible institution participating in any program under this title shall on September 1, 1991, begin to collect the following information with respect to campus crime statistics and campus security policies of that institution, and beginning September 1, 1992, and each year thereafter, prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report containing at least the following information with respect to the campus security policies and campus crime statistics of that institution: Reports.

"(A) A statement of current campus policies regarding procedures and facilities for students and others to report criminal actions or other emergencies occurring on campus and policies concerning the institution's response to such reports.

"(B) A statement of current policies concerning security and access to campus facilities, including campus residences, and security considerations used in the maintenance of campus facilities.

"(C) A statement of current policies concerning campus law enforcement, including—

"(i) the enforcement authority of security personnel, including their working relationship with State and local police agencies; and

"(ii) policies which encourage accurate and prompt reporting of all crimes to the campus police and the appropriate police agencies.

"(D) A description of the type and frequency of programs designed to inform students and employees about campus security procedures and practices and to encourage students and employees to be responsible for their own security and the security of others.

"(E) A description of programs designed to inform students and employees about the prevention of crimes.

"(F) Statistics concerning the occurrence on campus, during the most recent school year, and during the 2 preceding school years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) rape;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.

"(G) A statement of policy concerning the monitoring and recording through local police agencies of criminal activity at off-campus student organizations which are recognized by the institution and that are engaged in by students attending the institution, including those student organizations with off-campus housing facilities.

"(H) Statistics concerning the number of arrests for the following crimes occurring on campus:

"(i) liquor law violations;

"(ii) drug abuse violations; and

"(iii) weapons possessions.

Alcohol and alcoholic beverages.
Drugs.

"(I) A statement of policy regarding the possession, use, and sale of alcoholic beverages and enforcement of State underage drinking laws and a statement of policy regarding the possession, use, and sale of illegal drugs and enforcement of Federal and State drug laws and a description of any drug or alcohol abuse education programs as required under section 1213 of this Act.

"(2) Nothing in this subsection shall be construed to authorize the Secretary to require particular policies, procedures, or practices by institutions of higher education with respect to campus crimes or campus security.

Reports.

"(3) Each institution participating in any program under this title shall make timely reports to the campus community on crimes considered to be a threat to other students and employees described in paragraph (1)(F) that are reported to campus security or local law police agencies. Such reports shall be provided to students and

employees in a manner that is timely and that will aid in the prevention of similar occurrences.

"(4) Upon the request of the Secretary, each institution participating in any program under this title shall submit to the Secretary a copy of the statistics required to be made available under paragraphs (1)(F) and (1)(H). The Secretary shall—

"(A) review such statistics and report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate on campus crime statistics by September 1, 1995; and Reports.

"(B) in coordination with representatives of institutions of higher education, identify exemplary campus security policies, procedures, and practices and disseminate information concerning those policies, procedures, and practices that have proven effective in the reduction of campus crime.

"(5)(A) For purposes of this subsection, the term 'campus' includes—

"(i) any building or property owned or controlled by the institution of higher education within the same reasonably contiguous geographic area and used by the institution in direct support of, or related to its educational purposes; or

"(ii) any building or property owned or controlled by student organizations recognized by the institution.

"(B) In cases where branch campuses of an institution of higher education, schools within an institution of higher education, or administrative divisions within an institution are not within a reasonably contiguous geographic area, such entities shall be considered separate campuses for purposes of the reporting requirements of this section.

"(6) The statistics described in paragraphs (1)(F) and (1)(H) shall be compiled in accordance with the definitions used in the uniform crime reporting system of the Department of Justice, Federal Bureau of Investigation, and the modifications in such definitions as implemented pursuant to the Hate Crime Statistics Act.".

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on September 1, 1991, except that the requirement of section 485(f)(1) (F) and (H) of the Higher Education Act of 1965 (as added by this section) shall be applied to require statistics with respect to school years preceding the date of enactment of this Act only to the extent that data concerning such years is reasonably available. 20 USC 1092 note.

SEC. 205. PROGRAM PARTICIPATION AGREEMENT REQUIREMENTS.

Section 487(a) of the Act (20 U.S.C. 1094(a)) is amended by adding at the end thereof the following new paragraph:

"(12) The institution certifies that—

"(A) the institution has established a campus security policy; and

"(B) the institution has complied with the disclosure requirements of section 485(f).".

TITLE III—CALCULATION OF DEFAULT RATES

SEC. 301. CALCULATION OF DEFAULT RATES.

Section 435 of the Act (20 U.S.C. 1085) is amended—

(1) in subsection (l), by striking out "The term" and inserting in lieu thereof "Except as provided in subsection (m), the term"; and

Loan programs. Insurance.

(2) in subsection (m), by inserting immediately after the first sentence the following: "In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.".

TITLE IV—CONFORMING REGULATIONS

SEC. 401. CONFORMING REGULATIONS.

20 USC 1092 note.

(a) IN GENERAL.—The Secretary is authorized to issue regulations to carry out the provisions of this Act.

(b) SUSPENSION.—Subparagraphs (c) through (f) of section 668.44 of title 34, Code of Federal Regulations, are suspended.

Approved November 8, 1990.

LEGISLATIVE HISTORY—S. 580 (H.R. 1454):

HOUSE REPORTS: No. 101-518 accompanying H.R. 1454 (Comm. on Education and Labor) and No. 101-883 (Comm. of Conference).
SENATE REPORTS: No. 101-209 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 22, considered and passed Senate.
June 5, H.R. 1454 considered and passed House; S. 580, amended, passed in lieu.
Sept. 13, Senate concurred in House amendment with an amendment.
Oct. 22, House agreed to conference report.
Oct. 24, Senate agreed to conference report.

Public Law 101-543
101st Congress

An Act

To provide for the preservation and interpretation of sites associated with Acadian culture in the State of Maine.

Nov. 8, 1990
[S. 1756]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maine Acadian Culture Preservation Act.

SECTION 1. SHORT TITLE.

16 USC 461 note.

This Act may be cited as the "Maine Acadian Culture Preservation Act".

SEC. 2. PURPOSES.

16 USC 461 note.

The purposes of this Act are to—

(1) recognize an important contribution made to American culture and history by the Acadian immigrants from France who settled in Nova Scotia and, following expulsion by the British in 1755, resettled in various North American colonies, including the territory that eventually became the State of Maine;

(2) assist local and State governments and other public and private entities in the State of Maine in interpreting the story of the State's Acadian settlers and their descendants as well as preserving Acadian music, arts, crafts, and folklore; and

(3) assist in identifying, gathering, and preserving sites, historical data, artifacts, and objects associated with the Acadians in Maine for the benefit and education of the public.

SEC. 3. MAINE ACADIAN CULTURE PRESERVATION COMMISSION.

16 USC 461 note.

(a) ESTABLISHMENT.—There is hereby established the Maine Acadian Culture Preservation Commission (hereafter in this Act referred to as the "Commission"), which shall consist of 11 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") not later than 6 months after the date of enactment of this Act, as follows:

(1) One member, who shall serve as Chair, appointed from among recommendations submitted by the Governor of the State of Maine.

(2) One member appointed from among recommendations submitted by the Speaker of the House of Representatives of the State of Maine.

(3) One member appointed from among recommendations submitted by the President of the Senate of the State of Maine.

(4) One member appointed from among recommendations submitted by the Chancellor of the University of Maine System.

(5) Three members appointed from among recommendations submitted by State and local historic, cultural or historic preservation organizations.

(6) Four members who are nationally recognized experts in fields of history, historic preservation, anthropology, and folklore, appointed by the Secretary.

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(b) TERMS.—(1) Members of the Commission shall be appointed for terms not to exceed 3 years.

(2) The Secretary may stagger the terms of initial appointments to the Commission in order to assure continuity in operation.

(3) Any member of the Commission may serve after the expiration of his or her term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(c) VOTING.—The Commission shall act and advise by affirmative vote of a majority of its members.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) EXEMPTION FROM CHARTER RENEWAL REQUIREMENTS.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) TERMINATION.—The Commission shall terminate 10 years from the date of enactment of this Act.

(g) SUPPORT.—The Director of the National Park Service is authorized to provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

16 USC 461 note.

SEC. 4. DUTIES OF THE COMMISSION.

The Commission shall advise the Secretary with respect to—

(1) the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 6; and

(2) the development and implementation of an interpretive program of the Acadian culture in the State of Maine pursuant to section 7(d).

16 USC 461 note.

SEC. 5. STUDY.

Within 1 year after the date of enactment of this Act, the Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a comprehensive study of Acadian culture in Maine.

16 USC 461 note.

SEC. 6. COOPERATIVE AGREEMENTS.

(a) IN GENERAL.—In furtherance of the purposes of this Act, the Secretary is authorized, after consultation with the Commission, to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance associated with the Acadian people in the State of Maine, pursuant to which agreements the Secretary may mark, interpret, restore, and provide technical assistance for the preservation of such properties and pursuant to which the Secretary may provide assistance, including management services and program implementation.

(b) RIGHT OF ACCESS.—Each cooperative agreement shall provide that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by the agreement for the purpose of conducting visitors through such properties and interpreting them to the public. Public lands.

(c) ALTERATION OF PROPERTIES.—Each cooperative agreement shall provide that no changes or alterations shall be made in the property covered by the agreement except by mutual agreement between the Secretary and the other party to the agreement.

SEC. 7. ACADIAN CULTURAL CENTER. 16 USC 461 note.

(a) IN GENERAL.—The Secretary is authorized, after completion of the study required by section 5, to establish a center for the preservation and interpretation of Acadian culture within the State of Maine.

(b) ACQUISITION OF LAND.—The Secretary is authorized to acquire lands and interests therein, not to exceed 20 acres in total, by donation, purchase with donated or appropriated funds, or exchange and to develop, operate, and maintain facilities and to develop and operate programs at the center in furtherance of the purposes of this Act.

(c) OPERATION.—The Secretary may contract with public and private entities for the operation of the center in accordance with program standards approved by the Secretary.

(d) INTERPRETIVE PROGRAM.—In coordination with the Commission, the Secretary shall develop an interpretive program of the Acadian culture in the State of Maine.

(e) STATUTORY AUTHORITY.—The Secretary shall administer properties acquired and cooperative agreements entered into pursuant to this Act in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.) and other statutory authority for the conservation and management of natural, historical, and cultural resources.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS. 16 USC 461 note.

(a) COMMISSION.—For the purposes of carrying out the functions of the Commission, there are authorized to be appropriated such sums as may be necessary, not to exceed $250,000.

(b) OTHER PURPOSES.—(1) To carry out the other purposes of this Act, there are authorized to be appropriated such sums as may be necessary, subject to the limitations of paragraph (2).

(2) With respect to cooperative agreements entered into pursuant to section 6, and the provisions dealing with the Acadian Cultural Center in subsections 7 (a) through (c), the Secretary is authorized to expend not more than 50 percent of the aggregate cost of performing those functions. The remainder of such cost shall be paid by non-Federal funds.

Approved November 8, 1990.

LEGISLATIVE HISTORY—S. 1756:

HOUSE REPORTS: No. 101-742 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-308 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 14, considered and passed Senate.
Sept. 27, considered and passed House, amended.
Oct. 16, Senate concurred in House amendment with amendments.
Oct. 18, House concurred in certain Senate amendments and disagreed to others.
Oct. 23, Senate receded from its amendments.

Public Law 101-544
101st Congress

Joint Resolution

To designate October 30, 1990, as "Refugee Day".

Nov. 8, 1990
[S.J. Res. 375]

Whereas in the past decade the world refugee population has more than doubled from 7,300,000 to 15,000,000;

Whereas the United States has always played a leading role in refugee matters worldwide;

Whereas the origins of the United States as a land of refuge for those escaping persecution and the development of the United States as a nation of immigrants gives the country a deep understanding of and sympathy for the plight of the 15,000,000 refugees in the world;

Whereas refugees who have come to the United States have made significant contributions to the country;

Whereas the United States consistently encourages other countries to expand efforts to help the needy population of refugees;

Whereas the current world refugee situation requires that the United States continue to be a leader in refugee affairs: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 30, 1990, is designated as "Refugee Day"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved November 8, 1990.

LEGISLATIVE HISTORY—S.J. Res. 375 (H.J. Res. 653):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, H.J. Res. 653 considered and passed House.
Oct. 25, S.J. Res. 375 considered and passed Senate.
Oct. 26, considered and passed House.

49-139 O - 90 (544)

Public Law 101-545
101st Congress

An Act

Nov. 14, 1990
[H.R. 5007]

To designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, is designated as the "Robert McClory Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Robert McClory Post Office Building".

Approved November 14, 1990.

LEGISLATIVE HISTORY—H.R. 5007 (S. 3108):

HOUSE REPORTS: No. 101-756 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 9, S. 3108 considered and passed Senate.
Oct. 27, H.R. 5007 considered and passed Senate.

49-139 O - 90 (545)

Public Law 101-546
101st Congress

An Act

To designate the Post Office building at 222 West Center Street, in Orem, Utah, as the "Arthur V. Watkins Post Office Building".

Nov. 14, 1990
[H.R. 5409]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Post Office located at 222 West Center Street, in Orem, Utah, shall hereafter be known and designated as the "Arthur V. Watkins Post Office Building". Any reference in a law, regulation, map, document, record, or other paper of the United States to that building shall be deemed to be a reference to the Arthur V. Watkins Post Office Building.

Approved November 14, 1990.

LEGISLATIVE HISTORY—H.R. 5409:

HOUSE REPORTS: No. 101-757 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 25, considered and passed Senate.

49-139 O - 90 (546)

Public Law 101-547
101st Congress
Joint Resolution

Nov. 14, 1990
[H.J. Res. 673]

To designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families.

Whereas the United States has responded decisively to the crisis in the Middle East created by the invasion and occupation of Kuwait by Iraqi military forces, the threat of Iraqi aggression against Saudi Arabia and other countries, and the unlawful hostage-taking by Iraqi military forces;

Whereas President Bush, in order to preserve international order and protect American interests and lives in the Middle East, has deployed American military forces to counter Iraqi aggression;

Whereas American civilian reservists called to active duty are making great personal sacrifices to serve in the Middle East and, like other American military forces serving there, are at great personal risk;

Whereas those taken hostage by Iraqi military forces are in daily danger;

Whereas families of American military and civilian personnel serving in the Middle East face terrible anxiety;

Whereas a strong majority of Americans support the deployment of American military forces by President Bush in the Middle East, and all Americans hope that a just outcome may be reached in the Middle East without war;

Whereas Americans are willing to accept sacrifices resulting from the use of military force, fight armed aggression, defend national interests, and protect the lives and welfare of American citizens; and

Whereas Americans have traditionally recognized that military strength alone is not sufficient, and now should also trust in Providence, and remembering that, according to the Scriptures, "unless the Lord keeps the city, the watchman worketh but in vain": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) it is the sense of the Congress that the President should declare November 2, 1990, a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families;

(2) all Americans should pray for President Bush, his advisors, the leaders of American military forces in the Middle East, and the leaders of other countries which have deployed military forces in the Middle East to stop Iraqi aggression, that they retain the wisdom and courage to bring about a just resolution to the Middle East crisis;

(3) all Americans should pray for Iraqi President Hussein, his advisors, and the leaders of the Iraqi military forces, that they remove their military forces from Kuwait, release all hostages

unharmed from their current captivity, resist further acts of aggression against other countries, meet the conditions of applicable United Nations resolutions, and act prudently in the furtherance of peace; and

(4) all Americans should observe such day in prayer and meditation at churches, in groups, and as individuals.

Approved November 14, 1990.

LEGISLATIVE HISTORY—H.J. Res. 673:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-548
101st Congress

An Act

Nov. 14, 1990
[S. 3156]

To correct a clerical error in Public Law 101-383.

Petroleum and petroleum products.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLERICAL AMENDMENT.

Section 160(g)(7) of the Energy Policy and Conservation Act, added by section 7 of the Energy Policy and Conservation Act Amendments of 1990 (Public Law 101-383), is amended by inserting "with regard to future storage of refined petroleum products and" after "recommendations".

Ante, p. 734.

Approved November 14, 1990.

LEGISLATIVE HISTORY—S. 3156:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 3, considered and passed Senate.
Oct. 26, considered and passed House.

49-139 O - 90 (548)

Public Law 101-549
101st Congress

An Act

To amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.

Nov. 15, 1990
[S. 1630]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Air pollution control.

TITLE I—PROVISIONS FOR ATTAINMENT AND MAINTENANCE OF NATIONAL AMBIENT AIR QUALITY STANDARDS

Sec. 101. General planning requirements.
Sec. 102. General provisions for nonattainment areas.
Sec. 103. Additional provisions for ozone nonattainment areas.
Sec. 104. Additional provisions for carbon monoxide nonattainment areas.
Sec. 105. Additional provisions for particulate matter (PM-10) nonattainment areas.
Sec. 106. Additional provisions for areas designated nonattainment for sulfur oxides, nitrogen dioxide, and lead.
Sec. 107. Provisions related to Indian tribes.
Sec. 108. Miscellaneous provisions.
Sec. 109. Interstate pollution.
Sec. 110. Conforming amendments.
Sec. 111. Transportation system impacts on clean air.

SEC. 101. GENERAL PLANNING REQUIREMENTS.

Intergovernmental relations.

(a) AREA DESIGNATIONS.—Section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) is amended to read as follows:

"(d) DESIGNATIONS.—

"(1) DESIGNATIONS GENERALLY.—

"(A) SUBMISSION BY GOVERNORS OF INITIAL DESIGNATIONS FOLLOWING PROMULGATION OF NEW OR REVISED STANDARDS.—By such date as the Administrator may reasonably require, but not later than 1 year after promulgation of a new or revised national ambient air quality standard for any pollutant under section 109, the Governor of each State shall (and at any other time the Governor of a State deems appropriate the Governor may) submit to the Administrator a list of all areas (or portions thereof) in the State, designating as—

"(i) nonattainment, any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the national primary or secondary ambient air quality standard for the pollutant,

"(ii) attainment, any area (other than an area identified in clause (i)) that meets the national primary or secondary ambient air quality standard for the pollutant, or

"(iii) unclassifiable, any area that cannot be classified on the basis of available information as meeting or not

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meeting the national primary or secondary ambient air quality standard for the pollutant.

The Administrator may not require the Governor to submit the required list sooner than 120 days after promulgating a new or revised national ambient air quality standard.

"(B) PROMULGATION BY EPA OF DESIGNATIONS.—(i) Upon promulgation or revision of a national ambient air quality standard, the Administrator shall promulgate the designations of all areas (or portions thereof) submitted under subparagraph (A) as expeditiously as practicable, but in no case later than 2 years from the date of promulgation of the new or revised national ambient air quality standard. Such period may be extended for up to one year in the event the Administrator has insufficient information to promulgate the designations.

"(ii) In making the promulgations required under clause (i), the Administrator may make such modifications as the Administrator deems necessary to the designations of the areas (or portions thereof) submitted under subparagraph (A) (including to the boundaries of such areas or portions thereof). Whenever the Administrator intends to make a modification, the Administrator shall notify the State and provide such State with an opportunity to demonstrate why any proposed modification is inappropriate. The Administrator shall give such notification no later than 120 days before the date the Administrator promulgates the designation, including any modification thereto. If the Governor fails to submit the list in whole or in part, as required under subparagraph (A), the Administrator shall promulgate the designation that the Administrator deems appropriate for any area (or portion thereof) not designated by the State.

"(iii) If the Governor of any State, on the Governor's own motion, under subparagraph (A), submits a list of areas (or portions thereof) in the State designated as nonattainment, attainment, or unclassifiable, the Administrator shall act on such designations in accordance with the procedures under paragraph (3) (relating to redesignation).

"(iv) A designation for an area (or portion thereof) made pursuant to this subsection shall remain in effect until the area (or portion thereof) is redesignated pursuant to paragraph (3) or (4).

"(C) DESIGNATIONS BY OPERATION OF LAW.—(i) Any area designated with respect to any air pollutant under the provisions of paragraph (1) (A), (B), or (C) of this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as a nonattainment area for such pollutant within the meaning of subparagraph (A)(i).

"(ii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(E) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated by operation of law, as an attainment area for such pollutant within the meaning of subparagraph (A)(ii).

"(iii) Any area designated with respect to any air pollutant under the provisions of paragraph (1)(D) (as in effect

immediately before the date of the enactment of the Clean Air Act Amendments of 1990) is designated, by operation of law, as an unclassifiable area for such pollutant within the meaning of subparagraph (A)(iii).

"(2) PUBLICATION OF DESIGNATIONS AND REDESIGNATIONS.—(A) The Administrator shall publish a notice in the Federal Register promulgating any designation under paragraph (1) or (5), or announcing any designation under paragraph (4), or promulgating any redesignation under paragraph (3). Federal Register, publication.

"(B) Promulgation or announcement of a designation under paragraph (1), (4) or (5) shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (relating to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible.

"(3) REDESIGNATION.—(A) Subject to the requirements of subparagraph (E), and on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate, the Administrator may at any time notify the Governor of any State that available information indicates that the designation of any area or portion of an area within the State or interstate area should be revised. In issuing such notification, which shall be public, to the Governor, the Administrator shall provide such information as the Administrator may have available explaining the basis for the notice.

"(B) No later than 120 days after receiving a notification under subparagraph (A), the Governor shall submit to the Administrator such redesignation, if any, of the appropriate area (or areas) or portion thereof within the State or interstate area, as the Governor considers appropriate.

"(C) No later than 120 days after the date described in subparagraph (B) (or paragraph (1)(B)(iii)), the Administrator shall promulgate the redesignation, if any, of the area or portion thereof, submitted by the Governor in accordance with subparagraph (B), making such modifications as the Administrator may deem necessary, in the same manner and under the same procedure as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with subparagraph (B), a redesignation for an area (or portion thereof) identified by the Administrator under subparagraph (A), the Administrator shall promulgate such redesignation, if any, that the Administrator deems appropriate.

"(D) The Governor of any State may, on the Governor's own motion, submit to the Administrator a revised designation of any area or portion thereof within the State. Within 18 months of receipt of a complete State redesignation submittal, the Administrator shall approve or deny such redesignation. The submission of a redesignation by a Governor shall not affect the effectiveness or enforceability of the applicable implementation plan for the State.

"(E) The Administrator may not promulgate a redesignation of a nonattainment area (or portion thereof) to attainment unless—

"(i) the Administrator determines that the area has attained the national ambient air quality standard;

"(ii) the Administrator has fully approved the applicable implementation plan for the area under section 110(k);

"(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

"(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and

"(v) the State containing such area has met all requirements applicable to the area under section 110 and part D.

"(F) The Administrator shall not promulgate any redesignation of any area (or portion thereof) from nonattainment to unclassifiable.

"(4) NONATTAINMENT DESIGNATIONS FOR OZONE, CARBON MONOXIDE AND PARTICULATE MATTER (PM-10).—

"(A) OZONE AND CARBON MONOXIDE.—(i) Within 120 days after the date of the enactment of the Clean Air Act Amendments of 1990, each Governor of each State shall submit to the Administrator a list that designates, affirms or reaffirms the designation of, or redesignates (as the case may be), all areas (or portions thereof) of the Governor's State as attainment, nonattainment, or unclassifiable with respect to the national ambient air quality standards for ozone and carbon monoxide.

"(ii) No later than 120 days after the date the Governor is required to submit the list of areas (or portions thereof) required under clause (i) of this subparagraph, the Administrator shall promulgate such designations, making such modifications as the Administrator may deem necessary, in the same manner, and under the same procedure, as is applicable under clause (ii) of paragraph (1)(B), except that the phrase '60 days' shall be substituted for the phrase '120 days' in that clause. If the Governor does not submit, in accordance with clause (i) of this subparagraph, a designation for an area (or portion thereof), the Administrator shall promulgate the designation that the Administrator deems appropriate.

"(iii) No nonattainment area may be redesignated as an attainment area under this subparagraph.

"(iv) Notwithstanding paragraph (1)(C)(ii) of this subsection, if an ozone or carbon monoxide nonattainment area located within a metropolitan statistical area or consolidated metropolitan statistical area (as established by the Bureau of the Census) is classified under part D of this title as a Serious, Severe, or Extreme Area, the boundaries of such area are hereby revised (on the date 45 days after such classification) by operation of law to include the entire metropolitan statistical area or consolidated metropolitan statistical area, as the case may be, unless within such 45-day period the Governor (in consultation with State and local air pollution control agencies) notifies the Administrator that additional time is necessary to evaluate the

application of clause (v). Whenever a Governor has submitted such a notice to the Administrator, such boundary revision shall occur on the later of the date 8 months after such classification or 14 months after the date of the enactment of the Clean Air Act Amendments of 1990 unless the Governor makes the finding referred to in clause (v), and the Administrator concurs in such finding, within such period. Except as otherwise provided in this paragraph, a boundary revision under this clause or clause (v) shall apply for purposes of any State implementation plan revision required to be submitted after the date of the enactment of the Clean Air Act Amendments of 1990.

"(v) Whenever the Governor of a State has submitted a notice under clause (iv), the Governor, in consultation with State and local air pollution control agencies, shall undertake a study to evaluate whether the entire metropolitan statistical area or consolidated metropolitan statistical area should be included within the nonattainment area. Whenever a Governor finds and demonstrates to the satisfaction of the Administrator, and the Administrator concurs in such finding, that with respect to a portion of a metropolitan statistical area or consolidated metropolitan statistical area, sources in the portion do not contribute significantly to violation of the national ambient air quality standard, the Administrator shall approve the Governor's request to exclude such portion from the nonattainment area. In making such finding, the Governor and the Administrator shall consider factors such as population density, traffic congestion, commercial development, industrial development, meteorological conditions, and pollution transport.

"(B) PM-10 DESIGNATIONS.—By operation of law, until redesignation by the Administrator pursuant to paragraph (3)—

"(i) each area identified in 52 Federal Register 29383 (Aug. 7, 1987) as a Group I area (except to the extent that such identification was modified by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990) is designated nonattainment for PM-10;

"(ii) any area containing a site for which air quality monitoring data show a violation of the national ambient air quality standard for PM-10 before January 1, 1989 (as determined under part 50, appendix K of title 40 of the Code of Federal Regulations) is hereby designated nonattainment for PM-10; and

"(iii) each area not described in clause (i) or (ii) is hereby designated unclassifiable for PM-10.

Any designation for particulate matter (measured in terms of total suspended particulates) that the Administrator promulgated pursuant to this subsection (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall remain in effect for purposes of implementing the maximum allowable increases in concentrations of particulate matter (measured in terms of total suspended particulates) pursuant to section 163(b), until the Administrator determines that such designation is no longer necessary for that purpose.

"(5) DESIGNATIONS FOR LEAD.—The Administrator may, in the Administrator's discretion at any time the Administrator deems appropriate, require a State to designate areas (or portions thereof) with respect to the national ambient air quality standard for lead in effect as of the date of the enactment of the Clean Air Act Amendments of 1990, in accordance with the procedures under subparagraphs (A) and (B) of paragraph (1), except that in applying subparagraph (B)(i) of paragraph (1) the phrase '2 years from the date of promulgation of the new or revised national ambient air quality standard' shall be replaced by the phrase '1 year from the date the Administrator notifies the State of the requirement to designate areas with respect to the standard for lead'.".

(b) GENERAL REQUIREMENTS FOR IMPLEMENTATION PLANS.—Section 110(a)(2) of the Clean Air Act (42 U.S.C. 7410(a)(2)) is amended to read as follows:

"(2) Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public hearing. Each such plan shall—

"(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this Act;

"(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to—

"(i) monitor, compile, and analyze data on ambient air quality, and

"(ii) upon request, make such data available to the Administrator;

"(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D;

"(D) contain adequate provisions—

"(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will—

"(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

"(II) interfere with measures required to be included in the applicable implementation plan for any other State under part C to prevent significant deterioration of air quality or to protect visibility,

"(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement);

"(E) provide (i) necessary assurances that the State (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments

for such purpose) will have adequate personnel, funding, and authority under State (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such implementation plan or portion thereof), (ii) requirements that the State comply with the requirements respecting State boards under section 128, and (iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision;

"(F) require, as may be prescribed by the Administrator—

"(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,

"(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and Reports.

"(iii) correlation of such reports by the State agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection; Public information.

"(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority;

"(H) provide for revision of such plan—

"(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

"(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this Act;

"(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);

"(J) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection);

"(K) provide for—

"(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

"(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;

"(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover—

"(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

"(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V; and

"(M) provide for consultation and participation by local political subdivisions affected by the plan.".

(c) ADDITIONAL PROVISIONS.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended by adding the following at the end thereof:

"(k) ENVIRONMENTAL PROTECTION AGENCY ACTION ON PLAN SUBMISSIONS.—

"(1) COMPLETENESS OF PLAN SUBMISSIONS.—

"(A) COMPLETENESS CRITERIA.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate minimum criteria that any plan submission must meet before the Administrator is required to act on such submission under this subsection. The criteria shall be limited to the information necessary to enable the Administrator to determine whether the plan submission complies with the provisions of this Act.

"(B) COMPLETENESS FINDING.—Within 60 days of the Administrator's receipt of a plan or plan revision, but no later than 6 months after the date, if any, by which a State is required to submit the plan or revision, the Administrator shall determine whether the minimum criteria established pursuant to subparagraph (A) have been met. Any plan or plan revision that a State submits to the Administrator, and that has not been determined by the Administrator (by the date 6 months after receipt of the submission) to have failed to meet the minimum criteria established pursuant to subparagraph (A), shall on that date be deemed by operation of law to meet such minimum criteria.

"(C) EFFECT OF FINDING OF INCOMPLETENESS.—Where the Administrator determines that a plan submission (or part thereof) does not meet the minimum criteria established pursuant to subparagraph (A), the State shall be treated as not having made the submission (or, in the Administrator's discretion, part thereof).

"(2) DEADLINE FOR ACTION.—Within 12 months of a determination by the Administrator (or a determination deemed by operation of law) under paragraph (1) that a State has submitted a plan or plan revision (or, in the Administrator's discretion, part thereof) that meets the minimum criteria established pursuant to paragraph (1), if applicable (or, if those criteria are not applicable, within 12 months of submission of the plan or revision), the Administrator shall act on the submission in accordance with paragraph (3).

"(3) FULL AND PARTIAL APPROVAL AND DISAPPROVAL.—In the case of any submittal on which the Administrator is required to act under paragraph (2), the Administrator shall approve such submittal as a whole if it meets all of the applicable requirements of this Act. If a portion of the plan revision meets all the applicable requirements of this Act, the Administrator may

approve the plan revision in part and disapprove the plan revision in part. The plan revision shall not be treated as meeting the requirements of this Act until the Administrator approves the entire plan revision as complying with the applicable requirements of this Act.

"(4) CONDITIONAL APPROVAL.—The Administrator may approve a plan revision based on a commitment of the State to adopt specific enforceable measures by a date certain, but not later than 1 year after the date of approval of the plan revision. Any such conditional approval shall be treated as a disapproval if the State fails to comply with such commitment.

"(5) CALLS FOR PLAN REVISIONS.—Whenever the Administrator finds that the applicable implementation plan for any area is substantially inadequate to attain or maintain the relevant national ambient air quality standard, to mitigate adequately the interstate pollutant transport described in section 176A or section 184, or to otherwise comply with any requirement of this Act, the Administrator shall require the State to revise the plan as necessary to correct such inadequacies. The Administrator shall notify the State of the inadequacies, and may establish reasonable deadlines (not to exceed 18 months after the date of such notice) for the submission of such plan revisions. Such findings and notice shall be public. Any finding under this paragraph shall, to the extent the Administrator deems appropriate, subject the State to the requirements of this Act to which the State was subject when it developed and submitted the plan for which such finding was made, except that the Administrator may adjust any dates applicable under such requirements as appropriate (except that the Administrator may not adjust any attainment date prescribed under part D, unless such date has elapsed).

Public information.

"(6) CORRECTIONS.—Whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public.

Public information.

"(l) PLAN REVISIONS.—Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

"(m) SANCTIONS.—The Administrator may apply any of the sanctions listed in section 179(b) at any time (or at any time after) the Administrator makes a finding, disapproval, or determination under paragraphs (1) through (4), respectively, of section 179(a) in relation to any plan or plan item (as that term is defined by the Administrator) required under this Act, with respect to any portion of the State the Administrator determines reasonable and appropriate, for the purpose of ensuring that the requirements of this Act relating to such plan or plan item are met. The Administrator shall, by rule, establish criteria for exercising his authority under the previous

sentence with respect to any deficiency referred to in section 179(a) to ensure that, during the 24-month period following the finding, disapproval, or determination referred to in section 179(a), such sanctions are not applied on a statewide basis where one or more political subdivisions covered by the applicable implementation plan are principally responsible for such deficiency.

"(n) SAVINGS CLAUSES.—

"(1) EXISTING PLAN PROVISIONS.—Any provision of any applicable implementation plan that was approved or promulgated by the Administrator pursuant to this section as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect as part of such applicable implementation plan, except to the extent that a revision to such provision is approved or promulgated by the Administrator pursuant to this Act.

"(2) ATTAINMENT DATES.—For any area not designated nonattainment, any plan or plan revision submitted or required to be submitted by a State—

"(A) in response to the promulgation or revision of a national primary ambient air quality standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990, or

"(B) in response to a finding of substantial inadequacy under subsection (a)(2) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990),

shall provide for attainment of the national primary ambient air quality standards within 3 years of the date of the enactment of the Clean Air Act Amendments of 1990 or within 5 years of issuance of such finding of substantial inadequacy, whichever is later.

"(3) RETENTION OF CONSTRUCTION MORATORIUM IN CERTAIN AREAS.—In the case of an area to which, immediately before the date of the enactment of the Clean Air Act Amendments of 1990, the prohibition on construction or modification of major stationary sources prescribed in subsection (a)(2)(I) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) applied by virtue of a finding of the Administrator that the State containing such area had not submitted an implementation plan meeting the requirements of section 172(b)(6) (relating to establishment of a permit program) (as in effect immediately before the date of enactment of the Clean Air Act Amendments of 1990) or 172(a)(1) (to the extent such requirements relate to provision for attainment of the primary national ambient air quality standard for sulfur oxides by December 31, 1982) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, no major stationary source of the relevant air pollutant or pollutants shall be constructed or modified in such area until the Administrator finds that the plan for such area meets the applicable requirements of section 172(c)(5) (relating to permit programs) or subpart 5 of part D (relating to attainment of the primary national ambient air quality standard for sulfur dioxide), respectively.".

(d) CONFORMING AMENDMENTS.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended as follows:

(1) Strike out subparagraph (A) and subparagraph (D) of section 110(a)(3).

(2) Strike out paragraph (4) of section 110(a).

(3) In subsection (c)—

(A) strike out subparagraph (A) of paragraph (2);

(B) strike out paragraph (2)(C);

(C) strike out paragraph (4); and

(D) in paragraph (5)(B) strike out "(including the written evidence required by part D),".

(4) Strike subsection (d) and in section 302 (42 U.S.C. 7602) add the following new subsection after subsection (p):

"(q) For purposes of this Act, the term 'applicable implementation plan' means the portion (or portions) of the implementation plan, or most recent revision thereof, which has been approved under section 110, or promulgated under section 110(c), or promulgated or approved pursuant to regulations promulgated under section 301(d) and which implements the relevant requirements of this Act.".

(5) strike out subsection (e).

(6) In subsection (g), strike "the required four month period" and insert "12 months of submission of the proposed plan revision".

(7) In subsection (h)—

(A) strike "one year after the date of enactment of the Clean Air Act Amendments of 1977 and annually thereafter" and insert "5 years after the date of the enactment of the Clean Air Act Amendments of 1990, and every 3 years thereafter"; and

(B) strike the second sentence of paragraph (1).

(8) In subsection (a)(1) strike "nine months" each place it appears and insert "3 years (or such shorter period as the Administrator may prescribe)".

(e) FEDERAL FACILITIES.—The second sentence of section 118(a) of the Clean Air Act (42 U.S.C. 7418(a)) is amended to read as follows: "The preceding sentence shall apply (A) to any requirement whether substantive or procedural (including any recordkeeping or reporting requirement, any requirement respecting permits and any other requirement whatsoever), (B) to any requirement to pay a fee or charge imposed by any State or local agency to defray the costs of its air pollution regulatory program, (C) to the exercise of any Federal, State, or local administrative authority, and (D) to any process and sanction, whether enforced in Federal, State, or local courts, or in any other manner.". Reporting and recordkeeping requirements.

(f) CONFORMITY REQUIREMENTS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking "(1)", "(2)", "(3)" and "(4)" where they appear, by inserting "(1)" after "(c)", striking "a plan" each place it appears and inserting in lieu thereof "an implementation plan" each place it appears and by adding the following at the end thereof: "Conformity to an implementation plan means—

"(A) conformity to an implementation plan's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and achieving expeditious attainment of such standards; and

"(B) that such activities will not—

"(i) cause or contribute to any new violation of any standard in any area;

"(ii) increase the frequency or severity of any existing violation of any standard in any area; or

"(iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The determination of conformity shall be based on the most recent estimates of emissions, and such estimates shall be determined from the most recent population, employment, travel and congestion estimates as determined by the metropolitan planning organization or other agency authorized to make such estimates.

Transportation.

"(2) Any transportation plan or program developed pursuant to title 23, United States Code, or the Urban Mass Transportation Act shall implement the transportation provisions of any applicable implementation plan approved under this Act applicable to all or part of the area covered by such transportation plan or program. No Federal agency may approve, accept or fund any transportation plan, program or project unless such plan, program or project has been found to conform to any applicable implementation plan in effect under this Act. In particular—

"(A) no transportation plan or transportation improvement program may be adopted by a metropolitan planning organization designated under title 23, United States Code, or the Urban Mass Transportation Act, or be found to be in conformity by a metropolitan planning organization until a final determination has been made that emissions expected from implementation of such plans and programs are consistent with estimates of emissions from motor vehicles and necessary emissions reductions contained in the applicable implementation plan, and that the plan or program will conform to the requirements of paragraph (1)(B);

"(B) no metropolitan planning organization or other recipient of funds under title 23, United States Code, or the Urban Mass Transportation Act shall adopt or approve a transportation improvement program of projects until it determines that such program provides for timely implementation of transportation control measures consistent with schedules included in the applicable implementation plan;

"(C) a transportation project may be adopted or approved by a metropolitan planning organization or any recipient of funds designated under title 23, United States Code, or the Urban Mass Transportation Act, or found in conformity by a metropolitan planning organization or approved, accepted, or funded by the Department of Transportation only if it meets either the requirements of subparagraph (D) or the following requirements—

"(i) such a project comes from a conforming plan and program;

"(ii) the design concept and scope of such project have not changed significantly since the conformity finding regarding the plan and program from which the project derived; and

"(iii) the design concept and scope of such project at the time of the conformity determination for the program was adequate to determine emissions.

"(D) Any project not referred to in subparagraph (C) shall be treated as conforming to the applicable implementation plan only if it is demonstrated that the projected emissions from such

project, when considered together with emissions projected for the conforming transportation plans and programs within the nonattainment area, do not cause such plans and programs to exceed the emission reduction projections and schedules assigned to such plans and programs in the applicable implementation plan.

"(3) Until such time as the implementation plan revision referred to in paragraph (4)(C) is approved, conformity of such plans, programs, and projects will be demonstrated if— Transportation.

"(A) the transportation plans and programs—

"(i) are consistent with the most recent estimates of mobile source emissions;

"(ii) provide for the expeditious implementation of transportation control measures in the applicable implementation plan; and

"(iii) with respect to ozone and carbon monoxide nonattainment areas, contribute to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

"(B) the transportation projects—

"(i) come from a conforming transportation plan and program as defined in subparagraph (A) or for 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, from a transportation program found to conform within 3 years prior to such date of enactment; and

"(ii) in carbon monoxide nonattainment areas, eliminate or reduce the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

With regard to subparagraph (B)(ii), such determination may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.

"(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria and procedures for determining conformity (except in the case of transportation plans, programs, and projects) of, and for keeping the Administrator informed about, the activities referred to in paragraph (1). No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate criteria and procedures for demonstrating and assuring conformity in the case of transportation plans, programs, and projects. A suit may be brought against the Administrator and the Secretary of Transportation under section 304 to compel promulgation of such criteria and procedures and the Federal district court shall have jurisdiction to order such promulgation. Transportation. Courts.

"(B) The procedures and criteria shall, at a minimum—

"(i) address the consultation procedures to be undertaken by metropolitan planning organizations and the Secretary of Transportation with State and local air quality agencies and State departments of transportation before such organizations and the Secretary make conformity determinations;

"(ii) address the appropriate frequency for making conformity determinations, but in no case shall such determinations for

transportation plans and programs be less frequent than every three years; and

"(iii) address how conformity determinations will be made with respect to maintenance plans.

"(C) Such procedures shall also include a requirement that each State shall submit to the Administrator and the Secretary of Transportation within 24 months of such date of enactment, a revision to its implementation plan that includes criteria and procedures for assessing the conformity of any plan, program, or project subject to the conformity requirements of this subsection.".

SEC. 102. GENERAL PROVISIONS FOR NONATTAINMENT AREAS.

(a) DEFINITIONS.—(1) Part D of title I of the Clean Air Act is amended by inserting immediately after "PART D—PLAN REQUIREMENTS FOR NONATTAINMENT AREAS" the following:

"Subpart 1—Nonattainment Areas in General

"Sec. 171. Definitions.
"Sec. 172. Nonattainment plan provisions.
"Sec. 173. Permit requirements.
"Sec. 174. Planning procedures.
"Sec. 175. Environmental Protection Agency grants.
"Sec. 176. Limitations on certain Federal assistance.
"Sec. 177. New motor vehicle emission standards in nonattainment areas.
"Sec. 178. Guidance documents.".

(2) Section 171 of the Clean Air Act (42 U.S.C. 7501) is amended as follows:

(A) In the introductory language, strike out "and section 110(a)(2)(I)".

(B) Amend paragraph (1) to read as follows:

"(1) REASONABLE FURTHER PROGRESS.—The term 'reasonable further progress' means such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.".

(C) Amend paragraph (2) to read as follows:

"(2) NONATTAINMENT AREA.—The term 'nonattainment area' means, for any air pollutant, an area which is designated 'nonattainment' with respect to that pollutant within the meaning of section 107(d).".

(b) NONATTAINMENT PLAN PROVISIONS IN GENERAL.—Section 172 (42 U.S.C. 7502) of the Clean Air Act is amended to read as follows:

"SEC. 172. NONATTAINMENT PLAN PROVISIONS IN GENERAL.

"(a) CLASSIFICATIONS AND ATTAINMENT DATES.—

"(1) CLASSIFICATIONS.—(A) On or after the date the Administrator promulgates the designation of an area as a nonattainment area pursuant to section 107(d) with respect to any national ambient air quality standard (or any revised standard, including a revision of any standard in effect on the date of the enactment of the Clean Air Act Amendments of 1990), the Administrator may classify the area for the purpose of applying an attainment date pursuant to paragraph (2), and for other purposes. In determining the appropriate classification, if any, for a nonattainment area, the Administrator may consider such factors as the severity of nonattainment in such area and the availability and feasibility of the pollution control measures

that the Administrator believes may be necessary to provide for attainment of such standard in such area.

"(B) The Administrator shall publish a notice in the Federal Register announcing each classification under subparagraph (A), except the Administrator shall provide an opportunity for at least 30 days for written comment. Such classification shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (concerning notice and comment) and shall not be subject to judicial review until the Administrator takes final action under subsection (k) or (l) of section 110 (concerning action on plan submissions) or section 179 (concerning sanctions) with respect to any plan submissions required by virtue of such classification. Federal Register, publication.

"(C) This paragraph shall not apply with respect to nonattainment areas for which classifications are specifically provided under other provisions of this part.

"(2) ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(A) The attainment date for an area designated nonattainment with respect to a national primary ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable, but no later than 5 years from the date such area was designated nonattainment under section 107(d), except that the Administrator may extend the attainment date to the extent the Administrator determines appropriate, for a period no greater than 10 years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures.

"(B) The attainment date for an area designated nonattainment with respect to a secondary national ambient air quality standard shall be the date by which attainment can be achieved as expeditiously as practicable after the date such area was designated nonattainment under section 107(d).

"(C) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the attainment date determined by the Administrator under subparagraph (A) or (B) if—

"(i) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(ii) in accordance with guidance published by the Administrator, no more than a minimal number of exceedances of the relevant national ambient air quality standard has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this subparagraph for a single nonattainment area.

"(D) This paragraph shall not apply with respect to nonattainment areas for which attainment dates are specifically provided under other provisions of this part.

"(b) SCHEDULE FOR PLAN SUBMISSIONS.—At the time the Administrator promulgates the designation of an area as nonattainment with respect to a national ambient air quality standard under section 107(d), the Administrator shall establish a schedule according to which the State containing such area shall submit a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2). Such schedule shall at a minimum, include a date or dates, extending no later than

3 years from the date of the nonattainment designation, for the submission of a plan or plan revision (including the plan items) meeting the applicable requirements of subsection (c) and section 110(a)(2).

"(c) NONATTAINMENT PLAN PROVISIONS.—The plan provisions (including plan items) required to be submitted under this part shall comply with each of the following:

"(1) IN GENERAL.—Such plan provisions shall provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards.

"(2) RFP.—Such plan provisions shall require reasonable further progress.

"(3) INVENTORY.—Such plan provisions shall include a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area, including such periodic revisions as the Administrator may determine necessary to assure that the requirements of this part are met.

"(4) IDENTIFICATION AND QUANTIFICATION.—Such plan provisions shall expressly identify and quantify the emissions, if any, of any such pollutant or pollutants which will be allowed, in accordance with section 173(a)(1)(B), from the construction and operation of major new or modified stationary sources in each such area. The plan shall demonstrate to the satisfaction of the Administrator that the emissions quantified for this purpose will be consistent with the achievement of reasonable further progress and will not interfere with attainment of the applicable national ambient air quality standard by the applicable attainment date.

"(5) PERMITS FOR NEW AND MODIFIED MAJOR STATIONARY SOURCES.—Such plan provisions shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section 173.

"(6) OTHER MEASURES.—Such plan provisions shall include enforceable emission limitations, and such other control measures, means or techniques (including economic incentives such as fees, marketable permits, and auctions of emission rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to provide for attainment of such standard in such area by the applicable attainment date specified in this part.

"(7) COMPLIANCE WITH SECTION 110(a)(2).—Such plan provisions shall also meet the applicable provisions of section 110(a)(2).

"(8) EQUIVALENT TECHNIQUES.—Upon application by any State, the Administrator may allow the use of equivalent modeling, emission inventory, and planning procedures, unless the Administrator determines that the proposed techniques are, in the aggregate, less effective than the methods specified by the Administrator.

"(9) CONTINGENCY MEASURES.—Such plan shall provide for the implementation of specific measures to be undertaken if the

area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part. Such measures shall be included in the plan revision as contingency measures to take effect in any such case without further action by the State or the Administrator.

"(d) PLAN REVISIONS REQUIRED IN RESPONSE TO FINDING OF PLAN INADEQUACY.—Any plan revision for a nonattainment area which is required to be submitted in response to a finding by the Administrator pursuant to section 110(k)(5) (relating to calls for plan revisions) must correct the plan deficiency (or deficiencies) specified by the Administrator and meet all other applicable plan requirements of section 110 and this part. The Administrator may reasonably adjust the dates otherwise applicable under such requirements to such revision (except for attainment dates that have not yet elapsed), to the extent necessary to achieve a consistent application of such requirements. In order to facilitate submittal by the States of adequate and approvable plans consistent with the applicable requirements of this Act, the Administrator shall, as appropriate and from time to time, issue written guidelines, interpretations, and information to the States which shall be available to the public, taking into consideration any such guidelines, interpretations, or information provided before the date of the enactment of the Clean Air Act Amendments of 1990.

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"(e) FUTURE MODIFICATION OF STANDARD.—If the Administrator relaxes a national primary ambient air quality standard after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, within 12 months after the relaxation, promulgate requirements applicable to all areas which have not attained that standard as of the date of such relaxation. Such requirements shall provide for controls which are not less stringent than the controls applicable to areas designated nonattainment before such relaxation.".

(c) NEW SOURCE PERMIT REQUIREMENTS.—Section 173 of the Clean Air Act (42 U.S.C. 7503) is amended as follows:

(1) Strike the center heading and "SEC. 173." and insert:

"SEC. 173. PERMIT REQUIREMENTS.".

(2) Insert "(a) IN GENERAL.—" before the first sentence.

(3) Insert the following after "(1)": "in accordance with regulations issued by the Administrator for the determination of baseline emissions in a manner consistent with the assumptions underlying the applicable implementation plan approved under section 110 and this part,".

(4) Make the following amendments in subparagraph (A) of paragraph (1):

(A) Insert "sufficient offsetting emissions reductions have been obtained, such that" immediately after the comma following "commence operation".

(B) Strike "allowed under the applicable implementation plan" and insert "(as determined in accordance with the regulations under this paragraph)".

(5) Make the following amendments in subparagraph (B) of paragraph (1):

(A) Insert "in the case of a new or modified major stationary source which is located in a zone (within the nonattainment area) identified by the Administrator, in consultation

with the Secretary of Housing and Urban Development, as a zone to which economic development should be targeted," at the beginning thereof.

(B) Strike "172(b)" and insert "172(c)".

(6) Make the following amendments in paragraph (4):

(A) Insert "the Administrator has not determined that" after "(4)".

(B) Strike "being carried out" and insert "not being adequately implemented".

(C) Replace the period at the end thereof with "; and".

(7) Add the following new paragraph after paragraph (4):

"(5) an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.".

(8) Strike "(1)(A) shall be legally binding" in the concluding sentence of subsection (a), as redesignated by this subsection and insert "(1) shall be federally enforceable".

(9) Add a new subsection (b) to read as follows:

"(b) PROHIBITION ON USE OF OLD GROWTH ALLOWANCES.—Any growth allowance included in an applicable implementation plan to meet the requirements of section 172(b)(5) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) shall not be valid for use in any area that received or receives a notice under section 110(a)(2)(H)(ii) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or under section 110(k)(1) that its applicable implementation plan containing such allowance is substantially inadequate.".

(10) Add the following new subsections at the end thereof:

"(c) OFFSETS.—(1) The owner or operator of a new or modified major stationary source may comply with any offset requirement in effect under this part for increased emissions of any air pollutant only by obtaining emission reductions of such air pollutant from the same source or other sources in the same nonattainment area, except that the State may allow the owner or operator of a source to obtain such emission reductions in another nonattainment area if (A) the other area has an equal or higher nonattainment classification than the area in which the source is located and (B) emissions from such other area contribute to a violation of the national ambient air quality standard in the nonattainment area in which the source is located. Such emission reductions shall be, by the time a new or modified source commences operation, in effect and enforceable and shall assure that the total tonnage of increased emissions of the air pollutant from the new or modified source shall be offset by an equal or greater reduction, as applicable, in the actual emissions of such air pollutant from the same or other sources in the area.

"(2) Emission reductions otherwise required by this Act shall not be creditable as emissions reductions for purposes of any such offset requirement. Incidental emission reductions which are not otherwise required by this Act shall be creditable as emission reductions for such purposes if such emission reductions meet the requirements of paragraph (1).

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"(d) CONTROL TECHNOLOGY INFORMATION.—The State shall provide that control technology information from permits issued under this

section will be promptly submitted to the Administrator for purposes of making such information available through the RACT/BACT/LAER clearinghouse to other States and to the general public.

"(e) ROCKET ENGINES OR MOTORS.—The permitting authority of a State shall allow a source to offset by alternative or innovative means emission increases from rocket engine and motor firing, and cleaning related to such firing, at an existing or modified major source that tests rocket engines or motors under the following conditions:

"(1) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on the date of enactment of this subsection.

"(2) The source demonstrates to the satisfaction of the permitting authority of the State that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

"(3) The source has obtained a written finding from the Department of Defense, Department of Transportation, National Aeronautics and Space Administration or other appropriate Federal agency, that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

"(4) The source will comply with an alternative measure, imposed by the permitting authority, designed to offset any emission increases beyond permitted levels not directly offset by the source. In lieu of imposing any alternative offset measures, the permitting authority may impose an emissions fee to be paid to such authority of a State which shall be an amount no greater than 1.5 times the average cost of stationary source control measures adopted in that area during the previous 3 years. The permitting authority shall utilize the fees in a manner that maximizes the emissions reductions in that area.".

(d) PLANNING PROCEDURES.—Section 174 (42 U.S.C. 7504) of the Clean Air Act is amended to read as follows:

"SEC. 174. PLANNING PROCEDURES.

"(a) IN GENERAL.—For any ozone, carbon monoxide, or PM-10 nonattainment area, the State containing such area and elected officials of affected local governments shall, before the date required for submittal of the inventory described under sections 182(a)(1) and 187(a)(1), jointly review and update as necessary the planning procedures adopted pursuant to this subsection as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, or develop new planning procedures pursuant to this subsection, as appropriate. In preparing such procedures the State and local elected officials shall determine which elements of a revised implementation plan will be developed, adopted, and implemented (through means including enforcement) by the State and which by local governments or regional agencies, or any combination of local governments, regional agencies, or the State. The implementation plan required by this part shall be prepared by an organization certified by the State, in consultation with elected officials of local governments and in accordance with the determination under the

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second sentence of this subsection. Such organization shall include elected officials of local governments in the affected area, and representatives of the State air quality planning agency, the State transportation planning agency, the metropolitan planning organization designated to conduct the continuing, cooperative and comprehensive transportation planning process for the area under section 134 of title 23, United States Code, the organization responsible for the air quality maintenance planning process under regulations implementing this Act, and any other organization with responsibilities for developing, submitting, or implementing the plan required by this part. Such organization may be one that carried out these functions before the date of the enactment of the Clean Air Act Amendments of 1990.

"(b) COORDINATION.—The preparation of implementation plan provisions and subsequent plan revisions under the continuing transportation-air quality planning process described in section 108(e) shall be coordinated with the continuing, cooperative and comprehensive transportation planning process required under section 134 of title 23, United States Code, and such planning processes shall take into account the requirements of this part.

"(c) JOINT PLANNING.—In the case of a nonattainment area that is included within more than one State, the affected States may jointly, through interstate compact or otherwise, undertake and implement all or part of the planning procedures described in this section.".

(e) MAINTENANCE PLANS.—After section 175 of the Clean Air Act insert:

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42 USC 7505a.

"SEC. 175A. MAINTENANCE PLANS.

"(a) PLAN REVISION.—Each State which submits a request under section 107(d) for redesignation of a nonattainment area for any air pollutant as an area which has attained the national primary ambient air quality standard for that air pollutant shall also submit a revision of the applicable State implementation plan to provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation. The plan shall contain such additional measures, if any, as may be necessary to ensure such maintenance.

"(b) SUBSEQUENT PLAN REVISIONS.—8 years after redesignation of any area as an attainment area under section 107(d), the State shall submit to the Administrator an additional revision of the applicable State implementation plan for maintaining the national primary ambient air quality standard for 10 years after the expiration of the 10-year period referred to in subsection (a).

"(c) NONATTAINMENT REQUIREMENTS APPLICABLE PENDING PLAN APPROVAL.—Until such plan revision is approved and an area is redesignated as attainment for any area designated as a nonattainment area, the requirements of this part shall continue in force and effect with respect to such area.

"(d) CONTINGENCY PROVISIONS.—Each plan revision submitted under this section shall contain such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area. Such provisions shall include a requirement that the State will implement all measures with respect to the control of the air pollutant concerned which were contained in the State implementation plan for the area

before redesignation of the area as an attainment area. The failure of any area redesignated as an attainment area to maintain the national ambient air quality standard concerned shall not result in a requirement that the State revise its State implementation plan unless the Administrator, in the Administrator's discretion, requires the State to submit a revised State implementation plan.".

(f) INTERSTATE TRANSPORT PROVISIONS.—

(1) INTERSTATE TRANSPORT COMMISSIONS.—After section 176 of the Clean Air Act (42 U.S.C. 7506) insert:

"SEC. 176A. INTERSTATE TRANSPORT COMMISSIONS. 42 USC 7506a.

"(a) AUTHORITY TO ESTABLISH INTERSTATE TRANSPORT REGIONS.—Whenever, on the Administrator's own motion or by petition from the Governor of any State, the Administrator has reason to believe that the interstate transport of air pollutants from one or more States contributes significantly to a violation of a national ambient air quality standard in one or more other States, the Administrator may establish, by rule, a transport region for such pollutant that includes such States. The Administrator, on the Administrator's own motion or upon petition from the Governor of any State, or upon the recommendation of a transport commission established under subsection (b), may—

"(1) add any State or portion of a State to any region established under this subsection whenever the Administrator has reason to believe that the interstate transport of air pollutants from such State significantly contributes to a violation of the standard in the transport region, or

"(2) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the attainment of the standard in any area in the region.

The Administrator shall approve or disapprove any such petition or recommendation within 18 months of its receipt. The Administrator shall establish appropriate proceedings for public participation regarding such petitions and motions, including notice and comment.

"(b) TRANSPORT COMMISSIONS.—

"(1) ESTABLISHMENT.—Whenever the Administrator establishes a transport region under subsection (a), the Administrator shall establish a transport commission comprised of (at a minimum) each of the following members:

"(A) The Governor of each State in the region or the designee of each such Governor.

"(B) The Administrator or the Administrator's designee.

"(C) The Regional Administrator (or the Administrator's designee) for each Regional Office for each Environmental Protection Agency Region affected by the transport region concerned.

"(D) An air pollution control official representing each State in the region, appointed by the Governor.

Decisions of, and recommendations and requests to, the Administrator by each transport commission may be made only by a majority vote of all members other than the Administrator and the Regional Administrators (or designees thereof).

"(2) RECOMMENDATIONS.—The transport commission shall assess the degree of interstate transport of the pollutant or

precursors to the pollutant throughout the transport region, assess strategies for mitigating the interstate pollution, and recommend to the Administrator such measures as the Commission determines to be necessary to ensure that the plans for the relevant States meet the requirements of section 110(a)(2)(D). Such commission shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(c) COMMISSION REQUESTS.—A transport commission established under subsection (b) may request the Administrator to issue a finding under section 110(k)(5) that the implementation plan for one or more of the States in the transport region is substantially inadequate to meet the requirements of section 110(a)(2)(D). The Administrator shall approve, disapprove, or partially approve and partially disapprove such a request within 18 months of its receipt and, to the extent the Administrator approves such request, issue the finding under section 110(k)(5) at the time of such approval. In acting on such request, the Administrator shall provide an opportunity for public participation and shall address each specific recommendation made by the commission. Approval or disapproval of such a request shall constitute final agency action within the meaning of section 307(b).".

(2) AMENDMENTS CONFORMING TO TRANSPORT PROVISIONS.—Section 106 of the Clean Air Act (42 U.S.C. 7406) is amended as follows:

(A) Insert "or of implementing section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution)" immediately following "section 107".

(B) Insert "any commission established under section 176A (relating to control of interstate air pollution) or section 184 (relating to control of interstate ozone pollution) or" immediately following "program costs of".

(C) Insert "or such commission" in the last sentence immediately following "such agency".

(D) Insert "or commission" at the end thereof, immediately before the period.

(g) SANCTIONS.—After section 178 of the Clean Air Act (42 U.S.C. 7508) insert:

42 USC 7509.

"SEC. 179. SANCTIONS AND CONSEQUENCES OF FAILURE TO ATTAIN.

"(a) STATE FAILURE.—For any implementation plan or plan revision required under this part (or required in response to a finding of substantial inadequacy as described in section 110(k)(5)), if the Administrator—

"(1) finds that a State has failed, for an area designated nonattainment under section 107(d), to submit a plan, or to submit 1 or more of the elements (as determined by the Administrator) required by the provisions of this Act applicable to such an area, or has failed to make a submission for such an area that satisfies the minimum criteria established in relation to any such element under section 110(k),

"(2) disapproves a submission under section 110(k), for an area designated nonattainment under section 107, based on the submission's failure to meet one or more of the elements required by the provisions of this Act applicable to such an area,

"(3)(A) determines that a State has failed to make any submission as may be required under this Act, other than one de-

scribed under paragraph (1) or (2), including an adequate maintenance plan, or has failed to make any submission, as may be required under this Act, other than one described under paragraph (1) or (2), that satisfies the minimum criteria established in relation to such submission under section 110(k)(1)(A), or

"(B) disapproves in whole or in part a submission described under subparagraph (A), or

"(4) finds that any requirement of an approved plan (or approved part of a plan) is not being implemented,

unless such deficiency has been corrected within 18 months after the finding, disapproval, or determination referred to in paragraphs (1), (2), (3), and (4), one of the sanctions referred to in subsection (b) shall apply, as selected by the Administrator, until the Administrator determines that the State has come into compliance, except that if the Administrator finds a lack of good faith, sanctions under both paragraph (1) and paragraph (2) of subsection (b) shall apply until the Administrator determines that the State has come into compliance. If the Administrator has selected one of such sanctions and the deficiency has not been corrected within 6 months thereafter, sanctions under both paragraph (1) and paragraph (2) of subsection (b) shall apply until the Administrator determines that the State has come into compliance. In addition to any other sanction applicable as provided in this section, the Administrator may withhold all or part of the grants for support of air pollution planning and control programs that the Administrator may award under section 105.

"(b) SANCTIONS.—The sanctions available to the Administrator as provided in subsection (a) are as follows:

"(1) HIGHWAY SANCTIONS.—(A) The Administrator may impose a prohibition, applicable to a nonattainment area, on the approval by the Secretary of Transportation of any projects or the awarding by the Secretary of any grants, under title 23, United States Code, other than projects or grants for safety where the Secretary determines, based on accident or other appropriate data submitted by the State, that the principal purpose of the project is an improvement in safety to resolve a demonstrated safety problem and likely will result in a significant reduction in, or avoidance of, accidents. Such prohibition shall become effective upon the selection by the Administrator of this sanction.

"(B) In addition to safety, projects or grants that may be approved by the Secretary, notwithstanding the prohibition in subparagraph (A), are the following—

"(i) capital programs for public transit;

"(ii) construction or restriction of certain roads or lanes solely for the use of passenger buses or high occupancy vehicles;

"(iii) planning for requirements for employers to reduce employee work-trip-related vehicle emissions;

"(iv) highway ramp metering, traffic signalization, and related programs that improve traffic flow and achieve a net emission reduction;

"(v) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit operations;

"(vi) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration

particularly during periods of peak use, through road use charges, tolls, parking surcharges, or other pricing mechanisms, vehicle restricted zones or periods, or vehicle registration programs;

"(vii) programs for breakdown and accident scene management, nonrecurring congestion, and vehicle information systems, to reduce congestion and emissions; and

"(viii) such other transportation-related programs as the Administrator, in consultation with the Secretary of Transportation, finds would improve air quality and would not encourage single occupancy vehicle capacity.

In considering such measures, the State should seek to ensure adequate access to downtown, other commercial, and residential areas, and avoid increasing or relocating emissions and congestion rather than reducing them.

"(2) OFFSETS.—In applying the emissions offset requirements of section 173 to new or modified sources or emissions units for which a permit is required under part D, the ratio of emission reductions to increased emissions shall be at least 2 to 1.

"(c) NOTICE OF FAILURE TO ATTAIN.—(1) As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date.

Federal Register, publication.

"(2) Upon making the determination under paragraph (1), the Administrator shall publish a notice in the Federal Register containing such determination and identifying each area that the Administrator has determined to have failed to attain. The Administrator may revise or supplement such determination at any time based on more complete information or analysis concerning the area's air quality as of the attainment date.

"(d) CONSEQUENCES FOR FAILURE TO ATTAIN.—(1) Within 1 year after the Administrator publishes the notice under subsection (c)(2) (relating to notice of failure to attain), each State containing a nonattainment area shall submit a revision to the applicable implementation plan meeting the requirements of paragraph (2) of this subsection.

"(2) The revision required under paragraph (1) shall meet the requirements of section 110 and section 172. In addition, the revision shall include such additional measures as the Administrator may reasonably prescribe, including all measures that can be feasibly implemented in the area in light of technological achievability, costs, and any nonair quality and other air quality-related health and environmental impacts.

"(3) The attainment date applicable to the revision required under paragraph (1) shall be the same as provided in the provisions of section 172(a)(2), except that in applying such provisions the phrase 'from the date of the notice under section 179(c)(2)' shall be substituted for the phrase 'from the date such area was designated nonattainment under section 107(d)' and for the phrase 'from the date of designation as nonattainment'.".

(h) FEDERAL IMPLEMENTATION PLANS.—Section 110(c)(1) of the Clean Air Act (42 U.S.C. 7410(c)) is amended to read as follows: "(1) The Administrator shall promulgate a Federal implementation plan at any time within 2 years after the Administrator—

"(A) finds that a State has failed to make a required submission or finds that the plan or plan revision submitted by the State does not satisfy the minimum criteria established under section 110(k)(1)(A), or

"(B) disapproves a State implementation plan submission in whole or in part,

unless the State corrects the deficiency, and the Administrator approves the plan or plan revision, before the Administrator promulgates such Federal implementation plan.".

SEC. 103. ADDITIONAL PROVISIONS FOR OZONE NONATTAINMENT AREAS.

Part D of title I of the Clean Air Act is amended by adding the following new subpart at the end thereof:

"Subpart 2—Additional Provisions for Ozone Nonattainment Areas

"Sec. 181. Classifications and attainment dates.
"Sec. 182. Plan submissions and requirements.
"Sec. 183. Federal ozone measures.
"Sec. 184. Control of interstate ozone air pollution.
"Sec. 185. Enforcement for Severe and Extreme ozone nonattainment areas for failure to attain.
"Sec. 185A. Transitional areas.
"Sec. 185B. NOX and VOC study.

"SEC. 181. CLASSIFICATIONS AND ATTAINMENT DATES.

42 USC 7511.

"(a) CLASSIFICATION AND ATTAINMENT DATES FOR 1989 NONATTAINMENT AREAS.—(1) Each area designated nonattainment for ozone pursuant to section 107(d) shall be classified at the time of such designation, under table 1, by operation of law, as a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for ozone shall be as expeditiously as practicable but not later than the date provided in table 1.

"TABLE 1

Area class	Design value*	Primary standard attainment date**
Marginal	0.121 up to 0.138	3 years after enactment
Moderate	0.138 up to 0.160	6 years after enactment
Serious	0.160 up to 0.180	9 years after enactment
Severe	0.180 up to 0.280	15 years after enactment
Extreme	0.280 and above	20 years after enactment

*The design value is measured in parts per million (ppm).
**The primary standard attainment date is measured from the date of the enactment of the Clean Air Amendments of 1990.

"(2) Notwithstanding table 1, in the case of a severe area with a 1988 ozone design value between 0.190 and 0.280 ppm, the attainment date shall be 17 years (in lieu of 15 years) after the date of the enactment of the Clean Air Amendments of 1990.

"(3) At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each ozone nonattainment area, the Administrator shall publish a notice announcing the classification of such ozone nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review) shall apply to such classification.

"(4) If an area classified under paragraph (1) (Table 1) would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the initial classification, by the procedure required under paragraph (3), adjust the classification to place the area in such other category. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for ozone in the area, the level of pollution transport between the area and other affected areas, including both intrastate and interstate transport, and the mix of sources and air pollutants in the area.

"(5) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in table 1 of paragraph (1) of this subsection if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than 1 exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for ozone under section 107(d)(4), and that is subsequently redesignated to nonattainment for ozone under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with table 1 under subsection (a). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(3), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified under this paragraph.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—(A) Within 6 months following the applicable attainment date (including any extension thereof) for an ozone nonattainment area, the Administrator shall determine, based on the area's design value (as of the attainment date), whether the area attained the standard by that date. Except for any Severe or Extreme area,

any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a) to the higher of—

"(i) the next higher classification for the area, or

"(ii) the classification applicable to the area's design value as determined at the time of the notice required under subparagraph (B).

No area shall be reclassified as Extreme under clause (ii).

"(B) The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each area that the Administrator has determined under subparagraph (A) as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

Federal Register, publication.

"(3) VOLUNTARY RECLASSIFICATION.—The Administrator shall grant the request of any State to reclassify a nonattainment area in that State in accordance with table 1 of subsection (a) to a higher classification. The Administrator shall publish a notice in the Federal Register of any such request and of action by the Administrator granting the request.

Intergovernmental relations.

Federal Register, publication.

"(4) FAILURE OF SEVERE AREAS TO ATTAIN STANDARD.—(A) If any Severe Area fails to achieve the national primary ambient air quality standard for ozone by the applicable attainment date (including any extension thereof), the fee provisions under section 185 shall apply within the area, the percent reduction requirements of section 182(c)(2)(B) and (C) (relating to reasonable further progress demonstration and NO_x control) shall continue to apply to the area, and the State shall demonstrate that such percent reduction has been achieved in each 3-year interval after such failure until the standard is attained. Any failure to make such a demonstration shall be subject to the sanctions provided under this part.

"(B) In addition to the requirements of subparagraph (A), if the ozone design value for a Severe Area referred to in subparagraph (A) is above 0.140 ppm for the year of the applicable attainment date, or if the area has failed to achieve its most recent milestone under section 182(g), the new source review requirements applicable under this subpart in Extreme Areas shall apply in the area and the term 'major source' and 'major stationary source' shall have the same meaning as in Extreme Areas.

"(C) In addition to the requirements of subparagraph (A) for those areas referred to in subparagraph (A) and not covered by subparagraph (B), the provisions referred to in subparagraph (B) shall apply after 3 years from the applicable attainment date unless the area has attained the standard by the end of such 3-year period.

"(D) If, after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator modifies the method of determining compliance with the national primary ambient air quality standard, a design value or other indicator comparable to 0.140 in terms of its relationship to the standard shall be used in lieu of 0.140 for purposes of applying the provisions of subparagraphs (B) and (C).

"(c) REFERENCES TO TERMS.—(1) Any reference in this subpart to a 'Marginal Area', a 'Moderate Area', a 'Serious Area', a 'Severe Area', or an 'Extreme Area' shall be considered a reference to a

Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area as respectively classified under this section.

"(2) Any reference in this subpart to 'next higher classification' or comparable terms shall be considered a reference to the classification related to the next higher set of design values in table 1.

Intergovernmental relations.
42 USC 7511a.

"SEC. 182. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MARGINAL AREAS.—Each State in which all or part of a Marginal Area is located shall, with respect to the Marginal Area (or portion thereof, to the extent specified in this subsection), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection except to the extent the State has made such submissions as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(1) INVENTORY.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2) CORRECTIONS TO THE STATE IMPLEMENTATION PLAN.—Within the periods prescribed in this paragraph, the State shall submit a revision to the State implementation plan that meets the following requirements—

"(A) REASONABLY AVAILABLE CONTROL TECHNOLOGY CORRECTIONS.—For any Marginal Area (or, within the Administrator's discretion, portion thereof) the State shall submit, within 6 months of the date of classification under section 181(a), a revision that includes such provisions to correct requirements in (or add requirements to) the plan concerning reasonably available control technology as were required under section 172(b) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in guidance issued by the Administrator under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE.—(i) For any Marginal Area (or, within the Administrator's discretion, portion thereof), the plan for which already includes, or was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included, a specific schedule for implementation of a vehicle emission control inspection and maintenance program, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision that includes any provisions necessary to provide for a vehicle inspection and maintenance program of no less stringency than that of either the program defined in House Report Numbered 95-294, 95th Congress, 1st Session, 281-291 (1977) as interpreted in guidance of the Administrator issued pursuant to section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) or the program already included in the plan, whichever is more stringent.

Federal Register, publication.

"(ii) Within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review, revise, update, and republish in the Federal

Register the guidance for the States for motor vehicle inspection and maintenance programs required by this Act, taking into consideration the Administrator's investigations and audits of such program. The guidance shall, at a minimum, cover the frequency of inspections, the types of vehicles to be inspected (which shall include leased vehicles that are registered in the nonattainment area), vehicle maintenance by owners and operators, audits by the State, the test method and measures, including whether centralized or decentralized, inspection methods and procedures, quality of inspection, components covered, assurance that a vehicle subject to a recall notice from a manufacturer has complied with that notice, and effective implementation and enforcement, including ensuring that any retesting of a vehicle after a failure shall include proof of corrective action and providing for denial of vehicle registration in the case of tampering or misfueling. The guidance which shall be incorporated in the applicable State implementation plans by the States shall provide the States with continued reasonable flexibility to fashion effective, reasonable, and fair programs for the affected consumer. No later than 2 years after the Administrator promulgates regulations under section 202(m)(3) (relating to emission control diagnostics), the State shall submit a revision to such program to meet any requirements that the Administrator may prescribe under that section.

"(C) PERMIT PROGRAMS.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that includes each of the following:

"(i) Provisions to require permits, in accordance with sections 172(c)(5) and 173, for the construction and operation of each new or modified major stationary source (with respect to ozone) to be located in the area.

"(ii) Provisions to correct requirements in (or add requirements to) the plan concerning permit programs as were required under section 172(b)(6) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990), as interpreted in regulations of the Administrator promulgated as of the date of the enactment of the Clean Air Act Amendments of 1990.

"(3) PERIODIC INVENTORY.—

"(A) GENERAL REQUIREMENT.—No later than the end of each 3-year period after submission of the inventory under paragraph (1) until the area is redesignated to attainment, the State shall submit a revised inventory meeting the requirements of subsection (a)(1).

"(B) EMISSIONS STATEMENTS.—(i) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the State implementation plan to require that the owner or operator of each stationary source of oxides of nitrogen or volatile organic compounds provide the State with a statement, in such form as the Administrator may prescribe (or accept an equivalent alternative developed by the State), for classes or categories of sources, showing the actual emissions of

oxides of nitrogen and volatile organic compounds from that source. The first such statement shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. Subsequent statements shall be submitted at least every year thereafter. The statement shall contain a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement.

"(ii) The State may waive the application of clause (i) to any class or category of stationary sources which emit less than 25 tons per year of volatile organic compounds or oxides of nitrogen if the State, in its submissions under subparagraphs (1) or (3)(A), provides an inventory of emissions from such class or category of sources, based on the use of the emission factors established by the Administrator or other methods acceptable to the Administrator.

"(4) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increased emissions of such air pollutant shall be at least 1.1 to 1.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. The requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the ozone standard by the applicable attainment date in any Marginal Area. Section 172(c)(9) (relating to contingency measures) shall not apply to Marginal Areas.

"(b) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area, make the submissions described under subsection (a) (relating to Marginal Areas), and shall also submit the revisions to the applicable implementation plan described under this subsection.

"(1) PLAN PROVISIONS FOR REASONABLE FURTHER PROGRESS.—

"(A) GENERAL RULE.—(i) By no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for volatile organic compound emission reductions, within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, of at least 15 percent from baseline emissions, accounting for any growth in emissions after the year in which the Clean Air Act Amendments of 1990 are enacted. Such plan shall provide for such specific annual reductions in emissions of volatile organic compounds and oxides of nitrogen as necessary to attain the national primary ambient air quality standard for ozone by the attainment date applicable under this Act. This subparagraph shall not apply in the case of oxides of nitrogen for those areas for which the Administrator determines (when the Administrator approves the plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment.

"(ii) A percentage less than 15 percent may be used for purposes of clause (i) in the case of any State which demonstrates to the satisfaction of the Administrator that—

"(I) new source review provisions are applicable in the nonattainment areas in the same manner and to the same extent as required under subsection (e) in the case of Extreme Areas (with the exception that, in applying such provisions, the terms 'major source' and 'major stationary source' shall include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 5 tons per year of volatile organic compounds);

"(II) reasonably available control technology is required for all existing major sources (as defined in subclause (I)); and

"(III) the plan reflecting a lesser percentage than 15 percent includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To qualify for a lesser percentage under this clause, a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher category.

"(B) BASELINE EMISSIONS.—For purposes of subparagraph (A), the term 'baseline emissions' means the total amount of actual VOC or NO_x emissions from all anthropogenic sources in the area during the calendar year of the enactment of the Clean Air Act Amendments of 1990, excluding emissions that would be eliminated under the regulations described in clauses (i) and (ii) of subparagraph (D).

"(C) GENERAL RULE FOR CREDITABILITY OF REDUCTIONS.—Except as provided under subparagraph (D), emissions reductions are creditable toward the 15 percent required under subparagraph (A) to the extent they have actually occurred, as of 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under title V.

"(D) LIMITS ON CREDITABILITY OF REDUCTIONS.—Emission reductions from the following measures are not creditable toward the 15 percent reductions required under subparagraph (A):

"(i) Any measure relating to motor vehicle exhaust or evaporative emissions promulgated by the Administrator by January 1, 1990.

"(ii) Regulations concerning Reid Vapor Pressure promulgated by the Administrator by the date of the enactment of the Clean Air Act Amendments of 1990 or required to be promulgated under section 211(h).

"(iii) Measures required under subsection (a)(2)(A) (concerning corrections to implementation plans prescribed under guidance by the Administrator).

"(iv) Measures required under subsection (a)(2)(B) to be submitted immediately after the date of the enactment of the Clean Air Act Amendments of 1990 (concerning corrections to motor vehicle inspection and maintenance programs).

"(2) REASONABLY AVAILABLE CONTROL TECHNOLOGY.—The State shall submit a revision to the applicable implementation plan to include provisions to require the implementation of reasonably available control technology under section 172(c)(1) with respect to each of the following:

"(A) Each category of VOC sources in the area covered by a CTG document issued by the Administrator between the date of the enactment of the Clean Air Act Amendments of 1990 and the date of attainment.

"(B) All VOC sources in the area covered by any CTG issued before the date of the enactment of the Clean Air Act Amendments of 1990.

"(C) All other major stationary sources of VOCs that are located in the area.

Each revision described in subparagraph (A) shall be submitted within the period set forth by the Administrator in issuing the relevant CTG document. The revisions with respect to sources described in subparagraphs (B) and (C) shall be submitted by 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, and shall provide for the implementation of the required measures as expeditiously as practicable but no later than May 31, 1995.

"(3) GASOLINE VAPOR RECOVERY.—

"(A) GENERAL RULE.—Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to require all owners or operators of gasoline dispensing systems to install and operate, by the date prescribed under subparagraph (B), a system for gasoline vapor recovery of emissions from the fueling of motor vehicles. The Administrator shall issue guidance as appropriate as to the effectiveness of such system. This subparagraph shall apply only to facilities which sell more than 10,000 gallons of gasoline per month (50,000 gallons per month in the case of an independent small business marketer of gasoline as defined in section 325).

"(B) EFFECTIVE DATE.—The date required under subparagraph (A) shall be—

"(i) 6 months after the adoption date, in the case of gasoline dispensing facilities for which construction commenced after the date of the enactment of the Clean Air Act Amendments of 1990;

"(ii) one year after the adoption date, in the case of gasoline dispensing facilities which dispense at least 100,000 gallons of gasoline per month, based on average monthly sales for the 2-year period before the adoption date; or

"(iii) 2 years after the adoption date, in the case of all other gasoline dispensing facilities.

Any gasoline dispensing facility described under both clause (i) and clause (ii) shall meet the requirements of clause (i).

"(C) REFERENCE TO TERMS.—For purposes of this paragraph, any reference to the term 'adoption date' shall be considered a reference to the date of adoption by the State of requirements for the installation and operation of a system for gasoline vapor recovery of emissions from the fueling of motor vehicles.

"(4) MOTOR VEHICLE INSPECTION AND MAINTENANCE.—For all Moderate Areas, the State shall submit, immediately after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan that includes provisions necessary to provide for a vehicle inspection and maintenance program as described in subsection (a)(2)(B) (without regard to whether or not the area was required by section 172(b)(11)(B) (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to have included a specific schedule for implementation of such a program).

"(5) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.15 to 1.

"(c) SERIOUS AREAS.—Except as otherwise specified in paragraph (4), each State in which all or part of a Serious Area is located shall, with respect to the Serious Area (or portion thereof, to the extent specified in this subsection), make the submissions described under subsection (b) (relating to Moderate Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Serious Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 50 tons per year of volatile organic compounds.

"(1) ENHANCED MONITORING.—In order to obtain more comprehensive and representative data on ozone air pollution, not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 the Administrator shall promulgate rules, after notice and public comment, for enhanced monitoring of ozone, oxides of nitrogen, and volatile organic compounds. The rules shall, among other things, cover the location and maintenance of monitors. Immediately following the promulgation of rules by the Administrator relating to enhanced monitoring, the State shall commence such actions as may be necessary to adopt and implement a program based on such rules, to improve monitoring for ambient concentrations of ozone, oxides of nitrogen and volatile organic compounds and to improve monitoring of emissions of oxides of nitrogen and volatile organic compounds. Each State implementation plan for the area shall contain measures to improve the ambient monitoring of such air pollutants. Regulations.

"(2) ATTAINMENT AND REASONABLE FURTHER PROGRESS DEMONSTRATIONS.—Within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan that includes each of the following:

"(A) ATTAINMENT DEMONSTRATION.—A demonstration that the plan, as revised, will provide for attainment of the ozone national ambient air quality standard by the applicable attainment date. This attainment demonstration must be based on photochemical grid modeling or any other analytical method determined by the Administrator, in the Administrator's discretion, to be at least as effective.

"(B) REASONABLE FURTHER PROGRESS DEMONSTRATION.—A demonstration that the plan, as revised, will result in VOC emissions reductions from the baseline emissions described in subsection (b)(1)(B) equal to the following amount averaged over each consecutive 3-year period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, until the attainment date:

"(i) at least 3 percent of baseline emissions each year; or

"(ii) an amount less than 3 percent of such baseline emissions each year, if the State demonstrates to the satisfaction of the Administrator that the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area, in light of technological achievability.

To lessen the 3 percent requirement under clause (ii), a State must demonstrate to the satisfaction of the Administrator that the plan for the area includes the measures that are achieved in practice by sources in the same source category in nonattainment areas of the next higher classification. Any determination to lessen the 3 percent requirement shall be reviewed at each milestone under section 182(g) and revised to reflect such new measures (if any) achieved in practice by sources in the same category in any State, allowing a reasonable time to implement such measures. The emission reductions described in this subparagraph shall be calculated in accordance with subsection (b)(1) (C) and (D) (concerning creditability of reductions). The reductions creditable for the period beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990, shall include reductions that occurred before such period, computed in accordance with subsection (b)(1), that exceed the 15-percent amount of reductions required under subsection (b)(1)(A).

"(C) NO_x CONTROL.—The revision may contain, in lieu of the demonstration required under subparagraph (B), a demonstration to the satisfaction of the Administrator that the applicable implementation plan, as revised, provides for reductions of emissions of VOC's and oxides of nitrogen (calculated according to the creditability provisions of subsection (b)(1) (C) and (D)), that would result in a reduction in ozone concentrations at least equivalent to that which would result from the amount of VOC emission reductions required under subparagraph (B). Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidance concerning the conditions under which NO_x control may be substituted for VOC control or may be combined with VOC control in order to maximize the reduction in ozone air pollution. In accord with such guidance, a lesser

percentage of VOCs may be accepted as an adequate demonstration for purposes of this subsection.

"(3) ENHANCED VEHICLE INSPECTION AND MAINTENANCE PROGRAM.—

"(A) REQUIREMENT FOR SUBMISSION.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to the applicable implementation plan to provide for an enhanced program to reduce hydrocarbon emissions and NO_x emissions from in-use motor vehicles registered in each urbanized area (in the nonattainment area), as defined by the Bureau of the Census, with a 1980 population of 200,000 or more.

"(B) EFFECTIVE DATE OF STATE PROGRAMS; GUIDANCE.—The State program required under subparagraph (A) shall take effect no later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, and shall comply in all respects with guidance published in the Federal Register (and from time to time revised) by the Administrator for enhanced vehicle inspection and maintenance programs. Such guidance shall include— Federal Register, publication.

"(i) a performance standard achievable by a program combining emission testing, including on-road emission testing, with inspection to detect tampering with emission control devices and misfueling for all light-duty vehicles and all light-duty trucks subject to standards under section 202; and

"(ii) program administration features necessary to reasonably assure that adequate management resources, tools, and practices are in place to attain and maintain the performance standard.

Compliance with the performance standard under clause (i) shall be determined using a method to be established by the Administrator.

"(C) STATE PROGRAM.—The State program required under subparagraph (A) shall include, at a minimum, each of the following elements—

"(i) Computerized emission analyzers, including on-road testing devices.

"(ii) No waivers for vehicles and parts covered by the emission control performance warranty as provided for in section 207(b) unless a warranty remedy has been denied in writing, or for tampering-related repairs.

"(iii) In view of the air quality purpose of the program, if, for any vehicle, waivers are permitted for emissions-related repairs not covered by warranty, an expenditure to qualify for the waiver of an amount of $450 or more for such repairs (adjusted annually as determined by the Administrator on the basis of the Consumer Price Index in the same manner as provided in title V).

"(iv) Enforcement through denial of vehicle registration (except for any program in operation before the date of the enactment of the Clean Air Act Amendments of 1990 whose enforcement mechanism is demonstrated to the Administrator to be more effective than the applicable vehicle registration program in

assuring that noncomplying vehicles are not operated on public roads).

"(v) Annual emission testing and necessary adjustment, repair, and maintenance, unless the State demonstrates to the satisfaction of the Administrator that a biennial inspection, in combination with other features of the program which exceed the requirements of this Act, will result in emission reductions which equal or exceed the reductions which can be obtained through such annual inspections.

"(vi) Operation of the program on a centralized basis, unless the State demonstrates to the satisfaction of the Administrator that a decentralized program will be equally effective. An electronically connected testing system, a licensing system, or other measures (or any combination thereof) may be considered, in accordance with criteria established by the Administrator, as equally effective for such purposes.

"(vii) Inspection of emission control diagnostic systems and the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems.

Reports. Each State shall biennially prepare a report to the Administrator which assesses the emission reductions achieved by the program required under this paragraph based on data collected during inspection and repair of vehicles. The methods used to assess the emission reductions shall be those established by the Administrator.

"(4) CLEAN-FUEL VEHICLE PROGRAMS.—(A) Except to the extent that substitute provisions have been approved by the Administrator under subparagraph (B), the State shall submit to the Administrator, within 42 months of the date of the enactment of the Clean Air Act Amendments of 1990, a revision to the applicable implementation plan for each area described under part C of title II to include such measures as may be necessary to ensure the effectiveness of the applicable provisions of the clean-fuel vehicle program prescribed under part C of title II, including all measures necessary to make the use of clean alternative fuels in clean-fuel vehicles (as defined in part C of title II) economic from the standpoint of vehicle owners. Such a revision shall also be submitted for each area that opts into the clean fuel-vehicle program as provided in part C of title II.

"(B) The Administrator shall approve, as a substitute for all or a portion of the clean-fuel vehicle program prescribed under part C of title II, any revision to the relevant applicable implementation plan that in the Administrator's judgment will achieve long-term reductions in ozone-producing and toxic air emissions equal to those achieved under part C of title II, or the percentage thereof attributable to the portion of the clean-fuel vehicle program for which the revision is to substitute. The Administrator may approve such revision only if it consists exclusively of provisions other than those required under this Act for the area. Any State seeking approval of such revision must submit the revision to the Administrator within 24 months of the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve or disapprove any such revision within 30 months of the date of the

enactment of the Clean Air Act Amendments of 1990. The Administrator shall publish the revision submitted by a State in the Federal Register upon receipt. Such notice shall constitute a notice of proposed rulemaking on whether or not to approve such revision and shall be deemed to comply with the requirements concerning notices of proposed rulemaking contained in sections 553 through 557 of title 5 of the United States Code (related to notice and comment). Where the Administrator approves such revision for any area, the State need not submit the revision required by subparagraph (A) for the area with respect to the portions of the Federal clean-fuel vehicle program for which the Administrator has approved the revision as a substitute. Federal Register, publication.

"(C) If the Administrator determines, under section 179, that the State has failed to submit any portion of the program required under subparagraph (A), then, in addition to any sanctions available under section 179, the State may not receive credit, in any demonstration of attainment or reasonable further progress for the area, for any emission reductions from implementation of the corresponding aspects of the Federal clean-fuel vehicle requirements established in part C of title II.

"(5) TRANSPORTATION CONTROL.—(A) Beginning 6 years after the date of the enactment of the Clean Air Act Amendments of 1990 and each third year thereafter, the State shall submit a demonstration as to whether current aggregate vehicle mileage, aggregate vehicle emissions, congestion levels, and other relevant parameters are consistent with those used for the area's demonstration of attainment. Where such parameters and emissions levels exceed the levels projected for purposes of the area's attainment demonstration, the State shall within 18 months develop and submit a revision of the applicable implementation plan that includes a transportation control measures program consisting of measures from, but not limited to, section 108(f) that will reduce emissions to levels that are consistent with emission levels projected in such demonstration. In considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(e) and with the requirements of section 174(b) and shall include implementation and funding schedules that achieve expeditious emissions reductions in accordance with implementation plan projections.

"(6) DE MINIMIS RULE.—The new source review provisions under this part shall ensure that increased emissions of volatile organic compounds resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall not be considered de minimis for purposes of determining the applicability of the permit requirements established by this Act unless the increase in net emissions of such air pollutant from such source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of 5 consecutive calendar years which includes the calendar year in which such increase occurred.

"(7) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING LESS THAN 100 TONS.—In the case of any major stationary source of volatile organic compounds located in the area (other than a source which emits or has the potential to emit 100 tons or more of volatile organic compounds per year), whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that such increase shall not be considered a modification for such purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds concerned from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. If the owner or operator does not make such election, such change shall be considered a modification for such purposes, but in applying section 173(a)(2) in the case of any such modification, the best available control technology (BACT), as defined in section 169, shall be substituted for the lowest achievable emission rate (LAER). The Administrator shall establish and publish policies and procedures for implementing the provisions of this paragraph.

"(8) SPECIAL RULE FOR MODIFICATIONS OF SOURCES EMITTING 100 TONS OR MORE.—In the case of any major stationary source of volatile organic compounds located in the area which emits or has the potential to emit 100 tons or more of volatile organic compounds per year, whenever any change (as described in section 111(a)(4)) at that source results in any increase (other than a de minimis increase) in emissions of volatile organic compounds from any discrete operation, unit, or other pollutant emitting activity at the source, such increase shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic compounds from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1, the requirements of section 173(a)(2) (concerning the lowest achievable emission rate (LAER)) shall not apply.

"(9) CONTINGENCY PROVISIONS.—In addition to the contingency provisions required under section 172(c)(9), the plan revision shall provide for the implementation of specific measures to be undertaken if the area fails to meet any applicable milestone. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator upon a failure by the State to meet the applicable milestone.

"(10) GENERAL OFFSET REQUIREMENT.—For purposes of satisfying the emission offset requirements of this part, the ratio of total emission reductions of volatile organic compounds to total increase emissions of such air pollutant shall be at least 1.2 to 1.

Any reference to 'attainment date' in subsection (b), which is incorporated by reference into this subsection, shall refer to the attainment date for serious areas.

"(d) SEVERE AREAS.—Each State in which all or part of a Severe Area is located shall, with respect to the Severe Area, make the

submissions described under subsection (c) (relating to Serious Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. For any Severe Area, the terms 'major source' and 'major stationary source' include (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 25 tons per year of volatile organic compounds.

"(1) VEHICLE MILES TRAVELED.—(A) Within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision that identifies and adopts specific enforceable transportation control strategies and transportation control measures to offset any growth in emissions from growth in vehicle miles traveled or numbers of vehicle trips in such area and to attain reduction in motor vehicle emissions as necessary, in combination with other emission reduction requirements of this subpart, to comply with the requirements of subsection (b)(2)(B) and (c)(2)(B) (pertaining to periodic emissions reduction requirements). The State shall consider measures specified in section 108(f), and choose from among and implement such measures as necessary to demonstrate attainment with the national ambient air quality standards; in considering such measures, the State should ensure adequate access to downtown, other commercial, and residential areas and should avoid measures that increase or relocate emissions and congestion rather than reduce them.

"(B) Within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision requiring employers in such area to implement programs to reduce work-related vehicle trips and miles traveled by employees. Such revision shall be developed in accordance with guidance issued by the Administrator pursuant to section 108(f) and shall, at a minimum, require that each employer of 100 or more persons in such area increase average passenger occupancy per vehicle in commuting trips between home and the workplace during peak travel periods by not less than 25 percent above the average vehicle occupancy for all such trips in the area at the time the revision is submitted. The guidance of the Administrator may specify average vehicle occupancy rates which vary for locations within a nonattainment area (suburban, center city, business district) or among nonattainment areas reflecting existing occupancy rates and the availability of high occupancy modes. The revision shall provide that each employer subject to a vehicle occupancy requirement shall submit a compliance plan within 2 years after the date the revision is submitted which shall convincingly demonstrate compliance with the requirements of this paragraph not later than 4 years after such date.

"(2) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.3 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(3) ENFORCEMENT UNDER SECTION 185.—By December 31, 2000, the State shall submit a plan revision which includes the provisions required under section 185.

Any reference to the term 'attainment date' in subsection (b) or (c), which is incorporated by reference into this subsection (d), shall refer to the attainment date for Severe Areas.

"(e) EXTREME AREAS.—Each State in which all or part of an Extreme Area is located shall, with respect to the Extreme Area, make the submissions described under subsection (d) (relating to Severe Areas), and shall also submit the revisions to the applicable implementation plan (including the plan items) described under this subsection. The provisions of clause (ii) of subsection (c)(2)(B) (relating to reductions of less than 3 percent), the provisions of paragaphs (6), (7) and (8) of subsection (c) (relating to de minimus rule and modification of sources), and the provisions of clause (ii) of subsection (b)(1)(A) (relating to reductions of less than 15 percent) shall not apply in the case of an Extreme Area. For any Extreme Area, the terms 'major source' and 'major stationary source' includes (in addition to the sources described in section 302) any stationary source or group of sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 10 tons per year of volatile organic compounds.

"(1) OFFSET REQUIREMENT.—For purposes of satisfying the offset requirements pursuant to this part, the ratio of total emission reductions of VOCs to total increased emissions of such air pollutant shall be at least 1.5 to 1, except that if the State plan requires all existing major sources in the nonattainment area to use best available control technology (as defined in section 169(3)) for the control of volatile organic compounds, the ratio shall be at least 1.2 to 1.

"(2) MODIFICATIONS—Any change (as described in section 111(a)(4)) at a major stationary source which results in any increase in emissions from any discrete operation, unit, or other pollutant emitting activity at the source shall be considered a modification for purposes of section 172(c)(5) and section 173(a), except that for purposes of complying with the offset requirement pursuant to section 173(a)(1), any such increase shall not be considered a modification if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of the air pollutant concerned from other discrete operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1. The offset requirements of this part shall not be applicable in Extreme Areas to a modification of an existing source if such modification consists of installation of equipment required to comply with the applicable implementation plan, permit, or this Act.

"(3) USE OF CLEAN FUELS OR ADVANCED CONTROL TECHNOLOGY.—For Extreme Areas, a plan revision shall be submitted within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990 to require, effective 8 years after such date, that each new, modified, and existing electric utility and industrial and commercial boiler which emits more than 25 tons per year of oxides of nitrogen—

"(A) burn as its primary fuel natural gas, methanol, or ethanol (or a comparably low polluting fuel), or

"(B) use advanced control technology (such as catalytic control technology or other comparably effective control methods) for reduction of emissions of oxides of nitrogen.

For purposes of this subsection, the term 'primary fuel' means the fuel which is used 90 percent or more of the operating time. This paragraph shall not apply during any natural gas supply emergency (as defined in title III of the Natural Gas Policy Act of 1978).

"(4) TRAFFIC CONTROL MEASURES DURING HEAVY TRAFFIC HOURS.—For Extreme Areas, each implementation plan revision under this subsection may contain provisions establishing traffic control measures applicable during heavy traffic hours to reduce the use of high polluting vehicles or heavy-duty vehicles, notwithstanding any other provision of law.

"(5) NEW TECHNOLOGIES.—The Administrator may, in accordance with section 110, approve provisions of an implementation plan for an Extreme Area which anticipate development of new control techniques or improvement of existing control technologies, and an attainment demonstration based on such provisions, if the State demonstrates to the satisfaction of the Administrator that—

"(A) such provisions are not necessary to achieve the incremental emission reductions required during the first 10 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(B) the State has submitted enforceable commitments to develop and adopt contingency measures to be implemented as set forth herein if the anticipated technologies do not achieve planned reductions.

Such contingency measures shall be submitted to the Administrator no later than 3 years before proposed implementation of the plan provisions and approved or disapproved by the Administrator in accordance with section 110. The contingency measures shall be adequate to produce emission reductions sufficient, in conjunction with other approved plan provisions, to achieve the periodic emission reductions required by subsection (b)(1) or (c)(2) and attainment by the applicable dates. If the Administrator determines that an Extreme Area has failed to achieve an emission reduction requirement set forth in subsection (b)(1) or (c)(2), and that such failure is due in whole or part to an inability to fully implement provisions approved pursuant to this subsection, the Administrator shall require the State to implement the contingency measures to the extent necessary to assure compliance with subsections (b)(1) and (c)(2).

Any reference to the term 'attainment date' in subsection (b), (c), or (d) which is incorporated by reference into this subsection, shall refer to the attainment date for Extreme Areas.

"(f) NO_x REQUIREMENTS.—(1) The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of this section) of oxides of nitrogen. This subsection shall not apply in the case of oxides of nitrogen for those sources for which the Administrator determines (when the Administrator approves a plan or plan revision) that net air quality benefits are greater in the absence of reductions of oxides of nitrogen from the sources concerned. This subsection shall also not apply in the case of oxides of nitrogen for—

"(A) nonattainment areas not within an ozone transport region under section 184 if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

"(B) nonattainment areas within such an ozone transport region if the Administrator determines (when the Administrator approves a plan or plan revision) that additional reductions of oxides of nitrogen would not produce net ozone air quality benefits in such region.

The Administrator shall, in the Administrator's determinations, consider the study required under section 185B.

"(2)(A) If the Administrator determines that excess reductions in emissions of NO_x would be achieved under paragraph (1), the Administrator may limit the application of paragraph (1) to the extent necessary to avoid achieving such excess reductions.

"(B) For purposes of this paragraph, excess reductions in emissions of NO_x are emission reductions for which the Administrator determines that net air quality benefits are greater in the absence of such reductions. Alternatively, for purposes of this paragraph, excess reductions in emissions of NO_x are, for—

"(i) nonattainment areas not within an ozone transport region under section 184, emission reductions that the Administrator determines would not contribute to attainment of the national ambient air quality standard for ozone in the area, or

"(ii) nonattainment areas within such ozone transport region, emission reductions that the Administrator determines would not produce net ozone air quality benefits in such region.

"(3) At any time after the final report under section 185B is submitted to Congress, a person may petition the Administrator for a determination under paragraph (1) or (2) with respect to any nonattainment area or any ozone transport region under section 184. The Administrator shall grant or deny such petition within 6 months after its filing with the Administrator.

"(g) MILESTONES.—

"(1) REDUCTIONS IN EMISSIONS.—6 years after the date of the enactment of the Clean Air Amendments of 1990 and at intervals of every 3 years thereafter, the State shall determine whether each nonattainment area (other than an area classified as Marginal or Moderate) has achieved a reduction in emissions during the preceding intervals equivalent to the total emission reductions required to be achieved by the end of such interval pursuant to subsection (b)(1) and the corresponding requirements of subsections (c)(2) (B) and (C), (d), and (e). Such reduction shall be referred to in this section as an applicable milestone.

"(2) COMPLIANCE DEMONSTRATION.—For each nonattainment area referred to in paragraph (1), not later than 90 days after the date on which an applicable milestone occurs (not including an attainment date on which a milestone occurs in cases where the standard has been attained), each State in which all or part of such area is located shall submit to the Administrator a demonstration that the milestone has been met. A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require, by rule. The Administrator shall

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determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) SERIOUS AND SEVERE AREAS; STATE ELECTION.—If a State fails to submit a demonstration under paragraph (2) for any Serious or Severe Area within the required period or if the Administrator determines that the area has not met any applicable milestone, the State shall elect, within 90 days after such failure or determination—

"(A) to have the area reclassified to the next higher classification,

"(B) to implement specific additional measures adequate, as determined by the Administrator, to meet the next milestone as provided in the applicable contingency plan, or

"(C) to adopt an economic incentive program as described in paragraph (4).

If the State makes an election under subparagraph (B), the Administrator shall, within 90 days after the election, review such plan and shall, if the Administrator finds the contingency plan inadequate, require further measures necessary to meet such milestone. Once the State makes an election, it shall be deemed accepted by the Administrator as meeting the election requirement. If the State fails to make an election required under this paragraph within the required 90-day period or within 6 months thereafter, the area shall be reclassified to the next higher classification by operation of law at the expiration of such 6-month period. Within 12 months after the date required for the State to make an election, the State shall submit a revision of the applicable implementation plan for the area that meets the requirements of this paragraph. The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.

"(4) ECONOMIC INCENTIVE PROGRAM.—(A) An economic incentive program under this paragraph shall be consistent with rules published by the Administrator and sufficient, in combination with other elements of the State plan, to achieve the next milestone. The State program may include a nondiscriminatory system, consistent with applicable law regarding interstate commerce, of State established emissions fees or a system of marketable permits, or a system of State fees on sale or manufacture of products the use of which contributes to ozone formation, or any combination of the foregoing or other similar measures. The program may also include incentives and requirements to reduce vehicle emissions and vehicle miles traveled in the area, including any of the transportation control measures identified in section 108(f).

"(B) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish rules for the programs to be adopted pursuant to subparagraph (A). Such rules shall include model plan provisions which may be adopted for reducing emissions from permitted stationary sources, area sources, and mobile sources. The guidelines shall require that any revenues generated by the plan provisions adopted pursuant to subparagraph (A) shall be used by the State for any of the following: Regulations.

"(i) Providing incentives for achieving emission reductions.

"(ii) Providing assistance for the development of innovative technologies for the control of ozone air pollution and for the development of lower-polluting solvents and surface coatings. Such assistance shall not provide for the payment of more than 75 percent of either the costs of any project to develop such a technology or the costs of development of a lower-polluting solvent or surface coating.

"(iii) Funding the administrative costs of State programs under this Act. Not more than 50 percent of such revenues may be used for purposes of this clause.

"(5) EXTREME AREAS.—If a State fails to submit a demonstration under paragraph (2) for any Extreme Area within the required period, or if the Administrator determines that the area has not met any applicable milestone, the State shall, within 9 months after such failure or determination, submit a plan revision to implement an economic incentive program which meets the requirements of paragraph (4). The Administrator shall review such plan revision and approve or disapprove the revision within 9 months after the date of its submission.

"(h) RURAL TRANSPORT AREAS.—(1) Notwithstanding any other provision of section 181 or this section, a State containing an ozone nonattainment area that does not include, and is not adjacent to, any part of a Metropolitan Statistical Area or, where one exists, a Consolidated Metropolitan Statistical Area (as defined by the United States Bureau of the Census), which area is treated by the Administrator, in the Administrator's discretion, as a rural transport area within the meaning of paragraph (2), shall be treated by operation of law as satisfying the requirements of this section if it makes the submissions required under subsection (a) of this section (relating to marginal areas).

"(2) The Administrator may treat an ozone nonattainment area as a rural transport area if the Administrator finds that sources of VOC (and, where the Administrator determines relevant, NO_x) emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.

"(i) RECLASSIFIED AREAS.—Each State containing an ozone nonattainment area reclassified under section 181(b)(2) shall meet such requirements of subsections (b) through (d) of this section as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions.

"(j) MULTI-STATE OZONE NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single ozone nonattainment area which covers more than one State (hereinafter in this section referred to as a 'multi-State ozone nonattainment area') shall—

"(A) take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned; and

"(B) use photochemical grid modeling or any other analytical method determined by the Administrator, in his discretion, to be at least as effective.

The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State ozone nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State ozone nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for ozone in that portion within the required period, the State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 182 (relating to plan submissions and requirements for ozone nonattainment areas). If the Administrator makes such finding, the provisions of section 179 (relating to sanctions) shall not apply, by reason of the failure to make such demonstration, in the portion of the multi-State ozone nonattainment area within the State submitting such petition.

"SEC. 183. FEDERAL OZONE MEASURES. 42 USC 7511b.

"(a) CONTROL TECHNIQUES GUIDELINES FOR VOC SOURCES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines, in accordance with section 108, for 11 categories of stationary sources of VOC emissions for which such guidelines have not been issued as of such date of enactment, not including the categories referred to in paragraphs (3) and (4) of subsection (b) of this section. The Administrator may issue such additional control techniques guidelines as the Administrator deems necessary.

"(b) EXISTING AND NEW CTGS.—(1) Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, and periodically thereafter, the Administrator shall review and, if necessary, update control technique guidance issued under section 108 before the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) In issuing the guidelines the Administrator shall give priority to those categories which the Administrator considers to make the most significant contribution to the formation of ozone air pollution in ozone nonattainment areas, including hazardous waste treatment, storage, and disposal facilities which are permitted under subtitle C of the Solid Waste Disposal Act. Thereafter the Administrator shall periodically review and, if necessary, revise such guidelines.

"(3) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds into the ambient air from aerospace coatings and solvents. Such control techniques guidelines shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds into the ambient air from the application of such coatings and solvents to such level as the Administrator determines may be achieved through the adoption of

best available control measures. Such control technology guidance shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control technology guidance under this subsection, the Administrator shall consult with the Secretary of Defense, the Secretary of Transportation, and the Administrator of the National Aeronautics and Space Administration with regard to the establishment of specifications for such coatings. In evaluating VOC reduction strategies, the guidance shall take into account the applicable requirements of section 112 and the need to protect stratospheric ozone.

"(4) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue control techniques guidelines in accordance with section 108 to reduce the aggregate emissions of volatile organic compounds and PM-10 into the ambient air from paints, coatings, and solvents used in shipbuilding operations and ship repair. Such control techniques guidelines shall, at a minimum, be adequate to reduce aggregate emissions of volatile organic compounds and PM-10 into the ambient air from the removal or application of such paints, coatings, and solvents to such level as the Administrator determines may be achieved through the adoption of the best available control measures. Such control techniques guidelines shall provide for such reductions in such increments and on such schedules as the Administrator determines to be reasonable, but in no event later than 10 years after the final issuance of such control technology guidance. In developing control techniques guidelines under this subsection, the Administrator shall consult with the appropriate Federal agencies.

"(c) ALTERNATIVE CONTROL TECHNIQUES.—Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue technical documents which identify alternative controls for all categories of stationary sources of volatile organic compounds and oxides of nitrogen which emit, or have the potential to emit 25 tons per year or more of such air pollutant. The Administrator shall revise and update such documents as the Administrator determines necessary.

"(d) GUIDANCE FOR EVALUATING COST-EFFECTIVENESS.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall provide guidance to the States to be used in evaluating the relative cost-effectiveness of various options for the control of emissions from existing stationary sources of air pollutants which contribute to nonattainment of the national ambient air quality standards for ozone.

"(e) CONTROL OF EMISSIONS FROM CERTAIN SOURCES.—

"(1) DEFINITIONS.—For purposes of this subsection—

"(A) BEST AVAILABLE CONTROLS.—The term 'best available controls' means the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

"(B) CONSUMER OR COMMERCIAL PRODUCT.—The term 'consumer or commercial product' means any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds. The term does not include fuels or fuel additives regulated under section 211, or motor vehicles, non-road vehicles, and non-road engines as defined under section 216.

"(C) REGULATED ENTITIES.—The term 'regulated entities' means—

"(i) manufacturers, processors, wholesale distributors, or importers of consumer or commercial products for sale or distribution in interstate commerce in the United States; or

"(ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause (i) with such products for sale or distribution in interstate commerce in the United States.

"(2) STUDY AND REPORT.—

"(A) STUDY.—The Administrator shall conduct a study of the emissions of volatile organic compounds into the ambient air from consumer and commercial products (or any combination thereof) in order to—

"(i) determine their potential to contribute to ozone levels which violate the national ambient air quality standard for ozone; and

"(ii) establish criteria for regulating consumer and commercial products or classes or categories thereof which shall be subject to control under this subsection.

The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(B) CONSIDERATION OF CERTAIN FACTORS.—In establishing the criteria under subparagraph (A)(ii), the Administrator shall take into consideration each of the following:

"(i) The uses, benefits, and commercial demand of consumer and commercial products.

"(ii) The health or safety functions (if any) served by such consumer and commercial products.

"(iii) Those consumer and commercial products which emit highly reactive volatile organic compounds into the ambient air.

"(iv) Those consumer and commercial products which are subject to the most cost-effective controls.

"(v) The availability of alternatives (if any) to such consumer and commercial products which are of comparable costs, considering health, safety, and environmental impacts.

"(3) REGULATIONS TO REQUIRE EMISSION REDUCTIONS.—

"(A) IN GENERAL.—Upon submission of the final report under paragraph (2), the Administrator shall list those categories of consumer or commercial products that the Administrator determines, based on the study, account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer or commercial products in

areas that violate the NAAQS for ozone. Credit toward the 80 percent emissions calculation shall be given for emission reductions from consumer or commercial products made after the date of enactment of this section. At such time, the Administrator shall divide the list into 4 groups establishing priorities for regulation based on the criteria established in paragraph (2). Every 2 years after promulgating such list, the Administrator shall regulate one group of categories until all 4 groups are regulated. The regulations shall require best available controls as defined in this section. Such regulations may exempt health use products for which the Administrator determines there is no suitable substitute. In order to carry out this section, the Administrator may, by regulation, control or prohibit any activity, including the manufacture or introduction into commerce, offering for sale, or sale of any consumer or commercial product which results in emission of volatile organic compounds into the ambient air.

"(B) REGULATED ENTITIES.—Regulations under this subsection may be imposed only with respect to regulated entities.

"(C) USE OF CTGS.—For any consumer or commercial product the Administrator may issue control techniques guidelines under this Act in lieu of regulations required under subparagraph (A) if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone.

"(4) SYSTEMS OF REGULATION.—The regulations under this subsection may include any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.

"(5) SPECIAL FUND.—Any amounts collected by the Administrator under such regulations shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available until expended, subject to annual appropriation Acts, solely to carry out the activities of the Administrator for which such fees, charges, or collections are established or made.

"(6) ENFORCEMENT.—Any regulation established under this subsection shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such regulation shall be treated as a violation of a requirement of section 111(e).

"(7) STATE ADMINISTRATION.—Each State may develop and submit to the Administrator a procedure under State law for implementing and enforcing regulations promulgated under this subsection. If the Administrator finds the State procedure is adequate, the Administrator shall approve such procedure. Nothing in this paragraph shall prohibit the Administrator from enforcing any applicable regulations under this subsection.

"(8) SIZE, ETC.—No regulations regarding the size, shape, or labeling of a product may be promulgated, unless the Administrator determines such regulations to be useful in meeting any national ambient air quality standard.

"(9) STATE CONSULTATION.—Any State which proposes regulations other than those adopted under this subsection shall consult with the Administrator regarding whether any other State or local subdivision has promulgated or is promulgating regulations on any products covered under this part. The Administrator shall establish a clearinghouse of information, studies, and regulations proposed and promulgated regarding products covered under this subsection and disseminate such information collected as requested by State or local subdivisions.

"(f) TANK VESSEL STANDARDS.—

"(1) SCHEDULE FOR STANDARDS.—(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of the Department in which the Coast Guard is operating, shall promulgate standards applicable to the emission of VOCs and any other air pollutant from loading and unloading of tank vessels (as that term is defined in section 2101 of title 46 of the United States Code) which the Administrator finds causes, or contributes to, air pollution that may be reasonably anticipated to endanger public health or welfare. Such standards shall require the application of reasonably available control technology, considering costs, any nonair-quality benefits, environmental impacts, energy requirements and safety factors associated with alternative control techniques. To the extent practicable such standards shall apply to loading and unloading facilities and not to tank vessels.

"(B) Any regulation prescribed under this subsection (and any revision thereof) shall take effect after such period as the Administrator finds (after consultation with the Secretary of the department in which the Coast Guard is operating) necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period, except that the effective date shall not be more than 2 years after promulgation of such regulations. Effective dates.

"(2) REGULATIONS ON EQUIPMENT SAFETY.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Secretary of the Department in which the Coast Guard is operating shall issue regulations to ensure the safety of the equipment and operations which are to control emissions from the loading and unloading of tank vessels, under section 3703 of title 46 of the United States Code and section 6 of the Ports and Waterways Safety Act (33 U.S.C. 1225). The standards promulgated by the Administrator under paragraph (1) and the regulations issued by a State or political subdivision regarding emissions from the loading and unloading of tank vessels shall be consistent with the regulations regarding safety of the Department in which the Coast Guard is operating.

"(3) AGENCY AUTHORITY.—(A) The Administrator shall ensure compliance with the tank vessel emission standards prescribed under paragraph (1)(A). The Secretary of the Department in which the Coast Guard is operating shall also ensure compli-

ance with the tank vessel standards prescribed under paragraph (1)(A).

"(B) The Secretary of the Department in which the Coast Guard is operating shall ensure compliance with the regulations issued under paragraph (2).

"(4) STATE OR LOCAL STANDARDS.—After the Administrator promulgates standards under this section, no State or political subdivision thereof may adopt or attempt to enforce any standard respecting emissions from tank vessels subject to regulation under paragraph (1) unless such standard is no less stringent than the standards promulgated under paragraph (1).

"(5) ENFORCEMENT.—Any standard established under paragraph (1)(A) shall be treated, for purposes of enforcement of this Act, as a standard under section 111 and any violation of such standard shall be treated as a violation of a requirement of section 111(e).

"(g) OZONE DESIGN VALUE STUDY.—The Administrator shall conduct a study of whether the methodology in use by the Environmental Protection Agency as of the date of the enactment of the Clean Air Act Amendments of 1990 for establishing a design value for ozone provides a reasonable indicator of the ozone air quality of ozone nonattainment areas. The Administrator shall obtain input from States, local subdivisions thereof, and others. The study shall be completed and a report submitted to Congress not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The results of the study shall be subject to peer and public review before submitting it to Congress.

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42 USC 7511c.

"SEC. 184. CONTROL OF INTERSTATE OZONE AIR POLLUTION.

State listing.

"(a) OZONE TRANSPORT REGIONS.—A single transport region for ozone (within the meaning of section 176A(a)), comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the Consolidated Metropolitan Statistical Area that includes the District of Columbia, is hereby established by operation of law. The provisions of section 176A(a) (1) and (2) shall apply with respect to the transport region established under this section and any other transport region established for ozone, except to the extent inconsistent with the provisions of this section. The Administrator shall convene the commission required (under section 176A(b)) as a result of the establishment of such region within 6 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(b) PLAN PROVISIONS FOR STATES IN OZONE TRANSPORT REGIONS.—(1) In accordance with section 110, not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 (or 9 months after the subsequent inclusion of a State in a transport region established for ozone), each State included within a transport region established for ozone shall submit a State implementation plan or revision thereof to the Administrator which requires the following—

"(A) that each area in such State that is in an ozone transport region, and that is a metropolitan statistical area or part thereof with a population of 100,000 or more comply with the provisions of section 182(c)(2)(A) (pertaining to enhanced vehicle inspection and maintenance programs); and

"(B) implementation of reasonably available control technology with respect to all sources of volatile organic compounds in the State covered by a control techniques guideline issued before or after the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) Within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study identifying control measures capable of achieving emission reductions comparable to those achievable through vehicle refueling controls contained in section 182(b)(3), and such measures or such vehicle refueling controls shall be implemented in accordance with the provisions of this section. Notwithstanding other deadlines in this section, the applicable implementation plan shall be revised to reflect such measures within 1 year of completion of the study. For purposes of this section any stationary source that emits or has the potential to emit at least 50 tons per year of volatile organic compounds shall be considered a major stationary source and subject to the requirements which would be applicable to major stationary sources if the area were classified as a Moderate nonattainment area.

"(c) ADDITIONAL CONTROL MEASURES.—

"(1) RECOMMENDATIONS.—Upon petition of any State within a transport region established for ozone, and based on a majority vote of the Governors on the Commission (or their designees), the Commission may, after notice and opportunity for public comment, develop recommendations for additional control measures to be applied within all or a part of such transport region if the commission determines such measures are necessary to bring any area in such region into attainment by the dates provided by this subpart. The commission shall transmit such recommendations to the Administrator.

"(2) NOTICE AND REVIEW.—Whenever the Administrator receives recommendations prepared by a commission pursuant to paragraph (1) (the date of receipt of which shall hereinafter in this section be referred to as the 'receipt date'), the Administrator shall—

"(A) immediately publish in the Federal Register a notice stating that the recommendations are available and provide an opportunity for public hearing within 90 days beginning on the receipt date; and Federal Register, publication.

"(B) commence a review of the recommendations to determine whether the control measures in the recommendations are necessary to bring any area in such region into attainment by the dates provided by this subpart and are otherwise consistent with this Act.

"(3) CONSULTATION.—In undertaking the review required under paragraph (2)(B), the Administrator shall consult with members of the commission of the affected States and shall take into account the data, views, and comments received pursuant to paragraph (2)(A).

"(4) APPROVAL AND DISAPPROVAL.—Within 9 months after the receipt date, the Administrator shall (A) determine whether to approve, disapprove, or partially disapprove and partially approve the recommendations; (B) notify the commission in writing of such approval, disapproval, or partial disapproval; and (C) publish such determination in the Federal Register. If Federal Register, publication.

the Administrator disapproves or partially disapproves the recommendations, the Administrator shall specify—

"(i) why any disapproved additional control measures are not necessary to bring any area in such region into attainment by the dates provided by this subpart or are otherwise not consistent with the Act; and

"(ii) recommendations concerning equal or more effective actions that could be taken by the commission to conform the disapproved portion of the recommendations to the requirements of this section.

"(5) FINDING.—Upon approval or partial approval of recommendations submitted by a commission, the Administrator shall issue to each State which is included in the transport region and to which a requirement of the approved plan applies, a finding under section 110(k)(5) that the implementation plan for such State is inadequate to meet the requirements of section 110(a)(2)(D). Such finding shall require each such State to revise its implementation plan to include the approved additional control measures within one year after the finding is issued.

"(d) BEST AVAILABLE AIR QUALITY MONITORING AND MODELING.—For purposes of this section, not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate criteria for purposes of determining the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. Such criteria shall require that the best available air quality monitoring and modeling techniques be used for purposes of making such determinations.

42 USC 7511d.

"SEC. 185. ENFORCEMENT FOR SEVERE AND EXTREME OZONE NONATTAINMENT AREAS FOR FAILURE TO ATTAIN.

"(a) GENERAL RULE.—Each implementation plan revision required under section 182 (d) and (e) (relating to the attainment plan for Severe and Extreme ozone nonattainment areas) shall provide that, if the area to which such plan revision applies has failed to attain the national primary ambient air quality standard for ozone by the applicable attainment date, each major stationary source of VOCs located in the area shall, except as otherwise provided under subsection (c), pay a fee to the State as a penalty for such failure, computed in accordance with subsection (b), for each calendar year beginning after the attainment date, until the area is redesignated as an attainment area for ozone. Each such plan revision should include procedures for assessment and collection of such fees.

"(b) COMPUTATION OF FEE.—

"(1) FEE AMOUNT.—The fee shall equal $5,000, adjusted in accordance with paragraph (3), per ton of VOC emitted by the source during the calendar year in excess of 80 percent of the baseline amount, computed under paragraph (2).

"(2) BASELINE AMOUNT.—For purposes of this section, the baseline amount shall be computed, in accordance with such guidance as the Administrator may provide, as the lower of the amount of actual VOC emissions ('actuals') or VOC emissions allowed under the permit applicable to the source (or, if no such permit has been issued for the attainment year, the amount of VOC emissions allowed under the applicable implementation plan ('allowables')) during the attainment year. Notwithstanding the preceding sentence, the Administrator may issue guid-

ance authorizing the baseline amount to be determined in accordance with the lower of average actuals or average allowables, determined over a period of more than one calendar year. Such guidance may provide that such average calculation for a specific source may be used if that source's emissions are irregular, cyclical, or otherwise vary significantly from year to year.

"(3) ANNUAL ADJUSTMENT.—The fee amount under paragraph (1) shall be adjusted annually, beginning in the year beginning after the year of enactment, in accordance with section 502(b)(3)(B)(v) (relating to inflation adjustment).

"(c) EXCEPTION.—Notwithstanding any provision of this section, no source shall be required to pay any fee under subsection (a) with respect to emissions during any year that is treated as an Extension Year under section 181(a)(5).

"(d) FEE COLLECTION BY THE ADMINISTRATOR.—If the Administrator has found that the fee provisions of the implementation plan do not meet the requirements of this section, or if the Administrator makes a finding that the State is not administering and enforcing the fee required under this section, the Administrator shall, in addition to any other action authorized under this title, collect, in accordance with procedures promulgated by the Administrator, the unpaid fees required under subsection (a). If the Administrator makes such a finding under section 179(a)(4), the Administrator may collect fees for periods before the determination, plus interest computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes), to the extent the Administrator finds such fees have not been paid to the State. The provisions of clauses (ii) through (iii) of section 502(b)(3)(C) (relating to penalties and use of the funds, respectively) shall apply with respect to fees collected under this subsection.

"(e) EXEMPTIONS FOR CERTAIN SMALL AREAS.—For areas with a total population under 200,000 which fail to attain the standard by the applicable attainment date, no sanction under this section or under any other provision of this Act shall apply if the area can demonstrate, consistent with guidance issued by the Administrator, that attainment in the area is prevented because of ozone or ozone precursors transported from other areas. The prohibition applies only in cases in which the area has met all requirements and implemented all measures applicable to the area under this Act.

"SEC. 185A. TRANSITIONAL AREAS. 42 USC 7511e.

"If an area designated as an ozone nonattainment area as of the date of enactment of the Clean Air Act Amendments of 1990 has not violated the national primary ambient air quality standard for ozone for the 36-month period commencing on January 1, 1987, and ending on December 31, 1989, the Administrator shall suspend the application of the requirements of this subpart to such area until December 31, 1991. By June 30, 1992, the Administrator shall determine by order, based on the area's design value as of the attainment date, whether the area attained such standard by December 31, 1991. If the Administrator determines that the area attained the standard, the Administrator shall require, as part of the order, the State to submit a maintenance plan for the area within 12 months of such determination. If the Administrator determines that the area failed to attain the standard, the Administrator

shall, by June 30, 1992, designate the area as nonattainment under section 107(d)(4).

42 USC 7511f.

"SEC. 185B. NO_x AND VOC STUDY.

"The Administrator, in conjunction with the National Academy of Sciences, shall conduct a study on the role of ozone precursors in tropospheric ozone formation and control. The study shall examine the roles of NO_x and VOC emission reductions, the extent to which NO_x reductions may contribute (or be counterproductive) to achievement of attainment in different nonattainment areas, the sensitivity of ozone to the control of NO_x, the availability and extent of controls for NO_x, the role of biogenic VOC emissions, and the basic information required for air quality models. The study shall be completed and a proposed report made public for 30 days comment within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, and a final report shall be submitted to Congress within 15 months after such date of enactment. The Administrator shall utilize all available information and studies, as well as develop additional information, in conducting the study required by this section.".

Reports. Public information.

SEC. 104. ADDITIONAL PROVISIONS FOR CARBON MONOXIDE NONATTAINMENT AREAS.

Part D of title I of the Clean Air Act is amended by adding the following new subpart at the end:

"Subpart 3—Additional Provisions for Carbon Monoxide Nonattainment Areas

"Sec. 186. Classifications and attainment dates.
"Sec. 187. Plan submissions and requirements.

42 USC 7512.

"SEC. 186. CLASSIFICATION AND ATTAINMENT DATES.

"(a) CLASSIFICATION BY OPERATION OF LAW AND ATTAINMENT DATES FOR NONATTAINMENT AREAS.—(1) Each area designated nonattainment for carbon monoxide pursuant to section 107(d) shall be classified at the time of such designation under table 1, by operation of law, as a Moderate Area or a Serious Area based on the design value for the area. The design value shall be calculated according to the interpretation methodology issued by the Administrator most recently before the date of the enactment of the Clean Air Act Amendments of 1990. For each area classified under this subsection, the primary standard attainment date for carbon monoxide shall be as expeditiously as practicable but not later than the date provided in table 1:

"TABLE 3

Area classification	Design value	Primary standard attainment date
Moderate	9.1–16.4 ppm	December 31, 1995
Serious	16.5 and above	December 31, 2000

"(2) At the time of publication of the notice required under section 107 (designating carbon monoxide nonattainment areas), the Administrator shall publish a notice announcing the classification of each such carbon monoxide nonattainment area. The provisions of

section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(3) If an area classified under paragraph (1), table 1, would have been classified in another category if the design value in the area were 5 percent greater or 5 percent less than the level on which such classification was based, the Administrator may, in the Administrator's discretion, within 90 days after the date of the enactment of the Clean Air Act Amendments of 1990 by the procedure required under paragraph (2), adjust the classification of the area. In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for carbon monoxide in the area, the level of pollution transport between the area and the other affected areas, and the mix of sources and air pollutants in the area. The Administrator may make the same adjustment for purposes of paragraphs (2), (3), (6), and (7) of section 187(a).

"(4) Upon application by any State, the Administrator may extend for 1 additional year (hereinafter in this subpart referred to as the 'Extension Year') the date specified in table 1 of subsection (a) if—

"(A) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

"(B) no more than one exceedance of the national ambient air quality standard level for carbon monoxide has occurred in the area in the year preceding the Extension Year.

No more than 2 one-year extensions may be issued under this paragraph for a single nonattainment area.

"(b) NEW DESIGNATIONS AND RECLASSIFICATIONS.—

"(1) NEW DESIGNATIONS TO NONATTAINMENT.—Any area that is designated attainment or unclassifiable for carbon monoxide under section 107(d)(4), and that is subsequently redesignated to nonattainment for carbon monoxide under section 107(d)(3), shall, at the time of the redesignation, be classified by operation of law in accordance with table 1 under subsections (a)(1) and (a)(4). Upon its classification, the area shall be subject to the same requirements under section 110, subpart 1 of this part, and this subpart that would have applied had the area been so classified at the time of the notice under subsection (a)(2), except that any absolute, fixed date applicable in connection with any such requirement is extended by operation of law by a period equal to the length of time between the date of the enactment of the Clean Air Act Amendments of 1990 and the date the area is classified.

"(2) RECLASSIFICATION OF MODERATE AREAS UPON FAILURE TO ATTAIN.—

"(A) GENERAL RULE.—Within 6 months following the applicable attainment date for a carbon monoxide nonattainment area, the Administrator shall determine, based on the area's design value as of the attainment date, whether the area has attained the standard by that date. Any Moderate Area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law in accordance with table 1 of subsection (a)(1) as a Serious Area.

"(B) PUBLICATION OF NOTICE.—The Administrator shall publish a notice in the Federal Register, no later than 6 months following the attainment date, identifying each

Federal Register, publication.

area that the Administrator has determined, under subparagraph (A), as having failed to attain and identifying the reclassification, if any, described under subparagraph (A).

"(c) REFERENCES TO TERMS.—Any reference in this subpart to a 'Moderate Area' or a 'Serious Area' shall be considered a reference to a Moderate Area or a Serious Area, respectively, as classified under this section.

Intergovernmental relations.
42 USC 7512a.

"SEC. 187. PLAN SUBMISSIONS AND REQUIREMENTS.

"(a) MODERATE AREAS.—Each State in which all or part of a Moderate Area is located shall, with respect to the Moderate Area (or portion thereof, to the extent specified in guidance of the Administrator issued before the date of the enactment of the Clean Air Act Amendments of 1990), submit to the Administrator the State implementation plan revisions (including the plan items) described under this subsection, within such periods as are prescribed under this subsection, except to the extent the State has made such submissions as of such date of enactment:

"(1) INVENTORY.—No later than 2 years from the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a comprehensive, accurate, current inventory of actual emissions from all sources, as described in section 172(c)(3), in accordance with guidance provided by the Administrator.

"(2)(A) VEHICLE MILES TRAVELED.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall contain a forecast of vehicle miles traveled in the nonattainment area concerned for each year before the year in which the plan projects the national ambient air quality standard for carbon monoxide to be attained in the area. The forecast shall be based on guidance which shall be published by the Administrator, in consultation with the Secretary of Transportation, within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990. The plan revision shall provide for annual updates of the forecasts to be submitted to the Administrator together with annual reports regarding the extent to which such forecasts proved to be accurate. Such annual reports shall contain estimates of actual vehicle miles traveled in each year for which a forecast was required.

Reports.

"(B) SPECIAL RULE FOR DENVER.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, in the case of Denver, the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1)(A) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. If the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for carbon monoxide.

"(3) CONTINGENCY PROVISIONS.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of

1990, for areas with a design value above 12.7 ppm at the time of classification, the plan revision shall provide for the implementation of specific measures to be undertaken if any estimate of vehicle miles traveled in the area which is submitted in an annual report under paragraph (2) exceeds the number predicted in the most recent prior forecast or if the area fails to attain the national primary ambient air quality standard for carbon monoxide by the primary standard attainment date. Such measures shall be included in the plan revision as contingency measures to take effect without further action by the State or the Administrator if the prior forecast has been exceeded by an updated forecast or if the national standard is not attained by such deadline.

"(4) SAVINGS CLAUSE FOR VEHICLE INSPECTION AND MAINTENANCE PROVISIONS OF THE STATE IMPLEMENTATION PLAN.—Immediately after the date of the enactment of the Clean Air Act Amendments of 1990, for any Moderate Area (or, within the Administrator's discretion, portion thereof), the plan for which is of the type described in section 182(a)(2)(B) any provisions necessary to ensure that the applicable implementation plan includes the vehicle inspection and maintenance program described in section 182(a)(2)(B).

"(5) PERIODIC INVENTORY.—No later than September 30, 1995, and no later than the end of each 3 year period thereafter, until the area is redesignated to attainment, a revised inventory meeting the requirements of subsection (a)(1).

"(6) ENHANCED VEHICLE INSPECTION AND MAINTENANCE.—No later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 in the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, a revision that includes provisions for an enhanced vehicle inspection and maintenance program as required in section 182(c)(3) (concerning serious ozone nonattainment areas), except that such program shall be for the purpose of reducing carbon monoxide rather than hydrocarbon emissions.

"(7) ATTAINMENT DEMONSTRATION AND SPECIFIC ANNUAL EMISSION REDUCTIONS.—In the case of Moderate Areas with a design value greater than 12.7 ppm at the time of classification, no later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, a revision to provide, and a demonstration that the plan as revised will provide, for attainment of the carbon monoxide NAAQS by the applicable attainment date and provisions for such specific annual emission reductions as are necessary to attain the standard by that date.

The Administrator may, in the Administrator's discretion, require States to submit a schedule for submitting any of the revisions or other items required under this subsection. In the case of Moderate Areas with a design value of 12.7 ppm or lower at the time of classification, the requirements of this subsection shall apply in lieu of any requirement that the State submit a demonstration that the applicable implementation plan provides for attainment of the carbon monoxide standard by the applicable attainment date.

"(b) SERIOUS AREAS.—

"(1) IN GENERAL.—Each State in which all or part of a Serious Area is located shall, with respect to the Serious Area, make the submissions (other than those required under subsection

(a)(1)(B)) applicable under subsection (a) to Moderate Areas with a design value of 12.7 ppm or greater at the time of classification, and shall also submit the revision and other items described under this subsection.

"(2) VEHICLE MILES TRAVELED.—Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990 the State shall submit a revision that includes the transportation control measures as required in section 182(d)(1) except that such revision shall be for the purpose of reducing CO emissions rather than volatile organic compound emissions. In the case of any such area (other than an area in New York State) which is a covered area (as defined in section 246(a)(2)(B)) for purposes of the Clean Fuel Fleet program under part C of title II, if the State fails to include any such measure, the implementation plan shall contain an explanation of why such measure was not adopted and what emissions reduction measure was adopted to provide a comparable reduction in emissions, or reasons why such reduction is not necessary to attain the national primary ambient air quality standard for carbon monoxide.

"(3) OXYGENATED GASOLINE.—(A) Within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the State shall submit a revision to require that gasoline sold, supplied, offered for sale or supply, dispensed, transported or introduced into commerce in the larger of—

"(i) the Consolidated Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) (CMSA) in which the area is located, or

"(ii) if the area is not located in a CMSA, the Metropolitan Statistical Area (as defined by the United States Office of Management and Budget) in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide (as determined by the Administrator), with fuels containing such level of oxygen as is necessary, in combination with other measures, to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area. The revision shall provide that such requirement shall take effect no later than October 1, 1993, and shall include a program for implementation and enforcement of the requirement consistent with guidance to be issued by the Administrator.

"(B) Notwithstanding subparagraph (A), the revision described in this paragraph shall not be required for an area if the State demonstrates to the satisfaction of the Administrator that the revision is not necessary to provide for attainment of the carbon monoxide national ambient air quality standard by the applicable attainment date and maintenance of the national ambient air quality standard thereafter in the area.

"(c) AREAS WITH SIGNIFICANT STATIONARY SOURCE EMISSIONS OF CO.—

"(1) SERIOUS AREAS.—In the case of Serious Areas in which stationary sources contribute significantly to carbon monoxide levels (as determined under rules issued by the Administrator), the State shall submit a plan revision within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, which provides that the term 'major stationary source'

includes (in addition to the sources described in section 302) any stationary source which emits, or has the potential to emit, 50 tons per year or more of carbon monoxide.

"(2) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirements that pertain to transportation controls, inspection and maintenance, or oxygenated fuels where the Administrator determines by rule that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in the area.

"(3) GUIDELINES.—Within 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall issue guidelines for and rules determining whether stationary sources contribute significantly to carbon monoxide levels in an area.

"(d) CO MILESTONE.—

"(1) MILESTONE DEMONSTRATION.—By March 31, 1996, each State in which all or part of a Serious Area is located shall submit to the Administrator a demonstration that the area has achieved a reduction in emissions of CO equivalent to the total of the specific annual emission reductions required by December 31, 1995. Such reductions shall be referred to in this subsection as the milestone.

"(2) ADEQUACY OF DEMONSTRATION.—A demonstration under this paragraph shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) FAILURE TO MEET EMISSION REDUCTION MILESTONE.—If a State fails to submit a demonstration under paragraph (1) within the required period, or if the Administrator notifies the State that the State has not met the milestone, the State shall, within 9 months after such a failure or notification, submit a plan revision to implement an economic incentive and transportation control program as described in section 182(g)(4). Such revision shall be sufficient to achieve the specific annual reductions in carbon monoxide emissions set forth in the plan by the attainment date.

"(e) MULTI-STATE CO NONATTAINMENT AREAS.—

"(1) COORDINATION AMONG STATES.—Each State in which there is located a portion of a single nonattainment area for carbon monoxide which covers more than one State ('multi-State nonattainment area') shall take all reasonable steps to coordinate, substantively and procedurally, the revisions and implementation of State implementation plans applicable to the nonattainment area concerned. The Administrator may not approve any revision of a State implementation plan submitted under this part for a State in which part of a multi-State nonattainment area is located if the plan revision for that State fails to comply with the requirements of this subsection.

"(2) FAILURE TO DEMONSTRATE ATTAINMENT.—If any State in which there is located a portion of a multi-State nonattainment area fails to provide a demonstration of attainment of the national ambient air quality standard for carbon monoxide in that portion within the period required under this part the

State may petition the Administrator to make a finding that the State would have been able to make such demonstration but for the failure of one or more other States in which other portions of the area are located to commit to the implementation of all measures required under section 187 (relating to plan submissions for carbon monoxide nonattainment areas). If the Administrator makes such finding, in the portion of the nonattainment area within the State submitting such petition, no sanction shall be imposed under section 179 or under any other provision of this Act, by reason of the failure to make such demonstration.

"(f) RECLASSIFIED AREAS.—Each State containing a carbon monoxide nonattainment area reclassified under section 186(b)(2) shall meet the requirements of subsection (b) of this section, as may be applicable to the area as reclassified, according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust any applicable deadlines (other than the attainment date) where such deadlines are shown to be infeasible.

"(g) FAILURE OF SERIOUS AREA TO ATTAIN STANDARD.—If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that a program of incentives and requirements as described in section 182(g)(4) shall be applicable in the area, and such program, in combination with other elements of the revised plan, shall be adequate to reduce the total tonnage of emissions of carbon monoxide in the area by at least 5 percent per year in each year after approval of the plan revision and before attainment of the national primary ambient air quality standard for carbon monoxide.".

SEC. 105. ADDITIONAL PROVISIONS FOR PARTICULATE MATTER (PM-10) NONATTAINMENT AREAS.

(a) PM-10 NONATTAINMENT AREAS.—Part D of title I of the Clean Air Act is amended by adding the following new subpart after subpart 3:

"Subpart 4—Additional Provisions for Particulate Matter Nonattainment Areas

"Sec. 188. Classifications and attainment dates.
"Sec. 189. Plan provisions and schedules for plan submissions.
"Sec. 190. Issuance of guidance.

42 USC 7513.

"SEC. 188. CLASSIFICATIONS AND ATTAINMENT DATES.

"(a) INITIAL CLASSIFICATIONS.—Every area designated nonattainment for PM-10 pursuant to section 107(d) shall be classified at the time of such designation, by operation of law, as a moderate PM-10 nonattainment area (also referred to in this subpart as a 'Moderate Area') at the time of such designation. At the time of publication of the notice under section 107(d)(4) (relating to area designations) for each PM-10 nonattainment area, the Administrator shall publish a notice announcing the classification of such area. The provisions of section 172(a)(1)(B) (relating to lack of notice-and-comment and judicial review) shall apply with respect to such classification.

"(b) RECLASSIFICATION AS SERIOUS.—

"(1) RECLASSIFICATION BEFORE ATTAINMENT DATE.—The Administrator may reclassify as a Serious PM-10 nonattainment area (identified in this subpart also as a 'Serious Area') any area that the Administrator determines cannot practicably attain the national ambient air quality standard for PM-10 by the attainment date (as prescribed in subsection (c)) for Moderate Areas. The Administrator shall reclassify appropriate areas as Serious by the following dates:

"(A) For areas designated nonattainment for PM-10 under section 107(d)(4), the Administrator shall propose to reclassify appropriate areas by June 30, 1991, and take final action by December 31, 1991.

"(B) For areas subsequently designated nonattainment, the Administrator shall reclassify appropriate areas within 18 months after the required date for the State's submission of a SIP for the Moderate Area.

"(2) RECLASSIFICATION UPON FAILURE TO ATTAIN.—Within 6 months following the applicable attainment date for a PM-10 nonattainment area, the Administrator shall determine whether the area attained the standard by that date. If the Administrator finds that any Moderate Area is not in attainment after the applicable attainment date—

"(A) the area shall be reclassified by operation of law as a Serious Area; and

"(B) the Administrator shall publish a notice in the Federal Register no later than 6 months following the attainment date, identifying the area as having failed to attain and identifying the reclassification described under subparagraph (A).

Federal Register, publication.

"(c) ATTAINMENT DATES.—Except as provided under subsection (d), the attainment dates for PM-10 nonattainment areas shall be as follows:

"(1) MODERATE AREAS.—For a Moderate Area, the attainment date shall be as expeditiously as practicable but no later than the end of the sixth calendar year after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the attainment date shall not extend beyond December 31, 1994.

"(2) SERIOUS AREAS.—For a Serious Area, the attainment date shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment, except that, for areas designated nonattainment for PM-10 under section 107(d)(4), the date shall not extend beyond December 31, 2001.

"(d) EXTENSION OF ATTAINMENT DATE FOR MODERATE AREAS.—Upon application by any State, the Administrator may extend for 1 additional year (hereinafter referred to as the 'Extension Year') the date specified in paragraph (c)(1) if—

"(1) the State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and

"(2) no more than one exceedance of the 24-hour national ambient air quality standard level for PM-10 has occurred in the area in the year preceding the Extension Year, and the annual mean concentration of PM-10 in the area for such year is less than or equal to the standard level.

No more than 2 one-year extensions may be issued under the subsection for a single nonattainment area.

"(e) EXTENSION OF ATTAINMENT DATE FOR SERIOUS AREAS.—Upon application by any State, the Administrator may extend the attainment date for a Serious Area beyond the date specified under subsection (c), if attainment by the date established under subsection (c) would be impracticable, the State has complied with all requirements and commitments pertaining to that area in the implementation plan, and the State demonstrates to the satisfaction of the Administrator that the plan for that area includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area. At the time of such application, the State must submit a revision to the implementation plan that includes a demonstration of attainment by the most expeditious alternative date practicable. In determining whether to grant an extension, and the appropriate length of time for any such extension, the Administrator may consider the nature and extent of nonattainment, the types and numbers of sources or other emitting activities in the area (including the influence of uncontrollable natural sources and transboundary emissions from foreign countries), the population exposed to concentrations in excess of the standard, the presence and concentration of potentially toxic substances in the mix of particulate emissions in the area, and the technological and economic feasibility of various control measures. The Administrator may not approve an extension until the State submits an attainment demonstration for the area. The Administrator may grant at most one such extension for an area, of no more than 5 years.

"(f) WAIVERS FOR CERTAIN AREAS.—The Administrator may, on a case-by-case basis, waive any requirement applicable to any Serious Area under this subpart where the Administrator determines that anthropogenic sources of PM–10 do not contribute significantly to the violation of the PM–10 standard in the area. The Administrator may also waive a specific date for attainment of the standard where the Administrator determines that nonanthropogenic sources of PM–10 contribute significantly to the violation of the PM–10 standard in the area.

42 USC 7513a.

"SEC. 189. PLAN PROVISIONS AND SCHEDULES FOR PLAN SUBMISSIONS.

"(a) MODERATE AREAS.—

"(1) PLAN PROVISIONS.—Each State in which all or part of a Moderate Area is located shall submit, according to the applicable schedule under paragraph (2), an implementation plan that includes each of the following:

"(A) For the purpose of meeting the requirements of section 172(c)(5), a permit program providing that permits meeting the requirements of section 173 are required for the construction and operation of new and modified major stationary sources of PM–10.

"(B) Either (i) a demonstration (including air quality modeling) that the plan will provide for attainment by the applicable attainment date; or (ii) a demonstration that attainment by such date is impracticable.

"(C) Provisions to assure that reasonably available control measures for the control of PM–10 shall be implemented no later than December 10, 1993, or 4 years after

designation in the case of an area classified as moderate after the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the plan required under subparagraph (1) no later than the following:

"(A) Within 1 year of the date of the enactment of the Clean Air Act Amendments of 1990, for areas designated nonattainment under section 107(d)(4), except that the provision required under subparagraph (1)(A) shall be submitted no later than June 30, 1992.

"(B) 18 months after the designation as nonattainment, for those areas designated nonattainment after the designations prescribed under section 107(d)(4).

"(b) SERIOUS AREAS.—

"(1) PLAN PROVISIONS.—In addition to the provisions submitted to meet the requirements of paragraph (a)(1) (relating to Moderate Areas), each State in which all or part of a Serious Area is located shall submit an implementation plan for such area that includes each of the following:

"(A) A demonstration (including air quality modeling)—

"(i) that the plan provides for attainment of the PM-10 national ambient air quality standard by the applicable attainment date, or

"(ii) for any area for which the State is seeking, pursuant to section 188(e), an extension of the attainment date beyond the date set forth in section 188(c), that attainment by that date would be impracticable, and that the plan provides for attainment by the most expeditious alternative date practicable.

"(B) Provisions to assure that the best available control measures for the control of PM-10 shall be implemented no later than 4 years after the date the area is classified (or reclassified) as a Serious Area.

"(2) SCHEDULE FOR PLAN SUBMISSIONS.—A State shall submit the demonstration required for an area under paragraph (1)(A) no later than 4 years after reclassification of the area to Serious, except that for areas reclassified under section 188(b)(2), the State shall submit the attainment demonstration within 18 months after reclassification to Serious. A State shall submit the provisions described under paragraph (1)(B) no later than 18 months after reclassification of the area as a Serious Area.

"(3) MAJOR SOURCES.—For any Serious Area, the terms 'major source' and 'major stationary source' include any stationary source or group of stationary sources located within a contiguous area and under common control that emits, or has the potential to emit, at least 70 tons per year of PM-10.

"(c) MILESTONES.—(1) Plan revisions demonstrating attainment submitted to the Administrator for approval under this subpart shall contain quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate reasonable further progress, as defined in section 171(1), toward attainment by the applicable date.

"(2) Not later than 90 days after the date on which a milestone applicable to the area occurs, each State in which all or part of such area is located shall submit to the Administrator a demonstration that all measures in the plan approved under this section have been

implemented and that the milestone has been met. A demonstration under this subsection shall be submitted in such form and manner, and shall contain such information and analysis, as the Administrator shall require. The Administrator shall determine whether or not a State's demonstration under this subsection is adequate within 90 days after the Administrator's receipt of a demonstration which contains the information and analysis required by the Administrator.

"(3) If a State fails to submit a demonstration under paragraph (2) with respect to a milestone within the required period or if the Administrator determines that the area has not met any applicable milestone, the Administrator shall require the State, within 9 months after such failure or determination to submit a plan revision that assures that the State will achieve the next milestone (or attain the national ambient air quality standard for PM–10, if there is no next milestone) by the applicable date.

"(d) FAILURE TO ATTAIN.—In the case of a Serious PM–10 nonattainment area in which the PM–10 standard is not attained by the applicable attainment date, the State in which such area is located shall, after notice and opportunity for public comment, submit within 12 months after the applicable attainment date, plan revisions which provide for attainment of the PM–10 air quality standard and, from the date of such submission until attainment, for an annual reduction in PM–10 or PM–10 precursor emissions within the area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for such area.

"(e) PM–10 PRECURSORS.—The control requirements applicable under plans in effect under this part for major stationary sources of PM–10 shall also apply to major stationary sources of PM–10 precursors, except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the standard in the area. The Administrator shall issue guidelines regarding the application of the preceding sentence.

42 USC 7513b.

"SEC. 190. ISSUANCE OF RACM AND BACM GUIDANCE.

"The Administrator shall issue, in the same manner and according to the same procedure as guidance is issued under section 108(c), technical guidance on reasonably available control measures and best available control measures for urban fugitive dust, and emissions from residential wood combustion (including curtailments and exemptions from such curtailments) and prescribed silvicultural and agricultural burning, no later than 18 months following the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall also examine other categories of sources contributing to nonattainment of the PM–10 standard, and determine whether additional guidance on reasonably available control measures and best available control measures is needed, and issue any such guidance no later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. In issuing guidelines and making determinations under this section, the Administrator (in consultation with the State) shall take into account emission reductions achieved, or expected to be achieved, under title IV and other provisions of this Act.".

(b) PM–10 INCREMENTS IN PSD AREAS.—Section 166 of the Clean Air Act (42 U.S.C. 7476) is amended by adding the following new subsection at the end:

"(f) PM-10 INCREMENTS.—The Administrator is authorized to substitute, for the maximum allowable increases in particulate matter specified in section 163(b) and section 165(d)(2)(C)(iv), maximum allowable increases in particulate matter with an aerodynamic diameter smaller than or equal to 10 micrometers. Such substituted maximum allowable increases shall be of equal stringency in effect as those specified in the provisions for which they are substituted. Until the Administrator promulgates regulations under the authority of this subsection, the current maximum allowable increases in concentrations of particulate matter shall remain in effect.".

SEC. 106. ADDITIONAL PROVISIONS FOR AREAS DESIGNATED NONATTAINMENT FOR SULFUR OXIDES, NITROGEN DIOXIDE, AND LEAD.

Part D of title I of the Clean Air Act is amended by adding a new subpart after subpart 4 as follows:

"Subpart 5—Additional Provisions for Areas Designated Nonattainment for Sulfur Oxides, Nitrogen Dioxide, or Lead

"Sec. 191. Plan submission deadlines.
"Sec. 192. Attainment dates.

"SEC. 191. PLAN SUBMISSION DEADLINES.

Intergovernmental relations.
42 USC 7514.

"(a) SUBMISSION.—Any State containing an area designated or redesignated under section 107(d) as nonattainment with respect to the national primary ambient air quality standards for sulfur oxides, nitrogen dioxide, or lead subsequent to the date of the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator, within 18 months of the designation, an applicable implementation plan meeting the requirements of this part.

"(b) STATES LACKING FULLY APPROVED STATE IMPLEMENTATION PLANS.—Any State containing an area designated nonattainment with respect to national primary ambient air quality standards for sulfur oxides or nitrogen dioxide under section 107(d)(1)(C)(i), but lacking a fully approved implementation plan complying with the requirements of this Act (including part D) as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990, shall submit to the Administrator, within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990, an implementation plan meeting the requirements of subpart 1 (except as otherwise prescribed by section 192).

"SEC. 192. ATTAINMENT DATES.

42 USC 7514a.

"(a) PLANS UNDER SECTION 191(a).—Implementation plans required under section 191(a) shall provide for attainment of the relevant primary standard as expeditiously as practicable but no later than 5 years from the date of the nonattainment designation.

"(b) PLANS UNDER SECTION 191(b).—Implementation plans required under section 191(b) shall provide for attainment of the relevant primary national ambient air quality standard within 5 years after the date of the enactment of the Clean Air Act Amendments of 1990.

"(c) INADEQUATE PLANS.—Implementation plans for nonattainment areas for sulfur oxides or nitrogen dioxide with plans that were approved by the Administrator before the date of the enact-

ment of the Clean Air Act Amendments of 1990 but, subsequent to such approval, were found by the Administrator to be substantially inadequate, shall provide for attainment of the relevant primary standard within 5 years from the date of such finding.".

SEC. 107. PROVISIONS RELATED TO INDIAN TRIBES.

(a) DEFINITION OF AIR POLLUTION CONTROL AGENCY.—Section 302(b) of the Clean Air Act (42 U.S.C. 7602(b)) is amended by—

(1) deleting "or" at the end of paragraph (3);

(2) striking the semicolons at the end of paragraphs (1), (2), and (3) and inserting periods at the end of each such paragraph; and

(3) adding the following new paragraph after paragraph (4):

"(5) An agency of an Indian tribe.".

(b) DEFINITION OF INDIAN TRIBE.—Section 302 of the Clean Air Act (42 U.S.C. 7602) is amended by adding new subsection (r) to read as follows:

"(r) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(c) SIPS.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (n):

"(o) INDIAN TRIBES.—If an Indian tribe submits an implementation plan to the Administrator pursuant to section 301(d), the plan shall be reviewed in accordance with the provisions for review set forth in this section for State plans, except as otherwise provided by regulation promulgated pursuant to section 301(d)(2). When such plan becomes effective in accordance with the regulations promulgated under section 301(d), the plan shall become applicable to all areas (except as expressly provided otherwise in the plan) located within the exterior boundaries of the reservation, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.".

Inventions and patents.
Rights-of-way.

(d) TRIBAL AUTHORITY.—Section 301 of the Clean Air Act (42 U.S.C. 7601) is amended by adding at the end thereof the following new subsection:

"(d) TRIBAL AUTHORITY.—(1) Subject to the provisions of paragraph (2), the Administrator—

"(A) is authorized to treat Indian tribes as States under this Act, except for purposes of the requirement that makes available for application by each State no less than one-half of 1 percent of annual appropriations under section 105; and

"(B) may provide any such Indian tribe grant and contract assistance to carry out functions provided by this Act.

Regulations.

"(2) The Administrator shall promulgate regulations within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, specifying those provisions of this Act for which it is appropriate to treat Indian tribes as States. Such treatment shall be authorized only if—

"(A) the Indian tribe has a governing body carrying out substantial governmental duties and powers;

"(B) the functions to be exercised by the Indian tribe pertain to the management and protection of air resources within the

exterior boundaries of the reservation or other areas within the tribe's jurisdiction; and

"(C) the Indian tribe is reasonably expected to be capable, in the judgment of the Administrator, of carrying out the functions to be exercised in a manner consistent with the terms and purposes of this Act and all applicable regulations.

"(3) The Administrator may promulgate regulations which establish the elements of tribal implementation plans and procedures for approval or disapproval of tribal implementation plans and portions thereof.

"(4) In any case in which the Administrator determines that the treatment of Indian tribes as identical to States is inappropriate or administratively infeasible, the Administrator may provide, by regulation, other means by which the Administrator will directly administer such provisions so as to achieve the appropriate purpose.

"(5) Until such time as the Administrator promulgates regulations pursuant to this subsection, the Administrator may continue to provide financial assistance to eligible Indian tribes under section 105.".

SEC. 108. MISCELLANEOUS GUIDANCE.

(a) TRANSPORTATION PLANNING GUIDANCE.—Section 108(e) of the Clean Air Act is amended by deleting the first sentence and inserting in lieu thereof the following: "The Administrator shall, after consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, and with State and local officials, within nine months after enactment of the Clean Air Act Amendments of 1989 and periodically thereafter as necessary to maintain a continuous transportation-air quality planning process, update the June 1978 Transportation-Air Quality Planning Guidelines and publish guidance on the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards.". 42 USC 7408.

(b) TRANSPORTATION CONTROL MEASURES.—Section 108(f)(1) of the Clean Air Act is amended by deleting all after "(f)" through the end of subparagraph (A) and inserting in lieu thereof the following:

"(1) The Administrator shall publish and make available to appropriate Federal, State, and local environmental and transportation agencies not later than one year after enactment of the Clean Air Act Amendments of 1990, and from time to time thereafter— Public information.

"(A) information prepared, as appropriate, in consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors, including, but not limited to—

"(i) programs for improved public transit;

"(ii) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high occupancy vehicles;

"(iii) employer-based transportation management plans, including incentives;

"(iv) trip-reduction ordinances;

"(v) traffic flow improvement programs that achieve emission reductions;

"(vi) fringe and transportation corridor parking facilities serving multiple occupancy vehicle programs or transit service;

"(vii) programs to limit or restrict vehicle use in downtown areas or other areas of emission concentration particularly during periods of peak use;

"(viii) programs for the provision of all forms of high-occupancy, shared-ride services;

"(ix) programs to limit portions of road surfaces or certain sections of the metropolitan area to the use of non-motorized vehicles or pedestrian use, both as to time and place;

"(x) programs for secure bicycle storage facilities and other facilities, including bicycle lanes, for the convenience and protection of bicyclists, in both public and private areas;

"(xi) programs to control extended idling of vehicles;

"(xii) programs to reduce motor vehicle emissions, consistent with title II, which are caused by extreme cold start conditions;

"(xiii) employer-sponsored programs to permit flexible work schedules;

"(xiv) programs and ordinances to facilitate non-automobile travel, provision and utilization of mass transit, and to generally reduce the need for single-occupant vehicle travel, as part of transportation planning and development efforts of a locality, including programs and ordinances applicable to new shopping centers, special events, and other centers of vehicle activity;

"(xv) programs for new construction and major reconstructions of paths, tracks or areas solely for the use by pedestrian or other non-motorized means of transportation when economically feasible and in the public interest. For purposes of this clause, the Administrator shall also consult with the Secretary of the Interior; and

"(xvi) program to encourage the voluntary removal from use and the marketplace of pre-1980 model year light duty vehicles and pre-1980 model light duty trucks.".

(c) RACT/BACT/LAER CLEARINGHOUSE.—Section 108 of the Clean Air Act (42 U.S.C. 7408) is amended by adding the following at the end thereof:

"(h) RACT/BACT/LAER CLEARINGHOUSE.—The Administrator shall make information regarding emission control technology available to the States and to the general public through a central database. Such information shall include all control technology information received pursuant to State plan provisions requiring permits for sources, including operating permits for existing sources.".

(d) STATE REPORTS ON EMISSIONS-RELATED DATA.—Section 110 of the Clean Air Act (42 U.S.C. 7410) is amended by adding the following new subsection after subsection (o):

"(p) REPORTS.—Any State shall submit, according to such schedule as the Administrator may prescribe, such reports as the Administrator may require relating to emission reductions, vehicle miles traveled, congestion levels, and any other information the Administrator may deem necessary to assess the development effectiveness,

need for revision, or implementation of any plan or plan revision required under this Act.".

(e) NEW SOURCE STANDARDS OF PERFORMANCE.—(1) Section 111(b)(1)(B) of the Clean Air Act (42 U.S.C. 7411(b)(1)(B)) is amended as follows:

(A) Strike "120 days" and insert "one year".

(B) Strike "90 days" and insert "one year".

(C) Strike "four years" and insert "8 years".

(D) Immediately before the sentence beginning "Standards of performance or revisions thereof" insert "Notwithstanding the requirements of the previous sentence, the Administrator need not review any such standard if the Administrator determines that such review is not appropriate in light of readily available information on the efficacy of such standard.".

(E) Add the following at the end: "When implementation and enforcement of any requirement of this Act indicate that emission limitations and percent reductions beyond those required by the standards promulgated under this section are achieved in practice, the Administrator shall, when revising standards promulgated under this section, consider the emission limitations and percent reductions achieved in practice.".

(2) Section 111(f)(1) of the Clean Air Act (42 U.S.C. 7411(f)(1)) is amended to read as follows:

"(1) For those categories of major stationary sources that the Administrator listed under subsection (b)(1)(A) before the date of the enactment of the Clean Air Act Amendments of 1990 and for which regulations had not been proposed by the Administrator by such date, the Administrator shall— Regulations.

"(A) propose regulations establishing standards of performance for at least 25 percent of such categories of sources within 2 years after the date of the enactment of the Clean Air Act Amendments of 1990;

"(B) propose regulations establishing standards of performance for at least 50 percent of such categories of sources within 4 years after the date of the enactment of the Clean Air Act Amendments of 1990; and

"(C) propose regulations for the remaining categories of sources within 6 years after the date of the enactment of the Clean Air Act Amendments of 1990.".

(f) SAVINGS CLAUSE.—Section 111(a)(3) of the Clean Air Act (42 U.S.C. 7411(f)(1)) is amended by adding at the end: "Nothing in title II of this Act relating to nonroad engines shall be construed to apply to stationary internal combustion engines.".

(g) REGULATION OF EXISTING SOURCES.—Section 111(d)(1)(A)(i) of the Clean Air Act (42 U.S.C. 7411(d)(1)(A)(i)) is amended by striking "or 112(b)(1)(A)" and inserting "or emitted from a source category which is regulated under section 112".

(h) CONSULTATION.—The penultimate sentence of section 121 of the Clean Air Act (42 U.S.C. 7421) is amended to read as follows: "The Administrator shall update as necessary the original regulations required and promulgated under this section (as in effect immediately before the date of the enactment of the Clean Air Act Amendments of 1990) to ensure adequate consultation.". Regulations.

(i) DELEGATION.—The second sentence of section 301(a)(1) of the Clean Air Act (42 U.S.C. 7601(a)(1)) is amended by inserting "subject to section 307(d)" immediately following "regulations".

(j) DEFINITIONS.—Section 302 of the Clean Air Act (42 U.S.C. 7602) is amended as follows:

(1) Insert the following new subsections after subsection (r):

"(s) VOC.—The term 'VOC' means volatile organic compound, as defined by the Administrator.

"(t) PM-10.—The term 'PM-10' means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers, as measured by such method as the Administrator may determine.

"(u) NAAQS AND CTG.—The term 'NAAQS' means national ambient air quality standard. The term 'CTG' means a Control Technique Guideline published by the Administrator under section 108.

"(v) NO_x.—The term 'NO_x' means oxides of nitrogen.

"(w) CO.—The term 'CO' means carbon monoxide.

"(x) SMALL SOURCE.—The term 'small source' means a source that emits less than 100 tons of regulated pollutants per year, or any class of persons that the Administrator determines, through regulation, generally lack technical ability or knowledge regarding control of air pollution.

"(y) FEDERAL IMPLEMENTATION PLAN.—The term 'Federal implementation plan' means a plan (or portion thereof) promulgated by the Administrator to fill all or a portion of a gap or otherwise correct all or a portion of an inadequacy in a State implementation plan, and which includes enforceable emission limitations or other control measures, means or techniques (including economic incentives, such as marketable permits or auctions of emissions allowances), and provides for attainment of the relevant national ambient air quality standard.".

(2) Section 302(g) of the Clean Air Act (42 U.S.C. 7602(g)) is amended by adding the following at the end: "Such term includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term 'air pollutant' is used.".

(k) POLLUTION PREVENTION.—Section 101 of the Clean Air Act (42 U.S.C. 7401) is amended as follows:

(1) Amend subsection (a)(3) to read as follows:

"(3) that air pollution prevention (that is, the reduction or elimination, through any measures, of the amount of pollutants produced or created at the source) and air pollution control at its source is the primary responsibility of States and local governments; and".

(2) Amend subsection (b)(4) by inserting "prevention and" immediately after "pollution".

(3) Add a new subsection (c) to read as follows:

"(c) POLLUTION PREVENTION.—A primary goal of this Act is to encourage or otherwise promote reasonable Federal, State, and local governmental actions, consistent with the provisions of this Act, for pollution prevention.".

(l) Part D of title I of the Clean Air Act is amended by adding a new subpart after subpart 5 as follows:

"Subpart 6—Savings Provisions

"Sec. 193. General savings clause.

"SEC. 193. GENERAL SAVINGS CLAUSE. 42 USC 7515.

"Each regulation, standard, rule, notice, order and guidance promulgated or issued by the Administrator under this Act, as in effect before the date of the enactment of the Clean Air Act Amendments of 1990 shall remain in effect according to its terms, except to the extent otherwise provided under this Act, inconsistent with any provision of this Act, or revised by the Administrator. No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the Clean Air Act Amendments of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.".

(m) BOUNDARY CHANGES.—Section 162(a) of the Clean Air Act (42 U.S.C. 7472(a)) is amended by adding at the end thereof the following: "The extent of the areas designated as Class I under this section shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(n) BOUNDARIES.—Section 164(a) of the Clean Air Act (42 U.S.C. 7474(a)) is amended by inserting immediately before the sentence beginning "Any area (other than an area referred to in paragraph (1) or (2))" the following: "The extent of the areas referred to in paragraph (1) and (2) shall conform to any changes in the boundaries of such areas which have occurred subsequent to the date of the enactment of the Clean Air Act Amendments of 1977, or which may occur subsequent to the date of the enactment of the Clean Air Act Amendments of 1990.".

(o) ASSESSMENTS.—Section 108 of the Clean Air Act (42 U.S.C. 7408) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) ASSESSMENT OF RISKS TO ECOSYSTEMS.—The Administrator may assess the risks to ecosystems from exposure to criteria air pollutants (as identified by the Administrator in the Administrator's sole discretion).".

(p) PUBLIC PARTICIPATION.—Section 307 of the Clean Air Act (42 U.S.C. 7607) is amended by adding the following after subsection (g):

"(h) PUBLIC PARTICIPATION.—It is the intent of Congress that, consistent with the policy of the Administrative Procedures Act, the Administrator in promulgating any regulation under this Act, including a regulation subject to a deadline, shall ensure a reasonable period for public participation of at least 30 days, except as otherwise expressly provided in section 107(d), 172(a), 181(a) and (b), and 186(a) and (b).". Regulations.

(q) ETHICS, FINANCIAL DISCLOSURE, AND CONFLICTS OF INTEREST.—Section 318 of the Clean Air Act (42 U.S.C. 7618) is repealed.". Repeal.

SEC. 109. INTERSTATE POLLUTION.

(a) AMENDMENTS TO SECTION 126.—Section 126 of the Clean Air Act (42 U.S.C. 7426) is amended as follows:

(1) In subsection (b)—

(A) in the first sentence, following "major source", insert "or group of stationary sources"; and

(B) strike "110(a)(2)(E)(i)" and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(2) In subsection (c)—

(A) in the first sentence, following the words "violation of", insert "this section and"; and

(B) strike "110(a)(2)(E)(i)" wherever it appears and insert in lieu thereof "110(a)(2)(D)(ii) or this section".

(b) AMENDMENT TO SECTION 302.—Section 302(h) of the Clean Air Act (42 U.S.C. 7602(h)) is amended by inserting before the period ", whether caused by transformation, conversion, or combination with other air pollutants".

SEC. 110. CONFORMING AMENDMENTS.

The Clean Air Act is amended as follows—

(1) Strike, in section 161 (42 U.S.C. 7471), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107 as attainment or unclassifiable".

(2) Strike, in section 162(b) (42 U.S.C. 7472(b)), "identified pursuant to section 107(d)(1)(D) or (E)" and insert "designated pursuant to section 107(d) as attainment or unclassifiable";

(3) Strike, in section 167 (42 U.S.C. 7477), the reference to "included in the list promulgated pursuant to paragraph (1)(D) or (E) of subsection (d) of section 107 of this Act" and insert "designated pursuant to section 107(d) as attainment or unclassifiable".

(4) Strike subsections (a) and (b) of section 176 (42 U.S.C. 7506).

(5) Amend section 307(d)(1) (42 U.S.C. 7607(d)(1)) as follows:

(A) Subparagraph (C) is amended to read as follows:

"(C) the promulgation or revision of any standard of performance under section 111, or emission standard or limitation under section 112(d), any standard under section 112(f), or any regulation under section 112(g)(1)(D) and (F), or any regulation under section 112(m) or (n),".

Regulations.

(B) Subparagraph (F) is amended to read as follows:

"(F) the promulgation or revision of any regulation under title IV (relating to control of acid deposition),".

Regulations.

(C) Delete "and" at the end of subparagraph (M), redesignate subparagraph (N) as subparagraph (U), and add the following new subparagraphs after subparagraph (M):

"(N) the promulgation or revision of any regulation pertaining to consumer and commercial products under section 183(e),

"(O) the promulgation or revision of any regulation pertaining to field citations under section 113(d)(3),

"(P) the promulgation or revision of any regulation pertaining to urban buses or the clean-fuel vehicle, clean-fuel fleet, and clean fuel programs under part C of title II,

"(Q) the promulgation or revision of any regulation pertaining to nonroad engines or nonroad vehicles under section 213,

"(R) the promulgation or revision of any regulation relating to motor vehicle compliance program fees under section 217,

"(S) the promulgation or revision of any regulation under title IV (relating to acid deposition),

"(T) the promulgation or revision of any regulation under section 183(f) pertaining to marine vessels, and".

SEC. 111. TRANSPORTATION SYSTEM IMPACTS ON CLEAN AIR.

42 USC 7408.

Section 108(f) of the Clean Air Act is amended by adding at the end thereof the following new paragraphs:

"(3) The Secretary of Transportation and the Administrator shall submit to Congress by January 1, 1993, and every 3 years thereafter a report that— Reports.

"(A) reviews and analyzes existing State and local air quality-related transportation programs, including specifically any analyses of whether adequate funding is available to complete transportation projects identified in State implementation plans in the time required by applicable State implementation plans and any Federal efforts to promote those programs;

"(B) evaluates the extent to which the Department of Transportation's existing air quality-related transportation programs and such Department's proposed budget will achieve the goals of and compliance with this Act; and

"(C) recommends what, if any, changes to such existing programs and proposed budget as well as any statutory authority relating to air quality-related transportation programs that would improve the achievement of the goals of and compliance with the Clean Air Act.

"(4) In each report to Congress after the first report required under paragraph (3), the Secretary of Transportation shall include a description of the actions taken to implement the changes recommended in the preceding report.

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PART A—AMENDMENTS TO TITLE II OF CLEAN AIR ACT

SEC. 201. HEAVY-DUTY TRUCKS.

Section 202(a)(3) of the Clean Air Act (42 U.S.C. 7521(a)(3)) is amended as follows:

(1) Strike subparagraphs (A), (B), (C), (D), and (E) and insert the following:

Regulations.

"(A) IN GENERAL.—(i) Unless the standard is changed as provided in subparagraph (B), regulations under paragraph (1) of this subsection applicable to emissions of hydrocarbons, carbon monoxide, oxides of nitrogen, and particulate matter from classes or categories of heavy-duty vehicles or engines manufactured during or after model year 1983 shall contain standards which reflect the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the model year to which such standards apply, giving appropriate consideration to cost, energy, and safety factors associated with the application of such technology.

"(ii) In establishing classes or categories of vehicles or engines for purposes of regulations under this paragraph, the Administrator may base such classes or categories on gross vehicle weight, horsepower, type of fuel used, or other appropriate factors.

"(B) REVISED STANDARDS FOR HEAVY DUTY TRUCKS.—(i) On the basis of information available to the Administrator concerning the effects of air pollutants emitted from heavy-duty vehicles or engines and from other sources of mobile source related pollutants on the public health and welfare, and taking costs into account, the Administrator may promulgate regulations under paragraph (1) of this subsection revising any standard promulgated under, or before the date of, the enactment of the Clean Air Act Amendments of 1990 (or previously revised under this subparagraph) and applicable to classes or categories of heavy-duty vehicles or engines.

"(ii) Effective for the model year 1998 and thereafter, the regulations under paragraph (1) of this subsection applicable to emissions of oxides of nitrogen (NO_x) from gasoline and diesel-fueled heavy duty trucks shall contain standards which provide that such emissions may not exceed 4.0 grams per brake horsepower hour (gbh).

"(C) LEAD TIME AND STABILITY.—Any standard promulgated or revised under this paragraph and applicable to classes or categories of heavy-duty vehicles or engines shall apply for a period of no less than 3 model years beginning no earlier than the model year commencing 4 years after such revised standard is promulgated.

"(D) REBUILDING PRACTICES.—The Administrator shall study the practice of rebuilding heavy-duty engines and the impact

rebuilding has on engine emissions. On the basis of that study and other information available to the Administrator, the Administrator may prescribe requirements to control rebuilding practices, including standards applicable to emissions from any rebuilt heavy-duty engines (whether or not the engine is past its statutory useful life), which in the Administrator's judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare taking costs into account. Any regulation shall take effect after a period the Administrator finds necessary to permit the development and application of the requisite control measures, giving appropriate consideration to the cost of compliance within the period and energy and safety factors.". Effective date.

(2) Redesignate subparagraph (F) as subparagraph (E) and insert "MOTORCYCLES.—" before "For purposes of this paragraph".

SEC. 202. CONTROL OF VEHICLE REFUELING EMISSIONS.

Section 202(a)(6) of the Clean Air Act (42 U.S.C. 7521(a)(6)) is amended to read as follows:

"(6) ONBOARD VAPOR RECOVERY.—Within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, after consultation with the Secretary of Transportation regarding the safety of vehicle-based ('onboard') systems for the control of vehicle refueling emissions, promulgate standards under this section requiring that new light-duty vehicles manufactured beginning in the fourth model year after the model year in which the standards are promulgated and thereafter shall be equipped with such systems. The standards required under this paragraph shall apply to a percentage of each manufacturer's fleet of new light-duty vehicles beginning with the fourth model year after the model year in which the standards are promulgated. The percentage shall be as specified in the following table:

"IMPLEMENTATION SCHEDULE FOR ONBOARD VAPOR RECOVERY REQUIREMENTS

Model year commencing after standards promulgated	Percentage *
Fourth	40
Fifth	80
After Fifth	100

* Percentages in the table refer to a percentage of the manufacturer's sales volume.

The standards shall require that such systems provide a minimum evaporative emission capture efficiency of 95 percent. The requirements of section 182(b)(3) (relating to stage II gasoline vapor recovery) for areas classified under section 181 as moderate for ozone shall not apply after promulgation of such standards and the Administrator may, by rule, revise or waive the application of the requirements of such section 182(b)(3) for areas classified under section 181 as Serious, Severe, or Extreme for ozone, as appropriate, after such time as the Administrator determines that onboard emissions control systems required under this paragraph are in widespread use throughout the motor vehicle fleet.".

duty trucks, taking into consideration alternative means of attaining or maintaining the national primary ambient air quality standards pursuant to State implementation plans and other requirements of this Act, including their feasibility and cost effectiveness.

"(B) The Administrator shall submit a report to Congress no later than June 1, 1997, containing the results of the study under this subsection, including the results of the examination conducted under subparagraph (A). Before submittal of such report the Administrator shall provide a reasonable opportunity for public comment and shall include a summary of such comments in the report to Congress. Reports.

"(3)(A) Based on the study under paragraph (1) the Administrator shall determine, by rule, within 3 calendar years after the report is submitted to Congress, but not later than December 31, 1999, whether— Regulations.

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii).

The rulemaking under this paragraph shall commence within 3 months after submission of the report to Congress under paragraph (2)(B).

"(B) If the Administrator determines under subparagraph (A) that—

"(i) there is no need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will not be available as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); or

"(iii) obtaining further reductions in emissions from such vehicles will not be needed or cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall not promulgate more stringent standards than those in effect pursuant to subsections (g) and (h). Nothing in this paragraph shall prohibit the Administrator from exercising the Administrator's authority under subsection (a) to promulgate more stringent standards for light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less at any other time thereafter in accordance with subsection (a).

"(C) If the Administrator determines under subparagraph (A) that—

"(i) there is a need for further reductions in emissions as provided in paragraph (2)(A);

"(ii) the technology for meeting more stringent emission standards will be available, as provided in paragraph (2)(A)(i), in the case of light-duty vehicles and light-duty trucks with a loaded vehicle weight (LVW) of 3,750 lbs. or less, for model years commencing not earlier than January 1, 2003, and not later than model year 2006, considering the factors listed in paragraph (2)(A)(i); and

"(iii) obtaining further reductions in emissions from such vehicles will be needed and cost effective, taking into consideration alternatives as provided in paragraph (2)(A)(ii),

the Administrator shall either promulgate the standards (and useful life periods) set forth in Table 3 in paragraph (1) or promulgate alternative standards (and useful life periods) which are more stringent than those referred to in subsections (g) and (h). Any such standards (or useful life periods) promulgated by the Administrator shall take effect with respect to any such vehicles or engines no earlier than the model year 2003 but not later than model year 2006, as determined by the Administrator in the rule.

"(D) Nothing in this paragraph shall be construed by the Administrator or by a court as a presumption that any standards (or useful life period) set forth in Table 3 shall be promulgated in the rulemaking required under this paragraph. The action required of the Administrator in accordance with this paragraph shall be treated as a nondiscretionary duty for purposes of section 304(a)(2) (relating to citizen suits).

"(E) Unless the Administrator determines not to promulgate more stringent standards as provided in subparagraph (B) or to postpone the effective date of standards referred to in Table 3 in paragraph (1) or to establish alternative standards as provided in subparagraph (C), effective with respect to model years commencing after January 1, 2003, the regulations under subsection (a) applicable to emissions of nonmethane hydrocarbons (NMHC), oxides of nitrogen (NO_x), and carbon monoxide (CO) from motor vehicles and motor vehicle engines in the classes specified in Table 3 in paragraph (1) above shall contain standards which provide that emissions may not exceed the pending emission levels specified in Table 3 in paragraph (1).".

(b) USEFUL LIFE.—Section 202(d) of the Clean Air Act (42 U.S.C. 7521(d)(1)) is amended as follows:

(1) Insert "except where a different useful life period is specified in this title" after "provide that".

(2) Strike the semicolon at the end of paragraph (1) and insert the following ", except that in the case of any requirement of this section which first becomes applicable after the enactment of the Clean Air Act Amendments of 1990 where the useful life period is not otherwise specified for such vehicles and engines, the period shall be 10 years or 100,000 miles (or the equivalent), whichever first occurs, with testing for purposes of in-use compliance under section 207 up to (but not beyond) 7 years or 75,000 miles (or the equivalent), whichever first occurs;".

(3) Insert "and light-duty trucks up to 3,750 lbs. LVW and up to 6,000 lbs. GVWR" after "engines" in paragraph (1).

(c) REVISED STANDARDS.—Subparagraph (C) of section 202(b)(1) of the Clean Air Act (42 U.S.C. 7521(b)(1)(C)) is amended to read as follows:

"(C) The Administrator may promulgate regulations under subsection (a)(1) revising any standard prescribed or previously revised under this subsection, as needed to protect public health or welfare,

taking costs, energy, and safety into account. Any revised standard shall require a reduction of emissions from the standard that was previously applicable. Any such revision under this title may provide for a phase-in of the standard. It is the intent of Congress that the numerical emission standards specified in subsections (a)(3)(B)(ii), (g), (h), and (i) shall not be modified by the Administrator after the enactment of the Clean Air Act Amendments of 1990 for any model year before the model year 2004.".

(d) PROMULGATION.—Section 202(b)(2) of the Clean Air Act (42 U.S.C. 7521(b)(2)) is amended to read as follows:

"(2) Emission standards under paragraph (1), and measurement techniques on which such standards are based (if not promulgated prior to the date of the enactment of the Clean Air Act Amendments of 1990), shall be promulgated by regulation within 180 days after such date.". Regulations.

SEC. 204. CARBON MONOXIDE EMISSIONS AT COLD TEMPERATURES.

Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (i):

"(j) COLD CO STANDARD.—

"(1) PHASE I.—Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) of this section applicable to emissions of carbon monoxide from 1994 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit. The regulations shall contain standards which provide that emissions of carbon monoxide from a manufacturer's vehicles when operated at 20 degrees Fahrenheit may not exceed, in the case of light-duty vehicles, 10.0 grams per mile, and in the case of light-duty trucks, a level comparable in stringency to the standard applicable to light-duty vehicles. The standards shall take effect after model year 1993 according to a phase-in schedule which requires a percentage of each manufacturer's sales volume of light-duty vehicles and light-duty trucks to comply with applicable standards after model year 1993. The percentage shall be as specified in the following table: Regulations. Effective date.

"PHASE-IN SCHEDULE FOR COLD START STANDARDS

Model Year	Percentage
1994	40
1995	80
1996 and after	100

"(2) PHASE II.—(A) Not later than June 1, 1997, the Administrator shall complete a study assessing the need for further reductions in emissions of carbon monoxide and the maximum reductions in such emissions achievable from model year 2001 and later model year light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit.

"(B)(i) If as of June 1, 1997, 6 or more nonattainment areas have a carbon monoxide design value of 9.5 ppm or greater, the regulations under subsection (a)(1) of this section applicable to emissions of carbon monoxide from model year 2002 and later

model year light-duty vehicles and light-duty trucks shall contain standards which provide that emissions of carbon monoxide from such vehicles and trucks when operated at 20 degrees Fahrenheit may not exceed 3.4 grams per mile (gpm) in the case of light-duty vehicles and 4.4 grams per mile (gpm) in the case of light-duty trucks up to 6,000 GVWR and a level comparable in stringency in the case of light-duty trucks 6,000 GVWR and above.

Ohio. Wisconsin.

"(ii) In determining for purposes of this subparagraph whether 6 or more nonattainment areas have a carbon monoxide design value of 9.5 ppm or greater, the Administrator shall exclude the areas of Steubenville, Ohio, and Oshkosh, Wisconsin.

"(3) USEFUL-LIFE FOR PHASE I AND PHASE II STANDARDS.—In the case of the standards referred to in paragraphs (1) and (2), for purposes of certification under section 206 and in-use compliance under section 207, the applicable useful life period shall be 5 years or 50,000 miles, whichever first occurs, except that the Administrator may extend such useful life period (for purposes of section 206, or section 207, or both) if he determines that it is feasible for vehicles and engines subject to such standards to meet such standards for a longer useful life. If the Administrator extends such useful life period, the Administrator may make an appropriate adjustment of applicable standards for such extended useful life. No such extended useful life shall extend beyond the useful life period provided in regulations under subsection (d).

"(4) HEAVY-DUTY VEHICLES AND ENGINES.—The Administrator may also promulgate regulations under subsection (a)(1) applicable to emissions of carbon monoxide from heavy-duty vehicles and engines when operated at cold temperatures.".

SEC. 205. EVAPORATIVE EMISSIONS.

Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (j):

Regulations. Petroleum.

"(k) CONTROL OF EVAPORATIVE EMISSIONS.—The Administrator shall promulgate (and from time to time revise) regulations applicable to evaporative emissions of hydrocarbons from all gasoline-fueled motor vehicles—

"(1) during operation; and

"(2) over 2 or more days of nonuse;

under ozone-prone summertime conditions (as determined by regulations of the Administrator). The regulations shall take effect as expeditiously as possible and shall require the greatest degree of emission reduction achievable by means reasonably expected to be available for production during any model year to which the regulations apply, giving appropriate consideration to fuel volatility, and to cost, energy, and safety factors associated with the application of the appropriate technology. The Administrator shall commence a rulemaking under this subsection within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990. If final regulations are not promulgated under this subsection within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall submit a statement to the Congress containing an explanation of the reasons for the delay and a date certain for promulgation of such final regulations in accordance with this Act. Such date certain shall not be later than 15 months after the expiration of such 18 month deadline.".

SEC. 206. MOBILE SOURCE-RELATED AIR TOXICS.

Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following new subsection after subsection (k):

"(l) MOBILE SOURCE-RELATED AIR TOXICS.—

"(1) STUDY.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall complete a study of the need for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this Act and associated with motor vehicles and motor vehicle fuels, and the need for, and feasibility of, controlling such emissions and the means and measures for such controls. The study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1, 3 butadiene. The proposed report shall be available for public review and comment and shall include a summary of all comments.

Reports. Public information.

"(2) STANDARDS.—Within 54 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on the study under paragraph (1), promulgate (and from time to time revise) regulations under subsection (a)(1) or section 211(c)(1) containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall contain standards for such fuels or vehicles, or both, which the Administrator determines reflect the greatest degree of emission reduction achievable through the application of technology which will be available, taking into consideration the standards established under subsection (a), the availability and costs of the technology, and noise, energy, and safety factors, and lead time. Such regulations shall not be inconsistent with standards under section 202(a). The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.".

Regulations.

SEC. 207. EMISSION CONTROL DIAGNOSTICS SYSTEMS AND BUSES.

(a) EMISSION CONTROL DIAGNOSTICS.—Section 202 of the Clean Air Act (42 U.S.C. 7521) is amended by adding the following after subsection (l):

"(m) EMISSIONS CONTROL DIAGNOSTICS.—

"(1) REGULATIONS.—Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under subsection (a) requiring manufacturers to install on all new light duty vehicles and light duty trucks diagnostics systems capable of—

"(A) accurately identifying for the vehicle's useful life as established under this section, emission-related systems deterioration or malfunction, including, at a minimum, the catalytic converter and oxygen sensor, which could cause or result in failure of the vehicles to comply with emission standards established under this section,

"(B) alerting the vehicle's owner or operator to the likely need for emission-related components or systems maintenance or repair,

"(C) storing and retrieving fault codes specified by the Administrator, and

"(D) providing access to stored information in a manner specified by the Administrator.

The Administrator may, in the Administrator's discretion, promulgate regulations requiring manufacturers to install such onboard diagnostic systems on heavy-duty vehicles and engines.

"(2) EFFECTIVE DATE.—The regulations required under paragraph (1) of this subsection shall take effect in model year 1994, except that the Administrator may waive the application of such regulations for model year 1994 or 1995 (or both) with respect to any class or category of motor vehicles if the Administrator determines that it would be infeasible to apply the regulations to that class or category in such model year or years, consistent with corresponding regulations or policies adopted by the California Air Resources Board for such systems.

Regulations.

"(3) STATE INSPECTION.—The Administrator shall by regulation require States that have implementation plans containing motor vehicle inspection and maintenance programs to amend their plans within 2 years after promulgation of such regulations to provide for inspection of onboard diagnostics systems (as prescribed by regulations under paragraph (1) of this subsection) and for the maintenance or repair of malfunctions or system deterioration identified by or affecting such diagnostics systems. Such regulations shall not be inconsistent with the provisions for warranties promulgated under section 207(a) and (b).

"(4) SPECIFIC REQUIREMENTS.—In promulgating regulations under this subsection, the Administrator shall require—

"(A) that any connectors through which the emission control diagnostics system is accessed for inspection, diagnosis, service, or repair shall be standard and uniform on all motor vehicles and motor vehicle engines;

"(B) that access to the emission control diagnostics system through such connectors shall be unrestricted and shall not require any access code or any device which is only available from a vehicle manufacturer; and

"(C) that the output of the data from the emission control diagnostics system through such connectors shall be usable without the need for any unique decoding information or device.

Regulations.

"(5) INFORMATION AVAILABILITY.—The Administrator, by regulation, shall require (subject to the provisions of section 208(c) regarding the protection of methods or processes entitled to protection as trade secrets) manufacturers to provide promptly to any person engaged in the repairing or servicing of motor vehicles or motor vehicle engines, and the Administrator for use by any such persons, with any and all information needed to make use of the emission control diagnostics system prescribed under this subsection and such other information including instructions for making emission related diagnosis and repairs. No such information may be withheld under section 208(c) if that information is provided (directly or indirectly) by the manufacturer to franchised dealers or other persons engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines. Such information shall also be available to the Administrator, subject to section 208(c), in carrying out the Administrator's responsibilities under this section.".

42 USC 7521.

(b) BUSES.—Section 202 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(f) MODEL YEARS AFTER 1990.—For model years prior to model year 1994, the regulations under section 202(a) applicable to buses

other than those subject to standards under section 219 shall contain a standard which provides that emissions of particulate matter (PM) from such buses may not exceed the standards set forth in the following table:

"PM STANDARD FOR BUSES

Model year	Standard *
1991	0.25
1992	0.25
1993 and thereafter	0.10

* Standards are expressed in grams per brake horsepower hour (g/bhp/hr).

SEC. 208. MOTOR VEHICLE TESTING AND CERTIFICATION.

(a) ADDITIONAL TESTING PROCEDURES.—Section 206(a) of the Clean Air Act (42 U.S.C. 7525(a)) is amended by adding the following after paragraph (3):

"(4)(A) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall revise the regulations promulgated under this subsection to add test procedures capable of determining whether model year 1994 and later model year light-duty vehicles and light-duty trucks, when properly maintained and used, will pass the inspection methods and procedures established under section 207(b) for that model year, under conditions reasonably likely to be encountered in the conduct of inspection and maintenance programs, but which those programs cannot reasonably influence or control. The conditions shall include fuel characteristics, ambient temperature, and short (30 minutes or less) waiting periods before tests are conducted. The Administrator shall not grant a certificate of conformity under this subsection for any 1994 or later model year vehicle or engine that the Administrator concludes cannot pass the test procedures established under this paragraph. Regulations.

"(B) From time to time, the Administrator may revise the regulations promulgated under subparagraph (A), as the Administrator deems appropriate.".

(b) PROJECTED SALES NOT EXCEEDING 300.—Section 206(a)(1) of the Clean Air Act (42 U.S.C. 7525(a)(1)) is amended by striking the third sentence and inserting the following: "In the case of any original equipment manufacturer (as defined by the Administrator in regulations promulgated before the date of the enactment of the Clean Air Act Amendments of 1990) of vehicles or vehicle engines whose projected sales in the United States for any model year (as determined by the Administrator) will not exceed 300, the Administrator shall not require, for purposes of determining compliance with regulations under section 202 for the useful life of the vehicle or engine, operation of any vehicle or engine manufactured during such model year for more than 5,000 miles or 160 hours, respectively, unless the Administrator, by regulation, prescribes otherwise. The Administrator shall apply any adjustment factors that the Administrator deems appropriate to assure that each vehicle or engine will comply during its useful life (as determined under section 202(d)) with the regulations prescribed under section 202.".

(c) FTP MODIFICATIONS.—Section 206 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

Regulations.

"(h) Within 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall review and revise as necessary the regulations under subsection (a) and (b) of this section regarding the testing of motor vehicles and motor vehicle engines to insure that vehicles are tested under circumstances which reflect the actual current driving conditions under which motor vehicles are used, including conditions relating to fuel, temperature, acceleration, and altitude.".

SEC. 209. AUTO WARRANTIES.

Effective with respect to new motor vehicles and engines manufactured in the model year 1995 and thereafter, section 207 of the Clean Air Act (42 U.S.C. 7541) is amended as follows:

(1) Strike out "useful life (as determined under section 202(d))" each place it appears in subsection (b) and insert "the warranty period (as determined under subsection (i))".

(2) Strike so much of section 207(b) as follows the third sentence thereof.

(3) Add the following new subsection at the end thereof:

"(i) WARRANTY PERIOD.—

"(1) IN GENERAL.—For purposes of subsection (a)(1) and subsection (b), the warranty period, effective with respect to new light-duty trucks and new light-duty vehicles and engines, manufactured in the model year 1995 and thereafter, shall be the first 2 years or 24,000 miles of use (whichever first occurs), except as provided in paragraph (2). For purposes of subsection (a)(1) and subsection (b), for other vehicles and engines the warranty period shall be the period established by the Administrator by regulation (promulgated prior to the enactment of the Clean Air Act Amendments of 1990) for such purposes unless the Administrator subsequently modifies such regulation.

"(2) SPECIFIED MAJOR EMISSION CONTROL COMPONENTS.—In the case of a specified major emission control component, the warranty period for new light-duty trucks and new light-duty vehicles and engines manufactured in the model year 1995 and thereafter for purposes of subsection (a)(1) and subsection (b) shall be 8 years or 80,000 miles of use (whichever first occurs). As used in this paragraph, the term 'specified major emission control component' means only a catalytic converter, an electronic emissions control unit, and an onboard emissions diagnostic device, except that the Administrator may designate any other pollution control device or component as a specified major emission control component if—

"(A) the device or component was not in general use on vehicles and engines manufactured prior to the model year 1990; and

"(B) the Administrator determines that the retail cost (exclusive of installation costs) of such device or component exceeds $200 (in 1989 dollars), adjusted for inflation or deflation as calculated by the Administrator at the time of such determination.

For purposes of this paragraph, the term 'onboard emissions diagnostic device' means any device installed for the purpose of storing or processing emissions related diagnostic information, but not including any parts or other systems which it monitors except specified major emissions control components. Nothing in this Act shall be construed to provide that any part (other

than a part referred to in the preceding sentence) shall be required to be warranted under this Act for the period of 8 years or 80,000 miles referred to in this paragraph.

"(3) INSTRUCTIONS.—Subparagraph (A) of subsection (b)(2) shall apply only where the Administrator has made a determination that the instructions concerned conform to the requirements of subsection (c)(3).".

(4) Amend subsection (a)(1) by adding the following at the end thereof: "In the case of vehicles and engines manufactured in the model year 1995 and thereafter such warranty shall require that the vehicle or engine is free from any such defects for the warranty period provided under subsection (i).".

SEC. 210. IN-USE COMPLIANCE—RECALL.

Section 207(c) of the Clean Air Act (42 U.S.C. 7541(c)) is amended by adding the following at the end thereof:

"(4) INTERMEDIATE IN-USE STANDARDS.—

"(A) MODEL YEARS 1994 AND 1995.—For light-duty trucks of up to 6,000 lbs. gross vehicle weight rating (GVWR) and light-duty vehicles which are subject to standards under table G of section 202(g)(1) in model years 1994 and 1995 (40 percent of the manufacturer's sales volume in model year 1994 and 80 percent in model year 1995), the standards applicable to NMHC, CO, and NO_x for purposes of this subsection shall be those set forth in table A below in lieu of the standards for such air pollutants otherwise applicable under this title.

"TABLE A—INTERMEDIATE IN-USE STANDARDS LDTS UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES

Vehicle type	NMHC	CO	NO_x
Light-duty vehicles	0.32	3.4	0.4*
LDT's (0-3,750 LVW)	0.32	5.2	0.4*
LDT's (3,751-5,750 LVW)	0.41	6.7	0.7*

*Not applicable to diesel-fueled vehicles.

"(B) MODEL YEARS 1996 AND THEREAFTER.—(i) In the model years 1996 and 1997, light-duty trucks (LDTs) up to 6,000 lbs. gross vehicle weight rating (GVWR) and light-duty vehicles which are not subject to final in-use standards under paragraph (5) (60 percent of the manufacturer's sales volume in model year 1996 and 20 percent in model year 1997) shall be subject to the standards set forth in table A of subparagraph (A) for NMHC, CO, and NO_x for purposes of this subsection in lieu of those set forth in paragraph (5).

"(ii) For LDTs of more than 6,000 lbs. GVWR—

"(I) in model year 1996 which are subject to the standards set forth in Table H of section 202(h) (50%);

"(II) in model year 1997 (100%); and

"(III) in model year 1998 which are not subject to final in-use standards under paragraph (5) (50%);

the standards for NMHC, CO, and NO_x for purposes of this subsection shall be those set forth in Table B below in lieu of the standards for such air pollutants otherwise applicable under this title.

"TABLE B—INTERMEDIATE IN-USE STANDARDS LDTs MORE THAN 6,000 LBS. GVWR

Vehicle type	NMHC	CO	NO_x
LDTs (3,751–5,750 lbs. TW)	0.40	5.5	0.88*
LDTs (over 5,750 lbs. TW)	0.49	6.2	1.38*

*Not applicable to diesel-fueled vehicles.

"(C) USEFUL LIFE.—In the case of the in-use standards applicable under this paragraph, for purposes of applying this subsection, the applicable useful life shall be 5 years or 50,000 miles or the equivalent (whichever first occurs).

"(5) FINAL IN-USE STANDARDS.—(A) After the model year 1995, for purposes of applying this subsection, in the case of the percentage specified in the implementation schedule below of each manufacturer's sales volume of light-duty trucks of up to 6,000 lbs. gross vehicle weight rating (GVWR) and light duty vehicles, the standards for NMHC, CO, and NO_x shall be as provided in Table G in section 202(g), except that in applying the standards set forth in Table G for purposes of determining compliance with this subsection, the applicable useful life shall be (i) 5 years or 50,000 miles (or the equivalent) whichever first occurs in the case of standards applicable for purposes of certification at 50,000 miles; and (ii) 10 years or 100,000 miles (or the equivalent), whichever first occurs in the case of standards applicable for purposes of certification at 100,000 miles, except that no testing shall be done beyond 7 years or 75,000 miles, or the equivalent whichever first occurs.

"LDTs UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLE SCHEDULE FOR IMPLEMENTATION OF FINAL IN-USE STANDARDS

Model year	Percent
1996	40
1997	80
1998	100

"(B) After the model year 1997, for purposes of applying this subsection, in the case of the percentage specified in the implementation schedule below of each manufacturer's sales volume of light-duty trucks of more than 6,000 lbs. gross vehicle weight rating (GVWR), the standards for NMHC, CO, and NO_x shall be as provided in Table H in section 202(h), except that in applying the standards set forth in Table H for purposes of determining compliance with this subsection, the applicable useful life shall be (i) 5 years or 50,000 miles (or the equivalent) whichever first occurs in the case of standards applicable for purposes of certification at 50,000 miles; and (ii) 11 years or 120,000 miles (or the equivalent), whichever first occurs in the case of standards applicable for purposes of certification at 120,000 miles, except that no testing shall be done beyond 7 years or 90,000 miles (or the equivalent) whichever first occurs.

"LDTs of More Than 6,000 Lbs. GVWR Implementation Schedule for Implementation of Final In-Use Standards

Model year	Percent
1998	50
1999	100

"(6) Diesel vehicles; in-use useful life and testing.—(A) In the case of diesel-fueled light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles, the useful life for purposes of determining in-use compliance with the standards under section 202(g) for NO_x shall be a period of 10 years or 100,000 miles (or the equivalent), whichever first occurs, in the case of standards applicable for purposes of certification at 100,000 miles, except that testing shall not be done for a period beyond 7 years or 75,000 miles (or the equivalent) whichever first occurs.

"(B) In the case of diesel-fueled light-duty trucks of 6,000 lbs. GVWR or more, the useful life for purposes of determining in-use compliance with the standards under section 202(h) for NO_x shall be a period of 11 years or 120,000 miles (or the equivalent), whichever first occurs, in the case of standards applicable for purposes of certification at 120,000 miles, except that testing shall not be done for a period beyond 7 years or 90,000 miles (or the equivalent) whichever first occurs.".

SEC. 211. INFORMATION COLLECTION.

Section 208 of the Clean Air Act (42 U.S.C. 7542) is amended to read as follows:

"SEC. 208. INFORMATION COLLECTION.

"(a) Manufacturer's Responsibility.—Every manufacturer of new motor vehicles or new motor vehicle engines, and every manufacturer of new motor vehicle or engine parts or components, and other persons subject to the requirements of this part or part C, shall establish and maintain records, perform tests where such testing is not otherwise reasonably available under this part and part C (including fees for testing), make reports and provide information the Administrator may reasonably require to determine whether the manufacturer or other person has acted or is acting in compliance with this part and part C and regulations thereunder, or to otherwise carry out the provision of this part and part C, and shall, upon request of an officer or employee duly designated by the Administrator, permit such officer or employee at reasonable times to have access to and copy such records. Records. Reports.

"(b) Enforcement Authority.—For the purposes of enforcement of this section, officers or employees duly designated by the Administrator upon presenting appropriate credentials are authorized—

"(1) to enter, at reasonable times, any establishment of the manufacturer, or of any person whom the manufacturer engages to perform any activity required by subsection (a), for the purposes of inspecting or observing any activity conducted pursuant to subsection (a), and

"(2) to inspect records, files, papers, processes, controls, and facilities used in performing any activity required by subsection

(a), by such manufacturer or by any person whom the manufacturer engages to perform any such activity.

Confidential business information.

"(c) AVAILABILITY TO THE PUBLIC; TRADE SECRETS.—Any records, reports, or information obtained under this part or part C shall be available to the public, except that upon a showing satisfactory to the Administrator by any person that records, reports, or information, or a particular portion thereof (other than emission data), to which the Administrator has access under this section, if made public, would divulge methods or processes entitled to protection as trade secrets of that person, the Administrator shall consider the record, report, or information or particular portion thereof confidential in accordance with the purposes of section 1905 of title 18 of the United States Code. Any authorized representative of the Administrator shall be considered an employee of the United States for purposes of section 1905 of title 18 of the United States Code. Nothing in this section shall prohibit the Administrator or authorized representative of the Administrator from disclosing records, reports or information to other officers, employees or authorized representatives of the United States concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Administrator or any officer or employee under the Administrator's control from the duly authorized committees of the Congress.".

SEC. 212. NONROAD FUELS.

(a) FUELS AND FUEL ADDITIVES.—Section 211(a) of the Clean Air Act (42 U.S.C. 7545(a)) is amended by inserting "(including any fuel or fuel additive used exclusively in nonroad engines or nonroad vehicles)" immediately after "fuel or fuel additive".

(b) ANALYTICAL TECHNIQUES.—Section 211(b)(2)(B) of the Clean Air Act (42 U.S.C. 7545(2)(B)) is amended by striking "or" after "vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "vehicle engine," the phrase: "nonroad engine or nonroad vehicle,".

(c) REGULATION.—Section 211(c)(1) of the Clean Air Act (42 U.S.C. 7545(c)(1)) is amended by striking "or" after "motor vehicle" and inserting in lieu thereof a comma, and by inserting immediately after "motor vehicle engine" a comma followed by "or nonroad engine or nonroad vehicle".

SEC. 213. STATE FUEL REGULATION.

(a) IN GENERAL.—Section 211(c)(4)(A) of the Clean Air Act (42 U.S.C. 7545(c)(4)(A)) is amended as follows:

(1) Strike out "use of a" and insert "any characteristic or component of a".

(2) In clause (i) after "control or prohibition" insert "of the characteristic or component of a fuel or fuel additive".

(3) In clause (ii) after "such" insert "characteristic or component of a".

(b) FINDING OF NECESSITY.—Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended by adding the following at the end: "The Administrator may find that a State control or prohibition is necessary to achieve that standard if no other measures that would bring about timely attainment exist, or if other measures exist and are technically possible to implement, but are unreasonable or impracticable. The Administrator may make a

finding of necessity under this subparagraph even if the plan for the area does not contain an approved demonstration of timely attainment.".

SEC. 214. FUEL WAIVERS.

(a) COVERAGE.—Section 211(f)(1) of the Clean Air Act (42 U.S.C. 7545(f)(1) is amended by inserting "(A)" immediately after "(1)" and by adding the following new subparagraph at the end thereof:

"(B) Effective upon the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206.".

(b) CONFORMING AMENDMENT.—Section 211(f)(3) of the Clean Air Act (42 U.S.C. 7545(f)(3)) is amended by inserting "(A)" immediately after "(1)".

SEC. 215. MISFUELING.

Section 211(g) of the Clean Air Act (42 U.S.C. 7545(g)) is amended to read as follows:

"(g) MISFUELING.—(1) No person shall introduce, or cause or allow the introduction of, leaded gasoline into any motor vehicle which is labeled 'unleaded gasoline only,' which is equipped with a gasoline tank filler inlet designed for the introduction of unleaded gasoline, which is a 1990 or later model year motor vehicle, or which such person knows or should know is a vehicle designed solely for the use of unleaded gasoline.

"(2) Beginning October 1, 1993, no person shall introduce or cause or allow the introduction into any motor vehicle of diesel fuel which such person knows or should know contains a concentration of sulfur in excess of 0.05 percent (by weight) or which fails to meet a cetane index minimum of 40 or such equivalent alternative aromatic level as prescribed by the Administrator under subsection (i)(2).".

SEC. 216. FUEL VOLATILITY.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following new subsection at the end thereof:

"(h) REID VAPOR PRESSURE REQUIREMENTS.—

"(1) PROHIBITION.—Not later than 6 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations making it unlawful for any person during the high ozone season (as defined by the Administrator) to sell, offer for sale, dispense, supply, offer for supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure in excess of 9.0 pounds per square inch (psi). Such regulations shall also establish more stringent Reid Vapor Pressure standards in a nonattainment area as the Administrator finds necessary to generally achieve comparable evaporative emissions (on a per-vehicle basis) in nonattainment areas, taking into consideration the enforceability of such standards, the need of an area for emission control, and economic factors. Regulations.

"(2) ATTAINMENT AREAS.—The regulations under this subsection shall not make it unlawful for any person to sell, offer for

supply, transport, or introduce into commerce gasoline with a Reid Vapor Pressure of 9.0 pounds per square inch (psi) or lower in any area designated under section 107 as an attainment area. Notwithstanding the preceding sentence, the Administrator may impose a Reid vapor pressure requirement lower than 9.0 pounds per square inch (psi) in any area, formerly an ozone nonattainment area, which has been redesignated as an attainment area.

"(3) EFFECTIVE DATE; ENFORCEMENT.—The regulations under this subsection shall provide that the requirements of this subsection shall take effect not later than the high ozone season for 1992, and shall include such provisions as the Administrator determines are necessary to implement and enforce the requirements of this subsection.

"(4) ETHANOL WAIVER.—For fuel blends containing gasoline and 10 percent denatured anhydrous ethanol, the Reid vapor pressure limitation under this subsection shall be one pound per square inch (psi) greater than the applicable Reid vapor pressure limitations established under paragraph (1); Provided, however, That a distributor, blender, marketer, reseller, carrier, retailer, or wholesale purchaser-consumer shall be deemed to be in full compliance with the provisions of this subsection and the regulations promulgated thereunder if it can demonstrate (by showing receipt of a certification or other evidence acceptable to the Administrator) that—

"(A) the gasoline portion of the blend complies with the Reid vapor pressure limitations promulgated pursuant to this subsection;

"(B) the ethanol portion of the blend does not exceed its waiver condition under subsection (f)(4); and

"(C) no additional alcohol or other additive has been added to increase the Reid Vapor Pressure of the ethanol portion of the blend.

"(5) AREAS COVERED.—The provisions of this subsection shall apply only to the 48 contiguous States and the District of Columbia.".

SEC. 217. DIESEL FUEL SULFUR CONTENT.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following new subsection at the end thereof:

"(i) SULFUR CONTENT REQUIREMENTS FOR DIESEL FUEL.—(1) Effective October 1, 1993, no person shall manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 percent (by weight) or which fails to meet a cetane index minimum of 40.

Regulations.

"(2) Not later than 12 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations to implement and enforce the requirements of paragraph (1). The Administrator may require manufacturers and importers of diesel fuel not intended for use in motor vehicles to dye such fuel in a particular manner in order to segregate it from motor vehicle diesel fuel. The Administrator may establish an equivalent alternative aromatic level to the cetane index specification in paragraph (1).

"(3) The sulfur content of fuel required to be used in the certification of 1991 through 1993 model year heavy-duty diesel vehicles

and engines shall be 0.10 percent (by weight). The sulfur content and cetane index minimum of fuel required to be used in the certification of 1994 and later model year heavy-duty diesel vehicles and engines shall comply with the regulations promulgated under paragraph (2).

"(4) The States of Alaska and Hawaii may be exempted from the requirements of this subsection in the same manner as provided in section 324. The Administrator shall take final action on any petition filed under section 324 or this paragraph for an exemption from the requirements of this subsection, within 12 months from the date of the petition.". Alaska. Hawaii.

SEC. 218. LEAD SUBSTITUTE GASOLINE ADDITIVES.

(a) ADDITIVES.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following at the end thereof:

"(j) LEAD SUBSTITUTE GASOLINE ADDITIVES.—(1) After the date of the enactment of the Clean Air Act Amendments of 1990, any person proposing to register any gasoline additive under subsection (a) or to use any previously registered additive as a lead substitute may also elect to register the additive as a lead substitute gasoline additive for reducing valve seat wear by providing the Administrator with such relevant information regarding product identity and composition as the Administrator deems necessary for carrying out the responsibilities of paragraph (2) of this subsection (in addition to other information which may be required under subsection (b)).

"(2) In addition to the other testing which may be required under subsection (b), in the case of the lead substitute gasoline additives referred to in paragraph (1), the Administrator shall develop and publish a test procedure to determine the additives' effectiveness in reducing valve seat wear and the additives' tendencies to produce engine deposits and other adverse side effects. The test procedures shall be developed in cooperation with the Secretary of Agriculture and with the input of additive manufacturers, engine and engine components manufacturers, and other interested persons. The Administrator shall enter into arrangements with an independent laboratory to conduct tests of each additive using the test procedures developed and published pursuant to this paragraph. The Administrator shall publish the results of the tests by company and additive name in the Federal Register along with, for comparison purposes, the results of applying the same test procedures to gasoline containing 0.1 gram of lead per gallon in lieu of the lead substitute gasoline additive. The Administrator shall not rank or otherwise rate the lead substitute additives. Test procedures shall be established within 1 year after the date of the enactment of the Clean Air Act Amendments of 1990. Additives shall be tested within 18 months of the date of the enactment of the Clean Air Act Amendments of 1990 or 6 months after the lead substitute additives are identified to the Administrator, whichever is later. Research. Federal Register, publication.

"(3) The Administrator may impose a user fee to recover the costs of testing of any fuel additive referred to in this subsection. The fee shall be paid by the person proposing to register the fuel additive concerned. Such fee shall not exceed $20,000 for a single fuel additive.

"(4) There are authorized to be appropriated to the Administrator not more than $1,000,000 for the second full fiscal year after the date of the enactment of the Clean Air Act Amendments of 1990 to Appropriation authorization.

establish test procedures and conduct engine tests as provided in this subsection. Not more than $500,000 per year is authorized to be appropriated for each of the 5 subsequent fiscal years.

"(5) Any fees collected under this subsection shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.".

SEC. 219. REFORMULATED GASOLINE AND OXYGENATED GASOLINE.

Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended by adding the following at the end thereof:

"(k) REFORMULATED GASOLINE FOR CONVENTIONAL VEHICLES.—

"(1) EPA REGULATIONS.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under this section establishing requirements for reformulated gasoline to be used in gasoline-fueled vehicles in specified nonattainment areas. Such regulations shall require the greatest reduction in emissions of ozone forming volatile organic compounds (during the high ozone season) and emissions of toxic air pollutants (during the entire year) achievable through the reformulation of conventional gasoline, taking into consideration the cost of achieving such emission reductions, any nonair-quality and other air-quality related health and environmental impacts and energy requirements.

"(2) GENERAL REQUIREMENTS.—The regulations referred to in paragraph (1) shall require that reformulated gasoline comply with paragraph (3) and with each of the following requirements (subject to paragraph (7)):

"(A) NO_x EMISSIONS.—The emissions of oxides of nitrogen (NO_x) from baseline vehicles when using the reformulated gasoline shall be no greater than the level of such emissions from such vehicles when using baseline gasoline. If the Administrator determines that compliance with the limitation on emissions of oxides of nitrogen under the preceding sentence is technically infeasible, considering the other requirements applicable under this subsection to such gasoline, the Administrator may, as appropriate to ensure compliance with this subparagraph, adjust (or waive entirely), any other requirements of this paragraph (including the oxygen content requirement contained in subparagraph (B)) or any requirements applicable under paragraph (3)(A).

"(B) OXYGEN CONTENT.—The oxygen content of the gasoline shall equal or exceed 2.0 percent by weight (subject to a testing tolerance established by the Administrator) except as otherwise required by this Act. The Administrator may waive, in whole or in part, the application of this subparagraph for any ozone nonattainment area upon a determination by the Administrator that compliance with such requirement would prevent or interfere with the attainment by the area of a national primary ambient air quality standard.

"(C) BENZENE CONTENT.—The benzene content of the gasoline shall not exceed 1.0 percent by volume.

"(D) HEAVY METALS.—The gasoline shall have no heavy metals, including lead or manganese. The Administrator

may waive the prohibition contained in this subparagraph for a heavy metal (other than lead) if the Administrator determines that addition of the heavy metal to the gasoline will not increase, on an aggregate mass or cancer-risk basis, toxic air pollutant emissions from motor vehicles.

"(3) MORE STRINGENT OF FORMULA OR PERFORMANCE STANDARDS.—The regulations referred to in paragraph (1) shall require compliance with the more stringent of either the requirements set forth in subparagraph (A) or the requirements of subparagraph (B) of this paragraph. For purposes of determining the more stringent provision, clause (i) and clause (ii) of subparagraph (B) shall be considered independently.

"(A) FORMULA.—

"(i) BENZENE.—The benzene content of the reformulated gasoline shall not exceed 1.0 percent by volume.

"(ii) AROMATICS.—The aromatic hydrocarbon content of the reformulated gasoline shall not exceed 25 percent by volume.

"(iii) LEAD.—The reformulated gasoline shall have no lead content.

"(iv) DETERGENTS.—The reformulated gasoline shall contain additives to prevent the accumulation of deposits in engines or vehicle fuel supply systems.

"(v) OXYGEN CONTENT.—The oxygen content of the reformulated gasoline shall equal or exceed 2.0 percent by weight (subject to a testing tolerance established by the Administrator) except as otherwise required by this Act.

"(B) PERFORMANCE STANDARD.—

"(i) VOC EMISSIONS.—During the high ozone season (as defined by the Administrator), the aggregate emissions of ozone forming volatile organic compounds from baseline vehicles when using the reformulated gasoline shall be 15 percent below the aggregate emissions of ozone forming volatile organic compounds from such vehicles when using baseline gasoline. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 15 percent in applying this clause, except that the Administrator may adjust such 25 percent requirement to provide for a lesser or greater reduction based on technological feasibility, considering the cost of achieving such reductions in VOC emissions. No such adjustment shall provide for less than a 20 percent reduction below the aggregate emissions of such air pollutants from such vehicles when using baseline gasoline. The reductions required under this clause shall be on a mass basis.

"(ii) TOXICS.—During the entire year, the aggregate emissions of toxic air pollutants from baseline vehicles when using the reformulated gasoline shall be 15 percent below the aggregate emissions of toxic air pollutants from such vehicles when using baseline gasoline. Effective in calendar year 2000 and thereafter, 25 percent shall be substituted for 15 percent in applying this clause, except that the Administrator may adjust such 25 percent requirement to provide for a lesser or greater reduction based on technological feasibility,

considering the cost of achieving such reductions in toxic air pollutants. No such adjustment shall provide for less than a 20 percent reduction below the aggregate emissions of such air pollutants from such vehicles when using baseline gasoline. The reductions required under this clause shall be on a mass basis.

Any reduction greater than a specific percentage reduction required under this subparagraph shall be treated as satisfying such percentage reduction requirement.

"(4) CERTIFICATION PROCEDURES.—

"(A) REGULATIONS.—The regulations under this subsection shall include procedures under which the Administrator shall certify reformulated gasoline as complying with the requirements established pursuant to this subsection. Under such regulations, the Administrator shall establish procedures for any person to petition the Administrator to certify a fuel formulation, or slate of fuel formulations. Such procedures shall further require that the Administrator shall approve or deny such petition within 180 days of receipt. If the Administrator fails to act within such 180-day period, the fuel shall be deemed certified until the Administrator completes action on the petition.

"(B) CERTIFICATION; EQUIVALENCY.—The Administrator shall certify a fuel formulation or slate of fuel formulations as complying with this subsection if such fuel or fuels—

"(i) comply with the requirements of paragraph (2), and

"(ii) achieve equivalent or greater reductions in emissions of ozone forming volatile organic compounds and emissions of toxic air pollutants than are achieved by a reformulated gasoline meeting the applicable requirements of paragraph (3).

"(C) EPA DETERMINATION OF EMISSIONS LEVEL.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall determine the level of emissions of ozone forming volatile organic compounds and emissions of toxic air pollutants emitted by baseline vehicles when operating on baseline gasoline. For purposes of this subsection, within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall, by rule, determine appropriate measures of, and methodology for, ascertaining the emissions of air pollutants (including calculations, equipment, and testing tolerances).

Regulations.

"(5) PROHIBITION.—Effective beginning January 1, 1995, each of the following shall be a violation of this subsection:

"(A) The sale or dispensing by any person of conventional gasoline to ultimate consumers in any covered area.

"(B) The sale or dispensing by any refiner, blender, importer, or marketer of conventional gasoline for resale in any covered area, without (i) segregating such gasoline from reformulated gasoline, and (ii) clearly marking such conventional gasoline as "conventional gasoline, not for sale to ultimate consumer in a covered area".

Any refiner, blender, importer or marketer who purchases property segregated and marked conventional gasoline, and thereafter labels, represents, or wholesales such gasoline as reformu-

lated gasoline shall also be in violation of this subsection. The Administrator may impose sampling, testing, and record-keeping requirements upon any refiner, blender, importer, or marketer to prevent violations of this section.

"(6) OPT-IN AREAS.—(A) Upon the application of the Governor of a State, the Administrator shall apply the prohibition set forth in paragraph (5) in any area in the State classified under subpart 2 of part D of title I as a Marginal, Moderate, Serious, or Severe Area (without regard to whether or not the 1980 population of the area exceeds 250,000). In any such case, the Administrator shall establish an effective date for such prohibition as he deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later. The Administrator shall publish such application in the Federal Register upon receipt.

Federal Register, publication.

"(B) If the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient domestic capacity to produce gasoline certified under this subsection, the Administrator shall, by rule, extend the effective date of such prohibition in Marginal, Moderate, Serious, or Severe Areas referred to in subparagraph (A) for one additional year, and may, by rule, renew such extension for 2 additional one-year periods. The Administrator shall act on any petition submitted under this paragraph within 6 months after receipt of the petition. The Administrator shall issue such extensions for areas with a lower ozone classification before issuing any such extension for areas with a higher classification.

"(7) CREDITS.—(A) The regulations promulgated under this subsection shall provide for the granting of an appropriate amount of credits to a person who refines, blends, or imports and certifies a gasoline or slate of gasoline that— Regulations.

"(i) has an oxygen content (by weight) that exceeds the minimum oxygen content specified in paragraph (2);

"(ii) has an aromatic hydrocarbon content (by volume) that is less than the maximum aromatic hydrocarbon content required to comply with paragraph (3); or

"(iii) has a benzene content (by volume) that is less than the maximum benzene content specified in paragraph (2).

"(B) The regulations described in subparagraph (A) shall also provide that a person who is granted credits may use such credits, or transfer all or a portion of such credits to another person for use within the same nonattainment area, for the purpose of complying with this subsection.

"(C) The regulations promulgated under subparagraphs (A) and (B) shall ensure the enforcement of the requirements for the issuance, application, and transfer of the credits. Such regulations shall prohibit the granting or transfer of such credits for use with respect to any gasoline in a nonattainment area, to the extent the use of such credits would result in any of the following:

"(i) An average gasoline aromatic hydrocarbon content (by volume) for the nonattainment (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in the nonattainment area) higher than the average fuel aromatic hydrocarbon content (by volume) that would occur in the absence of using any such credits.

"(ii) An average gasoline oxygen content (by weight) for the nonattainment area (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in the nonattainment area) lower than the average gasoline oxygen content (by weight) that would occur in the absence of using any such credits.

"(iii) An average benzene content (by volume) for the nonattainment area (taking into account all gasoline sold for use in conventional gasoline-fueled vehicles in the nonattainment area) higher than the average benzene content (by volume) that would occur in the absence of using any such credits.

"(8) ANTI-DUMPING RULES.—

Regulations.

"(A) IN GENERAL.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations applicable to each refiner, blender, or importer of gasoline ensuring that gasoline sold or introduced into commerce by such refiner, blender, or importer (other than reformulated gasoline subject to the requirements of paragraph (1)) does not result in average per gallon emissions (measured on a mass basis) of (i) volatile organic compounds, (ii) oxides of nitrogen, (iii) carbon monoxide, and (iv) toxic air pollutants in excess of such emissions of such pollutants attributable to gasoline sold or introduced into commerce in calendar year 1990 by that refiner, blender, or importer. Such regulations shall take effect beginning January 1, 1995.

"(B) ADJUSTMENTS.—In evaluating compliance with the requirements of subparagraph (A), the Administrator shall make appropriate adjustments to insure that no credit is provided for improvement in motor vehicle emissions control in motor vehicles sold after the calendar year 1990.

"(C) COMPLIANCE DETERMINED FOR EACH POLLUTANT INDEPENDENTLY.—In determining whether there is an increase in emissions in violation of the prohibition contained in subparagraph (A) the Administrator shall consider an increase in each air pollutant referred to in clauses (i) through (iv) as a separate violation of such prohibition, except that the Administrator shall promulgate regulations to provide that any increase in emissions of oxides of nitrogen resulting from adding oxygenates to gasoline may be offset by an equivalent or greater reduction (on a mass basis) in emissions of volatile organic compounds, carbon monoxide, or toxic air pollutants, or any combination of the foregoing.

"(D) COMPLIANCE PERIOD.—The Administrator shall promulgate an appropriate compliance period or appropriate compliance periods to be used for assessing compliance with the prohibition contained in subparagraph (A).

"(E) BASELINE FOR DETERMINING COMPLIANCE.—If the Administrator determines that no adequate and reliable data exists regarding the composition of gasoline sold or introduced into commerce by a refiner, blender, or importer in calendar year 1990, for such refiner, blender, or importer, baseline gasoline shall be substituted for such 1990 gasoline in determining compliance with subparagraph (A).

"(9) EMISSIONS FROM ENTIRE VEHICLE.—In applying the requirements of this subsection, the Administrator shall take into account emissions from the entire motor vehicle, including evaporative, running, refueling, and exhaust emissions.

"(10) DEFINITIONS.—For purposes of this subsection—

"(A) BASELINE VEHICLES.—The term 'baseline vehicles' mean representative model year 1990 vehicles.

"(B) BASELINE GASOLINE.—

"(i) SUMMERTIME.—The term 'baseline gasoline' means in the case of gasoline sold during the high ozone period (as defined by the Administrator) a gasoline which meets the following specifications:

"BASELINE GASOLINE FUEL PROPERTIES

API Gravity	57.4
Sulfur, ppm	339
Benzene, %	1.53
RVP, psi	8.7
Octane, R+M/2	87.3
IBP, F	91
10%, F	128
50%, F	218
90%, F	330
End Point, F	415
Aromatics, %	32.0
Olefins, %	9.2
Saturates, %	58.8

"(ii) WINTERTIME.—The Administrator shall establish the specifications of 'baseline gasoline' for gasoline sold at times other than the high ozone period (as defined by the Administrator). Such specifications shall be the specifications of 1990 industry average gasoline sold during such period.

"(C) TOXIC AIR POLLUTANTS.—The term 'toxic air pollutants' means the aggregate emissions of the following:

"Benzene
"1,3 Butadiene
"Polycyclic organic matter (POM)
"Acetaldehyde
"Formaldehyde.

"(D) COVERED AREA.—The 9 ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design value during the period 1987 through 1989 shall be 'covered areas' for purposes of this subsection. Effective one year after the reclassification of any ozone nonattainment area as a Severe ozone nonattainment area under section 181(b), such Severe area shall also be a 'covered area' for purposes of this subsection.

"(E) REFORMULATED GASOLINE.—The term 'reformulated gasoline' means any gasoline which is certified by the Administrator under this section as complying with this subsection.

"(F) CONVENTIONAL GASOLINE.—The term 'conventional gasoline' means any gasoline which does not meet specifications set by a certification under this subsection.

"(l) DETERGENTS.—Effective beginning January 1, 1995, no person may sell or dispense to an ultimate consumer in the United States, and no refiner or marketer may directly or indirectly sell or dispense to persons who sell or dispense to ultimate consumers in the United States any gasoline which does not contain additives to prevent the accumulation of deposits in engines or fuel supply

Regulations.

systems. Not later than 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate a rule establishing specifications for such additives.

"(m) OXYGENATED FUELS.—

"(1) PLAN REVISIONS FOR CO NONATTAINMENT AREAS.—(A) Each State in which there is located all or part of an area which is designated under title I as a nonattainment area for carbon monoxide and which has a carbon monoxide design value of 9.5 parts per million (ppm) or above based on data for the 2-year period of 1988 and 1989 and calculated according to the most recent interpretation methodology issued by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990 shall submit to the Administrator a State implementation plan revision under section 110 and part D of title I for such area which shall contain the provisions specified under this subsection regarding oxygenated gasoline.

"(B) A plan revision which contains such provisions shall also be submitted by each State in which there is located any area which, for any 2-year period after 1989 has a carbon monoxide design value of 9.5 ppm or above. The revision shall be submitted within 18 months after such 2-year period.

"(2) OXYGENATED GASOLINE IN CO NONATTAINMENT AREAS.—Each plan revision under this subsection shall contain provisions to require that any gasoline sold, or dispensed, to the ultimate consumer in the carbon monoxide nonattainment area or sold or dispensed directly or indirectly by fuel refiners or marketers to persons who sell or dispense to ultimate consumers, in the larger of—

"(A) the Consolidated Metropolitan Statistical Area (CMSA) in which the area is located, or

"(B) if the area is not located in a CMSA, the Metropolitan Statistical Area in which the area is located,

be blended, during the portion of the year in which the area is prone to high ambient concentrations of carbon monoxide to contain not less than 2.7 percent oxygen by weight (subject to a testing tolerance established by the Administrator). The portion of the year in which the area is prone to high ambient concentrations of carbon monoxide shall be as determined by the Administrator, but shall not be less than 4 months. At the request of a State with respect to any area designated as nonattainment for carbon monoxide, the Administrator may reduce the period specified in the preceding sentence if the State can demonstrate that because of meteorological conditions, a reduced period will assure that there will be no exceedances of the carbon monoxide standard outside of such reduced period. For areas with a carbon monoxide design value of 9.5 ppm or more of the date of enactment of the Clean Air Act Amendments of 1990, the revision shall provide that such requirement shall take effect no later than November 1, 1992, (or at such other date during 1992 as the Administrator establishes under the preceding provisions of this paragraph). For other areas, the revision shall provide that such requirement shall take effect no later than November 1 of the third year after the last year of the applicable 2-year period referred to in paragraph (1) (or at such other date during such third year as the Administrator establishes under the preceding provisions of this paragraph) and shall include a program for implementation

and enforcement of the requirement consistent with guidance to be issued by the Administrator.

"(3) WAIVERS.—(A) The Administrator shall waive, in whole or in part, the requirements of paragraph (2) upon a demonstration by the State to the satisfaction of the Administrator that the use of oxygenated gasoline would prevent or interfere with the attainment by the area of a national primary ambient air quality standard (or a State or local ambient air quality standard) for any air pollutant other than carbon monoxide.

"(B) The Administrator shall, upon demonstration by the State satisfactory to the Administrator, waive the requirement of paragraph (2) where the Administrator determines that mobile sources of carbon monoxide do not contribute significantly to carbon monoxide levels in an area.

"(C)(i) Any person may petition the Administrator to make a finding that there is, or is likely to be, for any area, an inadequate domestic supply of, or distribution capacity for, oxygenated gasoline meeting the requirements of paragraph (2) or fuel additives (oxygenates) necessary to meet such requirements. The Administrator shall act on such petition within 6 months after receipt of the petition.

"(ii) If the Administrator determines, in response to a petition under clause (i), that there is an inadequate supply or capacity described in clause (i), the Administrator shall delay the effective date of paragraph (2) for 1 year. Upon petition, the Administrator may extend such effective date for one additional year. No partial delay or lesser waiver may be granted under this clause. Effective date.

"(iii) In granting waivers under this subparagraph the Administrator shall consider distribution capacity separately from the adequacy of domestic supply and shall grant such waivers in such manner as will assure that, if supplies of oxygenated gasoline are limited, areas having the highest design value for carbon monoxide will have a priority in obtaining oxygenated gasoline which meets the requirements of paragraph (2).

"(iv) As used in this subparagraph, the term distribution capacity includes capacity for transportation, storage, and blending.

"(4) FUEL DISPENSING SYSTEMS.—Any person selling oxygenated gasoline at retail pursuant to this subsection shall be required under regulations promulgated by the Administrator to label the fuel dispensing system with a notice that the gasoline is oxygenated and will reduce the carbon monoxide emissions from the motor vehicle. Regulations.

"(5) GUIDELINES FOR CREDIT.—The Administrator shall promulgate guidelines, within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, allowing the use of marketable oxygen credits from gasolines during that portion of the year specified in paragraph (2) with higher oxygen content than required to offset the sale or use of gasoline with a lower oxygen content than required. No credits may be transferred between nonattainment areas.

"(6) ATTAINMENT AREAS.—Nothing in this subsection shall be interpreted as requiring an oxygenated gasoline program in an area which is in attainment for carbon monoxide, except that in a carbon monoxide nonattainment area which is redesignated

as attainment for carbon monoxide, the requirements of this subsection shall remain in effect to the extent such program is necessary to maintain such standard thereafter in the area.

"(7) FAILURE TO ATTAIN CO STANDARD.—If the Administrator determines under section 186(b)(2) that the national primary ambient air quality standard for carbon monoxide has not been attained in a Serious Area by the applicable attainment date, the State shall submit a plan revision for the area within 9 months after the date of such determination. The plan revision shall provide that the minimum oxygen content of gasoline referred to in paragraph (2) shall be 3.1 percent by weight unless such requirement is waived in accordance with the provisions of this subsection.".

SEC. 220. LEAD PHASEDOWN.

42 USC 7545.

Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(n) PROHIBITION ON LEADED GASOLINE FOR HIGHWAY USE.—After December 31, 1995, it shall be unlawful for any person to sell, offer for sale, supply, offer for supply, dispense, transport, or introduce into commerce, for use as fuel in any motor vehicle (as defined in section 219(2)) any gasoline which contains lead or lead additives.".

SEC. 221. FUEL AND FUEL ADDITIVE IMPORTERS.

Section 211 of the Clean Air Act is amended by adding the following new subsection at the end thereof:

"(o) FUEL AND FUEL ADDITIVE IMPORTERS AND IMPORTATION.—For the purposes of this section, the term 'manufacturer' includes an importer and the term 'manufacture' includes importation.".

SEC. 222. NONROAD ENGINES AND VEHICLES.

(a) EMISSION STANDARDS.—Section 213 of the Clean Air Act (42 U.S.C. 7547) is amended to read as follows:

"SEC. 213. NONROAD ENGINES AND VEHICLES.

"(a) EMISSIONS STANDARDS.—(1) The Administrator shall conduct a study of emissions from nonroad engines and nonroad vehicles (other than locomotives or engines used in locomotives) to determine if such emissions cause, or significantly contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare. Such study shall be completed within 12 months of the date of the enactment of the Clean Air Act Amendments of 1990.

"(2) After notice and opportunity for public hearing, the Administrator shall determine within 12 months after completion of the study under paragraph (1), based upon the results of such study, whether emissions of carbon monoxide, oxides of nitrogen, and volatile organic compounds from new and existing nonroad engines or nonroad vehicles (other than locomotives or engines used in locomotives) are significant contributors to ozone or carbon monoxide concentrations in more than 1 area which has failed to attain the national ambient air quality standards for ozone or carbon monoxide. Such determination shall be included in the regulations under paragraph (3).

Regulations.

"(3) If the Administrator makes an affirmative determination under paragraph (2) the Administrator shall, within 12 months after completion of the study under paragraph (1), promulgate (and from time to time revise) regulations containing standards applicable to

emissions from those classes or categories of new nonroad engines and new nonroad vehicles (other than locomotives or engines used in locomotives) which in the Administrator's judgment cause, or contribute to, such air pollution. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the engines or vehicles to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology. In determining what degree of reduction will be available, the Administrator shall first consider standards equivalent in stringency to standards for comparable motor vehicles or engines (if any) regulated under section 202, taking into account the technological feasibility, costs, safety, noise, and energy factors associated with achieving, as appropriate, standards of such stringency and lead time. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

"(4) If the Administrator determines that any emissions not referred to in paragraph (2) from new nonroad engines or vehicles significantly contribute to air pollution which may reasonably be anticipated to endanger public health or welfare, the Administrator may promulgate (and from time to time revise) such regulations as the Administrator deems appropriate containing standards applicable to emissions from those classes or categories of new nonroad engines and new nonroad vehicles (other than locomotives or engines used in locomotives) which in the Administrator's judgment cause, or contribute to, such air pollution, taking into account costs, noise, safety, and energy factors associated with the application of technology which the Administrator determines will be available for the engines and vehicles to which such standards apply. The regulations shall apply to the useful life of the engines or vehicles (as determined by the Administrator).

Regulations.

"(5) Within 5 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations containing standards applicable to emissions from new locomotives and new engines used in locomotives. Such standards shall achieve the greatest degree of emission reduction achievable through the application of technology which the Administrator determines will be available for the locomotives or engines to which such standards apply, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers and to noise, energy, and safety factors associated with the application of such technology.

"(b) EFFECTIVE DATE.—Standards under this section shall take effect at the earliest possible date considering the lead time necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period and energy and safety.

"(c) SAFE CONTROLS.—Effective with respect to new engines or vehicles to which standards under this section apply, no emission control device, system, or element of design shall be used in such a new nonroad engine or new nonroad vehicle for purposes of complying with such standards if such device, system, or element of design will cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function. In determining

whether an unreasonable risk exists, the Administrator shall consider factors including those described in section 202(a)(4)(B).

"(d) ENFORCEMENT.—The standards under this section shall be subject to sections 206, 207, 208, and 209, with such modifications of the applicable regulations implementing such sections as the Administrator deems appropriate, and shall be enforced in the same manner as standards prescribed under section 202. The Administrator shall revise or promulgate regulations as may be necessary to determine compliance with, and enforce, standards in effect under this section.".

Regulations.

(b) STATE STANDARDS.—Section 209 of the Clean Air Act (42 U.S.C. 7543) is amended by adding the following at the end thereof:

"(e) NONROAD ENGINES OR VEHICLES.—

"(1) PROHIBITION ON CERTAIN STATE STANDARDS.—No State or any political subdivision thereof shall adopt or attempt to enforce any standard or other requirement relating to the control of emissions from either of the following new nonroad engines or nonroad vehicles subject to regulation under this Act—

"(A) New engines which are used in construction equipment or vehicles or used in farm equipment or vehicles and which are smaller than 175 horsepower.

"(B) New locomotives or new engines used in locomotives.

Subsection (b) shall not apply for purposes of this paragraph.

California.

"(2) OTHER NONROAD ENGINES OR VEHICLES.—(A) In the case of any nonroad vehicles or engines other than those referred to in subparagraph (A) or (B) of paragraph (1), the Administrator shall, after notice and opportunity for public hearing, authorize California to adopt and enforce standards and other requirements relating to the control of emissions from such vehicles or engines if California determines that California standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such authorization shall be granted if the Administrator finds that—

"(i) the determination of California is arbitrary and capricious,

"(ii) California does not need such California standards to meet compelling and extraordinary conditions, or

"(iii) California standards and accompanying enforcement procedures are not consistent with this section.

"(B) Any State other than California which has plan provisions approved under part D of title I may adopt and enforce, after notice to the Administrator, for any period, standards relating to control of emissions from nonroad vehicles or engines (other than those referred to in subparagraph (A) or (B) of paragraph (1)) and take such other actions as are referred to in subparagraph (A) of this paragraph respecting such vehicles or engines if—

"(i) such standards and implementation and enforcement are identical, for the period concerned, to the California standards authorized by the Administrator under subparagraph (A), and

"(ii) California and such State adopt such standards at least 2 years before commencement of the period for which the standards take effect.

Regulations.

The Administrator shall issue regulations to implement this subsection.".

SEC. 223. NEW TITLE II DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 216 of the Clean Air Act (42 U.S.C. 7550) is amended by adding the following at the end thereof:

"(7) VEHICLE CURB WEIGHT, GROSS VEHICLE WEIGHT RATING, LIGHT-DUTY TRUCK, LIGHT-DUTY VEHICLE, AND LOADED VEHICLE WEIGHT.—The terms 'vehicle curb weight', 'gross vehicle weight rating' (GVWR), 'light-duty truck' (LDT), light-duty vehicle, and 'loaded vehicle weight' (LVW) have the meaning provided in regulations promulgated by the Administrator and in effect as of the enactment of the Clean Air Act Amendments of 1990. The abbreviations in parentheses corresponding to any term referred to in this paragraph shall have the same meaning as the corresponding term.

"(8) TEST WEIGHT.—The term 'test weight' and the abbreviation 'tw' mean the vehicle curb weight added to the gross vehicle weight rating (gvwr) and divided by 2.

"(9) MOTOR VEHICLE OR ENGINE PART MANUFACTURER.—The term 'motor vehicle or engine part manufacturer' as used in sections 207 and 208 means any person engaged in the manufacturing, assembling or rebuilding of any device, system, part, component or element of design which is installed in or on motor vehicles or motor vehicle engines.

"(10) NONROAD ENGINE.—The term 'nonroad engine' means an internal combustion engine (including the fuel system) that is not used in a motor vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 111 or section 202.

"(11) NONROAD VEHICLE.—The term 'nonroad vehicle' means a vehicle that is powered by a nonroad engine and that is not a motor vehicle or a vehicle used solely for competition.".

(b) DEFINITION OF MANUFACTURER.—Paragraph (1) of section 216 of the Clean Air Act (42 U.S.C. 7550) is amended by striking out "new motor vehicles or new motor vehicle engines" every place it occurs and inserting "new motor vehicles, new motor vehicle engines, new nonroad vehicles or new nonroad engines".

SEC. 224. HIGH ALTITUDE TESTING.

Section 215 of the Clean Air Act (42 U.S.C. 7549) is amended by adding the following at the end thereof:

"(e) HIGH ALTITUDE TESTING.—(1) The Administrator shall promptly establish at least one testing center (in addition to the testing centers existing on the date of the enactment of the Clean Air Act Amendments of 1990) located at a site that represents high altitude conditions, to ascertain in a reasonable manner whether, when in actual use throughout their useful life (as determined under section 202(d)), each class or category of vehicle and engines to which regulations under section 202 apply conforms to the emissions standards established by such regulations. For purposes of this subsection, the term 'high altitude conditions' refers to high altitude as defined in regulations of the Administrator in effect as of the date of the enactment of the Clean Air Act Amendments of 1990. Motor vehicles. Establishment.

"(2) The Administrator, in cooperation with the Secretary of Energy and the Administrator of the Urban Mass Transportation Administration, and such other agencies as the Administrator deems appropriate, shall establish a research and technology assessment center to provide for the development and evaluation of less-polluting heavy-duty engines and fuels for use in buses, heavy-duty Establishment.

trucks, and non-road engines and vehicles, which shall be located at a high-altitude site that represents high-altitude conditions. In establishing and funding such a center, the Administrator shall give preference to proposals which provide for local cost-sharing of facilities and recovery of costs of operation through utilization of such facility for the purposes of this section.

"(3) The Administrator shall designate at least one center at high-altitude conditions to provide research on after-market emission components, dual-fueled vehicles and conversion kits, the effects of tampering on emissions equipment, testing of alternate fuels and conversion kits, and the development of curricula, training courses, and materials to maximize the effectiveness of inspection and maintenance programs as they relate to promoting effective control of vehicle emissions at high-altitude elevations. Preference shall be given to existing vehicle emissions testing and research centers that have established reputations for vehicle emissions research and development and training, and that possess in-house Federal Test Procedure capacity.".

SEC. 225. COMPLIANCE PROGRAM FEES.

Part A of title II of the Clean Air Act is amended by adding the following new section at the end thereof:

42 USC 7552.

"SEC. 217. MOTOR VEHICLE COMPLIANCE PROGRAM FEES.

"(a) FEE COLLECTION.—Consistent with section 9701 of title 31, United States Code, the Administrator may promulgate (and from time to time revise) regulations establishing fees to recover all reasonable costs to the Administrator associated with—

"(1) new vehicle or engine certification under section 206(a) or part C,

"(2) new vehicle or engine compliance monitoring and testing under section 206(b) or part C, and

"(3) in-use vehicle or engine compliance monitoring and testing under section 207(c) or part C.

Manufacturers.

The Administrator may establish for all foreign and domestic manufacturers a fee schedule based on such factors as the Administrator finds appropriate and equitable and nondiscriminatory, including the number of vehicles or engines produced under a certificate of conformity. In the case of heavy-duty engine and vehicle manufacturers, such fees shall not exceed a reasonable amount to recover an appropriate portion of such reasonable costs.

"(b) SPECIAL TREASURY FUND.—Any fees collected under this section shall be deposited in a special fund in the United States Treasury for licensing and other services which thereafter shall be available for appropriation, to remain available until expended, to carry out the Agency's activities for which the fees were collected.

"(c) LIMITATION ON FUND USE.—Moneys in the special fund referred to in subsection (b) shall not be used until after the first fiscal year commencing after the first July 1 when fees are paid into the fund.

"(d) ADMINISTRATOR'S TESTING AUTHORITY.—Nothing in this subsection shall be construed to limit the Administrator's authority to require manufacturer or confirmatory testing as provided in this part.".

SEC. 226. PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE.

Part A of title II of the Clean Air Act is amended by adding the following new section after section 217:

"SEC. 218. PROHIBITION ON PRODUCTION OF ENGINES REQUIRING LEADED GASOLINE. 42 USC 7553.

"The Administrator shall promulgate regulations applicable to motor vehicle engines and nonroad engines manufactured after model year 1992 that prohibit the manufacture, sale, or introduction into commerce of any engine that requires leaded gasoline.". Regulations.

SEC. 227. URBAN BUSES.

Part A of title II of the Clean Air Act is amended by adding the following new section after section 218:

"SEC. 219. URBAN BUS STANDARDS. 42 USC 7554.

"(a) STANDARDS FOR MODEL YEARS AFTER 1993.—Not later than January 1, 1992, the Administrator shall promulgate regulations under section 202(a) applicable to urban buses for the model year 1994 and thereafter. Such standards shall be based on the best technology that can reasonably be anticipated to be available at the time such measures are to be implemented, taking costs, safety, energy, lead time, and other relevant factors into account. Such regulations shall require that such urban buses comply with the provisions of subsection (b) of this section (and subsection (c) of this subsection, if applicable) in addition to compliance with the standards applicable under section 202(a) for heavy-duty vehicles of the same type and model year. Regulations.

"(b) PM STANDARD.—

"(1) 50 PERCENT REDUCTION.—The standards under section 202(a) applicable to urban buses shall require that, effective for the model year 1994 and thereafter, emissions of particulate matter (PM) from urban buses shall not exceed 50 percent of the emissions of particulate matter (PM) allowed under the emission standard applicable under section 202(a) as of the date of the enactment of the Clean Air Act Amendments of 1990 for particulate matter (PM) in the case of heavy-duty diesel vehicles and engines manufactured in the model year 1994.

"(2) REVISED REDUCTION.—The Administrator shall increase the level of emissions of particulate matter allowed under the standard referred to in paragraph (1) if the Administrator determines that the 50 percent reduction referred to in paragraph (1) is not technologically achievable, taking into account durability, costs, lead time, safety, and other relevant factors. The Administrator may not increase such level of emissions above 70 percent of the emissions of particulate matter (PM) allowed under the emission standard applicable under section 202(a) as of the date of the enactment of the Clean Air Act Amendments of 1990 for particulate matter (PM) in the case of heavy-duty diesel vehicles and engines manufactured in the model year 1994.

"(3) DETERMINATION AS PART OF RULE.—As part of the rulemaking under subsection (a), the Administrator shall make a determination as to whether the 50 percent reduction referred to in paragraph (1) is technologically achievable, taking into

account durability, costs, lead time, safety, and other relevant factors.

"(c) LOW-POLLUTING FUEL REQUIREMENT.—

"(1) ANNUAL TESTING.—Beginning with model year 1994 buses, the Administrator shall conduct annual tests of a representative sample of operating urban buses subject to the particulate matter (PM) standard applicable pursuant to subsection (b) to determine whether such buses comply with such standard in use over their full useful life.

"(2) PROMULGATION OF ADDITIONAL LOW-POLLUTING FUEL REQUIREMENT.—(A) If the Administrator determines, based on the testing under paragraph (1), that urban buses subject to the particulate matter (PM) standard applicable pursuant to subsection (b) do not comply with such standard in use over their full useful life, he shall revise the standards applicable to such buses to require (in addition to compliance with the PM standard applicable pursuant to subsection (b)) that all new urban buses purchased or placed into service by owners or operators of urban buses in all metropolitan statistical areas or consolidated metropolitan statistical areas with a 1980 population of 750,000 or more shall be capable of operating, and shall be exclusively operated, on low-polluting fuels. The Administrator shall establish the pass-fail rate for purposes of testing under this subparagraph.

"(B) The Administrator shall promulgate a schedule phasing in any low-polluting fuel requirement established pursuant to this paragraph to an increasing percentage of new urban buses purchased or placed into service in each of the first 5 model years commencing 3 years after the determination under subparagraph (A). Under such schedule 100 percent of new urban buses placed into service in the fifth model year commencing 3 years after the determination under subparagraph (A) shall comply with the low-polluting fuel requirement established pursuant to this paragraph.

"(C) The Administrator may extend the requirements of this paragraph to metropolitan statistical areas or consolidated metropolitan statistical areas with a 1980 population of less than 750,000, if the Administrator determines that a significant benefit to public health could be expected to result from such extension.

Regulations.

"(d) RETROFIT REQUIREMENTS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations under section 202(a) requiring that urban buses which—

"(1) are operating in areas referred to in subparagraph (A) of subsection (c)(2) (or subparagraph (C) of subsection (c)(2) if the Administrator has taken action under that subparagraph);

"(2) were not subject to standards in effect under the regulations under subsection (a); and

"(3) have their engines replaced or rebuilt after January 1, 1995,

shall comply with an emissions standard or emissions control technology requirement established by the Administrator in such regulations. Such emissions standard or emissions control technology requirement shall reflect the best retrofit technology and maintenance practices reasonably achievable.

"(e) PROCEDURES FOR ADMINISTRATION AND ENFORCEMENT.—The Administrator shall establish, within 18 months after the enactment of the Clean Air Act Amendments to 1990, and in accordance with section 206(h), procedures for the administration and enforcement of standards for buses subject to standards under this section, testing procedures, sampling protocols, in-use compliance requirements, and criteria governing evaluation of buses. Procedures for testing (including, but not limited to, certification testing) shall reflect actual operating conditions. Buses.

"(f) DEFINITIONS.—For purposes of this section—

"(1) URBAN BUS.—The term 'urban bus' has the meaning provided under regulations of the Administrator promulgated under section 202(a).

"(2) LOW-POLLUTING FUEL.—The term 'low-polluting fuel' means methanol, ethanol, propane, or natural gas, or any comparably low-polluting fuel. In determining whether a fuel is comparably low-polluting, the Administrator shall consider both the level of emissions of air pollutants from vehicles using the fuel and the contribution of such emissions to ambient levels of air pollutants. For purposes of this paragraph, the term 'methanol' includes any fuel which contains at least 85 percent methanol unless the Administrator increases such percentage as he deems appropriate to protect public health and welfare."

(b) CONFORMING AMENDMENT.—Section 202(a)(4) of the Clean Air Act (42 U.S.C. 7521(a)(4)) is amended by striking out "standards prescribed under this subsection" every place it occurs and inserting "requirements prescribed under this title".

SEC. 228. ENFORCEMENT.

(a) INSPECTIONS AND TESTING.—Section 203(a)(2) of the Clean Air Act (42 U.S.C. 7522(a)(2)) is amended to read as follows:

"(2)(A) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under section 208;

"(B) for any person to fail or refuse to permit entry, testing or inspection authorized under section 206(c) or section 208;

"(C) for any person to fail or refuse to perform tests, or have tests performed as required under section 208;

"(D) for any manufacturer to fail to make information available as provided by regulation under section 202(m)(5);".

(b) TAMPERING WITH VEHICLE EMISSION CONTROLS.—(1) Section 203(a)(3) (42 U.S.C. 7522(a)(3)) is amended to read as follows:

"(3)(A) for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser; or

"(B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this title, and where the person knows or should

know that such part or component is being offered for sale or installed for such use or put to such use; or".

(2) At the end of section 203(a) (42 U.S.C. 7522(a)) insert the following: "No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if (i) the action is for the purpose of repair or replacement of the device or element, or is a necessary and temporary procedure to repair or replace any other item and the device or element is replaced upon completion of the procedure, and (ii) such action thereafter results in the proper functioning of the device or element referred to in paragraph (3). No action with respect to any device or element of design referred to in paragraph (3) shall be treated as a prohibited act under that paragraph if the action is for the purpose of a conversion of a motor vehicle for use of a clean alternative fuel (as defined in this title) and if such vehicle complies with the applicable standard under section 202 when operating on such fuel, and if in the case of a clean alternative fuel vehicle (as defined by rule by the Administrator), the device or element is replaced upon completion of the conversion procedure and such action results in proper functioning of the device or element when the motor vehicle operates on conventional fuel.".

(c) CIVIL AND ADMINISTRATIVE PENALTIES.—Section 205 of the Clean Air Act (42 U.S.C. 7524) is amended to read as follows:

"SEC. 205. CIVIL PENALTIES.

"(a) VIOLATIONS.—Any person who violates sections 203(a)(1), 203(a)(4), or 203(a)(5) or any manufacturer or dealer who violates section 203(a)(3)(A) shall be subject to a civil penalty of not more than $25,000. Any person other than a manufacturer or dealer who violates section 203(a)(3)(A) or any person who violates section 203(a)(3)(B) shall be subject to a civil penalty of not more than $2,500. Any such violation with respect to paragraph (1), (3)(A), or (4) of section 203(a) shall constitute a separate offense with respect to each motor vehicle or motor vehicle engine. Any such violation with respect to section 203(a)(3)(B) shall constitute a separate offense with respect to each part or component. Any person who violates section 203(a)(2) shall be subject to a civil penalty of not more than $25,000 per day of violation.

"(b) CIVIL ACTIONS.—The Administrator may commence a civil action to assess and recover any civil penalty under subsection (a) of this section, section 211(d), or section 213(d). Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred or in which the defendant resides or has the Administrator's principal place of business, and the court shall have jurisdiction to assess a civil penalty. In determining the amount of any civil penalty to be assessed under this subsection, the court shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

"(c) ADMINISTRATIVE ASSESSMENT OF CERTAIN PENALTIES.—

"(1) ADMINISTRATIVE PENALTY AUTHORITY.—In lieu of commencing a civil action under subsection (b), the Administrator may assess any civil penalty prescribed in subsection (a) of this section, section 211(d), or section 213(d), except that the maximum amount of penalty sought against each violator in a penalty assessment proceeding shall not exceed $200,000, unless the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount is appropriate for administrative penalty assessment. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review. Assessment of a civil penalty under this subsection shall be by an order made on the record after opportunity for a hearing in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person. The Administrator may compromise, or remit, with or without conditions, any administrative penalty which may be imposed under this section. Regulations.

"(2) DETERMINING AMOUNT.—In determining the amount of any civil penalty assessed under this subsection, the Administrator shall take into account the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this title, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require.

"(3) EFFECT OF ADMINISTRATOR'S ACTION.—(A) Action by the Administrator under this subsection shall not affect or limit the Administrator's authority to enforce any provision of this Act; except that any violation,

"(i) with respect to which the Administrator has commenced and is diligently prosecuting an action under this subsection, or

"(ii) for which the Administrator has issued a final order not subject to further judicial review and the violator has paid a penalty assessment under this subsection,

shall not be the subject of civil penalty action under subsection (b).

"(B) No action by the Administrator under this subsection shall affect any person's obligation to comply with any section of this Act.

"(4) FINALITY OF ORDER.—An order issued under this subsection shall become final 30 days after its issuance unless a petition for judicial review is filed under paragraph (5).

"(5) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed in accordance with this subsection may seek review of the assessment in the United States District Court for the District of Columbia, or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, within the 30-day period beginning on the date a civil penalty

order is issued. Such person shall simultaneously send a copy of the filing by certified mail to the Administrator and the Attorney General. The Administrator shall file in the court a certified copy, or certified index, as appropriate, of the record on which the order was issued within 30 days. The court shall not set aside or remand any order issued in accordance with the requirements of this subsection unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's assessment of the penalty constitutes an abuse of discretion, and the court shall not impose additional civil penalties unless the Administrator's assessment of the penalty constitutes an abuse of discretion. In any proceedings, the United States may seek to recover civil penalties assessed under this section.

"(6) COLLECTION.—If any person fails to pay an assessment of a civil penalty imposed by the Administrator as provided in this subsection—

"(A) after the order making the assessment has become final, or

"(B) after a court in an action brought under paragraph (5) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of the penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this paragraph shall be required to pay, in addition to that amount and interest, the United States' enforcement expenses, including attorneys fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. The nonpayment penalty shall be in an amount equal to 10 percent of the aggregate amount of that person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.".

(d) ENFORCEMENT OF FUELS REGULATIONS.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended to read as follows:

"(d) PENALTIES AND INJUNCTIONS.—

"(1) CIVIL PENALTIES.—Any person who violates subsection (a), (f), (g), (k), (l), (m), or (n) of this section or the regulations prescribed under subsection (c), (h), (i), (k), (l), (m), or (n) of this section or who fails to furnish any information or conduct any tests required by the Administrator under subsection (b) of this section shall be liable to the United States for a civil penalty of not more than the sum of $25,000 for every day of such violation and the amount of economic benefit or savings resulting from the violation. Any violation with respect to a regulation prescribed under subsection (c), (k), (l), or (m) of this section which establishes a regulatory standard based upon a multiday averaging period shall constitute a separate day of violation for each and every day in the averaging period. Civil penalties shall be assessed in accordance with subsections (b) and (c) of section 205.

"(2) INJUNCTIVE AUTHORITY.—The district courts of the United States shall have jurisdiction to restrain violations of subsections (a), (f), (g), (k), (l), (m), and (n) of this section and of the regulations prescribed under subsections (c), (h), (i), (k), (l), (m), and (n) of this section, to award other appropriate relief, and to compel the furnishing of information and the conduct of tests required by the Administrator under subsection (b) of this section. Actions to restrain such violations and compel such actions shall be brought by and in the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.".

(e) MISCELLANEOUS ENFORCEMENT.—(1) Section 203(a) of the Clean Air Act is amended as follows: 42 USC 7522.

(1) Insert "or part C in the case of clean-fuel vehicles" before "(except" in paragraph (1).

(2) In paragraph (4) insert "or part C" after "202".

(3) At the end of paragraph (4)(A) insert "or (ii) the corresponding requirements of part C in the case of clean fuel vehicles unless the manufacturer has complied with the corresponding requirements of part C" and in paragraph (4)(A) after "complied with" insert "(i)".

(4) At the end of paragraph (4)(B) insert "or the corresponding requirements of part C in the case of clean fuel vehicles".

(5) In paragraph (4)(C) insert after "207" the following: "and the corresponding requirements of part C in the case of clean fuel vehicles".

(6) In paragraph (4)(D) insert "or the corresponding requirements of part C in the case of clean fuel vehicles" before "with respect to any vehicle".

(7) Strike the period at the end of paragraph (4) and insert "; or" and add the following new paragraph after paragraph (4):

"(5) for any person to violate section 218, 219, or part C of this title or any regulations under section 218, 219, or part C.".

SEC. 229. CLEAN-FUEL VEHICLES.

(a) AMENDMENT TO TITLE II.—Title II of the Clean Air Act is amended by adding the following new part after part B:

"PART C—CLEAN FUEL VEHICLES

"SEC. 241. DEFINITIONS. 42 USC 7581.

"For purposes of this part—

"(1) TERMS DEFINED IN PART A.—The definitions applicable to part A under section 216 shall also apply for purposes of this part.

"(2) CLEAN ALTERNATIVE FUEL.—The term 'clean alternative fuel' means any fuel (including methanol, ethanol, or other alcohols (including any mixture thereof containing 85 percent or more by volume of such alcohol with gasoline or other fuels), reformulated gasoline, diesel, natural gas, liquefied petroleum gas, and hydrogen) or power source (including electricity) used in a clean-fuel vehicle that complies with the standards and requirements applicable to such vehicle under this title when using such fuel or power source. In the case of any flexible fuel vehicle or dual fuel vehicle, the term 'clean alternative fuel' means only a fuel with respect to which such vehicle was

the standards otherwise applicable to such vehicles under section 242 and this section.

"(f) LESS STRINGENT CARB STANDARDS.—If the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board applicable to any category of vehicles referred to in subsection (a), (b), (c), or (d) of this section are modified after the enactment of the Clean Air Act of 1990 to provide an emissions standard which is less stringent than the otherwise applicable standard set forth in subsection (a), (b), (c), or (d), or if any effective date contained in such regulations is delayed, such modified standards or such delay (or both, as the case may be) shall apply, for an interim period, in lieu of the standard or effective date otherwise applicable under subsection (a), (b), (c), or (d) to any vehicles covered by such modified standard or delayed effective date. The interim period shall be a period of not more than 2 model years from the effective date otherwise applicable under subsection (a), (b), (c), or (d). After such interim period, the otherwise applicable standard set forth in subsection (a), (b), (c), or (d) shall take effect with respect to such vehicles (unless subsequently replaced under subsection (e)).

"(g) NOT APPLICABLE TO HEAVY-DUTY VEHICLES.—Notwithstanding any provision of the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board nothing in this section shall apply to heavy-duty engines in vehicles of more than 8,500 lbs. GVWR.

"SEC. 244. ADMINISTRATION AND ENFORCEMENT AS PER CALIFORNIA STANDARDS. 42 USC 7584.

"Where the numerical clean-fuel vehicle standards applicable under this part to vehicles of not more than 8,500 lbs. GVWR are the same as numerical emission standards applicable in California under the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board ('CARB'), such standards shall be administered and enforced by the Administrator—

"(1) in the same manner and with the same flexibility as the State of California administers and enforces corresponding standards applicable under the Low-Emission Vehicle and Clean Fuels Regulations of the California Air Resources Board ('CARB'); and

"(2) subject to the same requirements, and utilizing the same interpretations and policy judgments, as are applicable in the case of such CARB standards, including, but not limited to, requirements regarding certification, production-line testing, and in-use compliance,

unless the Administrator determines (in promulgating the rules establishing the clean fuel vehicle program under this section) that any such administration and enforcement would not meet the criteria for a waiver under section 209. Nothing in this section shall apply in the case of standards under section 245 for heavy-duty vehicles.

"SEC. 245. STANDARDS FOR HEAVY-DUTY CLEAN-FUEL VEHICLES (GVWR ABOVE 8,500 UP TO 26,000 LBS). 42 USC 7585.

"(a) MODEL YEARS AFTER 1997; COMBINED NO_x AND NMHC STANDARD.—For classes or categories of heavy-duty vehicles or engines manufactured for the model year 1998 or thereafter and having a GVWR greater than 8,500 lbs. and up to 26,000 lbs. GVWR, the standards under this part for clean-fuel vehicles shall require that

combined emissions of oxides of nitrogen (NO_x) and nonmethane hydrocarbons (NMHC) shall not exceed 3.15 grams per brake horsepower hour (equivalent to 50 percent of the combined emission standards applicable under section 202 for such air pollutants in the case of a conventional model year 1994 heavy-duty diesel-fueled vehicle or engine). No standard shall be promulgated as provided in this section for any heavy-duty vehicle of more than 26,000 lbs. GVWR.

"(b) REVISED STANDARDS THAT ARE LESS STRINGENT.—(1) The Administrator may promulgate a revised less stringent standard for the vehicles or engines referred to in subsection (a) if the Administrator determines that the 50 percent reduction required under subsection (a) is not technologically feasible for clean diesel-fueled vehicles and engines, taking into account durability, costs, lead time, safety, and other relevant factors. To provide adequate lead time the Administrator shall make a determination with regard to the technological feasibility of such 50 percent reduction before December 31, 1993.

"(2) Any person may at any time petition the Administrator to make a determination under paragraph (1). The Administrator shall act on such a petition within 6 months after the petition is filed.

"(3) Any revised less stringent standards promulgated as provided in this subsection shall require at least a 30 percent reduction in lieu of the 50 percent reduction referred to in paragraph (1).

42 USC 7586.

"SEC. 246. CENTRALLY FUELED FLEETS

"(a) FLEET PROGRAM REQUIRED FOR CERTAIN NONATTAINMENT AREAS.—

"(1) SIP REVISION.—Each State in which there is located all or part of a covered area (as defined in paragraph (2)) shall submit, within 42 months after the enactment of the Clean Air Act Amendments of 1990, a State implementation plan revision under section 110 and part D of title I to establish a clean-fuel vehicle program for fleets under this section.

"(2) COVERED AREAS.—For purposes of this subsection, each of the following shall be a 'covered area':

"(A) OZONE NONATTAINMENT AREAS.—Any ozone nonattainment area with a 1980 population of 250,000 or more classified under subpart 2 of part D of title I of this Act as Serious, Severe, or Extreme based on data for the calendar years 1987, 1988, and 1989. In determining the ozone nonattainment areas to be treated as covered areas pursuant to this subparagraph, the Administrator shall use the most recent interpretation methodology issued by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990.

"(B) CARBON MONOXIDE NONATTAINMENT AREAS.—Any carbon monoxide nonattainment area with a 1980 population of 250,000 or more and a carbon monoxide design value at or above 16.0 parts per million based on data for calendar years 1988 and 1989 (as calculated according to the most recent interpretation methodology issued prior to enactment of the Clean Air Act Amendments of 1990 by the United States Environmental Protection Agency), excluding those carbon monoxide nonattainment areas in which mobile sources do not contribute significantly to carbon monoxide exceedances.

"(3) PLAN REVISIONS FOR RECLASSIFIED AREAS.—In the case of ozone nonattainment areas reclassified as Serious, Severe, or Extreme under part D of title I with a 1980 population of 250,000 or more, the State shall submit a plan revision meeting the requirements of this subsection within 1 year after reclassification. Such plan revision shall implement the requirements applicable under this subsection at the time of reclassification and thereafter, except that the Administrator may adjust for a limited period the deadlines for compliance where compliance with such deadlines would be infeasible.

"(4) CONSULTATION; CONSIDERATION OF FACTORS.—Each State required to submit an implementation plan revision under this subsection shall develop such revision in consultation with fleet operators, vehicle manufacturers, fuel producers and distributors, motor vehicle fuel, and other interested parties, taking into consideration operational range, specialty uses, vehicle and fuel availability, costs, safety, resale values of vehicles and equipment and other relevant factors.

"(b) PHASE-IN OF REQUIREMENTS.—The plan revision required under this section shall contain provisions requiring that at least a specified percentage of all new covered fleet vehicles in model year 1998 and thereafter purchased by each covered fleet operator in each covered area shall be clean-fuel vehicles and shall use clean alternative fuels when operating in the covered area. For the applicable model years (MY) specified in the following table and thereafter, the specified percentage shall be as provided in the table for the vehicle types set forth in the table:

CLEAN FUEL VEHICLE PHASE-IN REQUIREMENTS FOR FLEETS

Vehicle Type	MY1998	MY1999	MY2000
Light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles	30%	50%	70%
Heavy-duty trucks above 8,500 lbs. GVWR	50%	50%	50%

The term MY refers to model year.

"(c) ACCELERATED STANDARD FOR LIGHT-DUTY TRUCKS UP TO 6,000 LBS. GVWR AND LIGHT-DUTY VEHICLES.—Notwithstanding the model years for which clean-fuel vehicle standards are applicable as provided in section 243, for purposes of this section, light duty trucks of up to 6,000 lbs. GVWR and light-duty vehicles manufactured in model years 1998 through model year 2000 shall be treated as clean-fuel vehicles only if such vehicles comply with the standards applicable under section 243 for vehicles in the same class for the model year 2001. The requirements of subsection (b) shall take effect on the earlier of the following: Effective date.

"(1) The first model year after model year 1997 in which new light-duty trucks up to 6,000 lbs. GVWR and light-duty vehicles which comply with the model year 2001 standards under section 243 are offered for sale in California.

"(2) Model year 2001.

Whenever the effective date of subsection (b) is delayed pursuant to paragraph (1) of this subsection, the phase-in schedule under subsec-

tion (b) shall be modified to commence with the model year referred to in paragraph (1) in lieu of model year 1998.

"(d) CHOICE OF VEHICLES AND FUEL.—The plan revision under this subsection shall provide that the choice of clean-fuel vehicles and clean alternative fuels shall be made by the covered fleet operator subject to the requirements of this subsection.

"(e) AVAILABILITY OF CLEAN ALTERNATIVE FUEL.—The plan revision shall require fuel providers to make clean alternative fuel available to covered fleet operators at locations at which covered fleet vehicles are centrally fueled.

"(f) CREDITS.—

"(1) ISSUANCE OF CREDITS.—The State plan revision required under this section shall provide for the issuance by the State of appropriate credits to a fleet operator for any of the following (or any combination thereof):

"(A) The purchase of more clean-fuel vehicles than required under this section.

"(B) The purchase of clean fuel vehicles which meet more stringent standards established by the Administrator pursuant to paragraph (4).

"(C) The purchase of vehicles in categories which are not covered by this section but which meet standards established for such vehicles under paragraph (4).

"(2) USE OF CREDITS; LIMITATIONS BASED ON WEIGHT CLASSES.—

"(A) USE OF CREDITS.—Credits under this subsection may be used by the person holding such credits to demonstrate compliance with this section or may be traded or sold for use by any other person to demonstrate compliance with other requirements applicable under this section in the same nonattainment area. Credits obtained at any time may be held or banked for use at any later time, and when so used, such credits shall maintain the same value as if used at an earlier date.

"(B) LIMITATIONS BASED ON WEIGHT CLASSES.—Credits issued with respect to the purchase of vehicles of up to 8,500 lbs. GVWR may not be used to demonstrate compliance by any person with the requirements applicable under this subsection to vehicles of more than 8,500 lbs. GVWR. Credits issued with respect to the purchase of vehicles of more than 8,500 lbs. GVWR may not be used to demonstrate compliance by any person with the requirements applicable under this subsection to vehicles weighing up to 8,500 lbs. GVWR.

"(C) WEIGHTING.—Credits issued for purchase of a clean fuel vehicle under this subsection shall be adjusted with appropriate weighting to reflect the level of emission reduction achieved by the vehicle.

"(3) REGULATIONS AND ADMINISTRATION.—Within 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations for such credit program. The State shall administer the credit program established under this subsection.

"(4) STANDARDS FOR ISSUING CREDITS FOR CLEANER VEHICLES.—Solely for purposes of issuing credits under paragraph (1)(B), the Administrator shall establish under this paragraph standards for Ultra-Low Emission Vehicles ('ULEV's) and Zero Emissions Vehicles ('ZEV's) which shall be more stringent than those otherwise applicable to clean-fuel vehicles under this part. The

Administrator shall certify clean fuel vehicles as complying with such more stringent standards, and administer and enforce such more stringent standards, in the same manner as in the case of the otherwise applicable clean-fuel vehicle standards established under this section. The standards established by the Administrator under this paragraph for vehicles under 8,500 lbs. GVWR or greater shall conform as closely as possible to standards which are established by the State of California for ULEV and ZEV vehicles in the same class. For vehicles of 8,500 lbs. GVWR or more, the Administrator shall promulgate comparable standards for purposes of this subsection.

"(5) EARLY FLEET CREDITS.—The State plan revision shall provide credits under this subsection to fleet operators that purchase vehicles certified to meet clean-fuel vehicle standards under this part during any period after approval of the plan revision and prior to the effective date of the fleet program under this section.

"(g) AVAILABILITY TO THE PUBLIC.—At any facility owned or operated by a department, agency, or instrumentality of the United States where vehicles subject to this subsection are supplied with clean alternative fuel, such fuel shall be offered for sale to the public for use in other vehicles during reasonable business times and subject to national security concerns, unless such fuel is commercially available for vehicles in the vicinity of such Federal facilities.

"(h) TRANSPORTATION CONTROL MEASURES.—The Administrator shall by rule, within 1 year after the enactment of the Clean Air Act Amendments of 1990, ensure that certain transportation control measures including time-of-day or day-of-week restrictions, and other similar measures that restrict vehicle usage, do not apply to any clean-fuel vehicle that meets the requirements of this section. This subsection shall apply notwithstanding title I.

"SEC. 247. VEHICLE CONVERSIONS. 42 USC 7587.

"(a) CONVERSION OF EXISTING AND NEW CONVENTIONAL VEHICLES TO CLEAN-FUEL VEHICLES.—The requirements of section 246 may be met through the conversion of existing or new gasoline or diesel-powered vehicles to clean-fuel vehicles which comply with the applicable requirements of that section. For purposes of such provisions the conversion of a vehicle to clean fuel vehicle shall be treated as the purchase of a clean fuel vehicle. Nothing in this part shall be construed to provide that any covered fleet operator subject to fleet vehicle purchase requirements under section 246 shall be required to convert existing or new gasoline or diesel-powered vehicles to clean-fuel vehicles or to purchase converted vehicles.

"(b) REGULATIONS.—The Administrator shall, within 24 months after the enactment of the Clean Air Act Amendments of 1990, consistent with the requirements of this title applicable to new vehicles, promulgate regulations governing conversions of conventional vehicles to clean-fuel vehicles. Such regulations shall establish criteria for such conversions which will ensure that a converted vehicle will comply with the standards applicable under this part to clean-fuel vehicles. Such regulations shall provide for the application to such conversions of the same provisions of this title (including provisions relating to administration enforcement) as are applicable to standards under section 242, 243, 244, and 245, except that in the case of conversions the Administrator may modify the

applicable regulations implementing such provisions as the Administrator deems necessary to implement this part.

"(c) ENFORCEMENT.—Any person who converts conventional vehicles to clean fuel vehicles pursuant to subsection (b), shall be considered a manufacturer for purposes of sections 206 and 207 and related enforcement provisions. Nothing in the preceding sentence shall require a person who performs such conversions to warrant any part or operation of a vehicle other than as required under this part. Nothing in this paragraph shall limit the applicability of any other warranty to unrelated parts or operations.

"(d) TAMPERING.—The conversion from a vehicle capable of operating on gasoline or diesel fuel only to a clean-fuel vehicle shall not be considered a violation of section 203(a)(3) if such conversion complies with the regulations promulgated under subsection (b).

"(e) SAFETY.—The Secretary of Transportation shall, if necessary, promulgate rules under applicable motor vehicle laws regarding the safety of vehicles converted from existing and new vehicles to clean-fuel vehicles.

42 USC 7588.

"SEC. 248. FEDERAL AGENCY FLEETS.

"(a) ADDITIONAL PROVISIONS APPLICABLE.—The provisions of this section shall apply, in addition to the other provisions of this part, in the case of covered fleet vehicles owned or operated by an agency, department, or instrumentality of the United States, except as otherwise provided in subsection (e).

"(b) COST OF VEHICLES TO FEDERAL AGENCY.—Notwithstanding the provisions of section 211 of the Federal Property and Administrative Services Act of 1949, the Administrator of General Services shall not include the incremental costs of clean-fuel vehicles in the amount to be reimbursed by Federal agencies if the Administrator of General Services determines that appropriations provided pursuant to this paragraph are sufficient to provide for the incremental cost of such vehicles over the cost of comparable conventional vehicles.

"(c) LIMITATIONS ON APPROPRIATIONS.—Funds appropriated pursuant to the authorization under this paragraph shall be applicable only—

"(1) to the portion of the cost of acquisition, maintenance and operation of vehicles acquired under this subparagraph which exceeds the cost of acquisition, maintenance and operation of comparable conventional vehicles;

"(2) to the portion of the costs of fuel storage and dispensing equipment attributable to such vehicles which exceeds the costs for such purposes required for conventional vehicles; and

"(3) to the portion of the costs of acquisition of clean-fuel vehicles which represents a reduction in revenue from the disposal of such vehicles as compared to revenue resulting from the disposal of comparable conventional vehicles.

"(d) VEHICLE COSTS.—The incremental cost of vehicles acquired under this part over the cost of comparable conventional vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be required by the United States.

"(e) EXEMPTIONS.—The requirements of this part shall not apply to vehicles with respect to which the Secretary of Defense has certified to the Administrator that an exemption is needed based on national security consideration.

"(f) ACQUISITION REQUIREMENT.—Federal agencies, to the extent practicable, shall obtain clean-fuel vehicles from original equipment manufacturers.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be required to carry out the provisions of this section: *Provided*, That such sums as are appropriated for the Administrator of General Services pursuant to the authorization under this section shall be added to the General Supply Fund established in section 109 of the Federal Property and Administrative Services Act of 1949.

"SEC. 249. CALIFORNIA PILOT TEST PROGRAM. 42 USC 7589.

"(a) ESTABLISHMENT.—The Administrator shall establish a pilot program in the State of California to demonstrate the effectiveness of clean-fuel vehicles in controlling air pollution in ozone nonattainment areas.

"(b) APPLICABILITY.—The provisions of this section shall only apply to light-duty trucks and light-duty vehicles, and such provisions shall apply only in the State of California, except as provided in subsection (f).

"(c) PROGRAM REQUIREMENTS.—Not later than 24 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing requirements under this section applicable in the State of California. The regulations shall provide the following: Regulations.

"(1) CLEAN-FUEL VEHICLES.—Clean-fuel vehicles shall be produced, sold, and distributed (in accordance with normal business practices and applicable franchise agreements) to ultimate purchasers in California (including owners of covered fleets referred to in section 246) in numbers that meet or exceed the following schedule:

Model Years	Number of Clean-Fuel Vehicles
1996, 1997, 1998	150,000 vehicles
1999 and thereafter	300,000 vehicles

"(2) CLEAN ALTERNATIVE FUELS.—(A) Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the State of California shall submit a revision of the applicable implementation plan under part D of title I and section 110 containing a clean fuel plan that requires that clean alternative fuels on which the clean-fuel vehicles required under this paragraph can operate shall be produced and distributed by fuel suppliers and made available in California. At a minimum, sufficient clean alternative fuels shall be produced, distributed and made available to assure that all clean-fuel vehicles required under this section can operate, to the maximum extent practicable, exclusively on such fuels in California. The State shall require that clean alternative fuels be made available and offered for sale at an adequate number of locations with sufficient geographic distribution to ensure convenient refueling

with clean alternative fuels, considering the number of, and type of, such vehicles sold and the geographic distribution of such vehicles within the State. The State shall determine the clean alternative fuels to be produced, distributed, and made available based on motor vehicle manufacturers' projections of future sales of such vehicles and consultations with the affected local governments and fuel suppliers.

"(B) The State may by regulation grant persons subject to the requirements prescribed under this paragraph an appropriate amount of credits for exceeding such requirements, and any person granted credits may transfer some or all of the credits for use by one or more persons in demonstrating compliance with such requirements. The State may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and conditions as the State finds appropriate.

"(C) The State may also by regulation establish specifications for any clean alternative fuel produced and made available under this paragraph as the State finds necessary to reduce or eliminate an unreasonable risk to public health, welfare, or safety associated with its use or to ensure acceptable vehicle maintenance and performance characteristics.

"(D) If a retail gasoline dispensing facility would have to remove or replace one or more motor vehicle fuel underground storage tanks and accompanying piping in order to comply with the provisions of this section, and it had removed and replaced such tank or tanks and accompanying piping in order to comply with subtitle I of the Solid Waste Disposal Act prior to the date of the enactment of the Clean Air Act Amendments of 1990, it shall not be required to comply with this subsection until a period of 7 years has passed from the date of the removal and replacement of such tank or tanks.

"(E) Nothing in this section authorizes any State other than California to adopt provisions regarding clean alternative fuels.

"(F) If the State of California fails to adopt a clean fuel program that meets the requirements of this paragraph, the Administrator shall, within 4 years after the enactment of the Clean Air Act Amendments of 1990, establish a clean fuel program for the State of California under this paragraph and section 110(c) that meets the requirements of this paragraph.

"(d) CREDITS FOR MOTOR VEHICLE MANUFACTURERS.—(1) The Administrator may (by regulation) grant a motor vehicle manufacturer an appropriate amount of credits toward fulfillment of such manufacturer's share of the requirements of subsection (c)(1) of this section for any of the following (or any combination thereof):

"(A) The sale of more clean-fuel vehicles than required under subsection (c)(1) of this section.

"(B) The sale of clean fuel vehicles which meet standards established by the Administrator as provided in paragraph (3) which are more stringent than the clean-fuel vehicle standards otherwise applicable to such clean-fuel vehicle. A manufacturer granted credits under this paragraph may transfer some or all of the credits for use by one or more other manufacturers in demonstrating compliance with the requirements prescribed under this paragraph. The Administrator may make the credits available for use after consideration of enforceability, environmental, and economic factors and upon such terms and condi-

tions as he finds appropriate. The Administrator shall grant credits in accordance with this paragraph, notwithstanding any requirements of State law or any credits granted with respect to the same vehicles under any State law, rule, or regulation.

"(2) REGULATIONS AND ADMINISTRATION.—The Administrator shall administer the credit program established under this subsection. Within 12 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations for such credit program.

"(3) STANDARDS FOR ISSUING CREDITS FOR CLEANER VEHICLES.—The more stringent standards and other requirements (including requirements relating to the weighting of credits) established by the Administrator for purposes of the credit program under 245(e) (relating to credits for clean fuel vehicles in the fleets program) shall also apply for purposes of the credit program under this paragraph.

"(e) PROGRAM EVALUATION.—(1) Not later than June 30, 1994 and again in connection with the report under paragraph (2), the Administrator shall provide a report to the Congress on the status of the California Air Resources Board Low-Emissions Vehicles and Clean Fuels Program. Such report shall examine the capability, from a technological standpoint, of motor vehicle manufacturers and motor vehicle fuel suppliers to comply with the requirements of such program and with the requirements of the California Pilot Program under this section. Reports.

"(2) Not later than June 30, 1998, the Administrator shall complete and submit a report to Congress on the effectiveness of the California pilot program under this section. The report shall evaluate the level of emission reductions achieved under the program, the costs of the program, the advantages and disadvantages of extending the program to other nonattainment areas, and desirability of continuing or expanding the program in California. Reports.

"(3) The program under this section cannot be extended or terminated by the Administrator except by Act of Congress enacted after the date of the Clean Air Act Amendments of 1990. Section 177 of this Act does not apply to the program under this section.

"(f) VOLUNTARY OPT-IN FOR OTHER STATES.—

"(1) EPA REGULATIONS.—Not later than 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing a voluntary opt-in program under this subsection pursuant to which—

"(A) clean-fuel vehicles which are required to be produced, sold, and distributed in the State of California under this section, and

"(B) clean alternative fuels required to be produced and distributed under this section by fuel suppliers and made available in California

may also be sold and used in other States which submit plan revisions under paragraph (2).

"(2) PLAN REVISIONS.—Any State in which there is located all or part of an ozone nonattainment area classified under subpart D of title I as Serious, Severe, or Extreme may submit a revision of the applicable implementation plan under part D of title I and section 110 to provide incentives for the sale or use in such an area or State of clean-fuel vehicles which are required to be produced, sold, and distributed in the State of California, and for the use in such an area or State of clean alternative fuels

required to be produced and distributed by fuel suppliers and made available in California. Such plan provisions shall not take effect until 1 year after the State has provided notice of such provisions to motor vehicle manufacturers and to fuel suppliers.

"(3) INCENTIVES.—The incentives referred to in paragraph (2) may include any or all of the following:

"(A) A State registration fee on new motor vehicles registered in the State which are not clean-fuel vehicles in the amount of at least 1 percent of the cost of the vehicle. The proceeds of such fee shall be used to provide financial incentives to purchasers of clean-fuel vehicles and to vehicle dealers who sell high volumes or high percentages of clean-fuel vehicles and to defray the administrative costs of the incentive program.

"(B) Provisions to exempt clean-fuel vehicles from high occupancy vehicle or trip reduction requirements.

"(C) Provisions to provide preference in the use of existing parking spaces for clean-fuel vehicles.

The incentives under this paragraph shall not apply in the case of covered fleet vehicles.

"(4) NO SALES OR PRODUCTION MANDATE.—The regulations and plan revisions under paragraphs (1) and (2) shall not include any production or sales mandate for clean-fuel vehicles or clean alternative fuels. Such regulations and plan revisions shall also provide that vehicle manufacturers and fuel suppliers may not be subject to penalties or sanctions for failing to produce or sell clean-fuel vehicles or clean alternative fuels.

42 USC 7590.

"SEC. 250. GENERAL PROVISIONS.

"(a) STATE REFUELING FACILITIES.—If any State adopts enforceable provisions in an implementation plan applicable to a nonattainment area which provides that existing State refueling facilities will be made available to the public for the purchase of clean alternative fuels or that State-operated refueling facilities for such fuels will be constructed and operated by the State and made available to the public at reasonable times, taking into consideration safety, costs, and other relevant factors, in approving such plan under section 110 and part D, the Administrator may credit a State with the emission reductions for purposes of part D attributable to such actions.

"(b) NO PRODUCTION MANDATE.—The Administrator shall have no authority under this part to mandate the production of clean-fuel vehicles except as provided in the California pilot test program or to specify as applicable the models, lines, or types of, or marketing or price practices, policies, or strategies for, vehicles subject to this part. Nothing in this part shall be construed to give the Administrator authority to mandate marketing or pricing practices, policies, or strategies for fuels.

Regulations.

"(c) TANK AND FUEL SYSTEM SAFETY.—The Secretary of Transportation shall, in accordance with the National Motor Vehicle Traffic Safety Act of 1966, promulgate applicable regulations regarding the safety and use of fuel storage cylinders and fuel systems, including appropriate testing and retesting, in conversions of motor vehicles.

"(d) CONSULTATION WITH DEPARTMENT OF ENERGY AND DEPARTMENT OF TRANSPORTATION.—The Administrator shall coordinate with the Secretaries of the Department of Energy and the Depart-

ment of Transportation in carrying out the Administrator's duties under this part.".

SEC. 230. TECHNICAL AMENDMENTS.

The Clean Air Act is amended as follows:

(1) In section 202(b)(3), strike out subparagraph (B).

(2) Strike out section 202(b)(4) (42 U.S.C. 7521(b)(4)).

(3) Strike out section 202(b)(5) (42 U.S.C. 7521(b)(5)).

(4) In section 202(b)(6) (42 U.S.C. 7521(b)(6))—

(A) strike out "(A)" after "(6)",

(B) strike out subparagraph (B), and

(C) redesignate paragraph (6) as paragraph (3) and redesignate clauses (i) through (iii) as subparagraphs (A) through (C).

(5) Strike out section 202(b)(7) (42 U.S.C. 7521(b)(7)).

(6) Strike out section 203(c) (42 U.S.C. 7522(c)).

(7) Strike out "announce in the Federal Register and" in section 206(e) (42 U.S.C. 7525(e)).

(8) In section 206(f) (42 U.S.C. 7525(f))—

(A) strike out "(1)" after "(f)",

(B) strike out paragraph (2), and

(C) insert "and all light-duty trucks manufactured during or after model year 1995" immediately after "1984".

(9) In section 207(g) strike out "(but not designed for emission control under the terms of the last three sentences of section 207(a)(1)" and insert "(but not designed for emission control under the terms of the last sentence of section 207(a)(3))". 42 USC 7541.

(10) Strike out section 212. 42 USC 7546.

PART B—OTHER PROVISIONS

SEC. 231. ETHANOL SUBSTITUTE FOR DIESEL.

Within one year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall contract with a laboratory which has done research on alcohol esters of rapeseed oil to evaluate the feasibility, engine performance, emissions, and production capability associated with an alternative to diesel fuel composed of ethanol and high erucic rapeseed oil. The Administrator shall submit a report on the results of this research to Congress within 3 years of the issuance of such contract. Government contracts. Reports.

SEC. 232. ADOPTION BY OTHER STATES OF CALIFORNIA STANDARDS.

Section 177 of the Clean Air Act (42 U.S.C. 7507) is amended by adding the following at the end thereof:

"Nothing in this section or in title II of this Act shall be construed as authorizing any such State to prohibit or limit, directly or indirectly, the manufacture or sale of a new motor vehicle or motor vehicle engine that is certified in California as meeting California standards, or to take any action of any kind to create, or have the effect of creating, a motor vehicle or motor vehicle engine different than a motor vehicle or engine certified in California under California standards (a 'third vehicle') or otherwise create such a 'third vehicle'."

SEC. 233. STATES AUTHORITY TO REGULATE. 42 USC 7571 note.

(a) STUDY.—The Administrator of the Environmental Protection Agency and the Secretary of Transportation, in consultation with Aircraft.

the Secretary of Defense, shall commence a study and investigation of the testing of uninstalled aircraft engines in enclosed test cells that shall address at a minimum the following issues and such other issues as they shall deem appropriate—

(1) whether technologies exist to control some or all emissions of oxides of nitrogen from test cells;

(2) the effectiveness of such technologies;

(3) the cost of implementing such technologies;

(4) whether such technologies affect the safety, design, structure, operation, or performance of aircraft engines;

(5) whether such technologies impair the effectiveness and accuracy of aircraft engine safety design, and performance tests conducted in test cells; and

(6) the impact of not controlling such oxides of nitrogen in the applicable nonattainment areas and on other sources, stationary and mobile, on oxides of nitrogen in such areas.

(b) REPORT, AUTHORITY TO REGULATE.—Not later than 24 months after enactment of the Clean Air Act Amendments of 1990, the Administrator of the Environmental Protection Agency and the Secretary of Transportation shall submit to Congress a report of the study conducted under this section. Following the completion of such study, any of the States may adopt or enforce any standard for emissions of oxides of nitrogen from test cells only after issuing a public notice stating whether such standards are in accordance with the findings of the study.

SEC. 234. FUGITIVE DUST.

(a) Prior to any use of the Industrial Source Complex (ISC) Model using AP-42 Compilation of Air Pollutant Emission Factors to determine the effect on air quality of fugitive particulate emissions from surface coal mines, for purposes of new source review or for purposes of demonstrating compliance with national ambient air quality standards for particulate matter applicable to periods of 24 hours or less, under section 110 or parts C or D of title I of the Clean Air Act, the Administrator shall analyze the accuracy of such model and emission factors and make revisions as may be necessary to eliminate any significant over-prediction of air quality effect of fugitive particulate emissions from such sources. Such revisions shall be completed not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990. Until such time as the Administrator develops a revised model for surface mine fugitive emissions, the State may use alternative empirical based modeling approaches pursuant to guidelines issued by the Administrator.".

SEC. 235. FEDERAL COMPLIANCE.

42 USC 7418.

Section 118 of the Clean Air Act is amended by inserting "GENERAL COMPLIANCE.—" after "SEC. 118. (a)" and by adding at the end thereof the following:

"(c) GOVERNMENT VEHICLES.—Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government shall comply with all applicable provisions of a valid inspection and maintenance program established under the provisions of subpart 2 of part D or subpart 3 of part D except for such vehicles that are considered military tactical vehicles.

"(d) VEHICLES OPERATED ON FEDERAL INSTALLATIONS.—Each department, agency, and instrumentality of executive, legislative,

and judicial branches of the Federal Government having jurisdiction over any property or facility shall require all employees which operate motor vehicles on the property or facility to furnish proof of compliance with the applicable requirements of any vehicle inspection and maintenance program established under the provisions of subpart 2 of part D or subpart 3 of part D for the State in which such property or facility is located (without regard to whether such vehicles are registered in the State). The installation shall use one of the following methods to establish proof of compliance—

"(1) presentation by the vehicle owner of a valid certificate of compliance from the vehicle inspection and maintenance program;

"(2) presentation by the vehicle owner of proof of vehicle registration within the geographic area covered by the vehicle inspection and maintenance program (except for any program whose enforcement mechanism is not through the denial of vehicle registration);

"(3) another method approved by the vehicle inspection and maintenance program administrator.".

TITLE III—HAZARDOUS AIR POLLUTANTS

Sec. 301. Hazardous Air Pollutants.
Sec. 302. Conforming Amendment.
Sec. 303. Risk Assessment and Management Commission.
Sec. 304. Chemical Process Safety Management.
Sec. 305. Solid Waste Combustion.
Sec. 306. Ash Management and Disposal.

SEC. 301. HAZARDOUS AIR POLLUTANTS.

Section 112 of the Clean Air Act is amended to read as follows: 42 USC 7412.

"SEC. 112. HAZARDOUS AIR POLLUTANTS.

"(a) DEFINITIONS.—For purposes of this section, except subsection (r)—

"(1) MAJOR SOURCE.—The term 'major source' means any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants. The Administrator may establish a lesser quantity, or in the case of radionuclides different criteria, for a major source than that specified in the previous sentence, on the basis of the potency of the air pollutant, persistence, potential for bioaccumulation, other characteristics of the air pollutant, or other relevant factors.

"(2) AREA SOURCE.—The term 'area source' means any stationary source of hazardous air pollutants that is not a major source. For purposes of this section, the term 'area source' shall not include motor vehicles or nonroad vehicles subject to regulation under title II.

"(3) STATIONARY SOURCE.—The term 'stationary source' shall have the same meaning as such term has under section 111(a).

"(4) NEW SOURCE.—The term 'new source' means a stationary source the construction or reconstruction of which is commenced after the Administrator first proposes regulations

under this section establishing an emission standard applicable to such source.

"(5) MODIFICATION.—The term 'modification' means any physical change in, or change in the method of operation of, a major source which increases the actual emissions of any hazardous air pollutant emitted by such source by more than a de minimis amount or which results in the emission of any hazardous air pollutant not previously emitted by more than a de minimis amount.

"(6) HAZARDOUS AIR POLLUTANT.—The term 'hazardous air pollutant' means any air pollutant listed pursuant to subsection (b).

"(7) ADVERSE ENVIRONMENTAL EFFECT.—The term 'adverse environmental effect' means any significant and widespread adverse effect, which may reasonably be anticipated, to wildlife, aquatic life, or other natural resources, including adverse impacts on populations of endangered or threatened species or significant degradation of environmental quality over broad areas.

"(8) ELECTRIC UTILITY STEAM GENERATING UNIT.—The term 'electric utility steam generating unit' means any fossil fuel fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale shall be considered an electric utility steam generating unit.

"(9) OWNER OR OPERATOR.—The term 'owner or operator' means any person who owns, leases, operates, controls, or supervises a stationary source.

"(10) EXISTING SOURCE.—The term 'existing source' means any stationary source other than a new source.

"(11) CARCINOGENIC EFFECT.—Unless revised, the term 'carcinogenic effect' shall have the meaning provided by the Administrator under Guidelines for Carcinogenic Risk Assessment as of the date of enactment. Any revisions in the existing Guidelines shall be subject to notice and opportunity for comment.

"(b) LIST OF POLLUTANTS.—

"(1) INITIAL LIST.—The Congress establishes for purposes of this section a list of hazardous air pollutants as follows:

CAS number	*Chemical name*
75070	Acetaldehyde
60355	Acetamide
75058	Acetonitrile
98862	Acetophenone
53963	2-Acetylaminofluorene
107028	Acrolein
79061	Acrylamide
79107	Acrylic acid
107131	Acrylonitrile
107051	Allyl chloride
92671	4-Aminobiphenyl
62533	Aniline
90040	o-Anisidine
1332214	Asbestos

CAS number	Chemical name
71432	Benzene (including benzene from gasoline)
92875	Benzidine
98077	Benzotrichloride
100447	Benzyl chloride
92524	Biphenyl
117817	Bis(2-ethylhexyl)phthalate (DEHP)
542881	Bis(chloromethyl)ether
75252	Bromoform
106990	1,3-Butadiene
156627	Calcium cyanamide
105602	Caprolactam
133062	Captan
63252	Carbaryl
75150	Carbon disulfide
56235	Carbon tetrachloride
463581	Carbonyl sulfide
120809	Catechol
133904	Chloramben
57749	Chlordane
7782505	Chlorine
79118	Chloroacetic acid
532274	2-Chloroacetophenone
108907	Chlorobenzene
510156	Chlorobenzilate
67663	Chloroform
107302	Chloromethyl methyl ether
126998	Chloroprene
1319773	Cresols/Cresylic acid (isomers and mixture)
95487	o-Cresol
108394	m-Cresol
106445	p-Cresol
98828	Cumene
94757	2,4-D, salts and esters
3547044	DDE
334883	Diazomethane
132649	Dibenzofurans
96128	1,2-Dibromo-3-chloropropane
84742	Dibutylphthalate
106467	1,4-Dichlorobenzene(p)
91941	3,3-Dichlorobenzidene
111444	Dichloroethyl ether (Bis(2-chloroethyl)ether)
542756	1,3-Dichloropropene
62737	Dichlorvos
111422	Diethanolamine
121697	N,N-Diethyl aniline (N,N-Dimethylaniline)
64675	Diethyl sulfate
119904	3,3-Dimethoxybenzidine
60117	Dimethyl aminoazobenzene
119937	3,3'-Dimethyl benzidine
79447	Dimethyl carbamoyl chloride
68122	Dimethyl formamide
57147	1,1-Dimethyl hydrazine
131113	Dimethyl phthalate
77781	Dimethyl sulfate
534521	4,6-Dinitro-o-cresol, and salts
51285	2,4-Dinitrophenol
121142	2,4-Dinitrotoluene
123911	1,4-Dioxane (1,4-Diethyleneoxide)
122667	1,2-Diphenylhydrazine
106898	Epichlorohydrin (l-Chloro-2,3-epoxypropane)
106887	1,2-Epoxybutane
140885	Ethyl acrylate
100414	Ethyl benzene
51796	Ethyl carbamate (Urethane)
75003	Ethyl chloride (Chloroethane)
106934	Ethylene dibromide (Dibromoethane)
107062	Ethylene dichloride (1,2-Dichloroethane)
107211	Ethylene glycol

CAS number	Chemical name
151564	Ethylene imine (Aziridine)
75218	Ethylene oxide
96457	Ethylene thiourea
75343	Ethylidene dichloride (1,1-Dichloroethane)
50000	Formaldehyde
76448	Heptachlor
118741	Hexachlorobenzene
87683	Hexachlorobutadiene
77474	Hexachlorocyclopentadiene
67721	Hexachloroethane
822060	Hexamethylene-1,6-diisocyanate
680319	Hexamethylphosphoramide
110543	Hexane
302012	Hydrazine
7647010	Hydrochloric acid
7664393	Hydrogen fluoride (Hydrofluoric acid)
7783064	Hydrogen sulfide
123319	Hydroquinone
78591	Isophorone
58899	Lindane (all isomers)
108316	Maleic anhydride
67561	Methanol
72435	Methoxychlor
74839	Methyl bromide (Bromomethane)
74873	Methyl chloride (Chloromethane)
71556	Methyl chloroform (1,1,1-Trichloroethane)
78933	Methyl ethyl ketone (2-Butanone)
60344	Methyl hydrazine
74884	Methyl iodide (Iodomethane)
108101	Methyl isobutyl ketone (Hexone)
624839	Methyl isocyanate
80626	Methyl methacrylate
1634044	Methyl tert butyl ether
101144	4,4-Methylene bis(2-chloroaniline)
75092	Methylene chloride (Dichloromethane)
101688	Methylene diphenyl diisocyanate (MDI)
101779	4,4'-Methylenedianiline
91203	Naphthalene
98953	Nitrobenzene
92933	4-Nitrobiphenyl
100027	4-Nitrophenol
79469	2-Nitropropane
684935	N-Nitroso-N-methylurea
62759	N-Nitrosodimethylamine
59892	N-Nitrosomorpholine
56382	Parathion
82688	Pentachloronitrobenzene (Quintobenzene)
87865	Pentachlorophenol
108952	Phenol
106503	p-Phenylenediamine
75445	Phosgene
7803512	Phosphine
7723140	Phosphorus
85449	Phthalic anhydride
1336363	Polychlorinated biphenyls (Aroclors)
1120714	1,3-Propane sultone
57578	beta-Propiolactone
123386	Propionaldehyde
114261	Propoxur (Baygon)
78875	Propylene dichloride (1,2-Dichloropropane)
75569	Propylene oxide
75558	1,2-Propylenimine (2-Methyl aziridine)
91225	Quinoline
106514	Quinone
100425	Styrene
96093	Styrene oxide
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin
79345	1,1,2,2-Tetrachloroethane

CAS number	Chemical name
127184	Tetrachloroethylene (Perchloroethylene)
7550450	Titanium tetrachloride
108883	Toluene
95807	2,4-Toluene diamine
584849	2,4-Toluene diisocyanate
95534	o-Toluidine
8001352	Toxaphene (chlorinated camphene)
120821	1,2,4-Trichlorobenzene
79005	1,1,2-Trichloroethane
79016	Trichloroethylene
95954	2,4,5-Trichlorophenol
88062	2,4,6-Trichlorophenol
121448	Triethylamine
1582098	Trifluralin
540841	2,2,4-Trimethylpentane
108054	Vinyl acetate
593602	Vinyl bromide
75014	Vinyl chloride
75354	Vinylidene chloride (1,1-Dichloroethylene)
1330207	Xylenes (isomers and mixture)
95476	o-Xylenes
108383	m-Xylenes
106423	p-Xylenes
0	Antimony Compounds
0	Arsenic Compounds (inorganic including arsine)
0	Beryllium Compounds
0	Cadmium Compounds
0	Chromium Compounds
0	Cobalt Compounds
0	Coke Oven Emissions
0	Cyanide Compounds [1]
0	Glycol ethers [2]
0	Lead Compounds
0	Manganese Compounds
0	Mercury Compounds
0	Fine mineral fibers [3]
0	Nickel Compounds
0	Polycylic Organic Matter [4]
0	Radionuclides (including radon) [5]
0	Selenium Compounds

NOTE: For all listings above which contain the word "compounds" and for glycol ethers, the following applies: Unless otherwise specified, these listings are defined as including any unique chemical substance that contains the named chemical (i.e., antimony, arsenic, etc.) as part of that chemical's infrastructure.

[1] X'CN where X = H' or any other group where a formal dissociation may occur. For example KCN or $Ca(CN)_2$

[2] Includes mono- and di- ethers of ethylene glycol, diethylene glycol, and triethylene glycol R-$(OCH2CH2)_n$-OR' where

n = 1, 2, or 3

R = alkyl or aryl groups

R' = R, H, or groups which, when removed, yield glycol ethers with the structure: R-$(OCH2CH)_n$-OH. Polymers are excluded from the glycol category.

[3] Includes mineral fiber emissions from facilities manufacturing or processing glass, rock, or slag fibers (or other mineral derived fibers) of average diameter 1 micrometer or less.

[4] Includes organic compounds with more than one benzene ring, and which have a boiling point greater than or equal to 100°C.

[5] A type of atom which spontaneously undergoes radioactive decay.

"(2) REVISION OF THE LIST.—The Administrator shall periodically review the list established by this subsection and publish the results thereof and, where appropriate, revise such list by rule, adding pollutants which present, or may present, through inhalation or other routes of exposure, a threat of adverse human health effects (including, but not limited to, substances which are known to be, or may reasonably be anticipated to be,

carcinogenic, mutagenic, teratogenic, neurotoxic, which cause reproductive dysfunction, or which are acutely or chronically toxic) or adverse environmental effects whether through ambient concentrations, bioaccumulation, deposition, or otherwise, but not including releases subject to regulation under subsection (r) as a result of emissions to the air. No air pollutant which is listed under section 108(a) may be added to the list under this section, except that the prohibition of this sentence shall not apply to any pollutant which independently meets the listing criteria of this paragraph and is a precursor to a pollutant which is listed under section 108(a) or to any pollutant which is in a class of pollutants listed under such section. No substance, practice, process or activity regulated under title VI of this Act shall be subject to regulation under this section solely due to its adverse effects on the environment.

"(3) PETITIONS TO MODIFY THE LIST.—

"(A) Beginning at any time after 6 months after the date of enactment of the Clean Air Act Amendments of 1990, any person may petition the Administrator to modify the list of hazardous air pollutants under this subsection by adding or deleting a substance or, in case of listed pollutants without CAS numbers (other than coke oven emissions, mineral fibers, or polycyclic organic matter) removing certain unique substances. Within 18 months after receipt of a petition, the Administrator shall either grant or deny the petition by publishing a written explanation of the reasons for the Administrator's decision. Any such petition shall include a showing by the petitioner that there is adequate data on the health or environmental defects of the pollutant or other evidence adequate to support the petition. The Administrator may not deny a petition solely on the basis of inadequate resources or time for review.

"(B) The Administrator shall add a substance to the list upon a showing by the petitioner or on the Administrator's own determination that the substance is an air pollutant and that emissions, ambient concentrations, bioaccumulation or deposition of the substance are known to cause or may reasonably be anticipated to cause adverse effects to human health or adverse environmental effects.

"(C) The Administrator shall delete a substance from the list upon a showing by the petitioner or on the Administrator's own determination that there is adequate data on the health and environmental effects of the substance to determine that emissions, ambient concentrations, bioaccumulation or deposition of the substance may not reasonably be anticipated to cause any adverse effects to the human health or adverse environmental effects.

"(D) The Administrator shall delete one or more unique chemical substances that contain a listed hazardous air pollutant not having a CAS number (other than coke oven emissions, mineral fibers, or polycyclic organic matter) upon a showing by the petitioner or on the Administrator's own determination that such unique chemical substances that contain the named chemical of such listed hazardous air pollutant meet the deletion requirements of subparagraph (C). The Administrator must grant or deny a deletion

petition prior to promulgating any emission standards pursuant to subsection (d) applicable to any source category or subcategory of a listed hazardous air pollutant without a CAS number listed under subsection (b) for which a deletion petition has been filed within 12 months of the date of enactment of the Clean Air Act Amendments of 1990.

"(4) FURTHER INFORMATION.—If the Administrator determines that information on the health or environmental effects of a substance is not sufficient to make a determination required by this subsection, the Administrator may use any authority available to the Administrator to acquire such information.

"(5) TEST METHODS.—The Administrator may establish, by rule, test measures and other analytic procedures for monitoring and measuring emissions, ambient concentrations, deposition, and bioaccumulation of hazardous air pollutants.

"(6) PREVENTION OF SIGNIFICANT DETERIORATION.—The provisions of part C (prevention of significant deterioration) shall not apply to pollutants listed under this section.

"(7) LEAD.—The Administrator may not list elemental lead as a hazardous air pollutant under this subsection.

"(c) LIST OF SOURCE CATEGORIES.—

"(1) IN GENERAL.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish, and shall from time to time, but no less often than every 8 years, revise, if appropriate, in response to public comment or new information, a list of all categories and subcategories of major sources and area sources (listed under paragraph (3)) of the air pollutants listed pursuant to subsection (b). To the extent practicable, the categories and subcategories listed under this subsection shall be consistent with the list of source categories established pursuant to section 111 and part C. Nothing in the preceding sentence limits the Administrator's authority to establish subcategories under this section, as appropriate.

"(2) REQUIREMENT FOR EMISSIONS STANDARDS.—For the categories and subcategories the Administrator lists, the Administrator shall establish emissions standards under subsection (d), according to the schedule in this subsection and subsection (e).

"(3) AREA SOURCES.—The Administrator shall list under this subsection each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment (by such sources individually or in the aggregate) warranting regulation under this section. The Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990 and pursuant to subsection (k)(3)(B), list, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of the 30 hazardous air pollutants that present the greatest threat to public health in the largest number of urban areas are subject to regulation under this section. Such regulations shall be promulgated not later than 10 years after such date of enactment. Regulations.

"(4) PREVIOUSLY REGULATED CATEGORIES.—The Administrator may, in the Administrator's discretion, list any category or subcategory of sources previously regulated under this section

as in effect before the date of enactment of the Clean Air Act Amendments of 1990.

"(5) ADDITIONAL CATEGORIES.—In addition to those categories and subcategories of sources listed for regulation pursuant to paragraphs (1) and (3), the Administrator may at any time list additional categories and subcategories of sources of hazardous air pollutants according to the same criteria for listing applicable under such paragraphs. In the case of source categories and subcategories listed after publication of the initial list required under paragraph (1) or (3), emission standards under subsection (d) for the category or subcategory shall be promulgated within 10 years after the date of enactment of the Clean Air Act Amendments of 1990, or within 2 years after the date on which such category or subcategory is listed, whichever is later.

"(6) SPECIFIC POLLUTANTS.—With respect to alkylated lead compounds, polycyclic organic matter, hexachlorobenzene, mercury, polychlorinated biphenyls, 2,3,7,8-tetrachlorodibenzofurans and 2,3,7,8-tetrachlorodibenzo-p-dioxin, the Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990, list categories and subcategories of sources assuring that sources accounting for not less than 90 per centum of the aggregate emissions of each such pollutant are subject to standards under subsection (d)(2) or (d)(4). Such standards shall be promulgated not later than 10 years after such date of enactment. This paragraph shall not be construed to require the Administrator to promulgate standards for such pollutants emitted by electric utility steam generating units.

"(7) RESEARCH FACILITIES.—The Administrator shall establish a separate category covering research or laboratory facilities, as necessary to assure the equitable treatment of such facilities. For purposes of this section, 'research or laboratory facility' means any stationary source whose primary purpose is to conduct research and development into new processes and products, where such source is operated under the close supervision of technically trained personnel and is not engaged in the manufacture of products for commercial sale in commerce, except in a de minimis manner.

"(8) BOAT MANUFACTURING.—When establishing emissions standards for styrene, the Administrator shall list boat manufacturing as a separate subcategory unless the Administrator finds that such listing would be inconsistent with the goals and requirements of this Act.

"(9) DELETIONS FROM THE LIST.—

"(A) Where the sole reason for the inclusion of a source category on the list required under this subsection is the emission of a unique chemical substance, the Administrator shall delete the source category from the list if it is appropriate because of action taken under either subparagraphs (C) or (D) of subsection (b)(3).

"(B) The Administrator may delete any source category from the list under this subsection, on petition of any person or on the Administrator's own motion, whenever the Administrator makes the following determination or determinations, as applicable:

"(i) In the case of hazardous air pollutants emitted by sources in the category that may result in cancer in humans, a determination that no source in the category (or group of sources in the case of area sources) emits such hazardous air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source (or group of sources in the case of area sources).

"(ii) In the case of hazardous air pollutants that may result in adverse health effects in humans other than cancer or adverse environmental effects, a determination that emissions from no source in the category or subcategory concerned (or group of sources in the case of area sources) exceed a level which is adequate to protect public health with an ample margin of safety and no adverse environmental effect will result from emissions from any source (or from a group of sources in the case of area sources).

The Administrator shall grant or deny a petition under this paragraph within 1 year after the petition is filed.

"(d) EMISSION STANDARDS.—

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c) in accordance with the schedules provided in subsections (c) and (e). The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards except that, there shall be no delay in the compliance date for any standard applicable to any source under subsection (i) as the result of the authority provided by this sentence. Regulations.

"(2) STANDARDS AND METHODS.—Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to, measures which—

"(A) reduce the volume of, or eliminate emissions of, such pollutants through process changes, substitution of materials or other modifications,

"(B) enclose systems or processes to eliminate emissions,

"(C) collect, capture or treat such pollutants when released from a process, stack, storage or fugitive emissions point,

"(D) are design, equipment, work practice, or operational standards (including requirements for operator training or certification) as provided in subsection (h), or

"(E) are a combination of the above.

None of the measures described in subparagraphs (A) through (D) shall, consistent with the provisions of section 114(c), in any way compromise any United States patent or United States trademark right, or any confidential business information, or any trade secret or any other intellectual property right.

"(3) NEW AND EXISTING SOURCES.—The maximum degree of reduction in emissions that is deemed achievable for new sources in a category or subcategory shall not be less stringent than the emission control that is achieved in practice by the best controlled similar source, as determined by the Administrator. Emission standards promulgated under this subsection for existing sources in a category or subcategory may be less stringent than standards for new sources in the same category or subcategory but shall not be less stringent, and may be more stringent than—

"(A) the average emission limitation achieved by the best performing 12 percent of the existing sources (for which the Administrator has emissions information), excluding those sources that have, within 18 months before the emission standard is proposed or within 30 months before such standard is promulgated, whichever is later, first achieved a level of emission rate or emission reduction which complies, or would comply if the source is not subject to such standard, with the lowest achievable emission rate (as defined by section 171) applicable to the source category and prevailing at the time, in the category or subcategory for categories and subcategories with 30 or more sources, or

"(B) the average emission limitation achieved by the best performing 5 sources (for which the Administrator has or could reasonably obtain emissions information) in the category or subcategory for categories or subcategories with fewer than 30 sources.

"(4) HEALTH THRESHOLD.—With respect to pollutants for which a health threshold has been established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emission standards under this subsection.

"(5) ALTERNATIVE STANDARD FOR AREA SOURCES.—With respect only to categories and subcategories of area sources listed pursuant to subsection (c), the Administrator may, in lieu of the authorities provided in paragraph (2) and subsection (f), elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.

"(6) REVIEW AND REVISION.—The Administrator shall review, and revise as necessary (taking into account developments in practices, processes, and control technologies), emission standards promulgated under this section no less often than every 8 years.

"(7) OTHER REQUIREMENTS PRESERVED.—No emission standard or other requirement promulgated under this section shall be interpreted, construed or applied to diminish or replace the requirements of a more stringent emission limitation or other applicable requirement established pursuant to section 111, part

C or D, or other authority of this Act or a standard issued under State authority.

"(8) COKE OVENS.—

"(A) Not later than December 31, 1992, the Administrator shall promulgate regulations establishing emission standards under paragraphs (2) and (3) of this subsection for coke oven batteries. In establishing such standards, the Administrator shall evaluate— Regulations.

"(i) the use of sodium silicate (or equivalent) luting compounds to prevent door leaks, and other operating practices and technologies for their effectiveness in reducing coke oven emissions, and their suitability for use on new and existing coke oven batteries, taking into account costs and reasonable commercial door warranties; and

"(ii) as a basis for emission standards under this subsection for new coke oven batteries that begin construction after the date of proposal of such standards, the Jewell design Thompson non-recovery coke oven batteries and other non-recovery coke oven technologies, and other appropriate emission control and coke production technologies, as to their effectiveness in reducing coke oven emissions and their capability for production of steel quality coke.

Such regulations shall require at a minimum that coke oven batteries will not exceed 8 per centum leaking doors, 1 per centum leaking lids, 5 per centum leaking offtakes, and 16 seconds visible emissions per charge, with no exclusion for emissions during the period after the closing of self-sealing oven doors. Notwithstanding subsection (i), the compliance date for such emission standards for existing coke oven batteries shall be December 31, 1995.

"(B) The Administrator shall promulgate work practice regulations under this subsection for coke oven batteries requiring, as appropriate— Regulations.

"(i) the use of sodium silicate (or equivalent) luting compounds, if the Administrator determines that use of sodium silicate is an effective means of emissions control and is achievable, taking into account costs and reasonable commercial warranties for doors and related equipment; and

"(ii) door and jam cleaning practices.

Notwithstanding subsection (i), the compliance date for such work practice regulations for coke oven batteries shall be not later than the date 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(C) For coke oven batteries electing to qualify for an extension of the compliance date for standards promulgated under subsection (f) in accordance with subsection (i)(8), the emission standards under this subsection for coke oven batteries shall require that coke oven batteries not exceed 8 per centum leaking doors, 1 per centum leaking lids, 5 per centum leaking offtakes, and 16 seconds visible emissions per charge, with no exclusion for emissions during the period after the closing of self-sealing doors. Notwithstanding subsection (i), the compliance date for such emission standards for existing coke oven batteries seeking an exten-

sion shall be not later than the date 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(9) SOURCES LICENSED BY THE NUCLEAR REGULATORY COMMISSION.—No standard for radionuclide emissions from any category or subcategory of facilities licensed by the Nuclear Regulatory Commission (or an Agreement State) is required to be promulgated under this section if the Administrator determines, by rule, and after consultation with the Nuclear Regulatory Commission, that the regulatory program established by the Nuclear Regulatory Commission pursuant to the Atomic Energy Act for such category or subcategory provides an ample margin of safety to protect the public health. Nothing in this subsection shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any standard or limitation respecting emissions of radionuclides which is more stringent than the standard or limitation in effect under section 111 or this section.

"(10) EFFECTIVE DATE.—Emission standards or other regulations promulgated under this subsection shall be effective upon promulgation.

"(e) SCHEDULE FOR STANDARDS AND REVIEW.—

Regulations.

"(1) IN GENERAL.—The Administrator shall promulgate regulations establishing emission standards for categories and subcategories of sources initially listed for regulation pursuant to subsection (c)(1) as expeditiously as practicable, assuring that—

"(A) emission standards for not less than 40 categories and subcategories (not counting coke oven batteries) shall be promulgated not later than 2 years after the date of enactment of the Clean Air Act Amendments of 1990;

"(B) emission standards for coke oven batteries shall be promulgated not later than December 31, 1992;

"(C) emission standards for 25 per centum of the listed categories and subcategories shall be promulgated not later than 4 years after the date of enactment of the Clean Air Act Amendments of 1990;

"(D) emission standards for an additional 25 per centum of the listed categories and subcategories shall be promulgated not later than 7 years after the date of enactment of the Clean Air Act Amendments of 1990; and

"(E) emission standards for all categories and subcategories shall be promulgated not later than 10 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(2) In determining priorities for promulgating standards under subsection (d), the Administrator shall consider—

"(A) the known or anticipated adverse effects of such pollutants on public health and the environment;

"(B) the quantity and location of emissions or reasonably anticipated emissions of hazardous air pollutants that each category or subcategory will emit; and

"(C) the efficiency of grouping categories or subcategories according to the pollutants emitted, or the processes or technologies used.

"(3) PUBLISHED SCHEDULE.—Not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990 and after opportunity for comment, the Administrator shall

publish a schedule establishing a date for the promulgation of emission standards for each category and subcategory of sources listed pursuant to subsection (c)(1) and (3) which shall be consistent with the requirements of paragraphs (1) and (2). The determination of priorities for the promulgation of standards pursuant to this paragraph is not a rulemaking and shall not be subject to judicial review, except that, failure to promulgate any standard pursuant to the schedule established by this paragraph shall be subject to review under section 304 of this Act.

"(4) JUDICIAL REVIEW.—Notwithstanding section 307 of this Act, no action of the Administrator adding a pollutant to the list under subsection (b) or listing a source category or subcategory under subsection (c) shall be a final agency action subject to judicial review, except that any such action may be reviewed under such section 307 when the Administrator issues emission standards for such pollutant or category.

"(5) PUBLICLY OWNED TREATMENT WORKS.—The Administrator shall promulgate standards pursuant to subsection (d) applicable to publicly owned treatment works (as defined in title II of the Federal Water Pollution Control Act) not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(f) STANDARD TO PROTECT HEALTH AND THE ENVIRONMENT.—

"(1) REPORT.—Not later than 6 years after the date of enactment of the Clean Air Act Amendments of 1990 the Administrator shall investigate and report, after consultation with the Surgeon General and after opportunity for public comment, to Congress on—

"(A) methods of calculating the risk to public health remaining, or likely to remain, from sources subject to regulation under this section after the application of standards under subsection (d);

"(B) the public health significance of such estimated remaining risk and the technologically and commercially available methods and costs of reducing such risks;

"(C) the actual health effects with respect to persons living in the vicinity of sources, any available epidemiological or other health studies, risks presented by background concentrations of hazardous air pollutants, any uncertainties in risk assessment methodology or other health assessment technique, and any negative health or environmental consequences to the community of efforts to reduce such risks; and

"(D) recommendations as to legislation regarding such remaining risk.

"(2) EMISSION STANDARDS.—

"(A) If Congress does not act on any recommendation submitted under paragraph (1), the Administrator shall, within 8 years after promulgation of standards for each category or subcategory of sources pursuant to subsection (d), promulgate standards for such category or subcategory if promulgation of such standards is required in order to provide an ample margin of safety to protect public health in accordance with this section (as in effect before the date of enactment of the Clean Air Act Amendments of 1990) or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental

effect. Emission standards promulgated under this subsection shall provide an ample margin of safety to protect public health in accordance with this section (as in effect before the date of enactment of the Clean Air Act Amendments of 1990), unless the Administrator determines that a more stringent standard is necessary to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect. If standards promulgated pursuant to subsection (d) and applicable to a category or subcategory of sources emitting a pollutant (or pollutants) classified as a known, probable or possible human carcinogen do not reduce lifetime excess cancer risks to the individual most exposed to emissions from a source in the category or subcategory to less than one in one million, the Administrator shall promulgate standards under this subsection for such source category.

"(B) Nothing in subparagraph (A) or in any other provision of this section shall be construed as affecting, or applying to the Administrator's interpretation of this section, as in effect before the date of enactment of the Clean Air Act Amendments of 1990 and set forth in the Federal Register of September 14, 1989 (54 Federal Register 38044).

"(C) The Administrator shall determine whether or not to promulgate such standards and, if the Administrator decides to promulgate such standards, shall promulgate the standards 8 years after promulgation of the standards under subsection (d) for each source category or subcategory concerned. In the case of categories or subcategories for which standards under subsection (d) are required to be promulgated within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall have 9 years after promulgation of the standards under subsection (d) to make the determination under the preceding sentence and, if required, to promulgate the standards under this paragraph.

"(3) EFFECTIVE DATE.—Any emission standard established pursuant to this subsection shall become effective upon promulgation.

"(4) PROHIBITION.—No air pollutant to which a standard under this subsection applies may be emitted from any stationary source in violation of such standard, except that in the case of an existing source—

"(A) such standard shall not apply until 90 days after its effective date, and

"(B) the Administrator may grant a waiver permitting such source a period of up to 2 years after the effective date of a standard to comply with the standard if the Administrator finds that such period is necessary for the installation of controls and that steps will be taken during the period of the waiver to assure that the health of persons will be protected from imminent endangerment.

"(5) AREA SOURCES.—The Administrator shall not be required to conduct any review under this subsection or promulgate emission limitations under this subsection for any category or subcategory of area sources that is listed pursuant to subsection (c)(3) and for which an emission standard is promulgated pursuant to subsection (d)(5).

"(6) UNIQUE CHEMICAL SUBSTANCES.—In establishing standards for the control of unique chemical substances of listed pollutants without CAS numbers under this subsection, the Administrator shall establish such standards with respect to the health and environmental effects of the substances actually emitted by sources and direct transformation byproducts of such emissions in the categories and subcategories.

"(g) MODIFICATIONS.—

"(1) OFFSETS.—

"(A) A physical change in, or change in the method of operation of, a major source which results in a greater than de minimis increase in actual emissions of a hazardous air pollutant shall not be considered a modification, if such increase in the quantity of actual emissions of any hazardous air pollutant from such source will be offset by an equal or greater decrease in the quantity of emissions of another hazardous air pollutant (or pollutants) from such source which is deemed more hazardous, pursuant to guidance issued by the Administrator under subparagraph (B). The owner or operator of such source shall submit a showing to the Administrator (or the State) that such increase has been offset under the preceding sentence.

"(B) The Administrator shall, after notice and opportunity for comment and not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, publish guidance with respect to implementation of this subsection. Such guidance shall include an identification, to the extent practicable, of the relative hazard to human health resulting from emissions to the ambient air of each of the pollutants listed under subsection (b) sufficient to facilitate the offset showing authorized by subparagraph (A). Such guidance shall not authorize offsets between pollutants where the increased pollutant (or more than one pollutant in a stream of pollutants) causes adverse effects to human health for which no safety threshold for exposure can be determined unless there are corresponding decreases in such types of pollutant(s).

"(2) CONSTRUCTION, RECONSTRUCTION AND MODIFICATIONS.—

"(A) After the effective date of a permit program under title V in any State, no person may modify a major source of hazardous air pollutants in such State, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for existing sources will be met. Such determination shall be made on a case-by-case basis where no applicable emissions limitations have been established by the Administrator.

"(B) After the effective date of a permit program under title V in any State, no person may construct or reconstruct any major source of hazardous air pollutants, unless the Administrator (or the State) determines that the maximum achievable control technology emission limitation under this section for new sources will be met. Such determination shall be made on a case-by-case basis where no applicable emission limitations have been established by the Administrator.

"(3) PROCEDURES FOR MODIFICATIONS.—The Administrator (or the State) shall establish reasonable procedures for assuring that the requirements applying to modifications under this section are reflected in the permit.

"(h) WORK PRACTICE STANDARDS AND OTHER REQUIREMENTS.—

"(1) IN GENERAL.—For purposes of this section, if it is not feasible in the judgment of the Administrator to prescribe or enforce an emission standard for control of a hazardous air pollutant or pollutants, the Administrator may, in lieu thereof, promulgate a design, equipment, work practice, or operational standard, or combination thereof, which in the Administrator's judgment is consistent with the provisions of subsection (d) or (f). In the event the Administrator promulgates a design or equipment standard under this subsection, the Administrator shall include as part of such standard such requirements as will assure the proper operation and maintenance of any such element of design or equipment.

"(2) DEFINITION.—For the purpose of this subsection, the phrase 'not feasible to prescribe or enforce an emission standard' means any situation in which the Administrator determines that—

"(A) a hazardous air pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State or local law, or

"(B) the application of measurement methodology to a particular class of sources is not practicable due to technological and economic limitations.

"(3) ALTERNATIVE STANDARD.—If after notice and opportunity for comment, the owner or operator of any source establishes to the satisfaction of the Administrator that an alternative means of emission limitation will achieve a reduction in emissions of any air pollutant at least equivalent to the reduction in emissions of such pollutant achieved under the requirements of paragraph (1), the Administrator shall permit the use of such alternative by the source for purposes of compliance with this section with respect to such pollutant.

"(4) NUMERICAL STANDARD REQUIRED.—Any standard promulgated under paragraph (1) shall be promulgated in terms of an emission standard whenever it is feasible to promulgate and enforce a standard in such terms.

"(i) SCHEDULE FOR COMPLIANCE.—

"(1) PRECONSTRUCTION AND OPERATING REQUIREMENTS.—After the effective date of any emission standard, limitation, or regulation under subsection (d), (f) or (h), no person may construct any new major source or reconstruct any existing major source subject to such emission standard, regulation or limitation unless the Administrator (or a State with a permit program approved under title V) determines that such source, if properly constructed, reconstructed and operated, will comply with the standard, regulation or limitation.

"(2) SPECIAL RULE.—Notwithstanding the requirements of paragraph (1), a new source which commences construction or reconstruction after a standard, limitation or regulation applicable to such source is proposed and before such standard, limitation or regulation is promulgated shall not be required to

comply with such promulgated standard until the date 3 years after the date of promulgation if—

"(A) the promulgated standard, limitation or regulation is more stringent than the standard, limitation or regulation proposed; and

"(B) the source complies with the standard, limitation, or regulation as proposed during the 3-year period immediately after promulgation.

"(3) COMPLIANCE SCHEDULE FOR EXISTING SOURCES.—

"(A) After the effective date of any emissions standard, limitation or regulation promulgated under this section and applicable to a source, no person may operate such source in violation of such standard, limitation or regulation except, in the case of an existing source, the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard, except as provided in subparagraph (B) and paragraphs (4) through (8).

"(B) The Administrator (or a State with a program approved under title V) may issue a permit that grants an extension permitting an existing source up to 1 additional year to comply with standards under subsection (d) if such additional period is necessary for the installation of controls. An additional extension of up to 3 years may be added for mining waste operations, if the 4-year compliance time is insufficient to dry and cover mining waste in order to reduce emissions of any pollutant listed under subsection (b).

"(4) PRESIDENTIAL EXEMPTION.—The President may exempt any stationary source from compliance with any standard or limitation under this section for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security interests of the United States to do so. An exemption under this paragraph may be extended for 1 or more additional periods, each period not to exceed 2 years. The President shall report to Congress with respect to each exemption (or extension thereof) made under this paragraph. President. Reports.

"(5) EARLY REDUCTION.—

"(A) The Administrator (or a State acting pursuant to a permit program approved under title V) shall issue a permit allowing an existing source, for which the owner or operator demonstrates that the source has achieved a reduction of 90 per centum or more in emissions of hazardous air pollutants (95 per centum in the case of hazardous air pollutants which are particulates) from the source, to meet an alternative emission limitation reflecting such reduction in lieu of an emission limitation promulgated under subsection (d) for a period of 6 years from the compliance date for the otherwise applicable standard, provided that such reduction is achieved before the otherwise applicable standard under subsection (d) is first proposed. Nothing in this paragraph shall preclude a State from requiring reductions in excess of those specified in this

subparagraph as a condition of granting the extension authorized by the previous sentence.

"(B) An existing source which achieves the reduction referred to in subparagraph (A) after the proposal of an applicable standard but before January 1, 1994, may qualify under subparagraph (A), if the source makes an enforceable commitment to achieve such reduction before the proposal of the standard. Such commitment shall be enforceable to the same extent as a regulation under this section.

"(C) The reduction shall be determined with respect to verifiable and actual emissions in a base year not earlier than calendar year 1987, provided that, there is no evidence that emissions in the base year are artificially or substantially greater than emissions in other years prior to implementation of emissions reduction measures. The Administrator may allow a source to use a baseline year of 1985 or 1986 provided that the source can demonstrate to the satisfaction of the Administrator that emissions data for the source reflects verifiable data based on information for such source, received by the Administrator prior to the enactment of the Clean Air Act Amendments of 1990, pursuant to an information request issued under section 114.

"(D) For each source granted an alternative emission limitation under this paragraph there shall be established by a permit issued pursuant to title V an enforceable emission limitation for hazardous air pollutants reflecting the reduction which qualifies the source for an alternative emission limitation under this paragraph. An alternative emission limitation under this paragraph shall not be available with respect to standards or requirements promulgated pursuant to subsection (f) and the Administrator shall, for the purpose of determining whether a standard under subsection (f) is necessary, review emissions from sources granted an alternative emission limitation under this paragraph at the same time that other sources in the category or subcategory are reviewed.

"(E) With respect to pollutants for which high risks of adverse public health effects may be associated with exposure to small quantities including, but not limited to, chlorinated dioxins and furans, the Administrator shall by regulation limit the use of offsetting reductions in emissions of other hazardous air pollutants from the source as counting toward the 90 per centum reduction in such high-risk pollutants qualifying for an alternative emissions limitation under this paragraph.

"(6) OTHER REDUCTIONS.—Notwithstanding the requirements of this section, no existing source that has installed—

"(A) best available control technology (as defined in section 169(3)), or

"(B) technology required to meet a lowest achievable emission rate (as defined in section 171),

prior to the promulgation of a standard under this section applicable to such source and the same pollutant (or stream of pollutants) controlled pursuant to an action described in subparagraph (A) or (B) shall be required to comply with such standard under this section until the date 5 years after the date

on which such installation or reduction has been achieved, as determined by the Administrator. The Administrator may issue such rules and guidance as are necessary to implement this paragraph.

"(7) EXTENSION FOR NEW SOURCES.—A source for which construction or reconstruction is commenced after the date an emission standard applicable to such source is proposed pursuant to subsection (d) but before the date an emission standard applicable to such source is proposed pursuant to subsection (f) shall not be required to comply with the emission standard under subsection (f) until the date 10 years after the date construction or reconstruction is commenced.

"(8) COKE OVENS.

"(A) Any coke oven battery that complies with the emission limitations established under subsection (d)(8)(C), subparagraph (B), and subparagraph (C), and complies with the provisions of subparagraph (E), shall not be required to achieve emission limitations promulgated under subsection (f) until January 1, 2020.

"(B)(i) Not later than December 31, 1992, the Administrator shall promulgate emission limitations for coke oven emissions from coke oven batteries. Notwithstanding paragraph (3) of this subsection, the compliance date for such emission limitations for existing coke oven batteries shall be January 1, 1998. Such emission limitations shall reflect the lowest achievable emission rate as defined in section 171 for a coke oven battery that is rebuilt or a replacement at a coke oven plant for an existing battery. Such emission limitations shall be no less stringent than—

"(I) 3 per centum leaking doors (5 per centum leaking doors for six meter batteries);

"(II) 1 per centum leaking lids;

"(III) 4 per centum leaking offtakes; and

"(IV) 16 seconds visible emissions per charge,

with an exclusion for emissions during the period after the closing of self-sealing oven doors (or the total mass emissions equivalent). The rulemaking in which such emission limitations are promulgated shall also establish an appropriate measurement methodology for determining compliance with such emission limitations, and shall establish such emission limitations in terms of an equivalent level of mass emissions reduction from a coke oven battery, unless the Administrator finds that such a mass emissions standard would not be practicable or enforceable. Such measurement methodology, to the extent it measures leaking doors, shall take into consideration alternative test methods that reflect the best technology and practices actually applied in the affected industries, and shall assure that the final test methods are consistent with the performance of such best technology and practices. Regulations.

"(ii) If the Administrator fails to promulgate such emission limitations under this subparagraph prior to the effective date of such emission limitations, the emission limitations applicable to coke oven batteries under this subparagraph shall be—

"(I) 3 per centum leaking doors (5 per centum leaking doors for six meter batteries);

"(II) 1 per centum leaking lids;
"(III) 4 per centum leaking offtakes; and
"(IV) 16 seconds visible emissions per charge,

or the total mass emissions equivalent (if the total mass emissions equivalent is determined to be practicable and enforceable), with no exclusion for emissions during the period after the closing of self-sealing oven doors.

"(C) Not later than January 1, 2007, the Administrator shall review the emission limitations promulgated under subparagraph (B) and revise, as necessary, such emission limitations to reflect the lowest achievable emission rate as defined in section 171 at the time for a coke oven battery that is rebuilt or a replacement at a coke oven plant for an existing battery. Such emission limitations shall be no less stringent than the emission limitation promulgated under subparagraph (B). Notwithstanding paragraph (2) of this subsection, the compliance date for such emission limitations for existing coke oven batteries shall be January 1, 2010.

"(D) At any time prior to January 1, 1998, the owner or operator of any coke oven battery may elect to comply with emission limitations promulgated under subsection (f) by the date such emission limitations would otherwise apply to such coke oven battery, in lieu of the emission limitations and the compliance dates provided under subparagraphs (B) and (C) of this paragraph. Any such owner or operator shall be legally bound to comply with such emission limitations promulgated under subsection (f) with respect to such coke oven battery as of January 1, 2003. If no such emission limitations have been promulgated for such coke oven battery, the Administrator shall promulgate such emission limitations in accordance with subsection (f) for such coke oven battery.

"(E) Coke oven batteries qualifying for an extension under subparagraph (A) shall make available not later than January 1, 2000, to the surrounding communities the results of any risk assessment performed by the Administrator to determine the appropriate level of any emission standard established by the Administrator pursuant to subsection (f).

"(F) Notwithstanding the provisions of this section, reconstruction of any source of coke oven emissions qualifying for an extension under this paragraph shall not subject such source to emission limitations under subsection (f) more stringent than those established under subparagraphs (B) and (C) until January 1, 2020. For the purposes of this subparagraph, the term "reconstruction" includes the replacement of existing coke oven battery capacity with new coke oven batteries of comparable or lower capacity and lower potential emissions.

"(j) EQUIVALENT EMISSION LIMITATION BY PERMIT.—

"(1) EFFECTIVE DATE.—The requirements of this subsection shall apply in each State beginning on the effective date of a permit program established pursuant to title V in such State, but not prior to the date 42 months after the date of enactment of the Clean Air Act Amendments of 1990.

"(2) FAILURE TO PROMULGATE A STANDARD.—In the event that the Administrator fails to promulgate a standard for a category or subcategory of major sources by the date established pursuant to subsection (e)(1) and (3), and beginning 18 months after such date (but not prior to the effective date of a permit program under title V), the owner or operator of any major source in such category or subcategory shall submit a permit application under paragraph (3) and such owner or operator shall also comply with paragraphs (5) and (6).

"(3) APPLICATIONS.—By the date established by paragraph (2), the owner or operator of a major source subject to this subsection shall file an application for a permit. If the owner or operator of a source has submitted a timely and complete application for a permit required by this subsection, any failure to have a permit shall not be a violation of paragraph (2), unless the delay in final action is due to the failure of the applicant to timely submit information required or requested to process the application. The Administrator shall not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, and after notice and opportunity for comment, establish requirements for applications under this subsection including a standard application form and criteria for determining in a timely manner the completeness of applications.

"(4) REVIEW AND APPROVAL.—Permit applications submitted under this subsection shall be reviewed and approved or disapproved according to the provisions of section 505. In the event that the Administrator (or the State) disapproves a permit application submitted under this subsection or determines that the application is incomplete, the applicant shall have up to 6 months to revise the application to meet the objections of the Administrator (or the State).

"(5) EMISSION LIMITATION.—The permit shall be issued pursuant to title V and shall contain emission limitations for the hazardous air pollutants subject to regulation under this section and emitted by the source that the Administrator (or the State) determines, on a case-by-case basis, to be equivalent to the limitation that would apply to such source if an emission standard had been promulgated in a timely manner under subsection (d). In the alternative, if the applicable criteria are met, the permit may contain an emissions limitation established according to the provisions of subsection (i)(5). For purposes of the preceding sentence, the reduction required by subsection (i)(5)(A) shall be achieved by the date on which the relevant standard should have been promulgated under subsection (d). No such pollutant may be emitted in amounts exceeding an emission limitation contained in a permit immediately for new sources and, as expeditiously as practicable, but not later than the date 3 years after the permit is issued for existing sources or such other compliance date as would apply under subsection (i).

"(6) APPLICABILITY OF SUBSEQUENT STANDARDS.—If the Administrator promulgates an emission standard that is applicable to the major source prior to the date on which a permit application is approved, the emission limitation in the permit shall reflect the promulgated standard rather than the emission limitation determined pursuant to paragraph (5), provided that the source shall have the compliance period provided under subsection (i). If the Administrator promulgates a stand-

ard under subsection (d) that would be applicable to the source in lieu of the emission limitation established by permit under this subsection after the date on which the permit has been issued, the Administrator (or the State) shall revise such permit upon the next renewal to reflect the standard promulgated by the Administrator providing such source a reasonable time to comply, but no longer than 8 years after such standard is promulgated or 8 years after the date on which the source is first required to comply with the emissions limitation established by paragraph (5), whichever is earlier.

"(k) AREA SOURCE PROGRAM.—

"(1) FINDINGS AND PURPOSE.—The Congress finds that emissions of hazardous air pollutants from area sources may individually, or in the aggregate, present significant risks to public health in urban areas. Considering the large number of persons exposed and the risks of carcinogenic and other adverse health effects from hazardous air pollutants, ambient concentrations characteristic of large urban areas should be reduced to levels substantially below those currently experienced. It is the purpose of this subsection to achieve a substantial reduction in emissions of hazardous air pollutants from area sources and an equivalent reduction in the public health risks associated with such sources including a reduction of not less than 75 per centum in the incidence of cancer attributable to emissions from such sources.

"(2) RESEARCH PROGRAM.—The Administrator shall, after consultation with State and local air pollution control officials, conduct a program of research with respect to sources of hazardous air pollutants in urban areas and shall include within such program—

"(A) ambient monitoring for a broad range of hazardous air pollutants (including, but not limited to, volatile organic compounds, metals, pesticides and products of incomplete combustion) in a representative number of urban locations;

"(B) analysis to characterize the sources of such pollution with a focus on area sources and the contribution that such sources make to public health risks from hazardous air pollutants; and

"(C) consideration of atmospheric transformation and other factors which can elevate public health risks from such pollutants.

Health effects considered under this program shall include, but not be limited to, carcinogenicity, mutagenicity, teratogenicity, neurotoxicity, reproductive dysfunction and other acute and chronic effects including the role of such pollutants as precursors of ozone or acid aerosol formation. The Administrator shall report the preliminary results of such research not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

Reports.

"(3) NATIONAL STRATEGY.—

"(A) Considering information collected pursuant to the monitoring program authorized by paragraph (2), the Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990 and after notice and opportunity for public comment, prepare and transmit to the Congress a comprehensive strategy to

control emissions of hazardous air pollutants from area sources in urban areas.

"(B) The strategy shall—

"(i) identify not less than 30 hazardous air pollutants which, as the result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas and that are or will be listed pursuant to subsection (b), and

"(ii) identify the source categories or subcategories emitting such pollutants that are or will be listed pursuant to subsection (c). When identifying categories and subcategories of sources under this subparagraph, the Administrator shall assure that sources accounting for 90 per centum or more of the aggregate emissions of each of the 30 identified hazardous air pollutants are subject to standards pursuant to subsection (d).

"(C) The strategy shall include a schedule of specific actions to substantially reduce the public health risks posed by the release of hazardous air pollutants from area sources that will be implemented by the Administrator under the authority of this or other laws (including, but not limited to, the Toxic Substances Control Act, the Federal Insecticide, Fungicide and Rodenticide Act and the Resource Conservation and Recovery Act) or by the States. The strategy shall achieve a reduction in the incidence of cancer attributable to exposure to hazardous air pollutants emitted by stationary sources of not less than 75 per centum, considering control of emissions of hazardous air pollutants from all stationary sources and resulting from measures implemented by the Administrator or by the States under this or other laws.

"(D) The strategy may also identify research needs in monitoring, analytical methodology, modeling or pollution control techniques and recommendations for changes in law that would further the goals and objectives of this subsection.

"(E) Nothing in this subsection shall be interpreted to preclude or delay implementation of actions with respect to area sources of hazardous air pollutants under consideration pursuant to this or any other law and that may be promulgated before the strategy is prepared.

"(F) The Administrator shall implement the strategy as expeditiously as practicable assuring that all sources are in compliance with all requirements not later than 9 years after the date of enactment of the Clean Air Act Amendments of 1990.

"(G) As part of such strategy the Administrator shall provide for ambient monitoring and emissions modeling in urban areas as appropriate to demonstrate that the goals and objectives of the strategy are being met.

"(4) AREAWIDE ACTIVITIES.—In addition to the national urban air toxics strategy authorized by paragraph (3), the Administrator shall also encourage and support areawide strategies developed by State or local air pollution control agencies that are intended to reduce risks from emissions by area sources within a particular urban area. From the funds available for grants under this section, the Administrator shall set aside not

less than 10 per centum to support areawide strategies addressing hazardous air pollutants emitted by area sources and shall award such funds on a demonstration basis to those States with innovative and effective strategies. At the request of State or local air pollution control officials, the Administrator shall prepare guidelines for control technologies or management practices which may be applicable to various categories or subcategories of area sources.

"(5) REPORT.—The Administrator shall report to the Congress at intervals not later than 8 and 12 years after the date of enactment of the Clean Air Act Amendments of 1990 on actions taken under this subsection and other parts of this Act to reduce the risk to public health posed by the release of hazardous air pollutants from area sources. The reports shall also identify specific metropolitan areas that continue to experience high risks to public health as the result of emissions from area sources.

"(l) STATE PROGRAMS.—

"(1) IN GENERAL.—Each State may develop and submit to the Administrator for approval a program for the implementation and enforcement (including a review of enforcement delegations previously granted) of emission standards and other requirements for air pollutants subject to this section or requirements for the prevention and mitigation of accidental releases pursuant to subsection (r). A program submitted by a State under this subsection may provide for partial or complete delegation of the Administrator's authorities and responsibilities to implement and enforce emissions standards and prevention requirements but shall not include authority to set standards less stringent than those promulgated by the Administrator under this Act.

"(2) GUIDANCE.—Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish guidance that would be useful to the States in developing programs for submittal under this subsection. The guidance shall also provide for the registration of all facilities producing, processing, handling or storing any substance listed pursuant to subsection (r) in amounts greater than the threshold quantity. The Administrator shall include as an element in such guidance an optional program begun in 1986 for the review of high-risk point sources of air pollutants including, but not limited to, hazardous air pollutants listed pursuant to subsection (b).

Public information.

"(3) TECHNICAL ASSISTANCE.—The Administrator shall establish and maintain an air toxics clearinghouse and center to provide technical information and assistance to State and local agencies and, on a cost recovery basis, to others on control technology, health and ecological risk assessment, risk analysis, ambient monitoring and modeling, and emissions measurement and monitoring. The Administrator shall use the authority of section 103 to examine methods for preventing, measuring, and controlling emissions and evaluating associated health and ecological risks. Where appropriate, such activity shall be conducted with not-for-profit organizations. The Administrator may conduct research on methods for preventing, measuring and controlling emissions and evaluating associated health and environment risks. All information collected under this paragraph shall be available to the public.

"(4) GRANTS.—Upon application of a State, the Administrator may make grants, subject to such terms and conditions as the Administrator deems appropriate, to such State for the purpose of assisting the State in developing and implementing a program for submittal and approval under this subsection. Programs assisted under this paragraph may include program elements addressing air pollutants or extremely hazardous substances other than those specifically subject to this section. Grants under this paragraph may include support for high-risk point source review as provided in paragraph (2) and support for the development and implementation of areawide area source programs pursuant to subsection (k).

"(5) APPROVAL OR DISAPPROVAL.—Not later than 180 days after receiving a program submitted by a State, and after notice and opportunity for public comment, the Administrator shall either approve or disapprove such program. The Administrator shall disapprove any program submitted by a State, if the Administrator determines that—

"(A) the authorities contained in the program are not adequate to assure compliance by all sources within the State with each applicable standard, regulation or requirement established by the Administrator under this section;

"(B) adequate authority does not exist, or adequate resources are not available, to implement the program;

"(C) the schedule for implementing the program and assuring compliance by affected sources is not sufficiently expeditious; or

"(D) the program is otherwise not in compliance with the guidance issued by the Administrator under paragraph (2) or is not likely to satisfy, in whole or in part, the objectives of this Act.

If the Administrator disapproves a State program, the Administrator shall notify the State of any revisions or modifications necessary to obtain approval. The State may revise and resubmit the proposed program for review and approval pursuant to the provisions of this subsection.

"(6) WITHDRAWAL.—Whenever the Administrator determines, after public hearing, that a State is not administering and enforcing a program approved pursuant to this subsection in accordance with the guidance published pursuant to paragraph (2) or the requirements of paragraph (5), the Administrator shall so notify the State and, if action which will assure prompt compliance is not taken within 90 days, the Administrator shall withdraw approval of the program. The Administrator shall not withdraw approval of any program unless the State shall have been notified and the reasons for withdrawal shall have been stated in writing and made public.

"(7) AUTHORITY TO ENFORCE.—Nothing in this subsection shall prohibit the Administrator from enforcing any applicable emission standard or requirement under this section.

"(8) LOCAL PROGRAM.—The Administrator may, after notice and opportunity for public comment, approve a program developed and submitted by a local air pollution control agency (after consultation with the State) pursuant to this subsection and any such agency implementing an approved program may take any action authorized to be taken by a State under this section.

"(9) PERMIT AUTHORITY.—Nothing in this subsection shall affect the authorities and obligations of the Administrator or the State under title V.

"(m) ATMOSPHERIC DEPOSITION TO GREAT LAKES AND COASTAL WATERS.—

"(1) DEPOSITION ASSESSMENT.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct a program to identify and assess the extent of atmospheric deposition of hazardous air pollutants (and in the discretion of the Administrator, other air pollutants) to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters. As part of such program, the Administrator shall—

"(A) monitor the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters, including monitoring of the Great Lakes through the monitoring network established pursuant to paragraph (2) of this subsection and designing and deploying an atmospheric monitoring network for coastal waters pursuant to paragraph (4);

"(B) investigate the sources and deposition rates of atmospheric deposition of air pollutants (and their atmospheric transformation precursors);

"(C) conduct research to develop and improve monitoring methods and to determine the relative contribution of atmospheric pollutants to total pollution loadings to the Great Lakes, the Chesapeake Bay, Lake Champlain, and coastal waters;

"(D) evaluate any adverse effects to public health or the environment caused by such deposition (including effects resulting from indirect exposure pathways) and assess the contribution of such deposition to violations of water quality standards established pursuant to the Federal Water Pollution Control Act and drinking water standards established pursuant to the Safe Drinking Water Act; and

"(E) sample for such pollutants in biota, fish, and wildlife of the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters and characterize the sources of such pollutants.

"(2) GREAT LAKES MONITORING NETWORK.—The Administrator shall oversee, in accordance with Annex 15 of the Great Lakes Water Quality Agreement, the establishment and operation of a Great Lakes atmospheric deposition network to monitor atmospheric deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) to the Great Lakes.

"(A) As part of the network provided for in this paragraph, and not later than December 31, 1991, the Administrator shall establish in each of the 5 Great Lakes at least 1 facility capable of monitoring the atmospheric deposition of hazardous air pollutants in both dry and wet conditions.

"(B) The Administrator shall use the data provided by the network to identify and track the movement of hazardous air pollutants through the Great Lakes, to determine the portion of water pollution loadings attributable to atmospheric deposition of such pollutants, and to support development of remedial action plans and other manage-

ment plans as required by the Great Lakes Water Quality Agreement.

"(C) The Administrator shall assure that the data collected by the Great Lakes atmospheric deposition monitoring network is in a format compatible with databases sponsored by the International Joint Commission, Canada, and the several States of the Great Lakes region.

"(3) MONITORING FOR THE CHESAPEAKE BAY AND LAKE CHAMPLAIN.—The Administrator shall establish at the Chesapeake Bay and Lake Champlain atmospheric deposition stations to monitor deposition of hazardous air pollutants (and in the Administrator's discretion, other air pollutants) within the Chesapeake Bay and Lake Champlain watersheds. The Administrator shall determine the role of air deposition in the pollutant loadings of the Chesapeake Bay and Lake Champlain, investigate the sources of air pollutants deposited in the watersheds, evaluate the health and environmental effects of such pollutant loadings, and shall sample such pollutants in biota, fish and wildlife within the watersheds, as necessary to characterize such effects.

"(4) MONITORING FOR COASTAL WATERS.—The Administrator shall design and deploy atmospheric deposition monitoring networks for coastal waters and their watersheds and shall make any information collected through such networks available to the public. As part of this effort, the Administrator shall conduct research to develop and improve deposition monitoring methods, and to determine the relative contribution of atmospheric pollutants to pollutant loadings. For purposes of this subsection, 'coastal waters' shall mean estuaries selected pursuant to section 320(a)(2)(A) of the Federal Water Pollution Control Act or listed pursuant to section 320(a)(2)(B) of such Act or estuarine research reserves designated pursuant to section 315 of the Coastal Zone Management Act (16 U.S.C. 1461).

"(5) REPORT.—Within 3 years of the date of enactment of the Clean Air Act Amendments of 1990 and biennially thereafter, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report on the results of any monitoring, studies, and investigations conducted pursuant to this subsection. Such report shall include, at a minimum, an assessment of—

"(A) the contribution of atmospheric deposition to pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

"(B) the environmental and public health effects of any pollution which is attributable to atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters;

"(C) the source or sources of any pollution to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters which is attributable to atmospheric deposition;

"(D) whether pollution loadings in the Great Lakes, the Chesapeake Bay, Lake Champlain or coastal waters cause or contribute to exceedances of drinking water standards pursuant to the Safe Drinking Water Act or water quality standards pursuant to the Federal Water Pollution Control Act or, with respect to the Great Lakes, exceedances of the

specific objectives of the Great Lakes Water Quality Agreement; and

"(E) a description of any revisions of the requirements, standards, and limitations pursuant to this Act and other applicable Federal laws as are necessary to assure protection of human health and the environment.

"(6) ADDITIONAL REGULATION.—As part of the report to Congress, the Administrator shall determine whether the other provisions of this section are adequate to prevent serious adverse effects to public health and serious or widespread environmental effects, including such effects resulting from indirect exposure pathways, associated with atmospheric deposition to the Great Lakes, the Chesapeake Bay, Lake Champlain and coastal waters of hazardous air pollutants (and their atmospheric transformation products). The Administrator shall take into consideration the tendency of such pollutants to bioaccumulate. Within 5 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall, based on such report and determination, promulgate, in accordance with this section, such further emission standards or control measures as may be necessary and appropriate to prevent such effects, including effects due to bioaccumulation and indirect exposure pathways. Any requirements promulgated pursuant to this paragraph with respect to coastal waters shall only apply to the coastal waters of the States which are subject to section 328(a).

"(n) OTHER PROVISIONS.—

"(1) ELECTRIC UTILITY STEAM GENERATING UNITS.—

"(A) The Administrator shall perform a study of the hazards to public health reasonably anticipated to occur as a result of emissions by electric utility steam generating units of pollutants listed under subsection (b) after imposition of the requirements of this Act. The Administrator shall report the results of this study to the Congress within 3 years after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall develop and describe in the Administrator's report to Congress alternative control strategies for emissions which may warrant regulation under this section. The Administrator shall regulate electric utility steam generating units under this section, if the Administrator finds such regulation is appropriate and necessary after considering the results of the study required by this subparagraph.

"(B) The Administrator shall conduct, and transmit to the Congress not later than 4 years after the date of enactment of the Clean Air Act Amendments of 1990, a study of mercury emissions from electric utility steam generating units, municipal waste combustion units, and other sources, including area sources. Such study shall consider the rate and mass of such emissions, the health and environmental effects of such emissions, technologies which are available to control such emissions, and the costs of such technologies.

"(C) The National Institute of Environmental Health Sciences shall conduct, and transmit to the Congress not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990, a study to determine the

threshold level of mercury exposure below which adverse human health effects are not expected to occur. Such study shall include a threshold for mercury concentrations in the tissue of fish which may be consumed (including consumption by sensitive populations) without adverse effects to public health.

"(2) COKE OVEN PRODUCTION TECHNOLOGY STUDY.—

"(A) The Secretary of the Department of Energy and the Administrator shall jointly undertake a 6-year study to assess coke oven production emission control technologies and to assist in the development and commercialization of technically practicable and economically viable control technologies which have the potential to significantly reduce emissions of hazardous air pollutants from coke oven production facilities. In identifying control technologies, the Secretary and the Administrator shall consider the range of existing coke oven operations and battery design and the availability of sources of materials for such coke ovens as well as alternatives to existing coke oven production design.

"(B) The Secretary and the Administrator are authorized to enter into agreements with persons who propose to develop, install and operate coke production emission control technologies which have the potential for significant emissions reductions of hazardous air pollutants provided that Federal funds shall not exceed 50 per centum of the cost of any project assisted pursuant to this paragraph.

"(C) The Secretary shall prepare annual reports to Congress on the status of the research program and at the completion of the study shall make recommendations to the Administrator identifying practicable and economically viable control technologies for coke oven production facilities to reduce residual risks remaining after implementation of the standard under subsection (d). Reports.

"(D) There are authorized to be appropriated $5,000,000 for each of the fiscal years 1992 through 1997 to carry out the program authorized by this paragraph. Appropriation authorization.

"(3) PUBLICLY OWNED TREATMENT WORKS.—The Administrator may conduct, in cooperation with the owners and operators of publicly owned treatment works, studies to characterize emissions of hazardous air pollutants emitted by such facilities, to identify industrial, commercial and residential discharges that contribute to such emissions and to demonstrate control measures for such emissions. When promulgating any standard under this section applicable to publicly owned treatment works, the Administrator may provide for control measures that include pretreatment of discharges causing emissions of hazardous air pollutants and process or product substitutions or limitations that may be effective in reducing such emissions. The Administrator may prescribe uniform sampling, modeling and risk assessment methods for use in implementing this subsection.

"(4) OIL AND GAS WELLS; PIPELINE FACILITIES.—

"(A) Notwithstanding the provisions of subsection (a), emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggre-

gated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources, and in the case of any oil or gas exploration or production well (with its associated equipment), such emissions shall not be aggregated for any purpose under this section.

"(B) The Administrator shall not list oil and gas production wells (with its associated equipment) as an area source category under subsection (c), except that the Administrator may establish an area source category for oil and gas production wells located in any metropolitan statistical area or consolidated metropolitan statistical area with a population in excess of 1 million, if the Administrator determines that emissions of hazardous air pollutants from such wells present more than a negligible risk of adverse effects to public health.

"(5) HYDROGEN SULFIDE.—The Administrator is directed to assess the hazards to public health and the environment resulting from the emission of hydrogen sulfide associated with the extraction of oil and natural gas resources. To the extent practicable, the assessment shall build upon and not duplicate work conducted for an assessment pursuant to section 8002(m) of the Solid Waste Disposal Act and shall reflect consultation with the States. The assessment shall include a review of existing State and industry control standards, techniques and enforcement. The Administrator shall report to the Congress within 24 months after the date of enactment of the Clean Air Act Amendments of 1990 with the findings of such assessment, together with any recommendations, and shall, as appropriate, develop and implement a control strategy for emissions of hydrogen sulfide to protect human health and the environment, based on the findings of such assessment, using authorities under this Act including sections 111 and this section.

"(6) HYDROFLUORIC ACID.—Not later than 2 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall, for those regions of the country which do not have comprehensive health and safety regulations with respect to hydrofluoric acid, complete a study of the potential hazards of hydrofluoric acid and the uses of hydrofluoric acid in industrial and commercial applications to public health and the environment considering a range of events including worst-case accidental releases and shall make recommendations to the Congress for the reduction of such hazards, if appropriate.

"(7) RCRA FACILITIES.—In the case of any category or subcategory of sources the air emissions of which are regulated under subtitle C of the Solid Waste Disposal Act, the Administrator shall take into account any regulations of such emissions which are promulgated under such subtitle and shall, to the maximum extent practicable and consistent with the provisions of this section, ensure that the requirements of such subtitle and this section are consistent.

"(o) NATIONAL ACADEMY OF SCIENCES STUDY.—

"(1) REQUEST OF THE ACADEMY.—Within 3 months of the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of—

"(A) risk assessment methodology used by the Environmental Protection Agency to determine the carcinogenic risk associated with exposure to hazardous air pollutants from source categories and subcategories subject to the requirements of this section; and

"(B) improvements in such methodology.

"(2) ELEMENTS TO BE STUDIED.—In conducting such review, the National Academy of Sciences should consider, but not be limited to, the following—

"(A) the techniques used for estimating and describing the carcinogenic potency to humans of hazardous air pollutants; and

"(B) the techniques used for estimating exposure to hazardous air pollutants (for hypothetical and actual maximally exposed individuals as well as other exposed individuals).

"(3) OTHER HEALTH EFFECTS OF CONCERN.—To the extent practicable, the Academy shall evaluate and report on the methodology for assessing the risk of adverse human health effects other than cancer for which safe thresholds of exposure may not exist, including, but not limited to, inheritable genetic mutations, birth defects, and reproductive dysfunctions.

"(4) REPORT.—A report on the results of such review shall be submitted to the Senate Committee on Environment and Public Works, the House Committee on Energy and Commerce, the Risk Assessment and Management Commission established by section 303 of the Clean Air Act Amendments of 1990 and the Administrator not later than 30 months after the date of enactment of the Clean Air Act Amendments of 1990.

"(5) ASSISTANCE.—The Administrator shall assist the Academy in gathering any information the Academy deems necessary to carry out this subsection. The Administrator may use any authority under this Act to obtain information from any person, and to require any person to conduct tests, keep and produce records, and make reports respecting research or other activities conducted by such person as necessary to carry out this subsection.

"(6) AUTHORIZATION.—Of the funds authorized to be appropriated to the Administrator by this Act, such amounts as are required shall be available to carry out this subsection.

"(7) GUIDELINES FOR CARCINOGENIC RISK ASSESSMENT.—The Administrator shall consider, but need not adopt, the recommendations contained in the report of the National Academy of Sciences prepared pursuant to this subsection and the views of the Science Advisory Board, with respect to such report. Prior to the promulgation of any standard under subsection (f), and after notice and opportunity for comment, the Administrator shall publish revised Guidelines for Carcinogenic Risk Assessment or a detailed explanation of the reasons that any recommendations contained in the report of the National Academy of Sciences will not be implemented. The publication of such revised Guidelines shall be a final Agency action for purposes of section 307.

"(p) MICKEY LELAND URBAN AIR TOXICS RESEARCH CENTER.—

"(1) ESTABLISHMENT.—The Administrator shall oversee the establishment of a National Urban Air Toxics Research Center, to be located at a university, a hospital, or other facility capable

of undertaking and maintaining similar research capabilities in the areas of epidemiology, oncology, toxicology, pulmonary medicine, pathology, and biostatistics. The center shall be known as the Mickey Leland National Urban Air Toxics Research Center. The geographic site of the National Urban Air Toxics Research Center should be further directed to Harris County, Texas, in order to take full advantage of the well developed scientific community presence on-site at the Texas Medical Center as well as the extensive data previously compiled for the comprehensive monitoring system currently in place.

"(2) BOARD OF DIRECTORS.—The National Urban Air Toxics Research Center shall be governed by a Board of Directors to be comprised of 9 members, the appointment of which shall be allocated pro rata among the Speaker of the House, the Majority Leader of the Senate and the President. The members of the Board of Directors shall be selected based on their respective academic and professional backgrounds and expertise in matters relating to public health, environmental pollution and industrial hygiene. The duties of the Board of Directors shall be to determine policy and research guidelines, submit views from center sponsors and the public and issue periodic reports of center findings and activities.

Reports.

"(3) SCIENTIFIC ADVISORY PANEL.—The Board of Directors shall be advised by a Scientific Advisory Panel, the 13 members of which shall be appointed by the Board, and to include eminent members of the scientific and medical communities. The Panel membership may include scientists with relevant experience from the National Institute of Environmental Health Sciences, the Center for Disease Control, the Environmental Protection Agency, the National Cancer Institute, and others, and the Panel shall conduct peer review and evaluate research results. The Panel shall assist the Board in developing the research agenda, reviewing proposals and applications, and advise on the awarding of research grants.

"(4) FUNDING.—The center shall be established and funded with both Federal and private source funds.

(q) SAVINGS PROVISION.—

"(1) STANDARDS PREVIOUSLY PROMULGATED.—Any standard under this section in effect before the date of enactment of the Clean Air Act Amendments of 1990 shall remain in force and effect after such date unless modified as provided in this section before the date of enactment of such Amendments or under such Amendments. Except as provided in paragraph (4), any standard under this section which has been promulgated, but has not taken effect, before such date shall not be affected by such Amendments unless modified as provided in this section before such date or under such Amendments. Each such standard shall be reviewed and, if appropriate, revised, to comply with the requirements of subsection (d) within 10 years after the date of enactment of the Clean Air Act Amendments of 1990. If a timely petition for review of any such standard under section 307 is pending on such date of enactment, the standard shall be upheld if it complies with this section as in effect before that date. If any such standard is remanded to the Administrator, the Administrator may in the Administrator's discretion apply either the requirements of this section, or those of this section

as in effect before the date of enactment of the Clean Air Act Amendments of 1990.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1), no standard shall be established under this section, as amended by the Clean Air Act Amendments of 1990, for radionuclide emissions from (A) elemental phosphorous plants, (B) grate calcination elemental phosphorous plants, (C) phosphogypsum stacks, or (D) any subcategory of the foregoing. This section, as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from such plants and stacks.

"(3) OTHER CATEGORIES.—Notwithstanding paragraph (1), this section, as in effect prior to the date of enactment of the Clean Air Act Amendments of 1990, shall remain in effect for radionuclide emissions from non-Department of Energy Federal facilities that are not licensed by the Nuclear Regulatory Commission, coal-fired utility and industrial boilers, underground uranium mines, surface uranium mines, and disposal of uranium mill tailings piles, unless the Administrator, in the Administrator's discretion, applies the requirements of this section as modified by the Clean Air Act Amendments of 1990 to such sources of radionuclides.

"(4) MEDICAL FACILITIES.—Notwithstanding paragraph (1), no standard promulgated under this section prior to the date of enactment of the Clean Air Act Amendments of 1990 with respect to medical research or treatment facilities shall take effect for two years following the date of enactment of the Clean Air Act Amendments of 1990, unless the Administrator makes a determination pursuant to a rulemaking under section 112(d)(9). If the Administrator determines that the regulatory program established by the Nuclear Regulatory Commission for such facilities does not provide an ample margin of safety to protect public health, the requirements of section 112 shall fully apply to such facilities. If the Administrator determines that such regulatory program does provide an ample margin of safety to protect the public health, the Administrator is not required to promulgate a standard under this section for such facilities, as provided in section 112(d)(9).

"(r) PREVENTION OF ACCIDENTAL RELEASES.—

"(1) PURPOSE AND GENERAL DUTY.—It shall be the objective of the regulations and programs authorized under this subsection to prevent the accidental release and to minimize the consequences of any such release of any substance listed pursuant to paragraph (3) or any other extremely hazardous substance. The owners and operators of stationary sources producing, processing, handling or storing such substances have a general duty in the same manner and to the same extent as section 654, title 29 of the United States Code, to identify hazards which may result from such releases using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases which do occur. For purposes of this paragraph, the provisions of section 304 shall not be available to any person or otherwise be construed to be applicable to this paragraph. Nothing in this section shall be interpreted, construed, implied or applied to create any liability or basis for suit for compensation for bodily injury or any other

injury or property damages to any person which may result from accidental releases of such substances.

"(2) DEFINITIONS.—

"(A) The term 'accidental release' means an unanticipated emission of a regulated substance or other extremely hazardous substance into the ambient air from a stationary source.

"(B) The term 'regulated substance' means a substance listed under paragraph (3).

"(C) The term 'stationary source' means any buildings, structures, equipment, installations or substance emitting stationary activities (i) which belong to the same industrial group, (ii) which are located on one or more contiguous properties, (iii) which are under the control of the same person (or persons under common control), and (iv) from which an accidental release may occur.

"(3) LIST OF SUBSTANCES.—The Administrator shall promulgate not later than 24 months after enactment of the Clean Air Act Amendments of 1990 an initial list of 100 substances which, in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment. For purposes of promulgating such list, the Administrator shall use, but is not limited to, the list of extremely hazardous substances published under the Emergency Planning and Community Right-to-Know Act of 1986, with such modifications as the Administrator deems appropriate. The initial list shall include chlorine, anhydrous ammonia, methyl chloride, ethylene oxide, vinyl chloride, methyl isocyanate, hydrogen cyanide, ammonia, hydrogen sulfide, toluene diisocyanate, phosgene, bromine, anhydrous hydrogen chloride, hydrogen fluoride, anhydrous sulfur dioxide, and sulfur trioxide. The initial list shall include at least 100 substances which pose the greatest risk of causing death, injury, or serious adverse effects to human health or the environment from accidental releases. Regulations establishing the list shall include an explanation of the basis for establishing the list. The list may be revised from time to time by the Administrator on the Administrator's own motion or by petition and shall be reviewed at least every 5 years. No air pollutant for which a national primary ambient air quality standard has been established shall be included on any such list. No substance, practice, process, or activity regulated under title VI shall be subject to regulations under this subsection. The Administrator shall establish procedures for the addition and deletion of substances from the list established under this paragraph consistent with those applicable to the list in subsection (b).

Regulations.

"(4) FACTORS TO BE CONSIDERED.—In listing substances under paragraph (3), the Administrator shall consider each of the following criteria—

"(A) the severity of any acute adverse health effects associated with accidental releases of the substance;

"(B) the likelihood of accidental releases of the substance; and

"(C) the potential magnitude of human exposure to accidental releases of the substance.

"(5) THRESHOLD QUANTITY.—At the time any substance is listed pursuant to paragraph (3), the Administrator shall establish by rule, a threshold quantity for the substance, taking into account the toxicity, reactivity, volatility, dispersibility, combustibility, or flammability of the substance and the amount of the substance which, as a result of an accidental release, is known to cause or may reasonably be anticipated to cause death, injury or serious adverse effects to human health for which the substance was listed. The Administrator is authorized to establish a greater threshold quantity for, or to exempt entirely, any substance that is a nutrient used in agriculture when held by a farmer.

"(6) CHEMICAL SAFETY BOARD.—

"(A) There is hereby established an independent safety board to be known as the Chemical Safety and Hazard Investigation Board. Establishment.

"(B) The Board shall consist of 5 members, including a Chairperson, who shall be appointed by the President, by and with the advice and consent of the Senate. Members of the Board shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, toxicology, or air pollution regulation. The terms of office of members of the Board shall be 5 years. Any member of the Board, including the Chairperson, may be removed for inefficiency, neglect of duty, or malfeasance in office. The Chairperson shall be the Chief Executive Officer of the Board and shall exercise the executive and administrative functions of the Board.

"(C) The Board shall—

"(i) investigate (or cause to be investigated), determine and report to the public in writing the facts, conditions, and circumstances and the cause or probable cause of any accidental release resulting in a fatality, serious injury or substantial property damages;

"(ii) issue periodic reports to the Congress, Federal, State and local agencies, including the Environmental Protection Agency and the Occupational Safety and Health Administration, concerned with the safety of chemical production, processing, handling and storage, and other interested persons recommending measures to reduce the likelihood or the consequences of accidental releases and proposing corrective steps to make chemical production, processing, handling and storage as safe and free from risk of injury as is possible and may include in such reports proposed rules or orders which should be issued by the Administrator under the authority of this section or the Secretary of Labor under the Occupational Safety and Health Act to prevent or minimize the consequences of any release of substances that may cause death, injury or other serious adverse effects on human health or substantial property damage as the result of an accidental release; and Reports.

"(iii) establish by regulation requirements binding on persons for reporting accidental releases into the am-

bient air subject to the Board's investigatory jurisdiction. Reporting releases to the National Response Center, in lieu of the Board directly, shall satisfy such regulations. The National Response Center shall promptly notify the Board of any releases which are within the Board's jurisdiction.

"(D) The Board may utilize the expertise and experience of other agencies.

"(E) The Board shall coordinate its activities with investigations and studies conducted by other agencies of the United States having a responsibility to protect public health and safety. The Board shall enter into a memorandum of understanding with the National Transportation Safety Board to assure coordination of functions and to limit duplication of activities which shall designate the National Transportation Safety Board as the lead agency for the investigation of releases which are transportation related. The Board shall not be authorized to investigate marine oil spills, which the National Transportation Safety Board is authorized to investigate. The Board shall enter into a memorandum of understanding with the Occupational Safety and Health Administration so as to limit duplication of activities. In no event shall the Board forego an investigation where an accidental release causes a fatality or serious injury among the general public, or had the potential to cause substantial property damage or a number of deaths or injuries among the general public.

"(F) The Board is authorized to conduct research and studies with respect to the potential for accidental releases, whether or not an accidental release has occurred, where there is evidence which indicates the presence of a potential hazard or hazards. To the extent practicable, the Board shall conduct such studies in cooperation with other Federal agencies having emergency response authorities, State and local governmental agencies and associations and organizations from the industrial, commercial, and nonprofit sectors.

"(G) No part of the conclusions, findings, or recommendations of the Board relating to any accidental release or the investigation thereof shall be admitted as evidence or used in any action or suit for damages arising out of any matter mentioned in such report.

Reports.

"(H) Not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, the Board shall publish a report accompanied by recommendations to the Administrator on the use of hazard assessments in preventing the occurrence and minimizing the consequences of accidental releases of extremely hazardous substances. The recommendations shall include a list of extremely hazardous substances which are not regulated substances (including threshold quantities for such substances) and categories of stationary sources for which hazard assessments would be an appropriate measure to aid in the prevention of accidental releases and to minimize the consequences of those releases that do occur. The recommendations shall also include a description of the information and analysis which would be appropriate to

include in any hazard assessment. The Board shall also make recommendations with respect to the role of risk management plans as required by paragraph (8)(B) in preventing accidental releases. The Board may from time to time review and revise its recommendations under this subparagraph.

"(I) Whenever the Board submits a recommendation with respect to accidental releases to the Administrator, the Administrator shall respond to such recommendation formally and in writing not later than 180 days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Administrator will—

"(i) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(ii) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Administrator not to implement a recommendation of the Board or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Administrator setting forth the reasons for such determination.

"(J) The Board may make recommendations with respect to accidental releases to the Secretary of Labor. Whenever the Board submits such recommendation, the Secretary shall respond to such recommendation formally and in writing not later than 180 days after receipt thereof. The response to the Board's recommendation by the Administrator shall indicate whether the Secretary will—

"(i) initiate a rulemaking or issue such orders as are necessary to implement the recommendation in full or in part, pursuant to any timetable contained in the recommendation;

"(ii) decline to initiate a rulemaking or issue orders as recommended.

Any determination by the Secretary not to implement a recommendation or to implement a recommendation only in part, including any variation from the schedule contained in the recommendation, shall be accompanied by a statement from the Secretary setting forth the reasons for such determination.

"(K) Within 2 years after enactment of the Clean Air Act Amendments of 1990, the Board shall issue a report to the Administrator of the Environmental Protection Agency and to the Administrator of the Occupational Safety and Health Administration recommending the adoption of regulations for the preparation of risk management plans and general requirements for the prevention of accidental releases of regulated substances into the ambient air (including recommendations for listing substances under paragraph (3)) and for the mitigation of the potential adverse effect on human health or the environment as a result of accidental releases which should be applicable to any stationary source handling any regulated substance in more than

Reports.

threshold amounts. The Board may include proposed rules or orders which should be issued by the Administrator under authority of this subsection or by the Secretary of Labor under the Occupational Safety and Health Act. Any such recommendations shall be specific and shall identify the regulated substance or class of regulated substances (or other substances) to which the recommendations apply. The Administrator shall consider such recommendations before promulgating regulations required by paragraph (7)(B).

"(L) The Board, or upon authority of the Board, any member thereof, any administrative law judge employed by or assigned to the Board, or any officer or employee duly designated by the Board, may for the purpose of carrying out duties authorized by subparagraph (C)—

"(i) hold such hearings, sit and act at such times and places, administer such oaths, and require by subpoena or otherwise attendance and testimony of such witnesses and the production of evidence and may require by order that any person engaged in the production, processing, handling, or storage of extremely hazardous substances submit written reports and responses to requests and questions within such time and in such form as the Board may require; and

"(ii) upon presenting appropriate credentials and a written notice of inspection authority, enter any property where an accidental release causing a fatality, serious injury or substantial property damage has occurred and do all things therein necessary for a proper investigation pursuant to subparagraph (C) and inspect at reasonable times records, files, papers, processes, controls, and facilities and take such samples as are relevant to such investigation.

Whenever the Administrator or the Board conducts an inspection of a facility pursuant to this subsection, employees and their representatives shall have the same rights to participate in such inspections as provided in the Occupational Safety and Health Act.

"(M) In addition to that described in subparagraph (L), the Board may use any information gathering authority of the Administrator under this Act, including the subpoena power provided in section 307(a)(1) of this Act.

"(N) The Board is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions and duties. The Board is authorized without regard to section 5 of title 41 of the United States Code to enter into contracts, leases, cooperative agreements or other transactions as may be necessary in the conduct of the duties and functions of the Board with any other agency, institution, or person.

"(O) After the effective date of any reporting requirement promulgated pursuant to subparagraph (C)(iii) it shall be unlawful for any person to fail to report any release of any extremely hazardous substance as required by such subparagraph. The Administrator is authorized to enforce any regulation or requirements established by the Board pursuant to subparagraph (C)(iii) using the authorities of sections 113 and 114. Any request for information from the

owner or operator of a stationary source made by the Board or by the Administrator under this section shall be treated, for purposes of sections 113, 114, 116, 120, 303, 304 and 307 and any other enforcement provisions of this Act, as a request made by the Administrator under section 114 and may be enforced by the Chairperson of the Board or by the Administrator as provided in such section.

"(P) The Administrator shall provide to the Board such support and facilities as may be necessary for operation of the Board.

"(Q) Consistent with subsection (G) and section 114(c) any records, reports or information obtained by the Board shall be available to the Administrator, the Secretary of Labor, the Congress and the public, except that upon a showing satisfactory to the Board by any person that records, reports, or information, or particular part thereof (other than release or emissions data) to which the Board has access, if made public, is likely to cause substantial harm to the person's competitive position, the Board shall consider such record, report, or information or particular portion thereof confidential in accordance with section 1905 of title 18 of the United States Code, except that such record, report, or information may be disclosed to other officers, employees, and authorized representatives of the United States concerned with carrying out this Act or when relevant under any proceeding under this Act. This subparagraph does not constitute authority to withhold records, reports, or information from the Congress. Records.

"(R) Whenever the Board submits or transmits any budget estimate, budget request, supplemental budget request, or other budget information, legislative recommendation, prepared testimony for congressional hearings, recommendation or study to the President, the Secretary of Labor, the Administrator, or the Director of the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No report of the Board shall be subject to review by the Administrator or any Federal agency or to judicial review in any court. No officer or agency of the United States shall have authority to require the Board to submit its budget requests or estimates, legislative recommendations, prepared testimony, comments, recommendations or reports to any officer or agency of the United States for approval or review prior to the submission of such recommendations, testimony, comments or reports to the Congress. In the performance of their functions as established by this Act, the members, officers and employees of the Board shall not be responsible to or subject to supervision or direction, in carrying out any duties under this subsection, of any officer or employee or agent of the Environmental Protection Agency, the Department of Labor or any other agency of the United States except that the President may remove any member, officer or employee of the Board for inefficiency, neglect of duty or malfeasance in office. Nothing in this section shall affect the application of title 5, United States Code to officers or employees of the Board.

Reports.

"(S) The Board shall submit an annual report to the President and to the Congress which shall include, but not be limited to, information on accidental releases which have been investigated by or reported to the Board during the previous year, recommendations for legislative or administrative action which the Board has made, the actions which have been taken by the Administrator or the Secretary of Labor or the heads of other agencies to implement such recommendations, an identification of priorities for study and investigation in the succeeding year, progress in the development of risk-reduction technologies and the response to and implementation of significant research findings on chemical safety in the public and private sector.

"(7) ACCIDENT PREVENTION.—

"(A) In order to prevent accidental releases of regulated substances, the Administrator is authorized to promulgate release prevention, detection, and correction requirements which may include monitoring, record-keeping, reporting, training, vapor recovery, secondary containment, and other design, equipment, work practice, and operational requirements. Regulations promulgated under this paragraph may make distinctions between various types, classes, and kinds of facilities, devices and systems taking into consideration factors including, but not limited to, the size, location, process, process controls, quantity of substances handled, potency of substances, and response capabilities present at any stationary source. Regulations promulgated pursuant to this subparagraph shall have an effective date, as determined by the Administrator, assuring compliance as expeditiously as practicable.

Regulations.

"(B)(i) Within 3 years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases. The Administrator shall utilize the expertise of the Secretaries of Transportation and Labor in promulgating such regulations. As appropriate, such regulations shall cover the use, operation, repair, replacement, and maintenance of equipment to monitor, detect, inspect, and control such releases, including training of persons in the use and maintenance of such equipment and in the conduct of periodic inspections. The regulations shall include procedures and measures for emergency response after an accidental release of a regulated substance in order to protect human health and the environment. The regulations shall cover storage, as well as operations. The regulations shall, as appropriate, recognize differences in size, operations, processes, class and categories of sources and the voluntary actions of such sources to prevent such releases and respond to such releases. The regulations shall be applicable to a stationary source 3 years after the date of promulgation, or 3 years after the date on which a regulated substance present at the source in more than threshold amounts is first listed under paragraph (3), whichever is later.

"(ii) The regulations under this subparagraph shall require the owner or operator of stationary sources at which a regulated substance is present in more than a threshold quantity to prepare and implement a risk management plan to detect and prevent or minimize accidental releases of such substances from the stationary source, and to provide a prompt emergency response to any such releases in order to protect human health and the environment. Such plan shall provide for compliance with the requirements of this subsection and shall also include each of the following:

"(I) a hazard assessment to assess the potential effects of an accidental release of any regulated substance. This assessment shall include an estimate of potential release quantities and a determination of downwind effects, including potential exposures to affected populations. Such assessment shall include a previous release history of the past 5 years, including the size, concentration, and duration of releases, and shall include an evaluation of worst case accidental releases;'

"(II) a program for preventing accidental releases of regulated substances, including safety precautions and maintenance, monitoring and employee training measures to be used at the source; and'

"(III) a response program providing for specific actions to be taken in response to an accidental release of a regulated substance so as to protect human health and the environment, including procedures for informing the public and local agencies responsible for responding to accidental releases, emergency health care, and employee training measures.

At the time regulations are promulgated under this subparagraph, the Administrator shall promulgate guidelines to assist stationary sources in the preparation of risk management plans. The guidelines shall, to the extent practicable, include model risk management plans.

"(iii) The owner or operator of each stationary source covered by clause (ii) shall register a risk management plan prepared under this subparagraph with the Administrator before the effective date of regulations under clause (i) in such form and manner as the Administrator shall, by rule, require. Plans prepared pursuant to this subparagraph shall also be submitted to the Chemical Safety and Hazard Investigation Board, to the State in which the stationary source is located, and to any local agency or entity having responsibility for planning for or responding to accidental releases which may occur at such source, and shall be available to the public under section 114(c). The Administrator shall establish, by rule, an auditing system to regularly review and, if necessary, require revision in risk management plans to assure that the plans comply with this subparagraph. Each such plan shall be updated periodically as required by the Administrator, by rule.

"(C) Any regulations promulgated pursuant to this subsection shall to the maximum extent practicable, consistent with this subsection, be consistent with the rec-

Small businesses.

ommendations and standards established by the American Society of Mechanical Engineers (ASME), the American National Standards Institute (ANSI) or the American Society of Testing Materials (ASTM). The Administrator shall take into consideration the concerns of small business in promulgating regulations under this subsection.

"(D) In carrying out the authority of this paragraph, the Administrator shall consult with the Secretary of Labor and the Secretary of Transportation and shall coordinate any requirements under this paragraph with any requirements established for comparable purposes by the Occupational Safety and Health Administration or the Department of Transportation. Nothing in this subsection shall be interpreted, construed or applied to impose requirements affecting, or to grant the Administrator, the Chemical Safety and Hazard Investigation Board, or any other agency any authority to regulate (including requirements for hazard assessment), the accidental release of radionuclides arising from the construction and operation of facilities licensed by the Nuclear Regulatory Commission.

"(E) After the effective date of any regulation or requirement imposed under this subsection, it shall be unlawful for any person to operate any stationary source subject to such regulation or requirement in violation of such regulation or requirement. Each regulation or requirement under this subsection shall for purposes of sections 113, 114, 116, 120, 304, and 307 and other enforcement provisions of this Act, be treated as a standard in effect under subsection (d).

"(F) Notwithstanding the provisions of title V or this section, no stationary source shall be required to apply for, or operate pursuant to, a permit issued under such title solely because such source is subject to regulations or requirements under this subsection.

"(G) In exercising any authority under this subsection, the Administrator shall not, for purposes of section 653(b)(1) of title 29 of the United States Code, be deemed to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

"(8) RESEARCH ON HAZARD ASSESSMENTS.—The Administrator may collect and publish information on accident scenarios and consequences covering a range of possible events for substances listed under paragraph (3). The Administrator shall establish a program of long-term research to develop and disseminate information on methods and techniques for hazard assessment which may be useful in improving and validating the procedures employed in the preparation of hazard assessments under this subsection.

"(9) ORDER AUTHORITY.—

"(A) In addition to any other action taken, when the Administrator determines that there may be an imminent and substantial endangerment to the human health or welfare or the environment because of an actual or threatened accidental release of a regulated substance, the Administrator may secure such relief as may be necessary to abate such danger or threat, and the district court of the

United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require. The Administrator may also, after notice to the State in which the stationary source is located, take other action under this paragraph including, but not limited to, issuing such orders as may be necessary to protect human health. The Administrator shall take action under section 303 rather than this paragraph whenever the authority of such section is adequate to protect human health and the environment.

"(B) Orders issued pursuant to this paragraph may be enforced in an action brought in the appropriate United States district court as if the order were issued under section 303.

"(C) Within 180 days after enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish guidance for using the order authorities established by this paragraph. Such guidance shall provide for the coordinated use of the authorities of this paragraph with other emergency powers authorized by section 106 of the Comprehensive Environmental Response, Compensation and Liability Act, sections 311(c), 308, 309 and 504(a) of the Federal Water Pollution Control Act, sections 3007, 3008, 3013, and 7003 of the Solid Waste Disposal Act, sections 1445 and 1431 of the Safe Drinking Water Act, sections 5 and 7 of the Toxic Substances Control Act, and sections 113, 114, and 303 of this Act.

"(10) PRESIDENTIAL REVIEW.—The President shall conduct a review of release prevention, mitigation and response authorities of the various Federal agencies and shall clarify and coordinate agency responsibilities to assure the most effective and efficient implementation of such authorities and to identify any deficiencies in authority or resources which may exist. The President may utilize the resources and solicit the recommendations of the Chemical Safety and Hazard Investigation Board in conducting such review. At the conclusion of such review, but not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990, the President shall transmit a message to the Congress on the release prevention, mitigation and response activities of the Federal Government making such recommendations for change in law as the President may deem appropriate. Nothing in this paragraph shall be interpreted, construed or applied to authorize the President to modify or reassign release prevention, mitigation or response authorities otherwise established by law.

"(11) STATE AUTHORITY.—Nothing in this subsection shall preclude, deny or limit any right of a State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation or standard (including any procedural requirement) that is more stringent than a regulation, requirement, limitation or standard in effect under this subsection or that applies to a substance not subject to this subsection.

"(s) PERIODIC REPORT.—Not later than January 15, 1993 and every 3 years thereafter, the Administrator shall prepare and transmit to the Congress a comprehensive report on the measures taken by the Agency and by the States to implement the provisions of this section. The Administrator shall maintain a database on pollutants

and sources subject to the provisions of this section and shall include aggregate information from the database in each annual report. The report shall include, but not be limited to—

"(1) a status report on standard-setting under subsections (d) and (f);

"(2) information with respect to compliance with such standards including the costs of compliance experienced by sources in various categories and subcategories;

"(3) development and implementation of the national urban air toxics program; and

"(4) recommendations of the Chemical Safety and Hazard Investigation Board with respect to the prevention and mitigation of accidental releases.".

SEC. 302. CONFORMING AMENDMENTS.

42 USC 7411. (a) Section 111(d)(1) of the Clean Air Act is amended by striking "112(b)(1)(A)" and inserting in lieu thereof "112(b)".

(b) Section 111 of the Clean Air Act is amended by striking paragraphs (g)(5) and (g)(6) and redesignating the succeeding paragraphs accordingly. Such section is further amended by striking "or section 112" in paragraph (g)(5) as redesignated in the preceding sentence.

42 USC 7414. (c) Section 114(a) of the Clean Air Act is amended by striking "or" after "section 111," and by inserting ", or any regulation of solid waste combustion under section 129," after "section 112".

42 USC 7418. (d) Section 118(b) of the Clean Air Act is amended by striking "112(c)" and inserting in lieu thereof "112(i)(4)".

42 USC 7602. (e) Section 302(k) of the Clean Air Act is amended by adding before the period at the end thereof ", and any design, equipment, work practice or operational standard promulgated under this Act.".

42 USC 7604. (f) Section 304(b) of the Clean Air Act is amended by striking "112(c)(1)(B)" and inserting in lieu thereof "112(i)(3)(A) or (f)(4)".

42 USC 7607. (g) Section 307(b)(1) is amended by striking "112(c)" and inserting in lieu thereof "112".

(h) Section 307(d)(1) is amended by inserting—

"(D) the promulgation of any requirement for solid waste combustion under section 129,"

after subparagraph (C) and redesignating the succeeding subparagraphs accordingly.

42 USC 7412 note. **SEC. 303. RISK ASSESSMENT AND MANAGEMENT COMMISSION.**

(a) ESTABLISHMENT.—There is hereby established a Risk Assessment and Management Commission (hereafter referred to in this section as the "Commission"), which shall commence proceedings not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990 and which shall make a full investigation of the policy implications and appropriate uses of risk assessment and risk management in regulatory programs under various Federal laws to prevent cancer and other chronic human health effects which may result from exposure to hazardous substances.

(b) CHARGE.—The Commission shall consider—

(1) the report of the National Academy of Sciences authorized by section 112(o) of the Clean Air Act, the use and limitations of risk assessment in establishing emission or effluent standards, ambient standards, exposure standards, acceptable concentration levels, tolerances or other environmental criteria for hazardous substances that present a risk of carcinogenic effects

or other chronic health effects and the suitability of risk assessment for such purposes;

(2) the most appropriate methods for measuring and describing cancer risks or risks of other chronic health effects from exposure to hazardous substances considering such alternative approaches as the lifetime risk of cancer or other effects to the individual or individuals most exposed to emissions from a source or sources on both an actual and worst case basis, the range of such risks, the total number of health effects avoided by exposure reductions, effluent standards, ambient standards, exposures standards, acceptable concentration levels, tolerances and other environmental criteria, reductions in the number of persons exposed at various levels of risk, the incidence of cancer, and other public health factors;

(3) methods to reflect uncertainties in measurement and estimation techniques, the existence of synergistic or antagonistic effects among hazardous substances, the accuracy of extrapolating human health risks from animal exposure data, and the existence of unquantified direct or indirect effects on human health in risk assessment studies;

(4) risk management policy issues including the use of lifetime cancer risks to individuals most exposed, incidence of cancer, the cost and technical feasibility of exposure reduction measures and the use of site-specific actual exposure information in setting emissions standards and other limitations applicable to sources of exposure to hazardous substances; and

(5) and comment on the degree to which it is possible or desirable to develop a consistent risk assessment methodology, or a consistent standard of acceptable risk, among various Federal programs.

(c) MEMBERSHIP.—Such Commission shall be composed of ten members who shall have knowledge or experience in fields of risk assessment or risk management, including three members to be appointed by the President, two members to be appointed by the Speaker of the House of Representatives, one member to be appointed by the Minority Leader of the House of Representatives, two members to be appointed by the Majority Leader of the Senate, one member to be appointed by the Minority Leader of the Senate, and one member to be appointed by the President of the National Academy of Sciences. Appointments shall be made not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990.

(d) ASSISTANCE FROM AGENCIES.—The Administrator of the Environmental Protection Agency and the heads of all other departments, agencies, and instrumentalities of the executive branch of the Federal Government shall, to the maximum extent practicable, assist the Commission in gathering such information as the Commission deems necessary to carry out this section subject to other provisions of law.

(e) STAFF AND CONTRACTS.—

(1) In the conduct of the study required by this section, the Commission is authorized to contract (in accordance with Federal contract law) with nongovernmental entities that are competent to perform research or investigations within the Commission's mandate, and to hold public hearings, forums, and workshops to enable full public participation.

(2) The Commission may appoint and fix the pay of such staff as it deems necessary in accordance with the provisions of title 5, United States Code. The Commission may request the temporary assignment of personnel from the Environmental Protection Agency or other Federal agencies.

(3) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the Chair, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for Grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including travel time, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in the Government service employed intermittently.

(f) REPORT.—A report containing the results of all Commission studies and investigations under this section, together with any appropriate legislative recommendations or administrative recommendations, shall be made available to the public for comment not later than 42 months after the date of enactment of the Clean Air Act Amendments of 1990 and shall be submitted to the President and to the Congress not later than 48 months after such date of enactment. In the report, the Commission shall make recommendations with respect to the appropriate use of risk assessment and risk management in Federal regulatory programs to prevent cancer or other chronic health effects which may result from exposure to hazardous substances. The Commission shall cease to exist upon the date determined by the Commission, but not later than 9 months after the submission of such report.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out the activities of the Commission established by this section.

29 USC 655 note.

SEC. 304. CHEMICAL PROCESS SAFETY MANAGEMENT.

(a) CHEMICAL PROCESS SAFETY STANDARD.—The Secretary of Labor shall act under the Occupational Safety and Health Act of 1970 (29 U.S.C. 653) to prevent accidental releases of chemicals which could pose a threat to employees. Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Secretary of Labor, in coordination with the Administrator of the Environmental Protection Agency, shall promulgate, pursuant to the Occupational Safety and Health Act, a chemical process safety standard designed to protect employees from hazards associated with accidental releases of highly hazardous chemicals in the workplace.

(b) LIST OF HIGHLY HAZARDOUS CHEMICALS.—The Secretary shall include as part of such standard a list of highly hazardous chemicals, which include toxic, flammable, highly reactive and explosive substances. The list of such chemicals may include those chemicals listed by the Administrator under section 302 of the Emergency Planning and Community Right to Know Act of 1986. The Secretary may make additions to such list when a substance is found to pose a threat of serious injury or fatality in the event of an accidental release in the workplace.

(c) ELEMENTS OF SAFETY STANDARD.—Such standard shall, at minimum, require employers to—

(1) develop and maintain written safety information identifying workplace chemical and process hazards, equipment used in the processes, and technology used in the processes;

(2) perform a workplace hazard assessment, including, as appropriate, identification of potential sources of accidental releases, an identification of any previous release within the facility which had a likely potential for catastrophic consequences in the workplace, estimation of workplace effects of a range of releases, estimation of the health and safety effects of such range on employees;

(3) consult with employees and their representatives on the development and conduct of hazard assessments and the development of chemical accident prevention plans and provide access to these and other records required under the standard;

(4) establish a system to respond to the workplace hazard assessment findings, which shall address prevention, mitigation, and emergency responses;

(5) periodically review the workplace hazard assessment and response system;

(6) develop and implement written operating procedures for the chemical process including procedures for each operating phase, operating limitations, and safety and health considerations;

(7) provide written safety and operating information to employees and train employees in operating procedures, emphasizing hazards and safe practices;

(8) ensure contractors and contract employees are provided appropriate information and training;

(9) train and educate employees and contractors in emergency response in a manner as comprehensive and effective as that required by the regulation promulgated pursuant to section 126(d) of the Superfund Amendments and Reauthorization Act;

(10) establish a quality assurance program to ensure that initial process related equipment, maintenance materials, and spare parts are fabricated and installed consistent with design specifications;

(11) establish maintenance systems for critical process related equipment including written procedures, employee training, appropriate inspections, and testing of such equipment to ensure ongoing mechanical integrity;

(12) conduct pre-start-up safety reviews of all newly installed or modified equipment;

(13) establish and implement written procedures to manage change to process chemicals, technology, equipment and facilities; and

(14) investigate every incident which results in or could have resulted in a major accident in the workplace, with any findings to be reviewed by operating personnel and modifications made if appropriate.

(d) STATE AUTHORITY.—Nothing in this section may be construed to diminish the authority of the States and political subdivisions thereof as described in section 112(r)(11) of the Clean Air Act.

SEC. 305. SOLID WASTE COMBUSTION.

(a) Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

42 USC 7429.

"SEC. 129. SOLID WASTE COMBUSTION.

"(a) NEW SOURCE PERFORMANCE STANDARDS.—

"(1) IN GENERAL.—(A) The Administrator shall establish performance standards and other requirements pursuant to section 111 and this section for each category of solid waste incineration units. Such standards shall include emissions limitations and other requirements applicable to new units and guidelines (under section 111(d) and this section) and other requirements applicable to existing units.

"(B) Standards under section 111 and this section applicable to solid waste incineration units with capacity greater than 250 tons per day combusting municipal waste shall be promulgated not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990. Nothing in this subparagraph shall alter any schedule for the promulgation of standards applicable to such units under section 111 pursuant to any settlement and consent decree entered by the Administrator before the date of enactment of the Clean Air Act Amendments of 1990: *Provided,* That, such standards are subsequently modified pursuant to the schedule established in this subparagraph to include each of the requirements of this section.

"(C) Standards under section 111 and this section applicable to solid waste incineration units with capacity equal to or less than 250 tons per day combusting municipal waste and units combusting hospital waste, medical waste and infectious waste shall be promulgated not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990.

"(D) Standards under section 111 and this section applicable to solid waste incineration units combusting commercial or industrial waste shall be proposed not later than 36 months after the date of enactment of the Clean Air Act Amendments of 1990 and promulgated not later than 48 months after such date of enactment.

"(E) Not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish a schedule for the promulgation of standards under section 111 and this section applicable to other categories of solid waste incineration units.

"(2) EMISSIONS STANDARD.—Standards applicable to solid waste incineration units promulgated under section 111 and this section shall reflect the maximum degree of reduction in emissions of air pollutants listed under section (a)(4) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing units in each category. The Administrator may distinguish among classes, types (including mass-burn, refuse-derived fuel, modular and other types of units), and sizes of units within a category in establishing such standards. The degree of reduction in emissions that is deemed achievable for new units in a category shall not be less stringent than the emissions control that is achieved in practice by the best controlled similar unit, as determined by the Administrator. Emissions standards for existing units in a category may be less stringent than standards for new units in the same

category but shall not be less stringent than the average emissions limitation achieved by the best performing 12 percent of units in the category (excluding units which first met lowest achievable emissions rates 18 months before the date such standards are proposed or 30 months before the date such standards are promulgated, whichever is later).

"(3) CONTROL METHODS AND TECHNOLOGIES.—Standards under section 111 and this section applicable to solid waste incineration units shall be based on methods and technologies for removal or destruction of pollutants before, during, or after combustion, and shall incorporate for new units siting requirements that minimize, on a site specific basis, to the maximum extent practicable, potential risks to public health or the environment.

"(4) NUMERICAL EMISSIONS LIMITATIONS.—The performance standards promulgated under section 111 and this section and applicable to solid waste incineration units shall specify numerical emission limitations for the following substances or mixtures: particulate matter (total and fine), opacity (as appropriate), sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans. The Administrator may promulgate numerical emissions limitations or provide for the monitoring of postcombustion concentrations of surrogate substances, parameters or periods of residence time in excess of stated temperatures with respect to pollutants other than those listed in this paragraph.

"(5) REVIEW AND REVISION.—Not later than 5 years following the initial promulgation of any performance standards and other requirements under this section and section 111 applicable to a category of solid waste incineration units, and at 5 year intervals thereafter, the Administrator shall review, and in accordance with this section and section 111, revise such standards and requirements.

"(b) EXISTING UNITS.—

"(1) GUIDELINES.—Performance standards under this section and section 111 for solid waste incineration units shall include guidelines promulgated pursuant to section 111(d) and this section applicable to existing units. Such guidelines shall include, as provided in this section, each of the elements required by subsection (a) (emissions limitations, notwithstanding any restriction in section 111(d) regarding issuance of such limitations), subsection (c) (monitoring), subsection (d) (operator training), subsection (e) (permits), and subsection (h)(4) (residual risk).

"(2) STATE PLANS.—Not later than 1 year after the Administrator promulgates guidelines for a category of solid waste incineration units, each State in which units in the category are operating shall submit to the Administrator a plan to implement and enforce the guidelines with respect to such units. The State plan shall be at least as protective as the guidelines promulgated by the Administrator and shall provide that each unit subject to the guidelines shall be in compliance with all requirements of this section not later than 3 years after the State plan is approved by the Administrator but not later than 5 years after the guidelines were promulgated. The Administrator shall approve or disapprove any State plan within 180

days of the submission, and if a plan is disapproved, the Administrator shall state the reasons for disapproval in writing. Any State may modify and resubmit a plan which has been disapproved by the Administrator.

"(3) FEDERAL PLAN.—The Administrator shall develop, implement and enforce a plan for existing solid waste incineration units within any category located in any State which has not submitted an approvable plan under this subsection with respect to units in such category within 2 years after the date on which the Administrator promulgated the relevant guidelines. Such plan shall assure that each unit subject to the plan is in compliance with all provisions of the guidelines not later than 5 years after the date the relevant guidelines are promulgated.

Regulations.

"(c) MONITORING.—The Administrator shall, as part of each performance standard promulgated pursuant to subsection (a) and section 111, promulgate regulations requiring the owner or operator of each solid waste incineration unit—

"(1) to monitor emissions from the unit at the point at which such emissions are emitted into the ambient air (or within the stack, combustion chamber or pollution control equipment, as appropriate) and at such other points as necessary to protect public health and the environment;

"(2) to monitor such other parameters relating to the operation of the unit and its pollution control technology as the Administrator determines are appropriate; and

"(3) to report the results of such monitoring.

Such regulations shall contain provisions regarding the frequency of monitoring, test methods and procedures validated on solid waste incineration units, and the form and frequency of reports containing the results of monitoring and shall require that any monitoring reports or test results indicating an exceedance of any standard under this section shall be reported separately and in a manner that facilitates review for purposes of enforcement actions. Such regulations shall require that copies of the results of such monitoring be maintained on file at the facility concerned and that copies shall be made available for inspection and copying by interested members of the public during business hours.

"(d) OPERATOR TRAINING.—Not later than 24 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall develop and promote a model State program for the training and certification of solid waste incineration unit operators and high-capacity fossil fuel fired plant operators. The Administrator may authorize any State to implement a model program for the training of solid waste incineration unit operators and high-capacity fossil fuel fired plant operators, if the State has adopted a program which is at least as effective as the model program developed by the Administrator. Beginning on the date 36 months after the date on which performance standards and guidelines are promulgated under subsection (a) and section 111 for any category of solid waste incineration units it shall be unlawful to operate any unit in the category unless each person with control over processes affecting emissions from such unit has satisfactorily completed a training program meeting the requirements established by the Administrator under this subsection.

"(e) PERMITS.—Beginning (1) 36 months after the promulgation of a performance standard under subsection (a) and section 111

applicable to a category of solid waste incineration units, or (2) the effective date of a permit program under title V in the State in which the unit is located, whichever is later, each unit in the category shall operate pursuant to a permit issued under this subsection and title V. Permits required by this subsection may be renewed according to the provisions of title V. Notwithstanding any other provision of this Act, each permit for a solid waste incineration unit combusting municipal waste issued under this Act shall be issued for a period of up to 12 years and shall be reviewed every 5 years after date of issuance or reissuance. Each permit shall continue in effect after the date of issuance until the date of termination, unless the Administrator or State determines that the unit is not in compliance with all standards and conditions contained in the permit. Such determination shall be made at regular intervals during the term of the permit, such intervals not to exceed 5 years, and only after public comment and public hearing. No permit for a solid waste incineration unit may be issued under this Act by an agency, instrumentality or person that is also responsible, in whole or part, for the design and construction or operation of the unit. Notwithstanding any other provision of this subsection, the Administrator or the State shall require the owner or operator of any unit to comply with emissions limitations or implement any other measures, if the Administrator or the State determines that emissions in the absence of such limitations or measures may reasonably be anticipated to endanger public health or the environment. The Administrator's determination under the preceding sentence is a discretionary decision.

"(f) EFFECTIVE DATE AND ENFORCEMENT.—

"(1) NEW UNITS.—Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to new solid waste incineration units shall be effective as of the date 6 months after the date of promulgation.

"(2) EXISTING UNITS.—Performance standards and other requirements promulgated pursuant to this section and section 111 and applicable to existing solid waste incineration units shall be effective as expeditiously as practicable after approval of a State plan under subsection (b)(2) (or promulgation of a plan by the Administrator under subsection (b)(3)) but in no event later than 3 years after the State plan is approved or 5 years after the date such standards or requirements are promulgated, whichever is earlier.

"(3) PROHIBITION.—After the effective date of any performance standard, emission limitation or other requirement promulgated pursuant to this section and section 111, it shall be unlawful for any owner or operator of any solid waste incineration unit to which such standard, limitation or requirement applies to operate such unit in violation of such limitation, standard or requirement or for any other person to violate an applicable requirement of this section.

"(4) COORDINATION WITH OTHER AUTHORITIES.—For purposes of sections 111(e), 113, 114, 116, 120, 303, 304, 307 and other provisions for the enforcement of this Act, each performance standard, emission limitation or other requirement established pursuant to this section by the Administrator or a State or local government, shall be treated in the same manner as a standard of performance under section 111 which is an emission limitation.

"(g) DEFINITIONS.—For purposes of section 306 of the Clean Air Act Amendments of 1990 and this section only—

"(1) SOLID WASTE INCINERATION UNIT.—The term 'solid waste incineration unit' means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act. The term 'solid waste incineration unit' does not include (A) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals, (B) qualifying small power production facilities, as defined in section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes, or (C) air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the Administrator by rule.

"(2) NEW SOLID WASTE INCINERATION UNIT.—The term 'new solid waste incineration unit' means a solid waste incineration unit the construction of which is commenced after the Administrator proposes requirements under this section establishing emissions standards or other requirements which would be applicable to such unit or a modified solid waste incineration unit.

"(3) MODIFIED SOLID WASTE INCINERATION UNIT.—The term 'modified solid waste incineration unit' means a solid waste incineration unit at which modifications have occurred after the effective date of a standard under subsection (a) if (A) the cumulative cost of the modifications, over the life of the unit, exceed 50 per centum of the original cost of construction and installation of the unit (not including the cost of any land purchased in connection with such construction or installation) updated to current costs, or (B) the modification is a physical change in or change in the method of operation of the unit which increases the amount of any air pollutant emitted by the unit for which standards have been established under this section or section 111.

"(4) EXISTING SOLID WASTE INCINERATION UNIT.—The term 'existing solid waste incineration unit' means a solid waste unit which is not a new or modified solid waste incineration unit.

"(5) MUNICIPAL WASTE.—The term 'municipal waste' means refuse (and refuse-derived fuel) collected from the general public and from residential, commercial, institutional, and industrial sources consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber, and other combustible materials and non-combustible materials such as metal, glass and rock, provided that: (A) the term does not include industrial

process wastes or medical wastes that are segregated from such other wastes; and (B) an incineration unit shall not be considered to be combusting municipal waste for purposes of section 111 or this section if it combusts a fuel feed stream, 30 percent or less of the weight of which is comprised, in aggregate, of municipal waste.

"(6) OTHER TERMS.—The terms 'solid waste' and 'medical waste' shall have the meanings established by the Administrator pursuant to the Solid Waste Disposal Act.

"(h) OTHER AUTHORITY.—

"(1) STATE AUTHORITY.—Nothing in this section shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, limitation or standard relating to solid waste incineration units that is more stringent than a regulation, requirement, limitation or standard in effect under this section or under any other provision of this Act.

"(2) OTHER AUTHORITY UNDER THIS ACT.—Nothing in this section shall diminish the authority of the Administrator or a State to establish any other requirements applicable to solid waste incineration units under any other authority of law, including the authority to establish for any air pollutant a national ambient air quality standard, except that no solid waste incineration unit subject to performance standards under this section and section 111 shall be subject to standards under section 112(d) of this Act.

"(3) RESIDUAL RISK.—The Administrator shall promulgate standards under section 112(f) for a category of solid waste incineration units, if promulgation of such standards is required under section 112(f). For purposes of this preceding sentence only—

"(A) the performance standards under subsection (a) and section 111 applicable to a category of solid waste incineration units shall be deemed standards under section 112(d)(2), and

"(B) the Administrator shall consider and regulate, if required, the pollutants listed under subsection (a)(4) and no others.

"(4) ACID RAIN.—A solid waste incineration unit shall not be a utility unit as defined in title IV: *Provided,* That, more than 80 per centum of its annual average fuel consumption measured on a Btu basis, during a period or periods to be determined by the Administrator, is from a fuel (including any waste burned as a fuel) other than a fossil fuel.

"(5) REQUIREMENTS OF PARTS C AND D.—No requirement of an applicable implementation plan under section 165 (relating to construction of facilities in regions identified pursuant to section 107(d)(1)(A) (ii) or (iii)) or under section 172(c)(5) (relating to permits for construction and operation in nonattainment areas) may be used to weaken the standards in effect under this section.".

(b) CONFORMING AMENDMENT.—Section 169(1) of the Clean Air Act is amended by striking "two hundred and" after "municipal incinerators capable of charging more than". 42 USC 7479.

(c) REVIEW OF ACID GAS SCRUBBING REQUIREMENTS.—Prior to the promulgation of any performance standard for solid waste incineration units combusting municipal waste under section 111 or section 42 USC 7429 note.

129 of the Clean Air Act, the Administrator shall review the availability of acid gas scrubbers as a pollution control technology for small new units and for existing units (as defined in 54 Federal Register 52190 (December 20, 1989), taking into account the provisions of subsection (a)(2) of section 129 of the Clean Air Act.

42 USC 6921 note.

SEC. 306. ASH MANAGEMENT AND DISPOSAL.

For a period of 2 years after the date of enactment of the Clean Air Act Amendments of 1990, ash from solid waste incineration units burning municipal waste shall not be regulated by the Administrator of the Environmental Protection Agency pursuant to section 3001 of the Solid Waste Disposal Act. Such reference and limitation shall not be construed to prejudice, endorse or otherwise affect any activity by the Administrator following the 2-year period from the date of enactment of the Clean Air Act Amendments of 1990.

TITLE IV—ACID DEPOSITION CONTROL

Sec. 401. Acid deposition control.
Sec. 402. Fossil fuel use.
Sec. 403. Repeal of percent reduction.
Sec. 404. Acid deposition standards.
Sec. 405. National acid lakes registry.
Sec. 406. Industrial SO_2 Emissions.
Sec. 407. Sense of the Congress on emission reductions costs.
Sec. 408. Monitor acid rain program in Canada.
Sec. 409. Report on clean coals technologies export programs.
Sec. 410. Acid deposition research by the United States Fish and Wildlife Service.
Sec. 411. Study of buffering and neutralizing agents.
Sec. 412. Conforming amendment.
Sec. 413. Special clean coal technology project.

SEC. 401. ACID DEPOSITION CONTROL.

The Clean Air Act is amended by adding the following new title after title III:

"TITLE IV—ACID DEPOSITION CONTROL

"Sec. 401. Findings and purpose.
"Sec. 402. Definitions.
"Sec. 403. Sulfur dioxide allowance program for existing and new units.
"Sec. 404. Phase I sulfur dioxide requirements.
"Sec. 405. Phase II sulfur dioxide requirements.
"Sec. 406. Allowances for States with emissions rates at or below 0.80 lbs/mmBtu.
"Sec. 407. Nitrogen oxides emission reduction program.
"Sec. 408. Permits and compliance plans.
"Sec. 409. Repowered sources.
"Sec. 410. Election for additional sources.
"Sec. 411. Excess emissions penalty.
"Sec. 412. Monitoring, reporting, and recordkeeping requirements.
"Sec. 413. General compliance with other provisions.
"Sec. 414. Enforcement.
"Sec. 415. Clean coal technology regulatory incentives.
"Sec. 416. Contingency guarantee; auctions, reserve.

42 USC 7651.

"SEC. 401. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the presence of acidic compounds and their precursors in the atmosphere and in deposition from the atmosphere represents a threat to natural resources, ecosystems, materials, visibility, and public health;

"(2) the principal sources of the acidic compounds and their precursors in the atmosphere are emissions of sulfur and nitrogen oxides from the combustion of fossil fuels;

"(3) the problem of acid deposition is of national and international significance;

"(4) strategies and technologies for the control of precursors to acid deposition exist now that are economically feasible, and improved methods are expected to become increasingly available over the next decade;

"(5) current and future generations of Americans will be adversely affected by delaying measures to remedy the problem;

"(6) reduction of total atmospheric loading of sulfur dioxide and nitrogen oxides will enhance protection of the public health and welfare and the environment; and

"(7) control measures to reduce precursor emissions from steam-electric generating units should be initiated without delay.

"(b) PURPOSES.—The purpose of this title is to reduce the adverse effects of acid deposition through reductions in annual emissions of sulfur dioxide of ten million tons from 1980 emission levels, and, in combination with other provisions of this Act, of nitrogen oxides emissions of approximately two million tons from 1980 emission levels, in the forty-eight contiguous States and the District of Columbia. It is the intent of this title to effectuate such reductions by requiring compliance by affected sources with prescribed emission limitations by specified deadlines, which limitations may be met through alternative methods of compliance provided by an emission allocation and transfer system. It is also the purpose of this title to encourage energy conservation, use of renewable and clean alternative technologies, and pollution prevention as a long-range strategy, consistent with the provisions of this title, for reducing air pollution and other adverse impacts of energy production and use.

"SEC. 402. DEFINITIONS. 42 USC 7651a.

"As used in this title:

"(1) The term 'affected source' means a source that includes one or more affected units.

"(2) The term 'affected unit' means a unit that is subject to emission reduction requirements or limitations under this title.

"(3) The term 'allowance' means an authorization, allocated to an affected unit by the Administrator under this title, to emit, during or after a specified calendar year, one ton of sulfur dioxide.

"(4) The term 'baseline' means the annual quantity of fossil fuel consumed by an affected unit, measured in millions of British Thermal Units ('mmBtu's'), calculated as follows:

"(A) For each utility unit that was in commercial operation prior to January 1, 1985, the baseline shall be the annual average quantity of mmBtu's consumed in fuel during calendar years 1985, 1986, and 1987, as recorded by the Department of Energy pursuant to Form 767. For any utility unit for which such form was not filed, the baseline shall be the level specified for such unit in the 1985 National Acid Precipitation Assessment Program (NAPAP) Emissions Inventory, Version 2, National Utility Reference File (NURF) or in a corrected data base as established by the Administrator pursuant to paragraph (3). For non-

utility units, the baseline is the NAPAP Emissions Inventory, Version 2. The Administrator, in the Administrator's sole discretion, may exclude periods during which a unit is shutdown for a continuous period of four calendar months or longer, and make appropriate adjustments under this paragraph. Upon petition of the owner or operator of any unit, the Administrator may make appropriate baseline adjustments for accidents that caused prolonged outages.

"(B) For any other nonutility unit that is not included in the NAPAP Emissions Inventory, Version 2, or a corrected data base as established by the Administrator pursuant to paragraph (3), the baseline shall be the annual average quantity, in mmBtu consumed in fuel by that unit, as calculated pursuant to a method which the administrator shall prescribe by regulation to be promulgated not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(C) The Administrator shall, upon application or on his own motion, by December 31, 1991, supplement data needed in support of this title and correct any factual errors in data from which affected Phase II units' baselines or actual 1985 emission rates have been calculated. Corrected data shall be used for purposes of issuing allowances under the title. Such corrections shall not be subject to judicial review, nor shall the failure of the Administrator to correct an alleged factual error in such reports be subject to judicial review.

"(5) The term 'capacity factor' means the ratio between the actual electric output from a unit and the potential electric output from that unit.

"(6) The term 'compliance plan' means, for purposes of the requirements of this title, either—

"(A) a statement that the source will comply with all applicable requirements under this title, or

"(B) where applicable, a schedule and description of the method or methods for compliance and certification by the owner or operator that the source is in compliance with the requirements of this title.

"(7) The term 'continuous emission monitoring system' (CEMS) means the equipment as required by section 412, used to sample, analyze, measure, and provide on a continuous basis a permanent record of emissions and flow (expressed in pounds per million British thermal units (lbs/mmBtu), pounds per hour (lbs/hr) or such other form as the Administrator may prescribe by regulations under section 412).

"(8) The term 'existing unit' means a unit (including units subject to section 111) that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990. Any unit that commenced commercial operation before the date of enactment of the Clean Air Act Amendments of 1990 which is modified, reconstructed, or repowered after the date of enactment of the Clean Air Act Amendments of 1990 shall continue to be an existing unit for the purposes of this title. For the purposes of this title, existing units shall not include simple combustion turbines, or units which serve a generator with a nameplate capacity of 25MWe or less.

"(9) The term 'generator' means a device that produces electricity and which is reported as a generating unit pursuant to Department of Energy Form 860.

"(10) The term 'new unit' means a unit that commences commercial operation on or after the date of enactment of the Clean Air Act Amendments of 1990.

"(11) The term 'permitting authority' means the Administrator, or the State or local air pollution control agency, with an approved permitting program under part B of title III of the Act.

"(12) The term 'repowering' means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of the date of enactment of the Clean Air Act Amendments of 1990. Notwithstanding the provisions of section 409(a), for the purpose of this title, the term 'repowering' shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

"(13) The term 'reserve' means any bank of allowances established by the Administrator under this title.

"(14) The term 'State' means one of the 48 contiguous States and the District of Columbia.

"(15) The term 'unit' means a fossil fuel-fired combustion device.

"(16) The term 'actual 1985 emission rate', for electric utility units means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emissions Inventory, Version 2, National Utility Reference File. For nonutility units, the term 'actual 1985 emission rate' means the annual sulfur dioxide or nitrogen oxides emission rate in pounds per million Btu as reported in the NAPAP Emission Inventory, Version 2.

"(17)(A) The term 'utility unit' means—

"(i) a unit that serves a generator in any State that produces electricity for sale, or

"(ii) a unit that, during 1985, served a generator in any State that produced electricity for sale.

"(B) Notwithstanding subparagraph (A), a unit described in subparagraph (A) that—

"(i) was in commercial operation during 1985, but

"(ii) did not, during 1985, serve a generator in any State that produced electricity for sale shall not be a utility unit for purposes of this title.

"(C) A unit that cogenerates steam and electricity is not a 'utility unit' for purposes of this title unless the unit is constructed for the purpose of supplying, or commences construction after the date of enactment of this title and supplies, more

than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale.

"(18) The term 'allowable 1985 emissions rate' means a federally enforceable emissions limitation for sulfur dioxide or oxides of nitrogen, applicable to the unit in 1985 or the limitation applicable in such other subsequent year as determined by the Administrator if such a limitation for 1985 does not exist. Where the emissions limitation for a unit is not expressed in pounds of emissions per million Btu, or the averaging period of that emissions limitation is not expressed on an annual basis, the Administrator shall calculate the annual equivalent of that emissions limitation in pounds per million Btu to establish the allowable 1985 emissions rate.

"(19) The term 'qualifying phase I technology' means a technological system of continuous emission reduction which achieves a 90 percent reduction in emissions of sulfur dioxide from the emissions that would have resulted from the use of fuels which were not subject to treatment prior to combustion.

"(20) The term 'alternative method of compliance' means a method of compliance in accordance with one or more of the following authorities:

"(A) a substitution plan submitted and approved in accordance with subsections 404 (b) and (c);

"(B) a Phase I extension plan approved by the Administrator under section 404(d), using qualifying phase I technology as determined by the Administrator in accordance with that section; or

"(C) repowering with a qualifying clean coal technology under section 409.

"(21) The term 'commenced' as applied to construction of any new electric utility unit means that an owner or operator has undertaken a continuous program of construction or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction.

"(22) The term 'commenced commercial operation' means to have begun to generate electricity for sale.

"(23) The term 'construction' means fabrication, erection, or installation of an affected unit.

"(24) The term 'industrial source' means a unit that does not serve a generator that produces electricity, a 'nonutility unit' as defined in this section, or a process source as defined in section 410(e).

"(25) The term 'nonutility unit' means a unit other than a utility unit.

"(26) The term 'designated representative' means a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"(27) The term 'life-of-the-unit, firm power contractual arrangement' means a unit participation power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of capacity and associated energy generated by a specified generating unit

(or units) and pays its proportional amount of such unit's total costs, pursuant to a contract either—

"(A) for the life of the unit;

"(B) for a cumulative term of no less than 30 years, including contracts that permit an election for early termination; or

"(C) for a period equal to or greater than 25 years or 70 percent of the economic useful life of the unit determined as of the time the unit was built, with option rights to purchase or re-lease some portion of the capacity and associated energy generated by the unit (or units) at the end of the period.

"(28) The term 'basic Phase II allowance allocations' means:

"(A) For calendar years 2000 through 2009 inclusive, allocations of allowances made by the Administrator pursuant to section 403 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4), and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1); (i) and (j) of section 405.

"(B) For each calendar year beginning in 2010, allocations of allowances made by the Administrator pursuant to section 403 and subsections (b)(1), (3), and (4); (c)(1), (2), (3), and (5); (d)(1), (2), (4) and (5); (e); (f); (g)(1), (2), (3), (4), and (5); (h)(1) and (3); (i) and (j) of section 405.

"(29) The term 'Phase II bonus allowance allocations' means, for calendar year 2000 through 2009, inclusive, and only for such years, allocations made by the Administrator pursuant to section 403, subsections (a)(2), (b)(2), (c)(4), (d)(3) (except as otherwise provided therein), and (h)(2) of section 405, and section 406.

"SEC. 403. SULFUR DIOXIDE ALLOWANCE PROGRAM FOR EXISTING AND NEW UNITS. 42 USC 7651b.

"(a) ALLOCATIONS OF ANNUAL ALLOWANCES FOR EXISTING AND NEW UNITS.—(1) For the emission limitation programs under this title, the Administrator shall allocate annual allowances for the unit, to be held or distributed by the designated representative of the owner or operator of each affected unit at an affected source in accordance with this title, in an amount equal to the annual tonnage emission limitation calculated under section 404, 405, 406, 409, or 410 except as otherwise specifically provided elsewhere in this title. Except as provided in sections 405(a)(2), 405(a)(3), 409 and 410, beginning January 1, 2000, the Administrator shall not allocate annual allowances to emit sulfur dioxide pursuant to section 405 in such an amount as would result in total annual emissions of sulfur dioxide from utility units in excess of 8.90 million tons except that the Administrator shall not take into account unused allowances carried forward by owners and operators of affected units or by other persons holding such allowances, following the year for which they were allocated. If necessary to meeting the restrictions imposed in the preceding sentence, the Administrator shall reduce, pro rata, the basic Phase II allowance allocations for each unit subject to the requirements of section 405. Subject to the provisions of section 416, the Administrator shall allocate allowances for each affected unit at an affected source annually, as provided in paragraphs (2) and (3) and section 408. Except as provided in sections 409 and 410, the removal of an existing affected unit or source from commercial operation at any time after the date of the enactment of the Clean Air Act Amendments of 1990 (whether before or after January 1,

1995, or January 1, 2000) shall not terminate or otherwise affect the allocation of allowances pursuant to section 404 or 405 to which the unit is entitled. Allowances shall be allocated by the Administrator without cost to the recipient, except for allowances sold by the Administrator pursuant to section 416. Not later than December 31, 1991, the Administrator shall publish a proposed list of the basic Phase II allowance allocations, the Phase II bonus allowance allocations and, if applicable, allocations pursuant to section 405(a)(3) for each unit subject to the emissions limitation requirements of section 405 for the year 2000 and the year 2010. After notice and opportunity for public comment, but not later than December 31, 1992, the Administrator shall publish a final list of such allocations, subject to the provisions of section 405(a)(2). Any owner or operator of an existing unit subject to the requirements of section 405(b) or (c) who is considering applying for an extension of the emission limitation requirement compliance deadline for that unit from January 1, 2000, until not later than December 31, 2000, pursuant to section 409, shall notify the Administrator no later than March 31, 1991. Such notification shall be used as the basis for estimating the basic Phase II allowances under this subsection. Prior to June 1, 1998, the Administrator shall publish a revised final statement of allowance allocations, subject to the provisions of section 405(a)(2) and taking into account the effect of any compliance date extensions granted pursuant to section 409 on such allocations. Any person who may make an election concerning the amount of allowances to be allocated to a unit or units shall make such election and so inform the Administrator not later than March 31, 1991, in the case of an election under section 405 (or June 30, 1991, in the case of an election under section 406). If such person fails to make such election, the Administrator shall set forth for each unit owned or operated by such person, the amount of allowances reflecting the election that would, in the judgment of the Administrator, provide the greatest benefit for the owner or operator of the unit. If such person is a Governor who may make an election under section 406 and the Governor fails to make an election, the Administrator shall set forth for each unit in the State the amount of allowances reflecting the election that would, in the judgment of the Administrator, provide the greatest benefit for units in the State.

Regulations.

"(b) ALLOWANCE TRANSFER SYSTEM.—Allowances allocated under this title may be transferred among designated representatives of the owners or operators of affected sources under this title and any other person who holds such allowances, as provided by the allowance system regulations to be promulgated by the Administrator not later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Such regulations shall establish the allowance system prescribed under this section, including, but not limited to, requirements for the allocation, transfer, and use of allowances under this title. Such regulations shall prohibit the use of any allowance prior to the calendar year for which the allowance was allocated, and shall provide, consistent with the purposes of this title, for the identification of unused allowances, and for such unused allowances to be carried forward and added to allowances allocated in subsequent years, including allowances allocated to units subject to Phase I requirements (as described in section 404) which are applied to emissions limitations requirements in Phase II (as described in section 405). Transfers of allowances shall not be effective until written certification of the transfer, signed by a

responsible official of each party to the transfer, is received and recorded by the Administrator. Such regulations shall permit the transfer of allowances prior to the issuance of such allowances. Recorded pre-allocation transfers shall be deducted by the Administrator from the number of allowances which would otherwise be allocated to the transferor, and added to those allowances allocated to the transferee. Pre-allocation transfers shall not affect the prohibition contained in this subsection against the use of allowances prior to the year for which they are allocated.

"(c) INTERPOLLUTANT TRADING.—Not later than January 1, 1994, the Administrator shall furnish to the Congress a study evaluating the environmental and economic consequences of amending this title to permit trading sulfur dioxide allowances for nitrogen oxides allowances.

"(d) ALLOWANCE TRACKING SYSTEM.—(1) The Administrator shall promulgate, not later than 18 months after the date of enactment of the Clean Air Act Amendments of 1990, a system for issuing, recording, and tracking allowances, which shall specify all necessary procedures and requirements for an orderly and competitive functioning of the allowance system. All allowance allocations and transfers shall, upon recordation by the Administrator, be deemed a part of each unit's permit requirements pursuant to section 408, without any further permit review and revision. Regulations.

"(2) In order to insure electric reliability, such regulations shall not prohibit or affect temporary increases and decreases in emissions within utility systems, power pools, or utilities entering into allowance pool agreements, that result from their operations, including emergencies and central dispatch, and such temporary emissions increases and decreases shall not require transfer of allowances among units nor shall it require recordation. The owners or operators of such units shall act through a designated representative. Notwithstanding the preceding sentence, the total tonnage of emissions in any calendar year (calculated at the end thereof) from all units in such a utility system, power pool, or allowance pool agreements shall not exceed the total allowances for such units for the calendar year concerned.

"(e) NEW UTILITY UNITS.—After January 1, 2000, it shall be unlawful for a new utility unit to emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit held for the unit by the unit's owner or operator. Such new utility units shall not be eligible for an allocation of sulfur dioxide allowances under subsection (a)(1), unless the unit is subject to the provisions of subsection (g)(2) or (3) of section 405. New utility units may obtain allowances from any person, in accordance with this title. The owner or operator of any new utility unit in violation of this subsection shall be liable for fulfilling the obligations specified in section 411 of this title.

"(f) NATURE OF ALLOWANCES.—An allowance allocated under this title is a limited authorization to emit sulfur dioxide in accordance with the provisions of this title. Such allowance does not constitute a property right. Nothing in this title or in any other provision of law shall be construed to limit the authority of the United States to terminate or limit such authorization. Nothing in this section relating to allowances shall be construed as affecting the application of, or compliance with, any other provision of this Act to an affected unit or source, including the provisions related to applicable National Ambient Air Quality Standards and State implementation

plans. Nothing in this section shall be construed as requiring a change of any kind in any State law regulating electric utility rates and charges or affecting any State law regarding such State regulation or as limiting State regulation (including any prudency review) under such a State law. Nothing in this section shall be construed as modifying the Federal Power Act or as affecting the authority of the Federal Energy Regulatory Commission under that Act. Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established. Allowances, once allocated to a person by the Administrator, may be received, held, and temporarily or permanently transferred in accordance with this title and the regulations of the Administrator without regard to whether or not a permit is in effect under title V or section 408 with respect to the unit for which such allowance was originally allocated and recorded. Each permit under this title and each permit issued under title V for any affected unit shall provide that the affected unit may not emit an annual tonnage of sulfur dioxide in excess of the allowances held for that unit.

"(g) PROHIBITION.—It shall be unlawful for any person to hold, use, or transfer any allowance allocated under this title, except in accordance with regulations promulgated by the Administrator. It shall be unlawful for any affected unit to emit sulfur dioxide in excess of the number of allowances held for that unit for that year by the owner or operator of the unit. Upon the allocation of allowances under this title, the prohibition contained in the preceding sentence shall supersede any other emission limitation applicable under this title to the units for which such allowances are allocated. Allowances may not be used prior to the calendar year for which they are allocated. Nothing in this section or in the allowance system regulations shall relieve the Administrator of the Administrator's permitting, monitoring and enforcement obligations under this Act, nor relieve affected sources of their requirements and liabilities under this Act.

"(h) COMPETITIVE BIDDING FOR POWER SUPPLY.—Nothing in this title shall be construed to interfere with or impair any program for competitive bidding for power supply in a State in which such program is established.

"(i) APPLICABILITY OF THE ANTITRUST LAWS.—

"(1) Nothing in this section affects—

"(A) the applicability of the antitrust laws to the transfer, use, or sale of allowances, or

"(B) the authority of the Federal Energy Regulatory Commission under any provision of law respecting unfair methods of competition or anticompetitive acts or practices.

"(2) As used in this section, 'antitrust laws' means those Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12), as amended.

"(j) PUBLIC UTILITY HOLDING COMPANY ACT.—The acquisition or disposition of allowances pursuant to this title including the issuance of securities or the undertaking of any other financing transaction in connection with such allowances shall not be subject to the provisions of the Public Utility Holding Company Act of 1935.

42 USC 7651c.

"SEC. 404. PHASE I SULFUR DIOXIDE REQUIREMENTS.

"(a) EMISSION LIMITATIONS.—(1) After January 1, 1995, each source that includes one or more affected units listed in table A is an

affected source under this section. After January 1, 1995, it shall be unlawful for any affected unit (other than an eligible phase I unit under section 404(d)(2)) to emit sulfur dioxide in excess of the tonnage limitation stated as a total number of allowances in table A for phase I, unless (A) the emissions reduction requirements applicable to such unit have been achieved pursuant to subsection (b) or (d), or (B) the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions, except that, after January 1, 2000, the emissions limitations established in this section shall be superseded by those established in section 405. The owner or operator of any unit in violation of this section shall be fully liable for such violation including, but not limited to, liability for fulfilling the obligations specified in section 411.

"(2) Not later than December 31, 1991, the Administrator shall determine the total tonnage of reductions in the emissions of sulfur dioxide from all utility units in calendar year 1995 that will occur as a result of compliance with the emissions limitation requirements of this section, and shall establish a reserve of allowances equal in amount to the number of tons determined thereby not to exceed a total of 3.50 million tons. In making such a determination, the Administrator shall compute for each unit subject to the emissions limitation requirements of this section the difference between:

"(A) the product of its baseline multiplied by the lesser of each unit's allowable 1985 emissions rate and its actual 1985 emissions rate, divided by 2,000, and

"(B) the product of each unit's baseline multiplied by 2.50 lbs/mmBtu divided by 2,000,

and sum the computations. The Administrator shall adjust the foregoing calculation to reflect projected calendar year 1995 utilization of the units subject to the emissions limitations of this title that the Administrator finds would have occurred in the absence of the imposition of such requirements. Pursuant to subsection (d), the Administrator shall allocate allowances from the reserve established hereinunder until the earlier of such time as all such allowances in the reserve are allocated or December 31, 1999.

"(3) In addition to allowances allocated pursuant to paragraph (1), in each calendar year beginning in 1995 and ending in 1999, inclusive, the Administrator shall allocate for each unit on Table A that is located in the States of Illinois, Indiana, or Ohio (other than units at Kyger Creek, Clifty Creek and Joppa Steam), allowances in an amount equal to 200,000 multiplied by the unit's pro rata share of the total number of allowances allocated for all units on Table A in the 3 States (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) pursuant to paragraph (1). Such allowances shall be excluded from the calculation of the reserve under paragraph (2). State listing.

"(b) SUBSTITUTIONS.—The owner or operator of an affected unit under subsection (a) may include in its section 408 permit application and proposed compliance plan a proposal to reassign, in whole or in part, the affected unit's sulfur dioxide reduction requirements to any other unit(s) under the control of such owner or operator. Such proposal shall specify—

"(1) the designation of the substitute unit or units to which any part of the reduction obligations of subsection (a) shall be required, in addition to, or in lieu of, any original affected units designated under such subsection;

"(2) the original affected unit's baseline, the actual and allowable 1985 emissions rate for sulfur dioxide, and the authorized annual allowance allocation stated in table A;

"(3) calculation of the annual average tonnage for calendar years 1985, 1986, and 1987, emitted by the substitute unit or units, based on the baseline for each unit, as defined in section 402(d), multiplied by the lesser of the unit's actual or allowable 1985 emissions rate;

"(4) the emissions rates and tonnage limitations that would be applicable to the original and substitute affected units under the substitution proposal;

"(5) documentation, to the satisfaction of the Administrator, that the reassigned tonnage limits will, in total, achieve the same or greater emissions reduction than would have been achieved by the original affected unit and the substitute unit or units without such substitution; and

"(6) such other information as the Administrator may require.

"(c) ADMINISTRATOR'S ACTION ON SUBSTITUTION PROPOSALS.—(1) The Administrator shall take final action on such substitution proposal in accordance with section 408(c) if the substitution proposal fulfills the requirements of this subsection. The Administrator may approve a substitution proposal in whole or in part and with such modifications or conditions as may be consistent with the orderly functioning of the allowance system and which will ensure the emissions reductions contemplated by this title. If a proposal does not meet the requirements of subsection (b), the Administrator shall disapprove it. The owner or operator of a unit listed in table A shall not substitute another unit or units without the prior approval of the Administrator.

"(2) Upon approval of a substitution proposal, each substitute unit, and each source with such unit, shall be deemed affected under this title, and the Administrator shall issue a permit to the original and substitute affected source and unit in accordance with the approved substitution plan and section 408. The Administrator shall allocate allowances for the original and substitute affected units in accordance with the approved substitution proposal pursuant to section 403. It shall be unlawful for any source or unit that is allocated allowances pursuant to this section to emit sulfur dioxide in excess of the emissions limitation provided for in the approved substitution permit and plan unless the owner or operator of each unit governed by the permit and approved substitution plan holds allowances to emit not less than the units total annual emissions. The owner or operator of any original or substitute affected unit operated in violation of this subsection shall be fully liable for such violation, including liability for fulfilling the obligations specified in section 411 of this title. If a substitution proposal is disapproved, the Administrator shall allocate allowances to the original affected unit or units in accordance with subsection (a).

"(d) ELIGIBLE PHASE I EXTENSION UNITS.—(1) The owner or operator of any affected unit subject to an emissions limitation requirement under this section may petition the Administrator in its permit application under section 408 for an extension of 2 years of the deadline for meeting such requirement, provided that the owner or operator of any such unit holds allowances to emit not less than the unit's total annual emissions for each of the 2 years of the period of extension. To qualify for such an extension, the affected unit must

either employ a qualifying phase I technology, or transfer its phase I emissions reduction obligation to a unit employing a qualifying phase I technology. Such transfer shall be accomplished in accordance with a compliance plan, submitted and approved under section 408, that shall govern operations at all units included in the transfer, and that specifies the emissions reduction requirements imposed pursuant to this title.

"(2) Such extension proposal shall—

"(A) specify the unit or units proposed for designation as an eligible phase I extension unit;

"(B) provide a copy of an executed contract, which may be contingent upon the Administrator approving the proposal, for the design engineering, and construction of the qualifying phase I technology for the extension unit, or for the unit or units to which the extension unit's emission reduction obligation is to be transferred;

"(C) specify the unit's or units' baseline, actual 1985 emissions rate, allowable 1985 emissions rate, and projected utilization for calendar years 1995 through 1999;

"(D) require CEMS on both the eligible phase I extension unit or units and the transfer unit or units beginning no later than January 1, 1995; and

"(E) specify the emission limitation and number of allowances expected to be necessary for annual operation after the qualifying phase I technology has been installed.

"(3) The Administrator shall review and take final action on each extension proposal in order of receipt, consistent with section 408, and for an approved proposal shall designate the unit or units as an eligible phase I extension unit. The Administrator may approve an extension proposal in whole or in part, and with such modifications or conditions as may be necessary, consistent with the orderly functioning of the allowance system, and to ensure the emissions reductions contemplated by the title.

"(4) In order to determine the number of proposals eligible for allocations from the reserve under subsection (a)(2) and the number of allowances remaining available after each proposal is acted upon, the Administrator shall reduce the total number of allowances remaining available in the reserve by the number of allowances calculated according to subparagraphs (A), (B) and (C) until either no allowances remain available in the reserve for further allocation or all approved proposals have been acted upon. If no allowances remain available in the reserve for further allocation before all proposals have been acted upon by the Administrator, any pending proposals shall be disapproved. The Administrator shall calculate allowances equal to—

"(A) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1995 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000;

"(B) the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or the projected emissions tonnage for calendar year 1996 of each eligible phase I extension unit, as designated under paragraph (3), and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000; and

"(C) the amount by which (i) the product of each unit's baseline multiplied by an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (ii) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection multiplied by a factor of 3.

"(5) Each eligible Phase I extension unit shall receive allowances determined under subsection (a)(1) or (c) of this section. In addition, for calendar year 1995, the Administrator shall allocate to each eligible Phase I extension unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1995 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. In calendar year 1996, the Administrator shall allocate for each eligible unit, from the allowance reserve created pursuant to subsection (a)(2), allowances equal to the difference between the lesser of the average annual emissions in calendar years 1988 and 1989 or its projected emissions tonnage for calendar year 1996 and the product of the unit's baseline multiplied by an emission rate of 2.50 lbs/mmBtu, divided by 2,000. It shall be unlawful for any source or unit subject to an approved extension plan under this subsection to emit sulfur dioxide in excess of the emissions limitations provided for in the permit and approved extension plan, unless the owner or operator of each unit governed by the permit and approved plan holds allowances to emit not less than the unit's total annual emissions.

"(6) In addition to allowances specified in paragraph (5), the Administrator shall allocate for each eligible Phase I extension unit employing qualifying Phase I technology, for calendar years 1997, 1998, and 1999, additional allowances, from any remaining allowances in the reserve created pursuant to subsection (a)(2), following the reduction in the reserve provided for in paragraph (4), not to exceed the amount by which (A) the product of each eligible unit's baseline times an emission rate of 1.20 lbs/mmBtu, divided by 2,000, exceeds (B) the tonnage level specified under subparagraph (E) of paragraph (2) of this subsection.

"(7) After January 1, 1997, in addition to any liability under this Act, including under section 411, if any eligible phase I extension unit employing qualifying phase I technology or any transfer unit under this subsection emits sulfur dioxide in excess of the annual tonnage limitation specified in the extension plan, as approved in paragraph (3) of this subsection, the Administrator shall, in the calendar year following such excess, deduct allowances equal to the amount of such excess from such unit's annual allowance allocation.

"(e)(1) In the case of a unit that receives authorization from the Governor of the State in which such unit is located to make reductions in the emissions of sulfur dioxide prior to calendar year 1995 and that is part of a utility system that meets the following requirements: (A) the total coal-fired generation within the utility system as a percentage of total system generation decreased by more than 20 percent between January 1, 1980, and December 31, 1985; and (B) the weighted capacity factor of all coal-fired units within the utility system averaged over the period from January 1, 1985, through December 31, 1987, was below 50 percent, the Administrator shall allocate allowances under this paragraph for the unit pursuant to this subsection. The Administrator shall allocate allowances for a unit that is an affected unit pursuant to section 405 (but is not also

the efficiency of the use of electricity provided by an electric utility to its customers.

"(B) QUALIFIED RENEWABLE ENERGY.—The term 'qualified renewable energy' means energy derived from biomass, solar, geothermal, or wind as identified by the Administrator in consultation with the Secretary of Energy.

"(C) ELECTRIC UTILITY.—The term 'electric utility' means any person, State agency, or Federal agency, which sells electric energy.

"(2) ALLOWANCES FOR EMISSIONS AVOIDED THROUGH ENERGY CONSERVATION AND RENEWABLE ENERGY.—

"(A) IN GENERAL.—The regulations under paragraph (4) of this subsection shall provide that for each ton of sulfur dioxide emissions avoided by an electric utility, during the applicable period, through the use of qualified energy conservation measures or qualified renewable energy, the Administrator shall allocate a single allowance to such electric utility, on a first-come-first-served basis from the Conservation and Renewable Energy Reserve established under subsection (g), up to a total of 300,000 allowances for allocation from such Reserve.

"(B) REQUIREMENTS FOR ISSUANCE.—The Administrator shall allocate allowances to an electric utility under this subsection only if all of the following requirements are met:

"(i) Such electric utility is paying for the qualified energy conservation measures or qualified renewable energy directly or through purchase from another person.

"(ii) The emissions of sulfur dioxide avoided through the use of qualified energy conservation measures or qualified renewable energy are quantified in accordance with regulations promulgated by the Administrator under this subsection.

"(iii)(I) Such electric utility has adopted and is implementing a least cost energy conservation and electric power plan which evaluates a range of resources, including new power supplies, energy conservation, and renewable energy resources, in order to meet expected future demand at the lowest system cost.

"(II) The qualified energy conservation measures or qualified renewable energy, or both, are consistent with that plan.

"(III) Electric utilities subject to the jurisdiction of a State regulatory authority must have such plan approved by such authority. For electric utilities not subject to the jurisdiction of a State regulatory authority such plan shall be approved by the entity with ratemaking authority for such utility.

"(iv) In the case of qualified energy conservation measures undertaken by a State regulated electric utility, the Secretary of Energy certifies that the State regulatory authority with jurisdiction over the electric rates of such electric utility has established rates and charges which ensure that the net income of such electric utility after implementation of specific cost effective energy conservation measures is at least as high as such net income would have been if the energy

conservation measures had not been implemented. Upon the date of any such certification by the Secretary of Energy, all allowances which, but for this paragraph, would have been allocated under subparagraph (A) before such date, shall be allocated to the electric utility. This clause is not a requirement for qualified renewable energy.

"(v) Such utility or any subsidiary of the utility's holding company owns or operates at least one affected unit.

"(C) PERIOD OF APPLICABILITY.—Allowances under this subsection shall be allocated only with respect to kilowatt hours of electric energy saved by qualified energy conservation measures or generated by qualified renewable energy after January 1, 1992 and before the earlier of (i) December 31, 2000, or (ii) the date on which any electric utility steam generating unit owned or operated by the electric utility to which the allowances are allocated becomes subject to this title (including those sources that elect to become affected by this title, pursuant to section 410).

"(D) DETERMINATION OF AVOIDED EMISSIONS.—

"(i) APPLICATION.—In order to receive allowances under this subsection, an electric utility shall make an application which—

"(I) designates the qualified energy conservation measures implemented and the qualified renewable energy sources used for purposes of avoiding emissions,

"(II) calculates, in accordance with subparagraphs (F) and (G), the number of tons of emissions avoided by reason of the implementation of such measures or the use of such renewable energy sources; and

"(III) demonstrates that the requirements of subparagraph (B) have been met.

Such application for allowances by a State-regulated electric utility shall require approval by the State regulatory authority with jurisdiction over such electric utility. The authority shall review the application for accuracy and compliance with this subsection and the rules under this subsection. Electric utilities whose retail rates are not subject to the jurisdiction of a State regulatory authority shall apply directly to the Administrator for such approval.

"(E) AVOIDED EMISSIONS FROM QUALIFIED ENERGY CONSERVATION MEASURES.—For the purposes of this subsection, the emission tonnage deemed avoided by reason of the implementation of qualified energy conservation measures for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the kilowatt hours that would otherwise have been supplied by the utility during such year in the absence of such qualified energy conservation measures, by

"(ii) 0.004,

and dividing by 2,000.

"(F) AVOIDED EMISSIONS FROM THE USE OF QUALIFIED RENEWABLE ENERGY.—The emissions tonnage deemed avoided by reason of the use of qualified renewable energy by an electric utility for any calendar year shall be a tonnage equal to the product of multiplying—

"(i) the actual kilowatt hours generated by, or purchased from, qualified renewable energy, by

"(ii) 0.004,

and dividing by 2,000.

"(G) PROHIBITIONS.—(i) No allowances shall be allocated under this subsection for the implementation of programs that are exclusively informational or educational in nature.

"(ii) No allowances shall be allocated for energy conservation measures or renewable energy that were operational before January 1, 1992.

"(3) SAVINGS PROVISION.—Nothing in this subsection precludes a State or State regulatory authority from providing additional incentives to utilities to encourage investment in demand-side resources.

"(4) REGULATIONS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990 and in conjunction with the regulations required to be promulgated under subsections (b) and (c), the Administrator shall, in consultation with the Secretary of Energy, promulgate regulations under this subsection. Such regulations shall list energy conservation measures and renewable energy sources which may be treated as qualified energy conservation measures and qualified renewable energy for purposes of this subsection. Allowances shall only be allocated if all requirements of this subsection and the rules promulgated to implement this subsection are complied with. The Administrator shall review the determinations of each State regulatory authority under this subsection to encourage consistency from electric utility to electric utility and from State to State in accordance with the Administrator's rules. The Administrator shall publish the findings of this review no less than annually.

"(g) CONSERVATION AND RENEWABLE ENERGY RESERVE.—The Administrator shall establish a Conservation and Renewable Energy Reserve under this subsection. Beginning on January 1, 1995, the Administrator may allocate from the Conservation and Renewable Energy Reserve an amount equal to a total of 300,000 allowances for emissions of sulfur dioxide pursuant to section 403. In order to provide 300,000 allowances for such reserve, in each year beginning in calendar year 2000 and until calendar year 2009, inclusive, the Administrator shall reduce each unit's basic Phase II allowance allocation on the basis of its pro rata share of 30,000 allowances. If allowances remain in the reserve after January 2, 2010, the Administrator shall allocate such allowances for affected units under section 405 on a pro rata basis. For purposes of this subsection, for any unit subject to the emissions limitation requirements of section 405, the term 'pro rata basis' refers to the ratio which the reductions made in such unit's allowances in order to establish the reserve under this subsection bears to the total of such reductions for all such units.

"(h) ALTERNATIVE ALLOWANCE ALLOCATION FOR UNITS IN CERTAIN UTILITY SYSTEMS WITH OPTIONAL BASELINE.—

"(1) OPTIONAL BASELINE FOR UNITS IN CERTAIN SYSTEMS.—In the case of a unit subject to the emissions limitation requirements of this section which (as of the date of the enactment of the Clean Air Act Amendments of 1990)—

"(A) has an emission rate below 1.0 lbs/mmBtu,

"(B) has decreased its sulfur dioxide emissions rate by 60 percent or greater since 1980, and

"(C) is part of a utility system which has a weighted average sulfur dioxide emissions rate for all fossil fueled-fired units below 1.0 lbs/mmBtu,

at the election of the owner or operator of such unit, the unit's baseline may be calculated (i) as provided under section 402(d), or (ii) by utilizing the unit's average annual fuel consumption at a 60 percent capacity factor. Such election shall be made no later than March 1, 1991.

"(2) ALLOWANCE ALLOCATION.—Whenever a unit referred to in paragraph (1) elects to calculate its baseline as provided in clause (ii) of paragraph (1), the Administrator shall allocate allowances for the unit pursuant to section 403(a)(1), this section, and section 405 (as basic Phase II allowance allocations) in an amount equal to the baseline selected multiplied by the lower of the average annual emission rate for such unit in 1989, or 1.0 lbs./mmBtu. Such allowance allocation shall be in lieu of any allocation of allowances under this section and section 405.

"SEC. 405. PHASE II SULFUR DIOXIDE REQUIREMENTS. 42 USC 7651d.

"(a) APPLICABILITY.—(1) After January 1, 2000, each existing utility unit as provided below is subject to the limitations or requirements of this section. Each utility unit subject to an annual sulfur dioxide tonnage emission limitation under this section is an affected unit under this title. Each source that includes one or more affected units is an affected source. In the case of an existing unit that was not in operation during calendar year 1985, the emission rate for a calendar year after 1985, as determined by the Administrator, shall be used in lieu of the 1985 rate. The owner or operator of any unit operated in violation of this section shall be fully liable under this Act for fulfilling the obligations specified in section 411 of this title.

"(2) In addition to basic Phase II allowance allocations, in each year beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall allocate up to 530,000 Phase II bonus allowances pursuant to subsections (b)(2), (c)(4), (d)(3)(A) and (B), and (h)(2) of this section and section 406. Not later than June 1, 1998, the Administrator shall calculate, for each unit granted an extension pursuant to section 409 the difference between (A) the number of allowances allocated for the unit in calendar year 2000, and (B) the product of the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2000, and sum the computations. In each year, beginning in calendar year 2000 and ending in calendar year 2009, inclusive, the Administrator shall deduct from each unit's basic Phase II allowance allocation its pro rata share of 10 percent of the sum calculated pursuant to the preceding sentence.

"(3) In addition to basic Phase II allowance allocations and Phase II bonus allowance allocations, beginning January 1, 2000, the Administrator shall allocate for each unit listed on Table A in section 404 (other than units at Kyger Creek, Clifty Creek, and Joppa Steam) and located in the States of Illinois, Indiana, Ohio, Georgia, Alabama, Missouri, Pennsylvania, West Virginia, Ken- State listing.

tucky, or Tennessee allowances in an amount equal to 50,000 multiplied by the unit's pro rata share of the total number of basic allowances allocated for all units listed on Table A (other than units at Kyger Creek, Clifty Creek, and Joppa Steam). Allowances allocated pursuant to this paragraph shall not be subject to the 8,900,000 ton limitation in section 403(a).

"(b) UNITS EQUAL TO, OR ABOVE, 75 MWE AND 1.20 LBS/MMBTU.—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for any existing utility unit that serves a generator with nameplate capacity equal to, or greater, than 75 MWe and an actual 1985 emission rate equal to or greater than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate greater than 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with an actual 1985 emissions rate equal to or greater than 1.20 lbs/mmBtu whose annual average fuel consumption during 1985, 1986, and 1987 on a Btu basis exceeded 90 percent in the form of lignite coal which is located in a State in which, as of July 1, 1989, no county or portion of a county was designated nonattainment under section 107 of this Act for any pollutant subject to the requirements of section 109 of this Act to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(4) After January 1, 2000, the Administrator shall allocate annually for each unit, subject to the emissions limitation requirements of paragraph (1), which is located in a State with an installed electrical generating capacity of more than 30,000,000 kw in 1988 and for which was issued a prohibition order or a proposed prohibition order (from burning oil), which unit subsequently converted to coal between January 1, 1980 and December 31, 1985, allowances equal to the difference between (A) the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of its actual or allowable emissions rate during the first full calendar year after conversion, divided by 2,000, and (B) the number of allowances allocated for the unit pursuant to paragraph (1): *Provided,* That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of five thousand. If necessary to meeting the restriction imposed in the

preceding sentence the Administrator shall reduce, pro rata, the annual allowances allocated for each unit under this paragraph.

"(c) COAL OR OIL-FIRED UNITS BELOW 75 MWE AND ABOVE 1.20 LBS/MMBTU.—(1) Except as otherwise provided in paragraph (3), after January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, equal to, or greater than, 250 MWe to exceed an annual sulfur dioxide emissions limitation equal to the product of the unit's baseline multiplied by an emission rate equal to 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for a coal or oil-fired existing utility unit that serves a generator with nameplate capacity of less than 75 MWe and an actual 1985 emission rate equal to, or greater than, 1.20 lbs/mmBtu (excluding units subject to section 111 of the Act or to a federally enforceable emissions limitation for sulfur dioxide equivalent to an annual rate of less than 1.20 lbs/mmBtu) and which is a unit owned by a utility operating company whose aggregate nameplate fossil fuel steam-electric capacity is, as of December 31, 1989, less than 250 MWe, to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(3) After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which became operational on or before December 31, 1965, which is owned by a utility operating company with, as of December 31, 1989, a total fossil fuel steam-electric generating capacity greater than 250 MWe, and less than 450 MWe which serves fewer than 78,000 electrical customers as of the date of enactment of the Clean Air Act Amendments of 1990 to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by the lesser of its actual or allowable 1985 emission rate, divided by 2,000, unless the owner or operator holds allowances to emit not less than the units total annual emissions. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions.

"(4) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, inclusive, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) with an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu and less than 2.50 lbs/mmBtu and a baseline capacity factor of less than 60 percent, allowances from the reserve created pursuant to subsection (a)(2) in an amount equal

to 1.20 lbs/mmBtu multiplied by 50 percent of the difference, on a Btu basis, between the unit's baseline and the unit's fuel consumption at a 60 percent capacity factor.

"(5) After January 1, 2000, it shall be unlawful for any existing utility unit with a nameplate capacity below 75 MWe and an actual 1985 emissions rate equal to, or greater than, 1.20 lbs/mmBtu which is part of an electric utility system which, as of the date of the enactment of the Clean Air Act Amendments of 1990, (A) has at least 20 percent of its fossil-fuel capacity controlled by flue gas desulfurization devices, (B) has more than 10 percent of its fossil-fuel capacity consisting of coal-fired units of less than 75 MWe, and (C) has large units (greater than 400 MWe) all of which have difficult or very difficult FGD Retrofit Cost Factors (according to the Emissions and the FGD Retrofit Feasibility at the 200 Top Emitting Generating Stations, prepared for the United States Environmental Protection Agency on January 10, 1986) to exceed an annual sulfur dioxide emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 2.5 lbs/mmBtu, divided by 2,000, unless the owner or operator holds allowances to emit not less than the unit's total annual emissions. After January 1, 2010, it shall be unlawful for each unit subject to the emissions limitation requirements of this paragraph to exceed an annual emissions tonnage limitation equal to the product of its baseline multiplied by an emissions rate of 1.20 lbs/mmBtu, divided by 2,000, unless the owner or operator holds for use allowances to emit not less than the unit's total annual emissions.

"(d) COAL-FIRED UNITS BELOW 1.20 LBS/MMBTU.—(1) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is less than 0.60 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emission limitation equal to the product of the unit's baseline multiplied by (A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, it shall be unlawful for any existing coal-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emissions rate is equal to, or greater than, 0.60 lbs/mmBtu and less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of its actual 1985 emissions rate or its allowable 1985 emissions rate, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(3)(A) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which (i) the product of the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000,

exceeds (ii) the number of allowances allocated for the unit pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations.

"(B) In addition to allowances allocated pursuant to paragraph (2) and section 403(a)(1) as basic Phase II allowance allocations, at the election of the designated representative of the operating company, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (2) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the amount by which (i) the product of the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate multiplied by the unit's baseline adjusted to reflect operation at a 60 percent capacity factor, divided by 2,000, exceeds (ii) the number of allowances allocated for the unit pursuant to paragraph (2) and section 403(a)(1) as basic Phase II allowance allocations.

"(C) An operating company with units subject to the emissions limitation requirements of this subsection may elect the allocation of allowances as provided under subparagraphs (A) and (B). Such election shall apply to the annual allowance allocation for each and every unit in the operating company subject to the emissions limitation requirements of this subsection. The Administrator shall allocate allowances pursuant to subparagraphs (A) and (B) only in accordance with this subparagraph.

"(4) Notwithstanding any other provision of this section, at the election of the owner or operator, after January 1, 2000, the Administrator shall allocate in lieu of allocation, pursuant to paragraph (1), (2), (3), (5), or (6), allowances for a unit subject to the emissions limitation requirements of this subsection which commenced commercial operation on or after January 1, 1981 and before December 31, 1985, which was subject to, and in compliance with, section 111 of the Act in an amount equal to the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 emissions rate, divided by 2,000.

"(5) For the purposes of this section, in the case of an oil- and gas-fired unit which has been awarded a clean coal technology demonstration grant as of January 1, 1991, by the United States Department of Energy, beginning January 1, 2000, the Administrator shall allocate for the unit allowances in an amount equal to the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

"(e) OIL AND GAS-FIRED UNITS EQUAL TO OR GREATER THAN 0.60 LBS/MMBTU AND LESS THAN 1.20 LBS/MMBTU.—After January 1, 2000, it shall be unlawful for any existing oil and gas-fired utility unit the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is equal to, or greater than, 0.60 lbs/mmBtu, but less than 1.20 lbs/mmBtu to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by (A) the lesser of the unit's allowable 1985 emissions rate or its actual 1985 emissions rate and (B) a numerical factor of 120 percent divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(f) OIL AND GAS-FIRED UNITS LESS THAN 0.60 LBS/MMBTU.—(1) After January 1, 2000, it shall be unlawful for any oil and gas-fired existing utility unit the lesser of whose actual or allowable 1985 emission rate is less than 0.60 lbs/mmBtu and whose average

annual fuel consumption during the period 1980 through 1989 on a Btu basis was 90 percent or less in the form of natural gas to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's baseline multiplied by (A) the lesser of 0.60 lbs/mmBtu or the unit's allowable 1985 emissions, and (B) a numerical factor of 120 percent, divided by 2,000, unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) In addition to allowances allocated pursuant to paragraph (1) as basic Phase II allowance allocations and section 403(a)(1), beginning January 1, 2000, the Administrator shall, in the case of any unit operated by a utility that furnishes electricity, electric energy, steam, and natural gas within an area consisting of a city and 1 contiguous county, and in the case of any unit owned by a State authority, the output of which unit is furnished within that same area consisting of a city and 1 contiguous county, the Administrator shall allocate for each unit in the utility its pro rata share of 7,000 allowances and for each unit in the State authority its pro rata share of 2,000 allowances.

"(g) UNITS THAT COMMENCE OPERATION BETWEEN 1986 AND DECEMBER 31, 1995.—(1) After January 1, 2000, it shall be unlawful for any utility unit that has commenced commercial operation on or after January 1, 1986, but not later than September 30, 1990 to exceed an annual tonnage emission limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the unit's allowable 1985 sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) After January 1, 2000, the Administrator shall allocate allowances pursuant to section 403 to each unit which is listed in table B of this paragraph in an annual amount equal to the amount specified in table B.

TABLE B

Unit	Allowances
Brandon Shores	8,907
Miller 4	9,197
TNP One 2	4,000
Zimmer 1	18,458
Spruce 1	7,647
Clover 1	2,796
Clover 2	2,796
Twin Oak 2	1,760
Twin Oak 1	9,158
Cross 1	6,401
Malakoff 1	1,759

Notwithstanding any other paragraph of this subsection, for units subject to this paragraph, the Administrator shall not allocate allowances pursuant to any other paragraph of this subsection, Provided that the owner or operator of a unit listed on Table B may elect an allocation of allowances under another paragraph of this subsection in lieu of an allocation under this paragraph.

"(3) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that commences commercial operation, or has commenced commercial operation, on or after October 1, 1990, but not later than December 31, 1992 allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor

multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

"(4) Beginning January 1, 2000, the Administrator shall allocate to the owner or operator of any utility unit that has commenced construction before December 31, 1990 and that commences commercial operation between January 1, 1993 and December 31, 1995, allowances in an amount equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 0.30 lbs/mmBtu or the unit's allowable sulfur dioxide emission rate (converted, if necessary, to pounds per mmBtu), divided by 2,000.

"(5) After January 1, 2000, it shall be unlawful for any existing utility unit that has completed conversion from predominantly gas fired existing operation to coal fired operation between January 1, 1985 and December 31, 1987, for which there has been allocated a proposed or final prohibition order pursuant to section 301(b) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq, repealed 1987) to exceed an annual sulfur dioxide tonnage emissions limitation equal to the product of the unit's annual fuel consumption, on a Btu basis, at a 65 percent capacity factor multiplied by the lesser of 1.20 lbs/mmBtu or the unit's allowable 1987 sulfur dioxide emissions rate, divided by 2,000, unless the owner or operator of such unit has obtained allowances equal to its actual emissions.

"(6)(A) Unless the Administrator has approved a designation of such facility under section 410, the provisions of this title shall not apply to a 'qualifying small power production facility' or 'qualifying cogeneration facility' (within the meaning of section 3(17)(C) or 3(18)(B) of the Federal Power Act) or to a 'new independent power production facility' as defined in section 416 except that clause (iii) of such definition in section 416 shall not apply for purposes of this paragraph if, as of the date of enactment,

"(i) an applicable power sales agreement has been executed;

"(ii) the facility is the subject of a State regulatory authority order requiring an electric utility to enter into a power sales agreement with, purchase capacity from, or (for purposes of establishing terms and conditions of the electric utility's purchase of power) enter into arbitration concerning, the facility;

"(iii) an electric utility has issued a letter of intent or similar instrument committing to purchase power from the facility at a previously offered or lower price and a power sales agreement is executed within a reasonable period of time; or

"(iv) the facility has been selected as a winning bidder in a utility competitive bid solicitation.

"(h) OIL AND GAS-FIRED UNITS LESS THAN 10 PERCENT OIL CONSUMED.—(1) After January 1, 2000, it shall be unlawful for any oil- and gas-fired utility unit whose average annual fuel consumption during the period 1980 through 1989 on a Btu basis exceeded 90 percent in the form of natural gas to exceed an annual sulfur dioxide tonnage limitation equal to the product of the unit's baseline multiplied by the unit's actual 1985 emissions rate divided by 2,000 unless the owner or operator of such unit holds allowances to emit not less than the unit's total annual emissions.

"(2) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1) as basic Phase II allowance allocations, begin-

ning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances from the reserve created pursuant to subsection (a)(2) in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(3) In addition to allowances allocated pursuant to paragraph (1) and section 403(a)(1), beginning January 1, 2010, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of paragraph (1) allowances in an amount equal to the unit's baseline multiplied by 0.050 lbs/mmBtu, divided by 2,000.

"(i) UNITS IN HIGH GROWTH STATES.—(1) In addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, beginning January 1, 2000, the Administrator shall allocate annually allowances for each unit, subject to an emissions limitation requirement under this section, and located in a State that—

"(A) has experienced a growth in population in excess of 25 percent between 1980 and 1988 according to State Population and Household Estimates, With Age, Sex, and Components of Change: 1981–1988 allocated by the United States Department of Commerce, and

"(B) had an installed electrical generating capacity of more than 30,000,000 kw in 1988,

in an amount equal to the difference between (A) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of this section applicable to the unit adjusted to reflect the unit's annual average fuel consumption on a Btu basis of any three consecutive calendar years between 1980 and 1989 (inclusive) as elected by the owner or operator and (B) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of this section: *Provided,* That the number of allowances allocated pursuant to this subsection shall not exceed an annual total of 40,000. If necessary to meeting the 40,000 allowance restriction imposed under this subsection the Administrator shall reduce, pro rata, the additional annual allowances allocated to each unit under this subsection.

"(2) Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each unit subject to the emissions limitation requirements of subsection (b)(1), (A) the lesser of whose actual or allowable 1980 emissions rate has declined by 50 percent or more as of the date of enactment of the Clean Air Act Amendments of 1990, (B) whose actual emissions rate is less than 1.2 lbs/mmBtu as of January 1, 2000, (C) which commenced operation after January 1, 1970, (D) which is owned by a utility company whose combined commercial and industrial kilowatt-hour sales have increased by more than 20 percent between calendar year 1980 and the date of enactment of the Clean Air Act Amendments of 1990, and (E) whose company-wide fossil-fuel sulfur dioxide emissions rate has declined 40 per centum or more from 1980 to 1988, allowances in an amount equal to the difference between (i) the number of allowances that would be allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1) adjusted to reflect the unit's annual average fuel consumption on a Btu basis for any three consecutive years between 1980 and 1989 (inclusive) as elected by the owner or

operator and (ii) the number of allowances allocated for the unit pursuant to the emissions limitation requirements of subsection (b)(1): *Provided,* That the number of allowances allocated pursuant to this paragraph shall not exceed an annual total of 5,000. If necessary to meeting the 5,000-allowance restriction imposed in the last clause of the preceding sentence the Administrator shall reduce, pro rata, the additional allowances allocated to each unit pursuant to this paragraph.

"(j) CERTAIN MUNICIPALLY OWNED POWER PLANTS.—Beginning January 1, 2000, in addition to allowances allocated pursuant to this section and section 403(a)(1) as basic Phase II allowance allocations, the Administrator shall allocate annually for each existing municipally owned oil and gas-fired utility unit with nameplate capacity equal to, or less than, 40 MWe, the lesser of whose actual or allowable 1985 sulfur dioxide emission rate is less than 1.20 lbs/mmBtu, allowances in an amount equal to the product of the unit's annual fuel consumption on a Btu basis at a 60 percent capacity factor multiplied by the lesser of its allowable 1985 emission rate or its actual 1985 emission rate, divided by 2,000.

"SEC. 406. ALLOWANCES FOR STATES WITH EMISSIONS RATES AT OR BELOW 0.80 LBS/MMBTU. 42 USC 7651e.

"(a) ELECTION OF GOVERNOR.—In addition to basic Phase II allowance allocations, upon the election of the Governor of any State, with a 1985 state-wide annual sulfur dioxide emissions rate equal to or less than, 0.80 lbs/mmBtu, averaged over all fossil fuel-fired utility steam generating units, beginning January 1, 2000, and for each calendar year thereafter until and including 2009, the Administrator shall allocate, in lieu of other Phase II bonus allowance allocations, allowances from the reserve created pursuant to section 405(a)(2) to all such units in the State in an amount equal to 125,000 multiplied by the unit's pro rata share of electricity generated in calendar year 1985 at fossil fuel-fired utility steam units in all States eligible for the election.

"(b) NOTIFICATION OF ADMINISTRATOR.—Pursuant to section 403(a)(1), each Governor of a State eligible to make an election under paragraph (a) shall notify the Administrator of such election. In the event that the Governor of any such State fails to notify the Administrator of the Governor's elections, the Administrator shall allocate allowances pursuant to section 405.

"(c) ALLOWANCES AFTER JANUARY 1, 2010.—After January 1, 2010, the Administrator shall allocate allowances to units subject to the provisions of this section pursuant to section 405.

"SEC. 407. NITROGEN OXIDES EMISSION REDUCTION PROGRAM. 42 USC 7651f.

"(a) APPLICABILITY.—On the date that a coal-fired utility unit becomes an affected unit pursuant to sections 404, 405, 409, or on the date a unit subject to the provisions of section 404(d) or 409(b), must meet the SO_2 reduction requirements, each such unit shall become an affected unit for purposes of this section and shall be subject to the emission limitations for nitrogen oxides set forth herein.

"(b) EMISSION LIMITATIONS.—(1) Not later than eighteen months Regulations. after enactment of the Clean Air Act Amendments of 1990, the Administrator shall by regulation establish annual allowable emission limitations for nitrogen oxides for the types of utility boilers listed below, which limitations shall not exceed the rates listed below: *Provided,* That the Administrator may set a rate higher than

that listed for any type of utility boiler if the Administrator finds that the maximum listed rate for that boiler type cannot be achieved using low NO_x burner technology. The maximum allowable emission rates are as follows:

"(A) for tangentially fired boilers, 0.45 lb/mmBtu;

"(B) for dry bottom wall-fired boilers (other than units applying cell burner technology), 0.50 lb/mmBtu.

After January 1, 1995, it shall be unlawful for any unit that is an affected unit on that date and is of the type listed in this paragraph to emit nitrogen oxides in excess of the emission rates set by the Administrator pursuant to this paragraph.

Regulations. "(2) Not later than January 1, 1997, the Administrator shall, by regulation, establish allowable emission limitations on a lb/mmBtu, annual average basis, for nitrogen oxides for the following types of utility boilers:

"(A) wet bottom wall-fired boilers;

"(B) cyclones;

"(C) units applying cell burner technology;

"(D) all other types of utility boilers.

The Administrator shall base such rates on the degree of reduction achievable through the retrofit application of the best system of continuous emission reduction, taking into account available technology, costs and energy and environmental impacts; and which is comparable to the costs of nitrogen oxides controls set pursuant to subsection (b)(1). Not later than January 1, 1997, the Administrator may revise the applicable emission limitations for tangentially fired and dry bottom, wall-fired boilers (other than cell burners) to be more stringent if the Administrator determines that more effective low NO_x burner technology is available: *Provided,* That, no unit that is an affected unit pursuant to section 404 and that is subject to the requirements of subsection (b)(1), shall be subject to the revised emission limitations, if any.

"(c) REVISED PERFORMANCE STANDARDS.—(1) Not later than January 1, 1993, the Administrator shall propose revised standards of performance to section 111 for nitrogen oxides emissions from fossil-fuel fired steam generating units, including both electric utility and nonutility units. Not later than January 1, 1994, the Administrator shall promulgate such revised standards of performance. Such revised standards of performance shall reflect improvements in methods for the reduction of emissions of oxides of nitrogen.

"(d) ALTERNATIVE EMISSION LIMITATIONS.—The permitting authority shall, upon request of an owner or operator of a unit subject to this section, authorize an emission limitation less stringent than the applicable limitation established under subsection (b)(1) or (b)(2) upon a determination that—

"(1) a unit subject to subsection (b)(1) cannot meet the applicable limitation using low NO_x burner technology; or

"(2) a unit subject to subsection (b)(2) cannot meet the applicable rate using the technology on which the Administrator based the applicable emission limitation.

Regulations. The permitting authority shall base such determination upon a showing satisfactory to the permitting authority, in accordance with regulations established by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, that the owner or operator—

"(1) has properly installed appropriate control equipment designed to meet the applicable emission rate;

"(2) has properly operated such equipment for a period of fifteen months (or such other period of time as the Administrator determines through the regulations), and provides operating and monitoring data for such period demonstrating that the unit cannot meet the applicable emission rate; and

"(3) has specified an emission rate that such unit can meet on an annual average basis.

The permitting authority shall issue an operating permit for the unit in question, in accordance with section 408 and part B of title III—

"(i) that permits the unit during the demonstration period referred to in subparagraph (2) above, to emit at a rate in excess of the applicable emission rate;

"(ii) at the conclusion of the demonstration period to revise the operating permit to reflect the alternative emission rate demonstrated in paragraphs (2) and (3) above.

Units subject to subsection (b)(1) for which an alternative emission limitation is established shall not be required to install any additional control technology beyond low NO_x burners. Nothing in this section shall preclude an owner or operator from installing and operating an alternative NO_x control technology capable of achieving the applicable emission limitation. If the owner or operator of a unit subject to the emissions limitation requirements of subsection (b)(1) demonstrates to the satisfaction of the Administrator that the technology necessary to meet such requirements is not in adequate supply to enable its installation and operation at the unit, consistent with system reliability, by January 1, 1995, then the Administrator shall extend the deadline for compliance for the unit by a period of 15 months. Any owner or operator may petition the Administrator to make a determination under the previous sentence. The Administrator shall grant or deny such petition within 3 months of submittal.

"(e) EMISSIONS AVERAGING.—In lieu of complying with the applicable emission limitations under subsection (b) (1), (2), or (d), the owner or operator of two or more units subject to one or more of the applicable emission limitations set pursuant to these sections, may petition the permitting authority for alternative contemporaneous annual emission limitations for such units that ensure that (1) the actual annual emission rate in pounds of nitrogen oxides per million Btu averaged over the units in question is a rate that is less than or equal to (2) the Btu-weighted average annual emission rate for the same units if they had been operated, during the same period of time, in compliance with limitations set in accordance with the applicable emission rates set pursuant to subsections (b) (1) and (2).

"If the permitting authority determines, in accordance with regulations issued by the Administrator not later than eighteen months after enactment of the Clean Air Act Amendments of 1990; that the conditions in the paragraph above can be met, the permitting authority shall issue operating permits for such units, in accordance with section 408 and part B of title III, that allow alternative contemporaneous annual emission limitations. Such emission limitations shall only remain in effect while both units continue operation under the conditions specified in their respective operating permits.

42 USC 7651g.

"SEC. 408. PERMITS AND COMPLIANCE PLANS.

"(a) PERMIT PROGRAM.—The provisions of this title shall be implemented, subject to section 403, by permits issued to units subject to this title (and enforced) in accordance with the provisions of title V, as modified by this title. Any such permit issued by the Administrator, or by a State with an approved permit program, shall prohibit—

"(1) annual emissions of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide the owner or operator, or the designated representative of the owners or operators, of the unit hold for the unit,

"(2) exceedances of applicable emissions rates,

"(3) the use of any allowance prior to the year for which it was allocated, and

"(4) contravention of any other provision of the permit.

Permits issued to implement this title shall be issued for a period of 5 years, notwithstanding title V. No permit shall be issued that is inconsistent with the requirements of this title, and title V as applicable.

"(b) COMPLIANCE PLAN.—Each initial permit application shall be accompanied by a compliance plan for the source to comply with its requirements under this title. Where an affected source consists of more than one affected unit, such plan shall cover all such units, and for purposes of section 502(c), such source shall be considered a 'facility'. Nothing in this section regarding compliance plans or in title V shall be construed as affecting allowances. Except as provided under subsection (c)(1)(B), submission of a statement by the owner or operator, or the designated representative of the owners and operators, of a unit subject to the emissions limitation requirements of sections 404, 405, and 407, that the unit will meet the applicable emissions limitation requirements of such sections in a timely manner or that, in the case of the emissions limitation requirements of sections 404 and 405, the owners and operators will hold allowances to emit not less than the total annual emissions of the unit, shall be deemed to meet the proposed and approved compliance planning requirements of this section and title V, except that, for any unit that will meet the requirements of this title by means of an alternative method of compliance authorized under section 404 (b), (c), (d), or (f) section 407 (d) or (e), section 409 and section 410, the proposed and approved compliance plan, permit application and permit shall include, pursuant to regulations promulgated by the Administrator, for each alternative method of compliance a comprehensive description of the schedule and means by which the unit will rely on one or more alternative methods of compliance in the manner and time authorized under this title. Recordation by the Administrator of transfers of allowances shall amend automatically all applicable proposed or approved permit applications, compliance plans and permits. The Administrator may also require—

"(1) for a source, a demonstration of attainment of national ambient air quality standards, and

"(2) from the owner or operator of two or more affected sources, an integrated compliance plan providing an overall plan for achieving compliance at the affected sources.

"(c) FIRST PHASE PERMITS.—The Administrator shall issue permits to affected sources under sections 404 and 407.

"(1) PERMIT APPLICATION AND COMPLIANCE PLAN.—(A) Not later than 27 months after the date of the enactment of the Clean Air Act Amendments of 1990, the designated representative of the owners or operators, or the owner and operator, of each affected source under sections 404 and 407 shall submit a permit application and compliance plan for that source in accordance with regulations issued by the Administrator under paragraph (3). The permit application and the compliance plan shall be binding on the owner or operator or the designated representative of owners and operators for purposes of this title and section 402(a), and shall be enforceable in lieu of a permit until a permit is issued by the Administrator for the source.

"(B) In the case of a compliance plan for an affected source under sections 404 and 407 for which the owner or operator proposes to meet the requirements of that section by reducing utilization of the unit as compared with its baseline or by shutting down the unit, the owner or operator shall include in the proposed compliance plan a specification of the unit or units that will provide electrical generation to compensate for the reduced output at the affected source, or a demonstration that such reduced utilization will be accomplished through energy conservation or improved unit efficiency. The unit to be used for such compensating generation, which is not otherwise an affected unit under sections 404 and 407, shall be deemed an affected unit under section 404, subject to all of the requirements for such units under this title, except that allowances shall be allocated to such compensating unit in the amount of an annual limitation equal to the product of the unit's baseline multiplied by the lesser of the unit's actual 1985 emissions rate or its allowable 1985 emissions rate, divided by 2,000.

"(2) EPA ACTION ON COMPLIANCE PLANS.—The Administrator shall review each proposed compliance plan to determine whether it satisfies the requirements of this title, and shall approve or disapprove such plan within 6 months after receipt of a complete submission. If a plan is disapproved, it may be resubmitted for approval with such changes as the Administrator shall require consistent with the requirements of this title and within such period as the Administrator prescribes as part of such disapproval.

"(3) REGULATIONS; ISSUANCE OF PERMITS.—Not later than 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations, in accordance with title V, to implement a Federal permit program to issue permits for affected sources under this title. Following promulgation, the Administrator shall issue a permit to implement the requirements of section 404 and the allowances provided under section 403 to the owner or operator of each affected source under section 404. Such a permit shall supersede any permit application and compliance plan submitted under paragraph (1).

"(4) FEES.—During the years 1995 through 1999 inclusive, no fee shall be required to be paid under section 502(b)(3) or under section 110(a)(2)(L) with respect to emissions from any unit which is an affected unit under section 404.

"(d) SECOND PHASE PERMITS.—(1) To provide for permits for (A) new electric utility steam generating units required under section 403(e) to have allowances, (B) affected units or sources under section

405, and (C) existing units subject to nitrogen oxide emission reductions under section 407, each State in which one or more such units or sources are located shall submit in accordance with title V, a permit program for approval as provided by that title. Upon approval of such program, for the units or sources subject to such approved program the Administrator shall suspend the issuance of permits as provided in title V.

"(2) The owner or operator or the designated representative of each affected source under section 405 shall submit a permit application and compliance plan for that source to the permitting authority, not later than January 1, 1996.

"(3) Not later than December 31, 1997, each State with an approved permit program shall issue permits to the owner or operator, or the designated representative of the owners and operators, of affected sources under section 405 that satisfy the requirements of title V and this title and that submitted to such State a permit application and compliance plan pursuant to paragraph (2). In the case of a State without an approved permit program by July 1, 1996, the Administrator shall, not later than January 1, 1998, issue a permit to the owner or operator or the designated representative of each such affected source. In the case of affected sources for which applications and plans are timely received under paragraph (2), the permit application and the compliance plan, including amendments thereto, shall be binding on the owner or operator or the designated representative of the owners or operators and shall be enforceable as a permit for purposes of this title and title V until a permit is issued by the permitting authority for the affected source. The provisions of section 558(c) of title V of the United States Code (relating to renewals) shall apply to permits issued by a permitting authority under this title and title V.

"(4) The permit issued in accordance with this subsection for an affected source shall provide that the affected units at the affected source may not emit an annual tonnage of sulfur dioxide in excess of the number of allowances to emit sulfur dioxide the owner or operator or designated representative hold for the unit.

"(e) NEW UNITS.—The owner or operator of each source that includes a new electric utility steam generating unit shall submit a permit application and compliance plan to the permitting authority not later than 24 months before the later of (1) January 1, 2000, or (2) the date on which the unit commences operation. The permitting authority shall issue a permit to the owner or operator, or the designated representative thereof, of the unit that satisfies the requirements of title V and this title.

"(f) UNITS SUBJECT TO CERTAIN OTHER LIMITS.—The owner or operator, or designated representative thereof, of any unit subject to an emission rate requirement under section 407 shall submit a permit application and compliance plan for such unit to the permitting authority, not later than January 1, 1998. The permitting authority shall issue a permit to the owner or operator that satisfies the requirements of title V and this title, including any appropriate monitoring and reporting requirements.

"(g) AMENDMENT OF APPLICATION AND COMPLIANCE PLAN.—At any time after the submission of an application and compliance plan under this section, the applicant may submit a revised application and compliance plan, in accordance with the requirements of this section. In considering any permit application and compliance plan under this title, the permitting authority shall ensure coordination

with the applicable electric ratemaking authority, in the case of regulated utilities, and with unregulated public utilities.

"(h) PROHIBITION.—(1) It shall be unlawful for an owner or operator, or designated representative, required to submit a permit application or compliance plan under this title to fail to submit such application or plan in accordance with the deadlines specified in this section or to otherwise fail to comply with regulations implementing this section.

"(2) It shall be unlawful for any person to operate any source subject to this title except in compliance with the terms and requirements of a permit application and compliance plan (including amendments thereto) or permit issued by the Administrator or a State with an approved permit program. For purposes of this subsection, compliance, as provided in section 504(f), with a permit issued under title V which complies with this title for sources subject to this title shall be deemed compliance with this subsection as well as section 502(a).

"(3) In order to ensure reliability of electric power, nothing in this title or title V shall be construed as requiring termination of operations of an electric utility steam generating unit for failure to have an approved permit or compliance plan, except that any such unit may be subject to the applicable enforcement provisions of section 113.

"(i) MULTIPLE OWNERS.—No permit shall be issued under this section to an affected unit until the designated representative of the owners or operators has filed a certificate of representation with regard to matters under this title, including the holding and distribution of allowances and the proceeds of transactions involving allowances. Where there are multiple holders of a legal or equitable title to, or a leasehold interest in, such a unit, or where a utility or industrial customer purchases power from an affected unit (or units) under life-of-the-unit, firm power contractual arrangements, the certificate shall state (1) that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in proportion to each holder's legal, equitable, leasehold, or contractual reservation or entitlement, or (2) if such multiple holders have expressly provided for a different distribution of allowances by contract, that allowances and the proceeds of transactions involving allowances will be deemed to be held or distributed in accordance with the contract. A passive lessor, or a person who has an equitable interest through such lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the affected unit shall not be deemed to be a holder of a legal, equitable, leasehold, or contractual interest for the purpose of holding or distributing allowances as provided in this subsection, during either the term of such leasehold or thereafter, unless expressly provided for in the leasehold agreement. Except as otherwise provided in this subsection, where all legal or equitable title to or interest in an affected unit is held by a single person, the certification shall state that all allowances received by the unit are deemed to be held for that person.

"SEC. 409. REPOWERED SOURCES. 42 USC 7651h.

"(a) AVAILABILITY.—Not later than December 31, 1997, the owner or operator of an existing unit subject to the emissions limitation requirements of section 405 (b) and (c) may demonstrate to the permitting authority that one or more units will be repowered with

a qualifying clean coal technology to comply with the requirements under section 405. The owner or operator shall, as part of any such demonstration, provide, not later than January 1, 2000, satisfactory documentation of a preliminary design and engineering effort for such repowering and an executed and binding contract for the majority of the equipment to repower such unit and such other information as the Administrator may require by regulation. The replacement of an existing utility unit with a new utility unit using a repowering technology referred to in section 402(2) which is located at a different site, shall be treated as repowering of the existing unit for purposes of this title, if—

"(1) the replacement unit is designated by the owner or operator to replace such existing unit, and

"(2) the existing unit is retired from service on or before the date on which the designated replacement unit enters commercial operation.

"(b) EXTENSION.—(1) An owner or operator satisfying the requirements of subsection (a) shall be granted an extension of the emission limitation requirement compliance date for that unit from January 1, 2000, to December 31, 2003. The extension shall be specified in the permit issued to the source under section 408, together with any compliance schedule and other requirements necessary to meet second phase requirements by the extended date. Any unit that is granted an extension under this section shall not be eligible for a waiver under section 111(j) of this Act, and shall continue to be subject to requirements under this title as if it were a unit subject to section 405.

"(2) If (A) the owner or operator of an existing unit has been granted an extension under paragraph (1) in order to repower such unit with a clean coal unit, and (B) such owner or operator demonstrates to the satisfaction of the Administrator that the repowering technology to be utilized by such unit has been properly constructed and tested on such unit, but nevertheless has been unable to achieve the emission reduction limitations and is economically or technologically infeasible, such existing unit may be retrofitted or repowered with equipment or facilities utilizing another clean coal technology or other available control technology.

"(c) ALLOWANCES.—(1) For the period of the extension under this section, the Administrator shall allocate to the owner or operator of the affected unit, annual allowances for sulfur dioxide equal to the affected unit's baseline multiplied by the lesser of the unit's federally approved State Implementation Plan emissions limitation or its actual emission rate for 1995 in lieu of any other allocation. Such allowances may not be transferred or used by any other source to meet emission requirements under this title. The source owner or operator shall notify the Administrator sixty days in advance of the date on which the affected unit for which the extension has been granted is to be removed from operation to install the repowering technology.

"(2) Effective on that date, the unit shall be subject to the requirements of section 405. Allowances for the year in which the unit is removed from operation to install the repowering technology shall be calculated as the product of the unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000, and prorated accordingly, and are transferable.

"(3) Allowances for such existing utility units for calendar years after the year the repowering is complete shall be calculated as

the product of the existing unit's baseline multiplied by 1.20 lbs/mmBtu, divided by 2,000.

"(4) Notwithstanding the provisions of section 403 (a) and (e), allowances shall be allocated under this section for a designated replacement unit which replaces an existing unit (as provided in the last sentence of subsection (a)) in lieu of any further allocations of allowances for the existing unit.

"(5) For the purpose of meeting the aggregate emissions limitation requirement set forth in section 403(a)(1), the units with an extension under this subsection shall be treated in each calendar year during the extension period as holding allowances allocated under paragraph (3).

"(d) CONTROL REQUIREMENTS.—Any unit qualifying for an extension under this section that does not increase actual hourly emissions for any pollutant regulated under the Act shall not be subject to any standard of performance under section 111 of this Act. Notwithstanding the provisions of this subsection, no new unit (1) designated as a replacement for an existing unit, (2) qualifying for the extension under subsection (b), and (3) located at a different site than the existing unit shall receive an exemption from the requirements imposed under section 111.

"(e) EXPEDITED PERMITTING.—State permitting authorities and, where applicable, the Administrator, are encouraged to give expedited consideration to permit applications under parts C and D of title I of this Act for any source qualifying for an extension under this section.

"(f) PROHIBITION.—It shall be unlawful for the owner or operator of a repowered source to fail to comply with the requirement of this section, or any regulations of permit requirements to implement this section, including the prohibition against emitting sulfur dioxide in excess of allowances held.

"SEC. 410. ELECTION FOR ADDITIONAL SOURCES. 42 USC 7651i.

(a) APPLICABILITY.—The owner or operator of any unit that is not, nor will become, an affected unit under section 403(e), 404, or 405, or that is a process source under subsection (d), that emits sulfur dioxide, may elect to designate that unit or source to become an affected unit and to receive allowances under this title. An election shall be submitted to the Administrator for approval, along with a permit application and proposed compliance plan in accordance with section 408. The Administrator shall approve a designation that meets the requirements of this section, and such designated unit, or source, shall be allocated allowances, and be an affected unit for purposes of this title.

"(b) ESTABLISHMENT OF BASELINE.—The baseline for a unit designated under this section shall be established by the Administrator by regulation, based on fuel consumption and operating data for the unit for calendar years 1985, 1986, and 1987, or if such data is not available, the Administrator may prescribe a baseline based on alternative representative data. Regulations.

"(c) EMISSION LIMITATIONS.—Annual emissions limitations for sulfur dioxide shall be equal to the product of the baseline multiplied by the lesser of the unit's 1985 actual or allowable emission rate in lbs/mmBtu, or, if the unit did not operate in 1985, by the lesser of the unit's actual or allowable emission rate for a calendar year after 1985 (as determined by the Administrator), divided by 2,000.

"(d) PROCESS SOURCES.—Not later than 18 months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall establish a program under which the owner or operator of a process source that emits sulfur dioxide may elect to designate that source as an affected unit for the purpose of receiving allowances under this title. The Administrator shall, by regulation, define the sources that may be designated; specify the emissions limitation; specify the operating, emission baseline, and other data requirements; prescribe CEMS or other monitoring requirements; and promulgate permit, reporting, and any other requirements necessary to implement such a program.

Regulations.

"(e) ALLOWANCES AND PERMITS.—The Administrator shall issue allowances to an affected unit under this section in an amount equal to the emissions limitation calculated under subsection (c) or (d), in accordance with section 403. Such allowance may be used in accordance with, and shall be subject to, the provisions of section 403. Affected sources under this section shall be subject to the requirements of sections 403, 408, 411, 412, 413, and 414.

"(f) LIMITATION.—Any unit designated under this section shall not transfer or bank allowances produced as a result of reduced utilization or shutdown, except that, such allowances may be transferred or carried forward for use in subsequent years to the extent that the reduced utilization or shutdown results from the replacement of thermal energy from the unit designated under this section, with thermal energy generated by any other unit or units subject to the requirements of this title, and the designated unit's allowances are transferred or carried forward for use at such other replacement unit or units. In no case may the Administrator allocate to a source designated under this section allowances in an amount greater than the emissions resulting from operation of the source in full compliance with the requirements of this Act. No such allowances shall authorize operation of a unit in violation of any other requirements of this Act.

Regulations.

"(g) IMPLEMENTATION.—The Administrator shall issue regulations to implement this section not later than eighteen months after enactment of the Clean Air Act Amendments of 1990.

"(h) SMALL DIESEL REFINERIES.—The Administrator shall issue allowances to owners or operators of small diesel refineries who produce diesel fuel after October 1, 1993, meeting the requirements of subsection 211(i) of this Act.

"(1) ALLOWANCE PERIOD.—Allowances may be allocated under this subsection only for the period from October 1, 1993, through December 31, 1999.

"(2) ALLOWANCE DETERMINATION.—The number of allowances allocated pursuant to this paragraph shall equal the annual number of pounds of sulfur dioxide reduction attributable to desulfurization by a small refinery divided by 2,000. For the purposes of this calculation, the concentration of sulfur removed from diesel fuel shall be the difference between 0.274 percent (by weight) and 0.050 percent (by weight).

"(3) REFINERY ELIGIBILITY.—As used in this subsection, the term 'small refinery' shall mean a refinery or portion of a refinery—

"(A) which, as of the date of enactment of the Clean Air Act Amendments of 1990, has bona fide crude oil throughput of less than 18,250,000 barrels per year, as reported to the Department of Energy, and

"(B) which, as of the date of enactment of the Clean Air Act Amendments of 1990, is owned or controlled by a refiner with a total combined bona fide crude oil throughput of less than 50,187,500 barrels per year, as reported to the Department of Energy.

"(4) LIMITATION PER REFINERY.—The maximum number of allowances that can be annually allocated to a small refinery pursuant to this subsection is one thousand and five hundred.

"(5) LIMITATION ON TOTAL.—In any given year, the total number of allowances allocated pursuant to this subsection shall not exceed thirty-five thousand.

"(6) REQUIRED CERTIFICATION.—The Administrator shall not allocate any allowances pursuant to this subsection unless the owner or operator of a small diesel refinery shall have certified, at a time and in a manner prescribed by the Administrator, that all motor diesel fuel produced by the refinery for which allowances are claimed, including motor diesel fuel for off-highway use, shall have met the requirements of subsection 211(i) of this Act.

"SEC. 411. EXCESS EMISSIONS PENALTY. 42 USC 7651j.

"(a) EXCESS EMISSIONS PENALTY.—The owner or operator of any unit or process source subject to the requirements of sections 403, 404, 405, 406, 407 or 409, or designated under section 410, that emits sulfur dioxide or nitrogen oxides for any calendar year in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the owner or operator holds for use for the unit for that calendar year shall be liable for the payment of an excess emissions penalty, except where such emissions were authorized pursuant to section 110(f). That penalty shall be calculated on the basis of the number of tons emitted in excess of the unit's emissions limitation requirement or, in the case of sulfur dioxide, of the allowances the operator holds for use for the unit for that year, multiplied by $2,000. Any such penalty shall be due and payable without demand to the Administrator as provided in regulations to be issued by the Administrator by no later than eighteen months after the date of enactment of the Clean Air Act Amendments of 1990. Any such payment shall be deposited in the United States Treasury pursuant to the Miscellaneous Receipts Act. Any penalty due and payable under this section shall not diminish the liability of the unit's owner or operator for any fine, penalty or assessment against the unit for the same violation under any other section of this Act. Regulations.

"(b) EXCESS EMISSIONS OFFSET.—The owner or operator of any affected source that emits sulfur dioxide during any calendar year in excess of the unit's emissions limitation requirement or of the allowances held for the unit for the calendar year, shall be liable to offset the excess emissions by an equal tonnage amount in the following calendar year, or such longer period as the Administrator may prescribe. The owner or operator of the source shall, within sixty days after the end of the year in which the excess emissions occured, submit to the Administrator, and to the State in which the source is located, a proposed plan to achieve the required offsets. Upon approval of the proposed plan by the Administrator, as submitted, modified or conditioned, the plan shall be deemed at a condition of the operating permit for the unit without further review or revision of the permit. The Administrator shall also

deduct allowances equal to the excess tonnage from those allocated for the source for the calendar year, or succeeding years during which offsets are required, following the year in which the excess emissions occurred.

Regulations.

"(c) PENALTY ADJUSTMENT.—The Administrator shall, by regulation, adjust the penalty specified in subsection (a) for inflation, based on the Consumer Price Index, on the date of enactment and annually thereafter.

"(d) PROHIBITION.—It shall be unlawful for the owner or operator of any source liable for a penalty and offset under this section to fail (1) to pay the penalty under subsection (a), (2) to provide, and thereafter comply with, a compliance plan as required by subsection (b), or (3) to offset excess emissions as required by subsection (b).

"(e) SAVINGS PROVISION.—Nothing in this title shall limit or otherwise affect the application of section 113, 114, 120, or 304 except as otherwise explicitly provided in this title.

42 USC 7651k.

"SEC. 412. MONITORING, REPORTING, AND RECORDKEEPING REQUIREMENTS.

"(a) APPLICABILITY.—The owner and operator of any source subject to this title shall be required to install and operate CEMS on each affected unit at the source, and to quality assure the data for sulfur dioxide, nitrogen oxides, opacity and volumetric flow at each such unit. The Administrator shall, by regulations issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, specify the requirements for CEMS, for any alternative monitoring system that is demonstrated as providing information with the same precision, reliability, accessibility, and timeliness as that provided by CEMS, and for recordkeeping and reporting of information from such systems. Such regulations may include limitations or the use of alternative compliance methods by units equipped with an alternative monitoring system as may be necessary to preserve the orderly functioning of the allowance system, and which will ensure the emissions reductions contemplated by this title. Where 2 or more units utilize a single stack, a separate CEMS shall not be required for each unit, and for such units the regulations shall require that the owner or operator collect sufficient information to permit reliable compliance determinations for each such unit.

Regulations.

"(b) FIRST PHASE REQUIREMENTS.—Not later than thirty-six months after enactment of the Clean Air Act Amendments of 1990, the owner or operator of each affected unit under section 404, including, but not limited to, units that become affected units pursuant to subsections (b) and (c) and eligible units under subsection (d), shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a).

"(c) SECOND PHASE REQUIREMENTS.—Not later than January 1, 1995, the owner or operator of each affected unit that has not previously met the requirements of subsections (a) and (b) shall install and operate CEMS, quality assure the data, and keep records and reports in accordance with the regulations issued under subsection (a). Upon commencement of commercial operation of each new utility unit, the unit shall comply with the requirements of subsection (a).

Regulations.

"(d) UNAVAILABILITY OF EMISSIONS DATA.—If CEMS data or data from an alternative monitoring system approved by the Adminis-

trator under subsection (a) is not available for any affected unit during any period of a calendar year in which such data is required under this title, and the owner or operator cannot provide information, satisfactory to the Administrator, on emissions during that period, the Administrator shall deem the unit to be operating in an uncontrolled manner during the entire period for which the data was not available and shall, by regulation which shall be issued not later than eighteen months after enactment of the Clean Air Act Amendments of 1990, prescribe means to calculate emissions for that period. The owner or operator shall be liable for excess emissions fees and offsets under section 411 in accordance with such regulations. Any fee due and payable under this subsection shall not diminish the liability of the unit's owner or operator for any fine, penalty, fee or assessment against the unit for the same violation under any other section of this Act.

"(e) PROHIBITION.—It shall be unlawful for the owner or operator of any source subject to this title to operate a source without complying with the requirements of this section, and any regulations implementing this section.

"SEC. 413. GENERAL COMPLIANCE WITH OTHER PROVISIONS. 42 USC 7651*l*.

"Except as expressly provided, compliance with the requirements of this title shall not exempt or exclude the owner or operator of any source subject to this title from compliance with any other applicable requirements of this Act.

"SEC. 414. ENFORCEMENT. 42 USC 7651m.

"It shall be unlawful for any person subject to this title to violate any prohibition of, requirement of, or regulation promulgated pursuant to this title shall be a violation of this Act. In addition to the other requirements and prohibitions provided for in this title, the operation of any affected unit to emit sulfur dioxide in excess of allowances held for such unit shall be deemed a violation, with each ton emitted in excess of allowances held constituting a separate violation.

"SEC. 415. CLEAN COAL TECHNOLOGY REGULATORY INCENTIVES. 42 USC 7651n.

"(a) DEFINITION.—For purposes of this section, 'clean coal technology' means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, process steam, or industrial products, which is not in widespread use as of the date of enactment of this title.

"(b) REVISED REGULATIONS FOR CLEAN COAL TECHNOLOGY DEMONSTRATIONS.—

"(1) APPLICABILITY.—This subsection applies to physical or operational changes to existing facilities for the sole purpose of installation, operation, cessation, or removal of a temporary or permanent clean coal technology demonstration project. For the purposes of this section, a clean coal technology demonstration project shall mean a project using funds appropriated under the heading 'Department of Energy—Clean Coal Technology', up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The

Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"(2) TEMPORARY PROJECTS.—Installation, operation, cessation, or removal of a temporary clean coal technology demonstration project that is operated for a period of five years or less, and which complies with the State implementation plans for the State in which the project is located and other requirements necessary to attain and maintain the national ambient air quality standards during and after the project is terminated, shall not subject such facility to the requirements of section 111 or part C or D of title I.

"(3) PERMANENT PROJECTS.—For permanent clean coal technology demonstration projects that constitute repowering as defined in section 402(l) of this title, any qualifying project shall not be subject to standards of performance under section 111 or to the review and permitting requirements of part C for any pollutant the potential emissions of which will not increase as a result of the demonstration project.

"(4) EPA REGULATIONS.—Not later than 12 months after the date of enactment, the Administrator shall promulgate regulations or interpretive rulings to revise requirements under section 111 and parts C and D, as appropriate, to facilitate projects consistent in this subsection. With respect to parts C and D, such regulations or rulings shall apply to all areas in which EPA is the permitting authority. In those instances in which the State is the permitting authority under part C or D, any State may adopt and submit to the Administrator for approval revisions to its implementation plan to apply the regulations or rulings promulgated under this subsection.

"(c) EXEMPTION FOR REACTIVATION OF VERY CLEAN UNITS.—Physical changes or changes in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation shall not subject the unit to the requirements of section 111 or part C of the Act where the unit (1) has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the permitting authority's emissions inventory at the time of enactment, (2) was equipped prior to shut-down with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent, (3) is equipped with low-NO_x burners prior to the time of commencement, and (4) is otherwise in compliance with the requirements of this Act.

42 USC 7651o.

"SEC. 416. CONTINGENCY GUARANTEE; AUCTIONS, RESERVE.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'independent power producer' means any person who owns or operates, in whole or in part, one or more new independent power production facilities.

"(2) The term 'new independent power production facility' means a facility that—

"(A) is used for the generation of electric energy, 80 percent or more of which is sold at wholesale;

"(B) is nonrecourse project-financed (as such term is defined by the Secretary of Energy within 3 months of the

date of the enactment of the Clean Air Act Amendments of 1990);

"(C) does not generate electric energy sold to any affiliate (as defined in section 2(a)(11) of the Public Utility Holding Company Act of 1935) of the facility's owner or operator unless the owner or operator of the facility demonstrates that it cannot obtain allowances from the affiliate; and

"(D) is a new unit required to hold allowances under this title.

"(3) The term 'required allowances' means the allowances required to operate such unit for so much of the unit's useful life as occurs after January 1, 2000.

"(b) SPECIAL RESERVE OF ALLOWANCES.—Within 36 months after the date of the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations establishing a Special Allowance Reserve containing allowances to be sold under this section. For purposes of establishing the Special Allowance Reserve, the Administrator shall withhold— Regulations.

"(1) 2.8 percent of the allocation of allowances for each year from 1995 through 1999 inclusive; and

"(2) 2.8 percent of the basic Phase II allowance allocation of allowances for each year beginning in the year 2000

which would (but for this subsection) be issued for each affected unit at an affected source. The Administrator shall record such withholding for purposes of transferring the proceeds of the allowance sales under this subsection. The allowances so withheld shall be deposited in the Reserve under this section. Records.

"(c) DIRECT SALE AT $1,500 PER TON.—

"(1) SUBACCOUNT FOR DIRECT SALES.—In accordance with regulations under this section, the Administrator shall establish a Direct Sale Subaccount in the Special Allowance Reserve established under this section. The Direct Sale Subaccount shall contain allowances in the amount of 50,000 tons per year for each year beginning in the year 2000.

"(2) SALES.—Allowances in the subaccount shall be offered for direct sale to any person at the times and in the amounts specified in table 1 at a price of $1,500 per allowance, adjusted by the Consumer Price Index in the same manner as provided in paragraph (3). Requests to purchase allowances from the Direct Sale Subaccount established under paragraph (1) shall be approved in the order of receipt until no allowances remain in such subaccount, except that an opportunity to purchase such allowances shall be provided to the independent power producers referred to in this subsection before such allowances are offered to any other person. Each applicant shall be required to pay 50 percent of the total purchase price of the allowances within 6 months after the approval of the request to purchase. The remainder shall be paid on or before the transfer of the allowances.

"TABLE 1—NUMBER OF ALLOWANCES AVAILABLE FOR SALE AT $1,500 PER TON

Year of Sale	Spot Sale (same year)	Advance Sale
1993–1999		25,000
2000 and after	25,000	25,000

Allowances sold in the spot sale in any year are allowances which may only be used in that year (unless banked for use in a later year). Allowances sold in the advance sale in any year are allowances which may only be used in the 7th year after the year in which they are first offered for sale (unless banked for use in a later year).

"(3) ENTITLEMENT TO WRITTEN GUARANTEE.—Any independent power producer that submits an application to the Administrator establishing that such independent power producer—

"(A) proposes to construct a new independent power production facility for which allowances are required under this title;

"(B) will apply for financing to construct such facility after January 1, 1990, and before the date of the first auction under this section;

"(C) has submitted to each owner or operator of an affected unit listed in table A (in section 404) a written offer to purchase the required allowances for $750 per ton; and

"(D) has not received (within 180 days after submitting offers to purchase under subparagraph (C)) an acceptance of the offer to purchase the required allowances,

shall, within 30 days after submission of such application, be entitled to receive the Administrator's written guarantee (subject to the eligibility requirements set forth in paragraph (4)) that such required allowances will be made available for purchase from the Direct Sale Subaccount established under this subsection and at a guaranteed price. The guaranteed price at which such allowances shall be made available for purchase shall be $1,500 per ton, adjusted by the percentage, if any, by which the Consumer Price Index (as determined under section 502(b)(3)(B)(v)) for the year in which the allowance is purchased exceeds the Consumer Price Index for the calendar year 1990.

"(4) ELIGIBILITY REQUIREMENTS.—The guarantee issued by the Administrator under paragraph (3) shall be subject to a demonstration by the independent power producer, satisfactory to the Administrator, that—

"(A) the independent power producer has—

"(i) made good faith efforts to purchase the required allowances from the owners or operators of affected units to which allowances will be allocated, including efforts to purchase at annual auctions under this section, and from industrial sources that have elected to become affected units pursuant to section 410; and

"(ii) such bids and efforts were unsuccessful in obtaining the required allowances; and

"(B) the independent power producer will continue to make good faith efforts to purchase the required allowances from the owners or operators of affected units and from industrial sources.

"(5) ISSUANCE OF GUARANTEED ALLOWANCES FROM DIRECT SALE SUBACCOUNT UNDER THIS SECTION.—From the allowances avail-

able in the Direct Sale Subaccount established under this subsection, upon payment of the guaranteed price, the Administrator shall issue to any person exercising the right to purchase allowances pursuant to a guarantee under this subsection the allowances covered by such guarantee. Persons to which guarantees under this subsection have been issued shall have the opportunity to purchase allowances pursuant to such guarantee from such subaccount before the allowances in such reserve are offered for sale to any other person.

"(6) PROCEEDS.—Notwithstanding section 3302 of title 31 of the United States Code or any other provision of law, the Administrator shall require that the proceeds of any sale under this subsection be transferred, within 90 days after the sale, without charge, on a pro rata basis to the owners or operators of the affected units from whom the allowances were withheld under subsection (b) and that any unsold allowances be transferred to the Subaccount for Auction Sales established under subsection (d). No proceeds of any sale under this subsection shall be held by any officer or employee of the United States or treated for any purpose as revenue to the United States or to the Administrator.

"(7) TERMINATION OF SUBACCOUNT.—If the Administrator determines that, during any period of 2 consecutive calendar years, less than 20 percent of the allowances available in the subaccount for direct sales established under this subsection have been purchased under this paragraph, the Administrator shall terminate the subaccount and transfer such allowances to the Auction Subaccount under subsection (d).

"(d) AUCTION SALES.—

"(1) SUBACCOUNT FOR AUCTIONS.—The Administrator shall establish an Auction Subaccount in the Special Reserve established under this section. The Auction Subaccount shall contain allowances to be sold at auction under this section in the amount of 150,000 tons per year for each year from 1995 through 1999, inclusive and 250,000 tons per year for each year beginning in the calendar year 2000.

"(2) ANNUAL AUCTIONS.—Commencing in 1993 and in each year thereafter, the Administrator shall conduct auctions at which the allowances referred to in paragraph (1) shall be offered for sale in accordance with regulations promulgated by the Administrator, in consultation with the Secretary of the Treasury, within 12 months of enactment of the Clean Air Act Amendments of 1990. The allowances referred to in paragraph (1) shall be offered for sale at auction in the amounts specified in table 2. The auction shall be open to any person. A person wishing to bid for such allowances shall submit (by a date set by the Administrator) to the Administrator (on a sealed bid schedule provided by the Administrator) offers to purchase specified numbers of allowances at specified prices. Such regulations shall specify that the auctioned allowances shall be allocated and sold on the basis of bid price, starting with the highest-priced bid and continuing until all allowances for sale at such auction have been allocated. The regulations shall not permit that a minimum price be set for the purchase of withheld allowances. Allowances purchased at the auction may be used

Regulations.

"(e) CHANGES IN SALES, AUCTIONS, AND WITHHOLDING.—Pursuant to rulemaking after public notice and comment the Administrator may at any time after the year 1998 (in the case of advance sales or advance auctions) and 2005 (in the case of spot sales or spot auctions) decrease the number of allowances withheld and sold under this section.

"(f) TERMINATION OF AUCTIONS.—The Administrator may terminate the withholding of allowances and the auction sales under this section if the Administrator determines that, during any period of 3 consecutive calendar years after 2002, less than 20 percent of the allowances available in the auction subaccount have been purchased. Pursuant to regulations under this section, the Administrator may by delegation or contract provide for the conduct of sales or auctions under the Administrator's supervision by other departments or agencies of the United States Government or by nongovernmental agencies, groups, or organizations.".

SEC. 402. FOSSIL FUEL USE.

42 USC 7651b note.

(a) CONTRACTS FOR HYDROELECTRIC ENERGY.—Any person who, after the date of the enactment of the Clean Air Act Amendments of 1990, enters into a contract under which such person receives hydroelectric energy in return for the provision of electric energy by such person shall use allowances held by such person as necessary to satisfy such person's obligations under such contract.

(b) FEDERAL POWER MARKETING ADMINISTRATION.—A Federal Power Marketing Administration shall not be subject to the provisions and requirements of this title with respect to electric energy generated by hydroelectric facilities and marketed by such Power Marketing Administration. Any person who sells or provides electric energy to a Federal Power Marketing Administration shall comply with the provisions and requirements of this title.

SEC. 403. REPEAL OF PERCENT REDUCTION.

(a) REPEAL.—Section 111(a)(1) of the Clean Air Act is amended to read as follows: 42 USC 7411.

"(1) The term 'standard of performance' means a standard for emissions of air pollutants which reflects the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.".

(b) REVISED REGULATIONS.—Not later than three years after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate revised regulations for standards of performance for new fossil fuel fired electric utility units commencing construction after the date on which such regulations are proposed that, at a minimum, require any source subject to such revised standards to emit sulfur dioxide at a rate not greater than would have resulted from compliance by such source with the applicable standards of performance under this section prior to such revision. 42 USC 7411 note.

(c) APPLICABILITY.—The provisions of subsections (a) and (b) apply only so long as the provisions of section 403(e) of the Clean Air Act remain in effect. 42 USC 7411 note.

(d) BACT DETERMINATIONS.—Section 169(3) of the Clean Air Act is amended by inserting: ", clean fuels," after "including fuel cleaning," and by adding the following at the end thereof: "Emissions 42 USC 7479.

from any source utilizing clean fuels, or any other means, to comply with this paragraph shall not be allowed to increase above levels that would have been required under this paragraph as it existed prior to enactment of the Clean Air Act Amendments of 1990.".

42 USC 7651 note. Reports.

SEC. 404. ACID DEPOSITION STANDARDS.

Not later than 36 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the feasibility and effectiveness of an acid deposition standard or standards to protect sensitive and critically sensitive aquatic and terrestrial resources. The study required by this section shall include, but not be limited to, consideration of the following matters:

(1) identification of the sensitive and critically sensitive aquatic and terrestrial resources in the United States and Canada which may be affected by the deposition of acidic compounds;

(2) description of the nature and numerical value of a deposition standard or standards that would be sufficient to protect such resources;

(3) description of the use of such standard or standards in other Nations or by any of the several States in acid deposition control programs;

(4) description of the measures that would need to be taken to integrate such standard or standards with the control program required by title IV of the Clean Air Act;

(5) description of the state of knowledge with respect to source-receptor relationships necessary to develop a control program on such standard or standards and the additional research that is on-going or would be needed to make such a control program feasible; and

(6) description of the impediments to implementation of such control program and the cost-effectiveness of deposition standards compared to other control strategies including ambient air quality standards, new source performance standards and the requirements of title IV of the Clean Air Act.

42 USC 7403 note.

SEC. 405. NATIONAL ACID LAKES REGISTRY.

The Administrator of the Environmental Protection Agency shall create a National Acid Lakes Registry that shall list, to the extent practical, all lakes that are known to be acidified due to acid deposition, and shall publish such list within one year of the enactment of this Act. Lakes shall be added to the registry as they become acidic or as data becomes available to show they are acidic. Lakes shall be deleted from the registry as they become nonacidic.

42 USC 7651 note.

SEC. 406. INDUSTRIAL SO_2 EMISSIONS

(a) REPORT.—Not later than January 1, 1995 and every 5 years thereafter, the Administrator of the Environmental Protection Agency shall transmit to the Congress a report containing an inventory of national annual sulfur dioxide emissions from industrial sources (as defined in title IV of the Act), including units subject to section 405(g)(6) of the Clean Air Act, for all years for which data are available, as well as the likely trend in such emissions over the following twenty-year period. The reports shall also

contain estimates of the actual emission reduction in each year resulting from promulgation of the diesel fuel desulfurization regulations under section 214.

(b) 5.60 MILLION TON CAP.—Whenever the inventory required by this section indicates that sulfur dioxide emissions from industrial sources, including units subject to section 405(g)(5) of the Clean Air Act, may reasonably be expected to reach levels greater than 5.60 million tons per year, the Administrator of the Environmental Protection Agency shall take such actions under the Clean Air Act as may be appropriate to ensure that such emissions do not exceed 5.60 million tons per year. Such actions may include the promulgation of new and revised standards of performance for new sources, including units subject to section 405(g)(5) of the Clean Air Act, under section 111(b) of the Clean Air Act, as well as promulgation of standards of performance for existing sources, including units subject to section 405(g)(5) of the Clean Air Act, under authority of this section. For an existing source regulated under this section, "standard of performance" means a standard which the Administrator determines is applicable to that source and which reflects the degree of emission reduction achievable through the application of the best system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated for that category of sources.

(c) ELECTION.—Regulations promulgated under section 405(b) of the Clean Air Act shall not prohibit a source from electing to become an affected unit under section 410 of the Clean Air Act.

SEC. 407. SENSE OF THE CONGRESS ON EMISSION REDUCTIONS COSTS. 42 USC 7651 note.

It is the sense of the Congress that the Clean Air Act Amendments of 1990, through the allowance program, allocates the costs of achieving the required reductions in emissions of sulfur dioxide and oxides of nitrogen among sources in the United States. Broad based taxes and emissions fees that would provide for payment of the costs of achieving required emissions reductions by any party or parties other than the sources required to achieve the reductions are undesirable.

SEC. 408. MONITOR ACID RAIN PROGRAM IN CANADA. 42 USC 7651 note.

(a) REPORTS TO CONGRESS.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary of State, the Secretary of Energy, and other persons the Administrator deems appropriate, shall prepare and submit a report to Congress on January 1, 1994, January 1, 1999, and January 1, 2005.

(b) CONTENTS.—The report to Congress shall analyze the current emission levels of sulfur dioxide and nitrogen oxides in each of the provinces participating in Canada's acid rain control program, the amount of emission reductions of sulfur dioxide and oxides of nitrogen achieved by each province, the methods utilized by each province in making those reductions, the costs to each province and the employment impacts in each province of making and maintaining those reductions.

(c) COMPLIANCE.—Beginning on January 1, 1999, the reports shall also assess the degree to which each province is complying with its stated emissions cap.

SEC. 409. REPORT ON CLEAN COAL TECHNOLOGIES EXPORT PROGRAMS.

The Secretary of Energy in consultation with the Secretary of Commerce shall provide a report to the Congress within one year of enactment of this legislation which will identify, inventory and analyze clean coal technologies export programs within United States Government agencies including the Departments of State, Commerce, and Energy and at the Export-Import Bank and the Overseas Private Investment Corporation. The study shall address the effectiveness of interagency coordination of export promotion and determine the feasibility of establishing an interagency commission for the purpose of promoting the export and use of clean coal technologies.

SEC. 410. ACID DEPOSITION RESEARCH BY THE UNITED STATES FISH AND WILDLIFE SERVICE.

Appropriation authorization.

There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $500,000 to fund research related to acid deposition and the monitoring of high altitude mountain lakes in the Wind River Reservation, Wyoming, to be conducted through the Management Assistance Office of the United States Fish and Wildlife Service located in Lander, Wyoming and the University of Wyoming.

SEC. 411. STUDY OF BUFFERING AND NEUTRALIZING AGENTS.

Appropriation authorization.

There are authorized to be appropriated to the United States Fish and Wildlife Service of the Department of the Interior an amount equal to $250,000 to fund a study to be conducted in conjunction with the University of Wyoming of the effectiveness of various buffering and neutralizing agents used to restore lakes and streams damaged by acid deposition.

SEC. 412. CONFORMING AMENDMENT.

42 USC 7410.

Section 110(f)(1) of the Clean Air Act is amended by inserting "or of any requirement under section 411 (concerning excess emissions penalties or offsets) of title IV of the Act" after "implementation plan".

SEC. 413. SPECIAL CLEAN COAL TECHNOLOGY PROJECT.

(a) DEMONSTRATION PROJECT.—The Secretary of Energy shall, subject to appropriation, as part of the Secretary's activities with respect to fossil energy research and development under the Department of Energy Organization Act (Public Law 95-91) consider funding at least 50 percent of the cost of a demonstration project to design, construct, and test a technology system for a cyclone boiler that will serve as a model for sulfur dioxide and nitrogen oxide reduction technology at a combustion unit required to meet the emissions reductions prescribed in this bill. The Secretary shall expedite approval and funding to enable such project to be completed no later than January 1, 1995.

The unit selected for this project shall be in a utility plant that (1) is among the top 10 emitters of sulfur dioxide as identified on Table A of section 404; (2) has 3 or more units, 2 of which are cyclone boiler units; and (3) has no existing scrubbers.

(b) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section, to remain available until expended.

TITLE V—PERMITS

Sec. 501. Permits.

SEC. 501. PERMITS.

Add the following new title after title IV:

"TITLE V—PERMITS

"Sec. 501. Definitions.
"Sec. 502. Permit programs.
"Sec. 503. Permit applications.
"Sec. 504. Permit requirements and conditions.
"Sec. 505. Notification to Administrator and contiguous States.
"Sec. 506. Other authorities.
"Sec. 507. Small business stationary source technical and environmental compliance assistance program.

"SEC. 501. DEFINITIONS. 42 USC 7661.

As used in this title—

"(1) AFFECTED SOURCE.—The term 'affected source' shall have the meaning given such term in title IV.

"(2) MAJOR SOURCE.—The term 'major source' means any stationary source (or any group of stationary sources located within a contiguous area and under common control) that is either of the following:

"(A) A major source as defined in section 112.

"(B) A major stationary source as defined in section 302 or part D of title I.

"(3) SCHEDULE OF COMPLIANCE.—The term 'schedule of compliance' means a schedule of remedial measures, including an enforceable sequence of actions or operations, leading to compliance with an applicable implementation plan, emission standard, emission limitation, or emission prohibition.

"(4) PERMITTING AUTHORITY.—The term 'permitting authority' means the Administrator or the air pollution control agency authorized by the Administrator to carry out a permit program under this title.

"SEC. 502. PERMIT PROGRAMS. 42 USC 7661a.

"(a) VIOLATIONS.—After the effective date of any permit program approved or promulgated under this title, it shall be unlawful for any person to violate any requirement of a permit issued under this title, or to operate an affected source (as provided in title IV), a major source, any other source (including an area source) subject to standards or regulations under section 111 or 112, any other source required to have a permit under parts C or D of title I, or any other stationary source in a category designated (in whole or in part) by regulations promulgated by the Administrator (after notice and public comment) which shall include a finding setting forth the basis for such designation, except in compliance with a permit issued by a permitting authority under this title. (Nothing in this subsection shall be construed to alter the applicable requirements of this Act that a permit be obtained before construction or modification.) The Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this Act, promulgate regulations to exempt one or more source categories (in whole or in part) from the

requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such requirements.

"(b) REGULATIONS.—The Administrator shall promulgate within 12 months after the date of the enactment of the Clean Air Act Amendments of 1990 regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. These elements shall include each of the following:

"(1) Requirements for permit applications, including a standard application form and criteria for determining in a timely fashion the completeness of applications.

"(2) Monitoring and reporting requirements.

"(3)(A) A requirement under State or local law or interstate compact that the owner or operator of all sources subject to the requirement to obtain a permit under this title pay an annual fee, or the equivalent over some other period, sufficient to cover all reasonable (direct and indirect) costs required to develop and administer the permit program requirements of this title, including section 507, including the reasonable costs of—

"(i) reviewing and acting upon any application for such a permit,

"(ii) if the owner or operator receives a permit for such source, whether before or after the date of the enactment of the Clean Air Act Amendments of 1990, implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action),

"(iii) emissions and ambient monitoring,

"(iv) preparing generally applicable regulations, or guidance,

"(v) modeling, analyses, and demonstrations, and

"(vi) preparing inventories and tracking emissions.

"(B) The total amount of fees collected by the permitting authority shall conform to the following requirements:

"(i) The Administrator shall not approve a program as meeting the requirements of this paragraph unless the State demonstrates that, except as otherwise provided in subparagraphs (ii) through (v) of this subparagraph, the program will result in the collection, in the aggregate, from all sources subject to subparagraph (A), of an amount not less than $25 per ton of each regulated pollutant, or such other amount as the Administrator may determine adequately reflects the reasonable costs of the permit program.

"(ii) As used in this subparagraph, the term 'regulated pollutant' shall mean (I) a volatile organic compound; (II) each pollutant regulated under section 111 or 112; and (III) each pollutant for which a national primary ambient air quality standard has been promulgated (except that carbon monoxide shall be excluded from this reference).

"(iii) In determining the amount under clause (i), the permitting authority is not required to include any amount of regulated pollutant emitted by any source in excess of 4,000 tons per year of that regulated pollutant.

"(iv) The requirements of clause (i) shall not apply if the permitting authority demonstrates that collecting an

amount less than the amount specified under clause (i) will meet the requirements of subparagraph (A).

"(v) The fee calculated under clause (i) shall be increased (consistent with the need to cover the reasonable costs authorized by subparagraph (A)) in each year beginning after the year of the enactment of the Clean Air Act Amendments of 1990 by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of such year exceeds the Consumer Price Index for the calendar year 1989. For purposes of this clause—

"(I) the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year, and

"(II) the revision of the Consumer Price Index which is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

"(C)(i) If the Administrator determines, under subsection (d), that the fee provisions of the operating permit program do not meet the requirements of this paragraph, or if the Administrator makes a determination, under subsection (i), that the permitting authority is not adequately administering or enforcing an approved fee program, the Administrator may, in addition to taking any other action authorized under this title, collect reasonable fees from the sources identified under subparagraph (A). Such fees shall be designed solely to cover the Administrator's costs of administering the provisions of the permit program promulgated by the Administrator.

"(ii) Any source that fails to pay fees lawfully imposed by the Administrator under this subparagraph shall pay a penalty of 50 percent of the fee amount, plus interest on the fee amount computed in accordance with section 6621(a)(2) of the Internal Revenue Code of 1986 (relating to computation of interest on underpayment of Federal taxes).

"(iii) Any fees, penalties, and interest collected under this subparagraph shall be deposited in a special fund in the United States Treasury for licensing and other services, which thereafter shall be available for appropriation, to remain available until expended, subject to appropriation, to carry out the Agency's activities for which the fees were collected. Any fee required to be collected by a State, local, or interstate agency under this subsection shall be utilized solely to cover all reasonable (direct and indirect) costs required to support the permit program as set forth in subparagraph (A).

"(4) Requirements for adequate personnel and funding to administer the program.

"(5) A requirement that the permitting authority have adequate authority to:

"(A) issue permits and assure compliance by all sources required to have a permit under this title with each applicable standard, regulation or requirement under this Act;

"(B) issue permits for a fixed term, not to exceed 5 years;

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"(C) assure that upon issuance or renewal permits incorporate emission limitations and other requirements in an applicable implementation plan;

"(D) terminate, modify, or revoke and reissue permits for cause;

"(E) enforce permits, permit fee requirements, and the requirement to obtain a permit, including authority to recover civil penalties in a maximum amount of not less than $10,000 per day for each violation, and provide appropriate criminal penalties; and

"(F) assure that no permit will be issued if the Administrator objects to its issuance in a timely manner under this title.

"(6) Adequate, streamlined, and reasonable procedures for expeditiously determining when applications are complete, for processing such applications, for public notice, including offering an opportunity for public comment and a hearing, and for expeditious review of permit actions, including applications, renewals, or revisions, and including an opportunity for judicial review in State court of the final permit action by the applicant, any person who participated in the public comment process, and any other person who could obtain judicial review of that action under applicable law.

"(7) To ensure against unreasonable delay by the permitting authority, adequate authority and procedures to provide that a failure of such permitting authority to act on a permit application or permit renewal application (in accordance with the time periods specified in section 503 or, as appropriate, title IV) shall be treated as a final permit action solely for purposes of obtaining judicial review in State court of an action brought by any person referred to in paragraph (6) to require that action be taken by the permitting authority on such application without additional delay.

"(8) Authority, and reasonable procedures consistent with the need for expeditious action by the permitting authority on permit applications and related matters, to make available to the public any permit application, compliance plan, permit, and monitoring or compliance report under section 503(e), subject to the provisions of section 114(c) of this Act.

"(9) A requirement that the permitting authority, in the case of permits with a term of 3 or more years for major sources, shall require revisions to the permit to incorporate applicable standards and regulations promulgated under this Act after the issuance of such permit. Such revisions shall occur as expeditiously as practicable and consistent with the procedures established under paragraph (6) but not later than 18 months after the promulgation of such standards and regulations. No such revision shall be required if the effective date of the standards or regulations is a date after the expiration of the permit term. Such permit revision shall be treated as a permit renewal if it complies with the requirements of this title regarding renewals.

"(10) Provisions to allow changes within a permitted facility (or one operating pursuant to section 503(d)) without requiring a permit revision, if the changes are not modifications under any provision of title I and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions: *Provided,* That the

facility provides the Administrator and the permitting authority with written notification in advance of the proposed changes which shall be a minimum of 7 days, unless the permitting authority provides in its regulations a different timeframe for emergencies.

"(c) SINGLE PERMIT.—A single permit may be issued for a facility with multiple sources.

"(d) SUBMISSION AND APPROVAL.—(1) Not later than 3 years after the date of the enactment of the Clean Air Act Amendments of 1990, the Governor of each State shall develop and submit to the Administrator a permit program under State or local law or under an interstate compact meeting the requirements of this title. In addition, the Governor shall submit a legal opinion from the attorney general (or the attorney for those State air pollution control agencies that have independent legal counsel), or from the chief legal officer of an interstate agency, that the laws of the State, locality, or the interstate compact provide adequate authority to carry out the program. Not later than 1 year after receiving a program, and after notice and opportunity for public comment, the Administrator shall approve or disapprove such program, in whole or in part. The Administrator may approve a program to the extent that the program meets the requirements of this Act, including the regulations issued under subsection (b). If the program is disapproved, in whole or in part, the Administrator shall notify the Governor of any revisions or modifications necessary to obtain approval. The Governor shall revise and resubmit the program for review under this section within 180 days after receiving notification.

"(2)(A) If the Governor does not submit a program as required under paragraph (1) or if the Administrator disapproves a program submitted by the Governor under paragraph (1), in whole or in part, the Administrator may, prior to the expiration of the 18-month period referred to in subparagraph (B), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

"(B) If the Governor does not submit a program as required under paragraph (1), or if the Administrator disapproves any such program submitted by the Governor under paragraph (1), in whole or in part, 18 months after the date required for such submittal or the date of such disapproval, as the case may be, the Administrator shall apply sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(C) The sanctions under section 179(b)(2) shall not apply pursuant to this paragraph in any area unless the failure to submit or the disapproval referred to in subparagraph (A) or (B) relates to an air pollutant for which such area has been designated a nonattainment area (as defined in part D of title I).

"(3) If a program meeting the requirements of this title has not been approved in whole for any State, the Administrator shall, 2 years after the date required for submission of such a program under paragraph (1), promulgate, administer, and enforce a program under this title for that State.

"(e) SUSPENSION.—The Administrator shall suspend the issuance of permits promptly upon publication of notice of approval of a permit program under this section, but may, in such notice, retain jurisdiction over permits that have been federally issued, but for which the administrative or judicial review process is not complete. The Administrator shall continue to administer and enforce feder-

ally issued permits under this title until they are replaced by a permit issued by a permitting program. Nothing in this subsection should be construed to limit the Administrator's ability to enforce permits issued by a State.

"(f) PROHIBITION.—No partial permit program shall be approved unless, at a minimum, it applies, and ensures compliance with, this title and each of the following:

"(1) All requirements established under title IV applicable to 'affected sources'.

"(2) All requirements established under section 112 applicable to 'major sources', 'area sources,' and 'new sources'.

"(3) All requirements of title I (other than section 112) applicable to sources required to have a permit under this title.

Approval of a partial program shall not relieve the State of its obligation to submit a complete program, nor from the application of any sanctions under this Act for failure to submit an approvable permit program.

"(g) INTERIM APPROVAL.—If a program (including a partial permit program) submitted under this title substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval. In the notice of final rulemaking, the Administrator shall specify the changes that must be made before the program can receive full approval. An interim approval under this subsection shall expire on a date set by the Administrator not later than 2 years after such approval, and may not be renewed. For the period of any such interim approval, the provisions of subsection (d)(2), and the obligation of the Administrator to promulgate a program under this title for the State pursuant to subsection (d)(3), shall be suspended. Such provisions and such obligation of the Administrator shall apply after the expiration of such interim approval.

"(h) EFFECTIVE DATE.—The effective date of a permit program, or partial or interim program, approved under this title, shall be the effective date of approval by the Administrator. The effective date of a permit program, or partial permit program, promulgated by the Administrator shall be the date of promulgation.

"(i) ADMINISTRATION AND ENFORCEMENT.—(1) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, the Administrator shall provide notice to the State and may, prior to the expiration of the 18-month period referred to in paragraph (2), in the Administrator's discretion, apply any of the sanctions specified in section 179(b).

"(2) Whenever the Administrator makes a determination that a permitting authority is not adequately administering and enforcing a program, or portion thereof, in accordance with the requirements of this title, 18 months after the date of the notice under paragraph (1), the Administrator shall apply the sanctions under section 179(b) in the same manner and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a).

"(3) The sanctions under section 179(b)(2) shall not apply pursuant to this subsection in any area unless the failure to adequately enforce and administer the program relates to an air pollutant for which such area has been designated a nonattainment area.

"(4) Whenever the Administrator has made a finding under paragraph (1) with respect to any State, unless the State has corrected such deficiency within 18 months after the date of such finding, the Administrator shall, 2 years after the date of such finding, promulgate, administer, and enforce a program under this title for that State. Nothing in this paragraph shall be construed to affect the validity of a program which has been approved under this title or the authority of any permitting authority acting under such program until such time as such program is promulgated by the Administrator under this paragraph.

"SEC. 503. PERMIT APPLICATIONS. 42 USC 7661b.

"(a) APPLICABLE DATE.—Any source specified in section 502(a) shall become subject to a permit program, and required to have a permit, on the later of the following dates—

"(1) the effective date of a permit program or partial or interim permit program applicable to the source; or

"(2) the date such source becomes subject to section 502(a).

"(b) COMPLIANCE PLAN.—(1) The regulations required by section 502(b) shall include a requirement that the applicant submit with the permit application a compliance plan describing how the source will comply with all applicable requirements under this Act. The compliance plan shall include a schedule of compliance, and a schedule under which the permittee will submit progress reports to the permitting authority no less frequently than every 6 months. Reports.

"(2) The regulations shall further require the permittee to periodically (but no less frequently than annually) certify that the facility is in compliance with any applicable requirements of the permit, and to promptly report any deviations from permit requirements to the permitting authority.

"(c) DEADLINE.—Any person required to have a permit shall, not later than 12 months after the date on which the source becomes subject to a permit program approved or promulgated under this title, or such earlier date as the permitting authority may establish, submit to the permitting authority a compliance plan and an application for a permit signed by a responsible official, who shall certify the accuracy of the information submitted. The permitting authority shall approve or disapprove a completed application (consistent with the procedures established under this title for consideration of such applications), and shall issue or deny the permit, within 18 months after the date of receipt thereof, except that the permitting authority shall establish a phased schedule for acting on permit applications submitted within the first full year after the effective date of a permit program (or a partial or interim program). Any such schedule shall assure that at least one-third of such permits will be acted on by such authority annually over a period of not to exceed 3 years after such effective date. Such authority shall establish reasonable procedures to prioritize such approval or disapproval actions in the case of applications for construction or modification under the applicable requirements of this Act.

"(d) TIMELY AND COMPLETE APPLICATIONS.—Except for sources required to have a permit before construction or modification under the applicable requirements of this Act, if an applicant has submitted a timely and complete application for a permit required by this title (including renewals), but final action has not been taken on such application, the source's failure to have a permit shall not be a

violation of this Act, unless the delay in final action was due to the failure of the applicant timely to submit information required or requested to process the application. No source required to have a permit under this title shall be in violation of section 502(a) before the date on which the source is required to submit an application under subsection (c).

Public information.

"(e) COPIES; AVAILABILITY.—A copy of each permit application, compliance plan (including the schedule of compliance), emissions or compliance monitoring report, certification, and each permit issued under this title, shall be available to the public. If an applicant or permittee is required to submit information entitled to protection from disclosure under section 114(c) of this Act, the applicant or permittee may submit such information separately. The requirements of section 114(c) shall apply to such information. The contents of a permit shall not be entitled to protection under section 114(c).

42 USC 7661c.

"SEC. 504. PERMIT REQUIREMENTS AND CONDITIONS.

"(a) CONDITIONS.—Each permit issued under this title shall include enforceable emission limitations and standards, a schedule of compliance, a requirement that the permittee submit to the permitting authority, no less often than every 6 months, the results of any required monitoring, and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable implementation plan.

"(b) MONITORING AND ANALYSIS.—The Administrator may by rule prescribe procedures and methods for determining compliance and for monitoring and analysis of pollutants regulated under this Act, but continuous emissions monitoring need not be required if alternative methods are available that provide sufficiently reliable and timely information for determining compliance. Nothing in this subsection shall be construed to affect any continuous emissions monitoring requirement of title IV, or where required elsewhere in this Act.

"(c) INSPECTION, ENTRY, MONITORING, CERTIFICATION, AND REPORTING.—Each permit issued under this title shall set forth inspection, entry, monitoring, compliance certification, and reporting requirements to assure compliance with the permit terms and conditions. Such monitoring and reporting requirements shall conform to any applicable regulation under subsection (b). Any report required to be submitted by a permit issued to a corporation under this title shall be signed by a responsible corporate official, who shall certify its accuracy.

"(d) GENERAL PERMITS.—The permitting authority may, after notice and opportunity for public hearing, issue a general permit covering numerous similar sources. Any general permit shall comply with all requirements applicable to permits under this title. No source covered by a general permit shall thereby be relieved from the obligation to file an application under section 503.

"(e) TEMPORARY SOURCES.—The permitting authority may issue a single permit authorizing emissions from similar operations at multiple temporary locations. No such permit shall be issued unless it includes conditions that will assure compliance with all the requirements of this Act at all authorized locations, including, but not limited to, ambient standards and compliance with any applicable increment or visibility requirements under part C of title I. Any such permit shall in addition require the owner or operator to notify

the permitting authority in advance of each change in location. The permitting authority may require a separate permit fee for operations at each location.

"(f) PERMIT SHIELD.—Compliance with a permit issued in accordance with this title shall be deemed compliance with section 502. Except as otherwise provided by the Administrator by rule, the permit may also provide that compliance with the permit shall be deemed compliance with other applicable provisions of this Act that relate to the permittee if—

"(1) the permit includes the applicable requirements of such provisions, or

"(2) the permitting authority in acting on the permit application makes a determination relating to the permittee that such other provisions (which shall be referred to in such determination) are not applicable and the permit includes the determination or a concise summary thereof.

Nothing in the preceding sentence shall alter or affect the provisions of section 303, including the authority of the Administrator under that section.

"SEC. 505. NOTIFICATION TO ADMINISTRATOR AND CONTIGUOUS STATES. 42 USC 7661d.

"(a) TRANSMISSION AND NOTICE.—(1) Each permitting authority—

"(A) shall transmit to the Administrator a copy of each permit application (and any application for a permit modification or renewal) or such portion thereof, including any compliance plan, as the Administrator may require to effectively review the application and otherwise to carry out the Administrator's responsibilities under this Act, and

"(B) shall provide to the Administrator a copy of each permit proposed to be issued and issued as a final permit.

"(2) The permitting authority shall notify all States—

"(A) whose air quality may be affected and that are contiguous to the State in which the emission originates, or

"(B) that are within 50 miles of the source,

of each permit application or proposed permit forwarded to the Administrator under this section, and shall provide an opportunity for such States to submit written recommendations respecting the issuance of the permit and its terms and conditions. If any part of those recommendations are not accepted by the permitting authority, such authority shall notify the State submitting the recommendations and the Administrator in writing of its failure to accept those recommendations and the reasons therefor.

"(b) OBJECTION BY EPA.—(1) If any permit contains provisions that are determined by the Administrator as not in compliance with the applicable requirements of this Act, including the requirements of an applicable implementation plan, the Administrator shall, in accordance with this subsection, object to its issuance. The permitting authority shall respond in writing if the Administrator (A) within 45 days after receiving a copy of the proposed permit under subsection (a)(1), or (B) within 45 days after receiving notification under subsection (a)(2), objects in writing to its issuance as not in compliance with such requirements. With the objection, the Administrator shall provide a statement of the reasons for the objection. A copy of the objection and statement shall be provided to the applicant.

"(2) If the Administrator does not object in writing to the issuance of a permit pursuant to paragraph (1), any person may petition the

Administrator within 60 days after the expiration of the 45-day review period specified in paragraph (1) to take such action. A copy of such petition shall be provided to the permitting authority and the applicant by the petitioner. The petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the permitting agency (unless the petitioner demonstrates in the petition to the Administrator that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period). The petition shall identify all such objections. If the permit has been issued by the permitting agency, such petition shall not postpone the effectiveness of the permit. The Administrator shall grant or deny such petition within 60 days after the petition is filed. The Administrator shall issue an objection within such period if the petitioner demonstrates to the Administrator that the permit is not in compliance with the requirements of this Act, including the requirements of the applicable implementation plan. Any denial of such petition shall be subject to judicial review under section 307. The Administrator shall include in regulations under this title provisions to implement this paragraph. The Administrator may not delegate the requirements of this paragraph.

"(3) Upon receipt of an objection by the Administrator under this subsection, the permitting authority may not issue the permit unless it is revised and issued in accordance with subsection (c). If the permitting authority has issued a permit prior to receipt of an objection by the Administrator under paragraph (2) of this subsection, the Administrator shall modify, terminate, or revoke such permit and the permitting authority may thereafter only issue a revised permit in accordance with subsection (c).

"(c) ISSUANCE OR DENIAL.—If the permitting authority fails, within 90 days after the date of an objection under subsection (b), to submit a permit revised to meet the objection, the Administrator shall issue or deny the permit in accordance with the requirements of this title. No objection shall be subject to judicial review until the Administrator takes final action to issue or deny a permit under this subsection.

"(d) WAIVER OF NOTIFICATION REQUIREMENTS.—(1) The Administrator may waive the requirements of subsections (a) and (b) at the time of approval of a permit program under this title for any category (including any class, type, or size within such category) of sources covered by the program other than major sources.

"(2) The Administrator may, by regulation, establish categories of sources (including any class, type, or size within such category) to which the requirements of subsections (a) and (b) shall not apply. The preceding sentence shall not apply to major sources.

"(3) The Administrator may exclude from any waiver under this subsection notification under subsection (a)(2). Any waiver granted under this subsection may be revoked or modified by the Administrator by rule.

"(e) REFUSAL OF PERMITTING AUTHORITY TO TERMINATE, MODIFY, OR REVOKE AND REISSUE.—If the Administrator finds that cause exists to terminate, modify, or revoke and reissue a permit under this title, the Administrator shall notify the permitting authority and the source of the Administrator's finding. The permitting authority shall, within 90 days after receipt of such notification, forward to the Administrator under this section a proposed determination of termination, modification, or revocation and reissuance,

as appropriate. The Administrator may extend such 90 day period for an additional 90 days if the Administrator finds that a new or revised permit application is necessary, or that the permitting authority must require the permittee to submit additional information. The Administrator may review such proposed determination under the provisions of subsections (a) and (b). If the permitting authority fails to submit the required proposed determination, or if the Administrator objects and the permitting authority fails to resolve the objection within 90 days, the Administrator may, after notice and in accordance with fair and reasonable procedures, terminate, modify, or revoke and reissue the permit.

"SEC. 506. OTHER AUTHORITIES. 42 USC 7661e.

"(a) IN GENERAL.—Nothing in this title shall prevent a State, or interstate permitting authority, from establishing additional permitting requirements not inconsistent with this Act.

"(b) PERMITS IMPLEMENTING ACID RAIN PROVISIONS.—The provisions of this title, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to permits implementing the requirements of title IV except as modified by that title.

"SEC. 507. SMALL BUSINESS STATIONARY SOURCE TECHNICAL AND ENVIRONMENTAL COMPLIANCE ASSISTANCE PROGRAM. 42 USC 7661f.

"(a) PLAN REVISIONS.—Consistent with sections 110 and 112, each State shall, after reasonable notice and public hearings, adopt and submit to the Administrator as part of the State implementation plan for such State or as a revision to such State implementation plan under section 110, plans for establishing a small business stationary source technical and environmental compliance assistance program. Such submission shall be made within 24 months after the date of the enactment of the Clean Air Act Amendments of 1990. The Administrator shall approve such program if it includes each of the following:

"(1) Adequate mechanisms for developing, collecting, and coordinating information concerning compliance methods and technologies for small business stationary sources, and programs to encourage lawful cooperation among such sources and other persons to further compliance with this Act.

"(2) Adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, products, and methods of operation that help reduce air pollution.

"(3) A designated State office within the relevant State agency to serve as ombudsman for small business stationary sources in connection with the implementation of this Act.

"(4) A compliance assistance program for small business stationary sources which assists small business stationary sources in determining applicable requirements and in receiving permits under this Act in a timely and efficient manner.

"(5) Adequate mechanisms to assure that small business stationary sources receive notice of their rights under this Act in such manner and form as to assure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standard issued under this Act.

"(6) Adequate mechanisms for informing small business stationary sources of their obligations under this Act, including mechanisms for referring such sources to qualified auditors or, at the option of the State, for providing audits of the operations of such sources to determine compliance with this Act.

"(7) Procedures for consideration of requests from a small business stationary source for modification of—

"(A) any work practice or technological method of compliance, or

"(B) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date,

based on the technological and financial capability of any such small business stationary source. No such modification may be granted unless it is in compliance with the applicable requirements of this Act, including the requirements of the applicable implementation plan. Where such applicable requirements are set forth in Federal regulations, only modifications authorized in such regulations may be allowed.

"(b) PROGRAM.—The Administrator shall establish within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990 a small business stationary source technical and environmental compliance assistance program. Such program shall—

"(1) assist the States in the development of the program required under subsection (a) (relating to assistance for small business stationary sources);

"(2) issue guidance for the use of the States in the implementation of these programs that includes alternative control technologies and pollution prevention methods applicable to small business stationary sources; and

"(3) provide for implementation of the program provisions required under subsection (a)(4) in any State that fails to submit such a program under that subsection.

"(c) ELIGIBILITY.—(1) Except as provided in paragraphs (2) and (3), for purposes of this section, the term 'small business stationary source' means a stationary source that—

"(A) is owned or operated by a person that employs 100 or fewer individuals,

"(B) is a small business concern as defined in the Small Business Act;

"(C) is not a major stationary source;

"(D) does not emit 50 tons or more per year of any regulated pollutant; and

"(E) emits less than 75 tons per year of all regulated pollutants.

"(2) Upon petition by a source, the State may, after notice and opportunity for public comment, include as a small business stationary source for purposes of this section any stationary source which does not meet the criteria of subparagraphs (C), (D), or (E) of paragraph (1) but which does not emit more than 100 tons per year of all regulated pollutants.

"(3)(A) The Administrator, in consultation with the Administrator of the Small Business Administration and after providing notice and opportunity for public comment, may exclude from the small business stationary source definition under this section any category or subcategory of sources that the Administrator determines to have

sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(B) The State, in consultation with the Administrator and the Administrator of the Small Business Administration and after providing notice and opportunity for public hearing, may exclude from the small business stationary source definition under this section any category or subcategory of sources that the State determines to have sufficient technical and financial capabilities to meet the requirements of this Act without the application of this subsection.

"(d) MONITORING.—The Administrator shall direct the Agency's Office of Small and Disadvantaged Business Utilization through the Small Business Ombudsman (hereinafter in this section referred to as the 'Ombudsman') to monitor the small business stationary source technical and environmental compliance assistance program under this section. In carrying out such monitoring activities, the Ombudsman shall—

"(1) render advisory opinions on the overall effectiveness of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, difficulties encountered, and degree and severity of enforcement;

"(2) make periodic reports to the Congress on the compliance of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; Reports.

"(3) review information to be issued by the Small Business Stationary Source Technical and Environmental Compliance Assistance Program for small business stationary sources to ensure that the information is understandable by the layperson; and

"(4) have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(e) COMPLIANCE ADVISORY PANEL.—(1) There shall be created a Compliance Advisory Panel (hereinafter referred to as the 'Panel') on the State level of not less than 7 individuals. This Panel shall—

"(A) render advisory opinions concerning the effectiveness of the small business stationary source technical and environmental compliance assistance program, difficulties encountered, and degree and severity of enforcement;

"(B) make periodic reports to the Administrator concerning the compliance of the State Small Business Stationary Source Technical and Environmental Compliance Assistance Program with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; Reports.

"(C) review information for small business stationary sources to assure such information is understandable by the layperson; and

"(D) have the Small Business Stationary Source Technical and Environmental Compliance Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

"(2) The Panel shall consist of—

"(A) 2 members, who are not owners, or representatives of owners, of small business stationary sources, selected by the Governor to represent the general public;

"(B) 2 members selected by the State legislature who are owners, or who represent owners, of small business stationary sources (1 member each by the majority and minority leadership of the lower house, or in the case of a unicameral State legislature, 2 members each shall be selected by the majority leadership and the minority leadership, respectively, of such legislature, and subparagraph (C) shall not apply);

"(C) 2 members selected by the State legislature who are owners, or who represent owners, of small business stationary sources (1 member each by the majority and minority leadership of the upper house, or the equivalent State entity); and

"(D) 1 member selected by the head of the department or agency of the State responsible for air pollution permit programs to represent that agency.

"(f) FEES.—The State (or the Administrator) may reduce any fee required under this Act to take into account the financial resources of small business stationary sources.

"(g) CONTINUOUS EMISSION MONITORS.—In developing regulations and CTGs under this Act that contain continuous emission monitoring requirements, the Administrator, consistent with the requirements of this Act, before applying such requirements to small business stationary sources, shall consider the necessity and appropriateness of such requirements for such sources. Nothing in this subsection shall affect the applicability of title IV provisions relating to continuous emissions monitoring.

"(h) CONTROL TECHNIQUE GUIDELINES.—The Administrator shall consider, consistent with the requirements of this Act, the size, type, and technical capabilities of small business stationary sources (and sources which are eligible under subsection (c)(2) to be treated as small business stationary sources) in developing CTGs applicable to such sources under this Act.".

TITLE VI—STRATOSPHERIC OZONE PROTECTION

TITLE VI—STRATOSPHERIC OZONE PROTECTION

Sec. 601. Part B repeal.
Sec. 602. Stratospheric ozone protection.
Sec. 603. Methane studies.

SEC. 601. PART B REPEAL.

42 USC 7450–7459.

Part B of title I of the Clean Air Act entitled "Ozone Protection", sections 150 through 159, is hereby repealed.

SEC. 602. STRATOSPHERIC OZONE PROTECTION.

(a) NEW TITLE VI.—The Clean Air Act is amended by adding the following new title after title V:

"TITLE VI—STRATOSPHERIC OZONE PROTECTION

"TABLE OF CONTENTS

"Sec. 601. Definitions.
"Sec. 602. Listing of class I and class II substances.
"Sec. 603. Monitoring and reporting requirements.
"Sec. 604. Phase-out of production and consumption of class I substances.
"Sec. 605. Phase-out of production and consumption of class II substances.
"Sec. 606. Accelerated schedule.
"Sec. 607. Exchanges.
"Sec. 608. National recycling and emission reduction program.
"Sec. 609. Servicing of motor vehicle air conditioners.
"Sec. 610. Nonessential products containing chlorofluorocarbons.
"Sec. 611. Labeling.
"Sec. 612. Safe alternatives policy.
"Sec. 613. Federal procurement.
"Sec. 614. Relationship to other law.
"Sec. 615. Authority of Administrator.
"Sec. 616. Transfers among Parties to the Montreal Protocol.
"Sec. 617. International cooperation.
"Sec. 618. Miscellaneous.

"SEC. 601. DEFINITIONS. 42 USC 7671.

"As used in this title—

"(1) APPLIANCE.—The term 'appliance' means any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

"(2) BASELINE YEAR.—The term 'baseline year' means—

"(A) the calendar year 1986, in the case of any class I substance listed in Group I or II under section 602(a),

"(B) the calendar year 1989, in the case of any class I substance listed in Group III, IV, or V under section 602(a), and

"(C) a representative calendar year selected by the Administrator, in the case of—

"(i) any substance added to the list of class I substances after the publication of the initial list under section 602(a), and

"(ii) any class II substance.

"(3) CLASS I SUBSTANCE.—The term 'class I substance' means each of the substances listed as provided in section 602(a).

"(4) CLASS II SUBSTANCE.—The term 'class II substance' means each of the substances listed as provided in section 602(b).

"(5) COMMISSIONER.—The term 'Commissioner' means the Commissioner of the Food and Drug Administration.

"(6) CONSUMPTION.—The term 'consumption' means, with respect to any substance, the amount of that substance produced in the United States, plus the amount imported, minus the amount exported to Parties to the Montreal Protocol. Such term shall be construed in a manner consistent with the Montreal Protocol.

"(7) IMPORT.—The term 'import' means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction con-

stitutes an importation within the meaning of the customs laws of the United States.

"(8) MEDICAL DEVICE.—The term 'medical device' means any device (as defined in the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321)), diagnostic product, drug (as defined in the Federal Food, Drug, and Cosmetic Act), and drug delivery system—

"(A) if such device, product, drug, or drug delivery system utilizes a class I or class II substance for which no safe and effective alternative has been developed, and where necessary, approved by the Commissioner; and

"(B) if such device, product, drug, or drug delivery system, has, after notice and opportunity for public comment, been approved and determined to be essential by the Commissioner in consultation with the Administrator.

"(9) MONTREAL PROTOCOL.—The terms 'Montreal Protocol' and 'the Protocol' mean the Montreal Protocol on Substances that Deplete the Ozone Layer, a protocol to the Vienna Convention for the Protection of the Ozone Layer, including adjustments adopted by Parties thereto and amendments that have entered into force.

"(10) OZONE-DEPLETION POTENTIAL.—The term 'ozone-depletion potential' means a factor established by the Administrator to reflect the ozone-depletion potential of a substance, on a mass per kilogram basis, as compared to chlorofluorocarbon-11 (CFC-11). Such factor shall be based upon the substance's atmospheric lifetime, the molecular weight of bromine and chlorine, and the substance's ability to be photolytically disassociated, and upon other factors determined to be an accurate measure of relative ozone-depletion potential.

"(11) PRODUCE, PRODUCED, AND PRODUCTION.—The terms 'produce', 'produced', and 'production', refer to the manufacture of a substance from any raw material or feedstock chemical, but such terms do not include—

"(A) the manufacture of a substance that is used and entirely consumed (except for trace quantities) in the manufacture of other chemicals, or

"(B) the reuse or recycling of a substance.

42 USC 7671a.

"SEC. 602. LISTING OF CLASS I AND CLASS II SUBSTANCES.

"(a) LIST OF CLASS I SUBSTANCES.—Within 60 days after enactment of the Clean Air Act Amendments of 1990, the Administrator shall publish an initial list of class I substances, which list shall contain the following substances:

Group I
chlorofluorocarbon-11 (CFC-11)
chlorofluorocarbon-12 (CFC-12)
chlorofluorocarbon-113 (CFC-113)
chlorofluorocarbon-114 (CFC-114)
chlorofluorocarbon-115 (CFC-115)

Group II
halon-1211
halon-1301
halon-2402

Group III
chlorofluorocarbon-13 (CFC-13)
chlorofluorocarbon-111 (CFC-111)
chlorofluorocarbon-112 (CFC-112)

chlorofluorocarbon-211 (CFC-211)
chlorofluorocarbon-212 (CFC-212)
chlorofluorocarbon-213 (CFC-213)
chlorofluorocarbon-214 (CFC-214)
chlorofluorocarbon-215 (CFC-215)
chlorofluorocarbon-216 (CFC-216)
chlorofluorocarbon-217 (CFC-217)

Group IV
carbon tetrachloride

Group V
methyl chloroform

The initial list under this subsection shall also include the isomers of the substances listed above, other than 1,1,2-trichloroethane (an isomer of methyl chloroform). Pursuant to subsection (c), the Administrator shall add to the list of class I substances any other substance that the Administrator finds causes or contributes significantly to harmful effects on the stratospheric ozone layer. The Administrator shall, pursuant to subsection (c), add to such list all substances that the Administrator determines have an ozone depletion potential of 0.2 or greater.

"(b) LIST OF CLASS II SUBSTANCES.—Simultaneously with publication of the initial list of class I substances, the Administrator shall publish an initial list of class II substances, which shall contain the following substances:

hydrochlorofluorocarbon-21 (HCFC-21)
hydrochlorofluorocarbon-22 (HCFC-22)
hydrochlorofluorocarbon-31 (HCFC-31)
hydrochlorofluorocarbon-121 (HCFC-121)
hydrochlorofluorocarbon-122 (HCFC-122)
hydrochlorofluorocarbon-123 (HCFC-123)
hydrochlorofluorocarbon-124 (HCFC-124)
hydrochlorofluorocarbon-131 (HCFC-131)
hydrochlorofluorocarbon-132 (HCFC-132)
hydrochlorofluorocarbon-133 (HCFC-133)
hydrochlorofluorocarbon-141 (HCFC-141)
hydrochlorofluorocarbon-142 (HCFC-142)
hydrochlorofluorocarbon-221 (HCFC-221)
hydrochlorofluorocarbon-222 (HCFC-222)
hydrochlorofluorocarbon-223 (HCFC-223)
hydrochlorofluorocarbon-224 (HCFC-224)
hydrochlorofluorocarbon-225 (HCFC-225)
hydrochlorofluorocarbon-226 (HCFC-226)
hydrochlorofluorocarbon-231 (HCFC-231)
hydrochlorofluorocarbon-232 (HCFC-232)
hydrochlorofluorocarbon-233 (HCFC-233)
hydrochlorofluorocarbon-234 (HCFC-234)
hydrochlorofluorocarbon-235 (HCFC-235)
hydrochlorofluorocarbon-241 (HCFC-241)
hydrochlorofluorocarbon-242 (HCFC-242)
hydrochlorofluorocarbon-243 (HCFC-243)
hydrochlorofluorocarbon-244 (HCFC-244)
hydrochlorofluorocarbon-251 (HCFC-251)
hydrochlorofluorocarbon-252 (HCFC-252)
hydrochlorofluorocarbon-253 (HCFC-253)
hydrochlorofluorocarbon-261 (HCFC-261)
hydrochlorofluorocarbon-262 (HCFC-262)
hydrochlorofluorocarbon-271 (HCFC-271)

The initial list under this subsection shall also include the isomers of the substances listed above. Pursuant to subsection (c), the Administrator shall add to the list of class II substances any other substance that the Administrator finds is known or may reasonably be anticipated to cause or contribute to harmful effects on the stratospheric ozone layer.

"(c) ADDITIONS TO THE LISTS.—(1) The Administrator may add, by rule, in accordance with the criteria set forth in subsection (a) or (b), as the case may be, any substance to the list of class I or class II substances under subsection (a) or (b). For purposes of exchanges under section 507, whenever a substance is added to the list of class I substances the Administrator shall, to the extent consistent with the Montreal Protocol, assign such substance to existing Group I, II, III, IV, or V or place such substance in a new Group.

"(2) Periodically, but not less frequently than every 3 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall list, by rule, as additional class I or class II substances those substances which the Administrator finds meet the criteria of subsection (a) or (b), as the case may be.

"(3) At any time, any person may petition the Administrator to add a substance to the list of class I or class II substances. Pursuant to the criteria set forth in subsection (a) or (b) as the case may be, within 180 days after receiving such a petition, the Administrator shall either propose to add the substance to such list or publish an explanation of the petition denial. In any case where the Administrator proposes to add a substance to such list, the Administrator shall add, by rule, (or make a final determination not to add) such substance to such list within 1 year after receiving such petition. Any petition under this paragraph shall include a showing by the petitioner that there are data on the substance adequate to support the petition. If the Administrator determines that information on the substance is not sufficient to make a determination under this paragraph, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

"(4) Only a class II substance which is added to the list of class I substances may be removed from the list of class II substances. No substance referred to in subsection (a), including methyl chloroform, may be removed from the list of class I substances.

"(d) NEW LISTED SUBSTANCES.—In the case of any substance added to the list of class I or class II substances after publication of the initial list of such substances under this section, the Administrator may extend any schedule or compliance deadline contained in section 604 or 605 to a later date than specified in such sections if such schedule or deadline is unattainable, considering when such substance is added to the list. No extension under this subsection may extend the date for termination of production of any class I substance to a date more than 7 years after January 1 of the year after the year in which the substance is added to the list of class I substances. No extension under this subsection may extend the date for termination of production of any class II substance to a date more than 10 years after January 1 of the year after the year in which the substance is added to the list of class II substances.

"(e) OZONE-DEPLETION AND GLOBAL WARMING POTENTIAL.—Simultaneously with publication of the lists under this section and simultaneously with any addition to either of such lists, the Administrator shall assign to each listed substance a numerical value representing the substance's ozone-depletion potential. In addition, the Administrator shall publish the chlorine and bromine loading potential and the atmospheric lifetime of each listed substance. One year after enactment of the Clean Air Act Amendments of 1990 (one year after the addition of a substance to either of such lists in the case of a substance added after the publication of the

preceding reporting period. Each such report shall be signed and attested by a responsible officer. No such report shall be required from a person after April 1 of the calendar year after such person permanently ceases production, importation, and exportation of the substance and so notifies the Administrator in writing.

"(c) BASELINE REPORTS FOR CLASS I SUBSTANCES.—Unless such information has previously been reported to the Administrator, on the date on which the first report under subsection (b) is required to be filed, each person who produced, imported, or exported a class I substance (other than a substance added to the list of class I substances after the publication of the initial list of such substances under this section) shall file a report with the Administrator setting forth the amount of such substance that such person produced, imported, and exported during the baseline year. In the case of a substance added to the list of class I substances after publication of the initial list of such substances under this section, the regulations shall require that each person who produced, imported, or exported such substance shall file a report with the Administrator within 180 days after the date on which such substance is added to the list, setting forth the amount of the substance that such person produced, imported, and exported in the baseline year.

"(d) MONITORING AND REPORTS TO CONGRESS.—(1) The Administrator shall monitor and, not less often than every 3 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the production, use and consumption of class I and class II substances. Such report shall include data on domestic production, use and consumption, and an estimate of worldwide production, use and consumption of such substances. Not less frequently than every 6 years the Administrator shall report to Congress on the environmental and economic effects of any stratospheric ozone depletion.

"(2) The Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration shall monitor, and not less often than every 3 years following enactment of the Clean Air Act Amendments of 1990, submit a report to Congress on the current average tropospheric concentration of chlorine and bromine and on the level of stratospheric ozone depletion. Such reports shall include updated projections of—

"(A) peak chlorine loading;

"(B) the rate at which the atmospheric abundance of chlorine is projected to decrease after the year 2000; and

"(C) the date by which the atmospheric abundance of chlorine is projected to return to a level of two parts per billion.

Such updated projections shall be made on the basis of current international and domestic controls on substances covered by this title as well as on the basis of such controls supplemented by a year 2000 global phase out of all halocarbon emissions (the base case). It is the purpose of the Congress through the provisions of this section to monitor closely the production and consumption of class II substances to assure that the production and consumption of such substances will not:

"(i) increase significantly the peak chlorine loading that is projected to occur under the base case established for purposes of this section;

form), it shall be unlawful for any person to produce any amount of a class I substance.

"(c) REGULATIONS REGARDING PRODUCTION AND CONSUMPTION OF CLASS I SUBSTANCES.—The Administrator shall promulgate regulations within 10 months after the enactment of the Clean Air Act Amendments of 1990 phasing out the production of class I substances in accordance with this section and other applicable provisions of this title. The Administrator shall also promulgate regulations to insure that the consumption of class I substances in the United States is phased out and terminated in accordance with the same schedule (subject to the same exceptions and other provisions) as is applicable to the phase-out and termination of production of class I substances under this title.

"(d) EXCEPTIONS FOR ESSENTIAL USES OF METHYL CHLOROFORM, MEDICAL DEVICES, AND AVIATION SAFETY.—

"(1) ESSENTIAL USES OF METHYL CHLOROFORM.—Notwithstanding the termination of production required by subsection (b), during the period beginning on January 1, 2002, and ending on January 1, 2005, the Administrator, after notice and opportunity for public comment, may, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of methyl chloroform solely for use in essential applications (such as nondestructive testing for metal fatigue and corrosion of existing airplane engines and airplane parts susceptible to metal fatigue) for which no safe and effective substitute is available. Notwithstanding this paragraph, the authority to produce methyl chloroform for use in medical devices shall be provided in accordance with paragraph (2).

"(2) MEDICAL DEVICES.—Notwithstanding the termination of production required by subsection (b), the Administrator, after notice and opportunity for public comment, shall, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of class I substances solely for use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for use in medical devices.

"(3) AVIATION SAFETY.—(A) Notwithstanding the termination of production required by subsection (b), the Administrator, after notice and opportunity for public comment, may, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of halon-1211 (bromochlorodifluoromethane), halon-1301 (bromotrifluoromethane), and halon-2402 (dibromotetrafluoroethane) solely for purposes of aviation safety if the Administrator of the Federal Aviation Administration, in consultation with the Administrator, determines that no safe and effective substitute has been developed and that such authorization is necessary for aviation safety purposes.

Reports.

"(B) The Administrator of the Federal Aviation Administration shall, in consultation with the Administrator, examine whether safe and effective substitutes for methyl chloroform or alternative techniques will be available for nondestructive testing for metal fatigue and corrosion of existing airplane engines and airplane parts susceptible to metal fatigue and whether an exception for such uses of methyl chloroform under this paragraph will be necessary for purposes of airline safety after January 1, 2005 and provide a report to Congress in 1998.

"(4) CAP ON CERTAIN EXCEPTIONS.—Under no circumstances may the authority set forth in paragraphs (1), (2), and (3) of subsection (d) be applied to authorize any person to produce a class I substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"(e) DEVELOPING COUNTRIES.—

"(1) EXCEPTION.—Notwithstanding the phase-out and termination of production required under subsections (a) and (b), the Administrator, after notice and opportunity for public comment, may, consistent with the Montreal Protocol, authorize the production of limited quantities of a class I substance in excess of the amounts otherwise allowable under subsection (a) or (b), or both, solely for export to, and use in, developing countries that are Parties to the Montreal Protocol and are operating under article 5 of such Protocol. Any production authorized under this paragraph shall be solely for purposes of satisfying the basic domestic needs of such countries.

"(2) CAP ON EXCEPTION.—(A) Under no circumstances may the authority set forth in paragraph (1) be applied to authorize any person to produce a class I substance in any year for which a production percentage is specified in Table 2 of subsection (a) in an annual quantity greater than the specified percentage, plus an amount equal to 10 percent of the amount produced by such person in the baseline year.

"(B) Under no circumstances may the authority set forth in paragraph (1) be applied to authorize any person to produce a class I substance in the applicable termination year referred to in subsection (b), or in any year thereafter, in an annual quantity greater than 15 percent of the baseline quantity of such substance produced by such person.

"(C) An exception authorized under this subsection shall terminate no later than January 1, 2010 (2012 in the case of methyl chloroform).

"(f) NATIONAL SECURITY.—The President may, to the extent such action is consistent with the Montreal Protocol, issue such orders regarding production and use of CFC–114 (chlorofluorocarbon-114), halon-1211, halon-1301, and halon-2402, at any specified site or facility or on any vessel as may be necessary to protect the national security interests of the United States if the President finds that adequate substitutes are not available and that the production and use of such substance are necessary to protect such national security interest. Such orders may include, where necessary to protect such interests, an exemption from any prohibition or requirement contained in this title. The President shall notify the Congress within 30 days of the issuance of an order under this paragraph providing for any such exemption. Such notification shall include a statement of the reasons for the granting of the exemption. An exemption under this paragraph shall be for a specified period which may not exceed one year. Additional exemptions may be granted, each upon the President's issuance of a new order under this paragraph. Each such additional exemption shall be for a specified period which may not exceed one year. No exemption shall be granted under this paragraph due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation.

"(g) FIRE SUPPRESSION AND EXPLOSION PREVENTION.—(1) Notwithstanding the production phase-out set forth in subsection (a), the Administrator, after notice and opportunity for public comment, may, to the extent such action is consistent with the Montreal Protocol, authorize the production of limited quantities of halon-1211, halon-1301, and halon-2402 in excess of the amount otherwise permitted pursuant to the schedule under subsection (a) solely for purposes of fire suppression or explosion prevention if the Administrator, in consultation with the Administrator of the United States Fire Administration, determines that no safe and effective substitute has been developed and that such authorization is necessary for fire suppression or explosion prevention purposes. The Administrator shall not authorize production under this paragraph for purposes of fire safety or explosion prevention training or testing of fire suppression or explosion prevention equipment. In no event shall the Administrator grant an exception under this paragraph that permits production after December 31, 1999.

"(2) The Administrator shall periodically monitor and assess the status of efforts to obtain substitutes for the substances referred to in paragraph (1) for purposes of fire suppression or explosion prevention and the probability of such substitutes being available by December 31, 1999. The Administrator, as part of such assessment, shall consider any relevant assessments under the Montreal Protocol and the actions of the Parties pursuant to Article 2B of the Montreal Protocol in identifying essential uses and in permitting a level of production or consumption that is necessary to satisfy such uses for which no adequate alternatives are available after December 31, 1999. The Administrator shall report to Congress the results of such assessment in 1994 and again in 1998.

Reports.

"(3) Notwithstanding the termination of production set forth in subsection (b), the Administrator, after notice and opportunity for public comment, may, to the extent consistent with the Montreal Protocol, authorize the production of limited quantities of halon-1211, halon-1301, and halon-2402 in the period after December 31, 1999, and before December 31, 2004, solely for purposes of fire suppression or explosion prevention in association with domestic production of crude oil and natural gas energy supplies on the North Slope of Alaska, if the Administrator, in consultation with the Administrator of the United States Fire Administration, determines that no safe and effective substitute has been developed and that such authorization is necessary for fire suppression and explosion prevention purposes. The Administrator shall not authorize production under the paragraph for purposes of fire safety or explosion prevention training or testing of fire suppression or explosion prevention equipment. In no event shall the Administrator authorize under this paragraph any person to produce any such halon in an amount greater than 3 percent of that produced by such person during the baseline year.

42 USC 7671d.

"SEC. 605. PHASE-OUT OF PRODUCTION AND CONSUMPTION OF CLASS II SUBSTANCES.

"(a) RESTRICTION OF USE OF CLASS II SUBSTANCES.—Effective January 1, 2015, it shall be unlawful for any person to introduce into interstate commerce or use any class II substance unless such substance—

"(1) has been used, recovered, and recycled;

"(2) is used and entirely consumed (except for trace quantities) in the production of other chemicals; or

"(3) is used as a refrigerant in appliances manufactured prior to January 1, 2020.

As used in this subsection, the term 'refrigerant' means any class II substance used for heat transfer in a refrigerating system.

"(b) PRODUCTION PHASE-OUT.—(1) Effective January 1, 2015, it shall be unlawful for any person to produce any class II substance in an annual quantity greater than the quantity of such substance produced by such person during the baseline year.

"(2) Effective January 1, 2030, it shall be unlawful for any person to produce any class II substance.

"(c) REGULATIONS REGARDING PRODUCTION AND CONSUMPTION OF CLASS II SUBSTANCES.—By December 31, 1999, the Administrator shall promulgate regulations phasing out the production, and restricting the use, of class II substances in accordance with this section, subject to any acceleration of the phase-out of production under section 606. The Administrator shall also promulgate regulations to insure that the consumption of class II substances in the United States is phased out and terminated in accordance with the same schedule (subject to the same exceptions and other provisions) as is applicable to the phase-out and termination of production of class II substances under this title.

"(d) EXCEPTIONS.—

"(1) MEDICAL DEVICES.—

"(A) IN GENERAL.—Notwithstanding the termination of production required under subsection (b)(2) and the restriction on use referred to in subsection (a), the Administrator, after notice and opportunity for public comment, shall, to the extent such action is consistent with the Montreal Protocol, authorize the production and use of limited quantities of class II substances solely for purposes of use in medical devices if such authorization is determined by the Commissioner, in consultation with the Administrator, to be necessary for use in medical devices.

"(B) CAP ON EXCEPTION.—Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in annual quantities greater than 10 percent of that produced by such person during the baseline year.

"(2) DEVELOPING COUNTRIES.—

"(A) IN GENERAL.—Notwithstanding the provisions of subsection (a) or (b), the Administrator, after notice and opportunity for public comment, may authorize the production of limited quantities of a class II substance in excess of the quantities otherwise permitted under such provisions solely for export to and use in developing countries that are Parties to the Montreal Protocol, as determined by the Administrator. Any production authorized under this subsection shall be solely for purposes of satisfying the basic domestic needs of such countries.

"(B) CAP ON EXCEPTION.—(i) Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in any year following the effective date of subsection (b)(1) and before the year 2030 in annual quantities greater than 110

percent of the quantity of such substance produced by such person during the baseline year.

"(ii) Under no circumstances may the authority set forth in subparagraph (A) be applied to authorize any person to produce a class II substance in the year 2030, or any year thereafter, in an annual quantity greater than 15 percent of the quantity of such substance produced by such person during the baseline year.

"(iii) Each exception authorized under this paragraph shall terminate no later than January 1, 2040.

42 USC 7671e.

"SEC. 606. ACCELERATED SCHEDULE.

Regulations.

"(a) IN GENERAL.—The Administrator shall promulgate regulations, after notice and opportunity for public comment, which establish a schedule for phasing out the production and consumption of class I and class II substances (or use of class II substances) that is more stringent than set forth in section 604 or 605, or both, if—

"(1) based on an assessment of credible current scientific information (including any assessment under the Montreal Protocol) regarding harmful effects on the stratospheric ozone layer associated with a class I or class II substance, the Administrator determines that such more stringent schedule may be necessary to protect human health and the environment against such effects,

"(2) based on the availability of substitutes for listed substances, the Administrator determines that such more stringent schedule is practicable, taking into account technological achievability, safety, and other relevant factors, or

"(3) the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this title.

In making any determination under paragraphs (1) and (2), the Administrator shall consider the status of the period remaining under the applicable schedule under this title.

"(b) PETITION.—Any person may petition the Administrator to promulgate regulations under this section. The Administrator shall grant or deny the petition within 180 days after receipt of any such petition. If the Administrator denies the petition, the Administrator shall publish an explanation of why the petition was denied. If the Administrator grants such petition, such final regulations shall be promulgated within 1 year. Any petition under this subsection shall include a showing by the petitioner that there are data adequate to support the petition. If the Administrator determines that information is not sufficient to make a determination under this subsection, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

42 USC 7671f.

"SEC. 607. EXCHANGE AUTHORITY.

"(a) TRANSFERS.—The Administrator shall, within 10 months after the enactment of the Clean Air Act Amendments of 1990, promulgate rules under this title providing for the issuance of allowances for the production of class I and II substances in accordance with the requirements of this title and governing the transfer of such allowances. Such rules shall insure that the transactions under the authority of this section will result in greater total reductions in the

production in each year of class I and class II substances than would occur in that year in the absence of such transactions.

"(b) INTERPOLLUTANT TRANSFERS.—(1) The rules under this section shall permit a production allowance for a substance for any year to be transferred for a production allowance for another substance for the same year on an ozone depletion weighted basis.

"(2) Allowances for substances in each group of class I substances (as listed pursuant to section 602) may only be transferred for allowances for other substances in the same Group.

"(3) The Administrator shall, as appropriate, establish groups of class II substances for trading purposes and assign class II substances to such groups. In the case of class II substances, allowances may only be transferred for allowances for other class II substances that are in the same Group.

"(c) TRADES WITH OTHER PERSONS.—The rules under this section shall permit 2 or more persons to transfer production allowances (including interpollutant transfers which meet the requirements of subsections (a) and (b)) if the transferor of such allowances will be subject, under such rules, to an enforceable and quantifiable reduction in annual production which—

"(1) exceeds the reduction otherwise applicable to the transferor under this title,

"(2) exceeds the production allowances transferred to the transferee, and

"(3) would not have occurred in the absence of such transaction.

"(d) CONSUMPTION.—The rules under this section shall also provide for the issuance of consumption allowances in accordance with the requirements of this title and for the trading of such allowances in the same manner as is applicable under this section to the trading of production allowances under this section.

"SEC. 608. NATIONAL RECYCLING AND EMISSION REDUCTION PROGRAM. 42 USC 7671g.

"(a) IN GENERAL.—(1) The Administrator shall, by not later than January 1, 1992, promulgate regulations establishing standards and requirements regarding the use and disposal of class I substances during the service, repair, or disposal of appliances and industrial process refrigeration. Such standards and requirements shall become effective not later than July 1, 1992. Regulations.

"(2) The Administrator shall, within 4 years after the enactment of the Clean Air Act Amendments of 1990, promulgate regulations establishing standards and requirements regarding use and disposal of class I and II substances not covered by paragraph (1), including the use and disposal of class II substances during service, repair, or disposal of appliances and industrial process refrigeration. Such standards and requirements shall become effective not later than 12 months after promulgation of the regulations.

"(3) The regulations under this subsection shall include requirements that—

"(A) reduce the use and emission of such substances to the lowest achievable level, and

"(B) maximize the recapture and recycling of such substances.

Such regulations may include requirements to use alternative substances (including substances which are not class I or class II substances) or to minimize use of class I or class II substances, or to promote the use of safe alternatives pursuant to section 612 or any combination of the foregoing.

"(b) SAFE DISPOSAL.—The regulations under subsection (a) shall establish standards and requirements for the safe disposal of class I and II substances. Such regulations shall include each of the following—

"(1) Requirements that class I or class II substances contained in bulk in appliances, machines or other goods shall be removed from each such appliance, machine or other good prior to the disposal of such items or their delivery for recycling.

"(2) Requirements that any appliance, machine or other good containing a class I or class II substance in bulk shall not be manufactured, sold, or distributed in interstate commerce or offered for sale or distribution in interstate commerce unless it is equipped with a servicing aperture or an equally effective design feature which will facilitate the recapture of such substance during service and repair or disposal of such item.

"(3) Requirements that any product in which a class I or class II substance is incorporated so as to constitute an inherent element of such product shall be disposed of in a manner that reduces, to the maximum extent practicable, the release of such substance into the environment. If the Administrator determines that the application of this paragraph to any product would result in producing only insignificant environmental benefits, the Administrator shall include in such regulations an exception for such product.

"(c) PROHIBITIONS.—(1) Effective July 1, 1992, it shall be unlawful for any person, in the course of maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration, to knowingly vent or otherwise knowingly release or dispose of any class I or class II substance used as a refrigerant in such appliance (or industrial process refrigeration) in a manner which permits such substance to enter the environment. De minimis releases associated with good faith attempts to recapture and recycle or safely dispose of any such substance shall not be subject to the prohibition set forth in the preceding sentence.

"(2) Effective 5 years after the enactment of the Clean Air Act Amendments of 1990, paragraph (1) shall also apply to the venting, release, or disposal of any substitute substance for a class I or class II substance by any person maintaining, servicing, repairing, or disposing of an appliance or industrial process refrigeration which contains and uses as a refrigerant any such substance, unless the Administrator determines that venting, releasing, or disposing of such substance does not pose a threat to the environment. For purposes of this paragraph, the term 'appliance' includes any device which contains and uses as a refrigerant a substitute substance and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

42 USC 7671h.

"SEC. 609. SERVICING OF MOTOR VEHICLE AIR CONDITIONERS.

"(a) REGULATIONS.—Within 1 year after the enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate regulations in accordance with this section establishing standards and requirements regarding the servicing of motor vehicle air conditioners.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'refrigerant' means any class I or class II substance used in a motor vehicle air conditioner. Effective 5 years after the enactment of the Clean Air Act Amendments of

1990, the term 'refrigerant' shall also include any substitute substance.

"(2)(A) The term 'approved refrigerant recycling equipment' means equipment certified by the Administrator (or an independent standards testing organization approved by the Administrator) to meet the standards established by the Administrator and applicable to equipment for the extraction and reclamation of refrigerant from motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to such equipment (SAE standard J-1990).

"(B) Equipment purchased before the proposal of regulations under this section shall be considered certified if it is substantially identical to equipment certified as provided in subparagraph (A).

"(3) The term 'properly using' means, with respect to approved refrigerant recycling equipment, using such equipment in conformity with standards established by the Administrator and applicable to the use of such equipment. Such standards shall, at a minimum, be at least as stringent as the standards of the Society of Automotive Engineers in effect as of the date of the enactment of the Clean Air Act Amendments of 1990 and applicable to the use of such equipment (SAE standard J-1989).

"(4) The term 'properly trained and certified' means training and certification in the proper use of approved refrigerant recycling equipment for motor vehicle air conditioners in conformity with standards established by the Administrator and applicable to the performance of service on motor vehicle air conditioners. Such standards shall, at a minimum, be at least as stringent as specified, as of the date of the enactment of the Clean Air Act Amendments of 1990, in SAE standard J-1989 under the certification program of the National Institute for Automotive Service Excellence (ASE) or under a similar program such as the training and certification program of the Mobile Air Conditioning Society (MACS).

"(c) SERVICING MOTOR VEHICLE AIR CONDITIONERS.—Effective January 1, 1992, no person repairing or servicing motor vehicles for consideration may perform any service on a motor vehicle air conditioner involving the refrigerant for such air conditioner without properly using approved refrigerant recycling equipment and no such person may perform such service unless such person has been properly trained and certified. The requirements of the previous sentence shall not apply until January 1, 1993 in the case of a person repairing or servicing motor vehicles for consideration at an entity which performed service on fewer than 100 motor vehicle air conditioners during calendar year 1990 and if such person so certifies, pursuant to subsection (d)(2), to the Administrator by January 1, 1992.

"(d) CERTIFICATION.—(1) Effective 2 years after the enactment of the Clean Air Act Amendments of 1990, each person performing service on motor vehicle air conditioners for consideration shall certify to the Administrator either—

"(A) that such person has acquired, and is properly using, approved refrigerant recycling equipment in service on motor

vehicle air conditioners involving refrigerant and that each individual authorized by such person to perform such service is properly trained and certified; or

"(B) that such person is performing such service at an entity which serviced fewer than 100 motor vehicle air conditioners in 1991.

"(2) Effective January 1, 1993, each person who certified under paragraph (1)(B) shall submit a certification under paragraph (1)(A).

"(3) Each certification under this subsection shall contain the name and address of the person certifying under this subsection and the serial number of each unit of approved recycling equipment acquired by such person and shall be signed and attested by the owner or another responsible officer. Certifications under paragraph (1)(A) may be made by submitting the required information to the Administrator on a standard form provided by the manufacturer of certified refrigerant recycling equipment.

"(e) SMALL CONTAINERS OF CLASS I OR CLASS II SUBSTANCES.—Effective 2 years after the date of the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce to any person (other than a person performing service for consideration on motor vehicle air-conditioning systems in compliance with this section) any class I or class II substance that is suitable for use as a refrigerant in a motor vehicle air-conditioning system and that is in a container which contains less than 20 pounds of such refrigerant.

42 USC 7671i.

"SEC. 610. NONESSENTIAL PRODUCTS CONTAINING CHLOROFLUOROCARBONS.

"(a) REGULATIONS.—The Administrator shall promulgate regulations to carry out the requirements of this section within 1 year after the enactment of the Clean Air Act Amendments of 1990.

"(b) NONESSENTIAL PRODUCTS.—The regulations under this section shall identify nonessential products that release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal) and prohibit any person from selling or distributing any such product, or offering any such product for sale or distribution, in interstate commerce. At a minimum, such prohibition shall apply to—

"(1) chlorofluorocarbon-propelled plastic party streamers and noise horns,

"(2) chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment, and

"(3) other consumer products that are determined by the Administrator—

"(A) to release class I substances into the environment (including any release occurring during manufacture, use, storage, or disposal), and

"(B) to be nonessential.

In determining whether a product is nonessential, the Administrator shall consider the purpose or intended use of the product, the technological availability of substitutes for such product and for such class I substance, safety, health, and other relevant factors.

"(c) EFFECTIVE DATE.—Effective 24 months after the enactment of the Clean Air Act Amendments of 1990, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in

interstate commerce any nonessential product to which regulations under subsection (a) implementing subsection (b) are applicable.

"(d) OTHER PRODUCTS.—(1) Effective January 1, 1994, it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce—

"(A) any aerosol product or other pressurized dispenser which contains a class II substance; or

"(B) any plastic foam product which contains, or is manufactured with, a class II substance.

"(2) The Administrator is authorized to grant exceptions from the prohibition under subparagraph (A) of paragraph (1) where—

"(A) the use of the aerosol product or pressurized dispenser is determined by the Administrator to be essential as a result of flammability or worker safety concerns, and

"(B) the only available alternative to use of a class II substance is use of a class I substance which legally could be substituted for such class II substance.

"(3) Subparagraph (B) of paragraph (1) shall not apply to—

"(A) a foam insulation product, or

"(B) an integral skin, rigid, or semi-rigid foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards where no adequate substitute substance (other than a class I or class II substance) is practicable for effectively meeting such Standards.

"(e) MEDICAL DEVICES.—Nothing in this section shall apply to any medical device as defined in section 601(8).

"SEC. 611. LABELING.

42 USC 7671j.

"(a) REGULATIONS.—The Administrator shall promulgate regulations to implement the labeling requirements of this section within 18 months after enactment of the Clean Air Act Amendments of 1990, after notice and opportunity for public comment.

"(b) CONTAINERS CONTAINING CLASS I OR CLASS II SUBSTANCES AND PRODUCTS CONTAINING CLASS I SUBSTANCES.—Effective 30 months after the enactment of the Clean Air Act Amendments of 1990, no container in which a class I or class II substance is stored or transported, and no product containing a class I substance, shall be introduced into interstate commerce unless it bears a clearly legible and conspicuous label stating:

" 'Warning: Contains [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'.

"(c) PRODUCTS CONTAINING CLASS II SUBSTANCES.—(1) After 30 months after the enactment of the Clean Air Act Amendments of 1990, and before January 1, 2015, no product containing a class II substance shall be introduced into interstate commerce unless it bears the label referred to in subsection (b) if the Administrator determines, after notice and opportunity for public comment, that there are substitute products or manufacturing processes (A) that do not rely on the use of such class II substance, (B) that reduce the overall risk to human health and the environment, and (C) that are currently or potentially available.

"(2) Effective January 1, 2015, the requirements of subsection (b) shall apply to all products containing a class II substance.

"(d) PRODUCTS MANUFACTURED WITH CLASS I AND CLASS II SUBSTANCES.—(1) In the case of a class II substance, after 30 months after the enactment of the Clean Air Act Amendments of 1990, and

before January 1, 2015, if the Administrator, after notice and opportunity for public comment, makes the determination referred to in subsection (c) with respect to a product manufactured with a process that uses such class II substance, no such product shall be introduced into interstate commerce unless it bears a clearly legible and conspicuous label stating:

" 'Warning: Manufactured with [insert name of substance], a substance which harms public health and environment by destroying ozone in the upper atmosphere'

"(2) In the case of a class I substance, effective 30 months after the enactment of the Clean Air Act Amendments of 1990, and before January 1, 2015, the labeling requirements of this subsection shall apply to all products manufactured with a process that uses such class I substance unless the Administrator determines that there are no substitute products or manufacturing processes that (A) do not rely on the use of such class I substance, (B) reduce the overall risk to human health and the environment, and (C) are currently or potentially available.

"(e) PETITIONS.—(1) Any person may, at any time after 18 months after the enactment of the Clean Air Act Amendments of 1990, petition the Administrator to apply the requirements of this section to a product containing a class II substance or a product manufactured with a class I or II substance which is not otherwise subject to such requirements. Within 180 days after receiving such petition, the Administrator shall, pursuant to the criteria set forth in subsection (c), either propose to apply the requirements of this section to such product or publish an explanation of the petition denial. If the Administrator proposes to apply such requirements to such product, the Administrator shall, by rule, render a final determination pursuant to such criteria within 1 year after receiving such petition.

"(2) Any petition under this paragaph shall include a showing by the petitioner that there are data on the product adequate to support the petition.

"(3) If the Administrator determines that information on the product is not sufficient to make the required determination the Administrator shall use any authority available to the Administrator under any law administered by the Administrator to acquire such information.

"(4) In the case of a product determined by the Administrator, upon petition or on the Administrator's own motion, to be subject to the requirements of this section, the Administrator shall establish an effective date for such requirements. The effective date shall be 1 year after such determination or 30 months after the enactment of the Clean Air Act Amendments of 1990, whichever is later.

"(5) Effective January 1, 2015, the labeling requirements of this subsection shall apply to all products manufactured with a process that uses a class I or class II substance.

"(f) RELATIONSHIP TO OTHER LAW.—(1) The labeling requirements of this section shall not constitute, in whole or part, a defense to liability or a cause for reduction in damages in any suit, whether civil or criminal, brought under any law, whether Federal or State, other than a suit for failure to comply with the labeling requirements of this section.

"(2) No other approval of such label by the Administrator under any other law administered by the Administrator shall be required with respect to the labeling requirements of this section.

"SEC. 612. SAFE ALTERNATIVES POLICY. 42 USC 7671k.

"(a) POLICY.—To the maximum extent practicable, class I and class II substances shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.

"(b) REVIEWS AND REPORTS.—The Administrator shall—

"(1) in consultation and coordination with interested members of the public and the heads of relevant Federal agencies and departments, recommend Federal research programs and other activities to assist in identifying alternatives to the use of class I and class II substances as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications and in achieving a transition to such alternatives, and, where appropriate, seek to maximize the use of Federal research facilities and resources to assist users of class I and class II substances in identifying and developing alternatives to the use of such substances as refrigerants, solvents, fire retardants, foam blowing agents, and other commercial applications;

"(2) examine in consultation and coordination with the Secretary of Defense and the heads of other relevant Federal agencies and departments, including the General Services Administration, Federal procurement practices with respect to class I and class II substances and recommend measures to promote the transition by the Federal Government, as expeditiously as possible, to the use of safe substitutes;

"(3) specify initiatives, including appropriate intergovernmental, international, and commercial information and technology transfers, to promote the development and use of safe substitutes for class I and class II substances, including alternative chemicals, product substitutes, and alternative manufacturing processes; and

"(4) maintain a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and class II substances.

"(c) ALTERNATIVES FOR CLASS I OR II SUBSTANCES.—Within 2 years after enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate rules under this section providing that it shall be unlawful to replace any class I or class II substance with any substitute substance which the Administrator determines may present adverse effects to human health or the environment, where the Administrator has identified an alternative to such replacement that—

"(1) reduces the overall risk to human health and the environment; and

"(2) is currently or potentially available.

The Administrator shall publish a list of (A) the substitutes prohibited under this subsection for specific uses and (B) the safe alternatives identified under this subsection for specific uses.

"(d) RIGHT TO PETITION.—Any person may petition the Administrator to add a substance to the lists under subsection (c) or to remove a substance from either of such lists. The Administrator shall grant or deny the petition within 90 days after receipt of any such petition. If the Administrator denies the petition, the Administrator shall publish an explanation of why the petition was denied. If the Administrator grants such petition the Administrator shall

publish such revised list within 6 months thereafter. Any petition under this subsection shall include a showing by the petitioner that there are data on the substance adequate to support the petition. If the Administrator determines that information on the substance is not sufficient to make a determination under this subsection, the Administrator shall use any authority available to the Administrator, under any law administered by the Administrator, to acquire such information.

"(e) STUDIES AND NOTIFICATION.—The Administrator shall require any person who produces a chemical substitute for a class I substance to provide the Administrator with such person's unpublished health and safety studies on such substitute and require producers to notify the Administrator not less than 90 days before new or existing chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. This subsection shall be subject to section 114(c).

42 USC 7671*l*.

"SEC. 613. FEDERAL PROCUREMENT.

Regulations.

"Not later than 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Administrator of the General Services Administration and the Secretary of Defense, shall promulgate regulations requiring each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of this title and to maximize the substitution of safe alternatives identified under section 612 for class I and class II substances. Not later than 30 months after the enactment of the Clean Air Act Amendments of 1990, each department, agency, and instrumentality of the United States shall so conform its procurement regulations and certify to the President that its regulations have been modified in accordance with this section.

42 USC 7671m.

"SEC. 614. RELATIONSHIP TO OTHER LAWS.

"(a) STATE LAWS.—Notwithstanding section 116, during the 2-year period beginning on the enactment of the Clean Air Act Amendments of 1990, no State or local government may enforce any requirement concerning the design of any new or recalled appliance for the purpose of protecting the stratospheric ozone layer.

"(b) MONTREAL PROTOCOL.—This title as added by the Clean Air Act Amendments of 1990 shall be construed, interpreted, and applied as a supplement to the terms and conditions of the Montreal Protocol, as provided in Article 2, paragraph 11 thereof, and shall not be construed, interpreted, or applied to abrogate the responsibilities or obligations of the United States to implement fully the provisions of the Montreal Protocol. In the case of conflict between any provision of this title and any provision of the Montreal Protocol, the more stringent provision shall govern. Nothing in this title shall be construed, interpreted, or applied to affect the authority or responsibility of the Administrator to implement Article 4 of the Montreal Protocol with other appropriate agencies.

President.

"(c) TECHNOLOGY EXPORT AND OVERSEAS INVESTMENT.—Upon enactment of this title, the President shall—

"(1) prohibit the export of technologies used to produce a class I substance;

"(2) prohibit direct or indirect investments by any person in facilities designed to produce a class I or class II substance in nations that are not parties to the Montreal Protocol; and

"(3) direct that no agency of the government provide bilateral or multilateral subsidies, aids, credits, guarantees, or insurance programs, for the purpose of producing any class I substance.

"SEC. 615. AUTHORITY OF ADMINISTRATOR. 42 USC 7671n.

"If, in the Administrator's judgment, any substance, practice, process, or activity may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, and such effect may reasonably be anticipated to endanger public health or welfare, the Administrator shall promptly promulgate regulations respecting the control of such substance, practice, process, or activity, and shall submit notice of the proposal and promulgation of such regulation to the Congress. Regulations.

"SEC. 616. TRANSFERS AMONG PARTIES TO MONTREAL PROTOCOL. 42 USC 7671o.

"(a) IN GENERAL.—Consistent with the Montreal Protocol, the United States may engage in transfers with other Parties to the Protocol under the following conditions:

"(1) The United States may transfer production allowances to another Party if, at the time of such transfer, the Administrator establishes revised production limits for the United States such that the aggregate national United States production permitted under the revised production limits equals the lesser of (A) the maximum production level permitted for the substance or substances concerned in the transfer year under the Protocol minus the production allowances transferred, (B) the maximum production level permitted for the substance or substances concerned in the transfer year under applicable domestic law minus the production allowances transferred, or (C) the average of the actual national production level of the substance or substances concerned for the 3 years prior to the transfer minus the production allowances transferred.

"(2) The United States may acquire production allowances from another Party if, at the time of such transfer, the Administrator finds that the other Party has revised its domestic production limits in the same manner as provided with respect to transfers by the United States in subsection (a).

"(b) EFFECT OF TRANSFERS ON PRODUCTION LIMITS.—The Administrator is authorized to reduce the production limits established under this Act as required as a prerequisite to transfers under paragraph (1) of subsection (a) or to increase production limits established under this Act to reflect production allowances acquired under a transfer under paragraph (2) of subsection (a).

"(c) REGULATIONS.—The Administrator shall promulgate, within 2 years after the date of enactment of the Clean Air Act Amendments of 1990, regulations to implement this section.

"(d) DEFINITION.—In the case of the United States, the term 'applicable domestic law' means this Act.

"SEC. 617. INTERNATIONAL COOPERATION. 42 USC 7671p.

"(a) IN GENERAL.—The President shall undertake to enter into international agreements to foster cooperative research which complements studies and research authorized by this title, and to develop standards and regulations which protect the stratosphere consistent with regulations applicable within the United States. For these purposes the President through the Secretary of State and the Assistant Secretary of State for Oceans and International Environ- President. International agreements. Regulations. Treaties. Reports.

mental and Scientific Affairs, shall negotiate multilateral treaties, conventions, resolutions, or other agreements, and formulate, present, or support proposals at the United Nations and other appropriate international forums and shall report to the Congress periodically on efforts to arrive at such agreements.

"(b) ASSISTANCE TO DEVELOPING COUNTRIES.—The Administrator, in consultation with the Secretary of State, shall support global participation in the Montreal Protocol by providing technical and financial assistance to developing countries that are Parties to the Montreal Protocol and operating under article 5 of the Protocol. There are authorized to be appropriated not more than $30,000,000 to carry out this section in fiscal years 1991, 1992 and 1993 and such sums as may be necessary in fiscal years 1994 and 1995. If China and India become Parties to the Montreal Protocol, there are authorized to be appropriated not more than an additional $30,000,000 to carry out this section in fiscal years 1991, 1992, and 1993.

42 USC 7671q.

"SEC. 618. MISCELLANEOUS PROVISIONS.

"For purposes of section 116, requirements concerning the areas addressed by this title for the protection of the stratosphere against ozone layer depletion shall be treated as requirements for the control and abatement of air pollution. For purposes of section 118, the requirements of this title and corresponding State, interstate, and local requirements, administrative authority, and process, and sanctions respecting the protection of the stratospheric ozone layer shall be treated as requirements for the control and abatement of air pollution within the meaning of section 118.".

42 USC 7671b.

SEC. 603. METHANE STUDIES.

Reports.

(a) ECONOMICALLY JUSTIFIED ACTIONS.—Not later than 2 years after enactment of this Act, the Administrator shall prepare and submit a report to the Congress that identifies activities, substances, processes, or combinations thereof that could reduce methane emissions and that are economically and technologically justified with and without consideration of environmental benefit.

Reports.

(b) DOMESTIC METHANE SOURCE INVENTORY AND CONTROL.—Not later than 2 years after the enactment of this Act, the Administrator, in consultation and coordination with the Secretary of Energy and the Secretary of Agriculture, shall prepare and submit to the Congress reports on each of the following:

(1) Methane emissions associated with natural gas extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from natural gas and oil wells, pipelines, processing facilities, and gas burners. The report shall also include an inventory of methane generation with such activities.

(2) Methane emissions associated with coal extraction, transportation, distribution, storage, and use. Such report shall include an inventory of methane emissions associated with such activities within the United States. Such emissions include, but are not limited to, accidental and intentional releases from mining shafts, degasification wells, gas recovery wells and equipment, and from the processing and use of coal. The report shall also include an inventory of methane generation with such activities.

(3) Methane emissions associated with management of solid waste. Such report shall include an inventory of methane emissions associated with all forms of waste management in the United States, including storage, treatment, and disposal.

(4) Methane emissions associated with agriculture. Such report shall include an inventory of methane emissions associated with rice and livestock production in the United States.

(5) Methane emissions associated with biomass burning. Such report shall include an inventory of methane emissions associated with the intentional burning of agricultural wastes, wood, grasslands, and forests.

(6) Other methane emissions associated with human activities. Such report shall identify and inventory other domestic sources of methane emissions that are deemed by the Administrator and other such agencies to be significant.

(c) INTERNATIONAL STUDIES.—

(1) METHANE EMISSIONS.—Not later than 2 years after the enactment of this Act, the Administrator shall prepare and submit to the Congress a report on methane emissions from countries other than the United States. Such report shall include inventories of methane emissions associated with the activities listed in subsection (b). Reports.

(2) PREVENTING INCREASES IN METHANE CONCENTRATIONS.—Not later than 2 years after the enactment of this Act, the Administrator shall prepare and submit to the Congress a report that analyzes the potential for preventing an increase in atmospheric concentrations of methane from activities and sources in other countries. Such report shall identify and evaluate the technical options for reducing methane emission from each of the activities listed in subsection (b), as well as other activities or sources that are deemed by the Administrator in consultation with other relevant Federal agencies and departments to be significant and shall include an evaluation of costs. The report shall identify the emissions reductions that would need to be achieved to prevent increasing atmospheric concentrations of methane. The report shall also identify technology transfer programs that could promote methane emissions reductions in lesser developed countries. Reports.

(d) NATURAL SOURCES.—Not later than 2 years after the enactment of this Act, the Administrator shall prepare and submit to the Congress a report on— Reports.

(1) methane emissions from biogenic sources such as (A) tropical, temperate, and subarctic forests, (B) tundra, and (C) freshwater and saltwater wetlands; and

(2) the changes in methane emissions from biogenic sources that may occur as a result of potential increases in temperatures and atmospheric concentrations of carbon dioxide.

(e) STUDY OF MEASURES TO LIMIT GROWTH IN METHANE CONCENTRATIONS.—Not later than 2 years after the completion of the studies in subsections (b), (c), and (d), the Administrator shall prepare and submit to the Congress a report that presents options outlining measures that could be implemented to stop or reduce the growth in atmospheric concentrations of methane from sources within the United States referred to in paragraphs (1) through (6) of subsection (b). This study shall identify and evaluate the technical options for reducing methane emissions from each of the activities listed in subsection (b), as well as other activities or sources deemed Reports.

by such agencies to be significant, and shall include an evaluation of costs, technology, safety, energy, and other factors. The study shall be based on the other studies under this section. The study shall also identify programs of the United States and international lending agencies that could be used to induce lesser developed countries to undertake measures that will reduce methane emissions and the resource needs of such programs.

(f) INFORMATION GATHERING.—In carrying out the studies under this section, the provisions and requirements of section 114 of the Clean Air Act shall be available for purposes of obtaining information to carry out such studies.

(g) CONSULTATION AND COORDINATION.—In preparing the studies under this section the Administrator shall consult and coordinate with the Secretary of Energy, the Administrators of the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, and the heads of other relevant Federal agencies and departments. In the case of the studies under subsections (a), (b), and (e), such consultation and coordination shall include the Secretary of Agriculture.

TITLE VII—PROVISIONS RELATING TO ENFORCEMENT

Sec. 701. Section 113 enforcement.
Sec. 702. Compliance certification.
Sec. 703. Administrative enforcement subpoenas.
Sec. 704. Emergency orders.
Sec. 705. Contractor listings.
Sec. 706. Judicial review pending reconsideration of regulation.
Sec. 707. Citizen suits.
Sec. 708. Enhanced implementation and enforcement of new source review requirements.
Sec. 709. Movable stationary sources.
Sec. 710. Enforcement of new titles of the Act.
Sec. 711. Savings provisions and effective dates.

SEC. 701. SECTION 113 ENFORCEMENT.

42 USC 7413.

Section 113 of the Clean Air Act is amended to read as follows:

"SEC. 113. FEDERAL ENFORCEMENT.

"(a) IN GENERAL.—

"(1) ORDER TO COMPLY WITH SIP.—Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of an applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. At any time after the expiration of 30 days following the date on which such notice of a violation is issued, the Administrator may, without regard to the period of violation (subject to section 2462 of title 28 of the United States Code)—

"(A) issue an order requiring such person to comply with the requirements or prohibitions of such plan or permit,

"(B) issue an administrative penalty order in accordance with subsection (d), or

"(C) bring a civil action in accordance with subsection (b).

"(2) STATE FAILURE TO ENFORCE SIP OR PERMIT PROGRAM.—Whenever, on the basis of information available to the Adminis-

trator, the Administrator finds that violations of an applicable implementation plan or an approved permit program under title V are so widespread that such violations appear to result from a failure of the State in which the plan or permit program applies to enforce the plan or permit program effectively, the Administrator shall so notify the State. In the case of a permit program, the notice shall be made in accordance with title V. If the Administrator finds such failure extends beyond the 30th day after such notice (90 days in the case of such permit program), the Administrator shall give public notice of such finding. During the period beginning with such public notice and ending when such State satisfies the Administrator that it will enforce such plan or permit program (hereafter referred to in this section as 'period of federally assumed enforcement'), the Administrator may enforce any requirement or prohibition of such plan or permit program with respect to any person by—

"(A) issuing an order requiring such person to comply with such requirement or prohibition,

"(B) issuing an administrative penalty order in accordance with subsection (d), or

"(C) bringing a civil action in accordance with subsection (b).

"(3) EPA ENFORCEMENT OF OTHER REQUIREMENTS.—Except for a requirement or prohibition enforceable under the preceding provisions of this subsection, whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated, or is in violation of, any other requirement or prohibition of this title, section 303 of title III, title IV, title V, or title VI, including, but not limited to, a requirement or prohibition of any rule, plan, order, waiver, or permit promulgated, issued, or approved under those provisions or titles, or for the payment of any fee owed to the United States under this Act (other than title II), the Administrator may—

"(A) issue an administrative penalty order in accordance with subsection (d),

"(B) issue an order requiring such person to comply with such requirement or prohibition,

"(C) bring a civil action in accordance with subsection (b) or section 305, or

"(D) request the Attorney General to commence a criminal action in accordance with subsection (c).

"(4) REQUIREMENTS FOR ORDERS.—An order issued under this subsection (other than an order relating to a violation of section 112) shall not take effect until the person to whom it is issued has had an opportunity to confer with the Administrator concerning the alleged violation. A copy of any order issued under this subsection shall be sent to the State air pollution control agency of any State in which the violation occurs. Any order issued under this subsection shall state with reasonable specificity the nature of the violation and specify a time for compliance which the Administrator determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements. In any case in which an order under this subsection (or notice to a violator under paragraph (1)) is issued to a corporation, a copy of such order (or notice) shall be issued to appropriate corporate

officers. An order issued under this subsection shall require the person to whom it was issued to comply with the requirement as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be nonrenewable. No order issued under this subsection shall prevent the State or the Administrator from assessing any penalties nor otherwise affect or limit the State's or the United States authority to enforce under other provisions of this Act, nor affect any person's obligations to comply with any section of this Act or with a term or condition of any permit or applicable implementation plan promulgated or approved under this Act.

"(5) FAILURE TO COMPLY WITH NEW SOURCE REQUIREMENTS.—Whenever, on the basis of any available information, the Administrator finds that a State is not acting in compliance with any requirement or prohibition of the Act relating to the construction of new sources or the modification of existing sources, the Administrator may—

"(A) issue an order prohibiting the construction or modification of any major stationary source in any area to which such requirement applies;

"(B) issue an administrative penalty order in accordance with subsection (d), or

"(C) bring a civil action under subsection (b).

Nothing in this subsection shall preclude the United States from commencing a criminal action under section 113(c) at any time for any such violation.

"(b) CIVIL JUDICIAL ENFORCEMENT.—The Administrator shall, as appropriate, in the case of any person that is the owner or operator of an affected source, a major emitting facility, or a major stationary source, and may, in the case of any other person, commence a civil action for a permanent or temporary injunction, or to assess and recover a civil penalty of not more than $25,000 per day for each violation, or both, in any of the following instances:

"(1) Whenever such person has violated, or is in violation of, any requirement or prohibition of an applicable implementation plan or permit. Such an action shall be commenced (A) during any period of federally assumed enforcement, or (B) more than 30 days following the date of the Administrator's notification under subsection (a)(1) that such person has violated, or is in violation of, such requirement or prohibition.

"(2) Whenever such person has violated, or is in violation of, any other requirement or prohibition of this title, section 303 of title III, title IV, title V, or title VI, including, but not limited to, a requirement or prohibition of any rule, order, waiver or permit promulgated, issued, or approved under this Act, or for the payment of any fee owed the United States under this Act (other than title II).

"(3) Whenever such person attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) has been made.

Any action under this subsection may be brought in the district court of the United States for the district in which the violation is alleged to have occurred, or is occurring, or in which the defendant resides, or where the defendant's principal place of business is located, and such court shall have jurisdiction to restrain such violation, to require compliance, to assess such civil penalty, to collect any fees owed the United States under this Act (other than

title II) and any noncompliance assessment and nonpayment penalty owed under section 120, and to award any other appropriate relief. Notice of the commencement of such action shall be given to the appropriate State air pollution control agency. In the case of any action brought by the Administrator under this subsection, the court may award costs of litigation (including reasonable attorney and expert witness fees) to the party or parties against whom such action was brought if the court finds that such action was unreasonable.

"(c) CRIMINAL PENALTIES.—(1) Any person who knowingly violates any requirement or prohibition of an applicable implementation plan (during any period of federally assumed enforcement or more than 30 days after having been notified under subsection (a)(1) by the Administrator that such person is violating such requirement or prohibition), any order under subsection (a) of this section, requirement or prohibition of section 111(e) of this title (relating to new source performance standards), section 112 of this title, section 114 of this title (relating to inspections, etc.), section 129 of this title (relating to solid waste combustion), section 165(a) of this title (relating to preconstruction requirements), an order under section 167 of this title (relating to preconstruction requirements), an order under section 303 of title III (relating to emergency orders), section 502(a) or 503(c) of title V (relating to permits), or any requirement or prohibition of title IV (relating to acid deposition control), or title VI (relating to stratospheric ozone control), including a requirement of any rule, order, waiver, or permit promulgated or approved under such sections or titles, and including any requirement for the payment of any fee owed the United States under this Act (other than title II) shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not to exceed 5 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(2) Any person who knowingly—

"(A) makes any false material statement, representation, or certification in, or omits material information from, or knowingly alters, conceals, or fails to file or maintain any notice, application, record, report, plan, or other document required pursuant to this Act to be either filed or maintained (whether with respect to the requirements imposed by the Administrator or by a State);

"(B) fails to notify or report as required under this Act; or

"(C) falsifies, tampers with, renders inaccurate, or fails to install any monitoring device or method required to be maintained or followed under this Act

shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 2 years, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(3) Any person who knowingly fails to pay any fee owed the United States under this title, title III, IV, V, or VI shall, upon conviction, be punished by a fine pursuant to title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation

committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(4) Any person who negligently releases into the ambient air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112 of this Act, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment for not more than 1 year, or both. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment.

"(5)(A) Any person who knowingly releases into the ambient air any hazardous air pollutant listed pursuant to section 112 of this Act or any extremely hazardous substance listed pursuant to section 302(a)(2) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 11002(a)(2)) that is not listed in section 112 of this Act, and who knows at the time that he thereby places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine under title 18 of the United States Code, or by imprisonment of not more than 15 years, or both. Any person committing such violation which is an organization shall, upon conviction under this paragraph, be subject to a fine of not more than $1,000,000 for each violation. If a conviction of any person under this paragraph is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment shall be doubled with respect to both the fine and imprisonment. For any air pollutant for which the Administrator has set an emissions standard or for any source for which a permit has been issued under title V, a release of such pollutant in accordance with that standard or permit shall not constitute a violation of this paragraph or paragraph (4).

"(B) In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury—

"(i) the defendant is responsible only for actual awareness or actual belief possessed; and

"(ii) knowledge possessed by a person other than the defendant, but not by the defendant, may not be attributed to the defendant;

except that in proving a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to be shielded from relevant information.

"(C) It is an affirmative defense to a prosecution that the conduct charged was freely consented to by the person endangered and that the danger and conduct charged were reasonably foreseeable hazards of—

"(i) an occupation, a business, or a profession; or

"(ii) medical treatment or medical or scientific experimentation conducted by professionally approved methods and such other person had been made aware of the risks involved prior to giving consent.

The defendant may establish an affirmative defense under this subparagraph by a preponderance of the evidence.

"(D) All general defenses, affirmative defenses, and bars to prosecution that may apply with respect to other Federal criminal offenses may apply under subparagraph (A) of this paragraph and shall be determined by the courts of the United States according to the principles of common law as they may be interpreted in the light of reason and experience. Concepts of justification and excuse applicable under this section may be developed in the light of reason and experience. Courts.

"(E) The term 'organization' means a legal entity, other than a government, established or organized for any purpose, and such term includes a corporation, company, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, or any other association of persons.

"(F) The term 'serious bodily injury' means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

"(6) For the purpose of this subsection, the term 'person' includes, in addition to the entities referred to in section 302(e), any responsible corporate officer.

"(d) ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES.—(1) The Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to $25,000, per day of violation, whenever, on the basis of any available information, the Administrator finds that such person—

"(A) has violated or is violating any requirement or prohibition of an applicable implementation plan (such order shall be issued (i) during any period of federally assumed enforcement, or (ii) more than thirty days following the date of the Administrator's notification under subsection (a)(1) of this section of a finding that such person has violated or is violating such requirement or prohibition); or

"(B) has violated or is violating any other requirement or prohibition of title I, III, IV, V, or VI, including, but not limited to, a requirement or prohibition of any rule, order, waiver, permit, or plan promulgated, issued, or approved under this Act, or for the payment of any fee owed the United States under this Act (other than title II); or

"(C) attempts to construct or modify a major stationary source in any area with respect to which a finding under subsection (a)(5) of this section has been made.

The Administrator's authority under this paragraph shall be limited to matters where the total penalty sought does not exceed $200,000 and the first alleged date of violation occurred no more than 12 months prior to the initiation of the administrative action, except where the Administrator and the Attorney General jointly determine that a matter involving a larger penalty amount or longer period of violation is appropriate for administrative penalty action. Any such determination by the Administrator and the Attorney General shall not be subject to judicial review.

"(2)(A) An administrative penalty assessed under paragraph (1) shall be assessed by the Administrator by an order made after opportunity for a hearing on the record in accordance with sections 554 and 556 of title 5 of the United States Code. The Administrator

shall issue reasonable rules for discovery and other procedures for hearings under this paragraph. Before issuing such an order, the Administrator shall give written notice to the person to be assessed an administrative penalty of the Administrator's proposal to issue such order and provide such person an opportunity to request such a hearing on the order, within 30 days of the date the notice is received by such person.

"(B) The Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.

"(3) The Administrator may implement, after consultation with the Attorney General and the States, a field citation program through regulations establishing appropriate minor violations for which field citations assessing civil penalties not to exceed $5,000 per day of violation may be issued by officers or employees designated by the Administrator. Any person to whom a field citation is assessed may, within a reasonable time as prescribed by the Administrator through regulation, elect to pay the penalty assessment or to request a hearing on the field citation. If a request for a hearing is not made within the time specified in the regulation, the penalty assessment in the field citation shall be final. Such hearing shall not be subject to section 554 or 556 of title 5 of the United States Code, but shall provide a reasonable opportunity to be heard and to present evidence. Payment of a civil penalty required by a field citation shall not be a defense to further enforcement by the United States or a State to correct a violation, or to assess the statutory maximum penalty pursuant to other authorities in the Act, if the violation continues.

"(4) Any person against whom a civil penalty is assessed under paragraph (3) of this subsection or to whom an administrative penalty order is issued under paragraph (1) of this subsection may seek review of such assessment in the United States District Court for the District of Columbia or for the district in which the violation is alleged to have occurred, in which such person resides, or where such person's principal place of business is located, by filing in such court within 30 days following the date the administrative penalty order becomes final under paragraph (2), the assessment becomes final under paragraph (3), or a final decision following a hearing under paragraph (3) is rendered, and by simultaneously sending a copy of the filing by certified mail to the Administrator and the Attorney General. Within 30 days thereafter, the Administrator shall file in such court a certified copy, or certified index, as appropriate, of the record on which the administrative penalty order or assessment was issued. Such court shall not set aside or remand such order or assessment unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the order or penalty assessment constitutes an abuse of discretion. Such order or penalty assessment shall not be subject to review by any court except as provided in this paragraph. In any such proceedings, the United States may seek to recover civil penalties ordered or assessed under this section.

"(5) If any person fails to pay an assessment of a civil penalty or fails to comply with an administrative penalty order—

"(A) after the order or assessment has become final, or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Administrator,

the Administrator shall request the Attorney General to bring a civil action in an appropriate district court to enforce the order or to recover the amount ordered or assessed (plus interest at rates established pursuant to section 6621(a)(2) of the Internal Revenue Code of 1986 from the date of the final order or decision or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such order or assessment shall not be subject to review. Any person who fails to pay on a timely basis a civil penalty ordered or assessed under this section shall be required to pay, in addition to such penalty and interest, the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of such person's outstanding penalties and nonpayment penalties accrued as of the beginning of such quarter.

"(e) PENALTY ASSESSMENT CRITERIA.—(1) In determining the amount of any penalty to be assessed under this section or section 304(a), the Administrator or the court, as appropriate, shall take into consideration (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. The court shall not assess penalties for noncompliance with administrative subpoenas under section 307(a), or actions under section 114 of this Act, where the violator had sufficient cause to violate or fail or refuse to comply with such subpoena or action.

"(2) A penalty may be assessed for each day of violation. For purposes of determining the number of days of violation for which a penalty may be assessed under subsection (b) or (d)(1) of this section, or section 304(a), or an assessment may be made under section 120, where the Administrator or an air pollution control agency has notified the source of the violation, and the plaintiff makes a prima facie showing that the conduct or events giving rise to the violation are likely to have continued or recurred past the date of notice, the days of violation shall be presumed to include the date of such notice and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

"(f) AWARDS.—The Administrator may pay an award, not to exceed $10,000, to any person who furnishes information or services which lead to a criminal conviction or a judicial or administrative civil penalty for any violation of this title or title III, IV, V, or VI of this Act enforced under this section. Such payment is subject to available appropriations for such purposes as provided in annual appropriation Acts. Any officer, or employee of the United States or any State or local government who furnishes information or renders service in the performance of an official duty is ineligible for payment under this subsection. The Administrator may, by regulation, prescribe additional criteria for eligibility for such an award.

Federal Register, publication.

"(g) SETTLEMENTS; PUBLIC PARTICIPATION.—At least 30 days before a consent order or settlement agreement of any kind under this Act to which the United States is a party (other than enforcement actions under section 113, 120, or title II, whether or not involving civil or criminal penalties, or judgments subject to Department of Justice policy on public participation) is final or filed with a court, the Administrator shall provide a reasonable opportunity by notice in the Federal Register to persons who are not named as parties or intervenors to the action or matter to comment in writing. The Administrator or the Attorney General, as appropriate, shall promptly consider any such written comments and may withdraw or withhold his consent to the proposed order or agreement if the comments disclose facts or considerations which indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of this Act. Nothing in this subsection shall apply to civil or criminal penalties under this Act.

"(h) OPERATOR.—For purposes of the provisions of this section and section 120, the term 'operator', as used in such provisions, shall include any person who is senior management personnel or a corporate officer. Except in the case of knowing and willful violations, such term shall not include any person who is a stationary engineer or technician responsible for the operation, maintenance, repair, or monitoring of equipment and facilities and who often has supervisory and training duties but who is not senior management personnel or a corporate officer. Except in the case of knowing and willful violations, for purposes of subsection (c)(4) of this section, the term 'a person' shall not include an employee who is carrying out his normal activities and who is not a part of senior management personnel or a corporate officer. Except in the case of knowing and willful violations, for purposes of paragraphs (1), (2), (3), and (5) of subsection (c) of this section the term 'a person' shall not include an employee who is carrying out his normal activities and who is acting under orders from the employer.".

SEC. 702. COMPLIANCE CERTIFICATION.

42 USC 7414.

(a) RECORDS, REPORTS, MONITORING, ETC.—Section 114(a) of the Clean Air Act is amended as follows:

(1) Strike "or" in the first sentence immediately before "any emission standard under section 112,".

(2) Insert "or any regulation under section 129 (relating to solid waste combustion)," before "(ii) of determining".

(3) Amend paragraph (1) to read as follows:

"(1) the Administrator may require any person who owns or operates any emission source, who manufactures emission control equipment or process equipment, who the Administrator believes may have information necessary for the purposes set forth in this subsection, or who is subject to any requirement of this Act (other than a manufacturer subject to the provisions of section 206(c) or 208 with respect to a provision of title II) on a one-time, periodic or continuous basis to—

"(A) establish and maintain such records;

"(B) make such reports;

"(C) install, use, and maintain such monitoring equipment, and use such audit procedures, or methods;

"(D) sample such emissions (in accordance with such procedures or methods, at such locations, at such intervals,

during such periods and in such manner as the Administrator shall prescribe);

"(E) keep records on control equipment parameters, production variables or other indirect data when direct monitoring of emissions is impractical;

"(F) submit compliance certifications in accordance with section 114(a)(3); and

"(G) provide such other information as the Administrator may reasonably require; and".

(b) MONITORING AND COMPLIANCE CERTIFICATIONS.—Section 114(a) of the Clean Air Act is amended by adding the following new paragraph at the end: 42 USC 7414.

"(3) The Administrator shall in the case of any person which is the owner or operator of a major stationary source, and may, in the case of any other person, require enhanced monitoring and submission of compliance certifications. Compliance certifications shall include (A) identification of the applicable requirement that is the basis of the certification, (B) the method used for determining the compliance status of the source, (C) the compliance status, (D) whether compliance is continuous or intermittent, (E) such other facts as the Administrator may require. Compliance certifications and monitoring data shall be subject to subsection (c) of this section. Submission of a compliance certification shall in no way limit the Administrator's authorities to investigate or otherwise implement this Act. The Administrator shall promulgate rules to provide guidance and to implement this paragraph within 2 years after the enactment of the Clean Air Act Amendments of 1990.".

(c) JUDICIAL REVIEW.—Section 307(b)(1) of the Clean Air Act is amended by inserting "or revising regulations for enhanced monitoring and compliance certification programs under section 114(a)(3) of this Act," immediately before "or any other final action of the Administrator". 42 USC 7607.

SEC. 703. ADMINISTRATIVE ENFORCEMENT SUBPOENAS.

Section 307(a) of the Clean Air Act is amended by striking out "(1)" after "(a)" and by striking "or section 202(b)(5)" and immediately after "section 202(b)(4) or 211(c)(3)" inserting ", any investigation, monitoring, reporting requirement, entry, compliance inspection, or administrative enforcement proceeding under the Act (including but not limited to section 113, section 114, section 120, section 129, section 167, section 205, section 206, section 208, section 303, or section 306),".

SEC. 704. EMERGENCY ORDERS.

Section 303 of the Clean Air Act is amended as follows: 42 USC 7603.

(1) Strike "the health of persons and that appropriate State or local authorities have not acted to abate such sources" and insert "public health or welfare, or the environment".

(2) Amend the second sentence to read "If it is not practicable to assure prompt protection of public health or welfare or the environment by commencement of such a civil action, the Administrator may issue such orders as may be necessary to protect public health or welfare or the environment.".

(3) Strike the last 3 sentences of subsection (a) in their entirety.

(4) Strike "(a)" and strike out subsection (b).

(5) Insert the following at the end: "Prior to taking any action under this section, the Administrator shall consult with appropriate State and local authorities and attempt to confirm the accuracy of the information on which the action proposed to be taken is based. Any order issued by the Administrator under this section shall be effective upon issuance and shall remain in effect for a period of not more than 60 days, unless the Administrator brings an action pursuant to the first sentence of this section before the expiration of that period. Whenever the Administrator brings such an action within the 60-day period, such order shall remain in effect for an additional 14 days or for such longer period as may be authorized by the court in which such action is brought.".

SEC. 705. CONTRACTOR LISTINGS.

42 USC 7606.

Section 306(a) of the Clean Air Act is amended as follows:

(1) Strike "113(c)(1)" and insert "113(c)".

(2) Insert at the end thereof: "For convictions arising under section 113(c)(2), the condition giving rise to the conviction also shall be considered to include any substantive violation of this Act associated with the violation of 113(c)(2). The Administrator may extend this prohibition to other facilities owned or operated by the convicted person.".

SEC. 706. JUDICIAL REVIEW PENDING RECONSIDERATION OF REGULATION.

42 USC 7607.

Section 307(b)(1) of the Clean Air Act is amended

(1) by adding at the end thereof: "The filing of a petition for reconsideration by the Administrator of any otherwise final rule or action shall not affect the finality of such rule or action for purposes of judicial review nor extend the time within which a petition for judicial review of such rule or action under this section may be filed, and shall not postpone the effectiveness of such rule or action."; and

(2) striking "under section 113(d)" immediately before "under section 119" in the second sentence.

SEC. 707. CITIZEN SUITS.

42 USC 7604.

(a) CIVIL PENALTIES.—Section 304(a) of the Clean Air Act is amended by inserting immediately before the period at the end thereof: ", and to apply any appropriate civil penalties (except for actions under paragraph (2))".

(b) PENALTY FUND.—Section 304 of the Clean Air Act is amended by adding the following new subsection after subsection (f):

"(g) PENALTY FUND.—(1) Penalties received under subsection (a) shall be deposited in a special fund in the United States Treasury for licensing and other services. Amounts in such fund are authorized to be appropriated and shall remain available until expended, for use by the Administrator to finance air compliance and enforcement activities. The Administrator shall annually report to the Congress about the sums deposited into the fund, the sources thereof, and the actual and proposed uses thereof.

Reports.

"(2) Notwithstanding paragraph (1) the court in any action under this subsection to apply civil penalties shall have discretion to order that such civil penalties, in lieu of being deposited in the fund referred to in paragraph (1), be used in beneficial mitigation projects which are consistent with this Act and enhance the public health or

the environment. The court shall obtain the view of the Administrator in exercising such discretion and selecting any such projects. The amount of any such payment in any such action shall not exceed $100,000.".

(c) INTERVENTION BY EPA.—Paragraph (2) of section 304(c) of the Clean Air Act is amended to read as follows: 42 USC 7604.

"(2) In any action under this section, the Administrator, if not a party, may intervene as a matter of right at any time in the proceeding. A judgment in an action under this section to which the United States is not a party shall not, however, have any binding effect upon the United States.".

(d) SERVICE OF COMPLAINT; CONSENT JUDGMENTS.—Section 304(c) of the Clean Air Act is amended by adding the following new paragraph after paragraph (2):

"(3) Whenever any action is brought under this section the plaintiff shall serve a copy of the complaint on the Attorney General of the United States and on the Administrator. No consent judgment shall be entered in an action brought under this section in which the United States is not a party prior to 45 days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator during which time the Government may submit its comments on the proposed consent judgment to the court and parties or may intervene as a matter of right.".

(e) OTHER REQUIREMENTS.—Section 304(f) of the Clean Air Act is amended by striking "any condition or requirement of section 113(d) (relating to certain enforcement orders)" in paragraph (3), by striking "part B of title I" in paragraph (3) and inserting in lieu thereof "title VI", and by striking the period at the end of paragraph (3) and inserting "; or" and by adding the following new paragraph at the end thereof:

> "(4) any other standard, limitation, or schedule established under any permit issued pursuant to title V or under any applicable State implementation plan approved by the Administrator, any permit term or condition, and any requirement to obtain a permit as a condition of operations.".

(f) UNREASONABLE DELAY.—Section 304(a) of the Clean Air Act is amended by adding the following at the end thereof: "The district courts of the United States shall have jurisdiction to compel (consistent with paragraph (2) of this subsection) agency action unreasonably delayed, except that an action to compel agency action referred to in section 307(b) which is unreasonably delayed may only be filed in a United States District Court within the circuit in which such action would be reviewable under section 307(b). In any such action for unreasonable delay, notice to the entities referred to in subsection (b)(1)(A) shall be provided 180 days before commencing such action.". Courts.

(g) PAST VIOLATIONS.—Section 304(a) of the Clean Air Act is amended by inserting immediately before "to be in violation" in paragraphs (1) and (3) "to have violated (if there is evidence that the alleged violation has been repeated) or". The amendment made by this subsection shall take effect with respect to actions brought after the date 2 years after the enactment of the Clean Air Act Amendments of 1990. 42 USC 7604 note.

(h) DEFERRED ACTIONS.—Section 307(b)(2) of the Clean Air Act is amended by adding the following at the end thereof: "Where a final decision by the Administrator defers performance of any non- 42 USC 7607.

discretionary statutory action to a later time, any person may challenge the deferral pursuant to paragraph (1).".

SEC. 708. ENHANCED IMPLEMENTATION AND ENFORCEMENT OF NEW SOURCE REVIEW REQUIREMENTS.

42 USC 7477. Section 167 of the Clean Air Act is amended by striking "the construction of a major emitting facility" and inserting "the construction or modification of a major emitting facility".

SEC. 709. MOVABLE STATIONARY SOURCES.

42 USC 7602. Section 302 of the Clean Air Act is amended by adding the following subsection at the end thereof:

"(z) STATIONARY SOURCE.—The term 'stationary source' means generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216.".

SEC. 710. ENFORCEMENT OF NEW TITLES OF THE ACT.

42 USC 7420. (a) SECTION 120.—Section 120(a)(2)(A) of the Clean Air Act is amended as follows:

(1) Insert ", 167, 303," after "111" in clause (ii).

(2) Redesignate clause (iii) as (iv) and in new clause (iv) strike "clause (i) or (ii)", and insert "clause (i), (ii), or (iii)".

(3) Insert the following new clause after clause (ii)—

"(iii) a stationary source which is not in compliance with any requirement of title IV, V, or VI of this Act, or".

42 USC 7607. (b) SECTION 307.—Section 307(d)(1)(H) of the Clean Air Act is amended by striking out "subtitle B of title I" and inserting "title VI".

42 USC 7401 note. **SEC. 711. SAVINGS PROVISIONS AND EFFECTIVE DATES.**

(a) SAVINGS PROVISIONS.—Except as otherwise expressly provided in this Act, no suit, action, or other proceeding lawfully commenced by the Administrator or any other officer or employee of the United States in his official capacity or in relation to the discharge of his official duties under the Clean Air Act, as in effect immediately prior to the date of enactment of this Act, shall abate by reason of the taking effect of the amendments made by this Act.

(b) EFFECTIVE DATES.—(1) Except as otherwise expressly provided, the amendments made by this Act shall be effective on the date of enactment of this Act.

(2) The Administrator's authority to assess civil penalties under section 205(c) of the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act. Civil penalties for violations that occur prior to such date and do not continue after such date shall be assessed in accordance with the provisions of the Clean Air Act in effect immediately prior to the date of enactment of this Act.

(3) The civil penalties prescribed under sections 205(a) and 211(d)(1) of the Clean Air Act, as amended by this Act, shall apply to violations that occur on or after the date of enactment of this Act. Violations that occur prior to such date shall be subject to the civil penalty provisions prescribed in sections 205(a) and 211(d) of the Clean Air Act in effect immediately prior to the enactment of this Act. The injunctive authority prescribed under section 211(d)(2) of

the Clean Air Act, as amended by this Act, shall apply to violations that occur or continue on or after the date of enactment of this Act.

(4) For purposes of paragraphs (2) and (3), where the date of a violation cannot be determined it will be assumed to be the date on which the violation is discovered.

TITLE VIII—MISCELLANEOUS PROVISIONS

Sec. 801. OCS air pollution.
Sec. 802. Grants for support of air pollution planning and control programs.
Sec. 803. Annual report repeal.
Sec. 804. Emission factors.
Sec. 805. Land use authority.
Sec. 806. Virgin Islands.
Sec. 807. Hydrogen fuel cell vehicle study and test program.
Sec. 808. Renewable energy and energy conservation incentives.
Sec. 809. Clean air study of southwestern New Mexico.
Sec. 810. Impact on small communities.
Sec. 811. Equivalent air quality controls among trading nations.
Sec. 812. Analyses of costs and benefits.
Sec. 813. Combustion of contaminated used oil in ships.
Sec. 814. American made products.
Sec. 815. Establishment of program to monitor and improve air quality in regions along the border between the United States and Mexico.
Sec. 816. Visibility.
Sec. 817. Role of secondary standards.
Sec. 818. International border areas.
Sec. 819. Exemptions for stripper wells.
Sec. 820. EPA report on magnetic levitation.
Sec. 821. Information gathering on greenhouse gases contributing to global climate changes.
Sec. 822. Authorization.

SEC. 801. OCS AIR POLLUTION.

Title III of the Clean Air Act is amended by adding the following new section after section 327:

"SEC. 328. AIR POLLUTION FROM OUTER CONTINENTAL SHELF ACTIVITIES. 42 USC 7627.

"(a)(1) APPLICABLE REQUIREMENTS FOR CERTAIN AREAS.—Not later than 12 months after the enactment of the Clean Air Act Amendments of 1990, following consultation with the Secretary of the Interior and the Commandant of the United States Coast Guard, the Administrator, by rule, shall establish requirements to control air pollution from Outer Continental Shelf sources located offshore of the States along the Pacific, Arctic and Atlantic Coasts, and along the United States Gulf Coast off the State of Florida eastward of longitude 87 degrees and 30 minutes ('OCS sources') to attain and maintain Federal and State ambient air quality standards and to comply with the provisions of part C of title I. For such sources located within 25 miles of the seaward boundary of such States, such requirements shall be the same as would be applicable if the source were located in the corresponding onshore area, and shall include, but not be limited to, State and local requirements for emission controls, emission limitations, offsets, permitting, monitoring, testing, and reporting. New OCS sources shall comply with such requirements on the date of promulgation and existing OCS sources shall comply on the date 24 months thereafter. The Administrator shall update such requirements as necessary to maintain consist-

ency with onshore regulations. The authority of this subsection shall supersede section 5(a)(8) of the Outer Continental Shelf Lands Act but shall not repeal or modify any other Federal, State, or local authorities with respect to air quality. Each requirement established under this section shall be treated, for purposes of sections 113, 114, 116, 120, and 304, as a standard under section 111 and a violation of any such requirement shall be considered a violation of section 111(e).

"(2) EXEMPTIONS.—The Administrator may exempt an OCS source from a specific requirement in effect under regulations under this subsection if the Administrator finds that compliance with a pollution control technology requirement is technically infeasible or will cause an unreasonable threat to health and safety. The Administrator shall make written findings explaining the basis of any exemption issued pursuant to this subsection and shall impose another requirement equal to or as close in stringency to the original requirement as possible. The Administrator shall ensure that any increase in emissions due to the granting of an exemption is offset by reductions in actual emissions, not otherwise required by this Act, from the same source or other sources in the area or in the corresponding onshore area. The Administrator shall establish procedures to provide for public notice and comment on exemptions proposed pursuant to this subsection.

Regulations.

"(3) STATE PROCEDURES.—Each State adjacent to an OCS source included under this subsection may promulgate and submit to the Administrator regulations for implementing and enforcing the requirements of this subsection. If the Administrator finds that the State regulations are adequate, the Administrator shall delegate to that State any authority the Administrator has under this Act to implement and enforce such requirements. Nothing in this subsection shall prohibit the Administrator from enforcing any requirement of this section.

"(4) DEFINITIONS.—For purposes of subsections (a) and (b)—

"(A) OUTER CONTINENTAL SHELF.—The term 'Outer Continental Shelf' has the meaning provided by section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

"(B) CORRESPONDING ONSHORE AREA.—The term 'corresponding onshore area' means, with respect to any OCS source, the onshore attainment or nonattainment area that is closest to the source, unless the Administrator determines that another area with more stringent requirements with respect to the control and abatement of air pollution may reasonably be expected to be affected by such emissions. Such determination shall be based on the potential for air pollutants from the OCS source to reach the other onshore area and the potential of such air pollutants to affect the efforts of the other onshore area to attain or maintain any Federal or State ambient air quality standard or to comply with the provisions of part C of title I.

"(C) OUTER CONTINENTAL SHELF SOURCE.—The terms 'Outer Continental Shelf source' and 'OCS source' include any equipment, activity, or facility which—

"(i) emits or has the potential to emit any air pollutant,

"(ii) is regulated or authorized under the Outer Continental Shelf Lands Act, and

"(iii) is located on the Outer Continental Shelf or in or on waters above the Outer Continental Shelf.

Such activities include, but are not limited to, platform and drill ship exploration, construction, development, production, processing, and transportation. For purposes of this subsection, emissions from any vessel servicing or associated with an OCS source, including emissions while at the OCS source or en route to or from the OCS source within 25 miles of the OCS source, shall be considered direct emissions from the OCS source.

"(D) NEW AND EXISTING OCS SOURCES.—The term 'new OCS source' means an OCS source which is a new source within the meaning of section 111(a). The term 'existing OCS source' means any OCS source other than a new OCS source.

"(b) REQUIREMENTS FOR OTHER OFFSHORE AREAS.—For portions of the United States Gulf Coast Outer Continental Shelf that are adjacent to the States not covered by subsection (a) which are Texas, Louisiana, Mississippi, and Alabama, the Secretary shall consult with the Administrator to assure coordination of air pollution control regulation for Outer Continental Shelf emissions and emissions in adjacent onshore areas. Concurrently with this obligation, the Secretary shall complete within 3 years of enactment of this section a research study examining the impacts of emissions from Outer Continental Shelf activities in such areas that fail to meet the national ambient air quality standards for either ozone or nitrogen dioxide. Based on the results of this study, the Secretary shall consult with the Administrator and determine if any additional actions are necessary. There are authorized to be appropriated such sums as may be necessary to provide funding for the study required under this section.

Appropriation authorization.

"(c)(1) COASTAL WATERS.—The study report of section 112(n) of the Clean Air Act shall apply to the coastal waters of the United States to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.".

"(2) The regulatory requirements of section 112(n) of the Clean Air Act shall apply to the coastal waters of the States which are subject to subsection (a) of this section, to the same extent and in the same manner as such requirements apply to the Great Lakes, the Chesapeake Bay, and their tributary waters.".

SEC. 802. GRANTS FOR SUPPORT OF AIR POLLUTION PLANNING AND CONTROL PROGRAMS.

(a) GRANTS.—Subparagraphs (A) and (B) of section 105(a)(1) of the Clean Air Act are amended to read as follows:

42 USC 7405.

"(A) The Administrator may make grants to air pollution control agencies, within the meaning of paragraph (1), (2), (3), (4), or (5) of section 302, in an amount up to three-fifths of the cost of implementing programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. For the purpose of this section, 'implementing' means any activity related to the planning, developing, establishing, carrying-out, improving, or maintaining of such programs.

"(B) Subject to subsections (b) and (c) of this section, an air pollution control agency which receives a grant under subparagraph (A) and which contributes less than the required two-fifths minimum shall have 3 years following the date of the enactment of the Clean Air Act Amendments of 1990 in which to contribute such amount. If such an agency fails to meet and maintain this required

level, the Administrator shall reduce the amount of the Federal contribution accordingly.".

42 USC 7405.

(b) CONFORMING AMENDMENT.—Section 105(a)(1)(C) of the Clean Air Act is amended by striking "(B)" and inserting "(A)".

(c) LIMITATION ON GRANTS.—Section 105(b) of the Clean Air Act is amended by—

(1) inserting "(1)" immediately after "(b)"

(2) striking all that follows "(3) the financial need of the respective agencies."; and

(3) redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively.

(d) LIMITATION.—Section 105 of the Clean Air Act is amended by redesignating subsection (c) as paragraph (2) of subsection (b) and by striking all that follows "into which such area extends." in the newly designated paragraph (2) and inserting "Subject to the provisions of paragraph (1) of this subsection, no State shall have made available to it for application less than one-half of 1 per centum of the annual appropriation for grants under this section for grants to agencies within such State.".

(e) MAINTENANCE OF EFFORT.—Section 105 of the Clean Air Act is amended by inserting the following new subsection after subsection (b):

"(c) MAINTENANCE OF EFFORT.—(1) No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year. In order for the Administrator to award grants under this section in a timely manner each fiscal year, the Administrator shall compare an agency's prospective expenditure level to that of its second preceding fiscal year. The Administrator shall revise the current regulations which define applicable nonrecurrent and recurrent expenditures, and in so doing, give due consideration to exempting an agency from the limitations of this paragraph and subsection (a) due to periodic increases experienced by that agency from time to time in its annual expenditures for purposes acceptable to the Administrator for that fiscal year.

Regulations.

"(2) The Administrator may still award a grant to an agency not meeting the requirements of paragraph (1) of this subsection if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a nonselective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government. No agency shall receive any grant under this section with respect to the maintenance of a program for the prevention and control of air pollution unless the Administrator is satisfied that such a grant will be so used to supplement and, to the extent practicable, increase the level of State, local, or other non-Federal funds. No grants shall be made under this section until the Administrator has consulted with the appropriate official as designated by the Governor or Governors of the State or States affected.".

42 USC 7406.

(f) COSTS.—Section 106 of the Clean Air Act is amended by striking "three-fourths of the air quality planning program costs of such agency" and inserting "three-fifths of the air quality implementation program costs of such agency".

SEC. 803. ANNUAL REPORT REPEAL.

Section 313 of the Clean Air Act is repealed. 42 USC 7613.

SEC. 804. EMISSION FACTORS.

Part A of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"SEC. 130. EMISSION FACTORS. 42 USC 7430.

"Within 6 months after enactment of the Clean Air Act Amendments of 1990, and at least every 3 years thereafter, the Administrator shall review and, if necessary, revise, the methods ('emission factors') used for purposes of this Act to estimate the quantity of emissions of carbon monoxide, volatile organic compounds, and oxides of nitrogen from sources of such air pollutants (including area sources and mobile sources). In addition, the Administrator shall establish emission factors for sources for which no such methods have previously been established by the Administrator. The Administrator shall permit any person to demonstrate improved emissions estimating techniques, and following approval of such techniques, the Administrator shall authorize the use of such techniques. Any such technique may be approved only after appropriate public participation. Until the Administrator has completed the revision required by this section, nothing in this section shall be construed to affect the validity of emission factors established by the Administrator before the date of the enactment of the Clean Air Act Amendments of 1990.".

SEC. 805. LAND USE AUTHORITY.

Part A of title I of the Clean Air Act is amended by adding the following at the end thereof:

"SEC. 131. LAND USE AUTHORITY. 42 USC 7431.

"Nothing in this Act constitutes an infringement on the existing authority of counties and cities to plan or control land use, and nothing in this Act provides or transfers authority over such land use.".

SEC. 806. VIRGIN ISLANDS.

Section 324(a)(1) of the Clean Air Act (42 U.S.C. 7625-l(a)(1)) is amended by inserting "the Virgin Islands," after "American Samoa,".

SEC. 807. HYDROGEN FUEL CELL VEHICLE STUDY AND TEST PROGRAM. 42 USC 7404 note.

The Administrator of the Environmental Protection Agency, in conjunction with the National Aeronautics and Space Administration and the Department of Energy, shall conduct a study and test program on the development of a hydrogen fuel cell electric vehicle. The study and test program shall determine how best to transfer existing NASA hydrogen fuel cell technology into the form of a mass-producible, cost effective hydrogen fuel cell vehicle. Such study and test program shall include at a minimum a feasibility-design study, the construction of a prototype, and a demonstration. This study and test program should be completed and a report submitted to Congress within 3 years after the enactment of the Clean Air Act Amendments of 1990. This study and test program should be performed in the university or universities which are best exhibiting the facilities and expertise to develop such a fuel cell vehicle.

42 USC 7171 note.

SEC. 808. RENEWABLE ENERGY AND ENERGY CONSERVATION INCENTIVES.

(a) DEFINITION.—For purposes of this section, "renewable energy" means energy from photovoltaic, solar thermal, wind, geothermal, and biomass energy production technologies.

(b) RATE INCENTIVES STUDY.—Within 18 months after enactment, the Federal Energy Regulatory Commission, in consultation with the Environmental Protection Agency, shall complete a study which calculates the net environmental benefits of renewable energy, compared to nonrenewable energy, and assigns numerical values to them. The study shall include, but not be limited to, environmental impacts on air, water, land use, water use, human health, and waste disposal.

(c) MODEL REGULATIONS.—In conjunction with the study in subsection (b), the Commission shall propose one or more models for incorporating the net environmental benefits into the regulatory treatment of renewable energy in order to provide economic compensation for those benefits.

(d) REPORT.—The Commission shall transmit the study and the model regulations to Congress, along with any recommendations on the best ways to reward renewable energy technologies for their environmental benefits, in a report no later than 24 months after enactment.

SEC. 809. CLEAN AIR STUDY OF SOUTHWESTERN NEW MEXICO.

The Administrator shall conduct a study of the causes of degraded visibility in southwestern New Mexico. The Administrator, in consultation with the Secretary of State, is encouraged to cooperate with the Government of Mexico, other Federal agencies, and any other appropriate organizations in conducting the study. Nothing in this section shall be construed as contravening or superseding the provisions of any international agreement in force for the United States as of the date of enactment of this section, or any relevant Federal statute.

42 USC 7401 note.

SEC. 810. IMPACT ON SMALL COMMUNITIES.

Before implementing a provision of this Act, the Administrator of the Environmental Protection Agency shall consult with the Small Communities Coordinator of the Environmental Protection Agency to determine the impact of such provision on small communities, including the estimated cost of compliance with such provision.

42 USC 7612 note.

SEC. 811. EQUIVALENT AIR QUALITY CONTROLS AMONG TRADING NATIONS.

(a) FINDINGS.—The Congress finds that—

(1) all nations have the responsibility to adopt and enforce effective air quality standards and requirements and the United States, in enacting this Act, is carrying out its responsibility in this regard;

(2) as a result of complying with this Act, businesses in the United States will make significant capital investments and incur incremental costs in implementing control technology standards;

(3) such compliance may impair the competitiveness of certain United States jobs, production, processes, and products if foreign goods are produced under less costly environmental standards and requirements than are United States goods; and

(4) mechanisms should be sought through which the United States and its trading partners can agree to eliminate or reduce competitive disadvantages.

(b) ACTION BY THE PRESIDENT.—

(1) IN GENERAL.—Within 18 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress a report— Reports.

(A) identifying and evaluating the economic effects of—

(i) the significant air quality standards and controls required under this Act, and

(ii) the differences between the significant standards and controls required under this Act and similar standards and controls adopted and enforced by the major trading partners of the United States,

on the international competitiveness of United States manufacturers; and

(B) containing a strategy for addressing such economic effects through trade consultations and negotiations.

(2) ADDITIONAL REPORTING REQUIREMENTS.—(A) The evaluation required under paragraph (1)(A) shall examine the extent to which the significant air quality standards and controls required under this Act are comparable to existing internationally-agreed norms.

(B) The strategy required to be developed under paragraph (1)(B) shall include recommended options (such as the harmonization of standards and trade adjustment measures) for reducing or eliminating competitive disadvantages caused by differences in standards and controls between the United States and each of its major trading partners.

(3) PUBLIC COMMENT.—Interested parties shall be given an opportunity to submit comments regarding the evaluations and strategy required in the report under paragraph (1). The President shall take any such comment into account in preparing the report.

(4) INTERIM REPORT.—Within 9 months after the date of the enactment of the Clean Air Act Amendments of 1990, the President shall submit to the Congress an interim report on the progress being made in complying with paragraph (1).

SEC. 812. ANALYSES OF COSTS AND BENEFITS.

(a) ECONOMIC IMPACT ANALYSES.—Section 312 of the Clean Air Act is amended to read as follows: 42 USC 761

"SEC. 312. ECONOMIC IMPACT ANALYSES.

(a) The Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis (as established under subsection (f) of this section), shall conduct a comprehensive analysis of the impact of this Act on the public health, economy, and environment of the United States. In performing such analysis, the Administrator should consider the costs, benefits and other effects associated with compliance with each standard issued for—

"(1) a criteria air pollutant subject to a standard issued under section 109;

"(2) a hazardous air pollutant listed under section 112, including any technology-based standard and any risk-based standard for such pollutant;

"(3) emissions from mobile sources regulated under title II of this Act;

"(4) a limitation under this Act for emissions of sulfur dioxide or nitrogen oxides;

"(5) a limitation under title VI of this Act on the production of any ozone-depleting substance; and

"(6) any other section of this Act.

"(b) In describing the benefits of a standard described in subsection (a), the Administrator shall consider all of the economic, public health, and environmental benefits of efforts to comply with such standard. In any case where numerical values are assigned to such benefits, a default assumption of zero value shall not be assigned to such benefits unless supported by specific data. The Administrator shall assess how benefits are measured in order to assure that damage to human health and the environment is more accurately measured and taken into account.

"(c) In describing the costs of a standard described in subsection (a), the Administrator shall consider the effects of such standard on employment, productivity, cost of living, economic growth, and the overall economy of the United States.

Reports. "(d) Not later than 12 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis, shall submit a report to the Congress that summarizes the results of the analysis described in subsection (a), which reports—

"(1) all costs incurred previous to the date of enactment of the Clean Air Act Amendments of 1990 in the effort to comply with such standards; and

"(2) all benefits that have accrued to the United States as a result of such costs.

Reports. "(e) Not later than 24 months after the date of enactment of the Clean Air Act Amendments of 1990, and every 24 months thereafter, the Administrator, in consultation with the Secretary of Commerce, the Secretary of Labor, and the Council on Clean Air Compliance Analysis, shall submit a report to the Congress that updates the report issued pursuant to subsection (d), and which, in addition, makes projections into the future regarding expected costs, benefits, and other effects of compliance with standards pursuant to this Act as listed in subsection (a).

"(f) Not later than 6 months after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Secretary of Commerce and the Secretary of Labor, shall appoint an Advisory Council on Clean Air Compliance Analysis of not less than nine members (hereafter in this section referred to as the 'Council'). In appointing such members, the Administrator shall appoint recognized experts in the fields of the health and environmental effects of air pollution, economic analysis, environmental sciences, and such other fields that the Administrator determines to be appropriate.

"(g) The Council shall—

"(1) review the data to be used for any analysis required under this section and make recommendations to the Administrator on the use of such data;

"(2) review the methodology used to analyze such data and make recommendations to the Administrator on the use of such methodology; and

"(3) prior to the issuance of a report required under subsection (d) or (e), review the findings of such report, and make recommendations to the Administrator concerning the validity and utility of such findings.".

(b) GAO REPORTS ON COSTS AND BENEFITS.—Commencing on the second year after the date of the enactment of the Clean Air Act Amendments of 1990 and annually thereafter, the Comptroller General of the General Accounting Office, in consultation with other agencies, such as the Environmental Protection Agency, the Department of Labor, the Department of Commerce, the United States Trade Representative, the National Academy of Sciences, the Office of Technology Assessment, the National Academy of Engineering, the Council on Environmental Quality, and the Surgeon General, shall provide a report to the Congress on the incremental human health and environmental benefits, and incremental costs beyond current clean air requirements of the new control strategies and technologies required by this Act. The report shall include, for such strategies and technologies, an analysis of the actual emissions reductions beyond existing practice, the effects on human life, human health and the environment (including both positive impacts and those that may be detrimental to jobs and communities resulting from loss of employers and employment, etc.), the energy security impacts, and the effect on United States products and industrial competitiveness in national and international markets.

42 USC 7612 note.

SEC. 813. COMBUSTION OF CONTAMINATED USED OIL IN SHIPS.

Reports.

Within 2 years after the enactment of the Clean Air Act Amendments of 1990, the Administrator of the Environmental Protection Agency shall complete a study and submit a report to Congress evaluating the health and environmental impacts of the combustion of contaminated used oil in ships, the reasons for using such oil for such purposes, the alternatives to such use, the costs of such alternatives, and other relevant factors and impacts. In preparing such study, the Administrator shall obtain the view and comments of all interested persons and shall consult with the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating.

42 USC 7404 note.

SEC. 814. AMERICAN MADE PRODUCTS.

It is the sense of the Congress that—

(1) existing equipment and machinery retrofitted to comply with the Clean Air Act's "Best Available Control Technology" language and all other specifications within the Act be produced in the United States and purchased from American manufacturers.

(2) The construction of new industrial and utility facilities comply to the Act's specifications through the incorporation of American made equipment and technology.

(3) Individuals, groups, and organizations in the public sector strive to purchase and produce American made products that improve our nation's air quality.

SEC. 815. ESTABLISHMENT OF PROGRAM TO MONITOR AND IMPROVE AIR QUALITY IN REGIONS ALONG THE BORDER BETWEEN THE UNITED STATES AND MEXICO.

42 USC 7509a note.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") is

authorized, in cooperation with the Department of State and the affected States, to negotiate with representatives of Mexico to authorize a program to monitor and improve air quality in regions along the border between the United States and Mexico. The program established under this section shall not extend beyond July 1, 1995.

(b) MONITORING AND REMEDIATION.—

(1) MONITORING.—The monitoring component of the program conducted under this section shall identify and determine sources of pollutants for which national ambient air quality standards (hereinafter referred to as "NAAQS") and other air quality goals have been established in regions along the border between the United States and Mexico. Any such monitoring component of the program shall include, but not be limited to, the collection of meteorological data, the measurement of air quality, the compilation of an emissions inventory, and shall be sufficient to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. Any such monitoring component of the program shall collect and produce data projecting the level of emission reductions necessary in both Mexico and the United States to bring about attainment of both primary and secondary NAAQS, and other air quality goals, in regions along the border in the United States. Any such monitoring component of the program shall include to the extent possible, data from monitoring programs undertaken by other parties.

(2) REMEDIATION.—The Administrator is authorized to negotiate with appropriate representatives of Mexico to develop joint remediation measures to reduce the level of airborne pollutants to achieve and maintain primary and secondary NAAQS, and other air quality goals, in regions along the border between the United States and Mexico. Such joint remediation measures may include, but not be limited to measures included in the Environmental Protection Agency's Control Techniques and Control Technology documents. Any such remediation program shall also identify those control measures implementation of which in Mexico would be expedited by the use of material and financial assistance of the United States.

(c) ANNUAL REPORTS.—The Administrator shall, each year the program authorized in this section is in operation, report to Congress on the progress of the program in bringing nonattainment areas along the border of the United States into attainment with primary and secondary NAAQS. The report issued by the Administrator under this paragraph shall include recommendations on funding mechanisms to assist in implementation of monitoring and remediation efforts.

(d) FUNDING AND PERSONNEL.—The Administrator may, where appropriate, make available, subject to the appropriations, such funds, personnel, and equipment as may be necessary to implement the provisions of this section. In those cases where direct financial assistance of the United States is provided to implement monitoring and remediation programs in Mexico, the Administrator shall develop grant agreements with appropriate representatives of Mexico to assure the accuracy and completeness of monitoring data and the performance of remediation measures which are financed by the United States. With respect to any control measures within Mexico funded by the United States, the Administrator shall, to the maxi-

Grant programs.

mum extent practicable, utilize resources of Mexico where such utilization would reduce costs to the United States. Such funding agreements shall include authorization for the Administrator to—

(1) review and agree to plans for monitoring and remediation;

(2) inspect premises, equipment and records to insure compliance with the agreements established under and the purposes set forth in this section; and

(3) where necessary, develop grant agreements with affected States to carry out the provisions of this section.

SEC. 816. VISIBILITY.

Subpart 2 of part C of title I of the Clean Air Act is amended by adding the following new section at the end thereof:

"SEC. 169B. VISIBILITY. 42 USC 7492.

"(a) STUDIES.—(1) The Administrator, in conjunction with the National Park Service and other appropriate Federal agencies, shall conduct research to identify and evaluate sources and source regions of both visibility impairment and regions that provide predominantly clean air in class I areas. A total of $8,000,000 per year for 5 years is authorized to be appropriated for the Environmental Protection Agency and the other Federal agencies to conduct this research. The research shall include—

"(A) expansion of current visibility related monitoring in class I areas;

"(B) assessment of current sources of visibility impairing pollution and clean air corridors;

"(C) adaptation of regional air quality models for the assessment of visibility;

"(D) studies of atmospheric chemistry and physics of visibility.

"(2) Based on the findings available from the research required in subsection (a)(1) as well as other available scientific and technical data, studies, and other available information pertaining to visibility source-receptor relationships, the Administrator shall conduct an assessment and evaluation that identifies, to the extent possible, sources and source regions of visibility impairment including natural sources as well as source regions of clear air for class I areas. The Administrator shall produce interim findings from this study within 3 years after enactment of the Clean Air Act Amendments of 1990.

"(b) IMPACTS OF OTHER PROVISIONS.—Within 24 months after enactment of the Clean Air Act Amendments of 1990, the Administrator shall conduct an assessment of the progress and improvements in visibility in class I areas that are likely to result from the implementation of the provisions of the Clean Air Act Amendments of 1990 other than the provisions of this section. Every 5 years thereafter the Administrator shall conduct an assessment of actual progress and improvement in visibility in class I areas. The Administrator shall prepare a written report on each assessment and transmit copies of these reports to the appropriate committees of Congress.

"(c) ESTABLISHMENT OF VISIBILITY TRANSPORT REGIONS AND COMMISSIONS.—

"(1) AUTHORITY TO ESTABLISH VISIBILITY TRANSPORT REGIONS.—Whenever, upon the Administrator's motion or by petition from the Governors of at least two affected States, the Administrator has reason to believe that the current or projected interstate

transport of air pollutants from one or more States contributes significantly to visibility impairment in class I areas located in the affected States, the Administrator may establish a transport region for such pollutants that includes such States. The Administrator, upon the Administrator's own motion or upon petition from the Governor of any affected State, or upon the recommendations of a transport commission established under subsection (b) of this section may—

"(A) add any State or portion of a State to a visibility transport region when the Administrator determines that the interstate transport of air pollutants from such State significantly contributes to visibility impairment in a class I area located within the transport region, or

"(B) remove any State or portion of a State from the region whenever the Administrator has reason to believe that the control of emissions in that State or portion of the State pursuant to this section will not significantly contribute to the protection or enhancement of visibility in any class I area in the region.

"(2) VISIBILITY TRANSPORT COMMISSIONS.—Whenever the Administrator establishes a transport region under subsection (c)(1), the Administrator shall establish a transport commission comprised of (as a minimum) each of the following members:

"(A) the Governor of each State in the Visibility Transport Region, or the Governor's designee;

"(B) The Administrator or the Administrator's designee; and

"(C) A representative of each Federal agency charged with the direct management of each class I area or areas within the Visibility Transport Region.

"(3) All representatives of the Federal Government shall be ex officio members.

"(4) The visibility transport commissions shall be exempt from the requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix 2, Section 1).

"(d) DUTIES OF VISIBILITY TRANSPORT COMMISSIONS.—A Visibility Transport Commission—

"(1) shall assess the scientific and technical data, studies, and other currently available information, including studies conducted pursuant to subsection (a)(1), pertaining to adverse impacts on visibility from potential or projected growth in emissions from sources located in the Visibility Transport Region; and

Reports.

"(2) shall, within 4 years of establishment, issue a report to the Administrator recommending what measures, if any, should be taken under the Clean Air Act to remedy such adverse impacts. The report required by this subsection shall address at least the following measures:

"(A) the establishment of clean air corridors, in which additional restrictions on increases in emissions may be appropriate to protect visibility in affected class I areas;

"(B) the imposition of the requirements of part D of this title affecting the construction of new major stationary sources or major modifications to existing sources in such clean air corridors specifically including the alternative siting analysis provisions of section 173(a)(5); and

"(C) the promulgation of regulations under section 169A to address long range strategies for addressing regional haze which impairs visibility in affected class I areas.

"(e) DUTIES OF THE ADMINISTRATOR.—(1) The Administrator shall, taking into account the studies pursuant to subsection (a)(1) and the reports pursuant to subsection (d)(2) and any other relevant information, within eighteen months of receipt of the report referred to in subsection (d)(2) of this section, carry out the Administrator's regulatory responsibilities under section 169A, including criteria for measuring 'reasonable progress' toward the national goal.

"(2) Any regulations promulgated under section 169A of this title pursuant to this subsection shall require affected States to revise within 12 months their implementation plans under section 110 of this title to contain such emission limits, schedules of compliance, and other measures as may be necessary to carry out regulations promulgated pursuant to this subsection.

"(f) GRAND CANYON VISIBILITY TRANSPORT COMMISSION.—The Administrator pursuant to subsection (c)(1) shall, within 12 months, establish a visibility transport commission for the region affecting the visibility of the Grand Canyon National Park.".

SEC. 817. ROLE OF SECONDARY STANDARDS

42 USC 7409 note.

(a) REPORT.—The Administrator shall request the National Academy of Sciences to prepare a report to the Congress on the role of national secondary ambient air quality standards in protecting welfare and the environment. The report shall:

(1) include information on the effects on welfare and the environment which are caused by ambient concentrations of pollutants listed pursuant to section 108 and other pollutants which may be listed;

(2) estimate welfare and environmental costs incurred as a result of such effects;

(3) examine the role of secondary standards and the State implementation planning process in preventing such effects;

(4) determine ambient concentrations of each such pollutant which would be adequate to protect welfare and the environment from such effects;

(5) estimate the costs and other impacts of meeting secondary standards; and

(6) consider other means consistent with the goals and objectives of the Clean Air Act which may be more effective than secondary standards in preventing or mitigating such effects.

(b) SUBMISSION TO CONGRESS; COMMENTS; AUTHORIZATION.—(1) The report shall be transmitted to the Congress not later than 3 years after the date of enactment of the Clean Air Act Amendments of 1990.

(2) At least 90 days before issuing a report the Administrator shall provide an opportunity for public comment on the proposed report. The Administrator shall include in the final report a summary of the comments received on the proposed report.

(3) There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 818. INTERNATIONAL BORDER AREAS.

Subpart 1 of part D of title I of the Clean Air Act is amended by adding at the end thereof the following new section:

42 USC 7509a.

"SEC. 179B. INTERNATIONAL BORDER AREAS.

"(a) IMPLEMENTATION PLANS AND REVISIONS.—Notwithstanding any other provision of law, an implementation plan or plan revision required under this Act shall be approved by the Administrator if—

"(1) such plan or revision meets all the requirements applicable to it under the Act other than a requirement that such plan or revision demonstrate attainment and maintenance of the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this Act, or in a regulation promulgated under such provision, and

"(2) the submitting State establishes to the satisfaction of the Administrator that the implementation plan of such State would be adequate to attain and maintain the relevant national ambient air quality standards by the attainment date specified under the applicable provision of this Act, or in a regulation promulgated under such provision, but for emissions emanating from outside of the United States.

"(b) ATTAINMENT OF OZONE LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator that, with respect to an ozone nonattainment area in such State, such State would have attained the national ambient air quality standard for ozone by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 181(a)(2) or (5) or section 185.

"(c) ATTAINMENT OF CARBON MONOXIDE LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator, with respect to a carbon monoxide nonattainment area in such State, that such State has attained the national ambient air quality standard for carbon monoxide by the applicable attainment date, but for emissions emanating from outside of the United States, shall not be subject to the provisions of section 186(b)(2) or (9).

"(d) ATTAINMENT OF PM-10 LEVELS.—Notwithstanding any other provision of law, any State that establishes to the satisfaction of the Administrator that, with respect to a PM-10 nonattainment area in such State, such State would have attained the national ambient air quality standard for carbon monoxide by the applicable attainment date, but for emissions emanating from outside the United States, shall not be subject to the provisions of section 188(b)(2).".

42 USC 7511 note.

SEC. 819. EXEMPTIONS FOR STRIPPER WELLS.

Notwithstanding any other provision of law, the amendments to the Clean Air Act made by section 103 of the Clean Air Act Amendments of 1990 (relating to additional provisions for ozone nonattainment areas), by section 104 of such amendments (relating to additional provisions for carbon monoxide nonattainment areas), by section 105 of such amendments (relating to additional provisions for PM-10 nonattainment areas), and by section 106 of such amendments (relating to additional provisions for areas designated as nonattainment for sulfur oxides, nitrogen dioxide, and lead) shall not apply with respect to the production of and equipment used in the exploration, production, development, storage or processing of—

(1) oil from a stripper well property, within the meaning of the June 1979 energy regulations (within the meaning of section 4996(b)(7) of the Internal Revenue Code of 1986, as in effect before the repeal of such section); and

(2) stripper well natural gas, as defined in section 108(b) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3318(b)).

except to the extent that provisions of such amendments cover areas designated as Serious pursuant to part D of title I of the Clean Air Act and having a population of 350,000 or more, or areas designated as Severe or Extreme pursuant to such part D.

SEC. 820. EPA REPORT ON MAGNETIC LEVITATION.

The Administrator of the Environmental Protection Agency shall, not later than 6 months after the date of enactment of this Act, submit to the Congress and the President a report of the Administrator's activities under any agreement with the Department of Transportation entered into prior to such date of enactment providing for an analysis of the health and environmental aspects of magnetic levitation technology.

SEC. 821. INFORMATION GATHERING ON GREENHOUSE GASES CONTRIBUTING TO GLOBAL CLIMATE CHANGE. 42 USC 7651k note.

(a) MONITORING.—The Administrator of the Environmental Protection Agency shall promulgate regulations within 18 months after the enactment of the Clean Air Act Amendments of 1990 to require that all affected sources subject to title V of the Clean Air Act shall also monitor carbon dioxide emissions according to the same timetable as in section 511 (b) and (c). The regulations shall require that such data be reported to the Administrator. The provisions of section 511(e) of title V of the Clean Air Act shall apply for purposes of this section in the same manner and to the same extent as such provision applies to the monitoring and data referred to in section 511. Regulations.

(b) PUBLIC AVAILABILITY OF CARBON DIOXIDE INFORMATION.—For each unit required to monitor and provide carbon dioxide data under subsection (a), the Administrator shall compute the unit's aggregate annual total carbon dioxide emissions, incorporate such data into a computer data base, and make such aggregate annual data available to the public.

SEC. 822. AUTHORIZATION.

Section 327 of the Clean Air Act is amended to read as follows: 42 USC 7626.

"SEC. 327. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act such sums as may be necessary for the 7 fiscal years commencing after the enactment of the Clean Air Act Amendments of 1990.

"(b) GRANTS FOR PLANNING.—There are authorized to be appropriated (1) not more than $50,000,000 to carry out section 175 beginning in fiscal year 1991, to be available until expended, to develop plan revisions required by subpart 2, 3, or 4 of part D of title I, and (2) not more than $15,000,000 for each of the 7 fiscal years commencing after the enactment of the Clean Air Act Amendments of 1990 to make grants to the States to prepare implementation plans as required by subpart 2, 3, or 4 of part D of title I.".

TITLE IX—CLEAN AIR RESEARCH

Sec. 901. Clean air research.

SEC. 901. CLEAN AIR RESEARCH.

42 USC 7403.

(a) RESEARCH AND DEVELOPMENT PROGRAM.—(1) Section 103(a)(1) of the Clean Air Act is amended by inserting after "effects" the words "(including health and welfare effects)".

(2) Section 103(b) of the Clean Air Act is amended—

(A) in paragraph (6) by striking "and" after "control thereof;";

(B) in paragraph (7) by striking the period and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(8) construct facilities, provide equipment, and employ staff as necessary to carry out this Act.".

(b) RESEARCH AMENDMENTS.—Section 103(c) through (f) of the Clean Air Act is amended to read as follows:

"(c) AIR POLLUTANT MONITORING, ANALYSIS, MODELING, AND INVENTORY RESEARCH.—In carrying out subsection (a), the Administrator shall conduct a program of research, testing, and development of methods for sampling, measurement, monitoring, analysis, and modeling of air pollutants. Such program shall include the following elements:

"(1) Consideration of individual, as well as complex mixtures of, air pollutants and their chemical transformations in the atmosphere.

"(2) Establishment of a national network to monitor, collect, and compile data with quantification of certainty in the status and trends of air emissions, deposition, air quality, surface water quality, forest condition, and visibility impairment, and to ensure the comparability of air quality data collected in different States and obtained from different nations.

"(3) Development of improved methods and technologies for sampling, measurement, monitoring, analysis, and modeling to increase understanding of the sources of ozone percursors, ozone formation, ozone transport, regional influences on urban ozone, regional ozone trends, and interactions of ozone with other pollutants. Emphasis shall be placed on those techniques which—

"(A) improve the ability to inventory emissions of volatile organic compounds and nitrogen oxides that contribute to urban air pollution, including anthropogenic and natural sources;

"(B) improve the understanding of the mechanism through which anthropogenic and biogenic volatile organic compounds react to form ozone and other oxidants; and

"(C) improve the ability to identify and evaluate region-specific prevention and control options for ozone pollution.

"(4) Submission of periodic reports to the Congress, not less than once every 5 years, which evaluate and assess the effectiveness of air pollution control regulations and programs using monitoring and modeling data obtained pursuant to this subsection.

"(d) ENVIRONMENTAL HEALTH EFFECTS RESEARCH.—(1) The Administrator, in consultation with the Secretary of Health and Human Services, shall conduct a research program on the short-term and long-term effects of air pollutants, including wood smoke, on human health. In conducting such research program the Administrator—

"(A) shall conduct studies, including epidemiological, clinical, and laboratory and field studies, as necessary to identify and evaluate exposure to and effects of air pollutants on human health;

"(B) may utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories and research centers; and

"(C) shall consult with other Federal agencies to ensure that similar research being conducted in other agencies is coordinated to avoid duplication.

"(2) In conducting the research program under this subsection, the Administrator shall develop methods and techniques necessary to identify and assess the risks to human health from both routine and accidental exposures to individual air pollutants and combinations thereof. Such research program shall include the following elements:

"(A) The creation of an Interagency Task Force to coordinate such program. The Task Force shall include representatives of the National Institute for Environmental Health Sciences, the Environmental Protection Agency, the Agency for Toxic Substances and Disease Registry, the National Toxicology Program, the National Institute of Standards and Technology, the National Science Foundation, the Surgeon General, and the Department of Energy. This Interagency Task Force shall be chaired by a representative of the Environmental Protection Agency and shall convene its first meeting within 60 days after the date of enactment of this subparagraph. Establishment.

"(B) An evaluation, within 12 months after the date of enactment of this paragraph, of each of the hazardous air pollutants listed under section 112(b) of this Act, to decide, on the basis of available information, their relative priority for preparation of environmental health assessments pursuant to subparagraph (C). The evaluation shall be based on reasonably anticipated toxicity to humans and exposure factors such as frequency of occurrence as an air pollutant and volume of emissions in populated areas. Such evaluation shall be reviewed by the Interagency Task Force established pursuant to subparagraph (A).

"(C) Preparation of environmental health assessments for each of the hazardous air pollutants referred to in subparagraph (B), beginning 6 months after the first meeting of the Interagency Task Force and to be completed within 96 months thereafter. No fewer than 24 assessments shall be completed and published annually. The assessments shall be prepared in accordance with guidelines developed by the Administrator in consultation with the Interagency Task Force and the Science Advisory Board of the Environmental Protection Agency. Each such assessment shall include—

"(i) an examination, summary, and evaluation of available toxicological and epidemiological information for the pollutant to ascertain the levels of human exposure which pose a significant threat to human health and the associated acute, subacute, and chronic adverse health effects;

"(ii) a determination of gaps in available information related to human health effects and exposure levels; and

"(iii) where appropriate, an identification of additional activities, including toxicological and inhalation testing,

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needed to identify the types or levels of exposure which may present significant risk of adverse health effects in humans.

"(e) ECOSYSTEM RESEARCH.—In carrying out subsection (a), the Administrator, in cooperation, where appropriate, with the Under Secretary of Commerce for Oceans and Atmosphere, the Director of the Fish and Wildlife Service, and the Secretary of Agriculture, shall conduct a research program to improve understanding of the short-term and long-term causes, effects, and trends of ecosystems damage from air pollutants on ecosystems. Such program shall include the following elements:

"(1) Identification of regionally representative and critical ecosystems for research.

"(2) Evaluation of risks to ecosystems exposed to air pollutants, including characterization of the causes and effects of chronic and episodic exposures to air pollutants and determination of the reversibility of those effects.

"(3) Development of improved atmospheric dispersion models and monitoring systems and networks for evaluating and quantifying exposure to and effects of multiple environmental stresses associated with air pollution.

"(4) Evaluation of the effects of air pollution on water quality, including assessments of the short-term and long-term ecological effects of acid deposition and other atmospherically derived pollutants on surface water (including wetlands and estuaries) and groundwater.

"(5) Evaluation of the effects of air pollution on forests, materials, crops, biological diversity, soils, and other terrestrial and aquatic systems exposed to air pollutants.

"(6) Estimation of the associated economic costs of ecological damage which have occurred as a result of exposure to air pollutants.

Consistent with the purpose of this program, the Administrator may use the estuarine research reserves established pursuant to section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461) to carry out this research.

"(f) LIQUEFIED GASEOUS FUELS SPILL TEST FACILITY.—(1) The Administrator, in consultation with the Secretary of Energy and the Federal Coordinating Council for Science, Engineering, and Technology, shall oversee an experimental and analytical research effort, with the experimental research to be carried out at the Liquefied Gaseous Fuels Spill Test Facility. In consultation with the Secretary of Energy, the Administrator shall develop a list of chemicals and a schedule for field testing at the Facility. Analysis of a minimum of 10 chemicals per year shall be carried out, with the selection of a minimum of 2 chemicals for field testing each year. Highest priority shall be given to those chemicals that would present the greatest potential risk to human health as a result of an accidental release—

"(A) from a fixed site; or

"(B) related to the transport of such chemicals.

"(2) The purpose of such research shall be to—

"(A) develop improved predictive models for atmospheric dispersion which at a minimum—

"(i) describe dense gas releases in complex terrain including man-made structures or obstacles with variable winds;

"(ii) improve understanding of the effects of turbulence on dispersion patterns; and

"(iii) consider realistic behavior of aerosols by including physicochemical reactions with water vapor, ground deposition, and removal by water spray;

"(B) evaluate existing and future atmospheric dispersion models by—

"(i) the development of a rigorous, standardized methodology for dense gas models; and

"(ii) the application of such methodology to current dense gas dispersion models using data generated from field experiments; and

"(C) evaluate the effectiveness of hazard mitigation and emergency response technology for fixed site and transportation related accidental releases of toxic chemicals.

Models pertaining to accidental release shall be evaluated and improved periodically for their utility in planning and implementing evacuation procedures and other mitigative strategies designed to minimize human exposure to hazardous air pollutants released accidentally.

"(3) The Secretary of Energy shall make available to interested persons (including other Federal agencies and businesses) the use of the Liquefied Gaseous Fuels Spill Test Facility to conduct research and other activities in connection with the activities described in this subsection.".

(c) ADDITIONAL PROVISIONS.—Section 103 of the Clean Air Act is amended by inserting after subsection (f) the following: 42 USC 7403.

"(g) POLLUTION PREVENTION AND EMISSIONS CONTROL.—In carrying out subsection (a), the Administrator shall conduct a basic engineering research and technology program to develop, evaluate, and demonstrate nonregulatory strategies and technologies for air pollution prevention. Such strategies and technologies shall be developed with priority on those pollutants which pose a significant risk to human health and the environment, and with opportunities for participation by industry, public interest groups, scientists, and other interested persons in the development of such strategies and technologies. Such program shall include the following elements:

"(1) Improvements in nonregulatory strategies and technologies for preventing or reducing multiple air pollutants, including sulfur oxides, nitrogen oxides, heavy metals, PM–10 (particulate matter), carbon monoxide, and carbon dioxide, from stationary sources, including fossil fuel power plants. Such strategies and technologies shall include improvements in the relative cost effectiveness and long-range implications of various air pollutant reduction and nonregulatory control strategies such as energy conservation, including end-use efficiency, and fuel-switching to cleaner fuels. Such strategies and technologies shall be considered for existing and new facilities.

"(2) Improvements in nonregulatory strategies and technologies for reducing air emissions from area sources.

"(3) Improvements in nonregulatory strategies and technologies for preventing, detecting, and correcting accidental releases of hazardous air pollutants.

"(4) Improvements in nonregulatory strategies and technologies that dispose of tires in ways that avoid adverse air quality impacts.

Nothing in this subsection shall be construed to authorize the imposition on any person of air pollution control requirements. The Administrator shall consult with other appropriate Federal agencies

to ensure coordination and to avoid duplication of activities authorized under this subsection.

"(h) NIEHS STUDIES.—(1) The Director of the National Institute of Environmental Health Sciences may conduct a program of basic research to identify, characterize, and quantify risks to human health from air pollutants. Such research shall be conducted primarily through a combination of university and medical school-based grants, as well as through intramural studies and contracts.

"(2) The Director of the National Institute of Environmental Health Sciences shall conduct a program for the education and training of physicians in environmental health.

"(3) The Director shall assure that such programs shall not conflict with research undertaken by the Administrator.

Appropriation authorization.

"(4) There are authorized to be appropriated to the National Institute of Environmental Health Sciences such sums as may be necessary to carry out the purposes of this subsection.

"(i) COORDINATION OF RESEARCH.—The Administrator shall develop and implement a plan for identifying areas in which activities authorized under this section can be carried out in conjunction with other Federal ecological and air pollution research efforts. The plan, which shall be submitted to Congress within 6 months after the date of enactment of this subsection, shall include—

"(1) an assessment of ambient monitoring stations and networks to determine cost effective ways to expand monitoring capabilities in both urban and rural environments;

"(2) a consideration of the extent of the feasibility and scientific value of conducting the research program under subsection (e) to include consideration of the effects of atmospheric processes and air pollution effects; and

"(3) a methodology for evaluating and ranking pollution prevention technologies, such as those developed under subsection (g), in terms of their ability to reduce cost effectively the emissions of air pollutants and other airborne chemicals of concern.

Reports.

Not later than 2 years after the date of enactment of this subsection, and every 4 years thereafter, the Administrator shall report to Congress on the progress made in implementing the plan developed under this subsection, and shall include in such report any revisions of the plan.

"(j) CONTINUATION OF THE NATIONAL ACID PRECIPITATION ASSESSMENT PROGRAM.—

"(1) The acid precipitation research program set forth in the Acid Precipitation Act of 1980 shall be continued with modifications pursuant to this subsection.

"(2) The Acid Precipitation Task Force shall consist of the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of the Interior, the Secretary of Agriculture, the Administrator of the National Oceanic and Atmospheric Administration, the Administrator of the National Aeronautics and Space Administration, and such additional members as the President may select. The President shall appoint a chairman for the Task Force from among its members within 30 days after the date of enactment of this subsection.

President.

"(3) The responsibilities of the Task Force shall include the following:

"(A) Review of the status of research activities conducted to date under the comprehensive research plan developed

pursuant to the Acid Precipitation Act of 1980, and development of a revised plan that identifies significant research gaps and establishes a coordinated program to address current and future research priorities. A draft of the revised plan shall be submitted by the Task Force to Congress within 6 months after the date of enactment of this subsection. The plan shall be available for public comment during the 60 day period after its submission, and a final plan shall be submitted by the President to the Congress within 45 days after the close of the comment period. President.

"(B) Coordination with participating Federal agencies, augmenting the agencies' research and monitoring efforts and sponsoring additional research in the scientific community as necessary to ensure the availability and quality of data and methodologies needed to evaluate the status and effectiveness of the acid deposition control program. Such research and monitoring efforts shall include, but not be limited to—

"(i) continuous monitoring of emissions of precursors of acid deposition;

"(ii) maintenance, upgrading, and application of models, such as the Regional Acid Deposition Model, that describe the interactions of emissions with the atmosphere, and models that describe the response of ecosystems to acid deposition; and

"(iii) analysis of the costs, benefits, and effectiveness of the acid deposition control program.

"(C) Publication and maintenance of a National Acid Lakes Registry that tracks the condition and change over time of a statistically representative sample of lakes in regions that are known to be sensitive to surface water acidification.

"(D) Submission every two years of a unified budget recommendation to the President for activities of the Federal Government in connection with the research program described in this subsection.

"(E) Beginning in 1992 and biennially thereafter, submission of a report to Congress describing the results of its investigations and analyses. The reporting of technical information about acid deposition shall be provided in a format that facilitates communication with policymakers and the public. The report shall include— Reports.

"(i) actual and projected emissions and acid deposition trends;

"(ii) average ambient concentrations of acid deposition percursors and their transformation products;

"(iii) the status of ecosystems (including forests and surface waters), materials, and visibility affected by acid deposition;

"(iv) the causes and effects of such deposition, including changes in surface water quality and forest and soil conditions;

"(v) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds; and

"(vi) the confidence level associated with each conclusion to aid policymakers in use of the information.

"(F) Beginning in 1996, and every 4 years thereafter, the report under subparagraph (E) shall include—

"(i) the reduction in deposition rates that must be achieved in order to prevent adverse ecological effects; and

"(ii) the costs and benefits of the acid deposition control program created by title IV of this Act.

"(k) AIR POLLUTION CONFERENCES.—If, in the judgment of the Administrator, an air pollution problem of substantial significance may result from discharge or discharges into the atmosphere, the Administrator may call a conference concerning this potential air pollution problem to be held in or near one or more of the places where such discharge or discharges are occurring or will occur. All interested persons shall be given an opportunity to be heard at such conference, either orally or in writing, and shall be permitted to appear in person or by representative in accordance with procedures prescribed by the Administrator. If the Administrator finds, on the basis of the evidence presented at such conference, that the discharge or discharges if permitted to take place or continue are likely to cause or contribute to air pollution subject to abatement under part A of title I, the Administrator shall send such findings, together with recommendations concerning the measures which the Administrator finds reasonable and suitable to prevent such pollution, to the person or persons whose actions will result in the discharge or discharges involved; to air pollution agencies of the State or States and of the municipality or municipalities where such discharge or discharges will originate; and to the interstate air pollution control agency, if any, in the jurisdictional area of which any such municipality is located. Such findings and recommendations shall be advisory only, but shall be admitted together with the record of the conference, as part of the proceedings under subsections (b), (c), (d), (e), and (f) of section 108.".

42 USC 7404.

(d) MISCELLANEOUS.—(1) Section 104 of the Clean Air Act is amended by striking "low-cost" each place it appears and inserting in lieu thereof "cost-effective".

(2) Section 104(c) of the Clean Air Act is amended to read as follows:

"(c) CLEAN ALTERNATIVE FUELS.—The Administrator shall conduct a research program to identify, characterize, and predict air emissions related to the production, distribution, storage, and use of clean alternative fuels to determine the risks and benefits to human health and the environment relative to those from using conventional gasoline and diesel fuels. The Administrator shall consult with other Federal agencies to ensure coordination and to avoid duplication of activities authorized under this subsection.".

42 USC 7403 note.

(e) ASSESSMENT OF INTERNATIONAL AIR POLLUTION CONTROL TECHNOLOGIES.—The Administrator of the Environmental Protection Agency shall conduct a study that compares international air pollution control technologies of selected industrialized countries to determine if there exist air pollution control technologies in countries outside the United States that may have beneficial applications to this Nation's air pollution control efforts. With respect to each country studied, the study shall include the topics of urban air quality, motor vehicle emissions, toxic air emissions, and acid deposition. The Administrator shall, within 2 years after the date of enactment of this Act, submit to the Congress a report detailing the results of such study.

Reports.

(f) ADIRONDACK EFFECTS ASSESSMENT.—The Administrator of the Environmental Protection Agency shall establish a program to research the effects of acid deposition on waters where acid deposition has been most acute. The Administrator shall enter into a multi-year contract for such purposes with an independent university which has a year-round field analytical laboratory on a body of water of not less than 25,000 acres nor greater than 75,000 acres, which lies within a geographic region designated as a Biosphere Reserve by the Department of State. The facility must have demonstrated the capability to analyze relevant data on said body of water over a period of 20 years as well as extensive ecosystem modeling capabilities. There are authorized to be appropriated to carry out this subsection not less than $6,000,000.

Government contracts.

Appropriation authorization.

(g) WESTERN STATES ACID DEPOSITION RESEARCH.—(1) The Administrator of the Environmental Protection Agency shall sponsor monitoring and research and submit to Congress annual and periodic assessment reports on—

Reports. 42 USC 7403 note.

(A) the occurrence and effects of acid deposition on surface waters located in that part of the United States west of the Mississippi River;

(B) the occurrence and effects of acid deposition on high elevation ecosystems (including forests, and surface waters); and

(C) the occurrence and effects of episodic acidification, particularly with respect to high elevation watersheds.

(2) The Administrator of the Environmental Protection Agency shall analyze data generated from the studies conducted under paragraph (1), data from the Western Lakes Survey, and other appropriate research and utilize predictive modeling techniques that take into account the unique geographic, climatological, and atmospheric conditions which exist in the western United States to determine the potential occurrence and effects of acid deposition due to any projected increases in the emission of sulfur dioxide and nitrogen oxides in that part of the United States located west of the Mississippi River. The Administrator shall include the results of the project conducted under this paragraph in the reports issued to Congress under paragraph (1).

(h)(1) In carrying out the provisions of section 103(f) of the Clean Air Act, the Secretary of Energy is authorized to enter into contracts and cooperative agreements with, and make grants to, nonprofit entities affiliated with the University of Nevada and the University of Wyoming.

Government contracts. Grant programs. Colleges and universities.

(2) Agreements, contracts, and grants described in paragraph (1) shall provide that such nonprofit entities—

(A) may provide basic technical and management personnel; and

(B) shall make available permanent research support facilities owned by the nonprofit entities.

(3) The nonprofit entities described in paragraphs (1) and (2) shall be authorized to make grants, accept contributions, and enter into agreements with other entities to carry out the provisions of this subsection.

(4) There are authorized to be appropriated to the Department of Energy $3,000,000 for fiscal year 1991 and such sums as may be necessary for each fiscal year thereafter to carry out the provisions of paragraph (1). Such amounts shall remain available until expended.

42 USC 7601 note.

TITLE X—DISADVANTAGED BUSINESS CONCERNS

Sec. 1001. Disadvantaged business concerns.
Sec. 1002. Use of quotas prohibited.

SEC. 1001. DISADVANTAGED BUSINESS CONCERNS.

(a) IN GENERAL.—In providing for any research relating to the requirements of the amendments made by the Clean Air Act Amendments of 1990 which uses funds of the Environmental Protection Agency, the Administrator of the Environmental Protection Agency shall, to the extent practicable, require that not less than 10 percent of total Federal funding for such research will be made available to disadvantaged business concerns.

(b) DEFINITION.—

(1)(A) For purposes of subsection (a), the term "disadvantaged business concern" means a concern—

(i) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of a publicly traded company, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) the management and daily business operations of which are controlled by such individuals.

(B)(i) A for-profit business concern is presumed to be a disadvantaged business concern for purposes of subsection (a) if it is at least 51 percent owned by, or in the case of a concern which is a publicly traded company at least 51 percent of the stock of the company is owned by, one or more individuals who are members of the following groups:

(I) Black Americans.
(II) Hispanic Americans.
(III) Native Americans.
(IV) Asian Americans.
(V) Women.
(VI) Disabled Americans.

(ii) The presumption established by clause (i) may be rebutted with respect to a particular business concern if it is reasonably established that the individual or individuals referred to in that clause with respect to that business concern are not experiencing impediments to establishing or developing such concern as a result of the individual's identification as a member of a group specified in that clause.

Minority groups.

(C) The following institutions are presumed to be disadvantaged business concerns for purposes of subsection (a):

(i) Historically black colleges and universities, and colleges and universities having a student body in which 40 percent of the students are Hispanic.

(ii) Minority institutions (as that term is defined by the Secretary of Education pursuant to the General Education Provision Act (20 U.S.C. 1221 et seq.)).

(iii) Private and voluntary organizations controlled by individuals who are socially and economically disadvantaged.

(D) A joint venture may be considered to be a disadvantaged business concern under subsection (a), notwithstanding the size of such joint venture, if—

(i) a party to the joint venture is a disadvantaged business concern; and

(ii) that party owns at least 51 percent of the joint venture.

A person who is not an economically disadvantaged individual or a disadvantaged business concern, as a party to a joint venture, may not be a party to more than 2 awarded contracts in a fiscal year solely by reason of this subparagraph.

(E) Nothing in this paragraph shall prohibit any member of a racial or ethnic group that is not listed in subparagraph (B)(i) from establishing that they have been impeded in establishing or developing a business concern as a result of racial or ethnic discrimination.

SEC. 1002. USE OF QUOTAS PROHIBITED.—Nothing in this title shall permit or require the use of quotas or a requirement that has the effect of a quota in determining eligibility under section 1001.

TITLE XI—CLEAN AIR EMPLOYMENT TRANSITION ASSISTANCE

Sec. 1101. Clean air employment transition assistance.

SEC. 1101. CLEAN AIR EMPLOYMENT TRANSITION ASSISTANCE.

(a) AMENDMENT.—Part B of title III of the Job Training Partnership Act (29 U.S.C. 1501) is amended by adding at the end the following:

"CLEAN AIR EMPLOYMENT TRANSITION ASSISTANCE

"SEC. 326. (a) DETERMINATION OF ELIGIBILITY.— 29 USC 1662e.

"(1) DEFINITIONS.—For purposes of this section, the term 'eligible individual' means an individual who—

"(A) is an eligible dislocated worker, as that term is defined in section 301(a), and

"(B) has been terminated or laid off, or has received a notice of termination or lay off, as a consequence of compliance with the Clean Air Act.

"(2) DETERMINATIONS.—The determination of eligibility under paragraph (1)(B) of this subsection shall be made by the Secretary of Labor, pursuant to criteria established by the Secretary, in consultation with the Administrator of the Environmental Protection Agency.

"(b) GRANTS AUTHORIZED.—The Secretary may make grants to States, substate grantees (as defined in section 312(c)), employers, employer associations, and representatives of employees—

"(1) to provide training, adjustment assistance, and employment services to eligible individuals adversely affected by compliance with the Clean Air Act; and

"(2) to make needs-related payments to such individuals in accordance with subsection (f) of this section.

"(c) PRIORITY AND APPROVAL.—

"(1) PRIORITY.—In reviewing applications for grants under subsection (b), the Secretary shall give priority to applications

proposing to provide training, adjustment assistance, and services in areas which have the greatest number of eligible individuals.

"(2) NEEDS-RELATED PAYMENTS REQUIRED.—The Secretary shall not approve an application for a grant under subsection (b) unless the application contains assurances that the applicant will use grant funds to provide needs-related payments in accordance with subsection (f).

"(d) USE OF FUNDS.—Subject to the requirements of subsections (e) and (f) of this section, grants under subsection (b) may be used for any purpose for which funds may be used under section 314.

"(e) ADJUSTMENT ASSISTANCE.—

"(1) JOB SEARCH ALLOWANCE.—

"(A) IN GENERAL.—Grants under subsection (b) for adjustment assistance may be used to provide job search allowances to eligible individuals. Such allowance, if granted, shall provide reimbursement to the individual of not more than 90 percent of the cost of necessary job search expenses, as prescribed by regulations of the Secretary, but may not exceed $800 unless the need for a greater amount is justified in the application and approved by the Secretary.

"(B) CRITERIA FOR GRANTING JOB SEARCH ALLOWANCES.—A job search allowance may be granted only—

"(i) to assist an eligible individual who has been totally separated in securing a job within the United States; and

"(ii) where the Secretary determines that such employee cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

"(2) RELOCATION ALLOWANCE.—

"(A) IN GENERAL.—Grants under subsection (b) for adjustment assistance may be used to provide relocation allowances to eligible individuals. Such an allowance may only be granted to assist an eligible individual in relocating within the United States and only if the Secretary determines that—

"(i) such employee cannot reasonably be expected to secure suitable employment in the commuting area in which the employee resides; and

"(ii) such employee—

"(I) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the employee wishes to relocate, or has obtained a bona fide offer of such employment, and

"(II) is totally separated from employment at the time relocation commences.

"(B) AMOUNT OF RELOCATION ALLOWANCE.—The amount of any relocation allowance for any eligible individual may not exceed the amount which is equal to the sum of—

"(i) 90 percent of the reasonable and necessary expenses, specified in regulations prescribed by the Secretary, incurred in transporting an individual and the individual's family, if any, and household effects, and

"(ii) a lump sum equivalent to 3 times the employee's average weekly wage, up to a maximum payment of $800, unless the need for a greater amount is justified in the application and approved by the Secretary.

"(f) NEEDS-RELATED PAYMENTS.—The Secretary shall prescribe regulations with respect to the use of funds from grants under subsection (b) for needs-related payments in order to enable eligible individuals to complete training or education programs under this section. Such regulations shall— Regulations.

"(1) require that such payments shall be provided to an eligible individual only if such individual—

"(A) does not qualify or has ceased to qualify for unemployment compensation;

"(B) has been enrolled in training by the end of the 13th week of the individual's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an individual is informed that a short-term layoff will in fact exceed 6 months; and

"(C) is participating in training or education programs under this section, except that such regulations shall protect an individual from being disqualified pursuant to this clause for a failure to participate that is not the fault of the individual;

"(2) provide that to qualify for such payments the individual currently receives, or is a member of a family which currently receives, a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) which, in relation to family size, is not in excess of the lower living standard income level;

"(3) provide that the levels of such payments shall be equal to the higher of—

"(A) the applicable level of unemployment compensation; or

"(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;

"(4) provide for the adjustment of payments to reflect changes in total family income; and

"(5) provide that the grantee shall obtain information with respect to such income, and changes therein, from the eligible individual.

"(g) ADMINISTRATIVE EXPENSES.—The Secretary of Labor may reserve not more than 5 percent of the funds appropriated under this section for the administration of activities authorized under this section, including the provision of technical assistance for the preparation of grant applications.

"(h) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated by section 3(c) of this Act, there are authorized to be appropriated $50,000,000 for fiscal year 1991, and such sums as may be necessary for each of fiscal years 1992, 1993, 1994, and 1995 to carry out this section. The total amount appropriated for all 5 such fiscal years shall not exceed $250,000,000. Amounts appropriated pursuant to this subsection shall remain available until expended.

"(i) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section not later than 180 days after the date of enactment of this section.

"(j) GAO ASSESSMENT OF EFFECTS OF CLEAN AIR ACT COMPLIANCE OF EMPLOYMENT.—The Comptroller General of the United States shall—

"(1) identify and assess, to the extent possible, the effects on employment that are attributable to compliance with the provisions of the Clean Air Act; and

Reports.

"(2) submit to the Congress on the 4th anniversary of the date of the enactment of this subtitle a written report on the assessments required under paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Job Training Partnership Act is amended by adding at the end of the items pertaining to part B of title III the following:

"Sec. 326. Clean air employment transition assistance.".

29 USC 1502.

(2) Section 3(c) of the Job Training Partnership Act is amended by inserting "(other than section 326 thereof)" after "title III".

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 1630 (H.R. 3030):

HOUSE REPORTS: No. 101-490, Pt. 1 (Comm. on Energy and Commerce), Pt. 2 (Comm. on Ways and Means), and Pt. 3 (Comm. on Public Works and Transportation), all accompanying H.R. 3030; and No. 101-952 (Comm. of Conference).

SENATE REPORTS: No. 101-228 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Jan. 23-25, 29-31, Mar. 5-9, 20-22, 26-30, Apr. 2, 3, considered and passed Senate.

May 21, 23, H.R. 3030 considered and passed House; proceedings vacated and S. 1630, amended, passed in lieu.

Oct. 26, House agreed to conference report. Senate considered conference report.

Oct. 27, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 15, Presidential remarks and statement.

Public Law 101-550
101st Congress

An Act

To amend the Federal securities laws in order to facilitate cooperation between the United States and foreign countries in securities law enforcement.

Nov. 15, 1990
[H.R. 1396]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Securities Acts Amendments of 1990.
15 USC 78a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Acts Amendments of 1990".

TITLE I—AUTHORIZATION

Securities and Exchange Commission Authorization Act of 1990.

SEC. 101. SHORT TITLE.

This title may be cited as the "Securities and Exchange Commission Authorization Act of 1990".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 35. There are authorized to be appropriated to carry out the functions, powers, and duties of the Commission—

"(1) $178,023,000 for the fiscal year ending September 30, 1990; and

"(2) $212,609,000 for the fiscal year ending September 30, 1991.".

SEC. 103. LEASING AUTHORITY OF SECURITIES AND EXCHANGE COMMISSION.

Section 4(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78d(b)) is amended—

(1) by striking "(b)" and inserting the following:

"(b) APPOINTMENT AND COMPENSATION OF STAFF AND LEASING AUTHORITY.—

"(1) APPOINTMENT AND COMPENSATION.—"; and

(2) by adding the end the following new paragraph:

"(2) LEASING AUTHORITY.—Nothwithstanding any other provision of law, the Commission is authorized to enter directly into leases for real property for office, meeting, storage, and such other space as is necessary to carry out its functions, and shall be exempt from any General Services Administration space management regulations or directives.".

Real property acquisition.

SEC. 104. CONFORMING AMENDMENTS.

(a) THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—Section 31 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z-5) is amended to read as follows:

"HIRING AND LEASING AUTHORITY OF THE COMMISSION

"SEC. 31. The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

(b) THE TRUST INDENTURE ACT OF 1939.—Section 321(d) of the Trust Indenture Act of 1939 (15 U.S.C. 77uuu(d) is amended to read as follows:

"(d) The provisions section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

(c) THE INVESTMENT COMPANY ACT OF 1940.—Section 46(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-45(b)) is amended to read as follows:

"(b) The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

(d) THE INVESTMENT ADVISERS ACT OF 1940.—Section 218 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18) is amended to read as follows:

"HIRING AND LEASING AUTHORITY OF THE COMMISSION

"SEC. 218. The provisions of section 4(b) of the Securities Exchange Act of 1934 shall be applicable with respect to the power of the Commission—

"(1) to appoint and fix the compensation of such other employees as may be necessary for carrying out its functions under this title, and

"(2) to lease and allocate such real property as may be necessary for carrying out its functions under this title.".

TITLE II—INTERNATIONAL SECURITIES LAW ENFORCEMENT

International Securities Enforcement Cooperation Act of 1990.
15 USC 78a note.

SEC. 201. SHORT TITLE.

This title may be cited as the "International Securities Enforcement Cooperation Act of 1990".

SEC. 202. RELEASE OF RECORDS BY THE COMMISSION.

(a) IN GENERAL.—Section 24 of the Securities Exchange Act of 1934 (15 U.S.C. 78x) is amended—

(1) in subsection (b), by striking "Nothing in this subsection shall authorize the Commission to withhold information from the Congress."; and

(2) by adding at the end thereof the following new subsections:

"(c) CONFIDENTIAL DISCLOSURES.—The Commission may, in its discretion and upon a showing that such information is needed, provide all 'records' (as defined in subsection (a)) and other information in its possession to such persons, both domestic and foreign, as the Commission by rule deems appropriate if the person receiving such records or information provides such assurances of confidentiality as the Commission deems appropriate.

"(d) RECORDS OBTAINED FROM FOREIGN SECURITIES AUTHORITIES.—Except as provided in subsection (e), the Commission shall not be compelled to disclose records obtained from a foreign securities authority if (1) the foreign securities authority has in good faith determined and represented to the Commission that public disclosure of such records would violate the laws applicable to that foreign securities authority, and (2) the Commission obtains such records pursuant to (A) such procedure as the Commission may authorize for use in connection with the administration or enforcement of the securities laws, or (B) a memorandum of understanding. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of such section 552.

"(e) SAVINGS PROVISIONS.—Nothing in this section shall—

"(1) alter the Commission's responsibilities under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as limited by section 21(h) of this Act, with respect to transfers of records covered by such statutes, or

"(2) authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

(b) CONFORMING AMENDMENTS.—

(1) INVESTMENT COMPANY ACT OF 1940.—Section 45(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-44) is amended by striking "It shall be unlawful" and inserting "Except as provided in section 24(c) of the Securities Exchange Act of 1934, it shall be unlawful".

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 210(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-10(b)) is amended by striking "subsections (c) and (e) of section 209" and inserting "subsections (c) and (d) of section 209 of this title and section 24(c) of the Securities Exchange Act of 1934".

SEC. 203. SANCTIONS AGAINST BROKER OR DEALER, ASSOCIATED PERSONS, OR PERSONS SEEKING ASSOCIATION.

(a) AUTHORITY OF THE COMMISSION TO SANCTION BROKERS AND DEALERS FOR FOREIGN VIOLATIONS.—Section 15(b) (15 U.S.C. 78o(b)) of the Securities Exchange Act of 1934 is amended—

(1) in paragraph (4)(B), by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (4)(B)(i), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraph (4)(B)(ii)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "(7 U.S.C. 1 et seq.)" the following: "or any substantially equivalent foreign statute or regulation";

(4) in paragraph (4)(B)(iii), by inserting after "securities" the following: ", or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (4)(B)(iv), by inserting after "United States Code" the following: ", or a violation of a substantially equivalent foreign statute";

(6) in paragraph (4)(C)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,";

(B) by inserting after "Commodity Exchange Act" each time it appears the following: "or any substantially equivalent foreign statute or regulation"; and

(C) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,"; and

(7) by inserting after subparagraph (F) of paragraph (4) the following:

"(G) has been found by a foreign financial regulatory authority to have—

"(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to the foreign financial regulatory authority any material fact that is required to be stated therein;

"(ii) violated any foreign statute or regulation regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade;

"(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, empowering a foreign financial regulatory authority regarding transactions in securities, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade, or has been found, by a foreign financial regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.".

(b) EXTENSION OF DEFINITION OF STATUTORY DISQUALIFICATION TO INCLUDE FOREIGN VIOLATIONS.—Section 3(a)(39) of such Act (15 U.S.C. 78c(a)(39)) is amended—

(1) in subparagraph (A)—

(A) by inserting after "self-regulatory organization," the following: "foreign equivalent of a self-regulatory organization, foreign or international securities exchange,";

(B) by inserting after both "(7 U.S.C. 7)," and "(7 U.S.C. 21),", the following: "or any substantially equivalent foreign statute or regulation,"; and

(C) by inserting after "contract market", the following: "or foreign equivalent";

(2) by striking subparagraph (B) and inserting the following: "(B) is subject to—

"(i) an order to the Commission, other appropriate regulatory agency, or foreign financial regulatory authority—

"(I) denying, suspending for a period not exceeding 12 months, or revoking his registration as a broker, dealer, municipal securities dealer, government securities broker, or government securities dealer or limiting his activities as a foreign person performing a function substantially equivalent to any of the above; or

"(II) barring or suspending for a period not exceeding 12 months his being associated with a broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or foreign person performing a function substantially equivalent to any of the above;

"(ii) an order of the Commodity Futures Trading Commission denying, suspending, or revoking his registration under the Commodity Exchange Act (7 U.S.C. 1 et seq.); or

"(iii) an order by a foreign financial regulatory authority denying, suspending, or revoking the person's authority to engage in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof;";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(4) by inserting after subparagraph (C) the following:

"(D) by his conduct while associated with any broker, dealer, municipal securities dealer, government securities broker, government securities dealer, or any other entity engaged in transactions in securities, or while associated with an entity engaged in transactions in contracts of sale of a commodity for future delivery or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent thereof, has been found to be a cause of any effective suspension, expulsion, or order by a foreign or international securities exchange or foreign financial regulatory authority empowered by a foreign government to administer or enforce its laws relating to financial transactions as described in subparagraph (A) or (B) of this paragraph;";

(5) in subparagraph (E) (as redesignated by paragraph (3) of this subsection) by striking "(A), (B), or (C)" and inserting "(A), (B), (C), or (D)"; and

(6) in subparagraph (F) (as redesignated) by striking "(D) or (E)" and inserting "(D), (E), or (G)" and by inserting after "such paragraph (4)" the first place it appears the following: "or any other felony".

(c) CONFORMING AMENDMENTS.—The Securities Exchange Act of 1944 (15 U.S.C. 78a et seq.) is amended—

15 USC 78o, 78o-4, 78o-5, 78q-1.

(1) in sections 15(b)(6), 15B(c)(2), 15B(c)(4), 15C(c)(1)(A), 15C(c)(1)(C), 17A(c)(3)(A), and 17A(c)(4)(C), by striking "(A), (D), or (E)" and inserting "(A), (D), (E), or (G)"; and

(2) in section 15C(f)(2), by striking "or the rules or regulations under any such other provision" and inserting "the rules or regulations under any such other provision, or investigations pursuant to section 21(a)(2) of this title to assist a foreign securities authority".

SEC. 204. DEFINITION OF FOREIGN FINANCIAL REGULATORY AUTHORITY.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following new paragraph:

"(51) The term 'foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade, or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate participation of its members in activities listed above.".

SEC. 205. SANCTIONS AGAINST INVESTMENT ADVISERS OR PERSONS ASSOCIATED OR SEEKING ASSOCIATION WITH A REGISTERED INVESTMENT ADVISER OR INVESTMENT COMPANY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 9(b) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(b)) is amended—

(1) by striking "or" at the end of paragraphs (1) and (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by inserting after paragraph (3) the following:

"(4) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(5) within 10 years has been convicted by a foreign court of competent jurisdiction of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense set forth in paragraph (1) of subsection (a); or

"(6) by reason of any misconduct, is temporarily or permanently enjoined by any foreign court of competent jurisdiction from acting in any of the capacities, set forth in paragraph (2) of subsection (a), or a substantially equivalent foreign capacity, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) in paragraph (2) by inserting after "misdemeanor" the following: "or of a substantially equivalent crime by a foreign court of competent jurisdiction";

(2) in paragraph (2)(A), by inserting after "burglary," the following: "any substantially equivalent activity however denominated by the laws of the relevant foreign government,";

(3) in paragraphs (2)(B) and (3)—

(A) by inserting after "transfer agent," the following: "foreign person performing a function substantially equivalent to any of the above,"; and

(B) after "Commodity Exchange Act" each place it appears, the following: "or any substantially equivalent statute or regulation";

(4) in paragraph (2)(C), by inserting after "securities" the following: "or substantially equivalent activity however denominated by the laws of the relevant foreign government";

(5) in paragraph (2)(D) by inserting after "United States Code" the following: ", or a violation of substantially equivalent foreign statute";

(6) in paragraph (3)—

(A) by inserting after "court of competent jurisdiction" the following: ", including any foreign court of competent jurisdiction,"; and

(B) by inserting after "insurance company," the following: "foreign entity substantially equivalent to any of the above,";

(7) in paragraph (5), by inserting after "this title," the following: "the Commodity Exchange Act,"; and

(8) by inserting after paragraph (6) the following new paragraph:

"(7) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances

under which it was made false or misleading with respect to any material fact, or has omitted to state in any application or report to a foreign securities authority any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding transactions in securities or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or has been found, by the foreign finanical regulatory authority, to have failed reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision.".

(c) CONFORMING AMENDMENT.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended by striking "paragraph (1), (4), or (5)" and inserting "paragraph (1), (4), (5), or (7)".

SEC. 206. DEFINITION OF FOREIGN SECURITIES AUTHORITY AND FOREIGN FINANCIAL REGULATORY AUTHORITY.

(a) INVESTMENT COMPANY ACT OF 1940.—Section 2(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)) is amended by inserting after paragraph (48) the following:

"(49) 'Foreign securities authority' means any foreign government or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(50) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above.".

(b) INVESTMENT ADVISERS ACT OF 1940.—Section 202(a) of the Investment Advisers Act of 1940 (15 U.S.C. 80B-2(a)) is amended by inserting after paragraph (22) the following:

15 USC 80b-2.

"(23) 'Foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.

"(24) 'Foreign financial regulatory authority' means any (A) foreign securities authority, (B) other governmental body or foreign equivalent of a self-regulatory organization empowered by a foreign government to administer or enforce its laws relating to the regulation of fiduciaries, trusts, commercial lending, insurance, trading in contracts of sale of a commodity

for future delivery, or other instruments traded on or subject to the rules of a contract market, board of trade or foreign equivalent, or other financial activities, or (C) membership organization a function of which is to regulate the participation of its members in activities listed above.".

SEC. 207. REIMBURSEMENT OF EXPENSES INCURRED IN PROVIDING ASSISTANCE TO A FOREIGN SECURITIES AUTHORITY.

Section 4 of the Securities Exchange Act of 1934 (15 U.S.C. 78d) is amended by adding at the end thereof the following new subsection:

"(f) REIMBURSEMENT OF EXPENSES FOR ASSISTING FOREIGN SECURITIES AUTHORITIES.—Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign securities authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation pursuant to section 21(a)(2) of this title or in providing any other assistance to a foreign securities authority. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

TITLE III—SHAREHOLDER COMMUNICATIONS

Shareholder Communications Improvement Act of 1990.
15 USC 78a note.

SEC 301. SHORT TITLE.

This title may be cited as the "Shareholder Communications Improvement Act of 1990".

SEC. 302. AMENDMENTS TO 1934 ACT.

(a) SECTION 14(b).—Section 14(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(b)(1)) is amended by—

(1) striking "section 12 of this title" and inserting "section 12 of this title, or any security issued by an investment company registered under the Investment Company Act of 1940,"; and

(2) striking "or authorization" and inserting "authorization, or information statement".

(b) SECTION 14(c).—Section 14(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78n(c)) is amended by striking "title" and inserting "title, or a security issued by an investment company registered under the Investment Company Act of 1940,".

SEC. 303. EFFECTIVE DATE.

15 USC 78n note.

The amendments made by section 302 of this title shall take effect upon the expiration of 180 days after the date of enactment of this Act.

TITLE IV—TRUST INDENTURE ACT OF 1939

Trust Indenture Reform Act of 1990.
15 USC 77aaa note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Trust Indenture Reform Act of 1990".

SEC. 402. DEFINITION.

Section 303(8) of the Trust Indenture Act of 1939 (15 U.S.C. 77ccc(8)) is amended by inserting "section 305 or" after "provided for in".

SEC. 403. EXEMPTION FROM QUALIFICATION.

Section 304 of the Trust Indenture Act of 1939 (15 U.S.C. 77ddd) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3) and inserting "(3)."; and

(B) in paragraph (4)(A), by striking ", as heretofore amended,"; and

(2) by striking subsection (d) and inserting the following:

"(d) The Commission may, by rules or regulations upon its own motion, or by order on application by an interested person, exempt conditionally or unconditionally any person, registration statement, indenture, security or transaction, or any class or classes of persons, registration statements, indentures, securities, or transactions, from any one or more of the provisions of this title, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by this title. The Commission shall by rules and regulations determine the procedures under which an exemption under this subsection shall be granted, and may, in its sole discretion, decline to entertain any application for an order of exemption under this subsection.".

SEC. 404. SECURITIES REQUIRED TO BE REGISTERED UNDER THE SECURITIES ACT.

Section 305 of the Trust Indenture Act of 1939 (15 U.S.C. 77eee) is amended—

(1) in subsection (a)(1), by striking "or has a conflicting interest as defined in subsection (b) of section 310";

(2) in subsection (b)—

(A) by striking "The Commission shall issue" and inserting "(1) Except as may be permitted by paragraph (2) of this subsection, the Commission shall issue";

(B) by redesignating paragraph (1) as subparagraph (A);

(C) by inserting "or" at the end thereof;

(D) by striking paragraph (2);

(E) redesignating paragraph (3) as subparagraph (B);

(F) in such subparagraph (B), by striking "or has any conflicting interest as defined in subsection (b) of section 310"; and

(G) by adding at the end of subsection (b) the following new paragraph:

"(2) In the case of securities registered under the Securities Act of 1933, which securities are eligible to be issued, offered, or sold on a delayed basis by or on behalf of the registrant, the Commission shall not be required to issue an order pursuant to paragraph (1) of subsection (b) of section 305 for failure to designate a trustee eligible to act under subsection (a) of section 310 if, in accordance with such rules and regulations as may be prescribed by the Commission, the issuer of such securities files an application for the purpose of determining such trustee's eligibility under subsection (a) of section 310. The Commission shall issue an order prior to the effective date of such application refusing to permit the application to become

effective, if it finds that any person designated as trustee under such indenture is not eligible to act as such under subsection (a) of section 310, but no order shall be issued except after notice and opportunity for hearing within the periods and in the manner required with respect to refusal orders pursuant to section 8(b) of the Securities Act of 1933. If after notice and opportunity for hearing the Commission issues an order under this provision, the obligor shall within 5 calendar days appoint a trustee meeting the requirements of subsection (a) of section 310. No such appointment shall be effective and such refusal order shall not be rescinded by the Commission until a person eligible to act as trustee under subsection (a) of section 310 has been appointed. If no order is issued, an application filed pursuant to this paragraph shall be effective the tenth day after filing thereof or such earlier date as the Commission may determine, having due regard to the adequacy of information provided therein, the public interest, and the protection of investors.".

SEC. 405. WHEN QUALIFICATION BECOMES EFFECTIVE.

Section 309(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77iii(b)) is amended by inserting after "such Act" the following: ", or the failure of the issuer to file an application as provided for by section 305(b)(2)".

SEC. 406. PERSONS ELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended—

(1) by inserting at the end of paragraph (1) the following: "The Commission may, pursuant to such rules and regulations as it may prescribe, or by order on application, permit a corporation or other person organized and doing business under the laws of a foreign government to act as sole trustee under an indenture qualified or to be qualified pursuant to this title, if such corporation or other person (i) is authorized under such laws to exercise corporate trust powers, and (ii) is subject to supervision or examination by authority of such foreign government or a political subdivision thereof substantially equivalent to supervision or examination applicable to United States institutional trustees. In prescribing such rules and regulations or making such order, the Commission shall consider whether under such laws, a United States institutional trustee is eligible to act as sole trustee under an indenture relating to securities sold within the jurisdiction of such foreign government.";

(2) by striking "The indenture to be qualified shall require that there shall" in paragraph (1) and inserting "There shall";

(3) by striking "thereunder" in paragraph (1) and inserting "under every indenture qualified or to be qualified pursuant to this title";

(4) by inserting "or a corporation or other person permitted to act as trustee by the Commission" before "(referred to" in paragraph (1);

(5) by striking "The indenture to be qualified shall require that such institution" in paragraph (2) and inserting "Such institution";

(6) by striking "such indenture shall provide that" in paragraph (3);

(7) by striking "the indenture to be qualified shall require that" in paragraph (4); and

(8) by inserting "shall" after "the indenture trustee or trustees" in paragraph (4).

SEC. 407. PERSONS INELIGIBLE FOR APPOINTMENT AS TRUSTEE.

Section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)) is amended by adding at the end thereof the following new paragraph:

"(5) No obligor upon the indenture securities or person directly or indirectly controlling, controlled by, or under common control with such obligor shall serve as trustee upon such indenture securities.".

SEC. 408. DISQUALIFICATION OF TRUSTEE.

Section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)) is amended to read as follows:

"(b) If any indenture trustee has or shall acquire any conflicting interest as hereinafter defined—

"(i) then, within 90 days after ascertaining that it has such conflicting interest, and if the default (as defined in the next sentence) to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated before the end of such 90-day period, such trustee shall either eliminate such conflicting interest or, except as otherwise provided below in this subsection, resign, and the obligor upon the indenture securities shall take prompt steps to have a successor appointed in the manner provided in the indenture;

"(ii) in the event that such trustee shall fail to comply with the provisions of clause (i) of this subsection, such trustee shall, within 10 days after the expiration of such 90-day period, transmit notice of such failure to the indenture security holders in the manner and to the extent provided in subsection (c) of section 313; and

"(iii) subject to the provisions of subsection (e) of section 315, unless such trustee's duty to resign is stayed as provided below in this subsection, any security holder who has been a bona fide holder of indenture securities for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of such trustee, and the appointment of a successor, if such trustee fails, after written request thereof by such holder to comply with the provisions of clause (i) of this subsection.

"For the purposes of this subsection, an indenture trustee shall be deemed to have a conflicting interest if the indenture securities are in default (as such term is defined in such indenture, but exclusive of any period of grace or requirement of notice) and—

"(1) such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of an obligor upon the indenture securities are outstanding or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of an obligor, unless—

"(A) the indenture securities are collateral trust notes under which the only collateral consists of securities issued under such other indenture,

"(B) such other indenture is a collateral trust indenture under which the only collateral consists of indenture securities, or

"(C) such obligor has no substantial unmortgaged assets and is engaged primarily in the business of owning, or of owning and developing and/or operating, real estate, and the indenture to be qualified and such other indenture are secured by wholly separate and distinct parcels of real estate:

Provided, That the indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to contain a provision excluding from the operation of this paragraph other series under such indenture, and any other indenture or indentures under which other securities, or certificates of interest or participation in other securities, of such an obligor are outstanding, if—

"(i) the indenture to be qualified and any such other indenture or indentures (and all series of securities issuable thereunder) are wholly unsecured and rank equally, and such other indenture or indentures (and such series) are specifically described in the indenture to be qualified or are thereafter qualified under this title, unless the Commission shall have found and declared by order pursuant to subsection (b) of section 305 or subsection (c) of section 307 that differences exist between the provisions of the indenture (or such series) to be qualified and the provisions of such other indenture or indentures (or such series) which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures, or

"(ii) the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under the indenture to be qualified and such other indenture or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as such under one of such indentures or with respect to such series;

"(2) such trustee or any of its directors or executive officers is an underwriter for an obligor upon the indenture securities;

"(3) such trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with an underwriter for an obligor upon the indenture securities;

"(4) such trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee, or representative of an obligor upon the indenture securities, or of an underwriter (other than the trustee itself) for such an obligor who is currently engaged in the business of underwriting, except that—

"(A) one individual may be a director and/or an executive officer of the trustee and a director and/or an executive officer of such obligor, but may not be at the same time an executive officer of both the trustee and of such obligor,

"(B) if and so long as the number of directors of the trustee in office is more than nine, one additional individual may be a director and/or an executive officer of the trustee and a director of such obligor, and

"(C) such trustee may be designated by any such obligor or by any underwriter for any such obligor, to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of paragraph (1) of this subsection, to act as trustee, whether under an indenture or otherwise;

"(5) 10 per centum or more of the voting securities of such trustee is beneficially owned either by an obligor upon the indenture securities or by any director, partner or executive officer thereof, or 20 per centum or more of such voting securities is beneficially owned, collectively by any two or more of such persons; or 10 per centum or more of the voting securities of such trustee is beneficially owned either by an underwriter for any such obligor or by any director, partner, or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons;

"(6) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined—

"(A) 5 per centum or more of the voting securities, or 10 per centum or more of any other class of security, of an obligor upon the indenture securities, not including indentures securities and securities issued under any other indenture under which such trustee is also trustee, or

"(B) 10 per centum or more of any class of security of an underwriter for any such obligor;

"(7) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 5 per centum or more of the voting securities of any person who, to the knowledge of the trustee, owns 10 per centum or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, an obligor upon the indenture securities;

"(8) such trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default as hereinafter defined, 10 per centum or more of any class of security of any person who, to the knowledge of the trustee, owns 50 per centum or more of the voting securities of an obligor upon the indenture securities;

"(9) such trustee owns, on the date of default upon the indenture securities (as such term is defined in such indenture but exclusive of any period of grace or requirement of notice) or any anniversary of such default while such default upon the indenture securities remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25 per centum or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under paragraph (6), (7), or (8) of this subsection. As to any such securities of which the indenture trustee acquired ownership through becoming execu-

tor, administrator or testamentary trustee of an estate which include them, the provisions of the preceding sentence shall not apply for a period of not more than 2 years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25 per centum of such voting securities or 25 per centum of any such class of security. Promptly after the dates of any such default upon the indenture securities and annually in each succeeding year that the indenture securities remain in default the trustee shall make a check of its holding of such securities in any of the above-mentioned capacities as of such dates. If the obligor upon the indenture securities fails to make payment in full of principal or interest under such indenture when and as the same becomes due and payable, and such failure continues for 30 days thereafter, the trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such 30-day period, and after such date, notwithstanding the foregoing provisions of this paragraph, all such securities so held by the trustee, with sole or joint control over such securities vested in it, shall be considered as though beneficially owned by such trustee, for the purposes of paragraphs (6), (7), and (8) of this subsection; or

"(10) except under the circumstances described in paragraphs (1), (3), (4), (5) or (6) of section 311(b) of this title, the trustee shall be or shall become a creditor of the obligor.

"For purposes of paragraph (1) of this subsection, and of section 316(a) of this title, the term 'series of securities' or 'series' means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the indenture trustee, or otherwise take action pursuant to a vote of such holders, separately from holders of another such series: *Provided,* That 'series of securities' or 'series' shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

"The specification of percentages in paragraphs (5) to (9), inclusive, of this subsection shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of paragraph (3) or (7) of this subsection.

"For the purposes of paragraphs (6), (7), (8), and (9) of this subsection—

"(A) the terms 'security' and 'securities' shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies, or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness;

"(B) an obligation shall be deemed to be in default when a default in payment of principal shall have continued for thirty days or more, and shall not have been cured; and

"(C) the indenture trustee shall not be deemed the owner or holder of (i) any security which it holds as collateral security (as trustee or otherwise) for any obligation which is not in default as above defined, or (ii) any security which it holds as collateral security under the indenture to be qualified, irrespective of any default thereunder, or (iii) any security which it holds as agent

for collection, or as custodian, escrow agent or depositary, or in any similar representative capacity.

"For the purposes of this subsection, the term 'underwriter' when used with reference to an obligor upon the indenture securities means every person who, within one year prior to the time as of which the determination is made, was an underwriter of any security of such obligor outstanding at the time of the determination.

"Except in the case of a default in the payment of the principal of or interest on any indenture security, or in the payment of any sinking or purchase fund installment, the indenture trustee shall not be required to resign as provided by this subsection if such trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that—

"(i) the default under the indenture may be cured or waived during a reasonable period and under the procedures described in such application, and

"(ii) a stay of the trustee's duty to resign will not be inconsistent with the interests of holders of the indenture securities. The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

"Any resignation of an indenture trustee shall become effective only upon the appointment of a successor trustee and such successor's acceptance of such an appointment.".

SEC. 409. PREFERENTIAL COLLECTION OF CLAIMS AGAINST OBLIGOR.

Section 311 of the Trust Indenture Act of 1939 (15 U.S.C. 77kkk) is amended—

(1) by striking "the indenture to be qualified shall provide that" in the first paragraph of subsection (a);

(2) by striking "The indenture to be qualified shall provide that, if" at the beginning of the third paragraph of subsection (a) and inserting "If";

(3) by striking "four months" and "four months'" each place they appear in subsection (a) and inserting "three months" and "three months' ", respectively;

(4) by inserting at the end of subsection (a) the following: "In any case commenced under the Bankruptcy Act of July 1, 1898, or any amendment thereto enacted prior to November 6, 1978, all references to periods of three months shall be deemed to be references to periods of four months."; and

(5) by striking "may" in the first line of subsection (b) and inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 410. BONDHOLDER LISTS.

Section 312 of the Trust Indenture Act of 1939 (15 U.S.C. 77*lll*) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each obligor" in subsection (a) and inserting "Each obligor";

(2) in subsection (a), by striking "indenture securities to" and inserting "indenture securities shall"; and

(3) by striking "The indenture to be qualified shall also contain provisions requiring that, within" in subsection (b) and inserting "Within".

SEC. 411. REPORTS BY INDENTURE TRUSTEE.

Section 313(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm(a)) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" and inserting "The indenture trustee shall";

(2) by inserting after "a brief report with respect to" the following: "any of the following events which may have occurred within the previous 12 months (but if no such event has occurred within such period no report need be transmitted):";

(3) by inserting after the paragraph designation at the beginning of paragraphs (1), (4), and (5) the following: "any change to";

(4) in paragraph (1) by striking ", or in lieu thereof, if to the best of its knowledge it has continued to be eligible and qualified under such section, a written statement to such effect"; and

(5)(A) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively; and

(B) by inserting after paragraph (1) the following:

"(2) the creation of or any material change to a relationship specified in paragraph (1) through (10) of section 310(b);".

SEC. 412. BONDHOLDER COMMUNICATIONS.

Section 313 of the Trust Indenture Act of 1939 (15 U.S.C. 77mmm) is amended—

(1) by striking "The indenture to be qualified shall also contain provisions requiring the indenture trustee to" in subsection (b) and inserting "The indenture trustee shall";

(2) by striking "The indenture to be qualified shall also provide that reports" in subsection (c) and inserting "Reports"; and

(3) by striking "The indenture to be qualified shall also provide that a copy" in subsection (d) and inserting "A copy".

SEC. 413. REPORTS BY OBLIGOR; EVIDENCE OF COMPLIANCE WITH INDENTURE PROVISIONS.

Section 314 of the Trust Indenture Act of 1939 (15 U.S.C. 77nnn) is amended—

(1) by striking "The indenture to be qualified shall contain provisions requiring each" in subsection (a) and inserting "Each";

(2) by inserting "shall" after "thereby" in such subsection;

(3) by striking "to" after the paragraph designation at the beginning of paragraphs (1), (2), and (3) of subsection (a);

(4) by striking "and" at the end of paragraph (2) of subsection (a);

(5) by striking the period at the end of paragraph (3) of subsection (a) and inserting "; and";

(6) by adding at the end of subsection (a) the following new paragraph:

"(4) furnish to the indenture trustee, not less often than annually, a brief certificate from the principal executive officer, principal financial officer or principal accounting officer as to his or her knowledge of such obligor's compliance with all conditions and covenants under the indenture. For purposes of this paragraph, such compliance shall be determined without

regard to any period of grace or requirement of notice provided under the indenture.";

(7) by striking "such indenture shall contain provisions requiring" in subsection (b);

(8) by striking "securities to furnish" in subsection (b) and inserting "securities shall furnish";

(9) by striking "The indenture to be qualified shall contain provisions requiring the obligor" in subsection (c) and inserting "The obligor";

(10) by striking "securities to furnish" in subsection (c) and inserting "securities shall furnish";

(11) by striking "such indenture shall contain provisions" in subsection (d) and inserting "the obligor upon the indenture securities shall furnish to the indenture trustee a certificate or opinion of an engineer, appraiser, or other expert as to the fair value";

(12) by striking "requiring the obligor upon the indenture securities to furnish to the indenture trustee a certificate or opinion of an engineer, appraiser or other expert as to the fair value" in paragraphs (1), (2) and (3) of subsection (d);

(13) by striking "If the indenture to be qualified so provides," at the beginning of the penultimate sentence of subsection (d) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to provide that";

(14) by striking "specified in the indenture" in the penultimate sentence of subsection (d) and inserting "duly authorized to make such certificate or opinion by the obligor from time to time"; and

(15) by inserting in subsection (e) "(other than certificates provided pursuant to subsection (a)(4) of this section)" after "indenture".

SEC. 414. DUTIES AND RESPONSIBILITIES OF THE TRUSTEE.

Section 315 of the Trust Indenture Act of 1939 (15 U.S.C. 77ooo) is amended—

(1) by striking "The indenture to be qualified may" in subsections (a) and (e) and inserting "The indenture to be qualified shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to";

(2) by striking "such indenture shall contain provisions requiring the indenture trustee to examine" in subsection (a) and inserting "the indenture trustee shall examine";

(3) by striking "The indenture to be qualified shall contain provisions requiring the indenture trustee to" in subsections (b) and (c) and inserting "The indenture trustee shall";

(4) by striking "That such indenture may" in the proviso in subsection (b) and inserting "That such indenture shall automatically be deemed (unless it is expressly provided therein that such provision is excluded) to"; and

(5) by striking "such indenture may" in paragraphs (1), (2), and (3) of subsection (d) and inserting "such indenture shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to".

SEC. 415. DIRECTIONS AND WAIVERS BY BONDHOLDERS; PROHIBITION OF IMPAIRMENT OF RIGHT TO PAYMENT; RECORD DATES.

Section 316 of the Trust Indenture Act of 1939 (15 U.S.C. 77ppp) is amended—

(1) by striking "may contain provisions" after "qualified" in subsection (a) and inserting "may contain provisions" before "authorizing the holders" in paragraph (2) of subsection (a);

(2) by inserting "shall automatically be deemed (unless it is expressly provided therein that any such provision is excluded) to contain provisions" before "authorizing the holders" in paragraph (1) of subsection (a);

(3) by inserting "or if expressly specified in such indenture, of any series of securities" after "principal amount of the indenture securities" in paragraphs (1) and (2) of subsection (a);

(4) by striking "The indenture to be qualified shall provide that, notwithstanding" in subsection (b) and inserting "Notwithstanding";

(5) by striking "thereof" in subsection (b) and inserting "of the indenture to be qualified"; and

(6) by adding at the end thereof the following new subsection:

"(c) The obligor upon any indenture qualified under this title may set a record date for purposes of determining the identity of indenture security holders entitled to vote or consent to any action by vote or consent authorized or permitted by subsection (a) of this section. Unless the indenture provides otherwise, such record date shall be the later of 30 days prior to the first solicitation of such consent or the date of the most recent list of holders furnished to the trustee pursuant to section 312 of this title prior to such solicitation.".

SEC. 416. SPECIAL POWERS OF TRUSTEE; DUTIES OF PAYING AGENTS.

Section 317 of the Trust Indenture Act of 1939 (15 U.S.C. 77qqq) is amended—

(1) by striking "to be qualified shall contain provisions" in subsection (a) and inserting "trustee shall be authorized";

(2) by striking "authorizing the indenture trustee" in paragraph (1);

(3) by striking "authorizing such trustee" from paragraph (2); and

(4) by striking "The indenture to be qualified shall provide that each" in subsection (b) and inserting "Each".

SEC. 417. EFFECT OF MANDATORY TERMS.

Section 318 of the Trust Indenture Act of 1939 (15 U.S.C. 77rrr) is amended—

(1) by striking subsection (a) and inserting the following:

"SEC. 318. (a) If any provision of the indenture to be qualified limits, qualifies, or conflicts with the duties imposed by operation of subsection (c) of this section, the imposed duties shall control.";

(2) by adding at the end thereof the following new subsection:

"(c) The provisions of sections 310 to and including 317 that impose duties on any person (including provisions automatically deemed included in an indenture unless the indenture provides that such provisions are excluded) are a part of and govern every qualified indenture, whether or not physically contained therein, shall be deemed retroactively to govern each indenture heretofore qualified, and prospectively to govern each indenture hereafter qualified under this title and shall be deemed retroactively to amend and

supersede inconsistent provisions in each such indenture heretofore qualified. The foregoing provisions of this subsection shall not be deemed to effect the inclusion (by retroactive amendment or otherwise) in the text of any indenture heretofore qualified of any of the optional provisions contemplated by section 310(b)(1), 311(b), 314(d), 315(a), 315(b), 315(d), 315(e), or 316(a)(1).".

SEC. 418. JURISDICTION OF OFFENSES AND SUITS.

Section 322(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77vvv(b)) is amended by inserting "or duty" after "any liability".

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 1396 (S. 1712):

HOUSE REPORTS: No. 101-240 (Comm. on Energy and Commerce) and No. 101-924 (Comm. of Conference).
SENATE REPORTS: No. 101-155 accompanying S. 1712 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Sept. 25, considered and passed House.
Nov. 16, considered and passed Senate, amended, in lieu of S. 1712.
Vol. 136 (1990): Oct. 1, House concurred in Senate amendments with an amendment.
Oct. 25, Senate agreed to conference report.
Oct. 26, House agreed to conference report.

Public Law 101-551
101st Congress

An Act

To amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System.

Nov. 15, 1990
[H.R. 1463]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Capital Transportation Amendments of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Capital Transportation Amendments of 1990".

SEC. 2. AMENDMENT TO NATIONAL CAPITAL TRANSPORTATION ACT OF 1969.

Effective upon enactment, the National Capital Transportation Act of 1969 (Public Law 91-143; 83 Stat. 320) is amended by adding at the end thereof the following new section:

"AUTHORIZATION OF ADDITIONAL FEDERAL CONTRIBUTIONS FOR CONSTRUCTION

"SEC. 17. (a) The Secretary of Transportation is authorized to make grants to the Transit Authority, in addition to the contributions authorized by sections 3 and 14, for the purpose of financing in part the cost of construction of the Adopted Regional System.

"(b) Federal grants under subsection (a) for the Adopted Regional System shall be subject to the following limitations and conditions:

"(1) The work for which such grants are authorized shall be subject to the provisions of the Compact and shall be for projects included in the Adopted Regional System.

"(2) The aggregate amount of such Federal grants made during any fiscal year shall be matched by the local participating governments by payment of capital contributions of not less than 60 percent of the amount of such Federal grants and shall be provided in cash from sources other than Federal funds or revenues from the operation of public mass transportation systems. Any public or private transit system funds so provided shall be solely from undistributed cash surpluses, replacement or depreciation funds or reserves available in cash, or new capital.

"(3) Such grants shall be subject to terms and conditions that the Secretary may deem appropriate for constructing the Adopted Regional System in a cost-effective manner which maximizes the rate at which appropriated funds can be utilized to complete all segments for which funds have been authorized.

"(c) In addition to funds authorized under section 14, there is authorized to be appropriated to the Secretary of Transportation for the purpose of making grants to complete the Adopted Regional System as provided in subsection (a) an aggregate amount not to exceed $1,300,000,000 to be available in increments over 8 fiscal years beginning in fiscal year 1992, or until expended.

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"(d) Amounts appropriated pursuant to the authorization under subsection (c)—

"(1) shall remain available until expended; and

"(2) shall be in addition to, and not in lieu of, amounts available to the Transit Authority under the Urban Mass Transportation Act of 1964, as amended, and section 103(e)(4) of title 23, United States Code.".

SEC. 3. COMPLETION OF THE ADOPTED REGIONAL SYSTEM.

The Congress recognizes the importance of a mass transportation system to serve the capital of the United States and reaffirms its commitment to the construction of the full 103-mile Adopted Regional Metrorail System in a continuing partnership of the Federal, State, and local governments in the metropolitan Washington region. It is the intent of Congress to ensure continued Federal funding to complete the full Metrorail system. Those portions of the full system remaining to be completed include in the District of Columbia and the State of Maryland, the Green Line between the Anacostia and Branch Avenue Stations; in the District of Columbia, the Green Line between the U Street-Cardozo and Fort Totten Stations; in the State of Maryland, the Red Line between the Wheaton and Glenmont Stations; and in the Commonwealth of Virginia, the Yellow Line between the Van Dorn Street and Franconia-Springfield Stations.

Government contracts.

SEC. 4. PROHIBITION ON USE OF HIGHWAY TRUST FUND.

Notwithstanding this Act, any amendment made by this Act, or any other law, no moneys shall be appropriated from the Highway Trust Fund for the purpose of making grants pursuant to section 17(a) of the National Capital Transportation Act of 1969.

SEC. 5. BUY AMERICAN PROVISION.

(a) REPORT TO CONGRESS.—The Washington Metropolitan Area Transit Authority shall report to Congress (1) on contracts which the Transit Authority enters into with foreign entities with respect to its rail system in fiscal years 1991 and 1992 and which are subject to the Buy American provisions of the Surface Transportation and Assistance Act of 1982 or the Surface Transportation and Uniform Relocation Assistance Act of 1987, and (2) on the number of such contracts which meet the requirements of such provisions but which are determined by the United States Trade Representative to be in violation of the General Agreement on Tariffs and Trade or any other international agreement to which the United States is a party.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If the Secretary of Transportation determines that any person intentionally affixes a label bearing a "made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall declare that person ineligible to receive a Federal contract with the Washington Metropolitan Area Transit Authority for its rail system for a period of not less than 3 years and not more than 5 years. The Secretary may bring action against such person to enforce this subsection in any United States district court.

SEC. 6. RESTRICTIONS ON CONTRACT AWARDS.

No foreign government shall be eligible to receive a contract with the Washington Metropolitan Area Transit Authority for its rail

system if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which result in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 1463 (S. 612):

HOUSE REPORTS: No. 101-430 (Comm. on the District of Columbia).
SENATE REPORTS: No. 101-415 accompanying S. 612 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 28, considered and passed House.
Oct. 25, considered and passed Senate, amended, in lieu of S. 612.
Oct. 26, House concurred in Senate amendment.

Public Law 101-552
101st Congress

An Act

Nov. 15, 1990
[H.R. 2497]

To authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Administrative Dispute Resolution Act.
5 USC 581 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Dispute Resolution Act".

5 USC 581 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) administrative procedure, as embodied in chapter 5 of title 5, United States Code, and other statutes, is intended to offer a prompt, expert, and inexpensive means of resolving disputes as an alternative to litigation in the Federal courts;

(2) administrative proceedings have become increasingly formal, costly, and lengthy resulting in unnecessary expenditures of time and in a decreased likelihood of achieving consensual resolution of disputes;

(3) alternative means of dispute resolution have been used in the private sector for many years and, in appropriate circumstances, have yielded decisions that are faster, less expensive, and less contentious;

(4) such alternative means can lead to more creative, efficient, and sensible outcomes;

(5) such alternative means may be used advantageously in a wide variety of administrative programs;

(6) explicit authorization of the use of well-tested dispute resolution techniques will eliminate ambiguity of agency authority under existing law;

(7) Federal agencies may not only receive the benefit of techniques that were developed in the private sector, but may also take the lead in the further development and refinement of such techniques; and

(8) the availability of a wide range of dispute resolution procedures, and an increased understanding of the most effective use of such procedures, will enhance the operation of the Government and better serve the public.

5 USC 581 note.

SEC. 3. PROMOTION OF ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

(a) PROMULGATION OF AGENCY POLICY.—Each agency shall adopt a policy that addresses the use of alternative means of dispute resolution and case management. In developing such a policy, each agency shall—

(1) consult with the Administrative Conference of the United States and the Federal Mediation and Conciliation Service; and

(2) examine alternative means of resolving disputes in connection with—

(A) formal and informal adjudications;
(B) rulemakings;
(C) enforcement actions;
(D) issuing and revoking licenses or permits;
(E) contract administration;
(F) litigation brought by or against the agency; and
(G) other agency actions.

(b) DISPUTE RESOLUTION SPECIALISTS.—The head of each agency shall designate a senior official to be the dispute resolution specialist of the agency. Such official shall be responsible for the implementation of—

(1) the provisions of this Act and the amendments made by this Act; and

(2) the agency policy developed under subsection (a).

(c) TRAINING.—Each agency shall provide for training on a regular basis for the dispute resolution specialist of the agency and other employees involved in implementing the policy of the agency developed under subsection (a). Such training should encompass the theory and practice of negotiation, mediation, arbitration, or related techniques. The dispute resolution specialist shall periodically recommend to the agency head agency employees who would benefit from similar training.

(d) PROCEDURES FOR GRANTS AND CONTRACTS.—

(1) Each agency shall review each of its standard agreements for contracts, grants, and other assistance and shall determine whether to amend any such standard agreements to authorize and encourage the use of alternative means of dispute resolution.

(2)(A) Within 1 year after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended, as necessary, to carry out this Act and the amendments made by this Act.

(B) For purposes of this section, the term "Federal Acquisition Regulation" means the single system of Government-wide procurement regulation referred to in section 6(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a)).

SEC. 4. ADMINISTRATIVE PROCEDURES.

(a) ADMINISTRATIVE HEARINGS.—Section 556(c) of title 5, United States Code, is amended—

(1) in paragraph (6) by inserting before the semicolon at the end thereof the following: "or by the use of alternative means of dispute resolution as provided in subchapter IV of this chapter"; and

(2) by redesignating paragraphs (7) through (9) as paragraphs (9) through (11), respectively, and inserting after paragraph (6) the following new paragraphs:

"(7) inform the parties as to the availability of one or more alternative means of dispute resolution, and encourage use of such methods;

"(8) require the attendance at any conference held pursuant to paragraph (6) of at least one representative of each party who has authority to negotiate concerning resolution of issues in controversy;".

(b) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"§ 581. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'administrative program' includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter;

"(3) 'alternative means of dispute resolution' means any procedure that is used, in lieu of an adjudication as defined in section 551(7) of this title, to resolve issues in controversy, including but not limited to, settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, or any combination thereof;

"(4) 'award' means any decision by an arbitrator resolving the issues in controversy;

"(5) 'dispute resolution communication' means any oral or written communication prepared for the purposes of a dispute resolution proceeding, including any memoranda, notes or work product of the neutral, parties or nonparty participant; except that a written agreement to enter into a dispute resolution proceeding, or final written agreement or arbitral award reached as a result of a dispute resolution proceeding, is not a dispute resolution communication;

"(6) 'dispute resolution proceeding' means any process in which an alternative means of dispute resolution is used to resolve an issue in controversy in which a neutral is appointed and specified parties participate;

"(7) 'in confidence' means, with respect to information, that the information is provided—

"(A) with the expressed intent of the source that it not be disclosed; or

"(B) under circumstances that would create the reasonable expectation on behalf of the source that the information will not be disclosed;

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement between the agency and persons who would be substantially affected by the decision but shall not extend to matters specified under the provisions of sections 2302 and 7121(c) of title 5;

"(9) 'neutral' means an individual who, with respect to an issue in controversy, functions specifically to aid the parties in resolving the controversy;

"(10) 'party' means—

"(A) for a proceeding with named parties, the same as in section 551(3) of this title; and

"(B) for a proceeding without named parties, a person who will be significantly affected by the decision in the proceeding and who participates in the proceeding;

"(11) 'person' has the same meaning as in section 551(2) of this title; and

"(12) 'roster' means a list of persons qualified to provide services as neutrals.

"§ 582. General authority

"(a) An agency may use a dispute resolution proceeding for the resolution of an issue in controversy that relates to an administrative program, if the parties agree to such proceeding.

"(b) An agency shall consider not using a dispute resolution proceeding if—

"(1) a definitive or authoritative resolution of the matter is required for precedential value, and such a proceeding is not likely to be accepted generally as an authoritative precedent;

"(2) the matter involves or may bear upon significant questions of Government policy that require additional procedures before a final resolution may be made, and such a proceeding would not likely serve to develop a recommended policy for the agency;

"(3) maintaining established policies is of special importance, so that variations among individual decisions are not increased and such a proceeding would not likely reach consistent results among individual decisions;

"(4) the matter significantly affects persons or organizations who are not parties to the proceeding;

"(5) a full public record of the proceeding is important, and a dispute resolution proceeding cannot provide such a record; and

"(6) the agency must maintain continuing jurisdiction over the matter with authority to alter the disposition of the matter in the light of changed circumstances, and a dispute resolution proceeding would interfere with the agency's fulfilling that requirement.

"(c) Alternative means of dispute resolution authorized under this subchapter are voluntary procedures which supplement rather than limit other available agency dispute resolution techniques.

"§ 583. Neutrals

"(a) A neutral may be a permanent or temporary officer or employee of the Federal Government or any other individual who is acceptable to the parties to a dispute resolution proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is fully disclosed in writing to all parties and all parties agree that the neutral may serve.

"(b) A neutral who serves as a conciliator, facilitator, or mediator serves at the will of the parties.

"(c) In consultation with the Federal Mediation and Conciliation Service, other appropriate Federal agencies, and professional organizations experienced in matters concerning dispute resolution, the Administrative Conference of the United States shall—

"(1) establish standards for neutrals (including experience, training, affiliations, diligence, actual or potential conflicts of interest, and other qualifications) to which agencies may refer;

"(2) maintain a roster of individuals who meet such standards and are otherwise qualified to act as neutrals, which shall be made available upon request;

Government contracts.

"(3) enter into contracts for the services of neutrals that may be used by agencies on an elective basis in dispute resolution proceedings; and

"(4) develop procedures that permit agencies to obtain the services of neutrals on an expedited basis.

"(d) An agency may use the services of one or more employees of other agencies to serve as neutrals in dispute resolution proceedings. The agencies may enter into an interagency agreement that provides for the reimbursement by the user agency or the parties of the full or partial cost of the services of such an employee.

"(e) Any agency may enter into a contract with any person on a roster established under subsection (c)(2) or a roster maintained by other public or private organizations, or individual for services as a neutral, or for training in connection with alternative means of dispute resolution. The parties in a dispute resolution proceeding shall agree on compensation for the neutral that is fair and reasonable to the Government.

"§ 584. Confidentiality

"(a) Except as provided in subsections (d) and (e), a neutral in a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication or any communication provided in confidence to the neutral, unless—

"(1) all parties to the dispute resolution proceeding and the neutral consent in writing, and, if the dispute resolution communication was provided by a nonparty participant, that participant also consents in writing;

"(2) the dispute resolution communication has already been made public;

"(3) the dispute resolution communication is required by statute to be made public, but a neutral should make such communication public only if no other person is reasonably available to disclose the communication; or

"(4) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health or safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential.

"(b) A party to a dispute resolution proceeding shall not voluntarily disclose or through discovery or compulsory process be required to disclose any information concerning any dispute resolution communication, unless—

"(1) the communication was prepared by the party seeking disclosure;

"(2) all parties to the dispute resolution proceeding consent in writing;

"(3) the dispute resolution communication has already been made public;

"(4) the dispute resolution communication is required by statute to be made public;

"(5) a court determines that such testimony or disclosure is necessary to—

"(A) prevent a manifest injustice;

"(B) help establish a violation of law; or

"(C) prevent harm to the public health and safety,

of sufficient magnitude in the particular case to outweigh the integrity of dispute resolution proceedings in general by reducing the confidence of parties in future cases that their communications will remain confidential;

"(6) the dispute resolution communication is relevant to determining the existence or meaning of an agreement or award that resulted from the dispute resolution proceeding or to the enforcement of such an agreement or award; or

(7) the dispute resolution communication was provided to or was available to all parties to the dispute resolution proceeding.

"(c) Any dispute resolution communication that is disclosed in violation of subsection (a) or (b), shall not be admissible in any proceeding relating to the issues in controversy with respect to which the communication was made.

"(d) The parties may agree to alternative confidential procedures for disclosures by a neutral. Upon such agreement the parties shall inform the neutral before the commencement of the dispute resolution proceeding of any modifications to the provisions of subsection (a) that will govern the confidentiality of the dispute resolution proceeding. If the parties do not so inform the neutral, subsection (a) shall apply.

"(e) If a demand for disclosure, by way of discovery request or other legal process, is made upon a neutral regarding a dispute resolution communication, the neutral shall make reasonable efforts to notify the parties and any affected nonparty participants of the demand. Any party or affected nonparty participant who receives such notice and within 15 calendar days does not offer to defend a refusal of the neutral to disclose the requested information shall have waived any objection to such disclosure.

"(f) Nothing in this section shall prevent the discovery or admissibility of any evidence that is otherwise discoverable, merely because the evidence was presented in the course of a dispute resolution proceeding.

"(g) Subsections (a) and (b) shall have no effect on the information and data that are necessary to document an agreement reached or order issued pursuant to a dispute resolution proceeding.

"(h) Subsections (a) and (b) shall not prevent the gathering of information for research or educational purposes, in cooperation with other agencies, governmental entities, or dispute resolution programs, so long as the parties and the specific issues in controversy are not identifiable.

"(i) Subsections (a) and (b) shall not prevent use of a dispute resolution communication to resolve a dispute between the neutral in a dispute resolution proceeding and a party to or participant in such proceeding, so long as such dispute resolution communication is disclosed only to the extent necessary to resolve such dispute.

"(j) This section shall not be considered a statute specifically exempting disclosure under section 552(b)(3) of this title.

"§ 585. Authorization of arbitration

"(a)(1) Arbitration may be used as an alternative means of dispute resolution whenever all parties consent. Consent may be obtained either before or after an issue in controversy has arisen. A party may agree to—

"(A) submit only certain issues in controversy to arbitration; or

"(B) arbitration on the condition that the award must be within a range of possible outcomes.

"(2) Any arbitration agreement that sets forth the subject matter submitted to the arbitrator shall be in writing.

"(3) An agency may not require any person to consent to arbitration as a condition of entering into a contract or obtaining a benefit.

"(b) An officer or employee of an agency may offer to use arbitration for the resolution of issues in controversy, if such officer or employee—

"(1) has authority to enter into a settlement concerning the matter; or

"(2) is otherwise specifically authorized by the agency to consent to the use of arbitration.

"§ 586. Enforcement of arbitration agreements

"An agreement to arbitrate a matter to which this subchapter applies is enforceable pursuant to section 4 of title 9, and no action brought to enforce such an agreement shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"§ 587. Arbitrators

"(a) The parties to an arbitration proceeding shall be entitled to participate in the selection of the arbitrator.

"(b) The arbitrator shall be a neutral who meets the criteria of section 583 of this title.

"§ 588. Authority of the arbitrator

"An arbitrator to whom a dispute is referred under this subchapter may—

"(1) regulate the course of and conduct arbitral hearings;

"(2) administer oaths and affirmations;

"(3) compel the attendance of witnesses and production of evidence at the hearing under the provisions of section 7 of title 9 only to the extent the agency involved is otherwise authorized by law to do so; and

"(4) make awards.

"§ 589. Arbitration proceedings

"(a) The arbitrator shall set a time and place for the hearing on the dispute and shall notify the parties not less than 5 days before the hearing.

Records.

"(b) Any party wishing a record of the hearing shall—

"(1) be responsible for the preparation of such record;

"(2) notify the other parties and the arbitrator of the preparation of such record;

"(3) furnish copies to all identified parties and the arbitrator; and

"(4) pay all costs for such record, unless the parties agree otherwise or the arbitrator determines that the costs should be apportioned.

"(c)(1) The parties to the arbitration are entitled to be heard, to present evidence material to the controversy, and to cross-examine witnesses appearing at the hearing.

"(2) The arbitrator may, with the consent of the parties, conduct all or part of the hearing by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.

"(3) The hearing shall be conducted expeditiously and in an informal manner.

"(4) The arbitrator may receive any oral or documentary evidence, except that irrelevant, immaterial, unduly repetitious, or privileged evidence may be excluded by the arbitrator.

"(5) The arbitrator shall interpret and apply relevant statutory and regulatory requirements, legal precedents, and policy directives.

"(d) No interested person shall make or knowingly cause to be made to the arbitrator an unauthorized ex parte communication relevant to the merits of the proceeding, unless the parties agree otherwise. If a communication is made in violation of this subsection, the arbitrator shall ensure that a memorandum of the communication is prepared and made a part of the record, and that an opportunity for rebuttal is allowed. Upon receipt of a communication made in violation of this subsection, the arbitrator may, to the extent consistent with the interests of justice and the policies underlying this subchapter, require the offending party to show cause why the claim of such party should not be resolved against such party as a result of the improper conduct.

"(e) The arbitrator shall make the award within 30 days after the close of the hearing, or the date of the filing of any briefs authorized by the arbitrator, whichever date is later, unless—

"(1) the parties agree to some other time limit; or

"(2) the agency provides by rule for some other time limit.

"§ 590. Arbitration awards

"(a)(1) Unless the agency provides otherwise by rule, the award in an arbitration proceeding under this subchapter shall include a brief, informal discussion of the factual and legal basis for the award, but formal findings of fact or conclusions of law shall not be required.

"(2) The prevailing parties shall file the award with all relevant agencies, along with proof of service on all parties.

"(b) The award in an arbitration proceeding shall become final 30 days after it is served on all parties. Any agency that is a party to the proceeding may extend this 30-day period for an additional 30-day period by serving a notice of such extension on all other parties before the end of the first 30-day period.

"(c) The head of any agency that is a party to an arbitration proceeding conducted under this subchapter is authorized to terminate the arbitration proceeding or vacate any award issued pursuant to the proceeding before the award becomes final by serving on all other parties a written notice to that effect, in which case the award shall be null and void. Notice shall be provided to all parties to the arbitration proceeding of any request by a party, nonparty participant or other person that the agency head terminate the arbitration proceeding or vacate the award. An employee or agent

engaged in the performance of investigative or prosecuting functions for an agency may not, in that or a factually related case, advise in a decision under this subsection to terminate an arbitration proceeding or to vacate an arbitral award, except as witness or counsel in public proceedings.

"(d) A final award is binding on the parties to the arbitration proceeding, and may be enforced pursuant to sections 9 through 13 of title 9. No action brought to enforce such an award shall be dismissed nor shall relief therein be denied on the grounds that it is against the United States or that the United States is an indispensable party.

"(e) An award entered under this subchapter in an arbitration proceeding may not serve as an estoppel in any other proceeding for any issue that was resolved in the proceeding. Such an award also may not be used as precedent or otherwise be considered in any factually unrelated proceeding, whether conducted under this subchapter, by an agency, or in a court, or in any other arbitration proceeding.

"(f) An arbitral award that is vacated under subsection (c) shall not be admissible in any proceeding relating to the issues in controversy with respect to which the award was made.

"(g) If an agency head vacates an award under subsection (c), a party to the arbitration (other than the United States) may within 30 days of such action petition the agency head for an award of attorney fees and expenses (as defined in section 504(b)(1)(A) of this title) incurred in connection with the arbitration proceeding. The agency head shall award the petitioning party those fees and expenses that would not have been incurred in the absence of such arbitration proceeding, unless the agency head or his or her designee finds that special circumstances make such an award unjust. The procedures for reviewing applications for awards shall, where appropriate, be consistent with those set forth in subsection (a)(2) and (3) of section 504 of this title. Such fees and expenses shall be paid from the funds of the agency that vacated the award.

"§ 591. Judicial Review

"(a) Notwithstanding any other provision of law, any person adversely affected or aggrieved by an award made in an arbitration proceeding conducted under this subchapter may bring an action for review of such award only pursuant to the provisions of sections 9 through 13 of title 9.

"(b)(1) A decision by an agency to use or not to use a dispute resolution proceeding under this subchapter shall be committed to the discretion of the agency and shall not be subject to judicial review, except that arbitration shall be subject to judicial review under section 10(b) of title 9.

"(2) A decision by the head of an agency under section 590 to terminate an arbitration proceeding or vacate an arbitral award shall be committed to the discretion of the agency and shall not be subject to judicial review.

"§ 592. Compilation of information

"The Chairman of the Administrative Conference of the United States shall compile and maintain data on the use of alternative means of dispute resolution in conducting agency proceedings. Agencies shall, upon the request of the Chairman of the Administrative

Conference of the United States, supply such information as is required to enable the Chairman to comply with this section.

"§ 593. Support services

"For the purposes of this subchapter, an agency may use (with or without reimbursement) the services and facilities of other Federal agencies, public and private organizations and agencies, and individuals, with the consent of such agencies, organizations, and individuals. An agency may accept voluntary and uncompensated services for purposes of this subchapter without regard to the provisions of section 1342 of title 31.".

(c) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"581. Definitions.
"582. General authority.
"583. Neutrals.
"584. Confidentiality.
"585. Authorization of arbitration.
"586. Enforcement of arbitration agreements.
"587. Arbitrators.
"588. Authority of the arbitrator.
"589. Arbitration proceedings.
"590. Arbitration awards.
"591. Judicial review.
"592. Compilation of information.
"593. Support services.".

SEC. 5. JUDICIAL REVIEW OF ARBITRATION AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by redesignating subsections (a) through (e) as paragraphs (1) through (5), respectively;

(2) by striking out "In either" and inserting in lieu thereof "(a) In any"; and

(3) by adding at the end thereof the following:

"(b) The United States district court for the district wherein an award was made that was issued pursuant to section 590 of title 5 may make an order vacating the award upon the application of a person, other than a party to the arbitration, who is adversely affected or aggrieved by the award, if the use of arbitration or the award is clearly inconsistent with the factors set forth in section 582 of title 5.".

SEC. 6. GOVERNMENT CONTRACT CLAIMS. 41 USC 605.

(a) ALTERNATIVE MEANS OF DISPUTE RESOLUTION.—Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 606) is amended by adding at the end the following new subsections:

"(d) Notwithstanding any other provision of this Act, a contractor and a contracting officer may use any alternative means of dispute resolution under subchapter IV of chapter 5 of title 5, United States Code, or other mutually agreeable procedures, for resolving claims. In a case in which such alternative means of dispute resolution or other mutually agreeable procedures are used, the contractor shall certify that the claim is made in good faith, that the supporting data are accurate and complete to the best of his or her knowledge and belief, and that the amount requested accurately reflects the con-

tract adjustment for which the contractor believes the Government is liable. All provisions of subchapter IV of chapter 5 of title 5, United States Code, shall apply to such alternative means of dispute resolution.

"(e) The authority of agencies to engage in alternative means of dispute resolution proceedings under subsection (d) shall cease to be effective on October 1, 1995, except that such authority shall continue in effect with respect to then pending dispute resolution proceedings which, in the judgment of the agencies that are parties to such proceedings, require such continuation, until such proceedings terminate.".

(b) JUDICIAL REVIEW OF ARBITRAL AWARDS.—Section 8(g) of the Contract Disputes Act of 1978 (41 U.S.C. 607(g)) is amended by adding at the end the following new paragraph:

"(3) An award by an arbitrator under this Act shall be reviewed pursuant to sections 9 through 13 of title 9, United States Code, except that the court may set aside or limit any award that is found to violate limitations imposed by Federal statute.".

SEC. 7. FEDERAL MEDIATION AND CONCILIATION SERVICE.

Section 203 of the Labor Management Relations Act, 1947 (29 U.S.C. 173) is amended by adding at the end the following new subsection:

"(f) The Service may make its services available to Federal agencies to aid in the resolution of disputes under the provisions of subchapter IV of chapter 5 of title 5, United States Code. Functions performed by the Service may include assisting parties to disputes related to administrative programs, training persons in skills and procedures employed in alternative means of dispute resolution, and furnishing officers and employees of the Service to act as neutrals. Only officers and employees who are qualified in accordance with section 583 of title 5, United States Code, may be assigned to act as neutrals. The Service shall consult with the Administrative Conference of the United States and other agencies in maintaining rosters of neutrals and arbitrators, and to adopt such procedures and rules as are necessary to carry out the services authorized in this subsection.".

SEC. 8. GOVERNMENT TORT AND OTHER CLAIMS.

(a) FEDERAL TORT CLAIMS.—Section 2672 of title 28, United States Code, is amended by adding at the end of the first paragraph the following: "Notwithstanding the proviso contained in the preceding sentence, any award, compromise, or settlement may be effected without the prior written approval of the Attorney General or his or her designee, to the extent that the Attorney General delegates to the head of the agency the authority to make such award, compromise, or settlement. Such delegations may not exceed the authority delegated by the Attorney General to the United States attorneys to settle claims for money damages against the United States. Each Federal agency may use arbitration, or other alternative means of dispute resolution under the provisions of subchapter IV of chapter 5 of title 5, to settle any tort claim against the United States, to the extent of the agency's authority to award, compromise, or settle such claim without the prior written approval of the Attorney General or his or her designee.".

(b) CLAIMS OF THE GOVERNMENT.—Section 3711(a)(2) of title 31, United States Code, is amended by striking out "$20,000 (excluding

interest)" and inserting in lieu thereof "$100,000 (excluding interest) or such higher amount as the Attorney General may from time to time prescribe".

SEC. 9. USE OF NONATTORNEYS. 5 USC 581 note.

(a) REPRESENTATION OF PARTIES.—Each agency, in developing a policy on the use of alternative means of dispute resolution under this Act, shall develop a policy with regard to the representation by persons other than attorneys of parties in alternative dispute resolution proceedings and shall identify any of its administrative programs with numerous claims or disputes before the agency and determine—

(1) the extent to which individuals are represented or assisted by attorneys or by persons who are not attorneys; and

(2) whether the subject areas of the applicable proceedings or the procedures are so complex or specialized that only attorneys may adequately provide such representation or assistance.

(b) REPRESENTATION AND ASSISTANCE BY NONATTORNEYS.—A person who is not an attorney may provide representation or assistance to any individual in a claim or dispute with an agency, if—

(1) such claim or dispute concerns an administrative program identified under subsection (a);

(2) such agency determines that the proceeding or procedure does not necessitate representation or assistance by an attorney under subsection (a)(2); and

(3) such person meets any requirement of the agency to provide representation or assistance in such a claim or dispute.

(c) DISQUALIFICATION OF REPRESENTATION OR ASSISTANCE.—Any agency that adopts regulations under subchapter IV of chapter 5 of title 5, United States Code, to permit representation or assistance by persons who are not attorneys shall review the rules of practice before such agency to—

(1) ensure that any rules pertaining to disqualification of attorneys from practicing before the agency shall also apply, as appropriate, to other persons who provide representation or assistance; and

(2) establish effective agency procedures for enforcing such rules of practice and for receiving complaints from affected persons.

SEC. 10. DEFINITIONS. 5 USC 581 note.

As used in this Act, the terms "agency", "administrative program", and "alternative means of dispute resolution" have the meanings given such terms in section 581 of title 5, United States Code, as added by section 4(b) of this Act.

SEC. 11. SUNSET PROVISION. 5 USC 581 note.

The authority of agencies to use dispute resolution proceedings under this Act and the amendments made by this Act shall terminate on October 1, 1995, except that such authority shall continue in effect with respect to then pending proceedings which, in the judgment of the agencies that are parties to the dispute resolution

proceedings, require such continuation, until such proceedings terminate.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 2497 (S. 971):

HOUSE REPORTS: No. 101-513 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-543 accompanying S. 971 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 5, considered and passed House.
Oct. 24, considered and passed Senate, amended, in lieu of S. 971.
Oct. 25, Senate vitiated passage of H.R. 2497; reconsidered and passed, amended.
Oct. 26, House concurred in Senate amendment.

Public Law 101-553
101st Congress

An Act

To amend chapters 5 and 9 of title 17, United States Code, to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of copyright and infringement of exclusive rights in mask works, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private person or against other public entities.

Nov. 15, 1990
[H.R. 3045]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Copyright Remedy Clarification Act.
17 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF COPYRIGHT AND EXCLUSIVE RIGHTS IN MASK WORKS.

(a) COPYRIGHT INFRINGEMENT.—(1) Section 501(a) of title 17, United States Code, is amended by adding at the end the following: "As used in this subsection, the term 'anyone' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 5 of title 17, United States Code, is amended by adding at the end the following new section:

"§ 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of a copyright owner provided by sections 106 through 119, for importing copies of phonorecords in violation of section 602, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include impounding and disposition of infringing articles under section 503, actual damages and profits and

statutory damages under section 504, costs and attorney's fees under section 505, and the remedies provided in section 510.".

(3) The table of sections at the beginning of chapter 5 of title 17, United States Code, is amended by adding at the end the following new item:

"Sec. 511. Liability of States, instrumentalities of States, and State officials for infringement of copyright.".

(b) INFRINGEMENT OF EXCLUSIVE RIGHTS IN MASK WORKS.—(1) Section 910(a) of title 17, United States Code, is amended by adding at the end the following: "as used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this chapter in the same manner and to the same extent as any nongovernmental entity.".

(2) Section 911 of title 17, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the Eleventh Amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for a violation of any of the exclusive rights of the owner of a mask work under this chapter, or for any other violation under this chapter.

"(2) In a suit described in paragraph (1) for a violation described in that paragraph, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any public or private entity other than a State, instrumentality of a State, or officer or employee of a State acting in his or her official capacity. Such remedies include actual damages and profits under subsection (b), statutory damages under subsection (c), impounding and disposition of infringing articles under subsection (e), and costs and attorney's fees under subsection (f).".

17 USC 501 note.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 3045 (S. 497):

HOUSE REPORTS: No. 101-282 (Comm. on the Judiciary) and No. 101-887 (Comm. of Conference).

SENATE REPORTS: No. 101-305 accompanying S. 497 and H.R. 3045 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Oct. 16, considered and passed House.

Vol. 136 (1990): June 26, considered and passed Senate, amended, in lieu of S. 497.

Oct. 19, Senate agreed to conference report.

Oct. 26, House agreed to conference report.

Public Law 101-554
101st Congress

An Act

To establish an employment training program for displaced homemakers, and for other purposes.

Nov. 15, 1990
[H.R. 3069]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Displaced Homemakers Self-Sufficiency Assistance Act. Intergovernmental relations. Grant programs. 29 USC 2301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Displaced Homemakers Self-Sufficiency Assistance Act".

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

29 USC 2301.

(a) FINDINGS.—The Congress finds that—

(1) the Nation has a vested interest in building a quality and productive workforce that will enable the United States to compete effectively in the global marketplace;

(2) two in every three new entrants to the workforce during the 1990's will be women, and such women need appropriate basic and occupational skills to fill jobs requiring much higher skill levels than the jobs of today;

(3) there are approximately 15,600,000 displaced homemakers in the United States, the majority of whom are women not in the labor force, who live in poverty and who require educational, vocational, training and other services to obtain financial independence and economic security; and

(4) Federal, State, and local programs addressing the training and employment needs of displaced homemakers have been fragmented and insufficient to serve displaced homemakers effectively.

(b) PURPOSE.—It is the purpose of this Act to provide assistance to States to provide coordination and referral services, support service assistance, and program and technical assistance to displaced homemakers and displaced homemaker service providers. Such assistance will enable public and private entities to better meet the needs of displaced homemakers and will expand the employment and self-sufficiency options of displaced homemakers.

SEC. 3. DEFINITIONS.

29 USC 2302.

As used in this Act:

(1) The term "adult population" includes individuals aged 22 through 64.

(2) The term "community-based organization" has the same meaning given that term in section 4 of the Job Training Partnership Act.

(3) The term "displaced homemaker" means an individual who has been providing unpaid services to family members in the home and who—

(A) has been dependent either—

(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act, or

(ii) on the income of another family member but is no longer supported by that income, and

(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(4) The term "eligible service provider" means—

(A) a community-based organization;

(B) a local educational agency (as such term is defined in section 4 of the Job Training Partnership Act);

(C) a postsecondary school (as such term is defined in such section);

(D) an institution of higher education (as such term is defined in such section);

(E) an area vocational education school (as such term is defined in such section); or

(F) other entities designated by the Governor that have the demonstrated ability to meet the needs of displaced homemakers.

(5) The term "eligible statewide public agency or statewide nonprofit organization" means agencies and organizations with demonstrated experience administering programs that serve displaced homemakers.

(6) The term "Secretary" means the Secretary of Labor.

(7) The term "State" includes any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(8) The term "supportive services assistance" means assistance which is necessary to enable an individual eligible for services under this Act to participate in programs funded under this Act. Such services may include transportation, health care, special services and materials for the handicapped, child care, adult dependent care, meals, temporary shelter, financial counseling and other reasonable expenses required for participation in the program and may be provided in-kind or through cash assistance.

29 USC 2303.

SEC. 4. PROGRAM AUTHORIZATION.

(a) GRANTS BY THE SECRETARY.—Except as provided in subsections (b) and (c), for any fiscal year for which the appropriation for this Act is less than $25,000,000, the Secretary shall make the funds available as grants to eligible State agencies and statewide nonprofit organizations on a competitive award basis.

(b) STATE GRANT PROGRAM.—Except as provided in subsection (c), for any fiscal year for which the appropriation for this Act equals or exceeds $25,000,000, and for any fiscal year thereafter the Secretary shall use the available funds to make grants to States from allocations under section 7.

(c) RESERVATION.—The Secretary shall reserve such amounts as are necessary, not to exceed 5 percent of the funds appropriated pursuant to this Act, for training and technical assistance under section 14(b), and for administration and evaluation of the programs funded under this Act.

SEC. 5. COMPETITIVE GRANTS. 29 USC 2304.

(a) IN GENERAL.—Each eligible statewide public agency or statewide nonprofit organization desiring to receive a competitive grant under section 4(a) of this Act shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall contain assurances that the State Job Training Coordinating Council and the Governor have had an opportunity to review and comment on the application. Each applicant shall include the comments received by the applicant pursuant to such review.

(b) PRIORITY.—In awarding grants under section 4(a) of this Act, the Secretary shall give priority to applications from statewide public agencies and statewide nonprofit organizations which—

(1) demonstrate that employment and training related services will be provided to displaced homemakers who are economically disadvantaged;

(2) provide access to a comprehensive referral system so that participants will be directed to appropriate services based on their assessed needs;

(3) demonstrate that employment and training related funds and services to be provided will be coordinated with other Federal and non-Federal programs providing education, training, or other human services;

(4) demonstrate the ability to provide appropriate transition for participants into other related programs such as adult basic education, remedial education, vocational education, and the Job Training Partnership Act; and

(5) demonstrate experience in providing services to displaced homemakers.

(c) AWARDS.—The Secretary shall not award more than 1 competitive grant per State. The competition for such grants shall be conducted annually, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement and the immediately preceding grant agreement, the Secretary may waive the requirement for such competition upon receipt from the grantee of a satisfactory program plan for the succeeding grant period.

SEC. 6. USE OF COMPETITIVE GRANT FUNDS. 29 USC 2305.

(a) IN GENERAL.—Funds awarded under section 4(a) of this Act may be used for any purpose described in section 10 and for statewide model and demonstration projects that provide special services for rural displaced homemakers, minority displaced homemakers, women age 40 and older, and for nontraditional training or self-employment training.

(b) ADMINISTRATIVE COST.—Each eligible service provider receiving assistance under this Act may use no more than 20 percent of the funds awarded to such service provider for administrative costs.

SEC. 7. ALLOCATION. 29 USC 2306.

(a) ALLOCATION AMONG STATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), financial assistance to States under section 4(b) of this Act shall be allotted based on the ratio of the adult population of the State to the total adult population of the United States.

(2) MINIMUM STATE ALLOCATION.—No State shall receive an allotment for any fiscal year described in section 4(b) that is less than 0.5 percent of the total funds appropriated for such fiscal year.

(3) TIMELY ALLOCATION.—(A) All allotments and allocations under this Act shall be based on the latest available data and estimates satisfactory to the Secretary.

Federal Register, publication.

(B) Whenever the Secretary allots and allocates funds required to be allotted or allocated by formula or otherwise under this Act, the Secretary shall publish in a timely fashion in the Federal Register the proposed amount to be distributed to each recipient.

(C) All funds required to be distributed by formula under this Act shall be allotted within 45 days after the enactment of the appropriations therefor.

(D) All funds required to be distributed through competitive grants under section 5 of this Act shall be allotted within 30 days after the completion of the competition and the approval of grants.

(b) MAINTENANCE OF EFFORT.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under section 4(b) of this Act for any fiscal year if the Secretary finds that the aggregate expenditures of public funds within the State with respect to the provision of services for displaced homemakers for the preceding fiscal year was not less than 90 percent of such aggregate expenditures of public funds for the fiscal year preceding the first fiscal year for which an allocation of funds is made under section 4(b).

(2) REDUCTIONS.—The Secretary shall reduce the amount of the allocation of funds under section 4(b) of this Act in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of the aggregate expenditures of public funds.

(3) WAIVER.—The Secretary may waive, for any fiscal year, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

29 USC 2307.

SEC. 8. STATE PLAN.

(a) PLAN REQUIRED.—In order to receive funds under section 4(b) of this Act, the Governor of each State shall develop and submit to the Secretary for review and approval an annual State plan, describing the programs, assessment, and counseling activities, coordination and referral activities, and services for displaced homemakers to be assisted with funds provided. Such plan shall be submitted at such time and in such form as the Secretary shall require by regulation.

Regulations.

(b) CONTENTS OF PLAN.—Each State plan submitted under subsection (a) shall—

(1) contain assurances that funds provided under this Act will be used to supplement and not supplant Federal, State, and local public funds expended to provide services for displaced homemakers;

(2) contain assurances that displaced homemakers with the greatest financial need will be given priority for services under this Act;

(3) contain assurances that displaced homemakers 40 years of age or older and minority displaced homemakers will be given special consideration for services under this Act;

(4) provide a description of the State's administration of the program funded under this Act;

(5) demonstrate that funds and services, including supportive services, under this Act will be coordinated with other existing Federal and non-Federal programs providing education, training, or other human services; and

(6) contain assurances that the State Job Training Coordinating Council and any significant State organization representing displaced homemakers have had the opportunity to review and comment on the State plan, and include such comments when it is submitted for approval.

SEC. 9. STATE ADMINISTRATION. 29 USC 2308.

(a) DESIGNATION OF ADMINISTRATIVE ENTITY.—The Governor of each State receiving an allotment under section 4(b) shall designate either—

(1) the existing State displaced homemaker unit, or

(2) the State unit administering displaced homemaker/single parent programs as authorized by the Carl Perkins Vocational and Applied Technology Education Act,

as the administrative entity for programs funded under this Act.

(b) STATE ADMINISTRATIVE ENTITY.—Each State administrative entity for displaced homemaker services in a State receiving financial assistance under section 4(b) of this Act shall—

(1) make appropriate services available to displaced homemakers through the use of eligible service providers;

(2) develop an annual plan for the use of all funds available under this Act for displaced homemaker programs, manage and coordinate the distribution of these funds, and monitor the use of funds distributed to eligible service providers;

(3) set forth the criteria to be used in approving applications from eligible service providers;

(4) provide appropriate pre-service and in-service training, technical assistance, and advice to individuals providing services to displaced homemakers; and

(5) gather, analyze, and disseminate data on the adequacy and effectiveness of the State in meeting the training and employment needs of displaced homemakers.

SEC. 10. USE OF FUNDS. 29 USC 2309.

(a) IN GENERAL.—Funds allocated to States pursuant to section 4(b) shall be used to provide services to displaced homemakers, including (but not limited to) the following: referral services, supportive service assistance, career counseling, assessment, testing and evaluation, pre-employment services, basic skills, literacy and bilingual training, recruitment and outreach, job development and placement, follow-up services and life skills development.

(b) SUPPLEMENT NOT SUPPLANT.—Funds provided under this Act shall be used to supplement and not to supplant Federal, State, and local public funds expended to provide services to displaced homemakers.

(c) SUPPORTIVE SERVICES LIMITATIONS.—

(1) HEALTH CARE, MEALS, AND SHELTER.—Not more than 5 percent of the funds made available to any eligible service provider for any fiscal year may be used to provide health care, meals, and temporary shelter.

(2) DUPLICATION.—Funds used under this Act to provide supportive services shall not be used to duplicate services provided by any other public or private source that are available to participants without cost.

(d) ADMINISTRATIVE COST.—Each eligible service provider receiving assistance under this Act may use no more than 20 percent of the funds awarded to such service provider for administrative costs.

29 USC 2310.

SEC. 11. WITHIN STATE ALLOCATION.

(a) IN GENERAL.—Subject to subsection (e), from amounts allotted to each State pursuant to section 4(b), the designated administrative entity of each State shall make grants to eligible service providers to provide education, training related, and supportive services to displaced homemakers.

(b) AWARDS.—The administrative entity of each State receiving assistance under this Act shall award grants to eligible service providers only on a competitive basis. The competition for such grants shall be conducted annually, except that when a grantee has performed satisfactorily under the terms of an existing grant agreement and the immediately preceding grant agreement, the administrative entity may waive the requirement for such competition upon receipt from the grantee of a satisfactory program plan for the succeeding grant period.

(c) ASSURANCES.—Each service provider receiving a grant shall provide assurances that the services offered under this Act are of sufficient size, scope, and quality to reasonably meet the education and training related needs of the displaced homemakers being served.

(d) RESERVATIONS.—The Governor of each State shall reserve no more than 5 percent of funds allotted under section 4(b) for the costs of State administration pursuant to section 9.

29 USC 2311.

SEC. 12. ELIGIBLE SERVICE PROVIDERS.

(a) IN GENERAL.—The designated administrative entity of each State receiving assistance shall select eligible service providers that demonstrate the ability to effectively deliver training, education, and supportive services to displaced homemakers.

(b) PRIORITY.—Each State receiving financial assistance under this Act shall give priority in awarding grants to eligible service providers which have experience in providing services to displaced homemakers.

(c) COMMUNITY-BASED ORGANIZATIONS.—Community-based organizations shall be given the opportunity to compete on an equitable basis with other eligible service providers for grants under this Act.

Statistics.
29 USC 2312.

SEC. 13. NATIONAL ACTIVITIES.

(a) INFORMATION.—From amounts available under section 4(c), the Secretary shall implement a uniform data collection system to collect information from the States. The information to be collected shall include—

(1) the number of displaced homemakers served,

(2) the race, age, and sex of displaced homemakers,
(3) the number of dependents of displaced homemakers,
(4) the amount of income of displaced homemakers,
(5) the range of services identified during the assessment process as necessary for displaced homemakers, and
(6) the services received by displaced homemakers and appropriate outcomes, including type of training and education received, and type of job and wage-at-placement for displaced homemakers placed.

SEC. 14. ADMINISTRATIVE PROVISIONS. 29 USC 2313.

(a) IN GENERAL.—The Secretary shall take appropriate action to establish administrative procedures for the selection, administration, monitoring, and evaluation of displaced homemaker programs authorized under this Act.

(b) SPECIAL RULE.—The Secretary may provide, where appropriate, through grants or contracts, training and technical assistance to statewide public agencies or statewide nonprofit organizations serving displaced homemakers.

(c) REPORT.—The Secretary shall biennially report to the Congress on the funds and services provided to displaced homemakers and the results of any evaluations under this Act.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS. 29 USC 2314.

There are authorized to be appropriated to carry out this Act $35,000,000 for fiscal year 1991 and such sums as may be necessary for each succeeding fiscal year. Funds appropriated pursuant to this section are authorized to remain available for two fiscal years succeeding the fiscal year for which appropriated.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 3069:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 19, considered and passed Senate, amended.
Oct. 24, House concurred in Senate amendments.

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Public Law 101-555
101st Congress

An Act

Nov. 15, 1990
[H.R. 3310]

To authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,554,000 for fiscal year 1990 and $18,000,000 for fiscal year 1991, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for fiscal year 1991.

SEC. 2. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic and economic importance to the United States;

(2) other nations, especially the Soviet Union and Japan, are seeking to increase their influence in this region;

(3) because the Pacific Basin communities are geographically isolated and because many are relatively poor, they are in great need of quality, low-cost communications services to maintain contact among themselves and with other countries;

(4) from 1971 until 1985, such communications needs were satisfied by the Pan-Pacific Educational and Cultural Experiments by Satellite Program (hereinafter referred to as the "PEACESAT Program") operating over the ATS-1 satellite of the National Aeronautics and Space Administration;

(5) the ATS-1 satellite ran out of station-keeping fuel in 1985 and has provided only intermittent service since then;

(6) the Act entitled "An Act to provide authorization of appropriations for activities of the National Telecommunications and Information Administration", approved November 3, 1988 (Public Law 100-584; 102 Stat. 2970), authorized $3,400,000 in funding during fiscal years 1988 and 1989 for re-establishing the communications network of the PEACESAT Program;

(7) Congress appropriated $1,700,000 for fiscal year 1988 and $200,000 for fiscal year 1989 for the purposes of re-establishing the communications network of the PEACESAT Program;

(8) since 1988, significant progress has been made to ensure resumption of this vital communications service by repairing earth terminals in the Pacific communities, by identifying the short-term and long-term needs of the residents of these communities, and by negotiating to acquire the use of the GOES-3 satellite owned by the National Oceanic and Atmospheric Administration, which is expected to provide service from 1990 to 1994;

(9) the National Telecommunications and Information Administration will issue a contract for the design and construction of earth terminals to work with the GOES-3 sat-

ellite by early 1990 that will exhaust the funds previously appropriated;

(10) additional funding will be necessary for fiscal years 1990 and 1991 to pay for the costs of operating the GOES-3 satellite, for installing the earth stations and training engineers to operate them, and for administering the program; and

(11) additional but undetermined funding may also be necessary in fiscal year 1991 to begin acquiring replacement satellite capacity for the GOES-3 satellite after it goes out of service.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until viable alternatives are available and to provide interim funding in order that the PEACESAT Program may again serve the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate for and acquire satellite space segment capacity and related ground segment equipment to provide communications services for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

(2)(A) The Secretary of Commerce shall provide to the manager of the PEACESAT Program such funds, from appropriations authorized under subsection (d) of this section, as the Secretary considers necessary to manage the operation of the satellite communications services provided with the capacity and equipment acquired under this subsection.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds. Records.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph. Records.

(d) There are authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as may be necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of capacity and equipment under subsection (c)(1) of this section and the management of the operation of satellite communications services under subsection (c)(2) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the PEACESAT Program, and other affected parties regarding the development of a long-term solution to the communications needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation. Reports.

Health care.
Rural areas.
42 USC 295j note.

SEC. 3. (a) It is the purpose of this section to improve the ability of rural health providers to use communications to obtain health information and to consult with others concerning the delivery of patient care. Such enhanced communications ability may assist in—

(1) improving and extending the training of rural health professionals; and

(2) improving the continuity of patient care in rural areas.

(b) The Secretary of Commerce, in conjunction with the Secretary of Health and Human Services, shall establish an advisory panel (hereafter in this section referred to as the "Panel") to develop recommendations for the improvement of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information.

(c) The Panel shall be composed of individuals from organizations with rural constituencies and practitioners from health care disciplines, representatives of the National Library of Medicine, and representatives of different health professions schools, including nurse practitioners.

(d) The Panel may select consultants to provide advice to the Panel regarding the types of information that rural health care practitioners need, the procedures to gather and disseminate such information, and the types of communications equipment and training needed by rural health care practitioners to obtain access to such information.

Reports.

(e) Not later than 1 year after the Panel is established under subsection (b), the Secretary of Commerce shall prepare and submit, to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives, a report summarizing the recommendations made by the Panel under subsection (b).

(f) There is authorized to be appropriated to the Secretary of Commerce to carry out this section $1,000,000 to remain available until expended.

SEC. 4. (a) Section 226 of the Communications Act of 1934 (47 U.S.C. 226) is amended by striking "30" each place it appears in subsection (b) (1) and (2), subsection (c)(1), and subsection (h)(1)(A) and inserting in lieu thereof "90".

(b) Section 226(b)(1) of the Communications Act of 1934 (47 U.S.C. 226(b)(1)) is amended—

(1) in subparagraph (H) by adding "and" at the end;

(2) in subparagraph (I) by striking "; and" and inserting in lieu thereof a period; and

(3) by striking subparagraph (J).

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 3310 (S. 1839):

HOUSE REPORTS: No. 101-317 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-302 accompanying S. 1839 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Oct. 30, considered and passed House.
Vol. 136 (1990): Oct. 24, considered and passed Senate, amended, in lieu of S. 1839.
Oct. 26, House concurred in Senate amendment.

Public Law 101-556
101st Congress

An Act

Nov. 15, 1990
[H.R. 4630]

To authorize the Secretary of Agriculture to acquire and study certain lands in the State of New Mexico, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Baca Location No. 1 Land Acquisition and Study Act of 1990.
Public lands.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Baca Location No. 1 Land Acquisition and Study Act of 1990".

SEC. 2. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are to—

(1) authorize the Secretary to acquire by purchase certain lands in the State of New Mexico to be added to the Santa Fe National Forest;

(2) compensate Dunigan Enterprises for costs incurred as a result of certain Federal actions; and

(3) provide for a study to determine possible Federal protection of certain lands in New Mexico known as "Baca Location No. 1".

(b) As used in this Act, the term—

(1) "Baca Location No. 1" means the land owned by Dunigan Enterprises located in the Jemez Mountains west of Los Alamos, New Mexico, in Sandoval and Rio Arriba counties and consisting of approximately 100,000 acres, as generally depicted on the map entitled "1510—Santa Fe NF—S. 2521 Cochiti Land Exchange Act" and dated October, 1990;

(2) "Dunigan Enterprises" means Dunigan Enterprises, Inc., a Texas corporation, and BL&C Co. and BL&C Co. No. 2, Texas Partnerships; and

(3) "Secretary" means the Secretary of Agriculture.

SEC. 3. ACQUISITION.

(a) IN GENERAL.—The Secretary is authorized to acquire by purchase with donated or appropriated funds the lands described in subsection (b). Upon acquiring the lands, the Secretary shall include them within the Santa Fe National Forest and shall administer them accordingly.

(b) DESCRIPTION OF LANDS TO BE ACQUIRED.—The lands to be acquired pursuant to subsection (a) consist of two parcels totaling approximately 36 acres, and are more specifically described as follows:

(1) PARCEL 1.—Beginning at Mile Point No. 11 on the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to its intersection with the constructed centerline of Forest Development Road 133; thence on a continuation of the south boundary of Baca Location No. 1, 33 feet; thence on an approximate bearing of N. 26° E., about 720 feet as scaled from the Forest Service's topo-

graphic map of the area, to the south boundary of the easement for New Mexico State Highway No. 4; thence in an easterly direction along the State Highway easement to its intersection with the south boundary of Baca Location No. 1; thence westerly along the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 11, containing approximately 27 acres, and subject to confirmation by formal survey and acceptable legal description and record acreage.

(2) PARCEL 2.—Beginning at Mile Point No. 10 on the south boundary of Baca Location No. 1; thence in a westerly direction along the south boundary of Baca Location No. 1, 423 feet to a point on the west side of the East Fork of the Rio Jemez; thence N. 38° E., 660 feet; thence N. 86° E., 170 feet; thence S. 70° E., 364 feet to the south boundary of Baca Location No. 1 to the point of beginning, being Mile Point No. 10, containing approximately 9 acres, and subject to confirmation by formal survey and acceptable legal description and record acreage.

SEC. 4. COMPENSATION.

Dunigan Enterprises.

(a) IN GENERAL.—The Secretary of the Treasury is authorized and directed, subject to the provisions of subsection (b), to pay a direct payment to Dunigan Enterprises not to exceed $1,633,527 out of any money in the Treasury not otherwise appropriated to compensate Dunigan Enterprises for costs incurred as a result of certain Federal actions involving a land exchange between the United States and Dunigan Enterprises in 1966.

(b) CERTIFICATION.—(1) The Secretary of the Treasury may make the payment described in subsection (a), only after the Secretary, acting through the Inspector General of the United States Department of Agriculture certifies that—

(A) the sum accurately reflects the damages incurred by Dunigan Enterprises resulting from the 1966 land exchange in New Mexico between the United States and Dunigan Enterprises;

(B) Dunigan Enterprises has executed a release of all claims relating to the real property known as the "Cochiti Properties", approximately 2,456.14 acres as described in the quitclaim deed to the Baca Land and Cattle Company, et al., on September 25, 1966, as recorded in Volume 21, pages 361-363 of the Sandoval County, New Mexico records; and

(C) Dunigan Enterprises has executed with the Department of Justice an appropriate joint stipulation for entry of an order of dismissal, with prejudice, of the pending litigation between Dunigan Enterprises and the United States, entitled Dunigan Enterprises, Inc. et al. v. United States, No. 506-88L, United States Claim Court.

(2)(A) In making the verification pursuant to paragraph (1), the Secretary shall consider costs incurred by Dunigan Enterprises as a result of the 1966 land exchange between the United States and Dunigan Enterprises, including but not limited to foregone proceeds on sales contracts, and reasonable expenses for travel, telephone calls, legal services and other miscellaneous costs.

(B) If the Secretary determines pursuant to the certification requirement required in paragraph (1) that Dunigan Enterprises has incurred damages of less than $1,633,527, then Dunigan Enterprises shall be paid such lesser amount pursuant to subsection (a).

SEC. 5. LAND OWNERSHIP ADJUSTMENT STUDY.

(a) IN GENERAL.—(1) The Secretary is authorized and directed to conduct a study of Baca Location No. 1 to address—

(A) the scenic, geologic, recreational, timber, mineral, grazing, and other multiple use attributes of Baca Location No. 1; and

(B) options for Federal acquisition of Baca Location No. 1, in whole or part, by purchase, donation, exchange, or otherwise, including the estimated cost of each option.

(2) The Secretary shall complete the study within 2 full fiscal years after the date funds are made available for the study.

(b) COOPERATION.—(1) The Secretary shall prepare the study required by subsection (a) in cooperation with the owner of Baca Location No. 1, interested Indian tribes, the National Park Service, the United States Fish and Wildlife Service, and other interested parties.

(2) This Act shall not be construed to authorize entry upon Baca Location No. 1 by any person without the express permission of the landowner, and the Secretary shall make prior arrangements with the landowner for satisfactory access to Baca Location No. 1 for the purposes of the study.

(c) TRANSMITTAL OF STUDY.—Upon the completion of the study referred to in subsection (a), the Secretary shall transmit the results of such study, along with any legislative recommendations to the Committee on Energy and Natural Resources of the United States Senate and the Committees on Interior and Insular Affairs and Agriculture of the United States House of Representatives.

SEC. 6. TECHNICAL CORRECTION.

Section 110(a)(2) of the San Juan Basin Wilderness Protection Act of 1984, Public Law 98-603 (98 Stat. 3159) is hereby amended to read as follows:

"(2) The real property referred to in paragraph (1) is located in Lake Sumner State Park, in the State of New Mexico, and is more particularly described as follows: "all portions of sections 28 and 33

in Township 5 North, Range 24 East, with an elevation of more than 4,208 feet above sea level. The acreage and legal description of such real property shall be determined by the Secretary, after consultation with Sumner Lake Corporation.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 4630 (S. 2521):

HOUSE REPORTS: No. 101-783, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-538 accompanying S. 2521 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 25, considered and passed Senate, amended, in lieu of S. 2521.
Oct. 27, House concurred in Senate amendments.

39-194 O - 91 - 15 : QL 3 Part 4

Public Law 101-557
101st Congress

An Act

Nov. 15, 1990
[H.R. 5112]

To amend the Public Health Service Act regarding certain programs for health care services in the home and certain programs relating to Alzheimer's disease, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Home Health Care and Alzheimer's Disease Amendments of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Health Care and Alzheimer's Disease Amendments of 1990".

TITLE I—DEMONSTRATION PROJECTS FOR HEALTH CARE SERVICES IN THE HOME

SEC. 101. REVISION AND EXTENSION OF GENERAL PROGRAM.

(a) NUMBER OF GRANTS.—Section 395(a) of the Public Health Service Act (42 U.S.C. 280c(a)) is amended in the matter preceding paragraph (1) by striking "shall make" and all that follows through "grants" and inserting the following: "shall make not less than 5, and not more than 20, grants".

(b) SERVICES PROVIDED.—Section 395(a)(1) of the Public Health Service Act (42 U.S.C. 280c(a)(1)) is amended by striking "skilled" and all that follows and inserting the following: "skilled nursing care services, homemaker or home health aide services, or personal care services are provided in the homes of the individuals;".

(c) AGE OF RECIPIENTS OF SERVICES.—Section 395(b) of the Public Health Service Act (42 U.S.C. 280c(b)) is amended by striking "to ensure" and all that follows and inserting the following: "to ensure that—

"(1) not less than 25 percent of the grant is expended to provide services under such subsection to individuals who are not less than 65 years of age; and

"(2) of the portion of the grant reserved by the State for purposes of complying with paragraph (1), not less than 10 percent is expended to provide such services to individuals who are not less than 85 years of age.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 397(e) of the Public Health Service Act (42 U.S.C. 280c-2(e)) is amended—

(1) by striking "there is" and inserting "there are"; and

(2) by inserting before the period the following: ", $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

SEC. 102. REVISION AND EXTENSION OF PROGRAM REGARDING ALZHEIMER'S DISEASE.

(a) NUMBER OF GRANTS.—Section 398(a) of the Public Health Service Act (42 U.S.C. 280c-3(a)) is amended in the matter preceding paragraph (1) by striking "shall make" and all that follows through "grants" and inserting the following: "shall make not less than 5, and not more than 15, grants".

(b) COORDINATION OF SERVICES.—Section 398(a)(1) of the Public Health Service Act (42 U.S.C. 280c-3(a)(1)) is amended by striking "by public and private organizations" and inserting "with public and private organizations".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 399A(e) of the Public Health Service Act (42 U.S.C. 280c-5(e)) is amended—

(1) by striking "there is" and inserting "there are"; and

(2) by inserting before the period the following: ", $7,500,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993".

TITLE II—REVISION OF PROGRAMS FOR RESEARCH ON ALZHEIMER'S DISEASE

SEC. 201. ALZHEIMER'S DISEASE CENTERS.

Section 445 of the Public Health Service Act (42 U.S.C. 285e-2) is amended—

(1) in subsection (a)(1)—

(A) by inserting "(including university medical centers)" after "nonprofit entities";

(B) by inserting "(including staffing)" after "operating support";

(C) by inserting "(including multidisciplinary research)" after "clinical research"; and

(D) by striking "Alzheimer's Disease" and inserting "Alzheimer's disease"; and

(2) in subsection (b), by amending such subsection to read as follows:

"(b)(1) Federal payments made under a cooperative agreement or grant under subsection (a) may, with respect to Alzheimer's disease, be used for—

"(A) diagnostic examinations, patient assessments, patient care costs, and other costs necessary for conducting research;

"(B) training, including training for allied health professionals;

"(C) diagnostic and treatment clinics designed to meet the special needs of minority and rural populations and other underserved populations;

"(D) activities to educate the public; and

"(E) the dissemination of information.

"(2) For purposes of paragraph (1), the term 'training' does not include research training for which National Research Service Awards may be provided under section 487.".

SEC. 202. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

(a) REDESIGNATION AS CLAUDE D. PEPPER OLDER AMERICANS INDEPENDENCE CENTERS.—Section 445A of the Public Health Service Act (42 U.S.C. 285e-3) is amended—

(1) in the heading for such section, by amending the heading to read as follows:

"CLAUDE D. PEPPER OLDER AMERICANS INDEPENDENCE CENTERS";

and

(2) in subsection (a), by adding at the end the following new sentence: "Each such center shall be known as a Claude D. Pepper Older Americans Independence Center.".

(b) REVISIONS IN PROGRAM.—

(1) IN GENERAL.—Section 445A of the Public Health Service Act (42 U.S.C. 285e-3) is amended—

(A) in subsection (a), by inserting "not less than 10" before "centers of excellence"; and

(B) in subsection (b)(2)(A), by inserting before the semicolon at the end the following: ", including menopause, which research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals".

(2) CONFORMING AMENDMENT.—Section 445A(b)(2)(B) of the Public Health Service Act (42 U.S.C. 285e-3(b)(2)(B)) is amended by striking "research concerning" and all that follows and inserting "research described in subparagraph (A).".

(c) DEFINITION.—Section 445A of the Public Health Service Act (42 U.S.C. 285e-3) is amended by adding at the end the following new subsection:

"(d) For purposes of this section, the term 'independence', with respect to diseases, disorders, and complications of aging, means the functional ability of individuals to perform activities of daily living or instrumental activities of daily living without assistance or supervision.".

TITLE III—TASK FORCE ON AGING RESEARCH

42 USC 242q.

SEC. 301. ESTABLISHMENT AND DUTIES.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish a Task Force on Aging Research.

(b) DUTIES.—With respect to aging research (as defined in section 305), the Task Force each fiscal year shall—

(1) make recommendations to the Secretary specifying the particular projects of research, or the particular categories of research, that should be conducted or supported by the Secretary;

(2) of the projects specified under paragraph (1), make recommendations to the Secretary of the projects that should be given priority in the provision of funds; and

(3) make recommendations to the Secretary of the amount of funds that should be appropriated for such research.

(c) PROVISION OF INFORMATION TO THE PUBLIC.—The Task Force may make available to health professionals, and to other members

of the public, information regarding the research described in subsection (b).

SEC. 302. MEMBERSHIP. 42 USC 242q-1.

(a) COMPOSITION.—The Task Force shall be composed of—

(1) the Assistant Secretary for Health;

(2) the Surgeon General of the Public Health Service;

(3) the Assistant Secretary for Planning and Evaluation;

(4) the Director of the National Institute on Aging, and the Directors of such other agencies of the National Institutes of Health as the Secretary determines to be appropriate;

(5) the Commissioner of the Administration on Aging;

(6) the Commissioner of Food and Drugs;

(7) the Chief Medical Director of the Department of Veterans Affairs;

(8) the Administrator of the the Alcohol, Drug Abuse, and Mental Health Administration;

(9) the Administrator of the Health Care Financing Administration;

(10) the Commissioner of Social Security;

(11) the Administrator for Health Care Policy and Research;

(12) two Members of the House of Representatives appointed by the Speaker of the House in consultation with the Minority Leader, and two members of the Senate appointed by the Majority Leader in consultation with the Minority Leader, not more than one of whom from each body shall be members of the same political party; and

(13) three members of the general public, to be appointed by the Secretary, that shall include one representative each from—

(A) a nonprofit group representing older Americans;

(B) a private voluntary health organization concerned with the health problems affecting older Americans; and

(C) a nonprofit organization concerned with research related to the health and independence of older Americans.

(b) CHAIR.—The Secretary, acting through either the Assistant Secretary for Health or the Director of the National Institute on Aging, shall serve as the Chair of the Task Force.

(c) QUORUM.—A majority of the members of the Task Force shall constitute a quorum, and a lesser number may hold hearings.

(d) MEETINGS.—The Task Force shall meet periodically at the call of the Chair, but in no event less than twice each year.

(e) COMPENSATION AND EXPENSES.—

(1) COMPENSATION.—Members of the Task Force who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Task Force or otherwise engaged in the business of the Task Force (including traveltime), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedules established under section 5332 of title 5, United States Code.

(2) EXPENSES.—While away from their homes or regular places of business on the business of the Task Force, members of such Task Force may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

42 USC 242q-2.

SEC. 303. ADMINISTRATIVE STAFF AND SUPPORT.

The Secretary, acting through either the Assistant Secretary for Health or the Director of the National Institute on Aging, shall appoint an Executive Secretary for the Task Force and shall provide the Task Force with such administrative staff and support as may be necessary to enable the Task Force to carry out subsections (b) and (c) of section 301.

42 USC 242q-3.

SEC. 304. REPORTS.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Task Force shall prepare and submit to the Secretary, and to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report providing the recommendations required in section 301(b).

(b) AVAILABILITY TO PUBLIC.—The Task Force may make available to the public copies of the reports required in subsection (a).

42 USC 242q-4.

SEC. 305. DEFINITIONS.

For purposes of this title:

(1) AGING RESEARCH.—

(A) The term "aging research" means research on the aging process and on the diagnosis and treatment of diseases, disorders, and complications related to aging, including menopause. Such research includes research on such treatments, and on medical devices and other medical interventions regarding such diseases, disorders, and complications, that can assist individuals in avoiding institutionalization and prolonged hospitalization and in otherwise increasing the independence of the individuals.

(B) For purposes of subparagraph (A), the term "independence", with respect to diseases, disorders, and complications of aging, means the functional ability of individuals to perform activities of daily living or instrumental activities of daily living without assistance or supervision.

(2) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(3) TASK FORCE.—The term "Task Force" means the Task Force on Aging Research established under section 301(a).

42 USC 242q-5.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1993.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. MISCELLANEOUS AMENDMENTS.

(a) MINORITY HEALTH.—

(1) IN GENERAL.—Section 1707(b) of the Pubic Health Service Act, as added by section 2 of the Disadvantaged Minority Health Improvement Act of 1990, is amended—

Ante, p. 2312.

(A) in paragraph (6), by striking "and" after the semicolon at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(8) support expansion and enhancement of tertiary perinatal facilities in rural States with infant mortality rates among individuals from disadvantaged backgrounds, including minorities, that are significantly above the national average for such rates.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of the Disadvantaged Minority Health Improvement Act of 1990. 42 USC 300u-6 note.

(b) SERVICES REGARDING ACQUIRED IMMUNE DEFICIENCY SYNDROME.—Title XXVI of the Public Health Service Act, as added by Public Law 101-381, is amended—

(1) in section 2607(1), by striking "2601(a)(1)" and inserting "2601(a)"; *Ante*, p. 585.

(2) in section 2651, by striking "section 2652(a)(1)" and inserting "section 2652(a)"; and *Ante*, p. 606.

(3) in section 2652(a)— *Ante*, p. 607.

(A) by striking "referred to in subsection (b)" and inserting "referred to in section 2651(a)";

(B) by redesignating subparagraphs (A) through (F) as paragraphs (1) through (6), respectively; and

(C) in paragraph (6) (as so redesignated), by striking "a nonprofit private entity that provides" and inserting "nonprofit private entities that provide".

TITLE V—FELLOWSHIPS

SEC. 501. JAMES MADISON MEMORIAL FELLOWSHIPS.

Section 813(a)(4) of the James Madison Memorial Fellowship Act (20 U.S.C. 4512(a)(4)) is amended by striking the second sentence.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5112:

HOUSE REPORTS: No. 101-612 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 23, considered and passed House.
Oct. 22, considered and passed Senate, amended.
Oct. 23, 25, House concurred in Senate amendments.

○

Public Law 101-558
101st Congress

An Act

Nov. 15, 1990
[H.R. 5113]

To amend the Public Health Service Act to revise and extend the program for the prevention and control of injuries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Injury Control Act of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Injury Control Act of 1990".

SEC. 2. REVISION AND EXTENSION OF PROGRAM FOR PREVENTION AND CONTROL OF INJURIES.

(a) RESEARCH.—Section 391(a) of the Public Health Service Act (42 U.S.C. 280b(a)) is amended—

(1) in paragraph (2), by inserting after "grants to" the following: ", or enter into cooperative agreements or contracts with,"; and

(2)(A) in paragraph (1), by striking "and" after the semicolon at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(3) make grants to, or enter into cooperative agreements or contracts with, academic institutions for the purpose of providing training on the causes, mechanisms, prevention, diagnosis, treatment of injuries, and rehabilitation from injuries.".

(b) CONTROL ACTIVITIES.—Section 392(b)(2) of the Public Health Service Act (42 U.S.C. 280b-1(b)(2)) is amended to read as follows:

"(2) work in cooperation with other Federal agencies, and with public and nonprofit private entities, to promote injury control.".

(c) REQUIREMENT OF REPORT ON ACTIVITIES OF AGENCY.—Section 393 of the Public Health Service Act (42 U.S.C. 280b-2) is amended to read as follows:

"SEC. 393. REPORT.

"By not later than September 30, 1992, the Secretary, through the Director of the Centers for Disease Control, shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the activities conducted or supported under this part. The report shall include—

"(1) information regarding the practical applications of research conducted pursuant to subsection (a) of section 391, including information that has not been disseminated under subsection (b) of such section; and

"(2) information on such activities regarding the prevention and control of injuries in rural areas, including information regarding injuries that are particular to rural areas.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 394 of the Public Health Service Act (42 U.S.C. 280b-3) is amended—

(1) in the first sentence, by inserting before the period the following: ", $30,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993";

(2) by striking the subsection designation; and

(3) by striking the second sentence.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5113 (S. 2631):

HOUSE REPORTS: No. 101-613 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-373 accompanying S. 2631 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 23, considered and passed House.
Oct. 24, considered and passed Senate, amended.
Oct. 26, House concurred in Senate amendment.

Public Law 101-559
101st Congress

An Act

Nov. 15, 1990
[H.R. 5419]

To designate the Federal Building at 88 West 100 North in Provo, Utah, as the "J. Will Robinson Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 88 West 100 North in Provo, Utah, shall hereafter be known and designated as the "J. Will Robinson Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, regulation, map, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J. Will Robinson Federal Building".

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5419:

HOUSE REPORTS: No. 101-811 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-560
101st Congress

An Act

Regarding the Early Winters Resorts.

Nov. 15, 1990
[H.R. 5507]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Washington.
National forests.
Public lands.
Wilderness areas.

SECTION 1. LAND EXCHANGE.

(a)(1) The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") and the Secretary of the Interior shall, subject to subsection (b), take all actions necessary to effect the conveyance of certain Federal lands within the State of Washington as generally depicted on the map entitled "Location of Selected Okanogan National Forest Lands" and dated May 15, 1990, in exchange for certain lands as generally depicted on maps entitled "Glacier Peak Wilderness Parcels" and "Methow Valley Parcels", both dated May 15, 1990. Such maps shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(2) Conveyance of National Forest lands pursuant to paragraph (1) shall be by the Secretary of Agriculture. The Secretary of the Interior, upon request of the Secretary of Agriculture, shall convey such public lands as may be required in order to complete such exchange. The conveyances shall be subject to such easements, restrictions, and other conditions as each Secretary may impose in order to meet applicable requirements of law, to further the purposes for which adjacent Federal lands are managed, or to protect the public interest.

(b)(1) The exchange described in subsection (a) shall be analyzed by the Secretary of Agriculture pursuant to applicable law. The Secretary shall make every effort to complete such analysis and to issue a record of decision thereon by October 1, 1991, consistent with the requirements of such law.

(2) Analysis pursuant to paragraph (1) shall be of the exchange described in subsection (a), except to the extent the Secretary proposes to modify the size or number of parcels of Federal lands to be conveyed in order to equalize values (except as otherwise provided in this Act) or to meet other requirements of applicable law. Nothing in this Act shall be construed as requiring consideration of other lands as part of any alternative considered in such analysis.

(3) Appraisals of the Federal lands described in subsection (a) shall be completed by September 1, 1991, or as soon thereafter as possible, on the basis of highest and best use (including use as part of the proposed resort complex), and in accordance with procedures required by Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) (hereafter in this Act referred to as "FLPMA"). Such appraisals shall be of the values of the lands involved as of November 1, 1990. Any exchange of such lands shall be for lands of equal value, or if they are not equal, the values shall be equalized in either one of two ways:

(A) by the payment of money to or by the Secretary (except that such payments shall not exceed 25 percent of the total value of the lands conveyed by the Secretary); or

(B) by adjusting the actual acreage conveyed and boundaries thereof so that lands of equal value are exchanged, except that no such adjustment shall be made to the lands identified as "Golf Course and Open Space Parcel" on the maps referred to in subsection (a)(1).

(4) The Secretary of the Interior and the Secretary of Agriculture shall make every effort to conclude by November 1, 1991, all steps necessary to complete an exchange involving the lands described in subsection (a)(1), but no Federal lands shall be conveyed as part of such an exchange unless and until—

(A) the Forest Service has issued a permit for use of Sandy Butte for ski facilities;

(B) Okanogan County, Washington, has approved the Early Winters Resort's land use application for lands associated with the resort development; and

(C) Early Winters Resort has obtained all water rights required for approval of the application referred to in subparagraph (B).

(5) Except as provided in this Act, conveyances of Federal lands under this section shall be completed notwithstanding any other provision of FLPMA or the Federal Land Exchange Facilitation Act of 1988. Lands acquired by the United States pursuant to this section shall be added to, and administered as part of, the National Forest System and, with respect to those portions within wilderness, pursuant to the Wilderness Act.

SEC. 2. REVIEWS.

(a) With respect to actions pursuant to section 1 or section 4, any record of decision shall be issued by the Chief of the Forest Service and there shall be no further administrative consideration other than a period not to exceed 30 days during which the Chief shall consider and act on any requests to reconsider such record of decision.

(b) Judicial challenge to a Record of Decision or subsequent permit based thereon issued under subsection (a) shall be made in accordance with this subsection notwithstanding any other provision of law:

(1) Such judicial challenge must be filed within the later of either—

(A) 45 days of—

(i) such Record of Decision,

(ii) action by the Chief in response to a request for reconsideration, or

(iii) issuance of a subsequent permit based thereon, or

(B) 10 days after the end of any period of advance notice of intent to bring such challenge required by the specific statute under which such challenge is brought.

Oregon.

(2) Such judicial challenge must be filed in the United States Court for the District of Oregon.

(3) Any appeal from a final decision of the district court shall be filed within 45 days after such final decision in the United States Court of Appeals for the Ninth Circuit.

(c) The courts shall expeditiously render their final decision relative to any action or appeal, or any further judicial review of the actions of the Forest Service pursuant to this Act. The district court shall make every effort to render its final decision relative to any action within 60 days from the date such action is filed, and the court of appeals shall make every effort to render its final decision relative to any appeal within 90 days from the date such appeal is filed. Courts.

SEC. 3. OTHER LAWS.

Nothing in this Act shall be construed as amending the National Environmental Policy Act of 1969 or the Endangered Species Act of 1973 or as modifying the applicability of those Acts or any other provisions of law otherwise applicable with respect to any activities occurring on or proposed for any of the lands affected by this Act.

SEC. 4. ENVIRONMENTAL ANALYSIS.

The sum of $500,000 is hereby authorized to be appropriated under this Act for the Forest Service to prepare the Supplement to the Final Environmental Impact Statement (hereafter in this section referred to as "SEIS") for the proposed Early Winters Resort in the Methow Valley, Washington State. This sum may be used by the Forest Service to employ additional employees or consultants in the preparation of the SEIS. The SEIS shall be completed, and a final Record of Decision shall be issued by the Forest Service as soon as possible, consistent with applicable requirements of law. Appropriation authorization.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5507:

HOUSE REPORTS: No. 101-843, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 26, considered and passed Senate.

○

Public Law 101-561
101st Congress

An Act

Nov. 15, 1990
[H.R. 5667]

To amend the Water Resources Development Act of 1974 to transfer jurisdiction of the Big South Fork National River and Recreation Area from the Secretary of the Army to the Secretary of the Interior, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA.

16 USC 460ee.

(a) TRANSFER OF JURISDICTION.—(1) Section 108(b)(1) of the Water Resources Development Act of 1974 (88 Stat. 43) is amended by striking the 1st and 2nd sentences and inserting the following: "Effective upon the date of enactment of this sentence, responsibility for all planning, acquisition, and development, as well as administrative jurisdiction over all Federal lands, water, interests therein, and improvements thereon, within the National Area is hereby transferred to the Secretary of the Interior. The Secretary may complete all acquisition and development activities in progress on the date of enactment of this sentence, and the Secretary and the Secretary of the Interior may, by mutual agreement, provide for an orderly and phased assumption of responsibilities (including but not limited to land acquisition and the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings) and available funds by the Secretary of the Interior in furtherance of the purposes of this section. The Secretary of the Interior shall administer the National Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented. The authorities set forth in this section which were available to the Secretary immediately prior to the date of enactment of this sentence shall after such date be available to the Secretary of the Interior.".

(2) Section 108(b)(1) of such Act is further amended by striking the last sentence.

(3) Paragraph (2) of section 108(b) of such Act is repealed, and section 108(b) of such Act is further amended by striking "(1)" after "(b)".

(b) EXCEPTIONS TO GORGE AREA RESTRICTIONS.—Section 108(e)(2)(A) of such Act is amended by striking the 3rd and 4th sentences and inserting the following: "No structures shall be constructed within the gorge area except for structures associated with the improvement of historical sites specified in paragraphs (5), (6), and (8), except for day-use facilities and primitive campgrounds along the primary and secondary access routes specified herein and within 500 feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes, existing routes for administration of the National Area, existing routes for access to cemeteries; except that motorboat access into the gorge area shall be permitted up to a point one-tenth of a mile downstream from Devils' Jumps and except for the continued operation and maintenance of

the rail line currently operated and known as the K & T Railroad. The Secretary of the Interior shall impose limitations on the use of existing routes for access to cemeteries.".

(c) MAINTENANCE OF EXISTING ROADS WITHIN GORGE AREA.—Section 108(e)(2)(D) of such Act is amended by striking "nonvehicular" and inserting "nonmotorized". 16 USC 460ee.

(d) CONSTRUCTION WITHIN GORGE AREA.—Section 108(e) of such Act is amended by adding at the end the following new paragraph:

"(8) IMPROVEMENT OF CHARIT CREEK LODGE AND HISTORIC STRUCTURES.—The Secretary of the Interior may make improvements to the Charit Creek Lodge and associated facilities and to historic structures determined to be eligible for listing in the National Register of Historic Places. Such improvements shall be made in a manner consistent with the historic scene and the limited ability of the National Area to accommodate additional use and development. Improvements to the Charit Creek Lodge and associated facilities shall be made within the approximately 30 acres of cleared land existing on the date of the enactment of this paragraph and within carrying capacity limitations determined by the National Park Service.".

(e) FUNDING.—Section 108(k) of such Act is amended by striking the last sentence and inserting the following: "Costs for the National Area shall be provided in the same manner as costs for national recreation areas administered by the Secretary of the Interior through the National Park Service.".

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5667:

HOUSE REPORTS: No. 101-841, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 26, considered and passed Senate.

Public Law 101-562
101st Congress

An Act

Nov. 15, 1990
[H.R. 5708]

To authorize acquisition of certain real property for the Library of Congress, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia.
2 USC 141 note.

SECTION 1. ACQUISITION OF SPECIAL FACILITIES CENTER.

The Architect of the Capitol may acquire on behalf of the United States Government by purchase, condemnation, transfer, or otherwise (A) all publicly or privately owned real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (B) improvements to such real property.

2 USC 141 note.

SEC. 2. REPAIR, ALTERATION, AND EXEMPTIONS.

(a) REPAIRS AND ALTERATIONS.—The first section of the Act of June 29, 1922 (42 Stat. 715; 2 U.S.C. 141), is amended by striking "the Library Building and on the grounds," and inserting "the Library of Congress buildings and grounds (as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167(j))),".

(b) REPAIR AND ALTERATION STANDARDS.—The property and improvements acquired under section 1 shall be repaired and altered, to the maximum extent feasible as determined by the Architect of the Capitol, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes (including electrical codes, fire and life safety codes, plumbing codes, as determined appropriate by the Architect), using the latest edition of the nationally recognized codes referred to in this paragraph.

(c) LIBRARY BUILDINGS AND GROUNDS.—Section 11 of the Act entitled "An Act relating to the policing of the buildings of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167j), is amended by adding at the end the following new subsection:

"(c) For the purposes of this Act, the term 'Library of Congress buildings and grounds' shall include (1) all real property in lot 51 in square 869 in the District of Columbia, as that lot appears on the records in the office of the Surveyor of the District of Columbia on August 1, 1990, extending to the outer face of the curbs of the square in which it is located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, and (2) improvements to such real property.".

(d) EFFECTIVE DATE.—Subsections (a) and (b) and the amendment made by subsection (c) shall take effect on the date the Architect of the Capitol acquires the property and improvements described in section 1.

SEC. 3. PENALTY. 2 USC 141 note.

Section 8 of the Act entitled "An Act relating to the policing of the buildings of the Library of Congress", approved August 4, 1950 (64 Stat. 412; 2 U.S.C. 167g), is amended—

(1) by striking "shall be fined not more than $100 or imprisoned not more than sixty days, or both," and inserting "commits a Class B misdemeanor,"; and

(2) by striking "the period of imprisonment for the offense may be not more than five years." and inserting "the person commits a Class D felony.".

SEC. 4. AUTHORIZATION OF APPROPRIATION. 2 USC 141 note.

There is authorized to be appropriated to the Architect of the Capitol $5,000,000 for carrying out the purposes of this Act, to remain available until expended.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5708:

HOUSE REPORTS: No. 101-809 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-563
101st Congress

Joint Resolution

Nov. 15, 1990
[H.J. Res. 562]

Designating October 21 through 27, 1990 as "National Humanities Week".

Whereas the study of the humanities increases the understanding of the great traditions of civilization and of the intellectual heritage of individuals;

Whereas the identity of the population and the Nation is expressed through the humanities;

Whereas the humanities help to break down the barriers of isolation and allow individuals to talk to each other regardless of differences in race, gender, or family experience;

Whereas the humanities help communities: evaluate the bonds of history and place, console in sorrow, and experience joy, wonder, and laughter;

Whereas the State humanities have been a partnership between Federal, State, and local government entities, universities, colleges, businesses, teachers, scholars, and individuals;

Whereas designating a National Humanities Week brings together the public and private sectors to restate support of the humanities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 21 through 27, 1990, is designated as "National Humanities Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 562:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-564
101st Congress

An Act

To designate March 25, 1991, as "National Medal of Honor Day".

Nov. 15, 1990
[H.J. Res. 652]

Whereas the Medal of Honor is the highest distinction that can be awarded by the President, in the name of the Congress, to members of the Armed Forces who have distinguished themselves conspicuously by gallantry and intrepidity at the risk of their lives above and beyond the call of duty;

Whereas only a few of the millions of men and women who have served the Nation in war, military operations, or other armed conflicts have received the Medal of Honor;

Whereas the 1st Medal of Honor awards were presented to 6 men on March 25, 1863, by the Secretary of War;

Whereas it is appropriate to honor the heroic recipients of the Medal of Honor;

Whereas public awareness of the importance of the Medal of Honor has declined in recent years; and

Whereas the designation of National Medal of Honor Day will focus the efforts of national, State, and local organizations striving to foster public appreciation and recognition of Medal of Honor recipients: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1991, is designated as "National Medal of Honor Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 652:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 26, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-565
101st Congress

Joint Resolution

Nov. 15, 1990
[H.J. Res. 657]

Granting the consent of the Congress to amendments to the Delaware-New Jersey Compact, and for other purposes.

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, being 53 Laws of Delaware, chapter 145, and Public Law 1961, chapter 66 of the Laws of New Jersey, have provided, subject to the consent of Congress, for a compact, known as the Delaware-New Jersey Compact, establishing "The Delaware River and Bay Authority" for the development of the area in both States bordering the said Delaware River and Bay; and

Whereas the State of Delaware and the State of New Jersey, pursuant to legislative authority adopted by each State, subject to the consent of Congress, have provided for an amendment to the Delaware-New Jersey Compact to authorize the Delaware River and Bay Authority to undertake economic development projects, other than major projects, at its own initiative, and to undertake major projects after securing only such approvals as may be required by the legislation of the State in which the project is to be located, except the Authority is prohibited from undertaking any major project to be located in the Delaware River and Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS.

The Congress consents to the amendments to the Delaware-New Jersey Compact which have been enacted by the States of Delaware and New Jersey, so that the Delaware-New Jersey Compact reads substantially as follows:

"DELAWARE-NEW JERSEY COMPACT

"Whereas the States of Delaware and New Jersey are separated by the Delaware River and Bay which creates a natural obstacle to the uninterrupted passage of traffic other than by water and with normal commercial activity between the two States thereby hindering the economic growth and development of those areas in both States which border the River and Bay; and

"Whereas the pressures of existing trends from increasing traffic, growing population, and greater industrialization indicate the need for closer cooperation between the two States in order to advance the economic development and to improve crossings, transportation, terminal, and other facilities of the area; and

"Whereas the financing, construction, operation and maintenance of such crossings, transportation, terminal, and other facilities of

commerce and the overall planning for future economic development of the area may be best accomplished for the benefit of the two States and their citizens, the region and Nation, by the cordial cooperation of Delaware and New Jersey by and through a joint or common agency or authority; and

"Whereas the Delaware-New Jersey Compact, enacted pursuant to 53 Laws of Delaware, Chapter 145 (17 Del. C. §1701) and Public Law 1961, c. 66 (C. 32:11E-1 et seq.) of the Pamphlet Laws of New Jersey, with the consent of the United States Congress by Joint Resolution being Public Law 87-678, 87th Congress, H.J. Res. 783, September 20, 1962, created the Delaware River and Bay Authority with the intention of advancing the economic growth and development of those areas in both States which border the Delaware River and Bay by the financing, development, construction, operation, and maintenance of crossings, transportation, or terminal facilities, and other facilities of commerce, and by providing for overall planning for the future economic development of those areas; and

"Whereas the economic growth and development of areas of both States will be further advanced by authorizing the Authority to undertake economic development projects, other than major projects, as defined in Article II, at its own initiative, and to undertake major projects after securing only such approvals as may be required by legislation of the State in which the project is to be located, except that the Authority is prohibited from undertaking any major project, to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without the prior approval, by concurrent legislation, of the two States; and

"Whereas the natural environment of those areas in the two States which border the Delaware River and Bay would be better preserved by requiring that the projects, other than crossings, of the Authority shall be in complete compliance with all applicable environmental protection laws and regulations before the Authority may undertake the planning, development, construction, or operation of any project, other than a crossing:

"NOW, THEREFORE, the State of Delaware and the State of New Jersey do hereby solemnly covenant and agree, each with the other as follows:

Delaware-New Jersey Compact.

"ARTICLE I

"SHORT TITLE

"This Compact shall be known as the 'Delaware-New Jersey Compact'.

"ARTICLE II

"DEFINITIONS

" 'Crossing' means any structure or facility adapted for public use in crossing the Delaware River or Bay between the States, whether by bridge, tunnel, ferry, or other device, and by any vehicle or means of transportation of persons or property, as well as all approaches thereto and connecting and service routes and all appurtenances and equipment relating thereto.

" 'Transportation facility' and 'terminal facility' means any structure or facility other than a crossing, as herein defined, adapted for

public use within each of the States party hereto in connection with the transportation of persons or property, including railroads, motor vehicles, watercraft, airports and aircraft, docks, wharves, piers, slips, basins, storage places, sheds, warehouses, and every means or vehicle of transportation now or hereafter in use for the transportation of persons and property or the storage, handling or loading of property, as well as all appurtenances and equipment related thereto.

" 'Commerce facility or development' means any structure or facility adapted for public use or any development for a public purpose within each of the States party hereto in connection with recreational and commercial fishery development, recreational marina development, aquaculture (marine farming), shoreline preservation and development (including wetlands and open-lands acquisition, active recreational and park development, beach restoration and development, dredge spoil disposal and port-oriented development), foreign trade zone site development, manufacturing and industrial facilities, and other facilities of commerce which, in the judgment of the Authority, are required for the sound economic development of the area.

" 'Appurtenances' and 'Equipment' mean all works, buildings, structures, devices, appliances, and supplies, as well as every kind of mechanism, arrangement, object, or substance related to and necessary or convenient for the proper construction, equipment, maintenance, improvement, and operation of any crossing, transportation facility or terminal facility, or commerce facility, or development.

" 'Project' means any undertaking or program for the acquisition or creation of any crossing, transportation facility or terminal facility, or commerce facility or development, or any part thereof, as well as for the operation, maintenance, and improvement thereof.

" 'Major Project' means any project, other than a crossing, having or likely to have significant environmental impacts on the Delaware River and Bay, its shorelines or estuaries, or any other area in the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, as determined in accordance with State law by the environmental agency of the State in which the major project is to be located.

" 'Tunnel' means a tunnel of one or more tubes.

" 'Governor' means any person authorized by the Constitution and law of each State to exercise the functions, powers, and duties of that office.

" 'Authority' means the Authority created by this Compact or any agency successor thereto.

"The singular whenever used in this Compact shall include the plural, and the plural shall include the singular.

"ARTICLE III

"FAITHFUL COOPERATION

"They agree to and pledge, each to the other, faithful cooperation in the effectuation of this Compact and any future amendment or supplement thereto, and of any legislation expressly in implementation thereof hereafter enacted, and in the planning, development, financing, construction, operation, maintenance, and improvement of all projects entrusted to the authority created by this Compact.

"ARTICLE IV

"ESTABLISHMENT OF AGENCY; PURPOSES

"The two States agree that there shall be created and they do hereby create a body politic, to be known as 'The Delaware River and Bay Authority' (for brevity hereinafter referred to as the 'Authority'), which shall constitute an agency of government of the State of Delaware and the State of New Jersey for the following general public purposes, and which shall be deemed to be exercising essential government functions in effectuating such purposes, to wit:

"(a) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of crossings between the States of Delaware and New Jersey across the Delaware River or Bay at any location south of the boundary line between the State of Delaware and the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said River, together with such approaches or connections thereto as in the judgment of the Authority are required to make adequate and efficient connections between such crossings and any public highway or other routes in the State of Delaware or in the State of New Jersey; and

"(b) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of any transportation or terminal facility within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, which facility, in the judgment of the Authority, is required for the sound economic development of the area; and

"(c) The planning, financing, development, construction, purchase, lease, maintenance, improvement, and operation of any commerce facility or development within the State of Delaware or the New Jersey counties of Cape May, Cumberland, Gloucester, and Salem, which in the judgment of the Authority is required for the sound economic development of the area; and

"(d) The performance of such other functions as may be hereafter entrusted to the Authority by concurrent legislation expressly in implementation hereof.

"The Authority shall not undertake any major project or part thereof without having first secured such approvals as may be required by legislation of the State in which the project is to be located.

"The Authority shall not undertake any major project, or part thereof to be located in the Delaware River or Bay, including, without limitation, any deep-water port or superport, without having first secured approval thereof by concurrent legislation of the two States expressly in implementation thereof.

"The Authority shall not undertake any major project or part thereof without first giving public notice and holding a public hearing, if requested, on any proposed major project, in accordance with the law of the State in which the major project is to be located. Each State shall provide by law for the time and manner for the giving of such public notice, the requesting of a public hearing and the holding of such public hearings.

"ARTICLE V

"COMMISSIONERS

"The Authority shall consist of twelve Commissioners, six of whom shall be residents of and qualified to vote in and shall be appointed from the State of Delaware, and six of whom shall be residents of and qualified to vote in and shall be appointed from the State of New Jersey; not more than three of the Commissioners of each State shall be of the same political party; the Commissioners for each State shall be appointed in the manner fixed and determined from time to time by the law of each State respectively. Each Commissioner shall hold office for a term of five years, and until his successor shall have been appointed and qualified, but the terms of the first Commissioners shall be so designated that the term of at least one Commissioner from each State shall expire each year. All terms shall run to the first day of July. Any vacancy, however created, shall be filled for the unexpired term only. Any Commissioner may be suspended or removed from office as provided by law of the State from which he shall be appointed.

"Commissioners shall be entitled to reimbursement for necessary expenses to be paid only from revenues of the Authority and may not receive any other compensation for services to the Authority except such as may from time to time be authorized from such revenues by concurrent legislation.

"ARTICLE VI

"BOARD ACTION

"The Commissioners shall have charge of the Authority's property and affairs and shall, for the purpose of doing business, constitute a Board, but no action of the Commissioners shall be binding or effective unless taken at a meeting at which at least four Commissioners from each State are present, and unless at least four Commissioners from each State shall vote in favor thereof. The vote of any one or more of the Commissioners from each State shall be subject to cancellation by the Governor of such State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes and for notification of the action thereon.

"ARTICLE VII

"GENERAL POWERS

"For the effectuation of its authorized purposes, the Authority is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To adopt and use an official seal.

"(c) To elect a chairman and a vice chairman from among the Commissioners. The chairman and vice chairman shall be elected from different States and shall each hold office for two years. The chairmanship and vice chairmanship shall be alternated between the two States.

"(d) To adopt bylaws to govern the conduct of its affairs by the Board of Commissioners, and it may adopt rules and regulations and may make appropriate orders to carry out and discharge its powers, duties, and functions, but no bylaw or rule, regulation, or order shall take effect until it has been filed with the Secretary of State of each State or in such other manner in each State as may be provided by the law thereof. In the establishment of rules, regulations, and orders respecting the use of any crossing, transportation, or terminal facility or commerce facility or development owned or operated by the Authority, including approach roads, it shall consult with appropriate officials of both States in order to insure, as far as possible, uniformity of such rules, regulations, and orders with the laws of both States.

"(e) To appoint or employ such other officers, agents, attorneys, engineers, and employees as it may require for the performance of its duties and to fix and determine their qualifications, duties, compensation, pensions, terms of office and all other conditions and terms of employment and retention.

"(f) To enter into contracts and agreements with either State or with the United States, or with any public body, department, or other agency of either State or of the United States or with any individual, firm, or corporation deemed necessary or advisable for the exercise of its purposes and powers. Government contracts.

"(g) To accept from any government or governmental department, agency, or other public or private body, or from any other source, grants, or contributions of money or property as well as loans, advances, guarantees, or other forms of financial assistance which it may use for or in aid of any of its purposes.

"(h) To acquire (by gift, purchase, or condemnation), own, hire, lease, use, operate, and dispose of property, whether real, personal, or mixed, or of any interest therein, including any rights, franchise and property for any crossing, facility, or other project owned by another and which the Authority is authorized to own and operate.

"(i) To designate as express highways, and control public and private access thereto, all or any approaches to any crossing or other facility of the Authority for the purpose of connecting the same with any highway or other route in either State.

"(j) To borrow money and to evidence such loans by bonds, notes, or other obligations, either secured or unsecured, and either in registered or unregistered form, and to fund or refund such evidences of indebtedness, which may be executed with facsimile signatures of such persons as may be designated by the Authority and by a facsimile of its corporate seal.

"(k) To procure and keep in force adequate insurance or otherwise provide for the adequate protection of its property, as well as to indemnify it or its officers, agents, or employees against loss or liability with respect to any risk to which it or they may be exposed in carrying out any function hereunder.

"(l) To grant the use of by franchise, lease, or otherwise, and to make charges for the use of any crossing, facility, or other project or property owned or controlled by it.

"(m) To exercise the right of eminent domain to acquire any property or interest therein.

"(n) To determine the exact location, system, and character of and all other matters in connection with any and all crossings, transportation, or terminal facilities, commerce facilities or developments or

other projects which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(o) To exercise all other powers not inconsistent with the Constitutions of the two States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"ARTICLE VIII

"ADDITIONAL POWERS

"For the purpose of effectuating the authorized purposes of the Authority, additional powers may be granted to the Authority by legislation of either State without the concurrence of the other, and may be exercised within such State, or may be granted to the Authority by Congress and exercised by it; but no additional duties or obligations shall be undertaken by the Authority under the law of either State or of Congress without authorization by the law of both States.

"ARTICLE IX

"EMINENT DOMAIN

"If the Authority shall find and determine that any property or interest therein is required for a public use in furtherance of the purposes of the Authority, said determination shall not be affected by the fact that such property has theretofore been taken over or is then devoted to a public use, but the public use in the hands or under the control of the Authority shall be deemed superior to the public use for which it has theretofore been taken or to which it is then devoted. The Authority shall not exercise the power of eminent domain granted herein to acquire any property, other than a crossing, devoted to a public use, of either State, or of any municipality, local government, agency, public authority or commission, or of two or more of them, for any purpose other than a crossing, without having first secured the authorization of the holder of the title to the land in question and such other approvals as may be required by legislation of the State in which the project is to be located. The Authority shall not exercise the power of eminent domain in connection with any commerce facility or development.

"In any condemnation proceedings in connection with the acquisition by the Authority of property or property rights of any character in either State and the right of inspection and immediate entry thereon, through the exercise by it of its power of eminent domain, any existing or future law or rule of court of the State in which such property is located with respect to the condemnation of property for the construction, reconstruction, and maintenance of highways therein shall control. The Authority shall have the same power and authority with respect thereto as the State agency named in any such law, provided that nothing herein contained shall be construed as requiring joint or concurrent action by the two States with respect to the enactment, repeal, or amendment of any law or rule

of court on the subject of condemnation under which the Authority may proceed by virtue of this Article.

"If the established grade of any street, avenue, highway, or other route shall be changed by reason of the construction by the Authority of any work so as to cause loss or injury to any property abutting on such street, avenue, highway, or other route, the Authority may enter into voluntary agreements with such abutting property owners and pay reasonable compensation for any loss or injury so sustained, whether or not it be compensable as damages under the condemnation law of the State.

"The power of the Authority to acquire property by condemnation shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

"ARTICLE X

"REVENUE AND APPLICATION

"The Authority is hereby authorized to establish, levy, and collect such tolls and other charges as it may deem necessary, proper, or desirable in connection with any crossing, transportation, or terminal facility, commerce facility or development or other project which it is or may be authorized at any time to construct, own, operate, or control, and the aggregate of said tolls and charges shall be at least sufficient (1) to meet the combined expenses of operation, maintenance and improvement thereof, (2) to pay the cost of acquisition or construction, including the payment, amortization, and retirement of bonds or other securities or obligations assumed, issued, or incurred by the Authority, together with interest thereon, and (3) to provide reserves for such purposes; and the Authority is hereby authorized and empowered, subject to prior pledges, if any, to pledge such tolls and other revenues or any part thereof as security for the repayment with interest of any moneys borrowed by it or advanced to it for its authorized purposes and as security for the satisfaction of any other obligations assumed by it in connection with such loans or advances. There shall be allocated to the cost of the acquisition, construction, operation, maintenance, and improvement of such facilities and projects such proportion of the general expenses of the Authority as it shall deem properly chargeable thereto.

"ARTICLE XI

"COVENANT WITH BONDHOLDERS

"The two said States covenant and agree with each other and with the holders of any bonds or other securities or obligations of the Authority, assumed, issued, or incurred by it and as security for which there may be pledged the tolls and revenues or any part thereof of any crossing, transportation, or terminal facility, commerce facility or development or other project, that the two said States will not, so long as any of such bonds or other obligations remain outstanding and unpaid, diminish, or impair the power of the Authority to establish, levy, and collect tolls and other charges in connection therewith, and that neither of the two said States will, so long as any of such bonds or other obligations remain outstanding and unpaid, authorize any crossing of the Delaware River or Delaware Bay south of the line mentioned in Article IV(a) of this Compact by any person or body other than the Authority, unless, in

either case, adequate provision shall be made by law for the protection of those advancing money upon such obligations.

"ARTICLE XII

"SECURITIES LAWFUL INVESTMENTS

"The bonds or other securities or obligations which may be issued by the Authority pursuant to this Compact, or any amendments hereof or supplements hereto, are hereby declared to be negotiable instruments, and are hereby made securities in which all State and municipal officers and bodies of each State, all banks, bankers, trust companies, savings banks, building and loan associations, saving and loan associations, investment companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of either State may properly and legally invest any funds, including capital, belonging to them or within their control, and said obligations are hereby made securities which may properly and legally be deposited with and shall be received by any State or municipal officer or agency of either State for any purpose for which the deposit of bonds or other obligations of such State is now or may hereafter be authorized.

"ARTICLE XIII

"TAX STATUS

"The powers and functions exercised by the Authority under this Compact and any amendments hereof or supplements hereto are and will be in all respects for the benefit of the people of the States of Delaware and New Jersey, the region and Nation, for the increase of their commerce and prosperity and for the enhancement of their general welfare. To this end, the Authority shall be regarded as performing essential governmental functions in exercising such powers and functions and in carrying out the provisions of this Compact and of any law relating thereto, and shall not be required to pay any taxes or assessments of any character, levied by either State or political subdivision thereof, upon any of the property used by it for such purposes, or any income or revenue therefrom, including any profit from a sale or exchange. The bonds or other securities or obligations issued by the Authority, their transfer and the interest paid thereon or income therefrom, including any profit from a sale or exchange, shall at all times be free from taxation by either State or any subdivision thereof.

"ARTICLE XIV

"JURISDICTION; USE OF LANDS

"Each of the two States hereby consents to the use and occupancy by the Authority of any lands and property of the Authority in such State for the construction, operation, maintenance or improvement of any crossing, transportation, or terminal facility, commerce facility or development, or other project which it is or may be authorized

at any time to construct, own, or operate, including lands lying under water.

"ARTICLE XV

"REVIEW AND ENFORCEMENT OF RULES

"Judicial proceedings to review any bylaw, rule, regulation, order, or other action of the Authority or to determine the meaning or effect thereof may be brought in such court of each State, and pursuant to such law or rules thereof, as a similar proceeding with respect to any agency of such State might be brought.

"Each State may provide by law what penalty or penalties shall be imposed for violation of any lawful rule, regulation, or order of the Authority, and, by law or rule of court, for the manner of enforcing the same.

"ARTICLE XVI

"NO PLEDGE OF CREDIT

"The Authority shall have no power to pledge the credit or to create any debt or liability of the State of Delaware, of the State of New Jersey or of any other agency or of any political subdivision of said States.

"ARTICLE XVII

"LOCAL COOPERATION AND AGREEMENTS

"(a) All municipalities, political subdivisions, and every department, agency, or public body of each of the States are hereby authorized and empowered to cooperate with, aid and assist the Authority in effectuating the provisions of this Compact and of any amendment hereof or supplement hereto.

"(b) The Authority is authorized and empowered to cooperate with each of the States, or any political subdivision thereof, and with any municipality, local government, agency, public authority or commission of the foregoing, in connection with the acquisition, planning, rehabilitation, construction or development of any project, other than a crossing, and to enter into an agreement or agreements, subject to compliance with the laws of the State in which the project is to be located, with each of the States, or any political subdivision thereof, and with any municipality, county, local government, agency, public authority, or commission or with two or more of them, for or relating to such purposes.

"(c) The Authority and the city, town, municipality, or other political subdivision in which any project, other than a crossing, is to be located are hereby authorized and empowers, subject to compliance with the laws of the State in which the project is to be located, to enter into an agreement or agreements to provide which local laws, resolutions, ordinances, rules, and regulations, if any, of the city, town, municipality, or other political subdivision affected by such project shall apply to such project. All other existing local laws, resolutions, ordinances or rules and regulations not provided for in the agreement shall be applicable to the project, other than a crossing. All local laws, resolutions, ordinances or rules and regulations enacted after the date of the agreement shall not be applicable to such projects unless made applicable by the agreement or any modification thereto.

"ARTICLE XVIII

"DEPOSITARIES

"All banks, bankers, trust companies, savings banks and other persons carrying on a banking business under the laws of either State are authorized to give security for the safekeeping and prompt payment of moneys of the Authority deposited by it with them, in such manner and form as may be required by and may be approved by the Authority, which security may consist of a good and sufficient undertaking with such sureties as may be approved by the Authority, or may consist of the deposit with the Authority or other depository approved by the Authority as collateral of such securities as the Authority may approve.

"ARTICLE XIX

"AGENCY POLICE

"Members of the police force established by the Authority, regardless of their residence, shall have in each State, on the crossings, transportation or terminal facilities, commerce facilities or developments and other projects and the approaches thereto, owned, operated, or controlled by the Authority, and at such other places and under such circumstances as the law of each State may provide, all the powers of investigation, detention, and arrest conferred by law on peace officers, sheriffs, or constables in such State or usually exercised by such officers in each State.

"ARTICLE XX

"REPORTS AND AUDITS

"The Authority shall make annual reports to the Governors and Legislatures of the State of Delaware and the State of New Jersey, setting forth in detail its operations and transactions, and may make such additional reports from time to time to the Governors and Legislatures as it may deem desirable.

"It shall, at least annually, cause an independent audit of its fiscal affairs to be made, and shall furnish a copy of such audit report together with such additional information or data with respect to its affairs as it may deem desirable to the Governors and Legislatures of each State.

"It shall furnish such information or data with respect to its affairs as may be requested by the Governor or Legislature of each State.

"ARTICLE XXI

"BOUNDARIES UNAFFECTED

"The existing territorial or boundary lines of the States or the jurisdiction of the two States established by said boundary lines shall not be changed hereby.

"ARTICLE XXII

"ENVIRONMENTAL PROTECTION

"(a) The planning, development, construction, and operation of any project, other than a crossing, shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetlands laws, or subaqueous land laws or natural resources laws, now or hereinafter enacted, or promulgated by the State in which the project, or any part thereof, is located.

"(b) The planning, development, construction, and operation of any project, other than a crossing, to be located in the Delaware River and Bay shall comply with all environmental protection laws, regulations, directives, and orders, including, without limitation, any coastal zone laws, wetlands laws, subaqueous land laws or natural resource laws now or hereinafter enacted or promulgated by either State.

"(c) The planning, development, construction, and operation of any project, other than a crossing, located in the coastal zone of Delaware (as defined in Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989), shall be subject to the same limitations, requirements, procedures, and appeals as apply to any other person under the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. Nothing in this Compact shall be deemed to pre-empt, modify, or supersede any provision of the Delaware Coastal Zone Act, Chapter 70 of Title 7 of the Delaware Code, as in effect on January 1, 1989. The interpretation and application of this paragraph shall be governed by the laws of the State of Delaware and be determined by the courts of the State of Delaware.

"(d) The planning, development, construction, and operation of any project, other than a crossing, located in New Jersey, shall be subject to the provisions of New Jersey law, when applicable, including but not limited to the Wetlands Act of 1970, N.J.S.A. 13:9A-1, et seq. and the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, et seq.".

SEC. 2. FEDERAL JURISDICTION NOT AFFECTED.

Nothing contained in the compact set forth in section 1 shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the area which forms the subject of such compact.

SEC. 3. AUTHORITY FOR ADDITIONAL TOLL BRIDGES.

Section 4 of the Act entitled "An Act to authorize the State of Delaware, by and through its State highway department, to construct, maintain, and operate a toll bridge across the Delaware River near Wilmington, Delaware" approved July 13, 1946 (60 Stat. 533), as amended by the Act of June 27, 1951 (65 Stat. 91) and the Act of October 3, 1962 (76 Stat. 741-742), is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding after paragraph (4) the following:

"(5) to pay the cost of any project which the Delaware River and Bay Authority is or may be authorized to construct, own, operate, or control, under the Delaware-New Jersey Compact, as consented to by the Congress.".

SEC. 4. REQUIREMENTS OF OTHER LAWS.

In addition to any other requirement of law, any project constructed by the Delaware River and Bay Authority in and over the navigable waters of the United States shall be subject to the procedural requirements of section 2(a) of the Fish and Wildlife Coordination Act (16 U.S.C. 662(a)).

SEC. 5. CONSTRUCTION.

Nothing in this resolution shall be construed as—

(1) amending or superseding the provisions of the Act of September 27, 1961 (75 Stat. 688); or

(2) granting advance consent of Congress for the performance by the Delaware River and Bay Authority of other functions, as contemplated by Article IV, paragraph (d) of the compact set forth in section 1 or for the assumption by the Authority of additional powers, as contemplated by Article VIII of such compact.

SEC. 6. DISCLOSURE OF INFORMATION.

The right is reserved to the Congress or any of its standing committees to require of the Delaware River and Bay Authority the disclosure and furnishing of such information and data as is deemed appropriate by the Congress or any committee thereof having jurisdiction of the subject matter of this resolution.

SEC. 7. RESERVATION BY THE CONGRESS.

The right to alter, amend, or repeal this joint resolution is expressly reserved.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 657 (S.J. Res. 373):

HOUSE REPORTS: No. 101-905 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 22, considered and passed House.
Oct. 23, considered and passed Senate.

Public Law 101-566
101st Congress

An Act

To establish the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Program Act of 1990

Nov. 15, 1990
[S. 639]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990.
42 USC 12401 note.

SEC. 101. SHORT TITLE.

This Act may be referred to as the "Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990".

SEC. 102. FINDING, PURPOSES, AND DEFINITION.

42 USC 12401.

(a) FINDING.—Congress finds that it is in the national interest to accelerate efforts to develop a domestic capability to economically produce hydrogen in quantities that will make a significant contribution toward reducing the Nation's dependence on conventional fuels.

(b) PURPOSES.—The purposes of this Act are—

(1) to direct the Secretary to prepare a comprehensive 5-year comprehensive program management plan that will identify and resolve critical technical issues necessary for the realization of a domestic capability to produce, distribute, and use hydrogen economically within the shortest time practicable;

(2) to direct the Secretary to develop a technology assessment and information transfer program among the Federal agencies and aerospace, transportation, energy, and other entities; and

(3) to develop renewable energy resources as a primary source of energy for the production of hydrogen.

(c) DEFINITION.—As used in this Act, the term:

(1) "critical technology" (or "critical technical issue") means a technology (or issue) that, in the opinion of the Secretary, requires understanding and development in order to take the next needed step in the development of hydrogen as an economic fuel or storage medium; and

(2) "Secretary" means the Secretary of Energy.

SEC. 103. COMPREHENSIVE MANAGEMENT PLAN.

42 USC 12402.

(a) PLAN.—The Secretary shall prepare a comprehensive 5-year program management plan for research and development activities, which shall be conducted over a period of no less than 5 years and shall be consistent with the provisions of sections 104 and 105. In the preparation of such plan, the Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Secretary of Transportation, the Hydrogen Technical Advisory Panel established under section 108, and the heads of such other Federal agencies and such public and private organizations as he deems appropriate. The plan shall be structured to identify and address areas of research critical to the realization of a domestic hydrogen production capability within the shortest time practicable.

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(b) CONTENTS OF PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary shall transmit the comprehensive program management plan to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Subsequent plans shall be incorporated in the management plan under this section. The plan shall include—

(1) a prioritization of research areas critical to the economic use of hydrogen as a fuel and energy storage medium;

(2) the program elements, management structure, and activities, including program responsibilities of individual agencies and individual institutional elements;

(3) the program strategies including technical milestones to be achieved toward specific goals during each fiscal year for all major activities and projects;

(4) the estimated costs of individual program items, including current as well as proposed funding levels for each of the 5 years of the plan for each of the participating agencies;

(5) a description of the methodology of coordination and technology transfer; and

(6) the proposed participation by industry and academia in the planning and implementation of the program.

(c) DEMONSTRATION PLAN.—The Secretary shall, in consultation with the Secretary of Transportation, the Administrator of the National Aeronautics and Space Administration, and the Hydrogen Technical Advisory Panel established under section 108, also prepare a comprehensive large-scale hydrogen demonstration plan with respect to demonstrations carried out pursuant to section 105. Subsequent plans shall be incorporated in the management plan under this section. Such plan shall include—

(1) a description of the necessary research and development activities that must be completed before initiation of a large-scale hydrogen production and storage demonstration program;

(2) an assessment of the appropriateness of a large-scale demonstration immediately upon completion of the necessary research and development activities;

(3) an implementation schedule with associated budget and program management resource requirements; and

(4) a description of the role of the private sector in carrying out the demonstration program.

42 USC 12403.

SEC. 104. RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary shall conduct a research and development program, consistent with the comprehensive 5-year program management plan under section 103, to ensure the development of a domestic hydrogen fuel production capability within the shortest time practicable consistent with market conditions.

(b) RESEARCH.—(1) Particular attention shall be given to developing an understanding and resolution of all critical technical issues preventing the introduction of hydrogen into the marketplace.

(2) The Secretary shall initiate research or accelerate existing research in critical technical issues that will contribute to the development of more economic hydrogen production and use, including, but not limited to, critical technical issues with respect to production, liquefaction, transmission, distribution, storage, and use (including use of hydrogen in surface transportation).

(c) RENEWABLE ENERGY PRIORITY.—The Secretary shall give priority to those production techniques that use renewable energy resources as their primary source of energy for hydrogen production.

(d) NEW TECHNOLOGIES.—The Secretary shall, for the purpose of performing his responsibilities pursuant to this Act, solicit proposals for and evaluate any reasonable new or improved technology that could lead or contribute to the development of economic hydrogen production storage and utilization.

(e) INFORMATION.—The Secretary shall conduct evaluations, arrange for tests and demonstrations, and disseminate to developers information, data, and materials necessary to support efforts undertaken pursuant to this section, consistent with section 106.

SEC. 105. DEMONSTRATIONS. 42 USC 12404.

(a) REQUIREMENT.—The Secretary shall conduct demonstrations of critical technologies, preferably in self-contained locations, so that technical and non-technical parameters can be evaluated to best determine commercial applicability of the technology.

(b) SMALL-SCALE DEMONSTRATIONS.—Concurrently with activities conducted pursuant to section 104, the Secretary shall conduct small-scale demonstrations of hydrogen technology at self-contained sites.

SEC. 106. TECHNOLOGY TRANSFER PROGRAM. 42 USC 12405.

(a) PROGRAM.—The Secretary shall conduct a program designed to accelerate wider application of hydrogen production, storage, utilization, and other technologies available in near term as a result of aerospace experience as well as other research progress by transferring critical technologies to the private sector. The Secretary shall direct the program with the advice and assistance of the Hydrogen Technical Advisory Panel established under section 108. The objective in seeking this advice is to increase participation of private industry in the demonstration of near commercial applications through cooperative research and development arrangements, joint ventures or other appropriate arrangements involving the private sector.

(b) INFORMATION.—The Secretary, in carrying out the program authorized by subsection (a), shall—

(1) undertake an inventory and assessment of hydrogen technologies and their commercial capability to economically produce, store, or utilize hydrogen in aerospace, transportation, electric utilities, petrochemical, chemical, merchant hydrogen, and other industrial sectors; and

(2) develop a National Aeronautics Space Administration, Department of Energy, and industry information exchange program to improve technology transfer for—

(A) application of aerospace experience by industry;

(B) application of research progress by industry and aerospace;

(C) application of commercial capability of industry by aerospace; and

(D) expression of industrial needs to research organizations.

The information exchange program may consist of workshops, publications, conferences, and a data base for the use by the public and private sectors.

42 USC 12406.

SEC. 107. COORDINATION AND CONSULTATION.

(a) SECRETARY'S RESPONSIBILITY.—The Secretary shall have overall management responsibility for carrying out programs under this Act. In carrying out such programs, the Secretary, consistent with such overall management responsibility—

(1) shall use the expertise of the National Aeronautics and Space Administration and the Department of Transportation; and

(2) may use the expertise of any other Federal agency in accordance with subsection (b) in carrying out any activities under this title, to the extent that the Secretary determines that any such agency has capabilities which would allow such agency to contribute to the purpose of this Act.

(b) ASSISTANCE.—The Secretary may, in accordance with subsection (a), obtain the assistance of any department, agency, or instrumentality of the Executive branch of the Federal Government upon written request, on a reimbursable basis or otherwise and with the consent of such department, agency, or instrumentality. Each such request shall identify the assistance the Secretary deems necessary to carry out any duty under this Act.

(c) CONSULTATION.—The Secretary shall consult with the Administrator of the National Aeronautics and Space Administration, the Administrator of the Environmental Protection Agency, the Secretary of Transportation, and the Hydrogen Technical Advisory Panel established under section 108 in carrying out his authorities pursuant to this Act.

42 USC 12407.

SEC. 108. TECHNICAL PANEL.

(a) ESTABLISHMENT.—There is hereby established the Hydrogen Technical Advisory Panel (the "technical panel"), to advise the Secretary on the programs under this Act.

(b) MEMBERSHIP.—The technical panel shall be appointed by the Secretary and shall be comprised of such representatives from domestic industry, universities, professional societies, Government laboratories, financial, environmental, and other organizations as the Secretary deems appropriate based on his assessment of the technical and other qualifications of such representatives. Appointments to the technical panel shall be made within 90 days after the enactment of this Act. The technical panel shall have a chairman, who shall be elected by the members from among their number.

(c) COOPERATION.—The heads of the departments, agencies, and instrumentalities of the Executive branch of the Federal Government shall cooperate with the technical panel in carrying out the requirements of this section and shall furnish to the technical panel such information as the technical panel deems necessary to carry out this section.

(d) REVIEW.—The technical panel shall review and make any necessary recommendations to the Secretary on the following items—

(1) the implementation and conduct of programs under this Act;

(2) the economic, technological, and environmental consequences of the deployment of hydrogen production and use systems; and

(3) comments on and recommendations for improvements in the comprehensive 5-year program management plan required under section 103.

(e) SUPPORT.—The Secretary shall provide such staff, funds and other support as may be necessary to enable the technical panel to carry out the functions described in this section.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS. 42 USC 12408.

There is hereby authorized to be appropriated to carry out the purposes of this Act (in addition to any amounts made available for such purposes to other Acts)—

(1) $3,000,000 for the fiscal year 1992;
(2) $7,000,000 for the fiscal year 1993; and
(3) $10,000,000 for the fiscal year 1994.

Passed the Senate October 16 (legislative day, October 2), 1990.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 639 (H.R. 4521):

HOUSE REPORTS: No. 101-474 accompanying H.R. 4521 (Comm. on Science, Space, and Technology).
SENATE REPORTS: Nos. 101-385 and 101-386 accompanying H.R. 4521, both from (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 8, H.R. 4521 considered and passed House.
Oct. 16, S. 639 considered and passed Senate.
Oct. 23, considered and passed House.

Public Law 101-567
101st Congress

An Act

Nov. 15, 1990
[S. 1805]

To authorize the Secretary of the Interior to reinstate oil and gas lease LA 033164.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 31(g) of the Mineral Leasing Act, as amended (30 U.S.C. 188(g)), is amended by adding the following:

"(3) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of this Act shall be eligible for reinstatement under the terms and conditions set forth in subsections (c), (d), and (e) of this section, applicable to leases issued under subsection 17(c) of this Act (30 U.S.C. 226(c)) except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

"(4) Notwithstanding any other provision of law, any lease issued pursuant to section 14 of the Act shall, upon renewal on or after enactment of this paragraph, continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.".

SEC. 2. (a) Notwithstanding any other provision of law, United States oil and gas leases CALA 033164, CAS 019746C, and CAS 021009B shall be eligible for reinstatement under the terms and conditions set forth in subsections 31 (c), (d), and (e) of the Mineral Leasing Act, as amended (30 U.S.C. 188 (c), (d), and (e)) applicable to leases issued under section 17(c) of the Mineral Leasing Act (30 U.S.C. 226(c)) except, that, upon reinstatement, such lease shall continue for twenty years and so long thereafter as oil or gas is produced in paying quantities.

(b) Within thirty days after the enactment of this Act, the Secretary of the Interior shall give written notice by registered mail to the last lessees of record for the leases listed in subsection (a) of this section that said lessees may petition for reinstatement in accordance with the procedures and conditions in subsections 31 (c), (d), and (e) of the Mineral Leasing Act, as amended (30 U.S.C. 188 (c), (d), and (e)). The lessee shall have sixty days from the date of the

Secretary's notice to file such petition. If the Secretary determines that the leases listed in subsection (a) of this section qualify for reinstatement pursuant to subsection 31(d) (30 U.S.C. 118(d)), in all respects except for compliance with the deadlines imposed by that provision, the Secretary shall reinstate such leases.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 1805:

HOUSE REPORTS: No. 101-837 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-395 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 11, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 27, House receded from its amendments.

Public Law 101-568
101st Congress

An Act

Nov. 15, 1990
[S. 3215]

To authorize the transfer by lease of a specified naval landing ship dock to the Government of Brazil.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE

(a) IN GENERAL.—Subject to section 5, the Secretary of the Navy is authorized to lease the naval landing ship dock Alamo (LSD-33) to the Government of Brazil. A lease under this Act may be renewed.

(b) APPLICABLE LAW.—Such leasing shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 et seq.), except that section 62(a) of that Act (22 U.S.C. 2796a(a)) shall apply only to renewals of the lease.

SEC. 2. COSTS OF LEASING

Any expense of the United States in connection with the lease authorized by section 1 shall be charged to the Government of Brazil.

SEC. 3. CONSIDERATION FOR LEASE

Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of the ship described in section 1(a) may provide, as part or all of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Brazil.

SEC. 4. EXPIRATION OF AUTHORITY

The authority granted by section 1(a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease authorized by that section is entered into during that period.

SEC. 5. CONDITION ON AUTHORITY TO TRANSFER

The Secretary may not exercise the authority granted under section 1(a) unless and until the Government of Brazil has provided written assurances to the Secretary of State that Brazil is in compliance with the United Nations sanctions against Iraq and has discontinued the export to Iraq of all military equipment, materials, and technologies, including the export of all nuclear, chemical, and biological warfare equipment, materials, and technologies and all missile equipment, materials, and technologies. The Secretary of

State shall transmit to Congress a copy of any such assurances received by the Secretary.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 3215:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 17, considered and passed Senate.
Oct. 23, considered and passed House.

Public Law 101-569
101st Congress

Joint Resolution

Nov. 15, 1990
[S.J. Res. 318]

Providing for appointment of Ira Michael Heyman as a citizen regent of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of A. Leon Higginbotham, Junior, of Pennsylvania, is filled by appointment of Ira Michael Heyman of California. The appointment is for a term of six years and shall take effect on the date on which this joint resolution becomes law.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S.J. Res. 318:

SENATE REPORTS: No. 101-346 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed Senate.
Oct. 23, considered and passed House, amended.
Oct. 24, Senate concurred in House amendments.

Public Law 101-570
101st Congress

Joint Resolution

Designating 1991 as the "Year of Thanksgiving for the Blessings of Liberty".

Nov. 15, 1990
[S.J. Res. 369]

Whereas the people of the United States have expressed gratitude by celebrating a national season of thanksgiving since the 17th century;

Whereas the War for Independence was won and the constitution written and adopted to secure the blessings of liberty for citizens;

Whereas after the first Congress drafted a Bill of Rights to be added to the Constitution, established a Federal judicial system, created departments of administration, and established the Government of the United States under the Constitution, it requested President Washington to issue a proclamation of national thanksgiving;

Whereas in the first Presidential proclamation, President Washington called on the people of the United States to acknowledge, by thanksgiving, the blessings of civil and religious liberty;

Whereas by December 15, 1791, three-quarters of the United States had ratified the proposed Bill of Rights;

Whereas 1991 is recognized as the official observance of the bicentennial of the ratification of the Bill of Rights; and

Whereas for 200 years the people of the United States have enjoyed the blessings of liberty under the Constitution and the Bill of Rights, embodied in the first 10 amendments of the Constitution: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1991 is designated as the "Year of Thanksgiving for the Blessings of Liberty", and the President is authorized and requested to issue a proclamation calling upon the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the year with appropriate ceremonies and activities.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S.J. Res. 369:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed Senate.
Oct. 24, considered and passed House.

Public Law 101-571
101st Congress

An Act

Nov. 15, 1990
[H.R. 2419]

To authorize the Secretary of Agriculture to exchange certain property in the Chattahoochee National Forest for the construction of facilities in the National Forest.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF AGRICULTURE TO EXCHANGE FOREST SERVICE PROPERTY FOR CONSTRUCTION OF FOREST SERVICE FACILITIES.

Subject to the provisions of this Act, the Secretary of Agriculture (in this Act referred to as the "Secretary") may convey any of the right, title, and interest of the United States in and to any of the property described in section 3(1) in exchange for the construction of the facilities described in section 3(2) or the conveyance to the Secretary of real property and construction of such facilities, as the Secretary determines appropriate.

SEC. 2. LIMITATIONS ON EXCHANGE.

(a) EXCHANGE AGREEMENT.—In conducting any exchange under section 1, the Secretary shall enter into an agreement with a non-Federal party sufficient, in the determination of the Secretary, to assure that the non-Federal party will cause to be constructed for the Forest Service the facilities described in section 3(2).

(b) EXCHANGE FOR EQUAL VALUE.—In conducting any exchange under section 1, the Secretary shall assure that the value of the property received by the Secretary is equal to the value of the property conveyed by the Secretary, as determined by the Secretary, or if they are not equal, that values are equalized by the payment of money to the non-Federal party or to the Secretary, as follows:

(1) LIMIT ON AMOUNT OF PAYMENT.—The amount of the payment may not exceed 25 percent of the total value of any property conveyed by the Secretary in the exchange. The Secretary shall, to the extent possible, minimize the amount of the payment of money involved in the exchange.

(2) DETERMINATION OF VALUE OF FACILITIES CONSTRUCTED.—The value of the facilities constructed for the Forest Service under the exchange shall be equal to the actual costs of construction of such facilities, as determined by the Secretary to be fair and reasonable, in accordance with the specifications contained in the document referred to in section 3(2).

SEC. 3. DESCRIPTION OF PROPERTIES.

The properties referred to in this Act shall consist of the following:

(1) PROPERTY CONVEYED BY SECRETARY.—The properties conveyed by the Secretary may consist of any lands of the Forest Service within the State of Georgia that were acquired solely for administrative purposes, together with any improvements lo-

cated on the lands, described in the document entitled "Chattahoochee National Forest Land Exchange—Description of Properties Conveyed", which shall be on file and available for public inspection in the Office of the Chief of the United States Forest Service of the Department of Agriculture, Washington, District of Columbia.

(2) FACILITIES CONSTRUCTED FOR FOREST SERVICE.—The facilities constructed for the National Forest Service shall consist of the facilities the location and specifications of which are described in the document entitled "Prospectus, Blairsville Ranger District Office and Facilities, Brasstown Ranger District, Chattahoochee National Forest", which shall be on file and available for public inspection in the Office of the Chief of the United States Forest Service of the Department of Agriculture, Washington, District of Columbia.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 2419:

HOUSE REPORTS: No. 101-713 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 17, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-572
101st Congress

An Act

Nov. 15, 1990
[H.R. 3656]

To clarify the application of the functional relationship test to gas utility holding companies registered under the Public Utility Holding Company Act of 1935.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Gas Related Activities Act of 1990.
15 USC 79k note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gas Related Activities Act of 1990".

15 USC 79k note.

SEC. 2. RULE OF CONSTRUCTION.

(a) TREATMENT OF CERTAIN ACQUISITIONS INVOLVING GAS COMPANIES OR GAS TRANSPORTATION OR STORAGE.—The acquisition by a registered company of any interest in any natural gas company or of any interest in any company organized to participate in activities involving the transportation or storage of natural gas, shall be deemed, for the purposes of section 11(b)(1) of the Act, to be reasonably incidental or economically necessary or appropriate to the operation of such gas utility companies.

(b) TREATMENT OF ACQUISITIONS RELATED TO SUPPLY OF NATURAL GAS; COMMISSION DETERMINATION OF CUSTOMER INTEREST.—The acquisition by a registered company of any interest in any company organized to participate in activities (other than those of a natural gas company or involving the transportation or storage of natural gas) related to the supply of natural gas, including exploration, development, production, marketing, manufacture, or other similar activities related to the supply of natural or manufactured gas, shall be deemed, for purposes of section 11(b)(1) of the Act, to be reasonably incidental or economically necessary or appropriate to the operation of such gas utility companies, if—

(1) the Commission determines, after notice and opportunity for hearing in which the company proposing the acquisition shall have the burden of proving, that such acquisition is in the interest of consumers of each gas utility company of such registered company or consumers of any other subsidiary of such registered company; and

(2) the Commission determines that such acquisition will not be detrimental to the interest of consumers of any such gas utility company or other subsidiary or to the proper functioning of the registered holding company system.

(c) CASE-BY-CASE DECISIONS REQUIRED.—Each such determination under this section shall be made on a case-by-case basis, and not be based on any preset criteria.

(d) SAVINGS PROVISION.—Nothing herein shall be construed to affect the applicability of any other provisions of the Act to the acquisition or retention of any such interest by any such company.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "registered company" means a company registered under the Act solely by reason of direct or indirect

ownership of voting securities of one or more gas utility companies, or any subsidiary company of such registered company;

(2) the term "natural gas company" has the meaning given such term under the Natural Gas Act (15 U.S.C. 717(a) et seq.); and

(3) the term "the Act" means the Public Utility Holding Company Act of 1935.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 3656:

HOUSE REPORTS: No. 101-477 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 8, considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendments.

○

Public Law 101-573
101st Congress

An Act

Nov. 15, 1990
[H.R. 4107]

To authorize the Secretary of the Interior to permit certain uses of lands within the Colonial National Historical Park in the Commonwealth of Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Virginia Natural Gas Company.

SECTION 1. RIGHT-OF-WAY FOR NATURAL GAS PIPELINE.

The Secretary of the Interior is authorized, under regulations generally applicable to utility rights-of-way in the National Park System, to issue a permit to the Virginia Natural Gas Company granting an underground easement for the construction, operation, and maintenance of one natural gas transmission pipeline under and across the Colonial National Historical Park in the State of Virginia. The natural gas pipeline shall be located within the Virginia Power Company's existing electric transmission corridor located between Routes 143 and 716.

SEC. 2. RIGHTS-OF-WAY FOR EXISTING PIPELINES.

The Secretary of the Interior is authorized, under regulations generally applicable to utility rights-of-way in the National Park System, to issue permits granting underground easements for the operation and maintenance of the following existing pipeline facilities under and across the Colonial National Historical Park in the State of Virginia:

(1) Colonial Products petroleum pipeline numbered LOA-90-001.

(2) Virginia Natural Gas pipeline at the Glass House numbered LOA-90-002B.

(3) Virginia Natural Gas pipeline at Page Street numbered LOA-90-002C.

(4) Virginia Natural Gas pipeline at Route 143 numbered LOA-90-002D.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 4107:

HOUSE REPORTS: No. 101-706 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 17, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-574
101st Congress

An Act

Nov. 15, 1990
[H.R. 4793]

To amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Administration Reauthorization and Amendments Act of 1990.
15 USC 631 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Administration Reauthorization and Amendments Act of 1990".

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TITLE I—AUTHORIZATION OF SMALL BUSINESS ADMINISTRATION PROGRAMS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking subsections (b) through (g),

(2) by redesignating subsection (h) as subsection (b), and

(3) by adding after subsection (b), as redesignated, the following new subsections:

"(c) The following program levels are authorized for fiscal year 1991:

"(1) For the programs authorized by this Act, the Administration is authorized to make $72,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $19,000,000 in loans as provided in section 7(a)(10), $24,000,000 in loans as provided in section 7(a)(11), $10,000,000 in loans as provided in section 7(a)(20), and $19,000,000 in loans to disabled veterans and Vietnam era veterans (as defined in section 1841, title 38, United States Code) under the general terms and conditions of section 7(a) of this Act.

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,070,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $3,500,000,000 in general business loans as provided in section 7(a), $50,000,000 in loans as provided in section 7(a)(12)(B), and $520,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $19,000,000 in purchases of preferred stock and $200,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,800,000,000.

"(d) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(e) The following program levels are authorized for fiscal year 1992:

"(1) For the programs authorized by this Act, the Administration is authorized to make $75,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $20,000,000 in loans as provided in section 7(a)(10), $25,000,000 in loans as provided in section 7(a)(11), $10,000,000 in loans as provided in section 7(a)(20), and $20,000,000 in loans to disabled veterans and Vietnam era veterans (as defined in section 1841, title 38, United States Code) under the general terms and conditions of section 7(a) of this Act.

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,449,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $3,850,000,000 in general business loans as provided in section 7(a), $53,000,000 in loans as provided in section 7(a)(12)(B), and $546,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $20,000,000 in purchases of preferred stock and $210,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,890,000,000.

"(f) There are authorized to be appropriated to the Administration for fiscal year 1992 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(g) The following program levels are authorized for fiscal year 1993:

"(1) For the programs authorized by this Act, the Administration is authorized to make $79,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $21,000,000 in loans as provided in section 7(a)(10), $26,000,000 in loans as provided in section 7(a)(11), $11,000,000 in loans as provided in section 7(a)(20), and $21,000,000 in loans to disabled veterans and Vietnam era veterans (as defined in section 1841, title 38, United States Code) under the general terms and conditions of section 7(a) of this Act.

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,671,000,000 in deferred participation loans and other financings; and of such sum, the

Administration is authorized to make $4,043,000,000 in general business loans as provided in section 7(a), $55,000,000 in loans as provided in section 7(a)(12)(B), and $573,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $21,000,000 in purchases of preferred stock and $221,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,985,000,000.

"(h) There are authorized to be appropriated to the Administration for fiscal year 1993 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

"(i) The following program levels are authorized for fiscal year 1994:

"(1) For the programs authorized by this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans; and of such sum the Administration is authorized to make $22,000,000 in loans as provided in section 7(a)(10), $27,000,000 in loans as provided in section 7(a)(11), $12,000,000 in loans as provided in section 7(a)(20), and $22,000,000 in loans to disabled veterans and Vietnam era veterans (as defined in section 1841, title 38, United States Code) under the general terms and conditions of section 7(a) of this Act.

"(2) For the programs authorized by this Act, the Administration is authorized to make $4,905,000,000 in deferred participation loans and other financings; and of such sum, the Administration is authorized to make $4,245,000,000 in general business loans as provided in section 7(a), $58,000,000 in loans as provided in section 7(a)(12)(B), and $602,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.

"(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $22,000,000 in purchases of preferred stock and $232,000,000 in guarantees of debentures.

"(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,084,000,000.

"(j) There are authorized to be appropriated to the Administration for fiscal year 1994 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.".

SEC. 102. DISASTER SALARIES AND EXPENSES.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end of subsection (a) the following new paragraph:

"(3) There are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for administrative expenses of the Administration.".

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

PART A—SMALL BUSINESS ACT

SEC. 201. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) FUNDING FORMULAS.—

(1) IN GENERAL.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended by striking the second proviso in subsection (a)(4) and inserting the following: "*Provided further,* That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $70,000,000 program based upon the population to be served by the Small Business Development Center as compared to the total population of the United States, plus $100,000 for each State, but no State shall receive less than $200,000.";

15 USC 648 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contracts, grants, or cooperative agreements for performance commencing on or after October 1, 1991. Contracts, grants, or cooperative agreements the performance of which commences before October 1, 1991, shall receive funding for the entire term of performance without regard to the amendment made by paragraph (1) and according to the State's pro rata share of a $65,000,000 program as computed on the effective date of this section under population estimates used for calendar year 1990 agreements, plus $50,000 for each State, but no State shall receive less than $200,000.

Repeal.

(b) SMALL BUSINESS DEVELOPMENT CENTER ACT.—Section 204 of the Small Business Development Center Act of 1980 (Public Law 96-302) is hereby repealed.

15 USC 648 note.

SEC. 202. EXPORT REVOLVING LINE OF CREDIT.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "for pre-export" in paragraph (14)(A), and

(2) by striking "18 months" and inserting "3 years" in paragraph (14)(A).

15 USC 637 note.

SEC. 203. TWO-YEAR RULE FOR ELIGIBILITY IN THE MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Small Business Administration may prescribe a minimum period of time during which a prospective Program Participant must be in operation in order to meet the eligibility requirements of section 8(a)(7)(A) of the Small Business Act (15 U.S.C. 637(a)(7)(A)), only if the Administration provides a waiver of such minimum period as set forth in subsection (b).

(b) WAIVER OF MINIMUM PERIOD OF OPERATION.—(1) The Administration shall provide that any requirement it establishes regarding the period of time a prospective Program Participant must be in operation may be waived and, a prospective Program Participant, who otherwise meets the requirements of section 8(a)(7)(A) of the

Small Business Act, shall be considered to have demonstrated reasonable prospects for success, if—

(A) the individual or individuals upon whom eligibility is to be based have substantial and demonstrated business management experience;

(B) the prospective Program Participant has demonstrated technical expertise to carry out its business plan with a substantial likelihood for success;

(C) the prospective Program Participant has adequate capital to carry out its business plan;

(D) the prospective Program Participant has a record of successful performance on contracts from governmental and nongovernmental sources in the primary industry category in which the prospective Program Participant is seeking Program certification; and

(E) the prospective Program Participant has, or can demonstrate its ability to timely obtain, the personnel, facilities, equipment, and any other requirements needed to perform such contracts.

(2) The authority to make the determination that a prospective Program Participant has demonstrated its potential for success by meeting the criteria specified in paragraph (1) of this subsection shall be made by the Administrator of the Small Business Administration, or a designee of such officer.

SEC. 204. SIZE DETERMINATIONS RELATING TO TRIBALLY OWNED BUSINESS CONCERNS.

(a) AFFILIATION RULES.—Section 7(j)(10)(J)(ii) of the Small Business Act (15 U.S.C. 636(j)(10)(J)(ii)) is amended to read as follows:

"(ii)(I) Except as authorized by subclauses (II) or (III), no award shall be made pursuant to section 8(a) to a concern other than a small business concern.

"(II) In determining the size of a small business concern owned by a socially and economically disadvantaged Indian tribe (or a wholly owned business entity of such tribe), each firm's size shall be independently determined without regard to its affiliation with the tribe, any entity of the tribal government, or any other business enterprise owned by the tribe, unless the Administrator determines that one or more such tribally owned business concerns have obtained, or are likely to obtain, a substantial unfair competitive advantage within an industry category.

"(III) Any joint venture established under the authority of section 602(b) of Public Law 100-656, the 'Business Opportunity Development Reform Act of 1988', shall be eligible for award of a contract pursuant to section 8(a).".

(b) TRIBAL HOLDING COMPANIES.—Section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)) is amended by inserting—

(1) in clause (A)(i)(II), after the word "tribe" the parenthetical phrase "(or a wholly owned business entity of such tribe)"; and

(2) in clause (A)(ii)(II), after the word "tribe" the parenthetical phrase "(or a wholly owned business entity of such tribe)".

SEC. 205. JOINT VENTURES WITH TRIBALLY OWNED PARTICIPANTS IN THE 8(a) PROGRAM.

Section 602 of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended—

(1) in subsection (c), by striking "two" and inserting "5", and
(2) in subsection (e), by striking "September 30, 1991" and inserting "September 30, 1994".

SEC. 206. SURETY BOND WAIVER AUTHORITY.

Section 7(j)(13)(D)(iii) of the Small Business Act (15 U.S.C. 636(j)(13)(D)(iii)) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

SEC. 207. ESTABLISHING AWARD ELIGIBILITY FOR CONTRACT OPPORTUNITIES COMPETED UNDER SECTION 8(a).

Section 8(a)(1) of the Small Business Act (15 U.S.C. 637(a)(1)) is amended—

(1) by striking subparagraph (B);
(2) by striking the flush left sentence following subparagraph (C);
(3) by redesignating subparagraph (C) as subparagraph (B); and
(4) by adding a new subparagraph (C) as follows:

"(C) to make an award to a small business concern owned and controlled by socially and economically disadvantaged individuals which has completed its period of Program Participation as prescribed by section 7(j)(15), if—

"(i) the contract will be awarded as a result of an offer (including price) submitted in response to a published solicitation relating to a competition conducted pursuant to subparagraph (D); and

"(ii) the prospective contract awardee was a Program Participant eligible for award of the contract on the date specified for receipt of offers contained in the contract solicitation.".

SEC. 208. BUNDLING OF CONTRACTS.

Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended by adding before "Whenever" the following new sentences: "If a proposed procurement includes in its statement of work goods or services currently being performed by a small business, and if the proposed procurement is in a quantity or estimated dollar value the magnitude of which renders small business prime contract participation unlikely, or if a proposed procurement for construction seeks to package or consolidate discrete construction projects, the Procurement Activity shall provide a copy of the proposed procurement to the Procurement Activity's Small Business Procurement Center Representative at least 30 days prior to the solicitation's issuance along with a statement explaining (1) why the proposed acquisition cannot be divided into reasonably small lots (not less than economic production runs) to permit offers on quantities less than the total requirement, (2) why delivery schedules cannot be established on a realistic basis that will encourage small business participation to the extent consistent with the actual requirements of the Government, (3) why the proposed acquisition cannot be offered so as to make small business participation likely, or (4) why construction cannot be procured as separate discrete projects. The thirty-day notification process shall occur concurrently with other processing steps required prior to issuance of the solicitation. Within 15 days after receipt of the proposed procurement and accompanying statement, if the Procurement Center Representative believes that the

procurement as proposed will render small business prime contract participation unlikely, the Representative shall recommend to the Procurement Activity alternative procurement methods which would increase small business prime contracting opportunities.".

SEC. 209. DESIGNATED PROCUREMENT CENTER REPRESENTATIVES.

Not later than 180 days after the date of the enactment of this Act, the Administrator of the Small Business Administration shall station a traditional procurement center representative at the Department of Agriculture, the Navy Sea Systems Command, and the Environmental Protection Agency. Such representatives shall be in addition to the representatives stationed or designated to be stationed on the date of enactment of this Act.

SEC. 210. NONMANUFACTURER RULE.

Section 8(a)(17)(B)(iv) of the Small Business Act (15 U.S.C. 637(a)(17)(B)(iv)) is amended to read as follows:

"(iv) represent that it will supply the product of a domestic small business manufacturer or processor, unless a waiver of such requirement is granted—

"(I) by the Administrator, after reviewing a determination by the contracting officer that no small business manufacturer or processor can reasonably be expected to offer a product meeting the specifications (including period for performance) required of an offeror by the solicitation; or

"(II) by the Administrator for a product (or class of products), after determining that no small business manufacturer or processor is available to participate in the Federal procurement market.".

SEC. 211. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

Section 505(c)(1)(A)(ii) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note) is amended to read as follows:

"(ii) The Under Secretary of Defense for Acquisition, or a designee of such Under Secretary.".

SEC. 212. SUNSET ON AUTHORITY TO PROVIDE TECHNICAL AND MANAGERIAL ASSISTANCE THROUGH PRIVATE SECTOR SOURCES.

Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking "October 1, 1990" and inserting "March 31, 1991".

PART B—SMALL BUSINESS INVESTMENT ACT

SEC. 214. DEVELOPMENT COMPANY FINANCINGS.

(a) CONGRESSIONAL FINDINGS.—Section 501(a) of the Small Business Investment Act of 1958 (15 U.S.C. 695(a)) is amended to read as follows:

"(a) The Congress hereby finds and declares that the purpose of this title is to foster economic development and to create or preserve job opportunities in both urban and rural areas by providing long-term financing for small business concerns through the development company program authorized by this title.". Urban areas. Rural areas.

(b) POLICY CONSIDERATIONS.—Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by adding at the end thereof the following new subsection:

"(d) In order to qualify for assistance under this title, the development company must demonstrate that the project to be funded is directed toward at least one of the following economic development objectives—

"(1) the creation of job opportunities within two years of the completion of the project or the preservation or retention of jobs attributable to the project;

"(2) improving the economy of the locality, such as stimulating other business development in the community, bringing new income into the area, or assisting the community in diversifying and stabilizing its economy; or

"(3) the achievement of one or more of the following public policy goals:

"(A) business district revitalization,

"(B) expansion of exports,

"(C) expansion of minority business development,

"(D) rural development,

"(E) enhanced economic competition, including the advancement of technology, plan retooling, conversion to robotics, or competition with imports,

"(F) changes necessitated by Federal budget cutbacks, including defense related industries, or

"(G) business restructuring arising from Federally mandated standards or policies affecting the environment or the safety and health of employees.

If eligibility is based upon the criteria set forth in paragraph (2) or (3), the project need not meet the job creation or job preservation criteria developed by the Administration if the overall portfolio of the development company meets or exceeds such job creation or retention criteria.".

(c) SPECIAL LOAN LIMITATIONS.—Section 502 of the Small Business Investment Act of 1958 is amended by striking the period at the end of paragraph (2) and by inserting the following: ", except loans meeting the criteria specified in section 501(d)(3) shall be limited to $1,000,000 for each such identifiable small business concern.". 15 USC 696.

SEC. 215. SMALL BUSINESS INVESTMENT COMPANIES.

(a) LIMITS IN CASES OF COMMON CONTROL.—

(1) IN GENERAL.—The last sentence of section 303(b)(1) of the Small Business Investment Act of 1958 is amended to read as follows: "In no event shall the debentures guaranteed and outstanding under this title of any such company or companies which are commonly controlled as determined by the Administration exceed $35,000,000.". 15 USC 683.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall become effective on July 1, 1991. 15 USC 683 note.

(b) AMOUNT OF ASSISTANCE.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) by inserting "under the provisions of this title," in paragraph (6) of subsection (c) after "debentures or securities"; and

(2) by striking the third sentence in subsection (d).

SEC. 216. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM.

(a) SUNSET.—Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988, Public Law 100-590, is amended to read as follows: 15 USC 694b note.

"The provisions contained in section 411(a)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(3)) shall cease to be effective after September 30, 1994.".

(b) EVALUATION AND REPORT.—Section 206 of the Small Business Administration Reauthorization and Amendment Act of 1988 is amended— 15 USC 694b note.

(1) in the first sentence, by striking "Not later than" and inserting "(a) not later than"; and

(2) by striking the last sentence and inserting:

"(b) The report required by subsection (a) shall be transmitted not later than March 1, 1994 and cover the period October 1, 1990 through September 30, 1993.". Reports.

PART C—SMALL BUSINESS ADMINISTRATION MANAGEMENT

SEC. 221. SMALL BUSINESS ADMINISTRATION DEPUTY ADMINISTRATOR.

(a) IN GENERAL.—Section 4 of the Small Business Act (15 U.S.C. 633) is amended by striking "The Administrator is authorized to appoint a Deputy Administrator and" in the fourth sentence of subsection (b)(1) and inserting the following: "The President also may appoint a Deputy Administrator, by and with the advice and consent of the Senate. The Administrator is authorized to appoint".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any vacancy in the position of Deputy Administrator of the Small Business Administration after the date of the enactment of this Act. 15 USC 633 note.

PART D—DEMONSTRATION PROGRAMS AND STUDIES

SEC. 231. SMALL BUSINESS TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM. 15 USC 648 note.

(a) ESTABLISHMENT.—There is established within the Small Business Administration a Small Business Technology Transfer Demonstration Program (hereafter referred to as the "Program").

(b) PURPOSE OF PROGRAM.—The purpose of the Program is to demonstrate the feasibility of providing small businesses with education, training, and technical assistance with respect to technology transfer and application through an eligible entity.

(c) PROGRAM ACTIVITIES.—The eligible entity shall undertake, through a regional network of participating community and technical colleges, a program of activities to provide small business concerns training and assistance with respect to—

(1) technological innovations,

(2) statistical process control,

(3) computer-assisted design,

(4) computer-assisted manufacturing and computer-integrated manufacturing,

(5) implementation and deployment of telecommunications and other interactive systems, and

(6) other new equipment and advanced manufacturing processes.

(d) COOPERATIVE AGREEMENT.—The Administration is authorized to award a cooperative agreement to an eligible entity to undertake a demonstration program pursuant to this subsection.

(e) REGULATIONS.—

(1) IN GENERAL.—The Administrator shall issue regulations for the implementation of the Program within 180 days of the date of the enactment of this Act.

(2) ALLOCATION OF FUNDING.—In addition to any other matters which the Administration deems appropriate, such Program regulations shall provide for the allocation of funds among the educational institutions that comprise the eligible entity on the basis of scope of the assistance and training activities to be offered small business concerns under the Program and the capability of the educational institution to provide such Program activities.

(f) USE OF SMALL BUSINESS DEVELOPMENT CENTERS AND OTHER RESOURCES.—In implementing the Program, the Administrator shall assure that the eligible entity uses to the maximum extent feasible Small Business Development Centers, receiving support pursuant to section 21 of the Small Business Act (15 U.S.C. 648), and other available sources in conducting the Program.

(g) DURATION OF THE PROGRAM.—The Program shall terminate on September 30, 1993.

(h) REPORT.—The Administrator shall monitor the implementation of the Program established by this section and submit a report evaluating such implementation to the Committees on Small Business of the Senate and the House of Representatives by not later than June 30, 1993, including appropriate recommendations regarding continuation of the Program and its extension to other regions in the country.

(i) AUTHORIZATION.—There is authorized to be appropriated to the Small Business Administration $5,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the Program established by this section.

(j) DEFINITIONS.—For purposes of this section:

(1) The term "eligible entity" means the Community College Association for Technology Transfer or, if such organization is not available, another not-for-profit association of community and technical colleges determined to be eligible for an award of a cooperative agreement, under the regulations issued pursuant to subsection (e).

(2) The term "Community College Association for Technology Transfer" ("CCATT") means a coalition currently composed of 16 community and technical colleges located in the Midwest which has proposed a cooperative regional program for technology transfer and application for the benefit of small businesses to revitalize the regional economy.

15 USC 648a note.

SEC. 232. PILOT TECHNOLOGY ACCESS PROGRAM.

(a) ESTABLISHMENT.—The Small Business Administration, in consultation with the National Institute of Standards and Technology and the National Technical Information Service, shall establish a Pilot Technology Access Program (hereafter in this section referred to as the "Program"), for making grants under this section to a maximum of 5 States.

(b) CRITERIA FOR SELECTION OF STATES.—The Administrator of the Small Business Administration shall establish competitive, merit-

based criteria for the selection of States to receive grants on the basis of—

(1) the ability of the State to carry out the purposes described in subsection (d) in a manner relevant to the needs of industries in that State;

(2) the ability of the State to integrate the implementation of the Program with existing Federal and State technical and business assistance resources, including Small Business Development Centers; and

(3) the ability of the State to continue the program established pursuant to this section after the termination of the Program.

(c) MATCHING REQUIREMENT.—To be eligible to receive a grant under this section, a State shall be required to provide at least an equal amount of funds as that received under such grant.

(d) PURPOSE OF GRANTS.—Grants made to States under this section shall be for the purpose of increasing access by small businesses to on-line data base services that provide technical and business information, and access to technical experts, in a wide range of technologies, through such activities as—

(1) defraying the cost of access by small businesses to the data base services;

(2) training small businesses in the use of the data base services; and

(3) establishing a public point of access to the data base services.

Activities described in paragraphs (1) through (3) may be carried out through contract with a private entity.

(e) EVALUATION.—After the completion of 3 years after the date on which the first grant is issued under this section, and within 6 months after the termination of the Program, the General Accounting Office shall evaluate the effectiveness of the Program in stimulating technological progress, and shall report the findings to the Committee on Small Business and the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Small Business and the Committee on Commerce, Science, and Transportation of the Senate. Reports.

(f) TERMINATION.—The Program shall terminate on September 30, 1995.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Small Business Administration for carrying out this section—

(1) $2,000,000 for fiscal year 1991; and

(2) $5,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 233. FEASIBILITY STUDY OF BUSINESS COOPERATION NETWORK. 15 USC 631 note.

(a) IN GENERAL.—The Administrator of the Small Business Administration shall conduct a study of the feasibility of establishing a business cooperation system similar to the Business Cooperation Network developed by the European Economic Community.

(b) PURPOSE.—The purpose of the study shall be to identify—

(1) the total cost to implement such a system in this country;

(2) all existing business data systems at the Federal, state local government levels which would be of assistance in developing a program similar to either the Euro-Info-Centre and/or the European Business Cooperation Network;

(3) all existing business data systems in the private sector which would be of assistance in developing a program similar to either the Euro-Info-Centre and/or the European Business Cooperation Network;

(4) the amount of time it would take to fully implement this program in all fifty States; and

(5) the benefits to the international competitiveness of the United States.

(c) PARTICIPATION.—In conducting the study, the Administrator shall encourage participation of all appropriate Federal departments and agencies, appropriate State departments and agencies, appropriate small business representative groups, and any other public and/or private entities which would play a role in the development of such a system.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study together with recommendations for such legislative and administrative actions as the Administrator considers appropriate.

SEC. 234. STUDY ON IMPACT OF ELECTRONIC DATA INTERCHANGE TECHNOLOGY.

(a) IN GENERAL.—The Administrator of the Small Business Administration shall conduct a study of the impact of electronic data interchange technology on small business concerns.

(b) PURPOSE.—The purpose of the study shall be to identify—

(1) the benefits of electronic data interchange technology with respect to small business concerns;

(2) the adverse effects of electronic data interchange technology with respect to small business concerns;

(3) technical and financial assistance which the Small Business Administration can offer to small business concerns which seek to use electronic data interchange technology;

(4) measures which may be taken to implement a uniform technical standard for electronic data interchange technology;

(5) measures which may be taken to prevent electronic data interchange technology in the Federal procurement process from having an adverse effect on small business concerns; and

(6) other measures which may be taken to prevent electronic data interchange technology from becoming a competitive barrier to small business concerns.

(c) PARTICIPATION.—In conducting the study, the Administrator shall encourage participation by Federal departments and agencies, small business concerns, and other private and public entities.

(d) REPORT.—Not later than one hundred and eighty days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report containing the results of the study together with recommendations for such legislative and administrative actions as the Administrator considers appropriate.

PART E—REPEALERS AND TECHNICAL AMENDMENTS

SEC. 241. DEPARTMENT OF DEFENSE PROCUREMENT REPORTING.

Section 10(d) of the Small Business Act (15 U.S.C. 639(d)) is amended—

(1) by striking "the Department of Defense shall make a monthly report to the President, the President of the Senate, the Senate Select Committee on Small Business, and the Speaker of the House of Representatives not less than 45 days after the close of the month" and inserting "the Department of Defense shall make an annual report to the Committees on Small Business of the Senate and the House of Representatives";

(2) by striking "small-business concerns" and inserting "small business concerns"; and

(3) by striking "such monthly reports" and inserting "such reports".

SEC. 242. EXPIRED PROVISION.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended—

(1) by striking subparagraphs (A) and (B) of paragraph (3); and

(2) by striking paragraph (8).

SEC. 243. REPORTING OF SUBCONTRACTING ACTIVITY.

Section 714 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

SEC. 244. NOTICES OF PROPOSED PROCUREMENT OPPORTUNITIES.

Section 8(g)(1) of the Small Business Act (15 U.S.C. 637(g)(1)) is amended by striking "(a)(1)" and inserting "(e)(1)".

SEC. 245. TIME LIMIT ON SECONDARY MARKET SALES.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by striking the last sentence of subparagraph (A) of paragraph (16).

TITLE III—ASSISTANCE FOR RURAL SMALL BUSINESS CONCERNS

Rural Small Business Enhancement Act of 1990.

SEC. 301. SHORT TITLE.

15 USC 631 note.

This title may be cited as the "Rural Small Business Enhancement Act of 1990".

SEC. 302. ESTABLISHMENT OF OFFICE OF RURAL AFFAIRS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended by inserting after section 25 the following new section:

"SEC. 26. OFFICE OF RURAL AFFAIRS.

15 USC 653.

"(a) There is hereby established in the Small Business Administration an Office of Rural Affairs (hereafter in this section referred to as the 'Office').

"(b) The Office shall be headed by a director who shall be appointed by the Administrator not later than 90 days after the date of the enactment of this section.

"(c) The Office shall—

"(1) strive to achieve an equitable distribution of the financial assistance available from the Administration for small business concerns located in rural areas;

"(2) to the extent practicable, compile annual statistics on rural areas, including statistics concerning the population, poverty, job creation and retention, unemployment, business failures, and business startups;

"(3) provide information to industries, organizations, and State and local governments concerning the assistance available to rural small business concerns through the Administration and through other Federal departments and agencies;

"(4) provide information to industries, organizations, educational institutions, and State and local governments concerning programs administered by private organizations, educational institutions, and Federal, State, and local governments which improve the economic opportunities of rural citizens; and

"(5) work with the United States Tourism and Travel Administration to assist small businesses in rural areas with tourism promotion and development.".

SEC. 303. SBDC RURAL ACTIVITIES.

15 USC 648.

Section 21 of the Small Business Act is further amended—

(1) by striking "and" at the end of subparagraph (L) of subsection (c)(3)

(2) by redesignating subparagraph (M) of subsection (c)(3) as subparagraph (P); and

(3) by inserting after subparagraph (L) the following new subparagraphs:

"(M) in cooperation with the Department of Commerce, the Administration and other relevant Federal agencies, actively assisting rural small businesses in exporting by identifying and developing potential export markets for rural small businesses, facilitating export transactions for rural small businesses, developing linkages between United States' rural small businesses and prescreened foreign buyers, assisting rural small businesses to participate in international trade shows, assisting rural small businesses in obtaining export financing and developing marketing and production strategies;

"(N) assisting rural small businesses—

"(i) in developing marketing and production strategies that will enable them to better compete in the domestic market—

"(ii) by providing technical assistance needed by rural small businesses;

"(iii) by making available managerial assistance to rural small business concerns; and

"(iv) by providing information and assistance in obtaining financing for business startups and expansion;

"(O) in conjunction with the United States Travel and Tourism Administration, assist rural small business in developing the tourism potential of rural communities by—

"(i) identifying the cultural, historic, recreational, and scenic resources of such communities;

"(ii) providing assistance to small businesses in developing tourism marketing and promotion plans relating to tourism in rural areas; and

"(iii) assisting small business concerns to obtain capital for starting or expanding businesses primarily serving tourists; and".

SEC. 304. CATALOG OF PROGRAMS TO ASSIST RURAL SMALL BUSINESS CONCERNS. 15 USC 653 note.

(a) COMPILATION.—Not later than 180 days after the date of the enactment of this title, the Small Business Administration shall compile a catalog of programs administered by Federal and State departments and agencies which offer assistance to small business concerns in rural areas. Such catalog shall include a description of each such program and the name, address, and telephone number of the respective Federal and State officials responsible for administering the program.

(b) DISTRIBUTION.—Copies of the catalog compiled pursuant to subsection (a) shall be transmitted to the Congress and copies shall be made available to small business concerns in rural areas, appropriate trade associations, Federal and State agencies for the assistance of small business concerns, State and local chambers of commerce, other appropriate nonprofit organizations, and the general public.

(c) BIANNUAL UPDATE.—The Small Business Administration shall issue updates of the catalog compiled pursuant to subsection (a) by February 1, 1993, and February 1, 1995.

SEC. 305. AREA STATISTICS IN PRESIDENTIAL REPORT.

Section 303 of the Small Business Economic Policy Act of 1980 (Public Law 96-302) is amended by striking paragraph (2) of subsection (a) and inserting the following: 15 USC 631b.

"(2) present current and historical data on production, employment, investment, population, job creation and retention, annual business failures, annual business startups, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy, with, to the extent practicable, specific statistics divided as to urban, suburban, and rural areas;".

SEC. 306. RURAL SMALL BUSINESS CONFERENCES. 15 USC 653 note.

(a) IN GENERAL.—The Chief Counsel for Advocacy of the Small Business Administration shall, as soon as practicable after the catalog (described in section 305 and hereinafter referred to as the "catalog") is issued, but not later than 90 days after the date such catalog is issued, convene regional rural conferences in 5 cities or towns in the United States.

(b) PREPARATIONS.—Prior to the conferences, the Office of Advocacy shall—

(1) select the sites for the conferences in order to encourage the maximum participation of all interested parties including private citizens and representatives of business, government, educational and nonprofit institutions; and

(2) distribute the catalog of programs and such other background materials prepared by the Office of Advocacy as the Chief Counsel deems appropriate.

(c) PURPOSES OF THE CONFERENCES.—The conference shall—

(1) review the effectiveness of current Federal programs to promote rural small business and its needs, with particular reference to the catalog of such programs;

(2) review how current Federal programs could be made more accessible to small businesses located in rural areas;

(3) make recommendations on how current programs can be approved to better address small business needs in rural areas;

(4) review the availability and cost of capital, transportation, and telecommunications in rural areas;

(5) review the availability of technical assistance and training programs for small business needs in rural areas, including marketing, computer training, accounting, financing, and international trade; and

(6) determine any additional needs of small businesses in rural areas.

(d) REPORT.—The Chief Counsel for Advocacy shall prepare a summary of the findings and recommendations of each regional conference. Not later than 60 days after the last of the 5 regional conferences have been held, the Chief Counsel for Advocacy shall transmit such summaries to the Congress and the President, along with conclusions and recommendations, including specific legislative proposals and recommendations for administrative or other actions. The transmittal of the required information shall be deemed a report of the Chief Counsel for Advocacy under the terms and conditions of section 206 of Public Law 94-305. To the extent practicable, the report shall estimate the cost of implementing each recommendation of a regional conference as well as those of the Chief Counsel.

SEC. 307. PILOT RURAL DEVELOPMENT LOAN PROGRAM.

Section 7(a)(19) of the Small Business Act (15 U.S.C. 636(a)(19)) is amended by adding the following new paragraph:

"(C) In order to encourage lending institutions and other entities making loans authorized under this subsection to provide loans to small business loan applicants located in rural areas, such lenders shall be permitted to retain one-half of the fee collected pursuant to paragraph (18) on loans of less than $75,000. A participating lender may not retain any fee pursuant to this subparagraph if the amount committed and outstanding to the applicant would exceed $75,000 unless the amount in excess of $75,000 is an amount not approved under the provisions of this subparagraph. This subparagraph shall cease to be effective on October 1, 1995.".

SEC. 308. RURAL SMALL BUSINESS INCUBATORS.

It is the sense of the Congress that small business incubators can play a constructive role in rural development. Accordingly, the National Association of Development Companies, and any interested, certified development companies licensed by the Small Business Administration under title V of the Small Business Investment Act of 1958, and other interested parties are requested and encouraged to develop proposals under which Development Companies located in rural areas could establish, operate or otherwise cooperate with small business incubators for startup small business. Such proposals, including recommendations regarding needed Federal assistance, both monetary and legislative, should be submitted to the Small Business Administration and to the Committees on Small Business of the Senate and House of Representatives not later than 6 months after the date of enactment of this section.

SEC. 309. EFFECTS OF DEREGULATION ON RURAL AMERICA. 15 USC 601 note.

(a) STUDY.—The Office of Technology Assessment shall conduct a study of the effects of deregulation on the economic vitality of rural areas. Such study shall include, but not be limited to, a thorough analysis of the impact of deregulation on—

(1) the number of loans made by financial institutions to small businesses located in rural areas, a change in the level of security interests required for such loans, and the cost of such loans to rural small businesses for creation and expansion;

(2) airline service in cities and towns with populations of 100,000 or less, including airline fare, the number of flights available, number of seats available, scheduling of flights, continuity of service, number of markets being served by large and small airlines, availability of nonstop service, availability of direct service, number of economic cancellations, number of flight delays, the types of airplanes used, and time delays;

(3) the availability and costs of bus, rail and trucking transportation for businesses located in rural areas;

(4) the availability and costs of state-of-the-art telecommunications services to small businesses located in rural areas, including voice telephone service, private (not multiparty) telephone service, reliable facsimile document and data transmission, competitive long distance carriers, cellular (mobile) telephone service, multifrequency tone signaling services such as touchtone services, custom-calling services (including three-way calling, call forwarding, and call waiting), voicemail services, and 911 emergency services with automatic number identification;

(5) the availability and costs to rural schools, hospitals, and other public facilities, of sending and receiving audio and visual signals in cases where such ability will enhance the quality of services provided to rural residents and businesses; and

(6) the availability and costs of services enumerated in paragraphs (1) through (5) in urban areas compared to rural areas.

(b) REPORT.—Not later than 12 months after the date of enactment of this title, the Office of Technology Assessment shall transmit to Congress a report on the results of the study conducted under subsection (a) together with its recommendations on how to address the problems facing small businesses in rural areas.

SEC. 310. TOURISM DEMONSTRATION PROGRAM.

The Small Business Act is amended by inserting after section 26 the following new section:

"SEC. 27. TOURISM DEMONSTRATION PROGRAM. 15 USC 654.

"(a) IN GENERAL.—The Administration is authorized to make grants to conduct demonstration programs in 5 States in order to promote tourism activities delivered by small businesses. The purpose of the program shall be to demonstrate ways in which the economy in rural areas may be improved by encouraging tourism and its resulting increase in income and employment in rural areas. The Administration shall require as a condition of any grant under this section that the applicant also contribute to the demonstration program a sum equal to at least 25 percent of the amount of the funding requested from the Federal Government. Rural areas.

"(b) AUTHORIZATION.—There are authorized to be appropriated to carry out the provision of this section, $1,000,000 for fiscal year 1992 and such sums may remain available until expended.

"(c) REPORT.—Not later than February 1, 1993, the Administration shall submit to the President and the Congress a report on activities undertaken pursuant to this section.".

15 USC 653 note.

SEC. 311. RURAL TOURISM TRAINING PROGRAM.

The Chief Counsel for Advocacy of the Small Business Administration shall conduct training sessions on the types of Federal assistance available for the development of rural small businesses engaged in tourism and tourism-related activities. Such training sessions shall be conducted in conjunction with the Office of Rural Affairs (established pursuant to section 26 of the Small Business Act) and appropriate personnel designated by each district office of the Administration.

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. CONTRACT GOALS FOR MINORITIES IN PRINTING RELATED SERVICES.

Section 843 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 44 U.S.C. 502 note) is amended—

(1) in subsection (a), by striking "and, during fiscal years 1989 and 1990," and inserting "and"; and

(2) by adding at the end thereof the following new subsection:

"(e) DURATION OF TEST.—The test program established by subsection (a) shall not apply to solicitations issued on or after October 1, 1993.".

15 USC 637 note.

SEC. 402. SUSPENSION OF LIQUIDATED DAMAGES UNDER COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

To facilitate participation in the test program for the negotiation of comprehensive small business subcontracting plans pursuant to section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1510), subsection (d) of such section is hereby suspended for the period of the test program as specified in subsection (e) of such section.

15 USC 637 note.

SEC. 403. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Pursuant to section 742 of Public Law 100-656, modifications to Part 36 of the Federal Acquisition Regulation (48 C.F.R. Part 36) shall specify that the definition of architectural and engineering services includes surveying and mapping services to which the

selection procedures of Subpart 36.6 of the Federal Acquisition Regulation apply.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 4793:

HOUSE REPORTS: No. 101-667 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 25, considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 101-575
101st Congress

An Act

Nov. 15, 1990
[H.R. 4808]

To encourage solar, wind, waste, and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Policies Act of 1978.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990.
16 USC 791a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990".

SEC. 2. PURPA AMENDMENT.

16 USC 824a-3.

Section 210(e)(2) of the Public Utility Regulatory Policies Act of 1978 is amended by inserting "(other than a qualifying small power production facility which is an eligible solar, wind, waste, or geothermal facility as defined in section 3(17)(E) of the Federal Power Act)" after "facility" where it first appears.

SEC. 3. FEDERAL POWER ACT AMENDMENTS.

16 USC 796.

(a) Section 3(17)(A) of the Federal Power Act is amended by inserting "a facility which is an eligible solar, wind, waste, or geothermal facility, or" after " 'small power production facility' means".

(b) Section 3(17) of such Act is further amended by inserting at the end thereof the following new subparagraph:

"(E) 'eligible solar, wind, waste or geothermal facility' means a facility which produces electric energy solely by the use, as a primary energy source, of solar energy, wind energy, waste resources or geothermal resources, and which would otherwise not qualify as a small power production facility because of the power production capacity limitation contained in subparagraph (A)(ii); but only if—

"(i) either of the following is submitted to the Commission not later than December 31, 1994:

"(I) an application for certification of the facility as a qualifying small power production facility; or

"(II) notice that the facility meets the requirements for qualification; and

"(ii) construction of such facility commences not later than December 31, 1999, or, if not, reasonable diligence is exercised toward the completion of such facility taking into account all factors relevant to construction of the facility.".

16 USC 796 note.

SEC. 4. FERC REGULATIONS.

Unless the Federal Energy Regulatory Commission otherwise specifies, by rule after enactment of this Act, any eligible solar, wind, waste, or geothermal facility (as defined in section 3(17)(E) of the Federal Power Act as amended by this Act), which is a qualify-

ing small power production facility (as defined in subparagraph (C) of section 3(17) of the Federal Power Act as amended by this Act)—

(1) shall be considered a qualifying small power production facility for purposes of part 292 of title 18, Code of Federal Regulations, notwithstanding any size limitations contained in such part, and

(2) shall not be subject to the size limitation contained in section 292.601(b) of such part.

SEC. 5. LICENSING OF URANIUM ENRICHMENT FACILITIES.

(a) DEFINITION OF PRODUCTION FACILITY.—Section 11v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended by adding at the end the following new sentence: "Except with respect to the export of a uranium enrichment production facility, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

(b) REGULATION.—Section 161b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(b)) is amended by striking the period at the end of the section and adding the following: "; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the Nation's common defense and security with regard to control, ownership, or possession of any equipment or device, or important component part especially designed for such equipment or device, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;".

(c) OWNERSHIP OF PRODUCTION FACILITIES.—Section 41a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2061(a)(2)) is amended by striking "section 103 or 104" and inserting "under this Act".

(d) SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—Section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284) is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by inserting "or" after the semicolon at the end of paragraph (3); and

(3) by adding after paragraph (3) the following new paragraph:

"(4) any uranium enrichment facility licensed by the Nuclear Regulatory Commission.".

(e) URANIUM ENRICHMENT FACILITIES.—Chapter 16 of the Atomic Energy Act of 1954 (42 U.S.C. 2231 et seq.) is amended by adding at the end the following new section:

"SEC. 193. LICENSING OF URANIUM ENRICHMENT FACILITIES. 42 USC 2243.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—

"(1) MAJOR FEDERAL ACTION.—The issuance of a license under sections 53 and 63 for the construction and operation of any uranium enrichment facility shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(2) TIMING.—An environmental impact statement prepared under paragraph (1) shall be prepared before the hearing on the issuance of a license for the construction and operation of a uranium enrichment facility is completed.

"(b) ADJUDICATORY HEARING.—

"(1) IN GENERAL.—The Commission shall conduct a single adjudicatory hearing on the record with regard to the licensing of the construction and operation of a uranium enrichment facility under sections 53 and 63.

"(2) TIMING.—Such hearing shall be completed and a decision issued before the issuance of a license for such construction and operation.

"(3) SINGLE PROCEEDING.—No further Commission licensing action shall be required to authorize operation.

"(c) INSPECTION AND OPERATION.—Prior to commencement of operation of a uranium enrichment facility licensed hereunder, the Commission shall verify through inspection that the facility has been constructed in accordance with the requirements of the license for construction and operation. The Commission shall publish notice of the inspection results in the Federal Register.

Federal Register, publication.

"(d) INSURANCE AND DECOMMISSIONING.—

Nuclear materials. Claims.

"(1) The Commission shall require, as a condition of the issuance of a license under sections 53 and 63 for a uranium enrichment facility, that the licensee have and maintain liability insurance of such type and in such amounts as the Commission judges appropriate to cover liability claims arising out of any occurrence within the United States, causing, within or outside the United States, bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of chemical compounds containing source or special nuclear material.

"(2) The Commission shall require, as a condition for the issuance of a license under sections 53 and 63 for a uranium enrichment facility, that the licensee provide adequate assurance of the availability of funds for the decommissioning (including decontamination) of such facility using funding mechanisms that may include, but are not necessarily limited to, the following:

"(A) Prepayment (in the form of a trust, escrow account, government fund, certificate of deposit, or deposit of government securities).

"(B) Surety (in the form of a surety or performance bond, letter of credit, or line of credit), insurance, or other guarantee (including parent company guarantee) method.

"(C) External sinking fund in which deposits are made at least annually.

"(e) NO PRICE-ANDERSON COVERAGE.—Section 170 of this Act shall not apply to any license under section 53 or 63 for a uranium enrichment facility constructed after the date of enactment of this section.".

SEC. 6. RIGHT-OF-WAY USE.

(a) The proposed alignment of the Harold T. (Bizz) Johnson California-Pacific Northwest Intertie line authorized by Public Laws 98-360 and 99-88 within Contra Costa County, California, is hereby rejected.

98 Stat. 416; 99 Stat. 321.

(b) The Secretary of Energy, acting through the Western Area Power Administration, in consultation with all Intertie project participants, shall, prior to January 30, 1991, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate

a proposed realignment of the Intertie within Contra Costa County, California.

(c) To the maximum extent practicable, the proposed realignment shall be consistent with the needs of affected landowners, East Bay Regional Park District, the environment, and system security and reliability.

(d) No action shall be taken to implement the proposed realignment prior to March 1, 1991.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 4808 (S. 2415):

HOUSE REPORTS: No. 101-885 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-470 accompanying S. 2415 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 26, S. 2415 considered and passed Senate.
Oct. 23, H.R. 4808 considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 101-576
101st Congress

An Act

Nov. 15, 1990
[H.R. 5687]

To amend title 31, United States Code, to improve the general and financial management of the Federal Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Chief Financial Officers Act of 1990.

TITLE I—GENERAL PROVISIONS

31 USC 501 note.

SEC. 101. SHORT TITLE.

This Act may be cited as the "Chief Financial Officers Act of 1990".

31 USC 501 note.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) General management functions of the Office of Management and Budget need to be significantly enhanced to improve the efficiency and effectiveness of the Federal Government.

(2) Financial management functions of the Office of Management and Budget need to be significantly enhanced to provide overall direction and leadership in the development of a modern Federal financial management structure and associated systems.

(3) Billions of dollars are lost each year through fraud, waste, abuse, and mismanagement among the hundreds of programs in the Federal Government.

(4) These losses could be significantly decreased by improved management, including improved central coordination of internal controls and financial accounting.

(5) The Federal Government is in great need of fundamental reform in financial management requirements and practices as financial management systems are obsolete and inefficient, and do not provide complete, consistent, reliable, and timely information.

(6) Current financial reporting practices of the Federal Government do not accurately disclose the current and probable future cost of operating and investment decisions, including the future need for cash or other resources, do not permit adequate comparison of actual costs among executive agencies, and do not provide the timely information required for efficient management of programs.

(b) PURPOSES.—The purposes of this Act are the following:

(1) Bring more effective general and financial management practices to the Federal Government through statutory provisions which would establish in the Office of Management and Budget a Deputy Director for Management, establish an Office of Federal Financial Management headed by a Controller, and designate a Chief Financial Officer in each executive depart-

ment and in each major executive agency in the Federal Government.

(2) Provide for improvement, in each agency of the Federal Government, of systems of accounting, financial management, and internal controls to assure the issuance of reliable financial information and to deter fraud, waste, and abuse of Government resources.

(3) Provide for the production of complete, reliable, timely, and consistent financial information for use by the executive branch of the Government and the Congress in the financing, management, and evaluation of Federal programs.

TITLE II—ESTABLISHMENT OF CHIEF FINANCIAL OFFICERS

SEC. 201. DEPUTY DIRECTOR FOR MANAGEMENT.

Section 502 of title 31, United States Code, as amended by this Act, is amended—

(1) by redesignating subsections (c), (d), and (e), as amended by this section, as subsections (d), (e), and (f); and

(2) by inserting after subsection (b) the following:

"(c) The Office has a Deputy Director for Management appointed by the President, by and with the advice and consent of the Senate. The Deputy Director for Management shall be the chief official responsible for financial management in the United States Government.".

SEC. 202. FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.

(a) CLERICAL AMENDMENTS.—Sections 503 and 504 of title 31, United States Code, are redesignated in order as sections 505 and 506, respectively.

(b) FUNCTIONS OF DEPUTY DIRECTOR FOR MANAGEMENT.—Subchapter I of chapter 5 of title 31, United States Code, is amended by inserting after section 502 the following:

"§ 503. Functions of Deputy Director for Management

"(a) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish governmentwide financial management policies for executive agencies and shall perform the following financial management functions:

"(1) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to financial management.

"(2) Provide overall direction and leadership to the executive branch on financial management matters by establishing financial management policies and requirements, and by monitoring the establishment and operation of Federal Government financial management systems.

"(3) Review agency budget requests for financial management systems and operations, and advise the Director on the resources required to develop and effectively operate and maintain Federal Government financial management systems and to correct major deficiencies in such systems.

"(4) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they are in accordance with financial management plans of the Office of Management and Budget.

"(5) Monitor the financial execution of the budget in relation to actual expenditures, including timely performance reports.

"(6) Oversee, periodically review, and make recommendations to heads of agencies on the administrative structure of agencies with respect to their financial management activities.

"(7) Develop and maintain qualification standards for agency Chief Financial Officers and for agency Deputy Chief Financial Officers appointed under sections 901 and 903, respectively.

"(8) Provide advice to agency heads with respect to the selection of agency Chief Financial Officers and Deputy Chief Financial Officers.

"(9) Provide advice to agencies regarding the qualifications, recruitment, performance, and retention of other financial management personnel.

"(10) Assess the overall adequacy of the professional qualifications and capabilities of financial management staffs throughout the Government and make recommendations on ways to correct problems which impair the capacity of those staffs.

"(11) Settle differences that arise among agencies regarding the implementation of financial management policies.

"(12) Chair the Chief Financial Officers Council established by section 302 of the Chief Financial Officers Act of 1990.

"(13) Communicate with the financial officers of State and local governments, and foster the exchange with those officers of information concerning financial management standards, techniques, and processes.

"(14) Issue such other policies and directives as may be necessary to carry out this section, and perform any other function prescribed by the Director.

"(b) Subject to the direction and approval of the Director, the Deputy Director for Management shall establish general management policies for executive agencies and perform the following general management functions:

"(1) Coordinate and supervise the general management functions of the Office of Management and Budget.

"(2) Perform all functions of the Director, including all functions delegated by the President to the Director, relating to—

"(A) managerial systems, including the systematic measurement of performance;

"(B) procurement policy;

"(C) grant, cooperative agreement, and assistance management;

"(D) information and statistical policy;

"(E) property management;

"(F) human resources management;

"(G) regulatory affairs; and

"(H) other management functions, including organizational studies, long-range planning, program evaluation, productivity improvement, and experimentation and demonstration programs.

"(3) Provide complete, reliable, and timely information to the President, the Congress, and the public regarding the management activities of the executive branch.

"(4) Facilitate actions by the Congress and the executive branch to improve the management of Federal Government operations and to remove impediments to effective administration.

"(5) Provide leadership in management innovation, through—
"(A) experimentation, testing, and demonstration programs; and
"(B) the adoption of modern management concepts and technologies.
"(6) Work with State and local governments to improve and strengthen intergovernmental relations, and provide assistance to such governments with respect to intergovernmental programs and cooperative arrangements.
"(7) Review and, where appropriate, recommend to the Director changes to the budget and legislative proposals of agencies to ensure that they respond to program evaluations by, and are in accordance with general management plans of, the Office of Management and Budget.
"(8) Provide advice to agencies on the qualification, recruitment, performance, and retention of managerial personnel.
"(9) perform any other functions prescribed by the Director.".

SEC. 203. OFFICE OF FEDERAL FINANCIAL MANAGEMENT.

(a) ESTABLISHMENT.—Subchapter I of chapter 5 of title 31, United States Code, as amended by this Act, is amended by inserting after section 503 (as added by section 202 of this Act) the following:

"§ 504. Office of Federal Financial Management

"(a) There is established in the Office of Management and Budget an office to be known as the 'Office of Federal Financial Management'. The Office of Federal Financial Management, under the direction and control of the Deputy Director for Management of the Office of Management and Budget, shall carry out the financial management functions listed in section 503(a) of this title.
"(b) There shall be at the head of the Office of Federal Financial Management a Controller, who shall be appointed by the President, by and with the advice and consent of the Senate. The Controller shall be appointed from among individuals who possess—
"(1) demonstrated ability and practical experience in accounting, financial management, and financial systems; and
"(2) extensive practical experience in financial management in large governmental or business entities.
"(c) The Controller of the Office of Federal Financial Management shall be the deputy and principal advisor to the Deputy Director for Management in the performance by the Deputy Director for Management of functions described in section 503(a).".

(b) STATEMENT OF APPROPRIATIONS IN BUDGET.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:
"(28) a separate statement of the amount of appropriations requested for the Office of Federal Financial Management.".

(c) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 5 of title 31, United States Code, is amended by striking the items relating to sections 503 and 504 and inserting the following:

"503. Functions of Deputy Director for Management.
"504. Office of Federal Financial Management.
"505. Office of Information and Regulatory Affairs.
"506. Office of Federal Procurement Policy.".

31 USC 501 note.

SEC. 204. DUTIES AND FUNCTIONS OF THE DEPARTMENT OF THE TREASURY.

Nothing in this Act shall be construed to interfere with the exercise of the functions, duties, and responsibilities of the Department of the Treasury, as in effect immediately before the enactment of this Act.

SEC. 205. AGENCY CHIEF FINANCIAL OFFICERS.

(a) IN GENERAL.—Subtitle I of title 31, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 9—AGENCY CHIEF FINANCIAL OFFICERS

"Sec.
"901. Establishment of agency Chief Financial Officers.
"902. Authority and functions of agency Chief Financial Officers.
"903. Establishment of agency Deputy Chief Financial Officers.

"§ 901. Establishment of agency Chief Financial Officers

"(a) There shall be within each agency described in subsection (b) an agency Chief Financial Officer. Each agency Chief Financial Officer shall—

"(1) for those agencies described in subsection (b)(1)—

"(A) be appointed by the President, by and with the advice and consent of the Senate; or

"(B) be designated by the President, in consultation with the head of the agency, from among officials of the agency who are required by law to be so appointed;

"(2) for those agencies described in subsection (b)(2)—

"(A) be appointed by the head of the agency;

"(B) be in the competitive service or the senior executive service; and

"(C) be career appointees; and

"(3) be appointed or designated, as applicable, from among individuals who possess demonstrated ability in general management of, and knowledge of and extensive practical experience in financial management practices in large governmental or business entities.

"(b)(1) The agencies referred to in subsection (a)(1) are the following:

"(A) The Department of Agriculture.
"(B) The Department of Commerce.
"(C) The Department of Defense.
"(D) The Department of Education.
"(E) The Department of Energy.
"(F) The Department of Health and Human Services.
"(G) The Department of Housing and Urban Development.
"(H) The Department of the Interior.
"(I) The Department of Justice.
"(J) The Department of Labor.
"(K) The Department of State.
"(L) The Department of Transportation.
"(M) The Department of the Treasury.
"(N) The Department of Veterans Affairs.
"(O) The Environmental Protection Agency.
"(P) The National Aeronautics and Space Administration.

"(2) The agencies referred to in subsection (a)(2) are the following:

"(A) The Agency for International Development.
"(B) The Federal Emergency Management Agency.
"(C) The General Services Administration.
"(D) The National Science Foundation.
"(E) The Nuclear Regulatory Commission.
"(F) The Office of Personnel Management.
"(G) The Small Business Administration.

"§ 902. Authority and functions of agency Chief Financial Officers

"(a) An agency Chief Financial Officer shall—
"(1) report directly to the head of the agency regarding financial management matters;
"(2) oversee all financial management activities relating to the programs and operations of the agency;
"(3) develop and maintain an integrated agency accounting and financial management system, including financial reporting and internal controls, which—
"(A) complies with applicable accounting principles, standards, and requirements, and internal control standards;
"(B) complies with such policies and requirements as may be prescribed by the Director of the Office of Management and Budget;
"(C) complies with any other requirements applicable to such systems; and
"(D) provides for—
"(i) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of agency management;
"(ii) the development and reporting of cost information;
"(iii) the integration of accounting and budgeting information; and
"(iv) the systematic measurement of performance;
"(4) make recommendations to the head of the agency regarding the selection of the Deputy Chief Financial Officer of the agency;
"(5) direct, manage, and provide policy guidance and oversight of agency financial management personnel, activities, and operations, including—
"(A) the preparation and annual revision of an agency plan to—
"(i) implement the 5-year financial management plan prepared by the Director of the Office of Management and Budget under section 3512(a)(3) of this title; and
"(ii) comply with the requirements established under sections 3515 and subsections (e) and (f) of section 3521 of this title;
"(B) the development of agency financial management budgets;
"(C) the recruitment, selection, and training of personnel to carry out agency financial management functions;
"(D) the approval and management of agency financial management systems design or enhancement projects;
"(E) the implementation of agency asset management systems, including systems for cash management, credit

management, debt collection, and property and inventory management and control;

Reports. "(6) prepare and transmit, by not later than 60 days after the submission of the audit report required by section 3521(f) of this title, an annual report to the agency head and the Director of the Office of Management and Budget, which shall include—

"(A) a description and analysis of the status of financial management of the agency;

"(B) the annual financial statements prepared under section 3515 of this title;

"(C) the audit report transmitted to the head of the agency under section 3521(f) of this title;

"(D) a summary of the reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255); and

"(E) other information the head of the agency considers appropriate to fully inform the President and the Congress concerning the financial management of the agency;

Reports. "(7) monitor the financial execution of the budget of the agency in relation to actual expenditures, and prepare and submit to the head of the agency timely performance reports; and

"(8) review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.

"(b)(1) In addition to the authority otherwise provided by this section, each agency Chief Financial Officer—

"(A) subject to paragraph (2), shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which are the property of the agency or which are available to the agency, and which relate to programs and operations with respect to which that agency Chief Financial Officer has responsibilities under this section;

"(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this section from any Federal, State, or local governmental entity; and

"(C) to the extent and in such amounts as may be provided in advance by appropriations Acts, may—

"(i) enter into contracts and other arrangements with public agencies and with private persons for the preparation of financial statements, studies, analyses, and other services; and

"(ii) make such payments as may be necessary to carry out the provisions of this section.

"(2) Except as provided in paragraph (1)(B), this subsection does not provide to an agency Chief Financial Officer any access greater than permitted under any other law to records, reports, audits, reviews, documents, papers, recommendations, or other material of any Office of Inspector General established under the Inspector General Act of 1978 (5 U.S.C. App.).

"§ 903. Establishment of agency Deputy Chief Financial Officers

"(a) There shall be within each agency described in section 901(b) an agency Deputy Chief Financial Officer, who shall report directly to the agency Chief Financial Officer on financial management matters. The position of agency Deputy Chief Financial Officer shall be a career reserved position in the Senior Executive Service.

"(b) Consistent with qualification standards developed by, and in consultation with, the agency Chief Financial Officer and the Director of the Office of Management and Budget, the head of each agency shall appoint as Deputy Chief Financial Officer an individual with demonstrated ability and experience in accounting, budget execution, financial and management analysis, and systems development, and not less than 6 years practical experience in financial management at large governmental entities.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle I of title 31, United States Code, is amended by adding at the end the following:

"9. Agency Chief Financial Officers ..... 901.".

(c) CHIEF FINANCIAL OFFICERS OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.— 31 USC 901 note.

(1) DESIGNATION.—The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development may each designate as the agency Chief Financial Officer of that department for purposes of section 901 of title 31, United States Code, as amended by this section, the officer designated, respectively, under section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as in effect before the effective date of this Act.

(2) CONFORMING AMENDMENT.—Section 4(c) of the Department of Veterans Affairs Act (38 U.S.C. 201 note) and section 4(e) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)), as added by section 121 of Public Law 101-235, are repealed.

SEC. 206. TRANSFER OF FUNCTIONS AND PERSONNEL OF AGENCY CHIEF FINANCIAL OFFICERS. 31 USC 901 note.

(a) AGENCY REVIEWS OF FINANCIAL MANAGEMENT ACTIVITIES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall require each agency listed in subsection (b) of section 901 of title 31, United States Code, as amended by this Act, to conduct a review of its financial management activities for the purpose of consolidating its accounting, budgeting, and other financial management activities under the agency Chief Financial Officer appointed under subsection (a) of that section for the agency.

(b) REORGANIZATION PROPOSAL.—Not later than 120 days after the issuance of requirements under subsection (a) and subject to all laws vesting functions in particular officers and employees of the United States, the head of each agency shall submit to the Director of the Office of Management and Budget a proposal for reorganizing the agency for the purposes of this Act. Such proposal shall include—

(1) a description of all functions, powers, duties, personnel, property, or records which the agency Chief Financial Officer is proposed to have authority over, including those relating to

functions that are not related to financial management activities; and

(2) a detailed outline of the administrative structure of the office of the agency Chief Financial Officer, including a description of the responsibility and authority of financial management personnel and resources in agencies or other subdivisions as appropriate to that agency.

(c) REVIEW AND APPROVAL OF PROPOSAL.—Not later than 60 days after receiving a proposal from the head of an agency under subsection (b), the Director of the Office of Management and Budget shall approve or disapprove the proposal and notify the head of the agency of that approval or disapproval. The Director shall approve each proposal which establishes an agency Chief Financial Officer in conformance with section 901 of title 31, United States Code, as added by this Act, and which establishes a financial management structure reasonably tailored to the functions of the agency. Upon approving or disapproving a proposal of an agency under this section, the Director shall transmit to the head of the agency a written notice of that approval or disapproval.

(d) IMPLEMENTATION OF PROPOSAL.—Upon receiving written notice of approval of a proposal under this section from the Director of the Office of Management and Budget, the head of an agency shall implement that proposal.

SEC. 207. COMPENSATION.

(a) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Deputy Director for Management, Office of Management and Budget.".

(b) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Controller, Office of Federal Financial Management, Office of Management and Budget.".

(c) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief Financial Officer, Department of Agriculture.
"Chief Financial Officer, Department of Commerce.
"Chief Financial Officer, Department of Defense.
"Chief Financial Officer, Department of Education.
"Chief Financial Officer, Department of Energy.
"Chief Financial Officer, Department of Health and Human Services.
"Chief Financial Officer, Department of Housing and Urban Development.
"Chief Financial Officer, Department of the Interior.
"Chief Financial Officer, Department of Justice.
"Chief Financial Officer, Department of Labor.
"Chief Financial Officer, Department of State.
"Chief Financial Officer, Department of Transportation.
"Chief Financial Officer, Department of the Treasury.
"Chief Financial Officer, Department of Veterans Affairs.
"Chief Financial Officer, Environmental Protection Agency.
"Chief Financial Officer, National Aeronautics and Space Administration.".

TITLE III—ENHANCEMENT OF FEDERAL FINANCIAL MANAGEMENT ACTIVITIES

SEC. 301. FINANCIAL MANAGEMENT STATUS REPORT; 5-YEAR PLAN OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

(a) IN GENERAL.—Section 3512 of title 31, United States Code, is amended by striking the heading thereof, redesignating subsections (a) through (f) in order as subsections (b) through (g), and by inserting before such subsection (b), as so redesignated, the following:

"§ 3512. Executive agency accounting and other financial management reports and plans

"(a)(1) The Director of the Office of Management and Budget shall prepare and submit to the appropriate committees of the Congress a financial management status report and a governmentwide 5-year financial management plan.

"(2) A financial management status report under this subsection shall include—

"(A) a description and analysis of the status of financial management in the executive branch;

"(B) a summary of the most recently completed financial statements—

"(i) of Federal agencies under section 3515 of this title; and

"(ii) of Government corporations;

"(C) a summary of the most recently completed financial statement audits and reports—

"(i) of Federal agencies under section 3521 (e) and (f) of this title; and

"(ii) of Government corporations;

"(D) a summary of reports on internal accounting and administrative control systems submitted to the President and the Congress under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255); and

"(E) any other information the Director considers appropriate to fully inform the Congress regarding the financial management of the Federal Government.

"(3)(A) A governmentwide 5-year financial management plan under this subsection shall describe the activities the Director, the Deputy Director for Management, the Controller of the Office of Federal Financial Management, and agency Chief Financial Officers shall conduct over the next 5 fiscal years to improve the financial management of the Federal Government.

"(B) Each governmentwide 5-year financial management plan prepared under this subsection shall—

"(i) describe the existing financial management structure and any changes needed to establish an integrated financial management system;

"(ii) be consistent with applicable accounting principles, standards, and requirements;

"(iii) provide a strategy for developing and integrating individual agency accounting, financial information, and other financial management systems to ensure adequacy, consistency, and timeliness of financial information;

"(iv) identify and make proposals to eliminate duplicative and unnecessary systems, including encouraging agencies to share systems which have sufficient capacity to perform the functions needed;

"(v) identify projects to bring existing systems into compliance with the applicable standards and requirements;

"(vi) contain milestones for equipment acquisitions and other actions necessary to implement the 5-year plan consistent with the requirements of this section;

"(vii) identify financial management personnel needs and actions to ensure those needs are met;

"(viii) include a plan for ensuring the annual audit of financial statements of executive agencies pursuant to section 3521(h) of this title; and

"(ix) estimate the costs of implementing the governmentwide 5-year plan.

"(4)(A) Not later than 15 months after the date of the enactment of this subsection, the Director of the Office of Management and Budget shall submit the first financial management status report and governmentwide 5-year financial management plan under this subsection to the appropriate committees of the Congress.

"(B)(i) Not later than January 31 of each year thereafter, the Director of the Office of Management and Budget shall submit to the appropriate committees of the Congress a financial management status report and a revised governmentwide 5-year financial management plan to cover the succeeding 5 fiscal years, including a report on the accomplishments of the executive branch in implementing the plan during the preceding fiscal year.

"(ii) The Director shall include with each revised governmentwide 5-year financial management plan a description of any substantive changes in the financial statement audit plan required by paragraph (3)(B)(viii), progress made by executive agencies in implementing the audit plan, and any improvements in Federal Government financial management related to preparation and audit of financial statements of executive agencies.

"(5) Not later than 30 days after receiving each annual report under section 902(a)(6) of this title, the Director shall transmit to the Chairman of the Committee on Government Operations of the House of Representatives and the Chairman of the Committee on Governmental Affairs of the Senate a final copy of that report and any comments on the report by the Director.".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of chapter 35 of title 31, United States Code, is amended by striking the item relating to section 3512 and inserting the following:

"3512. Executive agency accounting and other financial management reports and plans.".

31 USC 901 note.

SEC. 302. CHIEF FINANCIAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Financial Officers Council, consisting of—

(1) the Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the council;

(2) the Controller of the Office of Federal Financial Management of the Office of Management and Budget;

(3) the Fiscal Assistant Secretary of Treasury; and

(4) each of the agency Chief Financial Officers appointed under section 901 of title 31, United States Code, as amended by this Act.

(b) FUNCTIONS.—The Chief Financial Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as consolidation and modernization of financial systems, improved quality of financial information, financial data and information standards, internal controls, legislation affecting financial operations and organizations, and any other financial management matter.

SEC. 303. FINANCIAL STATEMENTS OF AGENCIES.

(a) PREPARATION OF FINANCIAL STATEMENTS.—

(1) IN GENERAL.—Subchapter II of chapter 35 of title 31, United States Code, is amended by adding at the end the following:

"§ 3515. Financial statements of agencies

"(a) Not later than March 31 of 1992 and each year thereafter, the head of each executive agency identified in section 901(b) of this title shall prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering—

"(1) each revolving fund and trust fund of the agency; and

"(2) to the extent practicable, the accounts of each office, bureau, and activity of the agency which performed substantial commercial functions during the preceding fiscal year.

"(b) Each financial statement of an executive agency under this section shall reflect—

"(1) the overall financial position of the revolving funds, trust funds, offices, bureaus, and activities covered by the statement, including assets and liabilities thereof;

"(2) results of operations of those revolving funds, trust funds, offices, bureaus, and activities;

"(3) cash flows or changes in financial position of those revolving funds, trust funds, offices, bureaus, and activities; and

"(4) a reconciliation to budget reports of the executive agency for those revolving funds, trust funds, offices, bureaus, and activities.

"(c) The Director of the Office of Management and Budget shall prescribe the form and content of the financial statements of executive agencies under this section, consistent with applicable accounting principles, standards, and requirements.

"(d) For purposes of this section, the term 'commercial functions' includes buying and leasing of real estate, providing insurance, making loans and loan guarantees, and other credit programs and any activity involving the provision of a service or thing of value for which a fee, royalty, rent, or other charge is imposed by an agency for services and things of value it provides.

"(e) Not later than March 31 of each year, the head of each executive agency designated by the President may prepare and submit to the Director of the Office of Management and Budget a financial statement for the preceding fiscal year, covering accounts of offices, bureaus, and activities of the agency in addition to those described in subsection (a).".

(2) EFFECTIVE DATE OF SUBSECTION.—Subsection (e) of section 3515 of title 31, United States Code, as added by paragraph (1), 31 USC 3515 note.

shall take effect on the date on which a resolution described in subsection (b)(1) of this section is passed by the Congress and approved by the President.

31 USC 3515 note.

(3) WAIVER OF REQUIREMENT.—The Director of the Office of Management and Budget may, for fiscal year 1991, waive the application of section 3515(a) of title 31, United States Code, as amended by this subsection, with respect to any revolving fund, trust fund, or account of an executive agency.

31 USC 3515 note.

(b) RESOLUTION APPROVING DESIGNATION OF AGENCIES.—

(1) RESOLUTION DESCRIBED.—A resolution referred to in subsection (a)(2) is a joint resolution the matter after the resolving clause of which is as follows: "That the Congress approves the executive agencies designated by the President pursuant to section 3515(e) of title 31, United States Code.".

(2) INTRODUCTION OF RESOLUTION.—No later than the first day of session following the day on which the President submits to the Congress a designation of executive agencies authorized to submit financial statements under section 3515(e) of title 31, United States Code, as added by subsection (a), a resolution as described in paragraph (1) shall be introduced (by request) in the House by the chairman of the Committee on Government Operations of the House of Representatives, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Committee on Governmental Affairs of the Senate, or by a Member or Members of the Senate designated by such chairman.

(3) REFERRAL.—A resolution described in paragraph (1), shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same designation of executive agencies shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the Senate, respectively, within 60 calendar days of continuous session of the Congress following the date of such resolution's introduction.

(4) DISCHARGE OF COMMITTEE.—If the committee to which is referred a resolution introduced pursuant to paragraph (2) (or, in the absence of such a resolution, the first resolution introduced with respect to the same designation of executive agencies) has not reported such resolution or identical resolution at the end of 60 calendar days of continuous session of the Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

(5) PROCEDURE AFTER REPORT OR DISCHARGE OF COMMITTEE; VOTE ON FINAL PASSAGE.—(A) When the committee has reported, or has been deemed to be discharged (under paragraph (4)) from further consideration of, a resolution described in paragraph (1), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amend-

ment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is passed or rejected shall not be in order.

(C) Immediately following the conclusion of the debate on the resolution and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1), shall be decided without debate.

(E) If, prior to the passage by one House of a resolution of that House, that House receives a resolution with respect to the same designation of executive agencies from the other House, then—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(F) It shall not be in order in either the House of Representatives or the Senate to consider a resolution described in paragraph (1), or to consider any conference report on such a resolution, unless the Director of the Office of Management and Budget submits to the Congress a report under subsection (e).

(c) REPORT ON SUBSTANTIAL COMMERCIAL FUNCTIONS.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall determine and report to the Congress on which executive agencies or parts thereof perform substantial commercial functions for which financial statements can be prepared practicably under section 3515 of title 31, United States Code, as added by this section. 31 USC 3515 note.

(d) PILOT PROJECT.—(1) Not later than March 31 of each of 1991, 1992, and 1993, the head of the Departments of Agriculture, Labor, and Veterans Affairs, the General Services Administration, and the Social Security Administration shall each prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or administration. 31 USC 3515 note.

(2) Not later than March 31 of each of 1992 and 1993, the head of the Departments of Housing and Urban Development and the Army shall prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year

for the accounts of all of the offices, bureaus, and activities of that department.

(3) Not later than March 31, 1993, the head of the Department of the Air Force, the Internal Revenue Service, and the United States Customs Service, shall each prepare and submit to the Director of the Office of Management and Budget financial statements for the preceding fiscal year for the accounts of all of the offices, bureaus, and activities of that department or service.

(4) Each financial statement prepared under this subsection shall be audited in accordance with section 3521 (e), (f), (g), and (h) of title 31, United States Code.

31 USC 3515 note.

(e) REPORT ON INITIAL FINANCIAL STATEMENTS.—Not later than June 30, 1993, the Director of the Office of Management and Budget shall report to the Congress on the financial statements prepared for fiscal years 1990, 1991, and 1992 under subsection (a) of section 3515 of title 31, United States Code (as added by subsection (a) of this section) and under subsection (d) of this section. The report shall include analysis of—

(1) the accuracy of the data included in the financial statements;

(2) the difficulties each department and agency encountered in preparing the data included in the financial statements;

(3) the benefits derived from the preparation of the financial statements; and

(4) the cost associated with preparing and auditing the financial statements, including a description of any activities that were foregone as a result of that preparation and auditing.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3514 the following:

"3515. Financial statements of agencies.".

SEC. 304. FINANCIAL AUDITS OF AGENCIES.

(a) IN GENERAL.—Section 3521 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(e) Each financial statement prepared under section 3515 by an agency shall be audited in accordance with applicable generally accepted government auditing standards—

"(1) in the case of an agency having an Inspector General appointed under the Inspector General Act of 1978 (5 U.S.C. App.), by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

"(2) in any other case, by an independent external auditor, as determined by the head of the agency.

Reports.

"(f) Not later than June 30 following the fiscal year for which a financial statement is submitted under section 3515 of this title by an agency, the person who audits the statement for purpose of subsection (e) shall submit a report on the audit to the head of the agency. A report under this subsection shall be prepared in accordance with generally accepted government auditing standards.

"(g) The Comptroller General of the United States—

"(1) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

"(2) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the agency which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General considers appropriate; and Reports.

"(3) may audit a financial statement prepared under section 3515 of this title at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this subsection shall be in lieu of the audit otherwise required by subsection (e) of this section. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

"(h) Each financial statement prepared by an executive agency for a fiscal year after fiscal year 1991 shall be audited in accordance with this section and the plan required by section 3512(a)(3)(B)(viii) of this title.".

(b) WAIVER OF REQUIREMENTS.—The Director of the Office of Management and Budget may waive application of subsections (e) and (f) of section 3521 of title 31, United States Code, as amended by this section, to a financial statement submitted by an agency for fiscal years 1990 and 1991. 31 USC 3521 note.

SEC. 305. FINANCIAL AUDITS OF GOVERNMENT CORPORATIONS.

Section 9105 of title 31, United States Code, is amended to read as follows:

"§ 9105. Audits

"(a)(1) The financial statements of Government corporations shall be audited by the Inspector General of the corporation appointed under the Inspector General Act of 1978 (5 U.S.C. App.) or by an independent external auditor, as determined by the Inspector General or, if there is no Inspector General, by the head of the corporation.

"(2) Audits under this section shall be conducted in accordance with applicable generally accepted government auditing standards.

"(3) Upon completion of the audit required by this subsection, the person who audits the statement shall submit a report on the audit to the head of the Government corporation, to the Chairman of the Committee on Government Operations of the House of Representatives, and to the Chairman of the Committee on Governmental Affairs of the Senate. Reports.

"(4) The Comptroller General of the United States—

"(A) may review any audit of a financial statement conducted under this subsection by an Inspector General or an external auditor;

"(B) shall report to the Congress, the Director of the Office of Management and Budget, and the head of the Government corporation which prepared the statement, regarding the results of the review and make any recommendation the Comptroller General of the United States considers appropriate; and Reports.

"(C) may audit a financial statement of a Government corporation at the discretion of the Comptroller General or at the request of a committee of the Congress.

An audit the Comptroller General performs under this paragraph shall be in lieu of the audit otherwise required by paragraph (1) of

this subsection. Prior to performing such audit, the Comptroller General shall consult with the Inspector General of the agency which prepared the statement.

"(5) A Government corporation shall reimburse the Comptroller General of the United States for the full cost of any audit conducted by the Comptroller General under this subsection, as determined by the Comptroller General. All reimbursements received under this paragraph by the Comptroller General of the United States shall be deposited in the Treasury as miscellaneous receipts.

"(b) Upon request of the Comptroller General of the United States, a Government corporation shall provide to the Comptroller General of the United States all books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Government corporation and its auditor that the Comptroller General of the United States considers necessary to the performance of any audit or review under this section.

"(c) Activities of the Comptroller General of the United States under this section are in lieu of any audit of the financial transactions of a Government corporation that the Comptroller General is required to make under any other law.".

SEC. 306. MANAGEMENT REPORTS OF GOVERNMENT CORPORATIONS.

(a) IN GENERAL.—Section 9106 of title 31, United States Code, is amended to read as follows:

"§ 9106. Management reports

"(a)(1) A Government corporation shall submit an annual management report to the Congress not later than 180 days after the end of the Government corporation's fiscal year.

"(2) A management report under this subsection shall include—

"(A) a statement of financial position;

"(B) a statement of operations;

"(C) a statement of cash flows;

"(D) a reconciliation to the budget report of the Government corporation, if applicable;

"(E) a statement on internal accounting and administrative control systems by the head of the management of the corporation, consistent with the requirements for agency statements on internal accounting and administrative control systems under the amendments made by the Federal Managers' Financial Integrity Act of 1982 (Public Law 97-255);

"(F) the report resulting from an audit of the financial statements of the corporation conducted under section 9105 of this title; and

"(G) any other comments and information necessary to inform the Congress about the operations and financial condition of the corporation.

"(b) A Government corporation shall provide the President, the Director of the Office of Management and Budget, and the Comptroller General of the United States a copy of the management report when it is submitted to Congress.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 91 of title 31, United States Code, is amended by striking the item relating to section 9106 and inserting the following:

"9106. Management reports.".

SEC. 307. ADOPTION OF CAPITAL ACCOUNTING STANDARDS.

31 USC 3511 note.

No capital accounting standard or principle, including any human capital standard or principle, shall be adopted for use in an executive department or agency until such standard has been reported to the Congress and a period of 45 days of continuous session of the Congress has expired.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5687:

HOUSE REPORTS: No. 101-818, Pt. 1 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 26, considered and passed Senate, amended.
Oct. 27, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 15, Presidential statement.

Public Law 101-577
101st Congress

An Act

Nov. 15, 1990
[H.R. 5871]

To amend the farm poundage quota provisions of section 319 (g), (h) and (i) of the Agricultural Adjustment Act of 1938, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Poundage Quota Revisions Act of 1990".

Farm Poundage Quota Revisions Act of 1990.
7 USC 1281 note.

SEC. 2. QUOTA REVISIONS.

Tobacco.

(a) SALE OF QUOTA.—Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e)) is amended by inserting "(1)" after the subsection designation, and adding at the end the following new paragraphs (2) and (3):

"(2) Effective for the 1991 and subsequent crop years, the Secretary may, during any one year, and subject to such rules as the Secretary deems appropriate, permit the sale of a burley tobacco quota from one farm to another farm in the same county if the buyer, who is an active burley tobacco producer, is not buying an amount larger than 30 percent of the existing quota for the buyer's farm, or 20,000 pounds whichever is greater. For purposes of this subsection, the term 'active burley tobacco producer' means any person who shared in the risk of producing a crop of burley tobacco in not less than one of the three years preceding the year involved, or any person who certified to the Secretary, in such form and manner as the Secretary shall by regulation prescribe, their intent to become an active burley tobacco producer. A person shall be considered to have shared in the risk of producing a crop of burley tobacco if—

Regulations.

"(A) the investment of such person in the production of such crop is not less than 20 percent of the proceeds of the sale of such crop;

"(B) the investment of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

"(3) No sale of burley tobacco quota from a farm shall be permitted, under paragraph (2), if any sale of quota to the same farm has been made within the three immediately preceding crop years. A sale of burley tobacco quota shall not be effective for a crop year unless a record of the sale is filed with the county committee not later than July 1 of the crop year. The marketing quota determined for any farm subsequent to such sale shall not exceed an amount determined by multiplying the farm yield established under subsection (d) of this section by 50 percent of the acreage of cropland in the farm.".

(b) LOSS OF QUOTA FOR NONUSE.—Section 319(h) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(h)) is amended by striking "1976" and substituting "1994", and by striking "of the five" and substituting "two of the three".

(c) LIMITATION ON DIVISION OF QUOTAS BY SALE OR LEASE.—

(1) Section 379(a)(5) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379(a)(5)) is amended by deleting "or" after the semicolon.

(2) Section 379(a)(6) is amended by deleting the period and inserting in lieu thereof "; or".

(3) Section 379(a) is amended by adding a new paragraph to read as follows:

"(7) When a farm is divided through reconstitution, the burley tobacco poundage quota which transfers with the divided land shall not be less than 1,000 pounds (except when the reconstitution of the farm is among immediate family members or pursuant to probate proceedings).".

(d) INCREASE OF LEASE LIMITATION.—Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by striking "fifteen thousand pounds" and inserting "thirty thousand pounds".

(e) CROSS-COUNTY LEASING.—Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by adding a new subsection to read as follows:

"(l) Notwithstanding any other provision of this section, the Secretary may permit the lease and transfer of a burley tobacco quota from one farm to any other farm in the State of Tennessee if a majority of active burley tobacco producers within the State approve such lease and transfer by a state-wide referendum to be conducted by the Secretary.".

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5871:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 20, considered and passed House.
Oct. 26, considered and passed Senate.

Public Law 101-578
101st Congress

An Act

Nov. 15, 1990
[H.R. 5796]

To conduct certain studies in the State of New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Natural resources.
Public lands.

TITLE I—ENCHANTED NATIONAL FOREST INFORMATION AND EDUCATION STUDY

SEC. 101. FINDINGS.

The Congress finds that—

(1) environmental education is fundamental to expanding our understanding of the environment;

(2) the natural resources found on national forests in New Mexico, the Land of Enchantment, can contribute to environmental education programs;

(3) the Forest Service plays a vital role in the environmental education of all Americans;

(4) a center to provide information on the national forests in New Mexico would increase public awareness of their national forests, increase participation in management decisions, and improve the public's appreciation of their national forests;

(5) there is not a central facility dedicated to providing information on the national forests in New Mexico to residents and out-of-State visitors; and

(6) in light of the opportunities provided by national forests and the importance of environmental education, it is necessary to identify, through a comprehensive study, the opportunities that are available to provide information to the public on the national forests of New Mexico and to expand the environmental education program for those forests.

SEC. 102. STUDY AND REPORT BY THE FOREST SERVICE.

(a) STUDY.—The Secretary of Agriculture, acting through the Chief of the Forest Service, shall conduct a study of the opportunities to establish a center to provide information on the national forests in New Mexico and to expand the environmental education program for those forests.

(b) REPORT.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary of Agriculture shall transmit the Study to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(c) CONTENTS OF STUDY.—The study referred to in subsection (a) shall develop alternative means for the national forests in New Mexico to provide information that improves public awareness and participation in management of their national forests and to expand the environmental education program for those forests. Alternatives shall include an information and education center located in or near

Albuquerque, New Mexico, and an expanded education outreach program.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—CAVE RESEARCH INSTITUTE

SEC. 201. FINDINGS. 16 USC 4310 note.

The Congress makes the following findings:

(1) The World's most exposed fossil reef, Capitan Reef, in southern New Mexico that includes Carlsbad Caverns, contains over 300 caves, including 75 identified caves in Carlsbad Caverns National Park and 22 caves in Guadalupe Mountains National Park.

(2) Recent explorations of Lechuguilla Cave at Carlsbad Caverns National Park have provided much new information about the wonders of this cave including the fact that it is the second deepest cave in the United States and contains outstanding world-class cave features such as gypsum crystal chandeliers and gypsum flowers.

(3) The Lechuguilla Cave has been described by cave researchers as possibly the finest cave in America.

(4) The interest and excitement of cave researchers throughout the world have been focused on Carlsbad Caverns National Park.

(5) Cave researchers could use this research institute as an operational base for study of caves in other regions and as a focal point for storage of data on cave geology and speleology.

(6) The Congress, with the passage of Public Law 100-691, the Federal Cave Resources Protection Act of 1988, recognized the significance of cave resources on Federal lands and established the policy that Federal lands be managed in a manner which protects and maintains, to the extent practicable, significant cave resources.

SEC. 202. ESTABLISHMENT OF CAVE RESEARCH PROGRAM. 16 USC 4310.

(a) ESTABLISHMENT.—In order to provide for needed research relating to cave resources on certain lands in the United States, the Secretary of the Interior, acting through the Director of the National Park Service shall establish and administer a Cave Research Program (hereinafter in this title referred to as the "Program"). The Program shall include the orderly and scholarly collection, analysis, and dissemination of research material related to caves in lands managed by the National Park Service including, but not limited to, Carlsbad Caverns National Park and the Capitan Reef area.

(b) FUNCTIONS.—The Program shall produce educational and interpretive information and materials vital to public understanding of cave geology, assist students and researchers, and provide for a comprehensive evaluation of cave resources and measures needed for their protection.

(c) EMPHASIS.—The program shall be directed primarily toward lands managed by the National Park Service, but the Secretary of the Interior may enter into cooperative agreements with other agencies or entities as may be appropriate to carry out the purposes of this title.

16 USC 4310 note.

SEC. 203. CAVE RESEARCH INSTITUTE STUDY.

Not later than one year after enactment of this Act, the Secretary of the Interior shall prepare and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a study on the feasibility of establishing a Cave Research Institute. The Study shall include the need for such a facility, its costs, its purposes, what the facility should include and where it should be located. An analysis of potential sites for the Institute should include, but not be limited to, Carlsbad Caverns National Park.

16 USC 4310 note.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE III—PREHISTORIC TRACKWAYS STUDY

SEC. 301. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) fossils are important for scientific studies of prehistoric life on earth;

(2) lands administered by the Bureau of Land Management in the Robledo Mountains in New Mexico contain one of the most important fossil discoveries of the 20th century;

(3) discoveries have included prehistoric tracks of amphibians, reptiles, arthropods and insects, extensive plant fossils, and clues to the weather and climate of the period;

(4) fossil footprints that form trackways help scientists recreate the environment and habitat that supported prehistoric life;

(5) nearly one hundred trackways from the Permian Age have been uncovered in the Robledo Mountains;

(6) the trackways are over 280 million years old and they document the emergence of life from water to land;

(7) the trackways are unique in length and represent most taxonomic groups, including many prints of previously unknown animals;

(8) the trackways and other fossils are being lost for scientific study through unsupervised collecting, and commercial quarrying; and

(9) the trackways and fossils found in the Robledo Mountains and surrounding areas should be evaluated for their potential protection and value for scientific interpretation and education.

(b) PURPOSES.—The purposes of this title are to—

(1) require the Secretary of the Interior to conduct a study to consider appropriate means to protect the discoveries and identify the scientific, interpretive, and public education values associated with the trackways and fossils located in the Robledo Mountains in southeastern New Mexico; and

(2) provide for interim protection of such trackways and fossils.

SEC. 302. INTERIM WITHDRAWAL.

(a) IN GENERAL.—The area consisting of approximately 736 acres, as generally depicted on the map entitled "Prehistoric Trackways Study Area", numbered NM 030-01 and dated September, 1990 (hereafter referred to as the "study area"), is hereby withdrawn,

subject to valid existing rights, from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, or patent under the mining laws, but not from operation under the mineral leasing laws. Such withdrawal shall terminate on the date 2 years after the date the study referred to in section 303 is transmitted to Congress.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

SEC. 303. STUDY.

Intergovernmental relations.

(a) STUDY.—(1) The Secretary of the Interior, in cooperation with State and local governments, and institutions of higher education, shall conduct a study of the alternatives for the protection and interpretation of the fossil resources within the study area.

(2) The study shall include an analysis of the importance of the discoveries at the site and an evaluation of the feasibility of developing a facility in New Mexico to evaluate, curate, display, and interpret the fossil resources located within the study area.

(3) The study shall recommend the preferred administrative designation for the area, including but not limited to potential designation as a unit of the National Park System, and the appropriate management agency.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study required in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.R. 5796:

HOUSE REPORTS: No. 101-878 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 26, considered and passed Senate.

39-194 O - 91 - 18 : QL 3 Part 4

Public Law 101-579
101st Congress

Joint Resolution

Nov. 15, 1990
[H.J. Res. 606]

Designating February 16, 1991, as "Lithuanian Independence Day".

Whereas February 16, 1991, is the 73d anniversary of the declaration of independence of Lithuania;

Whereas on February 16, 1918, the Council of Lithuania, the sole representative of the Lithuanian people, in conformity with the recognized right to national self-determination, proclaimed the restoration of an independent and democratic Lithuania and ended all ties that formally subordinated Lithuania to other nations;

Whereas Lithuania was independent until 1940 when the Soviet Union took over the country;

Whereas the United States opposes tyranny and injustice in all forms and supports the cause of Lithuanian independence; and

Whereas the oppressed people currently living in Lithuania keep the flame of freedom forever burning in their hearts: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 16, 1991, is designated as "Lithuanian Independence Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to celebrate such day with appropriate ceremonies and activities.

Approved November 15, 1990.

LEGISLATIVE HISTORY—H.J. Res. 606:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-580
101st Congress

An Act

To amend title 35, United States Code, with respect to the use of inventions in outer space.

Nov. 15, 1990
[S. 459]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INVENTIONS IN OUTER SPACE.

(a) IN GENERAL.—Chapter 10 of title 35, United States Code, is amended by adding at the end the following:

"§ 105. Inventions in outer space

"(a) Any invention made, used or sold in outer space on a space object or component thereof under the jurisdiction or control of the United States shall be considered to be made, used or sold within the United States for the purposes of this title, except with respect to any space object or component thereof that is specifically identified and otherwise provided for by an international agreement to which the United States is a party, or with respect to any space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space.

"(b) Any invention made, used or sold in outer space on a space object or component thereof that is carried on the registry of a foreign state in accordance with the Convention on Registration of Objects Launched into Outer Space, shall be considered to be made, used or sold within the United States for the purposes of this title if specifically so agreed in an international agreement between the United States and the state of registry.".

(b) TABLE OF CONTENTS.—The table of sections of chapter 10 of title 35, United States Code, is amended by adding at the end the following:

"105. Inventions in outer space.".

SEC. 2. SPECIAL RULES.

35 USC 105 note.

(a) EFFECTIVE DATE.—Subject to subsections (b), (c), and (d) of this section, the amendments made by the first section of this Act shall apply to all United States patents granted before, on, or after the date of enactment of this Act, and to all applications for United States patents pending on or filed on or after such date of enactment.

(b) FINAL DECISIONS.—The amendments made by the first section of this Act shall not affect any final decision made by a court or the Patent and Trademark Office before the date of enactment of this Act with respect to a patent or an application for a patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(c) PENDING CASES.—The amendments made by the first section of this Act shall not affect the right of any party in any case pending in a court on the date of enactment of this Act to have the party's

rights determined on the basis of the substantive law in effect before such date of enactment.

(d) NON-APPLICABILITY.—The amendments made by the first section of this Act shall not apply to any process, machine, article of manufacture, or composition of matter, an embodiment of which was launched prior to the date of enactment of this Act.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 459 (H.R. 2946):

SENATE REPORTS: No. 101-266 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 1, considered and passed Senate.
Oct. 26, H.R. 2946 considered and passed House; proceedings vacated and S. 459 passed in lieu.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 15, Presidential statement.

Public Law 101-581
101st Congress

An Act

To amend title 11 of the United States Code with respect to the nondischargeability of debts arising from unlawful driving while intoxicated or impaired and arising from restitution imposed for committing crimes.

Nov. 15, 1990
[S. 1931]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Criminal Victims Protection Act of 1990.
11 USC 101 note.

This Act may be cited as the "Criminal Victims Protection Act of 1990".

SEC. 2. NONDISCHARGEABILITY OF CERTAIN DEBTS ARISING FROM UNLAWFUL DRIVING WHILE INTOXICATED OR IMPAIRED.

(a) AMENDMENT TO CHAPTER 5.—Section 523(a)(9) of title 11, United States Code, is amended to read as follows:

"(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance; or".

(b) AMENDMENT TO CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by inserting "or 523(a)(9)" after "523(a)(5)".

SEC. 3. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION IMPOSED FOR COMMITTING CRIMES.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) for restitution included in a sentence on the debtor's conviction of a crime.".

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

11 USC 523 note.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 1931:

SENATE REPORTS: No. 101-434 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 18, considered and passed Senate.
Oct. 26, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.

Public Law 101-582
101st Congress

An Act

To establish a program of grants for the development of State plans for meeting the objectives established by the Secretary of Health and Human Services for the health status of the population of the United States for the year 2000.

Nov. 15, 1990
[S. 2056]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Year 2000 Health Objectives Planning Act. 42 USC 246 note.

This Act may be cited as the "Year 2000 Health Objectives Planning Act".

SEC. 2. GRANTS FOR STATE PLANS REGARDING HEALTH OBJECTIVES FOR YEAR 2000.

42 USC 246 note.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall make grants to the States for the purpose of assisting each State receiving such a grant with the development of a State plan for improving the health status of the population of the State.

(b) STATEWIDE ASSESSMENT REGARDING YEAR 2000 HEALTH OBJECTIVES.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees subject to paragraph (2), that in carrying out the purpose described in such subsection the State will conduct a statewide assessment to determine the extent to which the health status of the population of the State does not meet the objectives established by the Secretary for the health status of the population of the United States for the year 2000.

(2) DESIGNATION OF REQUIRED DETERMINATIONS REGARDING OBJECTIVES.—

(A) The Secretary may not make a grant under subsection (a) unless the State involved agrees that the statewide assessment under paragraph (1) will be conducted with respect to each of the year 2000 objectives designated under subparagraph (B).

(B) For purposes of subparagraph (A), the Secretary, acting through the Director of the Centers for Disease Control and in consultation with the States, shall designate the year 2000 objectives with respect to which the statewide assessments under paragraph (1) are required to be conducted.

(C) Subject to compliance with subparagraph (A), a statewide assessment under paragraph (1) may be conducted by a State with respect to year 2000 objectives that are not designated under subparagraph (B).

(c) PLAN FOR MEETING OBJECTIVES.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

(1) in the case of each year 2000 objective that the statewide assessment under subsection (b)(1) indicates is not met, the

State plan developed under subsection (a) will specify the activities that should be carried out in order to meet or exceed the objective;

(2) with respect to such activities, the plan will make recommendations for the State and for political subdivisions of the State, including recommendations for establishing or modifying public health and health financing programs, for funding levels of such programs, for maintaining sufficient numbers of appropriate personnel, for collecting appropriate data, and for coordinating the public health activities of the State and such subdivisions; and

(3) not later than April 1, 1992, the State will submit to the Secretary a copy of the completed plan, including a copy of the statewide assessment under subsection (b)(1).

42 USC 246 note.

SEC. 3. CERTAIN REQUIREMENTS REGARDING RECEIPT OF GRANT.

(a) SUBMISSION OF STATEMENT REGARDING INTENDED SCOPE OF STATE ASSESSMENT.—The Secretary may not make a grant under section 2(a) unless the State submits to the Secretary a statement describing the intended scope of the statewide assessment under section 2(b)(1) that will be conducted with the grant, including a specification of the year 2000 objectives with respect to which the assessment will be conducted.

(b) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 2(a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) the application contains the statement required in subsection (a); and

(3) the application otherwise is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this Act.

42 USC 246 note.

SEC. 4. GENERAL PROVISIONS.

(a) AMOUNT OF GRANT.—In the case of any State whose application under section 3(b) is approved, the amount of the grant under section 2(a) to the State shall, subject to the extent of amounts made available in appropriations Acts, be the greater of—

(1) $100,000; and

(2) the amount determined by the Secretary, after consideration of the statement submitted by the State pursuant to section 3(a), to be appropriate with respect to carrying out the purpose described in section 2(a).

(b) CERTAIN ASSISTANCE FROM SECRETARY.—

(1) TECHNICAL ASSISTANCE.—The Secretary may, directly or through grants or contracts, provide technical assistance to States regarding the planning, development, and operation of programs to carry out the purpose described in section 2(a).

(2) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT PAYMENTS.—

(A) Upon the request of a State receiving payments from a grant under section 2(a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such section and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under section 2(a) to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

(c) REPORT TO CONGRESS.—Not later than September 30, 1992, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing the statewide assessments and State plans received by the Secretary under section 2(c)(3).

SEC. 5. UNIFORM USE OF HEALTH-STATUS INDICATORS AND OF METHODS OF COLLECTING AND REPORTING DATA. 42 USC 246 note.

The Secretary, acting through the Director of the Centers for Disease Control and in consultation with the States, shall—

(1) develop a set of health-status indicators appropriate for Federal, State, and local health agencies to measure health status;

(2) develop model methods of collecting and reporting data on whether the year 2000 objectives are being met;

(3) encourage the uniform use by States and other entities of such methods and such indicators in order to ensure the utility and comparability of such data; and

(4) develop national data sources to measure progress toward meeting the year 2000 objectives.

SEC. 6. DEFINITIONS. 42 USC 246 note.

For purposes of this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(2) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(3) YEAR 2000 OBJECTIVES.—The term "year 2000 objectives" means the objectives described in section 2(b)(1).

42 USC 246 note.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this Act, there is authorized to be appropriated $10,000,000 for fiscal year 1991.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 2056:

SENATE REPORTS: No. 101-417 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 19, considered and passed Senate.
Oct. 26, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.

Public Law 101-583
101st Congress

An Act

To eliminate "substantial documentary evidence" requirement for minimum wage determination for American Samoa, and for other purposes.

Nov. 15, 1990
[S. 2930]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMERICAN SAMOA.

Section 8(b) (29 U.S.C. 208(b)) is amended by striking out "unless there is" and all that follows in that section and inserting in lieu thereof "unless there is evidence in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage due to such economic and competitive conditions.".

SEC. 2. REGULATIONS CONCERNING CERTAIN EMPLOYEES.

29 USC 213 note.

Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations that permit computer systems analysts, computer programmers, software engineers, and other similarly skilled professional workers as defined in such regulations to qualify as exempt executive, administrative, or professional employees under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)). Such regulations shall provide that if such employees are paid on an hourly basis they shall be exempt only if their hourly rate of pay is at least 6½ times greater than the applicable minimum wage rate under section 6 of such Act (29 U.S.C. 206).

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 2930:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 4, considered and passed Senate.
Oct. 18, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.

Public Law 101-584
101st Congress

An Act

Nov. 15, 1990
[S. 3187]

To address immediate problems affecting environmental cleanup activities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government securities.

42 USC 9619.

SECTION 1. AMENDMENTS.

Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, is amended—

(1) by deleting the period at the end of subparagraph (B) in subsection (e)(2) and inserting "; and";

(2) by adding at the end of subparagraph (B) of subsection (e)(2) the following new subparagraph:

"(C) any surety who after October 16, 1990, and before January 1, 1993 provides a bid, performance or payment bond to a response action contractor, and begins activities to meet its obligations under such bond, but only in connection with such activities or obligations."; and

(3) by adding at the end thereof the following new subsection:

"(g) SURETY BONDS.—

"(1) If under the Miller Act, 40 U.S.C. sections 270a-270f, surety bonds are required for any direct Federal procurement of any response action contract, they shall be issued in accordance with 40 U.S.C. sections 270a-270d.

"(2) If under applicable Federal law surety bonds are required for any direct Federal procurement of any response action contract, no right of action shall accrue on the performance bond issued on such response action contract to or for the use of any person other than the obligee named in the bond.

"(3) If under applicable Federal law surety bonds are required for any direct Federal procurement of any response action contract, unless otherwise provided for by the procuring agency in the bond, in the event of a default, the surety's liability on a performance bond shall be only for the cost of completion of the contract work in accordance with the plans and specifications less the balance of funds remaining to be paid under the contract, up to the penal sum of the bond. The surety shall in no event be liable on bonds to indemnify or compensate the obligee for loss or liability arising from personal injury or property damage whether or not caused by a breach of the bonded contract.

"(4) Nothing in this subsection shall be construed as preempting, limiting, superseding, affecting, applying to, or modifying any State laws, regulations, requirements, rules, practices or procedures. Nothing in this subsection shall be construed as affecting, applying to, modifying, limiting, superseding, or preempting any rights, authorities, liabilities, demands, actions, causes of action, losses, judgments, claims, statutes of limitation, or obligations under Federal or State law, which do not arise on or under the bond.

"(5) This subsection shall not apply to bonds executed before October 17, 1990, or after December 31, 1992.".

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 3187:

SENATE REPORTS: No. 101-520 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 18, considered and passed Senate.
Oct. 26, considered and passed House.

Public Law 101-585
101st Congress

An Act

Nov. 15, 1990
[S. 3237]

To authorize the Secretary of the Treasury to sell certain silver proof coin sets.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Silver Coin Proof Sets Act.
31 USC 5101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Silver Coin Proof Sets Act".

SEC. 2. SILVER COIN PROOF SETS.

Section 5132(a) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5);

(2) by striking "(2)" in paragraph (4), as redesignated, and inserting "(3)"; and

(3) by inserting the following new paragraph:

"(2)(A) In addition to the coins described in paragraph (1), the Secretary shall sell annually to the public directly and by mail, sets of proof coins minted under paragraphs (1) through (6) of section 5112(a).

"(B) Notwithstanding any other provision of law, for purposes of this paragraph—

"(i) the coins described in paragraphs (1) through (4) of section 5112(a) shall be made of an alloy of 90 percent silver and 10 percent copper; and

"(ii) all coins minted under this paragraph shall have a mint mark indicating the place of manufacture.

"(C) All coins minted under this paragraph shall be considered to be—

"(i) numismatic items for purposes of paragraph (1) and section 5111(a)(3); and

"(ii) legal tender, as provided in section 5103.

"(D) The Secretary shall obtain silver for coins minted under this paragraph by purchase from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). At such time as the silver stockpile is depleted, the Secretary shall obtain silver for such coins by purchase of silver mined from natural deposits in the United States or in a territory or possession of the

Mineral resources.

United States not more than 1 year following the month in which the ore from which it is derived was mined. The Secretary shall pay not more than the average world price for such silver. The Secretary may issue such regulations as may be necessary to carry out this subparagraph.".

Approved November 15, 1990.

LEGISLATIVE HISTORY—S. 3237:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 23, considered and passed Senate.
Oct. 26, considered and passed House.

Public Law 101-586
101st Congress

Joint Resolution

Nov. 15, 1990
[S.J. Res. 302]

Providing for reappointment of Anne Legendre Armstrong as a citizen regent of the Smithsonian Institution.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 5581 of the Revised Statutes of the United States (20 U.S.C. 43), the vacancy on the Board of Regents of the Smithsonian Institution, in the class other than Members of Congress, occurring by reason of the expiration of the term of Anne Legendre Armstrong of Texas, is filled by reappointment of the incumbent for a term of six years, effective May 10, 1990.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S.J. Res. 302:

SENATE REPORTS: No. 101-345 (Comm. on Rules and Administration).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed Senate.
Oct. 23, considered and passed House, amended.
Oct. 24, Senate concurred in House amendments.

Public Law 101-587
101st Congress

Joint Resolution

To designate October 1-31, 1991, as "Community Center Month".

Nov. 15, 1990
[S.J. Res. 357]

Whereas Community Centers are large and complex cultural, social, and recreational institutions dedicated to preserving the well-being of a vital and vibrant segment of the United States;

Whereas there are Community Centers, branches, and camps serving a large clientele of people across the continent;

Whereas Community Centers feature programs and services for all age groups, from infants through the elderly, and for people with disabilities and special needs;

Whereas Community Centers serve as gathering places for peoples of all denominations and offer a rich and varied program of educational and cultural opportunities;

Whereas the first Community Centers came into being during the second half of the nineteenth century to provide social, recreational, and intellectual activities for community members in the United States;

Whereas, as the nineteenth century progressed into the twentieth and the United States became a haven for hundreds of thousands of peoples fleeing the oppression and pogroms of Eastern Europe, Community Centers turned their energies and attention to the enormous task of acculturating the new immigrants, teaching them English and the meaning of United States citizenship;

Whereas after the influx diminished and Community Centers evolved once again into institutions dedicated to preserving good citizenship through educational, cultural, social, and recreational programs; and

Whereas, as Community Centers enter their second century of providing service, it is most fitting that we recognize their important contribution to the fabric of life in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1-31, 1991, is designated as "Community Center Month", and the President of the United States is authorized and requested to

issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved November 15, 1990.

LEGISLATIVE HISTORY—S.J. Res. 357:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 4, considered and passed Senate.
Oct. 24, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.

Public Law 101-588
101st Congress

An Act

Entitled the "Antitrust Amendments Act of 1990".

Nov. 16, 1990
[H.R. 29]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Antitrust Amendments Act of 1990".

Antitrust Amendments Act of 1990. Corporations. 15 USC 1 note.

SEC. 2. Section 8 of the Clayton Act (15 U.S.C. 19) is amended to read as follows:

"SEC. 8. (a)(1) No person shall, at the same time, serve as a director or officer in any two corporations (other than banks, banking associations, and trust companies) that are—

"(A) engaged in whole or in part in commerce; and

"(B) by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the antitrust laws;

if each of the corporations has capital, surplus, and undivided profits aggregating more than $10,000,000 as adjusted pursuant to paragraph (5) of this subsection.

"(2) Notwithstanding the provisions of paragraph (1), simultaneous service as a director or officer in any two corporations shall not be prohibited by this section if—

"(A) the competitive sales of either corporation are less than $1,000,000, as adjusted pursuant to paragraph (5) of this subsection;

"(B) the competitive sales of either corporation are less than 2 per centum of that corporation's total sales; or

"(C) the competitive sales of each corporation are less than 4 per centum of that corporation's total sales.

For purposes of this paragraph, 'competitive sales' means the gross revenues for all products and services sold by one corporation in competition with the other, determined on the basis of annual gross revenues for such products and services in that corporation's last completed fiscal year. For the purposes of this paragraph, 'total sales' means the gross revenues for all products and services sold by one corporation over that corporation's last completed fiscal year.

"(3) The eligibility of a director or officer under the provisions of paragraph (1) shall be determined by the capital, surplus and undivided profits, exclusive of dividends declared but not paid to stockholders, of each corporation at the end of that corporation's last completed fiscal year.

"(4) For purposes of this section, the term 'officer' means an officer elected or chosen by the Board of Directors.

"(5) For each fiscal year commencing after September 30, 1990, the $10,000,000 and $1,000,000 thresholds in this subsection shall be increased (or decreased) as of October 1 each year by an amount equal to the percentage increase (or decrease) in the gross national product, as determined by the Department of Commerce or its successor, for the year then ended over the level so established for

the year ending September 30, 1989. As soon as practicable, but not later than October 30 of each year, the Federal Trade Commission shall publish the adjusted amounts required by this paragraph.

"(b) When any person elected or chosen as a director or officer of any corporation subject to the provisions hereof is eligible at the time of his election or selection to act for such corporation in such capacity, his eligibility to act in such capacity shall not be affected by any of the provisions hereof by reason of any change in the capital, surplus and undivided profits, or affairs of such corporation from whatever cause, until the expiration of one year from the date on which the event causing ineligibility occurred.".

Repeal.

SEC. 3. Section 10 of the Clayton Act (15 U.S.C. 20) is hereby repealed.

AMENDMENTS

SEC. 4. (a) RESTRAINT OF TRADE AMONG THE STATES.—Section 1 of the Sherman Act (15 U.S.C. 1) is amended—

(1) by striking "one million dollars" and inserting "$10,000,000", and

(2) by striking "one hundred thousand dollars" and inserting "$350,000".

(b) MONOPOLY.—Section 2 of the Sherman Act (15 U.S.C. 2) is amended—

(1) by striking "one million dollars" and inserting "$10,000,000", and

(2) by striking "one hundred thousand dollars" and inserting "$350,000".

(c) OTHER RESTRAINTS OF TRADE.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by striking "one million dollars" and inserting "$10,000,000", and

(2) by striking "one hundred thousand dollars" and inserting "$350,000".

TREBLE DAMAGES FOR THE UNITED STATES

SEC. 5. Section 4A of the Clayton Act (15 U.S.C. 15a) is amended by striking out "actual" and inserting in lieu thereof "threefold the".

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 29 (S. 994):

HOUSE REPORTS: No. 101-483 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-286 accompanying S. 994 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
May 15, considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 101-589
101st Congress

An Act

To promote excellence in American mathematics, science and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

Nov. 16, 1990
[H.R. 996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Excellence in Mathematics, Science and Engineering Education Act of 1990".

Excellence in Mathematics, Science and Engineering Education Act of 1990.
20 USC 5301 note.

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Sec. 603. Selection of scholars.
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PART B—ROBERT NOYCE SCHOLARSHIPS

Sec. 611. Robert Noyce scholarships.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

Sec. 621. National Academy of Science, Space, and Technology.

PART D—ADDITIONAL PROVISIONS

Sec. 631. Effect of certain controlled substance and felony convictions.
Sec. 632. Report.

TITLE VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

Sec. 701. Authorization of appropriations.

PART B—DEFINITIONS

Sec. 711. Definitions.

PART C—MISCELLANEOUS PROVISIONS

Sec. 721. Student assistance general provisions.
Sec. 722. Public Law 81-874.
Sec. 723. Technical amendment.

PART D—EFFECTIVE DATE

Sec. 731. Effective date.

TITLE I—FINDINGS AND OBJECTIVES

20 USC 5301.

SEC. 101. FINDINGS AND OBJECTIVES.

(a) FINDINGS.—The Congress finds that—

(1) science and mathematics are cornerstones of America's efforts to compete in the global marketplace and improve our standard of living and quality of life;

(2) international comparisons show American students are consistently behind their foreign counterparts in mathematics and science achievement;

(3) projections by the National Science Foundation estimate a shortage of 675,000 scientists and engineers by the year 2000;

(4) women and minorities are significantly underrepresented in the fields of mathematics, science and engineering;

(5) the achievement of universal scientific and mathematical literacy by all Americans is an essential goal of all efforts to strengthen American competitiveness;

(6) the achievement of scientific and mathematical literacy requires a strong, coordinated effort to strengthen the teaching of science and mathematics; and

(7) the Federal Government has a significant role in promoting the study of mathematics and science, by providing financial assistance to improve the general quality of programs for the study of mathematics and science, by acting as a source for information concerning successful projects and activities, by encouraging talented men and women to pursue scientific careers and by strengthening the mathematics and science educational opportunities available to women and minorities.

(b) NATIONAL OBJECTIVES.—The Congress declares that it shall be a national objective to—

(1) encourage American students to pursue careers in mathematics, science and engineering;

(2) improve the quality of teaching in mathematics and science made available to all Americans;

(3) have American students rank first in the world in mathematics and science;

(4) substantially increase the number of graduates with degrees in mathematics, science and engineering; and

(5) substantially increase the number of women and minorities pursuing careers in mathematics, science and engineering.

TITLE II—MATHEMATICS, SCIENCE AND TECHNOLOGY IMPROVEMENTS

PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS

SEC. 201. IN-STATE APPORTIONMENT.

Section 2005 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2985) is amended by adding at the end the following:

"(c) LIMITATION.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), any local educational agency that receives an allocation of less than $6,000 under subsection (a) shall, for the purpose of providing services under this part, form a consortium with at least 1 other local educational agency or institution of higher education receiving assistance under this section.

"(2) WAIVER.—The State educational agency shall waive the application of paragraph (1) in the case of any local educational agency that demonstrates that the amount of its allocation is sufficient to provide a program of sufficient size, scope, and quality to be effective. In granting waivers under the preceding sentence, the State educational agency shall—

"(A) give special consideration to local educational agencies serving rural areas; and

Rural areas.

"(B) consider cash or in-kind contributions provided from State or local sources that may be combined with the local educational agency's allocation for the purpose of providing services under this part.".

SEC. 202. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

(a) Section 2006 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2986) is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following new subsection:

"(d) PRIORITY FOR TEACHER TRAINING.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), in any fiscal year beginning after September 30, 1990 for which a local educational agency receives under this section an amount that is larger than the amount such agency received under this section for the fiscal year 1990, the excess of such amount over the amount received under this section for the fiscal year 1990 shall first be used to provide training for mathematics teachers and science teachers in elementary and middle schools.

"(2) WAIVER.—The Secretary may waive the application of paragraph (1) in the case of any local educational agency that demonstrates to the Secretary that mathematics teachers and science teachers in the elementary and middle schools under the jurisdiction of such local educational agency will receive adequate training without using such excess amounts for such training."; and

(3) in subsection (e) (as redesignated by paragraph (1) of this subsection), by inserting after "this section" the following: ", or $20,000, whichever is greater,".

(b) Section 2005 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2985) is amended by inserting after "90 percent", "or the remainder after application of section 2006(e).".

SEC. 203. HIGHER EDUCATION PROGRAMS.

(a) Subsection (d) of section 2007 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2987) is amended by inserting after "this section" the following: ", or $20,000, whichever is greater,".

(b) Section 2007(b) of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2987) is amended by inserting after "95 percent," "or the remainder after application of subsection (d).".

Grant programs.
Government contracts.

SEC. 204. NATIONAL PROGRAMS.

Section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2992) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following new subsections:

"(d) NATIONAL CLEARINGHOUSE FOR SCIENCE, MATHEMATICS, AND TECHNOLOGY EDUCATION MATERIALS.—

"(1) CLEARINGHOUSE AUTHORIZED.—The Secretary, in consultation with the Director, may award a grant or contract to establish a National Clearinghouse for Mathematics and Science Education (hereinafter in this subsection referred to as the "Clearinghouse").

"(2) APPLICATION AND AWARD BASIS.—Each entity desiring to establish and operate the Clearinghouse authorized by this subsection shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive, merit basis.

"(3) DURATION.—The grant or contract awarded under this section shall be awarded for a period of 5 years and shall be reviewed by the Secretary no later than 30 months from the date the grant or contract is awarded.

"(4) USE OF FUNDS.—The grant awarded under this subsection shall be used to—

"(A) maintain a permanent repository of mathematics and science education instructional materials and programs for elementary and secondary schools, including middle schools, (including, to the extent practicable, all materials and programs developed with Federal and non-Federal funds, such as instructional materials developed by the Department of Education, materials developed by State and national mathematics and science programs assisted under this part, and other instructional materials) for use by the regional consortiums established under subpart 2 of this part and by the general public;

"(B) compile information on all mathematics and science education programs administered by each Federal agency or department;

"(C) disseminate information, programs, and instructional materials to the public, dissemination networks, and the regional consortiums under subpart 2 of this part; and

"(D) coordinate with identifiable and existing data bases containing mathematics and science curriculum and instructional materials, including Federal and non-Federal data bases.

"(5) SUBMISSION TO CLEARINGHOUSE.—Each Federal agency or department which develops mathematics or science education instructional material or programs, including the National Science Foundation, and the Department of Education, shall submit to the Clearinghouse copies of such material or programs.

"(6) PEER REVIEW.—The Secretary shall establish a peer review process to select the recipient of the award under this subsection.

"(7) STEERING COMMITTEE.—The Secretary may appoint a steering committee to recommend policies and activities for the Clearinghouse.

"(8) APPLICATION OF COPYRIGHT LAWS.—Nothing in this subsection shall be construed to allow the use or copying, in any media, of any material collected by the Clearinghouse that is protected under the copyright laws of the United States unless the permission of the owner of the copyright is obtained. The Clearinghouse, in carrying out the provisions of this subsection, shall ensure compliance with the provisions of title 17 of the United States Code.

"(e) MODEL PROGRAMS FOR INSTRUCTION AND TRAINING IN THE USE OF COMPUTERS.—

"(1) GRANTS AUTHORIZED.—The Secretary may make grants to model programs for training and instruction in the use of computers as part of the mathematics and science curriculum of elementary and secondary schools to pay the Federal share of the cost of improving and expanding such programs.

"(2) FEDERAL SHARE.—(A) Except as provided in subparagraph (C), the Federal share of the cost of improving and expanding a model program under this subsection shall not exceed 50 percent of such cost.

"(B) Not less than 25 percent of the non-Federal share of the cost of improving and expanding a model program under this subsection shall be in cash.

"(C) The Secretary may waive the application of this paragraph in the case of any model program operated by a school that demonstrates an inability to obtain funds from non-Federal sources for the program.

"(3) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that demonstrate the ability to—

"(A) develop a program that can be applied nationally;

"(B) include a shared commitment from a combination of local parties, such as teachers, the business community, and local educational agencies;

"(C) provide teacher training programs in elementary and secondary schools, including middle schools, that are designed to improve the quality of mathematics and science instruction through the use of computers as an instructional tool;

"(D) integrate higher order analytical and problem-solving skills into mathematics and science curricula; and

"(E) provide interactive and manipulative application as part of the instructional delivery system.".

SEC. 205. REGIONAL MATHEMATICS AND SCIENCE EDUCATION CONSORTIUMS.

(a) AMENDMENT TO TEXT.—Part A of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2981 et seq.) is amended—

(1) by inserting before section 2003 the following:

"Subpart 1—State Grants and National Programs";

and

(2) by inserting after section 2012 the following:

"Subpart 2—Regional Mathematics and Science Education Consortiums

20 USC 2994.

"SEC. 2016. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—

"(1) GRANTS AUTHORIZED.—The Secretary, in consultation with the Director, is authorized to award grants or contracts to eligible entities to establish and operate regional mathematics and science education consortia for the purpose of—

"(A) disseminating exemplary mathematics and science education instructional materials; and

"(B) providing technical assistance for the implementation of teaching methods and assessment tools for use by elementary and secondary school students, teachers and administrators.

"(2) NUMBER.—The Secretary shall, in accordance with the provisions of this section, award at least 1 grant or contract to an eligible entity in each region.

"(3) SPECIAL RULE.—In any fiscal year, if the amount appropriated pursuant to the authority of section 2023 is less than $4,500,000, then the Secretary may waive the provisions of paragraph (2) and award grants or contracts of sufficient size, scope and quality to carry out the provisions of this section.

"(b) GRANT TERM AND REVIEW.—Grants under this subpart shall be awarded for a period of not more than 5 years and shall be reviewed before the end of the 30-month period beginning on the date the grant is awarded. Grants shall be awarded before the end of the 12-month period beginning on the date of the enactment of an Act making appropriations to carry out the provisions of this subpart.

"(c) AMOUNT.—In making grants under this subpart, the Secretary shall assure that there is a relatively equal distribution of the funds made available among the regions, but the Secretary may award additional funds to a regional consortium on the basis of population and geographical conditions of the region being served.

"SEC. 2017. USE OF FUNDS. 20 USC 2994a.

"Funds provided under this subpart may be used by a regional consortium, under the direction of a regional board established pursuant to section 2019, to—

"(1) identify, adapt, disseminate, and implement mathematics and science education instruction materials, teaching methods, and assessment tools for use by elementary and secondary school students;

"(2) assist, train and provide technical assistance to classroom teachers, administrators, and other educators to identify, implement or adapt the instructional materials, teaching methods and assessment tools described in paragraph (1);

"(3) provide for the training of classroom teachers to enable such teachers to instruct other teachers, administrators, and educators in the use of the instructional materials, teaching methods and assessment tools described in paragraph (1) in the classroom;

"(4) work with classroom teachers in the identification and adaptation of such instructional materials, teaching methods, and assessment tools for use in classrooms within the region;

"(5) assist classroom teachers, where appropriate, in securing training to enhance such teachers' subject knowledge and teaching skills in the areas of science and mathematics education;

"(6) when necessary, provide financial assistance to enable teachers and other educators to attend and participate in the activities of the regional consortium;

"(7) implement programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(8) help State and local educational agencies or consortia thereof assess the need for and the desirability of regional mathematics and science academies;

"(9) develop and disseminate early childhood education mathematics and science instructional materials;

"(10) develop intergenerational projects to train senior citizen volunteers in the implementation of interactive science processes and activities for use by elementary and secondary school students;

"(11) disseminate information regarding informal mathematics and science education activities and programs offered by Federal agencies and private or public agencies and institutions within the region;

"(12) provide technical assistance in order to maximize the effectiveness of such instructional materials and programs and fulfill the instructional goals of the recipients of such materials and programs;

"(13) collect data on activities assisted under this subpart in order to evaluate the effectiveness of the activities of the regional consortiums;

"(14) if feasible, maintain on-line computer networks with all regional consortiums and the National Clearinghouse for Science and Mathematics Education Materials established under section 2012(e);

"(15) assist local and State educators in identifying science equipment needs; and

"(16) coordinate activities carried out by the regional consortium with activities carried out by the appropriate regional education laboratory supported under section 405(d)(4)(A)(i) of the General Education Provisions Act.

20 USC 2994b.

"SEC. 2018. APPLICATION AND REVIEW.

"(a) IN GENERAL.—Each eligible entity desiring to receive a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

"(1) demonstrate that the eligible entity has demonstrated expertise in the fields of mathematics and science education;

"(2) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods, and assessment tools through a consortium of the region's mathematics and science education organizations and agencies;

"(3) demonstrate that the eligible entity shall carry out the functions of the regional consortium;

"(4) describe the activities for which assistance is sought;

"(5) demonstrate that the eligible entity shall implement and disseminate mathematics and science education instructional materials, teaching methods and assessment tools;

"(6) demonstrate that emphasis will be given to programs and activities designed to meet the needs of groups that are underrepresented in, and underserved by, mathematics and science education;

"(7) describe steps to be taken to provide for the equitable participation of children and teachers from private elementary and secondary schools consistent with section 2010;

"(8) demonstrate that the business community in the region served by the regional consortium will play an integral role in designing and supporting the regional consortium's work;

"(9) demonstrate that the eligible entity will consider the resources of existing Star Schools consortia established pursuant to the Star Schools Program Assistance Act in carrying out the provisions of this part, where appropriate; and

"(10) assure that the entity will conduct its activities and supervise its personnel in a manner that effectively ensures compliance with the copyright laws of the United States.

"(b) APPROVAL OF APPLICATION.—

"(1) IN GENERAL.—The Secretary shall approve or disapprove applications submitted pursuant to subsection (a) in accordance with the criteria and procedures established under paragraph (2).

"(2) PROCEDURES AND CRITERIA.—The Secretary shall develop procedures and criteria designed to ensure that grants are awarded on the basis of merit as determined by the competitive peer review process described in paragraph (3).

"(3) NATIONAL PANEL.—(A) The Secretary, in consultation with the Director, shall establish a national panel, or to the extent necessary, panels, to submit to the Secretary recommendations for awards of grants under this subpart. The Secretary shall appoint the members of such panel or panels.

"(B) Each panel appointed as required by subparagraph (A) shall include participation, to the extent feasible, from each region.

"SEC. 2019. REGIONAL BOARDS. 20 USC 2994c.

"(a) IN GENERAL.—Each eligible entity receiving a grant or contract under this subpart shall establish a regional board to oversee the administration and establishment of program priorities for the regional consortium established by such eligible entity. Such regional board shall be broadly representative of the agencies and organizations participating in the regional consortium.

"(b) PROHIBITION ON USE OF FEDERAL FUNDS.—No Federal funds may be used for the establishment or operation of a regional board required by subsection (a).

"SEC. 2020. PAYMENTS; FEDERAL SHARE; NON-FEDERAL SHARE. 20 USC 2994d.

"(a) PAYMENTS.—The Secretary shall pay to each eligible entity having an application approved under section 2018 the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—For purposes of subsection (a), the Federal share—

"(1) for the first and second years in which an eligible entity receives assistance shall be 80 percent;

"(2) for the third such year shall be 75 percent;

"(3) for the fourth such year shall be 65 percent; and

"(4) for the fifth and each such succeeding year shall be 50 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of the cost of activities described in the application submitted pursuant to this section may be in cash or in kind, fairly evaluated.

"SEC. 2021. EVALUATION. 20 USC 2994e.

"(a) EVALUATION REQUIRED.—The Secretary, through the Office of Educational Research and Improvement, shall collect sufficient data on, and evaluate the effectiveness of, the activities of each regional consortium.

"(b) ASSESSMENT.—The evaluations described in paragraph (1) shall include an assessment of the effectiveness of the regional consortium in meeting the needs of the schools, teachers, administrators and students in the region.

"(c) REPORT.—At the end of each grant or contract period, the Secretary shall submit to Congress a report on the effectiveness of the programs conducted at each regional consortium.

20 USC 2994f.

"SEC. 2022. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'eligible entity' means—

"(A) a private nonprofit organization of demonstrated effectiveness;

"(B) an institution of higher education;

"(C) an elementary or secondary school;

"(D) a State or local educational agency;

"(E) a regional educational laboratory in consortium with the research and development center established under section 405(d)(4)(A) of the General Education Provisions Act; or

"(F) any combination of the entities described in subparagraphs (A) through (E);

with demonstrated expertise in mathematics and science education.

"(2) The term 'region' means a region of the United States served by a regional education laboratory that is supported by the Secretary pursuant to section 405(d)(4)(A)(i) of the General Education Provisions Act.

"(3) The term 'regional consortium' means each regional mathematics and science education consortium established pursuant to section 2016.

20 USC 2994g.

"SEC. 2023. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this subpart $17,000,000 for the fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"PART C—GENERAL PROVISIONS".

(b) TECHNICAL AMENDMENTS.—

(1) CONFORMING AMENDMENTS.—Sections 2003(a), 2004(a)(1)(A), 2004(a)(1)(B), 2004(a)(5), 2004(b), 2005(a)(2)(A)(ii), 2006(a), 2006(b)(1), 2006(d)(2), 2007(a), 2007(d)(2), 2008(a), 2008(b)(2)(D), 2008(b)(3), 2008(b)(4)(A), 2009(a), 2009(b)(2), 2009(b)(3), 2009(c), 2010(a), 2010(b), 2011(a), and 2011(b) of the Dwight D. Eisenhower Mathematics and Science Education Act and the matter following section 2005(a)(2)(A)(ii) of such Act, are each amended by striking "part" and inserting "subpart".

20 USC 2983-2991.

(2) DEFINITIONS.—The heading of section 2013 of the Dwight D. Eisenhower Mathematics and Science Education Act (20 U.S.C. 2993) is amended by striking "2013" and inserting "2031".

20 USC 2993, 2996.

20 USC 2982 note.

SEC. 206. FEDERAL ADMINISTRATION.

(a) REPORT ON SOURCES OF FEDERAL AID.—The Secretary shall, in consultation with the heads of other appropriate Federal agencies,

prepare a report listing all sources of Federal aid for mathematics and science education.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by paragraph (1) to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate not later than March 1, 1992. The Secretary shall also provide such report to each State educational agency and make such report available to the public.

Public information.

PART B—INNOVATIVE TECHNOLOGIES

SEC. 221. EXPANDING THE USES OF INNOVATIVE TECHNOLOGIES FOR MATHEMATICS AND SCIENCE INSTRUCTION.

20 USC 5311.

(a) COMPUTER TECHNOLOGIES.—

(1) PROGRAM AUTHORIZED.—The Director shall establish research programs on the use of computers and related technologies in basic mathematics, science, and technology instruction.

(2) ELIGIBLE APPLICANTS.—In carrying out the program under this subsection, the Director shall establish a merit review process to make awards on the basis of—

(A) the potential of the proposal to improve the effectiveness and productivity of basic mathematics and science education;

(B) the potential of the proposal to involve the classroom teacher in the design of the program and to provide teacher training for optimum effectiveness in the classroom; and

(C) the capability of the entity developing the innovative computer technology to provide broad and efficient dissemination of the technology to schools.

(3) USE OF AWARDS.—Funds awarded under this subsection may be used for—

(A) research and development of curriculum;

(B) development of computer software; and

(C) research and development of other promising technologies for educational applications as specified by the Director.

(b) DISTANCE LEARNING.—

(1) PROGRAM AUTHORIZED.—The Director shall establish programs to promote the use of interactive telecommunications linkages to provide mathematics and science education in the elementary and secondary classroom.

Telecommunications.

(2) ELIGIBLE APPLICANTS.—In carrying out the program under this subsection, the Director shall establish a merit review process to make awards to partnerships which may involve State educational agencies, local educational agencies, public television agencies, institutions of higher education, and other relevant entities, on the basis of—

(A) the potential of the proposal to improve the delivery of quality mathematics and science instruction to underserved rural and urban areas; and

(B) the potential of the proposal to provide teacher training programs for optimum effectiveness in the classroom.

(3) USE OF AWARDS.—Funds awarded under this subsection may be used for—

(A) the research and development of software and hardware technologies necessary to implement interstate and intrastate interactive linkages with several school districts;

(B) research on two-way audio and video interactive telecommunications and computer linkages designed to be used in conjunction with each other;

(C) research and development of curriculum;

(D) teacher training in the use of technologies developed under this section; and

(E) other appropriate telecommunications research projects that will improve mathematics and science education in underserved areas.

(c) SPECIAL RULE.—In carrying out the provisions of this section, the Director shall—

Rural areas.
Urban areas.

(1) pay particular attention to the needs of rural and urban areas which are underserved in fields of mathematics and science instruction or which have a high percentage of students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(2) give special consideration to proposals to extend or adapt for wider applications technologies, and associated educational materials, that the eligible applicant making the proposal has demonstrated to be effective in limited applications;

(3) ensure coordination between the National Science Foundation's programs for support of teacher training and programs developed under this section, with the objective of training teachers in the use of promising educational technologies; and

(4) consult, cooperate and coordinate with analogous programs and policies of other Federal agencies.

(d) MATCHING REQUIREMENT.—Awards shall be made under this section only to eligible applicants that will contribute resources, in cash or in kind, from non-Federal sources in an amount equal to 25 percent of the Federal award.

(e) COORDINATION.—The Director shall work with the Secretary to encourage use of technologies and educational materials developed under this section in Department of Education model programs established under section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act for instruction and training in the use of computers. In addition, the Director shall ensure that programs and activities developed under this section are reported to the Clearinghouse established under section 2012 of such Act for subsequent dissemination through the regional consortia established under subpart 2 of such Act.

(f) PLANNING ACTIVITIES.—The Office of Science and Technology Policy shall ensure that planning activities for education and human resource development and for high performance computing within the Federal Coordinating Council for Science, Engineering, and Technology include consideration of the use of national computer networks for educational purposes, including distance learning and dissemination of curricular materials.

PART C—SCIENCE-TECHNOLOGY CENTERS

20 USC 5321.

SEC. 231. SCIENCE-TECHNOLOGY CENTERS.

(a) IN GENERAL.—

(1) AWARDS AUTHORIZED.—The Director is authorized to make awards to science-technology centers for—

(A) development of more effective, hands-on, interactive mathematics, science and technology programs and activities;

(B) replication or dissemination of effective programs and activities, giving special attention to the needs of female and minority children and economically disadvantaged areas; and

(C) development of new science-technology centers, including support for such centers to work with established science-technology centers to acquire proven educational programs.

(2) AWARD BASIS.—Funds awarded pursuant to this section shall be awarded on a competitive, merit review basis.

(3) CRITERIA.—Criteria for making awards under paragraph (1) may include—

(A) the potential for the educational program to have a significant impact on both formal and informal science education;

(B) the capability of the recipient institution to disseminate the material broadly;

(C) the extent of matching funds provided from non-Federal sources;

(D) the experience and qualifications of the staff of the recipient institution; and

(E) the overall excellence of the proposed program.

(b) SPECIAL CONSIDERATION.—In making awards pursuant to this section the Director shall give special consideration to programs designed primarily for elementary school-aged children. Infants and children.

(c) GEOGRAPHIC DISTRIBUTION.—In making awards pursuant to this section, the Director shall, to the extent practicable, ensure an equitable geographic distribution of such awards.

(d) USE OF CLEARINGHOUSE.—The Director shall report on such programs and activities developed under this section to the Clearinghouse established under section 2012 of the Dwight D. Eisenhower Mathematics and Science Education Act for subsequent dissemination through the regional consortia established under subpart 2 of such Act. Reports.

(e) AUTHORIZED ACTIVITIES.—Awards made under this section may be used for—

(1) scientific or technological exhibits developed for public display, either in a science-technology center or sponsored by a science-technology center but displayed in another facility;

(2) educational activities, such as curriculum development, teacher training programs, and student educational kits, developed for use by teachers for students; and

(3) other formal or informal science educational programs developed by science-technology centers.

(f) DEFINITIONS.—As used in this section—

(1) the term "informal science education" means those aspects of science education that occur outside the school classroom, usually voluntary, recreational, and interdisciplinary in nature, that are not directed by a specific curriculum;

(2) the term "science" means all physical, biological, and social sciences, mathematics, and engineering; and

(3) the term "science-technology center", which may include museums, planetariums, libraries and zoos, means a nonprofit institution open to the general public providing interactive exhibits, demonstrations, and informal science education designed to—

(A) further public understanding of science and technology; and

(B) illustrate how such science and technology interacts with society.

Such institutions may also be involved in formal educational activities.

PART D—GRANTS TO EDUCATIONAL AGENCIES FOR SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE EDUCATION

20 USC 5331.

SEC. 241. SYSTEMIC REFORM OF MATHEMATICS AND SCIENCE.

(a) IN GENERAL.—The Director, in consultation with the Secretary, is authorized to make awards to States or State educational agencies for projects that implement system-wide improvement in elementary or secondary school mathematics and science education.

(b) IMPROVEMENT COMPONENTS.—Each project for which an award is made pursuant to subsection (a) shall include the following components:

(1) increased student achievement in mathematics and science;

(2) improvements in organizational structure and decision-making;

(3) modifications in the provision and allocation of resources regarding mathematics and science instruction;

(4) improvement in the recruitment, retention and continuing professional development of teachers and other educators who instruct mathematics and science;

(5) improved mathematics and science curriculum content and learning goals; and

(6) use of other Federal funds including funds provided for the Dwight D. Eisenhower Mathematics and Science Education Act.

(c) SPECIAL RULE.—In making awards pursuant to subsection (a), the Director shall—

(1) to the extent practicable, ensure an equitable geographic distribution of such awards; and

Intergovernmental relations.

(2) give priority to States or State educational agencies whose improvement plans place a strong emphasis on increasing the academic achievement of females and minority students in mathematics and science.

PART E—TECHNICAL AMENDMENT

SEC. 251. TECHNICAL AMENDMENT.

42 USC 1873.

Section 14(f) of the National Science Foundation Act of 1950 is amended by inserting "or education" after "research".

SEC. 252. NATIONAL CENTER FOR EDUCATION STATISTICS.

Paragraph (4) of section 406(d) of the General Education Provisions Act (20 U.S.C. 1221e-1(d)) is amended by adding at the end the following:

"(G)(i) This paragraph shall not apply to—

"(I) the survey required by section 1303(c) of the Higher Education Amendments of 1986; or

"(II) to any longitudinal study concerning access, choice, persistence progress, or attainment in postsecondary education.

"(ii) Any person, except those sworn to observe the limitation of this subsection, who uses any data as described in clause (i) provided by the Center, in conjunction with any other information or technique (including de-encryption), to identify any individual student, teacher, administrator, or other person and who discloses, publishes, or uses for a purpose other than that for which it was collected, or who otherwise violates clause (i) or (ii) of subparagraph (A), shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(iii) No employee or staff member of the Center or of an institution of higher education may be found criminally liable under subparagraph (C), based on a violation of subparagraph (A) or clause (i), if such employee or staff member has taken reasonable precautions, consistent with the purpose of this section, to ensure the confidentiality of data made available to the public.

"(H) Nothing in this paragraph shall restrict the right of the Comptroller General of the United States to gain access to any reports or other records, including information identifying individuals, in the Center's possession; except that the same restrictions on disclosure that apply to the Center under subparagraphs (B) and (G) shall apply to the General Accounting Office.".

SEC. 253. AMENDMENT OF JAMES MADISON MEMORIAL FELLOWSHIP ACT.

Section 813(a)(4) of the James Madison Memorial Fellowship Act is amended by striking the second sentence thereof. 20 USC 4512.

TITLE III—HIGHER EDUCATION

Colleges and universities.

PART A—GRADUATE FELLOWSHIPS AND TRAINEESHIPS

SEC. 301. STATEMENT OF PURPOSE. 20 USC 5341.

It is the purpose of this part to avert the substantial shortage of American scientists and engineers projected to occur over the next 15 years by significantly increasing the number of graduate fellowships awarded by the National Science Foundation and to institute a program of graduate traineeships.

SEC. 302. GRADUATE FELLOWSHIPS. 20 USC 5342.

(a) IN GENERAL.—The Director is authorized to increase the number of graduate fellowships awarded by the Foundation, so that, in fiscal year 1993 and each fiscal year thereafter, at least 1,200 fellowships are awarded annually.

(b) SPECIAL RULE.—In awarding fellowships pursuant to subsection (a), the Director shall ensure that a substantially increasing number of fellowships shall be awarded to women and minorities in fiscal year 1991 and in each succeeding fiscal year through fiscal year 2000.

(c) GRADUATE FELLOWSHIPS.—Section 10 of the National Science Foundation Act of 1950 is amended in the second sentence by 42 USC 1869.

striking "or nationals" and inserting ", nationals or lawfully admitted permanent resident aliens".

20 USC 5343.

SEC. 303. GRADUATE TRAINEESHIPS.

(a) IN GENERAL.—The Director is authorized to carry out a competitive, merit-based program of making awards to institutions of higher education to enable such institutions to conduct traineeship programs which encourage promising students, especially women and minorities, to continue their education and research in mathematics, science and engineering.

(b) SPECIAL RULE.—In making awards pursuant to subsection (a), the Director shall, to the extent practicable, ensure—

(1) an equitable geographic distribution of such grants;

(2) that institutions of higher education receiving such awards demonstrate experience in, and a commitment to, educating and graduating a significant number of women and minority students in mathematics, science and engineering; and

(3) that special consideration is given to institutions of higher education that have demonstrated progress and an ongoing commitment to upgrading their capabilities to perform high quality research, and are not among the institutions currently receiving a large number of students with National Science Foundation graduate fellowships.

PART B—CENTERS OF EXCELLENCE

20 USC 5351.

SEC. 311. CENTERS OF EXCELLENCE OF UNDERGRADUATE TEACHING.

(a) ESTABLISHMENT.—The Director shall establish a program of making awards to encourage institutions of higher education to improve, and to give greater attention to, undergraduate instruction in science, mathematics and engineering. Awards under this section shall be made on a competitive, merit review basis to faculty with a record of excellence in teaching using the criteria described in subsection (c). Awards under this section shall be for a 3-year period, and the amount of each award shall be comparable to those under the Presidential Young Investigator program.

(b) USE OF FUNDS.—Awards made under this section shall be used to improve the quality of undergraduate instruction at the recipient institution. Awards made under this section may be used for such purposes as—

(1) development of innovative curriculum or teaching methods, including interdisciplinary courses and courses for nonscience majors;

(2) purchase of educational equipment for use by students and faculty;

(3) support for research and professional activities related to undergraduate education; and

(4) support of teaching fellows.

(c) CRITERIA.—Awards under this section shall be made on the basis of—

(1) the commitment of the institution to improve undergraduate education in science, mathematics and engineering and to assign appropriate importance to undergraduate instruction in determining faculty compensation and as a criterion for faculty promotion;

(2) the teaching ability and accomplishments of the faculty member applying for the award, including evidence that the

applicant has remained current with research developments; and

(3) the impact that the award will have on improving the quality of undergraduate instruction.

(d) DESIGNATION.—Institutions receiving grants under this section shall be designated "Centers of Excellence for Undergraduate Teaching".

TITLE IV—WOMEN AND MINORITIES IN MATHEMATICS, SCIENCE AND ENGINEERING

SEC. 401. STATEMENT OF PURPOSE. 20 USC 5361.

It is the purpose of this title to expand and enhance National Science Foundation program activities that are specifically focused on increasing the educational and professional participation of women and minorities in the fields of mathematics, science and engineering.

SEC. 402. DISTINGUISHED VISITING PROFESSORS. 20 USC 5362.

The Director is authorized to make awards to institutions of higher education to enable such institutions to support distinguished women and minority faculty members in mathematics, science and engineering to enable such faculty members to serve as "Distinguished Visiting Professors" at academic institutions that do not have sufficient resources to attract and retain faculty members of such professional stature on a permanent basis.

SEC. 403. FACULTY AWARDS FOR WOMEN AND MINORITIES. 20 USC 5363.

The Director is authorized to make awards to institutions of higher education, other than research universities, to enable such institutions to recruit and retain women and minority faculty members in the fields of mathematics, science and engineering, and to obtain equipment and facilities necessary for the research activities of such faculty members.

SEC. 404. ALLIANCES FOR MINORITY PARTICIPATION. 20 USC 5364.

(a) IN GENERAL.—The Director is authorized to make awards to institutions of higher education to enable such institutions of higher education to establish or maintain alliances, partnerships, or other cooperative arrangements between institutions of higher education with predominately minority enrollments and institutions of higher education with high quality research programs in mathematics, science or engineering.

(b) SPECIAL RULE.—In making awards pursuant to this title, the Director shall, to the extent practicable, ensure—

(1) an equitable geographic distribution of such awards; and

(2) that institutions of higher education receiving such awards demonstrate experience in, and a commitment to, educating and graduating a significant number of women and minority students from programs in mathematics, science and engineering.

TITLE V—EDUCATION COORDINATION AND DEPARTMENT OF ENERGY PROGRAMS

20 USC 5371.

SEC. 501. SCIENCE EDUCATION REPORT.

(a) REPORT REQUIRED.—The Director of the Office of Science and Technology Policy, through the Federal Coordinating Council on Science, Engineering, and Technology, shall prepare a report on science, mathematics, and engineering education to be submitted to Congress within 1 year after the date of enactment of this Act. The report shall include—

(1) a description of current Federal science, mathematics, and engineering education programs at all education levels;

(2) any specific statutory changes necessary to further assist the agencies' mathematics and science education goals; and

(3) a strategic plan for an interagency program to enhance science, mathematics, and engineering education, including—

(A) a statement of program goals;

(B) a description of implementation steps required to achieve such goals;

(C) a strategy for taking advantage of the strengths of Federal research and development facilities related to science, mathematics, and engineering education;

(D) provisions for outreach to teachers and others with direct access to students;

(E) a system for evaluating program effectiveness, including criteria for evaluation;

(F) criteria and procedures to facilitate and expedite either the loan or transfer of title to surplus equipment to schools, school districts, and colleges and universities;

(G) recommendations on how to enhance exchange of employees among agencies to share expertise in mathematics and science education; and

(H) mechanisms to coordinate the activities of the agencies which will implement the plan.

(b) PREPARATION AND UPDATING.—Preparation of the plan required by subsection (a)(3) shall, at a minimum, include representatives of the Departments of Energy and Education, and the National Science Foundation. In subsequent years, the plan required by subsection (a)(3) shall be updated and submitted to Congress annually at the time of the President's budget request and shall include the funding levels in that budget for each agency to carry out each agency's portion of the plan.

20 USC 5372.

SEC. 502. GENERAL EDUCATION REPORT.

The Department of Defense, the Department of Energy, the Department of Agriculture, the Department of Labor, the Department of Health and Human Services, the Department of Transportation, the Department of Justice, the National Aeronautics and Space Administration, the Environmental Protection Agency, and the Department of Commerce shall each prepare and submit to the Secretary of Education, within 9 months of the enactment of this Act, a report on all educational activities supported, excluding activities described in section 501. The Secretary shall compile this

information and report to Congress within 1 year after the date of enactment of this Act. The report shall include—

(1) a summary of current education programs at all levels; and

(2) any specific statutory changes necessary to further assist the agencies' education goals.

SEC. 503. DEPARTMENT OF ENERGY PROGRAMS. 20 USC 5373.

(a) AUTHORIZATION.—

(1) IN GENERAL.—The Secretary of Energy is authorized to—

(A) provide paid administrative leave for employees of the Department of Energy or its research and development facilities who volunteer to interact with schools, colleges, universities, teachers, or students for the purpose of science, mathematics, and engineering education;

(B) establish a volunteer talent pool of scientists, mathematicians, and engineers who have retired from the Department of Energy or its research and development facilities to—

(i) serve as "Scientists in Residence" at schools and school districts for the purpose of assisting teachers with activities such as experiments, lectures, or materials;

(ii) serve as requested, as a science counselor to students; and

(iii) otherwise assist science, mathematics, and engineering classes;

(C) establish a Young Americans' Summer Science Camp Program to provide secondary school students with a hands-on science experience as well as exposure to working scientists and career counseling; and

(D) establish a program for mathematics and science teachers, to provide such teachers serving large numbers of disadvantaged students with new strategies for mathematics and science instruction.

(2) SPECIAL RULE.—In carrying out the provisions of paragraph (1)(B) the Secretary of Energy, wherever possible acting through the Department's research and development facilities, shall identify and match schools and school districts with retired scientists, mathematicians, and engineers.

(b) FACILITIES; NON-FEDERAL FUNDS.—Education activities assisted under this section may be conducted through Department of Energy research and development facilities. The Secretary is authorized to accept non-Federal funds to finance education activities.

(c) LIMITATIONS.—

(1) NATIONAL DEFENSE PRODUCTION ACTIVITIES.—Nothing in this section shall apply to activities of the Department of Energy or its contractors that are funded as national defense production activities.

(2) SPECIAL RULE.—Nothing in this section shall be construed to affect mathematics, science, and engineering education programs administered through the Department of Energy other than the Office of Energy Research.

(d) TERMINATION PROVISION.—The provisions of this section shall not take effect if a substantially identical program is included in the National Defense Authorization Act for Fiscal Year 1991.

(e) DEFINITION.—For the purpose of this section, the term "research and development facilities" means, except as provided in subsection (c)(1), all Department of Energy single purpose and multipurpose National Laboratories and research and development facilities and programs, and any other facility or program operated by a contractor funded from the Office of Energy Research.

TITLE VI—SCIENCE SCHOLARSHIPS

PART A—NATIONAL SCIENCE SCHOLARS PROGRAM

20 USC 5381.

SEC. 601. PURPOSE; APPROPRIATIONS AUTHORIZED.

(a) PURPOSE.—It is the purpose of this part—

(1) to establish a National Science Scholars Program to recognize student excellence and achievement in the physical, life, and computer sciences, mathematics, and engineering;

(2) to provide financial assistance to students under paragraph (1) to continue their postsecondary education in such fields of study at sustained high levels of performance;

(3) to contribute to strengthening the leadership of the United States in such fields;

(4) to strengthen the United States mathematics, science, and engineering base by offering opportunities to pursue postsecondary education in life, physical, and computer sciences, mathematics, and engineering;

(5) to encourage role models in scientific, mathematics, and engineering fields for young people;

(6) to strengthen the United States mathematics, scientific, and engineering potential by encouraging equal participation of women with men in mathematics, scientific, and engineering fields; and

(7) to attract talented students to teaching careers in mathematics and science in elementary and secondary schools.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Education $4,500,000 for fiscal year 1991 for awards to National Science Scholars.

20 USC 5382.

SEC. 602. SCHOLARSHIPS AUTHORIZED.

(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to carry out a program of awarding scholarships to students for the study of the physical, life, or computer sciences, mathematics, or engineering, who—

(1) are selected by the President;

(2) have demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering; and

(3) show promise of continued outstanding academic performance in such field of study.

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of section 604(a) may receive a scholarship, for a period of 1 academic year, for the first year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—A student who satisfies the requirements of section 604(b) may receive additional scholar-

ships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study. A student may receive additional scholarships for not more than 3 academic years of undergraduate study, except that, in the case of a student who is enrolled in an undergraduate course of study that requires attendance for 5 academic years, the student may receive additional scholarships for not more than 4 academic years of undergraduate study.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this part may attend any institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965.

(d) NATIONAL SCIENCE SCHOLARS.—Students awarded scholarships under this part shall be known as "National Science Scholars".

SEC. 603. SELECTION OF SCHOLARS. 20 USC 5383.

(a) SELECTION CRITERIA FOR INITIAL AWARDS.—

(1) SELECTION CRITERIA.—The Director of the National Science Foundation shall develop and submit to the Secretary proposed criteria to be used in the selection of National Science Scholars for initial year awards under section 602(b)(1). Such criteria shall provide for the selection of such scholars on the basis of potential to successfully complete a postsecondary program in the physical, life, or computer sciences, mathematics, or engineering, and on the basis of motivation to pursue a career in such fields. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities. The Director shall determine the proposed criteria for measuring the potential and motivation of nominees.

(2) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria. Federal Register, publication.

(b) SELECTION PROCESS FOR INITIAL AWARDS.—

(1) NOMINATING COMMITTEE.—Each State desiring to qualify its students for selection as a National Science Scholar shall establish a nominating committee. Such committee shall be appointed by the chief State school officer or by an existing grant agency or panel designated by such officer, and shall be approved by the Secretary. The nominating committee shall be a broad-based committee composed of educators, scientists, mathematicians, and engineers, who shall serve as volunteers without compensation. Intergovernmental relations.

(2) NOMINATIONS.—The nominating committee in each State shall submit to the President the nominations of at least four individuals from each congressional district in the State, at least half of whom are female. Such selections shall be ranked in order of priority.

(3) SELECTION.—The President, after consultation with the Secretary and the Director of the National Science Foundation, shall select two National Science Scholars for each academic year from each congressional district, at least one of whom shall be female. President.

(4) ANNOUNCEMENT AND AWARD OF SCHOLARSHIPS.—The selection process shall be completed, and the announcement of the selection of National Science Scholars shall be made by the President prior to January 1st of each fiscal year. The Secretary

shall notify each Member of Congress of selections made from such Member's district and State before the public announcement by the President. Presentation of scholarships may be made in a public ceremony.

(5) CONGRESSIONAL DISTRICT.—For purposes of this subsection, the term "congressional district" includes the part or all of a State (within the meaning of section 1201(b) of the Higher Education Act of 1965) represented by a Member or Delegate of the House of Representatives, and includes the Commonwealth of the Northern Mariana Islands.

(c) CONTINUATION AWARDS.—The Secretary shall award additional scholarships under section 602(b)(2) to recipients of initial awards under section 602(b)(1) who the Secretary determines meet the requirements of section 604(b).

(d) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this part to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

(e) SPECIAL RULE.—The Director and the Secretary shall encourage the support and assistance of civic groups, the business community, professional associations, institutions of higher education, and others in providing scholarship assistance to National Science Scholarship finalists.

20 USC 5384.

SEC. 604. ELIGIBILITY OF SCHOLARS.

(a) REQUIREMENTS FOR INITIAL AWARD.—To be eligible to receive a scholarship under section 602(b)(1), a student shall—

(1) be scheduled to graduate from a public or private secondary school, or to obtain the equivalent of a certificate of graduation (as recognized by the State in which the student resides), during the school year in which the award is made;

(2) be a citizen or national of the United States or the entities set forth in section 603(b)(5), or be an alien lawfully admitted to the United States for permanent residence;

(3) have demonstrated outstanding academic achievement in secondary school in physical, life, or computer sciences, mathematics, or engineering;

(4) have been accepted for enrollment at an institution of higher education as a full-time undergraduate student (as determined by the institution); and

(5) have declared a major in 1 of the physical, life, or computer sciences, mathematics, or engineering, or provided a written statement to the State of his or her intent to major in 1 of these fields of study, if it is the policy of the institution at which the student has been accepted for enrollment that students not declare a major until a later point in their course of study.

(b) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under section 602(b)(1) may receive a scholarship for a subsequent academic year of undergraduate education under section 602(b)(2) if the student—

(1) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(2) continues to major in, or provides a statement to the State as described in subsection (a)(5) of his or her continuing intent

to major in, one of the physical, life, or computer sciences, mathematics, or engineering; and

(3) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(c) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(d) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this part shall be suspended in accordance with the regulations of the Secretary.

(e) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this part may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(f) NOTIFICATION OF SECONDARY SCHOOLS.—The Secretary shall notify all public and private secondary schools and all institutions of higher education in each State annually of the availability of scholarships under this part.

SEC. 605. SCHOLARSHIP AMOUNT. 20 USC 5385.

(a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this part for any academic year shall be $5,000.

(b) RELATION TO COST OF ATTENDANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this part shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this part shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this part, the amount paid to each student shall be reduced proportionately.

SEC. 606. SUMMER EMPLOYMENT OPPORTUNITIES FOR SCHOLARS. 20 USC 5386.

(a) PRIORITY FOR SUMMER EMPLOYMENT.—To the extent that they are otherwise qualified, students receiving scholarships under this part shall be given priority consideration for federally financed summer employment in federally funded research and development centers, that, to the maximum extent practicable, complements and reinforces the educational program of these students.

(b) FEDERAL AGENCY COOPERATION.—Federal agencies shall cooperate fully with the Secretary and participate actively in providing appropriate summer employment opportunities for such students.

PART B—ROBERT NOYCE SCHOLARSHIPS

20 USC 5401.

SEC. 611. ROBERT NOYCE SCHOLARSHIPS.

(a) PROGRAM AUTHORIZED.—There is established a scholarship program for students in a baccalaureate degree program in physical, life, or computer sciences, mathematics, or engineering who are willing to commit themselves to teaching elementary or secondary school mathematics or science.

(b) PERIOD OF AWARDS.—

(1) PERIOD OF INITIAL AWARD.—A student who satisfies the requirements of subsection (g)(1) may receive a scholarship, for a period of 1 academic year of undergraduate study at an institution of higher education.

(2) CONTINUATION AWARDS.—

(A) FIRST CONTINUATION AWARD.—A student who satisfies the requirements of subsection (g)(2) may receive an additional scholarship, awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study.

(B) SECOND CONTINUATION AWARD.—An additional period of scholarship support, not to exceed 1 year, shall be available to recipients of scholarships under subsection (a) who have completed requirements for the baccalaureate degree but require additional education courses in order to obtain certification to teach.

(c) USE AT ANY INSTITUTION PERMITTED.—A student awarded a scholarship under this section may attend any institution of higher education.

(d) DESIGNATION.—The individuals awarded scholarships under subsection (a) shall be referred to as the "Robert Noyce Mathematics and Science Teacher Corps".

(e) SELECTION.—

(1) SELECTION PROCESS FOR INITIAL AWARDS.—

(A) SELECTION CRITERIA.—The Director shall develop and submit to the Secretary proposed application procedures and criteria to be used in the selection of nominees under this section. Such criteria shall provide for the selection of such nominees on the basis of academic merit and demonstrated accomplishment in physical, life, or computer science, mathematics, or engineering, and on the basis of motivation to pursue a career in science, mathematics, or engineering. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities.

Federal Register, publication.

(B) PUBLICATION.—The Secretary and the Director shall agree to, and jointly publish in the Federal Register, appropriate selection criteria.

(C) MERIT REVIEW PANEL.—Award recipients shall be nominated from among applicants by a merit review panel composed of 8 individuals, 4 of whom shall be appointed by the Director and 4 of whom shall be appointed by the Secretary. Members of the panel shall not be employees of the United States and shall serve as volunteers without compensation. Nominees shall be selected on the basis of selection criteria, which shall be developed and published

in accordance with subparagraphs (A) and (B). The panel shall rank the nominees in order of priority.

(D) AWARDING OF SCHOLARSHIPS.—The panel shall submit its nominees to the President, who shall, after consultation with the Director and the Secretary, award not more than 500 scholarships under subsection (a). President.

(2) CONTINUATION AWARDS.—The Secretary shall award additional scholarships to recipients of initial awards under this section who the Secretary determines meet the requirements of subsection (g)(2) or (b)(2)(B).

(f) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(g) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering;

(C) in the last 2 years of a baccalaureate degree program; and

(D) enrolled in an institution of higher education as a full-time undergraduate student (as determined by the institution of higher education),

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR FIRST CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a first continuation award under subsection (b)(2)(A) for a subsequent academic year of undergraduate education if the student—

(A) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(h) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(i) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(j) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section could be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(k) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(l) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraph (2), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(m) SERVICE REQUIREMENT.—

(1) TEACHING OBLIGATION.—Each recipient of an award under this section shall, as a condition of the receipt of such award, agree to complete, within 6 years after graduation from the baccalaureate degree program for which the award was made or within 6 years after completion of the additional period of scholarship support, if applicable, at least 2 years of service as an elementary or secondary mathematics or science teacher for each year of scholarship support under this section, except that such requirement shall not exceed a total of 4 years. Service required under this paragraph shall be performed at a school receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.).

(2) REPAYMENT ALTERNATIVE.—As part of the agreement required under paragraph (1), each recipient shall agree, in the event of failure to complete the service obligation described in paragraph (1), to repay an amount equal to—

(A) the total amount of awards received by such individual under this section; plus

(B) the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

except that such payment shall be reduced, for each year of service that the individual has successfully completed, by a fraction equal to 1 divided by the number of years of service the student is obligated to perform. Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in paragraph (1).

(3) EXCEPTIONS.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation, for transfer to the Department of Education, $2,500,000 for fiscal year 1991,

$5,000,000 for fiscal year 1992, and $7,500,000 for fiscal year 1993, to carry out the provisions of this part.

PART C—NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY

SEC. 621. NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY. 20 USC 5411.

(a) ESTABLISHMENT OF ACADEMY.—The Secretary shall establish a National Academy of Science, Space, and Technology for the instruction and preparation of selected individuals for service in a science, mathematics, or engineering related capacity in the employ of the United States or a United States corporation.

(b) ADVISORY BOARD.—

(1) MEMBERSHIP.—The Secretary, after consultation with the Director, shall appoint an Advisory Board for the Academy consisting of a broadly representative group of scientists, engineers, educators, and businessmen representing high-technology industries.

(2) FUNCTIONS.—The Advisory Board shall—

(A) develop criteria to be used in the selection of recipients of scholarships under this section;

(B) select scholarship recipients from among nominations received under subsection (e); and

(C) identify fields of science, mathematics, and engineering which will be given priority in awarding scholarships under this section.

In making determinations under subparagraph (C), the Advisory Board shall take into consideration requirements of Government and industry for technical personnel in fields of science, mathematics, and engineering which are relevant to emerging industrial technologies of significant economic importance and in which shortages in the work force of the United States are projected.

(c) SCHOLARSHIPS AUTHORIZED.—(1) The Academy shall establish a scholarship program for students to pursue the baccalaureate degree in fields of science, mathematics, or engineering who are willing to commit themselves to service described in subsection (n).

(2) A student who satisfies the requirements of subsection (h)(1) may receive a scholarship for a period of 1 academic year of undergraduate study at a Member Institute.

(3) A student who satisfies the requirements of subsection (h)(2) may receive additional scholarships, each awarded for a period of 1 academic year, in order to complete his or her undergraduate course of study to a maximum of 3 awards.

(4) The individuals awarded scholarships under this section shall be referred to as the "Science, Space, and Technology Corps".

(5) An individual awarded a scholarship under this section may attend any institution of higher education that offers the baccalaureate degree in science, mathematics, or engineering. Such institutions shall be designated as Member Institutes of the Academy.

(d) NOMINATIONS FOR SCHOLARSHIP AWARDS.—Members and Delegates of the House of Representatives may each nominate 6 or more individuals, at least half of whom are female, for scholarships.

(e) SELECTION FOR INITIAL AWARDS.—(1) The Board shall develop criteria for selection of nominees under this section. Such criteria

shall provide for the selection of such nominees on the basis of academic merit and motivation to pursue a career in science, mathematics, or engineering. In addition, consideration may be given to the financial need of the individual, and to promoting participation by minorities and individuals with disabilities.

(2) From among nominees received pursuant to subsection (d), the Board shall select for award of a scholarship one individual from each Congressional District.

(f) CONTINUATION AWARDS.—The Secretary shall award additional scholarships to recipients of initial awards under this section who the Secretary determines meet the requirements of subsection (h)(2).

(g) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this section to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student unless the student is enrolled at an institution of higher education.

(h) ELIGIBILITY.—

(1) INITIAL ELIGIBILITY.—Only individuals who are—

(A) citizens or nationals of the United States, or who are aliens lawfully admitted to the United States for permanent residence;

(B) majoring in the physical, life, or computer sciences, mathematics, or engineering; and

(C) enrolled in an institution of higher education as a full-time undergraduate student (as determined by the institution of higher education),

shall be eligible for awards under this section.

(2) REQUIREMENTS FOR CONTINUATION AWARDS.—A student who has received a scholarship under this section may receive a continuation award under subsection (f) for a subsequent academic year of undergraduate education if the student—

(A) maintains a high level of academic achievement, as determined in accordance with the regulations of the Secretary;

(B) continues to major in one of the physical, life, or computer sciences, mathematics, or engineering; and

(C) continues to be enrolled at an institution of higher education as a full-time undergraduate student (as determined by the institution).

(i) WAIVER OF FULL-TIME ATTENDANCE REQUIREMENT.—The Secretary may waive the full-time attendance requirements in this section in unusual circumstances.

(j) FAILURE TO MEET ELIGIBILITY REQUIREMENTS.—In the event that the student fails to meet the requirements of this section, the student's eligibility to receive further scholarships (or scholarship proceeds) under this section shall be suspended in accordance with the regulations of the Secretary.

(k) REINSTATEMENT OF ELIGIBILITY.—The Secretary shall determine circumstances under which eligibility of a scholarship recipient under this section may be reinstated if the recipient seeks to reenter school after an interruption of schooling for personal reasons, including, but not limited to, pregnancy, child-rearing, and other family responsibilities.

(l) NOTIFICATION OF SCHOOLS.—The Secretary shall notify all institutions of higher education in the United States annually of the availability of scholarships under this section.

(m) SCHOLARSHIP AMOUNT.—

(1) AMOUNT OF AWARD.—Except as provided in paragraphs (2) and (3), the amount of a scholarship awarded under this section for any academic year shall be $5,000.

(2) RELATION TO COST OF ATTENDANCE.—Notwithstanding paragraph (1), the amount of a scholarship awarded under this section shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472 of the Higher Education Act of 1965. A scholarship awarded under this section shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

(3) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—In the event that funds available in a fiscal year are insufficient to fully fund all awards under this section, the amount paid to each student shall be reduced proportionately.

(n) SERVICE REQUIREMENT.— Government contracts.

(1) SCIENCE, SPACE, AND TECHNOLOGY SCHOLARSHIPS.—Each recipient of an award under this section shall, as a condition of the receipt of such award, agree to complete four years of—

(A) service in a physical, life, or computer science, mathematics, or engineering related capacity in the employ of the United States or any corporation or other entity, organized under the laws of the United States or of a State of the United States, at least 50 percent of which is owned by United States nationals, and which is engaged in scientific or engineering research or endeavor;

(B) postgraduate education in physical, life, or computer science, mathematics, or engineering at an institution of higher education; or

(C) a combination of service and education described under subparagraphs (A) and (B).

(2) REPAYMENT OBLIGATION.—As part of the agreement required under paragraph (1), each recipient shall agree, in the event of failure to complete the service obligation described in paragraph (1), to repay an amount equal to—

(A) the total amount of awards received by such individual under this section; plus

(B) the interest on such amounts which would be payable if at the time the amounts were received the amounts were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

Such repayment shall be made within 1 year after the recipient has ceased to perform the service obligation described in paragraph (1).

(3) EXCEPTIONS.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section in the same manner as is permitted under section 558 of the Higher Education Act of 1965 with respect to scholarships under subpart 1 of part D of title V of the Higher Education Act of 1965, except that pregnancy, child-rearing, or comparable family responsibilities shall also be grounds for deferral.

(o) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,200,000 for fiscal year 1991.

PART D—ADDITIONAL PROVISIONS

20 USC 5421.

SEC. 631. EFFECT OF CERTAIN CONTROLLED SUBSTANCE AND FELONY CONVICTIONS.

(a) GENERAL RULE.—Except as provided in subsection (b), or by a court under the authority of section 5301 of the Anti-Drug Abuse Act of 1988 (102 Stat. 4310), if any person is convicted under Federal or State law of the illegal use, possession, or distribution of a controlled substance (as such term is defined in the Controlled Substances Act), or of any crime which is a felony under Federal law or for an act which, if committed in a Federal jurisdiction, would be a felony under Federal law, and such crime was committed during a period in which such person received an award under this title, such person shall not be eligible to receive any further such awards, and shall be liable to the United States for the repayment, within 1 year after such conviction, of all amounts received pursuant to such awards, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as of the time of such conviction, as determined by the Treasurer of the United States.

(b) EXEMPTION.—A person subject to the provisions of subsection (a) may be exempted from those provisions in whole or in part if—

(1) that person, within 90 days of a conviction described in subsection (a), petitions the Secretary of Education for a good cause exemption from subsection (a); and

(2) the Secretary of Education approves the petition.

20 USC 5422.

SEC. 632. REPORT.

The National Science Foundation shall prepare and submit to the Congress no later than 1 year after the date of enactment of this Act a report examining current efforts to improve the quality of elementary and secondary mathematics and science education and career potential for the underprivileged through joint efforts of business, school districts, and institutions of higher education, and recommending ways the Federal Government may encourage such efforts. The report shall include, to the extent possible, a comprehensive list of existing efforts, an assessment of what factors have made some such efforts more successful than others, and a review of the extent to which such efforts have drawn on Federal programs.

TITLE VII—GENERAL PROVISIONS AND AUTHORIZATION OF APPROPRIATIONS

PART A—AUTHORIZATION OF APPROPRIATIONS

20 USC 5431.

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

From the amounts authorized to be appropriated to the National Science Foundation pursuant to the National Science Foundation Authorization Act of 1988, there are authorized to be appropriated—

(1) in addition to any amount obligated in fiscal year 1990 for programs on applications of advanced technology within the Education and Human Resources Directorate—

(A) $10,000,000 for fiscal year 1991 to carry out the provisions of section 221, of which $5,000,000 shall be available to carry out the provisions of subsection (a) of such section and $5,000,000 shall be available to carry out the provisions of subsection (b) of such section;

(B) $11,000,000 for fiscal year 1992 to carry out the provisions of section 221, of which $5,500,000 shall be available to carry out the provisions of subsection (a) of such section and $5,500,000 shall be available to carry out the provisions of subsection (b) of such section; and

(C) $12,500,000 for fiscal year 1993 to carry out the provisions of section 221, of which $6,250,000 shall be available to carry out the provisions of subsection (a) of such section and $6,250,000 shall be available to carry out the provisions of subsection (b) of such section;

(2) in addition to any amounts obligated in fiscal year 1990 for informal science education programs, $15,000,000 for fiscal year 1991, $17,000,000 for fiscal year 1992, and $19,400,000 for fiscal year 1993 to carry out the provisions of section 231;

(3) in addition to any amounts obligated in fiscal year 1990 for statewide education programs, $17,000,000 for fiscal year 1991, $19,400,000 for fiscal year 1992, and $22,100,000 for fiscal year 1993 to carry out the provisions of section 241;

(4) in addition to any amounts obligated in fiscal year 1990 for undergraduate education programs, $16,000,000 for fiscal year 1991, $18,200,000 for fiscal year 1992, and $20,700,000 for fiscal year 1993 to carry out the provisions of section 311;

(5) $37,900,000 for fiscal year 1991, $60,600,000 for fiscal year 1992, and $67,800,000 for fiscal year 1993 to support of graduate fellowships, including expansion of the number of graduate fellowships pursuant to the provisions of section 302;

(6) $10,000,000 for fiscal year 1991, $20,000,000 for fiscal year 1992, and $30,000,000 for fiscal year 1993 to carry out the provisions of section 303; and

(7) in addition to any amounts obligated in fiscal year 1990 for programs to increase participation by women and minorities in careers in science, mathematics and engineering, $17,000,000 for fiscal year 1991, $19,400,000 for fiscal year 1992, and $22,000,000 for fiscal year 1993 to carry out the provisions of title IV.

PART B—DEFINITIONS

SEC. 711. DEFINITIONS. 20 USC 5441.

As used in this Act—

(1) the term "consortium", refers to a combination of school districts, colleges, universities, other formal or informal educational entities, State and local governments, professional organizations, community groups, businesses and industries, or any combination thereof;

(2) the term "Director", unless otherwise specified, shall refer to the Director of the National Science Foundation;

(3) the term "elementary school" has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965;

(4) the term "Foundation" refers to the National Science Foundation;

(5) the term "institution of higher education" has the same meaning given that term in section 1201(a) of the Higher Education Act of 1965;

(6) the term "local educational agency" has the same meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965;

(7) the term "minorities" refers to members of those racial and ethnic groups underrepresented in mathematics, science and engineering, including American Indians, Black Americans, Hispanic Americans, Native Alaskans, or Native Pacific Islanders;

(8) the terms "scholarship" and "fellowship" refers to a financial award made to a student which enables a student to pursue a desired course of study at an institution of higher education;

(9) the term "secondary school" has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965;

(10) the term "Secretary", unless otherwise specified, refers to the Secretary of the Department of Education;

(11) the term "State educational agency" has the same meaning given that term in section 1471(23) of the Elementary and Secondary Education Act of 1965; and

(12) the term "traineeship" means a form of financial support provided to an institution of higher education to—

(A) be used to provide stipends to graduate students selected by such institution; and

(B) help defray educational costs of educating such graduate students.

PART C—MISCELLANEOUS PROVISIONS

SEC. 721. STUDENT ASSISTANCE GENERAL PROVISIONS.

The Secretary shall extend until January 1, 1991 the public comment period on the proposed regulations modifying part 668 of title 34, Code of Federal Regulations, concerning clock and credit hour conversion.

SEC. 722. PUBLIC LAW 81-874.

(a) FEDERAL CONTRIBUTIONS.—Section 2 of Public Law 81-874 (20 U.S.C. 237) is amended—

(1) by redesignating the second subsection (d), as added by section 7(a) of Public Law 101-305, as subsection (e); and

(2) by adding a new subsection at the end thereof to read as follows:

"(f) Beginning with fiscal year 1991, any school district which (1) as demonstrated by written evidence from the United States Forest Service satisfactory to the Secretary, contains between 50,000 and 55,000 acres of land that has been acquired by the United States Forest Service between 1915 and 1990, and (2) serves a county chartered by State law in 1875, shall be deemed to have met the requirements of subsection 2(a)(1)(C).".

(b) PAYMENTS.—Section 5(e)(1)(D) of Public Law 81-874 (20 U.S.C. 240) (hereafter in this section referred to as the "Act") shall not apply to any local educational agency that was an agency described in section 5(c)(2)(A)(ii) of the Act in fiscal year 1990 but is an agency described in section 5(c)(2)(A)(iii) in fiscal year 1991, 1992, or 1993 as a result of families moving off base due to a landfill or health concern or an environmental hazard, or due to risk assessment, investigation, testing or remediation for such concern or hazard, and any such local educational agency shall be deemed to belong to the category described in section 5(c)(2)(A)(ii) for each of the fiscal years 1991, 1992, and 1993. 20 USC 240 note.

(c) SUNSET PROVISION.—The provisions of subsection (b) shall apply only during the period beginning on the date of enactment of this Act and ending on September 30, 1993. 20 USC 240 note.

(d) DISCRETIONARY ALLOCATIONS.—

(1) IN GENERAL.—Section 5(e)(1)(B) of Public Law 81-874 (20 U.S.C. 240(e)(1)(B)) is amended to read as follows:

"(B)(i) For any fiscal year beginning after September 30, 1990, the Secretary shall first allocate to any local educational agency that is, and in fiscal year 1987 would have been, described in subsection (c)(3)(A)(i) and that received a payment under section 3(b) for fiscal year 1987, an amount that is not less than the product of—

"(I) 100 percent of the per pupil amount paid to such agency under section 3(b) for fiscal year 1987; and

"(II) the number of children described in section 3(b) in average daily attendance in the fiscal year for which the determination under section 3(b) is made, not to exceed the number of such eligible children claimed by such agency in fiscal year 1987.

"(ii) If the amount appropriated for section 3(b) in any fiscal year exceeds the amount appropriated for such section for fiscal year 1990, the Secretary shall use such excess funds—

"(I) first, to allocate to any such agency, for such children that exceed the number of such eligible children claimed by the agency in fiscal year 1987, the amount described in subsection (c)(3)(B)(i)(I); and

"(II) second, to allocate remaining funds in accordance with subsection (c)(3)(B).".

(2) SPECIAL RULE.—Section 5(e) of Public Law 81-874 (20 U.S.C. 240(e)) is further amended by striking out paragraph (3).

SEC. 723. TECHNICAL AMENDMENT.

Section 312(5) of the Adult Education Act (20 U.S.C. 1201a(5)) is amended by inserting ", or to perform a service function for," after "direction of" the first place it appears.

PART D—EFFECTIVE DATE

SEC. 731. EFFECTIVE DATE.

The provisions of this Act shall take effect on October 1, 1990, or the date of enactment of this Act, whichever is later.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 996:

HOUSE REPORTS: No. 101-220 (Comm. on Science, Space, and Technology) and No. 101-937 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Sept. 12, considered and passed House.

Vol. 136 (1990): Aug. 3, considered and passed Senate, amended.
Oct. 25, House agreed to conference report.
Oct. 26, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential statement.

Public Law 101-590
101st Congress

An Act

To amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

Nov. 16, 1990
[H.R. 1602]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Trauma Care Systems Planning and Development Act of 1990. Intergovernmental relations. 42 USC 201 note. 42 USC 300d note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trauma Care Systems Planning and Development Act of 1990".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal Government and the governments of the States have established a history of cooperation in the development, implementation, and monitoring of integrated, comprehensive systems for the provision of emergency medical services throughout the United States;

(2) physical trauma is the leading cause of death of Americans between the ages of 1 and 44 and is the third leading cause of death in the general population of the United States;

(3) physical trauma in the United States results in an aggregate annual cost of $180,000,000,000 in medical expenses, insurance, lost wages, and property damage;

(4) barriers to the provision of prompt and appropriate emergency medical services exist in many areas of the United States;

(5) few States and communities have developed and implemented trauma care systems;

(6) many trauma centers have incurred substantial uncompensated costs in providing trauma care, and such costs have caused many such centers to cease participation in trauma care systems; and

(7) the number of incidents of physical trauma in the United States is a serious medical and social problem, and the number of deaths resulting from such incidents can be substantially reduced by improving the trauma-care components of the systems for the provision of emergency medical services in the United States.

SEC. 3. ESTABLISHMENT OF PROGRAMS WITH RESPECT TO TRAUMA CARE.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XI the following new title:

"TITLE XII—TRAUMA CARE

"PART A—GENERAL AUTHORITY AND DUTIES OF SECRETARY

42 USC 300d.

"SEC. 1201. ESTABLISHMENT.

"(a) IN GENERAL.—The Secretary shall, with respect to trauma care—

"(1) conduct and support research, training, evaluations, and demonstration projects;

"(2) foster the development of appropriate, modern systems of such care through the sharing of information among agencies and individuals involved in the study and provision of such care;

"(3) provide to State and local agencies technical assistance; and

"(4) sponsor workshops and conferences.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants, and enter into cooperative agreements and contracts, for the purpose of carrying out subsection (a).

42 USC 300d-1.

"SEC. 1202. ADVISORY COUNCIL ON TRAUMA CARE SYSTEMS.

"(a) ESTABLISHMENT.—The Secretary shall establish an advisory council to be known as the Advisory Council on Trauma Care Systems (hereafter in this section referred to as the 'Council').

"(b) DUTIES.—The Council shall—

"(1) periodically conduct assessments of the needs in the United States with respect to trauma care and the extent to which the States are responding to such needs, including special consideration of the unique needs of rural areas;

"(2) submit to the Secretary the findings made as a result of such assessments; and

"(3) advise the Secretary with respect to activities carried out under this title, including the development of the model trauma plan described in section 1213(c).

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—The Secretary shall appoint to the Council 12 appropriately qualified representatives of the public who are not officers or employees of the United States. Of such members—

"(A) 3 shall be individuals experienced or specially trained in trauma surgery (including a critical care nurse);

"(B) 3 shall be individuals experienced or specially trained in emergency medicine (including a nurse who is specially trained in emergency medicine);

"(C) 1 shall be an individual experienced or specially trained in the care of injured children;

"(D) 1 shall be an individual experienced or specially trained in physical medicine and rehabilitation; and

"(E) 4 shall be individuals experienced or specially trained in the development, administration, or financing of trauma care systems.

"(2) EX OFFICIO MEMBERS.—The Secretary may designate as ex officio members of the Council appropriately qualified representatives of the Department of Health and Human Services, the Department of Transportation, the Federal Emergency Management Agency, and such other agencies of the Federal Government as the Secretary determines to have functions affecting emergency medical services.

"(3) KNOWLEDGE CONCERNING RURAL AREAS.—Of the members described in paragraph (1), 25 percent of the members shall be knowledgeable about the unique needs of rural areas with respect to the purpose of the Council.

"(d) TERMS.—

"(1) GENERAL TERM.—Except as provided in paragraph (2), members of the Council appointed under subsection (c)(1) shall serve for a term of 4 years.

"(2) INITIAL MEMBERS.—Of the members first appointed to the Council under subsection (c)(1), the Secretary shall appoint 4 members to serve for a term of 4 years, 4 members to serve for a term of 3 years, and 4 members to serve for a term of 2 years.

"(e) VACANCIES.—

"(1) SERVICE FOR REMAINDER OF TERM.—Any member of the Council appointed under subsection (c)(1) to fill a vacancy occurring before the expiration of the term of the predecessor of the member shall be appointed for the remainder of the term of the predecessor.

"(2) CONTINUED SERVICE AFTER EXPIRATION OF TERM.—A member of the Council appointed under subsection (c)(1) may continue to serve after the expiration of the term of the member until a successor is appointed.

"(f) CHAIR.—The Secretary, or the designee of the Secretary, shall serve as the chair of the Council.

"(g) MEETINGS.—The Council shall meet at the call of the Chair and shall meet not less than once each 3 months.

"(h) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—

"(1) FEDERAL OFFICIALS.—Ex officio members of the Council under subsection (c)(2) may not receive compensation for service on the Council in addition to the compensation otherwise received for duties carried out as officers or employees of the United States.

"(2) APPOINTMENT MEMBERS.—Members of the Council appointed under subsection (c)(1) may not receive compensation for service on the Council. Such members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Council.

"(i) STAFF.—The Secretary shall provide to the Council such staff, information, and other assistance as may be necessary to carry out the duties of the Council.

"(j) TERMINATION.—Notwithstanding section 14(a) of the Federal Advisory Committee Act, the Council shall continue in existence until otherwise provided by law.

"SEC. 1203. CLEARINGHOUSE ON TRAUMA CARE AND EMERGENCY MEDICAL SERVICES.

42 USC 300d-2.

"(a) ESTABLISHMENT.—The Secretary shall by contract provide for the establishment and operation of a National Clearinghouse on Trauma Care and Emergency Medical Services (hereafter in this section referred to as the 'Clearinghouse').

Government contracts.

"(b) DUTIES.—The Clearinghouse shall—

"(1) foster the development of appropriate, modern trauma care and emergency medical services (including the development of policies for the notification of family members of individuals involved in medical emergencies) through the sharing of information among agencies and individuals involved in planning, furnishing, and studying such services and care;

Public information.

"(2) collect, compile, and disseminate information on the achievements of, and problems experienced by, State and local agencies and private entities in providing trauma care and emergency medical services and, in so doing, give special consideration of the unique needs of rural areas;

"(3) provide technical assistance relating to trauma care and emergency medical services to State and local agencies; and

"(4) sponsor workshops and conferences on trauma care and emergency medical services.

"(c) FEES AND ASSESSMENTS.—A contract entered into by the Secretary under this section may provide that the Clearinghouse charge fees or assessments in order to defray, and beginning with fiscal year 1992, to cover, the costs of operating the Clearinghouse.

42 USC 300d-3.

"SEC. 1204. ESTABLISHMENT OF PROGRAMS FOR IMPROVING TRAUMA CARE IN RURAL AREAS.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of carrying out research and demonstration projects with respect to improving the availability and quality of emergency medical services in rural areas—

"(1) by developing innovative uses of communications technologies and the use of new communications technology;

"(2) by developing model curricula for training emergency medical services personnel, including first responders, emergency medical technicians, emergency nurses and physicians, and paramedics—

"(A) in the assessment, stabilization, treatment, preparation for transport, and resuscitation of seriously injured patients, with special attention to problems that arise during long transports and to methods of minimizing delays in transport to the appropriate facility; and

"(B) in the management of the operation of the emergency medical services system;

"(3) by making training for original certification, and continuing education, in the provision and management of emergency medical services more accessible to emergency medical personnel in rural areas through telecommunications, home studies, providing teachers and training at locations accessible to such personnel, and other methods;

"(4) by developing innovative protocols and agreements to increase access to prehospital care and equipment necessary for the transportation of seriously injured patients to the appropriate facilities; and

"(5) by evaluating the effectiveness of protocols with respect to emergency medical services and systems.

Grant programs.

"(b) SPECIAL CONSIDERATION FOR CERTAIN RURAL AREAS.—In making grants under subsection (a), the Secretary shall give special consideration to any applicant for the grant that will provide services under the grant in any rural area identified by a State under section 1214(c)(1).

"(c) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary.

"PART B—FORMULA GRANTS WITH RESPECT TO MODIFICATIONS OF STATE PLANS

"SEC. 1211. ESTABLISHMENT OF PROGRAM. 42 USC 300d-11.

"(a) REQUIREMENT OF ALLOTMENTS FOR STATES.—The Secretary shall for each fiscal year make an allotment for each State in an amount determined in accordance with section 1218. The Secretary shall make payments, as grants, each fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 1217.

"(b) PURPOSE.—Except as provided in section 1233, the Secretary may not make payments under this part for a fiscal year unless the State involved agrees that, with respect to the trauma care component of the State plan for the provision of emergency medical services, the payments will be expended only for the purpose of developing, implementing, and monitoring the modifications to such component described in section 1213.

"SEC. 1212. REQUIREMENT OF MATCHING FUNDS FOR FISCAL YEARS SUBSEQUENT TO FIRST FISCAL YEAR OF PAYMENTS. 42 USC 300d-12.

"(a) NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary may not make payments under section 1211(a) unless the State involved agrees, with respect to the costs described in paragraph (2), to make available non-Federal contributions (in cash or in kind under subsection (b)(1)) toward such costs in an amount equal to—

"(A) for the second fiscal year of such payments to the State, not less than $1 for each $1 of Federal funds provided in such payments for such fiscal year; and

"(B) for any subsequent fiscal year of such payments to the State, not less than $3 for each $1 of Federal funds provided in such payments for such fiscal year.

"(2) PROGRAM COSTS.—The costs referred to in paragraph (1) are—

"(A) the costs to be incurred by the State in carrying out the purpose described in section 1211(c); or

"(B) the costs of improving the quality and availability of emergency medical services in rural areas of the State.

"(3) INITIAL YEAR OF PAYMENTS.—The Secretary may not require a State to make non-Federal contributions as a condition of receiving payments under section 1211(a) for the first fiscal year of such payments to the State.

"(b) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—With respect to compliance with subsection (a) as a condition of receiving payments under section 1211(a)—

"(1) a State may make the non-Federal contributions required in such subsection in cash or in kind, fairly evaluated, including plant, equipment, or services;

"(2) the Secretary may not, in making a determination of the amount of non-Federal contributions, include amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government; and

"(3) the Secretary shall, in making such a determination, include only non-Federal contributions in excess of the amount of non-Federal contributions made by the State during fiscal year 1990 toward—

"(A) the costs of providing trauma care in the State; and
"(B) the costs of improving the quality and availability of emergency medical services in rural areas of the State.

42 USC 300d-13. "SEC. 1213. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF ALLOTMENTS.

"(a) TRAUMA CARE MODIFICATIONS TO STATE PLAN FOR EMERGENCY MEDICAL SERVICES.—With respect to the trauma care component of a State plan for the provision of emergency medical services, the modifications referred to in section 1211(b) are such modifications to the State plan as may be necessary for the State involved to ensure that the plan provides for access to the highest possible quality of trauma care, and that the plan—

"(1) specifies that the modifications required pursuant to paragraphs (2) through (10) will be implemented by the principal State agency with respect to emergency medical services or by the designee of such agency;

"(2) specifies any public or private entity that will designate trauma care regions and trauma centers in the State;

"(3) subject to subsection (b), contains standards and requirements for the designation of level I and level II trauma centers, and in the case of rural areas level III trauma centers (including trauma centers with specified capabilities and expertise in the care of the pediatric trauma patient), by such entity, including standards and requirements for—

"(A) the number and types of trauma patients for whom such centers must provide care in order to ensure that such centers will have sufficient experience and expertise to be able to provide quality care for victims of injury;

"(B) the resources and equipment needed by such centers; and

"(C) the availability of rehabilitation services for trauma patients;

"(4) subject to subsection (b), contains standards and requirements for the implementation of regional trauma care systems, including standards and guidelines (consistent with the provisions of section 1867 of the Social Security Act for medically directed triage and transportation of trauma patients (including patients injured in rural areas) prior to care in designated trauma centers;

"(5) subject to subsection (b), contains standards and requirements for medically directed triage and transport of severely injured children to designated trauma centers with specified capabilities and expertise in the care of the pediatric trauma patient;

"(6) specifies procedures for the evaluation of designated trauma centers (including trauma centers described in paragraph (5)) and trauma care systems;

"(7) provides for the establishment and collection of data from each designated trauma center in the State of a central data reporting and analysis system—

"(A) to identify the number of severely injured trauma patients within regional trauma care systems in the State;

"(B) to identify the cause of the injury and any factors contributing to the injury;

"(C) to identify the nature and severity of the injury;

"(D) to monitor trauma patient care (including prehospital care) in each designated trauma center within regional trauma care systems in the State (including relevant emergency-department discharges and rehabilitation information) for the purpose of evaluating the diagnosis, treatment and treatment outcome of such trauma patients;

"(E) to identify the total amount of uncompensated trauma care expenditures for each fiscal year by each designated trauma center in the State; and

"(F) to identify patients transferred within a regional trauma system, including reasons for such transfer;

"(8) to provide for the use of procedures by paramedics and emergency medical technicians to assess the severity of the injuries incurred by trauma patients;

"(9) to provide appropriate transportation and transfer policies to ensure the delivery of patients to designated trauma centers and other facilities within and outside of the jurisdiction of such system, including policies to ensure that only individuals appropriately identified as trauma patients are transferred to designated trauma centers, and to provide periodic reviews of the transfers and the auditing of such transfers that are determined to be appropriate;

"(10) to conduct public education activities concerning injury prevention and obtaining access to trauma care; and

"(11) with respect to the requirements established in this subsection, provides for coordination and cooperation between the State and any other State with which the State shares any standard metropolitan statistical area.

"(b) CERTAIN STANDARDS WITH RESPECT TO TRAUMA CARE CENTERS AND SYSTEMS.—

"(1) IN GENERAL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that, in carrying out paragraphs (3) through (5) of subsection (a), the State will adopt standards for the designation of trauma centers, and for triage, transfer, and transportation policies, and that the State will, in adopting such standards—

"(A) take into account national standards concerning such;

"(B) consult with medical, surgical, and nursing speciality groups, hospital associations, emergency medical services State and local directors, concerned advocates and other interested parties;

"(C) conduct hearings on the proposed standards after providing adequate notice to the public concerning such hearing; and

"(D) beginning in fiscal year 1992, take into account the model plan described in subsection (c).

"(2) QUALITY OF TRAUMA CARE.—The highest quality of trauma care shall be the primary goal of State standards adopted under this subsection.

"(3) APPROVAL BY SECRETARY.—The Secretary may not make payments under section 1211(a) to a State if the Secretary determines that—

"(A) in the case of payments for fiscal year 1991 and subsequent fiscal years, the State has not taken into account national standards, including those of the American College of Surgeons, the American College of Emer-

gency Physicians and the American Academy of Pediatrics, in adopting standards under this subsection; or

"(B) in the case of payments for fiscal year 1992 and subsequent fiscal years, the State has not, in adopting such standards, taken into account the model plan developed under subsection (c).

"(c) MODEL TRAUMA CARE PLAN.—Not later than 1 year after the date of the enactment of the Trauma Care Systems Planning and Development Act of 1990, the Secretary shall develop a model plan for the designation of trauma centers and for triage, transfer and transportation policies that may be adopted for guidance by the State. Such plan shall—

"(1) take into account national standards, including those of the American College of Surgeons, American College of Emergency Physicians and the American Academy of Pediatrics;

"(2) take into account existing State plans;

"(3) be developed in consultation with medical, surgical, and nursing speciality groups, hospital associations, emergency medical services State directors and associations, and other interested parties; and

"(4) include standards for the designation of rural health facilities and hospitals best able to receive, stabilize, and transfer trauma patients to the nearest appropriate designated trauma center, and for triage, transfer, and transportation policies as they relate to rural areas.

Rural areas.

Standards described in paragraph (4) shall be applicable to all rural areas in the State, including both non-metropolitan areas and frontier areas that have populations of less than 6,000 per square mile.

"(d) RULE OF CONSTRUCTION WITH RESPECT TO NUMBER OF DESIGNATED TRAUMA CENTERS.—With respect to compliance with subsection (a) as a condition of the receipt of a grant under section 1211(a), such subsection may not be construed to specify the number of trauma care centers designated pursuant to such subsection.

42 USC 300d-14.

"SEC. 1214. REQUIREMENT OF SUBMISSION TO SECRETARY OF TRAUMA PLAN AND CERTAIN INFORMATION.

"(a) TRAUMA PLAN.—

"(1) IN GENERAL.—For fiscal year 1991 and subsequent fiscal years, the Secretary may not make payments under section 1211(a) unless, subject to paragraph (2), the State involved submits to the Secretary the trauma care component of the State plan for the provision of emergency medical services.

"(2) INTERIM PLAN OR DESCRIPTION OF EFFORTS.—For fiscal year 1991, if a State has not completed the trauma care component of the State plan described in paragraph (1), the State may provide, in lieu of a completed such component, an interim component or a description of efforts made toward the completion of the component.

"(b) INFORMATION RECEIVED BY STATE REPORTING AND ANALYSIS SYSTEM.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees that the State will, not less than once each year, provide to the Secretary the information received by the State pursuant to section 1213(a)(7).

"(c) AVAILABILITY OF EMERGENCY MEDICAL SERVICES IN RURAL AREAS.—The Secretary may not make payments under section 1211(a) for a fiscal year unless—

"(1) the State involved identifies any rural area in the State for which—

"(A) there is no system of access to emergency medical services through the telephone number 911;

"(B) there is no basic life-support system; or

"(C) there is no advanced life-support system; and

"(2) the State submits to the Secretary a list of rural areas identified pursuant to paragraph (1) or, if there are no such areas, a statement that there are no such areas.

"SEC. 1215. RESTRICTIONS ON USE OF PAYMENTS. 42 USC 300d-15.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (b), make payments under section 1211(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

"(1) subject to section 1233, for any purpose other than developing, implementing, and monitoring the modifications required by section 1211(b) to be made to the State plan for the provision of emergency medical services.

"(2) to make cash payments to intended recipients of services provided pursuant to such section;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical or communication equipment, ambulances, or aircraft;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(b) EXCEPTION.—If the Secretary finds that the purpose described in section 1211(b) cannot otherwise be carried out, the Secretary may, with respect to an otherwise qualified State, waive the restriction established in subsection (a)(3).

"SEC. 1216. REQUIREMENT OF REPORTS BY STATES. 42 USC 300d-16.

"(a) IN GENERAL.—The Secretary may not make payments under section 1211(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments; and

"(2) determining whether the payments were expended in accordance with the purpose of the program involved.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 1211(a) unless the State involved agrees that the State will make copies of the report described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall evaluate the expenditures by States of payments under section 1211(a) in order to assure that expenditures are consistent with the provisions of this part, and not later than December 1, 1993, prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the

Committee on Labor and Human Resources of the Senate a report concerning such evaluation.

42 USC 300d-17.

"SEC. 1217. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 1211(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with this part;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the plan provisions and the information required to be submitted to the Secretary pursuant to section 1214; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

42 USC 300d-18.

"SEC. 1218. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 1211(a) for a State for a fiscal year shall be the greater of—

"(1) the amount determined under subsection (b)(1); and

"(2) $250,000 in the case of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 in the case of each of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(b) DETERMINATION UNDER FORMULA.—

"(1) IN GENERAL.—The amount referred to in subsection (a)(1) for a State for a fiscal year is the sum of—

"(A) an amount determined under paragraph (2); and

"(B) an amount determined under paragraph (3).

"(2) AMOUNT RELATING TO POPULATION.—The amount referred to in subparagraph (A) of paragraph (1) for a State for a fiscal year is the product of—

"(A) an amount equal to 80 percent of the amounts appropriated under section 1232(a) for the fiscal year and available for allotment under section 1211(a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the population of the State; divided by

"(ii) an amount equal to the population of all States.

"(3) AMOUNT RELATING TO SQUARE MILEAGE.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) an amount equal to 20 percent of the amounts appropriated under section 1232(a) for the fiscal year and available for allotment under section 1211(a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the lesser of 266,807 and the amount of the square mileage of the State; divided by

"(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

"(c) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) IN GENERAL.—Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 1211(a) for the fiscal year (other than any State referred to in paragraph (2)(C)).

"(2) TYPE OF AMOUNTS.—The amounts referred to in paragraph (1) are any amounts made available pursuant to 1232(b)(3) that are not paid under section 1211(a) to a State as a result of—

"(A) the failure of the State to submit an application under section 1217;

"(B) the failure, in the determination of the Secretary, of the State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made for the State.

"(3) AMOUNT.—The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

"(B) the percentage determined under subsection (b)(2) for the State.

"SEC. 1219. FAILURE TO COMPLY WITH AGREEMENTS. 42 USC 300d-19.

"(a) REPAYMENT OF PAYMENTS.—

"(1) REQUIREMENT.—The Secretary may, in accordance with subsection (b), require a State to repay any payments received by the State pursuant to section 1211(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be made by the State as a condition of the receipt of payments under such section.

"(2) OFFSET OF AMOUNTS.—If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against any amount due to be paid to the State under section 1211(a).

"(b) OPPORTUNITY FOR A HEARING.—Before requiring repayment of payments under subsection (a)(1), the Secretary shall provide to the State an opportunity for a hearing.

"SEC. 1220. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS. 42 USC 300d-20.

"(a) IN GENERAL.—

"(1) FALSE STATEMENTS OR REPRESENTATIONS.—A person may not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from amounts paid to the State under section 1211(a).

"(2) CONCEALING OR FAILING TO DISCLOSE INFORMATION.—A person with knowledge of the occurrence of any event affecting the right of the person to receive any payments from amounts paid to the State under section 1211(a) may not conceal or fail to disclose any such event with the intent of fraudulently securing such amount.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

42 USC 300d-21. "SEC. 1221. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving payments under section 1211(a), provide to the State (or to any public or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program carried out pursuant to section 1211(b). The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—Upon the request of a State receiving payments under section 1211(a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out section 1211(b) and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments to the State under section 1211(a) by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

42 USC 300d-22. "SEC. 1222. REPORT BY SECRETARY.

"Not later than October 1, 1992, the Secretary shall report to the appropriate committees of Congress on the activities of the States carried out pursuant to section 1211. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to trauma care.

"PART C—GENERAL PROVISIONS

42 USC 300d-31. "SEC. 1231. DEFINITIONS.

"For purposes of this title:

"(1) DESIGNATED TRAUMA CENTER.—The term 'designated trauma center' means a trauma center designated in accordance with the modifications to the State plan described in section 1213.

"(2) STATE PLAN REGARDING EMERGENCY MEDICAL SERVICES.—The term 'State plan', with respect to the provision of emergency medical services, means a plan for a comprehensive, organized system to provide for the access, response, triage, field stabilization, transport, hospital stabilization, definitive care, and rehabilitation of patients of all ages with respect to emergency medical services.

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico; the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) TRAUMA.—The term 'trauma' means an injury resulting from exposure to a mechanical force.

"(5) TRAUMA CARE COMPONENT OF STATE PLAN.—The term 'trauma care component', with respect to components of the State plan for the provision of emergency medical services, means a plan for a comprehensive health care system, within rural and urban areas of the State, for the prompt recognition, prehospital care, emergency medical care, acute surgical and medical care, rehabilitation, and outcome evaluation of seriously injured patients.

"SEC. 1232. FUNDING. 42 USC 300d-32.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $60,000,000 for fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992 and 1993.

"(b) ALLOCATION OF FUNDS BY SECRETARY.—

"(1) GENERAL AUTHORITY.—For the purpose of carrying out part A, the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year under subsection (a).

"(2) RURAL GRANTS.—For the purpose of carrying out section 1204, the Secretary shall make available 10 percent of the amounts appropriated for a fiscal year under subsection (a).

"(3) FORMULA GRANTS.—

"(A) For the purpose of making allotments under section 1211(a), the Secretary shall, subject to subsection (c), make available 80 percent of the amounts appropriated for a fiscal year pursuant to subsection (a).

"(B) Amounts paid to a State under section 1211(a) for a fiscal year shall, for the purposes for which the amounts were paid, remain available for obligation until the end of the fiscal year immediately following the fiscal year for which the amounts were paid.

"(c) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

"(1) IN GENERAL.—If the amounts made available under subsection (b)(3)(A) for a fiscal year are insufficient for providing each State with an allotment under section 1211(a) of not less than the applicable amount under section 1218(a)(2), the Secretary shall, from such amounts as are made available under subsection (b)(3)(A), make grants to States described in paragraph (2) for carrying out part B.

"(2) ELIGIBLE STATES.—The States referred to in paragraph (1) are States that—

"(A) have the greatest need to develop, implement, and maintain trauma care systems; and

"(B) demonstrate in their applications under section 1217 the greatest commitment to establishing and maintaining such systems.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.

"SEC. 1233. WAIVER OF REQUIREMENT REGARDING PURPOSE OF GRANTS. 42 USC 300d-33.

"(a) AUTHORITY FOR REIMBURSEMENTS REGARDING UNCOMPENSATED COSTS OF TRAUMA CENTERS.—Upon the request of a State described in subsection (b), the Secretary may grant a waiver to the

State of the requirement established in subsection (b) of section 1211. A State granted such a waiver may expend payments under subsection (a) of such section to provide reimbursements to 1 or more designated trauma centers described in subsection (c) for such portion of the uncompensated trauma care expenditures of such centers as the State considers appropriate. Such reimbursements may include reimbursments for expenditures for uncompensated professional services for trauma care.

"(b) ELIGIBLE STATES.—The State referred to in subsection (a) is any State that meets the requirements under part B for receiving payments under subsection (a) of section 1211 for the fiscal year involved, and that—

"(1) with respect to the State plan for the provision of emergency medical services, has fully implemented the portions of the plan developed pursuant to subsection (b) of such section; and

"(2) contains no rural area described in section 1214(c)(1).

"(c) ELIGIBLE TRAUMA CENTERS.—The designated trauma center referred to in subsection (a) is such a center that—

"(A) meets the standards and requirements established under section 1213 by the State for trauma centers;

"(B) serves an area in which the trauma care system meets the standards and requirements established under such section by the State for trauma care systems; and

"(C) maintains its designation as a designated trauma center throughout the fiscal year for which reimbursement is provided under this section.".

SEC. 4. COOPERATION BETWEEN STATE AGENCIES.

Section 1905(c) of the Public Health Service Act (42 U.S.C. 300w-4(c)) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(7) agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

"(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety; and

"(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.".

SEC. 5. EMERGENCY MEDICAL SERVICES FOR CHILDREN.

Section 1910 of the Public Health Service Act (42 U.S.C. 300w-9) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking out "not more that four grants in any fiscal year" and inserting in lieu thereof "grants"; and

(B) by striking out "in such States"; and

(2) in subsection (d), by striking out "fiscal year 1991" and inserting in lieu thereof "each of the fiscal years 1991 and 1992".

SEC. 6. GRANT REGARDING MEDICAL FACILITIES.

(a) IN GENERAL.—The Secretary of Health and Human Services may make a grant to the George Washington University Hospital, a nonprofit private hospital located in the District of Columbia, for the purpose of constructing or modernizing a medical facility of such Hospital.

(b) REQUIREMENT OF MATCHING FUNDS.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs of carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than $1 for each $1 of Federal funds provided in the grant.

(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions in cash that has been provided for purposes of paragraph (1), the Secretary may not include any amounts provided by the Federal Government.

(c) OBLIGATIONS REGARDING FREE CARE AND COMMUNITY SERVICE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that clauses (i) and (ii) of section 1621(b)(1)(K) of the Public Health Service Act (and regulations issued under such clauses), and section 1622 of such Act (and regulations issued under such section), will apply with respect to the medical facility constructed or modernized with the grant to the same extent and in the same manner as such sections and regulations apply with respect to medical facilties constructed or modernized with funds that have been paid under title XVI of such Act.

(d) DEFINITION.—For purposes of this Act, the term "Secretary" means the Secretary of Health and Human Services.

(e) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—

(A) Subject to subparagraph (B), there is authorized to be appropriated an aggregate $50,000,000 for the fiscal years 1992 through 1995.

(B) The authorization of appropriations established in subparagraph (A) is effective only with respect to appropriations made from allocations under section 302(b) of the Congressional Budget Act of 1974—

(i) for the Subcommittee on the District of Columbia of the Committee on Appropriations of the House of Representatives, in the case of any bill, resolution, or amendment considered in the House; and

(ii) for the Subcommittee on District of Columbia of the Committee on Appropriations of the Senate, in the case of any bill, resolution, or amendment considered in the Senate.

(2) AMOUNT OF GRANT.—Subject to the extent of amounts made available in appropriations Act, the amount of a grant under subsection (a) shall be $50,000,000.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 1602 (S. 15):

HOUSE REPORTS: No. 101-346 (Comm. on Energy and Commerce) and No. 101-956 (Comm. of Conference).

SENATE REPORTS: No. 101-292 accompanying S. 15 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 135 (1989): Nov. 14, considered and passed House.

Vol. 136 (1990): Oct. 17, S. 15 considered and passed Senate.
Oct. 18, H.R. 1602 considered and passed Senate, amended, in lieu of S. 15.
Oct. 26, House agreed to conference report.
Oct. 27, Senate agreed to conference report.

Public Law 101-591
101st Congress

An Act

To reauthorize the Coastal Barrier Resources Act, and for other purposes.

Nov. 16, 1990
[H.R. 2840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coastal Barrier Improvement Act of 1990.
16 USC 3501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Barrier Improvement Act of 1990".

SEC. 2. DEFINITION AMENDMENTS.

(a) UNDEVELOPED COASTAL BARRIER.—The Coastal Barrier Resources Act is amended in section 3(1)(A) (16 U.S.C. 3502(1)(A))—

(1) by striking clause (i); and

(2) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively.

(b) SYSTEM MAPS; SYSTEM.—

(1) REPEAL AND ADDITION OF DEFINITION.—Section 3(6) of the Coastal Barrier Resources Act (16 U.S.C. 3502(6)) is amended to read as follows:

"(6) The term 'System' means the Coastal Barrier Resources System established by section 4(a).".

(2) CONFORMING AMENDMENTS.—Section 5 of the Coastal Barrier Resources Act (16 U.S.C. 3504) is amended—

(A) in subsection (a), by striking "Coastal Barrier Resources";

(B) in subsection (b)(1), by striking "of the enactment of this Act" and inserting in lieu thereof "on which the relevant System unit or portion of the System unit was included within the System under this Act or the Coastal Barrier Improvement Act of 1990"; and

(C) at the end of subsection (b)(2), by striking "of enactment".

(c) OTHERWISE PROTECTED AREAS.—Section 3(1) of the Act (16 U.S.C. 3502(1)) is amended—

(1) by striking "(i)" immediately before "contain few"; and

(2) by inserting a period immediately following "ecological processes" and striking the balance of the sentence.".

SEC. 3. COASTAL BARRIER RESOURCES SYSTEM, GENERALLY.

Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended to read as follows:

"SEC. 4. ESTABLISHMENT OF COASTAL BARRIER RESOURCES SYSTEM.

"(a) ESTABLISHMENT.—There is established the Coastal Barrier Resources System, which shall consist of those undeveloped coastal barriers and other areas located on the coasts of the United States that are identified and generally depicted on the maps on file with the Secretary entitled 'Coastal Barrier Resources System', dated

October 24, 1990, as such maps may be revised by the Secretary under section 4 of the Coastal Barrier Improvement Act of 1990.

"(b) SYSTEM MAPS.—The Secretary shall keep the maps referred to in subsection (a) on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service, and in such other offices of that service as the Director considers appropriate.

Intergovernmental relations.

"(c) BOUNDARY REVIEW AND MODIFICATION.—At least once every 5 years, the Secretary shall review the maps referred to in subsection (a) and shall make, in consultation with the appropriate State, local, and Federal officials, such minor and technical modifications to the boundaries of System units as are necessary solely to reflect changes that have occurred in the size or location of any System unit as a result of natural forces.".

16 USC 3503 note.

SEC. 4. TECHNICAL REVISION OF MAPS; MODIFICATION OF BOUNDARIES; ADDITIONS TO SYSTEM.

(a) TECHNICAL REVISION OF MAPS AND PROVISION TO STATE AND LOCAL GOVERNMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall—

(1) make such technical revisions to the maps referred to in section 4(a) of the Coastal Barrier Resources Act (as amended by section 3 of this Act) as may be necessary to correct existing clerical and typographical errors in the maps; and

(2) provide copies of the maps, as so revised, to—

(A) each State and each local government in which is located a unit of the System;

(B) the coastal zone management agency of each State—

(i) in which is located a unit of the System; and

(ii) which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

(C) appropriate Federal agencies.

(b) RECOMMENDATIONS OF STATE AND LOCAL GOVERNMENTS FOR BOUNDARY MODIFICATIONS.—(1) Not later than 1 year after the date of the enactment of this Act—

(A) a local government in which is located a unit of the System and which is in a State which has a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455); and

(B) the coastal zone management agency of a State in which is located a unit of the System and which has such a program approved;

may each submit to the Secretary recommendations for minor and technical modifications to the boundaries of existing units of the System located in that local government or State, respectively.

(2) If, in the case of any minor and technical modification to the boundaries of System units made under the authority of subsection (d) of this section, an appropriate chief executive officer of a State, county or equivalent jurisdiction, or State coastal zone management agency to which notice was given in accordance with this subsection files comments disagreeing with all or part of the modification and the Secretary makes a modification which is in conflict with such comments, or if the Secretary fails to adopt a modification pursuant to a proposal submitted by an appropriate State coastal zone management agency under paragraph (1) of this subsection, the Secretary shall submit to the chief executive officer a written

justification for the failure to make modifications consistent with such comments or proposals.

(c) ELECTIONS TO ADD TO SYSTEM.—

(1) PROVISION OF MAPS BY SECRETARY.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall provide—

(A) to each local government in which is located an undeveloped coastal barrier not included within the System; and

(B) to the Governor of each State in which such an area is located;

maps depicting those undeveloped coastal barriers not included within the System located in that local government or State, respectively.

(2) ELECTIONS.—Not later than 18 months after the date of the enactment of this Act, a local government and the Governor of any State referred to in paragraph (1), and any qualified organization—

(A) may each elect to add to the System, as a new unit or as an addition to an existing unit, any area of qualified coastal barrier (or any portion thereof) which is owned or held by the local government, State, or qualified organization, respectively;

(B) shall notify the Secretary of that election; and

(C) shall submit to the Secretary a map depicting the area, if—

(i) the area (or portion) is not depicted on a map provided by the Secretary under paragraph (1); or

(ii) the local government, State, or qualified organization was not provided maps under paragraph (1).

(3) EFFECTIVE DATE OF ELECTION.—An area elected by a local government, Governor of a State, or qualified organization to be added to the System under this subsection shall be part of the System effective on the date on which the Secretary publishes notice in the Federal Register under subsection (e)(1)(C) with respect to that election.

(d) ADDITION OF EXCESS FEDERAL PROPERTY.—

(1) CONSULTATION AND DETERMINATION.—Prior to transfer or disposal of excess property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) that may be an undeveloped coastal barrier, the Administrator of General Services shall consult with and obtain from the Secretary a determination as to whether and what portion of the property constitutes an undeveloped coastal barrier. Not later than one hundred and eighty days after the initiation of such consultation, the Secretary shall make and publish notice of such determination. Immediately upon issuance of a positive determination, the Secretary shall—

(A) prepare a map depicting the undeveloped coastal barrier portion of such property; and

(B) shall publish in the Federal Register notice of the addition of such property to the System.

Federal Register, publication.

(2) EFFECTIVE DATE OF INCLUSION.—An area to be added to the System under this subsection shall be part of the System effective on the date on which the Secretary publishes notice in the Federal Register under subsection (d)(1)(B) with respect to that area.

(3) REVISION OF MAPS.—As soon as practicable after the date on which a unit is added to the System under subsection (d)(2), the Secretary shall revise the maps referred to in section 4(a) of the Act (as amended by section 3 of this Act) to reflect each such addition.

(e) MODIFICATION OF BOUNDARIES, REVISION OF MAPS, AND PUBLICATION OF NOTICE.—

(1) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary—

(A) based on recommendations submitted by local governments and State coastal zone management agencies under subsection (b), may make such minor and technical modifications to the boundaries of existing units of the System as are consistent with the purposes of the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.) and are necessary to clarify the boundaries of those units;

(B) shall revise the maps referred to in section 4(a) of the Act (as amended by section 3 of this Act)—

(i) to reflect those modifications; and

(ii) to reflect each election of a local government, Governor of a State, or qualified organization to add an area to the System pursuant to subsection (c); and

Federal Register, publication.

(C) shall publish in the Federal Register notice of each such modification or election.

(2) EFFECTIVE DATE OF MODIFICATIONS.—A modification of the boundaries of a unit of the System under paragraph (1)(A) shall take effect on the date on which the Secretary published notice in the Federal Register under paragraph (1)(C) with respect to that modification.

(f) NOTIFICATION REGARDING MODIFICATIONS AND ELECTIONS.—Not less than 30 days before the effective date of any modification of the boundaries of a unit of the System under subsection (d)(1)(A), or of an election of a local government, Governor of a State, or qualified organization to add an area of qualified coastal barrier to the System pursuant to subsection (c) or of an addition to the System pursuant to subsection (d), the Secretary shall submit written notice of such modification or election to—

(1) the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate; and

(2) appropriate State and Federal officials.

SEC. 5. EXCEPTIONS TO LIMITATIONS ON FEDERAL EXPENDITURES.

(a) EXCEPTIONS, GENERALLY.—Section 6 of the Coastal Barrier Resources Act (16 U.S.C. 3505) is amended to read as follows:

"SEC. 6. EXCEPTIONS TO LIMITATIONS ON EXPENDITURES.

"(a) IN GENERAL.—Notwithstanding section 5, the appropriate Federal officer, after consultation with the Secretary, may make Federal expenditures and may make financial assistance available within the System for the following:

"(1) Any use or facility necessary for the exploration, extraction, or transportation of energy resources which can be carried out only on, in, or adjacent to a coastal water area because the use or facility requires access to the coastal water body.

"(2) The maintenance or construction of improvements of existing Federal navigation channels (including the Intracoastal

Waterway) and related structures (such as jetties), including the disposal of dredge materials related to such maintenance or construction.

"(3) The maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system.

"(4) Military activities essential to national security.

"(5) The construction, operation, maintenance, and rehabilitation of Coast Guard facilities and access thereto.

"(6) Any of the following actions or projects, if a particular expenditure or the making available of particular assistance for the action or project is consistent with the purposes of this Act:

"(A) Projects for the study, management, protection, and enhancement of fish and wildlife resources and habitats, including acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects.

"(B) Establishment, operation, and maintenance of air and water navigation aids and devices, and for access thereto.

"(C) Projects under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 through 11) and the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

"(D) Scientific research, including aeronautical, atmospheric, space, geologic, marine, fish and wildlife, and other research, development, and applications.

"(E) Assistance for emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 402, 403, and 502 of the Disaster Relief and Emergency Assistance Act and section 1362 of the National Flood Insurance Act of 1968 (42 U.S.C. 4103) and are limited to actions that are necessary to alleviate the emergency.

"(F) Maintenance, replacement, reconstruction, or repair, but not the expansion (except with respect to United States route 1 in the Florida Keys), of publicly owned or publicly operated roads, structures, and facilities.

"(G) Nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore a natural stabilization system.

"(b) EXISTING FEDERAL NAVIGATION CHANNELS.—For purposes of subsection (a)(2), a Federal navigation channel or a related structure is an existing channel or structure, respectively, if it was authorized before the date on which the relevant System unit or portion of the System unit was included within the System.

"(c) EXPANSION OF HIGHWAYS IN MICHIGAN.—The limitations on the use of Federal expenditures or financial assistance within the System under subsection (a)(3) shall not apply to a highway—

"(1) located in a unit of the System in Michigan; and

"(2) in existence on the date of the enactment of the Coastal Barrier Improvement Act of 1990.

"(d) SERVICES AND FACILITIES OUTSIDE SYSTEM.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) of this subsection, limitations on the use of Federal expenditures or financial assistance within the System under section 5

shall not apply to expenditures or assistance provided for services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System (as depicted on the maps referred to in section 4(a)) which relate to an activity within that unit.

"(2) PROHIBITION OF FLOOD INSURANCE COVERAGE.—No new flood insurance coverage may be provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) for any new construction or substantial improvements relating to services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this Act.

"(3) PROHIBITION OF HUD ASSISTANCE.—

"(A) IN GENERAL.—No financial assistance for acquisition, construction, or improvement purposes may be provided under any program administered by the Secretary of Housing and Urban Development for any services or facilities and related infrastructure located outside the boundaries of unit T-11 of the System that facilitate an activity within that unit that is not consistent with the purposes of this Act.

"(B) DEFINITION OF FINANCIAL ASSISTANCE.—For purposes of this paragraph, the term 'financial assistance' includes any contract, loan, grant, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan, mortgage, or pool of mortgages.".

(b) CONFORMING AMENDMENT.—Subsection (d) of section 204 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (16 U.S.C. 3505 note) is repealed.

(c) APPLICATION OF EXISTING LOUISIANA EXCEPTION.—Section 5(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3504(a)(3)) is amended by inserting "and LA07" after "S01 through S08".

16 USC 3503 note.

SEC. 6. PACIFIC COASTAL BARRIER PROTECTION STUDY AND MAPS.

IN GENERAL.—

(1) STUDY.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Environment and Public Works of the Senate a study which examines the need for protecting undeveloped coastal barriers along the Pacific coast of the United States south of 49 degrees north latitude through inclusion in the System. Such study shall examine—

(A) the potential for loss of human life and damage to fish, wildlife, other natural resources, and the potential for the wasteful expenditure of Federal revenues given the geologic differences of the coastal barriers along the Pacific coast as opposed to those found along the Atlantic and Gulf coasts; and

(B) the differences in extreme weather conditions which exist along the Pacific coast as opposed to those found along the Atlantic and Gulf coasts.

(2) PREPARATION AND SUBMISSION OF MAPS.—

(A) As soon as practicable after the date of the enactment of this Act, the Secretary shall prepare maps identifying

the boundaries of those undeveloped coastal barriers (as that term is defined in section 3(1) of the Coastal Barrier Resources Act (16 U.S.C. 3502(1)) of the United States bordering the Pacific Ocean south of 49 degrees north latitude.

(B) Not later than 12 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Environment and Public Works of the Senate maps identifying the boundaries of those undeveloped coastal barriers of the United States bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System.

SEC. 7. SPECIAL UNIT. Florida.

(a) DESIGNATION.—The southernmost portion of unit P-11 of the System, as depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act (as amended by this Act), located on Hutchinson Island north of St. Lucie Inlet in Florida, is designated as the "Frank M. McGilvrey Unit". In revising those maps under section 4(a) of this Act, the Secretary shall so identify that unit.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the unit of the System referred to in subsection (a) is deemed to be a reference to the "Frank M. McGilvrey Unit" of the System.

SEC. 8. REPORT REGARDING COASTAL BARRIER MANAGEMENT. 16 USC 3503 note.

(a) COASTAL BARRIERS TASK FORCE.—

(1) ESTABLISHMENT.—There is established an interagency task force to be known as the Coastal Barriers Task Force (hereinafter in this section referred to as the "Task Force").

(2) MEMBERSHIP.—The Task Force shall be composed of 11 individuals as follows:

(A) A designee of the Secretary of Agriculture.
(B) A designee of the Secretary of Commerce.
(C) A designee of the Secretary of Defense.
(D) A designee of the Secretary of Energy.
(E) A designee of the Secretary of Housing and Urban Development.
(F) A designee of the Secretary of the Interior.
(G) A designee of the Secretary of Transportation.
(H) A designee of the Secretary of the Treasury, who shall represent the Internal Revenue Service.
(I) A designee of the Administrator of the Environmental Protection Agency.
(J) A designee of the Director of the Federal Emergency Management Agency.
(K) A designee of the Administrator of the Small Business Administration.

(3) CHAIRPERSON.—The chairperson of the Task Force shall be the designee of the Secretary of the Interior.

(b) REPORT.—

(1) IN GENERAL.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Task Force shall submit to the Congress a report regarding the Coastal Barrier Resources System.

(2) CONTENTS.—The report required under paragraph (1) shall include the following:

(A) An analysis of the effects of any regulatory activities of the Federal Government on development within units of the System, for the period from 1975 to 1990.

(B) An analysis of the direct and secondary impacts of tax policies of the Federal Government on development (including development of second home and investment properties) within units of the System, for the period from 1975 to 1990.

(C) An estimate and comparison of the costs to the Federal Government with respect to developed coastal barriers on which are located units of the System, for the period from 1975 to 1990, which shall include costs of shore protection activities, beach renourishment activities, evacuation services, disaster assistance, and flood insurance subsidies under the national flood insurance program.

(D) A determination of the number of structures for which flood insurance under the national flood insurance program has been unavailable since the enactment of the National Flood Insurance Act of 1968 because of the prohibition, under section 1321 of such Act, of the provision of insurance for structures located on coastal barriers within the System.

(E) An estimate of the number of existing structures located on coastal barriers that are included within the System because of the expansion of the System under this Act and the amendments made by this Act.

(F) A summary of the opinions and comments expressed pursuant to paragraph (3).

(G) Recommendations for Federal policies and legislative action with respect to developed and undeveloped coastal barriers to promote the protection of coastal barriers and minimize activities of the Federal Government that contribute to the destruction and degradation of coastal barriers.

(3) HEARINGS.—In carrying out its responsibilities under this subsection, the Task Force shall hold hearings to provide opportunity for State and local governments and members of the public to express their opinions and comment on Federal policy regarding coastal barriers.

(c) TERMINATION.—The Task Force shall terminate 90 days after submission of the report required under subsection (b)(1).

SEC. 9. PROHIBITION OF FLOOD INSURANCE COVERAGE IN CERTAIN COASTAL BARRIERS.

Section 1321 of the National Flood Insurance Act of 1968 (42 U.S.C. 4028) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) No new flood insurance coverage may be provided under this title after the expiration of the 1-year period beginning on the date of the enactment of the Coastal Barrier Improvement Act of 1990 for any new construction or substantial improvements of structures located in any area identified and depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act as an area that is (1) not within the Coastal Barrier Resources System and (2) is in an otherwise protected area. Notwithstanding the preceding sentence, new flood insurance coverage may be provided for structures

in such protected areas that are used in a manner consistent with the purpose for which the area is protected.".

SEC. 10. RTC AND FDIC PROPERTIES. 12 USC 1441a-3.

(a) REPORTS.—

(1) SUBMISSION.—The Resolution Trust Corporation and the Federal Deposit Insurance Corporation shall each submit to the Congress for each year a report identifying and describing any property that is covered property of the corporation concerned as of September 30 of such year. The report shall be submitted on or before March 30 of the following year.

(2) CONSULTATION.—In preparing the reports required under this subsection, each corporation concerned may consult with the Secretary of the Interior for purposes of identifying the properties described in paragraph (1).

(b) LIMITATION ON TRANSFER.—

(1) NOTICE.—The Resolution Trust Corporation and the Federal Deposit Insurance Corporation may not sell or otherwise transfer any covered property unless the corporation concerned causes to be published in the Federal Register a notice of the availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property. Federal Register, publication.

(2) EXPRESSION OF SERIOUS INTEREST.—During the 90-day period beginning on the date that notice under paragraph (1) concerning a covered property is first published, any governmental agency or qualified organization may submit to the corporation concerned a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the corporation concerned may prescribe.

(3) PROHIBITION OF TRANSFER.—During the period under paragraph (2), a corporation concerned may not sell or otherwise transfer any covered property for which notice has been published under paragraph (1). Upon the expiration of such period, the corporation concerned may sell or otherwise transfer any covered property for which notice under paragraph (1) has been published if a notice of serious interest under paragraph (2) concerning the property has not been timely submitted.

(4) OFFERS AND PERMITTED TRANSFER.—If a notice of serious interest in a covered property is timely submitted pursuant to paragraph (2), the corporation concerned may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under paragraph (2) except to a governmental agency or qualified organization for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes, unless all notices of serious interest under paragraph (2) have been withdrawn.

(c) DEFINITIONS.—For purposes of this section:

(1) CORPORATION CONCERNED.—The term "corporation concerned" means—

(A) the Federal Deposit Insurance Corporation, with respect to matters relating to the Federal Deposit Insurance Corporation; and

(B) the Resolution Trust Corporation, with respect to matters relating to the Resolution Trust Corporation.

(2) COVERED PROPERTY.—The term "covered property" means any property—

(A) to which—

(i) the Resolution Trust Corporation has acquired title in its corporate or receivership capacity; or

(ii) the Federal Deposit Insurance Corporation has acquired title in its corporate capacity or which was acquired by the former Federal Savings and Loan Insurance Corporation in its corporate capacity; and

(B) that—

(i) is located within the Coastal Barrier Resources System; or

(ii) is undeveloped, greater than 50 acres in size, and adjacent to or contiguous with any lands managed by a governmental agency primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

(3) GOVERNMENTAL AGENCY.—The term "governmental agency" means any agency or entity of the Federal Government or a State or local government.

(4) UNDEVELOPED.—The term "undeveloped" means—

(A) containing few manmade structures and having geomorphic and ecological processes that are not significantly impeded by any such structures or human activity; and

(B) having natural, cultural, recreational, or scientific value of special significance.

Wildlife refuges.

SEC. 11. ACQUISITION OF PROPERTY BY SECRETARY OF THE INTERIOR.

The Secretary of the Interior may purchase any property within the area added to unit T-12 of the System by this Act, as depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act. The Secretary of the Interior shall provide that any property purchased under this section is used and administered in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

16 USC 3503 note.

SEC. 12. DEFINITIONS.

For purposes of this Act—

(1) the term "undeveloped coastal barrier" means—

(A) a depositional geologic feature (such as a bay barrier, tombolo, barrier spit, or barrier island) that—

(i) is subject to wave, tidal, and wind energies, and

(ii) protects landward aquatic habitats from direct wave attack; and

(B) all associated aquatic habitats including the adjacent wetlands, marshes, estuaries, inlets, and nearshore waters;

but only if such features and associated habitats contain few manmade structures and these structures, and man's activities on such features and within such habitats, do not significantly impede geomorphic and ecological processes.

(2) the term "otherwise protected area" means an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes;

(3) the term "qualified organization" means such an organization under section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3));

(4) the term "Secretary" means the Secretary of the Interior; and

(5) the term "System" means the Coastal Barrier Resources System established by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), as amended by this Act.

SEC. 13. AUTHORIZATIONS OF APPROPRIATIONS.

(a) COASTAL BARRIER RESOURCES ACT.—Section 12 of the Coastal Barrier Resources Act (16 U.S.C. 3510) is amended to read as follows:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to the Secretary for carrying out this Act not more than $1,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993.".

(b) THIS ACT.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary for carrying out this Act not more than $1,000,000 for each of the fiscal years 1991 and 1992.

(2) PROPERTY ACQUISITION.—In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated to the Secretary of the Interior during fiscal years 1991, 1992, and 1993 an aggregate amount of $15,000,000 to carry out section 11.

SEC. 14. CERTIFICATION OF COMPLIANCE.

Section 7 of the Coastal Barrier Resources Act (16 U.S.C. 3506) is amended to read as follows:

"SEC. 7. CERTIFICATION OF COMPLIANCE.

"(a) REGULATIONS.—Not later than 12 months after the date of enactment of the Coastal Barrier Improvement Act of 1990, the head of each Federal agency affected by this Act shall promulgate regulations to assure compliance with the provisions of this Act.

"(b) CERTIFICATION.—The head of each Federal agency affected by this Act shall report and certify that each such agency is in compliance with the provisions of this Act. Such reports and certifications shall be submitted annually to the Committees and the Secretary.". Reports.

SEC. 15. DARE COUNTY, NORTH CAROLINA, TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration by quitclaim deed to Dare County, North Carolina, all rights, title, and interest of the United States in Coast Guard property and improvements located on the northern end of Pea Island east side of State road 1257, 0.3 miles north of North Carolina Highway 12 in Rodanthe, Dare County,

North Carolina. The Secretary shall require the property to be surveyed before it is transferred.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 2840 (S. 2729):

HOUSE REPORTS: No. 101-657, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Banking, Finance and Urban Affairs).
SENATE REPORTS: No. 101-529 accompanying S. 2729 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed House.
Oct. 26, considered and passed Senate, amended. House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks.

Public Law 101-592
101st Congress

An Act

To require that certain fasteners sold in commerce conform to the specifications to which they are represented to be manufactured, to provide for accreditation of laboratories engaged in fastener testing, to require inspection, testing, and certification, in accordance with standardized methods, of fasteners used in critical applications to increase fastener quality and reduce the danger of fastener failure, and for other purposes.

Nov. 16, 1990
[H.R. 3000]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fastener Quality Act.
Consumer protection.
15 USC 5401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fastener Quality Act".

15 USC 5401.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the American economy uses billions of fasteners each year;

(2) millions of mismarked, substandard, counterfeit, and other nonconforming fasteners have been sold in commerce to end-users in the United States, and their use has dramatically increased the risk of equipment and infrastructure failures;

(3) both the military and civilian sectors of the economy have encountered unnecessary, unwarranted, and dangerous equipment and construction failures, as well as extraordinary expenses, as a result of the use of nonconforming fasteners;

(4) the sale in commerce of nonconforming fasteners and the use of nonconforming fasteners in numerous critical applications have reduced the combat readiness of the Nation's military forces, endangered the safety of other Federal projects and activities, and cost both the public and private sectors large sums in connection with the retesting and purging of fastener inventories;

(5) the purchase and use of nonconforming fasteners stem from material misrepresentations about such fasteners made by certain manufacturers, importers, and distributors engaged in commerce;

(6) current fastener standards of measurement evaluate bolts and other fasteners according to multiple criteria, including strength, hardness, and composition, and provide grade identification markings on fasteners to make the characteristics of individual fasteners clear to purchasers and users;

(7) current tests required by consensus standards, designed to ensure that fasteners are of standard measure, are adequate and appropriate for use as standards in a program of high-strength fastener testing;

(8) the lack of traceability by lot number of fasteners sold in commerce is a serious impediment to effective quality control efforts; and

(9) the health and safety of Americans is threatened by the widespread sale in commerce of mismarked, substandard, and

counterfeit fasteners, a practice which also harms American manufacturers, importers, and distributors of safe and conforming fasteners, and workers in the American fastener industry.

(b) PURPOSE.—In order to protect public safety, to deter the introduction of nonconforming fasteners into commerce, to improve the traceability of fasteners used in critical applications, and generally to provide commercial and governmental customers with greater assurance that fasteners meet stated specifications, it is the purpose of this Act to create procedures for the testing, certification, and distribution of certain fasteners used in commerce within the United States.

15 USC 5402.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "alter" means to alter—

(A) by through-hardening,

(B) by electroplating of fasteners having a minimum tensile strength of 150,000 pounds per square inch, or

(C) by machining;

(2) "consensus standards organization" means the American Society for Testing and Materials, American National Standards Institute, American Society of Mechanical Engineers, Society of Automotive Engineers, or any other standard-setting organization determined by the Secretary to have comparable knowledge, expertise, and concern for health and safety in the field for which such organization purports to set standards;

(3) "container" means any package of fasteners traded in commerce;

(4) "Director" means the Director of the National Institute of Standards and Technology;

(5) "fastener" means—

(A) a—

(i) screw, nut, bolt, or stud having internal or external threads, or

(ii) a load-indicating washer,

with a nominal diameter of 5 millimeters or greater, in the case of such items described in metric terms, or ¼ inch or greater, in the case of such items described in terms of the English system of measurement, which contains any quantity of metal and is held out as meeting a standard or specification which requires through-hardening,

(B) a screw, nut, bolt, or stud having internal or external threads which bears a grade identification marking required by a standard or specification,

(C) a washer to the extent that it is subject to a standard or specification applicable to a screw, nut, bolt, or stud described in subparagraph (B), or

(D) any item within a category added by the Secretary in accordance with section 4(b),

except that such term does not include any screw, nut, bolt, or stud that is produced and marked as ASTM A 307 Grade A;

(6) "grade identification marking" means any symbol appearing on a fastener purporting to indicate that the fastener's base material, strength properties, or performance capabilities conform to a specific standard of a consensus standards organization or other person;

(7) "importer" means a person located within the United States who contracts for the initial purchase of fasteners manufactured outside the United States for resale or such person's use within the United States;

(8) "Institute" means the National Institute of Standard and Technology;

(9) "lot" means a quantity of fasteners of one part number fabricated by the same production process from the same coil or heat number of metal as provided by the metal manufacturer and submitted for inspection and testing at one time;

(10) "manufacturer" means a person who fabricates fasteners, or who alters any item so that it becomes a fastener;

(11) "original equipment manufacturer" means a person who uses fasteners in the manufacture or assembly of its products and sells fasteners to authorized dealers as replacement or service parts for its products;

(12) "private label distributor" means a person who contracts with a manufacturer for the fabrication of fasteners bearing the distributor's distinguishing insignia;

(13) "Secretary" means the Secretary of Commerce;

(14) "standards and specifications" means the provisions of a document published by a consensus standards organization, a government agency, or a major end-user of fasteners which defines or describes dimensional characteristics, limits of size, acceptable materials, processing, functional behavior, plating, baking, inspecting, testing, packaging, and required markings of any fastener; and

(15) "through-harden" means heating above the transformation temperature followed by quenching and tempering.

SEC. 4. SPECIAL RULES FOR FASTENERS. 15 USC 5403.

(a) WAIVER REQUIREMENT.—If the Secretary determines that any category of fastener is not used in critical applications, the Secretary shall waive the requirements of this Act with respect to such category.

(b) ADDITIONAL ITEMS.—If the Secretary determines that—

(1) a category of screw, nut, bolt, or stud which is not described in section 3(5)(A)(i) or (B),

(2) a category of item which is associated with a fastener described in section 3(5)(A), (B), or (C), or

(3) a category of item which serves a function comparable to that served by a fastener so described

is used in critical applications, the Secretary may include such category under section 3(5)(D) and therefore within the definition of fasteners under this Act.

(c) NOTICE AND OPPORTUNITY FOR COMMENTS.—The Secretary shall provide advance notice and the opportunity for public comments prior to making any determination under subsections (a) and (b) and shall act through the Director in making any such determination.

SEC. 5. TESTING AND CERTIFICATION OF FASTENERS. 15 USC 5404.

(a) REQUIREMENT.—(1) No fastener shall be offered for sale or sold in commerce unless it is part of a lot which—

(A) conforms to the standards and specifications to which the manufacturer represents it has been manufactured; and

(B) has been inspected, tested, and certified as provided in subsections (b) and (c) of this section.

(2)(A) Paragraph (1)(B) of this subsection shall not apply to fasteners which are part of a lot of 50 fasteners or less if, within 10 working days after the delivery of such fasteners, or as soon as practicable thereafter—

(i) inspection, testing, and certification as provided in subsections (b) and (c) is carried out; and

(ii) written notice detailing the results of such inspection, testing, and certification is sent (I) to all purchasers of such fasteners, except retail sellers and retail consumers, and (II) to any retail seller or retail consumer who, prior to delivery, requests such written notice.

(B) If a fastener is sold under this paragraph, each purchaser of such fastener, except for retail sellers and retail consumers unless such retail sellers and retail consumers request such notice in advance, shall be provided, contemporaneously with each sale and delivery, written notice stating that such fastener has not yet been inspected, tested, and certified as required by this Act.

(b) INSPECTION AND TESTING.—(1) The manufacturer of a lot of fasteners shall cause to be inspected and tested a representative sample, as provided in paragraph (2) of this subsection, of the fasteners in such lot to determine whether the lot conforms to the standards and specifications to which the manufacturer represents it has been manufactured. Such inspection and testing shall be performed by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6. The standards and specifications to which the manufacturer represents such lot has been manufactured shall be disclosed by the manufacturer to the laboratory at the time the lot is submitted for inspection and testing under this paragraph. The manufacturer of a lot may perform the inspection and testing required by this paragraph in a laboratory which it owns or with which it is otherwise affiliated, if such laboratory is accredited in accordance with the procedures and conditions specified by the Secretary under section 6; unless the Secretary finds that, as to a specific type of fastener and as to a specific type of inspection or testing, a ban on manufacturer ownership or affiliation with the accredited laboratory would increase the protection of health and safety of the public or industrial workers.

(2) The size, selection, and integrity of the sample to be inspected and tested under paragraph (1) shall be governed—

(A) by the standards and specifications to which the manufacturer represents the fasteners in the sample have been manufactured; or

(B) if such standards and specifications do not provide for the size, selection, or integrity of the sample, by sampling procedures prescribed by the Secretary, who shall to the extent practicable use consensus testing standards and related materials.

Nothing in this paragraph shall prohibit a purchaser from requiring the inspection and testing of a greater number of fasteners from a lot than is specified in the applicable standards and specifications or in the applicable sampling procedures prescribed by the Secretary.

(c) LABORATORY REPORT OF TESTING.—If a laboratory performing the inspection and testing under subsection (b)(1) determines, as to the characteristics selected under the sampling procedures prescribed by the Secretary and based on the sample examined, that a lot conforms to the standards and specifications to which the manufacturer represents it has been manufactured, the laboratory shall

provide to the manufacturer a written inspection and testing report with respect to such lot. The report, which shall be in a form prescribed by the Secretary by regulation, shall—

(1) state the manufacturer's name, the part description, and the lot number and note the grade identification mark and insignia found on the fastener;

(2) reference the standards and specifications disclosed by the manufacturer with respect to such lot under subsection (b)(1) or, where applicable, certified by the manufacturer under section 7(c)(1);

(3) list the markings and characteristics selected under the Secretary's procedures for testing, such as the chemical, dimensional, physical, mechanical, and any other significant characteristics required by the standards and specifications described in paragraph (2) and specify the results of the inspection and testing under subsection (b)(1);

(4) state whether, based on the samples provided as representative of the lot, such lot has been found after such inspection and testing to conform to such standards and specifications; and

(5) bear the original signature of a laboratory employee or officer determined by the Secretary to be responsible for the accuracy of the report and of the inspection and testing to which it relates.

SEC. 6. LABORATORY ACCREDITATION. 15 USC 5405.

(a) ESTABLISHMENT OF ACCREDITATION PROGRAM.—(1) Within 180 days after the date of enactment of this Act, the Secretary, acting through the Director, shall issue regulations which shall include— Regulations.

(A) procedures and conditions, including sampling procedures referred to in section 5, for the accreditation by the Institute of laboratories engaged in the inspection and testing of fasteners under section 5;

(B) procedures and conditions (which shall be consistent with the procedures and conditions established under subparagraph (A)), using to the extent practicable the requirements of national or international consensus documents intended to govern the operation of accreditation bodies, under which private entities may apply for approval by the Secretary to engage directly in the accreditation of laboratories in accordance with the requirements of this Act; and

(C) conditions (which shall be consistent with the procedures and conditions established under subparagraph (A)), under which the accreditation of foreign laboratories by their governments or organizations recognized by the Director shall be deemed to satisfy the laboratory accreditation requirements of this section.

(2) Upon establishing a laboratory accreditation program under paragraph (1), the Secretary shall publish a notice in the Federal Register stating that the Secretary is prepared to accept applications for accreditation of such laboratories. Federal Register, publication.

(3) No accreditation provided under the terms of this subsection shall be effective for a period of greater than 3 years.

(b) LABORATORY ACCREDITATION PROCEDURES.—Existing Institute accreditation procedures stated in part 7 of title 15, Code of Federal Regulations, as in effect on the date of enactment of this Act, supplemented as the Secretary considers necessary, shall be used to

accredit laboratories under the accreditation program established under subsection (a).

(c) ENSURING COMPLIANCE.—(1) The Secretary shall ensure that—

(A) private entities accrediting laboratories under procedures and conditions established under subsection (a)(1)(B) comply with such procedures and conditions, and

(B) laboratories accredited by such private entities, or by foreign governments pursuant to subsection (a)(1)(C), comply with the requirements for such accreditation.

Records. (2) The Secretary may require any such private entity or laboratory to provide all records and materials that may be necessary to allow the Secretary to carry out this subsection.

(d) OPERATION OF LABORATORY ACCREDITATION PROGRAM.—(1) The Director may hire such contractors as are necessary to carry out the accreditation program established under subsection (a).

(2) Costs to the Institute and to the Secretary for the establishment and operation of the accreditation program under this section shall be fully reimbursable to the Institute or to the Secretary, as appropriate, through fees or other charges for accreditation services under such program.

(e) RECOMMENDATIONS TO CONSENSUS STANDARDS ORGANIZATIONS.—The Director shall periodically transmit to appropriate consensus standards organizations any information or recommendations that may be useful in the establishment or application by such organizations of standards and specifications for fasteners.

15 USC 5406. **SEC. 7. SALE OF FASTENERS SUBSEQUENT TO MANUFACTURE.**

(a) DOMESTICALLY PRODUCED FASTENERS.—It shall be unlawful for a manufacturer to sell any shipment of fasteners (except fasteners for which the Secretary has waived the requirements of this Act pursuant to section 4) which are manufactured in the United States unless the fasteners are accompanied, at the time of delivery, by a written certificate by the manufacturer certifying that—

(1) the fasteners have been manufactured according to the requirements of the applicable standards and specifications and have been inspected and tested by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6; and

Records. (2) an original laboratory testing report described in section 5(c) is on file with the manufacturer, or under such custody as may be prescribed by the Secretary, and available for inspection.

(b) FASTENERS OF FOREIGN ORIGIN.—(1) Except as provided in paragraph (2) of this subsection, it shall be unlawful—

(A) for any person to sell to any importer, and

(B) for any importer to purchase,

any shipment of fasteners which are manufactured outside the United States unless delivery of such shipment to such importer is accompanied by a manufacturer's certificate as described in subsection (a), an original laboratory testing report described in section 5(c), with respect to each lot from which such fasteners were taken, and any other relevant lot identification information.

(2) The requirement under paragraph (1) of this subsection that the delivery of such a shipment to such importer be accompanied by an original laboratory testing report shall not apply in the case of fasteners imported into the United States—

(A) as products manufactured within a nation which is party to a congressionally-approved free trade agreement with the United States that is in effect, so long as the Secretary certifies that satisfactory arrangements have been reached by which purchasers within the United States can readily gain access to an original laboratory testing report for such fasteners; or

(B) as Canadian-origin products under the United States-Canada Automobile Pact for use as original equipment in the manufacture of motor vehicles.

Canada.
Motor vehicles.

(c) OPTION FOR IMPORTERS AND PRIVATE LABEL DISTRIBUTORS.—(1) Notwithstanding section 5(a) and subsections (a) and (b) of this section, delivery of a lot, or portion of a lot, of fasteners may be made to an importer or private label distributor without the required original copy of the laboratory testing report if—

(A) the manufacturer provides to the importer or private label distributor a manufacturer's certificate certifying that the fasteners have been manufactured according to the requirements of the applicable standards and specifications; and

(B) the importer or private label distributor assumes responsibility in writing for the inspection and testing of such lot or portion by a laboratory accredited in accordance with the procedures and conditions specified by the Secretary under section 6.

(2) If the importer or private distributor assumes the responsibility in writing for the inspection and testing of such lot or portion, the provisions of section 5(a) and subsections (a) and (b) of this section shall apply to the importer or private label distributor in the same manner and extent as to a manufacturer; except that the importer or private label distributor shall provide to the testing laboratory the manufacturer's certificate described under paragraph (1) of this subsection.

(d) ALTERATIONS SUBSEQUENT TO MANUFACTURE.—(1) Any person who significantly alters a fastener so that such fastener no longer conforms to the description in the relevant certificate issued under section 5(c), and who thereafter offers for sale or sells such altered fastener, shall be treated as a manufacturer for purposes of this Act and shall cause such altered fastener to be inspected and tested under section 5 or this section as though it were newly manufactured, unless delivery of such fastener to the purchaser is accompanied by a written statement noting the original lot number, disclosing the subsequent alteration, and warning that such alteration may affect the dimensional or physical characteristics of the fastener.

(2) Any person who knowingly sells an altered fastener and who did not alter such fastener shall provide to the purchaser a copy of the statement required by paragraph (1).

(e) COMMINGLING.—(1) Subject to paragraph (2), it shall be unlawful for any manufacturer or any person who purchases any quantity of fasteners for resale at wholesale to commingle like fasteners from different lots in the same container; except that such manufacturer or such person may commingle like fasteners of the same type, grade, and dimension from not more than two tested and certified lots in the same container during repackaging and plating operations: *Provided,* That any container which contains like fasteners from two lots shall be conspicuously marked with the lot identification numbers of both lots.

(2) Paragraph (1) does not apply to sales by original equipment manufacturers to their authorized dealers for use in assembling or

servicing products produced by the original equipment manufacturers.

(f) SUBSEQUENT PURCHASER.—(1) It shall be unlawful for any person to sell fasteners, of any quantity, to any person who purchases such fasteners—

(A) for sale at wholesale, or

(B) for assembling components of a product or structure for sale,

unless the container of fasteners sold is conspicously marked with the number of the lot from which such fasteners were taken, except that this requirement shall not apply to sales by original equipment manufacturers to their authorized dealers for use in assembling or servicing products produced by the original equipment manufacturer.

(2) If a person who purchases fasteners for purposes other than those described in paragraph (1) (A) and (B) so requests either prior to the sale or at the time of sale, the seller shall conspicuously mark the container of fasteners with the lot number from which such fasteners were taken.

(g) REGULATIONS.—The Secretary may issue such regulations as may be necessary to ensure compliance with the provisions of this section.

15 USC 5407.

SEC. 8. MANUFACTURERS' INSIGNIAS.

(a) GENERAL RULE.—No fastener which is required by the standards and specifications to which it was manufactured to bear a raised or depressed insignia identifying its manufacturer or private label distributor shall be offered for sale or sold in commerce unless the manufacturer or private label distributor of such fastener has complied with the requirements prescribed by the Secretary in connection with the program established under subsection (b) of this section.

Regulations.

(b) RECORDATION.—The Secretary shall establish, by regulation, a program to provide for the recordation of the insignias of manufacturers and private label distributors described in subsection (a), to ensure the traceability of a fastener to its manufacturer or private label distributor.

15 USC 5408.

SEC. 9. REMEDIES AND PENALTIES.

(a) CIVIL REMEDIES.—(1) The Attorney General may bring an action in an appropriate United States district court for appropriate declaratory and injunctive relief against any person who violates this Act or any regulation under this Act.

(2) An action under paragraph (1) may not be brought more than 10 years after the date on which the cause of action accrues.

(b) CIVIL PENALTIES.—(1) Any person who is determined by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or any regulation under this Act shall be liable to the United States for a civil penalty of not more than $25,000 for each violation.

(2) The amount of the penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good

faith attempt to achieve compliance, ability to pay the penalty, and such other matters as justice may require.

(3) Any person against whom a civil penalty is assessed under paragraph (2) of this section may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The findings and order of the Secretary shall be set aside by such court if they are found to be unsupported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section prior to referral to the Attorney General under paragraph (5).

(5) A civil penalty assessed under this subsection may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(6) For the purpose of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) CRIMINAL PENALTIES.—(1) Whoever knowingly certifies, marks, offers for sale, or sells a fastener in violation of this Act or a regulation under this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(2) Whoever intentionally fails to maintain records relating to a fastener in violation of this Act or a regulation under this Act shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(3) Whoever negligently fails to maintain records relating to a fastener in violation of this Act or a regulation under this Act shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both.

SEC. 10. RECORDKEEPING REQUIREMENTS. 15 USC 5409.

(a) LABORATORIES.—Laboratories which perform inspections and testing under section 5(b) shall retain for 10 years all records concerning the inspection and testing, and certification, of fasteners under section 5.

(b) MANUFACTURERS, IMPORTERS, PRIVATE LABEL DISTRIBUTORS, AND PERSONS WHO MAKE SIGNIFICANT ALTERATIONS.—Manufacturers, importers, private label distributors, and persons who make significant alterations shall retain for 10 years all records concerning the inspection and testing, and certification, of fasteners under

section 5, and shall provide copies of any applicable laboratory testing report or manufacturer's certificate upon request to any subsequent purchaser of fasteners taken from the lot to which such testing report or manufacturer's certificate relates.

15 USC 5410.

SEC. 11. RELATIONSHIP TO STATE LAWS.

Nothing in this Act shall be construed to preempt any rights or causes of action that any buyer may have with respect to any seller of fasteners under the law of any State, except to the extent that the provisions of this Act are in conflict with such State law.

15 USC 5411.

SEC. 12. CONSTRUCTION.

Nothing in this Act shall be construed to limit or otherwise affect the authority of any consensus standards organization to establish, modify, or withdraw any standards and specifications under any other law or authority in effect on the date of enactment of this Act.

15 USC 5412.

SEC. 13. REGULATIONS.

The Secretary shall within 180 days after the date of enactment of this Act issue such regulations as may be necessary to implement this Act.

15 USC 5413.

SEC. 14. ADVISORY COMMITTEE.

Within 90 days after the date of enactment of this Act, the Secretary shall appoint an advisory committee consisting of representatives of fastener manufacturers, importers, distributors, end-users, independent laboratories, and standards organizations. The Secretary and Director shall consult with the advisory committee—

(1) prior to promulgating any regulations under this Act; and

(2) in such other matters related to fasteners as the Secretary may determine.

15 USC 5414.

SEC. 15. APPLICABILITY.

The requirements of this Act shall be applicable only to fasteners fabricated 180 days or more after the Secretary issues final regulations required under sections 5, 6, and 8, except that the Secretary

may extend such time period if the Secretary determines that an insufficient number of laboratories have been accredited to perform the volume of inspection and testing required. Upon any such extension, and every 6 months thereafter during such extension, the Secretary shall submit a report to the Congress explaining the reasons for such extension and the steps being taken to ensure the accreditation of a sufficient number of laboratories. Reports.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 3000:

HOUSE REPORTS: No. 101-211, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-388 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Sept. 19, considered and passed House.
Vol. 136 (1990): Oct. 26, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 101-593
101st Congress

An Act

Nov. 16, 1990
[H.R. 3338]

To direct the Secretary of the Interior to convey all interest of the United States in a fish hatchery to the State of South Carolina, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Natural resources.

TITLE I—FISHERIES AND WILDLIFE PROVISIONS

SECTION 101. CONVEYANCE OF FISH HATCHERY.

Notwithstanding any other provision of law and subject to section 2, the Secretary of the Interior shall convey, without reimbursement, to the State of South Carolina, all the right, title, and interest (including all water rights) of the United States in and to the fish hatchery property located approximately one and one-half miles southwest of the city limits of the city of Cheraw in Chesterfield County, South Carolina, commonly known as the "Cheraw State Fish Hatchery" and previously known as the "Cheraw National Fish Hatchery", consisting of 206.10 acres, more or less, of land together with any improvements and related personal property thereon.

SEC. 102. REVERSIONARY INTEREST IN UNITED STATES.

The property conveyed pursuant to this Act, including the proceeds from the sale of timber or other products, shall be used by the South Carolina Wildlife and Marine Resources Department as part of the South Carolina Fisheries Resource Management Program, and if it is used for any other purpose all right, title, and interest in and to such property shall revert to the United States.

Massachusetts.

SEC. 103. ANADROMOUS FISH RESEARCH LABORATORY.

The Northeast Anadromous Fish Research Laboratory located at Turners Falls, Massachusetts, shall be known and designated as the "Silvio O. Conte Anadromous Fish Research Center".

West Virginia.

SEC. 104. ESTABLISHMENT OF FISHERY RESOURCES.

(a) The Secretary is authorized and directed to conduct a feasibility study on establishing a Federal fish hatchery in McDowell County, West Virginia. Conditioned upon the completion of the feasibility study and the location of a suitable site and water supply, the Secretary is authorized to construct a Federal fish hatchery as provided for in the feasibility study. The study shall be undertaken by the United States Fish and Wildlife Service in consultation with the State of West Virginia.

Nomenclature.

(b) If a fish hatchery is constructed in McDowell County, West Virginia, pursuant to subsection (a) of this section, the fish hatchery shall be known as the "Carl R. Sullivan National Fish Hatchery".

Appropriation authorization.

(c) There is hereby authorized to be appropriated the sum of $2,500,000 to carry out the provisions of this section.

SEC. 105. REDESIGNATION OF NATIONAL FISH AND WILDLIFE FORENSICS LABORATORY. Oregon.

(a) REDESIGNATION.—The United States Fish and Wildlife Service facility located in Ashland, Oregon, and known as the National Fish and Wildlife Forensics Laboratory, is designated and shall be known as the "Clark R. Bavin National Fish and Wildlife Forensics Laboratory".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the National Fish and Wildlife Forensics Laboratory referred to in subsection (a) is deemed to be a reference to the "Clark R. Bavin National Fish and Wildlife Forensics Laboratory".

SEC. 106. REAUTHORIZATION OF FISH AND WILDLIFE CONSERVATION ACT OF 1980.

Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking "and 1990" and inserting "1990, 1991, and 1992".

SEC. 107. ESTABLISHMENT OF WALLKILL RIVER NATIONAL WILDLIFE REFUGE. Wallkill River National Wildlife Refuge Act. New Jersey. 16 USC 668dd note.

(a) SHORT TITLE.—This section may be cited as the "Wallkill River National Wildlife Refuge Act".

(b) FINDINGS.—The Congress finds that—

(1) the Wallkill River and associated riverine wetland habitat dividing the townships of Hardyston, Wantage, and Vernon, New Jersey, has been identified as one of the few high-quality waterfowl concentration areas remaining in the northwestern portion of the State and a valuable wildlife habitat used by a variety of migratory birds including waterfowl, raptors, passerines, and marsh and water birds;

(2) the Wallkill River area—

(A) provides a migratory and nesting habitat for Atlantic Flyway migratory black duck populations;

(B) has been identified by the United States Fish and Wildlife Service as an important black duck habitat; and

(C) is a high priority of the North American Waterfowl Management Plan;

(3) the Wallkill River area is home to several New Jersey State-listed rare and endangered plant and animal species; and

(4) designation of the Wallkill River area as a national wildlife refuge would significantly aid to the conservation of wildlife and other natural resources.

(c) DEFINITIONS.—For the purposes of this Act—

(1) the term "refuge" means the Wallkill River National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means the lands, wetlands, and waters of the Wallkill River in the State of New Jersey.

(d) ESTABLISHMENT OF REFUGE.—(1) The Secretary is authorized to acquire approximately 7,500 acres of lands and waters, as depicted upon a map entitled "Wallkill River National Wildlife Refuge", dated March 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service in the State of New Jersey and elsewhere.

(2) The Secretary may make such minor revisions in the boundaries designated under subsection (a) as may be appropriate to carry out this Act or to facilitate the acquisition of property within the refuge.

Federal Register, publication.

(3) The Secretary shall establish the refuge by publication of a notice in the Federal Register and publications of local circulation when sufficient property has been acquired within the boundary of the refuge to constitute an area that can be effectively managed as a national wildlife refuge.

(e) PURPOSES.—The primary purposes for which the refuge is established are—

(1) to preserve and enhance the refuge's lands and waters in a manner that will conserve the natural diversity of fish, wildlife, plants, and their habitats for present and future generations;

(2) to conserve and enhance populations of fish, wildlife, and plants within the refuge, including populations of black ducks and other waterfowl, raptors, passerines, and marsh and water birds;

(3) to protect and enhance the water quality of aquatic habitats within the refuge;

(4) to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats; and

(5) to provide opportunities for compatible scientific research, environmental education, and fish and wildlife-oriented recreation.

(f) ADMINISTRATION.—(1) The Secretary shall administer all lands, waters, and interests therein acquired under this Act in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(2) The Secretary may utilize such other statutory authority as is available to the Secretary for the conservation and development of wildlife and natural resources, the development of recreational opportunities, and interpretive education, as the Secretary considers appropriate to carry out this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Interior—

(1) such sums as are necessary for the acquisition of lands and waters designated pursuant to section 4(a); and

(2) such sums as are necessary for the development, operation, and maintenance of the refuge.

16 USC 668dd note.

SEC. 108. ESTABLISHMENT OF BAYOU COCODRIE NATIONAL WILDLIFE REFUGE.

(a) FINDINGS.—The Congress finds that—

(1) thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River Delta;

(2) these forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States, and have extremely high recreational value for hunters, fishermen, birdwatchers, nature photographers, and others;

(3) the Bayou Cocodrie area is a bottomland hardwood swamp which borders over one hundred and fifty species of birds and many other types of wildlife, including several species threatened with extinction, such as the Louisiana population of black bears;

(4) the Bayou Cocodrie area includes some of the least disturbed bottomland hardwood forest in the Southeast and significantly contributes to the biodiversity in the region;

(5) similar habitat located elsewhere is threatened by disruptive practices and/or conversion to other uses; and

(6) this area is deserving of inclusion in the National Wildlife Refuge System.

(b) DEFINITIONS.—For the purposes of this Act—

(1) the term "refuge" means the Bayou Cocodrie National Wildlife Refuge; and

(2) the term "Secretary" means the Secretary of the Interior, acting through the United States Fish and Wildlife Service.

(c) ESTABLISHMENT OF THE REFUGE.—(1) The Secretary is authorized and directed to acquire approximately eighteen thousand acres of lands and waters, as depicted upon a map entitled "Bayou Cocodrie National Wildlife Refuge", dated February 1990 and available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(2) The Secretary may make such minor adjustments in the boundaries designated under subsection (a) as may be appropriate to facilitate acquisition of property within the refuge or to otherwise carry out the purposes of this Act.

(3) When sufficient property within the boundaries has been acquired to constitute an area that can be effectively managed as a refuge, the Secretary shall establish the refuge by publishing a notice to that effect in the Federal Register.

Federal Register, publication.

(d) REFUGE PURPOSE.—The Bayou Cocodrie National Wildlife Refuge is established and shall be managed for the purposes of—

(1) conservation and enhancement of wetlands;

(2) general wildlife management as a unit of the National Wildlife Refuge System, including management for migratory birds; and

(3) fish and wildlife-oriented recreational activities.

(e) ADMINISTRATION.—(1) The Secretary shall administer all lands, waters, and interests therein acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668ee).

(2) The Secretary may utilize such additional statutory authority as may be available to him for conservation and development of wildlife and natural resources, water supplies and water control structures, outdoor recreational activities, including hunting and fishing, and interpretive education as he deems appropriate to carry out this Act.

(3) In managing the refuge, the Secretary shall manage an amount of refuge woodlands as a contiguous mature forest sufficient to benefit the species of passerine birds that occupy this type of habitat. The Secretary shall give special consideration to accomplishing this objective through use of his current authority, including his authority to establish Research Natural Areas within the refuge.

(4) The Secretary shall permit access to, and the development of, reserved non-Federal mineral interests within the refuge. Any such access and development shall be carried out only in accordance with a special use permit issued by the Secretary which contains such economically reasonable terms and conditions as deemed necessary—

Surface mining.

(A) to protect the fish and wildlife resources of, and their habitat in, the affected refuge from any significant adverse effects; and

(B) to minimize, to the maximum extent possible, any adverse effects upon such resources and their habitat. Any term or condition imposed by the Secretary under this subsection is in addition to any other requirement that is imposed under other applicable Federal or State law.

The special use permit is not intended to unreasonably restrain established or future oil and gas exploration, development and production activities or to result in the taking of property interests of the non-Federal owner.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

National forests.

SEC. 109. TRANSFER OF LANDS.

(a) REMOVAL FROM NATIONAL WILDLIFE REFUGE.—Pursuant to the requirements of section 4(a)(3) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(3)), the approximately 44,550 acres of land designated the Carolina Sandhills Wildlife Management Area and known as the Sand Hills State Forest, as described in Executive Order Numbered 8510, dated August 8, 1940, are hereby removed from the National Wildlife Refuge System.

(b) TRANSFER OF LANDS.—Subject to the terms and conditions set forth in subsection (f), the Secretary of the Interior is authorized and directed to transfer the title, rights, and interest to the lands identified in subsection (a) of this section to the South Carolina Commission of Forestry, an agency of the State of South Carolina, for use of public purposes as a multiple use State forest providing sustained yield production of forest products, public recreation, wildlife benefits, and demonstration and education projects by the South Carolina Commission of Forestry.

(c) RIGHT OF REVERSION.—If—

(1) the Secretary determines that the South Carolina Commission of Forestry is not in compliance with any of such terms and conditions of transfer;

(2) at any time the land ceases to be used for public purposes (except as provided in subsection (d) of this section); or

(3) the South Carolina Commission of Forestry no longer desires to own or operate the Sand Hills State Forest, the land transferred pursuant to subsection (b) of this section shall revert to the United States, to be managed as part of the National Wildlife Refuge System.

(d) ACQUISITION OF ADDITIONAL LANDS.—(1) Subject to the provisions of paragraph (2) of this subsection, the South Carolina Commission of Forestry may acquire tracts of land within or adjacent to the boundaries of the transferred land by exchange or sale of parcels of transferred land, with the proceeds of any such sale being designated for such acquisition.

(2) The acquisition authorized by paragraph (1) of this subsection shall be subject to the following conditions:

(A) The South Carolina Commission of Forestry shall provide notification to the United States Fish and Wildlife Service prior to any such acquisition.

(B) The South Carolina Commission of Forestry has determined prior to such acquisition that such acquisition is in the best interest of the public purposes of the State of South Carolina and is necessary in order to facilitate efficient management and administration of the Sand Hills State Forest area.

(e) REPEAL OF EXECUTIVE ORDER.—Executive Order Numbered 8510, dated August 8, 1940, is repealed as of the date the lands identified in subsection (a) of this section are transferred to the South Carolina Commission of Forestry. 3 CFR, 1938–1943 Comp., p. 697.

(f) TERMS AND CONDITIONS.—The transfer of lands authorized in subsection (b) of this section shall be conditioned upon the South Carolina Commission of Forestry—

(1) managing the transferred lands for the benefit of such endangered and threatened species of plants or animals which may be present there, and particularly in accordance with the objectives of the Recovery Plan for the Red Cockaded Woodpecker, and any amendments to such plan;

(2) consulting with the United States Fish and Wildlife Service regarding the impacts of its management practices upon endangered and threatened species in the transferred lands under the provisions of section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 et seq.), as if the South Carolina Commission of Forestry were a Federal agency;

(3) entering into and abiding by an agreement with the United States Fish and Wildlife Service to provide to the Carolina Sandhills National Wildlife Refuge at no cost— Government contracts.

(A) basic forest fire protection services (including presuppression, detection, and initial attack of wildfires) for a period of 50 years from the date of transfer subject to the condition that the United States shall pay the South Carolina Commission of Forestry the actual costs of any wildfire suppression activities after a 12-hour period from the initial attack on the fire; Fire prevention.

(B) prescribed burning services as requested, up to a maximum of 5,000 acres annually, for a period of 5 years from the date of transfer, subject to smoke management and other related regulations in effect at the time of the request, and contingent upon the South Carolina Commission of Forestry retaining the legal and physical capability to perform the service; and

(C) reforestation services for converting approximately 2,300 acres of slash pine plantation to more desirable species, as determined by the Refuge, in approximately equal installments over a period not to exceed 10 years from the date of transfer. Forests and forest products.

SEC. 110. NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT AMENDMENTS OF 1990. National Fish and Wildlife Foundation Establishment Act Amendments of 1990. 16 USC 3701 note.

(a) SHORT TITLE.—This section may be cited as the "National Fish and Wildlife Foundation Establishment Act Amendments of 1990".

(b) ELIMINATION OF CAP ON SALARIES.—Section 3(g)(2)(A) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3702(g)(2)(A)) is amended by striking "rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.", and inserting "rates.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 10 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709) is amended to read as follows:

"SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—There are authorized to be appropriated to the Department of the Interior not to exceed $15,000,000 for fiscal year 1991, not to exceed $20,000,000 for fiscal year 1992, and not to exceed $25,000,000 for fiscal year 1993.

"(b) USE OF AMOUNTS APPROPRIATED.—(1) Subject to paragraphs (2) and (3), amounts appropriated under this section shall be made available to the Foundation for use for matching, in whole or in part, contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local government agencies.

"(2) No Federal funds authorized under this section shall be used by the Foundation for administrative expenses of the Foundation, including for salaries, travel and transportation expenses, and other overhead expenses.".

New England Fishery Resources Restoration Act of 1990.
16 USC 777e-1.

SEC. 111. NEW ENGLAND FISHERY RESOURCES RESTORATION ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "New England Fishery Resources Restoration Act of 1990".

(b) PURPOSES.—The purposes of this Act are to—

(1) ensure timely and effective implementation of restoration plans and programs for Atlantic salmon and other fishery resources of selected river systems in New England;

(2) complete a study of fish passage impediments and requirements on small streams and rivers in New England; and

(3) develop an inventory of important fish and wildlife habitat and other natural areas of river basins in New England.

(c) IMPLEMENTATION OF FISHERY RESOURCE RESTORATION PLANS.—The Director of the United States Fish and Wildlife Service, hereinafter referred to as the Director, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall formulate, establish and implement programs to restore and maintain nationally significant, interjurisdictional fishery resources originating in New England river systems, including the Connecticut, Thames, Pawcatuck, Merrimack, Saco, Androscoggin, Kennebec, Sheepscot, Duck Trap, St. George, Penobscot, Union, Narraguagus, Pleasant, Machias, Dennys, St. Croix, Meduxnekeag and Aroostock and their tributaries. These programs shall be in accordance with the schedule and responsibilities established in comprehensive basin-wide restoration plans prepared by the Director in cooperation with State, local, and other entities involved and interested in the conservation and management of the affected fishery resources. Preparation and periodic revision of restoration plans, and their implementation, shall be based on a Memorandum of Agreement for each restoration program which shall be entered into by the Director and cooperating entities. The Director shall prepare and submit to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works an annual report documenting activities undertaken and accomplishments achieved in fulfillment of this section, including an assessment of the prognosis for restoration of each of the stocks and species involved.

Intergovernmental relations.

Reports.

(d) FISH PASSAGE STUDY.—The Director shall conduct a study to identify impediments to upstream and downstream passage of fish in rivers and streams in the New England States due to dams that are not licensed by the Federal Energy Regulatory Commission or other human-caused obstructions. In addition, the study shall identify actions needed to alleviate those impediments where desirable and feasible. The study shall include, but not be limited to, identifying—

(1) all dams not licensed by the Federal Energy Regulatory Commission and other human-caused obstructions on New England rivers and streams where construction of upstream or downstream fish passage facilities or their removal would benefit fishery resources, including an estimate of the degree of benefits expected; and

(2) the proposed nature and size and estimated cost of appropriate fish passage facilities or other actions determined to be necessary and feasible or each dam or other obstruction identified in response to paragraph (1).

Public information. Reports.

The Director shall provide notice to the public of the extent and nature of the study by publication of such information in major newspapers in the region and by other appropriate means. Within three years of the date of enactment of this Act, the Director shall submit a report containing the findings, conclusions and recommendations of the study to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

(e) NEW ENGLAND RIVERS FISH AND WILDLIFE INVENTORY.—The Director shall inventory the natural values of river basins in New England, including the Connecticut, Pawcatuck, Acushnet, North and South (in Plymouth County, Massachusetts), Charles, Merrimack, Saco, Androscoggin, Kennebec, Penobscot, Union, St. Croix, and Aroostock Rivers and their tributaries, and identify fish and wildlife habitat in most need of protection or where public access to the rivers should be provided. In addition, the Director shall, in cooperation with appropriate State agencies and local governments and after providing notice and opportunity for public comment, identify appropriate public or private measures for providing the necessary protection or access for each area included in the inventory. Within two years of the date of enactment of this Act, the Director shall submit a report containing the findings, conclusions, and recommendations of the inventory and assessment to the House Committee on Merchant Marine and Fisheries and the Senate Committee on Environment and Public Works.

Intergovernmental relations. Public information. Reports.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Director—

(1) $5,000,000 per year for fiscal years 1991, 1992, 1993, 1994, and 1995 to implement fishery resource restoration plans and programs, except for activities related to the design and construction of fish passage facilities, as directed by subsection (c);

(2) $500,000 per year for fiscal years 1991, 1992, and 1993 to conduct the study required under subsection (d); and

(3) $500,000 to conduct the inventory and assessment required under section (e).

SEC. 112. NORTH AMERICAN WETLANDS CONSERVATION ACT AMENDMENTS.

The North American Wetlands Conservation Act (Public Law 101-233) is amended—

16 USC 4403.

(1) in section 4(a)(1)(A) by inserting after "Service" and before the period ", who shall be the responsible Federal official for ensuring Council compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)";

(2) in section 4(a)(1) by adding at the end thereof the following sentence: "The provisions of Public Law 92-463, as amended, shall not apply to the Council.";

(3) in section 4(f) by inserting after "public" and before the period ", and the Chairman shall take appropriate steps to provide adequate notice to the public of the time and place of such meetings"; and

16 USC 4404.

(4) in section 5(b) by adding at the end thereof the following new sentence:

"Solely for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), recommendations by the Council for carrying out wetlands conservation projects under section 6(a) of this Act shall be considered Federal actions requiring the preparation of environmental assessments or, where appropriate, environmental impact statements.".

SEC. 113. TENSAS RIVER NATIONAL WILDLIFE REFUGE.

"The final paragraph of the portion of Chapter IV providing supplemental appropriations for the Corps of Engineers, Department of the Army, of Public Law 98-63, (97 Stat. 314) is amended by inserting at the end thereof: ", or acquired by any person since June 28, 1980.".

TITLE II—ENVIRONMENTAL ENFORCEMENT

Pollution Prosecution Act of 1990. 42 USC 4321 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Pollution Prosecution Act of 1990".

SEC. 202. EPA OFFICE OF CRIMINAL INVESTIGATION.

(a) The Administrator of the Environmental Protection Agency (hereinafter referred to as the "Administrator") shall increase the number of criminal investigators assigned to the Office of Criminal Investigations by such numbers as may be necessary to assure that the number of criminal investigators assigned to the office—

(1) for the period October 1, 1991, through September 30, 1992, is not less than 72;

(2) for the period October 1, 1992, through September 30, 1993, is not less than 110;

(3) for the period October 1, 1993, through September 30, 1994, is not less than 123;

(4) for the period October 1, 1994, through September 30, 1995, is not less than 160;

(5) beginning October 1, 1995, is not less than 200.

(b) For fiscal year 1991 and in each of the following 4 fiscal years, the Administrator shall, during each such fiscal year, provide increasing numbers of additional support staff to the Office of Criminal Investigations.

Reports.

(c) The head of the Office of Criminal Investigations shall be a position in the competitive service as defined in 2102 of title 5 U.S.C.

or a career reserve position as defined in 3132(A) of title 5 U.S.C. and the head of such office shall report directly, without intervening review or approval, to the Assistant Administrator for Enforcement.

SEC. 203. CIVIL INVESTIGATORS.

The Administrator, as soon as practicable following the date of the enactment of this Act, but no later than September 30, 1991, shall increase by fifty the number of civil investigators assigned to assist the Office of Enforcement in developing and prosecuting civil and administrative actions and carrying out its other functions.

SEC. 204. NATIONAL TRAINING INSTITUTE. Establishment.

The Administrator shall, as soon as practicable but no later than September 30, 1991 establish within the Office of Enforcement the National Enforcement Training Institute. It shall be the function of the Institute, among others, to train Federal, State, and local lawyers, inspectors, civil and criminal investigators, and technical experts in the enforcement of the Nation's environmental laws.

SEC. 205. AUTHORIZATION.

For the purposes of carrying out the provisions of this Act, there is authorized to be appropriated to the Environmental Protection Agency $13,000,000 for fiscal year 1991, $18,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, $26,000,000 for fiscal year 1994, and $33,000,000 for fiscal year 1995.

TITLE III—REGIONAL MARINE RESEARCH PROGRAMS

SEC. 301. REGIONAL MARINE RESEARCH PROGRAMS.

The Marine Protection, Research and Sanctuaries Act (33 U.S.C. 1401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE IV—REGIONAL MARINE RESEARCH PROGRAMS

"PURPOSES

"SEC. 401. The purpose of this title is to establish regional research programs, under effective Federal oversight, to— 16 USC 1447.

"(1) set priorities for regional marine and coastal research in support of efforts to safeguard the water quality and ecosystem health of each region; and

"(2) carry out such research through grants and improved coordination.

"DEFINITIONS

"SEC. 402. As used in this title, the term— 16 USC 1447a.

"(1) 'Board' means any Regional Marine Research board established pursuant to section 403(a);

"(2) 'Federal agency' means any department, agency, or other instrumentality of the Federal Government, including any independent agency or establishment of the Federal Government and any government corporation;

"(3) 'local government' means any city, town, borough, county, parish, district, or other public body which is a political subdivision of a State and which is created pursuant to State law;

"(4) 'marine and coastal waters' means estuaries, waters of the estuarine zone, including wetlands, any other waters seaward of the historic height of tidal influence, the territorial seas, the contiguous zone, and the ocean;

"(5) 'nonprofit organization' means any organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation pursuant to section 501(a) of such Code;

"(6) 'region' means 1 of the 9 regions described in section 403(a); and

"(7) 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

State listing.

"REGIONAL MARINE RESEARCH BOARDS

16 USC 1447b.

"SEC. 403. (a) ESTABLISHMENT.—A Regional Marine Research board shall be established for each of the following regions:

"(1) the Gulf of Maine region, comprised of the marine and coastal waters off the State of Maine, New Hampshire, and Massachusetts (north of Cape Cod);

"(2) the greater New York bight region, comprised of the marine and coastal waters off the States of Massachusetts (south of Cape Cod), Rhode Island, Connecticut, New York, and New Jersey, from Cape Cod to Cape May;

"(3) the mid-Atlantic region, comprised of the marine and coastal waters off the States of New Jersey, Delaware, Maryland, Virginia, and North Carolina, from Cape May to Cape Fear;

"(4) the South Atlantic region, comprised of the marine and coastal waters off the States of North Carolina, South Carolina, Georgia, and Florida, from Cape Fear to the Florida Keys, including the marine and coastal waters off Puerto Rico and the United States Virgin Islands;

"(5) the Gulf of Mexico region, comprised of the marine and coastal waters off the States of Florida, Alabama, Mississippi, Louisiana, and Texas, along the Gulf coast from the Florida Keys to the Mexican border;

"(6) the California region, comprised of the marine and coastal waters off the State of California, from Point Reyes to the Mexican border;

"(7) the North Pacific region, comprised of the marine and coastal waters off the States of California, Oregon, and Washington, from Point Reyes to the Canadian border;

"(8) the Alaska region, comprised of the marine and coastal waters off the State of Alaska; and

"(9) insular Pacific region, comprised of the marine and coastal waters off the State of Hawaii, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

The Great Lakes Research Office authorized under section 118(d) of the Federal Water Pollution Control Act (33 U.S.C. 1268(d)) shall be responsible for research in the Great Lakes region and shall be considered the Great Lakes counterpart to the research program established pursuant to this title.

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—Each Board shall be comprised of 11 members of which—

"(A) 3 members shall be appointed by the Administrator of the National Oceanic and Atmospheric Administration, including 1 member who shall be a Sea Grant Program Director from a State within such region, who shall serve as chairman of the board;

"(B) 2 members shall be appointed by the Administrator of the Environmental Protection Agency; and

"(C) 6 members shall be appointed by Governors of States located within the region.

"(2) QUALIFICATIONS.—Each individual appointed as a member of a Board shall possess expertise, pertinent to the region concerned, in scientific research, coastal zone management, fishery management, water quality management, State and local government, or any other area which is directly relevant to the functions of the Board. A majority of the members of each Board shall be trained in a field of marine or aquatic science and shall be currently engaged in research or research administration.

"(3) TERMS.—Each appointed member of a Board shall serve for a term of 4 years.

"(4) VACANCIES.—In the event of a vacancy, a replacement member shall be appointed in the same manner and in accordance with the same requirements as the member being replaced and shall serve the remainder of the term of the replaced member.

"(5) REIMBURSEMENT OF EXPENSES.—Each appointed member of a Board may be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the member's usual place of residence, in accordance with section 5703 of title 5, United States Code, when engaged in the actual performance of Board duties.

"(c) FUNCTIONS.—Each Board shall, in accordance with the provisions of this title—

"(1) develop and submit to the Administrators of the National Oceanic and Atmospheric Administration and the Environmental Protection Agency a marine research plan, including periodic amendments thereto, that meets the requirements of section 404;

"(2) provide a forum for coordinating research among research institutions and agencies;

"(3) provide for review and comment on research plans by affected users and interests, such as the commercial and recreational fishing industries, other marine industries, State and local government entities, and environmental organizations;

"(4) ensure that the highest quality of research projects will be conducted to carry out the comprehensive plan; and

"(5) prepare, for submission to Congress, a periodic report on the marine environmental research issues and activities within the region in accordance with section 406 of this title. Reports.

"(d) POWERS.—Each Board shall be authorized to—

"(1) cooperate with Federal agencies, with States and with local government entities, interstate and regional agencies, other public agencies and authorities, nonprofit institutions, laboratories, and organizations, or other appropriate persons, in the preparation and support of marine research in the region;

"(2) enter into contracts, cooperative agreements or grants to State and local governmental entities, other public agencies or

institutions, and non-profit institutions and organizations for purposes of carrying out the provisions of this title;

"(3) collect and make available through publications and other appropriate means, the results of, and other information pertaining to, the research conducted in the region;

"(4) call conferences on regional marine research and assessment issues, giving opportunity for interested persons to be heard and present papers at such conferences;

"(5) develop and stimulate, in consultation with the Department of State, joint marine research projects with foreign nations;

"(6) utilize facilities and personnel of existing Federal agencies, including scientific laboratories and research facilities;

"(7) accept, and for all general purposes of this Act, utilize funds from other sources, including but not limited to State and local funds, university funds, and donations; and

"(8) acquire secret processes, inventions, patent applications, patents, licenses, and property rights, by purchase, license, lease, or donation.

"(e) ADMINISTRATION.—

"(1) PRACTICES AND PROCEDURES.—Each Board shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this title. Each Board should use existing research administrative capability to the extent practicable.

"(2) COMMITTEES AND SUBCOMMITTEES.—Each Board shall establish such committees and subcommittees as are appropriate in the performance of its functions.

"(3) STAFF AND SUPPORT.—Each Board is authorized to hire such staff as are necessary to carry out the functions of the Board.

"(f) TERMINATION.—Each Board shall cease to exist on October 1, 1999, unless extended by Congress.

"REGIONAL RESEARCH PLANS

16 USC 1447c.

"SEC. 404. (a) DEVELOPMENT AND AMENDMENT OF REGIONAL PLANS.—

"(1) IN GENERAL.—Each Board shall develop a comprehensive 4-year marine research plan for the region for which the Board is responsible, and shall amend the plan at such times as the Board considers necessary to reflect changing conditions, but no less frequently than once every 4 years.

"(2) REVIEW AND CONSIDERATION OF NATIONAL PLAN.—In the development and amendment of its research plan, the Board shall consider findings and recommendations of the national plan developed pursuant to the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.).

"(b) CONTENTS OF PLAN.—Such marine research plan shall include—

"(1) an overview of the environmental quality conditions in the coastal and marine waters of the region and expected trends in these conditions;

"(2) a comprehensive inventory and description of all marine research related to water quality and ecosystem health expected to be conducted in the region during the 4-year term of the research plan;

"(3) a statement and explanation of the marine research needs and priorities applicable to the marine and coastal waters of the region over the upcoming 10-year period with emphasis on the upcoming 3-to-5 year period;

"(4) an assessment of how the plan will incorporate existing marine, coastal, and estuarine research and management in the region, including activities pursuant to section 320 of the Federal Water Pollution Control Act (33 U.S.C. 1330) and section 315 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1461); and

"(5) a general description of marine research and monitoring objectives and timetables for achievement through the funding of projects under this title during the 4-year period covered by the plan so as to meet the priorities specified in the plan in accordance with paragraph (3).

"(c) PLAN REVIEW AND APPROVAL.—

"(1) IN GENERAL.—When a Board has developed a marine research plan, including amendments thereto, the Board shall submit the plan to the Administrator of the National Oceanic and Atmospheric Administration and the Administration of the Environmental Protection Agency, who shall jointly determine whether the plan meets the requirements of subsection (b).

"(2) TIME FOR APPROVAL OR DISAPPROVAL.—The Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, shall jointly approve or disapprove such research plan within 120 days after receiving the plan.

"(3) ACTION AFTER DISAPPROVAL.—In the case of disapproval of such research plan, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall jointly notify the appropriate Board in writing, stating in detail the revisions necessary to obtain approval of the plan. Such Administrators shall approve or disapprove the revised plan within 90 days after receiving the revised plan from the Board.

"RESEARCH GRANT PROGRAM

"SEC. 405. (a) PROGRAM ADMINISTRATION.—The Administrator of the National Oceanic and Atmospheric Administration shall administer a grant program to support the administrative functions of each Board. 16 USC 1447d.

"(b) RESEARCH GRANTS.—(1) Each Board may annually submit a grant application to the Administrator of the National Oceanic and Atmospheric Administration to fund projects aimed at achieving the research priorities set forth in each research plan, including amendments thereto, developed and approved pursuant to section 404.

"(2) Projects eligible for funding under this section shall include research, investigations, studies, surveys, or demonstrations with respect to—

"(A) baseline assessment of marine environmental quality, including chemical, physical, and biological indicators of environmental quality;

"(B) effects or potential effects of contaminants, including nutrients, toxic chemicals and heavy metals, on the environment, including marine and aquatic organisms;

"(C) effects of modification of habitats, including coastal wetlands, seagrass beds and reefs, on the environment, including marine organisms;

"(D) assessment of impacts of pollutant sources and pollutant discharges into the coastal environment;

"(E) transport, dispersion, transformation, and fate and effect of contaminants in the marine environment;

"(F) marine and estuarine habitat assessment and restoration;

"(G) methods and techniques for modeling environmental quality conditions and trends;

"(H) methods and techniques for sampling of water, sediment, marine and aquatic organisms, and demonstration of such methods and techniques;

"(I) the effects on human health and the environment of contaminants or combinations of contaminants at various levels, whether natural or anthropogenic, that are found in the marine environment;

"(J) environmental assessment of potential effects of major coastal and offshore development projects in the region;

"(K) assessment of the effects of climate change on marine resources in the region; and

"(L) analysis and interpretation of research data for the benefit of State and local environmental protection and resource management agencies in the region.

"(3) Grant applications submitted pursuant to this subsection shall include—

"(A) a description of the specific research projects to be conducted;

"(B) identification of the organization responsible for each project and the principal investigator directing the project;

"(C) a budget statement for each project;

"(D) a schedule of milestones and interim products for each research project;

"(E) a description of the relationship of the proposed project to the goals, objectives, and priorities of the research plan for the region and to other research projects; and

"(F) any other information which may be required by the Administrator.

"(c) REVIEW AND APPROVAL OF PROJECT PROPOSALS.—(1) The Administrator of the National Oceanic and Atmospheric Administration shall review the annual grant application and, with the concurrence of the Administrator of the Environmental Protection Agency, approve such grant application with such conditions as are determined to be appropriate based on peer reviews conducted pursuant to paragraph (2).

"(2) The Administrator of the National Oceanic and Atmospheric Administration shall develop a system of peer review of grant applications which shall ensure that only the highest quality research is approved for funding and that each project is reviewed by research scientists outside the region concerned.

"(d) REPORTING.—Any recipient of a grant under this section shall report to the appropriate Board, not later than 18 months after award of the grant, on the activities of such recipient conducted pursuant to this subsection. Such report shall include narrative summaries and technical data in such form as the Administrator of the National Oceanic and Atmospheric Administration may require.

"REPORT ON RESEARCH PROGRAM

"SEC. 406. (a) PREPARATION AND SUBMISSION OF REPORT.—Each Board receiving a grant under section 405 shall, not later than 2 years after the approval of its comprehensive plan under section 405 and at 2-year intervals thereafter, prepare and submit to the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency a report describing—

"(1) the findings and conclusions of research projects conducted in the region;

"(2) recommendations for improvements in the design or implementation of programs for the protection of the marine environment; and

"(3) available data and information concerning ecosystem health within the region.

"(b) TRANSMITTAL TO CONGRESS.—Upon receipt of a report prepared by a Board under subsection (a), the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency shall transmit a copy of such report to the Committees on Commerce, Science, and Transportation and on Environment and Public Works of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 407. (a) IN GENERAL.—For purposes of carrying out the provisions of this title, there are authorized to be appropriated $18,000,000 for each of the fiscal years 1992 through 1996. 16 USC 1447f.

"(b) ALLOCATION.—(1) Of funds appropriated in any fiscal year, not more than $500,000 shall be reserved for administration of this title by the National Oceanic and Atmospheric Administration and the Environmental Protection Agency.

"(2) Funds appropriated in a fiscal year which are available after allocation pursuant to paragraph (1), shall be used to support the administrative costs of Boards established pursuant to subsection 403(a), provided that such funding does not exceed $300,000 for each research Board in each fiscal year.

"(3) Seventy-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated equally among Boards located in regions submitting research project grant applications pursuant to section 405(b).

"(4) Twenty-five percent of funds appropriated in a fiscal year available after allocation pursuant to paragraphs (1) and (2), shall be allocated among Boards located in regions submitting research project grant applications pursuant to section 405(b) which, in the judgment of the Administrator of the National Oceanic and Atmospheric Administration, in consultation with the Administrator of the Environmental Protection Agency, propose the most needed and highest quality research.".

TITLE IV—FOREST FOUNDATION

National Forest Foundation Act.

SECTION 401. SHORT TITLE.

16 USC 583j note.

This title may be cited as the "National Forest Foundation Act".

16 USC 583j.

SEC. 402. ESTABLISHMENT AND PURPOSES OF FOUNDATION.

(a) ESTABLISHMENT.—There is established the National Forest Foundation (hereinafter referred to as the "Foundation") as a charitable and nonprofit corporation domiciled in the District of Columbia.

(b) PURPOSES.—The purposes of the Foundation are to—

(1) encourage, accept, and administer private gifts of money, and of real and personal property for the benefit of, or in connection with, the activities and services of the Forest Service of the Department of Agriculture;

(2) undertake and conduct activities that further the purposes for which units of the National Forest System are established and are administered and that are consistent with approved forest plans; and

(3) undertake, conduct and encourage educational, technical and other assistance, and other activities that support the multiple use, research, cooperative forestry and other programs administered by the Forest Service.

(c) LIMITATION AND CONFLICTS OF INTERESTS.—(1) The Foundation shall not participate or intervene in a political campaign on behalf of any candidate for public office.

(2) No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation partnership, entity, or organization in which such director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

16 USC 583j-1.

SEC. 403. BOARD OF DIRECTORS OF THE FOUNDATION.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Foundation shall have a governing Board of Directors (hereinafter referred to as the "Board"), which shall consist of fifteen Directors, each of whom shall be a United States citizen. At all times, a majority of members of the Board shall be educated or have actual experience in natural or cultural resource management, law, or research. To the extent practicable, members of the Board shall represent diverse points of view relating to natural and cultural resource issues. The Chief of the Forest Service shall be an ex officio nonvoting member of the Board.

(b) APPOINTMENT AND TERMS.—Within one year from the date of enactment of this title, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall appoint the Directors of the Board. Directors shall be appointed for terms of six years; except that the Secretary, in making the initial appointments to the Board, shall appoint one-third each of the Directors to terms of two, four, and six years respectively. A vacancy on the Board shall be filled within sixty days of such vacancy in the manner in which the original appointment was made. No individual may serve more than twelve consecutive years as a Director.

(c) CHAIRMAN.—The Chairman shall be elected by the Board from its members. A chairman shall serve for a two-year term, and may be re-elected to the post during his tenure as a Director.

(d) QUORUM.—A majority of the current voting membership of the Board shall constitute a quorum for the transaction of business.

(e) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board by majority vote of the Board of Directors and that vacancy filled in accordance with subsection (b) of this section.

(f) REIMBURSEMENT OF EXPENSES.—Voting members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties for the Foundation. Such reimbursement may not exceed such amount as would be authorized under section 5703 of title 5, United States Code, for the payment of expenses and allowances for individuals employed intermittently in the Federal Government service.

(g) GENERAL POWERS.—The Board may complete the organization of the Foundation by appointing employees, adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this subtitle, and undertaking other such acts as may be necessary to function and to carry out the provisions of this subtitle.

(h) OFFICERS AND EMPLOYEES.—Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 404. CORPORATE POWERS AND OBLIGATIONS. 16 USC 583j-2.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States and in foreign countries;

(3) shall have its principal offices in the Washington, D.C. metropolitan area; and District of Columbia.

(4) shall at all times maintain a designated agent in the District of Columbia authorized to accept service of process for the Foundation.

(b) NOTICE AND SERVICE OF PROCESS.—The serving of notice to, or service of process upon, the agent required under this paragraph, or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(c) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(d) POWERS.—To carry out its purposes, the Foundation shall have, in addition to powers otherwise authorized under this title, the usual powers of a corporation in the District of Columbia, including the power to—

(1) accept, receive, solicit, hold, administer and use any gift, devise, or bequest, either absolutely or in trust, or real or personal property or any income therefrom or other interest therein;

(2) acquire by donation, gift, devise, purchase or exchange any real or personal property or interest therein;

(3) unless otherwise required by the instrument of transfer, sell, donate, lease, invest, reinvest, retain or otherwise dispose of any property or income therefrom;

(4) borrow money and issue bonds, debentures, or other debt instruments;

(5) sue and be sued, and complain and defend itself in any court of competent jurisdiction (except that the Directors of the Board shall not be personally liable, except for gross negligence);

(6) enter into contracts or other arrangements with public agencies, private organizations, and persons and to make such payments as may be necessary to carry out the purposes thereof; and

(7) do any and all acts necessary and proper to carry out the purposes of the Foundation.

(e) PROPERTY.—(1) The Foundation may acquire, hold and dispose of lands, waters, or other interests in real property by donation, gift, devise, purchase or exchange. For the purposes of this title, an interest in real property shall include, but not be limited to, mineral and water rights, rights of way, and easements appurtenant or in gross. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of the Foundation.

(2) No lands or waters, or interests therein, that are owned by the Foundation and are determined by the Chief of the United States Forest Service to be valuable for purposes established in this title shall be subject to condemnation by any State or political subdivision, or any agent or instrumentality thereof.

(3) The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto.

(4) Contributions, gifts, and other transfers made to or for the use of the Foundation shall be treated as contributions, gifts, or transfers to an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

16 USC 583j-3.

SEC. 405. ADMINISTRATIVE SERVICES AND SUPPORT.

(a) STARTUP FUNDS.—For purposes of assisting the Foundation in establishing an office and meeting initial administrative and other startup expenses, the Secretary is authorized to provide to the Foundation $500,000, from funds appropriated pursuant to section 410(a), per year for the two years following the date of enactment of this title. Such funds shall remain available to the Foundation until they are expended for authorized purposes.

(b) MATCHING FUNDS.—In addition to the startup funds provided under subsection (a) of this section, for a period of five years from the date of enactment of this title, the Secretary is authorized to provide matching funds for administrative expenses incurred by the Foundation as authorized by section 410(b) of this title including reimbursement of expenses under section 403, not to exceed then current Federal Government per diem rates.

(c) ADMINISTRATIVE EXPENSES.—At any time, the Secretary may provide the Foundation use of Department of Agriculture personnel, facilities, and equipment, with partial or no reimbursement, with

such limitations and on such terms and conditions as the Secretary shall establish.

SEC. 406. VOLUNTEERS. 16 USC 583j-4.

The Secretary may accept, without regard to the civil service classification laws, rules and regulations, any director, officer, employee or agent of the Foundation as a volunteer for purposes of the Volunteers in the National Forests Act of 1972 (16 U.S.C. 558a through 558d; 86 Stat. 147).

SEC. 407. AUDITS AND REPORT REQUIREMENTS. 16 USC 583j-5.

(a) AUDITS.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101 through 1103; Public Law 88-504) the Foundation shall be treated as a private corporation established under Federal law. Corporations.

(b) ANNUAL REPORTS.—The Foundation shall, transmit each year to Congress a report of its proceedings and activities of the previous year, including a full and complete statement of its receipts, expenditures, and investments.

SEC. 408. UNITED STATES RELEASE FROM LIABILITY. 16 USC 583j-6.

The United States shall not be liable for any debts, defaults, acts or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligations of the Foundation.

SEC. 409. ACTIVITIES OF THE FOUNDATION AND UNITED STATES FOREST SERVICE. 16 USC 583j-7.

The activities of the Foundation authorized under the provisions of this Act shall be supplemental to and shall not preempt any authority or responsibility of the United States Forest Service under any other provision of law.

SEC. 410. AUTHORIZATION OF APPROPRIATIONS. 16 USC 583j-8.

(a) START-UP FUNDS.—For the purposes of section 405 of this title, there are authorized to be appropriated $1,000,000.

(b) MATCHING FUNDS.—For the purposes of section 405 of this title, during the five-year period following the date of the enactment of this title, there are authorized to be appropriated $1,000,000 annually to the Secretary of Agriculture to be made available to the Foundation to match, on a one-for-one basis, private contributions made to the Foundation.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 3338:

HOUSE REPORTS: No. 101-586 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-522 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 16, considered and passed House.
Oct. 26, considered and passed Senate, amended.
Oct. 27, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks.

Public Law 101-594
101st Congress

An Act

To protect and conserve the continent of Antarctica, and for other purposes.

Nov. 16, 1990
[H.R. 3977]

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

Antarctic Protection Act of 1990.
16 USC 2461 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Antarctic Protection Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

16 USC 2461.

(a) FINDINGS.—Congress finds that—

(1) the Antarctic continent with its associated and dependent ecosystems is a distinctive environment providing a habitat for many unique species and offering a natural laboratory from which to monitor critical aspects of stratospheric ozone depletion and global climate change;

(2) Antarctica is protected by a series of international agreements, including the Antarctic Treaty and associated recommendations, the Convention on the Conservation of Antarctic Seals, and the Convention on the Conservation of Antarctic Marine Living Resources, which are intended to conserve the renewable natural resources of Antarctica and to recognize the importance of Antarctica for the conduct of scientific research;

(3) recurring and recent developments in Antarctica, including increased siting of scientific stations, poor waste disposal practices, oil spills, increased tourism, and the over-exploitation of marine living resources, have raised serious questions about the adequacy and implementation of existing agreements and domestic law to protect the Antarctic environment and its living marine resources;

(4) the parties to the Antarctic Treaty have negotiated a Convention on the Regulation of Antarctic Mineral Resources Activities which the United States has signed but not yet ratified;

(5) the Convention on the Regulation of Antarctic Mineral Resources Activities does not guarantee the preservation of the fragile environment of Antarctica and could actually stimulate movement toward Antarctic mineral resource activity;

(6) the exploitation of mineral resources in Antarctica could lead to additional degradation of the Antarctic environment, including increased risk of oil spills;

(7) the Antarctic Treaty Consultative Parties have agreed to a voluntary ban on Antarctic mineral resource activities which needs to be made legally binding;

(8) the level of scientific study, including necessary support facilities, has increased to the point that some scientific programs may be degrading the Antarctic environment; and

(9) the planned special consultative meeting of parties to the Antarctic Treaty and the imminence of the thirtieth anniver-

sary of the Antarctic Treaty provide opportunities for the United States to exercise leadership toward protection and sound management of Antarctica.

(b) PURPOSE.—The purpose of this Act is to—

(1) strengthen substantially overall environmental protection of Antarctica;

(2) prohibit prospecting, exploration, and development of Antarctic mineral resources by United States citizens and other persons subject to the jurisdiction of the United States;

(3) urge other nations to join the United States in immediately negotiating one or more new agreements to provide an indefinite ban on all Antarctic mineral resource activities and comprehensive protection for Antarctica and its associated and dependent ecosystems; and

(4) urge all nations to consider a permanent ban on Antarctic mineral resource activities.

16 USC 2462.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) The term "Antarctica" means the area south of the Antarctic Convergence as defined in section 303(1) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2432).

(2) The term "Antarctic mineral resource activity" means prospecting, exploration, or development in Antarctica of mineral resources, but does not include scientific research within the meaning of article III of the Antarctic Treaty, done at Washington on December 1, 1959.

(3) The term "development" means any activity, including logistic support, which takes place following exploration, the purpose of which is the exploitation of specific mineral resource deposits, including processing, storage, and transport activities.

(4) The term "exploration" means any activity, including logistic support, the purpose of which is the identification or evaluation of specific mineral resource deposits. The term includes exploratory drilling, dredging, and other surface or subsurface excavations required to determine the nature and size of mineral resource deposits and the feasibility of their development.

(5) The term "mineral resources" means all nonliving natural nonrenewable resources, including fossil fuels, minerals, whether metallic or nonmetallic, but does not include ice, water, or snow.

(6) The term "person" means any individual, corporation, partnership, trust, association, or any other entity existing or organized under the laws of the United States, or any officer, employee, agent, department, or other instrumentality of the Federal Government or of any State or political subdivision thereof.

(7) The term "prospecting" means any activity, including logistic support, the purpose of which is the identification of mineral resource potential for possible exploration and development.

(8) The term "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere.

SEC. 4. PROHIBITION OF ANTARCTIC MINERAL RESOURCE ACTIVITIES. 16 USC 2463.

Pending a new agreement among the Antarctic Treaty Consultative Parties in force for the United States, to which the Senate has given advice and consent or which is authorized by further legislation by the Congress, which provides an indefinite ban on Antarctic mineral resource activities, it is unlawful for any person to engage in, finance, or otherwise knowingly provide assistance to any Antarctic mineral resource activity.

SEC. 5. INTERNATIONAL AGREEMENT. 16 USC 2464.

(a) It is the sense of Congress that the Secretary of State should enter into negotiations with the Antarctic Treaty Consultative Parties to conclude one or more new international agreements to—

(1) conserve and protect permanently the natural environment of Antarctica and its associated and dependent ecosystems;

(2) prohibit or ban indefinitely Antarctic mineral resource activities by all parties to the Antarctic Treaty;

(3) grant Antarctica special protective status as a land of science dedicated to wilderness protection, international cooperation, and scientific research;

(4) ensure that the results of all scientific investigations relating to geological processes and structures be made openly available to the international scientific community, as required by the Antarctic Treaty; and

(5) include other comprehensive measures for the protection of the Antarctic environment.

(b) It is the sense of Congress that any treaty or other international agreement submitted by the President to the Senate for its advice and consent to ratification relating to mineral resources or activities in Antarctica should be consistent with the purpose and provisions of this Act.

SEC. 6. ENFORCEMENT. 16 USC 2465.

(a) IN GENERAL.—A violation of this Act or any regulation promulgated under this Act is deemed to be a violation of the Antarctic Marine Living Resources Convention Act (16 U.S.C. 2431-2444) and shall be enforced under that Act by the Under Secretary or another Federal official to whom the Under Secretary has delegated this responsibility.

(b) PENALTY.—If the Under Secretary determines that a person has violated section 4—

(1) that person shall be ineligible to locate a mining claim under the mining laws of the United States; and

(2) the Secretary of the Interior shall refuse to issue a patent under the mining laws of the United States, or a lease under the laws of the United States related to mineral or geothermal leasing, to any such person who attempts to perfect such patent or lease application after the Under Secretary has made such determination.

16 USC 2466.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) to the Under Secretary not more than $1,000,000 for each of fiscal years 1991 and 1992 to carry out the purposes of this Act; and

(2) to the Secretary of State not more than $500,000 for each of fiscal years 1991 and 1992 to carry out section 5 of this Act.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 3977 (S. 2575):

HOUSE REPORTS: No. 101-692, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed House.
Oct. 16, S. 2575 considered and passed Senate.
Oct. 24, H.R. 3977 considered and passed Senate, amended.
Oct. 26, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks.

Public Law 101-595
101st Congress

An Act

To authorize appropriations for fiscal year 1991 for the Federal Maritime Commission, and for other purposes.

Nov. 16, 1990
[H.R. 4009]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Maritime Commission Authorization Act of 1990.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Maritime Commission Authorization Act of 1990".

TITLE I—FEDERAL MARITIME COMMISSION AUTHORIZATION FOR FISCAL YEAR 1991

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

In fiscal year 1991, $15,894,000 is authorized to be appropriated for the use of the Federal Maritime Commission; except that for fiscal year 1991, and for each fiscal year thereafter, not to exceed $2,000 may be expended for official reception and representation expenses.

SEC. 102. ADVISORY COMMISSION ON CONFERENCES IN OCEAN SHIPPING.

Subsection (h) of section 18 of the Shipping Act of 1984 (46 App. U.S.C. 1717) is amended by inserting "Advisory" immediately before "Commission shall", and by striking "its establishment" and inserting in lieu thereof "all of its members have been duly appointed".

SEC. 103. POWERS OF COMMISSION.

Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in subdivision (b) of paragraph (1) by inserting "including intermodal movements, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and other activities and services integral to transportation sysetms," immediately after "generally,"; and

(2) by adding at the end the following new paragraphs:

"(5) The Commission may initiate a rule or regulation under paragraph (1)(b) of this section either on its own motion or pursuant to a petition. Any person, including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, marine terminal operator, or any component of the Government of the United States, may file a petition for relief under paragraph (1)(b) of this section.

"(6) In furtherance of the purposes of paragraph (1)(b) of this section—

"(a) the Commission may, by order, require any person (including any common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a

report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate;

"(b) the Commission may require a report or answers to questions to be made under oath;

"(c) the Commission may prescribe the form and the time for response to a report and answers to questions; and

"(d) a person who fails to file a report, answer, documentary material, or other information required under this paragraph shall be liable to the United States Government for a civil penalty of not more than $5,000 for each day that the information is not provided.

"(7) In proceedings under paragraph (1)(b) of this section—

"(a) the Commission may authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, are in conformity with the rules applicable in civil proceedings in the district courts of the United States;

"(b) the Commission may by subpoena compel the attendance of witnesses and the production of books, papers, documents, and other evidence;

"(c) subject to funds being provided by appropriations Acts, witnesses are, unless otherwise prohibited by law, entitled to the same fees and mileage as in the courts of the United States;

"(d) for failure to supply information ordered to be produced or compelled by subpoena in proceedings under paragraph (1)(b)(7) of this section, the Commission may—

"(i) after notice and an opportunity for hearing, suspend tariffs of a common carrier or that common carrier's right to use the tariffs of conferences of which it is a member, or

"(ii) assess a civil penalty of not more than $5,000 for each day that the information is not provided; and

"(e) when a person violates an order of the Commission or fails to comply with a subpoena, the Commission may seek enforcement by a United States district court having jurisdiction over the parties, and if, after hearing, the court determines that the order was regularly made and duly issued, it shall enforce the order by an appropriate injunction or other process, mandatory or otherwise.

"(8) Notwithstanding any other law, the Commission may refuse to disclose to the public a response or other information provided under the terms of this section.

"(9) If the Commission finds that conditions that are unfavorable to shipping under paragraph (1)(b) of this section exist, the Commission may—

"(a) limit sailings to and from United States ports or the amount or type of cargo carried;

"(b) suspend, in whole or in part, tariffs filed with the Commission for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences in United States trades of which it is a member for any period the Commission specifies;

"(c) suspend, in whole or in part, an ocean common carrier's right to operate under an agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargoes or revenue with other ocean common carriers;

"(d) impose a fee, not to exceed $1,000,000 per voyage; or

"(e) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"(10) Upon request by the Commission—

"(a) the collector of customs at the port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, and shall collect any fees imposed by the Commission under paragraph (9)(d) of this section; and

"(b) the Secretary of the department in which the Coast Guard is operating shall deny entry for purpose of oceanborne trade, of a vessel of a country that is named in a rule or regulation issued by the Commission under paragraph (1)(b) of this section, to any port or place in the United States or the navigable waters of the United States, or shall detain that vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"(11) A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended under paragraph (7)(d) or (9)(b) of this section, or after its right to use another tariff has been suspended under those paragraphs, is subject to a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff.

"(12) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this section.".

TITLE II—DOCUMENTATION OF VESSELS

SEC. 201. WAIVERS FOR CERTAIN VESSELS.

(a) IN GENERAL.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) AMERICAN EAGLE (United States official number 523873).

(2) ANGELOS (hull identification number HAZ1432C0173 and State of Hawaii registration number HA1432C).

(3) ARCTIC SOUNDER (United States official number 569927).

(4) BIG DEAL (North Carolina registration number 8817BD).

(5) BOUNTY (United States official number 950956).

(6) CAMELOT (United States official number 923202).

(7) CHEROKEE V (United States official number 570746).

(8) CONQUEROR (United States official number 552790).

(9) ERNESTINA (United States official number 136423).

(10) ESPERANCE (United States official number 691732).

(11) FLORA VEE (United States official number 526631).

(12) GHOSTRIDER (United States official number 906121).

(13) HE' ENALU (State of Hawaii registration number HA842CP).

(14) HELL'S-A-POPPIN (United States official number 963543).
(15) HIPPOCAMPUS (United States official number 560934).
(16) IMPULSE (United States official number 693209).
(17) JOB SITE (United States official number 595013).
(18) KAINALU (State of Hawaii registration number HA779CP).
(19) LADY ROSE ANNE (United States official number 603040).
(20) MARINER III (United States official number 225459).
(21) OCEAN PROWLER (United States official number 632751).
(22) OH BABY AT LAST (United States official number 938936).
(23) OPEN RETURN (United States official number 658669).
(24) PACIFIC PEARL (hull identification number MRY10161M76H414).
(25) PAULA SUE (State of Maryland registration number MD7449K).
(26) PLAYPEN (United States official number 617198).
(27) PUMPKIN (United States official number 627259).
(28) RANGGA (United States official number 675379).
(29) ROSE (United States official number 928811).
(30) ROUGH POINT (United States official number 917958).
(31) SALISA M (United States official number 265653).
(32) SEA DEVIL (United States official number 569316).
(33) SEAGULL (United States official number 958929).
(34) SEA NUGGET (State of Alaska retgistration number AK2233E).
(35) SEA WIND (United States official number 610694).
(36) SINBAD (ex-SANGRIA) (State of Alaska registration number AK3650 and hull identification number 15846).
(37) SOLITAIRE (United States official number 521894).
(38) SWEE'PEA (State of Alaska registration number AK8550L and hull identification number PBL32012K990).
(39) SYRINGA (hull identification number 363412; United States Customs number 84-129170-6).
(40) WEATHERBIRD (United States official number 527918).
(41) WEATHERBIRD II (ex-AUNT BEE) (United States official number 652213).
(42) Eight inflatable vessels identified as follows:
(A) Serial number 3968B, model number J990.
(B) Serial number 4581B, model number J990.
(C) Serial number A501A, model number D989.
(D) Serial number A502A, model number D989.
(E) Serial number 6291C, model number G091.
(F) Serial number 6300C, model number G091.
(G) Serial number 7302C, model number G091.
(H) Serial number 7305C, model number G091.
(43) Submersible vessel PC 1805.

(b) WAIVER FOR CAPT. DARYL.—Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the vessel CAPT. DARYL (United States official number 643920), to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States; except that the vessel shall not be

permitted (1) to regularly carry goods, supplies, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources on the outer Continental Shelf of the United States or (2) to engage in the transportation of fishery related products for hire in the Aleutian trade as defined in section 2102(b) of title 46, United States Code (as amended by section 602(a) of title VI of this Act), unless the vessel also complies with all the requirements of section 4502 (a), (b), (c), and (f), section 5102(b)(5), section 8104(n), and section 8702(b) of title 46, United States Code (as amended by sections 602 (b), (c), (d), and (e) of title VI of this Act).

SEC. 202. TREATMENT OF CERTAIN VESSELS.

Notwithstanding the provisions of paragraph (a)(4) of section 12102 of title 46, United States Code, and the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), a vessel of less than five hundred gross tons that was sold to and operated by a nonprofit corporation organized under United States law, the majority of whose directors are United States citizens, for use by that corporation exclusively as an oceanographic research vessel, shall be deemed to be owned by a citizen of the United States for documentation purposes, and has not been "sold foreign" unless the vessel has been placed under the registry of a nation other than the United States during the period of ownership by that corporation.

SEC. 203. SMALL PASSENGER VESSEL INSPECTION.

(A) CONSTRUCTION TONNAGE OF S/V ZODIAC.—The S/V ZODIAC (United States official number 223755) shall be deemed to be less than one hundred gross tons and, in applying the regulations relating to the inspection of passenger vessels, the Secretary of the department in which the Coast Guard is operating shall inspect that vessel under regulations applying to vessels of that weight.

(b) SUBCHAPTER T INSPECTION.—Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall inspect the ZODIAC (United States official number 223755) under subchapter T of title 46, Code of Federal Regulations. Any certification issued by the Secretary under subchapter T for the ZODIAC shall permit that vessel to carry not more than forty-nine passengers on lakes, bays, and sounds service.

TITLE III—COAST GUARD OMNIBUS ACT OF 1990

Coast Guard Omnibus Act of 1990.

SEC. 301. SHORT TITLE.

This title may be cited as the "Coast Guard Omnibus Act of 1990".

SEC. 302. DESIGNATION OF THE SIDNEY LANIER BRIDGE AS AN OBSTRUCTION TO NAVIGATION.

Notwithstanding another law, the Sidney Lanier Bridge at mile 6.3 on the Brunswick River in Georgia is deemed an unreasonable obstruction to navigation, and the Federal Government share of the cost of altering the Sidney Lanier Bridge shall not exceed 50 percent of such costs.

SEC. 303. EXEMPTION OF CERTAIN VESSELS USED AS MEMORIALS TO MERCHANT MARINERS FROM PASSENGER SHIP INSPECTION REQUIREMENTS.

(a) Section 3302 of title 46, United States Code, is amended by adding the following new subsection:

"(l)(1) The Secretary may issue a permit exempting the following vessels from the requirements of this part for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners:

"(A) The steamship John W. Brown (United States official number 242209), owned by Project Liberty Ship Baltimore, Incorporated, located in Baltimore, Maryland.

"(B) The steamship Lane Victory (United States official number 248094), owned by the United States Merchant Marine Veterans of World War II, located in San Pedro, California.

"(C) The steamship Jeremiah O'Brien (United States official number 243622), owned by the United States Maritime Administration.

"(2) The Secretary may issue a permit for a specific voyage or for not more than one year. The Secretary may impose specific requirements about the number of passengers to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters.

"(3) A designated Coast Guard official who has reason to believe that a vessel operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with this section, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.".

SEC. 304. BIENNIAL DESIGNATION OF MEMBERS OF THE COAST GUARD ACADEMY CONGRESSIONAL BOARD OF VISITORS.

Section 194 of title 14, United States Code, is amended to read as follows:

"(a) In addition to the Advisory Committee, a Board of Visitors to the Academy is established to visit the Academy annually and to make recommendations on the operation of the Academy.

"(b) The Board shall be composed of—

"(1) two Senators designated by the Chairman of the Committee on Commerce, Science, and Transportation of the Senate;

"(2) three Members of the House of Representatives designated by the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives;

"(3) one Senator designated by the President of the Senate;

"(4) two Members of the House of Representatives designated by the Speaker of the House of Representatives; and

"(5) the Chairman of the Committee on Commerce, Science, and Transportation of the Senate and the Chairman of the Committee on Merchant Marine and Fisheries of the House of Representatives, as ex officio Members.

"(c) When a Member is unable to attend the annual meeting another Member may be designated as provided under subsection (b).

"(d) When an ex officio Member is unable to attend the annual meeting that Member may designate another Member.

"(e) Members of the Board shall be designated in the First Session and serve for the duration of the Congress.

"(f) The Board shall visit the Academy annually on the date chosen by the Secretary. Each Member of the Board shall be reimbursed, to the extent permitted by law, by the Coast Guard for

actual expenses incurred while engaged in duties as a Member of the Board.".

SEC. 305. SIMPLIFIED MEASUREMENT OF CERTAIN BARGES.

Section 14301(b) of title 46, United States Code, is amended by adding the following:

"(6) a barge (except a barge engaged on a foreign voyage) unless the owner requests.".

SEC. 306. COAST GUARD BONDING REQUIREMENT.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 667. Vessel construction bonding requirements

"The Secretary or the Commandant may require bid, payment, performance, payment and performance, or completion bonds or other financial instruments from contractors for construction, alteration, repair, or maintenance of Coast Guard vessels if—

"(1) the bond is required by law; or

"(2) the Secretary or Commandant determines after investigation that the amount of the bond in excess of 20 percent of the value of the base contract quantity excluding options, would not prevent a responsible bidder or offeror from competing for award of the contract.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 666 the following:

"667. Vessel construction bonding requirements.".

SEC. 307. EXEMPTION FOR DREDGES FROM FEDERAL PILOTAGE REQUIREMENT.

Section 8502 of title 46, United States Code, is amended—

(1) in subsection (a) by striking "subsection (g)" and inserting in lieu thereof "subsections (g) and (i)"; and

(2) by adding at the end the following new subsection:

"(i)(1) Except as provided in paragraph (2), a dredge to which this section would otherwise apply is exempt from the requirements of this section.

"(2) If the Secretary determines, after notice and comment, that the exemption under paragraph (1) creates a hazard to navigational safety in a specified area, the Secretary may require that a dredge exempted by paragraph (1) which is operating in that area shall comply with this section.".

SEC. 308. HEMPSTEAD, NEW YORK TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer by quitclaim, without consideration, to the Town of Hempstead, Nassau County, New York, all rights, title, and interest of the United States in Coast Guard property and improvements located at Reynolds Channel, Atlantic Beach, New York. The Secretary shall require the property to be surveyed before it is transferred and the transferee shall pay for that survey and all conveyance costs.

SEC. 309. SOUTH HAVEN, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the City of South Haven,

Michigan, all rights, title, and interest of the United States in Coast Guard property described in subsection (b). The transferee shall pay for all conveyance costs.

(b) The property is part of block 52 in the original Village (now City) of South Haven, Van Buren County, Michigan, described as, beginning at a point found by commencing at the North quarter post of section 10. Town 1 South, range 17 West, Van Buren County, Michigan; thence with bearings referenced to the Corps of Engineers Harbor Line Survey of 1941. South 89 degrees 34' 36" West along the North line of the section, 2386.95 feet; thence South 00 degrees 25' 24" East at right angles to said section line. 450.64 feet to the place of beginning of this description, said place of beginning being 825.50 feet South 81 degrees 52' 10" West of the East terminus of the Black River Channel entrance; thence South 10 degrees 38' 30" East, 147.00 feet; thence South 81 degrees 52' 10" West, 131.47 feet; thence North 07 degrees 43' 50" West 146.85 feet; thence North 81 degrees 52' 10" East, 124.00 feet to the place of beginning of this description, as per a survey made July 11, 1925, by T.A. Smith, Van Buren County Surveyor, subject to existing easements and restrictions of record.

SEC. 310. MUSKEGON, MICHIGAN TRANSFER.

(a) Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the Secretary of Commerce all rights, title, and interest of the United States in Coast Guard property and improvements described as follows: Part of Block 739 of Revised Plat of City of Muskegon of part of section 28, Town 10 North, Range 17 West, City of Muskegon, Muskegon County, Michigan described as beginning at a point distant South 48 degrees 15 minutes 56 seconds East 414.13 feet from Corps of Engineers Disc Guard 2 and distant North 35 degrees 59 minutes 49 seconds West 225.70 feet from Corps of Engineers Monument MUS 34 and distant South 85 degrees 51 minutes 27 seconds West 727.32 feet from the Northwest corner of Block 757 of the Revised Plat of City of Muskegon and proceeding thence North 28 degrees 38 minutes 52 seconds West 230.13 feet; thence South 61 degrees 14 minutes 26 seconds West 14.96 feet; thence North 28 degrees 24 minutes West 128.23 feet; thence South 61 degrees 14 minutes 00 seconds West 150 feet, more or less, to the shore of Lake Michigan; thence Southeasterly 358 feet, more or less, along the shore of Lake Michigan to the intersection with the line bearing South 61 degrees 14 minutes 26 seconds West from the point of beginning; thence North 61 degrees 14 minutes 26 seconds East 163 feet, more or less, to the point of beginning.

(b) The Secretary of Commerce shall make the property transferred under this section available to the National Oceanic and Atmospheric Administration.

SEC. 311. STRATEGIC PLAN FOR INFORMATION RESOURCES MANAGEMENT.

(a) None of the funds authorized to be appropriated for use by the Coast Guard in Fiscal Year 1992 may be expended to acquire additional information resources, including information equipment, until the Commandant of the Coast Guard develops and implements a strategic information resources plan to identify long-term information priorities and link the Coast Guard's missions, priorities, and organizational strategies to Coast Guard information resources.

(b) The Commandant shall submit to the Committee on Commerce, Science, and Transportation in the Senate and to the Committee on Merchant Marine and Fisheries in the House of Representatives quarterly reports during Fiscal Year 1991 concerning the progress toward completion of the strategic information resources plan, and specifically listing any expenditures or obligations made to acquire information resources. Reports.

(c) Section 663 of title 14, United States Code, is amended in the first sentence, by striking "and Shore Facilities Plan." and inserting "Shore Facilities Plan, and Information Resources Management Plan.".

SEC. 312. BOATING SAFETY PROGRAM.

Chapter 131 of title 46, United States Code, is amended—

(a) in section 13101(b)(2) by striking "and with the guidelines developed under that Act; and" and inserting "the Federal Aid in Sport Fish Restoration Act of 1950 (16 U.S.C. 777–777k), and with the guidelines developed under those Acts; and";

(b) in section 13102—

(1) in subsection (a)(3) by inserting "State" after the word "general";

(2) in subsection (c)(4) by inserting "or drugs" after the word "alcohol"; and

(3) in subsection (d) by striking "the proportional share" and inserting "a proportionate share";

(c) in sections 13103(a)(3) and 13105(a) by striking "or obligated" each time it appears; and

(d) in section 13108(a)(1) to read as follows: "During the second quarter of a fiscal year and on the basis of computations made under section 13105 of this title and submitted by the States for the proceeding fiscal year, the Secertary shall determine the percentage of the amounts available to which each eligible State is entitled for the next fiscal year.".

SEC. 313. DARE COUNTY, NORTH CAROLINA TRANSFER.

Notwithstanding another law, the Secretary of Transportation shall transfer without consideration by quitclaim deed to Dare County, North Carolina, all rights, title, and interest of the United States in Coast Guard property and improvements located on the northern end of Pea Island east side of State road 1257, 0.3 miles north of North Carolina Highway 12 in Rodanthe, Dare County, North Carolina. The Secretary shall require the property to be surveyed before it is transferred.

SEC. 314. BAYOU LAFOURCHE, LOUISIANA.

33 USC 59e note.

Bayou Lafourche, in the State of Louisiana, between the Percy Brown Road (Hwy 648), city of Thibodaux, parish of Lafourche, and the Southern Pacific Railroad bridge crossing the bayou, city of Thibodaux, parish of Lafourche, is declared to be navigable waterway of the United States under chapter 11 of title 33, United States Code.

SEC. 315. RELEASE OF RESTRICTIONS.

(a) IN GENERAL.—Subject to subsection (b), the United States hereby releases, without monetary consideration, all restrictions, conditions, and limitations on the use, encumbrance, or conveyance of the property described in subsection (c), to the extent such

restrictions, conditions, and limitations are enforceable by the United States.

National defense.

(b) LIMITATION.—Notwithstanding subsection (a), the United States shall have the right of access to, and use of, the property described in subsection (c) for national defense purposes in time of war or national emergency.

Louisiana.

(c) PROPERTY DESCRIBED.—The property referred to in subsections (a) and (b) consist of the following parcels of lands and improvements thereto located in Calcasieu Parish, Louisiana:

(1) A parcel commonly known as the Calcasieu Women's Shelter, consisting of 3 contiguous tracts described as follows:

Tract A—Commencing at a point N 45°28'31" E 198.3 feet from point A; thence S 44°29'9" E 169.3 feet; thence S 45°28'31" W 75 feet; thence N 44°29'9" W 169.3 feet; thence N 45°28'31" E 75 feet to the point of commencement.

Tract B—Commencing at a point N 45°28'31" E 198.3 feet from point A; thence S 44°29'9" E 220 feet; thence N 45°28'31" E 50 feet; thence N 44°29'9" W 220 feet; thence S 45°28'31" E 50 feet to the point of commencement.

Tract C—Commencing at a point N 45°28'31" E 248.3 feet from point A; thence S 44°29'9" E 220 feet; thence N 45°28'31" E 50 feet; thence N 44°29'9" W 220 feet; thence S 45°28'31" E 50 feet to the point of commencement.

(2) A parcel, consisting of a tract of land containing 33.351 acres, more or less, in section 11, township 10 south, range 8 west, and described as follows:

Commencing at a point N 0°22'09" W 88.18 feet from the northeast corner of the southeast quarter of section 10, T 10 S—R 8 W; said point being point D of plat of survey entitled "Boundary Agreement of CAFB" dated August 7, 1973, and recorded in plat book 23, page 20 records of Calcasieu Parish, Louisiana: thence N 0°22'09" W 183.6 feet; thence S 79°45'09" E 226.33 feet to the point of commencement: thence S 79°45'09" E 1843.02; thence N 11°36'26" E 965.89 feet, thence N 80°30'11" W 1196.35 feet, thence S 45°25'51" W 1162.28 feet to the point of commencement.

(d) MINERAL RESOURCES.—Nothing in this section shall affect the disposition or ownership of oil, gas, or other mineral resources associated with property described in subsection (c).

Alaska.

SEC. 316. COLD WATER SURVIVAL TRAINING CENTER.

In addition to any sums authorized to be appropriated for the Coast Guard for fiscal year 1992, $6,000,000 is authorized to be appropriated for fiscal year 1992 and transferred to the University of Alaska to establish a Cold War Survival Training Center in Kenai, Alaska.

46 USC 8103 note.

SEC. 317. FISHING VESSELS IN CALIFORNIA.

(a) DEFINITION.—For purposes of the application of sections 8103(a), 12102, 12110, and 12111 of title 46, United States Code, to a fishing vessel operating in waters subject to the jurisdiction of the United States off the coast of the State of California, the term "citizen of the United States" includes an alien lawfully admitted to the United States for permanent residence.

(b) TERMINATION.—This section shall terminate on October 1, 2000.

33 USC 59aa.

SEC. 318. NONNAVIGABILITY OF WISCONSIN RIVER.

The portion of the Wisconsin River above the hydroelectric dam at Prairie du Sac, Wisconsin, is hereby declared to be a nonnavigable waterway of the United States for purposes of title 46, United States Code, including but not limited to the provisions of such title relating to vessel inspection and vessel licensure, and the other maritime laws of the United States.

SEC. 319. MEDICAL CARE CONTRACTING AUTHORITY.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 668. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care

"(a) The Secretary may contract for the delivery of health care to which covered beneficiaries are entitled under chapter 55 of title 10. The Secretary may enter into a contract under this section with any of the following:

"(1) Health maintenance organizations.

"(2) Preferred provider organizations.

"(3) Individual providers, individual medical facilities, or insurers.

"(4) Consortiums of these providers, facilities, or insurers.

"(b) A contract entered into under this section may provide for the delivery of—

"(1) selected health care services;

"(2) total health care services for selected covered beneficiaries; or

"(3) total health care services for all covered beneficiaries who reside in a geographic area designated by the Secretary.

"(c) The Secretary may prescribe a premium, deductible, copayment, or other change for health care provided under this section.".

(b) CLERICAL AMENDMENT.—The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"668. Contracts for medical care for retirees, dependents, and survivors: alternative delivery of health care".

SEC. 320. PURCHASE OF CERTAIN DATA.

15 USC 313 note.

The National Oceanic and Atmospheric Administration is authorized to enter into a contract for the future purchase of atmospheric wind data. Any and all obligations of the Government under such contract shall be contingent upon the following terms:

(1) the data to be purchased must meet technical criteria specified in the contract and must be satisfactory to the National Oceanic and Atmospheric Administration; and

(2) the availability of appropriated funds.

TITLE IV—FALSE DISTRESS REPORTS

SEC. 401. PENALTIES AND LIABILITY FOR MAKING A FALSE DISTRESS REPORT.

Section 88 of title 14, United States Code, is amended by adding at the end the following new subsection:

"(c) An individual who knowingly and willfully communicates a false distress message to the Coast Guard or causes the Coast Guard to attempt to save lives and property when no help is needed is—

"(1) guilty of a class D felony;

"(2) subject to a civil penalty of not more than $5,000; and

"(3) liable for all costs the Coast Guard incurs as a result of the individual's action.".

TITLE V—ADDITIONAL COAST GUARD AUTHORIZATION FOR FISCAL YEAR 1991

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

103 Stat. 1908.

Section 102 of Public Law 101-225, the Coast Guard Authorization Act of 1989, is amended by adding a new subsection to read as follows:

"(6) ENVIRONMENTAL COMPLIANCE AND RESTORATION.—For environmental compliance and restoration at Coast Guard facilities, $30,000,000.".

Aleutian Trade Act of 1990.

TITLE VI—ALEUTIAN TRADE ACT OF 1990

46 USC 2101 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Aleutian Trade Act of 1990".

SEC. 602. ALASKA CARGO PROVISIONS.

(a) DEFINITION.—Section 2102 of title 46, United States Code, is amended by—

(1) designating the existing text as subsection (a); and

(2) adding the following new subsection at the end:

"(b) In chapters 33, 45, 51, 81, and 87 of this title, 'Aleutian trade' means the transportation of cargo (including fishery related products) for hire on board a fish tender vessel to or from a place in Alaska West of 153 degrees west longitude and east of 172 degrees East longitude, if that place receives weekly common carrier service by water, to or from a place in the United States (except a place in Alaska).".

(b) INSPECTION PROVISIONS.—Section 3302(c) of title 46, United States Code, is amended by adding at the end the following:

"(3) A fishing, fish processing, or fish tender vessel of not more than 500 gross tons is exempt from section 3301 (1), (6), and (7) of this title if—

"(A) when transporting cargo to or from a place in Alaska—

"(i) that place does not receive weekly common carrier service by water from a place in the United States; or

"(ii) the cargo is of a type not accepted by that common carrier service; or

"(B) in the case of a fish tender vessel, the vessel is not engaged in the Aleutian trade.

"(4) A fish tender vessel is exempt from section 3301 (1), (6), and (7) of this title when engaged in the Aleutian trade if the vessel—

"(A) is not more than 500 gross tons;

"(B) has an incline test performed by a marine surveyor; and

"(C) has written stability instructions posted on board the vessel.".

(c) SAFETY STANDARDS.—

(1) Section 4502 (b) and (c) of title 46, United States Code, is amended to read as follows:

Regulations.

"(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for documented vessels to which this chapter applies that—

"(A) operate beyond the Boundary Line;

"(B) operate with more than 16 individuals on board; or

"(C) in the case of a fish tender vessel, engage in the Aleutian trade.

"(2) The equipment to be required is as follows:

"(A) alerting and locating equipment, including emergency position indicating radio beacons;

"(B) lifeboats or liferafts sufficient to accommodate all individuals on board;

"(C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

"(D) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

"(E) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

"(F) first aid equipment, including medicine chests; and

"(G) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

"(c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—

"(A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and

"(ii) operate with more than 16 individuals on board; or

"(B) in the case of a fish tender vessel, engage in the Aleutian trade.

"(2) The standards shall be minimum safety standards, including standards relating to—

"(A) navigation equipment, including radars and fathometers;

"(B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

"(C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

"(D) use and installation of insulation material;

"(E) storage methods for flammable or combustible material; and

"(F) fuel, ventilation, and electrical systems.".

(2) Section 4502(f) of title 46, United States Code, is amended to read as follows:

"(f) To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—

"(1) a fish processing vessel; and

"(2) a fish tender vessel engaged in the Aleutian trade.".

(d) LOAD LINES.—Section 5102(b)(5)(B) of title 46, United States Code, is amended to read as follows:

"(B)(i) is not on a foreign voyage; or

"(ii) engaged in the Aleutian trade (except a vessel in that trade assigned a load line at any time before June 1, 1992).".

(e) MANNING.—

(1) Section 8104 of title 46, United States Code, is amended by adding at the end the following:

"(n)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons engaged in the

Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 3 watches.

"(2) On a fish tender vessel of not more than 500 gross tons engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—

"(A) before September 8, 1990, operated in that trade; or

"(B)(i) before September 8, 1990, was purchased to be used in that trade; and

"(ii) before June 1, 1992, entered into service in that trade.".

(2) Section 8702 of title 46, United States Code, is amended as follows:

(A) insubsection (a)(3) by striking "vessel" and substituting "vessel (except a fish tender vessel engaged in the Aleutian trade)";

(B) in subsection (b)(2) by—

(i) striking "50 percent on a vessel permitted under section 8104 of this title to maintain a 2-watch system."; and

(ii) substituting the following:

"50 percent—

"(i) on a vessel permitted under section 8104 of this title to maintain a 2-watch system; or

"(ii) on a fish tender vessel engaged in the Aleutian trade.".

46 USC 7306 note.

(3) For the purposes of chapter 73 of title 46, United States Code, the Secretary of Transportation shall accept the service used by an individual to qualify for an endorsement as able seaman—fishing industry as qualifying service toward an endorsement as an able seaman—

(A) under sections 7307 and 7309 of that title; or

(B) if the service is on board a vessel of at least 100 gross tons, under section 7308 of that title.

46 USC 4502 note.

(f) EFFECTIVE DATES.—This section is effective on the date of enactment of this section except as follows:

(1) The requirements imposed by section 3302(c)(4) (B) and (C) of title 46, United States Code, (as enacted by subsection (b) of this section) is effective 6 months after the date of enactment of this Act.

(2) Before January 1, 1993, section 4502(c) (as amended by subsection (c) of this section) does not apply to a fish tender vessel engaged in the Aleutian trade, if the vessel—

(A)(i) before September 8, 1990, operated in that trade; or

(ii) before September 8, 1990, was purchased to be used in that trade and, before June 1, 1992, entered into service in that trade; and

(B) does not undergo a major conversion.

(3) Before January 1, 2003, a fish tender vessel is exempt from chapter 51 of title 46, United States Code, (as amended by subsection (d) of this section) when engaged in the Aleutian trade, if the vessel—

(A)(i) before September 8, 1990, operated in that trade; or

(ii) before September 8, 1990, was purchased to be used in this trade and, before June 1, 1992, entered into service in that trade;

(B) does not undergo a major conversion; and

(C) did not have a load line assigned at any time before the date of enactment of this Act.

(4) The requirements imposed by section 8702(b)(2) of title 46, United States Code, (as amended by subsection (e)(2)(B) of this section) are effective 1 year after the date of enactment of this Act.

SEC. 603. MISCELLANEOUS TECHNICAL AMENDMENT.

Title 46, United States Code, is amended as follows:

(1) Section 2101(14)(C) is amended by striking "(49 U.S.C. 1803)" and substituting "(49 App. U.S.C. 1803)".

(2) Section 3302(j)(2)(B) is amended by striking "(46 App. U.S.C. 1295(c))" and substituting "(46 App. U.S.C. 1295c)".

(3)(A) Section 4104 is repealed.

(B) The chapter analysis for chapter 41 is amended by striking item 4104.

(4) The catch line of section 5114 is amended by striking "officers employees" and substituting "officers and employees".

(5)(A) Section 5115 is repealed.

(B) The chapter analysis for chapter 51 is amended by striking item 5115.

(6) Section 8103(i)(1)(C) is amended by striking "Naturalization" and substituting "Nationality".

(7)(A) Section 8105 is repealed.

(B) The analysis for chapter 81 is amended by striking item 8105.

(8) The chapter analysis is amended by striking items 12113-12116, 12118, and 12121.

(9) Section 12109(b) is amended by striking "aboard such a pleasure vessel" and substituting "on board that recreational vessel".

(10) Sections 12501(b)(2)(A) and 12503(a)(2)(A) are amended to read as follows:

"(A) the owner's social security number or, if that number is not available, other means of identification acceptable to the Secretary; or".

(11) Section 12505 is amended by—

(A) striking subsections (b), (c), (d), and (f); and

(B) redesignating subsection (e) as subsection (b).

(12)(A) Section 14102 is repealed.

(B) The chapter analysis for chapter 141 is amended by striking item 14102.

(13) Section 31308 is amended by striking "(46 App. U.S.C. 1241 et seq.)" and substituting "(46 App. U.S.C. 1271 et seq.)".

TITLE VII—MARITIME ADMINISTRATION AUTHORIZATION

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

In fiscal year 1991, the following amounts are authorized to be appropriated for the Maritime Administration:

(1) Any amounts necessary to liquidate obligations under operating-differential subsidy contracts for the fiscal year 1991 portion of the total of current contract authority.

(2) $35,690,000 for expenses related to manpower, education, and training, including—

(A) $25,205,000 for maritime training at the Merchant Marine Academy at Kings Point, New York;

(B) $8,872,000 for assistance to the State maritime academies; and

(C) $1,613,000 for manpower and additional training.

(3) $28,095,000 for operating programs.

(4) $7,902,000 for expenses related to national security support capabilities, including—

(A) $6,748,000 for the National Defense Reserve Fleet; and

(B) $1,154,000 for emergency planning operations.

(5) $225,000,000 for the Ready Reserve Force, including—

(A) $49,400,000 for fleet additions, replacements, acquisitions, and upgrading of vessels for the Ready Reserve Force;

(B) $171,600,000 for maintenance and operations programs in support of the Ready Reserve Force; and

(C) $4,000,000 for Ready Reserve Force facilities.

SEC. 702. NATIONAL MARITIME ENHANCEMENT INSTITUTES.

46 USC app. 1121-2.

Section 8(e) of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 695) is amended to read as follows:

"(e) The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards shall not exceed $100,000.".

Establishment.

SEC. 703. BOARD OF VISITORS.

Section 1303(h)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(h)(1)), is amended to read as follows:

"(h)(1) A Board of Visitors to the Academy shall be established, for a term of two years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary and to make recommendations on the operation of the Academy.".

SEC. 704. SALE OF OBSOLETE VESSELS.

Section 510(i) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1160(i)), is amended to read as follows:

"(i) The Secretary of Transportation is authorized to acquire suitable documented vessels, as defined in section 2101 of title 46, United States Code, with funds in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet. For purposes of this subsection, the acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the National Defense Reserve Fleet; except that, in a transaction subject to this section, the value assigned to those vessels will be determined on the same basis, with consideration given to the fair value of the cost of positioning the traded-out vessel to the place of scrapping. All costs incident to the lay-up of the vessel acquired under this subsection may be paid from balances in the Fund. Notwithstanding the provisions of sections 9 and 37 of the Shipping Act, 1916, vessels sold from the National Defense Reserve Fleet under this subsection may be scrapped in approved foreign markets.".

SEC. 705. SHIP SHARING.

46 USC app. 1295c note.

Section 4 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692) is amended—

(1) by inserting "legislative" immediately after "sixty"; and

(2) by adding at the end the following: "The Secretary shall not take any vessel, currently in service as a State academy training vessel, out of service for the purpose of implementing any alternative program, including ship sharing, until or unless the vessel is incapable of being maintained in good repair as required under section 1304(c)(1)(A) of the Merchant Marine Act, 1936. The Secretary shall not implement any program requiring that any State academy share its training vessel with another State academy without having first received the express consent of Congress to do so.".

SEC. 706. COAST GUARD EXAMINATION REQUIREMENT.

46 USC app. 1295c note.

Section 3 of the Act of October 13, 1989 (Public Law 101-115; 103 Stat. 692), shall not be effective prior to October 1, 1994.

SEC. 707. COMMITMENT AGREEMENTS.

(a) IN GENERAL.—Section 1303(e)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(e)(3)), is amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) If the Secretary of Defense is unable or unwilling to order an individual to active duty under subparagraph (A), the Secretary of Transportation—

"(i) may recover from the individual the cost of education provided by the Federal Government; and

"(ii) shall request the Attorney General to begin court proceedings to recover the costs of education if the Secretary decides to seek recovery under clause (i).".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to individuals who sign agreements after the date of enactment of this Act under section 1303(e) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(e)).

46 USC app. 1295b note.

SEC. 708. NOMINATION AND APPOINTMENT OF CADETS.

Section 1303(b) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(b)), is amended—

(1) in paragraph (1)—

(A) by striking "Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office)" and inserting in lieu thereof "Delegate from American Samoa";

(B) by striking "any individual who is" and inserting "any individual who is—"

(C) by inserting "or" immediately after "Commission," the last place it appears; and

(D) by striking ", or a resident of American Samoa if the individual is nominated by the Governor of American Samoa";

(2) in paragraph (3)(A)(vi), by striking "Governor of American Samoa (until a delegate to the House of Representatives from American Samoa takes office)" and inserting in lieu thereof "Delegate to the House of Representatives from American Samoa"; and

(3) in paragraph (7)—

(A) in subparagraph (A), by striking "annually", "until September 30, 1995,", and "up to six"; and

(B) in subparagraph (B), by striking "the Secretary shall insure that the Republic of Panama reimburse the Secretary" and inserting in lieu thereof "The Secretary shall be reimbursed".

Merchant Mariner Memorial Act of 1990.

SEC. 709. MERCHANT MARINER MEMORIAL.

(a) SHORT TITLE.—This section may be cited as the "Merchant Mariner Memorial Act of 1990".

(b) VESSEL CONVEYANCE AUTHORITY.—(1) Notwithstanding any other law, the Secretary of Transportation may convey to any group of not less than two and not more than three nonprofit organizations, without consideration, all right, title, and interest of the United States Government in a vessel which—

(A) is in the National Defense Reserve Fleet on the date of enactment of this section;

(B) is of not less than 4,000 displacement tons;

(C) has no usefulness to the Government; and

(D) is scheduled to be scrapped.

Nonprofit organizations.

(2) As a condition of conveying a vessel to a group of nonprofit organizations pursuant to this section, the Secretary shall require that each nonprofit organization in the group—

(A) before the date of that conveyance, enter into an agreement with the other nonprofit organizations in that group which requires—

(i) the sale of the vessel for scrap purposes; and

(ii) the equal division of the proceeds of the sale among the nonprofit organizations in that group;

(B) use its share of those proceeds for the expenses directly related to acquiring land for, designing, berthing, refurbishing, repairing, or constructing a memorial to merchant mariners;

(C) have raised, before the date of enactment of this section, at least $100,000 from non-Federal sources for use for establishing a memorial to merchant mariners; and

(D) agree to any other conditions the Secretary considers appropriate.

(3)(A) A nonprofit organization may apply to the Secretary for a conveyance under this section individually or as a member of a group of nonprofit organizations.

(B) The Secretary shall designate, for purposes of this section, groups of not less than two and not more than three nonprofit organizations which apply individually under this section.

(C) A nonprofit organization may not be a member of more than one group of nonprofit organizations for purposes of this section.

(c) DELIVERY.—The Secretary shall deliver a vessel conveyed under this section to a group of nonprofit organizations—

(1) at a place where the vessel is located on the date of the approval of the conveyance,

(2) in its condition on that date, and

(3) without cost of the Government.

(d) EXPIRATION.—The authority of the Secretary under this section to convey vessels shall expire two years after the date of enactment of this section.

Non-Vessel-Operating Common Carrier Amendments of 1990.
46 USC app. 1701 note.

SEC. 710. NON-VESSEL-OPERATING COMMON CARRIERS.

(a) SHORT TITLE.—This section may be cited as the "Non-Vessel-Operating Common Carrier Amendments of 1990.".

(b) BONDING OF NON-VESSEL-OPERATING COMMON CARRIERS.—The Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"SEC. 23. BONDING OF NON-VESSEL-OPERATING COMMON CARRIERS. 46 USC app. 1721.

"(a) BOND.—Each non-vessel-operating common carrier shall furnish to the Commission a bond in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier, but in any event not less than $50,000.

"(b) SURETY.—A bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.

"(c) CLAIMS AGAINST BOND.—A bond obtained pursuant to this section shall be available to pay any judgment for damages against a non-vessel-operating common carrier arising from its transportation-related activities or order for reparations issued pursuant to section 11 of this Act or any penalty assessed against a non-vessel-operating carrier pursuant to section 13 of this Act.

"(d) RESIDENT AGENT.—A non-vessel-operating common carrier not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"(e) TARIFFS.—The Commission may suspend or cancel any or all tariffs of a non-vessel-operating common carrier for failure to maintain the bond required by subsection (a) of this section or to designate an agent as required by subsection (d) of this section or for a violation of section 10(a)(1) of this Act.".

(c) PROHIBITED ACTS.—Section 10(b) of the Shipping Act of 1984 (46 App. U.S.C. 1709(b)) is amended—

(1) by striking "or" at the end of paragraph (13);

(2) by redesignating paragraph (14) and any reference thereto as paragraph (16); and

(3) by inserting immediately after paragraph (13) the following new paragraphs:

"(14) knowingly and willfully accept cargo from or transport cargo for the account of a non-vessel-operating common carrier that does not have a tariff and a bond as required by sections 8 and 23 of this Act;

"(15) knowingly and willfully enter into a service contract with a non-vessel-operating common carrier or in which a non-vessel-operating common carrier is listed as an affiliate that does not have a tariff and a bond as required by sections 8 and 23 of this Act; or".

(d) INTERIM RULES.—The Commission may prescribe interim rules and regulations necessary to carry out the amendments made by this section. 46 USC app. 1721 note.

(e) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment. 46 USC app. 1709 note.

(f) CONFORMING AMENDMENT.—The table of contents in the first section of the Shipping Act of 1984 is amended by adding at the end the following entry:

"Sec. 23. Bonding of non-vessel-operating common carriers.".

SEC. 711. TECHNICAL CORRECTION.

Section 8103 of title 46, United States Code is amended in subsection (i) by striking "Naturalization" and inserting "Nationality".

SEC. 712. MARITIME OIL POLLUTION PREVENTION, RESPONSE, AND CLEAN-UP TRAINING.

Section 1305 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295d), is amended by adding at the end the following new subsection:

"(c)(1) The Secretary shall assist maritime training institutions approved by the Secretary in establishing a maritime oil pollution prevention, response, and clean-up training program.

"(2) Under the program established under paragraph (1)—

"(A) the Secretary may provide, to maritime training institutions approved by the Secretary, vessels described in paragraph (4), with title free of all liens, subject to the requirements specified under paragraph (3); and

"(B) in return for receipt of such vessels, such institutions shall—

"(i) employ the vessels for the training of students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills; and

"(ii) make the vessels and qualified students available to appropriate Federal, State, and local oil spill response authorities in the event of a maritime oil spill.

"(3) The requirements referred to in paragraph (2)(A) are as follows:

"(i) any vessel provided under paragraph (2)(A) shall be tendered to the approved maritime training institution at a location determined by the Secretary;

"(ii) no such vessel may be sold, traded, chartered, donated, scrapped, or in any way altered or disposed of without the prior approval of the Secretary;

"(iii) no such vessel may be used in competition with any privately-owned vessel documented under the laws of the United States or any State, unless necessary to carry out the purposes of this subsection;

"(iv) any approved maritime training institution in possession of such a vessel which can no longer utilize the vessel for training purposes shall return the vessel to the Secretary, who shall take possession of the vessel at the training institution and thereafter may dispose of the vessel, or provide the vessel to another approved maritime training institution, as the Secretary determines appropriate; and

"(v) such other requirements or conditions as the Secretary determines appropriate.

"(4) The vessels referred to in paragraph (2)(A) are United States-built offshore supply vessels and United States-built tug/supply vessels in the possession of the Maritime Administration as a result of defaults on loans guaranteed under title XI of this Act.".

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 4009 (S. 2759):

HOUSE REPORTS: No. 101-440 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-420 accompanying S. 2759 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Apr. 3, considered and passed House.
Aug. 4, considered and passed Senate, amended, in lieu of S. 2759.
Oct. 15, House concurred in Senate amendment with an amendment.
Oct. 27, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

Public Law 101-596
101st Congress

An Act

Nov. 16, 1990
[H.R. 4323]

To amend the Federal Water Pollution Control Act relating to water quality in the Great Lakes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Great Lakes Critical Programs Act of 1990.
Water pollution control.
Natural resources.

SHORT TITLE

SECTION 1. This Act may be cited as the "Great Lakes Critical Programs Act of 1990".

33 USC 1251 note.

TITLE I—GREAT LAKES

GREAT LAKES ACTION SCHEDULES

SEC. 101. Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by inserting immediately after subsection (c)(1) the following new paragraphs, and by renumbering the existing paragraphs accordingly:

"(2) GREAT LAKES WATER QUALITY GUIDANCE.—

Federal Register, publication.

"(A) By June 30, 1991, the Administrator, after consultation with the Program Office, shall publish in the Federal Register for public notice and comment proposed water quality guidance for the Great Lakes System. Such guidance shall conform with the objectives and provisions of the Great Lakes Water Quality Agreement, shall be no less restrictive than the provisions of this Act and national water quality criteria and guidance, shall specify numerical limits on pollutants in ambient Great Lakes waters to protect human health, aquatic life, and wildlife, and shall provide guidance to the Great Lakes States on minimum water quality standards, antidegradation policies, and implementation procedures for the Great Lakes System.

Federal Register, publication.

"(B) By June 30, 1992, the Administrator, in consultation with the Program Office, shall publish in the Federal Register, pursuant to this section and the Administrator's authority under this chapter, final water quality guidance for the Great Lakes System.

"(C) Within two years after such Great Lakes guidance is published, the Great Lakes States shall adopt water quality standards, antidegradation policies, and implementation procedures for waters within the Great Lakes System which are consistent with such guidance. If a Great Lakes State fails to adopt such standards, policies, and procedures, the Administrator shall promulgate them not later than the end of such two-year period. When reviewing any Great Lakes State's water quality plan, the agency shall consider the extent to which the State has complied with the Great Lakes guidance issued pursuant to this section.

"(3) REMEDIAL ACTION PLANS.—

"(A) For each area of concern for which the United States has agreed to draft a Remedial Action Plan, the Program Office shall ensure that the Great Lakes State in which such area of concern is located—

"(i) submits a Remedial Action Plan to the Program Office by June 30, 1991;

"(ii) submits such Remedial Action Plan to the International Joint Commission by January 1, 1992; and

"(iii) includes such Remedial Action Plans within the State's water quality plan by January 1, 1993.

"(B) For each area of concern for which Canada has agreed to draft a Remedial Action Plan, the Program Office shall, pursuant to subparagraph (c)(1)(C) of this section, work with Canada to assure the submission of such Remedial Action Plans to the International Joint Commission by June 30, 1991, and to finalize such Remedial Action Plans by January 1, 1993. Canada.

"(C) For any area of concern designated as such subsequent to the enactment of this Act, the Program Office shall (i) if the United States has agreed to draft the Remedial Action Plan, ensure that the Great Lakes State in which such area of concern is located submits such Plan to the Program Office within two years of the area's designation, submits it to the International Joint Commission no later than six months after submitting it to the Program Office, and includes such Plan in the State's water quality plan no later than one year after submitting it to the Commission; and (ii) if Canada has agreed to draft the Remedial Action Plan, work with Canada, pursuant to subparagraph (c)(1)(C) of this section, to ensure the submission of such Plan to the International Joint Commission within two years of the area's designation and the finalization of such Plan no later than eighteen months after submitting it to such Commission.

"(D) The Program Office shall compile formal comments on individual Remedial Action Plans made by the International Joint Commission pursuant to section 4(d) of Annex 2 of the Great Lakes Water Quality Agreement and, upon request by a member of the public, shall make such comments available for inspection and copying. The Program Office shall also make available, upon request, formal comments made by the Environmental Protection Agency on individual Remedial Action Plans. Public information.

"(4) LAKEWIDE MANAGEMENT PLANS.—The Administrator, in consultation with the Program Office shall—

"(A) by January 1, 1992, publish in the Federal Register a proposed Lakewide Management Plan for Lake Michigan and solicit public comments; Federal Register, publication.

"(B) by January 1, 1993, submit a proposed Lakewide Management Plan for Lake Michigan to the International Joint Commission for review; and

"(C) by January 1, 1994, publish in the Federal Register a final Lakewide Management Plan for Lake Michigan and begin implementation. Federal Register, publication.

Nothing in this subparagraph shall preclude the simultaneous development of Lakewide Management Plans for the other Great Lakes.

"(5) SPILLS OF OIL AND HAZARDOUS MATERIALS.—The Program Office, in consultation with the Coast Guard, shall identify areas within the Great Lakes which are likely to experience numerous or voluminous spills of oil or other hazardous materials from land based facilities, vessels, or other sources and, in consultation with the Great Lakes States, shall identify weaknesses in Federal and State programs and systems to prevent and respond to such spills. This information shall be included on at least a biennial basis in the report required by this section.".

CONTAMINATED SEDIMENTS

SEC. 102. Section 118(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)), as renumbered by section 101 of this title, is amended by—

(1) inserting "(A)" following the title; and

(2) by adding the following new subsections:

"(B) The Program Office shall—

"(i) by December 31, 1990, complete chemical, physical, and biological assessments of the contaminated sediments at the locations selected for the study and demonstration projects;

"(ii) by December 31, 1990, announce the technologies that will be demonstrated at each location and the numerical standard of protection intended to be achieved at each location;

"(iii) by December 31, 1992, complete full or pilot scale demonstration projects on site at each location of promising technologies to remedy contaminated sediments; and

Reports.

"(iv) by December 31, 1993, issue a final report to Congress on its findings.

"(C) The Administrator, after providing for public review and comment, shall publish information concerning the public health and environmental consequences of contaminants in Great Lakes sediment. Information published pursuant to this subparagraph shall include specific numerical limits to protect health, aquatic life, and wildlife from the bioaccumulation of toxins. The Administrator shall, at a minimum, publish information pursuant to this subparagraph within 2 years of the date of the enactment of this title.".

DEFINITIONS

SEC. 103. Section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)) is amended by deleting "and" at the end of clause (D), by deleting the period at the end of clause (E), and inserting in lieu thereof a semicolon; and by adding at the end thereof the following:

"(F) 'area of concern' means a geographic area located within the Great Lakes, in which beneficial uses are impaired and which has been officially designated as such under Annex 2 of the Great Lakes Water Quality Agreement;

"(G) 'Great Lakes States' means the States of Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin;

"(H) 'Great Lakes Water Quality Agreement' means the bilateral agreement, between the United States and Canada which was signed in 1978 and amended by the Protocol of 1987;

"(I) 'Lakewide Management Plan' means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of the open waters of each of the Great Lakes, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement; and

"(J) 'Remedial Action Plan' means a written document which embodies a systematic and comprehensive ecosystem approach to restoring and protecting the beneficial uses of areas of concern, in accordance with article VI and Annex 2 of the Great Lakes Water Quality Agreement.".

GREAT LAKES CONFINED DISPOSAL FACILITIES

SEC. 104. At the end of section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) add the following new paragraph:

"(11) CONFINED DISPOSAL FACILITIES.—(A) The Administrator, in consultation with the Assistant Secretary of the Army for Civil Works, shall develop and implement, within one year of the date of enactment of this paragraph, management plans for every Great Lakes confined disposal facility.

"(B) The plan shall provide for monitoring of such facilities, including—

"(i) water quality at the site and in the area of the site;

"(ii) sediment quality at the site and in the area of the site;

"(iii) the diversity, productivity, and stability of aquatic organisms at the site and in the area of the site; and

"(iv) such other conditions as the Administrator deems appropriate.

"(C) The plan shall identify the anticipated use and management of the site over the following twenty-year period including the expected termination of dumping at the site, the anticipated need for site management, including pollution control, following the termination of the use of the site.

"(D) The plan shall identify a schedule for review and revision of the plan which shall not be less frequent than five years after adoption of the plan and every five years thereafter.".

GREAT LAKES NATIONAL PROGRAM AUTHORIZATION

SEC. 105. (a) AUTHORIZATION.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended by deleting "1990, and 1991" and inserting in lieu thereof "and 1990, and $25,000,000 for fiscal year 1991".

(b) ALLOCATION.—Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended by adding after "30 percent" the following: "or $3,300,000, whichever is the lesser,".

HEALTH RESEARCH REPORT

33 USC 1268.

SEC. 106. Subsection 118(e) of the Federal Water Pollution Control Act is amended by adding at the end thereof the following new paragraph—

"(3) HEALTH RESEARCH REPORT.—(A) Not later than September 30, 1994, the Program Office, in consultation with the Research Office, the Agency for Toxic Substances and Disease Registry, and Great Lakes States shall submit to the Congress a report assessing the adverse effects of water pollutants in the Great Lakes System on the health of persons in Great Lakes States and the health of fish, shellfish, and wildlife in the Great Lakes System. In conducting research in support of this report, the Administrator may, where appropriate, provide for research to be conducted under cooperative agreements with Great Lakes States.

"(B) There is authorized to be appropriated to the Administrator to carry out this section not to exceed $3,000,000 for each of fiscal years 1992, 1993, and 1994.".

Long Island Sound Improvement Act of 1990.

TITLE II—LONG ISLAND SOUND

SHORT TITLE

33 USC 1251 note.

SEC. 201. This part may be cited as the "Long Island Sound Improvement Act of 1990".

AMENDMENT TO THE FEDERAL WATER POLLUTION CONTROL ACT

SEC. 202. Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end the following new section:

33 USC 1269.

"SEC. 119. LONG ISLAND SOUND.—(a) The Administrator shall continue the Management Conference of the Long Island Sound Study (hereinafter referred to as the "Conference") as established pursuant to section 320 of this Act, and shall establish an office (hereinafter referred to as the "Office") to be located on or near Long Island Sound.

"(b) ADMINISTRATION AND STAFFING OF OFFICE.—The Office shall be headed by a Director, who shall be detailed by the Administrator, following consultation with the Administrators of EPA regions I and II, from among the employees of the Agency who are in civil service. The Administrator shall delegate to the Director such authority and detail such additional staff as may be necessary to carry out the duties of the Director under this section.

"(c) DUTIES OF THE OFFICE.—The Office shall assist the Management Conference of the Long Island Sound Study in carrying out its goals. Specifically, the Office shall—

"(1) assist and support the implementation of the Comprehensive Conservation and Management Plan for Long Island Sound developed pursuant to section 320 of this Act;

"(2) conduct or commission studies deemed necessary for strengthened implementation of the Comprehensive Conservation and Management Plan including, but not limited to—

"(A) population growth and the adequacy of wastewater treatment facilities,

"(B) the use of biological methods for nutrient removal in sewage treatment plants,

"(C) contaminated sediments, and dredging activities,

"(D) nonpoint source pollution abatement and land use activities in the Long Island Sound watershed,

"(E) wetland protection and restoration,

"(F) atmospheric deposition of acidic and other pollutants into Long Island Sound,

"(G) water quality requirements to sustain fish, shellfish, and wildlife populations, and the use of indicator species to assess environmental quality,

"(H) State water quality programs, for their adequacy pursuant to implementation of the Comprehensive Conservation and Management Plan, and

"(I) options for long-term financing of wastewater treatment projects and water pollution control programs.

"(3) coordinate the grant, research and planning programs authorized under this section;

"(4) coordinate activities and implementation responsibilities with other Federal agencies which have jurisdiction over Long Island Sound and with national and regional marine monitoring and research programs established pursuant to the Marine Protection, Research, and Sanctuaries Act;

"(5) provide administrative and technical support to the conference;

"(6) collect and make available to the public publications, and other forms of information the conference determines to be appropriate, relating to the environmental quality of Long Island Sound;

"(7) not more than two years after the date of the issuance of the final Comprehensive Conservation and Management Plan for Long Island Sound under section 320 of this Act, and biennially thereafter, issue a report to the Congress which— Reports.

"(A) summarizes the progress made by the States in implementing the Comprehensive Conservation and Management Plan;

"(B) summarizes any modifications to the Comprehensive Conservation and Management Plan in the twelve-month period immediately preceding such report; and

"(C) incorporates specific recommendations concerning the implementation of the Comprehensive Conservation and Management Plan; and

"(8) convene conferences and meetings for legislators from State governments and political subdivisions thereof for the purpose of making recommendations for coordinating legislative efforts to facilitate the environmental restoration of Long Island Sound and the implementation of the Comprehensive Conservation and Management Plan.

"(d) GRANTS.—(1) The Administrator is authorized to make grants for projects and studies which will help implement the Long Island Sound Comprehensive Conservation and Management Plan. Special emphasis shall be given to implementation, research and planning, enforcement, and citizen involvement and education.

"(2) State, interstate, and regional water pollution control agencies, and other public or nonprofit private agencies, institutions, and organizations held to be eligible for grants pursuant to this subsection.

"(3) Citizen involvement and citizen education grants under this subsection shall not exceed 95 per centum of the costs of such work. All other grants under this subsection shall not exceed 50 per

centum of the research, studies, or work. All grants shall be made on the condition that the non-Federal share of such costs are provided from non-Federal sources.

"(e) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Administrator for the implementation of this section, other than subsection (d), such sums as may be necessary for each of the fiscal years 1991 through 1996.

"(2) There is authorized to be appropriated to the Administrator for the implementation of subsection (d) not to exceed $3,000,000 for each of the fiscal years 1991 through 1996.".

RELATIONSHIP TO OTHER LAWS

SEC. 203. Amend subsection 116(g) of the Marine Protection Research and Sanctuaries Act (33 U.S.C. 1416(g)) by striking all after "shall comply with" and inserting in lieu thereof the following "the requirements of this title.".

TITLE III—LAKE CchampLAIN

Lake Champlain Special Designation Act of 1990. New York. Vermont. 33 USC 1251 note.

SHORT TITLE

SEC. 301. This title may be cited as the "Lake Champlain Special Designation Act of 1990".

DEMONSTRATION PROGRAM

SEC. 302. Paragraph (2) of section 314(d) of the Federal Water Pollution Control Act (33 U.S.C. 1324(d)) is amended by inserting "Lake Champlain, New York and Vermont;" before "Lake Houston, Texas".

LAKE CHAMPLAIN MANAGEMENT CONFERENCE

SEC. 303. Title I of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) is amended by adding at the end thereof the following new section—

"LAKE CHAMPLAIN MANAGEMENT CONFERENCE

33 USC 1270.

"SEC. 120. (a) ESTABLISHMENT.—There is established a Lake Champlain Management Conference to develop a comprehensive pollution prevention, control, and restoration plan for Lake Champlain. The Administrator shall convene the management conference within ninety days of the date of enactment of this section.

"(b) MEMBERSHIP.—The Members of the Management Conference shall be comprised of—

"(1) the Governors of the States of Vermont and New York;

"(2) each interested Federal agency, not to exceed a total of five members;

"(3) the Vermont and New York Chairpersons of the Vermont, New York, Quebec Citizens Advisory Committee for the Environmental Management of Lake Champlain;

"(4) four representatives of the State legislature of Vermont;

"(5) four representatives of the State legislature of New York;

"(6) six persons representing local governments having jurisdiction over any land or water within the Lake Champlain basin, as determined appropriate by the Governors; and

"(7) eight persons representing affected industries, non-governmental organizations, public and private educational institutions, and the general public, as determined appropriate by the trigovernmental Citizens Advisory Committee for the Environmental Management of Lake Champlain, but not to be current members of the Citizens Advisory Committee.

"(c) TECHNICAL ADVISORY COMMITTEE.—(1) The Management Conference shall, not later than one hundred and twenty days after the date of enactment of this section, appoint a Technical Advisory Committee.

"(2) Such Technical Advisory Committee shall consist of officials of: appropriate departments and agencies of the Federal Government; the State governments of New York and Vermont; and governments of political subdivisions of such States; and public and private research institutions.

"(d) RESEARCH PROGRAM.—(1) The Management Conference shall establish a multi-disciplinary environmental research program for Lake Champlain. Such research program shall be planned and conducted jointly with the Lake Champlain Research Consortium.

"(e) POLLUTION PREVENTION, CONTROL, AND RESTORATION PLAN.—(1) Not later than three years after the date of the enactment of this section, the Management Conference shall publish a pollution prevention, control, and restoration plan (hereafter in this section referred to as the 'Plan') for Lake Champlain.

"(2) The Plan developed pursuant to this section shall—

"(A) identify corrective actions and compliance schedules addressing point and nonpoint sources of pollution necessary to restore and maintain the chemical, physical, and biological integrity of water quality, a balanced, indigenous population of shellfish, fish and wildlife, recreational, and economic activities in and on the lake;

"(B) incorporate environmental management concepts and programs established in State and Federal plans and programs in effect at the time of the development of such plan;

"(C) clarify the duties of Federal and State agencies in pollution prevention and control activities, and to the extent allowable by law, suggest a timetable for adoption by the appropriate Federal and State agencies to accomplish such duties within a reasonable period of time;

"(D) describe the methods and schedules for funding of programs, activities, and projects identified in the Plan, including the use of Federal funds and other sources of funds; and

"(E) include a strategy for pollution prevention and control that includes the promotion of pollution prevention and management practices to reduce the amount of pollution generated in the Lake Champlain basin.

"(3) The Administrator, in cooperation with the Management Conference, shall provide for public review and comment on the draft Plan. At a minimum, the Management Conference shall conduct one public meeting to hear comments on the draft plan in the State of New York and one such meeting in the State of Vermont.

"(4) Not less than one hundred and twenty days after the publication of the Plan required pursuant to this section, the Administrator shall approve such plan if the plan meets the requirements of this section and the Governors of the States of New York and Vermont concur.

"(5) Upon approval of the plan, such plan shall be deemed to be an approved management program for the purposes of section 319(h) of this Act and such plan shall be deemed to be an approved comprehensive conservation and management plan pursuant to section 320 of this Act.

"(f) GRANT ASSISTANCE.—(1) The Administrator may, in consultation with the Management Conference, make grants to State, interstate, and regional water pollution control agencies, and public or nonprofit agencies, institutions, and organizations.

"(2) Grants under this subsection shall be made for assisting research, surveys, studies, and modeling and technical and supporting work necessary for the development of the Plan and for retaining expert consultants in support of litigation undertaken by the State of New York and the State of Vermont to compel cleanup or obtain cleanup damage costs from persons responsible for pollution of Lake Champlain.

"(3) The amount of grants to any person under this subsection for a fiscal year shall not exceed 75 per centum of the costs of such research, survey, study and work and shall be made available on the condition that non-Federal share of such costs are provided from non-Federal sources.

"(4) The Administrator may establish such requirements for the administration of grants as he determines to be appropriate.

"(g) DEFINITION.—For the purposes of this section, the term 'Lake Champlain drainage basin' means all or part of Clinton, Franklin, Warren, Essex, and Washington counties in the State of New York and all or part of Franklin, Grand Isle, Chittenden, Addison, Rutland, Lamoille, Orange, Washington, Orleans, and Caledonia counties in Vermont, that contain all of the streams, rivers, lakes, and other bodies of water, including wetlands, that drain into Lake Champlain.

"(h) STATUTORY INTERPRETATION.—Nothing in this section shall be construed so as to affect the jurisdiction or powers of—

"(1) any department or agency of the Federal Government or any State government; or

"(2) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory.

"(i) AUTHORIZATION.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.".

FEDERAL PROGRAM COORDINATION

33 USC 1270 note.

SEC. 304. (a) DESIGNATION OF LAKE CHAMPLAIN AS A SPECIAL PROJECT AREA UNDER THE AGRICULTURAL CONSERVATION PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Lake Champlain basin, as defined under section 120(h) of the Federal Water Pollution Control Act, shall be designated by the Secretary of Agriculture as a special project area under the Agricultural Conservation Program established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(2) TECHNICAL ASSISTANCE REIMBURSEMENT.—To carry out the purposes of this subsection, the technical assistance reimbursement from the Agricultural Stabilization and Conservation

Service authorized under the Soil Conservation and Domestic Allotment Act, shall be increased from 5 per centum to 10 per centum.

(3) COMPREHENSIVE AGRICULTURAL MONITORING.—The Secretary, in consultation with the Management Conference and appropriate State and Federal agencies, shall develop a comprehensive agricultural monitoring and evaluation network for all major drainages within the Lake Champlain basin.

(4) ALLOCATION OF FUNDS.—In allocating funds under this subsection, the Secretary of Agriculture shall consult with the Management Conference established under section 120 of the Federal Water Pollution Control Act and to the extent allowable by law, allocate funds to those agricultural enterprises located at sites that the Management Conference determines to be priority sites, on the basis of a concern for ensuring implementation of nonpoint source pollution controls throughout the Lake Champlain basin.

(b) COOPERATION OF THE UNITED STATES GEOLOGICAL SURVEY OF THE DEPARTMENT OF THE INTERIOR.—For the purpose of enhancing and expanding basic data collection and monitoring in operation in the Lake Champlain basin, as defined under section 120 of the Federal Water Pollution Control Act, the Secretary of the Interior, acting through the heads of water resources divisions of the New York and New England districts of the United States Geological Survey, shall—

(1) in cooperation with appropriate universities and private research institutions, and the appropriate officials of the appropriate departments and agencies of the States of New York and Vermont, develop an integrated geographic information system of the Lake Champlain basin;

(2) convert all partial recording sites in the Lake Champlain basin to continuous monitoring stations with full gauging capabilities and status; and

(3) establish such additional continuous monitoring station sites in the Lake Champlain basin as are necessary to carry out basic data collection and monitoring, as defined by the Secretary of the Interior, including groundwater mapping, and water quality and sediment data collection.

(c) COOPERATION OF THE UNITED STATES FISH AND WILDLIFE SERVICE OF THE DEPARTMENT OF THE INTERIOR.—

(1) RESOURCE CONSERVATION PROGRAM.—The Secretary of the Interior, acting through the United States Fish and Wildlife Service, in cooperation with the Lake Champlain Fish and Wildlife Management Cooperative and the Management Conference established pursuant to this subsection shall—

(A) establish and implement a fisheries resources restoration, development and conservation program, including dedicating a level of hatchery production within the Lake Champlain basin at or above the level that existed immediately preceding the date of enactment of this Act; and

(B) conduct a wildlife species and habitat assessment survey in the Lake Champlain basin, including—

(i) a survey of Federal threatened and endangered species, listed or proposed for listing under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), New York State and State of Vermont threatened and endangered species and other species of special con-

cern, migratory nongame species of management concern, and national resources plan species;

(ii) a survey of wildlife habitats such as islands, wetlands, and riparian areas; and

(iii) a survey of migratory bird populations breeding, migrating and wintering within the Lake Champlain basin.

(2) To accomplish the purposes of paragraph (1), the Director of the United States Fish and Wildlife Service is authorized to carry out activities related to—

(A) controlling sea lampreys and other nonindigenous aquatic animal nuisances;

(B) improving the health of fishery resources;

(C) conducting investigations about and assessing the status of fishery resources, and disseminating that information to all interested parties; and

(D) conducting and periodically updating a survey of the fishery resources and their habitats and food chains in the Lake Champlain basin.

(d) AUTHORIZATIONS.—(1) There is authorized to be appropriated to the Department of Agriculture $2,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsection (a) of this section.

(2) There is authorized to be appropriated to the Department of Interior $1,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to carry out subsections (b) and (c) of this section.

New York.

TITLE IV—ONONDAGA LAKE

SEC. 401. ONONDAGA LAKE. (a) The Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake. The purpose of this management conference shall include but not be limited to—

(1) the development, within a two-year period following the date of the enactment of this Act, of a comprehensive restoration, conservation, and management plan for Onondaga Lake that recommends priority corrective actions and compliance schedules for the cleanup of such Lake; and

(2) the coordination of the implementation of such plan by the State of New York, the United States Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in such management conference.

(b)(1) The members of the management conference convened pursuant to subsection (a) shall include, at a minimum, the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Governor of the State of New York, and representatives of—

(A) the Attorney General of the State of New York;

(B) Onondaga County, New York; and

(C) The city of Syracuse, New York.

(2) Any member of the management conference may designate a representative to attend meetings of the management conference

and otherwise represent such member on the management conference.

(3) The management conference shall have ex officio members which shall include, at a minimum—

(A) the United States Senators from the State of New York; and

(B) the Member(s) of the United States House of Representatives within whose congressional district(s) lies Onondaga Lake.

(4) The management conference shall have standing committees which shall include, at a minimum—

(A) a Citizens Advisory Committee; and

(B) a Technical Review Committee.

(c)(1) Not later than one hundred and twenty days after the completion of the plan developed pursuant to subsection (a), and after providing for public review and comment, the Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency shall approve such plan if such plan meets the requirements of this section, and if the Governor of the State of New York concurs in such approval.

(2) Upon approval of the plan under this subsection, such plan shall be implemented.

(d)(1) The Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency are authorized to make grants to the State of New York to perform activities authorized under this section or to contract for such performance, provided that such grants shall not exceed 70 per centum of the costs of such activities and that the non-Federal share of such costs are provided from non-Federal sources. Administrative services for the development and implementation of the plan approved pursuant to subsection (a) shall be provided by a not-for-profit corporation established for the purpose of assisting with the planning and coordination of the cleanup of Onondaga Lake.

(2) To carry out this section, the Governor of the State of New York may, using funds provided pursuant to paragraph (1), make grants for—

(A) research, surveys, administrative services and studies approved by the management conference as necessary for the development of the plan under this section;

(B) other activities including administrative services that are approved by the management conference and are necessary to implement the plan approved by the management conference pursuant to subsection (a); and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel cleanup or obtain cleanup and damage costs from parties responsible for the pollution of Onondaga Lake, including administrative services.

(3) In-kind payments shall qualify for the purpose of meeting the total non-Federal matching requirements of this subsection.

(e) There are authorized to be appropriated to the Assistant Secretary of the Army for Civil Works and the Administrator of the

Appropriation authorization.

Environmental Protection Agency such sums as may be necessary to carry out this section.

(f) Grants made under this section are not intended to relieve any person who would otherwise be liable under Federal or State law for damages, response costs, natural resource damages, restitution, equitable relief or any other relief, from liability for such relief.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 4323:

HOUSE REPORTS: No. 101-704 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 24, considered and passed House.
Oct. 17, considered and passed Senate, amended.
Oct. 27, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks and statement.

Public Law 101-597
101st Congress

An Act

To amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States.

Nov. 16, 1990
[H.R. 4487]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Health Service Corps Revitalization Amendments of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Health Service Corps Revitalization Amendments of 1990".

TITLE I—REVISIONS IN GENERAL PROGRAM FOR NATIONAL HEALTH SERVICE CORPS

SEC. 101. NATIONAL HEALTH SERVICE CORPS.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—Section 331(a) of the Public Health Service Act (42 U.S.C. 254d(a)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1)—

(A) by inserting "(1)" after the subsection designation; and

(B) by striking "There is" and all that follows and inserting the following: "For the purpose of eliminating health manpower shortages in health manpower shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—";

(2) by striking "States," at the end of paragraph (1)(C) and all that follows and inserting "States."; and

(3) by adding at the end the following new paragraphs:

"(2) The Corps shall be utilized by the Secretary to provide primary health services in health manpower shortage areas.

"(3) For purposes of this subpart and subpart III:

"(A) The term 'Corps' means the National Health Service Corps.

"(B) The term 'Corps member' means each of the officers, employees, and individuals of which the Corps consists pursuant to paragraph (1).

"(C) The term 'health manpower shortage area' has the meaning given such term in section 332(a).

"(D) The term 'primary health services' means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.".

(b) RECRUITMENT AND RETENTION OF CORP MEMBERS, INCLUDING VOLUNTEERS.—Section 331(b) of the Public Health Service Act (42 U.S.C. 254d(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated), by adding at the end the following new sentence: "Such recruiting programs shall include efforts to recruit individuals who will serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program."; and

(3) by adding at the end the following new paragraph:

"(2) In the case of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants who have an interest and a commitment to providing primary health care, the Secretary may establish fellowship programs to enable such health professionals to gain exposure to and expertise in the delivery of primary health services in health manpower shortage areas. To the maximum extent practicable, the Secretary shall ensure that any such programs are established in conjunction with accredited residency programs, and other training programs, regarding such health professions.".

(c) REMOVAL OF LIMITATION REGARDING SUPPLEMENTAL PAY DURING INITIAL YEARS OF SERVICE.—Section 331(d)(1)(A) of the Public Health Service Act (42 U.S.C. 254d) is amended by striking striking "(not to exceed $1,000)".

(d) ADEQUATE STAFF FOR CORPS PROGRAM.—Section 331 of the Public Health Service Act (42 (U.S.C. 254d) is amended by striking subsection (h) and inserting the following new subsection:

"(h) The Secretary shall ensure that adequate staff is provided to the Service with respect to effectively administering the program for the Corps.".

(e) TECHNICAL AMENDMENT REGARDING DEFINITIONS.—Section 331(i) of the Public Health Service Act (42 U.S.C. 254d(i)) is amended in the matter preceding paragraph (1) by inserting "and subpart III" before the colon.

SEC. 102. DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS.

(a) PUBLICATION OF DESIGNATIONS AND REVISIONS.—Section 332(d) of the Public Health Service Act (42 U.S.C. 254e(d)) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

Federal Register, publication.

"(2) For purposes of paragraph (1), a complete descriptive list shall be published in the Federal Register not later than July 1 of 1991 and each subsequent year.".

(b) DEFINITION OF MEDICAL FACILITY.—Section 332(a)(2) of the Public Health Service Act (42 U.S.C. 254e(a)(2)) is amended—

(1) in subparagraph (A), by inserting before "and community health center" the following: "facility operated by a city or county health department,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act"; and

(3) in subparagraph (C)—

(A) by striking "sections 321" and inserting "section 321", by striking "or" before "326", and by striking "or section 320" and inserting "320"; and

(B) by inserting before the semicolon at the end the following: ", or 340 (relating to the provision of health services to homeless individuals)".

(c) REMOVAL OF SUPERFLUOUS REFERENCES.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (b), in the first sentence of the matter preceding paragraph (1), by striking ", promulgated not later than May 1, 1977,";

(2) in subsection (c), by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) in subsection (d)(1) (as designated by subsection (a) of this section), by striking ", not later than November 1, 1977,"; and

(4) in subsection (f), by inserting "and" after the semicolon at the end of paragraph (1), and by striking paragraph (2) and redesignating paragraph (3) as paragraph (2).

SEC. 103. ASSIGNMENT OF CORPS PERSONNEL.

(a) REQUIREMENT OF APPROPRIATE AND EFFICIENT USE OF CURRENT PERSONNEL AS CONDITION OF RECEIVING FURTHER PERSONNEL.—Section 333(a)(1)(D)(ii)(II) of the Public Health Service Act (42 U.S.C. 254f(a)(1)(D)(ii)(II)) is amended—

(1) by striking "will be" and inserting "has been"; and

(2) by inserting "any" before "Corps".

(b) TECHNICAL AND CONFORMING AMENDMENTS REGARDING ADDITIONAL PROVISIONS ON PRIORITY AND ON EFFECTIVE SERVICE OF PERSONNEL.—Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) by striking subsections (b), (c), (f), (h), (j), and (k); and

(2) by redesignating subsections (d), (e), (g), and (i) as subsections (b), (c), (d), and (e), respectively.

SEC. 104. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by inserting after section 333 the following new section:

"SEC. 333A. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL. 42 USC 254f-1.

"(a) IN GENERAL.—In approving applications made under section 333 for the assignment of Corps members, the Secretary shall—

"(1) give priority to any such application that—

"(A) is made regarding the provision of primary health services to a health manpower shortage area with the greatest such shortage, as determined in accordance with subsection (b); and

"(B) is made by an entity that—

"(i) serves a health manpower shortage area described in subparagraph (A);

"(ii) coordinates the delivery of primary health services with related health and social services;

"(iii) has a documented record of sound fiscal management; and

"(iv) will experience a negative impact on its capacity to provide primary health services if a Corps member is not assigned to the entity;

"(2) with respect to the geographic area in which the health manpower shortage area is located, take into consideration the willingness of individuals in the geographic area, and of the

appropriate governmental agencies or health entities in the area, to assist and cooperate with the Corps in providing effective primary health services; and

"(3) take into consideration comments of medical, osteopathic, dental, or other health professional societies whose members deliver services to the health manpower shortage area, or if no such societies exist, comments of physicians, dentists, or other health professionals delivering services to the area.

"(b) EXCLUSIVE FACTORS FOR DETERMINING GREATEST SHORTAGES.—In making a determination under subsection (a)(1)(A) of the health manpower shortage areas with the greatest such shortages, the Secretary may consider only the following factors:

"(1) The ratio of available health manpower to the number of individuals in the area or population group involved, or served by the medical facility or other public facility involved.

"(2) Indicators of need as follows:

"(A) The rate of low birthweight births.

"(B) The rate of infant mortality.

"(C) The rate of poverty.

"(D) Access to primary health services, taking into account the distance to such services.

"(c) ESTABLISHMENT OF CRITERIA FOR DETERMINING PRIORITIES.—

"(1) IN GENERAL.—The Secretary shall establish criteria specifying the manner in which the Secretary makes a determination under subsection (a)(1)(A) of the health manpower shortage areas with the greatest such shortages. Such criteria shall specify the manner in which the factors described in subsection (b) are implemented regarding such a determination.

Federal Register, publication.

"(2) PUBLICATION OF CRITERIA.—The criteria required in paragraph (1) shall be published in the Federal Register not later than July 1, 1991. Any revisions made in the criteria by the Secretary shall be effective upon publication in the Federal Register.

"(d) NOTIFICATIONS REGARDING PRIORITIES.—

"(1) PREPARATION OF LIST FOR APPLICABLE PERIOD.—For the purpose of carrying out paragraph (2), the Secretary shall prepare a list of health manpower shortage areas that are receiving priority under subsection (a)(1) in the assignment of Corps members for the period applicable under subsection (f). Such list—

"(A) shall include a specification, for each such health manpower shortage area, of the entities for which the Secretary has provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments; and

"(B) shall, of the entities for which an authorization described in subparagraph (A) has been provided, specify—

"(i) the entities provided such an authorization for the assignment of Corps members who are participating in the Scholarship Program;

"(ii) the entities provided such an authorization for the assignment of Corps members who are participating in the Loan Repayment Program; and

"(iii) the entities provided such an authorization for the assignment of Corps members who have become Corps members other than pursuant to contractual

obligations under the Scholarship or Loan Repayment Programs.

The Secretary may set forth such specifications by medical specialty.

"(2) NOTIFICATION OF AFFECTED PARTIES.—

"(A) Not later than 30 days after the preparation of each list under paragraph (1), the Secretary shall notify entities specified for purposes of subparagraph (A) of such paragraph of the fact that the entities have been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

"(B) In the case of individuals with respect to whom a period of obligated service under the Scholarship Program will begin during the period under subsection (f) for which a list under paragraph (1) is prepared, the Secretary shall, not later than 30 days after the preparation of each such list, provide to such individuals the names of each of the entities specified for purposes of paragraph (1)(B)(i) that is appropriate to the medical specialty of the individuals.

"(3) REVISIONS IN LIST.—If the Secretary makes a revision in a list under paragraph (1) during the period under subsection (f) to which the list is applicable, and the revision alters the status of an entity with respect to the list, the Secretary shall notify the entity of the effect on the entity of the revision. Such notification shall be provided not later than 30 days after the date on which the revision is made.

"(e) LIMITATION ON NUMBER OF ENTITIES OFFERED AS ASSIGNMENT CHOICES IN SCHOLARSHIP PROGRAM.—

"(1) DETERMINATION OF AVAILABLE CORPS MEMBERS.—The Secretary shall determine the number of participants in the Scholarship Program who are available for assignments under section 333 for the period applicable under subsection (f).

"(2) AVAILABILITY OF 500 OR FEWER MEMBERS.—If the number of participants for purposes of paragraph (1) is less than 500, the Secretary shall limit the number of entities specified under subsection (d)(1)(B)(i) to the lesser of—

"(A) 500 such entities; and

"(B) a number of such entities constituting 300 percent of the number of such participants available for assignment under section 333.

"(3) AVAILABILITY OF MORE THAN 500 MEMBERS.—If the number of participants for purposes of paragraph (1) is equal to or greater than 500, the Secretary shall determine the number of entities to be specified under subsection (d)(1)(B)(i), subject to ensuring that assignments of such participants are made to 500 entities that serve health manpower shortage areas that have chronic difficulty in recruiting and retaining health professionals to provide primary health services.

"(4) ADJUSTMENT IN BASE NUMBER.—The number 500, as used for purposes of paragraphs (2) and (3), may by regulation be adjusted by the Secretary to a greater or a lesser number.

"(f) APPLICABLE PERIOD REGARDING PRIORITIES.—

"(1) IN GENERAL.—With respect to determinations under subsection (a)(1) of the applications that are to be given priority regarding the assignment of Corps members, the Secretary shall

make such a determination not less than once each fiscal year. The first determination shall be made not later than July 1 of the year preceding the year in which the period of obligated service begins. If the Secretary revises the determination before July 1 of the following year, the revised determination shall be applicable with respect to assignments of Corps members made during the period beginning on the date of the issuance of the revised determination and ending on July 1 of such year.

"(2) DATE CERTAIN FOR PREPARATION OF NOTIFICATION LIST.—A list under subsection (d)(1) shall be prepared for each of the periods decribed in paragraph (1). Each such list shall be prepared not later than the date on which a determination of priorities under such paragraph is required to be made for the period involved.".

SEC. 105. COST SHARING.

Section 334(f)(2) of the Public Health Service Act (42 U.S.C. 254g(f)(2)) is amended by adding at the end the following new subparagraph:

"(C)(i) A determination under subparagraph (B) regarding the revenues and costs of an entity in an annual period shall be made by the Secretary utilizing criteria specific to the entity and shall be made without regard to whether the entity is making progress toward collecting sufficient revenues to provide an adequate level of primary health services without the assignment of Corps members.

"(ii) In making a determination referred to in clause (i)—

"(I) the Secretary may consider whether the proposed budget submitted under subparagraph (A) provides a reasonable estimate regarding the revenues and costs of the entity; and

"(II) may not consider the reasonableness of the amount of revenues collected, or the amount of costs incurred by the entity, except to the extent necessary to ensure that the entity is operating in good faith and is operating efficiently with respect to fiscal matters within the control of the entity.

"(iii) A determination of whether an entity is eligible for a waiver under paragraph (3) shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).

"(iv) A determination of whether an entity is a small health center shall be made by the Secretary without regard to the revenues and costs determined by the Secretary under subparagraph (B).".

SEC. 106. ADMITTING PRIVILEGES OF HEALTH CARE PROFESSIONALS.

Section 335(e)(1)(A) of the Public Health Service Act (42 U.S.C. 254h(e)(1)(A)) is amended by striking "authorized physician" and all that follows through "admitting" and inserting "authorized Corps member admitting".

SEC. 107. PROVISIONS REGARDING EFFECTIVE PROVISION OF SERVICES.

Section 336 of the Public Health Service Act (42 U.S.C. 254h-1) is amended to read as follows:

"SEC. 336. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

"(a) CONSIDERATION OF INDIVIDUAL CHARACTERISTICS OF MEMBERS IN MAKING ASSIGNMENTS.—In making an assignment of a Corps member to an entity that has had an application approved under

section 333, the Secretary shall, subject to making the assignment in accordance with section 333A, seek to assign to the entity a Corps member who has (and whose spouse, if any, has) characteristics that increase the probability that the member will remain in the health manpower shortage area involved after the completion of the period of service in the Corps.

"(b) COUNSELING ON SERVICE IN CORPS.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (3), offer appropriate counseling on service in the Corps to individuals during the period of membership in the Corps, particularly during the initial period of each assignment.

"(2) CAREER ADVISOR REGARDING OBLIGATED SERVICE.—

"(A) In the case of individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, counseling under paragraph (1) shall include appropriate counseling on matters particular to such obligated service. The Secretary shall ensure that career advisors for providing such counseling are available to such individuals throughout the period of participation in the Scholarship or Loan Repayment Program.

"(B) With respect to the Scholarship Program, counseling under paragraph (1) shall include counseling individuals during the period in which the individuals are pursuing an educational degree in the health profession involved, including counseling to prepare the individual for service in the Corps.

"(3) EXTENT OF COUNSELING SERVICES.—With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, this subsection shall be carried out regarding such individuals throughout the period of obligated service (and, additionally, throughout the period specified in paragraph (2)(B), in the case of the Scholarship Program). With respect to Corps members generally, this subsection shall be carried out to the extent practicable.

"(c) GRANTS REGARDING PREPARATION OF STUDENTS FOR PRACTICE.—With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, the Secretary may make grants to, and enter into contracts with, public and nonprofit private entities (including health professions schools) for the conduct of programs designed to prepare such individuals for the effective provision of primary health services in the health manpower shortage areas to which the individuals are assigned.

"(d) ASSISTANCE IN ESTABLISHING LOCAL PROFESSIONAL RELATIONSHIPS.—The Secretary shall assist Corps members in establishing appropriate professional relationships between the Corps member involved and the health professions community of the geographic area with respect to which the member is assigned, including such relationships with hospitals, with health professions schools, with area health education centers under section 781, with health education and training centers under such section, and with border health education and training centers under such section. Such assistance shall include assistance in obtaining faculty appointments at health professions schools.

"(e) TEMPORARY RELIEF FROM CORPS DUTIES.—

"(1) IN GENERAL.—The Secretary shall, subject to paragraph (4), provide assistance to Corps members in establishing arrangements through which Corps members may, as appropriate, be provided temporary relief from duties in the Corps in order to pursue continuing education in the health professions, to participate in exchange programs with teaching centers, to attend professional conferences, or to pursue other interests, including vacations.

"(2) ASSUMPTION OF DUTIES OF MEMBER.—

"(A) Temporary relief under paragraph (1) may be provided only if the duties of the Corps member involved are assumed by another health professional. With respect to such temporary relief, the duties may be assumed by Corps members or by health professionals who are not Corps members, if the Secretary approves the professionals for such purpose. Any health professional so approved by the Secretary shall, during the period of providing such temporary relief, be deemed to be a Corps member for purposes of section 224 (including for purposes of the remedy described in such section), section 333(f), and section 335(e).

"(B) In carrying out paragraph (1), the Secretary shall provide for the formation and continued existence of a group of health professionals to provide temporary relief under such paragraph.

"(3) RECRUITMENT FROM GENERAL HEALTH PROFESSIONS COMMUNITY.—In carrying out paragraph (1), the Secretary shall—

"(A) encourage health professionals who are not Corps members to enter into arrangements under which the health professionals temporarily assume the duties of Corps members for purposes of paragraph (1); and

"(B) with respect to the entities to which Corps members have been assigned under section 333, encourage the entities to facilitate the development of arrangements described in subparagraph (A).

"(4) LIMITATION.—In carrying out paragraph (1), the Secretary may not, except as provided in paragraph (5), obligate any amounts (other than for incidental expenses) for the purpose of—

"(A) compensating a health professional who is not a Corps member for assuming the duties of a Corps member; or

"(B) paying the costs of a vacation, or other interests that a Corps member may pursue during the period of temporary relief under such paragraph.

"(5) SOLE PROVIDERS OF HEALTH SERVICES.—In the case of any Corps member who is the sole provider of health services in the geographic area involved, the Secretary may, from amounts appropriated under section 338, obligate on behalf of the member such sums as the Secretary determines to be necessary for purposes of providing temporary relief under paragraph (1).

"(f) DETERMINATIONS REGARDING EFFECTIVE SERVICE.—In carrying out subsection (a) and sections 338A(d) and 338B(d), the Secretary shall carry out activities to determine—

"(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health manpower shortage areas after the completion of the period of service in the Corps;

"(2) the characteristics of health manpower shortage areas, and of entities seeking assignments of Corps members, that are more likely to retain Corps members after the members have completed the period of service in the Corps; and

"(3) the appropriate conditions for the assignment and utilization in health manpower shortage areas of certified nurse practitioners, certified nurse midwives, and physician assistants.".

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated), by striking "To carry" and all that follows and inserting the following: "For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 2000."; and

(3) by inserting at the end the following new paragraph:

"(2) In the case of individuals who serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program, the Secretary each fiscal year shall, to the extent practicable, make assignments under section 333 of such individuals who are certified nurse midwives, certified nurse practitioners, or physician assistants.".

TITLE II—SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS OF NATIONAL HEALTH SERVICE CORPS

SEC. 201. SCHOLARSHIP PROGRAM.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—

(1) IN GENERAL.—Section 338A(a) of the Public Health Service Act (42 U.S.C. 2541 (a)) is amended by striking "Corps Scholarship" and all that follows and inserting the following: "Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 331(a)(2)—

"(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

"(2) if needed by the Corps, an adequate supply of other health professionals.".

(2) SCHOLARSHIP CONTRACT.—Section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 2541(f)(1)(B)(iv)) is amended in the matter after and below subclause (II) by inserting "as a provider of primary health services" before "in a health manpower shortage area".

(b) RECRUITMENT AND RETENTION.—

(1) IN GENERAL.—Section 338A(c) of the Public Health Service Act (42 U.S.C. 254*l*(c)) is amended—

(A) by inserting "(1)" after the subsection designation;

(B) by striking "(1) a fair summary" and inserting "(A) a fair summary";

(C) by striking "(2) information respecting" and inserting "(B) information respecting";

(D) by striking "The application form, contract form," and inserting the following:

"(2) The application form, contract form,"; and

(E) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall distribute to health professions schools materials providing information on the Scholarship Program and shall encourage the schools to disseminate the materials to the students of the schools.

"(B)(i) In the case of any health professional whose period of obligated service under the Scholarship Program is nearing completion, the Secretary shall encourage the individual to remain in a health manpower shortage area and to continue providing primary health services.

"(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Scholarship Program, the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health manpower shortage area and is continuing to provide primary health services.

"(C) In the case of entities to which participants in the Scholarship Program are assigned under section 333, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health manpower shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Scholarship Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.".

(2) PUBLICITY.—Section 338A(c) of the Public Health Service Act, as amended by paragraph (1) of this subsection, is amended in paragraph (1)(B) by inserting before the period the following: ", including a statement of all factors considered in approving applications for participation in the Program and in making assignments for participants in the Program".

Government contracts.

(c) PRIORITY IN AWARDING SCHOLARSHIPS.—Section 338A(d) of the Public Health Service Act (42 U.S.C. 254*l*(d)) is amended to read as follows:

"(d)(1) Subject to section 333A, in providing contracts under the Scholarship Program—

"(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

"(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

"(2) In providing contracts under the Scholarship Program, the Secretary shall give priority—

"(A) first, to any application for such a contract submitted by an individual who has previously received a scholarship under this section or under section 758;

"(B) second, to any application for such a contract submitted by an individual who has characteristics that increase the probability that the individual will continue to serve in a health

manpower shortage area after the period of obligated service pursuant to subsection (f) is completed; and

"(C) third, subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.".

(d) REPORTS TO CONGRESS.—Section 338A(i) of the Public Health Service Act (42 U.S.C. 254l(i)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(i) Not later than March 1 of each year, the Secretary shall submit to the Congress a report providing, with respect to the preceding fiscal year—"; and

(2)(A) in paragraph (3), by striking "and" after the semicolon at the end;

(B) by striking paragraph (4); and

(C) by adding at the end the following new paragraphs:

"(4) the amount of scholarship payments made for each of tuition, stipends, and other expenses, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years;

"(5)(A) the number, and type of health professions training, of individuals who have breached the contract under subsection (f) through any of the actions specified in subsection (a) or (b) of section 338E; and

"(B) with respect to such individuals—

"(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

"(ii) the amounts for which the individuals are liable to the United States under section 338E;

"(iii) the extent of payment by the individuals of such amounts; and

"(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f); and

"(6) the effectiveness of the Secretary in recruiting health professionals to participate in the Scholarship Program, and in encouraging and assisting such professionals with respect to providing primary health services to health manpower shortage areas after the completion of the period of obligated service under such Program.".

SEC. 202. LOAN REPAYMENT PROGRAM.

(a) PROVISION OF PRIMARY HEALTH SERVICES.—

(1) IN GENERAL.—Section 338B(a) of the Public Health Service Act (42 U.S.C. 254l-1(a)) is amended by striking "Corps Loan" and all that follows and inserting the following: "Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 331(a)(2)—

"(1) an adequate supply of physicians, dentists, certified nurse midwives, certified nurse practitioners, and physician assistants; and

"(2) if needed by the Corps, an adequate supply of other health professionals (including mental health professionals).".

(2) LOAN REPAYMENT CONTRACT.—Section 338B(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254l(f)(1)(B)(iv)) is amended by inserting "as a provider of primary health services" before "in a health manpower shortage area". 42 USC 254*l*-1.

(b) ELIGIBILITY.—

(1) IN GENERAL.—

(A) Section 338B(b)(1) of the Public Health Service Act (42 U.S.C. 254l-1(b)(1)) is amended to read as follows:

"(1)(A) must have a degree in medicine, osteopathic medicine, dentistry, or other health profession, or be certified as a nurse midwife, nurse practioner, or physician assistant;

"(B) be enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(C) be enrolled as a full-time student—

"(i) in an accredited (as determined by the Secretary) educational institution in a State; and

"(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession;".

(B) Section 338B(f)(1)(B) of the Public Health Service Act (42 U.S.C. 254l-1(f)(1)(B)) is amended in clauses (ii) and (iii) by striking "(b)(1)(A)" each place such term appears and inserting "(b)(1)(C)".

(2) TIME FOR SUBMISSION OF CONTRACT.—

(A) Section 338B(b) of the Public Health Service Act (42 U.S.C. 254l-1(b)) is amended—

(i) by adding "and" after the semicolon at the end of paragraph (2); and

(ii) by striking paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f) (relating to the payment by the Secretary of the educational loans of the individual in consideration of the individual serving for a period of obligated service).".

(B) Section 338B(e) of the Public Health Service Act (42 U.S.C. 254l-1(e)) is amended by striking "only" and all that follows and inserting the following: "only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(c) INCENTIVES FOR RECRUITMENT AND RETENTION.—Section 338B(c) of the Public Health Service Act (42 U.S.C. 254l-1(c)) is amended by adding at the end the following new paragraph:

"(4) RECRUITMENT AND RETENTION.—

"(A) The Secretary shall distribute to health professions schools materials providing information on the Loan Repayment Program and shall encourage the schools to disseminate the materials to the students of the schools.

"(B)(i) In the case of any health professional whose period of obligated service under the Loan Repayment Program is nearing completion, the Secretary shall encourage the individual to remain in a health manpower shortage area and to continue providing primary health services.

"(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Loan Repayment Program, the Secretary may provide assistance to the professional regarding such transition if the professional is

remaining in a health manpower shortage area and is continuing to provide primary health services.

"(C) In the case of entities to which participants in the Loan Repayment Program are assigned under section 333, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health manpower shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Loan Repayment Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.".

(d) PRIORITY IN MAKING AWARDS.—Section 338B(d) of the Public Health Service Act (42 U.S.C. 254l-1(d)) is amended to read as follows:

"(d)(1) Subject to section 333A, in providing contracts under the Loan Repayment Program—

"(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

"(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

"(2) In providing contracts under the Loan Repayment Program, the Secretary shall give priority—

"(A) to any application for such a contract submitted by an individual whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps;

"(B) to any application for such a contract submitted by an individual who has (and whose spouse, if any, has) characteristics that increase the probability that the individual will continue to serve in a health manpower shortage area after the period of obligated service pursuant to subsection (f) is completed; and

"(C) subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.".

(e) CONTENTS OF CONTRACT.—Section 338B(f)(2) of the Public Health Service Act (42 U.S.C. 254l-1(f)(2)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(f) PAYMENTS.—

(1) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Section 338B(g)(1) of the Public Health Service Act (42 U.S.C. 254l-1(g)(1)) is amended in the matter preceding subparagraph (A) by striking "loans received by the individual for—" and inserting the following: "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(2) ANNUAL AMOUNT OF REPAYMENTS.—Section 338B(g)(2) of the Public Health Service Act (42 U.S.C. 254l-1(g)(2)) is amended—

(A) in subparagraph (A)—

(i) by striking "Except" and all that follows through "for each" and inserting "For each";

(ii) by striking "$20,000" and inserting "$35,000"; and and

(iii) by adding at the end the following new sentence: "In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in health manpower shortage areas with the greatest such shortages; and

"(iii) provides an incentive with respect to the health professional involved remaining in a health manpower shortage area, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program."; and

(B) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(g) TAX LIABILITY.—

(1) IN GENERAL.—Section 338B(g)(3) of the Public Health Service Act (42 U.S.C. 254l-1(g)(3)) is amended to read as follows:

"(3) TAX LIABILITY.—For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

"(A) the Secretary shall, in addition to such payments, make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

42 USC 254*l*-1.

(2) APPLICABILITY OF AMENDMENT.—The amendment made by paragraph (1) shall apply only with respect to contracts under section 338B of the Public Health Service Act (relating to service in the National Health Service Corps) that are entered into on or after the effective date of this Act.

(h) REPORTS TO CONGRESS.—Section 338B(i) of the Public Health Service Act (42 U.S.C. 254l-1(i)) is amended to read as follows:

"(i) REPORTS.—Not later than March 1 of each year, the Secretary shall submit to the Congress a report providing, with respect to the preceding fiscal year—

"(1) the total amount of loan payments made under the Loan Repayment Program;

"(2) the number of applications filed under this section;

"(3) the number, and type of health profession training, of individuals receiving loan repayments under such Program;

"(4) the educational institution at which such individuals received their training;

"(5) the total amount of the indebtedness of such individuals for educational loans as of the date on which the individuals become participants in such Program;

"(6) the number of years of obligated service specified for such individuals in the initial contracts under subsection (f), and, in the case of individuals whose period of such service has been completed, the total number of years for which the individuals served in the Corps (including any extensions made for purposes of paragraph (2) of such subsection);

"(7)(A) the number, and type of health professions training, of such individuals who have breached the contract under subsection (f) through any of the actions specified in subsection (a) or (b) of section 338E; and

"(B) with respect to such individuals—

"(i) the educational institutions with respect to which payments have been made or were to be made under the contract;

"(ii) the amounts for which the individuals are liable to the United States under section 338E;

"(iii) the extent of payment by the individuals of such amounts; and

"(iv) if known, the basis for the decision of the individuals to breach the contract under subsection (f); and

"(8) the effectiveness of the Secretary in recruiting health professionals to participate in the Loan Repayment Program, and in encouraging and assisting such professionals with respect to providing primary health services to health manpower shortage areas after the completion of the period of obligated service under such Program.".

SEC. 203. APPLICABILITY OF BANKRUPTCY PROVISION TO REMAINING CONTRACTS UNDER FORMER PROGRAM.

(a) ESTABLISHMENT OF RULE SPECIFIC TO FORMER PROGRAM.—Section 338E(d)(3) of the Public Health Service Act (42 U.S.C. 254o(d)(3), is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Subparagraph (A) shall apply to any financial obligation of an individual under the provision of law specified in clause (ii) to the same extent and in the same manner as such subparagraph applies to any obligation of an individual under the Scholarship or Loan Repayment Program (or contract thereunder) for payment of damages.

"(ii) The provision of law referred to in clause (i) is subsection (f) of section 225 of this Act, as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94-484.".

(b) APPLICABILITY OF RULE.—With respect to any financial obligation of an individual under subsection (f) of section 225 of the Public Health Service Act, as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94-484, the amendment made by subsection (a) of this section applies to any backruptcy proceeding in which discharge of such an obligation has not been granted before the date that is 31 days after the date of the enactment of this Act. 42 USC 254o note.

SEC. 204. ESTABLISHMENT OF CORPS MEMBER REPLACEMENT FUND.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by redesignating sections 338F through 338H as sections 338G through sections 338I, respectively, and by inserting after section 338E the following new section: 42 USC 254p, 254q, 254q-1.

42 USC 254o-1.

"SEC. 338F. FUND REGARDING USE OF AMOUNTS RECOVERED FOR CONTRACT BREACH TO REPLACE SERVICES LOST AS RESULT OF BREACH.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund to be known as the National Health Service Corps Member Replacement Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated under subsection (b) to the Fund. Amounts appropriated for the Fund shall remain available until expended.

"(b) AUTHORIZATION OF APPROPRIATIONS TO FUND.—For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to the liability of individuals under section 338E for the breach of contracts entered into under section 338A or 338B;

"(2) the amount by which grants under section 338I have, for such preceding fiscal year, been reduced under subsection (g)(2)(B) of such section; and

"(3) the aggregate of the amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c) USE OF FUND.—

"(1) PAYMENTS TO CERTAIN HEALTH FACILITIES.—Amounts in the Fund and available pursuant to appropriations Act may, subject to paragraph (2), be expended by the Secretary to make payments to any entity—

"(A) to which a Corps member has been assigned under section 333; and

"(B) that has a need for a health professional to provide primary health services as a result of the Corps member having breached the contract entered into under section 338A or 338B by the individual.

"(2) PURPOSE OF PAYMENTS.—An entity receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ a health professional to provide primary health services to patients of the entity, or to enter into a contract with such a professional to provide the services to the patients.

"(d) INVESTMENT.—

"(1) IN GENERAL.—The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.".

SEC. 205. REPORT AND AUTHORIZATION OF APPROPRIATIONS.

(a) REPORT.—

(1) DATE FOR REPORT.—Section 338H(a) of the Public Health Service Act, as redesignated by section 204 of this Act, is amended in the matter preceding paragraph (1) by striking "January 20" and inserting "March 1".

(2) INCREASE IN PERIOD FOR WHICH NEEDS PROJECTED.—Section 338H(a) of the Public Health Service Act, as redesignated by section 204 of this Act, is amended in paragraphs (1) and (2) by striking "3 fiscal years" each place such term appears and inserting "5 fiscal years".

(b) FUNDING.—Section 338H(b) of the Public Health Service Act, as redesignated by section 203 of this Act, is amended to read as follows:

"(b) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $63,900,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 through 2000.

"(2) RESERVATION OF AMOUNTS.—

"(A) SCHOLARSHIPS FOR NEW PARTICIPANTS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall obligate not less than 30 percent for the purpose of providing contracts for scholarships under this subpart to individuals who have not previously received such scholarships.

"(B) SCHOLARSHIPS FOR FIRST-YEAR STUDY IN CERTAIN FIELDS.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, of the amounts appropriated under paragraph (1) for a fiscal year, obligate not less than 10 percent for the purpose of providing contracts for scholarships under this subpart to individuals who are entering the first year of study in a course of study or program described in subsection 338A(b)(1)(B) that leads to such a certification. Amounts obligated under this subparagraph shall be in addition to amounts obligated under subparagraph (A).".

TITLE III—GRANTS TO STATES FOR IMPROVEMENTS REGARDING HEALTH SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM FOR STATE LOAN REPAYMENTS REGARDING SERVICE IN HEALTH MANPOWER SHORTAGE AREAS.

Section 338I of the Public Health Service Act, as redesignated by section 204 of this Act, is amended to read as follows:

"SEC. 338I. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health services in health manpower shortage areas.

"(2) LOAN REPAYMENT PROGRAMS.—The programs referred to in paragraph (1) are, subject to subsection (c), programs of entering into contracts under which the State involved agrees to pay all or part of the principal, interest, and related expenses of the educational loans of health professionals in consideration of

the professionals agreeing to provide primary health services in health manpower shortage areas.

"(3) DIRECT ADMINISTRATION BY STATE AGENCY.—The Secretary may not make a grant under paragraph (1) unless the State involved agrees that the program operated with the grant will be administered directly by a State agency.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State agrees that, with respect to the costs of making payments on behalf of individuals under contracts made pursuant to paragraph (2) of such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

"(c) COORDINATION WITH FEDERAL PROGRAM.—

"(1) ASSIGNMENTS FOR HEALTH MANPOWER SHORTAGE AREAS UNDER FEDERAL PROGRAM.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, in carrying out the program operated with the grant, the State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing health services in health manpower shortage areas.

"(2) REMEDIES FOR BREACH OF CONTRACTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will provide remedies for any breach of the contracts by the health professionals involved.

"(3) LIMITATION REGARDING CONTRACT INDUCEMENTS.—

"(A) Except as provided in subparagraph (B), the Secretary may not make a grant under subsection (a) unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will not be provided on terms that are more favorable to health professionals than the most favorable terms that the Secretary is authorized to provide for contracts under the Loan Repayment Program under section 338B, including terms regarding—

"(i) the annual amount of payments provided on behalf of the professionals regarding educational loans; and

"(ii) the availability of remedies for any breach of the contracts by the health professionals involved.

"(B) With respect to the limitation established in subparagraph (A) regarding the annual amount of payments that may be provided to a health professional under a contract provided by a State pursuant to subsection (a)(2), such limitation shall not apply with respect to a contract if—

"(i) the excess of such annual payments above the maximum amount authorized in section 338B(g)(2)(A) for annual payments regarding contracts is paid solely

from non-Federal contributions under subsection (b); and

"(ii) the contract provides that the health professional involved will satisfy the requirement of obligated service under the contract solely through the provision of primary health services in a health manpower shortage area that is receiving priority for purposes of section 333A(a)(1) and that is authorized to receive assignments under section 333 of individuals who are participating in the Scholarship Program under section 338A.

"(d) RESTRICTIONS ON USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended—

"(1) to conduct activities for which Federal funds are expended—

"(A) within the State to provide technical or other non-financial assistance under subsection (f) of section 330;

"(B) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

"(C) under a grant under section 338J; or

"(2) for any purpose other than making payments on behalf of health professionals under contracts entered into pursuant to subsection (a)(2).

"(e) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) to submit to the Secretary reports providing the same types of information regarding the program operated pursuant to such subsection as reports submitted pursuant to subsection (i) of section 338B provide regarding the Loan Repayment Program under such section; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(g) NONCOMPLIANCE.—

"(1) IN GENERAL.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(2) REDUCTION IN GRANT RELATIVE TO NUMBER OF BREACHED CONTRACTS.—

"(A) Before making a grant under subsection (a) to a State for a fiscal year, the Secretary shall determine the number of contracts provided by the State under paragraph (2) of such subsection with respect to which there has been an initial breach by the health professionals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

"(B) Subject to paragraph (3), in the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) to the State for the fiscal year involved by an amount equal to the sum of the expenditures of Federal funds made regarding the contracts involved and an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

"(3) WAIVER REGARDING REDUCTION IN GRANT.—The Secretary may waive the requirement established in paragraph (2)(B) with respect to the initial breach of a contract if the Secretary determines that such breach by the health professional involved was attributable solely to the professional having a serious illness.

"(h) DEFINITIONS.—For purposes of this section, the term 'State' means each of the several States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of making grants under subsection (a), there is authorized to be appropriated $10,000,000 for each of the fiscal years 1991 through 1995.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.".

SEC. 302. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES.

Subpart III of part D of title III of the Public Health Service Act, as amended by section 204 of this Act, is amended by redesignating section 338J as section 338K, and by inserting after section 338I the following new section:

42 USC 254s.

42 USC 254r.

"SEC. 338J. GRANTS TO STATES FOR OPERATION OF OFFICES OF RURAL HEALTH.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Rural Health Policy (established in section 711 of the Social Security Act), may make grants to States for the purpose of improving health care in rural areas through the operation of State offices of rural health.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions in cash toward such costs in an amount equal to—

"(A) for the first fiscal year of payments under the grant, not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second fiscal year of such payments, not less than $1 for each $1 of Federal funds provided in the grant; and

"(C) for any third fiscal year of such payments, not less than $3 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Subject to subparagraph (B), non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly

evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(i) for the first fiscal year of payments under the grant, 100 percent or less of the non-Federal contributions required in paragraph (1) will be provided in the form of in-kind contributions;

"(ii) for any second fiscal year of such payments, not more than 50 percent of such non-Federal contributions will be provided in the form of in-kind contributions; and

"(iii) for any third fiscal year of such payments, such non-Federal contributions will be provided solely in the form of cash.

"(c) CERTAIN REQUIRED ACTIVITIES.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

"(1) establishing and maintaining within the State a clearinghouse for collecting and disseminating information on—

"(A) rural health care issues;

"(B) research findings relating to rural health care; and

"(C) innovative approaches to the delivery of health care in rural areas;

"(2) coordinating the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

"(3) identifying Federal and State programs regarding rural health, and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

"(d) REQUIREMENT REGARDING ANNUAL BUDGET FOR OFFICE.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) will be provided with an annual budget of not less than $50,000.

"(e) CERTAIN USES OF FUNDS.—

"(1) RESTRICTIONS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees that—

"(A) if research with respect to rural health is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

"(B) the grant will not be expended—

"(i) to provide health care (including providing cash payments regarding such care);

"(ii) to conduct activities for which Federal funds are expended—

"(I) within the State to provide technical and other nonfinancial assistance under subsection (f) of section 330;

"(II) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

"(III) under a grant under section 338I;

"(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment;

"(iv) to purchase or improve real property; or

"(v) to carry out any activity regarding a certificate of need.

"(2) AUTHORITIES.—Activities for which a State may expend a grant under subsection (a) include—

"(A) paying the costs of establishing an office of rural health for purposes of subsection (a);

"(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in rural areas of the State; and

"(C) providing grants and contracts to public and nonprofit private entities to carry out activities authorized in this section.

"(f) REPORTS.—The Secretary may not make a grant under subsection (a) unless the State involved agrees—

"(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

"(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

"(g) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

"(h) NONCOMPLIANCE.—The Secretary may not make payments under subsection (a) to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

"(i) DEFINITIONS.—For purposes of this section, the term 'State' means each of the several States.

"(j) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $3,000,000 for fiscal year 1991, $4,000,000 for fiscal year 1992, and $3,000,000 for fiscal year 1993.

"(2) AVAILABILITY.—Amounts appropriated under paragraph (1) shall remain available until expended.

"(k) TERMINATION OF PROGRAM.—No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) are equal to $10,000,000.".

TITLE IV—HEALTH PROFESSIONAL SHORTAGE AREAS

SEC. 401. MODIFICATION REGARDING TERM "HEALTH MANPOWER SHORTAGE AREA".

(b) PUBLIC HEALTH SERVICE ACT.—

(1) The Public Health Service Act, as amended by the preceding provisions of this Act, is amended in each of the provisions specified in paragraph (2)—

(A) by striking "health manpower shortage area" each place such term appears and inserting "health professional shortage area"; and

(B) in the case of each variation of the term "health manpower shortage area" that results from the capitalization of any of the letters of such term, from the use of the plural, from the use of the possessive, or from the use of different forms of typeface, or from any combination thereof, by striking each such variation each place the variation appears and inserting the analogous variation of the term "health professional shortage area".

(2) The provisions of the Public Health Service Act referred to in paragraph (1) are sections 303(d)(2)(B), 331, 332, 333, 333A, 334, 335, 336(a), 336A, 338A, 338B, 338C, 338D, 338G(a)(1), 338I, 735, 741(f)(1)(C), 759(a), 781(a)(2)(B)(iii), and 822. 42 USC 242a, 254d-254i, 254*l*-254n, 254p, 254q-1, 294h, 294n, 294aa, 295q-1, 296m.

(b) UNIFORMED SERVICES HEALTH PROFESSIONS REVITALIZATION ACT OF 1972.—Section 2123(e) of title 10, United States Code, is amended by striking out "an area of health manpower shortage" and inserting in lieu thereof "a health professional shortage area".

(c) SOCIAL SECURITY ACT.—The Social Security Act is amended—

(1) in section 1156(b)(5), by striking "health manpower shortage area (HMSA)" and inserting "health professional shortage area"; and

(2) in sections 1833(m), 1842(b)(4)(F), and 1861 (42 U.S.C. 1395l(m), 1395u(b)(4)(F), and 1395x), by striking "health manpower shortage area" each place such term appears and inserting "health professional shortage area".

(d) COMPREHENSIVE HEALTH MANPOWER TRAINING ACT OF 1971.—Section 202 of the Comprehensive Health Manpower Training Act of 1971 (42 U.S.C. 3505d) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"NATIONAL HEALTH PROFESSIONAL SHORTAGE CLEARINGHOUSE";

and

(2) in subsection (a), by striking out "Manpower" and inserting in lieu thereof "Professional".

(e) HEAD START ACT.—Section 645(a)(2)(B) of the Head Start Act (42 U.S.C. 9840(a)(2)(B)) is amended by striking "health manpower shortage area" and inserting "health professional shortage area".

TITLE V—GENERAL PROVISIONS

42 USC 242a note.

SEC. 501. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect October 1, 1990, or upon the date of the enactment of this Act, whichever occurs later.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 4487 (S. 2617):

HOUSE REPORTS: No. 101-642 (Comm. on Energy and Commerce) and No. 101-945 (Comm. of Conference).

SENATE REPORTS: No. 101-370 accompanying S. 2617 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 136 (1990):

July 30, considered and passed House.

Aug. 4, considered and passed Senate, amended, in lieu of S. 2617.

Oct. 26, House and Senate agreed to conference report.

Public Law 101-598
101st Congress

An Act

To designate the Federal building located at 340 North Pleasant Valley Road in Winchester, Virginia, as the "J. Kenneth Robinson Postal Building".

Nov. 16, 1990
[H.R. 4721]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Federal building located at 340 North Pleasant Valley Road in Winchester, Virginia, and known as the Winchester Post Office, shall be known and designated as the "J. Kenneth Robinson Postal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J. Kenneth Robinson Postal Building".

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 4721:

CONGRESSIONAL RECORD, Vol. 136 (1990):
June 25, considered and passed House.
Oct. 25, considered and passed Senate.

O

Public Law 101-599
101st Congress

An Act

Nov. 16, 1990
[H.R. 4888]

To improve navigational safety and to reduce the hazards to navigation resulting from vessel collisions with pipelines in the marine environment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. OFFSHORE PIPELINE INSPECTION AND BURIAL.

(a) NATURAL GAS PIPELINE SAFETY ACT OF 1968.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

"(h) OFFSHORE PIPELINE INSPECTION AND BURIAL.—

"(1) INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—

"(i) 18 months after the date of enactment of this subsection; or

"(ii) one year after the issuance of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility in the Gulf of Mexico and its inlets shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the mean high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to six months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A), if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this subsection, establish standards—

"(i) for the purposes of this subsection, for what constitutes an exposed pipeline facility; and

"(ii) for the purposes of this subsection, for what constitutes a hazard to navigation.

"(2) HAZARDOUS CONDITIONS.—

Regulations.

"(A) REPORTING PROCEDURE.—The Secretary shall, by regulation, establish a program to require pipeline facility operators described in paragraph (1)(A) to report potential

or existing navigational hazards involving pipeline facilities to the Secretary through appropriate Coast Guard offices.

"(B) MARKING OF HAZARDOUS PIPELINE FACILITIES.—The operator of a pipeline facility described in paragraph (1)(A) who discovers any portion of the pipeline facility which is a hazard to navigation shall mark the location of the hazardous portion with a Coast Guard approved marine buoy or marker and shall immediately notify the Secretary as provided by the Secretary pursuant to subparagraph (A) of this paragraph. Any marine buoy or marker used pursuant to this subparagraph shall be considered a pipeline sign or right-of-way marker for purposes of section 11(c)(3).

"(3) PERMANENT INSPECTION REQUIREMENT.—Not later than 30 months after the date of enactment of this subsection, on the basis of experience with the initial inspection program under paragraph (1) and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets.

"(4) BURIAL REQUIREMENT.—The Secretary shall, by regulation, require that each offshore pipeline facility— Regulations.

"(A) that is subject to inspection under paragraph (1) and is exposed or constitutes a hazard to navigation; or

"(B) that constitutes a hazard to navigation,

is buried within six months after the date that the condition of the pipeline facility is reported to the Secretary. The Secretary may extend the time period for compliance under this paragraph with respect to a pipeline facility for such period as is reasonable to ensure compliance with this paragraph.".

(b) HAZARDOUS LIQUID PIPELINE SAFETY ACT OF 1979.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsection:

"(l) OFFSHORE PIPELINE INSPECTION AND BURIAL.—

"(1) INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than—

"(i) 18 months after the date of enactment of this subsection; or

"(ii) one year after the issuance of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility in the Gulf of Mexico and its inlets, other than gathering lines of 4 inch nominal diameter and smaller, shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the mean high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to one year if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989,

may be used for compliance with subparagraph (A), if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this subsection, establish standards—

"(i) for the purposes of this subsection, for what constitutes an exposed pipeline facility; and

"(ii) for the purposes of this subsection, for what constitutes a hazard to navigation.

"(2) HAZARDOUS CONDITIONS.—

Regulations.

"(A) REPORTING PROCEDURE.—The Secretary shall, by regulation, establish a program to require pipeline facility operators described in paragraph (1)(A) to report potential or existing navigational hazards involving pipeline facilities to the Secretary through appropriate Coast Guard offices.

"(B) MARKING OF HAZARDOUS PIPELINE FACILITIES.—The operator of a pipeline facility described in paragraph (1)(A) who discovers any portion of the pipeline facility which is a hazard to navigation shall mark the location of the hazardous portion with a Coast Guard approved marine buoy or marker and shall immediately notify the Secretary as provided by the Secretary pursuant to subparagraph (A) of this paragraph. Any marine buoy or marker used pursuant to this subparagraph shall be considered a pipeline sign or right-of-way marker for purposes of section 208(c)(3).

"(3) PERMANENT INSPECTION REQUIREMENT.—Not later than 30 months after the date of enactment of this subsection, on the basis of experience with the initial inspection program under paragraph (1) and any other information available to the Secretary, the Secretary shall establish a mandatory, systematic, and where appropriate, periodic inspection program of offshore pipeline facilities in the Gulf of Mexico and its inlets.

Regulations.

"(4) BURIAL REQUIREMENT.—The Secretary shall, by regulation, require that each offshore pipeline facility—

"(A) that is subject to inspection under paragraph (1) and is exposed or constitutes a hazard to navigation; or

"(B) that constitutes a hazard to navigation,

is buried within six months after the date that the condition of the pipeline facility is reported to the Secretary. The Secretary may extend the time period for compliance under this paragraph with respect to a pipeline facility for such period as is reasonable to ensure compliance with this paragraph.".

SEC. 2. NAVIGATIONAL HAZARDS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following new section:

33 USC 1232a.

"SEC. 14. NAVIGATIONAL HAZARDS.

"(a) REPORTING PROCEDURE.—The Secretary shall establish a program to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipelines to the Secretary through Coast Guard field offices.

"(b) SECRETARY'S RESPONSE.—(1) Upon notification by the operator of a pipeline of a hazard to navigation with respect to that pipeline, the Secretary shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, and vessel owners and operators in the pipeline's vicinity.

"(2) Upon notification by any other person of a hazard or potential hazard to navigation with respect to a pipeline, the Secretary shall promptly determine whether a hazard exists, and if so shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, vessel owners and operators in the pipeline's vicinity, and the owner and operator of the pipeline.

"(c) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this section, establish standards, for the purposes of this section, for what constitutes a hazard to navigation.

"(d) DEFINITION.—For purposes of this section, the term 'pipelines' has the meaning given the term 'pipeline facilities' in the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.".

SEC. 3. STUDY.

(a) STUDY REQUIREMENT.—The Secretary of Transportation shall—

(1) consult with appropriate Federal and State agencies, pipeline owners and operators, the fishing and maritime industries, and other affected groups, with respect to underwater pipeline burial;

(2) study feasible methods of determining how deeply underwater pipelines are buried;

(3) research existing marine safety and vessel operational practices relating to underwater pipeline rights-of-way, particularly in shallow offshore waters, and related marine safety and navigational technology; and

(4) consider the availability and quality of navigational charts showing the location of pipelines in the marine environment.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the results of actions taken under this section. Reports.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "marine environment" has the meaning given such term in section 3(1) of the Ports and Waterways Safety Act (33 U.S.C. 1222(1)); and

(2) the term "pipelines" has the meaning given the term "pipeline facilities" in the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 4888:

HOUSE REPORTS: No. 101-814, Pt. 1 (Comm. on Public Works and Transportation), Pt. 2 (Comm. on Energy and Commerce), and Pt. 3 (Comm. on Merchant Marine and Fisheries).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 15, considered and passed House.

Oct. 27, considered and passed Senate.

Public Law 101-600
101st Congress

An Act

Nov. 16, 1990
[H.R. 5140]

To amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

School Dropout Prevention and Basic Skills Improvement Act of 1990.
20 USC 2701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "School Dropout Prevention and Basic Skills Improvement Act of 1990".

SEC. 2. FINDINGS AND STATEMENT OF RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) the people of the Nation have become increasingly concerned about the number of students who do not complete secondary school; and

(2) in order for the Nation to regain its economic competitiveness, each child in the United States must be educated to his or her greatest potential and must be encouraged to finish secondary school.

(b) STATEMENT OF RESPONSIBILITY.—It is the responsibility of the Federal Government to—

(1) increase the number of Federally funded demonstration programs that have proven successful in increasing the secondary school completion rate;

(2) encourage States to adopt specific plans to increase secondary school completion rates; and

(3) enlist the assistance of community-based organizations in preventing students from dropping out of school.

SEC. 3. REVISIONS TO SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY.

(a) RESERVATIONS.—

20 USC 2762.

(1) GENERAL RULE.—Subsection (a) of section 1102 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761) is amended to read as follows:

"(a) RESERVATIONS.—From the amount appropriated under section 1110 for each of the fiscal years 1992 and 1993, the Secretary shall first reserve—

"(1) an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children, to be conducted through the Office of Migrant Education; and

"(2) an amount equal to 5 percent of such amount for replication and technical assistance activities.".

(b) USES OF FUNDS.—Section 1103 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2763) is amended—

(1) by amending subsection (a) to read as follows:

"(a) GENERAL RULE.—

"(1) A local educational agency may use—

"(A) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c); and

"(B) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b).

"(2) A community-based organization shall use all funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).";

(2) by amending subsection (d) to read as follows:

"(d) WITHIN-STATE ALLOCATION.—

"(1) Each State educational agency, from funds received under this part—

"(A) shall first reserve an amount equal to 5 percent of such funds for programs consistent with the purpose of this part for school dropout prevention and reentry programs conducted by community-based organizations that have demonstrated effectiveness in programs for dropout prevention and reentry activities or basic skills improvement activities; and

"(B) shall then allocate funds among local educational agencies in the State on the basis of—

"(i) the eligibility of such agency for funds under section 1005; and

"(ii) the criteria described in section 1105.

"(2) Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.".

(c) PLAN FOR PROGRAM TO INCREASE THE SECONDARY SCHOOL COMPLETION RATE.—Section 1104 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2764) is amended—

(1) in subsection (a), by inserting "or community-based organization" after "local educational agency";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (10) as paragraphs (3) through (12), respectively;

(B) by inserting before paragraph (3) (as redesignated by subparagraph (A) of this paragraph) the following:

"(1) contain a plan that describes specific proposals for a program to increase the secondary school completion rate of the State by not later than January 1, 2001, by a percentage equal to one-half the difference between 100 percent and the secondary school completion rate for individuals in the State aged 18 to 35, inclusive, as of January 1, 1990;

"(2) assure that requirements for obtaining a certificate of graduation from a school providing secondary education or its equivalent will not be lowered;";

(C) in paragraph (4) (as redesignated by subparagraph (A) of this paragraph), by inserting "or community-based organization" after "local educational agency";

(D) in paragraph (5) (as redesignated by subparagraph (A) of this paragraph), by inserting "or areas" after "schools";

(E) in paragraph (9) (as redesignated by subparagraph (A) of this paragraph), by striking "community-based organiza-

tions," and inserting "the local educational agency concerned or community-based organizations, as appropriate,";

(F) in paragraph (10) (as redesignated by subparagraph (A) of this paragraph), by inserting "or community-based organization" after "local educational agency"; and

(G) in paragraph (11) (as redesignated by subparagraph (A) of this paragraph)—

(i) by inserting "concerned" after "local educational agency"; and

(ii) by inserting "or community-based organization" after "such agency"; and

(3) by amending subsection (d) to read as follows:

"(d) TIME FOR SUBMISSION OF APPLICATIONS.—Each State shall submit to the Secretary—

"(1) an initial application that covers a 3-year period by not later than January 1, 1992;

"(2) an initial or a renewal application that covers a 3-year period by not later than January 1, 1995; and

"(3) a renewal application that covers a 3-year period by not later than January 1, 1998.".

(d) AWARD OF GRANTS.—Section 1105 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2765) is amended—

(1) by inserting "(a) GENERAL AUTHORITY.—" before "Each State";

(2) in subsection (a) (as designated by paragraph (1) of this subsection), by inserting "and community-based organizations" after "local educational agencies" in the matter preceding paragraph (1); and

(3) by adding at the end the following:

"(b) PRIORITIES FOR GRANTS TO COMMUNITY-BASED ORGANIZATIONS.—

Disadvantaged persons.
Rural areas.

"(1) The State educational agency shall give priority for grants from amounts reserved under section 1103(d)(1)(A) to community-based organizations that intend to use funds under the grant to establish or operate model secondary school community education employment centers to meet the education needs of inner-city, low-income youths or rural youths by awarding grants to eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(A) graduation from secondary school;

"(B) successful transition from articulated vocational and academic programs to a broad range of post secondary institutions;

"(C) employment, including military service; and

"(D) integration into America's economic mainstream.

"(2) Each center that is assisted with a grant under this part shall offer—

"(A) a comprehensive program of confidential guidance counseling;

"(B) professional staff members who demonstrate the highest academic, teaching, guidance, or administrative standards, as appropriate; and

"(C) active and informed parental and community participation.".

(e) REPORTS; DEVELOPMENT OF INFORMATION BASE.—Part C of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761 et seq.) is amended—

(1) by redesignating sections 1106, 1107, and 1108 as sections 1108, 1109, and 1111, respectively; and

(2) by inserting after section 1105 the following:

20 USC 2766-2768.

"SEC. 1106. REPORTS; DEVELOPMENT OF INFORMATION BASE.

20 USC 2765a.

"(a) REPORTS TO STATES.—Each local educational agency or individual school that receives assistance under a grant made under this part shall annually submit a report to the State describing activities carried out with such assistance and progress toward increasing the secondary school completion rate achieved as a result of such activities.

"(b) REPORTS TO SECRETARY.—Each State shall annually submit a report to the Secretary describing activities carried out with assistance received under this section and progress achieved toward increasing the secondary school completion rate as a result of such activities.

"(c) DEVELOPMENT OF INFORMATION BASE.—From information contained in the reports required under subsection (b), the Secretary shall create an information base containing information on dropout prevention programs for use by State and local educational agencies, elementary and secondary schools, and interested community organizations in the development or refinement of dropout prevention programs. The Secretary shall ensure that such information base is easily accessible to such agencies, schools, and organizations.".

(f) COORDINATION AND DISSEMINATION.—Part C of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761 et seq.) is amended by inserting after section 1106 (as inserted by subsection (e)(2) of this section) the following:

"SEC. 1107. COORDINATION AND DISSEMINATION.

20 USC 2765b.

"(a) GRANTS TO REGIONAL LABORATORIES.—From an amount equal to 65 percent of the amount reserved under section 1102(a)(2), the Secretary shall make grants to regional laboratories supported by the Secretary under section 405(d)(4)(A)(i) of the General Education Provisions Act for the purposes of—

"(1) identifying model programs for dropout prevention and reentry in their regions;

"(2) disseminating such programs; and

"(3) providing assistance to schools in replicating such programs.

"(b) ACTIVITIES OF THE NATIONAL DIFFUSION NETWORK.—The Secretary shall provide an amount equal to 45 percent of the amount reserved under section 1102(a)(2) to the National Diffusion Network established under section 1562 for the purpose of replicating model programs for dropout prevention and reentry.".

(g) FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.—Paragraph (3) of section 1108(a) of the Elementary and Secondary Education Act of 1965 (as redesignated by subsection (e)(1) of this section) is amended by inserting "and community-based organizations" after "Local educational agencies".

(h) DEFINITION ESTABLISHED.—Part C of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2761 et seq.) is amended by inserting after section 1109 (as redesignated by subsection (e)(1) of this section) the following:

20 USC 2767a.

"SEC. 1110. DEFINITION OF SECONDARY SCHOOL COMPLETION RATE.

"The Secretary shall establish a definition for the term 'secondary school completion rate' for purposes of this part.".

Colleges and universities. Illinois.

SEC. 4. CENTER FOR COMMERCE AND INDUSTRIAL EXPANSION.

(a) GRANT AUTHORIZED.—(1) The Secretary of Education (hereafter in this section referred to as the "Secretary") is authorized to award a grant to Loyola University of Chicago located in Chicago, Illinois, to pay the Federal share of the cost of construction and related costs for the establishment of a Center for Commerce and Industrial Expansion at Loyola University of Chicago.

(2) The Federal share shall not be less than 33 percent.

(b) APPLICATION.—No grant may be awarded under this section unless an application is made at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums, not to exceed $8,000,000, as may be necessary to carry out the provisions of this section. Funds appropriated pursuant to this section shall remain available until expended.

SEC. 5. ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT.

Section 6103 of the Secondary Schools Basic Skills Demonstration Assistance Act of 1988 (20 U.S.C. 3263) is amended by striking "fiscal year 1989" and inserting "each of the fiscal years 1991 and 1992".

SEC. 6. STATEMENT OF PURPOSE.

Section 6102(b) of the Training Technology Transfer Act of 1988 (20 U.S.C. 5092) is amended by striking "education training, and" and inserting "education and training of students and teachers and the".

SEC. 7. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

Section 614(a) of the Higher Education Act of 1965 (20 U.S.C. 1130b(a)) is amended—

(1) by striking "$5,000,000" and inserting "$7,500,000"; and

(2) by striking "3 succeeding" and inserting "4 succeeding".

SEC. 8. DAKOTA WESLEYAN UNIVERSITY. South Dakota.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reassess the amount owed by the Dakota Wesleyan University, located in Mitchell, South Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 5140:

HOUSE REPORTS: No. 101-574 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed House.
Oct. 24, considered and passed Senate, amended.
Oct. 26, House concurred in Senate amendment.

○

Public Law 101-601
101st Congress

An Act

Nov. 16, 1990
[H.R. 5237]

To provide for the protection of Native American graves, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native American Graves Protection and Repatriation Act.
Hawaiian natives.
Historic preservation.
25 USC 3001 note.
25 USC 3001.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Graves Protection and Repatriation Act".

SEC. 2. DEFINITIONS.

For purposes of this Act, the term—

(1) "burial site" means any natural or prepared physical location, whether originally below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture, individual human remains are deposited.

(2) "cultural affiliation" means that there is a relationship of shared group identity which can be reasonably traced historically or prehistorically between a present day Indian tribe or Native Hawaiian organization and an identifiable earlier group.

(3) "cultural items" means human remains and—

(A) "associated funerary objects" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, and both the human remains and associated funerary objects are presently in the possession or control of a Federal agency or museum, except that other items exclusively made for burial purposes or to contain human remains shall be considered as associated funerary objects.

(B) "unassociated funerary objects" which shall mean objects that, as a part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later, where the remains are not in the possession or control of the Federal agency or museum and the objects can be identified by a preponderance of the evidence as related to specific individuals or families or to known human remains or, by a preponderance of the evidence, as having been removed from a specific burial site of an individual culturally affiliated with a particular Indian tribe,

(C) "sacred objects" which shall mean specific ceremonial objects which are needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present day adherents, and

(D) "cultural patrimony" which shall mean an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native

American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group.

(4) "Federal agency" means any department, agency, or instrumentality of the United States. Such term does not include the Smithsonian Institution.

(5) "Federal lands" means any land other than tribal lands which are controlled or owned by the United States, including lands selected by but not yet conveyed to Alaska Native Corporations and groups organized pursuant to the Alaska Native Claims Settlement Act of 1971.

(6) "Hui Malama I Na Kupuna O Hawai'i Nei" means the nonprofit, Native Hawaiian organization incorporated under the laws of the State of Hawaii by that name on April 17, 1989, for the purpose of providing guidance and expertise in decisions dealing with Native Hawaiian cultural issues, particularly burial issues.

(7) "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(8) "museum" means any institution or State or local government agency (including any institution of higher learning) that receives Federal funds and has possession of, or control over, Native American cultural items. Such term does not include the Smithsonian Institution or any other Federal agency.

(9) "Native American" means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

(10) "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(11) "Native Hawaiian organization" means any organization which—

(A) serves and represents the interests of Native Hawaiians,

(B) has as a primary and stated purpose the provision of services to Native Hawaiians, and

(C) has expertise in Native Hawaiian Affairs, and

shall include the Office of Hawaiian Affairs and Hui Malama I Na Kupuna O Hawai'i Nei.

(12) "Office of Hawaiian Affairs" means the Office of Hawaiian Affairs established by the constitution of the State of Hawaii.

(13) "right of possession" means possession obtained with the voluntary consent of an individual or group that had authority of alienation. The original acquisition of a Native American unassociated funerary object, sacred object or object of cultural patrimony from an Indian tribe or Native Hawaiian organization with the voluntary consent of an individual or group with authority to alienate such object is deemed to give right of possession of that object, unless the phrase so defined would, as

applied in section 7(c), result in a Fifth Amendment taking by the United States as determined by the United States Claims Court pursuant to 28 U.S.C. 1491 in which event the "right of possession" shall be as provided under otherwise applicable property law. The original acquisition of Native American human remains and associated funerary objects which were excavated, exhumed, or otherwise obtained with full knowledge and consent of the next of kin or the official governing body of the appropriate culturally affiliated Indian tribe or Native Hawaiian organization is deemed to give right of possession to those remains.

(14) "Secretary" means the Secretary of the Interior.

(15) "tribal land" means—

(A) all lands within the exterior boundaries of any Indian reservation;

(B) all dependent Indian communities;

(C) any lands administered for the benefit of Native Hawaiians pursuant to the Hawaiian Homes Commission Act, 1920, and section 4 of Public Law 86-3.

25 USC 3002.

SEC. 3. OWNERSHIP.

(a) NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.—The ownership or control of Native American cultural items which are excavated or discovered on Federal or tribal lands after the date of enactment of this Act shall be (with priority given in the order listed)—

(1) in the case of Native American human remains and associated funerary objects, in the lineal descendants of the Native American; or

(2) in any case in which such lineal descendants cannot be ascertained, and in the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony—

(A) in the Indian tribe or Native Hawaiian organization on whose tribal land such objects or remains were discovered;

Claims.

(B) in the Indian tribe or Native Hawaiian organization which has the closest cultural affiliation with such remains or objects and which, upon notice, states a claim for such remains or objects; or

(C) if the cultural affiliation of the objects cannot be reasonably ascertained and if the objects were discovered on Federal land that is recognized by a final judgment of the Indian Claims Commission or the United States Court of Claims as the aboriginal land of some Indian tribe—

(1) in the Indian tribe that is recognized as aboriginally occupying the area in which the objects were discovered, if upon notice, such tribe states a claim for such remains or objects, or

(2) if it can be shown by a preponderance of the evidence that a different tribe has a stronger cultural relationship with the remains or objects than the tribe or organization specified in paragraph (1), in the Indian tribe that has the strongest demonstrated relationship, if upon notice, such tribe states a claim for such remains or objects.

Regulations.

(b) UNCLAIMED NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.—Native American cultural items not claimed under subsec-

tion (a) shall be disposed of in accordance with regulations promulgated by the Secretary in consultation with the review committee established under section 8, Native American groups, representatives of museums and the scientific community.

(c) INTENTIONAL EXCAVATION AND REMOVAL OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS.—The intentional removal from or excavation of Native American cultural items from Federal or tribal lands for purposes of discovery, study, or removal of such items is permitted only if—

(1) such items are excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979 (93 Stat. 721; 16 U.S.C. 470aa et seq.) which shall be consistent with this Act;

(2) such items are excavated or removed after consultation with or, in the case of tribal lands, consent of the appropriate (if any) Indian tribe or Native Hawaiian organization;

(3) the ownership and right of control of the disposition of such items shall be as provided in subsections (a) and (b); and

(4) proof of consultation or consent under paragraph (2) is shown.

(d) INADVERTENT DISCOVERY OF NATIVE AMERICAN REMAINS AND OBJECTS.—(1) Any person who knows, or has reason to know, that such person has discovered Native American cultural items on Federal or tribal lands after the date of enactment of this Act shall notify, in writing, the Secretary of the Department, or head of any other agency or instrumentality of the United States, having primary management authority with respect to Federal lands and the appropriate Indian tribe or Native Hawaiian organization with respect to tribal lands, if known or readily ascertainable, and, in the case of lands that have been selected by an Alaska Native Corporation or group organized pursuant to the Alaska Native Claims Settlement Act of 1971, the appropriate corporation or group. If the discovery occurred in connection with an activity, including (but not limited to) construction, mining, logging, and agriculture, the person shall cease the activity in the area of the discovery, make a reasonable effort to protect the items discovered before resuming such activity, and provide notice under this subsection. Following the notification under this subsection, and upon certification by the Secretary of the department or the head of any agency or instrumentality of the United States or the appropriate Indian tribe or Native Hawaiian organization that notification has been received, the activity may resume after 30 days of such certification.

(2) The disposition of and control over any cultural items excavated or removed under this subsection shall be determined as provided for in this section.

(3) If the Secretary of the Interior consents, the responsibilities (in whole or in part) under paragraphs (1) and (2) of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary with respect to any land managed by such other Secretary or agency head.

(e) RELINQUISHMENT.—Nothing in this section shall prevent the governing body of an Indian tribe or Native Hawaiian organization from expressly relinquishing control over any Native American human remains, or title to or control over any funerary object, or sacred object.

SEC. 4. ILLEGAL TRAFFICKING.

(a) ILLEGAL TRAFFICKING.—Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1170. Illegal Trafficking in Native American Human Remains and Cultural Items

"(a) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit, the human remains of a Native American without the right of possession to those remains as provided in the Native American Graves Protection and Repatriation Act shall be fined in accordance with this title, or imprisoned not more than 12 months, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, or imprisoned not more than 5 years, or both.

"(b) Whoever knowingly sells, purchases, uses for profit, or transports for sale or profit any Native American cultural items obtained in violation of the Native American Grave Protection and Repatriation Act shall be fined in accordance with this title, imprisoned not more than one year, or both, and in the case of a second or subsequent violation, be fined in accordance with this title, imprisoned not more than 5 years, or both.".

(b) TABLE OF CONTENTS.—The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1170. Illegal Trafficking in Native American Human Remains and Cultural Items.".

Museums.
25 USC 3003.

SEC. 5. INVENTORY FOR HUMAN REMAINS AND ASSOCIATED FUNERARY OBJECTS.

(a) IN GENERAL.—Each Federal agency and each museum which has possession or control over holdings or collections of Native American human remains and associated funerary objects shall compile an inventory of such items and, to the extent possible based on information possessed by such museum or Federal agency, identify the geographical and cultural affiliation of such item.

(b) REQUIREMENTS.—(1) The inventories and identifications required under subsection (a) shall be—

(A) completed in consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders;

(B) completed by not later than the date that is 5 years after the date of enactment of this Act, and

(C) made available both during the time they are being conducted and afterward to a review committee established under section 8.

(2) Upon request by an Indian tribe or Native Hawaiian organization which receives or should have received notice, a museum or Federal agency shall supply additional available documentation to supplement the information required by subsection (a) of this section. The term "documentation" means a summary of existing museum or Federal agency records, including inventories or catalogues, relevant studies, or other pertinent data for the limited purpose of determining the geographical origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American human remains and associated funerary objects subject to this section. Such term does not mean, and this Act shall not be

construed to be an authorization for, the initiation of new scientific studies of such remains and associated funerary objects or other means of acquiring or preserving additional scientific information from such remains and objects.

(c) EXTENSION OF TIME FOR INVENTORY.—Any museum which has made a good faith effort to carry out an inventory and identification under this section, but which has been unable to complete the process, may appeal to the Secretary for an extension of the time requirements set forth in subsection (b)(1)(B). The Secretary may extend such time requirements for any such museum upon a finding of good faith effort. An indication of good faith shall include the development of a plan to carry out the inventory and identification process.

(d) NOTIFICATION.—(1) If the cultural affiliation of any particular Native American human remains or associated funerary objects is determined pursuant to this section, the Federal agency or museum concerned shall, not later than 6 months after the completion of the inventory, notify the affected Indian tribes or Native Hawaiian organizations.

(2) The notice required by paragraph (1) shall include information—

(A) which identifies each Native American human remains or associated funerary objects and the circumstances surrounding its acquisition;

(B) which lists the human remains or associated funerary objects that are clearly identifiable as to tribal origin; and

(C) which lists the Native American human remains and associated funerary objects that are not clearly identifiable as being culturally affiliated with that Indian tribe or Native Hawaiian organization, but which, given the totality of circumstances surrounding acquisition of the remains or objects, are determined by a reasonable belief to be remains or objects culturally affiliated with the Indian tribe or Native Hawaiian organization.

(3) A copy of each notice provided under paragraph (1) shall be sent to the Secretary who shall publish each notice in the Federal Register. Federal Register, publication.

(e) INVENTORY.—For the purposes of this section, the term "inventory" means a simple itemized list that summarizes the information called for by this section.

SEC. 6. SUMMARY FOR UNASSOCIATED FUNERARY OBJECTS, SACRED OBJECTS, AND CULTURAL PATRIMONY. 25 USC 3004.

(a) IN GENERAL.—Each Federal agency or museum which has possession or control over holdings or collections of Native American unassociated funerary objects, sacred objects, or objects of cultural patrimony shall provide a written summary of such objects based upon available information held by such agency or museum. The summary shall describe the scope of the collection, kinds of objects included, reference to geographical location, means and period of acquisition and cultural affiliation, where readily ascertainable. Museums.

(b) REQUIREMENTS.—(1) The summary required under subsection (a) shall be—

(A) in lieu of an object-by-object inventory;

(B) followed by consultation with tribal government and Native Hawaiian organization officials and traditional religious leaders; and

(C) completed by not later than the date that is 3 years after the date of enactment of this Act.

(2) Upon request, Indian Tribes and Native Hawaiian organizations shall have access to records, catalogues, relevant studies or other pertinent data for the limited purposes of determining the geographic origin, cultural affiliation, and basic facts surrounding acquisition and accession of Native American objects subject to this section. Such information shall be provided in a reasonable manner to be agreed upon by all parties.

25 USC 3005.

SEC. 7. REPATRIATION.

(a) REPATRIATION OF NATIVE AMERICAN HUMAN REMAINS AND OBJECTS POSSESSED OR CONTROLLED BY FEDERAL AGENCIES AND MUSEUMS.—(1) If, pursuant to section 5, the cultural affiliation of Native American human remains and associated funerary objects with a particular Indian tribe or Native Hawaiian organization is established, then the Federal agency or museum, upon the request of a known lineal descendant of the Native American or of the tribe or organization and pursuant to subsections (b) and (e) of this section, shall expeditiously return such remains and associated funerary objects.

(2) If, pursuant to section 6, the cultural affiliation with a particular Indian tribe or Native Hawaiian organization is shown with respect to unassociated funerary objects, sacred objects or objects of cultural patrimony, then the Federal agency or museum, upon the request of the Indian tribe or Native Hawaiian organization and pursuant to subsections (b), (c) and (e) of this section, shall expeditiously return such objects.

(3) The return of cultural items covered by this Act shall be in consultation with the requesting lineal descendant or tribe or organization to determine the place and manner of delivery of such items.

(4) Where cultural affiliation of Native American human remains and funerary objects has not been established in an inventory prepared pursuant to section 5, or the summary pursuant to section 6, or where Native American human remains and funerary objects are not included upon any such inventory, then, upon request and pursuant to subsections (b) and (e) and, in the case of unassociated funerary objects, subsection (c), such Native American human remains and funerary objects shall be expeditiously returned where the requesting Indian tribe or Native Hawaiian organization can show cultural affiliation by a preponderance of the evidence based upon geographical, kinship, biological, archaeological, anthropological, linguistic, folkloric, oral traditional, historical, or other relevant information or expert opinion.

(5) Upon request and pursuant to subsections (b), (c) and (e), sacred objects and objects of cultural patrimony shall be expeditiously returned where—

(A) the requesting party is the direct lineal descendant of an individual who owned the sacred object;

(B) the requesting Indian tribe or Native Hawaiian organization can show that the object was owned or controlled by the tribe or organization; or

(C) the requesting Indian tribe or Native Hawaiian organization can show that the sacred object was owned or controlled by a member thereof, provided that in the case where a sacred object was owned by a member thereof, there are no identifiable

lineal descendants of said member or the lineal descendants, upon notice, have failed to make a claim for the object under this Act.

(b) SCIENTIFIC STUDY.—If the lineal descendant, Indian tribe, or Native Hawaiian organization requests the return of culturally affiliated Native American cultural items, the Federal agency or museum shall expeditiously return such items unless such items are indispensable for completion of a specific scientific study, the outcome of which would be of major benefit to the United States. Such items shall be returned by no later than 90 days after the date on which the scientific study is completed.

(c) STANDARD OF REPATRIATION.—If a known lineal descendant or an Indian tribe or Native Hawaiian organization requests the return of Native American unassociated funerary objects, sacred objects or objects of cultural patrimony pursuant to this Act and presents evidence which, if standing alone before the introduction of evidence to the contrary, would support a finding that the Federal agency or museum did not have the right of possession, then such agency or museum shall return such objects unless it can overcome such inference and prove that it has a right of possession to the objects.

(d) SHARING OF INFORMATION BY FEDERAL AGENCIES AND MUSEUMS.—Any Federal agency or museum shall share what information it does possess regarding the object in question with the known lineal descendant, Indian tribe, or Native Hawaiian organization to assist in making a claim under this section.

(e) COMPETING CLAIMS.—Where there are multiple requests for repatriation of any cultural item and, after complying with the requirements of this Act, the Federal agency or museum cannot clearly determine which requesting party is the most appropriate claimant, the agency or museum may retain such item until the requesting parties agree upon its disposition or the dispute is otherwise resolved pursuant to the provisions of this Act or by a court of competent jurisdiction.

(f) MUSEUM OBLIGATION.—Any museum which repatriates any item in good faith pursuant to this Act shall not be liable for claims by an aggrieved party or for claims of breach of fiduciary duty, public trust, or violations of state law that are inconsistent with the provisions of this Act.

SEC. 8. REVIEW COMMITTEE. 25 USC 3006.

(a) ESTABLISHMENT.—Within 120 days after the date of enactment of this Act, the Secretary shall establish a committee to monitor and review the implementation of the inventory and identification process and repatriation activities required under sections 5, 6 and 7.

(b) MEMBERSHIP.—(1) The Committee established under subsection (a) shall be composed of 7 members,

(A) 3 of whom shall be appointed by the Secretary from nominations submitted by Indian tribes, Native Hawaiian organizations, and traditional Native American religious leaders with at least 2 of such persons being traditional Indian religious leaders;

(B) 3 of whom shall be appointed by the Secretary from nominations submitted by national museum organizations and scientific organizations; and

(C) 1 who shall be appointed by the Secretary from a list of persons developed and consented to by all of the members appointed pursuant to subparagraphs (A) and (B).

(2) The Secretary may not appoint Federal officers or employees to the committee.

(3) In the event vacancies shall occur, such vacancies shall be filled by the Secretary in the same manner as the original appointment within 90 days of the occurrence of such vacancy.

(4) Members of the committee established under subsection (a) shall serve without pay, but shall be reimbursed at a rate equal to the daily rate for GS-18 of the General Schedule for each day (including travel time) for which the member is actually engaged in committee business. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(c) RESPONSIBILITIES.—The committee established under subsection (a) shall be responsible for—

(1) designating one of the members of the committee as chairman;

(2) monitoring the inventory and identification process conducted under sections 5 and 6 to ensure a fair, objective consideration and assessment of all available relevant information and evidence;

(3) upon the request of any affected party, reviewing and making findings related to—

(A) the identity or cultural affiliation of cultural items, or

(B) the return of such items;

(4) facilitating the resolution of any disputes among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of such items including convening the parties to the dispute if deemed desirable;

(5) compiling an inventory of culturally unidentifiable human remains that are in the possession or control of each Federal agency and museum and recommending specific actions for developing a process for disposition of such remains;

(6) consulting with Indian tribes and Native Hawaiian organizations and museums on matters within the scope of the work of the committee affecting such tribes or organizations;

(7) consulting with the Secretary in the development of regulations to carry out this Act;

(8) performing such other related functions as the Secretary may assign to the committee; and

(9) making recommendations, if appropriate, regarding future care of cultural items which are to be repatriated.

(d) Any records and findings made by the review committee pursuant to this Act relating to the identity or cultural affiliation of any cultural items and the return of such items may be admissible in any action brought under section 15 of this Act.

(e) RECOMMENDATIONS AND REPORT.—The committee shall make the recommendations under paragraph (c)(5) in consultation with Indian tribes and Native Hawaiian organizations and appropriate scientific and museum groups.

(f) ACCESS.—The Secretary shall ensure that the committee established under subsection (a) and the members of the committee have reasonable access to Native American cultural items under review and to associated scientific and historical documents.

(g) DUTIES OF SECRETARY.—The Secretary shall—

Regulations.

(1) establish such rules and regulations for the committee as may be necessary, and

(2) provide reasonable administrative and staff support necessary for the deliberations of the committee.

(h) ANNUAL REPORT.—The committee established under subsection (a) shall submit an annual report to the Congress on the progress made, and any barriers encountered, in implementing this section during the previous year.

(i) TERMINATION.—The committee established under subsection (a) shall terminate at the end of the 120-day period beginning on the day the Secretary certifies, in a report submitted to Congress, that the work of the committee has been completed.

SEC. 9. PENALTY.

Museums.
25 USC 3007.

(a) PENALTY.—Any museum that fails to comply with the requirements of this Act may be assessed a civil penalty by the Secretary of the Interior pursuant to procedures established by the Secretary through regulation. A penalty assessed under this subsection shall be determined on the record after opportunity for an agency hearing. Each violation under this subsection shall be a separate offense.

(b) AMOUNT OF PENALTY.—The amount of a penalty assessed under subsection (a) shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

(1) the archaeological, historical, or commercial value of the item involved;

(2) the damages suffered, both economic and noneconomic, by an aggrieved party, and

(3) the number of violations that have occurred.

(c) ACTIONS TO RECOVER PENALTIES.—If any museum fails to pay an assessment of a civil penalty pursuant to a final order of the Secretary that has been issued under subsection (a) and not appealed or after a final judgment has been rendered on appeal of such order, the Attorney General may institute a civil action in an appropriate district court of the United States to collect the penalty. In such action, the validity and amount of such penalty shall not be subject to review.

Courts.

(d) SUBPOENAS.—In hearings held pursuant to subsection (a), subpoenas may be issued for the attendance and testimony of witnesses and the production of relevant papers, books, and documents. Witnesses so summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

SEC. 10. GRANTS.

25 USC 3008.

(a) INDIAN TRIBES AND NATIVE HAWAIIAN ORGANIZATIONS.—The Secretary is authorized to make grants to Indian tribes and Native Hawaiian organizations for the purpose of assisting such tribes and organizations in the repatriation of Native American cultural items.

(b) MUSEUMS.—The Secretary is authorized to make grants to museums for the purpose of assisting the museums in conducting the inventories and identification required under sections 5 and 6.

SEC. 11. SAVINGS PROVISIONS.

25 USC 3009.

Nothing in this Act shall be construed to—

(1) limit the authority of any Federal agency or museum to—

(A) return or repatriate Native American cultural items to Indian tribes, Native Hawaiian organizations, or individuals, and

(B) enter into any other agreement with the consent of the culturally affiliated tribe or organization as to the disposition of, or control over, items covered by this Act;

(2) delay actions on repatriation requests that are pending on the date of enactment of this Act;

(3) deny or otherwise affect access to any court;

(4) limit any procedural or substantive right which may otherwise be secured to individuals or Indian tribes or Native Hawaiian organizations; or

(5) limit the application of any State or Federal law pertaining to theft or stolen property.

25 USC 3010.

SEC. 12. SPECIAL RELATIONSHIP BETWEEN FEDERAL GOVERNMENT AND INDIAN TRIBES.

This Act reflects the unique relationship between the Federal Government and Indian tribes and Native Hawaiian organizations and should not be construed to establish a precedent with respect to any other individual, organization or foreign government.

25 USC 3011.

SEC. 13. REGULATIONS.

The Secretary shall promulgate regulations to carry out this Act within 12 months of enactment.

25 USC 3012.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

25 USC 3013.

SEC. 15. ENFORCEMENT.

Courts.

The United States district courts shall have jurisdiction over any action brought by any person alleging a violation of this Act and shall have the authority to issue such orders as may be necessary to enforce the provisions of this Act.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 5237:

HOUSE REPORTS: No. 101-877 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 22, considered and passed House.
Oct. 25, considered and passed Senate; passage vitiated.
Oct. 26, reconsidered and passed Senate, amended.
Oct. 27, House concurred in Senate amendments.

○

Public Law 101-602
101st Congress

An Act

To approve the Fort Hall Indian Water Rights Settlement, and for other purposes.

Nov. 16, 1990
[H.R. 5308]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fort Hall Indian Water Rights Act of 1990. Idaho.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Hall Indian Water Rights Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act, and for no other purposes—

(1) The term "Agreement" means the "1990 Fort Hall Indian Water Rights Agreement" between the State of Idaho, the Shoshone-Bannock Tribes, the United States, and other participating parties.

(2) The term "Committee of Nine" means the advisory committee of water district 01, which is the instrumentality created by the Director of the Idaho Department of Water Resources pursuant to Idaho Code 42-604.

(3) The term "Final Decree" means the partial decree confirming the Tribal water rights described and quantified in Article 7 of the Agreement to be entered after the date of enactment of this Act and following submission of the Agreement as provided for in Article 10 of the Agreement in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987, entitled In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System.

(4) The term "Fort Hall Indian Irrigation Project" means the Federal project constructed to provide water for the irrigation of Reservation lands and certain ceded lands.

(5) The term "Idaho Water Resource Board" means the Idaho State Water Resource Agency constituted in accordance with Idaho Constitution article XV, section 7, or any successor agency.

(6) The term "Indian" means any person who is a member of a tribe recognized as eligible for special programs and services provided by the United States because of the person's status as an Indian; is recognized as an Indian under tribal law; or holds or is recognized by the Secretary as eligible to hold restricted trust property on the Reservation.

(7) The term "Indian lands" means (A) all lands within the exterior boundaries of the Reservation that are held in trust or owned for the Shoshone-Bannock Tribes or an Indian, and (B) those lands outside the exterior boundaries of the Reservation held in trust for or owned by the Shoshone-Bannock Tribes or held in trust for or owned subject to a restriction on alienation by a member of the Shoshone-Bannock Tribes.

(8) The term "Michaud Act" means the Act of August 31, 1954, chapter 1159, 68 Stat. 1026.

(9) The term "Michaud Contract" means that Memorandum Agreement of April 25, 1957, between the Bureau of Reclamation and the Bureau of Indian Affairs relating to the water supply for the Michaud Division.

(10) The term "Michaud Division" means that division of the Fort Hall Indian Irrigation Project authorized by the Act of August 31, 1954, chapter 1159, 68 Stat. 1026.

(11) The term "Party" or "Parties" means any entity or entities that are party to the Agreement.

(12) The term "Reservation" means the Fort Hall Indian Reservation.

(13) The term "Secretary" means the Secretary of the Interior.

(14) The term "Tribes" or "Tribal" means the Shoshone-Bannock Tribes, its members, and its allottees.

(15) The term "Upper Snake River Basin" means that portion of the Snake River Basin upstream from the Hells Canyon Dam, the lowest of the 3 dams authorized as FERC Project No. 1971.

SEC. 3. FINDINGS.

The purpose of the Fort Hall Indian Water Rights Settlement Act of 1990 is to achieve a fair, equitable, and final settlement of all claims of the Shoshone-Bannock Tribes, its members, and its allottees and the United States on behalf of the Shoshone-Bannock Tribes, its members, and its allottees to water rights in the Upper Snake River Basin.

SEC. 4. RATIFICATION OF AGREEMENT.

The Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to implement the Agreement on behalf of the United States.

SEC. 5. PROTECTION OF EXISTING USES.

(a) CONTRACT FOR STORAGE SPACE.—The Secretary is authorized and directed to contract with the Idaho Water Resource Board or another appropriate contracting entity acceptable to the Committee of Nine for 18,900 acre feet of storage space in the Palisades Reservoir and the 80,500 acre feet of storage space in the Ririe Reservoir provided that the contracting entity makes application for the noncontracted storage space within 1 year of the date of this Act and the contracting party agrees to pay all operation and maintenance costs associated with the space. The repayment obligation associated with the construction costs for such noncontracted storage space is hereby deemed repaid by this Act. All exemptions that result from such a repayment shall be deemed to be applicable without further qualification on the part of such contracting entity, and with respect to subsequent users of this water, the Reclamation laws shall apply only to the extent such laws would have applied to such subsequent users prior to the date of this Act.

(b) LIMITATION ON SETTING ASIDE FINAL DECREE.—Neither the Committee of Nine nor the State shall have the right to set aside the Final Decree because either fails to make application for the storage space referred to in subsection (a) of this section within 1 year of the date of this Act.

SEC. 6. USE, TRANSFER, AND LEASE OF TRIBAL WATER RIGHTS.

(a) TRANSFER AND LEASE OF TRIBAL WATER RIGHTS WITHIN THE RESERVATION.—The Tribes shall have the right to transfer or lease within the Reservation all or any part of the Tribal water right confirmed in the Final Decree on the terms and conditions set forth in article 7 of the Agreement.

(b) RENTAL OF THE TRIBES FEDERAL CONTRACT STORAGE WATER.—The Tribes shall have the right to rent, pursuant to Idaho Code 42-1761 through 42-1765 as specified in article 7 of the Agreement, the water accruing to Federal storage space held in trust for the Tribes under the Michaud Act.

(c) INSTREAM FLOWS.—The Tribes shall have the right to use any or all of the water accruing to Federal storage space held in trust for the Tribes under the Michaud Act for instream flows for river reaches on or adjacent to the Reservation and up to 15,000 acre feet per year of the storage water rights described in articles 7.1.19 and 7.1.20 of the Agreement for instream flows in reaches of the Blackfoot River on the terms and conditions set forth in article 7.4 of the Agreement.

(d) REQUISITE CONGRESSIONAL APPROVAL.—Ratification of the Agreement as provided for by section 4 of this Act shall constitute the congressional approval, to the extent it is required by Federal law, of the uses described in subsections (a), (b), and (c) of this section.

(e) AMENDMENT OF MICHAUD ACT AND CONTRACT.—The Michaud Act and the Michaud Contract are hereby amended to the extent necessary to authorize the uses described in subsections (a), (b), and (c) of the proprietary rights described in article 7 of the Agreement. 68 Stat. 1026.

(f) NO ALIENATION OR TAXATION OF PROCEEDS.—The proceeds from leasing water pursuant to subsection (a) of this section or from renting all or any part of the water accruing to the Federal contract storage space pursuant to subsection (b) of this section shall not be subject to any form of taxation or alienation by the State.

(g) NO FORFEITURE, ABANDONMENT, LOSS, OR CONSTRAINTS ON INCOME.—The Tribes' exercise of the rights described in subsections (a), (b), and (c) of this section or nonuse of the Tribal water rights shall in no event be construed or interpreted as any forfeiture, abandonment, relinquishment, or other loss of all or any part of the Tribal water rights. Nor shall the exercise of the rights described in subsections (a) and (b) of this section be subject to any constraints on the amount of income or other compensation received by the Tribes.

(h) LIMITATION ON OFF-RESERVATION USE.—Except as authorized by this section, no Tribal water rights or water described in the Agreement may be sold, leased, rented, transferred, or otherwise used off the Fort Hall Indian Reservation.

SEC. 7. CONTRIBUTION TO SETTLEMENT.

Appropriation authorizations.

(a) TRIBAL DEVELOPMENT FUND.—There are hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs $4,000,000 in the first fiscal year, $3,000,000 in the second fiscal year, and $3,000,000 in the third fiscal year following the effective date of this Act for payment to the Tribal Development Fund, which the Secretary is authorized and directed to establish for the Shoshone-Bannock Tribes. Within 60 days of appropriation of moneys for the Tribal Development Fund, the Secretary shall allocate and make payment to the Fund. Once the funds are deposited

into the Tribal Development Fund, the Secretary shall disburse the funds to the Tribes upon request.

(b) RESERVATION WATER MANAGEMENT SYSTEM.—There is hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs the sum of $3,000,000 in the first fiscal year, $2,000,000 in the second fiscal year, and $2,000,000 in the third fiscal year following the effective date of this Act for use by the Tribes for development of a Reservation water management system. Within 60 days of appropriation of moneys for the Reservation water management system, the Secretary shall allocate and make payment to the Tribes for the purposes described in this section.

(c) ACQUISITION OF LANDS, GRAZING RIGHTS, AND IMPROVEMENTS.—There are hereby authorized to be appropriated to the Department of the Interior Bureau of Indian Affairs $5,000,000 for the primary purposes of acquiring for the Fort Hall Indian Irrigation Project available lands and grazing rights adjacent to Grays Lake to enhance the operation and management of the project and of making related improvements as well as providing collateral benefits for the operation of the Fish and Wildlife Service Refuge at Grays Lake.

(d) LIMITATION ON PER CAPITA DISTRIBUTIONS.—Under no circumstances may any appropriated funds authorized by subsections (a), (b), and (c) of this section be distributed on a per capita basis to members of the Tribes.

(e) LIMITATION ON SETTING ASIDE FINAL DECREE.—Neither the Tribes nor the United States shall have the right to set aside the Final Decree because Congress fails to appropriate the funds authorized by subsection (a), (b), or (c) of this section or because the United States fails to acquire the grazing allotments adjacent to Grays Lake.

(f) TRUST RESPONSIBILITY.—Nothing in this Act shall be construed or interpreted to alter the future trust responsibility of the United States to the Tribes nor to prohibit the Tribes from seeking additional authorization or appropriation of funds for Tribal programs or purposes.

SEC. 8. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—Upon the effective date of the Agreement, the Tribes and the United States shall be deemed to have waived and released any and all water rights or claims to water rights of the Tribes, its members and its allottees from any source within the Upper Snake River Basin other than those set forth in article 7 of the Agreement. This release shall not apply to water right claims under State law of Tribal members for lands not defined as Indian lands for purposes of this Act nor to any other Indian tribe or to any Federal agency other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(b) WAIVER OF CLAIMS AGAINST THE UNITED STATES.—In consideration of performance by the United States of all actions required by the Agreement and this Act, including the congressional authorization, appropriation, and payment of all funds authorized in section 7 of this Act, the Tribes shall be deemed to have executed in return a waiver and release of any and all existing claims against the United States arising in whole or in part from or concerning water rights finally settled by the Agreement and for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir.

(c) WAIVER OF CLAIMS AGAINST NON-FEDERAL PERSONS.—Upon entry of the Final Decree confirming the Tribal water rights, the United States and the Tribes agree not to make any claims against, or seek compensation from, any non-Federal person for lands or water that have been inundated by the past construction or enlargement of American Falls Reservoir. In the event funds are not paid as set forth in section 7, the Tribes are authorized to bring an action in the United States Claims Court for such funds plus applicable interest. The United States hereby waives any defense of sovereign immunity to such action.

SEC. 9. INDIVIDUAL MEMBERS AND ALLOTTEES OF THE TRIBES.

The water rights described in the Agreement and confirmed in the Final Decree are in full satisfaction of all water right claims of members of the Tribes and allottees for Indian lands in the Upper Snake River Basin. If any Tribal member or allottee is decreed a water right for Indian lands in Civil Case No. 39576 filed in the Fifth Judicial District Court of the State of Idaho in and for Twin Falls County on June 17, 1987, entitled "In Re the General Adjudication of Rights to the Use of Water from the Snake River Basin Water System", there shall be a corresponding reduction made in the Tribal water rights set forth in the Agreement and the Final Decree.

SEC. 10. EFFECTIVE DATE.

(a) DISBURSEMENT OF FUNDS UPON EFFECTIVE DATE.—The moneys appropriated pursuant to the authorization in section 7 of this Act shall not be disbursed until such time as the Agreement becomes effective. If the Agreement does not become effective, the moneys shall be returned to the General Fund of the Treasury, and the Agreement may be voided by any party to the Agreement.

(b) FORCE AND EFFECT.—No provision of this Act shall be of any force unless the Agreement becomes effective as provided by article 18 of the Agreement.

SEC. 11. DISCLAIMER.

(a) GENERAL DISCLAIMER.—Nothing in the Agreement or this Act shall be construed in any way to quantify or otherwise affect the water rights or water right claims of the city of Pocatello, Idaho, or of any Indian tribe, band, or community, other than the Shoshone-Bannock Tribes.

(b) RESERVATION OF TRIBAL CLAIMS.—Nothing in this Act shall be construed to waive any water rights or water right claims of the Tribe or the United States on behalf of the Tribes except as set forth in the Agreement. Nor shall anything in the Agreement or this Act affect the water rights or water right claims of any Federal agency, other than the Bureau of Indian Affairs, Fort Hall Indian Agency.

(c) RESERVATION OF RIGHTS.—The parties expressly reserve all rights not granted, recognized, or settled by the Agreement or this Act.

(d) DISCLAIMER REGARDING OTHER AGREEMENTS.—Except as expressly provided in this Act, nothing herein shall be considered to

amend, construe, supersede, or preempt any State law, Federal law, Tribal law, or interstate compact that pertains to the Snake River or its tributaries.

SEC. 12. PROTECTION OF TRIBAL WATER RIGHTS.

The Tribal water rights confirmed by the Final Decree shall bind and inure to the benefit of the Tribes and shall not be taken from them absent their consent and payment of just compensation.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 5308:

HOUSE REPORTS: No. 101-831 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 27, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential statement.

Public Law 101-603
101st Congress

An Act

To authorize the Secretary of the Interior to acquire certain lands to be added to the Fort Raleigh National Historic Site in North Carolina.

Nov. 16, 1990
[H.R. 5497]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE OF FORT RALEIGH NATIONAL HISTORIC SITE. 16 USC 461 note.

The purpose of Fort Raleigh National Historic Site (hereinafter in this Act referred to as the "historic site") shall be the preservation and interpretation of—

(1) the first English colony in the New World; and

(2) the history of the Native Americans, European Americans, and African Americans who lived on Roanoke Island, North Carolina.

SEC. 2. ADDITION OF LANDS TO FORT RALEIGH NATIONAL HISTORIC SITE. 16 USC 461 note.

(a) AUTHORITY FOR ACQUISITION.—The Secretary of the Interior may acquire through purchase, donation, or exchange all right, title, and interest in and to the lands described in subsection (b). Upon acquisition, the lands shall be added to and administered as part of the historic site.

(b) DESCRIPTION OF LANDS.—The lands referred to in subsection (a) are the approximately 335 acres depicted on the map entitled "Fort Raleigh National Historic Site Expansion", numbered 383/80,001A, dated October 1990, and on file with the Director of the National Park Service.

SEC. 3. RESEARCH. 16 USC 461 note.

The Secretary, in consultation with scholarly and other historic organizations, shall undertake research on the history and archaeology of the historic site, and the associated peoples and events.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS. 16 USC 461 note.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 5497:

HOUSE REPORTS: No. 101-840, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-604
101st Congress

An Act

Nov. 16, 1990
[H.R. 5732]

To promote and strengthen aviation security, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Aviation Security Improvement Act of 1990.
49 USC app. 1301 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Aviation Security Improvement Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AVIATION SECURITY

Sec. 101. Director of Intelligence and Security.
Sec. 102. Annual aviation security report; budget.
Sec. 103. Assistant Administrator for Civil Aviation Security.
Sec. 104. Federal Security Managers and Foreign Security Liaison Officers.
Sec. 105. Air carrier and airport security personnel.
Sec. 106. Assessment of threats to domestic airport security.
Sec. 107. Research and development.
Sec. 108. Deployment of explosive detection equipment.
Sec. 109. Threats to civil aviation; public notification.
Sec. 110. Airport construction guidelines.
Sec. 111. Intelligence.
Sec. 112. Screening of mail and cargo.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

Sec. 201. International negotiations concerning aviation security.
Sec. 202. Coordinator for counterterrorism.
Sec. 203. Passenger manifest.
Sec. 204. Department of State notification of families of victims.
Sec. 205. Designation of State Department-family liaison and toll-free family communications system.
Sec. 206. Disaster training for State Department personnel.
Sec. 207. Department of State responsibilities and procedures at international disaster site.
Sec. 208. Recovery and disposition of remains and personal effects.
Sec. 209. Assessment of Lockerbie experience.
Sec. 210. Official Department of State recognition.
Sec. 211. United States Government compensation for victims of terrorism.
Sec. 212. Overseas security electronic bulletin board.
Sec. 213. Antiterrorism assistance.
Sec. 214. Antiterrorism measures.
Sec. 215. Proposal for consideration by the international civil aviation organization.

25 USC 5501 note.

SEC. 2. FINDINGS.

Congress finds that—

(1) the safety and security of passengers of United States air carriers against terrorist threats should be given the highest priority by the United States Government;

(2) the report of the President's Commission on Aviation Security and Terrorism, dated May 15, 1990, found that current aviation security systems are inadequate to provide such protection;

(3) the United States Government should immediately take steps to ensure fuller compliance with existing laws and regulations relating to aviation security;

(4) the United States Government should work through the International Civil Aviation Organization and directly with foreign governments to enhance aviation security of foreign carriers and at foreign airports;

(5) the United States Government should ensure that enhanced security measures are fully implemented by both United States and foreign air carriers;

(6) all nations belonging to the Summit Seven should promptly amend the Bonn Declaration to extend sanctions for all terrorist acts, including attacks against airports and air carrier ticket offices;

(7) the United States Government, in bilateral negotiations with foreign governments, should emphasize upgrading international aviation security objectives;

(8) the United States Government should have in place a mechanism by which the Government notifies the public, on a case-by-case basis and through the application of a uniform national standard, of certain credible threats to civil aviation security;

(9) the United States Government has a special obligation to United States victims of acts of terrorism directed against this Nation and should provide prompt assistance to the families of such victims and assure that fair and prompt compensation is provided to such victims and their families;

(10) the United States should work with other nations to treat as outlaws state sponsors of terrorism, isolating such sponsors politically, economically, and militarily;

(11) the United States must develop a clear understanding that state-sponsored terrorism threatens United States values and interests, and that active measures are needed to counter more effectively the terrorist threat; and

(12) the United States must have the national will to take every feasible action to prevent, counter, and respond to terrorist activities.

TITLE I—AVIATION SECURITY

SEC. 101. DIRECTOR OF INTELLIGENCE AND SECURITY.

49 USC app. 1652b.

(a) ESTABLISHMENT OF POSITION.—There is established in the Office of the Secretary of Transportation the position of Director of Intelligence and Security.

(b) POWERS AND DUTIES.—The Director of Intelligence and Security shall report directly to the Secretary of Transportation and shall have the following duties and powers:

(1) Receipt, assessment, and distribution of intelligence information relating to long-term transportation security.

(2) Development of policies, strategies, and plans for dealing with threats to transportation security.

(3) Other planning relating to transportation security, including coordination of countermeasures with appropriate Federal agencies.

(4) Serving as the primary liaison of the Secretary with the intelligence and law enforcement communities.

(5) Such other duties and powers as the Secretary may prescribe as necessary to ensure, to the extent possible, the security of the traveling public.

(c) CONFORMING AMENDMENT.—Section 106(g)(1) of title 49, United States Code, is amended by inserting after "312–314," the following "315–316 (except for the duties and powers vested in the Director of Intelligence and Security by or under section 101 of the Aviation Security Improvement Act of 1990),".

SEC. 102. ANNUAL AVIATION SECURITY REPORT; BUDGET.

(a) ANNUAL AVIATION SECURITY REPORT.—Section 315 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356) is amended by redesignating subsection (b), and any reference thereto, as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) TRANSPORTATION SECURITY.—

"(1) ANNUAL REPORT.—Not later than December 31 of calendar year 1991 and of each calendar year thereafter, the Secretary shall submit to Congress an annual report concerning transportation security, together with such recommendations as the Secretary considers appropriate. Such report shall be prepared in conjunction with the annual report of the Administrator under subsection (a) and shall not duplicate the information required by subsection (a) or section 1115(c) of this Act. Such annual report may, as necessary, be submitted in 2 parts with 1 part being classified in nature and 1 part being unclassified.

"(2) CONTENTS OF REPORT.—The annual report required by this subsection shall include—

"(A) a summary of the activities of the Director of Intelligence and Security in the 12-month period ending on the date of such report;

"(B) an assessment of trends and developments in terrorist activities, methods, and other threats to transportation;

"(C) recommendations for research, engineering, and development activities relating to transportation security, except research, engineering, and development activities relating to aviation security to the extent such activities are covered by the research plan required by section 312(d) of the Federal Aviation Act of 1958;

"(D) legislative and regulatory recommendations, if appropriate;

"(E) funding and staffing requirements of the Director of Intelligence and Security;

"(F) an assessment of funding and staffing requirements, and attainment of existing staffing goals, for carrying out security functions of the Federal Aviation Administration;

"(G) identification and evaluation of cooperative efforts with other Federal agencies;

"(H) an evaluation of cooperation with foreign transportation and security authorities;

"(I) the status of implementation of the recommendations of the President's Commission of Aviation Security and Terrorism and the reasons for any delays in implementation of such recommendations; and

"(J) an evaluation of deployment of explosive detection devices.".

(b) PASSENGER SCREENING REPORTS.—Section 315(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1356(a)) is amended by striking "semiannual" each place it appears and inserting "annual".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading:

"Sec. 315. Screening of passengers in air transportation."

is amended by striking "(b)" and inserting "(c)" and by inserting after the item relating to subsection (a) the following:

"(b) Transportation security.".

(2) SECURITY ASSESSMENT REPORTS.—Section 1115(c) of such Act (49 U.S.C. App. 1515(c)) is amended by inserting "(a)" after "section 315".

(d) ANNUAL BUDGET SUBMISSION.—The annual budget submission for the Department of Transportation shall include a specific request for the Office of the Director of Intelligence and Security. In determining the budget request for the Director, the Secretary shall take into consideration recommendations contained in the annual report submitted under section 315(b) of the Federal Aviation Act of 1958. 49 USC app. 1652b note.

SEC. 103. ASSISTANT ADMINISTRATOR FOR CIVIL AVIATION SECURITY.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is amended by adding at the end the following new section:

"SEC. 318. ASSISTANT ADMINISTRATOR OF CIVIL AVIATION SECURITY. 49 USC app. 1358a.

"(a) ESTABLISHMENT OF POSITION.—There is established the position of Assistant Administrator for Civil Aviation Security.

"(b) AUTHORITY OF ADMINISTRATOR.—The Assistant Administrator shall report directly to the Administrator and shall be subject to the Administrator's direction and authority.

"(c) RESPONSIBILITIES.—The responsibilities of the Assistant Administrator shall include—

"(1) day-to-day management of and operational guidance to Federal Aviation Administration field security resources, including Federal Security Managers;

"(2) enforcement of security-related requirements;

"(3) identification of research and development requirements of security-related activities;

"(4) inspections of security systems;

"(5) reporting to the Director of Intelligence and Security such information as may be necessary to permit the Director to fulfill assigned responsibilities;

"(6) assessment of threats to civil aviation; and

"(7) such other functions as the Administrator considers necessary and appropriate.

"(d) MEASURES TO STRENGTHEN AIR TRANSPORTATION SECURITY.—The Assistant Administrator shall review and, as necessary, develop measures to strengthen air transportation security, including—

"(1) measures to strengthen controls over checked baggage in air transportation, such as measures to ensure baggage reconciliation and inspection of items in baggage of passengers which could potentially contain explosive devices;

"(2) measures to strengthen control over individuals with access to aircraft;

"(3) measures to improve testing of security systems;

"(4) measures to ensure the use of best available x-ray equipment for air transportation security purposes; and

"(5) measures to strengthen preflight screening of passengers.".

SEC. 104. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

49 USC app. 1358b.

"SEC. 319. FEDERAL SECURITY MANAGERS AND FOREIGN SECURITY LIAISON OFFICERS.

"(a) FEDERAL SECURITY MANAGERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Federal Security Manager for each airport in the United States at which the Administrator determines that such a Manager is necessary to meet the needs of air transportation security and shall begin designating persons as such Managers and stationing such Managers at such airports. In carrying out the requirements of this section, the Administrator may assign the functions and responsibilities described in this section to existing Federal Aviation Administration field personnel and designate such personnel accordingly.

"(2) 1-YEAR STATIONING REQUIREMENT.—Not later than 1 year after the date of the enactment of this section, the Administrator shall have stationed a Federal Security Manager at each airport in the United States which is designated by the Department of Transportation as a category X airport.

"(3) RESPONSIBILITIES.—The responsibilities of a Federal Security Manager with respect to an airport shall include the following:

"(A) Receipt of intelligence information relating to aviation security.

"(B) Ensuring and assisting in the development of a comprehensive security plan for the airport—

"(i) which establishes responsibilities of each such air carrier and airport operator with respect to air transportation security at the airport; and

"(ii) which includes measures to be taken during periods of normal airport operations and during periods when there is a need for additional airport security, as determined by the Federal Security Manager, and identifies the persons responsible for carrying out such measures.

"(C) Oversight and enforcement of implementation by air carriers and airport operators of Federal security requirements, including the comprehensive plan developed pursuant to subparagraph (B).

"(D) Serving as the on-site coordinator of the response of the Federal Aviation Administration to terrorist incidents and threats at the airport.

"(E) Coordination of day-to-day Federal activities relating to aviation security at the airport.

"(F) Coordination with local law enforcement efforts relating to aviation security.

"(G) Coordination of activities with Federal Security Managers at other airports, as appropriate.

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Federal Security Manager shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) NONDUPLICATION OF FUNCTIONS.—When a Federal Security Manager is designated or stationed at an airport, the Civil Aviation Security Field Officer shall not be assigned security responsibilities at such airport.

"(b) FOREIGN SECURITY LIAISON OFFICERS.—

"(1) ESTABLISHMENT OF POSITION.—Not later than 90 days after the date of the enactment of this section, the Administrator shall establish the position of Foreign Security Liaison Officer for each airport outside the United States at which the Administrator determines that such an Officer is necessary for air transportation security and, in coordination with the Secretary of State, shall begin assigning such Officers.

"(2) 2-YEAR REQUIREMENT.—Not later than 2 years after the date of the enactment of this section, the Administrator, in coordination with the Secretary of State, shall assign Foreign Security Liaison Officers for airports outside the United States where extraordinary security measures are in place. The Secretary of State shall give high priority to the stationing of such officers.

"(3) RESPONSIBILITIES.—A Foreign Security Liaison Officer shall be responsible (A) for serving as the liaison of the Assistant Administrator for Civil Aviation Security with foreign security authorities (including foreign governments and airport authorities) with respect to implementation of Federal security requirements at the airport, and (B) to the extent practicable, for performing the responsibilities set forth in subsection (a)(3).

"(4) AUTHORITY OF ASSISTANT ADMINISTRATOR.—A Foreign Security Liaison Officer shall report directly to the office of the Assistant Administrator for Civil Aviation Security.

"(5) COORDINATION WITH CHIEF OF UNITED STATES DIPLOMATIC MISSION.—The activities of a Foreign Security Liaison Officer shall be coordinated with the chief of the United States diplomatic mission to which the Officer is assigned. All activities of a Foreign Security Liaison Officer pursuant to this subsection shall be consistent with the authorities of the Secretary of State and the chief of mission to a foreign country under section 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 and section 207 of the Foreign Service Act of 1980.

"(c) LONG-TERM IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this section, the Administrator shall submit to Congress a plan to fully implement the requirements of this section. Such plan shall include a schedule for implementation and an assessment of personnel and funding needs.".

SEC. 105. AIR CARRIER AND AIRPORT SECURITY PERSONNEL.

(a) IN GENERAL.—Section 316 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1357) is amended by adding at the end the following new subsections:

"(g) AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—

"(1) EMPLOYMENT INVESTIGATIONS.—

Regulations.

"(A) IN GENERAL.—In order to ensure the security of aircraft and their passengers, crew, and cargo, the Administrator shall issue regulations to require individuals employed in, and individuals applying for, positions described in subparagraph (B) to be subjected to such employment investigations, including criminal history record check, as the Administrator determines necessary to ensure air transportation security.

"(B) INDIVIDUALS SUBJECT TO EMPLOYMENT INVESTIGATIONS.—An individual shall be subject to an employment investigation under subparagraph (A) if such individual is employed in, or is applying for, a position in which such individual has unescorted access, or may authorize others to have unescorted access, to air carrier or foreign air carrier aircraft, or to secured areas (designated by the Administrator) of United States airports serving air carriers or foreign air carriers.

"(C) REQUIREMENTS OF AIR CARRIERS AND AIRPORT OPERATORS.—Any air carrier, foreign air carrier, or airport operator who employs an individual in a position described in subparagraph (B), or authorizes or contracts for the services of such individual, shall take such actions as may be necessary to ensure that any employment investigation required by the Administrator under subparagraph (A) is performed.

"(2) CRIMINAL HISTORY RECORDS CHECK.—

"(A) IN GENERAL.—If, as part of an employment investigation under paragraph (1)(A), the Administrator requires an identification and criminal history record check of an individual in a position described in paragraph (1)(B) to be conducted by the Attorney General, the Administrator (after consultation with the Attorney General) shall designate persons to obtain and transmit fingerprints to the Attorney General. The costs of any such check shall be paid by the employer of such individual. The Attorney General may for the purposes of this subsection make available the results of any such check to persons designated by the Administrator, after consultation with the Attorney General.

"(B) REGULATIONS.—For purposes of administering this subsection, the Administrator shall prescribe regulations to—

"(i) implement procedures for taking fingerprints; and

Classified information.

"(ii) establish requirements for use of information received from the Attorney General under this subsection in order to limit the dissemination of such information and ensure that such information is used solely for the purposes of this subsection.

"(C) CORRECTION OF CHECK INFORMATION.—An individual who, as part of an employment investigation under paragraph (1)(A), is subject to an identification and criminal history records check shall be provided a copy of any record received from the Attorney General and shall have the right to complete and correct the information contained in such check before any final employment decision is made on account of such check.

"(3) EMPLOYMENT RESTRICTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an air carrier, foreign air carrier, or airport operator shall not employ, or authorize or contract for the services of, any individual in a position described in paragraph (1)(B), if—

"(i) such individual has not been subject to an employment investigation required under paragraph (1)(A); or

"(ii) the results of such investigation establish that such individual in the 10-year period ending on the date of such investigation has been convicted in any jurisdiction of a crime set forth in section 902 (b), (c), (h), (i), (j), (k), (l), (m), (n), (q), or (r); a crime set forth in section 32 of title 18, United States Code; murder; assault with intent to murder; espionage; sedition; treason; rape; kidnapping; unlawful possession, sale, distribution, or manufacture of an explosive or weapon; extortion; armed robbery; distribution of, or intent to distribute, a controlled substance; or conspiracy to commit any of the aforementioned criminal acts.

The Administrator may specify other factors which the Administrator determines to be sufficient to make an individual ineligible for employment in a position described in paragraph (1)(B).

"(B) EXCEPTION.—It shall not be a violation of subparagraph (A) for an air carrier, foreign air carrier, or airport operator to employ, or authorize or contract for employment of, an individual in a position described in paragraph (1)(B) who has not been subject to an employment investigation required by paragraph (1)(A), if the employment of such individual is carried out pursuant to a plan approved by the Administrator which provides alternate security arrangements.

"(4) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as requiring investigations or record checks where such investigations or record checks are prohibited by applicable laws of a foreign government.

"(5) FEES AND CHARGES.—The Administrator and the Attorney General shall establish reasonable fees and charges to cover expenses incurred in carrying out this subsection. The amount of fees collected under this paragraph shall be credited to the accounts in the Treasury from which such expenses were incurred and shall be available to the Administrator and the Attorney General for paying expenses for which such fees are collected.

"(h) EMPLOYMENT STANDARDS.—Not later than 270 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the hiring, continued employment, and contracting of air carrier and, as appropriate, airport security personnel. Such standards shall include—

"(1) minimum training requirements for new employees;

"(2) retraining requirements;

"(3) minimum staffing levels;

"(4) minimum language skills; and

"(5) minimum education levels for employees, as appropriate.

"(i) HUMAN FACTORS.—The Administrator, in coordination with air carriers, airport operators, and other interested persons shall review issues relating to human performance in the aviation security system with the goal of maximizing such performance. Upon completion of the review, the Administrator shall recommend guidelines and prescribe appropriate changes to existing procedures to improve such performance.

"(j) TRAINING OF AIR CARRIER AND AIRPORT SECURITY PERSONNEL.—Not later than 180 days after the date of the enactment of this subsection, the Administrator shall prescribe standards for the education and training of—

"(1) ground security coordinators;

"(2) security supervisory personnel; and

"(3) airline pilots as in-flight security coordinators.

Such standards shall include initial training, retraining, and continuing education requirements and methods by which the performance of ground security coordinators and security supervisory personnel shall be measured annually.

"(k) FOREIGN AIR CARRIER SECURITY PROGRAMS.—

"(1) CONTINUATION OF EXISTING APPROVAL REQUIREMENT.—The Administrator shall continue in effect the requirement of section 129.25 of title 14, Code of Federal Regulations, that foreign air carriers must adopt and use a security program approved by the Administrator.

"(2) LEVEL OF PROTECTION.—The Administrator may approve a security program of a foreign air carrier under the requirement referred to in paragraph (1) only if the Administrator finds that the security program provides passengers of the foreign air carrier with a similar level of protection as such passengers would receive under the security programs of air carriers serving the same airports. The Administrator shall require foreign air carriers to employ procedures equivalent to those required of air carriers serving the same airport if the Administrator determines that such procedures are necessary to afford a similar level of protection as is afforded passengers of the air carriers serving the same airport.

"(3) REVIEW OF EXISTING PROGRAMS.—Not later than 1 year after the date of the enactment of this subsection, the Administrator shall take such action as may be necessary to ensure that a security program of a foreign air carrier approved by the Administrator before such date of enactment meets the requirement of paragraph (2).

"(4) ANNUAL REPORT.—The Administrator shall submit to Congress as part of the annual report required by section 315(a) an assessment of the steps being taken, and the progress being made, in ensuring that foreign air carrier security programs for airports outside the United States—

"(A) at which the Administrator determines that a Foreign Security Liaison Officer is necessary for air transportation security, and

"(B) for which extraordinary security measures are in place,

are in compliance with this subsection.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading:

"Sec. 316. Air transportation security."

is amended by adding at the end thereof the following:

"(g) Air carrier and airport security personnel.
"(h) Employment standards.
"(i) Human factors.
"(j) Training of air carrier and airport security personnel.
"(k) Foreign air carrier security programs.".

(c) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall issue regulations implementing subsection (k)(2) of the Federal Aviation Act of 1958 (49 U.S.C. 1357), as inserted by subsection (a) of this section. 49 USC app. 1357 note.

SEC. 106. ASSESSMENT OF THREATS TO DOMESTIC AIRPORT SECURITY. 49 USC app. 1357 note.

(a) GENERAL ASSESSMENT.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly conduct an assessment of current and potential threats to the domestic air transportation system. Such assessment shall include consideration of the extent to which there are individuals with the capability and intent to carry out terrorist or related unlawful acts against the domestic aviation system and the methods by which such individuals might carry out such acts.

(b) ANALYSIS AND MONITORING.—The Administrator of the Federal Aviation Administration and the Director of the Federal Bureau of Investigation shall jointly determine and implement the most effective method for continually analyzing and monitoring security threats to the domestic air transportation system.

(c) ASSESSMENTS WITH RESPECT TO INDIVIDUAL AIRPORTS.—In coordination with the Federal Bureau of Investigation, the Administrator of the Federal Aviation Administration shall conduct periodic threat and vulnerability assessments with respect to the security of individual airports which are part of the domestic air transportation system. Each such assessment shall include consideration of—

(1) the adequacy of security procedures with respect to the handling and transport of checked baggage, cargo, and mail;
(2) space requirements for security personnel and equipment;
(3) separation of screened and unscreened passengers, baggage, cargo, and mail;
(4) separation of the controlled and uncontrolled areas of airport facilities; and
(5) coordination of the activities of security personnel of the United States Customs Service, the Immigration and Naturalization Service, the Federal Aviation Administration, air carriers, and of other law enforcement personnel.

(d) REPORTS TO CONGRESS.—The Administrator of the Federal Aviation Administration shall transmit to Congress for each of calendar years 1991 and 1992 an annual report on the progress being made and the problems occurring in implementation of this section, together with recommendations for improving domestic air transportation security.

(e) REMEDYING SECURITY DEFICIENCIES.—The Administrator of the Federal Aviation Administration shall take such actions as may be necessary to improve domestic air transportation security by remedying any deficiencies in such security discovered as a result of the assessments, analyses, and monitoring conducted under this section.

(f) SURVEY.—In developing airport construction guidelines under subsection (d) of section 612 of the Federal Aviation Act of 1958, as

added by section 110 of this Act, the Administrator shall take into consideration the results of the assessment conducted under subsection (a) of this section.

SEC. 107. RESEARCH AND DEVELOPMENT.

49 USC app. 1357.

Section 316(d) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1351(d)) is amended by adding at the end the following new paragraphs:

"(3) PROGRAM TO ACCELERATE RESEARCH.—

"(A) IN GENERAL.—The Administrator shall establish and carry out a program to accelerate and expand the research, development, and implementation of technologies and procedures to counteract terrorist acts against civil aviation.

Explosives.

"(B) REVIEW OF THREATS.—Not later than 180 days after the date of the enactment of this paragraph, the Administrator shall complete an intensive review of threats to civil aviation, with particular focus on—

"(i) the explosive materials which present the most significant threat to civil aircraft;

"(ii) the minimum amounts, configurations, and types of explosive material which would reasonably be expected to cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iii) the minimum amounts, configurations, and types of explosive material which can cause catastrophic damage to commercial aircraft in service and expected to be in service in the 10-year period beginning on such date;

"(iv) the amounts, configurations, and types of explosive material which can reliably be detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(v) the feasibility of employing various methods to minimize damage caused by explosive materials which cannot be reliably detected by existing, or reasonably anticipated, near-term explosive detection technologies;

"(vi) the ability to screen such different entities as passengers, carry-on baggage, checked baggage, mail, and cargo; and

"(vii) the technologies which might be used in the future to attempt to destroy or otherwise threaten commercial aircraft and the methods by which such technologies can be effectively countered.

"(C) USE OF RESULTS.—The results of such review shall be used by the Administrator in developing the focus and priorities of the program established under this paragraph.

"(D) DESIGN AND IMPLEMENTATION.—In designing and implementing the program established under this paragraph, the Administrator shall—

"(i) consult and coordinate with other Federal agencies conducting similar research;

"(ii) identify Federal agencies which would benefit from such research; and

"(iii) seek cost-sharing agreements with such Federal agencies.

"(4) PURPOSE.—It shall be the purpose of the program established under paragraph (3) to develop and have in place not later than 36 months after the date of the enactment of this paragraph such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

"(5) HUMAN FACTORS.—The program established under paragraph (3) shall include research and development of both technological improvements and ways to enhance human performance.

"(6) GRANTS AND COOPERATIVE AGREEMENTS.—Amounts appropriated for each fiscal year under paragraph (9) shall be made available by the Administrator, by way of grants, to colleges, universities, and other appropriate research institutions and facilities with demonstrated ability to conduct research described in paragraph (3). Such grants shall be in such amounts, and subject to such terms and conditions, as the Administrator may prescribe. The Administrator may also enter into such cooperative agreements with such governmental entities as the Administrator considers appropriate.

"(7) REVIEW.—In administration of the program established under paragraph (3), the Administrator shall review and consider the annual reports of the Secretary of Transportation submitted to Congress on transportation security and intelligence.

"(8) SCIENTIFIC ADVISORY PANEL.—The Administrator shall establish a scientific advisory panel, as a subcommittee of the Research, Engineering and Development Advisory Committee, for the purpose of reviewing, commenting on, and advising the Administrator on the progress of, and any necessary modifications to, the programs established under paragraph (3), including the need for long-range research programs to detect and prevent catastrophic damage to commercial aircraft by the next generation of terrorist weapons. The panel shall consist of individuals with scientific and technical expertise in— Establishment.

"(A) the development and testing of effective explosive-detection systems;

"(B) aircraft structure and experimentation to determine the type and minimum weights of explosives which an effective technology must be capable of detecting;

"(C) technologies involved in the minimization of airframe damage to aircraft from explosives; and

"(D) such other scientific and technical areas as are considered appropriate by the Administrator.

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Airport and Airway Trust Fund, after completion of the review required by paragraph (3)(B), such sums as may be necessary for the purpose of carrying out the grant program established by paragraph (6).".

SEC. 108. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT.

Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

"SEC. 320. DEPLOYMENT OF EXPLOSIVE DETECTION EQUIPMENT. 49 USC app. 1358c.

"(a) GENERAL RULE.—No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of

title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

"(b) DEADLINE FOR COMPLETION OF TESTS.—The tests referred to be in subsection (a) shall be completed not later than 18 months after the date of the enactment of this section.

"(c) LIMITED AUTHORITY FOR INTERIM DEPLOYMENT.—Before completion of the tests referred to in subsection (a), but in no event later than 18 months after the date of the enactment of this section, the Administrator may require the deployment of explosive detection equipment referred to in subsection (a) if the Administrator determines that such deployment shall significantly enhance aviation security. In making such determination, the Administrator shall take into consideration, but not be limited to, such factors as the ability of such equipment alone or as part of an integrated system to detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material that would likely be used to cause catastrophic damage to commercial aircraft. The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives of a deployment decision made pursuant to this subsection.

"(d) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as prohibiting the Administrator from purchasing or deploying explosive detection equipment referred to in subsection (a).".

SEC. 109. THREATS TO CIVIL AVIATION; PUBLIC NOTIFICATION.

(a) IN GENERAL.—Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341-1358) is further amended by adding at the end the following new section:

49 USC app. 1358d.

"SEC. 321. REPORTING OF THREATS TO CIVIL AVIATION.

"(a) IN GENERAL.—Pursuant to such guidelines as the Secretary of Transportation shall establish, an air carrier, airport operator, ticket agent, or individual employed by such an entity, receiving information, other than through a communication directed by the Federal Government, of a threat to civil aviation, shall promptly provide such information to the Secretary or the designee of the Secretary.

"(b) FLIGHT CANCELLATIONS.—In the event that a determination is made that a particular threat to civil aviation cannot be addressed in a manner adequate to ensure, to the extent feasible, the safety of the passengers and crew of a particular flight or series of flights, the Administrator shall order the cancellation of such flight or series of flights.

"(c) NOTIFICATION GUIDELINES.—

President.

"(1) PUBLIC NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the President shall develop guidelines for ensuring notification to the public of threats to civil aviation in appropriate cases.

"(2) FLIGHT AND CABIN CREW NOTIFICATION GUIDELINES.—Not later than 180 days after the date of the enactment of this section, the Administrator shall develop guidelines for ensuring notification of the flight and cabin crews of an air carrier flight of threats to the security of such flight in appropriate cases.

"(d) RESPONSIBILITIES.—The guidelines developed under subsection (c)(1) shall identify officials responsible for—

"(1) determining, on a case-by-case basis, if public notification of a threat is in the best interest of the United States and the traveling public;

"(2) ensuring that public notification, when considered appropriate, is made in a timely and effective manner, including the use of a toll-free telephone number; and

"(3) canceling the departure of a flight or series of flights under subsection (b).

"(e) CRITERIA.—The guidelines developed pursuant to subsection (c)(1) shall provide for the consideration of—

"(1) the specificity of the threat;

"(2) the credibility of intelligence information related to the threat;

"(3) the ability to effectively counter the threat;

"(4) the protection of intelligence information sources and methods;

"(5) cancellation, by an air carrier or the Administrator, of a flight or series of flights instead of public notification;

"(6) the ability of passengers and crew to take steps to reduce the risk to their safety as a result of any notification; and

"(7) such other factors as the Administrator considers appropriate.

"(f) SELECTIVE NOTIFICATION PROHIBITED.—In no event shall there be notification of a threat to civil aviation to only selective potential travelers unless such threat applies only to them.

"(g) DISTRIBUTION.—The guidelines developed pursuant to subsection (c) shall be distributed for use by appropriate officials of the Department of Transportation, the Department of State, the Department of Justice, and air carriers.

"(h) ACCESS TO INFORMATION.—The Administrator, in cooperation with agencies involved in the collection, receipt, and analysis of intelligence information relating to aviation security, shall develop procedures to minimize the number of individuals having access to threat information. Any restrictions adopted pursuant to this subsection shall not diminish the ability of the Federal Government to effectively discharge its responsibilities relating to aviation security, including notification of the public and flight and cabin crews under subsection (c).".

(b) CONFORMING AMENDMENTS TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 relating to title III of such Act is amended by inserting after the item relating to section 317 the following new items:

"Sec. 318. Assistant Administrator of Civil Aviation Security.
"(a) Establishment of position.
"(b) Authority of Administrator.
"(c) Responsibilities.
"(d) Measures to strengthen air transportation security.
"Sec. 319. Federal Security Managers and Foreign Security Liaison Officers.
"(a) Federal Security Managers.
"(b) Foreign Security Liaison Officers.

"(c) Long-term implementation plan.
"Sec. 320. Deployment of explosive detection equipment.
"Sec. 321. Reporting of threats to civil aviation.
"(a) In general.
"(b) Flight cancellations.
"(c) Notification guidelines.
"(d) Responsibilities.
"(e) Criteria.
"(f) Selective notification prohibited.
"(g) Distribution.
"(h) Access to information.".

SEC. 110. AIRPORT CONSTRUCTION GUIDELINES.

(a) IN GENERAL.—Section 612 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1432) is amended by adding at the end the following new subsection:

"(d) AIRPORT CONSTRUCTION GUIDELINES.—The Administrator, in consultation with airport authorities, air carriers, and such others as the Administrator considers appropriate, shall develop guidelines for airport design and construction to allow for maximum security enhancement.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the side heading:

"Sec. 612. Airport operating certificates."

is amended by adding at the end thereof the following:

"(d) Airport construction guidelines.".

49 USC app. 1358d note.

SEC. 111. INTELLIGENCE.

(a) INTERNATIONAL TERRORISM REPORTING.—Not later than 180 days after the date of the enactment of this Act, the heads of the agencies of the intelligence community shall promulgate policies and procedures to ensure that intelligence reports concerning international terrorism are made available, as appropriate, to other members of the intelligence community, the Department of Transportation, and the Federal Aviation Administration.

(b) STRATEGIC PLANNING.—The intelligence community shall consider placing greater emphasis on strategic intelligence efforts through the establishment of a unit for strategic planning concerning terrorism.

(c) CENTRAL INTELLIGENCE AGENCY LIAISON.—At the request of the Secretary of Transportation, the Director of Central Intelligence shall designate not less than one intelligence officer of the Central Intelligence Agency to serve in a senior staff position in the Office of the Secretary of the Department of Transportation.

(d) REVIEW OF MEMORANDUMS OF UNDERSTANDING.—Not later than 180 days after the date of the enactment of this Act, the intelligence community, the Department of Transportation, and the Federal Aviation Administration shall conduct a review of and, as appropriate, revise all memorandums of understanding and other written working agreements between the intelligence community and the Federal Aviation Administration.

(e) INTELLIGENCE COMMUNITY.—For purposes of this section, the term "intelligence community" means the intelligence and intelligence-related activities of the following agencies of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 112. SCREENING OF MAIL AND CARGO.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine whether additional requirements should be imposed to enhance the security requirements for the transportation of mail and cargo by passenger aircraft.

(b) FACTORS.—In conducting the study under this section, the Administrator shall consider, among other things—

(1) the extent to which it is practicable to require for mail and cargo the same screening procedures as are required for checked baggage;
(2) constitutional limitations on the authority of the United States Government to screen mail;
(3) existing and reasonably anticipated explosive detection technologies capable of screening mail and cargo;
(4) the variation in threat presented by mail and cargo from various locations;
(5) the use of inspection procedures specific to mail and cargo;
(6) the protection, to the extent possible, of the privacy of the senders and recipients of mail;
(7) precise detection of explosive materials which can cause catastrophic damage to commercial aircraft; and
(8) the desirability of not unduly delaying the delivery of mail and cargo.

(c) CONSULTATION REQUIREMENT.—In conducting the study under this section, the Administrator shall consult with the Postmaster General, the Secretary of Defense, and other interested persons.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under this section, together with such legislative and administrative recommendations as the Administrator considers appropriate.

TITLE II—UNITED STATES RESPONSE TO TERRORISM AFFECTING AMERICANS ABROAD

SEC. 201. INTERNATIONAL NEGOTIATIONS CONCERNING AVIATION SECURITY. 22 USC 5501.

(a) UNITED STATES POLICY.—It is the policy of the United States—

(1) to seek bilateral agreements to achieve United States aviation security objectives with foreign governments;

(2) to continue to press vigorously for security improvements through the Foreign Airport Security Act and the foreign airport assessment program; and

(3) to continue to work through the International Civil Aviation Organization to improve aviation security internationally.

(b) NEGOTIATIONS FOR AVIATION SECURITY.—(1) The Department of State, in consultation with the Department of Transportation, shall be responsible for negotiating requisite aviation security agreements with foreign governments concerning the implementation of United States rules and regulations which affect the foreign operations of United States air carriers, foreign air carriers, and foreign international airports. The Secretary of State is directed to enter, expeditiously, into negotiations for bilateral and multilateral agreements—

(A) for enhanced aviation security objectives;

(B) to implement the Foreign Airport Security Act and the foreign airport assessment program to the fullest extent practicable; and

(C) to achieve improved availability of passenger manifest information.

(2) A principal objective of bilateral and multilateral negotiations with foreign governments and the International Civil Aviation Organization shall be improved availability of passenger manifest information.

22 USC 5502.

SEC. 202. COORDINATOR FOR COUNTERTERRORISM.

The Coordinator for Counterterrorism shall be responsible for the coordination of international aviation security for the Department of State.

SEC. 203. PASSENGER MANIFEST.

(a) MANDATORY AVAILABILITY OF PASSENGER MANIFEST.—Section 410 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1380) is amended to read as follows:

"SEC. 410. PASSENGER MANIFEST.

"(a) REQUIREMENT.—Not later than 120 days after the date of the enactment of this section, the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State—

"(1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or

"(2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

"(b) CONTENTS.—For purposes of this section, a passenger manifest should include the following information:

"(1) The full name of each passenger.

"(2) The passport number of each passenger, if required for travel.

"(3) The name and telephone number of a contact for each passenger.".

49 USC app. 1380 note.

(b) IMPLEMENTATION.—In implementing the requirement pursuant to the amendment made by subsection (a) of this section, the Sec-

retary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to such requirement.

(c) FOREIGN AIR CARRIERS.—The Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed pursuant to the amendment made by subsection (a).

(d) INFORMATION FROM UNITED STATES PASSPORTS.—Notwithstanding any other provision of law, to the extent provided in appropriation Acts, for each fiscal year not more than $5,000,000 in passport fees collected by the Department of State may be credited to a Department of State account. Amounts credited to such account shall be available only for the costs associated with the acquisition and production of machine-readable United States passports and visas and compatible reading equipment. Amounts credited to such account are authorized to remain available until expended.

(e) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking the item relating to section 410 and inserting the following:

"Sec. 410. Passenger manifest.".

SEC. 204. DEPARTMENT OF STATE NOTIFICATION OF FAMILIES OF VICTIMS. 22 USC 5503.

(a) DEPARTMENT OF STATE POLICY.—It is the policy of the Department of State pursuant to section 43 of the State Department Basic Authorities Act to directly and promptly notify the families of victims of aviation disasters abroad concerning citizens of the United States directly affected by such a disaster, including timely written notice. The Secretary of State shall ensure that such notification by the Department of State is carried out notwithstanding notification by any other person.

(b) DEPARTMENT OF STATE GUIDELINES.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such regulations, guidelines, and circulars as are necessary to ensure that the policy under subsection (a) is fully implemented. Regulations.

SEC. 205. DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON AND TOLL-FREE FAMILY COMMUNICATIONS SYSTEM. 22 USC 5504.

(a) DESIGNATION OF STATE DEPARTMENT-FAMILY LIAISON.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an aviation disaster directly involving United States citizens abroad, if possible, the Department of State will assign a specific individual, and an alternate, as the Department of State liaison for the family of each such citizen. Regulations.

(b) TOLL-FREE COMMUNICATIONS SYSTEM.—In the establishment of the Department of State toll-free communications system to facilitate inquiries concerning the affect of any disaster abroad on United States citizens residing or traveling abroad, the Secretary of State shall ensure that a toll-free telephone number is reserved for the exclusive use of the families of citizens who have been determined to be directly involved in any such disaster.

22 USC 5505.

SEC. 206. DISASTER TRAINING FOR STATE DEPARTMENT PERSONNEL.

(a) ADDITIONAL TRAINING.—The Secretary of State shall institute a supplemental program of training in disaster management for all consular officers.

(b) TRAINING IMPROVEMENTS.—

(1) In expanding the training program under subsection (a), the Secretary of State shall consult with death and bereavement counselors concerning the particular demands posed by aviation tragedies and terrorist activities.

(2) In providing such additional training under subsection (a) the Secretary of State shall consider supplementing the current training program through—

(A) providing specialized training to create a team of "disaster specialists" to deploy immediately in a crisis; or

(B) securing outside experts to be brought in during the initial phases to assist consular personnel.

Regulations.
22 USC 5506.

SEC. 207. DEPARTMENT OF STATE RESPONSIBILITIES AND PROCEDURES AT INTERNATIONAL DISASTER SITE.

(a) DISPATCH OF SENIOR STATE DEPARTMENT OFFICIAL TO SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international disaster, particularly an aviation tragedy, directly involving significant numbers of United States citizens abroad not less than one senior officer from the Bureau of Consular Affairs of the Department of State shall be dispatched to the site of such disaster.

(b) CRITERIA FOR DEPARTMENT OF STATE STAFFING AT DISASTER SITE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate criteria for Department of State staffing of disaster sites abroad. Such criteria shall define responsibility for staffing decisions and shall consider the deployment of crisis teams under subsection (d). The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement criteria developed pursuant to this subsection.

(c) STATE DEPARTMENT OMBUDSMAN.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and guidelines as are necessary to provide that in the event of an international aviation disaster involving significant numbers of United States citizens abroad not less than one officer or employee of the Department of State shall be dispatched to the disaster site to provide on-site assistance to families who may visit the site and to act as an ombudsman in matters involving the foreign local government authorities and social service agencies.

(d) CRISIS TEAMS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate procedures for the deployment of a "crisis team", which may include public affairs, forensic, and bereavement experts, to the site of any international disaster involving United States citizens abroad to augment in-country Embassy and consulate staff. The Secretary of State shall promptly issue such rules and guidelines as are necessary to implement procedures developed pursuant to this subsection.

SEC. 208. RECOVERY AND DISPOSITION OF REMAINS AND PERSONAL EFFECTS. 22 USC 5507.

It is the policy of the Department of State (pursuant to section 43 of the State Department Basic Authorities Act) to provide liaison with foreign governments and persons and with United States air carriers concerning arrangements for the preparation and transport to the United States of the remains of citizens who die abroad, as well as the disposition of personal effects. The Secretary of State shall ensure that regulations and guidelines of the Department of State reflect such policy and that such assistance is rendered to the families of United States citizens who are killed in terrorist incidents and disasters abroad. Regulations.

SEC. 209. ASSESSMENT OF LOCKERBIE EXPERIENCE. Scotland. 22 USC 5508.

(a) ASSESSMENT.—The Secretary of State shall compile an assessment of the Department of State response to the Pan American Airways Flight 103 aviation disaster over Lockerbie, Scotland, on December 21, 1988.

(b) GUIDELINES.—The Secretary of State shall establish, based on the assessment compiled under subsection (a) and other relevant factors, guidelines for future Department of State responses to comparable disasters and shall distribute such guidelines to all United States diplomatic and consular posts abroad.

SEC. 210. OFFICIAL DEPARTMENT OF STATE RECOGNITION. 22 USC 5509.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall promulgate guidelines for appropriate ceremonies or other official expressions of respect and support for the families of United States citizens who are killed through acts of terrorism abroad.

SEC. 211. UNITED STATES GOVERNMENT COMPENSATION FOR VICTIMS OF TERRORISM. 22 USC 5510.

(a) COMPENSATION.—The President shall submit to the Congress, not later than one year after the date of the enactment of this Act, recommendations on whether or not legislation should be enacted to authorize the United States to provide monetary and tax relief as compensation to United States citizens who are victims of terrorism. President.

(b) BOARD.—The President may establish a board to develop criteria for compensation and to recommend changes to existing laws to establish a single comprehensive approach to victim compensation for terrorist acts.

(c) INCOME TAX BENEFIT FOR VICTIMS OF LOCKERBIE TERRORISM.—

(1) IN GENERAL.—Subject to paragraph (2), in the case of any individual whose death was a direct result of the Pan American Airways Flight 103 terrorist disaster over Lockerbie, Scotland, on December 21, 1988, any tax imposed by subtitle A of the Internal Revenue Code of 1986 shall not apply—

(A) with respect to the taxable year which includes December 21, 1988, and

(B) with respect to the prior taxable year.

(2) LIMITATION.—In no case may the tax benefit pursuant to paragraph (1) for any taxable year, for any individual, exceed an amount equal to 28 percent of the annual rate of basic pay at Level V of the Executive Schedule of the United States as of December 21, 1988.

22 USC 5511. Regulations.

SEC. 212. OVERSEAS SECURITY ELECTRONIC BULLETIN BOARD.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State shall issue such rules and regulations as may be necessary to establish, under the Bureau of Consular Affairs, an electronic bulletin board accessible to the general public. Such bulletin board shall contain all information, updated daily, which is available on the Overseas Security Electronic Bulletin Board of the Bureau of Diplomatic Security.

SEC. 213. ANTITERRORISM ASSISTANCE.

Appropriation authorization.

(a) AVIATION SECURITY.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $7,000,000 for fiscal year 1991 for aviation security assistance under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.), relating to antiterrorism assistance.

22 USC 2349aa-2.

(b) TRAINING SERVICES.—Section 573 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa2) is amended in subsection (d) by striking out paragraphs (1), (2), and (3) and inserting in lieu thereof the following new paragraphs:

"(1) Training services (including short term refresher training) provided pursuant to this chapter may be conducted outside the United States only if—

"(A) the training to be conducted outside the United States will be provided during a period of not more than 30 days;

"(B) such training relates to—

"(i) aviation security;

"(ii) crisis management;

"(iii) document screening techniques;

"(iv) facility security;

"(v) maritime security;

"(vi) VIP protection; or

"(vii) the handling of detector dogs, except that only short term refresher training may be provided under this clause; and

"(C) at least 15 days before such training is to begin, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in accordance with the procedures applicable to reprogramming notifications.

Government employees. Foreign relations.

"(2) Personnel of the United States Government authorized to advise eligible foreign countries on antiterrorism matters shall carry out their responsibilities, to the maximum extent possible, within the United States. Such personnel may provide advice outside the United States on antiterrorism matters to eligible foreign countries for periods not to exceed 30 consecutive calendar days.

"(3)(A) Except as provided in subparagraph (B), employees of the Department of State shall not engage in the training of law enforcement personnel or the provision of services under this chapter.

"(B) Subparagraph (A) does not apply to training (including short term refresher training) or services provided to law enforcement personnel by employees of the Bureau of Diplomatic Security with regard to crisis management, facility security, or VIP protection.".

SEC. 214. ANTITERRORISM MEASURES. 22 USC 5512.

(a) GUIDELINES FOR INTERNATIONAL AVIATION TRAVELERS.—For the purpose of notifying the public, the Secretary of State, in consultation with the Secretary of Transportation, shall develop and publish guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. Notices concerning such guidelines shall be posted and prominently displayed domestically and abroad in international airports.

(b) DEVELOPMENT OF INTERNATIONAL STANDARDS.—The Secretary of State and the Secretary of Transportation in all appropriate fora, particularly talks and meetings related to international civil aviation, shall enter into negotiations with other nations for the establishment of international standards regarding guidelines for thwarting efforts by international terrorists to enlist the unwitting assistance of international aviation travelers in terrorist activities. International agreements.

(c) PUBLICATION OF REWARDS FOR TERRORISM-RELATED INFORMATION.—For the purpose of notifying the public, the Secretary of State shall publish the availability of United States Government rewards for information on international terrorist-related activities, including rewards available under section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) and chapter 204 of title 18, United States Code. To the extent appropriate and feasible, notices making such publication shall be posted and prominently displayed domestically and abroad in international airports.

(d) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Transportation should take appropriate measures to utilize and train properly the officers and employees of other United States Government agencies who have functions at international airports in the United States and abroad in the detection of explosives and firearms which could be a threat to international civil aviation.

SEC. 215. PROPOSAL FOR CONSIDERATION BY THE INTERNATIONAL CIVIL AVIATION ORGANIZATION. 22 USC 5513.

Not later than 60 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of Transportation, shall propose to the International Civil Aviation Organization the establishment of a comprehensive aviation security program which shall include (1) training for airport security personnel, (2) grants for security equipment acquisition for certain nations, and (3) expansion of the appropriate utilization of canine teams in the detection of explosive devices in all airport areas,

including use in passenger screening areas and nonpublic baggage assembly and processing areas.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 5732:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 23, considered and passed Senate, amended.
Oct. 24, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential statement.

○

Public Law 101-605
101st Congress

An Act

To establish the Florida Keys National Marine Sanctuary, and for other purposes.

Nov. 16, 1990
[H.R. 5909]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Florida Keys National Marine Sanctuary and Protection Act. Conservation. 16 USC 1433 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Florida Keys National Marine Sanctuary and Protection Act".

FINDINGS

16 USC 1433 note.

SEC. 2. The Congress finds and declares the following:

(1) The Florida Keys extend approximately 220 miles southwest from the southern tip of the Florida peninsula.

(2) Adjacent to the Florida Keys land mass are located spectacular, unique, and nationally significant marine environments, including seagrass meadows, mangrove islands, and extensive living coral reefs.

(3) These marine environments support rich biological communities possessing extensive conservation, recreational, commercial, ecological, historical, research, educational, and esthetic values which give this area special national significance.

(4) These environments are the marine equivalent of tropical rain forests in that they support high levels of biological diversity, are fragile and easily susceptible to damage from human activities, and possess high value to human beings if properly conserved.

(5) These marine environments are subject to damage and loss of their ecological integrity from a variety of sources of disturbance.

(6) Vessel groundings along the reefs of the Florida Keys represent one of many serious threats to the continued vitality of the marine environments of the Florida Keys which must be addressed in order to protect their values.

(7) Action is necessary to provide comprehensive protection for these marine environments by establishing a Florida Keys National Marine Sanctuary, by restricting vessel traffic within such Sanctuary, and by requiring promulgation of a management plan and regulations to protect Sanctuary resources.

(8) The agencies of the United States must cooperate fully to achieve the necessary protection of Sanctuary resources.

(9) The Federal Government and the State of Florida should jointly develop and implement a comprehensive program to reduce pollution in the waters offshore the Florida Keys to protect and restore the water quality, coral reefs, and other living marine resources of the Florida Keys environment.

POLICY AND PURPOSE

16 USC 1433 note.

SEC. 3. (a) POLICY.—It is the policy of the United States to protect and preserve living and other resources of the Florida Keys marine environment.

(b) PURPOSE.—The purpose of this Act is to protect the resources of the area described in section 5(b), to educate and interpret for the public regarding the Florida Keys marine environment, and to manage such human uses of the Sanctuary consistent with this Act. Nothing in this Act is intended to restrict activities that do not cause an adverse effect to the resources or property of the Sanctuary or that do not pose harm to users of the Sanctuary.

DEFINITION

16 USC 1433 note.

SEC. 4. As used in this Act, the term "adverse effect" means any factor, force, or action that would independently or cumulatively damage, diminish, degrade, impair, destroy, or otherwise harm—

(1) any Sanctuary resource, as defined in section 302(8) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(8)); or

(2) any of those qualities, values, or purposes for which the Sanctuary is designated.

SANCTUARY DESIGNATION

16 USC 1433 note.

SEC. 5. (a) DESIGNATION.—The area described in subsection (b) is designated as the Florida Keys National Marine Sanctuary (in this Act referred to as the "Sanctuary") under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.). The Sanctuary shall be managed and regulations enforced under all applicable provisions of such title III as if the Sanctuary had been designated under such title.

(b) AREA INCLUDED.—(1) Subject to subsections (c) and (d), the area referred to in subsection (a) consists of all submerged lands and waters, including living marine and other resources within and on those lands and waters, from the mean high water mark to the boundary described under paragraph (2), with the exception of areas within the Fort Jefferson National Monument. The Sanctuary shall be generally identified and depicted on National Oceanic and Atmospheric Administration charts FKNMS 1 and 2, which shall be maintained on file and kept available for public examination during regular business hours at the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration and which shall be updated to reflect boundary modifications under this section.

Records. Public information.

(2) The boundary referred to in paragraph (1)—

(A) begins at the northeasternmost point of Biscayne National Park located at approximately 25 degrees 39 minutes north latitude, 80 degrees 5 minutes west longitude, then runs eastward to the 300-foot isobath located at aproximately 25 degrees 39 minutes north latitude, 80 degrees 4 minutes west longitude;

(B) then runs southward and connects in succession the points at the following coordinates:

(i) 25 degrees 34 minutes north latitude, 80 degrees 4 minutes west longitude,

(ii) 25 degrees 28 minutes north latitude, 80 degrees 5 minutes west longitude, and

(iii) 25 degrees 21 minutes north latitude, 80 degrees 7 minutes west longitude;

(C) then runs southward to the northeastern corner of the existing Key Largo National Marine Sanctuary located at 25 degrees 16 minutes north latitude, 80 degrees 8 minutes west longitude;

(D) then runs southwesterly approximating the 300-foot isobath and connects in succession the points at the following coordinates:

(i) 25 degrees 7 minutes north latitude, 80 degrees 13 minutes west longitude,

(ii) 24 degrees 57 minutes north latitude, 80 degrees 21 minutes west longitude,

(iii) 24 degrees 39 minutes north latitude, 80 degrees 52 minutes west longitude,

(iv) 24 degrees 30 minutes north latitude, 81 degrees 23 minutes west longitude,

(v) 24 degrees 25 minutes north latitude, 81 degrees 50 minutes west longitude,

(vi) 24 degrees 22 minutes north latitude, 82 degrees 48 minutes west longitude,

(vii) 24 degrees 37 minutes north latitude, 83 degrees 6 minutes west longitude,

(viii) 24 degrees 40 minutes north latitude, 83 degrees 6 minutes west longitude,

(ix) 24 degrees 46 minutes north latitude, 82 degrees 54 minutes west longitude,

(x) 24 degrees 44 minutes north latitude, 81 degrees 55 minutes west longitude,

(xi) 24 degrees 51 minutes north latitude, 81 degrees 26 minutes west longitude, and

(xii) 24 degrees 55 minutes north latitude, 80 degrees 56 minutes west longitude;

(E) then follows the boundary of Everglades National Park in a southerly then northeasterly direction through Florida Bay, Buttonwood Sound, Tarpon Basin, and Blackwater Sound;

(F) after Division Point, then departs from the boundary of Everglades National Park and follows the western shoreline of Manatee Bay, Barnes Sound, and Card Sound;

(G) then follows the southern boundary of Biscayne National Park and the northern boundary of Key Largo National Marine Sanctuary to the southeasternmost point of Biscayne National Park; and

(H) then follows the eastern boundary of the Biscayne National Park to the beginning point specified in subparagraph (A).

(c) AREAS WITHIN STATE OF FLORIDA.—The designation under subsection (a) shall not take effect for any area located within the waters of the State of Florida if, not later than 45 days after the date of enactment of this Act, the Governor of the State of Florida objects in writing to the Secretary of Commerce.

(d) BOUNDARY MODIFICATIONS.—No later than the issuance of the draft environmental impact statement for the Sanctuary under section 304(a)(1)(C)(vii) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)(vii)), in consultation with the Governor of the State of Florida, if appropriate, the Secretary of Commerce may make minor modifications to the bound-

aries of the Sanctuary as necessary to properly protect Sanctuary resources. The Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a written notification of such modifications. Any boundary modification made under this subsection shall be reflected on the charts referred to in subsection (b)(1).

PROHIBITION OF CERTAIN USES

16 USC 1433 note.

SEC. 6. (a) VESSEL TRAFFIC.—(1) Consistent with generally recognized principles of international law, a person may not operate a tank vessel (as that term is defined in section 2101 of title 46, United States Code) or a vessel greater than 50 meters in length in the Area To Be Avoided described in the Federal Register notice of May 9, 1990 (55 Fed. Reg. 19418-19419).

(2) The prohibition in paragraph (1) shall not apply to necessary operations of public vessels. For the purposes of this paragraph, necessary operations of public vessels shall include operations essential for national defense, law enforcement, and responses to emergencies that threaten life, property, or the environment.

Regulations.

(3) The provisions of paragraphs (1) and (2), including the area in which vessel operations are prohibited under paragraph (1), may be modified by regulations issued jointly by the Secretary of the department in which the Coast Guard is operating and the Secretary of Commerce.

Effective date.

(4) This subsection shall be effective on the earliest of the following:

(A) the date that is six months after the date of enactment of this Act,

(B) the date of publication of a notice to mariners consistent with this section, or

(C) the date of publication of new nautical charts consistent with this section.

(b) MINERAL AND HYDROCARBON LEASING, EXPLORATION, DEVELOPMENT, AND PRODUCTION.—No leasing, exploration, development, or production of minerals or hydrocarbons shall be permitted within the Sanctuary.

COMPREHENSIVE MANAGEMENT PLAN

Intergovernmental relations. Regulations. 16 USC 1433 note.

SEC. 7. (a) PREPARATION OF PLAN.—The Secretary of Commerce, in consultation with appropriate Federal, State, and local government authorities and with the Advisory Council established under section 208, shall develop a comprehensive management plan and implementing regulations to achieve the policy and purpose of this Act. The Secretary of Commerce shall complete such comprehensive management plan and final regulations for the Sanctuary not later than 30 months after the date of enactment of this Act. In developing the plan and regulations, the Secretary of Commerce shall follow the procedures specified in sections 303 and 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434), except those procedures requiring the delineation of Sanctuary boundaries and development of a resource assessment report. Such comprehensive management plan shall—

(1) facilitate all public and private uses of the Sanctuary consistent with the primary objective of Sanctuary resource protection;

(2) consider temporal and geographical zoning, to ensure protection of Sanctuary resources;

(3) incorporate regulations necessary to enforce the elements of the comprehensive water quality protection program developed under section 8 unless the Secretary of Commerce determines that such program does not meet the purpose for which the Sanctuary is designated or is otherwise inconsistent or incompatible with the comprehensive management plan developed under this section;

(4) identify needs for research and establish a long-term ecological monitoring program;

(5) identify alternative sources of funding needed to fully implement the plan's provisions and supplement appropriations under section 9 of this Act and section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444).

(6) ensure coordination and cooperation between Sanctuary managers and other Federal, State, and local authorities with jurisdiction within or adjacent to the Sanctuary;

(7) promote education, among users of the Sanctuary, about coral reef conservation and navigational safety; and

(8) incorporate the existing Looe Key and Key Largo National Marine Sanctuaries into the Florida Keys National Marine Sanctuary except the Looe Key and Key Largo Sanctuaries shall continue to be operated until completion of the comprehensive management plan for the Florida Keys Sanctuary.

(b) PUBLIC PARTICIPATION.—The Secretary of Commerce shall provide for participation by the general public in development of the comprehensive management plan.

(c) TERMINATION OF STUDIES.—On the date of enactment of this Act, all congressionally mandated studies of existing areas in the Florida Keys for designation as National Marine Sanctuaries shall be terminated.

FLORIDA KEYS WATER QUALITY

SEC. 8. (a) WATER QUALITY PROTECTION PROGRAM.—(1) Not later than 18 months after the date of enactment of this Act, the Administrator of the Environmental Protection Agency and the Governor of the State of Florida, in consultation with the Secretary of Commerce, shall develop a comprehensive water quality protection program for the Sanctuary. If the Secretary of Commerce determines that such comprehensive water quality protection program does not meet the purpose for which the Sanctuary is designated or is otherwise inconsistent or incompatible with the comprehensive management plan prepared under section 7, such water quality program shall not be included in the comprehensive management plan. The purposes of such water quality program shall be to— 16 USC 1433 note.

(A) recommend priority corrective actions and compliance schedules addressing point and nonpoint sources of pollution to restore and maintain the chemical, physical, and biological integrity of the Sanctuary, including restoration and maintenance of a balanced, indigenous population of corals, shellfish, fish and wildlife, and recreational activities in and on the water; and

(B) assign responsibilities for the implementation of the program among the Governor, the Secretary of Commerce, and the

Administrator in accordance with applicable Federal and State laws.

(2) The program required by paragraph (1) shall, under applicable Federal and State laws, provide for measures to achieve the purposes described under paragraph (1), including—

(A) adoption or revision, under applicable Federal and State laws, by the State and the Administrator of applicable water quality standards for the Sanctuary, based on water quality criteria which may utilize biological monitoring or assessment methods, to assure protection and restoration of the water quality, coral reefs, and other living marine resources of the Sanctuary;

(B) adoption under applicable Federal and State laws of enforceable pollution control measures (including water quality/based effluent limitations and best management practices) and methods to eliminate or reduce pollution from point and nonpoint sources;

(C) establishment of a comprehensive water quality monitoring program to (i) determine the sources of pollution causing or contributing to existing or anticipated pollution problems in the Sanctuary, (ii) evaluate the effectiveness of efforts to reduce or eliminate those sources of pollution, and (iii) evaluate progress toward achieving and maintaining water quality standards and toward protecting and restoring the coral reefs and other living marine resources of the Sanctuary;

(D) provision of adequate opportunity for public participation in all aspects of developing and implementing the program; and

(E) identification of funding for implementation of the program, including appropriate Federal and State cost sharing arrangements.

(b) COMPLIANCE AND ENFORCEMENT.—The Administrator of the Environmental Protection Agency, the Secretary of Commerce, and the Governor of the State of Florida shall ensure compliance with the program required by this section, consistent with applicable Federal and State laws.

(c) CONSULTATION.—In the development and implementation of the program required by paragraph (1), appropriate State and local government officials shall be consulted.

ADVISORY COUNCIL

Intergovernmental relations.
16 USC 1433 note.

SEC. 9. (a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Governor of the State of Florida and the Board of County Commissioners of Monroe County, Florida, shall establish an Advisory Council to assist the Secretary in the development and implementation of the comprehensive management plan for the Sanctuary.

(b) MEMBERSHIP.—Members of the Advisory Council may be appointed from among (1) Sanctuary managers, (2) members of other government agencies with overlapping management responsibilities for the Florida Keys marine environment, and (3) representatives of local industries, commercial users, conservation groups, the marine scientific and educational community, recreational user groups, or the general public.

(c) EXPENSES.—Members of the Advisory Council shall not be paid compensation for their service as members and shall not be reimbursed for actual and necessary traveling and subsistence ex-

penses incurred by them in the performance of their duties as such members.

(d) ADMINISTRATION.—The Advisory Council shall elect a chairperson and may establish subcommittees, and adopt by-laws, rules, and such other administrative requirements and procedures as are necessary for the administration of its functions.

(e) STAFFING AND OTHER ASSISTANCE.—The Secretary of Commerce shall make available to the Advisory Council such staff, information, and administrative services and assistance as the Secretary of Commerce determines are reasonably required to enable the Advisory Council to carry out its functions.

AUTHORIZATION OF APPROPRIATIONS

16 USC 1433 note.

SEC. 10. (a) AUTHORIZATION FOR SECRETARY OF COMMERCE.—Section 313(2)(C) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444(2)(C)) is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000".

(b) AUTHORIZATION FOR EPA ADMINISTRATOR.—There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $750,000 for each of the fiscal years 1991 and 1992.

(c) REPORT.—The Secretary of Commerce shall, not later than March 1, 1991, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the future requirements for funding the Sanctuary through fiscal year 1999 under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 14321 et seq.).

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 5909:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 26, considered and passed House.
Oct. 27, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks and statement.

○

Public Law 101-606
101st Congress

An Act

To require the establishment of a United States Global Change Research Program aimed at understanding and responding to global change, including the cumulative effects of human activities and natural processes on the environment, to promote discussions toward international protocols in global change research, and for other purposes.

Nov. 16, 1990
[S. 169]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Global Change Research Act of 1990.
15 USC 2921 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Global Change Research Act of 1990".

15 USC 2921.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "Committee" means the Committee on Earth and Environmental Sciences established under section 102;

(2) "Council" means the Federal Coordinating Council on Science, Engineering, and Technology;

(3) "global change" means changes in the global environment (including alterations in climate, land productivity, oceans or other water resources, atmospheric chemistry, and ecological systems) that may alter the capacity of the Earth to sustain life;

(4) "global change research" means study, monitoring, assessment, prediction, and information management activities to describe and understand—

(A) the interactive physical, chemical, and biological processes that regulate the total Earth system;

(B) the unique environment that the Earth provides for life;

(C) changes that are occurring in the Earth system; and

(D) the manner in which such system, environment, and changes are influenced by human actions;

(5) "Plan" means the National Global Change Research Plan developed under section 104, or any revision thereof; and

(6) "Program" means the United States Global Change Research Program established under section 103.

TITLE I—UNITED STATES GLOBAL CHANGE RESEARCH PROGRAM

15 USC 2931.

SEC. 101. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress makes the following findings:

(1) Industrial, agricultural, and other human activities, coupled with an expanding world population, are contributing to processes of global change that may significantly alter the Earth habitat within a few human generations.

(2) Such human-induced changes, in conjunction with natural fluctuations, may lead to significant global warming and thus

alter world climate patterns and increase global sea levels. Over the next century, these consequences could adversely affect world agricultural and marine production, coastal habitability, biological diversity, human health, and global economic and social well-being.

(3) The release of chlorofluorocarbons and other stratospheric ozone-depleting substances is rapidly reducing the ability of the atmosphere to screen out harmful ultraviolet radiation, which could adversely affect human health and ecological systems.

(4) Development of effective policies to abate, mitigate, and cope with global change will rely on greatly improved scientific understanding of global environmental processes and on our ability to distinguish human-induced from natural global change.

(5) New developments in interdisciplinary Earth sciences, global observing systems, and computing technology make possible significant advances in the scientific understanding and prediction of these global changes and their effects.

(6) Although significant Federal global change research efforts are underway, an effective Federal research program will require efficient interagency coordination, and coordination with the research activities of State, private, and international entities.

(b) PURPOSE.—The purpose of this title is to provide for development and coordination of a comprehensive and integrated United States research program which will assist the Nation and the world to understand, assess, predict, and respond to human-induced and natural processes of global change.

SEC. 102. COMMITTEE ON EARTH AND ENVIRONMENTAL SCIENCES. 15 USC 2932.

(a) ESTABLISHMENT.—The President, through the Council, shall establish a Committee on Earth and Environmental Sciences. The Committee shall carry out Council functions under section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651) relating to global change research, for the purpose of increasing the overall effectiveness and productivity of Federal global change research efforts.

(b) MEMBERSHIP.—The Committee shall consist of at least one representative from—

(1) the National Science Foundation;

(2) the National Aeronautics and Space Administration;

(3) the National Oceanic and Atmospheric Administration of the Department of Commerce;

(4) the Environmental Protection Agency;

(5) the Department of Energy;

(6) the Department of State;

(7) the Department of Defense;

(8) the Department of the Interior;

(9) the Department of Agriculture;

(10) the Department of Transportation;

(11) the Office of Management and Budget;

(12) the Office of Science and Technology Policy;

(13) the Council on Environmental Quality;

(14) the National Institute of Environmental Health Sciences of the National Institutes of Health; and

(15) such other agencies and departments of the United States as the President or the Chairman of the Council considers appropriate.

Such representatives shall be high ranking officials of their agency or department, wherever possible the head of the portion of that agency or department that is most revelant to the purpose of the title described in section 101(b).

(c) CHAIRPERSON.—The Chairman of the Council, in consultation with the Committee, biennially shall select one of the Committee members to serve as Chairperson. The Chairperson shall be knowledgeable and experienced with regard to the administration of scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.

(d) SUPPORT PERSONNEL.—An Executive Secretary shall be appointed by the Chairperson of the Committee, with the approval of the Committee. The Executive Secretary shall be a permanent employee of one of the agencies or departments represented on the Committee, and shall remain in the employ of such agency or department. The Chairman of the Council shall have the authority to make personnel decisions regarding any employees detailed to the Council for purposes of working on business of the Committee pursuant to section 401 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6651).

(e) FUNCTIONS RELATIVE TO GLOBAL CHANGE.—The Council, through the Committee, shall be responsible for planning and coordinating the Program. In carrying out this responsibility, the Committee shall—

(1) serve as the forum for developing the Plan and for overseeing its implementation;

(2) improve cooperation among Federal agencies and departments with respect to global change research activities;

(3) provide budgetary advice as specified in section 105;

(4) work with academic, State, industry, and other groups conducting global change research, to provide for periodic public and peer review of the Program;

(5) cooperate with the Secretary of State in—

(A) providing representation at international meetings and conferences on global change research in which the United States participates; and

(B) coordinating the Federal activities of the United States with programs of other nations and with international global change research activities such as the International Geosphere-Biosphere Program;

(6) consult with actual and potential users of the results of the Program to ensure that such results are useful in developing national and international policy responses to global change; and

Reports.

(7) report at least annually to the President and the Congress, through the Chairman of the Council, on Federal global change research priorities, policies, and programs.

President. Establishment. 15 USC 2933.

SEC. 103. UNITED STATES GLOBAL CHANGE RESEARCH PROGRAM.

The President shall establish an interagency United States Global Change Research Program to improve understanding of global change. The Program shall be implemented by the Plan developed under section 104.

SEC. 104. NATIONAL GLOBAL CHANGE RESEARCH PLAN. 15 USC 2934.

(a) IN GENERAL.—The Chairman of the Council, through the Committee, shall develop a National Global Change Research Plan for implementation of the Program. The Plan shall contain recommendations for national global change research. The Chairman of the Council shall submit the Plan to the Congress within one year after the date of enactment of this title, and a revised Plan shall be submitted at least once every three years thereafter.

(b) CONTENTS OF THE PLAN.—The Plan shall—

(1) establish, for the 10-year period beginning in the year the Plan is submitted, the goals and priorities for Federal global change research which most effectively advance scientific understanding of global change and provide usable information on which to base policy decisions relating to global change;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, and information management, required to achieve such goals and priorities;

(3) identify and address, as appropriate, relevant programs and activities of the Federal agencies and departments represented on the Committee that contribute to the Program;

(4) set forth the role of each Federal agency and department in implementing the Plan;

(5) consider and utilize, as appropriate, reports and studies conducted by Federal agencies and departments, the National Research Council, or other entities;

(6) make recommendations for the coordination of the global change research activities of the United States with such activities of other nations and international organizations, including—

(A) a description of the extent and nature of necessary international cooperation;

(B) the development by the Committee, in consultation when appropriate with the National Space Council, of proposals for cooperation on major capital projects;

(C) bilateral and multilateral proposals for improving worldwide access to scientific data and information; and

(D) methods for improving participation in international global change research by developing nations; and

(7) estimate, to the extent practicable, Federal funding for global change research activities to be conducted under the Plan.

(c) RESEARCH ELEMENTS.—The Plan shall provide for, but not be limited to, the following research elements:

(1) Global measurements, establishing worldwide observations necessary to understand the physical, chemical, and biological processes responsible for changes in the Earth system on all relevant spatial and time scales.

(2) Documentation of global change, including the development of mechanisms for recording changes that will actually occur in the Earth system over the coming decades.

(3) Studies of earlier changes in the Earth system, using evidence from the geological and fossil record.

(4) Predictions, using quantitative models of the Earth system to identify and simulate global environmental processes and

trends, and the regional implications of such processes and trends.

(5) Focused research initiatives to understand the nature of and interaction among physical, chemical, biological, and social processes related to global change.

(d) INFORMATION MANAGEMENT.—The Plan shall provide recommendations for collaboration within the Federal Government and among nations to—

(1) establish, develop, and maintain information bases, including necessary management systems which will promote consistent, efficient, and compatible transfer and use of data;

(2) create globally accessible formats for data collected by various international sources; and

(3) combine and interpret data from various sources to produce information readily usable by policymakers attempting to formulate effective strategies for preventing, mitigating, and adapting to the effects of global change.

(e) NATIONAL RESEARCH COUNCIL EVALUATION.—The Chairman of the Council shall enter into an agreement with the National Research Council under which the National Research Council shall—

(1) evaluate the scientific content of the Plan; and

(2) provide information and advice obtained from United States and international sources, and recommended priorities for future global change research.

(f) PUBLIC PARTICIPATION.—In developing the Plan, the Committee shall consult with academic, State, industry, and environmental groups and representatives. Not later than 90 days before the Chairman of the Council submits the Plan, or any revision thereof, to the Congress, a summary of the proposed Plan shall be published in the Federal Register for a public comment period of not less than 60 days.

Federal Register, publication.

15 USC 2935.

SEC. 105. BUDGET COORDINATION.

(a) COMMITTEE GUIDANCE.—The Committee shall each year provide general guidance to each Federal agency or department participating in the Program with respect to the preparation of requests for appropriations for activities related to the Program.

(b) SUBMISSION OF REPORTS WITH AGENCY APPROPRIATIONS REQUESTS.—(1) Working in conjunction with the Committee, each Federal agency or department involved in global change research shall include with its annual request for appropriations submitted to the President under section 1108 of title 31, United States Code, a report which—

(A) identifies each element of the proposed global change research activities of the agency or department;

(B) specifies whether each element (i) contributes directly to the Program or (ii) contributes indirectly but in important ways to the Program; and

(C) states the portion of its request for appropriations allocated to each element of the Program.

(2) Each agency or department that submits a report under paragraph (1) shall submit such report simultaneously to the Committee.

(c) CONSIDERATION IN PRESIDENT'S BUDGET.—(1) The President shall, in a timely fashion, provide the Committee with an opportunity to review and comment on the budget estimate of each

agency and department involved in global change research in the context of the Plan.

(2) The President shall identify in each annual budget submitted to the Congress under section 1105 of title 31, United States Code, those items in each agency's or department's annual budget which are elements of the Program.

SEC. 106. SCIENTIFIC ASSESSMENT. 15 USC 2936.

On a periodic basis (not less frequently than every 4 years), the Council, through the Committee, shall prepare and submit to the President and the Congress an assessment which—

(1) integrates, evaluates, and interprets the findings of the Program and discusses the scientific uncertainties associated with such findings;

(2) analyzes the effects of global change on the natural environment, agriculture, energy production and use, land and water resources, transportation, human health and welfare, human social systems, and biological diversity; and

(3) analyzes current trends in global change, both human-inducted and natural, and projects major trends for the subsequent 25 to 100 years.

SEC. 107. ANNUAL REPORT. 15 USC 2937.

(a) GENERAL.—Each year at the time of submission to the Congress of the President's budget, the Chairman of the Council shall submit to the Congress a report on the activities conducted by the Committee pursuant to this title, including—

(1) a summary of the achievements of the Program during the period covered by the report and of priorities for future global change research;

(2) an analysis of the progress made toward achieving the goals of the Plan;

(3) expenditures required by each agency or department for carrying out its portion of the Program, including—

(A) the amounts spent during the fiscal year most recently ended;

(B) the amounts expected to be spent during the current fiscal year; and

(C) the amounts requested for the fiscal year for which the budget is being submitted.

(b) RECOMMENDATIONS.—The report required by subsection (b) shall include recommendations by the President concerning—

(1) changes in agency or department roles needed to improve implementation of the Plan; and

(2) additional legislation which may be required to achieve the purposes of this title.

SEC. 108. RELATION TO OTHER AUTHORITIES. 15 USC 2938.

(a) NATIONAL CLIMATE PROGRAM RESEARCH ACTIVITIES.—The President, the Chairman of the Council, and the Secretary of Commerce shall ensure that relevant research activities of the National Climate Program, established by the National Climate Program Act (15 U.S.C. 2901 et seq.), are considered in developing national global change research efforts.

(b) AVAILABILITY OF RESEARCH FINDINGS.—The President, the Chairman of the Council, and the heads of the agencies and departments represented on the Committee, shall ensure that the research

findings of the Committee, and of Federal agencies and departments, are available to—

(1) the Environmental Protection Agency for use in the formulation of a coordinated national policy on global climate change pursuant to section 1103 of the Global Climate Protection Act of 1987 (15 U.S.C. 2901 note); and

(2) all Federal agencies and departments for use in the formulation of coordinated national policies for responding to human-induced and natural processes of global change pursuant to other statutory responsibilities and obligations.

(c) EFFECT ON FEDERAL RESPONSE ACTIONS.—Nothing in this title shall be construed, interpreted, or applied to preclude or delay the planning or implementation of any Federal action designed, in whole or in part, to address the threats of stratospheric ozone depletion or global climate change.

TITLE II—INTERNATIONAL COOPERATION IN GLOBAL CHANGE RESEARCH

International Cooperation in Global Change Research Act of 1990.
15 USC 2921 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "International Cooperation in Global Change Research Act of 1990".

15 USC 2951.

SEC. 202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Pooling of international resources and scientific capabilities will be essential to a successful international global change program.

(2) While international scientific planning is already underway, there is currently no comprehensive intergovernmental mechanism for planning, coordinating, or implementing research to understand global change and to mitigate possible adverse effects.

(3) An international global change research program will be important in building future consensus on methods for reducing global environmental degradation.

(4) The United States, as a world leader in environmental and Earth sciences, should help provide leadership in developing and implementing an international global change research program.

(b) PURPOSES.—The purposes of this title are to—

(1) promote international, intergovernmental cooperation on global change research;

(2) involve scientists and policymakers from developing nations in such cooperative global change research programs; and

(3) promote international efforts to provide technical and other assistance to developing nations which will facilitate improvements in their domestic standard of living while minimizing damage to the global or regional environment.

15 USC 2952.

SEC. 203. INTERNATIONAL DISCUSSIONS.

President.

(a) GLOBAL CHANGE RESEARCH.—The President should direct the Secretary of State, in cooperation with the Committee, to initiate discussions with other nations leading toward international protocols and other agreements to coordinate global change research activities. Such discussions should include the following issues:

(1) Allocation of costs in global change research programs, especially with respect to major capital projects.

(2) Coordination of global change research plans with those developed by international organizations such as the International Council on Scientific Unions, the World Meteorological Organization, and the United Nations Environment Program.

(3) Establishment of global change research centers and training programs for scientists, especially those from developing nations.

(4) Development of innovative methods for management of international global change research, including—

(A) use of new or existing intergovernmental organizations for the coordination or funding of global change research; and

(B) creation of a limited foundation for global change research.

(5) The prompt establishment of international projects to—

(A) create globally accessible formats for data collected by various international sources; and

(B) combine and interpret data from various sources to produce information readily usable by policymakers attempting to formulate effective strategies for preventing, mitigating, and adapting to possible adverse effects of global change.

(6) Establishment of international offices to disseminate information useful in identifying, preventing, mitigating, or adapting to the possible effects of global change.

(b) ENERGY RESEARCH.—The President should direct the Secretary of State (in cooperation with the Secretary of Energy, the Secretary of Commerce, the United States Trade Representative, and other appropriate members of the Committee) to initiate discussions with other nations leading toward an international research protocol for cooperation on the development of energy technologies which have minimally adverse effects on the environment. Such discussions should include, but not be limited to, the following issues: President.

(1) Creation of an international cooperative program to fund research related to energy efficiency, solar and other renewable energy sources, and passively safe and diversion-resistant nuclear reactors.

(2) Creation of an international cooperative program to develop low cost energy technologies which are appropriate to the environmental, economic, and social needs of developing nations.

(3) Exchange of information concerning environmentally safe energy technologies and practices, including those described in paragraphs (1) and (2).

SEC. 204. GLOBAL CHANGE RESEARCH INFORMATION OFFICE.

President. Establishment. 15 USC 2953.

Not more than 180 days after the date of enactment of this Act, the President shall, in consultation with the Committee and all relevant Federal agencies, establish an Office of Global Change Research Information. The purpose of the Office shall be to disseminate to foreign governments, businesses, and institutions, as well as the citizens of foreign countries, scientific research information available in the United States which would be useful in preventing, mitigating, or adapting to the effects of global change. Such informa-

tion shall include, but need not be limited to, results of scientific research and development on technologies useful for—

(1) reducing energy consumption through conservation and energy efficiency;

(2) promoting the use of solar and renewable energy sources which reduce the amount of greenhouse gases released into the atmosphere;

(3) developing replacements for chlorofluorocarbons, halons, and other ozone-depleting substances which exhibit a significantly reduced potential for depleting stratospheric ozone;

(4) promoting the conservation of forest resources which help reduce the amount of carbon dioxide in the atmosphere;

(5) assisting developing countries in ecological pest management practices and in the proper use of agricultural, and industrial chemicals; and

(6) promoting recycling and source reduction of pollutants in order to reduce the volume of waste which must be disposed of, thus decreasing energy use and greenhouse gas emissions.

TITLE III—GROWTH DECISION AID

15 USC 2961.

SEC. 301. STUDY AND DECISION AID.

(a) The Secretary of Commerce shall conduct a study of the implications and potential consequences of growth and development on urban, suburban, and rural communities. Based upon the findings of the study, the Secretary shall produce a decision aid to assist State and local authorities in planning and managing urban, suburban, and rural growth and development while preserving community character.

(b) The Secretary of Commerce shall consult with other appropriate Federal departments and agencies as necessary in carrying out this section.

Reports.

(c) The Secretary of Commerce shall submit to the Congress a report containing the decision aid produced under subsection (a) no later than January 30, 1992. The Secretary shall notify appropriate State and local authorities that such decision aid is available on request.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 169:

SENATE REPORTS: No. 101-40 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 6, considered and passed Senate.
Oct. 26, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks.

Public Law 101-607
101st Congress

An Act

To establish in the Department of the Interior the De Soto Expedition Trail Commission, and for other purposes.

Nov. 16, 1990
[S. 555]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

De Soto Expedition Trail Commission Act of 1990. Research. Historic preservation. 16 USC 1244 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "De Soto Expedition Trail Commission Act of 1990".

SEC. 2. FINDINGS AND PURPOSE.

16 USC 1244 note.

(a) FINDINGS.—The Congress finds that—

(1) the 450th anniversary of the De Soto expedition and the 500th anniversary of Columbus' landing provide appropriate times for the commemoration of this aspect of American history;

(2) the expedition of Hernando de Soto was the first major European exploration of the interior of the southeastern United States;

(3) the chronicles of the expedition provide a rare description of the native societies encountered by the expedition;

(4) knowledge gained as a result of the expedition contributed significantly to the subsequent exploration and colonization of the region;

(5) discovery of the first winter encampment in Tallahassee, Florida, is the most recent archeological evidence of the De Soto expedition in the United States;

(6) official commemoration of the De Soto expedition will encourage further archeological and historical research, and increase public awareness of the early historic period of the southeastern United States, including the Native American societies the expedition encountered.

(b) PURPOSE.—The purpose of this Act is to establish a Commission to encourage and direct research, and to coordinate the distribution of interpretive materials to the public, regarding the De Soto expedition, the native societies the expedition encountered, and the effects of that contact.

SEC. 3. ESTABLISHMENT.

16 USC 1244 note.

(a) IN GENERAL.—To carry out the purposes of this Act, there is hereby established in the Department of the Interior the De Soto Expedition Trail Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall exercise its responsibilities and authorities as provided in this Act with respect to that region of the southeastern United States comprising the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee and Texas (hereinafter in this Act referred to as the "involved States"). The Commission shall

State listing.

consist of 19 members, appointed by the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") as follows:

(1) 10 members knowledgable in the history of Spanish-Native American contact, including the history of the De Soto expedition, appointed from recommendations submitted by the Governors of the involved States, of which one shall represent each State;

(2) 4 members with expertise in the history of the De Soto expedition;

(3) 2 members with knowledge of the Native American societies encountered by the De Soto expedition;

(4) 2 members, one of which shall hold the position of Superintendent, De Soto National Memorial, the other of which shall have knowledge of the history of Spanish colonization of the southeastern United States; and

(5) 1 member appointed from recommendations submitted by the Smithsonian Institution.

(b) APPOINTMENT.—All members of the Commission shall be appointed for terms of 4 years.

(c) CHAIRPERSON.—The Commission shall elect a chairperson from among its members. The term of the chairperson shall be 2 years.

(d) TERMS.—Any member of the Commission appointed for a definite term may serve after the expiration of such term until a successor is appointed. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which such member's predecessor was appointed.

(e) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at least biannually or at the call of the chairperson or a majority of its members.

(g) COMPENSATION.—Members of the Commission shall serve without compensation as such. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

16 USC 1244 note.

SEC. 4. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The Commission shall—

(1) assist in the coordination of activities of Federal, State, and local governments and private businesses and organizations in order to further the commemoration of the De Soto expedition;

(2) expeditiously provide the involved States the research performed under section 7 and assist those States in utilizing such research for the public's education;

(3) coordinate the preparation and distribution of interpretive materials relating to the De Soto expedition, including maps and brochures, for the public;

(4) provide advice and assistance to the Secretary with respect to the preparation of contracts and cooperative agreements under section 7; and

(5) consider and provide advice on appropriate means to link together authenticated De Soto expedition and other Spanish Colonial sites.

(b) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary, and to the Committee on Interior and Insular Affairs of the United States House of Representatives and to Committee on Energy and Natural Resources of the United States Senate, describing the activities of the Commission and the status of public interpretive activities and research undertaken pursuant to this Act.

(c) EXPIRATION.—The Commission established pursuant to this Act shall cease to exist 4 years after the date of enactment of this Act.

SEC. 5. STAFF OF THE COMMISSION. 16 USC 1244 note.

(a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall, subject to the availability of appropriations, be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from one or more of the involved States (and any political subdivision thereof) and may reimburse the State(s) or political subdivision(s) for those services.

SEC. 6. POWERS OF THE COMMISSION. 16 USC 1244 note.

(a) IN GENERAL.—The Commission may for the purpose of carrying out the provisions of this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out the purposes of this Act.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) TECHNICAL ADVISORY GROUPS.—The Commission may establish and appoint such technical advisory groups as may be necessary to provide technical advice.

(e) DONATIONS.—Notwithstanding any other provision of law, the Commission may seek and accept donations of funds or services from individuals, foundations, corporations, and other private enti-

ties, and from public entities, for the purpose of carrying out its duties.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

16 USC 1244 note.

SEC. 7. RESEARCH.

The Secretary, in consultation with the Commission, is authorized to enter into contracts or cooperative agreements with qualified researchers for archeological and historical research and field investigations regarding the De Soto expedition. The research and investigation may include research and investigation regarding the location of the expedition route, recovery and preservation of archeological or historical materials, identification of encampment sites, and advancement of knowledge regarding Hernando de Soto, his expedition through the southeastern United States, the native societies inhabiting the region during the period of the expedition and the cross-cultural impact of the expedition on the European and Native Americans societies. Such research shall fully utilize archival resources and be published as promptly as possible.

Florida. 16 USC 1244 note.

SEC. 8. EXPEDITION SITE IN TALLAHASSEE.

The Secretary is authorized to enter into a cooperative agreement with the State of Florida to provide technical assistance for the preservation and interpretation of the De Soto expedition site in Tallahassee, Florida.

16 USC 1244 note.

SEC. 9. TECHNICAL ASSISTANCE.

The Secretary may, in consultation with the Commission, provide technical assistance to States for the development of interpretive materials to enhance public appreciation of the archeological, historical, and cultural values associated with the De Soto expedition, the Native American societies it encountered, and the impacts of the European-Native American contact.

16 USC 1244 note.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—For the purposes of carrying out the functions of the Commission, there are authorized to be appropriated such sums as may be necessary not to exceed $250,000.

(b) RESEARCH.—For the purposes of section 7, there are authorized to be appropriated such sums as may be necessary not to exceed $750,000.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 555:

SENATE REPORTS: No. 101-232 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 24, considered and passed Senate.
Oct. 22, considered and passed House, amended.
Oct. 27, Senate concurred in House amendment.

○

Public Law 101-608
101st Congress

An Act

Nov. 16, 1990
[S. 605]

To authorize appropriations for the Consumer Product Safety Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consumer Product Safety Improvement Act of 1990. 15 USC 2051 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Consumer Product Safety Improvement Act of 1990".

TITLE I—AMENDMENTS TO ACTS

SEC. 101. REFERENCE.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consumer Product Safety Act.

SEC. 102. QUALIFICATIONS OF MEMBERS OF THE COMMISSION.

Section 4(a) (15 U.S.C. 2053(a)) is amended by inserting immediately after the first sentence the following: "In making such appointments, the President shall consider individuals who, by reason of their background and expertise in areas related to consumer products and protection of the public from risks to safety, are qualified to serve as members of the Commission.".

SEC. 103. QUORUM ON COMMISSION.

The first sentence of section 4(d) (15 U.S.C. 2053(d)) is amended by inserting before the period a comma and the following: "except that if there are only three members serving on the Commission because of vacancies in the Commission, two members of the Commission shall constitute a quorum for the transaction of business, and if there are only two members serving on the Commission because of vacancies in the Commission, two members shall constitute a quorum for the six month period beginning on the date of the vacancy which caused the number of Commission members to decline to two".

SEC. 104. APPOINTMENT OF CERTAIN PERSONNEL.

Section 4(g)(1) (15 U.S.C. 2053(g)(1)) is amended to read as follows:

"(g)(1)(A) The Chairman, subject to the approval of the Commission, shall appoint as officers of the Commission an Executive Director, a General Counsel, an Associate Executive Director for Engineering Sciences, an Associate Executive Director for Epidemiology, an Associate Executive Director for Compliance and Administrative Litigation, an Associate Executive Director for Health Sciences, an Associate Executive Director for Economic Analysis, an Associate Executive Director for Administration, an

Associate Executive Director for Field Operations, a Director for Office of Program, Management, and Budget, and a Director for Office of Information and Public Affairs. Any other individual appointed to a position designated as an Associate Executive Director shall be appointed by the Chairman, subject to the approval of the Commission. The Chairman may only appoint an attorney to the position of Associate Executive Director of Compliance and Administrative Litigation except the position of acting Associate Executive Director of Compliance and Administrative Litigation.

"(B)(i) No individual may be appointed to such a position on an acting basis for a period longer than 90 days unless such appointment is approved by the Commission.

"(ii) The Chairman, with the approval of the Commission, may remove any individual serving in a position appointed under subparagraph (A).

"(C) Subparagraph (A) shall not be construed to prohibit appropriate reorganizations or changes in classification.".

SEC. 105. PRIORITIES.

(a) AMENDMENT.—Section 4 (15 U.S.C. 2053) is amended by adding at the end the following:

"(j) At least 30 days before the beginning of each fiscal year, the Commission shall establish an agenda for Commission action under the Acts under its jurisdiction and, to the extent feasible, shall establish priorities for such actions. Before establishing such agenda and priorities, the Commission shall conduct a public hearing on the agenda and priorities and shall provide reasonable opportunity for the submission of comments.". Administrative practice and procedure.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years which begin more than 180 days after the date of the enactment of this Act. 15 USC 2053 note.

SEC. 106. DISCLOSURE TO CONTRACTORS.

Paragraph (8) of section 6(a) (15 U.S.C. 2055(a)) is amended to read as follows:

"(8) The provisions of paragraphs (2) through (6) shall not prohibit the disclosure of information to other officers, employees, or representatives of the Commission (including contractors) concerned with carrying out this Act or when relevant in any administrative proceeding under this Act or in judicial proceedings to which the Commission is a party. Any disclosure of relevant information—

"(A) in Commission administrative proceedings or in judicial proceedings to which the Commission is a party, or

"(B) to representatives of the Commission (including contractors),

shall be governed by the rules of the Commission (including in camera review rules for confidential material) for such proceedings or for disclosures to such representatives or by court rules or orders, except that the rules of the Commission shall not be amended in a manner inconsistent with the purposes of this section.".

SEC. 107. MONITORING COMPLIANCE.

(a) CONSUMER PRODUCT SAFETY ACT.—Section 7(b) (15 U.S.C. 2056(b)) is amended—

(1) by inserting "(1)" after "(b)", and

(2) by adding at the end the following:

"(2) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (1);

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 3(g) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

(c) FLAMMABLE FABRICS ACT.—Section 4(h) of the Flammable Fabrics Act (15 U.S.C. 1193(h)) is amended by adding at the end the following:

"(3) The Commission shall devise procedures to monitor compliance with any voluntary standards—

"(A) upon which the Commission has relied under paragraph (2) of this subsection;

"(B) which were developed with the participation of the Commission; or

"(C) whose development the Commission has monitored.".

Administrative practice and procedure.

SEC. 108. VOLUNTARY STANDARDS.

(a) CONSUMER PRODUCT SAFETY ACT.—Section 9(b)(2) (15 U.S.C. 2058(b)(2)) is amended by striking out the period and inserting the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. For purposes of this section, a voluntary standard shall be considered to be in existence when it is finally approved by the organization or other person which developed such standard, irrespective of the effective date of the standard. Before relying upon any voluntary consumer product safety standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 3(g)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1262(g)(2)) is amended by striking out the period and inserting the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. For purposes of this section, a voluntary standard shall be considered to be in existence when it is finally approved by the organization or other person which developed such standard, irrespective of the effective date of the standard. Before relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in

making any determination regarding reliance on the involved voluntary standard under this subsection.".

(c) FLAMMABLE FABRICS ACT.—Section 4(h)(2) of the Flammable Fabrics Act (15 U.S.C. 1193(h)(2)) is amended by striking out the period and inserting the following: ", except that the Commission shall terminate any such proceeding and rely on a voluntary standard only if such voluntary standard is in existence. For purposes of this section, a voluntary standard shall be considered to be in existence when it is finally approved by the organization or other person which developed such standard, irrespective of the effective date of the standard. Before relying upon any voluntary standard, the Commission shall afford interested persons (including manufacturers, consumers, and consumer organizations) a reasonable opportunity to submit written comments regarding such standard. The Commission shall consider such comments in making any determination regarding reliance on the involved voluntary standard under this subsection.".

SEC. 109. PROPOSED RULES.

Section 9(c) (15 U.S.C. 2058(c)) is amended by adding at the end the following: "Any proposed consumer product safety rule shall be issued within twelve months after the date of publication of an advance notice of proposed rulemaking under subsection (a) relating to the product involved, unless the Commission determines that such proposed rule is not reasonably necessary to eliminate or reduce the risk of injury associated with the product or is not in the public interest. The Commission may extend the twelve-month period for good cause. If the Commission extends such period, it shall immediately transmit notice of such extension to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. Such notice shall include an explanation of the reasons for such extension, together with an estimate of the date by which the Commission anticipates such rulemaking will be completed. The Commission shall publish notice of such extension and the information submitted to the Congress in the Federal Register.". Federal Register, publication.

SEC. 110. PETITIONS AND VOLUNTARY STANDARDS.

(a) CONSUMER PRODUCT SAFETY ACT.—Section 9 (15 U.S.C. 2058) is amended by adding at the end the following:

"(i) The Commission shall grant, in whole or in part, or deny any petition under section 553(e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 3 of the Federal Hazardous Substances Act (15 U.S.C. 1262) is amended by adding at the end the following:

"(j) The Commission shall grant, in whole or in part, or deny any petition under section 553(e) of title 5, United States Code, request-

ing the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

(c) FLAMMABLE FABRICS ACT.—Section 4 of the Flammable Fabrics Act (15 U.S.C. 1193) is amended by adding at the end the following:

"(k) The Commission shall grant, in whole or in part, or deny any petition under section 553(e) of title 5, United States Code, requesting the Commission to initiate a rulemaking, within a reasonable time after the date on which such petition is filed. The Commission shall state the reasons for granting or denying such petition. The Commission may not deny any such petition on the basis of a voluntary standard unless the voluntary standard is in existence at the time of the denial of the petition, the Commission has determined that the voluntary standard is likely to result in the elimination or adequate reduction of the risk of injury identified in the petition, and it is likely that there will be substantial compliance with the standard.".

SEC. 111. COST-BENEFIT ANALYSIS.

(a) CONSUMER PRODUCT SAFETY ACT.—

(1) Section 12 (15 U.S.C. 2061) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining whether to bring an action against a consumer product or a person under this section, to prepare a comparison of the costs that would be incurred in complying with the relief that may be ordered in such action with the benefits to the public from such relief.".

(2) Section 15 (15 U.S.C. 2064) is amended by adding at the end the following:

"(h) Nothing in this section shall be construed to require the Commission, in determining that a product distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended by adding at the end the following:

"(g) Nothing in this section shall be construed to require the Commission, in determining that an article or substance distributed in commerce presents a substantial product hazard and that notification or other action under this section should be taken, to prepare a comparison of the costs that would be incurred in providing notification or taking other action under this section with the benefits from such notification or action.".

SEC. 112. INFORMATION REPORTING TO CONSUMER PRODUCT SAFETY COMMISSION.

(a) SECTION 15(b) REPORTING.—Section 15(b) (15 U.S.C. 2064(b)) is amended—

(1) in paragraph (1), by striking "; or" and inserting in lieu thereof "or with a voluntary consumer product safety standard upon which the Commission has relied under section 9;";

(2) in paragraph (2), by striking the comma and inserting in lieu thereof "; or";

(3) by inserting immediately after paragraph (2) the following:

"(3) creates an unreasonable risk of serious injury or death,";

(4) by striking "comply or of such defect," and inserting in lieu thereof "comply, of such defect, or of such risk,"; and

(5) by striking "defect or failure to comply." and inserting in lieu thereof "defect, failure to comply, or such risk.".

(b) INFORMATION REPORTING.—The Consumer Product Safety Act is amended by adding at the end the following new section:

"INFORMATION REPORTING

"SEC. 37. (a) If a particular model of a consumer product is the subject of at least 3 civil actions that have been filed in Federal or State court for death or grievous bodily injury which in each of the 24-month periods defined in subsection (b) result in either a final settlement involving the manufacturer or a court judgment in favor of the plaintiff, the manufacturer of such product shall, in accordance with subsection (c), report to the Commission each such civil action within 30 days after the final settlement or court judgment in the third of such civil actions, and, within 30 days after any subsequent settlement or judgment in that 24-month period, any other such action. Manufacturing. 15 USC 2084.

"(b) The 24-month periods referred to in subsection (a) are the 24-month period commencing on January 1, 1991, and subsequent 24-month periods beginning on January 1 of the calendar year that is two years following the beginning of the previous 24-month period.

"(c)(1) The information required by subsection (a) to be reported to the Commission, with respect to each civil action described in subsection (a), shall include and in addition to any voluntary information provided under paragraph (2) shall be limited to the following:

"(A) The name and address of the manufacturer.

"(B) The model and model number or designation of the consumer product subject to the civil action.

"(C) A statement as to whether the civil action alleged death or grievous bodily injury, and in the case of an allegation of grievous bodily injury, a statement of the category of such injury.

"(D) A statement as to whether the civil action resulted in a final settlement or a judgment in favor of the plaintiff.

"(E) in the case of a judgment in favor of the plaintiff, the name of the civil action, the number assigned the civil action, and the court in which the civil action was filed.

"(2) A manufacturer furnishing the report required by paragraph (1) may include (A) a statement as to whether any judgment in favor of the plaintiff is under appeal or is expected to be appealed or (B) any other information which the manufacturer chooses to provide.

A manufacturer reporting to the Commission under subsection (a) need not admit or may specifically deny that the information it submits reasonably supports the conclusion that its consumer product caused a death or grievous bodily injury.

"(3) No statement of the amount paid by the manufacturer in a final settlement shall be required as part of the report furnished under subsection (a), nor shall such a statement of settlement amount be required under any other section of this Act.

"(d) The reporting of a civil action described in subsection (a) by a manufacturer shall not constitute an admission of—

"(1) an unreasonable risk of injury,

"(2) a defect in the consumer product which was the subject of such action,

"(3) a substantial product hazard,

"(4) an imminent hazard, or

"(5) any other admission of liability under any statute or under any common law.".

"(e) For purposes of this section:

"(1) A grievous bodily injury includes any of the following categories of injury: mutilation, amputation, dismemberment, disfigurement, loss of important bodily functions, debilitating internal disorder, severe burn, severe electric shock, and injuries likely to require extended hospitalization.

"(2) For purposes of this section, a particular model of a consumer product is one that is distinctive in functional design, construction, warnings or instructions related to safety, function, user population, or other characteristics which could affect the product's safety related performance.".

(c) Section 6 (15 U.S.C. 2055) is amended by adding at the end the following:

Confidential business information.

"(e)(1) Notwithstanding the provisions of section 552 of title 5, United States Code, subsection (a)(7) of this section, or of any other law, except as provided in paragraphs (2), (3), and (4), no member of the Commission, no officer or employee of the Commission, and no officer or employee of the Department of Justice may—

"(A) publicly disclose information furnished under subsection (c)(1) or (c)(2)(A) of section 37;

"(B) use such information for any purpose other than to carry out the Commission's responsibilities; or

"(C) permit anyone (other than the members, officers, and employees of the Commission or officers or employees of the Department of Justice who require such information for an action filed on behalf of the Commission) to examine such information.

"(2) Any report furnished under subsection (c)(1) or (c)(2)(A) of section 37 shall be immune from legal process and shall not be subject to subpoena or other discovery in any civil action in a State or Federal court or in any administrative proceeding, except in an action against such manufacturer under section 20, 21, or 22 for failure to furnish information required by section 37.

Records.

"(3) The Commission may, upon written request, furnish to any manufacturer or to the authorized agent of such manufacturer authenticated copies of reports furnished by or on behalf of such manufacturer in accordance with section 37, upon payment of the actual or estimated cost of searching the records and furnishing such copies.

"(4) Upon written request of the Chairman or Ranking Minority Member of the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Energy and Commerce of the House of Representatives or any subcommittee of such committee, the Commission shall provide to the Chairman or Ranking Minority Member any information furnished to the Commission under section 37 for purposes that are related to the jurisdiction of such committee or subcommittee.

"(5) Any officer or employee of the Commission or other officer or employee of the Federal Government who receives information provided under section 37, who willfully violates the requirements of this subsection shall be subject to dismissal or other appropriate disciplinary action consistent with procedures and requirements established by the Office of Personnel Management.".

(d) PROHIBITED ACT.—Section 19(a) (15 U.S.C. 2068(a)) is amended by adding at the end the following new paragraph:

"(11) fail to furnish information required by section 37.".

(e) CIVIL PENALTIES.—The second sentence of section 20(a)(1) (15 U.S.C. 2069(a)(1)) is amended by striking "or (10)" and inserting in lieu thereof "(10), or (11)".

(f) CONGRESSIONAL REPORTS.— 15 USC 2084 note.

(1) The Consumer Product Safety Commission shall report to the Congress on the extent to which reports made to the Commission under section 37 of the Consumer Product Safety Act have assisted the Commission in carrying out its responsibilities under such Act. The report—

(A) shall provide aggregate data and not the details and contents of individual reports filed with the Commission pursuant to such section 37,

(B) shall not disclose the brand names of products included in reports under such section 15(b) or 37 or the number of reports under such sections for particular models or classes of products, and Confidential business information.

(C) shall include—

(i) a comparison of the number of reports received under such section 37 and the number of reports received under section 15(b) of such Act,

(ii) a comparison of the number of reports filed with the Commission before the date of the enactment of this Act and after such date, and

(iii) the total number of settlements and court judgments reported under such section 37 and the total number of rulemakings and enforcement actions undertaken in response to such reports,

(iv) recommendations of the Commission for additional improvements in reporting under the Consumer Product Safety Act.

(2) The first report under paragraph (1) shall be due February 1, 1992, and the second such report shall be due April 1, 1993.

SEC. 113. SETTLEMENT OFFERS.

Section 15(f) (15 U.S.C. 2064(f)) is amended by adding at the end the following: "Any settlement offer which is submitted to the presiding officer at a hearing under this subsection shall be transmitted by the officer to the Commission for its consideration

unless the settlement offer is clearly frivolous or duplicative of offers previously made.".

SEC. 114. PRODUCT SURVEILLANCE PROGRAM.

Section 17 (15 U.S.C. 2066) is amended by adding at the end the following:

"(h)(1) The Commission shall establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this Act and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States.

"(2) The Commission may provide to the agencies with which it is cooperating under paragraph (1) such information, data, violator lists, test results, and other support, guidance, and documents as may be necessary or helpful for such agencies to cooperate with the Commission to carry out the product surveillance program under paragraph (1).

Reports.

"(3) The Commission shall periodically report to the Congress the results of the surveillance program under paragraph (1).".

SEC. 115. CIVIL PENALTIES.

(a) CONSUMER PRODUCT SAFETY ACT.—Section 20(a) (15 U.S.C. 2069(a)) is amended—

(1) by striking "$2,000" and inserting in lieu thereof "$5,000";

(2) by striking "$500,000" each place it appears and inserting in lieu thereof "$1,250,000"; and

(3) by adding at the end thereof the following:

"(3)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

Federal Register, publication.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(b) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264) is amended by adding at the end the following:

"(c)(1) Any person who knowingly violates section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation. Subject to paragraph (2), a violation of subsections (a), (b), (c), (d), (f), (g), (i), (j), and (k) of section 4 shall constitute a separate offense with respect to each substance involved, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations. A violation of section 4(e) shall constitute a separate violation with respect to each failure or refusal to allow or perform an act required by section 4(e); and, if such violation is a continuing one, each day of such violation shall constitute a separate offense, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) The second sentence of paragraph (1) of this subsection shall not apply to violations of subsection (a) or (c) of section 4—

"(A) if the person who violated such subsection is not the manufacturer, importer, or private labeler or a distributor of the substances involved; and

"(B) if such person did not have either (i) actual knowledge that such person's distribution or sale of the substance violated such subsection, or (ii) notice from the Commission that such distribution or sale would be a violation of such subsection.

"(3) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of section 4, the Commission shall consider the nature of the substance, the severity of the risk of injury, the occurrence or absence of injury, the amount of the substance distributed, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(4) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the appropriateness of such penalty to the size of the business of the persons charged, the nature of the substance involved, the severity of the risk of injury, the occurrence or absence of injury, and the amount of the substance distributed. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(5) As used in the first sentence of paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(6)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

Federal Register, publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(c) FLAMMABLE FABRICS ACT.—Section 5 of the Flammable Fabrics Act (15 U.S.C. 1264) is amended by adding at the end the following:

15 USC 1194.

"(e)(1) Any person who knowingly violates a regulation or standard under section 4 shall be subject to a civil penalty not to exceed $5,000 for each such violation, except that the maximum civil penalty shall not exceed $1,250,000 for any related series of violations.

"(2) In determining the amount of any penalty to be sought upon commencing an action seeking to assess a penalty for a violation of a regulation or standard under section 4, the Commission shall consider the nature and number of the violations, the severity of the risk of injury, the occurrence or absence of injury, and the appropriateness of such penalty in relation to the size of the business of the person charged.

"(3) Any civil penalty under this subsection may be compromised by the Commission. In determining the amount of such penalty or whether it should be remitted or mitigated, and in what amount, the Commission shall consider the nature and number of the violations, the appropriateness of such penalty to the size of the business of the persons charged, the severity of the risk of injury, and the occurrence or absence of injury. The amount of such penalty when finally determined, or the amount agreed on compromise, may be deducted from any sums owing by the United States to the person charged.

"(4) As used in paragraph (1), the term 'knowingly' means (A) having actual knowledge, or (B) the presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations.

"(5)(A) The maximum penalty amounts authorized in paragraph (1) shall be adjusted for inflation as provided in this paragraph.

Federal Register, publication.

"(B) Not later than December 1, 1994, and December 1 of each fifth calendar year thereafter, the Commission shall prescribe and publish in the Federal Register a schedule of maximum authorized

penalties that shall apply for violations that occur after January 1 of the year immediately following such publication.

"(C) The schedule of maximum authorized penalties shall be prescribed by increasing each of the amounts referred to in paragraph (1) by the cost-of-living adjustment for the preceding five years. Any increase determined under the preceding sentence shall be rounded to—

"(i) in the case of penalties greater than $1,000 but less than or equal to $10,000, the nearest multiple of $1,000;

"(ii) in the case of penalties greater than $10,000 but less than or equal to $100,000, the nearest multiple of $5,000;

"(iii) in the case of penalties greater than $100,000 but less than or equal to $200,000, the nearest multiple of $10,000; and

"(iv) in the case of penalties greater than $200,000, the nearest multiple of $25,000.

"(D) For purposes of this subsection:

"(i) The term 'Consumer Price Index' means the Consumer Price Index for all-urban consumers published by the Department of Labor.

"(ii) The term 'cost-of-living adjustment for the preceding five years' means the percentage by which—

"(I) the Consumer Price Index for the month of June of the calendar year preceding the adjustment; exceeds

"(II) the Consumer Price Index for the month of June preceding the date on which the maximum authorized penalty was last adjusted.".

(d) REPORT ON CIVIL PENALTIES.— 15 USC 2076a.

(1) Beginning 1 year after the date of enactment of this Act, and every year thereafter, the Consumer Product Safety Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the information specified in paragraph (2) of this subsection. Such information may be included in the annual report to the Congress submitted by the Commission.

(2) The Commission shall submit information with respect to the imposition of civil penalties under the statutes which it administers. The information shall include the number of civil penalties imposed, an identification of the violations that led to the imposition of such penalties, and the amount of revenue recovered from the imposition of such penalties.

SEC. 116. CHRONIC HAZARD ADVISORY PANEL.

Section 28(b)(1) (15 U.S.C. 2077(b)(1)) is amended by inserting immediately after "States" the following: "(other than employees of the National Institutes of Health, the National Toxicology Program, or the National Center for Toxicological Research)".

SEC. 117. AUTHORIZATION.

Section 32(a) (15 U.S.C. 2081(a)) is amended by striking out paragraphs (1) through (9) and inserting in lieu thereof the following:

"(1) $42,000,000 for fiscal year 1991, and

"(2) $45,000,000 for fiscal year 1992.".

SEC. 118. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 5 of the Federal Hazardous Substances Act (15 U.S.C. 1264), as amended by

section 115(b) of this Act, is amended by adding at the end the following:

"(d) In the case of an attorney general of a State alleging a violation that affects or may affect such State or its residents, such attorney general may bring a civil action for an injunction to enforce any requirement of this Act relating to misbranded or banned hazardous substances. The procedural requirements of section 24 of the Consumer Product Safety Act shall apply to any such action.".

(b) FLAMMABLE FABRICS ACT.—Section 5(a) of the Flammable Fabrics Act (15 U.S.C. 1194(a)) is amended by adding at the end the following: "In the case of an attorney general of a State alleging a violation of a standard or regulation under section 4 that affects or may affect such State or its residents, such attorney general may bring a civil action for an injunction to enforce the requirement of such standard or regulation. The procedural requirements of section 24 of the Consumer Product Safety Act shall apply to any such action.".

15 USC 2076 note.

SEC. 119. USER FEE STUDY.

The Consumer Product Safety Commission shall conduct a study of the feasibility of requiring entities subject to the Consumer Product Safety Act to pay to the Commission amounts to defray the reasonable costs of particular services provided by the Commission to such entities. The Commission shall complete the study within one year of the date of the enactment of this Act and shall report the results of the study to the Congress.

Reports.

TITLE II—RELATED PROVISIONS

SEC. 201. LIGHTERS.

Infants and children.

The Consumer Product Safety Commission shall pursue its pending proceedings to establish a safety standard for cigarette lighters, taking into account the need to protect children from harm from lighters.

SEC. 202. INDOOR AIR POLLUTANTS.

Reports.

Not later than 180 days after the date of the enactment of this Act, the Consumer Product Safety Commission shall report to Congress on its activities to reduce exposure of individuals to indoor air pollutants. Such report shall—

(1) briefly describe the activities of the Commission before such date of enactment in the area of indoor air quality,

(2) contain a detailed discussion of (A) the current activities of the Commission in such area, and (B) the further activities which the Commission plans to provide remedial measures to address the indoor air quality problems identified by the Commission,

(3) discuss the nature of indoor air quality hazards, the association of consumer products with such hazard, and, to the extent known, remedial measures which may be taken with respect to such hazard, and

(4) discuss the Commission's overall strategies and plans for addressing the identified indoor air quality hazards and for identifying and remedying such hazards.

SEC. 203. AUTOMATIC GARAGE DOOR OPENERS. 15 USC 2056 note.

(a) CONSUMER PRODUCT SAFETY RULE.—The provisions of subsection (b) shall be considered to be a consumer product safety rule issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act.

(b) REQUIREMENTS.—

(1) Effective on and after January 1, 1991, each automatic residential garage door opener manufactured on or after that date for sale in the United States shall conform to the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, as revised May 4, 1988.

(2)(A) Effective on and after January 1, 1993, all residential automatic garage door openers manufactured on and after such date for sale in the United States shall conform to any additional entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, which were issued after the date of the enactment of this Act to become effective on or before January 1, 1993.

(B) If, by June 1, 1992, the Underwriters Laboratories, Inc., has not issued a revision to the May 4, 1988, Standards for Safety—UL 325, third edition, to require an entrapment protection feature or device in addition to that required by the May 4, 1988, Standard, the Consumer Product Safety Commission shall begin a rulemaking proceeding, to be completed no later than October 31, 1992, to require an additional such feature or device on all automatic residential garage door openers manufactured on or after January 1, 1993, for sale in the United States. If such a revision is issued by the Underwriters Laboratories, Inc. after the rulemaking has commenced, the rulemaking shall be terminated and the revision shall be incorporated in the consumer product safety rule under subsection (a) unless the Commission has determined under subsection (c) that such revision does not carry out the purposes of subsection (b). Regulations.

(c) REVISION OF RULE.—If, after June 1, 1992, or the date of a revision described in subsection (b)(2)(B) if later, the Underwriters Laboratories, Inc. proposes to further revise the entrapment protection requirements of the American National Standards Institute Underwriters Laboratories, Inc. Standards for Safety—UL 325, third edition, the Laboratories shall notify the Consumer Product Safety Commission of the proposed revision and the proposed revision shall be incorporated in the consumer product safety rule under subsection (a) unless, within 30 days of such notice, the Commission notifies the Laboratories that the Commission has determined that such revision does not carry out the purposes of subsection (b).

(d) LABELING.—On and after January 1, 1991, a manufacturer selling or offering for sale in the United States an automatic residential garage door opener manufactured on or after January 1, 1991, shall clearly identify on any container of the system and on the system the month or week and year the system was manufactured and its conformance with the requirements of subsection (b). The display of the UL logo or listing mark, and compliance with the date marking requirements of UL 325, on both the container and the system, shall satisfy the requirements of this subsection.

Manufacturing.

(e) NOTIFICATION.—Effective on and after July 1, 1991, all manufacturers of automatic residential garage door openers shall, in consultation with the Consumer Product Safety Commission, notify the public of the potential for entrapment by garage doors equipped with automatic garage door openers and advise the public to test their openers for the entrapment protection feature or device required by subsection (b).

(f) PREEMPTION.—In applying section 26(a) of the Consumer Product Safety Act (15 U.S.C. 2075) with respect to the consumer product safety rule of the Consumer Product Safety Commission under subsection (a), only those provisions of laws of States or political subdivisions which relate to the labeling of automatic residential garage door openers and those provisions which do not provide at least the equivalent degree of protection from the risk of injury associated with automatic residential garage door openers as the consumer product safety rule provides shall be subject to such section.

(g) REGULATIONS.—Section 553 of title 5, United States Code, shall apply with respect to the issuance of any regulations by the Consumer Product Safety Commission to implement the requirements of this section and sections 7 and 9 of the Consumer Product Safety Act do not apply to such issuance. Any additional or revised requirement issued by the Commission shall provide an adequate degree of protection to the public.

(h) CONSTRUCTION.—Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under the common law or any Federal or State law.

15 USC 2054 note.

SEC. 204. STUDY OF AVERSIVE AGENTS.

The Consumer Product Safety Commission shall conduct a study of requiring manufacturers of consumer products to include aversive agents, as appropriate, in products which present a hazard if ingested to determine the potential effectiveness of the aversive agents in deterring ingestion. In conducting the study, the Commission shall consult with appropriate consumer, health, and business organizations and appropriate government agencies. The Commission shall report to Congress the status of the study within one year of the date of the enactment of this Act and shall complete the study not later than 2 years after such date of enactment.

Reports.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 605 (H.R. 4952):

HOUSE REPORTS: No. 101-567 accompanying H.R. 4952 (Comm. on Energy and Commerce) and No. 101-914 (Comm. of Conference).
SENATE REPORTS: No. 101-37 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Aug. 3, considered and passed Senate.
Vol. 136 (1990): July 16, H.R. 4952 considered and passed House; S. 605, amended, passed in lieu.
Oct. 22, Senate agreed to conference report.
Oct. 25, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential statement.

Public Law 101-609
101st Congress

An Act

To amend the Arctic Research and Policy Act of 1984 to improve and clarify its provisions.

Nov. 16, 1990
[S. 677]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of a provision, the reference shall be deemed to be made to the Arctic Research and Policy Act of 1984.

SEC. 2. Section 103(b)(1) (15 U.S.C. 4102(b)(1)) is amended—

(1) in the text above clause (A), by striking out "five" and inserting in lieu thereof "seven";

(2) in clause (A), by striking out "three" and inserting in lieu thereof "four"; and

(3) in clause (C), by striking out "one member" and inserting in lieu thereof "two members".

SEC. 3. Section 103(d)(1) (15 U.S.C. 4102(d)(1)) is amended by striking out "GS-16" and inserting in lieu thereof "GS-18".

SEC. 4. (a) Section 104(a) (15 U.S.C. 4102(a)) is amended— 15 USC 4103.

(1) in paragraph (4), by striking out "suggest" and inserting in lieu thereof "recommend";

(2) in paragraph (6), by striking out "suggest" and inserting in lieu thereof "recommend";

(3) in paragraph (7), by striking out "and" at the end thereof;

(4) in paragraph (8), by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end thereof the following new paragraphs:

"(9) recommend to the Interagency Committee the means for developing international scientific cooperation in the Arctic; and Science and technology.

"(10) not later than January 31, 1991, and every 2 years thereafter, publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties.".

(b) Section 104(b) is amended to read as follows:

"(b) Not later than January 31 of each year, the Commission shall submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year." Reports.

SEC. 5. Section 106 (15 U.S.C. 4105) is amended—

(1) in paragraph (3), by striking out "and" at the end thereof;

(2) in paragraph (4), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(5) appoint, and accept without compensation the services of, scientists and engineering specialists to be advisors to the Commission. Each advisor may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Scientists. Engineers.

section 5703 of title 5, United States Code. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims) of the United States Code, an advisor appointed under this paragraph shall not be considered an employee of the United States for any purpose.".

SEC. 6. Subsection (b)(2) of section 108 (15 U.S.C. 4107(b)(2)) is amended to read as follows:

"(2) a statement detailing with particularity the recommendations of the Commission with respect to Federal interagency activities in Arctic research and the disposition and responses to those recommendations.".

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 677:

SENATE REPORTS: No. 101-405 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 24, considered and passed Senate.
Oct. 26, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential statement.

Public Law 101-610
101st Congress

An Act

To enhance national and community service, and for other purposes.

Nov. 16, 1990
[S. 1430]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National and Community Service Act of 1990.
Youth.
Intergovernmental relations.
Education.
42 USC 12501 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National and Community Service Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Subtitle A—General Provisions

Sec. 101. Definitions.
Sec. 102. Authority to make State grants.

Subtitle B—School-Aged Service

PART I—GENERAL PROGRAM

Sec. 110. Short title.
Sec. 111. General authority.
Sec. 112. Allotments.
Sec. 113. State application.
Sec. 114. Local applications.
Sec. 115. Priority; private school participation.
Sec. 116. Federal and local contributions.
Sec. 117. Uses of funds; limitations.

PART II—HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

Sec. 118. Higher education innovative projects for community service.

Subtitle C—American Conservation and Youth Corps

Sec. 120. Short title.
Sec. 121. General authority.
Sec. 122. Allocation of funds.
Sec. 123. State application.
Sec. 124. Focus of programs.
Sec. 125. Related programs.
Sec. 126. Public lands or Indian lands.
Sec. 127. Training and education services.
Sec. 128. Amount of award; matching requirement.
Sec. 129. Preference for certain projects.
Sec. 130. Age and citizenship criteria for enrollment.
Sec. 131. Use of volunteers.
Sec. 132. Post-service benefits.
Sec. 133. Living allowance.
Sec. 134. Joint programs.
Sec. 135. Federal and State employee status.
Sec. 136. Regulations and assistance.

Subtitle D—National and Community Service

Sec. 140. Short title.
Sec. 141. General authority.
Sec. 142. Grants.

Sec. 143. Types of national service.
Sec. 144. Terms of service.
Sec. 145. Eligibility.
Sec. 146. Post-service benefits.
Sec. 147. Living allowance.
Sec. 148. Training.
Sec. 149. Public-private partnership.
Sec. 150. In-service education benefits.

Subtitle E—Innovative and Demonstration Programs and Projects

PART I—LIMITATION ON GRANTS

Sec. 155. Limitation on grants.

PART II—GOVERNORS' INNOVATIVE SERVICE PROGRAMS

Sec. 156. General authority.
Sec. 157. Grants.

PART III—PEACE CORPS

Sec. 160. Program authorized.
Sec. 161. Eligibility and selection procedures.
Sec. 162. Training program.
Sec. 163. Educational benefits.
Sec. 164. Evaluation and report.

PART IV—OTHER VOLUNTEER PROGRAMS

Sec. 165. Rural youth service demonstration project.
Sec. 166. Assistance for Head Start.
Sec. 167. Employer-based retiree volunteer programs.

Subtitle F—Administrative Provisions

Sec. 171. Limitation on number of grants.
Sec. 172. Reports.
Sec. 173. Supplementation.
Sec. 174. Prohibition on use of funds.
Sec. 175. Nondiscrimination.
Sec. 176. Notice, hearing, and grievance procedures.
Sec. 177. Nonduplication and nondisplacement.
Sec. 178. State advisory board.
Sec. 179. Evaluation.
Sec. 180. Engagement of participants.
Sec. 181. National Service Demonstration Program amendments.
Sec. 182. Partnerships with schools.
Sec. 183. Service as tutors.
Sec. 184. Drug-free workplace requirements.
Sec. 185. Conforming amendments.

Subtitle G—Commission on National and Community Service

Sec. 190. Commission on National and Community Service.

TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

Subtitle A—Publication

Sec. 201. Information for students.
Sec. 202. Exit counseling for borrowers.
Sec. 203. Department information on deferments and cancellations.
Sec. 204. Data on deferments and cancellations.

Subtitle B—Youthbuild Projects

Sec. 211. Youthbuild projects.

Subtitle C—Amendments to Student Literacy Corps

Sec. 221. Amendments to Student Literacy Corps.

TITLE III—POINTS OF LIGHT FOUNDATION

Sec. 301. Short title.
Sec. 302. Findings and purposes.
Sec. 303. Authority.
Sec. 304. Grants to the Foundation.

Sec. 305. Eligibility of the Foundation for grants.

TITLE IV—FOOD DONATIONS

Sec. 401. Sense of Congress concerning enactment of Good Samaritan Food Donation Act.
Sec. 402. Model Good Samaritan Food Donation Act.
Sec. 403. Effect of section 402.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

Sec. 501. Authorization of appropriations.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Amtrak waste disposal.
Sec. 602. Exchange program with countries in transition from totalitarianism to Democracy.

SEC. 2. PURPOSES. 42 USC 12501.

It is the purpose of this Act to—

(1) renew the ethic of civic responsibility in the United States;

(2) ask citizens of the United States, regardless of age or income, to engage in full-time or part-time service to the Nation;

(3) begin to call young people to serve in programs that will benefit the Nation and improve the life chances of the young through the acquisition of literacy and job skills;

(4) enable young Americans to make a sustained commitment to service by removing barriers to service that have been created by high education costs, loan indebtedness, and the cost of housing;

(5) build on the existing organizational framework of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens, particularly youth and older Americans;

(6) involve participants in activities that would not otherwise be performed by employed workers; and

(7) generate additional service hours each year to help meet human, educational, environmental, and public safety needs, particularly those needs relating to poverty.

TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Subtitle A—General Provisions

SEC. 101. DEFINITIONS. 42 USC 12511.

As used in this title:

(1) ADULT VOLUNTEER.—The term "adult volunteer" means—

(A) an individual who is beyond the age of compulsory schooling, including an older American, an individual with a disability, and a parent;

(B) an employee of a private business;

(C) an employee of a public or nonprofit agency; or

(D) any other individual working without financial remuneration in an education institution to assist students or out-of-school youth.

(2) COMMISSION.—The term "Commission" means the Commission on National and Community Service established under section 190.

(3) COMMUNITY-BASED AGENCY.—The term "community-based agency" means a private nonprofit organization that is representative of a community or a significant segment of a community and that is engaged in meeting human, educational, or environmental community needs, including churches and other religious entities and community action agencies.

(4) CREW SUPERVISOR.—The term "crew supervisor" means the adult staff individual who is responsible for supervising a crew of participants, including the crew leader.

(5) ECONOMICALLY DISADVANTAGED.—The term "economically disadvantaged" with respect to youths has the same meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(6) ELEMENTARY SCHOOL.—The term "elementary school" has the same meaning given such term in section 1471(8) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(8)).

(7) INDIAN LANDS.—The term "Indian lands" means any real property owned by an Indian tribe, any real property held in trust by the United States for Indian tribes, and any real property held by Indian tribes that is subject to restrictions on alienation imposed by the United States.

(8) INDIAN TRIBE.—The term "Indian tribe" means an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(9) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(11) LOCAL GOVERNMENT AGENCY.—The term "local government agency" means a public agency that is engaged in meeting human, social, educational, or environmental needs.

(12) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means an individual who—

(A) has not attained the age of 27;

(B) has not completed college or the equivalent thereof; and

(C) is not enrolled in an elementary or secondary school or institution of higher education.

(13) PARTICIPANT.—The term "participant" means an individual enrolled in a program that receives assistance under this title.

(14) PARTNERSHIP PROGRAM.—The term "partnership program" means a program through which adult volunteers, public or private agencies, institutions of higher education, or businesses assist a local educational agency.

(15) PLACEMENT.—The term "placement" means the matching of a participant with a specific project.

(16) PROGRAM.—The term "program" means an activity carried out with assistance provided under this title.

(17) PROGRAM AGENCY.—The term "program agency" means—

(A) a Federal or State agency designated to manage a youth corps program;

(B) the governing body of an Indian tribe that administers a youth corps program; or

(C) a local applicant administering a youth corps program.

(18) PROJECT.—The term "project" means an activity that results in a specific identifiable service or product that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

(19) PUBLIC LANDS.—The term "public lands" means any lands or waters (or interest therein) owned or administered by the United States or by an agency or instrumentality of a State or local government.

(20) SECONDARY SCHOOL.—The term "secondary school" has the same meaning given such term in section 1471(21) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(21)).

(21) SERVICE-LEARNING.—The term "service-learning" means a method—

(A) under which students learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs and that are coordinated in collaboration with the school and community;

(B) that is integrated into the students' academic curriculum or provides structured time for a student to think, talk, or write about what the student did and saw during the actual service activity;

(C) that provides students with opportunities to use newly acquired skills and knowledge in real-life situations in their own communities; and

(D) that enhances what is taught in school by extending student learning beyond the classroom and into the community and helps to foster the development of a sense of caring for others.

(22) SERVICE OPPORTUNITY.—The term "service opportunity" means a program or project, including service learning programs or projects, that enables students or out-of-school youth to perform meaningful and constructive service in agencies, institutions, and situations where the application of human talent and dedication may help to meet human, educational, linguistic, and environmental community needs, especially those relating to poverty.

(23) SPECIAL SENIOR SERVICE MEMBER.—The term "special senior service member" means an individual who is age 60 or over and willing to work full-time or part-time in conjunction with a full-time national service program.

(24) SPONSORING ORGANIZATION.—The term "sponsoring organization" means an organization, eligible to receive assistance under this title, that has been selected to provide a placement for a participant.

(25) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau, until such time as the Compact of Free Association is ratified.

(26) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the same meaning given such term in section 1471(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(23)).

(27) STUDENT.—The term "student" means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.

(28) SUMMER PROGRAM.—The term "summer program" means a youth corps program authorized under this title that is limited to the months of June, July, and August.

(29) YOUTH CORPS PROGRAM.—The term "youth corps program" means a program, such as a conservation corps or youth service program, that offers full-time, productive work (to be financed through stipends) with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and support services.

42 USC 12512.

SEC. 102. AUTHORITY TO MAKE STATE GRANTS.

The Commission may, in accordance with the provisions of this title, make grants to States, or to local applicants, to enable such States or applicants to carry out national or community service programs under subtitles B, C, D, or E.

Subtitle B—School-Aged Service

PART I—GENERAL PROGRAM

Serve-America: The Community Service, Schools and Service-Learning Act of 1990.

42 USC 12521 note.

SEC. 110. SHORT TITLE.

This subtitle may be cited as the "Serve-America: The Community Service, Schools and Service-Learning Act of 1990".

42 USC 12521.

SEC. 111. GENERAL AUTHORITY.

(a) IN GENERAL.—The Commission, in consultation with the Secretary of Education, may make grants under section 102 to States or local applicants for—

(1) planning and building State capacity (which may be accomplished through grants and contracts with qualified organizations) for implementing statewide, school-aged service-learning programs, including—

(A) preservice and in-service training for teachers, supervisors, and personnel from community organizations in which service opportunities will be provided that will be conducted by qualified individuals or organizations that have experience in service-learning programs;

(B) developing service-learning curricula, including age-appropriate learning components for students to analyze and apply their service experiences;

(C) forming local partnerships to develop school-based community service programs in accordance with this subpart;

(D) devising appropriate methods for research and evaluation of the educational value of youth service opportunities and the effect of youth service programs on communities;

(E) establishing effective outreach and dissemination to ensure the broadest possible involvement of nonprofit community-based organizations and youth-service agencies with demonstrated effectiveness in their communities; and

(F) integration of service-learning into academic curricula;

(2) the implementation, operation, or expansion of statewide, school-based service-learning programs through State distribution of Federal funds made available under this subtitle to projects and activities coordinated and operated by local partnerships among—

(A) local educational agencies; and

(B) one or more community partners that—

(i) shall include a public or private nonprofit organization that will make service opportunities available for participants, and that is representative of the community in which such services will be provided; and

(ii) may include a private for-profit business organization or private elementary and secondary school;

(3) the implementation, operation, or expansion of community service programs for school dropouts, out-of-school youth, and other youth through State distribution of Federal funds made available under this subtitle to projects and activities coordinated and operated by local partnerships among—

(A) one or more public or private nonprofit organizations that work with disadvantaged youth; and

(B) one or more community partners that shall include a public or private nonprofit organization that will make service opportunities available for participants; and

(4) the implementation, operation, or expansion of programs involving adult volunteers in schools, or partnerships of schools and public or private organizations, to improve the education of at-risk students, school dropouts, and out-of-school youth through State distribution of Federal funds made available under this part to projects and activities coordinated and operated by local partnerships among—

(A) local education agencies; and

(B) one or more public or private nonprofit organization or private for-profit business.

(b) DIRECT GRANTS.—In any fiscal year in which a State does not participate in programs under this subtitle, the Commission may use the allotment of that State to make direct grants for the purposes described in subsection (a) to local applicants in that State. The Commission shall apply the criteria described in section 114 in evaluating such local applications.

SEC. 112. ALLOTMENTS.

42 USC 12522.
Indians.
Territories.

(a) RESERVATIONS.—Of the amounts appropriated to carry out this subtitle for any fiscal year, the Commission shall reserve not more than 1 percent for payments to Indian tribes, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and

Palau, until such time as the Compact of Free Association is ratified, to be allotted in accordance with their respective needs.

(b) ALLOTMENT.—The remainder of the sums appropriated to carry out this subtitle shall be allotted among the States as follows:

(1) From 50 percent of such remainder the Secretary shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as the school-age population of the State bears to the school-age population of all States.

(2) From 50 percent of such remainder the Secretary shall allot to each State an amount which bears the same ratio to 50 percent of such remainder as allocations to the State for the previous fiscal year under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 bears to such allocations to all States.

(c) LIMITATION.—For any period during which a State is carrying out planning activities under section 111(a)(1) prior to implementation under section 111(a)(2), a State may be paid not more than 25 percent of its allotment under this section.

(d) REALLOTMENT.—The amount of any State's allotment for any fiscal year under this section that the Commission determines will not be required for that fiscal year shall be available for reallotment to other States as the Commission may determine appropriate.

(e) EXCEPTION.—Notwithstanding this section, if less than $20,000,000 is made available in each fiscal year to carry out this subtitle, the Commission shall award grants to States on a competitive basis.

(f) DEFINITIONS.—For purposes of this section:

(1) SCHOOL-AGE POPULATION.—The term "school-age population" means the population aged 5 through 17, inclusive.

(2) STATE.—The term "State" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

42 USC 12523.

SEC. 113. STATE APPLICATION.

To be eligible to receive a grant under this subtitle a State, acting through the State educational agency, shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission shall reasonably require, including a description of the manner in which—

(1) local applications will be ranked by the State according to the criteria described in section 114, and in a manner that ensures the equitable treatment of local applications submitted by both local educational agencies and community-based organizations;

(2) service programs within the State will be coordinated with each other and with other Federally assisted education programs, training programs, social service programs, and other appropriate programs that serve youth;

(3) cooperative efforts among local educational agencies, local government agencies, community-based agencies, businesses, and State agencies to develop and provide service opportunities, including those that involve the participation of urban, suburban, and rural youth working together, will be encouraged;

(4) economically and educationally disadvantaged youths, including individuals with disabilities, youth with limited basic skills or learning disabilities, youth in foster care who are becoming too old for foster care, youth of limited English pro-

ficiency, homeless youth and youth with disabilities, are assured of service opportunities;

(5) service programs that receive assistance under this subtitle will be evaluated;

(6) programs that receive assistance under this subtitle will serve urban and rural areas and any tribal areas that exist within such State;

(7) training and technical assistance will be provided to local grantees by qualified and experienced individuals employed by the State or through grant or contract with experienced content specialist and youth service resource organizations;

(8) non-Federal assistance will be used to expand service opportunities for students and out-of-school youth;

(9) information and outreach services will be disseminated and utilized to ensure the involvement of a broad range of organizations, particularly community-based organizations;

(10) the State will keep such records and provide such information to the Secretary as may be required for fiscal audits and program evaluation;

(11) the State will give special consideration to providing assistance to projects that will provide academic credit to participants; and

(12) the State will assure compliance with the specific requirements of this subtitle.

SEC. 114. LOCAL APPLICATIONS. 42 USC 12524.

(a) IN GENERAL.—A partnership that desires to receive financial assistance under this subtitle shall prepare and submit to the State Educational Agency a proposal that meets the requirements of this section. Such proposal shall be submitted at such time, in such manner, and containing such information as the State Educational Agency may reasonably require.

(b) REQUIREMENTS OF PROPOSAL.—A proposal submitted under subsection (a) shall—

(1) contain a written agreement, between the members of the local partnership, stating that the program was jointly developed by the parties and that the program will be jointly executed by the parties;

(2) establish and specify the membership and role of an advisory committee that shall consist of representatives of community-based agencies including community action agencies, service recipients, youth-serving agencies, youth, parents, teachers, administrators, agencies that serve older adults, school board members, labor, and business;

(3) describe the goals of the program which shall include goals that are quantifiable, measurable, and demonstrate any benefits that flow from the program to the participants and the community;

(4) describe service opportunities to be provided under the program that shall include evidence that participants will make a sustained commitment to the service project;

(5) describe the manner in which the participants in the program will be recruited, including any special efforts that will be utilized to recruit out-of-school youth with the assistance of community-based agencies;

(6) describe the manner in which participants in the program were or will be involved in the design and operation of the program;

(7) describe the qualifications, and responsibilities of the coordinator of the program assisted under this subtitle;

(8) describe preservice and inservice training for supervisors, teachers, and participants in the program;

(9) describe the manner in which exemplary service will be recognized;

(10) describe any potential resources that will permit continuation of the program, if needed, after the assistance received under this subtitle has ended;

(11) disclose whether the program plans include preventing and treating school-age drug and alcohol abuse and dependency; and

(12) contain assurances that, prior to the placement of a participant, the program will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program.

(c) SCHOOL-BASED AND COMMUNITY-BASED SERVICE LEARNING PROGRAM.—If an applicant under this section intends to operate a program described in section 111(a)(2) or 111(a)(3) such applicant, in addition to providing the information described in subsection (b), shall provide additional information that shall include—

(1) an assurance that the applicant will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to reflect on service experiences and expected learning outcomes;

(2) a disclosure of whether or not the participants will receive academic credit for participation in the program;

(3) the target levels of participants in the program and the target levels for the hours of service that such participants will provide individually and as a group;

(4) the proportion of expected participants in the program who are educationally or economically disadvantaged, including participants with disabilities;

(5) the ages or grade levels of expected participants in the program;

(6) other relevant demographic information concerning such expected participants; and

(7) assurances that participants in the program will be provided with information concerning VISTA, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), chapter 30 of title 38, United States Code, chapter 106 of title 10, United States Code, full-time Youth Service Corps and National Service programs receiving assistance under this title, and other service options and their benefits (such as student loan deferment and forgiveness) as appropriate.

(d) PARTNERSHIP PROGRAM.—If an applicant under this section intends to operate an adult role partnership program, under section 111(a)(4) such applicant, in addition to the information required to be included in the application under subsection (b), shall describe the students who are to be assisted through such program, including the ages and grade levels of such students.

SEC. 115. PRIORITY; PRIVATE SCHOOL PARTICIPATION. 42 USC 12525.

(a) IN GENERAL.—In providing assistance under this subtitle, the State educational agency, or the Commission if section 111(b) applies, shall give priority to applications that describe programs that—

(1) involve participants in the design and operation of the program;

(2) are in the greatest need of assistance, such as programs targeting low-income areas;

(3) involve students from both public and private elementary and secondary schools or individuals of different ages, races, sexes, ethnic groups, disabilities and economic backgrounds serving together;

(4) are integrated into the academic program; or

(5) involve a focus on substance abuse prevention or school drop-out prevention.

(b) ADULT VOLUNTEER AND PARTNERSHIP PROGRAM.—In the case of an adult volunteer and partnership program (as described in section 111(a)(4)) the State educational agency, or the Commission, if section 111(b) applies, shall give priority to applications that contain a description of programs—

(1) that involve older Americans or parents as adult volunteers;

(2) that involve a partnership between an educational institution and a private business in the community;

(3) that include a focus on substance abuse prevention, school drop-out prevention, or nutrition; or

(4) that will improve basic skills and reduce illiteracy.

(c) PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.—

(1) IN GENERAL.—To the extent consistent with the number of children in the State or in the school district of the local educational agency involved who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall (after consultation with appropriate private school representatives) make provision—

(A) for the inclusion of services and arrangements for the benefit of such children so as to assure the equitable participation of such children in the programs or projects implemented to carry out the purposes and provide the benefits described in this subtitle; and

(B) for the training of the teachers of such children so as to assure the equitable participation of such teachers in the programs or projects implemented to carry out the purposes and provide the benefits described in this subtitle.

(2) WAIVER.—If a State or local educational agency or institution of higher education is prohibited by law from providing for the participation of children or teachers from private nonprofit schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accord-

ance with section 1017 of the Elementary and Secondary Education Act of 1965.

42 USC 12526.

SEC. 116. FEDERAL AND LOCAL CONTRIBUTIONS.

(a) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of a grant or contract for a project under this subtitle may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subtitle;

(B) 80 percent of the total cost of a project for the second year for which the project receives assistance under this subtitle; and

(C) 70 percent of the total cost of a project for the third year for which the project receives assistance under this subtitle.

(2) CALCULATION.—The State and local share of the costs of a project may be in cash or in kind fairly evaluated, including facilities, equipment, or services.

(b) WAIVER.—The Secretary may waive the requirements of subsection (a) with respect to any project in any fiscal year if the Secretary determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

42 USC 12527.

SEC. 117. USES OF FUNDS; LIMITATIONS.

(a) STATE USES OF FUNDS.—The State educational agency may reserve, from funds made available to such agency under this subtitle—

(1) not more than 5 percent of such funds for administrative costs for any fiscal year;

(2) not more than 10 percent of such funds to build capacity through training, technical assistance, curriculum development, and coordination activities, described in section 111(a)(1);

(3) not less than 60 percent of such funds to carry out school-based service learning programs described in section 111(a)(2);

(4) not less than 15 percent of such funds to carry out community-based service programs described in section 111(a)(3); and

(5) not more than 10 percent of such funds to carry out adult volunteer and partnership programs described in section 111(a)(4).

(b) AUTHORIZED ACTIVITIES FOR LOCAL PROJECTS.—

(1) IN GENERAL.—Local projects may use funds made available under this subtitle for the supervision of participating students, program administration, training, reasonable transportation costs, insurance, and for other reasonable expenses.

(2) LIMITATION.—Funds made available under this subtitle may not be used to pay any stipend, allowance, or other financial support to any participant, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this subtitle.

PART II—HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

Students.

SEC. 118. HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

42 USC 12531.

(a) PURPOSE.—It is the purpose of this part to support innovative projects to encourage students to participate in community service activities while such students are attending institutions of higher education.

(b) GENERAL AUTHORITY.—The Commission, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions) and other public agencies and nonprofit organizations working in partnership with institutions of higher education—

(1) to enable the institution to create or expand community service activities for students attending that institution;

(2) to encourage student-initiated and student-designed community service projects;

(3) to facilitate the integration of community service into academic curricula, so that students can obtain credit for their community service activities;

(4) to encourage students to participate in community service activities that will engender a sense of social responsibility and commitment to the community;

(5) to encourage students to assist in the teaching of individuals with limited basic skills or an inability to read and write; and

(6) to provide for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize community service activities, taking into consideration the particular needs of a community and the ability of the grantee to actively involve a major part of the community in, and substantially benefit the community by, the proposed community service activities.

(c) FEDERAL SHARE.—

(1) IN GENERAL.—The Federal share of each grant awarded under this section shall not exceed 50 percent of the cost of the community service activities carried out with each such grant.

(2) NON-FEDERAL SOURCES.—That portion of the costs of programs that receive assistance under this subtitle that are to be paid from sources other than Federal funds may be paid in cash or in kind (fairly evaluated).

(d) APPLICATION FOR GRANT.—To receive a grant under this subtitle, an applicant shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including—

(1) a description of the proposed program to be established with assistance provided under the grant;

(2) a description of the human, educational, environmental or public safety service that participants will perform and the community need that will be addressed under such program;

(3) a description of whether or not students will receive academic credit for community service activities under the program;

(4) a description of the procedure for training supervisors and participants and for supervising and organizing participants in such proposed program;

(5) a description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(6) a description of the budget for the program; and

(7) assurances that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project.

American Conservation and Youth Service Corps Act of 1990. 42 USC 12501 note.

Subtitle C—American Conservation and Youth Corps

SEC. 120. SHORT TITLE.

This subtitle may be cited as the "American Conservation and Youth Service Corps Act of 1990".

42 USC 12541.

SEC. 121. GENERAL AUTHORITY.

The Commission may make grants under section 102 to States or local applicants, to the Secretary of Agriculture, to the Secretary of the Interior, or to the Director of ACTION for the creation or expansion of full-time or summer youth corps programs.

42 USC 12542.

SEC. 122. ALLOCATION OF FUNDS.

Indians.

(a) COMPETITIVE GRANT.—The Commission shall award grants under this subtitle on a competitive basis to States or Indian tribes that have submitted applications under section 123.

(b) DIRECT GRANTS.—

(1) IN GENERAL.—In the case of a State that does not apply for a grant under this subtitle or have an application approved under section 123, the Commission may award grants directly to public or private nonprofit agencies with experience in youth programs within such State.

(2) EVALUATION.—

(A) APPLICATION OF CRITERIA.—The Commission shall apply the criteria described in section 123 in determining whether to award a grant to a local applicant under this subsection.

(B) EQUITABLE ALLOCATION.—If more than one local applicant within a State applies for funds, the Commission shall allocate funds among such applicants in such manner as the Commission considers equitable.

(3) INDIAN TRIBES.—An Indian tribe shall be treated the same as a State for purposes of making grants under this subtitle.

(4) GRANT TO FEDERAL AGENCY.—If a State has failed to establish a youth corps program and no local youth corps programs exist within such State, the Commission may make a grant to a Federal agency to directly administer a youth corps program.

(c) LIMITATION.—

(1) CAPITAL EQUIPMENT.—Not to exceed 10 percent of the amount of assistance made available to a program agency under

this subtitle shall be used for the purchase of major capital equipment.

(2) ADMINISTRATIVE EXPENSES.—

(A) BY PROGRAM AGENCY.—Not to exceed 5 percent of the amount of assistance made available to a program agency under this subtitle shall be used for administrative expenses.

(B) BY STATE.—Not to exceed 5 percent of the amount of assistance made available to a State under this subtitle shall be used for administrative expenses.

(d) RESERVATION.—

(1) FEDERAL DISASTER RELIEF.—The Commission shall reserve not to exceed 5 percent of the amounts made available in each fiscal year to make grants under this subtitle for Federal disaster relief programs.

(2) INDIAN TRIBES.—The Commission shall reserve not to exceed 1 percent of the amounts made available in each fiscal year to make grants under this subtitle to Indian tribes.

(e) EQUITABLE FUNDING OF CONSERVATION AND SERVICE PROGRAMS.—The Commission shall award an equal number of grants to conservation corps programs and youth corps programs.

SEC. 123. STATE APPLICATION.

42 USC 12543.

Indians.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a State or Indian tribe (or a local applicant if section 122(b) applies) shall prepare and submit to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including the information required under subsection (b).

(b) GENERAL CONTENT.—An application submitted under subsection (a) shall describe—

(1) any youth corps program proposed to be conducted directly by such applicant with assistance provided under this subtitle; and

(2) any grant program proposed to be conducted by such State with assistance provided under this subtitle for the benefit of entities within such State.

(c) SPECIFIC CONTENT.—To receive a grant under this subtitle to directly conduct a youth corps program, each applicant shall include in the application submitted under subsection (a)—

(1) a comprehensive description of the objectives and performance goals for the program to be conducted, a plan for managing and funding the program, and a description of the types of projects to be carried out, including a description of the types and duration of training and work experience to be provided by such program;

(2) a plan for the certification of the training skills acquired by participants and the awarding of academic credit to participants for competencies developed through training programs or work experience obtained under this subtitle;

(3) an age-appropriate learning component for participants that includes procedures that permit participants to reflect on service experiences;

(4) an estimate of the number of participants and crew leaders necessary for the proposed program, the length of time that the services of such participants and crew leaders will be required, the support services that will be required for such participants

and crew leaders, and a plan for recruiting such participants, including educationally and economically disadvantaged youth, youth with limited basic skills or learning disabilities, homeless youth, youth with disabilities, youth who are in foster care who are becoming too old for foster care, and youth of limited English proficiency;

(5) a list of requirements to be imposed on the sponsoring organizations of participants in the program, including a requirement that a sponsoring organization that invests in a program that receives assistance under this subtitle, by making a cash contribution or by providing free training to participants, shall be given preference over a sponsoring organization that does not make such an investment;

(6) a description of the manner of appointment and training of sufficient supervisory staff (including participants who have displayed exceptional leadership qualities), who shall provide for other central elements of a youth corps, such as crew structure and a youth development component;

(7) a description of a plan to ensure the on-site presence of knowledgeable and competent supervisory personnel at program facilities;

(8) a description of the facilities, quarters and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment that will be provided by such applicant;

(9) a description of the basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner that such standards shall be enforced;

(10) a description of the plan to assign participants to facilities as near to the homes of such participants as is reasonable and practicable;

(11) an assurance that, prior to the placement of a participant under this subtitle, the program agency will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(12) a description of formal social counseling arrangements to be made available to the participant;

(13) a plan for ensuring that individuals do not drop out of school for the purpose of participating in a youth corps program; and

(14) such other information as the Commission shall require.

(d) GRANT PROGRAM.—To be eligible to receive a grant under this subtitle, a State shall establish and implement a program to make grants to applicants within the State pursuant to subsection (b)(2) and, in the application submitted under subsection (a), such State shall describe the manner in which—

(1) local applicants will be evaluated;

(2) service programs within the State will be coordinated;

(3) economically and educationally disadvantaged youth, including youth with disabilities, youth with limited basic skills or learning disabilities, youth with limited English proficiency, homeless youth, and youth in foster care who are becoming too old for foster care, will be recruited;

(4) programs that receive assistance under this subtitle will be evaluated;

(5) the State will encourage cooperation among programs that receive assistance under this subtitle and the appropriate State job training coordinating council established under the Job Training and Partnership Act (29 U.S.C. 1501 et seq.);

(6) such State will certify the training skills acquired by each participant and the credit provided to each participant for competencies developed through training programs or work experience obtained under programs that receive assistance under this subtitle; and

(7) prior to the placement of a participant under this subtitle, the State will ensure that program agencies consult with each local labor organization representing employees in the area who are engaged in the same or similar work as the work that is proposed to be carried out by such program.

SEC. 124. FOCUS OF PROGRAMS. 42 USC 12544.

(a) IN GENERAL.—Programs that receive assistance under this subtitle may carry out activities that—

(1) in the case of conservation corps programs, focus on—

(A) conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

(B) urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(C) fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(D) road and trail maintenance and improvement;

(E) erosion, flood, drought, and storm damage assistance and controls;

(F) stream, lake, waterfront harbor, and port improvement;

(G) wetlands protection and pollution control;

(H) insect, disease, rodent, and fire prevention and control;

(I) the improvement of abandoned railroad beds and rights-of-way;

(J) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(K) reclamation and improvement of strip-mined land;

(L) forestry, nursery, and cultural operations; and

(M) making public facilities accessible to individuals with disabilities.

(2) in the case of human services corps programs, include participant service in—

(A) State, local, and regional governmental agencies;

(B) nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

(C) law enforcement agencies, and penal and probation systems;

(D) private nonprofit organizations that primarily focus on social service such as community action agencies;

(E) activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, lit-

eracy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

(F) any other nonpartisan civic activities and services that the Commission determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs related to poverty) or in the community where volunteer service is to be performed; or

(3) encompass the focuses and services described in both paragraphs (1) and (2).

(b) INELIGIBLE SERVICE CATEGORIES.—To be eligible to receive assistance under this subtitle, the activities conducted through programs referred to in subsection (a) shall not be conducted by any—

(1) business organized for profit;

(2) labor union;

(3) partisan political organization;

(4) organization engaged in religious activities, unless such activities do not involve the use of funds provided under this title by program participants and program staff to give religious instruction, conduct worship services, or engage in any form of proselytization; or

(5) domestic or personal service company or organization.

(c) LIMITATION ON SERVICE.—No participant shall perform services in any project for more than a 6-month period. No participant shall remain enrolled in projects assisted under this subtitle for more than 24 months.

42 USC 12545.

SEC. 125. RELATED PROGRAMS.

An activity administered under the authority of the Secretary of Health and Human Services, that is operated for the same purpose as a program eligible to be carried out under this subtitle, is encouraged to use services available under this subtitle.

42 USC 12546.

SEC. 126. PUBLIC LANDS OR INDIAN LANDS.

(a) LIMITATION.—To be eligible to receive assistance through a grant provided under this subtitle, a program shall carry out activities on public lands or Indian lands, or result in a public benefit.

(b) REVIEW OF APPLICATIONS.—In reviewing applications submitted under section 123 that propose programs or projects to be carried out on public lands or Indian lands, the Commission shall consult with the Secretary of the Interior.

(c) CONSISTENCY.—A program carried out with assistance provided under this subtitle for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with—

(1) the provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law; and

(2) all management, operational, and other plans and documents that govern the administration of such lands.

(d) PARTICIPATION BY OTHER CONSERVATION PROGRAMS.—Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program is encouraged to use services available under this part to carry out its program.

SEC. 127. TRAINING AND EDUCATION SERVICES. 42 USC 12547.

(a) ASSESSMENT OF SKILLS.—Each program agency shall assess the educational level of participants at the time of their entrance into the program, using any available records or simplified assessment means or methodology and shall, where appropriate, refer such participants for testing for specific learning disabilities.

(b) ENHANCEMENT OF SKILLS.—Each program agency shall, through the programs and activities administered under this subtitle, enhance the educational skills of participants.

(c) PROVISION OF PRE-SERVICE AND IN-SERVICE TRAINING AND EDUCATION.—

(1) REQUIREMENT.—Each program agency shall use not less than 10 percent of the assistance made available to such agency under this subtitle in each fiscal year to provide pre-service and in-service training and educational materials and services for participants in such a program. Program participants shall be provided with information concerning the benefits to the community that result from the activities undertaken by such participants.

(2) AGREEMENTS FOR ACADEMIC STUDY.—A program agency may enter into arrangements with academic institutions or education providers, including—

(A) local education agencies;

(B) community colleges;

(C) 4-year colleges;

(D) area vocational-technical schools; and

(E) community based organizations;

to evaluate the basic skills of participants and to make academic study available to participants to enable such participants to upgrade literacy skills, to obtain high school diplomas or the equivalent of such diplomas, to obtain college degrees, or to enhance employable skills.

(3) COUNSELING.—Career and educational guidance and counseling shall be provided to a participant during a period of in-service training as described in this subsection. Each graduating participant shall be provided with counseling with respect to additional study, job skills training or employment and shall be provided job placement assistance where appropriate. Employment.

(4) PRIORITY FOR PARTICIPANTS WITHOUT HIGH SCHOOL DIPLOMAS.—A program agency shall give priority to participants who have not obtained a high school diploma or the equivalent of such diploma, in providing services under this subsection.

(d) STANDARDS AND PROCEDURES.—

(1) CONSISTENCY WITH STATE AND LOCAL REQUIREMENTS.—Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under subsection (c) are consistent with the requirements of applicable State and local law and regulations.

(2) ACADEMIC STANDARDS.—The standards and procedures described in paragraph (1) shall provide that an individual serving in a program that receives assistance under this subtitle—

(A) who is not a high school graduate, participate in an educational curriculum so that such individual can earn a high school diploma or the equivalent of such diploma; and

(B) may arrange to receive academic credit in recognition of the education and skills obtained from service satisfactorily completed.

42 USC 12548.

SEC. 128. AMOUNT OF AWARD; MATCHING REQUIREMENT.

(a) AMOUNT OF AWARD.—In determining the amount of a grant to be awarded to an applicant under this subtitle, the Commission shall consider—

(1) the number of participants to be served;

(2) the youth unemployment rate in the State; and

(3) the type of project or service proposed to be carried out with the assistance provided under this subtitle.

(b) MATCHING REQUIREMENT.—

(1) FEDERAL SHARE.—The Federal share of the cost of activities for which a grant is made to a State or local applicant under this subtitle shall not exceed 75 percent of the total cost of such activities.

(2) DEMONSTRATION OF EFFECTIVENESS.—In addition to the matching requirement in paragraph (1), the State or local applicant shall demonstrate to the satisfaction of the Commission that the effectiveness of the project will be enhanced by the use of Federal funds.

42 USC 12549.

SEC. 129. PREFERENCE FOR CERTAIN PROJECTS.

(a) IN GENERAL.—In the consideration of applications submitted under section 123, the Commission shall give preference to programs that—

(1) will provide long-term benefits to the public;

(2) will instill a work ethic and a sense of public service in the participants;

(3) will be labor intensive, and involve youth operating in crews;

(4) can be planned and initiated promptly; and

(5) will enhance skills development and educational level and opportunities for the participants.

Urban areas.
Rural areas.

(b) SPECIAL RULE.—In the consideration of applications under this subtitle the Commission shall ensure the equitable treatment of both urban and rural areas.

42 USC 12550.

SEC. 130. AGE AND CITIZENSHIP CRITERIA FOR ENROLLMENT.

(a) AGE AND CITIZENSHIP.—Enrollment in programs that receive assistance under this subtitle shall be limited to individuals who, at the time of enrollment, are—

(1) not less than 16 years nor more than 25 years of age, except that summer programs may include individuals not less than 15 years nor more than 21 years of age at the time of the enrollment of such individuals; and

(2) citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(b) PARTICIPATION OF DISADVANTAGED YOUTH.—Programs that receive assistance under this subtitle shall ensure that educationally

and economically disadvantaged youth, including youth in foster care who are becoming too old for foster care, youth with disabilities, youth with limited English proficiency, youth with limited basic skills or learning disabilities and homeless youth, are offered opportunities to enroll.

(c) SPECIAL CORPS MEMBERS.—Notwithstanding subsection (a)(1), program agencies may enroll a limited number of special corps members over age 25 so that the corps may draw on their special skills to fulfill the purposes of this Act. Programs are encouraged to consider senior citizens as special corps members.

(d) JOINT PROJECTS WITH SENIOR CITIZENS ORGANIZATIONS.—Program agencies shall use not more than 2 percent of amounts received under this subtitle to conduct joint projects with senior citizens organizations to enable senior citizens to serve as mentors for youth participants.

(e) CONSTRUCTION.—Nothing in subsection (a) shall be construed to prohibit any program agency from limiting enrollment to any age subgroup within the range specified in subsection (a)(1).

SEC. 131. USE OF VOLUNTEERS. 42 USC 12551.

Program agencies may use volunteer services for purposes of assisting projects carried out under this subtitle and may expend funds made available for those purposes to the agency, including funds made available under this subtitle, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services under this section shall be subject to the condition that such use does not result in the displacement of any participant.

SEC. 132. POST-SERVICE BENEFITS. 42 USC 12552.

The program agency shall provide post-service education and training benefits (such as scholarships and grants) for each participant in an amount that is not in excess of $100 per week, or in excess of $5,000 per year, whichever is less. Scholarships and fellowships.

SEC. 133. LIVING ALLOWANCE. 42 USC 12553.

(a) FULL-TIME SERVICE.—

(1) IN GENERAL.—From assistance provided under this subtitle, each participant in a full-time youth corps program that receives assistance under this subtitle shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(b) REDUCTION IN EXISTING PROGRAM BENEFITS.—

(1) IN GENERAL.—Nothing in this section shall be construed to require a program in existence on the date of enactment of this Act to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipends, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

(2) FAIR LABOR STANDARDS ACT OF 1938.—For purposes of the Fair Labor Standards Act of 1938, residential youth corps programs under this subtitle will be considered an organized camp.

(c) HEALTH INSURANCE.—In addition to the living allowance provided under subsection (a), program agencies are encouraged to provide health insurance to each participant in a full-time youth corps program who does not otherwise have access to health insurance.

(d) FACILITIES, SERVICES, AND SUPPLIES.—

(1) IN GENERAL.—The program agency may deduct, from amounts provided under subsections (a) and (c) to a participant, a reasonable portion of the costs of the rates for any room and board that is provided for such participant at a residential facility. Such deducted funds shall be deposited into rollover accounts that shall be used solely to defray the costs of room and board for participants.

(2) EVALUATION.—The program agency shall establish the amount of the deductions and rates under paragraph (1) after evaluating the costs of providing such room and board to the participant.

(3) DUTIES OF PROGRAM AGENCY.—A program agency may provide facilities, quarters, and board and shall provide limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment to each participant.

(4) OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may provide services, facilities, supplies, and equipment, including any surplus food and equipment available from other Federal programs, to any program agency carrying out projects under this subtitle.

(B) SECRETARY OF DEFENSE.—Whenever possible, the Commission shall make arrangements with the Secretary of Defense to have logistical support provided by a military installation near the work site, including the provision of temporary tent centers where needed, and other supplies and equipment.

(5) HEALTH AND SAFETY STANDARDS.—The Commission and program agencies shall establish standards and enforcement procedures concerning the health and safety of participants for all projects, consistent with Federal, State, and local health and safety standards.

42 USC 12554.

SEC. 134. JOINT PROGRAMS.

(a) DEVELOPMENT.—The Commission may develop, in cooperation with the heads of other Federal agencies, regulations designed to permit, where appropriate, joint programs in which activities supported with assistance made available under this subtitle are coordinated with activities supported with assistance made available under programs administered by the heads of such agencies (including the Job Training Partnership Act (29 U.S.C. 1501 et seq.)).

(b) STANDARDS.—Regulations promulgated under subsection (a) shall establish standards for the approval of joint programs that meet both the purposes of this title and the purposes of such statutes under which assistance is made available to support such projects.

(c) OPERATION OF MANAGEMENT AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(d) COORDINATION.—The Commission and program agencies carrying out programs under this subtitle shall coordinate the programs with related Federal, State, local, and private activities.

SEC. 135. FEDERAL AND STATE EMPLOYEE STATUS. 42 USC 12555.

(a) IN GENERAL.—Participants and crew leaders shall be responsible to, or be the responsibility of, the program agency administering the program on which such participants, crew leaders, and volunteers work.

(b) NON-FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a participant or crew leader in a program that receives assistance under this subtitle shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment.

(2) WORK-RELATED INJURY.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, a participant or crew leader serving in a program that receives assistance under this subtitle shall be considered an employee of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provision of that subchapter shall apply, except—

(A) the term "performance of duty", as used in such subchapter, shall not include an act of a participant or crew leader while absent from the assigned post of duty of such participant or crew leader, except while participating in an activity authorized by or under the direction and supervision of a program agency (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date that the employment of the injured participant or crew leader is terminated.

(3) TORT CLAIMS PROCEDURE.—For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, a participant or crew leaders assigned to a youth corps program for which a grant has been made to the Secretary of Agriculture, Secretary of the Interior, or the Director of ACTION, shall be considered an employee of the United States within the meaning of the term "employee of the government" as defined in section 2671 of such title..

(4) ALLOWANCE FOR QUARTERS.—For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, a participant or crew leader shall be considered an employee of the United States within the meaning of the term "employee" as defined in paragraph (3) of subsection (a) of such section.

(c) AVAILABILITY OF APPROPRIATION.—Contract authority under this subtitle shall be subject to the availability of appropriations. Assistance made available under this subtitle shall only be used for activities that are in addition to those which would otherwise be carried out in the area in the absence of such funds.

42 USC 12556.

SEC. 136. REGULATIONS AND ASSISTANCE.

(a) IN GENERAL.—Before the end of the 120-day period beginning on the date of the enactment of this Act, the Commission shall promulgate regulations necessary to implement the program established by this subtitle.

(b) NOTICE AND COMMENT.—

(1) IN GENERAL.—Prior to the end of the 30-day period beginning on the date of the enactment of this Act, the Commission shall establish procedures to provide program agencies and other interested parties (including the general public) with adequate notice and an opportunity to comment on and participate in the formulation of regulations promulgated under subsection (a).

(2) REPORTING.—The regulations promulgated under subsection (a) shall include provisions to assure uniform reporting on—

(A) the activities and accomplishments of Youth Corps programs;

(B) the demographic characteristics of participants in the Youth Corps; and

(C) such other information as may be necessary to prepare the annual report required by section 172.

National and Community Service Act. 42 USC 12501 note.

Subtitle D—National and Community Service

SEC. 140. SHORT TITLE.

This subtitle may be cited as the "National and Community Service Act".

42 USC 12571.

SEC. 141. GENERAL AUTHORITY.

The Commission may make grants under section 102 to States for the creation of full- and part-time national and community service programs.

42 USC 12572.

SEC. 142. GRANTS.

(a) CRITERIA FOR RECEIVING APPLICATIONS.—In determining whether to award a grant to a State under section 141, the Commission shall consider—

(1) the ability of the proposed program of such State to serve as an effective model for a large-scale national service program;

(2) the quality of the application of such State, including the plan of such State for training, recruitment, placement, and data collection;

(3) the extent that the proposed program builds on existing programs; and

(4) the expediency with which the State proposes to make the program operational.

Urban areas. Rural areas.

(b) DIVERSITY.—The Commission shall ensure that programs receiving assistance under this subtitle are geographically diverse and include programs in both urban and rural States.

(c) TRAINING AND SKILLS.—The Commission shall ensure that some of the programs funded under this subtitle enroll individuals who have completed undergraduate education or specialized post-secondary training and whose training and skills enable them to provide needed services in the State.

(d) COMPOSITION OF PROGRAMS.—The Commission shall ensure that not less than 25 percent of the programs that receive assistance under this subtitle include full-time, part-time and special senior service participants.

(e) DESIGN OF PROGRAMS.—States shall design programs, consistent with the provisions of this Act, that meet the unique needs of the State, which may include programs that limit the type of service participants may perform or limit the age of participants to a narrower age subgroup.

(f) STATE APPLICATION FOR GRANT.—To receive a grant under section 141, a State shall prepare and submit, to the Commission, an application at such time, in such manner, and containing such information as the Commission may reasonably require, including—

(1) a description of the State administrative plan for the implementation of a program with assistance provided under this subtitle, including such functions, if any, that will be carried out by public and private nonprofit organizations pursuant to a grant or contract;

(2) a description of the manner in which an ethnically and economically diverse group of participants, including economically and educationally disadvantaged individuals, college-bound youth, individuals with disabilities, youth in foster care who are becoming too old for foster care, and employed individuals, shall be recruited and selected for participation in a program receiving assistance under this subtitle;

(3) a description of the procedures for training supervisors and participants and for supervising and organizing participants in such program;

(4) a description of the procedures to ensure that the program provides participants with an opportunity to reflect on their service experience;

(5) a description of the geographical areas within such State in which the program would be operated to provide the optimum match between the need for services and the anticipated supply of participants;

(6) a description of the plan for placing such participants in teams or making individual placements in such program;

(7) assurances that, prior to such placement, the State will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

(8) assurances that, prior to such placement, such State will consult with employees at the proposed project site who are engaged in the same or similar work as that proposed to be carried out by such program;

(9) a description of the anticipated number of full- and part-time participants and special senior service members in such program;

(10) a plan for the recruitment and selection of sponsoring organizations that will receive participants under programs that receive assistance under this subtitle;

(11) a description of the procedures for matching such participants with such sponsoring organizations;

(12) a description of the procedures to be used to assure that sponsoring organizations that are not matched with participants shall be provided with information concerning the VISTA

program and the programs established under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.);

(13) the State budget for the program;

(14) a plan for evaluating the program and assurances that such State will fully cooperate with any evaluation undertaken by the Commission pursuant to section 178; and

(15) any other information as the Commission may reasonably require.

(g) NUMBER OF STATES.—

(1) IN GENERAL.—The Commission shall ensure that not more than five States are authorized to operate full-time programs and not more than five States are authorized to operate part-time programs in fiscal year 1991 under this subtitle.

(2) SINGLE PROGRAM.—For purposes of paragraph (1), a State operating a single national service program with both full- and part-time options shall be counted as a State operating a full-time program and a State operating a part-time program.

(3) COOPERATIVE ARRANGEMENT.—For purposes of paragraph (1), a State operating a national service program involving a cooperative arrangement with a multi-State organization or with sites in more than one State shall be counted as a single State.

(4) AUTHORIZED PROGRAMS IN FISCAL YEAR 1991.—The Commission shall ensure that not more than eight States are authorized to operate programs in fiscal year 1991 under this subtitle.

(h) INDIAN TRIBES.—An Indian tribe shall be treated the same as a State for purposes of making grants under this subtitle.

42 USC 12573.

SEC. 143. TYPES OF NATIONAL SERVICE.

A participant in a program that receives assistance under this subtitle shall perform national service to meet unmet educational, human, environmental, and public safety needs, especially those needs relating to poverty.

42 USC 12574.

SEC. 144. TERMS OF SERVICE.

(a) LENGTH OF SERVICE.—

(1) PART-TIME.—An individual performing part-time national service under this subtitle shall agree to perform community service for not less than 3 years.

(2) FULL-TIME.—An individual performing full-time national service under this subtitle shall agree to perform community service for not less than 1 year nor more than 2 years, at the discretion of such individual.

(3) SPECIAL SENIOR SERVICE.—A special senior service participant performing national service under this subtitle shall serve for a period of time as determined by the Commission.

(b) PARTIAL COMPLETION OF SERVICE.—If the State releases a participant from completing a term of service in a program receiving assistance under this subtitle for compelling personal circumstances as demonstrated by such participant, the Commission may provide such participant with that portion of the financial assistance described in section 146 that corresponds to the quantity of the service obligation completed by such individual.

(c) TERMS OF SERVICE.—

(1) PART-TIME.—A participant performing part-time national service under this subtitle shall serve for—

(A) 2 weekends each month and 2 weeks during the year; or

(B) an average of 9 hours per week each year of service.

(2) FULL-TIME.—A participant performing full-time national service under this subtitle shall serve for not less than 40 hours per week each year of service.

(3) SPECIAL SENIOR SERVICE.—A special senior service participant performing national service under this subtitle shall serve either part- or full-time as permitted by the Commission.

SEC. 145. ELIGIBILITY. 42 USC 12575.

(a) PART-TIME.—

(1) REQUIREMENTS.—An individual may serve in a part-time national service program under this subtitle if such individual—

(A) is 17 years of age or older; and

(B) is a citizen of the United States or lawfully admitted for permanent residence.

(2) PRIORITY.—In selecting applicants for a part-time program, States shall give priority to applicants who are currently employed.

(b) FULL-TIME.—An individual may serve in a full-time national service program under this subtitle if such individual—

(1) is 17 years of age or older;

(2) has received a high school diploma or the equivalent of such diploma, or agrees to achieve a high school diploma or the equivalent of such diploma while participating in the program; and

(3) is a citizen of the United States or lawfully admitted for permanent residence.

(c) SPECIAL SENIOR SERVICE.—An individual may serve as a special senior service member under this subtitle if such individual—

(1) is 60 years of age or older; and

(2) meets the eligibility criteria for special senior service membership established by the Commission.

SEC. 146. POST-SERVICE BENEFITS. 42 USC 12576.

(a) PART-TIME.—

(1) FEDERAL SHARE.—The Commission shall annually provide to each part-time participant a nontransferrable post-service benefit that is equal in value to $1,000 for each year of service that such participant provides to the program.

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall annually provide to each part-time participant a nontransferrable post-service benefit that is equal in value to $1,000 for each year of service that such participant provides to the program.

(B) WAIVER.—A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition and required fees at 4-year public institutions of higher education within such State.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a State from using funds made available from non-Federal sources to increase the amount of post-service benefits provided under paragraph (1) to an amount in excess of that described in such paragraph.

(b) FULL-TIME.—

(1) FEDERAL SHARE.—The Commission shall annually provide to each full-time participant a nontransferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program.

(2) STATE SHARE.—

(A) IN GENERAL.—The State shall annually provide to each full-time participant a nontransferrable post-service benefit that is equal in value to $2,500 for each year of service that such participant provides to the program.

(B) WAIVER.—A State may apply for a waiver to reduce the amount of the post-service benefit to an amount that is equal to not less than the average annual tuition, required fees, and room and board costs at 4-year public institutions of higher education within such State.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent a State from using funds made available from non-Federal sources to increase the amount of post-service benefits provided under paragraph (1) to an amount in excess of that described in such paragraph.

(c) SPECIAL SENIOR SERVICE PARTICIPANT.—A special senior service participant shall be ineligible to receive post-service benefits under this section.

(d) INDEXING.—The Commission shall increase the value of post-service benefits provided under this section in each fiscal year based on the increase in the costs associated with attending a 4-year institution of higher education during that fiscal year. The Commission shall determine such increases in costs based on information made available by the Bureau of Labor Statistics and the National Center for Education Statistics.

(e) POST-SERVICE BENEFIT.—

(1) PART-TIME.—A post-service benefit provided under subsection (a) shall only be used for—

(A) payment of a student loan from Federal or non-Federal sources;

(B) downpayment or closing costs associated with purchasing a first home; or

(C) tuition at an institution of higher education on a full-time basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

(2) FULL-TIME.—A post-service provided under subsection (b) shall only be used for—

(A) payment of a student loan from Federal or non-Federal sources; or

(B) tuition, room and board, books and fees, and other costs associated with attendance (pursuant to section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) at an institution of higher education on a full-time basis, or to pay the expenses incurred in the full-time participation in an apprenticeship program approved by the appropriate State agency.

42 USC 12577.

SEC. 147. LIVING ALLOWANCE.

(a) FULL-TIME SERVICE.—

(1) IN GENERAL.—From assistance provided under this subtitle, each participant in a full-time national service program

receiving assistance under this subtitle shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

(b) REDUCTION IN EXISTING PROGRAM BENEFITS.—Nothing in this section shall be construed to require a program in existence on the date of enactment of this Act to decrease any stipends, salaries, or living allowances provided to participants under such program.

(c) HEALTH INSURANCE.—In addition to the living allowance provided under subsection (a), grantees are encouraged to provide health insurance to each participant in a full-time national service program who does not otherwise have access to health insurance.

(d) SPECIAL SENIOR SERVICE PARTICIPANT.—

(1) FULL-TIME.—Each full-time special senior service participant shall receive a living allowance equal to the living allowance provided to full-time participants under subsection (a), and such other assistance as the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

(2) PART-TIME.—Each part-time special senior service participant shall receive a living allowance equal to a share of such allowance offered to a full-time special senior service participant under paragraph (1), that has been prorated according to the number of hours such part-time participant serves in the program, and such other assistance that the Commission considers necessary and appropriate for a special senior service participant to carry out the service obligation of such participant.

SEC. 148. TRAINING. 42 USC 12578.

(a) PROGRAM TRAINING.—

(1) IN GENERAL.—Each participant shall receive 3 weeks of training provided by the Commission in cooperation with the State.

(2) CONTENTS OF TRAINING SESSION.—Each training session described in paragraph (1) shall—

(A) orient each participant in the nature, philosophy, and purpose of the program;

(B) build an ethic of community service; and

(C) train each participant to effectively perform the assigned program task of such participant by providing—

(i) general training in citizenship and civic and community service; and

(ii) if feasible, specialized training for the type of service that each participant will perform.

(b) ADDITIONAL TRAINING.—Each State may provide additional training for participants as such State determines necessary.

(c) AGENCY OR ORGANIZATION TRAINING.—Each participant shall receive training from the sponsoring organization in skills relevant to the work to be conducted.

(d) ACCOMMODATIONS FOR INDIVIDUALS WITH DISABILITIES.—In accordance with the nondiscrimination provisions of section 175, each training program shall provide reasonable accommodations for individuals with disabilities.

42 USC 12579. **SEC. 149. PUBLIC-PRIVATE PARTNERSHIP.**

The Commission shall consider and develop opportunities for cooperation between public and private entities in the funding and implementation of a program receiving assistance under this subtitle, including cost-sharing arrangements with sponsoring organizations.

42 USC 12580. **SEC. 150. IN-SERVICE EDUCATION BENEFITS.**

Each State that receives assistance under this subtitle shall provide to each participant enrolled in a full-time program in-service educational services and materials to enable such participant to obtain a high school diploma or the equivalent of such diploma.

Subtitle E—Innovative and Demonstration Programs and Projects

PART I—LIMITATION ON GRANTS

42 USC 12591. **SEC. 155. LIMITATION ON GRANTS.**

The Commission shall make grants for not fewer than three programs authorized in this subtitle.

PART II—GOVERNORS' INNOVATIVE SERVICE PROGRAMS

42 USC 12601. **SEC. 156. GENERAL AUTHORITY.**

The Commission may make grants under section 102 to States or Indians tribes for the creation of innovative volunteer and community service programs.

42 USC 12602. **SEC. 157. GRANTS.**

(a) CRITERIA FOR RECEIVING APPLICATIONS.—In determining whether to award a grant under section 156, the Commission shall consider—

(1) the ability of the proposed program to serve as an effective model;

(2) the quality of the application submitted for the grant;

(3) the extent to which the proposed program builds on existing programs; and

(4) the degree to which the program responds to human, educational, environmental and public safety needs in an innovative manner.

(b) AUTHORIZED ACTIVITIES.—Grants under this part may be used for—

(1) enhancing volunteer and community service programs;

(2) demonstration programs;

(3) research concerning, assessment of, and evaluation of service programs;

(4) coordination of service programs;

(5) technical assistance;

(6) training and staff development; and

(7) collection and dissemination of information concerning service programs.

Indians. (c) APPLICATION FOR GRANT.—To receive a grant under this part, a State or Indian tribe shall prepare and submit to the Commission,

an application at such time, in such manner, and containing such information as the Commission may reasonably require, including—

(1) a description of the proposed program to be established with assistance provided under the grant;

(2) a description of the human, educational, environmental or public safety service that participants will perform and the State or community need that will be addressed under such proposed program;

(3) a description of the target population of participants and how they will be recruited;

(4) a description of the procedure for training supervisors and participants and for supervising and organizing participants in such proposed program;

(5) a description of the procedures to ensure that the proposed program provides participants with an opportunity to reflect on their service experiences;

(6) a description of the budget for the program;

(7) assurances that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such project; and

(8) assurances that, prior to the placement of a participant in a program, the applicant will consult with employees at the proposed program site who are engaged in the same or similar work as that proposed to be carried out by such program.

PART III—PEACE CORPS

SEC. 160. PROGRAM AUTHORIZED. 42 USC 12611.

(a) GENERAL AUTHORITY.—The Commission is authorized to make grants to the Director of the Peace Corps or the Director of ACTION to carry out training and educational benefits demonstration programs in accordance with this part.

(b) CONTRACT AUTHORITY.—The Director of the Peace Corps and the Director of ACTION are authorized, either directly or by way of grant, contract, or other arrangement, to carry out the provisions of this part. The authority to enter into contracts under this part shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 161. ELIGIBILITY AND SELECTION PROCEDURES. 42 USC 12612.

(a) ELIGIBILITY.—Any individual who—

(1) has completed at least 2 years of satisfactory study at an institution of higher education, is enrolled in an educational program of at least 4 years at an institution of higher education for which such institution awards a bachelor's degree, and will complete such program within 2 years;

(2) enters into an agreement with the Director of the Peace Corps or the Director of ACTION to serve at least 3 years as a volunteer in the Peace Corps or in VISTA; and

(3) is selected pursuant to the competitive process established under subsection (b);

is eligible to participate in the demonstration program authorized by this part.

(b) SELECTION PROCEDURES.—The Director of the Peace Corps and the Director of ACTION shall each establish uniform criteria for the

selection on a competitive basis of individuals to participate in the training programs established under section 162 and to receive educational benefits under section 163. The selection procedures established under this section shall be designed to provide for the awarding of grants for benefits only to students from groups traditionally underrepresented in the Peace Corps or VISTA and to students who will specialize in courses of instruction for which there is a special need in the Peace Corps or VISTA. Not more than 50 individuals shall be selected to participate in the training programs established under section 162.

42 USC 12613.

SEC. 162. TRAINING PROGRAM.

The Director of the Peace Corps and the Director of ACTION shall each establish and carry out a training program under which each individual selected under section 161(b), as part of the course of study which the individual is pursuing at the institution of higher education of such individual, receives appropriate training in skills that such individual will employ in the Peace Corps or VISTA.

42 USC 12614.

SEC. 163. EDUCATIONAL BENEFITS.

(a) BENEFITS PROVIDED.—Each individual who has been selected under section 161(b) shall be eligible to receive educational benefits in an amount that the Director of the Peace Corps or the Director of ACTION finds reasonable and appropriate, but that shall not exceed the costs of tuition, room and board, books, and fees that the individual incurs in attending the institution of higher education of such individual during the remaining 2 years of the educational program in which the individual is enrolled.

(b) FORM OF BENEFITS.—The educational benefits provided to an individual under subsection (a) shall be in the form of grants, remissions of expenses, or such other form as the Director of the Peace Corps or the Director of ACTION considers appropriate.

(c) REPAYMENT OF BENEFITS.—An individual provided benefits under subsection (a) shall repay the amount of the benefits so provided, plus interest not to exceed that permitted under section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a)—

(1) if the individual fails to complete the educational program of such individual within the 2-year period specified in section 161(a)(1), or

(2) if the individual fails to serve 3 years as a volunteer in the Peace Corps or VISTA upon completing the educational program of such individual.

The Director of the Peace Corps or the Director of ACTION may waive the repayment requirement if exceptional circumstances, such as illness or death, prevent an individual from meeting such 2-year or 3-year requirement.

(d) COLLECTION BY SECRETARY OF EDUCATION.—The Secretary of Education shall have the authority to collect amounts owed by an individual under subsection (c). The Secretary may, for the purpose of collecting such amounts, exercise the authorities conferred on the Secretary by sections 467 and 468 of the Higher Education Act of 1965 (20 U.S.C. 1087gg and 1087hh) with respect to the collection of defaulted loans under part E of title IV of that Act. Amounts collected under this subsection shall be deposited in the general fund of the Treasury.

SEC. 164. EVALUATION AND REPORT. 42 USC 12615.

The General Accounting Office shall conduct an evaluation of any program authorized by this part and shall prepare and submit to the President and the appropriate committees of Congress—

(1) not later than October 31, 1993, an interim report on such evaluation; and

(2) not later than October 31, 1995, a final report on such evaluation, together with such recommendations, including recommendations for legislation, as the Director of the Peace Corps, the Director of ACTION, and the Secretary consider appropriate.

PART IV—OTHER VOLUNTEER PROGRAMS

SEC. 165. RURAL YOUTH SERVICE DEMONSTRATION PROJECT. 42 USC 12621.

The Commission is authorized, in accordance with this subtitle, to make grants and enter into contracts under section 102 for the establishment of demonstration projects in rural areas. Such projects may include volunteer service involving the elderly and assisted-living services performed by students, school dropouts, and out-of-school youth. Government contracts.

SEC. 166. ASSISTANCE FOR HEAD START. 42 USC 12622.

The Commission, in consultation with the Director of ACTION, is authorized to make grants under section 102 to grantees under the Foster Grandparent Program (part B of title II of the Domestic Volunteer Service Act) for the purpose of increasing the number of low-income individuals who provide services under such program to children who participate in Head Start programs.

SEC. 167. EMPLOYER-BASED RETIREE VOLUNTEER PROGRAMS. 42 USC 12623.

The Commission is authorized to make grants under section 102 to public and private nonprofit organizations for the purpose of bringing together retirees, their former employers, and community agencies to develop employer-based retiree volunteer programs.

Subtitle F—Administrative Provisions

SEC. 171. LIMITATION ON NUMBER OF GRANTS. 42 USC 12631.

(a) IN GENERAL.—The Commission shall not award more than one grant during each fiscal year to each State under section 102.

(b) NUMBER OF APPLICATIONS.—In submitting applications for a grant under section 102, a State shall consolidate all of the applications of such State for the conduct of programs under subtitles B through E, into a single application that meets the requirements of such subtitles.

(c) MULTIPLE USE.—A grant awarded under section 102 to a State may be used by the State in accordance with the applications consolidated, submitted, and approved under subtitles B through E.

SEC. 172. REPORTS. 42 USC 12632.

(a) STATE REPORTS.—

(1) IN GENERAL.—Each State receiving assistance under this title shall prepare and submit, to the Commission, an annual report concerning the use of assistance provided under this title

and the status of the national and community service programs that receive assistance under such title in such State.

(2) LOCAL GRANTEES.—Each State may require local grantees that receive assistance under this title to supply such information to the State as is necessary to enable the State to complete the report required under paragraph (1), including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and the existence of any problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(3) REPORT DEMONSTRATING COMPLIANCE.—

(A) IN GENERAL.—Each State receiving assistance under this title shall include information in the report required under paragraph (1) that demonstrates the compliance of the State with the provisions of this Act, including sections 177 and 113(9).

(B) LOCAL GRANTEES.—Each State may require local grantees to supply such information to the State as is necessary to enable the State to comply with the requirement of paragraph (1).

(4) AVAILABILITY OF REPORT.—Reports submitted under paragraph (1) shall be made available to the public on request.

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Commission shall prepare and submit, to the appropriate authorizing and appropriation Committees of Congress, a report concerning the programs that receive assistance under this title.

(2) CONTENT.—Reports submitted under paragraph (1) shall contain a summary of the information contained in the State reports submitted under subsection (a), and shall reflect the findings and actions taken as a result of any evaluation conducted by the Commission.

42 USC 12633.

SEC. 173. SUPPLEMENTATION.

(a) IN GENERAL.—Assistance provided under this title shall be used to supplement the level of State and local public funds expended for services of the type assisted under this title in the previous fiscal year.

(b) AGGREGATE EXPENDITURE.—Subsection (a) shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this title.

42 USC 12634.

SEC. 174. PROHIBITION ON USE OF FUNDS.

(a) PROHIBITED USES.—No assistance made available under a grant under this title shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) POLITICAL ACTIVITY.—Assistance provided under this title shall not be used by program participants and program staff to—

(1) assist, promote, or deter union organizing; or

(2) finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) CONTRACTS OR COLLECTIVE BARGAINING AGREEMENTS.—A program that receives assistance under this title shall not impair existing contracts for services or collective bargaining agreements.

SEC. 175. NONDISCRIMINATION. 42 USC 12635.

(a) IN GENERAL.—An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant or member of the staff of such project on the basis of race, color, national origin, sex, age, disability, or political affiliation of such member.

(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this title shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the regulations issued under such Acts.

(c) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant or a member of the project staff who is paid with funds received under this title.

(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this title, of any member of the staff of a project that receives assistance under this title who was employed with the organization operating the project on the date the grant under this title was awarded.

(d) RULES AND REGULATIONS.—The Commission shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

SEC. 176. NOTICE, HEARING, AND GRIEVANCE PROCEDURES. 42 USC 12636.

(a) IN GENERAL.—

(1) SUSPENSION OF PAYMENTS.—The Commission may in accordance with the provisions of this title, suspend or terminate payments under a contract or grant providing assistance under this title whenever the Commission determines there is a material failure to comply with this title or the applicable terms and conditions of any such grant or contract issued pursuant to this title.

(2) PROCEDURES TO ENSURE ASSISTANCE.—The Commission shall prescribe procedures to ensure that—

(A) assistance provided under this title shall not be suspended for failure to comply with the applicable terms and conditions of this title except, in emergency situations, a suspension may be granted for 30 days; and

(B) assistance provided under this title shall not be terminated for failure to comply with applicable terms and conditions of this title unless the recipient of such assistance has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) HEARINGS.—Hearings or other meetings that may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient of assistance under this title.

(c) TRANSCRIPT OR RECORDING.—A transcript or recording shall be made of a hearing conducted under this section and shall be available for inspection by any individual.

(d) STATE LEGISLATION.—Nothing in this title shall be construed to preclude the enactment of State legislation providing for the implementation, consistent with this title, of the programs administered under this title.

(e) CONSTRUCTION.—Nothing in this title shall be construed to link performance of service with receipt of Federal student financial assistance.

(f) GRIEVANCE PROCEDURE—

(1) IN GENERAL.—State and local applicants that receive assistance under this title shall establish and maintain a procedure to adjudicate grievances from participants, labor organizations, and other interested individuals concerning programs that receive assistance under this title, including grievances regarding proposed placements of such participants in such projects.

(2) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence.

(3) DEADLINE FOR HEARING AND DECISION.—

(A) HEARING.—A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days of filing such grievance.

(B) DECISION.—A decision on any grievance shall be made not later than 60 days after the filing of such grievance.

(4) ARBITRATION.—

(A) IN GENERAL.—On the occurrence of an adverse grievance decision, or 60 days after the filing of such grievance if no decision has been reached, the party filing the grievance shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

(B) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration.

(C) DEADLINE FOR DECISION.—A decision concerning such grievance shall be made not later than 30 days after the date of such arbitration proceeding.

(D) COST.—The cost of such arbitration proceeding shall be divided evenly between the parties to the arbitration.

(5) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a program that receives assistance under this title, such placement shall not be made unless it is consistent with the resolution of the grievance pursuant to this subsection.

(6) REMEDIES.—Remedies for a grievance filed under this subsection include—

(A) suspension of payments for assistance under this title;

(B) termination of such payments; and

(C) prohibition of such placement described in paragraph (5).

SEC. 177. NONDUPLICATION AND NONDISPLACEMENT. 42 USC 12637.

(a) NONDUPLICATION.—

(1) IN GENERAL.—Assistance provided under this title shall be used only for a program that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program.

(2) PRIVATE NONPROFIT ENTITY.—Assistance made available under this title shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of subsection (b) are met.

(b) NONDISPLACEMENT.—

(1) IN GENERAL.—An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program receiving assistance under this title.

(2) SERVICE OPPORTUNITIES.—A service opportunity shall not be created under this title that will infringe in any manner on the promotional opportunity of an employed individual.

(3) LIMITATION ON SERVICES.—

(A) DUPLICATION OF SERVICES.—A participant in a program receiving assistance under this title shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(B) SUPPLANTATION OF HIRING.—A participant in any program receiving assistance under this title shall not perform any services or duties or engage in activities that will supplant the hiring of employed workers.

(C) DUTIES FORMERLY PERFORMED BY ANOTHER EMPLOYEE.—A participant in any program receiving assistance under this title shall not perform services or duties that have been performed by or were assigned to any—

(i) presently employed worker;

(ii) employee who recently resigned or was discharged;

(iii) employee who is subject to a reduction in force;

(iv) employee who is on leave (terminal, temporary, vacation, emergency, or sick); or

(v) employee who is on strike or who is being locked out.

(c) LABOR MARKET INFORMATION.—The Secretary of Labor shall make available to the Commission and to any program agency under this title such labor market information as is appropriate for use in carrying out the purposes of this title.

(d) TREATMENT OF BENEFITS.—Section 142(b) of the Job Training Partnership Act shall apply to the projects conducted under this title as such projects were conducted under the Job Training Partnership Act.

(e) STANDARDS OF CONDUCT.—Programs that receive assistance under this title shall establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

42 USC 12638.

SEC. 178. STATE ADVISORY BOARD.

(a) FORMATION OF BOARD.—Each State that applies for assistance under this title is encouraged to establish a State Advisory Board for National and Community Service.

(b) MEMBERS.—

(1) IN GENERAL.—The chief executive officer of a State referred to in subsection (a) shall appoint members to such Advisory Board from among—

(A) representatives of State agencies administering community service, youth service, education, social service, senior service, and job training programs; and

(B) representatives of labor, business, agencies working with youth, community-based organizations such as community action agencies, students, teachers, Older American Volunteer Programs as established under title II of the Domestic Volunteer Act of 1973 (42 U.S.C. 5001 et seq.), full-time youth service corps programs, school-based community service programs, higher education institutions, local educational agencies, volunteer public safety organizations, educational partnership programs, and other organizations working with volunteers.

(2) BALANCE OF MEMBERSHIP.—To the extent practicable, the chief executive officer of a State referred to in subsection (a) shall ensure that the membership of the Advisory Board is balanced according to race, ethnicity, age, and gender.

(c) DUTIES OF BOARD.—A State Advisory Board for National and Community Service established under subsection (a) shall assist the State agency administering a program receiving assistance under this title in—

(1) coordinating programs that receive assistance under this title and related programs within the State;

(2) disseminating information concerning service programs that receive assistance under this title;

(3) recruiting participants for programs that receive assistance under this title; and

(4) developing programs, training methods, curriculum materials, and other materials and activities related to programs that receive assistance under this title.

42 USC 12639.

SEC. 179. EVALUATION.

Government contracts.

(a) IN GENERAL.—The Commission shall provide, through grants or contracts, for the continuing evaluation of programs that receive assistance under this title, including evaluations that measure the impact of such programs, to determine—

(1) the effectiveness of various program models in achieving stated goals and the costs associated with such;

(2) for purposes of the reports required by subsection (h), the impact of such programs, in each State in which a program is conducted, on the ability of—

(A) the VISTA and older American volunteer programs (established under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 4950 et seq.));

(B) each regular component of the Armed Forces (as defined in section 101(4) of title 10, United States Code);

(C) each of the reserve components of the Armed Forces (as described in section 216(a) of title 5, United States Code); and

(D) the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.));

to recruit individuals residing in such State to serve in such program; and

(3) the structure and mechanisms for delivery of services for such programs.

(b) COMPARISONS.—The Commission shall provide for inclusion in the evaluations required under subsection (a), where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

(c) CONDUCTING EVALUATIONS.—Evaluations of programs under subsection (a) shall be conducted by individuals who are not directly involved in the administration of such program.

(d) STANDARDS.—The Secretary shall develop and publish general standards for the evaluation of program effectiveness in achieving the objectives of this title.

(e) COMMUNITY PARTICIPATION.—In evaluating a program receiving assistance under this title, the Commission shall consider the opinions of participants and members of the communities where services are delivered concerning the strengths and weaknesses of such program.

(f) COMPARISON OF PROGRAM MODELS.—The Commission shall evaluate and compare the effectiveness of different program models in meeting the program objectives described in subsection (g) including full- and part-time programs, programs involving different types of national service, programs using different recruitment methods, programs offering alternative voucher options, and programs utilizing individual placements and teams.

(g) PROGRAM OBJECTIVES.—The Commission shall ensure that programs that receive assistance under subtitle D are evaluated to determine their effectiveness in—

(1) recruiting and enrolling diverse participants in such programs, consistent with the requirements of section 145, based on economic background, race, ethnicity, age, marital status, education levels, and disability;

(2) promoting the educational achievement of each participant in such programs, based on earning a high school diploma or the equivalent of such diploma and the future enrollment and completion of increasingly higher levels of education;

(3) encouraging each participant to engage in public and community service after completion of the program based on career choices and service in other service programs such as the Volunteers in Service to America Program and older American volunteer programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.), the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), the military, and part-time volunteer service;

(4) promoting of positive attitudes among each participant regarding the role of such participant in solving community problems based on the view of such participant regarding the personal capacity of such participant to improve the lives of others, the responsibilities of such participant as a citizen and community member, and other factors;

(5) enabling each participant to finance a lesser portion of the higher education of such participant through student loans;

(6) providing services and projects that benefit the community;

(7) supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can effectively be utilized;

(8) providing services and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement of, employed workers or impair the existing contracts of such workers; and

(9) attracting a greater number of citizens to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), and the VISTA and older American volunteer programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(h) OBTAINING INFORMATION.—

(1) IN GENERAL.—In conducting the evaluations required under subsection (g), the Commission may require each program participant and State or local applicant to provide such information as may be necessary to carry out the requirements of this section.

(2) CONFIDENTIALITY.—The Commission shall keep information acquired under this section confidential.

(i) DEADLINE.—The Commission shall complete the evaluations required under subsection (g) not later than 30 months after the date of enactment of this Act.

(j) REPORT.—Not later than 24 months after the date on which the first program is initiated under this title, the Commission shall prepare and submit, to the appropriate Committees of Congress, a report containing the results of the evaluations conducted under subsection (a)(2) with respect to the first 18 months after such initiation date.

42 USC 12640.

SEC. 180. ENGAGEMENT OF PARTICIPANTS.

A State shall not engage a participant to serve in any program that receives assistance under this title unless and until amounts have been appropriated under section 501 for the provision of post-service benefits and for the payment of other necessary expenses and costs associated with such participant.

42 USC 12641.

SEC. 181. NATIONAL SERVICE DEMONSTRATION PROGRAM AMENDMENTS.

(a) TREATMENT OF EDUCATION AND HOUSING BENEFITS.—For purposes of determining eligibility for programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) (hereafter in this section referred to as the "Act"), post-service benefits received under this Act shall be considered as estimated financial assistance as defined in section 428(a)(2)(C)(i) of title IV of the Act (20 U.S.C. 1078(a)(2)(C)(i)), except that in no case shall such a post-service benefit be considered as—

(1) annual adjusted family income as defined in section 411F(1) of subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a-6); or

(2) total income as defined in section 480(a) of part F of title IV of such Act (20 U.S.C. 1087vv(a)).

(b) TREATMENT OF STIPEND FOR LIVING EXPENSES.—In no case shall living allowances received under this Act be considered in the determination of expected family contribution or independent student status under—

(1) subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a et seq.); or

(2) part F of title IV of such Act (20 U.S.C. 1087kk et seq.).

(c) CONTINGENT EXTENSION.—Section 414 of the General Education Provisions Act (20 U.S.C. 1226a) shall apply to this Act.

SEC. 182. PARTNERSHIPS WITH SCHOOLS. 42 USC 12642.

(a) DESIGN OF PROGRAMS.—The head of each Federal agency and department shall design and implement a comprehensive strategy to involve employees of such agencies and departments in partnership programs with elementary schools and secondary schools. Such strategy shall include—

(1) a review of existing programs to identify and expand the opportunities for such employees to be adult volunteers in schools and for students and out-of-school youth;

(2) the designation of a senior official in each such agency and department who will be responsible for establishing adult volunteer and partnership and youth service programs in each such agency and department and for developing adult volunteer and partnership and youth service programs;

(3) the encouragement of employees of such agencies and departments to participate in adult volunteer and partnership programs and other service projects;

(4) the annual recognition of outstanding service programs operated by Federal agencies; and

(5) the encouragement of businesses and professional firms to include community service among the factors considered in making hiring, compensation, and promotion decisions.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, and on a regular basis thereafter, the head of each Federal agency and department shall prepare and submit, to the appropriate Committees of Congress, a report concerning the implementation of this section.

SEC. 183. SERVICE AS TUTORS. 42 USC 12643.

Notwithstanding any other provision of this Act, a service opportunity through which a part-time participant serves as a classroom tutor under the supervision of a certified professional shall be considered an acceptable placement if the requirements of section 177(b) (1) and (2) and section 174 are met.

SEC. 184. DRUG-FREE WORKPLACE REQUIREMENTS. 42 USC 12644.

All programs receiving grants under this title shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707).

SEC. 185. CONFORMING AMENDMENTS.

The Higher Education Act of 1965 is amended—

(1) in section 411F(9) (20 U.S.C. 1070a–6(9)), by adding at the end thereof the following new subparagraph:

"(F) Annual adjusted family income does not include any living allowance received by a participant in programs established under the National and Community Service Act of 1990.";

(2) in section 411F(12)(B)(vi) (20 U.S.C. 1070a–6(12)(B)(vi)), by striking "(including all sources of resources other than par-

ents)" and inserting "(including all sources of resources other than parents and living allowances received as a result of participation in a program established under the National and Community Service Act of 1990.)";

(3) in section 480(f) (20 U.S.C. 1087vv(f)), by—

(A) striking "and" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting a semicolon and "and"; and

(C) adding at the end thereof the following new paragraph:

"(3) any living allowance received by a participant in a program established under the National and Community Service Act of 1990."; and

(4) in section 480(d)(2)(F) (20 U.S.C. 1087vv(d)(2)(F)), by inserting after "other than parents" "and living allowances as a result of participation in a program established under the National and Community Service Act of 1990)".

Subtitle G—Commission on National and Community Service

42 USC 12651.

SEC. 190. COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) ESTABLISHMENT.—There is established a Commission on National and Community Service that shall administer the programs established under this title.

(b) BOARD OF DIRECTORS.—

(1) COMPOSITION.—

(A) IN GENERAL.—The Commission shall be administered by a Board of Directors (hereinafter referred to in this section as the "Board") that shall be composed of 21 members, to be appointed by the President with the advice and consent of the Senate, who shall be individuals who have extensive experience in volunteer and service opportunity programs and who represent a broad range of viewpoints. The membership of the Board shall be balanced according to the race, ethnicity age and gender of its members.

(B) EX-OFFICIO MEMBERS.—The Secretary of Education, Secretary of Health and Human Services, Secretary of Labor, Secretary of Interior, Secretary of Agriculture, and the Director of the ACTION agency shall serve as ex-officio members of the Board.

(2) POLITICAL PARTIES.—Not more than 11 members of the Board shall belong to the same political party.

(3) NOMINATIONS.—Seven members of the Board shall be appointed from among individuals nominated by the Speaker of the House of Representatives, and seven of such members shall be appointed from among individuals nominated by the majority leader of the Senate.

(4) TERMS.—Each member of the Board shall serve for a term of 2 years, except that, subject to the provisions of paragraph (4), 11 of the initial members of the Board shall serve for a term of 1 year, as designated by the President.

President.

(5) VACANCIES.—As vacancies occur on the Board, new members shall be appointed by the President, with the advice and

consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed.

(6) CHAIRPERSON.—The Board shall elect a chairperson and vice-chairperson from among its membership.

(7) MEETINGS.—The Board shall meet not less than three times each year. The Board shall hold additional meetings if seven members of the Board request such meetings in writing. A majority of the Board shall constitute a quorum.

(8) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(c) DUTIES.—The Board shall—

(1) advise the President and the Congress concerning developments in national and community service that merit the attention of the President and the Congress;

(2) design, administer and disseminate information regarding the programs and initiatives established under this title;

(3) consult with appropriate Federal agencies in administering programs that receive assistance under this title;

(4) have the authority to delegate authority to administer the programs established under this title to any other agency or entity of the Federal Government, on the agreement of such agency or entity, as the Board determines appropriate;

(5) provide, directly or through contract with public or private nonprofit organizations that have extensive experience in service programs, training and technical assistance to States, school and community-based service programs, full-time youth service corps, and national service demonstration programs;

Government contracts. Manpower training programs. Technical assistance. Schools. Nonprofit organizations. Armed Forces.

(6) arrange for the evaluation of programs established under this title, in accordance with section 179;

(7) coordinate with the Secretary of Defense in evaluating the effect of the national service demonstration program on the recruitment efforts of the active and reserve components of the Armed Forces; and

(8) carry out any other activities determined appropriate by the Secretary.

(d) EXECUTIVE DIRECTOR OF THE BOARD.—

(1) IN GENERAL.—The Board shall appoint an individual to serve as Executive Director of the Board (hereinafter referred to in this section as the "Director").

(2) DUTIES.—The Director shall advise the Board concerning developments in volunteer or national service that the Director determines merits the attention of the Board, identify promising service initiatives, and coordinate the work of the Board with the work of other Federal agencies involved in service activities and in the design of a competitive grant to provide assistance as authorized under this title.

(e) TECHNICAL EMPLOYEES.—The Director may, at the discretion of the Board, appoint not more than 10 technical employees to administer the Committee. Such employees shall be appointed for terms that shall not exceed 2 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and

subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) CLEARINGHOUSES.—

(1) IN GENERAL.—The Commission shall provide assistance to not more than four regional service clearinghouses.

(2) PUBLIC AND PRIVATE NONPROFIT AGENCIES.—Public and private nonprofit agencies that have extensive experience in community service, adult volunteer and partnership programs, youth service, intergenerational service programs, and programs working with at-risk youth shall be eligible to receive assistance under paragraph (1).

(3) FUNCTION OF CLEARINGHOUSES.—National and regional clearinghouses that receive assistance under paragraph (1) shall—

(A) assist State and local community service programs with needs assessments and planning;

Research.

(B) conduct research and evaluations concerning community service;

(C) provide leadership development and training to State and local community service program administrators, supervisors, and participants;

(D) administer award and recognition programs for outstanding community service programs and participants;

(E) facilitate communication among community service programs and participants;

(F) provide information, curriculum materials, technical assistance on program planning and operation, and training to States and local entities eligible to receive funds under this title;

(G) gather and disseminate information on successful programs, components of successful programs, innovative youth skills curriculum, and projects being implemented nationwide; and

(H) make recommendations to State and local entities on quality controls to improve program delivery and on changes in the programs under this title.

(g) PRESIDENTIAL AWARDS FOR SERVICES.—

(1) PRESIDENTIAL AWARDS.—

(A) IN GENERAL.—The President, acting through the Commission, is authorized to make Presidential Awards for service to—

(i) individuals demonstrating outstanding community service including school-based service;

(ii) outstanding service learning and community service programs; and

(iii) outstanding teachers in service-learning programs.

(B) NUMBER OF AWARDS.—The President is authorized to make one or more individual, one or more teaching, and one or more program awards in each Congressional district, and one or more Statewide individual program and teaching awards in each State.

(C) CONSULTATION.—The President shall consult with the Governor of each State, and with the Board, in the selection of individuals and programs for Presidential Awards.

(D) PARTICIPANTS IN PROGRAMS.—An individual receiving an award under this subsection need not be a participant in a program assisted under this title.

(2) INFORMATION.—The President shall ensure that information concerning individuals and programs receiving awards under this subsection is widely disseminated.

(h) REPORT.—Not later than January 1, 1993, the President shall prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives, a report containing recommendations for the improvement of the administration and coordination of volunteer, national, and community service programs administered by the ACTION Agency, the Commission on National Service, and other Federal entities. Such report shall include— President.

(1) an assessment of whether Federal volunteer, national and community service programs could be more cost effectively and efficiently administered by a single Federal entity or fewer entities, including an estimate of any cost savings that could be achieved by consolidating or centralizing the management of such programs; and

(2) a description of the roles and responsibilities of the ACTION Agency, the Commission on National Service and other Federal entities in developing and coordinating National policy on voluntarism and national and community service and any recommendations for clarifying or altering the missions and responsibilities of such entities which may be appropriate.

TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

Subtitle B—Publication

SEC. 201. INFORMATION FOR STUDENTS.

Section 485(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (J);

(2) by striking out the period at the end of subparagraph (K) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(L) the terms and conditions under which students receiving guaranteed student loans under part B of this title or direct student loans under part E of this title, or both, may—

"(i) obtain deferral of the repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service, and

"(ii) obtain partial cancellation of the student loan for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or, for

comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness in the field of community service.".

SEC. 202. EXIT COUNSELING FOR BORROWERS.

Section 485(b) of the Higher Education Act of 1965 (20 U.S.C. 1092(b)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and "and"; and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest for service under the Peace Corps Act (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)) or under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.".

SEC. 203. DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS.

Section 485(d) of the Higher Education Act of 1965 (20 U.S.C. 1092(d)) is amended by inserting before the last sentence the following new sentence: "The Secretary shall provide information concerning the specific terms and conditions under which students may obtain partial or total cancellation or defer repayment of loans for service, shall indicate (in terms of the Federal minimum wage) the maximum level of compensation and allowances that a student borrower may receive from a tax-exempt organization to qualify for a deferment, and shall explicitly state that students may qualify for such partial cancellations or deferments when they serve as a paid employee of a tax-exempt organization".

SEC. 204. DATA ON DEFERMENTS AND CANCELLATIONS.

Section 485B(a) of the Higher Education Act of 1965 (20 U.S.C. 1092b(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding the following new paragraph after paragraph (4):

"(5) the exact amount of loans partially or totally canceled or in deferment for service under the Peace Corps Act (22 U.S.C. 2501 et seq.)), for service under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), and for comparable full-time service as a volunteer for a tax-exempt organization of demonstrated effectiveness.".

Subtitle B—Youthbuild Projects

SEC. 211. YOUTHBUILD PROJECTS.

The Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VII—YOUTHBUILD PROJECTS

Disadvantaged persons.
Homeless.
42 USC 5091.

"SEC. 701. STATEMENT OF PURPOSE.

"It is the purpose of this title—

"(1) to provide economically disadvantaged young adults with opportunities for meaningful service to their communities in helping to meet the housing needs of homeless individuals and low-income families; and

"(2) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency.

"SEC. 702. AUTHORIZATION OF PROGRAM.

42 USC 5091a.

"(a) FINANCIAL ASSISTANCE.—The Director of the ACTION Agency, in consultation with the Secretary of Labor, may provide grants to pay the Federal share of the cost of carrying out Youthbuild projects in accordance with this title.

"(b) FEDERAL SHARE.—The Federal share under subsection (a) for each fiscal year shall not exceed 90 percent.

"SEC. 703. SERVICE IN CONSTRUCTION AND REHABILITATION PROJECTS.

Real property.
42 USC 5091b.

"(a) CONSTRUCTION AND REHABILITATION PROJECTS.—Eligible participants serving in Youthbuild projects receiving assistance under this title shall be employed in the construction, rehabilitation, or improvement of real property to be used for purposes of providing—

"(1) residential rental housing that is occupied primarily by, or available for occupancy primarily by, homeless individuals and low-income families;

"(2) transitional housing for homeless individuals;

"(3) facilities for the provision of health, education, and other social services to low-income families, including—

"(A) senior citizen centers;

"(B) youth recreation centers;

"(C) Head Start or child or adult day care centers; and

"(D) community health centers.

"(b) REQUIREMENTS FOR COMMUNITY FACILITIES.—No assistance may be provided under this title to support the construction, rehabilitation, or improvement of real property to be used to provide facilities described in subsection (a) unless the property—

"(1) is used principally by or for the benefit of low-income families;

"(2) is owned and occupied solely by public or private nonprofit entities; and

"(3) is located in census tracts, or identifiable neighborhoods within census tracts, in which the median family income is not more than 80 percent of the median family income of the area in which the facility is located, as such median family income and area are determined for the purposes of assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

"(c) RESTRICTION OF USE.—Participants under this title may not be employed in the construction, operation, or maintenance of any facility used for sectarian instruction or religious worship.

42 USC 5091c.

"SEC. 704. EDUCATION AND JOB TRAINING SERVICES.

"(a) IN GENERAL.—Assistance provided under this title shall be used by each Youthbuild project to provide to participants the following:

"(1) SERVICE OPPORTUNITIES.—Service opportunities in the construction or rehabilitation projects described in section 703, which shall be integrated with appropriate skills training and coordinated with, to the extent feasible, preapprenticeship and apprenticeship programs.

"(2) EDUCATIONAL SERVICES.—Services and activities designed to meet the educational needs of participants, including—

"(A) basic skills instruction and remedial education;

"(B) bilingual education for individuals with limited English proficiency; and

"(C) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent.

"(3) PERSONAL AND PEER SUPPORTS.—Counseling services and other activities designed to—

"(A) ensure that participants overcome personal problems that would interfere with their successful participation; and

"(B) develop a strong, mutually supportive peer context in which values, goals, cultural heritage, and life skills can be explored and strengthened.

"(4) LEADERSHIP DEVELOPMENT.—Opportunities to develop the decisionmaking, speaking, negotiating, and other leadership skills of participants, such as the establishment and operation of a youth council with meaningful decisionmaking authority over aspects of the project.

"(5) PREPARATION FOR AND PLACEMENT IN UNSUBSIDIZED EMPLOYMENT.—Activities designed to maximize the value of participants as future employees and to prepare participants for seeking, obtaining, and retaining unsubsidized employment.

"(6) NECESSARY SUPPORT SERVICES.—To provide support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 6 months after completion of training, to assist participants through support services in retaining employment.

"(b) CONDITIONS.—The provision of service opportunities to participants in Youthbuild projects shall be made conditional upon attendance and participation by such individuals in the educational services and activities described in subsection (a). The duration of participation for each individual in educational services and activities shall be at least equal to the total number of hours for which a participant serves and is paid wages by a Youthbuild project.

42 USC 5091d.

"SEC. 705. USES OF FUNDS.

"(a) FUNDS.—Funds provided under this title may be used only for activities that are in addition to activities that would otherwise be available in the absence of such funds.

"(b) ASSISTANCE CRITERIA.—Assistance provided to each Youthbuild project under this title shall be used only for—

"(1) education and job training services and activities described in paragraphs (2), (3), (4), (5), and (6) of section 704(a);

"(2) wages and benefits paid to participants in accordance with sections 704(a) and 706; and

"(3) administrative expenses incurred by the project in an amount not to exceed 10 percent of the amount of assistance provided to the project under this title unless such project receives a waiver, on the basis of substantial need, granted by the Director to use an amount not to exceed 15 percent of the amount of such assistance provided under this title for such purposes.

"SEC. 706. ELIGIBLE PARTICIPANTS. 42 USC 5091e.

"(a) IN GENERAL.—Except as provided in subsection (b), an individual shall be eligible to participate in a Youthbuild project receiving assistance under this title if such individual is—

"(1) 16 to 24 years of age, inclusive;

"(2) economically disadvantaged; and

"(3) an individual who has dropped out of high school whose reading and mathematics skills are at or below the 8th grade level.

"(b) EXCEPTIONS.—Not more than 25 percent of the participants in a Youthbuild project receiving assistance under this title may be individuals who do not meet the requirements of subsection (a).

"(c) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild project may participate full-time for a period of not less than 6 months and not more than 18 months.

"SEC. 707. LIVING ALLOWANCES. 42 USC 5091f.

"(a) AMOUNT OF ALLOWANCE.—

"(1) IN GENERAL.—Each participant in a full-time Youthbuild program that receives assistance under this title shall receive a living allowance of not more than an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Service Block Grant Act (42 U.S.C. 9902(2)).

"(2) NON-FEDERAL SOURCES.—Notwithstanding paragraph (1), a program agency may provide participants with additional amounts that are made available from non-Federal sources.

"(3) REDUCTION IN EXISTING PROGRAM BENEFITS.—Nothing in this section shall be construed to require a program in existence on the date of enactment of this title to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipend, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

"(b) NONDISCRIMINATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a Youthbuild project shall not discriminate on the basis of religion against a participant or a member of the project staff who is paid with funds under this title.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with funds provided under this title, of any member of the staff of a Youthbuild project who was employed with the organization operating the project on the date the grant funded under this title was awarded.

Colleges and universities.
42 USC 5091g.

"SEC. 708. CONTRACTS.

"Each Youthbuild project shall carry out the services and activities under this title directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act (29 U.S.C. 1501(b)(1)(B)), with State and local educational agencies, institutions of higher education, State and local housing development agencies, and with other public agencies and private organizations.

42 USC 5091h.

"SEC. 709. PERFORMANCE STANDARDS.

"(a) IN GENERAL.—The Director, in consultation with the Secretary of Labor, shall prescribe standards for evaluating the performance of Youthbuild projects receiving assistance under this title, including the following factors:

"(1) Placement in unsubsidized employment.
"(2) Retention in unsubsidized employment.
"(3) An increase in earnings.
"(4) Improvement of reading and other basic skills.
"(5) Attainment of a high school diploma or its equivalent.
"(6) Completion of projects providing a benefit to the community.

"(b) VARIATIONS.—The Director shall prescribe variations to the standards determined under subsection (a) by taking into account the economic conditions of the areas in which Youthbuild projects are located and appropriate special characteristics, such as the extent of English language proficiency and offender status of Youthbuild participants.

42 USC 5091i.

"SEC. 710. APPLICATIONS.

"(a) SUBMISSION.—To apply for a grant under this title, an eligible entity shall submit an application to the Director in accordance with procedures established by the Director.

"(b) CRITERIA.—Each such application shall—

"(1) describe the educational services, job training, supportive services, service opportunities, and other services and activities that will be provided to participants;

"(2) describe the proposed construction of rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(3) describe the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, public assistance agencies, the courts of jurisdiction for status and youth offenders, homeless shelters and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(4) describe the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(5) describe how the proposed project will be coordinated with other Federal, State, and local activities, including vocational, adult and bilingual education programs, job training supported by funds available under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the Family Support Act of 1988, housing and economic development, and programs that

receive assistance under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306);

"(6) provide assurances that there will be a sufficient number of supervisory personnel on the project and that the supervisory personnel are trained in the skills needed to carry out the project;

"(7) describe activities that will be undertaken to develop the leadership skills of participants;

"(8) set forth a detailed budget and describe the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness; and

"(9) set forth assurances, arrangements, and conditions the Director determines are necessary to carry out this title.

"SEC. 711. SELECTION OF PROJECTS. 42 USC 5091j.

"In approving applications for assistance under this title, the Director shall give priority to applicants that demonstrate the following:

"(1) POTENTIAL FOR SUCCESS.—The greatest likelihood of success, as indicated by such factors as the past experience of an applicant with housing rehabilitation or construction, youth and youth education and employment training programs, management capacity, fiscal reliability, and community support.

"(2) NEED.—Have the greatest need for assistance, as determined by factors such as—

"(A) the degree of economic distress of the community from which participants would be recruited, including—

"(i) the extent of poverty;

"(ii) the extent of youth unemployment; and

"(iii) the number of individuals who have dropped out of high school; and

"(B) the degree of economic distress of the locality in which the housing would be rehabilitated or constructed, including—

"(i) objective measures of the incidence of homelessness;

"(ii) the relation between the supply of affordable housing for low-income families and the number of such families in the locality;

"(iii) the extent of housing overcrowding; and

"(iv) the extent of poverty.

"SEC. 712. MANAGEMENT AND TECHNICAL ASSISTANCE. 42 USC 5091k.

"(a) GENERAL ADMINISTRATION.—The program established under this title shall be administered by an individual with significant experience in the administration of youth service programs that explicitly attempt to enhance the basic academic and vocational skills of participants in such programs. The Director is authorized to delegate any of the functions of the Director under this title as may be appropriate to the Secretary of Labor and provide for the performance of any of the provisions of this title on a cost-reimbursable basis by the Secretary of Labor.

"(b) DIRECTOR ASSISTANCE.—The Director may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Director in the management, supervision, and coordination of Youthbuild projects receiving assistance under this title.

Government contracts. Manpower training programs. Nonprofit organizations.

"(c) SPONSOR ASSISTANCE.—The Director shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of projects assisted under this title.

"(d) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of project proposals and the preparation of applications for assistance under this title to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(e) RESERVATION OF FUNDS.—The Director shall reserve 5 percent of the amounts available in each fiscal year under section 715 to carry out subsections (c) and (d).

42 USC 5091*l*.

"SEC. 713. DEFINITIONS.

"For purposes of this title:

"(1) COMMUNITY-BASED ORGANIZATIONS.—The term 'community-based organizations' has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

"(2) DIRECTOR.—The term 'Director' means the Director of the ACTION agency.

"(3) DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma, but does not include any individual who has attended secondary school at any time during the preceding 6 months.

"(4) ECONOMICALLY DISADVANTAGED.—The term 'economically disadvantaged' has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

"(5) ELIGIBLE ENTITY.—The term 'eligible entity' means a public or private nonprofit agency, such as—

"(A) community-based organizations;

"(B) administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act (29 U.S.C. 1501(b)(1)(B));

"(C) community action agencies;

"(D) State and local housing development agencies;

"(E) State and local youth service and conservation corps; and

"(F) any other entity that is eligible to provide education and employment training under other Federal employment training programs.

"(6) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given such term in section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302).

"(7) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for the homeless or low-income families.

"(8) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(9) LIMITED ENGLISH PROFICIENCY.—The term 'limited English proficiency' has the meaning given such term in section 7003 of the Bilingual Education Act (20 U.S.C. 3223).

"(10) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term 'lower income families' in section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)).

"(11) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(12) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this title and that has the capacity to provide effective technical assistance under this title.

"(13) RESIDENTIAL RENTAL PURPOSES.—The term 'residential rental purposes' includes a cooperative or mutual housing facility that has a resale structure that enables the cooperative to maintain affordability for low-income individuals and families.

"(14) SERVICE OPPORTUNITY.—The term 'service opportunity' means the opportunity to perform work in return for wages and benefits in the construction or rehabilitation of real property in accordance with this title.

"(15) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, or any other territory or possession of the United States.

"(16) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(17) YOUTHBUILD PROJECT.—The term 'Youthbuild project' means any project that receives assistance under this title and provides disadvantaged youth with opportunities for service, education, and training in the construction or rehabilitation of housing for homeless and other low-income individuals.

"SEC. 715. REGULATIONS. 42 USC 5091m.

The Secretary shall issue any regulations necessary to carry out this title.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS. 42 USC 5091n.

"There are authorized to be appropriated to carry out this title $1,000,000 for fiscal year 1991, $2,000,000 for fiscal year 1992, and $5,000,000 for fiscal year 1993.".

Subtitle C—Amendments to Student Literacy Corps

SEC. 221. AMENDMENTS TO STUDENT LITERACY CORPS.

20 USC 1018c.

(a) INCREASE IN HOURS OF SERVICE.—Section 144(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1018 note) is amended by striking "6" and inserting in lieu thereof "60" and by striking "each week of" and inserting in lieu thereof "during".

Disadvantaged persons.

(b) PRIORITY.—Section 144(b)(2)(D) of such Act is amended by inserting before the semicolon the following: "and, as provided in section 146, will give priority in providing tutoring services to—

"(i) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(ii) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households.".

20 USC 1018e.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 146 of such Act is amended—

(1) by inserting "(a)" before "In general"; and

(2) by adding at the end thereof the following new subsection:

"(b) The priorities described in section 144(b)(2)(D) shall be applied by the Secretary to funds appropriated which exceed $10,000,000.".

The Points of Light Foundation Act.
Public information.

TITLE III—POINTS OF LIGHT FOUNDATION

SEC. 301. SHORT TITLE.

42 USC 12501

This title may be cited as the "The Points of Light Foundation Act".

42 USC 12661.

SEC. 302. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) community service and service to others is an integral part of American tradition;

(2) existing volunteers and volunteer programs should be praised for their efforts in helping and serving others;

(3) the definition of a successful life includes service to others;

(4) individuals should be encouraged to volunteer their time and energies in community service efforts;

(5) if asked to volunteer or participate in community service, most Americans will do so;

(6) institutions should be encouraged to volunteer their resources and energies and should encourage volunteer and community service among their members, employees, affiliates; and

(7) volunteer and community service programs are intended to complement and not replace governmental responsibilities.

(b) PURPOSE.—It is the purpose of this title—

(1) to encourage every American and every American institution to help solve our most critical social problems by volunteering their time, energies and services through community service projects and initiatives;

(2) to identify successful and promising community service projects and initiatives, and to disseminate information concerning such projects and initiatives to other communities in order to promote their adoption nationwide; and

(3) to discover and encourage new leaders and develop individuals and institutions that serve as strong examples of a commitment to serving others and to convince all Americans that a successful life includes serving others.

SEC. 303. AUTHORITY. 42 USC 12662.

(a) IN GENERAL.—The President is authorized to designate a private, nonprofit organization (hereinafter referred to in this title as the Foundation) to receive funds pursuant to section 501(b), upon the determination of the President that such organization is capable of carrying out the undertakings described in section 302. Any such designation by the President shall be revocable.

(b) CONSTRUCTION.—Nothing in this Act shall be construed either—

(1) to cause the Foundation to be deemed an agency, establishment, or instrumentality of the United States Government; or

(2) to cause the directors, officers or employees of the Foundation to be deemed officers or employees of the United States.

SEC. 304. GRANTS TO THE FOUNDATION. 42 USC 12663.

(a) IN GENERAL.—Funds made available pursuant to sections 303 and 501(b) shall be granted to the Foundation by a department or agency in the executive branch of the United States Government designated by the President—

(1) to assist the Foundation in carrying out the undertakings described in section 302; and

(2) for the administrative expenses of the Foundation.

(b) INTEREST EARNED ON ACCOUNTS.—Notwithstanding any other provision of law, the Foundation may hold funds granted to it pursuant to this title in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

SEC. 305. ELIGIBILITY OF THE FOUNDATION FOR GRANTS. 42 USC 12664.

(a) COMPLIANCE.—Grants may be made to the Foundation pursuant to this title only if the Foundation agrees to comply with the requirements of this title. If the Foundation fails to comply with the requirements of this title, additional funds shall not be released until the Foundation brings itself into compliance with such requirements.

(b) ACTIVITIES.—The Foundation may use funds provided under this title only for activities and programs consistent with the purposes described in sections 302 and 304.

(c) LIMITATION.—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(d) COMPENSATION.—No part of the funds available to the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses. Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

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(e) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects his or her financial interests or the financial interests of any corporation, partnership, entity, or organization in which he or she has a direct or indirect financial interest.

(f) POLITICAL ACTIVITY.—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation, and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(g) PRIVATE SECTOR CONTRIBUTIONS.—During the second and third fiscal years in which funds are provided to the Foundation under this title, the Foundation shall raise from private sector donations an amount equal to not less than 25 percent of any funds provided to the Foundation under this title in such fiscal year. Funds shall be released to the Foundation during such fiscal year only to the extent that the matching requirement of the subsection has been met.

(h) AUDIT OF ACCOUNTS.—The accounts of the Foundation shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. The reports, of each such independent audit shall be included in the annual report required by subsection (l).

(i) AUDITS BY AGENCIES.—In fiscal years in which the Foundation is receiving grants under this title, the accounts of the Foundation may be audited at any time by any agency designated by the President. The Foundation shall keep such records as will facilitate effective audits.

(j) CONGRESSIONAL OVERSIGHT.—In fiscal years in which the Foundation is receiving grants under this title, the Foundation shall be subject to appropriate oversight procedures of Congress.

(k) DUTIES.—The Foundation shall ensure—

Records.

(1) that recipients of financial assistance provided by the Foundation under this title, shall keep separate accounts with respect to such assistance and such records as may be reasonably necessary to disclose fully—

(A) the amount and the disposition by such recipient of the assistance received from the Foundation;

(B) the total cost of the project or undertaking in connection with which such assistance is given or used;

(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(D) such other records as will facilitate effective audits; and

(2) that the Foundation, or any of its duly authorized representatives including any agency designated by the President pursuant to subsection (i) shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided from funds granted pursuant to this title.

(l) ANNUAL REPORTS.—The Foundation shall prepare and submit to the President and to the appropriate Committees of Congress an annual report, that shall include a comprehensive and detailed description of the Foundation's operations, activities, financial condition, and accomplishments for the fiscal year preceding the

year in which the report is submitted. Such report shall be submitted not later than 3 months after the conclusion of any fiscal year in which the Foundation receives grants under this title.

TITLE IV—FOOD DONATIONS

SEC. 401. SENSE OF CONGRESS CONCERNING ENACTMENT OF GOOD SAMARITAN FOOD DONATION ACT. 42 USC 12671.

(a) IN GENERAL.—It is the sense of Congress that each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States should—

(1) encourage the donation of apparently wholesome food or grocery products to nonprofit organizations for distribution to needy individuals; and

(2) consider the model Good Samaritan Food Donation Act (provided in section 402) as a means of encouraging the donation of food and grocery products.

(b) DISTRIBUTION OF COPIES.—The Archivist of the United States shall distribute a copy of this title to the chief executive officer of each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 402. MODEL GOOD SAMARITAN FOOD DONATION ACT.

Good Samaritan Food Donation Act. 42 USC 12672.

(a) SHORT TITLE.—This section may be cited as the "Good Samaritan Food Donation Act".

(b) DEFINITIONS.—As used in this section:

(1) APPARENTLY FIT GROCERY PRODUCT.—The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(2) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(3) DONATE.—The term "donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(4) FOOD.—The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(5) GLEANER.—The term "gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(6) GROCERY PRODUCT.—The term "grocery product" means a nonfood grocery product, including a disposable paper or plastic

product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(7) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(8) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(9) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

(10) PERSON.—The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this paragraph shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(d) COLLECTION OR GLEANING OF DONATIONS.—A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(e) PARTIAL COMPLIANCE.—If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this section if the nonprofit organization that receives the donated food or grocery products—

(1) is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(2) agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(3) is knowledgeable of the standards to properly recondition the donated food or grocery product.

(f) CONSTRUCTION.—This section shall not be construed to create any liability.

SEC. 403. EFFECT OF SECTION 402. 42 USC 12673.

The model Good Samaritan Food Donation Act (provided in section 402) is intended only to serve as a model law for enactment by the States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States. The enactment of section 402 shall have no force or effect in law.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS. 42 USC 12681.

(a) TITLE I.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out title I, $56,000,000 for fiscal year 1991, $95,500,000 for fiscal year 1992, and $105,000,000 for fiscal year 1993.

(2) EARMARKS.—Of the aggregate amount appropriated under paragraph (1) for title I for each fiscal year—

(A) $2,000,000 shall be made available to carry out subtitle G of such title in each such fiscal year;

(B) not less than 30 percent shall be available to carry out subtitle B of such title in each such fiscal year;

(C) not less than 30 percent shall be available to carry out subtitle C of such title in each such fiscal year; and

(D) not less than 30 percent shall be available to carry out subtitle D of such title in each such fiscal year.

(b) TITLE III.—There are authorized to be appropriated to carry out title III, $5,000,000 for fiscal year 1991, $7,500,000 for fiscal year 1992, and $10,000,000 for fiscal year 1993.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. AMTRAK WASTE DISPOSAL.

(a) AMENDMENT TO RAIL PASSENGER SERVICE ACT.—Section 306(i) of the Rail Passenger Service Act is amended— 45 USC 546.

(1) by inserting "and other Federal, State and local laws" after "Public Health Service Act (42 U.S.C. 264)"; and

(2) by adding at the end thereof the following new sentences: "New intercity rail passenger cars manufactured on or after October 15, 1990, shall be built to provide for the discharge of human wastes only at servicing facilities. The Corporation shall retrofit those of its intercity rail passenger cars that were manufactured after May 1, 1971 and before October 15, 1990, with human waste disposal systems that provide for the discharge of human wastes only at servicing facilities. Subject to the appropriation of funds, (1) such retrofit program shall be completed within not later than October 15, 1996, and (2) all cars that do not provide for the discharge of human wastes only at servicing facilities shall be removed from service after such date. The United States district courts shall have original juris- Courts.

diction over any civil actions brought by the Corporation to enforce the exemption conferred hereunder and may grant equitable or declaratory relief as requested by the Corporation.".

45 USC 546 note.

(b) PLAN.—Not later than 1 year after the date of enactment of this Act, the National Railroad Passenger Corporation shall prepare and submit to the appropriate committees of Congress a plan that sets forth a schedule and projected cost for the completion of the retrofit program referred to in the amendment made by subsection (a) within the time limit set forth under such amendment.

45 USC 546 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on February 5, 1976.

45 USC 546 note.

(d) ENVIRONMENTALLY SENSITIVE AREAS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials, shall promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

45 USC 546 note.

(e) AVAILABILITY OF INFORMATION CONCERNING DISPOSAL OF WASTE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas.

SEC. 602. EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

22 USC 2452a.

(a) AUTHORIZATION OF ACTIVITIES; GRANTS OR CONTRACTS FOR EXCHANGES WITH FOREIGN COUNTRIES.—Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

The program under this section shall be coordinated by the United States Information Agency.

(b) TRANSFER OF FUNDS.—The President is authorized to transfer to the appropriations account of the United States Information Agency such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State and the United States Information Agency, as the President shall designate. Such transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 1430 (H.R. 4330):

HOUSE REPORTS: No. 101-677, Pt. 1 accompanying H.R. 4330 (Comm. on Education and Labor) and No. 101-893 (Comm. of Conference).
SENATE REPORTS: No. 101-176 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 26-28, Mar. 1, considered and passed Senate.
Sept. 13, H.R. 4330 considered and passed House; S. 1430, amended, passed in lieu.
Oct. 16, Senate agreed to conference report.
Oct. 24, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential statement.

Public Law 101-611
101st Congress

An Act

Nov. 16, 1990
[S. 2287]

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991".

TITLE I—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATIONS

42 USC 2451 note.

SEC. 101. FINDINGS.

The Congress finds that—

(1) over the next decade, the United States aeronautics and space program will be directed toward major national priorities of understanding, preserving, and enhancing our global environment, hypersonic transportation, human exploration, and emerging technology commercialization;

(2) the United States aeronautics and space program is supported by an overwhelming majority of the American people;

(3) the United States aeronautics and space program genuinely reflects our Nation's pioneer heritage and demonstrates our quest for leadership, economic growth, and human understanding;

(4) the United States space program is based on a solid record of achievement and continues to promote the objective of international cooperation in the exploration of the planets and the universe;

(5) the United States aeronautics and space program generates critical technology breakthroughs that benefit our economy through new products and processes that significantly improve our standard of living;

(6) the United States aeronautics and space program excites the imagination of every generation and can stimulate the youth of our Nation toward the pursuit of excellence in the fields of science, engineering, and mathematics;

(7) the United States aeronautics and space program contributes to the Nation's technological competitive advantage;

(8) the United States aeronautics and space program requires a sustained commitment of financial and human resources as a share of the Nation's Gross National Product;

(9) the United States space transportation system will depend upon a robust fleet of space shuttle orbiters and expendable and reusable launch vehicles and services;

(10) the United States space program will be advanced with an assured funding stream for the development of a permanently manned space station with research, experimentation, observation, servicing, manufacturing, and staging capabilities for lunar and Mars missions;

(11) the United States aeronautics program has been a key factor in maintaining preeminence in aviation over many decades;

(12) the United States needs to maintain a strong program with respect to transatmospheric research and technology by developing and demonstrating National Aero-Space Plane technology by a mid-decade date certain;

(13) the National Aeronautics and Space Administration is primarily responsible for formulating and implementing policy that supports and encourages civil aeronautics and space activities in the United States; and

(14) commercial activities of the private sector will substantially and increasingly contribute to the strength of both the United States space program and the national economy.

SEC. 102. POLICY.

42 USC 2451 note.

It is declared to be national policy that the United States should—

(1) rededicate itself to the goal of leadership in critical areas of space science, space exploration, and space commercialization;

(2) increase its commitment of budgetary resources for the space program to reverse the dramatic decline in real spending for such program since the achievements of the Apollo moon program;

(3) ensure that the long-range environmental impact of all activities carried out under this title are fully understood and considered;

(4) promote and support efforts to advance scientific understanding by conducting or otherwise providing for research on environmental problems, including global change, ozone depletion, acid precipitation, deforestation, and smog;

(5) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(6) maintain an active fleet of space shuttle orbiters, including an adequate provision of structural spare parts, and evolve the orbiter design to improve safety and performance, and reduce operational costs;

(7) sustain a mixed fleet by utilizing commercial expendable launch vehicle services to the fullest extent practicable;

(8) support an aggressive program of research and development designed to enhance the United States preeminence in launch vehicles;

(9) continue and complete on schedule the development and deployment of a permanently manned, fully capable, space station;

(10) develop an advanced, high pressure space suit to support extravehicular activity that will be required for Space Station Freedom when Assembly Complete is reached;

(11) establish a dual capability for logistics and resupply of the space station utilizing the space shuttle and expendable launch vehicles, including commercial services if available;

(12) continue to seek opportunities for international cooperation in space and fully support international cooperative agreements;

(13) maintain an aggressive program of aeronautical research and technology development designed to enhance the United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system;

(14) conduct a program of technology maturation, including flight demonstration in 1997, to prove the feasibility of an air-breathing, hypersonic aerospace plane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere;

(15) seek innovative technologies that will make possible advanced human exploration initiatives, such as the establishment of a lunar base and the succeeding mission to Mars, and provide high yield technology advancements for the national economy; and

(16) enhance the human resources of the Nation and the quality of education.

SEC. 103. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration the following amounts:

(1) For "research and development", for the following programs:

(A) United States International Space Station Freedom:

(i) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $2,451,000,000 shall be made available for fiscal year 1991.

(ii) Such sums as are necessary from funds authorized for the United States International Space Station Freedom shall be used to initiate a flight test of the solar dynamic power program. By May 1, 1991, the Administrator shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the implementation plan for the conduct of a flight test of the solar dynamic power program.

Reports.

(B) Space transportation capability development, $723,400,000 for fiscal year 1991. Of such funds, $10,000,000 shall be used only for supporting heavy-lift launch vehicle studies, which shall include study of commercially developed variants as well as other appropriate concepts, rather than studying Shuttle-derived heavy-lift launch vehicles alone.

(C) Physics and astronomy, $985,000,000 for fiscal year 1991.

(D) Life sciences, $168,400,000 for fiscal year 1991. Of the amounts authorized for such purposes, by this or any other Act, for fiscal year 1991—

(i) $5,000,000 shall be used for the development of payloads for the Lifesat program; and

(ii) not less than $400,000 shall be used for space food processing studies and bioregenerative modeling assessments.

(E) Planetary exploration, $337,200,000 for fiscal year 1991.

(F) Earth sciences:

(i) $542,500,000 for fiscal year 1991, of which $5,000,000 shall be made available for the conduct of an advanced sensor technology demonstration program, $35,000,000 shall be made available for Earth Probes, including the development of the Total Ozone Mapping Spectrometer, and $44,300,000 shall be made available for Modeling and Data Analysis, including the development of Earth Science Data Directories and remote sensing data conversion.

(ii) Notwithstanding section 201(a)(1)(A) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989, not more than $132,000,000 may be made available for the Earth Observing System Platform for fiscal year 1991.

(G) Materials processing in space, $97,300,000 for fiscal year 1991.

(H) Communications, $52,800,000 for fiscal year 1991, including not more than $2,000,000 for experimenter ground stations for the Advanced Communications Technology Satellite, but only if the experimenter receiving funds obtains at least an equal amount of funds from sources other than the National Aeronautics and Space Administration.

(I) Information systems, $36,800,000 for fiscal year 1991.

(J) Technology utilization, $24,400,000 for fiscal year 1991.

(K) Commercial use of space, $76,600,000 for fiscal year 1991.

(L) Aeronautical research and technology, $537,000,000 for fiscal year 1991.

(M) Transatmospheric research and technology, $119,000,000 for fiscal year 1991.

(N) Space research and technology, $412,900,000 for fiscal year 1991. Of the amounts authorized for the Exploration Technology program, by this or any other Act, for fiscal year 1991, at least 10 percent shall be for university contracts and grants.

(O) Exploration mission studies, $21,000,000 for fiscal year 1991, which is authorized for studies conducted by the National Aeronautics and Space Administration. The Administrator shall provide to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, by March 15, 1991, a report setting forth the goals for academic participation and enhancement of the educational infrastructure with regard to the human exploration initiative. Reports.

(P) Safety, reliability, and quality assurance, $33,000,000 for fiscal year 1991.

(Q) Tracking and data advanced systems, $20,000,000 for fiscal year 1991.

(R) University Space Science and Technology Academic Program, $50,100,000 for fiscal year 1991.

Reports.

(S) Comet Rendezvous Asteroid Flyby/Cassini mission, not to exceed $1,600,000,000, for development, launch, and 30 days of operations thereof, to remain available until expended, of which—

(i) $490,000,000 shall be available for obligation after October 1, 1989;

(ii) an additional $370,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a preliminary design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(iii) an additional $640,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a critical design review to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate; and

(iv) an additional $100,000,000 shall be available for obligation 30 days after the submission of a report summarizing the results of a spacecraft integration and systems test to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

A cost containment plan shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 31, 1991, and updated on July 31 and January 31 of each succeeding year until such funds are expended.

(2) For "space flight, control, and data communications", for the following programs:

(A) Shuttle production and operational capability, $1,364,000,000 for fiscal year 1991. Of such funds, $45,000,000 shall be used only for carrying out the safety modifications recommended by the Aerospace Safety Advisory Panel and for such other safety related elements of an Assured Shuttle Availability Program as the Administrator considers necessary. By September 30, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a full report on the completion of planned safety enhancements.

Reports.

(B) Shuttle transportation operations, $2,831,400,000 for fiscal year 1991, of which $4,000,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.

(C) Expendable launch vehicle services, $229,200,000 for fiscal year 1991.

(D) Space and ground network, communications, and data systems, $868,800,000 for fiscal year 1991.

(E) Tracking and data relay satellite system, $1,209,732,000 for fiscal year 1991, which shall be used only for the purpose of reducing all outstanding debt to the Federal Financing Bank.

(3) For "construction of facilities" for fiscal year 1991 as follows:

(A) Construction of Neutral Buoyancy Laboratory, Johnson Space Center, $15,000,000.

(B) Construction of Space Station Processing Facility, Kennedy Space Center, $25,000,000.

(C) Construction of Addition for Flight Training and Operations, Johnson Space Center, $12,000,000.

(D) Rehabilitation of Mission Control Center Power and Control Systems, Johnson Space Center, $8,500,000.

(E) Construction of Transporter/Canister Facility, Kennedy Space Center, $5,500,000.

(F) Construction of Processing Control Center, Kennedy Space Center, $9,400,000.

(G) Replacement of Heating, Ventilating, and Air Conditioning System, Hypergolic Maintenance Facility, Kennedy Space Center, $2,100,000.

(H) Replacement of Operations and Checkout Building, West Cooling Tower, Kennedy Space Center, $1,000,000.

(I) Restoration of Heavy Equipment Area, Kennedy Space Center, $900,000.

(J) Upgrade of Orbiter Processing Facility High Bay Heating, Ventilating, and Air Conditioning System, Kennedy Space Center, $3,300,000.

(K) Upgrade of Yundum International Airport to Full Transoceanic Abort Landing Site, Banjul, The Gambia, $3,400,000.

(L) Repair of Condensate System, Main Manufacturing Building, Michoud Assembly Facility, $900,000.

(M) Construction of Project Engineering Facility, Marshall Space Flight Center, $17,000,000.

(N) Restoration of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $4,000,000.

(O) Rehabilitation of Hydrogen Transfer Facility, Stennis Space Center, $2,700,000.

(P) Restoration of Space Shuttle Main Engine Test Complex "A", Stennis Space Center, $2,800,000.

(Q) Construction of Advanced Solid Rocket Motor Program Facilities, including land acquisition, various locations, $92,000,000.

(R) Construction of Addition to Site Electrical Substation, Johnson Space Center, $11,000,000.

(S) Addition to Administration and Engineering Building, Stennis Space Center, $3,800,000.

(T) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $8,000,000.

(U) Construction of Detector Development Laboratory, Goddard Space Flight Center, $3,100,000.

(V) Replacement of Chillers, Central Heating/Refrigeration Plant, Goddard Space Flight Center, $4,000,000.

(W) Replacement/Modernization of Electrical Power Feeders, Goddard Space Flight Center, $1,500,000.

(X) Construction of Observational Instruments Laboratory, Jet Propulsion Laboratory, $14,000,000.

(Y) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $13,200,000.

(Z) Restoration of Utilities, Wallops Flight Facility, $5,200,000.

(AA) Modifications to the High Pressure Air System, Langley Research Center, $12,000,000.

(BB) Modifications to Upgrade the 30 x 60-Foot Wind Tunnel, Langley Research Center, $4,000,000.

(CC) Repairs to the Tunnel Shell, Unitary Plan Wind Tunnel, Langley Research Center, $2,700,000.

(DD) Rehabilitation of Central Air System, Lewis Research Center, $7,900,000.

(EE) Rehabilitation of Propulsion Systems Laboratory, Lewis Research Center, $6,000,000.

(FF) Construction of Liquid Hydrogen Structural Test Facility, Dryden Flight Research Facility, $18,800,000.

(GG) Rehabilitation and Modification of the Electrical Distribution System, Dryden Flight Research Facility, $4,000,000.

(HH) Construction of Addition for Light-Alloy Research Laboratory, Langley Research Center, $4,600,000.

(II) Construction of Space Experiments Laboratory, Lewis Research Center, $7,100,000.

(JJ) Refurbishment of Electric Power Laboratory, Lewis Research Center, $8,900,000.

(KK) Construction of 34-Meter Multifrequency Antenna at Goldstone, CA, Jet Propulsion Laboratory, $13,200,000.

(LL) Rehabilitation of 70-Meter Antenna Drive Gear Boxes in Australia, Spain, and Goldstone, CA, Jet Propulsion Laboratory, $4,400,000.

(MM) Repair of facilities at various locations, not to exceed $1,000,000 per project, $30,000,000.

(NN) Rehabilitation and modification of facilities at various locations, not to exceed $1,000,000 per project, $34,000,000.

(OO) Minor construction of new facilities and additions to existing facilities at various locations, not to exceed $750,000 per project, $11,000,000.

(PP) Environmental compliance and restoration, $32,000,000.

(QQ) Facility planning and design not otherwise provided for, $28,000,000.

(4) For "research and program management", for fiscal year 1991, $2,252,900,000.

(5) For "Inspector General", $11,000,000 for fiscal year 1991.

(b) LIMITATIONS.—(1)(A) Notwithstanding paragraph (4), appropriations authorized under this section for "research and development" and "space flight, control, and data communications" may be used—

(i) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(ii) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities. Grant programs.

Title to facilities described in clause (ii) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. Grant programs.

(B) None of the funds appropriated for "research and development" and "space flight, control, and data communications" pursuant to this title may be used in accordance with this paragraph for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000, unless the Administrator has notified the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, of the nature, location, and estimated cost of such facility.

(2) Any amount appropriated pursuant to this title for "research and development", for "space flight, control and data communications", or for "construction of facilities" may remain available until expended. Any amount appropriated pursuant to this title for "research and program management" for maintenance and operation of facilities, and for other services, shall remain available through the next fiscal year after the fiscal year for which such amount is appropriated. 42 USC 2459a.

(3) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and his determination shall be final and conclusive upon the accounting officers of the Government.

(4)(A) Funds appropriated pursuant to subsection (a) (1), (2), and (4) may be used for the construction of new facilities and additions to, or repair, rehabilitation, or modification of existing facilities, but only if the cost of each such project, including collateral equipment, does not exceed $200,000.

(B) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, but only if the cost of each such project, including collateral equipment, does not exceed $750,000.

(C) Funds appropriated pursuant to subsection (a)(4) may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, but only if the cost of each project, including collateral equipment, does not exceed $500,000.

SEC. 104. CONSTRUCTION OF FACILITIES REPROGRAMMING.

Authorization is hereby granted whereby any of the amounts prescribed in section 103(a)(3)(A) through (QQ)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the Reports.

circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of amounts specified in section 103(a)(3) (A) through (QQ).

SEC. 105. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 103(a) (1) or (2) to the "construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 103(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment.

Reports.

No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

SEC. 106. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this title—

(1) no amount appropriated pursuant to this title may be used for any program deleted by the Congress from requests as originally made to either the Committee on Science, Space, and Technology of the House of Representatives or the Committee on Commerce, Science, and Transportation of the Senate;

(2) no amount appropriated pursuant to this title may be used for any program in excess of the amount actually authorized for that particular program by section 103(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this title may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt by each such committee of notice given by the Administrator containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 107. AMENDMENTS TO THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958.

Section 203(a) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(a)) is amended by—

(1) striking "and" at the end of paragraph (2);

(2) striking the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) adding at the end the following new paragraphs:

"(4) seek and encourage, to the maximum extent possible, the fullest commercial use of space; and

"(5) encourage and provide for Federal Government use of commercially provided space services and hardware, consistent with the requirements of the Federal Government.".

SEC. 108. NATIONAL SPACE COUNCIL AUTHORIZATION.

42 USC 2471 note.

(a) There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,363,000 for fiscal year 1991, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

(b) It is the sense of Congress that the National Space Council should, by October 1, 1991, establish guidelines and policy recommendations, including the need for licensing, for the conduct of expendable launch vehicle operations in which a Federal agency assumes substantial responsibility for public safety, indemnification, and administrative oversight.

SEC. 109. GEOGRAPHICAL DISTRIBUTION.

42 USC 2459 note.

The Administrator shall distribute research and development funds geographically in order to provide the broadest practicable participation in the programs of the National Aeronautics and Space Administration.

SEC. 110. BUY AMERICAN.

Government contracts.

(a) GENERAL RULE.—The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) EXCEPTIONS.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States;

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) LIMITATION.—This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this title; and

(2) solicitations for bids are issued after the date of enactment of this Act.

Reports.

SEC. 111. ADVANCED SOLID ROCKET MOTOR.

The Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the following:

(1) A report on the projected cost to complete the design, development, and qualification of the Advanced Solid Rocket Motor. The first report shall be submitted by March 1, 1991, and thereafter with the National Aeronautics and Space Administration's annual budget request.

(2) An annual report on the projected unit cost of the flight motors.

(3) An annual report on the increase in space shuttle payload capability provided by the Advanced Solid Rocket Motor. The report shall include the original baseline payload capability, adjustments to that baseline capability, and the projected payload capability.

(4) An assessment by the National Research Council by July 1, 1991, of the quality assurance and testing program that will ensure the achievement of safety and reliability for the Advanced Solid Rocket Motor.

42 USC 2465a.

SEC. 112. SPACE SHUTTLE USE POLICY.

(a)(1) It shall be the policy of the United States to use the Space Shuttle for purposes that (i) require the presence of man, (ii) require the unique capabilities of the Space Shuttle or (iii) when other compelling circumstances exist.

(2) The term "compelling circumstances" includes, but is not limited to, occasions when the Administrator determines, in consultation with the Secretary of Defense and the Secretary of State, that important national security or foreign policy interests would be served by a Shuttle launch.

(3) The policy stated in subsection (a)(1) shall not preclude the use of available cargo space, on a Space Shuttle mission otherwise consistent with the policy described under subsection (a)(1), for the purpose of carrying secondary payloads (as defined by the Administrator) that do not require the presence of man if such payloads are consistent with the requirements of research, development, demonstration, scientific, commercial, and educational programs authorized by the Administrator.

Reports.

(b) The Administrator shall, within six months after the date of enactment of this Act, submit a report to the Congress setting forth a plan for the implementation of the policy described in subsection (a)(1). Such plan shall include—

(1) details of the implementation plan;

(2) a list of purposes that meet such policy;

(3) a proposed schedule for the implementation of such policy;

(4) an estimate of the costs to the United States of implementing such policy; and

(5) a process for informing the Congress in a timely and regular manner of how the plan is being implemented.

(c) At least annually, the Administrator shall submit to the Congress a report certifying that the payloads scheduled to be launched on the space shuttle for the next four years are consistent with the policy set forth in subsection (a)(1). For each payload scheduled to be launched from the space shuttle, which do not require the presence of man, the Administrator shall, in the certified report to Congress, state the specific circumstances which justified the use of the space shuttle. If, during the period between scheduled reports to the Congress, any additions are made to the list of certified payloads intended to be launched from the Shuttle, the Administrator shall inform the Congress of the additions and the reasons therefor within 45 days of the change. Reports.

(d) The report described in subsection (c) shall also include those National Aeronautics and Space Administration payloads designed solely to fly on the space shuttle which have begun the phase C/D of its development cycle.

SEC. 113. LIFE SCIENCES STRATEGIC PLAN. 42 USC 2451 note.

(a) FINDINGS.—The Congress finds that—

(1) the current knowledge base in life sciences is not compatible with the National Aeronautics and Space Administration's current objectives in space, and the National Aeronautics and Space Administration lacks an adequate strategic plan to acquire a knowledge base;

(2) it is critical to the success of manned missions in space, be they commercial operations of microgravity laboratories or manned missions to Mars, that a realistic appraisal of the influences of the space environment on biological systems is completed and appropriate protective countermeasures developed;

(3) the space station is rapidly approaching design maturity without a corresponding development of the physiological and other human factors knowledge base necessary for long-term manned operations in space; and

(4) space station laboratory hardware specifications are being fixed before fully establishing the objectives and requirements for life sciences research.

(b) STRATEGIC PLAN.—The Administration shall—

(1) review currently proposed manned space flight missions in order to—

(A) identify the physiological and other human factors knowledge base necessary to determine the human capacity to adapt to and perform effectively in the space environment according to mission requirements, including identifying which life sciences parameters must be measured and which technologies, processes, and procedures must be developed; and

(B) develop a schedule indicating when specific components of information, technologies, processes, or procedures identified under subparagraph (A) will need to be acquired or developed in order to verify that human adaptability

requirements of manned space flight missions can be achieved;

(2) develop a strategy plan for life sciences research and technology development sufficient to accomplish the life sciences knowledge base acquisition schedule developed under paragraph (1)(B), including—

(A) a crew certification plan setting acceptable crew conditioning standards for Extended Duration Orbiter operations and verifying countermeasures sufficient to meet those standards before actual Extended Duration Orbiter operations; and

(B) a life sciences implementation plan for the design and development of the space station, to be provided as part of the Preliminary Design Review for the space station, and to include crew adaptability standards; and

(3) verify the physiological and technical feasibility of the life sciences implementation plan developed under paragraph (2)(B), as part of the Critical Design Review for the space station.

42 USC 2471 note.

SEC. 114. STUDY ON INTERNATIONAL COOPERATION IN PLANETARY EXPLORATION.

(a) FINDINGS.—The Congress finds that—

(1) the President on July 20, 1989, established the long-range goal of establishing a lunar base, followed by manned exploration of Mars in the early twenty-first century;

(2) the United States and the Soviet Union, in cooperation with other countries, are currently planning further unmanned missions to the Moon and to Mars with the possible goal of landing a human on Mars;

(3) a series of international missions to expand human presence beyond Earth orbit would further a spirit of, and follow through on the commitment made in, the 1987 agreement between the Soviet Union and the United States for space cooperation, as well as the successful cooperative agreements the United States has pursued with over one hundred countries since its inception, including the agreement with Japan, Canada, and the European countries for Space Station Freedom;

(4) international manned missions beyond Earth orbit could further encourage a cooperative approach in world affairs unrelated to activities in space;

(5) international manned missions beyond Earth orbit could save the individual nations involved tens of billions of dollars over national missions; and

(6) a multilateral effort for manned missions to establish a lunar colony, a Mars mission, and any other missions that have the goal of establishing human presence beyond Earth's orbit and possibly landing a human on Mars would lead to greater understanding of our universe and greater sensitivity to our own planet.

(b) STUDY.—The National Space Council shall conduct a study on International Cooperation in Planetary Exploration (hereafter in this section referred to as the "study").

(c) PURPOSE OF STUDY.—The purpose of the study is—

(1) to develop an inventory of technologies and intentions of all national space agencies with regard to lunar and planetary exploration, both manned and unmanned;

(2) to seek ways, through direct communication with appropriate officials of other nations or otherwise, to enhance the planning and exchange of information and data among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

United States. Union of Soviet Socialist Republics. Canada. Japan. European countries.

(3) to prepare a detailed proposal that most efficiently uses the resources of the national space agencies in cooperative endeavors to establish human presence beyond Earth orbit;

(4) to develop priority goals that accomplish unmet needs that could not be achieved by any individual country;

(5) to explore the possibilities of international unmanned probes to the Moon and Mars, and the possibilities for international manned missions beyond Earth's orbit; and

(6) to devise strategies for such cooperation that would prevent the unwanted transfer of technology.

In developing the inventory under paragraph (1), and in preparing the detailed proposal under paragraph (3), consideration shall be given to the potential contributions of commercial providers of space goods and services.

(d) REPORT.—The National Space Council shall, within one year after the date of the enactment of this Act, prepare and submit to Congress a report—

(1) outlining a preliminary strategy for cooperation among the United States, the Soviet Union, European countries, Canada, Japan, and other interested countries, based on their respective national strengths, with respect to unmanned projects beyond Earth orbit, in anticipation of later international manned missions to the Moon and to other bodies, including the possible goal of an international manned mission to Mars;

(2) including a conceptual design of a possible international manned mission, in coordination with the preliminary strategy referred to in paragraph (1), with target dates and a breakdown of responsibilities by nation;

(3) containing an inventory of planned and anticipated missions, manned and unmanned, that are being considered by national space agencies and commercial providers of space goods and services; and

(4) containing an inventory of space exploration technologies that either—

(A) are not immediately available in the United States but are available from other nations; or

(B) are available in the United States but are available from other nations in equal or superior form.

SEC. 115. OFFICE OF SPACE COMMERCE.

(a) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce, $487,000 for fiscal year 1991.

(b) REPORT TO CONGRESS.—Commencing in fiscal year 1992, and every fiscal year thereafter, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the

15 USC 1535.

House of Representatives a report of the activities of the Office of Space Commerce, including planned programs and expenditures.

42 USC 2451 note.

SEC. 116. NATIONAL AERO-SPACE PLANE PROGRAM.

(a) NATIONAL AERO-SPACE PLANE PROGRAM.—The Secretary of Defense (hereafter in this section referred to as the "Secretary") and the Administrator shall jointly pursue on a high priority basis a National Aero-Space Plane program whose objective shall be the development and demonstration, by 1997, of a primarily air breathing single-stage-to-orbit and long range hypersonic cruise research flight vehicle. The program shall be a research program, and to the extent practicable technological information developed shall be transferred to the military and to the domestic civil aviation and other private industries.

(b) MANAGEMENT PLAN.—

(1) The Secretary and the Adminstrator shall jointly develop a management plan for the program established under subsection (a), which shall include goals, major tasks, anticipated schedules, organizational structure, funding profiles, details of the respective responsibilities of the Secretary and the Administrator, and resource procurement strategies.

(2) The management plan developed pursuant to paragraph (1) shall be submitted to the Congress within 120 days after the date of enactment of this Act.

SEC. 117. COMMERCIAL SPACE LAUNCH ACT AMENDMENTS.

(a) AUTHORIZATION.—Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There are authorized to be appropriated to the Secretary to carry out this Act $4,517,000 for fiscal year 1991, of which $250,000 shall be made available for the provision of launch services for eligible satellites in accordance with section 6 of the Commercial Space Launch Act Amendments of 1988.".

(b) ACQUISITION BY STATE GOVERNMENTS.—Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by inserting "and State governments" after "by the private sector".

(c) CONGRESSIONAL FINDINGS.—Section 2 of the Commercial Space Launch Act (49 U.S.C. App. 2601) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs;

"(8) space transportation, including the establishment and operation of launch sites and complementary facilities, the provision of launch services, the establishment of support facilities, and the provision of support services, is an important element of the Nation's transportation system, and in connection with the commerce of the United States there is a need to develop a strong space transportation infrastructure with significant private sector involvement; and

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"(9) the participation of State governments in encouraging and facilitating private sector involvement in space-related activity, particularly through the establishment of space transportation-related infrastructure, including launch sites, complementary facilities, and launch site support facilities, is in the national interest and is of significant public benefit.".

(d) CONGRESSIONAL STATEMENT OF PURPOSE.—Section 3 of the Commercial Space Launch Act (49 U.S.C. App. 2602) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(4) to facilitate the strengthening and expansion of the United States space transportation infrastructure, including the enhancement of United States launch sites, as well as launch site support facilities, with Federal, State, and private sector involvement, to support the full range of United States space-related activities.".

Intergovernmental relations.

(e) GENERAL RESPONSIBILITIES OF SECRETARY.—Section 5(a) of the Commercial Space Launch Act (49 U.S.C. App. 2604(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and";

(3) by adding at the end the following new paragraph:

"(3) work to facilitate private sector involvement in commercial space transportation activity, and to promote public-private partnerships involving the Federal Government, State governments, and the private sector to build, expand, modernize, or operate space launch infrastructure.".

Intergovernmental relations.

SEC. 118. SPACE DEBRIS.

(a) FINDINGS.—The Congress finds that—

(1) if space users fail to act soon to reduce their contribution to debris in space, orbital debris could severely restrict the use of some orbits within a decade;

(2) the lack of adequate data on the orbital distribution and size of debris will continue to hamper efforts to reduce the threat that debris poses to spacecraft; and

(3) existing international treaties and agreements are inadequate for minimizing the generation of orbital debris or controlling its effects.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the goal of United States policy should be that—

(1) the space related activities of the United States should be conducted in a manner that does not increase the amount of orbital space debris; and

(2) the United States should engage other spacefaring Nations to develop an agreement on the conduct of space activities that ensures that the amount of orbital space debris is not increased.

SEC. 119. SUPPORT FOR SPACE SHUTTLE ORBITER PRODUCTION LINE.

The Administrator is authorized to expend excess funds appropriated for orbiter production under section 101(g) of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1987, and for other purposes" (100 Stat. 3341-242) to maintain the space shuttle orbiter production line and related production lines of orbiter subcontractors.

SEC. 120. INDUSTRIAL APPLICATION CENTERS.

In any agreement entered into by the National Aeronautics and Space Administration for an Industrial Application Center, the center shall be allowed to retain all client income without any

deductions from appropriated funds received or to be received by that center.

SEC. 121. USERS' ADVISORY GROUP.

(a) ESTABLISHMENT.—(1) The National Space Council shall establish a Users' Advisory Group composed of non-Federal representatives of industries and other persons involved in aeronautical and space activities.

(2) The Vice President shall name a chairman of the Users' Advisory Group.

(3) The National Space Council shall from time to time, but not less than once a year, meet with the Users' Advisory Group.

(4) The function of the Users' Advisory Group shall be to ensure that the interests of industries and other non-Federal entities involved in space activities, including in particular commercial entities, are adequately represented in the National Space Council.

(5) The Users' Advisory Group may be assisted by personnel detailed to the National Space Council.

(b) EXEMPTION.—The Users' Advisory Group shall not be subject to section 14(a)(2) of the Federal Advisory Committee Act.

SEC. 122. SCIENTIFIC BALLOON LAUNCH SITE.

The Administrator may purchase approximately 8 acres within section 16, Township 3 North, Range 26 East, N.M.P.M., De Baca County, New Mexico, to use as a balloon launching facility.

SEC. 123. PEACEFUL USES OF SPACE STATION.

No civil space station authorized under section 103(a)(1) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 124. SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

The Administrator may utilize up to 5 percent of the funds provided for the Small Business Innovation Research Program for program management and promotional activities.

SEC. 125. PROPULSION STRATEGIC ASSESSMENT.

By July 1, 1991, the Administrator shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment by the National Research Council of the requirements, benefits, technological feasibility, and roles of Earth-to-orbit propulsion system options that could be developed in support of the national space program including the assembly and operation of the Space Station and potential space activities beyond the year 2000.

SEC. 126. NATIONAL CIVIL REMOTE-SENSING ADVISORY COMMITTEE.

Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall report to the Congress on the advisability of establishing a permanent National Civil Remote-Sensing Advisory Committee. The report should address concerns related to national security, conflict of interest, and duplication of existing authorities. In preparing the report, the Director shall assess the effectiveness of a National Civil

Remote-Sensing Advisory Committee comprised of interested private-sector persons (including remote-sensing data users, data vendors, technology developers, system operators, information management and telecommunications specialists, and social scientists) which would—

(1) provide advice and policy recommendations to the President, the President's Science Advisor, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and relevant committees of the Congress on the development of a national civil remote-sensing policy that would be responsive to both user needs and global developments, in terms of—

(A) coordinating land, oceanic, and atmospheric remote-sensing systems, including ground stations;

(B) coordinating research and development, applications, and commercial remote-sensing activities;

(C) fostering effective integration of satellite, aerial, and in situ data; and

(D) assessing current institutional arrangements for the management, exploitation, and sharing of both real-time and archived data;

(2) provide recommendations on the conduct of cooperative test and applications demonstration projects designed to manage environmental pollution and the use of natural resources; and

(3) coordinate with the United States Global Change Research Program on issues of mutual concern.

SEC. 127. DEFINITION.

42 USC 2465a note.

For purposes of this title, the term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

TITLE II—LAUNCH SERVICES PURCHASE

Launch Services Purchase Act of 1990.

SEC. 201. SHORT TITLE.

42 USC 2451 note.

This title may be cited as the "Launch Services Purchase Act of 1990".

SEC. 202. FINDINGS.

42 USC 2465b.

The Congress finds that—

(1) the United States commercial launch industry is technically capable of providing reliable and cost efficient access to space and is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the United States commercial launch industry, including the development and enhancement of commercial launch facilities, in order to ensure United States economic preeminence in space;

(3) the interests of the United States will be served if the commercial launch industry is competitive in the international marketplace;

(4) commercial vehicles are effective means to challenge foreign competition;

(5) the use by the Federal Government of performance specifically in lieu of detailed specifications relating to vehicle design, construction, and operation will facilitate the efficient operation of the United States commercial launch industry;

(6) the procurement of commercial launch services in a commercially reasonable manner permits a reduced level of Federal Government regulation and oversight and economies of scale which may result in significant cost savings to the commercial launch industry and to the United States.

(7) it is the general policy of the Federal Government to purchase needed goods and services, including launch services, from the private sector to the fullest extent feasible; and

(8) predictable access to National Aeronautics and Space Administration launch markets would encourage continuing United States private sector investment in space and related activities.

42 USC 2465c.

SEC. 203. DEFINITIONS.

For the purposes of this title—

(1) the term "commercial provider" means any person providing launch services, but does not include the Federal Government;

(2) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for space transport and the conduct of transporting a payload;

(3) the term "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space; and

(4) the term "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object.

42 USC 2465d.

SEC. 204. REQUIREMENT TO PROCURE COMMERCIAL LAUNCH SERVICES.

(a) IN GENERAL.—Except as otherwise provided in this section, the National Aeronautics and Space Administration shall purchase launch services for its primary payloads from commercial providers whenever such services are required in the course of its activities.

(b) EXCEPTIONS.—The National Aeronautics and Space Administration shall not be required to purchase launch services as provided in subsection (a) if, on a case by case basis the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle;

(2) cost effective commercial launch services to meet specific mission requirements are not reasonably available and would not be available when required;

(3) the use of commercial launch services poses an unacceptable risk of loss of a unique scientific opportunity; or

(4) the payload serves national security or foreign policy purposes.

Upon any such determination, the Administrator shall, within 30 days, notify in writing the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the determination and its rationale.

(c) NATIONAL AERONAUTICS AND SPACE ADMINISTRATION LAUNCH VEHICLES.—Launch vehicles shall be acquired or owned by the National Aeronautics and Space Administration only—

(1) as required under circumstances described in subsection (b); or

(2) by the National Aeronautics and Space Administration for conducting research and development on, and testing of, launch technology.

(d) PHASE-IN PERIOD.—Subsections (a) and (c) shall not apply to launch services and launch vehicles purchased by the National Aeronautics and Space Administration before the date of enactment of this Act.

(e) HISTORICAL PURPOSES.—This title shall not be interpreted to prohibit the National Aeronautics and Space Administration from acquiring, owning, or maintaining launch vehicles solely for historical display purposes.

SEC. 205. PURCHASE OF LAUNCH SERVICES.

42 USC 2465e.

Government contracts.

(a) FULL AND OPEN COMPETITION.—(1) Contracts to provide launch services to the National Aeronautics and Space Administration under section 204 shall be awarded on the basis of full, fair, and open competition, consistent with section 2304 of title 10, United States Code, and section 311 of the National Aeronautics and Space Act of 1958.

(2) The National Aeronautics and Space Administration shall limit its requirements for submission of cost or pricing data in support of a bid or proposal to that data which is reasonably required to protect the interests of the United States.

(b) SPECIFICATION SYSTEMS.—Reasonable performance specifications, not detailed Government design or construction specifications, shall be used to the maximum extent feasible to define requirements for a commercial provider bidding to provide launch services. This subsection shall not preclude the National Aeronautics and Space Administration from requiring compliance with applicable safety standards.

SEC. 206. OTHER ACTIVITIES OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

42 USC 2465f.

(a) COMMERCIAL PAYLOADS ON THE SPACE SHUTTLE.—Commercial payloads may not be accepted for launch as primary payloads on the space shuttle unless the Administrator of the National Aeronautics and Space Administration determines that—

(1) the payload requires the unique capabilities of the space shuttle; or

(2) launching of the payload on the space shuttle is important for either national security or foreign policy purposes.

(b) REPORT.—By March 15, 1991, the Administrator, in consultation with the Office of Federal Procurement Policy, shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report outlining the minimal requirements for documentation and other administrative data needed to procure launch services in a commercially reasonable manner, including—

(1) the need for data to integrate a payload with a launch vehicle;

(2) the need for data to carry out mission-specific modifications to the launch vehicle;

(3) the need for notification to the National Aeronautics and Space Administration of changes, delays, or difficulties in the construction or preparation of a launch vehicle that may affect the delivery of its payload to its destination at the time and under the conditions provided for under the contract between the United States and its contractors;

(4) the need for data to protect public health and safety; and

(5) the need for cost or pricing data for the fulfillment of a contract.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2287:

SENATE REPORTS: No. 101-455 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 24, considered and passed Senate.

Oct. 25, considered and passed House.

Public Law 101-612
101st Congress

An Act

To establish the Smith River National Recreation Area, to redesignate the Sunset Crater National Monument, and for other purposes.

Nov. 16, 1990
[S. 2566]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Smith River National Recreation Area Act.
California.
16 USC 460bbb note.

SECTION 1. SHORT TITLE.

Sections 1 through 14 of this Act may be cited as the "Smith River National Recreation Area Act".

16 USC 460bbb.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Smith River, undammed and free-flowing from its headwaters to the Pacific Ocean, represents one of the last wholly intact vestiges of an invaluable legacy of wild and scenic rivers;

(2) the Smith River watershed, from the diverse conifer forests of the Siskiyou Mountains and unique botanical communities of the North Fork serpentine to the ancient redwoods along the river's lower reaches, exhibits a richness of ecological diversity unusual in a basin of its size;

(3) the Smith River watershed's scenic beauty, renowned anadromous fisheries, exceptional water quality, and abundant wildlife combine with its ready accessibility to offer exceptional opportunities for a wide range of recreational activities, including wilderness, water sports, fishing, hunting, camping, and sightseeing;

(4) careful development and utilization at mutually compatible levels of recreation, fisheries, and timber resources on public lands will ensure the continuation of the Smith River watershed's historic role as a significant contributor to the region's local economy; and

(5) protection of the Smith River's unique values can be enhanced by a cooperative effort by Federal, State and local governments to coordinate land-use planning, management, and development of Federal and non-Federal lands throughout the watershed.

16 USC 460bbb-1.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "excluded area" means one of the four areas specifically excluded from the recreation area, as generally depicted on the map referred to in section 4(b);

(2) the term "forest plan" means the land and resource management plan for the Six Rivers National Forest prepared pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604);

(3) the term "recreation area" means the Smith River National Recreation Area established by section 4;

(4) the term "Secretary" means the Secretary of Agriculture; and

(5) the term "inner gorge" means the inherently unstable steep slope (65 percent gradient or more) immediately adjacent to the stream or river channel, extending from the channel or recent floodplain to the first significant break in slope (usually 15 percent or more).

16 USC 460bbb-2.

SEC. 4. SMITH RIVER NATIONAL RECREATION AREA.

(a) ESTABLISHMENT.—For the purposes of ensuring the preservation, protection, enhancement, and interpretation for present and future generations of the Smith River watershed's outstanding wild and scenic rivers, ecological diversity, and recreation opportunities while providing for the wise use and sustained productivity of its natural resources, there is hereby established the Smith River National Recreation Area.

(b) BOUNDARIES.—(1) The recreation area shall consist of those lands within the area generally depicted on the map entitled "Proposed Smith River National Recreation Area" and dated July 1990. The map shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture. The Secretary may, by publication of availability of a revised map and after public comment, make corrections or minor changes to the boundary of the recreation area.

(2) The exterior boundary of the recreation area, as generally depicted on the map, shall encompass the recreation area and the four excluded areas.

(c) BOUNDARY MODIFICATION.—The boundaries of the Six Rivers National Forest are hereby modified as generally depicted on the map referred to in subsection (b). A map and legal description of the boundary of the Six Rivers National Forest as modified by this subsection shall be on file and available for public inspection in the Office of the Chief, Forest Service, and the Office of the Forest Supervisor of the Six Rivers National Forest.

(d) TRANSFER.—The federally owned lands within the recreation area administered by the Secretary of the Interior on the date of enactment of this Act, comprising approximately 20 acres, are hereby transferred to the jurisdiction of the Secretary of Agriculture and shall be managed in accordance with the laws applicable to the National Forest System and this Act.

16 USC 460bbb-3.

SEC. 5. ADMINISTRATION.

Regulations.

(a) IN GENERAL.—The Secretary shall administer the recreation area in accordance with this Act and the laws, rules, and regulations applicable to the National Forest System in furtherance of the purposes for which the recreation area was established. In administering the recreation area, the Secretary shall, consistent with the applicable area management emphasis provided under subsection (b), undertake the following:

(1) Provide for a broad range of recreation uses and provide recreational and interpretive services and facilities (including trails and campgrounds) for the public.

Hunting. Fishing.

(2) Provide and maintain adequate public access, including vehicular roads for general recreational activities such as camping, hiking, hunting, and fishing.

Water pollution control.

(3) Improve the anadromous fishery and water quality, including (but not limited to) stabilizing landslides, improving fish

spawning and rearing habitat, and placing appropriate restrictions or limitations on soil disturbing activities.

(4) Permit the use of off-road vehicles only on designated routes.

(5) Provide for public health and safety and for the protection of the recreation area in the event of fire or infestation of insects or disease.

(6) Permit programmed timber harvest only in those management areas where timber harvest is specifically authorized by subsection (b). Timber management in these areas shall incorporate the use of strategies to reduce habitat fragmentation and employ silvicultural prescriptions designed to maintain or enhance biological diversity and wildlife habitats (such as retention of standing green trees, snags, and other coarse woody debris) by providing for a high level of structural and compositional diversity in managed stands.

(7) Permit removal of trees within streamside protection zones along those rivers and river segments specified in section 11 of this Act only when necessary for human health and safety, to maintain trails or existing roads, for the development of recreation or other facilities, for the protection of the recreation area in the event of fire, or to improve fish and wildlife habitat.

(8) Consistent with applicable requirements of law, permit removal of trees in those management areas where timber harvest is not specifically authorized by subsection (b) when necessary for human health and safety, to maintain trails or existing roads, for the development of recreation or other facilities, for the protection of the recreation area in the event of fire, or to improve fish and wildlife habitat. Timber damaged or down in these areas as a result of fire, insects, disease, blowdown or other natural events shall otherwise be retained in its natural condition, with removal permitted only upon a written determination by the Secretary, based upon written findings, that such removal is necessary to provide for or maintain or enhance biological and ecological diversity, without regard for the commodity value of the timber. Such a decision shall not be delegable by the Secretary but shall be subject to administrative appeal and judicial review. Public health. Safety. Courts.

(9) Provide for the long-term viability and presence of Port-Orford-cedar and ensure its continued present economic and noneconomic uses through implementation of management strategies developed by the Forest Service.

(10) Except where timber harvest is specifically authorized by subsection (b) protect, preserve, and increase old growth forest habitat in the recreation area.

(11) Provide for the restoration of landscapes damaged by past human activity consistent with the purposes of this Act.

(12) Develop a monitoring program to consistently gather water quality, air quality, wildlife, and fisheries data from representative Smith River subwatersheds.

(13) Develop and implement a management plan to maintain, protect, and promote habitat for native resident trout species in the recreation area.

(14) Cooperate with other Federal, State, and local government agencies in coordinating planning efforts throughout the Smith River watershed.

(b) MANAGEMENT AREAS.—(1) The recreation area shall contain eight management areas, as generally depicted on the map referred to in section 4(b). The Secretary may, pursuant to section 4(b), make minor revisions or amendments to the boundaries of the management areas.

(2) The Secretary shall administer each management area within the recreation area in accordance with the following:

(A) The management emphasis for the North Fork management area shall be on back-country and whitewater recreation, while recognizing unique botanic communities, outstanding whitewater, and historic and scenic values.

(B) The management emphasis for the Upper Middle Fork management area shall be on providing and maintaining ecologic and biologic diversity. Timber harvest shall be permitted, consistent with subsection (a)(6), only in existing plantations.

(C) The management emphasis for the Middle Fork-Highway 199 management area shall be on maintaining wildlife values and providing for a full range of recreation uses, with particular emphasis on the scenic and recreation values associated with the Smith River, old growth redwoods, and California State Highway 199.

(D) The management emphasis for the Upper South Fork management area shall be on wild river and roadless back-country recreation.

(E) The management emphasis for the Lower South Fork management area shall be on maintaining and protecting natural scenic values in the river canyon while providing for traditional and compatible river sports, including white water rafting, angling, sightseeing, and developed and dispersed recreation. Timber harvests based on uneven-aged management with extended rotations shall be allowed where consistent with protection of the scenic values of the recreation area.

(F) The management emphasis for the Lower Hurdygurdy Creek management area shall be on maintenance of wildlife values while providing rustic family and group recreation facilities for fishing, swimming, hunting, and camping. Timber harvests based on uneven-aged management with extended rotations shall be allowed where consistent with protection of scenic and wildlife values.

(G) The management emphasis for the prescribed timber management area shall be on providing a sustained yield of wood products while maintaining biological and ecological diversity.

(H) The management of the Siskiyou Wilderness management area shall be pursuant to the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.). The Gasquet-Orleans Road corridor between the eastern edge of section 36, T. 14 N., R. 3 E, and the corridor's eastern terminus in the middle of section 26, T. 14 N., R. 4 E. shall be added to the Siskiyou Wilderness.

(c) WILD AND SCENIC RIVERS.—The river segments designated as wild and scenic rivers by the amendments made by section 10(b) of this Act shall be administered in accordance with this Act and the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.). In case of conflict between the provisions of these Acts, the more restrictive provision shall apply.

SEC. 6. ACQUISITION AND DISPOSAL OF LANDS AND OTHER PROPERTY. 16 USC 460bbb-4.

(a) ACQUISITION.—The Secretary is authorized to acquire by purchase, donation, exchange, or otherwise lands, waters, or interests therein (including scenic or other easements), and structures or other improvements thereon, within the boundaries of the recreation area as the Secretary determines appropriate for the purposes of this Act. In exercising this authority, the Secretary is directed to give prompt and careful consideration to any offer to sell, exchange, or otherwise dispose of such property made by an individual or organization. The Secretary shall not acquire any land or interest in land owned by the State of California or any of its political subdivisions within the recreation area except by donation or exchange. All lands acquired by the Secretary pursuant to this Act shall be subject to the laws and regulations pertaining to the National Forest System and this Act. Regulations.

(b) TRANSFERS TO DEL NORTE COUNTY.—(1) Upon the adoption of a resolution by the Board of Supervisors of the County of Del Norte, California, accepting title to the lands described in paragraph (2) and subject to the County of Del Norte bearing the cost of the survey of such lands, the Secretary shall transfer all right, title, and interest of the United States in and to the lands described in paragraph (2).

(2) The lands referred to in paragraph (1) are described as follows:

(A) Lands north of tract 37, T. 17 N., R. 3 E., H.M., containing 6 acres, more or less, and more particularly described as:

Commencing at the N.E. corner of tract 37, T. 17 N., R. 3 E., H.M.; thence, northerly on a line continuing the eastern boundary of said tract 37 to a point where it intersects the southern boundary of the easement for State highway conveyed to the State of California, Department of Transportation, on the 17th day of May 1977, and recorded on June 22, 1977 at book 206 of Official Records, page 256; thence, southwesterly along the southern boundary of said easement to the point where it intersects the northern boundary of said tract 37; thence, easterly along the northern boundary of said tract 37 to the point of beginning.

(B) Lands east of tract 37, T. 17 N., R. 3 E., H.M., containing 6 acres, more or less, and more particularly described as:

Commencing at a point on the eastern boundary of tract 37, T. 17 N., R. 3 E., H.M., lying 332 feet southerly of the N.E. corner of said tract 37; thence, due east to the high water line of the Middle Fork of the Smith River; thence, southwesterly along the high water line of the Middle Fork of the Smith River to its intersection with the northern boundary of tract 38, T. 17 N., R. 3 E.; thence, westerly along the northern boundary of said tract 38 to its intersection with said track 37; thence, northerly along the eastern boundary of said tract 37 to the point of beginning.

(c) CONDITIONS OF TRANSFER.—Transfer of the lands and interests described in subsection (b)(2) of this section shall be subject to the condition that all right, title, and interest therein shall revert to the United States if the county of Del Norte, California, attempts to transfer any portion of such lands to any other entity or person or if Del Norte County permits any portion of such lands to be used for any purpose incompatible with the purposes of this Act. The Secretary shall include in any document of conveyance whereby such

lands are transferred to the county of Del Norte appropriate provisions to implement this subsection.

(d) WITHDRAWAL.—Subject to valid existing rights, all public lands within the recreation area are hereby withdrawn from entry, sale, or other disposition under the public land laws of the United States. This subsection shall not affect the exchange authorities of the Secretary.

16 USC 460bbb-5.

SEC. 7. FISH AND GAME.

Nothing in this Act shall be construed to affect the jurisdiction or responsibilities of the State of California with respect to fish and wildlife, including the regulation of hunting, fishing, and trapping on any lands managed by the Secretary under this Act, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of protecting nongame species and their habitats, public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the fish and wildlife agency of the State of California.

16 USC 460bbb-6.

SEC. 8. MINERALS.

(a) WITHDRAWAL.—Subject to valid existing rights, Federal lands within the exterior boundary of the recreation area are hereby withdrawn from all forms of location, entry, and patent under the United States mining laws and from disposition under the mineral leasing laws, including all laws pertaining to geothermal leasing.

(b) PATENTS.—Patents may not be issued under the mining laws of the United States after the date of enactment of this Act for locations and claims made before the date of enactment of this Act on Federal lands located within the exterior boundaries of the recreation area.

(c) ADMINISTRATION.—Subject to valid existing rights except for extraction of common variety minerals such as stone, sand, and gravel for use in construction and maintenance of roads and other facilities within the recreation area and the excluded areas, all other mineral development on federally owned lands within the recreation area is prohibited.

(d) REGULATIONS.—The Secretary is authorized and directed to issue supplementary regulations to promote and protect the purposes for which the recreation area is designated.

16 USC 460bbb-7.

SEC. 9. MANAGEMENT PLANNING.

The Secretary shall revise the document entitled "Smith River National Recreation Area Management Plan" dated February 1990 to conform to the provisions of this Act, and such revised plan shall guide management of the recreation area and shall be incorporated in its entirety into the forest plan for the Six Rivers National Forest. This incorporation shall not be deemed a revision or amendment to the forest plan for purposes of the section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974. The Secretary shall make such further revisions to the management plan as are necessary in order to include more specific development and use plans for the recreation areas. Such revisions shall be made no later than 5 years after the enactment of this Act. Such revisions and any other modifications of the management plan shall be made only through the processes of revision or amendment of the forest plan

pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, including appropriate consultation with State and local government officials and provision for full public participation considering the views of all interested parties, organizations, and individuals.

SEC. 10. WILD AND SCENIC RIVERS.

(a) PREVIOUS DESIGNATIONS.—Previous designations dated January 19, 1990, by the Secretary of the Interior (46 Fed. Reg. 7483-84) under section 2(a)(ii) of the Wild and Scenic Rivers Act (16 U.S.C. 1273) of rivers within the exterior boundary of the recreation area are superseded by this Act.

(b) DESIGNATIONS.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274) is amended by adding at the end thereof the following new paragraphs:

"( ) SMITH RIVER, CALIFORNIA.—The segment from the confluence of the Middle Fork Smith River and the North Fork Smith River to the Six Rivers National Forest boundary, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

"(A) The segment from the confluence of the Middle Fork Smith River and the South Fork Smith River to the National Forest boundary, as a recreational river.

"(B) Rowdy Creek from the California-Oregon State line to the National Forest boundary, as a recreational river.

"( ) MIDDLE FORK SMITH RIVER, CALIFORNIA.—The segment from the headwaters to its confluence with the North Fork Smith River, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

"(A) The segment from its headwaters about 3 miles south of Sanger Lake, as depicted on the 1956 USGS 15° Preston Peak topographic map, to the center of section 7, T. 17 N., R. 5 E., as a wild river.

"(B) The segment from the center of section 7, T. 17 N., R. 5 E., to the center of section 6, T. 17 N., R. 5 E., as a scenic river.

"(C) The segment from the center of section 6, T. 17 N., R. 5 E., to one-half mile upstream from its confluence with Knopki Creek, as a wild river.

"(D) The segment from one-half mile upstream of its confluence with Knopki Creek to its confluence with the South Fork Smith River, as a recreational river.

"(E) Myrtle Creek from its headwaters in section 9, T. 17 N., R. 1 E., as depicted on the 1952 USGS 15° Crescent City topographic map, to the middle of section 28, T. 17 N., R. 1 E., as a scenic river.

"(F) Myrtle Creek from the middle of section 28, T. 17 N., R. 1 E., to its confluence with the Middle Fork Smith River, as a wild river.

"(G) Shelly Creek from its headwaters in section 1, T. 18 N., R., 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Patrick Creek, as a recreational river.

"(H) Kelly Creek from its headwaters in section 32, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic

map, to its confluence with the Middle Fork Smith River, as a scenic river.

"(I) Packsaddle Creek from its headwaters about 0.8 miles southwest of Broken Rib Mountain, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a scenic river.

"(J) East Fork Patrick Creek from its headwaters in section 10, T. 18 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the West Fork of Patrick Creek, as a recreational river.

"(K) West Fork Patrick Creek from its headwaters in section 18, T. 18 N., R. 3 E., as depicted on the 1951 15° Gasquet topographic map to its confluence with the East Fork Patrick Creek, as a recreational river.

"(L) Little Jones Creek from its headwaters in section 34, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map to its confluence with the Middle Fork Smith River, as a recreational river.

"(M) Griffin Creek from its headwaters about 0.2 miles southwest of Hazel View Summit, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

"(N) Knopki Creek from its headwaters about 0.4 miles west of Sanger Peak, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

"(O) Monkey Creek from its headwaters in the northeast quadrant of section 12, T. 18 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

"(P) Patrick Creek from the junction of East and West Forks of Patrick Creek to its confluence with Middle Fork Smith River, as a recreational river.

"(Q) Hardscrabble Creek from its headwaters in the northeast quarter of section 2, T. 17 N., R. 1 E., as depicted on the 1952 USGS 15° Crescent City topographic map, to its confluence with the Middle Fork Smith River, as a recreational river.

"( ) NORTH FORK SMITH RIVER, CALIFORNIA.—The segment from the California-Oregon State line to its confluence with the Middle Fork Smith River, including the following segments of the mainstem and certain tributaries, to be administered by the Secretary of Agriculture in the following classes:

"(A) The segment from the California-Oregon State line to its confluence with an unnamed tributary in the northeast quarter of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, as a wild river.

"(B) The segment from its confluence with an unnamed tributary in the northeast quarter of section 5, T. 18 N., R. 2 E., to its southern-most intersection with the eastern section line of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, as a scenic river.

"(C) The segment from its southern-most intersection with the eastern section line of section 5, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Stony Creek, as a wild river.

"(D) The segment from its confluence with Stony Creek to its confluence with the Middle Fork Smith River, as a recreational river.

"(E) Diamond Creek from California-Oregon State line to its confluence with Bear Creek, as a recreational river.

"(F) Diamond Creek from its confluence with Bear Creek to its confluence with the North Fork Smith River, as a scenic river.

"(G) Bear Creek from its headwaters in section 24, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Diamond Creek, as a scenic river.

"(H) Still Creek from its headwaters in section 11, T. 18 N., R. 1 E., as depicted on the 1952 USGS 15° Crescent City topographic map, to its confluence with the North Fork Smith River, as a scenic river.

"(I) North Fork Diamond Creek from the California-Oregon State line to its confluence with Diamond Creek, as a recreational river.

"(J) High Plateau Creek from its headwaters in section 26, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with Diamond Creek, as a scenic river.

"(K) Stony Creek from its headwaters in section 25, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the North Fork Smith River, as a scenic river.

"(L) Peridotite Creek from its headwaters in section 34, T. 18 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the North Fork Smith River, as a wild river.

"( ) SISKIYOU FORK SMITH RIVER, CALIFORNIA.—The segment from its headwaters to its confluence with the Middle Fork Smith River, and the following tributaries, to be administered by the Secretary of Agriculture in the following classes:

"(A) The segment from its headwaters about 0.7 miles southeast of Broken Rib Mountain, as depicted on the 1956 USGS 15° Preston Peak Topographic map, to its confluence with the South Siskiyou Fork Smith River, as a wild river.

"(B) The segment from its confluence with the South Siskiyou Fork Smith River to its confluence with the Middle Fork Smith River, as a recreational river.

"(C) South Siskiyou Fork Smith River from its headwaters about 0.6 miles southwest of Buck Lake, as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the Siskiyou Fork Smith River, as a wild river.

"( ) SOUTH FORK SMITH RIVER, CALIFORNIA.—The segment from its headwaters to its confluence with the main stem of the Smith River, and the following tributaries, to be administered by the Secretary of Agriculture in the following classes:

"(A) The segment from its headwaters about 0.5 miles southwest of Bear Mountain, as depicted on 1956 USGS 15° Preston Peak topographic map, to Blackhawk Bar, as a wild river.

"(B) The segment from Blackhawk Bar to its confluence with the main stem of the Smith River, as a recreational river.

"(C) Williams Creek from its headwaters in section 31, T. 14 N., R. 4 E., as depicted on the 1952 USGS 15° Ship Mountain

topographic map, to its confluence with Eightmile Creek, as a wild river.

"(D) Eightmile Creek from its headwaters in section 29, T. 14 N., R. 4 E., as depicted on the 1955 USGS 15° Dillon Mtn. topographic map, to its confluence with the South Fork Smith River, as a wild river.

"(E) Harrington Creek from its source to its confluence with the South Fork Smith River, as a wild river.

"(F) Prescott Fork of the Smith River from its headwaters about 0.5 miles southeast of Island Lake, as depicted on the 1955 USGS 15° Dillon Mtn. topographic map, to its confluence with the South Fork Smith River, as a wild river.

"(G) Quartz Creek from its headwaters in section 31, T. 16 N., R. 4 E., as depicted on the 1952 15° USGS Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(H) Jones Creek from its headwaters in section 36, T. 16 N., R. 3 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(I) Hurdygurdy Creek from its headwaters about 0.4 miles southwest of Bear Basin Butte as depicted on the 1956 USGS 15° Preston Peak topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(J) Gordon Creek from its headwaters in section 18, T. 16 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(K) Coon Creek from the junction of its two headwaters tributaries in the southeast quadrant of section 31, T. 17 N., R. 3 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(L) Craigs Creek from its headwaters in section 36, T. 17 N., R. 2 E., as depicted on the 1951 USGS 15° Gasquet topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(M) Goose Creek from its headwaters in section 13, T. 13 N., R. 2 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(N) East Fork Goose Creek from its headwaters in section 18, T. 13 N., R. 3 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with Goose Creek, as a recreational river.

"(O) Buck Creek from its headwaters at Cedar Camp Spring, as depicted on the 1952 USGS 15° Ship Mountain topographic map, to the northeast corner of section 8, T. 14 N., R. 3 E., as a scenic river.

"(P) Buck Creek from the northeast corner of section 8, T. 14 N., R. 3 E., to its confluence with the South Fork Smith River, as a wild river.

"(Q) Muzzleloader Creek from its headwaters in section 2, T. 15 N., R. 3 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with Jones Creek, as a recreational river.

"(R) Canthook Creek from its headwaters in section 2, T. 15 N., R. 2 E., as depicted in the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(S) Rock Creek from the national forest boundary in section 6, T. 15 N., R. 2 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.

"(T) Blackhawk Creek from its headwaters in section 21, T. 15 N., R. 2 E., as depicted on the 1952 USGS 15° Ship Mountain topographic map, to its confluence with the South Fork Smith River, as a recreational river.".

(c) MANAGEMENT.—The management plan prepared under section 9 of this Act shall be deemed to satisfy the requirement for a comprehensive management plan required under section 3(d)(1) of the Wild and Scenic Rivers Act. 16 USC 460bbb-7 note.

SEC. 11. STREAMSIDE PROTECTION ZONES. 16 USC 460bbb-8.

(a) For each of the rivers and river segments specified in this subsection, there is hereby established a streamside protection zone in which timber harvesting shall be prohibited except as permitted by section 5(a)(7). Such zone shall extend 300 feet from each bank of the rivers and river segments, or 100 feet from the inner gorge of said rivers and river segments, or within the limit of high and extreme landslide hazards on said rivers and river segments, whichever is greater. The provisions of this subsection shall apply to the following rivers and river segments:

(1) Rowdy Creek (from California-Oregon border to NRA boundary).

(2) Shelly Creek (from its headwaters to Patrick Creek).

(3) East Fork Patrick Creek (from its headwaters to Patrick Creek).

(4) West Fork Patrick Creek (from its headwaters to Patrick Creek).

(5) Little Jones Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(6) Patrick Creek (from the confluence of the East and West forks of Patrick Creek to the Middle Fork of the Smith River).

(7) Monkey Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(8) Hardscrabble Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(9) Quartz Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(10) Jones Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(11) Upper Hurdygurdy Creek (from its headwaters to Dry Lake).

(12) Gordon Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(13) Coon Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(14) Craigs Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(15) Goose Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(16) East Fork of Goose Creek (from its headwaters to its confluence with Goose Creek).

(17) Muzzleloader Creek (from its headwaters to its confluence with Jones Creek).

(18) Canthook Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(19) Rock Creek (from the NRA boundary to its confluence with the South Fork of the Smith River).

(20) Blackhawk Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(b) For each of the rivers and river segments specified in this subsection there is established a streamside protection zone in which timber harvesting shall be prohibited except as permitted in section 5(a)(7). Such zone shall extend on the average of one-quarter mile on either side of said rivers and river segments, or 100 feet from the inner gorge of said rivers and river segments, or within the limit of high and extreme landslide hazards on said rivers and river segments, whichever is greater. The provisions of this subsection shall apply to the following rivers and river segments:

(1) Main stem Smith (from the South Fork to the NRA boundary).

(2) Middle Fork Smith (from its headwaters to its confluence with the Middle Fork of the Smith River).

(3) Myrtle Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(4) Kelly Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(5) Packsaddle Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(6) Griffin Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(7) Knopti Creek (from its headwaters to its confluence with the Middle Fork of the Smith River).

(8) North Fork of the Smith River (from the California/Oregon border to its confluence with the Middle Fork of the Smith River).

(9) Diamond Creek (from the California/Oregon border to its confluence with the North Fork of the Smith River).

(10) Bear Creek (from its headwaters to its confluence with Diamond Creek).

(11) Still Creek (from its headwaters to its confluence with the North Fork of the Smith River).

(12) North Fork of Diamond Creek (from the California/Oregon border to its confluence with Diamond Creek).

(13) High Plateau Creek (from its headwaters to its confluence with Diamond Creek).

(14) Stony Creek (from its headwaters to its confluence with the North Fork of the Smith River).

(15) Peridotite Creek (from its headwaters to its confluence with the North Fork of the Smith River).

(16) Siskiyou Fork, Smith River (from its headwaters to the Middle Fork of the Smith River).

(17) South Siskiyou Fork of the Smith River (from its headwaters to its confluence with the Siskiyou Fork of the Smith River).

(18) South Fork Smith River (from its headwaters to its confluence with the Middle Fork of the Smith River).

(19) Williams Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(20) Eight Mile Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(21) Harrington Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(22) Prescott Fork of the Smith River (from its headwaters to its confluence with the South Fork of the Smith River).

(23) Buck Creek (from its headwaters to its confluence with the South Fork of the Smith River).

(c) For the Lower Hurdygurdy Creek (from Dry Lake to its confluence with the South Fork of the Smith River) there is established a streamside protection zone in which timber harvesting shall be prohibited except as permitted by section 5(a)(7). Such zone shall extend one-eighth mile on either side of said Lower Hurdygurdy Creek.

(d) The provisions of this section shall be in addition to, and not in lieu of, any restrictions on timber harvesting or other activities applicable to the streamside protection zones established by this section under any other applicable provision of this Act.

SEC. 12. STATE AND LOCAL JURISDICTION AND ASSISTANCE.

16 USC 460bbb-9.

(a) STATE AND LOCAL JURISDICTION.—Nothing in this Act shall diminish, enlarge, or modify any right of the State of California or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and game laws, rules, and regulations within the recreation area, or to tax persons, franchise, or private property on the lands and waters included in the recreation area, or to regulate the private lands within the recreation area.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized and encouraged to enter into cooperative agreements with the State of California or its political subdivisions for—

(1) the rendering on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire prevention agencies; and

(2) the planning for use, management, and development of non-Federal lands within the recreation area and elsewhere in the Smith River watershed in the furtherance of the purposes of this Act.

(c) TECHNICAL ASSISTANCE.—To enable the State of California and its political subdivisions to develop and implement programs compatible with the purposes of this Act, the Secretary, in consultation with the Secretaries of the Interior, Commerce, and Housing and Urban Development, shall consider upon request such technical assistance to the State and its political subdivisions as is necessary to fulfill the purposes of this section. Such assistance may include payments or grants, within existing programs, for technical aid and program development.

(d) LAND INFORMATION SYSTEM.—The Secretary of Agriculture shall assist the county of Del Norte in developing a land information system that will be compatible with the Forest Service and National Park Service systems for the Federal lands in Del Norte County and such non-Federal systems as may be appropriate and that will be made available to Federal and non-Federal entities for use in coordinating planning for the recreation area and other lands in the Smith River watershed.

16 USC 460bbb-10.

SEC. 13. SAVING PROVISIONS.

(a) ACTIVITIES ON LANDS OUTSIDE OF RECREATION AREA.—Nothing in this Act shall limit, restrict, or require specific management practices on lands outside the recreation area boundary. The fact that activities or uses outside the recreation area can be seen, heard, or otherwise perceived within the recreation area shall not, of itself, limit, restrict, or preclude such activities or uses up to the boundary of the recreation area.

(b) PRIOR RIGHTS.—(1) Nothing in this Act shall limit, restrict, or preclude the implementation of valid timber sale contracts or other contracts or agreements executed by the Secretary before the date of enactment of this Act.

(2) Except as specifically provided herein nothing in this Act shall be construed as diminishing or relinquishing any right, title, or interest of the United States in any lands, waters, or interests therein within the boundaries of the recreation area designated by this Act.

(c) ROAD EASEMENTS.—Nothing in this Act shall be construed as affecting the responsibilities of the State of California or any of its political subdivisions with respect to road easements, including maintenance and improvement of State Highway 199 and County Route 427.

(d) RIGHTS OF ACCESS.—Existing rights provided by Federal law for access by private landowners across National Forest System lands shall not be affected by this Act.

(e) ENTITLEMENT MONEYS.—Annually for the first two full fiscal years after the date of enactment of this Act, the Secretary shall pay for use by units of local government within the recreation area an amount equal to the difference between the amounts payable for such purposes pursuant to the Act of May 23, 1908 (chapter 193; 35 Stat. 251; 16 U.S.C. 500) and the average amount paid for such purpose under such Act during the five fiscal years preceding the date of enactment of this Act. The amount payable under this subsection shall be reduced by 10 percent annually thereafter for each succeeding fiscal year until the amount payable shall be reduced 100 percent by the end of the twelfth fiscal year after the date of enactment. This subsection shall expire 11 years after the first payment pursuant to this subsection.

16 USC 460bbb-11.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this Act and the amendments made by this Act.

16 USC 431 note. Arizona.

SEC. 15. REDESIGNATION.

The Sunset Crater National Monument, Arizona, shall, on and after the date of enactment of this Act, be known and designated as the "Sunset Crater Volcano National Monument". Any reference to the Sunset Crater National Monument in any law, regulation, map, document, record, or other paper of the United States shall be

considered to be a reference to the Sunset Crater Volcano National Monument.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2566:

SENATE REPORTS: No. 101-310 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 14, considered and passed Senate.
Oct. 26, considered and passed House, amended.
Oct. 27, Senate concurred in House amendment.

○

Public Law 101-613
101st Congress

An Act

Nov. 16, 1990
[S. 2857]

To amend the Public Health Service Act with respect to certain programs for the National Institutes of Health.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Institutes of Health Amendments of 1990. Medical research.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Institutes of Health Amendments of 1990".

42 USC 201 note.

SEC. 2. ESTABLISHMENT OF NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end thereof the following new part:

"PART H—NATIONAL FOUNDATION FOR BIOMEDICAL RESEARCH

42 USC 290b.

"SEC. 499A. ESTABLISHMENT AND DUTIES OF FOUNDATION.

"(a) IN GENERAL.—The Secretary shall establish a nonprofit corporation to be known as the National Foundation for Biomedical Research (hereafter in this section referred to as the 'Foundation'). The Foundation shall not, except for the purposes of the Ethics in Government Act and the Technology Transfer Act, be an agency or instrumentality of the United States Government.

"(b) DUTIES.—

"(1) ESTABLISHMENT OF FUND FOR ENDOWING RESEARCH POSITIONS AT NATIONAL INSTITUTES OF HEALTH.—

"(A) The Foundation shall establish a fund whose primary purpose shall be to provide endowments for positions at the National Institutes of Health to conduct biomedical research. Such positions may be held by scientists without regard to whether the scientists are employees of the Federal Government.

"(B) In addition to the purpose described in subparagraph (A), the fund established under such subparagraph may be expended to recruit scientists to hold the positions endowed by the fund.

"(C) The purposes for which an endowment under subparagraph (A) may be expended include support for the staffing, equipment, and quarters for the biomedical research conducted by scientists holding endowed positions under such subparagraph.

"(2) APPLICABILITY OF CERTAIN STANDARDS REGARDING NONFEDERAL RESEARCHERS.—In the case of scientists holding endowed positions under paragraph (1)(A) who are not employees of the Federal Government, the Foundation shall negotiate a memorandum of understanding with the Director of the National Institutes of Health, subject to the approval of the Sec-

retary, that specifies that any such scientist shall observe the ethical and procedural standards regulating research and research finding (including publications and patents) that are followed by scientists conducting research as employees of such Institutes, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act.

"(3) ADDITIONAL DUTIES.—The Foundation shall provide for biennial audits of the financial condition of the Foundation.

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION.—

"(A) The Foundation shall have a Board of Directors (hereafter referred to in this section as the 'Board'), which shall be composed of ex officio and appointed members in accordance with this subsection. All members of the Foundation shall be voting members.

"(B) The ex officio members of the Council shall be—

"(i) the Chairman and ranking minority member of the Subcommittee on Health and the Environment (Committee on Energy and Commerce) or their designees, in the case of the House of Representatives;

"(ii) the Chairman and ranking minority member of the Committee on Labor and Human Resources or their designees, in the case of the Senate; and

"(iii) the Director of the National Institutes of Health.

"(C) The ex officio members of the Board under subparagraph (B) shall appoint to the Council 9 individuals from among a list of candidates to be provided by the National Academy of Science. Of such appointed members—

"(i) 4 shall be representative of the general biomedical field;

"(ii) 2 shall be representatives of the general biobehavorial field; and

"(iii) 3 shall be representatives of the general public.

"(2) CHAIR.—The ex officio members of the Board under paragraph (1)(B) shall designate an appointed member of the Board to serve as the Chair of the Board.

"(3) TERMS AND VACANCIES.—

"(A) The term of office of each member of the Board appointed under paragraph (2)(C) shall be 5 years, except that the terms of offices for the initial appointed members of the Board shall expire as determined by the ex officio members and the Chair.

"(B) Any vacancy in the membership of the Board shall be filled in the manner in which the original position was made and shall not affect the power of the remaining members to execute the duties of the Board.

"(C) If a member of the Board does not serve the full term applicable under subparagraph (A), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(D) A member of the Board may continue to serve after the expiration of the term of the member until a successor is appointed.

"(4) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. Such members may be

reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board, as set forth in the bylaws issued by the Board.

"(d) INCORPORATION.—The initial members of the Board shall serve as incorporators and shall take whatever actions necessary to incorporate the Foundation.

"(e) NONPROFIT STATUS.—The Foundation shall be considered to be a corporation under section 501(c) of the Internal Revenue Code of 1986, and shall be subject to the provisions of such section.

"(f) EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Foundation shall have an Executive Director who shall be appointed by the Board and shall serve at the pleasure of the Board. The Executive Director shall be responsible for the day-to-day operations of the Foundation and shall have such specific duties and responsibilities as the Board shall prescribe.

"(2) COMPENSATION.—The rate of compensation of the Executive Director shall be fixed by the Board.

"(g) POWERS.—In carrying out subsection (b), the Foundation may—

"(1) operate under the direction of its Board;

"(2) adopt, alter, and use a corporate seal, which shall be judicially noticed;

"(3) provide for 1 or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

"(4) hire, promote, compensate, and discharge officers and employees of the Foundation;

"(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

"(A) its officers, employees, and agents are selected;

"(B) its property is acquired, held, and transferred;

"(C) its general operations are to be conducted; and

"(D) the privileges granted by law are exercised and enjoyed;

"(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this section;

"(7) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

"(8) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this subtitle;

"(9) establish a mechanism for the selection of candidates, subject to the approval of the Director of the National Institutes of Health or the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, for the endowed scientific positions within the organizational structure of the intramural research programs of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration and candidates for participation in the National Institutes of Health Scholars program;

Government contracts.

"(10) enter into contracts with public and private organizations for the writing, editing, printing, and publishing of books and other material;

"(11) take such action as may be necessary to obtain patents and licenses for devices and procedures developed by the Foundation and its employees;

"(12) accept, hold, administer, invest, and spend any gift, devise, or bequest of real or personal property made to the Foundation;

"(13) enter into such other contracts, leases, cooperative agreements, and other transactions as the Executive Director considers appropriate to conduct the activities of the Foundation; Government contracts.

"(14) appoint other groups of advisors as may be determined necessary from time to time to carry out the functions of the Foundation; and

"(15) exercise other powers as set forth in this section, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this subtitle.

"(h) ADMINISTRATIVE CONTROL.—No participant in the program established under this part shall exercise any administrative control over any Federal employee.

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—Subject to paragraph (2), for the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1995.

"(2) LIMITATIONS.—

"(A) Amounts appropriated under paragraph (1) or made available under subparagraph (C) may not be provided to the fund established under subsection (b)(1)(A).

"(B) For the first fiscal year for which amounts are appropriated under paragraph (1), $200,000 is authorized to be appropriated.

"(C) With respect to the first fiscal year for which amounts are appropriated under paragraph (1), the Secretary may, from amounts appropriated for such fiscal year for the programs of the Department of Health and Human Services, make available not more than $200,000 for carrying out this part, subject to subparagraph (A).".

SEC. 3. ESTABLISHMENT OF NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH.

(a) IN GENERAL.—Subpart 7 of part C of title IV of the Public Health Service Act (42 U.S.C. 285g et seq.) is amended by inserting after section 451 the following new section:

"NATIONAL CENTER FOR MEDICAL REHABILITATION RESEARCH

"SEC. 452. (a) There shall be in the Institute an agency to be known as the National Center for Medical Rehabilitation Research (hereafter in this section referred to as the 'Center'). The Director of the Institute shall appoint a qualified individual to serve as Director of the Center. The Director of the Center shall report directly to the Director of the Institute. 42 USC 285g-4.

"(b) The general purpose of the Center is the conduct and support of research and research training (including research on the development of orthotic and prosthetic devices), the dissemination of health information, and other programs with respect to the rehabilitation of individuals with physical disabilities resulting from

diseases or disorders of the neurological, musculoskeletal, cardiovascular, pulmonary, or any other physiological system (hereafter in this section referred to as 'medical rehabilitation').

"(c)(1) In carrying out the purpose described in subsection (b), the Director of the Center may—

"(A) provide for clinical trials regarding medical rehabilitation;

"(B) provide for research regarding model systems of medical rehabilitation;

"(C) coordinate the activities of the Center with similar activities of other agencies of the Federal Government, including the other agencies of the National Institutes of Health, and with similar activities of other public entities and of private entities;

"(D) support multidisciplinary medical rehabilitation research conducted or supported by more than one such agency;

"(E) in consultation with the advisory council for the Institute and with the approval of the Director of NIH—

"(i) establish technical and scientific peer review groups in addition to those appointed under section 402(b)(6); and

"(ii) appoint the members of peer review groups established under subparagraph (A); and

"(F) support medical rehabilitation research and training centers.

The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under subparagraph (E).

Government contracts.

"(2) In carrying out this section, the Director of the Center may make grants and enter into cooperative agreements and contracts.

"(d)(1) In consultation with the Director of the Center, the coordinating committee established under subsection (e), and the advisory board established under subsection (f), the Director of the Institute shall develop a comprehensive plan for the conduct and support of medical rehabilitation research (hereafter in this section referred to as the 'Research Plan').

"(2) The Research Plan shall—

"(A) identify current medical rehabilitation research activities conducted or supported by the Federal Government, opportunities and needs for additional research, and priorities for such research; and

"(B) make recommendations for the coordination of such research conducted or supported by the National Institutes of Health and other agencies of the Federal Government.

"(3)(A) Not later than 18 months after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, the Director of the Institute shall transmit the Research Plan to the Director of NIH, who shall submit the Plan to the President and the Congress.

"(B) Subparagraph (A) shall be carried out independently of the process of reporting that is required in sections 403 and 407.

"(4) The Director of the Institute shall periodically revise and update the Research Plan as appropriate, after consultation with the Director of the Center, the coordinating committee established under subsection (e), and the advisory board established under subsection (f). A description of any revisions in the Research Plan shall be contained in each report prepared under section 407 by the Director of the Institute.

"(e)(1) The Director of NIH shall establish a committee to be known as the Medical Rehabilitation Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee'). Establishment.

"(2) The Coordinating Committee shall make recommendations to the Director of the Institute and the Director of the Center with respect to the content of the Research Plan and with respect to the activities of the Center that are carried out in conjunction with other agencies of the National Institutes of Health and with other agencies of the Federal Government.

"(3) The Coordinating Committee shall be composed of the Director of the Center, the Director of the Institute, and the Directors of the National Institute on Aging, the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the National Heart, Lung, and Blood Institute, the National Institute of Neurological Disorders and Stroke, and such other national research institutes and such representatives of other agencies of the Federal Government as the Director of NIH determines to be appropriate.

"(4) The Coordinating Committee shall be chaired by the Director of the Center.

"(f)(1) Not later than 90 days after the date of the enactment of the National Institutes of Health Revitalization Amendments of 1990, the Director of NIH shall establish a National Advisory Board on Medical Rehabilitation Research (hereafter in this section referred to as the 'Advisory Board'). Establishment.

"(2) The Advisory Board shall review and assess Federal research priorities, activities, and findings regarding medical rehabilitation research, and shall advise the Director of the Center and the Director of the Institute on the provisions of the Research Plan.

"(3)(A) The Director of NIH shall appoint to the Advisory Board 18 qualified representatives of the public who are not officers or employees of the Federal Government. Of such members, 12 shall be representatives of health and scientific disciplines with respect to medical rehabilitation and 6 shall be individuals representing the interests of individuals undergoing, or in need of, medical rehabilitation.

"(B) The following officials shall serve as ex officio members of the Advisory Board:

"(i) The Director of the Center.

"(ii) The Director of the Institute.

"(iii) The Director of the National Institute on Aging.

"(iv) The Director of the National Institute of Arthritis and Musculoskeletal and Skin Diseases.

"(v) The Director of the National Institute on Deafness and Other Communication Disorders.

"(vi) The Director of the National Heart, Lung, and Blood Institute.

"(vii) The Director of the National Institute of Neurological Disorders and Stroke.

"(viii) The Director of the National Institute on Disability and Rehabilitation Research.

"(ix) The Commissioner for Rehabilitation Services Administration.

"(x) The Assistant Secretary of Defense (Health Affairs).

"(xi) The Chief Medical Director of the Department of Veterans Affairs.

"(4) The members of the Advisory Board shall, from among the members appointed under paragraph (3)(A), designate an individual to serve as the chair of the Advisory Board.".

42 USC 285g-4 note.

(b) REQUIREMENT OF CERTAIN AGREEMENTS FOR PREVENTING DUPLICATIVE PROGRAMS OF MEDICAL REHABILITATION RESEARCH.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the heads of other Federal agencies shall—

(A) jointly review the programs being carried out (or proposed to be carried out) by each such official with respect to medical rehabilitation research; and

(B) as appropriate, enter into agreements for preventing duplication among such programs.

(2) TIME FOR COMPLETION.—The agreements required in paragraph (1)(B) shall be made not later than one year after the date of the enactment of this Act.

(3) DEFINITION OF MEDICAL REHABILITATION.—For purposes of this subsection, the term "medical rehabilitation" means the rehabilitation of individuals with physical disabilities resulting from diseases or disorders of the neurological, musculoskeletal, cardiovascular, pulmonary, or any other physiological system.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2857 (H.R. 5661):

HOUSE REPORTS: No. 101-869 accompanying H.R. 5661 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 101-459 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 19, considered and passed Senate.
Oct. 26, considered and passed House, amended.
Oct. 27, Senate concurred in House amendments.

Public Law 101-614
101st Congress

An Act

To authorize appropriations for the Earthquake Hazards Reduction Act of 1977, and for other purposes.

Nov. 16, 1990
[S. 2789]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Earthquake Hazards Reduction Program Reauthorization Act.
42 USC 7701 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Earthquake Hazards Reduction Program Reauthorization Act".

FINDINGS

SEC. 2. Section 2 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701) is amended—

(1) by striking paragraphs (5) and (6) and inserting in lieu thereof the following new paragraphs:

"(5) The geological study of active faults and features can reveal how recently and how frequently major earthquakes have occurred on those faults and how much risk they pose. Such long-term seismic risk assessments are needed in virtually every aspect of earthquake hazards management, whether emergency planning, public regulation, detailed building design, insurance rating, or investment decision.

"(6) The vulnerability of buildings, lifelines, public works, and industrial and emergency facilities can be reduced through proper earthquake resistant design and construction practices. The economy and efficacy of such procedures can be substantially increased through research and development.";

(2) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(3) by inserting immediately after paragraph (6) the following new paragraph:

"(7) Programs and practices of departments and agencies of the United States are important to the communities they serve; some functions, such as emergency communications and national defense, and lifelines, such as dams, bridges, and public works, must remain in service during and after an earthquake. Federally owned, operated, and influenced structures and lifelines should serve as models for how to reduce and minimize hazards to the community.".

PURPOSE

SEC. 3. Section 3 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7702) is amended by adding at the end the following: "The objectives of such program shall include—

"(1) the education of the public, including State and local officials, as to earthquake phenomena, the identification of locations and structures which are especially susceptible to

earthquake damage, ways to reduce the adverse consequences of an earthquake, and related matters;

"(2) the development of technologically and economically feasible design and construction methods and procedures to make new and existing structures, in areas of seismic risk, earthquake resistant, giving priority to the development of such methods and procedures for power generating plants, dams, hospitals, schools, public utilities and other lifelines, public safety structures, high occupancy buildings, and other structures which are especially needed in time of disaster;

"(3) the implementation to the greatest extent practicable, in all areas of high or moderate seismic risk, of a system (including personnel, technology, and procedures) for predicting damaging earthquakes and for identifying, evaluating, and accurately characterizing seismic hazards;

"(4) the development, publication, and promotion, in conjunction with State and local officials and professional organizations, of model building codes and other means to encourage consideration of information about seismic risk in making decisions about land-use policy and construction activity;

"(5) the development, in areas of seismic risk, of improved understanding of, and capability with respect to, earthquake-related issues, including methods of mitigating the risks from earthquakes, planning to prevent such risks, disseminating warnings of earthquakes, organization emergency services, and planning for reconstruction and redevelopment after an earthquake;

"(6) the development of ways to increase the use of existing scientific and engineering knowledge to mitigate earthquake hazards; and

"(7) the development of ways to assure the availability of affordable earthquake insurance.".

DEFINITIONS

SEC. 4. Section 4 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7703) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'Program' means the National Earthquake Hazards Reduction Program established under section 5.";

(2) by adding at the end the following new paragraphs:

"(6) The term 'lifelines' means public works and utilities, including transportation facilities and infrastructure, oil and gas pipelines, electrical power and communication facilities, and water supply and sewage treatment facilities.

"(7) The term 'Program agencies' means the Federal Emergency Management Agency, the United States Geological Survey, the National Science Foundation, and the National Institute of Standards and Technology.".

NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 5. Section 5 of the National Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended to read as follows:

"SEC. 5. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM.

"(a) ESTABLISHMENT.—There is established a National Earthquake Hazards Reduction Program.

"(b) RESPONSIBILITIES OF PROGRAM AGENCIES.—

"(1) LEAD AGENCY.—The Federal Emergency Management Agency (hereafter in this Act referred to as the 'Agency') shall have the primary responsibility for planning and coordinating the Program. In carrying out this paragraph, the Director of the Agency shall—

"(A) prepare, in conjunction with the other Program agencies, an annual budget for the Program to be submitted to the Office of Management and Budget;

"(B) ensure that the Program includes the necessary steps to promote the implementation of earthquake hazard reduction measures by Federal, State, and local governments, national standards and model building code organizations, architects and engineers, and others with a role in planning and constructing buildings and lifelines;

"(C) prepare, in conjunction with the other Program agencies, a written plan for the Program, which shall include specific tasks and milestones for each Program agency, and which shall be submitted to the Congress and updated at such times as may be required by significant Program events, but in no event less frequently than every 3 years;

"(D) prepare, in conjunction with the other Program agencies, a biennial report, to be submitted to the Congress within 90 days after the end of each even-numbered fiscal year, which shall describe the activities and achievements of the Program during the preceding two fiscal years; and Reports.

"(E) request the assistance of Federal agencies other than the Program agencies, as necessary to assist in carrying out this Act.

The principal official carrying out the responsibilities described in this paragraph shall be at a level no lower than that of Associate Director.

"(2) FEDERAL EMERGENCY MANAGEMENT AGENCY.—

"(A) PROGRAM RESPONSIBILITIES.—In addition to the lead agency responsibilities described in paragraph (1), the Director of the Agency shall—

"(i) operate a program of grants and technical assistance which would enable States to develop preparedness and response plans, prepare inventories and conduct seismic safety inspections of critical structures and lifelines, update building and zoning codes and ordinances to enhance seismic safety, increase earthquake awareness and education, and encourage the development of multi-State groups for such purposes; Grant programs. Intergovernmental relations.

"(ii) prepare and execute, in conjunction with the Program agencies, the Department of Education, other Federal agencies, and private sector groups, a comprehensive earthquake education and public awareness program, to include development of materials and their wide dissemination to schools and the general public; Education. Public information.

"(iii) prepare and disseminate widely, with the assistance of the National Institute of Standards and Technology, other Federal agencies, and private sector groups, information on building codes and practices for structures and lifelines;

"(iv) develop, and coordinate the execution of, Federal interagency plans to respond to an earthquake, with specific plans for each high-risk area which ensure the availability of adequate emergency medical resources, search and rescue personnel and equipment, and emergency broadcast capability;

"(v) develop approaches to combine measures for earthquake hazards reduction with measures for reduction of other natural and technological hazards; and

"(vi) provide response recommendations to communities after an earthquake prediction has been made under paragraph (3)(D).

In addition, the Director of the Agency may enter into cooperative agreements or contracts with States and local jurisdictions to establish demonstration projects on earthquake hazard mitigation, to link earthquake research and mitigation efforts with emergency management programs, or to prepare educational materials for national distribution.

"(B) STATE ASSISTANCE PROGRAM CRITERIA.—In order to qualify for assistance under subparagraph (A)(i), a State must—

"(i) demonstrate that the assistance will result in enhanced seismic safety in the State;

"(ii) provide a share of the costs of the activities for which assistance is being given, in accordance with subparagraph (C); and

"(iii) meet such other requirements as the Director of the Agency shall prescribe.

"(C) NON-FEDERAL COST SHARING.—

"(i) In the case of any State which has received, before October 1, 1990, a grant from the Agency for activities under this Act which included a requirement for cost sharing by matching such grant, any grant obtained from the Agency for activities under subparagraph (A)(i) after such date shall not include a requirement for cost sharing in an amount greater than 50 percent of the cost of the project for which the grant is made.

"(ii) In the case of any State which has not received, before October 1, 1990, a grant from the Agency for activities under this Act which included a requirement for cost sharing by matching such grant, any grant obtained from the Agency for activities under subparagraph (A)(i) after such date—

"(I) shall not include a requirement for cost sharing for the first fiscal year of such a grant;

"(II) shall not include a requirement for cost sharing in an amount greater than 25 percent of the cost of the project for which the grant is made for the second fiscal year of such grant, and any cost sharing requirement may be satisfied through in-kind contributions;

"(III) shall not include a requirement for cost sharing in an amount greater than 35 percent of the cost of the project for which the grant is made for the third fiscal year of such grant, and any cost

sharing requirement may be satisfied through in-kind contributions; and

"(IV) shall not include a requirement for cost sharing in an amount greater than 50 percent of the cost of the project for which the grant is made for the fourth and subsequent fiscal years of such grant.

"(3) UNITED STATES GEOLOGICAL SURVEY.—The United States Geological Survey shall conduct research necessary to characterize and identify earthquake hazards, assess earthquake risks, monitor seismic activity, and improve earthquake predictions. In carrying out this paragraph, the Director of the United States Geological Survey shall— Research.

"(A) conduct a systematic assessment of the seismic risks in each region of the Nation prone to earthquakes, including, where appropriate, the establishment and operation of intensive monitoring projects on hazardous faults, seismic microzonation studies in urban and other developed areas where earthquake risk is determined to be significant, and engineering seismology studies;

"(B) work with officials of State and local governments to ensure that they are knowledgeable about the specific seismic risks in their areas;

"(C) develop standard procedures, in consultation with the Agency, for issuing earthquake predictions, including aftershock advisories;

"(D) issue when necessary, and notify the Director of the Agency of, an earthquake prediction or other earthquake advisory, which may be evaluated by the National Earthquake Prediction Evaluation Council, which shall be exempt from the requirements of section 10(a)(2) of the Federal Advisory Committee Act when meeting for such purposes;

"(E) establish, using existing facilities, a Center for the International Exchange of Earthquake Information which shall— Establishment. Foreign relations.

"(i) promote the exchange of information on earthquake research and earthquake preparedness between the United States and other nations;

"(ii) maintain a library containing selected reports, research papers, and data produced through the Program;

"(iii) answer requests from other nations for information on United States earthquake research and earthquake preparedness programs; and

"(iv) direct foreign requests to the agency involved in the Program which is best able to respond to the request; and

"(F) operate a National Seismic Network;

"(G) support regional seismic networks, which shall complement the National Seismic Network.

"(4) NATIONAL SCIENCE FOUNDATION.—The National Science Foundation shall be responsible for funding research on earth sciences to improve the understanding of the causes and behavior of earthquakes, on earthquake engineering, and on human response to earthquakes. In carrying out this paragraph, the Director of the National Science Foundation shall— Research.

"(A) encourage prompt dissemination of significant findings, sharing of data, samples, physical collections, and other supporting materials, and development of intellectual property so research results can be used by appropriate organizations to mitigate earthquake damage;

"(B) in addition to supporting individual investigators, support university research consortia and centers for research in geosciences and in earthquake engineering;

"(C) work closely with the United States Geological Survey to identify geographic regions of national concern that should be the focus of targeted solicitations for earthquake-related research proposals;

"(D) emphasize, in earthquake engineering research, development of economically feasible methods to retrofit existing buildings and to protect lifelines to mitigate earthquake damage; and

"(E) support research that studies the political, economic, and social factors that influence the implementation of hazard reduction measures.

"(5) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—The National Institute of Standards and Technology shall be responsible for carrying out research and development to improve building codes and standards and practices for structures and lifelines. In carrying out this paragraph, the Director of the National Institute of Standards and Technology shall—

"(A) work closely with national standards and model building code organizations, in conjunction with the Agency, to promote the implementation of research results;

"(B) promote better building practices among architects and engineers; and

"(C) work closely with national standards organizations to develop seismic safety standards and practices for new and existing lifelines.".

OFFICE OF SCIENCE AND TECHNOLOGY POLICY REPORT

SEC. 6. Section 6 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7705) is amended to read as follows:

"SEC. 6. OFFICE OF SCIENCE AND TECHNOLOGY POLICY REPORT.

"The Director of the Office of Science and Technology Policy shall, within 3 months after the date of the enactment of the National Earthquake Hazards Reduction Program Reauthorization Act, report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Science, Space, and Technology and the Committee on Interior and Insular Affairs of the House of Representatives with respect to how the Office of Science and Technology Policy can play a role in interagency coordination, planning, and operation of the Program.".

ADVISORY COMMITTEE

SEC. 7. The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended—

42 USC 7706.

(1) by redesignating section 7 as section 12; and

(2) by inserting immediately after section 6 the following new section:

"SEC. 7. ADVISORY COMMITTEE. 42 USC 7705a.

"There is established a National Earthquake Hazards Reduction Program Advisory Committee (hereafter in this Act referred to as the 'Advisory Committee'), which shall advise the Program agencies on planning and implementing the Program. The Director of the Agency shall, in consultation with the directors of the Program agencies, determine the number of members on the Advisory Committee and the duration of their terms, and appoint the Chairman and Members of the Advisory Committee. The Advisory Committee shall have balanced representation of State and local governments, the design professions, the research community, business and industry, and the general public. The Advisory Committee shall meet at the call of the Chairman, but in no event less often than every 6 months. The Advisory Committee shall submit a written report directly to the Congress, without review by the Office of Management and Budget or any other agency, by January 31 of each calendar year beginning after the date of enactment of the National Earthquake Hazards Reduction Program Reauthorization Act, which shall describe any recommendations the Advisory Committee has made to the Program agencies during the preceding year. Members of the Advisory Committee shall serve without compensation but may receive reimbursement for expenses. All expenses of the Advisory Committee shall be borne by the Agency. The Advisory Committee shall expire September 30, 1993.".

Establishment.

Reports.

Termination date.

SEISMIC STANDARDS

SEC. 8. (a) AMENDMENT.—The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), as amended by section 7 of this Act, is further amended by inserting immediately after section 7 the following new section:

"SEC. 8. SEISMIC STANDARDS. President. 42 USC 7705b.

"(a) BUILDINGS.—

"(1) ADOPTION OF STANDARDS.—The President shall adopt, not later than December 1, 1994, standards for assessing and enhancing the seismic safety of existing buildings constructed for or leased by the Federal Government which were designed and constructed without adequate seismic design and construction standards. Such standards shall be developed by the Interagency Committee on Seismic Safety in Construction, whose chairman is the Director of the National Institute of Standards and Technology or his designee, and which shall work in consultation with appropriate private sector organizations.

"(2) REPORT TO CONGRESS.—The President shall report to the Congress, not later than December 1, 1994, on how the standards adopted under paragraph (1) could be applied with respect to buildings—

"(A) for which Federal financial assistance has been obtained through grants, loans, financing guarantees, or loan or mortgage insurance programs; or

"(B) the structural safety of which is regulated by a Federal agency.

"(3) REGULATIONS.—The President shall ensure the issuance, before February 1, 1993, by all Federal agencies of final regulations required by section 4(b) of Executive Order numbered 12699, issued January 5, 1990.

"(b) LIFELINES.—The Director of the Agency, in consultation with the Director of the National Institute of Standards and Technology, shall submit to the Congress, not later than June 30, 1992, a plan, including precise timetables and budget estimates, for developing and adopting, in consultation with appropriate private sector organizations, design and construction standards for lifelines. The plan shall include recommendations of ways Federal regulatory authority could be used to expedite the implementation of such standards.".

42 USC 7705b note.

(b) REPORT TO CONGRESS.—The Comptroller General shall, not later than 18 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interior and Insular Affairs and the Committee on Science, Space, and Technology of the House of Representatives on the vulnerability of buildings owned and leased by the Federal Government and on the efforts of Federal agencies to improve the seismic resistance of the buildings they own or lease. For each such agency, the Comptroller General shall enumerate the number of buildings owned or leased by the agency, the seriousness of the seismic risk to such buildings, and the value of the buildings at risk. The Comptroller General shall tabulate the expenditures each such agency has devoted to reducing earthquake damage and estimate the total expenditure necessary to address the problem adequately.

ACCEPTANCE OF GIFTS

SEC. 9. The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), as amended by sections 7 and 8 of this Act, is further amended by inserting immediately after section 8 the following new section:

42 USC 7705c.

"SEC. 9. ACCEPTANCE OF GIFTS.

"(a) AUTHORITY.—In furtherance of the purposes of this Act, the Director of the Agency may accept and use bequests, gifts, or donations of services, money, or property, notwithstanding section 3679 of the Revised Statutes (31 U.S.C. 1342).

Regulations.

"(b) CRITERIA.—The Director of the Agency shall establish by regulation criteria for determining whether to accept bequests, gifts, or donations of services, money, or property. Such criteria shall take into consideration whether the acceptance of the bequest, gift, or donation would reflect unfavorably on the Director's ability to carry out his responsibilities in a fair and objective manner, or would compromise the integrity of, or the appearance of the integrity of, the Program or any official involved in administering the Program.".

NON-FEDERAL COST SHARING FOR SUPPLEMENTAL FUNDS

SEC. 10. The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), as amended by sections 7, 8, and 9 of this Act, is further amended by inserting immediately after section 9 the following new section:

42 USC 7705d.

"SEC. 10. NON-FEDERAL COST SHARING FOR SUPPLEMENTAL FUNDS.

"A grant under this Act to a State from the Agency that is made with funds appropriated under the Fiscal Year 1990 Dire Emergency Supplemental to Meet the Needs of Natural Disasters of National

Significance (Public Law 101-130; 103 Stat. 775) shall not include a requirement for cost sharing in an amount greater than 25 percent of the cost of the project for which the grant is made, and any cost sharing requirement may be satisfied through in-kind contributions.".

INVESTIGATIONS

SEC. 11. (a) AMENDMENT.—The Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), as amended by sections 7 through 10 of this Act, is further amended by inserting after section 10 the following new section:

"SEC. 11. POST-EARTHQUAKE INVESTIGATIONS PROGRAM. 42 USC 7705e.

"There is established within the United States Geological Survey a post-earthquake investigations program, the purpose of which is to investigate major earthquakes, so as to learn lessons which can be applied to reduce the loss of lives and property in future earthquakes. The United States Geological Survey, in consultation with each Program agency, shall organize investigations to study the implications of the earthquake in the areas of responsibility of each Program agency. The investigations shall begin as rapidly as possible and may be conducted by grantees and contractors. The Program agencies shall ensure that the results of investigations are disseminated widely. The Director of the Survey is authorized to utilize earthquake expertise from the Agency, the National Science Foundation, the National Institute of Standards and Technology, other Federal agencies, and private contractors, on a reimbursable basis, in the conduct of such earthquake investigations. At a minimum, investigations under this section shall include—

"(1) analysis by the National Science Foundation and the United States Geological Survey of the causes of the earthquake and the nature of the resulting ground motion;

"(2) analysis by the National Science Foundation and the National Institute of Standards and Technology of the behavior of structures and lifelines, both those that were damaged and those that were undamaged; and

"(3) analysis by each of the Program agencies of the effectiveness of the earthquake hazards mitigation programs and actions relating to its area of responsibility under the Program, and how those programs and actions could be strengthened.".

(b) REPORT TO CONGRESS.—The Director of the Federal Emergency Management Agency in consultation with the other agencies of the National Earthquake Hazards Reduction Program shall, not later than one year after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Interior and Insular Affairs, the Committee on Science, Space, and Technology, and the Committee on Appropriations of the House of Representatives on possible options for funding a program for post-earthquake investigations. Such report, at a minimum, shall consider funding such a program either by setting aside a percentage of disaster relief funds provided by the Federal Emergency Management Agency after a major earthquake or by a revolving fund. The report shall include a recommendation on how the funding for such investigations should be allocated among the other Program agencies. 42 USC 7705e note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. Section 12 of the Earthquake Hazards Reduction Act of 1977, as so redesignated by section 7(1) of this Act, is amended—

(1) in subsection (a)(7)—

(A) by striking "the provisions of sections 5 and 6 of";

(B) by striking "and $5,798,000" and inserting in lieu thereof "$8,798,000"; and

(C) by inserting ", $14,750,000 for the fiscal year ending September 30, 1991, $19,000,000 for the fiscal year ending September 30, 1992, and $22,000,000 for the fiscal year ending September 30, 1993" immediately before the period at the end;

(2) in subsection (b)—

(A) by striking "and $43,283,000" and inserting in lieu thereof "$55,283,000"; and

(B) by inserting ", of which $8,000,000 shall be for earthquake investigations under section 11; $50,000,000 for the fiscal year ending September 30, 1991; $54,500,000 for the fiscal year ending September 30, 1992; and $62,500,000 for the fiscal year ending September 30, 1993" immediately before the period at the end;

(3) in subsection (c)—

(A) by striking "and $35,454,000" and inserting in lieu thereof "$38,454,000"; and

(B) by adding at the end the following: "Of the amounts authorized for Engineering under section 101(d)(1)(B) of the National Science Foundation Authorization Act of 1988, $24,000,000 is authorized for carrying out this Act for the fiscal year ending September 30, 1991, and of the amounts authorized for Geosciences under section 101(d)(1)(D) of the National Science Foundation Authorization Act of 1988, $13,000,000 is authorized for carrying out this Act for the fiscal year ending September 30, 1991. Of the amounts authorized for Research and Related Activities under section 101(e)(1) of the National Science Foundation Authorization Act of 1988, $29,000,000 is authorized for engineering research under this Act, and $14,750,000 is authorized for geosciences research under this Act, for the fiscal year ending September 30, 1992. Of the amounts authorized for Research and Related Activities under section 101(f)(1) of the National Science Foundation Authorization Act of 1988, $34,500,000 is authorized for engineering research under this Act, and $17,500,000 is authorized for geosciences research under this Act, for the fiscal year ending September 30, 1993.";

(4) in subsection (d)—

(A) by striking "NATIONAL BUREAU OF STANDARDS" and inserting in lieu thereof "NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY";

(B) by striking "Bureau" and inserting in lieu thereof "National Institute of Standards and Technology";

(C) by striking "and $525,000" and inserting in lieu thereof "$2,525,000"; and

(D) by inserting "; $1,000,000 for the fiscal year ending September 30, 1991; $3,000,000 for the fiscal year ending September 30, 1992; and $4,750,000 for the fiscal year

ending September 30, 1993" immediately before the period at the end; and

(5) by adding at the end the following new subsection:

"(f) AVAILABILITY OF FUNDS.—Funds appropriated for fiscal years 1991, 1992, and 1993 pursuant to this section shall remain available until expended.".

BUY AMERICAN REQUIREMENT

SEC. 13. (a) DETERMINATION BY DIRECTOR.—If the Director of the Federal Emergency Management Agency, with the concurrence of the Secretary of Commerce and the United States Trade Representative, determines that the public interest so requires, the Agency is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, the Agency shall take into account United States international obligations and trade relations.

(b) LIMITED APPLICATION.—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representatives determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) LIMITATION.—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

(d) REPORT TO CONGRESS.—The Agency shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal years 1990 and 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representatives to be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party. The Agency shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (2).

CATASTROPHIC EARTHQUAKE IMPACT STUDIES

Reports.
42 USC 7704 note.

SEC. 14. (a) STUDY OF INDIRECT ECONOMIC LOSSES.—Within 12 months after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit, to the Committee on Science, Space, and Technology, the Committee on Interior and Insular Affairs, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Commerce, Science and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the results of a study on the impact and repercussions of a catastrophic earthquake on local, regional, and national economies. The Director of the Federal Emergency Management Agency shall appoint, in consultation with the Department of the Treasury, a panel of experts in relevant fields and activities to undertake such study. In particular, the study shall evaluate the repercussions and indirect economic impact of such an earthquake on—

(1) financial markets;

(2) the national banking system;

(3) the insurance industry; and

(4) the national energy distribution network;

and shall include an estimate of the ability of current disaster assistance efforts and insurance coverage to allow recovery from the economic losses caused by a catastrophic earthquake.

Reports.

(b) STUDY ON IMPROVING EARTHQUAKE MITIGATION.—Within 12 months after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall submit, to the Committee on Science, Space, and Technology, the Committee on Interior and Insular Affairs, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report on the results of a study on the adequacy of preparation and response capabilities for reducing and recovering from losses caused by a catastrophic earthquake. The Director of the Federal Emergency Management Agency shall appoint, in consultation with the United States Geological Survey, the National Institute of Standards and Technology, and the National Science Foundation, a panel of experts in relevant fields and activities to undertake such study. The study required under subsection shall

Intergovernmental relations.

(1) identify impediments to the effective implementation of Federal, State, and local programs of earthquake hazard mitigation, including an analysis of the appropriate roles for Federal, State, and local governments and the private sector in preparing for and responding to the economic and social consequences of earthquakes; and

(2) consider the effectiveness, and efficiencies of alternative ways for Federal, State, and local governments to reduce the

economic impact of earthquakes, including earthquake hazard mitigation, disaster assistance, earthquake insurance for homeowners and small businesses, and earthquake reinsurance for general commercial liabilities.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2789:

SENATE REPORTS: No. 101-446 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 19, considered and passed Senate.
Oct. 20, considered and passed House.

Public Law 101-615
101st Congress

An Act

Nov. 16, 1990
[S. 2936]

To amend the Hazardous Materials Transportation Act to authorize appropriations for fiscal years 1990, 1991, and 1992, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hazardous Materials Transportation Uniform Safety Act of 1990.
49 USC app. 1801 note.

SECTION 1. SHORT TITLE; REFERENCE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Materials Transportation Uniform Safety Act of 1990".

(b) REFERENCE.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hazardous Materials Transportation Act.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; reference; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.
Sec. 4. Federal regulations governing transportation of hazardous materials.
Sec. 5. Representation and tampering.
Sec. 6. Disclosure.
Sec. 7. Handling of hazardous materials.
Sec. 8. Hazardous materials transportation registration; motor carrier safety permits.
Sec. 9. Exemptions.
Sec. 10. Definition of certain materials.
Sec. 11. Secretary's powers.
Sec. 12. Penalties.
Sec. 13. Relationship to other laws.
Sec. 14. Funding.
Sec. 15. Transportation of certain highly radioactive materials.
Sec. 16. Inspectors.
Sec. 17. Public sector training and planning.
Sec. 18. Hazmat employee training grant program.
Sec. 19. Railroad tank cars.
Sec. 20. Application of Federal, State, and local law to Federal contractors.
Sec. 21. Railroad tank car study.
Sec. 22. Uniformity of State motor carrier registration and permitting forms and procedures.
Sec. 23. Financial responsibility.
Sec. 24. Federally leased commercial motor vehicles.
Sec. 25. Improvements to hazardous materials identification systems.
Sec. 26. Continually monitored telephone systems.
Sec. 27. Shipper responsibility report.
Sec. 28. State participation in investigations and surveillance.
Sec. 29. Retention of markings and placards.
Sec. 30. Relationship to Federal Railroad Safety Act of 1970.
Sec. 31. Effective date.

49 USC app. 1801 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Department of Transportation estimates that approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day,

(2) accidents involving the release of hazardous materials are a serious threat to public health and safety,

(3) many States and localities have enacted laws and regulations which vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers which attempt to comply with multiple and conflicting registration, permitting, routing, notification, and other regulatory requirements,

(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable,

(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable,

(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required,

(7) the Office of Technology Assessment has estimated that approximately 1,500,000 emergency response personnel need better basic or advanced training for responding to the unintentional release of hazardous materials at fixed facilities and in transportation, and

(8) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner.

SEC. 3. DEFINITIONS.

(a) DEFINITIONS.—Section 103 (49 U.S.C. App. 1802) is amended to read as follows:

"SEC. 103. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(2) COMMERCE.—The term 'commerce' means trade, traffic, commerce, or transportation within the jurisdiction of the United States (A) between a place in a State and any place outside of such State, or (B) which affects trade, traffic, commerce, or transportation described in subparagraph (A).

"(3) DIRECTOR.—The term 'Director' means the Director of the Federal Emergency Management Agency.

"(4) HAZARDOUS MATERIAL.—The term 'hazardous material' means a substance or material designated by the Secretary under section 104.

"(5) HAZMAT EMPLOYEE.—The term 'hazmat employee' means an individual who is employed by a hazmat employer and who in the course of the individual's employment directly affects hazardous materials transportation safety as determined by the Secretary by regulation. Such term includes an owner-operator of a motor vehicle which transports in commerce hazardous

materials. Such term includes, at a minimum, an individual who is employed by a hazmat employer and who in the course of the individual's employment—

"(A) loads, unloads, or handles hazardous materials;

"(B) reconditions or tests containers, drums, and packages represented for use in the transportation of hazardous materials;

"(C) prepares hazardous materials for transportation;

"(D) is responsible for the safety of the transportation of hazardous materials; or

"(E) operates a vehicle used to transport hazardous materials.

"(6) HAZMAT EMPLOYER.—The term 'hazmat employer' means a person—

"(A)(i) who transports in commerce hazardous materials,

"(ii) who causes to be transported or shipped in commerce hazardous materials, or

"(iii) who reconditions or tests containers, drums, and packages represented for use in the transportation of hazardous materials; and

"(B) who utilizes 1 or more of its employees in connection with such activity.

Such term includes an owner-operator of a motor vehicle which transports in commerce hazardous materials. Such term includes any department, agency, or instrumentality of the United States, a State, a political subdivision of a State, or an Indian tribe engaged in an activity described in subparagraph (A)(i), (A)(ii), or (A)(iii).

"(7) IMMINENT HAZARD.—The term 'imminent hazard' means the existence of a condition which presents a substantial likelihood that death, serious illness, severe personal injury, or substantial endangerment to health, property, or the environment may occur before the reasonably foreseeable completion of an administrative hearing or other formal proceeding initiated to abate the risks of those effects.

"(8) INDIAN TRIBE.—The term 'Indian tribe' shall have the meaning given that term under section 4 of the Indian Self-Determination and Education Act (25 U.S.C. 450b).

"(9) MOTOR CARRIER.—The term 'motor carrier' means a motor common carrier, motor contract carrier, motor private carrier, and freight forwarder as those terms are defined in section 10102 of title 49, United States Code.

"(10) NATIONAL RESPONSE TEAM.—The term 'National Response Team' means the national response team established pursuant to the National Contingency Plan as established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

"(11) PERSON.—The term 'person' means an individual, firm, copartnership, corporation, company, association, joint-stock association, including any trustee, receiver, assignee, or similar representative thereof, or government, Indian tribe, or agency or instrumentality of any government or Indian tribe when it offers hazardous materials for transportation in commerce or transports hazardous materials in furtherance of a commercial enterprise, but such term does not include (A) the United States Postal Service, or (B) for the purposes of sections 110 and 111 of

this title, any agency or instrumentality of the Federal Government.

"(12) PUBLIC SECTOR EMPLOYEE.—The term 'public sector employee' means an individual who is employed by a State or a political subdivision thereof or an Indian tribe and who in the course of the individual's employment has responsibilities relating to responding to accidents and incidents involving the transportation of hazardous materials. Such term includes, at a minimum, a person employed by a State or political subdivision thereof or an Indian tribe as a firefighter or law enforcement officer. Such term also includes a person who volunteers to serve as a firefighter for a State or political subdivision thereof or an Indian tribe.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Transportation or the Secretary's delegate.

"(14) STATE.—The term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, American Samoa, Guam, or any other territory or possession of the United States designated by the Secretary; except that as used in section 121, relating to uniformity of State registration and permitting forms and procedures, such term means a State of the United States and the District of Columbia.

"(15) TRANSPORTS OR TRANSPORTATION.—The term 'transports' or 'transportation' means any movement of property by any mode, and any loading, unloading, or storage incidental thereto.

"(16) UNITED STATES.—The term 'United States' means all of the States.".

(b) CONFORMING AMENDMENT.—Section 111(b) (49 U.S.C. App. 1810(b)) is amended by striking the second sentence.

SEC. 4. FEDERAL REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS.

Section 105 (49 U.S.C. App. 1804) is amended to read as follows:

"SEC. 105. REGULATIONS GOVERNING TRANSPORTATION OF HAZARDOUS MATERIALS.

"(a) GENERAL.—

"(1) ISSUANCE.—The Secretary shall issue regulations for the safe transportation of hazardous materials in intrastate, interstate, and foreign commerce. The regulations issued under this section shall govern any aspect of hazardous materials transportation safety which the Secretary deems necessary or appropriate.

"(2) PROCEDURES.—Regulations issued under paragraph (1) shall be issued in accordance with section 553 of title 5, United States Code, including an opportunity for informal oral presentation.

"(3) APPLICABILITY.—Regulations issued under paragraph (1) shall be applicable to any person who transports, ships, causes to be transported or shipped, or who manufactures, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation in commerce of hazardous materials.

"(4) PREEMPTION.—

"(A) GENERAL RULE.—Except as provided in subsection (b) and unless otherwise authorized by Federal law, any law, regulation, order, ruling, provision, or other requirement of a State or political subdivision thereof or an Indian tribe, which concerns a subject listed in subparagraph (B) and which is not substantively the same as any provision of this Act or any regulation under such provision which concerns such subject, is preempted.

"(B) COVERED SUBJECTS.—The subjects referred to in subparagraph (A) are the following:

"(i) The designation, description, and classification of hazardous materials.

"(ii) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials.

"(iii) The preparation, execution, and use of shipping documents pertaining to hazardous materials and requirements respecting the number, content, and placement of such documents.

"(iv) The written notification, recording, and reporting of the unintentional release in transportation of hazardous materials.

"(v) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous materials.

"(C) LIMITATION ON FINES AND PENALTIES.—If a State or political subdivision or Indian tribe assesses any fine or penalty determined by the Secretary to be appropriate for a violation concerning a subject listed in subparagraph (B), no additional fine or penalty may be assessed for such violation by any other authority.

"(5) STATE LAWS WHICH ARE SUBSTANTIVELY THE SAME AS FEDERAL LAW.—

"(A) CONTINUATION.—If the Secretary issues under this section before, on, or after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, a regulation, rule, or standard concerning any subject set forth in paragraph (4), a State, political subdivision of a State, or Indian tribe may only establish, maintain, and enforce a law, regulation, rule, standard, or order concerning such subject which is substantively the same as any provision of this Act or any regulation, rule, or order issued under such provision.

Federal Register, publication.

"(B) EFFECTIVE DATE OF FEDERAL PREEMPTION.—The Secretary shall determine and publish in the Federal Register the effective date of paragraph (1) with respect to any regulation, rule, or standard described in subparagraph (A) and which is issued after such date of enactment by the Secretary; except that such effective date may not be earlier than the 90th day following the date of such issuance and may not be later than the last day of the 2-year period beginning on the date of such issuance.

"(b) HIGHWAY ROUTING.—

"(1) STATE AUTHORITY.—Subject to paragraphs (4) and (5), each State and Indian tribe may establish, maintain, and enforce (A) specific highway routes over which hazardous materials may

and may not be transported by motor vehicles in the area which is subject to the jurisdiction of such State or Indian tribe, and (B) limitations and requirements with respect to highway routing.

"(2) ISSUANCE OF FEDERAL STANDARDS.—Not later than 18 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary, in consultation with the States, shall establish by regulation standards for States and Indian tribes to use in establishing, maintaining, and enforcing (A) specific highway routes over which hazardous materials may and may not be transported by motor vehicles, and (B) limitations and requirements with respect to highway routing.

"(3) CONTENTS OF STANDARDS.—The Federal standards established pursuant to paragraph (2) shall include the following:

"(A) ENHANCEMENT OF PUBLIC SAFETY.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall enhance public safety (i) in the area subject to the jurisdiction of the State or Indian tribe, and (ii) in areas of the United States not subject to such jurisdiction which are directly affected by such designations, limitations, and requirements.

"(B) PUBLIC PARTICIPATION.—Minimum procedural requirements for ensuring public participation in the establishment by a State or Indian tribe of highway routing designations, limitations, and requirements.

"(C) CONSULTATION WITH OTHER GOVERNMENTS.—A requirement that, in establishing highway routing designations, limitations, and requirements, the State or Indian tribe shall consult with appropriate State, local, and tribal officials having jurisdiction over areas of the United States not subject to the jurisdiction of the establishing State or Indian tribe and affected industries.

"(D) THROUGH ROUTING.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall assure through highway routing for the transportation of hazardous materials between adjacent areas.

"(E) AGREEMENT OF OTHER STATES; BURDEN ON COMMERCE.—A requirement that a highway routing designation, limitation, or requirement which affects the transportation of hazardous materials in another State or Indian tribe may only be established, maintained, and enforced by a State or Indian tribe if (i) it is agreed to by the other State or Indian tribe within a reasonable period or has been approved by the Secretary under paragraph (5), and (ii) does not unreasonably burden commerce.

"(F) TIMELINESS.—A requirement that the establishment of highway routing designations, limitations, and requirements by a State or Indian tribe shall be completed in a timely manner.

"(G) REASONABLE ROUTES TO TERMINALS.—A requirement that highway routing designations, limitations, and requirements established, maintained, and enforced by a State or Indian tribe shall provide reasonable routes for motor ve- Motor vehicles.

hicles transporting hazardous materials to reach terminals, facilities for food, fuel, repairs, and rest, and points for the loading and unloading of hazardous materials.

"(H) STATE RESPONSIBILITY FOR LOCAL COMPLIANCE.—A requirement that the State shall be responsible (i) for ensuring that political subdivisions of the State comply with the Federal standards in establishing, maintaining, and enforcing highway routing designations, limitations, and requirements, and (ii) for resolving disputes between or among such political subdivisions.

"(I) FACTORS TO CONSIDER.—A requirement that, in establishing, maintaining, and enforcing highway routing designations, limitations, and requirements, a State or Indian tribe consider—

"(i) population density,
"(ii) type of highways,
"(iii) type and quantities of hazardous materials,
"(iv) emergency response capabilities,
"(v) results of consultations with affected persons,
"(vi) exposure and other risk factors,
"(vii) terrain considerations,
"(viii) continuity of routes,
"(ix) alternative routes,
"(x) effects on commerce,
"(xi) delays in transportation, and
"(xii) such other factors as the Secretary considers appropriate

"(4) PREEMPTION.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, after the last day of the 2-year period beginning on the date of the issuance of the regulations establishing the Federal standards pursuant to paragraph (2), no State or Indian tribe may establish, maintain, or enforce—

"(i) any highway route designation over which hazardous materials may or may not be transported by motor vehicles, or
"(ii) any limitation or requirement with respect to such routing,

unless such designation, limitation, or requirement is made in accordance with the procedural requirements of the Federal standards and complies with the substantive requirements of the Federal standards.

"(B) GRANDFATHER CLAUSE.—Designations, limitations, and requirements established before the date of issuance referred to in subparagraph (A) do not have to be in accordance with procedural requirements of the Federal standards established pursuant to paragraphs (3)(B), (3)(C), and (3)(F).

"(C) LIMITATION WITH RESPECT TO CONSIDERATION OF FACTORS.—Nothing in this subsection shall be construed as requiring a State or Indian tribe to comply with paragraph (3)(I) with respect to designations, limitations, and requirements established before the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990.

"(D) CONTINUATION OF EFFECTIVENESS DURING DISPUTE RESOLUTION.—The Secretary may permit a highway route designation or limitation or requirement of a State or Indian tribe to continue in effect pending the resolution of a dispute under paragraph (5) relating to such designation, limitation, or requirement.

"(5) DISPUTE RESOLUTION.—

"(A) PETITION OF SECRETARY.—If a dispute over a matter relating to through highway routing or a dispute relating to agreement with a proposed highway route designation, limitation, or requirement arises between or among States, political subdivisions of different States, or Indian tribes, 1 or more of such States or Indian tribes may petition the Secretary to resolve the dispute.

"(B) PROCEDURE.—The Secretary shall, within 18 months of the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, issue regulations for resolving disputes under this paragraph.

"(C) TIME PERIOD.—The Secretary shall resolve a dispute under this paragraph within 1 year after the date the Secretary receives the petition for resolution of such dispute.

"(D) STANDARD.—Resolution of a dispute under this paragraph shall provide the greatest level of highway safety without unreasonably burdening commerce and shall ensure compliance with the Federal standards established pursuant to paragraph (2).

"(E) LIMITATION ON JUDICIAL REVIEW.—After a petition is filed under this paragraph to resolve a dispute, no court action may be brought with respect to the subject matter of such dispute until a final decision of the Secretary is issued under this paragraph or the last day of the 1-year period beginning on the day the Secretary receives such petition, whichever occurs first.

"(F) JUDICIAL REVIEW.—Any State or Indian tribe which is adversely affected by a decision of the Secretary under this paragraph may, at any time before the 90th day following the date such decision becomes final, bring an action for judicial review in an appropriate district court of the United States.

"(6) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection and the regulations issued under this subsection shall be construed as superseding or otherwise affecting application of section 127 of title 23, United States Code, relating to vehicle weight limitations, or section 411 or 416 of the Surface Transportation Assistance Act of 1982, relating to vehicle length and vehicle width limitations, respectively.

"(7) LIMITATION ON APPLICABILITY.—

"(A) PLACARDED MOTOR VEHICLES.—Subject to subparagraph (B), this subsection only applies to a motor vehicle if the vehicle is transporting in commerce a hazardous material for which placarding of the vehicle is required in accordance with the regulations issued under this title.

"(B) AUTHORITY TO EXTEND APPLICABILITY.—The Secretary may, by regulation, extend application of this subsection or any Federal standard established pursuant to paragraph (2)— Motor vehicles.

"(i) to any use of a vehicle described in subparagraph (A) to provide transportation in commerce of any hazardous material; and

"(ii) to any motor vehicle used to transport in commerce hazardous materials.

Motor vehicles.

"(8) EXISTING REGULATIONS RELATING TO RADIOACTIVE MATERIALS.—Nothing in this subsection shall be construed to require the Secretary to amend, modify, or reissue regulations issued by the Department of Transportation before the date of the enactment of this paragraph and in effect on such date with respect to highway route designations over which radioactive materials may and may not be transported by motor vehicles and limitations and requirements with respect to such routing.

"(9) LIMITATION ON AUTHORITY OF SECRETARY.—The Secretary may not assign any specific weight to be given by the States and Indian tribes in considering factors pursuant to paragraph (3)(I).

"(c) LIST OF ROUTE DESIGNATIONS.—The Secretary, in coordination with the States, shall periodically update and publish a list of currently effective hazardous materials highway route designations.

"(d) INTERNATIONAL UNIFORMITY.—

Foreign trade.

"(1) DOT PARTICIPATION IN INTERNATIONAL FORUMS.—Subject to guidance and direction from the Secretary of State, the Secretary shall participate in international forums that establish or recommend mandatory standards and requirements for the transportation of hazardous materials in international commerce.

"(2) CONSULTATION.—The Secretary may consult with interested agencies to assure that, to the extent practicable, regulations issued by the Secretary pursuant to this section shall be consistent with standards adopted by international bodies applicable to the transportation of hazardous materials. Nothing in this subsection shall require the Secretary to issue a standard identical to a standard adopted by an international body, if the Secretary determines the standard to be unnecessary or unsafe, nor shall the Secretary be prohibited from establishing safety requirements that are more stringent than those included in a standard adopted by an international body, if the Secretary determines that such requirements are necessary in the public interest.".

SEC. 5. REPRESENTATION AND TAMPERING.

Section 105 (49 U.S.C. App. 1804), as amended by section 4, is amended by adding at the end the following new subsections:

"(e) UNLAWFUL REPRESENTATION.—No person shall, by marking or otherwise, represent that—

"(1) a container or package for the transportation of hazardous materials is safe, certified, or in compliance with the requirements of this title unless it meets the requirements of all applicable regulations issued under this title; or

"(2) a hazardous material is present in a package, container, motor vehicle, rail freight car, aircraft, or vessel, if the hazardous material is not present.

"(f) UNLAWFUL TAMPERING.—No person shall unlawfully alter, remove, deface, destroy, or otherwise tamper with—

"(1) any marking, label, placard, or description on a document required by this title or a regulation issued under this title; or

"(2) any package, container, motor vehicle, rail freight car, aircraft, or vessel used for the transportation of hazardous materials.

SEC. 6. DISCLOSURE.

Section 105 (49 U.S.C. App. 1804), as amended by section 5, is amended by adding at the end the following new subsection:

"(g) DISCLOSURE.—

"(1) MAINTENANCE OF SHIPPING PAPER.—Each person who offers for transportation in commerce a hazardous material that is subject to the shipping paper requirements of the Secretary shall provide the carrier who is providing such transportation any shipping paper that makes the disclosure established by the Secretary under paragraph (2) for the carrier to maintain on the vehicle to be used to provide such transportation. If the person offering such material for transportation is also a private motor carrier, such person shall maintain such shipping paper on the vehicle. Motor carriers.

"(2) CONSIDERATIONS AND CONTENTS.—In carrying out paragraph (1), the Secretary shall consider and may require the following:

"(A) a description of the hazardous material, including the proper shipping name of the material,

"(B) the hazard class of the hazardous material,

"(C) the identification number (UN/NA) of the material,

"(D) immediate first action emergency response information or a means for appropriate reference to such information which must be immediately available, and

"(E) a telephone number for the purpose of obtaining more specific handling and mitigation information concerning the hazardous material at any time during its transportation.

"(3) SPECIFICATION OF LOCATION.—The shipping paper referred to in paragraph (1) shall be kept in a location, to be specified by the Secretary, in the motor vehicle, train, vessel, aircraft, or facility until the hazardous material is no longer in transportation or the documents have been made available to a representative of a Federal, State, or local government agency responding to an accident or incident involving the motor vehicle, train, vessel, aircraft, or facility.

"(4) DISCLOSURE TO EMERGENCY RESPONSE AUTHORITIES.—Any person who transports a hazardous material in commerce shall, in the event of an incident involving such material, immediately disclose to appropriate emergency response authorities, upon their request, information on the hazardous material being transported.".

SEC. 7. HANDLING OF HAZARDOUS MATERIALS.

Section 106 (49 U.S.C. App. 1805) is amended—

(1) by redesignating subsections (b) and (c), and any reference thereto, as subsections (e) and (f), respectively;

(2) in subsection (e), as so redesignated, by striking "(b)" and inserting "(c)"; and

(3) by inserting after subsection (a) the following new subsection:

"(b) TRAINING CRITERIA FOR SAFE HANDLING AND TRANSPORTATION.—

Regulations.

"(1) FEDERAL REQUIREMENTS.—Within 18 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary shall issue, by regulation, requirements for training to be given by all hazmat employers to their hazmat employees regarding the safe loading, unloading, handling, storing, and transporting of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials.

"(2) DIFFERENT TRAINING REQUIREMENTS.—The regulations issued under paragraph (1) may provide for different training for different classes or categories of hazardous materials and hazmat employees.

"(3) COORDINATION OF EMERGENCY RESPONSE TRAINING REGULATIONS.—In consultation with the Administrator and the Secretary of Labor, the Secretary shall take such actions as may be necessary to ensure that the training requirements established under this subsection do not conflict with the requirements of the regulations issued by the Occupational Safety and Health Administration of the Department of Labor relating to hazardous waste operations and emergency response contained in part 1910 of title 29 of the Code of Federal Regulations (and amendments thereto) and the regulations issued by the Environmental Protection Agency relating to worker protection standards for hazardous waste operations contained in part 311 of title 40 of such Code (and amendments thereto). For purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), no action taken by the Secretary pursuant to this section shall be deemed to be an exercise of statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health.

"(4) COMMENCEMENT OF TRAINING.—Within 6 months after the date on which the Secretary issues regulations under this subsection, each hazmat employer shall have commenced training of its hazmat employees in accordance with the requirements established by such regulations.

"(5) COMPLETION OF TRAINING.—Regulations issued under this subsection shall establish the date by which training of hazmat employees shall be completed in order to comply with requirements established by such regulations. Such date shall be within a reasonable period of time after (A) 6 months following the date of the issuance of such regulations, or (B) in the case of an individual employed as a hazmat employee after such 6-month period, the date on which the individual is to begin carrying out a duty of a hazmat employee.

"(6) CERTIFICATION.—After completion of training of its hazmat employees in accordance with the requirements established under this subsection, each hazmat employer shall certify, with such appropriate documentation as may be required by regulation by the Secretary, that the employer's hazmat employees have received training and have been tested on appropriate transportation areas of responsibility, including one or more of the following areas:

"(A) Recognition and understanding of the Department of Transportation hazardous materials classification system.

"(B) Use and limitations of the Department of Transportation hazardous materials placarding, labeling, and marking systems.

"(C) General handling procedures, loading and unloading techniques, and strategies to reduce the probability of release or damage during or incidental to transportation of hazardous materials.

"(D) Health, safety, and risk factors associated with hazardous materials and their transportation.

"(E) Appropriate emergency response and communication procedures for dealing with accidents and incidents involving hazardous materials transportation.

"(F) Use of the Department of Transportation Emergency Response Guidebook and recognition of its limitations or use of equivalent documents and recognition of the limitations of such documents.

"(G) Applicable hazardous materials transportation regulations.

"(H) Personal protection techniques.

"(I) Preparation of shipping documents for transportation of hazardous materials.

"(7) APPLICABILITY OF INFORMATION MANAGEMENT REQUIREMENTS.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to activities of the Secretary under this subsection.".

SEC. 8. HAZARDOUS MATERIALS TRANSPORTATION REGISTRATION; MOTOR CARRIER SAFETY PERMITS.

Section 106 (49 U.S.C. App. 1805), as amended by section 7, is amended by inserting after subsection (b) the following new subsections:

"(c) REGISTRATION.—

"(1) MANDATORY FILINGS.—Each person who carries out one or more of the following activities shall file with the Secretary a registration statement in accordance with the provisions of this subsection:

"(A) Transporting or causing to be transported or shipped in commerce highway-route controlled quantities of radioactive materials, more than 25 kilograms of class A or class B explosives in a motor vehicle, rail car, or transport container, or more than 1 liter per package of a hazardous material which has been designated by the Secretary as extremely toxic by inhalation.

"(B) Transporting or causing to be transported or shipped in commerce a hazardous material in a bulk package, container, or tank as defined by the Secretary if the package, container, or tank has a capacity of 3,500 or more gallons or more than 468 cubic feet.

"(C) Transporting or causing to be transported or shipped in commerce a shipment of 5,000 pounds or more of a class of a hazardous material for which placarding of a vehicle, rail car, or freight container is required in accordance with the regulations issued under this title.

"(2) COOPERATION OF EPA.—The Administrator shall assist the Secretary in carrying out this subsection by furnishing the Secretary with such information as the Secretary may request in order to carry out the objectives of this section.

"(3) DISCRETIONARY FILINGS.—The Secretary may require each person who carries out one or more of the following activities to file a registration statement with the Secretary in accordance with the provisions of this subsection:

"(A) Transporting or causing to be transported or shipped in commerce hazardous materials and who is not required to file a registration statement under paragraph (1).

"(B) Manufacturing, fabricating, marking, maintaining, reconditioning, repairing, or testing packages or containers which are represented, marked, certified, or sold by such person for use in the transportation in commerce of hazardous materials designated by the Secretary.

"(4) REQUIREMENT.—No person required to file a registration statement by or under this subsection may transport or cause to be transported or shipped hazardous materials, or manufacture, fabricate, mark, maintain, recondition, repair, or test packages or containers for use in the transportation of hazardous materials, unless such person has on file a registration statement in accordance with this subsection.

"(5) FILING DEADLINES.—

"(A) INITIAL FILINGS.—Each person who is required to file a registration statement by or under this subsection shall file an initial registration statement by March 31, 1992. The Secretary may extend such date to September 30, 1992, with respect to the requirements of paragraph (1).

"(B) RENEWALS.—Subject to the provisions of this subsection, each person who is required to file a registration statement by or under this section shall renew such registration statement periodically in accordance with regulations issued by the Secretary, but no less frequently than every 5 years and no more frequently than annually.

"(6) AMENDMENTS.—The Secretary shall by regulation determine when and under what circumstances a registration statement filed under this subsection with the Secretary must be amended and the procedures to be followed in amending such statement.

"(7) CONTENTS.—A registration statement under this subsection shall be in such form and contain such information as the Secretary may require by regulation. The Secretary may utilize existing forms of the Department of Transportation and the Environmental Protection Agency in carrying out this subsection. At a minimum, such statement shall include—

"(A) the registrant's name and principal place of business;

"(B) a description of each activity the registrant carries out for which filing of a registration statement is required by or under this section; and

"(C) the State or States in which such person carries out each such activity.

"(8) LIMITATION ON NUMBER OF FILINGS.—A person who carries out more than one activity for which filing of a registration statement is required by or under this subsection only needs to file one registration statement in order to comply with this subsection.

"(9) STREAMLINED PROCESS.—The Secretary may take such action as may be necessary to streamline and simplify the registration process under this subsection and to minimize with

respect to a person who is required to file a registration statement under this subsection the number of applications, documents, and other information which such person is required to file with the Department of Transportation under this title and any other laws of the United States.

"(10) DISCLOSURE.—The Secretary shall make a registration statement filed under this subsection available for inspection by any person, for a fee to be established by the Secretary; except that nothing in this sentence shall be considered to require the release of any information described in section 552(f) of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

"(11) FEES.—The Secretary may establish, assess, and collect such fees from persons required to file registration statements by or under this subsection as may be necessary to cover the costs of the Department of Transportation in processing such registration statements.

"(12) PROOF OF REGISTRATION AND PAYMENT OF FEES.—The Secretary may issue regulations requiring a person required to file a registration statement by or under this subsection to maintain proof of the filing of such statement and the payment of any fees assessed under this subsection and section 117(h).

"(13) APPLICABILITY OF INFORMATION MANAGEMENT REQUIREMENTS.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to activities of the Secretary under this subsection.

"(14) NONAPPLICABILITY TO EMPLOYEES.—Notwithstanding any other provisions of this subsection, an employee of a hazmat employer is not required to file a registration statement by or under this section.

"(15) EXEMPTION OF GOVERNMENT AGENCIES AND EMPLOYEES.—Agencies of the Federal Government, agencies of States, and agencies of political subdivisions of States, and employees of such agencies with respect to their official duties do not have to file registration statements under this subsection.

"(d) MOTOR CARRIER SAFETY PERMITS.—

"(1) REQUIREMENT.—Except as provided in this subsection, a motor carrier may transport or cause to be transported by motor vehicle in commerce a hazardous material only if the motor carrier holds a safety permit issued by the Secretary under this section authorizing the transportation and keeps a copy of such permit, or other proof establishing the existence of such permit, in the motor vehicle used to provide such transportation.

"(2) ISSUANCE.—Except as provided in this subsection, the Secretary shall issue a safety permit to a motor carrier authorizing that carrier to transport or cause to be transported by motor vehicle in commerce a hazardous material if the Secretary finds that the carrier is fit, willing, and able—

"(A) to provide the transportation to be authorized by the permit;

"(B) to comply with this title and the regulations issued by the Secretary to carry out this title; and

"(C) to comply with any applicable Federal motor carrier safety laws and regulations and any applicable Federal minimum financial responsibility laws and regulations.

"(3) SHIPPER'S RESPONSIBILITY.—Each person who offers a hazardous material for motor vehicle transportation in commerce may offer that material to a motor carrier only if the carrier has a safety permit issued under this subsection authorizing such transportation.

"(4) AMENDMENT, SUSPENSION, AND REVOCATION.—A safety permit issued to a motor carrier under this subsection may, after notice and an opportunity for hearing, be amended, suspended, or revoked by the Secretary in accordance with procedures established under paragraph (6) whenever the Secretary determines that such carrier has failed to comply with a requirement of this title, any regulation issued under this title, any applicable Federal motor carrier safety law or regulation, or any applicable Federal minimum financial responsibility law or regulation. If the Secretary determines that an imminent hazard exists, the Secretary may amend, suspend, or revoke the safety permit before scheduling a hearing thereon.

Regulations.

"(5) COVERED TRANSPORTATION.—The Secretary shall establish by regulation the hazardous materials and quantities thereof to which this subsection applies; except that this section shall apply, at a minimum, to all transportation by a motor carrier of a class A or B explosive, a liquefied natural gas, a hazardous material which has been designated by the Secretary as extremely toxic by inhalation, or a highway route controlled quantity of radioactive materials as defined by the Secretary.

Regulations.

"(6) PROCEDURES.—The Secretary shall establish by regulation—

"(A) application procedures, including form, content, and fees necessary to recover the full costs of administering this subsection;

"(B) standards for determining the duration, terms, conditions, or limitations of a safety permit;

"(C) procedures for the amendment, suspension, or revocation of a safety permit issued under this section; and

"(D) any other procedures the Secretary deems appropriate to implement this subsection.

"(7) APPLICATION.—A motor carrier shall file an application with the Secretary for a safety permit to provide transportation under this subsection. The Secretary may approve any part of the application or deny the application. The application shall—

"(A) be under oath; and

"(B) contain such information as the Secretary may require by regulation.

"(8) CONDITIONS.—A motor carrier may provide transportation under a safety permit issued under this subsection only if the carrier complies with such conditions as the Secretary finds are required to protect public safety.".

Effective date. Regulations. 49 USC app. 1805 note.

(b) SAFETY PERMITS.—Section 106(d) of the Hazardous Materials Transportation Act, relating to motor carrier safety permits, shall take effect 2 years after the date of the enactment of this Act; except that the Secretary shall issue regulations necessary to carry out such section not later than 1 year after such date of enactment.

(c) REPEAL OF EXISTING PROGRAM.—Subsections (e) and (f) of section 106 of the Hazardous Materials Transportation Act (49 U.S.C. 1805), as redesignated by section 7 of this Act, are repealed effective March 31, 1992.

SEC. 9. EXEMPTIONS.

Section 107(a) (49 U.S.C. App. 1806(a)) is amended by striking "or renewal" in the fourth sentence.

SEC. 10. DEFINITION OF CERTAIN MATERIALS.

The second sentence of section 108(b) (49 U.S.C. App. 1807(b)) is amended to read as follows: "The term does not include any material which the Secretary determines is of such low order of radioactivity that when transported does not pose a significant hazard to health or safety.".

SEC. 11. SECRETARY'S POWERS.

Section 109(d)(1)(C) (49 U.S.C. App. 1808(d)(1)(C)) is amended by striking "recommend" and inserting "take".

SEC. 12. PENALTIES.

(a) CIVIL PENALTIES.—Section 110(a) (49 App. U.S.C. 1809(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(except an employee who acts without knowledge)" in the first sentence;

(B) by striking "title or of a" in the first sentence and inserting "title, an order, or";

(C) by inserting "order or" after "violation of any" in each of the second and third sentences; and

(D) by striking "$10,000" in each of the second and third sentences and inserting "$25,000 and not less than $250"; and

(2) by adding at the end the following:

"(3) ACTING KNOWINGLY.—For purposes of this section, a person shall be considered to have acted knowingly if—

"(A) such person has actual knowledge of the facts giving rise to the violation, or

"(B) a reasonable person acting in the circumstances and exercising due care would have such knowledge.".

(b) CRIMINAL PENALTIES.—Subsection (b) of section 110 (49 App. U.S.C. 1809) is amended to read as follows:

"(b) CRIMINAL.—A person who knowingly violates section 105(f) of this title or willfully violates a provision of this title or an order or regulation issued under this title shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.".

SEC. 13. RELATIONSHIP TO OTHER LAWS.

Section 112 (49 U.S.C. App. 1811) is amended to read as follows:

"SEC. 112. RELATIONSHIP TO OTHER LAWS.

Intergovernmental relations. Indians.

"(a) IN GENERAL.—Except as provided in subsection (d) and unless otherwise authorized by Federal law, any requirement of a State or political subdivision thereof or Indian tribe is preempted if—

"(1) compliance with both the State or political subdivision or Indian tribe requirement and any requirement of this title or of a regulation issued under this title is not possible,

"(2) the State or political subdivision or Indian tribe requirement as applied or enforced creates an obstacle to the accomplishment and execution of this title or the regulations issued under this title, or

"(3) it is preempted under section 105(a)(4) or section 105(b).

"(b) FEES.—A State or political subdivision thereof or Indian tribe may not levy any fee in connection with the transportation of hazardous materials that is not equitable and not used for purposes related to the transportation of hazardous materials, including enforcement and the planning, development, and maintenance of a capability for emergency response.

"(c) DETERMINATION OF PREEMPTION.—

"(1) ADMINISTRATIVE DETERMINATION.—Any person, including a State or political subdivision thereof or Indian tribe, directly affected by any requirement of a State or political subdivision or Indian tribe, may apply to the Secretary, in accordance with regulations prescribed by the Secretary, for a determination of whether that requirement is preempted by section 105(a)(4) or 105(b) or subsection (a). The Secretary shall publish notice of the application in the Federal Register. Once the Secretary has published such notice, no applicant for such determination by the Secretary may seek relief with respect to the same or substantially the same issue in any court until the Secretary has taken final action on the application or until 180 days after filing of the application, whichever occurs first. The Secretary, in consultation with States, political subdivisions, and Indian tribes, shall issue regulations which set forth procedures for carrying out this paragraph.

Federal Register, publication.

Regulations.

"(2) JUDICIAL DETERMINATION.—Nothing in subsection (a) prohibits a State or political subdivision thereof or Indian tribe, or any other person directly affected by any requirement of a State or political subdivision thereof or Indian tribe, from seeking a determination of preemption in any court of competent jurisdiction in lieu of applying to the Secretary under paragraph (1).

"(d) WAIVER OF PREEMPTION.—Any State or political subdivision or Indian tribe may apply to the Secretary for a waiver of preemption with respect to any requirement that the State or political subdivision or Indian tribe acknowledges to be preempted by section 105(a)(4) or 105(b) or subsection (a). The Secretary, in accordance with procedures prescribed by regulation, may waive preemption with respect to such requirement upon a determination that such requirement—

"(1) affords an equal or greater level of protection to the public than is afforded by the requirements of this title or regulations issued under this title, and

"(2) does not unreasonably burden commerce.

"(e) JUDICIAL REVIEW.—A party to a proceeding under subsection (c) or (d) may seek review by the appropriate district court of the United States of a decision of the Secretary under such proceeding only by filing a petition with such court within 60 days after such decision becomes final.

"(f) OTHER FEDERAL LAWS.—This title shall not apply to pipelines which are subject to regulation under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), to pipelines which are subject to regulation under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001 et seq.), or to any matter which is subject to the Federal postal laws or regulations under this title or under title 18 or title 39 of the United States Code.".

SEC. 14. FUNDING.

Section 115 (49 U.S.C. App. 1812) is amended to read as follows:

"SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated for carrying out this title (other than sections 117 and 121) not to exceed $13,000,000 for fiscal year 1991, $16,000,000 for fiscal year 1992, and $18,000,000 for fiscal year 1993.

"(b) CREDITS.—The Secretary may credit to any appropriation to carry out this title funds received from States, Indian tribes, or other public authorities and private entities for expenses incurred by the Secretary in providing training to such States, public authorities, and private entities.".

SEC. 15. TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS. Nuclear energy.

Section 116 (49 U.S.C. App. 1813) is amended to read as follows:

"SEC. 116. TRANSPORTATION OF CERTAIN HIGHLY RADIOACTIVE MATERIALS.

"(a) RAILROAD TRANSPORTATION STUDY.—The Secretary, in consultation with the Department of Energy, the Nuclear Regulatory Commission, potentially affected States and Indian tribes, representatives of the railroad transportation industry and shippers of high-level radioactive waste and spent nuclear fuel, shall undertake a study comparing the safety of using trains operated exclusively for transporting high-level radioactive waste and spent nuclear fuel (hereinafter in this section referred to as 'dedicated trains') with the safety of using other methods of rail transportation for such purposes. The Secretary shall report the results of the study to Congress not later than one year after the date of enactment of this section. Reports.

"(b) SAFE RAIL TRANSPORT OF CERTAIN RADIOACTIVE MATERIALS.—Within 24 months after the date of enactment of this section, taking into consideration the findings of the study conducted pursuant to subsection (a), the Secretary shall amend existing regulations as the Secretary deems appropriate to provide for the safe transportation by rail of high-level radioactive waste and spent nuclear fuel by various methods of rail transportation, including by dedicated train. Regulations.

"(c) MODE AND ROUTE STUDY.—The Secretary shall, within 12 months after the date of enactment of this section, undertake a study to determine which factors, if any, should be taken into consideration by shippers and carriers in order to select routes and modes which, in combination, would enhance overall public safety related to the transportation of high-level radioactive waste and spent nuclear fuel. Such study shall include notice and opportunity for public comment, and shall include assessing the degree to which various factors, including population densities, types and conditions of modal infrastructures (such as highways, railbeds, and waterways), quantities of high-level radioactive waste and spent nuclear fuel, emergency response capabilities, exposure and other risk factors, terrain considerations, continuity of routes, available alternative routes, environmental impact factors, affect the overall public safety of such shipments.

"(d) INSPECTIONS OF VEHICLES TRANSPORTING HIGHWAY ROUTE CONTROLLED QUANTITY RADIOACTIVE MATERIALS.—

"(1) REQUIREMENT.—Not later than one year after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary shall require by regulation that, before each use of a motor vehicle to transport in commerce any highway route controlled quantity radioactive Regulations.

material, such vehicle shall be inspected and certified to be in compliance with this title and applicable Federal motor carrier safety laws and regulations.

"(2) USE OF FEDERAL AND STATE INSPECTORS.—The Secretary may require that inspections under this subsection be carried out by duly authorized inspectors of the United States or in accordance with appropriate State procedures.

"(3) SELF-CERTIFICATION.—The Secretary may permit a person who transports or causes to be transported or shipped any highway route controlled quantity radioactive material to inspect the motor vehicle to be used to provide such transportation and to certify that the motor vehicle is in compliance with this title. The inspector qualification requirements for individuals performing inspections of motor vehicles issued by the Secretary shall apply to individuals conducting inspections under this paragraph.".

49 USC app. 1813 note.

SEC. 16. INSPECTORS.

(a) IN GENERAL.—The Secretary of Transportation, in fiscal year 1991, shall employ and maintain thereafter an additional 30 hazardous materials safety inspectors above the number of safety inspectors authorized for fiscal year 1990, in the aggregate, for the Federal Railroad Administration, the Federal Highway Administration, and the Research and Special Programs Administration. The Secretary shall take such action as may be necessary to assure that the activities of 10 such additional inspectors focus on promoting safety in the transportation of radioactive materials, as defined by the Secretary. Such activities shall include—

(1) the inspection at the point of origin of shipments of high-level radioactive waste or nuclear spent fuel, as those terms are defined in section 116 of the Hazardous Materials Transportation Act, as added by section 15 of this Act; and

(2) the inspection, to the maximum extent practicable, of shipments of radioactive materials that are not high-level radioactive waste or nuclear spent fuel.

Intergovernmental relations.

(b) COOPERATION.—In carrying out their duties, the 10 additional inspectors authorized by this section to focus on promoting safety in the transportation of radioactive materials shall, to the maximum extent possible, cooperate with safety inspectors of the Nuclear Regulatory Commission and appropriate State and local government officials.

(c) ALLOCATION OF INSPECTORS OF RADIOACTIVE MATERIALS.—Of the 10 additional inspectors authorized by subsection (a) to focus on promoting safety in the transportation of radioactive materials—

(1) not less than 1 shall be allocated to the Research and Special Programs Administration;

(2) not less than 3 shall be allocated to the Federal Railroad Administration;

(3) not less than 3 shall be allocated to the Federal Highway Administration; and

(4) the remainder shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(d) ALLOCATION OF OTHER SAFETY INSPECTORS.—The 20 additional inspectors authorized by subsection (a) not referred to in subsection (c) shall be allocated, at the discretion of the Secretary, among the agencies referred to in paragraphs (1), (2), and (3).

(e) DEFINITIONS.—As used in this section—

(1) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(2) SPENT NUCLEAR FUEL.—The term "spent nuclear fuel" has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

SEC. 17. PUBLIC SECTOR TRAINING AND PLANNING.

The Act (49 U.S.C. App. 1801-1813) is amended by adding at the end the following new section:

"SEC. 117A. PUBLIC SECTOR TRAINING AND PLANNING.

Intergovernmental relations.
49 USC app. 1815.

"(a) PLANNING GRANT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall make grants to States—

"(A) for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986, including determination of flow patterns of hazardous materials within a State and between a State and another State; and

"(B) for determining the need for regional hazardous materials emergency response teams.

"(2) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for developing, improving, and implementing emergency plans under the Emergency Planning and Community Right-To-Know Act of 1986 will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

"(3) FUNDING OF PLANNING BY LOCAL EMERGENCY PLANNING COMMITTEES.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State agrees to make available not less than 75 percent of the funds granted to the State under this subsection in the fiscal year to local emergency planning committees established pursuant to section 301(c) of the Emergency Planning and Community Right-To-Know Act of 1986 by the State emergency response commission. Such funds shall be made available to the local committees for developing emergency plans under such Act.

"(b) TRAINING GRANT PROGRAM.—

Indians.

"(1) IN GENERAL.—The Secretary shall make grants to States and Indian tribes for training public sector employees to respond to accidents and incidents involving hazardous materials.

"(2) MAINTENANCE OF EFFORT.—The Secretary may not make a grant to a State or Indian tribe under this subsection in a fiscal year unless the State or Indian tribe certifies that the aggregate expenditure of funds of the State or Indian tribe, exclusive of Federal funds, for training public sector employees to respond to accidents and incidents involving hazardous materials will be maintained at a level which does not fall below the average level of such expenditure for its last 2 fiscal years.

"(3) FUNDING OF TRAINING BY POLITICAL SUBDIVISIONS.—The Secretary may not make a grant to a State under this subsection in a fiscal year unless such State agrees to make available

at least 75 percent of the funds granted to the State under this subsection in the fiscal year for the purposes of training public sector employees employed or used by the political subdivisions.

"(4) USE OF TRAINING COURSES.—The Secretary may only make a grant to a State or Indian tribe under this subsection in a fiscal year if the State or Indian tribe enters into an agreement with the Secretary to use in such fiscal year—

"(A) a course or courses developed or identified under subsection (g); or

"(B) other courses which the Secretary determines are consistent with the objectives of this section;

for training public sector employees to respond to accidents and incidents involving hazardous materials.

"(5) USE OF TRAINING FUNDS.—Funds granted to a State or Indian tribe for training public sector employees under this subsection may be used to pay tuition costs of such employees for such training, travel expenses of such employees to and from the training facility, room and board of such employees while they are at the training facility, and travel expenses of persons who are to provide such training.

"(6) TRAINING BY OTHERS.—Funds granted to a State or Indian tribe for training public sector employees under this subsection—

"(A) may be used by the State or a political subdivision thereof or the Indian tribe to provide such training; or

"(B) may be used to enter into an agreement, approved by the Secretary, to authorize a person (including a department, agency, or instrumentality of a State or political subdivision thereof or an Indian tribe) to provide such training—

"(i) if the agreement allows the Secretary and the State or Indian tribe to conduct random examinations, inspections, and audits of such training without prior notification; and

"(ii) if the State or Indian tribe conducts at least annually 1 on-site observation of such training.

"(7) ALLOCATION OF TRAINING FUNDS.—The Secretary shall allocate funds made available for grants under this subsection for a fiscal year among States and Indian tribes which are eligible to receive such grants in such fiscal year based upon the needs of such States and Indian tribes for emergency response training. In determining such needs, the Secretary shall consider the number of hazardous materials facilities in the State or on lands under the jurisdiction of the Indian tribe, the types and amounts of hazardous materials transported in the State or on such lands, whether or not the State or Indian tribe assesses and collects fees on the transportation of hazardous materials, whether or not such fees are used solely to carry out purposes related to the transportation of hazardous materials, and such other factors as the Secretary determines are appropriate to carry out the objectives of this subsection.

"(c) ADOPTION OF FEDERAL STANDARDS AND COMPLIANCE WITH EMERGENCY PLANNING REQUIREMENTS.—The Secretary may only make a grant to a State under this section in a fiscal year if the State certifies that the State is complying with sections 301 and 303 of the Emergency Planning and Community Right-To-Know Act of 1986, including compliance with such sections with respect to ac-

cidents and incidents involving the transportation of hazardous materials.

"(d) FEDERAL SHARE.—By a grant under this section, the Secretary shall reimburse any State or Indian tribe an amount not to exceed 80 percent of the cost incurred by the State or Indian tribe in the fiscal year for carrying out the activities for which the grant is made. The funds of the State or Indian tribe which are required to be expended under subsections (a)(2) and (b)(2) shall not be considered to be part of the non-Federal share.

"(e) APPLICATIONS.—A State or Indian tribe interested in receiving a grant under this section shall submit an application to the Secretary for such grant. Such applications shall be submitted at such times and contain such information as the Secretary may require by regulation to carry out the objectives of this subsection.

"(f) DELEGATION OF AUTHORITY.—For the purpose of minimizing administrative costs and for coordinating Federal grant programs for emergency response training and planning, the Secretary may delegate to the Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences of the Department of Health and Human Services one or more of the following functions:

"(1) Authority to receive applications for grants under this section.

"(2) Authority to review applications for technical compliance with this section.

"(3) Authority to review applications for the purpose of making recommendation on approval or disapproval of such applications.

"(4) Any other ministerial function associated with the grant programs under this section.

"(g) TRAINING CURRICULUM.—

"(1) CURRICULUM COMMITTEE.—Not later than 24 months after the date of the enactment of the Hazardous Materials Transportation Uniform Safety Act of 1990, the Secretary, in coordination with the Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, Secretary of Health and Human Services, and Director of the National Institute of Environmental Health Sciences and using the existing coordinating mechanisms of the National Response Team and, for radioactive materials, the Federal Radiological Preparedness Coordinating Committee, shall develop and update periodically a curriculum which consists of a list of courses necessary to train public sector emergency response and preparedness teams.

"(2) MANDATORY CURRICULUM RECOMMENDATIONS.—The curriculum to be developed under this subsection shall include—

"(A) a recommended course of study—

"(i) for training public sector employees to respond to accidents and incidents involving the transportation of hazardous materials,

"(ii) for planning such responses;

"(B) recommended basic courses and minimum numbers of hours of instruction necessary for public sector employees to be able—

"(i) to respond safely and efficiently to accidents and incidents involving the transportation of hazardous materials, and

"(ii) to plan for such responses; and

"(C) appropriate emergency response training and planning programs for public sector employees developed under other Federal grant programs, including those developed with grants made under section 126 of the Superfund Amendments and Reauthorization Act of 1986.

"(3) OPTIONAL CURRICULUM RECOMMENDATIONS.—The curriculum to be developed under this subsection may include recommendations concerning materials appropriate for use in the recommended courses described in paragraph (2)(B).

"(4) COMPLIANCE WITH OSHA AND EPA REGULATIONS AND NFPA STANDARDS.—The recommended courses described in paragraph (2)(B) shall provide such training to public sector employees as may be necessary to comply—

"(A) with the regulations issued by the Occupational Safety and Health Administration of the Department of Labor relating to hazardous waste operations and emergency response contained in part 1910 of title 29 of the Code of Federal Regulations, and any amendments thereto;

"(B) with the regulations issued by the Environmental Protection Agency relating to worker protection standards for hazardous waste operations contained in part 311 of title 40 of the Code of Federal Regulations, and any amendments thereto; and

"(C) with standards issued by the National Fire Protection Association, relating to emergency response training, including standards 471 and 472.

"(5) CONSULTATION REQUIREMENT.—In developing the curriculum under this subsection, the Secretary shall consult the regional response teams established pursuant to the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, representatives of commissions established pursuant to section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001), persons (including governmental entities) who provide training for responding to accidents and incidents involving the transportation of hazardous materials, and representatives of persons who respond to such accidents and incidents.

"(6) DISSEMINATION.—The Director, in conjunction with the National Response Team, shall disseminate the curriculum developed under this section and any amendments thereto to the regional response teams established pursuant to the National Contingency Plan established under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 and to all committees and commissions established pursuant to section 301 of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001).

"(7) MONITORING AND TECHNICAL ASSISTANCE.—

"(A) MONITORING.—The Director, in coordination with the Secretary, Administrator, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences, shall monitor public sector emergency response

training and planning for accidents and incidents involving hazardous materials.

"(B) TECHNICAL ASSISTANCE.—Taking into account the results of monitoring under subparagraph (A), the Secretary, Director, Administrator, Secretary of Energy, and Director of the National Institute of Environmental Health Sciences shall each provide technical assistance to States and political subdivisions thereof and Indian tribes for carrying out emergency response training and planning for accidents and incidents involving hazardous materials and shall coordinate the provision of such technical assistance using the existing coordinating mechanisms of the national response team and, for radioactive materials, the Federal Radiological Preparedness Coordinating Committee.

"(8) PUBLICATION OF LIST OF TRAINING PROGRAMS.—The Secretary, in conjunction with the national response team, may publish a list of programs for training public sector employees to respond to accidents and incidents involving the transportation of hazardous materials which utilize one or more of the courses developed under this subsection.

"(9) MINIMIZATION OF DUPLICATION OF EFFORT.—The Secretary, Director, Chairman of the Nuclear Regulatory Commission, Administrator, Secretary of Labor, Secretary of Energy, and the Director of the National Institute of Environmental Health Sciences, in conjunction with the heads of other Federal departments, agencies, and instrumentalities, shall review periodically all emergency response and preparedness training programs of the Federal department, agency, or instrumentality which such person heads for the purpose of minimizing duplication of effort and expense of such departments, agencies, and instrumentalities in carrying out such training programs and shall take such actions, including coordination of training programs, as may be necessary to minimize such duplication of effort and expense.

"(h) FEES FOR TRAINING AND PLANNING.—

"(1) ESTABLISHMENT AND COLLECTION.—Not later than September 30, 1992, the Secretary shall establish and assess by regulation and collect an annual fee from each person who is required by or under section 106 to file a registration statement. Regulations.

"(2) FACTORS FOR DETERMINING AMOUNT OF FEES.—Subject to paragraph (3), the amount of annual fees to be collected under this subsection shall be determined by the Secretary based on 1 or more of the following factors:

"(A) The gross revenues from transportation of hazardous materials.

"(B) The types of hazardous materials transported or caused to be transported.

"(C) The quantities of hazardous material transported or caused to be transported.

"(D) The number of shipments of hazardous materials.

"(E) The number of activities which the person carries out and for which filing of a registration statement is required by or under section 106.

"(F) The threat to property, persons, and the environment from an accident or incident involving the hazardous materials transported or caused to be transported.

"(G) The percentage of gross revenues which are derived from the transportation of hazardous materials.

"(H) The amount of funds which are to be made available to carry out this section and section 118.

"(I) Such other factors as the Secretary considers appropriate.

"(3) LIMITATIONS ON FEE AMOUNTS.—

"(A) MAXIMUM AND MINIMUM AMOUNT.—Subject to subparagraph (B), the amount of a fee which may be collected from a person under this section in a year may not be less than $250 and may not exceed $5,000.

"(B) ADJUSTMENTS.—The Secretary shall adjust the amount of fees being collected from persons under this section to reflect any unspent balances in the account established under paragraph (6); except that nothing in this subsection shall be construed as requiring the Secretary to refund any fees collected under this subsection.

"(4) TREATMENT OF FEES.—Fees collected under this subsection shall be in addition to any fees which the Secretary may collect under section 106.

"(5) TRANSFER TO SECRETARY OF TREASURY.—The Secretary shall transfer to the Secretary of the Treasury amounts collected under this subsection for deposit in the account established under paragraph (6).

"(6) USE OF AMOUNTS.—

"(A) ESTABLISHMENT OF ACCOUNT.—The Secretary of the Treasury shall establish in the Treasury an account into which the Secretary of the Treasury shall deposit amounts transferred by the Secretary of Transportation under paragraph (5).

"(B) PURPOSES.—Amounts in the account established under subparagraph (A) shall be available, without further appropriation—

"(i) for making grants under this section and section 118,

"(ii) for monitoring and providing technical assistance under subsection (g)(7), and

"(iii) for paying the administrative costs of carrying out this section and section 118, but not to exceed 10 percent of the amounts made available from the account in any fiscal year.

"(i) FUNDING.—

"(1) PLANNING GRANTS.—There shall be available to the Secretary for carrying out subsection (a), from amounts in the account established pursuant to subsection (h), $5,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(2) TRAINING GRANTS.—There shall be available to the Secretary for carrying out subsection (b), from amounts in the account established pursuant to subsection (h), $7,800,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(3) CURRICULUM.—

"(A) FROM GENERAL REVENUES.—There is authorized to be appropriated to the Secretary to carry out subsection (g) (other than paragraph (7)) $1,000,000 per fiscal year for each of fiscal years 1991 and 1992.

"(B) FROM FEE ACCOUNT.—There shall be available to the Secretary to carry out subsection (g) (other than paragraph

(7)), from amounts in the account established pursuant to subsection (h), $1,000,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(C) TRANSFERS.—The Secretary may transfer from amounts made available under this paragraph such amounts as may be necessary to the Director to carry out subsection (g)(6), relating to dissemination of the curriculum.

"(4) MONITORING AND TECHNICAL ASSISTANCE.—There shall be available for carrying out subsection (g)(7), from amounts in the account established pursuant to subsection (h)—

"(A) to each of the Secretary, Director, Administrator, and Secretary of Energy $750,000; and

"(B) to the Director of the National Institute of Environmental Health Sciences $200,000;

per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

"(5) AVAILABILITY.—Funds made available pursuant to this subsection shall remain available until expended.".

SEC. 18. HAZMAT EMPLOYEE TRAINING GRANT PROGRAM.

The Act (49 U.S.C. App. 1801-1813), as amended by section 17 of this Act, is further amended by adding at the end the following new section:

"SEC. 118. HAZMAT EMPLOYEE TRAINING GRANT PROGRAM. 49 USC app. 1816.

"(a) GRANT PURPOSES.—Grants for training and education of hazmat employees regarding the safe loading, unloading, handling, storage, and transportation of hazardous materials and emergency preparedness for responding to accidents or incidents involving the transportation of hazardous materials in order to meet the requirements issued under section 106(b) may be made under this section.

"(b) ADMINISTRATION.—Grants under this section shall be administered by the National Institute of Environmental Health Sciences in consultation with the Secretary, the Administrator, and the Secretary of Labor.

"(c) GRANT RECIPIENTS.—Grants under this section shall be awarded to nonprofit organizations which demonstrate expertise in implementing and operating training and education programs for hazmat employees and demonstrate the ability to reach and involve in training programs target populations of hazmat employees.

"(d) FUNDING.—There shall be available to the Director of the National Institute of Environmental Health Sciences to carry out this section, from amounts in the account established pursuant to section 117(h), $250,000 per fiscal year for each of fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.".

SEC. 19. RAILROAD TANK CARS.

The Act (49 U.S.C. App. 1801 et seq.), as amended by section 18 of this Act, is further amended by adding at the end the following new section:

"SEC. 119. RAILROAD TANK CARS. 49 USC app. 1817.

"(a) PROHIBITIONS FOR CERTAIN MATERIALS.—No railroad tank car constructed before January 1, 1971, may be used for the transportation in commerce of any class A or B explosives, any hazardous material which has been designated by the Secretary as toxic by

inhalation, or any other hazardous material the Secretary determines should be subject to such requirement, unless the air brake equipment support attachments of such tank car at a minimum comply with the standards for attachments set forth in part 179.100-16 and part 179.200-19 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.

"(b) APPLICABILITY TO OTHER MATERIALS.—No railroad tank car constructed before January 1, 1971, may be used for the transportation in commerce of any hazardous material after July 1, 1991, unless the air brake equipment support attachments of such tank car comply with the standards for attachments set forth in part 179.100-16 and part 179.200-19 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this section.".

49 USC app. 1818.

SEC. 20. APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL CONTRACTORS.

The Act (49 U.S.C. App. 1801-1813), as amended by section 19 of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 120. APPLICATION OF FEDERAL, STATE, AND LOCAL LAW TO FEDERAL CONTRACTORS.

"Any person who, under contract with any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal government, transports, or causes to be transported or shipped, a hazardous material or manufacturers, fabricates, marks, maintains, reconditions, repairs, or tests a package or container which is represented, marked, certified, or sold by such person as qualified for use in the transportation of hazardous materials shall be subject to and comply with all provisions of this title, all orders and regulations issued under this title, and all other substantive and procedural requirements of Federal, State, and local governments and Indian tribes (except any such requirements that have been preempted by this title or any other Federal law), in the same manner and to the same extent as any person engaged in such activities that are in or affect commerce is subject to such provisions, orders, regulations, and requirements.".

49 USC app. 1817 note. Government contracts.

SEC. 21. RAILROAD TANK CAR STUDY.

(a) STUDY.—The Secretary of Transportation shall enter into a contract with an appropriate disinterested expert body for a study of—

(1) the railroad tank car design process, including specifications development, design approval, repair process approval, repair accountability, and the process by which designs and repairs are presented, weighted, and evaluated, and

(2) railroad tank car design criteria, including whether headshields should be installed on all tank cars which carry hazardous materials.

In carrying out the study described in paragraph (1), such expert body shall also make recommendations as to whether public safety considerations require greater control by and input from the Secretary with respect to the railroad tank car design process, especially in the early stages, and such other recommendations as such expert body considers appropriate.

(b) REPORT.—The Secretary of Transportation shall report the results of such study and such recommendations to the Congress within 1 year after the date of enactment of this Act.

SEC. 22. UNIFORMITY OF STATE MOTOR CARRIER REGISTRATION AND PERMITTING FORMS AND PROCEDURES.

The Act (49 U.S.C. App. 1801-1813), as amended by section 20 of this Act, is further amended by adding at the end the following new section:

"SEC. 121. UNIFORMITY OF STATE MOTOR CARRIER REGISTRATION AND PERMITTING FORMS AND PROCEDURES. 49 USC app. 1819.

"(a) WORKING GROUP.—As soon as practicable after the date of the enactment of this section, the Secretary shall establish a working group comprised of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, and the National Conference of State Legislatures, for the purpose of—

"(1) establishing uniform forms and procedures for States that register persons who transport, cause to be transported, or ship a hazardous material, by motor vehicle; and

"(2) determining whether or not to limit the filing of any State registration forms and collection of fees therefor to the State in which a person resides or has its principal place of business.

"(b) CONSULTATION REQUIREMENT.—The working group established under this section shall consult with persons who are subject to the registration requirements described in subsection (a) in establishing uniform forms and procedures and making the determination described in subsection (a).

"(c) REPORT.—The working group established under this section shall transmit a final report to the Secretary and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives not later than 36 months after the date of the enactment of this section. The final report shall contain a detailed statement of the findings and conclusions of the working group, together with its joint recommendations concerning the matters referred to in subsection (a).

"(d) REGULATIONS.—

"(1) GENERAL RULE.—Subject to the provisions of this subsection, the Secretary shall issue regulations implementing those recommendations contained in the report transmitted to the Secretary under subsection (c) with which the Secretary agrees.

"(2) DEADLINE.—Regulations required to be issued by this subsection shall be issued by the later of the following dates:

"(A) The last day of the 3-year period beginning on the date the organizations referred to in subsection (a) transmit their final joint report to the Secretary.

"(B) The last day of the 90-day period beginning on the date on which 26 or more States adopt all of such recommendations.

"(3) NO LIMIT OF AMOUNT OF FEES.—Regulations issued under this section shall not define or limit the amounts of any fees which may be imposed or collected by any State.

Effective date.

"(e) UNIFORMITY.—A regulation issued pursuant to this section shall take effect 1 year after the date of its issuance; except that the Secretary may extend such 1-year period for an additional 1-year period for good cause. After the effective date of such regulation, no State shall establish, maintain, or enforce any requirement which relates to the subject matter of such regulation unless such requirement is the same as such regulation.

"(f) IMPLEMENTATION EFFICIENCY.—The Secretary, in consultation with the working group established under this section, shall develop a procedure to eliminate any differences in State implementation of regulations issued pursuant to this section.

"(g) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The working group established under this section shall not be subject to the Federal Advisory Committee Act.

"(h) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated for carrying out this section $400,000 per fiscal year for each of fiscal years 1991, 1992, and 1993. Such sums shall remain available until expended.".

SEC. 23. FINANCIAL RESPONSIBILITY.

Section 30(b)(2) of the Motor Carrier Act of 1980 (49 U.S.C. 10927 note) is amended to read as follows:

"(2) HAZARDOUS MATERIALS TRANSPORTATION.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the minimal level of financial responsibility established by the Secretary under paragraph (1) of this subsection for any vehicle transporting in interstate or intrastate commerce—

"(i) hazardous substances (as defined by the Administrator of the Environmental Protection Agency) in cargo tanks, portable tanks, or hopper-type vehicles, with capacities in excess of 3,500 water gallons,

"(ii) in bulk class A explosives, poison gas, liquefied gas, or compressed gas, or

"(iii) large quantities of radioactive materials,

shall not be less than $5,000,000.

"(B) PHASE-IN REDUCTION.—The Secretary, by regulation, may reduce the $5,000,000 amount under subparagraph (A) (but not to an amount less than $1,000,000) for any class of vehicles or operations for the 3½-year period beginning on the effective date of the regulations issued under this subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

"(C) TERRITORY REDUCTION.—The Secretary, by regulation, may reduce the $5,000,000 amount under subparagraph (A) (but not to an amount less than $1,000,000) for transportation described in subparagraph (A) in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands if the chief executive officer of such territory requests the reduction and if the reduction will not adversely affect public safety, will prevent a serious disruption in transportation service, and insurance at the $5,000,000 level is not readily available.".

SEC. 24. FEDERALLY LEASED COMMERCIAL MOTOR VEHICLES.

Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2509) is amended by adding at the end the following new subsection:

"(g) FEDERALLY LEASED COMMERCIAL MOTOR VEHICLES.—Any State which receives Federal financial assistance under section 402 of the Surface Transportation Assistance Act of 1982 in a fiscal year may apply and enforce in such fiscal year any regulations pertaining to commercial motor vehicle safety adopted by such State with respect to commercial motor vehicles and operators leased to the United States.".

SEC. 25. IMPROVEMENTS TO HAZARDOUS MATERIALS IDENTIFICATION SYSTEMS.

Motor vehicles. Telecommunications. 49 USC app. 1804 note.

(a) RULEMAKING PROCEEDING.—

(1) INITIATION.—In order to develop methods of improving the current system of identifying hazardous materials being transported in vehicles for safeguarding the health and safety of persons responding to emergencies involving such hazardous materials and the public and to facilitate the review and reporting process required by subsection (d), the Secretary of Transportation shall initiate a rulemaking proceeding not later than 30 days after the date of the enactment of this Act.

(2) PRIMARY PURPOSES.—The primary purposes of the rulemaking proceeding initiated under this subsection are—

(A) to determine methods of improving the current system of placarding vehicles transporting hazardous materials; and

(B) to determine methods for establishing and operating a central reporting system and computerized telecommunications data center described in subsection (b)(1).

(3) METHODS OF IMPROVING PLACARDING SYSTEM.—The methods of improving the current system of placarding to be considered under the rulemaking proceeding initiated under this subsection shall include methods to make such placards more visible, methods to reduce the number of improper and missing placards, alternative methods of marking vehicles for the purpose of identifying the hazardous materials being transported, methods of modifying the composition of placards in order to ensure their resistance to flammability, methods of improving the coding system used with respect to such placards, identification of appropriate emergency response procedures through symbols on placards, and whether or not telephone numbers of any continually monitored telephone systems which are established under the Hazardous Materials Transportation Act are displayed on vehicles transporting hazardous materials.

(4) COMPLETION OF RULEMAKING PROCEEDING WITH RESPECT TO REPORTING SYSTEM AND DATA CENTER.—Not later than 19 months after the date of the enactment of this Act, the Secretary of Transportation shall complete the rulemaking proceeding initiated with respect to the central reporting system and computerized telecommunications data center described in subsection (b).

(5) FINAL RULE WITH RESPECT TO PLACARDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall issue a final rule relating to improving the current system for placarding vehicles transporting hazardous materials.

(b) CENTRAL REPORTING SYSTEM AND COMPUTERIZED TELECOMMUNICATIONS DATA CENTER STUDY.—

(1) ARRANGEMENTS WITH NATIONAL ACADEMY OF SCIENCES.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the feasibility and necessity of establishing and operating a central reporting system and computerized telecommunications data center that is capable of receiving, storing, and retrieving data concerning all daily shipments of hazardous materials, that can identify hazardous materials being transported by any mode of transportation, and that can provide information to facilitate responses to accidents and incidents involving the transportation of hazardous materials.

(2) CONSULTATION AND REPORT.—In entering into any arrangements with the National Academy of Sciences for conducting the study under this section, the Secretary of Transportation shall request the National Academy of Sciences—

(A) to consult with the Department of Transportation, the Department of Health and Human Services, the Environmental Protection Agency, the Federal Emergency Management Agency, and the Occupational Safety and Health Administration, shippers and carriers of hazardous materials, manufacturers of computerized telecommunications systems, State and local emergency preparedness organizations (including law enforcement and firefighting organizations), and appropriate international organizations in conducting such study; and

(B) to submit, not later than 19 months after the date of the enactment of this Act, to the Secretary, the Committee on Commerce, Science, and Transportation of the Senate, and the Committees on Energy and Commerce and Public Works and Transportation of the House of Representatives a report on the results of such study.

Such report shall include recommendations of the National Academy of Sciences with respect to establishment and operation of a central reporting system and computerized telecommunications data center described in paragraph (1).

(3) AUTHORIZATION OF APPROPRIATION.—In addition to amounts authorized under section 115 of the Hazardous Materials Transportation Act, there is authorized to be appropriated to the Secretary of Transportation to carry out this subsection $350,000.

(c) ADDITIONAL PURPOSES OF RULEMAKING PROCEEDING AND STUDY.—Additional purposes of the rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center described in subsection (b) and the study conducted under subsection (b) are—

(1) to determine whether such a system and center should be established and operated by the United States Government or by a private entity, either on its own initiative or under contract with the United States;

(2) to determine, on an annualized basis, the estimated cost for establishing, operating, and maintaining such a system and center and for carrier and shipper compliance with such a system;

(3) to determine methods for financing the cost of establishing, operating, and maintaining such a system and center;

(4) to determine projected safety benefits of establishing and operating such a system and center;

(5) to determine whether or not shippers, carriers, and handlers of hazardous materials, in addition to law enforcement officials and persons responsible for responding to emergencies involving hazardous materials, should have access to such system for obtaining information concerning shipments of hazardous materials and technical and other information and advice with respect to such emergencies;

(6) to determine methods for ensuring the security of the information and data stored in such a system;

(7) to determine types of hazardous materials and types of shipments for which information and data should be stored in such a system;

(8) to determine the degree of liability of the operator of such a system and center for providing incorrect, false, or misleading information;

(9) to determine deadlines by which shippers, carriers, and handlers of hazardous materials should be required to submit information to the operator of such a system and center and minimum standards relating to the form and contents of such information;

(10) to determine measures (including the imposition of civil and criminal penalties) for ensuring compliance with the deadlines and standards referred to in paragraph (9); and

(11) to determine methods for accessing such a system through mobile satellite service or other technologies having the capability to provide 2-way voice, data, or facsimile services.

(d) REVIEW AND REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 25 months after the date of the enactment of this Act, the Secretary of Transportation shall review the report of the National Academy of Sciences submitted under subsection (b) and the results of rulemaking proceeding initiated under subsection (a) with respect to a central reporting system and computerized telecommunications data center and shall prepare and submit to Congress a report summarizing the report of the National Academy of Sciences and the results of such rulemaking proceeding, together with the Secretary's recommendations concerning the establishment and operation of such a system and center and the Secretary's recommendations concerning implementation of the recommendations contained in the report of the National Academy of Sciences.

(2) WEIGHT TO BE GIVEN TO RECOMMENDATIONS OF NAS.—In conducting the review and preparing the report under this subsection, the Secretary shall give substantial weight to the recommendations contained in the report of the National Academy of Sciences submitted under subsection (b).

(3) INCLUSION OF REASONS FOR NOT FOLLOWING RECOMMENDATIONS.—If the Secretary does not include in the report prepared for submission to Congress under this subsection a recommendation for implementation of a recommendation contained in the report of the National Academy of Sciences submitted under subsection (b), the Secretary shall include in the report to Congress under this subsection the Secretary's

reasons for not recommending implementation of the recommendation of the National Academy of Sciences.

49 USC app. 1804 note.

SEC. 26. CONTINUALLY MONITORED TELEPHONE SYSTEMS.

(a) RULEMAKING PROCEEDING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall initiate a rulemaking proceeding on the feasibility, necessity, and safety benefits of requiring carriers involved in the hazardous materials transportation industry to establish continually monitored telephone systems equipped to provide emergency response information and assistance with respect to accidents and incidents involving hazardous materials. Additional objectives of such proceeding shall be to determine which hazardous materials, if any, should be covered by such a requirement and which segments of such industry (including persons who own and operate motor vehicles, trains, vessels, aircraft, and in-transit storage facilities) should be covered by such a requirement.

(b) COMPLETION OF PROCEEDING.—Not later than 30 months after the date of the enactment of this Act, the Secretary of Transportation shall complete the proceeding under this section and may issue a final rule relating to establishment of continually monitored telephone systems described in subsection (a).

SEC. 27. SHIPPER RESPONSIBILITY REPORT.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on—

(1) the safety benefits of a law which provides that if a person causes a hazardous material to be transported in bulk in commerce by a motor carrier, which is involved in a hazardous material incident and which has an unsatisfactory safety rating issued by the Secretary or which has a conditional safety rating issued by the Secretary which has been in effect for a period of more than 12 months, such person shall be liable for at least 50 percent of the costs, damages, and attorney's fees assessed against the motor carrier for any hazardous material incident involving such transportation;

(2) such other systems as the Secretary of Transportation may determine would assure responsible actions by a person who causes the transportation of hazardous material in bulk in commerce; and

(3) the safety benefits of a law which provides that the liability of the person or persons who caused such a shipment of hazardous materials may not be transferred by indemnification, hold harmless, or similar agreements.

SEC. 28. STATE PARTICIPATION IN INVESTIGATIONS AND SURVEILLANCE.

(a) AMENDMENT OF SECTION 206(a) OF FRSA.—Section 206(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(a)) is amended—

(1) by inserting "related to railroad safety" after "standard prescribed";

(2) by striking "under this title" the first place it appears;

(3) by striking "established under this title" in paragraph (2); and

(4) by striking "prescribed by the Secretary under section 202(a) of this title" and inserting "relating to railroad safety prescribed by the Secretary".

(b) AMENDMENT OF SECTION 206(b) OF FRSA.—Section 206(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(b)) is amended by striking "prescribed by him under section 202(a) of this title" and inserting "relating to railroad safety prescribed by the Secretary".

(c) AMENDMENT OF SECTION 206(f) OF FRSA.—Section 206(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435(f)) is amended by striking "under this title".

(d) AMENDMENT TO SECTION 206 OF FRSA.—Section 206 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 435) is amended by adding at the end the following:

"(h) There is authorized to be appropriated for carrying out this section $5,000,000 per fiscal year for each of fiscal years 1991, 1992, and 1993.".

(e) AMENDMENT OF SECTION 207(a)(1) OF FRSA.—Section 207(a)(1) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 436(a)(1)) is amended—

(1) by striking "under section 209 of this title with respect"; and

(2) by striking "issued under this title or under any law transferred by section 6(e)(1), (e)(2), or (e)(6)(A) of the Department of Transportation Act".

(f) AMENDMENT OF SECTION 210(a) OF FRSA.—Section 210(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 439(a)) is amended by striking "this title or to enforce rules, regulations, orders, or standards established under this title" and inserting "or to enforce rules, regulations, orders, or standards relating to railroad safety".

SEC. 29. RETENTION OF MARKINGS AND PLACARDS. 29 USC 655 note.

Not later than 18 months after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of Transportation and the Secretary of the Treasury, shall issue under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) standards requiring any employer who receives a package, container, motor vehicle, rail freight car, aircraft, or vessel which contains a hazardous material and which is required to be marked, placarded, or labeled in accordance with regulations issued under the Hazardous Materials Transportation Act to retain the markings, placards, and labels, and any other information as may be required by such regulations on the package, container, motor vehicle, rail freight car, aircraft, or vessel, until the hazardous materials have been removed therefrom.

SEC. 30. RELATIONSHIP TO FEDERAL RAILROAD SAFETY ACT OF 1970. 45 USC 434 note.

Nothing in this Act, including the amendments made by this Act, shall be construed to alter, amend, modify, or otherwise affect the scope of section 205 of the Federal Railroad Safety Act of 1970.

SEC. 31. EFFECTIVE DATE. 49 USC app. 1801 note.

(a) GENERAL RULE.—Except as provided in this Act, this Act (including the amendments made by this Act) shall take effect on the date of the enactment of this Act.

(b) CONTINUATION OF EXISTING REGULATIONS.—Any regulation or ruling issued before the date of the enactment of this Act pursuant to the Hazardous Materials Transportation Act and any authority granted under such a regulation shall continue in effect according to

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its terms until repealed, terminated, amended, or modified by the Secretary of Transportation or a court of competent jurisdiction.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2936 (H.R. 3520):

HOUSE REPORTS: No. 101-444, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Public Works and Transportation) both accompanying H.R. 3520.

SENATE REPORTS: No. 101-449 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 23, considered and passed Senate.

Oct. 25, considered and passed House, amended.

Oct. 26, Senate concurred in House amendment.

Public Law 101-616
101st Congress

An Act

To amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry, and for other purposes.

Nov. 16, 1990
[S. 2946]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Transplant Amendments Act of 1990. 42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Transplant Amendments Act of 1990".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

Sec. 101. Establishment of a National Bone Marrow Donor Registry.
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Sec. 202. Organ procurement and transplantation network.
Sec. 203. General provisions respecting grants and contracts.
Sec. 204. Administration.
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Sec. 206. Study by General Accounting Office and authorization of appropriations.
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TITLE III—SEVERABILITY

Sec. 301. Severability.

TITLE I—NATIONAL BONE MARROW DONOR REGISTRY

SEC. 101. ESTABLISHMENT OF A NATIONAL BONE MARROW DONOR REGISTRY.

(a) REGISTRY.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended—

(1) by redesignating parts I, J, and K as parts J, K, and L, respectively; and

(2) by inserting after section 377 (as added by section 207 of this Act) the following new part:

42 USC 275 *et seq.*, 280b *et seq.*, 280c *et seq.*

"PART I—NATIONAL BONE MARROW DONOR REGISTRY

"SEC. 379. NATIONAL REGISTRY.

42 USC 274k.

"(a) ESTABLISHMENT.—The Secretary shall by contract establish and maintain a National Bone Marrow Donor Registry (referred to in this part as the 'Registry') that meets the requirements of this

Government contracts.

section. The Registry shall be under the general supervision of the Secretary, and under the direction of a board of directors that shall include representatives of marrow donor centers, marrow transplant centers, persons with expertise in the social science, and the general public.

"(b) FUNCTIONS.—The Registry shall—

"(1) establish a system for finding marrow donors suitably matched to unrelated recipients for bone marrow transplantation;

"(2) establish a system for patient advocacy, separate from mechanisms for donor advocacy, that directly assists patients, their families, and their physicians in the search for an unrelated marrow donor;

"(3) increase the representation of individuals from racial and ethnic minority groups in the pool of potential donors for the Registry in order to enable an individual in a minority group, to the extent practicable, to have a comparable chance of finding a suitable unrelated donor as would an individual not in a minority group;

"(4) provide information to physicians, other health care professionals, and the public regarding bone marrow transplantation;

"(5) recruit potential bone marrow donors;

"(6) collect, analyze, and publish data concerning bone marrow donation and transplantation; and

"(7) support studies and demonstration projects for the purpose of increasing the number of individuals, especially minorities, who are willing to be marrow donors.

"(c) CRITERIA, STANDARDS, AND PROCEDURES.—Not later than 180 days after the date of enactment of this part, the Secretary shall establish and enforce, for entities participating in the program, including the Registry, individual marrow donor centers, marrow donor registries, marrow collection centers, and marrow transplant centers—

"(1) quality standards and standards for tissue typing, obtaining the informed consent of donors, and providing patient advocacy;

"(2) donor selection criteria, based on established medical criteria, to protect both the donor and the recipient and to prevent the transmission of potentially harmful infectious diseases such as the viruses that cause hepatitis and the etiologic agent for Acquired Immune Deficiency Syndrome;

"(3) procedures to ensure the proper collection and transportation of the marrow;

"(4) standards that require the provision of information to patients, their families, and their physicians at the start of the search process concerning—

"(A) the resources available through the Registry;

"(B) all other marrow donor registries meeting the standards described in this paragraph; and

"(C) in the case of the Registry—

"(i) the comparative costs of all charges by marrow transplant centers incurred by patients prior to transplantation; and

"(ii) the success rates of individual marrow transplant centers;

"(5) standards that—

"(A) require the establishment of a system of strict confidentiality of records relating to the identity, address, HLA type, and managing marrow donor center for marrow donors and potential marrow donors; and

"(B) prescribe the purposes for which the records described in subparagraph (A) may be disclosed, and the circumstances and extent of the disclosure; and

"(6) in the case of a marrow donor center or marrow donor registry participating in the program, procedures to ensure the establishment of a method for integrating donor files, searches, and general procedures of the center or registry with the Registry.

"(d) COMMENT PROCEDURES.—The Secretary shall establish and provide information to the public on procedures, which may include establishment of a policy advisory committee, under which the Secretary shall receive and consider comments from interested persons relating to the manner in which the Registry is carrying out the duties of the Registry under subsection (b) and complying with the criteria, standards, and procedures described in subsection (c). Public information.

"(e) CONSULTATION.—The Secretary shall consult with the board of directors of the Registry and the bone marrow donor program of the Department of the Navy in developing policies affecting the Registry.

"(f) APPLICATION.—To be eligible to enter into a contract under this section, an entity shall submit to the Secretary and obtain approval of an application at such time, in such manner, and containing such information as the Secretary shall by regulation prescribe. Regulations.

"(g) ELIGIBILITY.—Entities eligible to receive a contract under this section shall include private nonprofit entities.

"(h) RECORDS.—

"(1) RECORDKEEPING.—Each recipient of a contract or subcontract under subsection (a) shall keep such records as the Secretary shall prescribe, including records that fully disclose the amount and disposition by the recipient of the proceeds of the contract, the total cost of the undertaking in connection with which the contract was made, and the amount of the portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(2) EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States shall have access to any books, documents, papers, and records of the recipient of a contract or subcontract entered into under this section that are pertinent to the contract, for the purpose of conducting audits and examinations.

"(i) PENALTIES FOR DISCLOSURE.—Any person who discloses the content of any record referred to in subsection (c)(5)(A) without the prior written consent of the donor or potential donor with respect to whom the record is maintained, or in violation of the standards described in subsection (c)(5)(B), shall be imprisoned for not more than 2 years or fined in accordance with title 18, United States Code, or both.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993.

42 USC 274*l*.

"SEC. 379A. STUDY BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study that evaluates—

"(1) the costs and benefits of the search process for an unrelated bone marrow donor among different marrow donor registries;

"(2) the extent to which marrow donor registries protect donor confidentiality;

"(3) the relationship between the Registry, individual marow donor centers, and other marrow donor registries;

"(4) the effectiveness and appropriateness of policies and procedures of marrow donor centers, marrow transplant centers, and marrow donor registries, including—

"(A) the process of donor recruitment, including the policy of asking each donor whether the donor would want to donate more than one time;

"(B) the maintenance and updating of donor files; and

"(C) the policy of initially typing donors for A/B antigens only instead of initially typing for both A/B and D/R antigens;

"(5) the ability of the marrow donor registries to incorporate changes in medical research and clinical practice; and

"(6) the costs associated with tissue typing.

"(b) REPORT.—Not later than 1 year after the date of enactment of this part, the Comptroller General shall complete the study required under subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the findings made by the study and recommendations for legislative reform.".

(b) CONFORMING AMENDMENT.—Section 373 of the Act (42 U.S.C. 274a) is amended—

(1) in the section heading, by striking "and Bone Marrow Registry";

(2) by striking "(a)"; and

(3) by striking out subsection (b).

42 USC 274k note.

SEC. 102. SAVINGS PROVISIONS.

(a) IN GENERAL.—This title, and the amendments made by this title, shall not affect any legal document, including any order, regulation, grant, or contract, in effect on the date of enactment of this Act, or any administrative proceeding or lawsuit pending on the date, that relates to the bone marrow registry established under section 373(b) of the Public Health Service Act (as it existed before the amendment made by section 101(b) of this Act).

(b) CONTINUED EFFECT.—A legal document described in subsection (a) or an order issued in a lawsuit described in subsection (a) shall continue in effect until modified, terminated, or revoked.

(c) PROCEEDINGS.—In any administrative proceeding or lawsuit described in subsection (a), parties shall take appeals, and officials shall hold proceedings and render judgments, in the same manner and with the same effect as if this title had not been enacted.

TITLE II—ORGAN TRANSPLANTS

SEC. 201. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) SECTION HEADING.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended in the section heading by striking "assistance for".

(b) AUTHORITY REGARDING CERTAIN GRANTS.—

(1) SPECIAL PROJECTS.—Section 371(a)(3) of the Act (42 U.S.C. 273(a)(3)) is amended by striking "may make grants for special projects" and inserting the following: "may make grants to, and enter into contracts with, qualified organ procurement organizations described in subsection (b) and other nonprofit private entities for the purpose of carrying out special projects".

(2) CONSIDERATIONS IN MAKING CERTAIN GRANTS.—Section 371(a) of the Act (42 U.S.C. 273(a)) is amended by striking paragraph (4).

(c) SERVICE AREA OF QUALIFIED ORGAN PROCUREMENT ORGANIZATIONS.—

(1) IN GENERAL.—Subparagraph (E) of section 371(b)(1) of the Act (42 U.S.C. 273(b)(1)(E)) is amended to read as follows:

"(E) has a defined service area that is of sufficient size to assure maximum effectiveness in the procurement and equitable distribution of organs, and that either includes an entire metropolitan statistical area (as specified by the Director of the Office of Management and Budget) or does not include any part of the area,".

(2) CONFORMING AMENDMENT.—Section 402(c)(3) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 42 U.S.C. 273 note) is repealed.

(d) EFFECTIVENESS REGARDING NUMBER OF ORGANS PROCURED.—Section 371(b) of the Public Health Service Act (42 U.S.C. 273(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2)(A) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall publish in the Federal Register a notice of proposed rulemaking to establish criteria for determining whether an entity meets the requirement established in paragraph (1)(E). Federal Register, publication.

"(B) Not later than 1 year after the date of enactment of this paragraph, the Secretary shall publish in the Federal Register a final rule to establish the criteria described in subparagraph (A).".

(e) TECHNICAL CORRECTION REGARDING PUBLIC LAW 100-607.—Section 402(c)(2) of the Health Omnibus Programs Extension of 1988 (Public Law 100-607; 102 Stat. 3115) is amended by inserting "at the end" after "the comma". 42 USC 273.

SEC. 202. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) MINIMUM QUALIFICATIONS OF CONTRACTOR.—Section 372(b)(1) of the Public Health Service Act (42 U.S.C. 274(b)(1)) is amended—

(1) in subparagraph (A), by striking "which is not engaged in any activity unrelated to organ procurement" and inserting "that has an expertise in organ procurement and transplantation"; and

(2) in subparagraph (B), to read as follows:

"(B) have a board of directors—

"(i) that includes representatives of organ procurement organizations (including organizations that have received grants under section 371), transplant centers, voluntary health associations, and the general public; and

Establishment.

"(ii) that shall establish an executive committee and other committees, whose chairpersons shall be selected to ensure continuity of leadership for the board.".

(b) RESPONSIBILITIES OF NETWORK.—Section 372(b)(2) of the Act (42 U.S.C. 274(b)(2)) is amended—

(1) in subparagraph (D)—

(A) by inserting "nationwide" after "organizations in the"; and

(B) by inserting "equitably among transplant patients" after "organs";

(2) by striking "and" at the end of subparagraph (I);

(3) by striking the period at the end of subparagraph (J) and inserting ", and"; and

(4) by adding at the end the following new subparagraphs:

"(K) work actively to increase the supply of donated organs.

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"(L) submit to the Secretary an annual report containing information on the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network.".

(c) TECHNICAL CORRECTION.—Section 372(b)(2)(F) of the Act (42 U.S.C. 274(b)(2)(F)) is amended by striking "compatability" and inserting "compatibility".

42 USC 274 note.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on December 31, 1990.

SEC. 203. GENERAL PROVISIONS RESPECTING GRANTS AND CONTRACTS.

Section 374 of the Public Health Service Act (42 U.S.C. 274b) is amended—

(1) in subsection (a), by striking "No grant" and all that follows through "373" the first place that the term appears and inserting the following: "No grant may be made under this part";

(2) in subsection (b)—

(A) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(B) by striking "section 371" in paragraph (1) (as so redesignated) and inserting "section 371(a)(1)";

(C) by striking "paragraphs (2) and (3) of section 371(a)" in the first sentence of paragraph (2) (as so redesignated), and inserting "section 371(a)(2)"; and

(D) by adding at the end the following new paragraph:

"(3) Grants or contracts under section 371(a)(3) may be made for not more than 3 years."; and

(3) in subsection (c)—

(A) by inserting "or contract" after "grant" in the first sentence of paragraph (1);

(B) by inserting "and contracts" after "grants" each place the term appears in the second sentence of paragraph (1); and

(C) by inserting "or contract" after "grant" each place the term appears in subparagraphs (A) and (B) of paragraph (2).

SEC. 204. ADMINISTRATION.

(a) IDENTIFIABLE ADMINISTRATIVE UNIT.—Section 375 of the Public Health Service Act (42 U.S.C. 274c) is amended in the matter preceding paragraph (1) by striking ", during fiscal years 1985 through 1990,".

(b) STRIKING OF EXPIRED REQUIREMENT REGARDING CERTAIN REPORTS.—Section 375 of the Act (42 U.S.C. 274c) is amended—

(1) in paragraph (3), by striking "receiving funds under section 371"; and

(2) in paragraph (4), to read as follows:

"(4) provide information—

"(i) to patients, their families, and their physicians about transplantation; and

"(ii) to patients and their families about the resources available nationally and in each State, and the comparative costs and patient outcomes at each transplant center affiliated with the organ procurement and transplantation network, in order to assist the patients and families with the costs associated with transplantation.".

SEC. 205. REPORT.

Section 376 of the Public Health Service Act (42 U.S.C. 274d) is amended in the first sentence, by striking "The Secretary" and all that follows through "publish" and inserting "Not later than February 10 of 1991 and of each second year thereafter, the Secretary shall publish, and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

SEC. 206. STUDY BY GENERAL ACCOUNTING OFFICE AND AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Part H of title III of the Public Health Service Act (42 U.S.C. 273 et seq.) is amended by adding at the end the following new sections:

"SEC. 377. STUDY BY GENERAL ACCOUNTING OFFICE. 42 USC 274f.

"(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining—

"(1) the extent to which the procurement and allocation of organs have been equitable, efficient, and effective;

"(2) the problems encountered in the procurement and allocation; and

"(3) the effect of State required-request laws.

"(b) REPORT.—Not later than January 7, 1992, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

"SEC. 378. AUTHORIZATION OF APPROPRIATIONS. 42 USC 274g.

"For the purpose of carrying out this part, there are authorized to be appropriated $8,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

(b) CONFORMING AMENDMENT.—Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended by striking subsection (c).

42 USC 273 note.

SEC. 207. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall become effective on October 1, 1990, or on the date of the enactment of this Act, whichever occurs later.

TITLE III—SEVERABILITY

42 USC 273 note.

SEC. 301. SEVERABILITY.

If any provision of this Act, amendment made by this Act, or application of the provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions or amendments to any person or circumstance shall not be affected.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 2946:

SENATE REPORTS: No. 101-530 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 25, considered and passed Senate.
Oct. 26, considered and passed House.

○

Public Law 101-617
101st Congress

An Act

To provide a method of locating private and Government research on environmental issues by geographic location.

Nov. 16, 1990
[S. 3069]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental Research Geographic Location Information Act.
42 USC 4366a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Research Geographic Location Information Act".

SEC. 2. FINDINGS.

42 USC 4366a note.

The Congress finds that—

(1) at present, there is no reliable method of locating private or Government research on environmental issues by geographic location; and

(2) a means of identifying environmental research conducted at specific geographic locations is needed for purposes such as detecting trends in environmental quality, assisting the public in learning about the quality and issues of their local environment, and providing a data base for identifying areas of critical environmental concern.

SEC. 3. PURPOSE.

42 USC 4366a note.

The purpose of this Act is to develop a data base of environmental research articles indexed by geographic location.

SEC. 4. ENVIRONMENTAL PROTECTION AGENCY.

42 USC 4366a note.

(a) RESEARCH JOURNALS.—Within 6 months following the date of the enactment of this Act, and from time to time thereafter, the Environmental Protection Agency shall identify not less than 35 important environmental research journals, conference proceedings or other reference sources in which scientific research or engineering studies related to air, water, or soil quality or pollution or other environmental issues are routinely published. In carrying out the requirements of this subsection, at least 50 journals or proceedings shall be reviewed.

(b) INDEX.—(1) Within 12 months following the date of the enactment of this Act, and annually thereafter, the Environmental Protection Agency shall review the journals and other materials identified in subsection (a) and compile, maintain and publish an index of the articles contained therein during the preceding calendar year by geographic location. A copy of such index shall be made available to the Service for distribution to the public, and a copy shall be submitted to the Congress not less than 30 days prior to the date on which it is made available to the Service.

(2) Beginning 12 months after the date of the enactment of this Act, the Agency shall identify not less than 20 materials identified in subsection (a) which were published during the time period from 1970 to the year preceding enactment, and shall compile and publish

a series of indices of articles contained therein by geographic location. The time frame which each index contains should not exceed 5 years.

(c) PURCHASE OF INFORMATION.—The Environmental Protection Agency is authorized to enter into contracts or other arrangements for the acquisition of data and other information necessary for purposes of this Act.

(d) REVISING LIST.—The Environmental Protection Agency shall review the list of references developed under this section at least biennially and shall revise the list of sources as appropriate.

(e) SPECIFIC LOCATION OF RESEARCH PROJECTS.—Unless exempted by the Administrator of the Environmental Protection Agency, all reports resulting from research projects sponsored by the Environmental Protection Agency and initiated after the expiration of the 36-month period following the date of enactment of this Act shall indicate the specific location to which the research pertains.

42 USC 4366a note.

SEC. 5. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

42 USC 4366a note.

SEC. 6. EXPIRATION OF ACT.

This Act shall expire 10 years after the date of its enactment.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 3069:

SENATE REPORTS: No. 101-541 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 26, considered and passed Senate.
Oct. 27, considered and passed House.

○

Public Law 101-618
101st Congress

An Act

To provide for the settlement of water rights claims of the Fallon Paiute Shoshone Indian Tribes and for other purposes.

Nov. 16, 1990
[S. 3084]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990.
Nevada.
Intergovernmental relations.

TITLE I—FALLON PAIUTE SHOSHONE TRIBAL SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This Act may be cited as the "Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990".

SEC. 102. SETTLEMENT FUND.

(A) There is hereby established within the Treasury of the United States, the "Fallon Paiute Shoshone Tribal Settlement Fund", hereinafter referred to in the Act as the "Fund".

(B) There is authorized to be appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund $3,000,000 in fiscal year 1992, and $8,000,000 in each year for fiscal years 1993, 1994, 1995, 1996, and 1997 for a total sum of $43,000,000.

Appropriation authorization.

(C)(1) The income of the Fund may be obligated and expended only for the following purposes:

(a) Tribal economic development, including development of long-term profit-making opportunities for the Fallon Paiute Shoshone Tribes (hereinafter referred to in the Act as "Tribes") and its tribal members, and the development of employment opportunities for tribal members;

(b) Tribal governmental services and facilities;

(c) Per capita distributions to tribal members;

(d) Rehabilitation and betterment of the irrigation system on the Fallon Paiute Shoshone Indian Reservation (hereinafter referred to in the Act as "Reservation") not including lands added to the Reservation pursuant to the provisions of Public Law 95-337, 92 Stat. 455;

(e) Acquisition of lands, water rights or related property interests located outside the Reservation from willing sellers, and improvement of such lands;

(f) Acquisition of individually-owned land, water rights or related property interests on the Reservation from willing sellers, including those held in trust by the United States.

(2) Except as provided in subsection (C)(3) of this section, the principal of the Fund shall not be obligated or expended.

(3) In obligating and expending funds for the purposes set forth in subsections (C)(1)(d), (C)(1)(e) and (C)(1)(f) of this section, the Tribes may obligate and expend no more than 20 percent of the principal of the Fund, provided that any amounts so obligated and expended from principal must be restored to the principal from repayments of

such amounts expended for the purposes identified in this subsection, or from income earned on the remaining principal.

(4) In obligating and expending funds for the purpose set forth in subsection (C)(1)(c), no more than twenty percent of the annual income from the Fund may be obligated or expended for the purpose of providing per capita payments to tribal members.

Investments.

(D) The Tribes shall invest, manage, and use the monies appropriated to the Fund for the purposes set forth in this section in accordance with the plan developed in consultation with the Secretary under subsection (F) of this section.

Investments.

(E) Upon the request of the Tribes, the Secretary shall invest the sums deposited in, accruing to, and remaining in the Fund, in interest-bearing deposits and securities in accordance with the Act of June 24, 1938, 52 Stat. 1037, 25 U.S.C. 162a, as amended. All income earned on such investments shall be added to the Fund.

(F)(1) The Tribes shall develop a plan, in consultation with the Secretary, for the investment, management, administration and expenditure of the monies in the Fund, and shall submit the plan to the Secretary. The plan shall set forth the manner in which such monies will be managed, administered and expended for the purposes outlined in subsection (C)(1) of this section. Such plan may be revised and updated by the Tribes in consultation with the Secretary.

(2) The plan shall include a description of a project for the rehabilitation and betterment of the existing irrigation system on the Reservation. The rehabilitation and betterment project shall include measures to increase the efficiency of irrigation deliveries. The Secretary may assist in the development of the rehabilitation and betterment project, and the Tribes shall use their best efforts to implement the project within four years of the time when appropriations authorized in subsection (B) of this section become available.

(3) Upon the request of the Tribes, the Secretary of the Treasury and the Secretary of the Interior shall make available to the Tribes, monies from the Fund to serve any of the purposes set forth in subsection (C)(1) of this section, except that no disbursement shall be made to the Tribes unless and until they adopt the plan required under this section.

(G) The provisions of section 7 of Public Law 93-134, 87 Stat. 468, as amended by section 4 of Public Law 97-458, 96 Stat. 2513, 25 U.S.C. 1407, shall apply to any funds which may be distributed per capita under subsection (C)(1)(c) of this section.

SEC. 103. ACQUISITION AND USE OF LANDS AND WATER RIGHTS.

(A) Title to all lands, water rights and related property interests acquired under section 102(C)(1)(e) within the counties of Churchill and Lyon in the State of Nevada, shall be held in trust by the United States for the Tribes as part of the Reservation, provided that no more than 2,415.3 acres of such acquired lands and no more than 8,453.55 acre feet per year of such water rights shall be held in trust by the United States and become part of the Reservation under this subsection.

(B) Any lands acquired under section 102(C)(1)(e) or (f) shall be subject to the provisions of section 20 of the Act of October 17, 1988, 102 Stat. 2485.

(C)(1) Total annual use of water rights appurtenant to the Reservation which are served by the Newlands Reclamation Project, including Newlands Reclamation Project water rights added to the

Reservation under subsection (A) of this section, whether used on the Reservation or transferred and used off the Reservation pursuant to applicable law, shall not exceed the sum of:

(a) 10,587.5 acre feet of water per year, which is the quantum of water rights served by the Newlands Reclamation Project appurtenant to the Fallon Paiute Shoshone Indian Reservation lands that are currently served by irrigation facilities; and

(b) the quantum of active Newlands Reclamation Project water rights currently located outside of the Reservation that may be added to the Reservation or water rights which are acquired by the Secretary and exercised to benefit Reservation wetlands.

(2) The requirements of section 103(C)(1) shall not take effect until the Tribes agree to the limitations on annual use of water rights set forth in subsection (1) of this section.

(D) The Secretary is authorized and directed to reimburse non-Federal entities for reasonable and customary costs for delivery of Newlands Reclamation Project water to serve water rights added to the Reservation under subsection (A) of this section, and to enter into renewable contracts for the payment of such costs, for a term not exceeding forty years.

(E) Subject to the limitation on the quantum of use set forth in subsection (C) of this section, and applicable state law, all water rights appurtenant to the Reservation that are served by the Newlands Reclamation Project, including Newlands Reclamation Project water rights added to the Reservation under subsection (A) of this section, may be used for irrigation, fish and wildlife, municipal and industrial, recreation, or water quality purposes, or for any other beneficial use subject to applicable laws of the State of Nevada. Nothing in this subsection is intended to affect the jurisdiction of the Tribes or the State of Nevada, if any, over the use and transfer of water rights within the Reservation or off the Reservation, or to create any express or implied Federal reserved water right.

(F)(1) The Tribes are authorized to acquire by purchase, by exchange of lands or water rights, or interests therein, including those held in trust for the Tribes, or by gift, any lands or water rights, or interests therein, including those held in trust, located within the Reservation, for any of the following purposes:

(a) Consolidating Reservation landholdings or water rights, including those held in trust;

(b) Eliminating fractionated heirship interests in Reservation lands or water rights, including those held in trust;

(c) Providing land or water rights for any tribal program;

(d) Improving the economy of the Tribes and the economic status of tribal members through the development of industry, recreational facilities, housing projects, or other means; and

(e) General rehabilitation and enhancement of the total resource potential of the Reservation: *Provided,* That any water rights shall be transferred in compliance with applicable state law.

(2) Title to any lands or water rights, or interests therein, acquired by the Tribes within the counties of Churchill and Lyon in the State of Nevada under the authority of this subsection shall be held by the United States in trust for the Tribes.

SEC. 104. RELEASE OF CLAIMS.

(A)(1) The Secretary of the Treasury and the Secretary of the Interior shall not disburse any monies from the Fund until such time as the following conditions have been met—

(a) the Tribes have released any and all claims they may have against the United States resulting from any failure of the United States to comply with section 7 of Public Law 95-337, 92 Stat. 457;

(b) the Tribes have dismissed with prejudice their claims in Northern Paiute Nation v. United States, Docket No. 87-A, United States Claims Court;

(c) the Tribes have agreed to accept and abide by the limitation on use of water rights served by the Newlands Reclamation Project on the Reservation, as set forth in section 103(C);

(d) the Tribes have dismissed, without prejudice, their claims in Pyramid Lake Paiute Tribe of Indians v. Lujan, No. R-85-197 (D. Nev.) and their objections to the Operating Criteria and Procedures for the Newlands Reclamation Project adopted by the Secretary on April 15, 1988, provided that such dismissal shall not prejudice in any respect the Tribes' right to object in any administrative or judicial proceeding to such Operating Criteria and Procedures, or any revisions thereto, or to assert that any Operating Criteria and Procedures should be changed due to new information, changes in environmental circumstance, changes in project descriptions or other relevant considerations, in accordance with the requirements of all applicable court decrees and applicable statutory requirements;

(e) the Tribes agree to be bound by a plan developed and implemented by the Secretary in accordance with section 106 of this title; and

(f)(1) the Tribes agree to indemnify the United States against monetary claims by any landowners who may hold water rights on the Reservation as of the date of enactment of the Act and who may assert that the provisions of section 103(C) of this title effect an unlawful taking of their rights: *Provided,* That—

(i) the United States shall defend and resist any such claims at its own expense;

(ii) the Tribes shall be entitled to intervene in any administrative or judicial proceeding on such claims; and

(iii) the United States shall not compromise or settle any such claims without the consent of the Tribes.

(2) The provisions of this section shall not be construed as:

(i) implying that section 103(C) unlawfully takes any water rights;

(ii) conferring jurisdiction on any court or other tribunal to adjudicate any such taking claims;

(iii) waiving any immunities of the United States or the Tribes; or

(iv) otherwise establishing or enhancing any claims to water rights or for the unlawful taking of such rights.

(2) If the appropriations authorized in section 102(B) are not appropriated by the Congress, it shall be deemed that the conditions set forth in this Act have not been satisfied, and the Tribes may rescind their release of claims under this section and its agreement under subsection (c) of this section.

(3) Upon the appropriation of monies authorized in section 102(B) of this Act, and the allocation of such monies to the Fund, section 7 of Public Law 95-337, 92 Stat. 457, shall be repealed.

SEC. 105. LIABILITY OF THE UNITED STATES.

(A) Except with regard to the responsibilities assumed by the United States under section 102(E), and those set forth in section 1301 of the Act of February 12, 1929, 45 Stat. 1164, as amended, 25 U.S.C. 161a, the United States shall not bear any obligation or liability regarding the investment, management, or use of funds by the Tribes.

(B) Except with regard to the responsibilities assumed by the United States under section 102(B), section 102(F)(3), section 103(A), section 103(D), section 103(F)(2), section 104(A)(1), and section 106, the United States shall not bear any obligation or liability for the implementation of the provisions of this Act.

SEC. 106. PLAN FOR THE CLOSURE OF TJ DRAIN.

(A) The Secretary, in consultation with the Tribes and in accordance with applicable law, shall develop and implement a plan for the closure, including if appropriate, modification of components, of the TJ drain system, including the main TJ drain, the TJ-1 drain and the A drain and its sublaterals, in order to address any significant environmental problems with that system and its closure.

(B) The plan shall include measures to provide necessary substitute drainage in accordance with Bureau of Reclamation standards for reservation lands in agricultural production as of the 1990 irrigation season that are served by that system, unless the Tribes and the Secretary agree otherwise.

(C) Implementation of the plan shall not interfere with ongoing agricultural operations.

(D) The United States shall bear all costs for developing and implementing the plan.

(E) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Appropriation authorization.

SEC. 107. DEFINITIONS.

For purposes of this title, and for no other purposes—

(A) the term "Fallon Paiute Shoshone Tribal Settlement Fund" or "Fund" means the Fund established under section 102(A) of this Act to enable the Fallon Paiute Shoshone Tribes to carry out the purposes set forth in section 102(C)(1) of this title;

(B) the term "income" means all interest, dividends, gains and other earnings resulting from the investment of the principal of the Fallon Paiute Shoshone Tribal Settlement Fund, and the earnings resulting from the investment of such income;

(C) the term "principal" means the total sum of monies appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund under section 102(B) of this Act;

(D) the term "Reservation" means the lands set aside for the benefit of the Fallon Paiute Shoshone Tribes by the orders of the Department of the Interior of April 20, 1907, and November 21, 1917, as expanded and confirmed by the Act of August 4, 1978, Public Law 95-337, 92 Stat. 457;

(E) the term "Secretary" means the Secretary of the Department of the Interior;

(F) the term "tribal members" means the enrolled members of the Fallon Paiute Shoshone Tribes; and

(G) the term "Tribe" means the Fallon Paiute-Shoshone Tribe.

TITLE II—TRUCKEE-CARSON-PYRAMID LAKE WATER SETTLEMENT

Truckee-Carson-Pyramid Lake Water Rights Settlement Act. California. Fish. Wildlife. Business and industry. Irrigation. Recreation and recreation areas.

SEC. 201. SHORT TITLE.

This title may be cited as the "Truckee-Carson-Pyramid Lake Water Rights Settlement Act".

SEC. 202. PURPOSES.

The purposes of this title shall be to—

(a) provide for the equitable apportionment of the waters of the Truckee River, Carson River, and Lake Tahoe between the State of California and the State of Nevada;

(b) authorize modifications to the purposes and operation of certain Federal Reclamation project facilities to provide benefits to fish and wildlife, municipal, industrial, and irrigation users, and recreation;

(c) authorize acquisition of water rights for fish and wildlife;

(d) encourage settlement of litigation and claims;

(e) fulfill Federal trust obligations toward Indian tribes;

(f) fulfill the goals of the Endangered Species Act by promoting the enhancement and recovery of the Pyramid Lake fishery; and

(g) protect significant wetlands from further degradation and enhance the habitat of many species of wildlife which depend on those wetlands, and for other purposes.

SEC. 203. DEFINITIONS.

For purposes of this title:

(a) the term "Alpine court" means the court having continuing jurisdiction over the Alpine decree;

(b) the term "Alpine decree" means the final decree of the United States District Court for the District of Nevada in United States of America v. Alpine Land and Reservoir Company, Civ. No. D-183, entered December 18, 1980, and any supplements thereto;

(c) the term "Carson River basin" means the area which naturally drains into the Carson River and its tributaries and into the Carson River Sink, but excluding the Humboldt River drainage area;

(d) the term "Fallon Tribe" means the Fallon Paiute-Shoshone Tribe;

(e) the term "Lahontan Valley wetlands" means wetland areas associated with the Stillwater National Wildlife Refuge, Stillwater Wildlife Management Area, Carson Lake and Pasture, and the Fallon Indian Reservation;

(f) the term "Lake Tahoe basin" means the drainage area naturally tributary to Lake Tahoe, including the lake, and including the Truckee River upstream of the intersection between the Truckee River and the western boundary of Section

12, Township 15 North, Range 16 East, Mount Diablo Base and Meridian;

(g) the term "Lower Truckee River" means the Truckee River below Derby Dam;

(h) the term "Operating Agreement" means the agreement to be negotiated between the Secretary and the States of California and Nevada and others, as more fully described in section 205 of this title;

(i) the term "Orr Ditch court" means the court having continuing jurisdiction over the Orr Ditch decree;

(j) the term "Orr Ditch decree" means the decree of the United States District Court for the District of Nevada in United States of America v. Orr Water Ditch Company, et al.—in Equity, Docket No. A3, including, but not limited to the Truckee River Agreement;

(k) the term "Preliminary Settlement Agreement as Modified by the Ratification Agreement" means the document with the title "Ratification Agreement by the United States of America," including Exhibit "1" attached thereto, submitted to the Chairman, Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, by the Assistant Secretary for Water and Science, United States Department of the Interior, on August 2, 1990, as may be amended under the terms thereof. A copy of this agreement is included in the report of the Committee on Energy and Natural Resources as Appendix 1 to the Committee's report accompanying S. 1554;

(l) the term "Pyramid Lake fishery" means two fish species found in Pyramid Lake, the cui-ui (Chasmistes cujus) and the Lahontan cutthroat trout (Salmo clarki henshawi);

(m) the term "Pyramid Lake Tribe" means the Pyramid Lake Paiute Tribe;

(n) the term "Secretary" means the Secretary of the Interior;

(o) the term "Truckee River Agreement" means a certain agreement dated July 1, 1935 and entered into by the United States of America, Truckee-Carson Irrigation District, Washoe County Water Conservation District, Sierra Pacific Power Company, and other users of the waters of the Truckee River;

(p) the term "Truckee River basin" means the area which naturally drains into the Truckee River and its tributaries and into Pyramid Lake, including that lake, but excluding the Lake Tahoe basin;

(q) the term "Truckee River General Electric court" means the United States District Court for the Eastern District of California court having continuing jurisdiction over the Truckee River General Electric decree;

(r) the term "Truckee River General Electric decree" means the decree entered June 4, 1915, by the United States District Court for the Northern District of California in United States of America v. Truckee River General Electric Co., No. 14861, which case was transferred to the United States District Court for the Eastern District of California on February 9, 1968, and is now designated No. S-643;

(s) the term "Truckee River reservoirs" means the storage provided by the dam at the outlet of Lake Tahoe, Boca Reservoir, Prosser Creek Reservoir, Martis Reservoir, and Stampede Reservoir; and

(t) the term "1948 Tripartite Agreement" means the agreement between the Truckee-Carson Irrigation District, the Nevada State Board of Fish and Game Commissioners, and the United States Fish and Wildlife Service regarding the establishment, development, operation, and maintenance of Stillwater National Wildlife Refuge and Management Area, dated November 26, 1948.

SEC. 204. INTERSTATE ALLOCATION.

(a) CARSON RIVER.—

(1) The interstate allocation of waters of the Carson River and its tributaries represented by the Alpine decree is confirmed.

(2) The allocations confirmed in paragraph (1) of this subsection shall not be construed as precluding, foreclosing, or limiting the assertion of any additional right to the waters of the Carson River or its tributaries which were in existence under applicable law as of January 1, 1989, but are not recognized in the Alpine decree. The allocation made in paragraph (1) of this subsection shall be modified to accommodate any such additional rights, and such additional rights, if established, shall be administered in accordance with the terms of the Alpine decree; except that the total amount of such additional allocations shall not exceed 1,300 acre-feet per year by depletion for use in the State of California and 2,131 acre-feet per-year by depletion for use in the State of Nevada. This paragraph shall not be construed to allow any increase in diversions from the Carson River or its tributaries beyond those in existence on December 31, 1992.

(3) If, on or after the date of enactment of this title, all or any portion of the effluent imported from the Lake Tahoe basin into the watershed of the Carson River in California is discontinued by reason of a change in the place of the disposal of such effluent, including underground disposal, to the Truckee River basin or the Lake Tahoe basin, in a manner which results in increasing the available supply of water in the Nevada portion of the Truckee River basin, the allocation to California of the water of the West Fork of the Carson River and its tributaries for use in the State of California shall be augmented by an amount of water which may be diverted to storage, except that such storage:

(A) shall not interfere with other storage or irrigation rights of Segments 4 and 5 of the Carson River, as defined in the Alpine decree;

(B) shall not cause significant adverse effects to fish and wildlife;

(C) shall not exceed 2,000 acre-feet per year, or the quantity by which the available annual supply of water to the Nevada portion of the Truckee River basin is increased, whichever is less; and

(D) shall be available for irrigation use in that or subsequent years, except that the cumulative amount of such storage shall not exceed 2,000 acre-feet in any year.

(4) Storage specified by paragraph (3) of this subsection shall compensate the State of California for any such discontinuance as referred to in such paragraph: *Provided,* That the augmentation authorized by such paragraph shall be used only on lands having appurtenant Alpine decree rights. Use of effluent for the

irrigation of lands with appurtenant Alpine decree rights shall not result in the forfeiture or abandonment of all or any part of such appurtenant Alpine decree rights, but use of such wastewater shall not be deemed to create any new or additional water rights. Nothing in this title shall be construed as prohibiting the use of all or any portion of such effluent on any lands within the State of California. Any increased water delivered to the Truckee River shall only be available to satisfy existing rights under the Orr Ditch decree or, as appropriate, to augment inflows to Pyramid Lake.

(5) Nothing in this title shall foreclose the right of either State to study, either jointly or individually, the use of Carson River surface water, which might otherwise be lost to beneficial use, to enable conjunctive use of groundwater. For purposes of this paragraph, beneficial use shall include the use of water on wetlands or wildlife areas within the Carson River basin, as may be permitted under State law.

(6) Nothing in this title shall preclude the State of Nevada, agencies of the State of Nevada, private entities, or individuals from constructing storage facilities within the Carson River basin, except that such storage facilities shall be constructed and operated in accordance with all applicable State and Federal laws and shall not result in the inundation of any portion of the East Fork of the Carson River within California.

(7) The right of any water right owner to seek a change in the beneficial use of water from irrigation to storage for municipal and industrial uses or other beneficial uses, as determined by applicable State law, is unaffected by this title. Water stored for municipal and industrial uses may be diverted to storage in a given year and held for municipal and industrial uses in that year or subsequent years. Such changes and storage shall be in accordance with the Alpine decree and applicable State laws.

(8) Interbasin transfers of Carson River water shall be allowed only as provided by applicable State law.

(b) LAKE TAHOE.—

(1) Total annual gross diversions for use within the Lake Tahoe basin from all natural sources, including groundwater, and under all water rights in the basin shall not exceed 34,000 acre-feet per year. From this total, 23,000 acre-feet per year are allocated to the State of California for use within the Lake Tahoe basin and 11,000 acre-feet per year are allocated to the State of Nevada for use within the Lake Tahoe basin. Water allocated pursuant to this paragraph may, after use, be exported from the Lake Tahoe basin or reused.

(2) Total annual gross diversions for use allocated pursuant to paragraph (1) of this subsection shall be determined in accordance with the following conditions:

(A) Water diverted and used to make snow within the Lake Tahoe basin shall be charged to the allocation of each State as follows:

(i) the first 600 acre-feet used in California each year and the first 350 acre-feet used each year in Nevada shall not be charged to the gross diversion allocation of either State;

(ii) where water from the Lake Tahoe basin is diverted and used to make snow in excess of the amounts specified in clause (i) of this subparagraph, the percent-

age of such diversions chargeable to the gross diversion allocations of each State shall be specified in the Operating Agreement; and

(iii) the provisions of paragraph 204(b)(1) notwithstanding, criteria for charging incidental runoff, if any, into the Carson River basin or the Truckee River basin, including the amount and basin to be charged, from use of water in excess of the amount specified in clause (i) of this subparagraph, shall be specified in the Operating Agreement. The amounts of such water, if any, shall be included in each State's report prepared pursuant to paragraph 204(d)(1) of this title.

(B) Unmetered diversion or extraction of water by residences shall, for the purpose of calculating the amount of either State's gross diversion, be conclusively presumed to utilize a gross diversion of four-tenths of one acre-foot per residence per year.

(C) Where water is diverted by a distribution system, as defined in clause (iii) of this subparagraph, the amount of such water that shall be charged to the gross diversion allocation of either California or Nevada shall be measured as follows:

(i) where a water distribution system supplies any municipal, commercial, and/or industrial delivery points (not including fire hydrants, flushing or cleaning points), any one of which is not equipped with a water meter, the gross diversion attributed to that water distribution system shall be measured at the point of diversion or extraction from the source; or

(ii) where all municipal, commerical, and industrial delivery points (not including fire hydrants, flushing or cleaning points) within a water distribution system are equipped with a water meter, the gross diversion attributed to that water distribution system may be measured as the sum of all amounts of water supplied to each such delivery point, provided there is in effect for such water distribution system a water conservation and management plan. Such plan may be either an individual, local plan or an area-wide, regional, or basin-wide plan, except that such plan must be reviewed and found to be reasonable under all relevant circumstances by the State agency responsible for administering water rights, or any other entity delegated such responsibility under State law. Such plan must be reviewed every five years by the agency which prepared it, and implemented in accordance with its adopted schedule, and shall include all elements required by applicable State law and the following:

(a) an estimate of past, current, and projected water use and, to the extent records are available, a segregation of those uses between residential, industrial, and governmental uses;

(b) identification of conservation measures currently adopted and in practice;

(c) a description of alternative conservation measures, including leak detection and prevention and reduction in unaccounted for water, if any,

which would improve the efficiency of water use, with an evaluation of the costs, and significant environmental and other impacts of such measures;

(d) a schedule of implementation for proposed actions as indicated by the plan;

(e) a description of the frequency and magnitude of supply deficiencies, including conditions of drought and emergency, and the ability to meet short-term deficiencies;

(f) an evaluation of management of water system pressures and peak demands;

(g) an evaluation of incentives to alter water use practices, including fixture and appliance retrofit programs;

(h) an evaluation of public information and educational programs to promote wise use and eliminate waste;

(i) an evaluation of changes in pricing, rate structure, and regulations; and

(j) an evaluation of alternative water management practices, taking into account economic and non-economic factors (including environmental, social, health, and customer impact), technological factors, and incremental costs of additional supplies.

(iii) As used in this subparagraph, the term "water distribution system" means a point or points of diversion from a water supply source or sources, together with associated piping, which serve a number of indentifiable delivery points: *Provided,* That the distribution system is not operationally interconnected with other distribution systems (except for emergency cross-ties) which are served from other points of diversion. An agency serving municipal and industrial water may have more than one water distribution system.

(iv) If a program for the review of water conservation and management plans as provided in clause (ii) of this subparagraph is not in effect in that portion of the Lake Tahoe basin within a State, all gross diversions within such State shall be measured at the point of diversion.

(D) For the purpose of this subsection, water inflow and infiltration to sewer lines shall not be considered a diversion of water, and such water shall not be charged to the gross diversion allocation of either State.

(E) Regulation of streamflow for the purpose of preserving or enhancing instream beneficial uses shall not be charged to the gross diversion allocation of either State.

(3) The transbasin diversions from the Lake Tahoe basin in Nevada and California identified in this paragraph may be continued, to the extent that such diversions are recognized as vested or perfected rights under the laws of the State where each diversion is made. Unless otherwise provided in this subsection, such diversions are in addition to the other allocations made by this subsection. Such transbasin diversions are the following:

(A) diversion of a maximum of 3,000 acre-feet per year from Marlette Lake for use in Nevada;

(B) diversion of a maximum of 561 acre-feet per year from Lake Tahoe for use in Nevada as set forth in Nevada Permit to Appropriate Water No. 23017, except that such diversion shall count against the allocation to Nevada made by this subsection;

(C) diversion of water from Echo Lake for use in California, pursuant to rights vested under California law; and

(D) diversion of water from North Creek as set forth in the State of Nevada Certificate of Appropriation of Water No. 4217.

The transbasin diversions identified in subparagraphs (A), (C), and (D) of this paragraph may be transferred, for use only in the State where the recognized transbasin diversion exists, by lease of the right of use or by conveyance of the right, to the extent to which the right is vested or has been perfected. Any such transfer shall be subject to the applicable laws of the State in which the right is vested or perfected. The transbasin diversion described in subparagraph (B) of this paragraph may be transferred in accordance with State law. With the exception of the transbasin diversion described in subparagraph (B), all water made available for use within the Lake Tahoe basin as a result of any such transfer shall not be charged against the allocations made by this section, and such water may be depleted.

(c) TRUCKEE RIVER.—

(1) There is allocated to the State of California the right to divert or extract, or to utilize any combination thereof, within the Truckee River basin in California the gross amount of 32,000 acre-feet of water per year from all natural sources, including both surface and groundwater, in the Truckee River basin subject to the following terms and conditions:

Sierra Pacific Power Company.

(A) maximum annual diversion of surface supplies shall not exceed 10,000 acre-feet; except that all diversions of surface supplies for use within California shall be subject to the right to water for use on the Pyramid Lake Indian Reservation in amounts as provided in Claim Nos. 1 and 2 of the Orr Ditch decree, and all such diversions initiated after the date of enactment of this title shall be subject to the right of the Sierra Pacific Power Company or its successor to divert forty (40) cubic feet per second of water for municipal, industrial, and domestic use in the Truckee Meadows in Nevada, as such right is more particularly described in Article V of the Truckee River Agreement;

(B) all new wells drilled after the date of enactment of this title shall be designed to minimize any short-term reductions of surface streamflows to the maximum extent feasible;

(C) any use within the State of Nevada of any Truckee River basin groundwater with a point of extraction within California shall be subordinate to existing and future uses in California, and any such use of water in Nevada shall cease to the extent that it causes extractions to exceed safe yield;

(D) except as otherwise provided in this paragraph, the extraction and use of groundwater pursuant to this subsec-

tion shall be subject to all terms and conditions of California law;

(E) determination of safe yield of any groundwater basin in the Truckee River basin in California shall be made by the United States Geological Survey in accordance with California law;

(F) water shall not be diverted from within the Truckee River basin in California for use in California outside the Truckee River basin;

(G) if the Tahoe-Truckee Sanitation Agency or its successor (hereafter "TTSA") changes in whole or in part the place of disposal of its treated wastewater to a place outside the area between Martis Creek and the Truckee River below elevation 5800 NGVD Datum, or changes the existing method of disposing of its wastewater, which change in place or method of disposal reduces the amount or substantially changes the timing of return flows to the Truckee River of the treated wastewater, TTSA shall:

(i) acquire or arrange for the acquisition of preexisting water rights to divert and use water of the Truckee River or its tributaries in California or Nevada and discontinue the diversion and use of water at the preexisting point of diversion and place of use under such rights in a manner legally sufficient to offset such reduction in the amount of return flow or change in timing, and California's Truckee River basin gross diversion allocation shall continue to be charged the amount of the discontinued diversion; or

(ii) in compliance with California law, extract and discharge into the Truckee River or its tributaries an amount of Truckee River basin groundwater in California sufficient to offset such reduction or change in timing, subject to the following conditions:

(a) extraction and discharge of Truckee River Basin groundwater for purposes of this paragraph shall comply with the terms and conditions of subparagraphs 204(c)(1) (B) and (D) and shall not be deemed use of Truckee River basin groundwater within the State of Nevada within the meaning of subparagraph 204(c)(1)(D); and

(b) California's Truckee River basin gross diversion allocation shall be charged immediately with the amount of groundwater discharged and, when California's Truckee River Basin gross diversion allocation equals 22,000 acre-feet or when the total of any reductions resulting from the changes in the place or method of disposal exceed 1000 acre-feet, whichever occurs first, the California Truckee River basin gross diversion allocation shall thereafter be charged with an additional amount of water required to compensate for the return flows which would otherwise have accrued to the Truckee River basin from municipal and industrial use of the discharged groundwater. In no event shall the total of California's Truckee River gross diversions and extractions exceed 32,000 acre-feet.

(iii) For purposes of this paragraph, the existing method of disposal shall include, in addition to underground leach field disposal, surface spray or sprinkler infiltration of treated wastewater on the site between Martis Creek and the Truckee River referred to in this subsection.

(iv) The provisions of this paragraph requiring the acquisition of water rights or the extraction and discharge of groundwater to offset reductions in the amount or timing of return flow to the Truckee River shall also apply to entities other than TTSA that may treat and dispose of wastewater within the California portion of the Truckee River basin, but only if and to the extent that the treated wastewater is not returned to the Truckee River or its tributaries, as to timing and amount, substantially as if the wastewater had been treated and disposed of by TTSA in its existing place of disposal and by its existing method of disposal. The provisions of this paragraph shall not apply to entities treating and disposing of the wastewater from less than eight dwelling units.

(H) All uses of water for commercial, irrigated agriculture within the Truckee River basin within California initiated after the date of enactment of this title shall not impair and shall be junior and subordinate to all beneficial uses in Nevada, including, but not limited to, the use of water for the maintenance and preservation of the Pyramid Lake fishery. As used in this provision, the term "commercial, irrigated agriculture" shall include traditional commercial irrigated farming operations but shall not include the following uses: irrigated golf courses and other recreational facilities, commercial nurseries, normal silvicultural activities other than commercial tree farms, irrigation under riparian rights on land irrigated at any time prior to the date of enactment of this title, lawns and ornamental shrubbery on parcels which include commercial, residential, governmental, or public buildings, and irrigated areas of two acres or less on parcels which include a residence.

(I) Water diverted within the Truckee River basin and used to make snow shall be charged to California's Truckee River allocation as follows:

(i) the first 225 acre-feet used in California each year shall not be charged to the gross diversion allocation;

(ii) where water from the Truckee River basin is diverted and used to make snow in excess of the amounts specified in clause (i) of this subparagraph, the percentage of such diversions chargeable to such allocation shall be specified in the Operating Agreement; and

(iii) the provision of subparagraph 204(c)(1)(F) notwithstanding, criteria for charging incidental runoff, if any, into the Lake Tahoe basin, including the amount and basin to be charged, from use of water in excess of the amount specified in clause (i) of this subparagraph, shall be specified in the Operating Agreement. The amounts of such water, if any, shall be included in each State's report prepared pursuant to paragraph 204(d)(1).

(J) Unmetered diversion or extraction of water by residences, shall, for the purpose of calculating the amount of California's gross diversion, be conclusively presumed to utilize a gross diversion of four-tenths of one acre-foot per residence per year.

(K) For the purposes of this subsection, water inflow and infiltration to sewer lines is not a diversion of water, and such water shall not be charged to California's Truckee River basin allocation.

(2) There is additionally allocated to California the amount of water decreed to the Sierra Valley Water Company by judgment in the case of United States of America v. Sierra Valley Water Company, United States District Court for the Northern District of California, Civil No. 5597, as limited by said judgment.

(3) There is allocated to the State of Nevada all water in excess of the allocations made in paragraphs 204(c) (1) and (2) of this title.

(4) The right to water for use on the Pyramid Lake Indian Reservation in the amounts provided in Claim Nos. 1 and 2 of the Orr Ditch decree is recognized and confirmed. In accordance with and subject to the terms of the Orr Ditch decree and applicable law, the United States, acting for and on behalf of the Pyramid Lake Tribe, and with the agreement of the Pyramid Lake Tribe, or the Pyramid Lake Tribe shall have the right to change points of diversion, place, means, manner, or purpose of use of the water so decreed on the reservation.

(d) COMPLIANCE.—

(1) Compliance with the allocations made by this section and with other provisions of this section applicable to each State shall be assured by each State. With the third quarter following the end of each calendar year, each State shall publish a report of water use providing information necessary to determine compliance with the terms and conditions of this section. Reports.

(2) The United States District Courts for the Eastern District of California and the District of Nevada shall have jurisdiction to hear and decide any claims by any aggrieved party against the State of California, State of Nevada, or any other party where such claims allege failure to comply with the allocations or any other provision of this section. Normal rules of venue and transfers of cases between Federal courts shall remain in full force and effect. Each State, by accepting the allocations under this section, shall be deemed to have waived any immunity from the jurisdiction of such courts. Courts. Claims.

(e) FORFEITURE OR ABANDONMENT.—The provisions of this section shall not be interpreted to alter or affect the applicability of the law of each State regarding the forfeiture for nonuse or abandonment of any water right established in accordance with State law, nor shall the forfeiture for nonuse or abandonment of water rights under the applicable law of each State affect the allocations to each State made by this title.

(f) INTERSTATE TRANSFERS.—

(1) Nothing in this title shall prevent the interstate transfer of water or water rights for use within the Truckee River basin, subject to the following provisions:

(A) Each such interstate transfer shall comply with all State laws applicable to transfer of water or water rights,

including but not limited to State laws regulating change in point of diversion, place of use, and purpose of use of water, except that such laws must apply equally to interstate and intrastate transfers.

(B) Use of water so transferred shall be charged to the allocation of the State wherein use of water was being made prior to the transfer.

(C) Subject to subparagraph (A) of this paragraph, in addition to the application of State laws intended to prevent injury to other lawful users of water, each State may, to the extent authorized by State law, deny or condition a proposed interstate transfer of water or water rights having a source within the Truckee River basin where the State agency responsible for administering water rights finds, on the basis of substantial evidence that the transfer would have substantial adverse impacts on the environment or overall economy of the area from which the use of the water or water right would be transferred.

(D) Nothing in this paragraph shall be construed to limit the jurisdiction of any court to review any action taken pursuant to this paragraph.

(2) The jurisdiction of the Alpine court to administer, inter alia, interstate transfers of water or water rights on the Carson River under the Alpine decree, pursuant to jurisdiction reserved therein, including any amendment or supplement thereto, is confirmed. Each State may intervene of right in any proceeding before the Alpine court wherein the reserved jurisdiction of that court is invoked with respect to an interstate transfer of water or water rights, and may report to the court findings or decisions concerning the proposed change which have been made by the State agency responsible for administering water rights under any State law applicable to transfers or change in the point of diversion, purpose of use, or place of use of water.

(3) This subsection shall not be construed to authorize the State of California or the State of Nevada to deny or condition a transfer application made by the United States or its agencies if such denial or conditioning would be inconsistent with any clear congressional directive.

(g) USE OF WATER BY THE UNITED STATES.—Use of water by the United States of America or any of its agencies or instrumentalities, or by any Indian Tribe shall be charged to the allocation of the State wherein the use is made, except as otherwise provided in subsection (f) of this section.

(h) COURT DECREES.—Nothing in this section shall be construed as modifying or terminating any court decree, or the jurisdiction of any court.

(i) PLACE OF USE TO DETERMINE ALLOCATION.—Water diverted or extracted in one State for use in the other shall be charged to the allocation under this section of the State in which the water is used, except as otherwise provided in subsection (f) of this section.

(j) APPLICABILITY OF STATE LAW.—Nothing in this section shall be construed to alter the applicability of State law or procedures to the water allocated to the States hereunder.

SEC. 205. TRUCKEE RIVER WATER SUPPLY MANAGEMENT.

(a) OPERATING AGREEMENT.—

(1) The Secretary shall negotiate an operating agreement (hereafter "Operating Agreement") with the State of Nevada and the State of California, after consultation with such other parties as may be designated by the Secretary, the State of Nevada or the State of California.

(2) The Operating Agreement shall provide for the operation of the Truckee River reservoirs and shall ensure that the reservoirs will be operated to:

(A) satisfy all applicable dam safety and flood control requirements;

(B) provide for the enhancement of spawning flows available in the Lower Truckee River for the Pyramid Lake fishery in a manner consistent with the Secretary's responsibilities under the Endangered Species Act, as amended;

(C) carry out the terms, conditions, and contingencies of the Preliminary Settlement Agreement as modified by the Ratification Agreement. Mitigation necessary to reduce or avoid significant adverse environmental effects, if any, of the implementation of the Preliminary Settlement Agreement as modified by the Ratification Agreement, including instream beneficial uses of water within the Truckee River basin, shall be provided through one or more mitigation agreements which shall be negotiated and executed by the parties to the Preliminary Settlement Agreement as modified by the Ratification agreement and the appropriate agencies of the States of Nevada and California;

(D) ensure that water is stored in and released from Truckee River reservoirs to satisfy the exercise of water rights in conformance with the Orr Ditch decree and Truckee River General Electric decree, except for those rights that are voluntarily relinquished by the parties to the Preliminary Settlement Agreement as modified by the Ratification Agreement, or by any other persons or entities, or which are transferred pursuant to State law; and

(E) minimize the Secretary's costs associated with operation and maintenance of Stampede Reservoir.

(3) The Operating Agreement may include, but is not limited to, provisions concerning the following subjects:

(A) administration of the Operating Agreement, including but not limited to establishing or designating an agency or court to oversee operation of the Truckee River and Truckee River reservoirs;

(B) means of assuring compliance with the provisions of the Preliminary Settlement Agreement as modified by the Ratification Agreement and the Operating Agreement;

(C) operations of the Truckee River system which will not be changed;

(D) operations and procedures for use of Federal facilities for the purpose of meeting the Secretary's responsibilities under the Endangered Species Act, as amended;

(E) methods to diminish the likelihood of Lake Tahoe dropping below its natural rim and to improve the efficient use of Lake Tahoe water under extreme drought conditions;

(F) procedures for management and operations at the Truckee River reservoirs;

(G) procedures for operation of the Truckee River reservoirs for instream beneficial uses of water within the Truckee River basin;

(H) operation of other reservoirs in the Truckee River basin to the extent that owners of affected storage rights become parties to the Operating Agreement; and

(I) procedures and criteria for implementing California's allocation of Truckee River water.

(4) To enter into effect, the Operating Agreement shall be executed by the Secretary, the State of Nevada, and the State of California and shall be submitted to the Orr Ditch court and the Truckee River General Electric court for approval of any necessary modifications in the provisions of the Orr Ditch decree or the Truckee River General Electric decree. Other affected parties may be offered the opportunity to execute the Operating Agreement.

Regulations.

(5) When an Operating Agreement meeting the requirements of this subsection has been approved by the Secretary, the State of Nevada, and the State of California, the Secretary, pursuant to title 5 of the United States Code, shall promulgate the Operating Agreement, together with such additional measures as have been agreed to by the Secretary, the State of Nevada, and the State of California, as the exclusive Federal regulations governing the Operating Agreement. The Secretary and the other signatories to the Operating Agreement shall, if necessary, develop and implement a plan to mitigate for any significant adverse environmental impacts resulting from the Operating Agreement. Any subsequent changes to the Operating Agreement must be adopted and promulgated in the same manner as the original Operating Agreement. Any changes which affect the Preliminary Settlement Agreement as modified by the Ratification Agreement must also be approved by the signatories thereto. Judicial review of any such promulgation of the Operating Agreement may be had by any aggrieved party in the United States District Court for the Eastern District of California or the United States District Court for District of Nevada. A request for review must be filed not later than 90 days after the promulgation of the Operating Agreement becomes final, and by a person who participated in the administrative proceedings leading to the final promulgation. The scope of such review shall be limited to the administrative record and the standard of review shall be that prescribed in 5 U.S.C. 706(2)(A)–(D): *Provided,* That the limits on judicial review in this paragraph shall not apply to any claim based on the provisions of the Endangered Species Act, as amended.

(6) The Secretary shall take such other actions as are necessary to implement the Preliminary Settlement Agreement as modified by the Ratification Agreement and to implement the Operating Agreement, including entering into contracts for the use of space in Truckee River reservoirs for the purposes of storing or exchanging water, subject to the preconditions that the Sierra Pacific Power Company and the Secretary shall have executed a mutually satisfactory agreement for payment by Sierra-Pacific Power Company of appropriate amounts for the availability and use of storage capacity in Stampede Reservoir and other reservoirs.

(7) As provided in the Preliminary Settlement Agreement as modified by the Ratification Agreement, firm and non-firm municipal and industrial credit water and the 7,500 acre-feet of fishery credit water in Stampede Reservoir to be available under worse than critical drought conditions shall be used only to supply municipal and industrial needs when drought conditions or emergency or repair conditions exist, or as may be required to be converted to fishery credit water. None of these quantities of water shall be used to serve normal year municipal and industrial needs except when an emergency or repair condition exists. Disaster assistance.

(8) Subject to the terms and conditions of the Preliminary Settlement Agreement as modifed by the Ratification Agreement, all of the fishery credit water established thereunder shall be used by the United States solely for the benefit of the Pyramid Lake fishery.

(9) In negotiating the Operating Agreement, the Secretary shall satisfy the requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof. The Secretary may not become a party to the Operating Agreement if the Secretary determines that the effects of such action, together with cumulative effects, are likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of any designated critical habitat of such species. Endangered and threatened species.

(b) AUTHORIZATION FOR USE OF WASHOE PROJECT FACILITIES, TRUCKEE RIVER STORAGE FACILITIES, AND LAKE TAHOE DAM AND RESERVOIR.—

(1) The Secretary is authorized to use Washoe Project facilities, Truckee River Storage Project facilities, and Lake Tahoe Dam and Reservoir for the storage of non-project water to fulfill the purposes of this title, including the Preliminary Settlement Agreement as modified by the Ratification Agreement and the Operating Agreement. The Secretary shall collect appropriate charges for such uses.

(2) Payments received by the Secretary pursuant to this subsection and paragraph 205(a)(6) shall be credited annually first to pay the operation and maintenance costs of Stampede Reservoir, then covered into the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund created pursuant to subsection 206(f) of this title, with funds not needed for those purposes, if any, credited to the Reclamation Fund.

(3) The Secretary is authorized to enter into an interim agreement with the Sierra Pacific Power Company and Pyramid Lake Tribe to store water owned by Sierra Pacific Power Company in Stampede Reservoir, except that the amount of such storage shall not exceed 5,000 acre-feet on September 1 of any year, such agreement shall be superseded by the Preliminary Settlement as modified by the Ratification Agreement and the Operating Agreement upon the entry into effect of those agreements.

(c) RELEASE OF WASHOE PROJECT REPAYMENT OBLIGATION.—The Secretary is released from any obligation to secure payment for the costs of constructing Washoe Project facilities, other than the power plant, including those specified in the Act of August 1, 1956, 70 Stat. 775, and under Federal reclamation laws, and such costs are hereby made non-reimbursable. Authority to construct a reservoir at the 43 USC 614 note.

Watasheamu site, together with other necessary works for impoundment, diversion, and delivery of water, generation and transmission of hydroelectric power, and drainage of lands as conferred to the Secretary in the Act of August 1, 1956, 70 Stat. 775, is hereby revoked.

43 USC 614-614d.

SEC. 206. WETLANDS PROTECTION.

(a) AUTHORIZATION TO PURCHASE WATER RIGHTS.—

(1) The Secretary is authorized and directed, in conjunction with the State of Nevada and such other parties as may provide water and water rights for the purposes of this section, to acquire by purchase or other means water and water rights, with or without the lands to which such rights are appurtenant, and to transfer, hold, and exercise such water and water rights and related interests to sustain, on a long-term average, approximately 25,000 acres of primary wetland habitat within the Lahontan Valley wetlands in accordance with the following provisions of this subsection:

(A) water right acquired under this subsection shall, to the maximum extent practicable, be used for direct application to such wetlands and shall not be sold, exchanged, or otherwise disposed of except as provided by the National Wildlife Refuge Administration Act and for the benefit of fish and wildlife within the Lahontan Valley;

(B) the Secretary shall select from any water rights acquired pursuant to this subsection those water rights or portions thereof, if not all, that can be transferred to the wetlands referenced in this subsection consistent with subsection 209(b) of this title; and

(C) in implementing this subsection, the Secretary shall consult with the State of Nevada and affected interests. Those water rights or portions thereof, if not all, which the Secretary selects for transfer shall then be transferred in accordance with applicable court decrees and State law, and shall be used to apply water directly to wetlands. No water rights shall be purchased, however, unless the Secretary expects that the water rights can be so transferred and applied to direct use to a substantial degree.

(2) Acquisition of water rights and related interests pursuant to this subsection shall be subject to the following conditions:

(A) water right purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to such a purchase program;

(B) water rights acquired by the Secretary shall be managed by the Secretary after consultation with the State of Nevada and affected interests, except that any water rights acquired for Fallon Indian Reservation wetlands shall be managed by the Secretary in consultation with the Fallon Tribe; and

Records.

(C) prior to acquiring any water or water rights in the State of California for the Lahontan Valley wetlands, the Secretary shall first consult with the Governor of California and shall prepare a record of decision on the basis of such consultations.

(3) The Secretary is authorized to:

(A) use, modify, or extend, on a non-reimbursable basis, Federal water diversion, storage, and conveyance systems to deliver water to wetlands referenced in paragraph (a)(1) of this subsection, including the Fernley Wildlife Management Area;

(B) reimburse non-Federal entities for reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water in carrying out the provisions of this subsection; and

(C) enter into renewable contracts for the payment of reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water acquired by the Secretary to benefit the Lahontan Valley wetlands. The contracts shall be for a term not exceeding 40 years. Any such contract shall provide that upon the failure of the Secretary to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract, subject to the availability of appropriations.

(4) Consistent with fulfillment of this subsection and not as a precondition thereto, the Secretary shall study and report on the social, economic, and environmental effects of the water rights purchase program authorized by this subsection and the water management measures authorized by subsection 206(c). This study may be conducted in coordination with the studies authorized by paragraph 207(c)(5) and subsection 209(c) of this title, and shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate, and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three years after the date of enactment of this Act. Reports.

(b) EXPANSION OF STILLWATER NATIONAL WILDLIFE REFUGE.— 16 USC 668dd note.

(1) Notwithstanding any other provision of law, the Secretary shall manage approximately 77,520 acres of Federal land in the State of Nevada, as depicted upon a map entitled "Stillwater National Wildlife Refuge," dated July 16, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service, as a unit of the National Wildlife Refuge System.

(2) The lands identified in paragraph (1) of this subsection shall be known as the Stillwater National Wildlife Refuge and shall be managed by the Secretary through the United States Fish and Wildlife Service for the purposes of:

(A) maintaining and restoring natural biological diversity within the refuge;

(B) providing for the conservation and management of fish and wildlife and their habitats within the refuge;

(C) fulfilling the international treaty obligations of the United States with respect to fish and wildlife; and

(D) providing opportunities for scientific research, environmental education, and fish and wildlife oriented recreation.

(3) The Secretary shall administer all lands, waters, and interests therein transferred under this title in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966, as amended, except that any activity pro-

vided for under the terms of the 1948 Tripartite Agreement may continue under the terms of that agreement until its expiration date, unless such agreement is otherwise terminated. The Secretary may utilize such additional statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, interpretive education, and outdoor recreation as the Secretary deems appropriate to carry out the purposes of this title.

(4) The Secretary is authorized to take such actions as may be necessary to prevent, correct, or mitigate for adverse water quality and fish and wildlife habitat conditions attributable to agricultural drain water originating from lands irrigated by the Newlands Project, except that nothing in this subsection shall be construed to preclude the use of the lands referred to in paragraph (1) of this subsection for Newlands Project drainage purposes. Such actions, if taken with respect to drains located on the Fallon Indian Reservation, shall be taken after consultation with the Fallon Tribe.

(5) Not later than November 26, 1997, after consultation with the State of Nevada and affected local interests, the Secretary shall submit to the Congress recommendations, if any, concerning:

(A) revisions in the boundaries of the Stillwater National Wildlife Refuge as may be appropriate to carry out the purposes of the Stillwater National Wildlife Refuge, and the provisions of subsection 206(a) of this section;

(B) transfer of any other United States Bureau of Reclamation withdrawn public lands within existing wildlife use areas in the Lahontan Valley to the United States Fish and Wildlife Service for addition to the National Wildlife Refuge System; and

(C) identification of those lands currently under the jurisdiction of the United States Fish and Wildlife Service in the Lahontan Valley that no longer warrant continued status as units of the National Wildlife Refuge System, with recommendations for their disposition.

(c) WATER USE, NAVAL AIR STATION, FALLON, NEVADA.—

(1) Not later than one year after the date of enactment of this title, the Secretary of the Navy, in consultation with the Secretary, shall undertake a study to develop land management plans or measures to achieve dust control, fire abatement and safety, and foreign object damage control on those lands owned by the United States within the Naval Air Station at Fallon, Nevada, in a manner that, to the maximum extent practicable, reduce direct surface deliveries of water. Water saved or conserved shall be defined as reduced project deliveries relative to the maximum annual headgate delivery entitlement associated with recently irrigated water-righted Navy lands. Recently irrigated water-righted Navy lands shall be determined by the Secretary of the Navy in consultation with the Secretary and the State of Nevada.

(2) The Secretary of the Navy shall promptly select and implement land management plans or measures developed by the study described in paragraph (1) of this subsection upon determining that water savings can be made without impairing the safety of operations at Naval Air Station, Fallon.

(3) All water no longer used and water rights no longer exercised by the Secretary of the Navy as a result of the implementation of the modified land management plan or measures specified by this subsection shall be managed by the Secretary for the benefit of fish and wildlife resources referenced in sections 206 and 207 of this title: *Provided,* That,

(A) as may be required to fulfill the Secretary's responsibilities under the Endangered Species Act, as amended, the Secretary shall manage such water and water rights primarily for the conservation of the Pyramid Lake fishery and in a manner which is consistent with the Secretary's responsibilities under the Endangered Species Act, as amended, and the requirements of applicable operating criteria and procedures for the Newlands Project; and

(B) the Secretary may manage such water or transfer temporarily or permanently some or all of the water rights no longer exercised by the Secretary of the Navy for the benefit of the Lahontan Valley wetlands so long as such management or transfers are consistent with applicable operating criteria and procedures.

(4) The Secretary of the Navy, in consultation with the Secretary of Agriculture and other interested parties, shall fund and implement a demonstration project and test site for the cultivation and development of low-precipitation grasses, shrubs, and other native or appropriate high-desert plant species, including the development of appropriate soil stabilization and land management techniques, with the goal of restoring previously irrigated farmland in the Newlands Project area to a stable and ecologically appropriate dryland condition.

(5) The Secretary shall reimburse appropriate non-Federal entities for reasonable and customary operation and maintenance costs associated with delivery of the water that comes under the Secretary's management pursuant to this subsection.

(6) In carrying out the provisions of this subsection, the Secretary of the Navy and the Secretary shall comply with all applicable provisions of State law and fulfill the Federal trust obligation to the Pyramid Lake Tribe and the Fallon Tribe.

(d) STATE COST-SHARING.—The Secretary is authorized to enter into an agreement with the State of Nevada for use by the State of not less than $9 million of State funds for water and water rights acquisitions and other protective measures to benefit Lahontan Valley wetlands. The Secretary's authority under subsection 206(a) is contingent upon the State of Nevada making such sums available pursuant to the terms of the agreement referenced in this subsection.

(e) TRANSFER OF CARSON LAKE AND PASTURE.—The Secretary is authorized to convey to the State of Nevada Federal lands in the area known generally as the "Carson Lake and Pasture," as depicted on the map entitled "Carson Lake Area," dated July 16, 1990, for use by the State as a State wildlife refuge. Prior to and as a condition of such transfer, the Secretary and the State of Nevada shall execute an agreement, in consultation with affected local interests, including the operator of the Newlands Project, ensuring that the Carson Lake and Pasture shall be managed in a manner consistent with applicable international agreements and designation of the area as a component of the Western Hemisphere Shorebird Reserve Network. The Secretary shall retain a right of reverter

under such conveyance if the terms of the agreement are not observed by the State. The official map shall be on file with the United States Fish and Wildlife Service. Carson Lake and Pasture shall be eligible for receipt of water through Newlands Project facilities.

Gifts to Government.

(f) LAHONTAN VALLEY AND PYRAMID LAKE FISH AND WILDLIFE FUND.—

(1) There is hereby established in the Treasury of the United States the "Lahontan Valley and Pyramid Lake Fish and Wildlife Fund" which shall be available for deposit of donations from any source and funds provided under subsections 205 (a) and (b), 206(d), and subparagraph 208(a)(2)(C), if any, of this title.

(2) Moneys deposited into this fund shall be available for appropriation to the Secretary for fish and wildlife programs for Lahontan Valley consistent with this section and for protection and restoration of the Pyramid Lake fishery consistent with plans prepared under subsection 207(a) of this title. The Secretary shall endeavor to distribute benefits from this fund on an equal basis between the Pyramid Lake fishery and the Lahontan Valley wetlands, except that moneys deposited into the fund by the State of Nevada or donated by non-Federal entities or individuals for express purposes shall be available only for such purposes and may be expended without further appropriation, and funds deposited under subparagraph 208(a)(2)(C) shall only be available for the benefit of the Pyramid Lake fishery and may be expended without further appropriation.

(g) INDIAN LAKES AREA.—The Secretary is authorized to convey to the State of Nevada or Churchill County, Nevada, Federal lands in the area generally known as the Indian Lakes area, as depicted on the map entitled "Indian Lakes Area," dated July 16, 1990, pursuant to an agreement between the Secretary and the State of Nevada or Churchill County, Nevada, as appropriate, for the purposes of fish and wildlife, and recreation. Any activity provided under the terms of the 1948 Tripartite Agreement may continue under the terms of that agreement until its expiration date, unless such agreement is otherwise terminated. The official map shall be on file with the United States Fish and Wildlife Service.

SEC. 207. CUI-UI AND LAHONTAN CUTTHROAT TROUT RECOVERY AND ENHANCEMENT PROGRAM.

(a) RECOVERY PLANS.—Pursuant to the Endangered Species Act, as amended, the Secretary shall expeditiously revise, update, and implement plans for the conservation and recovery of the cui-ui and Lahontan cutthroat trout. Such plans shall be completed and updated from time to time as appropriate in accordance with the Endangered Species Act, as amended, and shall include all relevant measures necessary to conserve and recover the species. Such plans and any amendments and revisions thereto shall take into account and be implemented in a manner consistent with the allocations of water to the State of Nevada and the State of California made under section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement, if and when those allocations and agreements enter into effect.

(b) TRUCKEE RIVER REHABILITATION.—

(1) The Secretary of the Army, in consultation with and with the assistance of the Pyramid Lake Tribe, State of Nevada, Environmental Protection Agency, the Secretary, and other interested parties, is authorized and directed to incorporate into its ongoing reconnaissance level study of the Truckee River, a study of the rehabilitation of the lower Truckee River to and including the river terminus delta at Pyramid Lake, for the benefit of the Pyramid Lake fishery. Such study shall analyze, among other relevant factors, the feasibility of:

(A) restoring riparian habitat and vegetative cover;

(B) stabilizing the course of the Truckee River to minimize erosion;

(C) improving spawning and migratory habitat for the cui-ui;

(D) improving spawning and migratory habitat for the Lahontan cutthroat trout; and

(E) improving or replacing existing facilities, or creating new facilities, to enable the efficient passage of cui-ui and Lahontan cutthroat trout through or around the delta at the mouth of the Truckee River, and to upstream reaches above Derby Dam, to obtain access to upstream spawning habitat.

(2) There are authorized to be appropriated to the Secretary of the Army such funds as are necessary to supplement the ongoing reconnaissance level study, referenced in paragraph (1), to address and report on the activities and facilities described in that paragraph. Appropriation authorization. Reports.

(c) ACQUISITION OF WATER RIGHTS.—

(1) The Secretary is authorized to acquire water and water rights, with or without the lands to which such rights are appurtenant, and to transfer, hold, and exercise such water and water rights and related interests to assist the conservation and recovery of the Pyramid Lake fishery in accordance with the provisions of this subsection. Water rights acquired under this subsection shall be exercised in a manner consistent with the Operating Agreement and the Preliminary Settlement Agreement as modified by the Ratification Agreement and, to the maximum extent practicable, used for the benefit of the Pyramid Lake fishery and shall not be sold, exchanged, or otherwise disposed of except to the benefit of the Pyramid Lake fishery.

(2) Acquisition of water rights and related interests pursuant to this subsection shall be subject to the following conditions:

(A) water rights acquired must satisfy eligibility criteria adopted by the Secretary;

(B) water right purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to such a purchase program;

(C) prior to acquiring any water or water rights in the State of California for the Pyramid Lake fishery, the Secretary shall first consult with the Governor of California and prepare a record of decision on the basis of such consultation; Records.

(D) all water rights shall be transferred in accordance with any applicable State law; and

(E) water rights acquired by the Secretary shall be managed by the Secretary in consultation with the Pyramid Lake Tribe and affected interests.

(3) Nothing in this subsection shall be construed as limiting or affecting the authority of the Secretary to acquire water and water rights under other applicable laws.

(4) The Secretary is authorized to reimburse non-Federal entities for reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water in carrying out the provisions of this subsection.

Reports.

(5) Consistent with fulfillment of this section and not as a precondition thereto, the Secretary shall study and report on the social, economic, and environmental effects of the water rights purchase program authorized by this section. This study may be conducted in coordination with the studies authorized by paragraph 206(a)(4) and subsection 209(c) of this title, and shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate, and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three years after the date of enactment of this title.

(d) USE OF STAMPEDE AND PROSSER RESERVOIRS.—

(1) The rights of the United States to store water in Stampede Reservoir shall be used by the Secretary for the conservation of the Pyramid Lake fishery, except that such use must be consistent with the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and the mitigation agreement specified in subparagraph 205(a)(1)(C) of this title.

(2) The rights of the United States to store water in Prosser Creek Reservoir shall be used by the Secretary as may be required to restore and maintain the Pyramid Lake fishery pursuant to the Endangered Species Act, as amended, except that such use must be consistent with the Tahoe-Prosser Exchange Agreement, the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and the mitigation agreement specified in subparagraph 205(a)(1)(C) of this title.

(3) Nothing in this subsection shall prevent exchanges of such water or the use of the water stored in or released from these reservoirs for coordinated non-consumptive purposes, including recreation, instream beneficial uses, and generation of hydroelectric power. Subject to the Secretary's obligations to use water for the Pyramid Lake fishery, the Secretary is authorized to use storage capacity in the Truckee River reservoirs, including Stampede and Prosser Creek reservoirs, for storage of non-project water, including, but not limited to, storage of California's Truckee River basin surface water allocation, through negotiation of appropriate provisions for storage of such water in the Operating Agreement. To the extent it is not necessary for the Pyramid Lake fishery, the Secretary may allow Truckee River reservoir capacity dedicated to Washoe Project water to be used for exchanges of water or water rights, and to enable conjunctive use. In carrying out the provisions of this subsection, the Secretary shall comply with all applicable provisions of State law.

(e) OFFSETTING FLOWS.—Additional flows in the Truckee River and to Pyramid Lake resulting from the implementation of subsection 206(c) of this title are intended to offset any reductions in those flows which may be attributable to the allocations to California or Nevada under section 204 of this title or to the waivers in sections 3 and 21 of article II of the Preliminary Settlement Agreement as modified by the Ratification Agreement.

SEC. 208. PYRAMID LAKE FISHERIES AND DEVELOPMENT FUNDS.

(a) FUNDS ESTABLISHED.—

(1) There are hereby established within the Treasury of the United States the "Pyramid Lake Paiute Fisheries Fund" and "Pyramid Lake Paiute Economic Development Fund".

(2) There is authorized to be appropriated to the Pyramid Lake Paiute Fisheries Fund $25,000,000. Appropriation authorization.

(A) The principal of the Pyramid Lake Paiute Fisheries Fund shall be unavailable for withdrawal.

(B) Interest earned on the Pyramid Lake Paiute Fisheries Fund shall be available to the Pyramid Lake Tribe only for the purposes of operation and maintenance of fishery facilities at Pyramid Lake, excluding Marble Bluff Dam and Fishway, and for conservation of the Pyramid Lake fishery in accordance with plans prepared by the Pyramid Lake Tribe in consultation with and the concurrence of the United States Fish and Wildlife Service and approved by the Secretary. Of interest earned annually on the principal, 25 percent per year, or an amount which, in the sole judgment of the Secretary of the Treasury, is sufficient to maintain the principal of the fund at $25,000,000 in 1990 constant dollars, whichever is less, shall be retained in the fund as principal and shall not be available for withdrawal. Deposits of earned interest in excess of that amount may be made at the discretion of the Pyramid Lake Tribe, and all such deposits and associated interest shall be available for withdrawal.

(C) All sums deposited in, accruing to, and remaining in the Pyramid Lake Paiute Fishery Fund shall be invested by the Secretary and the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938, 52 Stat. 1037. Interest earnings not expended, added to principal, or obligated by the Pyramid Lake Tribe in the year in which such earnings accrue to the fund or in the four years that immediately follow shall be credited to the fund established under subsection 206(f) of this title. Investments.

(D) Subject to subparagraph (E) of this paragraph, the Secretary and the Secretary of the Treasury shall allocate and make available to the Pyramid Lake Tribe such eligible moneys from the Pyramid Lake Fishery Fund as are requested by the Pyramid Lake Tribe to carry out plans developed under subparagraph (B) of this paragraph.

(E) The Secretary and the Secretary of the Treasury shall not disburse moneys from the Pyramid Lake Paiute Fishery Fund until such time as the following conditions have been met:

(i) The Pyramid Lake Tribe has released any and all claims of any kind whatsoever against the United

States for damages to the Pyramid Lake fishery resulting from the Secretary's acts or omissions prior to the date of enactment of this title; and

(ii) The Pyramid Lake Tribe has assumed financial responsibility for operation and maintenance of the fishery facilities located at Pyramid Lake for the benefit of the Pyramid Lake fishery, excluding the Marble Bluff Dam and Fishway.

Appropriation authorization.

(3) There is authorized to be appropriated to the Pyramid Lake Paiute Economic Development Fund $40,000,000 in five equal annual installments in the 1993, 1994, 1995, 1996, and 1997 fiscal years.

(A) The principal and interest of the Pyramid Lake Paiute Economic Development Fund shall be available for tribal economic development only in accordance with a plan developed by the Pyramid Lake Tribe in consultation with the Secretary. The objectives of the plan shall be to develop long-term, profit-making opportunities for the Pyramid Lake Tribe and its members, to create optimum employment opportunities for tribal members, and to establish a high quality recreation area at Pyramid Lake using the unique natural and cultural resources of the Pyramid Lake Indian Reservation. The plan shall be consistent with the fishery restoration goals of section 207 of this title. The plan may be revised and updated by the Pyramid Lake Tribe in consultation with the Secretary.

Investments.

(B) The Pyramid Lake Tribe shall have complete discretion to invest and manage the Pyramid Lake Paiute Economic Development Fund, except that no portion of the principal shall be used to develop, operate, or finance any form of gaming or gambling, except as may be provided by the Indian Gaming Regulatory Act, Public Law 100-497 (102 Stat. 2467), and the United States shall not bear any obligation or liability regarding the investment, management, or use of such funds that the Pyramid Lake Tribe chooses to invest, manage, or use.

Investments.

(C) If the Pyramid Lake Tribe so requests, all sums deposited in, accruing to, and remaining in the Pyramid Lake Paiute Economic Development Fund shall be invested by the Secretary and the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938, 52 Stat. 1037. All such interest shall be added to the Pyramid Lake Paiute Economic Development Fund.

(D) The Secretary and the Secretary of the Treasury shall allocate and make available to the Pyramid Lake Tribe such moneys from the Pyramid Lake Economic Development Fund as are requested by the Pyramid Lake Tribe, except that no disbursements shall be made to the Pyramid Lake Tribe unless and until the Pyramid Lake Tribe adopts and submits to the Secretary the economic development plan described in subparagraph (A) of this paragraph, and section 204, the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement enter into effect in accordance with the terms of subsection 210(a) of this title.

(4) Under no circumstances shall any part of the principal of the funds established under this section be distributed to members of the Pyramid Lake Tribe on a per capita basis.

(5) If, and to the extent that any portion of the sum authorized to be appropriated in paragraph 208(a)(2) is appropriated after fiscal year 1992, or in a lesser amount, there shall be deposited in the Pyramid Lake Paiute Fisheries Fund, subject to appropriations, in addition to the full contribution to the Pyramid Lake Paiute Fisheries Fund, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had the amount authorized in paragraph 208(a)(2) been appropriated in full for fiscal year 1992.

(6) If and to the extent that any portion of the sums authorized to be appropriated in paragraph 208(a)(3) are appropriated after fiscal years 1993, 1994, 1995, 1996, and 1997, or in lesser amounts than provided by paragraph 208(a)(3), there shall be deposited in the Pyramid Lake Paiute Economic Development Fund, subject to appropriations, in addition to the full contributions to the Pyramid Lake Paiute Economic Development Fund, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amounts had the amounts authorized in paragraph 208(a)(3) been appropriated in full for fiscal years 1993, 1994, 1995, 1996, and 1997.

SEC. 209. NEWLANDS PROJECT IMPROVEMENT.

(a) EXPANSION OF AUTHORIZED PURPOSES.—

(1) In addition to the existing irrigation purpose of the Newlands Reclamation Project, the Secretary is authorized to operate and maintain the project for the purposes of:

(A) fish and wildlife, including endangered and threatened species;

(B) municipal and industrial water supply in Lyon and Churchill counties, Nevada, including the Fallon Indian Reservation;

(C) recreation;

(D) water quality; and

(E) any other purposes recognized as beneficial under the law of the State of Nevada.

(2) Additional uses of the Newlands Project made pursuant to this section shall have valid water rights and, if transferred, shall be transferred in accordance with State law.

(b) TRUCKEE RIVER DIVERSIONS.—The Secretary shall not implement any provision of this title in a manner that would:

(1) increase diversions of Truckee River water to the Newlands Project over those allowed under applicable operating criteria and procedures; or

(2) conflict with applicable court decrees.

(c) PROJECT EFFICIENCY STUDY.—

(1) The Secretary shall study the feasibility of improving the conveyance efficiency of Newlands Project facilities to the extent that, within twelve years after the date of enactment of this title, on average not less than seventy-five percent of actual diversions under applicable operating criteria and procedures shall be delivered to satisfy the exercise of water rights within the Newlands Project for authorized project purposes.

Reports.

(2) The Secretary shall consider the effects of the measures required to achieve such efficiency on groundwater resources and wetlands in the Newlands Project area. The Secretary shall report the results of such study to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three years after the date of enactment of this title.

(d) WATER BANK.—The Secretary, in consultation with the State of Nevada and the operator of the Newlands Project, is authorized to use and enter into agreements to allow water right holders to use Newlands Project facilities in Nevada, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carryover storage of irrigation and other water for drought protection and other purposes, consistent with subsections (a) and (b) of this section. The use of such water shall be consistent with and subject to applicable State laws.

(e) RECREATION STUDY.—The Secretary, in consultation with the State of Nevada, is authorized to conduct a study to identify administrative, operational, and structural measures to benefit recreational use of Lahontan Reservoir and the Carson River downstream of Lahontan Dam. Such study shall be reported to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

Reports.

(f) EFFLUENT REUSE STUDY.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, the State of Nevada, and appropriate local entities, shall study the feasibility of reusing municipal wastewater for the purpose of wetland improvement or creation, or other beneficial purposes, in the areas of Fernley, Nevada, the former Lake Winnemucca National Wildlife Refuge, and the Lahontan Valley. The Secretary shall coordinate such studies with other efforts underway to manage wastewater from the Reno and Sparks, Nevada, area and to improve Truckee River and Pyramid Lake water quality. Such study shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives.

Reports.

(g) REPAYMENT CANCELLATION.—Notwithstanding any other provision of law, the Secretary may cancel all repayment obligations owing to the Bureau of Reclamation by the Truckee-Carson Irrigation District. As a precondition for the Secretary to cancel such obligations, the Truckee-Carson Irrigation District shall agree to collect all such repayment obligations and use such funds for water conservation measures. For the purpose of this subsection and paragraph 209(h)(2), the term "water conservation measures" shall not include repair, modification, or replacement of Derby Dam.

(h) SETTLEMENT OF CLAIMS.—

(1) The provisions of subsections 209 (d), (e), (f), and (g) of this section shall not become effective unless and until the Truckee-Carson Irrigation District has entered into a settlement agreement with the Secretary concerning claims for recoupment of water diverted in excess of the amounts permitted by applicable operating criteria and procedures.

(2) The provisions of subsection 209(g) of this section shall not become effective unless and until the State of Nevada provides not less than $4,000,000 for use in implementing water conservation measures pursuant to the settlement described in paragraph (1) of this subsection.

(3) The Secretary is authorized to expend such sums as may be required to match equally the sums provided by the State of Nevada under paragraph (2) of this subsection. Such sums shall be available for use only in implementing water conservation measures pursuant to the settlement described in paragraph (1) of this subsection.

(i) FISH AND WILDLIFE.—The Secretary shall, insofar as is consistent with project irrigation purposes and applicable operating criteria and procedures, manage existing Newlands Project re-regulatory reservoirs for the purpose of fish and wildlife.

(j) OPERATING CRITERIA AND PROCEDURES.— Courts.

(1) In carrying out the provisions of this title, the Secretary shall act in a manner that is fully consistent with the decision in the case of Pyramid Lake Paiute Tribe of Indians v. Morton, 354 F. Supp. 252 (D. D.C. 1973).

(2) Notwithstanding any other provision of law, the operating criteria and procedures for the Newlands Reclamation Project adopted by the Secretary on April 15, 1988 shall remain in effect at least through December 31, 1997, unless the Secretary decides, in his sole discretion, that changes are necessary to comply with his obligations, including those under the Endangered Species Act, as amended. Prior to December 31, 1997, no court or administrative tribunal shall have jurisdiction to set aside any of such operating criteria and procedures or to order or direct that they be changed in any way. All actions taken heretofore by the Secretary under any operating criteria and procedures are hereby declared to be valid and shall not be subject to review in any judicial or administrative proceeding, except as set forth in paragraph (3) of this subsection.

(3) The Secretary shall henceforth ensure compliance with all of the provisions of the operating criteria and procedures referenced in paragraph (2) of this subsection or any applicable provision of any other operating criteria or procedures for the Newlands Project previously adopted by the Secretary, and shall, pursuant to subsection 709(h) or judicial proceeding, pursue recoupment of any water diverted from the Truckee River in excess of the amounts permitted by any such operating criteria and procedures. The Secretary shall have exclusive authority and responsibility to pursue such recoupment, except that, if an agreement or order leading to such recoupment is not in effect as of December 31, 1997, any party with standing to pursue such recoupment prior to enactment of this title may pursue such recoupment thereafter. Any agreement or court order between the Secretary and other parties concerning recoupment of Truckee River water diverted in violation of applicable operating criteria and procedures shall be consistent with the requirements of this subsection and the Endangered Species Act, as amended, and shall be submitted for the review and approval of the court exercising jurisdiction over the operating criteria and procedures for the Newlands Project. All interested parties may participate in such review. In any recoupment action brought by any party, other than the Sec-

retary, after December 31, 1997, the only relief available from any court of the United States will be the issuance of a declaratory judgment and injunctive relief directing any unlawful user of water to restore the amount of water unlawfully diverted. In no event shall a court enter any order in such a proceeding that will result in the expenditure of any funds out of the United States Treasury.

SEC. 210. MISCELLANEOUS PROVISIONS.

(a) CLAIMS SETTLEMENT.—

(1) The effectiveness of section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and the Secretary's authority to disburse funds under paragraph 208(a)(3) of this title are contingent upon dismissal with prejudice or other final resolution, with respect to the parties to the Preliminary Settlement Agreement as modified by the Ratification Agreement and the State of Nevada and the State of California, of the following outstanding litigation and proceedings:

(A) Pyramid Lake Paiute Tribe v. California, Civ. S-181-378-RAR-RCB, United States District Court, Eastern District of California;

(B) United States v. Truckee-Carson Irrigation District, Civ. No. R-2987-RCB, United States District Court, District of Nevada;

(C) Pyramid Lake Paiute Tribe v. Lujan, Civ. S-87-1281-LKK, United States District Court, Eastern District of California;

(D) Pyramid Lake Paiute Tribe v. Department of the Navy, Civ. No. R-86-115-BRT in the United States District Court, District of Nevada and Docket No. 88-1650 in the United States Court of Appeals for the Ninth Circuit; and

(E) All pending motions filed by the Tribe in Docket No. E-9530 before the Federal Energy Regulatory Commission.

Effective dates.

(2) In addition to any other conditions on the effectiveness of this title set forth in this title, the provisions of:

(A) section 204, subsections 206(c), 207 (c) and (d), subparagraph 208(a)(3)(D), and paragraph 210(a)(3) of this title shall not take effect until:

(i) the agreements and regulations required under section 205 of this title, including the Truckee Meadows water conservation plan referenced in the Preliminary Settlement Agreement as modified by the Ratification Agreement, enter into effect;

(ii) the outstanding claims described in paragraph 210(a)(1) have been dismissed with prejudice or otherwise finally resolved;

(B) section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement, shall not take effect until the Pyramid Lake Tribe's claim to the remaining waters of the Truckee River which are not subject to vested or perfected rights has been finally resolved in a manner satisfactory to the State of Nevada and the Pyramid Lake Tribe; and

(C) section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and subsection 207(d) shall not take

effect until the funds authorized in paragraph 208(a)(3) of this title have been appropriated.

(3) On and after the effective date of section 204 of this title, except as otherwise specifically provided herein, no person or entity who has entered into the Preliminary Settlement Agreement as modified by the Ratification Agreement or the Operating Agreement, or accepted any benefits or payments under this legislation, including any Indian Tribe and the States of California and Nevada, the United States and its officers and agencies may assert in any judicial or administrative proceeding a claim that is inconsistent with the allocations provided in section 204 of this title, or inconsistent or in conflict with the operational criteria for the Truckee River established pursuant to section 205 of this title. No person or entity who does not become a party to the Preliminary Settlement Agreement as modified by the Ratification Agreement or the Operating Agreement may assert in any judicial or administrative proceeding any claim for water or water rights for the Pyramid Lake Tribe, the Pyramid Lake Indian Reservation, or the Pyramid Lake fishery. Any such claims are hereby barred and extinguished and no court of the United States may hear or consider any such claims by such persons or entities.

(b) GENERAL PROVISIONS.—

(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, and to all existing property rights or interests, all of the trust land within the exterior boundaries of the Pyramid Lake Indian Reservation shall be permanently held by the United States for the sole use and benefit of the Pyramid Lake Tribe.

(2) Anaho Island in its entirety is hereby recognized as part of the Pyramid Lake Indian Reservation. In recognition of the consent of the Pyramid Lake Tribe evidenced by Resolution No. 19-90 of the Pyramid Lake Paiute Tribal Council, all of Anaho Island shall hereafter be managed and administered by and under the primary jurisdiction of the United States Fish and Wildlife Service as an integral component of the National Wildlife Refuge System for the benefit and protection of colonial nesting species and other migratory birds. Anaho Island National Wildlife Refuge shall be managed by the United States Fish and Wildlife Service in accord with the National Wildlife Refuge System Administration Act, as amended, and other applicable provisions of Federal law. Consistent with the National Wildlife Refuge System Administration Act, as amended, the Director of the United States Fish and Wildlife Service is authorized to enter into cooperative agreements with the Pyramid Lake Tribe regarding Anaho Island National Wildlife Refuge.

(3) Subject to the relinquishment by the legislature of the State of Nevada of any claim the State of Nevada may have to ownership of the beds and banks of the Truckee River within the exterior boundaries of the Pyramid Lake Indian Reservation and of Pyramid Lake, those beds and banks are recognized as part of the Pyramid Lake Indian Reservation and as being held by the United States in trust for the sole use and benefit of the Pyramid Lake Tribe. Nothing in this subsection shall be deemed to recognize any right, title, or interest of the State of Nevada in those beds and banks which it would not otherwise

have. No other provision of this title shall be contingent on the effectiveness of this subsection.

Regulations.

(4) Except as provided in paragraphs (2) and (9) of this subsection, the Pyramid Lake Tribe shall have the sole and exclusive authority to establish rules and regulations governing hunting, fishing, boating, and all forms of water based recreation on all lands within the Pyramid Lake Indian Reservation except fee-patented land, provided that the regulation of such activities on fee-patented land within the Pyramid Lake Indian Reservation shall not be affected by this paragraph. Nothing in this paragraph shall be deemed to recognize or confer any criminal jurisdiction on the Pyramid Lake Tribe or to affect any regulatory jurisdiction of the State of Nevada with respect to any other matters.

(5) The consent of the United States is given to the negotiation and execution of an intergovernmental agreement between the Pyramid Lake Tribe and the State of Nevada, which agreement may also include Washoe County, Nevada, providing for the enforcement by the State of Nevada and Washoe County of the rules and regulations referred to in paragraph (4) adopted by the Pyramid Lake Tribe governing hunting, fishing, boating, and all forms of water based recreation against non-members of the Pyramid Lake Tribe and for State courts or other forums of the State of Nevada or its political subdivisions to exercise civil and criminal jurisdiction over violations of the Pyramid Lake Tribe's rules and regulations allegedly committed by such non-members, except as provided by paragraphs (2) and (9) of this subsection.

(6) The consent of the United States is given to the negotiation and execution of an intergovernmental agreement between the Pyramid Lake Tribe and the State of Nevada, which agreement may also include Washoe County, Nevada, providing for the enforcement of rules and regulations governing hunting, fishing, boating and all forms of water based recreation on fee-patented land within the Pyramid Lake Indian Reservation, except as provided by paragraphs (2) and (9) of this subsection.

(7) Nothing in this title shall limit or diminish the Federal Government's trust responsibility to any Indian Tribe, except that this provision shall not be interpreted to impose any liability on the United States or its agencies for any damages resulting from actions taken by the Pyramid Lake Paiute Tribe as to which the United States is not a party or with respect to which the United States has no supervisory responsibility.

(8) Subject to the terms, conditions, and contingencies of and relating to the Preliminary Settlement Agreement as modified by the Ratification Agreement, the United States on its own behalf and in its capacity as trustee to the Pyramid Lake Tribe confirms and ratifies the waivers of any right to object to the use and implementation of the water supply measures described in sections 3 and 21 of article II of the Preliminary Settlement Agreement as modified by the Ratification Agreement, and any waivers of sovereign immunity given in connection with that agreement or the Operating Agreement, upon the entry into effect of the Preliminary Settlement Agreement as modified by the Ratification Agreement.

(9) Nothing in this title shall be construed as waiving or altering the requirements of any Federal environmental or

wildlife conservation law, including, but not limited to, the Endangered Species Act, as amended, including the consultation and reinitiation of consultation responsibilities of the Secretary under section 7 of the Act, and the National Environmental Policy Act of 1969.

(10) Nothing in this title shall be construed to create an express or implied Federal reserved water right.

(11) Nothing in this title shall subject the United States or any of its agencies or instrumentalities or any Indian Tribe to any State jurisdiction or regulation to which they would not otherwise be subject.

(12) Nothing in this title is intended to abrogate the jurisdiction of or required approvals by the Nevada State Engineer or the California State Water Resources Control Board.

(13) Nothing in this title is intended to affect the power of the Orr Ditch court or the Alpine court to ensure that the owners of vested and perfected Truckee River water rights receive the amount of water to which they are entitled under the Orr Ditch decree or the Alpine decree. Nothing in this title is intended to alter or conflict with any vested and perfected right of any person or entity to use the water of the Truckee River or its tributaries, including, but not limited to, the rights of landowners within the Newlands Project for delivery of the water of the Truckee River to Derby Dam and for the diversion of such waters at Derby Dam pursuant to the Orr Ditch decree or any applicable law.

(14) No single provision or combination of provisions in this title, including interstate allocations under section 204, or associated agreements which may adversely affect inflows of water to Pyramid Lake shall form the basis for additional claims of water to benefit Pyramid Lake, the Pyramid Lake fishery, or lands within the Pyramid Lake Indian Reservation.

(15) Nothing in this title shall affect any claim of Federal reserved water rights, if any, to the Carson River or its tributaries for the benefit of lands within the Fallon Indian Reservation.

(16) The Secretary, in consultation with the State of Nevada and affected local interests, shall undertake appropriate measures to address significant adverse impacts, identified by studies authorized by this title, on domestic uses of groundwater directly resulting from the water purchases authorized by this title.

(17) It is hereby declared that after August 26, 1935, and prior to the date of enactment of this title, there was no construction within the meaning of section 23(b) of the Federal Power Act, as amended, at the four run-of-river hydroelectric project works owned by Sierra Pacific Power Company and located on the Truckee River. Notwithstanding any other provision of law, after the date of enactment of this title, development of additional generating capacity at such project works that is accomplished through replacement of turbine generators and increases in effective head shall not constitute construction within the meaning of section 23(b) of the Federal Power Act, as amended: *Provided,* That such development may not change the location of or increase any existing impoundments and may not require diversions of water in excess of existing water rights for such project works: *And provided further,* That the diversions of

water for the operation of such project works shall be consistent with the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement. The Secretary shall take into account the monetary value of this provision to the Sierra Pacific Power Company in calculating the storage charge referred to in paragraph 205(a)(6).

Public lands.

(18) The Secretary is authorized, in accordance with this section and applicable provisions of existing law, to exchange surveyed public lands in Nevada for interests in fee patented lands, water rights, or surface rights to lands within or contiguous to the exterior boundaries of the Pyramid Lake Indian Reservation. The values of the lands or interests therein exchanged by the Secretary under this paragraph shall be substantially equal, but the Secretary is authorized to accept monetary payments from the owners of such fee patented lands, water rights, or surface rights as circumstances may require in order to compensate for any difference in value. Any such payments shall be deposited to the Treasury. The value of improvements on land to be exchanged shall be given due consideration and an appropriate allowance shall be made therefor in the valuation. Title to lands or any interest therein acquired by the Secretary pursuant to this subsection shall be taken in the name of the United States in trust for the Pyramid Lake Tribe and shall be added to the Pyramid Lake Indian Reservation.

(c) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated such sums as may be required to implement the provisions of this title.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 3084:

SENATE REPORTS: No. 101-555 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 26, considered and passed Senate.
Oct. 27, considered and passed House.

○

Public Law 101-619
101st Congress

An Act

Nov. 16, 1990
[S. 3176]

To promote environmental education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Environmental Education Act.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

20 USC 5501 note.

(a) TITLE.—This Act may be cited as the "National Environmental Education Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Findings and policy.
Sec. 3. Definitions.
Sec. 4. Office of Environmental Education.
Sec. 5. Environmental education and training program.
Sec. 6. Environmental education grants.
Sec. 7. Environmental internships and fellowships.
Sec. 8. Environmental education awards.
Sec. 9. Environmental Education Advisory Council and Task Force.
Sec. 10. National Environmental Education and Training Foundation.
Sec. 11. Authorization.

SEC. 2. FINDINGS AND POLICY.

20 USC 5501.

(a) FINDINGS.—The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Environmental problems represent as significant a threat to the quality of life and the economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

(6) Current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational

broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(10) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the Act.

(b) POLICY.—It is the policy of the United States to establish and support a program of education on the environment, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

20 USC 5502.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "Agency" means the United States Environmental Protection Agency;

(3) "Federal agency" or "agency of the United States" means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) "Secretary" means the Secretary of the Department of Education;

(5) "local education agency" means any education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381) and shall include any tribal education agency;

(6) "not-for-profit" organization means an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such Code;

(7) "noncommercial education broadcasting entities" means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) "tribal education agency" means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska Native village, which is recognized as eligible for special programs and services provided by the

United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(9) "Federal natural resource management agencies" means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service;

(10) "environmental engineering" means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and ground water and atmosphere, and methods for assessment and control of pollution;

(11) "environmental education" and "environmental education and training" mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development;

(12) "Foundation" means the National Environmental Education and Training Foundation established pursuant to section 10 of this Act; and

(13) "Board of Directors" means the Board of Directors of the National Environmental Education and Training Foundation.

SEC. 4. OFFICE OF ENVIRONMENTAL EDUCATION.

Establishment.
20 USC 5503.

(a) The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) The Office of Environmental Education shall—

(1) develop and support programs and related efforts, in consultation and coordination with other Federal agencies, to improve understanding of the natural and built environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with other Federal agencies, not-for-profit educational and environmental organizations, State agencies, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, teleconferences, and workshops for environmental education professionals, as provided for in section 5 of this Act;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities, under section 6 of this Act;

(6) administer the environmental internship and fellowship programs provided for in section 7 of this Act;

(7) administer the environmental awards program provided for in section 8 of this Act;

(8) provide staff support to the Advisory Council and Task Force provided for in section 9 of this Act;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including Federal natural resource management agencies, to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges;

(12) provide information on environmental education and training programs to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this Act.

(c) The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than six and not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

20 USC 5504.

SEC. 5. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM.

(a) There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

Canada. Mexico.

(4) sponsorship and management of international exchanges of teachers and other educational professionals between the United States, Canada, and Mexico involved in environmental programs and issues;

(5) maintenance or support of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums;

(8) supporting effective partnerships and networks and the use of distant learning technologies; and

(9) such other activities as the Administrator determines to be consistent with the policies of this Act.

Special emphasis should be placed on developing environmental education programs, workshops, and training tools that are portable and can be broadly disseminated.

(c)(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program required by this section. Grant programs.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources and programs;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d)(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

20 USC 5505.

SEC. 6. ENVIRONMENTAL EDUCATION GRANTS.

(a) The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Activities eligible for grant support pursuant to this section shall include, but not be limited to, environmental education and training programs for—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(c) In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 9(d) of this Act; and

(4) an environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) The program established by this section shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes.

Regulations.

Within one year of the date of enactment of this Act, the Adminis-

trator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this section.

(e) Within 90 days after the date on which amounts are first appropriated for carrying out this Act, and each year thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Grants under this section shall not exceed $250,000. In addition, 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than $5,000.

SEC. 7. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS. 20 USC 5506.

(a) The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) The Administrator shall, to the extent practicable, support not less than 250 internships each year and not less than 50 fellowships each year.

(d) The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, Federal natural resource management agencies, the Department of Agriculture, and the National Science Foundation.

(e) Interns shall be hired on a temporary, full-time basis for not to exceed 6 months and shall be compensated appropriately. Fellows shall be hired on a temporary full-time basis for not to exceed 12 months and shall be compensated appropriately. Federal agencies

hiring interns shall provide the funds necessary to support salaries and related costs.

(f)(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than 2 years experience in teaching environmental education, environmental sciences, or related courses.

(g) Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) In selecting individuals for internships and fellowships, the Administrator shall provide for wide geographic, cultural, and minority representation.

20 USC 5507.

SEC. 8. ENVIRONMENTAL EDUCATION AWARDS.

(a) The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(1) The "Theodore Roosevelt Award" to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) The "Henry David Thoreau Award" to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(3) The "Rachael Carson Award" to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems; and

(4) The "Gifford Pinchot Award" to be given in recognition of an outstanding contribution to education and training concerning forestry and natural resource management, including multiple use and sustained yield land management.

(c) Recipients of education awards provided for in subsection (b) shall be nominated by the Environmental Education Advisory Council provided for in section 9 of this Act.

(d) The Administrator may provide for the "President's Environmental Youth Awards" to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e)(1) The Chairman of the Council on Environmental Quality, on behalf of the President, is authorized to develop and administer an awards program to recognize elementary and secondary education teachers and their local educational agencies who demonstrate excellence in advancing environmental education through innovative approaches. One teacher, and the local education agency employing such teacher, from each State, including the District of Columbia and the Commonwealth of Puerto Rico, are eligible to be selected for an award pursuant to this subsection.

(2) The Chairman is authorized to provide a cash award of up to $2,500 to each teacher selected to receive an award pursuant to this

section, which shall be used to further the recipient's professional development in environmental education.

(3) The Chairman is also authorized to provide a cash award of up to $2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

SEC. 9. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

Establishment. 20 USC 5508.

(a) There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b)(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this Act. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other Advisory Councils established by the Administrator. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of 11 members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education; two members shall be appointed to represent State departments of education and natural resources; two representatives shall be appointed to represent business and industry; and one representative shall be appointed to represent senior Americans. A representative of the Secretary shall serve as an ex officio member of the Advisory Council. The conflict of interest provision at section 208(a) of title 18, United States Code, shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of 3 years, except that—

(A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and

(B) the terms of the members first taking office shall expire as follows: four shall expire 3 years after the date of enactment of this Act, four shall expire 2 years after such date, and three shall expire 1 year after such date, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18

of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c)(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this Act and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include the—

(A) Department of Education,

(B) Department of the Interior,

(C) Department of Agriculture,

(D) the Environmental Protection Agency,

(E) National Oceanic and Atmospheric Administration,

(F) Council on Environmental Quality,

(G) Tennessee Valley Authority, and

(H) National Science Foundation.

(3) The Environmental Protection Agency shall chair the Task Force.

(4) The Administrator may ask other Federal agencies to participate in the meetings and activities of the Task Force where the Administrator finds it appropriate in carrying out the requirements of this Act.

Public information. Reports.

(d)(1) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within 24 months of enactment of this Act and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous 2-year period;

(C) summarize major obstacles to improving environmental education (including environmental education programs relating to national parks and wildlife refuges) and make recommendations for addressing such obstacles;

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(E) describe and assess the extent and quality of environmental education programs available to senior Americans and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with nonprofit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(2) The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

SEC. 10. THE NATIONAL ENVIRONMENTAL EDUCATION AND TRAINING FOUNDATION. 20 USC 5509.

(a) ESTABLISHMENT AND PURPOSES.—

(1) ESTABLISHMENT.—(A) There is hereby established the National Environmental Education and Training Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, community based environmental groups, and international organizations. Intergovernmental relations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States. Nonprofit organizations. Taxes.

(2) PURPOSES.—The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) herein, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system;

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) PROGRAMS.—The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT AND MEMBERSHIP.—(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as "the Board"), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this Act. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(B) The Administrator of the Environmental Protection Agency shall, pursuant to paragraph (2), appoint the Director of the Office of Environmental Education established pursuant to section 3 of this Act as an ex-officio member of the Board. Ex officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training.

(C) Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(2) APPOINTMENT AND TERMS.—(A) Members of the Board shall be appointed by the Administrator of the Environmental Protection Agency.

Federal Register, publication.

(B) Within 90 days of the date of the enactment of this Act, and as appropriate thereafter, the Administrator shall publish in the Federal Register an announcement of appointments of Directors of the Board. At the same time, the Administrator shall transmit a copy of such announcement to the Education and Labor Committee and the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate. Such appointments shall become final and effective 90 days after publication in the Federal Register.

(C) The directors shall be appointed for terms of 4 years, except that the Administrator, in making the initial appointments to the Board, shall appoint 5 directors to a term of 2 years, 4 directors to a term of 3 years, and 4 directors to a term of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

(3) CHAIR.—The Chair shall be elected by the Board from its members for a 2-year term.

(4) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) MEETINGS.—The Board shall meet at the call of the Chair at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with this subsection.

(6) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) GENERAL POWERS.—(A) The Board may complete the organization of the Foundation by—

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their service.

Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, of the United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who—

(I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer; and

(II) shall be experienced in matters relating to environmental education and training.

(c) RIGHTS AND OBLIGATIONS OF THE FOUNDATION.—

(1) IN GENERAL.—The Foundation—

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of notice upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) POWERS.—To carry out its purposes under section 10(a) of this Act, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(D) to sue, or to be sued, and complain or defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) CONDITIONS ON DONATIONS.—

(1) For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encum-

bered, restricted, or subject to beneficial interests of private persons if any current future interest therein is for the benefit of the Foundation.

(2) No donation, gift, devise, bequest, property (either real or personal), voluntary services, or any other thing of value may be accepted by the Foundation if it—

(A) is contingent upon the transmission by the Foundation of materials or information prepared by the donor or a third party in such a fashion as to convey a particular point of view favorable to the economic interests of the donor or its constituents or associates; or

(B) in the judgment of the Board carries with it an explicit or implied requirement on the part of the Foundation to do a specific act or make general representations which are to the benefit of the donor and which are not consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this Act.

(3) No materials bearing "logos", letterhead or other means of identification associated with a donor or third party may be transmitted by the Foundation, for use in environmental education and training except as required pursuant to subsection (f).

(e) ADMINISTRATIVE SERVICES AND SUPPORT.—Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to 4 years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the costs of providing such services. With respect to personnel, the Administrator may provide no more than 1 full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to 2 full-time equivalent employees to the Foundation, for a period not to exceed 2 years from the date of initial assignment of any personnel for this purpose.

(f) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(g) VOLUNTEER STATUS.—The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(h) AUDITS AND PETITION OF THE ATTORNEY GENERAL FOR EQUITABLE RELIEF.—For purposes of the Act entitled "An Act for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (Public Law 88-504; 36 U.S.C. 1101-1103), the Foundation shall be treated as a private corporation established under Federal law.

(i) UNITED STATES RELEASE FROM LIABILITY.—The United States shall not be liable for any debts, defaults, acts, or omissions of the

Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(j) AMENDMENT AND REPEAL.—The Congress expressly reserves the right to repeal or amend this section at any time.

SEC. 11. AUTHORIZATION. 20 USC 5510.

(a) There is hereby authorized to be appropriated to the Environmental Protection Agency to carry out this Act not to exceed $12,000,000 for each fiscal year 1992 and 1993, not to exceed $13,000,000 for fiscal year 1994, and not to exceed $14,000,000 for each fiscal year 1995 and 1996.

(b) Of such sums appropriated in a fiscal year, 25 percent shall be available for the activities of the Office of Environmental Education, 25 percent shall be available for the operation of the environmental education and training program, 38 percent shall be available for environmental education grants, 10 percent shall be available for support of the National Environmental Education and Training Foundation, and 2 percent shall be available to support awards pursuant to section 8(e) of this Act.

(c) Funds appropriated pursuant to this section may be made available to the National Environmental Education and Training Foundation to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments; and

(2) provide administrative services under section 10(d) of this Act:

Provided, That the Administrator determines that such funds will be used to carry out the statutory purposes of the Foundation in a manner consistent with the goals, objectives and programs of this Act.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S. 3176:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 26, considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks.

○

Public Law 101-620
101st Congress

Joint Resolution

Nov. 16, 1990
[S.J. Res. 206]

Calling for the United States to encourage immediate negotiations toward a new agreement among Antarctic Treaty Consultative Parties, for the full protection of Antarctica as a global ecological commons.

Whereas Antarctica, like the great oceans and the atmosphere, is a part of the global commons;

Whereas the Antarctic region, including the continent and the Southern Ocean, is a fragile ecosystem that supports an amazing abundance of life, and is, in turn, crucial to other life on Earth;

Whereas Antarctica is a critical area in the study and documentation of global change;

Whereas negotations of the Antarctic Treaty Consultative Parties have resulted in the Convention on the Regulation of Antarctic Mineral Resource Activities;

Whereas the Convention on the Regulation of Antarctic Mineral Resource Activities, while requiring consideration of environmental impacts prior to allowing minerals development in Antarctica, does not guarantee preservation of the Antarctic environment; and

Whereas the challenge to humankind is to ensure that Antarctica is stewarded in a manner that conserves its unique environment and preserves its value for scientific research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) Antarctica is a global ecological commons, and should, therefore, be subject to a new agreement or protocol which supplement the Antarctic Treaty of 1959, providing for comprehensive environmental protection of Antarctica, and which should for an indefinite period establish Antarctica as a region closed to commercial minerals development and related activities;

(2) under such new agreements, information about mineral or other resources in Antarctica should be obtained under strictly controlled arrangements and should be openly shared in the international scientific community;

(3) the Convention on the Regulation of Antarctic Mineral Resource Activities, though a considerable step forward, does not guarantee protection of the fragile environment of Antarctica and could actually stimulate movement toward commercial exploitation;

(4) pending the negotiation and entry into force of the new agreements referred to in paragraph (1) the Convention on the Regulation of Antarctic Mineral Resource Activities should not be presented to the Senate for advice and consent to ratification;

(5) until such new agreements enter into force, the United States should support the interim restraint measures currently in effect among the Consultative Parties to the Antarctic Treaty; and

(6) the negotiation of a new agreements referred to in paragraph (1) should be fully supported by the United States at the November 1990 meeting of the Antarctic Treaty Consultative Parties in Santiago, Chile.

Approved November 16, 1990.

LEGISLATIVE HISTORY—S.J. Res. 206 (H.J. Res. 418):

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, H.J. Res. 418 considered and passed House.
Oct. 4, S.J. Res. 206 considered and passed Senate.
Oct. 23, considered and passed House, amended.
Oct. 24, Senate concurred in House amendment.

○

Public Law 101-621
101st Congress

An Act

Nov. 16, 1990
[H.R. 4559]

To establish the Red Rock Canyon National Conservation Area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Red Rock Canyon National Conservation Area Establishment Act of 1990.
Nevada.
Public lands.
16 USC 460ccc note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Red Rock Canyon National Conservation Area Establishment Act of 1990".

16 USC 460ccc.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term—

(a) "conservation area" means the Red Rock Canyon National Conservation Area established pursuant to section 3 of this Act;

(b) "public lands" has the meaning stated in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)); and

(c) "Secretary" means the Secretary of the Interior.

16 USC 460ccc-1.

SEC. 3. ESTABLISHMENT OF THE CONSERVATION AREA.

(a) IN GENERAL.—(1) In order to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the area in southern Nevada containing and surrounding the Red Rock Canyon and the unique and nationally important geologic, archeological, ecological, cultural, scenic, scientific, wildlife, riparian, wilderness, endangered species, and recreation resources of the public lands therein contained, there is established the Red Rock Canyon National Conservation Area.

(2) The conservation area shall consist of approximately 83,100 acres of generally depicted on a map entitled "Red Rock Canyon National Conservation Area—Proposed" numbered NV-RRC-NCA-001, and dated June, 1990.

(3) The map referred to in paragraph (2) shall be on file and available for inspection in the appropriate offices of the Bureau of Land Management, Department of the Interior.

(b) LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary shall file a legal description of the conservation area established by subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographic errors in legal description.

(2) The legal description described in paragraph (1) shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management, Department of the Interior.

(c) DISCREPANCIES.—In case of any discrepancy between or among the map described in subsection (a), the amount of acreage stated in subsection (a), or the legal description filed by the Secretary pursu-

ant to subsection (b), the map described in subsection (a) shall control any question concerning the boundaries of the conservation area.

SEC. 4. MANAGEMENT. 16 USC 460ccc-2.

(a) IN GENERAL.—The Secretary, acting through the Director of the Bureau of Land Management, shall, subject to valid existing rights, manage the conservation area to conserve, protect, and enhance the resources described in section 3 in accordance with this Act, the Federal Land Policy and Management Act of 1976, and other applicable laws. The Secretary shall only allow such uses of the conservation area as he finds will further the purposes for which the conservation area is established.

(b) HUNTING.—(1) Subject to paragraph (2), the Secretary shall permit hunting within the conservation area in accordance with the laws of the State of Nevada.

(2) The Secretary, after consultation with the Nevada Department of Wildlife, may issue regulations designating zones where and establishing when hunting shall not be permitted for reasons of public safety, administration, or public use and enjoyment.

(c) PREVENTIVE MEASURES.—Nothing in this Act shall preclude such measures as the Secretary deems necessary to prevent devastating fire or infestation of insects or disease within the conservation area.

(d) MECHANIZED VEHICLES.—Except when needed for administrative or emergency purposes, the use of mechanized vehicles in the conservation area shall be allowed only on roads and trails specifically designated for such use as provided in the management plan prepared pursuant to section 5.

(e) LIMITS ON VISITATION AND USE.—The Secretary may limit visitation and use of the conservation area as the Secretary finds appropriate for the protection of the resources of the conservation area.

SEC. 5. MANAGEMENT PLAN. 16 USC 460ccc-3.

(a) IN GENERAL.—(1) Within 3 full fiscal years following the fiscal year in which the date of enactment of this Act occurs, the Secretary shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, a general management plan for the conservation area, which shall describe the appropriate uses and development of the conservation area consistent with the purposes of this Act.

(2) The management plan described in paragraph (1) shall be developed with full public participation and shall include—

(A) an implementation plan for a continuing program of interpretation and public education about the resources and values of the conservation area;

(B) a proposal for administrative and public facilities to be developed, expanded, or improved for the conservation area including the Red Rock Canyon visitors center, to accommodate visitors to the conservation area;

(C) a cultural resources management plan for the conservation area prepared in consultation with the Nevada State Historic Preservation Officer, with emphasis on the preservation of the resources in the conservation area and the interpretive, educational, and long-term scientific uses of these resources,

giving priority to the enforcement of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the conservation area;

(D) a wildlife resource management plan for the conservation area prepared in consultation with appropriate departments of the State of Nevada and using previous studies of the area; and

(E) a recreation management plan, including nonmotorized dispersed recreation opportunities for the conservation area in consultation with appropriate departments of the State of Nevada.

(b) WILDERNESS STUDY AREAS.—Subject to section 7 of this Act, nothing in this Act is intended to alter the requirements of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), or section 5(a) of the National Forest and Public Lands of Nevada Enhancement Act of 1988 (102 Stat. 2751), as those requirements apply to the lands within, or adjacent to the conservation area as of the date of enactment of this Act.

16 USC 460ccc-4.

SEC. 6. ACQUISITIONS.

(a) IN GENERAL.—(1) Within the conservation area, and subject to the provisions of this section, the Secretary is authorized to acquire lands, interests in lands, and associated water rights, by donation, purchase with donated or appropriated funds, exchange for Federal lands outside the conservation area, or transfer from another Federal agency with the concurrence of the head of the appropriate agency thereof.

(2) Lands or interests therein owned by the State of Nevada or a political subdivision thereof may be acquired by donation or exchange only.

(3) No privately owned lands, interests in lands, or associated water rights, may be acquired without the consent of the owner thereof unless the Secretary determines that, in his judgment, the property is subject to, or threatened with, uses which are having, or would have, an adverse impact on the resource values for which the conservation area was established.

(4) Any lands, waters, or interests therein within the boundaries of the conservation area which after the date of enactment of this Act may be acquired by the United States shall be incorporated into the conservation area and be managed accordingly, and all provisions of this Act and other laws applicable to conservation areas shall apply to such incorporated lands.

(b) LAND EXCHANGES.—All exchanges pursuant to subsection (a) shall be made in a manner consistent with section 206 of the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1716).

16 USC 460ccc-5.

SEC. 7. WITHDRAWAL.

Except as specifically authorized in this Act, and subject to valid existing rights, all Federal lands within the conservation area and all lands and interests therein which are acquired by the United States after the date of enactment of this Act for inclusion in the conservation area are withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, and all amendments thereto.

SEC. 8. COOPERATIVE AGREEMENTS. 16 USC 460ccc-6.

In order to encourage unified and cost-effective management and interpretation of natural and cultural resources in the conservation area, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local agencies and nonprofit entities providing for the management and interpretation of natural and cultural resources in the conservation area.

SEC. 9. COORDINATED MANAGEMENT. 16 USC 460ccc-7.

The Secretary shall coordinate the management of the conservation area with that of surrounding State and Federal lands in such a manner as best to meet the present and future needs of the American people.

SEC. 10. WATER. 16 USC 460ccc-8.

(a) Within the conservation area designated by this Act, there is hereby reserved a quantity of water sufficient to fulfill the purposes for which the conservation area is established.

(b) The priority date of the water rights reserved in paragraph (a) shall be the date of enactment of this Act.

(c) The Secretary shall take all steps necessary to protect the water rights reserved by this section, including the filing of a claim for quantification of such rights in any appropriate water adjudication in the courts of the State of Nevada in which the United States is or may be joined and which is conducted in accordance with the McCarren Amendment (43 U.S.C. 666).

(d) The Federal water rights reserved by this Act shall be in addition to any water rights which may have been previously secured by the United States for purposes other than for the conservation area.

(e) The Federal water rights reserved by this Act are specific to the conservation area designated by this Act. Nothing in this Act shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation.

SEC. 11. NO BUFFER ZONES. 16 USC 460ccc-9.

The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.

16 USC 460ccc-10.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved November 16, 1990.

LEGISLATIVE HISTORY—H.R. 4559:

HOUSE REPORTS: No. 101-739 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-527 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 25, considered and passed House.
Oct. 18, considered and passed Senate, amended.
Oct. 26, House concurred in Senate amendment with an amendment.
Oct. 27, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 16, Presidential remarks.

O

Public Law 101-622
101st Congress

An Act

To authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

Nov. 21, 1990
[H.R. 5264]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public lands.

SECTION 1. DEFINITIONS.

16 USC 668dd note.

For the purposes of this Act, the term—

(1) "Koniag" means Koniag, Incorporated, an Alaska Native Corporation established pursuant to the Alaska Native Claims Settlement Act of 1971 (85 Stat. 688), as amended;

(2) "limited general warranty deed" means a general warranty deed which is, with respect to its warranties, limited to that portion of the chain of title from the moment of conveyance from the United States to Koniag to and including the moment at which such title is validly reconveyed to the United States of America and its assigns; and

(3) "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

SEC. 2. LANDS TO BE EXCHANGED.

16 USC 668dd note.

(a) LANDS EXCHANGED TO THE UNITED STATES.—(1) The Secretary is directed to accept from Koniag a conveyance by limited general warranty deed of the surface and subsurface rights to approximately two hundred and nine acres of land on Kodiak Island, Alaska, designated "Koniag Lands" upon a map entitled "Koniag Land Exchange", dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service.

(2) The lands described in paragraph (1) shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance from Koniag.

(b) LANDS EXCHANGED TO KONIAG.—In exchange for the lands conveyed by Koniag under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag, from within those lands designated as Tracts 1, 2 and 3 upon the map identified in subsection (a)(1), the surface and subsurface rights to an amount of land selected by Koniag which has a total value, as determined by the appraisals performed under section 3, equal to the sum of the value of the Koniag lands described in subsection (a)(1), plus one half of the cost of all appraisals performed under section 3 of this Act. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.

SEC. 3. DETERMINATION OF LAND VALUES.

16 USC 668dd note.

(a) SELECTION OF APPRAISERS.—Not later than sixty days after the enactment of this Act, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair

market value of the lands identified in section 2 of this Act. Each such appraiser shall be a member of or certified by the Appraisal Foundation and shall have a professional designation compatible with the valuation to be performed. Such appraisals shall be performed in conformity with the standards of such Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of the Koniag and the Secretary.

(b) DIFFERENCES IN APPRAISALS.—(1) In the event that the appraisals conducted under the provisions of subsection (a) shall differ by less than 20 percent in their assignment of value to either the tract identified under section 2(a)(1) or to any of the tracts identified in section 2(b), the value assigned to that tract shall be an amount equal to the lower of the two appraisals, plus one-half of the difference between the two appraisals.

(2) In the event the appraisals delivered under the provisions of subsection (a) shall differ by more than 20 percent in their assignment of value to either the tract identified under section 2(a)(1) or the tracts identified in section 2(b), the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of this section. Such third appraiser shall review the previously delivered appraisals of the tracts in question, and shall be instructed to reach a determination of value for the tract in question that lies between the values determined for that tract by the previous appraisals. The value determined by such third appraisal shall be binding upon both the Secretary and Koniag.

(3) Koniag shall bear the cost of all such appraisals, but shall be reimbursed in land by the United States for one-half of such costs pursuant to the provisions of section 2(b).

16 USC 668dd note.

SEC. 4. TIMING.

(a) INITIAL APPRAISALS.—The appraisals required under section 3(a) shall be completed and delivered to the Secretary and to Koniag within one hundred and twenty days of the selection of the appraisers.

(b) REVIEW APPRAISAL.—In the event a review appraisal is required pursuant to the provisions of section 3(b)(2) of this Act, such review appraisal shall be completed and delivered to the Secretary and to Koniag within sixty days of the selection of that appraiser.

(c) CONVEYANCE BY KONIAG.—Koniag shall have one hundred eighty days after the date of the delivery of the appraisals performed under section 3(b)(1) or 3(b)(2), as the case may be, to convey to the Secretary the lands described in section 2(a)(1), and a technically correct description of lands to be conveyed to them under section 2(b). The Secretary may extend such time for good cause.

(d) CONVEYANCE BY THE SECRETARY.—The Secretary shall convey to Koniag the lands identified by them pursuant to section 2(b) within one hundred and eighty days after his approval of Koniag's conveyance pursuant to subsection (c). Those lands conveyed to Koniag under this Act shall be excluded from the exterior boundaries of the Alaska Maritime National Wildlife Refuge.

16 USC 668dd note.

SEC. 5. EFFECT ON TITLE TO TIDAL OR SUBMERGED LANDS.

(a) CLAIMS BY THE STATE OF ALASKA.—No provision of this Act shall be construed to invalidate or validate or in any other way affect the State of Alaska's claim that title to any or all of the tidal or submerged lands conveyed or to be conveyed hereunder vested in

the State at statehood nor shall any actions taken pursuant to or in accordance with this section operate under any provision or principle of law to bar the State of Alaska from asserting at any time its claim of title.

(b) OTHER CONSIDERATION.—Should it be determined by a final order, not subject to further appeal and issued by a court of competent jurisdiction, that title to some or all of the lands conveyed or purported to be conveyed under the authority of this section is in the State of Alaska, then within six months after the final order the Secretary shall take all actions necessary to achieve rescission and restitution to establish status quo ante with regard to the exchange authorized in section 2 of this Act unless Koniag and the Secretary mutually agree to the identity of other consideration to be granted to Koniag, which consideration shall have a value equal to the value of those lands, the title to which is in the State of Alaska or mutually agree to extend the six month period.

SEC. 6. RESTRICTIONS AND LIMITATIONS.

16 USC 668dd note.

In order to protect the United States Coast Guard Holiday Beach receiver site, the lands to be conveyed to Koniag under subsection 2(b) of this Act shall be subject to the same restrictions and limitations on their use as are the adjacent lands which were conveyed to Koniag subject to the agreement dated December 9, 1977, between the Commandant of the United States Coast Guard and Koniag. Such restrictions and limitations shall be considered in determining the fair market value of the lands under section 3 of this Act.

Approved November 21, 1990.

LEGISLATIVE HISTORY—H.R. 5264:

HOUSE REPORTS: No. 101-703, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 28, considered and passed House.
Oct. 27, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 21, Presidential statement.

Public Law 101-623
101st Congress

An Act

Nov. 21, 1990
[H.R. 5567]

To authorize international narcotics control activities for fiscal year 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Narcotics Control Act of 1990.
Law enforcement.
22 USC 2151 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "International Narcotics Control Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. Economic assistance and administration of justice programs for Andean countries.
Sec. 3. Military and law enforcement assistance for Andean countries.
Sec. 4. General provisions relating to assistance for Andean countries.
Sec. 5. International narcotics control assistance.
Sec. 6. Assistance for agricultural and industrial alternatives to narcotics production.
Sec. 7. Exceptions to requirement that aircraft provided to foreign countries for narcotics control purposes be leased rather than sold.
Sec. 8. Number of members of United States Armed Forces in Andean countries.
Sec. 9. Nonapplicability of certification procedures to certain major drug-transit countries.
Sec. 10. Authority to transfer military assistance funds to economic programs.
Sec. 11. Extradition of United States citizens.
Sec. 12. Congressional review of narcotics-related assistance for Afghanistan.
Sec. 13. Training of foreign pilots.
Sec. 14. Review of riverine program.
Sec. 15. Uses of excess defense articles transferred to certain major illicit drug producing countries.
Sec. 16. Export-Import Bank financing for sales of defense articles and services.
Sec. 17. Debt-for-drugs exchanges.

SEC. 2. ECONOMIC ASSISTANCE AND ADMINISTRATION OF JUSTICE PROGRAMS FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $300,000,000 for fiscal year 1991 for assistance for Andean countries under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 and following; relating to the economic support fund) or under chapter 1 of part I of that Act (22 U.S.C. 2151 and following; relating to development assistance).

(b) ADMINISTRATION OF JUSTICE PROGRAMS.—

(1) ADDITIONAL ASSISTANCE FOR BOLIVIA, COLOMBIA, AND PERU.—Of the funds authorized to be appropriated by subsection (a) that are appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, up to $16,000,000 should be used to provide assistance for Bolivia, Colombia, and Peru—

(A) pursuant to section 534 of that Act (22 U.S.C. 2346c; relating to the administration of justice program), in addi-

tion to funds otherwise used for those countries under that section for fiscal year 1991; and

(B) pursuant to paragraphs (2) and (3) of this subsection.

(2) PROTECTION AGAINST NARCO-TERRORIST ATTACKS.—Funds used in accordance with paragraph (1) may be used to provide to Bolivia, Colombia, and Peru, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies), such assistance as the government of that country may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(3) ASSISTANCE FOR COLOMBIA'S OFFICE OF SPECIAL INVESTIGATIONS AND SPECIAL PROSECUTOR FOR HUMAN RIGHTS.—It is the sense of the Congress that up to $2,000,000 of the funds used in accordance with paragraph (1) should be used for assistance for Colombia to provide training, technical assistance, and equipment for the Office of Special Investigations and the Special Prosecutor for Human Rights, both of which are within the Office of the Attorney General of the Government of Colombia.

(4) ADDITIONALITY OF ASSISTANCE.—Funds may be used in accordance with paragraph (1) of this subsection without regard to the dollar limitation contained in section 534(c) of the Foreign Assistance Act of 1961.

(5) PERIOD OF AVAILABILITY.—Funds allocated for use in accordance with paragraph (1) of this subsection shall remain available until expended notwithstanding any other provision of law.

(6) EXTENSION OF AUTHORITY FOR AOJ PROGRAM.—Section 534(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2346c(e)) is amended—

(A) in the second sentence by striking out "$7,000,000 may be made available in fiscal year 1990" and inserting in lieu thereof "$10,000,000 may be made available in fiscal year 1991"; and

(B) in the third sentence by striking out "1990" and inserting in lieu thereof "1991".

SEC. 3. MILITARY AND LAW ENFORCEMENT ASSISTANCE FOR ANDEAN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated, there are authorized to be appropriated $118,000,000 for fiscal year 1991 for assistance for Andean countries under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(b) PURPOSES OF ASSISTANCE.—Assistance under subsection (a) shall be designed to—

(1) enhance the ability of the government of the recipient country to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with that government by offering concrete assistance in this area of great mutual concern;

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking; and

Human rights.

(4) assist the armed forces of the Andean countries in their support roles for those countries' law enforcement agencies,

which are charged with the main responsibility for the control of illicit narcotics production and trafficking.

(c) CONDITIONS OF ELIGIBILITY.—Assistance may be provided for an Andean country under subsection (a) only—

(1) so long as that country has a democratic government; and

(2) the government of that country, including the armed forces and law enforcement agencies, does not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(d)(1))).

(d) LAW ENFORCEMENT TRAINING AND EQUIPMENT.—Subject to subsection (e), funds made available to carry out subsection (a) may be used, notwithstanding section 660 of the Foreign Assistance Act of 1961 (22 U.S.C. 2420; relating to the prohibition on assistance to law enforcement agencies)—

(1) to provide to law enforcement units, that are organized for the specific purpose of narcotics enforcement, education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts;

(2) for the expenses of deploying, upon the request of the Government of Bolivia, the Government of Colombia, or the Government of Peru, Department of Defense mobile training teams in that country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction; and

(3) for the procurement of defense articles or commodities (as defined in section 644(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(c))) for use in narcotics control, eradication, and interdiction efforts by law enforcement units that are organized for the specific purpose of narcotics enforcement.

(e) MILITARY AND LAW ENFORCEMENT ASSISTANCE.—

(1) LIMITATIONS ON AMOUNTS.—The aggregate amount of military and law enforcement assistance provided for Bolivia, Colombia, and Peru for fiscal year 1991 may not exceed $250,000,000. Of that amount—

(A) not more than $175,000,000 may be assistance for the armed forces; and

(B) not more than $175,000,000 may be assistance for law enforcement units or agencies.

(2) DEFINITION OF MILITARY AND LAW ENFORCEMENT ASSISTANCE.—For purposes of paragraph (1), the term "amount of military and law enforcement assistance" means the sum of—

(A) the amount obligated for assistance under the "FOREIGN MILITARY FINANCING PROGRAM" account under section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(B) the amount obligated for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance);

(C) the amount obligated for assistance under chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international military education and training);

(D) the value of defense articles, defense services, and military education and training made available under the special drawdown authority of paragraphs (1) and (2) of

section 506(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(a)); and

(E) the value of excess defense articles made available under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k).

(f) LIMITATIONS ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED TO BOLIVIA, COLOMBIA, AND PERU.—

(1) ESTABLISHMENT OF LIMIT.—The aggregate acquisition cost to the United States of excess defense articles ordered by the President in fiscal year 1991 for delivery to Bolivia, Colombia, and Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) may not exceed $60,000,000.

(2) WAIVER OF EXISTING GRANT EDA LIMITATION.—The dollar limitation in section 517(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(e)) shall not apply with respect to Bolivia, Colombia, and Peru in fiscal year 1991.

(3) WORLDWIDE LIMITATION ON AMOUNT OF EXCESS DEFENSE ARTICLES TRANSFERRED.—Section 31(d) of the Arms Export Control Act (22 U.S.C. 2771(d)) shall not apply to excess defense articles ordered for transfer to Bolivia, Colombia, or Peru under section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k) in fiscal year 1991.

(g) ASSISTANCE FOR LEASING OF AIRCRAFT.—

(1) USE OF FUNDS.—For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c), funds made available under subsection (a) may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

(2) COST OF LEASES.—Section 61(a)(3) of the Arms Export Control Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

(3) REIMBURSEMENT OF SDAF.—To the extent that aircraft so leased were acquired under chapter 5 of the Arms Export Control Act, funds used pursuant to this subsection to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.

SEC. 4. GENERAL PROVISIONS RELATING TO ASSISTANCE FOR ANDEAN COUNTRIES.

(a) PRESIDENTIAL DETERMINATION REQUIRED.—Assistance may be provided for an Andean country pursuant to the authorizations of appropriations provided in section 2(a) and section 3(a), and excess defense articles may be transferred to Bolivia, Colombia, or Peru in fiscal year 1991 pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k), only if the President determines that—

(1) that country is implementing programs to reduce the flow of cocaine to the United States in accordance with a bilateral or multilateral agreement, to which the United States is a party,

that contains specific, quantitative and qualitative, performance criteria with respect to those programs;

Human rights.

(2) the armed forces and law enforcement agencies of that country are not engaged in a consistent pattern of gross violations of internationally recognized human rights, and the government of that country has made significant progress in protecting internationally recognized human rights, particularly in—

(A) ensuring that torture, cruel, inhuman, or degrading treatment or punishment, incommunicado detention or detention without charges and trial, disappearances, and other flagrant denials of the right to life, liberty, or security of the person, are not practiced; and

(B) permitting an unimpeded investigation of alleged violations of internationally recognized human rights, including providing access to places of detention, by appropriate international organizations (including nongovernmental organizations such as the International Committee of the Red Cross) or groups acting under the authority of the United Nations or the Organization of American States; and

(3) the government of that country has effective control over police and military operations related to counternarcotics and counterinsurgency activities.

President.

(b) NOTIFICATIONS TO CONGRESS.—Not less than 15 days before funds are obligated pursuant to section 2(a) or section 3(a), the President shall transmit to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) a written notification in accordance with the procedures applicable to reprogrammings under that section. Such notification shall specify—

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) in the case of assistance provided pursuant to section 3(a), the law enforcement or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will further—

(A) the objectives specified in subsection (a) of this section, and

(B) in the case of assistance under section 3(a), the purposes specified in section 3(b).

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance authorized by section 2(a) and section 3(a) shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance).

(d) CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—For fiscal year 1991, section 620(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(q)) and section 518 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, shall not apply with respect to narcotics-related assistance for an Andean country, provided the President has made the determination described in subsection (a) of this section.

(e) AUTHORITY TO WAIVER REQUIREMENT TO WITHHOLD 50 PERCENT OF ASSISTANCE PENDING CERTIFICATION.—Section 481(h)(1)(A) of the

Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)(1)(A)) shall not apply with respect to Bolivia, Colombia, and Peru for fiscal year 1991 if the President—

(1) determines that its application would be contrary to the national interest; and

(2) transmits written notification of that determination to the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogrammings under that section.

SEC. 5. INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

There are authorized to be appropriated $150,000,000 for fiscal year 1991 for assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance). Appropriation authorization.

SEC. 6. ASSISTANCE FOR AGRICULTURAL AND INDUSTRIAL ALTERNATIVES TO NARCOTICS PRODUCTION. 22 USC 2151x-1.

(a) WAIVER OF RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide assistance to a foreign country under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund) to promote the production, processing, or the marketing of products or commodities, notwithstanding any other provision of law that would otherwise prohibit the provision of assistance to promote the production, processing, or the marketing of such products or commodities.

(b) EFFECTIVE DATE.—Subsection (a) applies with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 7. EXCEPTIONS TO REQUIREMENT THAT AIRCRAFT PROVIDED TO FOREIGN COUNTRIES FOR NARCOTICS CONTROL PURPOSES BE LEASED RATHER THAN SOLD.

Section 484 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291c) is amended by adding at the end the following: "The requirement of this section does not apply with respect to aircraft made available to a foreign country under section 2(b)(6)(B) of the Export-Import Bank Act of 1945 or under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.".

SEC. 8. NUMBER OF MEMBERS OF UNITED STATES ARMED FORCES IN ANDEAN COUNTRIES. 22 USC 2291 note.

MONTHLY REPORTS.—Within 15 days after the end of each month, the President shall submit to the Congress a report listing the number of members of the United States Armed Forces who were assigned or detailed to, or otherwise performed functions in, each Andean country at any time during that month. President.

SEC. 9. NONAPPLICABILITY OF CERTIFICATION PROCEDURES TO CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 8 of the International Narcotics Control Act of 1989 is amended by inserting "or fiscal year 1991" after "fiscal year 1990". 103 Stat. 1961.

SEC. 10. AUTHORITY TO TRANSFER MILITARY ASSISTANCE FUNDS TO ECONOMIC PROGRAMS.

(a) APPLICABILITY OF TRANSFER AUTHORITY TO FOREIGN MILITARY FINANCING PROGRAM FUNDS.—Section 610(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2360(a)) is amended—

(1) by inserting "or for section 23 of the Arms Export Control Act" after "part I"; and

(2) by striking out "other".

22 USC 2360 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to funds made available for fiscal year 1991 or any fiscal year thereafter.

SEC. 11. EXTRADITION OF UNITED STATES CITIZENS.

(a) IN GENERAL.—Chapter 209 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 3196. Extradition of United States citizens

"If the applicable treaty or convention does not obligate the United States to extradite its citizens to a foreign country, the Secretary of State may, nevertheless, order the surrender to that country of a United States citizen whose extradition has been requested by that country if the other requirements of that treaty or convention are met.".

(b) SECTION ANALYSIS.—The section analysis for chapter 209 of title 18, United States Code, is amended by adding at the end the following:

"3196. Extradition of United States citizens.".

SEC. 12. CONGRESSIONAL REVIEW OF NARCOTICS-RELATED ASSISTANCE FOR AFGHANISTAN.

President.

Not less than 15 days before obligating funds made available for any fiscal year to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act for any assistance for Afghanistan that has narcotics control as one of its purposes, the President shall notify the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2394-1) in accordance with the procedures applicable to reprogramming notifications under that section.

President. 22 USC 2291h note.

SEC. 13. TRAINING OF HOST COUNTRY PILOTS.

(a) INSTRUCTION PROGRAM.—Not less than 90 days after the date of enactment of this Act, the President shall implement, under chapter 8 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2291 and following; relating to international narcotics control assistance), a detailed program of instruction to train host country pilots, and other flight crew members, to fly host country aircraft involved in counternarcotics efforts in Andean countries. Such program shall be designed to eliminate direct participation of the United States Government (including participation through the use of either direct hire or contract personnel) in the operation of such aircraft.

(b) REQUIREMENT FOR REPLACEMENT OF UNITED STATES GOVERNMENT PILOTS BY HOST COUNTRY PILOTS.—The President shall ensure that, within 18 months after the date of enactment of this Act, flight crews composed of host country personnel replace all United States Government pilots and other flight crew members (including both direct hire or contract personnel) for host country aircraft involved in airborne counternarcotics operations in the Andean countries.

(c) AIRCRAFT SUBJECT TO REQUIREMENTS.—As used in this section, the term "host country aircraft" means any aircraft made available to an Andean country by the United States Government under chapter 8 of part I of the Foreign Assistance Act of 1961, or any other provision of law, for use by that country for narcotics-related purposes.

SEC. 14. REVIEW OF RIVERINE PROGRAM.

Reports.

Funds made available to carry out the Foreign Assistance Act of 1961 or the Arms Export Control Act may not be used for the procurement of surface water craft for counternarcotics programs in the Andean countries until the Secretary of State and the Secretary of Defense have jointly assessed and audited, and have submitted a report to Congress on—

(1) the specific goals and objectives of such programs;

(2) how such craft will further the attainment of those goals and objectives;

(3) the cost and utility of craft to be provided; and

(4) how such craft will be sustained through maintenance and training.

SEC. 15. USES OF EXCESS DEFENSE ARTICLES TRANSFERRED TO CERTAIN MAJOR ILLICIT DRUG PRODUCING COUNTRIES.

Section 517(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k(c)) is amended by striking out "only" the second place it appears and inserting in lieu thereof "primarily".

SEC. 16. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES.

Section 2(b)(6)(B)(vi) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)(vi)) is amended by striking out "1990" and inserting in lieu thereof "1992".

SEC. 17. DEBT-FOR-DRUGS EXCHANGES.

(a) FINDINGS.—The Congress finds that—

(1) section 10 of the International Narcotics Control Act of 1989 gives the President the authority to provide relief with respect to certain debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, or the Government of Peru if the President determines that that country is implementing programs to reduce the flow of cocaine to the United States;

(2) President Bush has endorsed the concept of debt relief with respect to debt owed by Latin American governments to the United States Government in his "Enterprise for Americans Initiative", announced June 27, 1990; and

(3) President Bush has proposed forgiveness of foreign military sales debt owed by the Government of Egypt to the United States Government.

(b) USE OF DEBT-FOR-DRUGS AUTHORITY.—The Congress urges the President to use the authority provided in section 10 of the International Narcotics Control Act of 1989 to forgive debt owed to the United States Government by the Government of Bolivia, the Government of Colombia, and the Government of Peru.

Approved November 21, 1990.

LEGISLATIVE HISTORY—H.R. 5567:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 22, considered and passed House.
Oct. 26, considered and passed Senate, amended.
Oct. 27, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 21, Presidential statement.

Public Law 101-624
101st Congress

An Act

To extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

Nov. 28, 1990
[S. 2830]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food, Agriculture, Conservation, and Trade Act of 1990.
7 USC 1421 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food, Agriculture, Conservation, and Trade Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TITLE I—DAIRY

Sec. 101. Milk price support and milk inventory management program for calendar years 1991 through 1995.
Sec. 102. Milk manufacturing margin adjustment.
Sec. 103. Minnesota-Wisconsin price series reform.
Sec. 104. Hearings on Federal milk marketing orders.
Sec. 105. Report of dairy product purchases.
Sec. 106. Application of support price for milk.
Sec. 107. Application of amendments.
Sec. 108. Adjustments for seasonal production; hearings on amendments; determination of milk prices.
Sec. 109. Transfer of dairy products to the military and veterans hospitals.
Sec. 110. Extension of the dairy indemnity program.
Sec. 111. Export sales of dairy products.
Sec. 112. Component pricing of milk.
Sec. 113. Adjustments in payments by handlers.
Sec. 114. Dairy export incentive program.
Sec. 115. Status of producer handlers.
Sec. 116. Multiple component pricing study.

TITLE II—WOOL AND MOHAIR

Sec. 201. Wool and mohair price support program.

TITLE III—WHEAT

Sec. 301. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of wheat.
Sec. 302. Nonapplicability of certificate requirements.
Sec. 303. Suspension of land use, wheat marketing allocation, and producer certificate provisions.
Sec. 304. Suspension of certain quota provisions.
Sec. 305. Nonapplicability of section 107 of the Agricultural Act of 1949 to the 1991 through 1995 crops of wheat.

TITLE IV—FEED GRAINS

Sec. 401. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of feed grains.
Sec. 402. Nonapplicability of section 105 of the Agricultural Act of 1949 to the 1991 through 1995 crops of feed grains.
Sec. 403. Recourse loan program for silage.
Sec. 404. Price support for high moisture feed grains.
Sec. 405. Calculation of refunds of advance established price payments by producers of the 1988 or 1989 crops of feed barley.

TITLE V—COTTON

Sec. 501. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of upland cotton.
Sec. 502. Suspension of base acreage allotments, marketing quotas, and related provisions.
Sec. 503. Miscellaneous cotton provisions.
Sec. 504. Skiprow practices.
Sec. 505. Preliminary allotments for 1996 crop of upland cotton.
Sec. 506. Extra long staple cotton program.
Sec. 507. Cottonseed and cottonseed oil price support.
Sec. 508. Security interests.

TITLE VI—RICE

Sec. 601. Loans, payments, and acreage reduction programs for the 1991 through 1995 crops of rice.

TITLE VII—OILSEEDS

Sec. 701. Loans and payments for oilseeds for 1991 through 1995 marketing years.

TITLE VIII—PEANUTS

Sec. 801. Suspension of marketing quotas and acreage allotments.
Sec. 802. National poundage quotas and acreage allotments.
Sec. 803. Sale, lease, or transfer of farm poundage quota.
Sec. 804. Marketing penalties; disposition of additional peanuts.
Sec. 805. Experimental and research programs for peanuts.
Sec. 806. Price support program.
Sec. 807. Reports and records.
Sec. 808. Suspension of certain price support provisions.
Sec. 809. Regulations.

TITLE IX—SUGAR

Sec. 901. Sugar price support.
Sec. 902. Marketing allotments for sugar and crystalline fructose.
Sec. 903. Reports on quota allocations to countries importing sugar.

TITLE X—HONEY

Sec. 1001. Honey price support.
Sec. 1002. Loan forfeiture limitation.

TITLE XI—GENERAL COMMODITY PROVISIONS

Subtitle A—Acreage Base and Yield System

Sec. 1101. Acreage base and yield system.

Subtitle B—Payment Limitations

Sec. 1111. Payment limitations.

Subtitle C—Provisions Related to Agricultural Act of 1949

Sec. 1121. Deficiency and land diversion payments.
Sec. 1122. Commodity certificates.
Sec. 1123. Farmer owned reserve program.
Sec. 1124. Comparability of storage payments.
Sec. 1125. Supplemental set-aside and acreage limitation authority.
Sec. 1126. Disaster payments.
Sec. 1127. Increase in support levels.
Sec. 1128. Adjustment of support prices.
Sec. 1129. Program option for 1996 crops.
Sec. 1130. Commodity Credit Corporation sales price restrictions.
Sec. 1131. Application of terms in the Agricultural Act of 1949.
Sec. 1132. Producer appeals process.

Subtitle D—Miscellaneous Commodity Provisions

Sec. 1141. Normally planted acreage.
Sec. 1142. Normal supply.
Sec. 1143. Food security wheat reserve.
Sec. 1144. Determinations of the Secretary.
Sec. 1145. National Agricultural Cost of Production Standards Review Board.
Sec. 1146. Assignment of payments.

Sec. 1147. Financial impact study.
Sec. 1148. Survey of program participants.

Subtitle E—Options Pilot Program

Sec. 1151. Short title.
Sec. 1152. Purposes.
Sec. 1153. Options pilot program.
Sec. 1154. Terms and conditions.
Sec. 1155. Commodity futures trading industry.
Sec. 1156. Commodity Credit Corporation.

Subtitle F—Conforming Amendments

Sec. 1161. Conforming amendments.

Subtitle G—Effective Date

Sec. 1171. Effective date.

TITLE XII—STATE AND PRIVATE FORESTRY

Sec. 1201. Short title.

Subtitle A—Cooperative Forestry Assistance Act of 1978

Sec. 1211. References.
Sec. 1212. Findings, purpose, and policy.
Sec. 1213. Rural forestry assistance.
Sec. 1214. Forest incentives program.
Sec. 1215. Forest stewardship program.
Sec. 1216. Stewardship incentive program.
Sec. 1217. Forest legacy program.
Sec. 1218. Forest health protection.
Sec. 1219. Urban and community forestry assistance.
Sec. 1220. Firefighting preparedness and mobilization assistance.
Sec. 1221. Statement of limitation.
Sec. 1222. Federal, State, and local coordination and cooperation.
Sec. 1223. Administration.
Sec. 1224. Conforming amendments.

Subtitle B—Research and Education

CHAPTER 1—GENERAL RESEARCH PROGRAMS

Sec. 1231. McIntire-Stennis research program.
Sec. 1232. Competitive forestry, natural resources, and environmental grants program.

CHAPTER 2—SPECIALIZED RESEARCH

Sec. 1241. Research and utilization.
Sec. 1242. Southern Forest Regeneration Program.
Sec. 1243. Semiarid Agroforestry Research Center.
Sec. 1244. Forest land protection.
Sec. 1245. Presidential Commission on State and Private Forests.
Sec. 1246. Blue Mountain Natural Resource Institute.
Sec. 1247. International Forest Products Trade Institute.

CHAPTER 3—EDUCATION

Sec. 1251. Extension.
Sec. 1252. Forestry student grant program.

Subtitle C—America the Beautiful

Sec. 1261. Short title.
Sec. 1262. Findings.
Sec. 1263. Purposes.
Sec. 1264. Tree planting foundation.
Sec. 1265. Rural tree planting and forest management program.
Sec. 1266. Community tree planting and improvement program.

Subtitle D—Miscellaneous Provisions

Sec. 1271. Emergency reforestation assistance.
Sec. 1272. Talladega National Forest expansion.

TITLE XIII—FRUITS, VEGETABLES, AND MARKETING

Subtitle A—Fruits and Vegetables

Sec. 1301. Findings.
Sec. 1302. Purposes.
Sec. 1303. Declaration.
Sec. 1304. Study of the fruit and vegetable industry.
Sec. 1305. Country of origin labeling programs.
Sec. 1306. Enforcement of handler assessments.
Sec. 1307. Kiwifruit and other fruit.
Sec. 1308. Marketing orders.
Sec. 1309. Products produced in distinct geographic areas.

Subtitle B—National Laboratory Accreditation

Sec. 1321. Definitions.
Sec. 1322. National laboratory accreditation program.
Sec. 1323. Accreditation.
Sec. 1324. Samples.
Sec. 1325. Application.
Sec. 1326. Reporting.
Sec. 1327. Fees.
Sec. 1328. Public disclosure.
Sec. 1329. Regulations.
Sec. 1330. Effect of other laws.

Subtitle C—Cosmetic Appearance

Sec. 1351. Definition.
Sec. 1352. Research.
Sec. 1353. Changes in procedural regulations.
Sec. 1354. Authorization of appropriations.

Subtitle D—Miscellaneous

Sec. 1361. Amendment to the Perishable Agricultural Commodities Act.
Sec. 1362. Wine and winegrape industry study.

TITLE XIV—CONSERVATION

Sec. 1401. Short title.

Subtitle A—Highly Erodible Land Conservation

Sec. 1411. Program ineligibility.
Sec. 1412. Exemptions.

Subtitle B—Wetland Conservation

Sec. 1421. Wetland program improvements.
Sec. 1422. Delineation of wetland; exemptions.
Sec. 1423. Consultation.
Sec. 1424. Fairness of compliance.

Subtitle C—Agricultural Resources Conservation Program

Sec. 1431. Agricultural Resources Conservation Program.
Sec. 1432. Conservation Reserve Program.
Sec. 1433. Duties of owners and operators.
Sec. 1434. Payments.
Sec. 1435. Conversion of land subject to contract.
Sec. 1436. Extended base protection.
Sec. 1437. Study of land use for expiring contracts and extension of authority.
Sec. 1438. Wetlands reserve program.
Sec. 1439. Agricultural water quality incentives.
Sec. 1440. Environmental easement program.
Sec. 1441. Tree planting initiative.
Sec. 1442. Administration of conservation programs.
Sec. 1443. Authorization of appropriations.
Sec. 1444. Monitoring and evaluation.
Sec. 1445. Assistance for control of the spread of weeds and pests.
Sec. 1446. State Technical Committee.
Sec. 1447. Technical and conforming amendments.

Subtitle D—Other Conservation Measures

Sec. 1451. Integrated Farm Management Program Option.

Sec. 1452. Resource conservation and development program.
Sec. 1453. Amendment to the Noxious Weed Act.
Sec. 1454. Identifying the effects of Federal programs.
Sec. 1455. Great Plains conservation program.
Sec. 1456. Composting research and extension program.

Subtitle E—Watershed Protection and Flood Prevention Act; Farmland Protection

CHAPTER 1—WATERSHED PROTECTION AND FLOOD PREVENTION

Sec. 1461. Relation of benefits to agriculture.
Sec. 1462. Cost share assistance.
Sec. 1463. Data.
Sec. 1464. Amendment to the Watershed Protection and Flood Prevention Act.

CHAPTER 2—FARMLAND PROTECTION

Sec. 1465. Short title, purpose, and definition.
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Sec. 2509. Collection of fees for inspection services.
Sec. 2510. User fees for reports, publications, and software.
Sec. 2511. Tobacco Adjustment Act of 1983.
Sec. 2512. Costs of production.
Sec. 2513. Farm value of agricultural products.
Sec. 2514. Commodity reports.
Sec. 2515. Scarce Federal resources.
Sec. 2516. Recordkeeping improvement.
Sec. 2517. Study of the transportation of fertilizer and agricultural chemicals to farmers.

Sec. 2518. Establishing quality as a goal for Commodity Credit Corporation programs.
Sec. 2519. Severability.

TITLE I—DAIRY

SEC. 101. MILK PRICE SUPPORT AND MILK INVENTORY MANAGEMENT PROGRAM FOR CALENDAR YEARS 1991 THROUGH 1995.

Effective date.

(a) IN GENERAL.—Effective January 1, 1991, the Agricultural Act of 1949 is amended by inserting after section 203 (7 U.S.C. 1446d) the following new section:

7 USC 1446e.

"SEC. 204. MILK PRICE SUPPORT AND MILK INVENTORY MANAGEMENT PROGRAM FOR CALENDAR YEARS 1991 THROUGH 1995.

"Notwithstanding any other provision of law:

"(a) IN GENERAL.—During the period beginning on January 1, 1991, and ending on December 31, 1995, the price of milk shall be supported as provided in this section.

"(b) RATE.—During the period beginning on January 1, 1991, and ending on December 31, 1995, the price of milk shall be supported at a rate not less than $10.10 per hundredweight for milk containing 3.67 percent milkfat.

"(c) PURCHASES.—

"(1) IN GENERAL.—The price of milk shall be supported through the purchase of milk and the products of milk.

"(2) CCC BID PRICES.—The Commodity Credit Corporation support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Corporation shall be the same for all of that product sold by persons offering to sell the product to the Corporation. The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price not less than the rate of price support for milk in effect during a 12-month period under this subsection.

"(3) BUTTER AND NONFAT DRY MILK.—

"(A) *ALLOCATION OF PURCHASE PRICES.*—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. The Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation.

"(B) TIMING OF PURCHASE PRICE ADJUSTMENTS.—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

"(d) SUPPORT RATE ADJUSTMENTS.—

"(1) REDUCTIONS.—

"(A) IN GENERAL.—Effective January 1 of each of the calendar years 1991 through 1995, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), as estimated by the Secretary by

November 20 of the preceding calendar year, will exceed 5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall decrease by an amount per hundredweight of at least $0.25 but not more than $0.50 the rate of price support for milk in effect for the calendar year.

"(B) PRIOR NOTIFICATION.—The Secretary shall, by November 20 of the preceding calendar year, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed decrease in price support under this paragraph.

"(2) INCREASES.—

"(A) IN GENERAL.—Effective January 1 of each of the calendar years 1991 through 1995, if the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will not exceed 3.5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall increase by an amount per hundredweight of at least $0.25 the rate of price support for milk in effect for the calendar year.

"(B) PRIOR NOTIFICATION.—The Secretary shall, by November 20 of the preceding calendar year, notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of any proposed increase in price support under this paragraph.

"(3) NO ADJUSTMENTS.—If for any of the calendar years 1992 through 1995, the level of purchases of milk and the products of milk by the Commodity Credit Corporation under this section (less sales under section 407 for unrestricted use), as estimated by the Secretary by November 20 of the preceding calendar year, will be less than 5 billion pounds (milk equivalent, total milk solids basis), but more than 3.5 billion pounds (milk equivalent, total milk solids basis), the Secretary shall not decrease the rate of price support for milk in effect for the calendar year.

"(4) MINIMUM PRICE.—Notwithstanding any other provision of this section, in no event shall the price of milk be supported at less than $10.10 per hundredweight.

"(5) ADMINISTRATION.—

"(A) MILK EQUIVALENT, TOTAL MILK SOLIDS BASIS.—As used in this section, the term 'milk equivalent, total milk solids basis', of milk and the products of milk purchased by the Commodity Credit Corporation, shall be equal to the weighted-average of the milk equivalent (as computed on a milkfat basis and on a milk solids nonfat basis) of such products, with weighting factors equal to not more than 40 percent for the milk equivalent, milkfat basis, and not more than 70 percent for the milk equivalent, solids nonfat basis. The weighting factors shall total 100 percent.

"(B) LEVEL OF PURCHASES.—In estimating the level of purchases of milk and the products of milk under this section, the Secretary shall deduct the amount, if any, by which the level of imports into the United States of milk and the products of milk during the most recent calendar year exceeds the annual average level of imports into the

United States of milk and the products of milk during the period January 1, 1986, through December 31, 1990 (milk equivalent, total milk solids basis).

"(e) REPORT ON MILK INVENTORY MANAGEMENT PROGRAM.—

"(1) IN GENERAL.—Not later than August 1, 1991, the Secretary shall prepare and submit a report and recommendations on various milk inventory management programs to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate.

Federal Register, publication.

"(2) SOLICITATION OF PROPOSALS.—Within 60 days after the date of enactment of this section, the Secretary shall publish in the Federal Register a notice to solicit proposals concerning a milk inventory management program.

"(3) REQUIRED PROPOSALS.—In carrying out this subsection, the Secretary shall study, among other proposals—

"(A) an alternative classification of milk contained in section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), as amended by the Agricultural Marketing Agreement Act of 1937;

"(B) a program to support the income of milk producers through a system of established prices and deficiency payments; and

"(C) other such programs submitted to the Secretary under paragraph (2) as the Secretary may determine appropriate after consultation with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) PROHIBITED PROGRAMS.—In the study required under paragraph (3), the Secretary shall not consider any milk inventory management program that includes any milk production termination program that is similar to the program established under section 201(d)(3), or support price reductions below the levels established under this section.

"(5) CRITERIA FOR EVALUATION.—The Secretary shall evaluate the proposals for a milk inventory management program based on—

"(A) the ability of the program to limit Government purchases of milk products to 6,000,000,000 pounds (milk equivalent, total milk solids basis) in a calendar year;

"(B) the speed and effectiveness of reducing excess milk production;

"(C) the effectiveness in sustaining reduced milk production for at least a 5-year period with and without the continuation of the program;

"(D) the regional impact on milk prices, producer revenue, and milk supplies;

"(E) the impact on national producer income and Government expenditures;

"(F) the impact on the rural economy and maintaining family farms;

"(G) the impact on the availability of wholesome dairy products for domestic and foreign nutrition and food assistance programs;

"(H) technological innovations;

"(I) the effectiveness in reducing butter fat production and increasing protein content in milk;

"(J) the impact of temporary increases and decreases of milk production;

"(K) the impact on the United States livestock industry; and

"(L) all other issues the Secretary considers appropriate.

"(6) NOTICE AND COMMENT.—The Secretary shall provide for public notice and comment on the milk inventory programs studied by the Secretary under this subsection no later than June 1, 1991.

"(f) NOTIFICATION OF CONGRESS CONCERNING ESTIMATED PURCHASES.—On August 1 and by November 20 of each of the calendar years 1991 through 1995, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate regarding the value and volume of dairy product purchases on a milk equivalent, total milk solids basis, the Secretary estimates that the Corporation will make during the upcoming calendar year.

"(g) EXCESS PURCHASES.—

"(1) IN GENERAL.—In order to offset any cost to the Commodity Credit Corporation associated with the purchase of milk and the products of milk in excess of 7,000,000,000 pounds (milk equivalent, total milk solids basis), during any of the calendar years 1991 through 1994, the Secretary shall, if necessary, provide for a reduction to be made in the price received by producers for all milk produced in the United States and marketed by producers for commercial use.

"(2) CALCULATION.—If on November 20 of each of the calendar years 1991 through 1994, the Secretary estimates that the level of Commodity Credit Corporation purchases of milk and the products of milk will exceed 7,000,000,000 pounds (milk equivalent, total milk solids basis), the amount of reduction in the price received by producers shall be an amount per hundredweight calculated by dividing—

"(A) the cost of the purchases in excess of 7,000,000,000 pounds, milk equivalent, total milk solids basis; by

"(B) the total quantity of hundredweights of milk the Secretary estimates will be produced and marketed in the United States for commercial use in that calendar year.

"(3) ADJUSTMENTS.—The Secretary shall adjust any such assessment in future years, or refund any portion of such assessments, as needed, to carry out the purposes of this subsection.

"(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(i) PERIOD.—Notwithstanding any other provision of law, this section shall be effective only during the period beginning on January 1, 1991, and ending on December 31, 1995.".

(b) CONFORMING PROVISION.—Section 553 of title 5, United States Code, shall not apply with respect to the implementation of section 204 of the Agricultural Act of 1949 (as added by subsection (a) of this section) by the Secretary of Agriculture, including determinations made regarding— 7 USC 1446e note.

(1) the level of price support for milk; and

(2) any reduction in the prices paid to producers of milk.

7 USC 1446e-1.

SEC. 102. MILK MANUFACTURING MARKETING ADJUSTMENT.

(a) IN GENERAL.—Effective beginning on the date that is 12 months after the date of enactment of this Act, no State shall provide for (and no person shall collect, directly or indirectly) a greater allowance for the processing of milk (hereafter referred to as a "make allowance") than is permitted under a Federal program to establish a Grade A price for manufacturing butter, nonfat dry milk, or cheese.

(b) LIABILITY FOR PENALTIES.—

(1) IN GENERAL.—If the Secretary of Agriculture determines that—

(A) based on a request by a producer supported by evidence, the make allowance collected by a person is in excess of the amount that is permitted under subsection (a); or

(B) a person has failed to comply with any requirement of this section or a regulation issued under this section,

the person shall be liable for penalties as determined by the Commodity Credit Corporation in accordance with this subsection.

(2) AMOUNT OF PENALTIES.—Such penalties shall be equal to the product obtained by multiplying—

(A) twice the permitted make allowance that could be charged as provided under subsection (a); by

(B) the quantity of milk with respect to which the person was determined by the Secretary to have collected a make allowance in excess of the permitted make allowance.

(c) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out this section.

(d) INVESTIGATIONS.—

(1) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this section or to determine whether any person subject to this section has violated this section.

(2) ADMINISTRATION.—For the purpose of the investigation, the Secretary may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry.

(3) SUBPOENA.—The attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which the investigation or proceeding is carried on, or where the person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of records. The court may issue an order requiring the attendance and testimony of witnesses and the production of records, or requiring the person to appear before the Secretary to produce records or to give testimony on the matter under investigation.

(4) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as a contempt thereof.

(5) PROCESS.—All process in any such case may be served in the judicial district of which the person is an inhabitant or wherever the person may be found.

Courts.

(e) ENFORCEMENT.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and

restrain any person from violating, any provision of this section or any regulation issued under this section.

SEC. 103. MINNESOTA-WISCONSIN PRICE SERIES REFORM. 7 USC 608c note.

(a) IN GENERAL.—Within 60 days of the date of enactment of this Act, the Secretary of Agriculture shall commence to accept alternative pricing formula recommendations, as they may relate to the Minnesota-Wisconsin price series used to determine the minimum prices paid under milk marketing orders, in order to amend such milk marketing orders authorized under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937. Among the alternative pricing formulas to be considered by the Secretary shall be a price series based on prices paid by milk processors for Grade A milk and manufacturing grade milk that is used in the manufacture of dairy products.

(b) AVAILABILITY OF DATA.—The Secretary shall compile and make available to the public the historical and current data used to compare the alternative pricing formulas submitted and recommended as provided in subsection (a) with the existing Minnesota-Wisconsin price series. Public information.

(c) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—

(1) ANNOUNCEMENT OF HEARING.—Not later than October 1, 1991, the Secretary shall—

(A) announce a national hearing to consider the proposed replacement of the Minnesota-Wisconsin price series in Federal milk marketing orders; and

(B) invite industry and consumer proposals on the specific provisions to be considered for each order.

(2) REPORT TO CONGRESS.—On issuance of the final decision on the hearing proposals, the Secretary shall report the decision to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(3) OPPORTUNITY FOR PUBLIC COMMENT.—The opportunity for public comment on the recommended decision shall not be less than 30 legislative days. For purposes of this paragraph, the term "legislative day" means a day on which either House of Congress is in session.

SEC. 104. HEARINGS ON FEDERAL MILK MARKETING ORDERS. 7 USC 608c note.

The Secretary of Agriculture shall—

(1) conclude the national hearings announced by the Secretary on March 29, 1990, regarding possible changes in the pricing provisions of Federal milk marketing orders; and

(2) to the maximum extent practicable consistent with applicable laws, effect any resulting system-wide changes in the Federal orders setting minimum prices that milk processors must pay for Grade A milk received from producers, by January 1, 1992.

SEC. 105. REPORT OF DAIRY PRODUCT PURCHASES. 7 USC 1446c note.

The Secretary of Agriculture shall make available to the public quarterly evaluations of the acquisition and disposal of Commodity Credit Corporation purchases of dairy products. Public information.

7 USC 1446e note.

SEC. 106. APPLICATION OF SUPPORT PRICE FOR MILK.

For purposes of supporting the price of milk under section 204 of the Agricultural Act of 1949 (as added by section 101 of this Act), the Secretary of Agriculture may not take into consideration any market value of whey.

7 USC 1446 note.

SEC. 107. APPLICATION OF AMENDMENTS.

The amendments made by this title shall not affect any liability of any person under section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) as in effect before the date of the enactment of this Act.

SEC. 108. ADJUSTMENTS FOR SEASONAL PRODUCTION; HEARINGS ON AMENDMENTS; DETERMINATION OF MILK PRICES.

Section 101(b) of the Agriculture and Food Act of 1981 (7 U.S.C. 608c note) is amended by striking "1990" and inserting "1995".

SEC. 109. TRANSFER OF DAIRY PRODUCTS TO THE MILITARY AND VETERANS HOSPITALS.

Section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a) is amended by striking "1990" each place it appears in subsections (a) and (b) and inserting "1995".

SEC. 110. EXTENSION OF THE DAIRY INDEMNITY PROGRAM.

7 USC 450*l*.

Section 3 of the Act entitled "An Act to provide indemnity payments to dairy farmers" (7 U.S.C. 4501), approved August 13, 1968, is amended by striking "1990" and inserting "1995".

SEC. 111. EXPORT SALES OF DAIRY PRODUCTS.

Section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) is amended by striking "1990" each place it appears and inserting "1995".

SEC. 112. COMPONENT PRICING OF MILK.

Section 8c(5)(B) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)(B)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by striking "and" at the end of clause (d); and

(2) by inserting before the period at the end the following: "and, (f) a further adjustment, equitably to apportion the total value of milk purchased by any handler or by all handlers among producers on the basis of the milk components contained in their marketings of milk".

SEC. 113. ADJUSTMENTS IN PAYMENTS BY HANDLERS.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(L) Providing that adjustments in payments by handlers under paragraph (A) need not be the same as adjustments to producers under paragraph (B) with regard to adjustments authorized by subparagraphs (2) and (3) of paragraph (A) and clauses (b), (c), and (d) of paragraph (B)(ii).".

SEC. 114. DAIRY EXPORT INCENTIVE PROGRAM.

Section 153 of the Food Security Act of 1985 (15 U.S.C. 713a-14) is amended by striking "September 30, 1990" and inserting "December 31, 1995".

SEC. 115. STATUS OF PRODUCER HANDLERS. 7 USC 608c note.

The legal status of producer handlers of milk under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, shall be the same after the amendments made by this title take effect as it was before the effective date of the amendments.

SEC. 116. MULTIPLE COMPONENT PRICING STUDY. 7 USC 608c note.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall initiate a study to determine whether, and to what extent, milkfat is being produced in the United States in excess of commercial market needs as a result of any provision of law, regulation, or order that affects the manner in which producers receive payment for milk on the basis of the milk components contained in their marketings of milk under any Federal or State milk pricing program.

(b) STUDY.—In conducting the study, the Secretary shall assess the potential impact on achieving balance in the production, marketing, and domestic commercial use of milkfat through adoption of multiple component pricing programs under Federal and State milk pricing programs.

(c) REPORT.—Not later that 180 days after the date of enactment of this Act, the Secretary shall—

(1) report the results of the study conducted under subsection (a), together with associated recommendations, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

(2) publish the results of the study.

(d) IMPLEMENTATION IN FEDERAL MARKETING ORDERS.—On completion and publication of the study described in this section, the Secretary shall—

(1) announce a national hearing to consider the adoption of multiple component pricing provisions in individual Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) invite industry and consumer proposals on the specific provisions to be considered for each order.

TITLE II—WOOL AND MOHAIR

SEC. 201. WOOL AND MOHAIR PRICE SUPPORT PROGRAM.

(a) EXTENSION.—Section 703 of the National Wool Act of 1954 (7 U.S.C. 1782) is amended by striking "1990" each place it appears in subsections (a) and (b) and inserting "1995".

(b) PAYMENT LIMITATION.—Section 704 of such Act (7 U.S.C. 1783) is amended—

(1) by striking the section heading and inserting the following:

"SEC. 704. PAYMENTS AS MEANS OF PRICE SUPPORT.";

(2) by inserting after the section designation the following: "(a) USE OF PAYMENTS.—; and

(3) by adding at the end the following new subsection:

"(b) PAYMENT LIMITATION.—

"(1) IN GENERAL.—The total amount of payments that a person shall be entitled to receive under this Act for wool or mohair for any marketing year shall not exceed—

"(A) $200,000 for the 1991 marketing year;

"(B) $175,000 for the 1992 marketing year;

"(C) $150,000 for the 1993 marketing year; and

"(D) $125,000 for each of the 1994 and subsequent marketing years.

Regulations.

"(2) ENFORCEMENT.—The Secretary shall issue regulations defining the term 'person' for purposes of this section. The regulations shall be consistent with regulations issued by the Secretary in accordance with sections 1001, 1001A, and 1001B of the Food Security Act of 1985 (7 U.S.C. 1308, 1308-1, and 1308-2).".

TITLE III—WHEAT

SEC. 301. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

The Agricultural Act of 1949 is amended—

(1) by repealing sections 107A and 107B (7 U.S.C. 1445b and 1445b-1);

(2) by redesignating section 107D (7 U.S.C. 1445b-3) as section 107A; and

(3) by inserting after section 107A (as so redesignated) the following new section:

7 USC 1445b-3a.

"SEC. 107B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF WHEAT.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1991 through 1995 crops of wheat produced on the farm at such level as the Secretary determines will maintain the competitive relationship of wheat to other grains in domestic and export markets after taking into consideration the cost of producing wheat, supply and demand conditions, and world prices for wheat.

"(2) MINIMUM LOAN AND PURCHASE LEVEL.—Except as provided in paragraphs (3) and (4), the loan and purchase level determined under paragraph (1) shall not be less than 85 percent of the simple average price received by producers of wheat, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of wheat, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the loan and purchase level for a crop determined under this paragraph may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) ADJUSTMENTS TO SUPPORT LEVEL.—

"(A) STOCKS TO USE RATIO.—If the Secretary estimates for any marketing year that the ratio of ending stocks of wheat to total use for the marketing year will be—

"(i) equal to or greater than 30 percent, the Secretary may reduce the loan and purchase level for wheat for

the corresponding crop by an amount not to exceed 10 percent in any year;

"(ii) less than 30 percent but not less than 15 percent, the Secretary may reduce the loan and purchase level for wheat for the corresponding crop by an amount not to exceed 5 percent in any year; or

"(iii) less than 15 percent, the Secretary may not reduce the loan and purchase level for wheat for the corresponding crop.

"(B) REPORT TO CONGRESS.—

"(i) IN GENERAL.—If the Secretary adjusts the level of loans and purchases for wheat under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

"(I) certifying such adjustment as necessary to prevent the accumulation of stocks and to retain market share; and

"(II) containing a description of the need for such adjustment.

"(ii) EFFECTIVE DATE OF ADJUSTMENT.—The adjustment shall become effective no earlier than 60 calendar days after the date of submission of the report to the Committees, except that in the case of the 1991 crop of wheat, the adjustment shall become effective on the date of the submission of the report.

"(C) COMPETITIVE POSITION.—Notwithstanding subparagraph (A), if the Secretary determines, not later than 60 days prior to the beginning of a marketing year for a crop, that the effective loan rate established for such crop will not maintain a competitive market position for wheat, the Secretary may reduce the loan and purchase level for wheat for the marketing year by an amount, in addition to any reduction under subparagraph (A), not to exceed 10 percent in any year.

"(D) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan and purchase level for wheat under this paragraph shall not be considered in determining the loan and purchase level for wheat for subsequent years.

"(E) MINIMUM LOAN RATE.—Notwithstanding subparagraph (A), the loan rate for wheat shall not be less than $2.44 per bushel, unless such rate would exceed 80 percent of the 5-year average market price determination.

"(4) MARKETING LOAN PROVISIONS.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

"(i) the loan level determined for the crop;

"(ii) the higher of—

"(I) 70 percent of such level;

"(II) if the loan level for a crop was reduced under paragraph (3), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (3); or

"(iii) the prevailing world market price for wheat (adjusted to United States quality and location), as determined by the Secretary.

Regulations.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for wheat, adjusted to United States quality and location; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for wheat.

"(C) ALTERNATIVE REPAYMENT RATES.—For each of the 1991 through 1995 crops of wheat, if the world market price for wheat (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of wheat stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing wheat; and

"(iv) allow wheat produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(5) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments (hereafter in this section referred to as 'loan deficiency payments') available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of wheat the producer is eligible to place under loan (or obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (hereafter in this section referred to as

'deficiency payments') for each of the 1991 through 1995 crops of wheat in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the payment acres for the crop; by

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) PAYMENT RATE FOR 1991 THROUGH 1993 CROPS.—The payment rate for each of the 1991 through 1993 crops of wheat shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(I) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) for the marketing year for the crop of wheat.

"(ii) PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of wheat shall be calculated as provided in clause (i).

"(iii) MINIMUM ESTABLISHED PRICE.—The established price for wheat shall not be less than $4.00 per bushel for each of the 1991 through 1995 crops.

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage; or

"(ii) 100 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D)).

"(D) EMERGENCY COMPENSATION.—

"(i) IN GENERAL.—Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for wheat under subsection (a)(3), the Secretary shall provide emergency compensation by increasing the deficiency payments for wheat by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made.

"(ii) CALCULATION.—In determining the payment rate, per bushel, for emergency compensation payments for a crop of wheat under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of wheat, received by producers during the marketing year for the crop, as determined by the Secretary.

"(iii) DEADLINES FOR ESTIMATES AND AVAILABILITY.—Notwithstanding any other provision of this Act, the Secretary shall—

"(I) by December 1 of the marketing year for the crop, estimate the national weighted average market price, per bushel of wheat, received by producers during the marketing year;

"(II) by December 15 of the marketing year, use the estimate to make available to producers who have elected the payment option authorized by this clause not less than 75 percent of the increase in payments estimated to be payable with respect to the crop under this subparagraph; and

"(III) adjust the amount of each final payment for wheat to reflect any difference between the amount of any estimated payment made under this clause and the amount of actual payment due under this subparagraph.

"(iv) TIME FOR ELECTING PAYMENT OPTION.—Producers shall elect the payment option authorized by clause (iii) at the time of entering into a contract to participate in the program established by this section for the crop.

"(E) 0/92 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of wheat and the producers on a farm devote a portion of the maximum payment acres for wheat as calculated under subparagraph (C)(ii) of the farm equal to more than 8 percent of such wheat acreage of the farm for the crop to conservation uses (except as provided in subparagraph (F))—

"(I) such portion of the maximum payment acres in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to wheat for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to such acreage.

"(ii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for wheat for the farm to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to wheat and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which wheat producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of wheat acreage that may be taken out of production under this subparagraph, taking into consideration the

total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The wheat crop acreage base and wheat farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted wheat acreage of the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to wheat.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to wheat in accordance with clauses (i) and (iv) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(F) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(ii) OILSEEDS.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, and other minor oilseed designated by the Secretary (excluding soybeans). In implementing this clause, the Secretary shall provide that, in order to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of any such oilseed produced on the farm.

"(G) REDUCTION FOR DISASTER PAYMENTS.—The total quantity of wheat on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for wheat to wheat or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to wheat for harvest (including any acreage that the producers were prevented from planting to wheat or other nonconserving crops in lieu of wheat because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of wheat that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop

Insurance Act (7 U.S.C. 1501 et seq.) with respect to the wheat acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the wheat acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that— Disaster assistance.

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting wheat or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm as necessary to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of wheat shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of wheat, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of wheat an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce any such program not later than June 1 prior to the calendar year in which the crop is

harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

"(D) ADJUSTMENTS.—Not later than July 31 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of wheat since the program was first announced.

"(E) COMPLIANCE.—As a condition of eligibility for loans, purchases, and payments for any such crop of wheat, except as provided in subsections (f) and (g) and section 504, the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program as provided in paragraph (5).

"(F) ACREAGE LIMITATION PROGRAM FOR 1991 CROP.—In the case of the 1991 crop of wheat, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 15 percent.

"(G) ACREAGE LIMITATION PROGRAMS FOR 1992 THROUGH 1995 CROPS.—In the case of each of the 1992 through 1995 crops of wheat, if the Secretary estimates for a marketing year for the crop that the ratio of ending stocks of wheat to total disappearance of wheat for the preceding marketing year will be—

"(i) more than 40 percent, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 20 percent; or

"(ii) equal to or less than 40 percent, the Secretary may provide for such an acreage limitation program under which the acreage planted to wheat for harvest on a farm would be limited to the wheat crop acreage base for the farm for the crop reduced by not more than 0 to 15 percent.

For the purpose of this subparagraph, the term 'total disappearance' means all wheat utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a wheat acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the wheat crop acreage base for the crop for each wheat-producing farm.

"(B) COMPLIANCE.—Except as provided in subsection (g) and section 504, producers who knowingly produce wheat in excess of the permitted wheat acreage for the farm shall be ineligible for wheat loans, purchases, and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Wheat crop acreage bases for each crop of wheat shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the wheat crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereafter in this subsection referred to as 'permitted acreage'. Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504. Regulations.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to wheat for harvest within the permitted wheat acreage for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—As used in this subparagraph, the term 'designated crop' means a crop defined in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) IN GENERAL.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of wheat, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(E) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be

made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of wheat under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to receive an increase in the established price for wheat under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' wheat acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for wheat by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' wheat acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' wheat acreage base shall not be increased by more than 10 percentage points for the 1991 crop and 15 percentage points for each of the 1992 through 1995 crops above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' wheat acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for wheat under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for wheat by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' wheat acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' wheat acreage base under this para-

graph by more than one-half of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion. Regulations.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of wheat under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of wheat, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(ii) MULTIYEAR PROGRAM.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be

devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

Regulations.

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(E) SUMMER FALLOW.—In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of wheat, whether or not an acreage limitation program for wheat is in effect, if the Secretary determines that the land diversion payments are

necessary to assist in adjusting the total national acreage of wheat to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. Government contracts.

"(C) LIMITATION ON DIVERTED ACREAGE.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years) established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a signifi-

cant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of wheat.

"(8) SPECIAL OATS PLANTINGS.—In any crop year that the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, notwithstanding the foregoing provisions of this subsection, the Secretary—

"(A) may provide that any reduced acreage may be planted to oats for harvest;

"(B) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under section 105B available to producers with respect to acreage planted to oats under this paragraph; and

"(C) shall not make program benefits other than the benefits specified in subparagraph (B) available to producers with respect to acreage planted to oats under this paragraph.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of wheat, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant wheat for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—Effective for the 1992 or 1993 crops (and, if the Secretary so determines, the 1994 and 1995 crops), if a wheat acreage limitation program or a land diversion program is announced under subsection (d) for such crops, the Secretary shall carry out a pilot program in at least 15 counties in at least 2 States where producers express an interest in participating in the pilot program under which the producers on a farm shall be considered to have met the requirements of such acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of wheat in excess of the wheat production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a

marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to wheat under the acreage reduction program or land diversion program in effect for the crop for the farm; by

"(B) the higher of—

"(i) the farm program payment yield for the farm; or

"(ii) the average of the yield per harvested acre for wheat for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of wheat shall—

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop; Cooperative agreements.

"(B) not plant program commodities for harvest in a quantity in excess of the sum of the crop acreage bases for the farm; and

"(C) be considered to have complied with the terms and conditions of the wheat acreage reduction program or land diversion program for the crop, even though the acreage planted to wheat on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of wheat produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess wheat is produced less the quantity of wheat produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of wheat may market, barter, or use a quantity of the excess wheat referred to in subparagraph (A) in an amount that reflects the quantity of wheat that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the pilot program established under this subsection, the Secretary—

Regulations.

"(A) shall issue such regulations as are necessary to carry out the program;

"(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess wheat production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any wheat that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for wheat for the farm.

"(7) REPORT.—

"(A) IN GENERAL.—The Comptroller General of the United States shall prepare a report that evaluates the pilot program carried out under this subsection.

"(B) SUBMISSION.—The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

"(h) EQUITABLE RELIEF.—

"(1) LOANS, PURCHASES, AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of such program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the wheat program with respect to any other farm operated by the producers.

"(o) PUBLIC COMMENT ON WHEAT PROGRAM.—

"(1) IN GENERAL.—In order to ensure that producers and consumers of wheat are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1992 and subsequent crops of wheat, the Secretary shall request public comment regarding the wheat program in accordance with this subsection.

"(2) OPTIONS.—Not less than 60 days before the program is announced for a crop of wheat under this section, the Secretary shall propose for public comment various program options for the crop of wheat.

"(3) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

"(4) ESTIMATES.—In announcing the program for a crop of wheat under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

"(p) SPECIAL PROVISIONS FOR WHEAT PLANTED IN 1990.—Effective with respect to producers of the 1991 crop of wheat that was planted in 1990, a producer may, when participating in the production adjustment program for the 1991 crop of wheat specified in this section elect to participate in the program with the following modifications:

"(1) DEFICIENCY PAYMENTS.—The producer's deficiency payment shall be the amount by which the established price for the crop of wheat exceeds the higher of—

"(A) the lesser of—

"(i) the national weighted average market price received by producers during the marketing year for the crop, as determined by the Secretary; or

"(ii) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary, plus 10 cents per bushel; or

"(B) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) for the marketing year for the crop of wheat.

"(2) PAYMENT ACRES.—The producer's payment acres shall be the lesser of—

"(A) the number of acres planted to the crop for harvest within the permitted acreage; or

"(B) 100 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D)).

"(q) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of wheat.".

7 USC 1379d note.

SEC. 302. NONAPPLICABILITY OF CERTIFICATE REQUIREMENTS.

Sections 379d through 379j of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379d-1379j) (relating to marketing certificate requirements for processors and exporters) shall not be applicable to wheat processors or exporters during the period June 1, 1991, through May 31, 1996.

7 USC 1331 note.

SEC. 303. SUSPENSION OF LAND USE, WHEAT MARKETING ALLOCATION, AND PRODUCER CERTIFICATE PROVISIONS.

Sections 331 through 339, 379b, and 379c of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1331 through 1339, 1379b, and 1379c) shall not be applicable to the 1991 through 1995 crops of wheat.

7 USC 1340 note.

SEC. 304. SUSPENSION OF CERTAIN QUOTA PROVISIONS.

The joint resolution entitled "A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended", approved May 26, 1941 (7 U.S.C. 1330 and 1340) shall not be applicable to the crops of wheat planted for harvest in the calendar years 1991 through 1995.

7 USC 1445a note.

SEC. 305. NONAPPLICABILITY OF SECTION 107 OF THE AGRICULTURAL ACT OF 1949 TO THE 1991 THROUGH 1995 CROPS OF WHEAT.

Section 107 of the Agricultural Act of 1949 (7 U.S.C. 1445a) shall not be applicable to the 1991 through 1995 crops of wheat.

TITLE IV—FEED GRAINS

SEC. 401. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

The Agricultural Act of 1949 is amended—

(1) by repealing sections 105A and 105B (7 U.S.C. 1444c and 1444d);

(2) by redesignating section 105C (7 U.S.C. 1444e) as section 105A; and

(3) by inserting after section 105A (as so redesignated) the following new section:

"SEC. 105B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF FEED GRAINS. 7 USC 1444f.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm loans and purchases for each of the 1991 through 1995 crops of corn produced on the farm at such level as the Secretary determines will encourage the exportation of feed grains and not result in excessive total stocks of feed grains after taking into consideration the cost of producing corn, supply and demand conditions, and world prices for corn.

"(2) MINIMUM LOAN AND PURCHASE LEVEL.—Except as provided in paragraphs (3) and (4), the loan and purchase level determined under paragraph (1) shall not be less than 85 percent of the simple average price received by producers of corn, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of corn, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, except that the loan and purchase level for a crop determined under this paragraph may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) ADJUSTMENTS TO SUPPORT LEVEL.—

"(A) STOCKS TO USE RATIO.— If the Secretary estimates for any marketing year that the ratio of ending stocks of corn to total use for the marketing year will be—

"(i) equal to or greater than 25 percent, the Secretary may reduce the loan and purchase level for corn for the corresponding crop by an amount not to exceed 10 percent in any year;

"(ii) less than 25 percent but not less than 12.5 percent, the Secretary may reduce the loan and purchase level for corn for the corresponding crop by an amount not to exceed 5 percent in any year; or

"(iii) less than 12.5 percent the Secretary may not reduce the loan and purchase level for corn for the corresponding crop.

"(B) REPORT TO CONGRESS.—

"(i) IN GENERAL.—If the Secretary adjusts the level of loans and purchases for corn under subparagraph (A), the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report—

"(I) certifying such adjustment as necessary to prevent the accumulation of stocks and to retain market share; and

"(II) containing a description of the need for such adjustment.

"(ii) EFFECTIVE DATE OF ADJUSTMENT.—The adjustment shall become effective no earlier than 60 calendar days after the date of submission of the report to the Committees, except that in the case of the 1991 crop of

feed grains, the adjustment shall become effective on the date of the submission of the report.

"(C) COMPETITIVE POSITION.—Notwithstanding subparagraph (A), if the Secretary determines, not later than 60 days prior to the beginning of a marketing year for a crop, that the effective loan rate established for such crop will not maintain a competitive market position for corn, the Secretary may reduce the loan and purchase level for corn for the marketing year by an amount, in addition to any reduction under subparagraph (A), not to exceed 10 percent in any year.

"(D) NO EFFECT ON FUTURE YEARS.—Any reduction in the loan and purchase level for corn under this paragraph shall not be considered in determining the loan and purchase level for corn for subsequent years.

"(E) MINIMUM LOAN RATE.—Notwithstanding subparagraph (A), the loan rate for corn shall not be less than $1.76 per bushel, unless such rate would exceed 80 percent of the 5-year average market price determination.

"(4) MARKETING LOAN PROVISIONS.—

"(A) IN GENERAL.—The Secretary may permit a producer to repay a loan made under this subsection for a crop at a level (except as provided in subparagraph (C)) that is the lesser of—

"(i) the loan level determined for the crop;

"(ii) the higher of—

"(I) 70 percent of such level;

"(II) if the loan level for a crop was reduced under paragraph (3), 70 percent of the loan level that would have been in effect but for the reduction under paragraph (3); or

"(iii) the prevailing world market price for feed grains (adjusted to United States quality and location), as determined by the Secretary.

Regulations.

"(B) PREVAILING WORLD MARKET PRICE.—If the Secretary permits a producer to repay a loan in accordance with subparagraph (A), the Secretary shall prescribe by regulation—

"(i) a formula to determine the prevailing world market price for feed grains, adjusted to United States quality and location; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for feed grains.

"(C) ALTERNATIVE REPAYMENT RATES.—For each of the 1991 through 1995 crops of feed grains, if the world market price for feed grains (adjusted to United States quality and location) as determined by the Secretary, is less than the loan level determined for the crop, the Secretary may permit a producer to repay a loan made under this subsection for a crop at such level (not in excess of the loan level determined for the crop) as the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of feed grain stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing feed grains; and

"(iv) allow feed grains produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(5) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(6) OTHER FEED GRAINS.—The Secretary shall make available to producers loans and purchases for each of the 1991 through 1995 crops of grain sorghums, barley, oats, and rye, respectively, produced on the farm at such level as the Secretary determines is fair and reasonable in relation to the level that loans and purchases are made available for corn, taking into consideration the feeding value of the commodity in relation to corn and other factors specified in section 401(b).

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of feed grains, make payments (hereafter in this section referred to as 'loan deficiency payments') available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of feed grains the producer is eligible to place under loan (or obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (hereafter in this section referred to as 'deficiency payments') for each of the 1991 through 1995 crops of corn, grain sorghums, oats, and barley, in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the payment acres for the crop; by

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) PAYMENT RATE FOR 1991 THROUGH 1993 CROPS.—The payment rate for each of the 1991 through 1993 crops of corn, grain sorghums, oats, and barley shall be the amount by which the established price for the respective crop of feed grains exceeds the higher of—

"(I) the national weighted average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(II) the loan level determined for the crop, prior to any adjustment made under subsection (a)(3) for the marketing year for the crop.

"(ii) PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for each of the 1994 and 1995 crops of corn, grain sorghums, oats, and barley shall be determined as provided in clause (i).

"(iii) MINIMUM ESTABLISHED PRICES.—

"(I) CORN.—The established price for corn shall not be less than $2.75 per bushel for each of the 1991 through 1995 crops of corn.

"(II) OATS.—The established price for oats shall be such price as the Secretary determines is fair and reasonable in relation to the established price for corn, but not less than $1.45 per bushel.

"(III) GRAIN SORGHUMS.—The established price for each of the 1991 through 1995 crops of grain sorghums shall not be less than $2.61 per bushel.

"(IV) BARLEY.—

"(aa) IN GENERAL.—The established price for barley shall be such price as the Secretary determines is fair and reasonable in relation to the established price for corn, taking into consideration the various feed and food uses for barley. The established price for barley shall not be less than 85.8 percent of the established price for corn.

"(bb) BARLEY CALCULATIONS.—The Secretary shall, for purposes of determining the payment rate for barley under clause (i)(I) and subparagraph (D)(ii), use the national weighted average market price received by producers of barley sold primarily for feed purposes.

"(cc) ADVANCE PAYMENTS.—In the case of the 1991 crop of barley, the Secretary shall, for purposes of determining any advance deficiency payment made to the producers of barley under section 114, use the national weighted average market price received by producers for all barley, as determined by the Secretary.

"(dd) EQUITY.—In implementing this subsection, the Secretary shall make available to producers of the 1991 crop of barley, notwithstanding the method of calculation or the amount of the advance deficiency payment, the total amount of payments as calculated under clause (bb).

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage; or

"(ii) 100 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D)).

"(D) EMERGENCY COMPENSATION.—

"(i) IN GENERAL.—Notwithstanding the foregoing provisions of this section, if the Secretary adjusts the level of loans and purchases for feed grains under subsection (a)(3), the Secretary shall provide emergency compensation by increasing the deficiency payments for feed grains by such amount as the Secretary determines necessary to provide the same total return to producers as if the adjustment in the level of loans and purchases had not been made.

"(ii) CALCULATION.—In determining the payment rate, per bushel, for emergency compensation payments for a crop of feed grains under this subparagraph, the Secretary shall use the national weighted average market price, per bushel of feed grains, received by producers during the marketing year for the crop, as determined by the Secretary.

"(E) 0/92 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of feed grains and the producers on a farm devote a portion of the maximum payment acres for feed grains as calculated under subparagraph (C)(ii) of the farm equal to more than 8 percent of such feed grain acreage of the farm for the crop, to conservation uses (except as provided in subparagraph (F))—

"(I) such portion of the maximum payment acres of the farm in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (F)) shall be considered to be planted to feed grains for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to such acreage.

"(ii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for feed grains for the farm to conservation uses (or other uses as provided in subparagraph (F)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to feed grains and eligible for payments under this subparagraph for the crop at a per-bushel rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which feed grain producers may agree to participate in the program for the crop.

"(iii) ADVERSE EFFECT ON AGRIBUSINESS AND OTHER INTERESTS.—The Secretary shall implement this subparagraph in such a manner as to minimize the adverse effect on agribusiness and other agriculturally related economic interests within any county, State, or region. In carrying out this subparagraph, the Secretary is authorized to restrict the total quantity of

feed grain acreage that may be taken out of production under this subparagraph, taking into consideration the total quantity of acreage that has or will be removed from production under other price support, production adjustment, or conservation program activities. No restrictions on the quantity of acreage that may be taken out of production in accordance with this subparagraph in a crop year shall be imposed in the case of a county in which producers were eligible to receive disaster emergency loans under section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) as a result of a disaster that occurred during the crop year.

"(iv) CROP ACREAGE AND PAYMENT YIELD.—The feed grain crop acreage base and feed grain farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted feed grain acreage of the farm was devoted to conserving uses (except as provided in subparagraph (F)) under this subparagraph.

"(v) LIMITATION.—Other than as provided in clauses (i) through (iv), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to feed grains.

"(vi) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to feed grains in accordance with clauses (i) and (iv) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(F) ALTERNATIVE CROPS.—

"(i) INDUSTRIAL AND OTHER CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(I) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(II) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw

material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(ii) OILSEEDS.—The Secretary shall permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (E) to be devoted to sunflowers, rapeseed, canola, safflower, flaxseed, mustard seed, and other minor oilseeds designated by the Secretary (excluding soybeans). In implementing this clause, the Secretary shall provide that, in order to receive payments under subparagraph (E), the producers shall agree to forgo eligibility to receive a loan under section 205 for the crop of any such oilseed produced on the farm.

"(G) REDUCTION FOR DISASTER PAYMENTS.—The total quantity of feed grains on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for feed grains to feed grains or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to feed grains for harvest (including any acreage that the producers were prevented from planting to feed grains or other nonconserving crops in lieu of feed grains because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of feed grains that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the established price for the crop for the deficiency in production below 60 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the feed grain acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the feed grain acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting feed grains or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm as necessary to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of feed grains shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of corn, grain sorghum, barley, or oats, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of corn, grain sorghum, barley, or oats an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program

established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce the program not later than September 30 prior to the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

"(D) ADJUSTMENTS.—Not later than November 15 of the year previous to the year in which the crop is harvested, the Secretary may make adjustments in the program announced under subparagraph (C) if the Secretary determines that there has been a significant change in the total supply of feed grains since the program was first announced.

"(E) COMPLIANCE.—As a condition of eligibility for loans, purchases, and payments for any such crop of feed grains, except as provided in subsections (f) and (g) and section 504, the producers on a farm must comply with the terms and conditions of the acreage limitation program and, if applicable, a land diversion program as provided in paragraph (5).

"(F) ACREAGE LIMITATION PROGRAM FOR 1991 CROP.—In the case of the 1991 crop of corn, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) as provided in subparagraph (G).

"(G) ACREAGE LIMITATION PROGRAMS FOR 1992 THROUGH 1995 CROPS.—In the case of each of the 1992 through 1995 crops of corn, if the Secretary estimates for a marketing year for the crop that the ratio of ending stocks of corn to total disappearance of corn for the preceding marketing year will be—

"(i) more than 25 percent, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not less than 10 percent nor more than 20 percent; or

"(ii) equal to or less than 25 percent, the Secretary may provide for such an acreage limitation program under which the acreage planted to corn for harvest on a farm would be limited to the corn crop acreage base for the farm for the crop reduced by not more than 0 to 12.5 percent.

For the purpose of this subparagraph, the term 'total disappearance' means all corn utilization, including total domestic, total export, and total residual disappearance.

"(H) ACREAGE LIMITATION PROGRAM FOR 1991 THROUGH 1995 CROPS OF OATS.—In the case of each of the 1991 through 1995 crops of oats, the Secretary shall provide for an acreage limitation program (as described in paragraph (2)) under which the acreage planted to oats for harvest on a farm would be limited to the oat crop acreage base for the farm for the crop reduced by not more than 0 percent.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a feed grain acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 20 percent) to the crop acreage base for corn, grain sorghum, barley, or oats, respectively, for each feed grain-producing farm.

"(B) COMPLIANCE.—Except as provided in subsection (g) and section 504, producers who knowingly produce a feed grain in excess of the respective permitted feed grain acreage for the farm shall be ineligible for feed grain loans, purchases, and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Feed grain crop acreage bases for each crop of feed grains shall be determined under title V.

Regulations.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the respective feed grain crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereafter in this subsection referred to as 'permitted acreage'. Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to feed grains for harvest within the permitted feed grain acreage for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—As used in this subparagraph, the term 'designated crop' means a crop defined in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) IN GENERAL.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(G) EXCEPTION FOR MALTING BARLEY.—The Secretary may provide that no producer of malting barley shall be required as a condition of eligibility for feed grain loans, purchases, and payments to comply with any acreage limitation under this paragraph if the producer has previously produced a malting variety of barley for harvest, plants barley only of an acceptable malting variety for harvest, and meets such other conditions as the Secretary may prescribe.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of feed grains, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(E) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of feed grains under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to receive an increase in the established price for corn under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' corn acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for corn by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' corn acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' corn acreage base shall not be increased by more than 5 percentage points for the 1991 crop and 10 percentage points for each of the 1992 through 1995 crops above the acreage limitation percentage announced by the Secretary for the crop or above 20 percent total for the crop.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' corn acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for corn under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for corn by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' corn acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' corn acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) OTHER FEED GRAINS.—The Secretary shall implement the program provided for by this paragraph for other feed grains similar to the manner in which the program is implemented for corn.

"(F) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

Regulations.

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of feed grains under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of feed grains, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(ii) MULTIYEAR PROGRAM.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(E), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, Regulations.

cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(E) SUMMER FALLOW.—In determining the quantity of land to be devoted to conservation uses under an acreage limitation program with respect to land that has been farmed under summer fallow practices, as defined by the Secretary, the Secretary shall consider the effects of soil erosion and such other factors as the Secretary considers appropriate.

"(5) LAND DIVERSION PAYMENTS.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of feed grains, whether or not an acreage limitation program for feed grains is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of feed grains to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) LIMITATION ON DIVERTED ACREAGE.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

Cooperative agreements.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) SOIL AND WATER CONSERVATION PRACTICES.—The Secretary may also pay an appropriate share of the cost of approved soil and water conservation practices (including practices that may be effective for a number of years)

established by the producer on acreage required to be devoted to conservation uses or on additional diverted acreage.

"(C) PUBLIC ACCESSIBILITY.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of feed grains.

"(8) SPECIAL OATS PLANTINGS.—In any crop year that the Secretary determines that projected domestic production of oats will not fulfill the projected domestic demand for oats, notwithstanding the foregoing provisions of this subsection, the Secretary—

"(A) may provide that any reduced acreage may be planted to oats for harvest;

"(B) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under this section available to producers with respect to acreage planted to oats under this paragraph; and

"(C) shall not make program benefits other than the benefits specified in subparagraph (B) available to producers with respect to acreage planted to oats under this paragraph.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of feed grains, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant feed grains for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) PILOT VOLUNTARY PRODUCTION LIMITATION PROGRAM.—

"(1) IN GENERAL.—Effective for the 1992 or 1993 crops (and, if the Secretary so determines, the 1994 and 1995 crops), if a feed grain acreage limitation program or a land diversion program is announced under subsection (d) for such crops, the Secretary shall carry out a pilot program in at least 15 counties in at least 2 States where producers express an interest in participating in the pilot program under which the producers on a farm shall be considered to have met the requirements of such acreage limitation or land diversion program if the producers meet the requirements of the voluntary production limitation program established under this subsection.

"(2) LIMITATION ON MARKETING.—In order to comply with the voluntary production limitation program, the producers on a farm must agree not to market, barter, donate, or use on the farm (including use as feed for livestock) in a marketing year a quantity of feed grains in excess of the feed grain production limitation quantity for the farm for the marketing year.

"(3) PRODUCTION LIMITATION QUANTITY.—For purposes of this subsection, the production limitation quantity for a farm for a marketing year for a crop shall equal the product obtained by multiplying—

"(A) the acreage permitted to be planted to feed grains under the acreage reduction program or land diversion program in effect for the crop for the farm; by

"(B) the higher of—

"(i) the farm program payment yield for the farm; or

"(ii) the average of the yield per harvested acre for feed grains for the farm for each of the 5 crop years immediately preceding the crop year during which the producers first participate in the program established under this subsection, excluding the crop years with the highest and lowest yield per harvested acre and any crop year in which the commodity was not planted on the farm.

"(4) TERMS AND CONDITIONS.—Producers on a farm who elect to participate in the program established under this subsection for a crop of feed grains shall—

Cooperative agreements.

"(A) enter into an agreement with the Secretary providing that the producers shall comply with the program for the crop;

"(B) not plant program commodities for harvest in a quantity in excess of the sum of the crop acreage bases for the farm; and

"(C) be considered to have complied with the terms and conditions of the feed grain acreage reduction program or land diversion program for the crop, even though the acreage planted to feed grains on the farm exceeds the permitted acreage provided under the acreage reduction or land diversion program.

"(5) EXCESS PRODUCTION.—

"(A) IN GENERAL.—Any quantity of feed grains produced in a crop year on a farm in excess of the production limitation quantity for the farm may be stored by the producers for a period of not to exceed 5 marketing years and may be used only in accordance with this paragraph.

"(B) MARKETING IN SUBSEQUENT YEAR.—

"(i) PARTICIPANTS IN PROGRAM.—Producers on a farm who are participating in the program established under this subsection may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) equal to the difference between the production limitation quantity for the farm for the crop year subsequent to the crop year in which the excess feed grains are produced less the quantity of feed grains produced on the farm during the crop year.

"(ii) PARTICIPANTS IN ACREAGE REDUCTION PROGRAM.—Producers on a farm who are participating in an acreage reduction or a land diversion program for a crop of feed grains may market, barter, or use a quantity of the excess feed grains referred to in subparagraph (A) in an amount that reflects the quantity of feed grains that would be expected to be produced on acreage that the producers agree to devote to approved conservation uses (in excess of any acreage reduction or land diversion requirements) during a crop year, as determined by the Secretary.

"(6) DUTIES OF SECRETARY.—In carrying out the pilot program established under this subsection, the Secretary—

"(A) shall issue such regulations as are necessary to carry out the program; Regulations.

"(B) may require increased acreage reduction or land diversion requirements with respect to producers who have had excess feed grain production in order to allow the producers to market, barter, or use the production in subsequent years;

"(C) shall take appropriate measures designed to prevent the circumvention of the program established under this subsection, including the imposition of penalties;

"(D) may require producers who participate in the program for a crop, but who fail to comply with the terms and conditions of the program, to refund all or a part of any deficiency payments received with respect to the crop;

"(E) may require the forfeiture to the Commodity Credit Corporation of any feed grains that is produced in excess of the production limitation quantity and that is not marketed, bartered, or used within 5 marketing years; and

"(F) shall ensure equitable treatment for producers who participate in the pilot program if the Secretary allows increases (based on actual production levels) in the determination of farm program payment yields for feed grains for the farm.

"(7) REPORT.—

"(A) IN GENERAL.—The Comptroller General of the United States shall prepare a report that evaluates the pilot program carried out under this subsection.

"(B) SUBMISSION.—The Comptroller General shall submit a copy of the report required by subparagraph (A) to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary.

"(h) EQUITABLE RELIEF.—

"(1) LOANS, PURCHASES, AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of such program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(i) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(j) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(k) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(l) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(m) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(n) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the feed grains program with respect to any other farm operated by the producers.

"(o) PUBLIC COMMENT ON FEED GRAINS PROGRAM.—

"(1) IN GENERAL.—In order to ensure that producers and consumers of feed grains are provided with reasonable opportunity to comment on the annual program determinations concerning the price support and acreage reduction program for each of the 1992 and subsequent crops of feed grains, the Secretary shall request public comment regarding the feed grains program in accordance with this subsection.

"(2) OPTIONS.—Not less than 60 days before the program is announced for a crop of feed grains under this section, the Secretary shall propose for public comment various program options for the crop of feed grains.

"(3) ANALYSES.—Each option proposed by the Secretary shall be accompanied by an analysis that includes the estimated planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that would likely result from each option.

"(4) ESTIMATES.—In announcing the program for a crop of feed grains under this section, the Secretary shall include an estimate of the planted acreage, production, domestic and export use, ending stocks, season average producer price, program participation rate, and cost to the Federal Government that is expected to result from the program as announced.

"(p) MALTING BARLEY.—In order to help offset costs associated with deficiency payments made available under this section to producers of barley, the Secretary shall provide for an assessment for each of the 1991 through 1995 crop years to be levied on producers of malting barley that are participating in the production adjustment program under this section. The Secretary shall establish such assessment at no more than 5 percent of the value of malting barley produced on the farm during each of the 1991 through 1995 crop years.

"(q) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of feed grains.".

SEC. 402. NONAPPLICABILITY OF SECTION 105 OF THE AGRICULTURAL ACT OF 1949 TO THE 1991 THROUGH 1995 CROPS OF FEED GRAINS.

7 USC 1444b note.

Section 105 of the Agricultural Act of 1949 (7 U.S.C. 1444b) shall not be applicable to the 1991 through 1995 crops of feed grains.

SEC. 403. RECOURSE LOAN PROGRAM FOR SILAGE.

Section 403 of the Food Security Act of 1985 (7 U.S.C. 1444e-1) is amended by striking "1990" and inserting "1996".

SEC. 404. PRICE SUPPORT FOR HIGH MOISTURE FEED GRAINS.

7 USC 1444f-1.

(a) RECOURSE LOANS.—Notwithstanding any other provision of law, effective for each of the 1991 through 1995 crops of feed grains, the Secretary of Agriculture shall make available recourse loans as determined by the Secretary, as provided in this section, to producers on a farm who—

(1) normally harvest all or a portion of their crop of feed grains in a high moisture state (hereafter defined as a feed grain having a moisture content in excess of Commodity Credit Corporation standards for loans made by the Secretary under paragraphs (1) and (6) of section 105B of the Agricultural Act of 1949 (as added by section 401 of this Act);

(2)(A) present certified scale tickets from an inspected, certified commercial scale, including licensed warehouses, feedlots, feed mills, distilleries, or other similar entities approved by the Secretary, pursuant to regulations issued by the Secretary; or

(B) present field or other physical measurements of the standing or stored feed grain crop in regions of the country, as

determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(3) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to such facilities maintained by the users of such high-moisture feed grain;

(4) comply with deadlines established by the Secretary for harvesting the feed grain and submit applications for loans within deadlines established by the Secretary; and

(5) participate in an acreage limitation program for the crop of feed grains established by the Secretary.

(b) ELIGIBILITY OF ACQUIRED FEED GRAINS.—The loans shall be made on a quantity of feed grains of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(1) the acreage of the feed grain in a high moisture state harvested on the producer's farm; by

(2) the lower of the farm program payment yield or the actual yield on a field, as determined by the Secretary, that is similar to the field from which such high moisture feed grain was obtained.

7 USC 1445j note.

SEC. 405. CALCULATION OF REFUNDS OF ADVANCE ESTABLISHED PRICE PAYMENTS BY PRODUCERS OF THE 1988 OR 1989 CROPS OF FEED BARLEY.

(a) MANDATORY CALCULATION OF REFUND.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall calculate, for informational purposes only (except as provided in the discretionary authority under subsection (b)), the amount of the refund of any advance deficiency payment a producer of barley who participated in the 1988 or 1989 Federal barley price support program would be required to make pursuant to section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b–2) (as it existed immediately before the date of enactment of this Act) based on a formula which excludes malting barley from the market price calculations of barley used to determine the amount of refund of the advance deficiency payment required of the producer.

(2) DISCLOSURE.—

Federal Register, publication.

(A) TO THE PUBLIC.—The Secretary shall publish in the Federal Register—

(i) the formula used to perform the calculations described in paragraph (1);

(ii) the aggregate results that the use of the calculation would have pursuant to subsection (b), in terms of—

(I) the total reduction in the amount of refunds;

(II) the number of producers affected; and

(III) any other information the Secretary determines appropriate;

(iii) a declaration of the Secretary's decision whether to use the calculation to recalculate barley producer's refunds pursuant to subsection (b); and

(iv) a statement of the Secretary's reasons for the decision described in clause (iii).

(B) TO PRODUCERS.—The Secretary shall make available to each producer of 1988 or 1989 crop barley, on request, a statement detailing the effect of the calculation of refunds described in paragraph (1) on the producer's 1988 or 1989 refund.

(b) DISCRETIONARY USE OF CALCULATION.—

(1) IN GENERAL.—The Secretary may use the calculation described in subsection (a) to determine whether or not to reduce the total refund owed by a producer of 1988 or 1989 crop barley under section 107C of the Agricultural Act of 1949 (as it existed immediately before the date of enactment of this Act).

(2) PROCEDURE FOR USE OF CALCULATION.—If the Secretary decides to use the calculation described in subsection (a) as provided under paragraph (1), in the case of a producer of 1988 or 1989 crop barley who paid the refund of the advance deficiency payment for the crop calculated prior to the date of enactment of this Act (or any amount of refund in excess of the amount of the refund determined in accordance with paragraph (1)), the Secretary—

(i) shall, before May 31, 1991, reimburse the producer the amount of refund paid by the producer in excess of the refund determined in accordance with this section;

(ii) shall have the option to make the reimbursement in a lump sum or in installments;

(iii) shall, not later than 90 days after the date of enactment of this Act, notify producers who are eligible to receive the reimbursement of their 1988 or 1989 advance deficiency payment refund under this section—

(I) of the timing of the payment of the reimbursement (either in lump sum or in installments);

(II) that the amount of the reimbursement shall not bear interest if paid before February 15, 1991; and

(III) that the amount of the reimbursement paid after February 15, 1991, shall bear interest at a rate of at least 7 percent per annum; and

(iv) may elect to pay the reimbursement in a lump sum with generic certificates redeemable for commodities owned by the Commodity Credit Corporation if the reimbursement is paid in full not later than 60 days after the date of enactment of this Act.

TITLE V—COTTON

SEC. 501. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF UPLAND COTTON.

The Agricultural Act of 1949 is amended by inserting after section 103A (7 U.S.C. 1444-1) the following new section:

"SEC. 103B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF UPLAND COTTON. 7 USC 1444-2.

"(a) LOANS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall, on presentation of warehouse receipts or other acceptable evidence of title, as determined by

the Secretary, reflecting accrued storage charges of not more than 60 days, make available for the 1991 through 1995 crops of upland cotton to producers on a farm nonrecourse loans for upland cotton produced on the farm for a term of 10 months from the first day of the month in which the loan is made at such loan level, per pound, as will reflect for the base quality of upland cotton, as determined by the Secretary, at average location in the United States a level that is not less than the smaller of—

"(A) 85 percent of the average price (weighted by market and month) of the base quality of cotton as quoted in the designated United States spot markets during 3 years of the 5-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) 90 percent of the average, for the 15-week period beginning July 1 of the year in which the loan level is announced, of the 5 lowest-priced growths of the growths quoted for Middling one and three-thirty-seconds inch cotton C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan is announced between the average Northern European price quotation of such quality of cotton and the market quotations in the designated United States spot markets for the base quality of upland cotton, as determined by the Secretary.

"(2) ADJUSTMENTS TO LOAN LEVEL.—

"(A) LIMITATION ON DECREASE IN LOAN LEVEL.—The loan level for any crop determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop, and may not be reduced below 50 cents per pound.

"(B) LIMITATION ON INCREASE IN LOAN LEVEL.—If for any crop the average Northern European price determined under paragraph (1)(B) is less than the average United States spot market price determined under paragraph (1)(A), the Secretary may increase the loan level to such level as the Secretary may consider appropriate, not in excess of the average United States spot market price determined under paragraph (1)(A).

"(3) ANNOUNCEMENT OF LOAN LEVEL.—The loan level for any crop of upland cotton shall be determined and announced by the Secretary not later than November 1 of the calendar year preceding the marketing year for which the loan is to be effective or, in the case of the 1991 crop, as soon as is practicable after the date of enactment of this Act. The loan level shall not thereafter be changed.

"(4) EXTENSION OF LOAN PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), nonrecourse loans provided for in this section shall, on request of the producer during the 10th month of the loan period for the cotton, be made available for an additional term of 8 months.

"(B) LIMITATION.—A request to extend the loan period shall not be approved in any month in which the average price of the base quality of upland cotton, as determined by

the Secretary, in the designated spot markets for the preceding month exceeded 130 percent of the average price of such base quality of cotton in the designated United States spot markets for the preceding 36-month period.

"(5) MARKETING LOAN PROVISIONS.—

"(A) IN GENERAL.—If the Secretary determines that the prevailing world market price for upland cotton (adjusted to United States quality and location) is below the loan level determined under the foregoing provisions of this subsection, in order to make United States upland cotton competitive in world markets, the Secretary shall permit a producer to repay a loan made for any crop at—

"(i) a level that is the lesser of—

"(I) the loan level determined for the crop; or

"(II) the higher of—

"(aa) the loan level determined for the crop multiplied by 70 percent; or

"(bb) the prevailing world market price for upland cotton (adjusted to United States quality and location), as determined by the Secretary; or

"(ii) such other level (not in excess of the loan level determined for the crop nor less than 70 percent of such loan level) that the Secretary determines will—

"(I) minimize potential loan forfeitures;

"(II) minimize the accumulation of cotton stocks by the Federal Government;

"(III) minimize the cost incurred by the Federal Government in storing cotton; and

"(IV) allow cotton produced in the United States to be marketed freely and competitively, both domestically and internationally.

"(B) FIRST HANDLER MARKETING CERTIFICATES.—

"(i) IN GENERAL.—During the period beginning August 1, 1991, and ending July 31, 1996, if a program carried out under subparagraph (A) or subsection (b) fails to make United States upland cotton fully competitive in world markets and the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for upland cotton determined under subparagraph (A), to make United States upland cotton competitive in world markets and to maintain and expand domestic consumption and exports of upland cotton produced in the United States, the Secretary shall provide for the issuance of marketing certificates in accordance with this subparagraph.

"(ii) PAYMENTS.—The Commodity Credit Corporation, under such regulations as the Secretary may prescribe, shall make payments, through the issuance of marketing certificates, to first handlers of cotton (persons regularly engaged in buying or selling upland cotton) who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to

such terms and conditions as the Secretary determines will make upland cotton produced in the United States available at competitive prices, consistent with the purposes of this subparagraph.

"(iii) VALUE.—The value of each certificate issued under clause (ii) shall be based on the difference between—

"(I) the loan repayment rate for upland cotton; and

"(II) the prevailing world market price of upland cotton (adjusted to United States quality and location), as determined by the Secretary.

"(iv) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, may assist any person receiving marketing certificates under this subparagraph in the redemption of certificates for cash, or marketing or exchange of the certificates for agricultural commodities or products owned by the Commodity Credit Corporation, at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this subparagraph. Any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(v) DESIGNATION OF COMMODITIES AND PRODUCTS; CHARGES.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, the owners would prefer to receive in exchange for certificates. If any certificate is not presented for redemption, marketing, or exchange within a reasonable number of days after the issuance of the certificate (as determined by the Secretary), reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

"(vi) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and products for certificates under this subsection from adversely affecting the income of producers of the commodities or products.

"(vii) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued to cotton handlers under this subparagraph may be transferred to other handlers and persons approved by the Secretary.

"(C) PREVAILING WORLD MARKET PRICE.—

Regulations.

"(i) IN GENERAL.—The Secretary shall prescribe by regulation—

"(I) a formula to define the prevailing world market price for upland cotton (adjusted to United States quality and location); and

"(II) a mechanism by which the Secretary shall announce periodically the prevailing world market price for upland cotton (adjusted to United States quality and location).

"(ii) USE.—The prevailing world market price for upland cotton (adjusted to United States quality and location) established under this subparagraph shall be used under subparagraphs (A) and (B).

"(D) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE.— Northern Europe.

"(i) IN GENERAL.—During the period beginning August 1, 1991, and ending July 31, 1996, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subparagraph (C) shall be further adjusted if—

"(I) the adjusted prevailing world market price is less than 115 percent of the current crop year loan level for the base quality of upland cotton, as determined by the Secretary; and

"(II) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) one and three-thirty seconds inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the five lowest-priced growths of upland cotton, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe (hereafter in this subsection referred to as the 'Northern Europe price').

"(ii) FURTHER ADJUSTMENT.—Except as provided in clause (iii), the adjusted prevailing world market price shall be further adjusted on the basis of some or all of the following data, as available:

"(I) The United States share of world exports.

"(II) The current level of cotton export sales and cotton export shipments.

"(III) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

"(iii) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under clause (ii) may not exceed the difference between—

"(I) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling one and three-thirty seconds inch cotton delivered C.I.F. Northern Europe; and

"(II) the Northern Europe price.

"(E) COTTON USER MARKETING CERTIFICATES.— Northern Europe.

"(i) ISSUANCE.—During the period beginning August 1, 1991, and ending July 31, 1996, if for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty

seconds inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound, the Secretary shall issue marketing certificates to domestic users or exporters for documented sales made in the week following such consecutive 4-week period.

"(ii) VALUE.—The value of the marketing certificates shall be based on the amount of the difference (reduced by 1.25 cents per pound) in such prices during the 4th week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

"(iii) ADMINISTRATION.—Clauses (iv) through (vii) of subparagraph (B) shall apply to marketing certificates issued under this subparagraph. Any such certificates may be transferred to other persons in accordance with regulations issued by the Secretary.

"(F) SPECIAL IMPORT QUOTA.—

President. Northern Europe.

"(i) ESTABLISHMENT.—The President shall, within 180 days after the date of enactment of this section, establish an import quota program which shall provide that, during the period beginning August 1991 and ending July 31, 1996, whenever the Secretary determines and announces that for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) one and three-thirty seconds inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificates issued under subparagraph (E), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special limited global import quota.

"(ii) QUANTITY.—The quota shall be equal to 1 week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(iii) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under clause (i) and entered into the United States not later than 180 days after such date.

"(iv) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by clause (i), except that a special quota period may not be established under this paragraph if a special quota period has been established under subsection (n).

"(6) RECOURSE LOANS FOR SEED COTTON.—In order to encourage and assist producers in the orderly ginning and marketing of their production of upland cotton, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.).

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of upland cotton, make payments (hereafter

in this section referred to as 'loan deficiency payments') available to producers who, although eligible to obtain a loan under subsection (a), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of upland cotton the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(4) MARKETING CERTIFICATES.—The Secretary may make up to one-half the amount of a payment under this subsection available in the form of marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(B).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (hereafter in this section referred to as 'deficiency payments') for each of the 1991 through 1995 crops of upland cotton in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the payment acres for the crop; by

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) IN GENERAL.—The payment rate for upland cotton shall be the amount by which the established price for the crop of upland cotton exceeds the higher of—

"(I) the national average market price received by producers during the calendar year that includes the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(II) the loan level determined for the crop.

"(ii) MINIMUM ESTABLISHED PRICE.—The established price for upland cotton shall not be less than $0.729 per pound for each of the 1991 through 1995 crops.

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage; or

"(ii) 100 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D)).

"(D) 50/92 PROGRAM.— Conservation.

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of upland cotton and the producers on a farm devote a portion of the maximum payment acres for upland cotton as cal-

culated under subparagraph (C)(ii) of the farm equal to more than 8 percent of such upland cotton acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) such portion of the maximum payment acres in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to upland cotton for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to such acreage, subject to the compliance of the producers with clause (ii).

"(ii) MINIMUM PLANTING REQUIREMENT.—To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on a farm must actually plant upland cotton for harvest on at least 50 percent of the maximum payment acres for cotton for the farm.

"(iii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for upland cotton for the farm to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to upland cotton and eligible for payments under this subparagraph for the crop at a per-pound rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which upland cotton producers may agree to participate in the program for the crop.

"(iv) QUARANTINES.—If a State or local agency has imposed in an area of a State or county a quarantine on the planting of upland cotton for harvest on farms in the area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of upland cotton for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

"(v) PREVENTED PLANTING.—If an acreage limitation program under subsection (e) is in effect for any crop of

upland cotton and if the Secretary determines that producers on a farm are prevented from planting the acreage intended for upland cotton to upland cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make available to such producers payments under this subparagraph without regard to the requirement imposed under clause (ii). To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)). Any such acreage shall be considered to be planted to upland cotton.

"(vi) CROP ACREAGE AND PAYMENT YIELD.—The upland cotton crop acreage base and upland cotton farm program payment yield of the farm shall not be reduced due to the fact that a portion of the permitted cotton acreage of the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

"(vii) LIMITATION.—Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to upland cotton.

"(viii) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to upland cotton in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(E) ALTERNATIVE CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(i) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(ii) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(F) REDUCTION FOR DISASTER PAYMENTS.—The total quantity of upland cotton on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for upland cotton to upland cotton or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to upland cotton for harvest (including any acreage that the producers were prevented from planting to upland cotton or other nonconserving crops in lieu of upland cotton because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of upland cotton that the producers are able to harvest on any farm is less than the result of multiplying 75 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the upland cotton acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the upland cotton acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting upland cotton or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm as necessary to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of upland cotton shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of upland cotton, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of upland cotton an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(C) ANNOUNCEMENTS.—

"(i) PRELIMINARY ANNOUNCEMENT.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall make a preliminary announcement of any such program not later than November 1 of the calendar year preceding the year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage

reduction in the upland cotton crop acreage base described in paragraph (2)(A).

"(ii) FINAL ANNOUNCEMENT.—Not later than January 1 of the calendar year in which the crop is harvested, the Secretary shall make a final announcement of the program. The announcement shall include, among other information determined necessary by the Secretary, an announcement of the uniform percentage reduction in the upland cotton crop described in paragraph (2)(A).

"(iii) OPTIONAL PROGRAMS IN EARLY PLANTING AREAS.—The Secretary shall allow producers in early planting areas to elect to participate in the program on the terms of the acreage limitation program—

"(I) first announced for the crop under clause (i); or

"(II) as subsequently revised under clause (ii), if the Secretary determines that the producers may be unfairly disadvantaged by the revision.

"(D) DESIRED CARRY-OVER.—The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of upland cotton in a manner that will result in a ratio of carry-over to total disappearance of 30 percent, based on the Secretary's most recent projection of carry-over and total disappearance at the time of announcement of the acreage limitation program. For the purpose of this subparagraph, the term 'total disappearance' means all upland cotton utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) UNIFORM PERCENTAGE REDUCTION.—Except as provided in paragraph (3), if an upland cotton acreage limitation program is announced under paragraph (1), the limitation shall be achieved by applying a uniform percentage reduction (from 0 to 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm.

"(B) COMPLIANCE.—Except as provided in section 504, producers who knowingly produce upland cotton in excess of the permitted upland cotton acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for upland cotton loans and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Upland cotton crop acreage bases for each crop of upland cotton shall be determined under title V.

Regulations.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the upland cotton crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereafter in this subsection referred to as 'permitted acreage'. Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—As used in this subparagraph, the term 'designated crop' means a crop defined in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) IN GENERAL.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of upland cotton, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(D) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the producers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of upland cotton under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, a producer shall be

eligible to receive an increase in the established price for upland cotton under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' upland cotton acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for upland cotton by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' upland cotton acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' upland cotton acreage base shall not be increased by more than 10 percentage points above the acreage limitation percentage announced by the Secretary for the crop or above 25 percent total for the crop.

"(iv) ADJUSTMENT FOR UNDERPLANTINGS.—In determining the increased acreage limitation percentage that is applied to the producer's upland cotton base under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the producer's permitted upland cotton acreage and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D)) to upland cotton for harvest during the previous 2 years.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' upland cotton acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for upland cotton under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for upland cotton by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' upland cotton acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' upland cotton acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the

program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion. Regulations.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of upland cotton under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of upland cotton, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(ii) MULTIYEAR PROGRAM.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle G of title XII of the Food Security Act of 1985, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to

increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(5) LAND DIVERSION PROGRAM.—

"(A) PAYMENTS.—

"(i) IN GENERAL.—The Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation program for upland cotton is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

Government contracts.

"(ii) EXCESS CARRY-OVER.—If, at the time of final announcement of the acreage limitation program established under this subsection, the projected carry-over of

upland cotton for the crop year is equal to or greater than 8 million bales, the Secretary shall offer a paid land diversion program to producers of upland cotton. Payments to producers under such a program shall be determined by multiplying—

"(I) the payment rate, of not less than 35 cents per pound of cotton, established by the Secretary; by

"(II) the program payment yield established for the crop for the farm; by

"(III) the number of permitted upland cotton acres diverted on the farm.

"(B) BIDS FOR CONTRACTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted.

"(C) LIMITATIONS ON DIVERTED ACREAGE.—

"(i) MAXIMUM ACREAGE PER FARM, COUNTY, OR COMMUNITY.—The Secretary shall limit the total acreage to be diverted under this paragraph—

"(I) to not more than 15 percent of the upland cotton crop acreage base for a farm; and

"(II) under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(ii) LOWER PARTICIPATION LEVELS.—The Secretary may allow producers to participate in a land diversion program under this paragraph at a level lower than the maximum level announced by the Secretary, at the option of the producer, if the Secretary determines that it will increase participation in the program.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) PUBLIC ACCESS.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing

for the participation not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of upland cotton.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of upland cotton, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—

"(A) IN GENERAL.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) QUANTITY OF COTTON MADE AVAILABLE.—The quantity of upland cotton to be made available to a producer under this subsection shall be equal in value to the payments so determined under this subsection.

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant upland cotton for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans and payments, the Secretary may, nevertheless, make such loans and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet such other requirements does not affect adversely the operation of the program.

"(h) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(i) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(j) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(k) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(l) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(m) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may not be required as a condition of eligibility for loans or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the upland cotton program with respect to any other farm operated by the producers.

"(n) SPECIAL LIMITED GLOBAL IMPORT QUOTA.—

"(1) IN GENERAL.—The President shall, within 180 days after the date of enactment of this section, establish an import quota program which shall provide that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in such markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a special limited global import quota subject to the following conditions: President.

"(A) QUANTITY.—The quantity of the special quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

"(B) QUANTITY IF PRIOR QUOTA.—If a special quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated as set forth in subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

"(C) DEFINITIONS.—As used in subparagraph (B):

"(i) SUPPLY.—The term 'supply' means, using the latest official data of the Bureau of the Census, the Department of Agriculture, and the Department of the Treasury—

"(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the special quota is established; plus

"(II) production of the current crop; plus

"(III) imports to the latest date available during the marketing year.

"(ii) DEMAND.—The term 'demand' means—

"(I) the average seasonally adjusted annual rate of domestic mill consumption in the most recent 3 months for which data are available; plus

"(II) the larger of—

"(aa) average exports of upland cotton during the preceding 6 marketing years; or

"(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the special quota is established.

"(D) QUOTA ENTRY PERIOD.—When a special quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the effective date of the proclamation.

"(2) NO OVERLAP.—Notwithstanding paragraph (1), a special quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (a)(5)(F).

"(o) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of upland cotton.".

7 USC 1342 note.

SEC. 502. SUSPENSION OF BASE ACREAGE ALLOTMENTS, MARKETING QUOTAS, AND RELATED PROVISIONS.

Sections 342, 343, 344, 345, 346, and 377 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1342–1346 and 1377) shall not be applicable to any of the 1991 through 1995 crops of upland cotton.

7 USC 1444 note.

SEC. 503. MISCELLANEOUS COTTON PROVISIONS.

Section 103(a) of the Agricultural Act of 1949 (7 U.S.C. 1444(a)) shall not be applicable to the 1991 through 1995 crops.

SEC. 504. SKIPROW PRACTICES.

Section 374(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1374(a)) is amended by striking "1990 crops" and inserting "1995 crops, except that, for the 1991 through 1995 crops, the rules shall allow 30 inch rows to be taken into account for classifying the acreage planted to cotton and the area skipped".

7 USC 1342 note.

SEC. 505. PRELIMINARY ALLOTMENTS FOR 1996 CROP OF UPLAND COTTON.

Notwithstanding any other provision of law, the permanent State, county, and farm base acreage allotments for the 1977 crop of upland cotton, adjusted for any underplantings in 1977 and reconstituted as provided in section 379 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1379), shall be the preliminary allotments for the 1996 crop.

SEC. 506. EXTRA LONG STAPLE COTTON PROGRAM.

(a) IN GENERAL.—Section 103(h) of the Agricultural Act of 1949 (7 U.S.C. 1444(h)) is amended—

(1) by striking paragraphs (4) through (6);

(2) by redesignating paragraphs (7) through (19) as paragraphs (4) through (16), respectively;

(3) in the second sentence of paragraph (5)(A)(i) (as so redesignated), by inserting "(including a zero percentage reduction)" after "reduction";

(4) by striking paragraph (13) (as so redesignated) and inserting the following new paragraph:

"(13)(A) Compliance on a farm with the terms and conditions of any other commodity program or compliance with crop acreage base requirements for any other commodity may not be required as a condition of eligibility for loans or payments under this section.

"(B) The Secretary may not require producers on a farm, as a condition of eligibility for loans or payments under this section for the farm, to comply with the terms and conditions of the extra long staple cotton program with respect to any other farm operated by the producers."; and

(5) in paragraph (16) (as so redesignated), by striking "1991" and inserting "1996".

(b) CONFORMING AMENDMENTS.—Section 103(h) of such Act is amended— 7 USC 1444.

(1) in paragraph (3)(A)—

(A) by striking "paragraph (6) or paragraph (8)(A) of this subsection" and inserting "paragraph (5)(A)"; and

(B) by striking "paragraph (7) of this subsection" and inserting "paragraph (4)";

(2) in paragraph (3)(C), by striking "paragraph (8)(A) of this subsection" and inserting "paragraph (5)(A)";

(3) in paragraph (5)(A)(i) (as redesignated by subsection (a)(2)), by striking the next to last sentence;

(4) in paragraph (5)(A)(ii) (as redesignated by subsection (a)(2)), by striking "paragraph (16)(C)" and inserting "paragraph (13)(C)"; and

(5) in paragraph (6) (as redesignated by subsection (a)(2)), by striking "paragraph (8) of this subsection" and inserting "paragraph (5)".

SEC. 507. COTTONSEED AND COTTONSEED OIL PRICE SUPPORT.

Section 203 of the Agricultural Act of 1949 (7 U.S.C. 1446d) is amended to read as follows:

"SEC. 203. COTTONSEED AND COTTONSEED OIL PRICE SUPPORT.

"(a) IN GENERAL.—If the Secretary determines that any oilseed program or programs cause, or are likely to cause, a reduction in prices received by producers for cottonseed or by processors for cottonseed oil, the Secretary shall take such actions as are necessary to offset the actual or anticipated impact of the program on prices for cottonseed or cottonseed oil. The actions shall only include actions to stabilize or increase the price of cottonseed, and shall not include actions to decrease the prices of other oilseeds.

"(b) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of upland cotton.".

SEC. 508. SECURITY INTERESTS. Records.

(a) IN GENERAL.—Section 17 of the United States Warehouse Act (7 U.S.C. 259) is amended by adding at the end the following new subsections:

"(c)(1)(A) The Secretary of Agriculture, or the designated representative of the Secretary, may provide that in lieu of issuing a

receipt for cotton stored in a warehouse licensed under this Act the information required to be included in a receipt under section 18 shall be recorded instead in a central filing system or systems maintained in one or more locations in accordance with regulations issued by the Secretary.

"(B) Any such record shall state that the cotton shall be delivered to a specified person, or to a specified person or to the order of the person.

"(C) This subsection and subsection (d) shall not apply to a warehouse that does not have facilities to electronically transmit and receive information to and from the central filing system. Nothing in this subsection shall be construed as to require a warehouseman to obtain the facilities.

"(2) Notwithstanding any other provision of law—

"(A) the record of the ownership interests of persons in cotton included in any such central filing system shall be deemed to be a receipt for the purposes of this Act and shall establish the ownership interest of persons in the cotton; and

"(B) the Secretary may provide for the recording of liens in the central filing system that shall represent the perfected security interest of persons whose liens are so recorded and for liens that are so recorded to be the only liens that are enforceable against owners and purchasers of cotton registered in the central filing system, except that nothing in this paragraph shall be construed to alter the enforceability of the warehouseman's lien.

"(3) A warehouseman conducting a warehouse licensed under this Act, in the absence of a lawful excuse, shall, without unnecessary delay, deliver the cotton stored in the warehouse on demand made by the person named in the record in the central filing system as the owner of the receipt representing the cotton, if demand is accompanied by—

"(A) an offer to satisfy a valid warehouseman's lien, as determined by the Secretary; and

"(B) an offer to provide an acknowledgement in the central filing system, if requested by the warehouseman, that the cotton has been delivered.

Regulations.

"(d)(1) The Secretary shall (under such regulations as the Secretary may prescribe) charge and provide for the collection of reasonable fees to cover the estimated costs to the Department of Agriculture incident to the functioning and the maintenance of any central filing system or systems referred to in subsection (c) that is administered by the Department of Agriculture.

"(2) The Secretary may provide for the fees to be collected by persons operating the central filing system administered by the Department from those persons recording information in the central filing system at such time and in such manner as may be prescribed in regulations issued by the Secretary.

"(3) The fees shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Secretary incurred in carrying out subsection (c) and this subsection. Any sums collected or received by the Secretary under this Act and deposited to the fund and any late payment penalties collected by the Secretary and credited to the fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The in-

terest earned on the sums and any late payment penalties collected by the Secretary shall be credited to the fund and shall be available without fiscal year limitations for the expenses of the Service incurred in carrying out subsection (c) and this subsection.".

(b) PENALTY.—Section 30 of such Act (7 U.S.C. 270) is amended by inserting after "who shall issue or utter a false or fraudulent receipt or certificate," the following: "or furnish false or fraudulent information to a central filing system maintained under section 17,".

TITLE VI—RICE

SEC. 601. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF RICE.

The Agricultural Act of 1949 is amended by inserting after section 101A (7 U.S.C. 1441-1) the following new section:

"SEC. 101B. LOANS, PAYMENTS, AND ACREAGE REDUCTION PROGRAMS FOR THE 1991 THROUGH 1995 CROPS OF RICE. 7 USC 1441-2.

"(a) LOANS AND PURCHASES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make available to producers on a farm nonrecourse loans and purchases for each of the 1991 through 1995 crops of rice produced on the farm at a level that is not less than the higher of—

"(A) 85 percent of the simple average price received by producers, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of rice, excluding the year in which the average price was the highest and the year in which the average price was the lowest in the period; or

"(B) $6.50 per hundredweight.

"(2) MAXIMUM REDUCTION.—The loan level for any crop of rice determined under paragraph (1) may not be reduced by more than 5 percent from the level determined for the preceding crop.

"(3) ANNOUNCEMENT OF LOAN LEVEL AND ESTABLISHED PRICE.—The loan and purchase level and the established price for each of the 1991 through 1995 crops of rice shall be announced not later than January 31 of each calendar year for the crop harvested in the calendar year or, in the case of the 1991 crop, as soon as practicable after the date of enactment of this section.

"(4) TERM.—A loan made under this subsection shall have a term of not more than 9 months beginning after the month in which the application for the loan is made.

"(5) MARKETING LOAN PROVISIONS.—

"(A) IN GENERAL.—In order to ensure that a competitive market position is maintained for rice, the Secretary shall permit a producer to repay a loan made under paragraph (1) for a crop at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the higher of—

"(I) the loan level determined for the crop multiplied by 70 percent; or

"(II) the prevailing world market price for rice, as determined by the Secretary.

Regulations.

"(B) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(i) a formula to define the prevailing world market price for rice; and

"(ii) a mechanism by which the Secretary shall announce periodically the prevailing world market price for rice.

"(C) PRODUCER PURCHASE OF MARKETING CERTIFICATES.—

"(i) IN GENERAL.—As a condition of permitting a producer to repay a loan as provided in subparagraph (A), the Secretary may require a producer to purchase marketing certificates equal in value to an amount that does not exceed one-half the difference, as determined by the Secretary, between the amount of the loan obtained by the producer and the amount of the loan repayment.

"(ii) REDEMPTION FOR RICE OR CASH.—The certificates shall be redeemable for agricultural commodities owned by the Commodity Credit Corporation valued at the prevailing market price, as determined by the Secretary or for cash, under such terms and conditions as the Secretary may prescribe.

"(iii) REDEMPTION, MARKETING, OR EXCHANGE.—The Commodity Credit Corporation, under regulations prescribed by the Secretary, shall assist any person receiving marketing certificates under this subparagraph in the redemption or marketing or exchange of the certificates at such times, in such manner, and at such price levels as the Secretary determines will best effectuate the purposes of the program established under this section.

"(iv) CHARGES.—If any such certificate is not presented for redemption or marketing within a reasonable number of days after issuance, as determined by the Secretary, reasonable costs of storage and other carrying charges, as determined by the Secretary, shall be deducted from the value of the certificate for the period beginning after the reasonable number of days and ending with the date of the presentation of the certificate to the Commodity Credit Corporation.

"(v) DESIGNATION OF COMMODITIES AND PRODUCTS.—Insofar as practicable, the Secretary shall permit owners of certificates to designate the commodities and the products thereof, including storage sites thereof, the owners would prefer to receive in exchange for certificates.

"(vi) SALES PRICE RESTRICTIONS.—Notwithstanding any other provision of law, any price restrictions that may otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subparagraph.

"(vii) DISPLACEMENT.—The Secretary shall take such measures as may be necessary to prevent the marketing or exchange of agricultural commodities and the products thereof for certificates under this subpara-

graph from adversely affecting the income of producers of the commodities or products.

"(viii) TRANSFERS.—Under regulations prescribed by the Secretary, certificates issued under this subparagraph may be transferred to other persons approved by the Secretary.

"(D) CERTIFICATES TO MAINTAIN COMPETITIVENESS.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, whenever, during the period beginning August 1, 1991, and ending July 31, 1996, the prevailing world market price for a class of rice (adjusted to United States quality and location), as determined by the Secretary, is below the current loan repayment rate for that class of rice, to make United States rice competitive in world markets and to maintain and expand exports of rice produced in the United States, the Commodity Credit Corporation shall make payments, through the issuance of marketing certificates, to persons who have entered into an agreement with the Commodity Credit Corporation to participate in the program established under this subparagraph. The payments shall be made in such monetary amounts and subject to such terms and conditions as the Secretary determines will make rice produced in the United States available at competitive prices consistent with the purposes of this subparagraph. Exports. Cooperative agreements.

"(ii) VALUE.—The value of each certificate issued under this subparagraph shall be based on the difference between—

"(I) the loan repayment rate for the class of rice; and

"(II) the prevailing world market price for the class of rice, as determined by the Secretary.

"(iii) TERMS AND CONDITIONS OF CERTIFICATES.—Marketing certificates issued under this subparagraph shall be subject to the same terms and conditions as certificates issued under subparagraph (C).

"(6) SIMPLE AVERAGE PRICE.—For purposes of this section, the simple average price received by producers for the immediately preceding marketing year shall be based on the latest information available to the Secretary at the time of the determination.

"(b) LOAN DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of rice, make payments (hereafter in this section referred to as 'loan deficiency payments') available to producers who, although eligible to obtain a loan or purchase agreement under subsection (a), agree to forgo obtaining the loan or agreement in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of rice the producer is eligible to place under loan (or obtain a purchase agreement) but for which the producer forgoes obtaining the loan or agreement in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (a); exceeds

"(B) the level at which a loan may be repaid under subsection (a).

"(4) MARKETING CERTIFICATES.—The Secretary may make up to one-half the amount of a payment under this subsection available in the form of marketing certificates, subject to the terms and conditions provided in subsection (a)(5)(C).

"(c) PAYMENTS.—

"(1) DEFICIENCY PAYMENTS.—

"(A) IN GENERAL.—The Secretary shall make available to producers payments (hereafter in this section referred to as 'deficiency payments') for each of the 1991 through 1995 crops of rice in an amount computed by multiplying—

"(i) the payment rate; by

"(ii) the payment acres for the crop; by

"(iii) the farm program payment yield established for the crop for the farm.

"(B) PAYMENT RATE.—

"(i) PAYMENT RATE FOR 1991 THROUGH 1993 CROPS.—The payment rate for each of the 1991 through 1993 crops of rice shall be the amount by which the established price for the crop of rice exceeds the higher of—

"(I) the national average market price received by producers during the first 5 months of the marketing year for the crop, as determined by the Secretary; or

"(II) the loan level determined for the crop.

"(ii) PAYMENT RATE OF 1994 AND 1995 CROPS.—The payment rate for the 1994 and 1995 crops of rice shall be determined in accordance with clause (i).

"(ii) MINIMUM ESTABLISHED PRICE.—The established price for rice shall not be less than $10.71 per hundredweight for each of the 1991 through 1995 crops.

"(C) PAYMENT ACRES.—Payment acres for a crop shall be the lesser of—

"(i) the number of acres planted to the crop for harvest within the permitted acreage; or

"(ii) 100 percent of the crop acreage base for the crop for the farm less the quantity of reduced acreage (as determined under subsection (e)(2)(D)).

"(D) 50/92 PROGRAM.—

"(i) IN GENERAL.—If an acreage limitation program under subsection (e)(2) is in effect for a crop of rice and the producers on a farm devote a portion of the maximum payment acres for rice as calculated under subparagraph (C)(ii) for equal to more than 8 percent of such rice acreage of the farm for the crop to conservation uses (except as provided in subparagraph (E))—

"(I) such portion of the maximum payment acres in excess of 8 percent of such acreage devoted to conservation uses (except as provided in subparagraph (E)) shall be considered to be planted to rice for the purpose of determining the acreage on the farm required to be devoted to conservation uses in accordance with subsection (e)(2)(D); and

"(II) the producers shall be eligible for payments under this paragraph with respect to such acreage, subject to the compliance of the producers with clause (ii).

"(ii) MINIMUM PLANTING REQUIREMENT.—To be eligible for payments under clause (i), except as provided in clauses (iv) and (v), the producers on a farm must actually plant rice for harvest on at least 50 percent of the maximum payment acres for rice for the farm.

"(iii) DEFICIENCY PAYMENTS.—Notwithstanding any other provision of this section, any producer who devotes a portion of the maximum payment acres for rice for the farm to conservation uses (or other uses as provided in subparagraph (E)) under this subparagraph shall receive deficiency payments on the acreage that is considered to be planted to rice and eligible for payments under this subparagraph for the crop at a per-hundredweight rate established by the Secretary, except that the rate may not be established at less than the projected deficiency payment rate for the crop, as determined by the Secretary. Such projected payment rate for the crop shall be announced by the Secretary prior to the period during which rice producers may agree to participate in the program for the crop.

"(iv) QUARANTINES.—If a State or local agency has imposed in an area of a State or county a quarantine on the planting of rice for harvest on farms in the area, the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may recommend to the Secretary that payments be made under this paragraph, without regard to the requirement imposed under clause (ii), to producers in the area who were required to forgo the planting of rice for harvest on acreage to alleviate or eliminate the condition requiring the quarantine. If the Secretary determines that the condition exists, the Secretary may make payments under this paragraph to the producers. To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)).

"(v) PREVENTED PLANTING.—If an acreage limitation program under subsection (e) is in effect for any crop of rice and if the Secretary determines that producers on a farm are prevented from planting the acreage intended for rice to rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make available to such producers payments under this subparagraph without regard to the requirement imposed under clause (ii). To be eligible for payments under this clause, the producers must devote the acreage to conservation uses (except as provided in subparagraph (E)). Any such acreage shall be considered to be planted to rice.

"(vi) CROP ACREAGE AND PAYMENT YIELD.—The rice crop acreage base and rice farm program payment yield of the farm shall not be reduced due to the fact

that a portion of the permitted rice acreage of the farm was devoted to conserving uses (except as provided in subparagraph (E)) under this subparagraph.

"(vii) LIMITATION.—Other than as provided in clauses (i) through (vi), payments may not be made under this paragraph for any crop on a greater acreage than the acreage actually planted to rice.

"(viii) CONSERVATION USE ACREAGE UNDER OTHER PROGRAMS.—Any acreage considered to be planted to rice in accordance with clauses (i) and (vi) may not also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program requiring that the producers devote a specified acreage to conservation uses.

"(E) ALTERNATIVE CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of acreage otherwise required to be devoted to conservation uses as a condition of qualifying for payments under subparagraph (D) to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, commodities for which no substantial domestic production or market exists but that could yield industrial raw material being imported, or likely to be imported, into the United States, or commodities grown for experimental purposes (including kenaf and milkweed), subject to the following sentence. The Secretary may permit the acreage to be devoted to the production only if the Secretary determines that—

"(i) the production is not likely to increase the cost of the price support program and will not affect farm income adversely; and

"(ii) the production is needed to provide an adequate supply of the commodity, or, in the case of commodities for which no substantial domestic production or market exists but that could yield industrial raw materials, the production is needed to encourage domestic manufacture of the raw material and could lead to increased industrial use of the raw material to the long-term benefit of United States industry.

"(F) REDUCTION FOR DISASTER PAYMENTS.—The total quantity of rice on which payments would otherwise be payable to a producer on a farm for any crop under this paragraph shall be reduced by the quantity on which any disaster payment is made to the producer for the crop under paragraph (2).

"(2) DISASTER PAYMENTS.—

"(A) PREVENTED PLANTING.—Except as provided in subparagraph (C), if the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage intended for rice to rice or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary shall make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(i) the number of acres so affected but not to exceed the acreage planted to rice for harvest (including any acreage that the producers were prevented from planting to rice or other nonconserving crops in lieu of rice because of drought, flood, or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(ii) 75 percent of the farm program payment yield established for the farm by the Secretary; by

"(iii) a payment rate equal to 33⅓ percent of the established price for the crop.

"(B) REDUCED YIELDS.—Except as provided in subparagraph (C), if the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of rice that the producers are able to harvest on any farm is less than the result of multiplying 75 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary shall make a reduced yield disaster payment to the producers at a rate equal to 33⅓ percent of the established price for the crop for the deficiency in production below 75 percent for the crop.

"(C) CROP INSURANCE.—Producers on a farm shall not be eligible for—

"(i) prevented planting disaster payments under subparagraph (A), if prevented planting crop insurance is available to the producers under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to the rice acreage of the producers; or

"(ii) reduced yield disaster payments under subparagraph (B), if reduced yield crop insurance is available to the producers under such Act with respect to the rice acreage of the producers.

"(D) ADMINISTRATION.—

"(i) ECONOMIC EMERGENCIES.—Notwithstanding subparagraph (C), the Secretary may make a disaster payment to the producers on a farm under this paragraph if the Secretary determines that—

"(I) as the result of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the producers have suffered substantial losses of production either from being prevented from planting rice or other nonconserving crops or from reduced yields;

"(II) the losses have created an economic emergency for the producers;

"(III) crop insurance indemnity payments under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) and other forms of assistance made available by the Federal Government to the producers for the losses are insufficient to alleviate the economic emergency; and

"(IV) additional assistance must be made available to the producers to alleviate the economic emergency.

"(ii) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm as necessary to ensure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

"(d) PAYMENT YIELDS.—The farm program payment yields for farms for each crop of rice shall be determined under title V.

"(e) ACREAGE REDUCTION PROGRAMS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—Notwithstanding any other provision of this Act, if the Secretary determines that the total supply of rice, in the absence of an acreage limitation program, will be excessive taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency, the Secretary may provide for any crop of rice an acreage limitation program as described in paragraph (2).

"(B) AGRICULTURAL RESOURCES CONSERVATION PROGRAM.—In making a determination under subparagraph (A), the Secretary shall take into consideration the number of acres placed in the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

"(C) ANNOUNCEMENTS.—If the Secretary elects to implement an acreage limitation program for any crop year, the Secretary shall announce any such program not later than January 31 of the calendar year in which the crop is harvested, except that in the case of the 1991 crop, the Secretary shall announce the program as soon as practicable after the date of enactment of this section.

Securities.

"(D) CARRY-OVER.—The Secretary shall carry out an acreage limitation program described in paragraph (2) for a crop of rice in a manner that will result in carry-over stocks equal to 16.5 to 20 percent of the simple average of the total disappearance of rice for each of the 3 marketing years preceding the year for which the announcement is made. For the purpose of this subparagraph, the term 'total disappearance' means all rice utilization, including total domestic, total export, and total residual disappearance.

"(2) ACREAGE LIMITATION PROGRAM.—

"(A) PERCENTAGE REDUCTIONS.—Except as provided in paragraph (3), if a rice acreage limitation program is announced under paragraph (1), such limitation shall be achieved by applying a uniform percentage reduction (from 0 to 35 percent) to the rice crop acreage base for the crop for each rice-producing farm.

"(B) COMPLIANCE.—Except as provided in section 504, producers who knowingly produce rice in excess of the permitted rice acreage for the farm, as established in accordance with subparagraph (A), shall be ineligible for rice loans, purchases, and payments with respect to that farm.

"(C) CROP ACREAGE BASES.—Rice crop acreage bases for each crop of rice shall be determined under title V.

"(D) ACREAGE DEVOTED TO CONSERVATION USES.—A number of acres on the farm shall be devoted to conservation uses, in accordance with regulations issued by the Secretary. Such number shall be determined by multiplying the rice crop acreage base by the percentage reduction required by the Secretary. The number of acres so determined is hereafter in this subsection referred to as 'reduced acreage'. The remaining acreage is hereafter in this subsection referred to as 'permitted acreage'. Permitted acreage may be adjusted by the Secretary as provided in paragraph (3) and in section 504. Regulations.

"(E) INDIVIDUAL FARM PROGRAM ACREAGE.—Except as otherwise provided in subsection (c), the individual farm program acreage shall be the acreage planted on the farm to rice for harvest within the permitted rice acreage for the farm as established under this paragraph.

"(F) PLANTING DESIGNATED CROPS ON REDUCED ACREAGE.—

"(i) DEFINITION OF DESIGNATED CROP.—As used in this subparagraph, the term 'designated crop' means a crop defined in section 504(b)(1), excluding any program crop as defined in section 502(3).

"(ii) IN GENERAL.—Subject to clause (iii), the Secretary may permit producers on a farm to plant a designated crop on no more than one-half of the reduced acreage on the farm.

"(iii) LIMITATIONS.—If the producers on a farm elect to plant a designated crop on reduced acreage under this subparagraph—

"(I) the amount of the deficiency payment that the producers are otherwise eligible to receive under subsection (c) shall be reduced, for each acre (or portion thereof) that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate, except that if the producers on the farm are participating in a program established for more than one program crop, the amount of the reduction shall be determined by prorating the reduction based on the acreage planted or considered planted on the farm to all of such program crops; and

"(II) the Secretary shall ensure that reductions in deficiency payments under subclause (I) are sufficient to ensure that this subparagraph will result in no additional cost to the Commodity Credit Corporation.

"(3) TARGETED OPTION PAYMENTS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this section, if the Secretary implements an acreage limitation program with respect to any of the 1991 through 1995 crops of rice and announces an acreage limitation percentage of 20 percent or less, the Secretary may make available to producers on a farm who do not receive payments under subsection (c)(1)(D) for such crop on the farm, adjustments in the level of deficiency payments that would otherwise be made available to the producers if the produc-

ers exercise the payment options provided in this paragraph.

"(B) PAYMENT OPTIONS.—If the Secretary elects to carry out this paragraph, the Secretary shall make the payment options specified in subparagraphs (C) and (D) available to producers who agree to make adjustments in the quantity of acreage diverted from the production of rice under an acreage limitation program in accordance with this paragraph.

"(C) INCREASED ACREAGE LIMITATION OPTION.—

"(i) INCREASE IN ESTABLISHED PRICE.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to receive an increase in the established price for rice under clause (ii) if the producer agrees to an increase in the acreage limitation percentage to be applied to the producers' rice acreage base above the acreage limitation percentage announced by the Secretary.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who participate in the program under this paragraph, the Secretary shall increase the established price for rice by an amount determined by the Secretary, but not less than 0.5 percent, nor more than 1 percent, for each 1 percentage point increase in the acreage limitation percentage applied to the producers' rice acreage base.

"(iii) LIMITATION.—The acreage limitation percentage to be applied to the producers' rice acreage base shall not be increased by more than 5 percentage points above the acreage limitation percentage announced by the Secretary.

"(iv) ADJUSTMENT FOR UNDERPLANTINGS.—In determining the increased acreage limitation percentage that is applied to the producer's rice acreage base under this paragraph, the Secretary shall exclude an amount of acreage equal to the average difference between the producer's permitted rice acreage and the acreage actually planted (including acreage devoted to conserving uses under subsection (c)(1)(D)) to rice for harvest during the previous 2 years.

"(D) DECREASED ACREAGE LIMITATION OPTION.—

"(i) DECREASE IN ACREAGE LIMITATION REQUIREMENT.—If the Secretary elects to carry out this paragraph, a producer shall be eligible to decrease the acreage limitation percentage applicable to the producers' rice acreage base (as announced by the Secretary) if the producer agrees to a decrease in the established price for rice under clause (ii) for the purpose of calculating deficiency payments to be made available to the producer.

"(ii) METHOD OF CALCULATION.—For the purposes of calculating deficiency payments to be made available to producers who choose the option set forth in this subparagraph, the Secretary shall decrease the established price for rice by an amount to be determined by the Secretary, but not less than 0.5 percent, nor more

than 1 percent, for each 1 percentage point decrease in the acreage limitation percentage applied to the producers' rice acreage base.

"(iii) LIMITATION.—A producer may not choose to decrease the acreage limitation percentage applicable to the producers' rice acreage base under this paragraph by more than one-half of the announced acreage limitation percentage.

"(E) PARTICIPATION AND PRODUCTION EFFECTS.—Notwithstanding any other provision of this paragraph, the Secretary shall, to the extent practicable, ensure that the program provided for in this paragraph does not have a significant effect on program participation or total production and shall be offered in such a manner that the Secretary determines will result in no additional budget outlays. The Secretary shall provide an analysis of the Secretary's determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(4) ADMINISTRATION.—

"(A) PROTECTION FROM WEEDS AND EROSION.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall assure protection of the acreage from weeds and wind and water erosion.

"(B) ANNUAL OR PERENNIAL COVER.—

"(i) IN GENERAL.—Except as provided in paragraph (2), a producer who participates in an acreage reduction program established for a crop of rice under this subsection shall be required to plant to an annual or perennial cover 50 percent (or more, at the option of the producer) of the acreage that is required to be removed from the production of rice, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for the crop. This requirement shall not apply with respect to arid areas (including summer fallow areas), as determined by the Secretary.

"(ii) MULTIYEAR PROGRAM.—

"(I) COST-SHARE ASSISTANCE.—If a producer elects to establish a perennial cover capable of improving water quality or wildlife habitat on the acreage, the Commodity Credit Corporation shall make available cost-share assistance for 25 percent of the approved cost of establishing the cover on not more than 50 percent of the acreage that is required to be diverted from production, but not to exceed 5 percent (or more, at the option of the producer) of the crop acreage base established for a crop.

"(II) AGREEMENT OF PRODUCER.—If a producer elects to establish a perennial cover on the acreage under this subparagraph and receives cost-share assistance from the Corporation with respect to the cover, the producer, under such terms and conditions as may be prescribed by the Secretary, taking into consideration guidelines established by the State technical committees established in subtitle

G of title XII of the Food Security Act of 1985, shall agree to maintain the perennial cover for a minimum of 3 years.

"(iii) CONSERVING CROPS.—The Secretary may permit, subject to such terms and conditions as the Secretary may prescribe, all or any part of the acreage to be devoted to sweet sorghum, guar, sesame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed, or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program, and will not affect farm income adversely.

"(C) HAYING AND GRAZING.—

"(i) IN GENERAL.—Except as provided in clause (ii), haying and grazing of reduced acreage, acreage devoted to a conservation use under subsection (c)(1)(D), and acreage diverted from production under a land diversion program established under this section shall be permitted, except during any consecutive 5-month period that is established by the State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for a State. The 5-month period shall be established during the period beginning April 1, and ending October 31, of a year.

"(ii) NATURAL DISASTERS.—In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on the acreage. The Secretary may not exclude irrigated or irrigable acreage not planted in alfalfa when exercising the authority under this clause.

"(D) WATER STORAGE USES.—

Regulations.

"(i) IN GENERAL.—The regulations issued by the Secretary under paragraph (2) with respect to acreage required to be devoted to conservation uses shall provide that land that has been converted to water storage uses shall be considered to be devoted to conservation uses if the land was devoted to wheat, feed grains, cotton, rice, or oilseeds in at least 3 of the immediately preceding 5 years. The land shall be considered to be devoted to conservation uses for the period that the land remains in water storage uses, but not to exceed 5 years subsequent to its conversion to water storage uses.

"(ii) LIMITATIONS.—Land converted to water storage uses for the purposes of this subparagraph may not be devoted to any commercial use, including commercial fish production. The water stored on the land may not be ground water. The farm on which the land is located must have been irrigated with ground water during at least 1 of the preceding 5 crop years.

"(5) LAND DIVERSION PROGRAM.—

"(A) IN GENERAL.—The Secretary may make land diversion payments to producers of rice, whether or not an acreage limitation program for rice is in effect, if the Secretary determines that the land diversion payments are necessary to assist in adjusting the total national acreage of

rice to desirable goals. The land diversion payments shall be made to producers who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with the producers.

"(B) AMOUNTS.—The amounts payable to producers under land diversion contracts may be determined through the submission of bids for the contracts by producers in such manner as the Secretary may prescribe or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. Government contracts.

"(C) LIMITATION ON DIVERTED ACREAGE.—The Secretary shall limit the total acreage to be diverted under agreements in any county or local community so as not to affect adversely the economy of the county or local community.

"(6) CONSERVATION PRACTICES.—

"(A) WILDLIFE FOOD PLOTS OR HABITAT.—The reduced acreage and additional diverted acreage may be devoted to wildlife food plots or wildlife habitat in conformity with standards established by the Secretary in consultation with wildlife agencies. The Secretary may pay an appropriate share of the cost of practices designed to carry out the purposes of this subparagraph.

"(B) PUBLIC ACCESS.—The Secretary may provide for an additional payment on the acreage in an amount determined by the Secretary to be appropriate in relation to the benefit to the general public if the producer agrees to permit, without other compensation, access to all or such portion of the farm, as the Secretary may prescribe, by the general public, for hunting, trapping, fishing, and hiking, subject to applicable State and Federal regulations.

"(7) PARTICIPATION AGREEMENTS.—

"(A) IN GENERAL.—Producers on a farm desiring to participate in the program conducted under this subsection shall execute an agreement with the Secretary providing for the participation not later than such date as the Secretary may prescribe.

"(B) MODIFICATION OR TERMINATION.—The Secretary may, by mutual agreement with producers on a farm, modify or terminate any such agreement if the Secretary determines the action necessary because of an emergency created by drought or other disaster or to prevent or alleviate a shortage in the supply of agricultural commodities. The Secretary may modify the agreement under this subparagraph for the purpose of alleviating a shortage in the supply of agricultural commodities only if there has been a significant change in the estimated stocks of the commodity since the Secretary announced the final terms and conditions of the program for the crop of rice.

"(f) INVENTORY REDUCTION PAYMENTS.—

"(1) IN GENERAL.—The Secretary may, for each of the 1991 through 1995 crops of rice, make payments available to producers who meet the requirements of this subsection.

"(2) FORM.—The payments may be made in the form of marketing certificates.

"(3) PAYMENTS.—

"(A) IN GENERAL.—Payments under this subsection shall be determined in the same manner as provided in subsection (b).

"(B) QUANTITY OF RICE MADE AVAILABLE.—The quantity of rice to be made available to a producer under this subsection shall be equal in value to the payments so determined under this subsection.

"(4) ELIGIBILITY.—A producer shall be eligible to receive a payment under this subsection for a crop if the producer—

"(A) agrees to forgo obtaining a loan or purchase agreement under subsection (a);

"(B) agrees to forgo receiving payments under subsection (c);

"(C) does not plant rice for harvest in excess of the crop acreage base reduced by one-half of any acreage required to be diverted from production under subsection (e); and

"(D) otherwise complies with this section.

"(g) EQUITABLE RELIEF.—

"(1) LOANS AND PAYMENTS.—If the failure of a producer to comply fully with the terms and conditions of the program conducted under this section precludes the making of loans, purchases, and payments, the Secretary may, nevertheless, make such loans, purchases, and payments in such amounts as the Secretary determines are equitable in relation to the seriousness of the failure. The Secretary may consider whether the producer made a good faith effort to comply fully with the terms and conditions of the program in determining whether equitable relief is warranted under this paragraph.

"(2) DEADLINES AND PROGRAM REQUIREMENTS.—The Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other program requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of the program.

"(h) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(i) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(j) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(k) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of payments made under this section for any farm among the producers on the farm on a fair and equitable basis.

"(l) TENANTS AND SHARECROPPERS.—The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

"(m) CROSS-COMPLIANCE.—

"(1) IN GENERAL.—Compliance on a farm with the terms and conditions of any other commodity program, or compliance with crop acreage base requirements for any other commodity, may

not be required as a condition of eligibility for loans, purchases, or payments under this section.

"(2) COMPLIANCE ON OTHER FARMS.—The Secretary may not require producers on a farm, as a condition of eligibility for loans, purchases, or payments under this section for the farm, to comply with the terms and conditions of the rice program with respect to any other farm operated by the producers.

"(n) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of rice.".

TITLE VII—OILSEEDS

SEC. 701. LOANS AND PAYMENTS FOR OILSEEDS FOR 1991 THROUGH 1995 MARKETING YEARS.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) is amended—

(1) in the matter preceding subsection (a) of section 201 (7 U.S.C. 1446), by striking "tung nuts," and inserting the following: "oilseeds (including soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine),"; and

(2) by adding at the end the following new section:

"SEC. 205. LOANS AND PAYMENTS FOR OILSEEDS FOR 1991 THROUGH 1995 MARKETING YEARS. 7 USC 1446f.

"(a) DEFINITION OF OILSEEDS.—As used in this section, the term 'oilseeds' means soybeans, sunflower seed, canola, rapeseed, safflower, flaxseed, mustard seed, and such other oilseeds as the Secretary may determine.

"(b) IN GENERAL.—The Secretary shall support the price of oilseeds through nonrecourse loans to producers on a farm for oilseeds produced on the farm in each of the 1991 through 1995 marketing years as provided in this section.

"(c) LOAN LEVEL.—The loan level for each of the 1991 through 1995 crops of—

"(1) soybeans shall not be less than $5.02 per bushel;

"(2) sunflower seed, canola, rapeseed, safflower, mustard seed, and flaxseed shall not be less than $0.089 per pound; and

"(3) other oilseeds shall be established at such level as the Secretary determines is fair and reasonable in relation to the loan level available for soybeans, except that, in the case of cottonseed, in no event less than the level established for soybeans on a per-pound basis for the same crop year.

"(d) MARKETING LOAN PROVISIONS.—

"(1) IN GENERAL.—The Secretary shall permit a producer to repay a loan made under this section for a crop—

"(A) at a level that is the lesser of—

"(i) the loan level determined for the crop; or

"(ii) the prevailing world market price for the applicable oilseed (adjusted to United States quality and location), as determined by the Secretary; or

"(B) such other level (not in excess of the loan level determined for the crop) that the Secretary determines will—

"(i) minimize potential loan forfeitures;

"(ii) minimize the accumulation of oilseed stocks by the Federal Government;

"(iii) minimize the cost incurred by the Federal Government in storing oilseeds; and

"(iv) allow oilseeds produced in the United States to be marketed freely and competitively, both domestically and internationally.

Regulations.

"(2) PREVAILING WORLD MARKET PRICE.—The Secretary shall prescribe by regulation—

"(A) a formula to define the prevailing world market price for oilseeds (adjusted to United States quality and location); and

"(B) a mechanism by which the Secretary shall announce periodically the prevailing world market price for oilseeds (adjusted to United States quality and location).

"(e) LOAN DEFICIENCY PAYMENT.—

"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of oilseeds, make payments available to producers who, although eligible to obtain a loan under subsection (b), agree to forgo obtaining the loan in return for payments under this subsection.

"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—

"(A) the loan payment rate; by

"(B) the quantity of oilseeds the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.

"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—

"(A) the loan level determined for the crop under subsection (c); exceeds

"(B) the level at which a loan may be repaid under subsection (d).

"(4) MARKETING CERTIFICATES.—

"(A) IN GENERAL.—The Secretary may make payments under this section available in the form of certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation.

"(B) MINIMAL OILSEED STOCKS.—The Secretary shall make certificates available under subparagraph (A) in such a manner so as to minimize the accumulation of oilseeds stocks.

"(f) MARKETING YEAR.—For purposes of this section, the marketing year for—

"(1) soybeans shall be the 12-month period beginning on September 1 and ending on August 31; and

"(2) other oilseeds shall be prescribed by the Secretary by regulation.

"(g) ANNOUNCEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall make an announcement of the loan level for the crop not later than November 15 prior to the calendar year in which the crop is harvested.

"(2) 1991 CROP.—In the case of the 1991 crop, the Secretary shall make an announcement of the loan level for the crop as soon as practicable after the date of enactment of this section.

"(h) LOAN MATURITY.—A loan made for a crop of oilseeds under this section shall mature on the last day of the 9th month following the month the application for the loan is made.

"(i) OTHER TERMS AND CONDITIONS.—Notwithstanding any other provision of law—

"(1) the Secretary shall not require participation in any production adjustment program for oilseeds or any other commodity as a condition of eligibility for price support for oilseeds;

"(2) the Secretary may not authorize payments to producers to cover the cost of storing oilseeds; and

"(3) oilseeds may not be considered an eligible commodity for any reserve program.

"(j) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(k) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(l) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(m) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of oilseeds.".

TITLE VIII—PEANUTS

SEC. 801. SUSPENSION OF MARKETING QUOTAS AND ACREAGE ALLOTMENTS.

The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 1991 through 1995 crops of peanuts:

(1) Subsections (a) through (j) of section 358 (7 U.S.C. 1358(a)–(j)). 7 USC 1358 note.

(2) Subsections (a) through (h) of section 358a (7 U.S.C. 1358a(a)–(h)). 7 USC 1358a note.

(3) Subsections (a), (b), (d), and (e) of section 359 (7 U.S.C. 1359 (a), (b), (d), and (e)). 7 USC 1359 note.

(4) Part I of subtitle C of title III (7 U.S.C. 1361 et seq.). 7 USC note prec. 1361.

(5) Section 371 (7 U.S.C. 1371). 7 USC 1371 note.

SEC. 802. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 358 the following new section:

"SEC. 358–1. NATIONAL POUNDAGE QUOTAS AND ACREAGE ALLOTMENTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS. 7 USC 1358–1.

"(a) NATIONAL POUNDAGE QUOTAS.—

"(1) ESTABLISHMENT.—The national poundage quota for peanuts for each of the 1991 through 1995 marketing years shall be established by the Secretary at a level that is equal to the quantity of peanuts (in tons) that the Secretary estimates will be devoted in each such marketing year to domestic edible, seed, and related uses. Notwithstanding any other provision of this

paragraph, the national poundage quota for a marketing year shall not be less than 1,350,000 tons.

"(2) ANNOUNCEMENT.—The national poundage quota for a marketing year shall be announced by the Secretary not later than December 15 preceding the marketing year.

"(3) APPORTIONMENT AMONG STATES.—The national poundage quota established under paragraph (1) shall be apportioned among the States so that the poundage quota allocated to each State shall be equal to the percentage of the national poundage quota allocated to farms in the State for 1990.

"(b) FARM POUNDAGE QUOTAS.—

"(1) IN GENERAL.—

"(A) ESTABLISHMENT.—A farm poundage quota for each of the 1991 through 1995 marketing years shall be established—

"(i) for each farm that had a farm poundage quota for peanuts for the 1990 marketing year;

"(ii) if the poundage quota apportioned to a State under subsection (a)(3) for any such marketing year is larger than the quota for the immediately preceding marketing year, for each other farm on which peanuts were produced for marketing in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary; and

"(iii) as approved and determined by the Secretary under section 358c, for each farm on which peanuts are produced in connection with experimental and research programs.

"(B) QUANTITY.—The farm poundage quota for each of the 1991 through 1995 marketing years for each farm described in subparagraph (A)(i) shall be the same as the farm poundage quota for the farm for the immediately preceding marketing year, as adjusted under paragraph (2), but not including—

"(i) any increases for undermarketings from previous years; or

"(ii) any increases resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

The farm poundage quota, if any, for each of the 1991 through 1995 marketing years for each farm described in subparagraph (A)(ii) shall be equal to the quantity of peanuts allocated to the farm for the year under paragraph (2).

"(C) TRANSFERS.—For purposes of this subsection, if the farm poundage quota, or any part thereof, is permanently transferred in accordance with section 358a or 358b, the receiving farm shall be considered as possessing the farm poundage quota (or portion thereof) of the transferring farm for all subsequent marketing years.

"(2) ADJUSTMENTS.—

"(A) ALLOCATION OF INCREASED QUOTA GENERALLY.—Except as provided in subparagraph (B) and subject to subparagraph (D), if the poundage quota apportioned to a State under subsection (a)(3) for any of the 1991 through 1995 marketing years is increased over the poundage quota apportioned to farms in the State for the immediately preceding marketing year, the increase shall be allocated

proportionately, based on farm production history for peanuts for the 3 immediately preceding years, among—

"(i) all farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made; and

"(ii) all other farms in the State on each of which peanuts were produced in at least 2 of the 3 immediately preceding crop years, as determined by the Secretary.

"(B) ALLOCATION OF INCREASED QUOTA IN TEXAS.—

"(i) IN GENERAL.—In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, 33 percent of the increased quota referred to in subparagraph (A) shall be allocated to farms having poundage quotas for the 1990 marketing year in any county in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

"(ii) BASIS FOR ALLOCATION TO COUNTIES.—The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective counties for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (6)(C) shall not be increased by more than 100 percent of the basic quota assigned to the county for the 1989 marketing year if that county had more than 10,000 tons of quota for the 1989 marketing year.

"(iii) ALLOCATION TO OTHER COUNTIES.—If the total quota for any such county is so increased by 100 percent, all of the remaining quota percentage set aside under this subparagraph shall be allocated to farms in other counties otherwise meeting the requirements of this subparagraph.

"(iv) ALLOCATION TO ELIGIBLE FARMS.—The percentage of increased quota in any county shall be allocated under this subparagraph only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

"(I) FACTOR.—A factor shall be established for each such eligible farm by dividing the quantity of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(II) ALLOCATION.—Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

"(v) REMAINING PERCENTAGE.—In Texas, the remaining 67 percent of the increased quota referred to in

subparagraph (A) shall be allocated to farms in the State in accordance with subparagraph (A).

"(C) DECREASE.—If the poundage quota apportioned to a State under subsection (a)(3) for any of the 1991 through 1995 marketing years is decreased from the poundage quota apportioned to farms in the State under subsection (a)(3) for the immediately preceding marketing year, the decrease shall be allocated among all the farms in the State for each of which a farm poundage quota was established for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(D) SPECIAL RULE ON TENANT'S SHARE OF INCREASED QUOTA.—Subject to terms and conditions prescribed by the Secretary, on farms that were leased to a tenant for peanut production, the tenant shall share equally with the owner of the farm in that percentage of the quota referred to in subparagraph (A) and otherwise allocated to the farm as the result of the tenant's production on the farm of additional peanuts. Not later than April 1 of each year or as soon as practicable, the tenant's share of any such quota shall be allocated to a farm within the county owned by the tenant or sold by the tenant to the owner of any farm within the county and permanently transferred to that farm. Any quota not so disposed of as provided in this subparagraph shall be allocated to other quota farms in the State under paragraph (6) as part of the quota reduced from farms in the State due to the failure to produce the quota.

"(3) QUOTA NOT PRODUCED.—

"(A) IN GENERAL.—Insofar as practicable and on such fair and equitable basis as the Secretary may by regulation prescribe, the farm poundage quota established for a farm for any of the 1991 through 1995 marketing years shall be reduced to the extent that the Secretary determines that the farm poundage quota established for the farm for any 2 of the 3 marketing years preceding the marketing year for which the determination is being made was not produced, or considered produced, on the farm.

"(B) EXCLUSIONS.—For the purposes of this paragraph, the farm poundage quota for any such preceding marketing year shall not include—

"(i) any increases for undermarketing of quota peanuts from previous years; or

"(ii) any increase resulting from the allocation of quotas voluntarily released for 1 year under paragraph (7).

"(4) QUOTA CONSIDERED PRODUCED.—For purposes of this subsection, the farm poundage quota shall be considered produced on a farm if—

"(A) the farm poundage quota was not produced on the farm because of drought, flood, or any other natural disaster, or any other condition beyond the control of the producer, as determined by the Secretary;

"(B) the farm poundage quota for the farm was released voluntarily under paragraph (7) for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made; or

"(C) the farm poundage quota was leased to another owner or operator of a farm within the same county for transfer to such farm for only 1 of the 3 marketing years immediately preceding the marketing year for which the determination is being made.

"(5) QUOTA PERMANENTLY RELEASED.—Notwithstanding any other provision of law—

"(A) the farm poundage quota established for a farm under this subsection, or any part of the quota, may be permanently released by the owner of the farm, or the operator with the permission of the owner; and

"(B) the poundage quota for the farm for which the quota is released shall be adjusted downward to reflect the quota that is so released.

"(6) ALLOCATION OF QUOTAS REDUCED OR RELEASED.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the total quantity of the farm poundage quotas reduced or voluntarily released from farms in a State for any marketing year under paragraphs (3) and (5) shall be allocated, as the Secretary may by regulation prescribe, to other farms in the State on which peanuts were produced in at least 2 of the 3 crop years immediately preceding the year for which the allocation is being made.

"(B) SET-ASIDE FOR FARMS WITH NO QUOTA.—Not more than 25 percent of the total amount of farm poundage quota to be allocated in the State under subparagraph (A) shall be allocated to farms in the State for which no farm poundage quota was established for the immediately preceding year's crop. The allocation to any such farm shall not exceed the average farm production of peanuts for the 3 immediately preceding years during which peanuts were produced on the farm.

"(C) ALLOCATION OF QUOTAS REDUCED OR RELEASED IN TEXAS.—

"(i) IN GENERAL.—In Texas, and subject to terms and conditions prescribed by the Secretary, beginning with the 1991 marketing year, the total quantity of the farm poundage quota, except the percentage allocated to new farms under subparagraph (B), shall be allocated to other farms having poundage quotas for the 1990 marketing year in all counties in which the production of additional peanuts exceeded the total quota allocated to the county for the 1989 marketing year.

"(ii) BASIS FOR ALLOCATION TO COUNTIES.—The allocation of the quota to eligible counties shall be based on the total production of additional peanuts in the respective county for the 1988 crop, except that the total quota allocated to any county under this subparagraph and paragraph (2)(B) shall not be increased by more than 100 percent of the basic quota allocated to the county for the 1989 marketing year, if that county had more than 10,000 tons of quota for the 1989 marketing year.

"(iii) ALLOCATION TO OTHER COUNTIES.—If the total quota for any such county is so increased by 100 percent, all of the remaining quota set aside under this subparagraph shall be allocated to farms in other coun-

ties otherwise meeting the requirements of this subparagraph.

"(iv) ALLOCATION TO ELIGIBLE FARMS.—The percentage of farm poundage quota available for allocation under this subparagraph shall be allocated only to quota farms from which additional peanuts were delivered under contract with handlers for the marketing year immediately preceding the marketing year for which the allocation is being made. The percentage of the increased quota in each county shall be allocated among the eligible farms in the county on the following basis:

"(I) FACTOR.—A factor shall be established for each such eligible farm by dividing the amount of additional peanuts contracted and delivered to handlers from the farm by the total remaining peanuts produced on the farm for the marketing year immediately preceding the marketing year for which the allocation is being made.

"(II) ALLOCATION.—Each such eligible farm shall be allocated the percentage of the increased quota for the county as its factor bears to the total of the factors for all eligible farms in the county.

"(7) QUOTA TEMPORARILY RELEASED.—

"(A) IN GENERAL.—The farm poundage quota, or any portion thereof, established for a farm for a marketing year may be voluntarily released to the Secretary to the extent that the quota, or any part thereof, will not be produced on the farm for the marketing year. Any farm poundage quota so released in a State shall be allocated to other farms in the State on such basis as the Secretary may by regulation prescribe.

"(B) EFFECTIVE PERIOD.—Except as otherwise provided in this section, any adjustment in the farm poundage quota for a farm under subparagraph (A) shall be effective only for the marketing year for which it is made and shall not be taken into consideration in establishing a farm poundage quota for the farm from which the quota was released for any subsequent marketing year.

"(8) INCREASE FOR UNDERMARKETINGS IN PREVIOUS MARKETING YEARS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the farm poundage quota for a farm for any marketing year shall be increased by the number of pounds by which the total marketings of quota peanuts from the farm during previous marketing years (excluding any marketing year before the marketing year for the 1989 crop) were less than the total amount of applicable farm poundage quotas (disregarding adjustments for undermarketings from previous marketing years) for the marketing years.

"(B) QUOTA NOT PRODUCED.—For purposes of subparagraph (A), no increase for undermarketings in previous marketing years shall be made to the poundage quota for any farm to the extent that the poundage quota for the farm for the marketing year was reduced under paragraph (3) for failure to produce.

"(C) NATIONAL POUNDAGE QUOTA.—Any increases in farm poundage quotas under this paragraph shall not be counted against the national poundage quota for the marketing year involved.

"(D) TRANSFER OF ADDITIONAL PEANUTS.—Any increase in the farm poundage quota for a farm for a marketing year under this paragraph may be used during the marketing year by the transfer of additional peanuts produced on the farm to the quota loan pool for pricing purposes on such basis as the Secretary shall by regulation prescribe.

"(9) LIMIT ON INCREASES FOR UNDERMARKETINGS.—Notwithstanding the foregoing provisions of this subsection, if the total of all increases in individual farm poundage quotas under paragraph (8) exceeds 10 percent of the national poundage quota for the marketing year in which the increases shall be applicable, the Secretary shall adjust the increases so that the total of all the increases does not exceed 10 percent of the national poundage quota.

"(c) FARM YIELDS.—

"(1) IN GENERAL.—For each farm for which a farm poundage quota is established under subsection (b), and when necessary for purposes of this Act, a farm yield of peanuts shall be determined for each such farm.

"(2) QUANTITY.—The yield shall be equal to the average of the actual yield per acre on the farm for each of the 3 crop years in which yields were highest on the farm out of the 5 crop years 1973 through 1977.

"(3) APPRAISED YIELDS.—If peanuts were not produced on the farm in at least 3 years during the 5-year period or there was a substantial change in the operation of the farm during the period (including a change in operator, lessee who is an operator, or irrigation practices), the Secretary shall have a yield appraised for the farm. The appraised yield shall be that quantity determined to be fair and reasonable on the basis of yields established for similar farms that are located in the area of the farm and on which peanuts were produced, taking into consideration land, labor, and equipment available for the production of peanuts, crop rotation practices, soil and water, and other relevant factors.

"(d) REFERENDUM RESPECTING POUNDAGE QUOTAS.—

"(1) IN GENERAL.—Not later than December 15 of each calendar year, the Secretary shall conduct a referendum of producers engaged in the production of quota peanuts in the calendar year in which the referendum is held to determine whether the producers are in favor of or opposed to poundage quotas with respect to the crops of peanuts produced in the 5 calendar years immediately following the year in which the referendum is held, except that, if as many as two-thirds of the producers voting in any referendum vote in favor of poundage quotas, no referendum shall be held with respect to quotas for the second, third, fourth, and fifth years of the period.

"(2) PROCLAMATION.—The Secretary shall proclaim the result of the referendum within 30 days after the date on which it is held.

"(3) VOTE AGAINST QUOTAS.—If more than one-third of the producers voting in the referendum vote against quotas, the Secretary also shall proclaim that poundage quotas will not be

in effect with respect to the crop of peanuts produced in the calendar year immediately following the calendar year in which the referendum is held.

"(e) DEFINITIONS.—For the purposes of this part and title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.):

"(1) ADDITIONAL PEANUTS.—The term 'additional peanuts' means, for any marketing year—

"(A) any peanuts that are marketed from a farm for which a farm poundage quota has been established and that are in excess of the marketings of quota peanuts from the farm for the year; and

"(B) all peanuts marketed from a farm for which no farm poundage quota has been established in accordance with subsection (b).

"(2) CRUSHING.—The term 'crushing' means the processing of peanuts to extract oil for food uses and meal for feed uses, or the processing of peanuts by crushing or otherwise when authorized by the Secretary.

"(3) DOMESTIC EDIBLE USE.—The term 'domestic edible use' means use for milling to produce domestic food peanuts (other than those described in paragraph (2)) and seed and use on a farm, except that the Secretary may exempt from this definition seeds of peanuts that are used to produce peanuts excluded under section 359(c), are unique strains, and are not commercially available.

"(4) QUOTA PEANUTS.—The term 'quota peanuts' means, for any marketing year, any peanuts produced on a farm having a farm poundage quota, as determined in subsection (b), that—

"(A) are eligible for domestic edible use as determined by the Secretary;

"(B) are marketed or considered marketed from a farm; and

"(C) do not exceed the farm poundage quota of the farm for the year.

"(f) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 803. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 358a the following new section:

7 USC 1358b.

"SEC. 358b. SALE, LEASE, OR TRANSFER OF FARM POUNDAGE QUOTA FOR 1991 THROUGH 1995 CROPS OF PEANUTS.

"(a) IN GENERAL.—

"(1) AUTHORITY.—Subject to such terms, conditions, or limitations as the Secretary may prescribe, the owner, or operator with the permission of the owner, of any farm for which a farm poundage quota has been established under this Act may sell or lease all or any part of the poundage quota to any other owner or operator of a farm within the same county for transfer to the farm, except that any such lease of poundage quota may be entered into in the fall or after the normal planting season—

"(A) if not less than 90 percent of the basic quota (the farm quota exclusive of undermarketings and temporary quota transfers), plus any poundage quota transferred to the farm under this subsection, has been planted or consid-

ered planted on the farm from which the quota is to be leased; and

"(B) under such terms and conditions as the Secretary may by regulation prescribe.

In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or a transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.

"(2) TRANSFERS TO OTHER SELF-OWNED FARMS.—The owner or operator of a farm may transfer all or any part of the farm poundage quota for the farm to any other farm owned or controlled by the owner or operator that is in the same county or in a county contiguous to the county in the same State and that had a farm poundage quota for the preceding year's crop. Any farm poundage quota transferred under this paragraph shall not result in any reduction in the farm poundage quota for the transferring farm if the transferred quota is produced or considered produced on the receiving farm.

"(3) TRANSFERS IN STATES WITH SMALL QUOTAS.—Notwithstanding paragraphs (1) and (2), in the case of any State for which the poundage quota allocated to the State was less than 10,000 tons for the preceding year's crop, all or any part of a farm poundage quota may be transferred by sale or lease or otherwise from a farm in one county to a farm in another county in the same State.

"(b) CONDITIONS.—Transfers (including transfer by sale or lease) of farm poundage quotas under this section shall be subject to all of the following conditions:

"(1) LIENHOLDERS.—No transfer of the farm poundage quota from a farm subject to a mortgage or other lien shall be permitted unless the transfer is agreed to by the lienholders.

"(2) TILLABLE CROPLAND.—No transfer of the farm poundage quota shall be permitted if the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) determines that the receiving farm does not have adequate tillable cropland to produce the farm poundage quota.

"(3) RECORD.—No transfer of the farm poundage quota shall be effective until a record thereof is filed with the county committee of the county to which the transfer is made and the committee determines that the transfer complies with this section.

"(4) OTHER TERMS.—Such other terms and conditions that the Secretary may by regulation prescribe.

"(c) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 804. MARKETING PENALTIES; DISPOSITION OF ADDITIONAL PEANUTS.

The Agricultural Adjustment Act of 1938 is amended by inserting after section 359 the following new section:

7 USC 1359a.

"SEC. 359a. MARKETING PENALTIES AND DISPOSITION OF ADDITIONAL PEANUTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS.

"(a) MARKETING PENALTIES.—

"(1) IN GENERAL.—

"(A) MARKETING PEANUTS IN EXCESS OF QUOTA.—The marketing of any peanuts for domestic edible use in excess of the farm poundage quota for the farm on which the peanuts are produced shall be subject to penalty at a rate equal to 140 percent of the support price for quota peanuts for the marketing year in which the marketing occurs. The penalty shall not apply to the marketing of breeder or Foundation seed peanuts grown and marketed by a publicly owned agricultural experiment station (including a State operated seed organization) under such regulations as the Secretary may prescribe.

"(B) MARKETING YEAR.—For purposes of this section, the marketing year for peanuts shall be the 12-month period beginning August 1 and ending July 31.

Regulations.

"(C) MARKETING ADDITIONAL PEANUTS.—The marketing of any additional peanuts from a farm shall be subject to the same penalty unless the peanuts, in accordance with regulations established by the Secretary, are—

"(i) placed under loan at the additional loan rate in effect for the peanuts under section 108B of the Agricultural Act of 1949 and not redeemed by the producers;

"(ii) marketed through an area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949; or

"(iii) marketed under contracts between handlers and producers pursuant to subsection (f).

"(2) PAYER.—The penalty shall be paid by the person who buys or otherwise acquires the peanuts from the producer or, if the peanuts are marketed by the producer through an agent, the penalty shall be paid by the agent. The person or agent may deduct an amount equivalent to the penalty from the price paid to the producer.

"(3) FAILURE TO COLLECT.—If the person required to collect the penalty fails to collect the penalty, the person and all persons entitled to share in the peanuts marketed from the farm or the proceeds thereof shall be jointly and severally liable with such persons who failed to collect the penalty for the amount of the penalty.

"(4) APPLICATION OF QUOTA.—Peanuts produced in a calendar year in which farm poundage quotas are in effect for the marketing year beginning therein shall be subject to the quotas even though the peanuts are marketed prior to the date on which the marketing year begins.

"(5) FALSE INFORMATION.—If any producer falsely identifies, fails to accurately certify planted acres, or fails to account for the disposition of any peanuts produced on the planted acres, a quantity of peanuts equal to the greater of the farm's average or actual yield, as determined by the Secretary, times the planted acres, shall be deemed to have been marketed in violation of permissible uses of quota and additional peanuts. Any penalty

payable under this paragraph shall be paid and remitted by the producer.

"(6) UNINTENTIONAL VIOLATIONS.—The Secretary shall authorize, under such regulations as the Secretary shall issue, the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or reduce marketing penalties provided for under this subsection in cases which the committees determine that the violations that were the basis of the penalties were unintentional or without knowledge on the part of the parties concerned. Regulations.

"(7) DE MINIMIS VIOLATIONS.—Errors in weight that do not exceed one-tenth of 1 percent in the case of any one marketing document shall not be considered to be marketing violations except in cases of fraud or conspiracy.

"(b) USE OF QUOTA AND ADDITIONAL PEANUTS.—

"(1) QUOTA PEANUTS.—Only quota peanuts may be retained for use as seed or for other uses on a farm. When peanuts are so retained, such retention shall be considered as marketings of quota peanuts, except that the Secretary may exempt from consideration as marketings of quota peanuts seeds of peanuts for the quantity involved that are used to produce peanuts excluded under section 359(c), are unique strains, and are not commercially available.

"(2) ADDITIONAL PEANUTS.—Additional peanuts shall not be retained for use on a farm and shall not be marketed for domestic edible use, except as provided in subsection (g).

"(3) SEED.—Except as provided in paragraph (1), seed for planting of any peanut acreage in the United States shall be obtained solely from quota peanuts marketed or considered marketed for domestic edible use.

"(c) MARKETING PEANUTS WITH EXCESS QUANTITY, GRADE, OR QUALITY.—On a finding by the Secretary that the peanuts marketed from any crop for domestic edible use by a handler are larger in quantity or higher in grade or quality than the peanuts that could reasonably be produced from the quantity of peanuts having the grade, kernel content, and quality of the quota peanuts acquired by the handler from the crop for the marketing, the handler shall be subject to a penalty equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts that the Secretary determines are in excess of the quantity, grade, or quality of the peanuts that could reasonably have been produced from the peanuts so acquired.

"(d) HANDLING AND DISPOSAL OF ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require that the handling and disposal of additional peanuts be supervised by agents of the Secretary or by area marketing associations designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949.

"(2) SUPERVISION BY NONHANDLERS.—

"(A) IN GENERAL.—Supervision of the handling and disposal of additional peanuts by a handler shall not be required under paragraph (1) if the handler agrees in writing, prior to any handling or disposal of the peanuts, to comply with regulations that the Secretary shall issue.

"(B) REGULATIONS.—The regulations issued by the Secretary under subparagraph (A) shall include the following provisions:

"(i) TYPES OF EXPORTED OR CRUSHED PEANUTS.—Handlers of shelled or milled peanuts may export or crush peanuts classified by type in all of the following quantities:

"(I) SOUND SPLIT KERNEL PEANUTS.—Sound split kernel peanuts purchased by the handler as additional peanuts to which, under price support loan schedules, a mandated deduction with respect to the price paid to the producer of the peanuts would be applied due to the percentage of the sound splits.

"(II) SOUND MATURE KERNEL PEANUTS.—Sound mature kernel peanuts (which term includes sound split kernel peanuts and sound whole kernel peanuts) in an amount equal to the poundage of the peanuts purchased by the handler as additional peanuts, less the total poundage of sound split kernel peanuts described in subclause (I).

"(III) REMAINDER.—The remaining quantity of total kernel content of peanuts purchased by the handler as additional peanuts.

"(ii) DOCUMENTATION.—Handlers shall ensure that any additional peanuts exported or crushed are evidenced by onboard bills of lading or other appropriate documentation as may be required by the Secretary, or both.

"(iii) LOSS OF PEANUTS.—If a handler suffers a loss of peanuts as a result of fire, flood, or any other condition beyond the control of the handler, the portion of the loss allocated to contracted additional peanuts shall not be greater than the portion of the handler's total peanut purchases for the year attributable to contracted additional peanuts purchased for export or crushing by the handler during the year.

"(iv) SHRINKAGE ALLOWANCE.—

"(I) IN GENERAL.—The obligation of a handler to export or crush peanuts in quantities described in this subparagraph shall be reduced by a shrinkage allowance, to be determined by the Secretary, to reflect actual dollar value shrinkage experienced by handlers in commercial operations, except that the allowance shall not be less than 4 percent, except as provided in subclause (II).

"(II) COMMON INDUSTRY PRACTICES.—The Secretary may provide a lower shrinkage allowance for a handler who fails to comply with restrictions on the use of peanuts, as may be specified by the Commodity Credit Corporation, to take into account common industry practices.

"(3) ADEQUATE FINANCES AND FACILITIES.—A handler shall submit to the Secretary adequate financial guarantees, as well as evidence of adequate facilities and assets, with the facilities under the control and operation of the handler, to ensure the handler's compliance with the obligation to export peanuts.

Regulations.

"(4) COMMINGLING OF LIKE PEANUTS.—Quota and additional peanuts of like type and segregation or quality may, under regulations issued by the Secretary, be commingled and ex-

changed on a dollar value basis to facilitate warehousing, handling, and marketing.

"(5) PENALTY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the failure by a handler to comply with regulations issued by the Secretary governing the disposition and handling of additional peanuts shall subject the handler to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts involved in the violation.

"(B) NONDELIVERY.—A handler shall not be subject to a penalty for failure to export additional peanuts if the peanuts were not delivered to the handler.

"(6) REENTRY OF EXPORTED PEANUTS.—If any additional peanuts exported by a handler are reentered into the United States in commercial quantities as determined by the Secretary, the importer thereof shall be subject to a penalty at a rate equal to 140 percent of the loan level for quota peanuts on the quantity of peanuts reentered.

"(e) SPECIAL EXPORT CREDITS.— Regulations.

"(1) IN GENERAL.—The Secretary shall, with due regard for the integrity of the peanut program, promulgate regulations that will permit any handler of peanuts who manufactures peanut products from domestic edible peanuts to export the products and receive credit for the fulfillment of export obligations for the peanut content of the products against which the export credits the handler may thereafter apply, up to the amount thereof, equivalent quantities of additional peanuts of the same type acquired by the handler and used in the domestic edible market. The peanuts so acquired for the domestic edible market as provided in this subsection shall be of the same crop year as the peanuts used in the manufacture of the products so exported.

"(2) CERTIFICATION.—Under such regulations, the Secretary shall require all handlers who are peanut product manufacturers to submit annual certifications of peanut product content on a product-by-product basis. Any changes in peanut product formulas as affecting peanut content shall be recorded within 90 days of the changes. The Secretary shall conduct an annual review of the certifications. The Secretary shall pursue all available remedies with respect to persons who fail to comply with this paragraph.

"(3) RECORDS.—The Secretary shall require handlers who are peanut product manufacturers to maintain and provide such documents as are necessary to ensure compliance with this subsection and to maintain the integrity of the peanut program.

"(f) CONTRACTS FOR PURCHASE OF ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—Handlers may, under such regulations as the Secretary may issue, contract with producers for the purchase of additional peanuts for crushing or export, or both.

"(2) SUBMISSION TO SECRETARY.—

"(A) CONTRACT DEADLINE.—Any such contract shall be completed and submitted to the Secretary (or if designated by the Secretary, the area marketing association) for approval not later than September 15 of the year in which the crop is produced.

"(B) EXTENSION OF DEADLINE.—The Secretary may extend the deadline under subparagraph (A) by up to 15 days in response to damaging weather or related condition (as defined in section 112 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.)). The Secretary shall announce the extension no later than September 5 of the year in which the crop is produced.

"(3) FORM.—The contract shall be executed on a form prescribed by the Secretary. The form shall require such information as the Secretary determines appropriate to ensure the proper handling of the additional peanuts, including the identity of the contracting parties, the poundage, and category of the peanuts, the disclosure of any liens, and the intended disposition of the peanuts.

"(4) INFORMATION FOR HANDLING AND PROCESSING ADDITIONAL PEANUTS.—Notwithstanding any other provision of this section, any person wishing to handle and process additional peanuts as a handler shall submit to the Secretary (or if designated by the Secretary, the area marketing association), such information as may be required under subsection (d) by such date as prescribed by the Secretary so as to permit final action to be taken on the application by July 1 of each marketing year.

"(5) TERMS.—Each such contract shall contain the final price to be paid by the handler for the peanuts involved and a specific prohibition against the disposition of the peanuts for domestic edible or seed use.

"(6) SUSPENSION OF RESTRICTIONS ON IMPORTED PEANUTS.—Notwithstanding any other provision of this Act, if the President issues a proclamation under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, temporarily suspending restrictions on the importation of peanuts, the Secretary shall, subject to such terms and conditions as the Secretary may prescribe, permit a handler, with the written consent of the producer, to purchase additional peanuts from any producer who contracted with the handler and to offer the peanuts for sale for domestic edible use.

"(g) MARKETING OF PEANUTS OWNED OR CONTROLLED BY THE COMMODITY CREDIT CORPORATION.—

"(1) IN GENERAL.—Subject to section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427), any peanuts owned or controlled by the Commodity Credit Corporation may be made available for domestic edible use, in accordance with regulations issued by the Secretary, so long as doing so does not result in substantially increased cost to the Commodity Credit Corporation. Additional peanuts received under loan shall be offered for sale for domestic edible use at prices not less than those required to cover all costs incurred with respect to the peanuts for such items as inspection, warehousing, shrinkage, and other expenses, plus—

"(A) not less than 100 percent of the loan value of quota peanuts if the additional peanuts are sold and paid for during the harvest season on delivery by and with the written consent of the producer;

"(B) not less than 105 percent of the loan value of quota peanuts if the additional peanuts are sold after delivery by

the producer but not later than December 31 of the marketing year; or

"(C) not less than 107 percent of the loan value of quota peanuts if the additional peanuts are sold later than December 31 of the marketing year.

"(2) ACCEPTANCE OF BIDS BY AREA MARKETING ASSOCIATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for the period from the date additional peanuts are delivered for loan to March 1 of the calendar year following the year in which the additional peanuts were harvested, the area marketing association designated pursuant to section 108B(c)(1) of the Agricultural Act of 1949 shall have sole authority to accept or reject lot list bids when the sales price, as determined under this subsection, equals or exceeds the minimum price at which the Commodity Credit Corporation may sell its stocks of additional peanuts.

"(B) MODIFICATION.—The area marketing association and the Commodity Credit Corporation may agree to modify the authority granted by subparagraph (A) to facilitate the orderly marketing of additional peanuts.

"(3) PRODUCER MARKETING AND EXPENSES.—Notwithstanding any other provision of this Act, the Secretary shall, in any determination required under subsections (a)(2) and (b)(1) of section 108B of the Agricultural Act of 1949, include any additional marketing expenses required by law, excluding the amount of any assessment required under the Omnibus Budget Reconciliation Act of 1990.

"(h) ADMINISTRATION.—

"(1) INTEREST.—The person liable for payment or collection of any penalty provided for in this section shall be liable also for interest thereon at a rate per annum equal to the rate per annum of interest that was charged the Commodity Credit Corporation by the Treasury of the United States on the date the penalty became due.

"(2) DE MINIMIS QUANTITY.—This section shall not apply to peanuts produced on any farm on which the acreage harvested for nuts is one acre or less if the producers who share in the peanuts produced on the farm do not share in the peanuts produced on any other farm.

"(3) LIENS.—Until the amount of the penalty provided by this section is paid, a lien on the crop of peanuts with respect to which the penalty is incurred, and on any subsequent crop of peanuts subject to farm poundage quotas in which the person liable for payment of the penalty has an interest, shall be in effect in favor of the United States.

"(4) PENALTIES.—

"(A) PROCEDURES.—Notwithstanding any other provision of law, the liability for and the amount of any penalty assessed under this section shall be determined in accordance with such procedures as the Secretary by regulation may prescribe. The facts constituting the basis for determining the liability for or amount of any penalty assessed under this section, when officially determined in conformity with the applicable regulations prescribed by the Secretary, shall be final and conclusive and shall not be reviewable by any other officer or agency of the Government. Regulations.

"(B) JUDICIAL REVIEW.—Nothing in this section shall be construed as prohibiting any court of competent jurisdiction from reviewing any determination made by the Secretary with respect to whether the determination was made in conformity with the applicable law and regulations.

"(C) CIVIL PENALTIES.—All penalties imposed under this section shall for all purposes be considered civil penalties.

"(5) REDUCTION OF PENALTIES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subparagraph (B), the Secretary may reduce the amount of any penalty assessed against handlers under this section by any appropriate amount, including, in an appropriate case, eliminating the penalty entirely, if the Secretary finds that the violation on which the penalty is based was minor or inadvertent, and that the reduction of the penalty will not impair the operation of the peanut program.

"(B) FAILURE TO EXPORT CONTRACTED ADDITIONAL PEANUTS.—The amount of any penalty imposed on a handler under this section that resulted from the failure to export or crush contracted additional peanuts shall not be reduced by the Secretary.

"(i) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 805. EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.

The Agricultural Adjustment Act of 1938 (as amended by section 803 of this Act) is further amended by inserting after section 358b the following new section:

7 USC 1358c.

"SEC. 358c. EXPERIMENTAL AND RESEARCH PROGRAMS FOR PEANUTS.

"(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may permit a portion of the poundage quota for peanuts apportioned to any State to be allocated from the State's quota reserve to land-grant institutions identified in the Act of May 8, 1914 (38 Stat. 372, chapter 79; 7 U.S.C. 341 et seq.), and colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.), including Tuskegee Institute and, as appropriate, the Agricultural Research Service of the Department of Agriculture to be used for experimental and research purposes.

"(b) QUANTITY.—The quantity of the quota allocated to an institution under this section shall not exceed the quantity of the quota held by each such institution during the 1985 crop year, except that the total quantity allocated to all institutions in a State shall not exceed 1/10 of 1 percent of the State's basic quota.

"(c) LIMITATION.—The director of the agricultural experiment station for a State shall be required to ensure, to the extent practicable, that farm operators in the State do not produce quota peanuts under subsection (a) in excess of the quantity needed for experimental and research purposes.

"(d) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 806. PRICE SUPPORT PROGRAM.

The Agricultural Act of 1949 is amended—

(1) by repealing sections 108 and 108A (7 U.S.C. 1445c and 1445c-1);

(2) by redesignating section 108B (7 U.S.C. 1445c-2) as section 108A; and

(3) by inserting after section 108A (as so redesignated) the following new section:

"SEC. 108B. PRICE SUPPORT PROGRAM FOR 1991 THROUGH 1995 CROPS OF PEANUTS. 7 USC 1445c-3.

"(a) QUOTA PEANUTS.—

"(1) IN GENERAL.—The Secretary shall make price support available to producers through loans, purchases, and other operations on quota peanuts for each of the 1991 through 1995 crops.

"(2) SUPPORT RATES.—The national average quota support rate for each of the 1991 through 1995 crops of quota peanuts shall be the national average quota support rate for the immediately preceding crop, adjusted to reflect any increase, during the calendar year immediately preceding the marketing year for the crop for which a level of support is being determined, in the national average cost of peanut production, excluding any change in the cost of land, except that in no event shall the national average quota support rate for any such crop exceed by more than 5 percent the national average quota support rate for the preceding crop.

"(3) INSPECTION, HANDLING, OR STORAGE.—The levels of support so announced shall not be reduced by any deductions for inspection, handling, or storage.

"(4) LOCATION AND OTHER FACTORS.—The Secretary may make adjustments for location of peanuts and such other factors as are authorized by section 403.

"(5) ANNOUNCEMENT.—The Secretary shall announce the level of support for quota peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(b) ADDITIONAL PEANUTS.—

"(1) IN GENERAL.—The Secretary shall make price support available to producers through loans, purchases, or other operations on additional peanuts for each of the 1991 through 1995 crops at such levels as the Secretary finds appropriate, taking into consideration the demand for peanut oil and peanut meal, expected prices of other vegetable oils and protein meals, and the demand for peanuts in foreign markets, except that the Secretary shall set the support rate on additional peanuts at a level estimated by the Secretary to ensure that there are no losses to the Commodity Credit Corporation on the sale or disposal of the peanuts.

"(2) ANNOUNCEMENT.—The Secretary shall announce the level of support for additional peanuts of each crop not later than February 15 preceding the marketing year for the crop for which the level of support is being determined.

"(c) AREA MARKETING ASSOCIATIONS.—

"(1) WAREHOUSE STORAGE LOANS.—

"(A) IN GENERAL.—In carrying out subsections (a) and (b), the Secretary shall make warehouse storage loans available

in each of the three producing areas (described in section 1446.95 of title 7 of the Code of Federal Regulations (January 1, 1989)) to a designated area marketing association of peanut producers that is selected and approved by the Secretary and that is operated primarily for the purpose of conducting the loan activities. The Secretary may not make warehouse storage loans available to any cooperative that is engaged in operations or activities concerning peanuts other than those operations and activities specified in this section and sections 359 and 359a of the Agricultural Adjustment Act of 1938.

"(B) ADMINISTRATIVE AND SUPERVISORY ACTIVITIES.—The area marketing associations shall be used in administrative and supervisory activities relating to price support and marketing activities under this section and sections 359 and 359a of the Agricultural Adjustment Act of 1938.

"(C) ASSOCIATION COSTS.—Loans made to the association under this paragraph shall include, in addition to the price support value of the peanuts, such costs as the area marketing association reasonably may incur in carrying out its responsibilities, operations, and activities under this section and sections 359 and 359a of the Agricultural Adjustment Act of 1938.

"(2) POOLS FOR QUOTA AND ADDITIONAL PEANUTS.—

Records.
Imports.
New Mexico.

"(A) IN GENERAL.—The Secretary shall require that each area marketing association establish pools and maintain complete and accurate records by area and segregation for quota peanuts handled under loan and for additional peanuts placed under loan, except that separate pools shall be established for Valencia peanuts produced in New Mexico. Bright hull and dark hull Valencia peanuts shall be considered as separate types for the purpose of establishing the pools.

"(B) NET GAINS.—Net gains on peanuts in each pool, unless otherwise approved by the Secretary, shall be distributed only to producers who placed peanuts in the pool and shall be distributed in proportion to the value of the peanuts placed in the pool by each producer. Net gains for peanuts in each pool shall consist of the following:

"(i) QUOTA PEANUTS.—For quota peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool plus an amount from all additional pool gains equal to any loss on disposition of all peanuts in the pool for quota peanuts.

"(ii) ADDITIONAL PEANUTS.—For additional peanuts, the net gains over and above the loan indebtedness and other costs or losses incurred on peanuts placed in the pool for additional peanuts less any amount allocated to offset any loss on the pool for quota peanuts as provided in clause (i).

"(d) LOSSES.—Notwithstanding any other provision of this section:

"(1) QUOTA PEANUTS PLACED UNDER LOAN.—Any distribution of net gains on additional peanuts (other than net gains on additional peanuts in separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico)

shall be first reduced to the extent of any loss by the Commodity Credit Corporation on quota peanuts placed under loan.

"(2) QUOTA LOAN POOLS.—

"(A) TRANSFERS FROM ADDITIONAL LOAN POOLS.—The proceeds due any producer from any pool shall be reduced by the amount of any loss that is incurred with respect to peanuts transferred from an additional loan pool to a quota loan pool by such producer under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938.

"(B) OTHER LOSSES.—Losses in area quota pools, other than losses incurred as a result of transfers from additional loan pools to quota loan pools under section 358–1(b)(8) of the Agricultural Adjustment Act of 1938, shall be offset by any gains or profits from pools in other production areas (other than separate type pools established under subsection (c)(2)(A) for Valencia peanuts produced in New Mexico) in such manner as the Secretary shall by regulation prescribe.

"(e) DISAPPROVAL OF QUOTAS.—Notwithstanding any other provision of law, no price support may be made available by the Secretary for any crop of peanuts with respect to which poundage quotas have been disapproved by producers, as provided for in section 358–1(d) of the Agricultural Adjustment Act of 1938.

"(f) QUALITY IMPROVEMENT.—

"(1) PRICE SUPPORT PEANUTS.—With respect to peanuts under price support loan, the Secretary shall—

"(A) promote the crushing of peanuts at a greater risk of deterioration before peanuts of a lesser risk of deterioration;

"(B) ensure that all Commodity Credit Corporation loan stocks of peanuts sold for domestic edible use must be shown to have been officially inspected by licensed Department of Agriculture inspectors both as farmer stock and shelled or cleaned in-shell peanuts;

"(C) continue to endeavor to operate the peanut price support program so as to improve the quality of domestic peanuts and ensure the coordination of activities under the Peanut Administrative Committee established under Marketing Agreement No. 146, regulating the quality of domestically produced peanuts (under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.)); and

"(D) ensure that any changes made in the price support program as a result of this subsection requiring additional production or handling at the farm level shall be reflected as an upward adjustment in the Department of Agriculture loan schedule.

"(2) EXPORTS AND OTHER PEANUTS.—The Secretary shall require that all peanuts in the domestic market fully comply with all quality standards under Marketing Agreement No. 146. The Secretary shall ensure that peanuts produced for the export market meet quality standards established for the domestic market under Marketing Agreement No. 146.

"(g) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts.".

SEC. 807. REPORTS AND RECORDS.

Effective only for the 1991 through 1995 crops of peanuts, the first sentence of section 373(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373(a)) is amended by inserting before "all brokers and dealers in peanuts" the following: "all producers engaged in the production of peanuts,".

7 USC 1441 note.

SEC. 808. SUSPENSION OF CERTAIN PRICE SUPPORT PROVISIONS.

Section 101 of the Agricultural Act of 1949 (7 U.S.C. 1441) shall not be applicable to the 1991 through 1995 crops of peanuts.

7 USC 1358-1 note.

SEC. 809. REGULATIONS.

The Secretary of Agriculture shall issue such regulations as are necessary to carry out this title and the amendments made by this title. In issuing the regulations, the Secretary—

(1) is encouraged to comply with subchapter II of chapter 5 of title 5, United States Code;

(2) shall provide public notice through the Federal Register of any such proposed regulations; and

(3) shall allow adequate time for written public comment prior to the formulation and issuance of any final regulations.

TITLE IX—SUGAR

SEC. 901. SUGAR PRICE SUPPORT.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) (as amended by section 701 of this Act) is further amended—

(1) in the matter preceding subsection (a) of section 201 (7 U.S.C. 1446), by striking "honey, and milk" and inserting "honey, milk, sugar beets, and sugarcane"; and

(2) by adding at the end the following new section:

Loan programs. 7 USC 1446g.

"SEC. 206. SUGAR PRICE SUPPORT FOR 1991 THROUGH 1995 CROPS.

"(a) IN GENERAL.—The price of each of the 1991 through 1995 crops of sugar beets and sugarcane, respectively, shall be supported in accordance with this section.

"(b) SUGARCANE.—The Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate, but not less than 18 cents per pound for raw cane sugar.

"(c) SUGAR BEETS.—The Secretary shall support the price of each of the 1991 through 1995 crops of domestically grown sugar beets through nonrecourse loans at such level for each such crop as the Secretary determines reflects—

"(1) an amount that bears the same relation to the support level for the crop of sugarcane under subsection (b) as the weighted average of producer returns for sugar beets bears to the weighted average of producer returns for sugarcane, expressed on a cents per pound basis for refined beet sugar and raw cane sugar, for the most recent 5-year period for which data are available; plus

"(2) an amount that covers sugar beet processor fixed marketing expenses.

"(d) ADJUSTMENT IN SUPPORT PRICE.—

"(1) IN GENERAL.—The Secretary may increase the support price for each of the 1991 through 1995 crops of domestically

grown sugarcane and sugar beets from the price determined for the preceding crop based on such factors as the Secretary determines appropriate, including changes (during the 2 crop years immediately preceding the crop year for which the determination is made) in the cost of sugar products, the cost of domestic sugar production, and other circumstances that may adversely affect domestic sugar production.

"(2) REPORT.—If the Secretary makes a determination not to increase the support price under paragraph (1), the Secretary shall submit a report containing the findings, decision, and supporting data for the determination to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(e) ANNOUNCEMENTS.—The Secretary shall announce the loan rate to be applicable during any fiscal year under this section as far in advance of the beginning of that fiscal year as is practicable consistent with the purposes of this section.

"(f) TERM.—Loans under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

"(1) the end of 9 months; or

"(2) the end of the fiscal year.

"(g) SUPPLEMENTARY NONRECOURSE LOANS.—In the case of sugar beet producing areas in which sugar beets normally are harvested during the last 3 months of a fiscal year, the Secretary shall make available, to each borrower of a loan made and repaid under this section during the last 3 months of the fiscal year on sugar processed from sugar beets so harvested, a supplementary nonrecourse loan in addition to the initial loan. In each case, the supplementary loan shall—

"(1) be made available to the borrower as of the first day of the following fiscal year;

"(2) be made at the same loan rate as the initial loan; and

"(3) mature in 9 months less the amount of time that the initial loan was in effect.

"(h) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

"(i) CROPS.—This section shall be effective only for the 1991 through 1995 crops of sugar beets and sugarcane.".

SEC. 902. MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.

Subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.) is amended by adding at the end the following new part:

"PART VII—MARKETING QUOTAS—SUGAR AND CRYSTALLINE FRUCTOSE

"SEC. 359a. INFORMATION REPORTING. 7 USC 1359aa.

"(a) DUTY TO REPORT.—All cane sugar refiners and sugar beet processors and all manufacturers of crystalline fructose from corn (hereafter in this part referred to as 'crystalline fructose') shall furnish the Secretary, on a monthly basis, such information as the Secretary may require with respect to the person's importation,

distribution, and stock levels of sugar or crystalline fructose, respectively.

"(b) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than $10,000 for each such violation.

"(c) MONTHLY REPORTS.—Taking into consideration the information received under subsection (a), the Secretary shall publish on a monthly basis composite data on imports, distribution, and stock levels of sugar and crystalline fructose.

7 USC 1359bb.

"SEC. 359b. MARKETING ALLOTMENTS FOR SUGAR AND CRYSTALLINE FRUCTOSE.

"(a) SUGAR ESTIMATES.—

"(1) IN GENERAL.—Before the beginning of each of the fiscal years 1992 through 1996, the Secretary shall estimate—

"(A) the quantity of sugar that will be consumed in the customs territory of the United States during the fiscal year (other than sugar imported for purposes other than human consumption);

"(B) the quantity of sugar that will be available from carry-in stocks or from domestically-produced sugarcane and sugar beets for consumption in the United States during the year; and

"(C) the quantity of sugar that will be imported for consumption during the year (other than sugar imported for purposes other than human consumption), based on the difference between—

"(i) the quantity of estimated consumption; and

"(ii) the quantity of sugar estimated to be available from domestically-produced sugarcane and sugar beets and from carry-in stocks.

"(2) QUARTERLY REESTIMATES.—The Secretary shall make quarterly reestimates of sugar consumption, availability, and imports for a fiscal year no later than the beginning of each of the second through fourth quarters of the fiscal year.

"(b) SUGAR ALLOTMENTS.—

Imports.

"(1) IN GENERAL.—For any fiscal year in which the Secretary estimates, under subsection (a), that imports of sugar for consumption in the United States will be less than 1,250,000 short tons, raw value, the Secretary shall establish for that year appropriate allotments under section 359c for the marketing by processors of sugar processed from domestically-produced sugarcane and sugar beets in a manner that is fair, efficient, and equitable to producers, processors, and refiners, at a level that the Secretary estimates will result in imports of sugar of not less than 1,250,000 short tons, raw value, for that year.

"(2) PRODUCTS.—The Secretary may include products of sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

"(c) CRYSTALLINE FRUCTOSE ALLOTMENTS.—For any fiscal year in which the Secretary establishes allotments for the marketing of sugar under section 359c, the Secretary shall establish for that year appropriate allotments for the marketing by manufacturers of crystalline fructose manufactured from corn, at a total level not to exceed the equivalent of 200,000 tons of sugar, raw value, during the

fiscal year, in a manner that is fair, efficient, and equitable to manufacturers.

"(d) PROHIBITIONS.—

"(1) SUGAR.—

"(A) EXCEEDING ALLOCATION.—At any time allotments are in effect and allocated to processors under section 359d, the total of—

"(i) the quantity of sugar marketed by a processor, plus

"(ii) the quantity of sugar pledged as collateral by the processor for a price support loan under section 206 of the Agricultural Act of 1949,

shall not exceed the quantity of the allocation of the allotment made to the processor.

"(B) EXCEPTIONS.—Subparagraph (A) shall not apply—

"(i) to the marketing during a fiscal year of sugar pledged in that fiscal year as collateral for a price support loan under section 206 of the Agricultural Act of 1949 after the sugar has been subsequently redeemed; or

"(ii) to any sale of sugar by a processor to another processor made to enable the other processor to fulfill the quantity of the allocation of the allotment made to the other processor.

"(2) CRYSTALLINE FRUCTOSE.—At any time crystalline fructose allotments are in effect for manufacturers under subsection (c), no manufacturer may market crystalline fructose in excess of the manufacturer's allotment. No restrictions or allotments shall be established on the marketings of any liquid fructose produced from corn.

"(3) CIVIL PENALTY.—Any processor who violates paragraph (1) or manufacturer who violates paragraph (2) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar or crystalline fructose involved in the violation.

"(4) DEFINITION OF MARKET.—For purposes of this part, the term 'market' shall mean to sell or otherwise dispose of in commerce in the United States.

"SEC. 359c. ESTABLISHMENT OF MARKETING ALLOTMENTS. 7 USC 1359cc.

"(a) IN GENERAL.—The Secretary shall establish marketing allotments for sugar for any fiscal year in which the allotments are required under section 359b(b) in accordance with this section.

"(b) OVERALL ALLOTMENT QUANTITY.—

"(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the fiscal year (hereafter in this part referred to as the 'overall allotment quantity') by deducting from the estimated sugar consumption for the fiscal year, as determined under section 359b(a)—

"(A) 1,250,000 short tons, raw value (representing minimum imports of sugar for consumption in the United States during the fiscal year); and

"(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

(2) ADJUSTMENT.—The Secretary shall adjust the overall allotment quantity to the maximum extent practicable to prevent

the accumulation of sugar acquired by the Commodity Credit Corporation.

"(c) ALLOTMENT.—The overall allotment quantity for the fiscal year shall be allotted among—

"(1) sugar derived from sugar beets; and

"(2) sugar derived from sugarcane.

"(d) PERCENTAGE FACTORS.—

"(1) IN GENERAL.—The Secretary shall establish percentage factors for the overall beet sugar and cane sugar allotments applicable for a fiscal year. The Secretary shall establish the percentage factors in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the marketings of sugar processed from sugarcane and sugar beets of any or all of the 1985 through 1989 crops), processing and refining capacity, and the ability of processors to market the sugar covered under the allotments.

Federal Register, publication.

"(2) PUBLICATION.—The Secretary shall publish these percentage factors in the Federal Register, along with a description of the Secretary's reasons for establishing the factors, as provided in section 359h(c).

"(e) MARKETING ALLOTMENT.—The marketing allotment for sugar derived from sugarcane and the marketing allotment for sugar derived from sugar beets for a fiscal year, in each case, shall be a quantity equal to the product of multiplying the overall allotment quantity for the fiscal year by the percentage factor established by the Secretary under subsection (d)(1) for the allotment.

"(f) STATE SUGARCANE ALLOTMENT.—The allotment for sugar derived from sugarcane shall be further allotted among the 5 States in the United States in which sugarcane is produced in a fair and equitable manner on the basis of past marketings of sugar (considering for such purposes the average of marketings of sugar processed from sugarcane in the 2 highest years of production from each State from the 1985 through 1989 crops), processing capacity, and the ability of processors to market the sugar covered under the allotments.

"(g) ADJUSTMENT OF MARKETING ALLOTMENTS.—

"(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(2), adjust upward or downward marketing allotments established under subsections (a) through (f) in a fair and equitable manner, or suspend the allotments, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, availability, or imports.

"(2) ALLOCATION TO PROCESSORS.—In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 359d, and each proportionate share established with respect to the allotment under section 359f(b), shall be increased or decreased by the same percentage that the allotment is increased or decreased.

"(3) REDUCTIONS.—Whenever a marketing allotment for a fiscal year is required to be reduced during the fiscal year under this paragraph—

"(A) if the quantity of the sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949, for the fiscal year at the time of the reduction under the allotment by all processors covered by the allotment exceeds the reduced

allotment, the quantity of the excess sugar marketed shall be deducted—

"(i) if beet sugar is involved, from the marketing allotment, if any, next established for beet sugar; or

"(ii) if cane sugar is involved, from the marketing allotment next established for the State; and

"(B) if the quantity of sugar marketed, including sugar pledged as collateral for a price support loan under section 206 of the Agricultural Act of 1949, for the fiscal year at the time of the reduction by any individual processor covered by the allotment exceeds the processor's reduced allocation, the quantity of the excess sugar marketed shall be deducted from the allocation of an allotment, if any, next established for the processor.

"(h) FILLING SUGARCANE AND SUGAR BEET ALLOTMENTS.—Except as otherwise provided in section 359e, each marketing allotment of sugarcane established under this section may only be filled with sugar processed from domestically grown sugarcane, and each marketing allotment of sugar beets established under this section may only be filled with sugar processed from domestically grown sugar beets.

"SEC. 359d. ALLOCATION OF MARKETING ALLOTMENTS. 7 USC 1359dd.

"(a) IN GENERAL.—

"(1) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a fiscal year under section 359c, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

"(2) HEARING AND NOTICE.—

"(A) CANE SUGAR.—The Secretary shall make allocations for cane sugar after such hearing and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar, and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 359c(g).

"(B) BEET SUGAR.—The Secretary shall make allocations for beet sugar after such hearing and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations by taking into consideration processing capacity, past marketings of sugar (considering for the purposes the marketings of sugar processed from sugar beets of any or all of the 1985 through 1989 crops), and the ability of each processor to market sugar covered by that portion of the allotment allocated. Each such allocation shall be subject to adjustment under section 359c(g).

"(b) FILLING CANE SUGAR ALLOTMENTS.—Except as otherwise provided in section 359e, the marketing allotment established for cane sugar under this part for a fiscal year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

7 USC 1359ee.

"SEC. 359e. ASSIGNMENTS OF DEFICITS.

"(a) ESTIMATES OF MARKETING.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) processors of sugarcane in each State covered by an allotment will be able to market the sugar covered by the allotment applicable to them and whether processors of sugar beets will be able to market sugar covered by the portion of the beet sugar allotment applicable to them.

"(b) REASSIGNMENT OF DEFICITS.—

"(1) CANE SUGAR.—If the Secretary determines that the sugarcane processors subject to a State allotment will be unable to market the State's allotment for the fiscal year—

"(A) the Secretary first shall reassign the estimated quantity of the deficit proportionately to the allocations for other processors within that State;

"(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors; and

Imports.

"(C) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor subject to an allotment will be unable to market that allotment—

"(A) the Secretary first shall reassign the estimated quantity of the deficit proportionately to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it; and

"(B) if after the reassignments, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

"(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a fiscal year shall be increased to reflect the reassignment.

7 USC 1359ff.

"SEC. 359f. PROVISIONS APPLICABLE TO PRODUCERS.

"(a) PROCESSOR ASSURANCES.—Whenever allotments for a fiscal year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers' production histories. Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the processor's allocation shall be resolved through arbitration by the Secretary on the request of either party.

"(b) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—

"(1) IN GENERAL.—

"(A) STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and there are in excess of 250 producers in such State, the Secretary shall make a determination under subparagraph (B).

"(B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugar, in the absence of proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory.

"(2) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (1) that the quantity of sugar processed from all crops by all processors covered by a State allotment for a fiscal year will be in excess of the quantity needed to enable processors to fill the allotment for the fiscal year and provide a normal carryover inventory, the Secretary shall establish proportionate shares for the crop of sugarcane that is harvested during the fiscal year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under section 359c(g).

"(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

"(A) The Secretary shall establish the State's per-acre yield goal for a crop at a level (not less than the average per-acre yield in the State for the preceding 5 years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary deems relevant.

"(B) The Secretary shall convert the State allotment for the fiscal year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A).

"(C) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (B), by the sum of all acreage bases in the State, as determined by the Secretary, that the Secretary estimates would otherwise be harvested for the production of the crop of sugarcane.

"(D) The uniform reduction percentage for the crop, as determined under subparagraph (C), shall be applied to the acreage base for each farm covered by the State allotment to determine the farm's proportionate share for the crop.

"(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

"(A) The acreage base for any crop shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in each of the 5 crop years preceding the crop year.

"(B) Acreage that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers shall be considered as harvested to sugarcane for sugar or seed for purposes of this paragraph.

"(5) VIOLATION.—

"(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, no producer in the State knowingly may harvest for sugar or seed an acreage of sugarcane of the crop in excess of the farm's proportionate share for the crop or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

"(B) CIVIL PENALTY.—Any producer who violates subparagraph (A) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation. The quantity of sugar involved shall be determined based on the per-acre yield goal established under paragraph (3).

"(6) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

7 USC 1359gg.

"SEC. 359g. SPECIAL RULES.

"(a) TRANSFER OF PRODUCTION HISTORY.—For the purpose of establishing proportionate shares for producers under section 359f, the Secretary, on application of any producer, may transfer the production history of land owned, operated, or controlled by the producers to any other parcels of land of the applicant.

"(b) RESERVATION OF PRODUCTION HISTORY.—If for reasons beyond the control of an owner of a farm, the owner is unable to use all or a portion of the proportionate share established for the farm under section 359f, the Secretary may reserve for a period of not more than 3 consecutive years the production history of the farm to the extent of the proportionate share involved. The proportionate share may be redistributed to other farm owners or operators, but no production history shall accrue to the other farm owners or operators, by virtue of the redistribution of the proportionate share so redistributed.

"(c) REVISIONS OF ALLOCATIONS AND PROPORTIONATE SHARES.—The Secretary, after such hearing and notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 359d, or any proportionate share established for a farm under section 359f, on the same basis as the initial allocation or proportionate share was established.

7 USC 1359hh.

"SEC. 359h. REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY'S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.

"(a) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering the marketing allotment program under this part.

"(2) PRIOR CONSULTATIONS REQUIRED.—In addition to taking such other action as may be required under section 551 through 559 of title 5, United States Code, prior to proposing any regula-

tions under paragraph (1), the Secretary shall consult with representatives of domestic sugar processors and producers with regard to ensuring that the regulations achieve the objectives of this part. The results of the consultations shall be published in the Federal Register, along with the proposed regulations.

Federal Register, publication.

"(b) VIOLATION.—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than $5,000 for each violation.

"(c) PUBLICATION IN FEDERAL REGISTER.—Each determination issued by the Secretary to establish, adjust, or suspend allotments under this part shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

"(d) JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.—

"(1) *JURISDICTION OF COURTS.*—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued thereunder.

"(2) UNITED STATES ATTORNEYS.—Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

"(e) NONEXCLUSIVITY OF REMEDIES.—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

"SEC. 359i. APPEALS.

7 USC 1359ii.

"(a) IN GENERAL.—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f, by any person adversely affected by reason of any such decision.

"(b) PROCEDURE.—

"(1) NOTICE OF APPEAL.—Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary's decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant's reasons for the appeal and shall on application permit the person to intervene in the appeal.

"(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing. The Secretary shall appoint an administrative law judge to conduct a hearing on the record on each appeal under this section. In all other respects, each appeal under this section shall be subject to sections 551 through 559, and 701 through 706, of title 5, United States Code.

7 USC 1359jj.

"SEC. 359j. ADMINISTRATION.

"(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the departments and agencies of the United States Government.

"(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out sections 359a through 359i.

"(c) DEFINITION OF UNITED STATES AND STATE.—Notwithstanding section 301, for purposes of this part, the terms 'United States' and 'State' means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.".

SEC. 903. REPORTS ON QUOTA ALLOCATIONS TO COUNTRIES IMPORTING SUGAR.

Section 902(c) of the Food Security Act of 1985 (7 U.S.C. 1446 note) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2)(A) Effective 90 days after the date of enactment of this paragraph and by August 1 of each year thereafter through 1995, the Secretary of Agriculture shall report to the President and Congress on the extent, if any, of sugar imports from Cuba by the countries described in paragraph (1).

President.

"(B) Commencing with the quota year for sugar imports after the 1990–1991 quota year, the President shall report to Congress by January 1, on—

"(i) the identity of the countries that are net importers of sugar derived from sugarcane or sugar beets who have a quota for the current quota year;

"(ii) the identity of such countries who have verified that they do not import for reexport to the United States any sugar produced in Cuba; and

"(iii) the action, if any, taken by the President with respect to countries reported by the Secretary of Agriculture as net importers of sugar derived from sugarcane or sugar beets who imported the sugar from Cuba who reexported the sugar to the United States during the previous quota year.".

Loan programs.

TITLE X—HONEY

SEC. 1001. HONEY PRICE SUPPORT.

Title II of the Agricultural Act of 1949 (7 U.S.C. 1446 et seq.) (as amended by section 901 of this Act) is further amended by adding at the end the following new section:

7 USC 1446h.

"SEC. 207. HONEY PRICE SUPPORT.

"(a) IN GENERAL.—For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than 53.8 cents per pound.

"(b) MARKETING LOAN PROVISIONS.—The Secretary may permit a producer to repay a loan made to the producer under this section for a crop at a level that is the lesser of—

"(1) the loan level determined for the crop; or
"(2) such level as the Secretary determines will—
"(A) minimize the number of loan forfeitures;
"(B) not result in excessive total stocks of honey;
"(C) reduce the costs incurred by the Federal Government in storing honey; and
"(D) maintain the competitiveness of honey in the domestic and export markets.

"(c) LOAN DEFICIENCY PAYMENTS.—
"(1) IN GENERAL.—The Secretary shall, for each of the 1991 through 1995 crops of honey, make payments available to producers who, although eligible to obtain a loan under subsection (b), agree to forgo obtaining the loan in return for payments under this subsection.
"(2) COMPUTATION.—A payment under this subsection shall be computed by multiplying—
"(A) the loan payment rate; by
"(B) the quantity of honey the producer is eligible to place under loan but for which the producer forgoes obtaining the loan in return for payments under this subsection.
"(3) LOAN PAYMENT RATE.—For purposes of this subsection, the loan payment rate shall be the amount by which—
"(A) the loan level determined for the crop under subsection (a); exceeds
"(B) the level at which a loan may be repaid under subsection (b).
"(4) MARKETING CERTIFICATES.—The Secretary may make payments under this section available in the form of certificates redeemable for any agricultural commodity owned by the Commodity Credit Corporation.

"(d) PLEDGING ADULTERATED OR IMPORTED HONEY AS COLLATERAL.—
"(1) IN GENERAL.—If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this section, the person, in addition to any other penalty or sanction prescribed by law, shall be ineligible for a loan, purchase, or payment under this section for the 3 crop years succeeding the determination.
"(2) ADULTERATED HONEY.—For purposes of paragraph (1), honey shall be considered adulterated if—
"(A) any substance has been substituted wholly or in part for the honey;
"(B) the honey contains a poisonous or deleterious substance that may render the honey injurious to health, except that in any case in which the substance is not added to the honey, the honey shall not be considered adulterated if the quantity of the substance in or on the honey does not ordinarily render it injurious to health; or
"(C) for any other reason, the honey is unsound, unhealthy, unwholesome, or otherwise unfit for human consumption.

"(e) PAYMENT LIMITATIONS.—
"(1) IN GENERAL.—The total amount of payments that a person may receive under this section may not exceed—
"(A) $200,000 in the 1991 crop year;
"(B) $175,000 in the 1992 crop year;
"(C) $150,000 in the 1993 crop year; and

"(D) $125,000 in each of the 1994 and subsequent crop years.

"(2) PAYMENTS.—For the purposes of this subsection, the term 'payments' means—

"(A) any gain realized by a producer from repaying a loan for a crop of honey at a lower level than the original loan level under this section; and

"(B) any loan deficiency payment received under subsection (c).

Regulations.

"(3) PERSON.—The Secretary shall issue regulations defining the term 'person' for the purposes of this section. The regulations shall provide for the attribution of payments received under this section.

"(f) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(g) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(h) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) (relating to assignment of payments) shall apply to payments under this section.

"(i) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of honey.".

SEC. 1002. LOAN FORFEITURE LIMITATION.

7 USC 1425a.

Section 405A of the Agricultural Act of 1949 (7 U.S.C. 1425A) is amended—

(1) in subsection (a), by striking "producer for such crop of honey under section 201(b), does not exceed $250,000" and inserting "person for such crop of honey under section 207, does not exceed $200,000 in the 1991 crop year, $175,000 in the 1992 crop year, $150,000 in the 1993 crop year, and $125,000 in each of the 1994 and subsequent crop years"; and

Regulations.

(2) in subsection (d), by adding at the end the following new sentence: "The regulations shall provide for the attribution of the value of collateral forfeited on loans described in subsection (a).".

TITLE XI—GENERAL COMMODITY PROVISIONS

Subtitle A—Acreage Base and Yield System

SEC. 1101. ACREAGE BASE AND YIELD SYSTEM.

Title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.) is amended to read as follows:

"TITLE V—ACREAGE BASE AND YIELD SYSTEM

"SEC. 501. PURPOSE. 7 USC 1461.

"The purpose of this title is to prescribe a system for establishing crop acreage bases and program payment yields for the wheat, feed grains, upland cotton, and rice programs under this Act that is efficient, equitable, flexible, and predictable.

"SEC. 502. DEFINITIONS. 7 USC 1462.

"For purposes of this title:

"(1) COUNTY COMMITTEE.—The term 'county committee' means the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for the county in which the farm is administratively located.

"(2) OILSEED.—The term 'oilseed' means a crop of soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, other oilseeds.

"(3) PROGRAM CROP.—The term 'program crop' means a crop of wheat, corn, grain sorghums, oats, barley, upland cotton, or rice.

"SEC. 503. CROP ACREAGE BASES. 7 USC 1463.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall provide for the establishment and maintenance of crop acreage bases for each program crop, including any program crop produced under an established practice of double cropping.

"(2) LIMITATION.—The sum of the crop acreage bases on the farm may not exceed the cropland on the farm, except to the extent there is an established practice of double cropping on the farm.

"(3) DEFINITION OF DOUBLE CROPPING.—As used in this subsection, the term 'double cropping' means a farming practice, as defined by the Secretary, that has been carried out on a farm during at least 3 of the 5 crop years immediately preceding the crop year for which the crop acreage base for the farm is established.

"(b) CALCULATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the crop acreage base for each program crop for a farm for a crop year shall be the number of acres that is equal to the average of the acreage planted and considered planted to the program crop for harvest on the farm in each of the 5 crop years preceding the crop year.

"(2) COTTON AND RICE.—

"(A) IN GENERAL.—In the case of upland cotton and rice, except as provided in subparagraph (B), the crop acreage base for such crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 3 crop years preceding such crop year.

"(B) EXCEPTION.—

"(i) 1991 CROPS.—In the case of each of the 1991 crops of upland cotton and rice, if the producers on a farm did not participate in the production adjustment program established for the 1989 and 1990 crops of upland cotton and rice, respectively, the crop acreage base for the 1991 crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 5 crop years preceding the 1991 crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm. Any crop acreage base established in accordance with this subparagraph shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding the 1991 crop year.

"(ii) 1992 CROPS.—In the case of each of the 1992 crops of upland cotton and rice, if the producers on a farm did not participate in the production adjustment program established for the 1990 and 1991 crops of upland cotton and rice, respectively, the crop acreage base for the 1992 crop shall be equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 5 crop years preceding the 1992 crop year, excluding all crop years in which planted and considered planted acreage was not established for the farm. Any crop acreage base established in accordance with this subparagraph shall not exceed a number of acres equal to the average of the acreage planted and considered planted to such crop for harvest on the farm in each of the 2 crop years preceding the 1992 crop year.

"(c) ACREAGE CONSIDERED PLANTED.—For purposes of this Act, acreage considered planted to a program crop shall consist of—

"(1) any reduced acreage and diverted acreage on the farm;

"(2) any acreage on the farm that producers were prevented from planting to the crop because of drought, flood, or other natural disaster, or other condition beyond the control of the producers;

"(3) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to conservation uses or the production of commodities permitted by the Secretary under the 0/92 or 50/92 programs established for any of the 1991 through 1995 crops of wheat, feed grains, upland cotton, and rice established under sections 107B(c)(1)(E), 105B(c)(1)(E), 103B(c)(1)(D), and 101B(c)(1)(D), respectively;

"(4) acreage in an amount equal to the difference between the permitted acreage for a program crop and the acreage planted to the crop, if the acreage considered to be planted is devoted to the production of commodities in accordance with section 504;

"(5) any acreage on the farm that the Secretary determines is necessary to be included in establishing a fair and equitable crop acreage base;

"(6) the crop acreage base for the crop, if producers on the farm forgo receiving any payments under the program estab-

lished under title I for the crop and certify that no acreage on the farm was planted to—

"(A) the crop; or

"(B) any fruit or vegetable crop (including potatoes and dry edible beans) not designated as an industrial or experimental crop by the Secretary, in excess of normal plantings; and

"(7) any acreage on the farm for which the crop acreage base for the crop on the farm was adjusted because of a condition or occurrence beyond the control of the producer pursuant to subsection (h).

"(d) CONSTRUCTION OF PLANTING HISTORY.—For the purpose of determining the crop acreage base for the 1991 and subsequent crop years for any farm, the county committee, in accordance with regulations prescribed by the Secretary, may construct a planting history for such crop if—

"(1) planting records for such crop for any of the 5 crop years preceding such crop year are incomplete or unavailable; or

"(2) during at least one but not more than 4 of the 5 crop years preceding such crop year, the program crop was not produced on the farm.

"(e) CROP ROTATION AND OTHER FACTORS.—The Secretary shall make adjustments to reflect crop rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable crop acreage base, including adjustments necessary to enable producers to meet the requirements of title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

"(f) PREVENTED PLANTING.—If a county committee determines, in accordance with regulations prescribed by the Secretary, that the occurrence of a natural disaster or other similar condition beyond the control of the producer prevented the planting of a program crop on any farm within the county (or substantially destroyed any such program crop after it had been planted but before it had been harvested), the producer may plant any other crop, including any other program crop, on the acreage of such farm that, but for the occurrence of such disaster or other condition, would have been devoted to the production of a program crop. For purposes of determining the crop acreage base, any acreage on the farm on which a substitute crop, including any program crop, is planted under this subsection shall be taken into account as if such acreage had been planted to the program crop for which the other crop was substituted.

"(g) SUBSEQUENT CROP YEARS.—A producer who is eligible to receive a deficiency payment for any program crop or crop of extra long staple cotton in any crop year with respect to a farm may not use the acreage planted or considered planted to any program crop or crop of extra long staple cotton on the farm in the crop year to increase any crop acreage base established for the farm in a subsequent crop year.

"(h) ADJUSTMENT OF BASES.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any crop acreage base for any program crop for any farm if the crop acreage base for the crop on the farm would otherwise be adversely affected by a condition or occurrence beyond the control of the producer.

7 USC 1464.

"SEC. 504. PLANTING FLEXIBILITY.

"(a) IN GENERAL.—The producers on a farm may, in accordance with this section, plant for harvest on the crop acreage base established for a program crop a commodity, other than the specific program crop, without suffering a reduction in the crop acreage base as a result of the production.

"(b) SPECIFIED COMMODITIES.—

"(1) PERMITTED CROPS.—Except as provided in paragraph (2), for purposes of this section, the commodities that may be planted for harvest on a crop acreage base are—

"(A) any program crop;

"(B) any oilseed;

"(C) any industrial or experimental crop designated by the Secretary; and

"(D) any other crop, except any fruit or vegetable crop (including potatoes and dry edible beans) not designated by the Secretary as—

"(i) an industrial or experimental crop; or

"(ii) a crop for which no substantial domestic production or market exists.

"(2) LIMITATION.—For purposes of this section, the Secretary may, at the discretion of the Secretary, prohibit the planting on a crop acreage base of any crop specified in paragraph (1).

"(3) NOTIFICATION.—With regard to commodities that may be planted pursuant to this subsection, the Secretary shall make a determination in each crop year of the commodities that may not be planted pursuant to this subsection and shall make available a list of the commodities.

"(c) LIMITATION ON ACREAGE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the quantity of the crop acreage base that may be planted to a commodity, other than the specific program crop, under this section may not exceed 25 percent of the crop acreage base.

"(2) EXCEPTION FOR SOYBEANS.—If on January 1 of any calendar year the Secretary estimates that the national average price of soybeans during the following marketing year for soybeans would be less than 105 percent of the nonrecourse loan level for soybeans established in section 205 if soybeans were allowed to be planted on up to 25 percent of the crop acreage base under this section, the quantity of the crop acreage base that may be planted to soybeans under this section may not exceed 15 percent of the crop acreage base.

"(d) PLANTINGS IN EXCESS OF PERMITTED ACREAGE.—Notwithstanding any other provision of this Act, producers of a program crop who are participating in the production adjustment program for that program crop under this Act shall be allowed to plant that program crop in a quantity that exceeds the permitted acreage for that crop without losing their eligibility for loans, purchases, or payments with respect to that crop under this Act if—

"(1) the acreage planted to the program crop on the farm in excess of the permitted acreage does not exceed 25 percent of the crop acreage bases on the farm for other program crops; and

"(2) the producer agrees to a reduction in permitted acreage for the other program crops produced on the farm by a quantity equal to the overplanting.

"(e) LOAN ELIGIBILITY.—

"(1) IN GENERAL.—Producers of a specific program crop (referred to in this subsection as the 'original program crop') who plant for harvest on the crop acreage base established for such original program crop another program crop in accordance with this section and who are not participants in the program established for such other program crop shall be eligible to receive loans, purchases, or loan deficiency payments for such other program crop on the same terms and conditions as are provided to participants in a production adjustment program established for such other program crop.

"(2) REQUIREMENTS.—Producers shall be eligible to receive loans, purchases, or loan deficiency payments under this subsection if the producers—

"(A) plant such other program crop in an amount that does not exceed 25 percent of the crop acreage base established for the original program crop; and

"(B) agree to a reduction in the permitted acreage for the original program crop for the particular crop year.

"SEC. 505. FARM PROGRAM PAYMENT YIELDS. 7 USC 1465.

"(a) ESTABLISHMENT.—The Secretary shall provide for the establishment of a farm program payment yield for each farm for each program crop for each crop year in accordance with subsection (b) or (c).

"(b) FARM PROGRAM PAYMENT YIELDS BASED ON 1990 CROP YEAR.—

"(1) IN GENERAL.—If the Secretary determines that farm program payment yields shall be established in accordance with this subsection, except as provided in paragraphs (2) and (3), the farm program payment yield for each of the 1991 through 1995 crop years shall be the farm program payment yield for the 1990 crop year for the farm.

"(2) ADDITIONAL YIELD PAYMENTS.—In the case of each of the 1991 through 1995 crop years for a commodity, if the farm program payment yield for a farm is reduced more than 10 percent below the farm program payment yield for the 1985 crop year, the Secretary shall make available to producers established price payments for the commodity in such amount as the Secretary determines is necessary to provide the same total return to producers as if the farm program payment yield had not been reduced more than 10 percent below the farm program payment yield for the 1985 crop year. The payments shall be made available not later than the time final deficiency payments are made.

"(3) NO CROP OR YIELD AVAILABLE.—If no crop of the commodity was produced on the farm or no farm program payment yield was established for the farm for any of the 1981 through 1985 crop years (or, as appropriate, the 1986 through 1990 crop years), the farm program payment yield shall be established on the basis of the average farm program payment yield for the crop years for similar farms in the area.

"(4) NATIONAL, STATE, OR COUNTY YIELDS.—If the Secretary determines the action is necessary, the Secretary may establish national, State, or county program payment yields on the basis of—

"(A) historical yields, as adjusted by the Secretary to correct for abnormal factors affecting the yields in the historical period; or

"(B) the Secretary's estimate of actual yields for the crop year involved if historical yield data is not available.

"(5) BALANCING YIELDS.—If national, State, or county program payment yields are established, the farm program payment yields shall balance to the national, State, or county program payment yields.

"(c) DETERMINATION OF YIELDS.—

"(1) ACTUAL YIELDS.—With respect to the 1991 and subsequent crop years, the Secretary may—

"(A) establish the farm program payment yield as provided in subsection (a); or

"(B) establish a farm program payment yield for any program crop for any farm on the basis of the average of the yield per harvested acre for the crop for the farm for each of the 5 crop years immediately preceding the crop year, excluding the crop year with the highest yield per harvested acre, the crop year with the lowest yield per harvested acre, and any crop year in which such crop was not planted on the farm.

"(2) PRIOR YIELDS.—For purposes of the preceding sentence, the farm program payment yield for the 1986 crop year and the actual yield per harvested acre with respect to the 1987 and subsequent crop years shall be used in determining farm program payment yields.

"(3) REDUCTION LIMITATION.—Notwithstanding any other provision of this paragraph, for purposes of establishing a farm program payment yield for any program crop for any farm for the 1991 and subsequent crop years, the farm program payment yield for the 1986 crop year may not be reduced more than 10 percent below the farm program payment yield for the farm for the 1985 crop year.

"(4) ADJUSTMENT OF YIELDS.—The county committee, in accordance with regulations prescribed by the Secretary, may adjust any farm program payment yield for any program crop for any farm if the farm program payment yield for the crop on the farm does not accurately reflect the productive potential of the farm.

"(d) ASSIGNMENT OF YIELDS.—In the case of any farm for which the actual yield per harvested acre for any program crop referred to in subsection (c) for any crop year is not available, the county committee may assign the farm a yield for the crop for the crop year on the basis of actual yields for the crop for the crop year on similar farms in the area.

"(e) ACTUAL YIELD DATA.—

"(1) PROVISION.—The Secretary shall, under such terms and conditions as the Secretary may prescribe, allow producers to provide to county committees data with respect to the actual yield for each farm for each program crop.

"(2) MAINTENANCE.—The Secretary shall maintain the data for at least 5 crop years after receipt in a manner that will permit the data to be used, if necessary, in the administration of the commodity programs.

"(3) NOTIFICATION.—The Secretary shall provide timely notification to producers of the provisions of this subsection.

"SEC. 506. PLANTING AND PRODUCTION HISTORY OF FARMS. 7 USC 1466.

"Each county committee, in accordance with regulations prescribed by the Secretary, may require any producer who seeks to establish a crop acreage base or farm program payment yield for a farm for a crop year to provide planting and production history of the farm for each of the 5 crop years immediately preceding the crop year.

"SEC. 507. ESTABLISHMENT OF BASES AND YIELDS BY COUNTY COMMITTEES. 7 USC 1467.

"Each county committee may, in accordance with regulations prescribed by the Secretary, provide for the establishment of a crop acreage base, and farm program payment yield with respect to any farm administratively located within the county if the crop acreage base or farm program payment yield cannot otherwise be established under this title. The crop acreage bases and farm program payment yields shall be established in a fair and equitable manner, but no such bases or farm program payment yields shall be established for a farm if the producer on the farm is subject to sanctions under any provision of Federal law for cultivating highly erodible land or converted wetland.

"SEC. 508. APPEALS. 7 USC 1468.

"The Secretary shall establish an administrative appeal procedure that provides for an administrative review of determinations made with respect to crop acreage bases and farm program payment yields.

"SEC. 509. CROPS. 7 USC 1469.

"Notwithstanding any other provision of law, this title shall be effective only for the 1991 through 1995 program crops.".

Subtitle B—Payment Limitations

SEC. 1111. PAYMENT LIMITATIONS.

(a) IN GENERAL.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking "1990" and inserting "1995"; and

(C) by adding at the end the following new subparagraph:

"(B) Subject to sections 1001A through 1001C for each of the 1991 through 1995 crops, the total amount of payments specified in clauses (iii), (iv), and (v) of paragraph (2)(B) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for wheat, feed grains, upland cotton, rice, and oilseeds (as defined in section 205(a) of the Agricultural Act of 1949) may not exceed $75,000.";

(2) in paragraph (2)(A)—

(A) by striking "1987 through 1990 crops" and inserting "1991 through 1995 crops"; and

(B) by striking "honey, and (with respect to clause (iii)(II) of subparagraph (B))" and inserting "and"; and

(3) in paragraph (2)(B)—

(A) by striking clause (iii) and inserting the following new clause:

"(iii) any gain realized by a producer from repaying a loan for a crop of any commodity (other than honey) at a lower level than the original loan level established under the Agricultural Act of 1949;";

(B) in clause (iv)—

(i) by striking "section 107D(c)(1) or 105C(c)(1)" and inserting "107B(c)(1) or 105B(c)(1); and

(ii) by striking "section 107D(a)(4) or 105C(a)(3)" and inserting "section 107B(a)(3) or 105B(a)(3)";

(C) by striking clause (v) and inserting the following new clause:

"(v) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, rice, or oilseeds under section 107B(b), 105B(b), 103B(b), 101B(b), or 205(e), respectively, of the Agricultural Act of 1949; and"; and

(D) in clause (vi), by striking "section 107D(g), 105C(g), 103A(g), or 101A(g)" and inserting "section 107B(f), 105B(f), 103B(f), or 101B(f)".

(b) FOREIGN PERSONS.—Section 1001C(a) of such Act (7 U.S.C. 1308–3(a)) is amended—

(1) by striking "1989 and 1990 crops" and inserting "1991 through 1995 crops"; and

(2) by inserting after "(16 U.S.C. 3831 et seq.)" the following: ", or under any contract entered into under title XII during the 1989 through 1995 crop years,".

(c) SPOUSES.—Clause (iii) of section 1001(5)(B) of such Act (7 U.S.C. 1308(5)(B)(iii)) is amended to read as follows:

Regulations.

"(iii) The regulations shall provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except that, for the purpose of the application of the limitations established under this section—

"(I) in the case of any married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person with respect to the farming operation brought into the marriage by the spouse so long as the operation remains as a separate farming operation; and

"(II) at the option of the Secretary, in the case of any married couple consisting of spouses who do not hold, directly or indirectly, a substantial beneficial interest in more than one entity (including the spouses themselves) engaged in farm operations that also receives farm program payments (as described in paragraphs (1) and (2)) as separate persons, the spouses may be considered as separate persons if each spouse meets the other requirements established under this section and section 1001A to be considered to be a separate person.".

(d) GROWERS OF HYBRID SEED.—Section 1001A(b) of such Act (7 U.S.C. 1308–1(b)) is amended by adding at the end the following new paragraph:

"(6) GROWERS OF HYBRID SEED.—To determine whether a person growing hybrid seed under contract shall be considered to be actively engaged in farming, the Secretary shall not take into consideration the existence of a hybrid seed contract.".

(e) IRREVOCABLE TRUSTS.—Section 1001(5)(B)(ii) of such Act (7 U.S.C. 1308(5)(B)(ii)) is amended by adding at the end the following new subparagraph:

"(III) Notwithstanding any other provision of law, to be considered a separate person under this section, an irrevocable trust (other than a trust established prior to January 1, 1987) must not allow for modification or termination of the trust by the grantor, allow for the grantor to have any future, contingent, or remainder interest in the corpus of the trust, or provide for the transfer of the corpus of the trust to the remainder beneficiary in less than 20 years from the date the trust is established except in cases where the transfer is contingent on the remainder beneficiary achieving at least the age of majority or is contingent on the death of the grantor or income beneficiary.".

(f) MINIMAL BENEFICIAL INTERESTS.—Section 1001A(a)(2) of such Act (7 U.S.C. 1308-1(a)(2)) is amended by striking "10 percent" and inserting "0 to 10 percent".

(g) EDUCATION PROGRAM.—Such Act is amended by inserting after section 1001C (7 U.S.C. 1308-3) the following new section:

"SEC. 1001D. EDUCATION PROGRAM.

Government employees. Inter-governmental relations. 7 USC 1308-4.

"(a) IN GENERAL.—The Secretary shall carry out a payment provisions education program for appropriate personnel of the Department of Agriculture and members and other personnel of county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), for the purpose of fostering more effective and uniform application of the payment limitations and restrictions established under sections 1001 through 1001C.

"(b) TRAINING.—The education program shall provide training to the personnel in the fair, accurate, and uniform application to individual farming operations of the provisions of law and regulation relating to the payment provisions of sections 1001 through 1001C.

"(c) ADMINISTRATION.—The State office of the Agricultural Stabilization and Conservation Service shall make the initial determination concerning the application of payment limitations and restrictions established under sections 1001 through 1001C to farm operations consisting of more than 5 persons, subject to review by the Secretary.

"(d) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program provided under this section through the Commodity Credit Corporation.".

(h) TREATMENT OF MULTIYEAR PROGRAM CONTRACT PAYMENTS.—Such Act (as amended by subsection (g) of this section) is further amended by inserting after section 1001D the following new section:

"SEC. 1001E. TREATMENT OF MULTIYEAR PROGRAM CONTRACT PAYMENTS. 7 USC 1308-5.

"(a) IN GENERAL.—Notwithstanding any other provision of law, in the event of a transfer of ownership of land (or an ownership interest in land) by way of devise or descent, the Secretary of Agriculture may, if the new owner succeeds to the prior owner's contract entered into under title XII, make payments to the new owner under such contract without regard to the amount of payments received by the new owner under any contract entered into under title XII executed prior to such devise or descent.

"(b) LIMITATION.—Payments made pursuant to this section shall not exceed the amount to which the previous owner was entitled to receive under the terms of the contract at the time of the death of the prior owner.".

(i) TREATMENT OF CASH RENT TENANTS.—Section 2 of Public Law 101-217 is amended by striking "Effective only for" and inserting "Effective beginning with".

7 USC 1308 note.

Subtitle C—Provisions Related to Agricultural Act of 1949

SEC. 1121. DEFICIENCY AND LAND DIVERSION PAYMENTS.

(a) IN GENERAL.—Section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) is amended to read as follows:

"SEC. 107C. DEFICIENCY AND LAND DIVERSION PAYMENTS.

"(a) DEFICIENCY PAYMENTS.—

"(1) IN GENERAL.—If the Secretary establishes an acreage limitation program for any of the 1991 through 1995 crops of wheat, feed grains, upland cotton, or rice under this Act and determines that deficiency payments will likely be made for the commodity for the crop, the Secretary shall make advance deficiency payments available to producers for each of the crops.

"(2) TERMS AND CONDITIONS.—Advance deficiency payments under paragraph (1) shall be made to the producer under the following terms and conditions:

"(A) FORM.—Such payments may be made available in the form of—

"(i) cash;

"(ii) commodities owned by the Commodity Credit Corporation and certificates redeemable in a commodity owned by the Commodity Credit Corporation, except that not more than 50 percent of the payments may be made in commodities or the certificates in the case of any producer; or

"(iii) any combination of clauses (i) and (ii).

"(B) COMMODITIES AND CERTIFICATES.—If payments are made available to producers as provided for under subparagraph (A)(ii), such producers may elect to receive such payments either in the form of—

"(i) such commodities; or

"(ii) such certificates.

"(C) MATURITY.—Such a certificate shall be redeemable for a period not to exceed 3 years from the date the certificate is issued.

"(D) STORAGE.—The Commodity Credit Corporation shall pay the cost of storing a commodity that may be received under such a certificate until such time as the certificate is redeemed.

Government contracts.

"(E) TIMING.—The payments shall be made available as soon as practicable after the producer enters into a contract with the Secretary to participate in such program.

"(F) AMOUNTS.—The payments shall be made available in such amounts as the Secretary determines appropriate to

encourage adequate participation in the program, except that the amount may not exceed an amount determined by multiplying—

"(i) the estimated payment acreage for the crop; by

"(ii) the farm program payment yield for the crop; by

"(iii)(I) in the case of wheat and feed grains, not less than 40 percent, nor more than 50 percent, of the projected payment rate; and

"(II) in the case of rice and upland cotton, not less than 30 percent, nor more than 50 percent, of the projected payment rate,

as determined by the Secretary.

"(G) REPAYMENT.—If the deficiency payment payable to a producer for a crop, as finally determined by the Secretary under this Act, is less than the amount paid to the producer as an advance deficiency payment for the crop under this subsection, the producer shall repay an amount equal to the difference between the amount advanced and the amount finally determined by the Secretary to be payable to the producer as a deficiency payment for the crop concerned.

"(H) REPAYMENT REQUIREMENT.—If the Secretary determines under this Act that deficiency payments will not be made available to producers on a crop with respect to which advance deficiency payments already have been made under this subsection, the producers who received the advance payments shall repay the payments.

"(I) DEADLINE.—Any repayment required under subparagraph (G) or (H) shall be due at the end of the marketing year for the crop with respect to which the payments were made.

"(J) NONCOMPLIANCE.—If a producer fails to comply with requirements established under the acreage limitation program involved after obtaining an advance deficiency payment under this subsection, the producer shall repay immediately the amount of the advance, plus interest thereon in such amount as the Secretary shall prescribe by regulation. Regulations.

"(3) REGULATIONS.—The Secretary may issue such regulations as the Secretary determines necessary to carry out this section.

"(4) COMMODITY CREDIT CORPORATION.—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

"(5) ADDITIONAL AUTHORITY.—The authority provided in this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"(b) LAND DIVERSION PAYMENTS.—If the Secretary makes land diversion payments under this Act to assist in adjusting the total national acreage of any of the 1991 through 1995 crops of wheat, feed grains, upland cotton, or rice to desirable levels, the Secretary may make at least 50 percent of such payments available to a producer as soon as possible after the producer agrees to undertake the diversion of land in return for the payments.

"(c) TIMING OF DEFICIENCY PAYMENTS.—In the case of deficiency payments made available to producers for any of the 1991 through 1995 crops of wheat, feed grains, and rice which payments are calculated on the basis of the national weighted average market

price (or, in the case of rice, the national average market price) for the marketing year for the crop, the Secretary shall make deficiency payments as follows:

"(1) A portion of the deficiency payment shall be made in advance in accordance with subsection (a)(2).

"(2) Seventy-five percent of the final projected deficiency payment for the crop, reduced by the amount of the advance, shall be made available as soon as practicable after the end of the first 5 months of the applicable marketing year.

"(3) The remainder of the deficiency payments shall be made available at the end of the marketing year.".

7 USC 1445j note.

(b) REPAYMENT REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, effective only for producers who are suffering financial hardship, as determined by the Secretary, on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of prevailing rates for operating loans made by Farm Credit System institutions;

(B) shall not withhold, in each of the 3 succeeding crop years, more than ⅓ of the farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop insurance for each of the crop years, to the extent that the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.).

(2) APPLICATION.—This subparagraph shall apply if—

(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under section 107C(a) of the Agricultural Act of 1949 (7 U.S.C. 1445b-2(a));

(B) the producers are required to provide a refund of at least $1,500 under subparagraph (G) or (H) of section 107C(a)(2) of such Act with respect to the advance deficiency payments;

(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected as evidenced by a reduction in normal production for the county of at least 30 percent during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the

acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop.

(c) CONFORMING AMENDMENT.—Section 1002 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1446) is amended by striking "Effective only for the 1986 through 1990 crops of wheat, feed grains, upland cotton, and rice, section" and inserting "Section". 7 USC 1445b-2 note.

SEC. 1122. COMMODITY CERTIFICATES.

(a) IN GENERAL.—Section 107E of the Agricultural Act of 1949 (7 U.S.C. 1445b-4) is amended by adding at the end the following new subsection:

"(c) The Secretary shall pay interest on the cash redemption of a commodity certificate issued by the Secretary to a producer who holds the certificate for at least 150 days. This subsection shall not apply with respect to commodity certificates issued in connection with the export enhancement program or the marketing promotion program established under the Agricultural Trade Act of 1978.".

(b) SPECIAL RULES.— 7 USC 1445k note.

(1) IN GENERAL.—A subsequent holder of a commodity certificate issued by the Commodity Credit Corporation shall be allowed to exchange the expired commodity certificate under the same rules that apply to an original holder of the certificate.

(2) APPLICATION AND REDEMPTION LIMITATIONS.—This subsection shall only apply during the 180-day period beginning on the date of enactment of this Act. No person may redeem more than $1,000 worth of certificates under this subsection. Effective date.

(3) REDEMPTION LIMITATIONS.—In no event shall a person receive a payment from the Commodity Credit Corporation for a certificate that is redeemed under this subsection in an amount greater than the price paid for the certificate by the person. No expired certificate shall be exchanged under this section if the owner purchased the certificate after January 1, 1990.

SEC. 1123. FARMER OWNED RESERVE PROGRAM.

Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended to read as follows:

"SEC. 110. FARMER OWNED RESERVE PROGRAM. Loan programs.

"(a) IN GENERAL.—The Secretary shall formulate and administer a farmer owned reserve program under which producers of wheat and feed grains will be able to store wheat and feed grains when the commodities are in abundant supply, extend the time period for the orderly marketing of the commodities, and provide for adequate carryover stocks to ensure a reliable supply of the commodities.

"(b) TERMS OF PROGRAM.—

"(1) PRICE SUPPORT LOANS.—In carrying out this program, the Secretary shall provide extended price support loans for wheat and feed grains. An extended loan shall only be made to a producer after the expiration of a 9-month price support loan (hereafter in this section referred to as the 'original loan') made in accordance with this title.

"(2) LEVEL OF LOANS.—Loans made under this section shall not be less than the then current level of support under the wheat and feed grain programs established under this title.

"(3) OTHER TERMS AND CONDITIONS.—The Secretary shall provide for—

"(A) repayment of the extended price support loan 27 months from the date on which the original loan expired unless, at the discretion of the Secretary, the loan has been extended for one 6-month period;

"(B) a rate of interest as provided under subsection (c); and

"(C) payments to producers for storage as provided in subsection (d).

"(4) REGIONAL DIFFERENCES.—The Secretary shall ensure that producers are afforded a fair and equitable opportunity to participate in the program established under this section, taking into account regional differences in the time of harvest.

"(c) INTEREST CHARGES.—

"(1) LEVYING OF INTEREST.—The Secretary may charge interest on loans under this section whenever the price of wheat or feed grains is equal to or exceeds 105 percent of the then current established price for the commodity.

"(2) 90-DAY PERIOD.—If interest is levied on the loans under paragraph (1), the interest may be charged for a period of 90 days after the last day on which the price of wheat or feed grains was equal to or in excess of 105 percent of the established price for the commodities.

"(3) RATE OF INTEREST.—The rate of interest charged participants in this program shall not be less than the rate of interest charged by the Commodity Credit Corporation by the United States Treasury, except that the Secretary may waive or adjust the interest as the Secretary considers appropriate to effectuate the purposes of this section.

"(d) STORAGE PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall provide storage payments to producers for storage of wheat or feed grains under the program established in this section in such amounts and under such conditions as the Secretary determines appropriate to encourage producers to participate in the program.

"(2) TIMING.—The Secretary shall make storage payments available to participants in this program at the end of each quarter.

"(3) DURATION.—The Secretary shall cease making storage payments whenever the price of wheat or feed grains is equal to or exceeds 95 percent of the then current established price for the commodities, and for any 90-day period immediately following the last day on which the price of wheat or feed grains was equal to or in excess of 95 percent of the then current established price for the commodities.

"(e) EMERGENCIES.—Notwithstanding any other provision of law, the Secretary may require producers to repay loans made under this section, plus accrued interest and such other charges as may be required by regulation prior to the maturity date thereof, if the Secretary determines that emergency conditions exist that require that the commodity be made available in the market to meet urgent domestic or international needs and the Secretary reports the determination and the reasons for the determination to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days before taking the action.

"(f) QUANTITY OF COMMODITIES IN PROGRAM.—The Secretary may establish maximum quantities of wheat and feed grains that may receive loans and storage payments under this program as follows:

"(1) The maximum quantities of wheat may not be established at less than 300 million bushels, nor more than 450 million bushels.

"(2) The maximum quantities of feed grains may not be established at less than 600 million bushels, nor more than 900 million bushels.

"(g) ANNOUNCEMENT OF PROGRAM.—

"(1) TIME OF ANNOUNCEMENT.—The Secretary shall announce the terms and conditions of the producer storage program for a crop of wheat and feed grains by—

"(A) in the case of wheat, December 15 of the year in which the crop of wheat was harvested; and

"(B) in the case of feed grains, March 15 of the year following the year in which the crop of corn was harvested.

"(2) DISCRETIONARY ENTRY.—The Secretary may make extended loans available to producers of wheat or feed grains if—

"(A) the Secretary determines that the average market price for wheat or corn, respectively, for the 90-day period prior to the dates specified in paragraph (1) is less than 120 percent of the current loan rate for wheat or corn, respectively; or

"(B) as of the appropriate date specified in paragraph (1), the Secretary estimates that the stocks-to-use ratio on the last day of the current marketing year will be—

"(i) in the case of wheat, more than 37.5 percent; and

"(ii) in the case of corn, more than 22.5 percent.

"(3) MANDATORY ENTRY.—The Secretary shall make extended loans available to producers of wheat or feed grains if the conditions specified in subparagraphs (A) and (B) of paragraph (2) are met for wheat or feed grains, respectively.

"(4) CONTENT OF ANNOUNCEMENT.—In the announcement, the Secretary shall specify the maximum quantity of wheat or feed grains to be stored under this program that the Secretary determines appropriate to promote the orderly marketing of the commodities.

"(h) DISCRETIONARY EXIT.—A producer may repay a loan extended under this section at any time.

"(i) RECONCENTRATION OF GRAIN.—The Secretary may, with the concurrence of the owner of grain stored under this program, reconcentrate all such grain stored in commercial warehouses at such points as the Secretary considers to be in the public interest, taking into account such factors as transportation and normal marketing patterns. The Secretary shall permit rotation of stocks and facilitate maintenance of quality under regulations that assure that the holding producer or warehouseman shall, at all times, have available for delivery at the designated place of storage both the quantity and quality of grain covered by the producer's or warehouseman's commitment.

Securities.
Regulations.

"(j) MANAGEMENT OF GRAIN.—Whenever grain is stored under this section, the Secretary may buy and sell at an equivalent price, allowing for the customary location and grade differentials, substantially equivalent quantities of grain in different locations or warehouses to the extent needed to properly handle, rotate, distribute, and locate the commodities that the Commodity Credit Corporation

owns or controls. The purchases to offset sales shall be made within 2 market days following the sales. The Secretary shall make a daily list available showing the price, location, and quantity of the transactions.

"(k) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation, to the extent feasible, to fulfill the purposes of this section. To the maximum extent practicable consistent with the fulfillment of the purposes of this section and the effective and efficient administration of this section, the Secretary shall utilize the usual and customary channels, facilities, and arrangements of trade and commerce.

"(l) USE OF COMMODITY CERTIFICATES.—Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the Secretary may allow a producer to repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.

"(m) ADDITIONAL AUTHORITY.—The authority provided by this section shall be in addition to other authorities available to the Secretary for carrying out producer loan and storage operations.

"(n) REGULATIONS.—The Secretary of Agriculture shall issue such regulations as are necessary to carry out this section not later than 60 days after the date of enactment of this section.

Effective date.

"(o) CROPS.—Notwithstanding any other provision of law, this section shall become effective December 1, 1990.".

7 USC 1445e note.

SEC. 1124. COMPARABILITY OF STORAGE PAYMENTS.

In making storage payments to producers under section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) and to commercial warehousemen in accordance with the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), the Commodity Credit Corporation and the Secretary of Agriculture shall, to the extent practicable, ensure that the rates of the storage payments made to producers are equivalent to average rates paid for commercial storage, taking into account the current demand for storage for commodities, efficiency, location, regulatory compliance costs, bonding requirements, and impact of user fees as determined by the Secretary, except that the rates paid to producers and commercial warehouse shall be established at rates that will result in no increase in current or projected combined outlays of the Commodity Credit Corporation for the storage payments made to producers and commercial warehouse as a result of the adjustment of storage rates under this section.

SEC. 1125. SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY.

(a) IN GENERAL.—Section 113 of the Agricultural Act of 1949 (7 U.S.C. 1445h) is amended to read as follows:

"SEC. 113. SUPPLEMENTAL SET-ASIDE AND ACREAGE LIMITATION AUTHORITY.

"Notwithstanding any other provision of law or prior announcement made by the Secretary to the contrary, the Secretary may announce and provide for an acreage limitation program under section 105B or 107B for one or more of the 1991 through 1995 crops

of wheat and feed grains if the Secretary determines that such action is in the public interest as a result of the imposition of restrictions on the export of any such commodity by the President or other member of the executive branch of the Federal Government. To carry out effectively an acreage limitation program authorized under this section, the Secretary may make such modifications and adjustments in such program as the Secretary determines necessary because of any delay in instituting such program.".

(b) CONFORMING AMENDMENT.—Section 1011 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1454) is amended by striking "Effective for the 1986 through 1990 crops of wheat and feed grains, section" and inserting "Section". 7 USC 1445h note.

SEC. 1126. DISASTER PAYMENTS.

Title II of the Agricultural Act of 1949 (as amended by section 1001 of this Act) is further amended by adding at the end the following new section:

"SEC. 208. DISASTER PAYMENTS FOR 1991 THROUGH 1995 CROPS OF PEANUTS, SOYBEANS, SUGAR BEETS, AND SUGARCANE. 7 USC 1446i.

"(a) PREVENTED PLANTING.—If the Secretary determines that the producers on a farm are prevented from planting any portion of the acreage on the farm intended for peanuts, soybeans, sugar beets, or sugarcane to peanuts, soybeans, sugar beets, sugarcane, or other nonconserving crops because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the Secretary may make a prevented planting disaster payment to the producers in an amount equal to the product obtained by multiplying—

"(1) the number of acres so affected but not to exceed the acreage planted to peanuts, soybeans, sugar beets, or sugarcane for harvest (including any acreage that the producers were prevented from planting to the commodity or to other nonconserving crops in lieu of peanuts, soybeans, sugar beets, or sugarcane because of drought, flood or other natural disaster, or other condition beyond the control of the producers) in the immediately preceding year; by

"(2) 75 percent of the farm program payment yield established by the Secretary; by

"(3) a payment rate equal to 50 percent of the loan and purchase level for the crop.

"(b) REDUCED YIELDS.—If the Secretary determines that because of drought, flood, or other natural disaster, or other condition beyond the control of the producers, the total quantity of peanuts, soybeans, sugar beets, or sugarcane that the producers are able to harvest on any farm is less than the result of multiplying 60 percent of the farm program payment yield established by the Secretary for the crop by the acreage planted for harvest for the crop, the Secretary may make a reduced yield disaster payment to the producers at a rate equal to 50 percent of the loan and purchase level for the crop for the deficiency in production below 60 percent for the crop.

"(c) ADJUSTMENTS.—The Secretary may make such adjustments in the amount of payments made available under this paragraph with respect to an individual farm so as to assure the equitable allotment of the payments among producers, taking into account other forms of Federal disaster assistance provided to the producers for the crop involved.

Effective date. Termination date.

"(d) CROPS.—Notwithstanding any other provision of law, this section shall be effective only for the 1991 through 1995 crops of peanuts, soybeans, sugar beets, and sugarcane.".

SEC. 1127. INCREASE IN SUPPORT LEVELS.

7 USC 1422.

Section 402 of the Agricultural Act of 1949 (7 U.S.C. 1421) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) Effective only for the 1991 through 1995 crops of wheat, feed grains, cotton, and rice, the Secretary of Agriculture may provide for annual adjustments in the established prices for such program crops to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, interest, taxes, and wage rates in such calendar year.".

SEC. 1128. ADJUSTMENT OF SUPPORT PRICES.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) is amended to read as follows:

7 USC 1423.

"SEC. 403. ADJUSTMENTS OF SUPPORT PRICES.

"(a) IN GENERAL.—The Secretary may make appropriate adjustments in the support price for any commodity (excluding cotton) for differences in grade, type, quality, location and other factors. The adjustments shall, so far as practicable, be made in such manner that the average support price for the commodity will, on the basis of the anticipated incidence of such factors be equal to the level of support determined as provided in this Act.

"(b) ADJUSTMENT IN SUPPORT PRICES FOR COTTON.—The Secretary may make appropriate adjustments in the support price for cotton for differences in quality factors and location. Beginning with the 1991 crop, the quality differences (premiums and discounts for quality factors) for the upland cotton loan program shall be established by the Secretary by giving equal weight to (1) loan differences for the preceding crop, and (2) market differences for such crop in the designated United States spot markets.

"(c) LIMITATION ON ADJUSTMENTS FOR WHEAT AND FEED GRAINS.—Notwithstanding any other provision of this section, for each of the 1990 through 1995 crops of wheat and feed grains, no adjustment in the loan rate applicable to a particular region, State, or county for the purpose of reflecting transportation differentials may increase or decrease the regional, State, or county loan rate from the level established for the previous year by more than the percentage change in the national average loan rate plus or minus 3 percent.".

SEC. 1129. PROGRAM OPTION FOR 1996 CROPS.

Subsection (b) of section 406 of the Agricultural Act of 1949 (7 U.S.C. 1426(b)) is amended to read as follows:

"(b)(1) Notwithstanding any other provision of law, the Secretary may offer an option to producers of the 1996 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or oilseeds and to dairy producers for the 1996 calendar year to participate in commodity price support, production adjustment, and payment programs as provided in this subsection.

"(2) The Secretary may offer such programs based on the terms and conditions as are provided in sections 101(h), 101B, 103B, 105B,

107B, 114, 204, and 205 of the Agricultural Act of 1949, and any other relevant provisions of the Agricultural Act of 1949, as determined by the Secretary. Any established price or loan and purchase level made available in accordance with this subsection shall be established at the same level as that established for the 1995 crop or, in the case of milk, for the 1995 calendar year.

"(3) The Secretary may offer each of the programs provided for by this subsection if the Secretary has not made final announcement of the terms of the commodity price support, production adjustment, or payment programs for the 1996 crops of wheat, feed grains, cotton, rice, or oilseeds, or the 1996 calendar year for dairy on or before the later of—

"(A) in the case of wheat, June 1, 1995;
"(B) in the case of feed grains, September 30, 1995;
"(C) in the case of upland cotton, November 1, 1995;
"(D) in the case of extra long staple cotton, December 1, 1995;
"(E) in the case of rice, January 31, 1996;
"(F) in the case of oilseeds, July 15, 1995; and
"(G) in the case of dairy, November 1, 1995.

"(4) Producers may not participate in such programs unless a law has been enacted subsequent to the date of enactment of this subsection that provides for loans and purchases for the 1996 crop of wheat, feed grains, cotton, rice, or oilseeds, or for dairy for the 1996 calendar year.

"(5) The Secretary may use the funds, facilities and authorities of the Commodity Credit Corporation in carrying out this subsection.".

SEC. 1130. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended to read as follows:

"SEC. 407. COMMODITY CREDIT CORPORATION SALES PRICE RESTRICTIONS.

"(a) IN GENERAL.—The Commodity Credit Corporation may sell any farm commodity owned or controlled by the Corporation at any price not prohibited by this section.

"(b) INVENTORIES.—In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should consider the establishment of such policies with respect to prices, terms, and conditions as the Corporation determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop.

"(c) SALES PRICE RESTRICTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, the Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 115 percent of the lower of—

"(A) the current national average price support loan rate for the commodity adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or

"(B) the loan repayment level.

"(2) EXTRA LONG STAPLE COTTON.—The Corporation may sell extra long staple cotton for unrestricted use at such price as the

Corporation determines is appropriate to maintain and expand export and domestic markets.

"(3) OILSEEDS.—The Corporation shall not sell oilseeds at less than the lower of—

"(A) 105 percent of the current national average price support loan rate for the oilseed, adjusted for the current market differentials reflecting grade, quality, location, reasonable carrying charges, and other factors determined appropriate by the Corporation; or

"(B) 115 percent of the loan repayment level.

"(4) WHEAT AND FEED GRAINS.—Whenever the producer reserve program for wheat and feed grains established under section 110 is in effect, the Corporation may not sell any of its stocks of wheat or feed grains at a level that is less than 150 percent of the then current loan rate for wheat or feed grains.

"(5) UPLAND COTTON.—The Commodity Credit Corporation shall sell upland cotton for unrestricted use at the same price the Corporation sells upland cotton for export, but in no event at less than the amount provided for in paragraph (1).

"(d) NONAPPLICATION OF SALES PRICE RESTRICTIONS.—The foregoing restrictions of this section shall not apply to—

"(1) sales for new or byproduct uses;

"(2) sales of peanuts and oilseeds for the extraction of oil;

"(3) sales for seed or feed if the sales will not substantially impair any price support program;

"(4) sales of commodities that have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage;

"(5) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity;

"(6) sales for export (excluding sales of upland cotton for export);

"(7) sales of wool; and

"(8) sales for other than primary uses.

"(e) DISTRESS, DISASTER, AND LIVESTOCK EMERGENCY AREAS.—

"(1) IN GENERAL.—Notwithstanding the foregoing provisions of this section, the Corporation, on such terms and conditions as the Secretary may consider in the public interest, may—

"(A) make available any farm commodity or product thereof owned or controlled by the Corporation for use in relieving distress—

"(i) in any area in the United States (including the Virgin Islands) declared by the President to be an acute distress area because of unemployment or other economic cause, if the President finds that the use will not displace or interfere with normal marketing of agricultural commodities; and

"(ii) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

"(B) donate or sell commodities in accordance with title VI.

"(2) COSTS.—Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making the commod-

ity available under this subsection beyond the cost of the commodities to the Corporation in—

"(A) the storage of the commodity; and

"(B) the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State or other area.

"(f) EFFICIENT OPERATIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), the foregoing restrictions of this section shall not apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the operations of the Corporation because of the small quantities involved, or because of age, location or questionable continued storability of the commodity.

"(2) OFFSETS.—The sales shall be offset (if necessary) by the purchases of commodities as the Corporation determines is appropriate to prevent the sales from substantially impairing any price support program or unduly affecting market prices, except that the purchase price shall not exceed the Corporation's minimum sales price for the commodities for unrestricted use.

"(3) COMPETITIVE BID BASIS.—Subject to the sales price restrictions contained in this section, the Corporation may sell any basic agricultural commodity or storable nonbasic commodity on a competitive bid basis, if the sale is determined to be appropriate by the Secretary.

"(g) SALES FOR EXPORT.—For the purposes of this section, sales for export shall include—

"(1) sales made on condition that the identical commodities sold be exported; and

"(2) sales made on condition that commodities of the same kind and of comparable value or quantity be exported, either in raw or processed form.".

SEC. 1131. APPLICATION OF TERMS IN THE AGRICULTURAL ACT OF 1949.

(a) IN GENERAL.—Subsection (k) of section 408 of the Agricultural Act of 1949 (7 U.S.C. 1428(k)) is amended to read as follows:

"(k)(1) Reference made in sections 402, 403, 406, 407, and 416 to the terms 'support price', 'level of support', and 'level of price support' shall be considered to apply as well to the loan and purchase level for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

"(2) References made to the terms 'price support', 'price support operations', and 'price support program' in such sections and in section 401(a) shall be considered as applying as well to loan and purchase operations for wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice under this Act.

"(3) Notwithstanding any other provision of law, this subsection shall be effective only for the 1991 through 1995 crops of wheat, feed grains, upland cotton, extra long staple cotton, honey, oilseeds and rice.".

(b) PRODUCER.—Section 408 of such Act is amended by striking subsections (l) and (m) and inserting the following new subsection: 7 USC 1428.

"(l) 'Producer' shall include a person growing hybrid seed under contract. In determining the interest of a grower of hybrid seed in a crop, the Secretary shall not take into consideration the existence of a hybrid seed contract.".

SEC. 1132. PRODUCER APPEALS PROCESS.

(a) IN GENERAL.—Title IV of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by adding at the end thereof the following new section:

7 USC 1433e.

"SEC. 426. APPEALS.

"(a) RIGHT TO APPEAL.—Any participant in any of the programs under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or any successor agency in the United States Department of Agriculture (hereafter in this section referred to as the 'ASCS'), shall have the right to appeal any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

"(b) APPEAL PROCEDURE.—

"(1) IN GENERAL.—Such appeal shall be made in accordance with this section.

"(2) CONDITIONS OF APPEAL.—Any participant who believes that a proper determination has not been made with respect to the implementation of any program administered by the ASCS concerning such participant may appeal such determination as follows:

"(A) if such determination was rendered by a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the applicable State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act;

"(B) if such determination was rendered by a State committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, the participant may appeal such determination to the National Appeals Division established in accordance with this section; and

"(C) if such determination was rendered by any other employee or agent of the ASCS or the Commodity Credit Corporation, the participant may appeal such determination to the National Appeals Division.

"(3) TIME OF FILING OF APPEAL.—A participant shall file a notice of appeal within a reasonable time after receiving notice of the adverse determination, as determined by the Secretary.

"(c) NATIONAL APPEALS DIVISION.—

"(1) ESTABLISHMENT.—For the purpose of hearing producer appeals, the Secretary shall establish and maintain within the ASCS, a National Appeals Division, which shall consist of a director, hearing officers, and such other personnel necessary to the administration of the division, all of whom shall be employees of the Department of Agriculture who shall have no duties other than hearing and determining formal appeals arising under this Act or any other Act administered by the Agricultural Stabilization and Conservation Service, or a successor agency.

"(2) HEARING OFFICERS.—Hearing officers within the National Appeals Division shall hear each appeal made to the National Appeals Division under this section.

"(3) POWERS AND DUTIES OF DIRECTOR.—The director of the National Appeals Division, in carrying out the provisions of this section—

"(A) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available that relate to programs and operations with respect to which an appeal has been taken;

"(B) may request such information or assistance as may be necessary for carrying out the duties and responsibilities established under this section from any Federal, State, or local governmental agency or unit thereof;

"(C) may require the attendance of witnesses, the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of appeals;

"(D) may, if appropriate, require the attendance of witnesses and production of documentary evidence by subpoena, which subpoena, in the case of contumacy or refusal to obey, shall be enforceable by order of any appropriate United States district court;

"(E) may administer oaths and affirmations, whenever necessary in the process of hearing appeals;

"(F) may enter into contracts and other arrangements for reporting and other services and make such payments as may be necessary to carry out the provisions of this section;

"(G) shall issue procedural rules for the conduct of appeals; and

"(H) may delegate to hearing officers the authorities provided in subparagraphs (A) through (E) of this paragraph as the Secretary determines appropriate.

"(4) HEARINGS.—

"(A) IN GENERAL.—The hearing shall be held at a time and place designated by the National Appeals Division.

"(B) CONDUCT OF HEARING.—At a minimum, the hearing shall be conducted as follows:

"(i) the participant shall be advised of the issues involved;

"(ii) the participant shall be given a full opportunity to present facts and information relevant to the matter in issue and may present evidence; and

"(iii) the hearing officer may confine the presentation of facts and evidence to pertinent matters and may exclude irrelevant, immaterial, or unduly repetitious evidence, information, or questions.

"(C) RECORD.—At the request of the participant, each hearing before a hearing officer in the National Appeals Division shall be recorded verbatim by voice recorder, stenographer, or other method. A transcript of the hearing, together with all documents and evidence submitted shall be made available to the participant, on request, if the decision of the hearing officer is appealed. The record of the hearing shall consist of copies of all documents and other evidence presented to the hearing officer and the transcript of the hearing, if prepared.

"(5) REVIEW OF DECISION.—

"(A) IN GENERAL.—The director of the National Appeals Division shall make all determinations with respect to the appeals submitted to the Division for review.

"(B) PROCEDURE.—In submitting an appeal for the determination of the director, the hearing officer shall certify the record and deliver or otherwise provide the certified record to the director.

"(C) BASIS OF REVIEW.—The National Appeals Division shall base its review of the hearing on the transcript of the hearing and the evidence presented to the hearing officer, except that the director of the National Appeals Division may order that further proceedings be had in order that the record presented for review by the National Appeals Division may be complete or in order to hear new or additional evidence.

"(6) INDEPENDENCE OF DIVISION.—All hearing officers within the National Appeals Division shall report to the principal officers of the division and shall not be under the direction or control of, or receive administrative support (except on a reimbursable basis) from, offices other than the National Appeals Division.

"(7) FINALITY OF DECISIONS.—Except as provided in subsection (e), determinations of the director of the National Appeals Division shall be final, conclusive, and binding on the Department of Agriculture, including the Commodity Credit Corporation, and any agency thereof.

"(d) COURT REVIEW.—Final decisions of the Department of Agriculture under the process provided for in this section shall be reviewable by a United States court of competent jurisdiction.

"(e) PARTICIPANT.—For the purposes of this section, a participant means any person whose right to participate in, or receive payments or other benefits in accordance with, any of the programs under this Act or any other Act administered by the ASCS is adversely affected by a determination of any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act, by employees or agents of such committees, by other personnel of the ASCS, or by agents of the Commodity Credit Corporation under this Act or under any other Act administered by the ASCS.

"(f) DELEGATION OF AUTHORITY.—Nothing contained in this section shall preclude the Secretary, the Administrator of the ASCS, or the Executive Vice President of the Commodity Credit Corporation from determining at any time any question arising under the programs to which the provisions of this section apply or from reversing or modifying (in writing, with sufficient reason given therefor) any determination made by a county or State committee or the director of the National Appeals Division.

"(g) DECISIONS OF STATE AND COUNTY COMMITTEES.—Decisions of the State and County Committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act, or employees of such committees made in good faith in the absence of misrepresentation, false statement, fraud, or wilful misconduct, unless otherwise appealed under this section, shall be final, unless otherwise modified under subsection (f) within 90 days, and no action shall be taken to recover amounts found to have been disbursed thereon in error unless the producer had reason to believe that the decision was erroneous.

"(h) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to implement the provisions of this section, including regulations governing the conduct of appeals made before State and county committees established under section 8(e) of the Soil Conservation and Domestic Allotment Act.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to any appeal or proceeding with respect to any adverse determination made by any State or county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), by employees or agents of the committees, by other personnel of the the Agricultural Stabilization and Conservation Service, or by agents of the Commodity Credit Corporation prior to the date of enactment of this Act. 7 USC 1433e note.

(c) GOOD FAITH RELIANCE.—Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339c) is amended to read as follows: 7 USC 1339a.

"SEC. 326. GOOD FAITH RELIANCE.

"Notwithstanding any other provision of law, to the extent the Secretary of Agriculture considers it desirable in order to provide fair and equitable treatment, the Secretary may make price support or other payments available to farmers who have, in attempting to comply with the requirements of any price support or other program administered by the Secretary or any other requirements in law affecting such person's eligibility under such programs, taken actions in good faith in reliance on the action or advice of an authorized representative of the Secretary. The Secretary may provide such price support or other payments to the extent the Secretary determines such farmer has been injured by such good faith reliance and may require such farmer to take necessary actions designed to remedy any failure to comply with such programs.".

Subtitle D—Miscellaneous Commodity Provisions

SEC. 1141. NORMALLY PLANTED ACREAGE.

Section 1001 of the Food and Agriculture Act of 1977 (7 U.S.C. 1309) is amended—

(1) by striking "1990" each place it appears and inserting in lieu thereof "1995"; and

(2) in subsection (c)(2), by striking "section 107D(d)(3)(A)" and inserting "section 107B(d)(3)(A)".

SEC. 1142. NORMAL SUPPLY.

Section 1019 of the Food Security Act of 1985 (7 U.S.C. 1310a) is amended by striking "1990" and inserting "1995".

SEC. 1143. FOOD SECURITY WHEAT RESERVE.

(a) EXTENSION.—Section 302(i) of the Food Security Wheat Reserve Act of 1980 (7 U.S.C. 1736f-1(i)) is amended by striking "1990" both places it appears and inserting "1995".

(b) REPLENISHMENT.—Section 302(b)(2) of such Act is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting "(A)" after the paragraph designation;

(3) by adding at the end the following new subparagraph:

"(B) Not later than 18 months after the release of stocks from the reserve, the Secretary of Agriculture shall replenish the reserve—

"(i) through purchases under subparagraph (A)(i), to the extent of available appropriations; or

"(ii) by designating an equivalent quantity of wheat from uncommitted stocks of the Commodity Credit Corporation, to the extent sufficient appropriations are not available under subparagraph (A)(i), except to the extent that the Secretary reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that there are not sufficient uncommitted stocks of the Commodity Credit Corporation available.".

SEC. 1144. DETERMINATIONS OF THE SECRETARY.

7 USC 1385 note.

Section 1017(b) of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1459) is amended by striking "1986 through 1990" and inserting "1991 through 1995".

SEC. 1145. NATIONAL AGRICULTURAL COST OF PRODUCTION STANDARDS REVIEW BOARD.

(a) MEMBERSHIP.—The first sentence of section 1006(a)(1) of the Agriculture and Food Act of 1981 (7 U.S.C. 4102(a)(1)) is amended by striking "seven members who are engaged in the commercial production of one or more of the various major agricultural commodities produced in the United States" and inserting "seven members who, individually or as a group, are engaged in the commercial production of each of the program crops and in one or more of the other various major agricultural commodities produced in the United States".

(b) EXTENSION.—Section 1014 of the Agriculture and Food Act of 1981 (7 U.S.C. 4110) is amended by striking "1990" and inserting "1995".

SEC. 1146. ASSIGNMENT OF PAYMENTS.

Subsection (g) of section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)) is amended to read as follows:

"(g) A payment that may be made to a producer under this section may be assigned only in accordance with regulations issued by the Secretary. This subsection shall not authorize any suit against or impose any liability on the Secretary, any disbursing agent, or any agency of the United States if payment is made to the producer without regard to the existence of any such assignment.".

7 USC 1421a.

SEC. 1147. FINANCIAL IMPACT STUDY.

(a) STUDY.—The Secretary of Agriculture shall conduct an annual study of the financial impact of the support levels established and announced by the Secretary under programs contained in the Agricultural Act of 1949 (hereafter in this section referred to as "programs"), including a study of the effect of the support levels on the ability of producers to meet their financial obligations (with special emphasis on borrowers from the Farmers Home Administration and the Farm Credit System).

(b) REPORT.—The Secretary shall annually prepare a report containing the results of the study and submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate,

not later than the date of the final announcement for the programs by the Secretary for any 1 year.

(c) INFORMATIONAL PURPOSES.—The study under this section (including the study of the effect of the support levels on the ability of producers to meet their financial obligations) shall be only for informational purposes and for Congressional oversight and shall not give rise to any cause of action, be a basis for, or be used as evidence in support of, any claim or right of any person, including farmers and borrowers, in any administrative or judicial proceeding.

SEC. 1148. SURVEY OF PROGRAM PARTICIPANTS. 7 USC 1421 note.

(a) SURVEY.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall provide that producers, during the sign-up period for commodity programs under the Agricultural Act of 1949 (7 U.S.C. 1441) in the 1992 calendar year, complete a survey regarding the preference of the producers, either to increase the efficiency of their farming operation or to assist in meeting conservation requirements for the farm, for the redistribution of any crop acreage bases on each producer's farm. The survey shall include questions designed to determine whether the producers would prefer to redistribute their current crop acreage bases—

(1) in different proportions among the program crops for which the producers currently have a crop acreage base;

(2) among program crops for which the producers currently do not have a crop acreage base; or

(3) in some combination of the options provided under paragraphs (1) and (2),

without exceeding total cropland of the farm. The survey shall be prepared and administered by the Agricultural Stabilization and Conservation Service, and conducted in every county where sign-ups for Federal commodity programs are administered.

(b) ANALYSIS OF DATA.—The Secretary shall compile and analyze the data collected from the survey required under subsection (a) to determine—

(1) the potential increases and decreases in State, regional, and national acreage that would be planted to various program crops if producers were given the option to redistribute their current crop acreage bases as indicated by the survey conducted under subsection (a);

(2) the potential commodity program costs or savings if producers were allowed to implement the redistribution of such crop acreage bases as described in paragraph (1);

(3) the potential impact of such a redistribution of crop acreage bases on the competitiveness of United States agriculture in world markets; and

(4) such other consequences of such a redistribution of crop acreage bases that the Secretary determines to be of significance to United States agriculture.

(c) REPORT.—Not later than January 31, 1993, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the survey conducted under subsection (a). The report shall—

(1) include a compilation of the data collected pursuant to the survey conducted under subsection (a);

(2) include the results of the analysis and determinations required under subsection (b);

(3) provide a summary of such data and determinations on a program crop-by-program crop and State-by-State basis; and

(4) provide such other recommendations or information as the Secretary determines appropriate.

Options Pilot Program Act of 1990.
7 USC 1421 note.

Subtitle E—Options Pilot Program

SEC. 1151. SHORT TITLE.

This subtitle may be cited as the "Options Pilot Program Act of 1990".

SEC. 1152. PURPOSES.

It is the purpose of this subtitle to require the Secretary of Agriculture (hereinafter in this subtitle referred to as the "Secretary") to conduct research necessary—

(1) to ascertain whether futures options trading would provide reasonable protection to producers from fluctuations in the value of the commodities they produce;

(2) to ascertain whether producers will accept and fully utilize this method of price protection if information is provided to the producers concerning its proper use; and

(3) to determine the effect widespread adoption of such futures options trading program would have on commodity prices.

SEC. 1153. OPTIONS PILOT PROGRAM.

(a) IN GENERAL.—To determine whether regulated agricultural commodity options trading can be used by producers to obtain protection from fluctuations in the market prices of the commodities they produce and the impact of such trading on the prices of the commodities, the Secretary shall conduct a pilot program for each of the 1991 through 1995 crops of corn and for each of the 1993 through 1995 crops of wheat and soybeans.

(b) COUNTIES.—The Secretary shall conduct the pilot program in various counties that produce significant quantities of the 1991 through 1995 crops of corn, and significant quantities of the 1993 through 1995 crops of wheat and soybeans. For the 1991 crop year, the Secretary shall select not less than three counties in each of three major corn-producing States to conduct the pilot program for corn for the crop year. The Secretary may add additional States and counties to the program in succeeding crop years.

(c) BROKERS.—Trades under the pilot program conducted under this subtitle shall be carried out through registered commodity brokers who choose to participate in the program.

Government contracts.

(d) ELIGIBLE PRODUCER PARTICIPANTS.—The Secretary shall contract with eligible producers who wish to participate in the program and who are located in the counties selected for the pilot program. The contracts shall set forth the terms and conditions for participation in the pilot program, including a provision that the contract may be terminated by any participating producer at any time prior to receiving payments for options contracted for under the pilot program.

SEC. 1154. TERMS AND CONDITIONS.

(a) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—To be eligible to participate in the pilot program conducted under this subtitle, a producer shall meet

all of the eligibility requirements specified in this subtitle, and the regulations issued pursuant to this subtitle.

(2) PARTICIPATION IN PRICE SUPPORT PROGRAMS.—The regulations shall specify to what degree participation in the price support and production adjustment program established for the applicable crop of the commodity shall be required for participation in the pilot program. Regulations.

(3) ADDITIONAL REQUIREMENTS.—To be eligible to participate in the pilot program, a producer shall—

(A) attend not less than one seminar conducted by the Cooperative Extension Service;

(B) maintain a separate brokerage account for the purpose of trading futures and options contracts covered by the pilot program; and

(C) compile, maintain, and submit (or authorize the compilation, maintenance, and submission) of such documentation as the regulations governing the program may require to permit a proper record to be kept of the results of all cash, futures, or options trading that may be undertaken under the pilot program by the producer. Records.

(b) PROGRAM TERMS AND CONDITIONS.—The Secretary shall issue regulations or develop contract forms, or both, that set forth the terms and conditions of the program, and the rights and obligations of all of the parties participating in the program (including producers and registered brokers). At a minimum, the terms and conditions shall include the following: Regulations.

(1) CONTRACT MONTHS AND STRIKE PRICES.—

(A) IN GENERAL.—The contract months and options strike prices at which participating producers may buy commodity put options in order to receive payments to cover the premiums on the options for each of the 1991 through 1995 crops of corn, and for each of the 1993 through 1995 crops of wheat and soybeans.

(B) TARGET PRICE AND LOAN RATE STRIKE PRICES.—The pilot program shall provide—

(i) a target price strike price for put options that is equivalent to the target price for the commodity involved; and

(ii) a loan rate strike price that is equivalent to the loan rate for the commodity involved.

(C) OTHER OPTIONS STRIKE PRICES.—Other options strike prices for commodities included in the program may be used if the prices are selected and agreed on by the Secretary and the representatives of the commodity futures trading industry designated in accordance with section 1155(a).

(2) ELIGIBLE PORTION OF CROP.—The portion of the crop of an eligible producer that may be used as a basis for acquiring options contracts.

(3) PUT OPTIONS CONTRACTS.—The time when, and the manner in which, put options contracts shall be acquired, held, and liquidated by producers to meet program requirements.

(4) PROGRAM BENEFITS.—

(A) IN GENERAL.—The program benefits to be offered participating producers shall include the cost of option premiums and payments of not more than 15 cents per

bushel to cover transaction fees, interest, and other expenses.

(B) RELATIVE BENEFITS.—The Secretary shall inform participants that their participation is voluntary and that neither the United States, the Commodity Credit Corporation, nor representatives of the futures industry can guarantee that the participants will be better or worse off financially as a result of participation in the pilot program than the participants would be if the participants participated solely in price support and production adjustment programs carried out by the Secretary and the Commodity Credit Corporation.

SEC. 1155. COMMODITY FUTURES TRADING INDUSTRY.

(a) CONSULTATION.—The Secretary or the Secretary's designees may consult with representatives of the commodity futures trading industry who are specialists in the trading of futures contracts and futures options contracts, and who are designated by the regulated commodity futures markets that choose to participate in the pilot program.

(b) PROCEDURE.—The designations and consultations may be held without regard to the Federal Advisory Committee Act (5 U.S.C. App. 2). Such Act shall not be applicable to the pilot program carried out under this subtitle, or to the meetings of representatives of the commodity futures trading industry with the Secretary or the Secretary's designees relating to this subtitle.

SEC. 1156. COMMODITY CREDIT CORPORATION.

(a) IN GENERAL.—The pilot program established under this subtitle shall be carried out by and through the Commodity Credit Corporation.

(b) FUNDS.—The Corporation shall expend such funds as may be required to conduct the pilot program for futures options contract trading in the manner specified in this subtitle and the regulations issued, and contracts entered into, to carry out this subtitle, except that funds of the Corporation may not be used to carry out this subtitle unless the Corporation has received funds to cover such expenditures from appropriations made in advance to carry out this subtitle.

(c) CONTRACTS.—Contracts entered into under this subtitle shall be considered to be program benefit contracts of the Commodity Credit Corporation, and not service or acquisition contracts of the United States.

Subtitle F—Conforming Amendments

SEC. 1161. CONFORMING AMENDMENTS.

(a) MISCELLANEOUS COMMODITY PROVISIONS.—The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) (as amended by sections 301, 1121, and 1122 of this Act) is further amended—

7 USC 1445b-2, 1445j; 1445b-4, 1445k.

(1) by transferring sections 107C and 107E (7 U.S.C. 1445b-2 and 1445b-4) to the end of title I and redesignating such sections as sections 114 and 115, respectively; and

(2) by repealing section 107F (7 U.S.C. 1445b-5).

(b) DESIGNATED NONBASIC AGRICULTURAL COMMODITIES.—Section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended—

(1) in the first sentence—
(A) by inserting "(a)" before "The Secretary"; and
(B) by striking "as follows:" and inserting "in accordance with this title.";
(2) in subsection (c), by striking "subsection (d)" and inserting "section 204"; and
(3) by redesignating subsection (c) (as amended) as subsection (b).

(c) SUGAR.—Section 902(a) of the Food Security Act of 1985 (7 U.S.C. 1446 note) is amended by striking "section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446)" and inserting "section 206 of the Agricultural Act of 1949".

(d) HONEY.—Section 405A(a) of the Agricultural Act of 1949 (7 U.S.C. 1425a(a)) is amended—
(1) by striking "section 201(b) of this Act" and inserting "section 207"; and
(2) by striking "section 201(b)(2)(B)" and inserting "section 207(b)(2)".

Subtitle G—Effective Date

SEC. 1171. EFFECTIVE DATE. 7 USC 1421 note.

(a) IN GENERAL.—Except as otherwise specifically provided in title I through this title, such titles and the amendments made by such titles shall become effective beginning with the 1991 crop of an agricultural commodity.

(b) PRIOR CROPS.—Except as otherwise specifically provided and notwithstanding any other provision of law, title I through this title, and the amendments made by such titles, shall not affect the authority of the Secretary of Agriculture to carry out a price support or production adjustment program for any of the 1986 through 1990 crops of an agricultural commodity established under a provision of law in effect immediately before the effective date prescribed by subsection (a).

TITLE XII—STATE AND PRIVATE FORESTRY

Forest Stewardship Act of 1990. Fish. Wildlife. Technical assistance. Public lands. 16 USC 2101 note.

SEC. 1201. SHORT TITLE.

This title may be cited as the "Forest Stewardship Act of 1990".

Subtitle A—Cooperative Forestry Assistance Act of 1978

SEC. 1211. REFERENCES.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.).

SEC. 1212. FINDINGS, PURPOSE, AND POLICY.

Section 2 of the Act (16 U.S.C. 2101) is amended to read as follows:

"SEC. 2. FINDINGS, PURPOSE, AND POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) most of the productive forest land of the United States is in private, State, and local governmental ownership, and the capacity of the United States to produce renewable forest resources is significantly dependent on such non-Federal forest lands;

"(2) adequate supplies of timber and other forest resources are essential to the United States, and adequate supplies are dependent on efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

"(3) nearly one-half of the wood supply of the United States comes from nonindustrial private timberlands and such percentage could rise with expanded assistance programs;

"(4) managed forest lands provide habitats for fish and wildlife, as well as aesthetics, outdoor recreation opportunities, and other forest resources;

"(5) the soil, water, and air quality of the United States can be maintained and improved through good stewardship of privately held forest resources;

"(6) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

"(7) fires in rural areas threaten human lives, property, forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

"(8) trees and forests are of great environmental and economic value to urban areas;

"(9) managed forests contribute to improving the quality, quantity, and timing of water yields that are of broad benefit to society;

"(10) over half the forest lands of the United States are in need of some type of conservation treatment;

"(11) forest landowners are being faced with increased pressure to convert their forest land to development and other purposes;

"(12) increased population pressures and user demands are being placed on private, as well as public, landholders to provide a wide variety of products and services, including fish and wildlife habitat, aesthetic quality, and recreational opportunities;

"(13) stewardship of privately held forest resources requires a long-term commitment that can be fostered through local, State, and Federal governmental actions;

"(14) the Department of Agriculture, through the coordinated efforts of its agencies with forestry responsibilities, cooperating with other Federal agencies, State foresters, and State political subdivisions, has the expertise and experience to assist private landowners in achieving individual goals and public benefits regarding forestry;

"(15) the products and services resulting from nonindustrial private forest land stewardship provide income and employ-

ment that contribute to the economic health and diversity of rural communities; and

"(16) sustainable agroforestry systems and tree planting in semiarid lands can improve environmental quality and maintain farm yields and income.

"(b) PURPOSE.—It is the purpose of this Act to authorize the Secretary of Agriculture (hereafter in this Act referred to as the 'Secretary'), with respect to non-Federal forest lands of the United States, to assist in—

"(1) the establishment of a coordinated and cooperative Federal, State, and local forest stewardship program for management of the non-Federal forest lands;

"(2) the encouragement of the production of timber;

"(3) the prevention and control of insects and diseases affecting trees and forests;

"(4) the prevention and control of rural fires;

"(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

"(6) the improvement and maintenance of fish and wildlife habitat;

"(7) the planning and conduct of urban forestry programs;

"(8) broadening existing forest management, fire protection, and insect and disease protection programs on non-Federal forest lands to meet the multiple use objectives of landowners in an environmentally sensitive manner;

"(9) providing opportunities to private landowners to protect ecologically valuable and threatened non-Federal forest lands; and

"(10) strengthening educational, technical, and financial assistance programs that provide assistance to owners of non-Federal forest lands.

"(c) POLICY.—It is the policy of Congress that it is in the national interest for the Secretary to work through and in cooperation with State foresters, or equivalent State officials, nongovernmental organizations, and the private sector in implementing Federal programs affecting non-Federal forest lands.

"(d) CONSTRUCTION.—This Act shall be construed to complement the policies and direction under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).".

SEC. 1213. RURAL FORESTRY ASSISTANCE.

Section 3 of the Act (16 U.S.C. 2102) is amended to read as follows:

"SEC. 3. RURAL FORESTRY ASSISTANCE.

"(a) ASSISTANCE TO FOREST LANDOWNERS AND OTHERS.—The Secretary may provide financial, technical, educational, and related assistance to State foresters or equivalent State officials, and State extension directors, to enable such officials to provide technical information, advice, and related assistance to private forest land owners and managers, vendors, forest resource operators, forest resource professionals, public agencies, and individuals to enable such persons to carry out activities that are consistent with the purposes of this Act, including—

"(1) protecting, maintaining, enhancing, restoring, and preserving forest lands and the multiple values and uses that depend on such lands;

"(2) identifying, protecting, maintaining, enhancing, and preserving wildlife and fish species, including threatened and endangered species, and their habitats;

"(3) implementing forest management technologies;

"(4) selecting, producing, and marketing alternative forest crops, products and services from forest lands;

"(5) protecting forest land from damage caused by fire, insects, disease, and damaging weather;

"(6) managing the rural-land and urban-land interface to balance the use of forest resources in and adjacent to urban and community areas;

"(7) identifying and managing recreational forest land resources;

"(8) identifying and protecting the aesthetic character of forest lands;

"(9) protecting forest land from conversion to alternative uses; and

"(10) the management of resources of forest lands, including—

"(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

"(B) the conversion of wood to energy for domestic, industrial, municipal, and other uses;

"(C) the planning, management, and treatment of forest land, including site preparation, reforestation, thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of timber and other forest resources;

"(D) ensuring that forest regeneration or reforestation occurs if needed to sustain long-term resource productivity;

"(E) protecting and improving forest soil fertility and the quality, quantity, and timing of water yields; and

"(F) encouraging the investment of a portion of the proceeds from the sale of timber or other forest resources in stewardship activities that preserve, protect, maintain, and enhance their forest land.

"(b) STATE FORESTRY ASSISTANCE.—The Secretary is authorized to provide financial, technical, and related assistance to State foresters, or equivalent State officials, to—

"(1) develop genetically improved tree seeds;

"(2) develop and contract for the development of field arboretums, greenhouses, and tree nurseries, in cooperation with a State, to facilitate production and distribution of tree seeds and seedlings in States where the Secretary determines that there is an inadequate capacity to carry out present and future reforestation needs;

"(3) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

"(4) plant tree seeds and seedlings on non-Federal forest lands that are suitable for the production of timber, recreation, and for other benefits associated with the growing of trees;

"(5) plan, organize, and implement measures on non-Federal forest lands, including thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom; and

"(6) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields therefrom.

"(c) IMPLEMENTATION.—In implementing this section, the Secretary shall cooperate with other Federal, State, and local natural resource management agencies, universities and the private sector.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 1214. FOREST INCENTIVES PROGRAM.

Section 4 of the Act (16 U.S.C. 2103) is amended by adding at the end the following new subsection:

"(k) The program developed by the Secretary under this section shall terminate on December 31, 1995.". Termination date.

SEC. 1215. FOREST STEWARDSHIP PROGRAM.

The Act (16 U.S.C. 2101 et seq.) is amended—

(1) by redesignating sections 5 through 15 as sections 8 through 18, respectively; and 16 USC 2104-2112.

(2) by inserting after section 4 the following new section:

"SEC. 5. FOREST STEWARDSHIP PROGRAM. 16 USC 2103a.

"(a) ESTABLISHMENT.—The Secretary, in consultation with State foresters or equivalent State officials, shall establish a Forest Stewardship Program (hereafter referred to in this section as the 'Program') to encourage the long-term stewardship of nonindustrial private forest lands by assisting owners of such lands to more actively manage their forest and related resources by utilizing existing State, Federal, and private sector resource management expertise and assistance programs.

"(b) GOAL.—The goal of the Program shall be to enter at least 25,000,000 acres of nonindustrial private forest lands in the Program by December 31, 1995.

"(c) DEFINITION.—For the purposes of this section, the term 'nonindustrial private forest lands' means rural, as determined by the Secretary, lands with existing tree cover, or suitable for growing trees, and owned by any private individual, group, association, corporation, Indian tribe, or other private legal entity.

"(d) IMPLEMENTATION.—In carrying out the Program the Secretary, in consultation with State Foresters or equivalent State officials, shall provide financial, technical, educational, and related assistance to State Foresters or equivalent State officials, including assistance to help such State Foresters or equivalent officials to provide financial assistance to other State and local natural resource entities, both public and private, and land-grant universities for the delivery of information and professional assistance to owners of nonindustrial private forest lands. Such information and assistance shall be directed to help such owners understand and evaluate alternative actions they might take, including—

"(1) managing and enhancing the productivity of timber, fish and wildlife habitat, water quality, wetlands, recreational resources, and the aesthetic value of forest lands;

"(2) investing in practices to protect, maintain, and enhance the resources identified in paragraph (1);

"(3) ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices

necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide the environmental benefits that result; and .

"(4) protecting their forests from damage caused by fire, insects, disease, and damaging weather.

"(e) ELIGIBILITY.—All nonindustrial private forest lands that are not in management under Federal, State, or private sector financial and technical assistance programs existing on the date of enactment of this section are eligible for assistance under the Program. Nonindustrial private forest lands that are managed under such existing programs are eligible for assistance under the Program if forest management activities are expanded and enhanced and the landowner agrees to meet the requirements of this Act.

"(f) DUTIES OF OWNERS.—To enter forest land into the Program, landowners shall—

"(1) prepare and submit to the State forester or equivalent State official a forest stewardship plan that meets the requirements of this section and that—

"(A) is prepared by a professional resource manager;

"(B) identifies and describes actions to be taken by the landowner to protect soil, water, range, aesthetic quality, recreation, timber, water, and fish and wildlife resources on such land in a manner that is compatible with the objectives of the landowner; and

"(C) is approved by the State forester, or equivalent State official; and

"(2) agree that all activities conducted on such land shall be consistent with the stewardship plan.

"(g) STEWARDSHIP RECOGNITION.—The Secretary, in consultation with State foresters or equivalent State officials, is encouraged to develop an appropriate recognition program for landowners who practice stewardship management on their lands, with an appropriate, special recognition symbol and title.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $25,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section.".

SEC. 1216. STEWARDSHIP INCENTIVE PROGRAM.

The Act (16 U.S.C. 2101 et seq.) is amended by inserting after section 5 (as added by section 1215 of this Act) the following new section:

16 USC 2103b.

"SEC. 6. STEWARDSHIP INCENTIVE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in consultation with State foresters or equivalent State officials, shall establish a program within the Forest Service, to be known as the 'Stewardship Incentive Program' (hereafter referred to in this section as the 'Program'), to meet the objectives and goals of section 5.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—Owners of nonindustrial private forest lands shall be eligible for cost-sharing assistance under the Program if such owners—

"(A) have developed an approved forest stewardship plan pursuant to section 5(f);

"(B) agree to implement approved activities pursuant to paragraph (4) in accordance with the plan for a period of not less than 10 years unless the State forester or equivalent State official approves a modification to such plan; and

"(C) own not more than 1,000 acres of nonindustrial private forest land, except that the Secretary may approve the provision of cost-sharing assistance to landowners that own more than 1,000 acres of such land if the Secretary determines that significant public benefits will accrue from such approval.

"(2) LIMITATION.—

"(A) SECRETARY.—The Secretary shall not approve of the provision of cost-sharing assistance to any landowner owning in excess of 5,000 acres of nonindustrial private forest land.

"(B) LANDOWNER.—A landowner shall not receive cost-share assistance for management on acreage under this section if such landowner receives cost-share assistance on the same acreage under section 4.

"(3) STATE PRIORITIES.—The Secretary in consultation with the State forester, or equivalent State official, other State natural resource management agencies, and the State Coordinating Committee established pursuant to section 19(b), may develop State priorities for cost sharing under this section that will promote unique forest management objectives in that State.

"(4) APPROVED ACTIVITIES.—

"(A) DEVELOPMENT.—The Secretary, in consultation with the State Coordinating Committees established pursuant to section 19(b), shall develop a list of approved forest activities and practices that will be eligible for cost-share assistance under the Program within each State.

"(B) TYPE OF ACTIVITIES.—The Secretary, in developing a list of approved activities and practices under subparagraph (A), shall attempt to achieve landowner and public purposes including—

"(i) the establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes;

"(ii) the sustainable growth and management of forests for timber production;

"(iii) the protection, restoration, and use of forest wetlands;

"(iv) the enhanced management and maintenance of native vegetation on other lands vital to water quality;

"(v) the growth and management of trees for energy conservation purposes;

"(vi) the management and maintenance of fish and wildlife habitat;

"(vii) the management of outdoor recreational opportunities; and

"(viii) other activities approved by the Secretary.

"(c) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—The Secretary shall share the cost of developing and carrying out the forest stewardship plan under section 5(f), and in implementing the approved activities that the

Secretary determines are appropriate and in the public interest, with a landowner who has entered in an agreement to place the forest land of such owner into the Program.

"(2) RATE.—The Secretary, in consultation with the State forester, or equivalent State official, shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making such payments.

"(3) MAXIMUM.—The Secretary shall not make cost-share payments under this subsection to a landowner in an amount in excess of 75 percent of the total cost to such landowner of developing the forest stewardship plan and implementing eligible activities under the plan. The maximum payments to any one landowner shall be determined by the Secretary.

"(d) RECAPTURE.—

"(1) IN GENERAL.—The Secretary shall establish and implement a mechanism to recapture payments made to a landowner in the event that the landowner fails to implement any approved activity specified in the forest stewardship plan for which such owner received cost-share payments.

"(2) ADDITIONAL PROVISION.—The provisions of paragraph (1) are in addition to any other provision available.

"(e) DISTRIBUTION.—The Secretary shall distribute funds available for cost sharing under this section among the States only after assessing the public benefit incident to such distribution and after giving appropriate consideration to—

"(1) the total acreage of nonindustrial private forest land in each State;

"(2) the potential productivity of such land;

"(3) the number of owners eligible for cost sharing in each State;

"(4) the need for reforestation in each State;

"(5) the opportunities to enhance nontimber resources on such forest lands; and

"(6) the anticipated demand for timber and nontimber resources in each State.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section.".

SEC. 1217. FOREST LEGACY PROGRAM.

The Act (16 U.S.C. 2101 et seq.) is amended by inserting after section 6 (as added by section 1216 of this Act) the following new section:

16 USC 2103c.

"SEC. 7. FOREST LEGACY PROGRAM.

"(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a program, to be known as the Forest Legacy Program, in cooperation with appropriate State, regional, and other units of government for the purposes of ascertaining and protecting environmentally important forest areas that are threatened by conversion to nonforest uses and, through the use of conservation easements and other mechanisms, for promoting forest land protection and other conservation opportunities. Such purposes shall also include the protection of important scenic, cultural, fish, wildlife, and recreational resources, riparian areas, and other ecological values.

"(b) STATE AND REGIONAL FOREST LEGACY PROGRAMS.—The Secretary shall exercise the authority under subsection (a) in conjunction with State or regional programs that the Secretary deems consistent with this section.

"(c) INTERESTS IN LAND.—In addition to the authorities granted under section 6 of the Act of March 1, 1911 (16 U.S.C. 515), and section 11(a) of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428a(a)), the Secretary may acquire from willing landowners lands and interests therein, including conservation easements and rights of public access, for Forest Legacy Program purposes. The Secretary shall not acquire conservation easements with title held in common ownership with any other entity.

"(d) IMPLEMENTATION.—

"(1) IN GENERAL.—Lands and interests therein acquired under subsection (c) may be held in perpetuity for program and easement administration purposes as the Secretary may provide. In administering lands and interests therein under the program, the Secretary shall identify the environmental values to be protected by entry of the lands into the program, management activities which are planned and the manner in which they may affect the values identified, and obtain from the landowner other information determined appropriate for administration and management purposes.

"(2) INITIAL PROGRAMS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish a regional program in furtherance of the Northern Forest Lands Study in the States of New York, New Hampshire, Vermont, and Maine under Public Law 100-446. The Secretary shall establish additional programs in each of the Northeast, Midwest, South, and Western regions of the United States, and the Pacific Northwest (including the State of Washington), on the preparation of an assessment of the need for such programs. State listing.

"(e) ELIGIBILITY.—Within 1 year from the date of enactment of this section and in consultation with State Forest Stewardship Advisory Committees established under section 15(b) and similar regional organizations, the Secretary shall establish eligibility criteria for the designation of forest areas from which lands may be entered into the Forest Legacy Program and subsequently select such appropriate areas. To be eligible, such areas shall have significant environmental values or shall be threatened by present or future conversion to nonforest uses. Of land proposed to be included in the Forest Legacy Program, the Secretary shall give priority to lands which can be effectively protected and managed, and which have important scenic or recreational values; riparian areas; fish and wildlife values, including threatened and endangered species; or other ecological values.

"(f) APPLICATION.—For areas included in the Forest Legacy Program, an owner of lands or interests in lands who wishes to participate may prepare and submit an application at such time in such form and containing such information as the Secretary may prescribe. The Secretary shall give reasonable advance notice for the submission of all applications to the State forester, equivalent State official, or other appropriate State or regional natural resource management agency. If applications exceed the ability of the Secretary to fund them, priority shall be given to those forest areas having the greatest need for protection pursuant to the criteria described in subsection (d).

"(g) STATE CONSENT.—Where a State has not approved the acquisition of land under section 6 of the Act of March 1, 1911 (16 U.S.C. 515), the Secretary shall not acquire lands or interests therein under authority granted by this section outside an area of that State designated as a part of a program established under subsection (b).

"(h) FOREST MANAGEMENT ACTIVITIES.—

"(1) IN GENERAL.—Conservation easements or deed reservations acquired or reserved pursuant to this section may allow forest management activities, including timber management, on areas entered in the Forest Legacy Program insofar as the Secretary deems such activities consistent with the purposes of this section.

"(2) ASSIGNMENT OF RESPONSIBILITIES.—For Forest Legacy Program areas, the Secretary may delegate or assign management and enforcement responsibilities over federally owned lands and interests in lands only to another governmental entity.

"(i) DUTIES OF OWNERS.—Under the terms of a conservation easement or other property interest acquired under subsection (b), the landowner shall be required to manage property in a manner that is consistent with the purposes for which the land was entered in the Forest Legacy Program and shall not convert such property to other uses. Hunting, fishing, hiking, and similar recreational uses shall not be considered inconsistent with the purposes of this program.

"(j) COMPENSATION AND COST SHARING.—

"(1) COMPENSATION.—The Secretary shall pay the fair market value of any property interest acquired under this section. Payments under this section shall be in accordance with Federal appraisal and acquisition standards and procedures.

"(2) COST SHARING.—In accordance with terms and conditions that the Secretary shall prescribe, costs for the acquisition of lands or interests therein or project costs shall be shared among participating entities including regional organizations, State and other governmental units, landowners, corporations, or private organizations. Such costs may include, but are not limited to, those associated with planning, administration, property acquisition, and property management. To the extent practicable, the Federal share of total program costs shall not exceed 75 percent, including any in-kind contribution.

"(k) EASEMENTS.—

"(1) RESERVED INTEREST DEEDS.—As used in this section, the term 'conservation easement' includes an easement utilizing a reserved interest deed where the grantee acquires all rights, title, and interests in a property, except those rights, title, and interests that may run with the land that are expressly reserved by a grantor.

"(2) PROHIBITIONS ON LIMITATIONS.—Notwithstanding any provision of State law, no conservation easement held by the United States or its successors or assigns under this section shall be limited in duration or scope or be defeasible by—

"(A) the conservation easement being in gross or appurtenant;

"(B) the management of the conservation easement having been delegated or assigned to a non-Federal entity;

"(C) any requirement under State law for re-recordation or renewal of the easement; or

"(D) any future disestablishment of a Forest Legacy Program area or other Federal project for which the conservation easement was originally acquired.

"(3) CONSTRUCTION.—Notwithstanding any provision of State law, conservation easements shall be construed to effect the Federal purposes for which they were acquired and, in interpreting their terms, there shall be no presumption favoring the conservation easement holder or fee owner.

"(l) APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 1218. FOREST HEALTH PROTECTION.

Section 8 of the Act (as redesignated by section 1215 of this Act) (16 U.S.C. 2104) is amended to read as follows:

"SEC. 8. FOREST HEALTH PROTECTION.

"(a) IN GENERAL.—The Secretary may protect trees and forests and wood products, stored wood, and wood in use directly on the National Forest System and, in cooperation with others, on other lands in the United States, from natural and man-made causes, to—

"(1) enhance the growth and maintenance of trees and forests;

"(2) promote the stability of forest-related industries and employment associated therewith through the protection of forest resources;

"(3) aid in forest fire prevention and control;

"(4) conserve forest cover on watersheds, shelterbelts, and windbreaks;

"(5) protect outdoor recreation opportunities and other forest resources; and

"(6) extend timber supplies by protecting wood products, stored wood, and wood in use.

"(b) ACTIVITIES.—Subject to subsections (c), (d), and (e) and to such other conditions the Secretary may prescribe, the Secretary may, directly on the National Forest System, in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters, or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands—

"(1) conduct surveys to detect and appraise insect infestations and disease conditions and man-made stresses affecting trees and establish a monitoring system throughout the forests of the United States to determine detrimental changes or improvements that occur over time, and report annually concerning such surveys and monitoring;

"(2) determine the biological, chemical, and mechanical measures necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease conditions affecting trees;

"(3) plan, organize, direct, and perform measures the Secretary determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;

"(4) provide technical information, advice, and related assistance on the various techniques available to maintain a healthy forest and in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use;

"(5) develop applied technology and conduct pilot tests of research results prior to the full-scale application of such technology in affected forests;

"(6) promote the implementation of appropriate silvicultural or management techniques that may improve or protect the health of the forests of the United States; and

"(7) take any other actions the Secretary determines necessary to accomplish the objectives and purposes of this section.

"(c) CONSENT OF ENTITY.—Operations under this section to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.

"(d) CONTRIBUTION BY ENTITY.—No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined appropriate by the Secretary.

"(e) ALLOTMENTS TO OTHER AGENCIES.—The Secretary may, in the Secretary's discretion, and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary determines necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

"(f) LIMITATION ON USE OF APPROPRIATIONS.—

"(1) REMOVING DEAD TREES.—No amounts appropriated shall be used to—

"(A) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees; or

"(B) compensate for the value of any property injured, damaged, or destroyed by any cause.

"(2) INSECTS AND DISEASES AFFECTING TREES.—The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), under whatever procedures the Secretary may prescribe, if the Secretary determines that such action is necessary and in the public interest.

"(g) PARTNERSHIPS.—The Secretary, by contract or cooperative agreement, may provide financial assistance through the Forest Service to State foresters or equivalent State officials, and private forestry and other organizations, to monitor forest health and protect the forest lands of the United States. The Secretary shall require contribution by the non-Federal entity in the amount and in the manner determined appropriate. Such non-Federal share may be in the form of cash, services, or equipment, as determined appropriate by the Secretary.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated annually such sums as may be necessary to carry out subsections (a) through (g).

"(i) INTEGRATED PEST MANAGEMENT.—

"(1) IN GENERAL.—Subject to the provisions of subsections (c) and (e), the Secretary shall, in cooperation with State foresters or equivalent State officials, subdivisions of States, or other entities on non-Federal lands (hereafter in this subsection referred to as the 'cooperator')—

"(A) provide cost-share assistance to such cooperators who have established an acceptable integrated pest management strategy, as determined by the Secretary, that will prevent, retard, control, or suppress gypsy moth, southern pine beetle, spruce budworm infestations, or other major insect infestations in an amount no less than 50 percent nor greater than 75 percent of the cost of implementing such strategy; and

"(B) upon request, assist the cooperator in the development of such integrated pest management strategy.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated annually $10,000,000 to implement this subsection.".

SEC. 1219. URBAN AND COMMUNITY FORESTRY ASSISTANCE.

(a) AMENDMENT TO COOPERATIVE FORESTRY ASSISTANCE ACT.—Section 9 of the Act (16 U.S.C. 2105) (as redesignated by section 1215) is amended to read as follows:

"SEC. 9. URBAN AND COMMUNITY FORESTRY ASSISTANCE.

Education.
Grant programs.

"(a) FINDINGS.—The Congress finds that—

"(1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;

"(2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;

"(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;

"(4) urban trees are 15 times more effective than forest trees at reducing the buildup of carbon dioxide and aid in promoting energy conservation through mitigation of the heat island effect in urban areas;

"(5) tree plantings and ground covers such as low growing dense perennial turfgrass sod in urban areas and communities can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;

"(6) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and

"(7) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for trees and complementary ground covers for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

"(b) PURPOSES.—The purposes of this section are to—

"(1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;

"(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

"(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;

"(4) provide assistance through competitive matching grants awarded to local units of government, approved organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986, or other local community tree volunteer groups, for urban and community forestry projects;

"(5) implement a tree planting program to complement urban and community tree maintenance and open space programs and to reduce carbon dioxide emissions, conserve energy, and improve air quality in addition to providing other environmental benefits;

"(6) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

"(7) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices including practices involving the cultivation of trees, shrubs and complementary ground covers, of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

"(8) expand existing research and educational efforts intended to improve understanding of—

"(A) tree growth and maintenance, tree physiology and morphology, species adaptations, and forest ecology,

"(B) the value of integrating trees and ground covers,

"(C) the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments, and

"(D) the role of urban trees in conserving energy and mitigating the urban heat island.

Intergovernmental relations.

"(c) GENERAL AUTHORITY.—The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, and maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential developments in urban areas. In providing such assistance, the Secretary is authorized to cooperate with interested members of the public, including nonprofit private organizations. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

Cooperative agreements.

"(d) PROGRAM OF EDUCATION AND TECHNICAL ASSISTANCE.—The Secretary, in cooperation with State foresters and State extension directors or equivalent State officials and interested members of the public, including nonprofit private organizations, shall implement a

program of education and technical assistance for urban and community forest resources. The program shall be designed to—

"(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, identifying opportunities for the establishment of plantings for the purposes of conserving energy, and determining the status of related resources (including fish and wildlife habitat, water resources, and trails);

"(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

"(3) improve education and technical support in—

"(A) selecting tree species appropriate for planting in urban and community environments and for promotion of energy conservation;

"(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

"(C) protecting individual trees and preserving existing open spaces with or without tree cover; and

"(D) identifying opportunities for expanding tree cover in urban areas and communities;

"(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

"(5) increase public understanding of the energy conservation, economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

"(e) PROCUREMENT OF PLANT MATERIALS.—The Secretary, in cooperation with State foresters or equivalent State officials, shall assist in identifying sources of plant materials and may procure or otherwise obtain such plant materials from public or private sources and may make such plant materials available to urban areas and communities for the purpose of reforesting open spaces, replacing dead and dying urban trees, promoting energy conservation, and providing other environmental benefits through expanding tree cover in urban areas and communities.

"(f) CHALLENGE COST-SHARE PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish an urban and community forestry challenge cost-share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council established under subsection (g). Each State forester or equivalent State official may make recommendations to the Secretary for awards under the program for project proposals in their State which meet such criteria. Awards shall be consistent with the cost-share requirements of this section.

Decorations, medals, awards.

"(2) COST-SHARING.—The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a

matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions.

"(g) FORESTRY ADVISORY COUNCIL.—

"(1) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a National Urban and Community Forestry Advisory Council (hereafter in this section referred to as the 'Council') for the purpose of—

"(A) developing a national urban and community forestry action plan;

"(B) evaluating the implementation of that plan; and

"(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost-share program under subsection (e).

"(2) COMPOSITION AND OPERATION.—

"(A) COMPOSITION.—The Council shall be composed of 15 members appointed by the Secretary, as follows:

"(i) 2 members representing national nonprofit forestry and conservation citizen organizations,

"(ii) 3 members, 1 each representing State, county, and city and town governments,

"(iii) 1 member representing the forest products, nursery, or related industries,

"(iv) 1 member representing urban forestry, landscape, or design consultants,

"(v) 2 members representing academic institutions with an expertise in urban and community forestry activities,

"(vi) 1 member representing State forestry agencies or equivalent State agencies,

"(vii) 1 member representing a professional renewable natural resource or arboricultural society,

"(viii) 1 member from the Extension Service,

"(ix) 1 member from the Forest Service, and

"(x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

"(B) VACANCY.—A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"(C) CHAIRPERSON.—The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.

"(D) TERMS.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii) of this paragraph, members shall be appointed for terms of 3 years, and no member may serve more than 2 consecutive terms on the Council.

"(ii) STAGGERED TERMS.—Of the members first appointed—

"(I) 5, including the chairperson and 2 governmental employees, shall be appointed for a term of 3 years,

"(II) 5, including 2 governmental employees, shall be appointed for a term of 2 years, and

"(III) 5, including 2 governmental employees, shall be appointed for a term of 1 year, as designated by the Secretary at the time of appointment.

"(iii) CONTINUATION.—Any member appointed to fill a vacancy occurring before the expiration of the term of the member's predecessor shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(E) COMPENSATION.—

"(i) IN GENERAL.—Except as provided in clause (ii), members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

"(ii) FEDERAL OFFICERS AND EMPLOYEES.—Members of the Council who are full-time officers or employees of the United States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

"(iii) FINANCIAL AND ADMINISTRATIVE SUPPORT.—The Secretary shall provide financial and administrative support for the Council.

"(3) URBAN AND COMMUNITY FORESTRY ACTION PLAN.—Within 1 year after the date of enactment of this subsection and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:

"(A) An assessment of the current status of urban forest resources in the United States.

"(B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Department of Agriculture, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

"(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

"(D) A review of urban and community forestry research, including—

"(i) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

"(ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

"(iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

"(E) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

"(F) An estimate of the resources needed to implement the National Urban and Community Forestry Action Plan for the succeeding 10 fiscal years.

"(4) AMENDMENT OF THE PLAN.—The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.

"(5) REVIEW OF THE PLAN.—The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of—

"(A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

"(B) the Council's recommendations for research, education, technical assistance, and related activities in the succeeding year; and

"(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review submitted to the Secretary shall be incorporated into the annual report required under section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)).

"(6) DETAIL OF PERSONNEL.—Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.

"(h) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Council' means the National Urban and Community Forestry Advisory Council established under subsection (f);

"(2) the term 'plan' means the National Urban and Community Forestry Action Plan developed under subsection (f)(3); and

"(3) the term 'urban and community area' includes cities, their suburbs, and towns.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $30,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary for each fiscal year thereafter, for the implementation of this section.".

(b) AMENDMENT TO RENEWABLE RESOURCES EXTENSION ACT.—

(1) PROMOTION OF PUBLIC UNDERSTANDING.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(9) in cooperation with State foresters or equivalent State officials, promote public understanding of the energy conservation, economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments.".

(2) URBAN AND COMMUNITY FORESTRY.—Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674(a)) is amended in the final sentence by striking "for planting and management of trees and forests in urban areas," and inserting "for urban and community forestry activities,".

SEC. 1220. FIREFIGHTING PREPAREDNESS AND MOBILIZATION ASSISTANCE.

(a) ASSISTANCE TO STATE FORESTERS.—Section 10(b) of the Act (16 U.S.C. 2106(b)) (as redesignated by section 1215 of this Act) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, including rural volunteer fire departments, to conduct preparedness and mobilization activities, including training, equipping, and otherwise enabling State and local firefighting agencies to respond to requests for fire suppression assistance.".

(b) APPROPRIATIONS.—Section 10(e) of the Act (16 U.S.C. 2106(e)) is amended—

(1) by striking "(e)" and inserting "(e)(1)"; and

(2) in paragraph (1) (as so redesignated), by inserting "paragraphs (1), (2), and (3) of" after "implement"; and

(3) by adding at the end thereof the following:

"(2)(A) There are hereby authorized to be appropriated annually $70,000,000 to carry out subsection (b)(4). Of the total amount appropriated to carry out subsection (b)(4)—

"(i) one-half shall be available only for State foresters or equivalent State officials, and through them to other agencies and individuals, of which not less than $100,000 shall be made available to each State; and

"(ii) one-half shall be available only for rural volunteer fire departments.

"(B) The Federal share of the cost of any activity carried out with funds made available pursuant to this paragraph may not exceed 50 percent of the cost of that activity. The non-Federal share for such activity may be in the form of cash, services, or in kind contributions.".

(c) DEFINITIONS.—Section 10 of the Act (16 U.S.C. 2106) (as amended by section 1215) is amended by adding at the end the following:

"(g) As used in this section—

"(1) the term 'rural volunteer fire department' means any organized, not for profit, fire protection organization that provides service primarily to a community or city with a population of 10,000 or less or to a rural area, as defined by the Secretary, whose firefighting personnel is 80 percent or more volunteer, and that is recognized as a fire department by the laws of the State; and

"(2) the term 'mobilization' means any activity in which one fire fighting organization assists another that has requested assistance.".

SEC. 1221. STATEMENT OF LIMITATION.

Section 14 of the Act (16 U.S.C. 2110) (as redesignated by section 1215 of this Act) is amended to read as follows:

Real property.

"SEC. 14. STATEMENT OF LIMITATION.

"This Act shall not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, unless such property rights are voluntarily conveyed or limited by contract or other agreement. This Act does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.".

SEC. 1222. FEDERAL, STATE, AND LOCAL COORDINATION AND COOPERATION.

The Act (16 U.S.C. 2101 et seq.) (as amended by section 1215 of this Act) is further amended by adding at the end thereof the following new section:

16 USC 2113.

"SEC. 19. FEDERAL, STATE, AND LOCAL COORDINATION AND COOPERATION.

"(a) DEPARTMENT OF AGRICULTURE COORDINATING COMMITTEE.—

"(1) ESTABLISHMENT.—The Secretary shall establish an intradepartmental committee, to be known as the 'Forest Resource Coordinating Committee' (hereafter referred to in this section as the 'Coordinating Committee'), to coordinate forestry activities.

"(2) COMPOSITION.—The Coordinating Committee shall be composed of representatives, appointed by the Secretary, from the Agricultural Research Service, Agricultural Stabilization and Conservation Service, Extension Service, Forest Service, and Soil Conservation Service.

"(3) CHAIRPERSON.—The Secretary shall designate the Chief of the Forest Service as chairperson.

"(4) DUTIES.—The Coordinating Committee shall—

"(A) provide assistance in directing and coordinating actions of the Department of Agriculture that relate to educational, technical, and financial assistance concerning forest land to private landowners;

"(B) clarify individual agency responsibilities concerning forest land of each agency represented on the Committee; and

"(C) advise the Secretary of intradepartmental differences regarding the implementation of this Act, and any

other Act related to the authority of the Secretary concerning non-Federal forest lands.

"(b) STATE COORDINATING COMMITTEES.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary, in consultation with the State forester or equivalent State official of each State, shall establish a State Forest Stewardship Coordinating Committee (hereafter referred to in this section as the 'State Coordinating Committee') for each such State.

"(B) COMPOSITION.—The State Coordinating Committee shall be chaired and administered by the State forester, or equivalent State official, or the designee thereof, and shall be composed, to the extent practicable, of—

"(i) representatives from the Forest Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and Extension Service;

"(ii) representatives, to be appointed by the State forester or equivalent State official, representative of—

"(I) local government;

"(II) consulting foresters;

"(III) environmental organizations;

"(IV) forest products industry;

"(V) forest land owners;

"(VI) land-trust organizations, if applicable in the State;

"(VII) conservation organizations; and

"(VIII) the State fish and wildlife agency; and

"(iii) any other individuals determined appropriate by the Secretary.

"(C) TERMS.—The members of the State Coordinating Committee appointed under subparagraph (B)(ii) shall serve 3-year terms, with the initial members serving staggered terms as determined by the State forester or equivalent State official, and may be reappointed for consecutive terms.

"(D) EXISTING COMMITTEES.—Existing State forestry committees may be used to complement, formulate, or replace the State Coordinating Committees to avoid duplication of efforts if such existing committees are made up of membership that is similar to that described in subparagraph (B)(ii), and if such existing committees include landowners and the general public in their memberships.

"(2) DUTIES.—A State Coordinating Committee shall—

"(A) consult with other Department of Agriculture and State committees that address State and private forestry issues;

"(B) make recommendations to the Secretary concerning the assignment of priorities and the coordination of responsibilities for the implementation of this Act by the various Federal and State forest management agencies that take into consideration the mandates of each such agency;

"(C) make recommendations to the State forester or equivalent State official concerning the development of a Forest Stewardship Plan under paragraph (3); and

"(D) make recommendations to the Secretary concerning those forest lands that should be given priority for inclusion

in the Forest Legacy Program established pursuant to section 7.

"(3) FOREST STEWARDSHIP PLAN.—The State forester or equivalent State official of each State, in consultation with the State Coordinating Committee of such State, shall develop a Forest Stewardship Plan that shall—

"(A) provide baseline data on the forest resources of the State;

"(B) outline threats to the forest resources of the State;

"(C) describe economic and environmental opportunities that are linked with the forest resources of the State;

"(D) address management problems, opportunities, and objectives associated with intermingled Federal, State, and private land ownership patterns within the State; and

"(E) make planning recommendations for Federal, State, and local implementation of this Act.

"(4) OTHER PLANS.—Other State forest management plans may be used as the basis for or in lieu of establishing a plan for the State under paragraph (3) if such plans fully conform to the objectives of this section.

"(5) TERMINATION.—The State Coordinating Committees shall not terminate.

"(6) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to compel action by any State official.".

SEC. 1223. ADMINISTRATION.

The Act (16 U.S.C. 2101 et seq.) (as amended by section 1222 of this Act) is further amended by adding at the end thereof the following new section:

16 USC 2114.

"SEC. 20. ADMINISTRATION.

Regulations.

"(a) IN GENERAL.—The Secretary shall administer this Act in accordance with regulations that the Secretary shall develop.

"(b) GUIDELINES.—The regulations promulgated under this Act shall include guidelines for the administration of this Act at the Federal and State levels and shall identify the measures and activities that are eligible for cost sharing under this Act.

"(c) EXISTING MECHANISMS.—Existing mechanisms shall be used to the extent possible to make payments and deliver services to the landowner under this Act.

"(d) LAND GRANT UNIVERSITIES.—The Secretary, in consultation with State foresters or equivalent State officials, may provide assistance directly to other State and local natural resource management agencies and land grant universities in implementing this Act in cases in which the State foresters or equivalent State officials are not able to make fund transfers to other State and local agencies.".

SEC. 1224. CONFORMING AMENDMENTS.

The Act is amended—

(1) in subsections (d) and (f) of section 4 (16 U.S.C. 2103 (d) and (f)), by striking "10(c)" each place that such occurs and inserting "13(c)";

(2) in section 12(f) (as redesignated by section 1215 of this Act) (16 U.S.C. 2108(f)) by striking "13" in subsection (f) and inserting "16"; and

(3) in section 13(g) (as redesignated by section 1215 of this Act) (16 U.S.C. 2109(g)), by striking "13" and inserting "16".

Subtitle B—Research and Education

CHAPTER 1—GENERAL RESEARCH PROGRAMS

SEC. 1231. MCINTIRE-STENNIS RESEARCH PROGRAM. 16 USC 582a note.

It is the sense of Congress to reaffirm the importance of Public Law 87-788 (16 U.S.C. 582a et seq.) commonly known as the McIntire-Stennis Cooperative Forestry Act.

SEC. 1232. COMPETITIVE FORESTRY, NATURAL RESOURCES, AND ENVIRONMENTAL GRANTS PROGRAM. 16 USC 582a-8.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereafter referred to in this section as the "Secretary") shall establish a competitive forestry, natural resources, and environmental grant program to award grants for the conduct of research as described in subsection (c).

(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under subsection (a), an entity shall—

(1) be a State agricultural experiment station, a college or university, a research institution or organization, a Federal agency, a private organization, or a corporation that has a demonstrable capacity to conduct forestry, natural resources, and environmental research as determined by the Secretary; and

(2) prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require, including the proposed use of the amounts that may be received under a grant.

(c) USE.—In awarding the initial grants under subsection (a) the Secretary shall give priority to applicants who will use such grants for research concerning—

(1) the biology of forest organisms, including physiology, genetic mechanisms, and biotechnology;

(2) ecosystem function and management, including forest ecosystem research, biodiversity, forest productivity, pest management, water resources, and alternative silvicultural systems;

(3) wood as a raw material, including forest products and harvesting;

(4) human forest interactions, including outdoor recreation, public policy formulation, economics, sociology, and administrative behavior;

(5) international trade, competition, and cooperation related to forest products;

(6) alternative native crops, products, and services that can be produced from renewable natural resources associated with privately held forest lands;

(7) viable economic production and marketing systems for alternative natural resource products and services;

(8) economic and environmental benefits of various conservation practices on forest lands;

(9) genetic tree improvement; and

(10) market expansion.

(d) FACILITIES AND EQUIPMENT.—

(1) AUTHORITY.—Grants made under this section may be used to update research facilities and equipment available to facili-

tate the conduct of state-of-the-art research in forestry, natural resources, and the environment.

(2) PRIORITIES AND CRITERIA.—The Secretary, in consultation with the Cooperative Forestry Research Council appointed under section 5(b) of Public Law 87-788 (16 U.S.C. 582e(b)), may develop criteria and priorities for the awarding of grants for use under paragraph (1).

(e) RECOMMENDATIONS.—The Secretary shall request the Cooperative Forestry Research Council referred to in subsection (d)(2) to provide recommendations regarding grant priorities.

(f) TERM.—The Secretary may make grants under this section for periods of not to exceed 5 years.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

CHAPTER 2—SPECIALIZED RESEARCH

SEC. 1241. RESEARCH AND UTILIZATION.

(a) REFORESTATION RESEARCH; APPROPRIATIONS; PRIVATE FORESTRY.—Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended—

(1) in subsection (a)(1) by inserting after "energy conservation, and other purposes" the following: ", including activities for encouraging improved reforestation of forest lands from which timber has been harvested";

(2) in subsection (b) by—

(A) inserting "(1)" immediately prior to the words "To ensure the availability,"; and

(B) adding at the end the following:

"(2) In implementing this subsection, the Secretary is authorized to develop and implement improved methods of survey and analysis of forest inventory information, for which purposes there are hereby authorized to be appropriated annually $10,000,000."; and

(3) by adding at the end the following:

"(d) The Secretary is authorized to conduct, support, and cooperate in studies and other activities the Secretary deems necessary to—

"(1) evaluate renewable resource management problems associated with urban-forest interface;

"(2) assess effects of changes in Federal revenue codes on private forest management and investment; and

"(3) develop improved delivery systems for information and technical assistance provided to private landowners.".

(b) RECYCLING RESEARCH.—Section 9 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended to read as follows:

16 USC 1648.

"SEC. 9. RECYCLING RESEARCH.

"(a) FINDINGS.—Congress finds that—

"(1) the United States is amassing vast amounts of solid wastes, which is presenting an increasing problem for municipalities in locating suitable disposal sites;

"(2) a large proportion of these wastes consists of paper and other wood wastes;

"(3) less than one-third of these paper and wood wastes are recycled;

"(4) additional recycling would result in reduced solid waste landfill disposal and would contribute to a reduced rate of removal of standing timber from forest lands; and

"(5) additional research is needed to develop technological advances to address barriers to increased recycling of paper and wood wastes and utilization of products consisting of recycled materials.

"(b) RECYCLING RESEARCH PROGRAM.—The Secretary is authorized to conduct, support, and cooperate in an expanded wood fiber recycling research program, including the acquisition of necessary equipment. The Secretary shall seek to ensure that the program includes the cooperation and support of private industry and that program goals include the application of such research to industry and consumer needs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to implement section 3 of this Act, for the 5-year period beginning on October 1, 1990, there are authorized to be appropriated annually $10,000,000 to implement this section.".

(c) MODERN TIMBER BRIDGE INITIATIVE.—

(1) IN GENERAL.—The Secretary of Agriculture is authorized to continue the Modern Timber Bridge Initiative to provide Federal funds, on a cost share basis as determined by the Secretary, for the construction of demonstration bridges, modern bridge technology transfer projects, and conferences.

(2) APPROPRIATIONS.—There are hereby authorized to be appropriated annually $5,000,000 to carry out this subsection.

(d) FORESTRY RESEARCH NEEDS ASSESSMENTS.—Within 6 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that responds to the recommendations contained in the report of the National Research Council entitled "Forestry Research: A Mandate for Change". The report shall include— Reports.

(1) an assessment of the capability of current forestry research programs to address research areas specified in the report, including research on ecosystem functions and management;

(2) an evaluation of alternatives to current organizational frameworks for providing guidance to forestry research programs and establishing research priorities, including the establishment of a National Forestry Research Council; and

(3) recommendations for changes in current forestry research programs, including levels of research funding, that may be needed to address existing deficiencies.

SEC. 1242. SOUTHERN FOREST REGENERATION PROGRAM. 16 USC 1642 note.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall make a grant to a State for the establishment, within such State, of a center, to be known as the "Southern Forest Regeneration Center" (hereafter referred to in this section as the "Center"), to study forest regeneration problems and forest productivity in the southern region of the United States.

(b) DUTIES OF CENTER.—The Center shall study forest regeneration problems and forest productivity in the southern region of the United States, including—

(1) nursery management concerns that will lead to improved seedling quality;

(2) forest management practices that account for environmental stresses; and

(3) the development of low-cost forest regeneration methods that provide options for wood products, species diversity, wildlife habitat, and production of clean air and water.

(c) ESTABLISHMENT OF OTHER PROGRAMS.—The Secretary of Agriculture may establish other programs in other regions of the United States, or a comprehensive National program, to carry out the purposes of this section as the Secretary determines appropriate.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Establishment. Nebraska. 16 USC 1642 note.

SEC. 1243. SEMIARID AGROFORESTRY RESEARCH CENTER.

(a) SEMIARID AGROFORESTRY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.—The Secretary of Agriculture shall establish at the Forestry Sciences Laboratory of the United States Forest Service, in Lincoln, Nebraska, a Semiarid Agroforestry Research, Development, and Demonstration Center (hereafter referred to in this section as the "Center") and appoint a Director to manage and coordinate the program established at the Center under subsection (b).

(b) PROGRAM.—The Secretary shall establish a program at the Center and seek the participation of Federal or State governmental entities, land-grant colleges or universities, State agricultural experiment stations, State and private foresters, the National Arbor Day Foundation, and other nonprofit foundations in such program to conduct or assist research, investigations, studies, and surveys to—

(1) develop sustainable agroforestry systems on semiarid lands that minimize topsoil loss and water contamination and stabilize or enhance crop productivity;

(2) adapt, demonstrate, document, and model the effectiveness of agroforestry systems under different farming systems and soil or climate conditions;

(3) develop dual use agroforestry systems compatible with paragraphs (1) and (2) which would provide high-value forestry products for commercial sale from semiarid land;

(4) develop and improve the drought and pest resistance characteristics of trees for conservation forestry and agroforestry applications in semiarid regions, including the introduction and breeding of trees suited for the Great Plains region of the United States;

(5) develop technology transfer programs that increase farmer and public acceptance of sustainable agroforestry systems;

(6) develop improved windbreak and shelterbelt technologies for drought preparedness, soil and water conservation, environmental quality, and biological diversity on semiarid lands;

(7) develop technical and economic concepts for sustainable agroforestry on semiarid lands, including the conduct of economic analyses of the costs and benefits of agroforestry systems and the development of models to predict the economic benefits under soil or climate conditions;

(8) provide international leadership in the development and exchange of agroforestry practices on semiarid lands worldwide;

(9) support research on the effects of agroforestry systems on semiarid lands in mitigating nonpoint source water pollution;

(10) support research on the design, establishment, and maintenance of tree and shrub plantings to regulate the deposition of snow along roadways; and

(11) conduct sociological, demographic, and economic studies as needed to develop strategies for increasing the use of forestry conservation and agroforestry practices.

(c) INFORMATION COLLECTION AND DISSEMINATION.—The Secretary shall establish at the Center a program, to be known as the National Clearinghouse on Agroforestry Conservation and Promotion to—

(1) collect, analyze, and disseminate information on agroforestry conservation technologies and practices; and

(2) promote the use of such information by landowners and those organizations associated with forestry and tree promotion.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 annually to carry out this section.

SEC. 1244. FOREST LAND PROTECTION.

(a) NORTHERN FOREST LANDS.—In furtherance of Public Law 100-446, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") is authorized to continue support for the study of changing land ownership and management patterns in the northern forest lands of Maine, New Hampshire, Vermont, and New York. State listing.

(b) NEW YORK-NEW JERSEY HIGHLANDS.—

(1) IN GENERAL.—The Secretary is authorized to conduct a study of the region known as the New York-New Jersey Highlands, located in the States of New York, New Jersey, and Pennsylvania, including the Sterling Forest in Orange County, New York. Pennsylvania.

(2) SCOPE OF STUDY.—The study authorized under this subsection (hereafter in this subsection referred to as the "study") shall include an identification and assessment of—

(A) the physiographic boundaries of the region referred to in this subsection (hereafter in this subsection referred to as the "region");

(B) forest resources of the region, including (but not limited to) timber and other forest products, fish and wildlife, lakes and rivers, and recreation;

(C) historical land ownership patterns in the region and projected future land ownership, management, and use, including future recreational demands and deficits and the potential economic benefits of recreation to the region;

(D) the likely impacts of changes in land and resource ownership, management, and use on traditional land use patterns in the region, including economic stability and employment, public use of private lands, natural integrity, and local culture and quality of life; and

(E) alternative conservation strategies to protect the long-term integrity and traditional uses of lands within the region.

(3) ALTERNATIVE CONSERVATION STRATEGIES.—The alternative conservation strategies referred to in paragraph (2)(E) shall include a consideration of—

(A) sustained flow of renewable resources in a combination that will meet the present and future needs of society;

(B) public access for recreation;

(C) protection of fish and wildlife habitat;

(D) preservation of biological diversity and critical natural areas; and

(E) new local, State, or Federal designations.

(4) PUBLIC PARTICIPATION.—In conducting the study, the Secretary shall provide an opportunity for public participation.

(5) APPROPRIATIONS.—There are hereby authorized to be appropriated $250,000 to carry out this subsection.

16 USC 1601 note. President.

SEC. 1245. PRESIDENTIAL COMMISSION ON STATE AND PRIVATE FORESTS.

(a) ESTABLISHMENT.—The President shall establish a Commission on State and Private Forests (hereafter in this section referred to as the "Commission") which shall assess the status of the State and private forest lands of the United States, the problems affecting these lands, and the potential contribution of these lands to the renewable natural resource needs of the United States associated with their improved management and protection.

(b) COMPOSITION.—The Commission shall be composed of 25 members to be appointed by the President, including Federal, State, and local officials, timber industry representatives, nonindustrial private forest landowners, conservationists, and community leaders. No more than five members shall be appointed from any one State. Not fewer than 20 members shall be appointed by the President from nominations submitted by the following Members of Congress:

(1) The chairman of the Committee on Agriculture of the House of Representatives.

(2) The ranking minority member of the Committee on Agriculture of the House of Representatives.

(3) The chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) VACANCY.—A vacancy on the Commission shall be filled by appointment by the President in the manner provided in subsection (b).

(d) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission by a majority vote.

(e) MEETINGS.—The Commission shall meet at the call of the chairperson or a majority of the members of the Commission.

(f) DUTIES.—

(1) STUDY.—The Commission shall conduct a study that shall include—

(A) an assessment using existing inventories of the current status of the State and private forest lands of the United States, including—

(i) ownership status and past and future trends;

(ii) the production of timber and nontimber resources from such lands; and

(iii) landowner attitudes toward the protection and management of these lands;

(B) a review of the problems affecting the State and private forest lands of the United States, including—

(i) resource losses to insects, disease, fire, and damaging weather;

(ii) inadequate reforestation;

(iii) fragmentation and conversion of the forest land base; and

(iv) management options;

(C) constraints on, and opportunities for, providing multiresource outputs from forest lands;

(D) administrative and legislative recommendations for addressing the problems and capitalizing on the potential of these lands for contributing to the renewable natural resource needs of the United States.

(2) FINDINGS AND RECOMMENDATIONS.—On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the President with respect to the future demands placed on State and private forests in meeting both commodity and noncommodity needs of the United States in anticipation of impending changes in the management of the national forests, especially with regard to timber harvest. This assessment should focus on the role of State and private forest lands and help to identify means of improving their contribution to meeting the timber and nontimber needs of the United States.

(3) REPORT.—The Commission shall submit to the President, not later than December 1, 1992, a report containing its findings and recommendations. The President shall submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the report is authorized to be printed as a House Document. President.

(g) OPERATIONS IN GENERAL.—

(1) AGENCY COOPERATION.—The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office shall cooperate with the Commission.

(2) COMPENSATION.—Members of the Commission shall serve without compensation for work on the Commission. While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5 of the United States Code.

(3) DIRECTOR.—To the extent there are sufficient funds available to the Commission and subject to such rules as may be adopted by the Commission, the Commission, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates, may—

(A) appoint and fix the compensation of a director; and

(B) appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions.

(4) STAFF AND SERVICES.—On the request of the Commission, the heads of executive agencies, the Comptroller General, and the Director of the Office Technology Assessment may furnish the Director of the Office of Technology Assessment may furnish the Commission with such office, personnel or support services as the head of the agency, or office, and the chairperson of the Commission agree are necessary to assist the Commission to carry out its duties and functions. The Commission shall not

be required to pay, or reimburse, any agency for office, personnel or support services provided by this subsection.

(5) EXEMPTIONS.—

(A) FACA.—The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2, 1 et seq.).

(B) TITLE 5.—The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

(h) AUTHORIZATION OF APPROPRIATIONS AND SPENDING AUTHORITY.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to implement this section.

(2) SPENDING AUTHORITY.—Any spending authority (as defined in section 401 of the Congressional Budget Act of 1974) provided in this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(i) TERMINATION.—The Presidential Commission on State and Private Forests shall cease to exist 90 days following the submission of its report to the President.

Washington. Oregon.

SEC. 1246. BLUE MOUNTAIN NATURAL RESOURCE INSTITUTE.

(a) FINDINGS.—The Congress finds that—

(1) the forests and rangelands in the States of Washington and Oregon east of the Cascade Crest do not yield their productive capacity of multiple products, services and benefits, yet these forests and rangelands are expected to yield more;

(2) these forests are among the most insect infested and disease infected in North America due to previous management practices, including the exclusion of fire and past management treatments, which have allowed these forests to become overstocked or to succeed to pest-susceptible forest types;

(3) forage productivity of these forests and rangelands is reduced due to the spread of nonactive grasses, juniper, and noxious weeds;

(4) the unprecedented build-up of fuel loads in these forests places them under continual threat of catastrophic fire;

(5) losses due to insects, disease, and fire and reduced productivity of these forests and rangelands have far reaching environmental and economic consequences to local communities and a region entirely dependent on land-based resources; and

(6) concerns over global climate change, water quality and quantity, air quality, fish and wildlife habitat, biodiversity, long-term forest and rangeland health and productivity, welfare of resource-dependent communities and regional economies, catastrophic fire, and scenic quality of landscapes set the dimensions of multifaceted resources issued which are straining the effectiveness of policy makers and land managers.

(b) ESTABLISHMENT OF RESEARCH AND DEMONSTRATION PROGRAM.—The Secretary of Agriculture shall establish, plan, and initiate a research, development, and application program for the forests and rangelands of the States of Oregon and Washington located east of the Cascade Crest which shall address research, development, and application needs of the Blue Mountain area in Washington and

Oregon. The program, through research, technology development and application, and public involvement, shall—

(1) compile and develop basic biological and ecological information to improve forest and rangeland health and vigor;

(2) focus research on joint management and production of timber, wildlife, grazing, fish, water quality, and recreation;

(3) stimulate cooperative research between universities and Federal and State agencies;

(4) identify and evaluate opportunities to enhance the long-term economic and social benefits derived from the region's forest and rangeland resources in concert with county and regional economic strategies;

(5) convert results of research into technology development products and apply new information in a timely manner;

(6) develop technology to guide intensive multiresource management and policy decisions for sustaining long-term productivity and ecological values into the early decades of the 21st century;

(7) develop new technologies that will enable forest and range managers to maximize multiresource benefits and minimize the hazards of fire, insect, and disease outbreaks;

(8) develop forest management practices for use by land managers and landowners that are appropriate at the wildland-urban interface and in concert with public values for these areas;

(9) demonstrate the application of technology and resource knowledge on specific management areas; and

(10) establish mutually beneficial relations with the public to inform them regarding research and technology development and new management directions and to obtain feedback.

(c) PARTNERSHIP.—The Secretary of Agriculture shall establish and carry out the program under subsection (b) in consultation and cooperation with Federal, State, and local agencies, universities, and the private sector. In addition, the Secretary of Agriculture shall establish an advisory committee representing broad interests and perspectives to assist in the formulation of plans for implementing the program.

SEC. 1247. INTERNATIONAL FOREST PRODUCTS TRADE INSTITUTE.

Employment. Rural areas. 16 USC 2112 note.

(a) ESTABLISHMENT.—The Secretary of Agriculture may establish an International Forest Products Trade Institute (hereafter in this section referred to in this section as the "Institute").

(b) MISSION.—The mission of the Institute will be to increase the competitive position of the forest industries of the northeastern United States as major producers of international forest products in order to increase domestic employment and stimulate rural development, and to provide a knowledgeable, objective analysis of global forest resource problems.

(c) FUNCTIONS.—The Institute shall—

(1) emphasize the application of existing knowledge to the manufacturing and international marketing of forest products as well as conduct new research related to the competitiveness of the northeastern forest products industry;

(2) study and evaluate domestic and international forest, forest sector, agroforestry, development, economic, and trade policies;

(3) design, analyze and test technologically appropriate manufacturing, processing and marketing systems which are supportive of and consistent with forest policy and management strategies formulated by the Institute and which enhance opportunities for markets in forest products; and

(4) formulate and test management strategies for—

(A) United States forests, and

(B) manufacturing facilities that promote ecologically sustainable use, and long-term management, of international forests.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

CHAPTER 3—EDUCATION

SEC. 1251. EXTENSION.

(a) EXPANSION OF PROGRAMS.—The Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 et seq.) is amended by inserting after section 5 the following new section:

16 USC 1674a.

"SEC. 5A. EXPANDED PROGRAMS.

"(a) IN GENERAL.—The Secretary, acting through the Extension Service and the State cooperative extension services, and in consultation with State foresters or equivalent State officials, school boards, and universities, shall expand forestry and natural resources education programs conducted under this Act for private forest owners and managers, public officials, youth, and the general public, and shall include guidelines for the transfer of technology.

"(b) ACTIVITIES.—

"(1) IN GENERAL.—In expanding the programs conducted under this Act, the Secretary shall ensure that activities are undertaken to promote policies and practices that enhance the health, vitality, productivity, economic value, and environmental attributes of the forest lands of the United States.

"(2) TYPES.—The activities referred to in paragraph (1) shall include—

"(A) demonstrating and teaching landowners and forest managers the concepts of multiple-use and sustainable natural resource management;

"(B) conducting comprehensive environmental education programs that assist citizens to participate in environmentally positive activities such as tree planting, recycling, erosion prevention, and waste management; and

"(C) educational programs and materials that will improve the capacity of schools, local governments and resource agencies to deliver forestry and natural resources information to young people, environmentally concerned citizens, and action groups.".

(b) PROGRAM AUTHORIZATIONS.—Section 3(a) of such Act (16 U.S.C. 1672(a)) is amended—

(1) in paragraph (7), by striking "and" at the end thereof;

(2) in paragraph (8), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(9) conduct a comprehensive natural resource and environmental education program for landowners and managers, public officials, and the public, with particular emphasis on youth.".

(c) EXTENSION PROGRAM PLAN.—Section 5(a) of such Act (16 U.S.C. 1674(a)) is amended by inserting before the period at the end thereof the following: ", and give special attention to water quality protection and natural resource and environmental education for landowners and managers, public officials, and the public".

SEC. 1252. FORESTRY STUDENT GRANT PROGRAM.

The Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 10. FORESTRY STUDENT GRANT PROGRAM. 16 USC 1649.

"(a) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the 'Forestry Student Grant Program' (hereafter referred to in this section as the 'Program'), to provide assistance to expand the professional education of forestry, natural resources, and environmental scientists.

"(b) STUDENT GRANTS.—Under the Program the Secretary shall provide assistance for the establishment of a competitive grant fellowship program to assist graduate, and undergraduate minority and female, students attending institutions having programs in forestry and natural resources.

"(c) ELIGIBILITY.—The Secretary shall ensure that students concentrating in the following studies shall be eligible for assistance under subsection (b):

"(1) Forestry.
"(2) Biology and forest organisms.
"(3) Ecosystem function and management.
"(4) Human-forest interaction.
"(5) International trade, competition, and cooperation.
"(6) Wood as a raw material.
"(7) Economics and policy.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

Subtitle C—America the Beautiful

America the Beautiful Act of 1990. 16 USC 2101 note.

SEC. 1261. SHORT TITLE.

This subtitle may be cited as the "America the Beautiful Act of 1990".

SEC. 1262. FINDINGS.

Congress finds that—

(1) trees and forests provide beauty and diversity to both rural and urban landscapes;

(2) trees and forests protect the United States's soil, water, and wetland resources by filtering runoff and preventing erosion;

(3) trees and forests provide food and cover for many species of wildlife;

(4) trees and forests provide shade, block winds, and add moisture to the air, thereby mitigating the urban "heat island" effect and significantly reducing energy use;

(5) trees and forests make important contributions to the environmental, social, and economic well-being of both rural and urban areas across the United States; and

(6) stewardship of trees and forests could be significantly enhanced by encouraging, promoting, and supporting partnerships and community service projects involving individuals, youth groups, organizations, businesses and governments at all levels.

SEC. 1263. PURPOSES.

The purposes of this subtitle are to—

(1) authorize the President to designate a private nonprofit foundation as eligible for a one-time grant from the Secretary of Agriculture, to be used for promoting public awareness and a spirit of volunteerism, soliciting private sector contributions, and overseeing the use of these contributions to encourage tree planting projects in communities and urban areas;

(2) promote the principles of basic forest stewardship through the nationwide planting, improvement, and maintenance of trees in order to increase reforestation, enhance the environmental and aesthetic qualities of the United States's rural and urban areas, and reduce global carbon dioxide levels;

(3) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others, and enter into cost-sharing agreements with individuals, for the purpose of encouraging owners of nonindustrial private lands to plant and maintain trees and improve forests in rural areas; and

(4) authorize the Secretary of Agriculture to provide increased financial and technical assistance to State forestry agencies and others for the purpose of encouraging units of local government, civic groups, and individuals to plant and maintain trees and improve forests in communities and urban areas.

SEC. 1264. TREE PLANTING FOUNDATION.

(a) PURPOSE.—The purpose of this section is to authorize the President to designate a private nonprofit Foundation as eligible to receive a grant from the Department of Agriculture to be used—

(1) to provide grants, including matching grants, to qualifying nonprofit organizations (including youth groups), municipalities, counties, towns and townships for the implementation of programs to promote public awareness and a spirit of volunteerism in support of tree planting, maintenance, management, protection, and cultivation projects in rural areas, communities and urban areas throughout the United States;

(2) to solicit public and private sector contributions through the mobilization of individuals, businesses, governments, and community organizations with the goal of increasing the number of trees planted, maintained, managed, and protected in rural areas, communities and urban environments;

(3) to accept and administer public and private gifts and make grants, including matching grants, to encourage local participation, for the planting, maintenance, management, protection, and cultivation of trees; and

(4) to ensure that our descendants will be able to share their ancestors' pride when referring to their land as "America the Beautiful".

(b) AUTHORITY.—The President is authorized to designate a private nonprofit organization (hereafter in this section referred to as the "Foundation") as eligible to receive funds pursuant to subsections (d) and (e) upon determining that such organization can, consistent with its charter, carry out the purposes stated in subsection (a), and that the officers of such organization have the experience and expertise necessary to direct the activities of the organization. Nothing in this section shall be construed to make officers, employees, or members of the board of directors of the Foundation officers or employees of the United States. The Foundation shall be a private and nonprofit organization and not an agency or establishment of the United States. President.

(c) IMPLEMENTATION.—The Foundation shall carry out this section in accordance with the purposes stated in subsection (a).

(d) FUNDING.—For fiscal year 1991, the Secretary is authorized to make a grant of not to exceed $25,000,000 to the Foundation.

(e) USE OF FUNDS.—Funds made available pursuant to subsection (d) shall be granted to the Foundation by the Secretary to enable the Foundation to carry out the purposes specified in subsection (a).

(f) INTEREST.—Notwithstanding any other provision of law, the Foundation may hold funds made available pursuant to subsection (e) in interest-bearing accounts prior to the disbursement of the funds for purposes specified in subsection (a) and may retain to carry out such purposes any interest earned on the deposits.

(g) LIMITATIONS ON USES OF FUNDS.—

(1) IN GENERAL.—The Foundation may use funds provided by this section only for making grants to qualified organizations, municipalities, counties, towns and townships for the implementation of projects and activities that are consistent with the purposes specified in subsection (a).

(2) QUALIFIED ORGANIZATIONS.—For the purposes of this section, qualified organizations shall consist of those organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and have demonstrated a capability to implement the project or activity for which the Foundation funds will be used.

(h) COMPENSATION FROM OUTSIDE SOURCES.—An officer or employee of the Foundation may not receive any salary or other compensation for services rendered to the Foundation from any source other than the Foundation.

(i) STOCK AND DIVIDENDS.—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(j) LOBBYING.—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(k) SALARY; TRAVEL AND EXPENSES; CONFLICTS OF INTEREST.—

(1) PERSONAL BENEFIT FROM FUNDS.—No part of the funds of the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses.

(2) TRAVEL AND EXPENSE REIMBURSEMENT.—Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

(3) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, or organization in which such director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(l) RECORDS; AUDITS.—The Foundation shall ensure that—

(1) each recipient of assistance provided through the Foundation under this section maintains, for at least 5 years after the receipt of the assistance, separate accounts with respect to the assistance and such records as may be reasonably necessary to disclose fully—

(A) the amount and the disposition by the recipient of the proceeds of the assistance;

(B) the total cost of the project or undertaking in connection with which the assistance is given or used;

(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(D) such other records as will facilitate an effective audit; and

(2) the Foundation and any duly authorized representative of the Foundation shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Foundation under this section.

(m) AUDITS.—

(1) INDEPENDENT AUDITS.—For the fiscal year in which the Foundation receives the grant awarded under subsection (e), and for the succeeding 5 fiscal years, the accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by subsection (n).

(2) AGENCY AUDITS.—For the fiscal year in which the Foundation receives the grant awarded under subsection (d), and for the succeeding 5 fiscal years, the financial transactions undertaken pursuant to this section by the Foundation may be audited by any agency designated by the President.

(n) ANNUAL REPORTS.—

(1) IN GENERAL.—Not later than 3 months after the conclusion of each fiscal year, the Foundation shall publish an annual report that includes a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Foundation under this Act during the fiscal year.

(2) TERMINATION.—The obligation of the Foundation to publish annual reports pursuant to this subsection shall terminate after publication of the report incorporating the findings of the final audit in accordance with procedures required by subsection (l).

(o) PROHIBITION ON COMMERCIAL HARVEST.—Trees planted pursuant to a program receiving funds under this section may not be commercially harvested and sold for Christmas trees.

(p) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $25,000,000 to be granted by the Secretary of Agriculture to the Foundation. All funds appropriated under this section may remain available until expended.

SEC. 1265. RURAL TREE PLANTING AND FOREST MANAGEMENT PROGRAM.

The Secretary of Agriculture is authorized to establish a rural tree planting and forest management program as a special component of the forest stewardship program and the stewardship incentive program established under sections 5 and 6 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2102) (as amended by subtitle A). Such program shall terminate on December 31, 2001.

SEC. 1266. COMMUNITY TREE PLANTING AND IMPROVEMENT PROGRAM.

The Secretary of Agriculture is authorized to establish a community tree planting and improvement program as a special component of the urban and community forestry assistance program established under section 9 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2105) (as amended by section 1219). Such program shall terminate on December 31, 2001.

Subtitle D—Miscellaneous Provisions

SEC. 1271. EMERGENCY REFORESTATION ASSISTANCE. 16 USC 2106a.

(a) IN GENERAL.—The Secretary of Agriculture is authorized to provide assistance under this section to eligible landowners who suffer destruction of 35 percent or more of a commercial tree stand due to damaging weather, related condition, or wildfire.

(b) FORM OF ASSISTANCE.—The assistance, if any, provided by the Secretary under this section shall consist of either—

(1) reimbursement of up to 65 percent of the cost of reestablishing such tree stand damaged by the damaging weather, related condition, or wildfire in excess of 35 percent mortality; or

(2) at the discretion of the Secretary, provision of sufficient tree seedlings to reestablish such tree stand.

(c) CONDITIONS.—

(1) LIMITATION ON ASSISTANCE.—No person may receive an amount in excess of $25,000 in any fiscal year, or an equivalent value in tree seedlings, under this section.

(2) INELIGIBILITY.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary, shall not be eligible to receive any disaster payment or other benefits under this section.

(3) IMPLEMENTATION.—In implementing this section, the Secretary shall issue regulations— Regulations.

(A) defining the term "person" for the purposes of this section that shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308);

(B) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this subsection; and

(C) ensuring that no person receives duplicative payments or assistance under this section, the Cooperative Forestry Assistance Act of 1978, and the Agricultural Conservation Program established under section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p), or other Federal program.

(d) DEFINITIONS.—As used in this section—

(1) the term "damaging weather" includes drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;

(2) the term "eligible landowner" means a person who—

(A) produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees;

(B) owns 1,000 acres or less of private forest land; or

(C) owns more than 1,000 acres but less than 5,000 acres of private forest land if the Secretary, in the Secretary's discretion, determines the person eligible;

(3) the term "qualifying gross revenues" means—

(A) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(B) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources;

(4) the term "related condition" includes insect infestations, disease, or other deterioration of a tree stand that is accelerated or exacerbated by damaging weather;

(5) the term "reestablish" includes site preparation, reforestation of a damaged stand, and timber stand improvement practices, including thinning, prescribed burning, and other practices approved by the Secretary for reforestation;

(6) the term "Secretary" means the Secretary of Agriculture; and

(7) the term "wildfire" means any forest or range fire.

(e) RETROACTIVE ASSISTANCE.—The Secretary shall use funds provided under this section to reimburse landowners for approved reforestation practices that were implemented before the date of enactment of this section. The Secretary shall not make reimbursements for reforestation practices that were implemented prior to September 1, 1989.

SEC. 1272. TALLADEGA NATIONAL FOREST EXPANSION.

The boundaries of the Talladega National Forest are hereby modified to include all lands depicted on a map entitled "Talladega Forest Expansion" and dated October 1990, which shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Washington, District of Columbia. Within the area delineated on such map, the Secretary shall utilize his authorities under the Act of March 1, 1911 (Chapter 186, 36 Stat. 961), to acquire lands, waters, and interests therein. Lands so acquired shall be managed under such Act for National Forest purposes. It is the intent of the Congress that, to the extent practicable, private lands be acquired on a willing seller basis without undue delay.

TITLE XIII—FRUITS, VEGETABLES, AND MARKETING

Subtitle A—Fruits and Vegetables

Nutrition. Domestic producers.

SEC. 1301. FINDINGS. 7 USC 499a note.

Congress finds that—

(1) fruits, vegetables, and specialty crops are a vital and important source of nutrition for the general health and welfare of the people of the United States; and

(2) fruits and vegetables are recommended as an essential part of a healthy, nutritious diet by numerous health officials and organizations including the Surgeon General of the United States; the National Institutes of Health; the National Cancer Institute; the American Heart Association; the Committee on Diet, Nutrition and Cancer of the National Academy of Sciences; the Department of Agriculture; and the Department of Health and Human Services.

SEC. 1302. PURPOSES. 7 USC 499a note.

The purposes of this subtitle are to—

(1) improve the Nation's dietary and nutritional standards by promoting domestically produced wholesome and nutritious fruit and vegetable products;

(2) increase the public awareness as to the difficulties domestic producers experience regarding the production, harvesting, and marketing of these products; and

(3) aid in the development of new technology and techniques that will assist domestic producers in meeting the challenges of increased demands for fruit and vegetable products in the future.

SEC. 1303. DECLARATION. 7 USC 499a note.

Congress declares that the domestic production of fruits and vegetables is an integral part of this Nation's farm policy.

SEC. 1304. STUDY OF THE FRUIT AND VEGETABLE INDUSTRY. 7 USC 499a note.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the state of the domestic fruit and vegetable industry. In conducting such study, the Secretary of Agriculture shall consult with such agencies or departments, as determined necessary by the Secretary of Agriculture, including the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

(2) CONTENTS.—The study conducted under paragraph (1) shall include—

(A) a review of the availability of an adequate labor supply for maintaining and harvesting of fruits and vegetables;

(B) a review of the availability of crop insurance or disaster assistance for fruit and vegetable producers;

(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest

management, post harvest protection, and other scientific developments related to the production and marketing of fruits and vegetables;

(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, and an evaluation of the value of national uniformity to both consumers and producers;

(E) a review of the requirements and cost of labeling fruits and vegetables in the industry, and the benefits that would result from the labeling of such products; and

(F) a review of Federal educational programs that teach the importance of fruits and vegetables to a proper diet.

(b) REPORT.—Not later than 18 months after the date of enactment of this title, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report containing the results of the study described in subsection (a). Such report shall include—

(1) the recommendations of the Secretary concerning the manner in which producers of domestic fruit and vegetable commodities that are not receiving assistance under the programs that provide market enhancement assistance (such as the export enhancement program under subtitle B of title XI of the Food Security Act of 1985 (7 U.S.C. 1736p et seq.) to producers of domestic fruit and vegetable commodities, could participate in such programs; and

(2) the recommendations to the Secretary concerning the establishment of additional programs of the type described in paragraph (1) to assist producers of domestic fruit and vegetable commodities in increasing their production and in expanding domestic and foreign markets for the products of such producers.

7 USC 499a note.

SEC. 1305. COUNTRY OF ORIGIN LABELING PROGRAMS.

(a) GROWN IN THE U.S. PROGRAM.—The Secretary of Agriculture (hereafter referred to in this section as the "Secretary") shall implement a program defining the conditions under which non-perishable agricultural products may be designated as "grown in the U.S.".

(b) PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall implement a 2-year pilot program during which time perishable agricultural products (fresh fruits and vegetables) are labeled or marked as to their country of origin. This program shall be conducted nationwide. After the 2-year period, the Secretary shall conduct a study to determine the results of the program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the program.

(2) DETAILS OF THE PILOT PROGRAM.—

(A) DESIGNATION OF COUNTRY OF ORIGIN.—The program shall require that the country of origin of perishable agricultural products be indicated on any such products or on the package, display, holding unit, or bin by means of a label, stamp, mark, placard, or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign near the products shall be an acceptable indication of the country of origin.

(B) APPLICATION OF PROGRAM.—

(i) IMPORTED AND DOMESTIC PRODUCTS.—The program shall apply to imported and domestic perishable agricultural products (including fresh fruits and vegetables).

(ii) IMPORTED PERISHABLE AGRICULTURAL PRODUCTS.—The labeling program shall apply to imported perishable agricultural products that enter the United States marked as to the country of origin and that are in compliance with section 304(a) of the Tariff Act of 1930.

(C) EXEMPTIONS.—The Secretary may provide for exemptions for products that are exempted, under section 304(a)(3)(J) of the Tariff Act of 1930, from the country of origin marking requirements of that Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1306. ENFORCEMENT OF HANDLER ASSESSMENTS.

Section 8c(14) of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(14)) is amended—

(1) in subparagraph (A) by—

(A) striking "(other than a provision calling for payment of a pro rata share of expenses)"; and

(B) striking ": *Provided*, That if" and inserting ". If"; and

(2) in subparagraph (B) by striking "(other than a provision calling for payment of a pro rata share of expenses)".

SEC. 1307. KIWIFRUIT AND OTHER FRUIT.

The first sentence of section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking "or eggplants" and inserting "eggplants, kiwifruit, nectarines, plums, pistachios, or apples".

SEC. 1308. MARKETING ORDERS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e–1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by—

(1) striking "(a) Notwithstanding any other provision of law," in the first sentence, and inserting in its place "(a) Subject to the provisions of subsections (c) and (d) and notwithstanding any other provision of law,";

(2) adding at the end thereof the following new subsections:

"(c) Prior to any import prohibition or regulation under this section being made effective with respect to any commodity— Imports.

"(1) the Secretary of Agriculture shall notify the United States Trade Representative of such import prohibition or regulation; and

"(2) the United States Trade Representative shall advise the Secretary of Agriculture, within 60 days of the notification under paragraph (1), to ensure that the application of the grade, size, quality, and maturity provisions of the relevant marketing order, or comparable restrictions, to imports is not inconsistent with United States international obligations under any trade agreement, including the General Agreement on Tariffs and Trade.

"(d) The Secretary may proceed with the proposed prohibition or regulation if the Secretary receives the advice and concurrence of

the United States Trade Representative within 60 days of the notification under subsection (c)(1).".

7 USC 499b-1.

SEC. 1309. PRODUCTS PRODUCED IN DISTINCT GEOGRAPHIC AREAS.

(a) IN GENERAL.—In the case of a perishable agricultural commodity (as defined under the Perishable Agricultural Commodity Act (7 U.S.C. 499a(4))—

(1) subject to a Federal marketing order under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.);

(2) traditionally identified as being produced in a distinct geographic area, State, or region; and

(3) the unique identity, based on such distinct geographic area, of which has been promoted with funds collected through producer contributions pursuant to such marketing order,

no person may use the unique name or geographical designation of such commodity to promote the sale of a similar commodity produced outside such area, State, or region.

(b) PENALTIES.—A violation of this section shall be considered a violation of paragraphs (4) and (5) of section 2 of the Perishable Agricultural Commodities Act (7 U.S.C. 499b (4) and (5)).

(c) REIMBURSEMENT.—A person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of this section.

(d) PROHIBITION.—The Secretary of Agriculture shall not increase any fees charged under the Perishable Agricultural Commodities Act (7 U.S.C. 499 et seq.) to offset costs associated with the operation of this section.

(e) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section.

Subtitle B—National Laboratory Accreditation

7 USC 138.

SEC. 1321. DEFINITIONS.

As used in this subtitle:

(1) AGRICULTURAL PRODUCT.—The term "agricultural product" means any fresh fruit or vegetable or any commodity or product derived from livestock or fowl, that is marketed in the United States for human consumption.

(2) CERTIFICATE.—The term "certificate" means a certificate of accreditation issued under this subtitle.

(3) LABORATORY.—The term "laboratory" means any facility or vehicle that is owned by an individual or a public or private entity and is equipped and operated for the purpose of carrying out pesticide residue analysis on agricultural products for commercial purposes.

(4) PESTICIDE.—The term "pesticide" means any substance that alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

7 USC 138a.

SEC. 1322. NATIONAL LABORATORY ACCREDITATION PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall administer a National Laboratory Accreditation Program under which labora-

tories that request accreditation and conduct residue testing of agricultural products, or that make claims to the public or buyers of agricultural products concerning chemical residue levels on agricultural products, shall be determined to meet certain minimum quality and reliability standards.

(b) STANDARDS.—The Secretary of Health and Human Services, after consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall establish, through regulations, standards for the National Laboratory Accreditation program that shall include— Regulations.

(1) standards applicable to laboratories;

(2) qualifications for directors and other personnel; and

(3) standards and procedures for quality assurance programs.

(c) ACCREDITING BODIES.—The Secretary of Health and Human Services shall approve State agencies or private, nonprofit entities as accrediting bodies to act on behalf of such Secretary in implementing the certification and quality assurance programs in accordance with the requirements of this section. In making such approvals the Secretary of Health and Human Services shall— Intergovernmental relations. Nonprofit organizations.

(1) oversee and review the performance of any accrediting body acting on behalf of the Secretary to ensure that such accrediting body is in compliance with the requirements of the certification program under this section; and

(2) have the right to obtain from an accrediting body acting on behalf of the Secretary and from any laboratory that may be certified by such a body all records and materials that may be necessary for the oversight and review required by paragraph (1). Records.

(d) REQUIREMENTS.—To be accredited under this subtitle, a laboratory shall—

(1) prepare and submit an application for accreditation to the Secretary; and

(2) comply with such terms and conditions as are determined necessary by the Secretary and the Secretary of Health and Human Services.

(e) EXCEPTIONS.—This subtitle shall not apply to—

(1) a laboratory operated by a government agency;

(2) a laboratory operated by a corporation that only performs analysis of residues on agricultural products for such corporation or any wholly owned subsidiary of such corporation and does not make claims to the public or buyers based on such analysis;

(3) a laboratory operated by a partnership that only performs analysis of residues on agricultural products for the partners of such partnership and does not make claims to the public or buyers based on such analysis; or

(4) a laboratory not operated for commercial purposes that performs pesticide chemical residue analysis on agricultural products for research or quality control for the internal use of a person who is initiating the analysis.

SEC. 1323. ACCREDITATION. 7 USC 138b.

(a) IN GENERAL.—The Secretary shall issue certificates of accreditation to laboratories that meet the requirements of this subtitle, as determined by the Secretary.

(b) REQUIREMENTS FOR ACCREDITATION.—To receive accreditation under this subtitle, a laboratory shall prepare and submit an ap-

plication for accreditation to the Secretary and shall complete such required tests, and meet such standards as established under section 1322.

(c) FAILURE TO MEET ACCREDITATION STANDARDS.—The Secretary shall deny an application for accreditation or shall revoke any existing accreditation with respect to any laboratory that fails to meet the requirements for accreditation under this subtitle.

(d) LIMITED ACCREDITATION.—The Secretary may issue certificates of accreditation to laboratories that are limited to specific fields of testing.

7 USC 138c.

SEC. 1324. SAMPLES.

(a) PERFORMANCE EVALUATION SAMPLES.—

(1) PROVIDED BY SECRETARY.—The Secretary shall ensure that performance evaluation samples are provided to any laboratory that has applied for accreditation under this subtitle.

(2) ANALYSIS BY LABORATORY.—A laboratory described in paragraph (1) shall analyze such performance evaluation samples and submit the results of such analysis to the Secretary, as provided for in section 1322.

(3) TESTING METHODS.—Samples shall be tested by the laboratory according to methods specifically approved for such purpose by alternate methods of demonstrated adequacy or equivalence, as determined in regulations established under this subtitle.

(b) RESULTS OF TESTING.—

(1) SUBMISSION OF RESULTS.—The laboratory shall submit the results of the tests conducted under subsection (a) to the Secretary on forms provided by the Secretary, on or before the date determined by the Secretary.

(2) EVALUATION OF TESTS.—The Secretary shall evaluate the results of such tests achieved by the laboratory and shall determine whether such laboratory is capable of undertaking an accurate analysis of chemical residues in agricultural products.

(c) REVIEW OF ACCREDITATION.—The Secretary shall ensure that performance evaluation samples for analysis are provided to laboratories accredited under this subtitle not less than two times a year.

7 USC 138d.

SEC. 1325. APPLICATION.

(a) CONTENTS OF APPLICATION.—An application for accreditation under this subtitle shall be prepared and submitted to the Secretary and shall include—

(1) the name and address of the laboratory;

(2) the name and address of the owners and managers of such laboratory;

(3) a statement concerning the type of analysis the laboratory intends to conduct;

(4) a brief history of the laboratory and its previous operations; and

(5) such other information as may be required by the Secretary.

(b) RESTRICTIONS ON SUBMISSION OF APPLICATION.—A laboratory that has been denied, or has lost, accreditation under this subtitle shall not reapply for accreditation until the expiration of at least 6 months after such denial or loss of accreditation. Corrective actions taken by the laboratory to address deficiencies upon which the

denial or loss of accreditation was based must accompany the reapplication.

SEC. 1326. REPORTING. 7 USC 138e.

(a) IN GENERAL.—Each laboratory or individual that performs, brokers, or otherwise arranges for the performance of a pesticide chemical analysis of food shall prepare and submit a report, simultaneously to the Secretary, the Secretary of Health and Human Services, and to the owner of such food, that shall contain any finding of pesticide chemical residues in such food—

(1) for which no chemical residue tolerance or exemption has been established;

(2) that is in excess of residue tolerances; or

(3) for which the chemical residue tolerance has been revoked or the chemical residue is otherwise not permitted by the Environmental Protection Agency.

(b) TIMING OF REPORT.—A laboratory shall submit the report required under subsection (a) to the Secretary, the Secretary of Health and Human Services, and the owner of such food as soon as practicable after the completion of the analysis of such food.

(c) GUIDELINES.—The Secretary shall adopt standardized reporting guidelines to be applied to laboratories under this section and shall provide such guidelines to laboratories accredited under this subtitle, as well as other sources of information regarding applicable pesticide chemical tolerances.

SEC. 1327. FEES. 7 USC 138f.

(a) IN GENERAL.—At the time that an application for accreditation is received by the Secretary, and annually thereafter, a laboratory seeking such accreditation under this subtitle shall pay a nonrefundable accreditation fee.

(b) AMOUNT OF FEE.—The fee required under subsection (a) shall be established by the Secretary in an amount that will offset the cost of the program established by this subtitle.

(c) REIMBURSEMENT OF EXPENSES.—Each laboratory that is accredited under this subtitle or that has applied for accreditation under this subtitle shall reimburse the Secretary for reasonable travel and other expenses necessary to perform onsite inspections of such laboratory.

(d) ADJUSTMENT OF FEES.—The Secretary may, on an annual basis, adjust the fees imposed under this section as necessary to support the full costs of the program established by this subtitle.

SEC. 1328. PUBLIC DISCLOSURE. 7 USC 138g.

The results of the evaluations of laboratories conducted by the Secretary under this subtitle shall be made available to the Secretary of Health and Human Services and to the public on request.

SEC. 1329. REGULATIONS. 7 USC 138h.

The Secretary shall promulgate regulations to carry out this subtitle.

SEC. 1330. EFFECT OF OTHER LAWS. 7 USC 138i.

Nothing in this subtitle shall alter the authority of the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

7 USC 1622 note.

Subtitle C—Cosmetic Appearance

SEC. 1351. DEFINITION.

As used in this subtitle, the term "cosmetic appearance" means the exterior appearance of an agricultural commodity, including changes to that appearance resulting from superficial damage or other alteration that do not significantly affect yield, taste, or nutritional value.

SEC. 1352. RESEARCH.

(a) REQUIREMENT.—The Secretary of Agriculture shall conduct research to examine the effects, to the extent listed in subsection (b), of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and other statutes governing cosmetic appearance.

(b) SCOPE OF RESEARCH.—The primary goal of this research is to investigate the extent to which grade standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. The research shall also—

(1) determine pesticide application levels for United States perishable commodity production and assess trends, and factors influencing those trends, of pesticide application levels since 1975;

(2) determine the extent to which Federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance;

(3) determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on—

(A) the application and availability of pesticides in agriculture;

(B) the adoption of agricultural practices that result in reduced pesticide use;

(C) production and marketing costs;

(D) domestic and international markets and trade for perishable commodities;

(4) determine the extent to which grade standards and other regulations reflect consumer preferences;

(5) develop options for implementation of food marketing policies and practices that will remove obstacles that may exist to pesticide use reduction, based on the findings of research conducted under this section.

(c) FIELD RESEARCH.—

(1) LENGTH OF PROJECTS.—The Secretary of Agriculture shall implement, not later than 12 months after the date of enactment of this Act, a minimum of three, 2-year market research projects, in at least three States, to demonstrate and evaluate the feasibility of consumer education and information programs.

(2) SCOPE OF FIELD RESEARCH.—Research under paragraph (1) shall be conducted to evaluate programs designed to—

(A) offer consumers choices among perishable commodities produced with different production practices;

(B) provide consumers with information about agricultural practices used in the production of perishable commodities; or

(C) educate the public about the relationship, as determined in the research conducted under this subtitle, between the cosmetic appearance of perishable commodities and pesticide use.

(d) DISSEMINATION OF RESULTS.—The Secretary of Agriculture shall disseminate to concerned parties the results obtained from prior scientifically valid research concerning Federal marketing policies and practices described in this section to avoid any duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

(e) ADVISORY COMMITTEE.—

(1) ESTABLISHMENT.—The Secretary of Agriculture shall establish an advisory committee for the purpose of providing ongoing review of the implementation of the requirements in this section and providing the Secretary of Agriculture with recommendations regarding the implementation of those requirements.

(2) MEMBERSHIP.—The Advisory Committee shall consist of 12 members comprised of three representatives from not-for-profit consumer organizations, three representatives from not-for-profit environmental organizations, three representatives from production agriculture and the perishable commodity grower and shipper community, and three representatives from the food retailing sector, each with experience in the policy issues discussed in this section.

(f) REPORT.—The Secretary of Agriculture shall report to Congress on the research conducted under this section no later than September 30, 1992. The Secretary shall report on the research conducted under subsection (c) no later than September 30, 1993.

SEC. 1353. CHANGES IN PROCEDURAL REGULATIONS.

With regard to Federal grade standards developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq), the Secretary of Agriculture shall:

(1) Take into account the impact of those standards on the ability of perishable commodity growers to reduce the use of pesticides.

(2) Provide for citizens outside of the perishable commodity industry fair and reasonable opportunity to formally petition a change in grade standards.

(3) Provide for a comment period after a formal petition to change grade standards has been made to enable all interested parties to submit information. The Secretary of Agriculture shall evaluate the information and consider it in the revision process.

(4) Provide interested parties with annual status reports during the period 1992 through 1994, updated upon request, on all pending grade standard changes the Department of Agriculture is considering. Reports.

SEC. 1354. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the activities required under this subtitle, $4,000,000 for each fiscal year.

Subtitle D—Miscellaneous

SEC. 1361. AMENDMENT TO THE PERISHABLE AGRICULTURAL COMMODITIES ACT.

Section 3(b) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499c(b)) is amended—

(1) by striking ": *Provided,* That the" and inserting the following: ". Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. The"; and

(2) by striking ": *Provided further,* That financial" and inserting ". Financial".

SEC. 1362. WINE AND WINEGRAPE INDUSTRY STUDY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine how the Department of Agriculture might best work with and support the United States wine and winegrape industry. Such study shall—

(1) be designed to determine whether existing Department of Agriculture programs could be improved to better assist and support the United States wine and winegrape industry;

(2) be designed to determine whether new methods or programs implemented by the Department of Agriculture could enhance wine and winegrape production and processing and expand markets for United States wine and winegrapes;

(3) be conducted in consultation with local, state, and national associations or organizations of wine and winegrape producers;

(4) give special emphasis to States or other geographic areas that have not traditionally had a wine and winegrape industry.

(b) REPORT.—The Secretary of Agriculture shall submit a report detailing the determinations made in the study under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than December 31, 1991. Such report shall also include any recommendations to the Congress for legislation the Secretary determines may be necessary to implement the programs or methods specified under subsection (a).

Conservation Program Improvements Act.
16 USC 3801 note.

TITLE XIV—CONSERVATION

SEC. 1401. SHORT TITLE.

This title may be cited as the "Conservation Program Improvements Act".

Subtitle A—Highly Erodible Land Conservation

SEC. 1411. PROGRAM INELIGIBILITY.

Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the first sentence by inserting after "is predominate" the following: ", or designates land on which highly erodible land is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary";

(2) in paragraph (1)(D) by inserting before the semicolon ", under section 132 of the Disaster Assistance Act of 1989 (16 U.S.C. 1421 note), or under any similar provision enacted subsequent to August 14, 1989";

(3) in paragraph (1)(E) by striking the final "or";

(4) in paragraph (2) by striking the period at the end and inserting "; or"; and

(5) by adding at the end the following:

"(3) during such crop year—

"(A) a payment made under section 8, section 12 or section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l or 590p(b));

"(B) a payment made under section 401 or section 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 or 2202);

"(C) a payment under any contract entered into pursuant to section 1231;

"(D) a payment under chapter 2;

"(E) a payment under chapter 3; or

"(F) a payment, loan or other assistance under section 3 or section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 or 1006a).".

SEC. 1412. EXEMPTIONS.

(a) CONSERVATION COMPLIANCE.—Section 1212(a) of the Food Security Act of 1985 (16 U.S.C. 3812(a)) is amended by adding at the end thereof the following new paragraphs:

"(3) Any person who owns or operates highly erodible land that was the subject of a contract entered into under subchapter B of chapter 1 of subtitle D shall, if the conservation plan established under this subtitle for such land requires structures to be constructed, have until 2 years after the expiration of such contract to comply with the conservation plan, or a longer period of time if the Secretary determines compliance is otherwise technically or economically not feasible, or such longer period is otherwise appropriate, before such person will be subject to program ineligibility with respect to such land under section 1211.

"(4) On the expiration of a contract entered into under subchapter B of chapter 1 of subtitle D, the provisions of this subtitle shall apply to the acreage that was the subject of such contract.".

(b) INADVERTENT ACTIONS; REDUCTION IN CERTAIN PAYMENTS, LOANS, AND ASSISTANCE.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended—

(1) in subsection (b)(1), by inserting "or" after the semicolon;

(2) in subsection (b)(2), by striking the semicolon and inserting a period;

(3) by redesignating subsection (c) as subsection (d);

(4) by redesignating the paragraphs (3) through (5) of subsection (b) as paragraphs (1) through (3), respectively, of subsection (c) and by inserting after subsection (b)(2) the following:

"(c) No person shall become ineligible under section 1211 for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity or the designation of land to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity (hereafter in this subsection referred to as 'set aside')—";

(5) in subsection (c)(1)(B), as amended by paragraph (4), by inserting "for the protection of highly erodible land that has been set aside or" after "adequate"; and

(6) in subsection (c)(2), as amended by paragraph (4)—

(A) by inserting "or set aside" after "that is planted"; and

(B) by inserting "or set aside" after "that was planted".

(c) TENANTS.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by subsection (b) of this section) is amended by adding at the end the following new subsection:

"(e) If a tenant is determined to be ineligible for payments and other benefits under section 1211, the Secretary may limit such ineligibility only to the farm which is the basis for such ineligibility determination if—

"(1) the tenant has established to the satisfaction of the Secretary that—

"(A) the tenant has made a good faith effort to meet the requirements of this section, including enlisting the assistance of the Secretary to obtain a reasonable conservation compliance plan for such farm; and

"(B) the landlord on the farm refuses to comply with such plan on such farm; and

"(2) the Secretary determines that such lack of compliance is not a part of a scheme or device to avoid such compliance.

Reports. The Secretary shall provide an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the ineligibility determinations limited during the previous 12-month period under this subsection.".

(d) GRADUATED SANCTIONS, HIGHLY ERODIBLE LAND CONSERVATION.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by subsection (c) of this section) is further amended by adding at the end thereof the following new subsection:

"(f)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a), if the Secretary determines that such person has—

"(A) not violated the provisions of section 1211 within the previous 5 years on a farm; and

"(B) acted in good faith and without the intent to violate the provisions of this subtitle.

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1211 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1211, reduce by not less than $500 nor more than $5,000, depending on the seriousness of the violation as determined by the Secretary, program benefits described in section 1211 that such producer would otherwise be eligible to receive in a crop year.

"(3) Any person whose benefits are reduced in any crop year under this subsection shall continue to be eligible for all of the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of such subsequent crop year, the Secretary determines that such person is actively applying a conservation plan prepared under subsection (a) according to the schedule set forth in such plan.

"(4) Notwithstanding any other provision of this subtitle, no person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a), if the Secretary—

"(A) determines that such failure results in a violation of section 1211 that is technical and minor in nature and that such violation has a minimal effect on the erosion control purposes of the conservation plan applicable to the land on which such violations has occurred;

"(B) determines that such failure is due to circumstances beyond the control of the person; or

"(C) grants the person a temporary variance from the practices specified in the plan for the purpose of handling a specific problem.

A determination or the granting of a variance by the Secretary under this paragraph shall not be counted as a violation for the purposes of paragraph (1)(A).".

(e) INFORMATION.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by subsection (d) of this section) is further amended by adding at the end thereof the following new subsection:

"(g) The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information—

"(1) concerning cost effective and applicable erosion control measures that may be available to such individual to meet the requirements of this section; and

"(2) concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including the provisions of titles X, XII, and XIII, of the Food, Agriculture, Conservation, and Trade Act of 1990 (or the amendments made by such titles).".

(f) NONCOMMERCIAL PRODUCTION OF AGRICULTURAL COMMODITIES.—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) (as amended by subsection (e) of this section) is further amended by adding at the end thereof the following new subsection:

"(h) Section 1211 shall not apply to the noncommercial production of agricultural commodities on a farm if such production is limited

to two acres or less and if the Secretary determines that such production is not intended to circumvent the conservation requirements otherwise applicable to lands under this subtitle.".

Subtitle B—Wetland Conservation

SEC. 1421. WETLAND PROGRAM IMPROVEMENTS.

(a) DEFINITION.—Section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16)) is amended by amending the first sentence to read as follows:

"(16) The term 'wetland', except when such term is part of the term 'converted wetland', means land that—

"(A) has a predominance of hydric soils;

"(B) is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

"(C) under normal circumstances does support a prevalence of such vegetation.".

(b) WETLAND.—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by striking "Except as provided" and inserting "(a) Except as provided";

(2) in paragraph (1)(D), by inserting before the semicolon ", under section 132 of the Disaster Assistance Act of 1989 (16 U.S.C. 1421 note), or under any similar provision enacted subsequent to August 14, 1989";

(3) in paragraph (1)(E), by striking the final "or";

(4) in paragraph (2), by striking the period at the end and inserting a "; or";

(5) by adding at the end the following:

"(3) during such crop year—

"(A) a payment made under section 8, section 12, or section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l or 590p(b));

"(B) a payment made under section 401 or section 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 or 2202);

"(C) a payment under any contract entered into pursuant to section 1231;

"(D) a payment under chapter 2;

"(E) a payment under chapter 3; or

"(F) a payment, loan or other assistance under section 3 or section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 or 1006a).''; and

(6) by adding after subsection (a) (as designated by paragraph (1)), a new subsection (b) as follows:

"(b) Except as provided in section 1222 and notwithstanding any other provision of law, any person who in any crop year subsequent to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 converts a wetland by draining, dredging, filling, leveling, or any other means for the purpose, or to have the effect, of making the production of an agricultural commodity possible on such converted wetland shall be ineligible for those payments, loans, or programs specified in subsections (a) (1) through (3) for that crop year and all subsequent crop years.".

SEC. 1422. DELINEATION OF WETLAND; EXEMPTIONS.

Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended to read as follows:

"SEC. 1222. DELINEATION OF WETLANDS; EXEMPTIONS.

"(a) DELINEATION OF WETLANDS.—

"(1) WETLAND DELINEATION MAPS.—The Secretary shall delineate wetlands on wetland delineation maps. The Secretary shall make a reasonable effort to make an on-site wetland determination whenever requested by an owner or operator, prior to such delineation.

"(2) CERTIFICATION.—Upon providing notice to affected owners or operators, the Secretary shall certify each such map as sufficient for the purpose of making determinations of ineligibility for program benefits under section 1221 and shall, in accordance with section 1243, provide an opportunity to appeal such delineations to the Secretary prior to making such certification final. In the case of an appeal, the Secretary shall review and certify the accuracy of the mapping of all lands subject to the appeal mapped prior to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990 for the purpose of wetland delineations to ensure that wetland on such lands has been accurately delineated. Prior to rendering a decision on any such appeal, the Secretary shall conduct an on-site inspection of the subject land. The Secretary shall not be required to provide an opportunity for an appeal of delineations completed prior to the enactment of this subsection that are not changed, and for which an appeal had already occurred and, in connection with such previous appeal, an on-site determination had been conducted.

"(3) PUBLIC LIST.—The Secretary shall maintain a public listing of all such certifications that have been completed.

"(4) PERIODIC REVIEW AND UPDATE.—The Secretary shall provide by regulation a process for the periodic review and update of such wetland delineations as the Secretary deems appropriate. No person shall be adversely affected because of having taken an action based on a previous determination by the Secretary. Regulations.

"(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans, payments, and benefits—

"(1) as the result of the production of an agricultural commodity on—

"(A) converted wetland if the conversion of such wetland was commenced before December 23, 1985;

"(B) an artificial lake, pond, or wetland created by excavating or diking nonwetland to collect and retain water for purposes such as water for livestock, fish production, irrigation (including subsurface irrigation), a settling basin, cooling, rice production, or flood control;

"(C) a wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation; or

"(D) wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce an agricultural commodity in a manner that is consistent for the area where such production is possible as a result of a natural condition, such as drought, and is

without action by the producer that destroys a natural wetland characteristic; or

"(2) for the conversion of—

"(A) an artificial lake, pond, or wetland created by excavating or diking nonwetland to collect and retain water for purposes such as water for livestock, fish production, irrigation (including subsurface irrigation), a settling basin, cooling, rice production, or flood control; or

"(B) a wet area created by a water delivery system, irrigation, irrigation system, or the application of water for irrigation.

"(c) ON-SITE INSPECTION REQUIREMENT.—No program loans, payments, or benefits shall be withheld from a person under this subtitle unless the Secretary has conducted an on-site visit of the subject land.

"(d) PRIOR LOANS.—Section 1221 shall not apply to a loan described in section 1221 made before December 23, 1985.

"(e) NONWETLANDS.—The Secretary shall exempt from the ineligibility provisions of section 1221 any action by a person upon lands in any case in which the Secretary determines that any one of the following does not apply with respect to such lands:

"(1) Such lands have a predominance of hydric soils.

"(2) Such lands are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

"(3) Such lands, under normal circumstances, support a prevalence of such vegetation.

"(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if, as determined by the Secretary—

"(1) such action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetland, including the value to waterfowl and wildlife;

"(2) such wetland has been frequently cropped prior to the date of such action and the wetland values, acreage, and functions are mitigated by the producer through the restoration of a converted wetland, the conversion of which occurred or was commenced prior to December 23, 1985, where such restoration is—

"(A) in accordance with a restoration plan;

"(B) in advance of, or concurrent with, such action;

"(C) not at the expense of the Federal Government;

"(D) on not greater than a one-for-one acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of such wetland conversion to be mitigated;

"(E) on lands in the same general area of the local watershed as the converted wetland; and

"(F) with respect to such restored wetland, made subject to an easement to be recorded on public land records, and which shall remain in force for as long as the converted wetland for which the restoration is to mitigate remains in

agricultural use or is not returned to its original wetland classification with equivalent functions and values, and which easement prohibits making alterations to such restored wetland that lower the restored wetland's functions and values; or

"(3) such wetland was converted subsequent to December 23, 1985, but prior to the date of enactment of this section, and the wetland values, acreage, and functions are mitigated by the producer through the restoration of a converted wetland, the conversion of which occurred or was commenced prior to December 23, 1985, if such restoration meets the requirements of subparagraphs (A), (B), (C), (D), (E), and (F) of paragraph (2).

"(g) MITIGATION APPEALS.—A producer shall be afforded the right to appeal, under section 1243, the imposition of a mitigation agreement requiring greater than one-to-one acreage mitigation to which the producer is subject.

"(h) GOOD FAITH EXEMPTION; GRADUATED SANCTIONS.—

"(1) GOOD FAITH EXEMPTION.—A person's ineligibility under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland subsequent to the date of enactment of this subsection, or the production of an agricultural commodity on a converted wetland subsequent to December 23, 1985, may be reduced under paragraph (2) if—

"(A) such person is actively restoring the wetland under an agreement entered into with the Secretary to fully restore the characteristics of the converted wetland to its prior wetland state, or such person has previously restored the characteristics of the converted wetland to its prior wetland state as determined by the Secretary; and

"(B) the Secretary determines that—

"(i) the person has not otherwise violated the provisions of section 1221 in the previous 10-year period on a farm; and

"(ii) such person converted a wetland, or produced an agricultural commodity on a converted wetland, in good faith and without the intent to violate the provisions of section 1221.

"(2) GRADUATED SANCTIONS.—If the Secretary determines that a person who has violated the provisions of section 1221 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1221, reduce by not less than $750 nor more than $10,000, depending on the seriousness of the violation, program benefits described in section 1221 that such person would otherwise be eligible to receive in a crop year.

"(3) RELIEF.—The relief allowed by this subsection shall include the restoration of benefits withheld for violations that occurred prior to the date of enactment of this section.

"(i) RESTORATION.—Any person who is determined to be ineligible for program benefits under section 1221 for any crop year shall not be ineligible for such program benefits under such section for any subsequent crop year if, prior to the beginning of such subsequent crop year, the person has fully restored the characteristics of the converted wetland to its prior wetland state.

"(j) DETERMINATIONS; RESTORATION AND MITIGATION PLANS; REPORTING; MONITORING ACTIVITIES.—

Government contracts.

"(1) DETERMINATIONS; PLANS.—Technical determinations and the development of restoration and mitigation plans under this section shall be made through the agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. If agreement cannot be reached at the local level under the preceding sentence, such determinations shall be referred to the State Conservationist, who in making a determination under this paragraph, shall consult with the Fish and Wildlife Service.

"(2) REPORT OF DETERMINATIONS.—The State Conservationist and a representative of the Fish and Wildlife Service shall report to their respective national offices concerning all determinations made under paragraph (1) at the State level as a result of an agreement not being reached at the local level.

"(3) MONITORING ACTIVITIES.—The Secretary shall conduct such monitoring activities as are necessary to ensure the success and effectiveness of the wetland restorations undertaken pursuant to this section.".

SEC. 1423. CONSULTATION.

Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is amended—

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) mitigation; and

"(5) the restoration of wetland values and functions on converted wetland as required under this subtitle.".

SEC. 1424. FAIRNESS OF COMPLIANCE.

Subtitle C of title XII of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) is amended by adding at the end the following new section:

16 USC 3824.

"SEC. 1224. FAIRNESS OF COMPLIANCE.

"If the actions of an unrelated person or public entity, outside the control of, and without the prior approval of, the landowner or tenant result in a change in the characteristics of cropland that would cause the land to be determined to be a wetland, the affected land shall not be considered to be wetland for purposes of this subtitle.".

Subtitle C—Agricultural Resources Conservation Program

SEC. 1431. AGRICULTURAL RESOURCES CONSERVATION PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 1231 et seq.) is amended—

(1) in the subtitle heading, by striking "Conservation Reserve" and inserting "Agricultural Resources Conservation Program"; and

(2) by inserting before section 1231 the following:

"CHAPTER 1—ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM

"Subchapter A—General Provisions

"SEC. 1230. ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM.

Government contracts. 16 USC 3830.

"(a) ESTABLISHMENT.—During the 1991 through 1995 calendar years, the Secretary shall, in accordance with this chapter, establish an Environmental Conservation Acreage Reserve Program and implement such program through contracts and the acquisition of easements to assist owners and operators of highly erodible lands, other fragile lands (including land with associated ground or surface water that may be vulnerable to contamination), and wetlands in conserving and improving the soil and water resources of the farms or ranches of such owners and operators.

"(b) NUMBER OF ACRES.—In carrying out the Environmental Conservation Acreage Reserve Program, the Secretary shall enter into contracts with owners and operators and acquire interests in lands through easements from owners as provided for in subchapters B and C to place in the Environmental Conservation Acreage Reserve Program during the 1986 through 1995 calendar years a total of not less than 40,000,000 nor more than 45,000,000 acres.

"(c) IMPLEMENTATION.—The Secretary shall carry out the Environmental Conservation Acreage Reserve Program established under subsection (a) through the conservation reserve program and the wetland reserve program established in subchapters B and C, respectively. Acreage enrolled into the conservation reserve under subchapter B prior to the date of enactment of this chapter shall be considered to be land placed in the Environmental Conservation Acreage Reserve Program for the purposes of this chapter.".

SEC. 1432. CONSERVATION RESERVE PROGRAM.

Title XII of the Food Security Act of 1985 is amended—

(1) by inserting after section 1230 (as added by section 1431 of this Act) the following:

"Subchapter B—Conservation Reserve"; and

(2) by amending section 1231 (16 U.S.C. 3831) to read as follows:

"SEC. 1231. CONSERVATION RESERVE.

Government contracts.

"(a) IN GENERAL.—Through the 1995 calendar year, the Secretary shall formulate and carry out the enrollment of lands in a conservation reserve program through the use of contracts to assist owners and operators of lands specified in subsection (b) to conserve and improve the soil and water resources of such lands.

"(b) ELIGIBLE LANDS.—The Secretary may include in the program established under this subchapter—

"(1) highly erodible croplands that—

"(A) if permitted to remain untreated could substantially reduce the production capability for future generations; or

"(B) can not be farmed in accordance with a plan under section 1212;

"(2) marginal pasture lands converted to wetland or established as wildlife habitat prior to the enactment of the Food, Agriculture, Conservation, and Trade Act of 1990;

"(3) marginal pasture lands to be devoted to trees in or near riparian areas or for similar water quality purposes, not to exceed 10 percent of the number of acres of land that is placed in the conservation reserve under this subchapter in each of the 1991 through 1995 calendar years;

"(4) croplands that are otherwise not eligible—

"(A) if the Secretary determines that (i) such lands contribute to the degradation of water quality or would pose an on-site or off-site environmental threat to water quality if permitted to remain in agricultural production, and (ii) water quality objectives with respect to such land cannot be achieved under the water quality incentives program established under chapter 2;

"(B) if such croplands are newly-created, permanent grass sod waterways, or are contour grass sod strips established and maintained as part of an approved conservation plan;

"(C) that will be devoted to, and made subject to an easement for the useful life of, newly established living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips devoted to trees or shrubs; or

"(D) if the Secretary determines that such lands pose an off-farm environmental threat, or pose a threat of continued degradation of productivity due to soil salinity, if permitted to remain in production.

"(c) CERTAIN LAND AFFECTED BY SECRETARIAL ACTION.—For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subchapter, land shall be considered planted to an agricultural commodity during a crop year if an action of the Secretary prevented land from being planted to the commodity during the crop year.

"(d) MAXIMUM ENROLLMENT.—The Secretary may enter into contracts under this section to place in the conservation reserve the amount of acres specified in section 1230(b). In enrolling such acres, the Secretary shall reserve 1 million acres for enrollment under this section in each of calendar years 1994 and 1995.

"(e) DURATION OF CONTRACT.—

"(1) IN GENERAL.—For the purpose of carrying out this subchapter, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

"(2) CERTAIN LANDS.—In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under a contract entered into under this subchapter after October 1, 1990, and land devoted to such uses under contracts modified under section 1235A, the owner or operator of such land may, within the limitations prescribed under this section, specify the duration of the contract. The Secretary may, in the case of land that is devoted to hardwood trees under a contract entered into under this subchapter prior to October 1, 1990, extend such contract for not to exceed 5 years, as agreed to by the owner or operator of such land and the Secretary.

"(f) CONSERVATION PRIORITY AREAS.—

State listing.

"(1) DESIGNATION.—Upon application by the appropriate State agency, the Secretary shall designate watershed areas of the Chesapeake Bay Region (Pennsylvania, Maryland, and Vir-

ginia), the Great Lakes Region, the Long Island Sound Region, and other areas of special environmental sensitivity as conservation priority areas.

"(2) ELIGIBLE WATERSHEDS.—Watersheds eligible for designation under this subsection shall include areas with actual and significant adverse water quality or habitat impacts related to agricultural production activities.

"(3) EXPIRATION.—Conservation priority area designation under this subsection shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw a watershed's designation—

"(A) upon application by the appropriate State agency; or

"(B) in the case of areas specified in this subsection, if the Secretary finds that such areas no longer contain actual and significant adverse water quality or habitat impacts related to agricultural production activities.

"(4) DUTY OF SECRETARY.—In utilizing the authority granted under this subsection, the Secretary shall attempt to maximize water quality and habitat benefits in such watersheds by promoting a significant level of enrollment of lands within such watersheds in the program under this subchapter by whatever means the Secretary determines appropriate and consistent with the purposes of this subchapter.

"(g) MULTI-YEAR GRASSES AND LEGUMES.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.". Alfalfa.

SEC. 1433. DUTIES OF OWNERS AND OPERATORS.

(a) AGREEMENT PROVISIONS.—Section 1232(a) of the Food Security Act of 1985 (16 U.S.C. 3832(a)) is amended—

(1) in paragraph (1), by striking "highly erodible cropland" and inserting "eligible lands";

(2) in paragraph (4)—

(A) by inserting ", or water cover for the enhancement of wildlife," after "cover"; and

(B) by inserting ", except that such water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes" after "land".

(3) in paragraph (5), by inserting "in addition to the remedies provided under section 1236(d)," before "on the violation";

(4) in paragraph (6), by inserting before the semicolon at the end thereof ", or the transferee and the Secretary agree to modifications to such contract, where such modifications are consistent with the objectives of the program as determined by the Secretary;";

(5) in paragraph (7), by inserting ", and the Secretary may permit limited fall and winter grazing on such land where such grazing is incidental to the gleaning of crop residues on the fields in which such land is located for an applicable reduction in rental payment" after "emergency";

(6) in paragraph (9), by striking "and" at the end thereof;

(7) in paragraph (10), by striking the period and inserting "; and "; and

(8) by adding at the end thereof the following new paragraph:

"(11) with respect to any contract entered into after the date of enactment of this paragraph concerning highly erodible land in a county that has not reached the limitation established by section 1243(f)—

"(A) not to produce an agricultural commodity for the duration of the contract on any other highly erodible land that such owner or operator has purchased after the date of enactment of this paragraph and that does not have a history of being used to produce an agricultural commodity other than forage crops; and

"(B) on the violation of a contract described in subparagraph (A), to be subject to the sanctions described in paragraph (5).".

(b) ENVIRONMENTAL USE; ALLEY-CROPPING; FORECLOSURE.— Section 1232 of the Food Security Act of 1985 (16 U.S.C. 3832) is amended by striking subsection (c) and adding the following new subsections:

Forests and forest products. Plants.

"(c) ENVIRONMENTAL USE.—To the extent practicable, not less than one-eighth of land that is placed in the conservation reserve under this subchapter during the 1991 through 1995 calendar years shall be devoted to trees, or devoted to shrubs or other noncrop vegetation or water that may provide a permanent habitat for wildlife including migratory waterfowl.

"(d) ALLEY-CROPPING.—

"(1) The Secretary may permit alley cropping of agricultural commodities on land that is subject to contracts entered into under this subchapter, if—

"(A) such land is planted to hardwood trees;

"(B) such agricultural commodities will be produced in conjunction with, and in close proximity to, such hardwood trees; and

"(C) the owner or operator of such land agrees to implement appropriate conservation practices concerning such land.

"(2) The Secretary shall develop a bid system by which owners and operators may offer to reduce their annual rental payments in exchange for permission to produce agricultural commodities on such land in accordance with this subsection. The Secretary shall not accept offers under this paragraph that provide for less than a 50 percent reduction in such annual payments.

"(3) The Secretary shall ensure that the total annual rental payments over the term of any contract modified under this subsection are not in excess of that specified in the original contract.

"(4) For the purposes of this subsection, the term 'alley cropping' means the practice of planting rows of trees bordered on each side by a narrow strip of groundcover, alternated with wider strips of row crops or grain.

"(e) FORECLOSURE.—Notwithstanding any other provision of law, an owner or operator who is a party to a contract entered into under this subchapter may not be required to make repayments to the Secretary of amounts received under such contract if the land that is subject to such contract has been foreclosed upon and the Secretary determines that forgiving such repayments is appropriate in order to provide fair and equitable treatment. This subsection shall not void the responsibilities of such an owner or operator under the contract if such owner or operator resumes control over the property

that is subject to the contract within the period specified in the contract. Upon the resumption of such control over the property by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.".

SEC. 1434. PAYMENTS.

(a) COST SHARE ASSISTANCE.—Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3834(b)) is amended to read as follows:

"(b)(1) In making cost sharing payments to an owner or operator under a contract entered into under this subchapter, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under such contracts for which the Secretary determines that cost-sharing is appropriate and in the public interest. Water pollution control.

"(2) The Secretary shall not make any payment under this subchapter to the extent that the total amount of cost sharing payments provided to such owners and operators from all sources would exceed 100 percent of the total establishment costs.

"(3) In the case of land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after the date of enactment of this section, or in the case of land converted to such production under section 1235A, the Secretary, in making cost share payments to an owner or operator of such land, shall pay 50 percent of the reasonable and necessary costs, as determined by the Secretary, incurred by such owner or operator for maintaining such plantings that are trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator), during not less than the 2-year, and not more than the 4-year, period beginning on the date of such plantings, as determined appropriate by the Secretary. Forests and forest products. Plants.

"(4) The Secretary may permit owners or operators who contract to devote at least 10 acres of land to the production of hardwood trees under this subchapter to extend the planting of such trees over a 3-year period if at least one-third of such trees are planted in each of the first 2 years.

"(5) An owner or operator shall not be eligible to receive or retain cost share assistance under this subsection if such owner or operator receives any other Federal cost share assistance with respect to such land under any other provision of law.".

(b) ACCEPTABILITY OF OFFERS; CONTINUOUS SIGN-UP FOR HARDWOOD TREES.—

(1) ACCEPTABILITY OF OFFERS.—Section 1234(c)(3) of the Food Security Act of 1985 (16 U.S.C. 3834(c)(3)) is amended to read as follows:

"(3) In determining the acceptability of contract offers, the Secretary may—

"(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, wildlife habitat, or provide other environmental benefits; and

"(B) establish different criteria in various States and regions of the United States based upon the extent to which water quality or wildlife habitat may be improved or erosion may be abated.".

(2) CONTINUOUS SIGN-UP FOR HARDWOOD TREES.—Section 1234(c) of the Food Security Act of 1985 (16 U.S.C. 3834(c)) is

further amended by adding at the end thereof the following new paragraph:

"(4) In the case of acreage enrolled in the conservation reserve established under this subchapter that is to be devoted to hardwood trees, the Secretary may consider bids for contracts under this subsection on a continuous basis.".

(c) STATE PAYMENTS.—Section 1234(d) of the Food Security Act of 1985 (16 U.S.C. 3834(d)) is amended by adding at the end the following new paragraph:

"(4) Payments to a producer under a special conservation reserve enhancement program described in subsection (f)(4) shall be in the form of cash only.".

(d) OTHER PAYMENTS.—Section 1234(f)(3) of the Food Security Act of 1985 (16 U.S.C. 3834(f)(3)) is amended by inserting ", the Food, Agriculture, Conservation, and Trade Act of 1990," after "this Act".

(e) EXEMPTION FROM SEQUESTRATION; OTHER STATE PAYMENTS.—Section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834) is amended further by adding at the end the following new subsections:

"(g) Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 902) shall affect any payment under any contract entered into at any time that is subject to this subchapter, including contracts entered into prior to the date of enactment of this subsection.

"(h) In addition to any payment under this subchapter, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling lands in the conservation reserve program.".

SEC. 1435. CONVERSION OF LAND SUBJECT TO CONTRACT.

Subtitle D of title XII of the Food Security Act of 1985 is amended by inserting after section 1235 (16 U.S.C. 3835) the following new section:

16 USC 3835a.

"SEC. 1235A. CONVERSION OF LAND SUBJECT TO CONTRACT TO OTHER CONSERVING USES.

"(a) CONVERSION TO TREES.—

"(1) IN GENERAL.—The Secretary shall permit an owner or operator who has entered into a contract under this subchapter that is in effect on the date of enactment of this section to convert areas of highly erodible cropland that are subject to such contract, and that are devoted to vegetative cover, from such use to hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

"(2) TERMS.—

"(A) EXTENSION OF CONTRACT.—With respect to any contract on land to be devoted to hardwood trees, windbreaks, shelterbelts, or wildlife corridors under this section, if the original term of such contract was less than 15 years, the owner or operator may extend such contract to a term of not to exceed 15 years.

"(B) EASEMENTS.—If such areas are converted to windbreaks, shelterbelts, or wildlife corridors under this section, the owner of such land shall enter into an agreement to provide a conservation easement to the Secretary for the useful life of such plantings.

"(C) COST SHARE ASSISTANCE.—The Secretary shall pay 50 percent of the cost of establishing conservation measures and practices authorized under this subsection for which the Secretary determines the cost sharing is appropriate and in the public interest.

"(b) CONVERSION TO WETLANDS.—The Secretary shall permit an owner or operator who has entered into a contract under this subchapter that is in effect on the date of enactment of this section to restore areas of highly erodible cropland that are devoted to vegetative cover under such contract to wetlands if—

"(1) such areas are prior converted wetlands;

"(2) the owner or operator of such areas enters into an agreement to provide the Secretary with a long-term or permanent easement under subchapter C covering such areas;

"(3) there is a high probability that the prior converted area can be successfully restored to wetland status; and

"(4) the restoration of such areas otherwise meets the requirements of subchapter C.

"(c) LIMITATION.—The Secretary shall not incur, through a conversion under this section, any additional expense on such acres, including the expense involved in the original establishment of the vegetative cover, that would result in cost share for costs in excess of the costs that would have been subject to cost share for the new practice had that practice been the original practice.

"(d) CONDITION OF CONTRACT.—An owner or operator shall as a condition of entering into a contract under subsection (a) participate in the Forest Stewardship Program established under section 5 of the Cooperative Forestry Assistance Act of 1978 (as amended by section 1215 of the Food, Agriculture, Conservation, and Trade Act of 1990).".

SEC. 1436. EXTENDED BASE PROTECTION.

Section 1236 of the Food Security Act of 1985 (16 U.S.C. 3835) is amended by adding at the end the following new subsections: 16 USC 3836.

"(c) The Secretary shall offer the owner or operator of a farm or ranch an opportunity to extend the preservation of cropland base and allotment history pursuant to subsection (b) for such time as the Secretary determines to be appropriate after the expiration date of a contract under this subchapter at the request of such owner or operator. In return for such extension, the owner or operator shall agree to continue to abide by the terms and conditions of the original contract, except that—

"(1) such owner or operator shall receive no additional cost share, annual rental, or bonus payment; and

"(2) the Secretary may permit, subject to such terms and conditions as the Secretary may impose, haying and grazing of acreage subject to such agreement, except during any consecutive 5 month period that is established by the State committee. Each 5 month period shall be established during the period beginning April 1 and ending October 31 of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.

"(d) In addition to any other remedy prescribed by law, the Secretary may reduce or terminate the amount of cropland base and allotment history preserved pursuant to subsection (c) for acreage with respect to which a violation of a term or condition occurs.".

16 USC 3831 note.

SEC. 1437. STUDY OF LAND USE FOR EXPIRING CONTRACTS AND EXTENSION OF AUTHORITY.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study of cropland subject to expiring conservation reserve contracts entered into prior to the date of enactment of this Act under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.). Such study shall include the consideration of—

(1) the environmental benefits of such lands that remain out of crop production as compared to the economic benefits that would result from returning such lands to production under adequate stewardship and management;

(2) the renewal of the contracts in a manner that allows for certain sustainable economic uses of cropland in return for lower rental payments;

(3) the purchase of permanent easements permitting specified economic uses of cropland subject to the contracts;

(4) the purchase of the cropland subject to the contracts;

(5) the preservation of crop acreage bases associated with cropland subject to the contracts if the owner or operator continues to devote the cropland to conserving uses;

(6) the purchase of crop acreage bases associated with cropland subject to the contracts; and

(7) the expiration of the contracts.

(b) REPORT.—Not later than December 31, 1993, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report concerning the results of the study conducted under subsection (a) and recommendations concerning the treatment of lands subject to expiring contracts under subtitle D of title XII of the Food Security Act of 1985, proposed legislation addressing the treatment of such lands, and the projected cost of such treatment.

(c) EXTENSIONS.—During the 1996 through 2000 calendar years, the Secretary of Agriculture may—

(1) extend up to 10 years contracts entered into under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831) prior to the date of enactment of this Act; or

(2) purchase long-term or permanent easements as provided for in chapter 3;

at the option of the owner or operator on land that the Secretary has determined under the study conducted under subsection (a) should remain in conserving uses.

SEC. 1438. WETLANDS RESERVE PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended by adding after section 1236 the following new subchapter:

"Subchapter C—Wetlands Reserve Program

16 USC 3837.

"SEC. 1237. WETLANDS RESERVE PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall establish a wetlands reserve program to assist owners of eligible lands in restoring and protecting wetlands.

"(b) NUMBER OF ACRES.—To the extent practicable, the Secretary shall attempt to enroll into the wetlands reserve program, 1,000,000 acres of land during the 1991 through 1995 calendar years; except that the Secretary may not enroll more than 200,000 acres in 1991, 400,000 acres in the 1991 to 1992 period, 600,000 acres in the 1991 to 1993 period, 800,000 acres in the 1991 to 1994 period, and 1,000,000 acres in the 1991 to 1995 period.

"(c) ELIGIBILITY.—For purposes of enrolling land in the wetland reserve established under this subchapter during the 1991 through 1995 calendar years, land shall be eligible to be placed into such reserve if the Secretary, in consultation with the Secretary of the Interior at the local level, determines that—

"(1) such land is farmed wetland or converted wetland, together with adjacent lands that are functionally dependent on such wetlands, except that converted wetlands where the conversion was not commenced prior to December 23, 1985, shall not be eligible to be enrolled in the program under this section; and

"(2) the likelihood of the successful restoration of such land and the resultant wetland values merit inclusion of such land in the program taking into consideration the cost of such restoration.

"(d) OTHER ELIGIBLE LAND.—The Secretary may include in the wetland reserve established under this subchapter, together with land that is eligible under subsection (d)—

"(1) farmed wetland and adjoining lands, enrolled in the conservation reserve, with the highest wetland functions and values, and that are likely to return to production after they leave the conservation reserve;

"(2) other wetland of an owner that would not otherwise be eligible if the Secretary determines that the inclusion of such wetland in such easement would significantly add to the functional value of the easement; and

"(3) riparian areas that link wetlands that are protected by easements or some other device or circumstance that achieves the same purpose as an easement.

"(e) INELIGIBLE LAND.—The Secretary may not acquire easements on—

"(1) land that contains timber stands established under the conservation reserve under subchapter B; or

"(2) pasture land established to trees under the conservation reserve under subchapter B.

"(f) TERMINATION OF EXISTING CONTRACT.—The Secretary may terminate or modify an existing contract entered into under section 1231(a) if eligible land that is subject to such contract is transferred into the program established by this subchapter.

"(g) EASEMENTS.—The Secretary shall enroll lands in the wetland reserve through the purchase of easements as provided for in section 1237A.

"SEC. 1237A. EASEMENTS.

16 USC 3837a.

"(a) IN GENERAL.—To be eligible to place land into the wetland reserve under this subchapter, the owner of such land shall enter into an agreement with the Secretary—

Government contracts.

"(1) to grant an easement on such land to the Secretary;

"(2) to implement a wetland easement conservation plan as provided for in this section;

Records.

"(3) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement agreed to under this subchapter with respect to such lands; and

"(4) to provide a written statement of consent to such easement signed by those holding a security interest in the land.

"(b) TERMS OF EASEMENT.—An owner granting an easement under subsection (a) shall be required to provide for the restoration and protection of the functional values of wetland pursuant to a wetland easement conservation plan that—

"(1) permits—

"(A) repairs, improvements, and inspections on such land that are necessary to maintain existing public drainage systems if such land is subsequently restored to the condition required by the terms of the easement; and

"(B) landowners to control public access on the easement areas while identifying access routes to be used for wetland restoration activities and management and easement monitoring;

"(2) prohibits—

"(A) the alteration of wildlife habitat and other natural features of such land, unless specifically permitted by the plan;

"(B) the spraying of such land with chemicals or the mowing of such land, except where such spraying or mowing is permitted by the plan or is necessary—

"(i) to comply with Federal or State noxious weed control laws; or

"(ii) to comply with a Federal or State emergency pest treatment program; and

"(C) any activities to be carried out on such participating landowner's or successor's land that is immediately adjacent to, and functionally related to, the land that is subject to the easement if such activities will alter, degrade, or otherwise diminish the functional value of the eligible land; and

"(D) the adoption of any other practice that would tend to defeat the purposes of this subchapter, as determined by the Secretary;

"(3) provides for the efficient and effective restoration of the functional values of wetlands; and

"(4) includes such additional provisions as the Secretary determines are desirable to carry out this subchapter or to facilitate the practical administration thereof.

"(c) RESTORATION PLANS.—

"(1) PLANS.—The development of restoration plans under this section shall be made through the agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. If agreement cannot be reached at the local level under the preceding sentence within a reasonable period of time, such plans shall be referred to the State Conservationist, who in developing such plans under this paragraph, shall consult with the Fish and Wildlife Service.

"(2) REPORT.—The State Conservationist and a representative of the Fish and Wildlife Service shall report to their respective national offices concerning all plans developed under paragraph (1) at the State level as a result of an agreement not being reached at the local level.

"(d) COMPATIBLE USES.—Wetland reserve program lands may be used for compatible economic uses, including such activities as hunting and fishing, managed timber harvest, or periodic haying or grazing, if such use is specifically permitted by the plan and consistent with the long-term protection and enhancement of the wetlands resources for which the easement was established.

"(e) TYPE AND LENGTH OF EASEMENT.—A conservation easement granted under this section—

Records.

"(1) shall be in a recordable form; and

"(2) shall be for 30 years, permanent, or the maximum duration allowed under applicable State laws.

"(f) COMPENSATION.—Compensation for easements acquired by the Secretary under this subchapter shall be made in cash in such amount as is agreed to and specified in the easement agreement, but not to exceed the fair market value of the land less the fair market value of such land encumbered by the easement. Lands may be enrolled through the submission of bids under a procedure established by the Secretary. Compensation may be provided in not less than 5 nor more than 20 annual payments of either equal or unequal size, except in the case of a permanent easement, a single lump-sum payment may be provided, as agreed on by the owner and the Secretary.

"(g) VIOLATION.—On the violation of the terms or conditions of the easement or related agreement entered into under subsection (a), the easement shall remain in force and the Secretary may require the owner to refund all or part of any payments received by the owner under this subchapter, together with interest thereon as determined appropriate by the Secretary.

"SEC. 1237B. DUTIES OF OWNERS.

16 USC 3837b.

"Under the terms of an agreement entered into under this subchapter, an owner and operator of the land that is subject to an easement under this subchapter shall agree to comply with the terms of the easement and related agreements and shall agree to the permanent retirement of any existing cropland base and allotment history for such land under any program administered by the Secretary.

"SEC. 1237C. DUTIES OF THE SECRETARY.

16 USC 3837c.

"(a) IN GENERAL.—In return for the granting of an easement by an owner under this subchapter, the Secretary shall—

"(1) share the cost of carrying out the establishment of conservation measures and practices, and the protection of the wetland functions and values, as set forth in the plan to the extent that the Secretary determines that cost sharing is appropriate and in the public interest; and

"(2) provide necessary technical assistance to assist owners in complying with the terms and conditions of the easement and the plan.

Technical assistance.

"(b) COST SHARE ASSISTANCE.—In making cost share payments under subsection (a)(1), the Secretary shall pay the owner an amount that is not less than 50 percent but not more than 75 percent of eligible costs with respect to an easement which is not permanent, and not less than 75 percent but not more than 100 percent of eligible costs with respect to a permanent easement.

"(c) ACCEPTABILITY OF OFFERS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

"(1) the extent to which the purposes of the easement program would be achieved on the land;

"(2) the productivity of the land; and

"(3) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.

"(d) EASEMENT PRIORITY.—In carrying out this subchapter, to the extent practicable, taking into consideration costs and future agricultural and food needs, the Secretary shall give priority to obtaining permanent conservation easements before shorter term conservation easements and, in consultation with the Secretary of the Interior, shall place priority on acquiring easements based on the value of the easement for protecting and enhancing habitat for migratory birds and other wildlife.

16 USC 3837d.

"SEC. 1237D. PAYMENTS.

"(a) TIME OF PAYMENT.—The Secretary shall provide payment for obligations incurred by the Secretary under this subchapter—

"(1) with respect to any cost sharing obligation as soon as possible after the obligation is incurred; and

"(2) with respect to any annual easement payment obligation incurred by the Secretary as soon as possible after October 1 of each calendar year.

Regulations.

"(b) PAYMENTS TO OTHERS.—If an owner who is entitled to a payment under this subchapter dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

"(c) PAYMENT LIMITATION.—

"(1) IN GENERAL.—The total amount of easement payments made to a person under this subchapter for any year may not exceed $50,000, except such limitation shall not apply with respect to payments for perpetual easements.

"(2) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

"(3) OTHER PAYMENTS.—Easement payments received by an owner shall be in addition to, and not affect, the total amount of payments that such owner is otherwise eligible to receive under this Act, the Food, Agriculture, Conservation, and Trade Act of 1990, or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

"(4) STATE WETLAND AND ENVIRONMENTAL ENHANCEMENT.—The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special wetland and environmental easement enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this subchapter.

"(d) EXEMPTION FROM AUTOMATIC SEQUESTER.—Notwithstanding any other provision of law, no order issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 902) shall affect any payment under this subchapter.

"SEC. 1237E. CHANGES IN OWNERSHIP; AGREEMENT MODIFICATION; TERMINATION. 16 USC 3837e.

"(a) LIMITATIONS.—No easement shall be created under this subchapter on land that has changed ownership in the preceding 12 months unless—

"(1) the new ownership was acquired by will or succession as a result of the death of the previous owner;

"(2) the new ownership was acquired before January 1, 1990; or

"(3) the Secretary determines that the land was acquired under circumstances that give adequate assurances that such land was not acquired for the purposes of placing it in the program established by this subchapter.

"(b) MODIFICATION; TERMINATION.—

"(1) MODIFICATION.—The Secretary may modify an easement acquired from, or a related agreement with, an owner under this subchapter if—

"(A) the current owner agrees to such modification; and

"(B) the Secretary determines that such modification is desirable—

"(i) to carry out this subchapter;

"(ii) to facilitate the practical administration of this subchapter; or

"(iii) to achieve such other goals as the Secretary determines are appropriate and consistent with this subchapter.

"(2) TERMINATION.—

"(A) IN GENERAL.—The Secretary may terminate an easement created with an owner under this subchapter if—

"(i) the current owner agrees to such termination; and

"(ii) the Secretary determines that such termination would be in the public interest.

"(B) NOTICE.—At least 90 days before taking any action to terminate under paragraph (A) all easements entered into under this subchapter, the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 1237F. ADMINISTRATION, AND FUNDING. 16 USC 3837f.

"(a) DELEGATION OF EASEMENT ADMINISTRATION.—The Secretary may delegate any of the easement management, monitoring, and enforcement responsibilities of the Secretary to Federal or State agencies that have the appropriate authority, expertise, and resources necessary to carry out such delegated responsibilities.

"(b) REGULATIONS.—Not later than 180 days after the date of enactment of this subchapter, the Secretary shall issue such regulations as are necessary to carry out this subchapter.".

SEC. 1439. AGRICULTURAL WATER QUALITY INCENTIVES.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) (as amended by section 1438) is further amended by adding after section 1237F the following new chapter:

"CHAPTER 2—AGRICULTURAL WATER QUALITY INCENTIVES

16 USC 3838. **"SEC. 1238. POLICY.**

"The policy of Congress is that water quality protection, including source reduction of agricultural pollutants, henceforth shall be an important goal of the programs and policies of the Department of Agriculture. Furthermore, agricultural producers in environmentally sensitive areas should request assistance to develop and implement on-farm water quality protection plans in order to assist in compliance with State and Federal environmental laws and to enhance the environment.

16 USC 3838a. **"SEC. 1238A. DEFINITIONS.**

"As used in this chapter—

"(1) AGRICULTURAL WATER QUALITY PROTECTION PRACTICE.—The term 'agricultural water quality protection practice' means a farm-level practice or a system of practices designed to protect water quality by mitigating or reducing the release of agricultural pollutants, including nutrients, pesticides, animal waste, sediment, salts, biological contaminants, and other materials, into the environment.

"(2) SOURCE REDUCTION.—The term 'source reduction' means minimizing the generation, emission, or discharge of agricultural pollutants or wastes through the modification of agricultural production systems and practices.

16 USC 3838b. **"SEC. 1238B. AGRICULTURAL WATER QUALITY PROTECTION PROGRAM.**

"(a) INCENTIVES.—

"(1) IN GENERAL.—During the 1991 through 1995 calendar years, the Secretary shall formulate and carry out a voluntary incentive program, in accordance with this chapter, through agreements to assist owners and operators of a farm in developing and implementing a water quality protection plan pursuant to this section.

"(2) AGREEMENTS.—The Secretary shall enter into agreements of 3 to 5 years upon the request of owners and operators of farms in eligible areas but shall not enter into any such agreements after December 31, 1995.

"(3) DUTIES OF OWNERS AND OPERATORS.—In order to receive annual incentive payments, an owner or operator of a farm must agree—

"(A) to implement a water quality protection plan approved by the Secretary subject to the agreement established under this chapter;

"(B) not to conduct any practices on the farm that would tend to defeat the purposes of this chapter;

"(C) to comply with such additional provisions as the Secretary determines are desirable and are included in the agreement to carry out the water quality protection plan or to facilitate the practical administration of the program;

"(D) on the violation of a term or condition of the agreement at any time the owner or operator has control of the land to refund any incentive or cost share payment received with interest and forfeit any such future payments as determined by the Secretary;

"(E) on the transfer of the right and interest of the owner or operator in land subject to the agreement, unless the transferee of such right and interest agrees with the Secretary to assume all obligations of the agreement, to refund any such cost share and incentive payments received under this chapter, as determined by the Secretary;

"(F) to accurately report nutrient, pesticide and animal waste materials usage rates on management areas for three previous years; and

"(G) to supply production evidence, well test results, soil tests, tissue tests, nutrient application levels, pesticide application levels, and animal waste material usage levels, to the Soil Conservation Service or another designee of the Secretary including the local conservation district for each year of the agreement, as determined necessary by the Secretary.

"(4) WETLAND OR WILDLIFE HABITAT OPTIONS.—

"(A) COST SHARE ASSISTANCE.—Owners and operators who voluntarily agree to develop and implement agricultural production practices, in concert with their water quality protection plan, that preserve and enhance wetland or wildlife habitat, shall also be eligible to receive cost share assistance for the implementation of such practices. The Secretary shall develop procedures for approving such agricultural practices, as a part of and consistent with the objectives of the water quality protection plan, that qualify for cost share assistance.

"(B) WETLAND PRESERVATION AND WILDLIFE HABITAT IMPROVEMENT OPTIONS.—

"(i) WETLAND PRESERVATION.—The Secretary shall encourage owners and operators who choose the wetland preservation option to implement, improve and maintain agricultural production practices, in concert with their water quality protection plan, that are designed to preserve and enhance existing wetland.

"(ii) WILDLIFE HABITAT IMPROVEMENT.—The Secretary shall encourage owners and operators who choose the wildlife habitat improvement option to implement, improve and maintain agricultural production practices, in concert with their water quality protection plan, that are designed to improve on-farm wildlife habitat, including the establishment of perennial cover, the protection of riparian areas, wildlife corridors, and areas of critical habitat for endangered species.

"(5) DUTIES OF THE SECRETARY.—In return for an incentive agreement voluntarily entered into under this chapter, the Secretary shall assist the owner or operator in the protection and improvement of surface and groundwater quality and related resources by—

"(A) providing an eligibility assessment of the farming operation as a basis for developing the water quality protection plan and any options associated with such plan;

Technical assistance.

"(B) providing technical assistance in developing and implementing agricultural water quality protection plans;

"(C) providing an annual incentive payment for developing and implementing agricultural production practices in accordance with an approved water quality protection plan submitted by the owner or operator;

"(D) providing cost share assistance for implementing the wetland preservation or wildlife habitat improvement options;

"(E) providing participants with information, education, and training to aid in implementation of a plan; and

"(F) encouraging the owner or operator to obtain cost share assistance under other Federal, State, or local cost share programs.

"(6) PAYMENTS.—

"(A) TERMS.—Payments shall be made under this section for a period of not less than 3 nor more than 5 years, as determined appropriate by the Secretary, and as specified in the contract entered into under the program established under this chapter.

"(B) AMOUNTS.—

"(i) INCENTIVE.—In determining the amount of incentive payment to be made to a participant under this chapter, the Secretary shall consider, among other things, the amount necessary on a per acre basis to encourage producers to participate, additional costs incurred by the producer, and the production values forgone, if any, in implementing the practices.

"(ii) LIMITATION.—Cost share payments shall be made in an amount not to exceed 50 percent of the cost of the eligible practice.

"(C) LIMITATIONS.—Payments to a participant agreeing to implement a plan on acres devoted to the production of an agricultural commodity under this chapter shall not exceed—

"(i) $3500 per person per year in the form of incentive payments; and

"(ii) not more than an additional $1500 per person per contract in the form of cost share assistance.

"(D) MANNER.—The Secretary may make a lump sum payment to an owner or operator of the total incentive payments required under a contract entered into under this chapter, as reduced to present value, if such lump sum payment is necessary to enable the producer to pay the initial costs of implementing a practice required under such contract.

"(E) OTHER PROGRAMS.—Payments received by an owner or operator under this chapter shall be in addition to, and not affect, the total amount of payments that such owner or operator is otherwise eligible to receive under this Act, the Food, Agriculture, Conservation, and Trade Act of 1990, or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), except that payments for a practice or practices shall not be made under this chapter if payments or assistance is provided for such practice under any other Federal program.

"(7) MODIFICATIONS.—The Secretary may modify an agreement entered into with a participant under this chapter if the

participant agrees to such modification and the Secretary determines such modifications are desirable—

"(A) to carry out this chapter;

"(B) if natural causes prevent the implementation, improvement or maintenance of practices as required under such contract;

"(C) if the contract cannot be carried out without economic losses that threaten the viability of the farming operation;

"(D) if the owner or operator and the Secretary agree on contract modifications that will not compromise the water quality goals and objectives in the existing contract and that will be no less effective or timely in achieving such goals and objectives than the existing contract;

"(E) to facilitate the practical administration of this chapter; or

"(F) to achieve such other goals as the Secretary determines are appropriate, consistent with this chapter.

"(8) TERMINATION.—The Secretary may terminate an agreement entered into with a participant under this chapter if—

"(A)(i) the producer agrees to such termination; or

"(ii) the producer violates the terms and conditions of the agreement; and

"(B) the Secretary determines that such termination would be in the public interest.

"(9) REFUNDS.—The Secretary shall obtain refunds of incentive and cost share payments with interest, to the extent determined by the Secretary to be in the public interest, if an agreement is terminated or violated.

"(10) BASE AND YIELD PROTECTION.—An owner or operator agreeing to implement an approved water quality protection plan pursuant to this chapter shall, by regulations established by the Secretary, receive program payment yield and base protection on the farm during the agreement period. Regulations.

"(11) ACREAGE LEVELS.—The Secretary shall, to the extent practicable, seek to enter into agreements with participants to place into the program a total of 10 million acres during the 1991 through 1995 calendar years. Government contracts.

"(b) CONTENT OF PLANS.—Agricultural water quality protection plans should include as applicable—

"(1) a description of the prevailing farm enterprises, cropping patterns, and cultural practices, and other information that may be relevant to protecting water quality on the farm;

"(2) a description of farm resources, including soil characteristics, proximity to water bodies, and other relevant characteristics of the farm related to water quality;

"(3) to the extent practicable, specific, quantitative water quality protection goals and objectives that will minimize contamination or degradation of surface or ground water;

"(4) water quality protection practices that will, if implemented by a producer, assist such producer in complying with State and Federal environmental laws, and where appropriate, will complement conservation plans prepared for highly erodible lands under section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

"(5) the specific agricultural production practices that will be implemented, improved and maintained, including practices

that ensure continued farm productivity and profitability by promoting the efficient use of fertilizers, other crop nutrients, and pesticides, as well as management practices that are to be avoided, in order to carry out and achieve the water quality goals and objectives of the producer;

"(6) to the extent practicable, water quality protection practices for safe storage, mixing and loading of pesticides and fertilizers, and storage and handling of animal waste;

"(7) the timing and sequence for implementing such practices that will assist the producer in complying with State and Federal environmental laws, taking into consideration schedules that may be established in such laws;

"(8) information that will enable evaluation of the effectiveness of the plan in protecting water quality; and

"(9) recommendations of application rates and disposal methods of nutrients, pesticides, and animal waste materials as recommended by the Secretary.

"(c) PLAN DEVELOPMENT.—The Secretary, acting through the Assistant Secretary for Natural Resources and Environment, shall establish a procedure to enable agricultural producers to develop agricultural water quality protection plans pursuant to this section.

"(d) PROTECTION OF CONFIDENTIALITY.—The Secretary shall protect the confidentiality of the information contained in these plans to the extent confidentiality is provided under current law to information contained in conservation plans under section 1212. The Secretary shall provide notice to producers that information contained in the plans developed under this subsection will be available to the public upon request.

Public information.

"(e) ACCEPTANCE OF CONTRACTS.—The Secretary shall begin accepting contracts within one year after the date of enactment of this chapter.

"(f) FEDERAL OR STATE PROVISIONS.—Acceptance of an agreement under this section or receipt of assistance pursuant to section 1238D shall not be deemed to satisfy the requirements of any State or Federal law.

16 USC 3838c.

"SEC. 1238C. ELIGIBLE LANDS.

"(a) ELIGIBLE LANDS.—Lands eligible for enrollment in the program pursuant to section 1238B or for technical assistance pursuant to section 1238D shall include—

"(1) areas that are not more than 1,000 feet from a public well unless a larger wellhead area is deemed desirable for inclusion by the Secretary in consultation with the Environmental Protection Agency and the State agency responsible for the State's operations under the Safe Drinking Water Act (42 U.S.C. 300h-7);

"(2) areas that are in shallow Karst topography areas where sinkholes convey runoff water directly into ground water;

"(3) areas that are considered to be critical cropland areas within hydrologic units identified in a plan submitted by the State under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) as having priority problems that result from agricultural nonpoint sources of pollution;

"(4) areas where agricultural nonpoint sources have been determined to pose a significant threat to habitat utilized by threatened and endangered species;

"(5) areas recommended by State lead agencies for environmental protection as designated by a Governor of a State;

"(6) in consultation with the Secretary, other areas recommended by the Administrator of the Environmental Protection Agency or the Secretary of the Interior;

"(7) lands that are not located within the designated or approved areas but that are located such that if permitted to continue to operate under existing management practices would defeat the purpose of the program as determined by the Secretary; or

"(8) areas contributing to identified water quality problems in areas designated by the Secretary.

"(b) PRIORITY LANDS.—In accepting agreements pursuant to this section and providing assistance pursuant to section 1238D, the Secretary shall give priority to lands on which agricultural production has been determined to contribute to, or creates, the potential for failure to meet applicable water quality standards or the goals and requirements of Federal or State laws governing surface and ground water quality, in consultation with State officials having responsibility for monitoring and protecting water quality, the management of which provide the greatest public benefit as determined by the Secretary.

"SEC. 1238D. TECHNICAL ASSISTANCE FOR WATER QUALITY PROTECTION. 16 USC 3838d.

"(a) IN GENERAL.—Upon request, the Secretary shall provide technical assistance to agricultural producers on eligible lands to assist such producers in developing and implementing agricultural water quality protection plans.

"(b) FIELD OFFICE TECHNICAL GUIDANCE FOR WATER QUALITY PROTECTION.—

"(1) DEVELOPMENT.—The Secretary shall develop guidance materials describing a process to assist agricultural producers in preparing and implementing on-farm agricultural water quality protection plans necessary to assist in complying with State and Federal environmental laws, and to implement the agricultural water quality protection policy established by this chapter.

"(2) CONTENT.—The guidance materials required under this subsection shall reflect local agronomic, economic and ecological conditions to the extent practicable, and include and describe in detail—

"(A) procedures to identify potential sources of pollution on a farm;

"(B) to the extent practicable, a range of water quality protection practices, and their economic cost and benefit, that is suitable to local ecological characteristics and prevailing farm enterprises and that complement conservation plans prepared for highly erodible lands under section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

"(C) storage, mixing, and loading practices for on-farm pesticide and fertilizer use to protect water quality;

"(D) information regarding relevant State and Federal environmental laws that may impact upon the producer;

"(E) criteria to evaluate the effectiveness of on-farm plans in protecting water quality and provide aggregate data to aid in evaluating compliance with State and Federal environmental laws; and

"(F) means to evaluate the economic costs and benefits of agricultural water quality protection practices, including source reduction practices.

"(3) DEADLINE.—Local guidance materials shall be developed no later than two years after the date of enactment of this chapter and up-dated periodically, but not less than every two years.

"(4) CONSULTATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and relevant State agencies in developing guidance materials under this section to ensure that such materials contain accurate and up-to-date technical information on practices designed to protect water quality.

Technical assistance.

"(c) PERSONNEL.—The Secretary shall designate the Soil Conservation Service as the lead agency for purposes of providing technical assistance in connection with implementing this chapter, and shall assign such personnel from the Extension Service, Agricultural Research Service, and other agencies as are necessary to fulfill the purposes of this chapter. The Secretary may request the services of the State water quality agencies, State fish and wildlife agencies, State forestry agencies, or any other source deemed appropriate to assist in providing the technical assistance necessary for the development and implementation of the water quality protection plans.

"(d) LIMITATION OF LIABILITY.—No person shall be permitted to bring or pursue any claim or action against any official or entity based upon or resulting from any technical assistance provided to assist in complying with State or Federal environmental laws under subsection (b)(1) of this section.

16 USC 3838e.

"SEC. 1238E. DEMONSTRATION AND PILOT PROGRAMS.

"(a) DEMONSTRATION AND MODEL FARM PROGRAMS.—To the extent practicable and consistent with the requirements of the program established under this chapter and the priority described in section 1238C(b), the Secretary may enter into contracts under this chapter with owners and operators to facilitate the participation by such owners or operators in demonstration or model farm programs that are sponsored by governmental or private nonprofit entities and are designed to provide education on, disseminate information about, and demonstrate the practical application of agricultural production practices that reduce the potential for contamination or degradation of surface water or ground water while emphasizing practices that enhance profitability and productivity.

"(b) PILOT PROGRAMS.—To complement and enhance the effectiveness of the program established under this chapter, the Secretary may establish pilot programs, for implementation in areas determined to be priority areas under section 1238C(b), that shall be designed to provide assistance to address a wide range of farming operations and production conditions that enhance the efficient use of farm inputs and reduce waste.".

16 USC 3838f.

"SEC. 1238F. REPORT TO CONGRESS.

"Not later than September 30, 1992, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report describing the degree of participation in the planning process and program established in this subtitle, including the number of plans that have been prepared, information

on the number of plans that are in implementation, including the number and acreage of farms engaged in planning by type of environmentally sensitive area, information relevant for evaluating the effectiveness of agricultural water quality plans in protecting water quality, and other information pertinent to implementation of this chapter. A final report shall be submitted no later than September 30, 1994.".

SEC. 1440. ENVIRONMENTAL EASEMENT PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) (as amended by section 1439) is further amended by adding after section 1238F the following new chapter:

"CHAPTER 3—ENVIRONMENTAL EASEMENT PROGRAM

"SEC. 1239. ENVIRONMENTAL EASEMENT PROGRAM. 16 USC 3839.

"(a) ESTABLISHMENT.—The Secretary shall, during the 1991 through 1995 calendar years, formulate and carry out an environmental easement program (hereafter in this chapter referred to as the 'easement program') in accordance with this chapter, through the acquisition of permanent easements or easements for the maximum term permitted under applicable State law from willing owners of eligible farms or ranches in order to ensure the continued long-term protection of environmentally sensitive lands or reduction in the degradation of water quality on such farms or ranches through the continued conservation and improvement of soil and water resources.

"(b) ELIGIBILITY; TERMINATION.—

"(1) IN GENERAL.—The Secretary may acquire easements under this section on land placed in the conservation reserve under this subtitle (other than such land that is likely to continue to remain out of production and that does not pose an off-farm environmental threat), land under the Water Bank Act (16 U.S.C. 1301), or other cropland that—

"(A) contains riparian corridors,

"(B) is an area of critical habitat for wildlife, especially threatened or endangered species; or

"(C) contains other environmentally sensitive areas, as determined by the Secretary, that would prevent a producer from complying with other Federal, State, or local environmental goals if commodities were to be produced on such land.

"(2) INELIGIBLE LAND.—The Secretary may not acquire easements on—

"(A) land that contains timber stands established under the conservation reserve under subtitle D; or

"(B) pasture land established to trees under the conservation reserve under subtitle D.

"(3) TERMINATION OF EXISTING CONTRACT.—The Secretary may terminate or modify any existing contract entered into under section 1231(a) if eligible land that is subject to such contract is transferred into the program established by this chapter.

"SEC. 1239A. DUTIES OF OWNERS; COMPONENTS OF PLAN. 16 USC 3839a.

"(a) DUTIES OF OWNERS.—

"(1) PLAN.—In conjunction with the creation of an easement on any lands under this chapter, the owner of the farm or ranch

wherein such lands are located must agree to implement a natural resource conservation management plan under subsection (b) approved by the Secretary in consultation with the Secretary of the Interior.

"(2) AGREEMENT.—In return for the creation of an easement on any lands under this chapter, the owner of the farm or ranch wherein such lands are located must agree to the following:

"(A) To the creation and recordation of an appropriate deed restriction in accordance with applicable State law to reflect the easement agreed to under this chapter with respect to such lands.

"(B) To provide a written statement of consent to such easement signed by those holding a security interest in the land.

"(C) To comply with such additional provisions as the Secretary determines are desirable and are included in the easement to carry out this chapter or to facilitate the practical administration thereof.

Forests and forest products. Nuts.

"(D) To specify the location of any timber harvesting on land subject to the easement. Harvesting and commercial sales of Christmas trees and nuts shall be prohibited on such land, except that no such easement or related agreement shall prohibit activities consistent with customary forestry practices, such as pruning, thinning, or tree stand improvement on lands converted to forestry uses.

"(E) To limit the production of any agricultural commodity on such lands only to production for the benefit of wildlife.

"(F) Not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the easement unless specifically provided for in the easement or related agreement.

"(G) Not to adopt any other practice that would tend to defeat the purposes of this chapter, as determined by the Secretary.

"(3) VIOLATION.—On the violation of the terms or conditions of the easement or related agreement entered into under this section, the easement shall remain in force and the Secretary may require the owner to refund all or part of any payments received by the owner under this chapter, together with interest thereon as determined appropriate by the Secretary.

"(b) COMPONENTS OF PLAN.—The natural resource conservation management plan referred to in subsection (a)(1) (hereafter referred to as the 'plan')—

"(1) shall set forth—

"(A) the conservation measures and practices to be carried out by the owner of the land subject to the easement; and

"(B) the commercial use, if any, to be permitted on such land during the term of the easement; and

"(2) shall provide for the permanent retirement of any existing cropland base and allotment history for such land under any program administered by the Secretary.

16 USC 3839b.

"SEC. 1239B. DUTIES OF THE SECRETARY.

"In return for the granting of an easement by an owner under this chapter, the Secretary shall—

"(1) share the cost of carrying out the establishment of conservation measures and practices set forth in the plan for which the Secretary determines that cost sharing is appropriate and in the public interest;

"(2) pay for a period not to exceed 10 years annual easement payments in the aggregate not to exceed the lesser of—

"(A) $250,000; or

"(B) the difference in the value of the land with and without an easement;

"(3) provide necessary technical assistance to assist owners in complying with the terms and conditions of the easement and the plan; and Technical assistance.

"(4) permit the land to be used for wildlife activities, including hunting and fishing, if such use is permitted by the owner. Hunting. Fishing.

"SEC. 1239C. PAYMENTS. 16 USC 3839c.

"(a) TIME OF PAYMENT.—The Secretary shall provide payment for obligations incurred by the Secretary under this chapter—

"(1) with respect to any cost sharing obligation as soon as possible after the obligation is incurred; and

"(2) with respect to any annual easement payment obligation incurred by the Secretary as soon as possible after October 1 of each calendar year.

"(b) COST SHARING PAYMENTS.—In making cost sharing payments to owners under this chapter, the Secretary may pay up to 100 percent of the cost of establishing conservation measures and practices pursuant to this chapter.

"(c) EASEMENT PAYMENTS; ACCEPTABILITY OF OFFERS.—

"(1) DETERMINATION OF AMOUNT.—The Secretary shall determine the amount payable to owners in the form of easement payments under this chapter, and in making such determination may consider, among other things, the amount necessary to encourage owners to participate in the easement program.

"(2) ACCEPTABILITY OF OFFERS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

"(A) the extent to which the purposes of the easement program would be achieved on the land;

"(B) the productivity of the land; and

"(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.

"(d) FORM OF PAYMENT.—Except as otherwise provided in this section, payments under this chapter—

"(1) shall be made in cash in such amount and at such time as is agreed on and specified in the easement or related agreement; and

"(2) may be made in advance of a determination of performance.

"(e) PAYMENTS TO OTHERS.—If an owner who is entitled to a payment under this chapter dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

"(f) PAYMENT LIMITATION.—

"(1) IN GENERAL.—The total amount of easement payments made to a person under this chapter for any year may not exceed $50,000.

"(2) REGULATIONS.—The Secretary shall issue regulations prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

"(3) OTHER PAYMENTS.—Easement payments received by an owner shall be in addition to, and not affect, the total amount of payments that such owner is otherwise eligible to receive under this Act, the Food, Agriculture, Conservation, and Trade Act of 1990, or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

"(4) STATE ENVIRONMENTAL ENHANCEMENT.—The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under an environmental easement enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this chapter.

"(g) EXEMPTION FROM AUTOMATIC SEQUESTER.—Notwithstanding any other provision of law, no order issued under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended (2 U.S.C. 902) shall affect any payment under this chapter.

16 USC 3839d.

"SEC. 1239D. CHANGES IN OWNERSHIP; MODIFICATION OF EASEMENT.

"(a) LIMITATIONS.—No easement shall be created under this chapter on land that has changed ownership in the preceding 12 months unless—

"(1) the new ownership was acquired by will or succession as a result of the death of the previous owner;

"(2) the new ownership was acquired before January 1, 1990; or

"(3) the Secretary determines that the land was acquired under circumstances that give adequate assurances that such land was not acquired for the purposes of placing it in the program established by this chapter.

"(b) MODIFICATION; TERMINATION.—

"(1) MODIFICATION.—The Secretary may modify an easement acquired from, or a related agreement with, an owner under this chapter if—

"(A) the current owner of the land agrees to such modification; and

"(B) the Secretary determines that such modification is desirable—

"(i) to carry out this chapter;

"(ii) to facilitate the practical administration of this chapter; or

"(iii) to achieve such other goals as the Secretary determines are appropriate and consistent with this chapter.

"(2) TERMINATION.—

"(A) IN GENERAL.—The Secretary may terminate an easement created with an owner under this chapter if—

"(i) the current owner of the land agrees to such termination; and

"(ii) the Secretary determines that such termination would be in the public interest.

"(B) NOTICE.—At least 90 days before taking any action to terminate under subparagraph (A) all easements entered into under this chapter, the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 1441. TREE PLANTING INITIATIVE.

(a) TREE PLANTING INITIATIVE.—Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end of subtitle F the following new section:

"SEC. 1256. TREE PLANTING INITIATIVE.

16 USC 2101 note.

"(a) MAINTENANCE, AFFORESTATION, AND REFORESTATION OF FOREST LANDS.—

"(1) POLICY.—It is the policy of the United States to—

"(A) promote the retention and management of lands currently in forest cover as forested lands;

"(B) provide for the reforestation of Federal, State, and private nonindustrial forest lands following timber harvest or loss of cover due to fire, insect damage, disease or damaging weather;

"(C) encourage the reforestation of previously forested lands and the afforestation of marginal agricultural lands; and

"(D) promote the planting of trees and the proper management of existing forest lands to reduce soil erosion, improve water quality, enhance fish and wildlife habitat, and provide for the sustained production of the commodity and noncommodity resources that these lands can provide to meet the Nation's needs.

"(2) IMPLEMENTATION OF POLICY.—The Secretary is encouraged to use the following programs to accomplish the policy identified in subsection (a)(1):

"(A) The conservation reserve established under subchapter B of chapter 1.

"(B) The agricultural conservation program authorized by sections 7 through 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g through 590o, 590p(a), 590p(f), and 590(g) and sections 1001 through 1008 and 1010 of the Agricultural Act of 1970 (16 U.S.C. 1501 through 1508 and 1510).

"(C) The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).

"(D) The provisions of title XII of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(b) AGREEMENTS WITH STATE FORESTRY AGENCIES.—The Secretary shall encourage owners and operators of cropland who enter into agreements in accordance with this section to enlist the cooperative assistance of the State Forester or equivalent State official in obtaining technical and financial assistance for tree planting and

maintenance activities in accordance with the provisions of title XII of the Food, Agriculture, Conservation, and Trade Act of 1990.".

SEC. 1442. ADMINISTRATION OF CONSERVATION PROGRAMS.

Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by adding at the end the following new subsections:

"(d) In making determinations under this title and in conducting appeals from any determination made under this title, the Secretary shall act as expeditiously as possible but shall provide adequate safeguards to protect the interests of the persons involved in such determination.

Records.

"(e) The Secretary shall maintain data concerning the number and status of appeals pending in excess of 120 days or resolved under this title.

"(f)(1) The Secretary shall not enroll more than a total of 25 percent of the cropland in any county into the Environmental Conservation Acreage Reserve Program under chapter 1 and the Environmental Easement Program under chapter 3, and not more than 10 percent of such cropland may be subject to an easement acquired under those chapters. The Secretary may exceed these limitations in a county to the extent that the Secretary determines that—

"(A) such action would not adversely affect the local economy of such county; and

"(B) producers in such county are having difficulties complying with conservation plans or other environmental requirements.

"(2) The limitations established under this subsection shall not apply to cropland that is subject to an easement under chapter 1 or chapter 3 that is used for the establishment of shelterbelts and windbreaks.

"(3) In making a determination under this subsection, the Secretary shall not require the written consent of a member of Congress.".

SEC. 1443. AUTHORIZATION OF APPROPRIATIONS.

Section 1245 of the Food Security Act of 1985 (16 U.S.C. 3845) is amended to read as follows:

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"(a) ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM AND WATER QUALITY INCENTIVE PROGRAM.—There is authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out chapters 1 and 2 of subtitle D. Amounts available to carry out subtitle D before the date of enactment of this section shall remain available to carry out such chapters.

"(b) OTHER CONSERVATION MATTERS.—In addition to subsection (a), there is authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out subtitles (A) through (G), other than chapters 1 and 2 of subtitle D.".

SEC. 1444. MONITORING AND EVALUATION.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is further amended by adding after section 1245 the following new section:

"SEC. 1246. MONITORING AND EVALUATION. 16 USC 3846.

"(a) IN GENERAL.—Not later than June 30, 1993, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive report that evaluates, in accordance with subsection (b), the programs and policies established and operated under this title. Reports.

"(b) REQUIREMENTS.—In conducting the evaluations required under subsection (a), the Secretary shall—

"(1) assess the progress made toward the national objective of nondegradation of the soil resources through the implementation of the relevant provisions of this title, identify obstacles to the attainment of such goal, and recommend ways in which to overcome such obstacles;

"(2) perform on-site evaluations of 5 percent, or such reasonable amount as necessary to produce a statistically valid survey, of all affected acreage of—

"(A) conservation practices on highly erodible lands;

"(B) estimates of erosion reductions that may result from the implementation of conservation plans; and

"(C) the technical adequacy and feasibility of such plans;

"(3) collect data concerning the social and economic impacts, violations, appeals, and such other matters under this title as the Secretary determines to be necessary to assess the overall impact of this title, which data collection shall not impose an additional recordkeeping or reporting requirement on the producer; and

"(4) assess the contribution toward the national objectives of wetlands preservation, wildlife and waterfowl habitat improvement, and water quality improvement through the implementation of the relevant provisions of this title, identify obstacles to furthering progress toward such objectives, and recommend ways in which to overcome such obstacles.".

SEC. 1445. ASSISTANCE FOR CONTROL OF THE SPREAD OF WEEDS AND PESTS.

Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) (as amended by section 1444) is further amended by inserting after section 1246 the following new section:

"SEC. 1247. ASSISTANCE FOR CONTROL OF THE SPREAD OF WEEDS AND PESTS. 16 USC 3847.

"(a) IN GENERAL.—The Secretary, in consultation with State experiment stations, the Administrator of the Extension Service, the Chief of the Soil Conservation Service, and State pest and weed control boards, shall make available to owners and operators of land that is subject to a contract under subtitle D, weed and pest control technical information and materials that—

"(1) address common weed and pest problems and programs to control weeds and pests found on acreage enrolled in the conservation reserve; and

"(2) are otherwise consistent with maintaining the conservation and environmental objectives of the conservation reserve.

"(b) CONSERVATION MEASURE.—At the Secretary's discretion, the control of insect pests on conservation reserve acreage that is most likely to incur a crop pest infestation that adversely affects

surrounding commercial land may be considered a conservation measure or practice for the purposes of subsection 1234(b).".

SEC. 1446. STATE TECHNICAL COMMITTEE.

Title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle G—State Technical Committees

16 USC 3861.

"SEC. 1261. ESTABLISHMENT.

"(a) IN GENERAL.—The Secretary shall establish in each State a technical committee to assist the Secretary in the technical considerations relating to implementation of the conservation provisions under this title.

"(b) STANDARDS.—Not later than 180 days after enactment of this section, the Secretary shall develop standards to be used by the State technical committee in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

"(c) COMPOSITION.—Each State technical committee established under subsection (a) shall be composed of professional resource managers that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. Such committee shall include such representatives as may serve from among—

"(1) the Soil Conservation Service;
"(2) the Agricultural Stabilization and Conservation Service;
"(3) the Forest Service;
"(4) the Extension Service;
"(5) the Farmers Home Administration;
"(6) the Fish and Wildlife Service;
"(7) State departments and agencies which the Secretary deems appropriate, including:
"(A) the State fish and wildlife agency;
"(B) the State forester or equivalent State official;
"(C) the State water resources agency;
"(D) the State department of agriculture; and
"(E) the State association of soil and water conservation districts; and
"(8) other agency personnel with expertise in soil, water, wetland, and wildlife management as the Secretary determines appropriate.

16 USC 3862.

"SEC. 1262. RESPONSIBILITIES.

"(a) IN GENERAL.—Each Committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title. Such information, analysis, and recommendations shall be provided in a manner that will assist the Department of Agriculture in determining matters of fact, technical merit, or scientific question. Data, analysis, and recommendations shall be provided in writing and shall reflect the best professional information and judgment of the Committee. The Secretary shall coordinate activities conducted under this section with those conducted under section 1628 of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(b) WETLAND AND WILDLIFE HABITAT PROTECTION GUIDELINES.—

"(1) DEVELOPMENT OF TECHNICAL GUIDES.—Not later than one year after the date of enactment of this section each State technical committee shall develop technical guides for the implementation of the wetland preservation and wildlife habitat improvement options of the agricultural water quality protection program under section 1238B.

"(2) CONTENT OF GUIDES.—

"(A) IN GENERAL.—The technical guides required under this subsection shall include detailed information on the selection of crops and crop-plant varieties, cover crops, rotation practices, tillage systems, nutrient management, biological control practices (including biologically intensive integrated pest management practices), soil, water, and natural resource conservation, and other practices useful in developing practices pursuant to such option.

"(B) STANDARDS AND INSTRUCTIONS.—The technical guides required under subsection (a) shall provide standards and practical instructions for implementation of wetland protection and wildlife habitat improvement practices based on existing scientific and technical knowledge.

"(C) CONTRACTS.—The Secretary may enter into contracts to assist in the development and periodic revision of the technical guides described in this subsection.

"(c) OTHER DUTIES.—Each technical committee shall provide assistance and offer recommendations with respect to the technical aspects of— Technical assistance.

"(1) wetland protection, restoration, and mitigation requirements;

"(2) criteria to be used in evaluating bids for enrollment of environmentally-sensitive lands in the conservation reserve program;

"(3) guidelines for haying or grazing and the control of weeds to protect nesting wildlife on set-aside acreage;

"(4) highly erodible lands exemptions and appeals;

"(5) wetland and conservation compliance exemptions and appeals;

"(6) addressing common weed and pest problems and programs to control weeds and pests found on acreage enrolled in the conservation reserve program;

"(7) guidelines for planting perennial cover for water quality and wildlife habitat improvement on set-aside lands; and

"(8) other matters determined appropriate by the Secretary.

"(d) AUTHORITY.—Each Committee established under section 1261 is advisory and shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such Committees in administering the programs under this title, and to the factual, technical, or scientific findings and recommendations under the Committee's responsibility.".

SEC. 1447. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FOOD SECURITY ACT.—Subtitle D of title XII of such Act (16 U.S.C. 3831 et seq.) as such subtitle existed prior to the date of enactment of this Act, is amended by striking the term "this subtitle" each place that such term occurs and inserting "this subchapter". 16 USC 3831-3836.

(b) TABLE OF CONTENTS.—

(1) WETLAND CONSERVATION.—Section 2 of the Food Security Act of 1985 is amended— 99 Stat. 1354.

(A) by striking the item relating to section 1222 and insert the following:

"Sec. 1222. Delineation of wetlands; exemptions.";

(B) by inserting after the item relating to section 1223 the following new item:

"Sec. 1224. Fairness of compliance.";

(2) CONSERVATION RESERVE.—Section 2 of such Act is amended by striking the heading and the items relating to subtitle D of title XII and inserting the following:

"Subtitle D—Agricultural Resources Conservation Program"

"CHAPTER 1—ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM

"Subchapter A—General Provisions

"Sec. 1230. Environmental Conservation Acreage Reserve Program.

"Subchapter B—Conservation Reserve

"Sec. 1231. Conservation reserve.
"Sec. 1232. Duties of owners and operators.
"Sec. 1233. Duties of the Secretary.
"Sec. 1234. Payments.
"Sec. 1235. Contracts.
"Sec. 1235A. Conversion of land subject to contract to other conserving uses.
"Sec. 1236. Base history.

"Subchapter C—Wetlands Reserve Program

"Sec. 1237. Wetlands Reserve Program.
"Sec. 1237A. Easements.
"Sec. 1237B. Duties of owners.
"Sec. 1237C. Duties of the Secretary.
"Sec. 1237D. Payments.
"Sec. 1237E. Changes in ownership; agreement modification; termination.
"Sec. 1237F. Administration, and funding.

"CHAPTER 2—AGRICULTURAL WATER QUALITY INCENTIVES

"Sec. 1238. Policy.
"Sec. 1238A. Definitions.
"Sec. 1238B. Agricultural Water Quality Protection Program.
"Sec. 1238C. Eligible lands.
"Sec. 1238D. Technical assistance for water quality protection.
"Sec. 1238E. Demonstration and pilot programs.
"Sec. 1238F. Report to Congress.

"CHAPTER 3—ENVIRONMENTAL EASEMENT PROGRAM

"Sec. 1239. Environmental Easement Program.
"Sec. 1239A. Duties of owners; components of plan.
"Sec. 1239B. Duties of the Secretary.
"Sec. 1239C. Payments.
"Sec. 1239D. Changes in ownership; modification of easement.".

(3) ADMINISTRATION.—Section 2 of such Act is further amended by striking the item relating to section 1245 and inserting the following new items:

"Sec. 1245. Authorization of appropriations.
"Sec. 1246. Monitoring and evaluation.
"Sec. 1247. Assistance for control of the spread of weeds and pests.".

(4) TREE PLANTING INITIATIVE.—Section 2 of such Act is further amended by inserting after the item relating to section 1254 the following new item:

"Sec. 1256. Tree planting initiative.".

(5) STATE TECHNICAL COMMITTEES.—Section 2 of such Act is further amended by inserting after the items relating to subtitle F of title XII the following new items:

"SUBTITLE G—STATE TECHNICAL COMMITTEES

"Sec. 1261. Establishment.
"Sec. 1262. Responsibilities.".

Subtitle D—OTHER CONSERVATION MEASURES

SEC. 1451. INTEGRATED FARM MANAGEMENT PROGRAM OPTION.

7 USC 5822.

Regulations.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall, by regulation, establish a voluntary program, to be known as the "Integrated Farm Management Program Option" (hereafter referred to in this section as the "program"), designed to assist producers of agricultural commodities in adopting integrated, multiyear, site-specific farm management plans by reducing farm program barriers to resource stewardship practices and systems.

(b) DEFINITIONS.—

(1) IN GENERAL.—For purposes of this section—

(A) The term "resource-conserving crop" means legumes, legume-grass mixtures, legume-small grain mixtures, legume-grass-small grain mixtures, and alternative crops.

(B) The term "resource-conserving crop rotation" means a crop rotation that includes at least one resource-conserving crop and that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves water.

(C) The term "farming operations and practices" includes the integration of crops and crop-plant variety selection, rotation practices, tillage systems, soil conserving and soil building practices, nutrient management strategies, biological control and integrated pest management strategies, livestock production and management systems, animal waste management systems, water and energy conservation measures, and health and safety considerations.

(D) The term "integrated farm management plan" means a comprehensive, multiyear, site-specific plan that meets the requirements of subsection (e).

(2) CROPS.—For purposes of paragraph (1)(A)—

(A) The term "grass" means perennial grasses commonly used for haying or grazing.

(B) The term "legume" means forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green manure, but not including any bean crop from which the seeds are harvested.

(C) The term "small grain" shall not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.

(D) The term "alternative crops" means experimental and industrial crops grown in arid and semiarid regions that conserve soil and water.

(c) ELIGIBILITY.—To be eligible to participate in the program established by this section, a producer must—

(1) prepare and submit to the Secretary for approval an integrated farm management plan (hereafter referred to in this section as the "plan");

(2) actively apply the terms and conditions of the plan, as approved by the Secretary;

(3) devote to a resource-conserving crop, on the average through the life of the contract, not less than 20 percent of the crop acreage bases enrolled under such program;

(4) comply with the terms and conditions of any annual acreage limitation program in effect for the crop acreage bases contracted under the terms of this subsection; and

(5) keep such records as the Secretary may reasonably require.

(d) ACREAGE.—In accepting contracts for the program, the Secretary, to the extent practicable, shall enroll not more than 3,000,000, nor more than 5,000,000, acres of cropland in the calendar years 1991 through 1995.

(e) CONTRACTS.—The Secretary shall enter into contracts with producers to enroll acreage in the program. Such contracts shall be for a period of not less than 3 years, but may, at the producer's option, be for a longer period of time (up to 5 years) and may be renewed upon mutual agreement between the Secretary and the producer.

(f) REQUIREMENTS OF THE PLANS.—Each plan approved by the Secretary shall—

(1) specify the acreage and the crop acreage bases to be enrolled in the program;

(2) describe the resource-conserving crop rotation to be implemented and maintained on such acreage during the contract period to fulfill the purposes of the program;

(3) contain a schedule for the implementation, improvement and maintenance of the resource-conserving crop rotation described in the plan;

(4) describe the farming operations and practices to be implemented on such acreage and how such operations and practices could reasonably be expected to result in—

(A) the maintenance or enhancement of the overall productivity and profitability of the farm;

(B) the prevention of the degradation of farmland soils, the long-term improvement of the fertility and physical properties of such soils; and

(C) the protection of water supplies from contamination by managing or minimizing agricultural pollutants if their management or minimization results in positive economic and environmental benefits;

(5) assisting the producer to comply with all Federal, State, and local requirements designed to protect soil, wetland, wildlife habitat, and the quality of groundwater and surface water; and

(6) contain such other terms as the Secretary may, by regulation, require.

(g) ADMINISTRATION; CERTIFICATION; TERMINATION.—

(1) ADMINISTRATION; TECHNICAL ASSISTANCE; FLEXIBILITY; IMPLEMENTATION; DISPLACEMENT.—

(A) ADMINISTRATION.—The program shall be administered by the Secretary.

(B) TECHNICAL ASSISTANCE.—In administering the program, the Secretary, in consultation with the local conservation districts, and any State or local authorities deemed appropriate by the Secretary, shall provide technical assistance to producers in developing and implementing plans, evaluating the effectiveness of plans, and assessing the costs and benefits of farming operations and practices. The plans may draw on handbooks and technical guides and may also include other practices appropriate to the particular circumstances of the producer and the purposes of the program.

(C) FLEXIBILITY.—In administering the program, the Secretary shall provide sufficient flexibility for a producer to adjust or modify the producer's plan consistent with this section, except that such adjustments or modifications must be approved by the Secretary.

(D) MINIMIZATION OF ADVERSE EFFECT.—

(i) IN GENERAL.—Notwithstanding any other provision of this section, the Secretary shall implement this section in such a manner as to minimize any adverse economic effect on the agribusinesses and other agriculturally related economic interests within any county, State, or region that may result from a decrease of harvested acres due to the operation of this section. In carrying out this section, the Secretary may restrict the total amount of crop acreage that may be removed from production, taking into consideration the total amount of crop acreage that has, or will be, removed from production under other price support, production adjustment, or conservation program activities.

(ii) MAXIMIZE CONSERVATION GOALS.—The Secretary shall, to the greatest extent practicable, permit producers on a farm that desire to participate in the program authorized under this section to enroll acreage adequate to maximize conservation goals on such farm and ensure economic effectiveness of the program in each individual application.

(E) DISPLACEMENT.—The Secretary shall not approve any plan that will result in the involuntary displacement of farm tenants or lessees by landowners through the removal of substantial portions of the farm from production of a commodity. In the case of any tenant or lessee who has rented or leased the farm (with or without a written option for annual renewal or periodic renewals) for a period of two or more of the immediately preceding years, the Secretary shall consider the refusal by a landlord, without reasonable cause other than simply for the purpose of enrollment in the program, to renew such rental or lease as an involuntary displacement in the absence of a written consent to such nonrenewal by the tenant or lessee.

(2) CERTIFICATION.—The Secretary shall certify compliance by producers with the terms and conditions of the plans.

(3) TERMINATION.—The Secretary may terminate a contract entered into with a producer under this program if—

(A) the producer agrees to such termination, or

(B) the producer violates the terms and conditions of such contract.

(h) PROGRAM RULES.—

(1) BASE AND YIELD PROTECTION.—Notwithstanding any other provision of law, the Secretary shall not, except as provided in paragraph (6), reduce crop acreage bases, or farm program payment yields, as a result of the planting of a resource-conserving crop as part of a resource-conserving crop rotation.

(2) RESOURCE-CONSERVING CROPS ON REDUCED ACREAGE.—Notwithstanding the provisions of title I of the Agricultural Act of 1949, acreage devoted to resource-conserving crops as part of a resource-conserving crop rotation under this program may also be designated as conservation use acreage for the purpose of fulfilling any provisions under any acreage limitation or land diversion program and up to 50 percent of the acreage so designated shall be without restrictions on haying and grazing, except as provided in paragraph (5)(B), except that such acreage that is devoted to perennial cover on which cost-share assistance for the establishment of the perennial cover has been provided, shall not be credited towards the producer's resource-conserving crop requirement under a contract under this section.

(3) BARLEY, OATS, AND WHEAT.—Notwithstanding any other provisions of this section, barley, oats, or wheat planted as part of a resource-conserving crop on reduced acreage may not be harvested in kernel form.

(4) PAYMENT ACRES.—Notwithstanding any other provision of this Act, the Secretary shall not reduce farm program payments of participants in this program as a result of the planting a resource-conserving crop as part of a resource-conserving crop rotation on payment acres.

(5) HAYING AND GRAZING RESTRICTION.—

(A) IN GENERAL.—The Secretary shall not make any program payments to a producer who is otherwise eligible to receive with respect to acreage enrolled in the program if such producer hays or grazes such acreage (excluding acreage designated as conservation use acreage) during the 5-month period in each State during which haying and grazing of conserving use acres is not allowed under the provisions of the Agricultural Act of 1949, or, if the crop planted on such acreage includes a small grain, before the producer harvests the small grain crop in kernel form.

(B) LIMITATION ON PERMITTED HAYING AND GRAZING.—Notwithstanding any other provision of this section, if the Secretary determines that implementation of this section will result in a significant adverse economic impact on hay or livestock prices in a particular geographic area, the Secretary may limit the quantity of hay that can be harvested or grazed from that area. Such limit may include restrictions on the number of times that hay may be harvested or grazed from the acres per year, the timing of such harvesting and grazing, or the number of years that such land may remain in the same hay stand, or a prohibition on the harvesting or grazing of hay from acres on which a small grain was not originally interplanted with the hay crop and harvested for grain.

(6) BASE ACRE ADJUSTMENTS.—The Secretary, only for the purpose of establishing a producer's crop acreage base under the Agricultural Act of 1949, may make such adjustments as the Secretary determines to be fair and equitable to reflect resource-conserving crop rotation practices that were maintained by producers prior to participation in the program and to reflect such other factors as the Secretary determines should be considered, except that the total of such adjustments in any year shall not exceed the total farm program savings in the same year that would result from the implementation of plans.

(7) PAYMENT ACREAGE LIMITATION.—

(A) IN GENERAL.—No producers enrolled in a resource-conserving crop rotation shall not be eligible to receive payments under farm programs for wheat, feed grains, cotton, or rice under the Agricultural Act of 1949 on acreage equal to the average number of traditionally underplanted acres for the three years prior to enrolling in this program.

(B) DEFINITION.—

(i) IN GENERAL.—Subject to clause (ii), for the purposes of this paragraph the term "traditionally underplanted acreage" means the difference in a particular year between the acreage that is part of a producer's crop acreage base that is not planted to the program crop and the part of the crop acreage base subject to an acreage limitation program or required to be set aside. In no case shall such acreage be less than zero.

(ii) EXCEPTION.—In the case of a producer participating in a particular year in a program authorized under section 101B(c)(1)(B), section 103B(c)(1)(B), section 105A(c)(1)(B), or section 107A(c)(1)(B) of the Agricultural Act of 1949, the term "traditionally underplanted acreage" means 8 percent of the producer's permitted acreage for such year.

SEC. 1452. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

(a) ELIGIBILITY.—Section 1536 of the Agriculture and Food Act of 1981 (16 U.S.C. 3459) is amended by striking "two hundred and twenty-five" and inserting "450".

(b) AUTHORIZATION.—Section 1538 of the Agriculture and Food Act of 1981 (16 U.S.C. 3461) is amended by striking "for each of the five fiscal years beginning October 1, 1982, and ending September 30, 1987," and inserting "for each of the fiscal years 1991 through 1995".

SEC. 1453. AMENDMENT TO THE NOXIOUS WEED ACT.

The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.) is amended by adding at the end the following:

"SEC. 15. MANAGEMENT OF UNDESIRABLE PLANTS ON FEDERAL LANDS. 7 USC 2814.

"(a) DUTIES OF AGENCIES.—Each Federal agency shall—

"(1) designate an office or person adequately trained in the management of undesirable plant species to develop and coordinate an undesirable plants management program for control of undesirable plants on Federal lands under the agency's jurisdiction;

"(2) establish and adequately fund an undesirable plants management program through the agency's budgetary process;

Government contracts.

"(3) complete and implement cooperative agreements with State agencies regarding the management of undesirable plant species on Federal lands under the agency's jurisdiction; and

"(4) establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements.

"(b) ENVIRONMENTAL IMPACT STATEMENTS.—In the event an environmental assessment or environmental impact statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to implement plant control agreements, Federal agencies shall complete such assessments or statements within 1 year after the requirement for such assessment or statement is ascertained.

"(c) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

"(1) IN GENERAL.—Federal agencies, as appropriate, shall enter into cooperative agreements with State agencies to coordinate the management of undesirable plant species on Federal lands.

"(2) CONTENTS OF PLAN.—A cooperative agreement entered into pursuant to paragraph (1) shall—

"(A) prioritize and target undesirable plant species or group of species to be controlled or contained within a specific geographic area;

"(B) describe the integrated management system to be used to control or contain the targeted undesirable plant species or group of species; and

"(C) detail the means of implementing the integrated management system, define the duties of the Federal agency and the State agency in prosecuting that method, and establish a timeframe for the initiation and completion of the tasks specified in the integrated management system.

"(d) EXCEPTION.—A Federal agency is not required under this section to carry out programs on Federal lands unless similar programs are being implemented generally on State or private lands in the same area.

"(e) DEFINITIONS.—As used in this section:

"(1) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means a written agreement between a Federal agency and a State agency entered into pursuant to this section.

"(2) FEDERAL AGENCY.—The term 'Federal agency' means a department, agency, or bureau of the Federal Government responsible for administering or managing Federal lands under its jurisdiction.

"(3) FEDERAL LANDS.—The term 'Federal lands' means lands managed by or under the jurisdiction of the Federal Government.

"(4) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management systems' means a system for the planning and implementation of a program, using an interdisciplinary approach, to select a method for containing or controlling an undesirable plant species or group of species using all available methods, including—

"(A) education;

"(B) preventive measures;

"(C) physical or mechanical methods;

"(D) biological agents;
"(E) herbicide methods;
"(F) cultural methods; and
"(G) general land management practices such as manipulation of livestock or wildlife grazing strategies or improving wildlife or livestock habitat.

"(5) INTERDISCIPLINARY APPROACH.—The term 'interdisciplinary approach' means an approach to making decisions regarding the containment or control of an undesirable plant species or group of species, which—

"(A) includes participation by personnel of Federal or State agencies with experience in areas including weed science, range science, wildlife biology, land management, and forestry; and

"(B) includes consideration of—

"(i) the most efficient and effective method of containing or controlling the undesirable plant species;
"(ii) scientific evidence and current technology;
"(iii) the physiology and habitat of a plant species; and
"(iv) the economic, social, and ecological consequences of implementing the program.

"(6) STATE AGENCIES.—The term 'State agency' means a State department of agriculture, or other State agency or political subdivision thereof, responsible for the administration or implementation of undesirable plants laws of a State.

"(7) UNDESIRABLE PLANT SPECIES.—The term 'undesirable plants' means plant species that are classified as undesirable, noxious, harmful, exotic, injurious, or poisonous, pursuant to State or Federal law. Species listed as endangered by the Endangered Species Act of 1973 shall not be designated as undesirable plants under this section and shall not include plants indigenous to an area where control measures are to be taken under this section.

"(f) COORDINATION.—

"(1) IN GENERAL.—The Secretary of Agriculture and the Secretary of the Interior shall take such actions as may be necessary to coordinate Federal agency programs for control, research, and educational efforts associated with Federal, State, and locally designated noxious weeds.

"(2) DUTIES.—The Secretary, in consultation with the Secretary of the Interior, shall—

"(A) identify regional priorities for noxious weed control;
"(B) incorporate into existing technical guides regionally appropriate technical information; and
"(C) disseminate such technical information to interested State, local, and private entities.

"(3) COST SHARE ASSISTANCE.—The Secretary may provide cost share assistance to State and local agencies to manage noxious weeds in an area if a majority of landowners in that area agree to participate in a noxious weed management program.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary in each of fiscal years 1991 through 1995 to carry out this section.".

SEC. 1454. IDENTIFYING THE EFFECTS OF FEDERAL PROGRAMS.

Section 1541(b) of the Farmland Protection Policy Act (7 U.S.C. 4202(b)) is amended by inserting "to identify the quantity of farmland actually converted by Federal programs, and" after "of this section,".

SEC. 1455. GREAT PLAINS CONSERVATION PROGRAM.

(a) CONTRACTS.—Section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) is amended—

(1) in paragraph (1), by striking "1991" and inserting "2001"; and

(2) in paragraph (7), by striking "$600,000,000" and inserting "$1,000,000,000".

(b) DESIGN OF SYSTEMS AND DATA.—Section 16 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p) is amended by adding at the end thereof the following new subsections:

"(j) In the design and preparation of resource management systems under this section, the Secretary shall, where practicable, substitute more intensive management measures for structural measures.

Research. Intergovernmental relations.

"(k) The Secretary shall collect and maintain data on a national and State by State basis concerning the resource, environmental and economic consequences of the assistance and applications provided under this section.".

Public information. 7 USC 3130.

SEC. 1456. COMPOSTING RESEARCH AND EXTENSION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to require the Secretary of Agriculture to identify and compile appropriate methods of composting agricultural wastes and the potential uses for such compost, and to make such information available to the appropriate Federal, State, or other private authorities and the general public.

(b) COMPOSTING INFORMATION.—

(1) SECRETARY.—The Secretary shall identify and compile information on—

(A) the composting of agricultural wastes, including information on the composting of wastes from the production, processing, and distribution of food, fiber, forestry, livestock, and fish products, and the potential uses of such compost; and

(B) laws, rules, and programs adopted by State and local governments and foreign governments that establish definitions and set standards for the processing, handling, and use of compost.

(2) CONSULTATION.—In identifying and compiling such information, the Secretary may consult with representatives of other Federal departments and such other persons as the Secretary determines appropriate.

(c) RESEARCH.—The Secretary shall conduct research on the potential uses for compost derived from animal wastes, and from other waste streams as appropriate, and identify uses for such compost, including the potential for marketing such product. Such research shall also include evaluation of the application of compost derived from agricultural wastes on soil, plants, and food and fiber crops.

(d) COMPOSTING EXTENSION PROGRAM.—Beginning not later than one year after the date of the enactment of this Act, the Secretary

shall initiate extension efforts to inform the agricultural community and the general public regarding—

(1) the desirability and safety of compost derived from agricultural wastes;

(2) on-farm and other composting techniques; and

(3) procedures for using compost.

(e) FARM CONSERVATION PRACTICE.—The Secretary shall consider designating composting as a farm conservation practice eligible for cost-sharing.

Subtitle E—Watershed Protection and Flood Prevention Act; Farmland Protection

CHAPTER 1—WATERSHED PROTECTION AND FLOOD PREVENTION

SEC. 1461. RELATION OF BENEFITS TO AGRICULTURE.

The Watershed Protection and Flood Prevention Act of 1954 is amended in the third sentence of section 2 (16 U.S.C. 1002)—

(1) by striking "Each such project" and all that follows through "1987," and inserting "Each project"; and

(2) by inserting after "agriculture" the following: ", including rural communities,".

SEC. 1462. COST SHARE ASSISTANCE.

The Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.) is amended by inserting after section 3 the following new section:

"SEC. 3A. COST SHARE ASSISTANCE. 16 USC 1003a.

"(a) EASEMENTS.—The Secretary may provide cost share assistance to project sponsors to enable such sponsors to acquire perpetual wetland or floodplain conservation easements to perpetuate, restore and enhance the natural capability of wetlands and floodplains to retain excessive floodwaters, improve water quality and quantity, and provide habitat for fish and wildlife.

"(b) AMOUNT.—The Secretary shall require that project sponsors of watershed projects provide up to 50 percent of the cost of acquiring easements under subsection (a).".

SEC. 1463. DATA.

The Watershed Protection and Flood Prevention Act of 1954 (16 U.S.C. 1001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 13. DATA.

Research
Intergovernmental relations.
16 USC 1010.

"The Secretary shall collect and maintain data on a national and State by State basis concerning—

"(1) expenditures for the individual flood control and conservation measures for which assistance is provided under this Act; and

"(2) the expected flood control or environmental (including soil erosion) benefits that will result from the implementation of such measures.".

SEC. 1464. AMENDMENT TO THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT.

Section 3(6) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003(6)) is amended by inserting "and enhance the water quality of" after "recreation resources of".

CHAPTER 2—FARMLAND PROTECTION

Farms for the Future Act of 1990.
7 USC 4201 note.

SEC. 1465. SHORT TITLE, PURPOSE, AND DEFINITION.

(a) SHORT TITLE.—This chapter may be cited as the "Farms for the Future Act of 1990".

(b) PURPOSE.—It is the purpose of this chapter to promote a national farmland protection effort to preserve our vital farmland resources for future generations.

(c) DEFINITIONS.—As used in this chapter:

(1) ALLOWABLE INTEREST RATE.—The term "allowable interest rate" refers to an interest rate which shall be the current average rate of interest that each State pays on 10-year notes or other similar obligations of the State, or a comparable interest rate as determined by the Secretary.

(2) ELIGIBLE LOAN.—The term "eligible loan" means the 10-year loans made by lending institutions to State trust funds to further the purposes of this chapter. No principal payments shall be due on such eligible loans for the first 10 years after such loan is made and the principal amount shall be paid by the State trust fund at the end of the 10th year. For each such eligible loan, each State trust fund shall be entitled to receive an interest rate subsidy from the Secretary as set forth in section 1466(b).

(3) ELIGIBLE STATE.—The term "eligible State" means—

(A) the State of Vermont; and

(B) at the option of the Secretary and subject to appropriations, any State that on or before August 1, 1991—

(i) operates or administers a land preservation fund that invests funds in the protection or preservation of farmland for agricultural purposes; and

(ii) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private nonprofit or public organizations, to assist in the preservation of farmland for agricultural purposes.

(4) LENDING INSTITUTION.—The term "lending institution" means any Federal or State chartered bank, savings and loan associations, cooperative lending agencies, or other legally organized lending agencies.

(5) PROGRAM.—The term "program" means the farmland preservation program established under this chapter to be known as the "Agricultural Resource Conservation Demonstration Program".

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(7) STATE.—The term "State" means any State of the United States, Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(8) STATE TRUST FUND.—The term "State trust fund" means a trust fund or an account established by an eligible State,

approved to participate by the Secretary in the program, in which Federal funds received under this chapter are deposited for use by such trust fund.

SEC. 1466. ESTABLISHMENT OF PROGRAM.

Loan programs. Intergovernmental relations.

(a) IN GENERAL.—

(1) PURPOSE.—The Secretary, acting through the Farmers Home Administration, shall establish and implement a program, to be known as the "Agricultural Resource Conservation Demonstration Program", to provide Federal guarantees and interest rate assistance for loans made by lending institutions to State trust funds.

(2) ASSISTANCE.—Under the program, the Secretary shall guarantee the timely payment of the principal amount and interest due on eligible loans made by lending institutions to State trust funds and shall subsidize the interest on such loans at the allowable interest rate for the first 5 years after such loan is made, and at no less than three percentage points for the second 5 years under procedures described in subsection (b). Each State trust fund shall pay the rate of interest, and the principal at the end of the 10th year, as provided for in the loan agreement regarding each eligible loan.

(b) MANDATORY ASSISTANCE TO EACH ELIGIBLE STATE TRUST FUND.—The Secretary shall—

Regulations.

(1) fully guarantee each eligible loan made by lending institutions to each State trust fund under regulations promulgated by the Secretary;

(2) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under procedures developed by the Secretary, during each of the first 5 years after the date on which each such loan is made; and

(3) annually pay to each State trust fund, for each year during the second 5-year period after each such eligible loan is made, an amount calculated by applying the interest rate difference, between the rate of interest charged to borrowers of direct loans as described in section 316(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1946(a)(2)) and the allowable interest rate, to the amount of each loan the State trust fund receives from any given lending institution, as determined under procedures issued by the Secretary.

Securities.

(c) FUNDING PROVIDED BY THE SECRETARY OF THE TREASURY.—The Secretary of Agriculture is required to make and issue stock, in the same manner as notes are issued under section 309(c) or 309A(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(c) or 1929a(d)), to the Secretary of the Treasury for the purpose of obtaining Funds from the Secretary of the Treasury that are necessary for discharging the obligations of the Secretary of Agriculture under this chapter. Such stock shall not pay dividends and shall not be redeemable.

(d) REQUIRED PURCHASES OF STOCK.—The Secretary shall promptly notify, in writing, the Secretary of the Treasury each time an application of an eligible State is approved by the Secretary under this chapter. The Secretary of the Treasury shall purchase stock offered by the Secretary under subsection (c) on the day offered and the Secretary of Agriculture shall deposit the proceeds from each such sale of stock in accounts created to administer this program.

(e) ENTITLEMENTS.—The Secretary is entitled to receive funds, and shall receive funds, from the Secretary of the Treasury in an amount equal to the total par-value of the stock issued to the Secretary of the Treasury. Each State trust fund is entitled to receive, and the Secretary of Agriculture shall promptly pay to each such trust fund, amounts calculated under procedures described in section (b).

(f) REGULATIONS.—The Secretary shall promulgate proposed and final regulations, under the prior public comment provisions of section 553 of title 5, United States Code, setting forth—

(1) the application procedures for eligible States;

(2) the factors to be used in approving applicants;

(3) procedures for the prompt payment of the obligations of the Secretary under section (b);

Reporting and recordkeeping requirements.

(4) recordkeeping requirements for approved State trust funds;

(5) requirements to prevent program abuse and procedures to recover improperly obtained funds;

(6) rules permitting State trust funds to act as revolving funds or to otherwise accumulate additional capital, based on investments, to be subsequently used to promote the purposes of this chapter; and

(7) any other rules necessary and appropriate to carry out this program.

(g) DURATION OF PROGRAM.—The program established under this chapter shall expire on September 30, 1996, except that any financial obligations of the Secretary shall continue to be met as required by this chapter.

SEC. 1467. FEDERAL ACCOUNTS.

To carry out the purposes of this chapter, the Secretary may establish in the Treasury of the United States an account, to be known as the "Agricultural Resource Conservation Revolving Fund" (hereinafter referred to in this chapter as the "Fund"), for the use by the Secretary to meet the obligations of the Secretary under this chapter.

SEC. 1468. APPLICATIONS AND ADMINISTRATION.

(a) APPLICATIONS.—In applying for assistance under this chapter an eligible State shall—

(1) prepare and submit, to the Secretary, an application at such time, in such manner, and containing such information as the Secretary shall require;

(2) agree that the State trust fund will use any Funds provided by the Secretary under this chapter in a manner which is consistent with the chapter and the regulations promulgated by the Secretary; and

(3) agree to comply with any other requirements set forth in agreements with the Secretary or as the Secretary may prescribe by regulation.

(b) ANNUAL APPLICATIONS.—Eligible States may apply for Federal assistance under this chapter on an annual basis.

(c) MATCH AND MAXIMUM AMOUNT.—The total amount of any guarantees provided by the Secretary under this program shall not exceed an amount that is equal to double the amount that each eligible State shall make available for acquiring interests in land to protect and preserve important farmlands for future agricultural

use but in no event shall the total Federal share exceed $10,000,000 in any fiscal year for any given State.

SEC. 1469. REPORT.

Not later than September 30, 1992, and annually thereafter, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the operation of the program established under this chapter.

SEC. 1470. IMPLEMENTATION AND EFFECTIVE DATE.

This chapter shall become effective on October 1, 1990. Not later than December 30, 1990, the Secretary shall enter into an agreement with the State of Vermont to provide Federal assistance under this chapter to the State. Government contracts. Vermont.

Subtitle F—Administration of Environmental Programs

SEC. 1471. ESTABLISHMENT OF THE AGRICULTURAL COUNCIL ON ENVIRONMENTAL QUALITY. 7 USC 5401.

(a) ESTABLISHMENT.—The Secretary shall establish an Agricultural Council on Environmental Quality in the Department of Agriculture (hereafter in this subtitle referred to as the "Council"). The Council shall be under the direct authority of the Secretary, and shall be responsible for carrying out the provisions of this subtitle, and for coordination and direction of all environmental policies and programs of the Department.

(b) MEMBERSHIP.—Membership of the Council shall consist of the Secretary, the Deputy Secretary, the Assistant Secretary for Natural Resources and Environment, the Assistant Secretary for Science and Education, other under and assistant secretaries as may be designated by the Secretary, and the Director of the Office of Agricultural Environmental Quality, established in section 1472, who shall serve as the Executive Director of the Council. The Secretary shall designate a member of the Council, other than the Executive Director, as chair of the Council.

SEC. 1472. OFFICE OF AGRICULTURAL ENVIRONMENTAL QUALITY. 7 USC 5402.

(a) ESTABLISHMENT.—The Secretary shall establish an Office of Agricultural Environmental Quality in the Department of Agriculture (hereafter in this subtitle referred to as the "Office").

(b) DIRECTOR.—The Office shall be administered by a director who shall be appointed by the Secretary. The Director shall be an individual who has demonstrated technical expertise and experience in agricultural and environmental matters.

(c) STAFF.—

(1) APPOINTMENTS.—The Director may appoint such employees as may be necessary to assist the Director in carrying out this section. Such employees shall include individuals who have professional expertise in matters related to environmental quality, including (but not limited to) agricultural production, water quality, wetland, wildlife conservation, soil conservation, and agricultural chemical usage.

(2) LIAISONS.—The Administrator of the Environmental Protection Agency and the Secretary of the Interior shall detail to the Office upon request of the Secretary, on a reimbursable basis, at least one employee, respectively, with expertise in matters related to agriculture and environmental quality. Such detailed employees shall serve as a liaison for their respective agencies with the Department of Agriculture to assist the Director in carrying out the provisions of this section. The term of the detail shall not exceed 3 years.

(3) ADDITIONAL STAFF.—Upon request of the Secretary, the head of any Federal agency is authorized to detail, on a reimbursable basis, employees of such agency to the Office to assist the Director.

(d) DUTIES OF THE DIRECTOR.—

(1) IN GENERAL.—The Director shall assist the Council in developing a departmental and agency-specific environmental quality policy statement and implementation plan and an annual agricultural environmental quality report, as specified in section 1473. The Director shall coordinate and monitor the activities of the Department regarding initiatives and programs related to environmental quality and the interpretation of departmental policies affecting environmental quality. The Director shall serve as a member of the Council and as its Executive Director.

(2) ADDITIONAL DUTIES.—The Director shall also be responsible for—

(A) recommending to the Council environmental protection goals and specific programs, initiatives, and policies that will balance the needs of production agriculture with environmental concerns;

(B) providing advice to the Council on the development, implementation, and review of activities of agencies of the Department to ensure consistency with the Department's environmental protection goals;

(C) coordinating environmental policy within the Department through the program managers, and between the Department and other Federal agencies, regional authorities, State and local governments, land-grant and other colleges and universities, and nonprofit and commercial organizations, regarding programs and actions relating to environmental quality;

(D) serving as a coordinator for the Department's data, information, programs, and initiatives dealing with environmental quality;

(E) developing the plans and reports required as specified by this subtitle; and

(F) providing such staff as may be necessary to support the activities of the Council.

7 USC 5403.

SEC. 1473. ENVIRONMENTAL QUALITY POLICY STATEMENT.

(a) ENVIRONMENTAL QUALITY POLICY STATEMENT, IMPLEMENTATION PLAN, AND ANNUAL REPORT.—

(1) POLICY STATEMENT.—The Council shall develop an Environmental Quality Policy Statement that identifies goals and objectives for addressing the effects of agriculture on environmental quality. The policy statement shall be based upon an assessment, in accordance with subparagraph (B), of

the current status and level of effort, in terms of staff and funding, of programs at the Department of Agriculture to evaluate, prevent, and mitigate environmental problems that may result from agricultural production. The policy statement shall be revised at least every 5 years.

(2) ASSESSMENT.—The assessment under subparagraph (A) shall include:

(A) Detailed descriptions of the roles of the involved Departmental agencies.

(B) A description of current efforts to coordinate the individual activities of each of the involved departmental agencies.

(C) Recommendations for precluding any undesirable duplication of efforts within the Department and among the Department and other Federal and State programs.

(D) Specific recommendations for new initiatives in monitoring, research, extension, and technical assistance efforts to address present and potential environmental quality problems.

The assessment may incorporate existing documents and planning processes within the Department.

(b) IMPLEMENTATION PLAN.—The Director, subject to the approval of the Council, shall prepare a plan to implement the Environmental Quality Policy Statement. The plan shall include an assessment of the activities of each departmental agency to mitigate or reduce any negative effects on environmental quality of agricultural policies, programs, and practices under their respective jurisdictions and shall describe in detail new departmental and agency-specific initiatives intended to achieve the goals and objectives of the policy statement. The plan shall be revised at least every 5 years.

(c) ANNUAL ENVIRONMENTAL QUALITY REPORT.—Not later than January 31, 1992, and annually thereafter, the Council, through the Director, shall prepare and submit an annual report to the Congress, other appropriate Federal and State agencies, and the public on the progress being made toward the goals and objectives established in the Environmental Quality Policy Statement. The report shall also include—

(1) a review of the environmental activities and initiatives of the Department during the preceding year;

(2) specific action taken to coordinate the environmental programs of the Department with programs of other Federal agencies and related State programs; and

(3) such recommendations as the Secretary considers appropriate regarding current or additional environmental protection programs, initiatives, or policies that will balance the needs of production agriculture while addressing environmental concerns.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated annually not to exceed $2,000,000 to carry out this subtitle.

Agriculture and Water Policy Coordination Act.

Subtitle G—Water Quality Research, Education, and Coordination

7 USC 5501.

SEC. 1481. SHORT TITLE, PURPOSE, DEFINITIONS, AND AUTHORIZATION OF APPROPRIATIONS.

(a) SHORT TITLE.—This subtitle may be cited as the "Agriculture and Water Policy Coordination Act".

(b) PURPOSE.—It is the purpose of this subtitle to ensure—

(1) that the Department of Agriculture develops, implements, and sustains a coordinated, integrated, and comprehensive intra-agency program to protect waters from contamination from agricultural chemicals and production practices; and

(2) increased efforts by the Department of Agriculture in extension, technical assistance, and research on the relations between agricultural production and the contamination of water.

(c) DEFINITIONS.—For purpose of this subtitle—

(1) The term "contaminant" means any matter which, in its original form or as a metabolite, degradation, or waste product, as a constituent of water may impair the quality of water or may have a potential adverse effect on human health or the environment.

(2) The term "Department" means the United States Department of Agriculture.

(3) The term "food and agricultural councils" means those councils established by the policy of the Secretary in each State and made up of the leaders of programs within each State that represent agriculture.

(4) The term "soil and water conservation committees" refers to the committees established within the respective States by State law and which include the leaders of appropriate State agencies that address soil and water conservation.

(5) The term "Secretary" means the Secretary of Agriculture.

(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and federally recognized Indian tribes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1991 through 1995 to carry out this subtitle.

7 USC 5502.

SEC. 1482. SOIL AND WATER ACTIVITIES.

(a) PURPOSE.—The Congress declares that an additional purpose of the Soil Conservation Service and the Extension Service is to aid in protecting and improving the quality of water.

(b) CONSERVATION PLANS.—The Secretary, when reviewing conservation plans for compliance certification, shall determine the impact that such plans may have on agriculture and water quality planning. The Soil Conservation Service shall complete this determination by January 1, 2000.

(c) ACQUISITION OF WATER INFORMATION THROUGH THE NATIONAL RESOURCES INVENTORY.—The Secretary shall determine within six months after the date of the enactment of this Act whether the national resources inventory can be modified to acquire useful

information on water conditions and surface conditions that affect water quality and supply. In making this determination, the Secretary shall consider—

(1) the costs, limitations, opportunities, and capability of expanding the inventory to include water matters; and

(2) whether the natural resources inventory can be integrated with alternative sources of data on water from Federal and State agencies.

(d) ANNUAL REPORT.—The Secretary shall submit an annual report to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate in conjunction with the report required under section 1473(c). The report shall specify the—

(1) activities and accomplishments of the Soil Conservation Service during the preceding year, including measures taken to enhance the ability of the Service to address water contamination problems;

(2) plans of the Secretary for the subsequent year, concerning measures expected to be taken to enhance the ability of the Service to address water contamination problems; and

(3) progress made in carrying out the purpose stated in subsection (a).

SEC. 1483. STATE WATER QUALITY COORDINATION PROGRAM. 7 USC 5503.

(a) ESTABLISHMENT.—The Secretary shall require the establishment of a water quality coordination program within each State. To the greatest extent possible, the Secretary shall use the expertise of the food and agricultural councils.

(b) MEMBERSHIP.—Each State water quality coordination program shall involve those departmental agencies specified in subsection (c) that are operating within the State. For the purpose of coordination, the State water quality coordination program shall include, should they choose to participate, those State agencies with complementary water program authorities and programs. These State agency members should include the State agencies that are members of the respective State's soil and water conservation committees. The program shall also include the education program coordinator designated under section 1629(b).

(c) AGENCIES.—The agencies referred to in subsection (b) are: the Agricultural Research Service; the Agricultural Stabilization and Conservation Service; the Animal Plant Health Inspection Service; the Cooperative State Research Service in conjunction with the system of State agricultural experiment stations; the Economic Research Service; the Extension Service, in conjunction with State and county cooperative extension services; the Forest Service; the National Agricultural Library; the National Agricultural Statistics Service; the Soil Conservation Service; and other agencies within the Department deemed appropriate by the Secretary.

(d) PROGRAM LEADER.—The program leader of the State water quality coordination program shall be designated by the Secretary from among the Federal agency representatives in subsection (b).

(e) PURPOSE.—The water quality coordination program within each State shall serve as the focal point for coordinating the Department's water programs with agencies of that State. In addition to other actions, each water quality coordination program shall—

(1) serve as the focal point within the State for the coordination of Department-supported agricultural water programs with

the water programs being conducted by other Federal agencies within the State;

(2) coordinate departmental activities with other Federal activities, within the State with water quality plans developed by that State in accordance with applicable Federal and State laws;

(3) review progress being made on identification and mapping of hydrologic units within that State; and

(4) review the needs of that State to assess the Federal assistance required for State programs to address agricultural sources of water contamination.

(f) ADVISORY PANELS.—The chair of the water quality coordination program in each State may establish an ad hoc advisory panel that shall include farmers, representatives of conservation groups, and advocates of sustainable agricultural practices, agribusiness, chemical and fertilizer industries, agricultural commodities, lending institutions, and trade organizations.

(g) STATE AND REGIONAL RESEARCH PRIORITIES.—The water quality coordination program for each State shall request appropriate representative scientists from the Agricultural Research Service, the State agricultural experiment stations and the agricultural departments of the land-grant universities, to work with the water quality coordination program to establish a prioritized agriculture and water research agenda for the State. This agenda shall address the research topics identified in section 1484 and the concerns or findings established by the activities described in subsection (e)(4). The State research priorities identified under this subsection shall be compiled and reviewed by the appropriate regional and area divisions of the Cooperative State Research Service and the Agricultural Research Service to develop coordinated regional research priorities.

7 USC 5504.

SEC. 1484. WATER QUALITY AND NUTRIENT MANAGEMENT RESEARCH.

(a) PURPOSES.—It is the purpose of this section to establish a coordinated water quality and nutrient management research program at the Department of Agriculture. In carrying out this section, the Secretary shall undertake efforts to—

(1) reduce the sources of contaminants of surface and ground water resources through the development of farm systems which replace or conserve the use of such contaminants while maintaining farm profitability;

(2) develop information and technologies needed to formulate integrated farm chemical and plant nutrient and animal waste management strategies which avoid contamination of surface and ground water, especially in areas identified by State and Federal monitoring or regulatory efforts as having current or potential water quality problems; and

(3) monitor and better evaluate the extent of water contamination caused by farm chemicals, plant nutrients, and animal wastes.

(b) COORDINATION.—In carrying out this section, the Secretary shall ensure that all activities undertaken are coordinated with other programs within the Department of Agriculture, other Federal agencies, and with State governments.

(c) RESEARCH.—Research projects on water quality funded in whole or in part by the Secretary under this section shall include research to help—

(1) develop farming systems and practices which can prevent water contamination while maintaining and improving profitability, including—

(A) integrated crop management systems;

(B) sustainable agricultural practices;

(C) best management practices for use of plant nutrients and animal wastes;

(D) alternative methods of pest and disease control designed to integrate biological, cultural, host-resistance, and judicious use of pesticides; and

(E) improved methods for the storage, use, and safe disposal of potential contaminants;

(2) improve the understanding of the fate and transport of farm chemicals, plant nutrients, and animal wastes which can contaminate water and cause adverse human or environmental effects;

(3) develop integrated crop production systems which are more productive, use inputs more efficiently, and are more protective of the environment, including research on—

(A) nutrient management and use efficiency;

(B) soil and tissue testing and nutrient availability interactions with specific cropping systems;

(C) plant nutrient needs for nitrogen and elements in intensively managed cropping systems;

(D) enhancement of soil productivity;

(E) varietal and hybrid interactions with plant nutrient requirements and overall crop management;

(F) the relationship of soil microbial activity to nutrient management;

(G) suitability of cover crops in soil protection and nutrient conservation;

(H) the role of crop rotations in intensively managed cropping systems;

(I) legume management for nutrient conservation and environmental protection;

(J) interactions of improved nutrient use efficiency and efficient water use;

(K) nutrient availability interactions with soil physical conditions;

(L) nutrient balance effects on improved nitrogen use efficiency and lowered nitrate carryover in soils; and

(M) the importance of subsoil fertility in improved plant yields and nutrient use efficiency;

(4) monitor and evaluate the extent of water contamination from agricultural production methods;

(5) improve the understanding of the relationships between water use and the availability and quality of water;

(6) improve the accuracy of yield and nutrient advisories;

(7) improve the understanding of the ecological and biological aspects of agricultural production;

(8) demonstrate the results of research conducted with funds provided under this section, undertaken in cooperation with the Extension Service, the Soil Conservation Service, and other entities;

(9) reduce water contamination and improve water quality relating to the production of cut roses and other fresh cut flowers; and

(10) meet other critical water quality research needs, as determined by the Secretary.

Reports.
7 USC 5505.

SEC. 1485. REPOSITORY OF AGRICULTURE AND GROUND WATER QUALITY PLANNING INFORMATION.

(a) REPOSITORY.—The Secretary, acting through the Administrator of the National Agricultural Library, shall establish at such Library, a repository for all reports prepared and submitted, in accordance with this subtitle, to the Director, the Secretary, or Committees of Congress. The Administrator of the Library, in administering such repository, shall—

(1) compile other planning documents concerning agriculture and ground water protection that are produced by the Secretary and other Federal, regional, and State agencies;

(2) compile and catalog all Federal statutes relevant to the protection of ground water from agricultural production; and

(3) identify, list, and provide information concerning access to data bases and informational sources relating to ground water and agricultural production that are available through the Secretary, the United States Geological Survey, the Environmental Protection Agency, the Department of Commerce, the National Oceanic and Atmospheric Agency, the Tennessee Valley Authority, private industry, nonprofit organizations, and other sources.

(b) RESEARCH DATA BASE.—

(1) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress on the measures necessary to develop an interactive, descriptive national data base to contain information on agricultural practices and water resources (including research results, monitoring and survey data, pesticide and nutrient use data, and other relevant data bases and information sources relevant to water protection), to be located at the National Agricultural Library. In preparing this report, the Secretary shall—

(A) identify the information required for the development of such an agriculture and water data base and identify the extent to which such information is now collected either publicly or privately;

(B) determine the extent to which such information can be integrated into one data base; and

(C) develop a plan for implementing the development of such a data base.

(2) CONSULTATION.—In preparing the report, the Secretary shall consult as appropriate with the Economic Research Service, the Extension Service, the Cooperative State Research Service, the National Agricultural Statistics Service, the Soil Conservation Service, the United States Geological Survey, the Environmental Protection Agency, such other public and private persons as the Secretary determines appropriate.

(3) DEVELOPMENT.—Ninety days after the date on which the report is submitted under subsection (a), the Secretary shall initiate the development of the data base in accordance with such report.

Subtitle H—Pesticides

SEC. 1491. PESTICIDE RECORDKEEPING.

Business and industry.
7 USC 136i-1.

(a) REQUIREMENTS.—(1) The Secretary of Agriculture, in consultation with the Administrator of the Environmental Protection Agency, shall require certified applicators of restricted use pesticides (of the type described under section 3(d)(1)(C) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(d)(1)(C)) to maintain records comparable to records maintained by commercial applicators of pesticides in each State. If there is no State requirement for the maintenance of records, such applicator shall maintain records that contain the product name, amount, approximate date of application, and location of application of each such pesticide used for a 2-year period after such use.

(2) Within 30 days of a pesticide application, a commercial certified applicator shall provide a copy of records maintained under paragraph (1) to the person for whom such application was provided.

(b) ACCESS.—Records maintained under subsection (a) shall be made available to any Federal or State agency that deals with pesticide use or any health or environmental issue related to the use of pesticides, on the request of such agency. Each such Federal agency shall conduct surveys and record the data from individual applicators to facilitate statistical analysis for environmental and agronomic purposes, but in no case may a government agency release data, including the location from which the data was derived, that would directly or indirectly reveal the identity of individual producers. In the case of Federal agencies, such access to records maintained under subsection (a) shall be through the Secretary of Agriculture, or the Secretary's designee. State agency requests for access to records maintained under subsection (a) shall be through the lead State agency so designated by the State.

(c) HEALTH CARE PERSONNEL.—When a health professional determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to pesticides for which the information is maintained, upon request persons required to maintain records under subsection (a) shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) PENALTY.—The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), and (c). A violation of such subsection shall—

(1) in the case of the first offense, be subject to a fine not more than $500; and

(2) in the case of subsequent offenses, be subject to a fine of not less than $1,000 for each violation, except that the penalty shall be less than $1,000 if the Secretary determines that the person made a good faith effort to comply with such subsection.

(e) FEDERAL OR STATE PROVISIONS.—The requirements of this section shall not affect provisions of other Federal or State laws.

(f) SURVEYS AND REPORTS.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under subsection (a) to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehensive reports concerning agricultural and nonagricultural pesticide use. The

Secretary and Administrator shall enter into a memorandum of understanding to define their respective responsibilities under this subsection in order to avoid duplication of effort. Such reports shall be transmitted to Congress not later than April 1 of each year.

(g) REGULATIONS.—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations on their respective areas of responsibility implementing this section within 180 days after the date of the enactment of this Act.

SEC. 1492. DATA IN SUPPORT OF REGISTRATION.

Section 3(c)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a(c)(2)(A)) is amended by inserting after the third sentence the following new sentence: "The Administrator shall not require a person to submit, in relation to a registration or reregistration of a pesticide for minor agricultural use under this Act, any field residue data from a geographic area where the pesticide will not be registered for such use.".

SEC. 1493. REDUCTION OR WAIVER OF FEES FOR PESTICIDES REGISTERED FOR MINOR AGRICULTURAL USES.

Section 4(i)(5)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(5)(A)) is amended by adding at the end thereof the following:

"In the case of a pesticide that is registered for a minor agricultural use, the Administrator may reduce or waive the payment of the fee imposed under this subparagraph if the Administrator determines that the fee would significantly reduce the availability of the pesticide for the use.".

SEC. 1494. VOLUNTARY CANCELLATION.

Section 6(f) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(f)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) VOLUNTARY CANCELLATION.—

"(A) A registrant may, at any time, request that a pesticide registration of the registrant be canceled or amended to terminate one or more pesticide uses.

Federal Register, publication.

"(B) Before acting on a request under subparagraph (A), the Administrator shall publish in the Federal Register a notice of the receipt of the request and provide for a 30-day period in which the public may comment.

"(C) In the case of a pesticide that is registered for a minor agricultural use, if the Administrator determines that the cancellation or termination of uses would adversely affect the availability of the pesticide for use, the Administrator—

Federal Register, publication.

"(i) shall publish in the Federal Register a notice of the receipt of the request and make reasonable efforts to inform persons who so use the pesticide of the request; and

"(ii) may not approve or reject the request until the termination of the 90-day period beginning on the date of publication of the notice in the Federal Register, except that the Administrator may waive the 90-day period upon the request of the registrant or if the Administrator determines that the continued use of the

pesticide would pose an unreasonable adverse effect on the environment.

"(D) Subject to paragraph (3)(B), after complying with this paragraph, the Administrator may approve or deny the request."; and

(2) by adding at the end the following new paragraph:

"(3) TRANSFER OF REGISTRATION OF PESTICIDES REGISTERED FOR MINOR AGRICULTURAL USES.—In the case of a pesticide that is registered for a minor agricultural use:

"(A) During the 90-day period referred to in paragraph (1)(C)(ii), the registrant of the pesticide may notify the Administrator of an agreement between the registrant and a person or persons (including persons who so use the pesticide) to transfer the registration of the pesticide, in lieu of canceling or amending the registration to terminate the use.

"(B) An application for transfer of registration, in conformance with any regulations the Administrator may adopt with respect to the transfer of the pesticide registrations, must be submitted to the Administrator within 30 days of the date of notification provided pursuant to subparagraph (A). If such an application is submitted, the Administrator shall approve the transfer and shall not approve the request for voluntary cancellation or amendment to terminate use unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse affect on the environment.

"(C) If the Administrator approves the transfer and the registrant transfers the registration of the pesticide, the Administrator shall not cancel or amend the registration to delete the use or rescind the transfer of the registration, during the 180-day period beginning on the date of the approval of the transfer unless the Administrator determines that the continued use of the pesticide would cause an unreasonable adverse effect on the environment.

"(D) The new registrant of the pesticide shall assume the outstanding data and other requirements for the pesticide that are pending at the time of the transfer.".

SEC. 1495. PEST CONTROL.

Section 28 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w-3) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Administrator,"; and

(2) by adding at the end thereof the following new subsections:

"(b) PEST CONTROL AVAILABILITY.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Agriculture, shall identify—

"(A) available methods of pest control by crop or animal;

"(B) minor pest control problems, both in minor crops and minor or localized problems in major crops; and

"(C) factors limiting the availability of specific pest control methods, such as resistance to control methods and regulatory actions limiting the availability of control methods.

"(2) REPORT.—The Secretary of Agriculture shall, not later than 180 days after the date of enactment of this subsection and

annually thereafter, prepare a report and send the report to the Administrator. The report shall—

"(A) contain the information described in paragraph (1) and the information required by section 1651 of the Food, Agriculture, Conservation, and Trade Act of 1990;

"(B) identify the crucial pest control needs where a shortage of control methods is indicated by the information described in paragraph (1); and

"(C) describe in detail research and extension efforts designed to address the needs identified in subparagraph (B).

"(c) INTEGRATED PEST MANAGEMENT.—The Administrator, in cooperation with the Secretary of Agriculture, shall develop approaches to the control of pests based on integrated pest management that respond to the needs of producers, with a special emphasis on minor pests.".

SEC. 1496. CONFORMING AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended—

(1) by striking out the item relating to section 6(f)(1) and inserting in lieu thereof the following new item:

"(1) Voluntary cancellation.";

(2) by adding at the end of the item relating to section 6(f) the following new item:

"(3) Transfer of registration of pesticides registered for minor agricultural uses.";

and

(3) by striking the items relating to section 28 and inserting the following new items:

"Sec. 28. Identification of pests; cooperation with Department of Agriculture's program.
"(a) In general.
"(b) Pest control availability.
"(1) In general.
"(2) Report.
"(c) Integrated pest management.".

SEC. 1497. INTER-REGIONAL RESEARCH PROJECT NUMBER 4 (IR-4 PROGRAM).

Section 2 of the Act entitled "An Act to facilitate the work of the Department of Agriculture, and for other purposes", approved August 4, 1965 (7 U.S.C. 450i), is amended—

(1) by redesignating subsections (e) through (i) as subsections (f) through (j), respectively;

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) The Secretary of Agriculture shall establish an Inter-Regional Research Project Number 4 (hereinafter referred to in this section as the 'IR-4 Program') to assist in the collection of residue and efficacy data in support of—

"(A) the registration or reregistration of minor use pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.); and

"(B) tolerances for residues of minor use chemicals in or on raw agricultural commodities under sections 408 and 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a, 348).

"(2) The Secretary shall carry out the IR-4 program in cooperation with the Administrator of the Environmental Protection Agency, State agricultural experiment stations, colleges and universities, extension services, private industry, and other interested parties.

"(3) In carrying out the IR-4 program, the Secretary shall give priority to registrations, reregistrations, and tolerances for pesticide uses related to the production of agricultural crops for food use.

"(4) As part of carrying out the IR-4 program, the Secretary shall—

"(A) participate in research activities aimed at reducing residues of pesticides registered for minor agricultural use;

"(B) develop analytical techniques applicable to residues of pesticides registered for minor agricultural use, including automation techniques and validation of analytical methods; and

"(C) coordinate with other programs within the Department of Agriculture and the Environmental Protection Agency designed to develop and promote biological and other alternative control measures.

"(5) The Secretary shall prepare and submit, to appropriate Committees of Congress, a report on an annual basis that contains— Reports.

"(A) a listing of all registrations, reregistrations, and tolerances for which data has been collected in the preceding year;

"(B) a listing of all registration, reregistrations, and tolerances for which data collection is scheduled to occur in the following year, with an explanation of the priority system used to develop this list;

"(C) a listing of all activities the IR-4 program has carried out pursuant to paragraph (4).

"(6) The Secretary shall submit to Congress within one year of the date of the enactment of this paragraph a report detailing the feasibility of requiring recoupment of the costs of developing residue data for registrations, reregistrations or tolerances under this program. Such recoupment shall only apply to those registrants which make a profit on such registration, reregistration, or tolerance subsequent to residue data development under this program. Such report shall include: Reports.

"(A) an analysis of possible benefits to the IR-4 program of such a recoupment;

"(B) an analysis of the impact of such a payment on the availability of registrants to pursue registrations or reregistrations of minor use pesticides; and

"(C) recommendations for implementation of such a recoupment policy.

"(7) There are authorized to be appropriated $25,000,000 for fiscal year 1991, and such sums as are necessary for subsequent fiscal years to carry out this section."; and Appropriation authorization.

(3) by inserting in subsection (g) following "subsection (b)" the following: "and subsection (e)".

SEC. 1498. BIOLOGICAL PESTICIDE HANDLING STUDY. 7 USC 136a note.

(a) STUDY.—Not later than September 30, 1992, the National Academy of Sciences shall conduct a study of the biological control programs and registration procedures utilized by the Food and Drug

Administration, the Animal and Plant Health Inspection Service, and the Environmental Protection Agency.

(b) DEVELOPMENT OF PROCEDURES.—Not later than 1 year after the completion of the study under subsection (a), the agencies and offices described in such subsection shall develop and implement a common process for reviewing and approving biological control applications that are submitted to such agencies and offices that shall be based on the study conducted under such subsection and the recommendation of the National Academy of Sciences, and other public comment.

Educational programs. Technical assistance. Research. 7 USC 5506.

SEC. 1499. WATER POLICY WITH RESPECT TO AGRICHEMICALS.

(a) AUTHORITY.—The Department of Agriculture shall be the principal Federal agency responsible and accountable for the development and delivery of educational programs, technical assistance, and research programs for the users and dealers of agrichemicals to insure that—

(1) the use, storage, and disposal of agrichemicals by users is prudent, economical, and environmentally sound; and

(2) agrichemical users, dealers, and the general public understand the implications of their actions and the potential effects on water.

Intergovernmental relations. Nonprofit organizations.

The Secretary is authorized to undertake such programs and assistance in cooperation with other Federal, State, and local governments and agencies, and appropriate nonprofit organizations. The Secretary shall disseminate the results of efforts in extension, technical assistance, research, and related activities. The Secretary shall undertake activities under this subtitle in coordination with the Office of Environmental Quality in section 1612 of this Act.

(b) AFFECT ON EXISTING AUTHORITY.—The authority granted in subsection (a) does not alter or effect the responsibility of the Environmental Protection Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(c) PARTICIPATION.—The following agencies shall participate in the Department's water program: the Agricultural Research Service; the Agricultural Stabilization and Conservation Service; the Animal Plant Health Inspection Service; the Cooperative State Research Service in conjunction with the system of State agricultural experiment stations; the Economic Research Service; the Extension Service, in conjunction with State and county cooperative extension services; the Forest Service; the National Agricultural Library; the National Agricultural Statistics Service; the Soil Conservation Service; and other agencies within the Department deemed appropriate by the Secretary.

TITLE XV—AGRICULTURAL TRADE

Agricultural Development and Trade Act of 1990. 7 USC 1691 note.

SEC. 1501. SHORT TITLE.

This title may be cited as the "Agricultural Development and Trade Act of 1990".

Subtitle A—Agricultural Trade Development and Assistance Act of 1954

Mickey Leland Food for Peace Act.

SEC. 1511. SHORT TITLE. 7 USC 1691 note.

This subtitle may be cited as the "Mickey Leland Food for Peace Act".

SEC. 1512. AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

The Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

Agricultural Trade Development and Assistance Act of 1954. 7 USC 1691.

"This Act may be cited as the 'Agricultural Trade Development and Assistance Act of 1954'.

"SEC. 2. UNITED STATES POLICY.

"It is the policy of the United States to use its abundant agricultural productivity to promote the foreign policy of the United States by enhancing the food security of the developing world through the use of agricultural commodities and local currencies accruing under this Act to—

"(1) combat world hunger and malnutrition and their causes;

"(2) promote broad-based, equitable, and sustainable development, including agricultural development;

"(3) expand international trade;

"(4) develop and expand export markets for United States agricultural commodities; and

"(5) foster and encourage the development of private enterprise and democratic participation in developing countries.

"SEC. 3. GLOBAL FOOD AID NEEDS. 7 USC 1691a.

"In view of the principal findings of the National Research Council of the National Academy of Sciences that doubling food aid above 1990 levels of about 10,000,000 metric tons per year would be necessary to meet projected global food needs throughout the decade of the nineties, it is the sense of Congress that the President should—

"(1) increase the contributions of food aid by the United States, and encourage other donor countries to increase their contributions toward meeting new food aid requirements; and

"(2) encourage other advanced nations to make increased food aid contributions to combat world hunger and malnutrition, particularly through the expansion of international food and agricultural assistance programs.

"TITLE I—TRADE AND DEVELOPMENT ASSISTANCE

"SEC. 101. TRADE AND DEVELOPMENT ASSISTANCE. 7 USC 1701.

"(a) IN GENERAL.—The President shall establish a program under this title to provide for the sale of agricultural commodities to developing countries for dollars on credit terms, or for local cur- President.

rencies (including for local currencies on credit terms) for use under this title. Such program shall be implemented by the Secretary.

"(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the Secretary may negotiate and execute agreements with developing countries to finance the sale and exportation of agricultural commodities to such countries.

7 USC 1702.

"SEC. 102. ELIGIBLE COUNTRIES.

"(a) IN GENERAL.—A country shall be considered to be a developing country and eligible for assistance under this title if such country has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels, as determined by the Secretary.

"(b) PRIORITY.—In determining whether and to what extent agricultural commodities will be made available to developing countries under this title, the Secretary shall give priority to developing countries that—

"(1) demonstrate the greatest need for food;

"(2) are undertaking measures for economic development purposes to improve food security and agricultural development, alleviate poverty, and promote broad-based equitable and sustainable development; and

"(3) have the demonstrated potential to become commercial markets for competitively priced United States agricultural commodities.

7 USC 1703.

"SEC. 103. TERMS AND CONDITIONS OF SALES.

"(a) PAYMENT.—

"(1) DOLLARS.—Except as provided in paragraph (2), agreements under this title shall require that payment for agricultural commodities be made in dollars.

"(2) LOCAL CURRENCIES.—

"(A) IN GENERAL.—The Secretary may permit a recipient country to make payment under an agreement under this title in the local currency of such country in order to use the proceeds from such payments to carry out activities under section 104.

"(B) RATES OF EXCHANGE.—Payments in local currency shall be at rates of exchange that are no less favorable than the highest exchange rate legally obtainable in the country and that are no less favorable than the highest exchange rate obtainable by any other country.

"(b) INTEREST.—Such agreements shall provide that interest accrue on the payment deferred under such agreement at a concessional rate as determined appropriate by the Secretary.

"(c) DURATION.—Payments required under such agreements may be made in reasonable annual amounts over the period (not less than 10 nor more than 30 years from the date of the last delivery of commodities in each year under such agreement) specified in the agreement.

"(d) DEFERRAL OF PAYMENTS.—The Secretary may defer the date on which the recipient country is required to begin making payment, under such agreements, for a period of not in excess of 7 years after the date of the last delivery of commodities in each year under the agreement, and interest shall be computed from the date of such last delivery.

"(e) DELIVERY OF COMMODITIES.—Delivery of the commodities shall be made in accordance with the terms of the agreement.

"SEC. 104. USE OF LOCAL CURRENCY PAYMENT. 7 USC 1704.

"(a) IN GENERAL.—Agreements under this title may provide that the Secretary shall use payments made in local currencies by the recipient country in accordance with this section.

"(b) SPECIAL ACCOUNT.—Foreign currencies received by the Secretary under this title shall be deposited in a separate account, that may be interest-bearing, to the credit of the United States and such currencies and interest thereon shall be used as provided for in this section.

"(c) ACTIVITIES.—The proceeds from the payments referred to in subsection (a) may be used in the recipient country for the following:

"(1) TRADE DEVELOPMENT.—To carry out programs to help develop markets for United States agricultural commodities on a mutually beneficial basis in the recipient country.

"(2) AGRICULTURAL DEVELOPMENT.—To support—

"(A) increased agricultural production, including availability of agricultural inputs, with emphasis on small farms, processing of agricultural commodities, forestry management, and land and water management;

"(B) credit policies for private-sector agriculture development;

"(C) establishment and expansion of institutions for basic and applied agricultural research and the use of such research through development of extension services; and

"(D) programs to control rodents, insects, weeds, and other animal or plant pests.

"(3) AGRICULTURAL BUSINESS DEVELOPMENT LOANS.—To make loans to United States business entities (including cooperatives) and branches, subsidiaries, or affiliates of such entities for agricultural business development and agricultural trade expansion in such recipient countries.

"(4) AGRICULTURAL FACILITIES LOANS.—To make loans to domestic or foreign entities (including cooperatives) for the establishment of facilities for aiding in the utilization or distribution of, or otherwise increasing the consumption of and markets for, United States agricultural products.

"(5) TRADE PROMOTION.—To promote agricultural trade development, under procedures established by the Secretary, by making loans or through other activities (including trade fairs) that the Secretary determines to be appropriate.

"(6) PRIVATE SECTOR AGRICULTURAL TRADE DEVELOPMENT.—To conduct private sector agricultural trade development activities in the recipient country, as determined appropriate by the Secretary.

"(7) RESEARCH.—To conduct research in agriculture, forestry, and aquaculture, including collaborative research which is mutually beneficial to the United States and the recipient country.

"(8) UNITED STATES OBLIGATIONS.—To make payments of United States obligations (including obligations entered into pursuant to other laws).

"(d) FISCAL REQUIREMENTS REGARDING USE OF LOCAL CURRENCIES.—

"(1) EXEMPTION.—Section 1306 of title 31, United States Code, shall not apply to local currencies used by the President under paragraphs (1) through (7) of subsection (c).

"(2) USE OF CURRENCIES BY OTHER AGENCIES.—Any department or agency of the Federal Government other than the Department of Agriculture using any such local currencies for a purpose for which funds have been appropriated shall reimburse the Commodity Credit Corporation in an amount equivalent to the dollar value of the currencies used.

7 USC 1705.

"SEC. 105. VALUE-ADDED FOODS.

"(a) POLICY.—Congress declares it to be the policy of the United States to assist developing countries that are or have been recipients of high protein, blended, or fortified foods under title II to continue to combat hunger and malnutrition among the lower income segments of the population of such countries, especially children, through the continued provision of such foods under this title.

"(b) PARTIAL WAIVER OF REPAYMENT.—In implementing the policy declared in subsection (a), the Secretary, in entering into agreements for the sale of high protein, blended, or fortified foods under this title with countries that—

"(1) provide assurances that the benefits of any waiver granted under this subsection will be passed on to the individual recipients of such foods; and

"(2) have a reasonable potential for transferring benefits of such waiver to commercial purchasers of such foods;

may make provisions for a waiver of payment of not to exceed an amount equal to the value of that part of the product that is attributable to the costs of processing, enrichment, or fortification of such product.

"(c) MINIMIZE IMPACT.—In implementing this section, the Secretary shall, to the extent practicable, minimize the impact of this section on other commercial and concessional sales of whole grains.

"TITLE II—EMERGENCY AND PRIVATE ASSISTANCE PROGRAMS

President.
7 USC 1721.

"SEC. 201. GENERAL AUTHORITY.

"The President shall establish a program under this title to provide agricultural commodities to foreign countries on behalf of the people of the United States to—

"(1) address famine or other urgent or extraordinary relief requirements;

"(2) combat malnutrition, especially in children and mothers;

"(3) carry out activities that attempt to alleviate the causes of hunger, mortality and morbidity;

"(4) promote economic and community development;

"(5) promote sound environmental practices; and

"(6) carry out feeding programs.

Such program shall be implemented by the Administrator.

7 USC 1722.

"SEC. 202. PROVISION OF AGRICULTURAL COMMODITIES.

"(a) EMERGENCY ASSISTANCE.—Notwithstanding any other provision of law, the Administrator may provide agricultural commodities to meet emergency food needs under this title through

governments and public or private agencies, including intergovernmental organizations such as the World Food Program and other multilateral organizations, in such manner and on such terms and conditions as the Administrator determines appropriate to respond to the emergency.

"(b) NON-EMERGENCY ASSISTANCE.—The Administrator may provide agricultural commodities for non-emergency assistance under this title through eligible organizations (as described in subsection (d)) that have entered into an agreement with the Administrator to use such commodities in accordance with this title.

"(c) USES OF ASSISTANCE.—Agricultural commodities provided under this title may be made available for direct distribution, sale, barter, or other appropriate disposition.

"(d) ELIGIBLE ORGANIZATIONS.—To be eligible to receive assistance under subsection (b) an organization shall be—

"(1) a private voluntary organization or cooperative that is, to the extent practicable, registered with the Administrator; or

"(2) an intergovernmental organization, such as the World Food Program.

"(e) SUPPORT FOR PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.—

"(1) IN GENERAL.—Of the funds made available in each fiscal year under this title to private voluntary organizations and cooperatives, not less than $10,000,000 and not more than $13,500,000 shall be made available by the Administrator to assist such organizations and cooperatives in—

"(A) establishing new programs under this title; and

"(B) meeting specific administrative, management, personnel and internal transportation and distribution costs for carrying out programs in foreign countries under this title.

"(2) REQUEST FOR FUNDS.—In order to receive funds made available under paragraph (1), a private voluntary organization or cooperative must submit a request for such funds (which must be approved by the Administrator) when submitting a proposal to the Administrator for an agreement under this title. Such request for funds shall include a specific explanation of—

"(A) the program costs to be offset by such funds;

"(B) the reason why such funds are needed in carrying out the particular assistance program; and

"(C) the degree to which such funds will improve the provision of food assistance to foreign countries (particularly those in sub-Saharan Africa suffering from acute, long-term food shortages).

"(3) ASSISTANCE WITH RESPECT TO SALE.—Upon the request of a private voluntary organization or cooperative, the Administrator may provide assistance to that organization or cooperative with respect to the sale of agricultural commodities made available to it under this title.

"(f) EFFECTIVE USE OF COMMODITIES.—To ensure that agricultural commodities made available under this title are used effectively and in the areas of greatest need, organizations or cooperatives through which such commodities are distributed shall—

"(1) to the extent feasible, work with indigenous institutions and employ indigenous workers;

"(2) assess and take into account nutritional and other needs of beneficiary groups;

"(3) help such beneficiary groups design and carry out mutually acceptable projects;

"(4) recommend to the Administrator methods of making assistance available that are the most appropriate for each local setting;

"(5) supervise the distribution of commodities provided and the implementation of programs carried out under this title; and

"(6) periodically evaluate the effectiveness of projects undertaken under this title.

"(g) LABELING.—Commodities provided under this title shall, to the extent practicable, be clearly identified with appropriate markings on the package or container of such commodity in the language of the locality in which such commodities are distributed, as being furnished by the people of the United States of America.

7 USC 1723.

"SEC. 203. GENERATION AND USE OF FOREIGN CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

"(a) LOCAL SALE AND BARTER OF COMMODITIES.—An agreement entered into between the Administrator and a private voluntary organization or cooperative to provide food assistance through such organization or cooperative under this title may provide for the sale or barter in the recipient country of the commodities to be provided under such agreement.

"(b) MINIMUM LEVEL OF LOCAL SALES.—In carrying out agreements of the type referred to in subsection (a), the Administrator shall permit private voluntary organizations and cooperatives to sell, in recipient countries, an amount of commodities equal to not less than 10 percent of the aggregate amounts of all commodities distributed under non-emergency programs under this title for each fiscal year, to generate foreign currency proceeds to be used as provided in this section.

"(c) DESCRIPTION OF INTENDED USES.—A private voluntary organization or cooperative submitting a proposal to enter into a non-emergency food assistance agreement under this title shall include in such proposal a description of the intended uses of any foreign currency proceeds that may be generated through the sale, in the recipient country, of any commodities provided under an agreement entered into between the Administrator and the organization or cooperative.

"(d) USE.—Foreign currencies generated from any partial or full sale or barter of commodities by a private voluntary organization or cooperative under a non-emergency food assistance agreement under this title may—

"(1) be used to transport, store, distribute, and otherwise enhance the effectiveness of the use of agricultural commodities provided under this title;

"(2) be used to implement income generating, community development, health, nutrition, cooperative development, agricultural, and other developmental activities within the recipient country; or

"(3) be invested and any interest earned on such investment may be used for the purposes for which the assistance was provided to that organization, without further appropriation by Congress.

"SEC. 204. LEVELS OF ASSISTANCE. 7 USC 1724.

"(a) MINIMUM LEVELS.—

"(1) MINIMUM ASSISTANCE.—Except as provided in paragraph (3), the Administrator shall make agricultural commodities available for food distribution under this title in an amount that—

"(A) for fiscal year 1991, is not less than 1,925,000 metric tons;

"(B) for fiscal year 1992, is not less than 1,950,000 metric tons;

"(C) for fiscal year 1993, is not less than 1,975,000 metric tons;

"(D) for fiscal year 1994, is not less than 2,000,000 metric tons; and

"(E) for fiscal year 1995, is not less than 2,025,000 metric tons.

"(2) MINIMUM NON-EMERGENCY ASSISTANCE.—Of the amounts specified in paragraph (1), and except as provided in paragraph (3), the Administrator shall make agricultural commodities available for non-emergency food distribution through eligible organizations under section 202 in an amount that—

"(A) for fiscal year 1991, is not less than 1,450,000 metric tons;

"(B) for fiscal year 1992, is not less than 1,475,000 metric tons;

"(C) for fiscal year 1993, is not less than 1,500,000 metric tons;

"(D) for fiscal year 1994, is not less than 1,525,000 metric tons; and

"(E) for fiscal year 1995, is not less than 1,550,000 metric tons.

"(3) EXCEPTION.—The Administrator may waive the requirements of paragraphs (1) and (2) for any fiscal year if the Administrator determines that such quantities of commodities cannot be used effectively to carry out this title or in order to meet an emergency. In making a waiver under this paragraph, the Administrator shall prepare and submit to the Committee on Foreign Affairs and Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the reasons for the waiver. Reports.

"(b) USE OF VALUE-ADDED COMMODITIES.—

"(1) MINIMUM LEVELS.—Except as provided in paragraph (2), in making agricultural commodities available under this title, the Administrator shall ensure that not less than 75 percent of the quantity of such commodities required to be distributed during each fiscal year under subsection (a)(2) be in the form of processed, fortified, or bagged commodities.

"(2) WAIVER OF MINIMUM.—The Administrator may waive the requirement of paragraph (1) for any fiscal year in which the Administrator determines that the requirements of the programs established under this title will not be best served by the enforcement of such requirement under such paragraph.

"SEC. 205. FOOD AID CONSULTATIVE GROUP. 7 USC 1725.

"(a) ESTABLISHMENT.—There is established a Food Aid Consultative Group (hereinafter referred to in this section as the 'Group')

that shall meet regularly to review and address issues concerning the effectiveness of the regulations and procedures that govern food assistance programs established and implemented under this title, and the implementation of other provisions of this title that may involve private voluntary organizations, cooperatives and indigenous non-governmental organizations.

"(b) MEMBERSHIP.—The Group shall be composed of—

"(1) the Administrator;

"(2) the Under Secretary for International Affairs and Commodity Programs;

"(3) the Inspector General of the Agency for International Development;

"(4) a representative of each private voluntary organization and cooperative participating in a program under this title, or receiving planning assistance funds from the Agency to establish programs under this title; and

"(5) representatives from African, Asian and Latin American indigenous non-governmental organizations determined appropriate by the Administrator.

"(c) CHAIRPERSON.—The Administrator shall be the chairperson of the Group.

"(d) CONSULTATIONS.—In preparing regulations, handbooks, or guidelines implementing this title, or significant revisions thereto, the Administrator shall provide such proposals to the Group for review and comment. The Administrator shall consult and, when appropriate, meet with the Group regarding such proposed regulations, handbooks, guidelines, or revisions thereto prior to the issuance of such.

"(e) ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Group.

"(f) TERMINATION.—The Group shall terminate on December 31, 1995.

7 USC 1726.

"SEC. 206. MAXIMUM LEVEL OF EXPENDITURES.

"(a) MAXIMUM EXPENDITURES.—Except as provided in subsection (b), programs of assistance shall not be undertaken under this title during any fiscal year if such programs necessitate an appropriation of more than $1,000,000,000 to reimburse the Commodity Credit Corporation for all costs incurred in connection with such programs (including the Corporation's investment in commodities made available).

"(b) WAIVER BY PRESIDENT.—The President may waive the limitation contained in subsection (a) if the President determines that such waiver is necessary to undertake programs of assistance to meet urgent humanitarian or emergency needs.

7 USC 1726a.

"SEC. 207. ADMINISTRATION.

"(a) PROPOSALS.—

"(1) TIME FOR DECISION.—Not later than 45 days after the receipt by the Administrator of a proposal submitted—

"(A) by a private voluntary organization or cooperative, with the concurrence of the appropriate United States field mission, for commodities; or

"(B) by a United States field mission to make commodities available to a private voluntary organization or cooperative;

under this title, the Administrator shall make a decision concerning such proposal.

"(2) DENIAL.—If a proposal under paragraph (1) is denied, the response shall specify the reasons for denial and the conditions that must be met for the approval of such proposal.

"(b) NOTICE AND COMMENT.—Not later than 30 days prior to the issuance of a final guideline to carry out this title, the Administrator shall—

"(1) provide notice of the existence of a proposed guideline, and that such guideline is available for review and comment, to private voluntary organizations and cooperatives that participate in programs under this title, and to other interested persons;

"(2) make the proposed guideline available, on request, to the organizations, cooperatives, and other persons referred to in paragraph (1); and

"(3) take any comments received into consideration prior to the issuance of the final guideline.

"(c) REGULATIONS.—

"(1) IN GENERAL.—The Administrator shall promptly issue all necessary regulations and make revisions to agency guidelines with respect to changes in the operation or implementation of the program established under this title.

"(2) REQUIREMENTS.—The Administrator shall develop regulations with the intent of—

"(A) simplifying procedures for participation in the programs established under this title;

"(B) reducing paperwork requirements under such programs;

"(C) establishing reasonable and realistic accountability standards to be applied to eligible organizations participating in the programs established under this title, taking into consideration the problems associated with carrying out programs in developing countries; and

"(D) providing flexibility for carrying out programs under this title.

"(3) HANDBOOKS.—Handbooks developed by the Administrator to assist in carrying out the program under this title shall be designed to foster the development of programs under this title by eligible organizations.

"(d) DEADLINE FOR SUBMISSION OF COMMODITY ORDERS.—Not later than 15 days after receipt from a United States field mission of a call forward for agricultural commodities for programs that meet the requirements of this title, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.

"TITLE III—FOOD FOR DEVELOPMENT

"SEC. 301. BILATERAL GRANT PROGRAM.

7 USC 1727.

"(a) IN GENERAL.—The President shall establish a program under which agricultural commodities are donated in accordance with this title to least developed countries. The revenue generated by the sale of such commodities in the recipient country may be utilized for economic development activities. Such program shall be implemented by the Administrator.

President.

"(b) GENERAL AUTHORITY.—To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis.

7 USC 1727a.

"SEC. 302. ELIGIBLE COUNTRIES.

"(a) LEAST DEVELOPED COUNTRIES.—A country shall be considered to be a least developed country and eligible for the donation of agricultural commodities under this title if—

"(1) such country meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference for providing financial assistance; or

"(2) such country is a food deficit country and is characterized by high levels of malnutrition among significant numbers of its population, as determined by the Administrator under subsection (b).

"(b) INDICATORS OF FOOD DEFICIT COUNTRIES.—To make a finding under subsection (a)(2) that a country is a food deficit country and is characterized by high levels of malnutrition, the Administrator must determine that the country meets all of the following indicators of national food deficit and malnutrition:

"(1) CALORIE CONSUMPTION.—That the daily per capita calorie consumption of the country is less than 2300 calories.

"(2) FOOD SECURITY REQUIREMENTS.—That the country cannot meet its food security requirements through domestic production or imports due to a shortage of foreign exchange earnings.

"(3) CHILD MORTALITY RATE.—That the mortality rate of children under 5 years of age in the country is in excess of 100 per 1000 births.

"(c) PRIORITY.—In determining whether and to what extent agricultural commodities shall be made available to least developed countries under this title, the Administrator shall give priority to countries that—

"(1) demonstrate the greatest need for food;

"(2) demonstrate the capacity to use food assistance effectively;

"(3) have demonstrated a commitment to policies to promote food security, including policies to reduce measurably hunger and malnutrition through efforts such as establishing and institutionalizing supplemental nutrition programs targeted to reach those who are nutritionally at risk; and

"(4) have a long-term plan for broad-based, equitable, and sustainable development.

7 USC 1727b.

"SEC. 303. GRANT PROGRAMS.

"To carry out the policies and accomplish the objectives described in section 2, the Administrator may negotiate and execute agreements with least developed countries to provide commodities to such countries on a grant basis either through the Commodity Credit Corporation or through private trade channels.

7 USC 1727c.

"SEC. 304. DIRECT USES OR SALES OF COMMODITIES.

"Agricultural commodities provided to a least developed country under this section—

"(1) may be used in such country for—

"(A) direct feeding programs, including programs that include activities that deal directly with the special health

needs of children and mothers consistent with section 104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund; or

"(B) the development of emergency food reserves; or

"(2) may be sold in such country by the government of the country or the Administrator (or their designees) as provided in the agreement, and the proceeds of such sale used in accordance with this title.

"SEC. 305. LOCAL CURRENCY ACCOUNTS. 7 USC 1727d.

"(a) RETENTION OF PROCEEDS.—To the extent determined to be appropriate by the Administrator, revenues generated from the sale, under section 304(2), of agricultural commodities provided under this title shall be deposited into a separate account (that may be interest bearing) in the recipient country to be disbursed for the benefit of such country in accordance with local currency agreements entered into between the recipient country and the Administrator. The Administrator may determine not to deposit such revenues in a separate account if—

"(1) local currencies are to be programmed for specific economic development purposes listed in section 306(a); and

"(2) the recipient country programs an equivalent amount of money for such purposes as specified in an agreement entered into by the Administrator and the recipient country.

"(b) OWNERSHIP AND PROGRAMMING OF ACCOUNTS.—The proceeds of sales pursuant to section 304(2) shall be the property of the recipient country or the United States, as specified in the applicable agreement. Such proceeds shall be utilized for the benefit of the recipient country, shall be jointly programmed by the Administrator and the government of the recipient country, and shall be disbursed for the benefit of such country in accordance with local currency agreements between the Administrator and that government.

"(c) OVERALL DEVELOPMENT STRATEGY.—The Administrator shall consider the local currency proceeds as an integral part of the overall development strategy of the Agency for International Development and the recipient country.

"SEC. 306. USE OF LOCAL CURRENCY PROCEEDS. 7 USC 1727e.

"(a) IN GENERAL.—The local currency proceeds of sales pursuant to section 304(2) shall be used in the recipient country for specific economic development purposes, including—

"(1) the promotion of specific policy reforms to improve food security and agricultural development within the country and to promote broad-based, equitable, and sustainable development;

"(2) the establishment of development programs, projects, and activities that promote food security, alleviate hunger, improve nutrition, and promote family planning, maternal and child health care, oral rehydration therapy, and other child survival objectives consistent with section 104(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b(c)(2)), relating to the Child Survival Fund; Nutrition. Family planning. Maternal and child health.

"(3) the promotion of increased access to food supplies through the encouragement of specific policies and programs designed to increase employment and incomes within the country;

"(4) the promotion of free and open markets through specific policies and programs;

"(5) support for United States private voluntary organizations and cooperatives and encouragement of the development and utilization of indigenous nongovernmental organizations;

"(6) the purchase of agricultural commodities (including transportation and processing costs) produced in the country—

"(A) to meet urgent or extraordinary relief requirements in the country or in neighboring countries; or

"(B) to develop emergency food reserves;

"(7) the purchase of goods and services (other than agricultural commodities and related services) to meet urgent or extraordinary relief requirements;

"(8) the payment, to the extent practicable, of the costs of carrying out the program authorized in title V;

"(9) private sector development activities designed to further the policies set forth in section 2, including loans to financial intermediaries for use in making loans to private individuals, cooperatives, corporations, or other entities;

"(10) activities of the Peace Corps that relate to agricultural production;

Highways and roads. Irrigation.

"(11) the development of rural infrastructure such as roads, irrigation systems, and electrification to enhance agricultural production;

Research.

"(12) research on malnutrition and its causes, as well as research relating to the identification and application of policies and strategies for targeting resources made available under this section to address the problem of malnutrition; and

"(13) support for research (including collaborative research which is mutually beneficial to the United States and the recipient country), education, and extension activities in agricultural sciences.

Section 1306 of title 31, United States Code, shall not apply to the use under this subsection of local currency proceeds that are owned by the United States.

Education. Environmental protection.

"(b) SUPPORT OF INDIGENOUS NON-GOVERNMENTAL ORGANIZATIONS.—To the extent practicable, not less than 10 percent of the amounts contained in an account established for a recipient country under section 305(a) shall be used by such country to support the development and utilization of indigenous nongovernmental organizations and cooperatives that are active in rural development, agricultural education, sustainable agricultural production, other measures to assist poor people, and environmental protection projects within such country.

"(c) INVESTMENT OF LOCAL CURRENCIES BY NONGOVERNMENTAL ORGANIZATIONS.—A nongovernmental organization may invest local currencies that accrue to that organization as a result of assistance under subsection (a), and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization without further appropriation by the Congress.

"(d) SUPPORT FOR CERTAIN EDUCATIONAL INSTITUTIONS.—If the Administrator determines that local currencies deposited in a special account pursuant to this title are not needed for any of the activities prescribed in paragraphs (1) through (13) of subsection (a) or for any other specific economic development purpose in the recipient country, the Administrator may use those currencies to provide support for any institution (other than an institution whose

primary purpose is to provide religious education) located in the recipient country that provides education in agricultural sciences or other disciplines for a significant number of United States nationals (who may include members of the United States Armed Forces or the Foreign Service or dependents of such members).

"TITLE IV—GENERAL AUTHORITIES AND REQUIREMENTS

"SEC. 401. COMMODITY DETERMINATIONS. 7 USC 1731.

"(a) AVAILABLE COMMODITIES.—After consulting with other agencies of the Federal Government affected and within policies established by the President for implementing this Act, and after taking into consideration productive capacity, domestic requirements, farm and consumer price levels, commercial exports, and adequate carryover, the Secretary shall determine, prior to the beginning of each fiscal year, the agricultural commodities and quantities thereof available for disposition under this Act.

"(b) MODIFICATION.—The Secretary may, during the fiscal year, modify a determination made under subsection (a) if the Secretary provides to the Congress prior notice of that modification (including a statement of the reasons for the modification).

"(c) COMMODITIES NOT AVAILABLE.—No commodity shall be available for disposition under this Act if such disposition would reduce the domestic supply of such commodity below that needed to meet domestic requirements, adequate carryover, and anticipated exports for dollars as determined by the Secretary, unless the Secretary determines that some part of the supply should be used to carry out urgent humanitarian purposes under this Act.

"(d) POLICIES FOR IMPLEMENTING ACT.—The Secretary shall, to the extent practicable, seek to maintain a stable level of available agricultural commodities under this Act of the kind and type needed to provide food assistance to developing countries and should attempt to make such commodities available to the degree necessary to fulfill multi-year agreements entered into under this Act.

"(e) INELIGIBLE COMMODITIES.—

"(1) ALCOHOLIC BEVERAGES.—Alcoholic beverages shall not be made available for disposition under this Act.

"(2) TOBACCO.—Tobacco or the products thereof shall not be made available under section 303 or title II of this Act.

"(f) MARKET DEVELOPMENT ACTIVITIES.—Subsection (e)(1) shall not be construed to prohibit representatives of the United States wine, beer, distilled spirits, or other alcoholic beverage industry from participating in agricultural market development activities carried out by the Secretary with foreign currencies made available under title I of this Act.

"SEC. 402. DEFINITIONS. 7 USC 1732.

"As used in this Act:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Agency for International Development, unless otherwise specified in this Act.

"(2) AGRICULTURAL COMMODITY.—The term 'agricultural commodity', unless otherwise provided for in this Act, includes any agricultural commodity or the products thereof produced in

the United States, including wood and processed wood products, fish, and livestock as well as value-added, fortified, or high-value agricultural products. Effective beginning on October 1, 1991, for purposes of title II, a product of an agricultural commodity shall not be considered to be produced in the United States if it contains any ingredient that is not produced in the United States, if that ingredient is produced and is commercially available in the United States at fair and reasonable prices.

"(3) COOPERATIVE.—The term 'cooperative' means a private sector organization whose members own and control the organization and share in its services and its profits and that provides business services and outreach in cooperative development for its membership.

"(4) DEVELOPING COUNTRY.—The term 'developing country' means a country that has a shortage of foreign exchange earnings and has difficulty meeting all of its food needs through commercial channels.

"(5) FOOD SECURITY.—The term 'food security' means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

"(6) INDIGENOUS NONGOVERNMENTAL ORGANIZATION.—The term 'indigenous nongovernmental organization' means an organization that operates under the laws of the recipient country, or that has its principal place of activity in such country, and that works at the local level to solve development problems in the foreign country in which it is located, except that the term does not include an organization that is primarily an agent or instrumentality of the foreign government.

"(7) PRIVATE VOLUNTARY ORGANIZATION.—The term 'private voluntary organization' means a not-for-profit, nongovernmental organization (in the case of a United States organization, an organization that is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986) that receives funds from private sources, voluntary contributions of money, staff time, or in-kind support from the public, and that is engaged in or is planning to engage in voluntary, charitable, or development assistance activities (other than religious activities).

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture, unless otherwise specified in this Act.

7 USC 1733.

"SEC. 403. GENERAL PROVISIONS.

"(a) PROHIBITION.—No agricultural commodity shall be made available under this Act unless it is determined that—

"(1) adequate storage facilities will be available in the recipient country at the time of the arrival of the commodity to prevent the spoilage or waste of the commodity; and

"(2) the distribution of the commodity in the recipient country will not result in a substantial disincentive to or interference with domestic production or marketing in that country.

"(b) CONSULTATIONS.—The Secretary or the Administrator, as appropriate, shall consult with representatives from the International Monetary Fund, the International Bank for Reconstruction and Development, the World Bank, and other donor organizations to ensure that the importation of United States agricultural commodities and the use of local currencies for development purposes will

not have a disruptive impact on the farmers or the local economy of the recipient country.

"(c) TRANSSHIPMENT.—The Secretary or the Administrator, as appropriate, shall, under such terms and conditions as are determined to be appropriate, require commitments from countries designed to prevent or restrict the resale or transshipment to other countries, for use for other than domestic purposes, of agricultural commodities donated or purchased under this Act.

"(d) PRIVATE TRADE CHANNELS AND SMALL BUSINESS.—Private trade channels shall be used under this Act to the maximum extent practicable in the United States and in the recipient countries with respect to—

"(1) sales from privately owned stocks;

"(2) sales from stocks owned by the Commodity Credit Corporation; and

"(3) donations.

Small businesses shall be provided adequate and fair opportunity to participate in such sales.

"(e) WORLD PRICES.—In carrying out this Act, reasonable precautions shall be taken to assure that sales or donations of agricultural commodities will not unduly disrupt world prices for agricultural commodities or normal patterns of commercial trade with foreign countries.

"(f) PUBLICITY.—Commitments shall be obtained from countries receiving commodities under this Act that such countries will widely publicize, to the extent practicable, through the use of the public media and through other means, that such commodities are being provided through the friendship of the American people as food for peace.

"(g) PARTICIPATION OF PRIVATE SECTOR.—The Secretary or the Administrator, as appropriate, shall encourage the private sector of the United States and private importers in developing countries to participate in the programs established under this Act.

"(h) SAFEGUARD USUAL MARKETINGS.—In carrying out this Act, reasonable precautions shall be taken to safeguard the usual marketings of the United States and to avoid displacing any sales of the United States agricultural commodities that the Secretary or Administrator determines would otherwise be made.

"(i) MILITARY DISTRIBUTION OF FOOD AID.—

"(1) IN GENERAL.—The Secretary or the Administrator, as appropriate, shall attempt to ensure that agricultural commodities made available under this Act will be provided without regard to the political affiliation, geographic location, ethnic, tribal, or religious identity of the recipient or without regard to other extraneous factors.

"(2) PROHIBITION ON HANDLING OF COMMODITIES BY THE MILITARY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary or the Administrator, as appropriate, shall not enter into an agreement under this Act to provide agricultural commodities if such agreement requires or permits the distribution, handling, or allocation of such commodities by the military forces of any government or insurgent group.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the Administrator, as appropriate, may authorize the handling or distribution of commodities by the

military forces of a country in exceptional circumstances in which—

"(i) nonmilitary channels are not available for such handling or distribution;

"(ii) such action is consistent with the requirements of paragraph (1); and

"(iii) the Secretary or the Administrator, as appropriate, determines that such action is necessary to meet the emergency health, safety, or nutritional requirements of the recipient population.

"(C) REPORT.—Not later than 30 days after an authorization is provided under subparagraph (B), the Secretary or the Administrator, as appropriate, shall prepare and submit to the appropriate Committees of Congress a report concerning such authorization and include in any such report the reason for the authorization, including an explanation of why no alternatives to such handling or distribution were available.

"(3) ENCOURAGEMENT OF SAFE PASSAGE.—When entering into agreements under this Act that involve areas within recipient countries that are experiencing protracted warfare or civil strife, the Secretary or the Administrator, as appropriate, shall, to the extent practicable, encourage all parties to the conflict to permit safe passage of the commodities and other relief supplies and to establish safe zones for medical and humanitarian treatment and evacuation of injured persons.

"(j) VIOLATIONS OF HUMAN RIGHTS.—

"(1) INELIGIBLE COUNTRIES.—The Secretary or the Administrator, as appropriate, shall not enter into any agreement under this Act to provide agricultural commodities, or to finance the sale of agricultural commodities, to the government of any country determined by the President to engage in a consistent pattern of gross violations of internationally recognized human rights, including—

"(A) the torture or cruel, inhuman, or degrading treatment or punishment of individuals;

"(B) the prolonged detention of individuals without charges;

"(C) the responsibility for causing the disappearance of individuals through the abduction and clandestine detention of such individuals; or

"(D) other flagrant denials of the right to life, liberty, and the security of persons.

"(2) WAIVER.—Paragraph (1) shall not prohibit the provision of assistance to such a country if the assistance is targeted to the most needy people in such country and is made available in such country through channels other than the government.

"(k) ABORTION PROHIBITION.—Local currencies that are made available for use under this Act may not be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions.

7 USC 1734.

"SEC. 404. AGREEMENTS.

"(a) IN GENERAL.—Before entering into agreements under titles I and III for the provision of commodities, the Secretary or the Administrator, as appropriate, shall consider the extent to which the recipient country is undertaking measures for economic develop-

ment purposes in order to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable development.

"(b) TERMS OF AGREEMENT.—An agreement entered into under this Act shall—

"(1) include an estimate of the annual value or volume of agricultural commodities proposed to be made available to the country or eligible organization under the agreement;

"(2) with respect to agreements entered into under titles I and III, include a statement of the manner in which the agricultural commodities provided under the agreement or the revenues generated by the sale of such commodities (if such commodities are sold), will be integrated into the overall development plans of the country to improve food security and agricultural development, alleviate poverty, and promote broad-based, equitable, and sustainable agriculture;

"(3) with respect to agreements entered into under titles I and III, include a statement of the manner in which competitive private sector participation within the recipient country in the storage, marketing, transportation, and distribution of agricultural commodities made available under this Act will be encouraged;

"(4) include a statement that such agreement shall be subject to the availability, during each fiscal year to which the agreement applies, of the necessary appropriations and agricultural commodities; and

"(5) contain such other terms and conditions as the Secretary or the Administrator, as appropriate, determines to be necessary.

"(c) MULTI-YEAR AGREEMENTS.—

"(1) IN GENERAL.—Agreements to provide assistance on a multi-year basis under this Act shall be made available to recipient countries or to eligible organizations.

"(2) EXCEPTION.—The Secretary or the Administrator, as appropriate, may determine not to make assistance available on a multi-year basis with respect to a recipient country or an eligible organization if it is determined that assistance should be provided to such country or through such organization only on an annual basis because—

"(A) the past performance of the country or organization in meeting program objectives does not warrant a multi-year agreement;

"(B) it is anticipated that the need of the country or organization for food aid does not extend beyond 1 year; or

"(C) other circumstances, as determined by the Secretary or the Administrator, as appropriate, indicate there is only a need for a 1 year agreement.

"(d) REVIEW OF AGREEMENTS.—The Secretary or the Administrator, as appropriate, may make a determination to terminate, or refuse to enter into, a multi-year agreement with respect to a recipient country if the Secretary or the Administrator determines that such country is not fulfilling the objectives or requirements of this Act. In making such a determination, the Secretary or the Administrator, as appropriate, may consider the extent to which the country is—

"(1) making significant economic development reforms;

"(2) promoting free and open markets for food and agricultural producers; and

"(3) fostering increased food security.

7 USC 1735.

"SEC. 405. CONSULTATION.

"The Secretary and the Administrator shall cooperate and consult in the implementation of this Act.

7 USC 1736.

"SEC. 406. USE OF COMMODITY CREDIT CORPORATION.

"(a) IN GENERAL.—The Commodity Credit Corporation shall acquire and make available such agricultural commodities (that have been determined to be available under section 401(a)) as necessary to carry out agreements under this Act.

"(b) INCLUDED EXPENSES.—With respect to commodities made available under this Act, the Commodity Credit Corporation may pay—

"(1) the cost of acquiring such commodities;

"(2) the costs associated with packaging, enrichment, preservation, and fortification of such commodities;

"(3) the processing, transportation, handling, and other incidental costs up to the time of the delivery of such commodities free on board vessels in United States ports;

"(4) the ocean freight charges from United States ports to designated ports of entry abroad;

"(5) the costs associated with transporting such commodities from United States ports to designated points of entry abroad in the case—

"(A) of landlocked countries;

"(B) of ports that cannot be used effectively because of natural or other disturbances;

"(C) of the unavailability of carriers to a specific country; or

"(D) of substantial savings in costs or items that may be effected by the utilization of points of entry other than ports;

"(6) in the case of commodities for urgent and extraordinary relief requirements (including pre-positioned commodities) the transportation costs incurred in moving the commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs; and

"(7) the charges for general average contributions arising out of the ocean transport of commodities transferred pursuant thereto.

"(c) COMMODITY CREDIT CORPORATION.—The funds, facilities, and authorities of the Commodity Credit Corporation may be used to carry out this Act.

7 USC 1736a.

"SEC. 407. ADMINISTRATIVE PROVISIONS.

"(a) TITLE I PROGRAMS.—

"(1) ACQUISITIONS.—The importing country shall acquire the agricultural commodities to be financed under title I.

"(2) INVITATION FOR BID.—No purchase of agricultural commodities from private stock or purchase of ocean transportation shall be financed under title I unless such purchases are made on the basis of an invitation for bid that is publicly advertised in the United States, and on the basis of bid offerings

that shall conform to such invitation and be received and publicly opened in the United States. All awards in the purchase of commodities or ocean transportation financed under title I shall be consistent with open, competitive, and responsive bid procedures, as determined appropriate by the Secretary.

"(b) REPORTING OF FEES.—

"(1) REQUIREMENT.—Notwithstanding any other provision of law, any commission, fee, or other compensation of any kind paid, or to be paid, by any supplier of an agricultural commodity, or any ocean transportation financed or agricultural commodity donated by the Commodity Credit Corporation under title I to any agents, brokers, or other representatives of the importer or importing country shall be reported to the Secretary by the supplier of the commodity or ocean transportation.

"(2) CONTENT.—A report filed under paragraph (1) shall identify the person or entity to whom the payment is made and the amount of the commission or fees paid.

"(3) PUBLICATION OF INFORMATION.—The Secretary shall—

"(A) maintain all information provided under this section for public inspection;

"(B) annually publish a report containing the information referred to in subparagraph (A); and

"(C) forward a copy of the annual report referred to in subparagraph (B) to the appropriate committees of Congress.

"(4) FAILURE TO FILE.—A supplier of a commodity or ocean transportation who fails to file a report required under this subsection, or who files a false report, shall be ineligible to furnish, directly or indirectly, commodities or ocean transportation financed under title I for a period of not to exceed 5 years.

"(c) AGENTS.—

"(1) AUTHORITY OF THE SECRETARY OR COMMODITY CREDIT CORPORATION.—

"(A) GENERAL RULE.—Except as provided in subparagraph (B), if it is determined appropriate, the Secretary or the Commodity Credit Corporation may serve as the purchasing or shipping agent, or both, for the importing country in arranging the purchase or shipping of commodities financed under this section.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary or the Commodity Credit Corporation may award, under a competitive bidding process, contracts for establishing freight agents who shall act on behalf of the Secretary or the Corporation to handle the shipping of commodities financed under this Act.

"(C) AVOIDANCE OF CONFLICT OF INTEREST OF CONTRACTORS.—Freight agents employed by the Secretary or the Commodity Credit Corporation under title I shall not represent any other foreign government during the period of their contract with the United States Government.

"(2) REASONABLE FEES AND COMMISSIONS.—

"(A) FEES.—Notwithstanding any other provision of law, the Secretary or the Commodity Credit Corporation may enter into an agreement with the importing country that contains the terms and conditions that will govern the

provision of purchasing or shipping agent services by the Secretary or the Corporation, including the establishment of fees for such services. Any such fees shall be fair and reasonable in relation to the services performed and shall be available as reimbursement for costs incurred in providing such services.

"(B) PROHIBITION ON COMMISSIONS.—Commissions, fees, or other payments to any selling agent or to any agent of a purchaser shall be prohibited in the purchase of agricultural commodities that are financed under this Act.

"(3) LIMITATIONS.—No commission, fees, or other payments to an agent, broker, consultant, or other representative of the importer or importing country for ocean transportation brokerage services in connection with the carriage of commodities provided under this Act may—

"(A) be paid in excess of an amount determined appropriate by the Secretary; and

"(B) be shared by such person with the importer or importing country or any agent thereof.

"(4) AVOIDANCE OF CONFLICT OF INTEREST.—A person may not be an agent, broker, consultant, or other representative of the United States Government, an importer, or an importing country in connection with agricultural commodities provided under this Act during a fiscal year in which such person acts as an agent, broker, consultant, or other representative if the person is engaged in providing ocean transportation-related services for such commodities. For the purpose of this paragraph, the term 'transportation-related services' means lightening, stevedoring, bagging, or inland transportation to the destination point.

"(d) TITLE II AND III PROGRAM.—

"(1) ACQUISITION.—The Administrator shall transfer, arrange for the transportation, and take other steps necessary to make available agricultural commodities to be provided under title II and title III.

"(2) FULL AND OPEN COMPETITION.—No purchase of agricultural commodities from private stocks or purchase of ocean transportation services by the United States Government shall be financed under titles II and III unless such purchases are made on the basis of full and open competition utilizing such procedures as are determined necessary and appropriate by the Administrator.

"(3) AVOIDANCE OF CONFLICT OF INTEREST.—Freight agents employed by the Agency for International Development under titles II and III shall not represent any other foreign government during the period of their contract with the United States Government.

"(4) OCEAN TRANSPORTATION SERVICES.—Notwithstanding any provision of the Federal Property Act of 1949, as amended, or other similar provisions relating to the making or performance of Federal Government contracts, the Administrator may procure ocean transportation services under this Act under such full and open competitive procedures as the Administrator determines are necessary and appropriate.

"(e) TIMING OF SHIPMENTS.—In determining the timing of the shipment of agricultural commodities to be provided under this Act, the Secretary or the Administrator, as appropriate, shall consider—

"(1) the time of harvest of any competing commodities in the recipient country; and

"(2) such other concerns determined to be appropriate.

"(f) DEADLINE FOR AGREEMENTS UNDER TITLES I AND III.—An agreement under titles I and III shall, to the extent practicable, be entered into not later than—

"(1) November 30 of the first fiscal year in which agricultural commodities are to be shipped under the agreement; or

"(2) 60 days after the date of enactment of the annual Rural Development, Agriculture, and Related Agencies Appropriations Act for the first fiscal year in which agricultural commodities are to be shipped under the agreement,

whichever is later.

"(g) ANNUAL REPORTS.— President.

"(1) IN GENERAL.—The President shall prepare an annual report concerning the programs and activities implemented under this Act for the preceding fiscal year.

"(2) CONTENTS.—Each report shall include—

"(A) the countries and organizations receiving food and other assistance provided to each country and organization under this Act;

"(B) a general description of the projects or activities implemented under this Act, including local currency funded activities; and

"(C) a statement of the amount of agricultural commodities made available to each country pursuant to section 416(b) of the Agricultural Act of 1949 and the Food for Progress Act of 1985.

"(3) SUBMISSION.—The President shall submit such report not later than January 15 of each year to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(h) WORLD FOOD DAY REPORT.—On World Food Day, October 16 of each year, the President shall submit to the appropriate committees of Congress a report, prepared with the assistance of the Secretary and the Administrator, assessing progress towards food security in each country receiving United States Government food assistance. Special emphasis should be given in such report to the nutritional status of the poorest populations in such countries. President.

"SEC. 408. EXPIRATION DATE. 7 USC 1736b.

"No agreements to finance sales or to provide other assistance under this Act shall be entered into after December 31, 1995.

"SEC. 409. REGULATIONS. 7 USC 1736c.

"Not later than 180 days after the date of enactment of this Act, regulations shall be issued to implement the provisions of this Act.

"SEC. 410. INDEPENDENT EVALUATION OF PROGRAMS. 7 USC 1736d.

"(a) TITLE I PROGRAM.—Not later than 2 years after the date of enactment of this Act, and 2 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under title I that are representative of all countries in three geographic regions and evaluate the uses of the funds under title I in such countries with respect to the impact of such uses on agricultural development, agricultural trade development, and the

financial management of those funds, with reference to personnel requirements to manage these funds.

"(b) TITLE II PROGRAM.—Not later than 2 years after the date of enactment of this Act, and 2 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under title II that are representative of all countries in three geographic regions and evaluate the uses of the assistance provided under such title, including an evaluation of the impact of such assistance on enhancing food security in such countries and an evaluation of the use of local currencies for economic development, as well as the financial management of those funds, with reference to personnel requirements to manage these funds.

"(c) TITLE III PROGRAM.—Not later than 2 years after the date of enactment of this Act, and 2 years thereafter, the Comptroller General of the United States shall select five countries that receive assistance under title III that are representative of all such countries in three geographic regions and evaluate—

"(1) the uses of the commodities provided under such title in such countries; and

"(2) the uses of the special account funds established in such countries under title III;

with respect to the impact of such uses and funds on enhancing food security, including nutrition, in such countries and the financial management of those funds, with reference to personnel requirements to manage such funds.

"(d) REPORT TO CONGRESS.—The Comptroller General of the United States shall prepare and submit, to the Committee on Foreign Affairs and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report concerning the evaluations made under this section.

7 USC 1736e.

"SEC. 411. DEBT FORGIVENESS.

"(a) AUTHORITY.—The President, taking into account the financial resources of a country, may waive payments of principal and interest that such country would otherwise be required to make to the Commodity Credit Corporation under dollar sales agreements under this title if—

"(1) that country is a least developed country; and

"(2) either—

"(A) an International Monetary Fund standby agreement is in effect with respect to that country;

"(B) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country;

"(C) a structural adjustment facility, enhanced structural adjustment facility, or similar supervised arrangement with the International Monetary Fund is in effect with respect to that country; or

"(D) even though such an agreement, program, facility, or arrangement is not in effect, the country is pursuing national economic policy reforms that would promote democratic, market-oriented, and long term economic development.

"(b) REQUEST FOR DEBT RELIEF BY PRESIDENT.—The President may provide debt relief under subsection (a) only if a notification is submitted to Congress. Such a notification shall—

"(1) specify the amount of official debt the President proposes to liquidate; and

"(2) identify the countries for which debt relief is proposed and the basis for their eligibility for such relief.

"(c) APPROPRIATIONS ACTION REQUIRED.—The aggregate amount of principal and interest waived under this section may not exceed the amount approved for such purpose in an Act appropriating funds to carry out this Act.

"(d) LIMITATION ON NEW CREDIT ASSISTANCE.—If the authority of this section is used to waive payments otherwise required to be made by a country pursuant to this Act, the President may not provide any new credit assistance for that country under this Act during the 2-year period beginning on the date such waiver authority is exercised, unless the President provides to the Congress, before the assistance is provided, a written justification for the provision of such new credit assistance.

"(e) APPLICABILITY.—The authority of this section applies with respect to credit sales agreements entered into before the date of enactment of this Act.

"SEC. 412. AUTHORIZATION OF APPROPRIATIONS. 7 USC 1736f.

"(a) REIMBURSEMENT.—There are authorized to be appropriated such sums as may be necessary to carry out—

"(1) the concessional credit sales program established under title I;

"(2) the emergency and private assistance program under title II; and

"(3) the grant program established under title III,

including such amounts as may be required to make payments to the Commodity Credit Corporation to the extent the Commodity Credit Corporation is not reimbursed under the programs under this Act for the actual costs incurred or to be incurred by such Corporation in carrying out such programs.

"(b) LIMITATIONS.—Of the amounts made available in each fiscal year to carry out titles I and III, not less than—

"(1) 40 percent shall be made available to carry out the credit sales program established under title I; and

"(2) 40 percent shall be made available to carry out the grant program established under title III.

"(c) TRANSFER OF FUNDS.—Notwithstanding any other provision of law and except as provided in subsection (b), if the President determines it to be necessary for purposes of this Act, the President may direct that not in excess of 15 percent of the funds available in any fiscal year for carrying out any title of this Act be used to carry out any other title of this Act.

"(d) BUDGET.—In presenting the Budget of the United States, the President shall classify expenditures under this Act as expenditures for international affairs and finance rather than for agriculture and agricultural resources. President.

"(e) VALUE OF COMMODITIES.—Notwithstanding any other provision of law, in determining the reimbursement due the Commodity Credit Corporation for all expenses incurred under this Act, commodities from the inventory of the Commodity Credit Corporation that were acquired under title I of the Agricultural Act of 1949

(7 U.S.C. 1421 et seq.) shall be valued at a price not greater than the export market price for such commodities, as determined by the Secretary, as of the time such commodity is made available under this Act.

7 USC 1736g.

"SEC. 413. COORDINATION OF FOREIGN ASSISTANCE PROGRAMS.

"To the maximum extent practicable, assistance for a foreign country under this Act shall be coordinated and integrated with United States development assistance objectives and programs for that country and with the overall development strategy of that country. Special emphasis should be placed on, and funds devoted to, activities that will increase the nutritional impact of programs of assistance under this Act, and child survival programs and projects, in least developed countries by improving the design and implementation of such programs and projects.

Nutrition.
Child welfare.

7 USC 1736g-1.

"SEC. 414. ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES.

(a) SUBSTANTIAL INJURY.—Local currencies that are made available for use under this Act may not be used to finance the production for export of agricultural commodities (or products thereof) that would compete in the world market with similar agricultural commodities (or products thereof) produced in the United States, if such competition would cause substantial injury to the United States producers, as determined by the President.

(b) EXCEPTION FOR NARCOTICS CONTROL.—Notwithstanding subsection (a), the President may provide assistance under this Act, including assistance through the use of local currencies generated by the sale of commodities under such Act, for economic development activities undertaken in an eligible country that is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961), for the purpose of reducing the dependence of the economy of such country on the production of crops from which narcotic and psychotropic drugs are derived.

"TITLE V—FARMER-TO-FARMER PROGRAM

7 USC 1737.

"SEC. 501. FARMER-TO-FARMER PROGRAM.

"(a) IN GENERAL.—To further assist developing countries, middle-income countries, and emerging democracies to increase farm production and farmer incomes, the President may, notwithstanding any other provision of law—

"(1) establish and administer a program of farmer-to-farmer assistance between the United States and such countries to assist in increasing food production and distribution and improving the effectiveness of the farming and marketing operations of farmers;

"(2) utilize United States farmers, agriculturalists, land grant universities, private agribusinesses, and nonprofit farm organizations to work in conjunction with farmers and farm organizations in such countries, on a voluntary basis, to facilitate the improvement of farm and agribusiness operations and agricultural systems in such countries, including animal care and health, field crop cultivation, fruit and vegetable growing,

livestock operations, food processing and packaging, farm credit, marketing, inputs, agricultural extension, and the strengthening of cooperatives and other farmer groups;

"(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on a people-to-people basis, to such countries while enhancing the democratic process by supporting private and public, agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

"(4) to the extent practicable, enter into contracts or other cooperative agreements with or make grants to private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available pursuant to subsection (c) or has otherwise been provided in advance in appropriation Acts); Government contracts. Grant programs.

"(5) coordinate programs established under this section with other foreign assistance activities carried out by the United States; and

"(6) to the extent practicable, augment the funds available for programs established under this section through the use of foreign currencies that accrue from the sale of agricultural commodities under this Act, and local currencies generated from other types of foreign assistance activities.

"(b) DEFINITIONS.—The following definitions apply for purposes of this section:

"(1) EMERGING DEMOCRACY.—The term 'emerging democracy' means a country that is taking steps toward—

"(A) political pluralism, based on progress toward free and fair elections and a multiparty political system;

"(B) economic reform, based on progress toward a market-oriented economy;

"(C) respect for internationally recognized human rights; and

"(D) a willingness to build a friendly relationship with the United States.

"(2) MIDDLE INCOME COUNTRY.—The term 'middle income country' means a country that has developed economically to the point where it does not receive bilateral development assistance from the United States.

"(c) MINIMUM FUNDING.—Notwithstanding any other provision of law, not less than 0.2 percent of the amounts made available for each of the fiscal years 1991 through 1995 to carry out this Act, in addition to any funds that may be specifically appropriated to carry out this section, shall be used to carry out programs under this section, with not less than 0.1 percent to be used for programs in developing countries.

Latin America.
Caribbean.

"TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

7 USC 1738.

"SEC. 601. ESTABLISHMENT OF THE FACILITY.

"There is established in the Department of the Treasury an entity to be known as the 'Enterprise for the Americas Facility' (hereafter referred to in this title as the 'Facility').

7 USC 1738a.

"SEC. 602. PURPOSE.

"The purpose of this title is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, and community-based conservation and sustainable use of the environment. The Facility will support such objectives through the administration of debt reduction operations relating to those countries that meet investment reform and other policy conditions provided for in this title.

7 USC 1738b.

"SEC. 603. ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.

"(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this title, a country shall—

"(1) be a Latin American or Caribbean country;

"(2) have in effect or have received approval for, or, as appropriate in exceptional circumstances, be making significant progress towards the establishment of—

"(A) an International Monetary Fund (hereafter referred to in this title as the 'IMF') standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, an IMF-monitored program or its equivalent; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development (hereafter referred to in this title as the 'World Bank') or the International Development Association (hereafter referred to in this title as the 'IDA');

"(3) have placed into effect major investment reforms in conjunction with an InterAmerican Development Bank (hereafter referred to as the 'IDB') loan or otherwise be implementing, or making significant progress towards an open investment regime; and

"(4) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

President.

"(b) ELIGIBILITY DETERMINATION.—The President shall determine whether a country is an eligible country for purposes of subsection (a).

7 USC 1738c.

"SEC. 604. REDUCTION OF CERTAIN DEBT.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States or any agency of the United States, and outstanding as of January 1, 1990, as a result of any credits extended under title I to a country eligible for benefits from the Facility.

"(2) AVALIABILITY OF APPROPRIATIONS.—The authorities under this section may be exercised only to the extent provided for in advance in appropriation Acts.

"(b) LIMITATION.—A debt reduction authorized under subsection (a) shall be accomplished, at the direction of the Facility, through the exchange of a new obligation under this title for obligations of the type referred to in subsection (a) outstanding as of January 1, 1990.

"(c) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under subsection (b) with an eligible country to exchange a new obligation for outstanding obligations. At the direction of the Facility, the old obligations that are the subject of the agreement may be canceled and a new debt obligation may be established for the country relating to the agreement. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect a debt reduction under this section.

"SEC. 605. REPAYMENT OF PRINCIPAL. 7 USC 1738d.

"(a) CURRENCY OF PAYMENT.—The principal amount owed under each new obligation issued under section 604 shall be repaid in United States dollars.

"(b) DEPOSIT OF PAYMENTS.—Principal repayments on new obligations issued under section 604 shall be deposited in Commodity Credit Corporation accounts.

"SEC. 606. INTEREST OF NEW OBLIGATIONS. 7 USC 1738e.

"(a) RATE OF INTEREST.—New obligations issued to an eligible country under section 604 shall bear interest at a concessional rate.

"(b) CURRENCY OF PAYMENT, DEPOSITS.—

"(1) UNITED STATES DOLLARS.—An eligible country to which a new obligation has been issued under section 604 that has not entered into an agreement under section 607, shall be required to pay interest on such obligation in United States dollars which shall be deposited in Commodity Credit Corporation accounts.

"(2) LOCAL CURRENCY.—If an eligible country to which a new obligation has been issued under section 604 has entered into an agreement under section 607, interest under such obligation may be paid in the local currency of the eligible country and deposited into an Environmental Fund as provided for in section 608. Such interest shall be the property of the eligible country until such time as it is disbursed under section 608. Such local currencies shall be used for the purposes specified in the agreement entered into under section 607.

"(c) INTEREST PREVIOUSLY PAID.—If an eligible country to which a new obligation has been issued under section 604 enters into an agreement under section 607 subsequent to the date on which interest first becomes due on such new obligation, any interest paid on such new obligation prior to such agreement being entered into shall not be redeposited into the Fund established for the eligible country under section 608(a) but shall be deposited into Commodity Credit Corporation.

"SEC. 607. ENVIRONMENTAL FRAMEWORK AGREEMENTS. 7 USC 1738f.

"(a) AUTHORITY.—The President is authorized to enter into an environmental framework agreement with each country eligible for benefits from the Facility concerning the operation and use of an

Enterprise for the Americas Environmental Fund (hereafter referred to in this title as the 'Environmental' Fund) established under section 608 for that country. The President shall consult with the Board established under section 610 when entering into such agreements.

President.

"(b) REQUIREMENTS.—An environmental framework agreement entered into under this section shall—

"(1) require the eligible country to establish an Environmental Fund;

"(2) require the eligible country to make interest payments under section 608(a) into the Environmental Fund;

"(3) require the eligible country to make prompt disbursements from the Environmental Fund to the body described in subsection (c);

"(4) where appropriate, seek to maintain the value of the local currency resources deposited into the appropriate Environmental Fund in terms of United States dollars;

"(5) specify, in accordance with section 612, the purposes for which the Environmental Fund may be used; and

"(6) contain reasonable provisions for the enforcement of the terms of the agreement.

"(c) ADMINISTERING BODY.—Funds disbursed from the Environmental Fund in an eligible country shall be administered by a body constituted under the laws of the country. Such body shall—

"(1) be composed of—

"(A) one or more representatives appointed by the President;

"(B) one or more representatives appointed by the eligible country; and

"(C) representatives from a broad range of environmental and local community development nongovernmental organizations of the host country;

the majority of which shall be local representatives from nongovernmental organizations, and scientific or academic bodies;

Grant programs.

"(2) receive proposals for grant assistance from local organizations, and make grants to such organizations in accordance with the priorities agreed upon in the framework agreement and consistent with the overall purposes of section 612;

"(3) be responsible for the management of the program and oversight of grant activities funded from resources of the Environmental Fund;

"(4) be subject to fiscal audits by an independent auditor on an annual basis;

"(5) present an annual program for review by the Board established under section 610 each year;

Reports.

"(6) present an annual report on the activities undertaken during the previous year to the Chairman of the Board established under section 610, and the government of the eligible country each year; and

"(7) have any grant over $100,000 be subject to veto by the United States and the government of the eligible country.

7 USC 1738g.

"SEC. 608. ENTERPRISE FOR THE AMERICAS ENVIRONMENTAL FUNDS.

"(a) ESTABLISHMENT.—An eligible country shall, under the terms of an environmental framework agreement entered into under section 607, establish an Environmental Fund to receive payments in local currency pursuant to section 607(b)(1).

"(b) INVESTMENT.—Amounts deposited into an Environmental Fund shall be invested until disbursed. Notwithstanding any other provision of law, any return on such investment may be retained by the Environmental Fund and need not be deposited to the account of the Commodity Credit Corporation and may be retained without further appropriation by Congress.

"SEC. 609. DISBURSEMENT OF ENVIRONMENTAL FUNDS. 7 USC 1738h.

"Funds in an Environmental Fund shall be disbursed only pursuant to a framework agreement entered into pursuant to section 607.

"SEC. 610. ENVIRONMENT FOR THE AMERICAS BOARD. 7 USC 1738i.

"(a) ESTABLISHMENT.—There is established a board to be known as the 'Environment for the Americas Board' (hereafter referred to in this title as the 'Board').

"(b) MEMBERSHIP AND CHAIRPERSON.— President.

"(1) MEMBERSHIP.—The Board shall be composed of—

"(A) five representatives from the United States Government; and

"(B) four representatives from private nongovernmental environmental, community development, scientific, and academic organizations with experience and expertise in Latin America and the Caribbean;

to be appointed by the President.

"(2) CHAIRPERSON.—The Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under paragraph (1)(A).

"(c) RESPONSIBILITIES.—The Board shall—

"(1) advise the President on the negotiations for the environmental framework agreements described in subsections (a) and (b) of section 607;

"(2) ensure, in consultation with the government of the appropriate eligible country, with nongovernmental organizations of such eligible country, and if appropriate, of the region, and with environmental, scientific, and academic leaders of such eligible country and, as appropriate, of the region, that a suitable body referred to in section 607(c) is identified; and

"(3) review the programs, operations, and fiscal audits of the bodies referred to in section 607(c).

"SEC. 611. OVERSIGHT. 7 USC 1738j.

"The President may designate appropriate United States agencies to review the implementation of programs under this title and the fiscal audits relating to such programs. Such oversight shall not constitute active management of an Environmental Fund.

"SEC. 612. ELIGIBLE ACTIVITIES AND GRANTEES. 7 USC 1738k.

"(a) ELIGIBLE ENTITIES.—Activities eligible to receive assistance through the framework agreements entered into under section 607, shall include—

"(1) activities of the type described in the Global Environmental Protection Assistance Act of 1989 (22 U.S.C. 462), and—

"(2) agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

"(3) local community initiatives that promote conservation and sustainable use of the environment.

"(b) REGULATION.—All activities of the type referred to in subsection (a) shall, where appropriate, include initiatives that link conservation of natural resources with local community development.

"(c) SETTING OF PRIORITIES.—Appropriate activities and priorities relating to the use of an Environmental Fund shall be set by local nongovernmental organizations within the appropriate eligible country.

"(d) GRANTS.—Grants may be made by the body referred to in section 607(c) from the Environmental Fund for environmental purposes to—

"(1) host country nongovernmental environmental, conservation, development, educational, and indigenous peoples organizations;

"(2) other appropriate local or regional entities; or

"(3) in exceptional circumstances, the government of the eligible country.

"(e) PRIORITY.—In providing assistance from an Environmental Fund, the body established under section 607(c) within the eligible country shall give priority to projects that are run by nongovernmental organizations and other private entities, and that involve local communities in their planning and execution.

7 USC 1738*l*.

"SEC. 613. ENCOURAGING MULTILATERAL DEBT DONATIONS.

"(a) ENCOURAGING DONATIONS FROM OFFICIAL CREDITORS.—The President should actively encourage other official creditors of an eligible country to provide debt reduction to such eligible country.

President.

"(b) ENCOURAGING DONATIONS FROM OTHER SOURCES.—The President shall make every effort to insure that programs established through Environmental Funds are able to receive donations from private and public entities, and private creditors of the eligible country.

President.

"SEC. 614. ANNUAL REPORT TO CONGRESS.

7 USC 1738m.

"Not later than December 31 of each fiscal year, the President shall prepare and submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an annual report concerning the operation of the Facility for the prior fiscal year.".

7 USC 1691 *note*.

SEC. 1513. EFFECTIVE DATE.

The amendment made by section 1512 shall become effective on January 1, 1991.

SEC. 1514. AMENDMENTS TO SECTION 416 OF THE AGRICULTURAL ACT OF 1949.

Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended—

(1) in paragraph (1), by striking "title II" and inserting "titles II and III";

(2) in paragraph (3)(B)(i), by striking "401(b)" and inserting "403(a)";

(3) in paragraph 5(A), by striking "203" and inserting "406";

(4) in paragraph (6), by striking "203" and inserting "406"; and

(5) in paragraph (7)—

(A) by striking "title II" in subparagraph (D)(iii) and inserting "titles II and III"; and

(B) by adding at the end thereof the following new subparagraph:

"(F) The provisions of sections 403(i) and 407(c) of the Agricultural Trade Development and Assistance Act of 1954 shall apply to donations, sales and barters of eligible commodities under this subsection.".

SEC. 1515. CONFORMING AMENDMENTS AND TECHNICAL CHANGES.

(a) AGRICULTURE AND FOOD ACT OF 1981.—Section 1208(d)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1736n) is amended by striking "408(a)" and inserting "407(g)".

(b) AGRICULTURAL AND TRADE MISSIONS ACT.—Section 7(4)(A) of the Agricultural and Trade Missions Act (7 U.S.C. 1736bb-6) is amended by striking "title I and II" and inserting "titles I, II, and III".

(c) FOOD SECURITY ACT OF 1985.—Section 302 of the Food Security Wheat Reserve Act (7 U.S.C. 1736f-1) is amended—

(1) in subsection (c), by striking "401(a)" and inserting "401"; and

(2) in subsection (d), by striking "401(a)" and inserting "401".

SEC. 1516. FOOD FOR PROGRESS.

The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) by striking "countries that" and inserting "developing countries, and countries that are emerging democracies, that", and

(B) by striking "developing countries" and inserting "the governments of such countries, or with private voluntary organizations, nonprofit agricultural organizations, or cooperatives,";

(2) in subsection (d) by striking "with countries";

(3) in subsection (e)(3)—

(A) by striking "to a developing country", and

(B) by striking "by a developing country";

(4) in subsection (e)(4)—

(A) by striking "to a developing country" both places it appears; and

(B) by striking "section 401(b)" and inserting "sections 402, 403(a), 403(c), and 403(i)";

(5) in subsection (f)(1) by striking "to developing countries";

(6) in subsection (g) by striking "1990" and inserting "1995";

(7) in subsection (j) by striking "entered into with a country", and by inserting "with respect to a country" after "effect";

(8) in subsection (k) by striking "recipient countries" and inserting "the recipient";

(9) in subsection (l) by striking "1990" and inserting "December 31, 1995"; and

(10) by adding at the end the following new subsections:

"(m)(1) To enhance the development of private sector agriculture in countries receiving assistance under this Act the President may, in each of the fiscal years 1991 through 1995, use in addition to any amounts or commodities otherwise made available under this Act for such activities, not to exceed $10,000,000 of Commodity Credit Corporation funds (or commodities of an equal value owned by the Corporation), to provide assistance in the administration, sale, and monitoring of food assistance programs to strengthen private sector agriculture in recipient countries.

"(2) To carry out this subsection, the President may provide agricultural commodities under agreements entered into under this Act in a manner that uses the commodity transaction as a means of developing in the recipient countries a competitive private sector that can provide for the importation, transportation, storage, marketing and distribution of such commodities.

"(3) The President may use the assistance provided under this subsection and local currencies derived from the sale of commodities under paragraph (2) to design, monitor, and administer activities undertaken with such assistance, for the purpose of strengthening or creating the capacity of recipient country private enterprises to undertake commercial transactions, with the overall goal of increasing potential markets for United States agricultural commodities.".

7 USC 1706.

SEC. 1517. DEBT-FOR-HEALTH-AND-PROTECTION SWAP.

(a) DEFINITION.—For purposes of this section, the term "debt-for-health-and-protection swap" means the voluntary cancellation of the foreign debt of the government of a foreign country in exchange for—

(1) the making available by such country, to a grantee under subsection (b), local currencies (including through the issuance of bonds) to be used only for eligible projects involving the research, study, prevention, or control of animal and plant pests and diseases in that country; or

(2) the financial and policy commitment of such country to research, study, prevent, or control animal and plant pests and diseases in that country.

(b) ASSISTANCE FOR COMMERCIAL DEBT SWAP.—

(1) GRANTS.—The Secretary is authorized to furnish assistance in the form of grants, on such terms and conditions as the Secretary determines to be necessary and appropriate, to United States and foreign nongovernmental organizations, including colleges and universities, for the purchase of discounted external commercial debt of a foreign government (on the secondary market) to be canceled under the terms of an agreement that is entered into by the Secretary with that government as part of a debt-for-health-and-protection swap.

(2) INTEREST ON GRANTS.—The recipient of a grant under this section (or any subgrantee of such recipient) may retain the interest earned on the proceeds of any resulting debt-for-health-and-protection swap if such recipient (or subgrantee) disburses such funds for approved program purposes, and such interest need not be deposited in the Treasury of the United States and is not subject to further appropriations by Congress.

(3) REINVESTMENT OF INTEREST.—Interest accrued in accordance with paragraph (2) shall be reinvested by the recipient of the grant under this section in an approved project in the host country or used for the establishment of an endowment for the purpose for which the grant was provided.

(c) ELIGIBLE PROJECTS.—

(1) MUTUAL BENEFIT.—The Secretary shall ensure that a debt-for-health-and-protection swap under this section is designed to be of mutual benefit to both the agricultural sector of the United States and the agricultural sector of the recipient country.

(2) IDENTIFICATION OF IMMEDIATE AREAS OF NEED.—In cooperation with the Agency for International Development, inter-

national organizations, domestic or foreign nongovernmental organizations, colleges, and universities, the Secretary shall attempt to identify those areas which, because of their imminent threat to agriculture, are in particular need of immediate attention in terms of supporting and promoting the prevention or control of plant and animal pests and diseases in the Western Hemisphere.

(d) TERMS AND CONDITIONS OF THE EXCHANGE.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations to implement this section. Such regulations shall include provisions—

(A) that describe the general terms and conditions necessary for any proposed exchange to gain approval under paragraph (2); and

(B) to protect against the use of any assistance provided under subsection (b) that is contrary to the provisions of this section.

(2) OTHER ASSISTANCE.—Grants made under this section are intended to supplement, and not to be a substitute for, any assistance that is otherwise available to a foreign country from the Department of Agriculture.

(3) PROHIBITION.—The Department of Agriculture is prohibited from accepting any title or interest in any project or program under this section, or any interest accrued on the amount of the grant, as a condition of the debt-for-health-and-protection swap.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Shipping Provisions

SEC. 1521. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES. 46 USC app. 1241q.

(a) EXEMPTION FROM RESTRICTION.—The restriction described in subsection (b) shall not apply to an American Great Lakes vessel while it is so designated.

(b) RESTRICTION DESCRIBED.—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel that is—

(1) built outside the United States;

(2) rebuilt outside the United States; or

(3) documented under any foreign registry;

shall not be a privately owned United States-flag commercial vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

(c) SUBSEQUENT APPLICATION OF RESTRICTION.—Upon the revocation or termination of a designation of a vessel as an American Great Lakes vessel, the restriction described in subsection (b) shall apply as if the vessel had never been a vessel documented under the laws of the United States.

SEC. 1522. DESIGNATION OF AMERICAN GREAT LAKES VESSELS. 46 USC app. 1241r.

(a) IN GENERAL.—The Secretary shall designate a vessel as an American Great Lakes vessel for purposes of this subtitle if—

(1) the vessel is documented under the laws of the United States;

(2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);

(3) the owner of the vessel enters into an agreement in accordance with subsection (b);

(4)(A) the vessel is not more than 6 years old, and not less than 1 year old, on the effective date of the designation; or

(B) the vessel is not more than 11 years old, and not less than 1 year old on the effective date of the designation, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation; and

(5) the vessel has not been previously designated as an American Great Lakes vessel.

(b) CONSTRUCTION AND PURCHASE AGREEMENT.—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 120-day period following the date of any revocation of such designation under section 1524, an exclusive right to purchase the vessel for a price equal to—

(1) the approximate world market value of the vessel; or

(2) the cost of the vessel to the owner less an amount representing reasonable depreciation of the vessel;

whichever is greater.

(c) CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.—Notwithstanding any other provision of law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), the owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) ISSUANCE OF REGULATIONS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

46 USC app. 1241s.

SEC. 1523. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) IN GENERAL.—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes; or

(B) between ports in the United States;

(2) to carry bulk cargo (as that term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4)) which is subject to section 901(b) or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) or 1241f), or section 2631 of title 10, United States Code; or

(3) to provide any service other than ocean freight service—
(A) as a contract carrier; or
(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) OFF-SEASON CARRIAGE EXCEPTION.—
(1) IN GENERAL.—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.
(2) LIMITATION.—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1524. REVOCATION AND TERMINATION OF DESIGNATION.

46 USC app. 1241t.

(a) REVOCATION.—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1522 as an American Great Lakes vessel if the Secretary determines that—
(1) the vessel does not meet a requirement for such designation;
(2) the vessel has been operated in violation of this subtitle; or
(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1522(b).

(b) CIVIL PENALTY.—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than $1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

(c) TERMINATION OF DESIGNATION.—The Secretary may terminate the designation of a vessel as an American Great Lakes vessel under this subtitle upon petition and a showing of good cause for that termination by the owner of the vessel. The Secretary may impose conditions or restrictions in a termination order to prevent significant adverse effects on other United States-flag vessel operators.

SEC. 1525. ALLOCATION BASED ON LOWEST LANDED COST.

Section 901b(c) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(c)) is amended—
(1) in paragraph (2)(A) by striking "(A)";
(2) in paragraph (2) by striking subparagraph (B); and
(3) by adding at the end the following:

"(3)(A) Subject to subparagraph (B), in administering sections 901(b) and 901b (46 U.S.C. App. 1241(b) and 1241f), and consistent with those sections, the Commodity Credit Corporation shall take such steps as may be necessary and practicable without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of documentation of the vessel, 50 percent of the bagged, processed, or fortified commodities furnished pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1751 et seq.).

"(B) In carrying out this paragraph, the Commodity Credit Corporation shall not allocate to the Great Lakes port range in any year a percentage share of commodities referred to in subparagraph (A) that is greater than the share experienced by that port range in 1984, as determined by the Secretary of Agriculture.

"(4) Amounts of cargo allocated to ports in the Great Lakes port range pursuant to paragraph (3) shall not be exported from a different port range except as necessary to meet United States-flag transportation requirements of sections 901(b) and 901b, in which case within the same year the Commodity Credit Corporation shall take such steps as are necessary and practicable without detriment to any port range to ensure the export from the Great Lakes port range of an amount of tonnage of commodities referred to in paragraph (3)(A) that is not required to be transported on United States-flag vessels, that is equal to the amount of tonnage diverted for export from other port ranges.

"(5) Any determination of nonavailability of United States-flag vessels resulting from the application of this subsection shall not reduce the gross tonnage of commodities required by sections 901(b) and 901b to be transported on United States-flag vessels.".

46 USC app. 1241u.

SEC. 1526. STUDY AND REPORT.

(a) STUDY.—The Secretary, in consultation with the Secretary of Agriculture, shall conduct a study on the implementation of this subtitle. The study shall include analysis of—

(1) the effects of that implementation on diversions of cargo to and from the Great Lakes port range and any resulting effects on the cost of transporting commodities furnished pursuant to title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1751 et seq.); and

(2) whether the authority to designate vessels as American Great Lakes vessels has increased United States-flag vessel service to Great Lakes ports.

(b) REPORT.—Not later than December 31, 1994, the Secretary shall submit a report to the Congress on the findings of the study under subsection (a).

46 USC app. 1241v.

SEC. 1527. DEFINITIONS.

As used in this subtitle—

(1) AMERICAN GREAT LAKES VESSEL.—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1522.

(2) GREAT LAKES.—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(3) GREAT LAKES SHIPPING SEASON.—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(4) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

Subtitle C—Export Promotion

SEC. 1531. AMENDMENT TO THE AGRICULTURAL TRADE ACT OF 1978.

The Agricultural Trade Act of 1978 (7 U.S.C. 1761 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

Agricultural Trade Act of 1978. 7 USC 5601 note.

"This Act may be cited as the 'Agricultural Trade Act of 1978'.

"TITLE I—GENERAL PROVISIONS

"SEC. 101. PURPOSE. 7 USC 5601.

"It is the purpose of this Act to increase the profitability of farming and to increase opportunities for United States farms and agricultural enterprises by—

"(1) increasing the effectiveness of the Department of Agriculture in agricultural export policy formulation and implementation;

"(2) improving the competitiveness of United States agricultural commodities and products in the world market; and

"(3) providing for the coordination and efficient implementation of all agricultural export programs.

"SEC. 102. DEFINITIONS. 7 USC 5602.

"As used in this Act—

"(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, food, feed, or fiber, and any product thereof.

"(2) DEVELOPING COUNTRY.—The term 'developing country' means a country that—

"(A) has a shortage of foreign exchange earnings and has difficulty accessing sufficient commercial credit to meet all of its food needs, as determined by the Secretary; and

"(B) has the potential to become a commercial market for agricultural commodities.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(4) SERVICE.—The term 'Service' means the Foreign Agricultural Service of the Department of Agriculture.

"(5) UNFAIR TRADE PRACTICE.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'unfair trade practice' means any act, policy, or practice of a foreign country that—

"(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement to which the United States is a party; or

"(ii) is unjustifiable, unreasonable, or discriminatory and burdens or restricts United States commerce.

"(B) CONSISTENCY WITH 1974 TRADE ACT.—Nothing in this Act may be construed to authorize the Secretary to make any determination regarding an unfair trade practice that is inconsistent with section 301 of the Trade Act of 1974 (19 U.S.C. 2411).

"(6) UNITED STATES.—The term 'United States' includes each of the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

"(7) UNITED STATES AGRICULTURAL COMMODITY.—The term 'United States agricultural commodity' means—

"(A) with respect to any agricultural commodity other than a product of an agricultural commodity, an agricul-

tural commodity entirely produced in the United States; and

"(B) with respect to a product of an agricultural commodity—

"(i) a product all of the agricultural components of which are entirely produced in the United States; or

"(ii) any other product the Secretary may designate that contains any agricultural component that is not entirely produced in the United States if—

"(I) such component is an added, de minimis component,

"(II) such component is not commercially produced in the United States, and

"(III) there is no acceptable substitute for such component that is commercially produced in the United States.

For purposes of this paragraph, fish entirely produced in the United States include fish harvested by a documented fishing vessel as defined in title 46, United States Code, in waters that are not waters (including the territorial sea) of a foreign country.

7 USC 5603.

"SEC. 103. DEVELOPMENT OF AGRICULTURAL TRADE STRATEGY.

"(a) IN GENERAL.—

"(1) DEVELOPMENT OF MULTI-YEAR STRATEGY.—The Secretary shall develop a long-term agricultural trade strategy for the United States to guide the Secretary in the implementation of Federal programs designed to promote the export of United States agricultural commodities.

"(2) FREQUENCY.—A long-term agricultural trade strategy shall be developed under paragraph (1) for each 3-year fiscal period, beginning on October 1, 1991.

"(3) CONSULTATION.—In preparing the strategy under paragraph (1), the Secretary shall consult with—

"(A) the United States Trade Representative to ensure that such strategy is coordinated with the annual national trade policy agenda under section 163 of the Trade Act of 1974 (19 U.S.C. 2122);

"(B) the Agricultural Policy Advisory Committee and Agricultural Technical Advisory Committee established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155); and

"(C) other interested agencies and persons.

"(b) GOALS.—The long-term agricultural trade strategy established under subsection (a) shall be designed to ensure—

"(1) the growth of exports of United States agricultural commodities;

"(2) the efficient, coordinated use of Federal programs designed to promote the export of United States agricultural commodities;

"(3) the provision of food assistance and the improvement in the commercial potential of markets for United States agricultural commodities in developing countries; and

"(4) the maintenance of traditional markets for United States agricultural commodities.

"(c) CONTENTS.—In developing the long-term agricultural trade strategy under subsection (a), the Secretary shall—

"(1) establish, for the 3-year period for which the strategy is developed, trade goals for the desired levels of exports of United States agricultural commodities, including goals for high value, processed agricultural commodities;

"(2) develop multiyear plans for the implementation and coordination of United States export assistance programs and foreign food assistance programs to meet such agricultural trade goals;

"(3) recommend long-term strategies for growth in agricultural trade and exports, taking into account—

"(A) United States competitiveness in the export of agricultural commodities;

"(B) United States participation in bilateral and multilateral trade negotiations;

"(C) the effects of exchange rate fluctuations and unfair trading practices by foreign governments that limit access to such foreign markets;

"(D) distribution, financing, and other requirements necessary to trade in nonmarket economies;

"(E) the differences in the markets of developed and developing countries (including the amount of outstanding national debt of particular countries); and

"(F) transportation and shipping factors;

"(4) design strategies to make the United States a primary and dependable supplier of agricultural commodities in the world market;

"(5) estimate the level of expenditures and the impact of Federal export programs on exports of United States agricultural commodities in the priority markets identified under subsection (d); and

"(6) consider such other factors as the Secretary determines appropriate.

"(d) ESTABLISHMENT OF PRIORITY MARKETS.—

"(1) DESIGNATION OF GROWTH MARKETS.—The Secretary shall develop a list, for inclusion in the long-term agricultural trade strategy developed under subsection (a), of not less than 15 countries (or groups of countries) that are most likely to emerge as growth markets for United States agricultural commodities during the 3- and 6-fiscal year periods beginning on October 1, 1991.

"(2) PRIORITY FOR GROWTH MARKETS.—The Secretary shall designate countries identified on the list developed under paragraph (1) as priority markets for Federal programs designed to promote the export of United States agricultural commodities (other than those programs designed to provide food assistance under the Agricultural Trade Development and Assistance Act of 1954 (as amended) and the program under section 301.

"(3) ESTABLISHMENT OF MARKET PLANS.—The Secretary shall develop individual market plans for each priority market designated under paragraph (2). Each such market plan shall set forth—

"(A) the trade goals for the desired levels of agricultural exports from the United States to each priority market; and

"(B) specific plans to assist in the export of United States agricultural commodities to, and develop markets for such commodities in, each priority market through Federal programs designed to promote the export of such commodities.

"(e) REVIEW OF STRATEGY.—Not less than once every 3 years, the Secretary shall review the agricultural trade performance of the United States based on the applicable long term agricultural trade strategy.

"(f) CONFIDENTIALITY.—The Secretary may determine that part of the agricultural trade strategy prepared under this section shall not be released to the general public if—

"(1) the Secretary determines that the release of such information would disadvantage the United States in international trade negotiations or with respect to its competitors in specific foreign markets; or

"(2) the Secretary determines that any such information is determined to be confidential business information.

"(g) INFORMATION.—Nothing in this section shall be construed to authorize the withholding of information from Congress.

"(h) TERMINATION.—The provisions of this section shall be effective for the period beginning January 1, 1991, and ending December 31, 1995.

7 USC 5604.

"SEC. 104. PRESERVATION OF TRADITIONAL MARKETS.

"The Secretary shall, in implementing programs of the Department of Agriculture intended to encourage or assist exports of agricultural commodities, seek to preserve traditional markets for United States agricultural commodities.

7 USC 5605.

"SEC. 105. INDEPENDENCE OF AUTHORITIES.

"Each authority granted under this Act shall be in addition to, and not in lieu of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

"TITLE II—AGRICULTURAL EXPORT PROGRAMS

7 USC 5621.

"SEC. 201. DIRECT CREDIT SALES PROGRAM.

"(a) SHORT-TERM PROGRAM.—To promote the sale of agricultural commodities, the Commodity Credit Corporation may finance the commercial export sale of such commodities from privately owned stocks on credit terms for not to exceed a 3-year period.

"(b) INTERMEDIATE-TERM PROGRAM.—Subject to subsection (c), to promote the sale of agricultural commodities the Commodity Credit Corporation may finance the commercial export sales of agricultural commodities from privately owned stocks on credit terms for a period of not less than 3 years nor in excess of 10 years in a manner that will directly benefit United States agricultural producers.

"(c) DETERMINATIONS.—The Commodity Credit Corporation shall not finance an export sale under subsection (b) unless the Secretary determines that such sale will—

"(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

"(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

"(3) otherwise promote the export of United States agricultural commodities.

"(d) USE OF PROGRAM.—

"(1) GENERAL USES.—The Commodity Credit Corporation may use export sales financing authorized under this section—

"(A) to increase exports of agricultural commodities;

"(B) to compete against foreign agricultural exports;

"(C) to assist countries, particularly developing countries, in meeting their food and fiber needs; and

"(D) for such other purposes as the Secretary determines appropriate consistent with the provisions of subsection (c).

"(2) GENERAL RESTRICTIONS.—Export sales financing authorized under this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales financed under this section.

"(e) TERMS OF CREDIT ASSISTANCE.—Any contract for the financing of exports by the Commodity Credit Corporation under this section shall include—

"(1) a requirement that repayment shall be made in dollars with interest accruing thereon as determined appropriate by the Secretary; and

"(2) a requirement, if the Secretary determines such requirement appropriate to protect the interests of the United States, that an initial payment be made by the purchaser at the time of sale or shipment of the agricultural commodity that is subject to the contract.

"SEC. 202. EXPORT CREDIT GUARANTEE PROGRAM. 7 USC 5622.

"(a) SHORT-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation may guarantee the repayment of credit made available to finance commercial export sales of agricultural commodities from privately owned stocks on credit terms that do not exceed a 3-year period.

"(b) INTERMEDIATE-TERM CREDIT GUARANTEES.—Subject to the provisions of subsection (c), the Commodity Credit Corporation may guarantee the repayment of credit made available by financial institutions in the United States to finance commercial export sales of agricultural commodities from privately owned stocks on credit terms that are for not less than a 3-year period nor for more than a 10-year period in a manner that will directly benefit United States agricultural producers.

"(c) REQUIRED DETERMINATIONS.—The Commodity Credit Corporation shall not guarantee under subsection (b) the repayment of credit made available to finance an export sale unless the Secretary determines that such sale will—

"(1) develop, expand, or maintain the importing country as a foreign market, on a long-term basis, for the commercial sale and export of United States agricultural commodities, without displacing normal commercial sales;

"(2) improve the capability of the importing country to purchase and use, on a long-term basis, United States agricultural commodities; or

"(3) otherwise promote the export of United States agricultural commodities.

"(d) PURPOSE OF PROGRAM.—The Commodity Credit Corporation may use export credit guarantees authorized under this section—

"(1) to increase exports of agricultural commodities;

"(2) to compete against foreign agricultural exports;

"(3) to assist countries, particularly developing countries, in meeting their food and fiber needs; and

"(4) for such other purposes as the Secretary determines appropriate, consistent with the provisions of subsection (c).

"(e) RESTRICTIONS ON USE OF CREDIT GUARANTEES.—Export credit guarantees authorized by this section shall not be used for foreign aid, foreign policy, or debt rescheduling purposes. The provisions of the cargo preference laws shall not apply to export sales with respect to which credit is guaranteed under this section.

"(f) RESTRICTIONS.—The Commodity Credit Corporation shall not make credit guarantees available in connection with sales of agricultural commodities to any country that the Secretary determines cannot adequately service the debt associated with such sale.

"(g) TERMS.—Export credit guarantees issued pursuant to this section shall contain such terms and conditions as the Commodity Credit Corporation determines to be necessary.

"(h) FOREIGN AGRICULTURAL COMPONENTS.—The Commodity Credit Corporation shall finance or guarantee under this section only United States agricultural commodities. The Commodity Credit Corporation shall not finance or guarantee under this section the value of any foreign agricultural component.

"(i) INELIGIBILITY OF FINANCIAL INSTITUTIONS.—A financial institution shall be ineligible to receive an assignment of a credit guarantee or proceeds payable under a credit guarantee issued by the Commodity Credit Corporation under this section if it is determined by the Corporation that such financial institution—

"(1) is not in a sound financial condition;

"(2) is the financial institution issuing the letter of credit or a subsidiary of such institution; or

"(3) is owned or controlled by an entity that owns or controls that financial institution issuing the letter of credit.

"(j) CONDITIONS FOR FISH AND PROCESSED FISH PRODUCTS.—In making available any guarantees of credit under this section in connection with sales of fish and processed fish products, the Secretary shall make such guarantees available under terms and conditions that are comparable to the terms and conditions that apply to guarantees provided with respect to sales of other agricultural commodities under this section.

7 USC 5623.

"SEC. 203. MARKET PROMOTION PROGRAM.

"(a) IN GENERAL.—The Commodity Credit Corporation shall establish and carry out a program to encourage the development, maintenance, and expansion of commercial export markets for agricultural commodities through cost-share assistance to eligible trade organizations that implement a foreign market development program.

"(b) TYPE OF ASSISTANCE.—Assistance under this section may be provided in the form of funds of, or commodities owned by, the Commodity Credit Corporation, as determined appropriate by the Secretary.

"(c) REQUIREMENTS FOR PARTICIPATION.—

"(1) IN GENERAL.—To be eligible for cost-share assistance under this section, an organization shall—

"(A) be an eligible trade organization;

"(B) prepare and submit a marketing plan to the Secretary that meets the guidelines governing such plans established by the Secretary; and

"(C) meet any other requirements established by the Secretary.

"(2) PRIORITY BASIS FOR EXPORT ASSISTANCE.—The Secretary shall provide export assistance under this section on a priority basis in the case of an unfair trade practice.

"(d) ELIGIBLE TRADE ORGANIZATIONS.—An eligible trade organization shall be—

"(1) a United States agricultural trade organization or regional State-related organization that promotes the export and sale of agricultural commodities and that does not stand to profit directly from specific sales of agricultural commodities;

"(2) a cooperative organization or State agency that promotes the sale of agricultural commodities; or

"(3) a private organization that promotes the export and sale of agricultural commodities if the Secretary determines that such organization would significantly contribute to United States export market development.

"(e) APPROVED MARKETING PLAN.—

"(1) IN GENERAL—A marketing plan submitted by an eligible trade organization under this section shall describe the advertising or other market oriented export promotion activities to be carried out by the eligible trade organization with respect to which assistance under this section is being requested.

"(2) REQUIREMENTS.—To be approved by the Secretary, a marketing plan submitted under this subsection shall—

"(A) specifically describe the manner in which assistance received by the eligible trade organization in conjunction with funds and services provided by the eligible trade organization will be expended in implementing the marketing plan;

"(B) establish specific market goals to be achieved as a result of the marketing promotion program; and

"(C) contain whatever additional requirements are determined by the Secretary to be necessary.

"(3) AMENDMENTS.—A marketing plan may be amended by the eligible trade organization at any time, with the approval of the Secretary.

"(4) BRANDED PROMOTION.—An agreement entered into under this section may provide for the use of branded advertising to promote the sale of agricultural commodities in a foreign country under such terms and conditions as may be established by the Secretary.

"(f) OTHER TERMS AND CONDITIONS.—

"(1) MULTI-YEAR BASIS.—The Secretary may provide assistance under this section on a multi-year basis, subject to annual review by the Secretary for compliance with the approved marketing plan.

"(2) TERMINATION OF ASSISTANCE.—The Secretary may terminate any assistance made, or to be made, available under this section if the Secretary determines that—

"(A) the eligible trade organization is not adhering to the terms and conditions of the program established under this section;

"(B) the eligible trade organization is not implementing the approved marketing plan or is not adequately meeting the established goals of the marketing promotion program;

"(C) the eligible trade organization is not adequately contributing its own resources to the marketing promotion program;

"(D) the unfair trade practice that was the basis of the provision of assistance has been discontinued and marketing assistance is no longer required to offset its effects; or

"(E) the Secretary determines that termination of assistance in a particular instance is in the best interests of the program.

"(3) EVALUATIONS.—The Secretary shall monitor the expenditure of funds received under this section by recipients of such funds. The Secretary shall make evaluations of such expenditure, including—

"(A) an evaluation of the effectiveness of the program in developing or maintaining markets for United States agricultural commodities;

"(B) an evaluation of whether assistance provided under this section is necessary to maintain such markets; and

"(C) a thorough accounting of the expenditure of such funds by the recipient.

The Secretary shall make an initial evaluation of expenditures of a recipient not later than 15 months after the initial provision of funds to the recipient.

"(g) LEVEL OF MARKETING ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall justify in writing the level of assistance provided to an eligible trade organization under the program under this section and the level of cost-sharing required of such organization.

"(2) LIMITATION.—Assistance provided under this section for activities described in subsection (e)(4) shall not exceed 50 percent of the cost of implementing the marketing plan, except that the Secretary may determine not to apply such limitation in the case of agricultural commodities with respect to which there has been a favorable decision by the United States Trade Representative under section 301 of the Trade Act of 1974. Criteria for determining that the limitation shall not apply shall be consistent and documented.

"(3) STAGED REDUCTION IN ASSISTANCE.—In the case of participants that received assistance under section 1124 of the Food Security Act of 1985 prior to the date of enactment of this Act and with respect to which assistance under this section would be limited under paragraph (2), any such reduction in assistance shall be phased down in equal increments over a 5-year period.

7 USC 5624.

"SEC. 204. BARTER OF AGRICULTURAL COMMODITIES.

"(a) IN GENERAL.—The Secretary or the Commodity Credit Corporation may provide eligible commodities in barter for foreign products under such terms and conditions as the Secretary or the Corporation shall prescribe.

"(b) ELIGIBLE COMMODITIES.—Unless otherwise specified, eligible commodities shall include—

"(1) agricultural commodities acquired by the Commodity Credit Corporation through price support operations; and

"(2) agricultural commodities acquired by the Secretary or the Commodity Credit Corporation in the normal course of business and available for disposition.

"(c) BARTER BY EXPORTERS OF AGRICULTURAL COMMODITIES.—

"(1) PURPOSE.—The Secretary or the Commodity Credit Corporation shall encourage exporters of agricultural commodities to barter such commodities for foreign products—

"(A) to acquire such foreign products needed by such exporters; and

"(B) to develop, maintain, or expand foreign markets for United States agricultural exports.

"(2) ELIGIBLE ACTIVITIES.—The Secretary or the Commodity Credit Corporation may provide eligible commodities to exporters to assist such exporters in barter transactions.

"(3) TECHNICAL ASSISTANCE.—The Secretary or the Commodity Credit Corporation shall provide technical advice and assistance relating to the barter of agricultural commodities to any United States exporter who requests such advice or assistance.

"(d) TRANSFER OF FOREIGN PRODUCTS TO OTHER GOVERNMENT AGENCY OR PRIVATE PARTIES.—The Secretary or the Commodity Credit Corporation may transfer any foreign products that the Secretary or such Corporation obtains through barter activities to other government agencies if the Corporation receives assurances that it will receive full reimbursement from the agency within the same fiscal year in which such transfer occurs.

"(e) CORPORATION AUTHORITY NOT LIMITED.—Nothing contained in this section shall limit the authority of the Commodity Credit Corporation to acquire, hold, or dispose of such foreign materials as such Corporation determines appropriate in carrying out the functions and protecting the assets of the Corporation.

"(f) PROHIBITED ACTIVITIES.—The Secretary or the Commodity Credit Corporation shall take reasonable precautions to prevent the misuse of eligible commodities in a barter or exchange program, including activities that—

"(1) displace or interfere with commercial sales of United States agricultural commodities that otherwise might be made;

"(2) unduly disrupt world prices of agricultural commodities or the normal patterns of commercial trade with recipient countries; or

"(3) permit the resale or transshipment of eligible commodities to countries other than the intended recipient country.

"SEC. 205. COMBINATION OF PROGRAMS. 7 USC 5625.

"The Commodity Credit Corporation may carry out a program under which commercial export credit guarantees available under section 202 are combined with direct credits from the Commodity Credit Corporation under section 201 to reduce the effective rate of interest on export sales of agricultural commodities.

"Subtitle B—Implementation

"SEC. 211. FUNDING LEVELS. 7 USC 5641.

"(a) DIRECT CREDIT PROGRAMS.—The Commodity Credit Corporation may make available for each fiscal year such funds of the Commodity Credit Corporation as it determines necessary to carry out any direct credit program established under section 201.

"(b) EXPORT CREDIT GUARANTEE PROGRAMS.—

"(1) SHORT-TERM GUARANTEES.—

"(A) MINIMUM AMOUNTS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $5,000,000,000 in credit guarantees under section 202(a).

"(B) LIMITATION ON ORIGINATION FEE.—Notwithstanding any other provision of law, the Secretary may not charge an origination fee with respect to any credit guarantee transaction under section 202(a) in excess of an amount equal to one percent of the amount of credit extended under the transaction.

"(2) INTERMEDIATE-TERM CREDIT GUARANTEES.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $500,000,000 in credit guarantees under section 202(b).

"(c) MARKETING PROMOTION PROGRAMS.—The Commodity Credit Corporation or the Secretary shall make available for market promotion activities authorized to be carried out by the Commodity Credit Corporation under section 203—

"(1) in addition to any funds that may be specifically appropriated to implement a market development program, not less than $200,000,000 for each of the fiscal years 1991 through 1995 of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and

"(2) any funds that may be specifically appropriated to carry out a marketing promotion program under section 203.

"TITLE III—RESPONSE TO UNFAIR TRADE PRACTICES

7 USC 5651.

"SEC. 301. EXPORT ENHANCEMENT PROGRAM.

"(a) IN GENERAL.—The Commodity Credit Corporation shall carry out in accordance with this section a program to discourage unfair trade practices by making United States agricultural commodities competitive.

"(b) EXPORT BONUS.—

"(1) IN GENERAL.—In carrying out the program established under this section, the Commodity Credit Corporation may—

"(A) make agricultural commodities, acquired by the Commodity Credit Corporation, available to exporters, users, processors, or foreign purchasers at no cost either directly or through the issuance of commodity certificates; and

"(B) make cash payments to exporters, users, and processors.

"(2) CALCULATION OF BONUS LEVELS.—The Commodity Credit Corporation shall—

"(A) maintain an established procedure for evaluating program bonus requests, with guidelines for determining prevailing market prices for targeted commodities and destinations to be used in the calculation of acceptable bonus levels;

"(B) use a clear set of established procedures for measuring transportation and incidental costs to be used in the

calculation of acceptable bonus levels and for determining the amount of such costs actually incurred; and

"(C) maintain consistent and effective controls and procedures for auditing and reviewing payment of bonuses and for securing refunds where appropriate.

"(3) DISCLOSURE OF INFORMATION.—The Secretary may, notwithstanding the provisions of section 552 of title 5, United States Code, provide for withholding from the public the procedures and guidelines established under paragraphs (2) (A) and (B) if the Secretary determines that release of such information would adversely affect the operation of the program. Nothing in this paragraph shall be construed to authorize the withholding of information, including such procedures and guidelines, from the Congress.

"(4) COMPETITIVE DISADVANTAGE.—The Secretary shall take such action as is necessary to ensure that equal treatment is provided to domestic and foreign purchasers and users of agricultural commodities in any case in which the importation of a manufactured product made, in whole or in part, from a commodity made available for export under this section would place domestic users of the commodity at a competitive disadvantage.

"(5) DIFFERENT COMMODITIES.—The Commodity Credit Corporation may provide to an exporter, user, or processor, or foreign purchaser, under the program established under this section, agricultural commodities of a kind different than the agricultural commodity involved in the transaction for which assistance under this section is being provided.

"(6) OTHER EXPORT PROGRAMS.—The Commodity Credit Corporation may provide bonuses under this section in conjunction with other export promotion programs conducted by the Secretary or the Commodity Credit Corporation.

"(7) AVOIDANCE OF PREFERENTIAL APPLICATION.—When using the authorities of this section to promote the exporting of wheat, the Secretary shall make reasonable efforts to avoid giving a preference to one class of wheat disproportionately more than another class.

"(8) DISPLACEMENT.—The Secretary shall avoid the displacement of usual marketings of United States agricultural commodities in carrying out this section.

"(c) PRIORITY IN THE CASE OF LIVESTOCK.—In the case of proposals for bonuses for dairy cattle or other appropriate livestock, the Commodity Credit Corporation shall give priority to proposals that include, in connection with the purchase of the livestock, appropriate herd management training, veterinary services, nutritional training, and other technical assistance necessary for the adaptation of the livestock to foreign environments.

"(d) INAPPLICABILITY OF PRICE RESTRICTIONS.—Any price restrictions that otherwise may be applicable to dispositions of agricultural commodities owned by the Commodity Credit Corporation shall not apply to agricultural commodities provided under this section.

"(e) FUNDING LEVELS.—The Commodity Credit Corporation shall make available for each of the fiscal years 1991 through 1995 not less than $500,000,000 of the funds or commodities of the Commodity Credit Corporation to carry out the program established under this section.

"(g) EFFECT ON THIRD COUNTRIES.—It is not the purpose of the program established under this section to affect adversely the exports of fairly traded agricultural commodities.

7 USC 5652.

"SEC. 302. RELIEF FROM UNFAIR TRADE PRACTICES.

"(a) USE OF PROGRAMS.—

"(1) IN GENERAL.—The Secretary may, for each article described in paragraph (2), make available some or all of the commercial export promotion programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice serving as the basis for the proceeding described in paragraph (2).

"(2) COMMODITIES SPECIFIED.—Paragraph (1) shall apply in the case of articles for which the United States has instituted, under any international trade agreement, any dispute settlement proceeding based on an unfair trade practice if such proceeding has been prevented from progressing to a decision by the refusal of the party maintaining the unfair trade practice to permit the proceeding to progress.

"(b) CONSULTATIONS REQUIRED.—For any article described in subsection (a)(2), the Secretary shall—

"(1) promptly consult with representatives of the industry producing such articles and other allied groups or individuals regarding specific actions or the development of an integrated marketing strategy utilizing some or all of the commercial export programs of the Department of Agriculture and the Commodity Credit Corporation to help mitigate or offset the effects of the unfair trade practice identified in subsection (a)(2); and

"(2) ascertain and take into account the industry preference for the practical use of available commercial export promotion programs in implementing subsection (a)(1).

7 USC 5653.

"SEC. 303. EQUITABLE TREATMENT OF HIGH-VALUE AND VALUE-ADDED UNITED STATES AGRICULTURAL COMMODITIES.

"In the case of any program, such as that established under section 301, operated by the Secretary or the Commodity Credit Corporation during the fiscal years 1991 through 1995, for the purpose of discouraging unfair trade practices, the Secretary shall establish as an objective to expend annually at least 25 percent of the total funds available (or 25 percent of the value of any commodities employed) for program activities involving the export sales of high-value agricultural commodities and value-added products of United States agricultural commodities.

"TITLE IV—GENERAL PROVISIONS

"Subtitle A—Program Controls

7 USC 5661.

"SEC. 401. PROGRAM CONTROLS FOR EXPORT PROGRAMS.

"(a) ARRIVAL CERTIFICATION.—With respect to commodities or other assistance provided, or for which financing or credit guarantees are made available, under the programs authorized in sections 201, 202, and 301, the Commodity Credit Corporation shall—

Records.

"(1) require the exporter to maintain records of an official or customary commercial nature or other documents as the Sec-

retary may require, and have access to such documents or records as needed to verify the arrival of agricultural commodities exported in connection with such programs in the countries that were the intended destination of such commodities; and

"(2) obtain certification from the seller or exporter of record of such commodities, that there were no corrupt payments or extra sales services, or other items extraneous to the transaction provided, financed, or guaranteed in connection with the transaction, and that the transaction complied with applicable United States law.

"(b) DIVERSION.—The unauthorized diversion of commodities under the programs authorized in sections 201, 202, and 301 is prohibited. The Commodity Credit Corporation shall establish procedures providing for the annual audit of a sufficient number of export transactions under such programs to ensure that the agricultural commodities that were the subject of such transactions arrived in the country of destination as provided in the sales agreement.

"(c) GOOD FAITH.—The failure of an exporter, seller or other person to comply with the provisions of this section shall not affect the validity of any credit guarantee or other obligation of the Commodity Credit Corporation under the programs under this Act with respect to any exporter, seller, or person who had no knowledge of such failure to comply at the time such exporter, seller, or person was assigned the credit guarantee or at the time the Corporation entered into such obligation.

"SEC. 402. COMPLIANCE PROVISIONS. 7 USC 5662.

"(a) RECORDS.—

"(1) IN GENERAL.—In the administration of the programs established under sections 201, 202, 203, and 301 the Secretary shall require by regulation each exporter or other participant under the program to maintain all records concerning a program transaction for a period of not to exceed 5 years after completion of the program transaction, and to permit the Secretary to have full and complete access, for such 5-year period, to such records. Regulations.

"(2) NONPROGRAM TRANSACTIONS.—The Secretary may require by regulation an exporter or other participant in the programs to make records available to the Secretary with respect to nonprogram transactions if such records would pertain directly to the review of program-related transactions undertaken by such exporter or participant, as determined by the Secretary.

"(3) CONFIDENTIALITY.—The personally identifiable information contained in reports under subsection (a) may be withheld in accordance with section 552(b)(4) of title 5, United States Code. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18, United States Code, shall be subject to section 1905 of title 18, United States Code. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

"(b) VIOLATION.—If any exporter, assignee, or other participant has engaged in fraud with respect to the programs authorized under this Act, or has otherwise violated program requirements under this Act, the Commodity Credit Corporation may—

"(1) hold such exporter, assignee, or participant liable for any and all losses to the Corporation resulting from such fraud or violation;

"(2) require a refund of any assistance provided to such exporter, assignee, or participant plus interest, as determined by the Secretary; and

"(3) collect liquidated damages from such exporter, assignee, or participant in an amount determined appropriate by the Secretary.

The provisions of this subsection shall be without prejudice to any other remedy that is available under any other provision of law.

"(c) SUSPENSION AND DEBARMENT.—The Commodity Credit Corporation may suspend or debar for 1 or more years any exporter, assignee, or other participant from participation in one or more of the programs authorized by this Act if the Corporation determines, after opportunity for a hearing, that such exporter, assignee, or other participant has violated the terms and conditions of the program or of this Act and that the violation is of such a nature as to warrant suspension or debarment.

"(d) FALSE CERTIFICATIONS.—The provisions of section 1001 of title 18, United States Code, shall apply to any false certifications issued under this Act.

7 USC 5663.

"SEC. 403. DEPARTMENTAL ADMINISTRATION SYSTEM.

"(a) IN GENERAL.—With respect to each commercial export promotion program of the Department of Agriculture or the Commodity Credit Corporation, the Secretary shall—

Regulations.

"(1) specify by regulation the criteria used to evaluate and approve proposals for that program;

"(2) establish a centralized system to permit the Foreign Agricultural Service to provide the history and current status of any proposal;

"(3) provide for regular audits of program transactions to determine compliance with program objectives and requirements; and

"(4) establish criteria to evaluate loans eligible for guarantees by the Commodity Credit Corporation, so as to ensure that the Corporation does not assume undue risk in providing such guarantees.

"(b) ACCESSIBILITY OF INFORMATION.—Information pertaining to the status of a particular proposal shall be retrievable within the central system by appropriate categories, as determined appropriate by the Secretary.

7 USC 5664.

"SEC. 404. REGULATIONS.

"Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations implementing the provisions of this Act, including specific regulations pertaining to program compliance requirements under sections 401 and 402.

"Subtitle B—Miscellaneous Provisions

7 USC 5671.

"SEC. 411. AGRICULTURAL EMBARGO PROTECTION.

"(a) PREREQUISITES; SCOPE OF COMPENSATION.—Notwithstanding any other provision of law, if—

"(1) the President or other member of the executive branch of the Federal Government causes the export of any agricultural commodity to any country or area of the world to be suspended or restricted for reasons of national security or foreign policy under the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.) or under any other provision of law;

"(2) such suspension or restriction of the export of such agricultural commodity is imposed other than in connection with a suspension or restriction of all exports from the United States to such country or area of the world; and

"(3) sales of such agricultural commodity for export from the United States to such country or area of the world during the year preceding the year in which the suspension or restriction is imposed exceeds 3 percent of the total sales of such commodity for export from the United States to all foreign countries during the year preceding the year in which the suspension or restriction is in effect;

the Secretary shall compensate producers of the commodity involved by making payments available to such producers, as provided in subsection (b) of this section.

"(b) AMOUNT OF PAYMENTS.—If the Secretary makes payments available to producers under subsection (a), the amount of such payment shall be determined—

"(1) in the case of an agricultural commodity for which payments are authorized to be made to producers under Title I of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.), by multiplying—

"(A) the farm program payment yield for the producer or the yield established for the farm for the commodity involved; by

"(B) the crop acreage base established for the commodity; by

"(C) the amount by which the average market price per unit of such commodity received by producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction; or

"(2) in the case of other agricultural commodities for which price support is authorized for producers under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), by multiplying the amount by which the average market price per unit of such commodity received by the producers during the 60-day period immediately following the date of the imposition of the suspension or restriction is less than 100 percent of the parity price for such commodity, as determined by the Secretary on the date of the imposition of the suspension or restriction, by the quantity of such commodity sold by the producer during the period that the suspension or restriction is in effect.

"(c) TIME FOR PAYMENTS.—Payments under paragraph (1) of subsection (b) shall be made for each marketing year or part thereof during which the suspension or restriction is in effect and shall be made in equal amounts at 90-day intervals, beginning 90 days after the date of the imposition of the suspension or restriction.

"(d) COMMODITY CREDIT CORPORATION.—The Secretary shall use the Commodity Credit Corporation in carrying out the provisions of this section.

"(e) REGULATIONS.—The Secretary may issue such regulations as are determined necessary to carry out this section.

7 USC 5672.

"SEC. 412. DEVELOPMENT OF PLANS TO ALLEVIATE ADVERSE IMPACT OF EMBARGOES.

"To alleviate, to the maximum extent possible, the adverse impact on farmers, elevator operators, common carriers, and exporters of agricultural commodities of the President or other member of the executive branch of the Federal Government causing the export of any agricultural commodity to any country or area of the world to be suspended or restricted, the Secretary of Agriculture shall—

"(1) develop a comprehensive contingency plan that shall include—

"(A) an assessment of existing farm programs with a view to determining whether such programs are sufficiently flexible to enable the Secretary to efficiently and effectively offset the adverse impact of such a suspension or restriction on farmers, elevator operators, common carriers, and exporters of commodities provided for under such programs;

"(B) an evaluation of the kinds and availability of information needed to determine, on an emergency basis, the extent and severity of the impact of such a suspension or restriction on producers, elevator operators, common carriers, and exporters; and

"(C) the development of criteria for determining the extent, if any, to which the impact of such a suspension or restriction should be offset in the case of each of the sectors referred to in paragraph (1)(B);

"(2) for any suspension or restriction for which compensation is not provided under section 411, prepare and submit to the appropriate Committees of Congress such recommendations for changes in existing agricultural programs, or for new programs, as the Secretary considers necessary to handle effectively, efficiently, economically, and fairly the impact of any such suspension or restriction;

"(3) for any suspension or restriction for which compensation is provided under section 411, prepare and submit to the appropriate Committees of Congress a plan for implementing and administering section 411; and

"(4) require the Commodity Credit Corporation, prior to such Corporation purchasing any contracts for the purpose of offsetting the impact of a commodity suspension or restriction, to—

"(A) prepare an economic justification for each commodity involved in the suspension or restriction to determine if such a purchase is necessary;

"(B) estimate any suspension- or restriction-related benefits and detrimental effects to the exporters, and use both estimates in determining the extent, if any, Federal assistance is needed; and

"(C) limit its purchases to only those types and grades of commodities suspended or restricted from shipment and make such purchases at prices at or near the current market prices.

"SEC. 413. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS. 7 USC 5673.

"(a) IN GENERAL.—The Secretary may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

"(b) NOT EMPLOYEES OF THE UNITED STATES.—Individuals referred to in subsection (a) shall not be regarded as officers or employees of the United States.

"SEC. 414. TRADE CONSULTATIONS CONCERNING IMPORTS. 7 USC 5674.

"(a) CONSULTATION BETWEEN AGENCIES.—The Secretary shall require consultation between the Administrator of the Service and the heads of other appropriate agencies and offices of the Department of Agriculture, including the Administrator of the Animal and Plant Health Inspection Service, prior to relaxing or removing any restriction on the importation of any agricultural commodity into the United States.

"(b) CONSULTATION WITH TRADE REPRESENTATIVE.—The Secretary shall consult with the United States Trade Representative prior to relaxing or removing any restriction on the importation of any agricultural commodity or a product thereof into the United States.

"SEC. 415. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS. 7 USC 5675.

"The Secretary shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

"SEC. 416. LIMITATION ON USE OF CERTAIN EXPORT PROMOTION PROGRAMS. 7 USC 5676.

"(a) IN GENERAL.—The Secretary may provide that a person shall be ineligible for participation in an export program established under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), or in any other export credit, credit guarantee, bonus, or other export program carried out through, or administered by, the Commodity Credit Corporation or carried out with funds made available pursuant to section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c) with respect to the export of any agricultural commodity or product that has been or will be used as the basis for a claim of a refund, as drawback, pursuant to section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)), of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

"(b) VEGETABLE OIL.—A person shall be ineligible for participation in any of the export programs referred to in subsection (a) with respect to the export of vegetable oil or a vegetable oil product that has been or will be used as the basis for a claim of a refund, as a drawback, pursuant to section 313 of the Tariff Act of 1930, of any duty, tax, or fee imposed under Federal law on an imported commodity or product.

"(c) CERTIFICATION.—If the Secretary takes action under the authority granted under subsection (a), a person applying to export any agricultural commodity under the export programs referred to in subsection (a) shall certify that none of the commodity has been

or will be used as the basis of a claim for any refund specified in subsection (a), except that regardless of whether the Secretary takes action under the authority granted under subsection (a), a person applying to export any vegetable oil or vegetable oil product under such programs shall certify that none of the vegetable oil or vegetable oil product has been or will be used as the basis of a claim for any refund specified in subsection (b).

"(d) REGULATIONS.—The Secretary shall promulgate regulations to carry out this section.

"(e) APPLICABILITY.—This section shall not apply to quantities of agricultural commodities and products with respect to which an exporter has entered into a contract, prior to the effective date of this section, for an export sale.

"TITLE V—FOREIGN AGRICULTURAL SERVICE

Establishment.

"SEC. 501. UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS.

7 USC 5691.

"There is hereby established in the Department of Agriculture the position of Under Secretary of Agriculture for International Affairs and Commodity Programs to be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Agriculture for International Affairs and Commodity Programs is authorized to exercise such functions and perform such duties related to foreign agriculture and agricultural stabilization and conservation, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

7 USC 5692.

"SEC. 502. ADMINISTRATOR OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) ESTABLISHMENT.—There is hereby established in the Department of Agriculture the position of Administrator of the Foreign Agricultural Service.

"(b) DUTIES.—The Administrator of the Foreign Agricultural Service is authorized to exercise such functions and perform such duties related to foreign agriculture, and shall perform such other duties, as may be required by law or prescribed by the Secretary of Agriculture.

"(c) USE OF SERVICE.—In carrying out the duties under this section, the Administrator shall oversee the operations of the Foreign Agricultural Service, the General Sales Manager, and the Agricultural Attache Service.

7 USC 5693.

"SEC. 503. ESTABLISHMENT OF THE FOREIGN AGRICULTURAL SERVICE.

"The Service shall assist the Secretary in carrying out the agricultural trade policy of the United States by acquiring information pertaining to agricultural trade, carrying out market promotion and development activities, and implementing the programs authorized in this Act, the Agricultural Trade Development and Assistance Act of 1954, and other Acts.

7 USC 5694.

"SEC. 504. STAFF OF THE FOREIGN AGRICULTURAL SERVICE.

"(a) PERSONNEL OF THE SERVICE.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Service shall not be less than 900 staff years each fiscal year.

"(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, on the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed twelve.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS. 7 USC 5695.

"There are hereby authorized to be appropriated for the Service such sums as may be necessary to carry out the provisions of this title.

"TITLE VI—REPORTS

"SEC. 601. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORT. 7 USC 5711.

"(a) IN GENERAL.—The Secretary shall periodically prepare a long-term agricultural trade strategy report on the long-term agricultural trade strategy developed by the Secretary under section 104.

"(b) FREQUENCY.—The initial report prepared under subsection (a) shall be submitted under subsection (f) prior to October 1, 1991. Subsequent reports shall be submitted under subsection (f) prior to October 1 of each third fiscal year occurring after fiscal year 1992.

"(c) CONTENTS.—Each report prepared under subsection (a) shall describe in detail each aspect of the long-term agricultural trade strategy prepared under section 104.

"(d) CONSULTATION.—In preparing each report under subsection (a), the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda that is included in the annual report prepared under section 163 of the Trade Act of 1974 for the relevant fiscal year.

"(e) UPDATE.—The Secretary shall prepare an annual update to the report required under subsection (a) in each of the 2 fiscal years following the year for which a report is prepared under subsection (a). Such updates shall contain a description of any revisions to the long-term agricultural trade strategy under section 104, any changes in law that are necessary to meet the goals of the long-term agricultural trade strategy, and such other information as the Secretary considers appropriate.

"(f) TREATMENT AS ANNUAL BUDGET SUBMISSION.—

"(1) REPORT.—The report required under subsection (a), or the updates required under subsection (e), shall be submitted to Congress annually with the Budget of the United States Government for the appropriate fiscal year.

"(2) RECOMMENDED LEVELS OF SPENDING.—Any provision of a report under subsection (a) or the annual updates under subsection (e) that relates to recommended levels of spending on international activities of the Department of Agriculture shall be included in the Budget of the United States Government submitted by the President for the fiscal year beginning in the year in which such report or update is submitted. Such reports and updates shall be submitted to Congress together with the budget request for other programs of the Department of Agriculture for such fiscal year.

"(g) AVAILABILITY OF REPORT.—

"(1) SUBMISSION TO CONGRESS.—The Secretary shall submit each report required under subsection (a) and the updates to such report under subsection (e) to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

"(2) AVAILABILITY TO PUBLIC.—Except as provided in paragraph (3), the Secretary may make the report required under subsection (a) and the updates under subsection (e) available to the general public, including the department of agriculture of any State.

"(3) CONFIDENTIALITY.—The Secretary may designate parts of the report required under subsection (a) or any update prepared under subsection (e) as confidential and such parts shall not be released to the general public, if—

"(A) the Secretary determines that the release of such information would disadvantage the United States with respect to its competitors in specific foreign markets; or

"(B) the Secretary determines that any of such information is confidential business information.

"(4) EXCEPTION OF PERFORMANCE.—The provisions of paragraph (3)(A) shall not be applicable with respect to that part of the agricultural trade strategy under section 104 that reviews the agricultural trade performance of the United States over the previous 3-year period.

7 USC 5712.

"SEC. 602. EXPORT REPORTING AND CONTRACT SANCTITY.

"(a) EXPORT SALES REPORTS.—

"(1) IN GENERAL.—All exporters of wheat and wheat flour, feed grains, oil seeds, cotton and products thereof, and other commodities that the Secretary may designate as produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period:

"(A) type, class, and quantity of the commodity sought to be exported;

"(B) the marketing year of shipment; and

"(C) destination, if known.

"(2) CONFIDENTIALITY AND COMPILATION OF REPORTS.—Individual reports shall remain confidential in accordance with subsection (c) but shall be compiled by the Secretary and published in compilation form each week following the week of reporting.

"(3) IMMEDIATE REPORTING.—All exporters of agricultural commodities produced in the United States shall, upon request of the Secretary, immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as the Secretary may request. When the Secretary requires that such information be reported by exporters on a daily basis, the information compiled from individual reports shall be made available to the public daily.

Public information.

"(4) MONTHLY REPORTING PERMITTED.—The Secretary may, with respect to any commodity or type or class thereof during any period in which the Secretary determines that—

"(A) there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements,

"(B) total supplies of such commodity in the exporting countries are estimated to be in surplus,

"(C) anticipated exports will not result in excessive drain on domestic supplies, and

"(D) to require the reports to be made will unduly hamper export sales,

provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

"(b) FAILURE TO REPORT.—Any person who knowingly fails to make any report required under this section shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both. Penalties.

"(c) CONTRACT SANCTITY.—Notwithstanding any other provision of law, the President shall not prohibit or curtail the export of any agricultural commodity under an export sales contract—

"(1) that is entered into before the President announces an action that would otherwise prohibit or curtail the export of the commodity, and

"(2) the terms of which require delivery of the commodity within 270 days after the date of the suspension of trade is imposed,

except that the President may prohibit or curtail the export of any agricultural commodity during a period for which the President has declared a national emergency or for which the Congress has declared war.

"SEC. 603. OTHER REPORTS TO CONGRESS. 7 USC 5713.

The Secretary shall, on a quarterly basis, prepare and submit to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report specifying the cumulative amount of export assistance provided by the Commodity Credit Corporation and the Secretary under the programs provided under this Act, the Commodity Credit Corporation Charter Act, and under the Agricultural Trade Development and Assistance Act of 1954 during the current fiscal year. Such information may be provided in individual reports, in a consolidated report, or in the Long-Term Agricultural Trade Strategy Report (and annual updates to such report) prepared under section 601.".

SEC. 1532. AMENDMENT TO THE AGRICULTURAL ACT OF 1954.

The Agricultural Act of 1954 (7 U.S.C. 1741 et seq.) is amended by adding at the end thereof the following new sections:

"SEC. 108. ANNUAL REPORTS BY AGRICULTURAL ATTACHES. 7 USC 1748.

"(a) IN GENERAL.—The Secretary shall require appropriate officers and employees of the Department of Agriculture, including those stationed in foreign countries, to prepare and submit annually to the Secretary detailed reports that—

"(1) document the nature and extent of—

"(A) programs in such countries that provide direct or indirect government support for the export of agricultural commodities and the products thereof;

"(B) other trade practices that may impede the entry of United States agricultural commodities and the products thereof into such countries; and

"(C) where practicable, the average prices and costs of production in such countries for like commodities exported from the United States to such countries; and

"(2) identify opportunities for the export of United States agricultural commodities and the products thereof to such countries.

"(b) DUTIES.—The Secretary shall—

"(1) annually compile the information contained in reports prepared under subsection (a)—

"(A) on a country by country basis; and

"(B) on a commodity by commodity basis for exports of United States agricultural commodities including fruits, vegetables, legumes, popcorn and ducks, as determined appropriate by the Secretary, the export of which is hampered by an unfair trade practice. Where practicable, the report shall include a comparison of the average prices and costs of production for such commodities in the United States and in the importing countries for the previous crop year.

"(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

"(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

"(4) not later than January 15 of each year, make the compilation available to Congress, the trade assistance office authorized under section 504 of the Agricultural Trade Act of 1978 (as amended by section 201), the agricultural policy advisory committee, and other interested parties.

"(c) MEETING.—The Secretary and the United States Trade Representative shall convene a meeting, at least once each year, of the Agricultural Policy Advisory Committee and the agricultural technical advisory committees to develop specific recommendations for actions to be taken by the Federal Government and private industry to—

"(1) reduce or eliminate trade barriers or distortions identified in the annual reports required to be submitted under subsections (a) and (b); and

"(2) expand United States agricultural export opportunities identified in such annual reports.

7 USC 1749.

"SEC. 109. ATTACHE EDUCATIONAL PROGRAM.

"The Administrator of the Foreign Agricultural Service shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.".

Subtitle D—General Provisions

SEC. 1541. COTTONSEED OIL AND SUNFLOWER OIL EXPORTS.

Subparagraph (A) of section 301(b)(2) of the Disaster Assistance Act of 1988 (7 U.S.C. 1464 note) is amended to read as follows:

"(A)(i) Effective for each of the fiscal years 1991 through 1995, $50,000,000 of the funds made available under section 32 of the Act entitled 'An Act to amend the Agricultural Adjustment Act, and for other purposes', approved August 24, 1935 (7 U.S.C. 612c) shall, to the extent provided in appropriations Acts, be utilized during each such fiscal year as provided for in clause (1) of the second sentence of such Act to encourage the sale of additional quantities of sunflowerseed oil and cottonseed oil in world markets at competitive world prices through the payment of benefits in connection with the exportation of such commodities.

"(ii) Clause (i) shall be implemented in such a manner as to maximize the export of such oils by assuring that the sums made available under such clause are fully obligated in the year or years in which—

"(I) such sums are made available; and

"(II) the domestic prices of such oils exceed competitive world prices.

"(iii) In determining sales on which benefits are to be provided under this subparagraph, the Secretary shall take into consideration solely the amount of benefits needed to encourage the sale.

"(iv) In carrying out this subparagraph, the Secretary shall ensure that, to the maximum extent practicable, equivalent amounts of funds are used during each fiscal year to encourage the sale of sunflower seed oil and cottonseed oil in world markets.".

SEC. 1542. PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING DEMOCRACIES.

7 USC 5622 note.

(a) GUARANTEES TO BE MADE AVAILABLE.—The Commodity Credit Corporation, for the fiscal years 1991 through 1995 shall make available not less than $1,000,000,000 of export credit guarantees for exports to emerging democracies under section 202 of the Agricultural Trade Act of 1978, in addition to the amounts required under section 211 of that Act for such program.

(b) IMPROVEMENT OF FACILITIES.—A portion of such export credit guarantees shall be made available for the establishment or improvement by United States persons of facilities in emerging democracies to improve handling, marketing, processing, storage, or distribution of imported agricultural commodities and products thereof if the Secretary of Agriculture determines that such guarantees will primarily promote the export of United States agricultural commodities (as defined in section 101(6) of the Agricultural Trade Act of 1978). The Commodity Credit Corporation shall give priority under this subsection to opportunities or projects identified under subsection (d).

(c) CONSULTATIONS.—Before the authority under this section is exercised, the Secretary of Agriculture shall consult with exporters of United States agricultural commodities (as defined in section 101(6) of the Agricultural Trade Act of 1978), nongovernmental experts, and other Federal Government agencies in order to ensure that facilities in an emerging democracy for which financing is guaranteed under paragraph (1)(B) do not primarily benefit coun-

tries which are in close geographic proximity to that emerging democracy.

(d) SHARING UNITED STATES AGRICULTURAL EXPERTISE.—

(1) IN GENERAL.—

(A) ESTABLISHMENT OF PROGRAM.—For each of the fiscal years 1991 through 1995, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary"), in order to develop, maintain, or expand markets for United States agricultural exports, is directed to make available to emerging democracies the expertise of the United States to make assessments of the food and rural business systems needs of such democracies, make recommendations on measures necessary to enhance the effectiveness of those systems, and identify specific opportunities and projects to enhance the effectiveness of those systems.

(B) EXTENT OF PROGRAM.—The Secretary shall implement this subsection with respect to at least 3 emerging democracies in each fiscal year.

(2) EXPERTS FROM THE UNITED STATES.—The Secretary shall implement the requirements of paragraph (1)—

(A) by providing assistance to teams consisting primarily of agricultural consultants and government officials expert in assessing the food and rural business systems of other countries to enable such teams to conduct the assessments, make the recommendations, and identify the opportunities and projects specified in paragraph (1) in emerging democracies; and

(B) by providing necessary subsistence expenses in the United States and necessary transportation expenses by individuals designated by emerging democracies to enable such individuals to consult with food and rural business system experts in the United States to enhance such systems of such emerging democracies.

(3) COST-SHARING.—The Secretary shall encourage the nongovernmental experts described in paragraph (2)(B) to share the costs of, and otherwise assist in, the participation of such experts in the program under this subsection.

(4) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance to implement the recommendations, or in connection with the opportunities or projects identified, under paragraph (1).

(5) REPORTS TO SECRETARY.—A team that receives assistance under paragraph (2)(A) shall prepare such reports as the Secretary may designate.

Public information.

(6) REPORT TO CONGRESS.—The Secretary shall annually submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, a report summarizing the activities carried out under this subsection, including a summary of the assessments and recommendations prepared under this subsection, and the Secretary shall also make the assessments and recommendations available to the public.

(7) ADVISORY COMMITTEE.—To provide the Secretary with information that may be useful to the Secretary in carrying out the provisions of this subsection, the Secretary shall establish an advisory committee composed of representatives of the var-

ious sectors of the food and rural business systems of the United States.

(8) USE OF CCC.—The Secretary shall implement this subsection through the funds and facilities of the Commodity Credit Corporation. The authority provided under this subsection shall be in addition to and not in place of any other authority of the Secretary or the Commodity Credit Corporation.

(9) LEVEL OF ASSISTANCE.—The Secretary shall provide assistance under this subsection of not more than $5,000,000 in any fiscal year.

(e) FOREIGN DEBT BURDENS.—

(1) EFFECT OF CREDITS.—In carrying out the program described in subsection (a), the Secretary of Agriculture shall ensure that the credits for which repayment is guaranteed under subsection (a) do not negatively affect the political and economic situation in emerging democracies by excessively adding to the foreign debt burdens of such countries.

(2) CONSULTATION AND REPORT.—Not later than 6 months after the effective date of this title, and not later than the end of each 6-month period occurring thereafter, the Secretary of Agriculture, in consultation with other appropriate Federal departments, shall prepare and transmit to the Committee on Foreign Affairs and the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report to assist the Congress in assessing the extent to which credits for which repayment is guaranteed under subsection (a) meet the requirements of paragraph (1). The report shall include—

(A) the amount and allocation, by country, of credit guarantees issued under subsection (a);

(B) the aggregate foreign debt burdens of countries receiving commodities or facilities under such credit guarantees, expressed in terms of debt on account of agricultural commodities or products thereof, or facilities for which guarantees may be made under subsection (a)(1)(B), and all other debt;

(C) the activities of creditor governments and private creditors to reschedule or reduce payments due on existing debt owed to such creditors by a country in cases where such country has been unable to fully meet its debt obligations; and

(D) an analysis of—

(i) the economic effects of the foreign debt burden of each recipient country, and in particular the economic effects on each recipient country of the credits for which repayment is guaranteed under subsection (a); and

(ii) the relationship between any negative economic effects on any recipient country caused by its overall foreign debt burden and debt incurred under subsection (a) and such country's political stability.

(f) EMERGING DEMOCRACY.—As used in this section, the term "emerging democracy" means any country that, as determined by the President, is taking steps toward—

(1) political pluralism, based on progress toward free and fair elections and a multiparty political system;

(2) economic reform, based on progress toward a market-oriented economy;

(3) respect for internationally recognized human rights; and

(4) a willingness to build a friendly relationship with the United States.

7 USC 3293.

SEC. 1543. AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a fellowship program for middle income countries and emerging democracies, to be known as the "Cochran Fellowship Program", to provide fellowships to individuals from eligible countries who specialize in agriculture for study in the United States.

(b) ELIGIBLE COUNTRIES.—Countries that meet the following requirements shall be eligible to participate in the program established under this section:

(1) MIDDLE-INCOME COUNTRY.—A country that has developed economically to the point where it no longer qualifies for bilateral foreign aid assistance from the United States because its per capita income level exceeds the eligibility requirements of such assistance programs (hereafter referred to in this section as a "middle-income" country).

(2) ONGOING RELATIONSHIP.—A middle-income country that has never qualified for bilateral foreign aid assistance from the United States, but with respect to which an ongoing relationship with the United States, including technical assistance and training, would provide mutual benefits to such country and the United States.

(3) TYPE OF GOVERNMENT.—A country that has recently begun the transformation of its system of government from a non-representative type of government to a representative democracy and that is encouraging democratic institution building, and the cultural values, institutions, and organizations of democratic pluralism.

(c) PURPOSE OF THE FELLOWSHIPS.—Fellowships under this section shall be provided to permit the recipients to gain knowledge and skills that will—

(1) assist eligible countries to develop agricultural systems necessary to meet the food needs of their domestic populations; and

(2) strengthen and enhance trade linkages between eligible countries and agricultural interests in the United States.

(d) INDIVIDUALS WHO MAY RECEIVE FELLOWSHIPS.—The Secretary shall utilize the expertise of United States agricultural counselors, trade officers, and commodity trade promotion groups working in participating countries to help identify program candidates for fellowships under this section from both the public and private sectors of those countries.

(e) PROGRAM IMPLEMENTATION.—The Secretary shall consult with other United States Government agencies, United States universities, and the private agribusiness sector, as appropriate, to design and administer training programs to accomplish the objectives of the Program established under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to carry out the program established under this section,

except that the amount of such funds in any fiscal year shall not exceed—

(1) for eligible countries that meet the requirements of subsection (b)(1), $3,000,000;

(2) for eligible countries that meet the requirements of subsection (b)(2), $2,000,000; and

(3) for eligible countries that meet the requirements of subsection (b)(3), $5,000,000.

(g) COMPLEMENTARY FUNDS.—If the Secretary of Agriculture determines that it is advisable in furtherance of the purposes of the program established under this section, the Secretary may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and may, in any manner, dispose of all such holdings and use the receipts generated from such disposition as general program funds under this section. All funds so designated for the program established under this section shall remain available until expended.

SEC. 1544. ASSISTANCE IN FURTHERANCE OF NARCOTICS CONTROL OBJECTIVES OF THE UNITED STATES. 22 USC 2151x-2.

(a) WAIVER OF CERTAIN RESTRICTIONS.—For the purpose of reducing dependence upon the production of crops from which narcotic and psychotropic drugs are derived, the President may provide economic assistance for a country which, because of its coca production, is a major illicit drug producing country (as defined in section 481(i)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(i)(2))) to promote the production, processing, or the marketing of products which can be economically produced in such country, notwithstanding the provisions of law described in subsection (b) of this section.

(b) DESCRIPTION OF RESTRICTIONS WAIVED.—The provisions of law made inapplicable by subsection (a) are any other provisions of law that would otherwise restrict the use of economic assistance funds with respect to the production, processing, or marketing of agricultural commodities (or the products thereof) or other products, including sections 521, 546, and 547 (but excluding section 510) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, and comparable provisions of subsequent Acts appropriating funds for foreign operations, export financing, and related programs.

(c) DEFINITION OF ECONOMIC ASSISTANCE.—As used in this section, the term "economic assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 and following; relating to development assistance) and assistance under chapter 4 of part II of that Act (22 U.S.C. 2346 and following; relating to the economic support fund).

SEC. 1545. WORLD LIVESTOCK MARKET PRICE INFORMATION. 7 USC 1761 note.

(a) DEVELOPMENT OF METHODOLOGY.—The Secretary of Agriculture shall develop appropriate methodology for determining the world price of livestock and livestock products and shall gather and analyze appropriate price and cost of production information concerning such products in foreign countries for the purpose of price discovery and to aid in the sale of livestock and livestock products in foreign export markets.

(b) PUBLICATION OF INFORMATION.—Not later than 240 days after the date of enactment of this Act, and periodically thereafter, the

Secretary of Agriculture shall publish the information gathered under subsection (a).

Subtitle E—Studies, Reports, and Other Provisions

SEC. 1551. STUDY OF NORTH AMERICAN FREE TRADE AREA.

The Secretary of Agriculture shall study the effects on the United States agricultural economy of the creation of a North American free trade area, including the creation of a United States-Mexico free trade area. The Secretary shall submit a report on the results of such study to the Congress not later than March 31, 1991.

SEC. 1552. ROSE AND FLOWER STUDY.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a study of the impact of consignment sales of foreign roses and fresh cut flowers on the domestic rose and fresh cut flower industry, taking into account the findings in the report issued in April 1989 entitled "Competitive Conditions in the U.S. and World Markets for Fresh Cut Roses" by the United States International Trade Commission.

(b) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary shall report the results of the study conducted under subsection (a) to the Congress, together with any recommendation of the Secretary on how the domestic rose and fresh cut flower industry can compete fairly with the practice of consignment sales.

SEC. 1553. COMMODITY TRANSPORTATION AND TECHNOLOGY ASSESSMENT AND REPORT.

(a) ASSESSMENT.—The Secretary of Agriculture shall conduct an assessment of the impact upon prices received by producers, costs to consumers, and the overall effect upon the ability of the United States to fulfill export goals and expand foreign markets for domestic commodities, of the current agricultural transportation situation, focusing especially on rail transportation capabilities including rail abandonments, periodic shortages of adequate rail car equipment suitable for transporting agricultural commodities, and the practice of rail carriers selling in advance certificates of transportation.

(b) ADDITIONAL REQUIREMENTS.—In preparing the assessment required by this section, the Secretary shall consult with rail, truck, and waterborne carriers who have experience in the transportation of agricultural commodities, and shall also examine the feasibility of—

(1) providing technical and financial assistance to producers, marketers, and exporters in the design and construction of alternatives to covered rail hopper cars (such as freight containers which could be carried aboard flatbed trucks, flatbed rail cars, river barges, and oceangoing container vessels) for the purpose of transporting bulk commodities to appropriate terminal market facilities; and

(2) encouraging the establishment of a computerized network which would assist producers, marketers, exporters, and carriers in identifying, matching, and coordinating potential cargoes of agricultural commodities with carriers having proper

capabilities and equipment in an effort to expedite transportation needs.

(c) REPORT.—Within 240 days after the date of enactment of this Act, the Secretary of Agriculture shall report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and to the Committee on Agriculture of the House of Representatives the results of the assessment conducted under this section, and any recommendations the Secretary may have as a result of such assessment.

SEC. 1554. REPORT ON SECTION 22 SUSPENSION OR TERMINATION. 7 USC 624 note.

(a) REQUIREMENT OF REPORT.—If section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) is repealed or all measures proclaimed under such section are suspended, the Secretary of Agriculture shall, prior to the effective date of the suspension or termination of any quantitative limitation or fee in effect under that section, report to the Congress.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall assess each material consequence of the lifting of such limitation or fee, including the impact on—

(1) the Farmers Home Administration and agricultural credit in general;

(2) the prices paid to farmers generally for the affected commodity; and

(3) United States food security needs.

SEC. 1555. AGRICULTURAL EXPORTS TO THE EUROPEAN COMMUNITY.

(a) FINDINGS.—The Congress finds that—

(1) the European Community has established a system, as part of its Europe 1992 economic integration plan, to set product standards and requirements, including those related to agricultural commodities and products thereof, and that system has not been transparent insofar as the European Community has refused reasonable requests to allow United States Government or industry experts to observe meetings of European standards-setting institutions;

(2) the European Community is also currently writing the rules by which United States exporters of agricultural commodities and products thereof will be able to show compliance with European Community product standards and requirements, and has refused to guarantee that such United States exporters will be able to show compliance with European Community product standards and requirements by using United States laboratories or through self-certification;

(3) the United States maintains an open, transparent system to set standards and requirements for agricultural commodities and products thereof, and many reciprocal arrangements currently in place allow European Community exporters of agricultural commodities and products thereof to show compliance with United States product standards and requirements by using European Community laboratories or through self-certification;

(4) the value of United States exports of agricultural commodities and products thereof to the European Community in 1989 was $6,600,000,000, constituting 17 percent of all United States exports of agricultural commodities and products thereof; and

(5) the product standards and testing policies of the European Community are consequently unfair and discriminatory, and have great potential to reduce significantly exports from the United States of agricultural commodities and products thereof.

(b) STATEMENTS OF POLICY.—

(1) The Congress denounces the European Community's nontransparent process of setting standards and requirements for agricultural commodities and products thereof, and the Congress further denounces the refusal by the European Community to guarantee that United States exporters of such commodities and products will be able to show compliance with European Community standards and requirements by using United States laboratories or through self-certification.

(2) The Congress deplores the adverse consequences of the standards and testing policies of the European Community on the bilateral agricultural trade relationship between the United States and the European Community.

(3) The Congress urges the President to use all available means to bring about significant and far-reaching changes in the standards and testing policies of the European Community in order to protect and maintain United States access to the European Community market for agricultural commodities and products thereof.

7 USC 5694 note.

SEC. 1556. LANGUAGE PROFICIENCY AND EVALUATION OF FOREIGN AGRICULTURAL SERVICE OFFICERS.

(a) ASSESSMENT OF FOREIGN LANGUAGE COMPETENCE.—The Foreign Agricultural Service shall revise its evaluation reports for its Foreign Service officers so as to require in a separate entry an assessment of the officer's effectiveness in using, in his or her work, a foreign language or foreign languages tested at the General Professional Speaking Proficiency level or above, in cases where the supervisor is capable of making such an assessment.

(b) PRECEDENCE IN PROMOTION.—The Director of Personnel of the Foreign Agricultural Service shall instruct promotion panels to take account of language ability and, all criteria for promotion otherwise being equal, to give precedence in promotions to officers who have achieved at least the General Professional Speaking Proficiency level in 1 or more foreign languages over officers who lack that level of proficiency.

(c) REPORT TO CONGRESS.—Within 6 months after the effective date of this title, the Administrator of the Foreign Agricultural Service shall submit a report to the Committee on Foreign Affairs, the Committee on Agriculture, and the Committee on Post Office and Civil Service of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, which—

(1) details the extent to which, in the 3 years before the effective date of this title, Foreign Service officers of the Foreign Agricultural Service achieved General Professional Speaking Proficiency level in a primary foreign language of the host countries in which they served before arriving in such countries or within 1 year after such arrival; and

(2) makes specific, new proposals to the Congress on how to ensure that at least 75 percent of Foreign Service officers of the Foreign Agricultural Service have achieved General Professional Speaking Proficiency level in a primary foreign language

of the host countries in which they serve before arriving in such countries or within 1 year after such arrival.

SEC. 1557. REPORTING REQUIREMENTS RELATING TO TOBACCO.

The Tobacco Adjustment Act of 1983 is amended by inserting after section 213 (7 U.S.C. 511r) the following new section:

"SEC. 214. REPORTING REQUIREMENTS RELATING TO TOBACCO.

Records. Business and industry. 7 USC 509.

"(a) IN GENERAL.—Not later than 60 days after the export of tobacco or a tobacco product not described in subsection (b), the exporter of such tobacco or tobacco product shall prepare a report containing the records relating to such export and submit such report to the Secretary of Agriculture.

"(b) SPECIAL RULE.—Manufacturers of tobacco products shall prepare and maintain records on all finished cigarettes and cigarette ready tobacco. Information contained in such records shall be aggregated on a quarterly basis, certified as accurate by the entity preparing such aggregation, and submitted to the Secretary of Agriculture as provided for in this section. Tobacco manufacturers shall maintain records utilized to prepare the aggregation for a period of 5 years.

"(c) SCOPE.—Records maintained under this section shall include the crop year, grade, type, country of origin, poundage, and such other information relating to the tobacco products as the Secretary determines appropriate.

"(d) REPORTS.—Records, reports, and aggregations submitted to the Secretary of Agriculture under this section shall be provided by the Secretary to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, in a timely manner.

"(e) PENALTY.—Any exporter who violates the provisions of this section with respect to the provision of false information or the failure to provide required information shall be subject to section 1001 of title 18, United States Code, for each such violation.

"(f) CONFIDENTIALITY OF INFORMATION.—The personally identifiable information contained in reports under this section may be withheld in accordance with section 552(b)(4) of title 5, United States Code. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18, United States Code, shall be subject to section 1905 of title 18, United States Code. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.".

SEC. 1558. REPORT ON ORIGIN OF EXPORTS OF PEANUTS.

7 USC 958.

(a) EXPORTERS OF PEANUTS.—Any exporter of raw peanuts, shelled or in shell, shall indicate the country of origin of such peanuts on the export documentation that such exporter is required to complete under other provisions of law.

(b) COLLECTION OF INFORMATION.—The Secretary of Agriculture shall collect the information contained on such export documentation and annually report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the country of origin of all such peanuts exported from the United States during the calendar year.

(c) CONFIDENTIALITY OF INFORMATION.—The personally identifiable information contained in reports under this section may be withheld in accordance with section 552(b)(4) of title 5, United States Code. Any officer or employee of the Department of Agriculture who knowingly discloses confidential information as defined by section 1905 of title 18, United States Code, shall be subject to section 1905 of title 18, United States Code. Nothing in this subsection shall be construed to authorize the withholding of information from Congress.

SEC. 1559. SENSE OF CONGRESS CONCERNING REBALANCING PROPOSAL OF THE EUROPEAN COMMUNITY.

(a) FINDINGS.—Congress finds that—

(1) the success of the agriculture negotiations under the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) is important to the liberalization of world agricultural trade and the development of the markets for United States commodities;

(2) in order to correct distortions and restrictions in world agricultural markets, the participants in GATT negotiations have committed to substantial and progressive reductions in agricultural protection and support;

(3) the history of establishing more market-oriented trade since World War II has been progressive liberalization through a series of multilateral trade negotiations;

(4) the European Community's proposal to "rebalance" import protections could actually permit the European Community to increase import barriers for some products, including products which have enjoyed barrier free trade status as a result of earlier trade negotiations;

(5) this rebalancing proposal could pose a particularly severe threat to United States exports of corn gluten feed and oilseeds to the European Community, products whose duty-free status the European Community has long sought to undercut; and

(6) the European Community market for United States exports of corn gluten feed and oilseeds has been a successful fixture of United States-European Community trade relations for approximately 30 years, and should not be restricted.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the European Community's proposed rebalancing of import protections is fundamentally at odds with the important goals of liberalizing world agricultural trade and eliminating trade-distorting policies;

(2) such rebalancing could have a particularly severe impact on United States exports of corn gluten feed and oilseeds to the European Community, leaving them vulnerable to unfair treatment and increased trade barriers; and

(3) the United States, throughout the remainder of the Uruguay Round of the GATT negotiations on agriculture, should forcefully reject the European Community's proposal to rebalance import protections.

SEC. 1560. SENSE OF THE SENATE REGARDING MULTILATERAL TRADE NEGOTIATIONS.

(a) IN GENERAL.—It is the sense of the Senate that the objective of the Uruguay Round of Multilateral Trade Negotiations concerning agricultural trade should be to—

(1) obtain a reform of global agricultural trade and an elimination of the policies and practices that distort agricultural trade; and

(2) to reach an agreement that—

(A) provides United States farmers and agricultural community with the opportunity to compete fairly in international markets;

(B) permits United States farmers to have a safety net to protect them against market instability;

(C) assures consumers of an adequate supply of high quality food and fiber at reasonable prices, both now and in the future; and

(D) assures that humanitarian food needs are met.

(b) CONDUCT OF NEGOTIATIONS.—It is the sense of the Senate that, in conducting the agricultural trade negotiations in the Uruguay Round of Multilateral Trade Negotiations and in meeting the principal negotiating objectives contained in section 1101(b) of the Omnibus Trade and Competitiveness Act of 1988 and in this section, the United States should—

(1) ensure that any agreement—

(A) is beneficial to United States agricultural producers and businesses;

(B) does not leave an individual commodity vulnerable to unfair treatment or increased barriers and that the various sectors of United States agriculture receive equitable and fair treatment;

(C) permits countries to provide income support and stability from the vagaries of the market directly or indirectly through self-help efforts;

(D) provides a period of adjustment in cases where the reduction or elimination of trade barriers or subsidies would cause industry adjustment and resource reallocation; and

(E) does not sacrifice the interests of the agricultural sector for other sectors of the United States economy;

(2) seek the immediate elimination of all export subsidies that are conditioned on the export of agricultural commodities and products, except bona fide food aid;

(3) not enter into any self-executing agreement that would unduly restrict the authority of the United States to provide for the stabilization of its agricultural economy;

(4) not enter into any agreement that would have the effect of repealing or materially interfering with any existing legal authority designed to promote or protect any domestic agricultural program, the purpose of which is to stabilize prices, or eliminate any existing waiver granted to the United States under the General Agreement on Tariffs and Trade permitting the imposition of quantitative limitations on the entry of commodities into the United States unless the agreement meets the objectives described in this section; and

(5) ensure that any provision for special and differential treatment for developing countries contains guidelines and limitations providing for the phasing out of such treatment as such countries become more competitive.

Subtitle F—Conforming Provisions and Technical Changes

SEC. 1571. AMENDMENTS TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988.

The Omnibus Trade and Competitiveness Act of 1988 is amended by repealing sections 4201, 4202, 4205, 4206, 4211, 4212, 4213, 4305, and 4311 (7 U.S.C. 5211, 5212, 5215, 5216, 5231, 5232, 5233, 1736t note, and 1691 note, respectively).

SEC. 1572. AMENDMENTS TO THE FOOD SECURITY ACT OF 1985.

The Food Security Act of 1985 is amended—

(1) in section 1110 (7 U.S.C. 1736o)—

(A) by striking subsection (j); and

(B) by redesignating subsection (k) as subsection (j);

(2) in section 1113(c)(9) (7 U.S.C. 1736-1(c)(9))—

(A) by adding "and" after the semicolon in subparagraph (A);

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(3) by repealing sections 1124, 1125, 1127, 1128, 1132, 1151, 1162, 1165, and 1167 (7 U.S.C. 1736s, 1736t, 1736v, 1736w, 1736x, 2275, 1736z, 1736, and 1736aa).

SEC. 1573. AMENDMENTS TO THE AGRICULTURE AND FOOD ACT OF 1981.

The Agriculture and Food Act of 1981 is amended by repealing sections 1203, 1204, and 1205 (7 U.S.C. 1736i, 1736j, and 1736k).

SEC. 1574. AMENDMENT TO THE FOOD FOR PEACE ACT OF 1966.

The Food for Peace Act of 1966 is amended by repealing section 4 (7 U.S.C. 1707a).

SEC. 1575. AMENDMENT TO THE AGRICULTURAL ACT OF 1949.

The Agricultural Act of 1949 is amended by striking subsection (d) of section 416 (7 U.S.C. 1431(d)).

SEC. 1576. AMENDMENT TO THE AGRICULTURAL ACT OF 1956.

Section 201 of the Agricultural Act of 1956 (7 U.S.C. 1851(b)) is amended by striking subsection (b).

SEC. 1577. AMENDMENT TO THE AGRICULTURAL TECHNICAL CORRECTIONS ACT.

Section 13 of Public Law 101-220 (7 U.S.C. 1736cc) is repealed.

SEC. 1578. AMENDMENT TO THE AGRICULTURAL ACT OF 1970.

Section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) is repealed, effective upon the effective date of regulations promulgated under section 404 of the Agricultural Trade Act of 1978, as amended by this title.

TITLE XVI—RESEARCH

Subtitle A—Extensions and Changes to Existing Programs

SEC. 1601. INCREASED AUTHORIZATIONS FOR, AND THE EXTENSION OR REPEAL OF, EXISTING PROGRAMS.

(a) AGRICULTURAL RESEARCH FACILITIES GRANTS.—Section 4(a) of the Research Facilities Act (7 U.S.C. 390c(a)) is amended—

(1) by striking "$20,000,000" and inserting "$50,000,000"; and

(2) by striking "ending September 30, 1986, through September 30, 1990" and inserting "1991 through 1995".

(b) EXTENSION OF PROGRAMS ESTABLISHED IN THE NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—

(1) ANIMAL HEALTH AND DISEASE CONTINUING RESEARCH.—Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended by striking "annually for the period beginning October 1, 1981, and ending September 30, 1990," and inserting "for each of the fiscal years 1991 through 1995,".

(2) ANIMAL HEALTH AND DISEASE NATIONAL OR REGIONAL RESEARCH.—Section 1434(a) of that Act (7 U.S.C. 3196(a)) is amended by striking "annually for the period beginning October 1, 1981, and ending September 30, 1990," and inserting "for each of the fiscal years 1991 through 1995,".

(3) AGRICULTURAL RESEARCH PROGRAMS.—Section 1463 of that Act (7 U.S.C. 3311) is amended—

(A) in subsection (a), by striking "$600,000,000" and all that follows through "1990." and inserting "$850,000,000 for each of the fiscal years 1991 through 1995."; and

(B) in subsection (b), by striking "$270,000,000" and all that follows through "1990." and inserting "$310,000,000 for each of the fiscal years 1991 through 1995.".

(4) EXTENSION EDUCATION.—Section 1464 of that Act (7 U.S.C. 3312) is amended by striking "$370,000,000" and all that follows through the period and inserting "$420,000,000 for fiscal year 1991, $430,000,000 for fiscal year 1992, $440,000,000 for fiscal year 1993, $450,000,000 for fiscal year 1994, and $460,000,000 for fiscal year 1995.".

(5) SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.—Section 1473D(a) of that Act (7 U.S.C. 3319d(a)) is amended by striking "1990" and inserting "1995".

(6) RANGELAND RESEARCH ADVISORY BOARD.—Section 1482(a) of that Act (7 U.S.C. 3335(a)) is amended by striking "1990," and inserting "1995,".

(7) RANGELAND RESEARCH.—Section 1483(a) of that Act (7 U.S.C. 3336(a)) is amended by striking "annually for the period beginning October 1, 1981, and ending September 30, 1990." and inserting "for each of the fiscal years 1991 through 1995.".

(c) DAIRY GOAT RESEARCH.—Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3222 note) is amended by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995,".

(d)(1) GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.—Section 1416(b) of the Food Security Act of 1985 (7 U.S.C. 3224(b)) is amended by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 and 1992,".

(2) FEDERAL AGRICULTURAL RESEARCH FACILITIES.—Section 1431 of that Act (99 Stat. 1556) is amended—

(A) in subsection (a), by striking "ending September 30, 1988, through September 30, 1990," and inserting "1991 through 1995,"; and

(B) in subsection (b), by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995,".

(e) CRITICAL AGRICULTURAL MATERIALS RESEARCH.—Section 16 of the Critical Agricultural Materials Act (7 U.S.C. 178n) is amended—

(1) by striking subsection (a) and inserting the following:

Appropriation authorization.

"(a) There are authorized to be appropriated to the Secretary of Agriculture such sums as are necessary to carry out this Act in each of the fiscal years 1991 through 1995."; and

(2) by striking subsection (b);

(3) in subsection (c), by striking "subsections (a) and (b)" and inserting "subsection (a)"; and

(4) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.

(f) Repeal of Programs Established in the National Agricultural Research, Extension, and Teaching Policy Act of 1977.—

(1) REPEALS.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended—

(A) by repealing section 1402 (7 U.S.C. 3101) relating to Congressional findings;

(B) by striking subsection (c) of 1409A (7 U.S.C. 3124a) and redesignating subsections (d) and (e) of that section as subsections (c) and (d), respectively;

(C) by repealing section 1413A (7 U.S.C. 3129) relating to biomass energy;

(D) by repealing subtitle H (7 U.S.C. 3241-3282) relating to solar energy research and development;

(E) by repealing section 1473B (7 U.S.C. 3319b) relating to technology development for small- and medium-sized farming operations; and

(F) by repealing section 1473C (7 U.S.C. 3319c) relating to the special technology development research program.

(2) CLERICAL AMENDMENTS.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended—

(A) in the item relating to subtitle A, by striking "Findings,";

(B) by striking the items relating to section 1402 and 1413A;

(C) by striking the item relating to subtitle H of title XIV and the items relating to the parts and sections of that subtitle; and

(D) by striking the items relating to sections 1473B and 1473C.

SEC. 1602. PURPOSES OF THE AGRICULTURAL RESEARCH AND EXTENSION SYSTEM.

(a) STATEMENT OF PURPOSES.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended by inserting before section 1403 the following new section:

"SEC. 1402. PURPOSES OF AGRICULTURAL RESEARCH AND EXTENSION. 7 USC 3101.

"Subject to the varying conditions and needs of States, Federally funded agricultural research and extension programs shall be designed to, among other things, accomplish the following—

"(1) continue to satisfy human food and fiber needs;

"(2) enhance the long-term viability and competitiveness of the food production and agricultural system of the United States within the global economy;

"(3) expand economic opportunities in rural America and enhance the quality of life for farmers, rural citizens, and society as a whole;

"(4) improve the productivity of the American agricultural system and develop new agricultural crops and new uses for agricultural commodities;

"(5) develop information and systems to enhance the environment and the natural resource base upon which a sustainable agricultural economy depends; or

"(6) enhance human health—

"(1) by fostering the availability and affordability of a safe, wholesome, and nutritious food supply that meets the needs and preferences of the consumer; and

"(2) by assisting farmers and other rural residents in the detection and prevention of health and safety concerns.".

(b) CONFORMING AMENDMENT.—Section 1403 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3102) is amended by striking the section heading and "SEC. 1403." and inserting the following:

"SEC. 1403. ADDITIONAL PURPOSES OF AGRICULTURAL RESEARCH AND EXTENSION.".

(c) CLERICAL AMENDMENTS.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended—

(1) by inserting before the item relating to section 1403 the following new item:

"Sec. 1402. Purposes of agricultural research and extension."; and

(2) by striking the item relating to section 1403 and inserting the following new item:

"Sec. 1403. Additional purposes of agricultural research and extension.".

SEC. 1603. DEFINITIONS.

Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by inserting "G," after "subtitles E," in paragraph (16); and

(3) by adding at the end the following new paragraphs:

"(17) the term 'sustainable agriculture' means an integrated system of plant and animal production practices having a site-specific application that will, over the long-term—

"(A) satisfy human food and fiber needs;

"(B) enhance environmental quality and the natural resource base upon which the agriculture economy depends;

"(C) make the most efficient use of nonrenewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;

"(D) sustain the economic viability of farm operations; and

"(E) enhance the quality of life for farmers and society as a whole; and

"(18) the term 'Technology Board' means the Agricultural Science Technology Review Board established in section 1408A.".

SEC. 1604. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES AND NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD.

(a) JOINT COUNCIL.—Section 1407 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(a)) is amended to read as follows:

"SEC. 1407. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a committee to be known as the Joint Council on Food and Agricultural Sciences which shall remain in existence until September 30, 1995.

"(b) MEMBERSHIP.—The Joint Council shall be composed of not less than 21 representatives of organizations or agencies which conduct or assist in conducting programs of research, extension, or teaching in the food and agricultural sciences, including the following:

"(1) Six representatives from State cooperative institutions, including at least one from institutions eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University.

"(2) Four representatives from agencies within the Department of Agriculture which have significant research, extension, and teaching responsibilities.

"(3) One representative from public colleges and universities having a demonstrable capacity to carry out food and agricultural research, extension, or teaching.

"(4) One representative from colleges and universities conducting research related to the food and agricultural sciences.

"(5) Three representatives from private organizations or corporations conducting research in the food and agricultural sciences, including one representative from the food processing industry involved in food technology research.

"(6) One representative from among foundations funding research in the food and agricultural sciences.

"(7) One representative from among farmers, ranchers, and other producers of domestic agricultural commodities.

"(8) One representative from the Office of Science and Technology Policy.

"(9) Two representatives from other Federal agencies determined by the Secretary to be appropriate.

"(10) One representative from the National Academy of Sciences.

"(11) To the extent the Joint Council is composed of more than 21 members, representatives of other public and private institutions, producers, and representatives of the public who are interested in and have the potential to contribute to (as determined by the Secretary) the formulation of national policy in the food and agricultural sciences.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERMS.—Members of the Joint Council shall be appointed for a term of up to three years by the Secretary from nominations made by the organizations and agencies described in subsection (b). The terms of the members shall be staggered.

"(2) CHAIRPERSON.—The Joint Council shall be jointly chaired by the Assistant Secretary of Agriculture for research, extension, and teaching, and a person to be elected from among the non-Federal membership of the Joint Council.

"(3) MEETINGS.—The Joint Council shall meet at least once during each three-month period. At least one meeting each year shall be a combined meeting with the Advisory Board. The meetings of the Joint Council shall be publicly announced in advance and shall be open to the public. Appropriate records of the activities of the Joint Council shall be kept and made available to the public on request.

Records. Public information.

"(d) PRIMARY RESPONSIBILITY.—The primary responsibility of the Joint Council is to bring about more effective research, extension, and teaching in the food and agricultural sciences in the United States by improving the planning and coordination of publicly and privately supported food and agricultural science activities and by relating Federal budget development and program management to these processes.

"(e) OTHER RESPONSIBILITIES.—The responsibilities of the Joint Council shall also include the following:

"(1) Provide a forum for the interchange of information among the organizations represented by the members of the Joint Council that will assure improved awareness among these organizations concerning the agricultural research, extension, and teaching programs, results, and directions of each organization.

"(2) Analyze and evaluate the economic, environmental, and social impacts of agricultural research, extension, and teaching programs conducted in the United States.

"(3) Determine high priority issues and goals for agricultural research, extension, and teaching programs, and submit annual reports identifying such high priority issues and goals to the Secretary and to Congress.

Reports.

"(4) Develop and review the effectiveness of a system, for use by the Secretary, of compiling, maintaining, and disseminating information about each federally supported agricultural research or extension project and, to the maximum extent possible, information about private agricultural research and extension projects conducted by colleges and universities, foundations, contract research groups, businesses, and others. Information about private agricultural research and extension shall not be included in this system unless they are partially or entirely funded by the Federal Government or the organizations sponsoring the projects agree to the inclusions of information about such projects.

"(5) Assist the parties in developing, reviewing, and evaluating memoranda of understanding or other documents that detail the terms and conditions between the Secretary and the participants in agricultural research, extension, and teaching programs under this Act and other Acts.

"(6) Assist the Secretary in carrying out the responsibilities assigned to the Secretary under this title through planning and coordination in the food and agricultural sciences, by using, wherever possible, the existing regional research, extension, and teaching organizations of State cooperative institutions to provide regional planning and coordination, and by the development of recommendations and reports describing current and long-range needs, priorities, and goals in the food and agricultural sciences and means to achieve these goals.

"(7) Coordinate with the Secretary in assessing the current status of, and developing a plan for, the effective transfer of new technologies to the farming community;

"(8) In consultation with the Users Advisory Board—

"(A) provide an annual review and prioritize requests for agricultural related special grants and construction grants;

"(B) provide an annual review of the competitive grants made by the Secretary to determine priority research and grant categories and types that best advance the purposes expressed in section 1402; and

"(C) review and make budget recommendations on the research, extension, and teaching budgets for the Agricultural Research Service, the Forest Service, the Economic Research Service, the Extension Service, the National Agricultural Library, the Cooperative State Research Service, and other department agencies.

"(f) REPORTS.—

"(1) ANNUAL REPORT.—Not later than June 30 of each year, the Joint Council shall prepare a report specifying its conclusions on—

"(A) priorities for food and agricultural research, extension, and teaching programs;

"(B) suggested areas of responsibility among Federal, State, and private organizations in carrying out such programs;

"(C) the levels of financial and other support needed to carry out such programs;

"(D) the progress made toward accomplishing the priorities and associated levels of financial and other support recommended in the annual report issued in the prior year; and

"(E) the activities of the Board in meeting its responsibilities under this section.

"(2) FIVE-YEAR PLAN.—Not later than November 30, 1990, the Joint Council shall prepare a report outlining a five-year plan for food and agricultural sciences that reflects the coordinated views of the research, extension, and teaching community. The Joint Council shall update this plan every two years thereafter in reports reflecting the progress being made toward implementing the plan.

"(3) SUBMISSION OF REPORTS.—Each report prepared under this subsection shall be submitted to the Secretary. Minority

views, if timely submitted, shall be included in each such report.".

(b) USERS ADVISORY BOARD.—Section 1408 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD. 7 USC 3123.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the National Agricultural Research and Extension Users Advisory Board which shall remain in existence until September 30, 1995.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of 21 members appointed by the Secretary. The members shall be appointed to serve staggered terms, in a manner determined appropriate by the Secretary. The members of the Advisory Board shall consist of the following:

"(1) One member who is a producer representing farm cooperatives.

"(2) Two members who are producers representing general farm organizations.

"(3) Four members who are producers representing agricultural commodities, forest product, and aquacultural product groups from various geographic regions.

"(4) One member representing agricultural farm suppliers.

"(5) One member representing food and fiber processors.

"(6) One member representing animal health interests.

"(7) One member engaged in transportation of food and agricultural products to domestic or foreign markets.

"(8) One member representing labor organizations primarily concerned with the production, processing, distribution, or transport of food and agricultural products.

"(9) One member representing food marketing interests.

"(10) One member representing private nonprofit organizations and foundations involved in agricultural research, sustainable agricultural research, education, and extension.

"(11) One member representing private sector organizations involved in development programs and issues in developing countries.

"(12) One member representing agencies of the Department of Agriculture that do not have research capabilities.

"(13) One member engaged in rural development work.

"(14) One member engaged in human nutrition work.

"(15) Two members representing consumer interests, including one member who represents nonprofit consumer advocacy organizations.

"(16) One member representing nonprofit environmental protection organizations.

"(c) CHAIRPERSON; VICE-CHAIRPERSON.—At the first meeting each year of the Advisory Board, the members of the Advisory Board shall elect a chairperson and vice-chairperson from the members. The chairperson and vice-chairperson shall serve in such positions for a term of one year.

"(d) MEETINGS.—The Advisory Board shall meet a sufficient number of times each year to carry out its responsibilities under subsection (f). At least one meeting each year shall be held as a combined meeting with the Joint Council.

"(e) PANELS.—The Advisory Board may establish such panels as the Advisory Board considers appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in meeting the responsibilities of the Advisory Board. Members of such panels may include members of the Advisory Board, Advisory Board staff members, individuals from the Department of Agriculture and other departments and agencies of the Federal government, and individuals from the private sector who have expertise in the subject to be examined by the panel.

"(f) RESPONSIBILITIES.—

"(1) ADVISORY OPINIONS.—The Advisory Board shall have general responsibility for preparing independent advisory opinions on the food and agricultural sciences.

"(2) SPECIFIC DUTIES.—The Advisory Board shall have specific responsibility to perform the following duties:

"(A) Review the policies, plans, and goals of programs within the Department of Agriculture involving the food and agricultural sciences, and related programs in other Federal and State departments and agencies and in the colleges and universities developed by the Secretary under this title.

"(B) Review and assess the extent of agricultural research, teaching, and extension being conducted by the private sector and the relationships and coordination of such activities with Federally supported agricultural research, teaching, and extension programs.

"(C) Review and provide consultation to the Secretary on national policies, priorities, and strategies for agricultural research and extension for both the short and long term.

"(D) Assess the overall adequacy of the distribution of resources and the allocation of funds for the agricultural research, extension, and teaching activities of the Department of Agriculture and make recommendations with regard to such distribution and allocation to the Secretary, Federal agencies, and private organizations that are contributing to the funding of agricultural research, extension, and teaching.

"(E) Identify emerging agricultural research, teaching, and extension issues and suggest programs and technology transfer solutions for use by the public and private agricultural science and education community.

"(F) Evaluate the results and the effectiveness of research and extension programs with regard to their influence on long-term goals of agriculture expressed in sections 1402 and 1403 and consumer needs.

"(g) REPORTS BY THE ADVISORY BOARD.—

"(1) EXAMINATION OF FEDERALLY SUPPORTED AGRICULTURAL RESEARCH AND EXTENSION PROGRAMS.—Not later than July 1 of each year, the Advisory Board shall provide an oral briefing to the Secretary (by the chairperson of the Advisory Board) and a written report to Congress and the Secretary of recommendations concerning the allocation of responsibilities and levels of funding among Federally supported agricultural research and extension programs. The Advisory Board shall include in each oral briefing and written report prepared under this paragraph—

"(A) a review and assessment of the allocation of funds for agricultural research and extension made for the preceding fiscal year by the Department of Agriculture;

"(B) an evaluation of—

"(i) the effectiveness of coordination of Federal and private research initiatives;

"(ii) new research and extension programs that need to be conducted by the research system; and

"(iii) the effectiveness of the private and public research and extension system; and

"(C) minority views, if timely submitted.

"(2) REVIEW OF BUDGET AND SECRETARY'S REPORT.—Not later than February 20 of each year, the Advisory Board shall submit to the President, the Committees on Agriculture and Appropriations of the House of Representatives, and the Committees on Agriculture, Nutrition, and Forestry and Appropriations of the Senate a report containing—

"(A) an appraisal by the Advisory Board of the proposed budget of the President for the food and agricultural sciences for the fiscal year beginning in the year that report is submitted;

"(B) the recommendations of the Secretary contained in the annual report submitted by the Secretary pursuant to section 1410; and

"(C) separate views of members of the Advisory Board, if timely submitted.

"(3) REQUIREMENT OF REPORTS.—Each report prepared by the Advisory Board shall list the membership of the Advisory Board as of the time the report was prepared, including the organizational and employment affiliation of each member of the Advisory Board.

"(h) REPORT BY SECRETARY.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the manner in which the recommendations of the Advisory Board have been incorporated into the budget and programs of the Department of Agriculture.".

SEC. 1605. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended by inserting after section 1408 the following new section:

"SEC. 1408A. AGRICULTURAL SCIENCE AND TECHNOLOGY REVIEW BOARD. 7 USC 3123a.

"(a) ESTABLISHMENT.—The Secretary, acting through the Joint Council, shall establish and oversee an Agricultural Science Technology Review Board.

"(b) MEMBERSHIP.—

"(1) COMPOSITION.—The Technology Board shall be composed of 11 individuals, to be appointed by the Secretary, who have expertise in technology assessment, environmental sciences, international agricultural issues, the social sciences, agricultural sciences (both basic and applied), technology transfer, and education, including representatives of—

"(A) the Agricultural Research Service;

"(B) the Cooperative State Research Service;

"(C) the Extension Service;

"(D) private foundations and nonprofit organizations who have expertise in agricultural research, education, and technology transfer;

"(E) private agricultural research and technology transfer firms; and

"(F) the Land Grant University System.

"(2) MANNER OF APPOINTMENT.—The Secretary shall appoint members of the Technology Board in a manner determined to be appropriate by the Secretary.

"(3) PRIVATE SECTOR REPRESENTATION.—A majority of the members of the Technology Board appointed under paragraph (1) shall be from the private sector.

"(4) TERM.—Members of the Technology Board shall serve for staggered terms of 3 years, as determined appropriate by the Secretary.

"(5) CHAIRPERSON.—The Technology Board shall select a chairperson from its membership, who shall serve in that position for a term of 1 year.

"(c) TECHNICAL INTERPRETATION AND ASSESSMENTS.—

"(1) IN GENERAL.—The Technology Board shall—

"(A) provide technical interpretation and translation of current and emerging agricultural and environmental science issues for use by the Joint Council and the Advisory Board in setting priorities and conducting evaluations; and

"(B) provide technology assessment of current and emerging public and private agricultural research and technology transfer initiatives, including emerging technologies from private industry and public institutions that would influence agriculture, environment, nutrition, and the broad social, economic, and health consequences on urban and rural communities.

"(2) ASSESSMENTS.—The Technology Board may conduct assessments to consider to what extent agricultural research and extension programs foster—

"(A) the development of farming systems that most effectively take advantage of natural processes and beneficial biological interactions and other sustainable agriculture techniques;

"(B) genetics research that results in crop varieties and livestock that enhance management options, farm productivity, use of inputs, and a diversity of products that can be marketed by the farm operator;

"(C) research to develop farming systems appropriate to climatological uncertainty;

"(D) research to increase the demand for current farm products, and to develop new farm crops and enterprises, that are economically and environmentally advantageous and enhance agricultural diversity;

"(E) research to enhance economic and societal well-being;

"(F) research that develops rural economic development strategies that build on the entrepreneurial skills, self-employment tradition, and the resource base of rural communities and extension programs to disseminate those strategies;

"(G) innovative extension and education programs that transfer new technology to the rural community including

small- and moderate-sized family farmers and potential beginning and minority farmers with limited resources; and

"(H) extension programs that substantially involve a broad range of interested individuals, commodity groups, agri-industry groups, farm groups, rural organizations, community groups, farmerworkers, and environmental organizations to broaden input into research and extension priority setting.

"(d) TECHNOLOGY ASSESSMENT REPORT.—

"(1) IN GENERAL.—Not later than December 31 of each year, the Technology Board shall prepare a report that contains a technology assessment of emerging public and private agricultural research initiatives and activities, including—

"(A) recommendations on how such research would be best directed to advance the purposes set forth in section 1402; and

"(B) an assessment of activities conducted by the Secretary, research components of public and private colleges and universities, and emerging private agricultural research initiatives.

"(2) RECIPIENTS.—The Technology Board shall submit the report required under paragraph (1) to the appropriate Committees of Congress, to the Secretary, to the heads of other Federal agencies who support agricultural research, and (on request) to private organizations who have a significant involvement in agricultural research.

"(3) MINORITY VIEWS.—The Technology Board shall include minority views in the report, if timely submitted.".

(b) CONFORMING AMENDMENTS.—

(1) SUPPORT.—Section 1412 of that Act (7 U.S.C. 3127) is amended—

(A) by striking the heading and "SEC. 1412." and inserting the following:

"SEC. 1412. SUPPORT FOR THE JOINT COUNCIL, ADVISORY BOARD, AND TECHNOLOGY BOARD.";

(B) in subsection (a)—

(i) by striking "and the Advisory Board" in the matter preceding the paragraphs and inserting ", the Advisory Board, and the Technology Board";

(ii) by inserting "and the Technology Board" immediately before the dash;

(iii) in paragraph (1), by inserting "and the Technology Board" before "may direct";

(iv) in paragraph (2), by striking "Council and" and inserting "Council,"; and

(v) in paragraph (2), by inserting before the period the following: ", and one shall serve as the executive secretary to the Technology Board";

(C) in subsection (b), by striking "and the Advisory Board" and inserting ", the Advisory Board, and the Technology Board"; and

(D) in subsection (c), by striking "and the Advisory Board" and inserting ", the Advisory Board, and the Technology Board".

(2) GENERAL PROVISIONS.—Section 1413 of that Act (7 U.S.C. 3128) is amended—

(A) in subsection (a), by striking "or the Advisory Board" and inserting ", the Advisory Board, or the Technology Board";

(B) in subsection (b), by striking "and Advisory Board" and inserting ", the Advisory Board, and the Technology Board"; and

(C) by striking subsection (d) and redesignating subsection (e) as subsection (d).

(3) COORDINATION.—Section 1405(12) of that Act (7 U.S.C. 3121(12)) is amended by inserting ", after coordination with the Technology Board," after "establish".

(4) ANNUAL REPORT OF THE SECRETARY.—Paragraph (2) of section 1410 of that Act (7 U.S.C. 3125) is amended to read as follows:

"(2) the recommendations of the Joint Council developed under section 1407(f), the recommendations of the Advisory Board developed under section 1408(g), and the recommendations of the Technology Board developed under section 1408A(d); and".

(c) CLERICAL AMENDMENTS.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended—

(1) by inserting after the item relating to section 1408 the following new item:

"Sec. 1408A. Agricultural Science and Technology Review Board.";

and

(2) by striking the item relating to section 1412 and inserting the following new item:

"Sec. 1412. Support for the Joint Council, Advisory Board, and Technology Board.".

SEC. 1606. NATIONAL AGRICULTURAL LIBRARY.

(a) IN GENERAL.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1410 the following new section:

7 USC 3125a.

"SEC. 1410A. NATIONAL AGRICULTURAL LIBRARY.

"(a) PURPOSE.—The purpose of this section is to consolidate and expand the statutory authority for the operation of the library of the Department of Agriculture established pursuant to section 520 of the Revised Statutes (7 U.S.C. 2201) as the primary agricultural information resource of the United States.

"(b) ESTABLISHMENT.—There is established in the Department of Agriculture the National Agricultural Library to serve as the primary agricultural information resource of the United States.

"(c) DIRECTOR.—The Secretary shall appoint a Director for the National Agricultural Library who shall be subject to the direction of the Secretary.

"(d) FUNCTIONS OF DIRECTOR.—The Director may—

"(1) acquire, preserve, and manage information and information products and services in all phases of agriculture and allied sciences;

"(2) organize agricultural information and information products and services by cataloging, indexing, bibliographical listing, and other appropriate techniques;

"(3) provide agricultural information and information products and services to agencies of the Department of Agriculture and the Federal Government, public and private organizations, and individuals, within the United States and internationally;

"(4) plan for, coordinate, and evaluate information and library needs related to agricultural research and education;

"(5) cooperate with and coordinate efforts among agricultural college and university libraries, in conjunction with private industry and other agricultural library and information centers, toward the development of a comprehensive agricultural library and information network; and

"(6) coordinate the development of specialized subject information services among the agricultural and library information communities.

"(e) LIBRARY PRODUCTS AND SERVICES.—The Director may—

"(1) make copies of the bibliographies prepared by the National Agricultural Library;

"(2) make microforms and other reproductions of books and other library materials in the Department;

"(3) provide any other library and information products and services; and

"(4) sell those products and services at such prices (not less than the estimated total cost of disseminating the products and services) as the Secretary may determine appropriate.

"(f) RECEIPTS.—Funds received from sales under subsection (e) shall be deposited in the Treasury of the United States to the credit of the applicable appropriation and shall remain available until expended.

"(g) AGREEMENTS.—

"(1) IN GENERAL.—The Director may enter into agreement with, and receive funds from any State, and other political subdivision, organization, business, or individual for the purpose of conducting activities to carry out this section.

"(2) FUNDS.—Funds received under this subsection for payments for library products and services or other activities shall be deposited to the miscellaneous contributed fund account, and shall remain available until expended.

"(h) Authorization of Appropriations.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.".

(b) CONFORMING AMENDMENTS.—

(1) SALES OF COPIES.—The Act of May 23, 1908 (35 Stat. 264, chapter 192; 7 U.S.C. 2242) is amended—

(A) in the second unnumbered paragraph following the heading "LIBRARY.", by striking the second sentence; and

(B) in the second sentence of the second unnumbered paragraph following the heading "OFFICE OF EXPERIMENT STATIONS.", by striking "the Secretary of Agriculture hereafter may furnish" and all that follows through "miscellaneous receipts; and".

(2) SALES OF COPIES.—The Act of March 4, 1915 (38 Stat. 1109, chapter 144; 7 U.S.C. 2242) is amended by striking the eleventh unnumbered paragraph following the heading "STATES RELATIONS SERVICE.".

(3) SALES OF COPIES.—Section 708 of the Act of September 21, 1944 (58 Stat. 742, chapter 412; 7 U.S.C. 2244) is repealed.

(c) CLERICAL AMENDMENT.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1410 the following new item:

"Sec. 1410A. National Agricultural Library.".

SEC. 1607. GRANTS TO ENHANCE RESEARCH CAPACITY IN SCHOOLS OF VETERINARY MEDICINE.

(a) IN GENERAL.—Section 1415 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151) is amended—

Intergovernmental relations.

(1) in subsection (a), by striking the first sentence and inserting the following: "The Secretary shall conduct a program of competitive grants to States for the purpose of meeting the costs of renovation, improving compliance with Federal regulations, employing faculty, acquiring equipment, and taking other action related to the improvement of schools of veterinary medicine to ensure agricultural competitiveness on a worldwide basis.";

(2) in subsection (b)(1), by striking ", or has made a reasonable effort to establish," and by striking the final "and"; and

(3) by amending subsection (b)(2) to read as follows and adding a new subsection (b)(3) as follows:

"(2) the clinical training of the school to be improved shall emphasize care and preventive medical programs for food animals and companion animals (including horses) which support industries of major economic importance; and

"(3) the Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full participation of minority groups in research in the Nation's schools of veterinary medicine.".

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking the section heading and "SEC. 1415. (a)" and inserting the following:

"SEC. 1415. GRANTS TO ENHANCE RESEARCH CAPACITY IN SCHOOLS OF VETERINARY MEDICINE.

"(a) COMPETITIVE GRANT PROGRAM.—";

(2) by inserting "PREFERENCE.—" after "(b)"; and

(3) by inserting "APPORTIONMENT AND DISTRIBUTION OF FUNDS.—" after "(c)".

(b) CLERICAL AMENDMENT.—The item in the table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) relating to section 1415 is amended to read as follows:

"Sec. 1415. Grants to enhance research capacity in schools of veterinary medicine.".

SEC. 1608. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended to read as follows:

"SEC. 1417. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Forests and forest products. Animal welfare.

"(a) HIGHER EDUCATION TEACHING PROGRAMS.—The Secretary shall promote and strengthen higher education in the food and agricultural sciences by formulating and administering programs to enhance college and university teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agricultural system.

"(b) GRANTS.—The Secretary may make competitive grants (or grants without regard to any requirement for competition) to land-grant colleges and universities, to colleges and universities having significant minority enrollments and a demonstrable capacity to carry out the teaching of food and agricultural sciences, and to other colleges and universities having a demonstrable capacity to carry out the teaching of food and agricultural sciences, for a period not to exceed 5 years—

"(1) to strengthen institutional capacities, including curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(2) to attract and support undergraduate and graduate students in order to educate the students in national need areas of the food and agricultural sciences;

"(3) to facilitate cooperative initiatives between two or more eligible institutions, or between eligible institutions and units of State government or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs;

"(4) to design and implement innovative food and agricultural educational programs;

"(5) to conduct undergraduate scholarship programs to meet national and international needs for training food and agricultural scientists and professionals; and

"(6) to conduct graduate and postdoctoral fellowship programs to attract highly promising individuals to research or teaching careers in the food and agricultural sciences.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—To be eligible for a grant under subsection (b), a recipient institution must have a significant demonstrable commitment to higher education teaching programs in the food and agricultural sciences and to each specific subject area for which the grant is to be used.

"(2) MINORITY GROUPS.—The Secretary may set aside a portion of the funds appropriated for the awarding of grants under subsection (b), and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full representation of minority groups in the food and agricultural sciences workforce of the United States.

"(d) EVALUATION OF TEACHING PROGRAMS.—The Secretary shall conduct programs to develop, analyze, and provide to colleges and universities data and information that are essential to the evaluation of the quality of teaching programs and to facilitate the design

of more effective programs comprising the food and agricultural sciences higher education system of the United States.

"(e) CONTINUING EDUCATION.—The Secretary shall conduct special programs with colleges and universities, and with organizations in the private sector, to support educational initiatives to enable food and agricultural scientists and professionals to maintain their knowledge of changing technology, the expanding knowledge base, societal issues, and other factors that impact the skills and competencies needed to maintain the expertise base available to the agricultural system of the United States. The special programs shall include grants and technical assistance.

"(f) TRANSFERS OF FUNDS AND FUNCTIONS.—Funds authorized in section 22 of the Act of June 29, 1935 (49 Stat. 439, chapter 338; 7 U.S.C. 329) are transferred to and shall be administered by the Secretary of Agriculture. There are transferred to the Secretary all the functions and duties of the Secretary of Education under such Act applicable to the activities and programs for which funds are made available under section 22 of such Act.

"(g) NATIONAL FOOD AND AGRICULTURAL SCIENCES TEACHING AWARDS—.

"(1) ESTABLISHMENT.—The Secretary shall establish a National Food and Agricultural Sciences Teaching Awards program to recognize and promote excellence in teaching food and agricultural sciences at a college or university. The Secretary shall make at least one cash award in each fiscal year to a nominee selected by the Secretary for excellence in teaching a food and agricultural science at a college or university.

"(2) FUNDING.—The Secretary may transfer funds from amounts appropriated for the conduct of any agricultural research, extension, or teaching program to an account established pursuant to this section for the purpose of making the awards. The Secretary may accept gifts in accordance with Public Law 95-442 (7 U.S.C. 2269) for the purpose of making the awards.

"(h) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App. 2) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications and proposals for grants or nominations for awards submitted under this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section $60,000,000 for each of the fiscal years 1990 through 1995. Of amounts appropriated to carry out this section for a fiscal year, not less than $10,000,000 shall be used for the national needs graduate fellowship program referred to in subsection (b)(6).".

SEC. 1609. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

(a) GRANTS.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended to read as follows:

"SEC. 1419. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

"(a) AUTHORITY OF SECRETARY.—The Secretary may award grants under this section to colleges, universities, and Federal laboratories for the purpose of conducting research related to—

"(1) alcohol fuels, including ethanol and methanol or their ethers;

"(2) industrial oilseed crops for diesel fuel and petrochemical substitutes;

"(3) other forms of biomass fuels, including gaseous and solid fuels;

"(4) other industrial hydrocarbons made from agricultural commodities and forest products; and

"(5) the development of the most economical and commercially feasible means of producing, collecting, and transporting agricultural crops, wastes, residues, and byproducts for use as feedstocks for the production of alcohol and other forms of biomass energy and the development of new markets for byproducts.

"(b) SET ASIDE OF FUNDS FOR CERTAIN GRANT PROJECTS.—Of the amounts appropriated in any fiscal year pursuant to the authorization contained in subsection (c), not less than 50 percent of those amounts shall be made available for grants for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including—

"(1) processes of cellulose conversion and membrane technology,

"(2) research to improve the quality and value of byproducts to increase digestibility and performance of livestock, poultry, and fish, and

"(3) development of new markets for byproducts.

"(c) MINORITY GROUPS.—The Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full participation of minority groups in research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section $20,000,000 for each of the fiscal years 1991 through 1995.".

(b) CLERICAL AMENDMENT.—The item relating to section 1419 in the table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by striking ", and agricultural chemicals and other products from coal derivatives".

SEC. 1610. FOOD SCIENCE AND NUTRITION RESEARCH CENTER.

(a) GRANT AUTHORIZED.—Subtitle D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171 et seq.) is amended by inserting after section 1423 the following new section:

"SEC. 1424. FOOD SCIENCE AND NUTRITION RESEARCH CENTER. 7 USC 3174.

"(a) ESTABLISHMENT OF CENTER.—The Secretary may award a grant to a research facility described in subsection (b) to establish

not less than one food science and nutrition research center for the Southeast Region of the United States.

"(b) RESEARCH FACILITY DESCRIBED.—The research facility referred to in subsection (a) is a research facility that is part of a land-grant college or university system and, on October 1, 1990, benefits from a dedicated non-Federal nutrition endowment of not less than $100,000,000.

"(c) ADMINISTRATION OF FUNDS.—The Cooperative State Research Service, in consultation with the Agricultural Research Service, shall administer funds appropriated to carry out this section—

"(1) to assure a coordinated approach to human nutrition research; and

"(2) to avoid duplication of research conducted at any research center established under subsection (a) with research conducted at Federal human nutrition research centers.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this section.".

(b) CLERICAL AMENDMENT.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1423 the following new item:

"Sec. 1424. Food science and nutrition research center.".

SEC. 1611. ANIMAL HEALTH AND DISEASE RESEARCH STUDY AND ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

(a) STUDY OF ANIMAL CARE DELIVERY SYSTEM.—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3193) is amended—

(1) by striking the section heading and "SEC. 1431." and inserting the following:

"SEC. 1431. AUTHORIZATION TO THE SECRETARY OF AGRICULTURE.

"(a) AUTHORITY TO COOPERATE WITH, ENCOURAGE, AND ASSIST STATES.—"; and

(2) by adding at the end the following new subsection:

"(b) STUDY OF ANIMAL CARE DELIVERY SYSTEM.—(1) The Secretary shall commission the National Academy of Sciences, working through the Board on Agriculture of the National Research Council, to conduct a study of the delivery system utilized to provide farmers, including small and limited resource farmers, and ranchers with animal care and veterinary medical services, including animal drugs.

"(2) The study required by this subsection shall assess opportunities to—

"(A) improve the flow of information to producers regarding animal husbandry practices, and diagnostic and treatment methods, including the costs and conditions necessary for the effective use of such practices and methods;

"(B) foster achievement of food safety goals; and

"(C) advance the well-being and treatment of farm animals, with particular emphasis on disease prevention strategies.

"(3) The study required by this subsection shall include recommendations for changes in research and extension policies or priorities, food safety programs and policies, and policies and proce-

dures governing the approval, use, and monitoring of animal drugs.".

(b) CHANGES IN ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.—Section 1432 of that Act (7 U.S.C. 3194) is amended—

(1) by striking the section heading and "Sec. 1432(a)." and inserting the following:

"SEC. 1432. ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

"(a) ESTABLISHMENT AND MEMBERSHIP—";

(2) in subsection (a)—

(A) by striking "1990" in the matter preceding the paragraphs and inserting "1995";

(B) by striking "eleven" in the matter preceding the paragraphs and inserting "12";

(C) by striking "Bureau of" in paragraph (4) and inserting "Center for"; and

(D) in paragraph (5)—

(i) by striking "seven" and inserting "eight";

(ii) by striking "and" at the end of subparagraph (B);

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following new subparagraph:

"(C) one person representing an organization concerned with the general protection and well-being of animals, and"; and

(3) by striking subsection (b) and inserting the following new subsection:

"(b) DUTIES.—The Board shall meet at the call of the Secretary, but at least once annually, to consult with and advise the Secretary with respect to the implementation of any animal health and disease research program provided for under this title, under such rules and procedures for conducting business as the Secretary may prescribe.".

SEC. 1612. GRANT PROGRAMS FOR 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

(a) RESIDENT INSTRUCTION.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1445 (7 U.S.C. 3222) the following new section:

"SEC. 1446. RESIDENT INSTRUCTION AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY. 7 USC 3222a.

"(a) PURPOSE.—It is the purpose of this section to promote and strengthen higher education in the food and agricultural sciences at colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University (hereinafter in this section referred to as 'eligible institutions') by formulating and administering programs to enhance teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agriculture production and delivery system.

"(b) GRANTS.—The Secretary shall make competitive grants, or grants without regard to any requirement for competition, to those eligible institutions having a demonstrable capacity to carry out the teaching of food and agricultural sciences.

Education.

"(c) USE OF GRANT FUNDS.—Grants made under subsection (b) shall be used to—

"(1) strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(2) attract and support undergraduate and graduate students in order to educate them in identified areas of national need in the food and agricultural sciences;

"(3) facilitate cooperative initiatives between two or more eligible institutions or between eligible institutions and units of State government, or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs; and

Scholarships and fellowships.

"(4) conduct undergraduate scholarship programs to assist in meeting national needs for training food and agricultural scientists.

"(d) GRANT REQUIREMENTS.—(1) The Secretary shall ensure that each eligible institution, prior to receiving grant funds under subsection (b), shall have a significant demonstrable commitment to higher education programs in the food and agricultural sciences and to each specific subject area for which grant funds under this subsection are to be used.

"(2) The Secretary may require that any grant awarded under this section contain provisions that require funds to be targeted to meet the needs identified in section 1402.

"(e) MINORITY SET-ASIDE.—The Secretary may set aside a portion of the funds appropriated for grants under this section and make such amounts available only for grants to eligible institutions that the Secretary determines have unique capabilities for achieving the objective or full representation of minority groups that are underrepresented in the Nation's food and agricultural sciences work force.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $11,000,000 for each of the fiscal years 1991 through 1995 to carry out this section.".

(b) AGRICULTURAL AND FOOD SCIENCES FACILITIES.—Such Act is further amended by inserting after section 1446 (as added by subsection (a)) the following new section:

7 USC 3222b.

"SEC. 1447. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

"(a) PURPOSE.—It is hereby declared to be the intent of Congress to assist the institutions eligible to receive funds under the Act of August 30, 1890, including Tuskegee University (hereafter referred to in this section as 'eligible institutions') in the acquisition and improvement of agricultural and food sciences facilities and equipment, including libraries, so that the eligible institutions may participate fully in the production of human capital.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Agriculture for the purposes of carrying out the provisions of this section $8,000,000 for each of the

fiscal years 1991 through 1995, and such sums shall remain available until expended.

"(c) USE OF GRANT FUNDS.—Four percent of the sums appropriated pursuant to this section shall be available to the Secretary for administration of this grants program. The remaining funds shall be available for grants to eligible institutions for the purpose of assisting them in the purchase of equipment and land, the planning, construction, alteration, or renovation of buildings to strengthen their capacity in the production of human capital in the food and agricultural sciences and can be used at the discretion of the eligible institutions in the areas of research, extension, and resident instruction or any combination thereof.

"(d) METHOD OF AWARDING GRANTS.—Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary shall determine necessary for carrying out the purposes of this section.

"(e) PROHIBITION OF CERTAIN USES.—Federal funds provided under this section may not be utilized for the payment of any overhead costs of the eligible institutions.

"(f) REGULATIONS.—The Secretary may promulgate such rules and regulations as the Secretary may consider necessary to carry out the provisions of this section.".

(c) NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.—Such Act is further amended by inserting after section 1447 (as added by subsection (b)) the following new section:

"SEC. 1448. NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS. 7 USC 3222c.

"(a) COMPETITIVE GRANTS AUTHORIZED.—The Secretary of Agriculture may make a competitive grant to five national research and training centennial centers located at colleges (or a consortia of such colleges) eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, that—

"(1) have been designated by the Secretary for the fiscal years 1991 through 1995 as national research and training centennial centers; and

"(2) have the best demonstrable capacity, as determined by the Secretary, to provide administrative leadership as—

"(A) a National Center for Goat Research and Training;

"(B) a National Center for Agricultural Engineering Development, Research, and Training;

"(C) a National Center for Water Quality and Agricultural Production Research and Training;

"(D) a National Center for Sustainable Agriculture Research and Training; and

"(E) a National Center for Domestic and International Trade and Development Research and Training.

"(b) USE OF GRANTS.—A grant made under subsection (a) may be expended by a center to—

"(1) pay expenses incurred in conducting research for which the center was designated;

"(2) print and disseminate the results of such research;

"(3) plan, administer, and direct such research; and

"(4) alter or repair buildings necessary to conduct such research.

"(c) PRIORITY.—In making a grant determination under subsection (a), the Secretary shall give priority to those centers that—

"(1) will assure dissemination of information between eligible institutions described in subsection (a) and among agricultural producers; and

"(2) will attract students and needed professionals in the food and agricultural sciences.

"(d) PAYMENTS.—(1) Under the terms of a grant made under subsection (a), funds appropriated under subsection (f) for a fiscal year shall be paid (upon vouchers approved by the Secretary) to a center receiving the grant in equal quarterly installments beginning on or about the first day of October of such year.

"(2) Not later than 60 days after the end of each fiscal year for which funds are paid under this section to a center, the research director of such center shall submit to the Secretary a detailed statement of the disbursements in such fiscal year of funds received by such center under this section.

"(3) If any of the funds received by a center under this section are misapplied, lost, or diminished by any action or contingency on the part of the center—

"(A) the center shall replace such funds; and

"(B) the Secretary shall not distribute to such center any other funds under this subsection until such funds are replaced.

"(e) PROHIBITED USES OF FUNDS.—Funds provided under this section may not be used—

"(1) to acquire or construct a building; or

"(2) to pay the overhead costs of the college (or consortia of colleges) receiving the grant.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of the fiscal years 1991 through 1995 for grants under this section.

"(g) CENTER DEFINED.—For purposes of this section, the term 'center' means a national research and training centennial center that receives a grant under this subsection.

"(h) COORDINATION OF CENTER ACTIVITIES.—(1) The center designated under subsection (a)(2)(C) shall coordinate its activities with the water quality research activities conducted under subtitle G of title XIV of the Food, Agriculture, Conservation, and Trade Act of 1990.

"(2) The center designated under subsection (a)(2)(D) shall coordinate its activities with the sustainable agriculture research and education program established under subtitle B of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990.".

(d) CLERICAL AMENDMENT.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1445 the following new items:

"Sec. 1446. Resident instruction at 1890 land-grant colleges, including Tuskegee University.

"Sec. 1447. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.

"Sec. 1448. National research and training centennial centers.".

SEC. 1613. INTERNATIONAL AGRICULTURAL SCIENCE, EDUCATION, AND DEVELOPMENT AND INTERNATIONAL TRADE DEVELOPMENT CENTERS.

(a) SCIENCE, EDUCATION, AND DEVELOPMENT.—Subsection (a) of section 1458 of the National Agricultural Research, Extension, and

Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended to read as follows:

"(a) AUTHORITY OF THE SECRETARY.—To carry out the policy of this subtitle, the Secretary (in consultation with the Agency for International Development and subject to such coordination with other Federal officials, Departments, and agencies as the President may direct) may—

"(1) expand the operational coordination of the Department of Agriculture with institutions and other persons throughout the world performing agricultural and related research and extension activities by—

"(A) exchanging research materials and results with the institutions or persons; and

"(B) conducting with the institutions or persons joint or coordinated research and extension on problems of significance to food and agriculture in the United States;

"(2) enter into cooperative arrangements with Departments and Ministries of Agriculture in other nations to conduct research, extension, and education activities in support of the development of a viable and sustainable global agricultural system, including efforts to establish a global system for plant genetic resources conservation;

"(3) enter into agreements with land-grant colleges and universities, the Agency for International Development, and international organizations (such as the United Nations, World Bank, regional development banks, the International Agricultural Research Center), or other organizations, institutions or individuals with comparable goals, to promote and support the development of a viable and sustainable global agricultural system.

"(4) further develop within the Department highly qualified and experienced scientists and experts who specialize in international programs, to be available to carry out the activities described in this section;

"(5) work with transitional and more advanced countries in food, agricultural, and related research, development, and extension (including providing technical assistance, training, and advice to persons from the countries engaged in the activities and the stationing of scientists and other specialists at national and international institutions in the countries);

"(6) expand collaboration and coordination with the Agency for International Development regarding food and agricultural research, extension, and education programs in developing countries;

"(7) assist colleges and universities in strengthening their capabilities for food, agricultural, and related research and extension that is relevant to agricultural development activities in other countries through—

"(A) the provision of support to State universities and land-grant colleges and universities to do collaborative research with other countries on issues relevant to United States agricultural competitiveness;

"(B) the provision of support for cooperative extension education in global agriculture and to promote the application of new technology developed in foreign countries to United States agriculture; and

"(C) the provision of support for the internationalization of resident instruction programs of the universities and colleges described in subparagraph (A); and

"(8) establish, in cooperation with the Secretary of State, a program, to be coordinated through the International Arid Land Consortium, to enhance collaboration and cooperation between institutions possessing research capabilities applied to the development, management, and reclamation of arid lands.".

(b) SPECIALIZED OR TECHNICAL SERVICES.—Subsection (c) of section 1458 of that Act (7 U.S.C. 3291) is amended by inserting after "universities" the following: "and other nongovernmental organizations".

(c) INTERNATIONAL TRADE DEVELOPMENT CENTERS.—Section 1458A of that Act (7 U.S.C. 3292) is amended—

(1) in subsection (a)—

(A) by inserting "GRANT PROGRAM.—" after "(a)";

(B) by striking "grants to States" in the first sentence and inserting "grants to States (or regional groupings of States)";

(C) by striking "State funding" in the second sentence and inserting "State or regional funding"; and

(D) by striking "State from" in the second sentence and inserting "State or region from";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) LOCATION AND FUNDING OF CERTAIN CENTERS.—The Secretary shall make determinations regarding the location and funding of international trade development centers established after the date of the enactment of this subsection based on a national plan for agricultural export promotion through international trade development centers. Grants under this section shall be made available on a competitive basis in accordance with such plan."; and

(4) in subsection (c) (as redesignated by paragraph (2))—

(A) by inserting "PREFERENCES.—" after "(c)";

(B) by inserting after "shall" in the matter preceding the paragraphs the following: ", consistent with the plan developed under subsection (b),"; and

(C) by striking "States" and inserting "States (or regional groupings of States)".

(d) STYLISTIC AMENDMENTS.—(1) Section 1458 of that Act (7 U.S.C. 3291) (as amended by subsections (a) and (b)) is further amended—

(A) by striking "Sec. 1458." and inserting the following:

"SEC. 1458. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION.";

(B) by inserting "ENHANCING LINKAGES.—" after "(b)";

(C) by inserting "PROVISION OF SPECIALIZED OR TECHNICAL SERVICES.—" after "(c)".

(2) Section 1458A of that Act (7 U.S.C. 3292) (as amended by subsection (b)) is further amended—

(A) by striking the section heading and "Sec. 1458A." and inserting the following:

"SEC. 1458A. GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS.";

(B) by inserting "ACTIVITIES OF CENTERS.—" after "(d)"; and

(C) by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after "(e)".

SEC. 1614. AQUACULTURE ASSISTANCE PROGRAMS.

(a) FOOD SAFETY; CLOSED-SYSTEM PRODUCTION; AND REPORTS.—Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended—

(1) in subsection (a)—

(A) by inserting "RESEARCH AND EXTENSION PROGRAM.—" after "(a)"; and

(B) by striking "United States," and inserting "United States and to enhance further the safety of food products derived from the aquaculture industry,";

(2) in subsection (b)—

(A) by inserting "GRANTS.—" after "(b)";

(B) by inserting "and sea grant" after "land-grant"; and

(C) by striking the period at the end of the first sentence and inserting "and to enhance further the safety and wholesomeness of those species and products, including the development of reliable supplies of seed stock and therapeutic compounds.";

(3) in subsection (c), by inserting "AQUACULTURE DEVELOPMENT PLANS.—" after "(c)";

(4) in subsection (d)—

(A) by inserting "AQUACULTURAL CENTERS.—" after "(d)";

(B) by striking "four aquacultural research, development, and demonstration centers" in the first sentence and inserting "five aquacultural research, development, and demonstration centers"; and

(C) by adding at the end the following new sentence: "To the extent practicable, the Secretary shall ensure that equitable efforts are made at these centers in addressing the research needs of those segments of the domestic aquaculture industry located within that region."; Research.

(5) in subsection (e)—

(A) by striking "Not later" and all that follows through "subsequent year," and inserting "Reports.—(1) Not later than March 1 of each year,"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary shall, in consultation with the interagency aquaculture coordinating group established under section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)), conduct a study to assess the economic impact of animal damage to the United States aquaculture industry. In conducting such study, the Secretary shall provide for the consideration of all types of animal damage, including predation, that have an impact on aquaculture enterprises, including fish farming. The Secretary shall submit a report detailing the results of such study to the Committee on Agriculture and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than January 1, 1992."; and Animals. Reports.

(6) by adding at the end the following new subsections:

"(f) LISTING OF LAWS ON AQUACULTURE.—The interagency aquaculture coordinating group established under section 6(a) of the National Aquaculture Act of 1980 (16 U.S.C. 2805(a)) shall, in consultation with appropriate Federal and State agencies, compile a listing of Federal and State laws, rules, and regulations materially affecting the production, processing, marketing, and transportation of aquaculturally produced commodities and the products thereof. The interagency aquaculture coordinating group shall make such listing available to the public not later than January 1, 1992, and shall update and revise such listing not later than January 1, 1996, to show such laws, rules, and regulations as in effect on that date.

Public information.

"(g) FISH DISEASE PROGRAM.—The Secretary shall implement, in consultation with the Joint Subcommittee on Aquaculture referred to in section 6 of the National Aquaculture Act of 1980 (16 U.S.C. 2805), a fish disease program to include the development of new diagnostic procedures for fish diseases, the determination of the effect of water environment on the development of the fish immune system, and the development of therapeutic, synthetic, or natural systems, for the control of fish diseases.".

(b) AQUACULTURE RESEARCH FACILITY.—(1) Subtitle L of that Act (7 U.S.C. 3321 et seq.) is amended by inserting after section 1475 the following new section:

7 USC 3323.

"SEC. 1476. AQUACULTURE RESEARCH FACILITIES.

"(a) GRANT AUTHORIZED.—In order to gain further knowledge of intensive water recirculating aquaculture systems, the Secretary may make grants for the purpose of further developing and expanding aquaculture research facilities at Illinois State University in Normal, Illinois, and Virginia Polytechnic Institute and State University in Blacksburg, Virginia, and to conduct such programs as are necessary to do basic and applied research for intensive water recirculating aquaculture systems.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized, in the event the Secretary decides to take action under subsection (a), to be appropriated $500,000 for each of the two facilities for fiscal years 1991 through 1995 to carry out this section.".

(2) The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1475 the following new item:

"Sec. 1476. Aquaculture research facilities.".

(c) PROGRAM EXTENSION AND CONSTRUCTION PROHIBITION.—Section 1477 of that Act (7 U.S.C. 3324) is amended—

(1) by striking "each fiscal year" and all that follows through "1990." and inserting "each of the fiscal years 1991 through 1995."; and

(2) by adding at the end the following new sentence: "Funds appropriated under this section or section 1476 may not be used to acquire or construct a building.".

(d) APPROPRIATIONS FOR AQUACULTURE.—To authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1991, 1992, and 1993, paragraphs (1), (2), and (3) of section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) are amended to read as follows:

"(1) to the Department of Agriculture, $1,000,000 for each of the fiscal years 1991, 1992, and 1993;

"(2) to the Department of Commerce, $1,000,000 for each of the fiscal years 1991, 1992, and 1993; and

"(3) to the Department of Interior, $1,000,000 for each of the fiscal years 1991, 1992, and 1993.".

SEC. 1615. NATIONAL COMPETITIVE RESEARCH INITIATIVE.

(a) INITIATIVE ESTABLISHED.—Subsection (b) of section 2 of Public Law 89-106 (7 U.S.C. 450i) is amended—

(1) by inserting "COMPETITIVE GRANTS.—(1)" after "(b)"; and

(2) by striking the third sentence and all that follows and inserting the following new paragraphs:

"(2) HIGH PRIORITY RESEARCH.—For purposes of this subsection, the term 'high priority research' means basic and applied research that focuses on both national and regional research needs (and methods to transfer such research to onfarm or inmarket practice) in—

"(A) plant systems, including plant genome structure and function; molecular and cellular genetics and plant biotechnology; plant-pest interactions and biocontrol systems; crop plant response to environmental stresses; unproved nutrient qualities of plant products; and new food and industrial uses of plant products;

"(B) animal systems, including aquaculture, cellular and molecular basis of animal reproduction, growth, disease, and health; identification of genes responsible for improved production traits and resistance to disease; improved nutritional performance of animals; and improved nutrient qualities of animal products, and uses, and the development of new and improved animal husbandry and production systems that take into account production efficiency and animal well-being, and animal systems applicable to aquaculture;

"(C) nutrition, food quality, and health, including microbial contaminants and pesticides residues related to human health; links between diet and health; bioavailability of nutrients; postharvest physiology and practices; and improved processing technologies;

"(D) natural resources and the environment, including fundamental structures and functions of ecosystems; biological and physical bases of sustainable production systems; minimizing soil and water losses and sustaining surface water and ground water quality; global climate effects on agriculture; forestry; and biological diversity;

"(E) engineering, products, and processes, including new uses and new products from traditional and non-traditional crops, animals, byproducts, and natural resources; robotics, energy efficiency, computing, and expert systems; new hazard and risk assessment and mitigation measures; and water quality and management; and

"(F) markets, trade, and policy, including optional strategies for entering and being competitive in overseas markets; new decision tools for onfarm and inmarket systems; choices and applications of technology; technology assessment; and new approaches to rural economic development.

"(3) TYPES OF GRANTS.—In addition to making research grants under paragraph (1), the Secretary may conduct a program to improve research capabilities in the agricultural, food, and environ-

mental sciences and award the following categories of competitive grants:

"(A) Grants may be awarded to a single investigator or coinvestigators within the same discipline.

"(B) Grants may be awarded to teams of researchers from different areas of agricultural research and scientific disciplines.

"(C) Grants may be awarded to multidisciplinary teams that are proposing research on long-term applied research problems, with technology transfer a major component of all such grant proposals.

"(D) Grants may be awarded to an institution to allow for the improvement of the research, development, technology transfer, and education capacity of the institution through the acquisition of special research equipment and the improvement of agricultural education and teaching. The Secretary shall use not less than 25 percent, and not more than 40 percent, of the funds made available for grants under this subparagraph to provide fellowships to outstanding pre- and post-doctoral students for research in the agricultural sciences.

Scholarships and fellowships. Students.

"(E) Grants may be awarded to single investigators or coinvestigators who are beginning their research careers and do not have an extensive research publication record. To be eligible for a grant under this subparagraph, an individual shall have less than 5 years of post-graduate research experience.

"(F) Grants may be awarded to ensure that the faculty of small and mid-sized institutions who have not previously been successful in obtaining competitive grants under this subsection receive a portion of the grants.

"(4) TERM.—The term of a competitive grant made under this subsection may not exceed 5 years.

"(5) DIRECTOR.—The Secretary shall appoint a director for the grant program authorized by this subsection. The Secretary, acting through the director, shall be responsible for the overall direction of the grant program and implementation of general policies respecting the management and operation of programs and activities in the program.

Scientists.

"(6) PARTICIPATION IN GRANT PROCESS.—In seeking proposals for grants under this subsection and in performing peer review evaluations of such proposals, the Secretary shall seek the widest participation of qualified scientists in the Federal Government, colleges and universities, State agricultural experiment stations, and the private sector.

"(7) CONSTRUCTION PROHIBITED.—A grant made under paragraph (1) may not be used for any purpose for which a grant may be made under subsection (d) or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

"(8) MATCHING FUNDS.—(A) Except as provided in subparagraph (B), the Secretary may not take the offer or availability of matching funds into consideration in making a grant under this subsection.

"(B) In the case of grants under paragraph (3)(D), the amount provided under this subsection may not exceed 50 percent of the cost the special research equipment or other equipment acquired.

"(9) ANNUAL REPORT.—The Secretary shall transmit to Congress an annual report describing the policies, priorities, and operations of the grant program authorized by this subsection during the preceding fiscal year. The report shall—

"(A) include a description of the progress being made to comply with subsection (j); and

"(B) be transmitted not later than January 1 of each year.

"(10) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $150,000,000 for fiscal year 1991, $275,000,000 for fiscal year 1992, $350,000,000 for fiscal year 1993, and $400,000,000 for fiscal year 1994, and $500,000,000 for fiscal year 1995, of which each fiscal year—

"(A) not less than 10 percent for fiscal year 1991, 20 percent for fiscal year 1992, and 30 percent for fiscal year 1993 and each fiscal year thereafter shall be available to make grants for research to be conducted by multidisciplinary teams;

"(B) not less than 20 percent shall be available to make grants for research to be conducted by persons conducting mission-linked systems research;

"(C) not less than 10 percent shall be available to make grants under subparagraphs (D) and (F) of paragraph (3) for awarding grants in research and education strengthening and research opportunity;

"(D) not more than two percent may be used for equipment grants under subparagraph (3)(D); and

"(E) not more than four percent may be retained by the Secretary to pay administrative costs incurred by the Secretary in carrying out this subsection.".

(b) ADMINISTRATIVE PROVISIONS.—Such section is further amended by adding at the end the following new subsections: 7 USC 450i.

"(j) EMPHASIS ON SUSTAINABLE AGRICULTURE.—The Secretary of Agriculture shall ensure that grants made under subsections (b) and (c) are, where appropriate, consistent with the development of systems of sustainable agriculture. For purposes of this section, the term 'sustainable agriculture' has the meaning given that term in section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17)).

"(k) REPORTS.—The Secretary of Agriculture shall prepare and submit to Congress on January 1 of each year a report on awards made under subsections (b) and (c) during the previous fiscal year.

"(l) CONSULTATION WITH TECHNOLOGY BOARD.—The Secretary of Agriculture may consult with the Agricultural Science and Technology Review Board regarding the policies, priorities, and operation of subsections (b) and (c).".

(c) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking "SEC. 2. (a)" and inserting the following:

"SEC. 2. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

"(a) ESTABLISHMENT OF GRANT PROGRAM.—";

(2) in subsection (d), by inserting "FACILITIES GRANTS.—" after "(d)";

(3) in subsection (e), by inserting "RECORD KEEPING.—" after "(e)";

(4) in subsection (f), by inserting "LIMITS ON OVERHEAD COSTS.—" after "(f)";

(5) in subsection (g), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after "(g)";

(6) in subsection (h), by inserting "RULES.—" after "(h)"; and

(7) in subsection (i), by inserting "APPLICATION OF OTHER LAWS.—" after "(i)".

SEC. 1616. SPECIAL RESEARCH GRANTS.

Subsection (c) of section 2 of the Act of August 4, 1965 (7 U.S.C. 450i), is amended to read as follows:

"(c) SPECIAL GRANTS.—(1) The Secretary of Agriculture may make grants, for periods not to exceed 5 years—

"(A) to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States; and

"(B) to State agricultural experiment stations, land-grant colleges and universities, research foundations established by land-grant colleges and universities, colleges and universities receiving funds under the Act of October 10, 1962 (16 U.S.C. 582a et seq.), and accredited schools or colleges of veterinary medicine for the purpose of facilitating or expanding ongoing State-Federal food and agricultural research programs that—

"(i) promote excellence in research on a regional and national level;

"(ii) promote the development of regional research centers;

"(iii) promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and

"(iv) facilitate coordination and cooperation of research among States through regional research grants.

"(2) LIMITATIONS.—The Secretary may not make a grant under this subsection—

"(A) for any purpose for which a grant may be made under subsection (d); or

"(B) for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

"(3) MATCHING FUNDS.—Grants made under this subsection shall be made without regard to matching funds.

"(4) SET ASIDES.—Of amounts appropriated for a fiscal year to carry out this subsection—

"(A) ninety percent of such amounts shall be used for grants for regional research projects; and

"(B) four percent of such amounts may be retained by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection.".

SEC. 1617. MINIMIZATION OF CONFLICTS OF INTEREST OF EMPLOYEES OF COLLEGES RECEIVING FUNDS UNDER THE SMITH-LEVER ACT.

Section 4 of the Act of May 8, 1914 (commonly known as the Smith-Lever Act) (7 U.S.C. 344), is amended by inserting after the second sentence the following: "The Secretary shall ensure that each college seeking to receive funds under this Act has in place appropriate guidelines, as determined by the Secretary, to minimize actual or potential conflicts of interest among employees of such college whose salaries are funded in whole or in part with such funds.".

SEC. 1618. AGRICULTURAL EXPERIMENT STATIONS AND TRANSPORTATION OF VIRUS OF FOOT-AND-MOUTH DISEASE.

(a) REAPPORTIONMENT OF WITHHELD ALLOTMENTS FOR AGRICULTURAL EXPERIMENT STATIONS.—Section 3(d) of the Act of March 2, 1887 (7 U.S.C. 361c(d)) is amended by inserting before the period at the end the following: "and reapportioned among the States".

(b) CERTAIN TRANSPORTATION AUTHORIZED UNDER ADEQUATE SAFEGUARDS.—The proviso in the first sentence in section 12 of the Act of May 29, 1884 (21 U.S.C. 113a) is amended—

(1) by striking "United States except" and inserting "United States (except"; and

(2) by striking "tunnel, and" and inserting the following: "tunnel) unless the Secretary determines that it is necessary and in the public interest for the conduct of research and study in the United States (except at Brookhaven National Laboratory in Upton, New York) and issues a permit under such rules as the Secretary shall promulgate to protect animal health,". Regulations.

Subtitle B—Sustainable Agriculture Research and Education

Natural resources. Fish. Wildlife. Water resources. Safety. Employment. Animals. 7 USC 5801.

SEC. 1619. PURPOSE AND DEFINITIONS.

(a) PURPOSE.—It is the purpose of this subtitle to encourage research designed to increase our knowledge concerning agricultural production systems that—

(1) maintain and enhance the quality and productivity of the soil;

(2) conserve soil, water, energy, natural resources, and fish and wildlife habitat;

(3) maintain and enhance the quality of surface and ground water;

(4) protect the health and safety of persons involved in the food and farm system;

(5) promote the well being of animals; and

(6) increase employment opportunities in agriculture.

(b) DEFINITIONS.—For purposes of this subtitle:

(1) The term "sustainable agriculture" shall have the same meaning given to that term by section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17)).

(2) The term "integrated crop management" means an agricultural management system that integrates all controllable agricultural production factors for long-term sustained productivity, profitability, and ecological soundness.

(3) The term "integrated resource management" means livestock management which utilizes an interdisciplinary systems approach which integrates all controllable agricultural production practices to provide long-term sustained productivity and profitable production of safe and wholesome food in an environmentally sound manner.

(4) The term "agribusiness" includes a producer or organization engaged in an agricultural enterprise with a profit motive.

(5) The term "extension" shall have the same meaning given to that term by section 1404(7) of the National Agricultural

Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7)).

(6) The term "Secretary" means the Secretary of Agriculture.

(7) The term "Advisory Council" means the National Sustainable Agriculture Advisory Council established under section 1622(c).

(8) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Marianas Islands, the Trust Territory of the Pacific Islands, or federally recognized Indian tribes.

(9) The term "State agricultural experiment stations" shall have the same meaning given to that term by section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(13)).

(10) The term "nonprofit organization" means an organization, group, institute, or institution that—

(A) has a demonstrated capacity to conduct agricultural research or education programs;

(B) has experience in research, demonstration, education, or extension in sustainable agricultural practices and systems; and

(C) qualifies as a nonprofit organization under section 501(c) of the Internal Revenue Code of 1986.

SEC. 1620. REPEAL OF AGRICULTURAL PRODUCTIVITY RESEARCH.

(a) REPEAL.—Subtitle C (sections 1461 through 1471) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (7 U.S.C. 4701–4710) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1354) is amended by striking the items relating to subtitle C of title XIV.

CHAPTER 1—BEST UTILIZATION OF BIOLOGICAL APPLICATIONS

7 USC 5811.

SEC. 1621. RESEARCH AND EXTENSION PROJECTS.

(a) PROJECTS REQUIRED.—The Secretary shall conduct research and extension projects to obtain data, develop conclusions, demonstrate technologies, and conduct educational programs that promote the purposes of this chapter, including research and extension projects that—

(1) facilitate and increase scientific investigation and education in order to—

(A) reduce, to the extent feasible and practicable, the use of chemical pesticides, fertilizers, and toxic natural materials in agricultural production;

(B) improve low-input farm management to enhance agricultural productivity, profitability, and competitiveness; and

(C) promote crop, livestock, and enterprise diversification; and

(2) facilitate the conduct of projects in order to—

(A) study, to the extent practicable, agricultural production systems that are located in areas that possess various soil, climate, and physical characteristics;

(B) study farms that have been, and will continue to be, managed using farm production practices that rely on low-input and conservation practices;

(C) take advantage of the experience and expertise of farmers and ranchers through their direct participation and leadership in projects;

(D) transfer practical, reliable and timely information to farmers and ranchers concerning low-input sustainable farming practices and systems; and

(E) promote a partnership between farmers, nonprofit organizations, agribusiness, and public and private research and extension institutions.

(b) AGREEMENTS.—The Secretary shall carry out this section through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities.

Colleges and universities. Nonprofit organizations. Inter-governmental relations.

(c) SELECTION OF PROJECTS.—

(1) IN GENERAL.—The Secretary shall select research and extension projects to be conducted under this section on the basis of—

(A) the recommendations of the Advisory Council;

(B) the relevance of the project to the purposes of this chapter;

(C) the appropriateness of the design of the project;

(D) the likelihood of obtaining the objectives of the project; and

(E) the national or regional applicability of the findings and outcomes of the proposed project.

(2) PRIORITY.—In conducting projects under this section, the Secretary shall give priority to projects that—

(A) are recommended by the Advisory Council;

(B) closely coordinate research and extension activities;

(C) indicate the manner in which the findings of the project will be made readily usable by farmers;

(D) maximize the involvement and cooperation of farmers, including projects involving on-farm research and demonstration;

(E) involve a multidisciplinary systems approach; and

(F) involve cooperation between farms, non-profit organizations, colleges and universities, and government agencies.

(d) DIVERSIFICATION OF RESEARCH.—The Secretary shall conduct projects and studies under this section in areas that are broadly representative of the diversity of United States agricultural production, including production on family farms, mixed-crop livestock farms and dairy operations.

(e) ON-FARM RESEARCH.—The Secretary may conduct projects and activities that involve on-farm research and demonstration in carrying out this section.

(f) IMPACT STUDIES.—The Secretary may approve study projects concerning the national and regional economic, global competitiveness, social and environmental implications of the adoption of low-input sustainable agricultural practices and systems.

(g) PROJECT DURATION.—

(1) IN GENERAL.—The Secretary may approve projects to be conducted under this section that have a duration of more than one fiscal year.

(2) SEQUENCE PLANTING.—In the case of a research project conducted under this section that involves the planting of a sequence of crops or crop rotations, the Secretary shall approve such projects for a term that is appropriate to the sequence or rotation being studied.

(h) PUBLIC ACCESS.—The Secretary shall ensure that research projects conducted under this section are open for public observation at specified times.

(i) INDEMNIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may indemnify the operator of a project conducted under this section for damage incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under such project that is not experienced in normal farming operations.

(2) SUBJECT TO AGREEMENT.—An indemnity payment under paragraph (1) shall be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project.

7 USC 5812.

SEC. 1622. PROGRAM ADMINISTRATION.

(a) DUTIES OF SECRETARY.—The Secretary shall—

(1) administer the programs and projects conducted under sections 1621 and 1623 through the Cooperative State Research Service in close cooperation with the Extension Service, Agricultural Research Service, and other appropriate agencies;

(2) establish the Advisory Council in accordance with subsection (c);

(3) establish a minimum of four Regional Administrative Councils in accordance with subsection (e); and

(4) in conjunction with such Regional Administrative Councils, identify regional host institutions required to carry out such programs or projects.

(b) REPORTS.—The Secretary shall, not later than April 1, 1991, and each April 1 thereafter, prepare and submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Advisory Council—

(1) a report describing the results of the programs carried out under sections 1621, 1623, and 1627; and

(2) a report describing the progress of projects conducted under this subtitle, including—

(A) a summary and analysis of data collected under such projects;

(B) recommendations based on such data for new basic or applied research;

(C) the number, length, and type of projects proposed, funded and carried out, by region; and

(D) the national and regional economic, social, and environmental implications of the adoption of practices developed under this subtitle and section 1650.

(c) NATIONAL SUSTAINABLE AGRICULTURE ADVISORY COUNCIL.—The membership of the National Sustainable Agriculture Advisory Council shall include representatives of—

(1) the Agricultural Research Service;

(2) the Cooperative State Research Service;
(3) the Soil Conservation Service;
(4) the Extension Service;
(5) State cooperative extension services;
(6) State agricultural experiment stations;
(7) the Economic Research Service;
(8) the National Agricultural Library;
(9) the Environmental Protection Agency;
(10) the Farmers Home Administration;
(11) the Board on Agriculture of the National Academy of Sciences;
(12) private nonprofit organizations with demonstrable expertise;
(13) farmers utilizing systems and practices of sustainable agriculture;
(14) the United States Geological Survey;
(15) agribusiness; and
(16) other specialists in agricultural research or technology transfer, including individuals from colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, or other colleges or universities with demonstrable expertise.

(d) RESPONSIBILITIES OF ADVISORY COUNCIL.—The Advisory Council shall—

(A) make recommendations to the Secretary concerning research and extension projects that should receive funding under sections 1621 and 1623;
(B) promote the programs established under this chapter at the national level;
(C) coordinate research and extension activities funded under such programs;
(D) establish general procedures for awarding and administering funds under this chapter;
(E) consider recommendations for improving such programs;
(F) facilitate cooperation and integration between sustainable agriculture, national water quality, integrated pest management, food safety, and other related programs; and
(G) prepare and submit an annual report concerning its activities to the Secretary. Reports.

(e) REGIONAL ADMINISTRATIVE COUNCILS.—

(1) MEMBERSHIP.—The membership of the Regional Administrative Councils shall include representatives of—

(A) the Agricultural Research Service;
(B) the Cooperative State Research Service;
(C) the Extension Service;
(D) State cooperative extension services;
(E) State agricultural experiment stations;
(F) the Soil Conservation Service;
(G) State departments engaged in sustainable agriculture programs;
(H) nonprofit organizations with demonstrable expertise;
(I) farmers utilizing systems and practices of sustainable agriculture;
(J) agribusiness;
(K) the State or United States Geological Survey; and

(L) other persons knowledgeable about sustainable agriculture and its impact on the environment and rural communities.

(2) RESPONSIBILITIES.—The Regional Administrative Councils shall—

(A) make recommendations to the Advisory Council concerning research and extension projects that merit funding under sections 1621 and 1623;

(B) promote the programs established under this subtitle at the regional level;

(C) establish goals and criteria for the selection of projects authorized under this subtitle within the applicable region;

(D) appoint a technical committee to evaluate the proposals for projects to be considered under this subtitle by such council;

(E) review and act on the recommendations of the technical committee, and coordinate its activities with the regional host institution; and

Reports. (F) prepare and make available an annual report concerning projects funded under sections 1621 and 1623, together with an evaluation of the project activity.

(3) CONFLICT OF INTEREST.—A member of the Regional Administrative Council or a technical committee may not participate in the discussion or recommendation of proposed projects if the member has or had a professional or business interest in, including the provision of consultancy services, the organization whose grant application is under review.

7 USC 5813. **SEC. 1623. FEDERAL-STATE MATCHING GRANT PROGRAM.**

(a) ESTABLISHMENT.—The Secretary shall establish a Federal-State matching grant program to make grants to States to assist in the creation or enhancement of State sustainable agriculture research, extension, and education programs, in furtherance of this subtitle.

(b) ELIGIBLE PROGRAMS AND ACTIVITIES.—States eligible to receive a grant under this section may conduct a variety of activities designed to carry out the purpose of this subtitle, including—

(1) activities that encourage the incorporation and integration of sustainable agriculture concerns in all State research, extension, and education projects;

(2) educational programs for farmers, educators, and the public;

(3) the development and funding of innovative research, extension, and education programs regarding sustainable agriculture;

(4) the conduct of research and demonstration projects;

(5) the provision of technical assistance to farmers and ranchers;

(6) activities that encourage farmer-to-farmer information exchanges;

(7) the incorporation of sustainable agriculture studies in undergraduate and graduate degree programs; and

(8) such other activities that are appropriate to the agricultural concerns of the State that are consistent with the purpose of this chapter.

(c) SUBMISSION OF PLAN.—

(1) REQUIRED.—States that elect to apply for a grant under this section shall prepare and submit, to the appropriate Re-

gional Administrative Council established under section 1622, a State plan and schedule for approval by such council and the Secretary.

(2) ELEMENTS OF PLAN.—State plans prepared under paragraph (1) shall provide details of the proposed program to be implemented using funds provided under this section for fiscal years 1991 through 1995, or any 5-year period thereafter, and shall identify the sources of matching State funds for the same fiscal year.

(3) PARTICIPATION OF FARMERS.—To be eligible for approval, State plans submitted under this subsection shall demonstrate that there will be extensive and direct participation of farmers in the development, implementation, and evaluation of the program.

(d) GRANT AWARD.—

(1) LIMITS.—Subject to paragraph (2), the Secretary shall provide grants to eligible States in an amount not to exceed 50 percent of the cost of the establishment or enhancement of a State sustainable agriculture program under a plan approved by the Secretary under subsection (c) for a period not to exceed 5 years.

(2) STATE CONTRIBUTION.—To be eligible to receive a grant under this section, a State shall agree to pay, from State appropriated funds, other State revenue, or from private contributions received by the State, not less than 50 percent of the cost of the establishment or enhancement of the sustainable agriculture program under an approved plan under subsection (c).

SEC. 1624. AUTHORIZATION OF APPROPRIATIONS. 7 USC 5814.

There are authorized to be appropriated $40,000,000 for each fiscal year to carry out this chapter. Of amounts appropriated to carry out this chapter for a fiscal year, not less than $15,000,000, or not less than two thirds of any such appropriation, whichever is greater, shall be used to carry out sections 1621 and 1623.

CHAPTER 2—INTEGRATED MANAGEMENT SYSTEMS

Livestock.

SEC. 1627. INTEGRATED MANAGEMENT SYSTEMS. 7 USC 5821.

(a) ESTABLISHMENT.—The Secretary shall establish a research and education program concerning integrated resource management and integrated crop management in order to enhance research related to farming operations, practices, and systems that optimize crop and livestock production potential and are environmentally sound. The purpose of the program shall be—

(1) to encourage producers to adopt integrated crop and livestock management practices and systems that minimize or abate adverse environmental impacts, reduce soil erosion and loss of water and nutrients, enhance the efficient use of on-farm and off-farm inputs, and maintain or increase profitability and long-term productivity;

(2) to develop knowledge and information on integrated crop and livestock management systems and practices to assist agricultural producers in the adoption of these systems and practices;

(3) to accumulate and analyze information on agricultural production practices researched or developed under programs

established under this subtitle, subtitle G of title XIV, and section 1650 and other appropriate programs of the Department of Agriculture to further the development of integrated crop and livestock management systems;

(4) to facilitate the adoption of whole-farm integrated crop and livestock management systems through demonstration projects on individual farms, including small and limited resource farms, throughout the United States; and

(5) to evaluate and recommend appropriate integrated crop and livestock management policies and programs.

(b) DEVELOPMENT AND ADOPTION OF INTEGRATED CROP MANAGEMENT PRACTICES.—The Secretary shall encourage agricultural producers to adopt and develop individual, site-specific integrated crop management practices. On a priority basis, the Secretary shall develop and disseminate information on integrated crop management systems for agricultural producers in specific localities or crop producing regions where the Secretary determines—

(1) water quality is impaired as a result of local or regional agricultural production practices; or

(2) the adoption of such practices may aid in the recovery of endangered or threatened species.

(c) DEVELOPMENT AND ADOPTION OF INTEGRATED RESOURCE MANAGEMENT PRACTICES.—The Secretary shall, on a priority basis, develop programs to encourage livestock producers to develop and adopt individual, site-specific integrated resource management practices. These programs shall be designed to benefit producers and consumers through—

(1) optimum use of available resources and improved production and financial efficiency for producers;

(2) identifying and prioritizing the research and educational needs of the livestock industry relating to production and financial efficiency, competitiveness, environmental stability, and food safety; and

(3) utilizing an interdisciplinary approach.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year $20,000,000 to carry out this section through the Extension Service.

CHAPTER 3—SUSTAINABLE AGRICULTURE TECHNOLOGY DEVELOPMENT AND TRANSFER PROGRAM

7 USC 5831.

SEC. 1628. TECHNICAL GUIDES AND HANDBOOKS.

(a) DEVELOPMENT.—Not later than two years after the date of the enactment of this Act, the Secretary shall develop and make available handbooks and technical guides, and any other educational materials that are appropriate for describing sustainable agriculture production systems and practices, as researched and developed under this subtitle, subtitle G of title XIV, section 1650, and other appropriate research programs of the Department.

(b) CONSULTATION AND COORDINATION.—The Secretary shall develop the handbooks, technical guides, and educational materials in consultation with the Advisory Council, the Soil Conservation Service, and any other appropriate entities designated by the Secretary. The Secretary shall coordinate activities conducted under this section with those conducted under section 1261 of the Food Security Act of 1985, as added by section 1446.

(c) TOPICS OF HANDBOOKS AND GUIDES.—The handbooks and guides, and other education materials, shall include detailed information on the selection of crops and crop-plant varieties, rotation practices, soil building practices, tillage systems, nutrient management, integrated pest management practices, habitat protection, pest, weed, and disease management, livestock management, soil, water, and energy conservation, and any other practices in accordance with or in furtherance of the purpose of this subtitle.

(d) ORGANIZATION AND CONTENTS.—The handbooks and guides, and other educational materials, shall provide practical instructions and be organized in such a manner as to enable agricultural producers desiring to implement the practices and systems developed under this subtitle, subtitle G of title XIV, section 1650, and other appropriate research programs of the Department to address site-specific, environmental and resource management problems and to sustain farm profitability, including—

(1) enhancing and maintaining the fertility, productivity, and conservation of farmland and ranch soils, ranges, pastures, and wildlife;

(2) maximizing the efficient and effective use of agricultural inputs;

(3) protecting or enhancing the quality of water resources; or

(4) optimizing the use of on-farm and nonrenewable resources.

(e) AVAILABILITY.—The Secretary shall ensure that handbooks and technical guides, and other educational materials are made available to the agricultural community and the public through colleges and universities, the State Cooperative Extension Service, the Soil Conservation Service, other State and Federal agencies, and any other appropriate entities. Public information.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1629. NATIONAL TRAINING PROGRAM. 7 USC 5832.

(a) IN GENERAL.—The Secretary shall establish a National Training Program in Sustainable Agriculture to provide education and training for Cooperative Extension Service agents and other professionals involved in the education and transfer of technical information concerning sustainable agriculture in order to develop their understanding, competence, and ability to teach and communicate the concepts of sustainable agriculture to Cooperative Extension Service agents and to farmers and urban residents who need information on sustainable agriculture.

(b) ADMINISTRATION.—The National Training Program shall be organized and administered by the Extension Service, in coordination with other appropriate Federal agencies. The Secretary shall designate an individual from the Cooperative Extension Service in each State to coordinate the National Training Program within that State. The coordinators shall be responsible, in cooperation with appropriate Federal and State agencies, for developing and implementing a statewide training program for appropriate field office personnel.

(c) REQUIRED TRAINING.—

(1) AGRICULTURAL AGENTS.—The Secretary shall insure that all agricultural agents of the Cooperative Extension Service have completed the National Training Program not later than the end of the five-year period beginning on the date of enact-

ment of this Act. Such training may occur at a college or university located within each State as designated by the coordinator designated under this section.

(2) PROOF OF TRAINING.—Beginning three years after the date of enactment of this Act, the Secretary shall ensure that all new Cooperative Extension Service agents employed by such Service are able to demonstrate, not later than 18 months after the employment of such agents, that such agents have completed the training program established in subsection (a).

(d) REGIONAL TRAINING CENTERS.—

(1) DESIGNATION.—The Secretary shall designate not less than two regional training centers to coordinate and administer educational activities in sustainable agriculture as provided for in this section.

(2) TRAINING PROGRAM.—Such centers shall offer intensive instructional programs involving classroom and field training work for extension specialists and other individuals who are required to transmit technical information.

(3) PROHIBITION ON CONSTRUCTION.—Such centers shall be located at existing facilities, and no funds appropriated to carry out this chapter shall be used for facility construction.

(4) ADMINISTRATION.—Such centers should be administered by entities that have a demonstrated capability relating to sustainable agriculture. The Secretary should consider utilizing existing entities with expertise in sustainable agriculture to assist in the design and implementation of the training program under paragraph (2).

(5) COORDINATION OF RESOURCES.—Such centers shall make use of information generated by the Department of Agriculture and the State agricultural experiment stations, and the practical experience of farmers, especially those cooperating in on-farm demonstrations and research projects, in carrying out the functions of such centers.

Colleges and universities.

(e) COMPETITIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall establish a competitive grants program to award grants to organizations, including land-grant colleges and universities, to carry out sustainable agricultural training for county agents and other individuals that need basic information concerning sustainable agriculture practices.

(2) SHORT COURSES.—The purpose of the grants made available under paragraph (1) shall be to establish, in various regions in the United States, training programs that consist of workshops and short courses designed to familiarize participants with the concepts and importance of sustainable agriculture.

(f) REGIONAL SPECIALISTS.—To assist county agents and farmers implement production practices developed under this subtitle, subtitle G of title XIV, section 1650, and other appropriate research programs of the Department, regional sustainable agriculture specialists may be designated within each State who shall report to the State coordinator of that State. The specialists shall be responsible for developing and coordinating local dissemination of sustainable agriculture information in a manner that is useful to farmers in the region.

Public information.

Intergovernmental relations.

(g) INFORMATION AVAILABILITY.—The Cooperative Extension Service within each State shall transfer information developed under this subtitle, subtitle G of title XIV, section 1650, and other appro-

priate research programs of the Department through a program that shall—

(1) assist in developing farmer-to-farmer information exchange networks to enable farmers making transitions to more sustainable farming systems to share ideas and draw on the experiences of other farmers;

(2) help coordinate and publicize a regular series of sustainable agriculture farm tours and field days within each State;

(3) plan for extension programming, including extensive farmer input and feedback, in the design of new and ongoing research endeavors related to sustainable agriculture;

(4) provide technical assistance to individual farmers in the design and implementation of farm management plans and strategies for making a transition to more sustainable agricultural systems;

(5) consult and work closely with the Soil Conservation Service and the Agricultural Stabilization and Conservation Service in carrying out the information, technical assistance, and related programs;

(6) develop, coordinate, and direct special education and outreach programs in areas highly susceptible to groundwater contamination, linking sustainable agriculture information with water quality improvement information;

(7) develop information sources relating to crop diversification, alternative crops, on-farm food or commodity processing, and on-farm energy generation;

(8) establish a well-water testing program designed to provide those persons dependent upon underground drinking water supplies with an understanding of the need for regular water testing, information on sources of testing, and an understanding of how to interpret test results and provide for the protection of underground water supplies;

(9) provide specific information on water quality practices developed through the research programs in subtitle G of title XIV;

(10) provide specific information on nutrient management practices developed through the research programs in subtitle G of title XIV; and

(11) provide information concerning whole-farm management systems integrating research results under this subtitle, subtitle G of title XIV, section 1650, and other appropriate research programs of the Department.

(h) DEFINITION.—For purposes of this section, the term "appropriate field office personnel" includes employees of the Extension Service, Soil Conservation Service, and other appropriate Department of Agriculture personnel, as determined by the Secretary, whose activities involve the provision of agricultural production and conservation information to agricultural producers.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for each fiscal year to carry out the National Training Program.

Subtitle C—National Genetics Resources Program

7 USC 5841.

SEC. 1632. ESTABLISHMENT, PURPOSE, AND FUNCTIONS OF THE NATIONAL GENETIC RESOURCES PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall provide for a National Genetic Resources Program.

(b) PURPOSE.—The program is established for the purpose of maintaining and enhancing a program providing for the collection, preservation, and dissemination of genetic material of importance to American food and agriculture production.

(c) ADMINISTRATION.—The program shall be administered by the Secretary through the Agricultural Research Service.

(d) FUNCTIONS.—The Secretary, acting through the program, shall—

(1) provide for the collection, classification, preservation, and dissemination of genetic material of importance to the food and agriculture sectors of the United States;

(2) conduct research on the genetic materials collected and on methods for storage and preservation of those materials;

(3) coordinate the activities of the program with similar activities occurring domestically;

(4) make available upon request, without charge and without regard to the country from which such request originates, the genetic material which the program assembles;

(5) expand the types of genetic resources included in the program to develop a comprehensive genetic resources program which includes plants (including silvicultural species), animal, aquatic, insect, microbiological, and other types of genetic resources of importance to food and agriculture, as resources permit; and

(6) engage in such other activities as the Secretary determines appropriate and as the resources of the program permit.

7 USC 5842.

SEC. 1633. APPOINTMENT AND AUTHORITY OF DIRECTOR.

(a) DIRECTOR.—There shall be at the head of the program an official to be known as the Director of the National Genetic Resources program who shall be appointed by the Secretary. The Director shall perform such duties as are assigned to the Director by this subtitle and such other duties as the Secretary may prescribe.

(b) ADMINISTRATIVE AUTHORITY.—In carrying out this subtitle, the Secretary, acting through the Director—

(1) shall be responsible for the overall direction of the program and for the establishment and implementation of general policies respecting the management and operation of activities within the program;

(2) may secure for the program consultation services and advice of persons from the United States and abroad;

(3) may accept voluntary and uncompensated services; and

(4) may perform such other administrative functions as the Secretary determines are needed to effectively carry out this subtitle.

(c) DUTIES.—The Director shall—

(1) advise participants on the program activities;

(2) coordinate, review and facilitate the systematic identification and evaluation of, relevant information generated under the program;

(3) promote the effective transfer of the information described in paragraph (2) to the agriculture and food production community and to entities that require such information; and

(4) monitor the effectiveness of the activities described in paragraph (3).

(d) BIENNIAL REPORTS.—The Director shall prepare and transmit to the Secretary and to the Congress a biennial report containing—

(1) a description of the activities carried out by and through the program and the policies of the program, and such recommendations respecting such activities and policies as the Director considers to be appropriate;

(2) a description of the necessity for, and progress achieved toward providing, additional programs and activities designed to include the range of genetic resources described in section 1632(d)(5) in the activities of the program; and

(3) an assessment of events and activities occurring internationally as they relate to the activities and policies of the program.

(e) INITIAL REPORTS.—Not later than one year after the date of the enactment of this Act, the Director shall transmit to the Secretary and to the Congress a report—

(1) describing the projected needs over a 10-year period in each of the areas of genetic resources described in section 1632(d)(5), including the identification of existing components of a comprehensive program, policies and activities needed to coordinate those components, and additional elements not in existence which are required for the development of a comprehensive genetic resources program as described in such section;

(2) assessing the international efforts and activities related to the program, and their effect upon and coordination with the program; and

(3) evaluating the potential effect of various national laws, including national quarantine requirements, as well as treaties, agreements, and the activities of international organizations on the development of a comprehensive international system for the collection and maintenance of genetic resources of importance to agriculture.

SEC. 1634. ADVISORY COUNCIL. 7 USC 5843.

(a) ESTABLISHMENT AND MEMBERSHIP.—The Secretary shall establish an advisory council for the program for the purpose of advising, assisting, consulting with, and making recommendations to, the Secretary and Director concerning matters related to the activities, policies and operations of the program. The advisory council shall consist of ex officio members and not more than nine members appointed by the Secretary.

(b) EX OFFICIO MEMBERS.—The ex officio members of the advisory council shall consist of the following persons (or their designees):

(1) The Director.

(2) The Assistant Secretary of Agriculture for Science and Education.

(3) The Director of the National Agricultural Library.

(4) The Director of the National Institutes of Health.

(5) The Director of the National Science Foundation.
(6) The Secretary of Energy.
(7) The Director of the Office of Science and Technology Policy.
(8) Such additional officers and employees of the United States as the Secretary determines are necessary for the advisory council to effectively carry out its functions.

(c) APPOINTMENT OF OTHER MEMBERS.—The members of the advisory council who are not ex officio members shall be appointed by the Secretary as follows:

(1) Two-thirds of the members shall be appointed from among the leading representatives of the scientific disciplines relevant to the activities of the program, including agricultural sciences, environmental sciences, natural resource sciences, health sciences, and nutritional sciences.

(2) One-third of the members shall be appointed from the general public and shall include leaders in fields of public policy, trade, international development, law, or management.

(d) COMPENSATION.—Members of the advisory council shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services for the advisory council, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

(e) TERM OF OFFICE OF APPOINTEES; VACANCIES.—

(1) TERM.—The term of office of a member appointed under subsection (c) is four years, except that any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(2) INITIAL APPOINTMENT.—The Secretary shall make appointments to the advisory council so as to ensure that the terms of the members appointed under subsection (c) do not all expire in the same year. A member may serve after the expiration of the member's term until a successor takes office.

(3) REAPPOINTMENT.—A member who is appointed for a term of four years may not be reappointed to the advisory council before two years after the date of expiration of such term of office.

(4) VACANCIES.—If a vacancy occurs in the advisory council among the members appointed under subsection (c), the Secretary shall make an appointment to fill such vacancy within 90 days after the date such vacancy occurs.

(f) CHAIR.—The Secretary shall select as the chair of the advisory council one of the members appointed under subsection (c). The term of office of the chair shall be two years.

(g) MEETINGS.—The advisory council shall meet at the call of the chair or on the request of the Director, but at least two times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director.

(h) STAFF.—The Director shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions.

(i) ORIENTATION AND TRAINING.—The Director shall provide such orientation and training for new members of the advisory council as

may be appropriate for their effective participation in the functions of the advisory council.

(j) COMMENTS AND RECOMMENDATIONS.—The advisory council may prepare, for inclusion in a report submitted under section 1633—

(1) comments respecting the activities of the advisory council during the period covered by the report;

(2) comments on the progress of the program in meeting its objectives; and

(3) recommendations respecting the future directions, program, and policy emphasis of the program.

(k) REPORTS.—The advisory council may prepare such reports as the advisory council determines to be appropriate.

(l) APPLICATION OF ADVISORY COMMITTEE ACT.—Section 14(a) of the Federal Advisory Committee Act (5 U.S.C. App.) relating to the termination of an advisory committee shall not apply to the advisory committee established under this section.

SEC. 1635. DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS. 7 USC 5844.

(a) DEFINITIONS.—For purposes of this subtitle:

(1) The term "program" means the National Genetic Resources Program.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "Director" means the Director of the National Genetic Resources Program.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this subtitle for each of the fiscal years 1991 through 1995.

Subtitle D—National Agricultural Weather Information System

National Agricultural Weather Information System Act of 1990. Science and technology. Computer technology. Education.

SEC. 1637. SHORT TITLE AND PURPOSES.

(a) SHORT TITLE.—This subtitle may be cited as the "National Agricultural Weather Information System Act of 1990".

(b) PURPOSES.—The purposes of this subtitle are— 7 USC 5851.

(1) to provide a nationally coordinated agricultural weather information system, based on the participation of universities, State programs, Federal agencies, and the private weather consulting sector, and aimed at meeting the weather and climate information needs of agricultural producers;

(2) to facilitate the collection, organization, and dissemination of advisory weather and climate information relevant to agricultural producers, through the participation of the private sector and otherwise;

(3) to provide for research and education on agricultural weather and climate information, aimed at improving the quality and quantity of weather and climate information available to agricultural producers, including research on short-term forecasts of thunderstorms and on extended weather forecasting techniques and models;

(4) to encourage, where feasible, greater private sector participation in providing agricultural weather and climate information, to encourage private sector participation in educating and training farmers and others in the proper utilization of agricultural weather and climate information, and to strengthen their

ability to provide site-specific weather forecasting for farmers and the agricultural sector in general; and

(5) to ensure that the weather and climate data bases needed by the agricultural sector are of the highest scientific accuracy and thoroughly documented, and that such data bases are easily accessible for remote computer access.

7 USC 5852.

SEC. 1638. AGRICULTURAL WEATHER OFFICE.

(a) ESTABLISHMENT OF THE OFFICE AND ADMINISTRATION OF THE SYSTEM.—

(1) ESTABLISHMENT REQUIRED.—The Secretary of Agriculture shall establish in the Department of Agriculture an Agricultural Weather Office to plan and administer the National Agricultural Weather Information System. The system shall be comprised of the office established under this section and the activities of the State agricultural weather information systems described in section 1640.

(2) DIRECTOR.—The Secretary shall appoint a Director to manage the activities of the Agricultural Weather Office and to advise the Secretary on scientific and programmatic coordination for climate, weather, and remote sensing.

(b) AUTHORITY.—The Secretary, acting through the Office, may undertake the following activities to carry out this subtitle:

(1) Enter into cooperative projects with the National Weather Service to—

(A) support operational weather forecasting and observation useful in agriculture;

(B) sponsor joint workshops to train agriculturalists about the optimum utilization of agricultural weather and climate data;

(C) jointly develop improved computer models and computing capacity; and

(D) enhance the quality and availability of weather and climate information needed by agriculturalists.

(2) Obtain standardized weather observation data collected in near real time through State agricultural weather information systems.

(3) Make, through the Cooperative State Research Service, competitive grants under subsection (c) for research in atmospheric sciences and climatology.

(4) Make grants to eligible States under section 1640 to plan and administer State agricultural weather information systems.

(5) Coordinate the activities of the Office with the weather and climate research activities of the Cooperative State Research Service, the National Academy of Sciences, the National Sciences Foundation Atmospheric Services Program, and the National Climate Program.

(6) Encourage private sector participation in the National Agricultural Weather Information System through mutually beneficial cooperation with the private sector, particularly in generating weather and climatic data useful for site-specific agricultural weather forecasting.

(c) COMPETITIVE GRANTS PROGRAM.—

(1) GRANTS AUTHORIZED.—With funds allocated to carry out this subsection, the Secretary of Agriculture may make grants to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Fed-

eral agencies, private organizations and corporations, and individuals to carry out research in all aspects of atmospheric sciences and climatology that can be shown to be important in both a basic and developmental way to understanding, forecasting, and delivering agricultural weather information.

(2) COMPETITIVE BASIS.—Grants made under this subsection shall be made on a competitive basis.

(d) PRIORITY.—In selecting among applications for grants under subsection (c), the Secretary shall give priority to proposals which emphasize—

(1) techniques and processes that relate to weather-induced agricultural losses, and to improving the advisory information on weather extremes such as drought, floods, freezes, and storms well in advance of their actual occurrence;

(2) the improvement of site-specific weather data collection and forecasting; or

(3) the impact of weather on economic and environmental costs in agricultural production.

SEC. 1639. NATIONAL ADVISORY BOARD ON AGRICULTURAL WEATHER. 7 USC 5853.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish the Advisory Board on Agricultural Weather (hereinafter referred to in this section as the "Board") to advise the Director of the Agricultural Weather Office with respect to carrying out this Act.

(b) COMPOSITION.—The Board shall be composed of nine members, appointed by the Secretary in consultation with the Director of the National Weather Service. Two of the members shall be from each of the four regions of the cooperative extension service. Of the two members from each region, one shall be an agricultural producer and one shall be an agricultural or atmospheric scientist. At least two members of the Board shall be appointed from among individuals who are engaged in providing private meteorology services or consulting with a private meteorology firm.

(c) CHAIRPERSON.—The Board shall elect a chairperson from among its members.

(d) TERM.—Each Board member shall be appointed for a three-year term, except that to ensure that members of the Board serve staggered terms, the Secretary shall appoint three of the original members of the Board to appointments for one year, and three of the original members to appointments for two years.

(e) MEETINGS.—The Board shall meet not less than twice annually.

(f) COMPENSATION.—Members of the Board shall serve without compensation, but while away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as individuals employed in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

SEC. 1640. STATE AGRICULTURAL WEATHER INFORMATION SYSTEMS. 7 USC 5854.

(a) ADVISORY PROGRAM GRANTS.—

(1) GRANTS REQUIRED.—With funds allocated to carry out this section, the Secretary of Agriculture shall make grants to not fewer than 10 eligible States to plan and administer, in coopera-

tion with persons described in paragraph (2), advisory programs for State agricultural weather information systems.

(2) PERSONS DESCRIBED.—The persons referred to in paragraph (1) are the Director of the Agricultural Weather Office, the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service, and other persons as appropriate (such as the directors of the appropriate State agricultural experiment stations and State extension programs).

(b) CONSULTATION.—For purposes of selecting among applications submitted by States for grants under this section, the Secretary shall take into consideration the recommendation of the Advisory Board on Agricultural Weather and consult with the Director.

(c) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under this section, the chief executive officer of a State shall submit to the Secretary an application that contains—

(1) assurances that the State will expend such grant to plan and administer a State agricultural weather system that will—

(A) collect observational weather data throughout the State and provide such data to the National Weather Service and the Agricultural Weather Office;

(B) develop methods for packaging information received from the national system for use by agricultural producers (with State Cooperative Extension Services and the private sector to serve as the primary conduit of agricultural weather forecasts and climatic information to producers); and

(C) develop programs to educate agricultural producers on how to best use weather and climate information to improve management decisions; and

(2) such other assurances and information as the Secretary may require by rule.

7 USC 5855.

SEC. 1641. FUNDING.

(a) ALLOCATION OF FUNDS.—

(1) COOPERATIVE WORK.—Not less than 15 percent and not more than 25 percent of the funds appropriated for a fiscal year to carry out this subtitle shall be used for cooperative work with the National Weather Service entered into under section 1638(b)(1).

(2) COMPETITIVE GRANTS PROGRAM.—Not less than 15 percent and not more than 25 percent of such funds shall be used by the Cooperative State Research Service for a competitive grants program under section 1638(c).

(3) WEATHER INFORMATION SYSTEMS.—Not less than 25 percent and not more than 35 percent of such funds shall be divided equally between the participating States selected for that fiscal year under section 1640.

(4) OTHER PURPOSES.—The remaining funds shall be allocated for use by the Agricultural Weather Office and the Extension Service in carrying out generally the provisions of this subtitle.

(b) LIMITATIONS ON USE OF FUNDS.—Funds provided under the authority of this subtitle shall not be used for the construction of facilities. Each State or agency receiving funds shall not use more than 30 percent of such funds for equipment purchases. Any use of the funds in facilitating the distribution of agricultural and climate information to producers shall be done with consideration for the

role that the private meteorological sector can play in such information delivery.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out this subtitle for each of the fiscal years 1991 through 1995.

Subtitle E—Research Regarding the Production, Preparation, Processing, Handling, and Storage of Agricultural Products

SEC. 1644. RESEARCH AND GRANT PROGRAM.

7 USC 5871.

Microbiology. Chemicals.

(a) RESEARCH PROGRAM.—The Secretary of Agriculture shall establish a research program to—

(1) establish a statistical framework to measure microbiological and chemical agents in or affecting agricultural products that seriously undermine product wholesomeness and fitness;

(2) identify any microbiological or chemical agent under the statistical framework established under paragraph (1); and

(3) identify the means to avoid microbiological and chemical agents in or affecting agricultural products or to control or reduce such agents, including—

(A) developing techniques for the rapid detection and identification of such microbiological and chemical agents;

(B) analyzing the production, preparation, processing, handling, storage, and distribution of agricultural products, to determine those points at which intervention could occur to control microbiological or chemical agents in or affecting an agricultural product; and

(C) research to develop or enhance existing techniques to control microbiological or chemical agents in or affecting an agricultural product, including food irradiation research.

(b) COMPETITIVE GRANT PROGRAM.—The Secretary of Agriculture may make competitive grants, after consultation with the committee established under section 1645, for periods not to exceed five years, to persons and governmental entities for research to be carried out for any of the activities specified in subsection (a). The Secretary shall require the recipient of any such grant to provide matching funds for such research unless the Secretary determines that the research should be performed notwithstanding the lack of matching funds.

(c) PROHIBITED USES.—No grant may be made under subsection (b) (or expended by the recipient of such a grant) for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

(d) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under subsection (b), a person or governmental entity shall submit to the Secretary an application that contains—

(1) a proposal to carry out research for one or more of the activities specified in subsection (a);

(2) an assurance that such person or entity will submit to the Secretary a detailed report of the research conducted with such grant; and

(3) such other terms and conditions as the Secretary may require by rule.

(e) EFFECT ON OTHER PROGRAMS.—Nothing in this section shall be construed or interpreted—

(1) to limit or otherwise affect the research programs of any agency or department of the Federal Government currently conducted or to be conducted under any other statutory authority; or

(2) to implement any changes to current production, preparation, processing, handling and storage methods and procedures for agricultural products.

(f) AGRICULTURAL PRODUCT DEFINED.—For purposes of this section, the term "agricultural product" means the product of an agricultural commodity produced in the United States from a plant or animal or silvicultural activities, or an aquacultural species, including those raised and propagated in a controlled environment.

7 USC 5872.

SEC. 1645. ADVISORY COMMITTEE AND GRANT PROCESS.

(a) ADVISORY COMMITTEE.—The Secretary of Agriculture shall establish a committee to set research priorities for, and evaluate, proposed research projects for which grants under section 1644(b) are requested.

(b) MEMBERSHIP.—The committee shall be comprised of 13 members as follows:

(1) The Secretary or the designee of the Secretary ex officio.

(2) Two members appointed by the Secretary from among scientists who are employed by colleges, universities, or State agricultural experiment stations and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(3) Two members appointed by the Secretary from among scientists or public health professionals who are employed by private research organizations or other entities involved in food research and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(4) Two members appointed by the Secretary from among individuals who are employees of the Federal Government and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(5) Three members appointed by the Chairman of the Committee on Agriculture of the House of Representatives (in consultation with the ranking minority member of that Committee) from persons who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(6) Three members appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (in consultation with the ranking minority member of that Committee) from persons who are specially qualified to serve on the committee by virtue of their demonstrated, generally recog-

nized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(c) PUBLIC NOTICE.—

(1) PROPOSED RESEARCH PRIORITIES.—On receipt of the committee's recommendations with respect to research priorities for grants awarded under section 1644(b), the Secretary shall publish in the Federal Register— Federal Register, publication.

(A) the proposed research priorities, and

(B) a notice requesting persons and governmental entities to submit written comments on the priorities to the Secretary not later than sixty days after publication of such notice.

(2) FINAL RESEARCH PRIORITIES.—After review of comments received under paragraph (1), the Secretary shall establish final research priorities by notice in the Federal Register. Federal Register, publication.

(d) REVIEW OF RESEARCH PROPOSALS.—

(1) ROLE OF COMMITTEE.—On receipt of an application submitted under section 1644(b) for research, the Secretary shall refer the research proposal contained in such application to the committee established by this section for its review.

(2) PEER REVIEW.—To assist the committee in its deliberations, the committee shall establish peer review panels to review the scientific and technical merits of research proposals. The committee shall seek the widest participation of qualified scientists and public health professionals in such panels. The peer review panels shall report their findings and recommendations to the committee. Reports.

(3) CONSULTATION AND COORDINATION.—Both the committee and the peer review panels shall consult and coordinate with other appropriate Federal advisory committees.

(4) RECOMMENDATIONS.—After due consideration of the review panel comments, the committee shall recommend to the Secretary which grants should be made under this subtitle.

(e) BASIC AND APPLIED RESEARCH.—In reviewing research proposals received under subsection (d), the committee and the peer review panels shall identify both—

(1) proposals for basic research, and

(2) proposals for applied research, taking into consideration the practical application of the results of basic research and applied research.

(f) REVIEW OF COMPLETED PROJECTS.—When a research project is completed, the grant recipient shall forward the results of the project to the committee for its review. The committee shall submit the results to the Secretary along with any recommendations or suggestions of the committee.

(g) APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the committee or peer review panels established under this section.

SEC. 1646. REPORTS TO CONGRESS. 7 USC 5873.

(a) REPORT ON IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation of this subtitle.

(b) REPORTS ON RESEARCH.—For each fiscal year in which funding is provided to carry out this subtitle, the Secretary shall report on the findings of the research for which grants were made during such fiscal year under this subtitle and include in such report any recommendations for implementation of the findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

7 USC 5874.

SEC. 1647. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this subtitle to be available until expended without fiscal year limitation.

(b) ADMINISTRATIVE EXPENSES.—Not more than four percent of the amount appropriated for a fiscal year under subsection (a) may be expended by the Secretary of Agriculture for administrative costs incurred by the Secretary to carry out this subtitle.

Subtitle F—Plant and Animal Pest and Disease Control Program

7 USC 5881.

SEC. 1650. PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.

Grant programs. Government contracts.

(a) INTEGRATED PEST MANAGEMENT RESEARCH.—

(1) PROGRAM REQUIRED.—The Secretary shall undertake or assist in the conduct of research regarding integrated pest management, including research by grant or contract with Federal or State agencies or private industries, institutions, or organizations, as may be necessary to carry out this subtitle. Such research shall include integrated pest management research to benefit floriculture.

(2) IMPLEMENTATION.—Implementation of integrated pest management strategies shall be conducted through the Extension Service.

(b) EFFECT ON OTHER LAWS.—Nothing in this Act shall be construed as limiting or repealing the authority of the Administrator of the Environmental Protection Agency to conduct research regarding integrated pest management under section 20(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136r(a)).

(c) INTEGRATED PEST MANAGEMENT DEFINED.—For purposes of this section, the term "integrated pest management" means a pest or disease population management system that uses all suitable techniques, such as biological and cultural controls as well as pesticides, in a total production system to anticipate and prevent pests and diseases from reaching economically damaging levels.

7 USC 5882.

SEC. 1651. PEST AND DISEASE CONTROL DATA BASE AND PESTICIDE RESISTANCE MONITORING.

(a) DATA BASE REQUIRED.—The Secretary of Agriculture shall establish and maintain a data base on available materials and methods of pest and disease control available to agricultural producers. The data base required by this subsection shall include a listing (by crop, animal, and pest or disease) of information—

(1) on currently available materials or methods of chemical, biological, cultural, or other means of controlling plant and animal pests and diseases; and

(2) on the extent of pest or disease resistance developed under the monitoring required by subsection (d).

(b) PRIORITIES FOR RESEARCH AND EXTENSION ACTIVITIES.—When the information in the data base established under subsection (a) indicates a shortage of available pest or disease control materials or methods to protect a particular crop or animal, the Secretary of Agriculture shall set priorities designed to overcome this shortage in its pest and disease control research and extension programs conducted under this subtitle.

(c) DISSEMINATION OF INFORMATION IN THE DATA BASE.—The Secretary of Agriculture shall—

(1) make the information contained in the data base established under subsection (a) available through the National Agricultural Library; and

(2) provide such information on an annual basis to the Administrator of the Environmental Protection Agency in support of the activities of that Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(d) PESTICIDE RESISTANCE MONITORING.—The Secretary of Agriculture shall establish a national pesticide resistance monitoring program in accordance with the report developed by the Secretary under section 1437 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1558).

(e) PESTICIDE DEFINED.—For purposes of this section and section 1652, the term "pesticide" shall have the same meaning as given that term in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)).

SEC. 1652. RESEARCH ON EXOTIC PESTS. 7 USC 5883.

(a) PURPOSE.—The purpose of this section is to expand the research capacity of the Department of Agriculture and State cooperative institutions in the control and eradication of exotic pests.

(b) RESEARCH PROGRAM.—The Secretary of Agriculture shall expand ongoing research and grant programs designed to control infestations of exotic pests. Expanded research and grant programs shall include—

(1) improvement of existing methods of pest control, including sterile insect release, and development of safer pesticides, including pheremones; and

(2) expansion of research capacity to develop new methods of pest control, including containment of pests for research purposes.

SEC. 1653. STUDY OF THE BIOLOGY AND BEHAVIOR OF CHINCH BUGS, INCLUDING FACTORS LEADING TO CROP LOSS AND DEVELOPMENT OF IMPROVED MANAGEMENT PRACTICES. Education. 7 USC 5884.

The Secretary of Agriculture shall establish a research and education program to study the biology and behavior of chinch bugs. The purpose of this study shall be—

(1) to characterize the relationship between environmental and climatic factors and chinch bug outbreaks in an attempt to predict when these outbreaks occur;

(2) to determine chinch bug dispersal habits, overwintering habitat preferences, and overwintering survival in native and introduced grasses;

(3) to describe the population dynamics of chinch bugs in small grain and noncrop grass hosts in the spring and assess yield losses in small grain crop hosts; and

(4) to investigate various aspects of chinch bug behavior (including host habitat preferences, oviposition, and pheromones) that may result in the development of novel management strategies.

7 USC 5885.

SEC. 1654. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Alternative Agricultural Research and Commercialization Act of 1990.
Forests and forest products.
Rural areas.
7 USC 5901.

Subtitle G—Alternative Agricultural Research and Commercialization

SEC. 1657. SHORT TITLE, PURPOSES, AND DEFINITIONS.

(a) SHORT TITLE.—This subtitle may be cited as the "Alternative Agricultural Research and Commercialization Act of 1990".

(b) PURPOSE.—Through the encouragement of and the provision of assistance to agricultural research, development, and commercialization, it is the purpose of this subtitle—

(1) to authorize research in modification of agricultural commodities, and associated research, in order to develop and produce marketable products other than food, feed, or traditional forest or fiber products;

(2) to commercialize new nonfood, nonfeed uses for traditional and new agricultural commodities in order to create jobs, enhance the economic development of the rural economy, and diversify markets for raw agricultural and forestry products;

(3) to encourage cooperative development and marketing efforts among manufacturers, financiers, universities, and private and government laboratories in order to assist the commercialization of new nonfood, nonfeed uses for agricultural and forestry products;

(4) to direct, to the maximum extent possible, research and commercialization efforts toward the production of new nonfood, nonfeed products from agricultural commodities that can be raised by family-sized agricultural producers; and

(5) to foster economic development in rural areas of the United States through the introduction of new nonfood, nonfeed products obtained from agricultural commodities.

(c) DEFINITIONS.—For purposes of this subtitle:

(1) The term "agricultural commodity" means a plant or animal species (including a species propagated or raised in a controlled environment or a tree species) and the products derived from that species.

(2) The term "alternative agricultural product" means a new use, application, or material that—

(A) is derived from an agricultural commodity; and

(B) is not in widespread commercial use and is not expected to significantly displace a use, application, or material derived from an agricultural commodity that already is in widespread commercial use.

(3) The term "Board" means the Alternative Agricultural Research and Commercialization Board.

(4) The term "Center" means the Alternative Agricultural Research and Commercialization Center.

(5) The term "commercialization" or "commercialize" includes—

(A) activities associated with the development of alternative agricultural products or industrial plants;

(B) the application of technology and techniques to the development of industrial products and alternative agricultural products; and

(C) the market development of new nonfood, nonfeed uses of new and traditional agricultural commodities and processes that will lead to the creation of goods and services that may be marketed for profit.

(6) The term "Fund" means the Alternative Agricultural Research and Commercialization Revolving Fund.

(7) The term "host institution" means an existing entity that is located in the region that is—

(A) a university or other institution of higher education;

(B) a Department of Agriculture laboratory;

(C) a State agricultural experiment station;

(D) a State cooperative extension service facility; or

(E) another organization that is involved in the development or commercialization of new nonfood, nonfeed uses for agricultural commodities, or is involved in rural economic development.

(8) The term "new nonfood, nonfeed product development" means targeted research, including fundamental and applied research, concerning—

(A) the production and processing of agricultural commodities for the purposes of developing new nonfood, nonfeed products;

(B) the uses of new nonfood, nonfeed products; and

(C) steps necessary to make a nonfood, nonfeed product available for the marketplace.

(9) The term "new nonfood, nonfeed product" means an item that is primarily not a food, feed, or traditional forest or fiber product, including an item that exists but is not commercially available from an agricultural commodity.

(10) The term "nonprofit organization" means an organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from taxation under section 501(a) of such Code.

(11) The term "Secretary" means the Secretary of Agriculture.

(12) The term "traditional forest or fiber product" means a forest or fiber product that is derived from forest or agricultural materials and does not have substantial new properties.

SEC. 1658. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CENTER. 7 USC 5902.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish an Alternative Agricultural Research and Commercialization Center to carry out the purpose of this subtitle. The Center shall be operated as an independent entity within the Department of Agri-

culture under the general supervision and policy control of the Secretary.

(b) FUNCTIONS.—The Center shall have the authority to—

(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 1660;

(2) make loans and interest subsidy payments and invest venture capital in accordance with section 1661;

(3) collect and disseminate information about State, regional, and local commercialization projects;

(4) search for new nonfood, nonfeed products that may be produced from agricultural commodities and for processes to produce such products;

(5) administer, maintain, and dispense funds from the Alternative Agricultural Research and Commercialization Revolving Fund to facilitate the conduct of activities under this subtitle; and

(6) engage in other activities incident to carrying out its functions.

(c) DIRECTOR.—The Center shall be headed by a Director, who shall be appointed by the Board and approved by the Secretary of Agriculture. The Director shall receive basic pay at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Director shall be appointed for a term of five years, subject to removal by the Board before the end of that term.

(d) RESPONSIBILITIES OF THE DIRECTOR.—Subject to the general supervision of the Board, the Director shall be responsible for the overall management of the Center and the implementation of general policies respecting the management and operation of programs and activities of the Center. In carrying out such responsibilities on behalf of the Center, the Director shall—

(1) provide for appropriate peer review of—

(A) applications for grants, contracts, and cooperative agreements submitted under section 1660 and applications for financial assistance submitted under section 1661;

(B) the conduct of research for which assistance is provided by the Center; and

(C) research findings or reports resulting from grants, contracts, and cooperative agreements administered by the Center as the Board determines necessary;

(2) require, where appropriate, licensing and patent agreements, copyright fees, royalties, or other fee arrangements on the sales of products, new uses, applications technologies, or processes developed through assistance provided through a grant made, contract or cooperative agreement entered into, or other assistance provided, under this subtitle.

(3) take appropriate action to ensure that all channels for the dissemination and exchange of agricultural products and processes research are maintained between the Center and other agricultural, scientific, and business entities; and

(e) STAFF.—Upon the request of the Director, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to assist the Director in carrying out the duties of the Director.

(f) EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

SEC. 1659. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION BOARD. 7 USC 5903.

(a) ESTABLISHMENT OF BOARD.—The Secretary shall establish the Alternative Agricultural Research and Commercialization Board.

(b) MEMBERS.—The Board shall consist of nine members appointed by the Secretary as follows:

(1) One member who shall be an employee of the Department of Agriculture.

(2) Four members, of whom—

(A) at least one shall be a representative of the leading scientific disciplines relevant to the activities of the Center;

(B) at least one shall be a producer or processor of agricultural commodities; and

(C) at least one shall be a person who is privately engaged in the commercialization of new nonfood, nonfeed products from agricultural commodities.

(3) Two members who—

(A) have expertise in areas of applied research relating to the development or commercialization of new nonfood, nonfeed products; and

(B) shall be appointed from a group of at least four persons nominated by the Director of the National Science Foundation if such nominations are made within 60 days after the date a vacancy occurs.

(4) Two members who—

(A) have expertise in financial and managerial matters; and

(B) shall be appointed from a group of at least four persons nominated by the Secretary of Commerce if such nominations are made within 60 days after the date a vacancy occurs.

(c) RESPONSIBILITIES.—The Board shall—

(1) be responsible for the general supervision and policy control of the Center and Regional Centers;

(2) determine (in consultation with the advisory council appointed under section 1661 and those Regional Centers established under section 1663) high priority commercialization areas to receive assistance under that section;

(3) review any grant, contract, or cooperative agreement to be made by the Center under section 1660 and any financial assistance to be provided under section 1661;

(4) make the final decision, by majority vote, on whether and how to provide assistance to an applicant;

(5) establish program policy, objectives, research and development, and commercialization priorities to implement this subtitle, through a process of public hearings to be initiated as soon as practicable after the establishment of the Board; and

(6) using the results of such hearings and other information and data collected under paragraph (5), develop and establish a budget plan and a long-term operating plan to implement this subtitle.

(d) MEETINGS.—The Board shall meet at the call of the chairperson or at the request of the Director, but at least three times

each fiscal year. The location of the meetings of the Board shall be subject to the approval of the Director. A quorum of the Board shall consist of a majority of the members of the Board. The decisions of the Board shall be made by majority vote.

(e) TERM; VACANCIES.—The term of office of a member of the Board shall be four years, except that the members initially appointed shall be appointed to serve staggered terms. A member appointed to fill a vacancy for an unexpired term may be appointed only for the remainder of such term. A vacancy on the Board shall be filled in the same manner as the original appointment.

(f) CHAIRPERSON.—The members of the Board shall select a chairperson from among the members. The term of office of the chairperson shall be two years. The member appointed under subsection (b)(1) may not serve as chairperson.

(g) COMMITTEES.—The Board may establish one or more temporary committees with agricultural, scientific, technical, or other expertise, whose duties shall be to provide information, analysis, and recommendations, at the request and direction of the Board, on scientific, technological, policy, and other matters, as determined necessary by the Board.

(h) COMPENSATION.—Members of the Board who are officers or employees of the United States shall not receive any additional compensation by reason of service on the Board. Other members of the Board shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) RESTRICTIONS.—

(1) CONFLICT OF INTEREST.—Except as provided in paragraph (3), no member of the Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Center, in which, to the knowledge of the member, such member, spouse or child of such member, partner or organization in which such member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom such member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) VIOLATIONS.—Action by a member of the Board that is contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Center in which the member or officer participated.

(3) EXCEPTIONS.—The prohibitions contained in paragraph (1) shall not apply if a member of the Board advises the Board of the nature of the particular matter in which such member proposes to participate in, and if such member makes a full disclosure of such financial interest, prior to any participation, and the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of such member's services to the Center in that matter. The member involved shall not participate in such determination.

(j) AUTHORITY OF THE SECRETARY.—Any final decision made under subsection (c) may be vetoed by the Secretary, and the Secretary shall inform the Board of the reasons for such veto.

SEC. 1660. RESEARCH AND DEVELOPMENT GRANTS, CONTRACTS, AND AGREEMENTS. 7 USC 5904.

(a) ELIGIBILITY.—All public and private educational institutions, other public and private research institutions and organizations, Federal agencies, and individuals shall be eligible to receive a grant from, or enter into a contract or cooperative agreement with, the Center for a research, development, or demonstration project, as provided in this section.

(b) COMPETITIVE BASIS FOR AWARDS.—Grants made, and contracts and cooperative agreements entered into, under this section shall be selected on a competitive basis on the recommendation of a peer review system to be established by the Center. Such system shall contain peer review expertise in commercial production, product development, processing, and marketing of agricultural commodities as well as in scientific research.

(c) SELECTION CRITERIA.—The Board may select a research, development, or demonstration project to receive a grant, contract, or cooperative agreement under this section based on the likelihood that the project will result in creating or improving economically viable commercial nonfood, nonfeed products, applications, processes, or technologies that involve the use of raw or processed agricultural commodities. The criteria to be considered may include the following:

(1) the prospect of developing technologies that could make it possible to use or modify existing agricultural commodities to provide an economically viable quantity of new nonfood, nonfeed products;

(2) the potential market size of the new nonfood, nonfeed product, the likely time period needed to bring the product into the stream of commerce for general use, and the likely availability of the agricultural commodity used to produce the product;

(3) the potential for job creation in an economically distressed rural area;

(4) the anticipated State or local participation;

(5) the anticipated financial participation of private entities;

(6) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(7) the unavailability of adequate funding from other sources;

(8) the likely positive impact on resource conservation and the environment; and

(9) the likely positive effect of helping family-sized farmers and rural communities near the affected agricultural and forested areas.

(d) SET-ASIDE OF FUNDS FOR CERTAIN PROJECTS.—

(1) IN GENERAL.—Not less than two-thirds of the funds obligated each fiscal year for grants, contracts, and cooperative agreements under this section shall be awarded only for research, development, and demonstration projects for which the applicant—

(A) has committed substantial funding and support from its own resources; and

(B) has entered into a cooperative agreement or other contractual arrangement with a commercial company domiciled in the United States that commits such company to—

(i) provide funds for at least 20 percent of the total cost of such project; and

(ii) engage in commercial production and sale of the marketable products, processes, uses, applications, or technologies developed through the project, under appropriate licensing, royalty, or other agreements.

(2) ANIMAL SOURCES.—Not more than 25 percent of the funds obligated each fiscal year for grants, contracts, and cooperative agreements under this section shall be awarded only for projects concerning new nonfood, nonfeed products derived from animal sources.

(e) LIMITATION ON FUNDS PROVIDED.—Funds committed by the Center for any project under a grant, contract, or cooperative agreement under this section shall in no case exceed two-thirds of the total cost of the project.

(f) PREFERENCE.—In selecting projects to receive funds, the Center may give preference to those projects for which the ratio of Center funds to non-Center funds would be lowest.

7 USC 5905.

SEC. 1661. COMMERCIALIZATION ASSISTANCE.

(a) ASSISTANCE AUTHORIZED.—The Center, at the discretion of the Board, may provide to entities described in subsection (b) for projects commercializing new nonfood, nonfeed products using agricultural commodities, financial assistance in the form of—

(1) loans made or insured by the Center;

(2) interest subsidy payments made by the Center (pursuant to an agreement between the Center, the lender, and the borrower) to the lender in amounts determined pursuant to the agreement;

(3) venture capital invested by the Center in the form of a convertible debenture; and

(4) repayable grants that are matched by private or local public funds and that are repaid as agreed in a contract between the Center and the entity.

(b) ELIGIBLE ENTITIES.—To obtain financial assistance for commercialization of nonfood, nonfeed products from the Center, an entity shall be a university or other institution of higher education, a nonprofit organization, a cooperative, or a business concern.

(c) ADVISORY COUNCIL.—The Board shall appoint an Advisory Council to advise the Board and Regional Centers concerning all applications for assistance submitted under this section. The conflict of interest provisions of subsection (i) of section 1659 shall apply to the Advisory Council. In appointing members of the Advisory Council, the Board shall ensure regional participation on the Advisory Council. The Advisory Council shall—

(1) review (or coordinate the review of) the technical, engineering, financial, and managerial soundness and marketing potential of the applications;

(2) by majority vote, make a nonbinding recommendation on each application submitted under this section;

(3) monitor the progress of ongoing projects and provide technical and business counseling as needed;

(4) monitor the operation of the Regional Centers; and

(5) provide technical and business counseling to entities that are not seeking financial assistance from the Center, but which are engaged in commercializing nonfood, nonfeed uses of agricultural commodities.

(d) APPLICATION REQUIREMENTS.—

(1) FILED WITH DIRECTOR.—To obtain financial assistance from the Center under this section, an eligible entity shall file an application with the Director.

(2) CONTENTS.—An application submitted to the Director under paragraph (1) shall—

(A) describe the proposal of the entity for the commercialization of a new product consistent with this section, including documentation that such proposal is—

(i) scientifically sound;

(ii) technologically feasible; and

(iii) marketable;

(B) provide documentation that adequate private sector funding is not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(C) provide documentation that the applicant has invested in the project a significant amount of the applicant's own resources, including time and money;

(D) provide documentation that the product or process has broad application and has the potential to be commercially viable without continual assistance;

(E) provide documentation that the proposal has broad participation by representatives of the public sector, the financial community, the private business community, State and local governments, educational institutions, the farm community, the science and engineering communities;

(F) provide documentation that an established relationship exists between the applicant and other entities to give the applicant access to private business assistance;

(G) provide assurances of legal compliance by the applicant with the terms and conditions of the receipt of assistance under this section; and

(H) provide assurances that the project will result in the creation of new jobs in rural communities.

(e) PRIORITIES.—The Board shall give priority to—

(1) applications that shall create jobs in economically distressed rural areas;

(2) applications that have State or local government financial participation; and

(3) applications that have private financial participation.

(f) ADDITIONAL CRITERIA.—The Board shall establish additional criteria for use in selecting among equivalent applications. Such criteria shall emphasize—

(1) the quantity and quality of jobs that are likely to be created in rural communities;

(2) the amount of the financial participation by State or local governments or private entities;

(3) the qualifications of the management to be used in the project;

(4) the potential market demand for the potential product to be marketed proportional to the financial assistance requested; and

(5) the likely level of returns to the Fund and the items described in paragraphs (2), (6), (8), and (9) of section 1660(c).

7 USC 5906.

SEC. 1662. GENERAL RULES REGARDING THE PROVISION OF ASSISTANCE.

Federal Register, publication.

(a) NOTICE OF RECEIPT OF APPLICATIONS.—Not later than 30 days before the start of each period established by the Board for receipt of applications for financial assistance under section 1660 or 1661, the Board shall publish in the Federal Register a notice that it will receive such applications.

(b) MONITORING.—The Board shall monitor the progress of projects that receive financial assistance under this subtitle. Such monitoring may include on-site reviews by representatives of the Board, a Regional Center, or the Advisory Council, the requirement of written reports by recipients of assistance, and supportive business and technical counseling as needed by the recipient. The Board may use the Advisory Council appointed under section 1661 to assist in such monitoring.

(c) AUDITING AND ACCOUNTABILITY.—

(1) REQUIRED.—The Board shall establish a thorough and effective system of auditing and accountability to ensure that funds paid under section 1660 or 1661 are used by recipients only for the purposes for which those funds are provided by the Center.

(2) DEMONSTRATED COMPLIANCE.—The Board may require that recipients of financial assistance demonstrate that the use of financial assistance is in compliance with the agreement by which that assistance is provided.

(d) INFORMATION EXEMPT FROM DISCLOSURE.—With respect to research, development, demonstration, or commercialization projects carried out with the participation of private research institutions or commercial companies, information received by the Center incident thereto shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made available publicly except—

(1) with the approval of the person providing the information; or

(2) in a judicial or administrative proceeding in which such information is subject to protective order.

(e) OVERHEAD AND ADMINISTRATIVE COSTS.—The Board shall require that applications or responses to requests for proposals issued by the Center for grants, contracts, or cooperative agreements include detailed estimates of project overhead and administrative costs. In selecting such applications or proposals for awards, the Center shall give preference to those with the lowest effective costs.

(f) PROHIBITION ON CERTAIN USES OF ASSISTANCE.—No grant may be awarded, or contract or cooperative agreement entered into under this subtitle, for the acquisition or construction of a building or a facility.

(g) REPORTS.—

(1) PREPARATION.—As soon as practicable after the end of each fiscal year, the Board shall prepare and submit to the Secretary a report on the activities, progress, and accomplishments of the Center during such fiscal year. The report shall include—

(A) a description of the progress, activities, and accomplishments of the Center during that fiscal year and the

expenditures by the Center for its information and other service activities; and

(B) a copy of the operating plan prepared by the Board under section 1659(c)(6).

(2) TRANSMITTAL.—The Secretary shall transmit each report received under paragraph (1) to the President and Congress not later than 30 days after the date on which the Secretary receives the report.

SEC. 1663. REGIONAL CENTERS. 7 USC 5907.

(a) ESTABLISHMENT.—

(1) REQUIRED.—Except as provided in paragraph (2), the Board shall establish not less than two nor more than six Regional Centers to carry out the activities specified in this section and such other activities as the Board shall from time to time specify.

(2) EXCEPTION.—A Regional Center may not be established or operated in a fiscal year unless at least $5,000,000 has been appropriated for that fiscal year to carry out this subtitle.

(b) METHOD OF ESTABLISHMENT.—

(1) REGIONAL BASIS.—Each Regional Center established under this section shall be located at a host institution. The Regional Centers shall be established in different States to reflect the different regional climatic conditions and rural economic stresses in the United States.

(2) COMPETITION.—An organization that desires to be selected as a host institution for a Regional Center shall submit an application to the Board. The Board shall determine the location of the Regional Centers based on a competitive review of the contents of such applications and shall consider the ability of the applicant to carry out the activities specified in this section.

(c) MATCHING OF FUNDS.—

(1) ASSURANCES OF APPLICANTS.—Each institution submitting an application for a Regional Center under this section shall provide assurances—

(A) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal Government under this subtitle;

(B) that the institution is qualified to carry out the activities required of a Regional Center; and

(C) concerning such other matters as the Board determines to be appropriate.

(2) CONSORTIUM.—The matching funds required under paragraph (1) may be provided by a consortia that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher education, cooperatives, and economic development organizations.

(d) DIRECTOR.—Each Regional Center shall be headed by a full-time Regional Director who shall—

(1) be selected by the Board; and

(2) have a scientific or engineering background or have experience in the development of new products or processes in the public or private sector.

(e) ACTIVITIES.—Each Regional Center shall—

(1) encourage interaction among the private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs, other Federal resources, State and local regional economic development programs, universities, colleges, the private sector, and the financial community, for the purpose of evaluating and commercializing new nonfood, nonfeed uses of agricultural commodities;

(2) identify broad areas where commercialization of new nonfood, nonfeed products and processes can contribute to economic growth in rural areas of the United States, through the development of new nonfood, nonfeed uses for agricultural commodities by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small domestic businesses to commercialize new nonfood, nonfeed uses of agricultural commodities;

(4) identify new nonfood, nonfeed products and processes that are worthy of financial assistance;

(5) make use of existing programs in scientific, engineering, technical, and management education that will support the accelerated commercialization of new nonfood, nonfeed products and processes using agricultural commodities;

(6) advise the Board on the viability of specific applications submitted for financial assistance and on the type of assistance, if any, to be provided;

(7) coordinate their activities with the Small Business Development Centers; and

(8) coordinate their activities with the Center.

(f) REVIEW OF PROPOSALS FOR ASSISTANCE.—

(1) SUBMISSION TO REGIONAL CENTER.—If a Regional Center is established that includes the area in which a person applying for assistance under this subtitle is located, that person shall submit the application to the Regional Center for review.

(2) REVIEW.—The Directors of the Regional Centers shall work in consultation with the Advisory Council appointed under section 1661(c) to obtain peer review and evaluation of applications submitted to the Regional Centers.

(3) ROLE OF ADVISORY COUNCIL.—The Advisory Council shall review applications submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on each proposal to the appropriate Regional Director.

(4) RECOMMENDATION.—The Regional Director, after consideration of the Advisory Council's recommendation and based on the comments of the reviewers, shall make and submit a recommendation to the Board along with the recommendation of the Advisory Council. A recommendation submitted by a Regional Director or the Advisory Council shall not be binding on the Board.

7 USC 5908.

SEC. 1664. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION REVOLVING FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Alternative

Agricultural Research and Commercialization Revolving Fund. The Fund shall be available to the Center, without fiscal year limitation, to carry out the authorized programs and activities of the Center under this subtitle.

(b) CONTENTS OF FUND.—There shall be deposited in the Fund—

(1) such amounts as may be appropriated or transferred to support the programs and activities of the Center;

(2) payments received from any source for products, services, or property furnished in connection with the activities of the Center;

(3) fees and royalties collected by the Center from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Center;

(4) donations or contributions accepted by the Center to support authorized programs and activities; and

(5) any other funds acquired by the Center.

(c) FUNDING ALLOCATIONS.—Funding of projects and activities under this subtitle shall be subject to the following restrictions:

(1) Of the total amount of funds made available for a fiscal year under this subtitle—

(A) not more than 5 percent may be set aside to be used for authorized administrative expenses of the Center in carrying out its functions;

(B) not more than 5 percent may be set aside to be used for information collection and dissemination and technology transfer programs authorized in this subtitle; and

(C) not less than 85 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Center under sections 1660 and 1661.

(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Center for the next fiscal year.

(d) TERMINATION OF THE FUND.—On expiration of the provisions of this subtitle, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund—

(1) $10,000,000 for fiscal year 1991;

(2) $20,000,000 for fiscal year 1992;

(3) $30,000,000 for fiscal year 1993;

(4) $50,000,000 for fiscal year 1994; and

(5) $75,000,000 for each of the fiscal years 1995 through 2000.

Subtitle H—Miscellaneous Research Provisions

SEC. 1668. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH. 7 USC 5921.

(a) PURPOSE.—It is the purpose of this section to—

(1) authorize and support environmental assessment research to the extent necessary to help address general concerns about environmental effects of biotechnology; and

(2) authorize research to help regulators develop policies, as soon as practicable, ,concerning the introduction into the environment of such technology.

(b) GRANT PROGRAM.—The Secretary of Agriculture shall establish a grant program within the Cooperative State Research Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered organisms into the environment.

(c) TYPES OF RESEARCH.—Types of research for which grants may be made under this section shall include the following:

(1) Research designed to develop methods to physically and biologically contain genetically engineered animals, plants, and microorganisms once they are introduced into the environment.

(2) Research designed to develop methods to monitor the dispersal of genetically engineered animals, plants, and microorganisms.

(3) Research designed to further existing knowledge with respect to the rates and methods of gene transfer that may occur between genetically engineered organisms and related wild and agricultural organisms.

(4) Other areas of research designed to further the purposes of this section.

(d) ELIGIBILITY REQUIREMENTS.—Grants under this section shall be—

(1) made on the basis of the quality of the proposed research project; and

(2) available to any public or private research or educational institution or organization.

(e) CONSULTATION.—In considering specific areas of research for funding under this section, the Secretary of Agriculture shall consult with the Administrator of the Animal and Plant Health Inspection Service, the Office of Agricultural Biotechnology, and the Agricultural Biotechnology Research Advisory Committee.

(f) PROGRAM COORDINATION.—The Secretary of Agriculture shall coordinate research funded under this section with the Office of Research and Development of the Environmental Protection Agency in order to avoid duplication of research activities.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as necessary to carry out this section.

(2) WITHOLDINGS FROM BIOTECHNOLOGY OUTLAYS.—The Secretary of Agriculture shall withhold from outlays of the Department of Agriculture for research on biotechnology, as defined and determined by the Secretary, at least one percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

7 USC 5922.

SEC. 1669. GRADUATE SCHOOL OF THE DEPARTMENT OF AGRICULTURE.

(a) TRAINING SERVICES.—Notwithstanding any other provision of law, the head of a Federal agency or major organizational unit within any agency, including agencies and offices within the Department of Agriculture, may place an order (or enter into an agreement) with the Graduate School of the Department of Agriculture under the provisions of section 1535 of title 31, United States Code, for training and other services incidental to the provision of such training.

(b) GOODS OR SERVICES.—The Graduate School may obtain any goods or services necessary to the fulfillment of an order under subsection (a) or its obligations under such agreement without regard to the requirements of—

(1) the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); or

(2) any other law that prescribes procedures for the procurement of property or services by an executive agency.

(c) AUDITS OF RECORDS.—The financial records of the Graduate School relating to orders or agreements under subsection (a) shall be made available to the Comptroller General for purposes of conducting an audit.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Graduate School" means the Graduate School of the Department of Agriculture.

(2) The term "training" has the meaning given that term in section 4101(4) of title 5, United States Code.

SEC. 1670. LIVESTOCK PRODUCT SAFETY AND INSPECTION PROGRAM. 7 USC 5923.

(a) ESTABLISHMENT.—The Assistant Secretary for Science and Education, acting through the Cooperative State Research Service special grants program, may provide assistance to eligible entities to encourage and assist efforts made by research institutions to improve the efficiency and effectiveness of safety and inspection systems for livestock products.

(b) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section an entity shall be a land-grant college or university or any other college or university which demonstrates capability in the agriculture sciences, an individual research institution, or a consortia of such institutions.

(c) CONTRIBUTION BY ENTITY.—

(1) REQUIREMENT.—To be eligible to receive assistance under this section, an entity shall agree that such entity will, with respect to the costs to be incurred by the entity in conducting the research for which the assistance is provided, make available (directly or through donations) non-Federal contributions toward such costs in an amount equal to 50 percent of such costs.

(2) NON-FEDERAL CONTRIBUTIONS.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) ADMINISTRATION.—In providing assistance under this section, the Assistant Secretary for Science and Education shall to the extent practicable ensure that the amount of such assistance is provided equally to eligible entities representing the beef, pork, lamb, poultry, and acquaculture industries.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as necessary for each of the fiscal years 1991 through 1995.

SEC. 1671. PLANT GENOME MAPPING PROGRAM. 7 USC 5924.

(a) PROGRAM REQUIRED.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall conduct a research program for the purpose of—

(1) supporting basic and applied research and technology development in the area of plant genome structure and function;

(2) providing United States leadership in biotechnology; and

(3) providing crop varieties that may be cultivated profitably without negatively impacting the environment.

(b) COMPETITIVE GRANTS.—The Secretary may make competitive grants, for periods not to exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for research projects in the research areas identified in subsection (c).

(c) RESEARCH AREAS.—Grants available under subsection (b) shall be awarded in the following research areas:

(1) Construction of plant genome maps.

(2) Identification, characterization, transfer, and expression of genes of agricultural importance.

(3) Technology development in the areas of plant genome mapping, sequencing, gene transfer, and data management.

(4) Research on microorganisms associated with plants, such as plant pathogens and plant symbionts.

(d) PLAN FOR MAKING GRANTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a detailed plan for awarding grants under this section.

(e) COORDINATION OF EFFORTS.—The Secretary shall coordinate activities under this section with related activities sponsored by the National Science Foundation, the National Institutes of Health, the Department of Energy, and the Department of Commerce.

Copyright.

(f) PROPRIETARY INTERESTS.—The Secretary shall require (when the Secretary considers it to be appropriate) licensing and patent agreements, copyright fees, royalties, or other fee arrangements on the sales of products and new uses, applications, technologies, or processes developed through assistance provided under this section.

(g) REPORTS.—The Secretary shall submit to the Congress an annual report describing the operations of the grant program authorized by this section during the preceding fiscal year.

(h) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

7 USC 5925.

SEC. 1672. SPECIALIZED RESEARCH PROGRAMS.

(a) ANIMAL LEAN CONTENT RESEARCH.—The Secretary of Agriculture is encouraged to fund research for the development of technology which will ascertain the lean content of animal carcasses to be used for human consumption.

(b) ETHANOL RESEARCH.—In order to further carry on and enhance needed ethanol research, the facility of the Agricultural Research Service located at Peoria, Illinois (authorized by section 202 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1292)), may enter into cooperative agreements, contracts, and the exchange of scientific information with the Department of Energy in the area of ethanol research. Such facility shall hereafter be referred to as the National Center for Agricultural Utilization Research, Agricultural Research Service, United States Department of Agriculture.

(c) AFLATOXIN RESEARCH.—The Secretary of Agriculture shall conduct a research program for the purpose of determining the presence of aflatoxin in the food and feed chains. The research required under this subsection shall include research in the following areas:

(A) The examination of agricultural commodities, products, and feeds for the presence and quantity of aflatoxin.

(B) The examination of human populations to assess the exposure level to aflatoxin.

(C) The examination of safe levels of aflatoxin in the food and feed chains.

(D) The development and assessment of control methods for aflatoxin, including methods to handle, store, detoxify, and dispose of aflatoxin-contaminated agricultural commodities, products, and feeds.

(E) The development of effective methods of controlling the aflatoxin contamination of agricultural products in international trade when the level of such contamination exceeds an acceptable level.

(F) The development of plants resistant to aflatoxin contamination.

(G) The improvement of sampling and analysis methods for aflatoxin.

(H) The effect of aflatoxin on animal disease through immunosuppression and interaction with other disease agents.

(I) The economic consequences of aflatoxin contamination.

(d) MESQUITE RESEARCH.—

(1) RESEARCH REQUIRED.—The Secretary of Agriculture shall conduct a research program for the purpose of developing enhanced production methods and commercial uses of mesquite.

(2) COMPETITIVE GRANTS.—The Secretary shall make competitive grants, for periods not to exceed 5 years, to a State agricultural experiment station, a college or university, or a consortium of such entities, for a research project in the research areas identified in paragraph (3). Educational facilities.

(3) RESEARCH AREAS.—A grant available under paragraph (2) shall be awarded to an applicant to conduct research in—

(A) the development of techniques to produce, from small-diameter, short-length, or otherwise irregular mesquite logs, solid-wood products useful as flooring, furniture parts, turning blanks, and such other uses as may have potential economic value;

(B) the development of management techniques designed to improve stands for quality lumber production from mesquite; and

(C) such other methods of production, harvesting, processing, and marketing that are designed to provide viable markets for mesquite and lead to the commercialization of mesquite as a cash crop.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000 for each of the fiscal years 1991 through 1995 to carry out this subsection.

(e) PRICKLY PEAR RESEARCH.—

(1) RESEARCH REQUIRED.—The Secretary of Agriculture shall conduct a research program for the purpose of investigating enhanced genetic selection and processing techniques of prickly pears.

(2) COMPETITIVE GRANTS.—The Secretary shall make competitive grants, for periods not to exceed 5 years, to a State agricultural experiment station, a college or university, or a consortium of such entities, for research projects in the research areas identified in paragraph (3). Educational facilities.

(3) RESEARCH AREAS.—A grant available under paragraph (2) shall be awarded to an applicant to conduct research—

(A) to investigate, through genetic selection, the development of varieties of prickly pear with improved growth, freeze tolerance, and harvest characteristics;

(B) to develop techniques to produce and process prickly pear as a food source; and

(C) to continue to investigate the nutritional value and health benefits of prickly pears.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $100,000 for each of the fiscal years 1991 through 1995 to carry out this subsection.

(f) IMMUNOASSAY RESEARCH.—

Grant programs. Colleges and universities.

(1) RESEARCH REQUIRED.—The Secretary of Agriculture shall establish and carry out a program to make grants to colleges and universities for research relating to immunoassay used—

(A) to detect agricultural pesticide residues on agricultural commodities for human consumption; and

(B) to diagnose animal and plant diseases.

(2) PREFERENCE.—In making grants under this subsection, the Secretary may give preference to those colleges and universities that, as of the date of the enactment of this Act, are conducting research described in this subsection.

Grant programs.

(g) NICHE MARKET DEVELOPMENT.—The Secretary shall make research and extension grants available for the development of agricultural production and marketing systems that will service niche markets located in nearby metropolitan areas. In awarding such grants, the Secretary shall pay particular attention to areas—

Small businesses.

(1) with a high concentration of small farm operations; and

(2) that experience difficulty in delivering products to market due to geographic isolation.

(h) SCRAPIE RESEARCH.—

(1) RESEARCH AUTHORIZED.—The Secretary of Agriculture may establish and carry out a program to conduct research on the disease of scrapie in sheep and goats, including research regarding the following:

(A) Methods for detecting infection of animals with scrapie before the animals become symptomatic.

(B) Methods for treatment, prevention, and cure of scrapie.

(C) Methods for controlling the spread of scrapie.

(2) GRANTS AND CONTRACTS.—In carrying out a research program established under this subsection, the Secretary may make grants to and contract with Federal, State, and local agencies and any other organizations that are experienced in research regarding animal diseases.

(3) COORDINATION.—The Secretary shall coordinate the research program established under this subsection with other research programs regarding encephalopathies, in particular research regarding bovine spongiform encephalopathy in cattle.

Appropriation authorization.

(i) DEER TICK ECOLOGY AND RELATED RESEARCH.—There are authorized to be appropriated $250,000 for each of the fiscal years 1991 through 1995 to be used by the Agricultural Research Service to assist research in the field of population ecology of deer ticks and other insects and pests which transmit Lyme disease.

(j) NEW COMMERCIAL PRODUCTS FROM NATURAL PLANT MATERIALS.—The Secretary of Agriculture may—

(1) conduct fundamental and applied research related to the development of new commercial products derived from natural

plant materials for industrial, medical, and agricultural applications; and

(2) participate with colleges and universities, other Federal agencies, and private sector entities in conducting such research.

(k) ADMINISTRATIVE PROVISIONS.—

(1) PEER REVIEW.—Except for research funded under subsection (i), research funded under this section shall be subject to peer review at such times as the Secretary considers necessary for the purpose of reviewing the progress and efficacy of the research and the justification and need for continued funding.

(2) LIMITATION ON USE OF FUNDS.—Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(3) GENERAL ELIGIBILITY.—Unless otherwise specified in this section, State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals shall be eligible to participate in the programs established by this section. Educational facilities.

SEC. 1673. AGRICULTURAL TELECOMMUNICATIONS PROGRAM. 7 USC 5926.

(a) PURPOSE.—The program (hereafter referred to in this section as the "program") established under this section is intended to encourage the development and utilization of an agricultural communications network to facilitate and to strengthen agricultural extension, resident education and research, and domestic and international marketing of United States agricultural commodities and products through a partnership between eligible institutions and the Department of Agriculture. The network will employ satellite and other telecommunications technology to disseminate and to share academic instruction, cooperative extension programming, agricultural research, and marketing information.

(b) OBJECTIVES.—The objectives of the program established under this section are—

(1) to make optimal use of available resources for agricultural extension, resident education, and research by sharing resources between participating institutions;

(2) to improve the competitive position of United States agriculture in international markets by disseminating information to producers, processors, and researchers;

(3) to train students for careers in agriculture and food industries;

(4) to facilitate interaction among leading agricultural scientists;

(5) to enhance the ability of United States agriculture to respond to environmental and food safety concerns; and

(6) to identify new uses for farm commodities and to increase the demand for United States agricultural products in both domestic and foreign markets.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "eligible institution" means an accredited institution of higher education determined by the Secretary to be able to meet the objectives identified in subsection (b).

(2) The term "communications network" refers to television or cable television origination or distribution equipment, signal conversion equipment (including both modulators and

demodulators), computer hardware and software, programs or terminals, or related devices, used to process and exchange data through a telecommunications system in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment or via telecommunications transmission.

(3) The term "delivery" means the transmission and reception of programs by facilities that transmit, receive, or carry data between telecommunications terminal equipment at each end of a telecommunications circuit or path.

(4) The term "facilities" includes microwave antennae, fiberoptic cables and repeaters, coaxial cables, communications satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmission, and similar items as defined by the Secretary.

(5) The term "satellite ground station complex" includes transmitters, receivers, and communications antennae at the Earth station site together with the interconnecting terrestrial transmission facilities (including cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(d) AUTHORIZATION OF ASSISTANCE TO ELIGIBLE INSTITUTIONS.—(1) The Secretary shall establish a program, to be administered by the Assistant Secretary for Science and Education, under which financial and technical assistance may be provided to eligible institutions that participate in a network that distributes programs consistent with the objectives described in subsection (b).

(2) The Secretary may approve all or part of any application submitted by an eligible institution if the proposed activity will contribute, directly or indirectly, to the purpose and objectives of the program established under this section.

(3) As provided in subsection (f), applications for financial assistance may include requests to fund program production or program delivery, or both.

(e) PRIORITY.—The Secretary, in considering applications for assistance under this program, shall establish procedures to ensure a broad dissemination of programming, giving a preference to applications that—

(1) are submitted by institutions affiliated with an established agricultural telecommunications network that distributes programs to a wide geographical area; or

(2) demonstrate the need for such assistance, taking into consideration the relative needs of all applicants and the financial ability of the applicants to otherwise secure or create the telecommunications system.

(f) APPLICATIONS FOR PROGRAM PRODUCTION AND DELIVERY.—(1) The Secretary shall consider applications for financial assistance for the production and delivery of programs or cooperative extension, academic instruction in agriculture, agricultural research, and other topics consistent with the objectives described in subsection (b).

(2) Eligible institutions shall request assistance by submitting applications to the Assistant Secretary for Science and Education. Applications shall include—

(A) a detailed description of the telecommunications network and programming proposed to be produced and delivered, including to whom the programming will be distributed, how the programming will contribute to achieving the objectives described in subsection (b), and the total cost of producing and delivering such programming;

(B) the amount of assistance requested for the proposed program authorized under this section and other sources of funding that will be used for the proposed program; and

(C) an analysis of the costs and benefits of purchasing (or leasing) different types of facilities, equipment, components, hardware and software, or other items.

(g) LIMITATIONS ON ASSISTANCE.—(1) The Secretary may provide funds totaling not more than 50 percent of the cost of a proposal for which an application is submitted under subsection (f). Notwithstanding the preceding sentence, the Secretary may provide funds totaling up to 100 percent of the cost of such a proposal if the Secretary determines that an eligible institution would otherwise be unable to carry out the proposal.

(2) The Secretary may allocate not more than 10 percent of the funds appropriated under this section for the acquisition and installation of telecommunications transmission facilities.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of implementing the program established under this section, there are hereby authorized to be appropriated not more than $12,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1674. COMMISSION ON AGRICULTURAL RESEARCH FACILITIES. 7 USC 5927.

(a) DEFINITIONS.—For purposes of this section:

(1) AGRICULTURAL RESEARCH FACILITY.—The term "agricultural research facility" means a facility at which agricultural research is regularly carried out, or proposed to be carried out, and which is—

(A) an existing Agricultural Research Service facility or a Forest Service facility;

(B) an agricultural facility in the process of being planned or being constructed using Federal funding or a planned agricultural facility that will use Federal funding; or

(C) any other facility under the jurisdiction of the Secretary of Agriculture.

(2) STUDY COMMISSION.—The term "Study Commission" means the Agriculture Research Facilities Planning and Closure Study Commission established under this section.

(3) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(b) STUDY COMMISSION ESTABLISHED.—The Secretary shall establish an Agriculture Research Facilities Planning and Closure Study Commission to carry out the activities described in subsection (c).

(c) GENERAL DUTIES.—The Study Commission shall—

(1) review all currently operating and planned agricultural research facilities for research importance;

(2) identify those agricultural research facilities that should be closed, realigned, consolidated, or modernized, in order to aid in carrying out the research agenda of the Secretary;

(3) develop recommendations concerning agricultural research facilities; and

(4) evaluate the agricultural research facilities acquisition and modernization system utilized by the Department of Agriculture and recommend improvements in such system.

(d) ELEMENTS OF STUDY COMMISSION.—

(1) MEMBERSHIP.—The Study Commission shall be composed of 14 members to be appointed not later than 60 days after the date of enactment of this Act, of which—

(A) two members shall be appointed by the Secretary from among private citizens or employees of the Executive Branch;

(B) three members shall be appointed by the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(C) three members shall be appointed by the Ranking Minority Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate;

(D) three members shall be appointed by the Chairman of the Committee on Agriculture of the House of Representatives; and

(E) three members shall be appointed by the Ranking Minority Member of the Committee on Agriculture of the House of Representatives.

(2) VACANCIES.—A vacancy occurring on the Study Commission shall be filled in the same manner as that in which the original appointment was made.

(3) COMPENSATION AND EXPENSES.—

(A) COMPENSATION.—Members of the Study Commission who are not regular full-time employees of the United States Government shall, while attending meetings and conferences of the Study Commission or otherwise engaged in the business of the Study Commission (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedules established under section 5332 of title 5, United States Code.

(B) EXPENSES.—While away from their homes or regular places of business on the business of the Study Commission, members of such Commission may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently by the Federal Government.

(4) CHAIRPERSON.—The Secretary shall designate a member of the Study Commission to serve as the Chairperson.

(5) MEETINGS.—The Study Commission shall meet at the call of the Chairperson, of a majority of the members of the Study Commission, or at the call of the Secretary.

(6) DIRECTOR AND STAFF.—The Chairperson of the Study Commission may appoint a Director of such Commission, and may request the detailing of the staff of Federal agencies to such Commission to assist it in carrying out its duties. The Chairperson may employ experts and consultants.

(e) GENERAL POWERS.—The Study Commission shall have the power to meet and hold hearings, use the mails of the United States, and provide and acquire administrative support services.

(f) REPORT.—Not later than 240 days after the date of enactment of this Act, the Study Commission shall prepare and submit to the Secretary, the Committee on Agriculture and Appropriations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and Appropriations of the Senate, a report concerning the findings and recommendations developed under subsection (c).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1675. NATIONAL CENTERS FOR AGRICULTURAL PRODUCT QUALITY RESEARCH. 7 USC 5928.

(a) PURPOSES.—The purposes of the national centers for agricultural product quality research shall be to—

(1) serve as regional or commodity specific agricultural product quality research and education focal points involving one or more university and Federal participants;

(2) take advantage of opportunities, and establish linkages between universities and other entities with expertise, in basic biology and engineering, the development of new technology, the application of technology to practice, and related quality assurance and regulatory activities;

(3) develop and enhance explicit relationships (including the possible sharing of the cost of center operations) between the research and development community, the Department, and other Federal agencies, and with all aspects of the involved industries;

(4) provide a mechanism for dealing with the safety and wholesomeness of new food products and processes that use biotechnology (including transgenic plants and animals);

(5) provide factual public information about agricultural product quality and wholesomeness on a continuing basis; and

(6) where appropriate, build on existing institutional strengths and commitments to address issues relating to agricultural product quality and wholesomeness and on demonstrated capability to effectively link with operational units of the Department, other Federal agencies, and private industry.

(b) CHARACTERISTICS OF CENTERS.—

(1) REGIONAL BASIS.—The centers shall be regional based units that conduct a broad spectrum of research, development, and education programs to assure the safety and wholesomeness of food through the prevention, detection, and modification of processes and products involved in the food chain that potentially compromise agricultural product quality and wholesomeness.

(2) RESEARCH APPROACH.—The centers shall involve multidisciplinary and interdisciplinary approaches to the development of new knowledge and technology. The centers may include multi-institutional linkages between universities or related Federal laboratories.

(3) MANAGEMENT.—The centers shall serve as a management focal point for grants that deal with agricultural product quality research, extension, and teaching, including the provision of mechanisms for sharing resources between cooperating institutions and laboratories.

(4) RESEARCH LINKAGES.—Appropriate linkages within the centers shall include related efforts in agriculture, medicine, veterinary medicine, public health, engineering and related life and physical sciences, and social sciences dealing with health related behavior.

(5) RESEARCH SCOPE.—Each center shall conduct research and education on the full spectrum of production, processing, transportation, and marketing for commodity classes, such as animals (including animal products and animal feed), agronomic crops, and horticultural crops.

(c) ESTABLISHMENT OF CENTERS.—

(1) GRANTS.—The Secretary shall make grants to establish the centers. Such grants establishing centers shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (a).

(2) PERIODS AND PREFERENCES.—Grants may be awarded for periods of up to five years and may be renewed in competition with demonstration of adequate performance. The Secretary shall give preference to proposals that demonstrate linkages with action agencies of the Department, with other related Federal research laboratories and agencies, and with private industry.

Colleges and universities.

(3) PRIMARY INSTITUTION IN CENTER.—The primary institution involved in a center shall be a land-grant college with other cooperating or collaborating academic institutions, nonprofit research and development entities, and Federal laboratories. A center may involve institutions or laboratories in more than one State.

(4) MATCHING FUNDS.—The non-Federal sponsors of a center shall contribute an amount of funds for operation of the center equal to not less than the amount awarded by the Federal Government.

(d) PROGRAM PLAN AND REVIEW.—

(1) PLAN.—A program plan shall be developed by the Department after obtaining the advice of representative users of the centers, including both action agencies and appropriate representatives from various segments of the food industry. The plan shall be submitted to the Congress for review at intervals of not less than once every three years.

(2) REVIEW.—Accomplishments and directions of the centers shall be reviewed by the Department on a periodic basis, but not less frequently than at the end of the second and fourth years after the date of the enactment of this Act. The persons conducting the review shall be appointed by, and report to, the Secretary.

(e) LIMITATION ON USE OF FUNDS.—Funds provided under this section may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "center" means a national center for agricultural product quality research established under this section.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "Department" means the Department of Agriculture.

(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such funds as may be necessary to carry out this section for each of the fiscal years 1991 through 1995.

(2) The centers shall be funded through the Cooperative State Research Service in the Department.

SEC. 1676. TURKEY RESEARCH CENTER.

Appropriation authorization. Minnesota. 7 USC 5929.

There are authorized to be appropriated $500,000 for fiscal year 1992 to be used by the Agricultural Research Service for planning purposes in the establishment of a facility to be known as the Agricultural Turkey Research Center to be located in Pelican Rapids, Minnesota, and operated in cooperation with the North Dakota State University.

SEC. 1677. RESERVATION EXTENSION AGENTS.

7 USC 5930.

(a) ESTABLISHMENT.—The Secretary of Agriculture, acting through the Extension Service, shall establish appropriate extension education programs on Indian Reservations and tribal jurisdictions. In establishing these extension programs, the Secretary shall consult with the Bureau of Indian Affairs, the Intertribal Agriculture Council, and the Southwest Indian Agriculture Association, and shall make such interagency cooperative agreements or memoranda of understanding as may be necessary. The programs to be developed and delivered on Reservations and within tribal jurisdictions shall be determined with the advice and counsel of Reservation or tribal program advisory committees.

Cooperative agreements.

(b) ADMINISTRATION AND MANAGEMENT.—Extension agents shall be employees of, and administratively responsible to, the Cooperative Extension Service of the State within which the Reservation or tribal jurisdiction is located, and employment and personnel management responsibilities shall be vested with the State Cooperative Extension Service. In cases where a Reservation or tribal jurisdiction is located in two or more States, the Secretary of Agriculture shall make the determination of administrative responsibility, including possible divisions along State boundaries.

(c) ADVISORY COMMITTEES.—At the request of a State Extension Director, and with the assistance of the Tribal authorities, the Secretary of Agriculture may form an advisory committee to give overall policy and program advice to that State Extension Director with regard to programs conducted on reservations or within tribal jurisdictions. Program advisory committees may be formed to assist extension staff in development and conduct of program activities.

(d) STAFFING.—Insofar as possible, agent and specialist staff shall include individuals representative of the tribal grouping being served. Programs shall emphasize training and employment of local people in positions such as program aides, master gardeners, and volunteers. Staffing at a particular location shall be dependent on the needs and priorities of that location, as identified by the advisory committees and the State Extension Director, and the Director may make use of existing personnel and facilities as appropriate.

Manpower training programs. Volunteers.

(e) PLACING OF AGENTS.—The number of offices and their placement shall be jointly determined by the State Extension Directors and tribal authorities of the respective States by taking into consideration the agricultural acreage within the boundaries of an Indian Reservation or tribal jurisdiction, the soil classifications of such acreage, and the population of such Reservation or tribal jurisdiction.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

7 USC 5931.

SEC. 1678. SPECIAL GRANT TO STUDY CONSTRAINTS ON AGRICULTURAL TRADE.

(a) GRANT REQUIRED.—The Secretary of Agriculture shall provide at least two special grants to land-grant colleges and universities to conduct a study that will evaluate the trade impacts of technical barriers, quality factors, and end-use characteristics in agricultural trade to determine whether such factors are consistent as between commodities. Such study shall be conducted with the objective—

(1) to identify and analyze constraints related to end-use characteristics in trade and competition;

(2) to design production and processing techniques to lessen their impacts; and

(3) to identify public policy alternatives, nationally and internationally, that may reduce the impacts of such trade restrictions.

(b) JOINT DEVELOPMENT.—The Secretary shall ensure that the grants provided for in this section provide for the joint development of the methodology and techniques between the recipients of such grants to meet the objectives set forth in subsection (a).

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall report the results of the study grants under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) LAND-GRANT COLLEGES AND UNIVERSITIES DEFINED.—For purposes of this section, the term "land-grant colleges and universities" has the meaning given to that term in section 1404(10) of the National Agricultural Research, Teaching, and Extension Policy Act of 1977 (7 U.S.C. 3103(10)).

7 USC 5932.

SEC. 1679. PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

Grant programs.

(a) PILOT PROJECT.—The Secretary of Agriculture shall establish a five-year pilot project to make available grants to not less than two States, on a competitive basis, for the purpose of implementing in such States, a plan that—

(1) provides for the full coordination of the conceptual design and program delivery of food and nutrition education programs for potential participants within the State; and

(2) provides to the greatest extent possible for the coordination of such food and nutrition education programs with related State programs.

(b) ELEMENTS OF THE PROJECT.—In carrying out subsection (a), the Secretary shall—

(1) provide for enhanced intraagency and interagency coordination in the design and delivery of food and nutrition education programs;

(2) develop more efficient methods, and improved agency organization, to inform the public and persons eligible for food and nutrition programs about such education programs (including those education programs regarding nutrition and management of family resources for better nutrition and health) and nutrition education programs available at the Federal, State, and local level; and

(3) provide for an evaluation of the degree to which stated program coordination objectives are being attained, the impact on actual behavioral change of program participants, and the

implication of the program outcomes for future public health, budget expenditures, and the general public welfare.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "coordination" means the development and implementation of a consistent and coherent program of nutrition education regarding the receipt and increased beneficial use of the resources made available to persons for food and nutrition programs and, to the extent possible, related State and local food and nutrition programs.

(2) The term "food and nutrition education programs" includes any educational programs or components of the food stamp program, the expanded food and nutrition education program, and such other programs administered by the Department of Agriculture as the Secretary determines necessary to effectively implement the programs required under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out the pilot project established under subsection (a).

SEC. 1680. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES. 7 USC 5933.

(a) SPECIAL DEMONSTRATION GRANTS.—

(1) IN GENERAL.—The Secretary of Agriculture, in consultation with other appropriate Federal agencies, shall make demonstration grants to support cooperative programs between State Cooperative Extension Service agencies and private nonprofit disability organizations to provide on-the-farm agricultural education and assistance directed at accommodating disability in farm operations for individuals with disabilities who are engaged in farming and farm-related occupations and their families.

(2) ELIGIBLE SERVICES.—Grants awarded under paragraph (1) may be used to support programs serving individuals with disabilities, and their families, who are engaged in farming and farm-related occupations.

(3) ELIGIBLE PROGRAMS.—Grants awarded under paragraph (1) may be used to initiate, expand, or sustain programs that—

(A) provide direct education and assistance to accommodate disability in farming to individuals with disabilities who engage in farming and farm-related occupations;

(B) provide on-the-farm technical advice concerning the design, fabrication, and use of agricultural and related equipment, machinery, and tools, and assist in the modification of farm worksites, operations, and living arrangements to accommodate individuals with disabilities who engage in farming, farm living and farm-related tasks;

(C) involve community and health care professionals, including Extension Service agents and others, in the early identification of farm and rural families that are in need of services related to the disability of an individual;

(D) provide specialized education programs to enhance the professional competencies of rural agricultural professionals, rehabilitation and health care providers, vocational counselors, and other providers of service to individuals

with disabilities, and their families, who engage in farming or farm-related occupations; and

(E) mobilize rural volunteer resources, including peer counseling among farmers with disabilities and rural ingenuity networks promoting cost effective methods or accommodating disabilities in farming and farm-related activities.

(4) EXTENSION SERVICE AGENCIES.—Grants shall be awarded under this subsection directly to State Extension Service agencies to enable them to enter into contracts, on a multiyear basis, with private nonprofit community-based direct service organizations to initiate, expand, or sustain cooperative programs described under paragraphs (2) and (3).

(5) MINIMUM AMOUNT.—A grant awarded under this subsection may not be less than $150,000.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) not less than $3,000,000 for each of the fiscal years 1991 and 1992; and

(B) not less than $5,000,000 for each of the fiscal years 1993 through 1996.

(b) NATIONAL GRANT FOR TECHNICAL ASSISTANCE, TRAINING AND DISSEMINATION.—

(1) IN GENERAL.—The Secretary of Agriculture shall award a competitive grant to a national private nonprofit disability organization to enable such organization to provide technical assistance, training, information dissemination and other activities to support community-based direct service programs of onsite rural rehabilitation and assistive technology for individuals with disabilities, and their families, who are engaged in farming or farm-related occupations.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this subsection for each of the fiscal years 1991 through 1996.

7 USC 5934.

SEC. 1681. RESEARCH ON HONEYBEE DISEASES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) diseases affecting the entire honeybee population impact on the ability of honeybees to carry out crop pollination and honey production, and therefore impact negatively on beekeepers, producers and consumers; and

(2) certain diseases (such as those caused by teacheal mite, varroa mite, and the Africanized honeybee) pose a threat to the continued well-being of the general honeybee population, and thus merit further study.

(b) RESEARCH.—Notwithstanding any other provision of law, the Secretary of Agriculture shall give priority attention to the funding of research regarding the diseases referred to in subsection (a) that are affecting the honeybee population.

TITLE XVII—FOOD STAMP AND RELATED PROVISIONS

Mickey Leland Memorial Domestic Hunger Relief Act.
7 USC 2011 note.

SEC. 1701. SHORT TITLE.

This title may be cited as the "Mickey Leland Memorial Domestic Hunger Relief Act".

Subtitle A—Food Stamp Program

SEC. 1711. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), except to the extent otherwise specifically provided.

SEC. 1712. RECIPIENTS OF AGED, BLIND, AND DISABLED BENEFITS IN TERRITORIES.

(a) DEFINITION OF FOOD.—Section 3(g) (7 U.S.C. 2012(g)) is amended—

(1) in clause (3), by striking "under title XVI" and inserting "or disability or blindness payments under title I, II, X, XIV, or XVI"; and

(2) in clause (7)—

(A) by striking "title II or title XVI" and inserting "title I, II, X, XIV, or XVI"; and

(B) by inserting after "section 1616(e) of the Social Security Act" the following: "or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section".

(b) DEFINITION OF HOUSEHOLD.—The last sentence of section 3(i) is amended—

(1) by striking "title II or title XVI" and inserting "title I, II, X, XIV, or XVI"; and

(2) by inserting after "section 1616(e) of the Social Security Act" the following: "or under standards determined by the Secretary to be comparable to standards implemented by appropriate State agencies under such section".

SEC. 1713. RESTAURANT MEALS AT CONCESSIONAL PRICES FOR THE HOMELESS.

(a) DEFINITION OF FOOD.—Section 3(g)(9) (7 U.S.C. 2012(g)(9)) is amended by striking "individuals and by a public" and all that follows through "or shelter)" and inserting "individuals and by private establishments that contract with the appropriate agency of the State to offer meals for such individuals at concessional prices".

(b) CONFORMING CHANGE.—Effective September 29, 1990, section 11002(f)(3) of the Homeless Eligibility Clarification Act (7 U.S.C. 2012 note) is amended by striking "subsection (b)" and inserting "subsections (a) and (b)". Effective date.

SEC. 1714. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF GENERAL ASSISTANCE.

Section 5(a) (7 U.S.C. 2014(a)) is amended by—

(1) by striking "and beginning on the date of the enactment of the Food Security Act of 1985,"; and

(2) by inserting after the second sentence the following new sentence: "Except for sections 6, 16(e)(1), and the third sentence of section 3(i), households in which each member receives benefits under a State or local general assistance program that complies with standards established by the Secretary for ensuring that the program is appropriate for categorical treatment shall be eligible to participate in the food stamp program.".

SEC. 1715. EXCLUSION OF EDUCATIONAL BENEFITS.

(a) IN GENERAL.—Section 5(d) (7 U.S.C. 2014(d)) is amended—

(1) in paragraph (3)—

(A) by inserting "(A)" after "the like"; and

(B) by striking "at an institution" and all that follows through "handicapped, and", and inserting the following: "(including the rental or purchase of any equipment, materials, and supplies required to pursue the course of study involved) at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof, (B) to the extent that they do not exceed the amount made available as an allowance determined by such school, institution, or program for books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program, and (C)"; and

(2) in the proviso to clause (5)—

(A) by inserting "and" after "1988),";

(B) by striking "non-Federal"; and

(C) by striking "and no portion of any Federal" and all that follows through "mandatory school fees,".

(b) CLARIFYING AND TECHNICAL AMENDMENT.—The fourth sentence of section 5(e) is amended by inserting after "third party" the following: ", amounts made available and excluded for the expenses under subsection (d)(3),".

SEC. 1716. EXCLUSION OF CLOTHING ALLOWANCES.

Section 5(d)(5) (7 U.S.C. 2014(d)(5)) is amended by inserting after "household" the following: "and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes (except that no such allowance shall be excluded if the State agency reduces monthly assistance to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) in the month for which the allowance is provided)".

SEC. 1717. EXCESS MEDICAL EXPENSE DEDUCTION.

The last sentence of section 5(e) (7 U.S.C. 2014(e)) is amended by inserting before the period at the end the following: ", shall rely on reasonable estimates of the member's expected medical expenses for the certification period (including changes that can be reasonably anticipated based on available information about the member's medical condition, public or private medical insurance coverage, and

the current verified medical expenses incurred by the member), and shall not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period".

SEC. 1718. BUDGETING AND MONTHLY REPORTING.

(a) IN GENERAL.—Paragraph (2) of section 5(f) (7 U.S.C. 2014(f)) is amended to read as follows:

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), households shall have their incomes calculated on a prospective basis, as provided in paragraph (3)(A), or, at the option of the State agency, on a retrospective basis, as provided in paragraph (3)(B).

"(B) In the case of the first month, or at the option of the State, the first and second months, during a continuous period in which a household is certified, the State agency shall determine eligibility and the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.

"(C) Households specified in clauses (i), (ii), (iii), and (iv) of section 6(c)(1)(A) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(D) Except as provided in subparagraph (B), households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B).".

(b) CALCULATION OF HOUSEHOLD INCOME.— 7 USC 2014 note.

(1) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning October 1, 1988, and ending on the first day of the first month beginning at least 120 days after the date of enactment of this Act, a State agency may elect to implement the amendment to section 5(f)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(2)) made by section 202(a) of the Hunger Prevention Act of 1988 (Public Law 100-435; 102 Stat. 1656) (with respect to the requirement that income be calculated on a prospective basis in the case of households that are not required to report monthly on their income and household circumstances).

(2) PAYMENT ERROR RATES.—Notwithstanding section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)), during the period referred to in paragraph (1), errors resulting solely from implementation by a State agency of the amendment referred to in paragraph (1) shall not be included in payment error rates determined under section 16(c) of such Act.

SEC. 1719. SIMPLIFYING RESOURCE AND ELIGIBILITY DETERMINATIONS.

Section 5 (7 U.S.C. 2014) is amended—

(1) in subsection (g)—

(A) by designating the first through fourth sentences as paragraphs (1) through (4), respectively; and

(B) by adding at the end the following new paragraph:

"(5) The Secretary shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is relatively slight or because the cost of selling the household's interest would be relatively great. Resources so identified shall be excluded as inaccessible resources."; and Regulations.

(2) in subsection (j)—

(A) by striking "a household in which all members of the household receive" and inserting "the resources of a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.), aid to the aged, blind, or disabled under title I, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.) or who receives"; and

(B) by striking "have satisfied the resource limitations prescribed under subsection (g)" and inserting "be exempt for purposes of satisfying the resource limitations prescribed under subsection (g) if the resources are considered exempt for purposes of such title".

SEC. 1720. EMERGENCY FOOD FOR DISASTER VICTIMS.

Section 5(h) (7 U.S.C. 2014(h)) is amended by adding at the end the following new paragraph:

Regulations.

"(3)(A) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster. The regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary not greater than the applicable maximum monthly allotment for the household size.

"(B) The Secretary shall adjust reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel and any damage to or disruption of transportation and communication facilities.".

SEC. 1721. TRANSITIONAL HOUSING.

Section 5(k)(2) (7 U.S.C. 2014(k)(2)) is amended by striking subparagraph (F) and inserting the following new subparagraph:

"(F) housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless in an amount equal to 50 percent of the maximum shelter allowance provided to families not residing in such transitional housing under the States' plan for aid to families with dependent children approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or".

SEC. 1722. EXCLUSION OF GENERAL ASSISTANCE PAYMENTS.

Section 5(k)(2) (7 U.S.C. 2014(k)(2)) is amended—

(1) by striking "or" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(H) assistance provided to a third party on behalf of a household under a State or local general assistance program, or another local basic assistance program comparable to general assistance (as determined by the Secretary), if, under State law, no assistance under the program may be provided directly to the household in the form of a cash payment.".

SEC. 1723. BUDGETING AND MONTHLY REPORTING ON RESERVATIONS.

Section 6(c)(1)(A) (7 U.S.C. 2015(c)(1)(A)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(2) by inserting after clause (i) the following new clause: "(ii) households residing on a reservation;".

SEC. 1724. PERIODIC ELIGIBILITY INFORMATION REPORTS.

Section 6(c) (7 U.S.C. 2015(c)) is amended—

(1) in paragraph (2)(C), by striking "forms approved by the Secretary" and inserting "State agency designed forms"; and

(2) in the first sentence of paragraph (3), by striking ", in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility and allotment levels" and inserting "they contain the information relevant to eligibility and benefit determinations that is specified by the State agency".

SEC. 1725. SELECTION OF HOUSEHOLD HEAD BY HOUSEHOLD.

Section 6(d)(1) (7 U.S.C. 2015(d)(1)) is amended by inserting after the first sentence the following new sentences: "The State agency shall allow the household to select an adult parent of children in the household as its head where all adult household members making application agree to the selection. The household may designate its head of household under this paragraph each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.".

SEC. 1726. EXPANSION OF EMPLOYMENT AND TRAINING PROGRAM.

(a) LITERACY TRAINING.—Section 6(d)(4)(B)(v) (7 U.S.C. 2015(d)(4)(B)(v)) is amended by inserting "and literacy," after "basic skills".

(b) PROGRAMS THAT FOCUS ON SELF-EMPLOYMENT OPPORTUNITIES.—

(1) AUTHORIZATION FOR PROGRAMS.—Section 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(A) by redesignating clause (vi) as clause (vii); and

(B) by inserting after clause (v) the following new clause: "(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures.".

(2) EXEMPTION FOR RESOURCES USED IN PROJECTS.—Section 5(g)(3) (as designated by section 1719(1) of this Act) is amended by inserting before the period at the end of the paragraph the following: "and nonliquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency that constitutes adequate participation in an employment and training program under section 6(d)".

(c) EXPANDING STATE FLEXIBILITY.—Section 6(d)(4)(E) (7 U.S.C. 2015(d)(4)(E)) is amended by adding at the end the following new sentence: "Through September 30, 1995, two States may, on application to and after approval by the Secretary, give priority in the provision of services to voluntary participants (including both exempt and non-exempt participants), except that this sentence shall not excuse a State from compliance with the performance standards issued under subparagraphs (K) and (L), and the Secretary may, at the Secretary's discretion, approve additional States' requests to give such priority if the Secretary reports to Congress on the number and characteristics of voluntary participants given

Reports.

priority under this sentence and such other information as the Secretary determines to be appropriate.".

(d) STATE IMPLEMENTATION OF PERFORMANCE STANDARDS.—Section 6(d)(4)(L)(iii) (7 U.S.C. 2015(d)(4)(L)(iii)) is amended by striking "April" and inserting "October".

SEC. 1727. ELIGIBILITY FOR STUDENTS.

Subsection (e) of section 6 (7 U.S.C. 2015(e)) is amended to read as follows:

"(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if the individual is enrolled at least half-time in an institution of higher education, unless the individual—

"(1) is under age 18 or is age 50 or older;

"(2) is not physically or mentally fit;

"(3) is assigned to or placed in an institution of higher education through or in compliance with the requirements of—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) an employment and training program under this section;

"(C) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(D) another program for the purpose of employment and training operated by a State or local government, as determined to be appropriate by the Secretary;

"(4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;

"(5) is—

"(A) a parent with responsibility for the care of a dependent child under age 6; or

"(B) a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable the individual to attend class and satisfy the requirements of paragraph (4);

"(6) is receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(7) is so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act or its successor programs; or

"(8) is enrolled full-time in an institution of higher education, as determined by the institution, and is a single parent with responsibility for the care of a dependent child under age 12.".

SEC. 1728. STAGGERED ISSUANCES; RESERVATIONS.

Subsection (h) of section 7 (7 U.S.C. 2016(h)) is amended to read as follows:

"(h)(1) The State agency may establish a procedure for staggering the issuance of coupons to eligible households throughout the month. The State agency shall establish such a procedure for eligible households residing on reservations.

"(2) Any procedure established under paragraph (1) shall not reduce the allotment of any household and shall ensure that no household experiences an interval between issuances of more than 40 days. The procedure may include issuing a household's benefits in more than one issuance.".

SEC. 1729. ELECTRONIC BENEFITS ISSUANCE.

(a) IN GENERAL.—Section 7 (7 U.S.C. 2016) is amended by adding at the end the following new subsection:

"(i)(1)(A) Any State agency may, with the approval of the Secretary, implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) No State agency may implement or expand an electronic benefit transfer system without prior approval from the Secretary.

"(2) The Secretary shall issue final regulations effective no later than April 1, 1992, that establish standards for the approval of such a system. The standards shall include— Regulations.

"(A) determining the cost-effectiveness of the system to ensure that its operational cost, including the pro rata cost of capital expenditures and other reasonable startup costs, does not exceed, in any 1 year, the operational cost of issuance systems in use prior to the implementation of the on-line electronic benefit transfer system;

"(B) defining the required level of recipient protection regarding privacy, ease of use, and access to and service in retail food stores;

"(C) the terms and conditions of participation by retail food stores, financial institutions, and other appropriate parties;

"(D) system security;

"(E) system transaction interchange, reliability, and processing speeds;

"(F) financial accountability;

"(G) the required testing of system operations prior to implementation; and

"(H) the analysis of the results of system implementation in a limited project area prior to expansion.

"(3) In the case of a system described in paragraph (1) in which participation is not optional for households, the Secretary shall not approve such a system unless—

"(A) a sufficient number of eligible retail food stores, including those stores able to serve minority language populations, have agreed to participate in the system throughout the area in which it will operate to ensure that eligible households will not suffer a significant reduction in their choice of retail food stores or a significant increase in the cost of food or transportation to participating food stores; and

"(B) any special equipment necessary to allow households to purchase food with the benefits issued under this Act is operational—

"(i) in the case of a participating retail food store in which coupons are used to purchase 15 percent or more of the total dollar amount of food sold by the store (as determined by the Secretary), at all registers in the store; and

"(ii) in the case of other participating stores, at a sufficient number of registers to provide service that is com-

parable to service provided individuals who are not members of food stamp households, as determined by the Secretary.

"(4) Administrative costs incurred in connection with activities under this subsection shall be eligible for reimbursement in accordance with section 16, subject to the limitations in section 16(g).

"(5) The Secretary shall periodically inform State agencies of the advantages of using electronic benefit systems to issue benefits in accordance with this subsection in lieu of issuing coupons to households.

"(6) This subsection shall not diminish the authority of the Secretary to conduct projects to test automated or electronic benefit delivery systems under section 17(f).".

7 USC 2026.

(b) CONFORMING AND TECHNICAL AMENDMENT.—Section 17(f) is amended by striking "(f)(1)" and inserting "(f)".

SEC. 1730. MINIMUM BENEFIT.

Section 8(a) (7 U.S.C. 2017(a)) is amended by inserting before the final period ", and shall be adjusted on each October 1 to reflect the percentage change in the cost of the thrifty food plan without regard to the special adjustments under section 3(o) for the 12-month period ending the preceding June, with the result rounded to the nearest $5".

SEC. 1731. ISSUANCE OF AGGREGATE ALLOTMENTS.

Section 17(a) (7 U.S.C. 2026(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may, on application, permit not more than two State agencies to establish procedures that allow households whose monthly food stamp benefits do not exceed $20, at their option, to receive, in lieu of their food stamp benefits for the initial period under section 8 and their regular allotment in following months, and at intervals of up to 3 months thereafter, aggregate allotments not to exceed $60 and covering not more than 3 months' benefits. The allotments shall be provided in accordance with paragraphs (3) and (9) of section 11(e) (except that no household shall begin to receive combined allotments under this section until it has complied with all applicable verification requirements of section 11(e)(3)) and (with respect to the first aggregate allotment so issued) within 40 days of the last coupon issuance.".

SEC. 1732. STATE FLEXIBILITY IN ASSISTING HOUSEHOLDS.

Paragraph (3) of section 8(c) (7 U.S.C. 2017(c)(3)) is amended to read as follows:

"(3) A State agency—

"(A) in the case of a household that is not entitled in the month in which it applies to expedited service under section 11(e)(9), may provide that an eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraph (3) of section 11(e); and

"(B) in the case of a household that is entitled in the month in which it applies to expedited service under section 11(e)(9), shall provide that an eligible household applying after the 15th day of

the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).".

SEC. 1733. PERIODIC REAUTHORIZATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 9(a) (7 U.S.C. 2018(a)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary is authorized to issue regulations providing for a periodic reauthorization of retail food stores and wholesale food concerns.".

SEC. 1734. AUTHORIZATION OF WHOLESALE FOOD CONCERNS.

Section 9(b)(1) (7 U.S.C. 2018(b)(1)) is amended by inserting after the first sentence the following new sentence: "No co-located wholesale-retail food concern may be authorized to accept and redeem coupons as a retail food store, unless (A) the concern does a substantial level of retail food business, or (B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households.".

SEC. 1735. REQUIRED SUBMISSION OF CERTAIN IDENTIFYING INFORMATION BY RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

(a) IN GENERAL.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(1) by redesignating clauses (ii), (iii), and (iv) as clauses (iv), (v), and (vi), respectively;

(2) by redesignating subclauses (I) and (II) of clause (i) as clauses (i) and (ii), respectively; and

(3) by inserting after clause (ii) (as redesignated) the following new clause:

"(iii) In the administration of section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) involving the determination of the qualifications of applicants under such Act, the Secretary of Agriculture may require each applicant retail store or wholesale food concern to furnish to the Secretary of Agriculture the social security account number of each individual who is an officer of the store or concern and, in the case of a privately owned applicant, furnish the social security account numbers of the owners of such applicant. No officer or employee of the Department of Agriculture shall have access to any such number for any purpose other than the establishment and maintenance of a list of the names and social security account numbers of such individuals for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of such Act (7 U.S.C. 2021 or 2024). The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977. The Secretary of Agriculture shall provide such other safeguards as the Secretary of Health and Human Services determines to be

Confidential information.

necessary or appropriate to protect the confidentiality of the social security account numbers.".

(b) CONFIDENTIALITY OF SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(C) of such Act (as amended by subsection (a) of this section) is further amended by adding at the end the following new clause:

"(vii)(I) Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record.

"(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

"(III) For purposes of this clause, the term 'authorized person' means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term 'officer or employee' includes a former officer or employee.

"(IV) For purposes of this clause, the term 'related record' means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a request for a social security account number is maintained pursuant to this clause.".

(c) REQUIRED SUBMISSION OF EMPLOYER IDENTIFICATION NUMBERS.—Section 6109 of the Internal Revenue Code of 1986 (relating to identifying numbers) is amended by adding at the end the following new subsection:

26 USC 6109.

"(f) ACCESS TO EMPLOYER IDENTIFICATION NUMBERS BY SECRETARY OF AGRICULTURE FOR PURPOSES OF FOOD STAMP ACT OF 1977.—

"(1) IN GENERAL.—In the administration of section 9 of the Food Stamp Act of 1977 (7 U.S.C. 2018) involving the determination of the qualifications of applicants under such Act, the Secretary of Agriculture may, subject to this subsection, require each applicant retail store or wholesale food concern to furnish to the Secretary of Agriculture the employer identification number assigned to the store or concern pursuant to this section. The Secretary of Agriculture shall not have access to any such number for any purpose other than the establishment and maintenance of a list of the names and employer identification numbers of the stores and concerns for use in determining those applicants who have been previously sanctioned or convicted under section 12 or 15 of such Act (7 U.S.C. 2021 or 2024).

"(2) SAFEGUARDS.—The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to paragraph (1) only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977. The Secretary of Agriculture shall provide such other safeguards as the Secretary of the Treasury determines to be necessary or appropriate to protect the confidentiality of the employer identification numbers.

"(3) CONFIDENTIALITY AND NONDISCLOSURE RULES.—Employer identification numbers that are obtained or maintained by the Secretary of Agriculture pursuant to this subsection shall be confidential, and no officer or employee of the United States who has or had access to the social security account numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term 'officer or employee' includes a former officer or employee.

"(4) SANCTIONS.—Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained by the Secretary of Agriculture pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.".

SEC. 1736. SIMPLIFIED APPLICATION REQUIREMENTS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)) is amended—

(1) in the third sentence, by striking "instructions" and inserting "(on or near its front cover) explanations"; and

(2) by striking the sentence beginning "One adult member" and inserting the following new sentences: "The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 6(f). The signature of the adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process.".

SEC. 1737. ESTIMATES IN LIEU OF VERIFICATION FOR HOMELESS HOUSEHOLDS WITH SHELTER COSTS.

Section 11(e)(3)(E) (7 U.S.C. 2020(e)(3)(E)) is amended by inserting before the final semicolon a period and the following: "Under rules prescribed by the Secretary, a State agency shall develop standard estimates of the shelter expenses that may reasonably be expected to be incurred by households in which all members are homeless but that are not receiving free shelter throughout the month. The Secretary may issue regulations to preclude the use of the estimates

for households with extremely low shelter costs for whom the following sentence shall not apply. A State agency shall use the estimates in determining the allotments of the households, unless a household verifies higher expenses".

SEC. 1738. RURAL ISSUANCE PROCEDURES.

Section 11(e) (7 U.S.C. 2020(e)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting a semicolon;

(3) by striking "and" at the end of paragraph (23);

(4) by striking the period at the end of paragraph (24) and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(25) a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate the areas according to procedures approved by the Secretary. In each area so designated, the State agency shall provide for the issuance of coupons by mail to all eligible households in the area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within such area where the mail loss rates exceed standards set by the Secretary.".

SEC. 1739. NUTRITION EDUCATION.

Section 11(f) (7 U.S.C. 2020(f)) is amended by striking the first sentence and inserting the following new sentence: "To encourage the purchase, preparation, and consumption of nutritious foods, the Secretary is authorized to assign responsibility for the nutrition education of individuals eligible for food stamps, or the program for the distribution of commodities on reservations, to the Cooperative Extension Service, in cooperation with the Food and Nutrition Service.".

SEC. 1740. FOOD STAMP APPLICATION FOR GENERAL ASSISTANCE HOUSEHOLDS.

Section 11(i)(3) (7 U.S.C. 2020(i)(3)) is amended—

(1) by inserting after "State or local general assistance grant" the following: "in a State that has a single State-wide general assistance application form"; and

(2) by inserting before the semicolon at the end the following: ", and households applying for a local general assistance grant in a local jurisdiction in which the agency administering the general assistance program also administers the food stamp program shall be provided an application for participation in the food stamp program at the time of their application for general assistance, along with information concerning how to apply for the food stamp program".

SEC. 1741. APPLICANTS FOR SUPPLEMENTAL SECURITY INCOME.

Section 11(j)(1) (7 U.S.C. 2020(j)(1)) is amended by inserting "supplemental security income or" after "recipient of".

SEC. 1742. AUDIT OF SIMPLIFIED FOOD STAMP APPLICATIONS AT SOCIAL SECURITY ADMINISTRATION OFFICES. 7 USC 2020 note.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct an audit of the programs established under subsections (i) and (j) of section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) under which an applicant for or recipient of social security benefits may make or be provided a simple application to participate in the food stamp program at social security offices, including an examination of whether—

(1) the programs are operating effectively; and

(2)(A) the program for recipients of supplemental security income established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) should be expanded to include all applicants for and recipients of social security benefits; or

(B) a joint application is feasible for benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and supplemental security income benefits.

(b) REPORT.—Not later than December 31, 1991, the Comptroller General shall deliver a report on the results of the study required by this section to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Special Committee on Aging of the Senate.

SEC. 1743. PERMANENT DISQUALIFICATION.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B)—

(A) by inserting after "$20,000" the following: "for each violation (except that the amount of civil money penalties imposed during a 2-year period may not exceed $40,000)";

(B) by inserting after "substantial evidence" the following: "(including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation)"; and

(C) by striking the period at the end of the subparagraph and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a finding of the sale of firearms, ammunition, explosives, or controlled substances (as the term is defined in section 802 of title 21, United States Code) for coupons, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 for each violation (except that the amount of civil money penalties imposed during a 2-year period may not exceed $40,000) in lieu of disqualification under this subparagraph if the Secretary determines that there is substantial evidence (including evidence that neither the ownership nor management of the store or food concern was aware of, approved, benefited from, or was involved in the conduct or approval of the violation) that the store or food concern had an effective policy and program in effect to prevent violations of this Act.". Arms and munitions. Penalties.

SEC. 1744. FINES FOR ACCEPTANCE OF LOOSE COUPONS.

Section 12(e) (7 U.S.C. 2021(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary may impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in regulations issued under this Act. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the store or concern to collect the fine.".

SEC. 1745. FINES FOR UNAUTHORIZED THIRD PARTIES THAT ACCEPT FOOD STAMPS.

Section 12 (7 U.S.C. 2021) is amended by adding at the end the following new subsection:

"(f) The Secretary may impose a fine against any person not approved by the Secretary to accept and redeem food coupons who violates any provision of this Act or a regulation issued under this Act, including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations issued under this Act separately or in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against the person to collect the fine.".

SEC. 1746. FRAUD CLAIMS REPAYMENT.

The last sentence of section 13(b)(1)(A) (7 U.S.C. 2022(b)(1)(A)) is amended by striking "within thirty days" and inserting "on the date of receipt (or, if the date of receipt is not a business day, on the next business day)".

SEC. 1747. COMPUTER FRAUD PENALTIES.

(a) USE OF AN ACCESS DEVICE.—The first sentence of section 15(b)(1) (7 U.S.C. 2024(b)(1)) is amended—

(1) by striking "or authorization cards in any manner not authorized by" and inserting ", authorization cards, or access devices in any manner contrary to";

(2) by inserting after "a value of $100 or more," the following: "or if the item used, transferred, acquired, altered, or possessed is an access device that has a value of $100 or more,"; and

(3) by inserting after "a value of less than $100," the following: "or if the item used, transferred, acquired, altered, or processed is an access device that has a value of less than $100,".

(b) DEFINITION.—Section 3 (7 U.S.C. 2012) is amended by adding at the end the following new subsection:

"(u) 'Access device' means any card, plate, code, account number, or other means of access that can be used, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or that can be used to initiate a transfer of funds under this Act.".

(c) CONFORMING CHANGE.—The first sentence of section 15(g) (7 U.S.C. 2024(g)) is amended by striking "or authorization cards in any manner not authorized by" and inserting ", authorization cards or

access devices, or anything of value obtained by use of an access device, in any manner contrary to".

SEC. 1748. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

The first sentence of section 15(b)(1) (7 U.S.C. 2024(b)(1)) (as amended by section 1747) is further amended—

(1) by inserting after "Act shall," the following: "if such coupons, authorization cards, or access devices are of a value of $5,000 or more, be guilty of a felony and shall be fined not more than $250,000 or imprisoned for not more than twenty years, or both, and shall,"; and

(2) by inserting after "$100 or more," each place that such appears the following: "but less than $5,000,".

SEC. 1749. COUPON TRAFFICKING.

Section 15(c) (7 U.S.C. 2024(c)) is amended by striking "$10,000" each place it appears and inserting "$20,000".

SEC. 1750. RETENTION OF FUNDS OR ALLOTMENTS RECOVERED OR COLLECTED BY STATES.

The proviso of the first sentence of section 16(a) (7 U.S.C. 2025(a)) is amended—

(1) by striking "50 per centum" and inserting "25 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 50 percent thereafter"; and

(2) by striking "25 per centum" and inserting "10 percent during the period beginning October 1, 1990, and ending September 30, 1995, and 25 percent thereafter".

SEC. 1751. QUALITY CONTROL SANCTIONS. 7 USC 2025 note.

(a) IN GENERAL.—No disallowance or other similar action shall be applied to or collected from any State for any of the fiscal years 1983, 1984, or 1985 under section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) or any predecessor statutory or regulatory provision relating to disallowances or other similar actions for erroneous issuances made in carrying out a State plan under such Act, except for amounts to be paid or collected after the date of enactment of this Act pursuant to settlement agreements which do not provide for payment adjustments based on future changes in law.

(b) APPLICATION.—Subsection (a) shall also apply to disallowances described in subsection (a) with respect to which an administrative or judicial appeal is pending on the date of enactment of this Act, including any such disallowance that has been collected before such date.

SEC. 1752. FEDERAL MATCH FOR AUTOMATION.

(a) IN GENERAL.—Section 16(g) (7 U.S.C. 2025(g)) is amended—

(1) by striking "Effective October 1, 1980, the" and inserting "The"; and

(2) by striking "75 per centum" and inserting "63 percent effective on October 1, 1991".

(b) APPLICATION.—The amendment made by subsection (a)(2) shall not apply to proposals for automatic data processing and information retrieval systems under section 16(g) of the Food Stamp Act of 1977 that were approved by the Secretary of Agriculture prior to the date of enactment of this Act. 7 USC 2025 note.

SEC. 1753. EMPLOYMENT AND TRAINING ALLOCATIONS.

Paragraph (1) of section 16(h) (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(1)(A) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for the fiscal year under section 18(a)(1), the amount of $75,000,000 for each of the fiscal years 1991 through 1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during the fiscal year.

"(B) In making the allocation required by subparagraph (A) for each of the fiscal years 1992 through 1995, the Secretary shall allocate $15,000,000 among the States based on State agency performance under section 6(d)(4), as determined by the Secretary.

"(C) In making the allocation required by subparagraph (A) for fiscal year 1992, the Secretary shall allocate nonperformance funding of $60,000,000 among the States in a manner such that each State is allocated funds equal to—

"(i) a funding level determined under the nonperformance funding allocation formula used for fiscal year 1991;

"(ii) increased by one half of the difference between such funding level and an amount, if larger, based on the State's proportion of the number of individuals registered for work under section 6(d)(4); or

"(iii) decreased by one half of the difference between such funding level and such amount, if such amount is smaller.

"(D) In making the allocation required by subparagraph (A) for each of the fiscal years 1993 through 1995, the Secretary shall allocate nonperformance funding of $60,000,000 among the States based on each State's proportion of the number of individuals registered for work under section 6(d)(4).

"(E) Notwithstanding subparagraphs (C) and (D), the Secretary shall—

"(i) for fiscal year 1992, ensure that each State is allocated at least $50,000 by reducing, to the extent necessary, the funds allocated to States (other than States allocated less than $50,000) whose funding level has been increased under subparagraph (C); and

"(ii) for each of the fiscal years 1993 through 1995, ensure that each State is allocated at least $50,000 by reducing, to the extent necessary, the funds allocated to those States allocated more than $50,000.

"(F) Each such State's share of such reduction under subparagraph (E) shall represent its proportion of individuals registered for work under section 6(d)(4) in all States subject to the reduction.".

SEC. 1754. EXTENSION OF PILOT PROJECTS.

The last sentence of section 17(b)(1) (7 U.S.C. 2026(b)(1)) is amended by striking "1990" and inserting "1995".

SEC. 1755. SALES TAXES IN CASH-OUT DEMONSTRATION PROJECTS.

Section 17(b)(1) (7 U.S.C. 2026(b)(1)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) No waiver or demonstration program shall be approved under this Act after the date of enactment of this subparagraph unless—

"(I) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project, the tax on purchases of food by any such household is waived, or the Secretary determines on the basis of information provided by the State agency that the increase is unnecessary on the basis of the limited nature of the items subject to the State or local sales tax; and

"(II) the State agency conducting the demonstration project pays the cost of any increased allotments.

"(ii) Clause (i) shall not apply if a waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides.".

SEC. 1756. ENHANCED WAIVER AUTHORITY FOR DEMONSTRATION PROJECTS.

Section 17(b) (7 U.S.C. 2026(b)) is amended—

(1) in the second sentence of paragraph (1)(A) (as amended by section 1755(1) of this Act), by inserting after "eligible households" the following: "or a project conducted under paragraph (3)"; and

(2) by adding at the end the following new paragraph:

"(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act (42 U.S.C. 601 et seq.).

"(B) Notwithstanding paragraph (1), the Secretary may, as part of a project authorized under this paragraph, waive requirements under section 6(d) to permit a State to operate an employment and training program for food stamp recipients on the same terms and conditions under which the State operates its Job Opportunities and Basic Skills program for recipients of aid to families with dependent children under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.). Any work experience program conducted as part of the project shall be conducted in conformity with section 482(f) of such Act (42 U.S.C. 682(f)).

"(C) A State seeking such a waiver shall provide assurances that the resulting employment and training program shall meet the requirements of subsections (a)(19) and (g) of section 402 of such Act (42 U.S.C. 602) (but not including the provision of transitional benefits under clauses (ii) through (vii) of section 402(g)(1)(A) and sections 481 through 487 of such Act (42 U.S.C. 681 through 687). Each reference to 'aid to families with dependent children' in such sections shall be deemed to be a reference to food stamps for purposes of the demonstration project.

"(D) Notwithstanding the other provisions of this paragraph, participation in an employment and training activity in which food stamp benefits are converted to cash shall occur only with the consent of the participant.

"(E) For the purposes of any project conducted under this paragraph, the provisions of this Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions

of section 402, and sections 481 through 487, of the Social Security Act.

Federal Register, publication.

"(F) At least 60 days prior to granting final approval of a project under this paragraph, the Secretary shall publish the terms and conditions for any demonstration project conducted under the paragraph for public comment in the Federal Register and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"(G) Waivers may be granted under this paragraph to conduct projects at any one time in a total of up to 60 project areas (or parts of project areas), as such areas are defined in regulations in effect on January 1, 1990.

"(H) A waiver for a change in program rules may be granted under this paragraph only for a demonstration project that has been approved by the Secretary, that will be evaluated according to criteria prescribed by the Secretary, and that will be in operation for no more than 4 years.".

SEC. 1757. DEMONSTRATION PROJECTS FOR VEHICLE EXCLUSION LIMIT.

Section 17 (7 U.S.C. 2026) is amended by adding at the end the following new subsection:

"(h) The Secretary shall conduct a sufficient number of demonstration projects to evaluate the effects, in both rural and urban areas, of including in financial resources under section 5(g) the fair market value of licensed vehicles to the extent the value of each vehicle exceeds $4,500, but excluding the value of—

"(1) any licensed vehicle that is used to produce earned income, necessary for transportation of an elderly or physically disabled household member, or used as the household's home; and

"(2) one licensed vehicle used to obtain, continue, or seek employment (including travel to and from work), used to pursue employment-related education or training, or used to secure food or the benefits of the food stamp program.".

SEC. 1758. DEMONSTRATION PROJECTS FOR AFDC/FOOD STAMP SIMPLIFICATION.

Section 17 (7 U.S.C. 2026) (as amended by section 1757 of this Act) is further amended by adding at the end the following new subsection:

"(i)(1) The Secretary may conduct four demonstration projects, in both urban and rural areas, under which households in which each member receives benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (hereafter in this subsection referred to as an 'eligible household') shall be issued monthly allotments following the rules and procedures of programs under part A of title IV of the Social Security Act, and without regard to the eligibility, benefit, and administrative rules established under this Act other than those terms and conditions specified under this subsection or established by the Secretary to ensure program integrity.

"(2) In carrying out the demonstration projects, the Secretary shall ensure the following:

"(A) The third sentence of section 3(i), subsections (b) and (d)(2) of section 6, the first sentence of section 6(c), paragraphs (1)(B), (3), (4), and (9) of section 11(e), and all applicable provi-

sions of this Act dealing with the treatment of homeless individuals and migrant and seasonal farm worker households shall apply.

"(B) Assistance under the food stamp program shall be furnished to all eligible households who make application for assistance by providing any information that is needed by the State agency to determine the correct monthly allotment and that has not been provided as part of the household's application for assistance under part A of title IV of the Social Security Act.

"(C) Eligible households' monthly allotments shall be calculated under section 8(a), except that a household's income shall be determined in accordance with subparagraphs (D) and (E). The allotments shall be provided retroactive to the date of application.

"(D) For purposes of determining monthly allotments under this subsection, household income shall be the benefit provided under part A of title IV of the Social Security Act and the amount used to determine the household's benefit under such part (not including any amount disregarded for dependent care expenses), except that the amount shall be calculated without regard to section 402(a)(7)(C) of such Act (42 U.S.C. 602(a)(7)(C)) and shall not include nonrecurring lump-sum income and income deemed or allocated to the household under such part.

"(E) In computing household income for purposes of determining monthly allotments, all eligible households shall be allowed the standard, earned income, excess shelter, and medical expense deductions provided under section 5(e) in lieu of any earned income disregards provided under section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)). Alternatively, the Secretary may approve demonstration projects under which households without earned income are allowed such standard, excess shelter, and medical expense deductions, and household income for households with earned income is computed using such deductions and the earned income disregards provided under section 402(a)(8) of the Social Security Act to the extent that the Secretary determines they are consistent with the purposes of the demonstration projects required under this subsection.

"(F) Uninterrupted food stamp assistance shall be provided to households who become ineligible to receive the assistance under this subsection but are determined otherwise eligible for food stamp assistance and to households receiving food stamp assistance other than under this subsection who are determined eligible under this subsection.

"(G) Any other requirements and administrative procedures equivalent to those applicable under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be used in implementing the demonstration projects required under this subsection, if the Secretary determines that the requirements or procedures further the purposes of this subsection and do not undermine program integrity.

"(3) In establishing the projects, the Secretary shall solicit proposals from, and consult with, interested State and local agencies and shall consult with the Secretary of Health and Human Services on waivers of Federal rules under part A of title IV of the Social Security Act that would assist in carrying out the projects required under this subsection.

Reports.

"(4) Not later than six months after termination of any project, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate evaluating the results of the demonstration projects established under this subsection, including evaluations of the effects on recipients and administrators.".

SEC. 1759. GRANTS TO IMPROVE FOOD STAMP PARTICIPATION.

Section 17 (7 U.S.C. 2026) (as amended by section 1758 of this Act) is further amended by adding at the end the following new subsection:

"(j)(1)(A) Subject to the availability of funds specifically appropriated to carry out this subsection and subject to the other provisions of this subsection, during each of fiscal years 1992 through 1995, the Secretary shall make grants competitively awarded to public or private nonprofit organizations to fund food stamp outreach demonstration projects (hereinafter in this subsection referred to as the 'projects') and related evaluations in areas of the United States to increase participation by eligible low-income households in the food stamp program. The total amount of grants provided during a fiscal year may not exceed $5,000,000. Funds appropriated to carry out this subsection shall be used in the year during which the funds are appropriated. Not more than 20 percent of the funds appropriated to carry out this subsection shall be used for evaluations.

"(B) The Secretary shall make a grant under this paragraph only to an entity that demonstrates to the Secretary that the entity is able to conduct the outreach functions described in this subsection.

Rural areas.
Aged persons.
Disadvantaged persons.
Homeless.

"(2) Outreach projects under this subsection shall be targeted toward members of rural, elderly, and homeless populations, low-income working families with children, and non-English speaking minorities (hereinafter in this subsection collectively referred to as 'target populations').

"(3)(A) The Secretary shall appoint an advisory panel (hereinafter in this subsection referred to as the 'panel') composed of representatives of the target populations as well as individuals with expertise in the area of program evaluation. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(B) The Secretary shall select recipients for grants, taking into consideration any recommendations from the panel concerning criteria that should be used in selecting recipients, to carry out projects under this subsection based on the appropriateness of the methods proposed for the projects to reach target populations. Appropriate methods shall include—

"(i) the production of electronic media campaigns (with the total amount allocated for the campaigns in the aggregate not to exceed 15 percent of the total amount of funds specified in paragraph (1)(A));

"(ii) utilization of local outreach workers and volunteers;

"(iii) development of solutions to transportation and access problems;

"(iv) in-service training for those capable of referring households to the program;

"(v) community presentations and education;

"(vi) pre-screening assistance for program eligibility;

"(vii) individualized client assistance;

"(viii) consultation and referral for benefit appeals; and

"(ix) recruitment of authorized representatives for applicants unable to appear for certification or at authorized food stores.

"(C) In selecting grant recipients, the Secretary shall take into consideration the ability of the applicants to produce useful data for evaluation purposes.

"(D) In selecting grant recipients from among applicant public agencies, preference shall be given to those applicants that propose to involve nonprofit organizations in projects to be carried out with the grants.

"(E) The Secretary shall provide at least one grant equal to 50 percent of the cost of the development of outreach materials aimed at the general food stamp eligible population as well as the specific target populations, including written materials and public service announcements, so that the materials may be used or adopted by other grant recipients, as appropriate. To be eligible to receive any such grant, a recipient shall provide matching funds equal to 50 percent of the cost of the development of materials described in the preceding sentence. In carrying out this subparagraph, the Secretary shall give preference to applicants that demonstrate the ability to disseminate the materials through other public and private nonprofit organizations. Not to exceed $500,000 of the funds provided under this subsection for any fiscal year shall be used for the grant.

"(4)(A) The Secretary shall evaluate a sufficient number of projects to be able to determine the effectiveness of the projects and the techniques employed by the projects with respect to—

"(i) success in reducing barriers to participation;

"(ii) increasing overall program participation including participation among target populations;

"(iii) administrative effectiveness;

"(iv) program efficiency; and

"(v) adequacy of administrative resource levels to conduct the activities effectively.

"(B) The Secretary shall provide an interim report on the results of the evaluation carried out under subparagraph (A) not later than 1 year after a sufficient number of projects have begun and a final report not later than 3 years after a sufficient number of projects have begun to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Reports.

"(C) The Secretary shall also examine and report on previous research regarding reasons for nonparticipation and effective methods to conduct outreach and to reduce barriers to participation. Reports.

"(5) The Secretary shall—

"(A) within 180 days after funds are appropriated, publish such notice as may be necessary to implement this subsection;

"(B) accept proposals from organizations for projects under this subsection for 90 days following the date the notice is published; and

"(C) begin to award grants under this subsection beginning no later than 180 days following the date the notice is published.".

SEC. 1760. REAUTHORIZATION OF FOOD STAMP PROGRAM.

Section 18 (7 U.S.C. 2027) is amended—

(1) in subsection (a)(1)—

(A) by striking the first two sentences and inserting the following new sentence: "To carry out this Act, there are

authorized to be appropriated such sums as are necessary for each of the fiscal years 1991 through 1995."; and

(B) in the last sentence, by striking "reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section" and inserting "supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year"; and

(2) in subsection (b), by striking "amount authorized in subsection (a)(1)".

SEC. 1761. NUTRITION EDUCATION IMPROVEMENTS.

Section 18(a) (7 U.S.C. 2027(a)) (as amended by section 1760 of this Act) is amended—

(1) in the second sentence of subsection (a)(1), by inserting before the period at the end the following: ", subject to paragraph (3)"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Of the amounts made available under the second sentence of paragraph (1), not more than $2,000,000 in any fiscal year may be used by the Secretary to make 2-year competitive grants that will—

"(i) enhance interagency cooperation in nutrition education activities; and

"(ii) develop cost effective ways to inform people eligible for food stamps about nutrition, resource management, and community nutrition education programs, such as the expanded food and nutrition education program.

Cooperatives. Grant programs. Disadvantaged persons. Intergovernmental relations.

"(B) The Secretary shall make awards under this paragraph to one or more State cooperative extension services (as defined in section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5))) who shall administer the grants in coordination with other State or local agencies serving low-income people.

"(C) Each project shall include an evaluation component and shall develop an implementation plan for replication in other States.

Reports.

"(D) The Secretary shall report to the appropriate committees of Congress on the results of the projects and shall disseminate the results through the cooperative extension service system and to State human services and health department offices, local food stamp program offices, and other entities serving low-income households.".

7 USC 2028 note.

SEC. 1762. NUTRITION ASSISTANCE PROGRAM IN PUERTO RICO.

(a) POLICY OF CONGRESS.—It is the policy of Congress that citizens of the United States who reside in the Commonwealth of Puerto Rico should be safeguarded against hunger and treated on an equitable and fair basis with other citizens under Federal nutritional programs.

(b) FUNDING LEVELS.—Subparagraph (A) of section 19(a)(1) (7 U.S.C. 2028(a)(1)(A)) is amended to read as follows:

"(A) From the sums appropriated under this Act, the Secretary shall, subject to the provisions of this section, pay to the Commonwealth of Puerto Rico $974,000,000 for fiscal year 1991, $1,013,000,000 for fiscal year 1992, $1,051,000,000 for fiscal year 1993, $1,091,000,000 for fiscal year 1994, and $1,133,000,000 for fiscal year 1995, to finance 100 percent of the expenditures for food assistance

provided to needy persons and 50 percent of the administrative expenses related to the provision of the assistance.".

(c) STUDY OF NUTRITIONAL NEEDS OF PUERTO RICANS.—The Comptroller General of the United States shall conduct a study of— 7 USC 2028 note.

(1) the nutritional needs of the citizens of the Commonwealth of Puerto Rico, including—

(A) the adequacy of the nutritional level of the diets of members of households receiving assistance under the nutrition assistance program and other households not currently receiving the assistance;

(B) the incidence of inadequate nutrition among children and the elderly residing in the Commonwealth;

(C) the nutritional impact of restoring the level of nutritional assistance provided to households in the Commonwealth to the level of the assistance provided to other households in the United States; and

(D) such other factors as the Comptroller General considers appropriate; and

(2) the potential alternative means of providing nutritional assistance in the Commonwealth of Puerto Rico, including—

(A) the impact of restoring the Commonwealth to the food stamp program;

(B) increasing the benefits provided under the nutrition assistance program to the aggregate value of food stamp coupons that would be distributed to households in the Commonwealth if the Commonwealth were to participate in the food stamp program; and

(C) the usefulness of adjustments to standards of eligibility and other factors appropriate to the circumstances of the Commonwealth comparable to those adjustments made under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) for Alaska, Hawaii, Guam, and the Virgin Islands of the United States.

(d) REPORT OF FINDINGS.—Not later than August 1, 1992, the Comptroller General shall submit a final report on the findings of the study required under subsection (c) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1763. AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEMS.

(a) IN GENERAL.—The Act (7 U.S.C. 2011 et seq.) is amended by adding at the end the following new section:

"SEC. 23. AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEMS. 7 USC 2032.

"(a) STANDARDS AND PROCEDURES FOR REVIEWS.—

"(1) INITIAL REVIEWS.—

"(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall complete a review of regulations and standards (in effect on the date of enactment of this section) for the approval of an automated data processing and information retrieval system maintained by a State (hereinafter in this section referred to as a 'system') to determine the extent to which the regulations and standards contribute to a more effective and efficient program.

Regulations.

"(B) REVISION OF REGULATIONS.—The Secretary shall revise regulations (in effect on the date of enactment of this Act) to take into account the findings of the review conducted under subparagraph (A).

"(C) INCORPORATION OF EXISTING SYSTEMS.—The regulations shall require States to incorporate all or part of systems in use elsewhere, unless a State documents that the design and operation of an alternative system would be less costly. The Secretary shall establish standards to define the extent of modification of the systems for which payments will be made under either section 16(a) or 16(g).

"(D) IMPLEMENTATION.—Proposed systems shall meet standards established by the Secretary for timely implementation of proper changes.

"(E) COST EFFECTIVENESS.—Criteria for the approval of a system under section 16(g) shall include the cost effectiveness of the proposed system. On implementation of the approved system, a State shall document the actual cost and benefits of the system.

"(2) OPERATIONAL REVIEWS.—The Secretary shall conduct such reviews as are necessary to ensure that systems—

"(A) comply with conditions of initial funding approvals; and

"(B) adequately support program delivery in compliance with this Act and regulations issued under this Act.

"(b) STANDARDS FOR APPROVAL OF SYSTEMS.—

"(1) IN GENERAL.—After conducting the review required under subsection (a), the Secretary shall establish standards for approval of systems.

"(2) IMPLEMENTATION.—A State shall implement the standards established by the Secretary within a reasonable period of time, as determined by the Secretary.

"(3) PERIODIC COMPLIANCE REVIEWS.—The Secretary shall conduct appropriate periodic reviews of systems to ensure compliance with the standards established by the Secretary.

"(c) REPORT.—Not later than October 1, 1993, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which State agencies have developed and are operating effective systems that support food stamp program delivery in compliance with this Act and regulations issued under this Act.".

(b) CONFORMING AMENDMENT.—The first sentence of section 11(g) (7 U.S.C. 2020(g)) is amended by inserting after "section 16(b)(1)" the following: "or the requirements established pursuant to section 23".

Subtitle B—Commodity Distribution Programs

SEC. 1771. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAMS.

(a) REAUTHORIZATION.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "1986, 1987, 1988, 1989, and 1990" and inserting "1991 through 1995".

(b) INFANTS AND CHILDREN.—

(1) IN GENERAL.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by inserting after "distribution to institutions" the following: "(including hospitals and facilities caring for needy infants and children)".

(2) CONFORMING AMENDMENT.—Section 416(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(a)(3)) is amended by striking "hospitals, to the extent that needy persons are served" and inserting "hospitals and facilities, to the extent that they serve needy persons (including infants and children)".

(c) ELDERLY.—The Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) is amended—

(1) in section 4(a), by striking "supplemental feeding programs" and inserting "supplemental feeding programs serving women, infants, and children or elderly persons, or both,"; and

(2) in section 5(f), by inserting after "additional sites for the program" the following: ", including sites that serve only elderly persons,".

(d) ADMINISTRATIVE FUNDING.—Section 5(a)(2) of such Act (7 U.S.C. 612c note) is amended—

(1) by striking "1986 through 1990" and inserting "1991 through 1995"; and

(2) by striking "15 per centum" and all that follows through the end of the subsection and inserting "20 percent of the amount appropriated for the commodity supplemental food program.".

(e) REFERRALS TO OTHER PROGRAMS.—Section 5 of such Act (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsections:

"(h) Each State agency administering a commodity supplemental food program serving women, infants, and children shall— Women. Infants and children.

"(1) ensure that written information concerning food stamps, the program for aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and the child support enforcement program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) is provided on at least one occasion to each adult who applies for or participates in the commodity supplemental food program;

"(2) provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 6 under the medical assistance program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) (hereinafter referred to in this section as the 'medicaid program') which materials may be identical to those provided under section 17(e)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(e)(3)); and

"(3) ensure that local agencies provide to pregnant, breast feeding and post partum women, and adults applying on behalf of infants or children, who apply to the commodity supplemental food program, or who reapply to such program, written information about the medicaid program and referral to the program or to agencies authorized to determine presumptive eligibility for the medicaid program, if the individuals are not participating in the medicaid program.

"(i) Each State agency administering a commodity supplemental food program serving elderly persons shall ensure that written information is provided on at least one occasion to each elderly Aged.

participant in or applicant for the commodity supplemental food program for the elderly concerning—

"(1) food stamps provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(2) the supplemental security income benefits provided under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); and

"(3) medical assistance provided under title XIX of such Act (42 U.S.C. 1396 et seq.) (including medical assistance provided to a qualified medicare beneficiary (as defined in section 1905(p) of such Act (42 U.S.C. 1396d(5))).".

(f) ADVANCE WARNING FOR DECLINE IN NUMBER OF PERSONS SERVED UNDER PROGRAM.—Section 5 of such Act (7 U.S.C. 612c note) (as amended by subsection (e) of this section) is further amended by adding at the end the following new subsection:

"(j)(1) If the Secretary must pay a significantly higher than expected price for one or more types of commodities purchased under the commodity supplemental food program, the Secretary shall promptly determine whether the price is likely to cause the number of persons that can be served in the program in a fiscal year to decline.

"(2) If the Secretary determines that such a decline would occur, the Secretary shall promptly notify the State agencies charged with operating the program of the decline and shall ensure that a State agency notify all local agencies operating the program in the State of the decline.".

SEC. 1772. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) SHORT TITLE.—The Temporary Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) by striking the title and inserting the following new title:

Emergency Food Assistance Act of 1983.

"TITLE II—EMERGENCY FOOD ASSISTANCE ACT OF 1983"; and

(2) in section 201, by striking "Temporary".

(b) AVAILABILITY OF CCC COMMODITIES.—Section 202 of such Act (7 U.S.C. 612c note) is amended by adding at the end the following new subsection:

"(g)(1) Whenever commodities acquired by the Commodity Credit Corporation are made available for donation to domestic food programs in quantities that exceed Federal obligations, the Secretary shall give equal consideration to making donations of such commodities to emergency feeding organizations participating in the program authorized by this Act as is given to other commodity recipient agencies, taking into account the types and amounts of commodities available and appropriate for distribution to these organizations.

"(2) In determining the commodities that will be made available to emergency feeding organizations under this Act, the Secretary may distribute commodities that become available on a seasonal or irregular basis.".

(c) REAUTHORIZATION.—Section 204 of such Act (7 U.S.C. 612c note) is amended—

(1) by striking subsections (a) and (b);

(2) by redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(3) in subsection (a)(1) (as so redesignated), by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995".

(d) HANDLING COSTS.—The second sentence of section 204(a)(2) of such Act (7 U.S.C. 612c note) (as redesignated by subsection (c)(2) of this section) is amended by inserting after "handling," the following: "repackaging, processing,".

(e) ESTIMATES OF TYPES AND QUANTITIES OF AVAILABLE COMMODITIES.—Section 210 of such Act (7 U.S.C. 612c note) by striking subsection (c) and inserting the following new subsection:

"(c)(1) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this Act during the fiscal year. Federal Register, publication.

"(2) The actual types and quantities of commodities made available by the Secretary under this Act may differ from the estimates made under paragraph (1).".

(f) PROGRAM TERMINATION.—Section 212 of such Act (7 U.S.C. 612c note) is amended by striking "1990" and inserting "1995".

(g) ADDITIONAL COMMODITIES.—Section 214 of such Act (7 U.S.C. 612c note) is amended—

(1) in subsection (a), by striking "fiscal years 1989 and 1990" and inserting "fiscal years 1991 through 1995"; and

(2) by striking subsection (e) and inserting the following new subsection:

"(e) AMOUNTS.—To carry out this section there are authorized to be appropriated $175,000,000 for fiscal year 1991, $190,000,000 for fiscal year 1992, and $220,000,000 for each of the fiscal years 1993 through 1995 to purchase, process, and distribute additional commodities under this section. Any amounts provided for fiscal years 1991 through 1995 shall be available only to the extent and in such amounts as are provided in advance in appropriations Acts.". Appropriation authorization.

(h) CONFORMING AMENDMENTS.—

(1) Section 214 of such Act (7 U.S.C. 612c note) is amended by striking out subsection (k).

(2) Section 4(c) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "(7 U.S.C. 1446a-1) Temporary or the" and inserting "(7 U.S.C. 1446a-1), or the".

(3) Section 3(a)(2)(F) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended by striking clause (i) and inserting the following new clause:

"(i) the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (Public Law 100-237; 7 U.S.C. 612c note); and".

(4) Section 13(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended by striking "Temporary".

(5) Section 220(a) of the Hunger Relief Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended by striking "Temporary" each place it appears.

(6) Section 675(c)(5) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(5)) is amended by striking "Temporary".

SEC. 1773. COMMODITY DISTRIBUTION REFORM.

(a) CLARIFYING AMENDMENT.—Section 3(a)(3)(A)(i) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note) is amended by inserting after "recipient agencies" the following: ", including food banks".

(b) ADVANCE FUNDING FOR STATE OPTION CONTRACTS (SOCs).—Such Act (7 U.S.C. 612c note) is amended by inserting after section 3 the following new section:

7 USC 612c note.

"SEC. 3A. ADVANCE FUNDING FOR STATE OPTION CONTRACTS.

"(a) IN GENERAL.—The Secretary may use the funds of the Commodity Credit Corporation and funds made available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost, as agreed on with the State distribution agency, of food or the processing or packaging of food on behalf of a State distribution agency.

"(b) REIMBURSEMENT.—In such cases, the State distribution agency shall reimburse the Secretary for the agreed on cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account.".

(c) COMMERCIAL WAREHOUSING AND DISTRIBUTION.—Section 3(d) of such Act (7 U.S.C. 612c note) is amended—

(1) by striking "Before the expiration of the 270-day period beginning on the date of the enactment of this Act," and inserting the following: "On or before July 1, 1992,"; and

(2) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

"(1) evaluate its system for warehousing and distributing donated commodities to recipient agencies designated in subparagraphs (A) and (B) of section 13(3) (hereafter referred to in this Act as 'child and elderly nutrition program recipient agencies');

"(2) in the case of State distribution agencies that require payment of fees by child and elderly nutrition program recipient agencies for any aspect of warehousing or distribution, implement the warehousing and distribution system that provides donated commodities to such recipient agencies in the most efficient manner, at the lowest cost to such recipient agencies, and at a level that is not less than a basic level of services determined by the Secretary;

"(3) in determining the most efficient and lowest cost system, use commercial facilities for providing warehousing and distribution services to such recipient agencies, unless the State applies to the Secretary for approval to use other facilities demonstrating that, when both direct and indirect costs incurred by such recipient agencies are considered, such other facilities are more efficient and provide services at a lower total cost to such recipient agencies;".

(d) COMMODITY ACCEPTABILITY INFORMATION.—Section 3(f)(2) of such Act (7 U.S.C. 612c note) is amended by striking "semiannually" and inserting "annually".

(e) FOOD BANK PROJECTS.—Section 4 of such Act (7 U.S.C. 612c note) is amended—

(1) in the section heading, by striking "**DEMONSTRATION**";

(2) in subsection (a), by striking "DEMONSTRATION PROJECT" and inserting "COMMUNITY FOOD BANKS";

(3) in subsection (d), by striking "and ending on December 31, 1990"; and

(4) by striking paragraph (e).

(f) REPORT ON ENTITLEMENT COMMODITY PROCESSING.— 7 USC 612c note.

(1) IN GENERAL.—Not later than January 1, 1992, the Comptroller General of the United States shall submit a report regarding processing of entitlement commodities used in child nutrition programs to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONSULTATION.—The Comptroller General shall consult with representatives of State and Federal commodity distribution authorities, local elected school authorities, local school food service authorities, and food processors with experience providing service to child nutrition programs regarding the scope and design of the report.

(3) EVALUATION.—The report shall evaluate the extent to which—

(A) processing of entitlement commodities occurs in the States;

(B) governmental requirements for participation in the processing vary among States; and

(C) entitlement commodity recipients are satisfied with access to and services provided through entitlement commodity processing.

SEC. 1774. HUNGER PREVENTION PROGRAMS.

(a) SOUP KITCHENS AND FOOD BANKS.—Section 110 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) in subsection (a), by striking "1991" and inserting "1995"; and

(2) in subsection (b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) FOOD PANTRY.—The term 'food pantry' means a public or private nonprofit organization that distributes food to low-income and unemployed households, including food from sources other than the Department of Agriculture, to relieve situations of emergency and distress.";

(3) by striking subsection (c) and inserting the following new subsection:

"(c) AMOUNTS.—

"(1) 1991 FISCAL YEAR.—During fiscal year 1991, the Secretary shall spend $32,000,000, to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons.

Appropriation authorization.

"(2) 1992 THROUGH 1995 FISCAL YEARS.—There are authorized to be appropriated $40,000,000 for each of the fiscal years 1992 through 1995 to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons. Any amounts provided for fiscal years 1992 through 1995 shall be available only to the extent and in such amounts as are provided in advance in appropriations Acts.

"(3) FOOD PANTRIES.—In instances in which food banks do not operate within a given State, the State may distribute commodities to food pantries."; and

(4) by striking subsection (j).

(b) GLEANING ASSISTANCE.—Section 111 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended to read as follows:

"SEC. 111. GLEANING CLEARINGHOUSES.

"(a) DEFINITION OF GLEANING.—For purposes of this section, the term 'to glean' means to collect unharvested crops from the fields of farmers, or to obtain agricultural products from farmers, processors, or retailers, in order to distribute the products to needy individuals, including unemployed and low-income individuals, and the term includes only those situations in which agricultural products and access to fields and facilities are made available without charge.

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Agriculture (hereafter in this section referred to as the 'Secretary') is authorized to assist States and private nonprofit organizations in establishing Gleaning Clearinghouses (hereafter in this section referred to as a 'Clearinghouse').

"(2) ASSISTANCE.—The Secretary is authorized to provide technical information and other assistance considered appropriate by the Secretary to encourage public and nonprofit private organizations to—

"(A) initiate and carry out gleaning activities, and to assist other organizations and individuals to do so, through lectures, correspondence, consultation, or such other measures as the Secretary may consider appropriate;

"(B) collect from public and private sources (including farmers, processors, and retailers) information relating to the kinds, quantities, and geographical locations of agricultural products not completely harvested;

"(C) gather, compile, and make available to public and nonprofit private organizations and to the public the statistics and other information collected under this paragraph, at reasonable intervals;

"(D) establish and operate a toll-free telephone line by which—

"(i) farmers, processors, and retailers may report to a Clearinghouse for dissemination information regarding unharvested crops and agricultural products available for gleaning, and may also report how they may be contacted;

"(ii) public and nonprofit organizations that wish to glean or to assist others to glean, may report to a Clearinghouse the kinds and amounts of products that

are wanted for gleaning, and may also report how they may be contacted;

"(iii) persons who can transport crops or products may report the availability of free transportation for gleaned crops or products; and

"(iv) information about gleaning can be provided without charge by a Clearinghouse to the persons and organizations described in clauses (i), (ii), and (iii);

"(E) prepare, publish, and make available to the public, at cost and on a continuing basis, a handbook on gleaning that includes such information and advice as may be useful in operating efficient gleaning activities and projects, including information regarding how to— Government publications.

"(i) organize groups to engage in gleaning; and

"(ii) distribute to needy individuals, including low-income and unemployed individuals, food and other agricultural products that have been gleaned; or Disadvantaged persons.

"(F) advertise in print, on radio, television, or through other media, as the Secretary considers to be appropriate, the services offered by a Clearinghouse under this section.".

(c) CHEESE AND NONFAT DRY MILK.—

(1) CONFORMING AMENDMENT.—Subsection (d) of section 5 of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by inserting "(1)" after the subsection designation.

(2) TRANSFER.—Section 130 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended—

(A) by redesignating such section as paragraph (2) of section 5(d) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note);

(B) by transfering and inserting such section immediately after paragraph (1) of section 5(d) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); and

(C) to read as follows:

"(2) Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation inventory levels permit, provide not less than 9,000,000 pounds of cheese and not less than 4,000,000 pounds of nonfat dry milk in each of the fiscal years 1991 through 1995 to the Secretary of Agriculture. The Secretary shall use such amounts of cheese and nonfat dry milk to carry out the commodity supplemental food program before the end of each fiscal year.".

SEC. 1775. REPROCESSING AGREEMENTS WITH PRIVATE COMPANIES.

(a) REAUTHORIZATION.—Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1990" and inserting "1995".

(b) PROCESSED END PRODUCTS.—Section 1114(a)(2) of such Act is amended by adding the following new subparagraphs:

"(C) Whenever commodities are made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)), the Secretary shall encourage access to processed end products containing the commodities when in the Secretary's judgment it is cost effective. The requirements of this subparagraph shall be met in the most efficient and effective way possible. The Secretary may, among other alternatives, use direct purchase, State option contracts authorized under section 3A of the Commodity

Distribution Reform Act and WIC Amendments of 1987 (Public Law 100-237; 7 U.S.C. 612c note), State processing programs, and (beginning in fiscal year 1994) agreements with private companies operated as a part of the national commodity processing program.

"(D) In each of fiscal years 1992 and 1993, the Secretary shall conduct a pilot project in not more than three States under which any commodity made available to agencies pursuant to section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4)) that the Secretary determines to be appropriate for reprocessing is made available to the agencies as reprocessed end products. The reprocessing shall be performed pursuant to agreements with private companies, at the expense of the agencies, and operated as part of the national commodity processing program established under subparagraph (A). In determining the appropriateness of the commodities to be reprocessed under the pilot project, the Secretary shall consider the common needs of the agencies and the availability of processors.".

SEC. 1776. NUTRITION EDUCATION REAUTHORIZATION.

(a) NUTRITION EDUCATION PROGRAM.—Section 1588(a) of the Food Security Act of 1985 (7 U.S.C. 3175e(a)) is amended by striking "$5,000,000" and all that follows through the end of the subsection and inserting "$8,000,000 for each of the fiscal years 1991 through 1995.".

(b) EXPANDED FOOD AND NUTRITION EDUCATION PROGRAM.—Section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3125(c)) is amended by adding at the end the following new paragraph:

7 USC 3175.

Appropriation authorization.

"(3) There is authorized to be appropriated to carry out the expanded food and nutrition education program established under section 3(d) of the Act of May 8, 1914 (38 Stat. 373, chapter 79; 7 U.S.C. 343(d)) and this section $63,000,000 for fiscal year 1991, $68,000,000 for fiscal year 1992, $73,000,000 for fiscal year 1993, $78,000,000 for fiscal year 1994, and $83,000,000 for fiscal year 1995.".

SEC. 1777. NOTIFYING SHELTERS OF CHARITABLE INSTITUTIONS PROGRAM.

At least once in fiscal year 1991, when commodities are provided to a State by the Secretary of Agriculture for donations to charitable institutions the Secretary of Agriculture shall require the appropriate State agency to undertake efforts to inform shelters for the homeless and for battered women and children of—

(1) the availability of commodity donations to charitable institutions;

(2) the criteria for qualifying to receive the donations; and

(3) how application can be made to receive the donations.

7 USC 2011 note.

SEC. 1778. WELFARE SIMPLIFICATION AND COORDINATION ADVISORY COMMITTEE.

(a) APPOINTMENT AND MEMBERSHIP.—

(1) ESTABLISMENT.—There is established an Advisory Committee on Welfare Simplification and Coordination (hereafter in this section referred to as the "Committee") consisting of not fewer than 7, nor more than 11, members appointed by the Secretary of Agriculture (hereafter in this section referred to as the "Secretary"), after consultation with the Secretary of

Health and Human Services and the Secretary of Housing and Urban Development, and with the advice of State and local officials responsible for administering the food stamp program, cash and medical assistance programs for low-income families and individuals under the Social Security Act, and programs providing housing assistance to needy families and individuals, and representatives of recipients and recipient advocacy organizations associated with such programs.

(2) QUALIFICATIONS.—The members of the Committee shall be individuals who are familiar with the rules, goals, and limitations of Federal food stamp, cash, medical, and housing assistance programs for low-income families and individuals, and may include individuals who have demonstrated expertise in evaluating the operations of and interaction among such programs as they affect administrators and recipients, persons who have experience in administering such programs at the Federal, State, or local level, and representatives of administrators and recipients affected by such programs.

(b) PURPOSE.—It shall be the purpose of the Committee, in consultation, where appropriate, with program administrators and representatives of recipients—

(1) to identify the significant policies implemented in the food stamp program, cash and medical assistance programs under the Social Security Act, and housing assistance programs (whether resulting from law, regulations, or administrative practice) that, because they differ substantially, make it difficult for those eligible to apply for and obtain benefits from more than one program and restrict the ability of administrators of such programs to provide efficient, timely, and appropriate benefits to those eligible for more than one type of assistance, drawing, where appropriate, on previous efforts to coordinate and simplify such programs and policies;

(2) to examine the major reasons for such different programs and policies;

(3) to evaluate how and the extent to which such different programs and policies hinder, to a significant degree, the receipt of benefits from more than one program and substantially restrict administrators' ability to provide efficient, timely, and appropriate benefits;

(4) to recommend common or simplified programs and policies (including recommendations for changes in law, regulations, and administrative practice and for policies that do not currently exist in such programs) that would substantially reduce difficulties in applying for and obtaining benefits from more than one program and significantly increase the ability of administrators of such programs to efficiently provide timely and appropriate assistance to those eligible for more than one type of assistance; and

(5) to describe the major effects of such common or simplified programs and policies (including how such common or simplified programs and policies would enhance or conflict with the purposes of such programs, how they would ease burdens on administrators and recipients, how they would affect program costs and participation, and the degree to which they would change the relationships between the Federal Government and the States in such programs) and the reasons for recommending such programs and policies (including reasons, if any, that

might be sufficient to override special rules derived from the purposes of individual programs).

(c) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Committee with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(d) REIMBURSEMENT.—Members of the Committee shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by such members in the performance of the duties of the Committee.

(e) REPORTS.—Not later than July 1, 1993, the Committee shall prepare and submit, to the appropriate committees of Congress, the Secretary of Agriculture, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development a final report, including recommendations for common or simplified programs and policies and the effects of and reasons for such programs and policies and may submit interim reports, including reports on common or simplified programs and policies covering less than the complete range of programs and policies under review, to the committees and such Secretaries as deemed appropriate by the Committee.

42 USC 1751 note.

SEC. 1779. SCHOOL LUNCH STUDIES.

(a) IN GENERAL.—The Secretary of Agriculture shall determine—

(1) the quantity of bonus commodities lost, by State, since the 1987-88 school year;

(2) what school food service authorities charge students for non-free or reduced price meals; and

(3) trends in school participation and student participation, by State and for the United States.

(b) ADDITIONAL STUDY.—

(1) IN GENERAL.—The Secretary shall determine—

(A) the cost to produce school lunches and breakfasts, including indirect and local administrative costs;

(B) the reasons why schools choose not to participate in the National school lunch program;

(C) the State costs incurred to administer the school programs;

(D) why children eligible for free or reduced price meals do not apply for benefits or participate; and

(E) other information considered necessary by the Secretary.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, $1,000,000 for each of the fiscal years 1991 through 1993.

(c) REPORTS.—The Secretary shall submit to Congress—

(1) an interim report on the study required by subsection (a) not later than October 1, 1991;

(2) an interim report on the study required by subsection (b) not later than October 1, 1992; and

(3) a final report on the studies required by subsections (a) and (b) not later than October 1, 1993.

Subtitle C—Effective Dates

SEC. 1781. EFFECTIVE DATES. 7 USC 2012 note.

(a) IN GENERAL.—Except as otherwise provided in subsection (b) and other provisions of this title, this title and the amendments made by this title shall become effective and implemented the 1st day of the month beginning 120 days after the publication of implementing regulations. Such regulations shall be promulgated not later than October 1, 1991. Regulations.

(b) SPECIAL EFFECTIVE DATES.—

(1) OCTOBER 1, 1990.—The amendments made by sections 1721, 1730, 1750, 1754, 1760(1)(A), 1761, 1762, 1771(a), 1771(d), 1772(c), 1772(f), 1772(g), and 1776 shall be effective on October 1, 1990.

(2) DATE OF ENACTMENT.—The amendments made by sections 1718, 1729, 1731, 1739, 1742, 1746, 1747, 1748, 1749, 1751, 1753, 1755, 1756, 1757, 1758, 1759, 1760(1)(B) and (2), 1763, 1771(b), 1771(c), 1772(a), 1772(b), 1772(d), 1772(h), 1773, 1774(a)(1), 1774(b), 1774(c), 1775(a), 1775(b), 1777, 1778, and 1779 shall become effective on the date of enactment of this Act.

(3) APRIL 1, 1991.—The amendments made by sections 1716, 1722, and 1736(2) shall become effective and implemented the 1st day of the month beginning 120 days after the promulgation of implementing regulations. Such regulations shall be promulgated not later than April 1, 1991. Regulations.

(4) CATEGORICAL ELIGIBILITY.—The amendment made by section 1714(2) shall become effective and implemented the 1st day of the month beginning 120 days after the promulgation of implementing regulations. Such regulations shall be promulgated— Regulations.

(A) in the case of a State general assistance program, not later than October 1, 1991; and

(B) in the case of a local general assistance program, not later than April 1, 1992.

TITLE XVIII—CREDIT

Subtitle A—Farmers Home Administration Loans

SEC. 1801. REFERENCES TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except to the extent otherwise specifically provided.

SEC. 1802. SOIL AND WATER LOANS.

(a) IN GENERAL.—Section 304 (7 U.S.C. 1924) is amended by adding at the end the following new subsection:

"(d)(1) Loans may also be made or insured under this subtitle for soil and water conservation and protection. Such loans may be made

to farm owners or tenants who are eligible borrowers under this subtitle for—

"(A) the installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences;

"(B) the establishment of forest cover for sustained yield timber management, erosion control, or shelterbelt purposes;

"(C) the establishment or improvement of permanent pasture;

"(D) the conversion to and maintenance of sustainable agricultural production systems, as described by Department technical guides and handbooks;

"(E) the payment of costs of complying with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812); and

"(F) other purposes consistent with plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

"(2) In making or insuring loans under this subsection, the Secretary shall give priority to producers who use such loans to build conservation structures or establish conservation practices to comply with section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812).

"(3) The Secretary shall not make or insure a loan under this section that exceeds the lesser of—

"(A) the value of the farm or other security for such loan; or

"(B) $50,000.".

(b) LIMITED RESOURCE AUTHORIZATION.—Section 310D(a) (7 U.S.C. 1934(a)) is amended—

(1) by striking "clauses (1) through (5) of section 303(a) of this title" and inserting "paragraphs (1) through (5) of section 303(a), or subparagraphs (A) through (E) of section 304(d)(1),";

(2) in paragraph (2), by striking "clauses" and inserting "paragraphs";

(3) in paragraph (3), by striking "of this title"; and

(4) in the second sentence, by striking "clauses" and inserting "paragraphs".

SEC. 1803. INTEREST RATE ON FARM OWNERSHIP LOANS AND OPERATING LOANS MADE TO LIMITED RESOURCE BORROWERS.

(a) FARM OWNERSHIP LOANS.—Subparagraph (B) of section 307(a)(3) (7 U.S.C. 1927(a)(3)(B)) is amended to read as follows:

"(B) Except as provided in paragraph (6), the interest rate on loans (other than guaranteed loans) under section 310D shall not be—

"(i) greater than the sum of—

"(I) an amount that does not exceed one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years; and

"(II) an amount not exceeding 1 percent per year, as the Secretary determines is appropriate; or

"(ii) less than 5 percent per year.".

(b) OPERATING LOANS.—Paragraph (2) of section 316(a) (7 U.S.C. 1946(a)(2)) is amended to read as follows:

"(2) The interest rate on any loan (other than a guaranteed loan) to a low income, limited resource borrower under this subtitle shall not be—

"(A) greater than the sum of—

"(i) an amount that does not exceed one-half of the current average market yield on outstanding marketable obligations of the United States with maturities of 5 years; and

"(ii) an amount not exceeding 1 percent per year, as the Secretary determines is appropriate; or

"(B) less than 5 percent per year.".

SEC. 1804. GUARANTEE OF PAYMENT BY DEPARTMENT OF HAWAIIAN HOME LANDS.

Section 310C(b) (7 U.S.C. 1933(b)) is amended by striking ", as amended" and inserting "or this title".

SEC. 1805. DEBT SETTLEMENT.

(a) IN GENERAL.—Section 331 (7 U.S.C. 1981) is amended—

(1) in subsection (d)—

(A) by striking "under any of its programs, as circumstances may require, to carry out" and inserting ", except for activities under the Housing Act of 1949"; and

(B) by striking "incurred under this title" and inserting ", except for debt incurred under the Housing Act of 1949"; and

(C) in paragraph (1), by inserting "with respect to farmer program loans," before "on terms"; and

(2) in subsection (e)—

(A) by inserting "except for activities conducted under the Housing Act of 1949," after "(e)";

(B) by striking "arising or";

(C) by striking "under this title" and inserting "by the Farmers Home Administration"; and

(D) by striking "pursuant to this title" and inserting "by the Farmers Home Administration".

(b) PAYMENT OF ACCRUED INTEREST.—Section 331 (7 U.S.C. 1981) is amended by striking subsection (h).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 331 (7 U.S.C. 1981) is amended—

(1) by indenting the margin of subsections (f), (g), and (i) so as to align with the margin of subsection (e);

(2) in subsection (f), by striking "Release" and inserting "release";

(3) in subsection (g), by striking "Obtain" and inserting "obtain";

(4) in subsection (i), by striking "Consent" and inserting "consent"; and

(5) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

SEC. 1806. DOCUMENTATION FOR APPROVAL OF SECURITY TRANSFER.

Section 331(h)(2) (as amended and so redesignated by section 1805 of this Act) is amended by inserting before the semicolon at the end the following: ", and shall document the consent of the Secretary for the transfer of the property of a borrower in the file of the borrower".

SEC. 1807. NOTICE OF LOAN SERVICE PROGRAMS.

Section 331D (7 U.S.C. 1981d) is amended—

(1) in subsection (b)(1), by inserting "debt settlement programs," after "preservation loan service programs,"; and

(2) in subsection (e), by striking "45" and inserting "60".

SEC. 1808. UNDERWRITING FORMS AND STANDARDS.

(a) IN GENERAL.—The Act is amended by inserting after section 331E (7 U.S.C. 1981e) the following new section:

7 USC 1981f.

"SEC. 331F. UNDERWRITING FORMS AND STANDARDS.

"In the administration of this title, the Secretary shall, to the extent practicable, use underwriting forms, standards, practices, and terminology similar to the forms, standards, practices, and terminology used by lenders in the private sector.".

7 USC 1981f note.

(b) REGULATIONS.—The Secretary of Agriculture shall not issue final regulations providing for the use of ratios and standards for determining the degree of potential loan risk under section 331F of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section), prior to the submission of the study and report on the effects of the regulations required by section 621 of the Agricultural Credit Act of 1987 (7 U.S.C. 1989 note).

SEC. 1809. COUNTY COMMITTEES.

(a) FMHA-ELIGIBLE BORROWERS.—Section 332(a)(4) (7 U.S.C. 1982(a)(4)) is amended by inserting "be elected to" before "serve".

(b) MAILING BALLOTS.—Section 332(a) is amended by adding at the end the following new paragraph:

"(6) The Secretary shall provide for the mailing of ballots to persons eligible to vote for the election of county committee members only if the mailing of the ballots coincides with the mailing of ballots under other programs administered by the Secretary.".

(c) TRAINING.—Section 332 is amended by adding at the end the following new subsection:

"(d)(1) The Secretary shall provide annual training of county committee members on the job responsibilities of the members under this title.

"(2) The Secretary shall develop and provide a county committee training manual to all county committee members and shall update the manual in a timely manner to reflect changes in law or regulations.".

SEC. 1810. CERTIFICATION OF LOAN ELIGIBILITY.

Section 333(b) (7 U.S.C. 1983(b)) is amended to read as follows:

"(b)(1)(A) for loans (other than under sections 306, 310B, 314, and 321(a)(2)), the county committee to certify in writing that the applicant meets the eligibility requirements for the loan, and has the character, industry, and ability to carry out the proposed operations, and will in the opinion of the county committee honestly endeavor to carry out the applicant's undertakings and obligations;

"(B) for loans under sections 306, 310B, 314, and 321(a)(2), the recommendation of the county committee as to the making or insuring of the loan; and

"(C) for all loans, the certification of eligibility under this subsection shall continue in effect for a period of not to exceed 2 years as the committee may determine appropriate; and

"(2) the Secretary may provide a procedure for appeal and review of any determination relating to a certification or rec-

ommendation required to be made by the county committee, and for reversal or modification thereof should the facts warrant such action;".

SEC. 1811. BUSINESS AND INDUSTRY AND COMMUNITY FACILITY LOANS.

Section 333A(a) (7 U.S.C. 1983a(a)) is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), each application for a loan or loan guarantee under section 310B(a), or for a loan under section 306(a), that is to be disapproved by the Secretary solely because the Secretary lacks the necessary amount of funds to make the loan or guarantee shall not be disapproved but shall be placed in pending status.

"(B) The Secretary shall retain the pending application and reconsider the application beginning on the date that sufficient funds become available.

"(C) Not later than 60 days after funds become available regarding each pending application, the Secretary shall notify the applicant of the approval or disapproval of funding for the application.".

SEC. 1812. APPEALS.

Section 333B(e) (7 U.S.C. 1983b(e)) is amended by adding at the end the following new paragraph:

"(4) Except as provided in paragraph (3) and in the regulations of the Secretary governing the right of the Secretary to seek review of appeal decisions under this title, a county committee or employee of the Farmers Home Administration shall, on having a case returned pursuant to the decision of a hearing officer, State director, or the director of the national appeals division, implement the decision within a reasonable period of time.".

SEC. 1813. DISPOSITION OF SUITABLE PROPERTY.

(a) HOLDING PERIOD.—The fourth sentence of section 335(c)(1) (7 U.S.C. 1985(c)(1)) is amended by striking "three years from the date of acquisition" and inserting "12 months from the date first published under paragraph (2)(D)".

(b) RANDOM SELECTION AMONG EQUALLY QUALIFIED APPLICANTS.—Section 335 (7 U.S.C. 1985) is amended—

(1) in subsection (c)(2)(C), by inserting before the semicolon the following: ", except that if the committee determines that two or more applicants meet the loan eligibility criteria, the committee shall select between the qualified applicants on a random basis"; and

(2) in subsection (e)(4)(C)—

(A) by striking "shall, by majority vote," and inserting "shall randomly"; and

(B) by inserting before the period at the end the following: ", in accordance with subsection (c)(2)(B)(iii)".

(c) PROPERTY SUBJECT TO BORROWER PURCHASE OR LEASE OPTION.—Section 335(e)(1)(A)(i) (7 U.S.C. 1985(e)(1)(A)(i)) is amended by striking "real property" and inserting "real farm or ranch property (including the principal residence of the borrower)".

(d) RIGHT OF FIRST REFUSAL.—Section 335(e)(1)(A) (7 U.S.C. 1985(e)(1)(A)) is amended by adding at the end the following new clause:

"(iv) In the case of real property described in clause (i) that was acquired by the Secretary before January 6, 1988, that is (or has

been at any time during the 12-month period preceding the date of enactment of this clause) under lease to a person described in subparagraph (C), and that has not been conveyed (or contracted to be conveyed) by the Secretary prior to the date of enactment of this clause, the Secretary shall, during the 30-day period following the date of enactment of this clause, make the person an offer, to be held open for a period of 90 days, to purchase the property on the same terms and conditions that such offers are made in the case of property coming into inventory on or after the date of enactment of this clause.".

(e) QUALIFIED BEGINNING FARMERS OR RANCHERS.—

(1) SUITABLE FARMLAND.—Section 335(c)(2) (7 U.S.C. 1985(c)(2)) is amended—

(A) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(B) by striking all that precedes clause (i) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

"(2)(A) Notwithstanding any other provision of law, the Secretary shall sell suitable farmland administered under this title to persons in the following order:

"(i) Qualified beginning farmers or ranchers (as defined pursuant to section 343(a)(8)), as of the time immediately after such contract for sale or lease is entered into, as determined by the county committee.

"(ii) Operators, as of the time immediately after such contract for sale or lease is entered into, of not larger than family sized farms, as determined by the county committee.

"(B) In selling such land, the county committee shall—".

(2) OTHER PROPERTY.—Section 335(e)(1)(C) (7 U.S.C. 1985(e)(1)(C)) is amended—

(A) by redesignating clause (iv) as clause (v); and

(B) by inserting after clause (iii) the following new clause:

"(iv) Qualified beginning farmers or ranchers (as defined pursuant to section 343(a)(8)) as of the time immediately after such contract for sale or lease is entered into, of not larger than family-sized farm or ranching operations.".

(f) INDIAN LAND IN INVENTORY.—Section 335(e)(1)(D) (7 U.S.C. 1985(e)(1)(D)) is amended by adding at the end the following new clause:

"(x) This subparagraph shall apply to all lands in the land inventory established under this title (as of the date of enactment of this clause) that were (immediately prior to such date) owned by an Indian borrower-owner described in clause (i) and that are situated within an Indian reservation (as defined in clause (ii)), regardless of the date of foreclosure or acquisition by the Secretary. The Secretary shall afford an opportunity to a tribal member, an Indian corporate entity, or the tribe to purchase or lease the real property as provided in clause (iii). If the right is not exercised or no expression of intent to exercise such right is received within 180 days after the date of enactment of this clause, the Secretary shall transfer the real property to the Secretary of the Interior as provided in clause (v).".

(g) OFFERING PRICE.—

(1) IN GENERAL.—Section 335(c)(2)(B)(ii) (7 U.S.C. 1985(c)(2)(B)(ii)), as amended by subsection (e)(1) of this section, is amended to read as follows:

"(ii) offer such land—

"(I) for sales pursuant to subsection (e)(1)(C), at a price not greater than that which reflects the appraised market value of such farmland; and

"(II) for all other sales, at a price not greater than that which reflects the fair market value of such land as determined by bids after advertising or by negotiated sale;".

(2) CONFORMING AMENDMENTS.—Section 335(e)(4) (7 U.S.C. 1985(e)(4)) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraph (C) as (B).

(h) CONSERVATION EASEMENTS ON WETLANDS ON FmHA INVENTORY PROPERTY.—

(1) IN GENERAL.—Section 335 (7 U.S.C. 1985) is amended by adding at the end the following new subsection:

"(g)(1) Subject to paragraphs (2) through (5), in the disposal of real property under this section, the Secretary shall establish perpetual wetland conservation easements to protect and restore wetlands or converted wetlands that exist on inventoried property, as determined by the Secretary in accordance with title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.).

"(2) In establishing the wetland conservation easements on land that is considered to be cropland as of the date of enactment of this subsection, the Secretary shall avoid, to the extent practicable, an adverse impact on the productivity of the croplands, as provided in this subsection.

"(3) In order to avoid the adverse impact, the Secretary shall—

"(A) not establish the wetland conservation easements with respect to wetlands that were converted prior to December 23, 1985, and that have been in cropland use, as determined by the Secretary, in excess of 10 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

"(B) not establish the wetland conservation easements with respect to wetlands that have been frequently planted to agricultural commodities and wetlands described in subparagraph (A), in excess of 20 percent of the existing cropland available for production of agricultural commodities on the particular parcel of inventoried property;

"(C) ensure that the buffer area adjacent to the wetland is generally not more than 100 feet in average width; and

"(D) ensure that access to other portions of the property for farming and other uses is provided.

"(4) The wetland conservation easements shall be placed on wetlands that have a history of haying and grazing, as determined by the Secretary, except that in no case shall the quantity of the wetland subject to the easements exceed 50 percent of the existing forage lands on the parcel of inventoried property. All haying and grazing practices on the wetlands (including the timing and intensity of haying and grazing) shall conform to forage management standards designed to protect wetlands.

"(5) If, despite the limitations contained in paragraph (3), wetland conservation easements established under paragraph (1) would prevent a particular parcel of inventoried property that is to be sold or leased to a borrower described in clause (i), (ii), or (iii) of subsection (e)(1)(C), or to a borrower who is a beginning farmer or rancher, from

being a marketable agricultural production unit that is comparable to the parcel as acquired, the Secretary may—

"(A) establish wetland conservation easements on wetland that was converted prior to December 23, 1985, in a quantity that is less than 10 percent of the existing croplands available for production of agricultural commodities on the particular parcel; and

"(B) if the reduction provided in subparagraph (A) is not applicable, or is not sufficient to ensure that the particular parcel would be a marketable agricultural production unit, amend the wetland conservation easements established on the wetlands that have been frequently planted to agricultural commodities to permit the production of agricultural commodities (consistent with title XII of the Food Security Act of 1985) on the wetlands, to the extent necessary to maintain the parcel as a marketable agricultural production unit.

"(6) The Secretary shall provide prior written notification to a borrower considering preservation loan servicing that a wetlands conservation easement may be placed on land for which the borrower is negotiating a lease option.

"(7) The appraised value of the farm shall reflect the value of the land due to the placement of wetland conservation easements.

"(8) Notwithstanding the limitations described under paragraphs (3) and (4), the limitations may be voluntarily, knowingly waived by any person with respect to real property described in paragraph (3) or (4).".

(2) Study and report on appropriate ceilings on the establishment of wetland conservation easements on existing cropland.—

(A) STUDY.—Not later than January 31, 1991, the Administrator of the Farmers Home Administration shall study the appropriateness of the maximum percentages, in subparagraphs (A) and (B) of section 335(g)(3) of the Consolidated Farm and Rural Development Act, of the existing cropland available for production of agricultural commodities with respect to which perpetual wetland conservation easements are to be established under such section, taking into account—

(i) the amount of land in the inventory of the Farmers Home Administration that may become subject to such an easement; and

(ii) the costs and benefits associated with the making of such inventory land subject to such an easement.

(B) REPORT.—Not later than January 31, 1991, the Administrator of the Farmers Home Administration shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the recommendations of the Administrator as to the appropriate maximum percentages referred to in subparagraph (A) of this paragraph.

SEC. 1814. DEFINITIONS.

Section 343(a) (7 U.S.C. 1991(a)) is amended—

(1) by striking "and" at the end of paragraph (6); and

(2) by inserting before the period at the end the following: ", (8) the term 'beginning farmer or rancher' means such term as defined by the Secretary, (9) the term 'direct loan' means a loan

made or insured from funds in the account created by section 309, and (10) the term 'farmer program loan' means a farm ownership loan (FO) under section 303, operating loan (OL) under section 312, soil and water loan (SW) under section 304, recreation loan (RL) under section 304, emergency loan (EM) under section 321, economic emergency loan (EE) under section 202 of the Emergency Agricultural Credit Adjustment Act (title II of Public Law 95-334), economic opportunity loan (EO) under the Economic Opportunity Act of 1961 (42 U.S.C. 2942), softwood timber loan (ST) under section 1254 of the Food Security Act of 1985, or rural housing loan for farm service buildings (RHF) under section 502 of the Housing Act of 1949".

SEC. 1815. EXTENSION OF ELIGIBILITY FOR CONSERVATION EASEMENTS; ASSISTANCE TO BORROWERS.

Section 349 (7 U.S.C. 1997) is amended—

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "such property";

(B) in paragraph (1), by inserting "such property" before "is";

(C) in paragraph (2), by inserting "such property" before "is";

(D) in paragraph (3)(A)(i), by inserting "such property" before "secures";

(E) by amending clause (ii) of paragraph (3)(A) to read as follows:

"(ii) such easement better enables a qualified borrower to repay the loan in a timely manner, as determined by the Secretary; or";

(F) in paragraph (3)(B), by inserting "such property" before "is"; and

(G) in paragraph (4), by inserting "such property" before "was"; and

(2) by amending subsection (e) to read as follows:

"(e)(1) Subject to paragraph (2), the Secretary may purchase any such easement from the borrower—

"(A) in the case of a borrower to whom the Secretary has made one or more outstanding loans under laws administered by the Farmers Home Administration, by canceling that part of the aggregate amount of such outstanding loans that bears the same ratio to such aggregate amount as the number of acres of the real property of the borrower that are subject to the easement bears to the aggregate number of acres securing such loans; or

"(B) in any other case, by treating as prepaid that part of the principal amount of a new loan to the borrower issued and held by the Secretary under a law administered by the Farmers Home Administration that bears the same ratio to such principal amount as the number of acres of the real property of the borrower that are subject to the easement bears to the aggregate number of acres securing the new loan.

"(2) The amount so canceled or treated as prepaid pursuant to paragraph (1) shall not exceed—

"(A) in the case of a delinquent loan, the value of the land on which the easement is acquired or the difference between the

amount of the outstanding loan secured by the land and the value of the land, whichever is greater; or

"(B) in the case of a nondelinquent loan, 33 percent of the amount of the loan secured by the land."; and

(9) by striking subsection (h).

SEC. 1816. DEBT RESTRUCTURING AND LOAN SERVICING.

Regulations.

(a) ELIGIBILITY FOR RESTRUCTURING.—Section 353(b)(1) (7 U.S.C. 2001(b)(1)) is amended by inserting before the semicolon the following: ", except that the regulations shall require that, if the value of the assets calculated under subsection (c)(2)(A)(ii) that may be realized through liquidation or other methods would produce enough income to make the delinquent loan current, the borrower shall not be eligible for assistance under subsection (a)".

(b) CHANGES IN NET RECOVERY VALUE CALCULATION.—

(1) INCLUSION OF CERTAIN NONESSENTIAL UNSECURED ASSETS OF THE BORROWER IN THE RECOVERY VALUE.—Section 353(c)(2)(A) (7 U.S.C. 2001(c)(2)(A)) is amended to read as follows:

"(A)(i) the amount of the current appraised value of the interests of the borrower in the property securing the loan; plus

"(ii) the value of the interests of the borrower in all other assets that are—

"(I) not essential for necessary family living expenses;

"(II) not essential to the operation of the farm; and

"(III) not exempt from judgment creditors or in a bankruptcy action under Federal or State law; less".

(2) INCLUSION OF SECURITY PROPERTY NOT POSSESSED BY THE BORROWER IN THE RECOVERY VALUE.—Section 353(c)(2) (7 U.S.C. 2001(c)(2)) is amended—

(A) in subparagraph (B)(iv), by striking "costs." and inserting "costs; plus"; and

(B) by adding at the end the following new subparagraph:

"(C) the value, as determined by the Secretary, of any property not included in subparagraph (A)(i) if the property is specified in any security agreement with respect to such loan and the Secretary determines that the value of such property should be included for purposes of this section.".

(c) DEBT SERVICE MARGIN.—Section 353(c)(3) (7 U.S.C. 2001(c)(3)) is amended by adding at the end the following new subparagraph:

"(C) DEBT SERVICE MARGIN.—

"(i) ASSUMPTION.—For the purpose of assessing under subparagraph (A) the ability of a borrower to meet debt obligations and continue farming operations, the Secretary shall assume that the borrower needs up to 105 percent of the amount indicated for payment of debt obligations.

"(ii) AVAILABLE INCOME.—If an amount up to 105 percent of the debt payments of the borrower has been earmarked for such payments, the Secretary shall consider the income of the borrower to be adequate to meet the debt obligations of the borrower.".

(d) DEADLINE FOR RESTRUCTURING CALCULATIONS.—Section 353(c)(4) (7 U.S.C. 2001(c)(4)) is amended by striking "60" and inserting "90".

(e) GOOD FAITH REQUIREMENT FOR LEASEBACK/BUYBACK ELIGIBILITY.—Section 335(e)(1) (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (A)(i), by inserting ", if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with such loan" before the period at the end; and

(2) in subparagraph (C)(i), by inserting ", if such borrower-owner has acted in good faith with the Secretary, as defined in regulations issued by the Secretary, in connection with the loan of such borrower-owner for which such property served as security" before the period at the end.

(f) TERMINATION OF LOAN OBLIGATIONS.—Paragraph (6) of section 353(c) (7 U.S.C. 2001(c)(6)) is amended to read as follows:

"(6) TERMINATION OF LOAN OBLIGATIONS.—

"(A) REQUIRED CONDITIONS.—

"(i) IN GENERAL.—Except as provided in subparagraph (B), the obligations of a borrower to the Secretary under a restructured loan shall terminate if—

"(I) the borrower satisfies the requirements of paragraphs (1) and (2) of subsection (b);

"(II) the value of the restructured loan is less than the recovery value; and

"(III) within 90 days after receipt of the notification described in paragraph (4)(B), the borrower pays (or obtains third-party financing to pay) the Secretary an amount equal to the recovery value.

"(ii) LIMITED APPLICABILITY OF GOOD FAITH REQUIREMENT.—Clause (i)(I) shall not apply to any offer of net recovery buyout made by the Secretary under this section before the date of enactment of this paragraph, unless the Secretary, before such date, determined that the borrower involved did not act in good faith with respect to the loan.

"(B) RECAPTURE.—

"(i) AUTHORITY TO REQUIRE BORROWER TO ENTER INTO AGREEMENT BEFORE TERMINATING LOAN OBLIGATIONS.—

"(I) IN GENERAL.—The Secretary may require, as a condition of the termination of loan obligations under this paragraph, that the borrower enter into an agreement with the Secretary providing that if the borrower sells or otherwise conveys the real property used to secure such loan within 10 years after the date of such agreement, and realizes a gain on such sale or conveyance over the amount of the recovery value of the loan, then the Secretary may recapture part or all of the difference between the recovery value of the loan and the fair market value (on the date of such sale or conveyance) of the property securing the loan.

"(II) LIMITATION ON RECAPTURE AMOUNT.—The agreement described in subclause (I) shall not provide for recapture of an amount that exceeds the difference between such recovery value and the outstanding balance of principal and interest owed on the loan immediately prior to the termination of any loan obligations under this paragraph.

"(ii) TREATMENT OF INTRAFAMILY TRANSFERS.—For purposes of clause (i)(I), transfer of title to a property, on the death or retirement of the borrower, to a spouse or child of the borrower who is actively engaged in farming on the property shall not be treated as a sale or conveyance.".

(g) APPRAISALS.—Section 353(c) (7 U.S.C. 2001(c)) is amended by adding at the end the following new paragraph:

"(7) NEGOTIATION OF APPRAISAL.—

"(A) IN GENERAL.—In making a determination concerning restructuring under this subsection, the Secretary, at the request of the borrower, shall enter into negotiations concerning appraisals required under this subsection with the borrower.

"(B) INDEPENDENT APPRAISAL.—If the borrower, based on a separate current appraisal, objects to the decision of the Secretary regarding an appraisal, the borrower and the Secretary shall mutually agree, to the extent practicable, on an independent appraiser who shall conduct another appraisal of the borrower's property. The average of the two appraisals that are closest in value shall become the final appraisal under this paragraph. The borrower and the Secretary shall each pay one-half of the cost of the independent appraisal.".

(h) ADDITIONAL PROVISIONS.—Section 353 is amended by adding at the end the following new subsections:

"(l) PARTIAL LIQUIDATIONS.—If partial liquidations are performed (with the prior consent of the Secretary) as part of loan servicing by a guaranteed lender under this title, the Secretary shall not require full liquidation of a delinquent loan in order for the lender to be eligible to receive payment on losses.

"(m) DISPOSITION OF NORMAL INCOME SECURITY.—For purposes of subsection (b)(2) of this section, and subparagraphs (A)(i) and (C)(i) of section 335(e)(1)(A), if a borrower—

"(1) disposed of normal income security prior to October 14, 1988, without the consent of the Secretary; and

"(2) demonstrates that—

"(A) the proceeds were utilized to pay essential household and farm operating expenses; and

"(B) the borrower would have been entitled to a release of income proceeds by the Secretary if the regulations in effect on the date of enactment of this subsection had been in effect at the time of the disposition,

the Secretary shall not consider the borrower to have acted without good faith to the extent of the disposition.

"(n) ONLY 1 WRITE-DOWN OR NET RECOVERY BUY-OUT PER BORROWER FOR A LOAN MADE AFTER JANUARY 6, 1988.—

"(1) IN GENERAL.—The Secretary may provide for any one borrower not more than 1 write-down or net recovery buy-out under this section with respect to all loans made to the borrower after January 6, 1988.

"(2) Special rule.—For purposes of paragraph (1), the Secretary shall treat any loan made on or before January 6, 1988, with respect to which a restructuring, write-down, or net recovery buy-out is provided under this section after such date, as a loan made after such date.

"(o) LIQUIDATION OF ASSETS.—The Secretary may not use the authority provided by this section to reduce or terminate any portion of the debt of the borrower that the borrower could pay through the liquidation of assets (or through the payment of the loan value of the assets, if the loan value is greater than the liquidation value) described in subsection (c)(2)(A)(ii).

"(p) LIFETIME LIMITATION ON DEBT FORGIVENESS PER BORROWER.—The Secretary may provide not more than $300,000 in principal and interest forgiveness under this section per borrower.".

SEC. 1817. DISTRIBUTION OF FUNDS ON INDIAN RESERVATIONS.

Section 355(b) (7 U.S.C. 355(b)) is amended by adding at the end the following new paragraph: 7 USC 2003.

"(3) INDIAN RESERVATIONS.—In distributing loan funds in counties within the boundaries of an Indian reservation, the Secretary shall allocate the funds on a reservation-wide basis.".

SEC. 1818. BORROWER TRAINING.

(a) IN GENERAL.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

"SEC. 359. BORROWER TRAINING. 7 USC 2006a.

"(a) IN GENERAL.—The Secretary shall enter into contracts to provide educational training to all borrowers of farmer program direct and guaranteed loans made under this title in financial and farm management concepts associated with commercial farming. Government contracts.

"(b) CONTRACT.—

"(1) IN GENERAL.—The Secretary may contract with State or private providers of farm management and credit counseling services (including a community college, the extension service of a State, a State department of agriculture, or a nonprofit organization) to carry out this section.

"(2) CONSULTATION.—The Secretary may consult with the chief executive officer of a State concerning the identity of the contracting organization and the process for contracting.

"(c) ELIGIBILITY FOR LOANS.—

"(1) IN GENERAL.—Subject to paragraph (2), to be eligible to obtain a direct or guaranteed loan under this title, a borrower must obtain management assistance under this section, appropriate to the management ability of the borrower (as determined by the appropriate county committee established pursuant to section 332, during the determination of eligibility for the loan).

"(2) LOAN CONDITIONS.—The need of a borrower who satisfies the criteria set out in section 302(a)(2) or 311(a)(2) for management assistance under this section shall not be cause for denial of eligibility of the borrower for a direct or guaranteed loan under this title.

"(d) GUIDELINES AND CURRICULUM.—The Secretary shall issue regulations establishing guidelines and curriculum for the borrower training program established under this section. Regulations.

"(e) PAYMENT.—A borrower shall pay for training received under this section, and may use funds from operating loans made under subtitle B to pay for the training.

"(f) WAIVERS.—The Secretary may waive the requirements of this section for an individual borrower on a determination by the county

committee that the borrower demonstrates adequate knowledge in areas described in this section.".

(b) OPERATING LOAN PURPOSES.—Section 312(a) (7 U.S.C. 1942(a)) is amended—

(1) by striking "and" at the end of paragraph (11); and

(2) by inserting before the period at the end the following: ", and (13) borrower training under section 359".

SEC. 1819. LOAN ASSESSMENTS.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the section added by section 1818(a) of this Act the following new section:

7 USC 2006b.

"SEC. 360. LOAN ASSESSMENTS.

"(a) IN GENERAL.—After an applicant is determined eligible for assistance under this title by the appropriate county committee established pursuant to section 332, the Secretary shall evaluate, in accordance with regulations issued by the Secretary, the farming plan and financial situation of each qualified farmer or rancher applicant.

"(b) DETERMINATIONS.—In evaluating the farming plan and financial situation of an applicant under this section, the Secretary shall determine—

"(1) the amount that the applicant will need to borrow to carry out the proposed farming plan;

"(2) the rate of interest that the applicant would need to be able to cover expenses and build an adequate equity base;

"(3) the goals of the proposed farming plan of the applicant;

"(4) the financial viability of the plan and any changes that are necessary to make the plan viable; and

"(5) whether assistance is necessary under this title and, if so, the amount of the assistance.

"(c) CONTRACT.—The Secretary may contract with a third party (including those entities eligible to provide borrower training under section 359(b)) to conduct loan assessments under this section.

"(d) REVIEW OF LOANS.—

"(1) IN GENERAL.—Loan assessments conducted under this section shall include biannual review of direct loans, and periodic review (as determined necessary by the Secretary) of guaranteed loans, made under this title to assess the progress of a borrower in meeting the goals for the farm or ranch operation.

"(2) CONTRACTS.—The Secretary may contract with an entity that is eligible to provide borrower training under section 359(b) to conduct loan reviews under paragraph (1).

"(3) PROBLEM ASSESSMENTS.—If a borrower is delinquent in payments on a direct or guaranteed loan made under this title, the Secretary or the contracting entity shall determine the cause of, and action necessary to correct, the delinquency.

Regulations.

"(e) GUIDELINES.—The Secretary shall issue regulations providing guidelines for loan assessments conducted under this section.".

SEC. 1820. SUPERVISED CREDIT.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the sections added by sections 1818(a) and 1819 of this Act the following new section:

"SEC. 361. SUPERVISED CREDIT. 7 USC 2006c.

"The Secretary shall provide adequate training to employees of the Farmers Home Administration on credit analysis and financial and farm management to—

"(1) better acquaint the employees with what constitutes adequate financial data on which to base a direct or guaranteed loan approval decision; and

"(2) ensure proper supervision of farmer program loans.".

SEC. 1821. MARKET PLACEMENT.

Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding after the sections added by sections 1818(a), 1819, and 1820 of this Act the following new section:

"SEC. 362. MARKET PLACEMENT. 7 USC 2006d.

"The Secretary shall establish a market placement program for qualified beginning farmers and ranchers and other borrowers of farmer program loans that the Secretary believes have a reasonable chance of qualifying for commercial credit with a guarantee provided under this title.".

SEC. 1822. SENSE OF CONGRESS REGARDING ASSISTANCE FOR QUALIFIED BEGINNING FARMERS OR RANCHERS.

It is the sense of Congress that, in carrying out the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), the Secretary of Agriculture should—

(1) establish innovative programs of finance and assistance for land transfer between generations and for establishment of new farm and ranch units;

(2) expand the use of the credit sale and land contract method for the sale of suitable property acquired under such Act; and

(3) maintain statistics on the number of loans made, insured, or guaranteed, and inventory farmland sold or leased, to qualified beginning farmers or ranchers under such Act.

SEC. 1823. SENSE OF CONGRESS REGARDING FmHA LOAN APPLICATION REVIEW AND LOAN SERVICING.

(a) FINDINGS.—Congress finds that reports issued by the Inspector General of the Department of Agriculture and the Comptroller General of the United States found problems with the system of loan application review, and monitoring of loan servicing of guaranteed loans, used under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should quickly take all actions necessary to correct the problems identified by the reports and report to Congress on the actions taken.

SEC. 1824. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES.

Subtitle D of the Consolidated Farm and Rural Development Act is amended by adding after the sections added by sections 1818(a), 1819, 1820, and 1821 of this Act the following new section:

"SEC. 363. PROHIBITION ON USE OF LOANS FOR CERTAIN PURPOSES. 7 USC 2006e.

"The Secretary shall not approve any loan under this title to drain, dredge, fill, level, or otherwise manipulate a wetland (as defined in section 1201(a)(16) of the Food Security Act of 1985 (16 U.S.C. 3801(a)(16)), or to engage in any activity that results in

impairing or reducing the flow, circulation, or reach of water, except in the case of activity related to the maintenance of previously converted wetlands, or in the case of such activity that is already commenced prior to the date of enactment of this section.".

Banks, banking.

Subtitle B—Farm Credit System

SEC. 1831. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Wherever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise specifically provided.

SEC. 1832. FINANCING FOR BASIC PROCESSING AND MARKETING OPERATIONS OWNED BY BONA FIDE PRODUCERS.

(a) FARM CREDIT BANKS.—Section 1.11(a) (12 U.S.C. 2019(a)) is amended—

(1) by striking "(a) Agricultural or Aquatic Purposes.—Loans made by a Farm Credit Bank" and inserting the following: "(a) Agricultural or Aquatic Purposes.—

"(1) In general.—Loans made by a Farm Credit Bank";

(2) by striking "at least 20 percent," and all that follows through "Farm Credit Administration," and inserting "some portion"; and

(3) by adding after and below the end the following new paragraph:

"(2) Limitation on loans for basic processing and marketing operations.—The aggregate of the financing provided by any Farm Credit Bank for basic processing and marketing directly related to the operations of farmers, ranchers, and producers or harvesters of aquatic products, if the operations of the applicant supply less than 20 percent of the total processing or marketing for which financing is extended, shall not exceed 15 percent of the total of all outstanding loans of such bank.".

(b) PRODUCTION CREDIT ASSOCIATIONS.—Section 2.4(a)(1) (12 U.S.C. 2075(a)(1)) is amended by striking "at least 20 percent," and all that follows through the end of the paragraph and inserting "some portion of the total processing or marketing for which financing is extended, except that the aggregate of the financing provided by any association for basic processing and marketing directly related to the operations of farmers, ranchers, and producers or harvesters of aquatic products, if the operations of the applicant supply less than 20 percent of the total processing or marketing for which financing is extended, shall not exceed 15 percent of the total of all outstanding loans of all associations in the district at the end of its preceding fiscal year;".

SEC. 1833. RESTORATION OF FIRST LIEN ON STOCK.

Subtitle A of title II is amended—

(1) by redesignating section 2.6 (12 U.S.C. 2077) as section 2.7; and

(2) by inserting after section 2.5 (12 U.S.C. 2076) the following new section:

"SEC. 2.6. LIENS ON STOCK. 7 USC 2076a.

"Except with regard to stock or participation certificates held by other Farm Credit System institutions, each production credit association shall have a first lien on stock and participation certificates the association issues, on allocated surplus, and on investments in equity reserve, for any indebtedness of the holder of the capital investments and, in the case of equity reserves, for charges for association losses in excess of reserves and surpluses.".

SEC. 1834. INSURANCE SERVICES.

Section 4.29 (12 U.S.C. 2218) is amended—

(1) in subsection (a)(2)—

(A) in the first sentence, by inserting before the period at the end the following: ", if more than two insurers for each type of insurance have proposed programs to a bank that will, in all likelihood, have long-term viability and meet the requirements of subsection (b)(2)(D)"; and

(B) in the third sentence, by inserting before the period at the end the following: ", if at least two insurers have been approved in accordance with this paragraph"; and

(2) in subsection (b)(2)(E), by inserting before the semicolon at the end the following: ", if at least two insurers have been approved in accordance with subsection (a)(2)".

SEC. 1835. CLARIFICATION OF CONTENTS OF CERTIFIED STATEMENTS.

Subsection (a) of section 5.56 (12 U.S.C. 2277a-5(a)) is amended to read as follows:

"(a) FILING CERTIFIED STATEMENT.—Annually, on a date to be determined in the sole discretion of the Board of Directors, each insured System bank that became insured before the beginning of the year shall file with the Corporation a certified statement showing—

"(1) the annual average principal outstanding on loans made by the bank that are in accrual status, including the nonguaranteed portions of government-guaranteed loans;

"(2) the annual average principal outstanding on the guaranteed portion of Federal Government-guaranteed loans (as defined in section 5.55(a)(2)) that are in accrual status;

"(3) the annual average principal outstanding on State government-guaranteed loans (as defined in section 5.55(a)(2)) that are in accrual status;

"(4) the annual average principal outstanding on loans that are in nonaccrual status; and

"(5) the amount of the premium due the Corporation from the bank for the year.".

SEC. 1836. TERMINATION DATE FOR FARM CREDIT SYSTEM ASSISTANCE BOARD.

(a) USE OF INSURANCE FUND.—Section 5.60(c) (12 U.S.C. 2277a-9(c)) is amended—

(1) in paragraph (1), by striking "5 years after the date of the enactment of this part" and inserting "January 1, 1993"; and

(2) in paragraph (2), by striking "5 years after the date of enactment of this part" and inserting "January 1, 1993".

(b) POWERS OF CORPORATION WITH RESPECT TO TROUBLED INSURED SYSTEM BANKS.—Section 5.61(f) (12 U.S.C. 2277a-10(f)) is amended by

striking "beginning on the date of the enactment of this part" and inserting "prior to January 1, 1993".

SEC. 1837. EMPLOYMENT OF CERTAIN PERSONS BY FARM CREDIT SYSTEM INSTITUTIONS.

Section 5.65(d) (12 U.S.C. 2277a-14(d)) is amended—

(1) in paragraph (1), by striking "insured System bank" and inserting "insured System institution"; and

(2) in paragraph (2), by striking "bank" and inserting "institution".

SEC. 1838. TERMINATION OF SYSTEM INSTITUTION STATUS OF CALIFORNIA LIVESTOCK PRODUCTION CREDIT ASSOCIATION.

(a) AUTHORITY TO TERMINATE.—Notwithstanding any other provision of law, effective on the date of enactment of this Act, the California Livestock Production Credit Association may terminate the status of the Association as a Farm Credit System institution.

(b) REQUIREMENTS.—Notwithstanding section 7.10(a)(4) of the Farm Credit Act of 1971 (12 U.S.C. 2279(a)(4)), the California Livestock Production Credit Association shall not (on termination) be—

(1) required to pay any part of the last $1,000,000 of its capital; or

(2) restricted from transferring any part of the $1,000,000 to its successor institution.

SEC. 1839. SECONDARY MARKET FOR GUARANTEED FARMER PROGRAM LOANS.

(a) DEFINITION OF CERTIFIED FACILITY.—Paragraph (3) of section 8.0 (12 U.S.C. 2279aa(3)) is amended to read as follows:

"(3) CERTIFIED FACILITY.—The term 'certified facility' means—

"(A) a secondary marketing agricultural loan facility that is certified under section 8.5; or

"(B) the Corporation and any affiliate thereof, but only with respect to qualified loans described in paragraph (9)(B).".

(b) DEFINITION OF QUALIFIED LOAN.—Paragraph (9) of section 8.0 (12 U.S.C. 2279aa(9)) is amended to read as follows:

"(9) QUALIFIED LOAN.—The term 'qualified loan' means an obligation—

"(A)(i) that is secured by a fee-simple or leasehold mortgage with status as a first lien, on agricultural real estate located in the United States that is not subject to any legal or equitable claims deriving from a preceding fee-simple or leasehold mortgage;

"(ii) of—

"(I) a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States; or

"(II) a private corporation or partnership whose members, stockholders, or partners holding a majority interest in the corporation or partnership are individuals described in subclause (I); and

"(iii) of a person, corporation, or partnership that has training or farming experience that, under criteria established by the Corporation, is sufficient to ensure a reasonable likelihood that the loan will be repaid according to its terms; or

"(B) that is the portion of a loan guaranteed by the Secretary of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except that—

"(i) subsections (b) through (f) of section 8.6, and sections 8.7, 8.8, and 8.9, shall not apply to the portion of a loan guaranteed by the Secretary or to an obligation, pool, or security representing an interest in or obligation backed by a pool of obligations relating to the portion of a loan guaranteed by the Secretary; and

"(ii) the portion of a loan guaranteed by the Secretary shall be considered to meet all standards for qualified loans for all purposes under this Act.".

SEC. 1840. AUTHORITY OF FARM CREDIT ADMINISTRATION TO REGULATE FEDERAL AGRICULTURAL MORTGAGE CORPORATION.

Section 8.11 (12 U.S.C. 2279aa-11) is amended—

(1) in subsection (a), by amending paragraph (1) to read as follows:

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the Farm Credit Administration shall have the authority to—

"(A) provide for the examination of the condition of the Corporation and its affiliates; and

"(B) provide for the general supervision of the safe and sound performance of the powers, functions, and duties vested in the Corporation and its affiliates by this title, including through the use of the enforcement powers of the Farm Credit Administration under part C of title V."; and

(2) by adding at the end the following new subsection:

"(e) DEFINITION OF AFFILIATE.—As used in this title, the term 'affiliate' shall mean an entity effectively controlled or owned by the Corporation, except that such term shall not include a certified facility or an originator (as defined in paragraphs (3) and (7), respectively, of section 8.0).".

SEC. 1841. EXCLUSION OF FARM CREDIT ADMINISTRATION FROM SENIOR EXECUTIVE SERVICE.

12 USC 2001 note.

Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Farm Credit Administration," after "Corporation,".

SEC. 1842. GAO STUDY OF RURAL CREDIT COST AND AVAILABILITY.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of certain matters related to the cost and availability of credit in rural America, including a study of—

(1) the relationship of the role and lending volume of the Farm Credit System to the ability of the System to repay the assistance provided under the Agricultural Credit Act of 1987 (Public Law 100-233) and amendments made by such Act;

(2) the ability of Farm Credit System institutions to be competitive taking into consideration the costs of rebuilding capital, repaying assistance, and capitalizing the Farm Credit Insurance Fund established under section 5.60 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-9);

(3) the rates Farm Credit Banks charge for credit and the rates prevailing in the market for credit of comparable risk and maturity;

(4) the potential for credit pricing practices of rural lending institutions to adversely affect the financial soundness of other lending institutions that provide agricultural credit;

(5) the pricing practices of commercial lending and insurance institutions and whether the practices adequately address the level of risk in agricultural lending;

(6) whether the assistance authorized under the Agricultural Credit Act of 1987 and the amendments made by such Act, is being utilized in accordance with the purposes intended by Congress;

(7) the availability and adequacy of credit in rural America for the purpose of financing agricultural production, infrastructure development (including development of roads, bridges, and water systems), and rural development;

(8) the prudence and desirability for commercial lenders and Farm Credit System institutions who serve primarily agriculture to broaden lending activity to provide diversity in their portfolios;

(9) the level of competitiveness among the major sector lenders in agriculture, whether competition among such lenders has increased or decreased in the last 5 years, and whether American producers have benefited from the competitive situation; and

(10) the level of farm lending activity, in relation to the total asset level, of agricultural lending institutions in rural America and the level of investment by the institutions outside of the rural community or area in which the lending institutions are located.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report on the study conducted under subsection (a) (including any related recommendations) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1843. SALARIES AND COMPENSATION PAID BY SYSTEM INSTITUTIONS.

(a) REPEAL OF AUTHORITY OF FARM CREDIT ADMINISTRATION TO APPROVE SALARIES AND COMPENSATION PAID BY SYSTEM INSTITUTIONS.—

(1) IN GENERAL.—Section 5.17(a) (12 U.S.C. 2252(a)) is amended by striking paragraph (13).

(2) CONFORMING AMENDMENT.—Section 6.6(a)(8)(B) (12 U.S.C. 2278a-6(a)(8)(B)) is amended by striking "notwithstanding the authority of the Farm Credit Administration to approve such matters".

(b) INCLUSION OF COMPENSATION ANALYSIS IN BANK EXAMINATION.—Section 5.19(a) (12 U.S.C. 2254(a)) is amended by inserting after the third sentence the following: "Examination of banks shall include an analysis of the compensation paid to the chief executive officer and the salary scales of the employees of the bank.".

Subtitle C—Miscellaneous

SEC. 1851. ECONOMIC EMERGENCY LOAN PROGRAM.

The Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. prec. 1961 note) is hereby repealed. Repeal.

SEC. 1852. AUTHORIZATION OF APPROPRIATIONS FOR FARM OWNERSHIP OUTREACH PROGRAM TO SOCIALLY DISADVANTAGED INDIVIDUALS.

Section 623 of the Agricultural Credit Act of 1987 (7 U.S.C. 1985 note) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1991 through 1995.".

SEC. 1853. STATE MEDIATION PROGRAMS.

Section 506 of the Agricultural Credit Act of 1987 (7 U.S.C. 5106) is amended by striking "1991" and inserting "1995".

SEC. 1854. INDIAN LAND ACQUISITION PROGRAM.

(a) LIMITED RESOURCE INTEREST RATE.—Section 5 of Public Law 91-229 (25 U.S.C. 492) is amended by striking "section 307(a)" and inserting "section 307(a)(3)(B)".

(b) AUTHORIZATION OF APPROPRIATIONS.—Public Law 91-229 (25 U.S.C. 488 et seq.) is amended by adding at the end the following new section:

"SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 25 USC 494.

"There are authorized to be appropriated to carry out this Act $8,000,000 for each of the fiscal years 1991 through 1995.".

Subtitle D—Effective Dates

SEC. 1861. EFFECTIVE DATES. 7 USC 2001 note.

(a) IN GENERAL.—Except as otherwise provided in this title, this title and the amendments made by this title shall become effective on the date of enactment of this Act.

(b) NOTICE OF DEBT SETTLEMENT PROGRAMS.—The amendment made by section 1807(1) of this Act shall become effective 120 days after the date of enactment of this Act.

(c) DEBT RESTRUCTURING AND LOAN SERVICING.—

(1) IN GENERAL.—Except as provided in section 353(c)(6)(A)(ii) of the Consolidated Farm and Rural Development Act (as added by section 1816(f) of this Act) and in paragraph (3) of this subsection, section 1816 of this Act and the amendments made by such section 1816 shall apply to new applications submitted under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001) on or after the date of enactment of this Act.

(2) DEFINITION OF NEW APPLICATION.—As used in paragraph (1), the term "new application" means an application submitted by a borrower to initiate a debt restructuring consideration and

not an application reconsidered after an appeal or revision of the original application.

(3) LIQUIDATION OF ASSETS.—Section 353(o) of the Consolidated Farm and Rural Development Act (as added by section 1816(h) of this Act) shall not apply until the Secretary of Agriculture has issued final regulations to carry out such section 353(o).

(d) RESTORATION OF FIRST LIEN ON STOCK.—The amendment made by section 1833 of this Act shall be effective as of January 7, 1988.

(e) REGULATIONS.—As soon as practicable after the date of enactment of this Act—

(1) the Secretary of Agriculture shall issue such regulations as are necessary to carry out subtitles A and C of this Act and the amendments made by such subtitles; and

(2) the Farm Credit Administration shall issue such regulations as are necessary to carry out subtitle B of this Act and the amendments made by such subtitle.

Agricultural Promotion Programs Act of 1990. Producers. Imports. 7 USC 6001 note.

TITLE XIX—AGRICULTURAL PROMOTION

SEC. 1901. SHORT TITLE.

This Act may be cited as the "Agricultural Promotion Programs Act of 1990".

Pecan Promotion and Research Act of 1990. 7 USC 6001 note.

Subtitle A—Pecans

SEC. 1905. SHORT TITLE.

This subtitle may be cited as the "Pecan Promotion and Research Act of 1990".

7 USC 6001.

SEC. 1906. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready availability and efficient marketing of pecans;

(5) there exist established State organizations conducting pecan promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, industry information, and consumer information are

necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce directly burden or affect interstate commerce in pecans.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, industry information, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of any person to produce pecans.

SEC. 1907. DEFINITIONS. 7 USC 6002.

As used in this subtitle—

(1) BOARD.—The term "Board" means the Pecan Marketing Board established in section 1910(b).

(2) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) CONFLICT OF INTEREST.—The term "conflict of interest" means a situation in which a member has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(4) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of pecans.

(5) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(6) DISTRICT.—The term "district" means a geographical area of the United States, as determined by the Board and approved by the Secretary, in which there is produced approximately one-fourth of the volume of pecans produced in the United States.

(7) FIRST HANDLER.—The term "first handler" means the first person who buys or takes possession of pecans from a grower for marketing. If a grower markets pecans directly to consumers, such grower shall be considered the first handler with respect to pecans grown by such grower.

(8) GROWER.—The term "grower" means any person engaged in the production and sale of pecans in the United States who owns, or who shares the ownership and risk of loss of, such pecans.

(9) GROWER-SHELLER.—The term "grower-sheller" means a person who—

(A) shells pecans, or has pecans shelled for such person, in the United States; and

(B) during the immediately previous year, grew 50 percent or more of the pecans such person shelled or had shelled for such person.

(10) HANDLE.—The term "handle" means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(11) IMPORTER.—The term "importer" means any person who imports pecans from outside of the United States for sale in the United States.

(12) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the pecan industry.

(13) IN-SHELL PECAN.—The term "in-shell pecan" means a pecan that has a shell that has not been removed.

(14) TO MARKET.—The term "to market" means to sell or offer to dispose of pecans in any channel of commerce.

(15) MEMBER.—The term "member" means a member of the Board.

(16) PECAN.—The term "pecan" means the nut of the pecan tree carya illinoensis.

(17) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(18) PLAN.—The term "plan" means a plan issued under section 1908.

(19) PROMOTION.—The term "promotion" means any action taken by the Board, pursuant to this subtitle, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(20) RESEARCH.—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(21) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(22) SHELL.—The term "shell" means to remove the shell from an inshell pecan.

(23) SHELLED PECAN.—The term "shelled pecan" means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(24) SHELLER.—The term "sheller" means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) during the immediately previous year, purchased more than 50 percent of the pecans such person shelled or had shelled for such account.

(25) STATE.—The term "State" means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(26) UNITED STATES.—The term "United States" means collectively the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1908. ISSUANCE OF PLANS. 7 USC 6003.

(a) IN GENERAL.—To effectuate the declared policy of section 1906(b), the Secretary shall, subject to this subtitle, issue and from time to time amend, plans applicable to growers, grower-shellers, shellers, first handlers, and importers of pecans. Any such plan shall be national in scope. Not more than one plan shall be in effect under this subtitle at any one time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF PLAN.—The Secretary may propose the issuance of a plan under this subtitle, or an association of pecan growers or grower-shellers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such a plan.

(2) PROPOSED PLAN.—Not later than 60 days after the receipt of a request and proposal by an interested person for a plan, or when the Secretary determines to propose a plan, the Secretary shall publish a proposed plan and give due notice and opportunity for public comment on the proposed plan.

(3) ISSUANCE OF PLAN.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue a plan, taking into consideration the comments received and including in the plan provisions necessary to ensure that the plan is in conformity with the requirements of this subtitle.

(4) EFFECTIVE DATE OF PLAN.—Such plan shall be issued and become effective not later than 150 days following publication of the proposed plan.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any plan issued under this section. The provisions of this subtitle applicable to a plan shall be applicable to amendments to a plan.

SEC. 1909. REGULATIONS. 7 USC 6004.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

SEC. 1910. REQUIRED TERMS IN PLANS. 7 USC 6005.

(a) IN GENERAL.—Each plan issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) PECAN MARKETING BOARD.—

(1) ESTABLISHMENT.—The plan shall establish a Pecan Marketing Board to carry out the program referred to in section 1906(b).

(2) SERVICE TO ENTIRE INDUSTRY.—The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) BOARD MEMBERSHIP.—The Board shall consist of 15 members, including—

(A) 8 members who are growers;

(B) 4 members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's gross income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, nominated by the Board; and

(F) at the option of the Board, a consultant or advisor representing the views of pecan producers in a country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) REPRESENTATION OF MEMBERS.—

(A) GROWER REPRESENTATIVES.—Of the growers referred to in paragraph (3)(A), 2 members shall be from each district.

(B) SHELLER REPRESENTATIVES.—Of the shellers referred to in paragraph (3)(B)—

(i) 2 members shall be selected from among shellers whose place of residence is east of the Mississippi River; and

(ii) 2 members shall be selected from among shellers whose place of residence is west of the Mississippi River.

(C) FIRST HANDLER REPRESENTATIVE.—The first handler representative on the Board referred to in paragraph (3)(C) shall be selected from among first handlers whose place of residence is in a district.

(D) IMPORTER REPRESENTATIVE.—The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans into the United States.

(E) PUBLIC REPRESENTATIVE.—The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, grower-sheller, sheller, first handler, or importer.

(5) ALTERNATE FOR EACH MEMBER.—Each member of the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) LIMITATION ON STATE RESIDENCE.—There shall be no more than one member from each State in each district, except that the State of Georgia may have 2 growers from such State representing the district that it is in.

(7) MODIFYING BOARD MEMBERSHIP.—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production.

(8) SELECTION PROCESS FOR MEMBERS.—

(A) PUBLICITY.—The Board shall give reasonable publicity to the industry for nomination of persons interested in being nominated for Board membership.

(B) ELIGIBILITY.—Each grower and sheller shall be eligible to vote for the nomination of members who represent that class of members on the Board. Growers shall be eligible to vote for the nomination of the first handler members on the Board.

(C) SELECTION OF NOMINEES.—Each person referred to in subparagraph (B) shall have one vote. The 2 eligible candidates receiving the largest number of votes cast for each Board position for each class of members shall be the nominees for such position.

(D) CERTIFICATION.—Except for the establishment of the initial Board, the nominations made under subparagraph

(C) and subsections (b)(3)(D) and (b)(3)(E) shall be certified by the Board and submitted to the Secretary no later than May 1 or such other date recommended by the Board and approved by the Secretary preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) APPOINTMENT.—To each vacant Board position, the Secretary shall appoint 1 individual from among the nominees certified and submitted under subparagraph (D).

(F) REJECTION OF NOMINEES.—The Secretary may reject any nominee submitted under subparagraph (D). If there are insufficient nominees from which to appoint members to the Board as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary in the same manner.

(G) INITIAL BOARD.—The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in paragraph 3 (A), (B), and (C), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate. Nominations for those members of the initial Board described in paragraph (3) (D) and (E) shall be made in accordance with paragraph (3).

(H) FAILURE TO NOMINATE.—If growers and shellers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the plan. If the Board fails to nominate an importer or a public representative, such member may be appointed without a nomination.

(9) TERMS OF OFFICE.—

(A) IN GENERAL.—The members of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board established under paragraph (8)(G) shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) TERMINATION OF TERMS.—Notwithstanding subparagraph (C), each member shall continue to serve until a successor is appointed by the Secretary.

(C) LIMITATION ON TERMS.—No individual may serve more than 2 consecutive 3-year terms as a member.

(D) VACANCIES.—

(i) SUBMITTING NOMINATIONS.—To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that at least 2 eligible nominations for a successor for each such vacancy be submitted by the Board in the manner provided in paragraph (8).

(ii) LACK OF NOMINATIONS.—If at least 2 eligible nominations are not submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) COMPENSATION.—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The plan shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the plan in accordance with its terms and conditions;

(2) to make regulations to effectuate the terms and conditions of the plan;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary and to determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 1912, and a fiscal period budget of the anticipated expenses in the administration of the plan, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of promotion, research, industry information and consumer information;

(9) to carry out research, promotion, industry information, and consumer information, and to pay the costs of such projects with assessments collected pursuant to section 1912;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, shellers, importers, and the public to assist in the development of research, promotion, industry information, and consumer information programs for pecans;

(12) to invest, pending disbursement under a program or project, funds collected through assessments authorized under this subtitle, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States;

except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(13) to receive, investigate, and report to the Secretary complaints of violations of the plan;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the plan; and

(16) to develop and recommend to the Secretary for approval such regulations as may be necessary for the development and

execution of programs or projects, or as may otherwise be necessary, to carry out the plan.

(d) PROGRAMS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The plan shall provide that the Board shall submit to the Secretary for approval any program or project of promotion, research, consumer information, or industry information. No program or project shall be implemented prior to its approval by the Secretary.

(2) BUDGETS.—The plan shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses (including reimbursements under subsection (b)(10)) and disbursements in the implementation of the plan, including projected costs of promotion, research, consumer information, and industry information programs and projects.

(3) INCURRING EXPENSES.—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 1912 or funds borrowed pursuant to paragraph (5).

(5) AUTHORITY TO BORROW.—In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) LIMITATION ON SPENDING.—Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under section 1912 for administration of the Board.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the plan shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of programs or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations, and for the payment of the cost thereof with funds received by the Board under the plan.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget or budgets that shall show estimated costs to be incurred for such program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require. Records. Reports.

(3) GROWER AND GROWER-SHELLER ORGANIZATIONS.—The plan shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those required by paragraph (2).

(f) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The plan shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

Reports.

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) PROHIBITION.—The Board shall not engage in any action to, nor shall any funds received by the Board under this subtitle be used to—

(1) influence legislation or governmental action, other than recommending to the Secretary amendments to the plan;

(2) engage in any action that would be a conflict of interest; or

(3) engage in any advertising that may be false or misleading.

(h) BOOKS AND RECORDS.—

(1) IN GENERAL.—The plan shall require that each first handler, grower-sheller, or importer shall—

Reports.

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this subtitle; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this subtitle, including such records as are necessary to verify any required reports.

(2) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) DISCLOSURE.—Information referred to in subparagraph (A) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this subtitle.

(C) MISCONDUCT.—Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law

or allowed under subparagraph (B) or (D), shall be considered a violation of this subtitle.

(D) GENERAL STATEMENTS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the plan or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the plan, together with a statement of the particular provisions of the plan violated by such person.

(4) AVAILABILITY OF INFORMATION.—

(A) EXCEPTION.—Except as provided in this subtitle, information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(5) WITHHOLDING INFORMATION.—Nothing in this subtitle shall be construed to authorize the withholding of information from Congress.

(i) USE OF ASSESSMENTS.—The plan shall provide that the assessments collected under section 1912 shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this subtitle, except for the salaries of Government employees incurred in conducting referenda.

(j) OTHER TERMS AND CONDITIONS.—The plan also shall contain such terms and conditions, not inconsistent with this subtitle, as determined necessary by the Secretary to effectuate this subtitle.

SEC. 1911. PERMISSIVE TERMS IN PLANS. 7 USC 6006.

(a) IN GENERAL.—A plan issued pursuant to this subtitle may contain one or more of the terms and conditions contained in this section.

(b) EXEMPTIONS.—The plan may provide authority to exempt from the plan pecans used for nonfood uses and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) DIFFERENT PAYMENT AND REPORTING SCHEDULES.—The plan may provide authority to designate different payment and reporting schedules for growers, grower-shellers, first handlers and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) PROMOTION.—The plan may provide for the establishment, issuance, effectuation, and administration of appropriate programs

or projects for the promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this subtitle.

(e) RESEARCH AND INFORMATION.—The plan may provide for establishing and carrying on research, consumer information, and industry information projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) RESERVE FUNDS.—The plan may provide authority to accumulate reserve funds from assessments collected pursuant to this subtitle, to permit an effective and continuous coordinated program of research, consumer information, industry information and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the plan for 2 years.

(g) FOREIGN MARKETS.—The plan may provide authority to use funds collected under this subtitle, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

7 USC 6007.

SEC. 1912. ASSESSMENTS.

(a) IN GENERAL.—During the effective period of a plan issued pursuant to this subtitle, assessments shall be—

(1) levied on all pecans produced in, and all pecans imported into, the United States and marketed; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) LIMITATION ON ASSESSMENTS.—No more than one assessment may be assessed under subsection (a) on a grower (as remitted by a first handler), grower-sheller, or importer, for any lot of pecans handled or imported.

(c) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted to the Board by—

(A) a first handler; and

(B) an importer.

(2) TIMES TO REMIT ASSESSMENT.—

(A) FIRST HANDLERS.—Each first handler who is not a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed by such first handler.

(B) GROWER-SHELLERS.—Each first handler who is a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on January 31, March 31, and May 10, or such dates as may be recommended by the Board and approved by the Secretary, during the fiscal year that the pecans being assessed were harvested.

(C) IMPORTERS.—Importers of pecans into the United States shall pay the assessment at the time the pecans enter the United States and shall remit such assessment to the Board.

(d) ASSESSMENT RATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of a plan and ending on the date the referendum is conducted under section 1916(a), one-half cent per pound for in-shell pecans as determined by the Board and approved by the Secretary; and

(B) after such period, 2 cents per pound for in-shell pecans.

(2) ADJUSTING RATE FOR SHELLED PECANS.—The rate of assessment of shelled pecans shall be twice the rate established for in-shell pecans pursuant to paragraph (1).

(3) SPECIAL STATE ASSESSMENT.—

(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, with the approval of the Secretary and if authorized by State law and requested by such State, a special assessment of one-quarter cent per pound for in-shell pecans, and an appropriate per-pound assessment for shelled pecans as adjusted under paragraph (2), shall be remitted to the Board for the purpose of utilizing such funds by a State pecan marketing board for research projects to promote pecans pursuant to State law.

(B) COLLECTION AND REMITTANCE.—The Board shall collect such assessments and upon receipt of such assessments shall remit such assessments to the State, within a time period mutually agreed upon between the State and the Board, and approved by the Secretary. In the collection of such State assessments, neither the Board nor the Secretary shall in any manner enforce the collection or remittance of any such payment by producers of such State assessments or investigate nonpayment of such State assessments, except to provide to a State the names of growers from whom such assessments were collected and the respective amounts of assessments collected.

(C) REGULATIONS.—The Secretary is authorized to make such regulations as may be necessary to carry out the provisions of this section.

(e) LATE-PAYMENT CHARGE.—

(1) IN GENERAL.—There shall be a late-payment charge imposed on any person who fails to remit, on or before the due date established by the Board under subsection (c)(2), to the Board the total amount for which such person is liable.

(2) AMOUNT OF CHARGE.—The amount of the late-payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) ESTABLISHMENT OF ESCROW ACCOUNT.—During the period beginning on the effective date of a plan first issued under section 1908 and ending on the date the referendum is conducted under section 1916(a), the Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2).

(2) PLACEMENT OF FUNDS IN ACCOUNT.—The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) RIGHT TO RECEIVE REFUND.—Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments paid by or on behalf of such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is required to pay such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this subtitle;

(C) such grower, grower-sheller, or importer demands such refund prior to the conduct of the referendum under section 1916(a); and

(D) the plan is not approved pursuant to the referendum conducted under section 1916(a).

(4) FORM OF DEMAND.—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) MAKING OF REFUND.—Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) PRORATION.—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers; and

(B) the plan is not approved pursuant to the referendum conducted under section 1916(a);

the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) PROGRAM APPROVED.—If the plan is approved pursuant to the referendum conducted under section 1916(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this subtitle.

7 USC 6008.

SEC. 1913. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to a plan issued under this subtitle may file with the Secretary a petition—

(A) stating that the plan, any provision of the plan, or any obligation imposed in connection with the plan is not in accordance with law; and

(B) requesting a modification of the plan or an exemption from the plan.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, on the record and in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 1914.

SEC. 1914. ENFORCEMENT. 7 USC 6009.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, this subtitle or any plan or regulation issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle or any plan or regulation issued under this subtitle if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or by providing a suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—

(A) IN GENERAL.—A person who willfully violates any provision of this subtitle or any plan or regulation issued under this subtitle, or who fails to pay, collect, or remit any assessment or fee required of the person under this subtitle or any plan or regulation issued under this subtitle, may be assessed by the Secretary a civil penalty of not less than $1,000 nor more than $10,000 for each such violation.

(B) SEPARATE OFFENSE.—Each violation described in subparagraph (A) shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from the Secretary's order in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—A person against whom a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of such penalty or order in the district court of the United States for the district in which such person resides or does business, or in the United States District Court for the District of Columbia, by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in such court; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing on the record and for judicial review under the procedures specified in subsections (c) and (d), of not more than $1,000 for each offense. Each day during which the failure continues shall be considered a separate violation of such order.

(f) FAILURE TO PAY PENALTY.—If a person fails to pay a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate district court has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of such order imposing such civil penalty shall not be subject to review.

7 USC 6010.

SEC. 1915. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary determines necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this subtitle, or of any plan, rule, or regulation issued under this subtitle.

(b) POWER TO SUBPOENA.—

(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 1913 or section 1914, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under section 1913 or 1914 shall be within the judicial district where such person resides or has a principal place of business.

SEC. 1916. REQUIREMENT OF REFERENDUM. 7 USC 6011.

(a) IN GENERAL.—Not later than 24 months after the effective date of the plan first issued under section 1908, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the plan.

(b) OTHER REFERENDA.—

(1) IN GENERAL.—After the referendum required under subsection (a), the Secretary shall hold a referendum on request of the Board or 10 percent or more of the total number of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the plan.

(2) SUSPENSION OR TERMINATION.—The Secretary shall terminate or suspend such plan, in accordance with section 1917(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this subtitle, except for the salaries of Government employees.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this subtitle shall be conducted in such a manner as is determined by the Secretary.

(2) ADVANCE REGISTRATION.—A grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this subtitle shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary, for such grower, grower-sheller, or by mailing such a request to the Secretary on behalf of an importer.

(3) VOTING.—A grower, grower-sheller, or importer who votes in any referendum conducted under this subtitle shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary or by mail to the Secretary.

(4) NOTICE.—Each Agricultural Stabilization and Conservation Service office shall notify all growers, grower-shellers, and importers in the area of such office, as determined by the Secretary, at least 30 days prior to a referendum conducted under this subtitle. Such notice shall explain the registration and voting procedures established under this subsection.

7 USC 6012.

SEC. 1917. SUSPENSION OR TERMINATION OF PLAN.

(a) MANDATORY SUSPENSION OR TERMINATION.—The Secretary shall, whenever the Secretary finds that the plan or any provision of the plan obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such plan or provision.

(b) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under this subtitle, the Secretary determines that suspension or termination of a plan is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as the case may be, collection of assessments under the plan; and

(2) suspend or terminate, as the case may be, activities under the plan in an orderly manner as soon as practicable.

(c) The termination or suspension of any plan, or any provision thereof, shall not be considered a plan within the meaning of this subtitle.

7 USC 6013.

SEC. 1918. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated to carry out this subtitle shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any plan issued under this subtitle.

Mushroom Promotion, Research, and Consumer Information Act of 1990.
7 USC 6101 note.

Subtitle B—Mushrooms

SEC. 1921. SHORT TITLE.

This subtitle may be cited as the "Mushroom Promotion, Research, and Consumer Information Act of 1990".

SEC. 1922. FINDINGS AND DECLARATION OF POLICY. 7 USC 6101.

(a) FINDINGS.—Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing, and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out, an effective, continuous, and coordinated program of promotion, research, and consumer and industry information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 1923. DEFINITIONS. 7 USC 6102.

As used in this subtitle—

(1) COMMERCE.—The term "commerce" means interstate, foreign, or intrastate commerce.

(2) CONSUMER INFORMATION.—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) COUNCIL.—The term "Council" means the Mushroom Council established under section 1925(b).

(4) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(5) FIRST HANDLER.—The term "first handler" means any person, as described in an order issued under this subtitle, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

(6) IMPORTER.—The term "importer" means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that are designed to lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of mushrooms in any channel of commerce.

(9) MUSHROOMS.—The term "mushrooms" means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are marketed, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) PRODUCER.—The term "producer" means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) PROMOTION.—The term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

7 USC 6103.

SEC. 1924. ISSUANCE OF ORDERS.

(a) IN GENERAL.—To effectuate the declared policy of section 1922(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this subtitle applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURES.—

(1) ISSUANCE OF AN ORDER.—The Secretary may propose the issuance of an order under this subtitle, or an association of mushroom producers or any other person that will be affected by this subtitle may request the issuance of, and submit a proposal for, such an order.

(2) PUBLICATION OF ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 1926(a), shall become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—

(1) IN GENERAL.—The Secretary, from time to time, may amend any order issued under this section.

(2) APPLICATION OF SUBTITLE.—The provisions of this subtitle applicable to an order shall be applicable to amendments to the order.

SEC. 1925. REQUIRED TERMS IN ORDERS. 7 USC 6104.

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) MUSHROOM COUNCIL.—

(1) ESTABLISHMENT AND MEMBERSHIP OF COUNCIL.—

(A) ESTABLISHMENT.—The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least 4 members and not more than 9 members.

(B) MEMBERSHIP.—Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) APPOINTMENTS.—

(A) IN GENERAL.—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) UNITS.—In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into 4 regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) IMPORTERS.—Importers shall be represented as one region, which shall be separate from the regions established for mushrooms produced in the United States.

(D) MEMBERS PER REGION.—The Secretary shall appoint one member from each region if such region produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) ADDITIONAL MEMBERS.—Subject to the nine-member limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region.

(F) For purposes of this paragraph, in determining average annual mushroom production in each of the 4 regions of the United States established under this paragraph, the Secretary shall only consider mushrooms produced by producers covered by this subtitle, as defined in section 1923(11).

(G) FAILURE TO NOMINATE.—If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order.

(3) TERMS; COMPENSATION.—

(A) TERMS.—The term of appointment to the Council shall be for 3 years, except that the initial appointments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) COMPENSATION.—Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) POWERS AND DUTIES OF THE COUNCIL.—The order shall define the powers and duties of the Council, which shall include the following powers and duties—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules and regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, approve and submit to the Secretary for approval under subsection (d) budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement such plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States,

except that income from any such invested funds may only be used for any purpose for which the invested funds may be used.

(d) PLANS AND BUDGETS.—

(1) SUBMISSION TO SECRETARY.—The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) BUDGETS.—The order shall require the Council to submit to the Secretary for approval budgets on a fiscal year basis of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) APPROVAL BY SECRETARY.—No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organizations, and for the payment of the cost thereof with funds received by the Council under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Council a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require. Records.

(3) PRODUCER ORGANIZATIONS.—The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) BOOKS AND RECORDS OF COUNCIL.—

(1) IN GENERAL.—The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and Reports.

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) AUDITS.—The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) ASSESSMENTS.—

(1) COLLECTION AND PAYMENT.—

(A) IN GENERAL.—The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) IMPORTERS.—The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) DIRECT MARKETING.—Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) RATE OF ASSESSMENT.—The rate of assessment shall be determined and announced by the Council and may be changed by the Council at any time. The order shall provide that the rate of assessment—

(A) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(B) for the second year of the order, may not exceed one-third cent per pound of mushrooms;

(C) for the third year of the order, may not exceed one-half cent per pound of mushrooms; and

(D) for the following years of the order, may not exceed one cent per pound of mushrooms.

(3) USE OF ASSESSMENTS.—The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this subtitle, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this subtitle, except for the salaries of Government employees incurred in conducting referenda.

(4) LIMITATION ON COLLECTION.—No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) PROHIBITION.—The order shall prohibit any funds received by the Council under the order from being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this subtitle and for the submission to the Secretary of recommended voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) BOOKS AND RECORDS.—

(1) IN GENERAL.—The order shall require that each first handler and importer of mushrooms maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) AVAILABILITY TO SECRETARY.—Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this subtitle, the order, or any regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, all information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and the Council, and agents of the Council, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) LIMITATIONS.—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(4) AVAILABILITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) PENALTY.—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(5) WITHHOLDING INFORMATION.—Nothing in this subtitle shall be construed to authorize the withholding of information from Congress.

(j) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate this subtitle, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 1926. REFERENDA. 7 USC 6105.

(a) INITIAL REFERENDUM.—

(1) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order issued under section 1924(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) APPROVAL OF ORDER.—The order shall become effective, as provided in section 1924(b), if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more

than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) SUCCEEDING REFERENDA.—

(1) DETERMINATION CONCERNING ORDER.—

(A) IN GENERAL.—Effective 5 years after the date on which an order becomes effective under section 1924(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) REQUEST FOR REFERENDUM.—Effective beginning 3 years after the date on which an order becomes effective under section 1924(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to ascertain whether producers and importers favor termination or suspension of the order.

(2) SUSPENSION OR TERMINATION.—If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) MANNER.—Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

7 USC 6106.

SEC. 1927. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling of the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 1928.

SEC. 1928. ENFORCEMENT. 7 USC 6107.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—A person who willfully violates a provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under such order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in the district court of the United States for the district in which such person resides or does business, or in the United States district court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—A person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any district court in which the person resides or conducts business. In such action, the validity and appropriateness of such civil penalty shall not be subject to review.

7 USC 6108.

SEC. 1929. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this subtitle or to determine whether any person subject to this subtitle has engaged or is engaging in any act that constitutes a violation of this subtitle or of any order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 1927 or section 1928, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person

resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under section 1927 or 1928 shall be within the judicial district where such person resides or has a principal place of business.

SEC. 1930. SAVINGS PROVISION. 7 USC 6109.

Nothing in this subtitle may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 1931. SUSPENSION OR TERMINATION OF ORDERS. 7 USC 6110.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order under the meaning of this subtitle.

SEC. 1932. AUTHORIZATION OF APPROPRIATIONS. 7 USC 6111.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provision of an order issued under this subtitle.

SEC. 1933. REGULATIONS. 7 USC 6112.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

Subtitle C—Potatoes

Potato Research and Promotion Act Amendments of 1990. 7 USC 2611 note.

SEC. 1935. SHORT TITLE.

This subtitle may be cited as the "Potato Research and Promotion Act Amendments of 1990".

SEC. 1936. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended—

(1) in the first paragraph—

(A) by inserting "and foreign countries" after "United States" in the first sentence;

(B) by inserting "and imported into the United States from foreign countries" after "United States" in the second sentence; and

(C) by striking the last sentence;

(2) in the second paragraph—

(A) in the first sentence—

(i) by striking ", in a large part,"; and

(ii) by inserting "or foreign" after "channels of interstate"; and

(B) by striking the second sentence; and

(3) in the fourth paragraph—

(A) by inserting "and imported into the United States from foreign countries" after "commercial use"; and

(B) by striking at the end thereof "produced in the United States" and inserting "and potato products".

SEC. 1937. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended—

(1) in subsection (c)—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting before the period at the end thereof ", and grown in foreign countries and imported into the United States"; and

(2) by adding at the end the following new subsection:

"(g) The term 'importer' means any person who imports tablestock, frozen, or processed potatoes for ultimate consumption by humans or seed potatoes into the United States.".

SEC. 1938. AUTHORITY TO ISSUE A PLAN.

Section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended—

(1) in the first sentence—

(A) by striking "persons engaged in the handling of potatoes (hereinafter referred to as handlers)" and inserting "handlers and importers"; and

(B) by inserting "or imported" after "potatoes handled"; and

(2) in the third sentence—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting before the period "and in foreign countries, if importers are subject to a plan and such potatoes are imported into the United States".

SEC. 1939. NOTICE AND HEARINGS.

Section 305 of the Potato Research and Promotion Act (7 U.S.C. 2614) is amended—

(1) in the first sentence by striking "potato producers" and inserting "interested persons"; and

(2) in the second sentence by striking "by potato producers or by any other interested person or persons, including the Secretary" and inserting "by any interested person, including the Secretary".

SEC. 1940. REQUIRED TERMS IN PLANS.

Section 308 of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended—

(1) in subsection (b)—

(A) by inserting after the first sentence the following: "If importers are subject to a plan, the board shall also include up to 5 representatives of importers, appointed by the

Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.";

(B) after "If producers" by inserting "or importers"; and

(C) in the last sentence by inserting ", or to importer approval when importers are subject to a plan," after "approval";

(2) in subsection (e)—

(A) by striking "one cent" and inserting "2 cents"; and

(B) by inserting ", and importers when importers are subject to a plan," after "producers";

(3) in subsection (f)(1) by inserting in the proviso ", or importer approval when importers are subject to a plan," after "producer approval"; and

(4) by striking subsection (g) and redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

SEC. 1941. PERMISSIVE TERMS IN PLANS.

Section 309 of the Potato Research and Promotion Act (7 U.S.C. 2618) is amended by redesignating subsection (g) as subsection (i) and inserting the following new subsections:

"(g) Providing that any potato producer or importer against whose potatoes any assessment is made and collected under authority of this title and who is not in favor of supporting the research and promotion program as provided for under this title shall have the right to demand and receive from the board a refund of such assessment. Such demand shall be made personally by such producer or importer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than 90 days, and upon submission of proof satisfactory to the board that the producer or importer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand therefor.

"(h) Providing for authority to assess imports of tablestock, frozen, or processed potatoes for ultimate consumption by humans and seed potatoes into the United States.".

SEC. 1942. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended—

(1) in subsection (a) by inserting "(1)" after "(a)" and adding at the end thereof the following new paragraph:

"(2) when importers are subject to a plan, each importer designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes. The assessment on imported tablestock, frozen, or processed potatoes for ultimate consumption by humans, and seed potatoes shall be established by the board so that the effective assessment shall equal that on domestic production and shall be paid by the importer to the board at the time of entry into the United States. Each such importer shall maintain a separate record including the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans, and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan, and shall indicate such other

information as may be prescribed by the board. No more than one assessment shall be made on any imported potatoes.";

(2) in subsection (b) by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1) by inserting "or importers" after "handlers".

SEC. 1943. INVESTIGATION AND POWER TO SUBPOENA.

Section 313 of the Potato Research and Promotion Act (7 U.S.C. 2622) is amended in subsection (a)—

(1) by striking in the first sentence "a handler or any other" and inserting "any"; and

(2) in the last sentence by striking "handler or other".

SEC. 1944. REQUIREMENT OF REFERENDUM.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended—

(1) in subsection (a) by adding at the end the following sentence: "When the issuance of a plan would subject importers to the terms and conditions of a plan, the Secretary also shall conduct the referendum among importers, who during a representative period determined by the Secretary have been engaged in the importation of potatoes, for the purpose of ascertaining whether the issuance of such plan is approved or favored by such importers.";

(2) in subsection (b) by striking "two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less than a majority of the producers voting in such referendum" and inserting "a majority of the producers voting in such referendum or a majority of the producers and importers when the issuance of a plan would subject importers to the terms and conditions of a plan, voting in such referendum";

(3) in subsection (c) by inserting "and importers" after "producers"; and

(4) in subsection (d) by inserting ", or any importer or the volume of potatoes imported by such importer," after "potatoes".

SEC. 1945. SUSPENSION OR TERMINATION OF PLANS.

Section 315 of the Potato Research and Promotion Act (7 U.S.C. 2624) is amended—

(1) in subsection (b)—

(A) by inserting ", or of the total number of producers and importers when importers are subject to a plan," after "potato producers" the first time it appears;

(B) by inserting "and importers" after "potato producers" the second time it appears;

(C) by inserting "and import" after "produce"; and

(D) by striking "by the potato producers voting in the referendum" and inserting "and imported by those voting in the referendum"; and

(2) by adding a new subsection (c) to read as follows:

"(c) The termination or suspension of any plan, or any provision thereof, shall not be considered the issuance of a plan within the meaning of this part.".

SEC. 1946. AMENDMENT PROCEDURE. 7 USC 2625 note.

(a) IN GENERAL.—Notwithstanding any provision of the Potato Research and Promotion Act (hereafter in this section referred to as the "Act"), the procedure specified in this section shall apply if a producer or a producer organization requests the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") to amend the plan in effect under that Act (hereafter in this section referred to as the "plan") to—

(1) subject importers to the terms and conditions of a plan, and

(2) eliminate provisions for refunds of assessments for those not in favor of supporting the research and promotion program as provided under that Act.

The procedure under this section shall apply only in the case of the first such request received after the date of enactment of this Act.

(b) PUBLICATION OF PROPOSED AMENDMENTS.—The Secretary shall publish for public comment such proposed amendments to the plan within 60 days.

(c) ISSUANCE OF FINAL AMENDMENTS.—Not later than 150 days after publication of such amendment, and after notice and opportunity for public comment, the Secretary shall issue the amendments to the plan, as described in subsection (a), if the Secretary has reason to believe that such amendments will tend to effectuate the declared policy of this subtitle.

(d) REFERENDUM.—Not later than 24 months after the date of issuance of such amendments to the plan, the Secretary shall conduct a referendum among producers and importers who, during a representative period determined by the Secretary, have been engaged in the production or importation of potatoes. The amendments shall be continued only if the Secretary determines that the amendments to the plan have been approved by a majority of the total number of producers and importers voting in the referendum.

(e) REFUNDS.—The board shall—

(1) establish an escrow account to be used for assessment refunds, and place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the amendments to the plan issued under subsection (c) and ending on the date of the referendum on the amendments to the plan;

(2) place in the account established under paragraph (1), from assessments collected under the plan during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent;

(3) subject to paragraphs (4), (5), and (6), provide that for the period referred to in paragraph (1) any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during such period if—

(A) such producer or importer is responsible for paying such assessments;

(B) such producer or importer does not support the program established under the plan; and

(C) the amendments to the plan to eliminate provisions for refunds of assessments are not approved pursuant to a referendum conducted under subsection (d);

(4) require such demand to be made in accordance with regulations, on a form, and within a time period prescribed by the board;

(5) require such refund to be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded; and

(6) if the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection, prorate the amount of such refunds among all eligible producers and importers who demand such refund.

(f) TERMINATION.—If such amendments to the plan are not approved, the Secretary shall terminate the amendments and the plan shall continue in effect without the amendments.

(g) AMENDMENT TO INCLUDE THE 50 STATES.—Notwithstanding any provision of the Act, the Secretary shall, upon request of a producer or a producer organization, issue an amendment to the plan to include the 50 States of the United States. Such amendment shall not be subject to a referendum.

Subtitle D—Limes

Lime Research, Promotion, and Consumer Information Act of 1990.
7 USC 6201 note.

SEC. 1951. SHORT TITLE.

This subtitle may be cited as the "Lime Research, Promotion, and Consumer Information Act of 1990".

7 USC 6201.

SEC. 1952. FINDINGS, PURPOSES, AND LIMITATIONS.

(a) FINDINGS.—Congress finds that—

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the States of Florida and California;

(3) limes move in interstate and foreign commerce, and limes that do not move in such channels of commerce directly burden or affect interstate commerce in limes;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed—

(A) to strengthen the position of the lime industry in domestic and foreign markets, and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestically produced and imported limes equitably.

(c) LIMITATION.—Nothing in this subtitle shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

SEC. 1953. DEFINITIONS. 7 USC 6202.

As used in this subtitle:

(1) BOARD.—The term "Board" means the Lime Board provided for under section 1955(b).

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) HANDLE.—The term "handle" means to sell, purchase, or package limes.

(4) HANDLER.—The term "handler" means any person in the business of handling limes.

(5) IMPORTER.—The term "importer" means any person who imports limes into the United States.

(6) LIME.—The term "lime" means the fruit of a citrus aurantifolia tree for the fresh market.

(7) MARKETING.—The term "marketing" means the sale or other disposition of limes in commerce.

(8) ORDER.—The term "order" means a lime research, promotion, and consumer information order issued by the Secretary under section 1954(a).

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PRODUCER.—The term "producer" means any person who produces limes in the United States for sale in commerce.

(11) PRODUCER-HANDLER.—The term "producer-handler" means any person who is both a producer and handler of limes.

(12) PROMOTION.—The term "promotion" means any action taken under this subtitle (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) RESEARCH.—The term "research" means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The term—

(A) "State" means each of the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) "United States" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

7 USC 6203.

SEC. 1954. ISSUANCE OF ORDERS.

(a) IN GENERAL.—Subject to this subtitle, and to effectuate the declared purposes of this subtitle, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes. Any such order shall be national in scope. Not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURE.—

(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this subtitle may request the issuance of, and submit a proposal for, an order under this subtitle.

(2) PROPOSED ORDER.—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this subtitle.

(4) EFFECTIVE DATE OF ORDER.—Such order shall be issued and become effective not later than 150 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section. The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

7 USC 6204.

SEC. 1955. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—An order issued by the Secretary under section 1954(a) shall contain the terms and conditions described in this section and, except as provided in section 1956, no other terms or conditions.

(b) LIME BOARD.—Such order shall provide for the establishment of a Lime Board as follows:

(1) MEMBERSHIP.—The Board shall be composed of—

(A) 7 members who are producers and who are not exempt from an assessment under subsection (d)(5)(A);

(B) 3 members who are importers and who are not exempt from an assessment under subsection (d)(5)(A); and

(C) one member appointed from the general public.

(2) APPOINTMENT AND NOMINATION.—

(A) APPOINTMENT.—The Secretary shall appoint the members of the Board.

(B) PRODUCERS.—The 7 members who are producers shall be appointed from individuals nominated by lime producers.

(C) IMPORTERS.—The 3 members who are importers shall be appointed from individuals nominated by lime importers.

(D) PUBLIC.—The public representative shall be appointed from nominations of the Board.

(E) FAILURE TO NOMINATE.—If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such

member may be appointed by the Secretary without a nomination.

(F) INITIAL BOARD.—The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in paragraph (1), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate.

(3) ALTERNATES.—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) TERMS.—Members of the Board shall be appointed for a term of 3 years. Of the members first appointed—

(A) 3 members shall be appointed for a term of 1 year;

(B) 4 members shall be appointed for a term of 2 years; and

(C) 4 members shall be appointed for a term of 3 years; as designated by the Secretary at the time of appointment.

(5) REPLACEMENT.—If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) COMPENSATION.—Members and alternates of the Board shall serve without pay.

(7) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(8) POWERS AND DUTIES.—The Board shall—

(A) administer orders issued by the Secretary under section 1954(a), and amendments to such orders, in accordance with their terms and provisions and consistent with this subtitle;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders; Regulations.

(C) receive, investigate, and report to the Secretary accounts of violations of such orders; Reports.

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) BUDGETS AND PLANS.—Such order shall provide for periodic budgets and plans as follows:

(1) BUDGETS.—The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) PLANS.—Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this subtitle.

(d) ASSESSMENTS.—Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) RATE.—The assessment rate shall not exceed $.01 per pound of limes.

(2) COLLECTION BY FIRST HANDLERS.—Except as provided in paragraph (4), the first handler of limes shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer whose limes are so handled, including the limes owned by the handler.

(3) PRODUCER-HANDLERS.—For purposes of paragraph (2), a producer-handler shall be considered the first handler of limes produced by such producer-handler.

(4) IMPORTERS.—The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) DE MINIMIS EXCEPTION.—The following persons are exempt from an assessment under this subsection—

(A) a producer who produces less than 35,000 pounds of limes per year;

(B) a producer-handler who produces and handles less than 35,000 pounds of limes per year; and

(C) an importer who imports less than 35,000 pounds of limes per year.

(6) CLAIMING AN EXEMPTION.—To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board—

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) USE OF ASSESSMENTS.—

(1) IN GENERAL.—Such order shall provide that funds paid to the Board as assessments under subsection (d)—

(A) may be used by the Board to—

(i) pay for research, promotion, and consumer information described in the budget of the Board under subsection (c) and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary; and

(iii) fund a reserve established under section 1956(4); and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of government

employees in implementing and administering the order, except as provided in paragraph (2).

(2) REFERENDA.—Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d), for any expenses incurred by the Secretary in conducting referenda under this subtitle, except for the salaries of Government employees.

(f) FALSE CLAIMS.—Such order shall provide that any promotion funded with assessments collected under subsection (d) may not make—

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) PROHIBITION ON USE OF FUNDS.—Such order shall provide that funds collected by the Board under this subtitle through assessments authorized by this subtitle may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this subtitle.

(h) BOOKS, RECORDS, AND REPORTS.—

(1) BY THE BOARD.—Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) BY OTHERS.—So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this subtitle (or any order or regulation issued under this subtitle), such order shall require handlers, producer-handlers, and importers who are responsible for the collection, payment, or remittance of assessments under subsection (d)—

(A) to maintain and make available for inspection by the employees of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection, payment, or remittance of such assessments.

(i) CONFIDENTIALITY.—

(1) IN GENERAL.—Such order shall require that all information obtained pursuant to subsection (h)(2) shall be kept confidential by all officers and employees of the Department and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, and importers

subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 1954(a), together with a statement of the particular provisions of the order violated by such person.

(j) WITHHOLDING INFORMATION.—Nothing in this subtitle shall be construed to authorize the withholding of information from Congress.

7 USC 6205.

SEC. 1956. PERMISSIVE TERMS IN ORDERS.

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 1954(a) may—

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(3) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(4) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 1955(d) to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this subtitle for 1 year;

(5) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 1955(d) for the development and expansion of lime sales in foreign markets; and

(6) provide for terms and conditions—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this subtitle; and

(B) necessary to effectuate the other provisions of such order.

7 USC 6206.

SEC. 1957. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted pursuant to subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 1958.

SEC. 1958. ENFORCEMENT. 7 USC 6207.

(a) JURISDICTION.—Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No order assessing a penalty or cease and desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, in accordance with subsection (d).

(d) REVIEW BY UNITED STATES DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order in the district court of the United States for the district in which such person resides or does business, or the United States district court for the District of Columbia, by—

(A) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(B) simultaneously sending a copy of such notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease and desist order issued by the Secretary after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $500 for each offense. Each day during which such failure continues shall be considered a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing such civil penalty shall not be subject to review.

7 USC 6208.

SEC. 1959. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this subtitle; or

(2) to determine whether a person subject to the provisions of this subtitle has engaged or is engaging in any act that constitutes a violation of any provision of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) POWER TO SUBPOENA.—

(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and may issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 1957 or section 1958, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are

relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district of which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under section 1957 or 1958 shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 1960. INITIAL REFERENDUM. 7 USC 6209.

(a) REQUIREMENT.—Not later than 2 years after the date on which the Secretary first issues an order under section 1954(a), the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

(1) are not exempt from assessment under section 1955(d)(5); and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) PURPOSE OF REFERENDUM.—The referendum referred to in subsection (a) is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) CONFIDENTIALITY.—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 1961, shall be held strictly confidential and shall not be disclosed.

(d) REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.—

(1) IN GENERAL.—A portion of the assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) APPROVAL OF ORDER.—If the order is approved by a majority of the producers, producer-handlers, and importers voting in the initial referendum under subsection (a), the funds in the escrow account shall be released to be used for the purposes of this subtitle.

(3) DISAPPROVAL OF ORDER.—

(A) PRORATION.—If—

(i) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by producers, producer-handlers, or importers; and

(ii) the plan is not approved pursuant to the referendum conducted under subsection (a);

the Board shall prorate the amount of such refunds among all eligible producers, producer-handlers, or importers who demand such refund.

(B) RIGHT TO REFUND.—A producer, producer-handler, or importer shall be eligible to receive a refund—

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) SURPLUS FUNDS.—Any funds not refunded under this paragraph shall be released to be used to carry out this subtitle.

7 USC 6210.

SEC. 1961. SUSPENSION AND TERMINATION.

(a) FINDING OF SECRETARY.—If the Secretary finds that an order issued under section 1954(a), or a provision of such order, obstructs or does not tend to effectuate the purposes of this subtitle, the Secretary shall terminate or suspend the operation of such order or provision.

(b) PERIODIC REFERENDA.—The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 1954(a) and in effect at the time of such referendum.

(c) REQUIRED REFERENDA.—The Secretary shall hold a referendum under subsection (b)—

(1) at the request of the Board; or

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this subtitle submit a petition requesting such a referendum.

(d) LIMITATION.—The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

(e) VOTE.—The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b); and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

7 USC 6211.

SEC. 1962. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this subtitle.

SEC. 1963. REGULATIONS. 7 USC 6212.

The Secretary may issue such regulations as are necessary to carry out this subtitle.

Subtitle E—Soybeans

Soybean Promotion, Research, and Consumer Information Act. 7 USC 6301 note.

SEC. 1965. SHORT TITLE.

This subtitle may be cited as the "Soybean Promotion, Research, and Consumer Information Act".

SEC. 1966. FINDINGS AND DECLARATION OF POLICY. 7 USC 6301.

(a) FINDINGS.—Congress finds that—

(1) soybeans are an important source of nutritious foods that are a valuable part of the human diet and are an important feedstuff for the livestock industry;

(2) the production of soybeans plays a significant role in the economy of the United States in that soybeans are produced by thousands of soybean producers, processed by numerous processing entities, and soybeans and soybean products produced in the United States are consumed by people and livestock throughout the United States and foreign countries;

(3) soybeans and soybean products should be readily available and marketed efficiently to ensure that consumers have an adequate supply of soybean products at a reasonable price;

(4) the maintenance and expansion of existing markets and development of new markets for soybeans and soybean products are vital to the welfare of soybean producers and processors and those concerned with marketing soybeans and soybean products, as well as to the general economy of the United States, and are necessary to ensure the ready availability and efficient marketing of soybeans and soybean products;

(5) there exist established State and national organizations conducting soybean promotion, research, and consumer education programs that are valuable to the efforts of promoting the consumption of soybeans and soybean products;

(6) the cooperative development, financing, and implementation of a coordinated national program of soybean promotion, research, consumer information, and industry information are necessary to maintain and expand existing markets and develop new markets for soybeans and soybean products; and

(7) soybeans and soybean products move in interstate and foreign commerce, and soybeans and soybean products that do not move in such channels of commerce directly burden or affect interstate commerce in soybeans and soybean products.

(b) POLICY.—Congress declares that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing through assessments on domestically-produced soybeans, and implementing a program of promotion, research, consumer information, and industry information designed to strengthen the soybean industry's position in the marketplace, to maintain and expand existing domestic and foreign markets and uses for soybeans and soybean products, and to develop new markets and uses for soybeans and soybean products.

(c) CONSTRUCTION.—Nothing in this subtitle may be construed to provide for the control of production or otherwise limit the right of individual producers to produce soybeans.

7 USC 6302.

SEC. 1967. DEFINITIONS.

As used in this subtitle:

(1) BOARD.—The term "Board" means the United Soybean Board established under section 1969(b).

(2) COMMERCE.—The term "commerce" includes interstate, foreign, and intrastate commerce.

(3) COMMITTEE.—The term "Committee" means the Soybean Program Coordinating Committee established under section 1969(g).

(4) CONSUMER INFORMATION.—The term "consumer information" means information that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of soybeans or soybean products.

(5) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(6) FIRST PURCHASER.—The term "first purchaser" means—

(A) except as provided in subparagraph (B), any person buying or otherwise acquiring from a producer soybeans produced by such producer; or

(B) the Commodity Credit Corporation, in any case in which soybeans are pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation.

(7) INDUSTRY INFORMATION.—The term "industry information" means information and programs that will lead to the development of new markets, new marketing strategies, or increased efficiency for the soybean industry, and activities to enhance the image of the soybean industry.

(8) MARKETING.—The term "marketing" means the sale or other disposition of soybeans or soybean products in any channel of commerce.

(9) NET MARKET PRICE.—The term "net market price" means—

(A) except as provided in subparagraph (B), the sales price or other value received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors, as determined by the Secretary; or

(B) for soybeans pledged as collateral for a loan issued under any price support loan program administered by the Commodity Credit Corporation, the principal amount of the loan.

(10) ORDER.—The term "order" means an order issued under section 1968.

(11) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(12) PRODUCER.—The term "producer" means any person engaged in the growing of soybeans in the United States who owns, or who shares the ownership and risk of loss of, such soybeans.

(13) PROMOTION.—The term "promotion" means any action, including paid advertising, technical assistance, and trade servicing activities, to enhance the image or desirability of soybeans

or soybean products in domestic and foreign markets, and any activity designed to communicate to consumers, importers, processors, wholesalers, retailers, government officials, or others information relating to the positive attributes of soybeans or soybean products or the benefits of importation, use, or distribution of soybeans and soybean products.

(14) QUALIFIED STATE SOYBEAN BOARD.—The term "qualified State soybean board" means a State soybean promotion entity that is authorized by State law. If no such entity exists in a State, the term "qualified State soybean board" means a soybean producer-governed entity—

(A) that is organized and operating within a State;

(B) that receives voluntary contributions and conducts soybean promotion, research, consumer information, or industry information programs; and

(C) that meets criteria established by the Board as approved by the Secretary relating to the qualifications of such entity to perform duties under the order and is recognized by the Board as the soybean promotion and research entity within the State.

(15) RESEARCH.—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or functional or nutritional value of soybeans or soybean products, including any research activity designed to identify and analyze barriers to export sales of soybeans and soybean products.

(16) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(17) SOYBEAN PRODUCTS.—The term "soybean products" means products produced in whole or in part from soybeans or soybean by-products.

(18) SOYBEANS.—The term "soybeans" means all varieties of Glycine max or Glycine soya.

(19) STATE.—The terms "State" and "United States" consist of the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1968. ISSUANCE AND AMENDMENT OF ORDERS. 7 USC 6303.

(a) IN GENERAL.—To effectuate the declared policy of section 1966(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this subtitle applicable to producers and first purchasers of soybeans. Any such order shall be national in scope, and not more than one order shall be in effect under this subtitle at any one time.

(b) PROCEDURE.—

(1) PROPOSAL OR REQUEST FOR ISSUANCE.—The Secretary may propose the issuance of an order under this subtitle, or an association of soybean producers or any other person that would be affected by an order issued pursuant to this subtitle may request the issuance of, and submit a proposal for, such an order.

(2) NOTICE AND COMMENT CONCERNING PROPOSED ORDER.—Not later than 30 days after the receipt of a request and proposal for an order pursuant to paragraph (1), or whenever the Secretary determines to propose an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) ISSUANCE OF ORDER.—After notice and opportunity for public comment are given as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements under this subtitle. Such order shall be issued and become effective not later than 180 days following publication of the proposed order.

(c) AMENDMENTS.—The Secretary, from time to time, may amend any order issued under this section. The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

7 USC 6304.

SEC. 1969. REQUIRED TERMS IN ORDERS.

(a) IN GENERAL.—Any order issued under this subtitle shall contain the terms and conditions specified in this section.

(b) ESTABLISHMENT AND MEMBERSHIP OF THE UNITED SOYBEAN BOARD.—

(1) IN GENERAL.—The order shall provide for the establishment of, and appointment of members to, a United Soybean Board to administer the order. Members of the Board shall be soybean producers appointed by the Secretary, on a geographic basis, from State or combined units, as provided in this subsection. The cumulative number of seats on the Board shall be the total number of seats to which all the units are entitled.

(2) SEATS.—The Secretary shall establish State units and combined units and seats on the Board for such units, as follows:

(A) STATE UNITS.—Except as provided in subparagraph (B), each State shall be considered as a unit.

(B) COMBINED UNITS.—A State in which average annual soybean production is less than 3,000,000 bushels shall be grouped with other States into a combined unit. To the extent practicable, each State with average annual soybean production of less than 3,000,000 bushels shall be grouped with other States with average annual soybean production of less than 3,000,000 bushels into a combined unit, in a manner prescribed in the order, and each combined unit shall consist of geographically contiguous States. To the extent practicable, each combined unit shall have an average annual production of soybeans of at least 3,000,000 bushels.

(C) NUMBER OF SEATS PER UNIT.—Subject to subparagraph (F), each unit, as established under subparagraph (A) or (B)—

(i) if its average annual soybean production is less than 15,000,000 bushels, shall be entitled to one seat on the Board;

(ii) if its average annual soybean production is 15,000,000 bushels or more but less than 70,000,000 bushels, shall be entitled to 2 seats on the Board;

(iii) if its average annual soybean production is 70,000,000 bushels or more but less than 200,000,000 bushels, shall be entitled to 3 seats on the Board; and

(iv) if its average annual soybean production is 200,000,000 bushels or more, shall be entitled to 4 seats on the Board.

(D) DETERMINATION OF AVERAGE ANNUAL SOYBEAN PRODUCTION.—For purposes of subparagraphs (A), (B), (C),

and (F), the Secretary shall determine average annual soybean production applicable to a crop year by using the average of the 5 previous crops of soybeans, excluding the crop in which production was the highest and the crop in which production was the lowest.

(E) REAPPORTIONMENT OF SEATS.—At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Secretary, if necessary, shall adjust any unit to conform with subparagraphs (A) and (B). If the Secretary makes such an adjustment, the Secretary shall reapportion the seats on the Board to conform with subparagraph (C) and any modifications made under subparagraph (F). If payment of refunds following the initial referendum conducted under section 1970(a) is authorized by producers, in making such adjustments, the Secretary shall exclude, from each State's annual soybean production, those bushels of soybeans on which such refunds are paid.

(F) ADJUSTMENT OF LEVELS OF PRODUCTION.—At the end of each 3 year period beginning with the 3 year period starting on the effective date of the order, the Board may recommend to the Secretary, to the extent it determines appropriate, changes in the levels of production used in subparagraphs (A), (B), and (C) to determine per-unit representation on the Board. The Secretary may amend the order to make such changes in levels of production used to determine per-unit representation. Any such amendment to the order shall not be subject to a referendum of producers. A unit may not, as a result of any modification under this subparagraph, lose Board seats to which it is entitled at the time the order is initially issued unless its average annual production, as determined under subparagraph (D), declines below the levels required for representation, as specified in subparagraphs (A), (B), and (C).

(3) NOMINATIONS.—

(A) IN GENERAL.—The Secretary shall appoint soybean producers to seats established under paragraph (2) from nominations submitted by each unit. Each unit shall submit to the Secretary at least two nominations for each appointment to the Board to which the unit is entitled, as determined under paragraph (2).

(B) METHOD FOR OBTAINING NOMINATIONS.—

(i) INITIALLY-ESTABLISHED BOARD.—

(I) STATE UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a State unit is entitled from the State soybean board in the State that submits satisfactory evidence to the Secretary that such board meets the criteria of subparagraph (A) or (B) of section 1967(14). If no such organization exists in the unit, the Secretary shall solicit nominations for appointments in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each seat on the initially-established Board to which a combined unit is entitled in such manner as the Secretary determines appro-

priate, taking into consideration the recommendations of any State soybean board operating in the unit that submits to the Secretary satisfactory evidence that such board meets the criteria described in subparagraph (A) or (B) of section 1967(14).

(ii) SUBSEQUENT APPOINTMENT.—

(I) STATE UNITS.—Nominations for each subsequent appointment to a seat on the Board to which a State unit is entitled shall be made by the qualified State soybean board in the unit. If no such organization exists in the unit, the Secretary shall solicit nominations for such appointment in such manner as the Secretary determines appropriate.

(II) COMBINED UNITS.—The Secretary shall solicit nominations for each subsequent appointment to the Board to which a combined unit is entitled in such manner as the Secretary determines appropriate, taking into consideration the recommendations of any qualified State soybean board operating in the unit.

(iii) REJECTION.—The Secretary may reject any nomination submitted by a unit under this paragraph. If there are insufficient nominations from which to appoint members to the Board as a result of the Secretary rejecting the nominations submitted by a unit, the unit shall submit additional nominations, as provided in this paragraph.

(4) TERMS.—Each appointment to the Board shall be for a term of 3 years, except that appointments to the initially-established Board shall be proportionately for 1-year, 2-year, and 3-year terms. No person may serve more than three consecutive 3-year terms.

(5) COMPENSATION.—Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board.

(6) TEMPORARY APPOINTMENTS.—

(A) APPOINTMENT.—Notwithstanding paragraphs (1) through (5), the Secretary, under procedures established by the Secretary, shall appoint to the initially-established Board up to three temporary members to serve in addition to the members appointed as otherwise provided in this subsection, as the Secretary determines appropriate for transition purposes under the criteria set out in subparagraph (B). Each such temporary member shall be appointed for a single term not to exceed 3 years.

(B) REPRESENTATION OF CERTAIN STATES.—The Secretary shall make temporary appointments to the initially-established Board to ensure, to the extent practicable, that each State with a State soybean board that, prior to the date of enactment of this Act, was contributing State soybean promotion and research assessment funds to national soybean promotion and research efforts has representation on the initially-established Board that reflects the relative contributions of such State to the national soybean promotion and research effort.

(7) MEETINGS.—The order shall provide for at least one meeting of the Board annually and specify the circumstances under which additional special meetings of the Board may be held.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board and shall include the power and duty—

(1) to administer the order in accordance with the terms and provisions of the order;

(2) to make regulations to effectuate the terms and provisions of the order;

(3) if the Board exercises its authority to establish the Committee described in subsection (g)—

(A) to elect members of the Board to serve on the Committee; and

(B) if the Board assigns to the Committee the power to develop and submit budgets as provided for in subsection (h)(1), to approve, modify, or reject budgets submitted by the Committee;

(4) to submit budgets to the Secretary for the approval or disapproval of the Secretary;

(5) to contract with appropriate persons to implement plans or projects;

(6) to contract with qualified State soybean boards to implement programs in their States;

(7) to receive, investigate, and report to the Secretary complaints of violations of the order;

(8) to recommend to the Secretary amendments to the order;

(9) to provide the Secretary with prior notice of meetings of the Board and meetings of committees of the Board to permit the Secretary, or a designated representative, to attend such meetings; and

(10) to provide not less than annually a report to producers accounting for funds and describing programs implemented, and such reports shall be made available to the public on request. Reports. Public information.

(d) BOARD VOTING PROCEDURES.—

(1) IN GENERAL.—The order shall establish procedures for the conduct of voting by the Board, as provided in this subsection. On or after the end of the 3-year period beginning on the effective date of the order, the Board may recommend to the Secretary changes in the voting procedures of the Board and the Secretary may amend the order to make such changes. Such changes shall not be subject to a referendum of producers.

(2) NUMBER OF VOTES PER MEMBER.—Each member of the Board shall be entitled, in any vote conducted by the Board, to cast the number of votes determined under the following rules:

(A) IN GENERAL.—Each member shall be entitled to cast one vote unless a roll call vote is conducted. On a roll call vote, each member shall be entitled to cast such additional votes as are assigned to the member under subparagraph (B).

(B) ADDITIONAL VOTES.—The additional votes that each member is assigned for roll call votes shall be computed as follows:

(i) ASSESSMENT LEVEL.—Except as provided in clause (ii), each unit shall be allotted one vote for each percent, or portion of a percent, of the total amount of

assessments remitted to the Board that was remitted from the unit (net of any refunds made under subsection (l)(2)), on the average, during each of the 3 previous fiscal years of the Board.

(ii) FIRST THREE FISCAL YEARS.—

(I) FIRST FISCAL YEAR.—During the first fiscal year of the Board, each unit shall be allotted one vote for each percent, or portion of a percent, of the total production of soybeans in the United States that was produced in the unit, on the average, during each of the 3 immediately preceding crop years.

(II) SECOND AND THIRD FISCAL YEARS.—The order shall provide appropriate adjustments of the procedure for the allotment of votes under clause (i) to apply to allotments of votes during the second and third fiscal years of the Board.

(iii) DIVISION OF VOTES WITHIN UNITS.—A unit's total votes under clause (i) or (ii) shall be divided equally among all the members present and voting representing that unit. The procedures established by the order shall provide for the equitable disposition of fractional votes assigned to a member under such division of a unit's vote.

(3) MOTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a motion shall carry if approved by a simple majority of members of the Board casting votes.

(B) ROLL CALL VOTES.—Any member of the Board may call for a roll call vote on any motion. Except as otherwise provided in the bylaws adopted by the Board, whenever a roll call vote is conducted, the motion shall carry only if it is approved by a simple majority of all votes cast and a simple majority of all units voting (with the vote of each unit determined by a simple majority of all votes cast by members in that unit).

(4) COMMITTEE VOTES.—In any vote conducted by a committee of the Board, each member of the committee shall have one vote.

(5) PROXIES.—A member may not cast votes by proxy.

(e) BUDGETS.—

(1) IN GENERAL.—The order shall provide that the Board shall develop budgets on a fiscal year basis of anticipated expenses and disbursements under the order, including probable costs of administration and promotion, research, consumer information, and industry information projects. The Board shall submit such budgets or any substantial modification thereof to the Secretary for the Secretary's approval.

(2) LIMITATION.—No expenditure of funds may be made by the Board unless such expenditure is authorized under a budget or modification approved by the Secretary.

(f) PLANS AND PROJECTS.—The order shall provide that the Board shall review or, on its own initiative, develop plans or projects of promotion, research, consumer information, and industry information, to be paid for with funds received by the Board. Such plans or projects shall not become effective until approved by the Secretary.

(g) SOYBEAN PROGRAM COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—The order may authorize the Board to establish a Soybean Program Coordinating Committee to assist in the administration of the order, as provided in this subsection.

(2) MEMBERSHIP.—

(A) COMPOSITION.—The Committee shall be composed of members such that—

(i) not less than two-thirds of the Committee shall be members of the Board, including—

(I) the Chairperson and Treasurer of the Board; and

(II) additional members of the Board elected by the Board; and

(ii) not more than one-third of the Committee shall be producers elected by the national, nonprofit soybean producer-governed organization that conducts activities on behalf of State soybean boards and that, on the date of the enactment of this Act, conducts activities to promote soybeans and soybean products as a cooperator with the Foreign Argicultural Service of the Department.

(B) CERTIFICATION.—To serve on the Committee, each producer elected by the national, nonprofit soybean producer-governed organization shall be certified by the Secretary as a producer who is duly elected by such organization as a representative to the Committee.

(3) TERMS.—Terms of appointment to the Committee shall be for 1 year. No person may serve on the Committee for more than 6 consecutive terms.

(4) COMPENSATION.—Committee members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing duties for the Committee.

(5) CHAIRPERSON.—The Chairperson of the Board shall serve as Chairperson of the Committee.

(6) QUORUM.—A quorum of the Committee shall consist of the number of members of the Committee equal to three-fourths of the total membership of the Committee.

(h) POWERS AND DUTIES OF THE COMMITTEE.—The order shall define the powers and duties that the Board may assign to the Committee, which may include the following:

(1) BUDGETS.—The Board may assign to the Committee the power to develop and submit to the Board, for approval, budgets on a fiscal year basis, as provided for in subsection (e). The Board shall review and approve, reject, modify, or substitute a budget proposed by the Committee, and submit budgets to the Secretary for the Secretary's approval under subsection (e).

(2) PLANS AND PROJECTS.—The Board may assign to the Committee the power to review, or on its own initiative develop, plans or projects for promotion, research, consumer information, and industry information activities, to be paid for with funds received by the Board as provided for in subsection (f). Each such plan or project shall be presented to the Board for approval.

(3) VOTING.—A recommendation to be presented to the Board relating to proposed budgets or proposed plans and projects shall require the concurring vote of at least two-thirds of the members present at a meeting of the Committee.

(i) ADMINISTRATION.—

(1) EXPENSES.—The order shall provide that the Board shall be responsible for all expenses of the Board.

(2) STAFF.—

(A) IN GENERAL.—The order shall provide that the Board may establish an administrative staff or facilities of its own or contract for the use of the staff and facilities of national, nonprofit, producer-governed organizations that represent producers of soybeans.

(B) LIMITATION ON SALARIES.—If the Board establishes an administrative staff of its own, the Board is authorized to expend for administrative staff salaries and benefits an amount not to exceed one percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (l)(2), for that fiscal year.

(C) REIMBURSEMENT OF ORGANIZATION.—If the staff of national, nonprofit, producer-governed organizations that represent producers of soybeans are used by the Board, the staff of such organizations shall not receive compensation directly from the Board, but such organizations shall be reimbursed for the reasonable expenses of their staffs, including salaries, incurred in performing staff duties on behalf of, and authorized by, the Board.

(3) LIMITATION ON ADMINISTRATIVE COSTS.—The order shall provide that costs incurred by the Board in administering the order (including the cost of staff but not including administrative costs incurred by the Secretary) during any fiscal year shall not exceed 5 percent of the projected level of assessments to be collected by the Board, net of any refunds to be made under subsection (l)(2), for that fiscal year.

(j) CONTRACTS AND AGREEMENTS.—

(1) AUTHORITY.—To ensure coordination and efficient use of funds, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of the activities authorized by this subtitle with national, nonprofit, producer-governed organizations that represent producers of soybeans, and for the payment thereof with funds received by the Board under the order.

(2) COORDINATION.—To enhance coordination, the Board, when entering into contracts or agreements for the implementation and carrying out of activities authorized by this subtitle, shall ensure that all plans or projects implemented for consumer information, industry information, promotion, or research are each implemented by a single entity. There shall not be in force, at any one time, more than one contract or agreement for implementation of plans or projects for consumer information, for industry information, for promotion, or for research, except that, upon approval of the Secretary, the Board may contract with qualified State soybean boards to implement plans or projects within their respective States.

(3) TERMS.—Any contract or agreement entered into under this subsection shall provide that—

(A) the contracting party shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall not become effective until it has been approved by the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, including staff time, salaries, and expenses expended on behalf of Board activities, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require. Records. Reports.

(4) COMMUNICATIONS TO PRODUCERS.—The order may provide that—

(A) the Board may enter into contracts or agreements with qualified State soybean boards that apply therefor and agree to the terms thereof, for the implementation of plans or projects to coordinate and facilitate communications to producers regarding the conduct of activities under the order and for the payment of the costs of the plans or projects with funds received by the Board under the order; and

(B) to facilitate the funding of plans or projects described in subparagraph (A), if the order does not authorize the payment of refunds, the Board shall allocate for such funding each year an amount not less than the cumulative amount of all producer contributions to qualified State soybean boards during the previous year that the State boards were unable to retain, and forwarded to the Board, because producers received refunds on such State contributions, as determined by the Board based on information submitted by the qualified State soybean boards.

(5) APPORTIONMENT OF FUNDS TO QUALIFIED STATE SOYBEAN BOARDS.—

(A) IN GENERAL.—In using the funds allocated each year under paragraph (4)(B) for payment of the costs of contracts or agreements described in paragraph (4)(A), subject to subparagraph (B), the Board shall apportion such allocated funds among States so that each qualified State soybean board receives an amount equal to the amount of such allocated funds attributable to refunds in the State during the previous year, as determined by the Board based on information submitted by the qualified State soybean boards.

(B) EXCEPTION.—The Board shall not be required to apportion funds to a qualified State soybean board, as provided in subparagraph (A), if—

(i) the qualified State soybean board has not entered into a contract or agreement with the Board for the implementation of plans or projects described in paragraph (4)(A); or

(ii) the amount to be apportioned to the qualified State soybean board is less than the cost to the Board of overseeing the use of such apportionment during the year involved, and the contract or agreement shall so provide.

(k) BOOKS AND RECORDS OF THE BOARD.—The order shall require the Board to—

(1) maintain such books and records, which shall be available to the Secretary for inspection and audit, as the Secretary may prescribe;

Reports.

(2) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(3) account for the receipt and disbursement of all funds entrusted to the Board.

Reports. Public information.

The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year and a report of such audit to be submitted to the Secretary. The Secretary shall make such report available to the public upon request.

(l) ASSESSMENTS.—

(1) IN GENERAL.—

(A) FIRST PURCHASERS.—

(i) COLLECTION.—The order shall provide that each first purchaser of soybeans from a producer shall collect, in the manner prescribed by the order, an assessment from the producer and remit the assessment to the Board. The Board shall use qualified State soybean boards to collect such assessments in States in which such boards operate.

(ii) RATE.—The rate of assessment prescribed by the order shall be one-half of 1 percent of the net market price of soybeans sold by the producer to the first purchaser.

(iii) ONE ASSESSMENT.—No more than one assessment shall be made on any soybeans.

(B) DIRECT PROCESSING.—The order shall provide that any person processing soybeans of that person's own production and marketing such soybeans or soybean products made from such soybeans shall remit to the Board or the qualified State soybean board, in the manner prescribed by the order, an assessment established at a rate equivalent to the rate provided for in subparagraph (A)(ii).

(2) REFUNDS.—

(A) REFUNDS PRIOR TO INITIAL REFERENDUM.—

(i) IN GENERAL.—The order shall provide that, during the period prior to the approval of the continuation of the initial order in the referendum provided for in section 1970(a), as determined by the Secretary, each producer shall have the right to demand and receive from the Board a refund of any assessment collected from such producer if—

(I) such producer is responsible for paying the assessment; and

(II) such producer does not support the programs, projects, or activities implemented under the order.

(ii) BY BOARD.—During the period referred to in clause (i), refunds shall be provided equally from the Board and, where applicable, the qualified State soybean board, as determined by the Secretary.

(B) ADMINISTRATION.—Subject to subparagraph (C)(i), any demand by a producer for a refund of an assessment under this paragraph shall be made in accordance with regulations, on a form, and within the time period (not to exceed 90 days) prescribed by the Board.

(C) SUBMISSION OF REFUND DEMANDS.—

(i) IN GENERAL.—In each State in which a qualified State soybean board collects assessments, as provided

in paragraph (1)(A)(i), producers shall submit demands for refunds of assessments to the qualified State soybean board. Such board shall provide notice to producers, in a manner prescribed by the Board, of their right to such refunds, and shall process such submissions under procedures established by State law applicable to refunds of assessments on soybeans, except that if no refunds are allowed under State law, such submissions shall be processed under procedures established under this paragraph.

(ii) NO QUALIFIED STATE SOYBEAN BOARD.—In each State in which there is no qualified State soybean board, producers shall submit demands for refunds of assessments directly to the Board.

(D) TIME LIMIT FOR MAKING REFUND.—Subject to subparagraph (C)(i), each refund to a producer of an assessment under this paragraph shall be made as soon as practicable, but in no event more than 60 days, after submission of proof satisfactory to the qualified State soybean board or the Board that the producer paid the assessment for which refund is demanded.

(E) ORDER NOT FAVORED.—If the Secretary determines that producers do not favor the continuation of the order in the referendum provided for in section 1970(a), refunds shall be made under this paragraph on collected assessments until such collections are terminated, as provided in section 1970(a).

(F) REFUNDS AFTER THE INITIAL REFERENDUM.—

(i) IN GENERAL.—The order shall contain provisions relating to refunds after the approval of the order in the initial referendum under section 1970(a) as required in this subparagraph.

(ii) AVAILABILITY.—Effective for the period beginning on the date the Secretary determines the result of the initial referendum under section 1970(a) and ending on a date (not later than 18 months thereafter) established by the Secretary, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall make refunds available to soybean producers at the end of the fiscal year from escrowed funds, as provided for in clause (vii). Such refunds shall be made available, under the procedures specified in subparagraphs (A) through (D) to the extent not inconsistent with this subparagraph, to producers who have requested refunds during such period.

(iii) POLL.—Not later than the end of the period provided for in clause (ii), the Secretary shall conduct a poll of soybean producers, using the procedures provided for in section 1970(b)(3), to determine if producers support the conduct of a referendum on the continuance of the payment of refunds under the order.

(iv) REFERENDUM.—If the Secretary determines, based on the poll conducted under clause (iii), that the conduct of a referendum is supported by at least 20 percent of the producers (not in excess of one-fifth of which may be producers in any one State) who, during a representative period, have been engaged in the

production of soybeans, the Secretary shall conduct a referendum among all such producers for the purpose of determining whether such producers favor the continuation of the payment of refunds under the order. Such referendum shall be conducted, under the procedures provided for in section 1970, not later than 1 year after the Secretary determines, based on the poll, that the referendum is required.

(v) CONTINUED REFUNDS.—If the Secretary conducts a referendum under clause (iv), the qualified State soybean board and, where no qualified State soybean board exists, the Board shall continue to make refunds available to producers as provided for in clause (ii) during the period prior to the conduct of the referendum, which shall be payable at the end of the period from the escrowed funds, as provided in clause (vii).

(vi) CONTINUATION OR CESSATION OF REFUNDS.—If the Secretary determines, in the referendum conducted under clause (iv), that continuation of the payment of refunds is favored by a majority of the producers voting in such referendum, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall continue to make refunds available to producers as provided for in clause (ii) for each 1-year period that follows until such time as soybean producers approve an amendment to the order to eliminate such refunds. Such refunds shall be payable at the end of each such 1-year period from escrowed funds, as provided in clause (vii). If the Secretary determines in the referendum that continuation of such refunds is not favored by a majority of producers voting in the referendum, the right to such refunds shall cease immediately.

(vii) ESCROW ACCOUNTS.—

(I) ESTABLISHMENT.—The qualified State soybean board and, for producers in States where no qualified State soybean board exists, the Board shall establish escrow accounts to be used to pay refunds under clause (ii) and, if necessary, clauses (v) and (vi).

(II) SEPARATE ACCOUNTS.—The qualified State soybean board and, where no qualified State soybean board exists, the Board shall establish separate escrow accounts for each State from which producer assessments are collected for the purpose of making refunds under clauses (ii), (v), and (vi), respectively.

(III) DEPOSITS.—The qualified State soybean board and, where no qualified State soybean board exists, the Board shall deposit into its escrow account for refunds under clause (ii), (v), or (vi), as appropriate, 10 percent of the total assessment collected by the qualified State soybean board and, where no qualified State soybean board exists, the Board (including the assessment provided under paragraph (2) and contributions by producers to

qualified State soybean boards under paragraph (4)), during the time period involved.

(IV) REFUNDS MADE FROM ESCROW ACCOUNT.—Refunds requested by producers from a State under clause (ii) (or if refunds are available under clause (v) or (vi)) during the time period involved shall be made from the escrow account that is applicable to that clause for such State.

(V) PRORATION.—If the funds deposited in a State account established under subclause (I) for purposes described under clauses (ii), (v), and (vi) are not sufficient to honor all requests for refunds made by producers from that State during the time period involved, the qualified State soybean board and, where no qualified State soybean board exists, the Board shall prorate the amount of such refunds from the State's account among all producers from that State that requests refunds.

(VI) SURPLUS FUNDS.—Any funds not refunded to producers in a State under this clause shall be divided equally between the Board and the qualified State soybean board of such State. Such funds shall be used to carry out programs under this subtitle.

(VII) REFUND PERIOD.—In applying this clause to refunds under clause (vi), each annual refund period shall be treated separately.

(3) USE.—The assessments (net of any refunds under paragraph (2)) shall be used for—

(A) payment of the expenses incurred in implementation and administration of the order;

(B) the establishment of a reasonable reserve; and

(C) reimbursement to the Secretary of administrative costs incurred by the Secretary to implement and administer the order, other than one-half of the cost incurred for the referendum conducted under paragraph (2)(F).

(4) CREDIT FOR CONTRIBUTIONS TO QUALIFIED STATE SOYBEAN BOARDS.—A producer who can establish that such producer is contributing to a qualified State soybean board shall receive credit, in determining the assessment due to the Board from such producer, for contributions to the qualified State soybean board of up to one-quarter of 1 percent of the net market price of soybeans or the equivalent thereof. For purposes of this subtitle, there shall be only one qualified State soybean board in each State. A producer may receive a credit under this paragraph only if the contribution is to the qualified State soybean board in the State in which the soybeans are produced, except that the Board, with the approval of the Secretary, may authorize exceptions to such State-of-origin rule as are appropriate to ensure effective coordination of collection procedures among States.

(5) SINGLE PROCESS OF ASSESSMENT.—The procedures in the order for the collection of assessments shall ensure, to the extent practicable, that such soybeans are subject to a single process of assessment under the order.

(m) CREDIT FOR CERTAIN COSTS TO STATES.—The order shall provide that the Board may provide a credit to each qualified State soybean

board of an amount not to exceed one-half of any fees paid to State governmental agencies or first purchasers for collection of the assessments if the payment of such fees by the qualified State soybean board is required by State law enacted prior to the date of enactment of this Act, except that the Board may not provide a credit to any qualified State soybean board of an amount that exceeds 2.5 percent of the amount of assessments collected and remitted to the Board under subsection (l).

(n) MINIMUM LEVEL OF ASSESSMENTS TO STATES.—

(1) PRE-REFERENDUM PERIOD.—The order shall contain provisions to ensure that, during the period prior to the conduct of the referendum provided for in section 1970(a), each qualified State soybean board receives annually an amount of funds equal to the average amount that the State board collected from assessments during each of the State board's fiscal years 1984 through 1988 (excluding the year in which such collections were the highest and the year in which such collections were the lowest), as determined by the Secretary and subject to paragraph (3).

(2) POST-REFERENDUM PERIOD.—The order shall provide, effective after the conduct of the referendum provided for in section 1970(a), subject to paragraph (3), that the Board annually shall provide a credit to each qualified State soybean board of an amount by which—

(A) the amount equal to 1 cent times the average number of bushels of soybeans produced in the State during each of the preceding 5 years (excluding the year in which the production is the highest and the year in which the production is the lowest); exceeds

(B) the total amount collected by the qualified State soybean board from assessments on producers minus the amount of assessments remitted to the Board during such year under subsection (l).

(3) LIMITATION.—The total amount of credits under paragraph (1) or (2) and assessments retained by the qualified State soybean board for a year may not exceed the total amount of assessments collected in that State under subsection (l) (net of any refunds made under paragraph (2) of subsection (l)) in that year.

(o) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending their disbursement, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(p) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or governmental action or policy.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the development and recommendation of amendments to the order;

(B) the communication to appropriate government officials of information relating to the conduct, implementation, or results of promotion, research, consumer information, or industry information activities under the order; or

(C) any action designed to market soybeans or soybean products directly to a foreign government or political subdivision thereof.

(q) BOOKS AND RECORDS OF FIRST PURCHASERS AND CERTAIN PRODUCERS.—

(1) RECORDKEEPING.—

(A) IN GENERAL.—The order shall require that each first purchaser of soybeans and any person processing soybeans of that person's own production maintain and make available for inspection by the Board or the Secretary such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order. The order shall exempt small producers processing soybeans of their own production from such recordkeeping and reporting requirements if they are not required to pay assessments under the order.

(B) DEFINITION OF SMALL PRODUCER.—The order shall define the term "small producer" as such term is used in subparagraph (A).

(2) USE OF INFORMATION.—

(A) IN GENERAL.—Information maintained under paragraph (1) shall be made available to the Secretary as is appropriate for the administration or enforcement of this subtitle, or any order or regulation issued under this subtitle.

(B) OTHER INFORMATION.—The Secretary shall authorize the use under this subtitle of information regarding first purchasers that is accumulated under a law or regulation other than this subtitle or regulations under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as otherwise provided in this subtitle, commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department, members of the Board, and agents of the Board.

(B) PERMITTED USES.—Information obtained under the authority of this subtitle shall be made available to any agency or officer of the Federal Government for—

(i) the implementation of this subtitle;

(ii) any investigatory or enforcement action necessary for the implementation of this subtitle; or

(iii) any civil or criminal law enforcement activity if the activity is authorized by law.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be deemed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such person.

(4) PENALTY.—Any person who willfully violates the provisions of this subsection, upon conviction, shall be subject to a fine of not more than $1,000, or to imprisonment for not more than one year, or both, and if a member or an agent of the Board; or an officer or employee of the Department, shall be removed from office.

(r) INCIDENTAL TERMS AND CONDITIONS.—The order shall provide terms and conditions, not inconsistent with the provisions of this subtitle, as necessary to effectuate the provisions of the order, including provisions for the assessment of a penalty for each late payment of assessments under subsection (l).

7 USC 6305.

SEC. 1970. REFERENDA.

(a) INITIAL REFERENDUM.—

(1) REQUIREMENT.—Not earlier than 18 months or later than 36 months following issuance of an order under section 1968, the Secretary shall conduct a referendum among producers who, during a representative period as determined by the Secretary, have been engaged in the production of soybeans for the purpose of ascertaining whether the order then in effect shall be continued.

(2) ADVANCE NOTICE.—The Secretary shall, to the extent practicable, provide broad public notice in advance of any referendum. Any such notice shall be provided without advertising expenses by means of newspapers, county newsletters, the electronic media, and press releases, through the use of notices posted in State and county Extension Service offices and county Agricultural Stabilization and Conservation Service offices, and by other appropriate means specified in the order. Such notice shall include information on when the referendum will be held, registration and voting requirements, rules regarding absentee voting, and other pertinent facts.

(3) APPROVAL OF ORDER.—Such order shall be continued only if the Secretary determines that the order has been approved by not less than a majority of the producers voting in the referendum.

(4) DISAPPROVAL OF ORDER.—If continuation of the order is not approved by a majority of those voting in the referendum, the Secretary shall terminate collection of assessments under the order within 6 months after the referendum and shall terminate the order in an orderly manner as soon as practicable.

(b) ADDITIONAL REFERENDA.—

(1) IN GENERAL.—

(A) REQUIREMENT.—After the initial referendum on an order, the Secretary shall conduct additional referenda, as

described in subparagraph (C), if requested by a representative group of producers, as described in subparagraph (B).

(B) REPRESENTATIVE GROUP OF PRODUCERS.—An additional referendum on an order shall be conducted if requested by 10 percent or more of the producers who during a representative period have been engaged in the production of soybeans, of which group of requesting producers not in excess of one-fifth may be producers in any one State, as determined by the Secretary.

(C) ELIGIBLE PRODUCERS.—Each additional referendum shall be conducted among all producers who, during a representative period, as determined by the Secretary, have been engaged in the production of soybeans to determine whether such producers favor the termination or suspension of the order.

(2) DISAPPROVAL OF ORDER.—If the Secretary determines, in any referendum conducted under paragraph (1), that suspension or termination of the order is favored by a majority of the producers voting in the referendum, the Secretary shall suspend or terminate, as appropriate, collection of assessments under the order within 6 months after such determination and shall suspend or terminate the order, as appropriate, in an orderly manner as soon as practicable after such determination.

(3) OPPORTUNITY TO REQUEST ADDITIONAL REFERENDA.—

(A) IN GENERAL.—To facilitate the periodic determination as to whether producers favor the conduct of an additional referendum under this subsection, the Secretary, 5 years after the conduct of a referendum under this Act and every 5 years thereafter, shall provide soybean producers an opportunity to request an additional referendum, as provided in this paragraph.

(B) METHOD OF MAKING REQUEST.—

(i) IN-PERSON REQUESTS.—To carry out subparagraph (A), the Secretary shall establish a procedure under which producers may request a reconfirmation referendum in person at county extension offices or county Agricultural Stabilization and Conservation Service offices during a period established by the Secretary, or as provided in clause (ii).

(ii) MAIL-IN REQUESTS.—In lieu of making such requests in person, producers may make requests by mail. Mail-in requests shall be postmarked no later than the end of the period established under clause (i) for in-person requests. To facilitate such submission of requests by mail, the Secretary may make mail-in request forms available to producers.

(C) NOTIFICATIONS.—The Secretary shall publish a notice in the Federal Register, and the Board shall provide written notification to producers, not later than 60 days prior to the end of the period established under subparagraph (B)(i) for in-person requests, of the producers' opportunity to request the additional referendum. Such notifications shall explain the producers' rights to, and the procedure specified in this subsection for, the conduct of an additional referendum, the purpose of the referendum, and the date and method by which producers may act to request the additional referenda under this paragraph. The Secretary shall take

Federal Register, publication.

such other actions as the Secretary determines are necessary to ensure that producers are made aware of the opportunity to request an additional referendum on the order.

(D) ACTION BY SECRETARY.—As soon as practicable following the submission of requests for a reconsideration referendum, the Secretary shall determine whether a sufficient number of producers have requested an additional referendum, and take other steps to conduct an additional referendum, as are required under paragraph (1).

(E) TIME LIMIT.—Any additional referendum requested under the procedures provided in this paragraph shall be conducted not later than 1 year after the Secretary determines that a representative group of producers, as described in paragraph (1)(B), have requested the conduct of such referendum.

(c) PROCEDURES.—

(1) REIMBURSEMENT OF SECRETARY.—The Secretary shall be reimbursed from assessments collected by the Board for any expenses incurred by the Secretary in connection with the conduct of any activity required under this section, except for the salaries of Government employees associated with the conduct of a referendum under subsections (a) and (b).

(2) DATE.—Each referendum shall be conducted for a reasonable period of time not to exceed 3 days, established by the Secretary, under a procedure whereby producers intending to vote in the referendum shall certify that they were engaged in the production of soybeans during the representative period and, at the same time, shall be provided an opportunity to vote in the referendum.

(3) PLACE.—Referenda shall be conducted at county extension offices and provision shall be made for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the Secretary on request made in person, by mail, or by telephone.

7 USC 6306.

SEC. 1971. PETITION AND REVIEW.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on a petition filed under paragraph (1), in accordance with regulations issued by the Secretary.

(3) RULING.—After a hearing under paragraph (2), the Secretary shall make a ruling on the petition that is the subject of the hearing, which shall be final if such ruling is in accordance with applicable law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district court of the United States in any district in which the person who is a petitioner under subsection (a) resides or carries on business shall have jurisdiction to review a ruling on the petition of such

person under such subsection, if a complaint for that purpose is filed not later than 20 days after the date of the entry of a ruling by the Secretary under such subsection (a).

(2) PROCESS.—Service of process in a proceeding under paragraph (1) shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines, under paragraph (1), that a ruling issued under subsection (a)(3) is not in accordance with applicable law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 1972.

SEC. 1972. ENFORCEMENT. 7 USC 6307.

(a) JURISDICTION.—The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be commenced under this section shall be referred to the Attorney General for appropriate action, except that the Secretary shall not be required to refer to the Attorney General a violation of this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under section 1971.

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulations, may be assessed—

(A) a civil penalty by the Secretary of not more than $1,000 for each such violation; and

(B) in the case of a willful failure to pay, collect, or remit an assessment as required by the order or regulation, an additional penalty equal to the amount of such assessment.

Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty under paragraph (1), the Secretary may issue an order requiring a person to cease and desist from continuing any such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued by the Secretary under this subsection unless the person against whom the penalty is assessed or the order is issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order under this subsection shall be final and conclusive unless the affected person files an

appeal of the Secretary's order with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person who has been determined to be in violation of this subtitle, or against whom a civil penalty has been assessed or a cease-and-desist order issued under subsection (c), may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or conducts business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly in the appropriate court referred to in paragraph (1), a certified copy of the record on which the Secretary has determined that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary under this section shall be set aside only if such finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order issued under this section after such order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

7 USC 6308.

SEC. 1973. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; and

(2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirma-

tions, and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 1971 or 1972, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey an order of the court under this section may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under section 1971 or 1972 shall be within the judicial district where such person resides or has a principal place of business.

SEC. 1974. ADMINISTRATIVE PROVISIONS. 7 USC 6309.

(a) CONSTRUCTION.—Except as provided in subsection (b), nothing in this subtitle may be construed to—

(1) preempt or supersede any other program relating to soybean promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State; or

(2) authorize the withholding of any information from Congress.

(b) STATE LAWS.—

(1) REFERENDA ON QUALIFIED STATE SOYBEAN BOARDS.—To ensure the proper administration of this subtitle, no State may conduct a referendum relating to the continuation or termination of a qualified State soybean board or State soybean assessment—

(A) during the period beginning on the date an order is issued under section 1968 and ending 18 months after the referendum on such order is conducted under section 1970(a); or

(B) if such order is approved under the referendum conducted under section 1970(a) by a majority of producers voting in such State, such State law shall be suspended for an additional 36 months.

(2) EXCEPTION.—Paragraph (1) shall not be construed to apply to—

(A) a State referendum concerning the approval of modifications to a State soybean promotion program that does not involve termination of the qualified State soybean board or State soybean assessment; and

(B) any State referendum regarding a State soybean promotion program that is originated by soybean producers.

(3) ASSESSMENTS COLLECTED BY QUALIFIED STATE SOYBEAN BOARDS.—To ensure adequate funding of the operations of qualified State soybean boards under this subtitle, whenever an order is in effect under this subtitle, no State law or regulation that limits the rate of assessment that the qualified State soybean board in that State may collect from producers on soybeans produced in such State, or that has the effect of limiting such rate, may be applied to prohibit such State board from collecting, and expending for authorized purposes, assessments from producers of up to the full amount of the credit authorized for producer contributions to qualified State soybean boards under section 1969(k)(4).

(b) AMENDMENTS TO ORDERS.—The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

7 USC 6310.

SEC. 1975. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

7 USC 6311.

SEC. 1976. AUTHORIZATION OF APPROPRIATIONS; REGULATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—Funds appropriated under subsection (a) shall not be available for payment of the expenses or expenditures of the Board or the Committee in administering any provision of any order issued under this subtitle.

(c) REGULATIONS.—The Secretary may issue such regulations as are necessary to carry out this subtitle, including regulations relating to the assessment of late payment charges.

Subtitle F—Honey and Wool

CHAPTER 1—HONEY

Honey Research, Promotion, and Consumer Information Act Amendments of 1990.
7 USC 4601 note.

SEC. 1981. SHORT TITLE.

This chapter may be cited as the "Honey Research, Promotion, and Consumer Information Act Amendments of 1990".

SEC. 1982. DEFINITIONS.

Section 3 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4602) is amended—

(1) in paragraph (8)—

(A) by striking "or who acts" and inserting "or acts"; and

(B) by inserting before the period at the end the following: "and who is listed in the import records as the importer of record for such honey or honey products"; and

(2) by adding at the end the following new paragraph:

"(18) The term 'exporter' means any person who exports honey or honey products from the United States.".

SEC. 1983. REQUIRED TERMS IN ORDERS.

Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is amended—

(1) in subsection (c)—

(A) by striking out subparagraph (C) of paragraph (2) and inserting the following new paragraph:

"(C) two members who are either importers or exporters, of which at least one shall be an importer, appointed from nominations submitted by the Committee from recommendations by industry organizations representing importer and exporter interests;";

(B) in the matter following paragraph (2)(E), by striking "nominate an alternate or alternates" and inserting "submit nominations for an alternate";

(C) at the end of paragraph (2), by adding the following sentence: "However, no producer-packer who, during any three of the preceding five years, purchased for resale more honey than such producer-packer produced shall be eligible for nomination or appointment to the Honey Board as a producer described in subparagraph (A) or as an alternate to such producer."; and

(D) in paragraph (4), inserting before the period at the end the following: ", except that if, as a result of the adjustment of the boundaries of the regions established under paragraph (2)(A), a producer member or alternate is no longer from the region from which such person was appointed, such member or alternate may serve out the term for which such person was appointed"; and

(2) by adding at the end the following new subsection:

"(k) Any patent on any product, copyright on any material, or any invention, product formulation or publication developed through the use of funds collected by the Honey Board shall be the property of the Honey Board. The funds generated from any such patent, copyright, invention, product formulation, or publication shall inure to the benefit of the Honey Board.". Inventions and patents. Copyright.

SEC. 1984. ASSESSMENTS.

(a) ASSESSMENT RATE AND EXEMPTIONS.—Section 7 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606) is further amended—

(1) in subsection (e)(1) by striking the second and third sentences and inserting the following: "The assessment rate shall be $0.01 per pound, with payment to be made in the manner described in section 9."; and

(2) by striking paragraph (2) of subsection (e) and inserting the following new paragraph:

"(2)(A) Honey that is consumed at home by the producer or importer or donated by the producer or importer to a nonprofit, government, or other entity, as determined appropriate by the Secretary, rather than sold shall be exempt from assessment under the order, except that donated honey that later is sold in a commercial outlet by a donee or a donee's assignee shall be subject to assessment on such sale.

"(B)(i) A producer, producer-packer, or importer who produces or imports during any year less than 6,000 pounds of honey shall be eligible for an exemption in such year from paying an assessment on

honey such person distributes directly through local retail outlets, as determined by the Secretary, during such year.

"(ii) In order to claim an exemption under this subparagraph, a person shall submit an application to the Honey Board stating the basis on which the person claims the exemption for such year.

Reports. "(iii) If, after a person claims an exemption from assessments for any year under this subparagraph, such person no longer meets the requirements of this subparagraph for an exemption, such person shall file a report with the Honey Board in the form and manner prescribed by the Board and pay an assessment on or before March 15 of the subsequent year on all honey produced or imported by such person during the year for which the person claimed the exemption.

"(3) If a producer, producer-packer, or importer does not pay any assessments under this Act due to the applicability to such person of the exemptions from assessments provided in paragraph (2), then such producer, producer-packer, or importer shall not be considered a producer or importer for purposes of voting in any referendum conducted under this Act during the period the person's exemption from all assessments is in effect.".

(b) COLLECTION OF ASSESSMENTS; REFUNDS.—Section 9 of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4608) is amended—

(1) in subsection (a), by striking "and (e)" and inserting "(e), and (i)";

(2) in subsection (d) to read as follows:

Loan programs. "(d) In any case in which a loan, or a loan deficiency payment is made with respect to honey under the honey price support loan program established under the Agricultural Act of 1949, or successor statute, the Secretary shall provide for the assessment to be deducted from the disbursement of any loan funds or from the loan deficiency payment made to the producer and for the amount of such assessment to be forwarded to the Honey Board. The Secretary shall provide for the producer to receive a statement of the amount of the assessment deducted from the loan funds or loan deficiency payment promptly after each occasion when an assessment is deducted from any such loan funds or payment under this subsection.";

(3) in subsection (f), by inserting after "assessments" the following: ", and persons receiving an exemption from assessments under section 7(e)(2),";

(4) in subsection (h)—

(A) by striking "Any" and inserting "(1)(A) Except as otherwise provided in paragraph (2), any";

(B) by striking "to importers" and inserting "an importer";

(C) by striking "from importers" and inserting "from such importer"; and

(D) by adding at the end the following:

Loan programs. "(B) A producer that has obtained a honey price support loan under the Agricultural Act of 1949, or successor statute, may obtain a refund if the producer has submitted to the Honey Board the statement received under subsection (d) of the amount of assessment deducted from the loan funds and has otherwise complied with this subsection, even though the loan with respect to which the assessment was collected may still be outstanding and final settlement has not been made.

"(2) With respect to the order in effect on the date of the enactment of this paragraph, following the referendum on such order required under section 13(b)(2), a producer or importer may obtain a refund of an assessment under such order as provided in paragraph (1) only if the Secretary determines that the proposal to terminate refunds under the order is defeated in such referendum."; and

(5) by inserting after subsection (h) the following new subsection:

"(i) If a first handler or the Secretary fails to collect an assessment from a producer under this section, the producer shall be responsible for the payment of the assessment to the Honey Board.".

SEC. 1985. FIRST RECONFIRMATION REFERENDUM.

(a) IN GENERAL.—Section 13(b) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended—

(1) by striking "Five" and inserting "(1) Except as otherwise provided in paragraph (2), five";

(2) by striking "continuation, termination," and inserting "termination"; and

(3) by adding at the end the following new paragraph:

"(2)(A) In lieu of the first referendum otherwise required to be conducted under paragraph (1) for the order in effect on the date of the enactment of this paragraph, the Secretary shall conduct a referendum to determine if honey producers and importers favor—

"(i) the continuation of the order; and

"(ii) termination of the authority for producers and importers to obtain a refund of assessments under section 9(h)(1).

The referendum shall be conducted at the time the first referendum otherwise required under paragraph (1) would have been conducted, except for the operation of this paragraph.

"(B)(i) The Secretary shall terminate such order at the end of the marketing year during which such referendum is conducted, if the Secretary determines that termination of the order is approved or favored by not less than a majority of the producers and importers voting in the referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum.

"(ii) If the Secretary determines that termination of the authority for producers and importers to receive refunds of assessments under section 9(h)(1) is favored or approved by a majority of the producers and importers voting in such referendum and that the producers and importers comprising this majority produce and import more than 50 percent of the volume of honey produced and imported by those voting in the referendum, then the Secretary shall amend such order as necessary to reflect the vote of producers and importers. Such amendment to the order shall become effective on the date it is issued, but in no case more than 180 days after the conduct of such referendum.".

(b) CONFORMING AMENDMENT.—Section 13(d) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4612) is amended—

(1) by striking "such order" and inserting "an order";

(2) by inserting "in which a referendum is conducted under subsection (b) or (c)" after "marketing year"; and

(3) by striking "of the order".

SEC. 1986. INVESTIGATIONS AND POWER TO SUBPOENA.

The Honey Research, Promotion, and Consumer Information Act is amended by inserting after section 11 (7 U.S.C. 4610) the following new section:

7 USC 4610a.

"SEC. 11A. INVESTIGATIONS AND POWER TO SUBPOENA.

"(a) IN GENERAL.—The Secretary may make such investigations as the Secretary determines necessary—

"(1) for the effective administration of this Act; or

"(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this Act, or of any order, rule, or regulation issued under this Act.

"(b) POWER TO SUBPOENA.—

"(1) INVESTIGATIONS.—For the purpose of an investigation made under subsection (a), the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

"(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 10 or section 11, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

"(c) AID OF COURTS.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

"(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

"(f) HEARING SITE.—The site of any hearings held under section 10 or 11 shall be within the judicial district where such person resides or has a principal place of business.".

Effective date. Federal Register, publication. 7 USC 4603.

SEC. 1987. CONFORMING AMENDMENT TO ORDER.

Notwithstanding any provision of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 et seq.), the Secretary of Agriculture, after notice and opportunity for public comment, shall issue an amendment to the order in effect under such Act on the date of the enactment of this Act to conform such order to the amendments made by this subtitle, which shall become effective on the date of the publication of such amendment to the order in the Federal Register without a referendum thereon (except for the referendum specifically provided for under section 1985). The Secretary shall issue such amendment to the order in final form not later than 150 days after the date of the enactment of this Act.

CHAPTER 2—WOOL

SEC. 1989. PROMOTION PROGRAM.

Section 708 of the National Wool Act of 1954 (7 U.S.C. 1787) is amended by striking "at least two-thirds" wherever it appears and inserting "a majority" and by striking "two-thirds" wherever it appears and inserting "a majority".

Subtitle G—Cotton

Cotton Research and Promotion Act Amendments of 1990.
7 USC 2101 note.

SEC. 1990. SHORT TITLE.

This subtitle may be cited as the "Cotton Research and Promotion Act Amendments of 1990".

SEC. 1991. FINDINGS AND DECLARATION OF POLICY.

Section 2 of the Cotton Research and Promotion Act (7 U.S.C. 2101) is amended by—

(1) in the second sentence inserting "and also outside the United States" before the period;

(2) in the third sentence by striking "in large part";

(3) striking the fourth and the sixth sentences of the first paragraph;

(4) striking "The great inroads on the market and uses for United States" and inserting "The great inroads on the market and uses for"; and

(5) in the third paragraph—

(A) striking "harvested" and inserting "marketed"; and

(B) inserting "and on imports of cotton" after "United States" the first time it appears.

SEC. 1992. REQUIRED TERMS IN ORDER; COTTON IMPORTS.

Section 7 of the Cotton Research and Promotion Act (7 U.S.C. 2106) is amended—

(1) in subsection (a)(2) by—

(A) striking "handler" and inserting "person"; and

(B) striking "producer";

(2) in subsection (b), in the first sentence, by—

(A) inserting "(1)" after "shall be composed of"; and

(B) striking the colon and all that follows through the end of the sentence and inserting the following: ", and (2) when imports of cotton are subject to an order, an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under this Act. Such importer representatives shall be appointed by the Secretary after consultation with organizations representing importers, as determined by the Secretary. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board.";

(3) by amending subsection (e) to read as follows:

"(e)(1) Providing that—

"(A) the producer or other person for whom the cotton is being handled shall pay to the handler of such cotton designated by the Cotton Board pursuant to regulations issued under the order;

"(B) such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the

handler, is being handled, and shall pay to the Cotton Board; and

"(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment prescribed by the order, on the basis of bales of cotton handled or imported. The assessment shall cover such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary.

"(2) The order shall provide for reimbursing the Secretary—

"(A) for expenses not to exceed $300,000 incurred by the Secretary in connection with any referendum conducted under section 8; and

"(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.

There shall also be included in the order a provision for reimbursing any agency of the Federal Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection therewith.

"(3) To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers or classes of handlers or importers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by provisions of this subsection.

"(4) The rate of assessment prescribed by the order shall be $1 per bale of cotton handled, supplemented by an additional per bale amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary. The rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment per bale of cotton handled, and the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner. The Secretary shall establish procedures to ensure that the upland cotton content of imported products is not subject to more than one assessment under this title.

"(5) No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.

"(6) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy. The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(7) The provisions of this subsection and subsection (b) shall not apply to cottonseed and the products derived from cottonseed whether domestically produced or imported.

"(8) The provisions of this subsection relating to importers and assessments on imports of cotton shall be effective only if approved in a referendum as provided in section 8(b) or 8(c).".

SEC. 1993. REQUIREMENTS FOR REFERENDA.

Section 8 of the Cotton Research and Promotion Act (7 U.S.C. 2100) is amended by— 7 USC 2107.

(1) inserting "(a)" before "The Secretary"; and

(2) adding at the end the following new subsections:

"(b)(1) Notwithstanding the provisions of sections 4 and 5, not later than 150 days after the date of enactment of the Cotton Research and Promotion Act Amendments of 1990, and after notice and opportunity for public comment, the Secretary shall issue a proposed amendment to the order implementing the provisions of such Act, which shall become effective as provided in paragraph (2). Effective date.

"(2) Notwithstanding the provisions of subsection (a), the Secretary shall, within a period not to exceed 8 months after the date of enactment of the Cotton Research and Promotion Act Amendments of 1990, conduct a referendum among persons who have been cotton producers during a representative period, as determined by the Secretary, and persons who are importers of cotton and who, during a 12-month period ending not later than 90 days prior to the conduct of the referendum under this section imported a quantity of cotton in excess of the de minimis quantity (if any) established by the Secretary under section 17C(2), for the purpose of ascertaining if a majority of those voting approve the proposed amendment to the order issued by the Secretary under paragraph (1). The Secretary shall announce the results of the referendum within 30 days after the date of such referendum. If the amendment is approved in the referendum, within a period not to exceed 90 days from the date of announcement of the results of such referendum, the Secretary shall publish the amendment to the order and regulations implementing the amendment provided for in this subsection. Regulations.

"(c)(1) Notwithstanding the provisions of sections 4 and 5, once every five years after the date of the referendum provided for under subsection (b), the Secretary shall conduct a review to ascertain whether a referendum is needed to determine whether producers and importers favor continuation of the amendment to the order provided for in the Cotton Research and Promotion Act Amendments of 1990 if such amendment is then in effect or, if such an amendment is not in effect, whether they favor approval of such amendment. The Secretary shall make a public announcement of the results of the review within 60 days after each fifth anniversary date of the referendum provided for under subsection (b). If the Secretary determines to provide for such a referendum, the Secretary shall conduct the referendum within 12 months after a public announcement of the determination to conduct the referendum. Public information.

"(2) If the Secretary does not provide for such a referendum on the Secretary's own initiative, the Secretary shall conduct such a referendum upon the request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that, in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State or importers of cotton. Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service, or county extension agent, or by mailing such a request to the Secretary, as prescribed in regulations. The sign-up period shall be for a period not to exceed 90 days, shall commence 60 days after the Secretary makes a public announcement of a determination not to provide for Public information.

a referendum on the Secretary's own initiative, and shall be publicized by the Secretary and the Cotton Board immediately after such public announcement. The referendum shall be held within 12 months after the end of the sign-up period, if requested by the requisite number of persons.

"(3) The amendment to the order provided for in this subsection shall not be effective if it is disapproved by a majority of cotton producers and importers of cotton voting in the referendum.".

SEC. 1994. SUSPENSION AND TERMINATION OF ORDERS.

Section 9(b) of the Cotton Research and Promotion Act (7 U.S.C. 2108(b)) is amended to read as follows:

"(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a number of producers and importers (if subject to the order) equivalent to at least 10 percent of those persons voting in the most recent referendum, to determine whether cotton producers and importers subject to the order favor the termination or suspension of the order, except that in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State or importers of cotton (if subject to the order). The Secretary shall suspend or terminate the order at the end of the marketing year, as defined in the order, whenever the Secretary determines suspension or termination of the order is approved by a majority of producers and importers (subject to the order) voting in the referendum who, during a representative period determined by the Secretary, have been engaged in the production and importation of cotton and who produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum.".

SEC. 1995. AMENDMENTS TO THE ORDER.

Section 10 of the Cotton Research and Promotion Act (7 U.S.C. 2109) is amended to read as follows:

"PROVISIONS APPLICABLE TO AMENDMENTS

"SEC. 10. (a) Except as provided in subsection (b), the provisions of this Act applicable to orders shall be applicable to amendments to orders.

"(b) No amendment to an order issued under this Act shall be effective unless the Secretary determines that—

"(1) with respect to an amendment referred to in section 8(b) or (8)(c), the amendment is approved by producers and importers of cotton as provided in such section; or

"(2) with respect to any other amendment, that the amendment is approved by a majority of cotton producers and importers subject to the order voting in the referendum.

"(c) The disapproval of any amendment to an order issued under this Act shall not be deemed to invalidate such order.".

SEC. 1996. PRODUCER REFUNDS.

Section 11 of the Cotton Research and Promotion Act (7 U.S.C. 2110) is amended by—

(1) striking "Notwithstanding any other provision" and inserting "(a) Notwithstanding any other section and except as provided in subsection (b),"; and

(2) adding at the end the following new subsection:

"(b) The right of a producer to demand a refund under subsection (a) shall terminate if the proposed amendment of the order implementing the Cotton Research and Promotion Amendments Act of 1990 is approved in the referendum provided for under section 8. Such right shall terminate 30 days after the date the Secretary announces the results of such referendum if such proposed amendment is approved. Such right shall be reinstated if the amendment should be disapproved in any subsequent referendum.".

SEC. 1997. DEFINITIONS.

Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "means"; and

(B) by striking "its seed." and inserting the following: "its seed and (2) imports of upland cotton including the upland cotton content of the products derived from upland cotton (other than industrial products as defined by the Secretary). The term 'cotton' shall not, however, include any entry of imported cotton by an importer that has a value or weight less than any de minimis figure as established in accordance with regulations issued by the Secretary. Any de minimis figure as established under this paragraph shall be such as to minimize the burden in administering the assessment provision but still provide for the maximum participation of imports of cotton in the assessment provisions of this Act.";

(2) in subsection (d), by inserting after "cottonseed" the following:

"or, for the purposes of sections 3, 6(c), and 13, any person who imports cotton, including de minimis amounts of cotton described in subsection (c),"; and

(3) by adding at the end a new subsection to read as follows:

"(h)(1) The term 'importer' means any person who enters, or withdraws from warehouse, cotton for consumption in the customs territory of the United States.

"(2) The term 'import' means any such entry.".

SEC. 1998. REPORTS. 7 USC 2101 note.

(a) IN GENERAL.—Not later than 1 year after the date on which imports are subject to assessments under this title—

(1) the Secretary of Agriculture shall prepare a report concerning the implementation and enforcement of the cotton research and promotion program, and any problems that may have arisen in the implementation and enforcement of such program; and

(2) the Customs Service shall, if on such date it has any role in the implementation or enforcement of such assessments, prepare a report concerning such implementation and enforcement as it relates to imports.

(b) COMPTROLLER GENERAL REPORT.—Not prior to the date that occurs 3 years after the date on which imports are subject to assessments under this title, the Comptroller General shall prepare a report concerning the administration of the cotton research and promotion program as it relates to such imports. Such report shall be submitted not later than 6 months after such date, and include an analysis of—

(1) the growth in the United States market for cotton and cotton products, with particular attention provided to the period of time subsequent to the imposition of assessments on such imports;

(2) the extent to which import restrictions, such as quotas, on imports of cotton and cotton-containing products have permitted or prevented importers from benefiting from any such growth in the United States market; and

(3) the relevant United States international obligations applicable under trade agreements that relate to the assessments on imports of cotton and cotton products under this title.

(c) SUBMISSION.—The reports required under subsections (a) and (b) shall be submitted to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate not later than the applicable dates referred to in such subsections.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.

Fluid Milk Promotion Act of 1990.

Subtitle H—Processor-Funded Milk Promotion Program

7 USC 6401 note.

SEC. 1999A. SHORT TITLE.

This subtitle may be cited as the "Fluid Milk Promotion Act of 1990".

7 USC 6401.

SEC. 1999B. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—Congress finds that—

(1) fluid milk products are basic foods and are a primary source of required nutrients such as calcium, and otherwise are a valuable part of the human diet;

(2) fluid milk products must be readily available and marketed efficiently to ensure that the people of the United States receive adequate nourishment;

(3) the dairy industry plays a significant role in the economy of the United States, in that milk is produced by thousands of milk producers and dairy products (including fluid milk products) are consumed every day by millions of people in the United States;

(4) the processing of milk into fluid milk products and the marketing of such products are important to the dairy industry because the fluid milk segment of the dairy market contributes substantially to ensuring that the prices paid to milk producers for raw milk are stable and adequate to maintain the overall strength of the dairy industry;

(5) the maintenance and expansion of markets for fluid milk products are vital to the Nation's fluid milk processors and milk producers, as well as to the general economy of the United States;

(6) the cooperative development, financing, and implementation of a coordinated program of advertising and promotion of fluid milk products is necessary to maintain and expand markets for fluid milk products;

(7) it is appropriate to finance the cooperative program described in paragraph (6) with self-help assessments paid by the fluid milk processors; and

(8) fluid milk products move in interstate and foreign commerce, and fluid milk products that do not move in such channels of commerce directly burden or affect interstate commerce in fluid milk products.

(b) POLICY.—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this subtitle, of an orderly procedure for developing, financing (through adequate assessments on fluid milk products produced in the United States) and carrying out an effective and coordinated program of advertising designed to strengthen the position of the dairy industry in the marketplace and to maintain and expand markets and uses for fluid milk products produced in the United States. Nothing in this subtitle shall be construed to provide for the control of production or otherwise limit the right of individual milk producers to produce milk.

SEC. 1999C. DEFINITIONS. 7 USC 6402.

As used in this subtitle:

(1) ADVERTISING.—The term "advertising" means any advertising or promotion program involving only fluid milk products and directed toward increasing the general demand for fluid milk products.

(2) BOARD.—The term "Board" means the National Processor Advertising and Promotion Board established under section 1999H(b).

(3) FLUID MILK PRODUCT.—The term "fluid milk product"—

(A) means any of the following products in fluid or frozen form: milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(B) does not include evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas specially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey.

(4) FLUID MILK PROCESSOR.—The term "fluid milk processor" means any person who processes and markets commercially fluid milk products in consumer-type packages.

(5) DEPARTMENT.—The term "Department" means the Department of Agriculture.

(6) RESEARCH.—The term "research"—

(A) means market research limited to the support of advertising and promotion efforts, including educational activities; and

(B) does not include research directed to product characteristics such as nutrients; product development including new products; or improved technology in production, manufacturing or processing; or any other efforts not directly applicable to measuring or increasing the effective-

ness of advertising activities in expanding sales of fluid milk products.

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(8) UNITED STATES.—The term "United States", except as used in sections 1999K through 1999M, means the 48 contiguous States in the continental United States and the District of Columbia.

7 USC 6403. **SEC. 1999D. AUTHORITY TO ISSUE ORDERS.**

(a) IN GENERAL.—To effectuate the declared policy under section 1999B(b), the Secretary shall issue and from time to time may amend, orders applicable to all fluid milk processors, authorizing—

(1) the collection of assessments on fluid milk products subject to this subtitle; and

(2) the use of the assessments to provide research and advertising in a manner prescribed by this subtitle.

(b) SCOPE.—Any order issued under this subtitle shall be national in scope.

(c) ONE ORDER.—Not more than one order shall be in effect under this subtitle at any one time.

7 USC 6404. **SEC. 1999E. NOTICE AND COMMENT.**

Not later than 60 days after the Secretary receives a request for the issuance of an order under this subtitle, and a specific proposal for an order from individual fluid milk processors that marketed during a representative period, as determined by the Secretary, not less than 30 percent of the volume of fluid milk products marketed by all processors, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

7 USC 6405. **SEC. 1999F. FINDINGS AND ISSUANCE OF ORDERS.**

(a) IN GENERAL.—After notice and opportunity for public comment are given, as provided in section 1999E, the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements and the declared policy of this subtitle.

(b) EFFECTIVE DATE.—Such order shall be issued and, if approved by fluid milk processors as provided in section 1999N, shall become effective not later than 180 days following publication of the proposed order.

7 USC 6406. **SEC. 1999G. REGULATIONS.**

The Secretary may issue such regulations as may be necessary to carry out this subtitle and the powers vested in the Secretary by this subtitle.

7 USC 6407. **SEC. 1999H. REQUIRED TERMS IN ORDERS.**

(a) IN GENERAL.—Each order issued under this subtitle shall contain the terms and conditions prescribed in this section.

(b) NATIONAL PROCESSOR ADVERTISING AND PROMOTION BOARD.—

(1) ESTABLISHMENT.—The order shall establish a National Processor Advertising and Promotion Board to administer the order.

(2) SERVICE TO THE ENTIRE INDUSTRY.—In administering the order, the Board shall carry out programs and projects that will

provide maximum benefit to the fluid milk industry and promote only fluid milk products. The Board shall, to the extent practicable, ensure that advertising coverage in each region is proportionate to the funds collected from each region.

(3) REGIONS.—The Secretary shall establish not less than 12 nor more than 15 regions in order to ensure appropriate geographic representation on the Board.

(4) BOARD MEMBERSHIP.—The Board shall consist of one member appointed by the Secretary, from among fluid milk processors, to represent each of the regions established under paragraph (3), with the membership representing, to the extent practicable, differing sizes of operations. The Secretary shall appoint five additional at-large members to the Board, of which at least three shall be fluid milk processors and at least one shall be from the general public.

(5) TERMS OF OFFICE.—The members of the Board shall serve for terms of 3 years, except that the members appointed to the initial Board shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary. No member shall serve for more than 2 consecutive terms, except that the members that are selected to serve for the initial term of 1 or 2 years shall be eligible to be reappointed for a 3-year term.

(6) COMPENSATION.—Each member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties of the Board.

(c) POWERS AND DUTIES OF THE BOARD.—The order shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the order in accordance with the terms and conditions of the order;

(2) to make rules to effectuate the terms and conditions of the order;

(3) to receive, investigate, and report to the Secretary complaints of violations of the order;

(4) to develop and recommend such rules, regulations, and amendments to the order to the Secretary for approval as may be necessary for the development and execution of programs or projects to carry out the order;

(5) to employ such persons as the Board considers necessary and determine the compensation and define the duties of the persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal year, a fiscal year budget of the anticipated expenses in the administration of the order, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, with the approval of the Secretary, to develop and carry out programs or projects of research and advertising;

(9) to carry out advertising or research, and pay the costs of the projects with funds collected pursuant to section 1999J;

(10) to keep minutes, books, and records that reflect all of the acts and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary; Records. Reports.

(11) to furnish the Secretary with such other information as the Secretary may require; and

Investments.

(12) to invest funds collected by the Board pursuant to subsection (g).

(d) PLANS AND BUDGETS.—

(1) BUDGETS.—The order shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of the fiscal year, to develop budgets of the anticipated expenses and disbursements of the Board in the implementation of the order, including projected costs of research and advertising. The budget shall be submitted to the Secretary and be effective on the approval of the Secretary.

(2) INCURRING EXPENSES.—The Board may incur such expenses for research or advertising of fluid milk products, and other expenses for the administration, maintenance, and functioning of the Board, as may be authorized by the Secretary. The expenses shall include any implementation, administrative, and referendum costs incurred by the Department.

(3) PAYING EXPENSES.—The funds to cover the expenses referred to in paragraph (2) shall be paid from assessments collected under section 1999J.

(4) LIMITATION ON SPENDING.—Effective 1 year after the date of the establishment of the Board, the Board shall not spend in excess of 5 percent of the assessments collected for the administration of the Board.

(e) PROHIBITION ON BRANDED ADVERTISING.—A program or project conducted under this subtitle shall not make any reference to private brand names or use false or unwarranted claims on behalf of fluid milk products, or false or unwarranted statements with respect to the attributes or use of any competing products, except that this subsection shall not preclude the Board from offering its programs and projects for use by commercial parties, under such terms and conditions as the Board may prescribe as approved by the Secretary.

(f) CONTRACTS AND AGREEMENTS.—

(1) IN GENERAL.—To ensure efficient use of funds collected under this subtitle, the order shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of programs or projects for fluid milk products research and advertising and for the payment of the costs of the programs or projects with funds received by the Board under the order.

(2) REQUIREMENTS.—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project, together with a budget or budgets that shall disclose estimated costs to be incurred for such program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

Records.
Reports.

(C) the contracting party shall keep accurate records of all of the transactions of the contracting party, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(g) INVESTMENT OF FUNDS.—

(1) IN GENERAL.—The order shall provide that the Board, with the approval of the Secretary, may invest assessment funds collected by the Board under the order, pending disbursement of the funds, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States.

(2) INCOME.—Income from any such investment may be used for any purpose for which the invested funds may be used.

(h) BOOKS AND RECORDS OF BOARD.—

(1) IN GENERAL.—The order shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and Reports.

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) AUDITS.—The Board shall cause the books and records of the Board to be audited by an independent auditor at the end of each fiscal year. A report of each such audit shall be submitted to the Secretary. Reports.

(i) BOOKS AND RECORDS OF PROCESSORS.—

(1) IN GENERAL.—The order shall require that each fluid milk processor subject to this subtitle maintain and make available for inspection such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) USE OF INFORMATION.—Information obtained under paragraph (1) shall be made available to the Secretary as is appropriate for the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under this subtitle.

(3) CONFIDENTIALITY.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), commercial or financial information that is obtained under paragraph (1) or (2) and that is privileged or confidential shall be kept confidential by all officers and employees of the Department and agents of the Board, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) AVAILABILITY OF INFORMATION.—Except as otherwise provided in this subtitle, information obtained under this subtitle may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(C) OTHER EXCEPTIONS.—Nothing in subparagraph (A) may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to an order or statistical data collected from the persons, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by the person.

(4) PENALTY.—Any person violating this subsection, on conviction, shall be subject to a fine of not more than $1,000 or to imprisonment for not more than 1 year, or both, and if such person is an agent of the Board or an officer or employee of the Department, shall be removed from office.

(5) WITHHOLDING INFORMATION.—Nothing in this subsection shall authorize the Secretary to withhold information from a duly authorized committee or subcommittee of Congress.

(6) TIME REQUIREMENT.—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal year of the applicability of the records.

(j) PROHIBITION ON USE OF FUNDS TO INFLUENCE GOVERNMENTAL ACTION.—

(1) IN GENERAL.—Except as otherwise provided in paragraph (2), the order shall prohibit any funds collected by the Board under the order from being used in any manner for the purpose of influencing legislation or government action or policy.

(2) EXCEPTION.—Paragraph (1) shall not apply to the development or recommendation of amendments to the order.

(k) COORDINATION.—The order shall require the Board to take reasonable steps to coordinate the collection of assessments, and advertising and research activities of the Board with the National Dairy Promotion and Research Board established under section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)).

(l) EXEMPTIONS.—The order shall exempt fluid milk products exported from the United States from assessments under the order.

(m) REPORT.—The Secretary shall provide annually for an independent evaluation of the effectiveness of the fluid milk promotion program carried out under this subtitle during the previous fiscal year, in conjunction with the evaluation of the National Dairy Promotion and Research Board established under section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)).

(n) OTHER TERMS AND CONDITIONS.—The order also shall contain such terms and conditions, not inconsistent with this subtitle, as are necessary to effectuate this subtitle, including regulations relating to the assessment of late payment charges.

7 USC 6408.

SEC. 1999I. PERMISSIVE TERMS.

(a) IN GENERAL.—Each order issued under this subtitle may contain one or more of the terms and conditions described in this section.

(b) ADVERTISING.—The order may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising of fluid milk products and the use of funds collected under this subtitle for such programs or projects.

(c) RESEARCH AND DEVELOPMENT.—The order may provide for establishing and carrying out research projects and studies to sup-

port the advertising efforts for fluid milk products, and the use of funds collected under the order for such projects and studies.

(d) RESERVE FUNDS.—The order may provide authority to accumulate reserve funds from assessments collected pursuant to the order, to permit an effective and continuous coordinated program of research and advertising in years when the assessment income may be reduced, except that the total reserve fund may not exceed 25 percent of the amount budgeted for the operation in the current fiscal year of the order.

(e) OTHER TERMS.—The order may contain such other terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle as are necessary to effectuate the other provisions of the order.

SEC. 1999J. ASSESSMENTS. 7 USC 6409.

(a) IN GENERAL.—The order shall provide that each fluid milk processor shall pay an assessment on each unit of fluid milk product that such person processes and markets commercially in consumer-type packages in the United States.

(b) NO EFFECT ON PRODUCER PRICES.—Such assessments shall not—

(1) reduce the prices paid under the Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937;

(2) otherwise be deducted from the amounts that handlers must pay to producers for fluid milk products sold to a processor; or

(3) otherwise be deducted from the price of milk paid to a producer by a handler, as determined by the Secretary.

(c) REMITTING ASSESSMENTS.—

(1) IN GENERAL.—Assessments required under subsection (a) shall be remitted by the fluid milk processor directly to the Board in accordance with the order and regulations issued by the Secretary.

(2) TIMES TO REMIT ASSESSMENT.—Each processor who is responsible for the remittance of an assessment under paragraph (1) shall remit the assessment to the Board not later than the last day of the month following the month that the milk being assessed was marketed.

(3) VERIFICATION.—Remittances shall be verified by market administrators and State regulatory officials, and local and State Agricultural Stabilization and Conservation Service offices, as provided by the Secretary.

(d) LIMITATION ON ASSESSMENTS.—Not more than one assessment may be assessed under this section for the purposes of this subtitle on a processor for any unit of fluid milk product.

(e) PRODUCER-HANDLERS.—Producer-handlers that are required to pay the assessment imposed under section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) shall also be responsible for the additional assessment imposed by this section.

(f) PROCESSOR ASSESSMENT RATE.—Except as provided in section 1999P(b), the rate of assessment prescribed by the order shall be 20 cents per hundredweight of fluid milk products marketed.

SEC. 1999K. PETITION AND REVIEW. 7 USC 6410.

(a) PETITION.—

(1) IN GENERAL.—A person subject to an order issued under this subtitle may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order is not established in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) REVIEW.—

(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which the person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

7 USC 6411.

SEC. 1999L. ENFORCEMENT.

(a) JURISDICTION.—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this subtitle, or any order or regulation issued under this subtitle, if the Secretary believes that the administration and enforcement of this subtitle would be adequately served by providing a suitable written notice or warning to the person who committed such violation or by administrative action under subsection (c).

(c) CIVIL PENALTIES AND ORDERS.—

(1) CIVIL PENALTIES.—Any person who violates any provision of any order or regulation issued by the Secretary under this subtitle, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulations, may be assessed—

(A) a civil penalty by the Secretary of not less than $500 nor more than $5,000 for each such violation; or

(B) in the case of a willful failure or refusal to pay, collect, or remit any assessment or fee duly required of the person under this subtitle or a regulation issued under this sub-

title, a civil penalty by the Secretary of not less than $10,000 nor more than $100,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE-AND-DESIST ORDERS.—In addition to, or in lieu of, a civil penalty, the Secretary may issue an order requiring the person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No penalty shall be assessed or cease-and-desist order issued by the Secretary unless the person against whom the penalty is assessed or the order issued is given notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease-and-desist order shall be final and conclusive unless the affected person files an appeal from the Secretary's order with the appropriate district court of the United States in accordance with subsection (d).

(d) REVIEW BY DISTRICT COURT.—

(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease-and-desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date the penalty is assessed or order issued, a notice of appeal in—

(i) the district court of the United States for the district in which the person resides or carries on business; or

(ii) the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall file promptly in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease-and-desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than $5,000 for each offense. Each day during which the failure continues shall be considered as a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court in which the person resides or conducts business. In the action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(g) ADDITIONAL REMEDIES.—The remedies provided in this subtitle shall be in addition to, and not exclusive of, other remedies that may be available.

7 USC 6412.

SEC. 1999M. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) INVESTIGATIONS.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective administration of this subtitle; or

(2) to determine whether any person has engaged or is engaging in any act that constitutes a violation of this subtitle, or any order, rule, or regulation issued under this subtitle.

(b) SUBPOENAS, OATHS, AND AFFIRMATIONS.—

(1) IN GENERAL.—For the purpose of an investigation under subsection (a), the Secretary may administer oaths and affirmations, and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) ADMINISTRATIVE HEARINGS.—For the purpose of an administrative hearing held under section 1999K or 1999L, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) AID OF COURTS.—In the case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) CONTEMPT.—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) PROCESS.—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) HEARING SITE.—The site of any hearings held under section 1999K or 1999L shall be within the judicial district where such person resides or has a principal place of business.

7 USC 6413.

SEC. 1999N. REQUIREMENT OF INITIAL REFERENDUM.

(a) IN GENERAL.—Within the 60-day period immediately preceding the effective date of an order issued under section 1999F(a), the Secretary shall conduct a referendum among fluid milk processors to ascertain whether the order shall go into effect.

(b) IMPLEMENTATION.—If, as a result of the referendum conducted under subsection (a), the Secretary determines that implementation of the order is favored—

(1) by at least 50 percent of fluid milk processors voting in the referendum; and

(2) by fluid milk processors voting in the referendum that marketed during the representative period, as determined by the Secretary, 60 percent or more of the volume of fluid milk products marketed by all processors;

the order shall become effective as provided in section 1999F(b).

(c) COSTS OF REFERENDUM.—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this subtitle.

(d) MANNER.—

(1) IN GENERAL.—Referenda conducted pursuant to this subtitle shall be conducted in a manner determined by the Secretary.

(2) ADVANCE REGISTRATION.—A fluid milk processor who chooses to vote in any referendum conducted under this subtitle shall register with the Secretary prior to the voting period, after receiving notice from the Secretary concerning the referendum under paragraph (4).

(3) VOTING.—A fluid milk processor who votes in any referendum conducted under this subtitle shall vote in accordance with procedures established by the Secretary. The ballots and other information or reports that reveal or tend to reveal the vote of any processor shall be held strictly confidential.

(4) NOTICE.—The Secretary shall notify all processors at least 30 days prior to a referendum conducted under this subtitle. The notice shall explain the procedure established under this subsection.

SEC. 1999O. SUSPENSION OR TERMINATION OF ORDERS. 7 USC 6414.

(a) TERMINATION OF ORDER.—Any order effective under this subtitle shall be terminated December 31, 1996. The Secretary shall—

(1) terminate the collection of assessments under the order upon such date; and

(2) terminate activities under the order in an orderly manner as soon as practicable after such date.

(b) SUSPENSION OR TERMINATION BY SECRETARY.—The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of the order or provision.

(c) OTHER REFERENDA.—

(1) IN GENERAL.—The Secretary may conduct at any time a referendum of persons who, during a representative period as determined by the Secretary, have been fluid milk processors on whether to suspend or terminate the order, and shall hold such a referendum on request of the Board or any group of such processors that among them marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by all processors.

(2) SUSPENSION OR TERMINATION.—If the Secretary determines that the suspension or termination is favored—

(A) by at least 50 percent of fluid milk processors voting in the referendum; and

(B) by fluid milk processors voting in the referendum that marketed during a representative period, as determined by the Secretary, 40 percent or more of the volume of fluid milk products marketed by all processors;

the Secretary shall, within 6 months after making the determination, suspend or terminate, as appropriate, collection of assessments under the order, and suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(3) COSTS; MANNER.—Subsections (c) and (d) of section 1999N shall apply to a referendum conducted under this subsection.

7 USC 6415.

SEC. 1999P. AMENDMENTS.

(a) AMENDMENTS TO ORDER.—Subject to subsection (b), the Secretary may issue such amendments to an order as may be necessary to carry out this subtitle.

(b) AMENDMENT TO ASSESSMENT RATES.—

(1) IN GENERAL.—The Secretary may conduct at any time a referendum of persons who, during a representative period as determined by the Secretary, have been fluid milk processors on adjusting the assessment rate under the order issued under this subtitle then in effect, and shall hold such a referendum on request of the Board or any group of such processors that among them marketed during a representative period, as determined by the Secretary, 10 percent or more of the volume of fluid milk products marketed by all processors.

(2) ADJUSTMENT TO ASSESSMENT RATE.—The Secretary shall adjust the assessment rate under the order whenever the Secretary determines that the adjustment is favored—

(A) by at least 50 percent of fluid milk processors voting in the referendum; and

(B) by fluid milk processors that marketed during a representative period, as determined by the Secretary, 60 percent or more of the volume of fluid milk products marketed by all processors;

In no event shall the rate of assessment prescribed by the order exceed 20 cents per hundredweight.

(3) EFFECTIVE DATE.—The adjusted assessment rate shall be effective on a date, as determined by the Secretary, after the results of the referendum are known, but not later than 30 days after the referendum.

(4) COSTS; MANNER.—Subsections (c) and (d) of section 1999N shall apply to a referendum conducted under this subsection.

7 USC 6416.

SEC. 1999Q. INDEPENDENT EVALUATION OF PROGRAMS.

(a) REVIEW AND EVALUATION.—The Comptroller General of the United States shall review and evaluate the order to—

(1) determine the effectiveness of the promotion program conducted under this subtitle on fluid milk sales;

(2) determine if the assessments for the program have been passed back to milk producers by fluid milk processors; and

(3) make recommendations for future funding and assessment levels for the program.

(b) REPORT TO CONGRESS.—The Comptroller General shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the valuations made under this section no later than January 1, 1995.

7 USC 6417.

SEC. 1999R. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this subtitle.

(b) ADMINISTRATIVE EXPENSES.—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any order issued under this subtitle.

Subtitle I—Miscellaneous Provisions

SEC. 1999S. PRODUCER RESEARCH AND PROMOTION BOARD ACCOUNTABILITY.

(a) FINDINGS.—Congress finds that—

(1) United States agricultural producers and importers contribute approximately $600,000,000 annually to support agricultural promotion and research, and consumer information relating to food and nutrition, under federally-authorized checkoff programs;

(2) these federally-authorized checkoff programs are self-help efforts that enable the industry members that contribute to these checkoff programs to take an active role in enhancing the marketing of their farm products;

(3) the federally-authorized checkoff programs, while relatively new, have substantially contributed to strengthening markets for the agricultural products covered by the programs;

(4) the authorizing legislation for these agricultural check-off programs provides for the Secretary of Agriculture to appoint boards or councils comprised of producers and importers to assist the Secretary in administering the programs under the Secretary's oversight;

(5) the boards and councils that participate in administering the federally-authorized checkoff programs, in each instance, have important responsibilities under, and make substantial contributions to the effective management of, the programs while serving as a valuable link between the industry members that are funding the promotion, research, and information activities under the programs and the Department of Agriculture;

(6) the producers and importers that pay assessments to support the programs must have confidence in, and strongly support, the checkoff programs if these programs are to continue to succeed; and

(7) the checkoff programs cannot operate efficiently and effectively, nor can producer confidence and support for these programs be maintained, unless the boards and councils faithfully and diligently perform the functions assigned to them under the authorizing legislation.

(b) SENSE OF THE CONGRESS.—It is the sense of Congress that, to ensure the continued success of the federally-authorized checkoff programs, boards or councils that participate in the administration of the checkoff programs should take care to faithfully and diligently perform the functions assigned to them under the authorizing legislation and otherwise meet their crucial program responsibilities. It further is the sense of Congress that each of these boards and councils, in carrying out the responsibilities assigned to it, is accountable to the Secretary of Agriculture, Congress, and the industry contributing funds for the checkoff program involved, and that each currently operational checkoff board or council should review its charter and activities to ensure that its responsibilities and duties have not been inappropriately delegated or otherwise relinquished to another organization.

7 USC 2278.

SEC. 1999T. CONSISTENCY WITH INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

(a) IN GENERAL.—Prior to the promulgation of, or amendment to, any order or plan under a research and promotion program relating to research and promotion of any agricultural commodity or product, after the date of enactment of this title, where such order or plan would provide for an assessment on imports, the Secretary of Agriculture shall consult with the United States Trade Representative regarding the consistency of the provisions of the order or plan with the international obligations of the United States.

(b) COMPLIANCE WITH U.S. INTERNATIONAL OBLIGATIONS.—The Secretary of Agriculture shall take all steps necessary and appropriate to ensure that any order or plan or amendment to such order or plan, and the implementation and enforcement of any order or plan or amendment to such order or plan, or program as it relates to imports is nondiscriminatory and in compliance with the international obligations of the United States, as interpreted by the United States Trade Representative.

(c) CONSTRUCTION.—Nothing in this section shall be construed as providing for a cause of action under this section.

Grain Quality Incentives Act of 1990.
7 USC 71 note.

TITLE XX—GRAIN QUALITY

SEC. 2001. SHORT TITLE.

This title may be cited as the "Grain Quality Incentives Act of 1990".

7 USC 75b.

SEC. 2002. COMMITTEE ON GRAIN QUALITY AND GRAIN QUALITY COORDINATOR.

(a) ESTABLISHMENT OF COMMITTEE AND COORDINATOR.—

(1) COMMITTEE.—The Secretary of Agriculture (hereafter referred to in this title as the "Secretary") shall establish, within the Department of Agriculture, a Committee on Grain Quality (hereafter referred to in this section as the "Committee").

(2) COORDINATOR.—The Committee established under paragraph (1) shall be chaired by an individual, appointed by the Secretary, who shall serve as the Grain Quality Coordinator (hereafter referred to in this title as the "Coordinator") and, in consultation with the Committee, carry out the duties described in subsection (b).

(b) DUTIES.—The Coordinator shall be responsible for—

Exports.

(1) assembling and evaluating, in a systematic manner, concerns and problems with the quality of United States grain, expressed by foreign and domestic buyers and end-users;

Exports.

(2) developing and implementing a coordinated effort to inform and educate foreign buyers concerning the proper specifications of grain purchase contracts to obtain the quality of grain they desire;

(3) reviewing the programs and activities of the Department of Agriculture with respect to United States grain to determine whether the activities are consistent with the provisions of this title (and other provisions of law) as such provisions relate to grain quality and grain quality competitiveness;

(4) serving as the Federal Government coordinator with respect to grain quality and grain quality competitiveness; and

(5) investigating and communicating, through the Secretary, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(A) actions undertaken by the Department of Agriculture—

(i) to improve the quality of United States grain; and

(ii) that are inconsistent with the goal of improving grain quality;

(B) conditions in the production and marketing sectors that discourage improvements in grain quality;

(C) interrelationships of rules and actions taken by the Federal Grain Inspection Service, other agencies of the Department of Agriculture, Food and Drug Administration, Environmental Protection Agency, and other Federal agencies, relating to grain production, handling, storage, transportation, and processing as such actions affect the wholesomeness and performance of grain;

(D) recommendations for legislative or regulatory changes that would address grain quality issues;

(E) progress made and benefits expected from the international harmonization of sanitary and phytosanitary requirements affecting grain;

(F) potential opportunities and benefits from the international harmonization of grain grades and standards;

(G) alternative forms of financial and technical assistance available and needed by producers and elevator operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and

(H) progress on requirements of other sections of this title.

(c) TERMINATION.—This section shall terminate on January 1, 2001.

SEC. 2003. BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY. 7 USC 76 note.

The Administrator of the Federal Grain Inspection Service shall estimate the economic impact, including the benefits and costs and the distribution of such benefits and costs, of any major changes necessary to carry out the amendments made under this title to sections 4 and 13 of the United States Grain Standards Act (7 U.S.C. 76 and 87b) prior to making such changes.

SEC. 2004. CLASSIFICATION, GRADES AND STANDARDS DESIGN FRAMEWORK.

Section 2(b)(3) of the United States Grain Standards Act (7 U.S.C. 74(b)(3)) is amended—

(1) in subparagraph (C), by striking "and" at the end thereof;

(2) in subparagraph (D), by striking the period and inserting a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(E) reflect the economic value-based characteristics in the end uses of grain; and

"(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain.".

SEC. 2005. IMPROVING THE CLEANLINESS OF GRAIN.

Section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A)(i) If the Administrator determines that the establishment or amendment of standards regarding cleanliness conditions of wheat, corn, barley, sorghum and soybeans that meet the requirements for grade number 3 or better (as set forth in subparagraph (B)) would—

"(I) enhance the competitiveness of exports of wheat, corn, barley, sorghum and soybeans from the United States with wheat, corn, barley, sorghum and soybean exports marketed by other major exporters;

"(II) result in the maintenance or expansion of the United States export market share for wheat, corn, barley, sorghum and soybeans;

"(III) result in the maintenance or increase of United States producer income; and

"(IV) be in the interest of United States agriculture, taking into consideration technical constraints, economic benefits and costs to producers and industry, price competitiveness, and importer needs;

the Administrator shall establish or amend the standards to include economically and commercially practical levels of cleanliness for wheat, corn, barley, sorghum and soybeans.

"(ii) The Administrator shall make a finding under this subsection for grain of the type described in clause (i) as soon as practicable after the date of enactment of this paragraph.

"(B)(i) In establishing requirements for cleanliness characteristics, the Administrator shall—

"(I) consider technical constraints, economic benefits and costs to producers and industry, the price competitiveness of United States agricultural production, and levels of cleanliness met by major competing nations that export wheat, corn, barley, sorghum and soybeans;

Regulations.

"(II) promulgate regulations after providing for notice and an opportunity for public comment; and

"(III) phase in any requirements for cleanliness characteristics by incrementally decreasing the levels of the objectionable material permitted in shipments of grade number 3 or better wheat, corn, barley, sorghum and soybeans.

"(ii) Following the phase-in period referred to in clause (i)(III), subsequent revision of cleanliness requirements shall be conducted consistent with the schedule of the Administrator for reviewing grain standards.

"(C) If the Administrator determines to establish requirements for cleanliness characteristics under this section, the Administrator shall ensure that such requirements are fully implemented not later than 6 years after the date of enactment of this paragraph.".

SEC. 2006. GRADE DETERMINING FACTORS RELATED TO PHYSICAL SOUNDNESS AND PURITY.

Section 4 of the United States Grain Standards Act (7 U.S.C. 76) (as amended by section 2005) is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) In establishing standards under subsection (a) for each grain for which official grades are established, the Administrator shall establish for each such grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are consistent with end-use performance goals of the major foreign and domestic users of each such grain. Such factors and factor limits for grades number 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Administrator shall establish factors and factor limits that will provide that grain meeting the requirements for grades number 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain.

"(2) In establishing factors and factor limits under paragraph (1), the Administrator shall provide for notice and an opportunity for public comment prior to making changes in the grade-determining factors and factor limits that shall be applicable under this section to grain that is officially graded.".

SEC. 2007. TESTING FOR AFLATOXIN CONTAMINATION OF CORN SHIPPED IN FOREIGN COMMERCE.

Section 5 of the United States Grain Standards Act (7 U.S.C. 77) is amended by inserting at the end the following new subsections:

"(c) The Administrator is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination, unless the contract for export between the buyer and seller stipulates that aflatoxin testing shall not be conducted.".

SEC. 2008. PROHIBITION OF CONTAMINATION.

Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may prohibit the contamination of sound and pure grain as a result of the introduction of—

"(A) nongrain substances;

"(B) grain unfit for ordinary commercial purposes; or

"(C) grain that exceeds action limits established by the Food and Drug Administration or grain having residues that exceed the tolerance levels established by the Environmental Protection Agency.

"(2) No prohibition imposed under this section shall be construed to restrict the marketing of any grain so long as the grade or condition of the grain is properly identified.

"(3) Prior to taking action under this subsection, the Administrator shall promulgate regulations after providing for notice and an opportunity for public comment, that identify and define actions and conditions that are subject to prohibition. Regulations.

"(4) In no case shall the Administrator prohibit the blending of an entire grade of grain.

"(5) In implementing paragraph (1)(C), the Administrator shall report any prohibitions to other appropriate public health agencies.". Reports.

SEC. 2009. STANDARDIZING COMMERCIAL INSPECTIONS.

The United States Grain Standards Act (7 U.S.C. 71) is amended by adding at the end the following new section:

7 USC 87k.

"SEC. 22. STANDARDIZING COMMERCIAL INSPECTIONS.

"(a) TESTING EQUIPMENT.—To promote greater uniformity in commercial grain inspection results, the Administrator may work in conjunction with the National Institute for Standards and Technology and the National Conference on Weights and Measures to—

"(1) identify inspection instruments requiring standardization under subsection (b);

"(2) establish performance criteria for commercial grain inspection instruments;

"(3) develop a national program to approve grain inspection instruments for commercial inspection; and

"(4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

"(b) GENERAL INSPECTION PROCEDURES.—To ensure that producers are treated uniformly in delivering grain, the Administrator shall develop practical and cost-effective procedures for conducting commercial inspections of grain with respect to the application of quality factors, that result in premiums and discounts. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

"(c) INSPECTION SERVICES AND INFORMATION.—To encourage the use of equipment and procedures developed in accordance with subsection (a) and (b), the Administrator shall provide for official inspection services by the Service, States, and official inspection agencies and provide information on the proper use of sampling and inspection equipment, application of the grain standards, and availability of official inspection services, including appeals under this Act.

"(d) STANDARDIZED AFLATOXIN EQUIPMENT AND PROCEDURES.—The Administrator shall—

"(1) establish uniform standards for testing equipment; and

"(2) establish uniform testing procedures and sampling techniques;

that may be used by processors, refiners, operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States.".

SEC. 2010. ENTRY QUALITY STANDARDS FOR ALL FARMER-OWNED RESERVE GRAINS.

Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by adding at the end the following new subsection:

"(k) In announcing the terms and conditions of the producer storage program under subsection (e)(1), the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of such grain.".

SEC. 2011. PRICE SUPPORT LOAN INCENTIVES FOR QUALITY GRAIN.

Section 403(a) of the Agricultural Act of 1949 (7 U.S.C. 1423) (as amended by section 1128) is further amended by adding at the end thereof the following new sentence: "Beginning with the 1991 crops of wheat, feed grains, and soybeans for which price support is provided under this Act, the Secretary shall establish premiums and

discounts related to cleanliness factors in addition to any other premiums or discounts related to quality.".

SEC. 2012. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION-OWNED GRAIN.

The Agricultural Act of 1949 is amended by inserting after section 407 (7 U.S.C. 1427) the following new section:

"SEC. 407A. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION OWNED GRAIN. 7 USC 1427-1.

"(a) ESTABLISHMENT OF MINIMUM STANDARDS.—Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance.

"(b) INSPECTION OF GRAIN ACQUISITIONS.—The Commodity Credit Corporation shall utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires from producers. In no case shall this section require the use of an official inspection unless the producer so requests.".

SEC. 2013. SEED VARIETY INFORMATION AND SURVEY. 7 USC 1593a.

(a) INFORMATION.—

(1) IN GENERAL.—Grain submitted for public testing shall be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Secretary.

(2) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate varietal performance information obtained under paragraph (1) to plant breeders, producers, and end users.

(b) SURVEY.—The Secretary shall periodically conduct, compile, and publish a survey of grain varieties commercially produced in the United States.

(c) ANALYSIS OF VARIETY SURVEY DATA.—The Secretary shall analyze the variety surveys conducted under subsection (b) in conjunction with available applied research information on intrinsic quality characteristics of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics. This information shall be disseminated as required by subsection (a)(2).

SEC. 2014. AUTHORITY TO ASSIST FARMERS AND ELEVATOR OPERATORS. 7 USC 1622a.

The Secretary may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment.

SEC. 2015. SENSE OF CONGRESS CONCERNING TESTS FOR PURITY.

(a) FINDING.—Congress finds that consumers, both international and domestic, are aware of, and concerned with, the purity of their food supply.

(b) SENSE OF CONGRESS.—It is the sense of Congress that in order to assure buyers of the purity of United States grain, the Federal Grain Inspection Service should, as soon as technically and economi-

cally practical, develop tests of mycotoxins and pesticide residues and make such tests available on such impurities in conjunction with official grain inspections established under the United States Grain Standards Act (7 U.S.C. 71 et seq.).

SEC. 2016. SENSE OF CONGRESS CONCERNING COOPERATIVE ENFORCEMENT OF FEDERAL GRAIN PURITY REQUIREMENTS.

(a) FINDINGS.—Congress finds that the laws and regulations related to the purity and safety of grain that are administered by the Food and Drug Administration and the Environmental Protection Agency serve to insure the integrity of the United States as a supplier of wholesome grain.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal agencies that are responsible for enforcing the laws and regulations relating to the quality, purity, and safety of United States grain exported and marketed domestically should seek assistance from and cooperate with the Federal Grain Inspection Service in the enforcement of the laws and regulations referred to in subsection (a).

SEC. 2017. SENSE OF CONGRESS CONCERNING END-USE PERFORMANCE RESEARCH.

(a) FINDINGS.—Congress finds that—

(1) research concerning the end-use performance of grain conducted by the Agricultural Research Service and land-grant universities is critical to improving the quality and competitiveness of United States grains in domestic and world markets;

(2) the work done by the Agricultural Research Service wheat quality laboratories has proven valuable to improving the understanding of individuals concerning the relationships between the physical and chemical properties of wheat and the performance of wheat in milling and baking; and

(3) research conducted by the Agricultural Research Service and land-grant universities concerning the composition of corn and soybean varieties has proven valuable to feed and food users.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary, and in particular the Agricultural Research Service and land-grant universities, should adjust their financial priorities to place increased emphasis on grain variety evaluation and the development of objective tests for the end-use properties of grains.

SEC. 2018. SENSE OF CONGRESS CONCERNING COOPERATION IN OBJECTIVE TESTING.

(a) FINDING.—Congress finds that the close cooperative relationship that exists between the Federal Grain Inspection Service, the Agricultural Research Service, and land-grant universities has proven highly beneficial in identifying grain quality related characteristics, developing tests, and designing grain standards.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the cooperative efforts described in subsection (a), including the sharing of funds and personnel, should be expanded, and that the Federal Grain Inspection Service should continue to utilize the research capabilities of the Agricultural Research Service and the land-grant universities in these efforts.

TITLE XXI—ORGANIC CERTIFICATION

Organic Foods Production Act of 1990.
Labeling.
7 USC 6501 note.

SEC. 2101. SHORT TITLE.

This title may be cited as the "Organic Foods Production Act of 1990".

SEC. 2102. PURPOSES.

7 USC 6501.

It is the purpose of this title—

(1) to establish national standards governing the marketing of certain agricultural products as organically produced products;

(2) to assure consumers that organically produced products meet a consistent standard; and

(3) to facilitate interstate commerce in fresh and processed food that is organically produced.

SEC. 2103. DEFINITIONS.

7 USC 6502.

As used in this title:

(1) AGRICULTURAL PRODUCT.—The term "agricultural product" means any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock that is marketed in the United States for human or livestock consumption.

(2) BOTANICAL PESTICIDES.—The term "botanical pesticides" means natural pesticides derived from plants.

(3) CERTIFYING AGENT.—The term "certifying agent" means the chief executive officer of a State or, in the case of a State that provides for the Statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official, and any person (including private entities) who is accredited by the Secretary as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation in accordance with this title.

(4) CERTIFIED ORGANIC FARM.—The term "certified organic farm" means a farm, or portion of a farm, or site where agricultural products or livestock are produced, that is certified by the certifying agent under this title as utilizing a system of organic farming as described by this title.

(5) CERTIFIED ORGANIC HANDLING OPERATION.—The term "certified organic handling operation" means any operation, or portion of any handling operation, that is certified by the certifying agent under this title as utilizing a system of organic handling as described under this title.

(6) CROP YEAR.—The term "crop year" means the normal growing season for a crop as determined by the Secretary.

(7) GOVERNING STATE OFFICIAL.—The term "governing State official" means the chief executive official of a State or, in the case of a State that provides for the Statewide election of an official to be responsible solely for the administration of the agricultural operations of the State, such official, who administers an organic certification program under this title.

(8) HANDLE.—The term "handle" means to sell, process or package agricultural products.

(9) HANDLER.—The term "handler" means any person engaged in the business of handling agricultural products, except

such term shall not include final retailers of agricultural products that do not process agricultural products.

(10) HANDLING OPERATION.—The term "handling operation" means any operation or portion of an operation (except final retailers of agricultural products that do not process agricultural products) that—

(A) receives or otherwise acquires agricultural products; and

(B) processes, packages, or stores such products.

(11) LIVESTOCK.—The term "livestock" means any cattle, sheep, goats, swine, poultry, equine animals used for food or in the production of food, fish used for food, wild or domesticated game, or other nonplant life.

(12) NATIONAL LIST.—The term "National List" means a list of approved and prohibited substances as provided for in section 2118.

(13) ORGANIC PLAN.—The term "organic plan" means a plan of management of an organic farming or handling operation that has been agreed to by the producer or handler and the certifying agent and that includes written plans concerning all aspects of agricultural production or handling described in this title including crop rotation and other practices as required under this title.

(14) ORGANICALLY PRODUCED.—The term "organically produced" means an agricultural product that is produced and handled in accordance with this title.

(15) PERSON.—The term "person" means an individual, group of individuals, corporation, association, organization, cooperative, or other entity.

(16) PESTICIDE.—The term "pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(17) PROCESSING.—The term "processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing food in a container.

(18) PRODUCER.—The term "producer" means a person who engages in the business of growing or producing food or feed.

(19) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(20) STATE ORGANIC CERTIFICATION PROGRAM.—The term "State organic certification program" means a program that meets the requirements of section 2107, is approved by the Secretary, and that is designed to ensure that a product that is sold or labeled as "organically produced" under this title is produced and handled using organic methods.

(21) SYNTHETIC.—The term "synthetic" means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

SEC. 2104. NATIONAL ORGANIC PRODUCTION PROGRAM. 7 USC 6503.

(a) IN GENERAL.—The Secretary shall establish an organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this title.

(b) STATE PROGRAM.—In establishing the program under subsection (a), the Secretary shall permit each State to implement a State organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for in this title.

(c) CONSULTATION.—In developing the program under subsection (a), and the National List under section 2118, the Secretary shall consult with the National Organic Standards Board established under section 2119.

(d) CERTIFICATION.—The Secretary shall implement the program established under subsection (a) through certifying agents. Such certifying agents may certify a farm or handling operation that meets the requirements of this title and the requirements of the organic certification program of the State (if applicable) as an organically certified farm or handling operation.

SEC. 2105. NATIONAL STANDARDS FOR ORGANIC PRODUCTION. 7 USC 6504.

To be sold or labeled as an organically produced agricultural product under this title, an agricultural product shall—

(1) have been produced and handled without the use of synthetic chemicals, except as otherwise provided in this title;

(2) except as otherwise provided in this title and excluding livestock, not be produced on land to which any prohibited substances, including synthetic chemicals, have been applied during the 3 years immediately preceding the harvest of the agricultural products.

(3) be produced and handled in compliance with an organic plan agreed to by the producer and handler of such product and the certifying agent.

SEC. 2106. COMPLIANCE REQUIREMENTS. 7 USC 6505.

(a) DOMESTIC PRODUCTS.—

(1) IN GENERAL.—On or after October 1, 1993—

(A) a person may sell or label an agricultural product as organically produced only if such product is produced and handled in accordance with this title; and

(B) no person may affix a label to, or provide other market information concerning, an agricultural product if such label or information implies, directly or indirectly, that such product is produced and handled using organic methods, except in accordance with this title.

(2) USDA STANDARDS AND SEAL.—A label affixed, or other market information provided, in accordance with paragraph (1) may indicate that the agricultural product meets Department of Agriculture standards for organic production and may incorporate the Department of Agriculture seal.

(b) IMPORTED PRODUCTS.—Imported agricultural products may be sold or labeled as organically produced if the Secretary determines that such products have been produced and handled under an organic certification program that provides safeguards and guidelines governing the production and handling of such products that are at least equivalent to the requirements of this title.

(c) EXEMPTIONS FOR PROCESSED FOOD.—Subsection (a) shall not apply to agricultural products that—

(1) contain at least 50 percent organically produced ingredients by weight, excluding water and salt, to the extent that the Secretary, in consultation with the National Organic Standards Board and the Secretary of Health and Human Services, has determined to permit the word "organic" to be used on the principal display panel of such products only for the purpose of describing the organically produced ingredients; or

(2) contain less than 50 percent organically produced ingredients by weight, excluding water and salt, to the extent that the Secretary, in consultation with the National Organic Standards Board and the Secretary of Health and Human Services, has determined to permit the word "organic" to appear on the ingredient listing panel to describe those ingredients that are organically produced in accordance with this title.

(d) SMALL FARMER EXEMPTION.—Subsection (a)(1) shall not apply to persons who sell no more than $5,000 annually in value of agricultural products.

7 USC 6506.

SEC. 2107. GENERAL REQUIREMENTS.

(a) IN GENERAL.—A program established under this title shall—

(1) provide that an agricultural product to be sold or labeled as organically produced must—

(A) be produced only on certified organic farms and handled only through certified organic handling operations in accordance with this title; and

(B) be produced and handled in accordance with such program;

(2) require that producers and handlers desiring to participate under such program establish an organic plan under section 2114;

(3) provide for procedures that allow producers and handlers to appeal an adverse administrative determination under this title;

(4) require each certified organic farm or each certified organic handling operation to certify to the Secretary, the governing State official (if applicable), and the certifying agent on an annual basis, that such farm or handler has not produced or handled any agricultural product sold or labeled as organically produced except in accordance with this title;

(5) provide for annual on-site inspection by the certifying agent of each farm and handling operation that has been certified under this title;

(6) require periodic residue testing by certifying agents of agricultural products that have been produced on certified organic farms and handled through certified organic handling operations to determine whether such products contain any pesticide or other nonorganic residue or natural toxicants and to require certifying agents, to the extent that such agents are aware of a violation of applicable laws relating to food safety, to report such violation to the appropriate health agencies;

(7) provide for appropriate and adequate enforcement procedures, as determined by the Secretary to be necessary and consistent with this title;

(8) protect against conflict-of-interest as specified under section 2116(h);

(9) provide for public access to certification documents and laboratory analyses that pertain to certification;

(10) provide for the collection of reasonable fees from producers, certifying agents and handlers who participate in such program; and

(11) require such other terms and conditions as may be determined by the Secretary to be necessary.

(b) DISCRETIONARY REQUIREMENTS.—An organic certification program established under this title may—

(1) provide for the certification of an entire farm or handling operation or specific fields of a farm or parts of a handling operation if—

(A) in the case of a farm or field, the area to be certified has distinct, defined boundaries and buffer zones separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods;

(B) the operators of such farm or handling operation maintain records of all organic operations separate from records relating to other operations and make such records available at all times for inspection by the Secretary, the certifying agent, and the governing State official; and

(C) appropriate physical facilities, machinery, and management practices are established to prevent the possibility of a mixing of organic and nonorganic products or a penetration of prohibited chemicals or other substances on the certified area; and

(2) provide for reasonable exemptions from specific requirements of this title (except the provisions of section 2112) with respect to agricultural products produced on certified organic farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

(c) STATE PROGRAM.—A State organic certification program approved under this title may contain additional guidelines governing the production or handling of products sold or labeled as organically produced in such State as required in section 2108.

SEC. 2108. STATE ORGANIC CERTIFICATION PROGRAM. 7 USC 6507.

(a) IN GENERAL.—The governing State official may prepare and submit a plan for the establishment of a State organic certification program to the Secretary for approval. A Secretary for approval. A State organic certification program must meet the requirements of this title to be approved by the Secretary.

(b) ADDITIONAL REQUIREMENTS.—

(1) AUTHORITY.—A State organic certification program established under subsection (a) may contain more restrictive requirements governing the organic certification of farms and handling operations and the production and handling of agricultural products that are to be sold or labeled as organically produced under this title than are contained in the program established by the Secretary.

(2) CONTENT.—Any additional requirements established under paragraph (1) shall—

(A) further the purposes of this title;

(B) not be inconsistent with this title;

(C) not be discriminatory towards agricultural commodities organically produced in other States in accordance with this title; and

(D) not become effective until approved by the Secretary.

(c) REVIEW AND OTHER DETERMINATIONS.—

(1) SUBSEQUENT REVIEW.—The Secretary shall review State organic certification programs not less than once during each 5-year period following the date of the approval of such programs.

(2) CHANGES IN PROGRAM.—The governing State official, prior to implementing any substantive change to programs approved under this subsection, shall submit such change to the Secretary for approval.

(3) TIME FOR DETERMINATION.—The Secretary shall make a determination concerning any plan, proposed change to a program, or a review of a program not later than 6 months after receipt of such plan, such proposed change, or the initiation of such review.

7 USC 6508.

SEC. 2109. PROHIBITED CROP PRODUCTION PRACTICES AND MATERIALS.

(a) SEED, SEEDLINGS AND PLANTING PRACTICES.—For a farm to be certified under this title, producers on such farm shall not apply materials to, or engage in practices on, seeds or seedlings that are contrary to, or inconsistent with, the applicable organic certification program.

(b) SOIL AMENDMENTS.—For a farm to be certified under this title, producers on such farm shall not—

(1) use any fertilizers containing synthetic ingredients or any commercially blended fertilizers containing materials prohibited under this title or under the applicable State organic certification program; or

(2) use as a source of nitrogen: phosphorous, lime, potash, or any materials that are inconsistent with the applicable organic certification program.

(c) CROP MANAGEMENT.—For a farm to be certified under this title, producers on such farm shall not—

(1) use natural poisons such as arsenic or lead salts that have long-term effects and persist in the environment, as determined by the applicable governing State official or the Secretary;

(2) use plastic mulches, unless such mulches are removed at the end of each growing or harvest season; or

(3) use transplants that are treated with any synthetic or prohibited material.

7 USC 6509.

SEC. 2110. ANIMAL PRODUCTION PRACTICES AND MATERIALS.

(a) IN GENERAL.—Any livestock that is to be slaughtered and sold or labeled as organically produced shall be raised in accordance with this title.

(b) BREEDER STOCK.—Breeder stock may be purchased from any source if such stock is not in the last third of gestation.

(c) PRACTICES.—For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm—

(1) shall feed such livestock organically produced feed that meets the requirements of this title;

(2) shall not use the following feed—

(A) plastic pellets for roughage;

(B) manure refeeding; or

(C) feed formulas containing urea; and

(3) shall not use growth promoters and hormones on such livestock, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of such livestock.

(d) HEALTH CARE.—

(1) PROHIBITED PRACTICES.—For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm shall not—

(A) use subtherapeutic doses of antibiotics;

(B) use synthetic internal paraciticides on a routine basis; or

(C) administer medication, other than vaccinations, in the absence of illness.

(2) STANDARDS.—The National Organic Standards Board shall recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that such livestock is organically produced.

(e) ADDITIONAL GUIDELINES.—

(1) POULTRY.—With the exception of day old poultry, all poultry from which meat or eggs will be sold or labeled as organically produced shall be raised and handled in accordance with this title prior to and during the period in which such meat or eggs are sold.

(2) DAIRY LIVESTOCK.—A dairy animal from which milk or milk products will be sold or labeled as organically produced shall be raised and handled in accordance with this title for not less than the 12-month period immediately prior to the sale of such milk and milk products.

(f) LIVESTOCK IDENTIFICATION.—

(1) IN GENERAL.—For a farm to be certified under this title as an organic farm with respect to the livestock produced by such farm, producers on such farm shall keep adequate records and maintain a detailed, verifiable audit trail so that each animal (or in the case of poultry, each flock) can be traced back to such farm. Records.

(2) RECORDS.—In order to carry out paragraph (1), each producer shall keep accurate records on each animal (or in the case of poultry, each flock) including—

(A) amounts and sources of all medications administered; and

(B) all feeds and feed supplements bought and fed.

(h) NOTICE AND PUBLIC COMMENT.—The Secretary shall hold public hearings and shall develop detailed regulations, with notice and public comment, to guide the implementation of the standards for livestock products provided under this section. Regulations.

SEC. 2111. HANDLING. 7 USC 6510.

(a) IN GENERAL.—For a handling operation to be certified under this title, each person on such handling operation shall not, with respect to any agricultural product covered by this title—

(1) add any synthetic ingredient during the processing or any post harvest handling of the product;

(2) add any ingredient known to contain levels of nitrates, heavy metals, or toxic residues in excess of those permitted by the applicable organic certification program;

(3) add any sulfites, nitrates, or nitrites;

(4) add any ingredients that are not organically produced in accordance with this title and the applicable organic certification program, unless such ingredients are included on the National List and represent not more than 5 percent of the weight of the total finished product (excluding salt and water);

(5) use any packaging materials, storage containers or bins that contain synthetic fungicides, preservatives, or fumigants;

(6) use any bag or container that had previously been in contact with any substance in such a manner as to compromise the organic quality of such product; or

(7) use, in such product water that does not meet all Safe Drinking Water Act requirements.

(b) MEAT.—For a farm or handling operation to be organically certified under this title, producers on such farm or persons on such handling operation shall ensure that organically produced meat does not come in contact with nonorganically produced meat.

7 USC 6511.

SEC. 2112. ADDITIONAL GUIDELINES.

(a) IN GENERAL.—The Secretary, the applicable governing State official, and the certifying agent shall utilize a system of residue testing to test products sold or labeled as organically produced under this title to assist in the enforcement of this title.

(b) PRE-HARVEST TESTING.—The Secretary, the applicable governing State official, or the certifying agent may require preharvest tissue testing of any crop grown on soil suspected of harboring contaminants.

(c) COMPLIANCE REVIEW.—

(1) INSPECTION.—If the Secretary, the applicable governing State official, or the certifying agent determines that an agricultural product sold or labeled as organically produced under this title contains any detectable pesticide or other non-organic residue or prohibited natural substance the Secretary, the applicable governing State official, or the certifying agent shall conduct an investigation to determine if the organic certification program has been violated, and may require the producer or handler of such product to prove that any prohibited substance was not applied to such product.

(2) REMOVAL OF ORGANIC LABEL.—If, as determined by the Secretary, the applicable governing State official, or the certifying agent, the investigation conducted under paragraph (1) indicates that the residue is—

(A) the result of intentional application of a prohibited substance; or

(B) present at levels that are greater than unavoidable residual environmental contamination as prescribed by the Secretary or the applicable governing State official in consultation with the appropriate environmental regulatory agencies;

such agricultural product shall not be sold or labeled as organically produced under this title.

(d) RECORDKEEPING REQUIREMENTS.—Producers who operate a certified organic farm or handling operation under this title shall maintain records for 5 years concerning the production or handling of agricultural products sold or labeled as organically produced under this title, including—

(1) a detailed history of substances applied to fields or agricultural products; and

(2) the names and addresses of persons who applied such substances, the dates, the rate, and method of application of such substances.

SEC. 2113. OTHER PRODUCTION AND HANDLING PRACTICES. 7 USC 6512.

If a production or handling practice is not prohibited or otherwise restricted under this title, such practice shall be permitted unless it is determined that such practice would be inconsistent with the applicable organic certification program.

SEC. 2114. ORGANIC PLAN. 7 USC 6513.

(a) IN GENERAL.—A producer or handler seeking certification under this title shall submit an organic plan to the certifying agent and the State organic certification program (if applicable), and such plan shall be reviewed by the certifying agent who shall determine if such plan meets the requirements of the programs.

(b) CROP PRODUCTION FARM PLAN.—

(1) SOIL FERTILITY.—An organic plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.

(2) MANURING.—

(A) INCLUSION IN ORGANIC PLAN.—An organic plan shall contain terms and conditions that regulate the application of manure to crops.

(B) APPLICATION OF MANURE.—Such organic plan may provide for the application of raw manure only to—

(i) any green manure crop;

(ii) any perennial crop;

(iii) any crop not for human consumption; and

(iv) any crop for human consumption, if such crop is harvested after a reasonable period of time determined by the certifying agent to ensure the safety of such crop, after the most recent application of raw manure, but in no event shall such period be less than 60 days after such application.

(C) CONTAMINATION BY MANURE.—Such organic plan shall prohibit raw manure from being applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

(c) LIVESTOCK PLAN.—An organic livestock plan shall contain provisions designed to foster the organic production of livestock consistent with the purposes of this title.

(d) MIXED CROP LIVESTOCK PRODUCTION.—An organic plan may encompass both the crop production and livestock production requirements in subsections (b) and (c) if both activities are conducted by the same producer.

(e) HANDLING PLAN.—An organic handling plan shall contain provisions designed to ensure that agricultural products that are sold or labeled as organically produced are produced and handled in a manner that is consistent with the purposes of this title.

(f) MANAGEMENT OF WILD CROPS.—An organic plan for the harvesting of wild crops shall—

(1) designate the area from which the wild crop will be gathered or harvested;

(2) include a 3 year history of the management of the area showing that no prohibited substances have been applied;

(3) include a plan for the harvesting or gathering of the wild crops assuring that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop; and

(4) include provisions that no prohibited substances will be applied by the producer.

(g) LIMITATION ON CONTENT OF PLAN.—An organic plan shall not include any production or handling practices that are inconsistent with this title.

7 USC 6514.

SEC. 2115. ACCREDITATION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a program to accredit a governing State official, and any private person, that meets the requirements of this section as a certifying agent for the purpose of certifying a farm or handling operation as a certified organic farm or handling operation.

(b) REQUIREMENTS.—To be accredited as a certifying agent under this section, a governing State official or private person shall—

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) comply with the requirements of this section and section 2116.

(c) DURATION OF DESIGNATION.—An accreditation made under this section shall be for a period of not to exceed 5 years, as determined appropriate by the Secretary, and may be renewed.

7 USC 6515.

SEC. 2116. REQUIREMENTS OF CERTIFYING AGENTS.

(a) ABILITY TO IMPLEMENT REQUIREMENTS.—To be accredited as a certifying agent under section 2115, a governing State official or a person shall be able to fully implement the applicable organic certification program established under this title.

(b) INSPECTORS.—Any certifying agent shall employ a sufficient number of inspectors to implement the applicable organic certification program established under this title, as determined by the Secretary.

(c) RECORDKEEPING.—

(1) MAINTENANCE OF RECORDS.—Any certifying agent shall maintain all records concerning its activities under this title for a period of not less than 10 years.

(2) ACCESS FOR SECRETARY.—Any certifying agent shall allow representatives of the Secretary and the governing State official access to any and all records concerning the certifying agent's activities under this title.

(3) TRANSFERENCE OF RECORDS.—If any private person that was certified under this title is dissolved or loses its accreditation, all records or copies of records concerning such person's activities under this title shall be transferred to the Secretary and made available to the applicable governing State official.

(d) AGREEMENT.—Any certifying agent shall enter into an agreement with the Secretary under which such agent shall—

(1) agree to carry out the provisions of this title; and

(2) agree to such other terms and conditions as the Secretary determines appropriate.

(e) PRIVATE CERTIFYING AGENT AGREEMENT.—Any certifying agent that is a private person shall, in addition to the agreement required in subsection (d)—

(1) agree to hold the Secretary harmless for any failure on the part of the certifying agent to carry out the provisions of this title; and

(2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the applicable organic certification program established under this title.

(f) COMPLIANCE WITH PROGRAM.—Any certifying agent shall fully comply with the terms and conditions of the applicable organic certification program implemented under this title.

(g) CONFIDENTIALITY.—Except as provided in section 2107(a)(9), any certifying agent shall maintain strict confidentiality with respect to its clients under the applicable organic certification program and may not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client obtained while implementing this title.

(h) CONFLICT OF INTEREST.—Any certifying agent shall not—

(1) carry out any inspections of any operation in which such certifying agent, or employee of such certifying agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) accept payment, gifts, or favors of any kind from the business inspected other than prescribed fees; or

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

(i) ADMINISTRATOR.—A certifying agent that is a private person shall nominate the individual who controls the day-to-day operation of the agent.

(j) LOSS OF ACCREDITATION.—

(1) NONCOMPLIANCE.—If the Secretary or the governing State official (if applicable) determines that a certifying agent is not properly adhering to the provisions of this title, the Secretary or such governing State official may suspend such certifying agent's accreditation.

(2) EFFECT ON CERTIFIED OPERATIONS.—If the accreditation of a certifying agent is suspended under paragraph (1), the Secretary or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by certifying such agent may retain their organic certification.

SEC. 2117. PEER REVIEW OF CERTIFYING AGENTS. 7 USC 6516.

(a) PEER REVIEW.—In determining whether to approve an application for accreditation submitted under section 2115, the Secretary shall consider a report concerning such applicant that shall be prepared by a peer review panel established under subsection (b). Reports.

(b) PEER REVIEW PANEL.—To assist the Secretary in evaluating applications under section 2115, the Secretary may establish a panel of not less than three persons who have expertise in organic farming and handling methods, to evaluate the State governing official or private person that is seeking accreditation as a certifying agent under such section. Not less than two members of such panel shall be persons who are not employees of the Department of Agriculture or of the applicable State government.

7 USC 6517.

SEC. 2118. NATIONAL LIST.

(a) IN GENERAL.—The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production and handling established under this title in order for such products to be sold or labeled as organically produced under this title.

(b) CONTENT OF LIST.—The list established under subsection (a) shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) or each natural substance prohibited under subsection (c)(2).

(c) GUIDELINES FOR PROHIBITIONS OR EXEMPTIONS.—

(1) EXEMPTION FOR PROHIBITED SUBSTANCES.—The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this title only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling of the agricultural product because of the unavailability of wholly natural substitute products; and

(iii) is consistent with organic farming and handling;

(B) the substance—

(i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock paraciticides and medicines and production aids including netting, tree wraps and seals, insect traps, sticky barriers, row covers, and equipment cleansers;

(ii) is used in production and contains synthetic inert ingredients that are not classified by the Administrator of the Environmental Protection Agency as inerts of toxicological concern; or

(iii) is used in handling and is non-synthetic but is not organically produced; and

(C) the specific exemption is developed using the procedures described in subsection (d).

(2) PROHIBITION ON THE USE OF SPECIFIC NATURAL SUBSTANCES.—The National List may prohibit the use of specific natural substances in an organic farming or handling operation that are otherwise allowed under this title only if—

(A) the Secretary determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would be harmful to human health or the environment; and

(ii) is inconsistent with organic farming or handling, and the purposes of this title; and

(B) the specific prohibition is developed using the procedures specified in subsection (d).

(d) PROCEDURE FOR ESTABLISHING NATIONAL LIST.—

(1) IN GENERAL.—The National List established by the Secretary shall be based upon a proposed national list or proposed amendments to the National List developed by the National Organic Standards Board.

(2) NO ADDITIONS.—The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed National List or Proposed Amendments to the National List.

(3) PROHIBITED SUBSTANCES.—In no instance shall the National List include any substance, the presence of which in food has been prohibited by Federal regulatory action.

(4) NOTICE AND COMMENT.—Before establishing the National List or before making any amendments to the National List, the Secretary shall publish the Proposed National List or any Proposed Amendments to the National List in the Federal Register and seek public comment on such proposals. The Secretary shall include in such Notice any changes to such proposed list or amendments recommended by the Secretary. Federal Register, publication.

(5) PUBLICATION OF NATIONAL LIST.—After evaluating all comments received concerning the Proposed National List or Proposed Amendments to the National List, the Secretary shall publish the final National List in the Federal Register, along with a discussion of comments received. Federal Register, publication.

(e) SUNSET PROVISION.—No exemption or prohibition contained in the National List shall be valid unless the National Organic Standards Board has reviewed such exemption or prohibition as provided in this section within 5 years of such exemption or prohibition being adopted or reviewed and the Secretary has renewed such exemption or prohibition.

SEC. 2119. NATIONAL ORGANIC STANDARDS BOARD. Establishment. 7 USC 6518.

(a) IN GENERAL.—The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.)) (hereafter referred to in this section as the "Board") (to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this title.

(b) COMPOSITION OF BOARD.—The Board shall be composed of 15 members, of which—

(1) four shall be individuals who own or operate an organic farming operation;

(2) two shall be individuals who own or operate an organic handling operation;

(3) one shall be an individual who owns or operates a retail establishment with significant trade in organic products;

(4) three shall be individuals with expertise in areas of environmental protection and resource conservation;

(5) three shall be individuals who represent public interest or consumer interest groups;

(6) one shall be an individual with expertise in the fields of toxicology, ecology, or biochemistry; and

(7) one shall be an individual who is a certifying agent as identified under section 2116.

(c) APPOINTMENT.—Not later than 180 days after the date of enactment of this title, the Secretary shall appoint the members of the Board under paragraph (1) through (6) of subsection (b) (and

under subsection (b)(7) at an appropriate date after the certification of individuals as certifying agents under section 2116) from nominations received from organic certifying organizations, States, and other interested persons and organizations.

(d) TERM.—A member of the Board shall serve for a term of 5 years, except that the Secretary shall appoint the original members of the Board for staggered terms. A member cannot serve consecutive terms unless such member served an original term that was less than 5 years.

(e) MEETINGS.—The Secretary shall convene a meeting of the Board not later than 60 days after the appointment of its members and shall convene subsequent meetings on a periodic basis.

(f) COMPENSATION AND EXPENSES.—A member of the Board shall serve without compensation. While away from their homes or regular places of business on the business of the Board, members of the Board may be allowed travel expenses, including per diem in lieu of subsistence, as is authorized under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) CHAIRPERSON.—The Board shall select a Chairperson for the Board.

(h) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(i) DECISIVE VOTES.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(j) OTHER TERMS AND CONDITIONS.—The Secretary shall authorize the Board to hire a staff director and shall detail staff of the Department of Agriculture or allow for the hiring of staff and may, subject to necessary appropriations, pay necessary expenses incurred by such Board in carrying out the provisions of this title, as determined appropriate by the Secretary.

(k) RESPONSIBILITIES OF THE BOARD.—

(1) IN GENERAL.—The Board shall provide recommendations to the Secretary regarding the implementation of this title.

(2) NATIONAL LIST.—The Board shall develop the proposed National List or proposed amendments to the National List for submission to the Secretary in accordance with section 2118.

(3) TECHNICAL ADVISORY PANELS.—The Board shall convene technical advisory panels to provide scientific evaluation of the materials considered for inclusion in the National List. Such panels may include experts in agronomy, entomology, health sciences and other relevant disciplines.

(4) SPECIAL REVIEW OF BOTANICAL PESTICIDES.—The Board shall, prior to the establishment of the National List, review all botanical pesticides used in agricultural production and consider whether any such botanical pesticide should be included in the list of prohibited natural substances.

(5) PRODUCT RESIDUE TESTING.—The Board shall advise the Secretary concerning the testing of organically produced agricultural products for residues caused by unavoidable residual environmental contamination.

(6) EMERGENCY SPRAY PROGRAMS.—The Board shall advise the Secretary concerning rules for exemptions from specific requirements of this title (except the provisions of section 2112) with respect to agricultural products produced on certified organic

farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

(l) REQUIREMENTS.—In establishing the proposed National List or proposed amendments to the National List, the Board shall—

(1) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed National List;

(2) work with manufacturers of substances considered for inclusion in the proposed National List to obtain a complete list of ingredients and determine whether such substances contain inert materials that are synthetically produced; and

(3) submit to the Secretary, along with the proposed National List or any proposed amendments to such list, the results of the Board's evaluation and the evaluation of the technical advisory panel of all substances considered for inclusion in the National List.

(m) EVALUATION.—In evaluating substances considered for inclusion in the proposed National List or proposed amendment to the National List, the Board shall consider—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effect of the substance on human health;

(5) the effects of the substance on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility of the soil), crops and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.

(n) PETITIONS.—The Board shall establish procedures under which persons may petition the Board for the purpose of evaluating substances for inclusion on the National List.

(o) CONFIDENTIALITY.—Any confidential business information obtained by the Board in carrying out this section shall not be released to the public.

SEC. 2120. VIOLATIONS OF TITLE. 7 USC 6519.

(a) MISUSE OF LABEL.—Any person who knowingly sells or labels a product as organic, except in accordance with this title, shall be subject to a civil penalty of not more than $10,000.

(b) FALSE STATEMENT.—Any person who makes a false statement under this title to the Secretary, a governing State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

(c) INELIGIBILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person who—

(A) makes a false statement;

(B) attempts to have a label indicating that an agricultural product is organically produced affixed to such product that such person knows, or should have reason to know, to have been produced or handled in a manner that is not in accordance with this title; or

(C) otherwise violates the purposes of the applicable organic certification program as determined by the Secretary;

after notice and an opportunity to be heard, shall not be eligible, for a period of 5 years from the date of such occurrence, to receive certification under this title with respect to any farm or handling operation in which such person has an interest.

(2) WAIVER.—Notwithstanding paragraph (1), the Secretary may reduce or eliminate the period of ineligibility referred to in such paragraph if the Secretary determines that such modification or waiver is in the best interests of the applicable organic certification program established under this title.

(d) REPORTING OF VIOLATIONS.—A certifying agent shall immediately report any violations of this title to the Secretary or the governing State official (if applicable).

(e) VIOLATIONS BY CERTIFYING AGENT.—A certifying agent that is a private person that violates the provisions of this title or that falsely or negligently certifies any farming or handling operation that does not meet the terms and conditions of the applicable organic certification program as an organic operation, as determined by the Secretary or the governing State official (if applicable) shall, after notice and an opportunity to be heard—

(1) lose its accreditation as a certifying agent under this title; and

(2) be ineligible to be accredited as a certifying agent under this title for a period of not less than 3 years subsequent to the date of such determination.

(f) EFFECT OF OTHER LAWS.—Nothing in this title shall alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) concerning meat, poultry and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.).

7 USC 6520.

SEC. 2121. ADMINISTRATIVE APPEAL.

(a) EXPEDITED APPEALS PROCEDURE.—The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that—

(1) adversely affects such person; or

(2) is inconsistent with the organic certification program established under this title.

(b) APPEAL OF FINAL DECISION.—A final decision of the Secretary under subsection (a) may be appealed to the United States District Court for the District in which such person is located.

SEC. 2122. ADMINISTRATION. 7 USC 6521.

(a) REGULATIONS.—Not later than 540 days after the date of enactment of this title, the Secretary shall issue proposed regulations to carry out this title.

(b) ASSISTANCE TO STATE.—

(1) TECHNICAL AND OTHER ASSISTANCE.—The Secretary shall provide technical, administrative, and Extension Service assistance to assist States in the implementation of an organic certification program under this title.

(2) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any State that implements an organic certification program under this title.

SEC. 2123. AUTHORIZATION OF APPROPRIATIONS. 7 USC 6522.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this title.

TITLE XXII—CROP INSURANCE AND DISASTER ASSISTANCE

Subtitle A—Crop Insurance

SEC. 2201. SUBMISSION OF SOCIAL SECURITY ACCOUNT NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.

(a) SUBMISSION REQUIRED.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506) is amended by adding at the end the following new subsection:

"(l) SUBMISSION OF CERTAIN INFORMATION.—

"(1) SOCIAL SECURITY ACCOUNT AND EMPLOYER IDENTIFICATION NUMBERS.—The Corporation shall require, as a condition of eligibility for participation in the multiple peril crop insurance program, submission of social security account numbers, subject to the requirements of section 205(c)(2)(C)(iii) of the Social Security Act, and employer identification numbers, subject to the requirements of section 6109(f) of the Internal Revenue Code of 1986.

"(2) NOTIFICATION BY POLICYHOLDERS.—Each policyholder shall notify each individual or other entity that acquires or holds a substantial beneficial interest in such policyholder of the requirements and limitations under this title.

"(3) IDENTIFICATION OF HOLDERS OF SUBSTANTIAL INTERESTS.—The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the name of each individual that holds or acquires a substantial beneficial interest in the policyholder.

"(4) DEFINITION.—For purposes of this subsection, the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interests in the policyholder.".

(b) ACCESS BY FCIC TO SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(1) by redesignating clauses (ii), (iii), and (iv) as clauses (iv), (v), and (vi), respectively;

(2) by redesignating subclauses (I) and (II) of clause (i) as clauses (i) and (ii), respectively; and

(3) by inserting after clause (ii) (as redesignated) the following new clause:

"(iii) In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the social security account number of such policyholder, subject to the requirements of this clause. No officer or employee of the Federal Crop Insurance Corporation shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the social security account number of each individual that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this clause, the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act. The Secretary of Agriculture shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of such social security account numbers. For purposes of this clause the term 'authorized person' means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account number (other than to the Corporation) by such person.".

(c) CONFIDENTIALITY OF SOCIAL SECURITY ACCOUNT NUMBERS.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) (as amended by subsection (b)) is further amended by adding at the end thereof the following new clause:

"(vii)(I) Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law, enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record.

"(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs as such paragraphs apply with respect to unauthorized disclosures of returns and return information described in such paragraphs. Paragraph (4) of such 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

"(III) For purposes of this clause, the term 'authorized person' means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term 'officer or employee' includes a former officer or employee.

"(IV) For purposes of this clause, the term 'related record' means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number is maintained pursuant to this clause.".

(d) ACCESS BY FCIC TO EMPLOYER IDENTIFICATION NUMBERS.—Section 6109 of the Internal Revenue Code of 1986 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection: 26 USC 6109.

"(f) ACCESS TO EMPLOYER IDENTIFICATION NUMBERS BY FEDERAL CROP INSURANCE CORPORATION FOR PURPOSES OF THE FEDERAL CROP INSURANCE ACT.—

"(1) IN GENERAL.—In the administration of section 506 of the Federal Crop Insurance Act, the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the employer identification number of such policyholder, subject to the requirements of this paragraph. No officer or employee of the Federal Crop Insurance Corporation, or authorized person shall have access to any such number for any purpose other than the establishment of a system of records necessary to the effective administration of such Act. The Manager of the Corporation may require each policyholder to provide to the Manager or authorized person, at such times and in such manner as prescribed by the Manager, the employer identification number of each entity that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this subclause, the term 'substantial beneficial interest' means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of the Treasury, access to employer identification numbers obtained pursuant to this paragraph only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act.

"(2) CONFIDENTIALITY AND NONDISCLOSURE RULES.—Employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection shall be confidential, and except as authorized by this subsection, no officer or employee of the United States or authorized person who has or had access to such employer identification numbers shall disclose any such employer identification number obtained thereby in any manner. For purposes of this paragraph, the term 'officer or employee' includes a former officer or employee. For purposes of this subsection, the term 'authorized person' means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account numbers (other than to the Corporations) by such person.

"(3) SANCTIONS.—Paragraphs (1), (2), and (3) of section 7213(a) shall apply with respect to the unauthorized willful disclosure to any person of employer identification numbers maintained by the Secretary of Agriculture or the Federal Crop Insurance Corporation pursuant to this subsection in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) shall apply with respect to the willful offer of any item of material value in exchange for any such employer identification number in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.".

SEC. 2202. PENALTIES FOR WILLFUL PROVISION OF FALSE OR INACCURATE INFORMATION.

(a) PENALTIES AUTHORIZED.—Section 506 of the Federal Crop Insurance Act (7 U.S.C. 1506), as amended by section 2201(a), is further amended by adding at the end the following new subsection:

"(m) PENALTIES.—

"(1) FALSE INFORMATION.—If a person wilfully and intentionally provides any false or inaccurate information to the Corporation or to any insurer with respect to an insurance plan or policy under this title, the Corporation may, after notice and an opportunity for a hearing on the record—

"(A) impose a civil fine of not to exceed to $10,000 on the person; and

"(B) disqualify the person from receiving any benefit under this title for a period of not to exceed 10 years.

"(2) ASSESSMENT OF PENALTY.—In assessing penalties under this subsection, the Corporation shall consider the gravity of the violation.".

(b) CONFORMING AND STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking the section heading and all that follows through "The Corporation—" and inserting the following:

"SEC. 506. GENERAL POWERS.";

(2) by inserting "SUCCESSION.—The Corporation" in subsection (a) after "(a)";

(3) by inserting "CORPORATE SEAL.—The Corporation" in subsection (b) after "(b)";

(4) by inserting "PROPERTY.—The Corporation" in subsection (c) after "(c)";

(5) by inserting "SUIT.—The Corporation," in subsection (d) after "(d)";

(6) by inserting "BYLAWS AND REGULATIONS.—The Corporation" in subsection (e) after "(e)";

(7) by inserting "MAILS.—The Corporation" in subsection (f) after "(f)";

(8) by inserting "ASSISTANCE.—The Corporation," in subsection (g) after "(g)";

(9) by inserting "DATA COLLECTION.—The Corporation" in subsection (h) after "(h)";

(10) by inserting "EXPENDITURES.—The Corporation" in subsection (i) after "(i)";

(11) by inserting "OTHER POWERS.—The Corporation" in subsection (j) after "(j)";

(12) by inserting "CONTRACTS.—The Corporation" in subsection (k) after "(k)";

(13) by striking the semicolon at the end of subsections (a), (b), (c), (e), (f), (g), (h) and inserting a period at the end of each of those subsections; and

(14) by striking "; and" at the end of subsections (i) and (j) and inserting a period at the end of each of those subsections.

SEC. 2203. UNIFORM CLAIMS ADJUSTMENT AND REINSURANCE AGREEMENTS.

(a) CLAIMS ADJUSTMENT.—Section 508(c) of the Federal Crop Insurance Act (7 U.S.C. 1508(c)) is amended—

(1) by striking "To adjust and pay claims for losses" in the first sentence and inserting "CLAIMS FOR LOSSES.—The Corporation may adjust and pay claims for losses as provided under subsection (a)"; and

(2) by inserting after the first sentence the following new sentence: "The rules prescribed by the Board shall establish standards to ensure that all claims for losses are adjusted to the extent practicable in a uniform and timely manner.".

(b) REINSURANCE AGREEMENTS.—Section 508(e) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)) is amended—

(1) by striking "And" and inserting "REINSURANCE.—The Corporation is"; and

(2) by adding at the end the following new sentence: "Beginning with the 1992 reinsurance year (July 1, 1991 through June 30, 1992), the Corporation shall revise its reinsurance agreements with the reinsured companies so as to require the reinsured companies to bear an increased share of any potential loss under such agreement, taking into consideration the financial conditions of the reinsured companies and the availability of private reinsurance.".

SEC. 2204. REVIEW OF POLICIES, ENSURING ACTUARIAL SOUNDNESS, AND INFORMATION COLLECTION.

(a) IN GENERAL.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) through (j) as subsections (e) through (m), respectively;

(2) by inserting after subsection (a) the following new subsections:

"(b) SUBMISSION OF POLICIES AND MATERIALS TO BOARD .—

"(1) IN GENERAL.—In addition to any standard forms or policies that the Board may require be made available to producers under subsection (a) persons may prepare for submission to the Board—

"(A) other crop insurance policies and provisions of policies; and

"(B) rates of premiums for multiple peril crop insurance pertaining to wheat, soybeans, field corn and any other crops determined by the Secretary.

"(2) PREPARATION OF POLICIES.—A policy or other material submitted to the Board under this subsection may be prepared without regard to the limitations contained in this title, including the requirements concerning the levels of coverage and

rates, the use of Agricultural Stabilization and Conservation Service adjusted yields, and the requirement that a price level for each commodity insured must equal the projected market price for the commodity as established by the Board. Policies that establish insurance coverage based on alternative factors of loss such as the average loss rate for the area from a condition common to the area may be approved under this section. Such policy may only be subsidized at an amount equivalent to that which is authorized in this title.

"(3) REVIEW AND APPROVAL BY THE BOARD.—A policy or other material submitted to the Board under this subsection shall be reviewed by the Board and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to such producers are actuarially appropriate, shall be approved by the Board for reinsurance and for sale to producers as an additional choice at actuarially appropriate rates and under appropriate terms and conditions taking into consideration the risks covered by the policy or other material. The Corporation may enter into more than one reinsurance agreement simultaneously to facilitate the offering of such new policies. Proposals made to the Board under this paragraph shall be considered as confidential commercial or financial information for purposes of section 552(b)(4) of title V, United States Code, until approved or disapproved by the Board. The Board shall provide an applicant with notification of intent to disapprove a proposal not later than 30 days prior to taking such action. An applicant so notified may modify such application and such modification shall be considered an extension of the original application.

"(4) REQUIRED PUBLICATION.—Any policies, provisions of policies, and rates approved under this subsection shall be published and made available to all persons contracting with or reinsured by the Corporation in the same manner as the Corporation's standard policies of insurance are published and made available.

"(c) ACTUARIAL SOUNDNESS.—Not later than 180 days after the date of enactment of this subsection, the Corporation shall compile and make available, by region and by crop, the rates that would be necessary to achieve actuarial soundness.

"(d) ADOPTION OF RATES AND COVERAGES.—The Corporation shall adopt, as soon as practicable, rates and coverages that will improve the actuarial soundness of the insurance operations of the Corporation for those crops that are determined to be insured at rates that are not actuarially sound, except that no rate may be increased by an amount of more than 20 percent over the comparable rate of the preceding crop year."; and

(3) by adding at the end the following new subsection:

"(n) INFORMATION COLLECTION ON CROP INSURANCE.—

"(1) IN GENERAL.—The Corporation shall provide to the Secretary of Agriculture—

"(A) current and complete information on all aspects of Federal crop insurance for distribution to producers through local offices of the Department of Agriculture; and

"(B) a listing of agents for agent referral to producers through local offices of the Department of Agriculture.

"(2) USE OF INFORMATION.—The Secretary shall utilize the information provided under paragraph (1) to educate State

executive directors of the Agricultural Stabilization and Conservation Service concerning such information to enable such directors to convey such information to local offices for distribution to local producers.".

(b) CONFORMING AND STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking the section heading and all that follows through "authorized and empowered—" and inserting the following:

"SEC. 508. CROP INSURANCE.";

(2) in subsection (e) (as redesignated by subsection (a)(1)), by striking "(1) To" and inserting "PREMIUMS.—(1) The Corporation may";

(3) in subsection (g) (as redesignated by subsection (a)(1))—

(A) by striking "In" and inserting "SPECIAL RULE FOR COTTON.—In"; and

(B) by striking "to include" and inserting "the Corporation may include";

(4) in subsection (i) (as redesignated by subsection (a)(1)), by striking "To provide" and inserting "APPLICATION TO OTHER AREAS.—The Corporation may provide";

(5) in subsection (j) (as redesignated by subsection (a)(1)), by striking "To offer" and inserting "OPTIONAL COVERAGES.—The Corporation may offer";

(6) in subsection (k) (as redesignated by subsection (a)(1)), by striking "To include" and inserting "SPECIAL RULE FOR TIMBER AND FORESTS.—The Corporation may include";

(7) in subsection (l) (as redesignated by subsection (a)(1))—

(A) by striking "To conduct" and inserting "RESEARCH.—The Corporation may conduct"; and

(B) by striking the second and third sentences; and

(8) by striking subsection (m) (as redesignated by subsection (a)(1)) and inserting the following new subsection:

"(m) CROP INSURANCE FOR DRY EDIBLE BEANS.—The Corporation shall make available to producers of different types of dry edible beans crop insurance that meets the differentiated needs of such producers.".

SEC. 2205. ASCS YIELDS AND DOLLAR-DENOMINATED COVERAGE.

Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508(a)) is amended—

(1) in subsection (a)—

(A) by inserting "AUTHORITY TO OFFER INSURANCE.—(1)" after "(a)";

(B) by striking "to insure" in the first sentence, and inserting "the Corporation may insure";

(C) by striking "The Corporation" in the seventh sentence, and inserting in lieu thereof the following: "For any commodity for which the Agricultural Stabilization and Conservation Service has established for the farming unit involved an adjusted yield for the purposes of programs administered by such Service (or a yield for crop insurance purposes under the provisions of this title), and such yield is greater than the recorded or the appraised yield, as established by the Corporation, of a commodity on such farming unit, insurance coverage may be provided to cover against

the loss in yield of the commodity on the basis of the adjusted yield for the commodity established by the Agricultural Stabilization and Conservation Service rather than the recorded or appraised yield as established by the Corporation. Such additional insurance shall be provided for an additional premium (for which no premium subsidy or administrative subsidy may be provided) set at such rate as the Board determines appropriate to reflect accurately the increased risk involved and that the Board determines actuarially sufficient to cover claims for losses on such insurance and to establish a reasonable reserve against unforeseen losses. Except as provided in the preceding two sentences, the Corporation"; and

(D) by adding at the end the following new sentences: "Beginning with the 1992 crop year, the Corporation shall establish a price level for each commodity on which insurance is offered that shall not be less than the projected market price for the commodity as determined by the Board. Insurance coverage shall be made available to the producer on the basis of any price election which equals or is less than that established by the Board and the coverage shall be quoted in terms of dollars per acre."; and

(2) by striking out subsection (k).

SEC. 2206. CONTRACTING WITH PRIVATE COMPANIES.

Section 507(c) of the Federal Crop Insurance Act (7 U.S.C. 1507(c)) is amended—

(1) by inserting after "private insurance companies" in paragraph (2) the following: "private rating bureaus, and other organizations as appropriate for actuarial, loss adjustment, and other services to avoid duplication by the Federal Government of services that are or may readily be available in the private sector,"; and

(2) by adding at the end the following new sentence: "Nothing in this subsection shall permit the Corporation to contract with other persons to carry out the responsibility of the Corporation to review and approve policies, rates, and other materials submitted under section 508(b).".

Subtitle B—Disaster Assistance

CHAPTER 1—1989 CROP CLARIFICATION

SEC. 2231. SUGARCANE DISASTER ASSISTANCE.

(a) DETERMINATION.—Section 103 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new subsection:

"(f) SPECIAL RULE FOR SUGARCANE.—For purposes of determining the total quantity of the 1989 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.".

(b) DEADLINE.—Section 152(a)(2) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new sentence: "In the case of producers described in section 103(f), the Secretary shall permit the producers to apply for assistance no later than January 15, 1991, and shall, in the case of

applications received prior to the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990, recompute (in accordance with section 103(f)) the amount of any assistance due no later than 90 days after the date of enactment of such Act.".

SEC. 2232. VALENCIA ORANGES.

(a) ELIGIBILITY.—Section 104(a)(1)(A) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended to read:

(A) ELIGIBILITY.—Effective only for the 1989 crops of soybeans and nonprogram crops, and any crop of valencia oranges affected by a freeze, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, or freeze, the total quantity of the 1989 crop of the commodity, or the total quantity of any crop of valencia oranges, that the producers on a farm are able to harvest is less than—".

(b) SPECIAL RULES.—Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended:

(1) by inserting after "(1) DEFINITION OF NONPROGRAM CROPS.—" a new subparagraph designation "(A)";

(2) by inserting after "earthquake" the following: "or grown in a county declared a Presidential disaster area, and shall include any valencia oranges, affected by a freeze, grown in a county declared a Presidential disaster area in 1989"; and

(3) by adding at the end a new subparagraph to read as follows:

"(B) For purposes of this Act, the term "1989 crop" shall include any crop of valencia oranges damaged by freeze in 1989.".

(c) EXCLUSIONS FROM HARVESTED QUANTITIES.—Section 104(a)(4) of that Act is amended by adding at the end the following new sentence: "For a crop of valencia oranges, the exclusion required by the preceding sentence shall be 100 percent.". 7 USC 1421 note.

(d) APPLICATION OF AMENDMENTS.—Section 152(a) of the Disaster Assistance Act of 1989 is amended by adding at the end the following new paragraph: 7 USC 1421 note.

"(3) EXTENDED APPLICATION PERIOD.—In the case of producers of valencia oranges affected by the amendments made to section 104(a) by section 2235 of the Food, Agriculture, Conservations, and Trade Act of 1990, the Secretary shall—

"(A) allow such producers to submit applications for payments under section 104 until January 15, 1991; and

"(B) in the case of applications submitted by such producers before the date of the enactment of that Act, recompute (not later than 90 days after such date) the payment to such producers under section 104 in light of those amendments.".

CHAPTER 2—OTHER ASSISTANCE

SEC. 2235. AMENDMENTS TO THE DISASTER ASSISTANCE ACT OF 1989.

(a) DOUBLE CROPPING OF NONPROGRAM CROPS GROWN IN A PRESIDENTIAL DISASTER AREA.—Section 104(a) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new paragraph:

"(5) DOUBLE CROPPING.—

"(A) TREATED SEPARATELY.—In the case of a 1989 nonprogram crop that is historically double cropped (including two crops of the same commodity) by the producers on a

farm, the Secretary shall treat each cropping separately for purposes of determining under paragraph (1)—

"(i) whether the crop was affected by damaging weather or related conditions in 1989; and

"(ii) the total quantity of the crop that the producers are able to harvest.

"(B) APPLICATION OF PARAGRAPH.—This paragraph shall—

"(i) apply only in the case of a 1989 nonprogram crop that is grown in a county declared to be a Presidential disaster area for that crop; and

"(ii) not apply in the case of a replacement crop described in section 110.".

State listing. Puerto Rico. Virgin Islands. 7 USC 1421 note.

(b) HURRICANE HUGO FORESTRY ASSISTANCE ACT; COST-SHARE ASSISTANCE.—

(1) ESTABLISHMENT.—For the purposes of encouraging tree owners to reestablish stands of trees damaged by Hurricane Hugo, the Secretary of Agriculture (hereafter in this subsection referred to as the "Secretary") shall develop and implement a cost-share program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties in South Carolina, North Carolina, Virginia, Puerto Rico, and the United States Virgin Islands declared by the President to be disaster areas as a result of Hurricane Hugo and any county contiguous to those counties.

(2) ELIGIBLE PRACTICES.—Practices eligible for cost-share assistance under this subsection are—

(A) reforestation;

(B) site preparation; and

(C) such other timber stand reestablishment practices as may be prescribed by the Secretary.

(3) PRIVATE TIMBER STANDS.—

(A) DEFINITION.—For the purpose of this subsection, the term "private timber stand" means a stand of trees damaged by Hurricane Hugo held continuously during the period described in paragraph (1) for commercial purposes by a private individual, group, association, corporation, Indian tribe or other native Indian group, or other legal entity, owning 1,000 acres or less of land planted to trees, except agencies of Federal, State, or local governments. Such term does not include a stand of trees transferred after the date on which such stand was damaged by Hurricane Hugo except for a stand of trees transferred by bequest, devise or inheritance, or acquired from a decedent by reason of death because of the form of ownership or other condition (including trees acquired through the exercise or nonexercise of a power of appointment).

(B) PERIOD FOR PURPOSES OF SUBPARAGRAPH (A).—The period referred to in subparagraph (A) is the period beginning on the date on which such trees were damaged by Hurricane Hugo and ending at the time the request is made for assistance under this subsection.

(4) INDIVIDUAL FOREST MANAGEMENT PLANS.—The Secretary may provide assistance under this subsection only after a management plan for the private timber stand has been developed by the holder of the stand in cooperation with, and ap-

proved by, the State forester or equivalent State official. Such management plan shall—

(A) include provision for the replacement of the timber stand through reforestation by tree plantings or other means; and

(B) be the basis for an agreement between the holder and the Secretary under paragraph (5).

(5) COST SHARE.—The Secretary shall enter into agreements to share the cost of implementing eligible practices set forth in the agreement with holders who agree to implement those eligible practices. The amount of the Federal cost-share (including labor) for an eligible practice shall be 75 percent of the total cost of implementing eligible practices. The Secretary may consider, in determining the total cost of implementing eligible practices, any revenues from the sale of timber from private timber stands. Government contracts.

(6) DEADLINE.—Requests for assistance under this subsection must be filed with the Secretary not later than December 31, 1993.

(7) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subsection may not exceed $50,000. The Secretary shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308). Regulations.

(8) REGULATIONS.—The Secretary shall issue regulations to implement the provisions of this subsection as soon as practicable after the date on which appropriations are made available to carry out this subsection, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code.

(c) AUTHORIZATION OF APPROPRIATIONS.—Any benefits or assistance provided under this section, or under the amendments made by this section to the Disaster Assistance Act of 1989, shall be provided only to the extent provided for in advance by appropriation acts. To carry out this section, and the amendments made by this section to the Disaster Assistance Act of 1989, there are hereby authorized to be appropriated for fiscal years 1991 through 1995 such sums as are necessary. 7 USC 1421 note.

SEC. 2236. SUGARCANE.

(a) 1990 CROP.—Effective only for the 1990 crop of sugarcane, section 201(k)(2) of the Agricultural Act of 1949 (7 U.S.C. 1446(k)(2)) is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following paragraph:

"(B)(i) If, because of frost, freeze, or related condition in 1989 constituting a major disaster or emergency declared by the President in the State of Louisiana under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the total quantity of the 1990 crop of sugarcane that the producers are able to harvest on any farm is less than— Louisiana.

"(I) 60 percent of the county average yield, as determined by the Secretary, for the crop, multiplied by

"(II) the acreage planted for harvest to the crop, the Secretary shall make a reduced yield disaster payment to

the producers at a rate equal to 50 percent of the loan level for the crop for the deficiency in production greater than 60 percent for the crop.

"(ii) The Secretary shall ensure that no producer receives duplicative payments under this subparagraph.

"(iii) Any benefits or assistance provided for under this section shall be provided only to the extent provided for in advance in appropriations Acts. There are authorized to be appropriated such sums as may be necessary to carry out this subparagraph.".

Appropriation authorization.

7 USC 1421 note.

CHAPTER 3—EMERGENCY CROP LOSS ASSISTANCE

Subchapter A—Annual Crops

SEC. 2241. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to 65 percent of the established price for the crop for any deficiency in production greater than 40 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent) for the crop.

(2) LIMITATIONS.—

(A) ACREAGE IN EXCESS OF PERMITTED ACREAGE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) CROP INSURANCE.—Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(3) REDUCTION IN DEFICIENCY PAYMENTS.—The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a

payment is made to the producers for the crop under paragraph (1).

(4) ELECTION OF PAYMENTS.—

(A) APPLICATION OF PARAGRAPH.—This paragraph shall apply, effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, to producers on a farm who—

(i) had failed wheat, feed grain, upland cotton, or rice acreage; or

(ii) were prevented from planting acreage to such commodity because of damaging weather or related condition in 1989 or 1990.

(B) ELECTION.—The Secretary of Agriculture shall (within 30 days after the date of enactment of this Act) permit producers referred to in subparagraph (A) to elect whether to receive disaster payments in accordance with this section in lieu of payments received under the Agricultural Act of 1949.

(b) ADVANCE DEFICIENCY PAYMENTS.—

(1) APPLICATION OF SUBSECTION.—This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1990 crop of wheat, feed grains, upland cotton, or rice.

(2) FORGIVENESS OF REFUND REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), if because of damaging weather or related condition in 1989 or 1990 the total quantity of the 1990 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of a natural disaster, as determined by the Secretary) for such crop (hereinafter in this section referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) with respect to that portion of the deficiency in production that does not exceed—

(i) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act, 35 percent of the qualifying amount; and

(ii) in the case of other producers, 40 percent of the qualifying amount.

(B) CROP INSURANCE.—Producers on a farm shall not be eligible for the forgiveness provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(3) ELECTION FOR NONRECIPIENTS.—The Secretary shall allow producers on a farm who elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1990 crop under section 107C of the Agricultural Act of 1949, to elect (within 30 days after the date of the

enactment of this Act) whether to receive such advance deficiency payments.

(4) DATE OF REFUND FOR PAYMENTS.—Effective only for the 1990 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of the Agricultural Act of 1949 must be refunded, such refund shall not be required prior to July 31, 1991, for that portion of the crop for which a disaster payment is made under subsection (a).

SEC. 2242. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 40 percent (or in the case of producers who obtained crop insurance, 35 percent) of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 40 percent for the crop (or in the case of producers who obtained crop insurance, 35 percent).

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted to the commodity for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—

(1) ACREAGE LIMITATION PROGRAM.—The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

(2) CROP INSURANCE.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

SEC. 2243. PEANUTS, SUGAR, AND TOBACCO.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—Effective only for the 1990 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 60 percent (or, in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(2) PAYMENT RATE.—The payment shall be made to the producers at a rate equal to 65 percent of the applicable payment level under paragraph (3), as determined by the Secretary, for any deficiency in production greater than—

(A) in the case of producers who obtained crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—

(i) 35 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 35 percent of the farm's effective marketing quota for 1990; and

(B) in the case of producers who did not obtain crop insurance for the 1990 crop of the commodity under the Federal Crop Insurance Act—

(i) 40 percent for the crop; or

(ii) with respect to a crop of burley tobacco or flue-cured tobacco, 40 percent of the farm's effective marketing quota for 1990.

(3) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as applicable;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 2244(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1990 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1990 price support levels.

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted to harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers and any change in quotas for the 1990 crops of tobacco.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

(2) payments made under this section shall be made taking into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

(3) the quantity of undermarketings of quota peanuts from a farm for the 1990 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

(1) the quantity of undermarketings of quota tobacco from a farm for the 1990 crop that may otherwise be claimed under section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

(f) SPECIAL RULE FOR SUGARCANE.—For purposes of determining the total quantity of the 1990 crop of sugarcane that the producers on a farm are able to harvest, the Secretary shall make the determination based on the quantity of recoverable sugar.

SEC. 2244. SOYBEANS AND NONPROGRAM CROPS.

(a) DISASTER PAYMENTS.—

(1) IN GENERAL.—

(A) ELIGIBILITY.—Effective only for the 1990 crops of soybeans and nonprogram crops, to the extent that assistance was not made available under the Disaster Assistance Act of 1989 for a producer's losses, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1989 or 1990, the total quantity of the 1990 crop of the commodity that the producers on a farm are able to harvest is less than—

(i) with respect to soybeans and sunflowers, the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the State, area, or county yield, adjusted for adverse weather conditions during the 1987, 1988, and 1989 crop years, as determined by the Secretary, for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b);

(ii) with respect to nonprogram crops (other than as provided in clauses (i) and (iii)), the result of multiplying 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the yield established by the Commodity Credit Corporation under subsection (d)(2) for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planting credit is approved by the Secretary for such crop under subsection (b); and

(iii) with respect to crops covered in section 201(b) of the Agricultural Act of 1949 (7 U.S.C. 1446(b)), 60 percent (or in the case of producers who obtained crop insurance, if available, for the 1990 crop year of the commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 65 percent) of the historical annual

yield of the producers for such crops, as determined by the Secretary,

the Secretary shall make a disaster payment available to such producers.

(B) PAYMENT RATE.—The payment shall be made to such producers at a rate equal to 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 40 percent for soybeans, sunflowers and for other nonprogram crops for the crop, except that in the case of producers who obtained crop insurance, if available, for the 1990 crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 35.

(2) PAYMENT LEVEL.—For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3) CALCULATION OF PAYMENTS FOR DIFFERENT VARIETIES.—

Regulations.

(A) CROP-BY-CROP BASIS.—The Secretary shall make disaster payments under this subsection on a crop-by-crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary.

(B) DIFFERENT VARIETIES.—For purposes of determining the payment levels on a crop-by-crop basis, the Secretary shall consider as separate crops, and develop separate payment levels insofar as is practicable for, different varieties of the same commodity, and commodities for which there is a significant difference in the economic value in the market.

(C) DOUBLE CROPPING.—

(i) TREATED SEPARATELY.—In the case of a crop that is historically double cropped (including two crops of the same commodity) by the producers on a farm, the Secretary shall treat each cropping separately for purposes of determining whether the crop was affected by damaging weather or related conditions and the total quantity of the crop that the producers are able to harvest.

(ii) APPLICATION OF PARAGRAPH.—This paragraph shall not apply in the case of a replacement crop.

(4) EXCLUSIONS FROM HARVESTED QUANTITIES.—For purposes of determining the total quantity of the 1990 nonprogram crop of the commodity that the producers on a farm are able to harvest under paragraph (1), the Secretary shall exclude—

(A) commodities that cannot be sold in normal commercial channels of trade; and

(B) dockage, including husks and shells, if such dockage is excluded in determining yields under subsection (d)(2).

(b) PREVENTED PLANTING CREDIT.—

(1) IN GENERAL.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1990 crop of the commodity for harvest because of damaging weather

or related condition in 1989 or 1990, as determined by the Secretary.

(2) MAXIMUM ACREAGE.—Such acreage may not exceed the greater of—

(A) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1989 minus acreage actually planted for harvest in 1990; or

(B) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987, 1988, and 1989 minus acreage actually planted to the commodity for harvest in 1990.

(3) ADJUSTMENTS.—The Secretary shall make appropriate adjustments in applying the limitations contained in paragraph (2) to take into account crop rotation practices of the producers.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 2247.

(d) SPECIAL RULES FOR NONPROGRAM CROPS.—

(1) DEFINITION OF NONPROGRAM CROP.—As used in this section, the term "nonprogram crop" means all crops for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1990, and other commercial crops (including ornamentals which shall include flowering shrubs, flowering trees, and field or container grown roses or turf and sweet potatoes for which such insurance was not available for crop year 1990), except that such term shall not include a crop covered under section 2241, 2242, or 2243, soybeans, or sunflowers.

(2) FARM YIELDS.—

(A) ESTABLISHMENT.—The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops to carry out this section.

(B) PROVEN YIELDS AVAILABLE.—If the producers on a farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least 1 of the immediately preceding 3 crop years, the yield for the farm shall be based on such proven yield.

(C) PROVEN YIELDS NOT AVAILABLE.—If such data do not exist for any of the 3 preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity, or by using other data available to it.

(D) COUNTY AVERAGE YIELDS.—In establishing county average yields for nonprogram crops, the Commodity Credit Corporation shall use the best available information concerning yields. Such information may include extension service records, credible nongovernmental studies, and yields in similar counties.

(3) RESPONSIBILITY OF PRODUCERS.—It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of 1990 crop losses resulting from damaging weather or

related condition in 1989 or 1990 in order for such producers to obtain disaster payments under this section.

SEC. 2245. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1990 crops covered under sections 2241 through 2244 are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops who suffer losses resulting from the reduced quality of such crops caused by damaging weather or related condition in 1989 or 1990, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 2241, 2242, 2243, or 2244, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, except that such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 2241;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 2242;

(3) the payment level under section 2243(a)(3), for commodities covered by section 2243; and

(4) the payment level under section 2244(a)(2), for commodities covered under section 2244.

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1989 or 1990, as determined by the Secretary.

SEC. 2246. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS.

In the case of producers on a farm who obtained crop insurance for the 1990 crop of a commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), the Secretary of Agriculture shall reduce the amount of payments made available under this chapter for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this chapter for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this chapter for such crop; by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 2241, the eligible acreage established under sections 2241(a)(1) and 2241(a)(2)(A)); by

(3)(A) in the case of producers who participated in a production adjustment program for the 1990 crop of wheat, feed grains,

upland cotton, extra long staple cotton, or rice, the established price for the 1990 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1990 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 2243(a)(3); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 2244(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding 5 crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

SEC. 2247. CROP INSURANCE COVERAGE FOR THE 1991 CROPS.

(a) REQUIREMENT.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this chapter, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to damaging weather or related condition in 1989 or 1990, or forgiveness of the repayment of advance deficiency payments under section 2241(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the 1991 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) LIMITATIONS.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless such producers' deficiency in production, with respect to the crop for which a disaster payment under this chapter otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1990 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) IMPLEMENTATION.—

(1) COUNTY COMMITTEES.—The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 2241 through 2245 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) OTHER SOURCES.—Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

Regulations. Brokers.

(3) COMMISSIONS.—The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company.

(d) REPAYMENT OF BENEFITS.—Notwithstanding any other provision of law, if (prior to the end of the 1991 crop year for the commodity involved) the crop insurance coverage required of the producer under this section is canceled by the producer, the producer—

(1) shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay; and

(2) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section.

SEC. 2248. CROPS HARVESTED FOR FORAGE USES.

Not later than 45 days after funds are appropriated to carry out this chapter, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish a 1990 yield with respect to crops that will be harvested for silage and other forage uses.

SEC. 2249. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this chapter may not exceed $100,000.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this chapter to the extent that such person receives a livestock emergency benefit for lost feed production in 1990 under section 606 of the Agricultural Act of 1949 (7 U.S.C. 1471d).

(c) COMBINED LIMITATION.—

(1) IN GENERAL.—No person may receive any payment under this chapter or benefit under title VI of the Agricultural Act of 1949 (7 U.S.C. 1471 et seq.) for livestock emergency losses suffered in 1990 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000.

(2) ELECTION.—If a producer is subject to paragraph (1), the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section and section 2266, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

SEC. 2250. SUBSTITUTION OF CROP INSURANCE PROGRAM YIELDS.

(a) IN GENERAL.—Notwithstanding any other provision of this chapter, the Secretary of Agriculture may permit each eligible producer (as defined in subsection (d)) of a 1990 crop of a commodity who has obtained multiperil crop insurance for such crop (or, as provided in subsection (c), who obtained multiperil crop insurance for the producer's 1989 crop of such commodity) under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) to substitute, at the discretion of the producer, the crop insurance yield for such crop, as established under such Act, for the farm yield otherwise assigned to the producer under this chapter, for the purposes of determining such producer's eligibility for a disaster payment on the 1990 crop under this chapter and the amount of such payment.

(b) ADJUSTMENT OF ADVANCED DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, if an eligible producer of wheat, feed grains, cotton, or rice elects to substitute yields for such producer's 1990 crop under subsection (a), the producer's eligibility for a waiver or repayment of an advance deficiency payment on such crop under this chapter shall be adjusted as provided in paragraph (2).

(2) AMOUNT.—The amount of production of such crop on which the producer otherwise would be eligible for waiver of repayment of advance deficiency payments under this chapter shall be reduced by an amount of production equal to the difference between—

(A) the amount of production eligible for disaster payments under this chapter using a substituted yield under this section; and

(B) the amount of production that would have been eligible for disaster payments using the farm program payment yield otherwise assigned to the producer under this chapter.

(c) MULTIPERIL CROP INSURANCE NOT AVAILABLE.—A producer may use the crop insurance yield for the producer's 1989 crop of a commodity for purposes of substituting yields under subsection (a) if the producer demonstrates to the Secretary that, through no fault of the producer, multiperil crop insurance under the Federal Crop Insurance Act was not made available to the producer for the producer's 1990 crop of the commodity.

(d) DEFINITION OF ELIGIBLE PRODUCER.—For purposes of this section, the term "eligible producer" means a producer of the 1990 crop of wheat, feed grains, upland cotton, extra long staple cotton, rice, or soybeans.

SEC. 2251. DEFINITIONS.

As used in this chapter:

(1) DAMAGING WEATHER.—The term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind, or any combination thereof.

(2) RELATED CONDITION.—The term "related condition" includes but is not limited to insect infestations, plant diseases, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest.

Subchapter B—Orchards

SEC. 2255. ELIGIBILITY.

(a) LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2256, to eligible orchardists that planted trees for commercial purposes but lost such trees as a result of freeze, earthquake, or related condition in 1990, as determined by the Secretary.

(b) LIMITATION.—An eligible orchardist shall qualify for assistance under subsection (a) only if such orchardist's tree mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

SEC. 2256. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible orchardists for losses described in section 2255 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting trees lost due to freeze, earthquake, or related condition in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient seedlings to reestablish the stand.

SEC. 2257. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this chapter may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this chapter, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) and the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note); and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 2258. DEFINITION.

As used in this chapter, the term "eligible orchardist" means a person who produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees.

SEC. 2259. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

Subchapter C—Forest Crops

SEC. 2261. ELIGIBILITY.

(a) Loss.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 2262, to eligible tree farmers that planted tree seedlings in 1989 or 1990 for commercial purposes but lost such seedlings as a result of drought, earthquake, or related condition in 1990, as determined by the Secretary.

(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) only if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

SEC. 2262. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 2261 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought, earthquake, or related conditions in 1990 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 2263. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this chapter may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this chapter, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 and the Disaster Assistance Act of 1988; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 2264. DEFINITION.

As used in this chapter, the term "eligible tree farmer" means a person who grows trees for harvest for commercial purposes and owns 1,000 acres or less of such trees.

SEC. 2265. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this chapter and the forestry incentives program, agricultural conservation program, or other Federal program.

Subchapter D—Administrative Provisions

SEC. 2266. INELIGIBILITY.

(a) GENERAL RULE.—A person who has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this subchapter.

(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

SEC. 2267. TIMING AND MANNER OF ASSISTANCE.

(a) TIMING OF ASSISTANCE.—

(1) ASSISTANCE MADE AVAILABLE AS SOON AS PRACTICABLE.—Subject to paragraph (2), the Secretary of Agriculture shall make disaster assistance available under this subchapter as soon as practicable after the date on which appropriations are made available to carry out this chapter.

(2) COMPLETED APPLICATION.—No payment or benefit provided under this subchapter shall be payable or due until such time as a completed application for a crop of a commodity therefor has been approved.

(b) MANNER.—The Secretary may make payments available under chapter 1 in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 2268. COMMODITY CREDIT CORPORATION.

(a) USE.—The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this chapter.

(b) EXISTING AUTHORITY.—The authority provided by this subchapter shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

SEC. 2269. EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)) shall not apply to persons who otherwise would be eligible for an emergency loan under subtitle C of such Act, if such eligibility is the result of damage to an annual crop planted for harvest in 1988.

SEC. 2270. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement this chap-

ter as soon as practicable after the date on which appropriations are made available to carry out this chapter, without regard to the requirement for notice and public participation in rule making prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subchapter E—Appropriations

SEC. 2271. AUTHORIZATION OF APPROPRIATIONS.

Any benefits or assistance (including the foregiveness of unearned advanced deficiency payments of any emergency loans) made available under this chapter shall be provided only to the extent provided for in advance in appropriations Acts. To carry out this chapter there are authorized to be appropriated such sums as may be necessary in each of the fiscal years 1991 and 1992.

SEC. 2272. PRORATION OF BENEFITS.

Any funds made available for carrying out this chapter in appropriations Acts shall be prorated to all producers eligible for assistance under this chapter.

CHAPTER 4—ASSISTANCE FOR BIG HORN RIVER DRAINAGE SYSTEM

SEC. 2275. DISASTER ASSISTANCE TO PRODUCERS ON THE BIG HORN RIVER DRAINAGE SYSTEM LOCATED ON THE WIND RIVER INDIAN RESERVATION. Wyoming.

(a) IN GENERAL.—Effective only for providers on a farm who suffered losses due to drought induced by a lack of water as a result of Indian Tribal water rights adjudication affecting producers on that portion of the Big Horn River drainage system located on the Wind River Indian Reservation, Wyoming, for the 1990 crop of wheat, barley, oats, grass hay, and alfalfa hay, subject to subsection (b), the Secretary of Agriculture shall make disaster assistance available to such producers under similar terms and conditions as are prescribed under titles I and III of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note, 1961 note, and 1941 note) for providing disaster assistance to producers for the 1989 crop of the commodity, except that the assistance shall be limited to a total amount of $250,000.

(b) ADMINISTRATION.—Titles I and III of the Disaster Assistance Act of 1989 shall apply to assistance provided under this section, except that for purposes of providing assistance under this section—

(1) terms and conditions of programs established for a crop referred to in subsection (a) shall apply to such assistance, including crop years, production adjustment programs, yields, acreage bases, established prices, advance deficiency payments, loan rates, crop insurance indemnities, and livestock emergency benefits;

(2) producers shall not be required to obtain multiperil crop insurance, as a condition of obtaining assistance under this section;

(3) in section 101(b)(4), for purposes of this section only—

(A) "1990 crops" shall be substituted for "1989 crops"; and

(B) "July 31, 1991" shall be substituted for "July 31, 1990";

(4) in section 102(b)(2)(A), for purposes of this section only "1989 minus acreage actually planted to the commodity for harvest in 1990" shall be substituted for "1988 minus acreage actually planted to the commodity for harvest in 1989";

(5) in section 102(b)(2)(B), for purposes of this section "1987, 1988, and 1989, minus acreage actually planted to the commodity for harvest 1989" shall be substituted for "1986, 1987, and 1988 minus acreage actually planted to the commodity for harvest in 1989"; and

(6) in section 152(a)(2), for purposes of this section "180 days after the date of enactment of the Food, Agriculture, Conservation, and Trade Act of 1990" shall be substituted for "March 31, 1990".

(c) DEFERRAL ON REPAYMENTS.—The producers on a farm as specified in subsection (a) may elect, at the producer's option, to request and receive a 12-month deferral on payments of principal and interest due on (farm loans) insured or underwritten by the appropriate agency of the United States. The request for deferral shall be made in writing to the administrator of the applicable farm loan program and must be sent by certified mail to the nearest regional office. Written requests for deferral under subsection (c) shall be made within 60 days of the date of enactment of this Act.

Subtitle C—Miscellaneous Provisions

42 USC 5177a.

SEC. 2281. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

(a) IN GENERAL.—The Secretary of Agriculture may make grants, not to exceed $20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986, that have experience in providing emergency services to low-income migrant and seasonal farmworkers where the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided with assistance received under this section may include such types of assistance as the Secretary of Agriculture determines to be necessary and appropriate.

(b) DEFINITION.—For the purposes of this section, the term "low-income migrant or seasonal farmworker" means an individual—

(1) who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and

(3) whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE XXIII—RURAL DEVELOPMENT

Rural Economic Development Act of 1990.
7 USC 1921 note.

SEC. 2301. SHORT TITLE.

This title may be cited as the "Rural Economic Development Act of 1990".

Subtitle A—Reorganization of the Department of Agriculture

SEC. 2302. RURAL DEVELOPMENT ADMINISTRATION.

7 USC 2006f.

(a) AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended—

(1) by adding after the sections added thereto by subtitle A of title XVIII of this Act the following new section:

"SEC. 364. RURAL DEVELOPMENT ADMINISTRATION.

"(a) ESTABLISHMENT.—There is established in the Department of Agriculture the Rural Development Administration, which shall be headed by an Administrator appointed by the Secretary.

"(b) ADMINISTRATION.—Except as provided in subsection (c), or as otherwise provided in this section, the Secretary shall carry out this Act through the Farmers Home Administration.

"(c) EXCEPTIONS.—The Secretary shall carry out section 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of section 303(a)), section 304(b), section 306(a), section 306B, section 310A, section 310B, section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6) of section 312(a)), section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), title VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate through the Rural Development Administration.

"(d) REFERENCES.—Any reference in any law, regulation, or order in effect immediately before the date of enactment of this section to the Farmers Home Administration or to the Administrator of the Farmers Home Administration or of the Farmers Home Administration relating to any function, power, or duty that is, on or after such date, a function, power, or duty of the Rural Development Administration or the Administrator of the Rural Development Administration, shall be deemed to be a reference to the Rural Development Administration or to the Administrator of the Rural Development Administration, as the case may be.

"(e) EFFECT ON PENDING PROCEEDINGS AND PARTIES TO SUCH PROCEEDINGS.—

"(1) NONABATEMENT OF ACTIONS.—This section does not abate any proceeding commenced—

"(A) by or against any entity any function of which is transferred by this section; or

"(B) by or against any officer of any entity referred to in subparagraph (A) in the official capacity of such individual as such an officer.

"(2) EFFECT ON PARTIES.—If an officer of the Farmers Home Administration, in the official capacity of such officer, is a party to a proceeding pending on the date of enactment of this section,

and under this section the officer or any function of the officer is transferred to the Rural Development Administration, Department of Agriculture, then such action shall be continued with the Secretary or the Administrator, Rural Development Administration, or other appropriate officer of the Department substituted or added as a party.

"(3) TRANSFER OF CERTAIN RIGHTS OF FARMERS HOME ADMINISTRATION TO RURAL DEVELOPMENT ADMINISTRATION.—The rights, interests, obligations, and duties of the Farmers Home Administration arising before the date of enactment of this section from any loan made, insured, or guaranteed, or any grant or contract made, by the Farmers Home Administration in the exercise of its functions shall—

"(A) with respect to any function to be exercised on or after such date by the Farmers Home Administration under subsection (b), continue to be vested in the Farmers Home Administration; and

"(B) with respect to any function to be exercised on or after such date by the Rural Development Administration under subsection (c), be vested in the Rural Development Administration.

"(f) COMPENSATION OF ADMINISTRATOR.—The Administrator of the Rural Development Administration shall be compensated in accordance with subchapter VIII of chapter 53 of title 5, United States Code."; and

7 USC 1929.

(2) in section 309(e)—

(A) by inserting "and the Rural Development Administration, in proportion to such charges collected in connection with the insurance of loans by such agency" after "Farmers Home Administration"; and

(B) by striking "expenses." and inserting "expenses for such agency.".

7 USC 2006f note.

(b) FACILITATION OF TRANSFER OF FUNCTIONS.—(1) Notwithstanding the provisions of section 331 of the Consolidated Farm and Rural Development Act, as soon as practicable, but in no case later than 180 days after the date of enactment of this section, the Secretary shall transfer to the Rural Development Administration the powers, duties, and assets of the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, related to the performance of rural development functions, including, but not limited to, the agencies, offices, and other entities in the Department of Agriculture, or elements thereof, that administer sections 303 (in the case of loans made for purposes specified in paragraphs (2) and (3) of subsection (a) of section 303), 304(b), 306(a), 306B, 310A, 310B, and section 312(a) (in the case of loans made for the purposes specified in paragraphs (5) and (6) of section 312(a)) of the Consolidated Farm and Rural Development Act, section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), title VI of the Rural Development Act of 1972, and such other rural development programs as the Secretary determines appropriate.

(2) INCIDENTAL TRANSFERS.—The Secretary shall make such determinations, and shall transfer such personnel from the Farmers Home Administration, as may be necessary or appropriate with regard to the functions transferred to the Rural Development Administration under this section or the amendments made by this section. The Secretary shall also make such additional incidental dispositions of personnel, assets, liabilities, contracts, property,

records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available, or to be made available in connection with the functions transferred by this section or the amendments made by this section, as the Secretary may deem necessary to accomplish the purposes of this section.

(3) EFFECTIVE AND EFFICIENT TRANSFER OF AUTHORITY.—The Administrator of the Farmers Home Administration and the Secretary shall take whatever steps are necessary to assure the effective and efficient transfer of authority as provided for in this section.

SEC. 2303. CONFORMING AMENDMENTS.

(a) Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended—

(1) in the first sentence—

(A) by striking "For the purposes of this title and" and inserting "In accordance with section 359, for purposes of this title, and"; and

(B) by inserting before the period ", or may assign and transfer such powers, duties, and assets to the Rural Development Administration as provided by law for that office";

(2) in subsection (d), by inserting "or the Rural Development Administration" after "Farmers Home Administration"; and

(3) in subsection (h) (as so redesignated by section 1805 of this Act), by inserting "Rural Development Administration under this title or by the" before "Farmers Home Administration" each place such term appears.

(b) Section 331A of such Act (7 U.S.C. 1981a) is amended by inserting "or by the Rural Development Administration" immediately after "Farmers Home Administration".

(c) Section 335 of such Act (7 U.S.C. 1985) is amended—

(1) in subsection (a), by inserting "or the Rural Development Administration" after "Farmers Home Administration"; and

(2) in subsection (c)(1), by inserting "or the Rural Development Administration" after "Farmers Home Administration".

(d) Section 338(a) of such Act (7 U.S.C. 1988(a)) is amended by inserting "or the Rural Development Administration" after "Farmers Home Administration".

(e) Sections 657, 658, 1006, and 1014 of title 18, United States Code, are each amended by striking "Farmers' Home Administration" and inserting "Farmers Home Administration, the Rural Development Administration".

(f)(1) Section 623(c)(2) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(c)(2)) is amended by inserting ", or the Rural Development Administration" after "Farmers Home Administration".

(2) Section 628 of such Act (42 U.S.C. 9817) is amended—

(A) by amending the heading to read as follows:

"DEPARTMENT OF AGRICULTURE; RURAL DEVELOPMENT ADMINISTRATION PROGRAMS"; and

(B) by inserting ", or of the Rural Development Administration" after "of the Farmers Home Administration".

Subtitle B—Coordination of Rural Development Efforts

CHAPTER 1—GENERAL PROVISIONS

7 USC 2007.

SEC. 2310. GENERAL PROVISIONS.

(a) APPLICATION FOR PARTICIPATION.—If a State desires to participate in the program established in chapter 2 of this subtitle or the program established in sections 365 and 366 of the Consolidated Farm and Rural Development Act (as added by chapter 3 of this subtitle), the Governor of the State may submit to the Secretary of Agriculture (in this section referred to as the "Secretary") an application therefor.

(b) SELECTION OF STATES.—

(1) RURAL INVESTMENT PARTNERSHIPS.—The Secretary shall select not more than 5 States to which to make chapter 2 applicable during any particular period, to the extent of qualifying applications therefor.

(2) RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.—The Secretary shall select not more than 5 States to which to make sections 365 and 366 of the Consolidated Farm and Rural Development Act applicable during any particular period, to the extent of qualifying applications therefor.

(c) DURATION OF PROJECTS.—

(1) RURAL INVESTMENT PARTNERSHIPS.—Chapter 2 shall apply to any State selected by the Secretary under subsection (b)(1) until September 30, 1996.

(2) RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.—Chapter 3 shall apply to any State selected by the Secretary under subsection (b)(2) until September 30, 1996.

(d) EFFECTIVE DATE.—Chapter 2 of this subtitle and sections 365, 366, 367, and 368(b) of the Consolidated Farm and Rural Development Act (as added by chapter 3 of this subtitle) shall take effect on October 1, 1991.

CHAPTER 2—RURAL INVESTMENT PARTNERSHIPS

7 USC 2007a.

SEC. 2311. DEFINITIONS.

As used in this chapter:

(1) APPROVED LOCAL BUSINESS.—The term "approved local business" means a local business that is approved to receive assistance from the revolving fund of an eligible entity as provided under the provisions of this chapter.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means an entity—

(A) that is—

(i) a nonprofit private corporation or a public entity that is—

(I) the governing body of each public regional organization (such as the governing body of an economic development district) that is chartered or otherwise organized under State law for the purpose of promoting economic development;

(II) the agency of each State that is primarily responsible for rural economic development programs within the State;

(III) the governing body of a county or other political subdivision of a State;

(IV) the governing body of a town or township within a State; or

(V) an incorporated public organization or a nonprofit private community development corporation, or similar nonprofit private organization, that is chartered or otherwise organized under State law for the purpose of promoting economic development; or

(ii) an Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), an Indian organization or entity chartered under the Act of June 18, 1934 (25 U.S.C. 1001 et seq.), commonly known as the "Indian Reorganization Act", or any tribal organization (as defined in the section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); and

(B) that—

(i) possesses the powers reasonably necessary to perform the functions and activities described in this chapter;

(ii) has a professional staff and management ability (including adequate accounting, legal, and business servicing abilities or experience); and

(iii) meets any other requirements established by the Board to carry out this chapter.

(3) INVESTMENT BOARD.—The terms "Investment Board" and "Board" mean the Rural Partnerships Investment Board established in section 2312(a).

(4) LOCAL BUSINESS.—The term "local business" means—

(A) a business concern, located in a rural area, that—

(i) is incorporated or otherwise organized under State law so that financial records and accounts are maintained regarding the business concern separate and apart from records and accounts not related to that business concern; and

(ii) is independently or cooperatively (not including borrowers under the Rural Electrification Act of 1936) owned and operated as defined by the Board; or

(B) an individual who plans to organize and operate an entity of the type described in subparagraph (A),

that meets any additional requirements that are established by the Board to carry out the intent of this Act.

(5) RURAL AREA.—The term "rural area" means all territory of a State that is not within the outer boundary of any city or town having a population of 20,000 or more based on the latest decennial census of the United States, and any neighboring urbanized area as defined by the Board.

(6) RURAL FUND.—The terms "Rural Fund" and "Fund" mean the Rural Business Investment Fund established under section 2313(a).

(7) SECRETARY.—The term "Secretary" means the Secretary of Agriculture, unless otherwise specified in this chapter.

(8) STATE.—The term "State" means any State to which the Secretary has made this chapter applicable under section 2310(b)(1).

7 USC 2007b.

SEC. 2312. RURAL PARTNERSHIPS INVESTMENT BOARD.

(a) ESTABLISHMENT.—There is established a "Rural Partnerships Investment Board" to provide lines of credit to eligible entities to enable such entities to establish, maintain, or expand revolving funds that are used to make or guarantee loans, or to make capital investments in new or expanding local businesses in conjunction with loans or investments made by depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)), State owned banks whose deposits are backed by the full faith and credit of the State, or community development credit unions chartered by the National Credit Union Administration under the Federal Credit Union Act (12 U.S.C. 1751 et seq.).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of the Investment Board shall consist of—

(A) the Administrator of the Rural Electrification Administration;

(B) the Administrator of the Rural Development Administration;

(C) the Administrator of the Extension Service of the Department of Agriculture; and

(D) two members who shall be—

(i) experienced in rural development and related matters;

(ii) appointed by the President with the advice and consent of the Senate; and

(iii) from different political parties.

(2) CHAIRPERSON.—The Chairperson of the Board shall be the Administrator of the Rural Development Administration.

(3) VACANCIES.—Vacancies on the Board shall be filled in the same manner as the vacant position was previously filled.

(4) CHIEF EXECUTIVE OFFICER.—A chief executive officer shall be selected by the Board and shall serve at the pleasure of the Board.

(5) QUORUM.—A quorum shall consist of three members of the Board. All decisions made by the Board shall require an affirmative vote of a majority of the members.

(6) COMPENSATION.—Members of the Board—

(A) specified under subparagraphs (A), (B), and (C) of paragraph (1) shall receive reasonable allowances for necessary expenses of travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States; and

(B) appointed under subparagraph (D) of paragraph (1) shall receive compensation for the time devoted to meetings and other activities at a daily rate not to exceed the daily rate of compensation prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code, and reasonable allowances for necessary expenses of

travel, lodging, and subsistence incurred in attending meetings and other activities of the Investment Board, as set forth in the bylaws issued by the Board of Directors, except that such level shall not exceed the maximum fixed by subchapter 1 of chapter 57 of title 5, United States Code, for officers and employees of the United States.

(7) RULES AND RECORDS.—The Board shall adopt such rules and procedures as it may consider appropriate for the transaction of the business of the Investment Board, and shall keep permanent and accurate records and minutes of its acts and proceedings.

(c) POWERS OF THE INVESTMENT BOARD.—The Investment Board shall be a body corporate that shall have the power to—

(1) operate under the direction of its Board;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) provide for one or more officers, employees, and agents, as may be necessary, define their duties, and require surety bonds or make other provisions against losses occasioned by acts of such persons;

(4) hire, promote, compensate, and discharge officers and employees of the Investment Board, without regard to title 5, United States Code, except that no such officer or employee shall receive an annual rate of basic pay in excess of the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code;

(5) prescribe by its Board its bylaws, that shall be consistent with law, and that shall provide for the manner in which—

(A) its officers, employees, and agents are to be selected;

(B) its property is to be acquired, held, and transferred;

(C) its general operations are to be conducted; and

(D) the privileges granted by law are to be exercised and enjoyed;

(6) with the consent of any executive department or independent agency, use the information, services, staff, and facilities of such in carrying out this chapter;

(7) enter into contracts and make advance, progress, or other payments with respect to such contracts;

(8) sue and be sued in its corporate name, and complain and defend in courts of competent jurisdiction;

(9) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property, and otherwise exercise all the usual incidents of ownership of property necessary and convenient to its operations;

(10) modify or consent to the modification of any contract or agreement to which it is a party or in which it has an interest under this chapter;

(11) make such rules and regulations as the Board determines necessary and appropriate to carry out the authority vested in the Board under this chapter;

(12) procure the temporary (not in excess of 2 years) or intermittent services of experts or consultants or organizations thereof, without regard to the civil service and classification laws and without regard to section 5 of title 41, at rates not to exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code, including traveltime, and while such individual is away from the home or regular

place of business of such individual, travel expenses as authorized under section 5703 of title 5, United States Code; and

(13) exercise other powers as set forth in this chapter, and such other incidental powers as are necessary to carry out its powers, duties, and functions in accordance with this chapter.

Credit. Business and industry. 7 USC 2007c.

SEC. 2313. ESTABLISHMENT OF INVESTMENT FUND.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established in the Treasury of the United States a fund for the use of the Board in carrying out the provisions of this chapter, that shall be known as the "Rural Business Investment Fund".

(2) AVAILABILITY.—The Fund established under paragraph (1) shall be available to the Board to provide lines of credit for revolving funds to be operated by approved eligible entities to serve local businesses in rural areas.

(b) USE.—

(1) LINES OF CREDIT.—Amounts in the fund established by subsection (a) shall be used by the Board to provide lines of credit in amounts determined appropriate by the Board, but in no event shall any such line of credit exceed $750,000 annually (up to a total amount of $2,250,000) to an approved eligible entity. Each line of credit shall be made available over a period of time established by the Board for each such entity, but in no event shall any such period of time extend beyond the date on which the Investment Board is terminated under section 2314(n).

(2) EXCEPTION.—Notwithstanding paragraph (1), if the approved eligible entity is the agency of any State that is primarily responsible for the rural economic development programs within such State, the Board may provide a line of credit to such agency in an amount that shall not exceed $1,250,000 annually (up to a total amount of $3,750,000) in the manner described in paragraph (1).

(3) AMOUNTS DRAWN FROM LINE.—Amounts drawn from each line of credit by each approved eligible entity shall be used solely as provided under this chapter and shall be drawn only as needed to provide loans, investments, or to carry out a guarantee.

(c) APPLICATIONS OF ELIGIBLE ENTITIES FOR LINES OF CREDIT.—

(1) FEDERAL REGISTER NOTICES.—The Board shall publish notices of solicitations for applications for lines of credit in the Federal Register and such notices shall contain—

(A) the application procedures established by the Board;

(B) the application requirements of paragraph (3);

(C) the deadlines for submission of applications (which shall be not less than 150 days after the publication of the applicable notice);

(D) a copy of all available response forms;

(E) a summary of the functions of the Board regarding applications; and

(F) other information determined appropriate by the Board.

(2) SUBMISSION AND CONSIDERATION.—An eligible entity that desires to receive a line of credit under this chapter shall submit an application to the Board at such time, in such form, and containing such information and documentation, including a

description of the areas to be served, as the Board shall prescribe under paragraph (1), and the Board shall consider each such application based on the requirements of this chapter.

(3) ELIGIBLE ENTITY.—

(A) MATCHING FUNDS OR LETTERS OF INTENT.—In order for an application to be considered for approval by the Board for a line of credit, each eligible entity that submits an application shall—

(i) certify in writing that the entity shall use such funds as part of a revolving fund to invest in, and make or guarantee loans to, local businesses in accordance with this chapter; and

(ii)(I) agree to provide matching funds (Federal funds shall not be used to satisfy such matching requirement) in amounts that are at least equal to the amount of the line of credit to be provided by the Board, that shall be in the form of—

(aa) cash or cash equivalents; or

(bb) letters of credit in favor of the eligible entity issued or submitted by depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)), insurance companies, similar Federally regulated financial institutions, State owned banks, local or State government or private philanthrophic foundations, as determined appropriate and acceptable by the Board; or

(II) demonstrate, through procedures determined appropriate and acceptable by the Board, that depository institutions (as so defined) or community development credit unions described in section 2312(a) of this Act, are prepared to participate with the eligible entity in a loan, guarantee, or investment program for the benefit of local businesses, and that the total financial commitment demonstrated by the letters of intent or other documents is at least equal to the value of the line of credit for which the eligible entity is applying.

(B) EXCEPTION FOR CERTAIN ELIGIBLE ENTITIES.—

(i) LOW PER CAPITA INCOME AREAS.—If the average per capita income level of the identified rural areas served by an eligible entity is less than 70 percent of the national average per capita income for the most recent year for which such information is available, such eligible entity shall only be required to match 50 percent of the funds provided by the Board in the same manner as described in subclause (I) or (II) of subparagraph (A)(ii). A list of the average per capita income and population of each county in the United States that contains rural areas, and the national average per capita income for such year, shall be published in the Federal Register and otherwise made available by the Board to the public. Federal Register, publication.

(ii) INDIAN TRIBAL COUNCIL PARTICIPATION.—

(I) IN GENERAL.—Community or tribal development corporations operated by Federally recognized tribal councils that desire to administer a local revolving fund may participate in the pro-

gram established under this chapter if such corporations meet the rules and procedures established under this chapter that are determined by the Board to be pertinent.

(II) ESTABLISHMENT OF SPECIAL RULES AND PROCEDURES.—

Loan programs.

(aa) IN GENERAL.—Not later than 220 days after the date of enactment of this Act, the Board shall establish rules and procedures to enable such community or tribal development corporations serving rural areas located on Federally recognized reservations (including former reservations in Oklahoma) to participate in the program established under this chapter through the operation of revolving funds used for investing in, and making or guaranteeing loans to, new or expanding local businesses.

(bb) CONTENTS.—Rules and procedures established under item (aa) shall be established to ensure that development corporations that receive Federal lines of credit under this chapter serve needy reservation areas, including areas that have low per capita income, high unemployment, high poverty rates, depressed or lagging local economies, and other factors determined appropriate by the Board.

(III) MATCHING REQUIREMENTS.—The requirements of subsection (c)(3) and section 2314(d) concerning the provision of matching funds and the requirement of partnerships for loans, and any related matching requirements, shall not apply to the development corporations receiving assistance under this clause.

(4) REAPPLICATION FOR LINES OF CREDIT.—

(A) IN GENERAL.—An eligible entity that has received a line of credit under this section may reapply in subsequent years for additional lines of credit if the Board makes a determination that—

(i) the applicant has demonstrated that the funds previously allocated under such line of credit have been substantially obligated and that additional demand for lending, investment, or guaranteed funding exists in the service area of the applicant;

(ii) the applicant will meet the matching requirements under subsection (c)(3); and

(iii) the applicant has administered the revolving fund consistent with this chapter and has the capacity to administer additional funds in the same manner.

(B) PRIORITY.—Eligible entities qualified to receive an initial line of credit or that will serve a service area not served by another entity shall receive priority over any applicant seeking a second or subsequent line of credit.

(5) MONITORING COMPLIANCE.—The Board shall establish procedures to monitor the compliance of each eligible entity participating in the program authorized by this chapter with the requirements of this chapter.

(6) ELIGIBLE ENTITY REVOLVING FUND REQUIREMENT.—To be eligible to receive a line of credit from the Rural Fund, the applicant eligible entity shall—

(A) demonstrate its ability or potential capacity to make sound business, lending, and investment decisions and to provide business counseling and technical assistance;

(B) demonstrate its ability to operate consistent with the requirements of this chapter and to increase the availability of credit in rural areas to promote the creation or expansion of viable businesses in rural areas;

(C) identify the proposed service area and define a strategy for serving that area that should describe such characteristics as similar industrial, labor, or other markets, similar geographic or socioeconomic conditions, or other related considerations, and, to the extent that such area includes any towns or townships, make a commitment to serve such towns or townships in their entirety;

(D) provide an assurance that its service area will consist of—

(i) all rural areas in a county if the median household income of the county is less than the Statewide nonmetropolitan median household income; or

(ii) identified rural areas in a county if—

(I) the median household income of the county is not less than the Statewide nonmetropolitan median household income; and

(II) the median household income of each rural city, town, or township to be served, and of each separate contiguous rural area to be served, is less than the Statewide nonmetropolitan median household income;

(iii) identified rural areas in a State in which the average per capita income is less than 70 percent of the nationwide per capita income; or

(iv) any county where the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce; and

(E) provide a notification that an application has been filed with the Board to each county or other local unit of government having jurisdiction over some or all of the proposed service area under procedures developed by the Board.

(7) FACTORS IN APPROVAL OF APPLICATIONS.—In determining which applications to approve, and the maximum amount of funds to be offered in each line of credit, the Board shall grant a preference to eligible entities—

(A) that have experience in serving local credit or equity needs and in making sound business and investment decisions, or that have the ability to serve such needs and make such decisions;

(B) whose boards of directors (or governing bodies if no such board exists) are composed of a cross-section of individuals (such as individuals with backgrounds in business, community development, or regional development, individuals who are State, local, or county government officials, or

individuals involved in banking, financial, or other investment activities);

(C) that are likely to stimulate significant job creation or retention and new business creation or business expansion per dollar of funds provided under this section;

(D) that submit applications that demonstrate the ability and willingness to provide to local businesses continuing technical and management assistance, training, financial and business guidance, and planning;

(E) that demonstrate that the activities of the eligible entity are consistent with State, county, or local goals, whichever is applicable, regarding long-term economic growth and community development;

(F) that submit applications containing a comprehensive investment strategy, developed in consultation with the applicable State, regional council or government, and county or other general purpose unit of local government; and

(G) that propose to serve a service area—

(i) whose unemployment or poverty rates exceed the Statewide nonmetropolitan average;

(ii) with special needs arising from actual or threatened severe unemployment arising from economic dislocation; or

(iii) that includes any county in which the net migration population loss is at least 5 percent or greater from April 1, 1980, to July 1, 1987, as reported by the Census Bureau of the Department of Commerce.

(8) GEOGRAPHIC SPREAD.—

(A) IN GENERAL.—In awarding lines of credit under this section the Board shall attempt, as much as reasonably practicable and consistent with sound financial judgment, to assure that all rural regions of the United States benefit from such awards.

(B) MINIMUM AMOUNT OF FUNDS.—After considering the availability of qualified applications, and if consistent with good investment practices and the other requirements of this chapter, the Board shall approve the application of at least one eligible entity in each State selected under section 2310(b)(1). The Board shall, to the maximum extent practicable and appropriate, ensure that eligible entities that are approved by the Board in any given State receive at least $750,000 (per State) out of the funds provided under subsection (d). In addition, to the maximum extent practicable the Board shall approve the applications of at least two eligible entities in each State containing an approved eligible entity.

(C) MAXIMUM AMOUNT OF FUNDS.—The total amount of funds provided under this chapter to eligible entities in any State shall not exceed $10,000,000.

(D) SPECIAL PROGRAM.—

Regulations.

(i) IN GENERAL.—The Board shall issue regulations to establish a program that targets the benefits of the Federal lines of credit provided under this section to those rural areas and residents with special needs.

(ii) LIMITS.—If consistent with sound investment practices, not less than 5 percent, nor more than 15

percent, of the funds appropriated under subsection (d) shall be issued to eligible entities that will serve—

(I) local businesses located in very distressed rural areas, as defined by the Board, that may include areas with special needs arising from actual or threatened severe unemployment which results from economic dislocation; and

(II) local businesses that provide beneficial services to rural residents such as improved medical, hospital, or health care, licensed day care facilities or centers, improved services for the handicapped, the disabled, the elderly or other needy individuals, improved educational opportunities, improved public transportation services for needy individuals, or other related services as determined appropriate by the Board.

(d) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this chapter, there are authorized to be appropriated to the Rural Fund and the Board $10,000,000 for fiscal year 1992, $8,600,000 for fiscal year 1993, $6,700,000 for fiscal year 1994, and $4,700,000 for each of fiscal years 1995 and 1996. Amounts appropriated under this subsection shall remain available until expended or until the Board is terminated.

(e) RELOCATION AND REFINANCING.—The Board shall establish rules and procedures to prohibit eligible entities from using the assistance received under this chapter for loans and investments, or for issuing guarantees, that would— Regulations.

(1) facilitate the relocation of a local business from one community to another;

(2) refinance the existing debt of a local business, except that such refinancing may be undertaken with such assistance if it is undertaken in conjunction with a substantial expansion effort by the local business; or

(3) significantly reduce the viability of a then existing business engaged in substantially the same business activities in the same community.

SEC. 2314. LOCAL REVOLVING FUNDS.

Business and industry. Credit. 7 USC 2007d.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Each eligible entity approved by the Board to participate in the program established under this chapter shall establish a local revolving fund account in which to deposit—

(A)(i) amounts received from the Fund under this chapter;

(ii) any local matching funds described in section 2313(c)(3)(A); and

(iii) any profits or income, repayments of loans, proceeds from the sale of equity investments, or other gains or returns on investments or loans, derived from the activities of the revolving fund established under this subsection; less

(B) reasonable operating expenses or losses incurred in administering such fund.

(2) PLACE OF ESTABLISHMENT.—Each local revolving fund established under this subsection may be established in one or more member banks of the Federal Reserve System, any Federally insured State nonmember bank (as defined in section 3(b) of

the Federal Deposit Insurance Act (12 U.S.C. 1813(b))), or any State owned bank whose deposits are backed by the full faith and credit of the State, and the funds, except as provided in subsection (b) of this section, shall be held in cash and receive interest or be invested in direct obligations of the United States or in obligations guaranteed by the United States or an agency thereof.

(b) USE OF FUND.—Amounts in a local revolving fund may be used—

(1) to provide loans or equity capital, or loan guarantees, to approved local businesses as authorized in this chapter, under procedures established by the Board;

(2) to cover the costs of providing training, business or financial planning, or management or technical assistance to approved local businesses in amounts that do not exceed amounts or levels described in standards established by the Board;

(3) if financial investments are made in the eligible entity, in accordance with item (aa) or (bb) of section 2313(c)(3)(A)(ii)(I), to provide for a return of capital to non-Federal investors in the revolving fund, except that if such revolving fund experiences capital or other losses the share of returned capital under this paragraph shall be proportionately, or otherwise appropriately reduced to reflect such losses, under procedures established by the Board; or

(4) to cover reasonable operating or capital expenses, losses, or for other charges as prescribed in rules or standards established by the Board.

(c) DECISIONS CONCERNING FUNDING.—Eligible entities that receive a line of credit under section 2313 shall make case-by-case determinations concerning applications submitted by each local business for loans, equity capital, or loan guarantees, under general procedures and requirements established by the Board.

(d) REQUIREMENT OF PARTNERSHIPS FOR LOANS OR INVESTMENTS.—Funds in each local revolving fund shall be loaned, invested, or used to provide a guarantee, only if one or more depository institutions (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or community development credit unions described in section 2312(a) of this Act, under procedures established by the Board, match each investment or loan made by each such revolving fund to each such local business, on at least a dollar-for-dollar basis, or provide the funds for the loans that are guaranteed by such local revolving fund.

(e) INVESTMENT SIZE LIMITS.—

(1) IN GENERAL.—

(A) AMOUNT PER LOCAL BUSINESS.—The amount of Federal funds provided from any revolving fund for use in making loans or investments, or available regarding each guarantee, shall not exceed $250,000 in any given calendar year, to any single approved local business or to other local businesses that are financially connected or otherwise related to such local business as defined by the Board.

(B) OTHER SOURCES.—This chapter shall not be construed to limit the total amount of loans, investments, or guarantees that each local business may receive from sources other than eligible entities.

(C) PROCEDURES.—In implementing this paragraph the Board shall develop procedures to establish, impute, or determine the amount of Federal funds that shall be considered available in the revolving funds created by approved eligible entities.

(2) INELIGIBILITY.—Any local business that employs 100 or more employees shall not be eligible to receive assistance from a local revolving fund that receives assistance under this chapter.

(f) SUBORDINATED INTEREST OF LOCAL REVOLVING FUND.—If a depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)) or a community development credit union described in section 2312(a) of this Act has made an investment or loan in a local business in conjunction with an investment or loan made out of the revolving fund of an approved eligible entity, the amount invested or loaned by such revolving fund in such local business may be subordinated to any degree and in any manner.

(g) OTHER INVESTORS.—A depository institution (as defined in section 3(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(1)), community development credit union described in section 2312(a) of this Act, similar Federally regulated financial institution, State owned bank, local or State government, private philanthrophic foundation, or other entity that contributes capital to an eligible entity that receives Federal assistance under this chapter may establish contractual arrangements with such eligible entity concerning the return of such investments in the local revolving fund consistent with subsection (b)(3).

(h) ADDITIONAL CAPITAL.—The Board shall promulgate regulations that provide each participating eligible entity with a sufficient amount of time to obtain additional capital, lines of credit, or letters of intent, if any investor, pursuant to the contract with the eligible entity under subsection (g), withdraws some or all of its investment. Regulations.

(i) CONTINUATION OF LINE OF CREDIT.—A line of credit provided to an approved eligible entity under section 2313 for use in a local revolving fund shall be available to be drawn upon until the Investment Board is terminated or until the line of credit is canceled, revoked, or suspended by the Board or the Secretary as described in section 2315 or subsection (l) of this section.

(j) CONTINUATION OF BUSINESS PROMOTION ACTIVITIES.—The Federal assistance provided to any eligible entity under this chapter shall become the property of such entity on the termination of the Investment Board if—

(1) the Board determines that the eligible entity that administers the local revolving fund has operated the fund in a manner that is consistent with this chapter; and

(2) the eligible entity contracts with the Secretary to continue to provide lending, investment, and guarantee assistance consistent with this chapter.

(k) DEVELOPMENT OF MONITORING PROCEDURES.—On and after the date on which the Investment Board is terminated, the Secretary shall act in place of the Board and shall monitor the operations of eligible entities that receive Federal assistance under this chapter which continue to exist on such date.

(l) REFUND OF FUNDS.—Notwithstanding subsection (j), and in addition to any actions taken under section 2315, if the Secretary finds that the purpose of any eligible entity is no longer to promote business development in a manner consistent with this chapter, the

Secretary shall revoke the approval of the eligible entity, obtain a refund in an amount equal to the amount of funds drawn out of the Federal line of credit issued to the eligible entity together with an appropriate amount of interest on such amount, as determined by the Secretary, and succeed to, or acquire the rights, privileges, and assets, investments of, and the payments due from such eligible entity, as described in section 2315(h).

(m) ANNUAL REPORTS TO THE BOARD.—

(1) IN GENERAL.—Each eligible entity that receives assistance under this chapter shall annually prepare and submit to the Board, at such time and in such form as the Board may require, a report describing the financial condition of the eligible entity, and the investments, cash revenues, income from investments, loans made, equity positions taken, guarantees issued, losses sustained or taken, any training, business, or technical assistance, or financial planning provided, operating expenses, loss rates, and such other matters as the Board determines appropriate concerning the eligible entity.

(2) POST TERMINATION.—After the Board terminates under subsection (n), the reports required under paragraph (1) shall be submitted to the Secretary who shall stand in the same position as the Board.

(n) TERMINATION OF BOARD.—The Investment Board established by section 2312(a) shall terminate on the last day of the 5th calendar year following the date of enactment of this chapter and on and after such date the Secretary shall act in place of such Board.

7 USC 2007e.

SEC. 2315. COMPLIANCE AND ENFORCEMENT.

(a) REVOCATION OR CANCELLATION OF LINE OF CREDIT AND REFUND.—

(1) GROUNDS FOR REVOCATION.—The Board shall revoke or suspend a line of credit, and shall request a full or partial refund of the Federal investment, with an appropriate amount of interest—

(A) for false statements knowingly made in any written statement required under this chapter, or under any regulation or Federal Register notice issued under this chapter;

(B) if any written statement required under this chapter, or under any regulation or Federal Register notice issued under this chapter, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(C) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this chapter;

(D) for willful or repeated violation of, or willful or repeated failure to observe, any rule or regulation authorized under this chapter; or

(E) for violation of, or failure to observe, any cease and desist order issued by the Board under this subsection.

(2) CANCELLATION OF LINE OF CREDIT.—Notwithstanding any action taken under paragraph (1), the Board may cancel any prospective payments to be made from any approved line of credit under this chapter if the Board determines that the eligible entity participating in the program established under this chapter made an investment, or acted in a manner, that was inconsistent with any provision of this chapter.

(3) CEASE AND DESIST ORDERS.—If an eligible entity has not complied with any provision of this chapter, or of any regulation issued pursuant thereto, or is engaging or is about to engage in conduct that constitutes or will constitute a violation of this chapter or such regulation, the Board may order such entity to cease and desist from such conduct. The Board may further order such entity to take such action or to refrain from such action as the Board determines necessary to ensure compliance with this chapter and the regulations issued thereunder.

(4) ORDER TO SHOW CAUSE, CONTENTS, AND HEARING.—

(A) ORDER.—Prior to revoking or suspending a line of credit under paragraph (1) or (2), or issuing a cease and desist order under paragraph (3), the Board shall serve on the eligible entity an order to show cause why an order revoking or suspending the line of credit or a cease and desist order should not be issued.

(B) CONTENTS.—An order to show cause under subparagraph (A) shall contain a statement of the matters of fact and law asserted by the Board and the legal authority and jurisdiction under which a hearing is to be held, and shall state that a hearing will be held before the Board at a time and place stated in the order.

(C) HEARING.—If, after a hearing under subparagraph (B) or a waiver thereof, the Board determines on the record that an order revoking or suspending the line of credit, or a cease and desist order should be issued, or an order requiring a refund of the Federal investment in addition to reasonable interest thereon should issue, the Board shall promptly issue such order, which shall include a statement of the findings of the Administration and the reasons for such findings and specify the effective date of the order, and shall cause the order to be served on the entity.

(5) SUBPOENA OF PERSONS, BOOKS, PAPERS, AND DOCUMENTS; FEES AND MILEAGE; ENFORCEMENT.—

(A) SUBPOENA.—The Board may require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States.

(B) FEES AND MILEAGE.—Witnesses summoned before the Board shall be paid by the party at whose instance such witnesses were called the same fees and mileage that are paid witnesses in the courts of the United States.

(C) ENFORCEMENT.—In the case of disobedience to a subpoena under this paragraph, the Board, or any party to a proceeding before the Board, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(6) PETITION TO MODIFY OR SET ASIDE ORDER; FILING, TIME AND PLACE, ADMINISTRATION TO SUBMIT RECORD; ACTION OF COURT; REVIEW.—

(A) IN GENERAL.—An order issued by the Board under this subsection shall be final and conclusive unless not later than 30 days after the service thereof the eligible entity appeals to the United States Court of Appeals for the circuit in which such corporation has its principal place of business by filing with the clerk of such court a petition

praying that the order of the Board be set aside or modified in the manner stated in the petition.

(B) FILING.—

(i) LEAVE OF COURT.—After the expiration of the 30-day period referred to in subparagraph (A), a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition prior to the expiration of such period.

(ii) CERTIFICATION.—The clerk of the court shall, on filing, cause a copy of the petition to be delivered to the Board and the Board shall certify and file in the court a transcript of the record on which the order was entered. If prior to the filing of such record the Board amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, after providing notice to the Board.

(C) STAY OR SUSPENSION OF ORDER.—The filing of a petition for review under this paragraph shall not of itself stay or suspend the operation of the order of the Board, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition.

(D) ACTION BY COURT.—The court may affirm, modify, or set aside the order of the Board.

(E) ADDITIONAL EVIDENCE.—

(i) DETERMINATION.—If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Board to reopen the hearing for the taking of such evidence, in such manner and on such terms and conditions as the court may consider appropriate.

(ii) FINDINGS.—The Board may modify its findings as to the facts, or make new findings, by reason of the additional evidence taken under this subparagraph, and it shall file its modified or new findings and the amendments, if any, of its order, with the records of such additional evidence.

(F) CONSIDERATION OF OBJECTIONS.—The court shall not consider an objection to an order of the Board unless the objection was argued before the Board or, if it were not so argued, unless there were reasonable grounds for failure to do so.

(G) REVIEW.—The judgment and decree of the court affirming, modifying, or setting aside any such order of the Board shall be subject only to review by the Supreme Court of the United States on certification or certiorari as provided in section 1254 of title 28, United States Code.

(7) ENFORCEMENT OF ORDER.—If the entity against which or against whom an order is issued under this subsection fails to obey the order, the Board may apply to the United States Court of Appeals for the circuit where the entity has its principal place of business, for the enforcement of the order, and shall file a transcript of the record on which the order complained of was entered. On the filing of the application, the court shall cause notice thereof to be served on the entity. The evidence to be considered, the procedure to be followed, and the jurisdiction of

the court shall be the same as is provided in paragraph (6) for applications to set aside or modify orders.

(b) INVESTIGATIONS AND EXAMINATIONS.—

(1) AUTHORITY.—

(A) IN GENERAL.—The Board may conduct such investigations as the Board considers necessary to determine whether an eligible entity has engaged in any conduct that constitutes or will constitute a violation of any provision of this chapter, of any regulation issued under this chapter, or of any order issued under this section.

(B) FILING OF STATEMENTS.—The Board shall permit any individual to file a statement with the Board in writing, under oath, or otherwise as the Board shall determine, as to all the facts and circumstances concerning the matter to be investigated.

(C) SUBPOENA.—For the purpose of any investigation under this subsection, the Board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(D) REFUSAL TO OBEY.—In case of contumacy by, or refusal to obey a subpoena issued to, any individual, including an entity or corporation, the Board may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such individual resides or carries on business activity, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents, and such court may issue an order requiring such individual to appear before the Board, to produce records, if so ordered, or to give testimony touching the matter under investigation.

(E) CONTEMPT.—A failure to obey an order of the court under this subsection shall be punishable by such court as a contempt thereof. All process in any such case may be served in the judicial district where such individual is an inhabitant or wherever such individual may be found.

(2) EXAMINATIONS AND REPORTS.—

(A) EXAMINATIONS.—An eligible entity under this chapter shall be subject to examinations made by the Board through examiners selected or approved by the Board, and the cost of such examinations, including the compensation of the examiners, may in the discretion of the Board be assessed against the entity examined and when so assessed shall be paid by such entity.

(B) REPORTS.—Such entities shall prepare and submit reports to the Board at such times and in such form as the Board may require.

(3) EXAMINATIONS.—Each eligible entity shall be examined and audited at least once every 2 years, under procedures established by the Board, to determine whether or not such entity has been operated in a manner consistent with this chapter and in an otherwise lawful manner, except that the Board may defer the examination for not more than 1 year if, in

its discretion, the Board determines that such a deferral would be appropriate based on the prior operating experience of the entity, the contents and results of the last examination of the entity, and the management expertise of the entity.

(c) INJUNCTIONS OR OTHER ORDERS.—

(1) GROUNDS AND JURISDICTION OF COURT.—If, in the judgment of the Board, an eligible entity has engaged or is about to engage in conduct that constitutes or will constitute a violation of any provision of this chapter, of any regulation under this chapter, or of any order issued under this section, the Board may apply to the proper district court of the United States or a United States court located in any jurisdiction subject to the laws of the United States, for an order enjoining such conduct or enforcing compliance with such provision, rule, regulation, or order. Such court shall have jurisdiction over such conduct and, on a showing by the Board that such entity has engaged in or is about to engage in such conduct, may issue a permanent or temporary injunction, restraining order, or other order without bond.

(2) EQUITY JURISDICTION OF CORPORATION AND ASSETS.—In any proceeding under this section, the court as a court of equity may, to such extent as it considers necessary, declare that such court has exclusive jurisdiction over the entity and the assets thereof, wherever located. Such court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(3) TRUSTEESHIP OR RECEIVERSHIP.—The Board shall have authority to act as trustee or receiver of an entity under this section. On request by the Board, the court may appoint the Board to act in such capacity unless the court determines such appointment to be inequitable or otherwise inappropriate because of the special circumstances involved.

(d) UNLAWFUL ACTS AND OMISSIONS BY OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS.—

(1) VIOLATION OF CHAPTER.—It shall be unlawful for any eligible entity to violate any provision of this chapter or any regulation issued under this chapter, or for any individual, directly or indirectly, to authorize, order, or participate in, or cause, bring about, counsel, aid, or abet conduct that constitutes or will constitute, in whole or in part, such a violation.

(2) BREACH OF FIDUCIARY DUTY.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of an eligible entity to engage in conduct, in breach the fiduciary duty of such individual or such officer, director, employee, agent, or participant, if, as a result thereof, the entity has suffered or is in imminent danger of suffering financial loss or other damage.

(3) DISQUALIFICATION OF OFFICERS AND EMPLOYEES.—Except on the written consent of the Board, it shall be unlawful for any individual to take or continue to hold office as an officer, director, or employee of an eligible entity, or become or continue to be an agent or participate in the conduct of the affairs or management of an eligible entity if such individual has been—

(A) convicted of a felony, or of any other criminal offense involving dishonesty or breach of trust; or

(B) found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any conduct involving fraud or breach of trust.

(e) PENALTIES AND FORFEITURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity that violates any regulation or written directive issued by the Board requiring the filing of any regular or special report under this chapter, shall forfeit and pay to the United States a civil penalty of not more than $100 for each and every day of the continuance of the corporation's failure to file such report, unless the entity demonstrates that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this subsection shall accrue to the United States and may be recovered in a civil action brought by the Board.

(2) EXEMPTION.—At any time before a failure under paragraph (1), and after notice and opportunity for hearing, the Board may through rules and regulations, or on application of an interested party, by order, exempt in whole or in part, any entity from the provisions of paragraph (1), on such terms and conditions and for such period of time as the Board determines necessary and appropriate, if the Board finds that such action is not inconsistent with the public interest or the protection of the Board. The Board may for purposes of this subsection impose any alternative requirements appropriate to the situation.

(f) JURISDICTION AND SERVICE OF PROCESS.—Any suit or action brought under this section by the Board to enforce any liability or duty created by, or to enjoin any violation of, this chapter, or any rule, regulation, or order promulgated thereunder, shall be brought in the district in which the eligible entity maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

(g) SUBSTITUTION OF SECRETARY.—On the termination of the Board, the Secretary shall stand in place of the Board and shall possess all the powers, privileges, and rights regarding compliance and enforcement described in this section and in section 2314.

(h) REVOCATION, SUSPENSION, OR TERMINATION.—If the approval of any eligible entity to participate in this program is revoked, suspended, or terminated, or if the activities of the eligible entity otherwise end, the Board, or the Secretary, upon the termination of the Board, shall—

(1) possess all the rights and privileges of such eligible entity;

(2) succeed to the assets of such eligible entity to the extent necessary to obtain a refund of any amounts due to the Board or the Secretary;

(3) be entitled to receive any payments due to such eligible entity from any local businesses on any outstanding loans; and

(4) take over any equity investment held by such eligible entity.

Intergovernmental relations.

CHAPTER 3—RURAL ECONOMIC DEVELOPMENT REVIEW PANELS

SEC. 2316. DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

(a) IN GENERAL.—The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the section added by section 2301(a)(1) of this Act the following new sections:

7 USC 2008.

"SEC. 365. SYSTEM FOR DELIVERY OF CERTAIN RURAL DEVELOPMENT PROGRAMS.

"(a) IN GENERAL.—

"(1) ASSISTANCE IN ELIGIBLE STATES.—Assistance under each designated rural development program shall be provided in eligible States to qualified projects in accordance with this section.

"(2) NO ASSISTANCE IN OTHER STATES.—The Secretary shall not provide assistance under any designated rural development program in any State that is not an eligible State.

"(b) DEFINITIONS.—As used in this section and section 366:

"(1) AREA PLAN.—The term 'area plan' means, with respect to a local or regional area in a State, the long-range rural development plan developed for the area. Each area plan shall identify the geographical boundaries of the area and include—

"(A) an overall development plan for the area with goals, including business development and infrastructure development goals, and time lines based on a realistic assessment of the area, including, but not limited to—

"(i) the number and types of businesses in the area that are growing or declining, and a list of the types of businesses that the area could potentially support;

"(ii) the outstanding need for water and waste and other public services or facilities in the area;

"(iii) the realistic possibilities for industrial recruitment in the area;

"(iv) the potential for the development of tourism in the area;

"(v) the potential for the generation of employment in the area through the creation of small businesses and the expansion of existing businesses; and

"(vi) the potential for the production of value-added agricultural products in the area;

"(B) an inventory and assessment of the human resources of the area, including, but not limited to—

"(i) a current list of organizations in the area and their special interests;

"(ii) the current level of participation of area residents in rural development activities and the level of participation required for successful implementation of the plan;

"(iii) the availability of general and specialized job training in the area and the extent to which the needs of the area for such training are not being met;

"(iv) a list of area residents with special skills which could be useful in developing and implementing the plan; and

"(v) an analysis of the human needs of the area, the resources in the area available to meet those needs, and

the manner in which the plan, if implemented, would increase the resources available to meet those needs;

"(C) the current degree of intergovernmental cooperation in the area and the degree of such cooperation needed for the successful implementation of the plan;

"(D) the ability and willingness of governments and citizens in the area to become involved in developing and implementing the plan;

"(E) a description of how the governments in the area will apply budget and fiscal control processes to the plan; and

"(F) the extent to which public services and facilities need to be improved to achieve the economic development and quality of life goals of the plan, taking into consideration, at a minimum—

"(i) law enforcement;

"(ii) fire protection;

"(iii) water and solid waste management;

"(iv) education;

"(v) health care;

"(vi) transportation;

"(vii) housing;

"(viii) communications; and

"(ix) the availability of, and capability to generate, electric power.

"(2) DESIGNATED RURAL DEVELOPMENT PROGRAM.—The term 'designated rural development program' means a program carried out under section 304(b), 306(a), or subsections (a) through (f) and (h) of section 310B of this Act, or under section 1323 of the Food Security Act of 1985, for which funds are available at any time during the fiscal year under such section.

"(3) ELIGIBLE STATE.—

"(A) REQUIREMENTS.—The term 'eligible State' means, with respect to a fiscal year, a State to which this section is made applicable under section 2310(b)(2) of the Rural Economic Development Act of 1990, and with respect to which all of the following apply not later than the first day of the fiscal year:

"(i) ESTABLISHED RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.—The State has established an advisory rural economic development review panel that meets the requirements of section 366.

"(ii) APPOINTED STATE COORDINATOR.—The Governor of the State has appointed an officer or employee of the State government to—

"(I) manage, operate, and carry out the instructions of, the panel described in clause (i);

"(II) serve as a liaison between the panel and the Federal and State agencies involved in rural development, including transmitting to the Secretary any list transmitted to the State coordinator pursuant to section 366(b)(6);

"(III) ensure that all rural residents in the State are informed about the manner in which assistance under designated rural development programs is to be provided to the State pursuant to this section and section 366;

"(IV) provide information to State residents, on request, about the manner in which assistance under designated rural development programs is to be provided to the State pursuant to this section and section 366; and

"(V) coordinate the efforts of interested rural residents with the State rural economic development review panel.

"(iii) DESIGNATED AGENCY TO PROVIDE ADMINISTRATIVE SUPPORT TO PANEL.—The State has designated an agency to provide the panel and the State coordinator with support for the daily operation of the panel described in clause (i).

"(B) GOOD FAITH EXCEPTION.—Notwithstanding the requirements of subparagraph (A), the Secretary of Agriculture may determine, no later than the first day of the fiscal year, a State to be an eligible State under this paragraph for the fiscal year if the Secretary determines that the State has made a good faith effort to meet, and has substantially met, such requirements.

"(4) QUALIFIED PROJECT.—The term 'qualified project' means any project—

"(A) for which the agency described in paragraph (3)(C) of the State has identified—

"(i) the alternative Federal, State, local, or private sources of assistance; and

"(ii) the related activities in the State; and

"(B) to which the Secretary is required by subsection (c)(4) to provide assistance.

"(5) STATE COORDINATOR.—The term 'State coordinator' means the individual appointed by the Governor of the State to carry out the activities described in paragraph (3)(B).

"(6) STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.—The term 'State rural economic development review panel' or 'panel' means an advisory panel that meets the requirements of section 366.

"(c) DUTIES OF THE SECRETARY.—The Secretary shall, with respect to each eligible State—

"(1) review the list, if any, transmitted pursuant to subsection 366(b)(6) by any State coordinator;

"(2) determine whether each project described in an application in the list meets the requirements of the rural development program under which the application seeks assistance;

"(3) remove from the list any application for a project that does not meet the requirements;

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"(4) provide assistance, subject to available funds, to the projects in the applications remaining in the list after the list has (if necessary) been modified pursuant to paragraph (3), giving consideration to the order in which the applications for such projects are ranked by the respective State panel, and, if assistance is provided to any project without providing assistance to all projects ranked higher in priority by the panel than such project, report to the panel, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate within ten days of determining to fund such lower ranked project on the reasons for that determination;

"(5) within thirty days after the date of the enactment of any Act providing appropriations for any designated rural development program for any fiscal year, notify each State of the amounts to be made available to such State under such program for such fiscal year, and the aggregate for such fiscal year of such amounts under all the designated rural development programs;

"(6) pay per diem or otherwise reimburse each full-time officer or employee of the United States who is a member of a State rural economic development review panel for expenses incurred each day (including travel time) during which the officer or employee is engaged in the actual performance of a duty of the panel;

"(7) from amounts appropriated for grants under any provision of section 306(a), make grants not to exceed $100,000 annually to each eligible State for the administrative costs associated with the State rural economic development review panel meeting the requirements of section 366; and

"(8) appoint a member to the State rural economic development review panel as provided under section 366(c)(1)(P).

"(d) OFFICIAL INFORMATION.—The Secretary may appoint as nonvoting members, temporarily and for specific purposes, personnel from any department or agency of the United States, with the consent of the head of such department or agency, with expertise not available among the members of any State rural economic development review panel as may be necessary to enable the panel to perform a duty described in section 366(b).

"(e) ALLOCATION OF APPROPRIATED FUNDS.—

"(1) INITIAL ALLOCATION.—The Secretary shall allocate the sums appropriated for direct loans, loan guarantees, or grants for any designated rural development program made available to any eligible State under such program for any fiscal year to the projects specified in subsection (c)(4) giving great weight to the order in which the applications for such projects are ranked on the list specified in subsection (c)(1).

"(2) EQUITABLE REALLOCATION OF UNOBLIGATED FUNDS.—Notwithstanding paragraph (1), the Secretary shall, on July 15 of each year, and from time to time thereafter during the fiscal year as the Secretary determines appropriate, pool from among the eligible States any unobligated funds appropriated for direct loans, loan guarantees, or grants for each designated rural development program and reallocate such funds among the eligible States according to need, as determined by the Secretary.

"(f) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to any State rural economic development review panel.

"(g) NO LIABILITY OF MEMBERS OF STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANELS.—The members of a State rural economic development review panel shall not be liable to any person with respect to any determination made by the panel.

"(h) ELIGIBILITY FOR WATER AND WASTE FACILITY LOANS.—

"(1) RURAL ELECTRIFICATION PROGRAM BORROWERS.—Notwithstanding any other provision of law, a borrower under title III of the Rural Electrification Act of 1936 shall be eligible to receive loans and grants under section 306 on an equal basis with any other applicant for such assistance, and the terms and condi-

tions, rules, criteria and other provisions of section 306 shall apply to such a borrower. In the case of applications from such a borrower, the Administrator of the Rural Electrification Administration shall provide technical assistance with respect to water and waste facilities and loans and grants for such facilities.

"(2) PROHIBITION ON RESTRICTING WATER AND WASTE FACILITY SERVICES TO ELECTRIC CUSTOMERS.—The Secretary shall establish rules and procedures that prohibit borrowers under title III of the Rural Electrification Act of 1936 from conditioning or limiting access to, or the use of, water and waste facility services financed under the Consolidated Farm and Rural Development Act if such conditioning or limiting is based on whether individuals or entities in the area served or proposed to be served by such facility receive, or will accept, electric service from such borrower.

7 USC 2008a.

"SEC. 366. STATE RURAL ECONOMIC DEVELOPMENT REVIEW PANEL.

"(a) IN GENERAL.—In order for a State to become or remain an eligible State, the State must have a State rural economic development review panel that meets all of the requirements of this section.

"(b) DUTIES.—The panel must be required to advise the Secretary on the desirability of funding applications for funding from designated rural development programs, and, in developing such advice, the panel must have the following duties:

"(1) REVIEW RURAL DEVELOPMENT PLANS OF LOCAL AREAS.—To review each area plan submitted by a local or regional area.

"(2) EVALUATE AREA PLANS AND APPLICATIONS FOR ASSISTANCE.—(A) AREA PLANS.—To evaluate, pursuant to a written policy and criteria, each area plan submitted by a local or regional area and either—

"(i) accept any area plan that is technically and economically adequate, feasible, and likely to succeed in meeting the stated goals of the plan, unless the plan is incompatible with any other area plan for that area that has been accepted by the panel; or

"(ii) return any plan that is technically or economically inadequate, infeasible, unlikely to be successful, or incompatible with any other area plan for that area that has been accepted by the panel, with an explanation of the reasons for the return with suggested alternative proposals.

In evaluating area plans under this subparagraph, the panel must give great weight to the area plans or other comments submitted by intergovernmental development councils, or similar organizations made up of local elected officials, charged with the responsibility for rural or regional development.

"(B) APPLICATIONS FOR ASSISTANCE.—To evaluate each application for assistance to determine whether the project to be carried out in any area is compatible with the area plan for the area in which the project described in the application is proposed, and either—

"(i) accept any application that the panel determines to be compatible with such area plan; or

"(ii) return to the Rural Development Administration any application that the panel determines to be incompatible with such area plan.

"(3) REVIEW AND RANK APPLICATIONS FOR ASSISTANCE UNDER DESIGNATED RURAL DEVELOPMENT PROGRAMS FROM AREAS WITH ACCEPTED AREA PLANS.—To review applications for assistance, that have been accepted pursuant to paragraph (2)(B), for projects to be carried out in any area the area plan for which has been accepted pursuant to paragraph (2)(A), taking into account the sources of assistance and related activities identified pursuant to section 365(b)(4)(A), and to rank such applications, subject to paragraphs (4) and (5), pursuant to a written policy and criteria, in an order that takes into account—

"(A) in the case of business projects described in the application—

"(i) the extent to which a project would—

"(I) stimulate rural development by creating new jobs of a permanent nature or retaining existing jobs by enabling new small businesses to be started, or existing businesses to be expanded by local or regional area residents who own and operate the businesses,

"(II) contribute to the enhancement and the diversification of the local or regional area economy,

"(III) generate or retain jobs for local or regional area residents,

"(IV) be carried out by persons with sufficient managerial capability,

"(V) be likely to become financially viable, and

"(VI) assist a local or regional area in overcoming severe economic distress;

"(ii) the distribution of assistance to projects in as many areas as possible in the State, with sensitivity to geographical distribution;

"(iii) the technical aspect of the projects;

"(iv) the market potential and marketing arrangements for the projects; and

"(v) the potential of such project to promote the growth of a rural community by improving the ability of the community to increase the number of persons residing therein and by improving the quality of life of such persons; and

"(B) in the case of infrastructure and community facility projects described in the applications the extent to which a project would—

"(i) have the potential to promote the growth of a rural community by improving the quality of life for local or regional area residents;

"(ii) affect the health and safety of local or regional area residents;

"(iii) affect business productivity and efficiency;

"(iv) enhance commercial business activity;

"(v) have the potential to promote long-term growth, including by increasing the number of persons residing in a rural community;

"(vi) address a severe loss or lack of water quality or quantity;

"(vii) bring a community into compliance with Federal or State water or waste water standards; and

"(viii) consolidate water and waste systems and utilize management efficiencies in new systems.

"(4) PRIORITY RANKING FOR PROJECTS ADDRESSING HEALTH EMERGENCIES.—To give priority in reviewing and ranking, notwithstanding the criteria established in paragraph (3), to applications for projects designed to address a health emergency declared to be such by the appropriate Federal or State government agency.

"(5) PRIORITY BASED ON NEED.—If in ranking applications pursuant to paragraphs (3) and (4), 2 or more applications are determined to have comparable strengths in their feasibility and potential for growth, to give priority to the applications for projects for which there is the greatest need.

"(6) TRANSMIT LIST OF RANKED APPLICATIONS.—To transmit to the State coordinator a list of all applications received and indicate on the list—

"(A) for all applications accepted, the rank of such applications in accordance with paragraphs (3), (4) and (5); and

"(B) for all applications returned, the fact that the application was returned pursuant to paragraph (2) and instruct the State coordinator to transmit the list to the Secretary.

"(7) AVAILABILITY OF LIST OF RANKED APPLICATIONS.—To make available to the public the list of ranked applications submitted under paragraph (6) and to provide a brief explanation and justification of why the project applications received their prioritization.

"(8) ESTABLISHMENT AND REVIEW OF WRITTEN POLICY AND CRITERIA FOR EVALUATING AND RANKING APPLICATIONS.—To establish and annually review the written policy and criteria used by the panel in evaluating and ranking applications in accordance with this subsection to ensure that the policy and criteria are consistent with current rural developmental needs, and to provide for public input during the development of the initial policy and criteria.

"(c) MEMBERSHIP.—

"(1) VOTING MEMBERS.—The panel must be composed of not more than sixteen voting members who are representatives of rural areas—

"(A) one of whom is the Governor of the State or the person designated by the Governor to serve on the panel on behalf of the Governor for that year;

"(B) one of whom is the director of the State agency responsible for economic and community development or the person designated by the director to serve on the panel on behalf of the director for that year;

"(C) one of whom is appointed by a statewide association of banking organizations;

"(D) one of whom is appointed by a statewide association of investor-owned utilities;

"(E) one of whom is appointed by a statewide association of rural telephone cooperatives;

"(F) one of whom is appointed by a statewide association of noncooperative telephone companies;

"(G) one of whom is appointed by a statewide association of rural electric cooperatives;

"(H) one of whom is appointed by a statewide association of health care organizations;

"(I) one of whom is appointed by a statewide association of existing local government-based planning and development organizations;

"(J) one of whom is appointed by the Governor of the State from either a statewide rural development organization or a statewide association of publicly-owned electric utilities, neither of which is described in any of subparagraphs (C) through (I);

"(K) one of whom is appointed by a statewide association of counties;

"(L) one of whom is appointed by a statewide association of towns and townships, or by a statewide association of municipal leagues, as determined by the Governor;

"(M) one of whom is appointed by a statewide association of rural water districts;

"(N) the State director of the Federal small business development center (or, if there is no small business development center in place with respect to the State, the director of the State office of the Small Business Administration);

"(O) the representative for that State of the Economic Development Administration of the Department of Commerce; and

"(P) one of whom is appointed by the Secretary from among the officers and employees of the Federal Government.

"(2) NONVOTING MEMBERS.—The panel must have not more than four nonvoting members who must serve in an advisory capacity and are representatives of rural areas—

"(A) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of business of the colleges and universities in the State;

"(B) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of engineering of the colleges and universities in the State;

"(C) one of whom is appointed by the Governor, from names submitted by the dean, or the equivalent official, of each school or college of agriculture of the colleges or universities in the State; and

"(D) the director of the State agency responsible for extension services for the State.

"(3) APPOINTMENT OF REPRESENTATIVES OF STATEWIDE ORGANIZATIONS BY THE GOVERNOR IN CERTAIN CASES.—

"(A) NO STATEWIDE ORGANIZATION.—If there is no statewide association or organization described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor of the State will appoint an individual to fill the position or positions, as the case may be, described in the applicable subparagraph from among nominations submitted by local groups of such entities.

"(B) MULTIPLE STATEWIDE ORGANIZATIONS.—If there is more than one of the statewide associations or organiza-

tions described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) of the entities described in such subparagraph, the Governor must select which organization is to name a member. The Governor must rotate such selection among such associations or organizations such that a representative of the selected association or organization serves no more than two years before another such association or organization is selected by the Governor.

"(4) FAILURE TO APPOINT PANEL MEMBERS.—The failure of the Governor, the Secretary of Agriculture, or an association or organization described in subparagraph (C), (D), (E), (F), (G), (H), (I), (K), (L), or (M) of paragraph (1) to appoint a member to the panel as required under this subsection shall not prevent a State from being determined to be an eligible State.

"(d) NOTIFICATION.—Each statewide organization that selects an individual to represent the organization on the panel must have notified the Governor of the State of the selection.

"(e) QUALIFICATIONS OF PANEL MEMBERS APPOINTED BY THE GOVERNOR.—Each individual appointed to the panel by the Governor of the State will be specially qualified to serve on the panel by virtue of the individual's technical expertise in business and community development.

"(f) VACANCIES.—A vacancy on the panel must be filled in the manner in which the original appointment was made.

"(g) CHAIRPERSON AND VICE CHAIRPERSON.—The panel must have selected two members of the panel who are not officers or employees of the United States to serve as the chairperson and vice chairperson of the panel for a term of one year.

"(h) NO COMPENSATION FOR FEDERAL MEMBERS.—Except as provided in section 365(c)(6), each member of the panel who is an officer or employee of the Federal Government may not receive any compensation or benefits, in addition to that which such officer or employee receives for performance of such officer or employee's regular employment, by reason of service on the panel.

"(i) RULES GOVERNING PANEL MEETINGS.—

"(1) QUORUM.—A majority of the members of the panel must constitute a quorum for the purpose of conducting business of the panel.

"(2) FREQUENCY OF MEETINGS.—The panel must meet not less frequently than quarterly.

"(3) FIRST MEETING.—The State coordinator must schedule the first panel meeting.

"(4) RECORDS OF MEETINGS.—The panel must keep records of the minutes of the meetings, deliberations, and evaluations of the panel, in sufficient detail to enable the panel to provide to interested persons the reasons for its actions.".

(b) CONFORMING AMENDMENT.—Section 306(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(3)) is amended by striking "and not inconsistent" and all that follows through "undertaken for the area".

SEC. 2317. LOAN AND LOAN GUARANTEE ALLOCATION AND TRANSFER.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding after the sections added by the preceding provisions of this subtitle the following:

"SEC. 367. LIMITED TRANSFER AUTHORITY OF LOAN AMOUNTS. 7 USC 2008b.

"(a) TRANSFER OF FUNDS.—If the sums appropriated for direct loans for the water and waste or community facility program authorized under section 306(a) and made available to any eligible State (within the meaning of section 365(b)(3)) under such program for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 365(c)(4), the Secretary may transfer, subject to subsection (b) of this section, to one program from the other such program part or all of the sums appropriated for loans made available to the State for such other program.

"(b) LIMITATION ON LOAN AMOUNTS TRANSFERRED.—

"(1) AMOUNTS TRANSFERRED WITHIN CERTAIN STATES.—With regard to each eligible State (within the meaning of section 365(b)(3)), the amount of direct loan funds transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 365(b)(6) the full amount of assistance requested for each such project.

"(2) AMOUNTS TRANSFERRED ON A NATIONAL BASIS.—With regard to all such eligible States, the amount of direct loan funds transferred in a fiscal year from a program under this section (after accounting for any offsetting transfers into such program) shall not exceed $9,000,000.

"SEC. 368. ALLOCATION AND TRANSFER OF LOAN GUARANTEE AUTHORITY. 7 USC 2008c.

"(a) ALLOCATION OF LOAN GUARANTEE AUTHORITY.—The Secretary shall allocate among all States the amounts appropriated for loan guarantees under the water and waste or community facility program authorized under section 306(a), and the business and industry loan program authorized under section 310B, in a manner similar to that used for the allocation of direct loan and grant funds appropriated for such programs, and that the Secretary determines to be fair, reasonable, and appropriate.

"(b) TRANSFER OF LOAN GUARANTEE AUTHORITY.—

"(1) IN GENERAL.—If the sums appropriated for loan guarantees and made available to any eligible State (within the meaning of section 365(b)(3)) under a program specified in subsection (a) for the fiscal year are insufficient to enable the Secretary to provide the full amount of the assistance requested for a project specified in section 365(c)(4), the Secretary may transfer to the program from the other such programs part or all of the sums appropriated for loan guarantees made available to such eligible State for such other program for such fiscal year.

"(2) LIMITATION ON GUARANTEE AMOUNTS TRANSFERRED.—With regard to each such eligible State, the amount of loan guarantees transferred from a program under this section shall not exceed the amount for such program left unobligated after obligating to each project in an application ranked higher in priority on the list described in section 366(b)(6) the full amount of assistance requested for each such project.".

Subtitle C—Water and Waste Facilities

SEC. 2321. INCREASE ON LIMITATION OF AUTHORIZATION FOR WATER AND WASTE GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended by striking ": *Provided,* That for fiscal years commencing after September 30, 1981, such grants may not exceed $154,900,000 in any fiscal year".

Loan programs.
7 USC 1926-1.

SEC. 2322. WATER AND WASTE FACILITY FINANCING.

(a) AUTHORITY.—The Secretary of Agriculture shall make loans to individuals or entities who are borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) (in this section referred to as the "borrower"), to the extent of qualifying applications therefor, to enable such borrowers to provide water and waste facility services in areas served by such borrowers.

(b) LIMITATION.—Loans made under subsection (a) shall not, unless otherwise specified by law, exceed an amount equal to 10 percent of the total amount of insured loans under the Rural Electrification Act of 1936 authorized during the fiscal year in which such loan is made for rural electrification and telephone purposes, or $40,000,000, whichever is less. Such limitations shall be in addition to the total amount of insured loans authorized for electrification and telephone purposes.

(c) PRIORITY.—In reviewing applications for loans under this section, the Secretary shall consider—

(1) whether the loan is necessary to enable the communities to be served to comply with applicable Federal or State environmental laws;

(2) whether the individuals residing in the area for which service is proposed, and any local government entities, are in favor of the borrower providing such services in the area;

(3) the income, unemployment, and other characteristics of the area to be served;

(4) the degree of deprivation faced by residents of the area to be served as a result of the lack of safe drinking water, adequate water supplies, sewage treatment and other waste disposal facilities;

(5) the impact that the availability of safe water supplies, waste disposal and similar services would be likely to have on enhancing the prospects for economic growth within the area to be served;

(6) the degree to which a loan that may be provided under this subsection is necessary to ensure that water and waste disposal services are available in the area to be served by such loan at costs that do not exceed those charged in other nearby areas;

(7) the impact of the proposed loan on the retention of the property and service territory of the borrower, or in protecting the security given on outstanding loans provided to the borrower; and

(8) whether the water and waste facility projects described in the application will duplicate any existing facilities, and whether the borrower will coordinate its water and waste facility operations with similar operations in the area, including efforts to achieve economies of scale through joint billing, collection, or other operations with nearby systems in order to reduce

the costs, improve the operations, or otherwise assist such systems.

(d) COORDINATION.—

(1) OTHER PROGRAMS AND REQUIREMENTS.—

(A) OTHER PROGRAMS.—The Secretary shall ensure that the program established under this section is coordinated with the programs authorized and established under section 306 of the Consolidated Farm and Rural Development Act, and will attempt to coordinate the lending activities under this section with similar activities conducted by other entities.

(B) REQUIREMENTS.—Loans made under this section shall be subject, in the same manner as loans made under section 306 of the Consolidated Farm and Rural Development Act, to the provisions of section 306(a)(9) and 306(a)(10) of such Act (which require approvals by State water pollution control agencies), sections 306(a)(19) (A) and (B) of such Act (which include certain requirements in connection with the technical design and choice of materials for water and waste systems), and section 306(b) of such Act (which concerns the curtailment or limitation of service).

(2) ASSIGNMENT OF DUTIES.—The Secretary shall determine whether the Rural Electrification Administration possesses greater expertise, as compared with the Farmers Home Administration, in the areas of utility accounting, utility management and financial analysis, advice and assistance, and other aspects of utility operations and engineering. If the Secretary determines that the Rural Electrification Administration possesses greater expertise in such areas, the Secretary shall require the Rural Electrification Administration to provide technical assistance, and assist in the processing of applications under this section.

(3) PROHIBITION ON LIMITING ACCESS.—The Secretary shall establish rules and procedures that prohibit borrowers from conditioning or limiting access to, or the use of, any water and waste facility services that are financed under this section. Such rules and procedures shall be based on whether individuals or entities in the area for which such facility is proposed receive, or will accept, electric service from such borrower. Regulations.

(e) TERMS.—

(1) IN GENERAL.—Loans made under this section shall be for the same repayment period as insured loans made by the Administrator of the Rural Electrification Administration to such borrowers under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) and interest rates on loans made under this section shall not exceed 5 percent.

(2) INTEREST RATE.—The Secretary shall determine the interest rate to be charged on loans made under this section on the basis of—

(A) ensuring that the cost to consumers for water and waste disposal services financed with loans provided under this section does not, to the extent possible, exceed rates charged in areas that are near the area served by the borrower;

(B) the income and other characteristics of the individuals to be served through the provision of such loans; and

(C) encouraging borrowers to obtain private sector capital, as provided for in subsection (f), to supplement loans made under this section.

(f) PRIVATE SECTOR CAPITAL.—

(1) MATCHING FUNDS REQUIRED.—The Secretary shall not provide assistance to a borrower under this section unless the borrower has made a commitment to the Secretary, and demonstrates to the Secretary that the borrower is able, to invest from its own funds an amount equal to the amount of assistance to be so provided.

(2) INTEREST RATE REDUCTION AUTHORIZED.—In order to facilitate the obtaining of private sector capital, the Secretary may, on a case-by-case basis, reduce the interest rate on loans provided under this section when such reduction is appropriate and will enable the borrower to obtain such private capital.

(g) APPROPRIATIONS.—The Secretary may make loans under this section to the extent provided for in appropriations Acts, except that during any fiscal year the amount of such loans, unless otherwise provided by law, shall not exceed 10 percent of the amount authorized for all insured loans under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.), or $40,000,000, whichever amount is less. Funds appropriated under this subsection shall remain available until expended.

(h) REPAYMENT.—Appropriations made for purposes of this section shall be placed in a separate account. Advances on loans made under this section shall be made from such account, and payments on such loans shall be returned to the account for use by the account in making advances on future loans.

(i) FULL USE.—

(1) IN GENERAL.—Subject to paragraph (2) and (3) and any other limitations that may be imposed by law, during each fiscal year the Secretary shall undertake all reasonable efforts to make full use of any funds held by the account established under subsection (h).

(2) CEILING ON LOANS.—During any particular fiscal year the aggregate amount of the loans the Secretary may make under this section, from amounts in the account established under subsection (h) that are not attributable to repayments, shall be the lesser of—

(A) 10 percent of the amount of loans made under title III of the Rural Electrification Act of 1936 (7 U.S.C. 930 et seq.) during the fiscal year; or

(B) $40,000,000.

(j) REPLENISHMENT OF WATER AND WASTE FACILITY FUND.—

(1) CALCULATION OF TOTAL AMOUNT OF LOANS.—At the end of each fiscal year the Secretary shall calculate—

(A) the total amount of loans made under this section during such fiscal year; and

(B) the amount of water or waste facility loans made under section 306 of the Consolidated Farm and Rural Development Act to borrowers described in subsection (a) of this section.

(2) TRANSFER OF AMOUNTS.—Notwithstanding subsections (g) and (i), if any amount appropriated under subsection (g) remains available at the end of any fiscal year—

(A) the Secretary shall transfer such available amount to the fund used to make water or waste facility loans under

section 306 of the Consolidated Farm and Rural Development Act, to the extent not exceeding the amount of any loans made under such section 306 to borrowers under the Rural Electrification Act of 1936; and

(B) any such loan to such borrower made under such section 306 shall be—

(i) subject to the terms, conditions and other requirements of section 306A; and

(ii) repaid to the account established by subsection (h).

SEC. 2323. WATER AND WASTE LENDING BY BANKS FOR COOPERATIVES.

(a) AUTHORIZATION.—Section 3.7 of the Farm Credit Act of 1971 (12 U.S.C. 2128) is amended by adding at the end the following new subsection:

"(f) The banks for cooperatives may, for the purpose of the installation, expansion, or improvement of water and waste disposal facilities in rural areas, make and participate in loans and commitments and to extend other technical and financial assistance to—

"(1) cooperatives formed specifically for the purpose of establishing or operating such facilities; and

"(2) public and quasi-public agencies and bodies, and other public and private entities that, under authority of State or local law, establish or operate such facilities.

For purposes of this subsection, the term 'rural area' means all territory of a State that is not within the outer boundary of any city or town having a population of more than 20,000 based on the latest decennial census of the United States.".

(b) CONFORMING AMENDMENT.—Section 3.8(b)(1) of the Farm Credit Act of 1971 (12 U.S.C. 2129(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) Any cooperative or other entity described in section 3.7(f).".

SEC. 2324. RURAL WASTEWATER TREATMENT CIRCUIT RIDER PROGRAM. 7 USC 1926 note.

(a) ESTABLISHMENT.—The Secretary shall establish a national rural wastewater circuit rider grant program that shall be modeled after the existing National Rural Water Association Rural Water Circuit Rider Program that receives funding from the Farmers Home Administration.

(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 for each fiscal year to carry out the program established under subsection (a).

SEC. 2325. TECHNICAL ASSISTANCE FOR CERTAIN SOLID WASTE MANAGEMENT.

Section 310B(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(b)) is amended—

(1) by inserting "(1)" before "The Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may make grants to nonprofit organizations for the provision of regional technical assistance to local and regional governments and related agencies for the purpose of reducing or eliminating pollution of water resources and improving the planning and management of solid waste disposal facilities. Grants made under this paragraph for the provision of technical assistance shall be made for 100 percent of the cost of such assistance.".

SEC. 2326. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—Subtitle A of the Consolidated Farm and Rural Development Act is amended by inserting after section 306A (7 U.S.C. 1926a) the following new section:

7 USC 1926b.

"SEC. 306B. EMERGENCY COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

"(a) IN GENERAL.—The Secretary shall make grants in accordance with this section to assist the residents of rural areas and small communities to secure adequate quantities of safe water—

"(1) after a significant decline in the quantity or quality of water available from the water supplies of such rural areas and small communities; or

"(2) when repairs, partial replacement, or significant maintenance efforts on established water systems would remedy an acute shortage of quality water or would remedy a significant decline in the quantity or quality of water that is available.

"(b) PRIORITY.—In carrying out subsection (a), the Secretary shall give priority to projects described in subsection (a)(1), and provide at least 70 percent of all such grants to such projects.

"(c) ELIGIBILITY.—To be eligible to obtain a grant under this section, an applicant shall—

"(1) be a public or private nonprofit entity; and

"(2) in the case of a grant made under subsection (a)(1), demonstrate to the Secretary that the decline referred to in such subsection occurred within 2 years of the date the application for such grant was made.

"(d) USES.—

"(1) IN GENERAL.—Grants made under this section may be used for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, hook and tap fees, and any other appropriate purpose associated with developing sources of, or treating, storing, or distributing water, and to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

"(2) JOINT PROPOSALS.—This section shall not preclude rural communities from submitting joint proposals for emergency water assistance, subject to the restrictions of subsection (e). Such restrictions should be considered in the aggregate, depending on the number of communities involved.

"(e) RESTRICTIONS.—Grants made under this section shall not be used to assist any rural area or community that—

"(1) includes any area in any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States; or

"(2) has a median household income in excess of the State nonmetropolitan median household income according to the most recent decennial census of the United States.

Not less than 75 percent of the funds allocated under this section shall be allocated to rural communities with populations that do not exceed 3,000 inhabitants.

"(f) MAXIMUM GRANTS.—Grants made under this section may not exceed—

"(1) in the case of each grant made under subsection (a)(1), $500,000; and

"(2) in the case of each grant made under subsection (a)(2), $75,000.

"(g) FULL FUNDING.—Subject to subsection (e), each grant under this section shall be made in an amount equal to 100 percent of the costs of the projects with respect to which the grant is made.

"(h) APPLICATION.—The Secretary shall develop a nationally competitive application process to award grants under this section. Such process shall include criteria for evaluating applications, including population, median household income, and the severity of the decline in quantity or quality of water. The Secretary shall make every effort to review and act on applications within 60 days of the date that such applications are submitted.

"(i) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $25,000,000 for fiscal year 1991, and $10,000,000 for fiscal year 1992. To the extent the amount authorized to be appropriated for a fiscal year under this subsection exceeds the amount so appropriated, such excess amount shall remain authorized to be appropriated for succeeding fiscal years until fully appropriated.".

(b) IMPLEMENTATION.— 7 USC 1926b note.

(1) REGULATIONS.—The Secretary shall publish—

(A) interim final regulations to carry out section 306B of the Consolidated Farm and Rural Development Act not later than 45 days after the date of enactment of this Act; and

(B) final regulations to carry out section 306B not later than 90 days after such date of enactment.

(2) FUNDS.—

(A) OBLIGATION.—The Secretary shall obligate 70 percent of the funds made available for the first fiscal year for which appropriations are made under section 306B(i) of the Consolidated Farm and Rural Development Act not later than 5 months after the date such funds are appropriated.

(B) RELEASE.—The Secretary may make grants under section 306B(a)(1) of Consolidated Farm and Rural Development Act before final regulations are issued under paragraph (1)(B) of this subsection.

SEC. 2327. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) is amended by adding after the section added by section 2326 of this Act the following new section:

"SEC. 306C. WATER AND WASTE FACILITY LOANS AND GRANTS TO ALLEVIATE HEALTH RISKS. Indians. 7 USC 1926c.

"(a) LOANS AND GRANTS TO PERSONS OTHER THAN INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall make or insure loans and make grants to rural water supply corporations, cooperatives, or similar entities, Indian tribes on Federal and State reservations and other federally recognized Indian tribes, and public agencies, to provide for the conservation, development, use, and control of water (including the extension or improvement of existing water supply systems), and the installation or improvement of drainage or waste disposal facilities and essen-

tial community facilities including necessary related equipment. Such loans and grants shall be available only to provide such water and waste facilities and services to communities whose residents face significant health risks, as determined by the Secretary, due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate affordable—

"(A) water supply systems; or

"(B) waste disposal facilities.

"(2) CERTAIN COUNTIES TARGETED.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

"(A) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

"(B) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

"(b) LOANS AND GRANTS TO INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall make or insure loans and make grants to individuals who reside in a community described in subsection (a)(1) for the purpose of extending water supply and waste disposal systems or connecting such systems to the residences of such individuals. Such loans shall be at a rate of interest no greater than the Federal Financing Bank rate on loans of a similar term at the time such loans are made. The repayment of such loans shall be amortized over the expected life of the water supply or waste disposal system to which the residence of the borrower will be connected.

"(2) MANNER IN WHICH LOANS AND GRANTS ARE TO BE MADE.—Loans and grants to individuals under paragraph (1) shall be made—

"(A) directly to such individuals by the Secretary; or

"(B) to such individuals through the rural water supply corporation, cooperative, or similar entity, or public agency, providing such water supply or waste disposal services, pursuant to regulations issued by the Secretary.

"(c) PREFERENCE.—The Secretary shall give preference in the awarding of loans and grants—

"(1) under subsection (a) to rural water supply corporations, cooperatives, or similar entities, or public agencies, that propose to provide water supply or waste disposal services to the residents of those rural subdivisions commonly referred to as colonias, that are characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities; and

"(2) under subsection (b) to individuals who reside in a rural subdivision commonly referred to as a colonia, that is characterized by substandard housing, inadequate roads and drainage, and a lack of adequate water or waste facilities.

"(d) COOPERATIVE DEFINED.—For purposes of this section, the term 'cooperative' means a cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

"(e) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) for grants under this section, $30,000,000 for each fiscal year; and

"(2) for loans under this section, $30,000,000 for each fiscal year.".

SEC. 2328. WATER OR WASTE DISPOSAL LOANS TO BENEFIT RURAL BUSINESSES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting "rural businesses," after "farm laborers,".

SEC. 2329. LIMITATION ON CONDITIONS FOR WATER AND SEWER GRANTS AND LOANS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding at the end the following new paragraph:

"(20) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this Act.".

Subtitle D—Enhancing Human Resources

Telecommunications.

CHAPTER 1—DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

SEC. 2331. PURPOSE. 7 USC 950 aaa.

The purposes of this chapter are to provide incentives for local telephone exchange carriers, rural community facilities and rural residents to improve the quality of phone service, to provide access to advanced telecommunications services and computer networks, and to improve rural opportunities.

SEC. 2332. GOAL. 7 USC 950 aaa-1.

It is a goal of the Federal government to make affordable advanced telecommunications available to rural residents, including services such as reliable facsimile document and data transmission, multifrequency tone signaling services, 911 emergency service with automatic number identification, interactive audio and visual transmissions, voicemail services designed to record, store, and retrieve voice messages, and other advanced telecommunications services.

SEC. 2333. DEFINITIONS. 7 USC 950 aaa-2.

As used in this chapter:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Rural Electrification Administration.

(2) COMMUNICATION SATELLITE GROUND STATION COMPLEX.—The term "communication satellite ground station complex" includes transmitters, receivers, and communications antennas at the Earth station site together with the interconnecting terrestrial transmission facilities (cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(3) COMPREHENSIVE RURAL TELECOMMUNICATIONS PLAN.—The term "comprehensive rural telecommunications plan" means a plan submitted by an applicant for a grant under this chapter. Each such plan shall include—

(A) a detailed explanation of the proposed rural telecommunications system, how such system is to be funded, and a description of the intended uses for grants received from the Administrator under this chapter;

(B) an explanation of the manner in which such plan complies with any requirements imposed by the Administrator under this chapter or otherwise imposed under section 2334;

(C) a listing of the proposed purchases or leases of telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, interactive video equipment, computer hardware and software systems, and components that process data for transmission via telecommunications, computer network components, communication satellite ground station equipment, or any other elements of the telecommunications system designed to further the purposes of this chapter, that the applicant intends to build or fund using the grant funds;

(D) an explanation of the special financial or other needs of the affected rural communities and of the applicants for such grant assistance;

(E) an analysis of the relative costs and benefits of proposals for leasing or purchasing of facilities, equipment, components, hardware and software, or other items; and

(F) a description of the consultations with the appropriate local telephone exchange carrier or carriers and with a wide variety of additional telecommunications service providers (including other interexchange carriers, cable television operators, enhanced service providers, providers of satellite services and telecommunications equipment manufacturers and distributors), and the anticipated role of such providers in the proposed telecommunications system.

(4) COMPUTER NETWORKS.—The term "computer networks" refers to computer hardware and software, terminals, signal conversion equipment including both modulators and demodulators, or related devices, used to communicate with other computers to process and exchange data through a telecommunication network in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment and telecommunications transmission facilities.

(5) DATA TERMINAL EQUIPMENT.—The term "data terminal equipment" refers to equipment that converts user information into data signals for transmission, or reconverts the received data signals into user information, and is normally found on the terminal of a circuit and on the premises of the end user.

(6) END USER.—The term "end user" means rural community facilities or persons associated with those facilities who participate in the programs established under this chapter.

(7) FIBER-OPTIC CABLE.—The term "fiber-optic cable" means a bundle of optical transmission elements or waveguides usually consisting of a fiber core and fiber cladding that can guide a

lightwave and that are incorporated into an assembly of materials that provide tensile strength and external protection.

(8) INTERACTIVE VIDEO EQUIPMENT.—The term "interactive video equipment" refers to equipment used to produce and prepare for transmission audio and visual signals from at least two distant locations such that individuals at such locations can verbally and visually communicate with each other, and such equipment includes monitors, other display devices, cameras or other recording devices, audio pickup devices, and other related equipment.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term "telecommunications transmission facilities" refers to those facilities that transmit, receive, or carry data between the telecommunications terminal equipment at each end of a telecommunications circuit or path. Such facilities include microwave antennae, relay stations and towers, other telecommunications antennae, fiber-optic cables and repeaters, coaxial cables, communication satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmissions, and similar items as defined by the Administrator.

(11) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term "telecommunications terminal equipment" refers to the assembly of telecommunications equipment at the end of a circuit, normally located on the premises of the end user, that interfaces with telecommunications transmission facilities, and that is used to modify, convert, encode, or otherwise prepare signals to be transmitted via such telecommunications facilities, or that is used to modify, reconvert or carry signals received from such facilities, the purpose of which is to accomplish the goal for which the circuit was established.

SEC. 2334. PROVISIONS RELEVANT TO TELECOMMUNICATIONS PROGRAMS. 7 USC 950aaa-3.

(a) ADMINISTRATION.—The Administrator shall be responsible for the administration of this chapter.

(b) RULEMAKING.—Not later than 160 days after the date of enactment of this Act, the Administrator shall promulgate final regulations, under the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, that establish the telecommunications programs authorized in this chapter.

(c) PRIORITY.—The Administrator shall establish procedures to target the benefits of this chapter to the rural areas and grant applicants that demonstrate the need for such assistance, taking into consideration the relative needs of all applicants, the needs of the affected rural communities, and the financial ability of the applicants to otherwise secure or create telecommunications systems.

(d) WAIVERS.—If the Administrator determines that a compelling need is present, the Administrator may modify any of the definitions in section 2333.

(e) EXPEDITING COORDINATED TELEPHONE LOANS.—The Administrator shall establish and implement procedures to ensure that expedited consideration and determination is given to applications

for loans and advances of funds submitted by local exchange carriers under this chapter—

(1) to enable such exchange carriers to provide advanced telecommunications services in rural areas; and

(2) that contain elements of any telecommunications project approved by the Administrator under this chapter that will be completed by such local telephone exchange carriers but that is not covered by any grant made under this chapter.

(f) GRANT APPROVAL PROCESS.—

(1) MODIFICATIONS.—The Administrator may request modifications or changes in any proposal described in a grant application submitted under this chapter.

(2) LEVELS OF FUNDING.—

(A) IN GENERAL.—The Administrator may offer to fund grant applications under this chapter at any levels that the Administrator considers appropriate but not exceeding any percentage levels described in this chapter.

(B) CONSIDERATIONS.—After taking into consideration the nationwide demands for grant assistance and the costs and benefits of any proposed purchases or leases of telecommunications transmission facilities, telecommunications terminal equipment, computer network components, and other equipment or facilities, the Administrator shall make grants based on—

(i) the worthiness of the application;

(ii) the financial needs of the applicant;

(iii) the need of the affected rural communities for the proposed projects; and

(iv) other factors determined appropriate by the Administrator.

(g) JOINT USE OF TELECOMMUNICATIONS TRANSMISSIONS FACILITIES.—In issuing regulations implementing this chapter, and in requesting changes in, or approving applications for grants, the Administrator shall give a priority, to the extent reasonable and appropriate, to provide funding for such facilities that can be jointly shared by projects established under this chapter.

(h) EXPEDITED LOANS FOR TELEPHONE TRANSMISSION FACILITIES.—

(1) IN GENERAL.—Grants to cover the costs of installing telecommunication transmission facilities shall not be provided to approved end users if the local telephone exchange carrier providing telephone service, as defined in section 203(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a)), will install such facilities through the use of expedited telephone loans as described in subsection (e) under the conditions and deadlines described in this section or through other financing procedures.

(2) NOTIFICATION OF LOCAL EXCHANGE CARRIER.—Each applicant for a grant for a rural telecommunications program established under this chapter shall notify the appropriate local telephone exchange carrier regarding the application filed with the Administrator for such grant and shall attempt to work with such carrier in developing the rural telecommunications project. The Administrator shall publish notice of applications received for grants under this chapter for rural telecommunications programs and shall make such applications available for inspection by any provider described in section 2333(3)(F).

(3) DEADLINE IMPOSED ON THE ADMINISTRATOR.—Not later than 45 days after the receipt of a completed application for an

expedited telephone loan, the Administrator shall respond to the application. The Administrator shall notify the applicant in writing of its decision regarding each such expedited loan application.

SEC. 2335. RURAL COMMUNITY ACCESS TO ADVANCED TELECOMMUNICATIONS. 7 USC 950aaa-4.

(a) PURPOSE.—

(1) IN GENERAL.—It is the purpose of the program established under this chapter to encourage and improve the use of telecommunications, computer networks, and related advanced technologies, by persons associated with end users, including students and teachers, medical professionals, small businesses, and other residents living in rural areas associated with rural community facilities in rural areas.

(2) GRANTS.—Grants shall be made under this chapter to end users to fund up to 100 percent of each comprehensive rural telecommunications plan as approved by the Administrator.

(b) GRANTS.—

(1) GENERAL AUTHORIZATION.—The Administrator may make grants to accomplish the purposes of the program established under this chapter in amounts that shall not exceed the levels set forth in paragraph (3).

(2) DISBURSEMENT.—In order to facilitate appropriate planning for, and continuity of, the program established under this chapter, the Administrator may obligate funds appropriated during a particular year for disbursement in a subsequent year or years, and the total of funds so appropriated and obligated during a year may exceed the limitations described in paragraph (1).

(3) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this chapter, there are authorized to be appropriated $25,000,000 for fiscal year 1991, $50,000,000 for each of fiscal years 1992 and 1993, and $60,000,000 for each of the fiscal years 1994 and 1995. Amounts appropriated under this paragraph shall remain available until expended.

(4) USE OF FUNDS.—Grants under this chapter shall be made available to end users to be used for facilities, equipment, activities, and other uses as described in the approved rural telecommunications plan to achieve the purpose of this chapter, including—

(A) the development and acquisition of instructional programming;

(B) the development and acquisition, through lease or purchase, of computer hardware and software, audio and visual equipment, computer network components, telecommunications terminal equipment, telecommunications transmission facilities, data terminal equipment, or interactive video equipment, and other facilities that would further the purposes of the programs authorized by this chapter;

(C) providing technical assistance and instruction for the development or use of such programming, equipment, or facilities; or

(D) other uses that are consistent with achieving the purposes of this chapter as approved by the Administrator.

(5) LOCAL EXCHANGE CARRIERS.—Under the conditions described in section 2334(h), expedited loans may also be made, to carry out any project authorized in this chapter, to local exchange carriers providing telephone service (as defined in section 2333(a) of the Rural Electrification Act of 1936 (7 U.S.C. 924(a))), to cover the costs of telecommunications transmission facilities.

(6) INFORMATIONAL EFFORTS.—The Administrator shall establish and implement procedures to carry out informational efforts to advise potential end users located in rural areas of each State about the program authorized by this chapter.

(7) LIMITS ON GRANTS.—Grants awarded under this chapter for an end user shall not be used for the salaries or expenses of an end user.

(c) REGULATIONS.—Not later than 160 days after the date of enactment of this Act, the Administrator shall, in addition to promulgating the regulations described in section 2334(b), establish a priority system for awarding grants to end users located in rural areas that are most in need of enhanced communications to carry out the purposes of this chapter.

Employment.

CHAPTER 2—RURAL BUSINESS DEVELOPMENT

7 USC 1932 note.

SEC. 2336. PURPOSES.

The purposes of this chapter are to—

(1) provide funds to improve telecommunications service in rural areas; and

(2) provide access to advanced telecommunications services and computer networks to improve job opportunities and the business environment in rural areas.

SEC. 2337. LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding after the subsections added by section 2347(a) of this Act the following:

"(i) LOANS FOR BUSINESS TELECOMMUNICATIONS PARTNERSHIPS.—

"(1) IN GENERAL.—The Secretary may make loans under this subsection at low interest rates and at market rates to 1 or more businesses, local governments, or public agencies in rural areas to fund facilities in which the recipients of such loans share telecommunications terminal equipment, computers, computer software, and computer hardware.

"(2) GENERAL REQUIREMENTS.—

"(A) APPLICATION PROCESS.—

"(i) SUBMISSION OF APPLICATION.—Any entity desiring a loan under this subsection shall submit an application therefor to the Secretary.

"(ii) CONTENTS OF APPLICATION.—Each application for a loan under this subsection shall include—

"(I) a detailed explanation of the proposed rural telecommunications system, including the general telecommunications transmission services and facilities required, and a list of the specific equipment that the applicant proposes to purchase or lease, to implement the system;

"(II) a description of the manner in which the proposed project is to be funded;

"(III) a copy of a binding commitment entered into between the applicant and each entity which is legally permitted to provide, and from which the applicant is to obtain, the telecommunications services and facilities required for the project, which stipulates that if the applicant receives the loan requested in the application the entity will provide such telecommunications services and facilities in the area served by the entity within a reasonable time and at a charge which is in accordance with State law;

"(IV) a description of the manner in which the applicant intends to use the loan requested in the application;

"(V) a description of how the proposed project will be evaluated; and

"(VI) such other information as the Secretary may reasonably require.

"(B) CONSIDERATION OF APPLICATIONS.—

"(i) REVIEW BY SECRETARY.—The Secretary shall—

"(I) review each application submitted pursuant to subparagraph (A)(i);

"(II) determine whether or not the application meets the requirements of subparagraph (A)(ii);

"(III) approve each application which meets such requirements;

"(IV) disapprove each application which fails to meet such requirements; and

"(V) in the case of an approved application that proposes a project to be implemented in an eligible State (within the meaning of section 365(b)(3)), transmit the approved application to the review panel of the eligible State.

"(ii) REVIEW BY CERTAIN STATE REVIEW PANELS.—

"(I) IN GENERAL.—The review panel shall examine each application transmitted to the review panel pursuant to clause (i)(V) to determine the technical and economic adequacy and feasibility of the project described in the application and the likelihood that the project will succeed.

"(II) AUTHORITY TO OBTAIN INFORMATION FROM APPLICANTS.—Each entity which submits an application for a loan under this subsection shall provide the review panel of any eligible State in which the partnership intends to implement the project described in the application such information as the review panel may reasonably request to assist in reviewing the application.

"(III) AUTHORITY TO REQUEST APPLICANTS TO MODIFY PROJECTS.—The review panel may, before final consideration of an application of an entity for a loan under this subsection, request the entity to modify the project described in the application.

"(iii) RANKING OF APPLICATIONS.—

"(I) IN GENERAL.—The review panel shall rank, pursuant to a written policy and criteria, the applications that the review panel receives during

any fiscal year for a loan under this subsection, in an order which takes into account—

"(aa) the results of the review conducted under clause (i);

"(bb) the extent to which the projects described in the applications would promote any area plan (as defined in section 365(b)(1)) developed for the areas in which the projects are to be implemented; and

"(cc) in the case of a project which would duplicate existing services, the reasons therefor.

"(II) GROUPING OF APPLICATIONS.—The review panel shall separate into 2 groups the applications for a loan under this subsection received by the review panel during a fiscal year. The 1st group shall consist of the applications received during the 1st 6 months of the fiscal year. The 2nd group shall consist of the applications received during the 2nd 6 months of the fiscal year.

"(III) COMPETITION AMONG APPLICATIONS.—The review panel shall consider each application in a group to be competing only with the other applications in the group.

"(IV) WRITTEN POLICY AND CRITERIA.—

"(aa) IN GENERAL.—Subject to subdivision (bb), the review panel shall develop the written policy and criteria to be used to rank applications, in the same manner as the review panel develops the written policy and criteria used for purposes of section 366(b)(3).

"(bb) PROHIBITION AGAINST DEVELOPMENT OR ACQUISITION OF TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The policy and criteria developed under subdivision (aa) shall require that the project described in an application not include the development or acquisition of telecommunications transmission facilities.

"(iv) TRANSMITTAL OF RANKED APPLICATIONS.—The review panel shall transmit to the State coordinator appointed pursuant to section 365(b)(3)(A)(ii) each list of applications ranked pursuant to clause (ii) of this subsection, in the same manner in which lists of applications ranked pursuant to section 366(b) are transmitted to the State coordinator pursuant to section 366. The State coordinator shall transmit to the Secretary each such list received by the State coordinator.

"(C) PRIORITY.—The Secretary shall establish procedures to target loans under this subsection to the rural areas and applicants that demonstrate the need for such loans, taking into consideration—

"(i) the relative needs of all applicants;

"(ii) the needs of the affected rural areas;

"(iii) the financial ability of the applicants, without such loans, to use telecommunications for the business purposes for which such loans may be made; and

"(iv) the recommendations of the review panels for the eligible States (within the meaning of section 365(b)(3)) in which such areas are located.

"(D) REPORT REQUIRED IF THE SECRETARY INTENDS TO FUND PROJECTS OTHER THAN AS RECOMMENDED BY REVIEW PANEL.—If the Secretary determines to provide loans under this subsection to projects in an eligible State (within the meaning of section 365(b)(3)) other than in the manner recommended by the review panel of the State, the Secretary—

"(i) within 10 days after making such determination, shall submit to the review panel of the eligible State, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the reasons for providing loans to projects other than in the manner so recommended; and

"(ii) shall not provide such loans before the end of the 7-day period beginning on the date the review panel and such committees have received such report.

"(E) MONITORING OF USE OF LOANS.—The Secretary shall take such steps as may be necessary to ensure that loans provided under this subsection are used in accordance with the approved application therefor.

"(3) RELATIONSHIP TO STATE LAW.—This subsection shall not be construed to affect in any manner the applicability of the Communications Act of 1934, the regulations and orders prescribed thereunder, or any State or local law relating to the regulation or provision of telecommunications facilities or services.

"(4) REGULATIONS.—Not later than 120 days after the date of the enactment of this subsection, the Secretary shall prescribe final regulations governing the loan program established under this subsection other than with respect to agency management and personnel, in accordance with the notice and comment rulemaking requirements described in section 553 of title 5, United States Code, notwithstanding subsection (a)(2) of such section 553.

"(5) DEFINITIONS.—As used in this subsection:

"(A) REVIEW PANEL.—The term 'review panel' means, with respect to an eligible State (within the meaning of section 365(b)(3), the rural economic development review panel of the State, as established pursuant to section 366.

"(B) RURAL AREA.—The term 'rural area' has the meaning given such term in section 306(a)(7) for purposes of loans for essential community facilities under section 306(a)(1).

"(C) TELECOMMUNICATIONS TERMINAL EQUIPMENT.—The term 'telecommunications terminal equipment' means telecommunications equipment (excluding telecommunications transmission facilities) that—

"(i) interconnects with telecommunications transmission facilities; and

"(ii) modifies, converts, encodes, or otherwise prepares signals to be transmitted through, or modifies, reconverts, or carries signals received from, the facilities.

"(D) TELECOMMUNICATIONS TRANSMISSION FACILITIES.—The term 'telecommunications transmission facilities' means facilities (other than telecommunications terminal equipment) that transmit, receive, or carry signals between the telecommunications terminal equipment at each end of a telecommunications circuit or path.

"(6) TREATMENT OF LOAN PROGRAM AS DESIGNATED RURAL DEVELOPMENT PROGRAM.—For purposes of this title, the loan program established under this subsection shall, with respect to eligible States (within the meaning of section 365(b)(3)), be treated as a designated rural development program (within the meaning of section 365(b)(2)).

"(7) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—For loans under this subsection, there are authorized to be appropriated to the Secretary $15,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995.

"(B) AVAILABILITY.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.".

Subtitle E—Rural Business and Emergency Assistance

SEC. 2341. LOCAL TECHNICAL ASSISTANCE GRANTS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended to read as follows:

"(11)(A)(i) The Secretary may make grants, not to exceed $15,000,000 annually, to public bodies, private nonprofit community development corporations or entities, or such other agencies as the Secretary may select to enable such recipients—

"(I) to identify and analyze business opportunities, including opportunities in export markets, that will use local rural economic and human resources;

"(II) to identify, train, and provide technical assistance to existing or prospective rural entrepreneurs and managers;

"(III) to establish business support centers and otherwise assist in the creation of new rural businesses, the development of methods of financing local businesses, and enhancing the capacity of local individuals and entities to engage in sound economic activities; and

"(IV) to conduct regional, community, and local economic development planning and coordination, and leadership development.

"(ii) In awarding such grants, the Secretary shall consider, among other criteria to be established by the Secretary—

"(I) the extent to which the applicant provides development services in its rural service area; and

"(II) the capability of the applicant to carry out the purposes of this section.

"(iii) The Secretary shall ensure, to the extent practicable, that assistance provided under this subsection is coordinated with and delivered in cooperation with similar services or assistance provided to rural residents by the Extension Service or other Federal agencies.

"(iv) For grants under this subparagraph, there are authorized to be appropriated to the Secretary $7,500,000 in each fiscal year.".

SEC. 2342. RURAL EMERGENCY ASSISTANCE LOANS.

Section 306(a)(11) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)) is amended by inserting after the matter added by section 2341 of this Act the following new subparagraph:

"(B)(i) The Secretary shall establish and implement a program to make loans for the benefit of any town or city that—

"(I) has a population of less than 20,000 individuals; and

"(II) is financially unable to obtain funds as quickly as needed to correct emergency conditions or situations needing urgent attention.

"(ii) The Secretary shall promulgate regulations— Regulations.

"(I) targeting the program established under this subparagraph toward needy communities in rural areas;

"(II) defining the term 'emergency conditions or situations needing urgent attention'; and

"(iii) The Secretary shall approve or reject applications for loans under this subparagraph within 30 days after receipt.

"(iv) The Secretary shall not loan more than $50,000 to a single borrower under this subparagraph, and all loans under this subparagraph shall be for not more than 2 years.

"(v) The Secretary may respond to the credit needs of rural towns or cities eligible to participate in the program authorized under this subparagraph by making loans that are eligible for refinancing after the expiration of the 2-year period described in clause (iv), and payments under such loans may be set at a level that is sufficiently low during such 2-year period so that the financially troubled town or city can participate in the program established under this subparagraph. The Secretary shall assist such borrowers in obtaining financing through existing Farmers Home Administration programs so that such borrowers are able to pay the balance due on each loan at the end of such 2-year period.

"(vi) To carry out the emergency lending program authorized by the program established under this subparagraph, there are authorized to be appropriated $2,500,000 for fiscal year 1991, and $5,000,000 for fiscal year 1992 and for each subsequent fiscal year.". Appropriation authorization.

SEC. 2343. REA TECHNICAL ASSISTANCE UNIT.

Title I of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

"SEC. 17. TECHNICAL ASSISTANCE UNIT. 7 USC 917.

"(a) ESTABLISHMENT.—The Administrator shall establish a technical assistance unit to perform the duties described in subsection (b).

"(b) DUTIES.—The technical assistance unit established under subsection (a) shall—

"(1) provide advice and guidance to electric and telephone borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse (using, to the extent practicable, the resources of the National Agricultural Library) and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts; and

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development.

"(c) FUNDING.—Not less than 2 percent of the salaries and expenses of the Rural Electrification Administration shall be made available during each fiscal year to the technical assistance unit established under this section.".

SEC. 2344. DEFERMENT OF PAYMENT ON ECONOMIC DEVELOPMENT LOANS.

Section 12 of the Rural Electrification Act of 1936 (7 U.S.C. 912) is amended—

(1) by inserting "(a)" before "The Administrator"; and

(2) by adding at the end the following new subsection:

"(b)(1) Subject to limitations established in appropriations Acts, the Administrator shall permit any borrower to defer the payment of principal and interest on any insured or direct loan made under this Act under circumstances described in this subsection, notwithstanding any limitation contained in subsection (a), except that such deferment shall not be permitted based on the determination of the Administrator of the financial hardship of the borrower.

"(2)(A) In the case of deferments made to enable the borrower to provide financing to local businesses, the deferment shall be repaid in equal installments, without the accrual of interest, over the 60-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

"(B) In the case of deferments made to enable the borrower to provide community development assistance, technical assistance to businesses, and for other community, business, or economic development projects not included under subparagraph (A), the deferment shall be repaid in equal installments, without the accrual of interest, over the 120-month period beginning on the date of the deferment, and the total amount of such payments shall be equal to the amount of the payment deferred.

"(3)(A) A borrower may defer its debt service payments only in an amount equal to an investment made by such borrower as described in paragraph (2).

"(B) The amount of the deferment shall not exceed 50 percent of the total cost of a community or economic development project for which a deferment is provided under this subsection.

"(C) The total amount of deferments under this subsection during each of the fiscal years 1990 through 1993 shall not exceed 3 percent of the total payments due during such fiscal year from all borrowers on direct and insured loans made under this Act and shall not exceed 5 percent of such total payments due in each subsequent fiscal year.

"(D) At the time of a deferment, the borrower shall make a payment to a cushion of credit account established and maintained pursuant to section 313 in an amount equal to the amount of the payment deferred. The balance of such account shall not be reduced by the borrower below the level of the unpaid balance of the payment deferred. Subject to limitations established in annual appropriations Acts, such cushion of credit amounts and any other cushion of credit and advance payments of any borrower shall be included in the interest differential calculation under section 313(b)(2)(A).

"(4) The Administrator shall undertake all reasonable efforts to permit the full amount of deferments authorized by this subsection during each fiscal year.".

SEC. 2345. RURAL ECONOMIC DEVELOPMENT.

The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following new title:

"TITLE V—RURAL ECONOMIC DEVELOPMENT

"SEC. 501. ADDITIONAL POWERS AND DUTIES OF REA ADMINISTRATOR. 7 USC 950aa.

"The Administrator shall—

"(1) provide advice and guidance to electric borrowers under this Act concerning the effective and prudent use by such borrowers of the investment authority under section 312 to promote rural development;

"(2) provide technical advice, troubleshooting, and guidance concerning the operation of programs or systems that receive assistance under this Act;

"(3) establish and administer various pilot projects through electric and telephone borrowers that the Administrator determines are useful or necessary, and recommend specific rural development projects for rural areas;

"(4) act as an information clearinghouse and conduit to provide information to electric and telephone borrowers under this Act concerning useful and effective rural development efforts that such borrowers may wish to apply in their areas of operation and concerning State, regional, or local plans for long-term rural economic development;

"(5) provide information to electric and telephone borrowers under this Act concerning the eligibility of such borrowers to apply for financial assistance, loans, or grants from other Federal agencies and non-Federal sources to enable such borrowers to expand their rural development efforts;

"(6) promote local partnerships and other coordination between borrowers under this Act and community organizations, States, counties, or other entities, to improve rural development;

"(7) review the advice and recommendations of the Rural Educational Opportunities Board as established under section 601(f); and

"(8) administer a Rural Business Incubator Fund (as established under section 502) that shall provide technical assistance, advice, loans, or capital to business incubator programs or for the creation or operation of small business incubators in rural areas.

Grant programs. Loan programs. Telecommunications. Nonprofit organizations. 7 USC 950aa-1.

"SEC. 502. RURAL BUSINESS INCUBATOR FUND.

"(a) ESTABLISHMENT AND USE.—

"(1) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund to be known as the Rural Business Incubator Fund (in this title referred to as the 'Incubator Fund') to be administered by the Administrator.

"(2) USE.—The Incubator Fund shall be used to make grants and reduced interest loans to electric and telephone borrowers under this Act or to other nonprofit entities that meet the requirements of this section, to promote business incubator programs or for the creation or operation of business incubators in rural areas as defined in this Act, and the interest rate on such loans shall not exceed 5 percent.

"(3) BUSINESS INCUBATOR.—Any business incubator that receives assistance under this title shall be a facility in which small businesses can share premises, support staff, computers, software, hardware, telecommunications terminal equipment, machinery, janitorial services, utilities, or other overhead expenses, and where such businesses can receive technical assistance, financial advice, business planning services, or other support. Business incubator programs that provide assistance of the type described in this paragraph shall be eligible for assistance under this title even if such programs do not involve the sharing of premises.

"(b) APPLICATION FOR ASSISTANCE.—

"(1) ELIGIBILITY TO SUBMIT.—Borrowers under this Act that operate business incubators or that desire to operate such incubators or business incubator programs, and that meet the requirements established by the Administrator for obtaining grants or reduced interest loans under this section, may submit applications for such grants or loans at such time, in such form, and containing such information as the Administrator shall require. Nonprofit entities that are not borrowers under title III shall be considered eligible borrowers for the purpose of this section if such entities are located in a State in which not more than one electric borrower is headquartered in such State.

"(2) REQUIREMENTS.—Applications submitted under paragraph (1) shall, at a minimum—

"(A) contain an assurance that any incubator established or operated pursuant to this section will be operated on a not-for-profit basis; and

"(B) contain an assurance that the policy of such incubator is to encourage and assist businesses in graduating from the incubator and becoming viable business entities in the

community and to inform participating businesses of this policy.

"(3) REVIEW.—In reviewing applications for assistance, the Administrator shall consider—

"(A) how effectively the incubator project will assist in the formation, growth, or improved efficiency of small businesses that will help diversify and develop the local economy; and

"(B) the amount of local support likely to exist for the incubator and the businesses to be assisted by such incubator, taking into account local contributions of business, financial, technical, technological, or managerial expertise, and contributions of equipment or materials, local financial assistance, and other factors as determined appropriate by the Administrator.

"(c) FUNDING OF LOCAL INCUBATORS.—

"(1) BY BORROWER ESTABLISHING INCUBATOR.—

"(A) IN GENERAL.—A borrower that establishes or assists a business incubator under this section shall purchase Capital Term Certificates issued by the Incubator Fund in amounts equal to 10 percent of the amount of the grant, or 5 percent of the amount of the reduced interest loan, provided by the Administrator under this section.

"(B) REDEMPTION OF CERTIFICATES.—Each calendar year for the 10-year period beginning on the date that a grant or reduced interest loan is provided under this section, the Administrator shall redeem an amount equal to 10 percent of the Capital Term Certificates purchased by the borrower under subparagraph (A), without any payment of interest.

"(2) BY THE SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall, subject to the limitations contained in annual appropriations Acts, provide funds for the capitalization of the Incubator Fund, and there are authorized to be appropriated for such capitalization not to exceed $10,000,000 annually until the total of such capitalization equals $60,000,000. Such amounts shall remain available until expended by the Incubator Fund for the purposes of this section. Appropriation authorization.

"(d) REPAYMENTS TO INCUBATION FUND.—All payments made on loans under this section, and all amounts provided under subsection (c), shall be placed in the Incubator Fund established by subsection (a) and shall be available to carry out the purposes of this section.

"(e) FULL USE.—The Administrator shall undertake all reasonable efforts to make full use, during each fiscal year, of any funds contained in the Incubator Fund established under subsection (a), consistent with the requirement that the Incubator Fund redeem Capital Term Certificates as provided by subsection (c). During each fiscal year, 10 percent of the amount contained in the Incubator Fund shall be made available to nonprofit entities described in subsection (b) that are not borrowers under title III, except that if qualified applications from such entities are not received in an amount or at such times sufficient to use such 10 percent amount during any fiscal year, the Administrator shall make the remainder of such amount available to other eligible borrowers during such fiscal year.".

SEC. 2346. EXTENSION SERVICE.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding at the end the following new subsection:

"(g) RURAL ECONOMIC AND BUSINESS DEVELOPMENT.—

"(1) IN GENERAL.—The Secretary shall establish an Extension Service rural economic and business development program to enable States or counties to employ specialists as Cooperative Extension Service staff of the State or county to assist individuals in creating new businesses, including cooperatives, or to assist existing businesses, and to assist such businesses regarding advanced telecommunications, computer technologies, technical or management assistance, business and financial planning, and other related matters, and to assist community leaders in community economic analysis and strategic planning.

"(2) FUNCTION OF SPECIALISTS.—Specialists employed under paragraph (1) shall provide economic development information and assistance concerning business creation, business planning and advice, advanced telecommunications, business management, computer operations, and other technical assistance to community leaders and private sector entrepreneurs and cooperatives operating in the State or county that employs such specialists.

"(3) PROCEDURES AND LIMITATIONS.—The Secretary shall establish policies, procedures, and limitations that shall apply to States and counties that desire to participate in the program established under this subsection. States and counties shall determine the types of rural economic and business development specialists that are needed by such States and counties. In States with land-grant colleges and universities eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, such eligible institutions shall determine the types of rural economic and business development specialists needed.

Grant programs.

"(4) PAYMENT OF SALARY.—The Secretary shall make grants to States and counties that participate in the program established under this section in an amount equal to 60 percent of the total amount of the salary paid to any specialists employed under such program, and the State or county shall provide funds for the remaining 40 percent of such salary. Land-grant colleges and universities eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, shall be exempt from the 40 percent salary matching requirement.

"(5) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $5,000,000 in fiscal year 1991, $10,000,000 in fiscal year 1992, $15,000,000 in fiscal year 1993, and $20,000,000 in fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this section shall remain available until expended.

"(6) COORDINATION.—The Secretary shall ensure that the activities of the Extension Service rural economic and business development program established under this subsection are coordinated with the Small Business Administration to ensure that there is no duplication of activities in any local area, county or region.

"(b) RURAL DEVELOPMENT EXTENSION WORK.—

Occupational training. Technical assistance.

"(1) NATIONAL PROGRAM.—The Secretary of Agriculture shall establish a national program, to be administered by the Extension Service, to provide rural citizens with training in, technical and management assistance regarding, and educational opportunities to enhance their knowledge of—

"(A) beginning businesses through entrepreneurship;

"(B) the procedures necessary to establish new businesses in rural areas;

"(C) self-employment opportunities in rural areas;

"(D) the uses of modern telecommunications and computer technologies;

"(E) business and financial planning; and

"(F) such other training, assistance, and educational opportunities as the Secretary determines are necessary to carry out the program established under this subsection.

"(2) LEADERSHIP ABILITIES.—The program established under this subsection shall provide assistance designed to increase the leadership abilities of residents in rural areas. Such assistance shall include—

"(A) information relevant to the development of community goals;

"(B) instruction regarding the methods by which State or Federal funding for rural development projects might be obtained;

"(C) instruction regarding the successful writing of applications for loan or grant funds from government and private sources;

"(D) an updated listing of State, Federal, and other economic development programs available to rural areas; and

"(E) such other training, information, and assistance as the Secretary determines necessary to increase the leadership abilities of residents in rural areas.

"(3) CATALOG OF PROGRAMS.—The National Rural Information Center Clearinghouse of the National Agricultural Library, in cooperation with the Extension Service in each State, should develop, maintain, and provide to each community, and make accessible to any other interested party, a catalog of available State, Federal, or private programs that provide leadership training or other information or services similar or complementary to the training or services required by this subsection. Such catalog should include, at a minimum, the following entities within the State that provide such training or services:

"(A) Any rural electric cooperative.

"(B) Any nonprofit company development corporation.

"(C) Any economic development district that serves a rural community.

"(D) Any nonprofit subsidiary of any private entity.

"(E) Any nonprofit organization whose principal purpose is to promote economic development in rural areas.

"(F) Any investor or publicly owned electric utility.

"(G) Any small business development center or small business investment company.

"(H) Any regional development organization.

"(I) Any vocational or technical school.

"(J) Any Federal, State, or local government agency or department.

"(K) Any other entity that the Secretary deems appropriate.

The extension service in each State should include in the catalog information on the specific training or services provided by each entity in the catalog.

"(4) EMPLOYEE TRAINING.—The Secretary shall provide training for appropriate State extension service employees, assigned to programs other than rural development, to ensure that such employees understand the availability of rural development programs in their respective States and the availability of Extension Service staff qualified to provide to rural citizens and to State extension staff training and materials for technical, management, and educational assistance.

"(5) COORDINATION OF ASSISTANCE.—The Secretary shall ensure, to the extent practicable, that assistance provided under this subsection is coordinated with and delivered in cooperation with similar services or assistance provided by other Federal agencies or programs for rural residents.".

SEC. 2347. RURAL TECHNOLOGY GRANTS.

(a) IN GENERAL.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (f) and inserting the following:

Nonprofit organizations.

"(f)(1) The Secretary shall make grants under this subsection to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural technology or cooperative development.

"(2) Any nonprofit institution seeking a grant under paragraph (1) shall submit to the Secretary an application containing a plan for the establishment and operation by such institution of a center for rural technology or cooperative development. The Secretary may approve such application if such plan contains the following:

"(A) A provision that substantiates that such center will effectively serve rural areas in the United States.

"(B) A provision that the primary objective of such center will be to improve the economic condition of rural areas by promoting the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of—

"(i) new services and products that can be produced or provided in rural areas;

"(ii) new processes that can be utilized in the production of products in rural areas; and

"(iii) new enterprises that can add value to on-farm production through processing or marketing.

"(C) A description of the activities that such center will carry out to accomplish such objective. Such activities may include the following:

"(i) Programs for technology research, investigations, and basic feasibility studies in any field or discipline for the purpose of generating principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons or entities in rural areas served by such centers in the development and commercialization of new products, processes, or services.

"(ii) Programs for the collection, interpretation, and dissemination of principles, facts, technical knowledge, new technology, or other information that may be useful to rural industries, cooperatives, agribusinesses, and other persons in rural areas served by the center in the development and commercialization of new products, processes, or services.

"(iii) Programs providing training and instruction for individuals residing in rural areas served by the center with respect to the development (through technological innovation, cooperative development, and adaptation of existing technology) and commercialization of new products, processes, or services.

"(iv) Programs providing loans and grants to individuals, small businesses, and cooperatives in rural areas served by the center for purposes of generating, evaluating, developing, and commercializing new products, processes, or services.

"(v) Programs providing technical assistance and advisory services to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing and commercializing new products, processes, or services.

"(vi) Programs providing research and support to individuals, small businesses, cooperatives, and industries in rural areas served by the center for purposes of developing new agricultural enterprises to add value to on-farm production through processing or marketing.

"(D) A description of the contributions that such activities are likely to make to the improvement of the economic conditions of the rural areas for which such center will provide services.

"(E) Provisions that such center, in carrying out such activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the Federal Government, and State and local governments.

"(F) Provisions that such center—

"(i) will consult with any college or university administering any program under title V of the Rural Development Act of 1972 in the State in which such center is located; and

"(ii) will cooperate with such college or university in the coordination of such activities and such program.

"(G) Provisions that such center will take all practicable steps to develop continuing sources of financial support for such center, particularly from sources in the private sector.

"(H) Provisions for—

"(i) monitoring and evaluating such activities by the institution operating such center; and

"(ii) accounting for money received by such institution under this section.

"(I) Provisions that such center will provide for the optimal application of such technology and cooperative development in rural areas, especially those areas adversely affected by adverse agricultural economic conditions, through the establishment of demonstration projects and subcenters for—

"(i) rural technology development where the technology can be implemented by communities, community colleges, businesses, cooperatives, and other institutions; or

"(ii) cooperative development where such development can be implemented by cooperatives to improve local economic conditions.

"(3) Grants made under paragraph (1) shall be made on a competitive basis. In making grants under paragraph (1), the Secretary shall give preference to grant applications providing for the establishment of centers for rural technology or cooperative development that—

"(A) can demonstrate the capability to transfer for practical application in rural areas the technology generated at such centers and the ability to commercialize products, processes, services, and enterprises in such rural areas;

"(B) will effectively serve in rural areas that have—

"(i) few rural industries and agribusinesses;

"(ii) high levels of unemployment or underemployment;

"(iii) high rates of outmigration of people, businesses, and industries; and

"(iv) low levels of per capita income; and

"(C) will contribute the most to the improvement of economic conditions of rural areas.

"(4) As used in this subsection:

"(A) The term 'nonprofit institution' means any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(B) The term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the other territories and possessions of the United States.

"(g) In carrying out subsection (f), the Secretary may provide technical assistance to alleviate or prevent conditions of excessive unemployment or underemployment of persons residing in economically distressed rural areas that the Secretary determines have a substantial need for such assistance. Such assistance shall include planning and feasibility studies, management and operational assistance, and studies evaluating the needs for development potential of projects that increase employment and improve economic growth in such areas.

"(h) The Secretary may make grants to defray not to exceed 75 percent of the administrative costs incurred by organizations and public bodies to carry out projects for which grants or loans are made under subsection (f). For purposes of determining the non-Federal share of such costs, the Secretary shall consider contributions in cash and in kind, fairly evaluated, including but not limited to premises, equipment, and services.".

(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out subsections (f) and (h) of section 310B of the Consolidated Farm and Rural Development Act, there are authorized to be appropriated to the Secretary not to exceed $50,000,000 for each of the fiscal years 1992, 1993, and 1994.

SEC. 2348. DEMONSTRATION PROJECTS.

Grant programs.
7 USC 2662a.

The Secretary shall establish a program of competitive grants to rural areas to serve as demonstration areas for rural economic development and as models of such development for other areas. In awarding such grants, the Secretary shall favorably consider a request for funds from a rural area that the Secretary determines—

(1) demonstrates the ability to supplement the grant funds provided under this section with other funds from State, local, or private sources;

(2) demonstrates the ability to use the grant funds to increase employment in the area; and

(3) can successfully serve as a demonstration area to share the results of the project to the benefit of other rural areas in the region.

SEC. 2349. RURAL DEVELOPMENT RESEARCH ASSISTANCE.

Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2662) is amended by adding after the subsection added by section 2346 of this Act the following:

"(h) RESEARCH GRANTS.—

"(1) IN GENERAL.—In addition to the programs already conducted under this section, the Secretary shall also establish and carry out a program to award competitive research grants to land-grant colleges and universities, research foundations, and centers established by land-grant universities, State agricultural experiment stations, and to all colleges and universities having demonstrable capability in rural development research, as determined by the Secretary, to carry out research to—

"(A) determine factors which impact upon rural economic development whether favorably or unfavorably;

"(B) estimate the relative impacts of these factors;

"(C) develop methodologies to investigate policy options for rural economic development;

"(D) evaluate the impact of Federal and State economic development policies and programs designed to improve economic competitiveness and diversification;

"(E) support strategic planning for economic investments;

"(F) improve human resources; and

"(G) improve the data base for rural development decisionmaking in rural areas.

"(2) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated to the Secretary not to exceed $3,000,000 in each fiscal year. Amounts appropriated under this subsection shall remain available until expended.".

SEC. 2350. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

7 USC 911a.

The Rural Electrification Act of 1936 is amended by inserting after section 11 (7 U.S.C. 911) the following new section:

"SEC. 11A. ASSISTANT ADMINISTRATOR FOR ECONOMIC DEVELOPMENT.

"(a) APPOINTMENT.—The Administrator shall appoint an Assistant Administrator for Economic Development (in this Act referred to as the 'Assistant Administrator') to carry out the programs of the Rural Electrification Administration concerning the involvement of rural electric and telephone systems in community and economic development.

"(b) APPOINTMENT FACTORS.—In appointing the Assistant Administrator, the Administrator shall consider the degree to which candidates possess—

"(1) knowledge of and experience in community and economic development programs and strategies;

"(2) the ability to develop and manage the specific programs and responsibilities of this office, as described in this Act;

"(3) the ability to work effectively with officials of Federal, State, and local governments, private, and other officials of development programs, as well as with borrowers of the Rural Electrification Administration and their associations; and

"(4) other factors determined by the Administrator to be important in the successful execution of the responsibilities of the office of Assistant Administrator.

"(c) RESPONSIBILITIES AND COMPENSATION.—The Assistant Administrator shall be—

"(1) responsible, unless otherwise provided by law, for the administration of the programs of the Rural Electrification Administration not directly related to the providing of electric or telephone service; and

"(2) compensated at a salary level that is not less than that of the Assistant Administrator for Electric and the Assistant Administrator for Telephone of the Rural Electrification Administration.

"(d) FUNDING.—The Assistant Administrator shall use not less than 10 percent nor more than 20 percent of the salaries and expenses provided to the Administration during any fiscal year to carry out the responsibilities described in subsection (c)(1), and such amounts shall remain available until expended.

"(e) TECHNICAL ASSISTANCE UNIT.—The Administrator shall establish a technical assistance unit to provide advice and guidance to borrowers concerning community and economic development activities permitted under this Act. From the amounts made available to the Assistant Administrator under subsection (d), not less than 1 percent of the salaries and expenses of the Rural Electrification Administration shall be made available to such technical assistance unit established under this subsection.".

Rural Telecommunications Improvements Act of 1990.

Subtitle F—Rural Electrification Provisions

SEC. 2351. SHORT TITLE; AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.

7 USC 901 note.

(a) SHORT TITLE.—This subtitle may be cited as the "Rural Telecommunications Improvements Act of 1990".

(b) AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936.—Except as otherwise expressly provided, wherever in this subtitle an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Rural Electrification Act of 1936.

7 USC 901 note.

SEC. 2352. FINDINGS; STATEMENT OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) making modern telecommunications technology and services available in rural areas in the United States promotes economic development and improves the quality of life in rural areas; and

(2) the efficient operation of the Rural Telephone Bank and the Rural Electrification Administration telephone loan programs is essential to the continued development of the telecommunications infrastructure in rural areas in the United States.

(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Rural Telephone Bank and the Rural Electrification Administration make loans that facilitate the development and enhancement of the rural telecommunications infrastructure in order to make modern telecommunications technology and services available at reasonable rates to the greatest practicable number of people in rural areas in the United States.

CHAPTER 1—AMENDMENT TO TITLE I OF THE RURAL ELECTRIFICATION ACT OF 1936

SEC. 2353. GENERAL PROHIBITIONS.

Title I (7 U.S.C. 901 et seq.) is amended by adding after the section added by section 2343 of this Act the following new section:

"SEC. 18. GENERAL PROHIBITIONS. 7 USC 918.

"The Administrator and the Governor of the telephone bank shall not deny or reduce any loan or loan advance under this Act based on a borrower's level of general funds.".

CHAPTER 2—AMENDMENTS RELATING TO TITLE II OF THE RURAL ELECTRIFICATION ACT OF 1936

SEC. 2354. UPDATED DEFINITION OF TELEPHONE SERVICE.

Section 203(a) (7 U.S.C. 924(a)) is amended—

(1) by inserting "or reception" after "transmission";

(2) by inserting "data," after "voice,"; and

(3) by striking "through the use of electricity between the transmitting and receiving apparatus" and inserting "by wire, fiber, radio, light, or other visual or electromagnetic means".

SEC. 2355. LOAN FEASIBILITY.

Title II (7 U.S.C. 922 et seq.) is amended by adding at the end the following new section:

"SEC. 204. LOAN FEASIBILITY. 7 USC 925.

"The Administrator and the Governor of the telephone bank may not, as a condition of making a telephone loan to an applicant therefor, require the applicant to—

"(1) increase the rates charged to the applicant's customers or subscribers; or

"(2) increase the applicant's ratio of—

"(A) net income or margins before interest; to

"(B) the interest requirements on all of the applicant's outstanding and proposed loans.".

SEC. 2356. ENCOURAGEMENT OF INVESTMENT BY TELEPHONE BORROWERS IN RURAL DEVELOPMENT PROJECTS.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the section added by section 2355 of this Act the following new section:

7 USC 926.

"SEC. 205. CERTAIN RURAL DEVELOPMENT INVESTMENTS BY QUALIFIED TELEPHONE BORROWERS NOT TREATED AS DIVIDENDS OR DISTRIBUTIONS.

"(a) IN GENERAL.—The Administrator and the Governor of the telephone bank shall not—

"(1) treat any amount invested by any qualified telephone borrower for any purpose described in section 607(c)(2) of the Rural Development Act of 1972 (including any investment in, or extension of credit, guarantee, or advance made to, an affiliated company of the borrower, that is used by such company for such a purpose) as a dividend or distribution of capital to the extent that, immediately after such investment, the aggregate of such investments does not exceed ⅓ of the net worth of the borrower; or

"(2) require a qualified telephone borrower to obtain the approval of the Administrator or the Governor of the telephone bank in order to make an investment described in paragraph (1).

"(b) QUALIFIED TELEPHONE BORROWER DEFINED.—As used in subsection (a), the term 'qualified telephone borrower' means a person—

"(1) to whom a telephone loan has been made or guaranteed under this Act; and

"(2) whose net worth is at least 20 percent of the total assets of such person.".

SEC. 2357. IMPROVEMENTS IN TELEPHONE PROGRAM.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 2355 and 2356 of this Act the following new section:

7 USC 927.

"SEC. 206. GENERAL DUTIES AND PROHIBITIONS.

"(a) DUTIES.—The Administrator and the Governor of the telephone bank shall—

Federal Register, publication.

"(1) notwithstanding section 553(a)(2) of title 5, United States Code, cause to be published in the Federal Register, in accordance with subsections (b) through (e) of section 553 of such title, all rules, regulations, bulletins, and other written policy standards governing the operations of the telephone loan and loan guarantee programs administered under this Act other than those relating to agency management and personnel;

"(2) in evaluating the feasibility of a telephone loan to be made to a borrower for telephone services, use—

"(A) with respect to items for which the regulatory authority with jurisdiction over the provision of such services has approved the depreciation rates used by the borrower, such approved rates; and

"(B) with respect to other items, the average of the depreciation rates used by borrowers of telephone loans made under this Act;

"(3) annually determine and publish the average described in paragraph (2)(B); and

"(4) make loans for all purposes for which telephone loans are authorized under section 201 or 408, to the extent of qualifying applications therefor.

"(b) PROHIBITIONS.—The Administrator and the Governor of the telephone bank shall not—

"(1) rescind an insured telephone loan, or a Rural Telephone Bank loan, made under this Act without the consent of the borrower, unless all of the purposes for which telephone loans have been made to the borrower under this Act have been accomplished with funds provided under this Act;

"(2) regulate the order or sequence of advances of funds under telephone loans made under this Act to any borrower who has received any combination of telephone loans from the Rural Electrification Administration, the Rural Telephone Bank, or the Federal Financing Bank; or

"(3) deny a loan or advance to, or take any other adverse action against, an applicant for, or a borrower of, a telephone loan under this Act for any reason that is not based on a rule, regulation, bulletin, or other written policy standard that has not been published pursuant to section 553 of title 5, United States Code.".

SEC. 2358. PROMPT PROCESSING OF TELEPHONE LOANS.

Reports.
7 USC 928.

Title II (7 U.S.C. 922 et seq.) is amended by adding after the sections added by sections 2355, 2356, and 2357 of this Act the following new section:

"SEC. 207. PROMPT PROCESSING OF TELEPHONE LOANS.

"Within ten days after the end of the second and fourth calendar quarters of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on Appropriations of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations of the Senate, a report—

"(1) identifying each completed application for a telephone loan under section 305, a guarantee of a telephone loan under section 306, or a loan under section 408, that has not been finally acted upon within ninety days after the date the completed application is submitted; and

"(2) stating the reasons for the failure to finally act upon the completed applications within such ninety-day period.".

CHAPTER 3—AMENDMENTS RELATING TO TITLE III OF THE RURAL ELECTRIFICATION ACT OF 1936

SEC. 2359. CREATION OF SEPARATE ELECTRIC AND TELEPHONE ACCOUNTS WITHIN RURAL ELECTRIC AND TELEPHONE REVOLVING FUND.

Section 302 (7 U.S.C. 932) is amended by adding at the end the following new subsection:

"(c)(1) The Administrator shall maintain two separate accounts within the fund, which shall be known as the electric account and the telephone account, respectively.

"(2)(A) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to electrification loan operations in the electric account.

"(B) The Administrator shall account for the assets, liabilities, income, expenses, and equity of the fund attributable to telephone loan operations in the telephone account.

"(3)(A) The assets accounted for in the electric account shall be available solely for electrification loan operations under this Act.

Loan programs.

"(B) The assets accounted for in the telephone account shall be available solely for telephone loan operations under this Act (other than under title IV).".

SEC. 2360. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR INSURED TELEPHONE LOANS.

7 USC 939.

Section 309 (7 U.S.C. 940) is amended—

(1) by striking "SEC. 309. LOAN TERMS AND CONDITIONS.—Loans made from or" and inserting the following:

"SEC. 309. LOAN TERMS AND CONDITIONS.

"(a) IN GENERAL.—Loans made from or"; and

(2) by adding at the end the following new subsection:

"(b) TELEPHONE LOANS UNDER THIS TITLE.—The term of any telephone loan made under this title shall be determined by the borrower at the time the loan application is submitted.".

SEC. 2361. TIER REQUIREMENT FOR INSURED TELEPHONE LOANS.

Section 305 (7 U.S.C. 935) is amended by adding at the end the following new subsection:

"(d) The Administrator shall make a telephone loan under this title to an applicant therefor who is otherwise qualified to receive such a loan at the highest interest rate (but not less than the lowest interest rate, nor higher than the highest interest rate, specified in subsection (b)) at which the borrower would be capable of producing net income or margins before interest payments of at least 100 percent (but not more than 150 percent) of the interest requirements on all of the applicant's outstanding and proposed loans.".

SEC. 2362. CLARIFICATION OF TELEPHONE LOAN GUARANTEE AUTHORITY.

Section 306 (7 U.S.C. 936) is amended by inserting after the first sentence the following new sentence: "The Administrator shall not provide such assistance to any borrower of a telephone loan under this Act unless the borrower specifically applies for such assistance.".

CHAPTER 4—AMENDMENTS RELATING TO TITLE IV OF THE RURAL ELECTRIFICATION ACT OF 1936

SEC. 2363. MODIFICATION OF RURAL TELEPHONE BANK BOARD.

(a) IN GENERAL.—Section 405 (7 U.S.C. 945) is amended by striking all that precedes subsection (g) and inserting the following:

"SEC. 405. BOARD OF DIRECTORS.

"(a) IN GENERAL.—The management of the telephone bank, within the limitations prescribed by law, shall be vested in a board of directors (in this title referred to as the 'Telephone Bank Board').

"(b) MEMBERSHIP.—The Telephone Bank Board shall consist of thirteen individuals, as follows:

"(1) PRESIDENTIAL APPOINTEES.—The President shall appoint seven individuals to serve on the Telephone Bank Board who shall serve at the pleasure of the President—

"(A) five of whom shall be officers or employees of the Department of Agriculture and not officers or employees of the Rural Electrification Administration; and

"(B) two of whom shall be from the general public and not officers or employees of the Federal Government.

"(2) COOPERATIVE MEMBERS.—The cooperative-type entities, and organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

"(3) COMMERCIAL MEMBERS.—The commercial-type entities, and the organizations controlled by such entities, that hold class B or class C stock shall elect three individuals to serve on the Telephone Bank Board for a term of two years, by a plurality vote of the stockholders voting in the election.

"(c) ELECTIONS.—

"(1) VALIDITY.—An election under paragraph (2) or (3) of subsection (b) shall not be considered valid unless a majority of the stockholders eligible to vote in the election have voted in the election.

"(2) BALLOTING.—Balloting in an election under paragraph (2) or (3) of subsection (b) shall be conducted by mail pursuant to the procedures authorized in the bylaws of the telephone bank.

"(3) NO CUMULATIVE VOTING.—Cumulative voting shall not be permitted in any election under paragraph (2) or (3) of subsection (b).

"(d) COMPENSATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each member of the Telephone Bank Board shall receive $100 per day for each day or part thereof, not to exceed fifty days per year, spent in the performance of their official duties, and shall be reimbursed for travel and other expenses in such manner and subject to such limitations as the Telephone Bank Board may prescribe.

"(2) EXCEPTIONS.—The five members of the Telephone Bank Board appointed under subsection (b)(1)(A) shall not receive compensation by reason of their service on the Telephone Bank Board.

"(e) SUCCESSION.—A member of the Telephone Bank Board may serve after the expiration of the term of office of such member until the successor for such member has taken office.

"(f) CHAIRPERSON.—The members of the Telephone Bank Board shall elect one of such members to be the Chairperson of the Board, in accordance with the bylaws of the telephone bank. The Chairperson shall preside at all meetings of the Board and may vote on a matter before the Board unless the vote would result in a tie vote on the matter.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 405 AMENDMENTS.—Section 405 (7 U.S.C. 945) is amended—

(A) in subsection (g) by striking "(g) The" and inserting "(g) BYLAWS.—The";

(B) in subsection (h) by striking "(h) The" and inserting "(h) MEETINGS.—The"; and

(C) in subsection (i) by striking "(i) The" and inserting "(i) ANNUAL REPORT.—The".

(2) SECTION 410(a)(2) AMENDMENT.—Section 410(a)(2) (7 U.S.C. 950(a)(2)) is amended by striking "405(b)" and inserting "405(b)(1)(A)".

(c) APPLICABILITY OF SUNSHINE ACT.—Section 405 (7 U.S.C. 945) is amended by adding at the end the following:

"(j) OPEN MEETINGS.—For purposes of section 552b of title 5, United States Code, the Telephone Bank Board shall be treated as an agency within the meaning of subsection (a)(1) of such section.".

SEC. 2364. PRO RATA PURCHASE OF RURAL TELEPHONE BANK STOCK BY RURAL TELEPHONE BANK BORROWERS.

The second sentence of section 406(d) (7 U.S.C. 946(d)) is amended by inserting ", by paying an amount equal to 5 per centum of the amount of each loan advance, at the time of such advance" before the period.

SEC. 2365. CLARIFICATION OF AUTHORITY TO SET RURAL TELEPHONE BANK LOAN LEVELS.

Section 408(a) (7 U.S.C. 948(a)) is amended by striking "is authorized on behalf of the telephone bank to make loans," and inserting "shall make loans on behalf of the telephone bank, to the extent that there are qualifying applications therefor, subject only to limitations as to amounts authorized for loans and advances as may be imposed by law enacted by the Congress of the United States for loans to be made in any one year, and".

SEC. 2366. BORROWERS TO DETERMINE AMORTIZATION PERIOD FOR RURAL TELEPHONE BANK LOANS.

Section 408 (7 U.S.C. 948) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), the term of any loan made under this title shall be determined by the borrower at the time the application for the loan is submitted.

"(2) The term of any loan made under this title shall not exceed the maximum term for which a loan may be made under section 4.".

SEC. 2367. TECHNICAL AMENDMENTS RELATING TO THE RURAL TELEPHONE BANK PROVISIONS OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) SECTION 406(h) AMENDMENTS.—Section 406(h) (7 U.S.C. 946(h)) is amended—

(1) by inserting after the second sentence "All amounts so transferred shall not be transferred, directly or indirectly, to the reserve for contingencies."; and

(2) by striking "Rural Telephone Bank Borrowers Fairness" and inserting "Omnibus Budget Reconciliation".

(b) SECTION 408(b)(3) AMENDMENTS.—Section 408(b)(3) (7 U.S.C. 948(b)(3)) is amended—

(1) in subparagraph (B), by striking "paragraph" and inserting "subparagraph";

(2) in subparagraph (D)(ii), by adding at the end the following: "For purposes of the calculation under this subparagraph, such rate shall be zero."; and

(3) in subparagraph (E), by striking "subparagraph" the second place such term appears and inserting "paragraph".

CHAPTER 5—EFFECTIVE DATE

SEC. 2368. EFFECTIVE DATE. 7 USC 946 note.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) TECHNICAL AMENDMENTS.—The amendments made by section 2367 shall take effect as if such amendments had been included in chapter 2 of subtitle D of title I of the Omnibus Budget Reconciliation Act of 1987 on the date of enactment of such chapter.

Subtitle G—Rural Revitalization Through Forestry

CHAPTER 1—FORESTRY RURAL REVITALIZATION

Technical assistance.
Business and industry.

SEC. 2371. FORESTRY RURAL REVITALIZATION. 7 USC 6601.

(a) ESTABLISHMENT OF ECONOMIC DEVELOPMENT AND GLOBAL MARKETING PROGRAM.—The Secretary of Agriculture, acting through the Extension Service and the Cooperative Extension System, and in consultation with the Forest Service, shall establish and implement educational programs and provide technical assistance to assist businesses, industries, and policymakers to create jobs, raise incomes, and increase public revenues in manners consistent with environmental concerns.

(b) ACTIVITIES.—Each program established under subsection (a) shall—

(1) transfer technologies to natural resource-based industries in the United States to make such industries more efficient, productive, and competitive;

(2) assist businesses to identify global marketing opportunities, conduct business on an international basis, and market themselves more effectively; and

(3) train local leaders in strategic community economic development.

(c) TYPES OF PROGRAMS.—The Secretary of Agriculture shall establish specific programs under subsection (a) to—

(1) deliver educational services focused on community economic analysis, economic diversification, economic impact analysis, retention and expansion of existing commodity and noncommodity industries, amenity resource and tourism development, and entrepreneurship focusing on forest lands and rural communities;

(2) use Cooperative Extension System databases and analytical tools to help communities diversify their economic bases, add value locally to raw forest product materials, and retain revenues by helping to develop local businesses and industries to supply forest products locally; and

(3) use the full resources of the Cooperative Extension Service, including land-grant universities and county offices, to promote economic development that is sustainable and environmentally sound.

National Forest-Dependent Rural Communities Economic Diversification Act of 1990.
7 USC 6601 note.

CHAPTER 2—NATIONAL FOREST-DEPENDENT RURAL COMMUNITIES

SEC. 2372. SHORT TITLE.

This chapter may be cited as the "National Forest-Dependent Rural Communities Economic Diversification Act of 1990".

7 USC 6611.

SEC. 2373. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the economic well-being of rural America is vital to our national growth and prosperity;

(2) the economic well-being of many rural communities depends upon the goods and services that are derived from national forests;

(3) the economies of many of these communities suffer from a lack of industrial and business diversity;

(4) this lack of diversity is particularly serious in communities whose economies are predominantly dependent on timber and recreation resources and where management decisions made on the national forests by Federal and private organizations may disrupt the supply of those resources;

(5) the Forest Service has expertise and resources that could be directed to promote modernization and economic diversification of existing industries and services based on forest resources;

(6) the Forest Service has the technical expertise to provide leadership, in cooperation with other governmental agencies and the private sector, to assist rural communities dependent upon national forest resources to upgrade existing industries and diversify by developing new economic activity in non-forest-related industries; and

(7) technical assistance, training, education, and other assistance provided by the Department of Agriculture can be targeted to provide immediate help to those rural communities in greatest need.

(b) PURPOSES.—The purposes of this chapter are—

(1) to provide assistance to rural communities that are located in or near national forests and that are economically dependent upon forest resources or are likely to be economically disadvantaged by Federal or private sector land management practices;

(2) to aid in diversifying such communities' economic bases; and

(3) to improve the economic, social, and environmental well-being of rural America.

7 USC 6612.

SEC. 2374. DEFINITIONS.

As used in this chapter:

(1) The term "action team" means a rural forestry and economic diversification action team established by the Secretary pursuant to section 2375(b).

(2) The term "economically disadvantaged" means economic hardship due to the loss of jobs or income (labor or proprietor) derived from forestry, the wood products industry, or related commercial enterprises such as recreation and tourism in the national forest.

(3) The term "rural community" means—

(A) any town, township, municipality, or other similar unit of general purpose local government having a population of not more than 10,000 individuals (according to the latest decennial census) that is located in a county where at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism; or

(B) any county or similar unit of general purpose local government having a population of not more than 22,550 individuals (according to the latest decennial census) in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, and forest-related industries such as recreation and tourism,

that is located within the boundary, or within 100 miles of the boundary, of a national forest.

(4) The term "Secretary" means the Secretary of Agriculture.

SEC. 2375. RURAL FORESTRY AND ECONOMIC DIVERSIFICATION ACTION TEAMS. 7 USC 6613.

(a) REQUESTS FOR ASSISTANCE.—Economically disadvantaged rural communities may request assistance from the Secretary in identifying opportunities that will promote economic improvement and diversification and revitalization.

(b) ESTABLISHMENT.—Upon request, the Secretary may establish rural forestry and economic diversification action teams to prepare an action plan to provide technical assistance to economically disadvantaged communities. The action plan shall identify opportunities to promote economic diversification and enhance local economies now dependent upon national forest resources. The action team may also identify opportunities to use value-added products and services derived from national forest resources.

(c) ORGANIZATION.—The Secretary shall design and organize any action team established pursuant to subsection (b) to meet the unique needs of the requesting rural community. Each action team shall be directed by an employee of the Forest Service and may include personnel from other agencies within the Department of Agriculture, from other Federal and State departments and agencies, and from the private sector.

(d) COOPERATION.—In preparing action plans, the Secretary may cooperate with State and local governments, universities, private companies, individuals, and nonprofit organizations for procurement of services determined necessary or desirable.

(e) ELIGIBILITY.—The Secretary shall ensure that no substantially similar geographical or defined local area in a State receives a grant for technical assistance to an economically disadvantaged community under this chapter and a grant for assistance under a designated rural development program, as defined in section 365(b)(2) of the Consolidated Farm and Rural Development Act, during any continuous five-year period.

(f) APPROVAL.—After reviewing requests under this section for financial and economic feasibility and viability, the Secretary shall approve and implement in accordance with section 2376 those action plans that will achieve the purposes of this chapter.

7 USC 6614.

SEC. 2376. ACTION PLAN IMPLEMENTATION.

(a) IN GENERAL.—Action plans shall be implemented, insofar as practicable, to upgrade existing industries to use forest resources more efficiently and to expand the economic base of rural communities so as to alleviate or reduce their dependence on national forest resources.

(b) ASSISTANCE.—To implement action plans, the Secretary may make grants and enter into cooperative agreements and contracts to provide necessary technical and related assistance. Such grants, cooperative agreements, and contracts may be with the affected rural community, State and local governments, universities, corporations, and other persons.

(c) LIMITATION.—The Federal contribution to the overall implementation of an action plan shall not exceed 80 percent of the total cost of the plan, including administrative and other costs. In calculating the Federal contribution, the Secretary shall take into account the fair market value of equipment, personnel, and services provided.

(d) AVAILABLE AUTHORITY.—The Secretary may use the Secretary's authority under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) and other Federal, State, and local governmental authorities in implementing action plans.

(e) CONSISTENCY WITH FOREST PLANS.—The implementation of action plans shall be consistent with land and resource management plans.

7 USC 6615.

SEC. 2377. TRAINING AND EDUCATION.

(a) PROGRAMS.—In furtherance of an action plan, the Secretary may use the Extension Service and other appropriate agencies of the Department of Agriculture to develop and conduct education programs that assist businesses, elected or appointed officials, and individuals in rural communities to deal with the effects of a transition from being economically disadvantaged to economic diversification. These programs may include—

(1) community economic analysis and strategic planning;

(2) methods for improving and retooling enterprises now dependent on national forest resources;

(3) methods for expanding enterprises and creating new economic opportunities by emphasizing economic opportunities in other industries or services not dependent on national forest resources; and

(4) assistance in the evaluation, counseling, and enhancement of vocational skills, training in basic and remedial literacy skills, assistance in job seeking skills, and training in starting or operating a business enterprise.

(b) EXISTING EDUCATIONAL AND TRAINING PROGRAMS.—Insofar as practicable, the Secretary shall use existing Federal, State, and private education resources in carrying out these programs.

7 USC 6616.

SEC. 2378. LOANS TO ECONOMICALLY DISADVANTAGED RURAL COMMUNITIES.

(a) IN GENERAL.—The Secretary, under such terms and conditions as the Secretary shall establish, may make loans to economically disadvantaged rural communities for the purposes of securing technical assistance and services to aid in the development and implementation of action plans, including planning for—

(1) improving existing facilities in the community that may generate employment or revenue;

(2) expanding existing infrastructure, facilities, and services to capitalize on opportunities to diversify economies now dependent on national forest resources; and

(3) supporting the development of new industries or commercial ventures unrelated to national forest resources.

(b) INTEREST RATES.—The interest rates on a loan made pursuant to this section shall be as determined by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such loan, plus not to exceed 1 percent, as determined by the Secretary, and rounded to the nearest one-eighth of 1 percent.

SEC. 2379. AUTHORIZATION OF APPROPRIATIONS AND SPENDING AUTHORITY. 7 USC 6617.

(a) AUTHORIZATION OF APPROPRIATIONS.—Except as provided in subsection (b), there are authorized to be appropriated—

(1) an amount not to exceed 5 percent of the sum of—

(A) the sums received by the Secretary from sales of timber and other products of the forests; and

(B) user fees paid in connection with the use of forest lands; and

(2) such additional sums as may be necessary to carry out the purposes of this chapter.

(b) LIMITATION ON AUTHORIZATION.—Subsection (a) shall not in any way affect payments to the States pursuant to chapter 192 of the Act of May 23, 1908 (16 U.S.C. 500).

(c) SPENDING AUTHORITY.—Any spending authority (as defined in section 401 of the Congressional Budget Act of 1974) provided in this chapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

Subtitle H—Miscellaneous Provisions

SEC. 2381. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE. 7 USC 3125b.

(a) ESTABLISHMENT.—The Secretary shall establish, within the National Agricultural Library, in coordination with the Extension Service, a National Rural Information Center Clearinghouse (in this section referred to as the "Clearinghouse") to perform the functions specified in subsection (b).

(b) FUNCTIONS.—The Clearinghouse shall provide and distribute information and data to any industry, organization, or Federal, State, or local government entity, on request, about programs and services provided by Federal, State, and local agencies and private nonprofit organizations and institutions under which individuals residing in, or organizations and State and local government entities operating in, a rural area may be eligible for any kind of assistance, including job training, education, health care, and economic development assistance, and emotional and financial counseling. To the extent possible, the National Agricultural Library shall use telecommunications technology to disseminate information to rural areas.

(c) FEDERAL AGENCIES.—On request of the Secretary, the head of a Federal agency shall provide to the Clearinghouse such information

as the Secretary may request to enable the Clearinghouse to carry out subsection (b).

(d) STATE AND LOCAL AGENCIES AND NONPROFIT ORGANIZATIONS.—The Secretary shall request State and local governments and private nonprofit organizations and institutions to provide to the Clearinghouse such information as such agencies and organizations may have about any program or service of such agencies, organizations, and institutions under which individuals residing in a rural area may be eligible for any kind of assistance, including job training, educational, health care, and economic development assistance, and emotional and financial counseling.

(e) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $500,000 for each of the fiscal years 1991 through 1995.

13 USC 141 note.

SEC. 2382. MONITORING THE ECONOMIC PROGRESS OF RURAL AMERICA.

(a) BUREAU OF THE CENSUS.—The Director of the Bureau of the Census shall expand the data collection efforts of the Bureau to enable the Bureau to collect statistically significant data concerning the changing economic condition of rural counties and communities in the United States, including data on rural employment, poverty, income, and other information concerning the rural labor force.

(b) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated $1,000,000 for each fiscal year.

SEC. 2383. LOAN RATES APPLICABLE TO CERTAIN LOANS UNDER THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Section 307(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(3)) is amended—

(1) in subparagraph (A), by striking "guranteed" and inserting "guaranteed"; and

(2) by adding at the end the following new subparagraph:

Health care.

"(C) Notwithstanding subparagraph (A), the Secretary shall establish loan rates for health care and related facilities based solely on the income of the area to be served, and such rates shall be otherwise consistent with such subparagraph.".

SEC. 2384. ASSISTANCE FOR CERTAIN DISTRESSED COMMUNITY FACILITY PROGRAM BORROWERS.

(a) AMENDMENT.—The Consolidated Farm and Rural Development Act is amended by inserting after section 353 (7 U.S.C. 2001) the following new section:

7 USC 2001a.

"SEC. 353A. DEBT RESTRUCTURING AND LOAN SERVICING FOR COMMUNITY FACILITY LOANS.

"The Secretary shall establish and implement a program that is similar to the program established under section 353, except that the debt restructuring and loan servicing procedures shall apply to delinquent community facility program loans (rather than delinquent farmer program loans) made by the Farmers Home Administration to a hospital or health care facility under section 306(a).".

7 USC 2001a note.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary shall promulgate regulations, modeled after those promulgated under such section 353, that implement the program established under section 353A of the Consolidated Farm and Rural Development Act.

SEC. 2385. ANALYSIS BY OFFICE OF TECHNOLOGY ASSESSMENT. 7 USC 950aaa-4.

(a) IN GENERAL.—The Office of Technology Assessment shall include, in a study of the effects of information age technology on rural America, an analysis of the feasibility of ensuring that rural citizens in their homes and schools have the ability to acquire, by computer, information in a national library.

(b) CONTENTS.—In conducting the analysis under subsection (a), the Office of Technology Assessment shall—

(1) evaluate, in consultation with the Librarian of Congress, the costs and benefits of establishing a national library whose volumes, periodicals, instructional materials, sound and video resources, and other data are accessible to individuals through their personal computers;

(2) assess the technological, regulatory, or other impediments to the establishment of the library and information retrieval system described in paragraph (1), and the length of time required to establish such a library and retrieval system;

(3) describe the potential for the library and information described in paragraph (1) to provide rural citizens the opportunity to study and explore foreign languages, geography, math, science, history, or other interests, and to exchange scholarly information and ideas with other users, and otherwise to engage in interactive study; and

(4) recommend to the Congress the measures that should be taken to establish the library and retrieval system described in paragraph (1).

SEC. 2386. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end the following new paragraph:

"(4) The Secretary may make grants to statewide private nonprofit public television systems, whose coverage area is predominately rural, for the purpose of demonstrating the effectiveness of such systems in providing information on agriculture and other issues of importance to farmers and other rural residents. Grants available under this paragraph may be used for capital equipment expenditures, start-up and program costs, and other costs necessary to the operation of such demonstrations.".

SEC. 2387. MERGER OF CERTAIN RURAL ELECTRIC COOPERATIVES.

Section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b) is amended—

(1) by inserting "(a)" before "A direct"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding subsection (a), a direct or insured loan may be prepaid by an electric borrower at the lesser of the outstanding principal balance due thereon or the present value thereof discounted from the face value at maturity at the rate set by the Administrator if the borrower is an electrical organization which resulted from a merger or consolidation between a borrower and an organization which, prior to October 1, 1987, prepaid its direct or insured loans pursuant to this section. Prepayments by a borrower hereunder shall be made not later than one year after the effective date of the merger, consolidation, or other transaction. The discount rate to be set by the Administrator for direct or insured loans prepayments hereunder shall be based on the current cost of funds

to the Department of the Treasury for obligations of comparable maturity to those being prepaid. If a borrower prepays using tax exempt financing, the discount shall be adjusted to make the discount equivalent to fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish which are reasonable and necessary to implement this provision. As used in this section, the term 'direct loan' means a loan made under section 4.".

SEC. 2388. TECHNICAL CORRECTIONS.

(a) SECTION 308 AMENDMENTS.—Section 308 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1928) is amended—

(1) in paragraph (a), by striking "prescribe,;" and inserting "prescribe;"; and

(2) by redesignating paragraphs (a) and (b), as paragraphs (1) and (2), respectively.

(b) AMENDMENT TO SECTION 310B(a).—Section 310B(a) of such Act (7 U.S.C. 1932(a)) is amended by striking "subsections (a) and (c)" and inserting "paragraphs (1) and (3)".

(c) SECTION 310B(d) AMENDMENTS.—Section 310B(d) of such Act (7 U.S.C. 1932(d)) is amended—

(1) by moving paragraphs (4), (5), and (6) two ems to the left so that the left margin of such paragraphs is aligned with the left margin of paragraph (3);

(2) in paragraph (3), by striking "paragraph (1) and (2)" and inserting "paragraphs (2) and (3)";

(3) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively; and

(4) by inserting "(1)" after "(d)".

(d) AMENDMENTS RELATING TO SECTION 331.—

(1) SECTION 331 AMENDMENTS.—Section 331 of such Act (7 U.S.C. 1981) is amended—

(A) in the second undesignated subsection—

(i) by moving paragraphs (f), (g), (h), and (i) two ems to the right so that the left margin of each of such paragraphs is aligned with the left margin of paragraph (e);

(ii) in paragraph (f), by striking "Release" and inserting "release";

(iii) in paragraph (g), by striking "Obtain" and inserting "obtain";

(iv) in paragraph (h), by striking "Not" and inserting "not";

(v) in paragraph (i)—

(I) by striking "Consent" and inserting "consent"; and

(II) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(vi) in paragraph (d), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(vii) by redesignating paragraphs (a) through (j) as paragraphs (1) through (10), respectively; and

(B) by redesignating the first and second undesignated subsections as subsections (a) and (b), respectively.

(2) CONFORMING AMENDMENTS.—Section 357(b) of such Act (7 U.S.C. 2005(b)) is amended by striking "331(d)" each place such term appears and inserting "331(b)(4)".

(e) AMENDMENTS TO SECTION 333.—Section 333 of such Act (7 U.S.C. 1983), as amended by section 1810 of this Act, is amended—

(1) in paragraph (a), by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) in paragraph (b)—

(A) in subparagraph (1), by redesignating clauses (A), (B), and (C) as clauses (1), (2), and (3), respectively; and

(B) by redesignating subparagraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(3) in paragraphs (c) and (e), by striking "of this title" each place such term appears"; and

(4) by redesignating paragraphs (a), (b), (c), (d), and (e) as paragraphs (1), (2), (3), (4), and (5), respectively.

(f) SECTION 333A(c) AMENDMENT.—Section 333A(c) of such Act (7 U.S.C. 1983a(c)) is amended by striking "In" and inserting "If".

(g) SECTION 335(c)(2)(D) AMENDMENT.—Section 335(c)(2)(D) of such Act (7 U.S.C. 1985(c)(2)(D)) is amended by striking "caused" and inserting "cause".

(h) SECTION 343(a) AMENDMENTS.—Section 343(a) of such Act (7 U.S.C. 1991(a)) is amended—

(1) in paragraph (1), by striking "and";

(2) in paragraph (3), by striking "and" the third place such term appears; and

(3) in paragraph (5), by striking "contract of insurance" and inserting "'contract of insurance'".

(i) SECTION 346(b) AMENDMENTS.—Section 346(b) of such Act (7 U.S.C. 1994(b)) is amended—

(1) in paragraph (1)(B), by striking "subparagraph (C)" and inserting "paragraph (3)";

(2) in paragraph (1)(C), by striking "subparagraph (A)" and inserting "paragraph (1)";

(3) by redesignating paragraphs (1) (A), (B), (C), (D)(i), and (E) as paragraphs (1), (2), (3), (4), and (5), respectively;

(4) in paragraph (2) (as so redesignated by paragraph (3) of this subsection), by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively;

(5) in each of the subparagraphs redesignated as such by paragraph (4) of this subsection, by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively; and

(6) in paragraph (5) (as so redesignated by paragraph (3) of this subsection), by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(j) SECTION 349(a) AMENDMENT.—Section 349(a) of such Act (7 U.S.C. 1997(a)) is amended by redesignating paragraph (5) as paragraph (4).

SEC. 2389. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

(a) EXTENSION OF GRANT PROGRAM.—Section 502(f)(2) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)(2)) is amended—

(1) by striking "1990" and inserting "1995"; and

(2) by inserting after "under paragraph (1)" the following: "to eligible applicants in any State applying for such grants".

(b) CHANGES TO GRANT PROGRAM.—Section 502(f)(1) of such Act (7 U.S.C. 2662(f)(1)) is amended—

(1) in subparagraph (A), by striking "special grants" and all that follows through "counseling" and inserting the following: "competitive grants for programs that meet the criteria specified in subparagraph (B) to develop counseling, retraining, and educational";

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (E) and (F), respectively;

(3) in subparagraph (B)—

(A) by striking "(B) Services to be provided", the matter preceding the clauses, and clause (i); and

(B) by redesignating clauses (ii) through (viii) as clauses (i) through (vii) of subparagraph (D);

(4) by inserting after subparagraph (A) the following new subparagraphs:

"(B) GRANT CRITERIA.—In order to be eligible to receive a grant under this subsection, an applicant must provide suitable assurances that—

"(i) not less than one-half of the grant funds to the applicant will be used for clinical outreach counseling and crisis management assistance, as required by subparagraph (C);

"(ii) a significant number of farms within the State have a ratio of debts to assets of 40 percent or more, the State's rural economy has been facing adverse economic conditions for a period of years, or such other conditions exist, as determined by the Secretary, such that the assistance provided under this subsection is necessary or appropriate;

"(iii) the planning and implementation of the provision of services under this subsection will be coordinated with the appropriate State agency for mental health, department of health, office of rural health, and any other State agency or department responsible for assisting persons in rural areas of the State; and

"(iv) the planning and implementation of the provision of services under this subsection will be coordinated with the appropriate local governments and other public and private nonprofit agencies and organizations located in rural areas and involved in addressing problems related to the mental health of rural residents.

"(C) COUNSELING AND OUTREACH REQUIRED.—Not less than 50 percent of the grant funds to a State under this subsection shall be used to provide clinical outreach counseling and crisis management assistance.

"(D) OTHER SERVICES TO BE PROVIDED.—In addition to the counseling and outreach services required under subparagraph (C), the following services may also be provided through programs funded under this section:";

(5) by adding at the end of subparagraph (D) (as added by paragraph (4) of this subsection) the following new clause:

"(viii) Assistance for local officials and groups in developing income and employment alternatives."; and

(6) in subparagraph (F) (as so redesignated by paragraph (2) of this subsection)—

(A) by striking "is encouraged to work with" and inserting "shall work with the appropriate State office of rural health, State department or agency of mental health, and other";

(B) by striking "a comprehensive plan" and inserting "an annual comprehensive plan";

(C) by striking "special"; and

(D) by adding at the end the following: "For recipients in a State to be eligible for a grant under this subsection in any fiscal year, the Cooperative Extension Service within the State must develop and sign a Memorandum of Agreement with the appropriate State department or agency of mental health and other State agencies as may be appropriate to carry out the comprehensive plan. Such agreement and plan must emphasize the development and delivery of counseling and outreach programs as provided under subparagraph (B).".

(c) CONFORMING AMENDMENTS.—

(1) Such section is further amended by striking "(f) Special" and inserting "(f) Competitive". 7 USC 2662.

(2) Section 503(c) of such Act (7 U.S.C. 2663(c)) is amended—

(A) by inserting "ADDITIONAL DISTRIBUTIONS.—(1)" after "(c)";

(B) by striking "and section 502(f)" each place such term appears; and

(C) by adding at the end the following new paragraph:

"(2) The Secretary shall distribute the amounts appropriated to carry out section 502(f) to colleges and universities in accordance with the requirements of such subsection.". Colleges and universities.

(d) EFFECT OF AMENDMENTS ON CURRENT GRANT RECIPIENTS.—The eight States receiving grants under section 502(f) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)) during fiscal year 1990 shall continue to be eligible to receive grants (in an amount not to exceed the amount received during that fiscal year) under that section notwithstanding that such grants be awarded competitively, so long as such States comply with the requirement under subparagraph (C) that not less than one-half of such grant amount shall be used for clinical outreach counseling and crisis management assistance. 7 USC 2662 note.

SEC. 2390. RURAL HEALTH AND SAFETY EDUCATION.

(a) SHORT TITLE.—This section may be cited as the "Rural Health and Safety Education Act of 1990". Rural Health and Safety Education Act of 1990.

(b) RURAL HEALTH AND SAFETY EDUCATION PROGRAMS.— Grant programs.

(1) IN GENERAL.—Section 502 of the Rural Development Act of 1972 (7 U.S.C. 2661) is amended by adding after the subsection added by section 2346 of this Act the following new subsection: 7 USC 2661 note. 7 USC 2662.

"(h) RURAL HEALTH AND SAFETY EDUCATION PROGRAMS.—

"(1) PROGRAMS AUTHORIZED.—

"(A) INDIVIDUAL AND FAMILY HEALTH EDUCATION.—The Secretary may make grants for the establishment of individual and family health education programs that shall provide individuals and families with—

"(i) information concerning the value of good health;

"(ii) information to increase the individual or families motivation to take more responsibility for their own health;

"(iii) access to health promotion activities; and

"(iv) training for volunteers and health services providers concerning health promotion and health care services, in cooperation with the Department of Health and Human Services.

"(B) FARM SAFETY EDUCATION.—The Secretary may make grants for the establishment of farm safety education programs that shall provide information and training to farm workers, timber harvesters, and farm families concerning safety in the work place, including information and training concerning—

"(i) the reduction of occupational injury and death rates;

"(ii) the reduction and prevention of exposure to farm chemicals;

"(iii) the reduction of agricultural respiratory diseases and dermititis;

"(iv) the reduction and prevention of noise induced hearing loss;

"(v) the occupational rehabilitation of farmers and timber harvesters with physical disabilities; and

"(vi) farm accident rescue procedures.

"(2) COORDINATION OF PROGRAMS.—Educational programs conducted with grants awarded under this subsection shall be coordinated with the State offices of rural health and other appropriate programs of the Department of Health and Human Services.

"(3) DISSEMINATION OF INFORMATION.—Educational programs conducted with grants awarded under this subsection shall provide leadership within the State for the dissemination of appropriate rural health and safety information resources possessed by the Rural Information Center established at the National Agricultural Library.

"(4) PROCEDURES AND LIMITATIONS.—The Secretary shall establish policies, procedures and limitations that shall apply to States that desire to receive a grant under this subsection. In States with land-grant colleges and universities that are eligible to receive funds under the Act of July 2, 1862 (7 U.S.C. 301 et seq.), and the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, and universities which receive Rural Health Research Center grants, such eligible institutions shall mutually determine the type of rural health and safety education program needed in the State within which such institutions reside.

"(5) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For grants under this subsection, there are authorized to be appropriated $5,000,000 for fiscal year 1991, $10,000,000 for fiscal year 1992, $15,000,000 for fiscal year 1993, and $20,000,000 for fiscal year 1994 and each subsequent fiscal year. Amounts appropriated under this subsection shall remain available until expended.".

(2) TECHNICAL AMENDMENT.—Section 503(c) of such Act (7 U.S.C. 2663(c)) is amended by striking "and section 502(f)" and inserting "section 502(f), and section 502(h)".

SEC. 2391. RURAL HEALTH INFRASTRUCTURE IMPROVEMENT. 7 USC 2662 note.

(a) GRANT FOR DEMONSTRATION PROJECT.—The Secretary of Agriculture shall award a grant for the establishment of a project to demonstrate a model approach to improving rural health infrastructure. The project established with such grant shall—

(1) carry out systematic, community-based rural health needs assessments;

(2) identify and coordinate available health services resources;

(3) improve community infrastructure through health education and information and leadership development and training; and

(4) develop community generated health improvement strategies.

(b) PROJECT IMPLEMENTATION.—The project established under subsection (a) shall be implemented through the cooperation of—

(1) an academic medical center with accredited health professions schools, including schools of medicine, dentistry, public health, nursing, and allied health;

(2) the Cooperative Extension System of a land-grant university; and

(3) county-based citizens' organizations concerned with rural health services.

(c) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out subsection (a), there are authorized to be appropriated such sums as may be necessary in each fiscal year. Amounts appropriated under this subsection shall remain available until expended.

SEC. 2392. CENSUS OF AGRICULTURE.

The Secretary of Commerce shall include questions relating to agricultural accidents and farm safety in thes 1992 Census of Agriculture.

SEC. 2393. LIMITATION ON CONDITIONS FOR WATER AND SEWER GRANTS AND LOANS. 13 USC 142 note.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding after the paragraph added by section 2329 of this Act the following new paragraph:

"(21) In making or insuring loans or making grants under this subsection, the Secretary may not condition approval of such loans or grants upon any requirement, condition or certification other than those specified under this Act.".

SEC. 2394. ENCOURAGEMENT OF PRIVATE CONTRACTING. 7 USC 2204d.

(a) IN GENERAL.—For the purpose of promoting local job creation and private sector investment in rural communities, the Secretary of Agriculture is encouraged, where appropriate and feasible, to use private enterprise concerns located in rural areas, rather than government employees or government enterprises, to provide commercial activities or products to carry out the purposes of this title.

(b) PLAN REQUIRED.—The Secretary shall develop and implement a plan that will result in increasing the use of contracts awarded to private firms by the Department of Agriculture, and maximizing the use of grant, loan, or other financial assistance made for the purpose of rural development to provide the goods and services purchased to carry out the purposes of this title.

7 USC 2007 note.

SEC. 2395. PRESERVATION OF ELIGIBILITY.

Notwithstanding any other provision of law, this title shall not be construed to adversely affect the eligibility, as it existed on the date of enactment of this Act, of cooperatives and other entities for any other credit assistance under Federal law.

7 USC 2007 note.

SEC. 2396. REGULATIONS.

Except as otherwise provided in this title, no later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate such regulations as may be necessary to carry out this title and the amendments made by this title.

Global Climate Change Prevention Act of 1990.
7 USC 6701 note.

TITLE XXIV—GLOBAL CLIMATE CHANGE

SEC. 2401. SHORT TITLE.

This title may be cited as the "Global Climate Change Prevention Act of 1990".

7 USC 6701.

SEC. 2402. GLOBAL CLIMATE CHANGE PROGRAM.

(a) ESTABLISHMENT.—For the purpose of having within the Department of Agriculture a focal point for coordinating all issues of climate change, the Secretary of Agriculture (hereafter in this title referred to as the "Secretary") shall establish a Global Climate Change Program (hereafter in this section referred to as the "Program"). The Secretary shall designate a director of the Program who shall be responsible to the Secretary for carrying out the duties specified in subsections (b) and (c).

(b) GENERAL DUTIES.—The Director shall—

(1) coordinate policy analysis, long range planning, research, and response strategies relating to climate change issues;

(2) provide liaison with other Federal agencies, through the Office of Science and Technology Policy, regarding issues of climate change;

(3) inform the Department of scientific developments and policy issues relating to the effects of climate change on agriculture and forestry, including broader issues that affect the impact of climate change on the farms and forests of the United States;

(4) recommend to the Secretary alternative courses of action with which to respond to such scientific developments and policy issues; and

(5) ensure that recognition of the potential for climate change is fully integrated into the research, planning, and decision-making processes of the Department.

(c) SPECIFIC RESPONSIBILITIES.—The Director shall—

(1) coordinate the global climate change studies required by section 2403;

(2) provide, through such other agencies as the Secretary determines appropriate, competitive grants for research in climatology relating to the potential impact of climate change on agriculture;

(3) coordinate the participation of the Department in interagency climate-related activities;

(4) consult with the National Academy of Sciences and private, academic, State, and local groups with respect to climate research and related activities;

(5) represent the Department to the Office of Science and Technology Policy and coordinate the activities of the Department in response to requirements of this title;

(6) represent the Department on the Intergovernmental Panel on Climate Change; and

(7) review all Department budget items relating to climate change issues, including specifically the research budget to be submitted by the Secretary to the Office of Science and Technology Policy and the Office of Management and Budget.

SEC. 2403. STUDY OF GLOBAL CLIMATE CHANGE, AGRICULTURE, AND FORESTRY. 7 USC 6702.

(a) CROPS.—

(1) IN GENERAL.—The Secretary shall study the effects of global climate change on agriculture and forestry. The study shall, at a minimum address—

(A) the effects of simultaneous increases in temperature and carbon dioxide on crops of economic significance;

(B) the effects of more frequent or more severe weather events on such crops;

(C) the effects of potential changes in hydrologic regimes on current crop yields;

(D) the economic effects of widespread and increased drought frequency in the south, midwest, and plains States; and

(E) changes in pest problems due to higher temperatures.

(2) FURTHER STUDIES.—If the results of the study conducted under paragraph (1) warrant, the Secretary shall conduct further studies that address the means of mitigating the effects of global climate change on crops of economic significance that shall, at a minimum—

(A) identify whether climate change tolerance can be bred into these crops, the amount of time necessary for any such breeding, and the effects on the income of farmers;

(B) evaluate existing genetic resource and breeding programs for crops for their ability to develop new varieties that can tolerate potential climate changes; and

(C) assess the potential for the development of crop varieties that are tolerant to climate changes and other environmental stresses, such as drought, pests, and salinity.

(b) FORESTS.—The Secretary shall conduct a study on the emissions of methane, nitrous oxide, and hydrocarbons from tropical and temperate forests, the manner in which such emissions may affect global climate change; the manner in which global climate change may affect such emissions; and the manner in which such emissions may be reduced through management practices. The study shall, at a minimum—

(1) obtain measurements of nitrous oxide, methane, and nonmethane hydrocarbons from tropical and temperate forests;

(2) determine the manner in which the nitrous oxide, methane, and nonmethane hydrocarbon emissions from temperate and tropical forest systems will respond due to climate change; and

(3) identify and address alternative management strategies for temperate and tropical forests that may mitigate any negative effects of global climate change.

(c) REPORTS.—The Secretary shall submit reports of the studies conducted under subsections (a) and (b) within 3 and 6 years, respectively, after the date of enactment of this Act to the Committee on Agriculture and the Committee on Science, Space, and Technology of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate. In addition, interim reports regarding such studies shall be provided by the Secretary to such Committees annually, with recommendations for actions which may be taken to mitigate the negative effects of global climate change and to adapt to global climate changes and related phenomena.

7 USC 6703.

SEC. 2404. TECHNICAL ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a technical advisory committee to provide advice to the Secretary concerning the major study areas required under this title.

(b) MEMBERS.—The committee established under subsection (a) shall be composed of such representatives of universities, professional societies, government laboratories, and agricultural, environmental and other organizations as the Secretary of Agriculture, in consultation with the Office of Science and Technology Policy and the Administrator of the Environmental Protection Agency, determines appropriate based on an assessment by the Secretary of qualifications required for service on such committee. Appointments to such committee shall be made not later than 90 days after the date of the enactment of this Act. Such committee shall have a chairperson who shall be elected by the members of the committee from among such members.

7 USC 6704.

SEC. 2405. OFFICE OF INTERNATIONAL FORESTRY.

(a) ESTABLISHMENT.—The Secretary, acting through the Chief of the Forest Service, shall establish an Office of International Forestry within the Forest Service within six months after the date of enactment of this Act.

(b) DEPUTY CHIEF DESIGNATION.—The Chief shall appoint a Deputy Chief for International Forestry.

(c) DUTIES.—The Deputy Chief shall—

(1) be responsible for the international forestry activities of the Forest Service;

(2) coordinate the activities of the Forest Service in implementing the provisions of this title; and

(3) serve as Forest Service liaison to the director for the program established pursuant to section 2402.

7 USC 6705.

SEC. 2406. LINE ITEM.

The President's proposed budget to Congress for the first fiscal year beginning after the date of enactment of this Act and for each subsequent fiscal year shall specifically identify funds to be spent on Forest Service international cooperation and assistance.

Puerto Rico.
7 USC 6706.

SEC. 2407. INSTITUTES OF TROPICAL FORESTRY.

The Secretary is authorized and directed to establish an Institute of Tropical Forestry in Puerto Rico and an Institute of Pacific Islands Forestry (hereafter in this section referred to as the "Institutes"). The Institutes shall conduct research on forest management and natural resources that shall include—

(1) management and development of tropical forests;

(2) the relationship between climate change and tropical forests;

(3) threatened and endangered species;

(4) recreation and tourism;

(5) development of tropical forest resources on a sustained yield basis;

(6) techniques to monitor the health and productivity of tropical forests;

(7) tropical forest regeneration and restoration; and

(8) the effects of tropical deforestation on biodiversity, global climate, wildlife, soils, and water.

SEC. 2408. THE FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING ACT OF 1974.

(a) RENEWABLE RESOURCE ASSESSMENT.—Section 3(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(a)) is amended—

(1) in paragraph (3), by striking "and" at the end thereof;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end thereof the following new paragraphs:

"(5) an analysis of the potential effects of global climate change on the condition of renewable resources on the forests and rangelands of the United States; and

"(6) an analysis of the rural and urban forestry opportunities to mitigate the buildup of atmospheric carbon dioxide and reduce the risk of global climate change,".

(b) RENEWABLE RESOURCE PROGRAM.—Section 4 of such Act (16 U.S.C. 1602) is amended in paragraph (5)—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) account for the effects of global climate change on forest and rangeland conditions, including potential effects on the geographic ranges of species, and on forest and rangeland products.".

SEC. 2409. URBAN FORESTRY DEMONSTRATION PROJECTS. 7 USC 6707.

The Secretary is authorized to undertake, through the Forest Service's Northeastern Area State and Private Forestry program, a study and pilot implementation project to demonstrate the benefits of retaining and integrating forests in urban development. The focus of such a study and implementation project should be to protect the environment and associated natural resource values, for current and future generations.

SEC. 2410. BIOMASS ENERGY DEMONSTRATION PROJECTS. 7 USC 6708.

The Secretary, in consultation with the Secretary of Energy, may carry out projects that demonstrate the potential of short-rotation silvicultural methods to produce wood for electricity production and industrial energy needs. In carrying out such projects, the Secretary shall cooperate with private industries, Federal and State agencies, and other organizations.

7 USC 6709.

SEC. 2411. INTERAGENCY COOPERATION TO MAXIMIZE BIOMASS GROWTH.

The Secretary may enter into an agreement with the Secretary of Defense to—

(1) conduct a study of reforestation and improved management of Department of Defense military installations and lands; and

(2) develop a program to manage such forests and lands so as to maximize their potential for biomass growth and sequestering carbon dioxide.

7 USC 6710.

SEC. 2412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1991 through 1996, to carry out this title.

TITLE XXV—OTHER RELATED PROVISIONS

7 USC 2279.

SEC. 2501. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) OUTREACH AND ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Agriculture (hereafter referred to in this section as the "Secretary") shall provide outreach and technical assistance to encourage and assist socially disadvantaged farmers and ranchers to own and operate farms and ranches and to participate in agricultural programs. This assistance should include information on application and bidding procedures, farm management, and other essential information to participate in agricultural programs.

(2) GRANTS AND CONTRACTS.—The Secretary may make grants and enter into contracts and other agreements in the furtherance of this section with the following entities—

(A) any community based organization that—

(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

(ii) provides documentary evidence of its past experience of working with socially disadvantaged farmers and ranchers during the two years preceding its application for assistance under this section; and

(iii) does not engage in activities prohibited under section 501(c)(3) of the Internal Revenue Code of 1986; and

(B) 1890 Land-Grant Colleges including Tuskegee Institute, Indian tribal community colleges and Alaska native cooperative colleges, Hispanic serving post-secondary educational institutions, and other post-secondary educational institutions with demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged family farmers and ranchers in their region.

Appropriation authorization.

(3) FUNDING.—There are authorized to be appropriated $10,000,000 for each fiscal year to carry out this section.

(b) DESIGNATION OF FEDERAL PERSONNEL.—

(1) IN GENERAL.—The Secretary shall designate from existing Federal personnel resources in the county or region a qualified person who shall, in cooperation with the State cooperative extension services, implement the policies and programs established or modified in accordance with this section.

(2) ADDITIONAL PERSONNEL.—In counties or regions in which the number of socially disadvantaged farmers and ranchers exceeds 25 percent of the total number of farmers and ranchers in the county or region, the Secretary shall designate additional personnel to implement the policies and programs established or modified in accordance with this section.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than September 30, 1992, and every two years thereafter, the Secretary shall report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, regarding—

(A) the efforts of the Secretary to enhance participation by members of socially disadvantaged groups in agricultural programs;

(B) the specific participation goals established for each agricultural program;

(C) the results achieved for each agricultural; and

(D) the progress of the Department towards meeting each of the purposes described in paragraph (2)(C).

(2) CONTENTS.—In addition to the information specified in paragraph (1), the report required by paragraph (1) shall include—

(A) a comparison of the participation goals and the actual participation rates of members of socially disadvantaged groups in each agricultural program;

(B) an analysis and explanation of the reasons for the success or failure of the Secretary to achieve the goals, and the overall purposes of this section;

(C) a listing, on a State-by-State and county-by-county basis, of—

(i) the amount of funds loaned to members of socially disadvantaged groups; and

(ii) the amount of funds used to guarantee loans to members of socially disadvantaged groups compared to the total amount of such guarantees;

(D) a breakdown in allocation of crop base in each program crop compared to the target participation rates established pursuant to sections 355(a)(1) and 355(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(1)), on a State-by-State and county-by-county basis; and

(E) a review and analysis of participation by members of socially disadvantaged groups, compared to participation by all others, in agricultural programs, on a State-by-State and county-by-county basis, including a survey representative of all farmers and ranchers, including socially disadvantaged farmers and ranchers, to identify reasons for participation and nonparticipation in agricultural programs.

(d) AFFIRMATIVE ACTION, APPEALS, AND CONTRACTING REVIEW.—

(1) PURPOSE.—It is the purpose of this subsection to direct the Secretary to analyze within the Department of Agriculture the

design and implementation of affirmative action programs and policies, the appeals process for complaints of discrimination, and contracting and purchasing practices employed by the Department.

(2) SCOPE.—The study shall include—

(A) an assessment of the successes and failures of these affirmative action programs and policies;

(B) a review of the reasons for the successes and failures described in subparagraph (A);

(C) a review of procurement, contracting, and purchasing policies of the Department, the level of participation of socially disadvantaged businesses in such activities, and the impact of those policies on the participation of members of socially disadvantaged groups in such contracting with the Department;

(D) a review of the reasons for participation or lack of participation of businesses owned by members of socially disadvantaged groups in the activities described in subparagraph (C); and

(E) a review of the appeals process for all complaints or allegations regarding acts, practices, or patterns of discrimination filed with the Department by individuals or any other entities that shall include—

(i) the number of complaints or allegations regarding acts, practices, or patterns of discrimination;

(ii) the manner in which the complaints were investigated and resolved by the Department; and

(iii) the longest, shortest, and average periods of time taken to investigate and resolve the complaints or allegations regarding acts, practices, or patterns of discrimination.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the information described in paragraph (2).

(e) DEFINITIONS.—

(1) SOCIALLY DISADVANTAGED GROUP.—As used in this section, the term "socially disadvantaged group" means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

(2) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—As used in this section, the term "socially disadvantaged farmer or rancher" means a farmer or rancher who is a member of a socially disadvantaged group.

(3) AGRICULTURE PROGRAMS.—As used in this section, the term "agriculture programs" are those established or authorized by—

(A) the Agricultural Act of 1949;

(B) the Consolidated Farm and Rural Development Act;

(C) the Agricultural Adjustment Act of 1938;

(D) the Soil Conservation Act;

(E) the Domestic Allotment Assistance Act;

(F) the Food Security Act of 1985; and

(G) other such Acts as the Secretary deems appropriate.

(f) AMENDMENT TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 355 of the Consolidated Farm and Rural Development Act is amended— 7 USC 2003.

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d);

(3) by inserting after subsection (b) the following new subsection:

"(c) OPERATING LOANS.—

"(1) ESTABLISHMENT.—The Secretary shall establish annual target participation rates, that shall ensure that socially disadvantaged farmers or ranchers will receive loans made or insured under subtitle B. In establishing such target rates, the Secretary shall consider the number of socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in that State.

"(2) RESERVATION AND ALLOCATION.—The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subtitle B that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county. Any funds reserved and allocated for purposes of this paragraph, but not used shall be reallocated within such State."; and

(4) by inserting after subsection (d) (as so redesignated) the following new subsection:

"(e) DEFINITIONS.—

"(1) SOCIALLY DISADVANTAGED GROUP.—As used in this section, the term 'socially disadvantaged group' means a group whose members have been subjected to racial or ethnic prejudice because of their identity as members of a group without regard to their individual qualities.

"(2) SOCIALLY DISADVANTAGED FARMER OR RANCHER.—As used in this section, the term 'socially disadvantaged farmer or rancher' means a farmer or rancher who is a member of a socially disadvantaged group.";

(g) RESERVATIONS.— Indians.

(1) CONSOLIDATED SUBOFFICE.—The Secretary shall require the Agricultural Stabilization and Conservation Service, Soil Conservation Service, and Farmers Home Administration offices, and such other offices and functions the Secretary may choose to include, in each county that has a reservation within its borders, to establish a consolidated suboffice at the tribal headquarters of said reservation and to staff said suboffice as needed, using existing staff, but no less than one day a week or under such other arrangement agreed to by the tribe and the Department of Agriculture offices. The tribe shall be required to provide the necessary office space if it wishes to participate in this program.

(2) COOPERATIVE AGREEMENTS.—For those reservations that are located in more than one county, the Secretary, the relevant county offices and the tribe shall enter into a cooperative agreement to provide the services required by paragraph (1) that avoids duplication of effort.

SEC. 2502. NARROWING THE DEFENSE EXCEPTION TO THE FARMLAND PROTECTION POLICY ACT.

Section 1547(b) of the Farmland Protection Policy Act (7 U.S.C. 4208) is amended by inserting "during a national emergency" after "purposes".

SEC. 2503. PROTECTION OF PETS.

The Animal Welfare Act (7 U.S.C. 2131 et seq.) is amended—

(1) in section 16(c), (7 U.S.C. 2146) by inserting after "Act" the first place it appears the following: "and the regulations and standards promulgated under this Act"; and

(2) by adding at the end the following new section:

7 USC 2158.

"SEC. 28. PROTECTION OF PETS.

"(a) HOLDING PERIOD.—

"(1) REQUIREMENT.—In the case of each dog or cat acquired by an entity described in paragraph (2), such entity shall hold and care for such dog or cat for a period of not less than five days to enable such dog or cat to be recovered by its original owner or adopted by other individuals before such entity sells such dog or cat to a dealer.

"(2) ENTITIES DESCRIBED.—An entity subject to paragraph (1) is—

"(A) each State, county, or city owned and operated pound or shelter;

"(B) each private entity established for the purpose of caring for animals, such as a humane society, or other organization that is under contract with a State, county, or city that operates as a pound or shelter and that releases animals on a voluntary basis; and

"(C) each research facility licensed by the Department of Agriculture.

"(b) CERTIFICATION.—

"(1) IN GENERAL.—A dealer may not sell, provide, or make available to any individual or entity a random source dog or cat unless such dealer provides the recipient with a valid certification that meets the requirements of paragraph (2) and indicates compliance with subsection (a).

"(2) REQUIREMENTS.—A valid certification shall contain—

"(A) the name, address, and Department of Agriculture license or registration number (if such number exists) of the dealer;

"(B) the name, address, Department of Agriculture license or registration number (if such number exists), and the signature of the recipient of the dog or cat;

"(C) a description of the dog or cat being provided that shall include—

"(i) the species and breed or type of such;

"(ii) the sex of such;

"(iii) the date of birth (if known) of such;

"(iv) the color and any distinctive marking of such; and

"(v) any other information that the Secretary by regulation shall determine to be appropriate;

"(D) the name and address of the person, pound, or shelter from which the dog or cat was purchased or otherwise acquired by the dealer, and an assurance that such

person, pound, or shelter was notified that such dog or cat may be used for research or educational purposes;

"(E) the date of the purchase or acquisition referred to in subparagraph (D);

"(F) a statement by the pound or shelter (if the dealer acquired the dog or cat from such) that it satisfied the requirements of subsection (b); and

"(G) any other information that the Secretary of Agriculture by regulation shall determine appropriate.

"(3) RECORDS.—The original certification required under paragraph (1) shall accompany the shipment of a dog or cat to be sold, provided, or otherwise made available by the dealer, and shall be kept and maintained by the research facility for a period of at least one year for enforcement purposes. The dealer shall retain one copy of the certification provided under this paragraph for a period of at least one year for enforcement purposes.

"(4) TRANSFERS.—In instances where one research facility transfers animals to another research facility a copy of the certificate must accompany such transfer.

"(5) MODIFICATION.—Certification requirements may be modified to reflect technological advances in identification techniques, such as microchip technology, if the Secretary determines that adequate information such as described in this section, will be collected, transferred, and maintained through such technology.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—Dealers who fail to act according to the requirements of this section or who include false information in the certification required under subsection (b), shall be subject to the penalties provided for under section 19.

"(2) SUBSEQUENT VIOLATIONS.—Any dealer who violates this section more than one time shall be subject to a fine of $5,000 per dog or cat acquired or sold in violation of this section.

"(3) PERMANENT REVOCATIONS.—Any dealer who violates this section three or more times shall have such dealers license permanently revoked.

"(d) REGULATION.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

"SEC. 29. AUTHORITY TO APPLY FOR INJUNCTIONS. 7 USC 2159.

"(a) REQUEST.—Whenever the Secretary has reason to believe that any dealer, carrier, exhibitor, or intermediate handler is dealing in stolen animals, or is placing the health of any animal in serious danger in violation of this Act or the regulations or standards promulgated thereunder, the Secretary shall notify the Attorney General, who may apply to the United States district court in which such dealer, carrier, exhibitor, or intermediate handler resides or conducts business for a temporary restraining order or injunction to prevent any such person from operating in violation of this Act or the regulations and standards prescribed under this Act.

"(b) ISSUANCE.—The court shall, upon a proper showing, issue a temporary restraining order or injunction under subsection (a) without bond. Such injunction or order shall remain in effect until a complaint pursuant to section 19 is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the

Secretary has become final and effective or is set aside on appellate review. Attorneys of the Department of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action brought under this section.".

SEC. 2504. CONTROL AND ERADICATION OF PLANT PESTS.

Section 102(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a(b)) is amended—

(1) by striking "all countries of the Western Hemisphere" and inserting "foreign countries"; and

(2) by inserting "foreign or" before "international".

SEC. 2505. COOPERATION IN ANIMAL DISEASE CONTROL.

Section 1 of chapter 8, of the Act of February 28, 1947 (21 U.S.C. 114b) is amended—

(1) by striking "Mexico, Guatemala, El Salvador, Costa Rica, Honduras, Nicaragua, Belize, Panama, Colombia, and Canada, the Bahama Islands, the Greater Antilles, and the Lesser Antilles" and inserting "foreign countries"; and

(2) by inserting "foreign or" before "international".

21 USC 114i.

SEC. 2506. PSEUDORABIES ERADICATION.

(a) FINDINGS.—Congress finds that efforts to eradicate pseudorabies in United States swine populations by the Department of Agriculture in cooperation with State agencies and the pork industry have a high priority and should be continued until pseudorabies is completely eradicated in the United States.

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Agriculture shall establish and carry out a program for the eradication of pseudorabies in United States swine populations.

(c) USE OF FUNDS FOR TESTING AND CONTROL OF PSEUDORABIES.—The Secretary shall ensure that not less than 65 percent of the funds appropriated for the program established under subsection (b) shall be used for testing and screening of animals and for other purposes directly related to the eradication or control of pseudorabies. This requirement on the use of appropriated funds for this program shall not be implemented in a manner that would adversely affect any other animal or plant disease or pest eradication or control program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1991 through 1995 such sums as may be necessary for the purpose of carrying out the program established under subsection (b).

SEC. 2507. REGULATION GOVERNING INSPECTION OF IMPORTED POULTRY.

(a) FINDINGS.—Congress finds that—

(1) in 1985 the Poultry Products Inspection Act, an Act to maintain the integrity and wholesomeness of this Nation's food supply, was amended by the Food Security Act of 1985;

(2) the 1985 amendment provided that poultry products offered for importation into the United States shall be subject to the same inspection, sanitary, quality, species verification, and residue standards applied to products produced in the United States and that such products shall have been processed in facilities and under conditions that are the same as those under which similar products are processed in the United States; and

(3) on October 30, 1989, the Secretary of Agriculture, through the Food Safety and Inspection Service, the agency in the Department of Agriculture charged with the responsibility of administering the provisions of the Poultry Products Inspection Act, promulgated a regulation implementing the 1985 amendment to that Act providing that a foreign inspection system seeking certification for export of poultry to the United States merely impose requirements at least equal to those applicable in the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the regulation promulgated by the Secretary of Agriculture, through the Food Safety and Inspection Service, with respect to poultry products offered for importation into the United States does not reflect the intention of the Congress; and

(2) to urge the Secretary, through the Food Safety and Inspection Service of the Department of Agriculture, to repeal the October 30, 1989, regulation and promulgate a new regulation reflecting the intention of the Congress.

SEC. 2508. ADDITIONAL INSPECTION SERVICES. 21 USC 136.

The Secretary of Agriculture, in carrying out regulations prohibiting or restricting the entry of materials that may harbor pests, or diseases, is authorized to enter into agreements with operators or owners of vessels or aircraft for the purpose of providing inspection services at points of entry in the United States in addition to the regular or on-call basis currently available in connection with such vessels or aircraft. Any such agreement shall provide for the payment by the operator or owner of an amount determined by the Secretary to be necessary to defray the costs of providing additional service pursuant to such agreement.

SEC. 2509. COLLECTION OF FEES FOR INSPECTION SERVICES. 21 USC 136a.

(a) QUARANTINE, INSPECTION AND TRANSPORTATION FEES.—

(1) QUARANTINE AND INSPECTION.—The Secretary of Agriculture (hereafter referred to in this section as the "Secretary") may prescribe and collect fees to cover the cost of providing agricultural quarantine and inspection services in connection with the arrival at a port in the customs territory of the United States, or the preclearance or preinspection at a site outside the customs territory of the United States, of a commercial vessel, commercial aircraft, commercial truck, or railroad car,

(2) TREASURY.—Any person who collects a fee under this subsection shall remit such fee to the Treasury of the United States prior to the date that is 31 days after the close of the calendar quarter in which such fee is collected.

(3) AGRICULTURAL QUARANTINE INSPECTION USER FEE ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury of the United States a no-year fund, to be known as the "Agricultural Quarantine Inspection User Fee Account" (hereafter referred to in this section as the "Account"), for the use of the Secretary for quarantine or inspection services under this section.

(B) AMOUNTS IN ACCOUNT.—

(i) DEPOSITS.—All of the fees collected under this subsection shall be deposited in the Account.

(ii) REIMBURSEMENT.—The Secretary of Treasury shall use the Account to provide reimbursements to any appropriations accounts that incur the costs associated with the services authorized in paragraph (1).

(iii) PROCEDURE.—The Secretary of the Treasury shall make reimbursement under clause (ii) on a quarterly basis. Amounts required to be reimbursed under clause (ii), shall be made on the basis of estimates made by the Secretary of the expenses described in clause (ii) that are incurred by the Secretary in the 3-month period immediately preceding such reimbursement.

(iv) ADJUSTMENTS.—Adjustments of reimbursements made under clause (ii) shall be made to the extent necessary to correct prior estimates that were in excess of, or less than, the amount required to be reimbursed under clause (iii).

(4) ADJUSTMENT IN FEE AMOUNTS.—The Secretary shall adjust the amount of the fees to be assessed under this subsection to reflect the cost to the Secretary in administering such subsection, in carrying out the activities at ports in customs territory of the United States and preclearance and preinspection sites outside the customs territory of the United States in connection with the provision of agricultural quarantine inspection services, and in maintaining a reasonable balance in the Account.

(b) PLANT INSPECTION.—Subsection (f) of section 102 of the Act of September 21, 1944 (7 U.S.C. 147a(f)), is amended to read as follows:

Appropriation authorization.

"(f)(1) Notwithstanding paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Unless otherwise specifically authorized or provided for in appropriations Acts, no part of such sums shall be used to pay the cost or value of property injured or destroyed.

"(2) The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of providing for the inspection of plants and plant products offered for export or transiting the United States and certifying to shippers and interested parties as to the freedom of such plants and plant products from plant pests according to the phytosanitary requirements of the foreign countries to which such plants and plant products may be exported, or to the freedom from exposure to plant pests while in transit through the United States. Any person for whom such an activity is performed shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary of Agriculture shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation. The Secretary of Agriculture shall have a lien for the fees, any late payment penalty, and any accrued interest assessed against the plant or plant product for which services have been provided. In the case of any person who fails to make payment when due, the Secretary of Agriculture shall also have a lien against any plant or plant product thereafter attempted to be exported by such person. The Secretary of Agriculture may, in case of nonpayment of the fees, late payment penalty, or accrued interest, after giving reasonable notice of default to the person liable for payment of such assessments, sell at public sale after reasonable public notice, or otherwise dispose of, any such

plant or plant product upon which the Secretary of Agriculture has a lien pursuant to this section. If the sale proceeds exceed the fees due, any late payment penalty assessed, any accrued interest and the expenses of the sale, the excess shall be paid, in accordance with regulations of the Secretary of Agriculture, to the owner of the plant or plant product sold upon the owner making application therefore with proof of ownership, within six months after such sale, and otherwise the excess shall be credited to accounts that incur the costs and shall remain available until expended. The Secretary of Agriculture shall, pursuant to regulations as prescribed by the Secretary of Agriculture, suspend performance of services to persons who have failed to pay such fees, late payment penalty and accrued interest.".

(c) ANIMAL INSPECTION AND VETERINARY DIAGNOSTICS.—

(1) ANIMAL INSPECTION.—The Secretary may prescribe and collect fees to reimburse the Secretary for the cost of carrying out the provisions of the Federal Animal Quarantine Laws that relate to the importation, entry, and exportation of animals, articles, or means of conveyance.

(2) VETERINARY DIAGNOSTICS.—Section 11 of the Act of May 29, 1884 (58 Stat. 734, as amended, 21 U.S.C. 114a), is amended by inserting immediately following the first sentence: "The Secretary of Agriculture is authorized to prescribe and collect fees to recover the costs of carrying out the provisions of this section which relate to veterinary diagnostics.".

(3) FEES.—All fees collected pursuant to this subsection and any late payment penalties or accrued interest collected pursuant to this subsection shall be credited to the accounts that incur the cost and shall remain available until expended without fiscal year limitation.

(4) LIABILITY.—Any person for whom an activity related to the importation, entry, or exportation of an animal, article, or means of conveyance or relating to veterinary diagnostics, is performed pursuant to the section, shall be liable for payment of fees assessed. Upon failure to pay such fees when due, the Secretary shall assess a late payment penalty, and such overdue fees shall accrue interest, as required by section 3717 of title 31, United States Code. All fees, late payment penalties, and accrued interest collected shall be credited to such accounts that incur the costs and shall remain available until expended without fiscal year limitation.

(5) LEINS.—

(A) IN GENERAL.—The Secretary shall have a lien against the animal, article, means of conveyance, or facility for which services have been provided under this section for the fees, any late payment penalty, and any accrued interest assessed under this subsection.

(B) OTHER ANIMALS, ETC.—In the case of any person who fails to make payment when due under this subsection, the Secretary shall have a lien against any animal, article, or means of conveyance thereafter imported, moved in interstate commerce, or attempted to be exported by the person after the date of such failure until the date on which such owner or operator make full payment to the Secretary under this subsection.

(C) SALES OF ANIMALS, ETC.—

(i) AUTHORITY.—The Secretary may, if a person does not pay fees, late payment penalties, or accrued interest on such, after providing reasonable notice of default to such person, sell at public sale after reasonable public notice, or otherwise dispose of, any such animal, article, means of conveyance or facility on which the Secretary has a lien under this paragraph.

(ii) EXCESS PROCEEDS.—If the sale proceeds under clause (i) exceed the fees due, any late payment penalty assessed, any accrued interest on such, and the expenses associated with the sale, such excess shall be paid to the owner of the animal, article, means of conveyance, or facility if such owner submits an application for such excess together with proof of ownership not later than 6 months after the date of such sale. If no such application is made, such excess shall be credited to accounts that incur the costs associated with the fees collected and shall remain available until expended, without fiscal year limitation. The Secretary shall suspend performance of services to persons who have failed to pay fees, late payment penalty, or accrued interest under this section.

(d) REGULATIONS.—The Secretary may prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(e) RECOVERY OF AMOUNTS OWED.—An action may be brought for the recovery of fees, late payment penalties, and accrued interest which have not been paid in accordance with this section against any person obligated for payment of such assessments under this section in any United States district court or other United States court for any territory or possession in any jurisdiction in which such person is found or resides or transacts business, and such court shall have jurisdiction to hear and decide such action.

(f) DEFINITIONS.—

(1) ANIMAL QUARANTINE LAWS.—For purposes of this section, the term "animal quarantine laws" means—

(A) section 306 of the Tariff Act of 1930 (19 U.S.C. 1306);

(B) sections 6 through 10 of the Act of August 30, 1890 (26 Stat. 416, chapter 839; 21 U.S.C. 101-105);

(C) section 2 of the Act of February 2, 1903 (32 Stat. 792, chapter 349; 21 U.S.C. 111);

(D) the Act of May 29, 1884 (23 Stat. 32, chapter 60; 21 U.S.C. 112 to 114a-1, 115, 117-119, and 130) (commonly known as the "Animal Industry Act");

(E) the Act of February 28, 1947 (61 Stat. 7, chapter 8; 21 U.S.C. 114b, 114c, and 114d-1);

(F) the Act of June 16, 1948 (62 Stat. 458, chapter 477; 21 U.S.C. 114e and 114f);

(G) Public Law 87-209 (21 U.S.C. 114g and 114h);

(H) the Act of May 31, 1920 (41 Stat. 699, chapter 217; 21 U.S.C. 116);

(I) the Act of February 2, 1903 (32 Stat. 791, chapter 349; 21 U.S.C. 112 and 120-122) (commonly known as the "Cattle Contagious Diseases Act of 1903");

(J) the Act of March 3, 1905 (33 Stat. 1264, chapter 1496; 21 U.S.C. 123-127) (commonly known as the "Cattle Contagious Diseases Act of 1905");

(K) the matter under the heading "Bureau of Animal Industry" of the Act of June 30, 1914 (38 Stat. 419, chapter 131; 21 U.S.C. 128);

(L) section 101 of Public Law 92-73 (21 U.S.C. 129);

(M) the matter under the heading "Miscellaneous" of the Act of May 26, 1910 (36 Stat. 440, chapter 256; 21 U.S.C. 131);

(N) sections 1 through 6 and 11 through 13 of Public Law 87-518 (21 U.S.C. 134-134h); or

(O) any other Act administered by the Secretary relating to plant or animal diseases or pests, other than the first section of Public Law 91-239 (21 U.S.C. 135).

(2) CUSTOMS TERRITORY.—For the purposes of subsection (a), the term "customs territory of the United States" means the 50 States, the District of Columbia, and Puerto Rico.

(3) PERSON.—For the purposes of this section, the term "person" means an individual, corporation, partnership, trust, association, or any other public or private entity, or any officer, employee, or agent thereof.

(4) UNITED STATES.—For the purposes of subsection (b), the term "United States" means the several States of the United States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, and all other territories and possessions of the United States.

(5) VESSEL.—For the purposes of subsection (a), the term "vessel" does not include any ferry.

SEC. 2510. USER FEES FOR REPORTS, PUBLICATIONS, AND SOFTWARE.

Section 1121 of the Agriculture and Food Act of 1981 (7 U.S.C. 2242a) is amended by adding at the end the following new subsection:

"(d) INVESTMENT.—Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of Agriculture in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary of Agriculture, by the Secretary of the Treasury in United States Government debt instruments. Fees and charges, including late payment penalties and interest earned from the investment of such funds shall be credited to such account.".

SEC. 2511. TOBACCO ADJUSTMENT ACT OF 1983.

Section 213(d) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r) is amended by adding at the end the following new sentences: "Any fees collected, late payment penalties, and interest earned shall be credited to the account referred to in this section and may be invested by the Secretary of Agriculture in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary of Agriculture, by the Secretary of the Treasury in United States Government debt instruments. Fees and charges, including late payment penalties, and interest earned from the investment of such funds shall be credited to the account referred to in this section.".

SEC. 2512. COSTS OF PRODUCTION. 7 USC 1421b.

(a) IMPROVING THE ACCURACY OF COMMODITY PROGRAM BUDGET FORECASTS.—Congress finds that, to improve the accuracy of

commodity program benefit forecasts, the Secretary of Agriculture should designate a single organization to manage its commodity program forecasting and establish a quality control program to—

(1) systematically identify the source of forecasting errors;

(2) maintain records of data used for supply and demand forecasts;

(3) document its forecasting methods; and

(4) correct weaknesses in its various forecasting components.

Reports.

(b) RETURN ON ASSETS.—The Secretary of Agriculture shall annually publish a report analyzing the return on assets resulting from the production of upland cotton, rice, wheat, corn, oats, barley, grain sorghum, soybeans, peanuts, sugar from sugar beets, and raw sugar from sugar cane. In conducting this analysis, the Secretary shall consider returns from agricultural price support programs, the effects of agricultural price support programs on cost of production, the factors currently used in Department of Agriculture cost of production data, current value of land, and any other information that he considers necessary to reflect accurately return on the production of such crops.

7 USC 1421c.

SEC. 2513. FARM VALUE OF AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall develop a system for informing the ultimate consumer of the approximate amount of money (in terms of United States currency) paid the agricultural producer for each primary commodity, contained in retail products. For the purposes of this subsection, the term "primary commodity" means any of 135 United States agricultural commodities the Secretary determines are of dietary significance (including all of the commodities for which Federal agricultural programs exist under the Agricultural Act of 1949).

(b) ANNUAL REPORT BY SECRETARY.—The Secretary shall annually submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, by type of commodity or product, a report containing the information required to be made available to the consumer under subsection (a). In developing such report, the Secretary may seek assistance from such persons as the Secretary deems appropriate.

7 USC 1421d.

SEC. 2514. COMMODITY REPORTS.

(a) CROP REPORTS.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall gather data from producers to be used to develop crop reports to be distributed by the Secretary during the growing season. The report shall contain statements of the conditions of those crops by State, with such explanations, comparisons, and information as may be useful for illustrating such reports.

(b) SPECIAL REPORTS.—

(1) IN GENERAL.—In addition to the reports compiled pursuant to subsection (a), the Secretary shall annually survey producers for information for reports regarding supply, acreage, production, disposition, and prices for the following commodities as determined by the Secretary:

(A) 25 fresh market vegetables;

(B) 3 processing vegetables;

(C) 6 fruits and nuts;

(D) 17 forage and turf seeds;

(E) 50 vegetable seeds; and
(F) maple syrup.

(2) ADMINISTRATIVE.—The Secretary shall annually prepare a report containing results of the surveys described in paragraph (1) in such States as determined by the Secretary. Such reports shall be submitted to and officially approved by the Secretary of Agriculture before being issued or published.

(c) TREE INVENTORIES.—The Secretary shall survey producers for information for reports regarding fruit and nut tree inventories. Such surveys and reports shall be conducted, printed, and distributed on a regular basis every 3 to 5 years as determined by the Secretary. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(d) CONFORMING AMENDMENTS.—The proviso under the heading "Bureau of Crop Estimates" in the Act of March 4, 1917 (ch. 179; 39 Stat. 1157) and the first proviso under the heading of the "Bureau of Statistics" in the Act of March 4, 1909 (ch. 301; 35 Stat. 1053) (7 U.S.C. 411a) are repealed.

(e) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 2515. SCARCE FEDERAL RESOURCES.

7 USC 1421 note.

Notwithstanding any other provision of this Act, to conserve scarce Federal resources, the Secretary of Agriculture may after concurrence with the Chairman and Ranking Member of the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Chairman and Ranking Member of the Committee on Agriculture of the House of Representatives, rank by priority the studies or reports authorized by this Act and determine which of those studies or reports shall be completed. The Secretary shall complete at least 12 such studies or reports.

Reports.

SEC. 2516. RECORDKEEPING IMPROVEMENT.

Agricultural Program Reporting and Recordkeeping Improvement Act of 1990. 7 USC 1421 note.

(a) SHORT TITLE.—This section may be cited as the "Agricultural Program Reporting and Recordkeeping Improvement Act of 1990".

(b) GOAL.—To the extent practicable, it shall be the goal of this section to bring about, within 3 years following the date of enactment of this Act, a substantial reduction in the volume of documentation, and in the amount of time devoted and the number of visits to Department of Agriculture offices, that are necessary to complete paperwork required of the typical producer participating in programs administered by the Secretary of Agriculture.

(c) REPORTED.—Not later than 240 days after the date of enactment of this Act, the Secretary of Agriculture (hereafter referred to in this section as the "Secretary") shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing specific proposals for reducing and simplifying the recordkeeping and other paperwork required of agricultural producers and cooperatives (hereinafter referred to in this section as "producers") who apply for participation in, or in complying with the requirements of—

(1) agricultural price and income support programs administered by the Secretary, including programs under the Agricultural Act of 1949 (7 U.S.C. 1421, et seq.);

(2) voluntary or mandatory soil or water conservation programs administered by the Secretary, including programs under the Food Security Act of 1985 (7 U.S.C. 1281, note, et seq.); and

(3) any other related programs administered by the Secretary, including programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1981, et. seq.) and programs of crop insurance under the Federal Crop Insurance Corporation.

(d) CONTENTS OF REPORT.—

(1) IN GENERAL.—In the report required by subsection (c), the Secretary shall set forth the results of a thorough examination of the feasibility of reducing current levels of paperwork and recordkeeping required of producers by providing such producers with access to a computerized departmental network or system (including the utilization of computer capability and equipment which has been or will be acquired by the Department of Agriculture) that could be used by producers to—

(A) communicate by voice, data, video, or a combination thereof for the purpose of submitting electronically all of, or a significant portion of, any necessary and appropriate applications, reports, or other documentation; and

(B) provide updated electronic information and data pertinent to the producer's agricultural operation and marketing activities, or information sharing by means of video conferencing.

For the purpose of preparing the report required by this subsection, the Secretary is authorized to retain the consulting service of at least one private sector business firm having experience and possessing technical expertise in the fields of wide area computer network design, function, installation, and maintenance, integrated video conferencing, and data base management systems.

(2) SCHEDULE OF FEES.—In determining the feasibility and costs of providing a computerized network or system as described in paragraph (1), the Secretary may recommend a schedule of nominal fees which could be charged to producers and others for a pro rata share of a portion of the costs associated with the producers' access to and use of such system. Such fees would partially or entirely defray the costs (after taking into consideration any ongoing savings to the Department of Agriculture) associated with the operation and maintenance and future expansion of such portion of the network or system and its capabilities, but shall not be applied in a manner that would include any reimbursement for existing equipment and capabilities or for the costs associated with the initial establishment of the network or system. The report should also contain recommendations outlining additional categories of users who might be permitted access to the network or system for a fee, and the types of safeguards which would be reasonably necessary to limit file access as may be necessitated in accordance with provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and other relevant authorities governing the disclosure of individual or proprietary information.

(e) RECOMMENDATIONS OF NATIONAL COMMISSION.—

(1) GENERALLY.—To the maximum extent practicable, in preparing the report required by subsection (c), the Secretary shall take into consideration and incorporate the recommendations of the commission created by title V, section 501 of the

Farm Credit Amendments Act of 1985 as contained in the Report of the National Commission on Agricultural Finance, dated February 22, 1989, to the extent that such recommendations relate to the need to develop a universal loan application form and uniform accounting standards for farm businesses. In considering such recommendations, the Secretary shall attempt to design and adopt forms and standards that are as brief and succinct as possible, and shall consult with representatives of the Farm Credit System, the commercial banking system, and other significant providers of farm ownership and operating credit.

(2) PAPERWORK REDUCTION.—In order to increase the efficiency of agricultural programs administered by the Secretary and to reduce the burden of paperwork on participants in such programs, the Secretary shall design and adopt, to the maximum extent practicable, one brief application form to be used by applicants for participation in the agricultural programs administered by the Secretary, including, the programs described in subsection (c). The report required by subsection (c) shall include information with regard to the progress made by the Department toward compliance with this subsection, and shall also identify any statutory impediments to the use of such single brief form.

(f) INTEGRATION OF DATA BASES.—Notwithstanding any other provisions of this section, the Secretary of Agriculture shall take appropriate action to integrate the various data bases of the Department of Agriculture relating to agricultural program data, and shall facilitate the sharing of relevant data among the various agencies of the Department of Agriculture.

SEC. 2517. STUDY OF THE TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS TO FARMERS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study regarding the transportation of fertilizer, agricultural pesticides, and agricultural use hazardous materials such as fuel to the farm. Such study shall include a review and analysis of—

(1) the transportation of fertilizer, fuels (such as liquid propane gas, diesel, gasoline heating oil, methane, and others), and agricultural pesticides to farms by farmers, hired farm labor, and agribusiness, including—

(A) safety practices used, the type of the equipment used, roads traveled, and employees engaged in such transportation; and

(B) any significant distinctions between transportation by retail dealers and transportation by farmers;

(2) Federal and State requirements imposed on the transportation of fertilizer, fuels, and agricultural pesticides by farmers, hired farm labor, and agribusiness retail dealers to farms (and exemptions, exclusions or waivers authorized under such requirements), including—

(A) commercial driver's license requirements;

(B) driver qualification requirements;

(C) alcohol and drug testing requirements; and

(D) worker safety requirements;

(3) the compliance by farmers and retail dealers and their employees with such Federal and State requirements and the costs associated with compliance;

(4) the safety history associated with the transport of fertilizers, fuel, and pesticides by farmers and retail dealers and their employees; and

(5) the impact on rural communities, employment, and the cost and availability of fertilizer, fuel, and agricultural pesticides associated with complying with such Federal and State requirements.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Agriculture shall publish a report of such study and analyses (including comments on the adequacy of existing Federal and State requirements or exemptions) and submit the report to the appropriate committees of Congress.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of fulfilling the study, analyses, and reporting requirements under this section, there is authorized to be appropriated not more than $75,000.

15 USC 714.

SEC. 2518. ESTABLISHING QUALITY AS A GOAL FOR COMMODITY CREDIT CORPORATION PROGRAMS.

In carrying out its activities the Commodity Credit Corporation shall, to the extent practicable, provide for program provisions that promote quality in the production and marketing of crops and livestock in the United States.

7 USC 1421 note.

SEC. 2519. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without regard to the invalid provision or application, and to this end the provisions of this Act are severable.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 2830 (H.R. 3581) (H.R. 3950) (H.R. 4077):

HOUSE REPORTS: No. 101-413 accompanying H.R. 4077 and No. 101-415 accompanying H.R. 3581 both from (Comm. on Agriculture); No. 101-569, Pt. 1 (Comm. on Agriculture), Pt. 2 (Comm. on Foreign Affairs), Pt. 3 (Comm. on Agriculture), Pt. 4 (Comm. on Education and Labor), and Pt. 5 (Comm. on Ways and Means), all accompanying H.R. 3950; and No. 101-916 (Comm. of Conference).

SENATE REPORTS: No. 101-357 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Mar. 6, H.R. 4077 considered and passed House.
Mar. 14, 15, 22, H.R. 3581 considered and passed House.
July 19, 20, 23-27, S. 2830 considered and passed Senate.
July 23-25, 27, Aug. 1, H.R. 3950 considered and passed House.
Aug. 3, S. 2830 considered and passed House, amended, in lieu of H.R. 3581, H.R. 3950, and H.R. 4077.
Oct. 23, House agreed to conference report.
Oct. 25, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):

Nov. 28, Presidential remarks and statement.

Public Law 101-625
101st Congress

An Act

To authorize a new HOME Investment Partnerships program, a National Homeownership Trust program, and HOPE programs, to amend and extend certain laws relating to housing, community and neighborhood preservation, and related programs, and for other purposes.

Nov. 28, 1990
[S. 566]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cranston-Gonzalez National Affordable Housing Act. 42 USC 12701 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Cranston-Gonzalez National Affordable Housing Act".

(b) TABLE OF CONTENTS.—

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Sec. 103. Purposes of the Cranston-Gonzalez National Affordable Housing Act.
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TITLE I—GENERAL PROVISIONS AND POLICIES

SEC. 101. THE NATIONAL HOUSING GOAL. 42 USC 12701.

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

SEC. 102. OBJECTIVE OF NATIONAL HOUSING POLICY. 42 USC 12702.

The objective of national housing policy shall be to reaffirm the long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able—

(1) to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

SEC. 103. PURPOSES OF THE CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT. 42 USC 12703.

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and nonprofit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

SEC. 104. DEFINITIONS. 42 USC 12704.

As used in this title and in title II:

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in

accordance with section 216(2) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government that has been so designated in accordance with section 216 of this Act.

(5) The term "nonprofit organization" means any private, nonprofit organization (including a State or locally chartered, nonprofit organization) that—

(A) is organized under State or local laws,

(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization as defined in paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "housing" includes manufactured housing and manufactured housing lots.

(9) The term "very low-income families" means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the

area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" has the same meaning given that term by section 3 of the United States Housing Act of 1937.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(14) The term "first-time homebuyer" means an individual and his or her spouse who have not owned a home during the 3-year period prior to purchase of a home with assistance under title II, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(15) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(16) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(17) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of $25,000 per dwelling unit.

(18) The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(19) The term "metropolitan city" has the meaning given the term in section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)).

(20) The term "urban county" has the meaning given the term in section 102(a)(6) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)).

(21) The term "certification" means a written assertion, based on supporting evidence, which shall be kept available for inspection by the Secretary, the Inspector General and the public, which assertion shall be deemed to be accurate for purposes of

this Act, unless the Secretary determines otherwise after inspecting the evidence and providing due notice and opportunity for comment.

(23) The term "to demonstrate to the Secretary" means to submit to the Secretary a written assertion together with supporting evidence that, in the determination of the Secretary, supports the accuracy of the assertion.

42 USC 12705.

SEC. 105. STATE AND LOCAL HOUSING STRATEGIES.

(a) IN GENERAL.—The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under title II of this Act and other programs requiring submission of a housing strategy. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) CONTENTS.—A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for very low-income, low-income, and moderate-income families, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income families, the elderly, single persons, large families, residents of nonmetropolitan areas, families who are participating in an organized program to achieve economic independence and self-sufficiency, persons with acquired immunodeficiency syndrome, and other categories of persons residing in or expected to reside in the jurisdiction that the Secretary determines to be appropriate;

Homeless.

(2) describe the nature and extent of homelessness within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, and a description of the jurisdiction's strategy for (A) helping low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available for rental assistance,

production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate negative effects, if any, of such policies;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and non-Federal public sources that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under title II of this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974, and the Stewart B. McKinney Homeless Assistance Act, during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe the means of cooperation and coordination among the State and any units of general local government in the development, submission, and implementation of their housing strategies;

(9) in the case of a unit of local government, describe the number of public housing units in the jurisdiction, the physical condition of such units, the restoration and revitalization needs of public housing projects within the jurisdiction, the public housing agency's strategy for improving the management and operation of such public housing, and the public housing agency's strategy for improving the living environment of low- and very-low-income families residing in public housing;

(10) in the case of a State, describe the strategy to coordinate the Low-Income Tax Credit with development of housing, including public housing, that is affordable to very low-income and low-income families;

(11) describe the jurisdiction's activities to encourage public housing residents to become more involved in management and participate in homeownership;

(12) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(13) include a certification that the jurisdiction will affirmatively further fair housing;

(14) include a certification that the jurisdiction is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the jurisdiction); and

(15) include the number of families to whom the jurisdiction will provide affordable housing as defined in section 215 using funds made available.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under title II of this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) APPROVAL.—

(1) IN GENERAL.—The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may extend the review period to not longer than 90 days.

(2) ACTIONS IN CASE OF DISAPPROVAL.—If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) AMENDMENTS AND RESUBMISSION.—The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) COORDINATION OF STATE AND LOCAL HOUSING STRATEGIES.—The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

Infants and children. Aged. Handicapped. Homeless.

(e) CONSULTATION WITH SOCIAL SERVICE AGENCIES.—When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly

persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(f) BARRIER REMOVAL.—Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination. Reports.

SEC. 106. CERTIFICATION. 42 USC 12706.

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under title II of this Act, assistance under the Housing and Community Development Act of 1974, or assistance under the Stewart B. McKinney Homeless Assistance Act, to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served. Regulations.

SEC. 107. CITIZEN PARTICIPATION. 42 USC 12707.

(a) IN GENERAL.—Before submitting a housing strategy under this section, a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties information concerning the amount of assistance the jurisdiction expects to receive and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any uses of any assistance the jurisdiction may have received during the preceding 5 years.

(b) NOTICE AND COMMENT.—Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) CONSIDERATION OF COMMENTS.—A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such comments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing

strategy, amendment, or report shall be made available to the public.

(d) REGULATIONS.—The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

42 USC 12708.

SEC. 108. COMPLIANCE.

(a) PERFORMANCE REPORTS.—

(1) IN GENERAL.—Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(15) of this Act, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available.

(2) SUBMISSION.—The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) FAILURE TO REPORT.—If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under title II of this Act or the other programs referred to in section 106 may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) PERFORMANCE REVIEW BY SECRETARY.—

(1) IN GENERAL.—The Secretary shall ensure that activities of each jurisdiction required to submit a housing strategy under section 105 are reviewed not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (a); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) REPORT BY THE SECRETARY.—The Secretary shall report on the performance review in writing. The Secretary shall give the jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) REVIEW BY COURTS.—The adequacy of information submitted under section 105(b)(4) shall not be reviewable by any Federal, State,

or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining whether the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

SEC. 109. ENERGY EFFICIENCY STANDARDS. 42 USC 12709.

The Secretary of Housing and Urban Development shall, not later than one year after the date of enactment of this Act, promulgate energy efficiency standards for new construction of public and assisted housing and single-family and multifamily residential housing (other than manufactured homes) subject to mortgages under the National Housing Act. Such standards shall meet or exceed the provisions of the most recent edition of the Model Energy Code of the Council of American Building Officials and shall be cost-effective with respect to construction and operating costs. In developing such standards the Secretary shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.

Business and industry. Intergovernmental relations.

SEC. 110. CAPACITY STUDY. 42 USC 12710.

(a) IN GENERAL.—The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities, and to implement the provisions of this Act, including the ability of the Department to carry out the multifamily mortgage insurance program.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

SEC. 111. PROTECTION OF STATE AND LOCAL AUTHORITY. 42 USC 12711.

Notwithstanding any other provision of this title or title II, the Secretary shall not establish any criteria for allocating or denying funds made available under programs administered by the Secretary based on the adoption, continuation, or discontinuation by a jurisdiction of any public policy, regulation, or law that is (1) adopted, continued, or discontinued in accordance with the jurisdiction's duly established authority, and (2) not in violation of any Federal law.

HOME Investment Partnerships Act.

TITLE II—INVESTMENT IN AFFORDABLE HOUSING

42 USC 12701 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "HOME Investment Partnerships Act".

42 USC 12721.

SEC. 202. FINDINGS.

The Congress finds that—

(1) the Nation has not made adequate progress toward the goal of national housing policy, as set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, which would provide decent, safe, sanitary, and affordable living environments for all Americans;

(2) the supply of affordable rental housing is diminishing;

(3) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(4) the living environments of an increasing number of Americans have deteriorated over the past several years as a result of reductions in Federal assistance to low-income and moderate-income families;

(5) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide decent, safe, sanitary, and affordable housing for very low-income and low-income families;

(6) reliable Federal leadership is needed to achieve an adequate supply of affordable housing for all Americans;

(7) to achieve the goal of national housing policy, there is a need to strengthen nationwide a cost-effective community-based housing partnership designed to—

(A) expand the supply of rental housing that is affordable to very low-income and low-income families,

(B) improve homeownership opportunities for low-income families,

(C) carry out comprehensive housing strategies tailored to local housing market conditions, and

(D) protect the Federal, State, and local investment in low-income housing to ensure affordability of the housing for the remaining useful life of the property;

(8) direct assistance to expand the supply of affordable rental housing should be provided in a way that is more cost-effective and targeted than tax incentives;

(9) much of the Nation's housing system works very well and provides a strong base on which national housing policy should build;

(10) an increasing number of States and local governments have been successful in producing cost-effective low-income and moderate-income housing by working in partnership with the private sector, including nonprofit community development corporations, community action agencies, neighborhood housing services corporations, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(11) during the 1980's, nonprofit community housing development organizations, despite severe obstacles caused by inadequate funding, have played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(12) additional financial resources and technical skills must be made available in local communities if the Nation is to mobilize the capacity of the private sector, including nonprofit community housing development organizations, to provide a more adequate supply of decent, safe, and sanitary housing that is affordable to very low-income, low-income, and moderate-income families and meets the need for large family units and other additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments; and

(13) the long-term success of efforts to provide more affordable housing depends upon tenants and homeowners being fiscally responsible and able managers.

SEC. 203. PURPOSES. 42 USC 12722.

The purposes of this title are—

(1) to expand the supply of decent, safe, sanitary, and affordable housing, with primary attention to rental housing, for very low-income and low-income Americans;

(2) to mobilize and strengthen the abilities of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of decent, safe, sanitary, and affordable housing;

(3) to provide participating jurisdictions, on a coordinated basis, with the various forms of Federal housing assistance, including capital investment, mortgage insurance, rental assistance, and other Federal assistance, needed—

(A) to expand the supply of decent, safe, sanitary, and affordable housing;

(B) to make new construction, rehabilitation, substantial rehabilitation, and acquisition of such housing feasible; and

(C) to promote the development of partnerships among the Federal Government, States and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources to provide more of such housing;

(4) to make housing more affordable for very low-income and low-income families through the use of tenant-based rental assistance;

(5) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing decent, safe, sanitary, and affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(6) to expand the capacity of nonprofit community housing development organizations to develop and manage decent, safe, sanitary, and affordable housing;

(7) to ensure that Federal investment produces housing stock that is available and affordable to low-income families for the property's remaining useful life, is appropriate to the neighbor-

hood surroundings, and, wherever appropriate, is mixed income housing;

(8) to increase the investment of private capital and the use of private sector resources in the provision of decent, safe, sanitary, and affordable housing;

(9) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula allocation;

(10) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(11) to establish for each participating jurisdiction a HOME Investment Trust Fund with a line of credit for investment in affordable housing, with repayments back to its HOME Investment Trust Fund being made available for reinvestment by the jurisdiction;

(12) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate; and

(13) to assist very low-income and low-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

42 USC 12723.

SEC. 204. COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.

The Secretary shall make assistance under this title available to participating jurisdictions, through the Office of the Assistant Secretary for Housing-FHA Commissioner of the Department of Housing and Urban Development, to the maximum extent practicable, in coordination with mortgage insurance, rental assistance, and other housing assistance appropriate to the efficient and timely completion of activities under this title.

42 USC 12724.

SEC. 205. AUTHORIZATION.

There are authorized to be appropriated to carry out this title $1,000,000,000 for fiscal year 1991, and $2,086,000,000 for fiscal year 1992, of which—

(1) not more than $14,000,000 for fiscal year 1991, and $14,000,000 for fiscal year 1992, shall be for community housing partnership activities authorized under section 233; and

(2) not more than $11,000,000 for fiscal year 1991, and $11,000,000 for fiscal year 1992, shall be for activities in support of State and local housing strategies authorized under subtitle C.

42 USC 12725.

SEC. 206. NOTICE.

Regulations.

The Secretary shall issue regulations to implement the provisions of this title after notice and an opportunity for comment pursuant to section 553 of title 5, United States Code. Such regulations shall become effective not later than 180 days after the date of enactment of this Act.

Subtitle A—HOME Investment Partnerships

42 USC 12741.

SEC. 211. AUTHORITY.

The Secretary is authorized to make funds available to participating jurisdictions for investment to increase the number of families

served with decent, safe, sanitary, and affordable housing and expand the long-term supply of affordable housing in accordance with provisions of this subtitle.

SEC. 212. ELIGIBLE USES OF INVESTMENT. 42 USC 12742.

(a) HOUSING USES.—

(1) IN GENERAL.—Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations, and to provide tenant-based rental assistance.

(2) PREFERENCE TO REHABILITATION.—A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that—

(A) such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing; and

(B) the jurisdiction's housing needs cannot be met through rehabilitation of the available stock.

The Secretary shall not restrict a participating jurisdiction's choice of rehabilitation, substantial rehabilitation, new construction, reconstruction, acquisition, or other eligible housing use unless such restriction is explicitly authorized under paragraph (3) of this subsection or under section 223(2).

(3) CONDITIONS FOR NEW CONSTRUCTION.—

(A) IN GENERAL.—Funds made available under this subtitle may be used (at the discretion of a participating jurisdiction) for new construction of housing only if the housing is to serve a local market area that, in the determination of the Secretary has—

(i) an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and

(ii) a severe shortage of substandard residential structures in the jurisdiction that are suitable for rehabilitation as affordable rental housing.

(B) ESTABLISHMENT OF CRITERIA.—The Secretary shall publish—

(i) objective criteria for determining whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A), and

(ii) a list of jurisdictions that in the determination of the Secretary meet those criteria.

The Secretary shall give reasonable opportunity for jurisdictions not designated on the published list to demonstrate, on the basis of additional information, that they meet the criteria. Such criteria shall permit new construction by not fewer than 30 percent of the jurisdictions receiving an allocation under section 216(1). Such criteria shall include objective data on housing market conditions such as

low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) NEIGHBORHOOD REVITALIZATION.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that—

(i) the program of construction is needed to facilitate a neighborhood revitalization program that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families in an area designated by the jurisdiction;

(ii) the housing is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;

(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and

(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

(D) APPLICABILITY.—Clause (iii) of subparagraph (C) shall not apply if the jurisdiction certifies that—

(i) the housing is to be located in a severely distressed area with large tracts of vacant land and abandoned buildings,

(ii) the housing is to be located in an area with an inadequate supply of existing housing that can economically be rehabilitated to meet identified housing needs, or

(iii) the new construction is required to accomplish the neighborhood revitalization program.

(E) SPECIAL NEEDS HOUSING.—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of—

(i) affordable housing for large families;

(ii) affordable housing for persons with disabilities;

(iii) single room occupancy housing; and

(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable, public housing units in excess of normal vacancies resulting from turnovers that could meet the specified need.

(4) TENANT-BASED RENTAL ASSISTANCE.—

(A) IN GENERAL.—A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is

an essential element of the jurisdiction's annual housing strategy for expanding the supply, affordability, and availability of decent, safe, sanitary, and affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided to persons from the waiting lists eligible for section 8 assistance in accordance with the applicable preferences.

(B) FAIR SHARE NOT AFFECTED.—A jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this title.

(C) 24-MONTH CONTRACTS.—Rental assistance contracts made available with assistance under this title shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) USE OF SECTION 8 ASSISTANCE.—In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this title shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this title. A rental assistance program under this title shall meet minimum criteria prescribed by the Secretary, such as housing quality standards and standards regarding the reasonableness of the rent.

(b) INVESTMENTS.—Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this title. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) PROHIBITED USES.—Funds made available under this subtitle may not be used to—

(1) defray any administrative cost of a participating jurisdiction,

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of, preserving federally assisted housing, assisting in the disposition of housing owned or held by the Secretary, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 14 of the Housing Act of 1937, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(d) COST LIMITS.—

(1) IN GENERAL.—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms, and shall reflect the actual cost of new construction, reconstruction, or rehabilitation of housing that meets applicable State and local housing and building codes and the cost of land, including necessary site improvements. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) CRITERIA.—In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions;

(C) facilitate mixed-income housing; and

(D) reflect the costs associated with meeting the special needs of tenants or homeowners that the housing is designed to serve.

(3) CONSULTATION.—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) CERTIFICATION OF COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

42 USC 12743.

SEC. 213. DEVELOPMENT OF MODEL PROGRAMS.

(a) IN GENERAL.—The Secretary shall—

Nonprofit organizations. Business and industry.

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

Government contracts.

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institu-

tions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this title.

(b) ADOPTION OF PROGRAMS.—Except as provided in section 223(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) SUBTITLE D PROGRAMS.—The selection of model programs to be made available for adoption or adaptation shall include programs meeting the criteria set forth in subtitle D.

SEC. 214. INCOME TARGETING. 42 USC 12744.

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that—

(1) with respect to rental assistance and rental units—

(A) not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by families whose incomes do not exceed 60 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, (except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction cost or fair market rent, or unusually high or low family income) at the time of occupancy or at the time funds are invested, whichever is later, and

(B) the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than families described in subparagraph (A)) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or at the time funds are invested, whichever is later; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 215.

SEC. 215. QUALIFICATION AS AFFORDABLE HOUSING. 42 USC 12745.

(a) RENTAL HOUSING.—

(1) QUALIFICATION.—Housing that is for rental shall qualify as affordable housing under this title only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the

United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such voucher or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) ADJUSTMENT OF QUALIFYING RENT.—The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), only if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project and only by such amount as the Secretary determines is necessary to maintain continued financial viability of the project.

(3) INCREASES IN TENANT INCOME.—Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no longer qualify as low-income families shall pay as rent not less than 30 percent of the family's adjusted monthly income, as recertified annually.

(4) MIXED-INCOME PROJECT.—Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) MIXED-USE PROJECT.—Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(b) HOMEOWNERSHIP.—Housing that is for homeownership shall qualify as affordable housing under this title only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure, including whether the housing is single-family or multifamily, and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;

(3) is made available for initial purchase only to first-time homebuyers;

(4) is made available for subsequent purchase only—

(A) to persons who meet the qualifications specified under paragraph (2), and

(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate—

(i) to provide the owner with a fair return on investment, including any improvements, and

(ii) to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and

(5) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

SEC. 216. PARTICIPATION BY STATES AND LOCAL GOVERNMENTS. 42 USC 12746.

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall only provide for the following: Regulations.

(1) ALLOCATION.—Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act, not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriations Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 217 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) CONSORTIA.—A consortium of geographically contiguous units of general local government shall be deemed to be a unit of general local government for purposes of this title if the Secretary determines that the consortium—

(A) has sufficient authority and administrative capability to carry out the purposes of this title on behalf of its member jurisdictions, and

(B) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of housing problems within the State or States.

(3) ELIGIBILITY.—(A) A jurisdiction receiving a formula allocation under section 217 shall be eligible to become a participating jurisdiction if its formula allocation is $750,000 or greater, or if the Secretary finds that—

(i) the jurisdiction has a local housing authority and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and $750,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle.

(B) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 217(a)(1) and the amount made available to the jurisdiction under subparagraph (A)(ii).

(4) NOTIFICATION.—If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 217(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, in accordance with paragraph (6) of this section, any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(5) SUBMISSION OF STRATEGY.—Not later than 90 days after providing notification under paragraph (4), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(6) REALLOCATION.—If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) STATE.—If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by direct reallocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation, and

(ii) reallocate the remainder by formula in accordance with section 217(b).

(B) LOCAL.—If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall re-

allocate to the State any funds reserved for the locality, with preference going to the provision of affordable housing within the locality.

(C) DIRECT REALLOCATION.—If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by direct reallocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 217(c) are received within 12 months after the funds become available for the direct reallocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 217(b).

(D) CERTAIN JURISDICTIONS DEEMED TO BE PARTICIPATING JURISDICTIONS.—If a State or unit of general local government is meeting the requirements of paragraphs (3), (4), and (5), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(7) DESIGNATION.—The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(8) CONTINUOUS DESIGNATION.—Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (9). The provisions of paragraphs (3) through (6) shall not apply to participating jurisdictions.

(9) REVOCATION.—The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below $750,000 for 3 consecutive years, below $625,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of $500,000 or more in any 1 year.

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's HOME Investment Trust Fund established under section 218 shall be reallocated in accordance with paragraph (6) of this section.

SEC. 217. ALLOCATION OF RESOURCES. 42 USC 12747.

(a) IN GENERAL.—

(1) STATES AND UNITS OF GENERAL LOCAL GOVERNMENT.—After reserving amounts for Indian tribes as required by paragraph (2) of this subsection, the Secretary shall allocate funds approved in an appropriations Act to carry out this title by formula as provided in subsection (b). Of the funds made available under the preceding sentence, the Secretary shall initially

allocate 60 percent among units of general local government and 40 percent among States.

Grant programs.

(2) INDIAN ALLOCATION.—For each fiscal year, of the amount approved in an appropriations Act to carry out this title, the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

Regulations.

(b) FORMULA ALLOCATION.—

(1) IN GENERAL.—

(A) RENTAL HOUSING PRODUCTION FORMULA.—(i) Of the funds made available under subsection (a)(1), the Secretary shall designate 10 percent in fiscal year 1991, and 15 percent in fiscal year 1992, for use only to produce affordable rental housing through new construction or substantial rehabilitation. Such funds shall be initially allocated by formula among jurisdictions that, according to the determination of the Secretary under section 212(a)(3)(B), have a housing supply sufficiently inadequate to permit new construction. The allocation among States shall reflect each State's share of the need in areas that meet the criteria established by the Secretary under section 212(a)(3)(B). Such formula shall reflect each eligible jurisdiction's share of the total need among all eligible jurisdictions for rental housing production as identified by objective measures of inadequate housing supply, including low vacancy rates, low turnover of units with rents below fair market rents, a high proportion of substandard housing, and other measures that the Secretary determines are appropriate under section 212(a)(3)(B). In no case may a jurisdiction's total allocation under this subparagraph and subparagraph (B) exceed the amount the jurisdiction would have received if its allocation were made under subparagraph (B) alone.

(ii) Any amounts made available under clause (i) that are not committed for new construction or substantial rehabilitation within a period ending 12 months after they are deposited in a jurisdiction's HOME Investment Trust Fund shall remain available only for such purposes during a subsequent 12-month period, after which they shall be available for other eligible uses in accordance with section 212 for an additional period of not to exceed 12 months.

Regulations.

(B) BASIC FORMULA.—The Secretary shall establish in regulation an allocation formula that reflects each jurisdiction's share of total need among eligible jurisdiction for an increased supply of affordable housing for very low-income and low-income families of different size, as identified by objective measures of inadequate housing supply, substandard housing, the number of low-income families in housing likely to be in need of rehabilitation, the costs of producing housing, poverty, and the relative fiscal incapacity of the jurisdiction to carry out housing activities eligible under section 212 without Federal assistance. Allocation among units of general local government shall take into

account the housing needs of metropolitan cities, urban counties, and approved consortia of units of general local government.

(C) SOURCE OF DATA.—The data to be used for formula allocation of funds within a fiscal year shall be data obtained from a standard source that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(D) USE OF BASIC FORMULA.—Except as provided in subparagraph (A), the basic formula established under subparagraph (B) shall be used for all formula allocations and reallocations provided for in this subtitle.

(E) WEIGHTS.—When allocation is made among States, the Secretary shall apply the formulas in subparagraph (B) giving 20 percent weight to measures of need for the whole State and 80 percent weight to measures of need among units of general local government that are not receiving an allocation under section 216(1).

(F) ADJUSTMENTS.—In developing the basic formula in subparagraph (B), the Secretary shall (i) avoid the allocation of an excessively large share of amounts made available under this subtitle to any one State or unit of general local government, and (ii) take into account the need for a geographic distribution of amounts made available under this subtitle that appropriately reflects the housing need in each region of the Nation. If a jurisdiction receives an allocation under subparagraph (A), the Secretary shall make such adjustments in the jurisdiction's allocation under the formula in subparagraph (B) as may be necessary to ensure that the combined effect of the formulas in subparagraphs (A) and (B) does not reduce the allocation of any jurisdiction below the allocation it would receive if allocations were made according to the formula under subparagraph (B) alone.

(G) CONSULTATION.—The Secretary shall develop the formulas in subparagraphs (A) and (B) in ongoing consultation with (i) the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate, (ii) the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and (iii) organizations representing States and units of general local government. Not less than 60 days prior to publishing a formula for comment, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a copy of the formula the Secretary intends to propose.

(2) MINIMUM STATE ALLOCATION.—

(A) IN GENERAL.—If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than $3,000,000 to any State, the allocation for such State shall be $3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) INCREASED MINIMUM ALLOCATION.—If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be in-

creased by $500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of metropolitan cities, urban counties, and approved consortia within the State, based on the need for such funds. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States, except that such pro rata deduction shall not reduce the allocation of any unit of general local government below $500,000.

(3) MINIMUM LOCAL ALLOCATION.—The Secretary shall allocate funds available for formula allocation to units of general local government that, as of the end of the previous fiscal year, qualified as metropolitan cities, urban counties, and consortia approved by the Secretary in accordance with section 216(2) so that, when all such funds are initially allocated by formula, only those jurisdictions that are allocated an amount of $500,000 or greater shall receive an allocation. Prior to announcing initial allocations, the Secretary shall successively recalculate the allocations to jurisdictions under this subsection so that the maximum number of such jurisdictions can receive initial allocations.

(c) CRITERIA FOR DIRECT REALLOCATION.—The Secretary shall establish objective criteria for making direct reallocations to any participating jurisdiction and other eligible entities. A jurisdiction shall be eligible for a direct reallocation under this subsection only if the jurisdiction, in a form acceptable to the Secretary, submits an application that demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies under this title. The Secretary shall by regulation establish objective selection criteria for such direct reallocations, which criteria shall take into account—

Regulations.

(1) the applicant's demonstrated commitment to expand the supply of affordable rental housing, including units developed by public housing agencies, as indicated by the additional number of units of affordable housing made available through production or rehabilitation within the previous 2 years, making adjustment for regional variations in construction and rehabilitation costs and giving special consideration to the number of additional units made available under this title through production or rehabilitation, including units developed by public housing agencies, in relation to the amounts made available under this program;

(2) the applicant's actions that—

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 214, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of

1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 220; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations; and

(3) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income and low-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities.

(d) REALLOCATIONS.—

(1) IN GENERAL.—The Secretary shall make any reallocations periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (3), (4), and (5) of section 216.

(2) COMMITMENTS.—The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this title, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) LIMITATION.—Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

SEC. 218. HOME INVESTMENT TRUST FUNDS. 42 USC 12748.

(a) ESTABLISHMENT.—The Secretary shall establish for each participating jurisdiction a HOME Investment Trust Fund, which shall be an account (or accounts as provided in section 219(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

(b) LINE OF CREDIT.—The Secretary shall establish a line of credit in the HOME Investment Trust Fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 217, and

(2) any payment or repayment made pursuant to section 219.

(c) REDUCTIONS.—A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the HOME Investment Trust Fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 224.

(d) CERTIFICATION.—A participating jurisdiction may draw funds from its HOME Investment Trust Fund, but not to exceed the remaining line of credit, only after providing certification that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, the Secretary shall immediately disburse such funds in accordance with the form of the assistance determined by the participating jurisdiction.

(e) INVESTMENT WITHIN 15 DAYS.—The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's HOME Investment Trust Fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) NO INTEREST OR FEES.—The Secretary shall not charge any interest or levy any other fee with regard to funds in a HOME Investment Trust Fund.

(g) EXPIRATION OF RIGHT TO DRAW FUNDS.—Except as provided in section 217(b)(1)(A)(ii), if any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's HOME Investment Trust Fund, the jurisdiction's right to draw such funds from the HOME Investment Trust Fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the expiring amount and shall reallocate the funds by formula in accordance with section 217(d).

(h) ADMINISTRATIVE PROVISION.—The Secretary shall keep each participating jurisdiction informed of the status of its HOME Investment Trust Fund, including the status of amounts under various stages of commitment.

42 USC 12749.

SEC. 219. REPAYMENT OF INVESTMENT.

(a) IN GENERAL.—Any repayment of funds drawn from a jurisdiction's HOME Investment Trust Fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's HOME Investment Trust Fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 217(d).

Government contracts.

(b) ASSURANCE OF REPAYMENT.—Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in

the HOME Investment Trust Fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 217(d).

(c) AVAILABILITY.—The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a HOME Investment Trust Fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated under section 217. Actions authorized under the preceding sentence may include authorizing the establishment for a participating jurisdiction of a HOME Investment Trust Fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this title. Such accounts shall be established in such a manner that repayments are not receipts or collections of the Federal Government.

SEC. 220. MATCHING REQUIREMENTS. 42 USC 12750.

(a) CONTRIBUTION.—Each participating jurisdiction shall make contributions to affordable housing assisted under this title that total, throughout a fiscal year, not less than—

(1) 25 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's HOME Investment Trust Fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 216(3)(A)(ii).

(b) RECOGNITION.—

(1) IN GENERAL.—A contribution shall be recognized for purposes of subsection (a) only if it—

(A) is made with respect to housing that qualifies as affordable housing under section 215; or

(B) is made with respect to any portion of a project not less than 50 percent of the units of which qualify as affordable housing under section 215.

(2) ADMINISTRATIVE EXPENSES.—Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this title.

(c) FORM.—Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, which may include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(3) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred

in a manner that achieves affordability of housing assisted under this title;

(4) the value of land or other real property as appraised according to procedures acceptable to the Secretary; and

(5) the value of investment in on-site and off-site infrastructure directly required for affordable housing assisted under this title.

(d) REDUCTION OF REQUIREMENT.—If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) is necessary to permit the jurisdiction to carry out the purposes of this title, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year.

42 USC 12751.

SEC. 221. PRIVATE-PUBLIC PARTNERSHIP.

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including nonprofit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

42 USC 12752.

SEC. 222. DISTRIBUTION OF ASSISTANCE.

(a) LOCAL.—Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) STATE.—Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

Rural areas.

42 USC 12753.

SEC. 223. PENALTIES FOR MISUSE OF FUNDS.

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's HOME Investment Trust Fund by the amount of any expenditures that were not in accordance with the requirements of this title, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's HOME Investment Trust Fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 213; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

SEC. 224. LIMITATION ON JURISDICTIONS UNDER COURT ORDER. 42 USC 12754.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary shall ensure that funds provided under this subtitle are not employed to carry out housing remedies or to pay fines, penalties, or costs associated with an action in which—

(1) a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or

(2) a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, except to the extent permitted by subsection (b).

(b) REMEDIAL USE OF FUNDS PERMITTED.—In the case of settlement described in subsection (a)(2), a jurisdiction may use funds provided under this Act to carry out housing remedies with eligible activities.

SEC. 225. TENANT AND PARTICIPANT PROTECTIONS. 42 USC 12755.

(a) LEASE.—The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

(b) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(c) MAINTENANCE AND REPLACEMENT.—The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) TENANT SELECTION.—The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that—

(1) are consistent with the purpose of providing housing for very low-income and low-income families,

(2) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease,

(3) give reasonable consideration to the housing needs of families that would have a preference under section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), and

(4) provide for (A) the selection of tenants from a written waiting list in the chronological order of their application, insofar as is practicable, and (B) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

42 USC 12756.

SEC. 226. MONITORING OF COMPLIANCE.

(a) ENFORCEABLE AGREEMENTS.—Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) PERIODIC MONITORING.—Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. Such review shall include on-site inspection to determine compliance with housing codes and other applicable regulations. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

(c) SPECIAL PROCEDURES FOR CERTAIN PROJECTS.—In the case of small-scale or scattered site housing, the Secretary may provide for such streamlined procedures for achieving the purposes of this section as the Secretary determines to be appropriate.

Subtitle B—Community Housing Partnership

42 USC 12771.

SEC. 231. SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) IN GENERAL.—For a period of 18 months after funds under subtitle A are made available to a jurisdiction, the jurisdiction shall reserve not less than 15 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable or can reasonably be expected to become capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) RECAPTURE AND REUSE.—If any funds reserved under subsection (a) remain uninvested for a period of 18 months, then the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's HOME Investment Trust Fund and make such funds available by direct reallocation (1) to other participating jurisdictions for affordable housing developed, sponsored or owned by community housing development organizations, or (2) to nonprofit intermediary organizations to carry out activities that develop the capacity of community housing development organizations consistent with section 233, with preference to community housing development organizations serving the jurisdiction from which the funds were recaptured.

(c) DIRECT REALLOCATION CRITERIA.—Insofar as practicable, direct reallocations under this section shall be made according to the selection criteria established under section 217(c).

SEC. 232. PROJECT-SPECIFIC ASSISTANCE TO COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS. 42 USC 12772.

(a) IN GENERAL.—Amounts reserved under section 231 may be used for activities eligible under section 212 and, in amounts not to exceed 10 percent of the amounts so reserved, for other activities specified under this section.

(b) PROJECT-SPECIFIC TECHNICAL ASSISTANCE AND SITE CONTROL LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide technical assistance and site control loans to community housing development organizations in the early stages of site development for an eligible project. Such loans shall not exceed amounts that the jurisdiction determines to be customary and reasonable project preparation costs allowable under paragraph (2).

(2) ALLOWABLE EXPENSES.—A loan under this subsection may be provided to cover project expenses necessary to determine project feasibility (including costs of an initial feasibility study), consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, engagement of a development team, site control and title clearance.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the participating jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in part or in whole, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

(c) PROJECT-SPECIFIC SEED MONEY LOANS.—

(1) IN GENERAL.—Amounts reserved under the previous section may be used to provide loans to community housing development organizations to cover preconstruction project costs that the jurisdiction determines to be customary and reasonable, including, but not limited to the costs of obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

(2) ELIGIBLE SPONSORS.—A loan under this subsection may be provided only to a community housing development organization that has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) REPAYMENT.—A community housing development organization that receives a loan under this subsection shall repay the loan to the jurisdiction's HOME Investment Trust Fund from construction loan proceeds or other project income. The participating jurisdiction may waive repayment of the loan, in whole or in part, if there are impediments to project development that the participating jurisdiction determines are reasonably beyond the control of the borrower.

42 USC 12773.

SEC. 233. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT.

(a) IN GENERAL.—The Secretary is authorized to provide education and organizational support assistance, in conjunction with other assistance made available under this subtitle—

(1) to facilitate the education of low-income homeowners and tenants; and

(2) to promote the ability of community housing development organizations to maintain, rehabilitate and construct housing for low-income and moderate-income families in conformance with the requirements of this title.

(b) ELIGIBLE ACTIVITIES.—Assistance under this section may be used only for the following eligible activities:

(1) ORGANIZATIONAL SUPPORT.—Organizational support assistance may be made available to community housing development organizations to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the community housing development organization.

(2) HOUSING EDUCATION.—Housing education assistance may be made available to community housing development organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under other provisions of this title.

(3) PROGRAM-WIDE SUPPORT OF NONPROFIT DEVELOPMENT AND MANAGEMENT.—Technical assistance, training, and continuing support may be made available to eligible community housing development organizations for managing and conserving properties developed under this title.

(4) BENEVOLENT LOAN FUNDS.—Technical assistance may be made available to increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income homebuyers.

(5) COMMUNITY DEVELOPMENT BANKS AND CREDIT UNIONS.—Technical assistance may be made available to establish privately owned, local community development banks and credit unions to finance affordable housing.

Government contracts.

(c) DELIVERY OF ASSISTANCE.—The Secretary shall provide this assistance only through contract—

(1) with a nonprofit intermediary organization that, in the determination of the Secretary—

(A) customarily provides, in more than one community, services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance (such as financing, technical assistance, construction and property management assistance, capacity building and training) to community housing development organizations or similar organizations that engage in community revitalization;

(C) has demonstrated the ability to provide technical assistance and training for community-based developers of affordable housing; and

(D) has described the uses to which such assistance will be put and the intended beneficiaries of the assistance; or

(2) with another organization, if a participating jurisdiction demonstrates that the organization is qualified to carry out eligible activities and that the jurisdiction would not be served in a timely manner by intermediaries specified under paragraph (1).

Contracts under paragraph (2) shall be for activities specified in an application from the participating jurisdiction, which application shall include a certification that the activities are necessary to the effective implementation of the participating jurisdiction's housing strategy.

(d) LIMITATIONS.—Contracts under this section with any one contractor for a fiscal year may not—

(1) exceed 20 percent of the amount appropriated for this section for such fiscal year; or

(2) provide more than 20 percent of the operating budget (which shall not include funds that are passed through to community housing development organizations) of the contracting organization for any one year.

(e) SINGLE-STATE CONTRACTORS.—Not less than 40 percent of the funds made available for this section in an appropriations Act in any fiscal year shall be made available for eligible contractors that have worked primarily in one State.

SEC. 234. OTHER REQUIREMENTS. 42 USC 12774.

(a) TENANT PARTICIPATION PLAN.—A community housing development organization that receives assistance under this subtitle shall provide a plan for and follow a program of tenant participation in management decisions and shall adhere to a fair lease and grievance procedure approved by the participating jurisdiction.

(b) LIMITATION ON ASSISTANCE.—A community housing development organization may not receive assistance under this title for any fiscal year in an amount that, together with other Federal assistance, provides more than 50 percent of the organization's total operating budget in the fiscal year.

(c) ADJUSTMENTS OF OTHER ASSISTANCE.—The Secretary shall take account of assistance provided to a project under this subtitle when adjusting other assistance to be provided to the project as required by section 102(d) of the Department of Housing and Urban Development Reform Act of 1989.

Subtitle C—Other Support for State and Local Housing Strategies

SEC. 241. AUTHORITY. 42 USC 12781.

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

Government contracts.
Nonprofit organizations.
Business and industry.

42 USC 12782.

SEC. 242. PRIORITIES FOR CAPACITY DEVELOPMENT.

To carry out section 241, the Secretary shall provide assistance under this subtitle to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

Business and industry.

(3) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(4) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing; and

Research. Technical assistance.

(5) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects.

42 USC 12783.

SEC. 243. CONDITIONS OF CONTRACTS.

(a) ELIGIBLE ORGANIZATIONS.—The Secretary shall carry out this subtitle insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

Nonprofit organizations.

(4) a national or regional nonprofit organization that has a membership comprised predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

Business and industry.

(5) a professional and technical services company or firm that has demonstrated capacity to provide services under this subtitle.

(b) CONTRACT TERMS.—Contracts under this subtitle shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds appropriated under this subtitle in that fiscal year.

42 USC 12784.

SEC. 244. RESEARCH IN HOUSING AFFORDABILITY.

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and to publish such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with

severe problems of housing affordability. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 243.

SEC. 245. REACH: ASSET RECYCLING INFORMATION DISSEMINATION. 42 USC 12785.

(a) IN GENERAL.—The Secretary shall make available upon request by any participating jurisdiction a list of eligible properties that are located within the jurisdiction and that are owned or controlled by the Department of Housing and Urban Development to facilitate the purchase, development, or rehabilitation of such properties with assistance made available under this title.

(b) ELIGIBLE PROPERTIES.—An eligible property under this section shall—

(1) be an unoccupied single-family or multifamily dwelling, such that acquisition and rehabilitation of the dwelling would not result in the displacement of any residents of the dwelling; and

(2) have an appraised value that does not exceed (A) in the case of a 1- to 4-family dwelling, 95 percent of the median purchase price for the area for such dwellings, as determined by the Secretary, or (B) in the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715*l*(d)(3)(ii)) for elevator-type structures.

Subtitle D—Specified Model Programs

SEC. 251. GENERAL AUTHORITY. 42 USC 12801.

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 213 shall be model programs specified in this subtitle. The Secretary shall keep these specified model programs under review and submit to Congress such recommendations for change as the Secretary determines to be appropriate.

SEC. 252. RENTAL HOUSING PRODUCTION. 42 USC 12802.

(a) REPAYABLE ADVANCES.—

(1) IN GENERAL.—The Secretary shall make available a model program under which repayable advances may be made to public and private project sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(2) MAXIMUM AMOUNT OF ADVANCE.—An advance under this model program shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the participating jurisdiction.

(3) TERMS OF REPAYMENT.—

(A) INTEREST PAYMENTS.—

(i) IN GENERAL.—Under the model program, advances shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the participating jurisdiction to be appropriate. Interest

shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(ii) EXCEPTION.—Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the participating jurisdiction to be appropriate. As used in the previous sentence, the term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the participating jurisdiction.

(B) ADDITIONAL INTEREST PAYMENTS.—Under the model program, for any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under subparagraph (A), 50 percent of the excess surplus cash flow shall be paid to the participating jurisdiction's HOME Investment Trust Fund as additional interest.

(C) PRINCIPAL AND UNPAID INTEREST.—The principal amount of an advance under the model program, and any interest remaining unpaid pursuant to subparagraph (A)(ii) shall be repayable when the housing no longer qualifies as affordable housing in accordance with section 219(b).

(b) SELECTION GUIDELINES.—

(1) IN GENERAL.—The Secretary shall establish guidelines for the selection of projects by participating jurisdictions for assistance under the model program. Such guidelines shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(2) SPECIFIC REQUIREMENTS.—The selection guidelines may include—

(A) the extent of the shortage of rental housing in the area that is available to low-income families;

(B) the extent large families with children will be served by the project;

(C) the extent to which the project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(D) the extent of very low-income and low-income occupancy in excess of the income targeting requirements in section 214;

(E) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(F) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications

submitted by public housing agencies and nonprofit entities);

(G) the extent of non-Federal public or private assistance to the project;

(H) the extent to which the project provides supportive services for persons with disabilities; and

(I) any other factor determined by the Secretary to be appropriate.

(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after enactment of this Act.

SEC. 253. RENTAL REHABILITATION. 42 USC 12803.

(a) IN GENERAL.—The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) AMOUNT OF SUBSIDY.—The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

SEC. 254. REHABILITATION LOANS. 42 USC 12804.

(a) IN GENERAL.—The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) CONDITION OF LOANS.—The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) ADDITIONAL RESTRICTIONS.—Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

SEC. 255. SWEAT EQUITY MODEL PROGRAM.

Labor.
42 USC 12805.
Grant programs.
Nonprofit organizations.
Homeless.

(a) IN GENERAL.—The Secretary shall make available a model program to provide grants to public and private nonprofit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-

income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) REHABILITATION OF PROPERTIES.—The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) HOMEOWNERSHIP OPPORTUNITIES THROUGH SWEAT EQUITY.—

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Training shall be provided to eligible families in building and home maintenance skills.

(d) RENTAL OPPORTUNITIES THROUGH SWEAT EQUITY.—(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) DEFINITION.—The term "self-help housing" means the same as in section 523 of the Housing Act of 1949.

(f) ADDITIONAL RESTRICTIONS.—The guidelines for the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

42 USC 12806.

SEC. 256. HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide home repair services for older homeowners and disabled homeowners, including such services as the examination of homes, repair services, and follow-up to ensure the continued effectiveness of the repairs provided.

(b) ELIGIBLE RECIPIENTS.—Home repair services shall be provided to homeowners who—

(1) own and reside in the dwellings for which services are provided;

(2) are older or disabled; and

(3) are members of low-income families.

(c) PERMITTED RESTRICTIONS.—Guidelines for the model program shall require that—

(1) assisted dwelling units be the primary residence of the homeowner for whom services are provided;

(2) preferences be provided for (A) very low-income families, and (B) individuals with intense need characterized by non-economic factors such as physical and mental disabilities, language barriers, and cultural, social, or geographical isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of the individual to live independently;

(3) any fees charged be based on the income of the individual receiving the home repair services.

42 USC 12807.

SEC. 257. LOW-INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAMS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide safe, energy-efficient affordable housing for low-income persons.

(b) ACTIVITIES.—The model program shall provide for—

(1) identification of housing that is—

(A) owned and occupied by low-income families who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);

(B) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(C) not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(2) repairs that will significantly prolong the habitability of units identified under paragraph (1), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons; and

(3) reasonable steps to ensure that any units so repaired will remain occupied by persons or families eligible for assistance under this title.

SEC. 258. SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS. 42 USC 12808.

(a) IN GENERAL.—The Secretary shall make available a model program under which units of general local government provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) HOMEOWNERSHIP COUNSELING.—The program under this section shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

(1) counseling before and after purchase of the property;

(2) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(3) providing homebuyers with financial management assistance;

(4) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(5) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing the property.

(c) ELIGIBILITY REQUIREMENTS.—Deferred payment loans secured by second mortgages may be provided under the model program under this section if—

(1) the homebuyer assisted is a first-time homebuyer;

(2) the property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer; and

(3) the principal obligation of the deferred payment loan secured by a second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(d) PAYMENT TERMS.—

(1) PERIOD OF DEFERRAL.—The payment of any principal and interest on a loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(2) INTEREST RATE.—The interest rate on the unpaid balance of a loan under this section shall be at least 4 percent.

(3) REPAYMENT PERIOD.—A deferred payment loan secured by a second mortgage shall be repayable over the 15-year period beginning at the end of the deferral period.

(e) SECURITY.—A deferred payment loan assisted with amount provided under a grant under this section shall be secured by a lien on the property involved, which lien shall be subordinate to the first mortgage on the property.

42 USC 12809.

SEC. 259. REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.

(a) IN GENERAL.—The Secretary shall make available a model program under which States and units of general local government may convert in rem properties to provide affordable permanent housing for the homeless by leasing such properties to nonprofit organizations and permitting such organizations to rehabilitate the properties.

(b) TARGET.—The program shall target vacant properties for rehabilitation by nonprofit organizations.

Subtitle E—Mortgage Credit Enhancement

42 USC 12821.

SEC. 271. REPORT ON CREDIT ENHANCEMENT.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of ways in which financing for affordable housing may be made available to assist in the most efficient implementation of comprehensive housing affordability strategies of participating jurisdictions. In conducting the study, the Comptroller General shall draw upon the expertise of such representatives of State and local government, State and local housing finance agencies, agencies of the United States, government-sponsored mortgage finance corporations, for-profit and nonprofit housing developers, private financial institutions, and sources of long-term mortgage investment, as the Comptroller General determines to be appropriate.

(b) REPORT.—Not later than one year after the enactment of this Act, the Comptroller General shall submit to the Congress and the Secretary a report containing any recommendations for legislative or administrative actions needed to improve the availability of mortgage finance for affordable housing. The report shall include, but need not be limited to, an assessment of—

(1) the need for the Department of Housing and Urban Development or other agencies of the United States to provide partial credit enhancement to make financing for affordable housing available efficiently and at the lowest possible cost; and

(2) alternative ways in which—

(A) the Department could provide any needed credit enhancement on a one-stop basis for participating jurisdictions, in coordination with other forms of assistance under this subtitle;

(B) the Department or other agencies of the Federal Government could assist government-sponsored mortgage finance corporations in the financing of mortgages on affordable housing through the development of mortgage-backed securities that are more standardized and readily traded in the capital markets;

(C) the capacities of existing agencies of the United States could be used to provide mortgage finance more efficiently for affordable housing through government-sponsored mortgage finance corporations; and

(D) the interests of the Federal Government could be protected and any risks of loss could be minimized through requirements for fees, mortgage insurance, risk-sharing, secure collateral, and guarantees by other parties, and through standards relating to minimum capital and prior experience with underwriting, origination and servicing.

Subtitle F—General Provisions

SEC. 281. EQUAL OPPORTUNITY. 42 USC 12831.

(a) SOLICITATION OF CONTRACTS.—Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction. Minorities. Women.

(b) REPORT TO CONGRESS.—Before the end of the 180-day period beginning on the date the first allocation of funds is made under section 217, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Secretary may determine to be appropriate to carry out the purposes of such subsection.

SEC. 282. NONDISCRIMINATION. 42 USC 12832.

No person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

SEC. 283. ANNUAL AUDITS AND ACCOUNTABILITY. 42 USC 12833.

(a) INDEPENDENT AUDITS.—The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the HOME Investment Partnerships program for each fiscal year. Funds available for departmental administration may be used to provide for such audits. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States (hereinafter referred to as

the "Comptroller General"), and shall be consistent with the requirements of sections 9105 and 9106 of title 31, United States Code. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, United States Code, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31, United States Code.

Reports.

(b) AUDITS BY THE COMPTROLLER GENERAL.—

(1) AUDITS OF THE HOME INVESTMENT PARTNERSHIPS PROGRAM.—The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the HOME Investment Partnerships program for any fiscal year. The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

Reports.

(2) AUDITS OF RECIPIENTS.—The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

42 USC 12834.

SEC. 284. UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.

(a) UNIFORM REQUIREMENTS.—The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) REPORT TO THE CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided under this section. Such report shall include a description of actions taken by each participating jurisdiction pursuant to section 281(a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such section.

42 USC 12835.

SEC. 285. CITIZEN PARTICIPATION.

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 107 of this Act.

42 USC 12836.

SEC. 286. LABOR.

Government contracts. Wages.

(a) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less

than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a—276a-5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

(b) WAIVER.—Subsection (a) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

SEC. 287. INTERSTATE AGREEMENTS. 42 USC 12837.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. 288. ENVIRONMENTAL REVIEW. 42 USC 12838.

(a) IN GENERAL.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to participating jurisdictions under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality. Regulations.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the participating jurisdiction has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary,

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary,

(3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and

Regulations.

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the participating jurisdiction and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) ASSISTANCE TO A STATE.—In the case of assistance to States, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

42 USC 12839.

SEC. 289. TERMINATION OF EXISTING HOUSING PROGRAMS.

(a) IN GENERAL.—Except with respect to projects and programs for which binding commitments have been entered into prior to October 1, 1991, no new grants or loans shall be made after October 1, 1991, under—

(1) section 17 of the United States Housing Act of 1937;

(2) section 312 of the Housing Act of 1964;

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937, except for funds allocated under such section for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act; and

(5) section 810 of the Housing and Community Development Act of 1974.

(b) REPEALS.—

(1) IN GENERAL.—Except as provided in paragraph (2), effective on October 1, 1991, the provisions of law referred to in subsection (a) are repealed.

(2) NO EFFECT ON SRO PROGRAM.—The provision of law referred to in subsection (a)(4) shall remain in effect with respect to single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act.

(c) DISPOSITION OF REPAYMENTS.—Any amounts received on or after October 1, 1991, as repayments or recaptures in connection with the programs referred to in subsection (a) and any other amounts for such programs that remain or become unobligated on or after such date, shall be paid into the general fund of the Treasury.

TITLE III—HOMEOWNERSHIP

Subtitle A—National Homeownership Trust Demonstration

National Homeownership Trust Act.

SEC. 301. SHORT TITLE.

42 USC 12701 note.

This subtitle may be cited as the "National Homeownership Trust Act".

SEC. 302. NATIONAL HOMEOWNERSHIP TRUST.

42 USC 12851.

(a) ESTABLISHMENT.—There is established the National Homeownership Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

(1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;

(2) the Secretary of the Treasury;

(3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the chairperson of the Federal Housing Finance Board;

(5) the chairperson of the Board of Directors of the Federal National Mortgage Association;

(6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and

(7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) POWERS OF TRUST.—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) TRAVEL AND PER DIEM.—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board of Directors may appoint an executive director of the Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Homeownership Trust Fund.

(2) STAFF.—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Homeownership Trust Fund.

42 USC 12852.

SEC. 303. ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) INTEREST RATE BUYDOWNS.—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(b) ELIGIBILITY REQUIREMENTS.—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) FIRST-TIME HOMEBUYER.—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A).

(2) MAXIMUM INCOME OF HOMEBUYER.—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed—

(A) 95 percent of the median income for a family of 4 persons (adjusted by family size) in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas); or

(B) 115 percent of such median income (adjusted by family size) in the case of an area that is subject to a high cost area mortgage limit under title II of the National Housing Act.

The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) CERTIFICATION.—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) PRINCIPAL RESIDENCE.—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the mortgage does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(6) MAXIMUM INTEREST RATE.—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) RESPONSIBLE MORTGAGEE.—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) MINIMUM DOWNPAYMENT.—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding any mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) TERMS OF ASSISTANCE.—

(1) SECURITY.—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) REPAYMENT UPON SALE.—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) REPAYMENT UPON INCREASED INCOME.—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds the applicable maximum income allowable under subsection (b)(2) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) AVAILABLE ASSISTANCE.—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) ALLOCATION FORMULA.—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the need of eligible first-time homebuyers for such assistance among all States.

42 USC 12853.

SEC. 304. NATIONAL HOMEOWNERSHIP TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a revolving fund, to be known as the National Homeownership Trust Fund.

(b) ASSETS.—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 308 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) USE OF AMOUNTS.—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) INVESTMENT OF EXCESS AMOUNTS.—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(e) DEMONSTRATION PROGRAMS.—Using not more than $20,000,000 of any amounts appropriated for the Fund under section 308 in fiscal year 1991, the Secretary shall carry out demonstration programs for combining housing activities and economic development activities, as follows:

Wisconsin.

(1) In Milwaukee, Wisconsin, in an amount not to exceed $4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

District of Columbia.

(2) In Washington, District of Columbia, in an amount not to exceed $10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to the extent of and subject to engage in neighborhood-based economic development activities.

Pennsylvania.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed $1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

42 USC 12854.

SEC. 305. DEFINITIONS.

For purposes of this subtitle:

(1) BOARD OF DIRECTORS.—The term "Board of Directors" or "Board" means the Board of Directors of the National Homeownership Trust under section 302(b).

(2) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FUND.—The term "Fund" means the National Homeownership Trust Fund established in section 304.

(4) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) TRUST.—The term "Trust" means the National Homeownership Trust established in section 302.

SEC. 306. REGULATIONS. 42 USC 12855.

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

SEC. 307. REPORT. 42 USC 12856.

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 310, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS. 42 USC 12857.

There are authorized to be appropriated to carry out this subtitle $250,000,000 for fiscal year 1991 and $521,500,000 for fiscal year 1992. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 309.

SEC. 309. TRANSITION. 42 USC 12858.

(a) AUTHORITY OF SECRETARY.—Upon the termination of the Trust as provided in section 310, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) APPLICABILITY OF TRUST PROVISIONS.—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) CERTIFICATION OF FUND TO TREASURY.—Upon a determination by the Secretary of Housing and Urban Development that the National Homeownership Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall deposit into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

SEC. 310. TERMINATION. 42 USC 12859.

The Trust shall terminate on September 30, 1993.

Subtitle B—FHA and Secondary Mortgage Market

SEC. 321. LIMITATION ON FHA INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f-9(b)) is amended to read as follows:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $76,791,000,000 during fiscal year 1991 and $79,818,000,000 during fiscal year 1992.".

SEC. 322. APPRAISAL SERVICES.

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following new paragraphs:

"(3) DIRECT ENDORSEMENT PROGRAM.—

"(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct endorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

"(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to section 202(e) of the National Housing Act.

"(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

"(4) FEE PANEL APPRAISERS.—

"(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers.

"(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this title, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.".

SEC. 323. INCREASE IN MORTGAGE LIMIT.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "150 percent (185 percent until October 31,

1990) of the dollar amount specified" and inserting the following: "185 percent of the dollar amount specified".

SEC. 324. MORTGAGOR EQUITY.

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by adding at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply.".

SEC. 325. MORTGAGE INSURANCE PREMIUMS.

(a) PREMIUMS.—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by striking the last sentence; and

(3) by adding at the end the following new paragraph:

"(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling and executed on or after October 1, 1994, that is an obligation of the Mutual Mortgage Insurance Fund, shall be subject to the following requirements:

"(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount equal to 2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph.

"(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

"(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

"(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under

subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount equal to 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).".

(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National Housing Act (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) 1991 AND 1992.—For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) 1993 AND 1994.—For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount equal to 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A) that is—

(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

SEC. 326. LIMITATION ON SECONDARY RESIDENCES.

(a) LIMITATION ON SECONDARY RESIDENCES.—Section 203(g)(1) of the National Housing Act (12 U.S.C. 1709(g)(1)) is amended by inserting after the period at the end the following new sentence: "In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply only with respect to— 12 USC 1709 note.

(1) mortgages insured—

(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act; or

(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

(c) TRANSITION PROVISIONS.—Any mortgage insurance provided under title II of the National Housing Act before the expiration of the 60-day period beginning on the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act, as such provisions existed before the date of the enactment of this Act. 12 USC 1709 note.

SEC. 327. MORTGAGE COUNSELING FOR DELINQUENT MORTGAGORS.

Section 203(r) of the National Housing Act (12 U.S.C. 1709(r)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section 203 (12 U.S.C. 1709), using the Fund to pay for such counseling.".

Mortgage insurance.
12 USC 1713 note.

SEC. 328. DELEGATION OF PROCESSING.

(a) AUTHORITY.—Not later than the expiration of the 60-day period beginning on the date of enactment this Act, the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act that delegates processing functions to selected approved mortgagees. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

(b) FULL INSURANCE PROGRAM.—Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

SEC. 329. DISCLOSURE REGARDING INTEREST DUE UPON MORTGAGE PREPAYMENT.

Section 203 of the National Housing Act (12 U.S.C. 1709), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(s)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

"(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).".

SEC. 330. ACCOUNTABILITY OF MORTGAGE LENDERS.

(a) LIMITATION ON TIERED PRICING PRACTICES.—Section 203 of the National Housing Act (12 U.S.C. 1709), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(t)(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 539, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

"(2) For purposes of this subsection—

"(A) the term 'area' shall have the meaning given the term under subsection (b)(2);

"(B) the term 'mortgage charges' includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

"(C) the term 'mortgage charge rate' means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.".

(b) SANCTIONS OF MORTGAGEES.—Title V of the National Housing Act (12 U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"EXAMINATIONS AND SANCTIONS FOR CERTAIN VIOLATIONS

"SEC. 539. (a) EXAMINATIONS AND SANCTIONS.— 12 USC 1735f-17.

"(1) In connection with any examination of a mortgagee approved by the Secretary pursuant to this Act, the Secretary shall assess the performance of the mortgagee in meeting the requirements of sections 203(t), 223(a)(7)(B), and 535. Where the Secretary determines that a mortgagee is not in compliance with these requirements, the Secretary shall refer the matter to the Mortgagee Review Board for investigation and appropriate action.

"(2) Not later than 180 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish a procedure under which (A) any person may file a request that the Secretary determine whether a mortgagee is in compliance with sections 203(t), 223(a)(7)(B), and 535, (B) the Secretary shall inform the person of the disposition of the request, and (C) the Secretary shall publish in the Federal Register the disposition of any case referred by the Secretary to the Mortgagee Review Board. Such procedures shall be established by regulation under section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice. Federal Register, publication. Regulations.

"(3) The Secretary shall submit to Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to paragraph (2) and any action taken pursuant to such requests." Reports.

"(b) MONITORING AND REVIEW.—The Secretary shall continually monitor and undertake a thorough review of the implementation of this section to assess the impact of the section on the lending practices of mortgagees and the availability of mortgages insured under this Act. The Secretary shall monitor the availability of credit, the number and type of lenders participating in the program, whether there is any change in the composition or practices of such lenders and any other factors the Secretary considers appropriate. The Secretary shall submit to the Congress findings detailing the results of such monitoring and review not later than 18 months after the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 331. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.".

SEC. 332. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection and maintains such ratio thereafter, subject to paragraph (2).

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

Reports. "(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(C) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

Reports. "(g) The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c) or section 325(b) of the Cranston-Gonzalez National Affordable Housing Act. Upon determining that a premium change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit;

"(C) minimizing the risk to the Fund and to homeowners from homeowner default; and

"(D) avoiding adverse selection.".

SEC. 333. INSURANCE OF MORTGAGES ON PROPERTY IN VIRGIN ISLANDS.

Section 214 of the National Housing Act (12 U.S.C. 1715d) is amended—

(1) in the first sentence, by striking "Alaska, Guam, or Hawaii," and inserting "Alaska, Guam, Hawaii, or the Virgin Islands,";

(2) by striking "Alaska or in Guam or Hawaii" each place it appears and inserting "Alaska, Guam, Hawaii, or the Virgin Islands";

(3) by inserting ", the Virgin Islands," after "Government of Guam" each place it appears; and

(4) by striking the section heading and inserting the following:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, HAWAII, AND THE VIRGIN ISLANDS".

SEC. 334. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.—

(1) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000.".

(2) TERMINATION DATE.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1995".

(b) TYPES OF LOANS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility.".

(c) LIMITATION ON LIABILITY OF MORTGAGOR.—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or".

(d) DISCLOSURES BY MORTGAGEE REGARDING LIABILITY OF MORTGAGOR.—Section 255(e) of the National Housing Act (12 U.S.C. 1715z-20(e)) is amended—

(1) in paragraph (2)—

(A) by inserting after "statement" the following: "informing the homeowner that the liability of the homeowner under the mortgage is limited and"; and

(B) by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

"(A) the cost for a short-term mortgage; and

"(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.".

SEC. 335. INFORMATION REGARDING EARLY DEFAULTS ON FHA-INSURED LOANS.

(a) IN GENERAL.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 539 (as added by this Act) the following new section:

"INFORMATION REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

12 USC 1735f-18.

"SEC. 540. (a) IN GENERAL.—The Secretary of Housing and Urban Development shall collect and maintain information regarding early defaults on mortgages as provided under this section. The Secretary shall make such information available for public inspection upon request. Information shall be collected quarterly with respect to each applicable collection period (as such term is defined in subsection (c)) and shall be available for inspection not more than 30 days after the conclusion of the calendar quarter relating to each such period. Information shall first be made available under this section for the applicable collection period relating to the first calendar

quarter ending more than 180 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

"(b) CONTENTS.—

"(1) MORTGAGE LENDER ANALYSIS.—Information collected under this section shall include, for each lender originating mortgages during the applicable collection period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

"(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable collection period.

"(B) The total number of such mortgages originated by such lender during the applicable collection period in each designated census tract and the number of mortgages originated each year in each designated census tract.

"(C) The total number of defaults and foreclosures on such mortgages during the applicable collection period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

"(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable collection period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable collection period.

"(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable collection period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable collection period.

"(2) OTHER INFORMATION.—Information collected under this section shall also include the following:

"(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable collection period.

"(B) For each designated census tract, the total number of mortgages originated during the applicable collection period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

"(c) ANNUAL REPORTS.—The Secretary shall submit to the Congress annually a report containing the information collected and maintained under subsection (b) for the relevant year.

"(d) DEFINITIONS.—For purposes of this section:

"(1) APPLICABLE COLLECTION PERIOD.—The term 'applicable collection period' means the 5-year period ending on the last day

of the calendar quarter for which information under this section is collected.

"(2) DESIGNATED CENSUS TRACT.—The term 'designated census tract' means a census tract located within a metropolitan statistical area, as defined pursuant to regulations issued by the Secretary of Commerce.".

12 USC 1735f-18 note.

(b) AVAILABILITY OF INFORMATION DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and ending on the date of the initial availability of information under section 540 of the National Housing Act (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.

SEC. 336. AUCTION OF MULTIFAMILY MORTGAGES.

Section 221(g)(4) of the National Housing Act (12 U.S.C. 1715l(g)(4)) is amended by adding after subparagraph (B) the following new subparagraph:

"(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as 'participation certificates'). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

"(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

"(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

"(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

"(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

Federal Register, publication.

"(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

"(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

"(I) the maturity date of the loan;

"(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

"(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

"(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

"(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property

securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

"(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from the date of enactment of this subparagraph and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of the enactment of this subparagraph.

Regulations.

"(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

"(viii) This subparagraph shall not apply after September 30, 1995. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.".

Reports.

SEC. 337. DISAPPROVAL OF REGULATIONS REGARDING PROPERTY DISPOSITION.

Section 291.1(c)(2) and section 291.100(b) (1) and (2) of the rule of the Department of Housing and Urban Development entitled "Disposition of HUD-Acquired Single Family Property" and published in the Federal Register of January 11, 1990 (55 Fed. Reg. 1161 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule containing or based on such provision and may not otherwise implement such provision of such rule.

SEC. 338. REPORT REGARDING FORECLOSED PROPERTIES.

(a) IN GENERAL.—Before the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report containing a description of the strategy and action plan developed to assist in the disposition of foreclosed properties in the stock of the Department of Housing and Urban Development, paying particular attention to any properties that have been in the Department inventory for more than 12 months. The Secretary shall solicit recommendations from State and local governments, nonprofit organizations, housing finance authorities, and community housing development organizations in preparing the report.

(b) CONTENTS.—

(1) The report shall include information on the efforts of local governments, nonprofit organizations, housing finance authorities, and community housing development organizations to

work with eligible families to purchase these homes and suggestions for mechanisms to facilitate the efforts. The report shall also include recommendations for (A) evaluating the rehabilitation costs of the properties necessary to achieve the minimum standards, (B) developing innovative approaches for involving non-Federal entities in the sale and rehabilitation of the properties and (C) providing the means to make the older stock habitable and available.

(2) The report shall also include proposals directed toward very low-income, low-income and moderate-income first-time homebuyers and the assistance that may be provided to such homebuyers to foster purchase.

SEC. 339. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $84,982,000,000 during fiscal year 1991 and $88,296,000,000 during fiscal year 1992.".

SEC. 340. INCREASE IN LOAN LIMITS FOR PROPERTY IMPROVEMENT LOAN INSURANCE.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study regarding the need for increasing the loan limits under section 2(b) of the National Housing Act for insurable property improvement loans and the effects of such an increase. The Secretary shall submit a report to the Congress not later than 6 months after the date of the enactment of this Act regarding the findings and conclusions of the study. Reports.

(b) MAXIMUM LOAN AMOUNTS.—

(1) IN GENERAL.—Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(A) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) $25,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures; and

"(ii) $17,500 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;"; and

(B) in subparagraph (B), by striking "$43,750 or an average amount of $8,750 per family unit ($50,000 and $10,000, respectively, where financing the installation of a solar energy system is involved)" and inserting "$60,000 or an average amount of $12,000 per family unit".

(2) APPLICABILITY.—The amendments made by this subsection shall apply to loans executed on or after June 1, 1991. 12 USC 1703 note.

(c) LOAN TERM.—Section 2(b)(3) of the National Housing Act (12 U.S.C. 1703(b)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure; and

"(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;"; and

(2) in subparagraph (B), by striking "fifteen years" and inserting "twenty years".

Subtitle C—Effective Date

SEC. 351. EFFECTIVE DATE.

If the Omnibus Budget Reconciliation Act of 1990 is enacted before the enactment of this Act, the provisions of sections 323, 324, 325, 331, 332, 334(a), and 336 (of this Act) and the amendments made by such sections shall not take effect. This section shall apply notwithstanding any provision relating to effective date or applicability contained in such sections.

Homeownership and Opportunity Through HOPE Act.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE PROGRAMS

42 USC 1437aaa note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Homeownership and Opportunity Through HOPE Act".

Subtitle A—HOPE for Public and Indian Housing Homeownership

SEC. 411. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE III—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

42 USC 1437aaa.

"SEC. 301. PROGRAM AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized to make—

"(1) planning grants to help applicants to develop homeownership programs in accordance with this title; and

"(2) implementation grants to carry out homeownership programs in accordance with this title.

"(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide replacement housing and rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this title $68,000,000 for fiscal year 1991 and $380,000,000 for fiscal year 1992. Any amount appropriated pursuant to this subsection shall remain available until expended.

"SEC. 302. PLANNING GRANTS.

42 USC 1437aaa-1.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants related to development of a specific homeownership program;

"(3) studies of the feasibility of a homeownership program;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the

Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

Regulations.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

"(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

"(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

42 USC 1437aaa-2.

"SEC. 303. IMPLEMENTATION GRANTS.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

"(1) Architectural and engineering work.

"(2) Implementation of the homeownership program, including acquisition of the public housing project (not including scattered site single family housing of a public housing agency) from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

"(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

"(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

"(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

"(6) Counseling and training of homebuyers and homeowners under the homeownership program.

"(7) Relocation of tenants who elect to move.

"(8) Any necessary temporary relocation of tenants during rehabilitation.

"(9) Funding of operating expenses and replacement reserves of the project covered by the homeownership program, except that the amount of assistance for operating expenses shall not exceed the amount the project would have received if it had continued to receive such assistance under section 9, with adjustments comparable to those that would have been made under section 9.

"(10) Implementation of a replacement housing plan.

"(11) Legal fees.

"(12) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

"(13) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

"(c) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section, excluding any amounts provided for post-sale operating expenses, shall be provided from non-Federal sources to carry out the homeownership program.

"(2) FORM.—Such contributions may be in the form of—

"(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

"(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

"(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

"(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

"(d) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

"(C) a description of the qualifications and experience of the applicant in providing housing for low-income families;

"(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identi-

fying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, where applicable, by a resident council or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

"(H) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

"(I) the estimated sales prices, if any, and terms to eligible families;

"(J) any proposed restrictions on the resale of units under a homeownership program;

"(K) identification and description of the entity that will operate and manage the property;

"(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of the Cranston-Gonzalez National Affordable Housing Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

"(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the feasibility of the homeownership program;

"(3) the extent to which current tenants and other eligible families will be able to afford the purchase;

"(4) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

"(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program;

"(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

"(7) national geographic diversity among housing for which applicants are selected to receive assistance; and

"(8) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

"(f) LOCATION WITHIN PARTICIPATING JURISDICTIONS.—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions—

"(1) which are participating jurisdictions under title III of the Cranston-Gonzalez National Affordable Housing Act; or

"(2) on behalf of which the agency responsible for affordable housing has submitted a housing strategy or plan.

"(g) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for replacement housing and for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"SEC. 304. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

42 USC 1437aaa-3.

"(a) IN GENERAL.—A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(b) AFFORDABILITY.—A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

"(c) PLAN.—A homeownership program under this title shall provide, and include a plan, for—

"(1) identifying and selecting eligible families to participate in the homeownership program;

"(2) providing relocation assistance to families who elect to move;

"(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

"(4) providing ongoing training and counseling for homebuyers and homeowners; and

"(5) replacing units in eligible projects covered by a homeownership program.

"(d) ACQUISITION AND REHABILITATION LIMITATIONS.—Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project (not including scattered site single family housing of a public housing agency) in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

"(e) FINANCING.—

"(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

"(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

"(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

"(C) any debt obligation can be serviced from project income, including operating assistance; and

"(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

"(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

"(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

"(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purposes of this title.

"(g) REPLACEMENT PLAN.—Public housing projects shall not be transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing may consist of—

"(1) the development of new public housing units by the public housing agency in accordance with section 5;

"(2) the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1);

"(3) the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9);

"(4) the use of a State or local program that is comparable to any of the Federal programs referred to in subparagraphs (A) through (C) as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years;

"(5) where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or

"(6) any combination of such methods.

"(h) PROTECTION OF NON-PURCHASING FAMILIES.—

"(1) IN GENERAL.—No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) REPLACEMENT ASSISTANCE.—If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of any operating assistance under the implementation grant, permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 assistance for use in other housing.

"(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"(4) OTHER RIGHTS.—Tenants renting a unit in a project transferred under this title shall have all rights provided to tenants of public housing under this Act.

"SEC. 305. OTHER PROGRAM REQUIREMENTS.

42 USC 1437aaa-4.

"(a) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency

shall transfer the project to such other applicant, in accordance with the approved homeownership program.

"(b) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

"(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

"(d) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(e) OPERATING SUBSIDIES.—Operating subsidies under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

"(f) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

"(g) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(1) IN GENERAL.—

"(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

"(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

"(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

"(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall

provide for limiting the family's consideration for its interest in the property to the total of—

"(A) the contribution to equity paid by the family;

"(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

"(3) 6–20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

"(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(h) THIRD PARTY RIGHTS.—The requirements under this title regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(i) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6) and 303(b)(9) for any project.

"(j) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are consistent with the public housing program and that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(k) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.—To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

"(l) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

"(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (f) and (g)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

42 USC 1437aaa-5.

"SEC. 306. DEFINITIONS.

"For purposes of this title:

"(1) The term 'applicant' means the following entities that may represent the tenants of the project:

"(A) A public housing agency (including an Indian housing authority).

"(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

"(C) A resident council.

"(D) A cooperative association.

"(E) A public or private nonprofit organization.

"(F) A public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means—

"(A) a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant;

"(B) a low-income family; or

"(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-low income families assisted under any mortgage insurance program administered by either Secretary).

"(3) The term 'homeownership program' means a program for homeownership meeting the requirements under this title.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"SEC. 307. RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES. 42 USC 1437aaa-6.

"The program authorized under this title shall be in addition to any other public housing homeownership and management opportunities, including opportunities under section 5(h) and title II of this Act.

"SEC. 308. LIMITATION ON SELECTION CRITERIA. 42 USC 1437aaa-7.

"In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

"SEC. 309. ANNUAL REPORT. 42 USC 1437aaa-8.

"The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of public housing units sold pursuant to this title;

"(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

"(3) the amount and type of financial assistance provided under and in conjunction with this title;

"(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

"(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.".

SEC. 412. AMENDMENT TO SECTION 18 REGARDING DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) OPPORTUNITY TO PURCHASE.—Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant

cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,".

(b) APPLICABILITY.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended by adding at the end the following new subsection:

"(e) The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of this Act.".

SEC. 413. RELATED AMENDMENTS TO SECTION 8.

(a) ELIGIBILITY.—The first sentence of section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)) is amended by—

(1) striking "or"; and

(2) inserting the following before the period: ", or

"(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the Cranston-Gonzalez National Affordable Housing Act".

(b) REPLACEMENT HOUSING.—

(1) CERTIFICATES.—Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended by adding at the end the following new paragraph:

"(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months.".

(2) VOUCHERS.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this paragraph shall be for a term of not more than 60 months.".

SEC. 414. RELATED CIAP AMENDMENT.

Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended by adding at the end the following subsection:

"(n) LIMITATION.—The Secretary shall not make assistance under this section available with respect to a property transferred under title III.".

SEC. 415. LIMITATION ON SECTION 20 RESIDENT MANAGEMENT FINANCIAL ASSISTANCE.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended by adding at the end the following new paragraph:

"(4) LIMITATION REGARDING ASSISTANCE UNDER HOPE GRANT PROGRAM.—The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III.".

SEC. 416. EXTENSION OF SECTION 21 HOMEOWNERSHIP PROGRAM AND PROVISION OF TECHNICAL AND OTHER ASSISTANCE.

Section 21(a) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)) is amended—

(1) by striking subparagraph (B) of paragraph (2) and inserting the following new subparagraph:

"(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section.";

(2) in paragraph (2)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing title III of this Act. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act."; and

(3) in paragraph (3)(C), by striking "September 30, 1990." and inserting the following: "the effective date of the regulations implementing title III of this Act. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public housing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such title.".

SEC. 417. AMENDMENT TO SECTION 5(h).

(a) IN GENERAL.— Section 5(h) of the United States Housing Act of 1937 (42 U.S.C. 1437c(h)) is amended by adding at the end the following: "Any such sale shall be subject to the restrictions contained in section 304(g).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall not apply to applications submitted under section 5(h) of the United States Housing Act of 1937 prior to October 1, 1990. 42 USC 1437c note.

SEC. 418. IMPLEMENTATION. 42 USC 1437aaa note.

Not later than the expiration of the 180-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice. Regulations.

SEC. 419. APPLICABILITY TO INDIAN PUBLIC HOUSING. 42 USC 1437aa note.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an

Indian housing authority, except that nothing in this title affects the program under section 202 of such Act.

Subtitle B—HOPE for Homeownership of Multifamily Units

42 USC 12871.

SEC. 421. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to enable applicants to develop homeownership programs; and

(2) implementation grants to enable applicants to carry out homeownership programs.

(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this subtitle $51,000,000 for fiscal year 1991 and $280,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

42 USC 12872.

SEC. 422. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) preliminary architectural and engineering work;

(5) tenant and homebuyer counseling and training;

(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(7) development of security plans; and

(8) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include— Regulations.

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 423. IMPLEMENTATION GRANTS. 42 USC 12873.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322 for such activities.

(6) Counseling and training of homebuyers and homeowners under the homeownership program.

(7) Relocation of tenants who elect to move.

(8) Any necessary temporary relocation of tenants during rehabilitation.

(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(10) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(11) Legal fees.

(12) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(13) Economic development activities that promote economic self-sufficiency of homebuyers, residents, and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts made available under this section, excluding any amounts provided for post-sale operating expense, shall be provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) if applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing low-income housing;

(D) a description of the proposed homeownership program, consistent with section 324 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the property, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program;

(K) identification and description of the entity that will operate and manage the property;

(L) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(M) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of

1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the feasibility of the homeownership program;

(3) the extent of tenant interest in the development of a homeownership program for the property;

(4) the potential for developing an affordable homeownership program and the suitability of the property for homeownership;

(5) national geographic diversity among housing for which applicants are selected to receive assistance;

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units; and

(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

42 USC 12874.

SEC. 424. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) ACQUISITION AND REHABILITATION LIMITATION.—Acquisition or rehabilitation of a property under a homeownership program under

this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) FINANCING.—

(1) IN GENERAL.—The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) PROHIBITION AGAINST PLEDGES.—Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (f) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) OPPORTUNITY TO CURE.—Any lender that provides financing in connection with a homeownership program under this subtitle shall give the public housing agency, resident management corporation, individual owner, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

(g) PROTECTION OF NONPURCHASING FAMILIES.—

(1) IN GENERAL.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance

under section 8 is available for use by each otherwise qualified tenant in that or another property.

(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

42 USC 12875.

SEC. 425. OTHER PROGRAM REQUIREMENTS.

(a) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in an economic self-sufficiency program specified by the Secretary.

(b) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(e) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(f) DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.—Not more than an aggregate of $250,000 from amounts made available under sections 422 and 423 may be used for economic development activities under sections 422(b)(6) and 423(b)(9) for any project.

(g) TIMELY HOMEOWNERSHIP.—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental

housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(h) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (c) and (d)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(i) CERTAIN ENTITIES NOT ELIGIBLE.—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

42 USC 12876.

SEC. 426. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(2) The term "eligible family" means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government.

(4) The term "homeownership program" means a program for homeownership under this subtitle.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 427. EXEMPTION. 42 USC 12877.

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to—

(1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or

(2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 428. LIMITATION ON SELECTION CRITERIA. 42 USC 12878.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 429. AMENDMENT TO NATIONAL HOUSING ACT.

Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act,".

42 USC 12879. **SEC. 430. IMPLEMENTATION.**

Not later than the expiration of the 180-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Regulations.

42 USC 12880. **SEC. 431. ANNUAL REPORT.**

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type and cost of eligible properties transferred pursuant to this subtitle;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;

(3) the amount and type of financial assistance provided under and in conjunction with this subtitle;

(4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

Subtitle C—HOPE for Homeownership of Single Family Homes

42 USC 12891. **SEC. 441. PROGRAM AUTHORITY.**

(a) IN GENERAL.—The Secretary is authorized to make—

(1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under this subtitle $36,000,000 for fiscal year 1991, and $195,000,000 for fiscal year 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

42 USC 12892. **SEC. 442. PLANNING GRANTS.**

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle. The amount of a planning grant under this section may not exceed $200,000, except that the Secretary may for good cause approve a grant in a higher amount.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) preliminary architectural and engineering work;
(5) homebuyer counseling and training;
(6) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;
(7) development of security plans; and
(8) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties likely to be involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income;

(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include— Regulations.

(1) the qualifications or potential capabilities of the applicant;
(2) the extent of interest in the development of a homeownership program;
(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;
(4) national geographic diversity among housing for which applicants are selected to receive assistance; and
(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for pur-

poses of carrying out the program established by this subtitle in an effective and efficient manner.

42 USC 12893.

SEC. 443. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(5) Counseling and training of homebuyers and homeowners under the homeownership program.

(6) Relocation of eligible families who elect to move.

(7) Any necessary temporary relocation of homebuyers during rehabilitation.

(8) Legal fees.

(9) Defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program.

(10) Economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program.

(c) MATCHING FUNDING.—

(1) IN GENERAL.—Each recipient shall assure that contributions equal to not less than 33 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) FORM.—Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing low-income housing;

(C) a description of the proposed homeownership program, consistent with section 444 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 444(b);

(D) an identification and description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families;

(I) identification and description of the entity that will operate and manage the property;

(J) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located (or, during the first 12 months after enactment of this Act, that the application is consistent with such other existing State or local housing plan or strategy that the Secretary shall determine to be appropriate); and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of

1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the feasibility of the homeownership program;

(3) the quality and viability of the proposed homeownership program;

(4) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned;

(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the Cranston-Gonzalez National Affordable Housing Act;

(6) national geographic diversity among housing for which applicants are selected to receive assistance; and

(7) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

42 USC 12894.

SEC. 444. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) IN GENERAL.—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) AFFORDABILITY.—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) ELIGIBLE PROPERTY.—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the Secretary) participate in the homeownership program.

(d) PLAN.—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit—

(1) will be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) will, not later than 2 years after the transfer to an eligible family, meet minimum housing standards established by the Secretary for the purpose of this title.

SEC. 445. OTHER PROGRAM REQUIREMENTS. 42 USC 12895.

(a) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

(1) IN GENERAL.—

(A) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

(B) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a low-income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

(C) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note.

(2) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

(A) the contribution to equity paid by the family;

(B) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(C) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

(3) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in paragraph (1)(C).

(4) USE OF RECAPTURED FUNDS.—Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this subsection shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for low-income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(d) THIRD PARTY RIGHTS.—The requirements under this subtitle regarding quality standards, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected low-income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) PROTECTION OF NONPURCHASING FAMILIES.—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(h) RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.—

(1) IN GENERAL.—Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and

the disposition by such recipient of the proceeds of assistance received under this subtitle (and any proceeds from financing obtained or sales under subsections (b) and (c)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) ACCESS BY THE SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

(3) ACCESS BY THE COMPTROLLER GENERAL.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this subtitle.

SEC. 446. DEFINITIONS. 42 USC 12896.

For purposes of this subtitle:

(1) The term "applicant" means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "displaced homemaker" has the same meaning as in section 104.

(3) The term "eligible family" means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term "eligible property" means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (including scattered site single family properties, and properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" has the same meaning as in section 104.

(6) The term "homeownership program" means a program for homeownership under this subtitle.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(8) The term "low-income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term "recipient" means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

42 USC 12897.

SEC. 447. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

42 USC 12898.

SEC. 448. IMPLEMENTATION.

Not later than the expiration of the 180-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Regulations.

TITLE V—HOUSING ASSISTANCE

Subtitle A—Public and Indian Housing

SEC. 501. PREFERENCE RULES.

Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended to read as follows:

"(A) except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this subparagraph would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which—

"(i) for not less than 70 percent of the units that are made available for occupancy in a given fiscal year, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this Act;

"(ii) for any remaining units to be made available for occupancy, give preference in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or partici-

pate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (V) achieving other objectives of national housing policy as affirmed by Congress;

"(iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist); and

"(iv) are designed to ensure that, to the maximum extent feasible, the projects of an agency will include families with a broad range of incomes and will avoid concentrations of low-income and deprived families with serious social problems.".

SEC. 502. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)) is amended to read as follows:

"(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies. The indicators shall be established by rule under section 553 of title 5, United States Code. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies in all major areas of management operations. The Secretary shall, in particular, use the following indicators: Federal Register, publication.

"(A) The number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies.

"(B) The amount and percentage of funds obligated to the public housing agency under section 14 of this Act which remain unexpended after 3 years.

"(C) The percentage of rents uncollected.

"(D) The energy consumption (with appropriate adjustments to reflect different regions and unit sizes).

"(E) The average period of time that an agency requires to repair and turn-around vacant units.

"(F) The proportion of maintenance work orders outstanding, including any progress that an agency has made during the preceding 3 years to reduce the period of time required to complete maintenance work orders.

"(G) The percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments, if any, for large and small agencies).

"(H) Any other factors as the Secretary deems appropriate.

"(2)(A)(i) The Secretary shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate. The Secretary shall also designate, by rule under section 553 of title 5, United States Code, agencies that are troubled with respect to the program under section 14.

"(ii) The Secretary may also, in consultation with national organizations representing public housing agencies and public officials (as the Secretary determines appropriate), identify and commend public housing agencies that meet the performance standards established under paragraph (1) in an exemplary manner.

"(iii) The Secretary shall establish procedures for public housing agencies to appeal designation as a troubled agency (including designation as a troubled agency for purposes of the program under section 14), to petition for removal of such designation, and to appeal any refusal to remove such designation.

Government contracts.

"(B) The Secretary shall seek to enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting such targets, including a description of the technical assistance that the Secretary will make available to the agency; and

"(iii) incentives or sanctions for effective implementation of such strategies, which may include any constraints on the use of funds that the Secretary determines are appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

"(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary may—

"(i) solicit competitive proposals from other public housing agencies and private housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency;

"(ii) petition for the appointment of a receiver (which may be another public housing agency or a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is

authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection; and

"(iii) require the agency to make other arrangements acceptable to the Secretary and in the best interests of the public housing residents for managing all, or part of, such housing.

"(B) In any proceeding under subparagraph (A)(ii), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary. Courts.

"(C) The appointment of a receiver pursuant to this subsection may be terminated, upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.

"(4) The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report that— Reports.

"(A) identifies the public housing agencies that have been designated as troubled under paragraph (2);

"(B) describes the grounds on which such public housing agencies were designated as troubled and continue to be so designated;

"(C) describes the agreements that have been entered into with such agencies under such paragraph;

"(D) describes the status of progress under such agreements;

"(E) describes any action that has been taken in accordance with paragraph (3); and

"(F) describes the status of any public housing agency designated as troubled with respect to the program under section 14 and specifies the amount of assistance the agency received under section 14 and any credits accumulated by the agency under section 14(k)(5)(D).".

(b) REPORT ON TRAINING AND CERTIFICATION STANDARDS.—The Secretary shall submit to the Congress, not later than 12 months after the date of the enactment of this Act, a report regarding the feasibility and effectiveness of establishing uniform standards for training and certification of executive directors and other officers and members of local, regional, and State public housing agencies. 42 USC 1437d note.

(c) PROJECT-BASED ACCOUNTING SYSTEMS.—

(1) IN GENERAL.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(A) in subparagraph (C) by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) except in the case of agencies not receiving operating assistance under section 9, the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) for each project or operating cost center (as determined by the Secretary), which collections and costs shall be made available to the general public and

submitted to the appropriate local public official (as determined by the Secretary); except that the Secretary may permit agencies owning or operating less than 250 units to comply with the requirements of this subparagraph by accounting on an agency-wide basis.".

42 USC 1437d note.

(2) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall, under the rulemaking procedures under section 553 of title 5, United States Code, establish guidelines and timetables appropriate to implement the amendment made by paragraph (1)(C), taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993.

(c) REPORT.—

(1) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report on the operation and efficiency of the Buffalo Municipal Housing Authority using, among other criteria, the performance indicators under section 6(j)(1) of the United States Housing Act of 1937 (as amended by this section), and giving special attention to such Authority's desegregation program and to the vacancy rate.

(2) SPECIFIC RECOMMENDATIONS.—For purposes of the report required by paragraph (1), the Secretary may specifically determine whether to—

(A) petition for the appointment of a receiver for the Buffalo Municipal Housing Authority under the provisions of section 6(j)(3) of the United States Housing Act of 1937 (as amended by this section); or

(B) reduce operating subsidies for such Authority under the provisions of section 9 of the United States Housing Act of 1937.

SEC. 503. EVICTION AND TERMINATION PROCEDURES.

(a) GRIEVANCE PROCEDURE.—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k) is amended by striking the matter after the period at the end of paragraph (6) and inserting the following:

Crime.

"For any grievance concerning an eviction or termination of tenancy that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the public housing agency or any drug-related criminal activity on or near such premises, the agency may (A) establish an expedited grievance procedure as the Secretary shall provide by rule under section 553 of title 5, United States Code, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process (which the Secretary shall establish by rule under section 553 of title 5, United States Code). Such elements of due process shall not include a requirement that the tenant be provided an opportunity to examine relevant documents within the possession of the public housing agency. The agency shall provide to the tenant a reasonable opportunity, prior to hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.".

(b) LEASES.—Section 6(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(1)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by inserting after paragraph (5), the following new paragraph:

"(6) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination.".

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section not later than the expiration of the 60-day period beginning on the date of the enactment of this Act and shall issue final rules implementing the amendments not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.

Federal Register, publication. 42 USC 1437d note.

(d) APPLICABILITY.—Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937, as such section existed before the date of the enactment of this Act) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section, except that any such waiver provided before the date of the enactment of this Act shall remain in effect until the earlier of the effective date of the final rules implementing the amendments made by this section or 180 days after the date of the enactment.

42 USC 1437d note.

SEC. 504. LEASE REQUIREMENTS REGARDING TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l)(5) of the Housing Act of 1937 (42 U.S.C. 1437d(l)(5)) is amended to read as follows:

"(5) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person under the tenant's control, shall be cause for termination of tenancy; and".

SEC. 505. NOTICE TO POST OFFICE REGARDING EVICTION FOR CRIMINAL ACTIVITY.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit.".

SEC. 506. PUBLIC HOUSING ASSISTANCE FOR FOSTER CARE CHILDREN.

Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) Subject to the preference rules specified in subsection (c)(4)(A), in providing housing in low-income housing projects, each public housing agency may coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

"(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

"(A) in the imminent placement of a child in foster care; or

"(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

"(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.".

SEC. 507. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,000,000,000 for fiscal year 1991 and $2,086,000,000 in fiscal year 1992.".

(b) SERVICES AND COORDINATORS AS ELIGIBLE COST.—Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after the paragraph designation;

(B) in the second sentence, by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Annual contributions under this section to any public housing agency for any project with a sufficient number of residents who are frail elderly or persons with disabilities may be used, with respect to such project, for (i) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to residents of the project who are frail elderly or persons with disabilities to enable such residents to live independently and prevent placement in nursing homes or institutions; and (ii) expenses for the provision of services for such residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be provided under this section. For purposes of this subparagraph, the term 'frail elderly' shall have the meaning given the term under section 202(d) of the Housing Act of 1959, except that such term does not include any person receiving assistance provided under the Congregate Housing Services Act of 1978, and the term 'persons with disabilities' shall have the meaning given the term under section 811 of the Cranston-Gonzalez National Affordable Housing Act"; and

(2) in paragraph (3), by inserting before the first comma the following: "(except for payments under paragraph (1)(B))".

SEC. 508. COOLING DEGREE DAY ADJUSTMENT UNDER PERFORMANCE FUNDING SYSTEM.

42 USC 1437g note.

In determining the Performance Funding System utility subsidy for public housing agencies pursuant to section 9 of the United States Housing Act of 1937, the Secretary of Housing and Urban Development shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included.

SEC. 509. FORMULA ALLOCATION OF MODERNIZATION FUNDING.

(a) FORMULA ALLOCATION TO AGENCIES WITH 500 OR MORE UNITS.—

(1) IN GENERAL.—Section 14(k) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(k)) is amended to read as follows:

"(k)(1) From amounts approved in appropriation Acts for grants under this section for fiscal year 1992 and each fiscal year thereafter, and to the extent provided by such Acts, the Secretary shall reserve not more than $75,000,000 (including unused amounts reserved during previous fiscal years), which shall be available for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by public housing agencies from future allocations of assistance under paragraph (2), where available.

"(2)(A) After determining the amounts to be reserved under paragraphs (1) and (5)(D)(iv), the Secretary shall allocate the amount remaining pursuant to a formula contained in a regulation prescribed by the Secretary, which shall be designed to measure the relative needs of public housing agencies. The formula shall take into account amounts previously made available by the Secretary for modernization under this section and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary.

"(B) The Secretary shall allocate half of the amount allocated under this paragraph based on the relative backlog needs of public housing agencies, determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the most recently available, statistically reliable data regarding the (I) backlog of needed repairs and replacements of existing physical systems in public housing projects, (II) items that must be added to projects to meet the modernization standards of the Secretary (referred to in subsection (e)(1)(A)(ii)(I)) and State and local codes, and (III) items that are necessary or highly desirable for the long-term viability of a project; or

"(ii) for individual public housing agencies with 500 or more units, where such data are not statistically reliable, on the basis of estimates of the categories of backlog specified in clause (i) using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms in the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the extent to which units for families are in high-rise elevator projects;

"(IV) the age of the projects;

"(V) in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms;

"(VI) the cost of rehabilitating property in the area;

"(VII) for family projects, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses; and

"(VIII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the backlog needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

"(C) The Secretary shall allocate the other half of the amount allocated under this paragraph based on the relative accrued needs of public housing agencies for the categories of need specified in subparagraphs (B)(i) (I) and (II), determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under subparagraph (B); or

"(ii) for individual public housing agencies with 500 or more units, where the estimates under clause (i) are not statistically reliable, on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms of the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the age of the projects;

"(IV) the extent to which the buildings in projects of an agency average fewer than 5 units;

"(V) the cost of rehabilitating property in the area;

"(VI) the total number of units of each agency that owns or operates 500 or more units; and

"(VII) any other factors the Secretary determines are appropriate.

The Secretary may not establish or amend any criteria regarding the accrual needs of public housing agencies under this subparagraph, except by rule as provided under section 553 of title 5, United States Code.

"(D)(i) In determining how many units an agency owns or operates and the relative modernization needs of agencies, the Secretary shall count each existing unit under the annual contributions contract, except that an existing unit under the turnkey III and the mutual help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair. For purposes of this section, an agency that qualifies to receive a formula grant under paragraph (4) may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units.

"(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall not adjust the amount the agency receives under the formula unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the units are demolished or disposed of, the Secretary shall reduce the formula amount for the agency over a 3-year period to reflect removal of the units from the contract.

"(iii) The Secretary shall determine whether the data under subparagraphs (B) and (C) are statistically reliable.

"(3) The amount determined under the formula for agencies with fewer than 500 units shall be allocated in accordance with subsection (d).

"(4) The amount determined under the formula for each agency that owns or operates 500 or more units shall be allocated to each qualifying agency in accordance with subsection (e).

"(5)(A) With respect to any agency that is designated as a troubled agency with respect to the program under this section upon the initial designation of such troubled agencies under section 6(j)(2)(A)(i), the Secretary shall limit the total amount of funding under this section for the agency for fiscal year 1992 and any fiscal year thereafter, if the agency remains designated as a troubled agency, to the sum of—

"(i) the average of the amount that the troubled agency received for modernization activities under this section and for major reconstruction of obsolete projects for each of fiscal years 1989, 1990, and 1991, which average shall be adjusted to take into account changes in the cost of rehabilitating property; plus

"(ii) 25 percent of the difference between the amount determined under clause (i) and the amount that would be allocated to the agency in such fiscal year if the agency were not designated as a troubled agency.

"(B) In any fiscal year the Secretary may, pursuant to the request of a troubled agency, increase the amount allocated to the agency under subparagraph (A) to an amount not exceeding the amount that would be allocated to the agency in such fiscal year if the agency were not a troubled agency. An increase under this subparagraph shall be based on the agency's progress toward meeting the performance indicators under section 6(j)(1). The Secretary shall render a decision in writing on each such request not later than 75 days after receipt of the request and any necessary supporting documentation.

"(C) For any fiscal year, any amounts that would have been allocated to an agency under the formula under paragraph (2) that are not allocated to the agency because the agency receives the amount provided under subparagraph (A) of this paragraph, shall be allocated in such year pursuant to the formula to other agencies with 500 or more units.

"(D) The Secretary shall carry out a credit system under this subparagraph to provide agencies that receive allocations under subparagraph (A) with additional assistance under this section after the agency is determined not to be a troubled agency, to compensate for amounts not received because of the troubled agency designation. The credit system shall be subject to the following requirements: Credit.

"(i) Any agency that receives assistance pursuant to subparagraph (A) for any fiscal year shall receive credits for the difference between the amount that the agency would have been

allocated in such year if it were not designated a troubled agency and the amount allocated for the agency for such year under subparagraph (A).

"(ii) An agency may not receive credits under this subparagraph for more than 3 consecutive fiscal years.

"(iii) After a 3-year period during which an agency has accrued credits, the credits accrued by the agency shall be—

"(I) decreased by 10 percent of the total credits accumulated if the designation as a troubled agency is not removed before the conclusion of the first fiscal year after such 3-year period of accrual of credits;

"(II) decreased by an additional 20 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the second fiscal year after such 3-year accrual period;

"(III) decreased by an additional 30 percent of the original total accumulated credits if the designation as a troubled agency is not removed before the conclusion of the third fiscal year after such 3-year accrual period; and

"(IV) eliminated if the designation as a troubled agency is not removed before the conclusion of the fourth fiscal year after such 3-year accrual period.

"(iv) After a determination by the Secretary that an agency is not a troubled agency, the Secretary shall provide the agency with amounts made available under this clause in accordance with the amount of credits accumulated by the agency (subject to the reductions under clause (iii)). Such amounts shall be provided in addition to the amounts allocated to the agency pursuant to the formula under paragraph (2). In each fiscal year, the Secretary shall reserve from amounts available for allocation under paragraph (2)(A) the amount necessary to provide assistance pursuant to such credits, except that the reserved amount may not exceed 5 percent of the total amount available for allocation under such paragraph.

"(v) In making payments for accrued credits in accordance with clause (iv), the Secretary may take into account the ability of the agency to expeditiously expend amounts received for credits.

Regulations.

"(E) The Secretary shall, by regulation, establish special rules for limiting the amount of assistance provided under this section to agencies that become troubled after the date of the initial designation of troubled agencies under section 6(j)(2)(A)(i). The rules may provide for a credit system based on the system established under this paragraph.

"(6) Any amounts (A) allocated under paragraph (4) that become available for reallocation because an agency does not qualify to receive all or a part of its formula allocation due to failure to comply with the requirements of this section (other than because of designation as a troubled agency), and (B) recaptured by the Secretary for good cause, shall (subject to approval in appropriations Acts) be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 500 or more units, based on their relative needs. The relative needs of agencies shall be measured by the formula established pursuant to paragraph (2)(A).

"(7) A public housing agency may appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data

regarding the agency, community, and project characteristics used for determining the formula amount were not correct.

"(8) Amounts allocated to a public housing agency under paragraph (3) or (4) may be used for any eligible activity in accordance with this section, notwithstanding that the allocation amount is determined by allocating half based on relative backlog needs and half based on relative accrued needs of agencies.".

(2) CONFORMING AMENDMENTS.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended—

(A) in subsection (e)(3)(A), by striking the second sentence; and

(B) in subsection (h)—

(i) in the matter preceding paragraph (1), by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates fewer than 500 public housing dwelling units"; and

(ii) in paragraph (2), by striking "or (e)".

(b) REMOVAL OF CERTAIN REQUIREMENTS FOR AGENCIES WITH FEWER THAN 500 UNITS.—Section 14(d)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(d)(4)) is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraphs (C), (D), and (E).

(c) LIMITATION OF SPECIAL PURPOSE MODERNIZATION TO AGENCIES WITH FEWER THAN 500 UNITS.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended—

(1) in subsection (f)(2)(B), by striking "and to meet special purpose needs described in section 14(i)(1)(D)"; and

(2) in the first sentence of subsection (i)(1), by striking "In addition" and all that follows through the third comma and inserting the following: "In addition to assistance made available under subsection (b) to a public housing agency that owns or operates fewer than 500 public housing dwelling units, the Secretary may, without regard to the requirements of subsection (c), (d), (f), (g), or (h),".

(d) SPECIAL PURPOSE MANAGEMENT MODERNIZATION FOR AGENCIES WITH FEWER THAN 500 UNITS.—Section 14(i)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(i)(1)) is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) management improvement needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any low-income housing project other than a project assisted under section 8.".

(e) ESTABLISHMENT OF 250-UNIT THRESHOLD BEGINNING IN FISCAL YEAR 1993.—

(1) IN GENERAL.—Effective October 1, 1992, section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*), as amended by this section, is further amended by striking "500" and inserting "250" in each of the following places: Effective date.

(A) The first sentence of subsection (d).

(B) In subsection (e), the first sentence of each of paragraphs (1), (3)(A), (4)(A) and (4)(C).

(C) Subsections (f)(1) and (f)(2).

(D) Subsection (h).

(E) The first sentence of subsection (i)(1).

(F) In subsection (k), in paragraphs (2)(B)(i), (2)(B)(ii), (2)(C)(i), (2)(C)(ii), (3), (4), (5)(B), and (6).

(G) Subsection (l)(2).

(2) EXCEPTION.—Effective October 1, 1992, section 14(k)(2)(D)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437*l*(k)(2)(D)(i)), as amended by this section, is further amended by striking "400" and inserting "200".

(f) TRANSITION.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(o) Any amount that the Secretary has obligated to a public housing agency under this section other than pursuant to the program established under subsection (e), shall be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropriate.".

(g) SECTION HEADING.—The section heading of section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437*l*) is amended to read as follows:

"PUBLIC AND INDIAN HOUSING MODERNIZATION".

42 USC 1437*l* note.

(h) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall implement the amendments made by this section by rule under section 553 of title 5, United States Code. The Secretary shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing a proposed rule pursuant to such section. The proposed rule shall be published not later than the expiration of the 120-day period beginning on the date of the enactment of this Act.

(2) ALLOCATION FORMULA.—The Secretary of Housing and Urban Development shall establish the allocation formula under section 14(k)(2)(A) of the United States Housing Act of 1937, as amended by subsection (a) of this section, by rule under section 553 of title 5, United States Code. In publishing a proposed rule regarding the formula pursuant to such section 553, the Secretary shall describe—

(A) the analytic basis for the formula;

(B) the weight assigned to the various criteria contained in the formula pursuant to such section 14(k)(2);

(C) deductions from the formula share for amounts received for modernization activities under section 14 and major reconstruction of obsolete projects; and

(D) any other information the Secretary determines is appropriate.

(3) ALTERNATIVE FORMULAS.—When publishing the proposed rule required under paragraph (2), the Secretary of Housing and Urban Development may, at the discretion of the Secretary, publish alternative formulas, identifying the weights assigned to the various criteria under the formulas, and explaining the

differences in operation and objectives of the alternative formulas.

(i) REPORTS TO CONGRESS.—

42 USC 1437l note. Government contracts.

(1) INDEPENDENT EVALUATION—The Secretary of Housing and Urban Development shall enter into a contract providing for the independent evaluation of the modernization program authorized under section 14 of the United States Housing Act of 1937, as amended by this section, and shall submit to the Congress a report on the results of the evaluation within 3 years after the initial allocation of assistance by formula under such section 14.

(2) MODIFICATIONS.—The Secretary shall submit a report to Congress, within 2 years after the date of enactment of this Act, recommending any changes to such section 14 that the Secretary determines are appropriate to take into account the relative needs of public housing agencies for assistance to carry out lead-based paint testing and abatement activities. The Secretary shall not adopt any changes to the formula for this purpose except by law.

SEC. 510. REDUCTION OF VACANCIES IN PUBLIC HOUSING UNITS.

(a) IN GENERAL.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437l), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall require any public housing agency that has a vacancy rate among dwelling units owned or operated by the agency that exceeds twice the average vacancy rate among all agencies or that is designated as a troubled agency under section 6(j), to participate in the vacancy reduction program under this subsection.

"(2) Each public housing agency participating in the program under this subsection shall develop and submit to the Secretary a vacancy reduction plan regarding vacancies in units owned or operated by the agency. The plan shall include statements (A) identifying vacant dwelling units administered by the agency and explaining the reasons for the vacancies, (B) describing the actions to be taken by the agency during the following 5 years to eliminate the vacancies, (C) identifying any impediments that will prevent elimination of the vacancies within the 5-year period, (D) identifying any vacant units subject to modernization, reconstruction, demolition, and disposition activities that have been funded or approved, (E) identifying any vacant dwelling units that are eligible for comprehensive modernization, major reconstruction, demolition, or disposition but have not been funded or approved for such activities and are not likely to be funded or approved for at least 3 years and estimating the amount of assistance necessary to complete the modernization, major reconstruction, demolition, or disposition of such units, (F) identifying any vacant units not identified under subparagraphs (E) and (F) and describing any appropriate activities relating to elimination of the vacancies in such units and estimating the amount of assistance necessary to carry out the activities, and (G) setting forth an agenda for implementation of management improvements (including, as appropriate, improvements recommended by the assessment team pursuant to paragraph (3)(C)) during the first fiscal year beginning after submission of the plan

and including an estimate of the amount of assistance necessary to implement the improvements.

"(3)(A) In cooperation with each agency participating in the program under this subsection, the Secretary shall provide for onsite assessment of the vacancy situation of the agency by a team of knowledgeable observers. The assessment team shall include representatives of the Department of Housing and Urban Development and an equal number of independent experts knowledgeable with respect to vacancy problems and management issues relating to public housing, who shall be selected by the Secretary. The assessment team shall assess the vacancy situation of the agency to determine the causes of the vacancies, including any management deficiencies or modernization activities.

"(B) The assessment team shall also examine indicators of the management performance of the agency relating to vacancy, which shall include consideration of the performance of the agency as measured by the indicators under subparagraphs (A) and (E) of section 6(j)(1).

"(C) The assessment team shall submit to the agency and the Secretary written recommendations for management improvements to eliminate or alleviate management deficiencies, and may assist the agency in preparing the vacancy reduction plan under paragraph (2), including determining appropriate actions to eliminate vacancies.

"(4) The Secretary shall, to the extent approved in appropriations Acts, provide assistance under this subsection to public housing agencies submitting vacancy reduction plans for reasonable costs of—

"(A) implementing management improvements;

"(B) rehabilitating vacant dwelling units identified in the statement under paragraph (2); and

"(C) carrying out vacancy reduction activities described in the statement under paragraph (2).

"(5) Of any amounts available for allocation under this section to large public housing agencies pursuant to subsection (k)(2), not more than $105,000,000 shall be available in fiscal year 1991 and not more than $220,000,000 shall be available in fiscal year 1992 for carrying out this subsection.".

SEC. 511. INCOME ELIGIBILITY FOR PUBLIC HOUSING.

Section 16(b) of the United States Housing Act of 1937 (42 U.S.C. 1437n(b)) is amended—

(1) by striking "(b) Not" and inserting "(b)(1) Not";

(2) by striking "5 per centum" and inserting "15 percent"; and

(3) by adding at the end the following new paragraph:

"(2) Not more than 25 percent of the dwelling units in any project of any agency shall be available for occupancy by low-income families other than very low-income families. The limitation shall not apply in the case of any project in which, before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, such low-income families occupy more than 25 percent of the dwelling units.".

SEC. 512. SCATTERED-SITE PUBLIC HOUSING DISPOSITION PROCEEDS.

(a) IN GENERAL.—Section 18(a)(2)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(a)(2)(B)(i)) is amended by inserting before the first comma the following: ", which, in the case of

scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition".

(b) APPLICABILITY.—The amendment made by this section shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act. 42 USC 1437p note.

SEC. 513. REPLACEMENT HOUSING.

(a) DEMONSTRATION PROGRAM.— 42 USC 1437p note.

(1) AUTHORITY.—The Secretary of Housing and Urban Development (in this subsection referred to as the "Secretary") shall carry out a program to demonstrate the effectiveness of replacing public housing dwelling units eligible for demolition or disposition with 5-year certificate assistance provided under section 8 of the United States Housing Act of 1937.

(2) SCOPE.—The Secretary shall carry out the demonstration only with respect to public housing dwelling units owned or operated by the public housing authority for the City of Saint Louis, in the State of Missouri, that before the termination of the demonstration program under this subsection are approved for demolition or disposition. Missouri.

(3) REQUIREMENTS.—

(A) SECTION 8 ASSISTANCE.—Notwithstanding the provisions of section 18(b)(3)(A) of the United States Housing Act of 1937, under the demonstration program the Secretary may approve the demolition or disposition of public housing dwelling units and provide assistance for replacement of each such dwelling unit through the use of assistance under section 8 of such Act in the form of a 5-year certificate under such section 8(b).

(B) TENANT-BASED ASSISTANCE.—Notwithstanding the provisions of section 18(b)(3)(B) of the United States Housing Act of 1937, the 5-year section 8 assistance provided under this section may be tenant-based if such public housing authority shows, to the satisfaction of the Secretary, that an adequate supply of private rental housing affordable to low-income families is available in the market area for the 5-year period (at rents at or below the fair market rental for the area).

(C) APPLICABILITY OF OTHER SECTION 18 PROVISIONS.—Except as provided under subparagraphs (A) and (B), the provisions of section 18 of the United States Housing Act of 1937 shall apply to any public housing dwelling units demolished or disposed under the demonstration under this subsection.

(4) TERMINATION.—The demonstration program under this subsection shall terminate at the end of September 30, 1992.

(b) BUDGET REQUEST.—Section 18(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437p(c)(2)) is amended by inserting after the period at the end the following: "As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall submit to the Congress a report— Reports.

"(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3); and

"(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in subparagraph (A).".

(c) REPEALER.—Section 18(c)(3) of the United States Housing Act of 1937 (42 U.S.C 1437p(c)(3)) is repealed.

SEC. 514. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) FUNDING.—Of amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than $5,000,000 for each of fiscal years 1991 and 1992.".

SEC. 515. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"FAMILY INVESTMENT CENTERS

Equal educational opportunity. Equal employment opportunity. 42 USC 1437t.

"SEC. 22. (a) PURPOSE.—The purpose of this section is to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by—

"(1) developing facilities in or near public housing for training and support services;

"(2) mobilizing public and private resources to expand and improve the delivery of such services;

"(3) providing funding for such essential training and support services that cannot otherwise be funded; and

"(4) improving the capacity of management to assess the training and service needs of families with children, coordinate the provision of training and services that meet such needs, and ensure the longterm provision of such training and services.

"(b) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary may make grants to public housing agencies to adapt public housing to help families living in the public housing gain better access to educational and job opportunities to achieve self-sufficiency and independence. Assistance under this section may be made available only to public housing agencies that demonstrate to the satisfaction of the Secretary that supportive services (as such term is defined under subsection (j)) will be made available. Facilities assisted under this section shall be in or near the premises of public housing.

"(2) SUPPLEMENTAL GRANT SET-ASIDE.—The Secretary may reserve not more than 5 percent of the amounts available in each fiscal year under this section to supplement grants awarded to public housing agencies under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

"(c) USE OF AMOUNTS.—Amounts received from a grant under this section may only be used for—

"(1) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create common areas to accommodate the provision of supportive services;

"(2) the renovation of existing common areas in a public housing project to accommodate the provision of supportive services;

"(3) the renovation of facilities located near the premises of 1 or more public housing projects to accommodate the provision of supportive services;

"(4) the provision of not more than 15 percent of the cost of any supportive services (which may be provided directly to eligible residents by the public housing agency or by contract or lease through other appropriate agencies or providers) only if the public housing agency demonstrates to the satisfaction of the Secretary that—

"(A) the supportive services are appropriate to improve the access of eligible residents to employment and educational opportunities; and

"(B) the public housing agency has made diligent efforts to use or obtain other available resources to fund or provide such services; and

"(5) the employment of service coordinators subject to such minimum qualifications and standards that the Secretary may establish to ensure sound management, who may be responsible for—

"(A) assessing the training and service needs of eligible residents;

"(B) working with service providers to coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents;

"(C) mobilizing public and private resources to ensure that the supportive services identified pursuant to subsection (e)(1) can be funded over the time period identified under such subsection;

"(B) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

"(V) performing such other duties and functions that the Secretary determines are appropriate to provide families living in public housing with better access to educational and employment opportunities.

"(d) ALLOCATION OF GRANT AMOUNTS.—Assistance under this section shall be allocated by the Secretary among approvable applications submitted by public housing agencies.

"(e) APPLICATIONS.—Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Each application for assistance shall contain—

"(1) a description of the supportive services that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under subsection (c) that involve substantial rehabilitation);

"(2) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities assisted under subsection (c);

"(3) a description of public or private sources of assistance that can reasonably be expected to fund or provide supportive services for the entire period specified under paragraph (1),

including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(4) certification from the appropriate State or local agency (as determined by the Secretary) that—

"(A) the provision of supportive services described in paragraph (1) is well designed to provide resident families better access to educational and employment opportunities; and

"(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified in paragraph (1);

"(5) a description of assistance for which the public housing agency is applying under this section; and

"(6) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this section.

"(f) SELECTION.—The Secretary shall establish selection criteria for grants under this section, which shall take into account—

"(1) the ability of the public housing agency or a designated service provider to provide the supportive services identified under subsection (e)(1);

"(2) the need for such services in the public housing project;

"(3) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of such services;

"(4) the extent to which the public housing agency has demonstrated that such services will be provided for the period identified under subsection (e)(1);

"(5) the extent to which the public housing agency has a good record of maintaining and operating public housing; and

"(6) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this section are used effectively.

"(g) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency receiving a grant under this section shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report describing and evaluating the use of grant amounts received under this section.

"(2) TO CONGRESS.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this section in such fiscal year. Such report shall summarize the progress reports submitted pursuant to paragraph (1).

"(h) EMPLOYMENT OF PUBLIC HOUSING RESIDENTS.—Each public housing agency shall, to the maximum extent practicable, employ public housing residents to provide the services assisted under this section or from other sources. Such persons shall be paid at a rate not less than the highest of—

"(1) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

"(2) the State or local minimum wage for the most nearly comparable covered employment; or

"(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

"(i) TREATMENT OF INCOME.—No service provided to a public housing resident under this section may be treated as income for the purpose of any other program or provision of State or Federal law.

"(j) DEFINITION OF SUPPORTIVE SERVICES.—For purpose of this section, the term 'supportive services' means new or significantly expanded services that the Secretary determines are essential to providing families living with children in public housing with better access to educational and employment opportunities. Such services may include—

"(1) child care;

"(2) employment training and counseling;

"(3) literacy training;

"(4) computer skills training;

"(5) assistance in the attainment of certificates of high school equivalency; and

"(6) other appropriate services.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 in fiscal year 1991, and $26,100,000 in fiscal year 1992.".

(b) CONFORMING AMENDMENT.—Section 3 of the United States Housing Act of 1937 (42 U.S.C. 1437a), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new undesignated paragraph:

"The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 22 of this Act, or any comparable Federal, State, or local law shall not be considered as income for the purposes of determining a limitation on the amount of rent paid by the resident during—

"(1) the period that the resident participates in such program; and

"(2) the period that—

"(A) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this Act; and

"(B) ends on the earlier of—

"(i) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

"(ii) the expiration of the 18-month period beginning on the date referred to in subparagraph (A).".

SEC. 516. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended—

(1) by striking "The Secretary" and inserting the following: "(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) ELIGIBILITY FOR CIAP.—Notwithstanding the provisions of section 14(c), the Secretary may provide assistance provided for

comprehensive modernization under section 14 for the housing projects under this section for the purposes under section 14. Any assistance shall be provided under this paragraph only in the form of a single grant for each housing project (or unit within a project) selected for such assistance.".

SEC. 517. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriations Acts, of the amounts made available for public housing grants under section 5(c) of the United States Housing Act of 1937, there shall be set aside to carry out this section $15,000,000 for fiscal year 1991 and $15,700,000 for fiscal year 1992. Any amount appropriated pursuant to such section 5(c) and authorized for use under this subsection shall remain available until expended.".

(b) REDESIGNATION AS EARLY CHILDHOOD DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended— 12 USC 1701z-6 note.

(A) in subsection (a), by striking "child care services" each place it appears and inserting "early childhood development services";

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (1), by striking "a child care services program" and inserting "an early childhood development program";

(iii) in paragraph (2), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraphs (3), (4), (5), and (6), by striking "child care services program" each place it appears and inserting "early childhood development program";

(C) in subsection (c)—

(i) in paragraphs (1) and (2), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(ii) in paragraph (3), by striking "child care services programs" and inserting "early childhood development programs";

(D) in subsection (d)—

(i) in paragraph (2), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking "child care services program" and inserting "early childhood development program";

(iii) in paragraph (3)(A), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraph (4), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(E) in subsection (e), by striking "child care services" and inserting "early childhood development services".

(2) CONFORMING AMENDMENT.—The section heading for section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended to read as follows: 12 USC 1701z-6 note.

"PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM".

SEC. 518. INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM. 12 USC 1701z-6 note.

(a) SET-ASIDE OF INDIAN PUBLIC HOUSING AMOUNTS.—Of any amounts approved in appropriations Acts under section 5(c)(7) of the United States Housing Act of 1937 for public housing grants for Indian housing, the Secretary of Housing and Urban Development shall use $5,000,000 in fiscal year 1991 and $5,200,000 in fiscal year 1992 (to the extent such amounts are approved under such appropriations Acts) for carrying out a demonstration program under this section. Under the demonstration, the Secretary shall make grants to nonprofit organizations to assist such organizations in providing early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority for low-income families who reside in such Indian public housing. Grant programs.

(b) OPERATION OF DEMONSTRATION.—Except as provided in this section, the Secretary of Housing and Urban Development shall carry out the demonstration program under this section in low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in the same manner as the demonstration program under section 222 of the Housing and Urban-Rural Recovery Act of 1983 is carried out. For purposes of this section, any reference to "public housing" or a "low income housing project" in section 222 of such Act is deemed to refer to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(c) LIMITATIONS.—

(1) TRIBAL DIVERSITY.—The Secretary of Housing and Urban Development shall provide that the demonstration program under this section is carried out in not more than 1 Indian public housing project for any single Indian tribe.

(2) GEOGRAPHIC DIVERSITY.—The Secretary of Housing and Urban Development shall carry out the demonstration program under this section through various Indian housing authorities and provide for geographic distribution among such housing authorities.

(d) REPORT.—

(1) IN GENERAL.—Not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority. Reports.

(2) CONFORMING PROVISION.—Notwithstanding subsection (b) of this section, section 222(e) of the Housing and Urban-Rural Recovery Act of 1983 (regarding submission of a report) shall not apply to this section and the demonstration program carried out under this section.

42 USC 1437a-1.

SEC. 519. PUBLIC HOUSING RENT WAIVER FOR POLICE OFFICERS.

(a) AUTHORITY.—Notwithstanding any other provision of law, the Secretary of Housing and Urban Development may permit public housing agencies to allow police officers and other security personnel (who are not otherwise eligible for residence in public housing) to reside in public housing dwelling units in accordance with this section.

(b) PLAN.—To be eligible to utilize dwelling units as provided under this section, a public housing agency shall submit to the Secretary a plan identifying the projects in which the police officers or security personnel will reside and describing the anticipated benefits from such residence.

(c) APPROVAL.—The Secretary may approve a plan and authorize the use of dwelling units under this section only if the Secretary determines that such use will—

(1) increase security for other public housing residents;

(2) result in a limited loss of income to the public housing agency; and

(3) not result in a significant reduction of units available for residence by families eligible for such residence under the provisions of the United States Housing Act of 1937.

The Secretary shall notify each public housing agency submitting a plan under subsection (b) of approval or disapproval of the plan not later than 30 days after the Secretary receives the plan.

(d) TERMS.—Upon approving a plan under subsection (b), the Secretary shall waive the applicability of any occupancy requirements with respect to the officers or other personnel, and may permit the public housing agency submitting the plan to establish such special rent requirements and other terms and conditions of occupancy that the Secretary considers appropriate.

Drug abuse.
42 USC 11903a.

SEC. 520. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) YOUTH SPORTS PROGRAM GRANTS.—From amounts provided for public and assisted housing drug elimination grants under section 5130(a) of the Anti-Drug Abuse Act of 1988, the Secretary of Housing and Urban Development may make grants to qualified entities under subsection (b) to carry out youth sports programs in projects of public housing agencies with substantial drug problems.

(b) ENTITIES QUALIFIED TO RECEIVE GRANTS.—Grants under this section may be made only to—

(1) States;

(2) units of general local government;

(3) local park and recreation districts and agencies;

(4) public housing agencies;

(5) nonprofit organizations providing youth sports services programs;

(6) Indian tribes; and

(7) Indian housing authorities.

(c) USE OF GRANTS.—

(1) PUBLIC HOUSING SITES WITH SUBSTANTIAL DRUG PROBLEMS.—Grants under this section shall be used for youth sports pro-

grams only with respect to public housing sites that the Secretary determines have a substantial problem regarding the use or sale of illegal drugs.

(2) YOUTH SPORTS PROGRAM ELIGIBILITY.—To be eligible to receive assistance from a grant under this section, a youth sports program shall be designed and organized as follows:

(A) The sports program shall serve primarily youths from the public housing project in which the program assisted by the grant is operated.

(B) The sports program shall provide positive sports activities or positive cultural, recreational, or other activities, designed to appeal to youths as alternatives to the drug environment in the public housing project.

(C) The sports program shall be operated as, in conjunction with, or in furtherance of, an organized program or plan designed to eliminate drugs and drug-related problems in the public housing project or projects within the public housing agency.

(d) ELIGIBLE ACTIVITIES.—Any qualified entity that receives a grant under this section may use amounts from the grant to assist in carrying out a youth sports program in any of the following manners:

(1) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds.

(2) Redesigning or modifying public spaces in public housing projects to provide increased utilization of the areas by youth sports programs.

(3) Provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment.

(e) GRANT AMOUNT LIMITATIONS.—

(1) MATCHING AMOUNT.—The Secretary may not make a grant to any qualified entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary, as the Secretary shall require, that the applicant will supplement the amount provided by the grant with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

(2) NON-FEDERAL FUNDS.—For purposes of this subsection, the term "funds from non-Federal sources" includes funds from States, units of general local governments, or agencies of such governments, Indian tribes, private contributions, any salary paid to staff to carry out the youth sports program of the recipient, the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, the value of any donated material, equipment, or building, and the value of any lease on a building. Intergovernmental relations.

(3) PROHIBITION OF SUBSTITUTION OF FUNDS.—Neither amounts received from grants under this section nor any State or local government funds used to supplement such amounts may be used to replace other public funds previously used, or designated for use, for the purposes under this Act.

(4) MAXIMUM ANNUAL GRANT AMOUNT.—For any single fiscal year, the Secretary may not award grants under this section for carrying out a youth sports program with respect to any single public housing project in an amount exceeding $125,000.

(f) APPLICATIONS.—To be eligible to receive a grant under this section, a qualified entity under subsection (b) shall submit to the Secretary an application as the Secretary may require, which shall include the following:

(1) A description of the organization of the youth sports program.

(2) A description of the nature of services provided by the youth sports program.

(3) An estimate of the number of youth involved.

(4) A description of the extent of involvement of local sports organizations or sports figures.

(5) A description of the facilities used.

(6) A description of plans to continue the youth sports program in the future.

(7) A statement regarding the extent to which the youth sports program meets the criteria for selection under subsection (g).

(8) A description of the planned schedule and activities of the youth sports program and the financial and other resources committed to each activity and service of the program.

(9) A budget describing the share of the costs of the youth sports program provided by the grant under this section and other sources of funds, including funds required under subsection (e)(1).

(10) Any other information that the Secretary may require.

(g) SELECTION CRITERIA.—The Secretary shall select qualified entities that have applied under subsection (f) to receive grants under this section pursuant to a competition based on the following criteria:

(1) The extent to which the youth sports program to be assisted with the grant addresses the particular needs of the area to be served by the program and employs methods, approaches, or ideas in the design or implementation of the program particularly suited to fulfilling such needs (whether such methods are conventional or unique and innovative).

(2) The technical merit of the application of the qualified entity.

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application.

(4) The capabilities, related experience, facilities, techniques of the applicant for carrying out the youth sports program and achieving the objectives of the program as described in the application and the potential of the applicant for continuing the youth sports program.

(5) The severity of the drug problem at the local public housing site for the youth sports program and the extent of any planned or actual efforts to rid the site of the problem.

(6) The extent to which local sports organizations or sports figures are involved.

(7) The extent of the support of the public housing agency for the program, coordination of proposed activities with local resident management groups or associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of this section.

(8) The extent of non-Federal contributions that exceed the amount of such funds required under subsection (e)(1).

(9) In the case of a qualified entity under paragraph (3) or (4) of subsection (b), the extent to which the applicant has demonstrated local government support for the program.

(h) REPORT.—Each qualified entity that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 90-day period beginning on the date on which the grant amounts provided under this section are fully expended, a report describing the activities carried out with the grant.

(i) DEFINITIONS.—For purposes of this section:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.

(2) PUBLIC HOUSING AGENCY.—The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) PUBLIC HOUSING PROJECT.—The terms "project" and "public housing" have the meanings given the terms in section 3(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(4) QUALIFIED ENTITY.—The term "qualified entity" means an entity eligible under subsection (b) to apply for and receive a grant under this section.

(5) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(7) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(j) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(k) AUTHORIZATION OF APPROPRIATIONS.—Section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908), as amended by the preceding provisions of this Act, is further amended by inserting after the first sentence the following new sentence: "From any amounts appropriated under this section in each fiscal year, 5 percent of such amounts shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year.".

SEC. 521. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

42 USC 1437t note.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall carry out a program to demonstrate the effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs (as defined in subsection (e)(1)) available for pregnant women who reside in public housing.

Under the demonstration program, the Secretary shall make grants to not more than 10 public housing agencies.

(2) CONSULTATION REQUIREMENTS.—In carrying out the demonstration program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies.

(b) ALLOCATION OF ASSISTANCE.—

(1) PREFERENCES.—In selecting public housing agencies for grants under this section, the Secretary shall give preference to the following public housing agencies:

(A) AREAS WITH HIGH INFANT MORTALITY RATES.—Public housing agencies serving areas with high infant mortality rates.

(B) SECURE FACILITIES.—Public housing agencies that demonstrate, to the satisfaction of the Secretary, that security will be provided so that women are safe when participating in the one-stop perinatal services program carried out at the facilities provided or assisted under this section.

(2) LIMITATION ON GRANT AMOUNT.—The aggregate amount provided under this section for any public housing project may not exceed $15,000.

(c) DEMONSTRATION PROGRAM REQUIREMENTS.—

(1) APPLICATIONS.—Applications for grants under this section shall be made by public housing agencies in accordance with procedures established by the Secretary and shall include a description of the one-stop perinatal services program to be provided in the facilities provided or assisted under this section.

(2) USE OF GRANTS.—Any public housing agency receiving a grant under this section may use the grant only for the costs of providing facilities and minor renovations of facilities necessary to make one-stop perinatal services programs available to pregnant women who reside in public housing.

(3) REPORTS TO SECRETARY.—Each public housing agency receiving a grant under this section for any fiscal year shall submit to the Secretary, not later than 3 months after the end of such fiscal year, a report describing the facilities provided by the public housing agency under this section and the one-stop perinatal services program carried out in such facilities. The report shall include data on the size of the facilities, the costs and extent of any renovations, the previous use of the facilities, the number of women assisted by the program, the trimester of the pregnancy of the women at the time of initial assistance, infant birthweight, infant mortality rate, and other relevant information.

(4) APPLICABLE STANDARDS.—No provision of this section may be construed to authorize the Secretary to establish any health, safety, or other standards with respect to the services provided by the one-stop perinatal services program or facilities provided or assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for such services and facilities.

(d) REPORT TO CONGRESS.—Not later than 1 year after the date that amounts to carry out this section are first made available under appropriations Acts, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the findings and conclusions of the Secretary as a result of carrying out the dem-

onstration program under this section. The report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of providing facilities in public housing for making perinatal services available to pregnant women who reside in the public housing.

(e) DEFINITIONS.—For purposes of this section:

(1) ONE-STOP PERINATAL SERVICES PROGRAM.—The term "one-stop perinatal services program" means a program to provide a wide range of services for pregnant and new mothers in a coordinated manner at a drop-in center, which may include any of the following:

(A) INFORMATION AND EDUCATION.—Information and education for pregnant women regarding perinatal care services, and related services and resources, necessary to decrease infant mortality and disability.

(B) HEALTH CARE SERVICES.—Basic health care services that can be provided without a physician present.

(C) REFERRAL.—Basic health screening of pregnant women and referrals for health care services.

(D) FOLLOWUP.—Followup assessment of women and infants (including measurement of weight) and referrals for health care services and related services and resources.

(E) SOCIAL WORKER.—Information and assistance regarding Federal and State social services provided by a social worker.

(F) OTHER.—Any other services to assist pregnant or new mothers.

(2) PUBLIC HOUSING.—The terms "public housing" and "public housing agency" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(f) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—Of any amounts approved in appropriations Acts under section 22(k) of the United States Housing Act of 1937 for fiscal year 1991, the Secretary shall use $150,000 (to the extent such amounts are approved in appropriations Acts) for carrying out the demonstration program under this section.

SEC. 522. PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.

42 USC 1437f note.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socioeconomically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities.

(2) COMPREHENSIVE SERVICES.—Housing units provided under the demonstration program under this section shall be made available in connection with a comprehensive program of services and incentives under subsections (h) and (i), in order to prepare participating families for successful transition to the

private rental housing market and homeownership within a reasonable period of time.

(b) COORDINATING COMMITTEE.—

(1) ESTABLISHMENT.—For a public housing agency to be eligible for designation or selection under subsection (d) for participation in the demonstration program, the chief executive officer of each unit of general local government in which the public housing agency is located shall appoint a coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (h).

(2) MEMBERSHIP.—Each coordinating committee shall be composed of 12 members, who shall include, but may not be limited to, the following individuals:

(A) A representative of the chief executive officer of the applicable unit of general local government.

(B) A representative of the applicable public housing agency.

(C) A representative of the regional administrator of the Department of Housing and Urban Development.

(D) A representative of a local resident management corporation.

(E) Not less than 1 individual affiliated with a local agency that administers programs in 1 of the following areas: health, human services, substance abuse, education, economic and business development, law enforcement, and housing.

(F) A representative from among local businesses engaged in housing and real estate.

(G) A representative from among business engaged in real estate financing.

(3) SOCIAL SERVICE COMMITTEES.—Each coordinating committee established under this subsection shall establish a subcommittee on social services, which shall, before any action is taken under subsection (e)(1) (with respect to the demonstration program as carried out by the applicable public housing agency), identify the specific services that are required to successfully carry out the demonstration program.

(c) INTERAGENCY COOPERATION.—The Secretary shall coordinate with the appropriate heads of other Federal agencies as necessary to coordinate the implementation of the demonstration program and endeavor to ensure the delivery of supportive services required under subsection (h).

(d) SCOPE OF DEMONSTRATION PROGRAM.—

Illinois.

(1) PARTICIPATING PUBLIC HOUSING AGENCIES.—The Secretary shall carry out the demonstration program with respect to public housing for families administered by the Housing Authority of the City of Chicago, in the State of Illinois. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 3 other public housing agencies.

(2) PARTICIPATING PUBLIC HOUSING UNITS.—Over the term of the demonstration, the demonstration may be applied to not more than 15 percent of the total number of public housing

units for families administered by each participating public housing agency.

(3) NONDISPLACEMENT.—No person who is a tenant of public housing during the term of the demonstration program may be involuntarily relocated or displaced under the demonstration program.

(e) HOUSING DEVELOPMENT.—

(1) USE OF PUBLIC HOUSING OPERATING SUBSIDIES.—For the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing, under the demonstration program the Secretary shall amend the annual contributions contract between the Secretary and each participating public housing agency as the Secretary determines appropriate to permit the public housing agency to utilize operating subsidy amounts allocated to the agency under section 9 of the United States Housing Act of 1937 with respect to newly constructed or rehabilitated housing units that are privately developed and owned. Such units shall be reserved for use under the demonstration program for occupancy by very low-income families as provided under this subsection and subsection (g).

(2) LEASE TERMS.—Operating subsidy amounts shall be provided for the operation of housing under paragraph (1) pursuant to a lease contract between the owner of the housing and the public housing agency, which shall specify—

(A) the number of units to be leased exclusively to the public housing agency for the term of the demonstration program, subject only to the availability of amounts under paragraph (1) or other funds for such purposes; and

(B) the requirements under subsection (f)(6).

(3) TRANSFER OF AMOUNTS.—Operating subsidy amounts may be provided for a unit of housing under paragraph (1) only after the execution of a lease under subsection (f)(5) for 1 corresponding public housing unit.

(4) RENTAL TERMS.—Units leased by a participating public housing agency under this subsection shall be available only to very low-income families that reside, or have been offered a unit, in public housing administered by the public housing agency and that enter into a voluntary contract under subsection (g)(1). The rental charge for each unit shall be the amount equal to 30 percent of the adjusted income of the resident family (as determined under section 3(b) of the United States Housing Act of 1937), except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of such Act.

(5) INCOME MIX.—Not more than 25 percent of the units in each privately developed housing project under the demonstration program may be leased by a public housing agency pursuant to a lease contract under paragraph (2). The number of units under each such lease may not be less than the number of public housing units that, notwithstanding the demonstration program, would have been assisted with the operating subsidy amounts made available under such contract, to ensure that there shall be no loss of public housing units.

(6) COORDINATION WITH OTHER ENTITIES FOR DEVELOPMENT OF HOUSING.—A participating public housing agency may seek the

cooperation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this subsection. Such assistance may include, but is not limited to—

(A) donations of land and write-downs and discounts on land by local governments;

(B) abatement of real estate taxes for specified periods by local, county, or State governments;

(C) assignment of community development block grant funds and loan guarantees made available under title I of the Housing and Community Development Act of 1974;

(D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders;

(E) low-income housing tax credits from State and local governments; and

(F) mortgage revenue bonds from State or local governments.

(7) DETERMINATION OF LOCATION AND NUMBER OF UNITS.—

(A) IN GENERAL.—A participating public housing agency and the applicable unit of general local government shall jointly determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program carried out by the public housing agency and the number of units to be developed annually, with approval of the legislative body of the local government.

(B) LIMITATION ON NUMBER OF UNITS.—The total number of newly constructed or rehabilitated units that may be used under this subsection in the demonstration program may not exceed—

(i) for any participating public housing agency with not more than 5,000 public housing units, 15 percent of the number of units administered by the agency;

(ii) for any participating agency with more than 5,000 but not more than 25,000 units, 10 percent of the number of units administered by the agency; and

(iii) for any participating agency with more than 25,000 units, 4 percent of the number of units administered by the agency.

(f) EXISTING PUBLIC HOUSING.—

(1) IN GENERAL.—To facilitate the establishment of socioeconomically mixed communities within existing public housing developments, under the demonstration program the Secretary shall authorize participating public housing agencies to lease units in existing public housing projects, as provided in this subsection, to low-income families who are not very low-income families, notwithstanding the provisions of section 16(b) of the United States Housing Act of 1937.

(2) LIMITATIONS ON PUBLIC HOUSING RESIDENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 25 percent of the units in each public housing project in which units are utilized under the demonstration program may be occupied by low-income families who are not very low-income families. Not less than 75 percent of the units in each such public housing project shall be occupied by very low-income families.

(B) EXCEPTION.—Upon determining that a public housing agency has a special need, the Secretary may provide for not more than 50 percent of the units in a public housing project utilized under the demonstration program to be occupied by low-income families who are not very low-income families, and the remainder of the units to be occupied by very low-income families. Such special need may include the need to ensure the successful revitalization of troubled public housing through establishing a socioeconomically mixed resident population.

(3) NUMBER OF UNITS.—The number of such units made available under this subsection by a public housing agency may not exceed the number of units provided under subsection (e) to participating families.

(4) RENTAL TERMS.—The rent charged any family occupying a unit made available under this subsection may not, at any time during the demonstration period, exceed the ceiling rent level determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of the United States Housing Act of 1937.

(5) LEASE.—A participating public housing agency shall enter into a lease with each family occupying a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may extend the period as provided under subsection (j)(1).

(6) VACANCY.—If, at any time, a participating public housing agency is unable to rent a unit made available under this subsection and the unit has been vacant for a period of 6 months, the agency may—

(A) cancel a lease for 1 unit of housing provided under subsection (e) and recapture any operating subsidy amounts associated with the unit for use with respect to the vacant public housing unit, upon which such public housing unit shall be removed from participation in the demonstration program and made generally available for occupancy as provided under the United States Housing Act of 1937; and

(B) provide the family residing in the housing unit provided under subsection (e) (from which operating subsidy amounts have been recaptured) with assistance under section 8(b) of such Act, subject to the availability of such assistance pursuant to appropriations Acts and notwithstanding any preferences for such assistance under section 8(d)(1)(A)(i) of such Act, and permit the family to remain in the unit.

(g) CONTRACTS WITH PARTICIPATING FAMILIES.—

(1) IN GENERAL.—Under the demonstration program, a participating public housing agency shall enter into a contract with each family that will reside in a unit of privately developed housing leased to the agency under subsection (e). Such family shall voluntarily enter into the contract and shall meet the criteria established under paragraph (2). The contract shall be made part of the lease executed between the family and the public housing agency for such unit, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family under the program.

The lease shall be for a term of 1 year and shall be renewable upon expiration for a period not to exceed 7 years, except as provided under subsection (j)(1).

(2) ESTABLISHMENT OF CRITERIA.—Each public housing agency shall establish criteria for participation of families in the demonstration program. The criteria shall be based on factors that may reasonably be expected to predict the family's ability to successfully complete the requirements of the demonstration program. The criteria shall include—

(A) the status and history of employment of family members;

(B) enrollment of the children in the family in an educational program;

(C) maintenance by the family of the family's previous dwelling;

(D) ability of adult family members to complete training for long-term employment;

(E) the existence and seriousness of any criminal records of family members; and

(F) the status and history of substance abuse of family members.

(3) CONTINUED RESIDENCE.—Continued residency of families in housing provided under subsection (e) shall be contingent upon compliance with standards established by the participating public housing agency, which shall include—

(A) all members of the family remaining drug-free;

(B) no member of the family engaging in any criminal activity;

(C) each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent thereof; and

(D) family members participating in the support services and counseling under subsection (h).

(h) PROVISION OF SUPPORTIVE SERVICES.—For the entire term of residency of a participating family in housing provided under subsection (e), the public housing agency shall ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation under subsection (g)(1). The public housing agency shall provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations, and private individuals and entities. Services shall include the following:

Intergovernmental relations.

(1) Remedial education.

(2) Education for completion of high school.

(3) Job training and preparation.

(4) Child care.

(5) Substance abuse treatment and counseling.

(6) Training in homemaking skills and parenting.

(7) Family counseling.

(8) Financial counseling services emphasizing planning for homeownership, provided by local financial institutions under the Community Reinvestment Act of 1977, provided under section 106 of the Housing and Urban Development Act of 1968, or otherwise provided.

(i) ECONOMIC ADVANCEMENT OF PARTICIPATING FAMILIES.—

(1) EMPLOYMENT.—Under the demonstration program, for the entire term of residency of each participating family in housing provided under subsection (e)—

(A) the head of the family shall be required to be employed on a full-time basis, except that if the head of the family becomes unemployed, the public housing agency shall review the individual case to determine if mitigating factors, such as involuntary loss of employment, warrant continuing the family's participation in the demonstration program; and

(B) the public housing agency shall ensure the provision of counseling to assist family members in gaining, advancing in, and retaining employment.

(2) RENT INCREASES.—During the 1-year period beginning upon the residency of a participating family in housing provided under subsection (e), the amount of rent charged the participating family may not be increased on the basis of any increase in the earned income of the family, until such earned income exceeds 80 percent of the median family income for the area.

(3) ESCROW SAVINGS ACCOUNTS.—

(A) PURPOSE AND ESTABLISHMENT.—To ensure that participating families acquire the financial resources necessary to complete a successful transition from assisted rental housing to homeownership or other private housing, under the demonstration program each participating public housing agency shall establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name.

(B) PERIODIC DEPOSITS.—For the entire term of a participating family's residency in housing provided under subsection (e) the public housing agency shall deposit in the account established for the family under subparagraph (A) a percentage of the monthly rent charged the family, which percentage shall be established in the contract of participation under subsection (g)(1). Any rent increases charged because of increases in the earned income of the family shall also be deposited into the escrow account.

(C) ACCESS TO AMOUNTS.—A participating family may withdraw amounts in the family's escrow account only upon successful completion of participation in the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the participating public housing agency. A participating family that has committed violations referred to under subsection (j)(2)(B) shall forfeit access to such amounts.

(4) TREATMENT OF INCREASED INCOME.—Any increase in the earned income of a participating family during residency in housing provided under subsection (e) may not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(j) CONCLUSION OF PARTICIPATION.—

(1) 7-YEAR TERM.—Each family residing in housing provided under subsection (e) or (f) shall terminate residency in housing not later than the expiration of the 7-year period beginning on

the commencement of such residency. Notwithstanding the preceding sentence, a public housing agency shall extend the period for any family that requests extension of the period—

(A) because the family is not prepared to enter a program for homeownership or to secure any other form of private housing; or

(B) for other good cause.

(2) INCOMPLETION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if a participating family is unable to successfully fulfill the requirements under the demonstration program, the public housing agency shall offer the family a comparable public housing unit in a project administered by the agency (notwithstanding any preference for residency in public housing under section 6(c)(4)(A)(i) of the United States Housing Act of 1937), or assistance under section 8 of such Act (subject to availability of amounts provided under appropriations Acts and notwithstanding any preference for such assistance under section 8(d)(1)(A)(i) of such Act).

(B) EXCEPTION.—Subparagraph (A) shall not apply to any participating family that has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or that has been exempted from such requirement by the public housing agency for other good cause.

(k) REPORTS TO CONGRESS.—

(1) INTERIM REPORT.—Upon the expiration of each 2-year period during the term of the demonstration, the first such period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program under subsection (n), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section. The report shall also include findings and recommendations for any legislative action appropriate to establish a permanent program based on the demonstration program.

(l) DEFINITIONS.—For purposes of this section:

(1) The term "coordinating committee" means a local coordinating committee established under subsection (b)(1).

(2) The term "demonstration program" means the program established by the Secretary under this section.

(3) The term "low-income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of findings by the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "operating subsidy amounts" means assistance for public housing provided through the performance funding system under section 9 of the United States Housing Act of 1937.

(5) The term "participating family" means a family that is residing in a housing unit provided under subsection (e).

(6) The term "participating public housing agency" means a public housing agency with respect to which the Secretary carries out the demonstration program under this section.

(7) The terms "public housing agency", "public housing", and "project" have the meanings given such terms under section 3(b) of the United States Housing Act of 1937.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(m) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(n) TERMINATION OF DEMONSTRATION PROGRAM.—The demonstration program under this section shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act.

SEC. 523. ENERGY EFFICIENCY DEMONSTRATION.

42 USC 1437g note.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall carry out a demonstration program to encourage the use of private energy service companies in accordance with section 118(a) of the Housing and Community Development Act of 1987. The Secretary shall provide technical assistance to 5 public housing agencies to demonstrate the opportunities for energy cost reduction in 5 public housing projects through energy services contracts. Not later than 90 days after the date of the enactment of this Act, the Secretary shall establish such selection criteria for this demonstration as the Secretary deems appropriate after consultation with representatives of public housing agencies and energy efficiency organizations.

(b) REPORT.—As soon as practicable after the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section. The Secretary shall disseminate such report, to the extent practicable, to other public housing agencies.

SEC. 524. STUDY OF PUBLIC HOUSING FUNDING SYSTEM.

42 USC 1437f note.

The Secretary of Housing and Urban Development shall conduct a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department of Housing and Urban Development in housing assisted under section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies Systems for the Public Housing Program", released by the Department's Office of Policy, Development and Research in May 1982, and shall update such study as may be necessary. The Secretary shall submit a report to the Congress not later than 12 months after the

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date of the enactment of this Act detailing the findings of the study conducted under this section.

42 USC 1437f note.

SEC. 525. STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies (in this section referred to as "PHA's"). In analyzing such alternatives, the Secretary shall examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternative, means of (1) providing for tenant participation in the release of such capitated payments to PHA's; (2) providing financial incentives for PHA overall performance and efficiency; (3) designating certain PHA's as distressed and eligible for special Federal assistance; (4) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (5) calculating annual inflation-based increases in capitated Federal payments. The report shall be submitted to the Congress not later than 12 months after the date of the enactment of this Act.

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42 USC 1437f note.

SEC. 526. GAO STUDY OF ALTERNATIVES IN PUBLIC HOUSING DEVELOPMENT.

The Comptroller General of the United States shall conduct a study assessing alternative methods of developing public housing dwelling units, other than under the existing public housing development program under the United States Housing Act of 1937. Under the study the Comptroller General shall—

(1) analyze and evaluate different methods of financing and structuring a program to develop public housing and of coordinating such program with local housing strategies; and

(2) evaluate the effectiveness of developing public housing units by coordinating the low-income housing tax credit program with the development of public housing.

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The Comptroller General shall submit a report to the Congress regarding the findings and conclusions of the study not later than 12 months after the date of the enactment of this Act.

42 USC 1437aa note.

SEC. 527. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of this subtitle that modify the public housing program under title I of the United States Housing Act of 1937 shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that sections 502 and 510 shall not apply.

Subtitle B—Low-Income Rental Assistance

SEC. 541. DESIGNATION OF CERTIFICATE AND VOUCHER PROGRAMS.

(a) CERTIFICATE PROGRAM.—Section 8(b) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)) is amended by striking "(b)(1)"

and inserting "(b) RENTAL CERTIFICATES AND OTHER EXISTING HOUSING PROGRAMS.—".

(b) VOUCHER PROGRAM.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C 1437f(o)) is amended by inserting "RENTAL VOUCHERS.—" after "(o)".

SEC. 542. DRUG-RELATED RENT ADJUSTMENTS.

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments for this purpose), on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than 120 percent of the project rents, to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence.".

SEC. 543. TENANT RENT CONTRIBUTIONS UNDER TENANT-BASED CERTIFICATE PROGRAM.

(a) EXCEPTION TO GENERAL RULE.—Section 8(c)(3) of the United States Housing Act of 1937 is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end the following new subparagraph:

"(B)(i) A family receiving tenant-based rental assistance under subsection (b)(1) may pay a higher percentage of income than that specified under section 3(a) of this Act if—

"(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

"(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses (including child care, unreimbursed medical expenses, and other appropriate family expenses).

"(ii) A public housing agency shall not approve such excess rentals for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1). A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3

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years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

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"(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports.".

(b) HOUSING STRATEGY.—The second sentence of section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)) is amended by—

(1) inserting "(A)" after "fair market rental" the second place it appears; and

(2) by striking "a local housing assistance plan" and all that follows through the end of the sentence and inserting the following: "a housing strategy as defined in section 105 of the Cranston-Gonzalez National Affordable Housing Act, or (B) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B).".

SEC. 544. OPT-OUTS.

Section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended—

(1) by inserting at the end of the first sentence the following new sentence: "The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."; and

(2) by inserting before the final sentence the following new sentence: "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision.".

SEC. 545. PREFERENCE RULES.

(a) CERTIFICATE PROGRAM.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended to read as follows:

"(A) the selection of tenants for such units shall be the function of the owner, subject to the provisions of the annual contributions contract between the Secretary and the agency, except that the tenant selection criteria used by the owner shall—

"(i) for not less than (I) 70 percent of the families who initially receive assistance in any 1-year period in the case of assistance attached to a structure and (II) 90 percent of such families in the case of assistance not attached to a structure, give preference to families that occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under this section; except that any family otherwise eligible for assistance under this section may not be denied preference for assistance not attached to a structure (or delayed or otherwise adversely affected in the provision of such

assistance) solely because the family resides in public housing;

"(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification with his or her family; (IV) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (V) achieving other objectives of national housing policy as affirmed by Congress; and

"(iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the agency, except that the agency may waive the application of this clause under standards established by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist);"; and

(2) VOUCHER PROGRAM.—Section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)), as amended by the preceding provisions of this Act, is further amended—

(A) by inserting "(A)" after "(3)";

(B) by striking "(A)" and inserting "(i)";

(C) by striking "(B)" and inserting "(ii)";

(D) by striking "(C)" and inserting "(iii)";

(E) by striking "(D)" and inserting "(iv)";

(F) by paragraphing and inserting "(B)" after the first sentence;

(G) by inserting "(including families that are homeless or living in a shelter for homeless families)" after "substandard housing"; and

(H) by adding at the end the following new sentences: "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the Stewart B. McKinney Homeless Assistance Act, or participate in a program de-

signed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) assisting families in accordance with subsection (u)(2); (iii) assisting families identified by local public agencies involved in providing for the welfare of children as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care, or in preventing the discharge of a child from foster care and reunification and his or her family; (iv) assisting youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available; and (v) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in subsection (f)(5)) shall not be eligible for a preference under any provision of this subparagraph for 3 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary (which shall include waiver for any member of a family of an individual prohibited from tenancy under this clause who the agency determines clearly did not participate in and had no knowledge of such criminal activity or when circumstances leading to eviction no longer exist).".

42 USC 1437f note.

(c) SECTION 8 NEW CONSTRUCTION.—With respect to housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and projects financed under section 202 of the Housing Act of 1959, notwithstanding any tenant selection criteria under a contract between the Secretary of Housing and Urban Development and an owner of such housing pursuant to the first sentence of such section—

(1) for not less than 70 percent of units that become available in the housing, the tenant selection criteria for such housing shall give preference to families which occupy substandard housing (including families that are homeless or living in a shelter for homeless families), are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking assistance under such section; and

(2) the system of local preferences established under section 8(d)(1)(A)(ii) by the public housing agency for the jurisdiction within which the housing is located the tenant shall apply to any remaining units that become available in the housing, to the extent that such preferences are applicable with respect to any tenant eligibility limitations for the housing.

SEC. 546. TENANT PROTECTIONS.

Section 8(d)(1)(B) of the United States Housing Act (42 U.S.C. 1437f(d)(1)(B)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following new clauses:

"(iii) provide that any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants or any drug-related criminal activity on or near such premises, engaged in by a public housing tenant, any member of the tenant's household, or any guest or other person

under the tenant's control, shall be cause for termination of tenancy; and

"(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action.".

SEC. 547. REVISIONS TO PROJECT-BASED CERTIFICATE PROGRAM.

(a) TENANT SELECTION.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income families; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection.".

(b) PROJECT-BASING OF CERTIFICATES.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine which public housing agencies have, in providing assistance in such year, reached the 15 percent limitations contained in subparagraphs (A) and (B), and shall report to the Congress on the results of such survey.". Reports.

(c) TERM OF ASSISTANCE.—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended to read as follows:

"(C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner's successors in interest.".

SEC. 548. SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

(a) DEFINITION OF OWNER.—Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by striking "newly constructed or substantially rehabilitated dwelling units as described in this section" and inserting "dwelling units".

(b) PROGRAM REQUIREMENTS.—Section 8(a) of the United States Housing Act of 1937 (42 U.S.C. 1437f(a)) is amended by adding at the end the following: "A public housing agency may contract to make assistance payments to itself (or any agency or instrumentality thereof) as the owner of dwelling units if such agency is subject to the same program requirements as are applied to other owners. In such cases, the Secretary may establish initial rents within applicable limits.".

SEC. 549. DEFINITIONS OF PARTICIPATING JURISDICTION AND DRUG-RELATED CRIMINAL ACTIVITY.

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(4) the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act; and

"(5) the term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 550. REVISIONS TO VOUCHER PROGRAM.

(a) REASONABLENESS OF RENTS.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(10)(A) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section (b). A public housing agency shall, at the request of a family assisted under this subsection, assist such family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit.".

42 USC 1437f note.

(b) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—

(1) DATA.—The Secretary of Housing and Urban Development shall collect and maintain, in an automated system, data describing the characteristics of families assisted under the certificate and voucher programs established under section 8 of the United States Housing Act of 1937, which data shall include the share of family income paid toward rent.

(2) REPORT.—Not less than annually, the Secretary shall submit a report to the Congress setting forth, for each of the certificate program and the voucher program, the percentage of families participating in the program who are paying for rent more than the amount determined under section 3(a)(1) of such Act. The report shall set forth data in appropriate categories, such as various areas of the country, types and sizes of public housing agencies, types of families, and types or markets. The data shall identify the jurisdictions in which more than 10 percent of the families assisted under section 8 of such Act pay for rent more than the amount determined under section 3(a)(1) of such Act and the report shall include an examination of whether the fair market rent for such areas is appropriate. The report shall also include any recommendations of the Secretary

for legislative and administrative actions appropriate as a result of analysis of the data.

(3) AVAILABILITY OF DATA.—The Secretary shall make available to each public housing agency administering assistance under the certificate or voucher program any data maintained under this subsection that relates to the public housing agency. Public information.

(c) ELIGIBILITY FOR USE WITH MOBILE HOMES.—Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

"(11)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist low-income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family. In carrying out this paragraph the Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property. Government contracts.

"(B)(i) A contract entered into pursuant to this subparagraph shall establish the rent (including maintenance and management charges) for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.

"(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family's monthly adjusted income is exceeded by the sum of—

"(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the amount by which the rent for the property exceeds 10 percent of the family's monthly income.

"(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.

"(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the

Secretary may increase such limitation in high cost areas in the manner described in such section.

"(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.".

SEC. 551. PORTABILITY OF CERTIFICATES AND VOUCHERS.

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)(1) is amended by striking "the same, or a contiguous," and inserting "the same State, or the same or a contiguous".

SEC. 552. RENEWAL OF EXPIRING CONTRACTS.

(a) IN GENERAL.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

Federal Register, publication.

"(w) RENEWAL OF EXPIRING CONTRACTS.—Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months.".

(b) SHORT-TERM CONTRACTS.—Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the first sentence the following: "The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.".

SEC. 553. ASSISTANCE TO PROMOTE FAMILY UNIFICATION.

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

"(x) FAMILY UNIFICATION.—

"(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $35,000,000 on or after October 1, 1990, by $35,000,000 on or after October 1, 1991.

"(2) USE OF FUNDS.—The amounts made available under this subsection shall be used only in connection with housing certificate assistance under section 8 on behalf of any family (A) who is otherwise eligible for such assistance, and (B) who the public child welfare agency for the jurisdiction has certified is a family for whom the lack of adequate housing is a primary factor in the imminent placement of the family's child or children in out-of-home care or the delayed discharge of a child or children to the family from out-of-home care.

"(3) ALLOCATION.—The amounts made available under this subsection shall be allocated by the Secretary through a national competition among applicants based on demonstrated need for the assistance under this subsection. To be considered for assistance, an applicant shall submit to the Secretary a

written proposal containing a report from the public child welfare agency serving the jurisdiction of the applicant that describes how a lack of adequate housing in the jurisdiction is resulting in the initial or prolonged separation of children from their families, and how the applicant will coordinate with the public child welfare agency to identify eligible families and provide the families with assistance under this subsection.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) APPLICANT.—The term 'applicant' means a public housing agency or any other agency responsible for administering assistance under section 8.

"(B) PUBLIC CHILD WELFARE AGENCY.—The term 'public child welfare agency' means the public agency responsible under applicable State law for determining that a child is at imminent risk of placement in out-of-home care or that a child in out-of-home care under the supervision of the public agency may be returned to his or her family.".

SEC. 554. FAMILY SELF-SUFFICIENCY.

(a) IN GENERAL.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new section:

"SEC. 23. FAMILY SELF-SUFFICIENCY PROGRAM. 42 USC 1437u.

"(a) PURPOSE.—The purpose of the Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (o) of section 8 or makes available new public housing dwelling units—

"(A) may, during fiscal years 1991 and 1992, carry out a local Family Self-Sufficiency program under this section; and

"(B) effective on October 1, 1992, the Secretary shall require each such agency to carry out a local Family Self-Sufficiency program under this section. Effective date.

Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency provides certification (as such term is defined under title I of the Cranston-Gonzalez National

Affordable Housing Act) to the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, which may include—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

"(3) SCOPE.—Each public housing agency required to carry out a local program under this section shall make the following housing assistance available under the program in each fiscal year:

"(A) Certificate and voucher assistance under section 8(b) and (o), in an amount equivalent to the increase for such year in the number of families so assisted by the agency (as compared to the preceding year).

"(B) Public housing dwelling units, in the number equal to the increase for such year in units made available by the agency (as compared to the preceding year).

Each such public housing agency shall continue to operate a local program for the number of families determined under this paragraph subject only to the availability under appropriations Acts of sufficient amounts for assistance.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family. The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this section if the family fails to comply with the requirements under the contract.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide appropriate supportive services under this paragraph to each participating family entering into a contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management; and

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by any participating family whose monthly adjusted income does not exceed 50 percent of the area median income for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family, unless the increase results in an income exceeding 50 percent of the area median income. The Secretary shall provide for increased rents for participating families whose incomes are between 50 and 80 percent of the area median income, so that any family whose income increases to 80 percent or more of the area median income pays 30 percent of the family's monthly adjusted income for rent. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased (if applicable) to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family whose monthly adjusted income is less than 50 percent of the area median income, the difference between 30 percent of the adjusted income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. For families with incomes between 50 and 80 percent of the area median income, the Secretary shall provide for escrow of the difference between 30 percent of the family income and the amount paid by the family for rent as determined by the Secretary under paragraph (1). The Secretary shall not escrow any amounts for any family whose adjusted income exceeds 80 percent of the area median income. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for other benefits, or amount of benefits payable to the family, under

any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public

housing programs, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

"(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section. The fee shall be the fee in effect under such section on June 1, 1990, except that for purposes of the fee under this paragraph the applicable dollar amount for preliminary expenses under section 8(q)(2)(A)(i) shall, subject to approval in appropriations Acts, be $300. Upon the submission by the Comptroller General of the United States of the report required under section 554(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall revise the fee under this paragraph, taking into consideration the report of the Comptroller General.

"(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request. Of any amounts appropriated under section 9(c) for each of fiscal years 1991 and 1992, $25,000,000 is authorized to be used for costs under this paragraph.

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

Federal Register, publication.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish perfomance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the portion of budget authority appropriated in each of fiscal years 1991 and 1992 for section 8 that is available for purposes of providing assistance under the existing housing certificate and housing voucher programs for families not currently receiving assistance, and not less than 10 percent of the public housing development assistance available in such fiscal years for the purpose under section 5(a)(2) (excluding amounts for major reconstruction of obsolete projects).

"(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

"(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(l) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary

under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

"(m) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Family Self-Sufficiency program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

"(n) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

"(o) EFFECTIVE DATE AND REGULATIONS.—

"(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 201(b)(2), the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.".

(b) GAO STUDY ON LINKING FEDERAL HOUSING ASSISTANCE TO ECONOMIC SELF-SUFFICIENCY PROGRAMS.— 42 USC 1437u note.

Reports.

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 18 months after the date of the enactment of this Act, a report—

(A) evaluating the policy and administrative implications of requiring State and local governments to require participation in an economic self-sufficiency program as a condition of the receipt of rental assistance under section 8 of the United States Housing Act of 1937 and public housing assistance;

(B) determining the additional costs to public housing agencies under such programs and recommending a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Family Self-Sufficiency Program under section 23 of the United States Housing Act of 1937; and

(C) examining how housing and social service policies affect beneficiaries, particularly persons receiving public assistance, when such beneficiaries gain employment and experience a rise in income.

(2) OTHER CONTENTS.—The report under this subsection shall include—

(A) an evaluation of Federal programs to link housing and supportive services for the promotion of economic self-sufficiency, including programs that are being or have been administered by the Secretary of Housing and Urban Development (such as Project Self-Sufficiency, Operation Bootstrap, and the Public Housing Comprehensive Transition Demonstration);

(B) an analysis of the extent to which public housing agencies can reasonably and effectively obtain supportive services in connection with the Family Self-Sufficiency Program and other programs that link supportive services to Federal housing assistance;

(C) an assessment of the policy and administrative implications of allocating section 8 rental assistance and public housing assistance only to localities that have a plan for providing incremental rental assistance only in conjunction with economic self-sufficiency programs; and

(D) an analysis of the extent to which existing laws regarding housing and other programs create disincentives to upward income mobility and recommendations for legislative changes to remove such disincentives.

(3) CONSULTATION.—In preparing the report under this subsection, the Comptroller General shall consult with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, other appropriate Federal officials, appropriate State and local officials, other knowledgeable individuals, and national and other organizations representing eligible beneficiaries, State and local welfare and employment agencies, public housing agencies, business, public and private education or training institutions, and other service providers.

(4) DEFINITION OF ECONOMIC SELF-SUFFICIENCY PROGRAM.—For purposes of this subsection, the term "economic self-sufficiency program" means a public or private program designed to enable economically disadvantaged individuals achieve economic

independence and includes programs authorized under the Job Training Partnership Act and the Family Support Act of 1988.

SEC. 555. INCOME ELIGIBILITY FOR TENANCY IN NEW CONSTRUCTION UNITS. 42 USC 1437f note.

Any dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and with a contract for assistance under such section, shall be reserved for occupancy by low-income families and very low-income families.

SEC. 556. DISTRIBUTION OF SECTION 8 CERTIFICATES.

Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(d)(1)(A)"; and

(2) by adding at the end the following new clause:

"(ii) Assistance under section 8(b)(1) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act. Such jurisdictions shall submit recommendations for allocating assistance under such section 8(b)(1) to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. This clause may not be construed to prevent, alter, or otherwise affect the application of the formula established pursuant to clause (i) for purposes of allocating such assistance. For purposes of this clause, the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title II of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 557. SETTLEMENT AGREEMENT REGARDING CERTAIN SECTION 8 ASSISTANCE.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, from any amounts provided under section 5(c) of the United States Housing Act of 1937 for use in fiscal year 1991 under section 8 of such Act, provide such assistance to the City of Norfolk, in the State of Virginia, in an amount necessary to provide 186 certificates under subsection (b) of such section 8. The assistance provided under this section shall be in satisfaction of the settlement agreement dated October 6, 1981, in the case of Robin Hood Tenants Association v. Vincent J. Thomas, Jr. (civil action no. 80-501-N), in the Norfolk Division of the United States District Court for the Eastern Division of Virginia.

SEC. 558. GAO STUDY REGARDING FAIR MARKET RENT CALCULATION. 42 USC 1437f note.

The Comptroller General of the United States shall conduct a study to examine fair market rentals under section 8(c)(1) of the United States Housing Act of 1937 and determine the feasibility and effects of establishing fair market for areas that are geographically smaller than market areas under such section which are wholly contained within such market areas. The study shall examine the following:

(1) Whether establishment of such smaller fair market areas will more accurately reflect rent variations within market areas and improve housing opportunities for disadvantaged minorities and families with special needs, provide very low-income families with better access to employment and education opportunities, or otherwise further the objectives of national housing policy as affirmed by the Congress, which shall be determined for not less than 3 communities, including Wilmington, Delaware, and Columbus, Ohio.

(2) The inflationary effects of fair market rentals under existing law within not less than 3 communities, including Oklahoma City, Oklahoma, and Boston, Massachusetts.

(3) The extent of geographical dispersion of families in particular communities receiving tenant-based assistance under such section 8, describing the differing characteristics of areas in which such assistance is used (including the character of neighborhoods, proximity to services, employment, and transportation, and quality of housing stock), which shall be determined for not less than 3 communities including Washington, District of Columbia, and Seattle, Washington.

Reports. The Comptroller General shall submit a report to the Congress not later than 18 months after the date of the enactment of this Act regarding the findings and conclusions under the study.

42 USC 1437f note.

SEC. 559. STUDY OF SECTION 8 UTILIZATION RATES.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study of the reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available by the Secretary for such areas under the certificate and voucher programs under section 8 of the United States Housing Act of 1937. The study shall examine such rates and provide information regarding such rates based on the household size, age of household members, race of household members, income of households, welfare status of households, number of children in a household.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the study under this section. The report shall contain a conclusion of the Secretary, for each city or locality studied, whether the success or failure in utilizing assistance under such section 8 relates to the existence of a local problem or a programmatic failure with respect to the certificate or voucher program.

SEC. 560. REPORT ON RESIDUAL RECEIPTS ACCOUNTS IN SECTION 8 AND SECTION 202 HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of a statistically significant sample of housing assisted under section 8 of the United States Housing Act of 1937 and section 202 of the Housing Act of 1959 to determine the amounts that are contained in existing residual receipts accounts. The Secretary shall identify the existing rules and regulations governing the permissible uses of such accounts. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting forth the findings of the Secretary as a result of the study.

SEC. 561. FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM.

42 USC 1437f note.

(a) STUDY.—The Secretary of Housing and Urban Development shall carry out a study to determine the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under section 8(o) of the United States Housing Act of 1937.

(b) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with Indian housing authorities.

(c) REPORT.—The Secretary shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the findings and conclusions of the Secretary as a result of the study under this section.

Subtitle C—General Provisions and Other Assistance Programs

SEC. 571. LOW-INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $16,194,000,000 on October 1, 1990, and by $14,709,400,000 on October 1, 1991.".

(b) UTILIZATION OF HOUSING BUDGET AUTHORITY.—Subparagraphs (A) and (B) of section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) are amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $742,100,000, of which amount not more than $228,000,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,880,000,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o).

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than $1,200,000,000;

"(iv) for comprehensive improvement assistance grants under section 14(k), not more than $2,150,000,000, of which not more than $3,000,000 shall be available for resident homeownership financial assistance under section 21(a)(2)(B);

"(v) for assistance under section 8 for property disposition, not more than $420,000,000;

"(vi) for assistance under section 8 for loan management, not more than $160,000,000;

"(vii) for extensions of contracts expiring under section 8, not more than $7,735,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(viii) for amendments to contracts under section 8, not more than $1,620,500,000;

"(ix) for public housing lease adjustments and amendments, not more than $207,300,000; and

"(x) for public housing replacement activities, not more than $79,100,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1992, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $812,300,000, of which amount not more than $237,800,000 shall be available for Indian housing;

"(ii) for assistance under subsections (b)(1) and (o) of section 8, not more than $1,960,800,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o).

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $2,242,500,000;

"(iv) for assistance under section 8 for property disposition, not more than $438,100,000;

"(v) for assistance under section 8 for loan management, not more than $166,900,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,100,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(vii) for amendments to contracts under section 8, not more than $1,690,200,000;

"(viii) for public housing lease adjustments and amendments, not more than $216,100,000; and

"(ix) for public housing replacement activities, not more than $82,500,000.".

SEC. 572. LOW-INCOME TERM.

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

(1) by striking "lower income families" each place it appears and inserting "low-income families",

(2) by striking "lower income housing" each place it appears and inserting "low-income housing".

SEC. 573. DEFINITIONS UNDER UNITED STATES HOUSING ACT OF 1937.

(a) FAMILY.—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(B)(3)) is amended—

(1) in the first sentence, by striking "(D)" and all that follows and inserting the following: "(D) and any other single persons. In no event may any single person under clause (D) be provided a housing unit assisted under this Act of 2 bedrooms or more.";

(2) by striking the second sentence; and

(3) by striking the third from last sentence.

(b) INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting before the period at the end the following: ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

(c) ADJUSTED INCOME.—

(1) ALLOWANCE FOR DEPENDENTS.—Section 3(b)(5)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(A)) is amended by striking "$480" and inserting "$550".

(2) ALLOWANCE FOR MEDICAL EXPENSES.—Section 3(b)(5)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(C)) is amended—

(A) in clause (i), by striking "elderly"; and

(B) by striking "and" at the end.

(3) ALLOWANCES FOR WORKING FAMILIES AND CHILD SUPPORT AND ALIMONY PAYMENTS.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(B) by adding at the end the following new subparagraphs:

"(E) 10 percent of the earned income of the family; and

"(F) any payment made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household, except that the amount excluded under this subparagraph shall not exceed the lesser of (i) the amount that such family member has a legal obligation to pay; or (ii) $550 for each individual for whom such payment is made.".

(d) DETERMINATION OF INCOME LIMITS.—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended by inserting after the period at the end the following: "In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester County, in the State of New York, as if such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester County, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester County.".

(e) BUDGET COMPLIANCE.—The amendments made by subsections (b) and (c) shall apply only to the extent approved in appropriations Acts. 42 USC 1437a note.

(f) EFFECTIVE DATE.—The Secretary shall issue regulations implementing subsections (a) and (d) the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulations may not take effect until after September 30, 1991. Regulations. 42 USC 1437a note.

SEC. 574. EFFECT OF FOSTER CARE CHILDREN IN DETERMINING FAMILY COMPOSITION AND SIZE.

Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following new sentence: "The temporary absence of a child from the home due to placement in foster care shall not be considered in considering family composition and family size.".

SEC. 575. EXEMPTION FROM HOUSING DEVELOPMENT GRANT CONSTRUCTION COMMENCEMENT REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 and subject to approval in appropriations Acts, the county of Santa Cruz, in the State of California, may not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grant amounts referred to in subsection (b) if during the 6-month period beginning on the date of the enactment of this Act the county (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

(b) DESCRIPTION OF GRANT AMOUNTS.—The grant amounts referred to in subsection (a) are the amounts awarded to the county of Santa Cruz, in the State of California, on October 1, 1987, under section 17(d) of the United States Housing Act of 1937, for the purpose of providing 37 housing units for low- and very low-income families at the Murphy's Crossing housing development (project no. CA030HG701).

SEC. 576. CONSULTATION REGARDING FOSTER CARE CHILDREN IN DEVELOPMENT OF HOUSING ASSISTANCE PLAN.

Section 213(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(a)(5)) is amended by inserting after the period at the end the following: "In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.".

SEC. 577. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows and inserting the following: "except that for such purposes there are authorized to be appropriated $3,600,000 for fiscal year 1991 and $3,700,000 for fiscal year 1992.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There

is authorized to be appropriated to carry out this section $6,700,000 for fiscal year 1991 and $7,000,000 for fiscal year 1992, of which amounts $2,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1990" and inserting "September 30, 1992".

(3) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended to read as follows:

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), if any eligible homeowner fails to pay any amount by the date the amount is due under a home loan, the creditor of the loan shall notify the homeowner of the availability of any homeownership counseling offered by the creditor and, as a supplement to counseling provided by the creditor, shall notify the homeowner of 1 of the following:

"(i) The availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(ii) The toll-free telephone number described in subparagraph (D)(i).

"(B) DEADLINE FOR NOTIFICATION.—The notification required in subparagraph (A) shall be made—

"(i) in a manner approved by the Secretary; and

"(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

"(C) EXCEPTIONS.—Notification under subparagraph (A) shall not be required with respect to any loan—

"(i) insured or guaranteed under chapter 37 of title 38, United States Code; or

"(ii) for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

"(D) ADMINISTRATION AND COMPLIANCE.—The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

"(i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations that—

"(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and

"(II) serve the area in which the residential property of the homeowner is located;

"(ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

"(iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).

"(E) REPORT.—The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.".

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

"(d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—

"(1) PURPOSES.—The purpose of this subsection is—

"(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

"(B) to encourage responsible and prudent use of such federally insured home mortgages;

"(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and

"(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

"(2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

"(3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

"(4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

"(5) PREPURCHASE COUNSELING.—

"(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (10)(K)) on such home that involves

a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

"(i) financial management and the responsibilities involved in homeownership;

"(ii) fair housing laws and requirements;

"(iii) the maximum mortgage amount that the homebuyer can afford; and

"(iv) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

"(B) ELIGIBILITY FOR COUNSELING.—A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

"(i) the homebuyer has applied for a qualified mortgage;

"(ii) the homebuyer is a first-time homebuyer; and

"(iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

"(6) FORECLOSURE-PREVENTION COUNSELING.—

"(A) AVAILABILITY.—Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the delinquency or default.

"(B) NOTIFICATION OF DELINQUENCY.—Under the demonstration program, the Secretary shall require the creditor of any eligible homeowner who is delinquent (as described in subparagraph (A)) to send written notice by registered or certified mail within 5 days (excluding Saturdays, Sundays, and legal public holidays) after the occurrence of such delinquency—

"(i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and

"(ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.

"(C) COORDINATION WITH EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.—The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

"(D) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if—

"(i) the home owned by the homeowner is subject to a qualified mortgage; and

"(ii) such home is located in a counseling target area.

"(7) SCOPE OF DEMONSTRATION PROGRAM.—

"(A) DESIGNATION OF COUNSELING TARGET AREAS.—The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not

less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

"(B) COUNSELING TARGET AREAS.—Each counseling target area shall consist of a group of contiguous census tracts—

"(i) the population of which is greater than 50,000;

"(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

"(iii) in which the average age of existing housing is greater than 20 years; and

"(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

"(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

"(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

"(E) DESIGNATION OF CONTROL AREAS.—For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

Records.

"(8) EVALUATION.—Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and

eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General (for purposes of the study and report under paragraph (9)) may require.

"(9) GAO STUDY AND REPORT.—

"(A) STUDY.—During the 12-month period ending on the termination date under paragraph (13), the Comptroller General of the United States shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include—

"(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;

"(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and

"(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act and contributing to default and foreclosure under such program.

"(B) REPORT.—The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include—

"(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraph;

"(ii) an assessment of the effectiveness of the counseling under the program in preventing default and foreclosure, based on comparison between counseling target areas and control areas; and

"(iii) a recommendation of whether a permanent counseling program involving prepurchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgages.

"(10) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'control area' means an area designated by the Secretary under paragraph (7)(E).

"(B) The term 'counseling target area' means an area designated by the Secretary under paragraph (7)(A).

"(C) The term 'creditor' means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

"(D) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full-time, full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

"(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(E) The term 'downpayment' means the amount of purchase price of home required to be paid at or before the time of purchase.

"(F) The term 'eligible homebuyer' means a homebuyer that meets the requirements under paragraph (5)(B).

"(G) The term 'eligible homeowner' means a homeowner that meets the requirements under paragraph (6)(D).

"(H) The term 'first-time homebuyer' means an individual who—

"(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

"(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or

"(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

"(I) The term 'home' includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(J) The term 'metropolitan area' means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

"(K) The term 'qualified mortgage' means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

"(L) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(M) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(11) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this subsection.

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $350,000 for fiscal year 1991 and $365,000 for fiscal year 1992.

"(13) TERMINATION.—The demonstration program under this subsection shall terminate at the end of fiscal year 1994.".

SEC. 578. FLEXIBLE SUBSIDY PROGRAM.

12 USC 1715z-1.

(a) EXTENSION.—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1991" and inserting "September 30, 1992".

(b) AUTHORIZATION.—Section 201(j) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)) is amended by adding at the end the following paragraph:

"(5) There are authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $50,000,000 for fiscal year 1991 and $52,200,000 for fiscal year 1992.". Appropriation authorization.

(c) LIMITATION.—Section 201(j)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting before the period at the end the following: "and shall not (except as provided in Public Law 100-4-4 (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose". 12 USC 1715z-1a.

SEC. 579. STREAMLINED PROPERTY DISPOSITION REQUIREMENTS FOR UNSUBSIDIZED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "or vacant". 12 USC 1701z-11.

(b) ACTIONS.—Section 203(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1)(B), by striking "or are vacant (which units shall be made available for such families as soon as possible)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In the case of multifamily housing projects (other than subsidized or formerly subsidized projects) that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide vouchers or certificates under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that the requirements under subsection (e) have been complied with and there is available in the area an adequate supply of habitable affordable housing for low-income families.".

SEC. 580. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

Section 184(c)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "at the end of September 30, 1991".

SEC. 581. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

(a) IN GENERAL.—The Public Housing Drug Elimination Act of 1988 (chapter 2 of subtitle C of title V of Public Law 100-690) is amended to read as follows:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

Public and Assisted Housing Drug Elimination Act of 1990.

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the "Public and Assisted Housing Drug Elimination Act of 1990". 42 USC 11901 note.

"SEC. 5122. CONGRESSIONAL FINDINGS. 42 USC 11901.

"The Congress finds that—

"(1) the Federal Government has a duty to provide public and other federally assisted low-income housing that is decent, safe, and free from illegal drugs;

"(2) public and other federally assisted low-income housing in many areas suffers from rampant drug-related crime;

"(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted low-income housing tenants;

"(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

"(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted low-income housing, particularly in light of the recent reductions in Federal aid to cities.

42 USC 11902.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies (including Indian Housing Authorities) and private, for-profit and nonprofit owners of federally assisted low-income housing for use in eliminating drug-related crime.

42 USC 11903.

"SEC. 5124. ELIGIBLE ACTIVITIES.

"Grants under this chapter may be used in public housing or other federally assisted low-income housing projects for—

"(1) the employment of security personnel;

"(2) reimbursement of local law enforcement agencies for additional security and protective services;

"(3) physical improvements which are specifically designed to enhance security;

"(4) the employment of one or more individuals—

"(A) to investigate drug-related crime on or about the real property comprising any public or other federally assisted low-income housing project; and

"(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

"(6) programs designed to reduce use of drugs in and around public or other federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs; and

"(7) providing funding to nonprofit public housing resident management corporations and resident councils to develop security and drug abuse prevention programs involving site residents.

42 USC 11904.

"SEC. 5125. APPLICATIONS.

"(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency or an owner of federally assisted low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the prem-

ises of the housing administered or owned by the applicant for which the application is being submitted.

"(b) CRITERIA.—Except as provided by subsections (c) and (d) the Secretary shall approve applications under this chapter based exclusively on—

"(1) the extent of the drug-related crime problem in the public or federally assisted low-income housing project or projects proposed for assistance;

"(2) the quality of the plan to address the crime problem in the public or federally assisted low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

"(3) the capability of the applicant to carry out the plan; and

"(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

"(c) FEDERALLY ASSISTED LOW-INCOME HOUSING.—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted low-income housing, except that such additional criteria shall be designed only to reflect—

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted low-income housing, or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted low-income housing.

"(d) HIGH INTENSITY DRUG TRAFFICKING AREAS.—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary may consider whether housing projects proposed for assistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.

"SEC. 5126. DEFINITIONS.

42 USC 11905.

"For the purposes of this chapter:

"(1) CONTROLLED SUBSTANCE.—The term 'controlled substance' has the meaning given such term in section 102 of the Controlled Substance Act (21 U.S.C. 802).

"(2) DRUG-RELATED CRIME.—The term 'drug-related crime' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(4) FEDERALLY ASSISTED LOW-INCOME HOUSING.—The term 'federally assisted low-income housing' means housing assisted under—

"(A) section 221(d)(3), section 221(d)(4), or 236 of the National Housing Act;

"(B) section 101 of the Housing and Urban Development Act of 1965; or

"(C) section 8 of the United States Housing Act of 1937.

42 USC 11906. Regulations.

"SEC. 5127. IMPLEMENTATION.

"The Secretary shall issue regulations to implement this chapter within 180 days after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

42 USC 11907.

"SEC. 5128. REPORTS.

"The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and any change in the incidence of drug-related crime in projects assisted under this chapter.

42 USC 11908.

"SEC. 5129. MONITORING.

"The Secretary shall audit and monitor the programs funded under this chapter to ensure that assistance provided under this chapter is administered in accordance with the provisions of this chapter.

42 USC 11909.

"SEC. 5130. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this chapter $160,000,000 for fiscal year 1991 and $166,900,000 for fiscal year 1992. Any amount appropriated under this section shall remain available until expended.

"(b) SET-ASIDE FOR ASSISTED HOUSING.—Of any amount made available in any fiscal year to carry out this chapter, not more than 6.25 percent of such amount shall be available for grants for federally assisted, low-income housing.".

(b) CONFORMING AMENDMENTS.—The table of contents for title V of Public Law 100-690 is amended by striking the items relating to chapter 2 and inserting the following new items:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

"Sec. 5121. Short title.
"Sec. 5122. Congressional findings.
"Sec. 5123. Authority to make grants.
"Sec. 5124. Eligible activities.
"Sec. 5125. Applications.
"Sec. 5126. Definitions.
"Sec. 5127. Implementation.
"Sec. 5128. Reports.
"Sec. 5129. Monitoring.
"Sec. 5130. Authorization of appropriations.".

42 USC 1437 note.

SEC. 582. STUDY OF PRIVATE NONPROFIT INITIATIVES.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

(b) REPORT.—The Secretary shall submit a report to the Congress regarding the findings of this study not later than 1 year after the date of the enactment of this Act.

SEC. 583. EXTENSION OF CAPITAL ASSESSMENT STUDY.

Section 204(c)(1) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z-1a note) is amended by striking "Not later than one year after the date of enactment of this Act" and inserting "Not later than March 1, 1992".

TITLE VI—PRESERVATION OF AFFORDABLE RENTAL HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

SEC. 601. PREPAYMENT OF MORTGAGES.

(a) IN GENERAL.—Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715*l* note) are amended to read as follows:

"Subtitle A—Short Title

Low-Income Housing Preservation and Resident Homeownership Act of 1990.
12 USC 4101 note.

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Low-Income Housing Preservation and Resident Homeownership Act of 1990'.

"Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

"SEC. 211. GENERAL PREPAYMENT LIMITATION. 12 USC 4101.

"(a) PREPAYMENT AND TERMINATION.—An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224.

"(b) FORECLOSURE.—A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

"(c) EFFECT OF UNAUTHORIZED PREPAYMENT.—Any prepayment of a mortgage on eligible low-income housing or termination of the mortgage insurance on such housing not in compliance with the provisions of this subtitle shall be null and void and any low-income affordability restrictions on the housing shall continue to apply to the housing.

"SEC. 212. NOTICE OF INTENT. 12 USC 4102.

"(a) FILING WITH THE SECRETARY.—An owner of eligible low-income housing that intends to terminate the low-income afford-

ability restrictions through prepayment or voluntary termination in accordance with section 218, extend the low-income affordability restrictions of the housing in accordance with section 219, or transfer the housing to a qualified purchaser in accordance with section 220, shall file with the Secretary a notice indicating such intent in the form and manner as the Secretary shall prescribe.

"(b) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—The owner, upon filing a notice of intent under this section, shall simultaneously file the notice of intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.

"(c) INELIGIBILITY FOR FILING.—An owner shall not be eligible to file a notice of intent under this section if the mortgage covering the housing—

"(1) falls into default on or after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act; or

"(2)(A) fell into default before, but is current as of, such date; and

"(B) the owner does not agree to recompense the appropriate Insurance Fund, in the amount the Secretary determines appropriate, for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

The Secretary shall carry out this subsection in a manner consistent with the provisions of section 203 of the Housing and Community Development Amendments of 1978.

12 USC 4103.

"SEC. 213. APPRAISAL AND PRESERVATION VALUE OF ELIGIBLE LOW-INCOME HOUSING.

"(a) APPRAISAL.—Upon receiving notice of intent regarding an eligible low-income housing project indicating an intent to extend the low-income affordability restrictions under section 219 or transfer the housing under section 220, the Secretary shall provide for determination of the preservation value of the housing, as follows:

"(1) APPRAISERS.—The preservation value shall be determined by 2 independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. The appraisals shall be conducted not later than 4 months after filing the notice of intent under section 212, and the owner shall submit to the Secretary the appraisal made by the owner's selected appraiser not later than 90 days after receipt of the notice under paragraph (2). If the 2 appraisers fail to agree on the preservation value, and the Secretary and the owner also fail to agree on the preservation value, the Secretary and the owner shall jointly select and jointly compensate a third appraiser, whose appraisal shall be binding on the parties.

"(2) NOTICE.—Not later than 30 days after the filing of a notice of intent to seek incentives under section 219 or transfer the property under section 220, the Secretary shall provide written notice to the owner filing the notice of intent of—

"(A) the need for the owner to acquire an appraisal of the property under paragraph (1);

"(B) the rules and guidelines for such appraisals;

"(C) the filing deadline for submission of the appraisal under paragraph (1);

"(D) the need for an appraiser retained by the Secretary to inspect the housing and project financial records; and

"(E) any delegation to the appropriate State agency by the Secretary of responsibilities regarding the appraisal.

"(3) TIMELINESS.—The Secretary may approve a plan of action to receive incentives under section 219 or 220 only based upon an appraisal conducted in accordance with this subsection that is not more than 30 months old.

"(b) PRESERVATION VALUE.—For purposes of this subtitle, the preservation value of eligible low-income housing appraised under this section shall be—

"(1) for purposes of extending the low-income affordability restrictions and receiving incentives under section 219, the fair market value of the property based on the highest and best use of the property as residential rental housing; and

"(2) for purposes of transferring the property under section 220 or 221, the fair market value of the housing based on the highest and best use of the property.

"(c) GUIDELINES.—The Secretary shall provide written guidelines for appraisals of preservation value, which shall assume repayment of the existing federally assisted mortgage, termination of the existing low-income affordability restrictions, and costs of compliance with any State or local laws of general applicability. The guidelines may permit reliance upon assessments of rehabilitation needs and other conversion costs determined by an appropriate State agency, as determined by the Secretary. The guidelines shall instruct the appraiser to use the greater of actual project operating expenses at the time of the appraisal (based on the average of the actual project operating expenses during the preceding 3 years) or projected operating expenses after conversion in determining preservation value. The guidelines established by the Secretary shall not be inconsistent with customary appraisal standards. The guidelines shall also meet the following requirements:

"(1) RESIDENTIAL RENTAL VALUE.—In the case of preservation value determined under subsection (b)(1), the guidelines shall assume conversion of the housing to market-rate rental housing and shall establish methods for (A) determining rehabilitation expenditures that would be necessary to bring the housing up to quality standards required to attract and sustain a market rate tenancy upon conversion, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to market-rate multifamily rental housing.

"(2) HIGHEST AND BEST USE VALUE.—In the case of preservation value determined under subsection (b)(2), the guidelines shall assume conversion of the housing to highest and best use for the property and shall establish methods for (A) determining any rehabilitation expenditures that would be necessary to convert the housing to such use, and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to its highest and best use.

"SEC. 214. ANNUAL AUTHORIZED RETURN AND PRESERVATION RENTS. 12 USC 4104.

"(a) ANNUAL AUTHORIZED RETURN.—Pursuant to an appraisal under section 213, the Secretary shall determine the annual authorized return on the appraised housing, which shall be equal to 8

percent of the preservation equity (as such term is defined in section 229(8)).

"(b) PRESERVATION RENTS.—The Secretary shall also determine the aggregate preservation rents under this subsection for each project appraised under section 213. The aggregate preservation rents shall be used solely for the purposes of comparison with Federal cost limits under section 215. Actual rents received by an owner (or a qualified purchaser) shall be determined pursuant to section 219, 220, or 221. The aggregate preservation rents shall be established as follows:

"(1) EXTENSION OF AFFORDABILITY LIMITS.—The aggregate preservation rent for purposes of receiving incentives pursuant to extension of the low-income affordability restrictions under section 219 shall be the gross potential income for the project, determined by the Secretary, that would be required to support the following costs:

"(A) The annual authorized return determined under subsection (a).

"(B) Debt service on any rehabilitation loan for the housing.

"(C) Debt service on the federally-assisted mortgage for the housing.

"(D) Project operating expenses.

"(E) Adequate reserves.

"(2) SALE.—The aggregate preservation rent for purposes of receiving incentives pursuant to sale under section 220 or 221 shall be the gross income for the project determined by the Secretary, that would be required to support the following costs:

"(A) Debt service on the loan for acquisition of the housing.

"(B) Debt service on any rehabilitation loan for the housing.

"(C) Debt service on the federally-assisted mortgage for the housing.

"(D) Project operating expenses.

"(E) Adequate reserves.

12 USC 4105.

"SEC. 215. FEDERAL COST LIMITS AND LIMITATIONS ON PLANS OF ACTION.

"(a) DETERMINATION OF RELATIONSHIP TO FEDERAL COST LIMITS.—

"(1) INITIAL DETERMINATION.—For each eligible low-income housing project appraised under section 213(a), the Secretary shall determine whether the aggregate preservation rents for the project determined under paragraph (1) or (2) of section 214(b) exceed the amount determined by multiplying 120 percent of the fair market rental (established under section 8(c) of the United States Housing Act of 1937) for the market area in which the housing is located by the number of dwelling units in the project (according to appropriate unit sizes).

"(2) RELEVANT LOCAL MARKETS.—If the aggregate preservation rents for a project exceeds the amount determined under paragraph (1), the Secretary shall determine whether such aggregate rents exceed the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to the appropriate unit sizes). A relevant local market area shall be an area geographically smaller than a

market area established by the Secretary under section 8(c)(1) of the United States Act of 1937 that is identifiable as a distinct rental market area. The Secretary may rely on the appraisal to determine the relevant local market areas and prevailing rents in such local areas and any other information the Secretary determines is appropriate.

"(3) EFFECT.—For purposes of this subtitle, the aggregate preservation rents shall be considered to exceed the Federal cost limits under this subsection only if the aggregate preservation rents exceed the amount determined under paragraph (1) and the amount determined under paragraph (2).

"(b) LIMITATIONS ON ACTION PURSUANT TO FEDERAL COST LIMITS.—

"(1) HOUSING WITHIN FEDERAL COST LIMITS.—If the aggregate preservation rents for an eligible low-income housing project do not exceed the Federal cost limit, the owner may not prepay the mortgage on the housing or terminate the insurance contract with respect to the housing, except as permitted under section 224. The owner may—

"(A) file a plan of action under section 217 to receive incentives under section 219; or

"(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section.

"(2) HOUSING EXCEEDING FEDERAL COST LIMITS.—If the aggregate preservation rents for an eligible low-income housing project exceed the Federal cost limit, the owner may—

"(A) file a plan of action under section 217 to receive incentives under section 219 if the owner agrees to accept incentives under such sections in an amount that shall not exceed the Federal cost limit;

"(B) file a second notice of intent under section 216(d) indicating an intention to transfer the housing under section 220 and take actions pursuant to such section if the owner agrees to transfer the housing at a price that shall not exceed the Federal cost limit; or

"(C) file a second notice of intent under section 216(d) indicating an intention to prepay the mortgage or voluntarily terminate the insurance, subject to the mandatory sale provisions under section 221.

"SEC. 216. INFORMATION FROM SECRETARY. 12 USC 4106.

"(a) INFORMATION TO OWNERS TERMINATING AFFORDABILITY RESTRICTIONS.—The Secretary shall provide each owner who submits a notice of intent to terminate the low-income affordability restrictions on the housing under section 218 with information under this section not later than 6 months after receipt of the notice of intent. The information shall include a description of the criteria for such termination specified under section 218 and the documentation required to satisfy such criteria.

"(b) INFORMATION TO OWNERS EXTENDING LOW-INCOME AFFORDABILITY RESTRICTIONS.—The Secretary shall provide each owner who submits notice of intent to extend the low-income affordability restrictions on the housing under section 219 or transfer the housing under section 220 to a qualified purchaser with information under this subsection not later than 9 months after receipt of the notice of intent. The information shall include any information necessary for

the owner to prepare a plan of action under section 217, including the following:

"(1) PRESERVATION VALUES.—A statement of the preservation value of the housing determined under paragraphs (1) and (2) of section 213(b).

"(2) PRESERVATION RENT.—A statement of the preservation rent for the housing as calculated under section 214(b).

"(3) FEDERAL COST LIMITS.—A statement of the applicable Federal cost limits for the market area (or relevant local market area, if applicable) in which the housing is located, which shall explain the limitations under sections 219 and 220 of the amount of assistance that the Secretary may provide based on such cost limits.

"(4) FEDERAL COST LIMIT ANALYSIS.—A statement of whether the aggregate preservation rents exceeds the Federal cost limits and a direction to the owner to file a plan of action under section 217 or submit a second notice of intent under section 216(d), whichever is applicable.

"(c) AVAILABILITY TO TENANTS.—The Secretary shall make any information provided to the owner under subsections (a) and (b) available to the tenants of the housing, together with other information relating to the rights and opportunities of the tenants.

"(d) SECOND NOTICE OF INTENT.—

"(1) FILING.—Each owner of eligible low-income housing that elects to transfer housing under section 220 shall submit to the Secretary, in such form and manner as the Secretary prescribes, notice of intent to sell the housing under section 220. To be eligible to prepay the mortgage or voluntarily terminate the insurance contract on the mortgage, an owner of housing for which the preservation rents exceed the Federal cost limits under section 215(b) shall submit to the Secretary notice of such intent. The provisions of sections 221 and 223 shall apply to any owner submitting a notice under the preceding sentence.

"(2) TIMING.—A second notice of intent under this subsection shall be submitted not later than 30 days after receipt of information from the Secretary under this section. If an owner fails to submit such notice within such period, the notice of intent submitted by the owner under section 212 shall be void and ineffective for purposes of this subtitle.

12 USC 4107.

"SEC. 217. PLAN OF ACTION.

"(a) SUBMISSION TO SECRETARY.—

"(1) TIMING.—Not later than 6 months after receipt of the information from the Secretary under section 216 an owner seeking to terminate the low-income affordability restrictions through prepayment of the mortgage or voluntary termination under section 218, or to extend the low-income affordability restriction on the housing under section 219, shall submit a plan of action to the Secretary in such form and manner as the Secretary shall prescribe. Any owner or purchaser seeking a transfer of the housing under section 220 or 221 shall submit a plan of action under this section to the Secretary upon acceptance of a bona fide offer under section 220 (b) or (c) or upon making of any bona fide offer under section 221.

"(2) COPIES TO TENANTS.—Each owner submitting a plan of action under this section to the Secretary shall also submit a copy to the tenants of the housing. The owner shall simulta-

neously submit the plan of action to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.

"(3) FAILURE TO SUBMIT.—If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or the applicable longer period), the notice of intent shall be ineffective for purposes of this subtitle and the owner may not submit another notice of intent under section 212 until 6 months after the expiration of such period.

"(b) CONTENTS.—

"(1) TERMINATION OF AFFORDABILITY RESTRICTIONS.—If the plan of action proposes to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 218, the plan shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of any proposed changes in the low-income affordability restrictions;

"(C) a description of any change in ownership that is related to prepayment or voluntary termination;

"(D) an assessment of the effect of the proposed changes on existing tenants;

"(E) an analysis of the effect of the proposed changes on the supply of housing affordable to low- and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

"(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(2) EXTENSION OF AFFORDABILITY RESTRICTIONS.—If the plan of action proposes to extend the low-income affordability restrictions of the housing in accordance with section 219 or transfer the housing to a qualified purchaser in accordance with section 220, the plan shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of the Federal incentives requested (including cash flow projections), and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

"(C) a description of any assistance from State or local government agencies, including low-income housing tax credits, that have been offered to the owner or purchaser or for which the owner or purchaser has applied or intends to apply;

"(D) a description of any transfer of the property, including the identity of the transferee and a copy of any documents of sale; and

"(E) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(c) REVISIONS.—An owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of

the plan under this subtitle. The owner shall submit any revision to the Secretary and to the tenants of the housing.

12 USC 4108.

"SEC. 218. PREPAYMENT AND VOLUNTARY TERMINATION.

"(a) APPROVAL.—The Secretary may approve a plan of action that provides for termination of the low-income affordability restrictions through prepayment of the mortgage or voluntary termination of the mortgage insurance contract only upon a written finding that—

"(1) implementation of the plan of action will not—

"(A) materially increase economic hardship for current tenants, and will not in any event result in (i) a monthly rental payment by any current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (ii) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower); or

"(B) involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

"(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

"(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

"(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

"(C) the housing opportunities of minorities in the community within which the housing is located.

"(b) DISAPPROVAL.—If the Secretary determines a plan of action to prepay a mortgage or terminate an insurance contract fails to meet the requirements of subsection (a), the Secretary shall disapprove the plan, the notice of intent filed under section 212 by such owner shall not be effective for purposes of this subtitle, and the owner may, in order to receive incentives under this subtitle, file a new notice of intent under such section.

12 USC 4109.

"SEC. 219. INCENTIVES TO EXTEND LOW-INCOME USE.

"(a) AGREEMENTS BY SECRETARY.—After approving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to enable the owner to receive the annual authorized return for the housing determined under section 214(a), pay debt service on the federally-assisted mortgage covering the housing, pay debt service on any loan for rehabilitation of the housing, and meet project operating expenses and establish adequate reserves. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under subsections (b) (2) and (3) of this section.

"(b) PERMISSIBLE INCENTIVES.—Such agreements may include one or more of the following incentives:

"(1) Increased access to residual receipts accounts.

"(2) Subject to the availability of amounts provided in appropriations Acts—

"(A) an increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or

"(B) additional assistance under section 8 or an extension of any project-based assistance attached to the housing; and

"(3) An increase in the rents on units occupied by current tenants as permitted under section 222.

"(4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(5) Financing of capital improvements through provision of insurance for a second mortgage under section 241 of the National Housing Act.

"(6) In the case of housing defined in section 229(1)(A)(iii), redirection of the Interest Reduction Payment subsidies to a second mortgage.

"(7) Access by the owner to a portion of the preservation equity in the housing through provision of insurance for a second mortgage loan insured under section 241(f) of the National Housing Act or a non-insured mortgage loan approved by the Secretary and the mortgagee.

"(8) Other incentives authorized in law.

With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 236 of the National Housing Act, the provisions of subsections (f) and (g) of section 236 of such Act notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this subsection, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 236(f) of such Act absent the requirements of this paragraph.

"SEC. 220. INCENTIVES FOR TRANSFER TO QUALIFIED PURCHASERS. 12 USC 4110.

"(a) IN GENERAL.—With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 216(d) to transfer the housing to a qualified purchaser, the owner shall offer the housing for transfer to qualified purchasers as provided in this section. The Secretary shall issue regulations describing the means by which potential qualified purchasers shall be notified of the availability of the housing for sale. The Secretary shall take into account the Federal cost limits under section 215(a) for the housing when providing incentives under section 219(b)(2) and (b)(3) (pursuant to subsection (d)(3) of this section). Regulations.

"(b) RIGHT OF FIRST OFFER TO PRIORITY PURCHASERS.—

"(1) NEGOTIATION PERIOD.—For the 12-month period beginning on the receipt by the Secretary of a second notice of intent under section 216(d) with respect to such housing, the owner may offer to sell and negotiate a sale of the housing only with priority purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section

213(b)(2). The owner or the purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

"(2) EXPRESSION OF INTEREST.—During such period, priority purchasers may submit written notice to the Secretary stating their interest in acquiring the housing. Such notice shall be made in the form and include such information as the Secretary may prescribe.

"(3) INFORMATION.—Within 30 days of receipt of an expression of interest by a priority purchaser, the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide appropriate information on the housing, as determined by the Secretary.

"(c) RIGHT OF REFUSAL FOR OTHER QUALIFIED PURCHASERS.—If no bona fide offer to purchase any eligible low-income housing subject to this section that meets the requirements of subsection (b) is made and accepted during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. The negotiated sale price may not exceed the preservation value of the housing determined under section 213(b)(2). The owner or purchaser shall submit a plan of action under section 217 for any sale under this subsection, which shall include any request for assistance under this section, upon the acceptance of any bona fide offer meeting the requirements of this paragraph.

"(d) ASSISTANCE.—

"(1) APPROVAL.—If the qualified purchaser is a resident council, the Secretary may not approve a plan of action for assistance under this section unless the council's proposed resident homeownership program meets the requirements under section 226. For all other qualified purchasers, the Secretary may not approve the plan unless the Secretary finds that the criteria for approval under section 222 have been satisfied.

"(2) AMOUNT.—Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide assistance sufficient to enable qualified purchasers to—

"(A) acquire the eligible low-income housing from the current owner for a purchase price not greater than the preservation equity of the housing;

"(B) pay the debt service on the federally-assisted mortgage covering the housing;

"(C) pay the debt service on any loan for the rehabilitation of the housing;

"(D) meet project operating expenses and establish adequate reserves for the housing;

"(E) receive an adequate return (as determined by the Secretary) on any actual cash investment made to acquire the project;

"(F) in the case of a priority purchaser, receive an adequate reimbursement for transaction expenses relating to acquisition of the housing, subject to approval by the Secretary; and

"(G) in the case of an approved resident homeownership program, cover the costs of training for the resident council, homeownership counseling and training, the fees for the nonprofit entity or public agency working with the resident council and costs related to relocation of tenants who elect to move.

"(3) INCENTIVES.—

"(A) IN GENERAL.—For all qualified purchasers of housing under this subsection, the Secretary may provide assistance for an approved plan of action in the form of 1 or more of the incentives authorized under section 219(b), except that any residual receipts for the housing transfered to the selling owner shall be deducted from the sale price of the housing under subsection (b) or (c) and the incentive under such section 219(b)(7) may include an acquisition loan under section 241(f) of the National Housing Act.

"(B) PRIORITY PURCHASERS.—Where the qualified purchaser is a priority purchaser, the Secretary may provide assistance for an approved plan of action (in the form of a grant) for each unit in the housing in an amount, as determined by the Secretary, that does not exceed the present value of the total of the projected published fair market rentals for existing housing (established by the Secretary under section 8(c) of the United States Housing Act of 1937) for the next 10 years (or such longer period if additional assistance is necessary to cover the costs referred to in paragraph (2)).

"SEC. 221. MANDATORY SALE FOR HOUSING EXCEEDING FEDERAL COST LIMITS. 12 USC 4111.

"(a) IN GENERAL.—With respect to any eligible low-income housing for which the aggregate preservation rents determined under section 214(b) exceed the Federal cost limit, the owner shall offer the housing for sale to qualified purchasers as provided in this section.

"(b) RIGHT OF FIRST REFUSAL TO PRIORITY PURCHASERS.—

"(1) DURATION AND REQUIRED SALE.—For the 12-month period beginning upon the receipt by the Secretary of the second notice of intent under section 216(d) with respect to such housing, the owner of the housing may offer to sell and may sell the housing only to priority purchasers. If, during such period, a priority purchaser makes a bona fide offer to purchase the housing for a sale price not less than the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

"(2) EXPRESSION OF INTEREST.—During the period under paragraph (1), priority purchasers shall have the opportunity to submit written notice to the owner and the Secretary stating their interest in acquiring the housing. Such written notice shall be in such form and include such information as the Secretary may prescribe.

"(3) INFORMATION FROM SECRETARY.—Not later than 30 days after receipt of any notice under paragraph (2), the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide such purchaser with appropriate information on the housing, as determined by the Secretary.

"(c) RIGHT OF REFUSAL FOR OTHER QUALIFIED PURCHASERS.—If no bona fide offer to purchase any eligible low-income housing subject

to this section that meets the requirements of subsection (b) is made during the period under such subsection, during the 3-month period beginning upon the expiration of the 12-month period under subsection (b)(1), the owner of the housing may offer to sell and may sell the housing only to qualified purchasers. If, during such period, a qualified purchaser makes a bona fide offer to purchase the housing for a sale price not less that the preservation value of the housing determined under section 213(b)(2), the Secretary shall require the owner to sell the housing pursuant to such offer.

"(d) ASSISTANCE.—

"(1) FEDERAL COST LIMIT.—Subject to the availability of amounts approved in appropriations Acts, the Secretary shall, for approvable plans of action, provide to qualified purchasers assistance under section 8 of the United States Housing Act of 1937 sufficient to produce a gross income potential equal to the amount determined by multiplying 120 percent of the prevailing rents in the relevant local market area in which the housing is located by the number of units in the project (according to appropriate unit sizes), and any other incentives authorized under section 219(b) that would have been provided to a qualified purchaser under section 220.

"(2) ADDITIONAL ASSISTANCE.—From amounts made available under section 234(b), the Secretary may make grants to assist in the completion of sales and transfers under this section to any qualified purchasers. Any grant under this paragraph shall be in an amount not exceeding the difference between the preservation value for the housing (determined under section 213(b)(2)) and the level of assistance under paragraph (1) of this subsection.

"(3) SECURING STATE AND LOCAL FUNDING.—The Secretary shall assist any qualified purchaser of such housing in securing funding and other assistance (including tax and assessment reductions) from State and local governments to facilitate a sale under this section.

12 USC 4112.

"SEC. 222. CRITERIA FOR APPROVAL OF PLAN OF ACTION INVOLVING INCENTIVES.

"(a) IN GENERAL.—The Secretary may approve a plan of action for extension of the low-income affordability restrictions on any eligible low-income housing or transfer the housing to a qualified purchaser (other than a resident council) only upon finding that—

"(1) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title;

"(2) binding commitments have been made to ensure that—

"(A) the housing will be retained as housing affordable for very low-income families or persons, low income families or persons, and moderate-income families or persons for the remaining useful life of such housing (as determined under subsection (c));

"(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing and that the project meets housing standards established by the Secretary under subsection (d), as determined by inspections conducted under such subsection by the Secretary;

"(C) current tenants will not be involuntarily displaced (except for good cause);

"(D) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937, whichever is lower, except that the rent contributions of any tenants occupying the housing at the time of any increase may not be reduced by reason of this subparagraph (except with respect to tenants receiving section 8 assistance in accordance with subparagraph (E)(ii) of this paragraph);

"(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

"(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

"(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriation Acts, if necessary to mitigate any adverse effect on current income-eligible very low- and low-income tenants; and

"(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, low-income families or persons, and moderate-income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

"(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle;

"(G) future rent adjustments shall be—

"(i) made by applying an annual factor (to be determined by the Secretary) to the portion of rent attributable to operating expenses for the housing and by making changes in the annual authorized return under section 214; and

"(ii) subject to a procedure, established by the Secretary, for owners to apply for rent increases not adequately compensated by annual adjustment under clause (i), under which the Secretary may increase rents in excess of the amount determined under clause (i) only if the Secretary determines such increases are necessary to reflect extraordinary necessary expenses of owning and maintaining the housing; and

"(H) any savings from reductions in operating expenses due to management efficiencies shall be deposited in project reserves for replacement and the owner shall have periodic access to such reserves, to the extent the Secretary determines that the level of reserves is adequate and that the housing is maintained in accordance with the standards established under section 222(d); and

"(3) no incentives under section 219 (other than to purchasers under section 220) may be provided until the Secretary determines the project meets housing standards under subsection (d), except that incentives under such section and other incentives designed to correct deficiencies in the project may be provided.

"(b) IMPLEMENTATION.—Any agreement to maintain the low-income affordability restrictions for the remaining useful life of the housing may be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage, or, in the case of the prepayment of a mortgage or voluntary termination of mortgage insurance, a recorded instrument.

"(c) DETERMINATION OF REMAINING USEFUL LIFE.—

"(1) DEFINITION.—For purposes of this title, the term 'remaining useful life' means, with respect to eligible low-income housing, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

"(2) STANDARDS.—The Secretary shall, by rule under section 553 of title 5, United States Code, establish standards for determining when the useful life of an eligible low-income housing project has expired. The determination shall be made on the record after opportunity for an hearing.

"(3) OWNER PETITION.—The Secretary shall establish a procedure under which owners of eligible low-income housing may petition the Secretary for a determination that the useful life of such housing has expired. The procedure shall not permit such a petition before the expiration of the 50-year period beginning upon the approval of a plan of action under this subtitle with respect to such housing. In making a determination pursuant to a petition under this paragraph, the Secretary shall presume that the useful life of the housing has not expired, and the owner shall have the burden of proof in establishing such expiration. The Secretary may not determine that the useful life of any housing has expired if such determination results primarily from failure to make regular and reasonable repairs and replacement, as became necessary.

"(4) TENANT AND COMMUNITY COMMENT AND APPEAL.—In making a determination regarding the useful life of any housing pursuant to a petition submitted under paragraph (3), the Secretary shall provide for comment by tenants of the housing and interested persons and organizations with respect to the petition. The Secretary shall also provide the tenants and interested persons and organizations with an opportunity to appeal a determination under this subsection.

"(d) HOUSING STANDARDS.—

Regulations.

"(1) ESTABLISHMENT AND INSPECTION.—The Secretary shall, by regulation, establish standards regarding the physical condition in which any eligible low income housing project receiving

incentives under this subtitle shall be maintained. The Secretary shall inspect each such project not less than annually to ensure that the project is in compliance with such standards.

"(2) SANCTIONS.—

"(A) IN GENERAL.—The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including—

"(i) directing the mortgagee, with respect to an equity take-out loan under section 241(f) of the National Housing Act, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the housing; and

"(ii) reduce the amount of the annual authorized return, as determined by the Secretary, for the period ending upon a determination by the Secretary that the project is in compliance with the standards and requiring that such amounts be used for repair.

"(B) CONTINUED COMPLIANCE.—To ensure continued compliance with the standards for a project subject to any action under subparagraph (A), the Secretary may also limit access of the owner to such amounts and use of such amounts for not more than the 2-year period beginning upon the determination that project is in compliance with the standards.

"(C) REMOVAL OF ASSISTANCE.—If, upon inspection, the Secretary determines that any eligible low income housing project has failed to comply with the standards established under this subsection for 2 consecutive years, the Secretary may take 1 or more of the following actions:

"(i) Subject to availability of amounts provided in appropriations Acts, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the housing) for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in the housing vacated pursuant to the provision of assistance under this clause, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.

"(ii) In the case of housing for which an equity take-out loan has been made under section 241(f) of the National Housing Act, declare such loan to be default and accelerate the maturity date of the loan.

"(iii) Declare any rehabilitation loan insured or provided by the Secretary (with respect to the housing) to be in default and accelerate the maturity date of the loan.

"(iv) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937.

"(v) Take any other action authorized by law or the project regulatory agreement to ensure that the hous-

ing will be brought into compliance with the standards established under this subsection.

"(e) WINDFALL PROFITS.—The Secretary shall submit a report to the Congress not later than 90 days after the enactment of the Cranston-Gonzalez National Affordable Housing Act, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 212. To prevent payment of windfall profits, the Secretary may make available incentive payments under section 219 or 220 only to owners in those rental markets where there is an inadequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation or where necessary to accomplish the other public policy objectives under this subtitle. The Secretary shall implement this subsection in a manner consistent with the process established by this subtitle.

12 USC 4113.

"SEC. 223. ASSISTANCE FOR DISPLACED TENANTS.

"(a) SECTION 8 ASSISTANCE.—Each low-income family that is displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing shall, subject to the availability or amounts provided under appropriations Acts, receive assistance under the certificate and voucher programs under sections 8(b) and 8(o) of the United States Housing Act of 1937. To the extent sufficient amounts are made available under appropriations Acts, in each fiscal year the Secretary shall reserve from amounts made available under section 234(a) of this Act or, if necessary, under section 5(c) of the United States Housing Act of 1937, such amounts as the Secretary determines are necessary to provide assistance payments for low-income families displaced during the fiscal year.

"(b) RELOCATION ASSISTANCE.—The Secretary shall coordinate with public housing agencies to ensure that any very low- or low-income family displaced from eligible low-income housing as the result of the prepayment of the mortgage (or termination of the mortgage insurance contract) on such housing is able to acquire a suitable, affordable dwelling unit in the area of the housing from which the family is displaced. The Secretary shall require the owner of such housing to pay 50 percent of the moving expenses of each family relocated, except that such percentage shall be increased to the extent that State or local law of general applicability requires a higher payment by the owner.

"(c) CONTINUED OCCUPANCY.—

"(1) IN GENERAL.—Each owner that prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing shall, as provided in paragraph (3), allow the tenants occupying units in such housing on the date of the submission of notice of intent under section 212 to remain in the housing for a period of 3 years, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment.

"(2) PROVISION OF ASSISTANCE BY OWNER.—In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit

in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

"(3) APPLICABILITY TO LOW-VACANCY AREAS AND SPECIAL NEEDS TENANTS.—The provisions of this subsection shall apply only to—

"(A) eligible low income housing located in a low-vacancy area (as such term is defined by the Secretary); and

"(B) tenants in any eligible low-income housing in any area who have special needs restricting their ability to relocate (including elderly tenants and tenants with disabilities), as determined under regulations established by the Secretary.

"(d) REQUIRED ACCEPTANCE OF SECTION 8 ASSISTANCE.—An owner who prepays the mortgage (or terminates the mortgage insurance contract) on eligible low-income housing and maintains the housing for residential rental occupancy may not refuse to rent, refuse to negotiate for the rental of, or otherwise make unavailable or deny the rent of a dwelling unit in such property to any person, or discriminate against any person in the terms, conditions, or privileges of rental of a dwelling (or in the provision of services or facilities in connection therewith), because the person receives assistance under section 8 of United States Housing Act of 1937.

"(e) REGIONAL POOLS.—In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low-income housing or the termination of an insurance contract on such housing.

"SEC. 224. PERMISSIBLE PREPAYMENT OR VOLUNTARY TERMINATION AND MODIFICATION OF COMMITMENTS. 12 USC 4114.

"(a) IN GENERAL.—Notwithstanding any limitations on prepayment or voluntary termination under this subtitle, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination, subject to compliance with the provisions of section 223, under one of the following circumstances:

"(1)(A) The Secretary approves a plan of action under section 219(a), but does not provide the assistance approved in such plan during the 15-month period beginning on the date of approval.

"(B) After the date that the housing would have been eligible for prepayment pursuant to the terms of the mortgage (notwithstanding this subtitle), the Secretary approves a plan of action under section 220 or 221, but does not provide the assistance approved in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 6-month period beginning on the date of approval.

"(C) The Secretary approves a plan of action under section 220 or 221 for any eligible low-income housing not covered by subparagraph (B), but does not provide the assistance approved

in such plan before the earlier of (i) the expiration of the 2-month period beginning on the commencement of the 1st fiscal year beginning after such approval, or (ii) the expiration of the 9-month period beginning on the date of approval.

"(2) An owner who intended to transfer the housing to a qualified purchaser under section 220 or 221, and fully complied with the provisions of such section, did not receive any bona fide offers from any qualified purchasers within the applicable time periods.

In the event that the purchaser under the plan of action is unable to consummate the purchase for reasons other than the failure of the Secretary to provide incentives, an owner may terminate the low-income affordability restrictions through prepayment or voluntary termination subject to the provisions of sections 220 and 221.

"(b) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

"(1) MODIFICATION OF COMMITMENTS.—Modify the binding commitments made pursuant to section 222(a)(2) that are dependent on such rental assistance.

"(2) TERMINATION OF PLAN OF ACTION.—Permit the owner to prepay the mortgage and terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to comply with provisions of section 223.

At least 30 days before making a request under this subsection, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under section 222(a)(2).

12 USC 4115.

"SEC. 225. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

"(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan may be revised to meet the criteria for approval.

"(b) NOTIFICATION OF APPROVAL.—

"(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

"(A) the reasons for withholding approval; and

"(B) the actions that could be taken to meet the criteria for approval.

"(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

"(c) DELAYED APPROVAL.—If the Secretary does not approve a plan of action within the period under subsection (b), the Secretary shall provide incentives and assistance under this subtitle in the amount that the owner would have received if the Secretary had complied with such time limitations. The preceding sentence shall not apply if the plan of action was not approved because of deficiencies. An owner may bring an action in the appropriate Federal district court to enforce this subsection.

"SEC. 226. RESIDENT HOMEOWNERSHIP PROGRAM. 12 USC 4116.

"(a) FORMATION OF RESIDENT COUNCIL.—Tenants seeking to purchase eligible low-income housing in accordance with section 220 shall organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof). Such organization or public body shall have experience to enable it to help the tenants consider their options and to develop the capacity necessary to own and manage the housing, where appropriate, and shall be approved by the Secretary.

"(b) OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.—

"(1) SALES TO RESIDENTS.—As a condition of approval of a plan of action involving homeownership program under this subtitle, the resident council shall prepare a workable plan acceptable to the Secretary for giving all residents an opportunity to become owners, which plan shall identify—

"(A) the price at which the resident council intends to transfer ownership interests in, or shares representing, units in the housing;

"(B) the factors that will influence the establishment of such price;

"(C) how such price compares to the estimated appraised value of the ownership interests or shares;

"(D) the underwriting standard the resident council plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

"(E) the financing arrangements the tenants are expected to pursue or be provided; and

"(F) a workable schedule of sale (subject to the limitations of paragraph (8)) based on estimated tenant incomes.

"(2) APPROVAL OF METHOD OF CONVERSION.—The Secretary shall approve the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(3) REQUIRED CONDITIONS.—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

"(A) the number of initial owners that are very low-income, lower income, or moderate-income persons at initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the project are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit it acquires.

"(4) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 220, subject to availability under appropriations Acts. Such entity shall keep, and make available to the Secretary, all records necessary to calculate accurately payments due the Secretary under this paragraph.

"(5) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(A) IN GENERAL.—

"(i) TRANSFER PERMITTED.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit, except that a homeownership program may establish restrictions on the resale of units under the program.

"(ii) RIGHT TO PURCHASE.—Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer.

"(iii) PROMISSORY NOTE REQUIRED.—The homeowner shall execute a promissory note equal to the difference, if any, between the market value and the purchase price, payable to the Secretary, together with a mortgage securing the obligation of the note.

"(B) 6 YEARS OR LESS.—In the case of a transfer within 6 years of the acquisition under the program, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for limiting the family's consideration for its interest in the property to the total of—

"(i) the contribution to equity paid by the family;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any

improvements installed at the expense of the family during the family's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity.

Such an entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed.

"(C) 6-20 YEARS.—In the case of a transfer during the period beginning 6 years after the acquisition and ending 20 years after the acquisition, the homeownership program shall provide for the recapture by the Secretary or the program of an amount equal to the amount of the declining balance on the note described in subparagraph (A)(iii).

"(D) USE OF RECAPTURED FUNDS.—Any net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to this paragraph shall be paid to the HOME Investment Trust Fund for the unit of general local government in which the housing is located. If the housing is located in a unit of general local government that is not a participating jurisdiction (as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act), any such net sales proceeds shall be paid to the HOME Investment Trust Fund for the State in which the housing is located. With respect to any proceeds transferred to a HOME Investment Trust Fund under this subparagraph, the Secretary shall take such actions as are necessary to ensure that the proceeds shall be immediately available for eligible activities to expand the supply of affordable housing under section 212 of the Cranston-Gonzalez National Affordable Housing Act. The Secretary shall require the maintenance of any records necessary to calculate accurately payments due under this paragraph.

"(6) PROTECTION OF NONPURCHASING FAMILIES.—

"(A) EVICTION.—No tenant residing in a dwelling unit in a property on the date the Secretary approves a plan of action may be evicted by reason of a homeownership program approved under this subtitle.

"(B) RENTAL ASSISTANCE.—If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (that meets the eligibility requirements under such section) in that or another property. The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) RELOCATION ASSISTANCE.—The resident council shall also inform each such tenant that if the tenant chooses to

move, the owner will pay relocation assistance in accordance with the approved homeownership program.

"(7) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this subtitle, the resident council shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(8) TIMELY HOMEOWNERSHIP.—Resident councils shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the resident council shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of providing housing for very low-income families. The resident council shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(9) RECORDS AND AUDIT OF RESIDENT COUNCILS.—

"(A) MAINTENANCE.—Each resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under this subtitle (including any proceeds from sales under paragraphs (4) and (5)(D)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(B) ACCESS.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(C) AUDIT.—The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(10) ASSUMPTION CONDITIONS.—Any entity that assumes, as determined by the Secretary, a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing as determined under section 222(d). This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

12 USC 4117.

"SEC. 227. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

"(a) IN GENERAL.—In addition to any responsibilities delegated under section 213(c), the Secretary shall delegate some or all responsibility for implementing this subtitle to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

"(b) APPROVAL.—State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain—

"(1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subtitle within 5 years;

"(2) a description of the agency's experience in the area of multifamily financing and restructuring;

"(3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this subtitle;

"(4) a description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with this subtitle;

"(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

"(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

"(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subtitle.

"(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into any agreements necessary to implement an approved State preservation plan, which may include incentives that are authorized under other provisions of this subtitle.

"SEC. 228. CONSULTATIONS WITH OTHER INTERESTED PARTIES. 12 USC 4118.

"The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under this subtitle. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subtitle.

"SEC. 229. DEFINITIONS. 12 USC 4119.

"For purposes of this subtitle:

"(1) The term 'eligible low-income housing' means any housing financed by a loan or mortgage—

"(A) that is—

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'Federal cost limit' means, for any eligible low-income housing, the amount determined under section 215(a).

"(3) The term 'low-income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

"(4) The terms 'low-income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for low-income families and very low-income families, respectively, under section 3(b)(2) of the United States Housing Act of 1937.

"(5) The term 'moderate-income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(6) The term 'nonprofit organization' means any private, nonprofit organization that—

"(A) is organized or chartered under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

"(7) The term 'owner' means the current or subsequent owner or owners of eligible low-income housing.

"(8) The term 'preservation equity' means, for any eligible low-income housing—

"(A) for purposes of determining the authorized return under section 214(a) and providing incentives to extend the low-income affordability restrictions on the housing under section 219—

"(i) the preservation value of the housing determined under section 213(b)(1); less

"(ii) any debt secured by the property; and

"(B) for purposes of determining incentives under section 220 and 221 and determining the amount of an acquisition loan under the provisions of section 241(f)(3) of the National Housing Act—

"(i) the preservation value of the housing determined under section 213(b)(2); less

"(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.

"(9) The term 'preservation value' means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 213(b).

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the resident of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the housing.

"SEC. 230. NOTICE TO TENANTS. 12 USC 4120.

"Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

"SEC. 231. DEFINITIONS OF QUALIFIED AND PRIORITY PURCHASER AND RELATED PARTY RULE. 12 USC 4121.

"(a) PRIORITY PURCHASER.—The term 'priority purchaser' means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 231; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)).

"(b) QUALIFIED PURCHASER.—The term 'qualified purchaser' means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)), and includes for-profit entities and priority purchasers.

"(c) RELATED PARTIES.—Except as provided in subsection (d), the terms 'qualified purchaser' and 'priority purchaser' do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subtitle, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

"(d) MANAGEMENT EXCEPTION.—A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm's length basis.

"SEC. 232. PREEMPTION OF STATE AND LOCAL LAWS. 12 USC 4122.

"(a) IN GENERAL.—No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

"(1) restricts or inhibits the prepayment of any mortgage described in section 229(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

"(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 214;

"(3) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

"(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low-income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

"(b) EFFECT.—This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle and relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act that prevent or limit an owner of eligible low-income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

12 USC 4123.

"SEC. 233. SEVERABILITY.

"If any provision of this subtitle, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.

12 USC 4124.

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle $425,000,000 for fiscal year 1991 and $858,000,000 for fiscal year 1992.

"(b) GRANTS.—Of the amounts made available under subsection (a), not more than $100,000,000 for each of fiscal years 1991 and 1992 shall be available for grants under section 221(d)(2), subject to approval in appropriations Acts.

12 USC 4101 note.

"SEC. 235. APPLICABILITY.

"Subject to section 605 of the Cranston-Gonzalez National Affordable Housing Act, the requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987.".

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking the items relating to subtitles A and B of title II and inserting the following:

"Subtitle A—Short Title

"Sec. 201. Short title.

"Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

"Sec. 211. General prepayment limitation.
"Sec. 212. Notice of intent.
"Sec. 213. Appraisal and preservation value of eligible low-income housing.
"Sec. 214. Annual authorized return and preservation rents.
"Sec. 215. Federal cost limits and limitations on plans of action.
"Sec. 216. Information from Secretary.
"Sec. 217. Plan of action.
"Sec. 218. Prepayment and voluntary termination.
"Sec. 219. Incentives to extend low-income use.
"Sec. 220. Incentives for transfer to qualified purchasers.
"Sec. 221. Mandatory sale for housing exceeding Federal cost limits.
"Sec. 222. Criteria for approval of plan of action involving incentives.
"Sec. 223. Assistance for displaced tenants.
"Sec. 224. Permissible prepayment or voluntary termination and modification of commitments.
"Sec. 225. Timetable for approval of plan of action.
"Sec. 226. Resident homeownership program.
"Sec. 227. Delegated responsibility to State agencies.
"Sec. 228. Consultations with other interested parties.
"Sec. 229. Definitions.
"Sec. 230. Notice to tenants.
"Sec. 231. Definitions of qualified and priority purchasers and related party rule.
"Sec. 232. Preemption of State and local laws.
"Sec. 233. Severability.
"Sec. 234. Authorization of appropriations.
"Sec. 235. Applicability.".

SEC. 602. RELATED NATIONAL HOUSING ACT AMENDMENTS.

(a) INSURANCE FOR SECOND MORTGAGE FINANCING.—Section 241(f) of the National Housing Act is amended to read as follows: 12 USC 1715z-6.

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans and acquisition loans made by financial institutions approved by the Secretary and State housing finance agencies that enter into risk-sharing agreements with the Secretary.

"(2)(A) For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) who agrees to extend the low-income affordability restrictions on the housing pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an equity loan shall—

"(i) be limited to an amount equal to the lesser of (I) 70 percent of the preservation equity in the project, as determined by the Secretary under such Act, or (II) the amount the Secretary determines can be supported by the project on the basis of an 8 percent return on the preservation equity (assuming normal debt service coverages); and

"(ii) provide for the lender to deposit (on behalf of the borrowing owner) 10 percent of the loan amount in an escrow account, controlled by the Secretary or a State housing finance agency approved by the Secretary, which shall be made available to the owner upon the expiration of the 5-year period beginning on the date the loan is made, subject to compliance with section 222(d) of such Act; and

"(3)(A) For purposes of this section, the term 'acquisition loan' means a loan or advance of credit to a qualified purchaser of eligible low-income housing (as defined in section 231 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) acquiring the housing under section 220 or 221 of such Act who agrees to extend the low-income affordability restrictions pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an acquisition loan shall be limited to 95 percent of the preservation equity of the housing determined under section 229(8) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, except that the loan may include, if the qualified purchaser is a priority purchaser as defined under section 231 of such Act, any expenses associated with the acquisition, loan closing, and implementation of the plan of action, subject to approval by the Secretary.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this subsection, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligations of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity or acquisition loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity or acquisition loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity or acquisition loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

"(5) Loans insured under this subsection shall—

"(A) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and

"(B) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(6) The Secretary may provide for combination of loans insured under subsection (d) with equity and acquisition loans insured under this subsection.

"(7) When underwriting an equity or acquisiton loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 222 of the Cranston-Gonzalez National Affordable Housing

Act will be extended for the full term of the contract entered into under such Act. The Secretary may accelerate repayment of a loan under this subsection if rental assistance is not extended under section 222(b) of such Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.

"(8) If the Secretary is unable to extend the term of rental assistance for the full term of the contract entered into under section 222(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary may take such actions as the Secretary determines to be appropriate to avoid default, avoid disruption of the sound ownership and management of the housing, and otherwise minimize the cost to the Federal Government.

"(9) A mortgagee approved by the Secretary may not withhold consent to an equity or acquisition loan on a property on which that mortgagee holds a mortgage.

(b) APPROVAL PRIOR TO FORECLOSURE.—Section 250(b) of such Act (12 U.S.C. 1715z-15(b) is amended to read as follows:

"(b) A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project (as such term is defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.".

(c) REPEALER.—Section 250(c) of such Act is hereby repealed, and section 250(d) is redesignated as section 250(c).

SEC. 603. RELATED UNITED STATES HOUSING ACT OF 1937 AMENDMENTS.

Section 89(v)(2) of the United States Housing Act of 1937 is amended by striking out "Emergency Low Income Housing Preservation Act of 1987" and inserting "Low-Income Housing Preservation and Resident Homeownership Act of 1990". 42 USC 1437f.

SEC. 604. TRANSITION PROVISIONS. 12 USC 4101 note.

(a) HOUSING ELIGIBLE FOR ELECTION.—Any owner of housing that becomes eligible low-income housing before January 1, 1991 and who, before such date, filed a notice of intent under section 222 of the Emergency Low Income Housing Preservation Act of 1987 (as such section existed before the date of the enactment of this Act) or under section 212 of such Act (as amended by section 601(a)) may elect to be subject to (1) the provisions of such Act as in effect before the date of the enactment of this Act, or (2) the provisions of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, after the date of the enactment of this Act. The Secretary shall establish procedures for owners to make the election under the preceding sentence.

(b) RIGHT OF CONVERSION TO NEW SYSTEM.—Any owner who has filed a plan of action on or before October 11, 1990, shall have the right to convert to the system of incentives and restrictions under this subtitle, with such adjustments as the Secretary determines to be appropriate to compensate for the value of any incentives the owner received under the Emergency Low Income Housing Preservation Act of 1987. Owners filing plans after such date shall not have any right under this subsection.

(c) EFFECTIVENESS OF REPEALED PROVISIONS.—Notwithstanding the amendment made by section 601(a), the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect imme-

diately before the date of the enactment of this Act) shall apply with respect to any housing for which the election under subsection (a)(1) is made.

(d) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, subject to the provisions of section 553 of title 5, United States Code, publish proposed rules to implement this subtitle and the amendments made by this subtitle. Not later than 45 days after the expiration of the period under the preceding sentence the Secretary shall issue interim or final rules to implement such provisions.

12 USC 4101 note.

SEC. 605. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

Subtitle B—Other Preservation Provisions

SEC. 611. SECTION 236 RENTAL ASSISTANCE.

(a) DEFINITION OF INCOME.—Section 236(m) of the National Housing Act (12 U.S.C. 1715z-1) is amended by inserting before the period at the end of the first sentence the following: ", except that any amounts not actually received by the family may not be considered as income under this subsection".

(b) RENT CHARGES.—

(1) PROJECTS ASSISTED UNDER SECTION 236.—Section 236(f) of the National Housing Act (12 U.S.C. 1715z-1(f)) is amended by adding at the end the following new paragraph:

"(5)(A) In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

"(i) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

"(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

"(B) Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.".

(2) INSURED PROJECTS.—Section 221(f) of the National Housing Act (12 U.S.C. 1715*l*(f)) is amended by adding at the end the following new undesignated paragraph:

"In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the

Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

"(A) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937;

"(B) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(C) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

Assistance under section 8 of the United States Housing Act of 1937 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.".

SEC. 612. MANAGEMENT AND PRESERVATION OF FEDERALLY ASSISTED HOUSING.

(a) SECTION 236.—Section 236(f) of the National Housing Act, as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(6)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located.

"(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1).".

(b) SECTION 221.—Section 221 of the National Housing Act is amended by inserting the following new subsection after subsection (k): 12 USC 1715*l*.

"(l)(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

"(2) For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5).".

SEC. 613. ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.

(a) SECTION 8 ASSISTANCE.—

(1) AUTHORITY.—Section 8(d)(2)(A)) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the period at the end the following: "Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph.".

(2) CONTRACT TERM.—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended by inserting after the period at the end the following: "To the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years.".

12 USC 4125.

(b) STATE PRESERVATION PROJECT ASSISTANCE.—

(1) IN GENERAL.—Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal use restrictions under subtitle B of title II of the Housing and Community Development Act of 1987.

(2) SECTION 8.—Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional

assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under section 224(e) of the Housing and Community Development Act of 1987. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low-income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) RESTRICTION.—Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1991 and 1992, in aggregate amounts not to exceed $2,125,800,000 and $2,217,150,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low-income borrowers receiving assistance under section 521(a)(1), $1,391,300,000 for fiscal year 1991 and $1,451,100,000 for fiscal year 1992.

"(B) For guaranteed loans under section 502(h) on behalf of low and moderate income borrowers, such sums as may be appropriated for fiscal years 1991 and 1992.

"(C) For loans under section 504, $11,900,000 for fiscal year 1991 and $12,400,000 for fiscal year 1992.

"(D) For insured loans under section 514, $12,000,000 for fiscal year 1991 and $12,500,000 for fiscal year 1992.

"(E) For insured loans under section 515, $709,000,000 for fiscal year 1991 and $739,500,000 for fiscal year 1992.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1991 and $800,000 for fiscal year 1992.

"(G) For site loans under section 524, $800,000 for fiscal year 1991 and $850,000 for fiscal year 1992.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1991 and 1992, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,000,000 for fiscal year 1991 and $1,100,000 for fiscal year 1992.

"(2) For grants under section 504, $20,200,000 for fiscal year 1991 and $21,100,000 for fiscal year 1992.

"(3) For purposes of section 509(c), $550,000 for fiscal year 1991 and $600,000 for fiscal year 1992.

"(4) For project preparation grants under section 509(f)(6), $5,000,000 in fiscal year 1991 and $5,300,000 in fiscal year 1992.

"(5) In fiscal years 1991 and 1992, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $20,900,000 for fiscal year 1991 and $21,700,000 for fiscal year 1992; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,000,000 for fiscal year 1991 and $10,500,000 for fiscal year 1992.

"(7) For grants under section 523(f), $13,400,000 for fiscal year 1991 and $13,900,000 for fiscal year 1992.

"(8) For grants under section 533, $29,600,000 for fiscal year 1991 and $30,800,000 for fiscal year 1992.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $397,000,000 for fiscal year 1991 and $414,100,000 for fiscal year 1992.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1991 and 1992, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating $5,200,000 for fiscal year 1991 and $5,500,000 for fiscal year 1992.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(f) MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.—Section 523(f) of the Housing Act of 1949 (42 U.S.C. 1490c(f)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

SEC. 702. EFFECT OF FOSTER CARE CHILDREN IN DETERMINATION OF FAMILY COMPOSITION AND SIZE.

Section 501(b)(4) of the Housing Act of 1949 (42 U.S.C. 1471(b)(4)) is amended by inserting after the period at the end the following new sentence: "The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size.".

SEC. 703. ESCROW ACCOUNTS.

Section 501(e) of the Housing Act of 1949 (42 U.S.C. 1471(e)) is amended by inserting after the third sentence the following: "The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds, subject to appropriations to the extent that additional budget authority is necessary to carry out this sentence.".

SEC. 704. REMOTE RURAL AREAS.

(a) IN GENERAL.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472) is amended by adding at the end the following new subsection:

"(f) REMOTE RURAL AREAS.—

"(1) LOAN SUPPLEMENTS.—The Secretary may supplement any loan under this section to finance housing located in a remote rural area with a grant in an amount not greater than the amount by which the reasonable land acquisition and construction costs of the security property exceeds the appraised value of such property.

"(2) PROHIBITION.—The Secretary may not refuse to make, insure, or guarantee a loan that otherwise meets the requirements under this section solely on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote.".

(b) REGULATIONS.—Not later than the expiration of the 120-day period beginning on the date of enactment of this Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a). 42 USC 1472 note.

SEC. 705. SECTION 502 DEFERRED MORTGAGE DEMONSTRATION.

(a) IN GENERAL.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(g) DEFERRED MORTGAGE DEMONSTRATION.—

"(1) AUTHORITY.—With respect to families or persons otherwise eligible for assistance under subsection (d) but having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes and insurance. Deferred mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 25 percent of the amount of the payment due at 1 percent interest and shall be subject to recapture.

"(2) INTEREST.—Interest on principal deferred shall be set at 1 percent and any interest payments deferred under this subsection shall not be treated as principal in calculating indebtedness.

"(3) FUNDING.—Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1991 and 1992 for loans under this section may be used to carry out this subsection.".

(b) REGULATIONS.—Not later than the expiration of the 120-day period beginning on the date of enactment of this Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by subsection (a). 42 USC 1472 note.

42 USC 1472 note.

SEC. 706. RURAL HOUSING LOAN GUARANTEES.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds that—

(A) the Federal Government should encourage support for homeownership through nonsubsidized mortgage loans guaranteed by the Secretary of Agriculture for the purchase of modest homes located in rural areas and small communities of the country that are not adequately served by private conventional, federally insured, or guaranteed mortgage credit providers; and

(B) many rural areas contain disproportionate amounts of substandard housing in need of repair, but lack the necessary funding and support to modernize such housing through preservation.

(2) PURPOSE.—The purpose of this section is to expand homeownership opportunities to low- and moderate-income residents of rural areas of the country through the establishment of guaranteed rural housing loans to be made available in rural locations where there is an insufficient availability of mortgage financing from other sources.

(b) GUARANTEED LOANS FOR HOUSING ACQUISITION.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1472), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(h) GUARANTEED LOANS.—

"(1) AUTHORITY.—The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A), except as modified by the provisions of this subsection. Loans shall be guaranteed under this subsection in an amount equal to 90 percent of the loan.

"(2) ELIGIBLE BORROWERS.—Loans guaranteed pursuant to this subsection shall be made only to borrowers who are low or moderate income families or persons, whose incomes do not exceed the median income of the area, as determined by the Secretary.

"(3) ELIGIBLE HOUSING.—Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is—

"(A) to be used as the principal residence of the borrower;

"(B) eligible for assistance under this section, section 203(b) of the National Housing Act, or chapter 37 of title 38, United States Code; and

"(C) located in a rural area that is more than 25 miles from an urban area or densely populated area.

"(4) PRIORITY AND COUNSELING FOR FIRST-TIME HOMEBUYERS.—

"(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (12)(A)).

"(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 and obtain certification from the provider of the

program that the borrower is adequately prepared for the obligations of homeownership.

"(5) ELIGIBLE LENDERS.—Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

"(6) LOAN TERMS.—Loans guaranteed pursuant to this subsection shall—

"(A) be made for a term not to exceed 30 years;

"(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the rate for loans guaranteed under chapter 37 of title 38, United States Code, or comparable loans in the area that are not guaranteed; and

"(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)—

"(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act; and

"(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less.

"(7) GUARANTEE FEE.—With respect to a guaranteed loan under this subsection, the Secretary may collect from the lender at the time of issuance of the guarantee a fee equal to not more than 1 percent of the principal obligation of the loan.

"(8) REFINANCING.—Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

"(9) NONASSUMPTION.—Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

"(10) GEOGRAPHICAL TARGETING.—In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low and moderate income families.

"(11) ALLOCATION.—The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

"(12) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and

"(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(B) The term 'first-time homebuyer' means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that—

"(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

"(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

"(C) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(D) The term 'State' means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.".

(c) CONFORMING AMENDMENTS.—Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended—

(1) by inserting "(A)" after "Secretary"; and

(2) by striking "Act and" and inserting the following: "Act; (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949; and (C)".

42 USC 1472 note. Federal Register, publication.

(d) REGULATIONS AND IMPLEMENTATION.—

(1) PROPOSED REGULATIONS AND COMMENT PERIOD.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register proposed regulations to implement the amendments made by this section. The Secretary shall receive comments regarding the regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to implement the amendments made by this section. The Secretary shall provide for the regulations to

take effect not later than 30 days after the date on which the regulations are issued.

(3) APPLICABILITY.—The amendments made by this section shall not apply to guaranteed loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) made before the date on which the final regulations issued by the Secretary under paragraph (2) take effect.

(4) CONSULTATION.—In developing and promulgating the regulations under paragraphs (1) and (2), the Secretary of Agriculture shall consult with the chairperson of the Federal Agricultural Mortgage Corporation and shall solicit the views of borrowers, lenders, realtors, and homebuilders experienced and knowledgeable regarding housing in rural areas to provide that the regulations promulgated ensure that guaranteed loans pursuant to the amendments made by this section—

(A) are made in a manner that is cost-effective; and

(B) are made in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders.

SEC. 707. FORECLOSURE PROCEDURES.

(a) IN GENERAL.—Section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended—

(1) by inserting "(a) MORATORIUM.—" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) FORECLOSURE PROCEDURE.—In foreclosing on any mortgage held by the Secretary under this title, the Secretary shall follow the foreclosure procedures of the State in which the property involved is located to the extent such procedures are more favorable to the borrower than the foreclosure procedures that would otherwise be followed by the Secretary. This subsection shall be subject to the availability of amounts approved in appropriations Acts, to the extent additional budget authority is necessary to carry out this subsection.".

(b) CONFORMING AMENDMENT.—The section heading for section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended to read as follows:

"LOAN PAYMENT MORATORIUM AND FORECLOSURE PROCEDURES".

SEC. 708. DISPOSITION OF INTERESTS ON INDIAN TRUST LAND.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.".

SEC. 709. HOUSING IN UNDERSERVED AREAS.

42 USC 1479 note.

(a) PURPOSE.—The purpose of this section is to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs, including extremely distressed areas in the Lower Mississippi Delta and other regions of the Nation, by directing Farmers Home Administration assistance toward designated underserved areas.

(b) ASSISTANCE FOR UNDERSERVED AREAS.—Section 509 of the Housing Act of 1949 (42 U.S.C. 1479), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(f) HOUSING IN UNDERSERVED AREAS.—

"(1) DESIGNATION OF UNDERSERVED AREA.—The Secretary shall designate as targeted underserved areas 100 counties and communities in each of fiscal years 1991 and 1992 that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 5-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this title that is substantially lower than the average annual amount of such assistance received during that 5-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has—

"(A) 20 percent or more of its population at or below the poverty level; and

"(B) 10 percent or more of its population residing in substandard housing.

As used in this paragraph, the term 'poverty level' has the meaning given the term in section 102(a)(9) of the Housing and Community Development Act of 1974.

"(2) PREFERENCES.—In selecting projects to receive assistance with amounts set aside under paragraph (4), the Secretary shall give preference to any project located in a county or community that has, at the time of designation and as determined by the Secretary—

"(A) 28 percent or more of its population at or below poverty level; and

"(B) 13 percent or more of its population residing in substandard housing.

"(3) OUTREACH PROGRAM AND REVIEW.—

Public information.

"(A) OUTREACH.—The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(B) REVIEW.—Upon the receipt of data from the 1990 decennial census, the Secretary shall conduct a review of any designations made under paragraph (1) and preferences given under paragraph (2) and the eligibility of communities and counties for such designation and preference, examining the effects of such data on such eligibility. The Secretary shall submit to the Congress, not later than 9 months after the availability of the data, a report regarding the review, which shall include any recommendations of

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the Secretary for modifications in the standards for designation and preference.

"(4) SET-ASIDE FOR TARGETED UNDERSERVED AREAS AND COLONIAS.—

"(A) IN GENERAL.—The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992 of the aggregate amount of lending authority under sections 502, 504, 514, 515, and 524. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under sections 514 and 515 that is set aside for such fiscal year. The Secretary shall establish a procedure to reallocate any assistance set aside in any fiscal year for targeted underserved areas that has not been expended during a reasonable period in such year for use in (i) colonias that have applied for and are eligible for assistance under subparagraph (B) or paragraph (7) and did not receive assistance, and (ii) counties and communities eligible for designation as targeted underserved areas but which were not so designated. The procedure shall also provide that any assistance reallocated under the preceding sentence that has not been expended by a reasonable date established by the Secretary (which shall be after the expiration of the period referred to in the preceding sentence) shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.

"(B) PRIORITY FOR COLONIAS.—

"(i) Notwithstanding the designation of counties and communities as targeted underserved areas under paragraph (1) and the provisions of section 520, colonias shall be eligible for assistance with amounts reserved under subparagraph (A), as provided in this subparagraph.

"(ii) In providing assistance from amounts reserved under this paragraph in each fiscal year, the Secretary shall give priority to any application for assistance to be used in a colonia located in a State described under clause (iii). After the Secretary has provided assistance under the priority for colonias located in a State in an amount equal to 5 percent of the total amount of assistance allocated under this title to such State in the fiscal year, the priority shall not apply to any applications for colonias in such State.

"(iii) This paragraph shall apply to any State for any fiscal year following 2 fiscal years in which the State obligated the total amount of assistance allocated to it under this title during each of such 2 fiscal years.

"(5) LIST OF UNDERSERVED AREAS.—The Secretary shall publish annually the current list of targeted underserved areas in the Federal Register. Federal Register, publication.

"(6) PROJECT PREPARATION ASSISTANCE.—

"(A) IN GENERAL.—The Secretary may make grants to eligible applicants under subparagraph (D) to promote the

development of affordable housing in targeted underserved areas and colonias.

"(B) USE.—A grant under this paragraph shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs incurred in preparing an application for a loan under section 502, 504, 514, 515, or 524, or a grant under section 533 (including preapplication planning, site analysis, market analysis, and other necessary technical assistance). The Secretary shall adjust the loan or grant amount under such sections to take account of project preparation costs that have been paid from grant proceeds under this paragraph and that normally would be reimbursed with proceeds of the loan or grant.

"(C) APPROVAL.—The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

"(D) ELIGIBILITY.—For purposes of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a community housing development organization, State, unit of general local government, or agency of a State or unit of general local government.

"(E) AVAILABILITY OF FUNDING.—Any amounts appropriated to carry out this paragraph shall remain available until expended.

"(7) PRIORITY FOR COLONIAS.—

"(A) IN GENERAL.—In providing assistance under this title in any fiscal year described under subparagraph (B), each State in which colonias are located shall give priority to any application for assistance to be used in a colonia. The priority under this subparagraph shall not apply in such State after 5 percent of the assistance available in such fiscal year has been allocated for colonias qualifying for the priority.

"(B) COVERED YEARS.—This paragraph shall apply to any fiscal year following 2 fiscal years in which the State did not obligate the total amount of assistance allocated it under this title during each of such 2 fiscal years.

"(8) DEFINITION OF COLONIA.—For purposes of this subsection, the term 'colonia' means any identifiable community that—

"(A) is in the State of Arizona, California, New Mexico, or Texas;

"(B) is in the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000;

"(C) is designated by the State or county in which it is located as a colonia;

"(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

"(E) was in existence and generally recognized as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

42 USC 1479 note.

(c) REGULATIONS.—Not later than the expiration of the 120-day period beginning on the date of enactment of the Cranston-Gonzalez

National Affordable Housing Act, the Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by this section.

SEC. 710. RURAL HOUSING INVENTORY.

(a) TRANSFER FOR USE UNDER SECTION 514.—Section 510(e)(3) of the Housing Act of 1949 (42 U.S.C. 1480(e)(3)) is amended by inserting after "fifty years" the following: ", or for use as rental units under section 514 with mortgages containing repayment terms with up to 33 years,".

(b) TRANSFER TO FOR-PROFIT ENTITIES.—Section 510(e) of the Housing Act of 1949 is further amended by striking "or public bodies" and inserting ", public bodies, or for-profit entities, which have good records of providing low income housing under section 515".

SEC. 711. RIGHTS OF APPEAL.

Section 510(g) of the Housing Act of 1949 (42 U.S.C. 1480(g)) is amended by inserting before the semicolon the following: ", except that rules issued under this subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations".

SEC. 712. SECTION 515 LOANS.

(a) EQUITY TAKEOUT LOANS.—Section 515(t) of the Housing Act of 1949 (42 U.S.C. 1485(t)) is amended—

(1) in paragraph (3), by striking "original loan on the project" in the last sentence and inserting "original appraised value of the project";

(2) in paragraph (4)—

(A) in the first sentence, by inserting "initial" before "loan"; and

(B) in the second sentence, by inserting "initial payments, any accrued payments, and" after "except that such" in the second sentence; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989. This subsection shall not require retroactive reserve account payments with respect to any loan that was obligated on or after December 15, 1989, and on or before June 16, 1990, but reserve account payments shall be required for such loans beginning on the date of the enactment of this paragraph.".

(b) REUSE OF LOAN AUTHORITY.—Section 515(u) of the Housing Act of 1949 (42 U.S.C. 1485(u)) is amended by inserting at the end the following new sentence: "Any loan authority under this section appropriated or made available within limits established in appropriations Acts shall remain available until expended.".

(c) ASSUMPTION OF LOANS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(v) ASSUMPTION OF LOANS.—The Secretary may provide for the assumption or transfer of a loan or loan obligation under this section to any person or entity qualified to receive a loan or loan obligation under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall provide in

each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or loan obligation or such other terms as the Secretary determines appropriate.".

SEC. 713. SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(w) SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.—

"(1) AUTHORITY.—Except as provided in paragraph (2), the Secretary shall set aside from amounts made available for each State for loans under this section, not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992. Amounts set aside shall be available only for nonprofit entities in the State, which may not be wholly or partially owned or controlled by a for-profit entity or under whole or partial control with a for-profit entity.

"(2) MINIMUM STATE SET-ASIDE.—If the amount set aside under paragraph (1) for any State is less than $750,000 in any fiscal year, the Secretary shall pool such amount together with set-aside amounts from other States whose set-aside is less than $750,000, and shall make such amounts available for such eligible entities under paragraph (1) in any such State. The Secretary shall establish a procedure to provide that any amounts pooled under this paragraph from the allocation for any State in any fiscal year that are not obligated during a reasonable period in such year shall be made available for any such eligible entities under paragraph (1) in such State.

"(3) UNUSED AMOUNTS.—Any amounts set aside or pooled under this subsection from the allocation for any State in any fiscal year that are not obligated by a reasonable date established by the Secretary (which shall be after the expiration of the period under paragraph (2)) shall be made available to any entity eligible under this section in such State.".

SEC. 714. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.

42 USC 1486.

(a) IN GENERAL.—Section 516 of the Housing Act of 1949 (42 U.S.C. 1486 et seq.) is amended by adding at the end the following new subsection:

"(k) HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.—

"(1) IN GENERAL.—The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this subsection.

"(2) TYPES OF ASSISTANCE.—

"(A) IN GENERAL.—The Secretary may provide the following assistance for housing under this subsection:

"(i) An advance, in an amount not to exceed $400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure or construction of a new structure for use in the provision of housing under this subsection. The repayment of any outstanding debt owed on a loan made to pur-

chase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this subparagraph if the structure was not used for the purposes under this subsection prior to the receipt of assistance.

"(ii) A grant, in an amount not to exceed $400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this subsection.

"(iii) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

"(B) AVAILABLE ASSISTANCE.—A recipient may receive assistance under both clauses (i) and (ii) of subparagraph (A). The Secretary may increase the limit contained in such clauses to $800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

"(C) REPAYMENT OF ADVANCE.—Any advance provided under subparagraph (A)(i) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this subsection. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this subsection for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

"(D) PREVENTION OF UNDUE BENEFITS.—Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this subsection prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of low income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

"(3) PROGRAM REQUIREMENTS.—

"(A) APPLICATIONS.—

"(i) Applications for assistance under this subsection shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(ii) The Secretary shall require that applications contain at a minimum (I) a description of the proposed housing, (II) a description of the size and characteristics of the population that would occupy the housing, (III) a description of any public and private resources that are expected to be made available in connection with the housing, (IV) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing, and (V) assurances satisfactory

to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application.

"(iii) The Secretary shall require that an application furnish reasonable assurances that the housing will be available for occupancy by homeless individuals (and the families of such individuals) only on an emergency and temporary basis during the offseason and shall be otherwise available for occupancy by migrant farmworkers (and their families).

"(iv) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(B) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(i) the ability of the applicant to develop and operate the housing;

"(ii) the feasibility of the proposal in providing the housing;

"(iii) the need for such housing in the area to be served;

"(iv) the cost effectiveness of the proposed housing;

"(v) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;

"(vi) the extent to which the applicant has control of the site of the proposed housing; and

"(vii) such other factors as the Secretary determines to be appropriate for purposes of this subsection.

"(C) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any housing under this subsection unless the applicant agrees—

"(i) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in compliance with the provisions of this subsection and the application approved by the Secretary;

"(ii) to monitor and report to the Secretary on the progress of the housing; and

"(iii) to comply with such other terms and conditions as the Secretary may establish for purposes of this subsection.

"(D) OCCUPANT RENT.—Each migrant farmworker and homeless individual residing in a facility assisted under this subsection shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) GUIDELINES.—

"(A) REGULATIONS.—Not later than 120 days after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subsection.

"(B) LIMITATION ON USE OF FUNDS.—No assistance received under this subsection (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of an advance or grant received under this subsection for administrative purposes.

"(6) REPORTS TO CONGRESS.—The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subsection and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year.

"(7) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'applicant' means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this subsection.

"(B) The term 'homeless individual' has the same meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(C) The term 'migrant farmworker'—

"(i) means any person (and the family of such person) who (I) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment, and (II) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subclause (I); and

"(ii) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of clause (i) at the time of retirement or becoming disabled.

"(D) The term 'operating costs' means expenses incurred by a recipient providing housing under this subsection with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing.".

(b) STUDY OF HOMELESSNESS IN RURAL AREAS.—

(1) IN GENERAL.—The Secretary of Agriculture shall conduct a study to determine the extent and characteristics of homelessness in rural areas.

(2) REPORT.—The Secretary of Agriculture shall submit to the Congress, not later than the expiration of the 9-month period beginning on the date of the enactment of this Act, a report describing the findings of the Secretary under the study. The report shall contain any recommendations of the Secretary for

administrative or legislative action to reduce or alleviate homelessness in rural areas.

SEC. 715. RURAL AREA CLASSIFICATION.

(a) IN GENERAL.—Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended—

(1) in the first sentence—

(A) by striking "case" and inserting "cases";

(B) by inserting after "California" the following: ", and Guadalupe, in the State of Arizona"; and

(2) by striking the last sentence and inserting the following new sentence: "For purposes of this title, any area classified as 'rural' or a 'rural area' prior to October 1, 1990, and determined not to be 'rural' or a 'rural area' as a result of data received from or after the 1990 decennial census shall continue to be so classified until the receipt of data from the decennial census in the year 2000, if such area has a population in excess of 10,000 but not in excess of 25,000, is rural in character, and has a serious lack of mortgage credit for lower and moderate-income families.".

42 USC 1490 note.

(b) APPLICABILITY.—The amendment made by this section shall apply with respect to classification of rural areas for fiscal year 1991 and any fiscal year thereafter.

SEC. 716. ASSISTANCE TO REDUCE RENT OVERBURDEN.

42 USC 1490a.

Section 521(a)(2)(C) of the Housing Act of 1949 (42 U.S.C. 1491(a)(2)(C)) is amended by adding at the end the following: "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A).".

SEC. 717. HOUSING PRESERVATION GRANTS.

(a) USE OF DEOBLIGATED FUNDS.—Section 533(c)(1) of the Housing Act of 1949 (42 U.S.C. 1490m(c)(1)) is amended by adding at the end the following: "Funds obligated, but subsequently unspent and deobligated, may remain available, to the extent provided in appropriations Acts, for use as housing preservation grants in ensuing fiscal years.".

(b) REALLOCATION.—Section 533(g) of the Housing Act of 1949 (42 U.S.C. 1490m(g)) is amended by striking the last sentence and inserting the following: "Any amounts which become available as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine.".

SEC. 718. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

(a) EXTENSION OF AUTHORITY.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended in subsection (b), by striking "6-month period" and inserting "18-month period".

(b) RETROACTIVITY.—Any administrative approval of any housing subdivision made after the expiration of the 6-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is hereby approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

SEC. 719. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) RURAL HOUSING ASSISTANCE DEFINITION.—Section 536(h) of the Housing Act of 1949 (42 U.S.C. 1490p(h)) is amended by striking the period at the end and inserting ", for the original construction or development of the project.".

(b) PROHIBITION ON PREPAYMENT OF NEW RURAL HOUSING LOANS.—Section 502(c)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(1)(B)) is amended by inserting "initial" after "any".

TITLE VIII—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

SEC. 801. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) IN GENERAL.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) is amended to read as follows:

"SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.

"(a) PURPOSE.—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

"(1) is designed to accommodate the special needs of elderly persons; and

"(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

"(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure from the Resolution Trust Corporation, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

"(c) FORMS OF ASSISTANCE.—

"(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

Government contracts.

"(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

"(3) TENANT RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

"(d) TERM OF COMMITMENT.—

"(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

"(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

"(e) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed housing;

"(2) a description of the assistance the applicant seeks under this section;

"(3) a description of the resources that are expected to be made available in compliance with subsection (h);

"(4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided

to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

"(5) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of services identified in paragraph (4) is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve;

"(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

"(f) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and operate the proposed housing;

"(2) the need for supportive housing for the elderly in the area to be served;

"(3) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

"(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

"(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;

"(6) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

"(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(g) PROVISIONS OF SERVICES.—

"(1) IN GENERAL.—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the

cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

"(2) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

"(A) assess on an ongoing basis the service needs of residents;

"(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

"(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2). Any cost associated with the employment of a service coordinator in housing principally serving frail elderly persons shall also be an eligible cost except where the project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act.

"(h) DEVELOPMENT COST LIMITATIONS.—

Federal Register, publication.

"(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

"(A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;

"(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

"(C) the cost of special design features necessary to make the housing accessible to elderly persons;

"(D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;

"(E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;

"(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

"(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term 'congregate space' shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

"(2) RTC PROPERTIES.—In the case of existing housing and related facilities to be acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

"(A) the cost of acquiring such housing,

"(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

"(C) the cost of the land on which the housing and related facilities are located.

"(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

"(4) INCENTIVES FOR SAVINGS.—

"(A) SPECIAL HOUSING ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which—

"(i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act;

"(ii) substantially reduce the life-cycle cost of the housing;

"(iii) reduce gross rent requirements; and

"(iv) enhance tenant comfort and convenience.

"(B) USES.—The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

"(5) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

"(6) USE OF FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

"(i) TENANT SELECTION.—

"(1) IN GENERAL.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(2) INFORMATION REGARDING HOUSING UNDER THIS SECTION.—The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging)

information regarding the availability of housing assisted under this section.

"(j) MISCELLANEOUS PROVISIONS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

"(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

"(3) OWNER DEPOSIT.—

"(A) IN GENERAL.—The Secretary shall require an owner to deposit an amount not to exceed $25,000 in a special escrow account to assure the owner's commitment to the housing.

"(B) REDUCTION OF REQUIREMENT.—The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section.

"(4) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

"(5) LABOR.—

"(A) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

"(B) WAIVER.—Subparagraph (A) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work.

"(k) DEFINITIONS.—

"(1) The term 'elderly person' means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

"(2) The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

"(3) The term 'owner' means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

"(4) The term 'private nonprofit organization' means any incorporated private institution or foundation—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.

"(5) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'supportive housing for the elderly' means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

"(8) The term 'very low-income' has the same meaning as given the term 'very low-income families' under section 3(b)(2) of the United States Housing Act of 1937.

"(l) AUTHORIZATIONS.—

"(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) $659,000,000 for fiscal year 1992. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the Cranston-Gonzalez National Affordable Housing Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

"(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $363,000,000 for fiscal year 1992.

"(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 percent of the funds made available under this subtitle shall be allocated by the Secretary on a national basis for nonmetropolitan areas.".

(b) CONFORMING AMENDMENT.—Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking "section 202 of the Housing Act of 1959". 42 USC 1439.

42 USC 1701q note.

(c) EFFECTIVE DATE AND APPLICABILITY.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code. Regulations shall be issued for comment not later than 180 days after the date of enactment of this Act.

42 USC 1701q note.

(d) EXPEDITED FINANCING AND CONSTRUCTION.—

(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) DEFINITION.—For purposes of this subsection, the term "supportive housing for the elderly" means housing—

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

(e) AUTHORIZATION FOR EXISTING PROGRAM.—Section 202(a)(4)(C) of the Housing Act of 1959 (12 U.S.C. 1701q(a)(4)(C)) is amended—

(1) by striking all that follows "Acts" the first time it appears and inserting a period; and

(2) by adding at the end the following: "For fiscal year 1991, not more than $714,200,000 may be approved in appropriation Acts for such loans.".

42 USC 8011.

SEC. 802. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the effective provision of congregate services may require the redesign of units and buildings to meet the special physical needs of the frail elderly persons and the creation of congregate space to accommodate services that enhance independent living;

(B) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older persons and persons with disabilities to maintain their dignity and independence;

(C) independent living with assistance is a preferable housing alternative to institutionalization for many frail older persons and persons with disabilities;

(D) 365,000 persons in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(E) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(F) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(G) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(H) supportive services would promote the invaluable option of independent living for nonelderly persons with disabilities in federally assisted housing;

(I) approximately 25 percent of congregate housing services program sites provide congregate services to young individuals with disabilities;

(J) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(K) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) PURPOSES.—The purposes of this section are—

(A) to provide assistance to retrofit individual dwelling units and renovate public and common areas in eligible housing to meet the special physical needs of eligible residents;

(B) to create and rehabilitate congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(C) to improve the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services;

(D) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of the elderly and persons with disabilities;

(E) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(F) to improve the quality of life of older Americans living in federally assisted housing;

(G) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(H) to develop partnerships between the Federal Government and State governments in providing services to the frail elderly and persons with disabilities; and

(I) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors, utilizing any amounts appropriated under subsection (n)—

(A) to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services; or

(B) to adapt housing to better accommodate the physical requirements and service needs of eligible residents.

(2) TERM OF CONTRACTS.—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government, or local nonprofit housing sponsor, shall be for a term of 5 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) RESERVATION OF AMOUNTS.—For each State, Indian tribe, unit of general local government, and nonprofit housing sponsor, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) ELIGIBLE ACTIVITIES.—

(1) IN GENERAL.—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents and nonresidents, as provided in subsection (e)), as provided in this section, that are coordinated on site.

(2) MEAL SERVICES.—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) FOOD STAMPS AND AGRICULTURAL COMMODITIES.—In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(II) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) PREFERENCE FOR NUTRITION PROVIDERS.—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services

Act of 1978 or any other program for congregate services.

(3) RETROFIT AND RENOVATION.—Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(4) SERVICE COORDINATOR.—Assistance under this section may be provided with respect to the employment of one or more individuals (hereinafter referred to as "service coordinator") who may be responsible for—

(A) working with the professional assessment committee established under subsection (f) on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d) can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under this section and by permitting owners to use existing sources of funds, including excess project reserves.

(5) OTHER SERVICES.—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, personal emergency response, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(6) DETERMINATION OF NEEDS.—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(7) FEES.—

(A) ELIGIBLE PROJECT RESIDENTS.—The owner of each eligible housing project shall establish fees for meals and other services provided under a congregate services program to eligible project residents, which shall be sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees for meals shall be in the following amounts:

(i) FULL MEAL SERVICES.—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) LESS THAN FULL MEAL SERVICES.—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) OTHER RESIDENTS AND NONRESIDENTS.—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) and for nonresidents that receive services from a congregate services program pursuant to subsection (e). Such fees shall be in an amount equal to the cost of providing the services.

(8) DIRECT AND INDIRECT PROVISION OF SERVICES.—Any State, Indian tribe, unit of general local government, or nonprofit housing sponsor that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) ELIGIBILITY FOR SERVICES.—

(1) ELIGIBLE PROJECT RESIDENTS.—Any eligible resident who is a resident of an eligible housing project (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section.

(2) ECONOMIC NEED.—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) IDENTIFICATION.—

(A) IN GENERAL.—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) PROFESSIONAL ASSESSMENT COMMITTEE.—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of the frail elderly and persons with disabilities in relation to the performance of tasks of daily living.

(4) ELIGIBILITY OF OTHER RESIDENTS.—The elderly and persons with disabilities who reside in an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (d).

(5) ELIGIBILITY OF NONRESIDENTS.—The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this section.

(f) ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) with—

(1) owners of eligible housing;

(2) States that submit applications in behalf of owners of eligible housing; and

(3) Indian tribes and units of general local government that submit applications on behalf of owners of eligible housing.

(g) APPLICATIONS.—The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by or on behalf of owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

(1) a description of the type of assistance the applicant is applying for;

(2) in the case of an application involving rehabilitation or retrofit, a description of the activities to be carried out, the number of elderly persons to be served, the costs of such activities, and evidence of a commitment for the services to be associated with the project;

(3) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period;

(4) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (3) will be provided for not less than 1 year following the completion of activities assisted under subsection (d);

(5) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services, including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(6) a certifications from the appropriate State or local agency (as determined by the Secretary) that—

(A) the provision of the qualifying supportive services identified under paragraph (3) will enable eligible residents to live independently and avoid unnecessary institutionalization,

(B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (3), and

(C) the agency and the applicant will, during the term of the contract, actively seek assistance for such services from other sources;

(7) a description of any fees that would be established pursuant to subsection (d); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall act on each application within 60 days of its submission.

(h) SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.—

(1) IN GENERAL.—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, units of general local government, and local nonprofit housing sponsors to receive assistance under this section, and shall select such entities to

receive assistance. The criteria for selection shall include consideration of—

(A) the extent to which the activities described in subsection (d)(3) will foster independent living and the provision of such services;

(B) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services, the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(C) the schedule for establishment of services following approval of the application;

(D) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(E) the professional qualifications of the members of the professional assessment committee;

(F) the reasonableness and application of fees schedules established for congregate services;

(G) the adequacy and accuracy of the proposed budgets; and

(H) the extent to which the owner will provide funds from other services in excess of that required by this section.

(2) EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section— Regulations.

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section. Reports.

(i) CONGREGATE SERVICES PROGRAM FUNDING.—

(1) COST DISTRIBUTION.—

(A) CONTRIBUTION REQUIREMENT.—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, unit of general government, or nonprofit housing sponsor that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause. The Secretary concerned shall encourage owners to use excess residual

receipts to the extent available to supplement funds for retrofit and supportive services under this section.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(7) shall provide 10 percent of the cost.

(B) EXCEPTIONS.—

(i) For any congregate services program that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act, the unit of general local government or nonprofit housing sponsor, in coordination with a local government with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 3-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 3-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.

(ii) To the extent that the limitations under subsection (d)(7) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.—If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) PROHIBITION OF SUBSTITUTION OF FUNDS.—The Secretary concerned shall require each State, Indian tribe, unit of general local government, and local nonprofit housing sponsor, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, local government, or sponsor was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) LIMITATION.—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) CONSULTATION.—The Secretary shall consult with the Secretary of Health and Human Services regarding the availability of assistance from other Federal programs to support services under this section and shall make information available to applicants for assistance under this section.

(j) MISCELLANEOUS PROVISIONS.—

(1) USE OF RESIDENTS IN PROVIDING SERVICES.—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize the elderly and persons with disabilities who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) EFFECT OF SERVICES.—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority for assistance under this section after the expiration of such period.

(4) ADMINISTRATIVE COST LIMITATION.—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection (i)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative

costs. Administrative costs may not include any capital expenses.

(k) DEFINITIONS.—For purposes of this section:

(1) The term "activity of daily living" means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term "case management" means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term "congregate housing" means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term "congregate services" means services described in subsection (d) of this section.

(5) The term "congregate services program" means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term "eligible housing project" means—

(A) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937;

(B) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section or with a contract entered into in connection with the new construction or moderate rehabilitation of the structure under section 8(b)(2) of the United States Housing Act, as such section existed before October 1, 1983;

(C) housing assisted under section 202 of the Housing Act of 1959;

(D) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for the remaining useful life of the housing);

(E) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low-income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(F) housing assisted under section 516 of the Housing Act of 1949.

(7) The term "eligible resident" means a person residing in eligible housing for the elderly who qualifies under the defini-

tion of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled.

(8) The term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(9) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(10) The term "instrumental activity of daily living" means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(11) The term "local nonprofit housing sponsor" includes public housing agencies (as such term is defined in section 3(b)(6) of the United States Housing Act of 1937.

(12) The term "nonprofit", as applied to an organization, means no part of the net earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(13) The term "elderly person" means a person who is at least 62 years of age.

(14) The term "person with disabilities" has the meaning given the term by section 811 of this Act.

(15) The term "professional assessment committee" means a committee established under subsection (e)(3)(B).

(16) The term "qualifying supportive services" means new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(17) The term "Secretary concerned" means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(18) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the

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Pacific Islands, and any other territory or possession of the United States.

(19) The term "temporarily disabled" means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term "unit of general local government"—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(l) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, for each fiscal year for which assistance is provided for congregate services programs under this section, an annual report—

(A) describing the activities being carried out with assistance under this section and the population being served by such activities;

(B) evaluating the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 803 of this Act; and

(C) containing any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (m), for the submission of data by recipients of assistance under this section to be used in the repeat required by paragraph (1).

(m) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, jointly issue any regulations necessary to carry out this section.

(n) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1991, and $26,100,000 for fiscal year 1992, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate

services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development: and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until expended.

(o) RESERVE FUND.—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(p) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended— 42 USC 1437g.

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) if a public housing agency renovates, converts, or combines one or more dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services in accordance with section 22 of this Act and section 802 of the Cranston-Gonzalez National Affordable Housing Act, the payments received under this section shall not be reduced because of the resulting reduction in the number of dwelling units.".

SEC. 803. HOPE FOR ELDERLY INDEPENDENCE. 42 USC 8012.

(a) PURPOSE.—The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly persons to continue to live independently. The demonstration program under this section shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) HOUSING ASSISTANCE.—In connection with this demonstration, the Secretary of Housing and Urban Development may enter into contracts with public housing agencies to provide not more than 1,500 incremental vouchers and certificates under sections 8(b) and 8(o) of the United States Housing Act of 1937. A public housing agency may not require that a frail elderly person live in a particular structure or unit, but the agency may restrict the program under this section to a geographic area, where necessary to ensure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly person the option to continue to receive assistance under the housing certificate or voucher program of the agency. In the demonstration, the Secretary may also provide for supportive services in

connection with existing contracts for housing assistance under sections 8(b) and 8(o).

(c) SUPPORTIVE SERVICES REQUIREMENTS AND MATCHING FUNDING.—

(1) FEDERAL, PHA AND, INDIVIDUAL CONTRIBUTIONS.—The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) The Secretary shall provide 40 percent, using amounts appropriated under this section.

(B) The public housing agency shall ensure the provision of at least 50 percent from sources other than under this section.

(C) Notwithstanding any other provision of law, each frail elderly person shall pay 10 percent of the costs of the supportive services that the person receives, except that a frail elderly person may not be required to pay an amount that exceeds 20 percent of the adjusted income (as the term is defined in section 3(b)(5) of the United States Housing Act of 1937) of such person and the Secretary shall provide for the waiver of the requirement to pay costs under this subparagraph for persons whose income is determined to be insufficient to provide for any payment.

(D) To the extent that the limitation under subparagraph (C) regarding the percentage of income frail elderly persons may pay for services will result in collected amounts for any public housing agency of less than 10 percent of the cost of providing the services, 50 percent of such remaining costs shall be provided by the public housing agency and 50 percent of such remaining costs shall be provided by the Secretary from amounts appropriated under this section.

(2) PROVISION OF SERVICES FOR ENTIRE DEMONSTRATION.—Each public housing agency shall ensure that supportive services appropriate to the needs of the frail elderly persons to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly persons assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance.

(3) CALCULATION OF MATCH.—In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services, if such items have a readily discernible market value.

(d) APPLICATIONS.—An application under this section shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for housing assistance under section 8 of the United States Housing Act of 1937, if necessary, and a description of any such assistance already made available that will be used in the demonstration;

(2) a description of the size and characteristics of the population of frail elderly persons and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly persons to participate;

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only services that each frail elderly person needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each person and for monitoring the person's progress in meeting that plan;

(6) the identity of the proposed service providers and a statement of qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly persons to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(1);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of housing assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the persons to be served;

(11) a plan for continuing supportive services to frail elderly persons that continue to receive housing assistance under section 8 of the United States Housing Act of 1937 after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older Americans Act of 1965 and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) SELECTION.—

(1) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing assistance and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly persons proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) REQUIRED AGREEMENTS.—The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the housing assistance and supportive services required by each frail elderly person participating in the program;

(3) to ensure the adequate provision of supportive services, at a reasonable cost, to each frail elderly person participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "demonstration period" means the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a).

(2) The term "elderly person" means a person who is at least 62 years of age.

(3) The term "frail elderly person" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(4) The term "professional assessment committee" means a group of at least 3 persons appointed by a public housing agency which shall include at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(5) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "supportive services"—

(A) means assistance, that the Secretary determines—

(i) addresses the special needs of frail elderly persons; and

(ii) provides appropriate supportive services or assists such persons in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and

other services essential for achieving and maintaining independent living; and

(B) does not include medical services, as determined by the Secretary.

(h) MULTIFAMILY PROJECT DEMONSTRATION.—

(1) IN GENERAL.—In addition to the demonstration program authorized by the preceding provisions of this section, the Secretary shall conduct a demonstration in one Federal region, subject to the terms and conditions of this subsection, to determine the feasibility of using housing assistance under section 8 of the United States Housing Act of 1937 to assist elderly persons who may become frail to live independently in housing specifically designed for occupancy by such persons in sufficient proportion to achieve economies of scale in the provision of services and facilities.

Government contracts.

(2) SECTION 8 ALLOCATION.—From amounts provided pursuant to subsection (j) and subject to availability in appropriation Acts, the Secretary shall enter into a contract with a public housing agency to provide housing assistance under section 8(b) of the United States Housing Act of 1937 to assist elderly persons in at least 75 percent of the units in a single housing project with more than 100 units.

(3) SECTION 8 TERMS.—The assistance payment contract under such section 8 shall be attached to the structure and shall be in an initial term of 5 years. The contract shall (at the option of the public housing agency and subject to availability of amounts approved in appropriations Acts) be renewable for 3 additional 5-year terms. Rents for units in the project assisted pursuant to this subsection shall be subject to the rent limitations in effect for the area under section 8 for projects for the elderly receiving loans under section 202 of the Housing Act of 1959.

(4) SUPPORTIVE SERVICES.—The Secretary shall allocate, for the project assisted pursuant to this subsection, a reasonable portion of the amounts appropriated pursuant to the authorization for funds for supportive services in subsection (k), based on the estimated number of project residents who will be frail elderly individuals during the 5-year period beginning on the date of initial occupancy of the project. Grants for supportive services may be used to assist any occupant in the demonstration project who is a frail elderly individual. Grants for supportive services under this subsection shall be subject to the other terms and conditions specified in this section.

(5) APPLICATIONS.—An application for assistance under this subsection may be submitted by any unit of general local government with a population under 50,000 and shall contain such information as the Secretary deems appropriate.

(6) SELECTION.—The Secretary shall select one application for funding under this subsection based on the following criteria:

(A) The number of elderly persons residing in the applicant's jurisdiction.

(B) The extent of existing housing constructed prior to 1940 in the applicant's jurisdiction.

(C) The number of elderly persons living in adjacent projects to whom the services and facilities provided by the project would be available.

(D) The level of State and local contributions toward the cost of developing the project and of providing supportive services.

(E) The project's contribution to neighborhood improvement.

(i) REPORT.—The Secretary shall submit to Congress an annual report evaluating the effectiveness of the demonstrations under this section. The report shall include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate in evaluating the demonstration.

(j) AVAILABLE SECTION 8 ASSISTANCE.—The Secretary may provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 in connection with the demonstrations under this section, in an amount not to exceed $34,000,000 for fiscal year 1991, and $35,500,000 for fiscal year 1992, subject to the approval of sufficient amounts in appropriations Acts under section 5 of such Act.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section, $10,000,000 to become available in fiscal year 1991, and $10,400,000 to become available in fiscal year 1992, and remain available until expended.

(l) IMPLEMENTATION.—Not later than the expiration of the 180-day period beginning on the date that funds authorized for the demonstrations under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration programs authorized under this section.

SEC. 804. USE OF RESOLUTION TRUST CORPORATION ELIGIBLE PROPERTIES FOR SECTION 202 HOUSING.

(a) AUTHORITY TO PURCHASE RESOLUTION TRUST CORPORATION PROPERTY FOR SECTION 202 PROGRAM.—Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C 1701q(d)(3)) is amended by adding at the end the following new sentence: "The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located.".

(b) RESERVATION OF AUTHORITY BEFORE PURCHASE.—Section 202(a) of the Housing Act of 1959 (12 U.S.C. 1701q(a)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c).".

(c) 20-YEAR SECTION 8 CONTRACTS.—Section 202(g) of the Housing Act of 1959 (42 U.S.C. 1701q(g)) is amended by inserting after the period at the end the following new sentence: "In the case of existing housing and related facilities acquired from the Resolution

12 USC 1701q.

Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months.".

(d) MODIFICATION OF RTC DISPOSITION PROCEDURES FOR PROPERTIES RECEIVING HUD OR FMHA ASSISTANCE.—

(1) IN GENERAL.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (3), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with the section 202 of the Housing Act of 1959.".

(2) CONFORMING AMENDMENT.—Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended by inserting after "RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—" the following: "Except as provided under paragraph (6)(D), the Corporation shall dispose of eligible multifamily housing property as follows:".

(e) EXEMPTION FROM PROJECT SIZE REQUIREMENT REGARDING SUPPORT SERVICES FOR FRAIL ELDERLY.—Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended by inserting after the period at the end the following new sentence: "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act.".

SEC. 805. CENTRALIZED APPLICATIONS FOR SECTION 202 HOUSING.

Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) is amended by adding at the end the following new subsection: 12 USC 1701q.

"(p) The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.".

SEC. 806. ELDER COTTAGE HOUSING UNITS.

(a) ELIGIBILITY FOR INSURANCE.—Section 2 of the National Housing Act (12 U.S.C. 1703) is amended by adding at the end the following new subsection:

"(i) For purposes of this section, the term 'manufactured home' includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling.".

(b) DEMONSTRATION PROGRAM.— 12 USC 1701q note.

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including as an eligible development cost under section 202 of the Housing Act of 1959 the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In the conduct of the demonstration, the Secretary shall determine whether the durability of such units is appropriate for inclusion in the section 202 program.

(2) REPORT.—The Secretary shall transmit a report to the Congress not later than January 1, 1992 on the results of the demonstration under subsection (a).

SEC. 807. NOTICE OF REJECTION.

Section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)) is amended by adding at the end the following:

"(3) In considering applications for assistance under section 202, the Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.".

SEC. 808. SERVICE COORDINATORS AS ELIGIBLE PROJECT COST IN SECTION 202 PROJECTS.

Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) In determining the amount of assistance to be provided for a project pursuant to such section 8, subject to the availability of appropriations for contract amendments for the purpose of this paragraph the Secretary may also consider (and annually adjust for) the costs of—

"(A) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly, especially those who are frail, or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and subparagraph (B) of this subsection; and

"(B) expenses for the provision of services for elderly, especially those who are frail, and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services,

except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided. This paragraph shall not apply in the case of a project assisted under the congregate housing services program or a project where the tenants are not principally frail elderly.".

Subtitle B—Supportive Housing for Persons With Disabilities

42 USC 8013.

SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) PURPOSE.—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Such assistance shall be provided as—

(1) capital advances in accordance with subsection (d)(1), and

(2) contracts for project rental assistance in accordance with subsection (d)(2).

Such assistance may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing, including the acquisition from the Resolution Trust Corporation, to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities, and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the

amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(3) RENT CONTRIBUTION.—A very low-income person shall pay as rent for a dwelling unit assisted under this section the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(e) TERM OF COMMITMENT.—

(1) USE LIMITATIONS.—All units in housing assisted under this section shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) CONTRACT TERMS.—The initial term of a contract entered into under subsection (d)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) APPLICATIONS.—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(h) DEVELOPMENT COST LIMITATIONS.—

(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect— Federal Register, publication.

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; and (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the

Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) RTC PROPERTIES.—In the case of existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost limitations shall include—

(A) the cost of acquiring such housing,

(B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and

(C) the cost of the land on which the housing and related facilities are located.

(3) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(4) INCENTIVES FOR SAVINGS.—

(A) SPECIAL PROJECT ACCOUNT.—The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the Cranston-Gonzalez National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) USES.—The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(5) FUNDS FROM OTHER SOURCES.—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) TENANT SELECTION.—(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) MISCELLANEOUS PROVISIONS.—

(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and

(3) SITE CONTROL.—An applicant may obtain ownership or control of a suitable site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) OWNER DEPOSIT.—The Secretary may require an owner to deposit an amount not to exceed $10,000 in a special escrow account to assure the owner's commitment to the housing.

(5) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) LABOR STANDARDS.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more persons with disabilities shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

(k) DEFINITIONS.—As used in this section—

(1) The term "group home" means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the

development of a larger project. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(2) The term "person with disabilities" means a household composed of one or more persons at least one of whom is an adult who has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-7). The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

Regulations.

(3) The term "supportive housing for persons with disabilities" means housing that—

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(4) The term "independent living facility" means a project designed for occupancy by not more than 20 persons with disabilities in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(5) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(6) The term "private nonprofit organization" means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(7) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(l) AUTHORIZATIONS.—

(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (d)(1), $271,000,000 for fiscal year 1992. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2), the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating $246,000,000 for fiscal year 1992.

(m) EFFECTIVE DATE AND APPLICABILITY.—

(1) IN GENERAL.—The amendments made by this section shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and public comment. Regulations.

(2) EARLIER APPLICABILITY.—The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(3) COORDINATION.—When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

Subtitle C—Supportive Housing for the Homeless

PART 1—REVISED MCKINNEY ACT

SEC. 821. AMENDMENT TO MCKINNEY ACT.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

42 USC 11361. **"SEC. 401. PURPOSE.**

"The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to—

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

42 USC 11362. **"SEC. 402. DEFINITIONS.**

"For purposes of this title—

"(1) The term 'assistance' means grants to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'grantee' means—

"(A) a State or unit of general local government receiving grants from the Secretary under section 403(a);

"(B) a group of geographically contiguous local governments that have formed a consortium that, in the determination of the Secretary—

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and

"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year, and

"(C) for purposes of section 406 and subsections (a), (b), (c), and (f) of section 407, an Indian tribe, Indian housing authority, or a private nonprofit organization receiving a direct grant under section 405.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to—

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(12) The term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that—

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that—

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabil-

ities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes—

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium; and any other territory or possession of the United States.

"(18) The term 'consortium' means a group of geographically contiguous local governments that the Secretary determines—

"(A) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a); and

"(B) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

"(18) The term 'very low-income families' has the same meaning given the term under section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(19) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

42 USC 11363.

"SEC. 403. GENERAL AUTHORITY.

"(a) GRANTS FOR HOMELESS HOUSING ASSISTANCE.—

"(1) IN GENERAL.—

"(A) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 408, make grants to States and units of general local government and to eligible applicants under section 405 in order to (i) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (ii) help very low-income families and persons avoid becoming homeless, and (iii) help homeless families and persons make the transition to permanent housing.

"(B) STRATEGY REQUIRED.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(C) USE OF PROJECT SPONSORS.—A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

"(2) ALLOCATION OF RESOURCES.—The amounts approved in appropriations Acts under section 408 shall be allocated in accordance with a formula established under section 404.

"(b) ELIGIBLE ACTIVITIES.—Grants under this title shall be available only for approved activities. Approved activities shall include—

"(1) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(2) the development of emergency shelters for the homeless in accordance with section 412;

"(3) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(4) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(5) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(6) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(c) LIMITATIONS.—

"(1) PREVENTION.—A grantee may use not more than 30 percent of grants allocated under subsection (a) for homelessness prevention activities as defined in section 411.

"(2) EMERGENCY ACTIVITIES.—A grantee may use not more than 30 percent of the grants allocated in accordance with subsection (a) for emergency activities as defined in section 412. The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(d) SRO RENOVATION.—The Secretary shall, to the extent of amounts approved in appropriations Acts for the programs authorized under section 421, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

42 USC 11364.
Regulations.

"Subject to section 823(b) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall issue regulations establishing an allocation formula, if any, that reflects each jurisdic-

tion's share of the Nation's need for housing assistance for the homeless.

42 USC 11365.

"SEC. 405. DISCRETIONARY ALLOCATION.

"(a) IN GENERAL.—In addition to grants otherwise authorized by this title, the Secretary is authorized to make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 407.

"(b) ELIGIBLE ACTIVITIES.—Assistance provided under this section may be used for approved activities under subtitle B and for—

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) APPLICATIONS.—Assistance under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) SELECTION CRITERIA.—

"(1) IN GENERAL.—The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account—

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources;

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness; and

"(C) the extent to which such area is not being served by current programs to assist homeless persons.

"(2) ADDITIONAL CRITERIA.—Selection criteria established by the Secretary shall also take into account—

"(A) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including in rem property, public buildings, and public land;

"(B) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(C) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(D) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) SPECIAL RULES FOR SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.—

"(1) IN GENERAL.—The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that—

"(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) HEALTH SERVICES.—Not more than $10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"SEC. 406. RESPONSIBILITIES OF GRANTEES AND PROJECT SPONSORS. 42 USC 11366.

"(a) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Each grantee shall be required to supplement the grants provided under this title for acquisition, rehabilitation, or construction activities, except for assistance described in section 421, with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsection, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(2) STATE MATCHING REQUIREMENT.—Each grantee under this title that is a State shall be required to supplement the assistance provided under this title with an amount of funds from sources other than this title equal to the difference between the amount received under this title and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this title.

"(3) BENEFIT OF MATCH.—A State grantee shall obtain any matching amounts required under paragraph (2) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2).

"(b) HOUSING QUALITY.—Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

"(c) CONSISTENCY WITH HOUSING STRATEGY.—Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(d) ASSISTANCE TO HOMELESS PERSONS.—Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) LIMITATION ON USE OF FUNDS.—Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) CIVIL RIGHTS COMPLIANCE.—Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) REPORTS.—

"(1) IN GENERAL.—Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assess-

ment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) CONSULTATION.—The Secretary shall consult with national associations of States, local governments, and other housing interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle. Intergovernmental relations. Records.

"(h) SITE CONTROL.—

"(1) IN GENERAL.—Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.

"(i) PREVENTION OF UNDUE BENEFITS.—The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) CONFIDENTIALITY.—Each grantee shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this title and to ensure that the address or location of any family violence shelter project assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

"(k) ADDITIONAL REQUIREMENTS.—The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. ADMINISTRATIVE PROVISIONS. 42 USC 11367.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee may not use more than 5 percent of the assistance received under this subtitle for administrative purposes.

"(b) INCOME ELIGIBILITY.—A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the

amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) FLOOD ELEVATION REQUIREMENTS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) APPLICABILITY OF SECTION 104(g) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) GAO AUDITS.—Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

Records.

42 USC 11368.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary. Any amount appropriated under this section shall remain available until expended.

42 USC 11369.

"SEC. 409. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with section 406(g). The report shall be submitted not later than 6 months after the end of each fiscal year.

"Subtitle B—Approved Activities

42 USC 11371.

"SEC. 411. HOMELESSNESS PREVENTION.

"(a) DEFINITION.—Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if—

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

Homeless.
42 USC 11372.

"(a) DEFINITION.—A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations for homeless persons. An emergency shelter may include appropriate eating and cooking accommodations.

"(b) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) PROGRAM REQUIREMENTS.—A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will—

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining—

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

42 USC 11373.

"(a) DEFINITION.—A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the

Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

"(b) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(5) Technical assistance in—

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(6) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

Day care.

"(7) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for a project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as transitional housing for not less than 10 years, except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) OCCUPANT RENT.—Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(3) ALTERNATIVE USE.—A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES. 42 USC 11374.

"(a) DEFINITION.—A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities (or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons). The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) PROJECT DESIGN AND SITING.—Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabil-

ities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under subsection (d) (unless such assistance is no longer necessary, in the determination of the Secretary).

"(5) Technical assistance in—

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for any project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years, except that in the case of projects not receiving a grant under paragraph (1), (2), or (3) of subsection (c), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) STATE PARTICIPATION.—Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State

will facilitate the provision of necessary supportive services to the residents of the project;

"(3) OCCUPANT RENT.—Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) ALTERNATIVE USE.—A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) TENANT SELECTION.—

"(A) IN GENERAL.—A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(B) AUTHORITY TO LIMIT OCCUPANCY.—Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"(6) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4) or (5) of subsection (c) to any project not receiving assistance under paragraph (1), (2), or (3) of such subsection unless assurances have been made under paragraph (1)(A) of this subsection that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.

"SEC. 415. TRANSITION TO PERMANENT HOUSING. 42 USC 11375.

"(a) USE OF GRANTS.—

"(1) IN GENERAL.—A grant under this section may be used by a grantee to provide grants or loans to help eligible families make the transition to permanent housing. A grantee may use assistance under this section to provide for the payment by very low-income families of security deposits and the cost of rent for a reasonable period of time.

"(2) TECHNICAL ASSISTANCE.—The Secretary may provide informational and technical assistance to units of general local government and housing agencies in organizing and developing assistance programs under this section. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(3) FINANCIAL COUNSELING.—The grantee shall provide counseling regarding household finances and budgeting to any family that receives a grant or loan under this section.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide assistance to eligible families in the form of a security deposit and the cost of rent for a reasonable period of time if—

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a regular income and a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time and to repay any loan provided; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) PARTICIPATING LANDLORD.—If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

42 USC 11376.

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C—Section 8 Single Room Occupancy

42 USC 11381.

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) USE OF FUNDS.—The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) ALLOCATION.—The amounts made available under this subtitle shall be allocated by the Secretary on the basis of a national competition among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing—

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

"(c) FIRE AND SAFETY IMPROVEMENTS.—Each annual contribution contract entered into with the authority provided under this subtitle

shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) COST LIMITATION.—

"(1) PER UNIT CEILING.—The total cost of rehabilitation that may be compensated for in an annual contribution contract entered into with the authority provided under this subtitle shall not exceed $15,000 per unit, plus the expenditures required by subsection (d).

"(2) AUTHORITY TO INCREASE.—The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) ANNUAL ADJUSTMENT.—The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) CONTRACT REQUIREMENTS.—Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall—

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. APPLICABILITY TO INDIANS. 42 USC 11382.

"Pursuant to section 201(b) of the United States Housing Act of 1937, this subtitle shall apply to Indian tribes and Indian housing authorities.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE. 42 USC 11391.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

42 USC 11392. "SEC. 432. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) Funding Limitations.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

42 USC 11393. "SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

42 USC 11394. "SEC. 434. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA. 42 USC 11395.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

42 USC 11396.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

42 USC 11397.

"SEC. 437. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

42 USC 11398.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given that term in section 853 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(7) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(10) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(11) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11399.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by such sums as may be necessary.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE. 42 USC 11401.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

42 USC 11401a.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

Government contracts.
42 USC 11402.

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

42 USC 11402a.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

42 USC 11402b.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

42 USC 11402c.

"SEC. 446. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE. 42 USC 11403.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 439(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS. 42 USC 11403a.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS. 42 USC 11403b.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 454. OCCUPANCY. 42 USC 11403c.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE. 42 USC 11404.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the

provision of rental housing assistance under section 202 of the Housing Act of 1959 in fiscal year 1991 or section 811 of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992 for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 611 for the purpose of providing such rental housing assistance.

Government contracts.

42 USC 11404a.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

42 USC 11404b.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

42 USC 11404c.

"SEC. 464. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E—Miscellaneous

42 USC 11405.

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

42 USC 11391 note.

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 439 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of title IV of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of

Regulations.

the 8-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle. Regulations.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the effective date of the amendment made by this section, that are or become available for obligation shall be available for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended by this section. 42 USC 11399 note.

SEC. 822. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person". 42 USC 11302.

SEC. 823. TRANSITIONAL RULE. 42 USC 11361 note.

(a) IN GENERAL.—The amendment made by section 821 shall take effect—

(1) on October 1, 1992, or

(2) on the date specified by a statute adopting a proposed allocation formula described in subsections (b) and (c),

whichever is later.

(b) FEASIBILITY STUDY.—The Secretary shall carry out a study to determine the feasibility of allocating homeless assistance by a formula that distributes housing assistance for the homeless in accordance with the relative incidence of homelessness in jurisdictions across the United States. If the Secretary determines that the use of such a formula is feasible, the Secretary shall develop one or more such formulas. In determining alternative allocation formulas, the Secretary shall consider—

(1) objective measures of the incidence of homelessness;

(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

(3) poverty;

(4) housing overcrowding; and

(5) any other relevant factors, including the reliability of data pertaining to homelessness.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the feasibility study under this subsection. Such report shall contain any formula or formulas developed under subsection (b) together with detailed analysis of the formulas. In preparing such report, the Secretary shall consult with organizations representing homeless persons, nonprofit organizations, public housing agencies, and State and local housing and service agencies.

(d) CONFORMING AMENDMENT.—Upon the adoption of a formula described in this section, that part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"Sec. 401. Purpose.
"Sec. 402. Definitions.
"Sec. 403. General authority.
"Sec. 404. Allocation formula.
"Sec. 405. Discretionary allocation.
"Sec. 406. Responsibilities of grantees and project sponsors.
"Sec. 407. Administrative provisions.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Reports to Congress.

"Subtitle B—Approved Activities

"Sec. 411. Homelessness prevention.
"Sec. 412. Emergency shelter.
"Sec. 413. Transitional housing for the homeless.
"Sec. 414. Permanent housing for homeless persons with disabilities.
"Sec. 415. Transition to permanent housing.
"Sec. 416. Development of additional approved activities.

"Subtitle C—Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.
"Sec. 422. Applicability to Indian tribes.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 431. Purpose.
"Sec. 432. Rental housing assistance.
"Sec. 433. Supportive services requirements; matching funding.
"Sec. 434. Applications.
"Sec. 435. Selection criteria.
"Sec. 436. Required agreements.
"Sec. 437. Termination of assistance.
"Sec. 438. Definitions.
"Sec. 439. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 441. Purpose.
"Sec. 442. Housing assistance.
"Sec. 443. Amount of assistance.
"Sec. 444. Housing standards and rent reasonableness.
"Sec. 445. Tenant rent.
"Sec. 446. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 451. Purpose.
"Sec. 452. Fire and safety improvements.
"Sec. 453. Contract requirements.
"Sec. 454. Occupancy.

"PART IV—SECTION 202 Rental Assistance

"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.

"Subtitle E—Miscellaneous

"Sec. 471. Environmental review.".

42 USC 11301 note.

SEC. 825. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

Federal Register, publication.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not more than 9 months after the date of enactment of

the Cranston-Gonzalez National Affordable Housing Act, identify the States and units of general local government which use unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by July 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

(b) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

(1) actions to be taken to ensure that families with children currently residing in unfit transient facilities will make a timely transition to permanent housing;

(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of unfit transient facilities as housing for homeless families with children; and

(3) changes in Federal, State, and local statutes and regulations that are needed to eliminate the use of unfit transient facilities as housing for homeless families with children.

(c) IMPLEMENTATION OF STRATEGY.—To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary of Housing and Urban Development shall be authorized to use and apply the following additional resources and powers:

(1) such preferences in the allocation of resources under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) DEFINITIONS.—For purposes of this section the term 'unfit transient facility' means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary.

PART 2—AMENDMENTS TO CURRENT PROGRAM

SEC. 831. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) INCLUSION OF CHILD CARE STRATEGY AND FOOD DONATION STRATEGY.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

Day care.

"(7) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title;

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing a plan to encourage a program which waives certain local or State liability regulations or laws for those who wish to donate food to a nonprofit charitable organization or food bank for use in community shelters or other domiciles for the homeless, shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entities receive assistance under this title; and".

(b) INCLUSION OF INDIAN TRIBES.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)—

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) MODIFICATION OF DEVELOPMENT AND TIMING, CONTENT, AND REVIEW STANDARDS.—

(1) PUBLIC PARTICIPATION PROCESS FOR DEVELOPMENT OF PLANS AND ANNUAL REPORTS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) CONSULTATION.—

"(1) REQUIREMENT.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) MODIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

"(3) AVAILABILITY.—Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) CERTIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) MODIFICATION OF TIMING, CONTENT, AND REVIEW STANDARDS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)—

(i) by striking "and services" and inserting ", services, and programs";

(ii) by striking "and" before "(B)"; and

(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 832. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) USE OF GRANTS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS. 42 USC 11378.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.".

(2) CONFORMING AMENDMENT.—The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assist-

ance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) INCREASE IN AMOUNT AVAILABLE FOR SERVICES.—Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) TREATMENT OF HOMELESSNESS PREVENTION ACTIVITIES.—Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) REDUCTION OF REQUIRED MATCHING AMOUNTS AND CONFIDENTIALITY.—

(1) REDUCTION.—Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended—

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) USE OF BENEFIT AND CONFIDENTIALITY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42

U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(9) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) INDIAN TRIBE ELIGIBILITY FOR GRANTS.—

(1) DEFINITION OF INDIAN TRIBES.—Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) GRANT ASSISTANCE.—Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) ALLOCATION AND DISTRIBUTION OF ASSISTANCE.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended—

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) DISTRIBUTION TO NONPROFIT ORGANIZATIONS.—The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) REALLOCATION OF FUNDS.—Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended—

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) ESSENTIAL SERVICES CAP.—Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) INITIAL ALLOCATION OF ASSISTANCE.—Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe ," after "State,".

(g) MINIMUM STANDARDS OF HABITABILITY.—Section 416 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376) is amended by adding at the end the following:

"(c) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters

assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.".

(h) CONSISTENCY WITH HOUSING STRATEGY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) by striking "and" at the end of clause (2);

(2) by striking the period at the end of clause (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 833. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $150,000,000 for fiscal year 1992.".

(b) MAXIMUM NUMBER OF HANDICAPPED RESIDENTS IN PERMANENT HOUSING FOR HANDICAPPED.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) CONVERSION OF ADVANCES TO GRANTS.—

(1) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended—

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) CONVERSION OF ADVANCE.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "(b) REPAYMENT OF ADVANCE.—" and inserting the following:

"(b) REPAYMENT OR CONVERSION OF ADVANCE.—

"(1) REPAYMENT.—"; and

(B) by adding at the end the following new paragraph:

"(2) CONVERSION.—At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) OPERATING COST PAYMENTS.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such

assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer necessary, in the determination of the Secretary).".

(e) ELIGIBILITY OF NEW CONSTRUCTION.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) SITE CONTROL REQUIREMENT.—Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended—

(1) by striking "(3) The Secretary" and inserting the following: "(3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) CHILD CARE SERVICES.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended by inserting after paragraph (5) the following:

"(6) A grant to establish and operate a child care services program for homeless families as follows: Day care.

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.".

(h) ELIMINATION OF SITE CONTROL AND EMPLOYMENT ASSISTANCE PROGRAMS AS SELECTION CRITERIA.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(i) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

Records. "(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(j) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) INDIAN TRIBE ELIGIBILITY.—

(1) DEFINITIONS.—Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended—

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) PROGRAM REQUIREMENTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) MATCHING FUNDS.—Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended—

(A) in subsection (a), by inserting "or Indian tribe" after "State"; and

(B) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 834. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended—

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization Records.

of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) SITE CONTROL REQUIREMENT.—Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended—

(1) by striking "(e) SITE CONTROL.—The Secretary" and inserting the following:

"(e) SITE CONTROL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) EXCEPTION.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 835. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $79,000,000 on or after October 1, 1990, and by $82,400,000 on or after October 1, 1991.".

(b) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 836. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

(a) IN GENERAL.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"Assistance may be made under this title only if the grantee certifies that it is following—

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

"(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

42 USC 11361 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 837. SHELTER PLUS CARE.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended by adding at the end the following:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 451. PURPOSE. 42 USC 11403.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 452. RENTAL HOUSING ASSISTANCE. 42 USC 11403a.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) Funding Limitations.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 453. SUPPORTIVE SERVICES REQUIREMENTS. 42 USC 11403b.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 454. APPLICATIONS. 42 USC 11403c.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 453;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 455. SELECTION CRITERIA. 42 USC 11403d.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program;

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner. Regulations.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 456. REQUIRED AGREEMENTS. 42 USC 11403e.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 457. TERMINATION OF ASSISTANCE. 42 USC 11403f.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 458. DEFINITIONS. 42 USC 11403g.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the meaning given such term in section 853 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'nonprofit organization' has the meaning given such term by section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

42 USC 11403h.

"SEC. 459. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $80,400,000 for fiscal year 1991, and $167,200,000 for fiscal year 1992.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $24,800,000 on or after October 1, 1990, and $54,200,000 on or after October 1, 1991.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $18,000,000 for fiscal year 1991, and $37,200,000 for fiscal year 1992.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 461. PURPOSE. 42 USC 11404.

"The Secretary is authorized to use amounts made available under section 459(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 462. HOUSING ASSISTANCE. 42 USC 11404a.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 463. AMOUNT OF ASSISTANCE. 42 USC 11404b.

Government contracts.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 464. HOUSING STANDARDS AND RENT REASONABLENESS. 42 USC 11404c.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

42 USC 11404d.

"SEC. 465. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

42 USC 11404e.

"SEC. 466. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

42 USC 11405.

"SEC. 471. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 459(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

42 USC 11405a.

"SEC. 472. FIRE AND SAFETY IMPROVEMENTS.

Government contracts.

"Each contract for housing assistance payments entered into using the authority provided under section 459(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

42 USC 11405b.

"SEC. 473. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 459(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons. Homeless.

"SEC. 474. OCCUPANCY. 42 USC 11405c.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 481. PURPOSE. 42 USC 11406.

"The Secretary is authorized to use amounts made available under section 459(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959, section 811 of the Cranston-Gonzalez National Affordable Housing Act for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 611, as appropriate for the purpose of providing such rental housing assistance. Government contracts.

"SEC. 482. AMOUNT OF ASSISTANCE. 42 USC 11406a.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance. Government contracts.

"SEC. 483. HOUSING STANDARDS AND RENT REASONABLENESS. 42 USC 11406b.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 484. ADMINISTRATIVE FEES. 42 USC 11406c.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an

administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

42 USC 11403 note.

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 459 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this subtitle.

Regulations.

Regulations.

42 USC 11403 note.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of enactment made by this section, that are or become available for obligation shall be available for use under subtitle F of title IV of the McKinney Act, as amended by this section.

(d) CONFORMING AMENDMENT.—That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended by adding at the end the following:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements; matching funding.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Termination of assistance.
"Sec. 458. Definitions.
"Sec. 459. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Housing assistance.
"Sec. 463. Amount of assistance.
"Sec. 464. Housing standards and rent reasonableness.
"Sec. 465. Tenant rent.
"Sec. 466. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 471. Purpose.
"Sec. 472. Fire and safety improvements.
"Sec. 473. Contract requirements.
"Sec. 474. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 481. Purpose.
"Sec. 482. Amount of assistance.
"Sec. 483. Housing standards and rent reasonableness.
"Sec. 484. Administrative fees.".

PART 3—EFFECTIVE DATE

SEC. 841. EFFECTIVE DATE.

If the Stewart B. McKinney Homeless Assistance Amendments Act of 1990 is enacted before the enactment of this Act, the provisions of this subtitle and the amendments made by this subtitle shall not take effect.

Subtitle D—Housing Opportunities for Persons With AIDS

AIDS Housing Opportunity Act.

SEC. 851. SHORT TITLE.

42 USC 12901 note.

This subtitle may be cited as the "AIDS Housing Opportunity Act".

SEC. 852. PURPOSE.

42 USC 12901.

The purpose of this title is to provide States and localities with the resources and incentives to devise long-term comprehensive strategies for meeting the housing needs of persons with acquired immunodeficiency syndrome.

SEC. 853. DEFINITIONS.

42 USC 12902.

For purposes of this subtitle:

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "applicant" means a State, a unit of general local government, or a nonprofit sponsor receiving assistance from a grantee.

(3) The term "low-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "grantee" means a State or unit of general local government receiving grants from the Secretary under this subtitle.

(5) The term "metropolitan area" means a metropolitan statistical area as established by the Office of Management and Budget. Such term includes the District of Columbia.

(6) The term "locality" means the geographical area within the jurisdiction of a local government.

(7) The term "recipient" means a grantee or other applicant receiving funds under this title.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "State" means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursu-

ant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this subtitle.

(10) The term "unit of general local government" has the same meaning as in 104 of this Act.

42 USC 12903.

SEC. 854. GENERAL AUTHORITY.

(a) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 863, make grants to States and units of general local government.

(b) ELIGIBILITY.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of this Act. A grantee shall carry out activities authorized under this subtitle through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

Government contracts.

(c) ALLOCATION OF RESOURCES.—

(1) IN GENERAL.—90 percent of the amounts approved in appropriations Acts under section 863 shall be allocated among eligible grantees on the basis of the incidence of acquired immunodeficiency syndrome. Of the amounts made available under the previous sentence, the Secretary shall allocate—

(A) 75 percent among units of general local government located in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome and States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in subparagraph (A), and

(B) 25 percent among units of general local government in metropolitan statistical areas with populations in excess of 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, that have a higher than average per capita incidence of acquired immunodeficiency syndrome.

(2) MINIMUM GRANT.—Subject only to the availability of amounts pursuant to appropriations Acts under section 863, for each fiscal year each eligible grantee under paragraph (1) shall receive funding according to its proportionate share of the total, except that each entity shall receive a minimum allocation of $200,000 from subparagraphs (A) and (B) of paragraph (1) combined, and any increase this entails from the formula amount will be deducted from all other allocations exceeding $200,000 on a pro rata basis. If allocation under subparagraph (A) of paragraph (1) would allocate less than $200,000 for any State, the allocation for such State shall be $200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any eligible entity to less than $200,000.

(3) NONELIGIBLE GRANTEES.—

(A) IN GENERAL.—10 percent of the amounts appropriated under section 863 shall be distributed to grantees and recipients by the Secretary—

(i) to meet housing needs in States and localities that do not qualify under paragraph (1), or that do qualify under paragraph (1) but do not have an approved housing strategy under section 105 of this Act, and

(ii) to fund special projects of national significance.

(B) SELECTION.—In selecting projects under this paragraph, the Secretary shall consider (i) relative numbers of acquired immunodeficiency syndrome cases and per capita acquired immunodeficiency syndrome incidence; (ii) housing needs of persons with acquired immunodeficiency syndrome in the community; (iii) extent of local planning and coordination of housing programs for persons with acquired immunodeficiency syndrome; and (iv) the likelihood of the continuation of State and local efforts.

(C) NATIONAL SIGNIFICANCE PROJECTS.—For the purpose of subparagraph (A)(ii), in selecting projects of national significance the Secretary shall consider (i) the need to assess the effectiveness of a particular model for providing supportive housing for persons with acquired immunodeficiency syndrome; (ii) the innovative nature of the proposed activity; and (iii) the potential replicability of the proposed activity in other similar localities or nationally.

(d) APPLICATIONS.—Funds made available under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed activities;

(2) a description of the size and characteristics of the population that would be served by the proposed activities;

(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section shall be operated for not less than 10 years for the purpose specified in the application, except as otherwise specified in this subtitle;

(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs that are not being met by available public and private sources; and

(6) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

(e) ADDITIONAL REQUIREMENT FOR METROPOLITAN AREAS.—In addition to the requirements of subsection (b), to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in that metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the application under subsection (d) a proposal for the operation of such agency or organization. Grant programs.

Grant programs.
42 USC 12904.

SEC. 855. ELIGIBLE ACTIVITIES.

Grants allocated under this subtitle shall be available only for approved activities to carry out strategies designed to prevent homelessness among such persons with acquired immunodeficiency syndrome. Approved activities shall include activities that—

(1) enable public and nonprofit organizations or agencies to provide housing information to such persons and coordinate efforts to expand housing assistance resources for such persons under section 857;

(2) facilitate the development and operation of shelter and services for such persons under section 858;

(3) provide short-term rental assistance to such persons under section 859;

(4) facilitate (through project-based rental assistance or other means) the moderate rehabilitation of single room occupancy dwellings (SROs) that would be made available only to such persons under section 860;

(5) facilitate the development of community residences for eligible persons with acquired immunodeficiency syndrome under section 861;

(6) carry out other activities that the Secretary develops in cooperation with eligible States and localities.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

42 USC 12905.

SEC. 856. RESPONSIBILITIES OF GRANTEES.

(a) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(b) CAPABILITY.—The recipient shall have, in the determination of the grantee or the Secretary, the capacity and capability to effectively administer a grant under this subtitle.

(c) COOPERATION.—The recipient shall agree to cooperate and coordinate in providing assistance under this subtitle with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for individuals with acquired immunodeficiency syndrome or related diseases and other public and private organizations and agencies providing services for such individuals.

(d) NO FEE.—The recipient shall agree that no fee will be charged of any low-income individual for any services provided with amounts from a grant under this subtitle and that if fees are charged of any other individuals, the fees will be based on the income and resources of the individual.

(e) CONFIDENTIALITY.—The recipient shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this subtitle and any other information regarding individuals receiving such assistance.

(f) FINANCIAL RECORDS.—The recipient shall agree to maintain and provide the grantee or the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this subtitle.

SEC. 857. GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES. 42 USC 12906.

Grants under this section may only be used for the following activities:

(1) HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist individuals with acquired immunodeficiency syndrome or related diseases to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for individuals with acquired immunodeficiency syndrome or related diseases.

SEC. 858. AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES. 42 USC 12907.

(a) USE OF GRANTS.—Any amounts received from grants under this section may only be used to carry out a program to provide (or contract to provide) assistance to individuals with acquired immunodeficiency syndrome or related diseases who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

(1) SHORT-TERM SUPPORTED HOUSING.—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

(2) SHORT-TERM HOUSING PAYMENTS ASSISTANCE.—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the tenant or mortgagor of a dwelling.

(3) SUPPORTIVE SERVICES.—Providing supportive services, to individuals assisted under paragraphs (1) and (2), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services.

(4) MAINTENANCE AND ADMINISTRATION.—Providing for maintenance, administration, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs relating to any short-term supported housing provided under the demonstration program under this section.

(5) TECHNICAL ASSISTANCE.—Providing technical assistance to such individuals to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

(b) PROGRAM REQUIREMENTS.—

(1) MINIMUM USE PERIOD FOR STRUCTURES.—

(A) IN GENERAL.—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases—

(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

(ii) in the case of assistance under paragraph (1), (3), or (4) of subsection (a), for a period of not less than 3 years.

(B) WAIVER.—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(2) RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.—

(A) RESIDENCY.—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

(B) LOCATION.—A facility for short-term supported housing assisted with amounts from a grant under this section may not be located in or contiguous to any other facility for emergency or short-term housing that is not limited to use by individuals with acquired immunodeficiency syndrome or related diseases.

(C) WAIVER.—The Secretary may, as the Secretary determines appropriate, waive the limitations under subparagraphs (A) and (B) for any program or short-term supported housing facility.

(3) TERM OF ASSISTANCE.—

(A) SUPPORTED HOUSING ASSISTANCE.—A program assisted under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

(B) HOUSING PAYMENTS ASSISTANCE.—A program assisted under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

(4) PLACEMENT.—A program assisted under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

(5) PRESUMPTION FOR INDEPENDENT LIVING.—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a program assisted under this section shall, when reasonable,

provide for assistance in a manner appropriate to maintain the individual in such residence.

(6) CASE MANAGEMENT SERVICES.—A program assisted under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies.

SEC. 859. SHORT-TERM RENTAL ASSISTANCE. 42 USC 12908.

(a) USE OF FUNDS.—

(1) IN GENERAL.—Grants under this section may be used only for assistance to provide short-term rental assistance for low-income individuals with acquired immunodeficiency syndrome or related diseases. Such assistance may be project based or tenant based and shall be provided to the extent practicable in the manner provided for under section 8 of the United States Housing Act of 1937. Grantees shall ensure that the housing provided is decent, safe, and sanitary.

(2) SHARED HOUSING ARRANGEMENTS.—Grants under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to nonelderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(b) LIMITATIONS.—A recipient under this section shall comply with the following requirements:

(1) SERVICES.—The recipient shall provide for qualified service providers in the area to provide appropriate services to the individuals assisted under this section.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, the recipient shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 860. SINGLE ROOM OCCUPANCY DWELLINGS. 42 USC 12909.

(a) USE OF GRANTS.—Grants under this section may be used to provide project-based rental assistance or grants to facilitate the development of single room occupancy dwellings. To the extent practicable, a program under this section shall be carried out in the manner provided for under section 8(n) of the United States Housing Act of 1937.

(b) LIMITATION.—Recipients under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) SERVICES.—Appropriate services provided by qualified service providers in the area.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for

the individual and referral of the individual to the care provider.

42 USC 12910.

SEC. 861. GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for persons with acquired immunodeficiency syndrome or related diseases.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit residence designed for individuals with acquired immunodeficiency syndrome or related diseases for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among individuals with acquired immunodeficiency syndrome or related diseases by increasing available suitable housing resources.

(iv) To integrate individuals with acquired immunodeficiency syndrome or related diseases into local communities and provide services to maintain the abilities of such individuals to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For low-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a low-income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a low-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (c)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community

residence under this subsection for tenant-based certificates or vouchers.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) USE OF GRANTS.—Any amounts received from a grant under this section may be used only as follows:

(1) COMMUNITY RESIDENCES.—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) PHYSICAL IMPROVEMENTS.—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) OPERATING COSTS.—Operating costs for a community residence.

(C) TECHNICAL ASSISTANCE.—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses.

(D) IN-HOUSE SERVICES.—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) SERVICES.—For providing services under subsection (b)(2) to any individuals assisted under this subtitle.

(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and execution of activities under this section, except that a jurisdiction that receives a grant under this section may expend not more than 10 percent of the amount received under the grant for such administrative expenses. Administrative expenses under this paragraph may include expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases, for staff carrying out activities assisted with a grant under this section and for individuals who reside in proximity of individuals assisted under this subtitle.

(d) LIMITATIONS ON USE OF GRANTS.—

(1) COMMUNITY RESIDENCES.—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (c)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (c)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) SERVICE AGREEMENT.—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to individuals assisted by the community residence.

(B) FUNDING AND CAPABILITY.—That the jurisdiction will have sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases.

(C) ZONING AND BUILDING CODES.—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) INTENSIVE ASSISTANCE.—That, for any individual who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) SERVICES.—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (c)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases.

42 USC 12911.

SEC. 862. REPORT.

Any organization or agency that receives a grant under this subtitle shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this subtitle, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

42 USC 12912.

SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle $75,000,000 for fiscal year 1991, and $156,500,000 for fiscal year 1992.

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 901. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second sentence and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $3,137,000,000 for fiscal year 1991 and $3,272,000,000 for fiscal year 1992. Of any amounts appropriated under this section, the Secretary shall, to the extent approved in appropriation Acts, make available—

"(1) not less than $3,000,000 in each of fiscal years 1991 and 1992 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community

and economic development, community planning, or community management,

"(2) not less than $6,500,000 for fiscal year 1991 and $6,500,000 for fiscal year 1992 in the form of grants to historically black colleges,

"(3) not less than $7,000,000 for fiscal year 1991 and $7,000,000 for fiscal year 1992 for grants in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and Territories.

"(4) not less than $500,000 in fiscal year 1991 for grants to demonstrate the feasibility of developing an integrated database system and computer mapping tool for the compliance, programming, and evaluation of community development block grants.".

(b) LIMITATION ON LOAN GUARANTEES.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $300,000,000 during fiscal year 1991 and $300,000,000 during fiscal year 1992.".

(c) PAYMENTS WITH RESPECT TO INDIAN HOUSING.—Section 107(a) of the Housing and Urban Development Act of 1974 (42 U.S.C. 5307(a)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services with respect to Indian housing;". North Dakota.

SEC. 902. TARGETING COMMUNITY DEVELOPMENT BLOCK GRANT ASSISTANCE.

(a) PRIMARY OBJECTIVE.—The second sentence of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by striking "60 percent" and inserting "70 percent".

(b) CERTIFICATION REGARDING ACTIVITIES.—Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended by striking "60 percent" and inserting "70 percent".

SEC. 903. COMMUNITY DEVELOPMENT CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITIES.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended—

(1) by striking the second sentence and inserting the following: "Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.";

(2) in the fourth sentence, by striking "for fiscal year 1988 or 1989"; and

(3) in the last sentence, by striking—

(A) "the first or second sentence of"; and

(B) "under such first or second sentence".

(b) URBAN COUNTIES.—Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(B)) is amended to read as follows:

"(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A), (C), or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.".

(c) RELINQUISHMENT OF ENTITLEMENT STATUS.—

(1) RELINQUISHMENT BY METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as amended by subsection (a), is further amended by inserting after the period at the end the following: "Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 106 as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 106 from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence.".

(2) INCLUSION WITH URBAN COUNTY.—Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(A) in clause (ii), by striking "or" at the end;

(B) in clause (iii), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new clause:

Government contracts.

"(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause (I) the county must have a combined population of not less than 195,000, (II) more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies.".

42 USC 5302 note.

(3) APPLICABILITY.—The amendments made by this subsection shall apply with respect to assistance under title I of the

Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 904. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) IN GENERAL.—Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter. 42 USC 5302 note.

SEC. 905. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

Section 104(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(c)) is amended to read as follows:

"(c) A grant may be made under section 106(b) only if the unit of general local government certifies that it is following—

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

"(2) a housing assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

SEC. 906. PROTECTION OF INDIVIDUALS ENGAGING IN NONVIOLENT CIVIL RIGHTS DEMONSTRATIONS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(l) PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.—No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any unit of general local government that—

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction.".

SEC. 907. CDBG ELIGIBLE ACTIVITIES.

(a) ECONOMIC DEVELOPMENT PROJECTS THROUGH FOR-PROFIT ENTITIES.—Section 105(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(17)) is amended to read as follows:

"(17) provision of assistance to private, for-profit entities, when the assistance is appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

"(A) creates or retains jobs for low- and moderate-income persons;

"(B) prevents or eliminates slums and blight;

"(C) meets urgent needs;

"(D) creates or retains businesses owned by community residents;

"(E) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

"(F) provides technical assistance to promote any of the activities under subparagraphs (A) through (E);".

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—

(1) IN GENERAL.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (18), by striking "and" at the end;

(B) in paragraph (19), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(20) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except that such assistance shall not be considered a public service for purposes of paragraph (8)) by using such assistance to—

"(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

"(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

"(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

"(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or

"(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyer.".

42 USC 5305 note.

(2) TERMINATION.—Effective on October 1, 1992 (or October 1, 1993, if the Secretary determines that such later date is necessary to continue to provide homeownership assistance until homeownership assistance is available under title II of the Cranston-Gonzalez National Affordable Housing Act), section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(A) in paragraph (18), by inserting "and" at the end;

(B) in paragraph (19), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (20).

SEC. 908. PUBLIC SERVICES.

(a) STATEWIDE CEILING.—Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by inserting after "unit of general local government" the third time it appears "(or in the case of nonentitled communities not more than 15 per centum statewide)".

(b) PROGRAM INCOME.—Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting after "under this title" the second place it appears "including program income".

SEC. 909. AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS. 42 USC 5304 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act (42 U.S.C. 5304(h)).

(b) APPLICABILITY.—This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1992 and any fiscal year thereafter.

SEC. 910. COMMUNITY DEVELOPMENT LOAN GUARANTEES. 42 USC 5308 note.

(a) STATEMENT OF PURPOSE AND OBJECTIVES.—

(1) PURPOSES.—The purposes of the amendments made by this section are—

(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

(2) OBJECTIVES.—In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of—

(A) encouraging local governments to establish public-private partnerships;

(B) preserving housing affordable for persons of low and moderate income; and

(C) creating permanent employment opportunities, primarily for persons of low and moderate income.

(b) GUARANTEE OF LOANS ISSUED BY NONENTITLEMENT COMMUNITIES AND TERRITORIES.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by striking "unit of general local government" or "units of general local government" each place such terms appear and inserting "eligible public entity" or "eligible public entities", respectively.

(B) CONFORMING AMENDMENT.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by striking "unit or agency" and inserting "entity or agency".

(2) GUARANTEE OF HOUSING CONSTRUCTION AND OTHER LOANS.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended in the first sentence—

(A) by striking "; or" and inserting a semicolon; and

(B) by inserting before the period at the end the following: "; or (4) construction of housing by nonprofit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 or title VI of the Housing and Community Development Act of 1987".

(3) STATE ASSISTANCE IN APPLICATIONS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by adding at the end the following new subsection:

"(n) Any State that has elected under section 106(d)(2)(A) to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.".

(4) STATE GRANTS AS SECURITY.—

(A) IN GENERAL.—Section 108(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)) is amended—

(i) by inserting "(1)" after "(d)";

(ii) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively; and

(iii) by adding at the end the following new paragraph:

"(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State shall pledge any grant for which the State may become eligible under this title as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.".

(B) REPAYMENTS.—Section 108(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(e)) is amended by striking "subsection (d)(2)" and inserting "paragraphs (1)(B) and (2) of subsection (d)".

(5) DEFINITION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this section) is further amended by adding at the end the following new subsection:

"(o) For purposes of this section, the term 'eligible public entity' means any unit of general local government, including units of general local government in nonentitlement areas.".

(c) LOAN REPAYMENT PERIOD.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)), as amended by the preceding provisions of this Act, is further amended by

inserting after the third sentence the following: "The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.".

(d) OUTSTANDING LOAN GUARANTEE AMOUNT PER ISSUER.—Section 108(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(b)) is amended—

(1) by inserting after "this section" the following: "(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))";

(2) by striking "three" and inserting "5"; and

(3) by inserting "or 107" after "section 106".

(e) ALLOCATION OF LOAN GUARANTEES AND MONITORING OF AMOUNT GUARANTEED FOR EACH COMMUNITY.—

(1) ALLOCATION OF GUARANTEES.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new sentence: "Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.".

(2) MONITORING OF GUARANTEES PER COMMUNITY.—Section 108(k) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary shall monitor the use of guarantees under this section by eligible public entities. If the Secretary finds that 50 percent of the aggregate guarantee authority has been committed, the Secretary may—

"(A) impose limitations on the amount of guarantees any one entity may receive in any fiscal year of $35,000,000 for units of general local government receiving grants under section 106(b) and $7,000,000 for units of general local government receiving grants under section 106(d); or

"(B) request the enactment of legislation increasing the aggregate limitation on guarantees under this section.".

(f) DEBT PAYMENT ASSISTANCE.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by adding at the end the following: "The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.".

(g) TRAINING AND INFORMATION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously

amended by this Act) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990.

"(2) The Secretary may use amounts set aside under section 107 to carry out this subsection.".

(h) ANNUAL REPORT.—Section 113(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5313(a)) is amended—

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) a description of the activities carried out under section 108.".

42 USC 5308 note.

(i) REGULATIONS.—To carry out the amendments made by this section, the Secretary of Housing and Urban Development shall—

(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act; and

(2) issue final regulations not later than 180 days after the date of the enactment of this Act.

SEC. 911. HAWAIIAN HOME LANDS.

42 USC 5309 note.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands.".

SEC. 912. PROHIBITION OF DISCRIMINATION ON BASIS OF RELIGION UNDER CDBG PROGRAM.

(a) IN GENERAL.—Section 109(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5309(a)) is amended by inserting "religion," after "national origin,".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act.

SEC. 913. TECHNICAL CORRECTIONS REGARDING CDBG FOR INDIAN TRIBES.

(a) INAPPLICABILITY OF LOW AND MODERATE INCOME REQUIREMENTS.—Section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting "to States and units of general local government" after "Federal assistance provided" the first place it appears.

(b) ALLOCATION AND DISTRIBUTION OF FUNDS.—

(1) SET-ASIDE FOR INDIAN TRIBES.—

(A) REPEAL.—Section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) is amended by striking paragraph (7).

(B) REPLACEMENT.—Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended by striking "SEC. 106. (a)" and all that follows

through the end of subsection (a) and inserting the following:

"SEC. 106. (a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to Indian tribes 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

Regulations.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use under section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b).".

(2) ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.—Paragraphs (1) and (2) of section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) are amended by striking "After taking into account the set-aside for Indian tribes under paragraph (7), the" each place it appears and inserting "The" in each place.

(3) ALLOCATION TO NONENTITLEMENT AREAS.—Section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "section 107 and section 119" and inserting in lieu thereof "section 106(a) (1) and (2)".

(c) PROGRAM REQUIREMENTS FOR GRANTS TO INDIAN TRIBES.—Section 107(e)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(e)(2)) is amended by inserting ", section 106(a)(1)," after "this section".

(d) ADMINISTRATION OF GRANTS TO INDIAN TRIBES.—Section 702(c) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 5306 note) is repealed.

(e) APPLICABILITY OF HUD REFORM ACT.—Section 702(e) of the Department of Housing and Development Reform Act of 1989 (42 U.S.C. 5306 note) is amended by striking "1991" and inserting "1990".

(f) APPLICABILITY.—

42 USC 5306 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1990 and each fiscal year thereafter.

(2) GRANTS IN FISCAL YEAR 1990.—The Secretary of Housing and Urban Development may make grants to Indian tribes pursuant to the amendments made by this section with any amounts approved in any appropriation Act under section 103 for fiscal year 1990 for grants to Indian tribes, and the first

sentence of section 106(a)(1) of the Housing and Community Development Act of 1974 (as amended by this Act) shall not apply to such grants.

SEC. 914. URBAN HOMESTEADING.

(a) ACQUISITION OF PROPERTIES FROM THE RESOLUTION TRUST CORPORATION.—Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e) is amended—

(1) by redesignating subsections (l), (m), and (n) as subsections (m), (n), and (o), respectively; and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Secretary may acquire from the Resolution Trust Corporation eligible single family properties (as such term is defined in section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk (as agreed to by the Secretary and the Resolution Trust Corporation), for transfer to units of general local government or a State, or qualified community organizations or public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary under this section and other disposition as provided under this subsection. Such properties shall be suitable for use in connection with approved urban homesteading programs, as determined by the Secretary.

"(2) The acquisition price paid by the Secretary to the Resolution Trust Corporation for properties under paragraph (1) shall be in an amount to be agreed upon by the Secretary and the Resolution Trust Corporation for each property and shall include discounts for bulk purchase and for the estimated costs and other expenses of the Secretary related to holding a property until its transfer for use in connection with an urban homesteading program or other disposition under this subsection. Notwithstanding the preceding sentence, the price paid by the Secretary for acquisition of a property under this subsection may not exceed 50 percent of the fair market value of the property, as valued individually.

"(3) If a unit of general local government, State, community organization, or public agency cannot make timely use under an urban homesteading program of a property acquired by the Secretary under this subsection, or if the property is found to be unsuitable for such use after acquisition, the Secretary may deal with, complete, rent, secure, repair, renovate, modernize, insure, or sell for cash or credit (at a price determined by the Secretary), in the discretion of the Secretary, any property purchased under this subsection. The Secretary may use the proceeds from any sales to offset any costs or other expenses related to holding properties acquired under this subsection.

"(4) After determining suitability of property under paragraph (1), the Secretary may acquire property from the Resolution Trust Corporation for more than the maximum amount that the Secretary, by regulation, has established for reimbursement for properties transferred for urban homesteading uses under this section. The local government, State, organization, or agency administering the urban homesteading program under which an individual or family receives such a property shall pay to the Secretary (in a manner as the Secretary shall provide) the amount by which the acquisition price paid by the Secretary to the Resolution Trust Corporation is greater than such maximum amount. The local

government, State, or organization or agency may recover some or all of the amount paid to the Secretary by the administering agency, as the Secretary shall provide. Any property acquired pursuant to this subsection may be transferred, under an urban homesteading program under this section, only to individuals and families who are lower income families (as such term is defined in subsection (h)(3)).

"(5) For purposes of this subsection, a bulk acquisition of properties shall involve not less than 100 properties.

"(6) In using properties acquired under this subsection, each urban homesteading program shall provide for preference in conveying such properties under the program to residents of public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) who meet all eligibility criteria under this section.".

(b) NEIGHBORHOOD IMPROVEMENT STRATEGY.—Section 810(b)(6) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e(b)(6)) is amended by striking the period at the end and inserting the following: ", except that this paragraph shall not apply with respect to any group of 10 or less properties obtained for use under an urban homesteading program if the properties (A) are located in any single census tract, and (B) were acquired by the Secretary from the Resolution Trust Corporation pursuant to subsection (l).".

(c) RTC DISPOSITION PROCEDURES.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)), as amended by section 804 of this Act, is further amended by adding at the end the following new subparagraph:

"(E) URBAN HOMESTEADING ACQUISITION.—

"(i) In providing for bulk acquisition of eligible single family properties by the Secretary under section 810(l) of the Housing and Community Development Act of 1974 and by participating jurisdictions for inclusion in affordable housing activities assisted under title II of the Cranston-Gonzalez National Affordable Housing Act, the Corporation shall agree to an amount to be paid for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property such that the acquisition price for each property shall not exceed 50 percent of the fair market value of the property, as valued individually.

"(ii) To the extent necessary to facilitate sale of properties to the Secretary and participating jurisdictions, the requirements of paragraphs (2), (5), and (6)(A) of this subsection shall not apply to such transactions and property involved in such transactions.

"(iii) To facilitate acquisitions by the Secretary and participating jurisdictions, the Corporation shall provide the Secretary and participating jurisdictions with an inventory of eligible single family properties, not less than 4 times each year.".

SEC. 915. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

"(g) To the extent provided in appropriations Acts, of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $2,000,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 shall be available to carry out this section.".

42 USC 5306 note.

SEC. 916. CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

State listing.

(a) SET-ASIDE FOR COLONIAS.—The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

(1) FIRST FISCAL YEAR.—For the first fiscal year to which this section applies, 10 percent.

(2) SUCCEEDING FISCAL YEARS.—For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

(b) ELIGIBLE ACTIVITIES.—Assistance distributed pursuant to this section may be used only to carry out the following activities:

(1) PLANNING.—Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of—

(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

(B) preliminary surveys and analyses of market needs, preliminary site engineering and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

(2) ASSESSMENTS FOR PUBLIC IMPROVEMENTS.—The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(c) DISTRIBUTION OF ASSISTANCE.—Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

(d) APPLICABLE LAW.—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(e) DEFINITIONS.—For purposes of this section:

(1) COLONIA.—The term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) PERSONS OF LOW AND MODERATE INCOME.—The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) UNITED STATES-MEXICO BORDER REGION.—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(f) APPLICABILITY.—This Act shall apply only with respect to fiscal years 1991, 1992, and 1993.

SEC. 917. NEIGHBORHOOD REINVESTMENT CORPORATION.

42 USC 8107 note.

(a) FINDINGS.—The Congress finds that—

(1) protecting the existing stock of unsubsidized privately held lower income housing through the rehabilitation and revitalization of declining neighborhoods is essential to a national housing policy that seeks to increase the availability of affordable housing for low- and moderate-income families;

(2) the Neighborhood Reinvestment Corporation, the anchor of the national neighborhood housing services network, was chartered by Congress more than 10 years ago to revitalize neighborhoods for the benefit of current residents by mobilizing public, private, and community resources at the neighborhood level;

(3) the national neighborhood housing services network has proven its worth as a successful cost-effective program relying largely on local initiative for the specific design of local programs;

(4) the national neighborhood housing services network has had more than 10 years of experience in revitalizing declining neighborhoods, creating housing for low- and moderate-income families, and equipping residents with skills and resources required to maintain safe and healthy communities; and

(5) expanding upon the existing capabilities, resources, and potential of the national neighborhood housing services network is a cost-effective response to the affordable housing and neighborhood revitalization needs confronting the Nation, and is a strong preventive measure in addressing the national tragedy of homelessness.

(b) PURPOSE.—It is the purpose of this section to authorize appropriations for the Neighborhood Reinvestment Corporation for fiscal years 1991 and 1992 to permit the corporation—

(1) to carefully expand the capacities of the national neighborhood housing services network;

(2) to begin to meet the urgent need for neighborhood housing services and mutual housing associations in neighborhoods across the Nation as the effort to preserve affordable housing for low- and moderate-income American families increases;

(3) to increase and provide ongoing technical and capacity development assistance to neighborhood housing services and related public-private partnership-based nonprofit institutions involved in the revitalization of neighborhoods for the benefit of current residents, rehabilitation, preservation of existing housing stock, and production of additional housing opportunities for low- and moderate-income families;

(4) to expand the loan purchase capacity of the national neighborhood housing services secondary market, operated by Neighborhood Housing Services of America, for loans made by neighborhood housing services to residents who are unable to meet conventional lending standards, and other loans for community development purposes;

Grant programs.

(5) to provide increased capacity development and matching grants to preserve existing privately held unsubsidized rental housing affordable to low- and moderate-income households and to create flexible strategies effective in the diverse economic and geographic environments of the Nation;

Grant programs.

(6) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990;

(7) to increase the resources available to neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families;

(8) to expand the national mutual housing association demonstration by providing technical assistance and matching grants to assist low- and moderate-income families to participate in such associations;

(9) to increase resources available to neighborhood housing services network programs for foreclosure intervention and prevention; and

(10) to create additional neighborhood housing services partnership organizations to serve rural communities, Native Americans, Native Hawaiians, and other communities in need.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 608(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the corporation to carry out this title $35,000,000 for fiscal year 1991 and $36,500,000 for fiscal year 1992. Not more than 15 percent of any amount appropriated under this paragraph for any fiscal year may be used for administrative expenses.

"(2) Of the amount appropriated pursuant to this subsection for each of the fiscal years 1991 and 1992, amounts appropriated in excess of the amount necessary to continue existing services of the Neighborhood Reinvestment Corporation in revitalizing declining neighborhoods shall be available—

"(A) to expand the national neighborhood housing services network and to assist network capacity development, including expansion of rental housing resources;

"(B) to expand the loan purchase capacity of the national neighborhood housing services secondary market operated by Neighborhood Housing Services of America;

"(C) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to the Low-Income Housing Preservation and Resident Ownership Act of 1990; Grant programs.

"(D) to increase the resources available to the national neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families; and

"(E) to provide matching capital grants, operating subsidies, and technical services to mutual housing associations for the development, acquisition, and rehabilitation of multifamily and single-family properties (including properties owned by the Secretary of Housing and Urban Development) to ensure affordability by low- and moderate-income families.".

SEC. 918. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS AND CERTAIN OTHER COMMUNITY DEVELOPMENT AND PUBLIC FACILITY FUNDS.

(a) LUZERNE COUNTY, PENNSYLVANIA.—Notwithstanding any other provision of law or other requirement, the city of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the county of Luzerne and in the State of Pennsylvania, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the city of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Nanticoke, the borough of Plymouth, and the borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(b) VALLEJO, CALIFORNIA.—Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(c) NEW HAVEN, CONNECTICUT.—Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven

shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(d) LEBANON, PENNSYLVANNIA.—Notwithstanding any other provision of law or other requirement, the city of Lebanon, Pennsylvannia, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Southside Urban Renewal Project (No. R-635(C)), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Lebanon shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(e) EAST STROUDSBURG, PENNSYLVANNIA.—Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, Pennsylvania, is authorized to retain any land disposition proceeds from the financial closeout of the Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such proceeds, including any interest.

(f) FAIRMOUNT HEIGHTS, MARYLAND.—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL003) issued July 1, 1969, under title II of the Housing Amendments of 1965. The Town of Fairmount Heights is relieved of all liability to the Federal Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

(g) NEWBURYPORT, LAWRENCE, AND MALDEN, MASSACHUSETTS.—Notwithstanding any other provision of law or other requirement, the cities of Newburyport, Lawrence, and Malden, all in Massachusetts, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Central Business Urban Renewal Project (No. MASS-R-80) in the city of Newburyport, the Theatre Row Redevelopment Project (No. MASS-R-61) in the city of Lawrence, and the Civic Center Urban Renewal Project (No. MASS-R-118) in the city of Malden, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The cities of Newburyport, Lawrence, and Malden shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(h) BUDGET COMPLIANCE.—This section shall be effective only to the extent provided in appropriations Acts.

SEC. 919. STUDY REGARDING AVAILABILITY OF HOUSING PROXIMATE TO PLACES OF EMPLOYMENT.

42 USC 5313 note.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study regarding the availability of housing within reasonable proximity of places of employment. The study shall—

(1) identify causes of, and factors relating to, the geographic divergence of available housing for low- and moderate-income families from places of employment for working members of such families; and

(2) propose methods for preventing such divergence and for providing housing within reasonable proximity of places of employment, without promoting establishment of cottage industries or housing developments for employees owned or controlled by the employer.

(b) STUDY REQUIREMENTS.—In carrying out the study under this section the Secretary of Housing and Urban Development shall—

(1) use, to the extent available and practicable, existing regional plans and strategies developed or implemented by public, private, and nonprofit environmental organizations and regulatory entities;

(2) select and analyze one particular region of the Nation or one State in which employment opportunities are available, relative to the remainder of the Nation, but for which lack of available housing is an acute problem; and

(3) give priority to analysis of regions and metropolitan areas not complying with Federal laws and regulations relating to clean air standards.

(c) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results and conclusions of the study conducted under this section. The report shall also contain proposed strategies for adoption by local, regional, and State governmental agencies, in consultation with nonprofit organizations, to increase the availability of housing for low- and moderate-income families within reasonable proximity of places of employment for working members of such families and prevent the geographical divergence of such housing and places of employment.

SEC. 920. ALLOCATION OF FUNDS UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

Reports.

The Secretary of Housing and Urban Development shall, not later than July 1, 1991, report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the formula factors, and the weights that are assigned to the formula factors. The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and the desirability of including at an equal or greater weight the age of

housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the purposes of title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after receipt of the report. The study shall be completed using the data derived from the 1990 census.

SEC. 921. STUDY ON TURNING DRUG ZONES INTO OPPORTUNITY ZONES.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities.

SEC. 922. COMMUNITY DEVELOPMENT PLANS.

Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(l) COMMUNITY DEVELOPMENT PLANS.—

Regulations.

"(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its nonhousing community development needs and strategies for meeting those needs.

"(2) LOCAL GOVERNMENTS.—In the case of a recipient that is a unit of general local government—

"(A) prior to the submission required by paragraph (1), the recipient shall consult with adjacent units of general local government and hold one or more public hearings to obtain the views of citizens on community development needs; and

Regulations.

"(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

"(3) STATES.—In the case of a recipient that is a State, the description required in paragraph (1)—

"(A) shall include only the needs and strategies to meet those needs within the State that affect more than one unit of general local government;

"(B) shall include the needs and strategies to meet those needs of units of local government within the State which are eligible for a distribution under subsection (d)(2)(A) of section 106; and

"(C) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(4) EFFECT OF SUBMISSION.—A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.". Regulations.

Subtitle B—Disaster Relief

SEC. 931. SECTION 8 CERTIFICATES AND VOUCHERS. 42 USC 1437c note.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate and voucher programs under sections 8 (b) and (o) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 932. MODERATE REHABILITATION. 42 USC 1437c note.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 933. COMMUNITY DEVELOPMENT.

Section 106(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (4),"; and

(2) by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 104(e) or 111.

"(B) In using any amounts that become available as a result of actions under section 104(e) or 111, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city

or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 105, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications and statements under section 104) for assistance under this paragraph.

"(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 104(e) or 111 for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph.".

SEC. 934. RURAL HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"DISASTER ASSISTANCE

42 USC 1490g.

"SEC. 541. (a) AUTHORITY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title, in the event of a natural disaster, so declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall allocate, for assistance under this section to the States affected for use in the counties designated as disaster areas and the counties contiguous to such counties, amounts available under this title. Allocations under this section may be made for each of the fiscal years ending during the 3-year period beginning on the declaration of the disaster by the President.

"(2) AMOUNT.—Subject to the availability of amounts pursuant to appropriations Acts, assistance under paragraph (1) shall be made in an amount equal to the product of—

"(A) the sum of the official State estimate of the number of dwelling units in the counties described in paragraph (1) within the eligible service area of the Farmers Home Administration (or otherwise if the Secretary provides for a waiver under subsection (d)) that are destroyed or seriously damaged; and

"(B) 20 percent of the average cost of all dwelling units assisted by the Secretary in the State during the previous 3 years.

Regulations.

"(b) USE.—The assistance made available under this section may be used for the housing purposes authorized under this title, and the Secretary shall issue such regulations as may be necessary to carry out this section to assure the prompt and expeditious use of such

funds for the restoration of decent, safe, and sanitary housing within the areas described in subsection (a)(1). In implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(c) ELIGIBILITY.—Notwithstanding any other provision of this title, assistance allocated under this section shall be available to units of general local government and their agencies and to local nonprofit organizations, agencies, and corporations for the construction or rehabilitation of housing for agricultural employees and their families.

"(d) WAIVER OF RURAL AREA REQUIREMENTS.—The Secretary may waive the application of the provisions of section 520 with respect to assistance under this section, as the Secretary considers appropriate.

"(e) RURAL HOUSING INSURANCE FUND.—The Secretary is authorized to advance from the Rural Housing Insurance Fund such sums as may be necessary to meet the requirements of subsection (a)(1), subject to limits previously approved in appropriations Acts.".

Subtitle C—Regulatory Programs

SEC. 941. MORTGAGE SERVICING TRANSFER DISCLOSURE.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 5 the following new section:

"SERVICING OF MORTGAGE LOANS AND ADMINISTRATION OF ESCROW ACCOUNTS

"SEC. 6. (a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.— 12 USC 2605.

"(1) IN GENERAL.—Each person who makes a federally related mortgage loan shall disclose to each person who applies for any such loan, at the time of application for the loan—

"(A) whether the servicing of any such loan may be assigned, sold, or transferred to any other person at any time while such loan is outstanding;

"(B) for each of the most recent 3 calendar years completed (at the time of such application), the percentage (rounded to the nearest quartile) of loans made by such person for which the servicing has been assigned, sold, or transferred as of the end of the most recent calendar year completed, except that—

"(i) for any loan application during the 12-month period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the information disclosed under this subparagraph may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the information disclosed under this subparagraph may be for the most recent 2 calendar years completed; and

"(ii) this subparagraph may not be construed to require the inclusion, in the percentage disclosed, of any loans the servicing of which has been assigned, sold, or transferred by the person making the loan to a transferee servicer that is an affiliate or subsidiary of such person; and

"(C) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at the time of such application) to assign, sell, or transfer the servicing of such loan to another person.

"(2) MODEL DISCLOSURE STATEMENTS.—Not later than 90 days after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall develop a model disclosure statement for notification to applicants under paragraph (1) with respect to servicing procedures, transfer practices and requirements, and complaint resolution. The model statement shall provide for the person originating the loan to disclose their capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination. The estimate shall be expressed as one of the following range of possibilities—between 0 and 25 percent, between 26 and 50 percent, between 51 and 75 percent, or between 76 and 100 percent. This paragraph may not be construed to require the inclusion, in the estimate disclosed, of any loans the servicing of which will be assigned, sold, or transferred by the person originating the loan to a transferee servicer that is an affiliate or subsidiary of such person.

"(3) SIGNATURE OF APPLICANT.—Any disclosure of the information required under paragraph (1) shall not be effective for purposes of this section unless the disclosure is accompanied by a written statement, in such form as the Secretary shall develop before the expiration of the 90-day period beginning on the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, that the applicant has read and understood the disclosure and that is evidenced by the signature of the applicant at the place where such statement appears in the application.

"(b) NOTICE BY TRANSFEROR OR LOAN SERVICING AT TIME OF TRANSFER.—

"(1) NOTICE REQUIREMENT.—Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

"(2) TIME OF NOTICE.—

"(A) IN GENERAL.—Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in

which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) CONTENTS OF NOTICE.—The notice required under paragraph (1) shall include the following information:

"(A) The effective date of transfer of the servicing described in such paragraph.

"(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

"(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

"(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

"(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the security instruments other than terms directly related to the servicing of such loan.

"(c) NOTICE BY TRANSFEREE OF LOAN SERVICING AT TIME OF TRANSFER.—

"(1) NOTICE REQUIREMENT.—Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

"(2) TIME OF NOTICE.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be

made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) EXCEPTION FOR CERTAIN PROCEEDINGS.—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) EXCEPTION FOR NOTICE PROVIDED AT CLOSING.—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) CONTENTS OF NOTICE.—Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

"(d) TREATMENT OF LOAN PAYMENTS DURING TRANSFER PERIOD.—During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

"(e) DUTY OF LOAN SERVICER TO RESPOND TO BORROWER INQUIRIES.—

"(1) NOTICE OF RECEIPT OF INQUIRY.—

"(A) IN GENERAL.—If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 20 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

"(B) QUALIFIED WRITTEN REQUEST.—For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that—

"(i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and

"(ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the

servicer regarding other information sought by the borrower.

"(2) ACTION WITH RESPECT TO INQUIRY.—Not later than 60 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall—

"(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

"(B) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

"(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

"(3) PROTECTION OF CREDIT RATING.—During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any consumer reporting agency (as such term is defined under section 603 of the Fair Credit Reporting Act).

"(f) DAMAGES AND COSTS.—Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

"(1) INDIVIDUALS.—In the case of any action by an individual, an amount equal to the sum of—

"(A) any actual damages to the borrower as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed $1,000.

"(2) CLASS ACTIONS.—In the case of a class action, an amount equal to the sum of—

"(A) any actual damages to each of the borrowers in the class as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than

$1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of—

"(i) $500,000; or

"(ii) 1 percent of the net worth of the servicer.

"(3) COSTS.—In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

"(4) NONLIABILITY.—A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

"(g) ADMINISTRATION OF ESCROW ACCOUNTS.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.

"(h) PREEMPTION OF CONFLICTING STATE LAWS.—Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

"(i) DEFINITIONS.—For purposes of this section:

"(1) EFFECTIVE DATE OF TRANSFER.—The term 'effective date of transfer' means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

"(2) SERVICER.—The term 'servicer' means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include—

"(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

"(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corpora-

tion, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(3) SERVICING.—The term 'servicing' means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 10, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan.".

SEC. 942. MORTGAGE ESCROW ACCOUNTS.

(a) IN GENERAL.—Section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) is amended—

(1) by inserting "(a) IN GENERAL.—" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) NOTIFICATION OF SHORTAGE IN ESCROW ACCOUNT.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 6(i)) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

"(c) ESCROW ACCOUNT STATEMENTS.—

"(1) INITIAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

"(C) INITIAL STATEMENT AT CLOSING.—Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 4. Not later than the expiration of the 90-day period beginning on the date of the enactment of the Cranston- Regulations.

Gonzalez National Affordable Housing Act, the Secretary shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 4 that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

"(2) ANNUAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.

"(d) PENALTIES.—

"(1) IN GENERAL.—In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of $50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b) may not exceed $100,000.

"(2) INTENTIONAL VIOLATIONS.—If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure—

"(A) the penalty imposed under paragraph (1) shall be $100; and

"(B) in the case of any penalty determined under subparagraph (A), the $100,000 limitation under paragraph (1) shall not apply.".

(b) PROHIBITION OF FEES FOR ESCROW ACCOUNT STATEMENTS.—Section 12 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2610) is amended—

(1) by inserting after the first comma the following: "or by a servicer (as the term is defined under section 6(i)),";

(2) by striking "lender" the second place it appears and inserting "lender or servicer";

(3) by striking "6" and inserting "10(c)"; and

(4) by striking the section heading and inserting the following new section heading:

"PROHIBITION OF FEES FOR PREPARATION OF TRUTH-IN-LENDING, UNIFORM SETTLEMENT, AND ESCROW ACCOUNT STATEMENTS".

SEC. 943. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a national commission to develop recommendations for modernizing the National Manufactured Housing Construction and Safety Standards Act of 1974.

(b) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the National Commission on Manufactured Housing (in this section referred to as the "Commission").

(c) COMPOSITION OF COMMISSION.—

(1) IN GENERAL.—The Commission shall consist of the Secretary and 16 members appointed, not later than 60 days after funds are provided as described in subsection (f) or made available from non-Federal sources, as follows:

(A) 8 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate (4 members by each); and

(B) 8 members shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives (4 members by each).

(2) APPOINTMENT CRITERIA.—The 8 members of the Commission appointed under each of subparagraphs (A) and (B) of paragraph (1) shall include—

(A) 2 individuals who are elected public officials at the State or local level;

(B) 2 individuals with knowledge and experience concerning the manufactured housing industry;

(C) 2 individuals chosen from organizations with more than a 2-year history of representing consumer or community interests on housing issues;

(D) 1 individual with knowledge and experience concerning the development and implementation of building codes; and

(E) 1 individual who occupies a manufactured home and is affiliated with an association representing manufactured home owners.

(3) CHAIRPERSON.—The Commission shall elect a chairperson from among members of the Commission.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(5) VOTING.—Each member of the Commission shall be entitled to 1 vote, and all votes shall be given equal weight.

(6) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(7) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(d) FUNCTIONS OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall study and investigate the National Manufactured Housing Construction and Safety Standards Act of 1974 and current construction and safety regulatory standards applicable to manufactured housing. In conducting the study, the Commission shall—

(A) consult with the Secretary of Housing and Urban Development and other agencies and housing authorities at the Federal, State, and local level, consumer groups, manufactured housing industry representatives, and other interested parties to assess the effectiveness of the National Manufactured Housing Construction and Safety Standards Act of 1974;

(B) consider deletion of the reference to the permanent chassis in the existing definition of a manufactured home and the effect of such a change on the affordability and durability of manufactured homes;

(C) examine the implications for State regulatory jurisdiction over modular housing, in the event of changes in definitions and standards relating to manufactured housing;

(D) consider the need for additional and revised standards applicable to manufactured housing, including, but not limited to standards in the areas of construction, installation, thermal insulation, energy efficiency, and fire safety;

(E) review the current system of inspections of manufactured housing and enforcement of applicable standards and recommend improvements to the system;

(F) consider the need for independent financing of inspection agencies to insure the autonomy of regulators;

(G) evaluate the impact of the manufactured housing program under the title I of the National Housing Act on the actuarial soundness of Federal mortgage insurance and secondary market programs, and the impact that proposed changes to current law would have on financing of these homes; and

(H) develop an action plan containing specific recommendations for legislative and regulatory revisions to present law (taking into consideration the amendments contained in section 766 of the bill, H.R. 1180, 101st Congress, 2d Session, as passed by the House of Representatives) in order to modernize the National Manufactured Housing Construction and Safety Standards Act of 1974 and a system for reviewing and updating applicable standards on an annual basis.

(2) FINAL REPORT.—Not later than 9 months after the Commission is established pursuant to subsection (b), the Commission shall submit to the Secretary of Housing and Urban Development and to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(e) POWERS OF COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings and sit and act at such times and places as the Commission may find advisable.

(2) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its

procedures and to govern the manner of its operations, organization, and personnel.

(3) ASSISTANCE FROM FEDERAL AGENCIES.—

(A) INFORMATION.—The Commission may secure directly from any department or agency of the United States such data and information as the Commission may require for the purpose of carrying out this section. Upon request of the Commission, any such department or agency shall furnish such data or information. The Commission may acquire data or information directly from such departments or agencies to the same extent the Secretary of Housing and Urban Development may acquire such data or information.

(B) ADMINISTRATIVE SUPPORT.—The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

(C) PERSONNEL DETAILS.—Upon the request of the chairperson of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(5) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts necessary to carry out its duties under this section.

(6) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) AUTHORIZATION OF APPROPRIATIONS.—Of any amounts made available under section 501 of the Housing and Urban Development Act of 1970, not more than $500,000 shall be available to carry out this section in fiscal year 1991.

(g) SUNSET.—The Commission shall terminate upon the expiration of the 9 months following the appointment of all the members under subsection (c).

SEC. 944. ENERGY ASSESSMENT REPORT.

42 USC 12712 note.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than one year after the date of the enactment of this Act, assessing any activity undertaken by the Secretary to increase energy efficiency in housing. The report shall include an analysis of the August 15, 1990 DOE-HUD program to expand energy efficiency and increase affordability of federally-assisted housing.

(b) ESTABLISHMENT OF ENERGY EFFICIENCY STANDARD.—In the report submitted under this section, the Secretary of Housing and Urban Development (in consultation with the Secretary of Energy) shall establish, and include a description of, a standard measure by which changes over time in residential energy efficiency may be compared.

42 USC 12712.

SEC. 945. 5-YEAR ENERGY EFFICIENCY PLAN.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under subsection (d) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any energy assessments under section 944.

(b) INITIAL PLAN.—The Secretary of Housing and Urban Development shall establish the first plan under this section not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(c) UPDATES.—The Secretary of Housing and Urban Development shall revise and update the plan under this section not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under subsection (b) to the Congress (as provided in subsection (d)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(d) SUBMISSION TO CONGRESS.—The Secretary of Housing and Urban Development shall submit the initial plan established under subsection (b) and any updated plans under subsection (c) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

42 USC 12712 note.

SEC. 946. UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.

(a) UNIFORM PLAN.—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall promulgate a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency. The plan shall be promulgated not later than 2 years after the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

(b) TASK FORCE.—To develop the plan, the Secretary shall form a task force to make recommendation on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations. The task force shall include individuals representing the Federal Housing Administration mortgage programs of the Department of Housing and Urban Development, the Farmers Home Administration mortgage loan and insurance programs of Department of Agriculture, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association.

42 USC 7704a.

SEC. 947. REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties. This section may not be construed to prohibit the Secretary from deferring to local building codes that meet the requirements of the seismic safety standards developed under this section.

(b) STANDARDS.—The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent feasible and to reduce the risk of shake-related property damage to the maximum extent practicable.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) REPORTS.—

(1) SUBMISSION AND CONTENTS.—The Secretary shall submit a report to the Congress, not less than biennially, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties located in seismic risk zones and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such purposes. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) INITIAL SUBMISSION.—The first report required under this subsection shall be submitted not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

Subtitle D—Miscellaneous Programs

SEC. 951. HUD RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The second sentence of section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended to read as follows: "There are authorized to be appropriated to carry out this title $21,200,000 for fiscal year 1991 and $22,100,000 for fiscal year 1992. From any amounts appropriated under this section for fiscal year 1991, the Secretary shall use not more than $500,000 to carry out a demonstration project to test affordable housing technologies, and shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (for the appropriate year) a statement of the activities under the demonstration program and findings resulting from the program. The statement shall set forth the amount and use of funds expended by the Secretary under the program for the year relating to the report and the Secretary shall include such a statement in each such annual report for each year that amounts appropriated under this section are used under the demonstration.". Appropriation authorization.

(b) REPORT REGARDING RESEARCH ACTIVITIES.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department of Housing and Urban Development that are being conducted, have 12 USC 1701z-1 note.

concluded, or will conclude during such period, pursuant to section 501 of the Housing and Urban Development Act of 1970, title V of such Act, or any other authority. The report shall include a statement identifying the individual or entity that is conducting each such activity, study, test, and demonstration program.".

SEC. 952. NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 809(h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j-2) is amended by striking the second sentence and inserting the following new sentence: "In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed $512,000 for fiscal year 1991 and $534,000 for fiscal year 1992.".

(b) ADVANCED BUILDING TECHNOLOGY PROGRAM.—Section 809 of the National Housing Act (12 U.S.C. 1701j-2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection:

"(h) ADVANCED BUILDING TECHNOLOGY PROGRAM.—

"(1) ESTABLISHMENT OF ADVANCED BUILDING TECHNOLOGY COUNCIL.—There is established within the Institute, the Advanced Building Technology Council (hereafter referred to as the 'Council').

"(2) PURPOSES.—The Council shall carry out an Advanced Building Technology Program for the purposes of—

"(A) identifying, selecting, and evaluating existing and new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet applicable test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

"(B) to the extent necessary, developing criteria for the use of such technology;

"(C) conducting economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

"(D) in cooperation with the appropriate Federal agencies, advising building designers, installers, subcontractors, contractors and supervisory officials on the appropriate design and use of new building technology incorporated in federally owned or operated buildings;

"(E) in cooperation with the appropriate Federal agencies, monitoring and evaluating the performance of new building technologies for at least 1 year after installation and building occupancy; and

"(F) disseminating resulting data to affected parties through automated information management systems.

"(3) COUNCIL MEMBERSHIP.—The Council shall be comprised of not less than 6 and not more than 11 members selected by the Secretary of Housing and Urban Development from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to—

"(A) product manufacturers;

"(B) experts in the fields of health, fire hazards, and safety; and

"(C) independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations,

except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.

"(4) FEDERAL PARTICIPATION.—

"(A) IN GENERAL.—Any agency of the Federal Government involved in any building or construction may participate in the Advanced Building Technology Program with the Council to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within the agency.

"(B) REQUIRED ASSURANCES.—Upon agreement between a participating Federal agency and the Council, with respect to the selection of the appropriate technology and the schedule of necessary work, the Council shall—

"(i) provide the Federal agency with a 5-year guarantee from the technology manufacturer that—

"(I) all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology;

"(II) all malfunctions will be repaired without delay; and

"(III) the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required;

"(ii) provide the Federal agency and its officials responsible for constructing or renovating buildings utilizing the new technology, as well as the designers, installers, subcontractors, and contractors responsible for the design, construction, or renovation of the buildings utilizing such technology with the technical information necessary to ensure its most appropriate use,

"(iii) in cooperation with the Federal agency, monitor and evaluate the performance of the new technology, and

"(iv) prepare reports to be made available to public agencies at all levels of government, the industry, and the public on the performance of the new technology. Reports.

"(5) REPORT TO THE INSTITUTE.—The Council shall submit to the Institute annually a description of its activities under the Advanced Building Technology Program for inclusion in the Institute's annual report to the Congress under subsection (j).".

SEC. 953. FAIR HOUSING INITIATIVES PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, $6,000,000 for fiscal year 1991 and $6,300,000 for fiscal year 1992, of which not more than

$3,000,000 in each year shall be for the private enforcement initiative demonstration.".

(b) EXTENSION OF PROGRAM.—Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking "September 30, 1989" and inserting "September 30, 1992".

SEC. 954. COLLECTION AND MAINTENANCE OF DATA REGARDING PROGRAMS UNDER HUD.

(a) PROGRAM EVALUATION AND MONITORING.—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) in paragraph (1), by striking the periods at the end of the first and last sentences and inserting in each place the following: "and collecting and maintaining data for such purposes.";

(2) in paragraph (2)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) titles II, III, and IV and section 811 of the Cranston-Gonzalez National Affordable Housing Act.";

(3) in paragraph (3)—

(A) by inserting after the comma the following: "and collecting and maintaining data pursuant to the authority under this subsection,"; and

(B) by striking the period at the end and inserting the following: "and collecting and maintaining data for such purposes."; and

(4) in paragraph (4)—

(A) in subparagraph (A), by inserting after "subsection" the following: "and collecting and maintaining data for such purposes"; and

(B) in subparagraph (B), by inserting after "paragraph (2)" the following: "and to collect and maintain data for such purposes".

(b) ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.—Section 166 of the Housing and Community Development Act of 1987 (42 U.S.C. 3536 note) is amended by adding at the end the following new subsection:

"(c) COLLECTION AND MAINTENANCE OF DATA.—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act.".

SEC. 955. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT.—Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended—

(1) by inserting "(a)" after "SEC. 110."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) shall not apply to any individual that—

"(1) performs services for which the individual volunteered;

"(2)(A) does not receive compensation for such services; or

"(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(3) is not otherwise employed at any time in the construction work.".

(b) PUBLIC HOUSING AND SECTION 8 ASSISTANCE.—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) by inserting "(a)" after "SEC. 12."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) and the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any individual that—

"(1) performs services for which the individual volunteered;

"(2)(A) does not receive compensation for such services; or

"(B) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(3) is not otherwise employed at any time in the construction work.".

(c) ELDERLY AND HANDICAPPED HOUSING.—Section 202(c)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(3)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) by striking "; but the Secretary" and all that follows and inserting a period; and

(3) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply to any individual that—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

(d) APPLICABILITY.—The amendments made by this section shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act, except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date. 42 USC 1437j note.

SEC. 956. ELIGIBILITY UNDER FIRST-TIME HOMEBUYER PROGRAMS. 42 USC 12713.

(a) ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.—

(1) DISPLACED HOMEMAKERS.—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) SINGLE PARENTS.—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) DEFINITIONS.—For purposes of this section:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked

primarily without remuneration to care for the home and family; and

(C) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) APPLICABILITY.—This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

42 USC 12714.

SEC. 957. MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.

(a) IN GENERAL.—Notwithstanding any other law and subject to approval in appropriations Acts, the rent charged for any dwelling unit assisted under any housing assistance program administered by the Secretary of Housing and Urban Development, to a family whose monthly adjusted income increases as a result of the employment of a member of the family who was previously unemployed, may not be increased as a result of the increased monthly adjusted income due to such employment by more than 10 percent in each 12-month period during the 36-month period beginning upon such employment.

(b) DEFINITION OF HOUSING ASSISTANCE.—For purposes of this section, the term "housing assistance program" means any program of assistance for housing—

(1) for which assistance is provided by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(2) under which rent payments, with respect to all or some of the units in the housing assisted, are limited, restricted, or determined under law or regulation based on the income of the occupying families.

42 USC 1437f note.

SEC. 958. PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development shall provide a preference to native Hawaiians for housing assistance programs described in subsection (b) for housing located on Hawaiian home lands.

(b) ASSISTANCE PROGRAMS.—For purposes of subsection (a), the Federal housing assistance programs described in this subsection are—

(1) the public housing and project-based section 8 assistance programs under the United States Housing Act of 1937;

(2) the program under section 202 of the Housing Act of 1959; and

(3) the programs under the National Housing Act.

(c) MORTGAGE INSURANCE.—

(1) IN GENERAL.—Notwithstanding any other provision or limitation of this Act, including those relating to marketability of title, the Secretary of Housing and Urban Development may provide mortgage insurance covering any Hawaiian home lands property upon which there is located a multi-family residence, for which the Department of Hawaiian Home Lands of the State of Hawaii—

(A) is the mortgagor or co-mortgagor;

(B) guarantees in writing to reimburse the Secretary for any mortgage insurance claim paid in connection with such property; or

(C) offers other security that is acceptable to the Secretary,

subject to appropriate conditions prescribed by the Secretary.

(2) SALE ON DEFAULT.—In the event of a default on a mortgage insured pursuant to paragraph (1), the Department of Hawaiian Home Lands of the State of Hawaii may sell the insured property or housing unit to an eligible native Hawaiian.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "native Hawaiian" means—

(A) any descendant of not less than one-half; or

(B) in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established under section 209 of the Hawaiian Homes Commission Act, 1920, (42 Stat. 111) or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3; 73 Stat. 5),

of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778.

(2) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Home Commission Act, 1920, (42 Stat. 108) or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (Public Law 86-3; 73 Stat. 5).

SEC. 959. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

42 USC 1437ff.

(a) AUTHORIZATION OF WAIVER.—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) EXTENT OF WAIVER.—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any

amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) DEFINITION OF HOUSING PROGRAM.—For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 960. STUDY OF PENSION FUND FINANCING OF HOUSING.

Reports.

The Secretary of Housing and Urban Development shall conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of such study.

42 USC 12712 note.

SEC. 961. ENERGY EFFICIENCY DEMONSTRATION.

(a) AUTHORITY.—The Secretary of Housing and Urban Development shall establish a program to demonstrate various methods of improving the energy efficiency of existing housing. For the purpose of this section, the Secretary may, after funds are made available for the purposes of section 304(e), use $2,000,000 of the amounts set aside under section 304(e).

(b) EXISTING HOUSING.—The demonstration under this section shall determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed.

(c) REPORT.—As soon as practicable after September 30, 1991, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section.

TITLE X—EXPEDITED FUNDS AVAILABILITY

SEC. 1001. AMENDMENTS TO EXPEDITED FUNDS AVAILABILITY ACT.

Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(1) in paragraph (1)(A), by striking "6" and inserting "4";

(2) in paragraph (1)(C), by striking "before September 1, 1990" and inserting "prior to the expiration of the 2-year period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act"; and

(3) in paragraph (2)(D), by striking out "September 1, 1990" and inserting in lieu "the expiration of the 2-year period

beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act".

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 566 (H.R. 1180):

HOUSE REPORTS: No. 101-559 accompanying H.R. 1180 (Comm. on Banking, Finance, and Urban Affairs) and Nos. 101-922 and 101-943 (both from Comm. of Conference).
SENATE REPORTS: No. 101-316 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
June 18-22, 27, considered and passed Senate.
July 27, 31, Aug. 1, H.R. 1180 considered and passed House; S. 566, amended, passed in lieu.
Oct. 24, House recommitted conference report.
Oct. 25, House agreed to conference report.
Oct. 26, 27, Senate considered and agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 28, Presidential remarks and statement.

O

Public Law 101-626
101st Congress

An Act

Nov. 28, 1990
[H.R. 987]

To amend the Alaska National Interest Lands Conservation Act, to protect certain lands in the Tongass National Forest in perpetuity, to modify certain long-term timber contracts, to provide for protection of riparian habitat, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tongass Timber Reform Act.
16 USC 539d note.

SECTION 1. SHORT TITLE AND DEFINITION.

(a) SHORT TITLE.—This Act may be cited as the "Tongass Timber Reform Act".

TITLE I—FOREST MANAGEMENT PROVISIONS

SEC. 101. TO REQUIRE ANNUAL APPROPRIATIONS FOR TIMBER MANAGEMENT ON THE TONGASS NATIONAL FOREST.

The Alaska National Interest Lands Conservation Act (Public Law 96-487, hereinafter referred to as "ANILCA") is hereby amended by deleting section 705(a) (16 U.S.C. 539d(a)) in its entirety and inserting in lieu thereof the following:

"SEC. 705. (a) Subject to appropriations, other applicable law, and the requirements of the National Forest Management Act of 1976 (Public Law 94-588), except as provided in subsection (d) of this section, the Secretary shall, to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest which (1) meets the annual market demand for timber from such forest and (2) meets the market demand from such forest for each planning cycle.".

SEC. 102. IDENTIFICATION OF LANDS UNSUITABLE FOR TIMBER PRODUCTION.

ANILCA is further amended by deleting section 705(d) (16 U.S.C. 539d(d)) in its entirety and inserting in lieu thereof:

"(d) All provisions of section 6(k) of the National Forest Management Act of 1976 (16 U.S.C. 1604(k)) shall apply to the Tongass National Forest except that the Secretary need not consider economic factors in the identification of lands not suited for timber production.".

SEC. 103. FISHERIES PROTECTION.

(a) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(e) In order to assure protection of riparian habitat, the Secretary shall maintain a buffer zone of no less than one hundred feet in width on each side of all Class I streams in the Tongass National Forest, and on those Class II streams which flow directly into a Class I stream, within which commercial timber harvesting shall be prohibited, except where independent national forest timber sales

have already been sold prior to March 1, 1990, or where volume has been released prior to March 1, 1990, to either the Alaska Pulp Corporation or the Ketchikan Pulp Company pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 respectively. If such an independent timber sale or released volume is within the buffer zone, the Secretary shall make every effort to relocate such independent sale or released volume to an area outside of the buffer zone. The Secretary shall use best management practices, as defined in the Region 10 Soil and Water Conservation handbook (FSH 2509.22), January 1990, to assure the protection of riparian habitat on streams or portions of streams not protected by such buffer zones. For the purposes of this subsection, the terms 'Class I streams' and 'Class II streams' mean the same as they do in the Region 10 Aquatic Habitat Management Handbook (FSH 2609.24), June 1986.".

(b) No later than one year after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the State of Alaska, the National Marine Fisheries Service, and affected private land owners, shall prepare and transmit to the Congress a study containing recommendations on the need, if any, to standardize riparian management practices for Federal, State, and private lands within the Tongass National Forest. 16 USC 539d note.

SEC. 104. FUTURE REPORTS ON THE TONGASS NATIONAL FOREST AND CONSULTATION.

(a) REPORTS.—Section 706(a) of ANILCA (16 U.S.C. 539e(a)) is amended by striking the second sentence. Section 706(b) of ANILCA (16 U.S.C. 539e(b)) is amended as follows:

(1) Strike "and (4)" and insert in lieu thereof "(4)".

(2) Strike the period at the end of the subsection and insert ", and (5) the impact of timber management on subsistence resources, wildlife, and fisheries habitats.".

(b) CONSULTATION.—Section 706(c) of ANILCA (16 U.S.C. 539e(c)) is amended by striking "and the Alaska Land Use Council" and inserting in lieu thereof "the southeast Alaska commercial fishing industry, and the Alaska Land Use Council.".

SEC. 105. SMALL BUSINESS SET-ASIDE PROGRAMS.

(a) Section 14(i)(1) of the National Forest Management Act of 1976 (16 U.S.C. 472a(i)(1)), is amended by striking the following: "road: *Provided,* That the provisions of this subsection shall not apply to sales of timber on National Forest System lands in the State of Alaska." and inserting in lieu thereof "road.".

(b) Section 705 (16 U.S.C. 539d) of ANILCA is amended by adding at the end thereof the following new subsection:

"(f) Subject to appropriations, the provisions of this Act and other applicable law (including but not limited to the requirements of the National Forest Management Act of 1976 (Public Law 94-588)) and in order to assure the continuation of the Small Business Administration timber sale program, the Secretary shall, in consultation with the Administrator of the Small Business Administration and to the extent consistent with providing for the multiple use and sustained yield of all renewable forest resources, seek to provide a supply of timber from the Tongass National Forest to those purchasers qualifying as 'small business concerns' under the Small Business Act as amended (15 U.S.C. 631 et seq.).".

16 USC 539d note.

(c) The provisions of subsections (a) and (b) of this section shall not apply to the purchase of timber within the Tongass National Forest pursuant to the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

SEC. 106. TENAKEE SPRINGS ROAD.

The Secretary of Agriculture shall not construct a vehicular access road connecting the Indian River and Game Creek roads, and shall not engage in any further efforts to connect the city of Tenakee Springs with the logging road system on Chichagof Island, unless the city councils of Tenakee Springs and Hoonah both determine that the road should be constructed and so inform the Secretary.

TITLE II—TONGASS NATIONAL FOREST LANDS PROTECTION

SEC. 201. LUD II MANAGEMENT AREAS.

Title V of ANILCA is amended by adding at the end thereof the following new section:

"SEC. 508. LUD II MANAGEMENT AREAS.

"The following lands are hereby allocated to Land Use Designation II ('LUD II') as described in the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986, and shall be managed by the Secretary of Agriculture in perpetuity in accordance with such designation:

"(1) YAKUTAT FORELANDS.—Certain lands which comprise approximately 137,947 acres, as generally depicted on a map entitled 'Yakutat Forelands LUD II Management Area—Proposed' and dated March, 1990.

"(2) BERNERS BAY.—Certain lands which comprise approximately 46,000 acres, as generally depicted on a map entitled 'Berners Bay LUD II Management Area—Proposed' and dated May, 1989.

"(3) ANAN CREEK.—Certain lands which comprise approximately 38,415 acres, as generally depicted on a map entitled 'Anan Creek LUD II Management Area—Proposed' and dated October, 1990.

"(4) KADASHAN.—Certain lands which comprise approximately 33,641 acres, as generally depicted on a map entitled 'Kadashan LUD II Management Area—Proposed' and dated May, 1989.

"(5) LISIANSKI RIVER/UPPER HOONAH SOUND.—Certain lands which comprise approximately 137,538 acres as generally depicted on a map entitled 'Lisianski River/Upper Hoonah Sound LUD II Management Area—Proposed' and dated October, 1990.

"(6) MT. CALDER/MT. HOLBROOK.—Certain lands which comprise approximately 64,040 acres as generally depicted on a map entitled 'Mt. Calder/Mt. Holbrook LUD II Management Area—Proposed' and dated May, 1989 and 'Mt. Calder/Mt. Holbrook LUD II Addition', dated October, 1990.

"(7) NUTKWA.—Certain lands which comprise approximately 28,118 acres as generally depicted on a map entitled 'Nutkwa LUD II Management Area—Proposed' and dated May, 1989.

"(8) OUTSIDE ISLANDS.—Certain lands which comprise approximately 75,017 acres as generally depicted on a map entitled 'Outside Islands LUD II Management Area—Proposed' and dated May, 1989.

"(9) TRAP BAY.—Certain lands which comprise approximately 6,646 acres as generally depicted on a map entitled 'Trap Bay LUD II Management Area—Proposed' and dated May, 1989.

"(10) POINT ADOLPHUS/MUD BAY.—Certain lands which comprise approximately 113,326 acres as generally depicted on a map entitled 'Point Adolphus/Mud Bay LUD II Management Area—Proposed' and dated October, 1990.

"(11) NAHA.—Certain lands which comprise approximately 31,794 acres as generally depicted on a map entitled 'Naha LUD II Management Area—Proposed' and dated October, 1990.

"(12) SALMON BAY.—Certain lands which comprise approximately 10,000 acres as generally depicted on a map entitled 'Salmon Bay LUD II Management Area—Proposed' and dated October, 1990.".

SEC. 202. WILDERNESS DESIGNATION.

Section 703 of ANILCA is amended by adding at the end thereof the following:

"(c) DESIGNATION OF ADDITIONAL WILDERNESS ON THE TONGASS NATIONAL FOREST.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands within the Tongass National Forest in the State of Alaska are hereby designated as wilderness, subject to valid existing rights, and therefore as components of the National Wilderness Preservation System: 16 USC 1132 note.

"(1) PLEASANT/LEMUSURIER/INIAN ISLANDS.—Certain lands which comprise approximately 23,140 acres as generally depicted on a map entitled 'Tongass Timber Moratorium Area Pleasant/Lemusurier/Inian Islands' and dated February, 1989, which shall be known as the Pleasant/Lemusurier/Inian Islands Wilderness.

"(2) YOUNG LAKE ADDITION.—Certain lands which comprise approximately 18,173 acres as generally depicted on a map entitled 'Tongass Timber Moratorium Area Young Lake' and dated February, 1989, which shall be incorporated into and managed as a part of the Admiralty Island National Monument and as a part of the Kootznoowoo Wilderness. The Secretary of Agriculture shall make adjustments to the boundaries of the Admiralty Island National Monument and to the Kootznoowoo Wilderness as necessary to incorporate such lands.

"(3) SOUTH ETOLIN ISLAND.—Certain lands which comprise approximately 83,642 acres as generally depicted on a map entitled 'Tongass Timber Moratorium Area South Etolin Island' dated February, 1989, which shall be known as the South Etolin Wilderness.

"(4) CHUCK RIVER.—Certain lands which comprise approximately 72,503 acres, as generally depicted on a map entitled 'Chuck River Wilderness—Proposed' and dated October, 1990, which shall be known as the Chuck River Wilderness.

"(5) KARTA RIVER.—Certain lands which comprise approximately 38,046 acres, as generally depicted on a map entitled 'Tongass Timber Moratorium Area Karta River' and dated February, 1989, which shall be known as the Karta River Wilderness.

"(6) KUIU.—Certain lands which comprise approximately 60,576 acres, as generally depicted on a map entitled 'Kuiu Wilderness—Proposed' and dated October, 1990, which shall be known as the Kuiu Wilderness.".

SEC. 203. KADASHAN STUDY.

The Secretary shall complete, as part of the Tongass Land Management Plan revision process, in consultation with the State of Alaska, the City of Tenakee Springs, and other interested parties, a comprehensive study of the Kadashan LUD II Management Area as described in section 201(4). The Secretary shall submit a separate report of such study to the Committee on Energy and Natural Resources in the Senate and the Committee on Interior and Insular Affairs in the House of Representatives, which shall include, but not be limited to:

(a) an assessment of the natural, cultural, environmental, fish and wildlife (including habitat) resources and values of such area; and

(b) an assessment of the need for, potential uses, alternatives to and environmental impacts of providing a transportation corridor route through the Kadashan river valley.

TITLE III—MODIFICATION OF LONG-TERM TIMBER SALE CONTRACTS IN SOUTHEAST ALASKA

SEC. 301. CONTRACT MODIFICATIONS.

(a) DEFINITIONS.—As used in this section, the term "Secretary" means the Secretary of Agriculture. The term "TLMP" means the Tongass National Forest Land Management Plan, completed March, 1979, and amended Winter 1985-1986. The term "contracts" means the long-term timber sale contracts numbered 12-11-010-1545 and A10fs-1042 between the United States and the Alaska Pulp Corporation, and between the United States and the Ketchikan Pulp Company, respectively.

(b) FINDING.—The Congress hereby finds and declares that it is in the national interest to modify the contracts in order to assure that valuable public resources in the Tongass National Forest are protected and wisely managed. Modification of the long-term timber sale contracts will enhance the balanced use of resources on the forest and promote fair competition within the southeast Alaska timber industry.

(c) UNILATERAL CHANGES.—The contracts are hereby modified to:

(1) assure that all timber sale planning, management requirements and environmental assessment procedures regarding the contracts are consistent with procedures for independent national forest timber sales, pursuant to the National Forest Management Act of 1976 (Public Law 94-588), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws;

(2) eliminate the practice of harvesting a disproportionate amount of old-growth timber by limiting the volume harvested over the rotation in volume classes 6 and 7, as defined in TLMP and supporting documents, so that the proportion of volume harvested in these classes within a contiguous management area does not exceed the proportion of volume currently represented by these classes within the management area;

(3) assure that all timber offered under each contract be substantially harvested within three years or the Secretary shall withhold further offerings pursuant to such contract, unless harvesting has been delayed by third-party litigation;

(4) assure that the Secretary determines the location and size of sale units and the timing of timber harvests;

(5) allow rejection of timber offered under the contracts. Upon rejection of any timber offered, the Secretary may re-offer such timber to any qualified bidder under independent national forest timber sales. If the rejected timber is subsequently sold within 12 months, that amount of timber shall be subtracted from the volume remaining under the appropriate contract;

(6) assure that utility logs offered under the contracts shall be counted against contract volume requirements. As used in this paragraph, the term "utility log" means the same as it does in the official Log Scaling and Grading Rules, Northwest Log Rules Advisory Group, January 1, 1982;

(7) assure that purchaser road credits are provided under the contracts in a manner consistent with independent national forest timber sale procedures;

(8) assure that the price of timber offered under the contracts shall be adjusted to be comparable with that of independent national forest timber sales, with stumpage rates and profitability criteria comparable to those of independent purchasers in competitive sales; and

(9) assure that timber offered under the contracts meets economic criteria consistent with that of independent national forest timber sales.

(d) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, the Secretary is directed to make the necessary revisions to the text of the contracts to reflect the modifications to such contracts made by subsection (c) of this section. The Secretary shall promptly, and in no event later than ninety days after the date of enactment of this Act, transmit the text of the modified contracts to the Congress together with a certification that these revisions are in compliance with the modifications made by subsection (c). Until such time as the Secretary transmits the text of the modified contracts to the Congress, but no later than ninety days after the date of enactment of this Act, the Secretary is authorized to conduct timber sale operations on the Tongass National Forest in accordance with the provisions of the contracts as they existed on the day before the date of enactment of this Act. At such time as the Secretary transmits the modified contracts to Congress, or ninety days after the date of enactment of this Act, whichever is sooner, the Secretary shall conduct timber sale operations on the Tongass National Forest only in accordance with the provisions of the modified contracts.

(e) STUDY.—Within one year after the date of enactment of this Act, the Secretary shall transmit a study to the Committee on Energy and Natural Resources in the Senate and to the Committee on Interior and Insular Affairs in the House of Representatives which includes the following:

(1) an assessment of whether the Secretary can meet the provisions of the National Forest Management Act of 1976 (Public Law 94-588), the Multiple-Use Sustained Yield Act of 1960 (16 U.S.C. 528 et seq.) and other laws applicable to the management of the national forests while providing the volume of timber required by the modified contracts. In conjunction

with such assessment, the Secretary shall also provide such recommendations as the Secretary deems appropriate regarding reductions in the volume of timber required by the modified contracts, and

(2) an analysis of the potential impacts of eliminating the two contract areas provided for in the modified contracts, including, but not limited to, an assessment of the following factors:

(A) the effect on supply and demand, and price of timber within Southeast Alaska;

(B) effects on the availability of timber to purchasers of independent timber sales;

(C) effects on the availability of timber to be owners of the modified contracts; and

(D) effects on fish and wildlife and other non-commodity resources within the Tongass National Forest.

(f) The Secretary shall take such other actions in management of the Tongass National Forest as may be necessary to meet the provisions of subsection (c).

(g) GAO AUDIT.—The Comptroller General of the United States shall, on a continuing basis, audit the actions taken by the Secretary to revise the text of the contracts pursuant to the modifications made pursuant to subsection (c). Within thirty days after the Secretary's transmittal of the contracts and certification to the Energy and Natural Resources in the Senate and to the Committee on Interior and Insular Affairs in the House of Representatives, and in no event later than one hundred and twenty days after the date of enactment of this Act, the Comptroller General shall submit a report to such Committees describing the revisions made by the Secretary to the contracts and stating whether, in the opinion of the Comptroller General, the revised contracts are in compliance with the requirements of this section.

Reports.

TITLE IV—HAIDA LAND SELECTIONS

SEC. 401. HAIDA LAND EXCHANGE ACT AMENDMENT.

100 Stat. 4303.

The Haida Land Exchange Act of 1986 (Public Law 99-664) is hereby amended by adding the following new section at the end thereof:

"SEC. 12. SULZER PORTAGE LANDS SELECTION.

"(a) WITHDRAWAL.—The following lands are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and from selection under the Alaska Statehood Act (Public Law 85-508) as amended:

"COPPER RIVER MERIDIAN

"Township 76 South, Range 85 East

"Section 16: South half south half, northwest quarter southwest quarter.

"Section 17: West half, southeast quarter, south half northeast quarter.

"Section 18: Fractional.

"Section 19: North half northeast quarter, southeast quarter northeast quarter, northeast quarter northwest quarter.

"Section 20: North half, north half southeast quarter, southeast quarter southeast quarter.
"Section 21: All.
"Section 22: South half, south half north half, fractional.
"Section 23: South half, fractional.
"Section 24: South half, fractional.
"Section 25: All, excluding islets.
"Section 26: North half, north half southeast quarter, fractional.
"Section 27: East half, east half west half, northwest quarter, northwest quarter, southwest quarter southwest quarter.
"Section 28: Northeast quarter northeast quarter, southeast quarter southeast quarter.
"Section 31: Southwest quarter, west half southeast quarter.

"Township 76 South, Range 86 East

"Section 30: Southwest quarter, including all fractional lands on west shore of Big Creek Bay.
"Section 31: East half west half, southwest quarter southeast quarter, northwest quarter southeast quarter.

"Township 77 South, Range 86 East

"Section 2: North half, southeast quarter, north half southwest quarter.
"(b) SELECTION.—(1) For a period of one year after the date of enactment of this section, Haida Corporation shall be entitled to select lands from among those lands withdrawn pursuant to subsection (a). Haida Corporation shall notify the Secretary of the Interior which lands so withdrawn Haida Corporation wishes to select and shall designate which Haida Exchange Lands and/or outstanding selection rights under section 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1615) Haida Corporation intends to exchange or relinquish in return for its selections hereunder.
"(2) The exchange of lands selected by Haida Corporation pursuant to this subsection for Haida Exchange Lands or selection rights under section 16 of the Alaska Native Claims Settlement Act shall be on an acre-for-acre basis. The conveyance of lands to Haida Corporation and Sealaska pursuant to this subsection shall be deemed a conveyance of lands pursuant to the Alaska Native Claims Settlement Act.
"(3) After the selection is made pursuant to paragraph (1), the surface estate in lands selected by Haida Corporation shall be conveyed to Haida Corporation subject to valid existing rights and the subsurface estate in such lands shall be conveyed to Sealaska Corporation subject to valid existing rights in partial fulfillment of such corporations' entitlement under the Alaska Native Claims Settlement Act and pursuant to the provisions of that Act: *Provided,* That the United States shall reserve the recorded existing easement, three hundred feet in total width on the Sulzer Portage trail between Cholmondley Sound and Hetta Inlet: *Provided however,* That timber occurring within those portions of the easement boundaries that traverse lands owned by Haida Corporation shall remain the property of Haida Corporation. The Secretary of Agriculture shall allow the State of Alaska use of such easement for a transportation corridor.

Transportation.
Highways and roads.

"(c) DURATION.—The withdrawal made pursuant to subsection (a) shall terminate ninety days after the United States has conveyed the surface and subsurface estates of all lands selected by Haida Corporation pursuant to subsection (b) to Haida Corporation and Sealaska Corporation respectively, or one year after the date of enactment of this section, whichever is later.

"(d) PROHIBITION.—Haida Corporation shall not be entitled to select lands pursuant to this Act or section 16 of the Alaska Native Claims Settlement Act in the area referred to in section 508(7) of the Alaska National Interest Lands Conservation Act.".

TITLE V—MISCELLANEOUS PROVISIONS

16 USC 539e note.

SEC. 501. POTENTIAL ACQUISITION OF PREVIOUSLY HARVESTED LANDS.

(a) No later than one year after the date of enactment of this Act, the Secretary shall complete a study regarding the feasibility of acquiring private lands located within the boundary of the Tongass National Forest, which have been significantly harvested. Such study shall include, but not be limited to:

(1) a description of such lands;

(2) a status report regarding the ownership of such lands;

(3) an assessment of the suitability of such lands for future timber management, including potential timber production;

(4) an assessment of other present and future resource values associated with such lands; and

(5) an estimate of the cost of acquiring such lands.

(b) Upon completion of the study, the Secretary shall transmit it to the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 502. LAKE FLORENCE NEGOTIATIONS.

During the sixty-day period beginning on the date of enactment of this Act, the Secretary is directed to engage in expedited negotiations with Shee Atika, Inc., Atikon, Inc., and Sealaska for independent voluntary exchange agreements through which the United States would acquire all of the surface estate or all of the surface and subsurface estates held by these private parties in the Lake Florence, Lake Kathleen, and Wards Creek drainages of Admiralty

Island. The first priority of such negotiations shall be acquisition of the Lake Florence drainage.

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 987:

HOUSE REPORTS: No. 101-84, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture); and No. 101-931 (Comm. of Conference).
SENATE REPORTS: No. 101-261 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 135 (1989): July 13, considered and passed House.
Vol. 136 (1990): June 12, 13, considered and passed Senate, amended.
Oct. 24, Senate agreed to conference report.
Oct. 26, House agreed to conference report.

○

Public Law 101-627
101st Congress

An Act

Nov. 28, 1990
[H.R. 2061]

To authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act through fiscal year 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fishery Conservation Amendments of 1990.

16 USC 1801 note.

SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) SHORT TITLE.—The Act may be cited as the "Fishery Conservation Amendments of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

Sec. 101. Findings, purposes, and policy.
Sec. 102. Definitions.
Sec. 103. Authority with respect to highly migratory species.
Sec. 104. Foreign fishing.
Sec. 105. Existing international fishery agreements.
Sec. 106. Permits for foreign fishing.
Sec. 107. Driftnet fishing.
Sec. 108. Regional Councils.
Sec. 109. Contents of fishery management plans.
Sec. 110. Action by Secretary of fishery management plans.
Sec. 111. Implementation of fishery management plans.
Sec. 112. State jurisdiction.
Sec. 113. Prohibition of certain acts.
Sec. 114. Civil penalties and permit sanctions.
Sec. 115. Criminal offenses and penalties.
Sec. 116. Civil forfeitures.
Sec. 117. Enforcement.
Sec. 118. North Pacific fisheries research plan.
Sec. 119. Authorization of appropriations.
Sec. 120. Miscellaneous technical amendments.

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

Sec. 201. Limitations on appointments of Commissioners.
Sec. 202. Termination of current terms and completion of pending appointments.
Sec. 203. Travel expenses of Commissioners.
Sec. 204. Travel expenses of advisory committee.
Sec. 205. Species working groups.
Sec. 206. Regulations to carry out Commission recommendations.
Sec. 207. Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish.
Sec. 208. Authorization of appropriations.

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

Sec. 301. Vessel seizure reimbursement authority.

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

Sec. 401. Authorization of appropriations.

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

Sec. 501. Clarification of appointment limitation.

Sec. 502. Federal share of activities carried out with additional appropriations.
Sec. 503. Authorization of appropriations.

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

Sec. 601. Authorization of appropriations.

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

Sec. 701. Extension of termination date.
Sec. 702. Authorization of appropriations.
Sec. 703. Transfer of Saltonstall-Kennedy funds.
Sec. 704. Continuity of National Council membership.
Sec. 705. Continuity of Council functions, contracts, and personnel.

TITLE VIII—MISCELLANEOUS

Sec. 801. Certificate of legal origin for anadromous fish products.

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

Sec. 901. Dolphin protection.

TITLE X—FISHERIES COMMISSION

Sec. 1001. Redesignation of Fisheries Commission.

TITLE XI—REPORT ON MARINE MAMMALS

Sec. 1101. Report on certain marine mammal populations.

TITLE I—AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

FINDINGS, PURPOSES, AND POLICY

SEC. 101. (a) FINDINGS.—Section 2(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(a)) is amended by adding at the end the following new paragraph:

"(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.".

(b) PURPOSES.—(1) Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by striking "except highly migratory species".

(2) Section 2(b)(5) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(5)) is amended by striking "prepare, monitor, and revise" and inserting in lieu thereof "exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of".

(c) POLICY.—Section 2(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(c)) is amended—

(1) in paragraph (3) by inserting "considers the effects of fishing on immature fish and encourages development of practical measures that avoid unnecessary waste of fish;" immediately after "and enforcement;"

(2) by striking "and" at the end of paragraph (4); and

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof ", and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation; and"; and

(4) by adding at the end the following new paragraph:

"(6) to foster and maintain the diversity of fisheries in the United States.".

DEFINITIONS

SEC. 102. (a) GENERAL.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraph (16) as paragraph (17), by redesignating paragraph (17) as paragraph (19), by redesignating paragraphs (18) through (23) as paragraphs (21) through (26), respectively, and by redesignating paragraphs (24) through (27) as paragraphs (28) through (31), respectively;

(2) in paragraph (7), by striking ", birds, and highly migratory species" and inserting in lieu thereof "and birds";

(3) by amending paragraph (14) to read as follows:

"(14) The term 'highly migratory species' means tuna species, marlin (Tetrapturus spp. and Makaira spp.), oceanic sharks, sailfishes (Istiophorus spp.), and swordfish (Xiphias gladius).";

(4) by inserting immediately after paragraph (15) the following new paragraph:

"(16) The term 'large-scale driftnet fishing' means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of one and one-half miles or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.";

(5) by inserting immediately after paragraph (17), as so redesignated, the following new paragraph:

"(18) The term 'migratory range' means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.";

(6) by inserting immediately after paragraph (19), as so redesignated, the following new paragraph:

"(20) The term 'observer' means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.";

(7) by inserting immediately after paragraph (26), as so redesignated, the following new paragraph:

"(27) The term 'tuna species' means the following:

"Albacore Tuna—Thunnus alalunga;

"Bigeye Tuna—Thunnus obesus;

"Bluefin Tuna—Thunnus thynnus;

"Skipjack Tuna—Katsuwonus pelamis; and

"Yellowfin Tuna—Thunnus albacares."; and

(8) by adding at the end the following new paragraph:

"(32) The term 'waters of a foreign nation' means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.".

(b) CONFORMING AMENDMENT.—Section 101(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)(1)) is amended by striking "any foreign nation's" and all that follows and inserting in lieu thereof "any waters of a foreign nation.".

AUTHORITY WITH RESPECT TO HIGHLY MIGRATORY SPECIES

SEC. 103. (a) GENERAL.—Section 102 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1812) is amended to read as follows:

"SEC. 102. HIGHLY MIGRATORY SPECIES.

"The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and promoting the objective of optimum utilization of such species throughout their range, both within and beyond the exclusive economic zone.".

(b) CONFORMING AMENDMENT.—The entry for section 102 in the table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 102. Highly migratory species.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992. 16 USC 1812 note.

FOREIGN FISHING

SEC. 104. Subsection (d) of section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended to read as follows:

"(d) TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, shall be that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States, as determined in accordance with this Act.".

INTERNATIONAL FISHERY AGREEMENTS

SEC. 105. (a) HIGHLY MIGRATORY SPECIES AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended by redesignating subsection (e) as subsection (f) and by inserting immediately after subsection (d) the following new subsection:

"(e) HIGHLY MIGRATORY SPECIES AGREEMENTS.—

"(1) EVALUATION.—The Secretary of State, in cooperation with the Secretary, shall evaluate the effectiveness of each existing international fishery agreement which pertains to fishing for highly migratory species. Such evaluation shall consider whether the agreement provides for—

"(A) the collection and analysis of necessary information for effectively managing the fishery, including but not limited to information about the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the catch and bycatch levels in the fishery, and the present and probable future condition of any stock of fish involved;

"(B) the establishment of measures applicable to the fishery which are necessary and appropriate for the conservation and management of the fishery resource involved;

"(C) equitable arrangements which provide fishing vessels of the United States with (i) access to the highly

migratory species that are the subject of the agreement and (ii) a portion of the allowable catch that reflects the traditional participation by such vessels in the fishery;

"(D) effective enforcement of conservation and management measures and access arrangements throughout the area of jurisdiction; and

"(E) sufficient and dependable funding to implement the provisions of the agreement, based on reasonable assessments of the benefits derived by participating nations.

"(2) ACCESS NEGOTIATIONS.—The Secretary of State, in cooperation with the Secretary, shall initiate negotiations with respect to obtaining access for vessels of the United States fishing for tuna species within the exclusive economic zones of other nations on reasonable terms and conditions.

"(3) REPORTS.—The Secretary of State shall report to the Congress—

"(A) within 12 months after the date of enactment of this subsection, on the results of the evaluation required under paragraph (1), together with recommendations for addressing any inadequacies identified; and

"(B) within six months after such date of enactment, on the results of the access negotiations required under paragraph (2).

"(4) NEGOTIATION.—The Secretary of State, in consultation with the Secretary, shall undertake such negotiations with respect to international fishery agreements on highly migratory species as are necessary to correct inadequacies identified as a result of the evaluation conducted under paragraph (1).

"(5) SOUTH PACIFIC TUNA TREATY.—It is the sense of the Congress that the United States Government shall, at the earliest opportunity, begin negotiations for the purpose of extending the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed at Port Moresby, Papua New Guinea, April 2, 1987, and it Annexes, Schedules, and implementing agreements for an additional term of 10 years on terms and conditions at least as favorable to vessels of the United States and the United States Government.".

(b) DETERMINATIONS OF SECRETARY OF STATE.—(1) Section 205(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)) is amended—

(A) in paragraph (1) by striking "traditional" and by inserting "including fisheries for tuna species," immediately after "authority,"; and

(B) in paragraph (2) by striking "highly migratory" and inserting in lieu thereof "tuna".

Effective date. 16 USC 1825 note.

(2) The amendments made by this subsection shall take effect on January 1, 1992.

PERMITS FOR FOREIGN FISHING

SEC. 106. (a) FEES.—Section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) FEES.—

"(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in

consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply non-discriminatorily to each foreign nation.

"(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.".

(b) SANCTIONS.—Section 204(b)(12) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(12)) is repealed.

DRIFTNET FISHING

SEC. 107. (a) GENERAL.—Section 206 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1826) is amended to read as follows:

"SEC. 206. LARGE-SCALE DRIFTNET FISHING.

Driftnet Act Amendments of 1990.

"(a) SHORT TITLE.—This section incorporates and expands upon provisions of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 and may be cited as the 'Driftnet Act Amendments of 1990'.

"(b) FINDINGS.—The Congress finds that—

"(1) the continued widespread use of large-scale driftnets beyond the exclusive economic zone of any nation is a destructive fishing practice that poses a threat to living marine resources of the world's oceans, including but not limited to the North and South Pacific Ocean and the Bering Sea;

"(2) the use of large-scale driftnets is expanding into new regions of the world's oceans, including the Atlantic Ocean and Caribbean Sea;

"(3) there is a pressing need for detailed and reliable information on the number of seabirds, sea turtles, nontarget fish, and marine mammals that become entangled and die in actively fished large-scale driftnets and in large-scale driftnets that are lost, abandoned, or discarded;

"(4) increased efforts, including reliable observer data and enforcement mechanisms, are needed to monitor, assess, control, and reduce the adverse impact of large-scale driftnet fishing on living marine resources;

"(5) the nations of the world have agreed in the United Nations, through General Assembly Resolution Numbered 44-225, approved December 22, 1989, by the General Assembly, that a moratorium should be imposed by June 30, 1992, on the use of large-scale driftnets beyond the exclusive economic zone of any nation;

"(6) the nations of the South Pacific have agreed to a moratorium on the use of large-scale driftnets in the South Pacific through the Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific, which was agreed to in Wellington, New Zealand, on November 29, 1989; and

"(7) increasing population pressures and new knowledge of the importance of living marine resources to the health of the global ecosystem demand that greater responsibility be exercised by persons fishing or developing new fisheries beyond the exclusive economic zone of any nation.

"(c) POLICY.—It is declared to be the policy of the Congress in this section that the United States should—

"(1) implement the moratorium called for by the United Nations General Assembly in Resolution Numbered 44-225;

"(2) support the Tarawa Declaration and the Wellington Convention for the Prohibition of Fishing with Long Driftnets in the South Pacific; and

"(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

"(d) INTERNATIONAL AGREEMENTS.—The Secretary, through the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall seek to secure international agreements to implement immediately the findings, policy, and provisions of this section, and in particular an international ban on large-scale driftnet fishing. The Secretary, through the Secretary of State, shall include, in any agreement which addresses the taking of living marine resources of the United States, provisions to ensure that—

"(1) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, including vessels that may operate independently to develop new fishing areas, which operate beyond the exclusive economic zone of any nation, is included in such agreement;

"(2) each large-scale driftnet fishing vessel of a foreign nation that is party to the agreement, which operates beyond the exclusive economic zone of any nation, is equipped with satellite transmitters which provide real-time position information accessible to the United States;

"(3) statistically reliable monitoring by the United States is carried out, through the use of on-board observers or through dedicated platforms provided by foreign nations that are parties to the agreement, of all target and nontarget fish species, marine mammals, sea turtles, and sea birds entangled or killed by large-scale driftnets used by fishing vessels of foreign nations that are parties to the agreement;

"(4) officials of the United States have the right to board and inspect for violations of the agreement any large-scale driftnet fishing vessels operating under the flag of a foreign nation that is party to the agreement at any time while such vessel is operating in designated areas beyond the exclusive economic zone of any nation;

"(5) all catch landed or transshipped at sea by large-scale driftnet fishing vessels of a foreign nation that is a party to the agreement, and which are operated beyond the exclusive economic zone of any nation, is reliably monitored and documented;

"(6) time and area restrictions are imposed on the use of large-scale driftnets in order to prevent interception of anadromous species;

"(7) all large-scale driftnets used are constructed, insofar as feasible, with biodegradable materials which break into segments that do not represent a threat to living marine resources;

"(8) all large-scale driftnets are marked at appropriate intervals in a manner that conclusively identifies the vessel and flag nation responsible for each such driftnet;

"(9) the taking of nontarget fish species, marine mammals, sea turtles, seabirds, and endangered species or other species protected by international agreements to which the United

States is a party is minimized and does not pose a threat to existing fisheries or the long-term health of living marine resources; and

"(10) definitive steps are agreed upon to ensure that parties to the agreement comply with the spirit of other international agreements and resolutions concerning the use of large-scale driftnets beyond the exclusive economic zone of any nation.

"(e) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

"(1) describing the steps taken to carry out the provisions of this section, particularly subsection (c);

"(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

"(3) identifying and evaluating the effectiveness of unilateral measures and multilateral measures, including sanctions, that are available to encourage nations to agree to and comply with this section, and recommendations for legislation to authorize any additional measures that are needed if those are considered ineffective;

"(4) identifying, evaluating, and making any recommendations considered necessary to improve the effectiveness of the law, policy, and procedures governing enforcement of the exclusive management authority of the United States over anadromous species against fishing vessels engaged in fishing beyond the exclusive economic zone of any nation;

"(5) containing a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

"(6) containing a list of the nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale driftnet fishing to which the United States is a party or otherwise subscribes.

"(f) CERTIFICATION.—If at any time the Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (e)(6), the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

"(g) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.

"(h) DEFINITION.—As used in this section, the term 'living marine resources' includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.".

(b) CONFORMING AMENDMENT.—The entry for section 206 in the table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 206. Large-scale driftnet fishing.".

REGIONAL COUNCILS

SEC. 108. (a) AUTHORITY OVER CERTAIN FISHERIES.—Section 302(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(a)) is amended by inserting "(except as provided in section 304(f)(3))" immediately before the period at the end of the first sentence in each of paragraphs (1) through (5).

(b) MEMBERS' QUALIFICATIONS.—Paragraph (2) of section 302(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)) is amended to read as follows:

"(2)(A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.

Regulations.

"(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

Reports.

"(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

"(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

"(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

"(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each

applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).

"(D) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.".

(c) LIMITATION ON TERMS OF VOTING MEMBERS.—Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by adding at the end the following new sentence: "No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term completed prior to January 1, 1986, shall not be counted in determining the number of consecutive terms served by any Council member.".

(d) COMPENSATION AND EXPENSES.—Section 302(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(d)) is amended to read as follows:

"(d) COMPENSATION AND EXPENSES.—The voting members of each Council, who are not employed by the Federal Government or any State or local government, shall, until January 1, 1992, receive compensation at the daily rate for GS-18 of the General Schedule, and after December 31, 1991, at the daily rate for GS-16 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.".

(e) TRANSACTION OF BUSINESS.—(1) Section 302(e)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(3)) is amended by striking "in the geographical area concerned" and inserting in lieu thereof "at appropriate times and places in any of the constituent States of the Council".

(2) Section 302(e)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(e)(4)) is amended by adding at the end the following new sentence: "The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.".

(f) COMMITTEES AND PANELS.—Section 302(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(g)) is amended by adding at the end the following new paragraph:

"(3)(A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

"(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

"(4) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.".

(g) COUNCIL FUNCTIONS.—Paragraphs (1) and (5) of section 302(h) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(h)) are each amended by inserting "(except as provided in section 304(f)(3))" immediately before "within its geographical".

(h) FISHERY HABITAT CONCERNS.—Section 302(i) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(i)) is amended to read as follows:

"(i) FISHERY HABITAT CONCERNS.—(1) Each Council—

"(A) may comment on and make recommendations concerning any activity undertaken, or proposed to be undertaken, by any State or Federal agency that, in the view of the Council, may affect the habitat of a fishery resource under its jurisdiction; and

"(B) shall comment on and make recommendations concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat of an anadromous fishery resource under its jurisdiction.

"(2) Within 45 days after receiving a comment or recommendation under paragraph (1) from a Council, a Federal agency shall provide a detailed response, in writing, to the Council regarding the matter. In the case of a comment or recommendation under paragraph (1)(B), the response shall include a description of measures being considered by the agency for mitigating or offsetting the impact of the activity on such habitat.".

(i) CLOSED MEETINGS.—Section 302(j)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(3)) is amended—

(1) in subparagraph (A)—

(A) by striking the semicolon at the end of clause (ii) and all that follows through "time and place of the meeting." and inserting in lieu thereof a period; and

(B) by inserting "of paragraph (2)" immediately after "(D) and (F)"; and

(2) by adding at the end the following new subparagraph:

"(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subpararaph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters.".

(j) CONSIDERATION OF NEW INFORMATION.—Section 302(j) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)) is amended by adding at the end the following new paragraph:

"(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consider-

ation to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.".

(k) INTERIM MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—Notwithstanding the amendments made by subsections (a) and (g), any fishery management plan or amendment which— 16 USC 1854 note.

(1) addresses a highly migratory species fishery to which section 304(f)(3) of the Magnuson Fishery Conservation and Management Act (as amended by this Act) applies,

(2) was prepared by one or more Regional Fishery Management Councils, and

(3) was in force and effect on January 1, 1990,

shall remain in force and effect until superseded by a fishery management plan prepared by the Secretary, and regulations implementing that plan.

CONTENTS OF FISHERY MANAGEMENT PLANS

SEC. 109. (a) REQUIRED DATA COLLECTION AND GEAR.—Section 303(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A) by inserting ", to prevent overfishing, and to protect, restore, and promote the long-term health and stability of the fishery" immediately before the semicolon at the end;

(2) in paragraph (1)(C) by inserting "regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits)," immediately after "this Act,";

(3) by amending paragraph (6) to read as follows:

"(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;";

(4) by striking the period at the end of paragraph (7) and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new paragraphs:

"(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan; and

"(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on—

"(A) participants in the fisheries affected by the plan or amendment; and

"(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants.".

(b) DISCRETIONARY PROVISIONS.—(1) Paragraph (1) of section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended to read as follows:

"(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

"(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

"(B) the operator of any such vessel; or

"(C) any United States fish processor who first receives fish that are subject to the plan;".

(2) Section 303(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)) is amended by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively, and by inserting immediately after paragraph (6) the following new paragraphs:

"(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

"(8) require that observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;".

(c) CONFIDENTIALITY OF STATISTICS.—Section 303(d) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(d)) is amended—

(1) in the matter preceding paragraph (1) by striking "subsection (a)(5)" and inserting in lieu thereof "subsections (a) and (b)";

(2) by striking "or" at the end of paragraph (1);

(3) by redesignating paragraph (2) as paragraph (3);

(4) by inserting immediately after paragraph (1) the following new paragraph:

"(2) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; or"; and

(5) by adding at the end the following new sentence: "Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any statistic submitted in compliance with a requirement under subsection (a) or (b).".

(d) USE OF CERTAIN DATA.—Section 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853) is further amended by adding at the end the following new subsection:

"(f) RESTRICTION ON USE OF CERTAIN DATA.—The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), or the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.". Regulations.

ACTION BY SECRETARY ON FISHERY MANAGEMENT PLANS

SEC. 110. (a) FISHERIES RESEARCH.—Subsection (e) of section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended to read as follows:

"(e) FISHERIES RESEARCH.—(1) Within one year after the date of enactment of the Fishery Conservation Amendments of 1990, and at least every three years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the five years immediately following such publication. The plan shall— Federal Register, publication.

"(A) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in paragraph (2);

"(B) indicate the goals and timetables for the program described in subparagraph (A); and

"(C) provide a role for affected commercial fishermen in such research, including involvement in field testing.

"(2) The areas of research referred to in paragraph (1) are as follows:

"(A) Research to support fishery conservation and management, including research on the economics of fisheries and biological research concerning the interdependence of fisheries or stocks of fish, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other matters bearing upon the abundance and availability of fish.

"(B) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize the harvest of nontarget species and promote efficient harvest of target species.

"(C) Information management research, including the development of a fishery information base and an information management system that will permit the full use of data in the support of effective fishery conservation and management.

"(3) In developing the plan required under paragraph (1), the Secretary shall consult with relevant Federal agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.". Federal Register, publication.

(b) MANAGEMENT OF HIGHLY MIGRATORY SPECIES FISHERIES.—(1) Section 304(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(f)) is amended—

(A) by striking "MISCELLANEOUS DUTIES" and inserting in lieu thereof "FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL";

(B) in paragraph (1) by striking "If" and inserting in lieu thereof "Except as provided in paragraph (3), if"; and

(C) by adding at the end the following new paragraph:

"(3)(A) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

"(B) In accordance with the provisions of this Act and any other applicable law, the Secretary shall—

"(i) identify research and information priorities, including observer requirements and necessary data collection and analysis for the conservation and management of highly migratory species;

"(ii) prepare and amend fishery management plans with respect to highly migratory species fisheries to which this paragraph applies; and

"(iii) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), international fishery management measures with respect to fishing for highly migratory species.

"(C) In preparing or amending any fishery management plan under this paragraph, the Secretary shall—

"(i) conduct public hearings, at appropriate times and in appropriate locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan;

"(ii) consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;

"(iii) consult with and consider the comments and views of affected Councils;

"(iv) evaluate the likely effects, if any, of conservation and management measures on participants in the fisheries affected by the plan and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors; and

"(v) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan.

"(D) Conservation and management measures contained in any fishery management plan under this paragraph shall—

"(i) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

"(ii) be fair and equitable in allocating fishing privileges among United States fishermen and not have economic allocation as the sole purpose; and

"(iii) promote international conservation.

"(E) With respect to a highly migratory species for which the United States is authorized to harvest an allocation or quota under a relevant international fishery agreement, the Secretary shall provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation or quota.

"(F) In implementing the provisions of this paragraph, the Secretary shall consult with—

"(i) the Secretary of State;

"(ii) commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

"(iii) appropriate Councils.".

(2) Section 305(a)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(a)(3)), as redesignated by section 111(a)(1) of this Act, is amended by inserting "or (f)(3)" immediately after "304(c)".

(c) INCIDENTAL HARVEST RESEARCH.—Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended by adding at the end the following new subsection.

"(g) INCIDENTAL HARVEST RESEARCH.—(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils. Regulations.

"(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fishing activity.

"(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

"(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

"(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stocks; and

"(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

"(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

Reports.

"(5) The Secretary shall, upon completion of the programs required by this subsection, submit a detailed report on the results of such programs to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

"(6)(A) Except as provided in this paragraph, the Secretary may not implement any measures under this Act to reduce incidental mortality of nontarget fishery resources in the course of shrimp trawl fishing which would restrict the period during which shrimp are harvested or would require the use of any technological device or other change in fishing technology.

"(B) The prohibition contained in subparagraph (A) shall cease on January 1, 1994.

"(C) This paragraph does not apply to any law or regulation in effect on the date of enactment of this paragraph, nor does it limit in any way the Secretary's authority to take action, including any limitation on entry permitted by this Act, for the conservation and management of the shrimp fishery resource.".

(d) ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN.—(1) The New England Fishery Management Council may submit to the Secretary of Commerce an amendment to the Atlantic Sea Scallop Fishery Management Plan. Any amendment submitted under this section shall—

(A) contain measures providing for the conservation and management of Atlantic sea scallops, that are not based primarily on the scallop meat count but which may include controls on scallop harvesting effort; and

(B) consider the views of fishermen and fish processors involved in the Atlantic sea scallop fishery.

(2) If no amendment is submitted under paragraph (1) before one year after the date of enactment of this Act, the Secretary of Commerce is encouraged to prepare the amendment described in paragraph (1) under section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854).

IMPLEMENTATION OF FISHERY MANAGEMENT PLANS

SEC. 111. (a) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended—

(A) by redesignating subsections (c), (d), and (e) as subsections (a), (b), and (c), respectively; and

(B) by redesignating subsections (g) and (h) as subsections (d) and (e), respectively.

(2) Section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) is amended—

(A) in subsection (b)(1) by striking "305(c)" in the first sentence and inserting in lieu thereof "305(a)";

(B) in subsection (b)(3)(D) by striking "305(c)" and inserting in lieu thereof "305(a)"; and

(C) in subsection (c)(2)(B) by striking "305(c)" and inserting in lieu thereof "305(a)".

(b) JUDICIAL REVIEW OF CERTAIN IMPLEMENTING ACTIONS.—Section 305(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(b)), as redesignated by subsection (a)(1)(A), is amended to read as follows:

"(b) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

"(A) section 705 of such title is not applicable, and

"(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2) (A), (B), (C), or (D) of such title.

"(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that establish the date of closure of a fishery to commercial or recreational fishing.

"(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 45 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

"(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

"(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.".

STATE JURISDICTION

SEC. 112. Section 306(c) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1856(c)) is amended—

(1) in paragraph (1)(B) by inserting "and the application specifies the species to be processed" before the period at the end; and

(2) by striking paragraph (2) and inserting in lieu thereof the following:

"(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

"(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

"(i) consulting with the appropriate Council and Marine Fisheries Commission, and

"(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

"(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.".

PROHIBITION OF CERTAIN ACTS

SEC. 113. (a) PROHIBITIONS WITH RESPECT TO THEFT, ASSAULT, AND LARGE-SCALE DRIFTNET FISHING.—Section 307(1) of the Magnuson

Fishery Conservation and Management Act (16 U.S.C. 1857(1)) is amended—

(1) by striking "or" at the end of subparagraph (I);

(2) by striking the period at the end of subparagraph (J) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(K) to knowingly steal, or without authorization, to remove, damage, or tamper with—

"(i) fishing gear owned by another person, which is located in the exclusive economic zone, or

"(ii) fish contained in such fishing gear,

or to attempt to do so;

"(L) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any observer on a vessel under this Act;

"(M) to engage in large-scale driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation; or

"(N) to strip pollock of its roe and discard the flesh of the pollock.".

(b) VIOLATION OF INTERNATIONAL FISHERY AGREEMENT.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (3) by striking "; and" and inserting in lieu thereof a semicolon;

(2) in paragraph (4) by striking the period at the end and inserting in lieu thereof "; and;" and

(3) by adding at the end the following new paragraph:

"(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.".

CIVIL PENALTIES AND PERMIT SANCTIONS

SEC. 114. (a) INCREASED PENALTY; PERMIT SANCTIONS.—Section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858) is amended—

(1) in the section heading by inserting "AND PERMIT SANCTIONS" immediately after "CIVIL PENALTIES";

(2) in subsection (a) by striking "$25,000" in the second sentence and inserting in lieu thereof "$100,000"; and

(3) by adding at the end the following:

"(g) PERMIT SANCTIONS.—(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, or (C) any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any

fishery resource law statute enforced by the Secretary has not been paid and is overdue, the Secretary may—

"(i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;

"(ii) suspend such permit for a period of time considered by the Secretary to be appropriate;

"(iii) deny such permit; or

"(iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.

"(2) In imposing a sanction under this subsection, the Secretary shall take into account—

"(A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and

"(B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.

"(3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer.

"(4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.

"(5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.".

(b) CONFORMING AMENDMENT.—The entry for section 308 in the table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended to read as follows:

"Sec. 308. Civil penalties and permit sanctions.".

CRIMINAL OFFENSES AND PENALTIES

SEC. 115. (a) OFFENSES.—Paragraph (1) of section 309(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(a)) is amended to read as follows:

"(1) section 307(1) (D), (E), (F), (H), (I), or (L); or".

(b) PUNISHMENT.—Section 309(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1859(b)) is amended—

(1) by striking "$50,000" and inserting in lieu thereof "$100,000";

(2) by striking "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(3) by inserting "any observer described in section 307(1)(L) or" immediately after "injury to"; and

(4) by inserting "observer or" immediately before "officer in fear".

CIVIL FORFEITURES

SEC. 116. Section 310(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1860(e)) is amended—

(1) by inserting "(1)" immediately before "For purposes"; and

(2) by adding at the end the following:

"(2) For purposes of this Act, it shall be a rebuttable presumption that any fish of a species which spawns in fresh or estuarine waters and migrates to ocean waters that is found on board a vessel is of United States origin if the vessel is within the migratory range of the species during that part of the year to which the migratory range applies.".

ENFORCEMENT

SEC. 117. Section 311(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(e)) is amended to read as follows:

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other fishery resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

"(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other fishery resource law enforced by the Secretary with respect to that fish or other property;

"(B) a reward to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other fishery resource law enforced by the Secretary;

"(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

"(D) any valid liens or mortgages against any property that has been forfeited;

"(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)) or under other provisions of the customs laws, as made applicable by section 310(c) of this Act to seizures made by the Secretary under this Act, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

"(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

"(2) Any person assessed a civil penalty for, or convicted of, any violation of this Act shall be liable for the cost incurred in storage, care, and maintenance of any fish or other property seized in connection with the violation.".

NORTH PACIFIC FISHERIES RESEARCH PLAN

SEC. 118. (a) Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following new section:

"SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN. 16 USC 1862.

"(a) IN GENERAL.—The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which—

"(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

"(2) establishes a system of fees to pay for the costs of implementing the plan.

"(b) STANDARDS.—(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to—

"(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

"(B) be fair and equitable to all vessels and processors;

"(C) be consistent with applicable provisions of law; and

"(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

"(2) Any system of fees established under this section shall—

"(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

"(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

"(D) not be used to offset amounts authorized under other provisions of law;

"(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the

jurisdiction of the Council, including the Northern Pacific halibut fishery;

"(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

"(H) provide that fees collected will only be used for implementing the plan established under this section; and

"(I) meet the requirements of section 9701(b) of title 31, United States Code.

Regulations. Federal Register, publication.

"(c) ACTION BY SECRETARY.—(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

"(2) During the 60-day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

"(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

"(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

"(d) FISHERY OBSERVER FUND.—There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

"(e) SPECIAL PROVISIONS REGARDING OBSERVERS.—(1) The Secretary shall review—

"(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of this section, to provide coverage for vessels and owners against liability from civil suits by observers, and

"(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

"(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that—

"(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

"(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the entry for section 312 the following new entry:

"Sec. 313. North Pacific fisheries research plan.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 119. Section 406 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1882) is amended by adding at the end the following new paragraphs:

"(16) $77,200,000 for the fiscal year ending September 30, 1990.

"(17) $94,000,000 for the fiscal year ending September 30, 1991, of which $6,500,000 shall be used for enforcement and $5,000,000 shall be used to increase research and assessment efforts.

"(18) $98,000,000 for the fiscal year ending September 30, 1992.

"(19) $102,000,000 for the fiscal year ending September 30, 1993.".

MISCELLANEOUS TECHNICAL AMENDMENTS

SEC. 120. (a) INTERNATIONAL FISHERY AGREEMENTS.—Section 202(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822(f)), as so redesignated by section 105 of this Act, is amended by striking "a exclusive economic zone" and inserting in lieu thereof "an exclusive economic zone".

(b) FOREIGN FISHING PERMITS.—Section 204(b)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(4)(C)) is amended by striking "council" and inserting in lieu thereof "Council".

(c) COUNCIL PROCEDURAL MATTERS.—Section 302(j)(4) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(j)(4)) is amended by striking "council employee" and inserting in lieu thereof "Council employee".

(d) ACTION BY SECRETARY.—Section 304(c)(2)(B) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(c)(2)(B)) is amended by striking "appropriate council" and inserting in lieu thereof "appropriate Council".

TITLE II—ATLANTIC TUNAS CONVENTION ACT OF 1975

LIMITATIONS ON APPOINTMENTS OF COMMISSIONERS

SEC. 201. (a) IN GENERAL.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following:

"(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

"(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

"(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

"(3)(A) The term of a Commissioner shall be three years.

"(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.".

16 USC 971a note.

(b) APPLICATION TO CURRENT COMMISSIONERS.—(1) Paragraph (2) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, shall not apply to reappointment of an individual as a United States Commissioner of the International Commission for the Conservation of Atlantic Tunas (hereinafter in this title referred to as a "Commissioner") if that individual is serving in that position on the date of enactment of this Act.

(2) An individual serving a term as a Commissioner on the date of enactment of this Act shall not, by reason of that term of service, be ineligible under paragraph (3)(B) of section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)), as added by this section, for reappointment as a Commissioner.

TERMINATION OF CURRENT TERMS AND COMPLETION OF PENDING APPOINTMENTS

16 USC 971a note.

President.

SEC. 202. The term as Commissioner of each individual serving in that position on the date of enactment of this Act shall terminate March 1, 1991. Not later than that date, the President shall complete appointment (or reappointment) of individuals to serve as Commissioners on and after that date.

TRAVEL EXPENSES OF COMMISSIONERS

SEC. 203. Section 3 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

"(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.".

TRAVEL EXPENSES OF ADVISORY COMMITTEE

SEC. 204. Section 4 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971b) is amended by striking "On approval" and all that follows and inserting in lieu thereof the following: "The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.".

SPECIES WORKING GROUPS

SEC. 205. The Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 et seq.) is amended by inserting immediately after section 4 the following new section:

"SPECIES WORKING GROUPS

"SEC. 4A. The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.". 16 USC 971b-1.

REGULATIONS TO CARRY OUT COMMISSION RECOMMENDATIONS

SEC. 206. (a) Section 6(c)(1) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(1)) is amended by redesignating the existing text as subparagraph (A) and by adding at the end the following new subparagraphs:

"(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention. Regulations.

"(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

(b) Section 6(c)(3) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d(c)(3)) is amended—

(1) in subparagraph (H) by striking "; and" and inserting in lieu thereof a semicolon; and

(2) by striking subparagraph (I) and inserting in lieu thereof the following:

"(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

"(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

"(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed to pursuant to a recommendation of the Commission.".

RECOMMENDED COMMISSION ACTIONS REGARDING LARGE-SCALE DRIFTNET FISHING AND CONSERVATION OF ATLANTIC SWORDFISH

SEC. 207. Section 6(d) of the Altantic Tunas Convention Act of 1975 (16 U.S.C. 971d(d)) is amended to read as follows:

"(d)(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fish-

ing (as that term is defined in section 3(16) of the Magnuson Fishery Conservation and Management Act) in the Convention area.

"(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 10. There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in article X of the Convention, not more than $2,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993.".

TITLE III—FISHERMEN'S PROTECTIVE ACT OF 1967

VESSEL SEIZURE REIMBURSEMENT AUTHORITY

SEC. 301. Section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking "October 1, 1989" and inserting in lieu thereof "October 1, 1993".

TITLE IV—ANADROMOUS FISH CONSERVATION ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 401. Section 4(a) of the Anadromous Fish Conservation Act (16 U.S.C. 757d(a)) is amended—

(1) by striking paragraphs (1), (2), (3), (4), (5), and (6);

(2) by redesignating paragraph (7) as paragraph (1); and

(3) by adding at the end the following new paragraph:

"(2) $8,000,000 for each of the fiscal years 1990, 1991, 1992, 1993, 1994, and 1995.".

TITLE V—INTERJURISDICTIONAL FISHERIES ACT OF 1986

CLARIFICATION OF APPORTIONMENT LIMITATION

SEC. 501. Section 304(c)(3)(B) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4103(c)(3)(B)) is amended by inserting "which are managed under an interstate fishery management plan" immediately after "fishery resources".

FEDERAL SHARE OF ACTIVITIES CARRIED OUT WITH ADDITIONAL APPROPRIATIONS

SEC. 502. Section 308(b) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)) is amended—

(1) in paragraph (1) by striking "and" at the end;

(2) in paragraph (2) by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) in subsection (a) by striking "fiscal years 1987, 1988, and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995";

(2) in subsection (b) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, 1993, 1994, and 1995"; and

(3) in subsection (c) by striking "fiscal years 1988 and 1989" and inserting in lieu thereof "the fiscal years 1989, 1990, 1991, 1992, and 1993".

TITLE VI—CENTRAL, WESTERN, AND SOUTH PACIFIC FISHERIES DEVELOPMENT ACT

AUTHORIZATION OF APPROPRIATIONS

SEC. 601. Section 7 of the Central, Western, and South Pacific Fisheries Development Act (16 U.S.C. 758e-5) is amended by striking "and 1988" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, 1993, 1994, and 1995".

TITLE VII—NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL

EXTENSION OF TERMINATION DATE

SEC. 701. Section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) is amended by striking "October 1, 1990" and inserting in lieu thereof "December 31, 1991".

AUTHORIZATION OF APPROPRIATIONS

SEC. 702. Section 209(d) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4008(d)) is amended by striking "1990" and inserting in lieu thereof "1991".

TRANSFER OF SALTONSTALL-KENNEDY FUNDS

SEC. 703. Section 2(b)(2) of the Act of August 11, 1939 (commonly known as the Saltonstall-Kennedy Act; 15 U.S.C. 713c-3(b)(2)), is amended by striking "fiscal year 1990" and inserting in lieu thereof "each of fiscal years 1990 and 1991".

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

16 USC 4004 note.

SEC. 704. (a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotional Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act.

(c) TECHNICAL AMENDMENT.—Section 207(a)(5) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4006(a)(5)) is amended by inserting "initial" immediately before "appointments."

CONTINUITY OF COUNCIL FUNCTIONS, CONTRACTS, AND PERSONNEL

16 USC 4005 note.

SEC. 705. All current functions, contracts in force, and existing personnel of the National Fish and Seafood Promotional Council as of September 30, 1990, are reauthorized and extended, and shall continue as if uninterrupted, notwithstanding section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) as in effect on September 30, 1990.

TITLE VIII—MISCELLANEOUS

CERTIFICATE OF LEGAL ORIGIN FOR ANADROMOUS FISH PRODUCTS

16 USC 1822 note.

SEC. 801. (a) NEGOTIATIONS.—Within 60 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with nations which import or export anadromous fish or anadromous fish products for the purpose of securing general agreement among such nations to implement effective measures to prohibit international trade in anadromous fish or anadromous fish products unless such fish or fish products are accompanied by a valid certificate of legal origin attesting that the fish or fish product was lawfully harvested—

(1) within the jurisdiction of a nation having naturally occurring or artificially established anadromous fish populations of the same species as the imported or exported product; or

(2) on the high seas according to an international agreement among nations with jurisdiction over more than 1 percent of the stocks of anadromous fish being so harvested.

(b) ISSUANCE OF CERTIFICATES.—For the purposes of subsection (a), a valid certificate of legal origin may be issued only by a nation which—

(1) is the nation having jurisdiction over the vessel or other means by which the fish or fish product was harvested; and

(2) maintains regular harvests of anadromous fish in a manner consistent with the criteria for lawful harvests set out in subsection (a).

(c) BILATERAL OR MULTILATERAL AGREEMENTS.—Efforts undertaken by the Secretary of State pursuant to subsection (a) may, at the discretion of the Secretary, be directed toward achieving either bilateral or multilateral agreements, including trade agreements, whichever the Secretary determines to be most likely to result in the earliest possible date or dates of agreement by those nations which individually have in excess of $1,000,000, or the equivalent, in

import or export trade in anadromous fish and anadromous fish products.

(d) REGULATIONS.—The Secretary of Commerce shall, within 180 days after the date of enactment of this Act, promulgate regulations providing for—

(1) the issuance of certificates of legal origin pursuant to agreements under subsection (a) for anadromous fish and anadromous fish products legally harvested by vessels of the United States;

(2) the delegation of the authority to issue certificates of legal origin to States, territories, or possessions of the United States which the Secretary of Commerce determines to have implemented a program which is sufficient to accomplish the purposes of subsection (a); and

(3) an orderly transition to such regulations, sufficient to ensure that United States commerce in anadromous fish and anadromous fish products is not unduly disrupted.

(e) REPORT REQUIRED.—The Secretary of Commerce, after consultation with the Secretary of the Treasury, shall, within 180 days after the date of enactment of this Act, submit to the Congress a report—

(1) making recommendations as to the need for the adoption of United States import and export restrictions on anadromous fish and anadromous fish products consistent with subsection (a); and

(2) identifying, evaluating, and making recommendations regarding any specific statutory or regulatory changes that may be necessary for the adoption of such restrictions.

(f) CERTIFICATION.—If, at any time following the promulgation of the regulations required by subsection (d), the Secretary of Commerce finds that any nation is engaging in trade in unlawfully taken anadromous fish or anadromous fish products, the Secretary shall certify that fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a)(1) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)(1)).

TITLE IX—DOLPHIN PROTECTION CONSUMER INFORMATION

DOLPHIN PROTECTION

Dolphin Protection Consumer Information Act. 16 USC 1835.

SEC. 901. (a) SHORT TITLE.—This section may be cited as the "Dolphin Protection Consumer Information Act".

(b) FINDINGS.—The Congress finds that—

(1) dolphins and other marine mammals are frequently killed in the course of tuna fishing operations in the eastern tropical Pacific Ocean and high seas driftnet fishing in other parts of the world;

(2) it is the policy of the United States to support a worldwide ban on high seas driftnet fishing, in part because of the harmful effects that such driftnets have on marine mammals, including dolphins; and

(3) consumers would like to know if the tuna they purchase is falsely labeled as to the effect of the harvesting of the tuna on dolphins.

(c) DEFINITIONS.—For purposes of this section—

(1) the terms "driftnet" and "driftnet fishing" have the meanings given those terms in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note);

(2) the term "eastern tropical Pacific Ocean" means the area of the Pacific Ocean bounded by 40 degrees north latitude, 40 degrees south latitude, 160 degrees west longitude, and the western coastlines of North, Central, and South America;

(3) the term "label" means a display of written, printed, or graphic matter on or affixed to the immediate container of any article;

(4) the term "Secretary" means the Secretary of Commerce; and

(5) the term "tuna product" means a food item which contains tuna and which has been processed for retail sale, except perishable sandwiches, salads, or other products with a shelf life of less than 3 days.

(d) LABELING STANDARD.—(1) It is a violation of section 5 of the Federal Trade Commission Act for any producer, importer, exporter, distributor, or seller of any tuna product that is exported from or offered for sale in the United States to include on the label of that product the term "Dolphin Safe" or any other term or symbol that falsely claims or suggests that the tuna contained in the product was harvested using a method of fishing that is not harmful to dolphins if the product contains—

(A) tuna harvested on the high seas by a vessel engaged in driftnet fishing; or

(B) tuna harvested in the eastern tropical Pacific Ocean by a vessel using purse seine nets which do not meet the requirements for being considered dolphin safe under paragraph (2).

(2) For purposes of paragraph (1)(B), a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean by a fishing vessel using purse seine nets is dolphin safe if—

(A) the vessel is of a type and size that the Secretary has determined is not capable of deploying its purse seine nets on or to encircle dolphin; or

(B)(i) the product is accompanied by a written statement executed by the captain of the vessel which harvested the tuna certifying that no tuna were caught on the trip in which such tuna were harvested using a purse seine net intentionally deployed on or to encircle dolphin;

(ii) the product is accompanied by a written statement executed by—

(I) the Secretary or the Secretary's designee, or

(II) a representative of the Inter-American Tropical Tuna Commission,

which states that there was an approved observer on board the vessel during the entire trip and that purse seine nets were not intentionally deployed during the trip on or to encircle dolphin; and

(iii) the statements referred to in clauses (i) and (ii) are endorsed in writing by each exporter, importer, and processor of the product.

Fraud.

(e) ENFORCEMENT.—Any person who knowingly and willfully makes a statement or endorsement described in subsection (d)(2)(B) that is false is liable for a civil penalty of not to exceed $100,000

assessed in an action brought in any appropriate district court of the United States on behalf of the Secretary.

(f) REGULATIONS.—The Secretary, in consultation with the Secretary of the Treasury, shall issue regulations to implement this section not later than 6 months after the date of the enactment of this Act, including regulations establishing procedures and requirements for ensuring that tuna products are labeled in accordance with subsection (d).

(g) TREATMENT OF FISH CAUGHT WITH DRIFTNETS.—Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (C) by striking "and" after the semicolon at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E)(i) except as provided in clause (ii), in the case of fish or products containing fish harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the fish or fish product was not harvested with a large-scale driftnet in the South Pacific Ocean after July 1, 1991, or in any other water of the high seas after July 1, 1992, and

"(ii) in the case of tuna or a product containing tuna harvested by a nation whose fishing vessels engage in high seas driftnet fishing, shall require that the government of the exporting nation provide documentary evidence that the tuna or tuna product was not harvested with a large-scale driftnet anywhere on the high seas after July 1, 1991.

For purposes of subparagraph (E), the term "driftnet" has the meaning given such term in section 4003 of the Driftnet Impact Monitoring, Assessment, and Control Act of 1987 (16 U.S.C. 1822 note).".

(h) NEGOTIATIONS.—The Secretary of State shall immediately seek, through negotiations and discussions with appropriate foreign governments, to reduce and, as soon as possible, eliminate the practice of harvesting tuna through the use of purse seine nets intentionally deployed to encircle dolphins.

(i) EFFECTIVE DATE.—Subsections (d) and (e) shall take effect 6 months after the date of the enactment of this Act.

TITLE X—FISHERIES COMMISSION

REDESIGNATION OF FISHERIES COMMISSION

SEC. 1001. (a) IN GENERAL.—The Congress consents to and approves of the amendments described in subsection (b) to the interstate compact which constituted the Pacific Marine Fisheries Commission, approved by the Act of July 24, 1947 (61 Stat. 419; hereinafter in this section referred to as the "compact"). 16 USC 1802 note.

(b) AMENDMENT DESCRIBED.—The amendments referred to in subsection (a) are the amendments approved and ratified before the effective date of this section by the contracting States to the compact, which—

(1) amend Article III of the compact to redesignate the Pacific Marine Fisheries Commission as the "Pacific States Marine Fisheries Commission"; and

(2) make such other amendments to the compact as are necessary solely to conform the text of the compact to the amendment described in paragraph (1).

16 USC 1802.

(c) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Pacific Marine Fisheries Commission constituted by the compact is deemed to be a reference to the "Pacific States Marine Fisheries Commission".

TITLE XI—REPORT ON MARINE MAMMALS

REPORT ON MARINE MAMMAL POPULATIONS

16 USC 1373 note.

SEC. 1101. The Secretary of Commerce, in consultation with the Secretary of the Interior, shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives within 12 months after the date of enactment of this Act a report—

(1) assessing population sizes and trends of harbor seals, sea otters, California sea lions, and northern sea lions off the coast of the State of Washington, which assessment shall include the historic, present, and projected population sizes and the overall health of current populations of such marine mammals;

(2) assessing the effectiveness of sections 101(a)(3)(A) and 109(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(A) and 1379(h)) with particular emphasis on the management of the lower Columbia River and Puget Sound marine mammal populations, which assessment shall describe how the agencies are interpreting and implementing such sections, how often such sections have been invoked, and whether such sections have been effective in the management of marine mammal populations and in responding to the problems which such sections were intended to address; and

(3) specifying long range management plans for the species of marine mammals listed in paragraph (1).

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 2061 (S. 1025):

HOUSE REPORTS: No. 101-393 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 101-414 accompanying S. 1025 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 6, considered and passed House.
Oct. 11, considered and passed Senate, amended, in lieu of S. 1025.
Oct. 23, House concurred in Senate amendments with an amendment.
Oct. 27, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 28, Presidential statement.

Public Law 101-628
101st Congress

An Act

To provide for the designation of certain public lands as wilderness in the State of Arizona.

Nov. 28, 1990
[H.R. 2570]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.—Titles I through III of this Act may be cited as the "Arizona Desert Wilderness Act of 1990".

Arizona Desert Wilderness Act of 1990.
16 USC 460ddd note.

TITLE I—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT

National Wilderness Preservation System.
16 USC 1132 note.

SEC. 101. DESIGNATION AND MANAGEMENT.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness and therefore, as components of the National Wilderness Preservation System:

(1) certain lands in Mohave County, Arizona, which comprise approximately 23,600 acres, as generally depicted on a map entitled "Mount Wilson Wilderness" and dated February 1990, and which shall be known as the Mount Wilson Wilderness;

(2) certain lands in Mohave County, Arizona, which comprise approximately 31,070 acres, as generally depicted on a map entitled "Mount Tipton Wilderness" and dated February 1990, and which shall be known as the Mount Tipton Wilderness;

(3) certain lands in Mohave County, Arizona, which comprise approximately 27,530 acres, as generally depicted on a map entitled "Mount Nutt Wilderness" and dated February 1990, and which shall be known as the Mount Nutt Wilderness: *Provided,* That the existing water pipeline for the town of Oatman, together with the right of ingress and egress thereto, may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values;

(4) certain lands in Mohave County, Arizona, which comprise approximately 90,600 acres, as generally depicted on a map entitled "Warm Springs Wilderness" and dated February 1990, and which shall be known as the Warm Springs Wilderness;

(5) certain lands in Mohave County, Arizona, which comprise approximately 15,900 acres, as generally depicted on a map entitled "Aubrey Peak Wilderness" and dated February 1990, and which shall be known as the Aubrey Peak Wilderness;

(6) certain lands in La Paz County, Arizona, which comprise approximately 14,630 acres, as generally depicted on a map entitled "East Cactus Plain Wilderness" and dated February 1990, and which shall be known as the East Cactus Plain Wilderness;

(7) certain lands in Mohave and La Paz Counties, Arizona, which comprise approximately 41,600 acres, as generally depicted on a map entitled "Rawhide Mountains Wilderness" and

dated February 1990, and which shall be known as the Rawhide Mountains Wilderness;

(8) certain lands in Mohave, Yavapai, and La Paz Counties, Arizona, which comprise approximately 126,760 acres, as generally depicted on a map entitled "Arrastra Mountain Wilderness" and dated February 1990, and which shall be known as the Arrastra Mountain Wilderness;

(9) certain lands in La Paz County, Arizona, which comprise approximately 25,287 acres, as generally depicted on a map entitled "Harcuvar Mountains Wilderness" and dated February 1990, and which shall be known as the Harcuvar Mountains Wilderness;

(10) certain lands in La Paz and Maricopa Counties, Arizona, which comprise approximately 22,865 acres, as generally depicted on a map entitled "Harquahala Mountains Wilderness" and dated February 1990, and which shall be known as the Harquahala Mountains Wilderness;

(11) certain lands in Maricopa County, Arizona, which comprise approximately 20,600 acres, as generally depicted on a map entitled "Big Horn Mountains Wilderness" and dated February 1990, and which shall be known as the Big Horn Mountains Wilderness;

(12) certain lands in Maricopa County, Arizona, which comprise approximately 30,170 acres, as generally depicted on a map entitled "Hummingbird Springs Wilderness" and dated February 1990, and which shall be known as the Hummingbird Springs Wilderness;

(13) certain lands in La Paz, Yuma, and Maricopa Counties, Arizona, which comprise approximately 89,000 acres, as generally depicted on a map entitled "Eagletail Mountains Wilderness" and dated February 1990, and which shall be known as the Eagletail Mountains Wilderness;

(14) certain lands in Maricopa County, Arizona, which comprise approximately 15,250 acres, as generally depicted on a map entitled "Signal Mountain Wilderness" and dated February 1990, and which shall be known as the Signal Mountains Wilderness;

(15) certain lands in Maricopa County, Arizona, which comprise approximately 61,000 acres, as generally depicted on a map entitled "Woolsey Peak Wilderness" and dated February 1990, and which shall be known as the Woolsey Peak Wilderness;

(16) certain lands in Maricopa County, Arizona, which comprise approximately 14,500 acres, as generally depicted on a map entitled "Sierra Estrella Wilderness" and dated February 1990, and which shall be known as the Sierra Estrella Wilderness;

(17) certain lands in Maricopa and Pinal Counties, Arizona, which comprise approximately 34,400 acres, as generally depicted on a map entitled "Table Top Wilderness" and dated February 1990, and which shall be known as the Table Top Wilderness;

(18) certain lands in Pima County, Arizona, which comprise approximately 5,080 acres, as generally depicted on a map entitled "Coyote Mountains Wilderness" and dated February 1990, and which shall be known as the Coyote Mountains Wilderness;

(19) certain lands in Pima County, Arizona, which comprise approximately 2,065 acres, as generally depicted on a map entitled "Baboquivari Peak Wilderness" and dated February 1990, and which shall be known as the Baboquivari Peak Wilderness;

(20) certain lands in Gila County, Arizona, which comprise approximately 9,201 acres, as generally depicted on a map entitled "Needle's Eye Wilderness" and dated February 1990, and which shall be known as the Needle's Eye Wilderness: *Provided,* That the right-of-way reserved by right-of-way reservation A-16043 dated October 20, 1986, together with the right of ingress and egress thereto, shall not be affected by this Act, and the existing powerline utilizing such right-of-way may be operated, maintained, and upgraded, subject to reasonable requirements to protect wilderness values;

(21) certain lands in Graham County, Arizona, which comprise approximately 6,590 acres, as generally depicted on a map entitled "North Santa Teresa Wilderness" and dated February 1990, and which shall be known as the North Santa Teresa Wilderness;

(22) certain lands in Graham County, Arizona, which comprise approximately 10,883 acres, as generally depicted on a map entitled "Fishhooks Wilderness" and dated February 1990, and which shall be known as the Fishhooks Wilderness;

(23) certain lands in Cochise County, Arizona, which comprise approximately 11,998 acres, as generally depicted on a map entitled "Dos Cabezas Mountains Wilderness" and dated February 1990, and which shall be known as the Dos Cabezas Mountains Wilderness;

(24) certain lands in Graham and Cochise Counties, Arizona, which comprise approximately 6,600 acres, as generally depicted on a map entitled "Redfield Canyon Wilderness" and dated February 1990, and which shall be known as the Redfield Canyon Wilderness;

(25) certain lands in La Paz County, Arizona, which comprise approximately 18,805 acres, as generally depicted on a map entitled "Gibraltar Mountain Wilderness" and dated February 1990, and which shall be known as the Gibraltar Mountain Wilderness;

(26) certain lands in La Paz and Mohave Counties, Arizona, which comprise approximately 15,755 acres, as generally depicted on a map entitled "Swansea Wilderness" and dated February 1990, and which shall be known as the Swansea Wilderness;

(27) certain lands in LaPaz County, Arizona, which comprise approximately 29,095 acres, as generally depicted on a map entitled "Trigo Mountain Wilderness" and dated February 1990, and which shall be known as the Trigo Mountain Wilderness;

(28) certain lands in Yuma County, Arizona, which comprise approximately 8,855 acres, as generally depicted on a map entitled "Muggins Mountain Wilderness" and dated February 1990, and which shall be known as the Muggins Mountain Wilderness;

(29) certain lands in Yavapai and Maricopa Counties, Arizona, which comprise approximately 9,200 acres, as generally depicted on a map entitled "Hells Canyon Wilderness" and dated

February 1990, and which shall be known as the Hells Canyon Wilderness;

(30) certain lands in Maricopa County, Arizona, which comprise approximately 63,600 acres, as generally depicted on a map entitled "North Maricopa Mountains Wilderness" and dated February 1990, and which shall be known as the North Maricopa Mountains Wilderness;

(31) certain lands in Maricopa County, Arizona, which comprise approximately 60,800 acres, as generally depicted on a map entitled "South Maricopa Mountains Wilderness" and dated February 1990, and which shall be known as the South Maricopa Mountains Wilderness;

(32) certain lands in Mohave County, Arizona, which comprise approximately 38,400 acres, as generally depicted on a map entitled "Wabayuma Peak Wilderness" and dated February 1990, and which shall be known as the Wabayuma Peak Wilderness;

(33) certain lands in Yavapai and Mohave Counties, Arizona, which comprise approximately 27,900 acres, as generally depicted on a map entitled "Upper Burro Creek Wilderness" and dated June 1990, and which shall be known as the Upper Burro Creek Wilderness;

(34) certain lands in Yavapai County, Arizona, which comprise approximately 11,840 acres, as generally depicted on a map entitled "Hassayampa River Canyon Wilderness" and dated February 1990, and which shall be known as the Hassayampa River Canyon Wilderness;

(35) certain lands in Pinal County, Arizona, which comprise approximately 5,800 acres, as generally depicted on a map entitled "White Canyon Wilderness" and dated February 1990, and which shall be known as the White Canyon Wilderness;

(36) certain lands in Yavapai County, Arizona, which comprise approximately 8,700 acres, as generally depicted on a map entitled "Tres Alamos Wilderness" and dated February 1990, and which shall be known as the Tres Alamos Wilderness;

(37) certain lands in Cochise, Greenlee, and Graham Counties, Arizona, which comprise approximately 19,650 acres, as generally depicted on a map entitled "Peloncillo Mountains Wilderness" and dated February 1990, and which shall be known as the Peloncillo Mountains Wilderness;

(38) certain lands in La Paz County, Arizona, which comprise approximately 21,680 acres, as generally depicted on a map entitled "New Water Mountains Wilderness" and dated February 1990, and which shall be known as the New Water Mountains Wilderness;

(39) certain lands in Pinal and Graham Counties, Arizona, which comprise approximately 12,711 acres, as generally depicted on a map entitled "Aravaipa Wilderness Additions" and dated February 1990, and which are hereby incorporated in and shall be deemed to be a part of the Aravaipa Canyon Wilderness (designated in Public Law 98-406, 98 Stat. 1491).

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated by this title shall be administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilder-

ness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this Act.

(c) MAP AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this Act, the Secretary shall file a map and a legal description of each wilderness area designated under this title with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such legal description and map may be made. Copies of such map and legal description shall be on file and available for public inspection in the Office of the Director, Bureau of Land Management, United States Department of the Interior, and in the appropriate office of the Bureau of Land Management in Arizona.

(d) NO BUFFER ZONES.—The Congress does not intend for the designation of wilderness areas in the State of Arizona pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) FISH AND WILDLIFE.—As provided in paragraph (7) of section 4(d) of the Wilderness Act, nothing in this title or in the Wilderness Act shall be construed as affecting the jurisdiction or responsibilities of the State of Arizona with respect to wildlife and fish on the public lands located in that State.

(f) LIVESTOCK.—(1) Grazing of livestock in wilderness areas designated by this title, where established prior to the date of the enactment of this Act, shall be administered in accordance with section 4(d)(4) of the Wilderness Act and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(2) The Secretary is directed to review all policies, practices, and regulations of the Bureau of Land Management regarding livestock grazing in Bureau of Land Management administered wilderness areas in Arizona in order to insure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in this title.

(g) WATER.—(1) With respect to each wilderness area designated by this title, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this title. The priority date of such reserved rights shall be the date of enactment of this Act.

(2) The Secretary and all other officers of the United States shall take steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666). Claims.

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(h) WILDLIFE MANAGEMENT.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title, where consistent with relevant wilderness management plans, in accordance with appropriate policies and guidelines such as those set forth in Appendix B of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(i) MILITARY ACTIVITIES.—Nothing in this title shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this title.

(j) MINERAL EXCHANGES.—It is the intent of Congress that private mineral rights within wilderness areas designated by this title be acquired as expeditiously as possible by the Secretary using existing authority to acquire such rights by exchange.

16 USC 1132 note.

(k) BLACK ROCK WASH ROAD ACCESS.—(1) Section 101(a)(23) of the Arizona Wilderness Act of 1984 (98 Stat. 1487) is amended by striking "the governmental agency having jurisdictional authority may authorize limited access to the area, for private and administrative purposes, from U.S. Route 70 along Black Rock Wash to the vicinity of Black Rock;

(2)(A) In order to permit adequate public and private access to Federal, State, and private lands on the east side of the Santa Teresa Mountains, the Secretary, acting through the Bureau of Indian Affairs, shall administer that portion of Black Rock Wash Road located within the boundaries of the San Carlos Apache Reservation so as to allow reasonable use of the road for private and administrative purposes and may permit limited public use of such road for the purpose of access to the public lands outside of the reservation boundary.

(B) The Secretary, acting through the Bureau of Indian Affairs, is authorized, subject to the provisions of the Act of June 18, 1934, chapter 576, section 16 (25 U.S.C. 476; 48 Stat. 987), to enter into cooperative agreements with the Bureau of Land Management, the Forest Service, and Graham County, Arizona, for signing, fencing, and maintenance of the portion of Black Rock Wash Road referred to in paragraph (A). The entering into of cooperative agreements as authorized by this subsection shall not be construed in any way as a determination of the ownership of such portion of Black Rock Wash Road.

Appropriation authorization.

(3) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(l) ALAMO DAM.—Nothing in this title shall be construed to affect the operation for flood control purposes of the Alamo Dam located on the Bill Williams River.

SEC. 102. AREAS RELEASED.

Excepting for the Baker Canyon area (AZ-040-070), and the approximately 57,800 acres of public land as generally depicted on a

map entitled "Cactus Plain Wilderness Study Area" dated February, 1990, the Congress hereby finds and directs that all public lands in Arizona, administered by the Bureau of Land Management pursuant to the Federal Land Policy and Management Act of 1976 not designated as wilderness by this title, or previous Acts of Congress, have been adequately studied for wilderness designation pursuant to section 603 of such Act and are no longer subject to the requirement of section 603(c) of such Act pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

TITLE II—DESIGNATION OF THE GILA BOX RIPARIAN NATIONAL CONSERVATION AREA

Natural resources.

SEC. 201. DESIGNATION AND MANAGEMENT.

16 USC 460ddd.

Establishment.

(a) PURPOSES.—In order to conserve, protect, and enhance the riparian and associated areas described in subsection (b) and the aquatic, wildlife, archeological, paleontological, scientific, cultural, recreational, educational, scenic, and other resources and values of such areas, there is hereby established the Gila Box Riparian National Conservation Area (hereafter in this title referred to as the "conservation area").

(b) AREAS INCLUDED.—The conservation area shall consist of the public lands generally depicted on a map entitled "Gila Box Riparian National Conservation Area" dated February 1990, and comprising approximately 20,900 acres.

(c) MAP.—As soon as practicable after the date of enactment of this Act, a map and legal description of the conservation area shall be filed by the Secretary with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Such map shall have the same force and effect as if included in this section. Copies of such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the appropriate office of the Bureau of Land Management in Arizona.

(d) MANAGEMENT OF CONSERVATION AREA.—(1) The Secretary shall manage the conservation area in a manner that conserves, protects and enhances its resources and values, including the resources and values specified in subsection (a), pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, including this title.

(2) The Secretary shall allow only such uses of the conservation area as the Secretary finds will further the purposes for which the conservation area is established. Except where needed for administrative purposes or to respond to an emergency, use of motorized vehicles in the conservation area shall be permitted only on roads specifically designated for such use as part of the management plan prepared pursuant to subsection (g).

(e) WITHDRAWAL.—Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing, and all amendments thereto.

(f) WATER.—(1) Congress hereby reserves a quantity of water sufficient to fulfill the purposes, as specified in subsection (a), for which the conservation area is established. The priority date of this reserved right shall be the date of enactment of this Act.

Claims.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the right reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such right in any present or future appropriate stream adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal rights reserved by this title are specific to the conservation area located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(5) Nothing in this title shall be construed to impair or conflict with the implementation of the authorization contained in section 304(f) of Public Law 90-537, approved September 30, 1968.

(g) MANAGEMENT PLAN.—(1) No later than two years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the conservation area (hereinafter in this title referred to as the "management plan") in order to fulfill the purposes for which the conservation area is established. The management plan shall be developed with full public participation and shall include provisions designed to assure protection of the resources and values (including the resources and values specified in subsection (a)) of the conservation area.

(2) The management plan shall include a discussion of the desirability of the inclusion in the conservation area of additional lands, including the lands not in Federal ownership that are contiguous to the boundary of the conservation area (as depicted on the map referenced in subsection (b) or as hereafter adjusted pursuant to subsection (h)) and within the area extending two miles on either side of the centerline of Eagle Creek from the point where Eagle Creek crosses the southern boundary of the Apache National Forest to the confluence of Eagle Creek with the Gila River (this area is hereafter referred to in this title as the "Eagle Creek riparian area").

(3) In order to better implement the management plan, the Secretary may enter into cooperative agreements with appropriate State and local agencies pursuant to section 307(b) of the Federal Land Policy and Management Act of 1976.

(4) In order to assist in the development and implementation of the management plan, the Secretary may authorize appropriate research, including research concerning the environmental, biological, hydrological, cultural, and other characteristics, resources, and values of the conservation area, pursuant to section 307(a) of the Federal Land Policy and Management Act of 1976.

(h) ACQUISITION AND BOUNDARY ADJUSTMENTS.—(1) Subject to the limitations set forth in paragraph (3), the Secretary is authorized to

acquire non-Federal lands or interests therein within the boundaries of the conservation area or within the Eagle Creek riparian area.

(2) The Secretary is authorized to adjust the boundaries of the conservation area so as to incorporate within the conservation area any lands or interests within the Eagle Creek riparian area that may be acquired after the date of enactment of this Act as well as public lands within that portion of the Eagle Creek riparian area west of the centerline of Eagle Creek that the Secretary finds appropriate in order to properly manage such acquired lands as part of the conservation area. Any lands or interests so incorporated shall be managed as part of the conservation area.

(3) No lands or interests therein owned by the State of Arizona or any political subdivision of such State shall be acquired pursuant to this subsection except through donation or exchange, and no lands or interests within the conservation area or the Eagle Creek riparian area shall be acquired from any other party or entity except by donation, exchange, or purchase with the consent of the owner of such lands or interests.

(i) NO BUFFER ZONES.—The Congress does not intend for the establishment of the conservation area to lead to the creation of protective perimeters or buffer zones around the conservation area. The fact that there may be activities or uses on lands outside the conservation area that would not be permitted in the conservation area shall not preclude such activities or uses on such lands up to the boundary of the conservation area to the extent consistent with other applicable law.

(j) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to advise the Secretary with respect to the preparation and implementation of the management plan. Such advisory committee shall consist of seven members appointed by the Secretary. One member shall be appointed from among recommendations submitted by the Governor of Arizona, one member shall be appointed from among recommendations submitted by the Graham County Board of Supervisors and one member shall be appointed from among recommendations submitted by the Greenlee County Board of Supervisors. The remaining members shall be persons recognized as experts in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the purposes for which the conservation area is established.

(k) REPORT.—No later than five years after the date of enactment of this Act, and at least each ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the implementation of this title, the condition of the resources and values of the conservation area, and the progress of the Secretary in achieving the purposes for which the conservation area is established.

(l) ENFORCEMENT.—Any person who violates any regulation promulgated by the Secretary to implement the provisions of this title shall be subject to a fine in accordance with applicable provisions of the Sentencing Reform Act of 1984, or imprisonment of not more than 1 year, or both such fine and imprisonment.

(m) AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this title. Appropriation authorization.

National Wilderness Preservation System.

TITLE III—DESIGNATION OF WILDERNESS AREAS TO BE ADMINISTERED BY THE UNITED STATES FISH AND WILDLIFE SERVICE

16 USC 1132 note.

SEC. 301. DESIGNATION AND MANAGEMENT

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act, the following lands are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System:

(1) certain lands in the Havasu National Wildlife Refuge, Arizona, which comprise approximately 14,606 acres, as generally depicted on a map entitled "Havasu Wilderness" and dated March 13, 1990, and which shall be known as the Havasu Wilderness;

(2) certain lands in the Imperial National Wildlife Refuge, Arizona, which comprise approximately 9,220 acres, as generally depicted on a map entitled "Imperial Refuge Wilderness" and dated March 13, 1990, and which shall be known as the Imperial Refuge Wilderness;

(3) certain lands in the Kofa National Wildlife Refuge, Arizona, which comprise approximately 510,900 acres, and certain other public lands comprising approximately 5,300 acres which are hereby added to and incorporated within such refuge (and which shall be managed accordingly), all as generally depicted on a map entitled "Kofa Wilderness" and dated August 1, 1990, and which shall be known as the Kofa Wilderness; and

(4) certain lands in the Cabeza Prieta National Wildlife Refuge, Arizona, which comprise approximately 803,418 acres, as generally depicted on a map entitled "Cabeza Prieta Wilderness" and dated March 13, 1990, and which shall be known as the Cabeza Prieta Wilderness.

(b) MANAGEMENT.—Subject to valid existing rights, the wilderness areas designated under this title shall be administered by the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of enactment of this title.

(c) MAP AND LEGAL DESCRIPTION.—As soon as practicable after enactment of this title, the Secretary shall file a map and a legal description of each wilderness area designated under this section with the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the United States House of Representatives and with the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate. Such map and description shall have the same force and effect as if included in this title, except that correction of clerical and typographical errors in such legal description and map may be made. Such map and legal description shall be on file and available for public inspection in the Office of the Director, United States Fish and Wildlife Service, United States Department of the Interior.

(1)(A) With respect to each wilderness area designated by this title, and subject to the limitations set forth in subparagraph (B), Congress hereby reserves a quantity of water sufficient to

fulfill the purposes of this title. The priority date of such reserved rights shall be the date of enactment of this Act.

(B) With respect to the Havasu and Imperial wilderness areas designated by subsections (a)(1) and (a)(2) of this section, no rights to water of the Colorado River are reserved, either expressly, impliedly, or otherwise.

(2) The Secretary and all other officers of the United States shall take all steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate steam adjudication in the courts of the State of Arizona in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) Nothing in this title shall be construed as a relinquishment or reduction of any water right reserved or appropriated by the United States in the State of Arizona on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this title are specific to the wilderness areas located in the State of Arizona designated by this title. Nothing in this title related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

(e) NO EFFECT ON COLORADO RIVER DAMS.—Nothing in this title shall be construed to affect the operation of federally owned dams located on the Colorado River in the Lower Basin.

(f) MILITARY ACTIVITIES.—Nothing in this title including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be construed as—

(1) precluding or otherwise affecting continued low-level overflights by military aircraft over such refuge or the maintenance of existing associated ground instrumentation, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or

(2) precluding the Secretary of Defense from entering into new or renewed agreements with the Secretary concerning use by military aircraft of airspace over such refuge or the maintenance of existing associated ground instrumentation, consistent with management of the refuge for the purpose for which such refuge was established and in accordance with laws applicable to the National Wildlife Refuge System.

(g) LAW ENFORCEMENT BORDER ACTIVITIES.—Nothing in this title, including the designation as wilderness of lands within the Cabeza Prieta National Wildlife Refuge, shall be construed as—

(1) precluding or otherwise affecting continued border operations by the Immigration and Naturalization Service, the Drug Enforcement Administration, or the United States Customs Service within such refuge, in accordance with any applicable interagency agreements in effect on the date of enactment of this Act; or

(2) precluding the Attorney General of the United States or the Secretary of the Treasury from entering into new or renewed agreements with the Secretary concerning Immigration and Naturalization Service, Drug Enforcement Administration, or United States Customs Service border operations within such

refuge, consistent with management of the refuge for the purpose for which such refuge was established, and in accordance with laws applicable to the National Wildlife Refuge System.

SEC. 302. NO EFFECT ON UPPER BASIN.

Nothing in titles I, II, or III of this Act shall amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty pertaining to the Colorado River (including its tributaries) in the Upper Basin, including, but not limited to, the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

Fort McDowell Indian Community Water Rights Settlement Act of 1990.
Government contracts.
Claims.

TITLE IV—FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT

SECTION 401. SHORT TITLE.

This title may be cited as the "Fort McDowell Indian Community Water Rights Settlement Act of 1990".

SEC. 402. CONGRESSIONAL FINDINGS AND DECLARATIONS.

(a) The Congress finds that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on September 15, 1903, the United States Government established a reservation for the Fort McDowell Indian Community in Arizona north of the confluence of the Salt and Verde Rivers tributary to the Gila River;

(5) the United States, as trustee for the Community, obtained water entitlements for the Community pursuant to the Kent Decree of 1910; however, continued uncertainty as to the full extent of the Community's entitlement to water has severely limited the Community's access to water and the financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and economic self-sufficiency;

(6) proceedings to determine the full extent and nature of the Community's water rights and damages thereto are currently pending before the United States District Court in Arizona, the United States Claims Court, the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source, and before various Federal agencies under the Federal Tort Claims Act;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Community's access to water, prolong uncertainty as to the availability

of water supplies and seriously impair the long-term economic planning and development of all parties, the Community and neighboring non-Indian communities have sought to settle disputes over water and reduce the burdens of litigation;

(8) after more than five years of negotiation, which included participation by representatives of the United States Government, the Community and neighboring non-Indian communities of the Salt River Valley, who are all party to the General Adjudication of the Gila River System and Source, the parties have entered into an agreement to resolve all water rights claims between and among themselves, to quantify the Community's entitlement to water, and to provide for the orderly development of the Community's lands;

(9) pursuant to the agreement, the neighboring non-Indian communities will transfer rights to approximately twelve thousand acre-feet of surface water to the Community; provide for the means of firming existing water supplies of the Community, and make substantial additional contributions to carry out the agreement's provisions; and

(10) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Community, it is appropriate that the United States participate in the implementation of the agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Community to utilize fully its water entitlements in developing a diverse, efficient reservation economy.

(b) Therefore, the Congress declares that the purposes of this Act are: (1) to approve, ratify and confirm the agreement entered into by the Community and its neighboring non-Indian communities, (2) to authorize and direct the Secretary of the Interior to execute and perform such agreement, and (3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Community as provided in the agreement and this Act.

SEC. 403. DEFINITIONS.

For purposes of this Act—

(a) "Agreement" means that agreement among the Fort McDowell Indian Community, the State of Arizona, the Salt River Project Agricultural Improvement and Power District, the Salt River Valley Water Users' Association, the Roosevelt Water Conservation District, the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Arizona Town of Gilbert, and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is approved and executed by the Secretary of the Interior pursuant to sections 411(d) and 412(a)(8) of this Act.

(b) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(c) "CAWCD" means the Central Arizona Water Conservation District organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(d) "Community" means the Fort McDowell Indian Community, a community of Yavapai Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987, 25 U.S.C. 476), and duly recognized by the Secretary.

(e) "HVID" means the Harquahala Valley Irrigation District, an irrigation district organized under the laws of the State of Arizona.

(f) "Kent Decree" means the decree dated March 1, 1910, entered in Patrick T. Hurley versus Charles F. Abbott, and others, Case Numbered 4564, in the District Court of the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa, and all decrees supplemental thereto.

(g) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(h) "Secretary" means the Secretary of the United States Department of the Interior.

(i) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona corporation.

SEC. 404. KENT DECREE REREGULATION.

(a) To permit the Community to more fully utilize its water rights under the Kent Decree as provided in the Agreement and subsection (b) of this section, the agreement between the United States and the SRP dated June 3, 1935, as amended on November 26, 1935, relating to the Verde River Storage Works, and the agreement among the SRP, Phelps Dodge Corporation, and the Defense Plant Corporation dated March 1, 1944, including, but not limited to, the provisions of such agreements by which SRP saves and holds harmless the United States, and the rights of the United States and SRP to Verde River storage, are hereby ratified, confirmed and declared to be valid: *Provided, however,* That the priority date and quantification of these storage rights, and such other storage rights as may exist, shall be determined in an appropriate state proceeding in the State of Arizona. Nothing in this Act or the Agreement shall affect the validity or invalidity of any permit, right-of-way, license or grant held by Phelps Dodge Corporation for the utilization of land or water within the San Carlos Apache Reservation.

(b) The Secretary is authorized and directed to contract with SRP, for a period of not more than twenty-five years from the date the authorizations contained in section 409(b) of this Act become effective, for the utilization of up to three thousand acre-feet of the existing storage right of the United States and SRP behind Bartlett and Horseshoe Dams on the Verde River for the reregulation of the Community's rights to water under the Kent Decree. This storage space shall be for seasonal regulation only, with no annual carryover past October 1.

SEC. 405. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) The contract between the SRP and RWCD dated October 24, 1924, together with all amendments thereto and any extension thereof entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) The Secretary is authorized and directed to revise the subcontract of the RWCD agricultural water service from the CAP to

include an addendum substantially in the form of exhibit "10.3.2" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) The lands within the RWCD and the lands within the SRP shall be free from the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law.

(d) Neither SRP nor the RWCD shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) by virtue of either of their participation in the settlement or their execution and performance of the Agreement, including, but not limited to, any exchanges provided for in the Agreement.

SEC. 406. OTHER WATER.

(a) The Secretary is authorized and directed to acquire for the Community thirteen thousand nine hundred thirty-three acre-feet of water from one or a combination of the following sources:

(1) CAP water permanently relinquished by the HVID pursuant to contract with the Secretary.

(2) CAP municipal and industrial water and CAP Indian priority water permanently relinquished by the City of Prescott, the Yavapai-Prescott Tribe, the Yavapai-Apache Indian Community of the Camp Verde Reservation, the Cottonwood Water Company or the Camp Verde Water Company pursuant to contract with the Secretary. Any water acquired by the Secretary pursuant to this section shall be acquired with the consent of the contracting entity and shall be assigned to the Community in partial satisfaction of the Secretary's obligation under this section.

(3) In the event that the Secretary cannot acquire thirteen thousand nine hundred and thirty-three acre-feet of water, solely or in combination, from the sources identified in subsections (a)(1) and (a)(2) of this section, then the Secretary is authorized to acquire, from all water resources within the State of Arizona at the disposal of the United States, water in amounts necessary to meet the requirements of this section.

HARQUAHALA VALLEY IRRIGATION DISTRICT

(b) The Secretary is authorized to contract with the HVID for the permanent relinquishment of any portion of HVID's rights to CAP agricultural water.

(1) The Secretary may use HVID water with its original CAP agricultural priority or may convert it, at the rate of one acre-foot per CAP-eligible acre, to a maximum of thirty-three thousand two hundred and sixty-three acre-feet of CAP Indian priority water. Up to thirteen thousand nine hundred and thirty-three acre-feet of such water shall be made available to the Community by contract with the Secretary.

(2) As consideration for the fair value of water relinquished under subsection (b) of this section, the Secretary is authorized:

(i) to credit the HVID with an appropriate share of its outstanding CAP distribution system debt, with such share reflecting the relationship between the amount of HVID

CAP rights acquired by the Secretary and the total CAP allocation of the HVID; and

(ii) to offset the annual repayment requirements of the CAWCD under repayment contract numbered 14-06-W-245 in amounts which total the balance of the fair value of the water acquired and not accounted for under (i) above until such value is exhausted.

(3) In the event that the Secretary acquires all or a part of the CAP water rights of the HVID, the following shall apply:

(i) The Secretary is authorized to transfer title to existing Federal facilities within HVID that are no longer needed for CAP purposes to the CAWCD or to other non-Federal entities.

(ii) The Secretary is authorized to approve or execute any agreements that are necessary to accomplish the transfer of HVID's CAP agricultural water rights to the Secretary for Indian water rights settlement purposes. As a condition of the transfer of such entitlement, the lands which are purchased by non-Federal interests within HVID must be excluded from HVID. Except as provided for in Article 8.7 of the December 1, 1988, contract between the United States and CAWCD, the excluded lands shall not be entitled to a supply of CAP water for agricultural purposes and shall not be subject to the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law.

(iii) The agreement implementing the transfer of HVID's CAP agricultural water rights to the Secretary shall provide that any lands which remain in HVID or its successor shall continue to be subject to the ownership limitations of Federal reclamation law and all full cost pricing provisions of Federal law as long as HVID, or its successor, has a Federal repayment obligation for the cost of the CAP distribution system. The agreement implementing the transfer shall provide that lands remaining in HVID, or its successor, will not bear costs of operation, maintenance, and replacement for the CAP distribution system greater than that which they would have in the absence of the transfer of HVID's CAP agricultural water rights.

(4) Water acquired by the Secretary for the Fort McDowell Indian Community pursuant to this subsection shall be delivered to the Community as provided for in the Agreement. Any remaining water acquired by the Secretary pursuant to this subsection (b) shall be used only in the settlement of water rights claims of other Indian tribes having claims to the water in the Salt and Verde River system.

VERDE RIVER WATERSHED

(c) Providing that the Secretary first acquires at least seven thousand acre-feet of CAP water from one or more of the entities named in subsection (a)(2), of this section, the Secretary is authorized to acquire, by purchase from willing sellers, land and water rights in the Big Chino Valley of the Verde River watershed, in an amount sufficient to replace all such water so acquired.

(1) The Secretary shall not acquire any land or water rights in the Big Chino Valley of the Verde River watershed until he has completed a study to determine whether, through the construc-

tion of water diversion, collection, and conveyance facilities to deliver water to a point near Sullivan Lake in Yavapai County, Arizona (hereinafter referred to as the "Sullivan Lake delivery point"), the exercise of such water rights will not have an adverse affect on the flow or the biota of the Verde River and that such exercise is not likely to jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species. The Secretary shall make the study required by this paragraph available to the public for inspection and comment upon its completion.

Public information.

(2) The Secretary is authorized to enter into an agreement with the City of Prescott to reimburse the city for not to exceed $800,000 advanced to the Secretary by the city for the purpose of expediting completion of the study required in subsection (c)(1) of this section.

(3) If the Secretary determines, based upon the findings of the study, that the exercise of water rights will not have an adverse effect on the flow or the biota of the Verde River and is not likely to jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species, the Secretary shall be authorized to acquire land in the Big Chino Valley and to construct diversion, collection, and conveyance facilities sufficient to deliver the water to the Sullivan Lake delivery point.

(4) The Secretary shall develop and implement a continuous monitoring program to ensure that groundwater pumping from land acquired pursuant to this subsection (c) shall not adversely affect the flow or the biota of the Verde River and to ensure that it will not jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species. The program shall be developed prior to and implemented concurrent with the construction of the facilities described in subsection (c)(3) of this section.

(d) If the Secretary acquires the CAP contract or subcontracts of the Yavapai-Apache Indian Community of the Camp Verde Reservation, the Cottonwood Water Company or the Camp Verde Water Company, the Secretary is authorized to construct water conveyance facilities from the Sullivan Lake delivery point to a point downstream on the Verde River. Subject to the study required in subsection (d)(1) of this section and all applicable law, the Secretary is further authorized to place into the Verde River at the point downstream an amount of water sufficient, including all losses, to replace the water assigned by such entity or entities pursuant to this subsection.

(1) The Secretary shall not construct any water conveyance facilities from the Sullivan Lake delivery point to any point downstream on the Verde River to replace water assigned pursuant to subsection (a)(2) of this section, until he has completed a study to determine whether the flow of the Verde River may be augmented without jeopardizing the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species and, if the flow of the Verde may be so augmented, at what point or points downstream from the Sullivan Lake delivery point such augmentation would be most appropriate.

(2) The Secretary shall, in conjunction with arrangements for the delivery of water pursuant to this subsection (d), develop and implement a monitoring program to ensure that the aug-

mentation of the Verde River will not jeopardize the continued existence of Meda fulgida (spikedace) or any other threatened or endangered species.

(e) If the Secretary acquires the CAP contract or subcontract of the Yavapai-Prescott Tribe or the City of Prescott, the Secretary is authorized to construct water conveyance facilities from the Sullivan Lake delivery point to the City of Prescott's existing pumping facilities in the Little Chino Valley, Yavapai County, Arizona. If the Secretary constructs such water conveyance facilities, the City of Prescott shall repay the Secretary for the costs thereof. Nothing in this subsection shall be construed to prevent the City of Prescott from constructing such conveyance facilities itself.

(1) The Secretary shall deliver water to the City of Prescott's existing pumping facilities or to such other point as the Secretary and the City of Prescott may agree, in an amount sufficient, including all losses, to replace the water acquired from the City of Prescott and the Yavapai-Prescott Tribe.

(2) The Secretary is authorized and directed to enter into such agreements as are necessary to ensure that the Yavapai-Prescott Tribe will receive its share of the water to be developed by the Secretary pursuant to this subsection (e). Such agreement shall set forth the cost and other terms of delivery of such water.

(3) The Secretary is authorized and directed, at the request of the Yavapai-Prescott Indian Tribe, to enter into and renew agreements granting the Yavapai-Prescott Indian Tribe long-term grazing privileges on the land acquired by the Secretary pursuant to subsection (a)(2) of this section: *Provided,* That the exercise of such privileges by the Yavapai-Prescott Indian Tribe shall not interfere with the exercise of water rights upon such land except for water reasonably needed by the Yavapai-Prescott Indian Tribe in connection with grazing.

(f) The Secretary is authorized to contract to deliver replacement water to the entities identified in subsections (d) and (e) of this section which relinquish CAP water to the Secretary for the benefit of the Community. The replacement water shall be delivered by the Secretary at the Sullivan Lake delivery point unless otherwise agreed by the Secretary and the entity to receive the water. No replacement water may be delivered to any entity other than those identified in subsection (a)(2) of their section or their agents, and no replacement water may be used directly or indirectly outside Yavapai County, Arizona.

(g) The entities which relinquish CAP water to the Community pursuant to subsection (a)(2) of this section shall not be required to repay costs incurred by the United States pursuant to subsections (c) and (c)(3) of this section. The entities identified in subsection (d) of this section, except for any entity which is an Indian tribe, shall repay the United States so much of the cost of the undertaking identified in subsection (d) as the entities and the United States shall agree. The costs of any undertaking pursuant to this subsection (g) allocated to an Indian tribe shall be nonreimbursable.

(h) The Secretary is authorized and directed to study the sources and cost of the water supplies, other than those identified in this section, that can be used to satisfy the water rights of the Yavapai-Prescott Indian Tribe and of the Yavapai-Apache Indian Community of the Camp Verde Reservation. A separate study shall be made for each tribe. Each study shall be commenced within one hundred

and eighty days after the enactment of this Act and shall be completed within one year after it is commenced. Copies of such studies shall be provided to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Select Committee on Indian Affairs of the United States Senate.

(i) If the Secretary acquires water for the Community pursuant to subsection (a)(2) of this section, then the Secretary shall exclude, for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14-06-W-245 between the United States and CAWCD dated December 15, 1972, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be non-reimbursable.

(j) The Secretary shall, in the exercise of the authorities provided in subsection (a) of this section, comply with all applicable environmental law.

(k) If the Secretary acquires at least seven thousand acre-feet of CAP water from the entities identified in subsection (a)(2) of this section, there is authorized to be appropriated not to exceed $30,000,000 to pay the costs of acquiring the land and water resources identified in subsection (c) of this section and the costs allocable to the construction of diversion, collection, and conveyance facilities described in subsection (c); costs allocable to the construction or diversion, collection, and conveyance facilities shall be adjusted by such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved therein.

(l) There is authorized to be appropriated such sums as may be necessary to provide for the studies required in subsections (c)(1), (d)(1), and (h) of this section and for the monitoring programs described in subsections (c)(4) and (d)(2) of this section. Appropriation authorization.

SEC. 407. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE.

(a) The Secretary is authorized and directed to amend the CAP water delivery contract between the United States and the community dated December 11, 1980 (herein referred to as the "Community CAP Delivery Contract"), as follows:

(1) to extend the term of such contract to December 31, 2099, and to provide for its subsequent renewal upon terms and conditions to be agreed upon by the parties prior to the expiration of the extended term thereof;

(2) to authorize the Community to lease the CAP water to which the Community is entitled under the Community CAP Delivery Contract to the City of Phoenix under the terms and conditions of the Project Water lease set forth in exhibit "20.2.2" to the Agreement for a term commencing January 1, 2001, and ending December 31, 2099.

(b) Notwithstanding any other provision of law, the amendments to the Community CAP Delivery Contract set forth in exhibit "20.2.1" to the Agreement and the terms and conditions of the Project Water Lease set forth in exhibit "20.2.2" to the Agreement are hereby authorized, approved, and confirmed.

(c) The United States shall not impose upon the Community the operation, maintenance and replacement charges described and set forth in section "6(b)" of the Community CAP Delivery Contract or any other charge with respect to CAP water delivered or required to

be delivered to the City of Phoenix as lessee of the Project Water Lease herein authorized.

(d) The Community and the Secretary shall lease to the City of Phoenix, for a term commencing on January 1, 2001, and ending December 2099, for consideration in an amount agreed to by the Community and the City to be paid by the City to the Community, upon those reflected in the Project Water Lease set forth in exhibit "20.2.2" to the Agreement, the four thousand three hundred acre-feet of CAP water to which the Community is entitled under the Community CAP Delivery Contract. The Project Water Lease shall specifically provide that—

(1) the City of Phoenix, in accordance with its obligations under the Project Water Leases, shall pay all operation, maintenance and replacement costs of such water to the United States, or, if directed by the Secretary, to the CAWCD: *Provided*, That such payments shall not be commenced earlier than October 1, 1999;

(2) except as otherwise provided in the Project Water Lease, the City of Phoenix shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance, and replacement costs and lease payments as set forth in this subsection.

(e) For the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245 shall be United States of America and the CAWCD dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of CAP water pursuant to the Project Water Lease referred to in subsection (d) shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(f) Notwithstanding any other provision statutory of or common law, the Community may, with the approval of the Secretary, lease water provided to the Community under section 406 of this Act for its fair market value for a term not to exceed 100 years as provided in the Agreement but in no event for use outside Pima, Pinal or Maricopa Counties, State of Arizona. If some or all of the water provided to the Community under section 406 of this Act is CAP water, the provisions of subsections of (a), (b), (c), (d), and (e) of this section 407 shall apply to any lease of such water.

(g) Except as authorized by this section, no water made available to the Community or its members pursuant to the Agreement may be sold, leased, transferred, or in any way used off the Community's reservation.

(h) If water is acquired from the Salt and Verde watershed pursuant to section (406)(a)(3), no such water may be sold, leased, transferred, or in any way be used off of the Community's reservation.

SEC. 408. FORT McDOWELL INDIAN COMMUNITY DEVELOPMENT FUND; LOAN.

(a) As soon as practicable, the Community shall establish the Fort McDowell Indian Community Development Fund into which shall be deposited—

(1) by the Secretary, the funds appropriated pursuant to subsection (b) of this section; and

(2) by the State of Arizona, $2,000,000 required by paragraph 21.4 of the Agreement.

(b) There is hereby authorized to be appropriated, together with interest accruing from one year after the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into account the average market yield on outstanding Federal obligations of comparable maturity, $23,000,000 which the Secretary shall deposit into the Community Development Fund for the Community to use in the design and construction of facilities to put to beneficial use the Community's water entitlement and for other economic and community development on the Fort McDowell Indian Reservation. Appropriation authorization.

(c) As of the date the authorizations contained in section 409(b) of this Act become effective, the Community, in its discretion, may use the Development Fund, principal and income, to fulfill the purposes of the Agreement and this title: *Provided,* That no amount of the Federal or State appropriations deposited into the Development Fund may be used to make per capita payments to members of the Community.

(d) As of the date the authorizations contained in section 409(b) of this Act become effective—

(1) the Secretary shall have no further duties or responsibilities with respect to the administration of, or expenditures from, the Development Fund, and

(2) the United States shall not be liable for any claim or cause of action arising from the Community's use and expenditure of moneys from the Development Fund.

(e) The Secretary is authorized and directed to provide to the Community a loan pursuant to the Small Reclamation Projects Act (Ch. 972, 70 Stat. 1044, 43 U.S.C. 422a, as amended), in the amount of $13,000,000, to be repaid over a term of fifty years without interest, for the purpose of constructing facilities for the conveyance and delivery of water on the Fort McDowell Indian Reservation: *Provided,* That any requirements for qualifying for the loan are hereby waived, including, but not limited to, the provisions of section 3, 4(b)(2), 5(a) and 5(c) of the Small Reclamation Projects Act.

(1) The Community shall establish an account into which the Community shall deposit $1,000,000. The principal and all accrued income shall be retained in such fund until such time as the Community's obligation to repay the loan under subsection (e) is fulfilled.

(2) No appropriations for the construction of the CAP made after the date of enactment of this Act shall be used to plan, design, construct, or operate any facilities on the Fort McDowell Indian Reservation.

SEC. 409. SATISFACTION OF CLAIMS.

(a) The benefits realized by the Community's members under this Act shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal and State laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this Act, and for any and all future claims of water rights (including claims for water rights in ground water, surface water, and effluent) from and after the effective date of this Act.

(b) The Community and the Secretary on behalf of the United States are authorized, as part of the performance of the obligations

under the Agreement, to execute a waiver and release of all present and future claims of water rights or injuries to water rights (including water rights in ground water, surface water, and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water, and effluent), from and after the effective date of this Act, which the Community and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(c) Except as provided in paragraphs 19.2 and 19.5 of the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona in its own right or on behalf of the Community based upon—

(1) water rights or injuries to water rights of the Community and its members; or

(2) water rights or injuries to water rights held by the United States on behalf of the Community and its members.

(d) In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 412(a), the Community shall retain the right to assert past and future water rights claims as to all reservation lands.

SEC. 410. ENVIRONMENTAL COMPLIANCE.

(a) Execution of the settlement Agreement by the Secretary as provided for in section 411(d) shall not constitute major Federal action under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance, except as specifically directed otherwise herein, during the implementation phase of this settlement.

Appropriation authorization.

(b) There is hereby authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with this settlement, including mitigation measures adopted by the Secretary.

(c) With respect to this settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(d) Except as specifically set forth herein, the Secretary shall comply with all aspects of NEPA and the Endangered Species Act (ESA) (16 U.S.C. 1531 et seq.), and other applicable environmental acts and regulations in proceeding through the implementation phase of this settlement: *Provided, however,* That in regard to NEPA compliance, the Secretary is precluded from studying or considering alternatives to the Community's on-reservation agriculture development plans which will be facilitated by the settlement, or performed under the Small Reclamation Projects loan made pursuant to section 408(e).

SEC. 411. MISCELLANEOUS PROVISIONS.

(a) In the event any party to the Agreement should file a lawsuit in Federal District Court relating only and directly to the

interpretation or enforcement of this title or the Agreement, naming the United States of America or the Community as parties, authorization is hereby granted to join the United States of America and/or the Community in any such litigation, and any claim by the United States of America or the Community to sovereign immunity from such suit is hereby waived.

(b) The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this title or the Agreement against any lands within the Fort McDowell Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) Water received by entities other than the Community pursuant to the Agreement shall not affect any future allocation or reallocation of the CAP supply.

(d) To the extent the Agreement does not conflict with the provisions of this title, such Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to execute and perform such Agreement. The Secretary is further authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(e) As of the date the authorizations contained in section 409(b) of this Act become effective, section 302(a) of the Colorado River Basin Project Act (43 U.S.C. 1522(a)) shall no longer apply to the Community. 43 USC 1522 note.

(f) An easement for the construction, operation and maintenance of the Community's water diversion system on and within the lands identified in the Community's special permit extension application dated July 12, 1990, filed with the United States Forest Service, Department of Agriculture, is hereby granted in perpetuity.

(g) As of the date the authorizations contained in section 409(b) of this Act and in section 10(b) of the Salt River Pima-Maricopa Indian Community Water Rights Settlement Act (102 Stat. 2549) become effective, subsection 404(a) of this Act shall become effective as to the Salt River Pima-Maricopa Indian Community and the United States. Effective date.

(h) Section 7(a) of the Salt River Pima-Maricopa Indian Community Water Rights Act (102 Stat. 2549) is hereby amended by striking the date "1990" and inserting in lieu thereof "1991." 102 Stat. 2553.

SEC. 412. EFFECTIVE DATE.

(a) The authorizations contained in section 409(b) of this Act shall become effective as of the date the Secretary causes to be published in the Federal Register a statement of findings that: Federal Register, publication.

(1) the Secretary has signed a contract with the SRP for the storage and reregulation of the Community's Kent Decree water pursuant to section 404;

(2) the RWCD subcontract for agricultural water service from CAP has been revised and executed as provided in section 405(b);

(3) the Secretary has acquired water pursuant to section 406 and made it available for delivery for the benefit of the Community;

(4) the funds authorized by section 408(b) have been appropriated and deposited into the Community Development Fund;

(5) the loan authorized by section 408(e) has been provided to the Community;

(6) the State of Arizona has appropriated and deposited into the Community Development Fund the $2,000,000 required by paragraph 21.4 of the Agreement;

(7) the stipulation which is attached to the Agreement as exhibit "19.5" has been approved; and

(8) the Agreement has been modified to the extent it is in conflict with this title and has been executed by the Secretary.

(b) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subsection (a) of this section have not occurred by December 31, 1993, sections 4, 5(a), and 5(b), if they have not theretofore become effective pursuant to the provisions of the Act of October 20, 1988 (Public Law 100-512), and sections 407, 408(a), 408(b), 408(e), 409(b), 409(c), 411(a), 411(b), 411(c), 411(d), 411(e) and 411(f) of this Act and any contracts entered into pursuant to those provisions shall not thereafter be effective, and any funds appropriated pursuant to section 408(b) of this Act shall revert to the Treasury, and any funds appropriated pursuant to paragraph 21.4 of the Agreement shall revert to the State of Arizona.

SEC. 413. OTHER CLAIMS.

Nothing in the Agreement or this title shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Community.

Natural resources.

TITLE V—NATIONAL PARK SYSTEM UNITS IN TEXAS

SEC. 501. EXPANSION OF SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK.

(a) EXPANSION.—Section 201(a) of the Act entitled "An Act to amend the Pennsylvania Avenue Development Corporation Act of 1972; to provide for the establishment of the San Antonio Missions National Historical Park; and other purposes" (16 U.S.C. 410ee(a)) is amended by inserting after the first sentence the following: "The park shall also consist of the lands and interests therein within the area bounded by the line depicted as 'Proposed Boundary Extension' on the maps entitled 'San Antonio Missions National Historical Park', numbered 472-80,075, 472-80,076, 472-80,077, 472-80,078, 472-80,079, 472-80,080, and 472-80,081 and dated June 7, 1990, which shall be on file and available for public inspection in the same manner as is such drawing.".

(b) DEVELOPMENT OF ESSENTIAL PUBLIC FACILITIES.—Section 201(f)(2) of such Act is amended by striking "not more than $500,000." and inserting "not more than $15,000,000.".

16 USC 460eee.

SEC. 502. LAKE MEREDITH NATIONAL RECREATION AREA

(a) ESTABLISHMENT.—In order to provide for public outdoor recreation use and enjoyment of the lands and waters associated with Lake Meredith in the State of Texas, and to protect the scenic, scientific, cultural, and other values contributing to the public enjoyment of such lands and waters, there is hereby established the Lake Meredith National Recreation Area (hereafter in this Act referred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the lands, waters, and interests therein within the area generally depicted on the map entitled "Lake Meredith National Recreation Area Boundary Map, 'Fee-Take Line'", numbered SWRO—80,023-A,

and dated September 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may from time to time make minor revisions in the boundary of the recreation area.

(c) TRANSFER.—(1) Except as provided in paragraph (2), the Federal lands, waters, and interests therein within the recreation area are hereby transferred to the National Park Service.

(2) Those lands depicted on the map referred to in subsection (b) that are necessary for the continued operation, maintenance, and replacement of the Canadian River Project facilities and its purposes of providing for municipal and industrial water supply and flood control shall remain under the jurisdiction of the Bureau of Reclamation.

SEC. 503. ADMINISTRATION.

16 USC 460eee-1.

(a) IN GENERAL.—The Secretary shall administer the recreation area in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 7, 1946 (60 Stat. 885). In the administration of such recreation area, the Secretary may utilize such statutory authority as may be available to him for the protection of natural and cultural resources as he deems necessary to carry out the purposes of this Act.

(b) OPERATION OF CANADIAN RIVER PROJECT.—Nothing in this Act shall be construed to affect or interfere with the authority of the Secretary under the Act of December 29, 1950 (Public Law 81-898; 43 U.S.C. 600b et seq.), to operate Sanford Dam and Lake Meredith in accordance with and for the purposes set forth in that Act.

(c) LAND ACQUISITION.—Within the boundary of the recreation area, the Secretary may acquire lands and interests in lands by purchase with donated or appropriated funds, exchange, or transfer without reimbursement from any Federal agency.

(d) CULTURAL RESOURCES.—The Secretary shall conduct a survey of the cultural resources in the immediate vicinity of the recreation area. The Secretary is authorized to enter into cooperative agreements with public or private entities, including landowners, for the purpose of conducting the survey required by this subsection. Not later than three years after the date on which funds have been made available, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the results of the survey required by this subsection.

Reports.

(e) HUNTING AND FISHING.—(1) The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the recreation area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, hunting or fishing will not be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment.

(2) Except in emergencies any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(f) COOPERATIVE AGREEMENTS.—For purposes of administering the recreation area, the Secretary may enter into cooperative agreements with any Federal agency, the State of Texas, or any political subdivision thereof, including the Canadian River Municipal Water Authority, for the rendering, on a reimbursable basis, of rescue, firefighting, law enforcement, fire preventive assistance, and other needs. The Secretary may enter into a cooperative agreement with the city of Fritch, Texas, to develop and operate a joint venture information center. Federal funds may be expended on non-Federal lands and improvements through cooperative agreements for the purpose of this section on a 50-50 matching basis.

16 USC 460eee-2.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 502 and 503 of this Act.

Mexico.
16 USC 460fff.

SEC. 505. ESTABLISHMENT OF AMISTAD NATIONAL RECREATION AREA.

(a) In order to—

(1) provide for public outdoor recreation use and enjoyment of the lands and waters associated with the United States portion of the reservoir known as Lake Amistad, located on the boundary between the State of Texas and Mexico, and

(2) protect the scenic, scientific, cultural, and other value contributing to the public enjoyment of such lands and waters,

there is hereby established the Amistad National Recreation Area (hereafter in this section and section 506 referred to as the "recreation area").

(b) The recreation area shall consist of the Federal lands, waters, and interests therein within the area generally depicted on the map entitled "Boundary Map, Proposed Amistad National Recreation Area", numbered 621/20,013-B, and dated July 1969. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") may from time to time make minor revisions in the boundary of the recreation area, but the total acreage of the recreation area may not exceed 58,500 acres. Within the boundary of the recreation area, the Secretary may acquire lands and interests in lands by purchase with donated or appropriated funds, exchange, or transfer without reimbursement from any Federal agency.

16 USC 460fff-1.

SEC. 506. ADMINISTRATION.

(a) The Secretary shall administer the recreation area in accordance with applicable provisions of this Act and the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), and the Act of August 7, 1946 (60 Stat. 885). In the administration of such recreation area, the Secretary may utilize such statutory authority as may be available to him for the protection of natural and cultural resources as he deems necessary to carry out the purposes of this Act. Nothing in this Act shall be construed to amend or alter the responsibilities of the International Boundary and Water Commission, United States and Mexico, under any applicable treaty.

(b) The administration of the recreation area by the Secretary shall be subject to and in accordance with all applicable treaties, including the treaty between the United States and Mexico relating to the utilization of waters of the Colorado and Tijuana Rivers and the Rio Grande, entered into force November 8, 1945 (59 Stat. 1219, and in accordance with the Act of July 7, 1960 (Public Law 86-605; 74 Stat. 360), and any commitment or agreement entered into pursuant to such treaty or Act, including (but not limited to) commitments or agreements relating to—

(1) the demarcation and maintenance of boundaries;

(2) the use, storage, and furnishing of water;

(3) control of floods;

(4) investigations relative to the operation of the Amistad Dam; and

(5) the production of hydroelectric energy.

(c) The Secretary shall conduct a survey of the cultural resources in the immediate vicinity of the recreation area. The Secretary is authorized to enter into cooperative agreements with public or private entities, including landowners, for the purpose of conducting the survey required by this subsection. Not later than two years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the results of the survey required by this subsection. Reports.

(d)(1) The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the recreation area in accordance with applicable Federal and State law. The Secretary may designate zones where, and establish periods when, hunting or fishing will not be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment.

(2) Except in emergencies any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities.

(e) For purposes of administering the recreation area, the Secretary may enter into cooperative agreements with any Federal agency, the State of Texas, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement and fire preventive assistance.

SEC. 507. AUTHORIZATION OF APPROPRIATIONS. 16 USC 460fff-2.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 505 and 506 of this Act.

TITLE VI—UNDERGROUND RAILROAD STUDY

Historic preservation.

SEC. 601. PURPOSE. 16 USC 1a-5 note.

The purpose of this title is to study the Underground Railroad, its routes and operations in order to preserve and interpret this aspect of American history.

SEC. 602. (a) The Secretary of the Interior, acting through the Director of the National Park Service, shall conduct a study of alternatives for commemorating and interpreting the Underground Railroad, the approximate routes taken by slaves escaping to free-

dom before the conclusion of the Civil War. The study shall include—

(1) the consideration of the establishment of a new unit of the national park system;

(2) the consideration of the establishment of various appropriate designations for those routes and sites utilized by the Underground Railroad, and alternative means to link those sites, including in Canada and Mexico;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(b) The study shall be—

(1) conducted with public involvement and in consultation with the advisory committee established by section 4, State and local officials, scholarly and other interested organizations and individuals,

(2) completed no later than two years after the date on which funds are made available for the study, and

(3) submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

Government publications.

SEC. 603. Within three years after the date of enactment of this Act, the Secretary of the Interior, acting through the Director of the National Park Service, shall prepare and publish an interpretive handbook on the Underground Railroad in the larger context of American antebellum society, including the history of slavery and abolitionism.

SEC. 604. (a) The Secretary, upon funds being made available to carry out this title, shall establish the Underground Railroad Advisory Committee (hereafter in this subsection referred to as the "Advisory Committee"). The Advisory Committee shall be composed of nine members, appointed by the Secretary of the Interior, of whom—

(1) three shall have expertise in African-American History;

(2) two shall have expertise in historic preservation;

(3) one shall have expertise in American History; and

(4) three shall be from the general public.

The Advisory Committee shall designate one of its members as Chairperson.

(b) The Secretary, or the Secretary's designee, shall from time to time, but at least on three occasions, meet and consult with the Advisory Committee on matters relating to the study conducted under section 2.

(c) Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

Appropriation authorization.

SEC. 605. There are authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE VII—SUDBURY, ASSABET, AND CONCORD RIVERS STUDY

Sudbury, Assabet, and Concord Wild and Scenic River Study Act. Massachusetts. 16 USC 1271 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Sudbury, Assabet, and Concord Wild and Scenic River Study Act".

SEC. 702. FINDINGS.

The Congress finds that—

(1) The Sudbury, Assabet, and Concord Rivers in the Commonwealth of Massachusetts possess resource values of national significance, including outstanding wildlife and ecological values, historic sites, and a cultural past important to America's literary heritage.

(2) Portions of this study segment have been listed on the Nationwide Rivers Inventory by the National Park Service.

(3) There is strong support among State and local officials and area residents and river users for a cooperative wild and scenic river study of the area.

(4) In view of the longstanding Federal practice of assisting States and local governments in protecting, conserving, and enhancing rivers of national significance, the United States has an interest in assisting the Commonwealth of Massachusetts and the appropriate local governments in studying and developing a resource conservation and management plan for the river, consistent with the Wild and Scenic Rivers Act.

SEC. 703. WILD AND SCENIC RIVER STUDY.

(a) LISTING FOR STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) SUDBURY, ASSABET, AND CONCORD, MASSACHUSSETS.—The segment of the Sudbury from the Danforth Street Bridge in the town of Framingham, to its confluence with the Assabet, the Assabet from 1,000 feet downstream of the Damon Mill Dam in Concord to its confluence with the Sudbury and the Concord from the confluence of the Sudbury and Assabet downstream to the Route 3 Bridge in the town of Billerica. The study of such river segments shall be completed and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph.".

Reports.

SEC. 704. ADVISORY COMMITTEE.

(a) APPOINTMENT.—At the earliest practicable date following the enactment of this Act, but not later than forty-five days after enactment, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall establish the Sudbury, Assabet, and Concord Rivers Study Committee (hereinafter referred to as the "Committee"). The Secretary shall consult with the Committee on a regular basis during the conduct of the study required by section 3 of this Act (hereafter "the study") and the preparation and submission, pursuant to section 4 of the Wild and Scenic Rivers Act, of a report with respect to the river segments covered by the study.

(b) MEMBERSHIP AND PROCEDURES.—

(1) Membership on the Committee shall consist of 13 members appointed by the Secretary as follows:

(A) One member shall be appointed by the Secretary from the Fish and Wildlife Service.

(B) Two members shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Governor of the Commonwealth of Massachusetts.

(C) One member shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Sudbury Valley Trustees.

(D) One member shall be appointed by the Secretary from a list of candidates supplied to the Secretary by the Organization for the Assabet River.

(E) One member each shall be appointed by the Secretary from lists of candidates supplied to the Secretary by the Board of Selectmen or equivalent local governing body of each of the eight towns located within the area covered by the study.

(2) The members of the Committee shall elect a chairman, vice chairman, and recording secretary from the membership at the first official meeting of the Committee. Official minutes shall be kept of each regular and special meeting of the Committee and shall be open for public inspection.

(3) Any vacancy on the Committee shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Vacancies in the membership of the Committee shall not affect its power to function if there remain sufficient members to constitute a quorum under paragraph (4) of this subsection.

(4) A majority of the members of the Committee shall constitute a quorum for all meetings.

(5) The Committee shall advise the Secretary in conducting the study and concerning management alternatives should some or all of the river segments studied be included in the National Wild and Scenic Rivers System.

(6) Members of the Committee shall serve without compensation but may be reimbursed by the Secretary for reasonable and necessary expenses incurred by them in the performance of their duties as members of the Committee.

(7) The Committee may accept and utilize the services of voluntary, uncompensated personnel.

(8) The Committee shall terminate upon the submission to the President, pursuant to section 4 of the Wild and Scenic Rivers Act, of the report with respect to the river segments covered by the study.

Appropriation authorization.

SEC. 705. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE VIII—PRIVATE RELIEF PROVISIONS

Leroy W. Shebal.

SEC. 801. (a) Notwithstanding any other provision of law, including but not limited to section 8 of the Wild and Scenic Rivers Act (16 U.S.C. 1279) or any provision of the public land laws of the United States, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall survey and convey all right, title,

and interest of the United States to the property described in subsection (b) to Leroy W. Shebal in exchange for the sum of $650 in 1965 dollars adjusted for inflation to 1990 dollars, or $3,000 dollars, whichever is less, and subject to the following conditions:

(1) any deed of conveyance shall provide that existing improvements on such property shall not be substantially expanded and the use of such property shall be limited to prior or current levels; and

(2) the United States shall reserve a right of first refusal to reacquire such property at fair market value (as set forth in the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (Public Law 91-646, 84 Stat. 1905)) upon a decision by Leroy W. Shebal to convey such property or upon his death: *Provided,* That such right shall be extinguished if not exercised by the Secretary by payment in full within one year from (i) the date on which Leroy W. Shebal notifies the Secretary in writing of his decision to convey the property, or (ii) the death of Leroy W. Shebal, whichever occurs first.

(b) The property referred to in subsection (a) is the approximately five acres of land located at Township 8 North, Range 1 West, Section 36, west half of the southwest quarter, Fairbanks Meridian, and described in Small Tract Application No. F-021611, which is currently under permit to Leroy W. Shebal.

SEC. 802. Section 1110(b) of the Alaska National Interest Lands Conservation Act (Public Law 96-487, 94 Stat. 2371) shall not apply to the property described in section 501(b).

SEC. 803. The provisions of this title shall be effective only if Leroy W. Shebal notifies the Secretary in writing within one year from the date of enactment of this Act of his intention to purchase from the United States the property described in section 801(b).

Mr. and Mrs. Kenneth Blevins.

SEC. 804. Notwithstanding any other provision of law, the Secretary of the Interior shall convey to Mr. and Mrs. Kenneth Blevins of Kuna, Idaho, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described as the East half, Southeast Quarter (E½SE¼) of Section 33, Township 2 North, Range 1 East, of the Boise Meridian in Ada County, Idaho.

TITLE IX—CAMP W.G. WILLIAMS LAND EXCHANGE

Camp W.G. Williams Land Exchange Act of 1989. Utah.

SEC. 901. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This title may be cited as the "Camp W.G. Williams Land Exchange Act of 1989".

(b) DEFINITIONS.—As used in this title—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "camp boundaries" means the exterior boundaries of Camp W.G. Williams after enactment of this Act, in Utah and Salt Lake Counties, Utah, as generally depicted on the map referenced in section 902(a) of this Act.

SEC. 902. EXCHANGE.

(a) OFFERS.—Notwithstanding any other provision of law, as soon as possible but not later than six months after the date of enactment of this Act, the Secretary shall offer to exchange lands identified as "FEDERAL LANDS OFFERED FOR EXCHANGE" on a map entitled "PROPOSED EXCHANGE FOR CAMP W.G. WILLIAMS, UTAH", dated August 25,

1989 (hereinafter referred to as the "map"), to the owners of tracts of private lands identified as "PRIVATE LANDS TO BE ADDED TO CAMP W.G. WILLIAMS BY EXCHANGE AND WITHDRAWAL" on such map. If the owners of any or all of such tracts of private lands accept the offer within two years after the date of enactment of this Act, then the Secretary as soon as practicable shall convey to such owner or owners or their designee title to so much of the identified land as is approximately equal in value to such tracts of private land as are simultaneously conveyed to the United States.

(b) Any lands, identified on the map as "FEDERAL LANDS OFFERED FOR EXCHANGE", not exchanged shall be returned to the public domain.

SEC. 903. BUREAU OF LAND MANAGEMENT LANDS.

Lands identified on the map as "PUBLIC LANDS AT CAMP W.G. WILLIAMS TO BE WITHDRAWN" shall be transferred to the Department of the Army.

SEC. 904. ARMY LANDS.

Subject to the provisions of section 907, lands identified on the map as "WITHDRAWN LANDS TO BE RETURNED TO PUBLIC DOMAIN" shall be transferred to the Department of the Interior, returned to the public domain and managed accordingly.

SEC. 905. ACQUISITIONS.

The Secretary, in accordance with applicable law, is authorized to acquire, solely by donation or exchange from a willing seller, lands that are identified as 2a and 2b on the map, and is directed to transfer such lands to the Department of the Army for the explicit purpose of addition to Camp W.G. Williams. The Secretary of the Army shall modify the camp boundaries so as to encompass lands acquired pursuant to this subsection.

SEC. 906. DEPARTMENT OF THE ARMY LANDS.

(a) All lands transferred, exchanged, or acquired by this Act within the camp boundaries shall immediately become a part of Camp W.G. Williams and shall be administered and managed by the Department of the Army in accordance with the same laws, regulations, and executive orders applicable to the lands under the jurisdiction of the Department of the Army adjoining such acquired tracts.

(b) Subject to valid existing rights, no lands owned by the United States within the camp boundaries shall be available for any form of settlement, sale, location, or entry under the general land laws, including the mining laws, but not the mineral or geothermal leasing laws, and such lands shall be administered and managed by the Department of the Army.

Effective date.

(c) The provisions of this section shall be effective for a period of twenty years after the date of enactment of this Act, unless at the end of such twenty-year period, the Secretary of the Army determines that such lands are still required for purposes of national security, in which case the provisions of this section shall be effective for a period of forty years after the date of enactment of this Act.

SEC. 907. REVOCATION OF EXECUTIVE ORDER, ETC.

(a) REVOCATION.—(1) Executive Order 1922 of April 24, 1914, shall be revoked, only insofar as it affects lands outside of the camp

boundaries and only upon acceptance by the Secretary of an appropriate certification by the Secretary of the Army that such lands do not contain any hazardous materials or substances, as defined by applicable Federal law. Upon such revocation, affected lands shall be returned to the public domain and managed accordingly.

(2) The Secretary of the Army shall perform all inspections and other actions necessary to make the certification required in paragraph (1), and shall report his findings to the Secretary, within one year after the date of enactment of this Act. Thereafter the Secretary of the Army shall hold harmless the Secretary for any liability associated with any hazardous materials or substances as defined by applicable Federal law that were placed upon or reasonably appear to have been placed upon the land prior to the return of the subject lands to the public domain. Reports.

(b) LIABILITY.—Upon the acquisition by the United States of any lands or interest in land pursuant to this title, any liability accruing to the United States as a result of such acquisition shall be deemed to vest in the United States Department of the Army. In no event shall liability vest in the Department of the Interior.

SEC. 908. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after the date of enactment of this Act, the Secretary shall publish in the Federal Register a legal description of the lands proposed to be exchanged by this title and shall file such maps and the legal descriptions with the Committee on Energy and Natural Resources of the United States Senate and with the Committee on Interior and Insular Affairs of the United States House of Representatives. Federal Register, publication.

TITLE X—TECHNICAL AMENDMENT TO TITLE V OF THE ARIZONA-IDAHO CONSERVATION ACT OF 1988

SEC. 1001. Title V of the Arizona-Idaho Conservation Act of 1988 (Public Law 100-696; 102 Stat. 4571) is amended as follows—

(a) Section 501 is amended by inserting after the parenthetical phrase and before the words "which the Secretary deems necessary" the words "or other appropriate lands as selected by the State of Arizona under section 28 of the Act of June 20, 1910 (30 Stat. 557, as amended by the Act of June 5, 1935, 49 Stat. 1477)". 102 Stat. 4593.

(b) Section 502(b) is amended by adding the following new sentence at the end thereof: "With the consent of the State of Arizona and to the extent that the lands referred to in subsection (a) of this section are acquired by eminent domain, the Secretary may use as compensation the lands described in sections 501, and 507 (a)(1) and (a)(2) of this Act, and such other lands as the Secretary determines necessary to constitute the fair market value of the State of Arizona lands acquired by eminent domain.". 102 Stat. 4593.

(c) Section 507(b) is redesignated as section 507(c), and the following new subsection (b) is added as follows: 102 Stat. 4593.

"(b) CONVEYANCE TO THE STATE OF ARIZONA.—The Federal lands described in section 506(a) of this Act may be conveyed to the State of Arizona by the Secretary to the extent such conveyance is necessary to establish fair market value compensation for State lands described in section 502(a) acquired by eminent domain pursuant to section 502(b).".

Take Pride in America Act.
Natural resources.
Cultural resources.
Decorations, medals, awards.
16 USC 4601 note.

TITLE XI—TAKE PRIDE IN AMERICA PROGRAM

SEC. 1101. SHORT TITLE.

This title may be cited as the "Take Pride in America Act".

SEC. 1102. ESTABLISHMENT OF TAKE PRIDE IN AMERICA PROGRAM.

16 USC 4601.

(a) IN GENERAL.—There is hereby established the Take Pride in America Program within the Department of the Interior (hereinafter referred to as the "TPIA Program").

(b) PURPOSES.—The purposes of the TPIA Program shall include the following:

(1) To establish and maintain a public awareness campaign in cooperation with public and private organizations and individuals—

(A) to instill in the public the importance of the appropriate use of, and appreciation for Federal, State, and local lands, facilities, and natural and cultural resources;

(B) to encourage an attitude of stewardship and responsibility toward these lands, facilities, and resources; and

(C) to promote participation by individuals, organizations, and communities of a conservation ethic in caring for these lands, facilities, and resources.

(2) To conduct a national awards program to honor those individuals and entities which, in the opinion of the Secretary of the Interior (hereafter in this Act referred to as the "Secretary"), have distinguished themselves in the activities described in paragraph (1) of this subsection.

16 USC 4602.

SEC. 1103. GIFTS AND BEQUESTS.

(a) AUTHORITY.—The Secretary may solicit, accept, hold, administer, invest in government securities, and use gifts and bequests of money and other personal property to aid or facilitate the purposes of the TPIA Program. Property so donated and accepted shall not be subject to sequestration.

(b) ACCOUNTING.—The Secretary shall maintain a full accounting of such gifts and bequests.

(c) TREATMENT OF DONATIONS, ETC.—For purposes of Federal law, property accepted pursuant to this section shall be considered as a gift, bequest, or devise to the United States.

(d) USE OF PROPERTY.—Any property and the proceeds thereof shall be used as nearly as practicable in accordance with the terms of the gift or bequest.

16 USC 4603.

SEC. 1104. ADMINISTRATIVE SERVICES.

The Secretary of the Interior shall provide such facilities, administrative services, personnel, and support to the TPIA Program as the Secretary determines is necessary and appropriate.

16 USC 4604.

SEC. 1105. VOLUNTEERS.

(a) AUTHORITY TO USE VOLUNTEERS.—The Secretary is authorized to recruit, train, and accept the services of individuals or entities, without compensation, as volunteers for or in aid of the purposes of the TPIA Program, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, that relate to classification and General Schedule pay rates.

(b) INCIDENTAL EXPENSES.—The Secretary is authorized to provide for the incidental expenses of such volunteers, such as transportation, uniforms, lodging, or subsistence.

(c) VOLUNTEERS' STATUS AS FEDERAL EMPLOYEES.—(1) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) For purposes of chapter 171 of title 28, United States Code (commonly referred to as the "Federal Tort Claims Act"), a volunteer under this subsection shall be considered an employee of the government (as defined in section 2671 of such title).

(3) For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, a volunteer under this subsection shall be considered an employee (as defined in section 8101 of title 5, United States Code).

SEC. 1106. AUTHORITY TO EXECUTE CONTRACTS. 16 USC 4605.

The Secretary is authorized to enter into contracts and cooperative agreements and generally to do any and all lawful acts necessary or appropriate to further the purposes of the TPIA Program.

SEC. 1107. DISTRIBUTION OF APPROPRIATE ITEMS. 16 USC 4606.

The Secretary is authorized to distribute pamphlets and other such appropriate items in order to promote the purposes of the TPIA Program.

SEC. 1108. SLOGAN AND LOGO. 16 USC 4607.

The "Take Pride in America" slogan and logo, which are registered by the Department of the Interior, and the goodwill associated with such slogan and logo, shall be administered pursuant to the TPIA Program.

SEC. 1109. AUTHORIZATION OF APPROPRIATIONS. 16 USC 4608.

(a) DEPARTMENT OF THE INTERIOR.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this title, not to exceed the amount expended for such purposes for fiscal year 1990.

(b) OTHER FEDERAL AGENCIES.—There are authorized to be appropriated to other Federal departments and agencies such sums as may be necessary to carry out the provisions of any other Take Pride in America programs established by such departments or agencies.

TITLE XII—CIVIL WAR AND OTHER STUDIES

Civil War Sites Study Act of 1990. Historic preservation. 16 USC 1a-5 note.

SEC. 1201. SHORT TITLE.

This title may be cited as the "Civil War Sites Study Act of 1990".

SEC. 1202. DEFINITIONS. 16 USC 1a-5 note.

For the purposes of this title—

(1) the term "Commission" means the Civil War Sites Advisory Commission established in section 105;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminating in the battle of Cedar Creek on October 19, 1864.

16 USC 1a-5 note.

SEC. 1203. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War which represent important means by which the Civil War may continue to be understood and interpreted by the public are located in regions which are undergoing rapid urban and suburban development; and

(2) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their preservation and interpretation for the benefit of the Nation.

16 USC 1a-5 note.

SEC. 1204. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) STUDY.—(1) The Secretary is authorized and directed to prepare a study of Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short- and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State, and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but shall not be limited to, designation as units of the National Park System or as affiliated areas. The study shall examine methods and make recommendations to continue current land use practices, such as agriculture, where feasible.

(2) The Secretary shall designate at least two nationally recognized Civil War historians to participate in the study required by paragraph (1).

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

16 USC 1a-5 note.

SEC. 1205. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION.

(a) IN GENERAL.—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) Twice individuals who are nationally recognized as experts and authorities on the history of the Civil War, and two individuals who are nationally recognized as experts and authorities in historic preservation and land use planning, appointed by the Secretary.

(2) The Director of the National Park Service or his or her designee.

(3) The chair of the Advisory Council on Historic Preservation, or his or her designee.

(4) Three individuals appointed by the Speaker of the United States House of Representatives in consultation with the Chairman and Ranking Minority Member of the Committee on Interior and Insular Affairs.

(5) Three individuals appointed by the President Pro Tempore of the United States Senate in consultation with the Chairman and Ranking Minority Member of the Committee on Energy and Natural Resources.

(b) CHAIR.—The Commission shall elect a chair from among its members.

(c) VACANCIES.—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(d) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(e) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the chair or a majority of the members of the Commission.

(f) COMPENSATION.—Members of the Commission shall serve without compensation. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) TERMINATION.—The Commission established pursuant to this section shall terminate 90 days after the transmittal of the report to Congress as provided in section 8(c).

SEC. 1206. STAFF OF THE COMMISSION.

16 USC 1a-5 note.

(a) EXECUTIVE DIRECTOR.—The Director of the National Park Service, or his or her designee, shall serve as the Executive Director of the Commission.

(b) STAFF.—The Director of the National Park Service shall, on a reimbursable basis, detail such staff as the Commission may require to carry out its duties.

(c) STAFF OF OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

SEC. 1207. POWERS OF THE COMMISSION.

16 USC 1a-5 note.

(a) IN GENERAL.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this title, as it considers necessary to carry out its functions under this title.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) MAILS.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

16 USC 1a-5 note.

SEC. 1208. DUTIES OF THE COMMISSION.

(a) PREPARATION OF STUDY.—The Commission shall prepare a study of historically significant sites and structures in the United States associated with the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short- and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. The Commission shall research and propose innovative open space and land preservation techniques. Such alternatives may include but shall not be limited to designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) CONSULTATION.—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, scholarly organizations, and such other interested parties as the Commission deems advisable.

(c) TRANSMITTAL TO THE SECRETARY AND CONGRESS.—Not later than 2 years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the Secretary and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(d) REPORT.—Whenever the Commission submits a report of the study to the Secretary or the Office of Management and Budget, it shall concurrently transmit copies of that report to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

16 USC 1a-5 note.

SEC. 1209. REVISION OF THEMATIC FRAMEWORK.

In coordination with the major scholarly and professional organizations associated with the disciplines of history, archeology, architecture, and closely related fields, the Secretary shall undertake a complete revision of the National Park Service "Thematic Framework" to reflect current scholarship and research on (1) American history and culture, (2) historic and prehistoric archeology, and (3) architecture. The revision shall be transmitted to the United States House of Representatives Committee on Interior and Insular Affairs and the United States Senate Committee on Energy and Natural Resources not later than 18 months after the date of enactment of this Act. In making such revision, the Secretary shall ensure that the full diversity of American history and prehistory are represented in the revised "Thematic Framework".

SEC. 1210. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1a-5 note.

There are hereby authorized to be appropriated such sums not to exceed $2,000,000 to carry out the purposes of this title.

SEC. 1211. NATIONAL PARK SYSTEM ADVISORY BOARD. 16 USC 463.

Section 3 of the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461-467; 49 Stat. 666 et seq.) is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "twelve" and inserting "sixteen";

(B) by striking "United States," and inserting "United States who have a demonstrated commitment to the National Park System,"; and

(C) by striking "and natural science," and inserting "anthropology, biology, geology, and related disciplines,";

(2) by adding at the end of subsection (a) the following: "Such board shall also provide recommendations on the designation of national historic landmarks and national natural landmarks. Such board is strongly encouraged to consult with the major scholarly and professional organizations in the appropriate disciplines in making such recommendations.";

(3) in the first sentence of subsection (b), by striking "1990" and inserting "1995"; and

(4) in the second sentence of subsection (b), by striking "In" and inserting "The provisions of section 14(b) of the Federal Advisory Committee Act (the Act of October 6, 1972; 86 Stat. 776) are hereby waived with respect to the Board, but in".

SEC. 1212. NATIONAL PARK SYSTEM ADVISORY COUNCIL.

Section 3 of the Act of August 21, 1935, entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461-467; 49 Stat. 666 et seq.) is amended by adding at the end the following:

"(c) There is hereby established the National Park Service Advisory Council (hereafter in this section referred to as the "advisory council") which shall provide advice and counsel to the National Park System Advisory Board. Membership on the advisory council shall be limited to those individuals whose term on the advisory board has expired. Such individuals may serve as long as they remain active except that not more than 12 members may serve on the advisory council at any one time. Members of the advisory council shall not have a vote on the National Park System Advisory Board. Members of the advisory council shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. Initially, the Secretary shall choose 12 former members of the Advisory Board to constitute the advisory council. In so doing, the Secretary shall consider their professional expertise and demonstrated commitment to the National Park System and to the Advisory Board.".

SEC. 1213. The Secretary of the Interior (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a systematic and comprehensive review of certain aspects of the National Park System and to submit on a periodic basis but not later than every 3 years a report to the Committee on Interior and Insular Affairs and the Committee on Appropriations of the United

Reports. 16 USC 1a-9.

States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate on the findings of such review, together with such recommendations as the Secretary determines necessary. The first report shall be submitted no later than 3 years after the date of enactment of this Act.

16 USC 1a-10. SEC. 1214. In conducting and preparing the report referred to in section 1, the Secretary shall consult with appropriate officials of affected Federal, State and local agencies, together with national, regional, and local organizations, including but not limited to holding such public hearings as the Secretary determines to be appropriate to provide a full opportunity for public comment.

16 USC 1a-11. SEC. 1215. The report shall contain—

(a) A comprehensive listing of all authorized but unacquired lands within the exterior boundaries of each unit of the National Park System as of the date of enactment.

(b) A priority listing of all such unacquired parcels by individual park unit and for the National Park System as a whole. The list shall describe the acreage and ownership of each parcel, the estimated cost of acquisition for each parcel (subject to any statutory acquisition limitations for such lands), and the basis for such estimate.

(c) An analysis and evaluation of the current and future needs of each unit of the National Park System for resource management, interpretation, construction, operation and maintenance, personnel, housing, together with an estimate of the costs thereof.

16 USC 1a-12. SEC. 1216. Within one year after the date of enactment, the Secretary shall develop criteria to evaluate any proposed changes to the existing boundaries of individual park units including—

(a) analysis of whether or not the existing boundary provides for the adequate protection and preservation of the natural, historic, cultural, scenic and recreational resources integral to the unit;

(b) an evaluation of each parcel proposed for addition or deletion to the unit based on the analysis under paragraph (1);

(c) an assessment of the impact of potential boundary adjustments taking into consideration the factors in paragraph (c) as well as the effect of the adjustments on the local communities and surrounding area.

16 USC 1a-13. SEC. 1217. In proposing any boundary change after the date of enactment of this section, the Secretary shall—

(a) consult with affected agencies of State and local governments surrounding communities, affected landowners and private national, regional, and local organizations;

(b) apply the criteria developed pursuant to section 1216 and accompany this proposal with a statement reflecting the results of the application of such criteria;

(c) include with such proposal an estimate of the cost for acquisition of any parcels proposed for acquisition together with the basis for the estimate and a statement on the relative priority for the acquisition of each parcel within the priorities for acquisition of other lands for such unit and for the National Park System.

TITLE XIII

Clarks Fork Wild and Scenic River Designation Act of 1990. 16 USC 1271 note.

SEC. 1301. This Act may be cited as the "Clarks Fork Wild and Scenic River Designation Act of 1990".

SEC. 1302. DESIGNATION OF RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)), as amended, is further amended by adding at the end the following:

"( ) CLARKS FORK, WYOMING.—(A) The twenty and five-tenths-mile segment from the west boundary of section 3, township 56 north, range 106 west at the Crandall Creek Bridge downstream to the north boundary of section 13, township 56 north, range 104 west at Clarks Fork Canyon; to be administered by the Secretary of Agriculture as a wild river. Notwithstanding subsection (b), the boundary of the segment shall include all land within four hundred and forty yards from the ordinary high water mark on both sides of the river. No land or interest in land may be acquired with respect to the segment without the consent of the owner thereof. For the purposes of carrying out this paragraph, there is authorized to be appropriated $500,000 for development and $750,000 for the acquisition of land and interests therein.

Appropriation authorization.

"(B) Designation of a segment of the Clarks Fork by this paragraph as a component of the Wild and Scenic Rivers System shall not be utilized in any Federal proceeding, whether concerning a license, permit, right-of-way, or any other Federal action, as a reason or basis to prohibit the development or operation of any water impoundment, diversion facility, or hydroelectric power and transmission facility located entirely downstream from the segment of the river designated by this paragraph: *Provided,* That water from any development shall not intrude upon such segment. Congress finds that development of water impoundments, diversion facilities, and hydroelectric power and transmission facilities located entirely downstream from the segment of the river is not incompatible with its designation as a component of the Wild and Scenic Rivers System.

"(C) The Secretary of Agriculture is directed to apply for the quantification of the water right reserved by the inclusion of a portion of the Clarks Fork in the Wild and Scenic Rivers System in accordance with the procedural requirements of the laws of the State of Wyoming: *Provided,* That, notwithstanding any provision of the laws of the State of Wyoming otherwise applicable to the granting and exercise of water rights, the purposes for which the Clarks Fork is designated, as set forth in this Act and this paragraph, are declared to be beneficial uses and the priority date of such right shall be the date of enactment of this paragraph.

"(D) The comprehensive management plan developed under subsection (d) for the segment designated by this paragraph shall provide for all such measures as may be necessary in the control of fire, insects, and diseases to fully protect the values for which the segment is designated as a wild river.".

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 2570 (*See* S. 3068):

HOUSE REPORTS: No. 101-405 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-359 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Feb. 28, considered and passed House.
Oct. 27, considered and passed Senate, amended. House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

Public Law 101-629
101st Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

Nov. 28, 1990
[H.R. 3095]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safe Medical Devices Act of 1990.

Health care.
21 USC 301 note.

SECTION 1. SHORT TITLE AND REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Safe Medical Devices Act of 1990".

(b) REFERENCE.—Whenever in this Act (other than in section 19) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. USER REPORTS.

(a) REQUIREMENT.—Section 519 (21 U.S.C. 360i) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"User Reports

"(b)(1)(A) Whenever a device user facility receives or otherwise becomes aware of information that reasonably suggests that there is a probability that a device has caused or contributed to the death of a patient of the facility, the facility shall, as soon as practicable but not later than 10 working days after becoming aware of the information, report the information to the Secretary and, if the identity of the manufacturer is known, to the manufacturer of the device. In the case of deaths, the Secretary may by regulation prescribe a shorter period for the reporting of such information.

"(B) Whenever a device user facility receives or otherwise becomes aware of information that reasonably suggests that there is a probability that a device has caused or contributed to the serious illness of, or serious injury to, a patient of the facility, the facility shall, as soon as practicable but not later than 10 working days after becoming aware of the information, report the information to the manufacturer of the device or to the Secretary if the identity of the manufacturer is not known.

"(C) Each device user facility shall submit to the Secretary on a semi-annual basis a summary of the reports made under subparagraphs (A) and (B). Such summary shall be submitted on January 1 and July 1 of each year. The summary shall be in such form and contain such information from such reports as the Secretary may require and shall include—

"(i) sufficient information to identify the facility which made the reports for which the summary is submitted,

"(ii) in the case of any product which was the subject of a report, the product name, serial number, and model number,

"(iii) the name and the address of the manufacturer of such device, and

"(iv) a brief description of the event reported to the manufacturer.

The Secretary may by regulation alter the frequency and timing of reports required by this subparagraph.

"(D) For purposes of subparagraphs (A), (B), and (C), a device user facility shall be treated as having received or otherwise become aware of information with respect to a device of that facility when medical personnel who are employed by or otherwise formally affiliated with the facility receive or otherwise become aware of information with respect to that device in the course of their duties.

"(2) The Secretary may not disclose the identity of a device user facility which makes a report under paragraph (1) except in connection with—

"(A) an action brought to enforce section 301(q),

"(B) a communication to a manufacturer of a device which is the subject of a report under paragraph (1), or

"(C) a disclosure required under subsection (a).

This paragraph does not prohibit the Secretary from disclosing the identity of a device user facility making a report under paragraph (1) or any information in such a report to employees of the Department of Health and Human Services, to the Department of Justice, or to the duly authorized committees and subcommittees of the Congress.

"(3) No report made under paragraph (1) by—

"(A) a device user facility,

"(B) an individual who is employed by or otherwise formally affiliated with such a facility, or

"(C) a physician who is not required to make such a report, shall be admissible into evidence or otherwise used in any civil action involving private parties unless the facility, individual, or physician who made the report had knowledge of the falsity of the information contained in the report.

"(4) A report made under paragraph (1) does not affect any obligation of a manufacturer who receives the report to file a report as required under subsection (a).

"(5) For purposes of this subsection:

"(A) The term 'device user facility' means a hospital, ambulatory surgical facility, nursing home, or outpatient treatment facility which is not a physician's office. The Secretary may by regulation include an outpatient diagnostic facility which is not a physician's office in such term.

"(B) The terms 'serious illness' and 'serious injury' mean illness or injury, respectively, that—

"(i) is life threatening,

"(ii) results in permanent impairment of a body function or permanent damage to a body structure, or

"(iii) necessitates immediate medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure.".

21 USC 360i note.

(b) REGULATIONS.—The Secretary of Health and Human Services shall promulgate regulations to implement section 519(b) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a) (including a definition of the summary required by paragraph (1)(C) of such section) not later than 12 months after the date of enactment of this Act. In promulgating the

regulations, the Secretary shall minimize the administrative burdens on device user facilities consistent with the need to assure adequate information.

(c) EFFECTIVE DATE.—Section 519(b) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), shall take effect— 21 USC 360i note.

(1) upon the effective date of regulations promulgated under subsection (b), or

(2) upon the expiration of 12 months from the date of the enactment of this Act,

whichever occurs first.

(d) EDUCATION AND INFORMATION.—During the 18-month period beginning on the date of the enactment of this Act, the Secretary of Health and Human Services shall inform device user facilities (as defined in section 519(b)(5)(A) of the Federal Food, Drug, and Cosmetic Act) and manufacturers and distributors of devices respecting the requirements of section 519(b) of such Act. Additionally, the Secretary, to the extent practicable, shall provide persons subject to the requirements of such section assistance in the form of publications regarding such requirements. 21 USC 360i note.

(e) STUDY.—Not more than 36 months after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study of— 21 USC 360i note.

(1) the compliance by device user facilities (as defined in section 519(b)(5)(A) of the Federal Food, Drug, and Cosmetic Act) with the requirements of section 519(b) of such Act,

(2) the actions taken by the manufacturers of devices in response to reports made to them under such section,

(3) the cost effectiveness of such requirements and their implementation, and

(4) any recommendations for improvements to such requirements.

The Comptroller General shall complete the study and submit a report on the study not later than 45 months from the date of the enactment of this Act. The report shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate and to the Secretary of Health and Human Services.

(f) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report that contains an evaluation of the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act. In preparing the report, the Secretary shall consult with individuals and organizations with an interest in health care and consumer issues. At a minimum, the report shall contain— 21 USC 360i note.

(1) an evaluation of the safety benefits of the requirements,

(2) an evaluation of the burdens placed on the Food and Drug Administration and on device user facilities by the requirements,

(3) an evaluation of the cost-effectiveness of the requirements, and

(4) recommendations for legislative reform.

SEC. 3. REPORTS.

(a) DISTRIBUTOR REPORTS.—

(1) Section 519(a) (21 U.S.C. 360i(a)) is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and", and by adding after paragraph (5) the following:

"(6) shall require distributors who submit such reports to submit copies of the reports to the manufacturer of the device for which the report was made.".

Effective date. 21 USC 360i note.

(2) Section 519(a)(6), as added by the amendment made by paragraph (1), shall take effect upon the effective date of final regulations under subsection (c).

(b) CERTIFICATION, DEVICE TRACKING.—

(1) Section 519 (21 U.S.C. 360i), as amended by section 2, is amended by adding at the end the following:

"Certification

"(d) Each manufacturer, importer, and distributor required to make reports under subsection (a) shall submit to the Secretary annually a statement certifying that—

"(1) the manufacturer, importer, or distributor did file a certain number of such reports, or

"(2) the manufacturer, importer, or distributor did not file any report under subsection (a).

"Device Tracking

"(e) Every person who registers under section 510 and is engaged in the manufacture of—

"(1) a device the failure of which would be reasonably likely to have serious adverse health consequences and which is (A) a permanently implantable device, or (B) a life sustaining or life supporting device used outside a device user facility, or

"(2) any other device which the Secretary may designate, shall adopt a method of device tracking.".

(2) Section 520(j) (21 U.S.C. 360j(j)) is amended by striking out "No" and inserting in lieu thereof "Except as provided in section 519(e), no".

Effective date. 21 USC 360i note.

(3) Section 519(e), as added by the amendment made by paragraph (1), shall take effect upon the effective date of final regulations under subsection (c).

(c) REGULATIONS.— 21 USC 360i note.

(1)(A) Not later than 9 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue proposed regulations—

Records.

(i) to require distributors of devices to establish and maintain records and to make reports (including reports required by part 803 of title 21 of the Code of Federal Regulations) under section 519(a)(6) of the Federal Food, Drug, and Cosmetic Act, and

(ii) to implement section 519(e) of such Act.

The Secretary may exempt from regulations described in clause (i) classes of distributors of class I and class II devices from whom reports are not necessary for the protection of the public health.

(B) Regulations under subparagraph (A) shall—

(i) require appropriate methods for maintenance of records to ensure that patients who receive devices can be provided the notification required by such Act,

(ii) require that manufacturers adopt effective methods of tracking devices,

(iii) take into account the position of distributors in the device distribution process, and

(iv) include such other requirements as the Secretary deems necessary for the adoption of an effective user tracking program under section 519(e) of such Act.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary shall issue final regulations to implement sections 519(a)(6) and 519(e) of the Federal Food, Drug, and Cosmetic Act. If the Secretary does not promulgate such final regulations upon the expiration of such 18 months, the Congress finds that there is good cause for the proposed regulations to be considered as the final regulations without response to comment because the implementation of sections 519(a)(6) and 519(e) of such Act are essential to protect the health of patients who use such devices. Consequently, in such event, the proposed regulations issued under paragraph (1) shall become final regulations as of the expiration of such 18 months. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.

Federal Register, publication.

SEC. 4. SUBSTANTIAL EQUIVALENCE; CLASSIFICATION REVISION.

(a) SUBSTANTIAL EQUIVALENCE.—Section 513(f) (21 U.S.C. 360c(f)) is amended by adding at the end the following:

"(3) If a manufacturer reports to the Secretary under section 510(k) that a device is substantially equivalent to another device—

"(i) which the Secretary has classified as a class III device under subsection (b),

"(ii) which was introduced or delivered for introduction into interstate commerce for commercial distribution before December 1, 1990, and

"(iii) for which no final regulation requiring premarket approval has been promulgated under section 515(b),

the manufacturer shall certify to the Secretary that the manufacturer has conducted a reasonable search of all information known or otherwise available to the manufacturer respecting such other device and has included in the report under section 510(k) a summary of and a citation to all adverse safety and effectiveness data respecting such other device and respecting the device for which the 510(k) report is being made and which has not been submitted to the Secretary under section 519. The Secretary may require the manufacturer to submit the adverse safety and effectiveness data described in the report.".

(b) REVISION OF CLASSIFICATION.—

(1) Section 515 (21 U.S.C. 360e) is amended by adding at the end the following:

"Revision

"(i)(1) Before December 1, 1995, the Secretary shall by order require manufacturers of devices, which were introduced or delivered for introduction into interstate commerce for commercial dis-

tribution before May 28, 1976, and which are subject to revision of classification under paragraph (2), to submit to the Secretary a summary of and citation to any information known or otherwise available to the manufacturer respecting such devices, including adverse safety or effectiveness information which has not been submitted under section 519. The Secretary may require the manufacturer to submit the adverse safety or effectiveness data for which a summary and citation were submitted, if such data are available to the manufacturer.

Regulations. Federal Register, publication.

"(2) After the issuance of an order under paragraph (1) but before December 1, 1995, the Secretary shall publish a regulation in the Federal Register for each device—

"(A) which the Secretary has classified as a class III device, and

"(B) for which no final regulation has been promulgated under section 515(b),

revising the classification of the device so that the device is classified into class I or class II, unless the regulation requires the device to remain in class III. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a regulation requiring a device to remain in class III or revising its classification, the Secretary shall publish a proposed regulation respecting the classification of a device under this paragraph and provide reasonable opportunity for the submission of comments on any such regulation. No regulation requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of its publication in the Federal Register as a proposed regulation.

Regulations.

"(3) The Secretary shall, as promptly as is reasonably achievable, but not later than 12 months after the effective date of the regulation requiring a device to remain in class III, establish a schedule for the promulgation of a section 515(b) regulation for each device which is subject to the regulation requiring the device to remain in class III.".

(2) Section 520(l) (21 U.S.C. 360j(l)) is amended by adding at the end the following:

"(5)(A) Before December 1, 1991, the Secretary shall by order require manufacturers of devices described in paragraph (1), which are subject to revision of classification under subparagraph (B), to submit to the Secretary a summary of and citation to any information known or otherwise available to the manufacturers respecting the devices, including adverse safety or effectiveness information which has not been submitted under section 519. The Secretary may require a manufacturer to submit the adverse safety or effectiveness data for which a summary and citation were submitted, if such data are available to the manufacturer.

Regulations. Federal Register, publication.

"(B) Except as provided in subparagraph (C), after the issuance of an order under subparagraph (A) but before December 1, 1992, the Secretary shall publish a regulation in the Federal Register for each device which is classified in class III under paragraph (1) revising the classification of the device so that the device is classified into class I or class II, unless the regulation requires the device to remain in class III. In determining whether to revise the classification of a device or to require a device to remain in class III, the Secretary shall apply the criteria set forth in section 513(a). Before the publication of a regulation requiring a device to remain in class III or

Regulations.

revising its classification, the Secretary shall publish a proposed regulation respecting the classification of a device under this subparagraph and provide an opportunity for the submission of comments on any such regulation. No regulation under this subparagraph requiring a device to remain in class III or revising its classification may take effect before the expiration of 90 days from the date of the publication in the Federal Register of the proposed regulation.

"(C) The Secretary may by notice published in the Federal Register extend the period prescribed by subparagraph (B) for a device for an additional period not to exceed 1 year.".

21 USC 360c note.

(3)(A) Notwithstanding section 520(l)(5) of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall not retain any daily wear soft or daily wear nonhydrophilic plastic contact lens in class III under such Act unless the Secretary finds that it meets the criteria set forth in section 513(a)(1)(C) of such Act. The finding and the grounds for the finding shall be published in the Federal Register. For any such lens, the Secretary shall make the determination respecting reclassification required in section 520(l)(5)(B) of such Act within 24 months of the date of the enactment of this paragraph.

Federal Register, publication.

(B) The Secretary of Health and Human Services may by notice published in the Federal Register extend the two-year period prescribed by subparagraph (A) for a lens for an additional period not to exceed one year.

(C)(i) Before classifying a lens in class II pursuant to subparagraph (A), the Secretary of Health and Human Services shall pursuant to section 513(a)(1)(B) of such Act assure that appropriate regulatory safeguards are in effect which provide reasonable assurance of the safety and effectiveness of such lens, including clinical and preclinical data if deemed necessary by the Secretary.

(ii) Prior to classifying a lens in class I pursuant to subparagraph (A), the Secretary shall assure that appropriate regulatory safeguards are in effect which provide reasonable assurance of the safety and effectiveness of such lens, including clinical and preclinical data if deemed necessary by the Secretary.

(D) Notwithstanding section 520(l)(5) of such Act, if the Secretary of Health and Human Services has not made the finding and published the finding required by subparagraph (A) within 36 months of the date of the enactment of this subparagraph, the Secretary shall issue an order placing the lens in class II.

(E) Any person adversely affected by a final regulation under this paragraph revising the classification of a lens may challenge the revision of the classification of such lens only by filing a petition under section 513(e) for a classification change.

SEC. 5. CLASSIFICATION AND RECLASSIFICATION OF DEVICES.

(a) STANDARDS.—

(1) Section 513(a)(1)(A)(ii) (21 U.S.C. 360c(a)(1)(A)(ii)) is amended by striking out "or to establish a performance standard" and inserting in lieu thereof "or to establish special controls".

(2) Section 513(a)(1)(B) (21 U.S.C. 360c(a)(1)(B)) is amended to read as follows:

"(B) CLASS II, SPECIAL CONTROLS.—A device which cannot be classified as a class I device because the general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, and for which there is sufficient information to establish special controls to provide such assurance, including the promulgation of performance standards, postmarket surveillance, patient registries, development and dissemination of guidelines (including guidelines for the submission of clinical data in premarket notification submissions in accordance with section 510(k)), recommendations, and other appropriate actions as the Secretary deems necessary to provide such assurance. For a device that is purported or represented to be for a use in supporting or sustaining human life, the Secretary shall examine and identify the special controls, if any, that are necessary to provide adequate assurance of safety and effectiveness and describe how such controls provide such assurance.".

(3) Clause (i) of section 513(a)(1)(C) (21 U.S.C. 360c(a)(1)(C)) is amended to read as follows:

"(i) it (I) cannot be classified as a class I device because insufficient information exists to determine that the application of general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device, and (II) cannot be classified as a class II device because insufficient information exists to determine that the special controls described in subparagraph (B) would provide reasonable assurance of its safety and effectiveness, and".

(b) CLASSIFICATION CHANGE.—Section 513(e) (21 U.S.C. 360c(e)) is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and by inserting "(1)" after "(e)" and by adding at the end the following:

"(2) By regulation promulgated under paragraph (1), the Secretary may change the classification of a device from class III—

"(A) to class II if the Secretary determines that special controls would provide reasonable assurance of the safety and effectiveness of the device and that general controls would not provide reasonable assurance of the safety and effectiveness of the device, or

"(B) to class I if the Secretary determines that general controls would provide reasonable assurance of the safety and effectiveness of the device.".

(c) F.D.A. AUTHORITY TO INITIATE RECLASSIFICATION.—

(1) Section 513(f)(2)(A) (21 U.S.C. 360c(f)(2)(A)) is amended by striking out "The manufacturer" and inserting in lieu thereof "The Secretary may initiate the reclassification of a device classified into class III under paragraph (1) of this subsection or the manufacturer".

(2) Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "The manufacturer" and inserting in lieu thereof "The Secretary may initiate the reclassification of a device classified into class III under paragraph (1) of this subsection or the manufacturer".

(3) The heading for section 513(f) (21 U.S.C. 360c(f)) is amended by inserting "and Reclassification" before "of".

SEC. 6. ESTABLISHMENT OF PERFORMANCE STANDARDS.

(a) PROCEDURE.—Section 514 (21 U.S.C. 360d) is amended—

(1) in subsection (a), by amending the first sentence to read as follows: "The special controls required by section 513(a)(1)(B) shall include performance standards for a class II device if the Secretary determines that a performance standard is necessary to provide reasonable assurance of the safety and effectiveness of the device.",

(2) by striking out subsections (b) through (f),

(3) by redesignating subsection (g) as subsection (b),

(4) in subsection (b) (as redesignated), by amending paragraphs (1) and (2) to read as follows:

"(1)(A) The Secretary shall publish in the Federal Register a notice of proposed rulemaking for the establishment, amendment, or revocation of any performance standard for a device. Federal Register, publication.

"(B) A notice of proposed rulemaking for the establishment or amendment of a performance standard for a device shall—

"(i) set forth a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device,

"(ii) set forth proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate,

"(iii) invite interested persons to submit to the Secretary, within 30 days of the publication of the notice, requests for changes in the classification of the device pursuant to section 513(e) based on new information relevant to the classification, and

"(iv) invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary.

"(C) A notice of proposed rulemaking for the revocation of a performance standard shall set forth a finding with supporting justification that the performance standard is no longer necessary to provide reasonable assurance of the safety and effectiveness of a device.

"(D) The Secretary shall provide for a comment period of not less than 60 days.

"(2) If, after publication of a notice in accordance with paragraph (1), the Secretary receives a request for a change in the classification of the device, the Secretary shall, within 60 days of the publication of the notice, after consultation with the appropriate panel under section 513, either deny the request or give notice of an intent to initiate such change under section 513(e).".

(b) CONFORMING AMENDMENTS.—

(1) Section 514(b) (as redesignated by subsection (a)(3)) is amended—

(A) in paragraph (3)(A), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)", and

(B) in paragraph (4)(A), by striking out "paragraphs (2) and (3)(B)" and inserting in lieu thereof "paragraphs (1), (2), and (3)(B)".

(2) Section 520(i) (21 U.S.C. 360j(i)) is amended by striking out "514(g)(5)(B)" and inserting in lieu thereof "514(b)(5)(B)".

SEC. 7. REPORTS OF REMOVALS AND CORRECTIONS.

Section 519 (21 U.S.C. 360i), as amended by sections 2 and 3, is amended by adding at the end the following:

"Reports of Removals and Corrections

"(f)(1) Except as provided in paragraph (2), the Secretary shall by regulation require a manufacturer, importer, or distributor of a device to report promptly to the Secretary any correction or removal of a device undertaken by such manufacturer, importer, or distributor if the removal or correction was undertaken—

"(A) to reduce a risk to health posed by the device, or

"(B) to remedy a violation of this Act caused by the device which may present a risk to health.

A manufacturer, importer, or distributor of a device who undertakes a correction or removal of a device which is not required to be reported under this paragraph shall keep a record of such correction or removal.

"(2) No report of the corrective action or removal of a device may be required under paragraph (1) if a report of the corrective action or removal is required and has been submitted under subsection (a).

"(3) For purposes of paragraphs (1) and (2), the terms 'correction' and 'removal' do not include routine servicing.".

SEC. 8. RECALL AUTHORITY.

Section 518 (21 U.S.C. 360h) is amended by adding at the end the following new subsection:

"Recall Authority

"(e)(1) If the Secretary finds that there is a reasonable probability that a device intended for human use would cause serious, adverse health consequences or death, the Secretary shall issue an order requiring the appropriate person (including the manufacturers, importers, distributors, or retailers of the device)—

"(A) to immediately cease distribution of such device, and

"(B) to immediately notify health professionals and device user facilities of the order and to instruct such professionals and facilities to cease use of such device.

The order shall provide the person subject to the order with an opportunity for an informal hearing, to be held not later than 10 days after the date of the issuance of the order, on the actions required by the order and on whether the order should be amended to require a recall of such device. If, after providing an opportunity for such a hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

"(2)(A) If, after providing an opportunity for an informal hearing under paragraph (1), the Secretary determines that the order should be amended to include a recall of the device with respect to which the order was issued, the Secretary shall, except as provided in subparagraphs (B) and (C), amend the order to require a recall. The Secretary shall specify a timetable in which the device recall will occur and shall require periodic reports to the Secretary describing the progress of the recall.

Reports.

"(B) An amended order under subparagraph (A)—

"(i) shall—

"(I) not include recall of a device from individuals, and

"(II) not include recall of a device from device user facilities if the Secretary determines that the risk of recalling such device from the facilities presents a greater health risk than the health risk of not recalling the device from use, and

"(ii) shall provide for notice to individuals subject to the risks associated with the use of such device.

In providing the notice required by clause (ii), the Secretary may use the assistance of health professionals who prescribed or used such a device for individuals. If a significant number of such individuals cannot be identified, the Secretary shall notify such individuals pursuant to section 705(b).

"(3) The remedy provided by this subsection shall be in addition to remedies provided by subsections (a), (b), and (c).".

SEC. 9. TEMPORARY SUSPENSION OF APPROVAL OF APPLICATION.

(a) SUSPENSION.—Section 515(e) (21 U.S.C. 360e(e)) is amended—

(1) by adding at the end the following:

"(3) If, after providing an opportunity for an informal hearing, the Secretary determines there is reasonable probability that the continuation of distribution of a device under an approved application would cause serious, adverse health consequences or death, the Secretary shall by order temporarily suspend the approval of the application approved under this section. If the Secretary issues such an order, the Secretary shall proceed expeditiously under paragraph (1) to withdraw such application.", and

(2) in the subsection heading, by inserting "and Temporary Suspension" after "Withdrawal".

(b) CONFORMING AMENDMENT.—Section 501(f) (21 U.S.C. 351(f) is amended—

(1) in subparagraph (A)(ii)(II), by striking out "or withdrawn" and inserting in lieu thereof ", suspended, or withdrawn",

(2) in subparagraph (B)(ii), by striking out "which does not have such an application in effect" and inserting in lieu thereof "which has an application which has been suspended or is otherwise not in effect", and

(3) in subparagraph (C), by striking out "which does not have such an application in effect" and inserting in lieu thereof "which has an application which has been suspended or is otherwise not in effect".

SEC. 10. POSTMARKET SURVEILLANCE.

Subchapter A of chapter 5 is amended by inserting after section 521 (21 U.S.C. 360k) the following new section:

"POSTMARKET SURVEILLANCE

"SEC. 522. (a) IN GENERAL.— 21 USC 360*l*.

"(1) REQUIRED SURVEILLANCE.—The Secretary shall require a manufacturer to conduct postmarket surveillance for any device of the manufacturer first introduced or delivered for introduction into interstate commerce after January 1, 1991, that—

"(A) is a permanent implant the failure of which may cause serious, adverse health consequences or death,

"(B) is intended for a use in supporting or sustaining human life, or

"(C) potentially presents a serious risk to human health.

"(2) DISCRETIONARY SURVEILLANCE.—The Secretary may require a manufacturer to conduct postmarket surveillance for a device of the manufacturer if the Secretary determines that postmarket surveillance of the device is necessary to protect the public health or to provide safety or effectiveness data for the device.

"(b) SURVEILLANCE APPROVAL.—Each manufacturer required to conduct a surveillance of a device under subsection (a) shall, within 30 days of the first introduction or delivery for introduction of such device into interstate commerce submit, for the approval of the Secretary, a protocol for the required surveillance. The Secretary, within 60 days of the receipt of such protocol, shall determine if the principal investigator proposed to be used in the surveillance has sufficient qualifications and experience to conduct such surveillance and if such protocol will result in collection of useful data or other information necessary to protect the public health and to provide safety and effectiveness information for the device. The Secretary may not approve such a protocol until it has been reviewed by an appropriately qualified scientific and technical review committee established by the Secretary.".

SEC. 11. USE OF PREMARKET APPROVAL DATA.

Section 520 (21 U.S.C. 360j) is amended—

(1) in subsection (c)—

(A) by striking out "under section 513 from class III to class II" and inserting in lieu thereof "from class III to class II or class I", and

(B) by inserting "(1) in accordance with subsection (h), and (2)" after "except", and

(2) in subsection (h)—

(A) in paragraph (3), by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (4), any", and

(B) by adding at the end the following new paragraph:

"(4)(A) Any information contained in an application for premarket approval filed with the Secretary pursuant to section 515(c), including clinical and preclinical tests or studies, but excluding descriptions of methods of manufacture and product composition, that demonstrates the safety and effectiveness of a device shall be available 1 year after the original application for the fourth device of a kind has been approved by the Secretary, for use by the Secretary in approving devices, or determining whether a product development protocol has been completed, under section 515, establishing a performance standard under section 514, and reclassifying devices under subsections (e) and (f) of section 513, and subsection (l)(2). The Secretary shall deem devices that incorporate the same technologies, have the same principles of operation, and are intended for the same use or uses to be within a kind of device.

Federal Register, publication.

"(B) The Secretary, contemporaneously with the approval of the fourth device of a kind, shall publish an order in the Federal Register identifying the four devices of a kind that have been approved under section 515 and the date on which the data contained in premarket approval applications for the devices will be available to the Secretary for use, as described in subparagraph (A).

"(C) The publicly available detailed summaries of information respecting the safety and effectiveness of devices required by para-

graph (1)(A) shall be available for use by the Secretary as the evidentiary basis for the regulatory action described in subparagraph (A).

"(D)(i) This paragraph shall become effective— Effective date.

"(I) on November 15, 1990, for devices for which four devices of a kind were approved on or before December 31, 1987, and

"(II) on November 15, 1991, for devices not described in subclause (I).

"(ii) For each device described in clause (i)(I), the Secretary shall publish a notice in the Federal Register setting forth the date, which shall be not earlier than 1 year after the date of the notice, that data identified in subparagraph (A) shall be available for the use of the Secretary. Federal Register, publication.

"(E)(i) Except as provided in clause (ii), the approval date of a device, for purposes of this paragraph, shall be the date of the letter of the Secretary to the applicant approving a device under section 515 and permitting the applicant to commercially distribute the device.

"(ii) For each device described in subparagraph (D)(i)(II) for which the original application for a fourth device of a kind is approved by the Secretary before November 1, 1991, the approval date of the fourth device of a kind shall be deemed to be November 15, 1991.

"(F) Any challenge to an order under subparagraph (B) shall be made not later than 30 days after the date of the Federal Register notice referred to in such subparagraph.".

SEC. 12. SUBSTANTIAL EQUIVALENCE.

(a) SUBSTANTIAL EQUIVALENCE.—Section 513 (21 U.S.C. 360j) is amended by adding at the end the following new subsection: 21 USC 360c.

"Substantial Equivalence

"(i)(1)(A) For purposes of determinations of substantial equivalence under subsection (f) and section 520(l), the term 'substantially equivalent' or 'substantial equivalence' means, with respect to a device being compared to a predicate device, that the device has the same intended use as the predicate device and that the Secretary by order has found that the device—

"(i) has the same technological characteristics as the predicate device, or

"(ii)(I) has different technological characteristics and the information submitted that the device is substantially equivalent to the predicate device contains information, including clinical data if deemed necessary by the Secretary, that demonstrates that the device is as safe and effective as a legally marketed device, and (II) does not raise different questions of safety and efficacy than the predicate device.

"(B) For purposes of subparagraph (A), the term 'different technological characteristics' means, with respect to a device being compared to a predicate device, that there is a significant change in the materials, design, energy source, or other features of the device from those of the predicate device.

"(2) A device may not be found to be substantially equivalent to a predicate device that has been removed from the market at the initiative of the Secretary or that has been determined to be misbranded or adulterated by a judicial order.

"(3)(A) As part of a submission under section 510(k) respecting a device, the person required to file a premarket notification under such section shall provide an adequate summary of any information respecting safety and effectiveness or state that such information will be made available upon request by any person.

Public information.

"(B) Any summary under subparagraph (A) respecting a device shall contain detailed information regarding data concerning adverse health effects and shall be made available to the public by the Secretary within 30 days of the issuance of a determination that such device is substantially equivalent to another device.".

21 USC 360c note.

(b) REGULATIONS.—Within 12 months of the date of the enactment of this Act, the Secretary of Health and Human Services shall issue regulations establishing the requirements of the summaries under section 513(i)(3) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a).

SEC. 13. JUDICIAL REVIEW.

Section 517(a) (21 U.S.C. 360g(a)) is amended—

(1) by striking out "or" at the end of paragraph (6), and

(2) by inserting after paragraph (7) the following new paragraphs:

"(8) an order pursuant to section 513(i),

"(9) a regulation under section 515(i)(2) or 520(l)(5)(B), or

"(10) an order under section 520(c)(4)(B),".

SEC. 14. HUMANITARIAN DEVICE EXEMPTION.

(a) EXEMPTION.—Section 520 (21 U.S.C. 360j) is amended by adding at the end the following:

"Humanitarian Device Exemption

"(m)(1) To the extent consistent with the protection of the public health and safety and with ethical standards, it is the purpose of this subsection to encourage the discovery and use of devices intended to benefit patients in the treatment and diagnosis of diseases or conditions that affect fewer than 4,000 individuals in the United States.

"(2) The Secretary may grant a request for an exemption from the effectiveness requirements of sections 514 and 515 for a device for which the Secretary finds that—

"(A) the device is designed to treat or diagnose a disease or condition that affects fewer than 4,000 individuals in the United States,

"(B) the device would not be available to a person with a disease or condition referred to in subparagraph (A) unless the Secretary grants such an exemption and there is no comparable device, other than under this exemption, available to treat or diagnose such disease or condition, and

"(C) the device will not expose patients to an unreasonable or significant risk of illness or injury and the probable benefit to health from the use of the device outweighs the risk of injury or illness from its use, taking into account the probable risks and benefits of currently available devices or alternative forms of treatment.

"(3) No person granted an exemption under paragraph (2) with respect to a device may sell the device for an amount that exceeds

the costs of research and development, fabrication, and distribution of the device.

"(4) Devices granted an exemption under paragraph (2) may only be used—

"(A) in facilities that have established, in accordance with regulations of the Secretary, a local institutional review committee to supervise clinical testing of devices in the facilities, and

"(B) if, before the use of a device, an institutional review committee approves the use in the treatment or diagnosis of a disease or condition referred to in paragraph (2)(A).

"(5) An exemption under paragraph (2) shall be for a term of 18 months and may only be initially granted in the 5-year period beginning on the date regulations under paragraph (6) take effect. The Secretary may extend such an exemption for a period of 18 months if the Secretary is able to make the findings set forth in paragraph (2) and if the applicant supplies information demonstrating compliance with paragraph (3). An exemption may be extended more than once and may be extended after the expiration of such 5-year period.

"(6) Within one year of the date of the enactment of this subsection, the Secretary shall issue regulations to implement this subsection.". Regulations.

(b) EFFECTIVE DATE.—Subsection (m) of section 520 of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), shall take effect on the effective date of the regulations issued by the Secretary under paragraph (6) of such subsection. 21 USC 360j note.

(c) REPORT.—Within 4 years after the issuance of regulations under section 520(m)(6) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), the Secretary of Health and Human Services shall report to the Congress (1) on the types of devices exempted under such section, (2) an evaluation of the effects of such section, and (3) a recommendation on extension of the section. 21 USC 360j note.

SEC. 15. ESTABLISHMENT OF THE OFFICE OF INTERNATIONAL RELATIONS.

(a) OFFICE.—Title VIII is amended by adding at the end the following:

"OFFICE OF INTERNATIONAL RELATIONS

"SEC. 803. (a) There is established in the Department of Health and Human Services an Office of International Relations. 21 USC 383.

"(b) In carrying out the functions of the office under subsection (a), the Secretary may enter into agreements with foreign countries to facilitate commerce in devices between the United States and such countries consistent with the requirements of this Act. In such agreements, the Secretary shall encourage the mutual recognition of—

"(1) good manufacturing practice regulations promulgated under section 520(f), and

"(2) other regulations and testing protocols as the Secretary determines to be appropriate."

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a 21 USC 383 note.

report on the activities of the Office of International Relations under section 803 of the Federal Food, Drug, and Cosmetic Act, added by subsection (a).

SEC. 16. REVIEW OF MARKET APPLICATIONS FOR ARTICLES COMPRISING COMBINATIONS OF DRUGS, DEVICES, AND BIOLOGICS.

(a) REVIEW.—Section 503 (21 U.S.C. 353) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"EXEMPTIONS AND CONSIDERATION FOR CERTAIN DRUGS, DEVICES, AND BIOLOGICAL PRODUCTS",

and

(2) by adding at the end the following:

"(f)(1) The Secretary shall designate a component of the Food and Drug Administration to regulate products that constitute a combination of a drug, device, or biological product. The Secretary shall determine the primary mode of action of the combination product. If the Secretary determines that the primary mode of action is that of—

"(A) a drug (other than a biological product), the persons charged with premarket review of drugs shall have primary jurisdiction,

"(B) a device, the persons charged with premarket review of devices shall have primary jurisdiction, or

"(C) a biological product, the persons charged with premarket review of biological products shall have primary jurisdiction.

"(2) Nothing in this subsection shall prevent the Secretary from using any agency resources of the Food and Drug Administration necessary to ensure adequate review of the safety, effectiveness, or substantial equivalence of an article.

Regulations.

"(3) The Secretary shall promulgate regulations to implement market approval procedures in accordance with paragraphs (1) and (2) not later than 1 year after the date of enactment of this subsection.

"(4) As used in this subsection:

"(A) The term 'biological product' has the meaning given the term in section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)).

"(B) The term 'market clearance' includes—

"(i) approval of an application under section 505, 507, 515, or 520(g),

"(ii) a finding of substantial equivalence under this subchapter, and

"(iii) approval of a product or establishment license under subsection (a) or (d) of section 351 of the Public Health Service Act (42 U.S.C. 262).".

(b) DEFINITIONS.—Section 201 (21 U.S.C. 321) is amended—

(1) in paragraph (g)(1), by striking out "; but does not include devices or their components, parts, or accessories", and

(2) in paragraph (h)(3), by striking out "any of its principal" and inserting in lieu thereof "its primary".

SEC. 17. CIVIL PENALTIES.

(a) AMENDMENT.—Section 303 (21 U.S.C. 333) is amended by adding at the end the following:

"(f)(1)(A) Except as provided in subparagraph (B), any person who violates a requirement of this Act which relates to devices shall be liable to the United States for a civil penalty in an amount not to exceed $15,000 for each such violation, and not to exceed $1,000,000 for all such violations adjudicated in a single proceeding.

"(B) Subparagraph (A) shall not apply—

"(i) to any person who violates the requirements of section 519(a) or 520(f) unless such violation constitutes (I) a significant or knowing departure from such requirements, or (II) a risk to public health,

"(ii) to any person who commits minor violations of section 519(e) or 519(f) (only with respect to correction reports) if such person demonstrates substantial compliance with such section, or

"(iii) to violations of section 501(a)(2)(A) which involve one or more devices which are not defective.

"(2)(A) A civil penalty under paragraph (1) shall be assessed by the Secretary by an order made on the record after opportunity for a hearing provided in accordance with this subparagraph and section 554 of title 5, United States Code. Before issuing such an order, the Secretary shall give written notice to the person to be assessed a civil penalty under such order of the Secretary's proposal to issue such order and provide such person an opportunity for a hearing on the order. In the course of any investigation, the Secretary may issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(B) In determining the amount of a civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require.

"(C) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which may be assessed under paragraph (1). The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(3) Any person who requested, in accordance with paragraph (2)(A), a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 60-day period beginning on the date the order making such assessment was issued.

"(4) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment becomes final, and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

"(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Secretary,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 60-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action,

the validity, amount, and appropriateness of such penalty shall not be subject to review.".

Reports.
21 USC 333 note.

(b) EFFECTIVE DATE OF APPLICATION TO DEVICE USER FACILITIES.—

(1) The Secretary of Health and Human Services shall conduct a study to determine whether there has been substantial compliance with the requirements of section 519(b) of the Federal Food, Drug, and Cosmetic Act by device user facilities (as defined in section 519(b)(5)(A) of such Act). The Secretary shall report the results of the study to the Congress after the expiration of 45 months after the date of the enactment of this Act.

(2)(A) If upon the expiration of 48 months after the date of the enactment of this Act the Secretary has not made the report required by paragraph (1), section 303(f) of the Federal Food, Drug, and Cosmetic Act, as added by the amendment made by subsection (a), shall take effect with respect to device user facilities (as defined in section 519(b)(5)(A) of such Act).

(B) If in the report under paragraph (1) the Secretary reports that there has been substantial compliance with the requirements of such section 519(b) by a type of device user facility and if the Secretary does not make a determination under subparagraph (C) with respect to such type of facility, such section 303(f) shall not take effect with respect to such type of facility.

(C) If the Secretary determines in the report under paragraph (1) that there is not substantial compliance with the requirements of such section 519(b) by a type of device user facility or if the Secretary makes such a determination after making the report under paragraph (1), such section 303(f) shall take effect with respect to such type of facility upon the effective date of the report.

SEC. 18. MISCELLANEOUS.

(a) SECTION 513(f).—Section 513(f)(2) (21 U.S.C. 360c(f)(2)) is amended in subparagraph (B)(i), by striking out "the Secretary shall" and inserting in lieu thereof "the Secretary may for good cause shown".

(b) SECTION 514.—Section 514(b) (21 U.S.C. 360d(b)(4)(B)) (as so redesignated) is amended—

(1) in paragraph (3)(B) (as so redesignated), by striking out ", after affording all interested persons an opportunity for an informal hearing,", and

(2) in clause (ii) of paragraph (4)(A) (as so redesignated), by striking out "unless" and all that follows in that clause and inserting in lieu thereof the following: "which demonstrates good cause for referral and which is made before the expiration of the period for submission of comments on such proposed regulation refer such proposed regulation,".

(c) SECTION 515.—Section 515(c)(2) (21 U.S.C. 360e(c)(2)) is amended by striking out "paragraph (1), the Secretary shall refer such application" and inserting in lieu thereof "paragraph (1), the Secretary—

"(A) may on the Secretary's own initiative refer such application, or

"(B) shall, upon the request of an applicant unless the Secretary finds that the information in the application which would be reviewed by a panel substantially duplicates information which has previously been reviewed by a panel appointed under section 513,

refer such application".

(d) SECTION 516.—Section 516(a) (21 U.S.C. 360f(a)) is amended (1) by striking out "and after consultation with the appropriate panel or panels under section 513", and (2) by striking out the last sentence.

(e) SECTION 520(f).—Section 520(f)(1)(A) (21 U.S.C. 360j(f)(1)(A)) is amended by inserting "pre-production design validation (including a process to assess the performance of a device but not including an evaluation of the safety or effectiveness of a device)," after "manufacture,".

(f) SECTION 520(l).—Section 520(l)(2) (21 U.S.C. 360j(l)(2)) is amended by striking out "and after affording the petitioner an opportunity for an informal hearing".

SEC. 19. ELECTRONIC PRODUCTS.

(a) IN GENERAL.—

(1) Subpart 3 of part F of title III of the Public Health Service Act is amended as follows: 42 USC prec. 263b.

(A) The heading for the subpart is amended to read as follows:

"SUBCHAPTER C—ELECTRONIC PRODUCT RADIATION CONTROL".

(B) The subpart is amended by striking out "subpart" each place it occurs and inserting in lieu thereof "subchapter". 42 USC 263b–263n.

(2)(A) Section 356 of such Act is amended— 42 USC 263d.

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "sections 3648 and 3709 of the Revised Statutes of the United States (31 U.S.C. 529, 41 U.S.C. 5)" and inserting in lieu thereof "section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes of the United States (41 U.S.C. 5)".

(B) Section 358(a)(1)(E) of such Act is amended by striking out "355" and inserting in lieu thereof "531". 42 USC 263f.

(C) Section 359 of such Act is amended— 42 USC 263g.

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534", and

(ii) by striking out "360A" each place it occurs and inserting in lieu thereof "537".

(D) Section 360 of such Act is amended by striking out "358" each place it occurs and inserting in lieu thereof "534". 42 USC 263h.

(E) Section 360A of such Act is amended— 42 USC 263i.

(i) by striking out "358" and inserting in lieu thereof "534", and

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535".

(F) Section 360B of such Act is amended— 42 USC 263j.

(i) by striking out "358" each place it occurs and inserting in lieu thereof "534",

(ii) by striking out "359" each place it occurs and inserting in lieu thereof "535", and

(iii) by striking out "360A" each place it occurs and inserting in lieu thereof "537".

(G) Section 360C of such Act is amended— 42 USC 263k.

(i) by striking out "358" and inserting in lieu thereof "534",

(ii) by striking out "360B" each place it occurs and inserting in lieu thereof "538", and

(iii) by striking out "360F" and inserting in lieu thereof "542".

42 USC 263n.

(H) Section 360F of such Act is amended by striking out "358" and inserting in lieu thereof "534".

Repeal.
42 USC 263b.
42 USC 263c-263n.

(3) Section 354 of such Act is repealed and sections 355 through 360F of such Act are redesignated as sections 531 through 542, respectively.

42 USC 263b-263n.

(4) Subpart 3 of part F of title III of the Public Health Service Act, as amended by paragraphs (1) and (2) of this subsection, is transferred to chapter V of the Federal Food, Drug, and Cosmetic Act and is placed after section 528 and sections 354 through 360F of such subpart are redesignated as sections 530 through 542 of the Federal Food, Drug, and Cosmetic Act, respectively.

21 USC 360gg-360ss.

(b) CONFORMING AMENDMENT.—The heading for part F of title III of the Public Health Service Act is amended by striking out "AND CONTROL OF RADIATION".

42 USC prec. 262.

21 USC 360hh.

(c) CONSTRUCTION.—The transfer of subpart 3 of part F of title III of the Public Health Service Act to the Federal Food, Drug, and Cosmetic Act does not change the application of the requirements of such subpart and such Act to electronic products which were in effect on the date of the enactment of this Act.

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 3095 (S. 3006):

HOUSE REPORTS: No. 101-808 (Comm. on Energy and Commerce) and No. 101-959 (Comm. of Conference).

SENATE REPORTS: No. 101-513 accompanying S. 3006 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Oct. 10, considered and passed House.

Oct. 12, H.R. 3095 considered and passed Senate, amended, in lieu of S. 3006.

Oct. 26, House agreed to conference report.

Oct. 27, Senate agreed to conference report.

Public Law 101-630
101st Congress

An Act

To authorize the Rumsey Indian Rancheria to convey a certain parcel of land.

Nov. 28, 1990
[H.R. 3703]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—RUMSEY INDIAN RANCHERIA

SECTION 101. FINDINGS.

The Congress finds that—

(1) the Rumsey Indian Rancheria, a part of the Wintun Tribe of Indians, is a federally recognized Indian tribe, located in Rumsey, California, where eighty-three and thirty-nine hundredths acres of land are held in trust for the Rancheria by the United States; California.

(2) in February, 1987, fee simple title to property located at lot 23, Sierra Meadows subdivision, unit 5A, Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, was transferred to the Rancheria which it presently holds under the name Wintun Indian Tribe;

(3) such property is located approximately one hundred twenty-five miles from the Rancheria trust land base in California, and ownership of such land, which is in a residential area, provides no significant benefit for the tribal members;

(4) the most beneficial use of such land is to sell it at its present market value and to utilize the proceeds for the improvement of the tribe's economic and social welfare; and

(5) section 2116 of the Revised Statutes (25 U.S.C. 177) prohibits the conveyance of any lands owned by Indian tribes without the consent of Congress.

SEC. 102. CONVEYANCE OF LAND.

(a) AUTHORITY.—Notwithstanding section 2116 of the Revised Statutes (25 U.S.C. 177), Rumsey Indian Rancheria is authorized to convey that land known as lot 23, Sierra Meadows subdivision, unit 5A, Washoe County, Nevada, commonly known as 978 O'Callahan Street, Sparks, Nevada, to any bona fide purchaser for value. Nevada.

(b) PROCEEDS.—Proceeds from the conveyance of land pursuant to subsection (a) may be used only for the economic development and social welfare of the Rumsey Indian Rancheria.

TITLE II—MILLE LACS INDIAN RESERVATION LEASE

SEC. 201. MILLE LACS INDIAN RESERVATION LEASE TO MINNESOTA STATE HISTORICAL SOCIETY.

The first section of the Act of August 9, 1955 (25 U.S.C. 415), is amended by inserting "the Mille Lacs Indian Reservation with respect to a lease between an entity established by the Mille Lacs Band of Chippewa Indians and the Minnesota Historical Society," after "the Navajo Reservation,".

National Indian Forest Resources Management Act.

TITLE III—INDIAN FOREST AND WOODLANDS

25 USC 3101 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "National Indian Forest Resources Management Act".

25 USC 3101.

SEC. 302. FINDINGS.

The Congress finds and declares that—

(1) the forest lands of Indians are among their most valuable resources and Indian forest lands—

(A) encompass more than 15,990,000 acres, including more than 5,700,000 acres of commercial forest land and 8,700,000 acres of woodland,

(B) are a perpetually renewable and manageable resource,

(C) provide economic benefits, including income, employment, and subsistence, and

(D) provide natural benefits, including ecological, cultural, and esthetic values;

(2) the United States has a trust responsibility toward Indian forest lands;

(3) existing Federal laws do not sufficiently assure the adequate and necessary trust management of Indian forest lands;

(4) the Federal investment in, and the management of, Indian forest land is significantly below the level of investment in, and management of, National Forest Service forest land, Bureau of Land Management forest land, or private forest land;

(5) tribal governments make substantial contributions to the overall management of Indian forest land; and

(6) there is a serious threat to Indian forest lands arising from trespass and unauthorized harvesting of Indian forest land resources.

25 USC 3102.

SEC. 303. PURPOSES.

The purposes of this title are to—

(1) allow the Secretary of the Interior to take part in the management of Indian forest lands, with the participation of the lands' beneficial owners, in a manner consistent with the Secretary's trust responsibility and with the objectives of the beneficial owners;

(2) clarify the authority of the Secretary to make deductions from the proceeds of sale of Indian forest products, assure the

use of such deductions on the reservation from which they are derived solely for use in forest land management activities, and assure that no other deductions shall be collected;

(3) increase the number of professional Indian foresters and related staff in forestry programs on Indian forest land; and

(4) provide for the authorization of necessary appropriations to carry out this title for the protection, conservation, utilization, management, and enhancement of Indian forest lands.

SEC. 304. DEFINITIONS. 25 USC 3103.

For the purposes of this title, the term—

(1) "Alaska Native" means Native as defined in section 3(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1604);

(2) "forest" means an ecosystem of at least one acre in size, including timberland and woodland, which—

(A) is characterized by a more or less dense and extensive tree cover,

(B) contains, or once contained, at least ten percent tree crown cover, and

(C) is not developed or planned for exclusive nonforest use;

(3) "Indian forest land" means Indian lands, including commercial and non-commercial timberland and woodland, that are considered chiefly valuable for the production of forest products or to maintain watershed or other land values enhanced by a forest cover, regardless whether a formal inspection and land classification action has been taken;

(4) "forest land management activities" means all activities performed in the management of Indian forest lands, including—

(A) all aspects of program administration and executive direction such as—

(i) development and maintenance of policy and operational procedures, program oversight, and evaluation,

(ii) securing of legal assistance and handling of legal matters,

(iii) budget, finance, and personnel management, and

(iv) development and maintenance of necessary data bases and program reports;

(B) all aspects of the development, preparation and revision of forest inventory and management plans, including aerial photography, mapping, field management inventories and re-inventories, inventory analysis, growth studies, allowable annual cut calculations, environmental assessment, and forest history, consistent with and reflective of tribal integrated resource management plans;

(C) forest land development, including forestation, thinning, tree improvement activities, and the use of silvicultural treatments to restore or increase growth and yield to the full productive capacity of the forest environment;

(D) protection against losses from wildfire, including acquisition and maintenance of fire fighting equipment and fire detection systems, construction of firebreaks, hazard reduction, prescribed burning, and the development of cooperative wildfire management agreements;

(E) protection against insects and disease, including—
(i) all aspects of detection and evaluation,
(ii) preparation of project proposals containing project description, environmental assessments and statements, and cost-benefit analyses necessary to secure funding,
(iii) field suppression operations, and
(iv) reporting;

(F) assessment of damage caused by forest trespass, infestation or fire, including field examination and survey, damage appraisal, investigation assistance, and report, demand letter, and testimony preparation;

(G) all aspects of the preparation, administration, and supervision of timber sale contracts, paid and free use permits, and other Indian forest product harvest sale documents including—
(i) cruising, product marking, silvicultural prescription, appraisal and harvest supervision,
(ii) forest product marketing assistance, including evaluation of marketing and development opportunities related to Indian forest products and consultation and advice to tribes, tribal and Indian enterprises on maximization of return on forest products,
(iii) archeological, historical, environmental and other land management reviews, clearances, and analyses,
(iv) advertising, executing, and supervising contracts,
(v) marking and scaling of timber, and
(vi) collecting, recording and distributing receipts from sales;

(H) provision of financial assistance for the education of Indians enrolled in accredited programs of postsecondary and postgraduate forestry and forestry-related fields of study, including the provision of scholarships, internships, relocation assistance, and other forms of assistance to cover educational expenses;

(I) participation in the development and implementation of tribal integrated resource management plans, including activities to coordinate current and future multiple uses of Indian forest lands;

(J) improvement and maintenance of extended season primary and secondary Indian forest land road systems; and

(K) research activities to improve the basis for determining appropriate management measures to apply to Indian forest lands;

(5) "forest management plan" means the principal document, approved by the Secretary, reflecting and consistent with a tribal integrated resource management plan, which provides for the regulation of the detailed, multiple-use operation of Indian forest land by methods assuring that such lands remain in a continuously productive state while meeting the objectives of the tribe and which shall include—

(A) standards setting forth the funding and staffing requirements necessary to carry out each management plan, with a report of current forestry funding and staffing levels; and

(B) standards providing quantitative criteria to evaluate performance against the objectives set forth in the plan;

(6) "forest product" means—

(A) timber,

(B) a timber product, including lumber, lath, crating, ties, bolts, logs, pulpwood, fuelwood, posts, poles and split products,

(C) bark,

(D) Christmas trees, stays, branches, firewood, berries, mosses, pinyon nuts, roots, acorns, syrups, wild rice, and herbs,

(E) other marketable material, and

(F) gravel which is extracted from, and utilized on, Indian forest lands;

(7) "forest resources" means all the benefits derived from Indian forest lands, including forest products, soil productivity, water, fisheries, wildlife, recreation, and aesthetic or other traditional values of Indian forest lands;

(8) "forest trespass" means the act of illegally removing forest products from, or illegally damaging forest products on, forest lands;

(9) "Indian" means a member of an Indian tribe;

(10) "Indian land" means land title to which is held by—

(A) the United States in trust for an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally-recognized Indian tribe, or an Indian tribe, or

(B) an Indian, an individual of Indian or Alaska Native ancestry who is not a member of a federally recognized tribe, or an Indian tribe subject to a restriction by the United States against alienation;

(11) "Indian tribe" or "tribe" means any Indian tribe, band, nation, Pueblo or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and shall mean, where appropriate, the recognized tribal government of such tribe's reservation;

(12) "reservation" includes Indian reservations established pursuant to treaties, Acts of Congress or Executive orders, public domain Indian allotments, and former Indian reservations in Oklahoma;

(13) "Secretary" means the Secretary of the Interior;

(14) "sustained yield" means the yield of forest products that a forest can produce continuously at a given intensity of management; and

(15) "tribal integrated resource management plan" means a document, approved by an Indian tribe and the Secretary, which provides coordination for the comprehensive management of such tribe's natural resources.

SEC. 305. MANAGEMENT OF INDIAN FOREST LAND. 25 USC 3104.

(a) MANAGEMENT ACTIVITIES.—The Secretary shall undertake forest land management activities on Indian forest land, either directly or through contracts, cooperative agreements, or grants under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(b) MANAGEMENT OBJECTIVES.—Indian forest land management activities undertaken by the Secretary shall be designed to achieve the following objectives—

(1) the development, maintenance, and enhancement of Indian forest land in a perpetually productive state in accordance with the principles of sustained yield and with the standards and objectives set forth in forest management plans by providing effective management and protection through the application of sound silvicultural and economic principles to—

(A) the harvesting of forest products,

(B) forestation,

(C) timber stand improvement, and

(D) other forestry practices;

(2) the regulation of Indian forest lands through the development and implementation, with the full and active consultation and participation of the appropriate Indian tribe, of forest management plans which are supported by written tribal objectives and forest marketing programs;

(3) the regulation of Indian forest lands in a manner that will ensure the use of good method and order in harvesting so as to make possible, on a sustained yield basis, continuous productivity and a perpetual forest business;

(4) the development of Indian forest lands and associated value-added industries by Indians and Indian tribes to promote self-sustaining communities, so that Indians may receive from their Indian forest land not only stumpage value, but also the benefit of all the labor and profit that such Indian forest land is capable of yielding;

(5) the retention of Indian forest land in its natural state when an Indian tribe determines that the recreational, cultural, aesthetic, or traditional values of the Indian forest land represents the highest and best use of the land;

(6) the management and protection of forest resources to retain the beneficial effects to Indian forest lands of regulating water run-off and minimizing soil erosion; and

(7) the maintenance and improvement of timber productivity, grazing, wildlife, fisheries, recreation, aesthetic, cultural and other traditional values.

25 USC 3105.

SEC. 306. FOREST MANAGEMENT DEDUCTION.

(a) WITHHOLDING OF DEDUCTION.—Pursuant to the authority of section 1 of the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the Secretary shall withhold a reasonable deduction from the gross proceeds of sales of forest products harvested from Indian forest land under a timber sale contract, permit, or other harvest sale document, which has been approved by the Secretary, to cover in whole or part the cost of managing and protecting such Indian forest land.

(b) AMOUNT OF DEDUCTION.—Deductions made pursuant to subsection (a) shall not exceed the lesser amount of—

(1) 10 percent of gross proceeds, or

(2) the percentage of gross proceeds collected on the date of enactment of this title as forest management deductions by the Secretary on such sales of Indian forest products,

unless the appropriate Indian tribe consents to an increase in the deductions.

(c) USE OF DEDUCTION.—The full amount of any deduction collected by the Secretary shall be expended according to an approved expenditure plan, approved by the Secretary and the appropriate Indian tribe, for the performance of forest land management activi-

ties on the reservation from which such deductions are collected and shall be made available to the tribe, upon its request, by contract or agreement for the performance of such activities.

(d) LIMITATIONS.—(1) Forest management deductions withheld pursuant to this section shall not be available to—

(A) cover the costs that are paid from funds appropriated specifically for fire suppression or pest control, or

(B) otherwise offset Federal appropriations for meeting the Federal trust responsibility for management of Indian forest lands.

(2) No other forest management deductions derived from Indian forest lands shall be collected to be covered into the general funds of the United States Treasury.

SEC. 307. FOREST TRESPASS. 25 USC 3106.

(a) CIVIL PENALTIES; REGULATIONS.—Not later than 18 months from the date of enactment of this title, the Secretary shall issue regulations that—

(1) establish civil penalties for the commission of forest trespass which provide for—

(A) collection of the value of the products illegally removed plus a penalty of double their value,

(B) collection of the costs associated with damage to the Indian forest land caused by the act of trespass, and

(C) collection of the costs associated with enforcement of the regulations, including field examination and survey, damage appraisal, investigation assistance and reports, witness expenses, demand letters, court costs, and attorney fees;

(2) designate responsibility with the Department of the Interior for the detection and investigation of forest trespass; and

(3) set forth responsibilities and procedures for the assessment and collection of civil penalties.

(b) TREATMENT OF PROCEEDS.—The proceeds of civil penalties collected under this section shall be treated as proceeds from the sale of forest products from the Indian forest lands upon which such trespass occurred.

(c) CONCURRENT JURISDICTION.—Indian tribes which adopt the regulations promulgated by the Secretary pursuant to subsection (a) shall have concurrent civil jurisdiction to enforce the provisions of this section and the regulation promulgated thereunder. The Bureau of Indian Affairs and other agencies of the Federal Government shall, at the request of the tribe, defer to tribal prosecutions of forest trespass cases. Tribal court judgments regarding forest trespass shall be entitled to full faith and credit in Federal and State courts to the same extent as a Federal court judgment obtained under this section.

SEC. 308. DIRECT PAYMENT OF FOREST PRODUCTS RECEIPTS. 25 USC 3107.

(a) REGULATIONS.—Notwithstanding any other law, the Secretary shall, within 1 year from the date of enactment of this title, promulgate regulations providing for the payment of the receipts from the sale of Indian forest products as provided in this section.

(b) PAYMENT INTO A BANK DEPOSITORY.—Upon the request of an Indian tribe, the Secretary shall provide that the purchaser of the forest products of such tribe, which are harvested under a timber sale contract, permit or other harvest sale document which has been

approved by the Secretary, shall make prompt direct payments of the gross proceeds of sales of such forest products, less any amounts segregated as forest management deductions pursuant to section 306, into a bank depository account designated by such Indian tribe.

25 USC 3108.

SEC. 309. SECRETARIAL RECOGNITION OF TRIBAL LAWS.

Subject to the Secretary's responsibilities as reflected in sections 302(2) and 303(1) and unless otherwise prohibited by Federal statutory law, the Secretary shall comply with tribal laws pertaining to Indian forest lands, including laws regulating the environment or historic or cultural preservation, and shall cooperate with the enforcement of such laws on Indian forest lands. Such cooperation shall include—

(1) assistance in the enforcement of such laws;

(2) provision of notice of such laws to persons or entities undertaking activities on Indian forest lands; and

(3) upon the request of an Indian tribe, the appearance in tribal forums.

25 USC 3109.

SEC. 310. INDIAN FOREST LAND ASSISTANCE ACCOUNT.

(a) ESTABLISHMENT.—At the request of an Indian tribe, the Secretary may establish a special Indian forest land assistance account within the tribe's trust fund account to fund the Indian forest land management activities of such tribe.

(b) DEPOSITS AND EXPENDITURES.—(1) The Secretary may deposit into the Indian forest land assistance account established pursuant to subsection (a) any funds received by the Secretary or in the Secretary's possession from—

(A) non-Federal sources, if such funds are related to activities on or for the Indian forest lands of such tribe's reservation,

(B) donations and contributions,

(C) unobligated forestry appropriations for the benefit of such Indian tribe, and

(D) user fees or other funds transferred under Federal interagency agreements if otherwise authorized by Federal law and, if such funds are related to activities on or for the Indian forest lands of such tribe's reservation.

Funds deposited in such account shall be for the purpose of conducting forest land management activities on the Indian forest lands of such tribe.

(2) Funds in the Indian forest land assistance account and any interest or other income earned thereon shall remain available until expended and shall not be available to otherwise offset Federal appropriations for meeting the Federal responsibility for management of Indian forest lands.

(c) AUDITS.—At the request of an Indian tribe or upon the Secretary's own volition, the Secretary may conduct audits of the Indian forest land assistance account and shall publish the results of such audit.

25 USC 3110.

SEC. 311. TRIBAL FORESTRY PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall establish within the Bureau of Indian Affairs a program to provide financial support to forestry programs established by an Indian tribe.

Regulations.

(b) SUPPORT ALLOCATION FORMULA; CRITERIA.—(1) The Secretary, with the participation of Indian tribes with Indian forest lands, shall establish, and promulgate by regulations, a formula—

(A) for the determination of Indian tribes eligible for such support,

(B) for the provision of levels of assistance for the forestry programs of such tribes, and

(C) the allocation of base support funds to such tribes under the program established pursuant to subsection (a).

(2) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one professional forester, including fringe benefits and support costs, for each eligible tribe, and

(B) one additional professional forester or forest technician, including fringe benefits and support costs, for each level of assistance for which an eligible Indian tribe qualifies.

(3) In any fiscal year that appropriations are not sufficient to fully fund tribal forestry programs at each level of assistance under the formula required to be established in this section, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

SEC. 312. ASSESSMENT OF INDIAN FOREST LAND AND MANAGEMENT PROGRAMS.

25 USC 3111.

(a) INITIAL ASSESSMENT.—(1) Within 1 year after the date of enactment of this title, the Secretary, in consultation with affected Indian tribes, shall enter into a contract with a non-Federal entity knowledgeable in forest management practices on Federal and private lands to conduct an independent assessment of Indian forest lands and Indian forest land management practices.

Government contracts.

(2) Such assessment shall be national in scope and shall include—

(A) an in-depth analysis of management practices on, and the level of funding for, specific Indian forest land compared with similar Federal and private forest lands,

(B) a survey of the condition of Indian forest lands, including health and productivity levels,

(C) an evaluation of the staffing patterns of forestry organizations of the Bureau of Indian Affairs and of Indian tribes,

(D) an evaluation of procedures employed in timber sales administration, including preparation, field supervision, and accountability for proceeds,

(E) an analysis of the potential for reducing or eliminating relevant administrative procedures, rules and policies of the Bureau of Indian Affairs consistent with the Federal trust responsibility,

(F) a comprehensive review of the adequacy of Indian forest land management plans, including their compatibility with applicable tribal integrated resource management plans and their ability to meet tribal needs and priorities,

(G) an evaluation of the feasibility and desirability of establishing minimum standards against which the adequacy of the forestry programs of the Bureau of Indian Affairs in fulfilling its trust responsibility to Indian tribes can be measured, and

(H) a recommendation of any reforms and increased funding levels necessary to bring Indian forest land management programs to a state-of-the-art condition.

(3) Such assessment shall include specific examples and comparisons from each of the regions of the United States where Indian forest lands are located.

(4) The initial assessment required by this subsection shall be completed no later than 36 months following the date of enactment of this title. Upon completion, the assessment shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Select Committee on Indian Affairs of the United States Senate and shall be made available to Indian tribes.

(b) PERIODIC ASSESSMENTS.—On each 10-year anniversary of the date of enactment of this title, the Secretary shall provide for an independent assessment of Indian forest lands and Indian forest land management practices under the criteria established in subsection (a) which shall include analyses measured against findings in previous assessments.

(c) STATUS REPORT TO CONGRESS.—The Secretary shall submit, within 1 year of the first full fiscal year after the date of enactment of this title and within 6 months of the end of each succeeding fiscal year, a report to Committee on Interior and Insular Affairs of the United States House of Representatives, the Select Committee on Indian Affairs of the United States Senate, and to the affected Indian tribes a report on the status of Indian forest lands with respect to standards, goals and objectives set forth in approved forest management plans for each Indian tribe with Indian forest lands. The report shall identify the amount of Indian forest land in need of forestation or other silviculture treatment and the quantity of timber available for sale, offered for sale, and sold for each Indian tribe.

(d) ASSISTANCE FROM SECRETARY OF AGRICULTURE.—The Secretary of Agriculture, through the Forest Service, is authorized to provide, upon the request of the Secretary of the Interior, on a nonreimbursable basis, technical assistance in the conduct of such research and evaluation activities as may be necessary for the completion of any reports or assessments required by this title.

Government contracts.
Grant programs.
25 USC 3112.

SEC. 313. ALASKA NATIVE TECHNICAL ASSISTANCE PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in consultation with the village and regional corporations established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), shall establish a program of technical assistance for such corporations to promote the sustained yield management of their forest resources. Such technical assistance shall also be available to promote local processing and other value-added activities with such forest resources.

(b) INDIAN SELF-DETERMINATION ACT.—The technical assistance to be provided by the Secretary pursuant to subsection (a) shall be made available through contracts, grants or agreements entered into in accordance with, and made available to entities eligible for, such contracts, grants, or agreements under the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

25 USC 3113.

SEC. 314. ESTABLISHMENT OF INDIAN AND ALASKA NATIVE FORESTRY EDUCATION ASSISTANCE.

(a) FORESTER INTERN PROGRAM.—(1) Notwithstanding the provisions of title 5 of the United States Code governing appointments in the competitive service, the Secretary shall establish and maintain in the Bureau of Indian Affairs at least 20 forester intern positions for Indian and Alaska Native students.

(2) For purposes of this subsection, the term "forester intern" means an Indian or Alaska Native who—

(A) is acquiring necessary academic qualifications to become a forester or a professional trained in forestry-related fields, and

(B) is appointed to one of the positions established under paragraph (1).

(3) The Secretary shall pay all costs for tuition, books, fees and living expenses incurred by a forester intern while attending an approved post-secondary or graduate school in a full-time forestry-related curriculum.

(4) A forester intern shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for 2 years for each year of education for which the Secretary pays the intern's educational costs under paragraph (3) of this subsection.

(5) A forester intern shall be required to report for service with the Bureau of Indian Affairs during any break in attendance at school of more than 3 weeks duration. Time spent in such service shall be counted toward satisfaction of the intern's obligated service agreement.

(b) COOPERATIVE EDUCATION PROGRAM.—(1) The Secretary shall maintain, through the Bureau of Indian Affairs, a cooperative education program for the purpose of recruiting promising Indian and Alaska Native students who are enrolled in secondary schools, tribally-controlled community colleges, and other post-secondary or graduate schools for employment as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise.

(2) The cooperative educational program that is to be maintained under paragraph (1) shall be modeled on and shall have essentially the same features of the program operated on the date of enactment of this title pursuant to chapter 308 of the Federal Personnel Manual of the Office of Personnel Management.

(3) Under the cooperative agreement program that is to be maintained under paragraph (1), the Secretary shall pay all costs for tuition, books, and fees of an Indian or Alaska Native student who—

(A) is enrolled in a course of study at an education institution with which the Secretary has entered into a cooperative agreement, and

(B) is interested in a career with the Bureau of Indian Affairs, an Indian tribe or a tribal enterprise in the management of Indian forest land.

(4) Financial need shall not be a requirement to receive assistance under the cooperative agreement program that is to be maintained under this subsection.

(5) A recipient of assistance under the cooperative education program that is to be maintained under this subsection shall be required to enter into an obligated service agreement to serve as a professional forester or other forestry-related professional with the Bureau of Indian Affairs, an Indian tribe, or a tribal forest-related enterprise for one year for each year for which the Secretary pays the recipient's educational costs pursuant to paragraph (3).

(c) SCHOLARSHIP PROGRAM.—(1) The Secretary is authorized to grant forestry scholarships to Indians and Alaska Natives enrolled in accredited programs for post-secondary and graduate forestry and forestry-related programs of study as full-time students.

(2) A recipient of a scholarship under paragraph (1) shall be required to enter into an obligated service agreement with the

Secretary in which the recipient agrees to accept employment for one year for each year the recipient received a scholarship, following completion of the recipient's forestry or forestry-related course of study, with

(A) the Bureau of Indian Affairs;

(B) a forestry program conducted under a contract, grant, or cooperative agreement entered into under the Indian Self-Determination Act (25 U.S.C. 450 et seq.);

(C) an Indian enterprise engaged in a forestry or forestry-related business; or

(D) an Indian tribe's forestry-related program.

(3) The Secretary shall not deny scholarship assistance under this subsection solely on the basis of an applicant's scholastic achievement if the applicant has been admitted to and remains in good standing in an accredited postsecondary or graduate institution.

(d) FORESTRY EDUCATION OUTREACH.—The Secretary shall conduct, through the Bureau of Indian Affairs, and in consultation with other appropriate local, State and Federal agencies, and in consultation and coordination with Indian tribes, a forestry education outreach program for Indian and Alaska Native youth to explain and stimulate interest in all aspects of Indian forest land management and careers in forestry.

(e) ADEQUACY OF PROGRAMS.—The Secretary shall administer the programs described in this section until a sufficient number of Indians and Alaska Natives are trained to ensure that there is an adequate number of qualified, professional Indian foresters to manage the Bureau of Indian Affairs forestry programs and forestry programs maintained by or for Indian tribes.

25 USC 3114.

SEC. 315. POSTGRADUATION RECRUITMENT, EDUCATION AND TRAINING PROGRAMS.

(a) POSTGRADUATION RECRUITMENT.—The Secretary shall establish and maintain a program to attract Indian and Alaska Native professional foresters and forester technicians who have already graduated from their course of postsecondary or graduate education for employment in either the Bureau of Indian Affairs forestry programs or, subject to the approval of the tribe, in tribal forestry programs. According to such regulations as the Secretary may prescribe, such program shall provide for the employment of Indian and Alaska Native professional foresters or forestry technicians in exchange for the Secretary's assumption of the employee's outstanding student loans. The period of employment shall be determined by the amount of the loan that is assumed.

(b) POSTGRADUATE INTERGOVERNMENTAL INTERNSHIPS.—For the purposes of training, skill development and orientation of Indian, Alaska native, and Federal forestry personnel, and the enhancement of tribal and Bureau of Indian Affairs forestry programs, the Secretary shall establish and actively conduct a program for the cooperative internship of Federal, Indian, and Alaska Native forestry personnel. Such program shall—

(1) for agencies within the Department of the Interior—

(A) provide for the internship of Bureau of Indian Affairs, Alaska Native, and Indian forestry employees in the forestry-related programs of other agencies of the Department of the Interior, and

(B) provide for the internship of forestry personnel from other Department of the Interior agencies within the

Bureau of Indian Affairs and, with the consent of the tribe, within tribal forestry programs;

(2) for agencies not within the Department of the Interior, provide, pursuant to an interagency agreement, internships within the Bureau of Indian Affairs and, with the consent of the tribe, within a tribal forestry program of other forestry personnel of such agencies who are above their sixth year of Federal service;

(3) provide for the continuation of salary and benefits for participating Federal employees by their originating agency;

(4) provide for salaries and benefits of participating Indian and Alaska Native forestry employees by the host agency; and

(5) provide for a bonus pay incentive at the conclusion of the internship for any participant.

(c) CONTINUING EDUCATION AND TRAINING.—The Secretary shall maintain a program within the Division of Forestry of the Bureau of Indian Affairs for the ongoing education and training of Bureau of Indian Affairs, Alaska Native, and Indian forestry personnel. Such program shall provide for—

(1) orientation training for Bureau of Indian Affairs forestry personnel in tribal-Federal relations and responsibilities;

(2) continuing technical forestry education for Bureau of Indian Affairs, Alaska Native, and tribal forestry personnel; and

(3) developmental training of Indian and Alaska Native personnel in forest land based enterprises and marketing.

SEC. 316. COOPERATIVE AGREEMENT BETWEEN THE DEPARTMENT OF THE INTERIOR AND INDIAN TRIBES. 25 USC 3115.

(a) COOPERATIVE AGREEMENTS.—(1) To facilitate the administration of the programs and activities of the Department of the Interior, the Secretary is authorized to negotiate and enter into cooperative agreements with Indian tribes to—

(A) engage in cooperative manpower and job training and development programs,

(B) to develop and publish cooperative environmental education and natural resource planning materials, and

(C) to perform land and facility improvements, including forestry and other natural resources protection, fire protection, reforestation, timber stand improvement, debris removal, and other activities related to land and natural resource management.

The Secretary may enter into such agreements when the Secretary determines the public interest will be benefited.

(2) In such cooperative agreements, the Secretary is authorized to advance or reimburse funds to contractors from any appropriated funds available for similar kinds of work or by furnishing or sharing materials, supplies, facilities or equipment without regard to the provisions of section 3324, title 31, United States Code, relating to the advance of public moneys.

(b) SUPERVISION.—In any agreement authorized by this section, Indian tribes and their employees may perform cooperative work under the supervision of the Department of the Interior in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for purposes of section 2671 through 2680 of title 28, United States Code, and section 8101 through 8193 of title 5, United States Code.

(c) SAVINGS CLAUSE.—Nothing in this title shall be construed to limit the authority of the Secretary to enter into cooperative agreements otherwise authorized by law.

25 USC 3116.

SEC. 317. OBLIGATED SERVICE; BREACH OF CONTRACT.

Regulations.

(a) OBLIGATED SERVICE.—Where an individual enters into an agreement for obligated service in return for financial assistance under any provision of this title, the Secretary shall adopt such regulations as are necessary to provide for the offer of employment to the recipient of such assistance as required by such provision. Where an offer of employment is not reasonably made, the regulations shall provide that such service shall no longer be required.

(b) BREACH OF CONTRACT; REPAYMENT.—Where an individual fails to accept a reasonable offer of employment in fulfillment of such obligated service or unreasonably terminates or fails to perform the duties of such employment, the Secretary shall require a repayment of the financial assistance provided, prorated for the amount of time of obligated service performed, together with interest on such amount which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

25 USC 3117.

SEC. 318. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

25 USC 3118.

SEC. 319. REGULATIONS.

Except as otherwise provided by this title, the Secretary is directed to promulgate final regulations for the implementation of the title within eighteen months from the date of its enactment. All regulations promulgated pursuant to this title shall be developed by the Secretary with the participation of the affected Indian tribes.

25 USC 3119.

SEC. 320. SEVERABILITY.

If any provision of this title, or the application of any provision of this title to any person or circumstance, is held invalid, the application of such provision or circumstance and the remainder of this title shall not be affected thereby.

25 USC 3120.

SEC. 321. TRUST RESPONSIBILITY.

Nothing in this title shall be construed to diminish or expand the trust responsibility of the United States toward Indian forest lands, or any legal obligation or remedy resulting therefrom.

TITLE IV—INDIAN CHILD PROTECTION

Indian Child Protection and Family Violence Prevention Act. 25 USC 3201 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Indian Child Protection and Family Violence Prevention Act".

25 USC 3201.

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress, after careful review of the problem of child abuse on Indian reservations and the historical and special relationship of the Federal Government with Indian people,

(1) finds that—

(A) incidents of abuse of children on Indian reservations are grossly underreported;

(B) such underreporting is often a result of the lack of a mandatory Federal reporting law;

(C) multiple incidents of sexual abuse of children on Indian reservations have been perpetrated by persons employed or funded by the Federal Government;

(D) Federal Government investigations of the background of Federal employees who care for, or teach, Indian children are often deficient;

(E) funds spent by the United States on Indian reservations or otherwise spent for the benefit of Indians who are victims of child abuse or family violence are inadequate to meet the growing needs for mental health treatment and counseling for victims of child abuse or family violence and their families; and

(F) there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and the United States has a direct interest, as trustee, in protecting Indian children who are members of, or are eligible for membership in, an Indian tribe; and

(2) declares that two major goals of the United States are to—

(A) identify the scope of incidents of abuse of children and family violence in Indian country and to reduce such incidents; and

(B) provide funds for mental health treatment for Indian victims of child abuse and family violence on Indian reservations.

(b) PURPOSE.—The purposes of this title are to—

(1) require that reports of abused Indian children are made to the appropriate authorities in an effort to prevent further abuse;

(2) establish a reliable data base for statistical purposes and to authorize a study to determine the need for a central registry for reported incidents of abuse;

(3) authorize such other actions as are necessary to ensure effective child protection in Indian country;

(4) establish the Indian Child Abuse Prevention and Treatment Grant Program to provide funds for the establishment on Indian reservations of treatment programs for victims of child sexual abuse; Establishment.

(5) provide for technical assistance and training related to the investigation and treatment of cases of child abuse and neglect;

(6) establish Indian Child Resource and Family Services Centers in each Bureau of Indian Affairs Area Office which will consist of multi-disciplinary teams of personnel with experience and training in the prevention, identification, investigation, and treatment of child abuse and neglect;

(7) provide for the treatment and prevention of incidents of family violence;

(8) establish tribally operated programs to protect Indian children and reduce the incidents of family violence in Indian country; and

(9) authorize other actions necessary to ensure effective child protection on Indian reservations.

SEC. 403. DEFINITIONS. 25 USC 3202.

For the purposes of this title, the term—

(1) "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(2) "child" means an individual who—

(A) is not married, and

(B) has not attained 18 years of age;

(3) "child abuse" includes but is not limited to—

(A) any case in which—

(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

(4) "child neglect" includes but is not limited to, negligent treatment or maltreatment of a child by a person, including a person responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

(5) "family violence" means any act, or threatened act, of violence, including any forceful detention of an individual, which—

(A) results, or threatens to result, in physical or mental injury, and

(B) is committed by an individual against another individual—

(i) to whom such person is, or was, related by blood or marriage or otherwise legally related, or

(ii) with whom such person is, or was, residing;

(6) "Indian" means any individual who is a member of an Indian tribe;

(7) "Indian child" has the meaning given to such term by section 4(4) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(4));

(8) "Indian country" has the meaning given to such term by section 1151 of title 18, United States Code;

(9) "Indian reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or lands held by incorporated Native groups, regional corporations, or village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

(10) "Indian tribe" and "tribal organization" have the respective meanings given to each of such terms under section 4 of the Indian Self Determination and Education Assistance Act (25 U.S.C. 450b);

(11) "inter-tribal consortium" means a partnership between—

(A) an Indian tribe or tribal organization of an Indian tribe, and

(B) one or more Indian tribes or tribal organizations of one or more other Indian tribes;

(12) "local child protective services agency" means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country;

(13) "local law enforcement agency" means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved;

(14) "persons responsible for a child's welfare" means any person who has legal or other recognized duty for the care and safety of a child, including—

(A) any employee or volunteer of a children's residential facility, and

(B) any person providing out-of-home care, education, or services to children;

(15) "related assistance"—

(A) includes counseling and self-help services to abusers, victims, and dependents in family violence situations (which shall include counseling of all family members to the extent feasible) and referrals for appropriate health-care services (including alcohol and drug abuse treatment), and

(B) may include food, clothing, child care, transportation, and emergency services for victims of family violence and their dependents;

(16) "Secretary" means the Secretary of the Interior;

(17) "shelter" means the provision of temporary refuge and related assistance in compliance with applicable Federal and tribal laws and regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence or their dependents; and

(18) "Service" means the Indian Health Service of the Department of Health and Human Services.

SEC. 404. REPORTING PROCEDURES. 25 USC 3203.

(a) REPORT TO LOCAL LAW ENFORCEMENT AGENCY.—(1) Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1169. Reporting of child abuse

"(a) Any person who—

"(1) is a—

"(A) physician, surgeon, dentist, podiatrist, chiropractor, nurse, dental hygienist, optometrist, medical examiner, emergency medical technician, paramedic, or health care provider,

"(B) teacher, school counselor, instructional aide, teacher's aide, teacher's assistant, or bus driver employed by any tribal, Federal, public or private school,

"(C) administrative officer, supervisor of child welfare and attendance, or truancy officer of any tribal, Federal, public or private school,

"(D) child day care worker, headstart teacher, public assistance worker, worker in a group home or residential or day care facility, or social worker,

"(E) psychiatrist, psychologist, or psychological assistant,

"(F) licensed or unlicensed marriage, family, or child counselor,

"(G) person employed in the mental health profession, or

"(H) law enforcement officer, probation officer, worker in a juvenile rehabilitation or detention facility, or person

employed in a public agency who is responsible for enforcing statutes and judicial orders;

"(2) knows, or has reasonable suspicion, that—

"(A) a child was abused in Indian country, or

"(B) actions are being taken, or are going to be taken, that would reasonably be expected to result in abuse of a child in Indian country; and

"(3) fails to immediately report such abuse or actions described in paragraph (2) to the local child protective services agency or local law enforcement agency,

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(b) Any person who—

"(1) supervises, or has authority over, a person described in subsection (a)(1), and

"(2) inhibits or prevents that person from making the report described in subsection (a),

shall be fined not more than $5,000 or imprisoned for not more than 6 months or both.

"(c) For purposes of this section, the term—

"(1) 'abuse' includes—

"(A) any case in which—

"(i) a child is dead or exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, and

"(ii) such condition is not justifiably explained or may not be the product of an accidental occurrence; and

"(B) any case in which a child is subjected to sexual assault, sexual molestation, sexual exploitation, sexual contact, or prostitution;

"(2) 'child' means an individual who—

"(A) is not married, and

"(B) has not attained 18 years of age;

"(3) 'local child protective services agency' means that agency of the Federal Government, of a State, or of an Indian tribe that has the primary responsibility for child protection on any Indian reservation or within any community in Indian country; and

"(4) 'local law enforcement agency' means that Federal, tribal, or State law enforcement agency that has the primary responsibility for the investigation of an instance of alleged child abuse within the portion of Indian country involved.

"(d) Any person making a report described in subsection (a) which is based upon their reasonable belief and which is made in good faith shall be immune from civil or criminal liability for making that report.".

(2) The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1169. Reporting of child abuse.".

(b) NOTIFICATION OF CHILD ABUSE REPORTS.—(1) When a local law enforcement agency or local child protective services agency receives an initial report from any person of—

(A) the abuse of a child in Indian country, or

(B) actions which would reasonably be expected to result in abuse of a child in Indian country, the receiving agency shall immediately notify appropriate officials of the other agency of such report and shall also submit, when prepared, a copy of the written report required under subsection (c) to such agency.

(2) Where a report of abuse involves an Indian child or where the alleged abuser is an Indian and where a preliminary inquiry indicates a criminal violation has occurred, the local law enforcement agency, if other than the Federal Bureau of Investigation, shall immediately report such occurrence to the Federal Bureau of Investigation.

(c) WRITTEN REPORT OF CHILD ABUSE.—(1) Within 36 hours after receiving an initial report described in subsection (b), the receiving agency shall prepare a written report which shall include, if available—

(A) the name, address, age, and sex of the child that is the subject of the report;

(B) the grade and the school in which the child is currently enrolled;

(C) the name and address of the child's parents or other person responsible for the child's care;

(D) the name and address of the alleged offender;

(E) the name and address of the person who made the report to the agency;

(F) a brief narrative as to the nature and extent of the child's injuries, including any previously known or suspected abuse of the child or the child's siblings and the suspected date of the abuse; and

(G) any other information the agency or the person who made the report to the agency believes to be important to the investigation and disposition of the alleged abuse.

(2)(A) Any local law enforcement agency or local child protective services agency that receives a report alleging abuse described in section 503(3) shall immediately initiate an investigation of such allegation and shall take immediate, appropriate steps to secure the safety and well-being of the child or children involved.

(B) Upon completion of the investigation of any report of alleged abuse that is made to a local law enforcement agency or local child protective services agency, such agency shall prepare a final written report on such allegation.

(d) CONFIDENTIALITY OF INFORMANT.—The identity of any person making a report described in subsection (b)(1) shall not be disclosed, without the consent of the individual, to any person other than a court of competent jurisdiction or an employee of an Indian tribe, a State or the Federal Government who needs to know the information in the performance of such employee's duties.

SEC. 405. CENTRAL REGISTRY. 25 USC 3204.

(a) PREPARATION OF STUDY.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General of the United States, is hereby authorized and directed to prepare a written study on the feasibility of, and need for, the establishment of a Central Register for reports or information on the abuse of children in Indian country.

(b) CONTENT OF STUDY.—The study conducted pursuant to subsection (a) shall include, but shall not be limited to—

(1) the need for, and purpose of, a Central Register;

(2) the examination of due process implication of the maintenance of such a register;

(3) the extension of access to information contained in the register;

(4) the need and process for expunging information from the register;

(5) the types, and duration of maintenance, of information in the register; and

(6) the classes of persons who should be covered by such register.

(c) The Secretary shall complete the study conducted pursuant to this section and shall submit such study, together with recommendations and draft legislation to implement such recommendations, to the Congress within 180 days after the date of enactment of this title.

25 USC 3205.

SEC. 406. CONFIDENTIALITY.

Pursuant to section 552a of title 5, United States Code, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, agencies of any Indian tribe, of any State, or of the Federal Government that investigate and treat incidents of abuse of children may provide information and records to those agencies of any Indian tribe, any State, or the Federal Government that need to know the information in performance of their duties. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities.

25 USC 3206.

SEC. 407. WAIVER OF PARENTAL CONSENT.

(a) EXAMINATIONS AND INTERVIEWS.—Photographs, x-rays, medical examinations, psychological examinations, and interviews of an Indian child alleged to have been subject to abuse in Indian country shall be allowed without parental consent if local child protective services or local law enforcement officials have reason to believe the child has been subject to abuse.

(b) INTERVIEWS BY LAW ENFORCEMENT AND CHILD PROTECTIVE SERVICES OFFICIALS.—In any case in which officials of the local law enforcement agency or local child protective services agency have reason to believe that an Indian child has been subject to abuse in Indian country, the officials of those agencies shall be allowed to interview the child without first obtaining the consent of the parent, guardian, or legal custodian.

(c) PROTECTION OF CHILD.—Examinations and interviews of a child who may have been the subject of abuse shall be conducted under such circumstances and with such safeguards as are designed to minimize additional trauma to the child and, where time permits, shall be conducted with the advise, or under the guidance, of a local multidisciplinary team established pursuant to section 411 or, in the absence of a local team, a multidisciplinary team established pursuant to section 410.

(d) COURT ORDERS.—Upon a finding of reasonable suspicion that an Indian child has been the subject of abuse in Indian country, a Federal magistrate or United States District Court may issue an order enforcing any provision of this section.

SEC. 408. CHARACTER INVESTIGATIONS. 25 USC 3207.

(a) BY SECRETARY OF THE INTERIOR AND THE SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary and the Secretary of Health and Human Services shall—

(1) compile a list of all authorized positions within their respective departments the duties and responsibilities of which involve regular contact with, or control over, Indian children,

(2) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by the respective Secretary in a position listed pursuant to paragraph (1), and

(3) prescribe by regulations minimum standards of character that each of such individuals must meet to be appointed to such positions.

(b) CRIMINAL RECORDS.—The minimum standards of character that are to be prescribed under this section shall ensure that none of the individuals appointed to positions described in subsection (a) have been found guilty of, or entered a plea of nolo contendere or guilty to, any offense under Federal, State, or tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact or prostitution; or crimes against persons. Regulations.

(c) INVESTIGATIONS BY INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—Each Indian tribe or tribal organization that receives funds under the Indian Self-Determination and Education Assistance Act or the Tribally Controlled Schools Act of 1988 shall—

(1) conduct an investigation of the character of each individual who is employed, or is being considered for employment, by such tribe or tribal organization in a position that involves regular contact with, or control over, Indian children, and

(2) employ individuals in those positions only if the individuals meet standards of character, no less stringent than those prescribed under subsection (a), as the Indian tribe or tribal organization shall establish.

SEC. 409. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM. 25 USC 3208.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Secretary of Health and Human Services, acting through the Service and in cooperation with the Bureau, shall establish an Indian Child Abuse Treatment Grant Program that provides grants to any Indian tribe or intertribal consortium for the establishment on Indian reservations of treatment programs for Indians who have been victims of child sexual abuse.

(b) GRANT APPLICATIONS.—(1) Any Indian tribe or intertribal consortium may submit to the Secretary of Health and Human Services an application for a grant under subsection (a).

(2) Any application submitted under paragraph (1)—

(A) shall be in such form as the Secretary of Health and Human Services may prescribe;

(B) shall be submitted to such Secretary on or before the date designated by such Secretary; and

(C) shall specify—

(i) the nature of the program proposed by the applicant,

(ii) the data and information on which the program is based,

(iii) the extent to which the program plans to use or incorporate existing services available on the reservation, and

(iv) the specific treatment concepts to be used under the program.

(c) MAXIMUM GRANT AMOUNT.—The maximum amount of any grant awarded under subsection (a) shall not exceed $500,000.

(d) GRANT ADMINISTRATION AND FINAL REPORT.—Each recipient of a grant awarded under subsection (a) shall—

(1) furnish the Secretary of Health and Human Services with such information as such Secretary may require to—

(A) evaluate the program for which the grant is made, and

(B) ensure that the grant funds are expended for the purposes for which the grant was made, and

(2) submit to such Secretary at the close of the term of the grant a final report which shall include such information as the Secretary may require.

Appropriation authorization.

(e) there is hereby authorized to be appropriated to carry out the provisions of this section $10,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

25 USC 3209.

SEC. 410. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

(a) ESTABLISHMENT.—The Secretary shall establish within each area office of the Bureau an Indian Child Resource and Family Services Center.

(b) MEMORANDUM OF AGREEMENT.—The Secretary and the Secretary of Health and Human Services shall enter into a Memorandum of Agreement which provides for the staffing of the Centers established under this section.

(c) CENTER STAFFING.—Each Center established under subsection (a) shall be staffed by a multidisciplinary team of personnel with experience and training in prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect.

(d) CENTER RESPONSIBILITIES AND FUNCTIONS.—Each Center established under subsection (a) shall—

(1) provide advice, technical assistance, and consultation to Indian tribes, tribal organizations, and inter-tribal consortia upon request;

(2) provide training to appropriate personnel of Indian tribes, tribal organizations, the Bureau and the Service on the identification and investigation of cases of family violence, child abuse, and child neglect and, to the extent practicable, coordinate with institutions of higher education, including tribally controlled community colleges, to offer college-level credit to interested trainees;

(3) develop training materials on the prevention, identification, investigation, and treatment of incidents of family violence, child abuse, and child neglect for distribution to Indian tribes and to tribal organizations;

(4) develop recommendations to assist Federal and tribal personnel to respond to cases of family violence, child abuse, and child neglect; and

(5) develop policies and procedures for each agency office of the Bureau and service unit of the Service within the area which, to the extent feasible, comply with tribal laws pertaining to cases of family violence, child abuse, and child neglect, including any criminal laws, and which provide for maximum cooperation with the enforcement of such laws.

(e) MULTIDISCIPLINARY TEAM PERSONNEL.—Each multidisciplinary team established under this section shall include, but is not limited to, personnel with a background in—

(1) law enforcement,
(2) child protective services,
(3) juvenile counseling and adolescent mental health, and
(4) domestic violence.

(f) CENTER ADVISORY BOARD.—The Secretary, in consultation with the Secretary of Health and Human Services, shall establish, for each Indian Child Resource and Family Services Center, an advisory board to advise and assist such Center in carrying out its activities under this Act. Each advisory board shall consist of 7 members appointed by the Secretary from Indian tribes and human service providers served by an area office of the Bureau. Members shall serve without compensation, but may be reimbursed for travel and other expenses while carrying out the duties of the board. The advisory board shall assist the Center in coordinating programs, identifying training materials, and developing policies and procedures relating to family violence, child abuse, and child neglect.

(g) APPLICATION OF THE INDIAN SELF-DETERMINATION ACT TO CENTERS.—Indian Child Resource and Family Services Centers established under subsection (a) shall be subject to the provisions of the Indian Self-Determination Act. If a Center is located in an area office of the Bureau which serves more than one Indian tribe, any application to enter into a contract to operate the Center pursuant to such Act must have the consent of each of the other tribes to be served under the contract, except that, in the Juneau Area, only the consent of such tribes or tribal consortia that are engaged in contracting of Indian Child Protection and Family Violence Prevention programs pursuant to such Act shall be required. This section shall not preclude the designation of an existing child resource and family services center operated by a tribe or tribal organization as a Center if all of the tribes to be served by the Center agree to such designation.

(h) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $3,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

SEC. 411. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM. 25 USC 3210.

(a) ESTABLISHMENT.—The Secretary shall establish within the Bureau an Indian Child Protection and Family Violence Prevention Program to provide financial assistance to any Indian tribe, tribal organization, or inter-tribal consortium for the development of an Indian Child Protection and Family Violence Prevention program.

(b) INDIAN SELF-DETERMINATION ACT AGREEMENTS.—The Secretary is authorized to enter into agreements with Indian tribes, tribal organizations, or inter-tribal consortia pursuant to the Indian Self-Determination Act for the establishment of Indian Child Protection and Family Violence Prevention programs on Indian reservations.

(c) INVESTIGATION AND TREATMENT AND PREVENTION OF CHILD ABUSE AND FAMILY VIOLENCE.—An Indian tribe operating an Indian Child Protection and Family Violence Prevention program established under this section shall designate the agency or officials which shall be responsible—

(1) for the investigation of reported cases of child abuse and child neglect; and

(2) for the treatment and prevention of incidents of family violence; and

(3) for the provision of immediate shelter and related assistance for victims of family violence and their dependents.

(d) PROGRAM RESPONSIBILITIES AND FUNCTIONS.—Funds provided pursuant to this section may be used for—

(1) the establishment of a child protective services program which may include—

(A) the employment of child protective services staff to investigate cases of child abuse and child neglect,

(B) training programs for child protective services personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of child abuse and child neglect, and

(C) purchase of equipment to assist in the investigation of cases of child abuse and child neglect;

(2) the establishment of a family violence prevention and treatment program which may include—

(A) the employment of family violence prevention and treatment staff to respond to incidents of family violence,

(B) the provision of immediate shelter and related assistance for victims of family violence and their dependents,

(C) training programs for family violence prevention and treatment personnel, law enforcement personnel, and judicial personnel in the investigation, prevention, and treatment of cases of family violence; and

(D) construction or renovation of facilities for the establishment of family violence shelters;

(3) the development and implementation of a multidisciplinary child abuse investigation and prosecution program which may—

(A) coordinate child abuse prevention, investigation, prosecution, treatment, and counseling services,

(B) develop protocols among related agencies to ensure that investigations of child abuse cases, to the extent practicable, minimize the trauma to the child victim, and

(C) provide for the coordination and cooperation of law enforcement agencies, courts of competent jurisdiction, and other tribal, Federal, and State agencies through intergovernmental or interagency agreements that define and specify each party's responsibilities;

(4) the development of tribal child protection codes and regulations;

(5) the establishment of training programs for—

(A) professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, investigation, and treatment of family violence, child abuse, and child neglect,

(B) instruction in methods of protecting children from abuse and neglect for persons responsible for the welfare of Indian children, including parents of, and persons who work with, Indian children, or

(C) educational, identification, prevention and treatment services for child abuse and child neglect in cooperation

with preschool, elementary and secondary schools, or tribally controlled community colleges (within the meaning of section 2 of the Tribally Controlled Community College Act of 1978 (25 U.S.C. 1801));

(6) other community education efforts for tribal members (including school children) regarding issues of family violence, child abuse, and child neglect; and

(7) such other innovative and culturally relevant programs and projects as the Secretary may approve, including programs and projects for—

(A) parental awareness and self-help,

(B) prevention and treatment of alcohol and drug-related family violence, child abuse, and child neglect, or

(C) home health visitor programs,

that show promise of successfully preventing and treating cases of family violence, child abuse, and child neglect.

(f) SECRETARIAL REGULATIONS; BASE SUPPORT FUNDING.—(1) The Secretary, with the participation of Indian tribes, shall establish, and promulgate by regulations, a formula which establishes base support funding for Indian Child Protection and Family Violence Prevention programs.

(2) In the development of regulations for base support funding for such programs, the Secretary shall develop, in consultation with Indian tribes, appropriate caseload standards and staffing requirements which are comparable to standards developed by the National Association of Social Work, the Child Welfare League of America and other professional associations in the field of social work and child welfare. Each level of funding assistance shall correspond to the staffing requirements established by the Secretary pursuant to this section.

(3) Factors to be considered in the development of the base support funding formula shall include, but are not limited to—

(A) projected service population of the program;

(B) projected service area of the program;

(C) projected number of cases per month; and

(D) special circumstances warranting additional program resources, such as high incidence of child sexual abuse, high incidence of violent crimes against women, or the existence of a significant victim population within the community.

(4) The formula established pursuant to this subsection shall provide funding necessary to support—

(A) one child protective services or family violence caseworker, including fringe benefits and support costs, for each tribe; and

(B) an additional child protective services and family violence caseworker, including fringe benefits and support costs, for each level of assistance for which an Indian tribe qualifies.

(5) In any fiscal year that appropriations are not sufficient to fully fund Indian Child Protection and Family Violence Prevention programs at each level of assistance under the formula required to be established in this subsection, available funds for each level of assistance shall be evenly divided among the tribes qualifying for that level of assistance.

(g) MAINTENANCE OF EFFORT.—Services provided under contracts made under this section shall supplement, not supplant, services from any other funds available for the same general purposes, including, but not limited to—

(1) treatment, including, but not limited to—
(A) individual counseling,
(B) group counseling, and
(C) family counseling;
(2) social services and case management;
(3) training available to Indian tribes, tribal agencies, and Indian organizations regarding the identification, investigation, prevention, and treatment of family violence, child abuse, and child neglect; and
(4) law enforcement services, including investigations and prosecutions.

(h) CONTRACT EVALUATION AND ANNUAL REPORT.—Each recipient of funds awarded pursuant to subsection (a) shall—
(1) furnish the Secretary with such information as the Secretary may require to—
(A) evaluate the program for which the award is made, and
(B) ensure that funds are expended for the purposes for which the award was made; and
(2) submit to the Secretary at the end of each fiscal year an annual report which shall include such information as the Secretary may require.

(i) APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section $30,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

25 USC 3211.

SEC. 412. REPORT.

On or before March 1, 1991, and March 1 of each calendar year thereafter, the Secretary shall submit to the Congress a report involving the administration of this title during the calendar year preceding the calendar year in which such report is submitted.

TITLE V—INDIAN HEALTH CARE

Indian Health Care Amendments of 1990.
Mental health programs.
25 USC 1601 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Indian Health Care Amendments of 1990".

SEC. 502. REFERENCES.

Except as may otherwise be specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 503. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

25 USC 1621h note.

(a) PURPOSES.—The purposes of this section are to—
(1) authorize and direct the Indian Health Service to develop a comprehensive mental health prevention and treatment program;
(2) provide direction and guidance relating to mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, to those Federal, tribal, State, and local agencies responsible for programs in Indian communities in areas of health care, education, social services, child and

family welfare, alcohol and substance abuse, law enforcement, and judicial services;

(3) assist Indian tribes to identify services and resources available to address mental illness and dysfunctional and self-destructive behavior;

(4) provide authority and opportunities for Indian tribes to develop and implement, and coordinate with, community-based mental health programs which include identification, prevention, education, referral, and treatment services, including through multidisciplinary resource teams;

(5) ensure that Indians, as citizens of the United States and of the States in which they reside, have the same access to mental health services to which all such citizens have access; and

(6) modify or supplement existing programs and authorities in the areas identified in paragraph (2).

(b) AMENDMENT.—Title II of the Act is amended by adding at the end thereof the following new section:

"SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES. 25 USC 1621h.

"(a) NATIONAL PLAN FOR INDIAN MENTAL HEALTH SERVICES.—(1) Not later than 120 days after the date of enactment of this section, the Secretary, acting through the Service, shall develop and publish in the Federal Register a final national plan for Indian Mental Health Services. The plan shall include— Federal Register, publication.

"(A) an assessment of the scope of the problem of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians, including—

"(i) the number of Indians served by the Service who are directly or indirectly affected by such illness or behavior, and

"(ii) an estimate of the financial and human cost attributable to such illness or behavior;

"(B) an assessment of the existing and additional resources necessary for the prevention and treatment of such illness and behavior; and

"(C) an estimate of the additional funding needed by the Service to meet its responsibilities under the plan.

"(2) The Secretary shall submit a copy of the national plan to the Congress.

"(c) MEMORANDUM OF AGREEMENT.—Not later than 180 days after the date of enactment of this section, the Secretary and the Secretary of the Interior shall develop and enter into a memorandum of agreement under which the Secretaries shall, among other things—

"(1) determine and define the scope and nature of mental illness and dysfunctional and self-destructive behavior, including child abuse and family violence, among Indians;

"(2) make an assessment of the existing Federal, tribal, State, local, and private services, resources, and programs available to provide mental health services for Indians;

"(3) make an initial determination of the unmet need for additional services, resources, and programs necessary to meet the needs identified pursuant to paragraph (1);

"(4)(A) ensure that Indians, as citizens of the United States and of the States in which they reside, have access to mental health services to which all citizens have access;

"(B) determine the right of Indians to participate in, and receive the benefit of, such services; and

"(C) take actions necessary to protect the exercise of such right;

"(5) delineate the responsibilities of the Bureau of Indian Affairs and the Service, including mental health identification, prevention, education, referral, and treatment services (including services through multidisciplinary resource teams), at the central, area, and agency and service unit levels to address the problems identified in paragraph (1);

"(6) provide a strategy for the comprehensive coordination of the mental health services provided by the Bureau of Indian Affairs and the Service to meet the needs identified pursuant to paragraph (1), including—

"(A) the coordination of alcohol and substance abuse programs of the Service, the Bureau of Indian Affairs, and the various tribes (developed under the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986) with the mental health initiatives pursuant to this Act, particularly with respect to the referral and treatment of dually-diagnosed individuals requiring mental health and substance abuse treatment; and

"(B) ensuring that Bureau of Indian Affairs and Service programs and services (including multidisciplinary resource teams) addressing child abuse and family violence are coordinated with such non-Federal programs and services;

"(7) direct appropriate officials of the Bureau of Indian Affairs and the Service, particularly at the agency and service unit levels, to cooperate fully with tribal requests made pursuant to subsection (d); and

"(8) provide for an annual review of such agreement by the two Secretaries.

"(d) COMMUNITY MENTAL HEALTH PLAN.—(1) The governing body of any Indian tribe may, at its discretion, adopt a resolution for the establishment of a community mental health plan providing for the identification and coordination of available resources and programs to identify, prevent, or treat mental illness or dysfunctional and self-destructive behavior, including child abuse and family violence, among its members.

"(2) In furtherance of a plan established pursuant to paragraph (1) and at the request of a tribe, the appropriate agency, service unit, or other officials of the Bureau of Indian Affairs and the Service shall cooperate with, and provide technical assistance to, the tribe in the development of such plan. Upon the establishment of such a plan and at the request of the tribe, such officials, as directed by the memorandum of agreement developed pursuant to subsection (c), shall cooperate with the tribe in the implementation of such plan.

"(3) Two or more Indian tribes may form a coalition for the adoption of resolutions and the establishment and development of a joint community mental health plan under this subsection.

"(4) The Secretary, acting through the Service, may make grants to Indian tribes adopting a resolution pursuant to paragraph (1) to obtain technical assistance for the development of a community mental health plan and to provide administrative support in the implementation of such plan.

Appropriation authorization.

"(5) There is hereby authorized to be appropriated $500,000 for fiscal year 1991 and $1,000,000 for fiscal year 1992 to carry out this subsection.

"(e) MENTAL HEALTH TRAINING AND COMMUNITY EDUCATION PROGRAMS.—(1) The Secretary and the Secretary of the Interior, in consultation with representatives of Indian tribes, shall conduct a study and compile a list, of the types of staff positions specified in paragraph (2) whose qualifications include, or should include, training in the identification, prevention, education, referral, or treatment of mental illness or dysfunctional and self-destructive behavior.

"(2) The positions referred to in paragraph (1) are—

"(A) staff positions within the Bureau of Indian Affairs, including existing positions, in the fields of—

"(i) elementary and secondary education;

"(ii) social services and family and child welfare;

"(iii) law enforcement and judicial services; and

"(iv) alcohol and substance abuse;

"(B) staff positions with the Service; and

"(C) staff positions similar to those identified in subparagraphs (A) and (B) established and maintained by Indian tribes, including positions established in contracts entered into under the Indian Self-Determination Act.

"(3)(A) The appropriate Secretary shall provide training criteria appropriate to each type of position identified in paragraph (2)(A) and ensure that appropriate training has been, or will be, provided to any individual in any such position. With respect to any such individual in a position identified pursuant to paragraph (2)(C), the respective Secretaries shall provide appropriate training to, or provide funds to an Indian tribe for the training of, such individual. In the case of positions funded under a contract entered into under the Indian Self-Determination Act, the appropriate Secretary shall ensure that such training costs are included in the contract, if necessary.

"(B) Funds authorized to be appropriated pursuant to this subsection may be used to provide training authorized by this paragraph for community education programs described in paragraph (5) if a plan adopted pursuant to subsection (d) identifies individuals or employment categories, other than those identified pursuant to paragraph (1), for which such training or community education is deemed necessary or desirable.

"(4) Position-specific training criteria described in paragraph (3) shall be culturally relevant to Indians and Indian tribes and shall ensure that appropriate information regarding traditional Indian healing and treatment practices is provided.

"(5) The Service shall develop and implement or, upon the request of an Indian tribe, assist such tribe to develop and implement, a program of community education on mental illness and dysfunctional and self-destructive behavior for individuals, as determined in a plan adopted pursuant to subsection (d). In carrying out this paragraph, the Service shall provide, upon the request of an Indian tribe, technical assistance to the Indian tribe to obtain or develop community education and training materials on the identification, prevention, referral, and treatment of mental illness and dysfunctional and self-destructive behavior.

"(6) There is hereby authorized to be appropriated— Appropriation authorization.

"(A) $500,000 for fiscal year 1991 to carry out this subsection, of which $100,000 shall be allocated for community education under paragraph (5); and

"(B) $5,000,000 for fiscal year 1992 to carry out this subsection, of which $1,200,000 shall be allocated for community education under paragraph (5).

"(f) STAFFING.—(1) Within 90 days after the date of enactment of this section, the Secretary shall develop a plan under which the Service will increase the health care staff providing mental health services by at least 500 positions within five years after the date of enactment of this section, with at least 200 of such positions devoted to child, adolescent, and family services. Such additional staff shall be primarily assigned to the service unit level for services which shall include outpatient, emergency, aftercare and follow-up, and prevention and education services.

"(2) The plan developed under paragraph (1) shall be implemented under the Act of November 2, 1921 (25 U.S.C. 13) popularly known as the "Snyder Act".

"(g) STAFF RECRUITMENT AND RETENTION.—(1) The Secretary shall provide for the recruitment of the additional personnel required by subsection (f) and the retention of all Service personnel providing mental health services. In carrying out this subsection, the Secretary shall give priority to practitioners providing mental health services to children and adolescents with mental health problems.

"(2) In carrying out paragraph (1), the Secretary shall develop a program providing for—

"(A) the payment of bonuses (which shall not be more favorable than those provided for under sections 116 and 117) for service in hardship posts;

"(B) the repayment of loans (for which the provisions of repayment contracts shall not be more favorable than the repayment contracts under section 108) for health professions education as a recruitment incentive; and

"(C) a system of postgraduate rotations as a retention incentive.

"(3) This subsection shall be carried out in coordination with the recruitment and retention programs under title I.

Appropriation authorization.

"(4) There are authorized to be appropriated $1,200,000 for the fiscal year 1992 to carrying out this subsection.

"(h) MENTAL HEALTH TECHNICIAN PROGRAM.—(1) Under the authority of the Snyder Act of November 2, 1921 (25 U.S.C. 13), the Secretary shall establish and maintain a Mental Health Technician program within the Service which—

"(A) provides for the training of Indians as mental health technicians; and

"(B) employs such technicians in the provision of community-based mental health care that includes identification, prevention, education, referral, and treatment services.

"(2) In carrying out paragraph (1)(A), the Secretary shall provide high standard paraprofessional training in mental health care necessary to provide quality care to the Indian communities to be served. Such training shall be based upon a curriculum developed or approved by the Secretary which combines education in the theory of mental health care with supervised practical experience in the provision of such care.

"(3) The Secretary shall supervise and evaluate the mental health technicians in the training program.

"(4) The Secretary shall ensure that the program established pursuant to this subsection involves the utilization and promotion of

the traditional Indian health care and treatment practices of the Indian tribes to be served.

"(5) For purposes of providing the training required under this subsection, there are authorized to be appropriated $1,000,000 for the fiscal year 1992, which shall remain available until expended.

"(i) MENTAL HEALTH RESEARCH.—(1) The Secretary, acting through the Service and in consultation with the National Institute of Mental Health, shall enter into contracts with, or make grants to, appropriate institutions for the conduct of research on the incidence and prevalence of mental disorders among Indians on Indian reservations and in urban areas. Research priorities under this subsection shall include— Government contracts.

"(A) the inter-relationship and inter-dependence of mental disorders with alcoholism, suicide, homicides, accidents, and the incidence of family violence, and

"(B) the development of models of prevention techniques. The effect of the inter-relationships and interdependencies referred to in subparagraph (A) on children, and the development of prevention techniques under subparagraph (B) applicable to children, shall be emphasized.

"(2) For purposes of carrying out this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year 1992, which shall remain available until expended. Appropriation authorization.

"(j) FACILITIES ASSESSMENT.—(1) Within one year after the date of enactment of this section, the Secretary, acting through the Service, shall make an assessment of the need for inpatient mental health care among Indians and the availability and cost of inpatient mental health facilities which can meet such need. In making such assessment, the Secretary shall consider the possible conversion of existing, under-utilized service hospital beds into psychiatric units to meet such need.

"(2) There are authorized to be appropriated $500,000 for the fiscal year 1992 to make the assessment required by this subsection. Appropriation authorization.

"(k) ANNUAL REPORT.—The Service shall develop methods for analyzing and evaluating the overall status of mental health programs and services for Indians and shall submit to the Congress an annual report on the mental health status of Indians which shall describe the progress being made to address mental health problems of Indian communities.

"(l) MENTAL HEALTH DEMONSTRATION GRANT PROGRAM.—(1) The Secretary, acting through the Service, is authorized to make grants to Indian tribes and inter-tribal consortia to pay 75 percent of the cost of planning, developing, and implementing programs to deliver innovative community-based mental health services to Indians. The 25 percent tribal share of such cost may be provided in cash or through the provision of property or services.

"(2) The Secretary may award a grant for a project under paragraph (1) to an Indian tribe or inter-tribal consortium which meets the following criteria:

"(A) The project will address significant unmet mental health needs among Indians.

"(B) The project will serve a significant number of Indians.

"(C) The project has the potential to deliver services in an efficient and effective manner.

"(D) The tribe or consortium has the administrative and financial capability to administer the project.

"(E) The project will deliver services in a manner consistent with traditional Indian healing and treatment practices.

"(F) The project is coordinated with, and avoids duplication of, existing services.

"(3) For purposes of this subsection, the Secretary shall, in evaluating applications for grants for projects to be operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating any other application for such a grant.

"(4) The Secretary may only award one grant under this subsection with respect to a service area until the Secretary has awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria specified in paragraph (2).

Reports.

"(5) Not later than 180 days after the close of the term of the last grant awarded pursuant to this subsection, the Secretary shall submit to the Congress a report evaluating the effectiveness of the innovative community-based projects demonstrated pursuant to this subsection. Such report shall include findings and recommendations, if any, relating to the reorganization of the programs of the Service for delivery of mental health services to Indians.

Appropriation authorization.

"(6) There is authorized to be appropriated $2,000,000 for fiscal year 1991 and $3,000,000 for fiscal year 1992 to carry out the purposes of this subsection. Grants made pursuant to this subsection may be expended over a period of three years and no grant may exceed $1,000,000 for the fiscal years involved.".

SEC. 504. HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.

Title III of the Act is amended by adding at the end thereof the following new section 307:

25 USC 1637.

"SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

Government contracts.
Grant programs.

"(a) HEALTH CARE DELIVERY DEMONSTRATION PROJECTS.—The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations for the purpose of carrying out a health care delivery demonstration project to test alternative means of delivering health care and services through health facilities to Indians.

"(b) USE OF FUNDS.—The Secretary, in approving projects pursuant to this section, may authorize funding for the construction and renovation of hospitals, health centers, health stations, and other facilities to deliver health care services and is authorized to—

"(1) waive any leasing prohibition;

"(2) permit carryover of funds appropriated for the provision of health care services;

"(3) permit the use of non-Service Federal funds and non-Federal funds;

"(4) permit the use of funds or property donated from any source for project purposes; and

"(5) provide for the reversion of donated real or personal property to the donor.

Federal Register, publication.

"(c) CRITERIA.—(1) Within 180 days after the date of enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and publish in the Federal Register criteria for the review and approval of applications submitted under this section. The Secretary may enter into a contract or

award a grant under this section for projects which meet the following criteria:

"(A) There is a need for a new facility or the reorientation of an existing facility.

"(B) A significant number of Indians, including those with low health status, will be served by the project.

"(C) The project has the potential to address the health needs of Indians in an innovative manner.

"(D) The project has the potential to deliver services in an efficient and effective manner.

"(E) The project is economically viable.

"(F) The Indian tribe or tribal organization has the administrative and financial capability to administer the project.

"(G) The project is integrated with providers of related health and social services and is coordinated with, and avoids duplication of, existing services.

"(2) The Secretary may provide for the establishment of peer review panels, as necessary, to review and evaluate applications and to advise the Secretary regarding such applications using the criteria developed pursuant to paragraph (1).

"(3)(A) The Secretary shall enter into contracts or award grants under this section for a demonstration project in each of the following service units which meets the criteria specified in paragraph (1):

Government contracts.
Grant programs.

"(i) Cass Lake, Minnesota.

"(ii) Clinton, Oklahoma.

"(iii) Harlem, Montana.

"(iv) Mescalero, New Mexico.

"(v) Owyhee, Nevada.

"(vi) Parker, Arizona.

"(vii) Schurz, Nevada.

"(viii) Winnebago, Nebraska.

"(ix) Ft. Yuma, California.

"(B) After entering into contracts or awarding grants in accordance with subparagraph (A), and taking into account contracts entered into and grants awarded under such subparagraph, the Secretary may only enter into one contract or award one grant under this subsection with respect to a service area until the Secretary has entered into contracts or awarded grants for all service areas with respect to which the Secretary receives applications during the application period, as determined by the Secretary, which meet the criteria developed under paragraph (1).

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) SERVICE TO INELIGIBLE PERSONS.—The authority to provide services to persons otherwise ineligible for the health care benefits of the Service and the authority to extend hospital privileges in service facilities to non-Service health care practitioners as provided in section 713 may be included, subject to the terms of such section, in any demonstration project approved pursuant to this section.

"(f) EQUITABLE TREATMENT.—For purposes of subsection (c)(1)(A), the Secretary shall, in evaluating facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating facilities operated directly by the Service.

"(g) EQUITABLE INTEGRATION OF FACILITIES.—The Secretary shall ensure that the planning, design, construction, and renovation

needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act, are fully and equitably integrated into the implementation of the health care delivery demonstration projects under this section.

"(h) REPORT TO CONGRESS.—Within 90 days after the end of the period set out in subsection (a), the Secretary shall prepare and submit to Congress a report, together with legislative recommendations, on the findings and conclusions derived from the demonstration projects.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for fiscal years 1991 and 1992 for the purpose of carrying out this section, which are authorized to remain available until expended.".

SEC. 505. HEALTH CARE SERVICES FOR URBAN INDIANS.

(a) HEALTH PROMOTION AND DISEASE PREVENTION.—Section 503 of title V (25 U.S.C. 1653) is amended by adding at the end the following new subsection:

Grant programs.

"(c)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, health promotion and disease prevention services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section.

Appropriation authorization.

"(2) There is authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this subsection.".

(b) IMMUNIZATION.—Section 503 of title V, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, immunization services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section.

"(2) In making any grant to carry out this subsection, the Secretary shall take into consideration—

"(A) the size of the urban Indian population to be served;

"(B) the immunization levels of the urban Indian population, particularly the immunization levels of infants, children, and the elderly;

"(C) the utilization by the urban Indians of alternative resources from State and local governments for no-cost or low-cost immunization services to the general population; and

"(D) the capability of the urban Indian organization to carry out services pursuant to this subsection.

"(3) For purposes of this subsection, the term 'immunization services' means services to provide without charge immunizations against vaccine-preventable diseases.

Appropriation authorization.

"(4) There are authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this subsection.".

(c) MENTAL HEALTH SERVICES.—Section 503 of title V, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

Grant programs.

"(e)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, mental health services for urban Indians through grants made to urban Indian organizations administering contracts entered into pursuant to this section.

"(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment of the mental health needs of the urban Indian population concerned, the mental health services and other related resources available to that population, the barriers to obtaining those services and resources, and the needs that are unmet by such services and resources.

"(3) Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) to provide outreach, educational, and referral services to urban Indians regarding the availability of direct mental health services, to educate urban Indians about mental health issues and services, and effect coordination with existing mental health providers in order to improve services to urban Indians;

"(C) to provide outpatient mental health services to urban Indians, including the identification and assessment of illness, therapeutic treatments, case management, support groups, family treatment, and other treatment; and

"(D) to develop innovative mental health service delivery models which incorporate Indian cultural support systems and resources.

"(4) There is authorized to be appropriated $500,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 to carry out this subsection.". Appropriation authorization.

(d) PREVENTION AND TREATMENT OF CHILD ABUSE.—Section 503 of title V, as amended by subsections (a), (b), and (c), is further amended by adding at the end the following new subsection:

"(f)(1) The Secretary, acting through the Service, shall facilitate access to, or provide, services for urban Indians through grants to urban Indian organizations administering contracts entered into pursuant to this section to prevent and treat child abuse (including sexual abuse) among urban Indians.

"(2) A grant may not be made under this subsection to an urban Indian organization until that organization has prepared, and the Service has approved, an assessment that documents the prevalence of child abuse in the urban Indian population concerned and specifies the services and programs (which may not duplicate existing services and programs) for which the grant is requested.

"(3) Grants may be made under this subsection—

"(A) to prepare assessments required under paragraph (2);

"(B) for the development of prevention, training, and education programs for urban Indian populations, including child education, parent education, provider training on identification and intervention, education on reporting requirements, prevention campaigns, and establishing service networks of all those involved in Indian child protection; and

"(C) to provide direct outpatient treatment services (including individual treatment, family treatment, group therapy, and support groups) to urban Indians who are child victims of abuse (including sexual abuse) or adult survivors of child sexual abuse, to the families of such child victims, and to urban Indian perpetrators of child abuse (including sexual abuse).

"(4) In making grants to carry out this subsection, the Secretary shall take into consideration—

"(A) the support for the urban Indian organization demonstrated by the child protection authorities in the area, includ-

ing committees or other services funded under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), if any;

"(B) the capability and expertise demonstrated by the urban Indian organization to address the complex problem of child sexual abuse in the community; and

"(C) the assessment required under paragraph (2).

Appropriation authorization.

"(5) There is authorized to be appropriated $500,000 for fiscal year 1991 and $2,000,000 for fiscal year 1992 to carry out this subsection.".

25 USC 1653 note.

SEC. 506. FACILITIES ASSESSMENT.

Reports.

(a) SURVEY.—The Secretary shall conduct a survey of all facilities used by contractors under title V of the Indian Health Care Improvement Act and shall submit a report to the Congress on such survey not later than one year after the date of enactment of this Act. The report shall, at a minimum, contain the following information for each location:

(1) The extent to which the facility meets safety and building codes and, if direct care is provided, the extent of compliance with Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards.

(2) The extent to which improvements, expansion, or relocation is necessary to meet program requirements, provide adequate services, or achieve building code compliance.

(3) Any lease restriction that would hamper accomplishment of needed improvement, expansion, or relocation.

(4) The term of the lease, if appropriate, the age of the structure, and the structure's life expectancy with and without improvement.

(5) An assessment of the deficiencies of the facility.

(b) REPORT.—The report shall contain general recommendations for addressing the deficiencies of facilities in which programs funded under title V of the Indian Health Care Improvement Act are located and shall propose specific policies for accomplishing those recommendations.

(c) MINOR RENOVATIONS.—Title V, as amended by section 301, is further amended by adding at the end the following new section:

25 USC 1659.

"SEC. 409. FACILITIES RENOVATION.

"The Secretary may make funds available to contractors under this title for minor renovations to facilities, including leased facilities, to assist such contractors in meeting or maintaining the Joint Commission for Accreditation of Health Care Organizations (JCAHO) standards. There is authorized to be appropriated $1,000,000 for fiscal year 1992 to carry out this section.".

Appropriation authorization.

SEC. 507. REPORTS.

Section 507 of title V (25 U.S.C. 1657) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary, acting through the Service, shall submit a report to the Congress not later than March 31, 1992, evaluating—

"(A) the health status of urban Indians;

"(B) the services provided to Indians through this title;

"(C) areas of unmet needs in urban areas served under this title; and

"(D) areas of unmet needs in urban areas not served under this title.

"(2) In preparing the report under paragraph (1), the Secretary shall consult with urban Indian health providers and may contract with a national organization representing urban Indian health concerns to conduct any aspect of the report.

"(3) The Secretary and the Secretary of the Interior shall—

"(A) assess the status of the welfare of urban Indian children, including the volume of child protection cases, the prevalence of child sexual abuse, and the extent of urban Indian coordination with tribal authorities with respect to child sexual abuse; and

"(B) submit a report on the assessment required under subparagraph (A), together with recommended legislation to improve Indian child protection in urban Indian populations, to the Congress no later than March 31, 1992.".

SEC. 508. URBAN HEALTH PROGRAMS BRANCH.

Title V is further amended by adding at the end the following new section:

"SEC. 511. URBAN HEALTH PROGRAMS BRANCH. 25 USC 1660.

"(a) ESTABLISHMENT.—There is hereby established within the Service a Branch of Urban Health Programs which shall be responsible for carrying out the provisions of this title.

"(b) STAFF, SERVICES, AND EQUIPMENT.—The Secretary shall appoint such employees to work in the branch, including a program director, and shall provide such services and equipment, as may be necessary for it to carry out its responsibilities. The Secretary shall also analyze the need to provide at least one urban health program analyst for each area office of the Indian Health Service and shall submit his findings to the Congress as a part of the Department's fiscal year 1993 budget request.".

SEC. 509. ALASKA RESIDENTIAL YOUTH TREATMENT CENTER.

(a) AMENDMENT.—Section 4227(b) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2474(b)) is amended by adding at the end thereof the following:

"(3) Notwithstanding any other provision of this subtitle, the Secretary may, from amounts allocated to the Alaska area from funds appropriated pursuant to this section, make funds available to the Tanana Chiefs Conference, Incorporated, for the purpose of maintaining a residential youth treatment facility in Fairbanks, Alaska.".

(b) LEASE OF FACILITIES.—The Secretary of Health and Human Services, acting under section 4209(c) and 4227(b) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act, may— 25 USC 2415 note.

(1) without regard to section 4209(c)(2) of that Act, lease from the Tanana Chiefs Conference facilities that are located in Fairbanks, Alaska, and that the Tanana Chiefs Conference has leased from another entity, and

(2) if the Secretary enters into a lease under paragraph (1) for at least 40 years, renovate the facilities to the extent needed.

(c) SELF-DETERMINATION CONTRACTS FOR STAFFING AND OPERATION.—The Secretary of Health and Human Services, acting under section 102 of the Indian Self-Determination and Education Assistance Act, may contract with the Tanana Chiefs Conference to staff and operate the facilities leased under subsection (b), without a request of an Indian tribe, and without regard to the definition and proviso in section 4(l) of that Act.

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 3703:

HOUSE REPORTS: No. 101-687 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 25, considered and passed Senate, amended.
Oct. 26, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 28, Presidential statement.

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Public Law 101-631
101st Congress

An Act

To authorize an exchange of lands in South Dakota and Colorado.

Nov. 28, 1990
[H.R. 4567]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

Homestake Mining Company.

(1) certain lands located within or adjacent to the Black Hills National Forest in Lawrence and Meade Counties, South Dakota, are currently in private ownership;

(2) these lands, which are owned by Homestake Mining Company of California (hereinafter referred to as "Homestake"), are intermingled with National Forest lands and comprise potential valuable additions to the Black Hills National Forest to serve important public values and objectives, including but not limited to—

(A) public access and opportunities for hunting, fishing and other outdoor recreation;

(B) fish and wildlife habitat protection (including Blue Ribbon trout habitat in Spearfish Creek);

(C) the preservation of scenic beauty;

(D) public access to, and the enhancement of the outstanding scenic, natural and recreational values of Spearfish Canyon and other canyons within the Black Hills;

(E) protection of the scenic backdrop to the Spearfish Canyon National Forest Scenic Byway; and

(F) more efficient National Forest land management;

(3) such lands, if not acquired for addition to the Black Hills National Forest, may be sold and developed for purposes which may be incompatible with the above mentioned objectives;

(4) Homestake has offered to convey such lands, which total approximately twelve thousand two hundred and seventy-four acres, to the United States by sale or exchange so that they may be managed for National Forest and land conservation purposes;

(5) Homestake has identified National Forest lands in Summit County, Colorado, that—

(A) Homestake or local government units would like to acquire;

(B) are intermingled with or adjacent to privately owned and developed lands;

(C) are currently developed, permitted for ski area or local government purposes, or adjacent to developed or permitted areas or communities;

(D) are not necessary for retention in government ownership to serve the public interest or objectives; and

(E) are therefore suitable for disposal through a land exchange; and

(6) given the relative environmental and other values of the lands proposed for exchange in this Act, the land exchange set forth herein is clearly in the public interest and represents the land acquisition strategy that best meets dual public objectives of acquiring the Spearfish Canyon and other South Dakota properties, while at the same time minimizing or eliminating cash outlays by the United States to achieve such objectives.

(b) PURPOSE.—It is the purpose of this Act to authorize, direct, and expedite the consummation of the interstate land exchange and transfer set forth herein in order to further the public interest by acquiring lands in South Dakota with important values for permanent public management and protection and to transfer certain lands to non-Federal ownership in Summit County, Colorado.

SEC. 2. SOUTH DAKOTA-COLORADO LAND EXCHANGE.

(a) IN GENERAL.—If Homestake enters into an exchange agreement with the Secretary of Agriculture, the Secretary shall exchange lands with Homestake as set forth in this Act.

(b) CONVEYANCE BY HOMESTAKE.—Except as otherwise provided in this subsection, Homestake shall convey to the Secretary of Agriculture all right, title and interest of Homestake in certain lands in Lawrence and Meade Counties, South Dakota, that comprise approximately twelve thousand two hundred and seventy-four acres. Such lands include approximately 1,250 acres of riparian lands in Spearfish Canyon that encompass some 20 miles of stream frontage on Spearfish Creek, and are generally depicted on maps entitled "Forest Service-Homestake Land Exchange—South Dakota Lands to Forest Service", numbered A-H, and dated February 1990. In making such conveyance Homestake shall retain:

Mineral resources.

(1) All mineral rights in the above described lands owned, held or controlled by Homestake as of the date of enactment of this Act, except that—

(A) any future exercise of such mineral rights shall be subject to the provisions of 36 CFR 251-15 in effect on the date of enactment of this Act pertaining to surface and other use of lands conveyed to the Secretary of Agriculture where mineral rights are reserved; and

(B) that with respect to mineral rights retained in the approximately 1,250 acres of riparian lands within the watershed of Spearfish Canyon, any exploration and development of such rights shall be limited to methods and activities that do not disturb the surface of such lands. If such rights are ever proposed for exploration and development, the Secretary shall provide Homestake with such access or permits on, through, or under National Forest lands including, but not limited to permits for drilling, tunnels, air shafts, surface vents and other activities incidental to exploration or underground mining operations adjacent to such riparian lands as will reasonably permit exploration and development of the mineral rights without surface disturbance of such riparian lands or impairment of the values of Spearfish Canyon as set forth in this Act.

Watersheds.

(2) All water rights within the watershed of Spearfish Creek and its tributaries owned, held or controlled by Homestake as of the date of enactment of this Act and shall exercise such rights in accordance with applicable Federal, State, and local law and in accordance with any subsequent cooperative agreements or

undertakings entered into between Homestake, the Secretary, and the State of South Dakota for the protection and enhancement of the values of Spearfish Canyon as set forth in this Act.

(3) Cabin sites as indicated on the map numbered "A" referenced in this subsection within the watershed of Spearfish Creek and its tributaries that are intermingled with the lands to be conveyed to the Secretary of Agriculture but that are owned and permitted by Homestake to private parties and such sites will continue to remain in private ownership.

Homestake Mining Company.

(c) CONVEYANCE BY UNITED STATES.—Upon receipt of title to the lands identified in subsection (a) the Secretary shall simultaneously convey to Homestake all right, title, and interest of the United States, except for mineral rights, subject to valid existing rights and existing National Forest improvements, in and to the following:

(1) Approximately eight hundred and sixty-eight acres of lands located in Summit County, Colorado, as generally depicted on maps entitled "Forest Service-Homestake Land Exchange—Lands to Homestake", numbered 1-3 and dated May 1990, and numbered 4-6 and dated March 1990, except that the lands identified on Map number 5 and generally known as the South Frisco Bay parcel shall not be patented to Homestake unless and until the Town of Frisco and Summit County, Colorado, jointly agree to a land use plan for such parcel that emphasizes the use of such parcel for open space and recreation. If the South Frisco Bay parcel is not patented to Homestake within eighteen months after the date of enactment of this Act, the Secretary shall in lieu thereof either pay Homestake cash equalization moneys without regard to the 25 percent limitation contained in subsection 3(a) of this Act or offer Homestake monetary credits pursuant to that subsection, as the Secretary may find preferable.

(2) Not to exceed forty acres of lands located in Lawrence County, South Dakota, which currently comprise National Forest cabin permit sites, as generally depicted on a map entitled "Forest Service-Homestake Land Exchange—Spearfish Cabin Sites to Homestake", dated February 1990, that shall be sold to the current cabin permittees by Homestake at the value of such lands as determined by an appraisal done pursuant to section 3(b) plus any surveying, platting or other administrative costs incurred by Homestake to prepare and sell such lands, upon application by the permittees or their successors in interest. The transfer of any particular cabin site to Homestake pursuant to this subparagraph shall be contingent on the permittee's request of such a transfer. If such a request is not made, the site shall continue to be permitted by the Secretary in accordance with existing rules, regulations, and procedures.

(3) Mineral rights in the lands identified in this subsection shall not be conveyed to Homestake and, subject to valid existing rights, shall be withdrawn from further appropriation under the mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(d) RESERVATIONS.—Patents issued by the Secretary of the Interior for the lands conveyed pursuant to section 2(c)(1) shall reserve to the public, for administration by the Secretary of Agriculture or by such State or local units or agencies of government, or by private nonprofit organizations, as the Secretary of Agriculture in consultation

with local planning authorities determines appropriate and qualified to fulfill the purposes of the reservation—

(1) the right of access for fishing use along all streambeds (up to the ordinary high water mark) on streams which flow through the lands conveyed;

(2) a right-of-way for the Colorado Trail along its existing routes through the lands identified on Map 3 of the lands referred to in subsection (c) or along relocated routes as may be identified by the Secretary of Agriculture in consultation with local planning authorities;

(3) a right-of-way for relocation of the existing bicycle path through the lands identified on Map 2 of the lands referred to in subsection (c) to a new route as may be identified by the Secretary of Agriculture in consultation with local planning authorities.

SEC. 3. TERMS AND CONDITIONS OF EXCHANGE.

(a) EQUALIZATION OF VALUES.—The values of the lands to be exchanged pursuant to this Act shall be equal as determined by the Secretary of Agriculture, or if they are not equal, shall be equalized by the payment of money to Homestake or to the Secretary subject to the 25 per centum cash equalization limitation of section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716). The Secretary shall try to reduce the amount of cash equalization to as small an amount as possible. In lieu of any cash equalization payments which may be due Homestake pursuant to this Act, the Secretary may elect to offer Homestake monetary credits, which shall be considered "moneys received" within the meaning of the Act of May 23, 1908, against any moneys owed the Secretary by Homestake or its agents for timber sales within the Black Hills National Forest. Any cash equalization moneys received by the United States pursuant to this Act shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (Public Law 90-171, 16 U.S.C. 484a), commonly known as the Sisk Act. The value of the surface development rights relinquished by Homestake on the 1,250 acres within Spearfish Canyon pursuant to section 2(b)(1)(B) shall be considered for all purposes of law a donation by Homestake to the United States and shall not be required to be appraised for purposes of value equalization or other provisions of this Act.

(b) APPRAISALS.—In order to expedite the consummation of the exchange directed by this Act, Homestake shall arrange and pay for appraisals by a qualified appraiser or appraisers mutually acceptable to Homestake and the Secretary of all lands and interests therein to be included in the exchange for which appraisals are required for purposes of this Act. Such appraisals shall be completed and submitted to the Secretary for approval within sixty days after the enactment of this Act. In the event the Secretary and Homestake are unable to agree to the appraised value of a certain tract or tracts of land to be included in the exchange within one hundred and twenty days after the date of enactment of this Act, the appraisal, appraisals, or appraisal issues in dispute shall be resolved through a process of bargaining or submitted for arbitration according to section 3 of the Federal Land Exchange Facilitation Act of 1988 (Public Law 100-409, 43 U.S.C. 1716(d)). Appraisals of lands in Colorado identified in section 2(c) of this Act for conveyance to Homestake shall not reflect any diminution in value attrib-

utable to any conversion of existing ski area permits into ski area permits pursuant to the National Forest Ski Area Permit Act of 1986 (Public Law 99-522).

(c) EXCHANGE AGREEMENTS.—The Secretary shall attempt, within 60 days after the completion of appraisals under this section, to enter into an exchange agreement with Homestake to consummate the exchange of the specific tracts of lands identified in section 2 of this Act. Unless otherwise specified in the exchange agreement, the tracts shall be exchanged at the earliest possible date after the exchange agreement is signed. It is the intent of Congress that the exchange be completed no later than two hundred and seventy days after the date of enactment of this Act. Homestake Mining Company.

(d) ADDITION TO BLACK HILLS NATIONAL FOREST.—Lands acquired by the United States within or adjacent to the exterior boundaries of the Black Hills National Forest shall be added to and administered as part of the Black Hills National Forest. The Secretary of Agriculture is hereby authorized to modify such boundaries to incorporate such lands upon their acquisition by the United States. Upon their inclusion in the National Forest System such lands shall be managed in accordance with the laws, rules and regulations generally applicable to the National Forest System, unless otherwise specifically provided by this Act.

(e) DEFINITION.—As used in this Act, the term "Homestake" shall mean the Homestake Mining Company of California or its successors or assigns.

SEC. 4. CONVEYANCE TO SUMMIT COUNTY, COLORADO.

(a) IN GENERAL.—Upon payment by Summit County to the Secretary of the sum of $25,000 and execution of an agreement between the County and the United States as specified in paragraph (4), the Secretary of Agriculture shall convey to Summit County, Colorado, all right, title and interest of the United States in approximately four hundred and seventy-seven acres of land as generally depicted on a map numbered 7 and entitled "Summit County Landfill", dated July 1990. Such conveyance shall be subject to the following conditions:

(1) The lands conveyed shall continue to be used for solid waste disposal, expansion of the Summit County landfill, or other authorized purposes of Summit County government. Waste treatment and disposal.

(2) In the event Summit County ever sells, exchanges or otherwise disposes of all or a portion of the lands acquired pursuant to this section, all proceeds of such sale, exchange, or disposal shall accrue to the United States, or the Secretary of Agriculture may elect to reacquire, without compensation to Summit County, any or all portions of such lands that have not been used for solid waste disposal, as the Secretary determines appropriate prior to their sale, exchange, or disposal by the County.

(3) The patent issued by the Secretary of the Interior pursuant to this section shall not contain a reverter provision and under no circumstances shall lands used for solid waste disposal be eligible for reversion to the United States by operation of law after the issuance of such patent.

(4) A conveyance pursuant to this section shall be contingent upon the County executing an agreement with the United States prior to such conveyance, the terms of which are acceptable to the Secretary of Agriculture, and that permanently

holds the United States harmless for liability and indemnifies the United States against all costs arising from the United States ownership or any and all activities, operations (including the storing, handling, and dumping of hazardous materials or substances), or other acts conducted by Summit County or its licensees, employees, agents, successors or assigns on the four hundred and seventy-seven acres transferred pursuant to this Act, whether such activities, operations, or other acts occurred prior to, on, or after the date of enactment of this Act. Such agreement shall be incorporated in the patent issued by the Secretary of the Interior for the land conveyed.

(b) INCORPORATION OF CONDITIONS.—The Secretary of the Interior shall incorporate the conditions specified in subsection (a) of this section in any patent conveying lands to Summit County pursuant to this section.

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 4567:

HOUSE REPORTS: No. 101-728, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
SENATE REPORTS: No. 101-536 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed House.
Oct. 26, considered and passed Senate.

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Public Law 101-632
101st Congress

An Act

To provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts.

Nov. 28, 1990
[H.R. 4834]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VISITOR CENTER FOR THE SALEM MARITIME NATIONAL HISTORIC SITE.

16 USC 461 note.

Section 1(b) of the Act entitled "An Act to revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes" (102 Stat. 659) is amended—

(1) by striking "LANDS.—The" and inserting "LANDS.—(1) The"; and

(2) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), the Secretary may acquire under this subsection property or an interest therein in the city of Salem for use as a visitor center for the national historic site. The Secretary shall conduct an economic analysis of the costs and benefits of acquiring such property or interest therein. Funds appropriated for the development and operation of the visitor center may be expended on property in which the Secretary has acquired less than a fee simple interest.

"(B)(i) Any acquisition under this paragraph shall provide that—

"(I) under any lease, the leased period shall not be less than 25 years and shall contain an option to renew for an addtional 25 years;

"(II) the owner of the property shall maintain the property to a standard acceptable to the Secretary;

"(III) under any lease, rental amounts paid by the Secretary may not exceed the fair market value of the leased premises, as determined by an independent party acceptable to both the lessor and the Secretary; and

"(IV) under any lease, rental payments be reduced by the fair market value of improvements in the leased premises made by or at the expense of the Secretary.

"(ii) The Secretary may not acquire an interest in more than 12,000 square feet under this paragraph.

"(iii) The Secretary shall submit the economic analysis, together with any proposed acquisition, to the appropriate committees of Congress for their review at least 120 days before the effective date of such acquisition.".

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 4834:

HOUSE REPORTS: No. 101-576 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-506 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
July 10, considered and passed House.
Oct. 27, considered and passed Senate.

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Public Law 101-633
101st Congress

An Act

To designate certain public lands in the State of Illinois as wilderness, and for other purposes.

Nov. 28, 1990
[H.R. 5428]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Illinois Wilderness Act of 1990. Natural resources.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illinois Wilderness Act of 1990".

SEC. 2. FINDINGS.

In designating wilderness areas in the Shawnee National Forest pursuant to this Act, the Congress finds, as provided in the Wilderness Act, that such areas—

(1) generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;

(2) have outstanding opportunities for solitude or a primitive and unconfined type of recreation; and

(3) contain ecological, geological, and other features of scientific, educational, and scenic value.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

16 USC 1132 note.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the Shawnee National Forest in the State of Illinois are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System—

(1) certain lands comprising approximately 5,918 acres, as generally depicted on a map entitled "Bald Knob Wilderness—Proposed", dated July 1990, and which shall be known as the Bald Knob Wilderness;

(2) certain lands comprising approximately 2,866 acres, as generally depicted on a map entitled "Bay Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Bay Creek Wilderness;

(3) certain lands comprising approximately 3,723 acres, as generally depicted on a map entitled "Burden Falls Wilderness—Proposed", dated July 1990, and which shall be known as Burden Falls Wilderness;

(4) certain lands comprising approximately 4,730 acres, as generally depicted on a map entitled "Clear Springs Wilderness—Proposed", dated July 1990, and which shall be known as the Clear Springs Wilderness;

(5) certain lands comprising approximately 3,293 acres, as generally depicted on a map entitled "Garden of the Gods Wilderness—Proposed", dated July 1990, and which shall be known as the Garden of the Gods Wilderness;

(6) certain lands comprising approximately 4,796 acres, as generally depicted on a map entitled "Lusk Creek Wilderness—

Proposed", dated July 1990, and which shall be known as the Lusk Creek Wilderness; and

(7) certain lands comprising approximately 940 acres, as generally depicted on a map entitled "Panther Den Wilderness—Proposed", dated July 1990, and which shall be known as Panther Den Wilderness.

SEC. 4. DESCRIPTION AND MAPS.

As soon as practicable after the enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. ADMINISTRATION OF WILDERNESS AREAS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 6. ADJACENT AREAS.

Congress does not intend that designation of wilderness areas in the State of Illinois lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness areas.

SEC. 7. HUNTING, FISHING, AND TRAPPING.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Illinois with respect to wildlife and fish in the national forests in Illinois.

SEC. 8. FIRE, INSECTS, AND DISEASE CONTROL.

As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within any area designated by this Act.

SEC. 9. CEMETERY ACCESS.

The Secretary shall permit relatives and descendants of those interred in cemeteries located within the wilderness areas designated by this Act, and those accompanying such relatives and descendants, to access and maintain such cemeteries. The Secretary shall regulate such appropriate access and maintenance to minimize any detrimental effects on the wilderness resource or any uses incompatible with the provisions of the Wilderness Act.

SEC. 10. DESIGNATION OF SPECIAL MANAGEMENT AREAS. Mines.

(a) AREA DESIGNATIONS.—(1) Mining and prospecting for fluorspar and associated minerals shall be permitted in the lands in the Shawnee National Forest described in paragraph (2) in accordance with this section and other applicable law. These lands shall also be managed, to the extent practicable, to preserve their potential for future inclusion in the National Wilderness Preservation System.

(2) The lands described in this paragraph are—

(A) certain lands comprising approximately 2,042 acres as generally depicted on a map entitled "East Fork Area—Proposed", dated July 1990, and which shall be known as the East Fork Area; and

(B) certain lands comprising approximately 722 acres as generally depicted on a map entitled "Eagle Creek Area—Proposed", dated July 1990, and which shall be known as the Eagle Creek Area.

(b) TIME LIMITATION.—Prospecting for fluorspar and associated minerals in the lands described in subsection (a)(2) may be allowed for a period of not more than 8 years beginning on the date of enactment of this Act. If significant deposits of fluorspar and associated minerals are found to exist in parts or all of such lands, then mining for those minerals may be allowed for a 20-year period beginning on the date of enactment of this Act.

(c) MINERAL RIGHTS.—Nothing in this section shall be construed to change in any way the process by which mining and prospecting permits and rights are granted on National Forest System lands.

(d) CESSATION OF CERTAIN USES.—Twenty years following the date of enactment of this Act (or 8 years following enactment if no prospecting for fluorspar and associated minerals has been done, as determined by the Secretary), such lands described in subsection (a)(2) shall be designated as wilderness and components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.).

Approved November 28, 1990.

LEGISLATIVE HISTORY—H.R. 5428:

HOUSE REPORTS: No. 101-784, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed House.
Oct. 27, considered and passed Senate.

Public Law 101-634
101st Congress

An Act

Nov. 28, 1990
[S. 319]

To effect an exchange of lands between the United States Forest Service and the Salt Lake City Corporation within the State of Utah, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Salt Lake City Watershed Improvement Act of 1990.
National forests.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Lake City Watershed Improvement Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) current land ownership patterns in the Northern Canyons of the Wasatch Mountains east of Salt Lake City, Utah, unnecessarily impede efficient land and water resource management activities by the Forest Service and Salt Lake City on their respective lands;

(2) the Act of September 19, 1914, reserved Federal lands in these canyons from mineral entry and set them aside as a municipal water supply reserve for the use and benefit of Salt Lake City;

(3) the 1914 Act further provides for cooperation between the Forest Service and Salt Lake City in managing the lands for municipal water supply purposes; and

(4) a consolidation of National Forest lands and Salt Lake City lands in the canyon vicinities would be in the public interest and would enhance land management and water resource protection opportunities for both Salt Lake City and the Forest Service.

(b) PURPOSES.—The purposes of this Act are to authorize an exchange of Forest Service and Salt Lake City lands and interests to consolidate ownership and facilitate management, to adjust boundaries of the Wasatch National Forest accordingly, and to protect valid existing rights appurtenant to lands and interests subject to conveyance under this Act.

SEC. 3. CONVEYANCE OF LANDS.

(a) IN GENERAL.—The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized and directed to convey certain Federal lands and interests managed by the Forest Service within the State of Utah, and generally as depicted on the map entitled "Salt Lake City—Wasatch National Forest Land Exchange" and dated November 1989, for certain lands and interests owned by the Salt Lake City Corporation (hereinafter referred to as the "City") as generally depicted on such map. Such map, along with a legal description of all lands and interests to be conveyed, shall be on file and available for public inspection in the office of the Forest Service, United States Department of Agriculture. The Secretary

shall convey such Federal lands and interests to the City only upon the occurrence of all of the following:

(1) Publication by the Secretary in the Federal Register of a legal description of all Federal lands and interests to be conveyed to the City pursuant to this Act. Federal Register, publication.

(2) Publication by the Secretary in the Federal Register of a legal description of all City lands and interests to be conveyed to the United States pursuant to this Act. Federal Register, publication.

(3) Written notification by the City to the Secretary that the City accepts the provisions of this Act, including subsection (e)(2) and subsection (f).

(4) Delivery to the Secretary by the City of documents of conveyance of the lands and interests to be conveyed by the City.

(5) Delivery to the City and the Secretary of written approval by the Attorney General of the United States of the title to the lands and interests described in documents of conveyance submitted by the City within six months of their receipt by the Secretary.

(b) CONFLICTS.—Conveyances of Federal lands and interests under this Act shall be completed notwithstanding—

(1) the reservations of the Act of September 19, 1914;

(2) withdrawals of lands for the Fort Douglas Military Reservation under the Executive orders dated September 3, 1867, and June 8, 1896, and under the Pickett Act of June 25, 1910 (36 Stat. 847); and

(3) section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

(c) ADMINISTRATION.—Lands and interests acquired by the United States pursuant to this Act shall be added to, and administered as part of, the National Forest System under principles of multiple use and sustained yield.

(d) ADJUSTMENT OF BOUNDARIES.—The boundaries of the Wastach National Forest shall be adjusted as depicted on the map referred to in subsection (a) to reflect the conveyance and acquisition of lands pursuant to this Act.

(e) Interim Recognition of Existing Rights.—Valid existings rights appurtenant to lands and interests acquired by the Secretary or acquired by the City pursuant to this Act shall be recognized, protected, and managed by the acquiring government in accordance with the terms and authorities under which such rights were issued until new, similar rights can be issued by the acquiring government—

(1) in the case of lands and interests acquired by the Federal Government, the Secretary shall negotiate with holders of valid existing rights appurtenant to such lands and interests issued by the City and provide such holders of rights new, similar rights under the authority of the Federal Government; and

(2) in the case of lands and interests acquired by the City, the City will negotiate with holders of grazing permits, special use permits (to include easements and rights-of-way), or other valid existing rights appurtenant to such lands and interests issued by the Federal Government and will provide such holders of rights with similar new rights under the authority of the City.

(f) RECOGNITION OF MORMON TRAIL.—The City will recognize the designation of the Mormon Pioneer National Historic Trail over

lands which it acquires pursuant to this Act and will manage its lands in a manner consistent with such designation.

SEC. 4. RESTRICTIONS.

(a) RESTRICTIONS ON ADDITIONAL TRANSFER.—The lands and interests transferred to the City or the United States under this Act shall not be conveyed or otherwise transferred to any person or entity other than the United States.

(b) RESTRICTIONS ON EXPLORATION OR DEVELOPMENT.—The lands and interests transferred to the City or the United States under this Act shall not be subject to any form of mineral, energy, or geothermal exploration or development, and shall be used only for purposes consistent with and conforming to the reservations and purposes of the Act of September 19, 1914, and this Act, except for valid existing rights protected under section 3(e).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 319:

HOUSE REPORTS: No. 101-547, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
SENATE REPORTS: No. 101-231 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Jan. 24, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 26, Senate concurred in House amendment.

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Public Law 101-635
101st Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to revitalize the Food and Drug Administration, and for other purposes.

Nov. 28, 1990
[S. 845]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Food and Drug Administration Revitalization Act.
21 USC 301 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Food and Drug Administration Revitalization Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Federal Food, Drug, and Cosmetic Act.

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

Sec. 101. Consolidated administrative and laboratory facility.

TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

Sec. 201. Recovery and retention of fees for FOIA requests.

TITLE III—SCIENTIFIC REVIEW GROUPS

Sec. 301. Scientific review groups.

TITLE IV—AUTOMATION OF FDA

Sec. 401. Automation of FDA.

SEC. 2. REFERENCES TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

TITLE I—CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY

SEC. 101. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

Chapter VII (21 U.S.C. 371 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 710. CONSOLIDATED ADMINISTRATIVE AND LABORATORY FACILITY.

Government contracts.
21 USC 379b.

"(a) AUTHORITY.—The Secretary, in consultation with the Administrator of the General Services Administration, shall enter into contracts for the design, construction, and operation of a consolidated Food and Drug Administration administrative and laboratory facility.

"(b) AWARDING OF CONTRACT.—The Secretary shall solicit contract proposals under subsection (a) from interested parties. In awarding contracts under such subsection, the Secretary shall review such

proposals and give priority to those alternatives that are the most cost effective for the Federal Government and that allow for the use of donated land, federally owned property, or lease-purchase arrangements. A contract under this subsection shall not be entered into unless such contract results in a net cost savings to the Federal Government over the duration of the contract, as compared to the Government purchase price including borrowing by the Secretary of the Treasury.

Government property.

"(c) DONATIONS.—In carrying out this section, the Secretary shall have the power, in connection with real property, buildings, and facilities, to accept on behalf of the Food and Drug Administration gifts or donations of services or property, real or personal, as the Secretary determines to be necessary.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $100,000,000 for fiscal year 1991, and such sums as may be necessary for each of the subsequent fiscal years, to remain available until expended.".

TITLE II—RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS

SEC. 201. RECOVERY AND RETENTION OF FEES FOR FOIA REQUESTS.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new section:

21 USC 379c.

"SEC. 711. RECOVERY AND RETENTION OF FEES FOR FREEDOM OF INFORMATION REQUESTS.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, may—

"(1) set and charge fees, in accordance with section 552(a)(4)(A) of title 5, United States Code, to recover all reasonable costs incurred in processing requests made under section 552 of title 5, United States Code, for records obtained or created under this Act or any other Federal law for which responsibility for administration has been delegated to the Commissioner by the Secretary;

"(2) retain all fees charged for such requests; and

"(3) establish an accounting system and procedures to control receipts and expenditures of fees received under this section.

"(b) USE OF FEES.—The Secretary and the Commissioner of Food and Drugs shall not use fees received under this section for any purpose other than funding the processing of requests described in subsection (a)(1). Such fees shall not be used to reduce the amount of funds made to carry out other provisions of this Act.

"(c) WAIVER OF FEES.—Nothing in this section shall supersede the right of a requester to obtain a waiver of fees pursuant to section 552(a)(4)(A) of title 5, United States Code.".

TITLE III—SCIENTIFIC REVIEW GROUPS

SEC. 301. SCIENTIFIC REVIEW GROUPS.

Chapter IX (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. SCIENTIFIC REVIEW GROUPS. 21 USC 394.

Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, the Commissioner of Food and Drugs may—

"(1) establish such technical and scientific review groups as are needed to carry out the functions of the Food and Drug Administration (including functions prescribed under this Act); and

"(2) appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

TITLE IV—AUTOMATION OF FDA

SEC. 401. AUTOMATION OF FDA.

Chapter VII (21 U.S.C. 371 et seq.) (as amended by sections 101 and 201 of this Act) is further amended by adding at the end thereof the following new section:

"SEC. 712. AUTOMATION OF FOOD AND DRUG ADMINISTRATION. 21 USC 379d.

"(a) IN GENERAL.—The Secretary, acting through the Commissioner of Food and Drugs, shall automate appropriate activities of the Food and Drug Administration to ensure timely review of activities regulated under this Act.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section.".

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 845:

SENATE REPORTS: No. 101-242 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 24, considered and passed Senate.
Oct. 27, considered and passed House.

Public Law 101-636
101st Congress

An Act

Nov. 28, 1990
[S. 1859]

To restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPAYMENT OF LOANS MADE WITH RESPECT TO WOLF TRAP FARM PARK.

Section 4(b) of the Wolf Trap Farm Park Act (16 U.S.C. 284c(b)) is amended—

(1) by inserting "(1)" after "(b)"; and

(2) by inserting at the end the following:

"(2)(A) The term of the loans made pursuant to paragraph (1) which are outstanding on the effective date of this paragraph may not exceed the 25-year period beginning on such date. The remaining obligation of such loans shall be paid in equal annual installments, commencing June 1, 1991, except that for the first 3 payments, the payment shall be $215,000 each year. In addition, such payments (including the first 3 payments) may be reduced in any year by a credit not to exceed $60,000 annually. Such credit shall equal 100 percent of the market value of public service tickets determined at prevailing Foundation box office prices. Such credit shall be allowed only for tickets contributed to entities holding a status referred to in section 501(c)(3) of the Internal Revenue Code of 1986.

"(B)(i) Unpaid interest on such amount which accrued before the effective date of this paragraph is hereby forgiven.

"(ii) Notwithstanding paragraph (1), there shall be no interest on the loan referred to in subparagraph (A) after the effective date of this paragraph if, within 120 days after such date, the Foundation modifies its agreement with the Secretary to implement this paragraph, paragraph (3), and section 5(c)(4). If such agreement is not modified within the 120-day period, interest shall accrue from the effective date of this paragraph in accordance with paragraph (1).

"(C) Notwithstanding any other provision of law, amounts paid to the Secretary pursuant to this paragraph may be retained until expended by the Secretary, in consultation with the Foundation, for the maintenance of structures, facilities, and equipment of the Park.

"(D) The Secretary shall, within 120 days after the effective date of this paragraph, submit a payment schedule to the Foundation specifying the amount of each annual payment to be made by the Foundation pursuant to this paragraph.

"(3) If the Foundation is in default on its obligations under this subsection for more than 60 consecutive days, the Secretary, acting in the public interest, shall terminate the cooperative agreement described in section 5. In the event of a major catastrophe or severe economic situation, the Secretary may submit to the Committee on

Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a recommendation that this paragraph be temporarily suspended. In submitting such a request, the Secretary shall submit clear evidence of the financial status of the Foundation.".

SEC. 2. PROHIBITION ON COMMINGLING FOUNDATION FUNDS AND PARK FUNDS.

Section 5(c) of the Wolf Trap Farm Park Act (16 U.S.C. 284d(c)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding after paragraph (3) the following:

"(4) the Foundation will maintain accounts for Foundation activities outside of the Park separate from Foundation accounts for presentation of performing arts and related programs presented at the Center and other areas of the Park.".

SEC. 3. STUDY OF PARK FUTURE.

The Wolf Trap Farm Park Act (16 U.S.C. 284 et seq.) is amended by adding at the end the following:

"SEC. 13. STUDY. 16 USC 284 note.

"The Secretary, acting jointly with the Foundation, shall conduct a study and analysis of the operations and management practices which are being used to carry out the purposes of this Act. The study shall include analysis of the management relationship between the Foundation and the Park, a delineation of the operational responsibilities of the Foundation and the Park, and an analysis of the financial condition of the Foundation. Not later than 2 years after the date of enactment of this section, the Secretary shall submit a report of such study and analysis to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.". Reports.

SEC. 4. EFFECTIVE DATES. 16 USC 284c note.

(a) The amendments made by sections 1 and 2 shall take effect on the date on which the Wolf Trap Foundation for the Performing Arts modifies its agreements entered into pursuant to the Wolf Trap

Farm Park Act in a manner which is consistent with and takes into account the amendments made by this Act, as determined by the Secretary of the Interior.

(b) The amendment made by section 3 shall take effect on the date of enactment of this Act.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 1859:

HOUSE REPORTS: No. 101-838 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 101-257 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Mar. 29, considered and passed Senate.
Oct. 10, considered and passed House, amended.
Oct. 27, Senate concurred in House amendment.

O

Public Law 101-637
101st Congress

An Act

To reauthorize the Asbestos School Hazard Abatement Act of 1984.

Nov. 28, 1990
[S. 1893]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Asbestos School Hazard Abatement Reauthorization Act of 1990.
20 USC 4011 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asbestos School Hazard Abatement Reauthorization Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

20 USC 4011 note.

(a) FINDINGS.—Congress finds the following:

(1) The Environmental Protection Agency has estimated that more than forty-four thousand school buildings contain friable asbestos, exposing more than fifteen million school children and one million five hundred thousand school employees to unwarranted health hazards.

(2) All elementary and secondary schools are required by the Asbestos Hazard Emergency Response Act to inspect for asbestos, develop an asbestos management plan, and implement such plan.

(3) The Environmental Protection Agency has estimated it will cost local education agencies more than $3,000,000,000 to comply with the Asbestos Hazard Emergency Response Act.

(4) Without a continuing program of information assistance, technical and scientific assistance, training, and financial support, many local educational agencies will be unable to carry out sufficient response actions to prevent the release of asbestos fibers into the air.

(5) Without the provisions of sufficient financial support, the cost to local educational agencies of implementing asbestos response actions may have an adverse impact in their educational mission.

(6) The effective regulation of interstate commerce for the protection of human health and the environment requires the continuation of programs to mitigate hazards of asbestos fibers and materials emitting such fibers.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To direct the Environmental Protection Agency to maintain a program to assist local schools in carrying out their responsibilities under the Asbestos Hazard Emergency Response Act.

(2) To provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos health hazards.

(3) To provide financial assistance to State and local agencies for training of persons involved with inspections and abatement of asbestos, for conducting necessary reinspections of school

buildings, and for the actual abatement of asbestos threats to the health and safety of school children or employees.

(4) To assure that no employee of a local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

SEC. 3. AMENDMENTS TO ASBESTOS SCHOOL HAZARD ABATEMENT ACT OF 1984.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.).

SEC. 4. ASBESTOS HAZARDS ABATEMENT PROGRAM.

20 USC 4012.

Subsection (b) of section 503 is amended—

(1) in paragraph (2), by inserting "educational" after "local";

(2) in paragraph (2), by inserting ", including parent and employee organizations," after "institutions"; and

(3) by amending paragraph (3) to read as follows:

"(3) not later than November 15 of each year for which this title is authorized, the development and distribution of applications, or notifications to all local educational agencies of the availability of application forms including information for obtaining such forms; and".

SEC. 5. STATE RECORDS AND PRIORITY LISTS.

20 USC 4013.

(a) MAINTENANCE OF RECORDS.—Subsection (a) of section 504 is amended—

(1) by striking out "Not later than" and all that follows through "maintaining records on—" and inserting in lieu thereof "The Governor of each State shall maintain records on—";

(2) in paragraph (2), by inserting "and other response actions" after "abatement activities";

(3) by inserting "and" after the semicolon at the end of paragraph (2); and

(4) in paragraph (3), by striking out "subparagraph (B)" and inserting in lieu thereof "paragraph (2)".

(b) DELETION OF DEPARTMENT OF EDUCATION REFERENCES.—Subsection (b)(1) of section 504 is amended—

(1) by striking out "Not later than six months after the date of the enactment of this title and annually thereafter," and inserting in lieu thereof "Each year, in accordance with procedures established by the Administrator,";

(2) in subparagraphs (A) and (B), by striking out "and the Secretary of the Department of Education" both places it appears;

(3) in subparagraph (A), by inserting "and" after the semicolon at the end of such subparagraph; and

(4) by striking out subparagraph (C).

(c) DETERMINATION OF ADEQUACY OF RESOURCES.—Subsection (b)(4) of section 504 is amended—

(1) by redesignating subparagraph (F) as subparagraph (G); and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F) Any additional costs to the local educational agency of meeting the special needs of disadvantaged students.".

(d) CONFORMING AMENDMENT.—Section 504 is further amended by striking out subsection (c).

SEC. 6. FINANCIAL ASSISTANCE.

(a) APPLICATION APPROVAL DEADLINE.—Subsection (b) of section 505 is amended— 20 USC 4014.

(1) in paragraph (2), by striking out "applications shall be submitted," and inserting in lieu thereof "the Governor shall submit applications,";

(2) in paragraph (2), by adding at the end the following: "The Administrator shall approve or disapprove applications for financial assistance no later than April 30 of each year."; and

(3) by striking out paragraph (3).

(b) RANKING APPLICATIONS.—Subsection (c)(2)(B)(iv) of section 505 is amended by striking out "is cost-effective compared to other techniques including management of material containing asbestos" and inserting in lieu thereof "uses the least burdensome methods which protect human health and the environment".

(c) DELETION OF REFERENCE TO DEPARTMENT OF EDUCATION REPORT.—Subsection (c)(3) of such section is amended by striking out "shall consider—" and all that follows through the end of the paragraph and inserting in lieu thereof the following: "shall consider the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4).".

(d) ADDITIONAL LIMITATION.—Subsection (d) of such section is amended to read as follows:

"(d) LIMITATION.—In no event shall financial assistance be provided under this title to an applicant if—

"(1) the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program; or

"(2) the applicant is not in compliance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).".

(e) REQUIREMENT TO DEPOSIT FUNDS INTO ASBESTOS TRUST FUND.—Subsection (f) of such section is amended in paragraph (3) by striking out "for deposit in the general fund" and inserting in lieu thereof the following: "for deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (Public Law 99-519; 20 U.S.C. 4022)".

(f) ADDITIONAL REQUIREMENTS FOR APPLICATION APPROVAL.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking out "within the five-year period beginning on the effective date of this title" and inserting in lieu thereof "in accordance with such procedures as may be developed by the Administrator";

(2) in paragraph (2)(B), by amending clauses (i) and (ii) to read as follows:

"(i) the local educational agency has prepared and is implementing an asbestos management plan, as required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.); and

"(ii) all activities to be conducted with the financial assistance will be performed by individuals trained and accredited in conformance with title II of the Toxic Sub-

stances Control Act (15 U.S.C. 2641 et seq.) and regulations promulgated under that title;"; and

(3) by striking out paragraph (4).

SEC. 7. ADMINISTRATIVE PROVISIONS.

20 USC 4015.

Section 506 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) PROCEDURES.—The Administrator also shall establish procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505, for—

"(1) abating asbestos materials in school buildings;

"(2) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

"(3) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken.

"(c) RELATIONSHIP TO OTHER LAWS.—Nothing contained in this title shall be construed, interpreted, or applied to diminish in any way the level of protection required under any other State or Federal worker protection or other applicable laws.".

SEC. 8. ANNUAL REPORT.

20 USC 4016.

(a) REPORT DEADLINE.—The first sentence of section 507 is amended to read as follows: "During each calendar year until 1999, the Administrator shall prepare and submit, not later than June 1 of each year, to the Committee on Environment and Public Works of the Senate and to the Committee on Energy and Commerce of the House of Representatives a report on the loan and grant program authorized by section 505 of this title.".

(b) CONTENTS OF REPORT.—Paragraph (6) of such section is amended by inserting before the period the following: "and the amount of resources needed by such schools, categorized by State, to abate all remaining asbestos hazards".

SEC. 9. RECOVERY OF COSTS.

20 USC 4017.

Paragraph (2) of section 508(a) is amended by inserting after "repay to the United States," the following: "by deposit in the Asbestos Trust Fund established by section 5 of the Asbestos Hazard Emergency Response Act (20 U.S.C. 4022),".

SEC. 10. DEFINITIONS.

20 USC 4020.

Section 511 is amended—

(1) in paragraph (3), by inserting ", vibration," after "damage from water"; and

(2) by adding at the end the following new paragraph:

"(9) The term 'response action' has the meaning given such term by section 202(11) of the Toxic Substances Control Act (15 U.S.C. 2642(11).".

SEC. 11. AUTHORIZATION.

20 USC 4021.

(a) AUTHORIZATION.—Paragraph (1) of section 512(a) is amended to read as follows: "There are hereby authorized to be appropriated for the asbestos abatement program not more than $200,000,000 for each of fiscal years 1991, 1992, 1993, 1994, and 1995. In addition, for such purposes and for each of such fiscal years there are authorized to be appropriated out of the Asbestos Trust Fund established by

section 5 of the Asbestos Hazard Emergency Response Act of 1986 (20 U.S.C. 4022) such sums as are contained in such trust fund in each of such fiscal years.".

(b) SPECIFIC PROGRAMS.—Subsection (b) of section 512 is amended by striking out paragraph (2) and inserting in lieu thereof the following: 20 USC 4021.

"(2) Of those sums appropriated for the implementation of this title, not more than 5 percent may be reserved during each fiscal year for the administration of this title and for programs including (but not limited to) the following:

"(A) The establishment of training centers for contractors, engineers, school employees, parents, and other personnel to provide instruction, in accordance with title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.), on asbestos assessment and abatement.

"(B) The development and dissemination of abatement guidance documents to assist in evaluation of potential hazards and the determination of proper abatement programs.

"(C) The development of rules and regulations regarding inspection, reporting, and recordkeeping.

"(D) The development of a comprehensive testing and technical assistance program.

"(3) Of those sums appropriated for any fiscal year for the implementation of this title, the Administrator may use not more than 5 percent to provide grants to States for the following purposes:

"(A) Assisting local educational agencies in performing the periodic reinspections and training activities required under title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.).

"(B) Establishing and maintaining programs to accredit personnel performing asbestos inspections and response actions.".

SEC. 12. CONFORMING AMENDMENTS TO ASBESTOS TRUST FUND.

(a) AMOUNTS TRANSFERRED TO TRUST FUND.—Section 5(b)(1) of the Asbestos Hazard Emergency Response Act of 1986 (Public Law 99-519) is amended— 20 USC 4022.

(1) in subparagraph (A), by striking out "as in effect on the date of the enactment of this Act, and" and inserting in lieu thereof a comma;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) amounts received as proceeds from any judgment recovered in any suit brought pursuant to section 508(a)(1) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4017(a)(1))."

(b) EXPENDITURES FROM TRUST FUND.—Section 5(d) of such Act is amended by striking out "as in effect on the date of the enactment of this Act".

SEC. 13. EPA INFORMATION OR ADVISORY.

Section 203(d) of title II of the Toxic Substances Control Act is amended by adding the following new paragraph at the end thereof: 15 USC 2643.

"(7) The Administrator shall, not later than 30 days after enactment of this paragraph, publish and distribute to all local

education agencies and State Governors information or an advisory to—

"(A) facilitate public understanding of the comparative risks associated with in-place management of asbestos-containing building materials and removals;

"(B) promote the least burdensome response actions necessary to protect human health, safety, and the environment; and

"(C) describe the circumstances in which asbestos removal is necessary to protect human health.

Such information or advisory shall be based on the best available scientific evidence and shall be revised, republished, and redistributed as appropriate, to reflect new scientific findings.".

SEC. 14. TECHNICAL AMENDMENTS.

20 USC 4011 note.

(a) SECTION HEADINGS.—(1) Section 501 is amended by striking out "SEC. 501." and inserting the following section heading:

"SEC. 501. SHORT TITLE.".

20 USC 4011.

(2) Section 502 is amended by striking out the section heading and "SEC. 502." and inserting in lieu of the section heading the following:

"SEC. 502. FINDINGS AND PURPOSES.".

20 USC 4012.

(3) Section 503 is amended by striking out the section heading and "SEC. 503." and inserting in lieu of the section heading the following:

"SEC. 503. ASBESTOS HAZARD ABATEMENT PROGRAM.".

20 USC 4013.

(4) Section 504 is amended by striking out the section heading and "SEC. 504." and inserting in lieu of the section heading the following:

"SEC. 504. STATE RECORDS AND PRIORITY LISTS.".

20 USC 4014.

(5) Section 505 is amended by striking out the section heading and "SEC. 505." and inserting in lieu of the section heading the following:

"SEC. 505. FINANCIAL ASSISTANCE.".

20 USC 4015.

(6) Section 506 is amended by striking out "SEC. 506." and inserting the following section heading:

"SEC. 506. ADMINISTRATIVE PROVISIONS.".

20 USC 4016.

(7) Section 507 is amended by striking out "SEC. 507." and inserting the following section heading:

"SEC. 507. ANNUAL REPORT.".

20 USC 4017.

(8) Section 508 is amended by striking out "SEC. 508." and inserting the following section heading:

"SEC. 508. RECOVERY OF COSTS.".

20 USC 4018.

(9) Section 509 is amended by striking out "SEC. 509." and inserting the following section heading:

"SEC. 509. EMPLOYEE PROTECTION.".

20 USC 4019.

(10) Section 510 is amended by striking out "SEC. 510." and inserting the following section heading:

"SEC. 510. AFFECT ON RIGHTS UNDER OTHER LAWS.".

20 USC 4020.

(11) Section 511 is amended by striking out "SEC. 511." and inserting the following section heading:

"SEC. 511. DEFINITIONS.".

(12) Section 512 is amended by striking out "SEC. 512." and inserting the following section heading: 20 USC 4021.

"SEC. 512. AUTHORIZATION.".

(b) SUBSECTION HEADINGS.—(1) Section 502(a) is amended by inserting "FINDINGS.—" after "(a)". 20 USC 4011.

(2) Section 502(b) is amended by inserting "PURPOSE.—" after "(b)".

(3) Section 503(a) is amended by striking out "(1)" and inserting in lieu thereof "ABATEMENT PROGRAM.—". 20 USC 4012.

(4) Section 503(b) is amended by inserting "DUTIES.—" after "(b)".

(5) Section 504(a) is amended by inserting "RECORDS.—" after "(a)". 20 USC 4013.

(6) Section 504(b) is amended—

(A) by inserting "PRIORITY LIST.—" after "(b)";

(B) by inserting "activities and other response actions" after "abatement" each place it appears in subparagraphs (A) and (B) of paragraph (1);

(C) in paragraph (1)(B), by striking out "section 503(b)(3) and"; and

(D) in paragraph (4)(C), by inserting a comma after "per capita income".

(7) Section 505 is amended— 20 USC 4014.

(A) in subsection (a), by inserting "ASSISTANCE PROGRAM.—" after "(a)";

(B) in subsection (b), by inserting "APPLICATION SUBMISSION.—" after "(b)";

(C) in subsection (c), by inserting "REVIEW OF APPLICATION.—" after "(c)";

(D) in subsection (e), by inserting "AMOUNT OF LOAN OR GRANT.—" after "(e)";

(E) in subsection (f), by inserting "LOAN AGREEMENT.—" after "(f)"; and

(F) in subsection (g), by inserting "APPLICATION REQUIREMENTS.—" after "(g)".

(8) Section 506(a) is amended by inserting "REGULATIONS.—" after "(a)". 20 USC 4015.

(9) Section 506(d) (as redesignated by section 7) is amended—

(A) by inserting "OTHER AUTHORITY.—" after "(d)"; and

(B) by inserting a comma after "standards" the first place it appears.

(10) Section 508(a) is amended by inserting "LOAN CONDITION.—" after "(a)". 20 USC 4017.

(11) Section 508(b) is amended by inserting "EXPEDITIOUS RECOVERY.—" after "(b)".

(c) MISCELLANEOUS TECHNICAL AMENDMENTS.—(1) Section 505(b) is amended in paragraph (1) by striking out the comma after "educational agency".

(2) Section 505(c) is amended—

(A) in paragraph (2), by inserting "and" after the semicolon at the end of subparagraph (A); and

(B) in paragraph (2), by inserting a comma after "confined space" in subparagraph (B)(ii) and after "techniques" in subparagraph (B)(iv).

20 USC 4014.

(3) Section 505(e) is amended by striking out "per centum" both places it appears and inserting in lieu thereof "percent".

(4) Section 505(g) is amended—

(A) by redesignating the subparagraph (B) appearing after paragraph (3) as paragraph (4) and conforming the margin accordingly; and

(B) by inserting a comma in paragraph (4) (as so redesignated) after "section 512(b)(1)".

20 USC 4017.

(5) Section 508 is amended by striking out "sections" and inserting in lieu thereof "section".

20 USC 4020.

(6) Section 511 is amended—

(A) by striking out "For purposes of this title—" and inserting in lieu thereof "For purposes of this title:";

(B) by striking out "the" at the beginning of each paragraph and inserting in lieu thereof "The";

(C) by striking out the semicolon at the end of each paragraph and inserting in lieu thereof a period;

(D) by striking out the word "each" in paragraph (3); and

(E) by inserting "secondary" before "school" in paragraph (5).

SEC. 15. ASBESTOS ABATEMENT TRAINING AMENDMENTS.

(a) ACCREDITATION REQUIREMENT FOR WORKERS IN PUBLIC AND COMMERCIAL BUILDINGS.—(1) Paragraphs (1) and (3) of section 206(a) of the Toxic Substances Control Act (15 U.S.C. 2646) are amended by adding before the comma at the end of each the following: "or in a public or commercial building".

(2) Clauses (i) and (iii) of section 206(b)(1)(A) of such Act are amended by adding before the period at the end of each the following: "or in public or commercial buildings".

15 USC 2646 note.

(3) Not later than one year after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the model contractor accreditation plan promulgated under section 206(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2646(b)(1)) to increase the minimum number of hours of training, including additional hours of hands-on health and safety training, required for asbestos abatement workers and to make such other changes as may be necessary to implement the amendments made by paragraphs (1) and (2).

(4) Section 207 of such Act (15 U.S.C. 2647) is amended by adding at the end thereof the following:

"(g) Any contractor who—

"(1) inspects for asbestos-containing material in a school, public or commercial building;

"(2) designs or conducts response actions with respect to friable asbestos-containing material in a school, public or commercial building; or

"(3) employs individuals to conduct response actions with respect to friable asbestos-containing material in a school, public or commercial building;

and who fails to obtain the accreditation under section 206 of this Act, or in the case of employees to require or provide for the accreditation required, is liable for a civil penalty of not more than $5,000 for each day during which the violation continues, unless such contractor is a direct employee of the Federal Government.".

15 USC 2646 note.

(b) DISCLAIMER.—In exercising any authority under the Toxic Substances Control Act in connection with the amendment made by subsection (a) of this section, the Administrator of the Environ-

mental Protection Agency shall not, for purposes of section 4(b)(1) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653(b)(1)), be considered to be exercising statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 12-month period following the date of the enactment of this Act. The Administrator may extend the effective date for a period not to exceed one year if the Administrator determines that accredited asbestos contractors are needed to perform school-site abatement required under the Asbestos Hazard Emergency Response Act (15 U.S.C. 2641) and such an extension is necessary to ensure effective implementation of section 203 of the Toxic Substances Control Act. 15 USC 2646 note.

SEC. 16. TRAINING GRANTS.

(a)(1) AUTHORIZATION FOR TRAINING GRANTS.—Title II of the Toxic Substances Control Act (15 U.S.C. 2641 et seq.) is amended by adding at the end the following:

"SEC. 216. TRAINING GRANTS. 15 USC 2656.

"(a) GRANTS.—The Administrator is authorized to award grants under this section to nonprofit organizations that demonstrate experience in implementing and operating health and safety asbestos training and education programs for workers who are or will be engaged in asbestos-related activities (including State and local governments, colleges and universities, joint labor-management trust funds, and nonprofit government employee organizations) to establish and, or, operate asbestos training programs on a not-for-profit basis. Applications for grants under this subsection shall be submitted in such form and manner, and contain such information, as the Administrator prescribes.

"(b) AUTHORIZATION.—Of such sums as are authorized to be appropriated pursuant to section 512(a) of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4011 et seq.) for the fiscal years 1991, 1992, 1993, 1994, and 1995, not more than $5,000,000 are authorized to be appropriated to carry out this section in each such fiscal year.".

(2) The table of contents for title II of such Act (contained in section 1 of such Act) is amended by inserting after the item relating to section 215 the following new item:

"Sec. 216. Training grants.".

15 USC 2656 note.

(b) EFFECTIVE DATE.—Section 216 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on the date of the enactment of this Act.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 1893:

SENATE REPORTS: No. 101-353 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 15, considered and passed Senate.
Oct. 26, considered and passed House.

○

Public Law 101-638
101st Congress

An Act

To extend the authorization of appropriations for the Taft Institute.

Nov. 28, 1990
[S. 1939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION.

Section 1373 of the Education Amendments of 1980 is amended to read as follows: 94 Stat. 1502.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1373. There are authorized to be appropriated to carry out this subpart:

"(1) $700,000 for fiscal year 1991;
"(2) $550,000 for fiscal year 1992;
"(3) $325,000 for fiscal year 1993; and
"(4) $150,000 for fiscal year 1994.

No funds are authorized to be appropriated to carry out this subpart for fiscal year 1995 or any succeeding fiscal year.".

SEC. 2. TREATMENT OF FISCAL YEAR 1990 CONTRIBUTIONS.

For purposes of complying with the matching requirements of section 1372(b) of the Education Amendments of 1980, private contributions received by the Taft Institute for fiscal year 1990 may be treated as private contributions received by the Institute for fiscal year 1991.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 1939 (H.R. 3315):

HOUSE REPORTS: No. 101-406 accompanying H.R. 3315 (Comm. on Education and Labor) and No. 101-884 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Nov. 20, considered and passed Senate.
Vol. 136 (1990): Feb. 27, H.R. 3315 considered and passed House.
June 7, S. 1939 considered and passed House, amended, in lieu of H.R. 3315.
Oct. 22, House agreed to conference report.
Oct. 27, Senate agreed to conference report.

Public Law 101-639
101st Congress

An Act

Nov. 28, 1990
[S. 2628]

To amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health services plan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mental Health Amendments of 1990.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mental Health Amendments of 1990".

SEC. 2. REAUTHORIZATION OF DEMONSTRATION GRANTS FOR HEALTH SERVICES.

(a) IN GENERAL.—Section 520(a) of the Public Health Service Act (42 U.S.C. 290cc-13(a)) is amended to read as follows:

"(a) SERIOUSLY MENTALLY ILL INDIVIDUALS, AND CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL AND MENTAL DISTURBANCES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to States, political subdivisions of States, and nonprofit private agencies for—

"(A) mental health services demonstration projects for the planning, coordination and improvement of community services (including outreach and consumer-run self-help services) for seriously mentally ill individuals and their families, seriously emotionally and mentally disturbed children and youth and their families, and seriously mentally ill homeless and elderly individuals;

"(B) demonstration projects for the prevention of youth suicide;

"(C) demonstration projects for the improvement of the recognition, assessment, treatment and clinical management of depressive disorders;

"(D) demonstration projects for programs to prevent the occurrence of sex offenses, and for the provision of treatment and psychological assistance to the victims of sex offenses; and

"(E) demonstration projects for programs to provide mental health services to victims of family violence.

"(2) MENTAL HEALTH SERVICES.—Mental health services provided under paragraph (1)(A) should encompass a range of delivery systems designed to permit individuals to receive treatment in the most therapeutically appropriate, least restrictive setting. Grants shall be awarded under such paragraph for—

"(A) research demonstration programs concerning such services; and

"(B) systems improvements to assist States and local entities to develop appropriate comprehensive mental

health systems for adults with serious long-term mental illness and children and adolescents with serious emotional and mental disturbance.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 520(e)(1) of the Public Health Service Act (42 U.S.C. 290cc-13(e)(1)) is amended to read as follows:

"(1) For the purposes of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.".

SEC. 3. STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.

(a) FUNDING FOR PLANS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 1924(c) of the Public Health Service Act (42 U.S.C. 300x-10(c)) is amended by inserting before the period the following: ", and $5,000,000 for each of the fiscal years 1991 through 1993".

(2) ESTABLISHMENT OF AUTHORITY FOR USE OF FUNDS UNDER SUBPART 1.—Section 1915 of the Public Health Service Act (42 U.S.C. 300x-3) is amended by adding at the end the following new subsection:

"(e) Amounts paid to a State under section 1914 may be used by the State for the purpose of developing and implementing State comprehensive mental health plans in accordance with section 1925. With respect to compliance with the limitation established in subsection (d), none of the expenditures by the State for the purpose described in the preceding sentence from amounts received under section 1914 may be considered to have been expended for administering the amounts.".

(b) REQUIREMENTS FOR PLANS.—Section 1925 of the Public Health Service Act (42 U.S.C. 300x-11) is amended—

(1) by striking "chronically mentally ill individual" each place such term appears and inserting "individual with a serious mental illness";

(2) by striking "chronically mentally ill individuals" each place such term appears and inserting "individuals with serious mental illnesses";

(3) in subsection (b)—

(A) in paragraph (1), by inserting before the period the following: "and children with serious emotional and mental disorders";

(B) in paragraph (3), by striking "describe services to be provided" and inserting the following: "describe services, available treatment options, and available resources (including Federal, State and local public services and resources, and to the extent practicable, private services and resources) to be provided";

(C) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively;

(D) by striking paragraph (4) and inserting the following new paragraphs:

"(4) The State plan shall describe health and mental health services, rehabilitation services, employment services, housing services, educational services, medical and dental care, and other support services to be provided to individuals and children with serious emotional and mental disorders with Federal, State and local public and private resources to enable such individ-

uals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Education of the Handicapped Act.

"(5) The State plan shall describe the financial resources and staffing necessary to implement the requirements of such plan."; and

(E) by adding at the end the following new paragraph:

"(10) The State plan shall describe a system of integrated social services, educational services, juvenile services, substance abuse services which together with health and mental health services, should be provided in order for children and adolescents with serious emotional and mental disorders to receive care appropriate for their multiple needs, including services to be provided by local school systems under the Education of the Handicapped Act."; and

(4) by adding at the end the following new subsections:

"(e) The State shall utilize the State mental health planning council described in section 1916(e), or establish a new council with comparable membership requirements, to advise, review, monitor and evaluate all aspects of the development and implementation of the State plan. The comments of such council shall be formally transmitted to the Governor of the State prior to the submission of such plan to the Secretary and such comments should be transmitted to the Secretary together with such plan.

Reports.

"(f) Not later than March 30 of each year, the Secretary shall prepare and submit, to the appropriate Committees of Congress, a report concerning the development and implementation of the State plans. Such reports shall include—

"(1) the status of the implementation of such plans by the States;

"(2) a description of the extent of the participation of the councils described in subsection (e) in such development and implementation;

"(3) a description of the coordinated services for children and adults conducted under such plans;

"(4) the extent to which State and local public, and private resources are utilized in the enhancement and delivery of designated services; and

"(5) a quantitative measurement of the improvement in services projected and achieved under the plan.".

(c) ENFORCEMENT.—Section 1926 of the Public Health Service Act (42 U.S.C. 300x-12) is amended—

(1) in subsection (b)—

(A) by striking "1991" and inserting "1992"; and

(B) by striking "1990" and inserting "1991";

(2) in subsection (c), in the first sentence—

(A) by striking "1992" and inserting "1993"; and

(B) by striking "1991" and inserting "1992";

(3) in subsection (d), in the second sentence, by striking "the State is permitted to expend for administrative expenses" and inserting "that the State received under subpart 1, as such subpart existed on October 1, 1985"; and

(4) in subsection (e)—

(A) by striking "for any fiscal year" and inserting "during the period covered by the plan";

(B) by striking "for such fiscal year" and inserting "during such period"; and

(C) by inserting before the period the following: ", taking into consideration savings on inpatient hospitalization that can reasonably be anticipated to result from a well designed and implemented plan".

(d) MISCELLANEOUS TECHNICAL AMENDMENT.—Section 902(c) of the Public Health Service Act (42 U.S.C. 299a(c)) is amended by striking "subsection (b)" and inserting "subsection (a)".

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 2628:

SENATE REPORTS: No. 101-389 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 4, considered and passed Senate.
Oct. 23, considered and passed House, amended.
Oct. 24, Senate concurred in House amendment.

○

Public Law 101-640
101st Congress

An Act

Nov. 28, 1990
[S. 2740]

To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1990.

33 USC 2201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.

TITLE I—WATER RESOURCES PROJECTS

Sec. 101. Project authorizations.
Sec. 102. Project modifications.
Sec. 103. Small navigation projects.
Sec. 104. Small flood control projects.
Sec. 105. Bay City, Michigan.
Sec. 106. Delaware River and tributaries, Pennsylvania.
Sec. 107. Continuation of authorization of certain projects.
Sec. 108. Hazard, Kentucky.
Sec. 109. Sauk Lake, Minnesota.
Sec. 110. Rehabilitation of Federal flood control levees.
Sec. 111. Belen, New Mexico.
Sec. 112. Lower Truckee River, Nevada.
Sec. 113. Arkansas Post Navigation Canal.
Sec. 114. Struthers, Ohio.
Sec. 115. Maysville, Kentucky.
Sec. 116. Studies.
Sec. 117. Cranston, Rhode Island.
Sec. 118. Technical assistance for New York Harbor.
Sec. 119. Project deauthorizations.
Sec. 120. Half Moon Bay Harbor.

TITLE II—LAND TRANSFERS

Sec. 201. Sneads, Florida.
Sec. 202. Ira D. Maclachlan American Legion Post, Sault Sainte Marie, Michigan.
Sec. 203. Aberdeen, Washington.
Sec. 204. Release of reversionary interest to Clay County, Georgia.
Sec. 205. Conveyance of Oakland Inner Harbor Tidal Canal property to cities of Oakland and Alameda, California.

TITLE III—GENERALLY APPLICABLE PROVISIONS

Sec. 301. Planning and engineering.
Sec. 302. Emergency response.
Sec. 303. Construction of navigation projects by non-Federal interests.
Sec. 304. Project modifications for improvement of environment.
Sec. 305. Ability to pay.
Sec. 306. Environmental protection mission.
Sec. 307. Wetlands.
Sec. 308. Flood plain management.
Sec. 309. Shoreline protection.
Sec. 310. Reservoir management.
Sec. 311. Reservoir project operations.

Sec. 312. Environmental dredging.
Sec. 313. Protection of recreational and commercial uses.
Sec. 314. Operation and maintenance of hydroelectric facilities.
Sec. 315. Matters to be addressed in planning.
Sec. 316. Harbor maintenance trust fund amendment.
Sec. 317. Single entities.
Sec. 318. Technical assistance to private entities.
Sec. 319. Fees for development of State water plans.
Sec. 320. Cabin site leases.
Sec. 321. Information on floods and flood damages.
Sec. 322. Reduced pricing for certain water supply storage.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Great Lakes remedial action plans.
Sec. 402. Cross Florida Barge Canal.
Sec. 403. Wappingers Lake and Lake George, New York.
Sec. 404. Demonstration of construction of Federal project by non-Federal interests.
Sec. 405. Upper Mississippi River plan.
Sec. 406. Construction of Virgin Islands projects by Secretary of the Army.
Sec. 407. Virginia Beach, Virginia.
Sec. 408. Declaration of nonnavigability for portions of Lake Erie.
Sec. 409. Wetlands enhancement opportunities.
Sec. 410. Raystown Lake, Pennsylvania.
Sec. 411. Onondaga Lake, New York.
Sec. 412. Alternatives to mud dump site for disposal of dredged material.
Sec. 413. Albemarle Sound-Roanoke River Basin, North Carolina.
Sec. 414. Rondout Creek and Wallkill River, New York and New Jersey.
Sec. 415. Regulation of Dworshak Dam, Idaho.
Sec. 416. Southeast light on Block Island, Rhode Island.
Sec. 417. Magnetic levitation technology.
Sec. 418. Riverside, California.
Sec. 419. Buy American.
Sec. 420. Sense of Congress.
Sec. 421. Woodlawn Beach, Hamburg, New York.

SEC. 2. SECRETARY DEFINED.

33 USC 2201 note.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

(a) PROJECTS WITH REPORT OF THE CHIEF OF ENGINEERS.—Except as provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this subsection:

(1) BAYOU LA BATRE, ALABAMA.—The project for navigation for Bayou La Batre, Alabama: Report of the Chief of Engineers, dated August 3, 1989, at a total cost of $16,230,000, with an estimated first Federal cost of $4,490,000 and an estimated first non-Federal cost of $11,740,000.

(2) HOMER SPIT, ALASKA.--The project for storm damage prevention, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of $4,700,000, with an estimated first Federal cost of $3,050,000 and an estimated first non-Federal cost of $1,650,000, and an average annual cost of $242,000 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $157,000 and an estimated annual non-Federal cost of $85,000.

(3) CLIFTON, SAN FRANCISCO RIVER, ARIZONA.—The project for flood control on the San Francisco River at Clifton, Arizona, authorized by section 401(d) of the Water Resources Development Act of 1986 (100 Stat. 4130), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated September 6, 1988, at a total cost of $12,510,000, with an estimated first Federal cost of $9,150,000 and an estimated first non-Federal cost of $3,360,000.

(4) NOGALES WASH AND TRIBUTARIES, ARIZONA.—The project for flood control, Nogales Wash and tributaries, Arizona: Report of the Chief of Engineers, dated February 28, 1989, at a total cost of $11,100,000, with an estimated first Federal cost of $8,300,000 and an estimated first non-Federal cost of $2,800,000. The Secretary shall cooperate with the Government of Mexico as necessary to provide for flood warning gauges in Mexico. The Secretary may proceed with the portion of the project in the United States before an agreement is reached with the Government of Mexico with respect to the portion of the project in Mexico.

Mexico.
Flood control.

(5) COYOTE AND BERRYESSA CREEKS, CALIFORNIA.—The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, at a total cost of $56,300,000, with an estimated first Federal cost of $39,000,000 and an estimated first non-Federal cost of $17,300,000.

(6) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation and storm damage reduction, Oceanside Harbor, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of $5,100,000, with an estimated first Federal cost of $3,350,000 and an estimated first non-Federal cost of $1,750,000.

(7) VENTURA HARBOR, CALIFORNIA.—The project for navigation, Ventura Harbor, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of $6,455,000, with an estimated first Federal cost of $5,175,000 and an estimated first non-Federal cost of $1,280,000.

(8) MARTIN COUNTY, FLORIDA.—The project for storm damage reduction, Martin County, Florida: Report of the Chief of Engineers dated November 20, 1989, at a total first cost of $9,400,000, with an estimated first Federal cost of $3,850,000 and an estimated first non-Federal cost of $5,550,000, and an average annual cost of $472,300 for periodic nourishment over the 50-year life of the project, with an estimated annual Federal cost of $193,600 and an estimated annual non-Federal cost of $278,700.

(9) MIAMI HARBOR CHANNEL, FLORIDA.—The project for navigation, Miami Harbor Channel, Florida: Report of the Chief of Engineers dated September 25, 1989, at a total cost of $67,100,000, with an estimated first Federal cost of $42,810,000 and an estimated first non-Federal cost of $24,290,000.

(10) MCALPINE LOCK AND DAM, INDIANA AND KENTUCKY.—The project for navigation, McAlpine Lock and Dam, Indiana and Kentucky: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $219,600,000, with a first Federal cost of $219,600,000. The Federal share of costs of construction of the project is to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(11) FORT WAYNE, ST. MARY'S AND MAUMEE RIVERS, INDIANA.—The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana: Report of the Chief of Engineers, dated May 1, 1989, at a total cost of $35,618,400, with an estimated first Federal cost of $26,493,000 and an estimated first non-Federal cost of $9,125,400.

(12) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette Area, Louisiana: Report of the Chief of Engineers dated April 11, 1990, at a total cost of $8,283,000, with an estimated first Federal cost of $6,212,000 and an estimated first non-Federal cost of $2,071,000.

(13) BOSTON HARBOR, MASSACHUSETTS.—The project for navigation, Boston Harbor, Massachusetts: Report of the Chief of Engineers, dated May 11, 1989, at a total cost of $26,200,000, with an estimated first Federal cost of $16,230,000 and an estimated first non-Federal cost of $9,970,000.

(14) ECORSE CREEK, WAYNE COUNTY, MICHIGAN.—The project for flood control, Ecorse Creek, Wayne County, Michigan: Report of the Chief of Engineers, dated August 8, 1989, at a total cost of $9,296,000, with an estimated first Federal cost of $6,754,000 and an estimated first non-Federal cost of $2,542,000.

(15) GREAT LAKES CONNECTING CHANNELS AND HARBORS, MICHIGAN AND MINNESOTA.—The project for navigation, Great Lakes Connecting Channels and Harbors, Michigan and Minnesota: Report of the Chief of Engineers, dated January 30, 1990, at a total cost of $13,148,400, with an estimated first Federal cost of $8,791,700 and an estimated first non-Federal cost of $4,356,700.

(16) COLDWATER CREEK, MISSOURI.—The project for flood control, Coldwater Creek, Missouri: Report of the Chief of Engineers, dated August 9, 1988, at a total cost of $22,829,000, with an estimated first Federal cost of $15,496,000 and an estimated first non-Federal cost of $7,333,000.

(17) RIVER DES PERES, MISSOURI.—The project for flood control, River Des Peres, Missouri: Report of the Chief of Engineers, dated May 23, 1989, at a total cost of $21,318,000, with an estimated first Federal cost of $15,846,000 and an estimated first non-Federal cost of $5,472,000.

(18) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—

(A) FLOOD CONTROL ELEMENTS.—

(i) IN GENERAL.—The project for flood control, Passaic River Main Stem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, except that the main diversion tunnel shall be extended to include the outlet to Newark Bay, New Jersey, at a total cost of $1,200,000,000, with an estimated first Federal cost of $890,000,000 and an estimated first non-Federal cost of $310,000,000.

(ii) DESIGN AND CONSTRUCTION.—The Secretary shall design and construct the project in accordance with the Newark Bay tunnel outlet alternative described in the Phase I General Design Memorandum of the District Engineer, dated December 1987. The main diversion tunnel shall be extended approximately 6½ miles to outlet in Newark Bay, the 9 levee systems in Bergen, East Essex, and Passaic Counties which were associated with the eliminated Third River tunnel outlet shall be excluded from the project, and no dikes or levees shall

be constructed along the Passaic River in Bergen County in connection with the project. With respect to the Newark Bay tunnel outlet project, all acquisition, use, condemnation, or requirement for parklands or properties in connection with the excluded 9 levee systems and the eliminated Third River tunnel outlet works, and any other acquisition, use or condemnation, or requirement for parkland or properties in Bergen County in connection with the project, is prohibited. The Secretary shall certify to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate that no detrimental flood impact will accrue in Bergen County as a result of the project.

(iii) APPLICABILITY OF COST SHARING.—Except as otherwise provided in this paragraph, the total project, including the extension to Newark Bay, shall be subject to cost sharing in accordance with section 103 of the Water Resources Development Act of 1986.

Regulations.

(iv) OPERATION AND MAINTENANCE.—The non-Federal sponsor shall maintain and operate the project after its completion in accordance with the regulations prescribed by the Secretary; except that the Secretary shall perform all measures to ensure integrity of the tunnel, including staffing of operation centers, cleaning and periodically inspecting the tunnel structure, and testing and assuring the effectiveness of mechanical equipment at gated structures and pump stations.

(v) CREDIT FOR NON-FEDERAL WORK.—In recognition of the State of New Jersey's commitment to the project on June 28, 1984, all work completed after such date by the State or other non-Federal interests which is either compatible with or complementary to the project shall be considered as part of the project and shall be credited by the Secretary toward the non-Federal share of the cost of the project. Such work shall include, but not be limited to, those activities specified in the letter of the New Jersey Department of Environmental Protection, dated December 9, 1988, to the Office of the Chief of Engineers. However, only the portion of such work that meets the guidelines established under section 104 of the Water Resources Development Act of 1986 shall be considered as project costs for economic purposes. In applying such section 104 to the project, the Secretary shall likewise consider work carried out by non-Federal interests after June 28, 1984, and before the date of the enactment of this Act that otherwise meets the requirements of such section 104.

(B) STREAMBANK RESTORATION MEASURES.—The project shall include the construction of environmental and other streambank restoration measures (including bulkheads, recreation, greenbelt, and scenic overlook facilities) on the west bank of the Passaic River between Bridge and Jackson Streets in the city of Newark, New Jersey, at a total cost of $6,000,000. The non-Federal share of the project element authorized by this subparagraph shall be 25 percent. The value of the lands, easements, and rights-of-way provided

by non-Federal interests shall be credited to the non-Federal share. Construction of the project element authorized by this subparagraph may be undertaken in advance of the other project features and shall not await implementation of the overall project.

(C) WETLANDS BANK.—

(i) PURPOSES.—The purposes of this subparagraph are to evaluate and demonstrate, for application on a national basis, the feasibility of and methods of obtaining an interim goal of no overall net loss of the Nation's remaining wetlands base and a long-term goal to increase the quality and quantity of the Nation's wetlands; of restoring and creating wetlands; of developing public and private initiatives to search out opportunities of restoring, preserving, and enhancing wetlands; and of improving understanding of the function of wetlands ecosystems in order to improve the effectiveness of the Nation's wetlands program, including evaluating the functions and values of wetlands, assessing cumulative impacts and the effectiveness of protection programs, and wetlands restoration and creation techniques.

(ii) ESTABLISHMENT.—The State of New Jersey shall establish a Passaic River Central Basin Wetlands Bank (hereinafter in this paragraph referred to as the "Wetlands Bank") to be comprised of lands which are acquired before, on, or after the date of the enactment of this Act by the State or any other non-Federal interest and which lie within the Passaic River Central Basin, New Jersey, natural storage area discussed in the report of the Chief Engineers and the Phase I General Design Memorandum.

(iii) USE.—The Wetlands Bank shall be available for mitigation purposes required under Federal or State law with respect to non-Federal activities carried out in the State.

(iv) COMPENSATION.—The State may receive compensation for making lands available under clause (iii).

(v) STATE OWNERSHIP AND OPERATION.—The State shall continue to own and operate, consistent with the purposes of the project authorized by this paragraph, lands made available for mitigation purposes under clause (iii).

(vi) ACQUISITION OF ADDITIONAL LANDS.—The State or other non-Federal interests may acquire for the Wetlands Bank additional lands which are in, adjacent to, or provide drainage for runoff and streamflows into the storage area described in clause (ii) and may use funds provided by sources other than the State for such purpose. Such lands shall include transition and buffer areas adjacent to the Central Basin natural storage wetlands and other Passaic River Basin areas, including the Rockaway, Pequannock, Ramapo, and Wanaque River watershed areas.

(vii) CREDIT.—The fair market value of lands acquired by the State or other non-Federal interests in the storage area described in clause (ii) before, on, or

after the date of the enactment of this Act, the fair market value of lands acquired for the Wetlands Bank under clause (vi) before, on, or after such date of enactment, and the costs incurred by the State or other non-Federal interests in converting any of such lands to wetlands shall be credited to the non-Federal share of the cost of the project authorized by this paragraph.

(viii) TREATMENT OF ACQUIRED LANDS.—Lands acquired by the State for the Wetlands Bank shall not be treated as a project cost for purposes of economic evaluation of the project.

(ix) EFFECT ON OTHER LAWS.—Nothing in this subparagraph shall be construed as affecting any requirements under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 10 of the Act of March 3, 1899 (33 U.S.C. 403).

(19) RIO DE LA PLATA, PUERTO RICO.—The project for flood control, Rio De La Plata, Puerto Rico: Report of the Chief of Engineers, dated January 3, 1989, at a total cost of $58,968,000, with an estimated first Federal cost of $35,900,000 and an estimated first non-Federal cost of $23,068,000.

(20) MYRTLE BEACH, SOUTH CAROLINA.—The project for storm damage reduction, Myrtle Beach, South Carolina: Report of the Chief of Engineers, dated March 2, 1989, at a total cost of $59,730,000, with an estimated first Federal cost of $38,820,000 and an estimated first non-Federal cost of $20,910,000, and an average annual cost of $1,215,000 for period nourishment over the 50-year life of the project, with an estimated annual Federal cost of $790,000 and an estimated annual non-Federal cost of $425,000.

(21) BUFFALO BAYOU AND TRIBUTARIES, TEXAS.—The project for flood control, Buffalo Bayou and tributaries, Texas: Report of the Chief of Engineers, dated February 12, 1990, at a total cost of $727,364,000, with an estimated first Federal cost of $403,359,500 and an estimated first non-Federal cost of $324,004,500.

(22) RAY ROBERTS LAKE, GREENBELT, TEXAS.—The multiple purpose project, Ray Roberts Lake, Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965, is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers, dated December 24, 1987, at a total cost of $8,503,000, with an estimated first Federal cost of $3,189,000 and an estimated first non-Federal cost of $5,314,000.

(23) UPPER JORDAN RIVER, UTAH.—The project for flood control, Upper Jordan River, Utah: Report of the Chief of Engineers, dated November 16, 1988, at a total cost of $7,900,000, with an estimated first Federal cost of $5,200,000 and an estimated first non-Federal cost of $2,700,000.

(24) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia: Report of the Chief of Engineers, dated June 27, 1990, at a total cost of $55,100,000, with an estimated first Federal cost of $41,300,000 and an estimated first non-Federal cost of $13,800,000.

(25) MOOREFIELD, WEST VIRGINIA.—The project for flood control, Moorefield, West Virginia: Report of the Chief of Engineers, dated July 23, 1990, at a total cost of $16,260,000, with an

estimated first Federal cost of $11,675,000 and an estimated first non-Federal cost of $4,585,000.

(26) PETERSBURG, WEST VIRGINIA.—The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of $17,904,000, with an estimated first Federal cost of $10,044,000 and an estimated first non-Federal cost of $7,860,000.

(b) PROJECT SUBJECT TO FAVORABLE REPORT OF THE CHIEF OF ENGINEERS.—The project for flood control, Los Angeles County Drainage Area, California, at a total cost of $327,000,000, with an estimated first Federal cost of $163,500,000 and an estimated first non-Federal cost of $163,500,000, is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers and with such modifications as are recommended by the Secretary. No construction on the project may be initiated until such a report of the Chief of Engineers is issued and approved by the Secretary.

SEC. 102. PROJECT MODIFICATIONS.

(a) VILLAGE CREEK, ALABAMA.—The project for flood control, Village Creek, Alabama, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4111), is modified to authorize the Secretary to acquire private vacant lands within the definite project boundaries established in the Real Estate Design Memorandum, dated March 4, 1988, as a nonstructural element of the project.

(b) KODIAK HARBOR, ALASKA.—The project for navigation, Kodiak Harbor, Alaska, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to authorize the Secretary to construct the project at a total cost of $25,000,000, with an estimated first Federal cost of $22,500,000 and an estimated first non-Federal cost of $2,500,000.

(c) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—Section 4(d) of the Water Resources Development Act of 1988 (102 Stat. 4015) is amended by inserting after "approved by the Secretary" in the first sentence the following: "or which is carried out after approval of the final report by the Secretary and which is determined by the Secretary to be compatible with the project".

(d) SACRAMENTO DEEP WATER SHIP CHANNEL, CALIFORNIA.—The project for navigation, Sacramento Deep Water Ship Channel, California, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4092), is modified to direct the Secretary, if requested by a non-Federal sponsor, to enforce, on a reimbursable basis, the terms of any permit issued by the Secretary under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, to compel the relocation of any utility necessitated by the construction of such project.

(e) SANTA ANA MAINSTEM, CALIFORNIA.—The project for flood control, Santa Ana Mainstem, including Santiago Creek, California, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4113), is modified to authorize the Secretary to develop recreational trails and facilities on lands between Seven Oaks Dam and Prado Dam, including flood plain management areas.

(f) SAN LUIS REY RIVER, CALIFORNIA.—The project for flood control, San Luis Rey River, California, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-5), is modified to authorize the Secretary to construct the project at a total cost of $60,400,000, with an estimated first Federal cost of $45,100,000 and an estimated first non-Federal cost of $15,300,000.

Bridges.

(g) DELAWARE RIVER TO CHESAPEAKE BAY, DELAWARE AND MARYLAND.—The project for navigation, inland waterway from the Delaware River to the Chesapeake Bay, Delaware and Maryland, authorized by the first section of the Act of August 30, 1935 (49 Stat. 1030), and modified by the Act entitled "An Act authorizing construction of a highway bridge across the Chesapeake and Delaware Canal at Saint Georges, Delaware", approved August 7, 1939 (53 Stat. 1240-1241), is modified to direct the Secretary to replace the highway bridge on United States Route 13 in the vicinity of St. Georges, Delaware, to meet current and projected traffic needs, at a Federal cost of $115,000,000. The State may carry out the bridge replacement. If the State carries out the bridge replacement, the Secretary may reimburse the State for costs incurred.

(h) ALAFIA CHANNEL, FLORIDA.—

(1) PROJECT DEPTH.—The project for navigation, Tampa Harbor, Florida, authorized by section 4 of the Rivers and Harbors Act of September 22, 1922 (42 Stat. 1042), is modified to authorize the Secretary to maintain the Alafia Channel at a depth of 34 feet if the non-Federal sponsor dredges the channel to such depth; except that the non-Federal sponsor shall reimburse the United States for the incremental costs incurred by the Secretary in maintaining the channel at a depth greater than 30 feet.

(2) MAINTENANCE.—Nothing in this subsection shall be construed as affecting the Federal responsibility for maintenance of the Alafia Channel to a depth of 30 feet.

(i) FERNANDINA HARBOR, FLORIDA.—The project for navigation, Fernandina Harbor, Florida, authorized by the River and Harbor Appropriation Act of June 14, 1880, is modified to redesignate the location of the turning basin between stations 0+00 of cut 8 and 5+45 of cut 10 to the area between stations 11+70 and 23+30 of cut 5. Such redesignation shall remain in effect until the ongoing study of Fernandina Harbor under section 107 of the River and Harbor Act of 1960 is completed and the resulting project is constructed.

21 Stat. 180.

(j) MANATEE HARBOR, FLORIDA.—The project for navigation, Manatee Harbor, Florida, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4093), is modified to direct the Secretary to construct the project substantially in accordance with the post authorization change report, dated April 1990, at an estimated total cost of $27,589,000, with an estimated first Federal cost of $12,381,000 and an estimated first non-Federal cost of $15,208,000.

(k) ALENAIO STREAM, HAWAII.—The project for flood control, Alenaio Stream, Hawaii, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4114), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated August 15, 1983, as modified by the General Design Memorandum and Environmental Assessment, dated March 1990, at a total cost of $12,060,000, with an estimated first Federal cost of $7,730,000 and an estimated first non-Federal cost of $4,330,000.

(l) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—The navigation project for replacement of locks and dam 26, Mississippi River, Alton, Illinois and Missouri, authorized by section 102 of Public Law 95-502, is modified to authorize the Secretary to provide project-related recreational development in the State of Illinois, that requires no separable project lands and includes site preparations and infrastructure for a marina and docking facilities, access roads and parking, a boat launching ramp, hiking trails, and picnicking facilities, at a Federal construction cost that will not increase the overall project cost estimate for recreational development. The recreational development shall be subject to cost-sharing with the State of Illinois.

92 Stat. 1695.

Recreation and recreation areas.

(m) FALLS OF THE OHIO NATIONAL WILDLIFE CONSERVATION AREA, INDIANA.—The Falls of the Ohio National Wildlife Conservation Area, Indiana, authorized by title II of Public Law 97-137, is modified to authorize the Secretary to design and construct an interpretive center for such area, at a total cost of $3,200,000, with an estimated first Federal cost of $1,600,000 and an estimated first non-Federal cost of $1,600,000.

(n) DES MOINES RIVER AND GREENBELT, IOWA.—

(1) AREA DESCRIPTION.—The project for Des Moines Recreational River and Greenbelt, Iowa, authorized by the Supplemental Appropriations Act, 1985 (99 Stat. 313), is modified to include the area described in the Des Moines Recreational River and Greenbelt map, which description is printed in Committee Print 101-47 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990.

(2) FORMER AREA DESCRIPTION.—Section 604 of the Water Resources Development Act of 1986 (100 Stat. 4153) is repealed.

Repeal.

(o) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection for the Ohio River Basin, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary, subject to section 903(c) of the Water Resources Development Act of 1986, to carry out a project for flood protection for South Frankfort, Kentucky, in accordance with plan R-1 of the Louisville District Commander's Re-evaluation Report, dated June 1990. The level of protection shall be no less than that afforded North Frankfort, Kentucky. In addition, the Secretary shall execute a local cooperation agreement for the project for South Frankfort not later than October 1991.

Cooperative agreements.

(p) RED RIVER WATERWAY, LOUISIANA.—The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), is modified to authorize the Secretary to acquire an additional 12,000 acres adjacent to or close to the Bayou Bodcau Wildlife Management Area.

(q) CROOKED AND INDIAN RIVERS, MICHIGAN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Crooked and Indian Rivers, Michigan, authorized by the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors for navigation, flood control, and for other purposes", approved September 3, 1954 (68 Stat. 1248), is modified to authorize the Secretary to enter into agreements with the State of Michigan and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) TERMS AND CONDITIONS.—The agreements referred to in paragraph (1) may—

(A) contain such terms and conditions as the Secretary determines to be necessary to protect the interests of the United States; and

(B) require the Secretary to make payments to the State of Michigan to cover the costs of operation, maintenance, and repair of such project for lake level regulation and other flood control purposes, including payments made in advance of such costs being incurred by the State.

(3) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation and maintenance of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with such projects which are not covered by payments made by the Secretary under this subsection.

(r) ROUGE RIVER, MICHIGAN.—The multipurpose project at Rouge River, Michigan, authorized by the Act of August 30, 1935 (49 Stat. 1036-1037), is modified to authorize and direct the Secretary, in consultation with appropriate State and local agencies, to conduct a 1-year comprehensive study of the Rouge River streamflow enhancement project at the Rouge River, Huron River, and Belleville Lake for the purpose of identifying measures which will optimize achievement of the project's purposes while preserving and enhancing the quality of the Rouge River, Huron River, and Belleville Lake for current and future users. Upon completion of the study, the Secretary is authorized to provide, on a reimbursable basis, technical assistance in the implementation of measures identified in such study.

(s) MISSISSIPPI RIVER, ST. PAUL, MINNESOTA.—The project for flood control, Mississippi River at St. Paul, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to construct the project substantially in accordance with the Design Memorandum, dated March 1990, and the Recreational Supplement, dated April 1990, at a total cost of $18,021,000, with an estimated first cost of $10,226,000 and an estimated first non-Federal cost of $7,795,000.

(t) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1969, as revised in January 1990, at a total cost of $26,200,000, with an estimated first Federal cost of $16,090,000 and an estimated first non-Federal cost of $10,110,000.

Real property acquisition.

(u) MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA, AND GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.—Section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 891), is amended by

inserting "acquisition of real property and associated improvements (from willing sellers), and monetary compensation to affected landowners" after "including maintenance and rehabilitation of existing structures,".

(v) NEW YORK HARBOR DRIFT REMOVAL PROJECT, NEW YORK AND NEW JERSEY.—

(1) REMOVAL OF FLOATING MATERIAL.—The New York Harbor collection and removal of drift project, authorized by section 2 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 4, 1915 (38 Stat. 1051), and section 91 of the Water Resources Development Act of 1974 (88 Stat. 39), is modified to authorize the Secretary to collect and remove floating material whenever the Secretary is collecting and removing debris which is an obstruction to navigation.

(2) CONTINUATION.—The Secretary shall continue engineering, design, and construction on the New York Harbor collection and removal of drift project, including construction of the 2nd phase in the Jersey City North reach which shall include remaining piers and debris in the Harsimus Cove area, construction of the Brooklyn II reach, and engineering and design for the remaining unconstructed reaches.

(3) BARGE REMOVAL.—As part of the New York Harbor collection and removal of drift project, the Secretary shall expedite necessary engineering, design, and removal of 7 abandoned barges from the Passaic River in Kearny, Nutley, and Passaic, New Jersey.

(4) PROHIBITION OF BURNING OF WOOD.—

(A) GENERAL RULE.—The New York Harbor collection and removal of drift project referred to in paragraph (1), including construction described in paragraph (2), is further modified to provide (i) that after December 31, 1990, material collected by the Secretary in carrying out the project may be disposed of only as provided in subparagraph (D), and (ii) that no later than December 31, 1993, the Administrator shall prohibit the burning of wood collected in carrying out the project on ocean waters.

(B) DEMONSTRATION OF ALTERNATIVES.—

(i) SURVEY.—The Secretary shall conduct a survey of potential acceptable alternative methods to the burning of wood on ocean waters which could be used for disposal of wood collected in carrying out the project.

(ii) GOAL.—Methods of disposal identified in the survey shall be demonstrated in accordance with subparagraph (D), with the goal of arriving at an implementable acceptable alternative method at the earliest practicable date.

(C) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Public Works and Transportation of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives by February 1, 1991, by January 1, 1992, and, if an implementable acceptable alternative method is not identified under this paragraph, by January 1, 1993, on the progress being made toward achieving an early end to the

practice of burning of wood on ocean waters. Each of such reports shall describe specific methods and strategies and the results of the demonstration of those methods, specify a date by which an acceptable alternative method or methods is likely to be implementable, and include an estimate of the volume of wood collected in carrying out the project to be disposed of in calendar year 1991, 1992, or 1993, as the case may be. A final report shall be issued no later than December 31, 1993.

(D) DISPOSAL OF WOOD.—Effective January 1, 1991, and until December 31, 1993, at least half of the volume of wood estimated by the Secretary under subparagraph (C) to be collected in carrying out the project each year shall be disposed so as to demonstrate alternative methods of disposal. If bids received for alternative methods are substantially greater in cost than the cost of disposal by burning on ocean waters, the Secretary shall dispose of no more than half of the estimated volume at the lesser cost; except that, if a bid received for an alternative method is not substantially greater than the cost of disposal by burning on ocean waters, the Secretary shall select the alternative method.

(E) EPA PERMIT FOR DISPOSAL ON OCEAN WATERS.—The Administrator shall continue to issue permits for the disposal of wood collected in carrying out the project by burning on ocean waters until December 31, 1993, and shall designate an interim site for such disposal. If an acceptable alternative method for disposal of wood is determined to be implementable under subparagraph (F), the Administrator shall prohibit the burning of such wood at a date earlier than December 31, 1993.

Regulations.

(F) IMPLEMENTABLE ACCEPTABLE ALTERNATIVE.—The Administrator shall, by regulation, end the permitting of the disposal of wood collected in carrying out the project by burning on ocean waters at such time as one or more alternative methods of disposal are determined to be acceptable alternative methods and implementable by the Regional Administrator for Region II of the Environmental Protection Agency, the District Engineer for the New York District, the State of New Jersey, and the State of New York. Such determination shall be published in the Federal Register 5 working days after the date of such determination.

Federal Register, publication.

(G) DEFINITIONS.—For purposes of this paragraph, the following definitions apply:

(i) ACCEPTABLE ALTERNATIVE METHOD.—The term "acceptable alternative method" means a method of disposal of wood other than burning on ocean waters that is both environmentally appropriate and economically feasible.

(ii) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(w) HARSHA LAKE, OHIO.—

(1) PROJECT MODIFICATION.—The project for flood control, water supply, and recreation, Harsha Lake, Ohio, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to provide that, if the State of Ohio does not

enter into a contract before October 1, 1991, with the Clermont County Board of Commissioners for the delivery of not less than 20,000,000 gallons of water a day from water supply storage assigned to the State of Ohio from the project, water supply storage from the project sufficient to yield 20,000,000 gallons of water a day shall be reassigned to the Board.

(2) REIMBURSEMENT.—Upon a reassignment of water supply storage under paragraph (1), the Clermont County Board of Commissioners shall reimburse the State of Ohio for a proportionate share of amounts previously paid by the State to the Secretary for costs which are attributable to water supply storage which has been so reassigned.

(x) WEST COLUMBUS, OHIO.—The project for flood control, West Columbus, Ohio, authorized by section 3(a)(11) of the Water Resources Development Act of 1988 (102 Stat. 4014), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated February 9, 1988, as modified by the Phase II West Columbus Local Protection Project Re-evaluation Report, dated May 1990, at a total cost of $89,600,000, with an estimated first Federal cost of $63,700,000 and an estimated first non-Federal cost of $25,900,000.

(y) CANTON LAKE, OKLAHOMA.—The second paragraph under the heading "ARKANSAS RIVER BASIN" in section 10 of the Flood Control Act of 1946 (60 Stat. 647), as amended by the first paragraph under the heading "ARKANSAS RIVER BASIN" in section 203 of the Flood Control Act of 1948 (62 Stat. 1176), is amended—

(1) by striking "Enid, Oklahoma" and inserting "Oklahoma City, Oklahoma"; and Oklahoma.

(2) by adding at the end the following: "Not later than 180 days after the date of the enactment of the Water Resources Development Act of 1990, the Secretary of the Army is directed (subject to agreement between the city of Oklahoma City, Oklahoma, or the Oklahoma City Municipal Improvement Authority and the city of Enid, Oklahoma, providing for such reassignment) to reassign to the city of Oklahoma City all the municipal and industrial storage in the Canton Reservoir for the city of Enid and all irrigation storage to municipal and industrial water supply storage (under the terms of the Water Supply Act of 1958 (72 Stat. 319-320)).".

(z) ROCHESTER, PENNSYLVANIA.—The project for navigation on the Ohio River at Rochester, Pennsylvania, authorized by section 13 of the River and Harbor Act of 1909 (35 Stat. 831), is modified to authorize the Secretary to construct safety facilities of a floating dock, a river access ramp, and roadway and parking areas at a total cost of $90,000.

(aa) COOPER LAKE AND CHANNELS, TEXAS.—The project for mitigation of fish and wildlife resource losses, Cooper Lake and Channels, Texas, authorized by section 601 of the Water Resources Development Act of 1986 (100 Stat. 4145), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Notification Report, dated April 1990, at a total cost of $22,500,000, with an estimated first Federal cost of $12,400,000 and an estimated first non-Federal cost of $10,100,000.

(bb) DENISON, TEXAS.—The Act entitled "An Act to authorize the utilization of a limited amount of storage space in Lake Texoma for the purpose of water supply for the city of Denison, Texas", ap-

proved August 14, 1953 (67 Stat. 583), is amended by striking "in an amount not to exceed 13,000 acre-feet annually".

(cc) ROANOKE RIVER UPPER BASIN, VIRGINIA.—The flood control project for Roanoke River Upper Basin, Virginia, is modified—

(1) to provide that, notwithstanding section 215 of the Flood Control Act of 1968 (82 Stat. 747), work completed by non-Federal interests on flood protection measures at Roanoke Memorial Hospital shall be credited toward the non-Federal share of the cost of the project; and

(2) to direct the Secretary, notwithstanding such section 215, to reimburse the non-Federal sponsor $700,000, an amount equal to the Federal share of the costs of such work completed by the non-Federal interests, which may be applied to the non-Federal share of the cost of the project.

(dd) MCNARY LOCK AND DAM, WASHINGTON AND OREGON.—The project for McNary Lock and Dam, Second Powerhouse, Columbia River, Washington and Oregon, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4146), is modified to direct the Secretary to construct the levee beautification portion of the project described in the Phase I General Design Memorandum: Report of the Chief of Engineers, dated June 24, 1981. In determining the new levee heights, the Secretary shall complete the feasibility studies underway for the Tri-Cities Levees, Washington, giving full consideration to the impact that present upstream reservoir storage has had in lowering water surface elevations during major floods.

(ee) WISCONSIN AND FOX RIVERS, WISCONSIN.—

(1) NON-FEDERAL OPERATION AND MAINTENANCE.—The navigation project for the Wisconsin and Fox Rivers, Wisconsin, authorized to be acquired pursuant to the Act entitled "An Act for the Improvement of Water Communication between the Mississippi River and Lake Michigan, by the Wisconsin and Fox Rivers", approved July 7, 1870 (16 Stat. 189), is modified to authorize the Secretary to enter into agreements with the State of Wisconsin and other non-Federal interests in such State to make operation and maintenance of such project a non-Federal responsibility.

(2) NON-FEDERAL IMPOSITION OF TOLLS.—Notwithstanding section 4 of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 5, 1884 (33 U.S.C. 5; 23 Stat. 147), during any period in which a non-Federal interest is responsible for operation, maintenance, and repair of the project described in paragraph (1), the non-Federal interest may impose upon boats and other watercraft using the project such tolls, operating charges, and other fees as may be necessary to pay the costs incurred by the non-Federal interest in connection with the project.

SEC. 103. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, after completion of such study, shall carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) BOLLES HARBOR, MICHIGAN.—A navigation project at the mouth of the LaPliasance Creek, Bolles Harbor, Michigan, by construction of an offshore barrier.

(2) WARROAD HARBOR, MINNESOTA.—A navigation project to dredge the navigation channel and adjacent basin at Warroad Harbor, Minnesota. The project shall be undertaken to provide safe boating access and egress and to upgrade existing retaining walls. Marine safety.

(3) BUFFALO, NEW YORK.—A navigation project south of the existing dike disposal area in Buffalo, New York, by construction of a breakwater, fishing pier, and floating docks.

(4) ROCHESTER, NEW YORK.—A navigation project for the mouth of the Genesee River in Rochester, New York, by development and implementation of wave surge control measures.

SEC. 104. SMALL FLOOD CONTROL PROJECTS.

(a) PROJECT AUTHORIZATIONS.—The Secretary shall conduct a study for each of the following projects and, after completion of such study, shall carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) DRY JORDAN AND CROOKED CREEKS, ARKANSAS.—A project for flood control, Dry Jordan and Crooked Creeks, Harrison, Arkansas, including construction of improvements to provide enhanced flood control and recreation benefits.

(2) OLD SULFUR CREEK, ORLEANS, INDIANA.—A project for flood control, Old Sulfur Creek, Orleans, Indiana.

(3) FARMERS BRANCH CREEK, WHITE SETTLEMENT, TEXAS.—A nonstructural project for flood control, Farmers Branch Creek, White Settlement, Texas. Such project shall consist of relocation and purchase of residential structures located within the flood plain and shall be carried out on an expedited basis.

(4) KROUTS CREEK, WEST VIRGINIA.—A project for flood control, Krouts Creek in the vicinity of Huntington, West Virginia, including deepening and widening of the channel and culvert replacement.

(b) SAVAN GUT, VIRGIN ISLANDS.—

(1) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, Savan Gut, Virgin Islands, shall be $10,000,000 instead of $5,000,000.

(2) COST SHARING.—Nothing in this subsection shall be construed as affecting any cost sharing requirements applicable to the project under the Water Resources Development Act of 1986.

SEC. 105. BAY CITY, MICHIGAN.

The Secretary may undertake a project for shoreline protection along the Saginaw River in Bay City, Michigan, at a total estimated cost of $6,105,000.

SEC. 106. DELAWARE RIVER AND TRIBUTARIES, PENNSYLVANIA.

The Secretary may carry out a project for shoreline protection for the Glen Foerd Historic Property in Philadelphia, Pennsylvania, along the Delaware River and tributaries, including restoration of seawalls.

SEC. 107. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS.

(a) GENERAL RULE.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) PAJARO RIVER, SANTA CRUZ, CALIFORNIA.—The project for flood control, Pajaro River and tributaries, Santa Cruz, California, authorized by the Flood Control Act of 1966 (80 Stat. 1421).

(2) SANTA CRUZ HARBOR, CALIFORNIA.—The modification for sealing the east jetty of the project for Santa Cruz Harbor, California, authorized by section 811 of the Water Resources Development Act of 1986 (100 Stat. 4168).

(3) HILLSBORO INLET, FLORIDA.—Dredging of Hillsboro Inlet, Florida, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(4) LITTLE CALUMET RIVER BASIN, INDIANA.—The project for flood control, Little Calumet River basin (Cady Marsh Ditch), Indiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(5) LOUISIANA STATE PENITENTIARY LEVEE, LOUISIANA.—The project for flood control, Louisiana State Penitentiary Levee, Mississippi River, Louisiana, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117).

(6) ONTONAGON HARBOR, MICHIGAN.—The project for navigation, Ontonagon Harbor, Michigan, authorized by the Rivers and Harbors Appropriations Act of June 25, 1910 (36 Stat. 655).

(7) OTTAWA RIVER HARBOR, MICHIGAN AND OHIO.—The project for navigation, Ottawa River Harbor, Michigan and Ohio, authorized by section 201 of the Flood Control Act of 1965 (79 Stat. 1073) and approved by committee resolution, in accordance with the Phase I General Design Memorandum for such project, dated November 1976, at a total cost of $13,200,000, with an estimated first Federal cost of $6,530,000 and an estimated non-Federal cost of $6,670,000.

Canada.
State listing.

(8) SAULT SAINTE MARIE, MICHIGAN.—The second lock for Sault Sainte Marie, Michigan, authorized by section 1149 of the Water Resources Development Act of 1986 (100 Stat. 4254-55); except that the Secretary shall conduct, not later than 180 days after the date of the enactment of this Act and after providing an opportunity for notice and comment, an analysis of the projected total tonnage of commercial cargo which will be delivered by vessels using such lock to or from ports in Canada and the States of Minnesota, Wisconsin, Indiana, Illinois, Michigan, Ohio, Pennsylvania, and New York. Such analysis shall be based on the Secretary's estimate, using current traffic statistics.

(9) CONNEAUT, OHIO.—The small boat harbor project for Conneaut, Ohio, authorized by section 101 of the River and Harbor Act of 1966 (80 Stat. 1405).

(10) FAIRPORT, OHIO.—The small boat harbor project for Fairport, Ohio, and the dredging of the navigation project for Fairport, Ohio, authorized pursuant to section 201 of the Flood Control Act of 1965 (42 U.S.C. 1962d-f).

(11) MEMPHIS HARBOR, MEMPHIS, TENNESSEE.—The project for navigation, Memphis Harbor, Memphis, Tennessee, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4145).

(12) EAST FORK OF TRINITY RIVER, TEXAS.—The project for flood protection on the East Fork of the Trinity River, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1185).

(13) NORFOLK HARBOR, VIRGINIA.—The project for deepening of 3 navigation anchorages at Norfolk Harbor, Virginia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

(c) FREEPORT, ILLINOIS.—The project for flood control, Freeport, Illinois, authorized by section 5 of the Flood Control Act of June 22, 1936 (49 Stat. 1586), and deauthorized by section 1002 of the Water Resources Development Act of 1986 (100 Stat. 4208), is authorized to be carried out by the Secretary.

SEC. 108. HAZARD, KENTUCKY.

Flood control.

The Secretary is authorized and directed to design and construct such flood control measures at or in the vicinity of Hazard, Kentucky, on the North Fork of the Kentucky River as the Secretary determines necessary and appropriate to afford the city of Hazard, Kentucky, and its immediate environs a level of protection against flooding at least sufficient to prevent any future losses to such city from the likelihood of flooding such as occurred in January 1957, at a total cost of $30,000,000. With respect to such project, Congress finds that the benefits determined in accordance with section 209 of the Flood Control Act of 1970 and attributable to the flood measures authorized for such project exceed the cost of such measures.

SEC. 109. SAUK LAKE, MINNESOTA.

The Secretary shall complete the project for removal of silt and aquatic weeds, Sauk Lake, Minnesota, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148), including acquisition of weed harvesting equipment using funds appropriated by Congress for such purpose, and shall carry out measures to protect and enhance water quality, including implementation of best management practices in the drainage basin.

SEC. 110. REHABILITATION OF FEDERAL FLOOD CONTROL LEVEES.

(a) PROJECTS.—The Secretary shall undertake—

Arkansas.
Oklahoma.

(1) projects for rehabilitation and reconstruction of Federal flood control levees on the Arkansas River, Arkansas and Oklahoma, substantially in accordance with the Little Rock District Engineer's Arkansas River Basin, Arkansas and Oklahoma, Draft Feasibility Report, dated March 1990, and the Tulsa District Engineer's Keystone to Tulsa Reconnaissance Report, dated September 1989; and

(2) projects for rehabilitation and reconstruction of Federal flood control levees on the Red River, Oklahoma and Arkansas, below Denison Dam.

(b) PURPOSE OF PROJECTS.—The purpose of projects under this section shall be to make the levees comply with current Federal design standards.

(c) INCLUDED FEATURES.—The projects under this section shall include repairs of design deficiencies and replacement of deteriorated drainage structures and other appurtenances.

(d) COST SHARING.—Work carried out under this section shall be treated as new construction for purposes of determining the Federal and non-Federal shares of the cost of such work.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 per fiscal year for each of fiscal years 1992, 1993, 1994, 1995, and 1996.

Flood control.

SEC. 111. BELEN, NEW MEXICO.

(a) PROJECT AUTHORIZATION.—Subject to section 903(c) of the Water Resources Development Act of 1986, the Secretary is authorized to carry out a project for flood protection for the city of Belen, New Mexico, at a total cost of $19,576,000, with an estimated first Federal cost of $12,130,000 and an estimated first non-Federal cost of $7,446,000.

(b) REQUIRED MEASURES.—The project authorized by this section shall include measures to increase the capacity of the Belen Highline Canal so that such canal will function as a conveyance system to divert flood waters safely around the city of Belen and as an irrigation facility.

SEC. 112. LOWER TRUCKEE RIVER, NEVADA.

(a) PLANNING, ENGINEERING, AND DESIGN.—The Secretary is authorized to carry out planning, engineering, and design—

(1) for rehabilitation of the Lower Truckee River, Nevada, including—

(A) restoration of the riparian habitat and vegetative cover;

(B) stabilization of the course of the Lower Truckee River and minimization of erosion damage;

(C) provision of the best possible spawning habitat for the cui-ui fish; and

(D) provision of improved spawning habitat for the Lahontan cutthroat trout to the extent deemed feasible; and

(2) for facilities to enable the efficient passage of cui-ui and Lahontan cutthroat trout through or around the delta at the mouth of the Lower Truckee River to obtain access to their upstream spawning grounds.

SEC. 113. ARKANSAS POST NAVIGATION CANAL.

The Secretary is authorized to carry out planning, engineering, and design for modifications to the Arkansas Post Navigation Canal of the McClellan-Kerr Arkansas River Navigation System for the purpose of improving environmental quality. Such modifications shall include a closure structure at the downstream end of the Morgan Point Bendway and related work.

SEC. 114. STRUTHERS, OHIO.

The Secretary is authorized to carry out design for replacement of the Bridge Street bridge in Struthers, Ohio, at a total cost of $2,400,000. The non-Federal share of the cost of such design shall be 50 percent.

SEC. 115. MAYSVILLE, KENTUCKY.

The Secretary is authorized to carry out design for construction of a bridge between Maysville, Kentucky, and the State of Ohio, at a total cost of $2,000,000. The non-Federal share of the cost of such design shall be 50 percent.

SEC. 116. STUDIES.

(a) SOUTH ATLANTIC CARGO TRAFFIC.—

(1) STUDY.—The Secretary, in conjunction with the Administrator of the Federal Maritime Administration of the Department of Transportation, shall conduct a study of the market for container ship traffic in the South Atlantic region of the United States from Port Everglades, Florida, to Norfolk, Virginia.

(2) PURPOSES.—The purposes of the study to be conducted under this subsection are as follows:

(A) Identifying major containerized cargo trade routes and commodity flows.

(B) Identifying inland transportation infrastructure needs.

(C) Projecting future traffic volumes.

(D) Forecasting future container vessel fleets.

(E) Developing origin-to-destination transportation costs.

(F) Developing differential trade route costs for origin-destination pairs.

(G) Forecasting future micro- and mini-bridging opportunities.

(H) Developing a computerized database of all traffic flows and costs.

(I) Forecasting future port infrastructure needs.

(3) REPORT.—Not later than 14 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,200,000.

(b) NORCO BLUFFS, CALIFORNIA.—The Secretary shall conduct a feasibility study of bank stabilization measures for Norco Bluffs, California, under the flood control program of the Corps of Engineers.

(c) RANCHO PALOS VERDES, CALIFORNIA.—The Secretary shall—

(1) complete the study of the feasibility of constructing shoreline erosion mitigation measures along the Rancho Palos Verdes coastline and in the city of Rolling Hills, California, authorized by section 712 of the Water Resources Development Act of 1986 (100 Stat. 4160); and

(2) in connection with such study, investigate measures to conserve fish and wildlife (as specified in section 704 of the Water Resources Development Act of 1986), including measures to demonstrate the effectiveness of intertidal marine habitat.

(d) SOUTHERN CALIFORNIA INFRASTRUCTURE RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the Southern California region of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress

a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(e) SANTA MONICA BREAKWATER, CALIFORNIA.—The Secretary shall complete the reconnaissance investigation and feasibility study for the breakwater project, Santa Monica, California, not later than July 1, 1992, and may consider as commercial benefits, for purposes of section 119 of the 1970 River and Harbor Act, benefits from reestablishment of past charter fishing vessel accommodation activities which existed in the area from the 1930's prior to damage of the breakwater structure.

(f) CALIFORNIA OIL SPILL RESTORATION.—

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency and the Commandant of the Coast Guard, shall conduct a feasibility study in the California coastal region of the problems and alternative solutions, including Federal and non-Federal roles and responsibilities, of containment and restoration of coastal waters and lands (including natural wildlife, habitat restoration, commercial, and recreational activities) following a major oil spill.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(g) SANTA ROSA, CALIFORNIA.—The Secretary may conduct a review and evaluation of proposals for storage facilities associated with wastewater reclamation and irrigation in Santa Rosa, California, for the purpose of developing recommendations concerning Federal and non-Federal participation in construction of such facilities.

(h) KISSIMMEE RIVER, CENTRAL AND SOUTHERN FLORIDA.—

(1) STUDY.—The Secretary shall conduct a feasibility study of the Kissimmee River in central and southern Florida for the purpose of determining modifications of the flood control project for central and southern Florida, authorized by section 203 of the Flood Control Act of 1948 (62 Stat. 1176), which are necessary to provide a comprehensive plan for the environmental restoration of the Kissimmee River. The study shall be based on implementing the Level II Backfilling Plan specified in the Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design Report, dated June 1990, published by the South Florida Water Management District.

(2) REPORT.—Not later than April 1, 1992, the Secretary shall transmit to Congress a final report of the Chief of Engineers on the results of the study conducted under this subsection, together with such modifications as are recommended by the Secretary.

(3) POST-STUDY WORK.—All work necessary to prepare the project recommended by the Chief of Engineers, as modified by the Secretary, for construction bidding, including Feature Design Memoranda, shall be completed by June 1, 1994.

(i) NASSAU COUNTY, FLORIDA.—The Secretary is authorized to study the project for beach erosion control, Nassau County (Amelia Island), Florida, authorized by section 3 of the Water Resources

Development Act of 1988 (102 Stat. 4013), for the purpose of determining whether or not such project should be modified to authorize beach nourishment for the southern beaches of Fernandina (south Amelia Island) from Florida Department of Natural Resources monument number 60 to monument number 79.

(j) THURMAN TO HAMBURG, IOWA.—The Secretary shall complete the feasibility phase of the study authorized by section 1152 of the Water Resources Development Act of 1986 (100 Stat. 4255), including completion of planning and specifications, not later than August 1, 1991.

(k) LAKE PONTCHARTRAIN, LOUISIANA.—

(1) STUDY.—The Secretary shall study the benefits which accrue to non-Federal sponsors from the project for flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), for the purposes of determining—

(A) whether or not such sponsors have received the expected benefits from the project; and

(B) whether or not there should be a reallocation of costs as a result of any unrealized expected benefits from the project.

(2) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(3) NON-FEDERAL RESPONSIBILITY DURING STUDY.—During the period beginning on the date of the enactment of this Act and ending on the 30th day following the date of transmission of the report under paragraph (2), non-Federal sponsors of the project referred to in paragraph (1) shall not be required to make payments on non-Federal responsibilities incurred for the St. Bernard Parish portion of the Chalmette area before or during such period.

(l) BUFFUMVILLE LAKE, MASSACHUSETTS.—The Secretary may study the flood control project for Buffumville Lake, Massachusetts, authorized by the Flood Control Act of August 18, 1941 (55 Stat. 639), for the purpose of determining whether or not such project should be modified to authorize low flow augmentation for improving water quality on the French River.

(m) PEARL RIVER BASIN, MISSISSIPPI.—The Secretary shall conduct a feasibility study of providing flood protection for the metropolitan area of Jackson, Mississippi, and the counties of Rankin, Hinds, Simpson, Lawrence, Marion, and Madison, Mississippi.

(n) ROCK CREEK, MARYLAND.—

(1) WATER QUALITY STUDY.—The Secretary shall conduct a study of methods of improving water quality of Rock Creek, Maryland.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(o) SAGINAW BAY, MICHIGAN.—

(1) EXTENSION OF DEADLINE FOR FEASIBILITY REPORT.—Section 711 of the Water Resources Development Act of 1986 (100 Stat. 4160) is amended by striking "1989" and inserting "1992".

(2) CONTINUATION OF FEASIBILITY STUDY AUTHORIZATION.—For purposes of section 710 of the Water Resources Development

Act of 1986, the study authorized by section 711 of such Act shall be treated as being authorized on the date of the enactment of this Act.

(p) WATER SUPPLY, MINNESOTA AND NORTH DAKOTA.—

(1) IN GENERAL.—The Secretary shall conduct a study, with the States of Minnesota and North Dakota—

(A) to determine and recommend alternative plans to augment flows in the Red River of the North, Minnesota and North Dakota, including plans to supplement flows for municipal, industrial, agricultural, and fish and wildlife purposes; and

(B) to utilize and conserve water within the area.

(2) ADDITIONAL PURPOSES.—Additional purposes of the study under this subsection are as follows:

(A) To identify alternative courses of action during drought conditions.

(B) To address such issues as system capabilities, regulatory actions, water quality, treaty constraints, and institutional arrangements.

(C) To recommend short- and long-term approaches to resolving water supply and use problems, including those that occur outside the area.

(3) SPECIFIC REQUIREMENTS.—In conducting the study under this subsection, the Secretary shall—

(A) recognize the need for continued flow into Canada;

(B) coordinate with the Bureau of Reclamation on actions being undertaken by the Bureau with respect to the Garrison Diversion Unit; and

(C) provide for appropriate consideration for protection of the Nation's water resources as well as the needs of the area for water management and water availability.

(q) LAKE WINNIBIGOSHISH, MINNESOTA.—The Secretary is authorized to conduct a study to determine whether the Secretary's jurisdiction should be expanded to include areas above the current pool regulation levels at Lake Winnibigoshish, Minnesota, and to identify methods for bank stabilization and preservation needed due to lake level regulation.

(r) LAKE OF THE WOODS, MINNESOTA.—

(1) INVESTIGATION.—The Secretary may undertake an investigation of the lands bordering on the Lake of the Woods, Minnesota, to determine if such lands and improvements thereto in the United States currently meet applicable requirements of international agreements concerning regulation of the levels of the Lake of the Woods.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to Congress on the progress made in carrying out this subsection and the need for further legislation to resolve any outstanding claims for damages caused by the need for additional protective works and measures to satisfy the requirements referred to in paragraph (1).

(s) HEADWATERS RESERVOIRS OF THE MISSISSIPPI RIVER, MINNESOTA.—The Secretary shall conduct a study of the 6 headwaters reservoirs of the Mississippi River, Minnesota, to assess lake currents and resulting siltation behavior and to determine the impact of lake levels on fish habitat and spawning success.

(t) HIGHFIELD WATER COMPANY, NEW JERSEY.—

(1) STUDY.—The Comptroller General shall conduct a study of the facts and circumstances concerning the claims of the Highfield Water Company, New Jersey, against the United States Army Corps of Engineers for the purpose of making recommendations for an appropriate settlement of such claims.

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under this subsection.

(u) MANASQUAN RIVER, NEW JERSEY.—

(1) STUDY.—The Secretary shall conduct a study of the feasibility of implementing flood control measures on the Manasquan River to alleviate flooding in Freehold, Howell, and other affected townships in New Jersey.

(2) REPORT.—Not later than December 31, 1992, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(v) ACEQUIAS IRRIGATION SYSTEM, NEW MEXICO.—The Secretary is authorized to conduct a study of the Acequias irrigation system, New Mexico, to determine whether the project for restoration and preservation of such system, authorized by section 1113 of the Water Resources Development Act of 1986 (100 Stat. 4232), should be expanded to include additional areas of the system.

(w) BUFFALO, NEW YORK.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the plan prepared by the city of Buffalo, New York, on flooding and associated water quality problems (including those associated with combined sewer overflows, sewer backups, and riverside outfalls) in the Buffalo, New York, metropolitan area.

(2) PURPOSES.—The purposes of the review and evaluation to be conducted under this subsection are to develop recommendations for Federal and non-Federal participation in solving the problems described in paragraph (1) and to identify flood control benefits of implementing the plan.

(3) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall transmit to Congress and the mayor of Buffalo, New York, a report on the results of the review and evaluation conducted under this subsection.

(x) CAESAR'S CREEK LAKE, OHIO.—

(1) STUDY.—The Secretary shall conduct a study of the water supply needs of Clinton County, Ohio.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations for meeting the projected water supply needs of Clinton County, Ohio.

(y) LIBERTY, OHIO.—

(1) STUDY.—The Secretary shall conduct a study of the water supply needs of Liberty, Ohio.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations for meeting the projected water supply needs of Liberty, Ohio.

(z) WASHINGTONVILLE, OHIO.—

(1) STUDY.—The Secretary shall conduct a study of the water supply needs of Washingtonville, Ohio.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations for meeting the projected water supply needs of Washingtonville, Ohio.

(aa) MILL CREEK, TENNESSEE.—

(1) FEASIBILITY STUDY.—The Secretary shall study the feasibility of nondam options to alleviate flooding along Mill Creek and Seven Mile Creek, Tennessee.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with a recommended plan for alleviating the flooding referred to in paragraph (1).

(bb) NEW MADRID INFRASTRUCTURE RESTORATION.—

State listing.

(1) STUDY.—The Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall conduct a feasibility study in the region surrounding the New Madrid Fault (including the States of Tennessee, Missouri, Arkansas, Kentucky, Mississippi, Indiana, and Illinois) of the problems and alternative solutions, including governmental roles and responsibilities, of restoring such region's public works infrastructure (including roads and highways, fixed rails, bridges, airports, flood control channels, dams, aqueducts, and utility pipes and lines) to full service following earthquakes which cause substantial damage to such infrastructure.

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the study conducted under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $1,500,000.

(cc) SOUTHWEST REGION FLOOD RESPONSE.—

(1) STUDY.—The Secretary, in consultation with the Secretary of Agriculture and the Director of the Federal Emergency Management Agency, shall conduct a study to evaluate—

(A) existing flood control measures in the Arkansas, Red, and Ouachita river basins, including the adequacy of flood control storage at existing reservoirs, operation of such reservoirs, and downstream flood control and local protection projects;

(B) the effectiveness of Federal emergency response capabilities to prevent or minimize loss of life and damage to property resulting from flooding; and

(C) the effectiveness of Federal disaster assistance programs in providing adequate and prompt compensation to flood victims.

(2) REPORT.—The Secretary shall transmit a report to Congress on the results of the study conducted under this subsection not later than 1 year after the date of the enactment of this Act. The report shall contain a detailed statement of the findings and conclusions of the Secretary, together with recommendations for such legislation and administrative actions as the Secretary considers appropriate.

(dd) RADIUM REMOVAL.—

(1) STUDY.—The Secretary, in cooperation with State public authorities, may conduct a study of methods of mitigating radium contamination in ground water.

(2) TECHNICAL ASSISTANCE.—Upon application of a State public authority, the Secretary may provide, on a reimbursable basis, technical assistance with respect to development and installation of ground water treatment technologies needed to remove radium from ground water used as a source of public drinking water for residents of small communities.

(ee) MISSISSIPPI RIVER WATER QUALITY.—

(1) STUDY.—The Secretary shall conduct a study of the water quality of the Mississippi River.

(2) CONSULTATION AND ASSISTANCE.—In conducting the study under this subsection, the Secretary is authorized to consult with, and request the assistance of, the United States Geological Survey, the United States Fish and Wildlife Service, the Environmental Protection Agency, and appropriate States.

(3) FRAMEWORK.—The Secretary shall consult with the Federal agencies and States referred to in paragraph (2) to develop a framework for the study to be conducted under this subsection. Such framework shall be completed on or before the 120th day after the date of the enactment of this Act.

(4) REPORT.—Not later than December 31, 1992, the Secretary shall transmit a report to Congress on the results of the study conducted under this subsection, including findings and recommendations of the Secretary.

(5) FEDERAL SHARE.—The Federal share of the costs of carrying out this subsection shall be 50 percent.

(6) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000.

SEC. 117. CRANSTON, RHODE ISLAND.

Waste treatment and disposal.

(a) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a feasibility study of wastewater treatment options for transporting contamination from the central landfill site and other sources of pollution in Rhode Island to a wastewater treatment facility in Cranston, Rhode Island, through the use of a regional connector system.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

(c) DEMONSTRATION PROGRAM.—After completion of the feasibility study under this section, the Secretary shall conduct a technology demonstration of the connector system described in subsection (a) to determine the capability of the system design to operate properly.

(d) FEDERAL SHARE.—The Federal share for carrying out this section shall be 50 percent.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $10,000,000 to carry out subsection (c).

SEC. 118. TECHNICAL ASSISTANCE FOR NEW YORK HARBOR.

The Secretary may provide, on a reimbursable basis, technical assistance with respect to a comprehensive review of New York Harbor and a systems investigation of the system of channels and anchorages of the Port of New York and New Jersey (including areas and channels outside the Federal system). Such technical

assistance may include analysis of traffic design, shoaling, and hydraulics in order to determine the potential of streamlining the operation of such system and of reducing the potential for maritime accidents.

SEC. 119. PROJECT DEAUTHORIZATIONS.

(a) NOTIFICATION OF MEMBERS OF CONGRESS.—Section 1001(b)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(2)) is amended by inserting after the first sentence the following new sentence: "Before submission of such list to Congress, the Secretary shall notify each Senator in whose State, and each Member of the House of Representatives in whose district, a project (including any part thereof) on such list would be located.".

(b) REPEAL OF OUTDATED DEAUTHORIZATION PROVISION.—Section 12 of the Water Resources Development Act of 1974 (33 U.S.C. 579) is repealed.

(c) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date or is under construction on such date:

(1) GREENWICH HARBOR, CONNECTICUT.—The following portion of the channel at Greenwich Harbor, Connecticut, authorized by the Rivers and Harbors Appropriations Act of March 2, 1919 (40 Stat. 1276):

Beginning at a point on the limit line of the Federal Anchorage Area in Greenwich Harbor, such point having coordinates of N66,309.76 E358,059.81 and running thence northwesterly along the limit line of the Federal Anchorage Area N50°0104W, a distance of 621.62 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,709.18 E357,583.50; thence continuing along the existing Federal Anchorage Area Limit Line N39°5855E a distance of 200.00 feet to an angle point on the existing Federal Anchorage Area Limit Line having coordinates N66,862.43 E357,712.01; thence continuing along the existing Federal Anchorage Area Limit Line S50°0104E a distance of 140.00 feet to a point on the existing Federal Anchorage Area Limit Line having coordinates N66,772.47 E357,819.28; thence running into the existing Federal Anchorage Area S39°5855W a distance of 187.66 feet to a point having coordinates N66,628.75 E357,698.76; thence running in the existing Federal Anchorage Area S59°1032″E a distance of 376.47 feet to a point having coordinates N66,435.85 E358,022.05; thence running in the existing Federal Anchorage Area S16°4026″E a distance of 131.62 feet to the point and place of the beginning for a total area of 47,737 square feet.

(2) CONNEAUT HARBOR, OHIO.—The feature of the navigation project for Conneaut Harbor, Ohio, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1176), which feature is a channel lying easterly of the access channel and adjacent to the municipal pier.

(3) BIG RIVER RESERVOIR, RHODE ISLAND.—The water supply project, Big River Reservoir, Providence, Rhode Island, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4144).

SEC. 120. HALF MOON BAY HARBOR.

(a) DESIGNATION.—The harbor commonly known as Half Moon Bay Harbor, located in El Granada, California, shall hereafter be known and designated as "Pillar Point Harbor". Nomenclature.

(b) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to the harbor referred to in subsection (a) shall be deemed to be a reference to "Pillar Point Harbor".

TITLE II—LAND TRANSFERS

SEC. 201. SNEADS, FLORIDA.

(a) IN GENERAL.—The Secretary shall convey to the trustees of the Salem Wesleyan Church all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) PROPERTY DESCRIPTION.—The parcel of land referred to in subsection (a) contains approximately 2.30 acres lying in section 12, township 4 north, range 8 west, Tallahassee meridian, Jackson County, Florida, and is more particularly described as follows:

Beginning at a point that is 294 feet west of the east line and 294 feet north of the south line of the northeast quarter of the northeast quarter of such section 12, and at a corner of a tract of land now or formerly owned by the Salem Wesleyan Church;

Thence south along a line parallel to the east line of such section a distance of approximately 269 feet to a point that is 25 feet north of the south line of the northeast quarter of the northeast quarter of such section;

Thence west along a line parallel to the south line of the northeast quarter of the northeast quarter of such section a distance of approximately 425 feet to the eastern right-of-way line of Florida State Road Numbered S-69A;

Thence northerly along the eastern right-of-way line of such State road a distance of approximately 200 feet to the boundary of such Salem Wesleyan Church tract; and

Thence northeasterly along the boundary of such Salem Wesleyan Church tract approximately 450 feet to the point of beginning.

(c) PAYMENT OF FAIR MARKET VALUE.—The conveyance authorized by this section shall be made upon payment to the United States of a sum equal to the fair market value of the land as determined by the Secretary.

(d) CONDITIONS AND RESTRICTIONS.—The conveyance under this section shall be subject to a reversionary interest in the United States if the lands conveyed are used for other than church purposes. The Secretary may require such additional terms, conditions, reservations, and restrictions in connection with the conveyance as the Secretary determines are necessary to protect the interests of the United States.

(e) SURVEY COSTS.—The cost of any surveys necessary as an incident to the conveyance authorized by this section shall be borne by the trustees of the Salem Wesleyan Church.

(f) DEADLINE.—Subject to compliance with this section, the Secretary shall convey the parcel of land described in subsection (b) not later than 2 years after the date of the enactment of this Act.

SEC. 202. IRA D. MACLACHLAN AMERICAN LEGION POST, SAULT SAINTE MARIE, MICHIGAN.

The Secretary shall convey to the Commandant of the Coast Guard the parcel of land described in the Act of June 5, 1936 (49 Stat. 1481), and the building located thereon for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan.

SEC. 203. ABERDEEN, WASHINGTON.

(a) IN GENERAL.—The Secretary may transfer to the city of Aberdeen, Washington, by quitclaim deed, all rights, interests, and title of the United States in the approximately 570.5 acres of land under the administrative jurisdiction of the Department of the Army acquired for the purposes of the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), together with any improvements thereon.

(b) CONDITIONS.—A transfer under this section shall be subject to the following conditions:

Regulations.

(1) The city shall operate, maintain, repair, replace, and rehabilitate the project in accordance with regulations prescribed by the Secretary which are consistent with the project's authorized purposes, including fish and wildlife mitigation.

(2) The city shall hold and save the United States free from any claims or damages resulting from the operation, maintenance, repair, or rehabilitation of the project by the city or its contractors.

(3) If the city uses the land transferred under this section for any purpose other than the project's authorized purposes or generation of hydropower or fails to comply with paragraph (1) or (2), the Secretary shall notify the city of such use or failure. If the city does not correct such nonconforming use or failure during the 1-year period beginning on the date of such notification, the Secretary shall have a right of reverter to reclaim possession and title to the land transferred under this section.

(c) LIMITATION.—No transfer under this section may be made until the Secretary has determined that the city can operate, maintain, repair, replace, and rehabilitate the project.

(d) REPAYMENT OF CAPITAL COSTS.—Nothing in this section shall be construed to relieve the city of its obligations under the project contract to repay the capital costs of the project allocated to water supply. The Secretary may negotiate a cash settlement to allow the city to prepay the present value of the payments for capital costs due under the contract.

SEC. 204. RELEASE OF REVERSIONARY INTEREST TO CLAY COUNTY, GEORGIA.

(a) IN GENERAL.—Subject to the condition stated in subsection (b) and notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 108 of the River and Harbor Act of 1960 (33 U.S.C. 578), the Secretary shall release to Clay County, Georgia, without reimbursement, the reversionary interest of the United States in approximately 50 acres of land in the deed described in subsection (c).

(b) CONDITION.—

(1) REPLACEMENT REVERSIONARY INTEREST.—The condition referred to in subsection (a) is that Clay County, Georgia, agree to an amendment of the deed described in subsection (c) by which

the reversionary interest that is released pursuant to subsection (a) is replaced with a reversionary interest as described in paragraph (2).

(2) DESCRIPTION.—The deed described in subsection (c) shall be amended to provide that the property conveyed by the deed is subject to the condition and restriction that it is to be used and enjoyed solely for the development of a retirement community, as that term may be defined by the parties in the instrument described in subsection (d), operated on a nonprofit basis by Clay County, Georgia, and its successors and assigns, or under a lease arrangement between the county and the South Georgia Methodist Home for the Aging, Inc., and that if the property is used for any other purpose, title to the property, including any improvements, shall revert to the United States.

(c) DESCRIPTION OF DEED.—The deed referred to in subsections (a) and (b) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(d) INSTRUMENT OF RELEASE.—The Secretary and Clay County, Georgia, shall execute and file in the appropriate office an amendment of deed, amended deed, deed of release, or other appropriate form of instrument or instruments effecting the substitution of reversionary interest authorized by this section.

SEC. 205. CONVEYANCE OF OAKLAND INNER HARBOR TIDAL CANAL PROPERTY TO CITIES OF OAKLAND AND ALAMEDA, CALIFORNIA.

The Secretary may convey, by quitclaim deed, the title of the United States in all or portions of the approximately 86 acres of uplands, tidelands, and submerged lands, commonly referred to as the Oakland Inner Harbor Tidal Canal, California, as follows:

(1) To the city of Oakland, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Oakland.

(2) To the city of Alameda, the United States title to all or portions of that part of the Oakland Inner Harbor Tidal Canal which are located within the boundaries of the city of Alameda.

The Secretary may reserve and retain from any such conveyance a right-of-way for the operation and maintenance of the authorized Federal channel in the Oakland Inner Harbor Tidal Canal.

TITLE III—GENERALLY APPLICABLE PROVISIONS

SEC. 301. PLANNING AND ENGINEERING.

Section 105(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2215(b)) is amended by adding at the end the following new sentence: "Costs of planning and engineering of projects for which non-Federal interests contributed 50 percent of the cost of the feasibility study shall be treated as costs of construction.".

SEC. 302. EMERGENCY RESPONSE.

Section 5(a)(1) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood

control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n(a)(1)), is amended—

(1) in the first sentence by striking "flood emergency preparation," and inserting "preparation for emergency response to any natural disaster,"; and

(2) by inserting after the first sentence the following: "The emergency fund may also be expended for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disasters.".

SEC. 303. CONSTRUCTION OF NAVIGATION PROJECTS BY NON-FEDERAL INTERESTS.

(a) TRANSMISSION OF HARBOR IMPROVEMENT STUDIES TO NON-FEDERAL INTERESTS.—Section 204(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2232(c)) is amended by inserting after the first sentence the following new sentence: "The Secretary is further authorized to complete and transmit to the appropriate non-Federal interest any study for improvement to harbors or inland harbors of the United States that is initiated pursuant to section 107 of the River and Harbor Act of 1960 or, upon request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest.".

(b) REIMBURSEMENT.—Section 204 of such Act is amended—

(1) by redesignating the second subsection (e) and subsection (f), and any reference thereto, as subsections (f) and (g), respectively;

Reports.

(2) in paragraph (1) of the first subsection (e) by inserting "including any small navigation project approved pursuant to section 107 of the River and Harbor Act of 1960," after "or separable element thereof,"; and

(3) in paragraph (1)(A) of the first subsection (e) by inserting "(or, in the case of a small navigation project, after completion of a favorable project report by the Corps of Engineers)" after "authorization of the project".

33 USC 2309a.

SEC. 304. PROJECT MODIFICATIONS FOR IMPROVEMENT OF ENVIRONMENT.

(a) REVIEW OF PROJECT OPERATIONS.—Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), is amended by striking "before the date of enactment of this Act".

(b) MODIFICATION PROGRAM.—Section 1135(b) of such Act is amended—

(1) by striking "demonstration program in the 5-year period beginning on the date of enactment of this Act" and inserting "program"; and

(2) by striking "before the date of enactment of this Act".

(c) REPORT.—Section 1135(d) of such Act as amended to read as follows:

"(d) BIENNIAL REPORT.—Beginning in 1992 and every 2 years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b).".

(d) FUNDING.—Section 1135(e) of such Act is amended by striking "$25,000,000 to carry out this section." and inserting "$15,000,000 annually to carry out this section.".

SEC. 305. ABILITY TO PAY.

(a) GENERAL RULE.—Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—

"(1) GENERAL RULE.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay.

"(2) PROCEDURES.—

"(A) IN GENERAL.—The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.

"(B) LIMITATIONS.—The procedures established pursuant to this subsection shall provide for a reduction in any non-Federal cash contribution required under subsection (a)(2) of this section. In addition, such procedures shall provide for determination of the eligibility of the non-Federal interest for a reduction in the required cash contribution on the basis of local, not statewide, economic and financial data.

"(C) REGULATIONS.—Not later than 1 year after the date of the enactment of this subparagraph, the Secretary shall issue regulations establishing the procedures required by this paragraph.".

(b) CONTINUATION OF EXISTING REGULATIONS.—Regulations issued to carry out section 103(m) of the Water Resources Development Act of 1986 before the date of the enactment of this Act and in effect on such date shall continue in effect until regulations are issued pursuant to paragraph (2)(C) of such section, as added by subsection (a) of this section. 33 USC 2213 note.

SEC. 306. ENVIRONMENTAL PROTECTION MISSION. 33 USC 2316.

(a) GENERAL RULE.—The Secretary shall include environmental protection as one of the primary missions of the Corps of Engineers in planning, designing, constructing, operating, and maintaining water resources projects.

(b) LIMITATION.—Nothing in this section affects—

(1) existing Corps of Engineers' authorities, including its authorities with respect to navigation and flood control;

(2) pending Corps of Engineers permit applications or pending lawsuits involving permits or water resources projects; or

(3) the application of public interest review procedures for Corps of Engineers permits.

SEC. 307. WETLANDS. 33 USC 2317.

(a) GOALS AND ACTION PLAN.—

(1) GOALS.—There is established, as part of the Corps of Engineers water resources development program, an interim goal of no overall net loss of the Nation's remaining wetlands base, as defined by acreage and function, and a long-term goal to increase the quality and quantity of the Nation's wetlands, as defined by acreage and function.

(2) USE OF AUTHORITIES.—The Secretary shall utilize all appropriate authorities, including those to restore and create wetlands, in meeting the interim and long-term goals.

(3) ACTION PLAN.—

(A) DEVELOPMENT.—The Secretary shall develop, in consultation with the Environmental Protection Agency, the

Fish and Wildlife Service, and other appropriate Federal agencies, a wetlands action plan to achieve the goals established by this subsection as soon as possible.

(B) CONTENTS.—The plan shall include and identify actions to be taken by the Secretary in achieving the goals and any new authorities which may be necessary to accelerate attainment of the goals.

(C) COMPLETION DEADLINE.—The Secretary shall complete the plan not later than 1 year after the date of enactment of this Act.

(b) CONSTRUCTED WETLANDS FOR MUD CREEK, ARKANSAS.—Notwithstanding any other provision of law, the Secretary is authorized and directed to establish and carry out a research and pilot project to evaluate and demonstrate—

(1) the use of constructed wetlands for wastewater treatment, and

(2) methods by which such projects contribute—

(A) to meeting the objective of the Federal Water Pollution Control Act to restore and maintain the physical, chemical, and biological integrity of the Nation's waters, and

(B) to attaining the goals established by subsection (a).

The project under this subsection shall be carried out to improve the quality of effluent discharged from publicly owned treatment works operated by the city of Fayetteville, Arkansas, into Mud Creek or its tributaries.

(c) NON-FEDERAL RESPONSIBILITIES.—For the project conducted under subsection (b), the non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) to operate and maintain the restored or constructed wetlands in accordance with good management practices; except that nothing in this paragraph shall be construed as precluding a Federal agency from agreeing to operate and maintain the restored or reconstructed wetlands.

The value of the non-Federal lands, easements, rights-of-way, relocations, and dredged material disposal areas provided by the non-Federal interest shall be credited toward the non-Federal share of project design and construction costs. The non-Federal share of project design and construction costs shall be 25 percent.

(d) WETLANDS RESTORATION AND ENHANCEMENT DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT AND IMPLEMENTATION.—The Secretary, in consultation with the Administrator, is authorized to establish and implement a demonstration program for the purpose of determining the feasibility of wetlands restoration, enhancement, and creation as a means of contributing to the goals established by subsection (a).

(2) GOAL.—The goal of the program under this subsection shall be to establish a limited number of demonstration wetlands restoration, enhancement, and creation areas in districts

of the Corps of Engineers for the purpose of evaluating the technical and scientific long-term feasibility of such areas as a means of contributing to the attainment of the goals established by subsection (a). Federal and State land-owning agencies and private parties may contribute to such areas.

(3) FACTORS TO CONSIDER.—In establishing the demonstration program under this subsection, the Secretary shall consider—

(A) past experience with wetlands restoration, enhancement, and creation;

(B) the appropriate means of measuring benefits of compensatory mitigation activities, including enhancement or restoration of existing wetlands or creation of wetlands;

(C) the appropriate geographic scope for which wetlands loss may be offset by restoration, enhancement, and creation efforts;

(D) the technical feasibility and scientific likelihood that wetlands can be successfully restored, enhanced, and created;

(E) means of establishing liability for, and long-term ownership of, wetlands restoration, enhancement, and creation areas; and

(F) responsibilities for short- and long-term project monitoring.

(4) REPORTING.—

(A) TO THE CHIEF OF ENGINEERS.—The district engineer for each district of the Corps of Engineers in which a wetlands restoration, enhancement, and creation area is established under this subsection shall transmit annual reports to the Chief of Engineers describing the amount and value of wetlands restored, enhanced, and created for the area and a summary of whether the area is contributing to the goal established in paragraph (2).

(B) TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report evaluating the use of wetlands restoration, enhancement, and creation areas in fulfilling the goal established by paragraph (2), together with recommendations on whether or not to continue use of such areas as a means of meeting the goals established by subsection (a).

(5) EFFECT ON OTHER LAWS.—Nothing in this subsection affects any requirements under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) or section 10 of the Act of March 3, 1899 (33 U.S.C. 403).

(e) TRAINING AND CERTIFICATION OF DELINEATORS.—

(1) IN GENERAL.—The Secretary is authorized to establish a program for the training and certification of individuals as wetlands delineators. As part of such program, the Secretary shall carry out demonstration projects in districts of the Corps of Engineers. The program shall include training and certification of delineators and procedures for expediting consideration and acceptance of delineations performed by certified delineators.

(2) REPORTS.—The Secretary shall transmit to Congress periodic reports concerning the status of the program and any recommendations on improving the content and implementation of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

33 USC 2318.

SEC. 308. FLOOD PLAIN MANAGEMENT.

(a) BENEFIT-COST ANALYSIS.—The Secretary shall not include in the benefit base for justifying Federal flood damage reduction projects—

(1)(A) any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 100-year flood plain with a first floor elevation less than the 100-year flood elevation after July 1, 1991; or

(B) in the case of a county substantially located within the 100-year flood plain, any new or substantially improved structure (other than a structure necessary for conducting a water-dependent activity) built in the 10-year flood plain after July 1, 1991; and

(2) any structure which becomes located in the 100-year flood plain with a first floor elevation less than the 100-year flood elevation or in the 10-year flood plain, as the case may be, by virtue of constrictions placed in the flood plain after July 1, 1991.

(b) COUNTIES SUBSTANTIALLY LOCATED WITHIN 100-YEAR FLOOD PLAIN.—For the purposes of subsection (a), a county is substantially located within the 100-year flood plain—

(1) if the county is comprised of lands of which 50 percent or more are located in the 100-year flood plain; and

(2) if the Secretary determines that application of the requirement contained in subsection (a)(1)(A) with respect to the county would unreasonably restrain continued economic development or unreasonably limit the availability of needed flood control measures.

Reports.

(c) COST SHARING.—Not later than January 1, 1992, the Secretary shall transmit to Congress a report on the feasibility and advisability of increasing the non-Federal share of costs for new projects in areas where new or substantially improved structures and other constrictions are built or placed in the 100-year flood plain or the 10-year flood plain, as the case may be, after the initial date of the affected governmental unit's entry into the regular program of the national flood insurance program of the National Flood Insurance Act of 1968.

(d) REGULATIONS.—Not later than 6 months after the date on which a report is transmitted to Congress under subsection (b), the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall issue regulations to implement subsection (a). Such regulations shall define key terms, such as new or substantially improved structure, constriction, 10-year flood plain, and 100-year flood plain.

(e) APPLICABILITY.—The provisions of this section shall not apply to any project, or separable element thereof, for which a final report of the Chief of Engineers has been forwarded to the Secretary before the last day of the 6-month period beginning on the date on which regulations are issued pursuant to subsection (a) but not later than July 1, 1993.

33 USC 426e note.

SEC. 309. SHORELINE PROTECTION.

Reports.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the advisability of not participating in the planning, implementation, or maintenance of any beach stabilization or renourishment project involving

Federal funds unless the State in which the proposed project will be located has established or committed to establish a beach front management program that includes—

(1) restrictions on new development seaward of an erosion setback line (based on preproject beach size) of at least 30 times the annual erosion rate;

(2) restrictions on construction of new structural stabilization projects, such as seawalls and groins, and their reconstruction if damaged by 50 percent or more;

(3) provisions for the relocation of structures in erosion-prone areas;

(4) provisions to assure public access to beaches stabilized or renourished with Federal funds after January 1, 1991; and

(5) such other provisions as the Secretary may prescribe by regulation to prevent hazardous or environmentally damaging shoreline development.

SEC. 310. RESERVOIR MANAGEMENT. 33 USC 2319.

(a) TECHNICAL ADVISORY COMMITTEE.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall establish for major reservoirs under the jurisdiction of the Corps of Engineers a technical advisory committee to provide to the Secretary and Corps of Engineers recommendations on reservoir monitoring and options for reservoir research. The Secretary shall determine the membership of the committee, except that the Secretary may not appoint more than 6 members and shall ensure a predominance of members with appropriate academic, technical, or scientific qualifications. Members shall serve without pay, and the Secretary shall provide any necessary facilities, staff, and other support services in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.).

(b) PUBLIC PARTICIPATION.—The Secretary shall ensure that, in developing or revising reservoir operating manuals of the Corps of Engineers, the Corps shall provide significant opportunities for public participation, including opportunities for public hearings. The Secretary shall issue regulations to implement this subsection, including a requirement that all appropriate informational materials relating to proposed management decisions of the Corps be made available to the public sufficiently in advance of public hearings. Not later than January 1, 1992, the Secretary shall transmit to Congress a report on measures taken pursuant to this subsection. Regulations. Reports.

SEC. 311. RESERVOIR PROJECT OPERATIONS.

(a) STUDY.—The Secretary shall conduct a study of the operations of reservoir projects which are under the jurisdiction of the Secretary—

(1) to identify the purposes for which each such project is authorized; and

(2) to identify the purposes for which each such project is being operated.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 312. ENVIRONMENTAL DREDGING. 33 USC 1252 note.

(a) OPERATION AND MAINTENANCE OF NAVIGATION PROJECTS.—Whenever necessary to meet the requirements of the Federal Water

Pollution Control Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, may remove, as part of operation and maintenance of a navigation project, contaminated sediments outside the boundaries of and adjacent to the navigation channel.

(b) NONPROJECT SPECIFIC.—

(1) IN GENERAL.—The Secretary may remove contaminated sediments from the navigable waters of the United States for the purpose of environmental enhancement and water quality improvement if such removal is requested by a non-Federal sponsor and the sponsor agrees to pay 50 percent of the cost of such removal.

(2) MAXIMUM AMOUNT.—The Secretary may not expend more than $10,000,000 in a fiscal year to carry out this subsection.

(c) JOINT PLAN REQUIREMENT.—The Secretary may only remove contaminated sediments under subsection (b) in accordance with a joint plan developed by the Secretary and interested Federal, State, and local government officials. Such plan must include an opportunity for public comment, a description of the work to be undertaken, the method to be used for dredged material disposal, the roles and responsibilities of the Secretary and non-Federal sponsors, and identification of sources of funding.

(d) DISPOSAL COSTS.—Costs of disposal of contaminated sediments removed under this section shall be a non-Federal responsibility.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to affect the rights and responsibilities of any person under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(f) TERMINATION DATE.—This section shall not be effective after the last day of the 5-year period beginning on the date of the enactment of this Act; except that the Secretary may complete any project commenced under this section on or before such last day.

33 USC 2320.

SEC. 313. PROTECTION OF RECREATIONAL AND COMMERCIAL USES.

(a) GENERAL RULE.—In planning any water resources project, the Secretary shall consider the impact of the project on existing and future recreational and commercial uses in the area surrounding the project.

(b) MAINTENANCE.—Whenever the Secretary maintains, repairs, rehabilitates, or reconstructs a water resources project which will result in a change in the configuration of a structure which is a part of such project, the Secretary, to the maximum extent practicable, shall carry out such maintenance, repair, rehabilitation, or reconstruction in a manner which will not adversely affect any recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction.

(c) MITIGATION.—

(1) IN GENERAL.—If maintenance, repair, rehabilitation, or reconstruction of a water resources project by the Secretary results in a change in the configuration of any structure which is a part of such project and has an adverse effect on a recreational use established with respect to such project before the date of such maintenance, repair, rehabilitation, or reconstruction, the Secretary, to the maximum extent practicable, shall take such actions as may be necessary to restore such recreational use or provide alternative opportunities for comparable recreational use.

(2) MAXIMUM AMOUNT.—The Secretary may not expend more than $2,000,000 in a fiscal year to carry out this subsection.

(3) TERMINATION DATE.—This subsection shall not be effective after the last day of the 5-year period beginning on the date of the enactment of this Act; except that the Secretary may complete any restoration commenced under this subsection on or before such last day.

(d) APPLICABILITY.—

(1) GENERAL RULE.—Subsections (b) and (c) shall apply to maintenance, repair, rehabilitation, or reconstruction for which physical construction is initiated after May 1, 1988.

(2) LIMITATION.—Subsections (b) and (c) shall not apply to any action of the Secretary which is necessary to discontinue the operation of a water resources project.

(e) COST SHARING.—Costs incurred by the Secretary to carry out the objectives of this section shall be allocated to recreation and shall be payable by the beneficiaries of the recreation.

SEC. 314. OPERATION AND MAINTENANCE OF HYDROELECTRIC FACILITIES. 33 USC 2321.

Activities currently performed by personnel under the direction of the Secretary in connection with the operation and maintenance of hydroelectric power generating facilities at Corps of Engineers water resources projects are to be considered as inherently governmental functions and not commercial activities. This section does not prohibit contracting out major maintenance or other functions which are currently contracted out or studying services not directly connected with project maintenance and operations.

SEC. 315. MATTERS TO BE ADDRESSED IN PLANNING.

Section 904 of the Water Resources Development Act of 1986 (33 U.S.C. 2281) is amended by inserting "(including preservation and enhancement of the environment)" after "environment".

SEC. 316. HARBOR MAINTENANCE TRUST FUND AMENDMENT.

Section 210(a)(2) of the Water Resources Development Act of 1986 (33 U.S.C. 2238) is amended by striking "not more than 40 percent" and inserting "up to 100 percent".

SEC. 317. SINGLE ENTITIES. 33 USC 2322.

For purposes of Federal participation in water resource development projects which are to be carried out by the Secretary, benefits which are to be provided to a facility owned by a State (including the District of Columbia and a territory or possession of the United States), county, municipality, or other public entity shall not be treated as benefits to be provided a single owner or single entity. The Secretary shall not treat such a facility as a single owner or single entity for any purpose. District of Columbia.

SEC. 318. TECHNICAL ASSISTANCE TO PRIVATE ENTITIES. 33 USC 2323.

(a) USE OF CORPS RESEARCH AND DEVELOPMENT LABS.—The Secretary is authorized to use Corps of Engineers research and development laboratories to provide research and development assistance to corporations, partnerships, limited partnerships, consortia, public and private foundations, universities, and nonprofit organizations operating within the United States, territories or possessions of the United States, and the Commonwealths of Puerto Rico and the Northern Mariana Islands— Territories.

(1) if the entity furnishes in advance of fiscal obligation by the United States such funds as are necessary to cover any and all costs of such research and development assistance;

(2) if the Secretary determines that the research and development assistance to be provided is within the mission of the Corps of Engineers and is in the public interest;

(3) if the entity has certified to the Secretary that provision of such research and development assistance is not otherwise reasonably and expeditiously obtainable from the private sector; and

(4) if the entity has agreed to hold and save the United States free from any damages due to any such research and development assistance.

(b) CONTRACT.—The Secretary may provide research and development assistance under subsection (a), or any part thereof, by contract.

(c) TECHNICAL ASSISTANCE PROGRAM.—Section 9 of the Water Resources Development Act of 1988 (102 Stat. 4024; 33 U.S.C. 2314 note) is amended— 33 USC 2314a.

(1) in the section heading by striking "**DEMONSTRATION**";

(2) in the first sentence of subsection (a) by striking "to undertake a demonstration program for a 2-year period, which shall begin within 6 months after the date of the enactment of this Act,";

(3) by striking subsection (d); and

(4) by redesignating subsection (e), and any reference thereto, as subsection (d).

SEC. 319. FEES FOR DEVELOPMENT OF STATE WATER PLANS.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d-16), is amended—

(1) by redesignating subsections (b) and (c), and any reference thereto, as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) FEES.—

"(1) ESTABLISHMENT AND COLLECTION.—For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to this section, the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States and other non-Federal public bodies to whom assistance is provided under this section.

"(2) PHASE-IN.—The Secretary shall phase in the cost sharing program under this subsection by recovering—

"(A) approximately 10 percent of the total cost of providing assistance in fiscal year 1991;

"(B) approximately 30 percent of the total cost in fiscal year 1992; and

"(C) approximately 50 percent of the total cost in fiscal year 1993 and each succeeding fiscal year.

"(3) DEPOSIT AND USE.—Fees collected under this subsection shall be deposited into the account in the Treasury of the United States entitled, 'Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)' and shall be available until expended to carry out this section.".

SEC. 320. CABIN SITE LEASES.

Section 1134(d) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "cabin or trailer and" after "lawfully installed dock or". 16 USC 460d note.

SEC. 321. INFORMATION ON FLOODS AND FLOOD DAMAGES.

Section 206 of the Flood Control Act of 1960 (74 Stat. 500, 33 U.S.C. 709a), is amended—

(1) by redesignating subsection (b), and any reference thereto, as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) FEES.—The Secretary of the Army is authorized to establish and collect fees from Federal agencies and private persons for the purpose of recovering the cost of providing services pursuant to this section. Funds collected pursuant to this section shall be deposited into the account of the Treasury of the United States entitled 'Contributions and Advances, Rivers and Harbor, Corps of Engineers (8862)' and shall be available until expended to carry out this section. No fees shall be collected from State, regional, or local governments or other non-Federal public agencies for services provided pursuant to this section.".

SEC. 322. REDUCED PRICING FOR CERTAIN WATER SUPPLY STORAGE. 33 USC 2324.

(a) PROVISION OF STORAGE SPACE.—If a low income community requests the Secretary to provide water supply storage space in a water resources development project operated by the Secretary and if the amount of space requested is available or could be made available through reallocation of water supply storage space in the project or through modifications to operation of the project, the Secretary may provide such space to the community at a price determined under subsection (c).

(b) MAXIMUM AMOUNT OF STORAGE SPACE.—The maximum amount of water supply storage space which may be provided to a community under this section may not exceed an amount of water supply storage space sufficient to yield 2,000,000 gallons of water per day.

(c) PRICE.—The Secretary shall provide water supply storage space under this section at a price which is the greater of—

(1) the updated construction cost of the project allocated to provide such amount of water supply storage space or $100 per acre foot of storage space, whichever is less; and

(2) the value of the benefits which are lost as a result of providing such water supply storage space.

(d) DETERMINATIONS.—For purposes of subsection (c), the determinations of updated construction costs and value of benefits lost shall be made by the Secretary on the basis of the most recent information available.

(e) INFLATION ADJUSTMENT OF DOLLAR AMOUNT.—The $100 amount set forth in subsection (c) shall be adjusted annually by the Secretary for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics.

(f) NON-FEDERAL RESPONSIBILITIES.—Nothing in this section shall be construed as affecting the responsibility of non-Federal interests to provide operation and maintenance costs assigned to water supply storage provided under this section.

(g) LOW INCOME COMMUNITY DEFINED.—The term "low income community" means a community with a population of less than 20,000 which is located in a county with a per capita income less than the per capita income of two-thirds of the counties in the United States.

TITLE IV—MISCELLANEOUS PROVISIONS

33 USC 1268 note.

SEC. 401. GREAT LAKES REMEDIAL ACTION PLANS.

(a) ASSISTANCE.—The Secretary is authorized to provide technical, planning, and engineering assistance to States and local governments in the development and implementation of remedial action plans for areas of concern in the Great Lakes identified under the Great Lakes Water Quality Agreement of 1978. Non-Federal interests shall contribute 50 percent of the costs of such assistance.

(b) MAXIMUM AMOUNT.—The Secretary may not expend more than $3,000,000 in a fiscal year to carry out this section.

SEC. 402. CROSS FLORIDA BARGE CANAL.

Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt; 100 Stat. 4232) is amended to read as follows:

"SEC. 1114. CROSS FLORIDA BARGE CANAL.

"(a) DEAUTHORIZATION.—The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter in this section referred to as the 'project'), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution specifically agreeing on behalf of the State of Florida (hereinafter in this section referred to as the 'State') to all of the terms of the agreement prescribed in subsection (b).

Intergovernmental relations.

"(b) TRANSFER OF PROJECT LANDS.—Notwithstanding any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e), directed to transfer to the State all lands and interests in lands acquired by the Secretary and facilities completed for the project in subsection (a), without consideration, if the State agrees to each of the following:

Claims.

"(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

Recreation and recreation areas.

"(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

"(A) Any area of the project corridor where, as of the date of the enactment of this subparagraph, no land is owned by the State or State Canal Authority.

"(B) Any area of the project corridor where, as of the date of the enactment of this subparagraph, the land owned by the State or State Canal Authority is less than 300 yards wide.

"(C) Any area of the project corridor where a road or bridge crosses the project corridor.

"(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east. National parks. Recreation and recreation areas.

"(4) The State shall agree, consistent with paragraphs (2), (5) and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

"(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of $32,000,000 in cash or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

"(6) The State shall agree to provide that, after repayment of all sums due to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2), (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

"(c) ENFORCEMENT.— Courts.

"(1) REMEDIES AND JURISDICTION.—The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

"(2) STATE REMEDIES.—The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

"(d) TIME OF TRANSFER.—Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until the last day of the 24-month period beginning on the date of the enactment of the Water Resources Development Act of 1990.

"(e) MANAGEMENT PENDING TRANSFER.—In the 24-month period following the date of the enactment of the Water Resources Development Act of 1990, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d).

"(f) SURVEY.—The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State.".

SEC. 403. WAPPINGERS LAKE AND LAKE GEORGE, NEW YORK.

Section 602(a) of the Water Resources Development Act of 1986 (100 Stat. 4148-49) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(10) Wappingers Lake, New York, for removal of silt and aquatic growth; and

"(11) Lake George, New York, for removal of silt and aquatic growth, stump removal, and the control of pollution.".

33 USC 2232 note.

SEC. 404. DEMONSTRATION OF CONSTRUCTION OF FEDERAL PROJECT BY NON-FEDERAL INTERESTS.

Cooperative agreements.

(a) IN GENERAL.—For purposes of demonstrating the safety benefits and economic efficiencies which would accrue as a consequence of non-Federal management of harbor improvement projects, the Secretary shall enter into agreements with 2 non-Federal interests pursuant to which the non-Federal interests will undertake part or all of a harbor project authorized by law, by utilizing their own personnel or by procuring outside services, if the cost of doing so will not exceed the cost of the Secretary undertaking the project. If proposals for such agreements meet the criteria of section 204 of the Water Resources Development Act of 1986, the agreements shall be entered into not later than 1 year after the date of the enactment of this Act.

Cargo vessels. Passenger vessels.

(b) LIMITATION.—At least 1 project carried out pursuant to this section shall pertain to improvements to a major ship channel which carries a substantial volume of both passenger and cargo traffic.

(c) REPORT.—The Secretary shall transmit to Congress a report regarding the safety benefits and economic efficiencies accrued from entering into agreements with non-Federal interests under this section.

SEC. 405. UPPER MISSISSIPPI RIVER PLAN.

Section 1103 of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended—

(1) in paragraph (e)(2) by striking "ten" and inserting "15";

(2) in paragraph (e)(3) by striking "eight" and inserting "13";

(3) in paragraph (e)(4) by striking "nine" and inserting "14";

(4) in paragraph (e)(5) by striking "seven" and inserting "12"; and

(5) in paragraph (f)(2)(A) by striking "ten" and inserting "15".

SEC. 406. CONSTRUCTION OF VIRGIN ISLANDS PROJECTS BY SECRETARY OF THE ARMY.

48 USC 1405c note.

(a) GENERAL RULE.—Upon request of the Governor of the Virgin Islands with respect to a construction project in the Virgin Islands for which Federal financial assistance is available under any law of the United States, the Federal official administering such assistance may make such assistance available to the Secretary instead of the Virgin Islands. The Secretary shall use such assistance to carry out such project in accordance with the provisions of such law.

(b) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as relieving the Virgin Islands from complying with any requirements for non-Federal cooperation with respect to a construction project carried out with Federal financial assistance provided to the Secretary pursuant to this section; except that the Secretary shall be responsible for complying with administrative and fiscal requirements associated with utilization of such assistance.

(c) TERMINATION DATE.—Subsection (a) shall not be effective after the last day of the 3-year period beginning on the date of the enactment of this Act; except that the Secretary shall complete construction of any project commenced under subsection (a) before such day.

SEC. 407. VIRGINIA BEACH, VIRGINIA.

(a) LOCAL COOPERATION AGREEMENT EFFECTIVE DATE.—The Secretary shall enter into a local cooperative agreement with the city of Virginia Beach, Virginia, for beach nourishment in accordance with section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j). The local cooperation agreement shall be effective from February 6, 1987.

(b) REIMBURSEMENT.—The Secretary is authorized to reimburse the city of Virginia Beach for the Federal share of beach nourishment in accordance with section 103(c)(5) of the Water Resources Development Act of 1986.

SEC. 408. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF LAKE ERIE.

33 USC 59bb.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries of Lake Erie described in Committee Print 101-48 of the Committee on Public Works and Transportation of the House of Representatives, dated July 1990, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of Lake Erie, bounded and described in such Committee print, are declared to be nonnavigable waters of the United States.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in the Committee print referred to in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations includ-

ing, but not limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the Rivers and Harbors Appropriations Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in the Committee print referred to in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b), or if work in connection with any activity permitting in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

33 USC 2317 note.

SEC. 409. WETLANDS ENHANCEMENT OPPORTUNITIES.

Not later than January 20, 1992, the Secretary shall transmit to Congress a list which specifically identifies opportunities of enhancing wetlands in connection with construction and operation of water resource projects.

SEC. 410. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary shall submit to Congress for approval any proposed changes in the allocation of storage for the Raystown Lake project, Pennsylvania, which result from the on-going Raystown Lake reallocation study undertaken by the District Engineer for the Baltimore District. Pending submission to and approval by Congress of the results of the study, the Secretary may not reallocate storage at the project.

SEC. 411. ONONDAGA LAKE, NEW YORK.

(a) MANAGEMENT CONFERENCE.—The Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake, New York. The purposes of the management conference shall include—

(1) the development, in the 2-year period beginning on the date of the enactment of this Act, of a comprehensive restoration, conservation, and management plan for Onondaga Lake that recommends priority corrective actions and compliance schedules for the cleanup of such lake; and

(2) the coordination of the implementation of such plan by the State of New York, the Army Corps of Engineers, the Environmental Protection Agency, and all local agencies, governments, and other groups participating in such management conference.

(b) ADMINISTRATIVE PROVISIONS.—

(1) MEMBERSHIP.—The members of the management conference shall include, at a minimum, the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Governor of the State of New York, and representatives of—

(A) the attorney general of the State of New York;

(B) Onondaga County, New York; and

(C) the city of Syracuse, New York.

(2) DESIGNATED REPRESENTATIVE.—Any member of the management conference may designate a representative to

attend meetings of the management conference and otherwise represent such member on the management conference.

(3) EX OFFICIO MEMBERS.—The management conference shall have ex officio members which shall include, at a minimum—

(A) the United States Senators from the State of New York; and

(B) each member of the United States House of Representatives within whose congressional district any portion of Onondaga Lake lies.

(4) STANDING COMMITTEES.—The management conference shall have standing committees which shall include, at a minimum—

(A) a Citizens Advisory Committee; and

(B) a Technical Review Committee.

(c) REQUIRED ACTIONS UPON PLAN COMPLETION.—

(1) APPROVAL.—Not later than 120 days after the completion of the plan developed pursuant to subsection (a) and after providing for public review and comment, the Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency shall approve such plan if such plan meets the requirements of this section and if the Governor of the State of New York concurs in such approval.

(2) IMPLEMENTATION.—Upon approval of the plan under this subsection, such plan shall be implemented.

(d) GRANTS.—

(1) IN GENERAL.—The Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency are authorized to make grants to the State of New York to perform activities authorized under this section or to contract for such performance. Such grants may not exceed 70 percent of the costs of such activities and the non-Federal share of such costs shall be provided by non-Federal sources. Administrative services for the development and implementation of the plan approved pursuant to subsection (a) shall be provided by a not-for-profit corporation established for the purpose of assisting with the planning and coordination of the cleanup of Onondaga Lake.

(2) USE OF GRANTS.—To carry out this section, the Governor of the State of New York may, using funds made available pursuant to paragraph (1), make grants for—

(A) research, surveys, administrative services, and studies approved by the management conference as necessary for the development of the plan under this section;

(B) other activities, including administrative services, that are approved by the management conference and are necessary to implement the plan approved by the management conference pursuant to subsection (a); and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel cleanup or obtain cleanup and damage costs from parties responsible for the pollution of Onondaga Lake, including administrative services.

(3) IN-KIND PAYMENTS.—In-kind payments shall qualify for the purpose of meeting the total non-Federal matching requirements of this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary and the Administrator of the

Environmental Protection Agency such sums as may be necessary to carry out this section.

(f) EFFECT ON LIABILITY.—Grants made under this section shall not relieve from liability any person who would otherwise be liable under Federal or State law for damages, response costs, natural resource damages, restitution, equitable relief, or any other relief.

33 USC 2239 note.

SEC. 412. ALTERNATIVES TO MUD DUMP SITE FOR DISPOSAL OF DREDGED MATERIAL.

(a) REPORT.—Within 90 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Congress a final report on the feasibility of designating an alternative site to the Mud Dump Site at a distance not less than 20 miles from the shoreline.

New York. New Jersey.

(b) PLAN.—Within 180 days after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall submit to Congress a plan for the long-term management of dredged material from the New York/New Jersey Harbor region. The plan shall include—

(1) an identification of the source, quantities, and characteristics of material to be dredged;

(2) a discussion of potential alternative sites for disposal of dredged material, including the feasibility of altering the boundaries of the Mud Dump Site;

(3) measures to reduce the quantities of dredged material proposed for ocean disposal;

(4) measures to reduce the amount of contaminants in materials proposed to be dredged from the Harbor through source controls and decontamination technology;

(5) a program for monitoring the physical, chemical, and biological effects of dumping dredged material at the Mud Dump Site; and

(6) a study of the characteristics of the bottom sediments, including type and distribution.

New York. New Jersey.

(c) DEMONSTRATION PROJECT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall implement a demonstration project for disposing on an annual basis up to 10 percent of the material dredged from the New York/New Jersey Harbor region in an environmentally sound manner other than by ocean disposal. Environmentally sound alternatives may include, among others, capping of borrow pits, construction of a containment island, application for landfill cover, habitat restoration, and use of decontamination technology.

(d) MUD DUMP SITE DEFINED.—For purposes of this section, the term "Mud Dump Site" means the area located approximately 5¾ miles east of Sandy Hook, New Jersey, with boundary coordinates of 40 degrees, 23 minutes, 48 seconds North, 73 degrees, 51 minutes, 28 seconds West; 40 degrees, 21 minutes, 48 seconds North, 73 degrees, 50 minutes, 00 seconds West; 40 degrees, 21 minutes, 48 seconds North; 73 degrees, 51 minutes, 28 seconds West; and 40 degrees, 23 minutes, 48 seconds North; 73 degrees, 50 minutes, 00 seconds West.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1991, $3,000,000 to implement subsection (b) and $1,000,000 to implement subsection (c), and such sums as may be necessary for fiscal year 1992.

(f) REPEAL.—Section 211 of the Water Resources Development Act of 1986 (33 U.S.C. 2239) is repealed.

SEC. 413. ALBEMARLE SOUND-ROANOKE RIVER BASIN, NORTH CAROLINA.

Not later than January 1, 1992, the Secretary shall review the report mandated by section 5 of Public Law 100-589 with respect to project application 83-0747-06, make a determination of the impact of the project in light of such report, and take all action he deems appropriate, including permit modification, notwithstanding any construction that may have occurred.

SEC. 414. RONDOUT CREEK AND WALLKILL RIVER, NEW YORK AND NEW JERSEY.

(a) NON-FEDERAL SHARE.—If the Secretary determines that a design deficiency exists in the North Ellenville portion of the project for flood control, Rondout Creek and Wallkill River and their tributaries, New York and New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), the non-Federal share of correcting such deficiency shall be the same as the non-Federal share of the project as originally authorized and constructed.

(b) DEADLINE FOR DETERMINATION.—The Secretary must make the determination under subsection (a) not later than the 90th day following the date of the enactment of this Act.

SEC. 415. REGULATION OF DWORSHAK DAM, IDAHO.

(a) JOINT REPORT.—On or before January 1, 1994, or as soon thereafter as reasonably practicable, as part of the joint systems operations review by the Army Corps of Engineers, the Secretary, the Commissioner of the Bureau of Reclamation, and the Administrator of the Bonneville Power Administration shall issue a joint report to Congress on the regulation of Dworshak Dam, Idaho, including the following:

(1) An analysis of the current recreational and transportation usage of Dworshak Reservoir and the potential for such usage given differing operating criteria for the dam.

(2) Identification of the annual time period during which the operating criteria for Dworshak Dam has the greatest impact on recreational and transportation usage of the reservoir.

(3) Recommendations for achieving to the greatest degree the Corps of Engineers' project purposes and suggestions for mitigating any adverse impacts on recreational and transportation usage of the Dworshak Reservoir.

(b) PUBLIC MEETINGS.—The Secretary shall, in cooperation with the Administrator of the Bonneville Power Administration, conduct public meetings in the vicinity of Dworshak Dam, Idaho, for the purpose of keeping the public informed about projected drawdowns of Dworshak Reservoir and the reasons for such drawdowns.

SEC. 416. SOUTHEAST LIGHT ON BLOCK ISLAND, RHODE ISLAND.

(a) RELOCATION.—The Secretary shall relocate the Southeast Light on Block Island, Rhode Island, to a more suitable location on such island.

(b) TERMS, CONDITIONS, AND OBLIGATIONS.—Nothing in this section shall be construed as relieving any person operating the Southeast Light on Block Island of any term, condition, or obligation to which such person is subject with respect to such operation on the day before the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section the lesser of

$970,000 or 50 percent of the total cost of relocating the southeast light.

33 USC 2313 note.

SEC. 417. MAGNETIC LEVITATION TECHNOLOGY.

(a) RESEARCH AND DEVELOPMENT.—The Secretary is authorized, in cooperation with the Secretary of Transportation, to conduct research and development activities on magnetic levitation technology or to provide for such research and development.

(b) COLLABORATION.—The Secretary is authorized to collaborate with non-Federal entities (including State and local governments, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under laws of a State or the District of Columbia) in carrying out research and development on magnetic levitation technology.

(c) COOPERATIVE RESEARCH CONTRACTS.—In carrying out this section, the Secretary may enter into contracts or cooperative research and development agreements under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a), except that the Secretary may fund up to 50 percent of the cost of each collaborative research and development project undertaken.

(d) LICENSING OF RESEARCH AND DEVELOPMENT.—The research, development, and use of any technology developed under an agreement entered into pursuant to this section, including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary may require the non-Federal entity to certify that such research and development will be performed substantially in the United States and that products embodying inventions made under an agreement entered into pursuant to this section or produced through the use of such inventions will be manufactured substantially in the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated $1,000,000 for fiscal year 1990 and $4,000,000 for fiscal year 1991. Such funds shall remain available until expended. No funds are authorized to be appropriated under this section for any fiscal year beginning after September 30, 1991.

SEC. 418. RIVERSIDE, CALIFORNIA.

If the holder and owner of a leasehold mineral and royalty interest in the existing Prado Flood Control Basin in Riverside, California, requests the Administrator of General Services to exchange such interest for excess Federal property, the Administrator shall acquire such interest by exchange of excess Federal property. Such acquisition must be completed not later than 270 days after the date of such request. The Administrator shall undertake an evaluation and appraisal of an interest to be acquired under this section.

SEC. 419. BUY AMERICAN.

(a) STUDY.—The Secretary shall conduct a study of the requirements of the use of materials and products produced in the United States as they apply to water resource projects carried out by the Secretary for the purpose of determining whether or not such requirements are meeting the objectives for which they are being

imposed and whether or not additional requirements are necessary to meet such objectives.

(b) REVIEW.—The study under this section shall include a review of the application of existing requirements and a description of the types and amounts of domestic and foreign materials and products used in water resource projects administered by the Secretary.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations for any modifications to requirements described in subsection (a).

SEC. 420. SENSE OF CONGRESS.

It is the sense of Congress that priority consideration will be given to the authorization of water resources development projects which are recommended by the Chief of Engineers in reports completed after the date of the enactment of this Act.

SEC. 421. WOODLAWN BEACH, HAMBURG, NEW YORK.

(a) DEMONSTRATION PROJECT.—The Administrator of the Environmental Protection Agency is authorized to undertake a demonstration project to eliminate contamination of the waters in the vicinity of Woodlawn Beach, Hamburg, New York, from nonpoint sources of pollution resulting from surface runoff and septic system contamination entering Rush and Blasdell Creeks. The project shall include control of sources of pollution, relocation of Rush and Blasdell Creeks, and construction of a settling pond.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project under this section shall be 50 percent.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 2740 (H.R. 5314):

HOUSE REPORTS: No. 101-705 accompanying H.R. 5314 (Comm. on Public Works and Transportation) and No. 101-966 (Comm. of Conference).
SENATE REPORTS: No. 101-333 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Aug. 1, considered and passed Senate.
Sept. 26, H.R. 5314 considered and passed House; S. 2740, amended, passed in lieu.
Oct. 27, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 28, Presidential statement.

Public Law 101-641
101st Congress

An Act

Nov. 28, 1990
[S. 3012]

To amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1991, 1992, and 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Independent Safety Board Act Amendments of 1990.
49 USC app. 1901 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Independent Safety Board Act Amendments of 1990".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Section 309(a) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1907(a)) is amended by adding at the end the following: "There are authorized to be appropriated for the purposes of this Act not to exceed $32,000,000 for the fiscal year ending September 30, 1991; $38,600,000 for the fiscal year ending September 30, 1992; and $38,800,000 for the fiscal year ending September 30, 1993, such sums to remain available until expended.".

EXAMINATION AND TESTING

SEC. 3. (a) Section 304(b)(2) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(b)(2)) is amended by inserting "vessel," immediately before "vehicle" each place it appears.

(b) Section 304(b)(2) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(b)(2)) is amended by adding at the end the following new sentences: "The Board shall have sole authority to determine the manner in which testing will be carried out under this paragraph and under section 701(c) of the Federal Aviation Act of 1958, including determining the persons who will conduct the test, the type of test which will be conducted, and the persons who will witness the test. Such determinations are committed to the discretion of the Board and shall be made on the basis of the needs of the investigation being conducted by the Board and, where applicable, the provisions of this paragraph.".

COCKPIT VOICE RECORDER RECORDINGS AND TRANSCRIPTIONS

SEC. 4. Section 306 of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1905) is amended by striking subsection (c) and inserting in lieu thereof the following:

"(c) PUBLIC DISCLOSURE OF COCKPIT VOICE RECORDER RECORDINGS AND TRANSCRIPTIONS.—(1) Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board.

"(2) Portions of a transcription of oral communications described in paragraph (1) which the Board determines relevant and pertinent to the accident or incident under investigation shall be made available to the public by the Board—

"(A) if the Board conducts a public hearing with respect to such accident or incident, at the time of such hearing; and

"(B) if the Board does not conduct such a public hearing, at the time when a majority of other factual reports regarding the accident or incident is placed in the public docket.

"(3) Nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations.

"(d) USE OF COCKPIT VOICE RECORDER RECORDINGS AND TRANSCRIPTIONS IN JUDICIAL PROCEEDINGS.—(1) Except as provided in this subsection, in a judicial proceeding, there shall not be discovery by a party—

"(A) of portions of cockpit voice recorder transcriptions other than such portions made available to the public by the Board under subsection (c)(2); and

"(B) of cockpit voice recorder recordings.

"(2) Subject to paragraph (4), a court may permit discovery of cockpit voice recorder transcriptions by a party if the court, after an in camera review of such transcriptions, finds that—

"(A) the portions of the transcriptions made available to the public under subsection (c) do not provide the party with sufficient information for the party to receive a fair trial; and

"(B) discovery of additional portions of transcriptions is necessary to provide the party with sufficient information for the party to receive a fair trial.

No cockpit voice recorder transcriptions prepared by or under the direction of the Board, other than portions made available by the Board under subsection (c), shall be required to be produced for an in camera review, or shall be subject to discovery, unless the cockpit voice recorder recordings are not available.

"(3) Subject to paragraph (4), a court may permit discovery of cockpit voice recorder recordings by a party if the court, after an in camera review of such recordings, finds that—

"(A) the portions of transcriptions made available to the public under subsection (c) and to the party through discovery under paragraph (2) do not provide the party with sufficient information for the party to receive a fair trial; and

"(B) discovery of cockpit voice recorder recordings is necessary to provide the party with sufficient information for the party to receive a fair trial.

"(4) If, under paragraph (2) or (3), there is discovery in a judicial proceeding of a cockpit voice recorder recording or any portion of a cockpit voice recorder transcription not made available to the public under subsection (c)(2), the court shall issue a protective order to limit the use of such recording or portion to the judicial proceeding and to prohibit dissemination of such recording or portion to any person who does not need access to such recording or portion for such proceeding.

"(5) A court may permit admission of a cockpit voice recorder recording or any portion of a cockpit voice recorder transcription not made available to the public under subsection (c)(2) into evidence in a judicial proceeding, only if the court places such recording or

portion under seal to preclude the use of such recording or portion for purposes other than for such proceeding.".

TOXICOLOGICAL TESTING OF TRANSPORTATION DEPARTMENT EMPLOYEES

49 USC app. 1657-1.

SEC. 5. (a) When the Department of Transportation, including any of its agencies, conducts post-accident or post-incident toxicological testing of an employee of the Department, specimen collection shall be accomplished as soon as practicable after the accident or incident, and the Department shall endeavor when feasible to complete such collection within four hours after the accident or incident.

Reports.

(b) The head of each agency within the Department of Transportation shall send to the Office of the Secretary of Transportation a report on the circumstances concerning the amount of time required to complete specimen collection related to a toxicological test which is conducted on an employee within that agency who is reasonably associated with the circumstances of an accident or incident within the investigative jurisdiction of the National Transportation Safety Board.

(c) Any failure to comply with the requirements of this section may not be asserted, by the subject of such testing, as a claim, cause of action, or defense in any administrative or judicial proceeding.

BOARD ACCESS TO TOXICOLOGICAL TESTING RECORDS

SEC. 6. Section 304(b) of the Independent Safety Board Act of 1974 (49 App. U.S.C. 1903(b)), is amended by redesignating paragraph (11) as paragraph (12) and by inserting immediately after paragraph (10) the following new paragraph:

"(11)(A) Notwithstanding section 503(e) of the Act entitled 'An Act making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes', approved July 11, 1987 (5 U.S.C. 7301 note), the Board is authorized to obtain from the Secretary of Transportation, by written request, and shall be furnished—

"(i) any report of a confirmed positive toxicological test, verified as positive by a medical review officer, which is conducted on an employee of the Department of Transportation, including any of its agencies, pursuant to post-accident, unsafe practice, or reasonable suspicion toxicological testing requirements of the Department, when that employee is reasonably associated with the circumstances of an accident or incident within the investigative jurisdiction of the Board; and

"(ii) any laboratory record providing documentation that such test is confirmed positive.

"(B) Except as provided in subparagraph (C), the Board shall maintain in confidence and exempt from public disclosure in accordance with section 552(b)(3) of title 5, United States Code—

"(i) any laboratory record, made available under subparagraph (A), of a confirmed and verified toxicological test which reveals medical use of a drug permitted under applicable regulations; and

"(ii) any medical information provided by the tested employee in connection with such test or in connection with a review of such test.

"(C) The Board may use such a laboratory record for development of any evidentiary record in an investigation by the Board of an accident or incident if—

"(i) the fitness of the employee who is the subject of the toxicological testing is at issue in the investigation; and

"(ii) the use of that record is necessary in the development of such evidentiary record.".

ODOMETER MILEAGE DISCLOSURE

SEC. 7. (a) Section 408(d)(2)(C) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)(2)(C)) is amended by striking the third sentence and inserting in lieu thereof the following: "The rule, consistent with the purposes of this Act and the need to facilitate enforcement thereof, shall prescribe that the form be issued by the State to the transferee in accordance with paragraph (2)(A)(i), shall prescribe that the person granted such power of attorney shall retain a copy of such power of attorney and shall submit the original back to the State with a copy of the title showing the restatement of the mileage, and may prescribe that the State retain the power of attorney and the copy of the title for an appropriate period or that the State adopt alternative measures consistent with the purposes of this title, taking into consideration costs to the State. The rule shall not require that a vehicle be titled in the State in which the power of attorney was issued.". Intergovernmental relations.

(b) The amendment made by subsection (a) shall be effective on the date of enactment of this Act and the Secretary of Transportation shall implement the amended section by promulgating a revision of existing regulations within six months after such effective date. Such rule shall consider the need to facilitate normal commercial transactions in the sale or exchange of motor vehicles. Effective date. Regulations. 15 USC 1988 note.

REPORT ON LOW-LEVEL RADIOACTIVE WASTE TRANSPORTATION

SEC. 8. Within twelve months after the date of enactment of this Act, the Secretary of Transportation shall conduct and complete a thorough study of and prepare a report to Congress on the transportation of low-level radioactive waste, specifically including— 49 USC app. 1804 note.

(1) an evaluation of the feasibility of requiring States that transport waste to a regional disposal facility established and operated under an interstate compact pursuant to section 4 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d) to use, to the maximum extent practicable, routes which are within the geographic borders of the States that are parties to the compact;

(2) factual information on the volume of low-level radioactive waste being shipped currently and estimates of such shipments for the calendar years 1991 through 1995;

(3) a list of the routes proposed to be used for shipment of such waste to the disposal facilities operated under such an interstate compact;

(4) a review of the process for determining and approving such routes;

(5) a review of the processes for resolving any disputes that may arise, between States and between Commissions created by such interstate compacts, regarding such routes; and

(6) identification of the public safety risks associated with possible accidents in transporting such waste and of the response plans to be employed in the event of a transportation accident.

INTERCITY RAIL PASSENGER SERVICE

SEC. 9. (a) Section 402(d)(1) of Rail Passenger Service Act (45 U.S.C. 562(d)(1)) is amended by adding at the end the following new sentence: "The Corporation may subsequently convey title or other interest in such property to a third party, if such reconveyance is found by the Commission to further the purposes of this Act.".

(b) The amendment made by subsection (a) shall apply to any proceeding instituted before, on, or after the date of enactment of this Act (including any such proceeding pending before any Federal court on such date of enactment).

COMMUTER RAIL SERVICE

SEC. 10. Notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not discontinue commuter rail service between Valparaiso, Indiana and Chicago, Illinois, before May 6, 1991.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S. 3012 (H.R. 5132):

HOUSE REPORTS: No. 101-661, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce) both accompanying H.R. 5132.

SENATE REPORTS: No. 101-450 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 27, considered and passed Senate and House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 28, Presidential statement.

Public Law 101-642
101st Congress

Joint Resolution

To designate the week of November 3, 1990, to November 10, 1990, as "National Week to Commemorate the Victims of the Famine in the Ukraine, 1932-1933", and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.

Nov. 28, 1990
[S.J. Res. 329]

Whereas more than 7 million Ukrainians in the Ukrainian Soviet Socialist Republic, one of the member republics of the Union of Soviet Socialist Republics, died of starvation during the years 1932-1933;

Whereas the famine of 1932-1933 was the consequence of deliberate policies of the Government of the Union of Soviet Socialist Republics aiming to destroy the political, cultural, and human rights of the Ukrainian people;

Whereas the economic, social, and political consequences of the famine of 1932-33 are still manifest among the Ukrainian population;

Whereas the Government of the Union of Soviet Socialist Republics, although aware of the famine in Ukraine and having complete control of the entire food supplies within the borders of the Union of Soviet Socialist Republics, nevertheless failed to take relief measures to check the famine of 1932-33 or to alleviate the catastrophic conditions resulting from it;

Whereas the Government of the Union of Soviet Socialist Republics ignored the appeals of international organizations and other nations;

Whereas the United States Commission on the Ukraine Famine, legislated to study and expand world knowledge of the famine, has substantiated, through hearings, eyewitness testimony, and documentation, that the Ukrainian famine of 1932-1933 was the result of a deliberate policy by the Government of the Union of Soviet Socialist Republics, and has published those findings;

Whereas on February 7, 1990, the Central Committee of the Communist Party of Ukraine acknowledged that the Ukrainian famine of 1932-1933 was artificially created by the policies of Stalin and his closest associates;

Whereas the Government of the Union of Soviet Socialist Republics has a long history of suppression of Ukrainian aspirations for the exercise of legitimate human rights and the expression of the cultural and social heritage of Ukrainians; and

Whereas the United States has made intercessions at various times during the course of its history on behalf of citizens of other countries who are oppressed or persecuted by their governments, reflecting the traditional policy of the United States to take cognizance of such abuses of human rights and liberties: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of November 3, 1990, through November 10, 1990, is designated as "National Week to Commemorate the Victims of the Famine in Ukraine, 1932-1933"; and

(2) the President is requested to issue a proclamation calling on the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities, and programs.

SEC. 2. Congress condemns the systematic disregard for human life, human rights, and liberties that characterized the policies of the Government of the Union of Soviet Socialist Republics during the Ukrainian famine of 1932-1933 and expresses sympathy for the millions of victims of the famine.

SEC. 3. The President is requested to use public and diplomatic channels to call the attention of the world to the policies of the Union of Soviet Socialist Republics that—

(1) caused the slow death by famine of 7 million Ukrainians during 1932 and 1933; and

(2) for much of the modern history of Ukraine, have suppressed Ukrainian aspirations for the exercise of human rights and the expression of the cultural and social heritage of Ukrainians.

SEC. 4. Congress recognizes the reforms underway in Ukraine and strongly urges the Government of the Union of Soviet Socialist Republics to—

(1) continue to move forward toward democratization and restructuring; and

(2) provide a framework for the realization of the legitimate rights and aspirations of the people of Ukraine.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S.J. Res. 329:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 19, considered and passed Senate.
Oct. 27, considered and passed House.

Public Law 101-643
101st Congress

Joint Resolution

To designate the third week of February 1991 as "National Parents and Teachers Association Week".

Nov. 28, 1990
[S.J. Res. 364]

Whereas the PTA is the oldest and largest parent-teacher association in the Nation;
Whereas studies have proven that parent involvement leads to better education of children;
Whereas the PTA provides the most effective means of participating in children's education;
Whereas the PTA is an organization for all people dedicated to the well-being of children;
Whereas the PTA can teach parents and teachers how to make a difference in the lives of their own, and all, children;
Whereas PTA Founder's Day is celebrated every February 17: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the third week of February 1991 is designated as "National Parents and Teachers Association Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 28, 1990.

LEGISLATIVE HISTORY—S.J. Res. 364:

CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 10, considered and passed Senate.
Oct. 26, considered and passed House.

Public Law 101-644
101st Congress

An Act

Nov. 29, 1990
[H.R. 2006]

To expand the powers of the Indian Arts and Crafts Board, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Arts and Crafts Act of 1990.

TITLE I—INDIAN ARTS AND CRAFTS

SEC. 101. SHORT TITLE.

25 USC 305 note.

This title may be cited as the "Indian Arts and Crafts Act of 1990".

SEC. 102. POWERS OF INDIAN ARTS AND CRAFTS BOARD.

Section 2 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305a) is amended—

(1) in the first sentence—

(A) by striking "the Board" and inserting "the Secretary of the Interior through the Board"; and

(B) by striking "the Indian wards of the Government" and inserting "Indian individuals";

(2) by amending clause (g) to read as follows: "(g)(1) to create for the Board, or for an individual Indian or Indian tribe or Indian arts and crafts organization, trademarks of genuineness and quality for Indian products and the products of an individual Indian or particular Indian tribe or Indian arts and crafts organization; (2) to establish standards and regulations for the use of Government-owned trademarks by corporations, associations, or individuals, and to charge for such use under such licenses; (3) to register any such trademark owned by the Government in the United States Patent and Trademark Office without charge and assign it and the goodwill associated with it to an individual Indian or Indian tribe without charge; and (4) to pursue or defend in the courts any appeal or proceeding with respect to any final determination of that office;"; and

(3) by adding at the end the following new sentence: "For the purposes of this section, the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.".

SEC. 103. REFERRAL FOR CRIMINAL AND CIVIL VIOLATIONS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) is amended by adding at the end of the following:

25 USC 305d.

"SEC. 5. (a) The Board may receive complaints of violations of section 1159 of title 18, United States Code, and refer complaints of such violations to the Federal Bureau of Investigation for appropriate investigation. After reviewing the investigation report, the

Board may recommend to the Attorney General of the United States that criminal proceedings be instituted under that section.

"(b) The Board may recommend that the Secretary of the Interior refer the matter to the Attorney General for civil action under section 6.".

SEC. 104. CRIMINAL PENALTY FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

(a) IN GENERAL.—Section 1159 of title 18, United States Code, is amended to read as follows:

"§ 1159. Misrepresentation of Indian produced goods and products

"(a) It is unlawful to offer or display for sale or sell any good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States.

"(b) Whoever knowingly violates subsection (a) shall—

"(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and

"(2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000.

"(c) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe, or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(d) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

(b) CONFORMING AMENDMENT.—The item relating to section 1159 in the table of sections for chapter 53 of title 18, United States Code, is amended to read as follows:

"1159. Misrepresentation of Indian produced goods and products.".

SEC. 105. CAUSE OF ACTION FOR MISREPRESENTATION OF INDIAN PRODUCED GOODS AND PRODUCTS.

The Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) (as amended by section 3) is further amended by adding at the end of the following:

25 USC 305e.

"SEC. 6. (a) A person specified in subsection (c) may, in a civil action in a court of competent jurisdiction, bring an action against a person who offers or displays for sale or sells a good, with or without a Government trademark, in a manner that falsely suggests it is Indian produced, an Indian product, or the product of a particular Indian or Indian tribe or Indian arts and crafts organization, resident within the United States, to—

"(1) obtain injunctive or other equitable relief; and

"(2) recover the greater of—

"(A) treble damages; or

"(B) in the case of each aggrieved individual Indian, Indian tribe, or Indian arts and crafts organization, not less than $1,000 for each day on which the offer or display for sale or sale continues.

"(b) In addition to the relief specified in subsection (a), the court may award punitive damages and the costs of suit and a reasonable attorney's fee.

"(c)(1) A civil action under subsection (a) may be commenced—

"(A) by the Attorney General of the United States upon request of the Secretary of the Interior on behalf of an Indian who is a member of an Indian tribe or on behalf of an Indian tribe or Indian arts and crafts organization; or

"(B) by an Indian tribe on behalf of itself, an Indian who is a member of the tribe, or on behalf of an Indian arts and crafts organization.

"(2) Any amount recovered pursuant to this section shall be paid to the individual Indian, Indian tribe, or Indian arts and crafts organization, except that—

"(A) in the case of paragraph (1)(A), the Attorney General may deduct from the amount recovered the amount for the costs of suit and reasonable attorney's fees awarded pursuant to subsection (b) and deposit the amount of such costs and fees as a reimbursement credited to appropriations currently available to the Attorney General at the time of receipt of the amount recovered; and

"(B) in the case of paragraph (1)(B), the amount recovered for the costs of suit and reasonable attorney's fees pursuant to subsection (b) may be deducted from the total amount awarded under subsection (a)(2).

"(d) As used in this section—

"(1) the term 'Indian' means any individual who is a member of an Indian tribe; or for the purposes of this section is certified as an Indian artisan by an Indian tribe;

"(2) the terms 'Indian product' and 'product of a particular Indian tribe or Indian arts and crafts organization' has the meaning given such term in regulations which may be promulgated by the Secretary of the Interior;

"(3) the term 'Indian tribe' means—

"(A) any Indian tribe, band, nation, Alaska Native village, or other organized group or community which is

recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(B) any Indian group that has been formally recognized as an Indian tribe by a State legislature or by a State commission or similar organization legislatively vested with State tribal recognition authority; and

"(4) the term 'Indian arts and crafts organization' means any legally established arts and crafts marketing organization composed of members of Indian tribes.

"(e) In the event that any provision of this section is held invalid, it is the intent of Congress that the remaining provisions of this section shall continue in full force and effect.".

SEC. 106. PENALTY FOR COUNTERFEITING INDIAN ARTS AND CRAFTS BOARD TRADEMARK.

Section 1158 of title 18, United States Code, is amended by striking "be fined not more than $500 or imprisoned not more than six months, or both; and" and inserting "(1) in the case of a first violation, if an individual, be fined not more than $250,000 or imprisoned not more than five years, or both, and, if a person other than an individual, be fined not more than $1,000,000; and (2) in the case of subsequent violations, if an individual, be fined not more than $1,000,000 or imprisoned not more than fifteen years, or both, and, if a person other than an individual, be fined not more than $5,000,000; and (3)".

SEC. 107. CERTIFICATION OF INDIAN ARTISANS.

25 USC 305e note.

For the purposes of section 1159 of title 18, United States Code, and section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305 et seq.) an Indian tribe may not impose a fee in certifying an individual as an Indian artisan. For the purposes of this section, the term "Indian tribe" has the same meaning given such term in section 1159(c)(3) of title 18, United States Code.

TITLE II—TECHNICAL AND CLARIFYING AMENDMENTS

Indian Self-Determination and Education Assistance Act Amendments of 1990.

SEC. 201. SHORT TITLE.

This title may be cited as the "Indian Self-Determination and Education Assistance Act Amendments of 1990".

25 USC 450 note.

SEC. 202. AMENDMENTS TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

The Indian Self-Determination and Education Assistance Act is amended as follows:

(1) In section 4(h) of such Act (25 U.S.C. 450b(h)), delete "in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988".

(2) In section 4(j) of such Act (25 U.S.C. 450b(j)), delete "contract entered" each place it appears and insert in lieu thereof "contract (or grant or cooperative agreement utilized under section 9 of this Act) entered".

(3) In section 5(d) of such Act (25 U.S.C. 450c(d)), delete the word "Any" and insert in lieu thereof "Except as provided in

section 8 or 106(a)(3) of this Act," and before the period insert the words "through the respective Secretary".

SEC. 203. AMENDMENTS TO THE INDIAN SELF-DETERMINATION ACT.

(a) Section 106 of the Indian Self-Determination Act (25 U.S.C. 450j-1(e)) is amended by deleting "1988" and inserting in lieu thereof "1992".

(b) In section 102(d) of such Act (25 U.S.C. 450f(d)), immediately after "investigations,", insert "or for purposes of section 2679, title 28, United States Code, with respect to claims by any such person, on or after the date of the enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1990, for personal injury, including death, resulting from the operation of an emergency motor vehicle,".

(c) Section 105(c)(1)(B) of such Act (25 U.S.C. 450j(c)(1)(B)) is amended to read as follows:

"(B) for a definite or an indefinite term, as requested by the tribe (or, to the extent not limited by tribal resolution, by the tribal organization), in the case of a mature contract.".

(d) Section 105(d) of such Act (25 U.S.C. 450j(d)) is amended to read as follows:

"(d)(1) Beginning in fiscal year 1990, upon the election of a tribal organization, the Secretary shall use the calendar year as the basis for any contracts or agreements under this Act, unless the Secretary and the Indian tribe or tribal organization agree on a different period.

Reports. "(2) The Secretary shall, on or before April 1 of each year beginning in 1992, submit a report to the Congress on the amounts of any additional obligation authority needed to implement this subsection in the next following fiscal year.".

(e) In paragraphs (2) and (3) of section 105(f) of such Act (25 U.S.C. 450j(f) (2) and (3)), insert "or real" immediately after "personal" each place it appears in such paragraphs.

(f) In section 107(c) of such Act (25 U.S.C. 450k(c)), immediately after "authorized", insert the following: ", with the participation of Indian tribes and tribal organizations,".

(g)(1) In section 301(a)(3) of the Indian Self-Determination Act (25 U.S.C. 450h(a)(3)), delete "reservation boundaries" and insert in lieu thereof "Indian country (as defined in chapter 53 of title 18, United States Code)".

25 USC 450h note. (2) The amendment made by paragraph (1) shall not alter or otherwise modify or affect existing prohibitions or limitations on the Secretary's authority to acquire lands in trust.

TITLE III—AMENDMENTS TO OTHER ACTS

SEC. 301. AMENDMENTS TO OTHER ACTS.

(a) AMENDMENT TO INDIAN LAND CONSOLIDATION ACT.—Section 207(a) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by deleting "No undivided interest in any tract of trust or restricted land within a tribe's reservation or otherwise subject to a tribe's jurisdiction shall descend by intestacy or devise but shall escheat to that tribe" and inserting in lieu thereof the following: "No undivided interest held by a member or nonmember Indian in any tract of trust land or restricted land within a tribe's reservation or outside of a reservation and subject to such tribe's jurisdiction

shall descend by intestacy or devise but shall escheat to the reservation's recognized tribal government, or if outside of a reservation, to the recognized tribal government possessing jurisdiction over the land".

(b) AMENDMENT TO ACT OF NOVEMBER 8, 1988.—In section 1 of the Act entitled "An Act to declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes", approved November 8, 1988 (102 Stat. 3327), insert "and attached narrative metes and bounds description" immediately after "map" each time it appears.

(c) AMENDMENT TO THE ACT OF MARCH 29, 1956.—The second sentence of subsection (a) of the Act entitled "An Act to authorize the execution of mortgages and deeds of trust on individual Indian trust or restricted land", approved March 29, 1956 (25 U.S.C. 483a), is amended by inserting immediately before "State" the following: "tribe which has jurisdiction over such land or, in the case where no tribal foreclosure law exists, in accordance with the laws of the".

SEC. 302. AMENDMENT TO THE ACT OF JUNE 24, 1938.

Section 1 of the Act of June 24, 1938 (25 U.S.C. 162a) is amended by designating the existing text thereof as subsection (a), and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), the Secretary of the Interior, at the request of any Indian tribe, in the case of trust funds of such tribe, or any individual Indian, in the case of trust funds of such individual, is authorized to invest such funds, or any part thereof, in guaranteed or public debt obligations of the United States or in a mutual fund, otherwise known as an open-ended diversified investment management company if—

"(A) the portfolio of such mutual fund consists entirely of public-debt obligations of the United States, or bonds, notes, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, or a combination thereof;

"(B) the trust funds to be invested exceed $50,000;

"(C) the mutual fund is registered by the Securities and Exchange Commission; and

"(D) the Secretary is satisfied with respect to the security and protection provided by the mutual fund against loss of the principal of such trust funds.

"(2) The Secretary, as a condition to complying with a request pursuant to paragraph (1) of this subsection, is authorized to require such tribe or individual Indian, as the case may be, to enter into an agreement with the Secretary for the purpose of relieving the United States of any liability in connection with the interest, or amount thereof, payable in connection with such trust funds so invested during the period of that investment. Government contracts.

"(3) Investments pursuant to paragraph (1) of this subsection shall be deemed to be the same as cash or a bank deposit for purposes of section 5 of the Act of September 21, 1959 (25 U.S.C. 955).".

SEC. 303. AMENDMENT TO INDIAN FINANCING ACT OF 1974.

(a) Section 101 of the Indian Financing Act of 1974 (25 U.S.C. 1461) is amended—

(1) by deleting "money markets," and inserting in lieu thereof the following: "money markets, or to supplement funds from

private lenders, including loans guaranteed by the Secretary pursuant to section 201 of this Act,"; and

(2) by inserting immediately before the period at the end of the third sentence a comma and the following: "or, in the discretion of the Secretary of the Interior, as a contribution to the Indian Loan Guaranty and Insurance Fund authorized by section 217 of this Act, or for the payment of interest subsidies authorized by section 301 of this Act".

(b) Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended—

(1) by deleting in the first sentence the word "prior"; and

(2) by deleting in the second sentence "shall review" and inserting in lieu thereof "may review".

Hawaiian natives.

TITLE IV—PUBLIC HEALTH SERVICE ACT

SEC. 401. AMENDMENT TO PUBLIC HEALTH SERVICE ACT.

Section 338J(a) of subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254s) is amended to read as follows:

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide funds to Kamehameha Schools/Bishop Estate for the purpose of providing scholarship assistance to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.".

Hawaiian natives.

TITLE V—BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 501. GENERAL POWERS OF BOARD OF INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) INTEREST AND INVESTMENT INCOME.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended by adding at the end the following new subsection:

"(c) INTEREST AND INVESTMENTS.—Interest and earnings on amounts received by the Institute pursuant to section 1531 invested under subsection (a)(12) shall be the property of the Institute and may be expended to carry out this title. The Board shall be held to a reasonable and prudent standard of care, given such information and circumstances as existed when the decision is made, in decisions involving investment of funds under subsection (a)(12).".

(b) INSURANCE.—Section 1507(a)(11) of such Act (20 U.S.C. 4414(a)(11)) is amended to read as follows:

"(11) to the extent not already provided by law, to obtain insurance to cover all activities of the Institute, including coverage relating to property and liability, or make other provisions against losses.".

SEC. 502. ESTABLISHMENTS WITHIN THE INSTITUTE.

Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended—

(1) in paragraph (2), by striking subparagraph (A) and redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively;

(2) by striking "and" at the end of paragraph (1);

(3) by striking the period at the end of paragraph (2) and inserting "; and"; and

(4) by inserting after paragraph (2) the following:

"(3) a Museum of American Indian and Alaska Native Arts, which shall be under the direction of the President of the Institute.".

SEC. 503. TRANSFER OF FUNCTIONS.

Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) by striking subsections (d), (e), and (f); and

(2) by adding at the end the following new subsection (d):

"(d) FORGIVENESS OF AMOUNTS OWED; HOLD HARMLESS.—(1) Subject to paragraph (2)—

"(A) the Institute shall be responsible for all obligations of the Institute incurred after June 2, 1988, and

"(B) the Secretary shall be responsible for all obligations of the Institute incurred on or before June 2, 1988, including those which accrued by reason of any statutory, contractual, or other reason prior to June 2, 1988, which became payable within two years of June 2, 1988.

"(2) With respect to all programs of the Federal Government, in whatever form or from whatever source derived, the Institute shall only be held responsible for actions and requirements, either administrative, regulatory, or statutory in nature, for events which occurred after July 1, 1988, including the submission of reports, audits, and other required information. The United States may not seek any monetary damage or repayment for the commission of events, or omission to comply with either administrative or regulatory requirements, for any action which occurred prior to June 2, 1988.". Reports.

SEC. 504. COMPLIANCE WITH OTHER ACTS.

Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended by adding at the end the following:

"(c) OTHER FEDERAL ASSISTANCE.—Funds received by the institute pursuant to this Act shall not be regarded as Federal money for purposes of meeting any matching requirements for any Federal grant, contract or cooperative agreement.".

SEC. 505. ENDOWMENT PROGRAMS.

Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended to read as follows:

"SEC. 1518. ENDOWMENT PROGRAMS.

"(a) PROGRAM ENHANCEMENT ENDOWMENT.—

"(1)(A) From the total amount appropriated for this subsection pursuant to section 1531(a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution.

"(B) The President of the Institute shall provide—

"(i) for the deposit into the trust fund referred to in subparagraph (A)—

"(I) of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution; and

"(II) any earnings on the funds deposited under this paragraph; or

"(ii) for the reservation for the sole use of the Institute of any noncash, in-kind contributions of real or personal property, which property may at any time be converted to cash, which shall be deposited as a capital contribution into the trust fund referred to in subparagraph (A).

"(C) If at any time the Institute withdraws any capital contribution (as described in subparagraph (B)(i)) made by the Institute to the trust fund referred to in subparagraph (A) or puts any property (as described in subparagraph (B)(ii)) to a use which is not for the sole benefit of the Institute, an amount equal to the value of the Federal contribution shall be withdrawn from such trust fund and returned to the Treasury as miscellaneous receipts.

"(2) Interest deposited into the trust fund pursuant to paragraph (1)(B)(ii) may be periodically withdrawn and used, at the direction of the Board or its designee, to defray any expense associated with the operation of the Institute, including the expense of operations and maintenance, administration, academic and support personnel, community and student services programs, and technical assistance.

"(3) For the purpose of complying with the contribution requirement of paragraph (1)(B), the Institute may use funds or in-kind contributions of real or personal property fairly valued which are made available from any private or tribal source, including interest earned by the funds invested under this subsection. In-kind contributions shall be other than fully depreciable property or property which is designated for addition to the permanent collection of the Museum and shall be valued according to the procedures established for such purpose by the Secretary of the Treasury. For purposes of this paragraph, all contributions, including in-kind and real estate, which are on-hand as of the date of enactment of this Act and which have been received after June 2, 1988, but which have not been included in computations under this provision shall be eligible for matching with Federal funds appropriated in any fiscal year.

"(4) Amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount of funds or the value of the in-kind contributions which the Institute demonstrates have been placed within the control of, or irrevocably committed to the use of, the Institute as a capital contribution of the Institute in accordance with this subsection.

"(b) CAPITAL IMPROVEMENT ENDOWMENT.—

"(1) In addition to the trust fund established under subsection (a), funds may be deposited into a trust fund maintained by the Institute at a federally insured banking or savings institution from the amount reserved for this subsection pursuant to sec-

tion 1531(a) for the purpose of establishing a separate special endowment for capital improvement (hereafter in this subsection referred to as the 'capital endowment fund') to pay expenses associated with site selection and preparation, site planning and architectural design and planning, new construction, materials and equipment procurement, renovation, alteration, repair, and other building and expansion costs of the Institute.

"(2) The President of the Institute shall provide for the deposit into the capital endowment fund of a capital contribution by the Institute in an amount equal to the amount of each Federal contribution and any earnings on amounts in the capital endowment fund.

"(3) Funds deposited by the Institute as a match for Federal contributions under paragraph (5) shall remain in the capital endowment fund for a period of not less than two years. If at any time the Institute withdraws any capital contribution to the capital endowment fund before the funds have been deposited for this two-year period, an equal amount of the Federal contribution shall be withdrawn from the capital endowment fund and returned to the Treasury as miscellaneous receipts. At the end of the two-year period, the entire principal and interest of the funds deposited for this period, including the Federal matching portion, shall accrue, without reservation, to the Institute and may be withdrawn, in whole or in part, to defray expenses associated with capital acquisition and improvement of the Institute referred to in paragraph (1).

"(4) For the purpose of complying with the contribution requirement of paragraph (2), the Institute may use funds which are available from any private or tribal source.

"(5) Subject to paragraph (3), amounts appropriated under section 1531(a) for use under this subsection shall be paid by the Secretary of the Treasury to the Institute as a Federal capital contribution equal to the amount which the Institute demonstrates has been placed within the control of, or irrevocably committed to the use of, the Institute and is available for deposit as a capital contribution of the Institute in accordance with this subsection.

"(c) GENERAL ADMINISTRATIVE PROVISIONS.—(1) Funds in the trust funds described in subsections (a) and (b) shall be invested at a rate not less than that generally available for similar funds deposited at the same banking institution for the same period or periods of time. Investments.

"(2) No part of the net earnings of the trust funds established under this section shall inure to the benefit of any private person.

"(3) The President of the Institute shall provide for such other provisions governing the trust funds established under this section as may be necessary to protect the financial interest of the United States and to promote the purpose of this title as agreed to by the Secretary of the Treasury and the Board or its designee, including recordkeeping procedures for the investment of funds received under the trust fund established under subsection (b) and such other recordkeeping procedures for the expenditure of accumulated interest for the trust fund under subsection (a) as will allow the Secretary of the Treasury to audit and monitor activities under this section.". Records.

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 1531(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451(a)) is amended by adding at the end the following new paragraphs:

"(4) Funds appropriated under this subsection for the fiscal year 1992 and for each succeeding fiscal year shall be transferred by the Secretary of the Treasury through the most expeditious method available with the Institute being designated as its own certifying agency.

"(5) Funds are authorized to be appropriated for programs for more than one fiscal year. For the purpose of affording adequate notice of funding available under this Act, amounts appropriated in an appropriations Act for any fiscal year to carry out this Act may, subject to the appropriation, become available for obligations on July 1 of that fiscal year.".

TITLE VI—MISCELLANEOUS PROVISIONS

Mexico.

SEC. 601. COCHITI DAM LICENSE.

Notwithstanding the provisions of any other Federal law, no license shall be issued by the Federal Energy Regulatory Commission for the development of hydroelectric power at the Army Corps of Engineers' Cochiti Dam located on the Pueblo de Cochiti Indian Reservation in the State of New Mexico.

South Dakota.

SEC. 602. DAKOTA WESLEYAN UNIVERSITY.

Notwithstanding the provisions of section 487(c)(2)(B) of the Higher Education Act of 1965, the Secretary of Education shall reassess the amount owed by the Dakota Wesleyan University, located in Mitchell, South Dakota, in the amount of $159,260, plus any accrued interest thereon to $16,113.

Approved November 29, 1990.

LEGISLATIVE HISTORY—H.R 2006:

HOUSE REPORTS: No. 101-400, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 136 (1990):

Sept. 27, considered and passed House.

Oct. 25, considered and passed Senate, amended.

Oct. 27, House concurred in Senate amendment with amendments. Senate concurred in House amendments.

Public Law 101-645
101st Congress

An Act

To amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

Nov. 29, 1990
[H.R. 3789]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Stewart B. McKinney Homeless Assistance Amendments Act of 1990. 42 USC 11301 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 101. Technical amendment.
Sec. 102. Authorization of appropriations.
Sec. 103. Extension of Interagency Council.

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 201. Authorization of appropriations.
Sec. 202. Indian members of local boards.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Revised McKinney Act

Sec. 301. Amendment to McKinney Act.
Sec. 302. Definition of "homeless person".
Sec. 303. Transitional rule.
Sec. 304. Strategy to eliminate unfit transient facilities.

Subtitle B—Amendments to Current Program

Sec. 311. Comprehensive homeless assistance plan.
Sec. 312. Emergency shelter grants program.
Sec. 313. Supportive housing demonstration program.
Sec. 314. Supplemental assistance for facilities to assist the homeless.
Sec. 315. Section 8 assistance for single room occupancy dwellings.
Sec. 316. Housing affordability strategy requirement.
Sec. 317. Shelter plus care.

Subtitle C—Effective Date

Sec. 321. Effective date.

TITLE IV—USE OF PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS AND CENSUS STUDY

Sec. 401. Use of certain public real property to assist the homeless.
Sec. 402. Study of the counting of the homeless for the national census.

TITLE V—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

Sec. 501. Waiver for certain organizations of requirement of status as medicaid provider.
Sec. 502. Authorization of appropriations.
Sec. 503. Establishment of program regarding primary health services for homeless children.

Subtitle B—Formula Grants to States for Assistance Regarding Transition From Homelessness

Sec. 511. Establishment of program.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

Sec. 521. Mental health services for homeless individuals with chronic mental illness.
Sec. 522. Alcohol and drug abuse treatment of homeless individuals.

TITLE VI—EDUCATION, TRAINING, COMMUNITY SERVICE, AND FAMILY SUPPORT

Sec. 601. Short title.
Sec. 602. Definition of homeless.

Subtitle A—Provisions Relating to Literacy and Education

Sec. 611. Statewide literacy initiative.
Sec. 612. Education for homeless children and youth.
Sec. 613. Reporting requirement.

Subtitle B—Job Training for the Homeless

Sec. 621. Reauthorization of certain programs within the Stewart B. McKinney Homeless Assistance Act.
Sec. 622. Job Training Partnership Act.

Subtitle C—Emergency Community Services Homeless Grant Program

Sec. 631. Emergency community services homeless grant program.

Subtitle D—Evaluation and Reports

Sec. 641. Evaluation and reports.

Subtitle E—Homeless Prevention Demonstration Programs

Sec. 651. Family support centers.

Subtitle F—Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

Sec. 661. Certain preventive services regarding children of homeless families or families at risk of homelessness.

TITLE VII—VETERANS PROGRAMS

Sec. 701. Medical programs.

TITLE I—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 101. TECHNICAL AMENDMENT.

Section 202(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11312(a)) is amended—

(1) by striking paragraph (15);

(2) by redesignating paragraphs (11), (12), (13), and (14) as paragraphs (12), (13), (14), and (15), respectively; and

(3) by inserting after paragraph (10) the following new paragraph:

"(11) The Secretary of Veterans Affairs, or the designee of the Secretary.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,200,000 for fiscal year 1991 and $1,300,000 for fiscal year 1992.".

SEC. 103. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 31, 1990" and inserting "October 1, 1992".

TITLE II—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $150,000,000 for each of fiscal years 1991 and 1992.".

SEC. 202. INDIAN MEMBERS OF LOCAL BOARDS.

(a) REQUIREMENT FOR AMERICAN INDIAN MEMBER.—The second sentence of section 302(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11332(a)) is amended by striking the period at the end and inserting the following: ", and except that each local board administering program funds for a locality within which is located a reservation (as such term is defined in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or a portion thereof, shall include a board member who is a member of an Indian tribe (as such term is defined in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).".

(b) IMPLEMENTATION.—Each local board under the Emergency Food and Shelter Program whose membership shall include a member of an Indian tribe by reason of the amendment made by subsection (a) shall comply with the requirement made by such amendment not later than the expiration of the 30-day period beginning on the date of the enactment of this Act. 42 USC 11332 note.

TITLE III—HOUSING ASSISTANCE

Subtitle A—Revised McKinney Act

SEC. 301. AMENDMENT TO MCKINNEY ACT.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"SEC. 401. PURPOSE.

"The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to—

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

"SEC. 402. DEFINITIONS.

"For purposes of this title—

"(1) The term 'assistance' means grants to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'grantee' means—

"(A) a State or unit of general local government receiving grants from the Secretary under section 403(a);

"(B) a group of geographically contiguous local governments that have formed a consortium that, in the determination of the Secretary—

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and

"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year, and

"(C) for purposes of section 406 and subsections (a), (b), (c), and (f) of section 407, an Indian tribe, Indian housing authority, or a private nonprofit organization receiving a direct grant under section 405.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to—

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(12) The term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that—

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that—

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabil-

ities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes—

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium; and any other territory or possession of the United States.

"(18) The term 'consortium' means a group of geographically contiguous local governments that the Secretary determines—

"(A) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a); and

"(B) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

"(19) The term 'very low-income families' has the same meaning given the term under section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(20) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

"SEC. 403. GENERAL AUTHORITY.

"(a) GRANTS FOR HOMELESS HOUSING ASSISTANCE.—

"(1) IN GENERAL.—

"(A) GRANTS AUTHORIZED.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 408, make grants to States and units of general local government and to eligible applicants under section 405 in order to (i) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (ii) help very low-income families and persons avoid becoming homeless, and (iii) help homeless families and persons make the transition to permanent housing.

"(B) STRATEGY REQUIRED.—A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

"(C) USE OF PROJECT SPONSORS.—A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts. Government contracts.

"(2) ALLOCATION OF RESOURCES.—The amounts approved in appropriations Acts under section 408 shall be allocated in accordance with a formula established under section 404.

"(b) ELIGIBLE ACTIVITIES.—Grants under this title shall be available only for approved activities. Approved activities shall include—

"(1) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(2) the development of emergency shelters for the homeless in accordance with section 412;

"(3) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(4) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(5) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(6) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(c) LIMITATIONS.—

"(1) PREVENTION.—A grantee may use not more than 30 percent of grants allocated under subsection (a) for homelessness prevention activities as defined in section 411.

"(2) EMERGENCY ACTIVITIES.—A grantee may use not more than 30 percent of the grants allocated in accordance with subsection (a) for emergency activities as defined in section 412. The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(d) SRO RENOVATION.—The Secretary shall, to the extent of amounts approved in appropriations Acts for the programs authorized under section 421, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

"Subject to section 303(b) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary shall issue regulations establishing an allocation formula, if any, that reflects each Regulations.

jurisdiction's share of the Nation's need for housing assistance for the homeless.

"SEC. 405. DISCRETIONARY ALLOCATION.

Grant programs.

"(a) IN GENERAL.—In addition to grants otherwise authorized by this title, the Secretary is authorized to make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 407.

"(b) ELIGIBLE ACTIVITIES.—Assistance provided under this section may be used for approved activities under subtitle B and for—

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) APPLICATIONS.—Assistance under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) SELECTION CRITERIA.—

"(1) IN GENERAL.—The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account—

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources;

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness; and

"(C) the extent to which such area is not being served by current programs to assist homeless persons.

"(2) ADDITIONAL CRITERIA.—Selection criteria established by the Secretary shall also take into account—

"(A) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including in rem property, public buildings, and public land;

"(B) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(C) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(D) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) SPECIAL RULES FOR SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.—

"(1) IN GENERAL.—The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that—

"(A) the applicant has made reasonable efforts to utilize all available local resources and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) HEALTH SERVICES.—Not more than $10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"SEC. 406. RESPONSIBILITIES OF GRANTEES AND PROJECT SPONSORS.

"(a) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Each grantee shall be required to supplement the grants provided under this title for acquisition, rehabilitation, or construction activities, except for assistance described in section 421, with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsection, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(2) STATE MATCHING REQUIREMENT.—Each grantee under this title that is a State shall be required to supplement the assistance provided under this title with an amount of funds from sources other than this title equal to the difference between the amount received under this title and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this title.

"(3) BENEFIT OF MATCH.—A State grantee shall obtain any matching amounts required under paragraph (2) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2).

"(b) HOUSING QUALITY.—Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing codes, building codes, and licensing requirements in the jurisdiction in which the housing is located.

"(c) CONSISTENCY WITH HOUSING STRATEGY.—Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.

Drugs. Alcohol and alcoholic beverages.

"(d) ASSISTANCE TO HOMELESS PERSONS.—Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) LIMITATION ON USE OF FUNDS.—Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) CIVIL RIGHTS COMPLIANCE.—Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) REPORTS.—

"(1) IN GENERAL.—Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assess-

ment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) CONSULTATION.—The Secretary shall consult with national associations of States, local governments, and other housing interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle.

"(h) SITE CONTROL.—

"(1) IN GENERAL.—Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) WAIVER.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.

"(i) PREVENTION OF UNDUE BENEFITS.—The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) CONFIDENTIALITY.—Each grantee shall develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this title and to ensure that the address or location of any family violence shelter project assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.

"(k) ADDITIONAL REQUIREMENTS.—The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. ADMINISTRATIVE PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee may not use more than 5 percent of the assistance received under this subtitle for administrative purposes.

"(b) INCOME ELIGIBILITY.—A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the

amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) FLOOD ELEVATION REQUIREMENTS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) APPLICABILITY OF SECTION 104(g) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) GAO AUDITS.—Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title such sums as may be necessary. Any amount appropriated under this section shall remain available until expended.

"SEC. 409. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with section 406(g). The report shall be submitted not later than 6 months after the end of each fiscal year.

"Subtitle B—Approved Activities

"SEC. 411. HOMELESSNESS PREVENTION.

"(a) DEFINITION.—Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if—

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

"(a) DEFINITION.—A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations for homeless persons. An emergency shelter may include appropriate eating and cooking accommodations.

"(b) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) PROGRAM REQUIREMENTS.—A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will—

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining—

"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

"(a) DEFINITION.—A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the

Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

Grant programs.

"(b) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(5) Technical assistance in—

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(6) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

"(7) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for a project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as transitional housing for not less than 10 years, except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) OCCUPANT RENT.—Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(3) ALTERNATIVE USE.—A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.

"(a) DEFINITION.—A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities (or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons). The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) PROJECT DESIGN AND SITING.—Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) TYPES OF ASSISTANCE.—A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities: Grant programs.

"(1) A grant for the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabil-

ities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing.

"(4) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under subsection (d) (unless such assistance is no longer necessary, in the determination of the Secretary).

"(5) Technical assistance in—

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) PROGRAM REQUIREMENTS.—

"(1) REQUIRED AGREEMENTS.—A grantee may approve assistance for any project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years, except that in the case of projects not receiving a grant under paragraph (1), (2), or (3) of subsection (c), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) STATE PARTICIPATION.—Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State

will facilitate the provision of necessary supportive services to the residents of the project;

"(3) OCCUPANT RENT.—Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) ALTERNATIVE USE.—A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) TENANT SELECTION.—

"(A) IN GENERAL.—A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(B) AUTHORITY TO LIMIT OCCUPANCY.—Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"(6) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4) or (5) of subsection (c) to any project not receiving assistance under paragraph (1), (2), or (3) of such subsection unless assurances have been made under paragraph (1)(A) of this subsection that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.

"SEC. 415. TRANSITION TO PERMANENT HOUSING.

"(a) USE OF GRANTS.—

(1) IN GENERAL.—A grant under this section may be used by a grantee to provide grants or loans to help eligible families make the transition to permanent housing. A grantee may use assistance under this section to provide for the payment by very low-income families of security deposits and the cost of rent for a reasonable period of time.

"(2) TECHNICAL ASSISTANCE.—The Secretary may provide informational and technical assistance to units of general local government and housing agencies in organizing and developing assistance programs under this section. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(3) FINANCIAL COUNSELING.—The grantee shall provide counseling regarding household finances and budgeting to any family that receives a grant or loan under this section.

"(b) LIMITATION ON FINANCIAL ASSISTANCE.—A grantee may provide assistance to eligible families in the form of a security deposit and the cost of rent for a reasonable period of time if—

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a regular income and a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time and to repay any loan provided; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) PARTICIPATING LANDLORD.—If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C—Section 8 Single Room Occupancy

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) USE OF FUNDS.—The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) ALLOCATION.—The amounts made available under this subtitle shall be allocated by the Secretary on the basis of a national competition among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing—

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

Government contracts.

"(c) FIRE AND SAFETY IMPROVEMENTS.—Each annual contribution contract entered into with the authority provided under this subtitle

shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) COST LIMITATION.—

"(1) PER UNIT CEILING.—The total cost of rehabilitation that may be compensated for in an annual contribution contract entered into with the authority provided under this subtitle shall not exceed $15,000 per unit, plus the expenditures required by subsection (d).

"(2) AUTHORITY TO INCREASE.—The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) ANNUAL ADJUSTMENT.—The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) CONTRACT REQUIREMENTS.—Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall—

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. APPLICABILITY TO INDIANS.

"Pursuant to section 201(b) of the United States Housing Act of 1937, this subtitle shall apply to Indian tribes and Indian housing authorities.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE.

Disabled.
Alcoholism.
Drug abuse.
AIDS.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 432. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) FUNDING LIMITATIONS.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 434. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 437. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given that term in section 853 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(7) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(9) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(10) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(11) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by such sums as may be necessary.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated such sums as may be necessary.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 446. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 439(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS.

Government contracts.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 454. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the

Government contracts.

provision of rental housing assistance under section 202 of the Housing Act of 1959 in fiscal year 1991 or section 811 of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992 for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 811 for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E—Miscellaneous

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 439 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of title IV of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of

Regulations.

the 8-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this title.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the effective date of the amendment made by this section, that are or become available for obligation shall be available for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as amended by this section.

SEC. 302. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person".

SEC. 303. TRANSITIONAL RULE.

(a) IN GENERAL.—The amendment made by section 301 shall take effect— Effective date.

(1) on October 1, 1992, or

(2) on the date specified by a statute adopting a proposed allocation formula described in subsections (b) and (c),

whichever is later.

(b) FEASIBILITY STUDY.—The Secretary shall carry out a study to determine the feasibility of allocating homeless assistance by a formula that distributes housing assistance for the homeless in accordance with the relative incidence of homelessness in jurisdictions across the United States. If the Secretary determines that the use of such a formula is feasible, the Secretary shall develop one or more such formulas. In determining alternative allocation formulas, the Secretary shall consider—

(1) objective measures of the incidence of homelessness;

(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

(3) poverty;

(4) housing overcrowding; and

(5) any other relevant factors, including the reliability of data pertaining to homelessness.

(c) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the feasibility study under this subsection. Such report shall contain any formula or formulas developed under subsection (b) together with detailed analysis of the formulas. In preparing such report, the Secretary shall consult with organizations representing homeless persons, nonprofit organizations, public housing agencies, and State and local housing and service agencies.

(d) CONFORMING AMENDMENT.—Upon the adoption of a formula described in this section, that part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"Sec. 401. Purpose.

"Sec. 402. Definitions.
"Sec. 403. General authority.
"Sec. 404. Allocation formula.
"Sec. 405. Discretionary allocation.
"Sec. 406. Responsibilities of grantees and project sponsors.
"Sec. 407. Administrative provisions.
"Sec. 408. Authorization of appropriations.
"Sec. 409. Reports to Congress.

"Subtitle B—Approved Activities.

"Sec. 411. Homelessness prevention.
"Sec. 412. Emergency shelter.
"Sec. 413. Transitional housing for the homeless.
"Sec. 414. Permanent housing for homeless persons with disabilities.
"Sec. 415. Transition to permanent housing.
"Sec. 416. Development of additional approved activities.

"Subtitle C—Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.
"Sec. 422. Applicability to Indian tribes.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 431. Purpose.
"Sec. 432. Rental housing assistance.
"Sec. 433. Supportive services requirements; matching funding.
"Sec. 434. Applications.
"Sec. 435. Selection criteria.
"Sec. 436. Required agreements.
"Sec. 437. Termination of assistance.
"Sec. 438. Definitions.
"Sec. 439. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 441. Purpose.
"Sec. 442. Housing assistance.
"Sec. 443. Amount of assistance.
"Sec. 444. Housing standards and rent reasonableness.
"Sec. 445. Tenant rent.
"Sec. 446. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 451. Purpose.
"Sec. 452. Fire and safety improvements.
"Sec. 453. Contract requirements.
"Sec. 454. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Amount of assistance.
"Sec. 463. Housing standards and rent reasonableness.
"Sec. 464. Administrative fees.

"Subtitle E—Miscellaneous

"Sec. 471. Environmental review.".

SEC. 304. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

Infants and children. Federal Register, publication.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not later than 9 months after the date of enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, identify the States and units of general local government which use unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a

strategy to eliminate such use by July 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

(b) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

(1) actions to be taken to ensure that families with children currently residing in unfit transient facilities will make a timely transition to permanent housing;

(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of unfit transient facilities as housing for homeless families with children; and

(3) changes in Federal, State, and local statutes and regulations that are needed to eliminate the use of unfit transient facilities as housing for homeless families with children.

(c) IMPLEMENTATION OF STRATEGY.—To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary of Housing and Urban Development shall be authorized to use and apply the following additional resources and powers:

(1) such preferences in the allocation of resources under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) DEFINITION.—For purposes of this section the term 'unfit transient facility' means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary.

Subtitle B—Amendments to Current Program

SEC. 311. COMPREHENSIVE HOMELESS ASSISTANCE PLAN.

(a) INCLUSION OF CHILD CARE STRATEGY AND FOOD DONATION STRATEGY.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing child care services within the area, which strategy shall be

submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entity receives assistance under this title;

"(8) a strategy provided by metropolitan cities, urban counties, Indian tribes, or otherwise on a local basis, for providing a plan to encourage a program which waives certain local or State liability regulations or laws for those who wish to donate food to a nonprofit charitable organization or food bank for use in community shelters or other domiciles for the homeless, shall be submitted (by the entity submitting the comprehensive plan) to any service providers under programs for which such entities receive assistance under this title; and".

(b) INCLUSION OF INDIAN TRIBES.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "Assistance authorized by this title may be provided to any Indian tribe that is eligible to receive a grant under the emergency shelter grants program in any fiscal year, but only if the tribe submits biennially to the Secretary of Housing and Urban Development a comprehensive homeless assistance plan under this section.";

(2) in subsection (b)(5), by inserting "Indian tribe," after "State,";

(3) in subsection (c)(1), by inserting "Indian tribe," after "State," each place it appears;

(4) in subsection (d), by inserting "Indian tribe," after "State," each place it appears; and

(5) in subsection (g)—

(A) by inserting "(or tribal agency or contact)" after "State contact person";

(B) by inserting "(or tribe)" before the comma; and

(C) by inserting "(or tribal agency or contact person)" after "or contact person".

(c) MODIFICATION OF DEVELOPMENT AND TIMING, CONTENT, AND REVIEW STANDARDS.—

(1) PUBLIC PARTICIPATION PROCESS FOR DEVELOPMENT OF PLANS AND ANNUAL REPORTS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(h) CONSULTATION.—

"(1) REQUIREMENT.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall consult with, and consider the comments of, citizens, public and private homeless shelter and service providers, and local governments concerning the contents of the comprehensive plan and the annual progress report required under subsection (d), prior to their submission to the Secretary.

"(2) MODIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) may, if it considers it appropriate, modify the comprehensive plan and annual report to reflect the comments of citizens, public and private homeless shelter and service providers, and local governments.

Public information.

"(3) AVAILABILITY.—Each State, Indian tribe, metropolitan city, and urban county shall make the comprehensive plan and annual report available to the public.

"(4) CERTIFICATION.—Each State, Indian tribe, metropolitan city, and urban county described in subsection (a) shall certify to the Secretary that citizens, public and private homeless shelter and service providers, and local governments were consulted concerning the contents of the comprehensive plan and the annual report, and that their views were considered prior to the submission of these documents to the Secretary, and that the comprehensive plan and annual report were available to the public.".

(2) MODIFICATION OF TIMING, CONTENT, AND REVIEW STANDARDS.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended—

(A) in subsection (a)(1), by striking "annually" and inserting "biennially";

(B) in subsection (b)(2), by striking "and services" and inserting ", services, and programs";

(C) in subsection (b)(3)—

(i) by striking "and services" and inserting ", services, and programs";

(ii) by striking "and" before "(B)"; and

(iii) by inserting before the semicolon at the end the following: ", (C) responding to the emergency and long-term housing and service needs of the homeless population, (D) providing housing and supportive services for various homeless populations to facilitate their transition to more independent living, (E) providing housing and supportive services to the portions of the homeless population that are not capable of achieving total independence, and (F) preventing and reducing homelessness through (i) interventions focused upon individuals and families who are in danger of becoming homeless, and (ii) addressing systemic factors contributing to homelessness".

SEC. 312. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $138,000,000 for fiscal year 1992.".

(b) USE OF GRANTS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—Subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371 et seq.) is amended by adding at the end the following new section:

"SEC. 418. ADMINISTRATIVE COSTS.

"A recipient may use up to 5 percent of any annual grant received under this subtitle for administrative purposes. A recipient State shall share the amount available for administrative purposes pursuant to the preceding sentence with local governments funded by the State.".

(2) CONFORMING AMENDMENT.—The table of contents for subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act is amended by inserting after the item relating to section 417 the following new item:

"Sec. 418. Administrative costs.".

(c) INCREASE IN AMOUNT AVAILABLE FOR SERVICES.—Section 414(a)(2)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(B)) is amended by striking "20 percent" and inserting "30 percent".

(d) TREATMENT OF HOMELESSNESS PREVENTION ACTIVITIES.—Section 414(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(4)) is amended by striking the last sentence and inserting the following new sentence: "Not more than 30 percent of the aggregate amount of all assistance to a State, local government, or Indian tribe under this subtitle may be used for activities under this paragraph.".

(e) REDUCTION OF REQUIRED MATCHING AMOUNTS AND CONFIDENTIALITY.—

(1) REDUCTION.—Section 415(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(a)) is amended—

(A) in paragraph (1), by striking "Each" the first place it appears and inserting "Except as provided in paragraph (2), each";

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph:

"(2) Each recipient under this subtitle that is a State shall be required to supplement the assistance provided under this subtitle with an amount of funds from sources other than this subtitle equal to the difference between the amount received under this subtitle and $100,000. If the amount received by the State is $100,000 or less, the State may not be required to supplement the assistance provided under this subtitle.".

(2) USE OF BENEFIT AND CONFIDENTIALITY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraphs:

"(4) in the case of a recipient that is a State, obtain any matching amounts required under subsection (a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under subsection (a)(2); and

"(5) develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(3) COMPREHENSIVE HOMELESS ASSISTANCE PLAN.—Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(9) with respect to a comprehensive plan submitted by a State applying for a grant under the emergency shelter grants

program under subtitle B, a strategy for obtaining any matching amounts required under section 415(a) in a manner so that local governments, Indian tribes, agencies, and local nonprofit organizations receiving assistance from the grant that are least capable of providing the recipient State with such matching amounts receive the benefit of the $100,000 subtrahend under paragraph (2) of such section.".

(f) INDIAN TRIBE ELIGIBILITY FOR GRANTS.—

(1) DEFINITION OF INDIAN TRIBES.—Section 411 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11371) is amended by adding at the end the following new paragraph:

"(10) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) GRANT ASSISTANCE.—Section 412 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11372) is amended by striking "States and local governments" and inserting "States and local governments, and for Indian tribes,".

(3) ALLOCATION AND DISTRIBUTION OF ASSISTANCE.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended—

(A) by inserting ", and to Indian tribes," after "States)"; and

(B) by inserting ", or for Indian tribes" after "urban county" each place it appears.

(4) DISTRIBUTION TO NONPROFIT ORGANIZATIONS.—The first sentence of section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by inserting "or Indian tribe" after "local government".

(5) REALLOCATION OF FUNDS.—Section 413(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(d)(3)) is amended—

(A) by inserting "or Indian tribe" after "State" each place it appears; and

(B) by inserting ", or other Indian tribes, as applicable," after "counties".

(6) ESSENTIAL SERVICES CAP.—Section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)) is amended—

(A) in subparagraph (A), by inserting "or Indian tribe" after "local government"; and

(B) in subparagraph (B), by striking "or local government" and inserting ", local government, or Indian tribe".

(7) INITIAL ALLOCATION OF ASSISTANCE.—Section 416(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376(b)) is amended by inserting "Indian tribe," after "State,".

(g) MINIMUM STANDARDS OF HABITABILITY.—Section 416 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11376) is amended by adding at the end the following:

"(c) MINIMUM STANDARDS OF HABITABILITY.—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.".

(h) CONSISTENCY WITH HOUSING STRATEGY.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) by striking "and" at the end of clause (2);

(2) by striking the period at the end of clause (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) activities undertaken by the recipient with assistance under this subtitle are consistent with any housing strategy submitted by the grantee in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 313. SUPPORTIVE HOUSING DEMONSTRATION PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $125,000,000 for fiscal year 1991 and $150,000,000 for fiscal year 1992.".

(b) MAXIMUM NUMBER OF HANDICAPPED RESIDENTS IN PERMANENT HOUSING FOR HANDICAPPED.—Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after "handicapped homeless persons" the second place it appears the following: "(or 16 such persons, but only if not more than 20 percent of the units in a project are designated for such persons)".

(c) CONVERSION OF ADVANCES TO GRANTS.—

(1) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended—

(A) by striking "An advance" and inserting "A grant"; and

(B) by striking "an advance" and inserting "a grant".

(2) CONVERSION OF ADVANCE.—Section 423(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(b)) is amended—

(A) by striking "(b) REPAYMENT OF ADVANCE.—" and inserting the following:

"(b) REPAYMENT OR CONVERSION OF ADVANCE.—

"(1) REPAYMENT.—"; and

(B) by adding at the end the following new paragraph:

"(2) CONVERSION.—At such times as the Secretary may determine, and in accordance with such terms and conditions, and accounting and other procedures, as the Secretary may prescribe, the Secretary may convert an advance made under subsection (a)(1) to a grant.".

(d) OPERATING COST PAYMENTS.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended to read as follows:

"(3) Annual payments for operating costs of transitional housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing, and any recipient may reapply for such assistance or for the renewal of such assistance for use during the 10-year period under section 424(a)(2)(D) (unless such assistance is no longer necessary, in the determination of the Secretary), and for operating costs for permanent housing for handicapped homeless persons, not to exceed 75 percent of the

annual operating costs of such housing in any year during the 10-year period under section 424(a)(2)(D), and any recipient may reapply for such assistance or for renewal of such assistance for use during such period (unless such assistance is no longer necessary, in the determination of the Secretary).".

(e) ELIGIBILITY OF NEW CONSTRUCTION.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended—

(1) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) A grant, in an amount not to exceed $400,000, for the new construction of a structure for use in the provision of supportive housing."; and

(3) in the last sentence, by striking "paragraphs (1) and (2)" and inserting "paragraphs (1), (2), and (3)".

(f) SITE CONTROL REQUIREMENT.—Section 424(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(3)) is amended—

(1) by striking "(3) The Secretary" and inserting the following"(3)(A) Except as provided in subparagraph (B), the Secretary"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary may waive the requirement under subparagraph (A) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

(g) CHILD CARE SERVICES.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)), as amended by the preceding provisions of this section, is further amended by inserting after paragraph (5) the following:

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.".

(h) ELIMINATION OF SITE CONTROL AND EMPLOYMENT ASSISTANCE PROGRAMS AS SELECTION CRITERIA.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) in paragraph (6), by inserting "and" after the semicolon at the end;

(2) by striking paragraphs (7) and (8); and

(3) by redesignating paragraph (9) as paragraph (7).

(i) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 424(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(c)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) to develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public.".

(j) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 424(a)(2)(D) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(D)) is amended by inserting before the semicolon at the end the following: ", except that in the case of projects not receiving an advance or grant under paragraph (1), (2), or (3) of section 423(a), assurances under this subparagraph shall be made annually that the project will be operated for the purpose specified in the application for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following new subsection:

"(f) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under paragraph (4), (5), or (6) of section 423(a) to any project not receiving assistance under paragraph (1), (2), or (3) of such section unless assurances have been made under subsection (a)(2)(D) of this section that the project will be operated for the purpose specified in the application for the year for which such assistance is provided.".

(k) INDIAN TRIBE ELIGIBILITY.—

(1) DEFINITIONS.—Section 422 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382) is amended—

(A) in paragraph (1), by inserting "Indian tribe," after "State,"; and

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively; and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) The term 'Indian tribe' has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.".

(2) PROGRAM REQUIREMENTS.—Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by inserting "or Indian tribe" after "State" each place it appears.

(3) MATCHING FUNDS.—Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended—

(A) in subsection (a), by inserting "or Indian tribe" after "State"; and

(B) in subsection (b), by striking "State or local" and inserting "State, tribal, or local".

SEC. 314. SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $30,000,000 for each of fiscal years 1991 and 1992.".

(b) SHORT-TERM LEASES.—

(1) 10-YEAR REQUIREMENT.—Section 432(d)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)(2)) is amended—

(A) by striking "leased,"; and

(B) by inserting before the semicolon at the end the following: ", except that in the case of any leased property receiving assistance under this subtitle other than for lease of the property, assurances under this paragraph shall be made annually that the project will be operated to assist homeless individuals for such year".

(2) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended by adding at the end the following new subsection:

"(h) RENEWED FUNDING FOR SHORT-TERM LEASE PROJECTS.—The Secretary may not provide assistance under this subtitle for any leased property for any year unless assurances under subsection (d)(2) of this section have been made that the project will be operated to assist homeless individuals for the year for which such assistance is provided.".

(c) CONFIDENTIALITY REQUIREMENT FOR DOMESTIC VIOLENCE SHELTERS.—Section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) has furnished assurances satisfactory to the Secretary that the applicant will develop and implement procedures to ensure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services under any project assisted under this subtitle and that the address or location of any family violence shelter project assisted under this subtitle will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public; and".

(d) SITE CONTROL REQUIREMENT.—Section 432(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(e)) is amended—

(1) by striking "(e) SITE CONTROL.—The Secretary" and inserting the following:

"(e) SITE CONTROL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(2) EXCEPTION.—The Secretary may waive the requirement under paragraph (1) for any proposed project for which the Secretary determines such requirement is inapplicable because, under the application, the families and individuals served own or control, or will eventually own or control, the site.".

SEC. 315. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $79,000,000 on or after October 1, 1990, and by $82,400,000 on or after October 1, 1991.".

(b) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding at the end the following new subsection:

"(g) APPLICABILITY TO INDIAN HOUSING AUTHORITIES.—Amounts made available for assistance under this section shall be available through contracts between the Secretary and Indian housing authorities, and the provisions of this section regarding public housing authorities shall include and apply to Indian housing authorities.".

SEC. 316. HOUSING AFFORDABILITY STRATEGY REQUIREMENT.

(a) IN GENERAL.—Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended to read as follows:

"SEC. 401. HOUSING AFFORDABILITY STRATEGY.

"Assistance may be made under this title only if the grantee certifies that it is following—

"(1) a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the Cranston-Gonzalez National Affordable Housing Act, or

"(2) a comprehensive homeless assistance plan which was approved by the Secretary during the 180-day period beginning on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act, or during such longer period as may be prescribed by the Secretary in any case for good cause.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1991.

SEC. 317. SHELTER PLUS CARE.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended by adding at the end the following:

"Subtitle F—Shelter Plus Care Program

Disabled.
Alcoholism.
Drug abuse.
AIDS.

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 451. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance, in connection with supportive services funded from sources other than this subtitle, to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the families of such persons.

"SEC. 452. RENTAL HOUSING ASSISTANCE.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"(b) FUNDING LIMITATIONS.—To the maximum extent practicable, the Secretary shall reserve not less than 50 percent of all funds provided under this subtitle for homeless individuals who are seriously mentally ill or have chronic problems with alcohol, drugs, or both.

"SEC. 453. SUPPORTIVE SERVICES REQUIREMENTS.

"(a) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall be required to supplement the assistance provided under this subtitle with an equal amount of funds for supportive services from sources other than this subtitle. Each recipient shall certify to the Secretary its compliance with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) DETERMINATION OF MATCHING AMOUNTS.—In calculating the amount of supplemental funds provided under this subtitle, a recipient may include the value of any lease on a building, any salary paid to staff to carry out the program of the recipient, and the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary.

"(b) RECAPTURE.—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC 454. APPLICATIONS.

"(a) IN GENERAL.—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) MINIMUM CONTENTS.—The Secretary shall require that an application identify the need for the assistance in the community to be served and shall contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) an identification of the need for the program in the community to be served;

"(4) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(5) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(6) a description of the resources that are expected to be made available to provide the supportive services required by section 453;

"(7) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(8) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(9) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(10) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), (and the families of such persons) will be brought into the program;

"(11) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(12) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 455. SELECTION CRITERIA.

"(a) IN GENERAL.—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) geographic diversity among the projects to be assisted;

"(3) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(4) the quality of the proposed program for providing supportive services and housing assistance;

"(5) the extent to which the proposed funding for the supportive services is or will be available;

"(6) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(7) the extent to which the program integrates program recipients into the community served by the program; and

"(8) the cost-effectiveness of the proposed program; and

"(9) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) FUNDING LIMITATION.—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may be used for programs located within any one unit of general local government.

"SEC. 456. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC 457. TERMINATION OF ASSISTANCE.

"(a) AUTHORITY.—If an eligible individual who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance in accordance with the process established pursuant to subsection (b).

"(b) PROCEDURE.—In terminating assistance under this section, the recipient shall provide a formal process that recognizes the rights of individuals receiving such assistance to due process of law.

"SEC. 458. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the meaning given such term in section 853 of the Cranston-Gonzalez National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) and the family of such a person.

"(4) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'nonprofit organization' has the meaning given such term by section 104 of the Cranston-Gonzalez National Affordable Housing Act.

"(6) The term 'person with disabilities' has the same meaning given the term in section 811 of the Cranston-Gonzalez National Affordable Housing Act.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, child care services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. Inpatient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 459. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated $80,400,000 for fiscal year 1991, and $167,200,000 for fiscal year 1992.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $24,800,000 on or after October 1, 1990, and $54,200,000 on or after October 1, 1991.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated $18,000,000 for fiscal year 1991, and $37,200,000 for fiscal year 1992.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 462. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (1) in a particular structure or unit for up to the first year of participation, and (2) within a particular geographic area for the full period of participation or the period remaining after the period referred to in paragraph (1).

"SEC. 463. AMOUNT OF ASSISTANCE.

Government contracts.

"The contract with a recipient for assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract. Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 464. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) before any assistance may be provided to or on behalf of the person, each unit shall be inspected by the applicant directly or by another entity, including the local public housing agency (or if no such agency exists in the applicable area, an entity selected by the Secretary), to determine that the unit meets the housing quality standards under section 8 of the United States Housing Act of 1937 and that the occupancy charge for the dwelling unit is reasonable; and

"(2) the recipient shall make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 465. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 466. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 471. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons. However, amounts made available under section 459(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 472. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 459(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 473. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 459(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to homeless persons.

"SEC. 474. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 481. PURPOSE.

"The Secretary is authorized to use amounts made available under section 459(c) of this subtitle only in connection with the provision of rental housing assistance under section 202 of the Housing Act of 1959 or section 811 of the Cranston-Gonzalez National Affordable Housing Act for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 202 or section 811, as appropriate for the purpose of providing such rental housing assistance.

"SEC. 482. AMOUNT OF ASSISTANCE.

Government contracts.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 483. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) IN GENERAL.—The Secretary shall require that (1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 484. ADMINISTRATIVE FEES.

"From amounts made available under appropriations Acts, the Secretary shall make amounts available to pay the nonprofit entity

Nonprofit organizations.

that is the owner or lessor of the housing assisted under this part an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.".

(b) IMPLEMENTATION.—Not later than 180 days after the date funds authorized under section 459 of the Stewart B. McKinney Homeless Assistance Act, as amended by this section, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle F of title IV of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice. In developing program guidelines and regulations to implement such subtitle, the Secretary of Housing and Urban Development may consult with the Secretary of Health and Human Services with respect to supportive services aspects of this title.

Regulations.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of the enactment of this section, that are or become available for obligation shall be available for use under subtitle F of title IV of the McKinney Act, as amended by this section.

(d) CONFORMING AMENDMENT.—That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended by adding at the end the following new items:

"Subtitle F—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements; matching funding.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Termination of assistance.
"Sec. 458. Definitions.
"Sec. 459. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"Sec. 461. Purpose.
"Sec. 462. Housing assistance.
"Sec. 463. Amount of assistance.
"Sec. 464. Housing standards and rent reasonableness.
"Sec. 465. Tenant rent.
"Sec. 466. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"Sec. 471. Purpose.
"Sec. 472. Fire and safety improvements.
"Sec. 473. Contract requirements.
"Sec. 474. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

"Sec. 481. Purpose.
"Sec. 482. Amount of assistance.
"Sec. 483. Housing standards and rent reasonableness.
"Sec. 484. Administrative fees.".

Subtitle C—Effective Date

SEC. 321. EFFECTIVE DATE.

If the Cranston-Gonzalez National Affordable Housing Act is enacted before the enactment of this Act, the provisions of this title and the amendments made by this title shall not take effect. This section shall apply notwithstanding any other provision relating to effective date or applicability contained in this title.

TITLE IV—USE OF PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS AND CENSUS STUDY

SEC. 401. USE OF CERTAIN PUBLIC REAL PROPERTY TO ASSIST THE HOMELESS.

(a) IN GENERAL.—Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended to read as follows:

"SEC. 501. USE OF UNUTILIZED AND UNDERUTILIZED PUBLIC BUILDINGS AND REAL PROPERTY TO ASSIST THE HOMELESS.

"(a) IDENTIFICATION OF SUITABLE PROPERTY.—The Secretary of Housing and Urban Development shall, on a quarterly basis, request information from each landholding agency regarding Federal public buildings and other Federal real properties (including fixtures) that are excess property or surplus property or that are described as unutilized or underutilized in surveys by the heads of landholding agencies under section 202(b)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483(b)(2)). No later than 25 days after receiving a request from the Secretary, the head of each landholding agency shall transmit such information to the Secretary. No later than 30 days after receiving such information, the Secretary shall identify which of those buildings and other properties are suitable for use to assist the homeless.

"(b) AVAILABILITY OF PROPERTY.—(1) The Secretary shall promptly notify each Federal agency with respect to any property of that agency that the Secretary has identified under subsection (a). No later than 45 days after receipt of such a notice, the head of the appropriate landholding agency shall transmit to the Secretary the agency's response to property identifications contained in such notification, which shall include—

"(A) in the case of unutilized or underutilized property—

"(i) a statement of intention to determine the property excess to the agency's needs;

"(ii) a statement of intention to make the property available for use to assist the homeless; or

"(iii) a statement of the reasons (including a full explanation of the need) the property cannot be determined excess to the agency's needs or made available for use to assist the homeless; and

"(B) in the case of excess property—

"(i) a statement that there is no other compelling Federal need for the property and, therefore, the property will be determined surplus; or

"(ii) a statement that there is further and compelling Federal need for the property (including a full explanation of such need) and that, therefore, the property is not presently available for use to assist the homeless.

"(2)(A) All properties identified by the Secretary under subsection (a) shall be available for application—

"(i) in the case of property other than surplus property, for use to assist the homeless in accordance with the provisions of this section; and

"(ii) in the case of surplus property, for use to assist the homeless either in accordance with this section or as a public health use in accordance with paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k) (1) and (4)).

Public information. Records.

"(3) The Secretary shall maintain a written public record of—

"(A) the identification of buildings and other properties by the Secretary under this subsection and the reasons for such identifications; and

"(B) the responses of landholding agencies to such identifications.

Federal Register, publication.

"(c) PUBLICATION OF PROPERTIES.—(1)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall publish in the Federal Register—

"(i) a list of all properties reviewed by the Secretary under subsection (a); and

"(ii) a list of all properties that are available under subsection (b)(2) for application for use to assist the homeless.

"(B) Each publication of properties shall include a description and the location of each property (including the address and zip code) and the current classification of each property as unutilized, underutilized, excess property, or surplus property.

Public information.

"(C) The Secretary shall make available to the public upon request all information in the possession of the Department of Housing and Urban Development (other than valuation information), regardless of format, about all properties reviewed and not identified as being suitable for use to assist the homeless, including the reasons such properties were not so identified.

"(D) The Secretary shall publish separately, on an annual basis, all properties identified as being suitable for use to assist the homeless, but reported to be unavailable, and the reasons such properties were unavailable.

"(2)(A) No later than 15 days after the last day of the 45-day period provided for under subsection (b)(1), the Secretary shall transmit a copy of the list of available properties published under paragraph (1)(A)(ii) to the Interagency Council on the Homeless. The Council shall immediately distribute to all State and regional homeless coordinators area-relevant portions of the list.

"(B) The Secretary, the Administrator, and the Secretary of Health and Human Services shall make such efforts as are necessary to ensure the widest possible dissemination of the information on such list.

Telephone.

"(C) The Secretary shall establish a toll-free number to provide the public with specific information about properties on such list.

Public information.

"(3) The Secretary shall make available to the public upon request all information (other than valuation information) regardless of format in the possession of the Department of Housing and Urban Development about the properties published under paragraph (1)(A),

including environmental assessment data. The Secretary shall maintain a current list of agency contacts for making referrals of inquiries for information about specific properties.

"(4)(A) On December 31 of each year, the head of each landholding agency shall report to the Secretary the current availability status and the current classification of each property controlled by the agency, that— Reports.

"(i) was included in a list published in that year by the Secretary under paragraph (1)(A)(ii); and

"(ii) remains available for application for use to assist the homeless or has become available for application during that year.

"(B) No later than February 15 each year, the Secretary shall publish in the Federal Register a list of all properties reported under subparagraph (A) for the preceding year and the current classification of the properties. Federal Register, publication.

"(C) For purposes of subparagraph (A), property shall be considered to remain available for application for use to assist the homeless if, subsequent to the 60-day holding period provided under subsection (d)—

"(i) no application or written expression of interest has been made under any law for use of the property for any purpose; and

"(ii) the Administrator has not received a bona fide offer to purchase the property or advertised for the sale of the property by public auction.

"(d) HOLDING PERIOD.—(1) Properties published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless shall not be available for any other purpose for a period of 60 days beginning on the date of such publication.

"(2) If written notice of intent to apply for such a property for use to assist the homeless is received by the Secretary of Health and Human Services within the 60-day period described under paragraph (1), such property may not be made available for any other purpose until the date the Secretary of Health and Human Services or other appropriate landholding agency has completed action on the application submitted under subsection (e) with respect to that written notice of intent.

"(3) Property that is reviewed by the Secretary under subsection (a) and that is not identified by the Secretary as being suitable for use to assist the homeless may not be made available for any other purpose for 20 days after the determination of unsuitability to allow for review of the determination at the request of the representative of the homeless. The Secretary shall disseminate immediately this information to the regional offices of the Department of Housing and Urban Development and to the Interagency Council on the Homeless.

"(4)(A) Written notice of intent to apply for a property published under subsection (c)(1)(A)(ii) may be filed at any time after the 60-day period described in paragraph (1) has expired. In such case, an application submitted pursuant to the notice may be approved for disposal for use to assist the homeless only if the property remains available for application for use to assist the homeless. If the property remains available, the use to assist the homeless shall be given priority of consideration over other competing disposal opportunities under section 203 of the Federal Property and

Administrative Services Act of 1949 (40 U.S.C. 484), except as provided in subsection (f)(3)(A).

"(B) Surplus property for which an application has been approved shall be assigned promptly to the Secretary of Health and Human Services for disposition in accordance with and subject to subsection (f).

"(e) APPLICATION FOR PROPERTY.—(1) A representative of the homeless may submit an application to the Secretary of Health and Human Services for any property that is published under subsection (c)(1)(A)(ii) as available for application for use to assist the homeless.

"(2) No later than 90 days after the submission of written notice of intent to apply for a property, an applicant shall submit a complete application to the Secretary of Health and Human Services. The Secretary of Health and Human Services shall, with the concurrence of the appropriate landholding agency, grant reasonable extensions.

"(3) No later than 25 days after receipt of a completed application, the Secretary of Health and Human Services shall review, make all determinations, and complete all actions on the application. The Secretary of Health and Human Services shall maintain a written public record of all actions taken in response to an application.

Public information. Records.

"(f) MAKING PROPERTY AVAILABLE TO REPRESENTATIVES OF THE HOMELESS.—(1) Subject to the provisions of this subsection, property for which the Secretary of Health and Human Services has approved an application under subsection (e) shall be made promptly available by permit or lease, or by deed as a public health use under paragraphs (1) and (4) of section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)(1) and (4)), to the representative of the homeless that submitted the application.

"(2) Unutilized underutilized property that is the subject of an agency's statement of intention under subsection (b)(1)(A)(ii) shall be made promptly available by the appropriate landholding agency to the approved applicant by lease or permit for a term of not less than 1 year, unless the applicant requests a shorter term.

"(3)(A) In disposing of surplus property by deed or lease under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the Administrator and the Secretary of Health and Human Services shall give priority of consideration to uses to assist the homeless, unless the Administrator or the Secretary of Health and Human Services determines that a competing request for the property under section 203(k) of such Act is so meritorious and compelling as to outweigh the needs of the homeless.

"(B) Whenever the Administrator or the Secretary of Health and Human Services makes a determination under subparagraph (A), the Administrator or the Secretary of Health and Human Services shall transmit to the appropriate committees of the Congress an explanatory statement detailing the need satisfied by conveyance of the surplus property and the reasons for determining that such need was so meritorious and compelling as to outweigh the needs of the homeless.

"(4) For any property made available by lease to a representative of the homeless before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1990, the Secretary of Health and Human Services may, upon written request by the representative, convey such property by deed to the representative in accordance with, and subject to the requirements of, section

203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k)). The lease term shall not be affected if a deed is not granted.

"(g) RECORDS.—The Secretary shall maintain a written public record of— Public information.

"(1) the reasons for determinations of the Secretary under this section that property is suitable or unsuitable for use to assist the homeless; and

"(2) the responses of landholding agencies under subsection (b)(1).

"(h) DEFINITIONS.—For purposes of this section—

"(1) the term 'Administrator' means the Administrator of General Services;

"(2) each of the terms 'excess property' and 'surplus property' has the meaning given that term under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472);

"(3) the term 'landholding agency' means a Federal department or agency with statutory authority to control real property;

"(4) the term 'representative of the homeless' means a State or local government agency, or private nonprofit organization, which provides services to the homeless; and

"(5) the term 'Secretary' means the Secretary of Housing and Urban Development, except as otherwise provided.".

(b) EFFECTIVE DATE OF AMENDMENT.—The amendment made by subsection (a) shall be effective 90 days after the date of the enactment of this Act. 42 USC 11411 note.

(c) UNUTILIZED AND UNDERUTILIZED PROPERTY.—For purposes of section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) (as amended by this Act) the terms "unutilized" and "underutilized" when used to describe property have the same meaning such terms had before the date of the enactment of this Act under such section 501. 42 USC 11411 note.

(d) PROMULGATION OF REGULATIONS.—No later than 90 days after the date of the enactment of this Act, the Administrator of General Services, the Secretary of Health and Human Services, and the Secretary of Housing and Urban Development shall promulgate regulations implementing this section and the amendment made by this section. 42 USC 11411 note.

SEC. 402. STUDY OF THE COUNTING OF THE HOMELESS FOR THE NATIONAL CENSUS. 13 USC 141 note.

Not later than 1 year after the date of the enactment of this Act, the General Accounting Office shall conduct a study of the methodology and procedures used by the Bureau of the Census in counting the number of homeless persons for the most recent decennial census conducted pursuant to title 13, United States Code, to determine the accuracy of such count, and report to the Congress the results of that study. Reports.

TITLE V—HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 501. WAIVER FOR CERTAIN ORGANIZATIONS OF REQUIREMENT OF STATUS AS MEDICAID PROVIDER.

Section 340(b) of the Public Health Service Act (42 U.S.C. 256(b)) is amended to read as follows:

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—(1) Subject to paragraph (2), the Secretary may not make a grant under subsection (a) to an applicant unless—

"(A) the applicant is a public or nonprofit private entity;

"(B) the applicant has the capacity to effectively administer a grant under subsection (a); and

"(C) in the case of any health service that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant for the grant will enter into an agreement with an organization under which the organization will provide the health service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(2)(A) In the case of an organization making an agreement under paragraph (1)(C)(ii) regarding the provision of health services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) A determination by the Secretary of whether an organization referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.".

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (42 U.S.C. 256(q)(1)) is amended by striking "$61,200,000" and all that follows and inserting the following: "$70,000,000 for fiscal year 1991, $80,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 503. ESTABLISHMENT OF PROGRAM REGARDING PRIMARY HEALTH SERVICES FOR HOMELESS CHILDREN.

Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following new subsection:

"(s) GRANTS REGARDING OUTREACH AND PRIMARY HEALTH SERVICES FOR HOMELESS CHILDREN.—

"(1) The Secretary may make grants to entities specified in paragraph (2) for the purpose of enabling the entities, directly or through contracts, to carry out demonstration programs—

"(A) to provide comprehensive primary health services to homeless children and to children at imminent risk of homelessness, including such services provided through mobile medical units;

"(B) to provide referrals for the provision of appropriate health services, social services, and education services to children receiving services under subparagraph (A) (including referrals regarding hospitals, the programs of sections 329 and 330, the program of the Head Start Act (and other programs providing education services), and programs regarding the prevention and treatment of child abuse); and

"(C) to provide outreach services to identify children who are homeless and to inform the parents (or other guardians) of the children of the availability of services from the grantees and from the entities or programs specified in subparagraph (B).

"(2) The entities referred to in paragraph (1) are—

"(A) grantees under subsection (a), and other public and nonprofit private entities (other than children's hospitals) that provide primary health services, and substance abuse services, to a substantial number of homeless individuals; and

"(B) public and nonprofit private children's hospitals that provide primary health services to a substantial number of such individuals.

"(3)(A) The Secretary may not make a grant under paragraph (1) to a hospital unless the hospital agrees, with respect to the costs of providing services under such paragraph, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $1 of Federal funds provided in the grant.

"(B) Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(4) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees that subsections (b)(3), (h), (i), and (j) will apply to the grant to the same extent and in the same manner as such subsections apply to any grant under subsection (a). For purposes of subsection (i)(1)(D) (including as applied to this subsection by the preceding sentence), mobile medical units shall be considered to be major medical equipment.

"(5) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees to collect such data as the Secretary determines to be necessary for assessing the efficacy of services provided under paragraph (1) to homeless children.

"(6) The Secretary may not make a grant under paragraph (1) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

Rural areas.

"(7) In making grants under paragraph (1), the Secretary shall take into account the needs of homeless children in rural areas.

Appropriation authorization.

"(8) For the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1991 through 1993.".

Subtitle B—Formula Grants to States for Assistance Regarding Transition From Homelessness

SEC. 511. ESTABLISHMENT OF PROGRAM.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc-21 et seq.) is amended to read as follows:

"Part C—Projects for Assistance in Transition From Homelessness

42 USC 290cc-21.

"SEC. 521. FORMULA GRANTS TO STATES.

"For the purpose of carrying out section 522, the Secretary, acting through the Director of the National Institute of Mental Health, shall for each of the fiscal years 1991 through 1994 make an allotment for each State in an amount determined in accordance with section 524. The Secretary shall make payments, as grants, each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 529.

42 USC 290cc-22.

"SEC. 522. PURPOSE OF GRANTS.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless the State involved agrees that the payments will be expended solely for making grants to political subdivisions of the State, and to nonprofit private entities (including community-based veterans organizations and other community organizations), for the purpose of providing the services specified in subsection (b) to individuals who—

"(1)(A) are suffering from serious mental illness; or

"(B) are suffering from serious mental illness and from substance abuse; and

"(2) are homeless or at imminent risk of becoming homeless.

"(b) SPECIFICATION OF SERVICES.—The services referred to in subsection (a) are—

"(1) outreach services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation services;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse pro-

grams, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referrals for primary health services, job training, educational services, and relevant housing services;

"(10) subject to subsection (h)(1)—

"(A) minor renovation, expansion, and repair of housing;

"(B) planning of housing;

"(C) technical assistance in applying for housing assistance;

"(D) improving the coordination of housing services;

"(E) security deposits;

"(F) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(G) 1-time rental payments to prevent eviction; and

"(11) other appropriate services, as determined by the Secretary.

"(c) COORDINATION.—The Secretary may not make payments under section 521 unless the State involved agrees to make grants pursuant to subsection (a) only to entities that have the capacity to provide, directly or through arrangements, the services specified in section 522(b), including coordinating the provision of services in order to meet the needs of eligible homeless individuals who are both mentally ill and suffering from substance abuse.

"(d) SPECIAL CONSIDERATION REGARDING VETERANS.—The Secretary may not make payments under section 521 unless the State involved agrees that, in making grants to entities pursuant to subsection (a), the State will give special consideration to entities with a demonstrated effectiveness in serving homeless veterans.

"(e) SPECIAL RULES.—The Secretary may not make payments under section 521 unless the State involved agrees that grants pursuant to subsection (a) will not be made to any entity that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; or

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(f) ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 521 unless the State involved agrees that not more than 4 percent of the payments will be expended for administrative expenses regarding the payments.

"(g) MAINTENANCE OF EFFORT.—The Secretary may not make payments under section 521 unless the State involved agrees that the State will maintain State expenditures for services specified in subsection (b) at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive such payments.

"(h) RESTRICTIONS ON USE OF FUNDS.—The Secretary may not make payments under section 521 unless the State involved agrees that—

"(1) not more than 20 percent of the payments will be expended for housing services under subsection (b)(10); and

"(2) the payments will not be expended—

"(A) to support emergency shelters or construction of housing facilities;

"(B) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; or

"(C) to make cash payments to intended recipients of mental health or substance abuse services.

42 USC 290cc-23.

"SEC. 523. REQUIREMENT OF MATCHING FUNDS.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless, with respect to the costs of providing services pursuant to section 522, the State involved agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount that is not less than $1 for each $3 of Federal funds provided in such payments.

"(b) DETERMINATION OF AMOUNT.—Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(c) LIMITATION REGARDING GRANTS BY STATES.—The Secretary may not make payments under section 521 unless the State involved agrees that the State will not require the entities to which grants are provided pursuant to section 522(a) to provide non-Federal contributions in excess of the non-Federal contributions described in subsection (a).

42 USC 290cc-24.

"SEC. 524. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) MINIMUM ALLOTMENT.—The allotment for a State under section 521 for a fiscal year shall be the greater of—

"(1) $300,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

"(2) an amount determined in accordance with subsection (b).

"(b) DETERMINATION UNDER FORMULA.—The amount referred to in subsection (a)(2) is the product of—

"(1) an amount equal to the amount appropriated under section 535(a) for the fiscal year; and

"(2) a percentage equal to the quotient of—

"(A) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census; and

"(B) an amount equal to the population living in urbanized areas of the United States, as indicated by the sum of the respective amounts determined for the States under subparagraph (A).

"SEC. 525. CONVERSION TO CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE REGARDING EXPENDITURE OF GRANTS.

42 USC 290cc-25.

"(a) IN GENERAL.—Subject to subsection (c), the Secretary shall, from the amounts specified in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to eligible homeless individuals the services specified in section 522(b).

Nonprofit organizations.

"(b) SPECIFICATION OF FUNDS.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521 that are not paid to a State as a result of—

"(A) the failure of the State to submit an application under section 529;

"(B) the failure of the State, in the determination of the Secretary, to prepare the application in accordance with such section or to submit the application within a reasonable period of time; or

"(C) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) REQUIREMENT OF PROVISION OF SERVICES IN STATE INVOLVED.—With respect to grants under subsection (a), amounts made available under subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.

"SEC. 526. PROVISION OF CERTAIN INFORMATION FROM STATE.

42 USC 290cc-26.

"The Secretary may not make payments under section 521 to a State unless, as part of the application required in section 529, the State submits to the Secretary a statement—

"(1) identifying existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(2) containing a plan for providing services and housing to eligible homeless individuals, which plan—

"(A) describes the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) includes documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(3) describes the source of the non-Federal contributions described in section 523;

"(4) contains assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(5) describe any voucher system that may be used to carry out this part; and

"(6) contain such other information or assurances as the Secretary may reasonably require.

42 USC 290cc-27.

"SEC. 527. DESCRIPTION OF INTENDED EXPENDITURES OF GRANT.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless—

"(1) as part of the application required in section 529, the State involved submits to the Secretary a description of the intended use for the fiscal year of the amounts for which the State is applying pursuant to such section;

"(2) such description identifies the geographic areas within the State in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the State agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State pursuant to section 522.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under section 521 unless the State involved agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) IN GENERAL.—The Secretary may not make payments under section 521 unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) SPECIAL RULE.—The Secretary may not make payments under section 521 unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

42 USC 290cc-28.

"SEC. 528. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary may not make payments under section 521 unless the State involved agrees that, by not later than January 31 of each fiscal year, the State will prepare and submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received under section 521 were expended

during the preceding fiscal year and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary may not make payments under section 521 unless the State involved agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operations.

"SEC. 529. REQUIREMENT OF APPLICATION.

42 USC 290cc-29.

"The Secretary may not make payments under section 521 unless the State involved—

"(1) submits to the Secretary an application for the payments containing agreements and information in accordance with this part;

"(2) the agreements are made through certification from the chief executive officer of the State; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"SEC. 530. TECHNICAL ASSISTANCE.

42 USC 290cc-30.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, shall provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. FAILURE TO COMPLY WITH AGREEMENTS.

42 USC 290cc-31.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), require a State to repay any payments received by the State under section 521 that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 529.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 521.

"(b) WITHHOLDING OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), withhold payments due under section 521 if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 529.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that

there are reasonable assurances that the State will expend amounts received under section 521 in accordance with the agreements referred to in such paragraph.

"(3) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the agreements referred to in such paragraph.

"(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State an opportunity for a hearing.

"(d) RULE OF CONSTRUCTION.—Notwithstanding any other provision of this part, a State receiving payments under section 521 may not, with respect to any agreements required to be contained in the application submitted under section 529, be considered to be in violation of any such agreements by reason of the fact that the State, in the regular course of providing services under section 522(b) to eligible homeless individuals, incidentally provides services to homeless individuals who are not eligible homeless individuals.

42 USC 290cc-32.

"SEC. 532. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS.

"(a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 521.

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any amounts from payments made to the State under section 521 may not conceal or fail to disclose any such event with the intent of securing such an amount that the person is not authorized to receive or securing such an amount in an amount greater than the amount the person is authorized to receive.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

42 USC 290cc-33.

"SEC. 533. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) RULE OF CONSTRUCTION REGARDING CERTAIN CIVIL RIGHTS LAWS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under section 521 shall be considered to be programs and activities receiving Federal financial assistance.

"(2) PROHIBITION.—No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 521.

"(b) ENFORCEMENT.—

"(1) REFERRALS TO ATTORNEY GENERAL AFTER NOTICE.—Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 521, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

"(C) take such other actions as may be authorized by law.

"(2) AUTHORITY OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 534. DEFINITIONS.

42 USC 290cc-34.

"For purposes of this part:

"(1) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual described in section 522(a).

"(2) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given such term in section 340(r).

"(3) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(4) SUBSTANCE ABUSE.—The term 'substance abuse' means the abuse of alcohol or other drugs.

"SEC. 535. FUNDING.

42 USC 290cc-35.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there is authorized to be appropriated $75,000,000 for each of the fiscal years 1991 through 1994.

"(b) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

"(1) IN GENERAL.—If the amounts made available under subsection (a) for a fiscal year are insufficient for providing each State with an allotment under section 521 of not less than the applicable amount under section 524(a)(1), the Secretary shall, from such amounts as are made available under such subsection, make grants to the States for providing to eligible homeless individuals the services specified in section 522(b).

"(2) RULE OF CONSTRUCTION.—Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 521. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

(a) IN GENERAL.—The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa–3 note) is amended by striking "$11,000,000" and all that follows through "1991," and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 through 1993,".

(b) TECHNICAL CORRECTION.—Section 612(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa–3 note) is amended by striking "section 504(f)" and inserting "section 520 of the Public Health Service Act".

SEC. 522. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb–2(b)) is amended by striking "$14,000,000" and all that follows and inserting the following: "such sums as may be necessary for each of the fiscal years 1991 through 1993.".

Stewart B. McKinney Homeless Assistance Amendments Act of 1990.

TITLE VI—EDUCATION, TRAINING, COMMUNITY SERVICE, AND FAMILY SUPPORT

42 USC 11301 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1990".

SEC. 602. DEFINITION OF HOMELESS.

Section 103(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(b)) is amended to read as follows:

"(b) INCOME ELIGIBILITY.—

"(1) IN GENERAL.—A homeless individual shall be eligible for assistance under any program provided by this Act, only if the individual complies with the income eligibility requirements otherwise applicable to such program.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a homeless individual shall be eligible for assistance under the Job Training Partnership Act.".

Subtitle A—Provisions Relating to Literacy and Education

SEC. 611. STATEWIDE LITERACY INITIATIVE.

(a) REAUTHORIZATION.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended by

inserting after "and 1990" the following: ", $13,700,000 for fiscal year 1991, and such sums as may be necessary in each of the fiscal years 1992 and 1993,".

(b) APPLICATION.—Section 702(b) of such Act is amended by striking out "and the number" and all that follows through "to be served".

SEC. 612. EDUCATION FOR HOMELESS CHILDREN AND YOUTH. 42 USC 11421.

(a) STATEMENT OF POLICY.—Section 721 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2)—

(A) by inserting after "attendance laws" the following: "or other laws, regulations, practices, or policies that may act as a barrier to the enrollment, attendance, or success in school of homeless children and homeless youth";

(B) by inserting ", regulations, practices, or policies" after "such laws"; and

(C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(3) homelessness alone should not be sufficient reason to separate students from the mainstream school environment.".

(b) GRANTS FOR STATE AND LOCAL ACTIVITIES.—Section 722 of such Act (42 U.S.C. 11432) is amended—

(1) in the section heading by inserting "AND LOCAL" after "STATE";

(2) in subsection (b)—

(A) by striking out "section 1005" and inserting in lieu thereof "part A of chapter 1 of title I"; and

(B) by striking out $50,000 and all that follows through the end thereof and inserting the following "$50,000. The Secretary shall reserve 0.1 percent of the amount appropriated for each fiscal year to be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 90-658), according to their respective need, as determined by the Secretary, except that no such territory shall receive less in fiscal year 1991 than it received in fiscal year 1990. The Secretary may also reserve not to exceed 1 percent of the amount appropriated for each fiscal year for programs for Indian students served by schools funded by the Secretary of the Interior, as determined under the Indian Self-Determination and Education Assistance Act consistent with the purposes of this Act. As used in this subsection, the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau."; Territories.

(3) in subsection (c)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) to provide activities for and services to homeless children and homeless youths that enable such children and youths to enroll in, attend, and achieve success in school;";

(C) by striking out "and" at the end of paragraph (3) (as so redesignated);

(D) by striking out the period at the end of paragraph (4) (as so redesignated) and inserting in lieu thereof a semicolon; and

(E) by adding at the end thereof the following new paragraphs:

"(5) to develop and implement programs for school personnel to heighten awareness of specific problems of the education of homeless children and youth; and

"(6) if amounts appropriated for the applicable fiscal year exceed the amount appropriated for fiscal year 1990 under this section, to provide grants to local educational agencies for purposes of this section, and if such amounts appropriated do not exceed the amount appropriated for fiscal year 1991, the State education agency, at the discretion of such agency, may provide such grants.";

(4) in subsection (d)(1)—

(A) by striking "annually" and inserting "once every 2 years,";

(B) by inserting after "shall include" the following: "the number of homeless children and homeless youths enrolled in schools in the State, determined through random sampling or other statistical methods that ensure that such children and youths are not overtly identified as being homeless,";

(C) by striking "and the difficulties" and inserting "the difficulties"; and

(D) by inserting before the semicolon the following: ", and any progress made by the State educational agency and local educational agencies within the State in addressing such problems and difficulties";

(5) in subsection (d)(2) by striking "and" at the end thereof;

(6) in subsection (d)(3)—

(A) by striking "of each year" and inserting ", 1991, and on December 31 of every second year thereafter"; and

(B) by striking the period at the end thereof and inserting a semicolon; and

(7) in subsection (d), by adding at the end thereof the following new paragraphs:

"(4) facilitate coordination between the State education agency, the State social services agency, and other agencies providing services to homeless children and youth and their families; and

"(5) develop relationships and coordinate with other relevant education, child development, or preschool programs and providers of services to homeless children, homeless families, and runaway and homeless youths (including domestic violence agencies, shelter operators, transitional housing facilities, runaway and homeless youth centers, and transitional living programs for homeless youths) in order to improve the provision of comprehensive services to homeless children and homeless youths and the families of such children and youths.";

(8) in subsection (e)(1)—

(A) by striking "and" at the end of subparagraph (A);

(B)(i) by inserting "prompt" before "resolution" in subparagraph (B); and

(ii) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(C) develop programs for school personnel (including principals, attendance officers, teachers, and enrollment personnel), to heighten the awareness of such personnel of the specific educational needs of runaway and homeless youths; and

"(D) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local food programs.";

"(E) ensure that homeless children and homeless youths who meet the relevant eligibility criteria are able to participate in Federal, State, or local before- and after-school care programs and provide for the disclosure of data concerning the participation of such children in such programs in plans submitted by the State after the initial plan of the State;

"(F) address problems set forth in the report provided to the Secretary under subsection (d)(3);

"(G) address problems with respect to the education of homeless children and homeless youths, including problems caused by—

"(i) transportation issues; and

"(ii) enrollment delays which are caused by—

"(I) immunization requirements;

"(II) residency requirements;

"(III) lack of birth certificates, school records, or other documentation; or

"(IV) guardianship issues;

"(H) demonstrate that the State and local educational agencies in the State have developed and will review and revise policies to remove barriers to the enrollment and retention of homeless children and homeless youths in schools of the State; and

"(I) ensure that the State educational agency and local educational agencies within the State will adopt policies and practices to ensure that homeless children and homeless youths are not isolated or stigmatized.";

(9) in subsection (e)—

(A) by striking out "(6)" in paragraph (2) and inserting in lieu thereof "(9)";

(B) by amending paragraph (3) to read as follows:

"(3)(A) The local educational agency of each homeless child and each homeless youth shall either—

"(i) continue the child's or youth's education in the school of origin—

"(I) for the remainder of the academic year; or

"(II) in any case in which a family becomes homeless between academic years, for the following academic year; or

"(ii) enroll the child or youth in any school that nonhomeless students who live in the attendance area in which the child or youth is actually living are eligible to attend;

whichever is in the child's best interest or the youth's best interest.

"(B) In determining the best interests of the child or youth for purposes of making a school assignment under subparagraph (A), consideration shall be given to a request made by a parent regarding school selection.

"(C) For purposes of this paragraph, the term 'school of origin' shall mean the school that the child or youth attended when permanently housed, or the school in which the child or youth was last enrolled.";

(C) by inserting after "including" in paragraph (5) the following: "transportation services,";

(D) by striking "The schools records" in paragraph (6) and inserting the following: "Any record ordinarily kept by the school, including immunization records, academic records, birth certificates, guardianship records, and evaluations for special services or programs,"; and

(E) by adding at the end thereof the following new paragraphs:

"(7) Each local educational agency serving homeless children or youth that receives assistance under this title shall coordinate with local social services agencies, and other agencies or programs providing services to such children or youth and their families.

"(8) Each local educational agency that receives assistance under this title shall designate a homelessness liaison to ensure that—

"(A) homeless children and youth enroll and succeed in the schools of that agency; and

"(B) homeless families, children and youth receive educational services for which they are eligible, and referrals to health care services, dental services, mental health services, and other appropriate services.

State coordinators and local educational agency liaisons shall inform school personnel, service providers and advocates working with homeless families of the duties of the liaisons.

"(9) Each State and local educational agency shall review and revise any policies that may act as barriers to the enrollment of homeless children and youth in schools selected in accordance with paragraph (3). In reviewing and revising such policies, consideration shall be given to issues concerning transportation, requirements of immunization, residency, birth certificates, school records, or other documentation, and guardianship. Special attention shall be given to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school."; and

(10) in subsection (g)—

(A) by striking out "$5,000,000" in paragraph (1) and all that follows through the end thereof and inserting in lieu thereof "$50,000,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.";

(B) by redesignating paragraph (2) as paragraph (4); and

(C) by inserting after paragraph (1) the following new paragraphs:

"(2) The State educational agency may reserve not to exceed 5 percent of the amount received by such agency under this section in each fiscal year, or an amount equal to the amount received by such State agency for State activities under this section in fiscal year 1990, whichever is greater, to conduct activities under paragraphs (1) through (5) of subsection (c).

"(3)(A) In any fiscal year in which the amount appropriated under paragraph (1) does not equal or exceed $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to award grants to local educational agencies in accordance with subsection (c)(6).

"(B) In any fiscal year in which the amount appropriated under paragraph (1) equals or exceeds $100,000,000, the State educational agency shall use funds not otherwise reserved under paragraph (2) to allocate to each local educational agency an amount that bears the same ratio to amount not otherwise reserved as the aggregate amount received by such local educational agency under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 for such fiscal year bears to the aggregate amount received by all local educational agencies in the State for purposes of carrying out such part for such fiscal year.".

(c) GRANTS FOR THE EDUCATIONAL SUCCESS OF HOMELESS CHILDREN AND YOUTH.—Section 723 of such Act (42 U.S.C. 11433) is amended to read as follows:

"SEC. 723. LOCAL EDUCATIONAL AGENCY GRANTS FOR THE EDUCATION OF HOMELESS CHILDREN AND YOUTH.

"(a) GENERAL AUTHORITY.—

"(1) GRANTEES AND PURPOSE OF GRANTS.—The State educational agency shall, in accordance with section 722(c)(6) and from amounts made available to such agency under section 722, make grants to local educational agencies for the purpose of facilitating the enrollment, attendance and success of homeless children and youths in schools.

"(2) USE OF GRANTS.—Unless otherwise specified, services under paragraph (1) may be provided through programs on school grounds or at other nonsectarian facilities. Where services are provided through programs on school grounds, such services may also be made available to children or youths who are determined by the local educational agency to be at risk of failing in or dropping out of schools, except that priority for such services shall be given to homeless children and homeless youths. To the maximum extent practicable, services shall be provided through existing programs and mechanisms that integrate homeless individuals with nonhomeless individuals.

"(3) REGULAR ACADEMIC PROGRAM.—Services provided under this section are not intended to replace the regular academic program.

"(b) AUTHORIZED ACTIVITIES.—

"(1) PRIMARY ACTIVITIES.—Not less than 50 percent of amounts provided under a grant under this section shall be used to provide tutoring, remedial education services, or other education services to homeless children or homeless youths.

"(2) RELATED ACTIVITIES.—Not less than 35, nor more than 50, percent of the amounts provided under a grant under this section may be used for activities that may include—

"(A) the provision of expedited evaluations of the strengths and needs of homeless children and homeless youths, including needs and eligibility for programs and services (including gifted and talented programs, special education programs, programs for students with limited English proficiency, and remedial services);

"(B) professional development for educators and other school personnel that is designed to develop awareness and sensitivity to the needs of homeless children and homeless youths and the rights of such children and youths under this Act;

"(C) the provision of referral services to homeless children and homeless youths for medical, dental, mental, and other health services;

"(D) the provision of assistance to defray the excess cost of transportation for students not provided under section 722(e)(5) and not otherwise provided through Federal, State, or local funding, where necessary to enable students to attend the school selected under section 722(e)(3);

"(E) the provision of developmentally appropriate early childhood programs for preschool age children;

"(F) the provision of before- and after-school and summer programs for homeless children or homeless youths in which a teacher or other qualified individual provides tutoring, homework assistance, and supervision of educational activities;

"(G) where necessary, the payment of fees and other costs associated with tracking, obtaining, and transferring records necessary to enroll homeless children or homeless youths in school, including birth certificates, immunization records, academic records, guardianship records, and evaluations for special programs or services;

"(H) the provision of parent education and training to the parents of homeless children and homeless youths about the rights of and resources available to such children and youths;

"(I) the development of coordination between schools and agencies providing services to homeless children and homeless youths;

"(J) the provision of counseling, social work and psychological services, including violence counseling, and referrals for such services;

"(K) activities to address the particular needs of homeless children and homeless youths that may arise from domestic violence;

"(L) activities to develop and implement programs for school personnel to heighten the awareness of such personnel of the specific educational needs of runaway and homeless youths;

"(M) the adaptation of space and the purchase of supplies for nonschool facilities made available under subsection (a)(2) to provide services under this subsection;

"(N) the provision of school supplies to be distributed at the shelter or temporary housing facilities; and

"(O) the provision of such other extraordinary or emergency assistance determined by the Secretary as essential to enable homeless children and youth to attend school.

"(3) ELIGIBILITY.—No State or local educational agency may receive a grant under this section unless the State in which the agency is located has submitted a State plan as required by section 722(e).

"(c) AWARDS.—

"(1) BASIS.—Except as provided in section 722(g)(3)(B), from amounts appropriated for each fiscal year under section 722(g), the State educational agency may award grants under this section to local educational agencies submitting an application under subsection (d) on the basis of the need of such agencies.

"(2) DETERMINATION.—In determining need under paragraph (1), the State educational agency may consider the number of homeless children and homeless youth enrolled in preschool, elementary, and secondary schools within the area served by the agency, and shall consider the needs of such children and youth, and the ability of the agency to meet such needs. Such agency may also consider—

"(A) the extent to which the proposed use of funds would facilitate the enrollment, retention, and educational success of homeless children and youth;

"(B) the extent to which the application reflects coordination with other local and State agencies that serve homeless children and youth, as well as the State Plan required by section 722(e);

"(C) the extent to which the applicant exhibits in the application and in current practice a commitment to education for all homeless children and youth in its jurisdiction; and

"(D) other criteria as the agency determines appropriate.

"(d) APPLICATION.—

"(1) IN GENERAL.—A local educational agency that desires to receive a grant under this section shall submit an application to the State educational agency at such time, in such manner, and containing or accompanied by such information as the State agency may reasonably require according to guidelines issued by the Secretary. Each such application shall include—

"(A) a description of the services and programs for which assistance is sought and the problems sought to be addressed through the provision of such services and programs;

"(B) assurances that the applicant complies with or will use requested funds to come into compliance with paragraphs (3) through (9) of section 722(e);

"(C) an assurance that assistance under the grant will supplement and not supplant funds used before the award of the grant for purposes of providing services to homeless children and homeless youths; and

"(D) a description of policies and procedures that the agency will implement to ensure that activities carried out by the agency will not isolate or stigmatize homeless children and homeless youth.

"(3) TERM OF AWARDS.—Grants awarded under this section shall be for terms of not to exceed 2 years.

"(e) REPORTS.—Each State educational agency that receives a grant under this section for any fiscal year shall, as part of the plan of the State submitted under section 722(c)(4), provide to Secretary data concerning—

"(1) the number of homeless children and homeless youths served with assistance provided under the grant under this section; and

"(2) a description of the success of the program under this section in allowing homeless children and homeless youths to enroll in, attend, and succeed in school.".

(d) NATIONAL RESPONSIBILITIES.—Section 724(b) of such Act (42 U.S.C. 11434) is amended—

(1) in paragraph (1) by adding at the end thereof the following new sentences: "In reviewing the State plans submitted by the State educational agencies under section 722(e), the Secretary shall evaluate whether State laws, policies, and practices described in such plans adequately address the problems of homeless children and homeless youth relating to access to education and placement as described in such plans.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following new paragraphs:

Government contracts.

"(2)(A) The Secretary, in consultation with persons and organizations that are knowledgeable about the needs of homeless children and youth, shall, through the awarding of a grant, or through entering into a contract or cooperative agreement, conduct a study to determine the best means of identifying, locating, and counting homeless children and youth for the purposes of this subtitle. Such persons and organizations to be consulted shall include representatives of State coordinators, local educational agencies with substantial numbers of homeless children and youth, local government agencies with responsibility for administering homeless shelters, and advocacy groups representing the interests of homeless children and youth. The Secretary shall also consult with the Secretary of Health and Human Services and the Secretary of Housing and Urban Development, as appropriate, in carrying out this paragraph.

"(B) The study conducted under subparagraph (A) shall consider—

"(i) the appropriate definition of the terms 'homeless child' and 'homeless youth';

"(ii) the experience of the 1990 Census in identifying, locating, and counting homeless children and youth;

"(iii) appropriate methodologies for identifying, locating, and counting such children and youth, including using schools, shelters, and other social service agencies to collect data; and

"(iv) the projected accuracy of the methodologies identified in clause (iii), and the costs associated with the use of each methodology;

to determine the number of homeless children and youth in the United States to create as accurate an account as possible of the number, location, and living circumstances of such children and youth, including the number of such children and youth that are attending school regularly, part-time, or not at all, and reasons for the nonattendance of such children and youth.

Reports.

"(C)(i) Not later than 240 days after the date of enactment of this paragraph, the Secretary shall prepare and submit, to the appropriate committees of Congress, a report containing the results of the study conducted under subparagraph (A) and the estimated costs of making the estimates required under clause (ii).

Government contracts.

"(ii) Not later than December 1, 1992, the Secretary, in consultation with the appropriate committees of Congress, and through the use of appropriate statistical methodology, shall, through a grant, contract or cooperative agreement, determine accurate estimates of

the number of homeless children and youth throughout the Nation and the number of such children and youth attending school.

"(D) The Secretary may reserve not more than $250,000 from amounts appropriated under section 722(g) in 1991 to carry out the study required under subparagraph (A).

"(E) There are authorized to be appropriated such sums as may be necessary in 1992 to prepare the report and estimates required under subparagraph (C). Appropriation authorizations.

"(3) The Secretary shall provide such support and technical assistance to the State educational agencies as is required by such agencies to carry out their responsibilities under this subtitle,"; and Technical assistance.

(4) by adding at the end thereof the following new paragraphs:

"(5) The Secretary shall conduct evaluation and dissemination activities of programs designed to meet the educational needs of homeless elementary and secondary school students.

"(6) The Secretary shall require applications for grants under this subtitle to be submitted to the Secretary not later than the expiration of the 60-day period beginning on the date that funds are available for purposes of making such grants and shall make such grants not later than the expiration of the 120-day period beginning on such date.

"(7) The Secretary, based on the information received from the States and information gathered by the Secretary under paragraph (1), shall determine the extent to which State educational agencies are ensuring that each homeless child and homeless youth has access to a free appropriate public education as described in section 721(1).".

SEC. 613. REPORTING REQUIREMENT.

Subtitle B of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11431 et seq.) is amended—

(1) by redesignating section 725 as section 726; and 42 USC 11435.

(2) by inserting after section 724 the following new section:

"SEC. 725. REPORTS. 42 USC 11434a.

"Not later than 2 years after the date of enactment of this subsection, the Comptroller General of the United States, in consultation with the Secretary, shall prepare and submit to the appropriate Committees of Congress a report containing the findings of a study conducted to determine the most effective method of distributing funds provided under this subtitle to State educational agencies and local educational agencies.".

Subtitle B—Job Training for the Homeless

SEC. 621. REAUTHORIZATION OF CERTAIN PROGRAMS WITHIN THE STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT.

(a) JOB TRAINING FOR THE HOMELESS.—

(1) APPLICATIONS.—Section 733 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11443) is amended—

(A) by inserting "(a) IN GENERAL.—" before "Each applicant";

(B) in subsection (a)(2), by inserting before the semicolon the following: "or other related programs providing services necessary to address the multiple needs of homeless individuals";

(C) in subsection (a)(3), by inserting "on the street or" before "in-shelter"; and

(D) by adding at the end thereof the following new subsection:

"(b) SPECIAL CONSIDERATION.—

Urban areas.
Rural areas.

"(1) IN GENERAL.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement projects that will serve areas of greatest need, including urban and rural areas, as demonstrated by—

"(A) the large number or concentration of homeless individuals in the project area relative to other similar areas of jurisdiction;

"(B) the high rates of poverty in the project area as determined by the census; or

"(C) the lack of available low cost or affordable housing within the project area, as measured by such indicators as high average local rents or vacancy rates.

"(2) HOLISTIC SERVICE APPROACH.—In awarding grants under this subtitle, the Secretary of Labor may give special consideration to applicants that will implement programs that include formal reciprocal referral agreements with other programs such as substance abuse counseling, local shelters, and subsidized housing that provide a holistic service approach on an individual case management basis.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle the following amounts:

"(1) $14,000,000 for fiscal year 1991, of which $2,200,000 shall be available only to carry out section 738.

"(2) $15,000,000 for fiscal year 1992, of which $2,200,000 shall be available only to carry out section 738.

"(3) $17,000,000 for fiscal year 1993, of which $2,200,000 shall be available only to carry out section 738.".

(c) TERMINATION.—Section 741 of such Act (42 U.S.C. 11450) is amended by striking out "October 1, 1990" and inserting in lieu thereof "October 1, 1993".

SEC. 622. JOB TRAINING PARTNERSHIP ACT.

Part B of title IV of the Job Training Partnership Act (29 U.S.C. 1691 et seq.) is amended by inserting after section 433 the following new section:

"JOB CORPS CENTERS FOR HOMELESS FAMILIES

29 USC 1703a.

"SEC. 433A. (a) Subject to the availability of appropriations therefor, the Secretary is authorized, in accordance with section 427, to provide services and facilities in accordance with this section to eligible homeless individuals and their families at Job Corps centers. Job Corps centers serving homeless individuals and their families shall—

"(1) be residential;

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"(2) be operated under a project agreement with one or more State or local agencies that complies with subsection (b) of this section;

"(3) provide room and board for enrollees and their dependents and child care to the extent practicable for dependent children of enrollees; and Infants and children.

"(4) provide enrollees—

"(A) program activities that include both activities to sustain the operation of the center and regular Job Corps activities required under section 428; and

"(B) the benefits and services given to any other enrollee under this part.

"(b) Each Job Corps center providing services and facilities to homeless individuals under this section shall provide such services and facilities under a project agreement with one or more State or local agencies that— Intergovernmental relations.

"(1) requires such State and local agencies to provide, in the aggregate, not less than 50 percent of the cost of such services and facilities;

"(2) contains provisions to ensure that enrollees and their families are effectively assisted in obtaining all necessary health, education, and social services provided by existing Federal, State, and local programs in such State or locality;

"(3) require such State and local agencies to provide such transitional assistance, including housing, necessary to effect successful job placements for enrollees; and

"(4) contains or is accompanied by such other information and assurances as the Secretary may require.

"(c) To become an enrollee in the Job Corps at a center established providing services and facilities to homeless individuals under this section, an individual—

"(1) shall qualify as a homeless individual under section 103 of the Stewart B. McKinney Homeless Assistance Act;

"(2) may be over the maximum age permitted by section 423(1), but shall have not attained the age of 25 at the time of enrollment; and

"(3) shall meet the requirements of paragraphs (2) through (5) of section 423.

"(d) The Secretary shall prescribe special screening standards under sections 424 and 425 to identify and select enrollees for purposes of this section.

"(e) The Secretary shall, pursuant to section 454, conduct evaluations of the centers providing services and facilities to homeless individuals under this section. The Secretary shall submit to the Congress a report on the results of such evaluations, together with the Secretary's recommendations concerning such centers, not later than 3 years after the date of enactment of this section. Reports.

"(f) As used in the section, the term 'family' may include, at a minimum, dependent children, and the brothers, sisters and parents of those dependent children.".

Subtitle C—Emergency Community Services Homeless Grant Program

SEC. 631. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

(a) USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "all" and inserting "not less than 95 percent"; and

(ii) by striking "(1)(A)" and inserting "(1)";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) through (iii) as subparagraphs (A) through (C), respectively; and

(2) in paragraph (3) by striking "no amount" and inserting "not more than 5 percent of the amounts".

(b) ELIGIBLE USE OF FUNDS.—Section 753(c) of such Act (42 U.S.C. 11463(c)) is amended

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) Renovation of buildings to be used to provide such services, except that not more than 50 percent of such amounts may be used for such purpose."; and

(2) by adding at the end thereof the following new paragraph:

"(5) Provision of, or referral to, violence counseling for homeless children and individuals, and the provision of violence counseling training to individuals who work with homeless children and individuals.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11404) is amended to read as follows:

42 USC 11464.

"SEC. 751. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $50,000,000 for each of fiscal years 1991, 1992, and 1993.".

42 USC 11463 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) of this section shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

Subtitle D—Evaluation and Reports

SEC. 641. EVALUATION AND REPORTS.

Subtitle D of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) is amended by adding at the end thereof the following new sections:

42 USC 11465.

"SEC. 755. EVALUATION.

"(a) PURPOSE.—It is the purpose of this section to develop as rapidly as practicable, information concerning the organization, impact and effectiveness of services provided to homeless individ-

uals under programs administered by the Secretary of Health and Human Services under this or any other Act, and of the effectiveness of the coordination of such programs with other Federal or Federally assisted programs that provide services to homeless individuals, or to those at risk of becoming homeless.

"(b) REQUIREMENT FOR EVALUATION ACTIVITIES.—In carrying out the purpose described in subsection (a), the Secretary shall conduct evaluations that shall include—

"(1) the use of cost and utilization data collected under the Primary Health Care for the Homeless Program under section 340 of the Public Health Service Act to conduct an evaluation, in consultation with organizations receiving grants under this title and with the national representatives of such organizations, of the impact of health, case management and referral services provided by a representative sample of grantees concerning client outcome;

"(2) under part C of title V, an evaluation of the need for and availability of services for individuals who are homeless or at risk of becoming homeless that have a serious mental illness or substance abuse problem, with special attention paid to the service needs of the dually diagnosed;

"(3) an evaluation to identify and document replicable, community-wide programs that provide integrated, comprehensive services that result in service delivery models which prevent homelessness or lead to the successful relocation of the homeless into permanent housing; and

"(4) an identification through the evaluation conducted under this subsection of those areas where services are lacking.

"SEC. 756. REPORT BY THE SECRETARY. 42 USC 11466.

"Not later than 12 months after the date of the enactment of this section, the General Accounting Office shall conduct a study—

"(1) of the extent to which Federal laws, regulations, or policies are hindering Federal facilities (such as cafeterias in the facilities of the Department of Defense and Department of Veterans' Affairs) from making available to programs or entities serving the homeless prepared food that is not consumed, and the issues of liability relating to the provision of such food; and

"(2) prepare and submit, to the appropriate Committees of Congress, a report containing the findings made as a result of the study conducted under paragraph (1).".

Subtitle E—Homeless Prevention Demonstration Programs

SEC. 651. FAMILY SUPPORT CENTERS.

Title VII of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77) is amended by adding at the end thereof the following new subtitle:

"Subtitle F—Family Support Centers

42 USC 11481.

"SEC. 771. DEFINITIONS.

"As used in this subtitle:

"(1) ADVISORY COUNCIL.—The term 'advisory council' means the advisory council established under section 772(e)(2)(K).

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means State or local agencies, a Head Start agency, any community-based organization of demonstrated effectiveness as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, local education agencies, an institution of higher education, a public hospital, a community development corporation, a private industry council as defined under section 102(a) of the Job Training Partnership Act, a community health center, and any other public or private nonprofit agency or organization specializing in delivering social services.

"(3) FAMILY CASE MANAGERS.—The term 'family case managers' means advisers operating under the provisions of section 774.

"(4) GOVERNMENTALLY SUBSIDIZED HOUSING.—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

"(5) HOMELESS.—The term 'homeless' has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.—The term 'intensive and comprehensive supportive services' means—

"(A) in the case of services provided to infants, children and youth, such services that shall be designed to enhance the physical, social, and educational development of such infants and children and that shall include, where appropriate nutritional services, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness and job training services, education (including basic skills and literacy services), emergency services including special outreach services targeted to homeless and runaway youth, crisis intervention and counseling services, and such other services that the Secretary may deem necessary and appropriate;

"(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling, referral for treatment, crisis intervention, employment counseling and training as appropriate, life-skills training including personal financial counseling, education including basic skills

and literacy services, parenting classes, training in consumer homemaking, and such other services as the Secretary shall deem necessary and appropriate;

"(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment, counseling and crisis intervention, family advocacy services, and housing assistance activities, housing counseling and eviction or foreclosure prevention assistance and referral to sources of emergency rental or mortgage assistance payments and home energy assistance, and other services as appropriate.

"(7) LOW INCOME.—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

"(8) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(9) VERY LOW INCOME.—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 772. GENERAL GRANTS FOR THE PROVISION OF SERVICES. 42 USC 11482.

"(a) AUTHORITY.—The Secretary is authorized to make not more than 30 grants to eligible entities in rural, urban and suburban areas to pay the cost of demonstration programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, and educational development of low-income individuals and families, especially those individuals in very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless. Such grants shall be of sufficient size, scope, and quality to be effective, and shall be distributed to various entities including those in or near public housing developments, and in low income areas both urban and nonurban.

"(b) GATEWAY PROGRAMS.—The Secretary shall make available not more than 5 demonstration grants in each fiscal year for Gateway programs in accordance with section 775.

"(c) AGREEMENTS WITH ELIGIBLE ENTITIES.—The Secretary shall enter into contracts, agreements, or other arrangements with eligible entities to carry out the provisions of this section.

"(d) CONSIDERATIONS BY SECRETARY.—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible entity to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the entities and facilities associated with the program to the low-income families to be served by the program or the ability of the entity to provide mobile or offsite services;

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"(3) the ability of the eligible entity to coordinate and integrate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, housing and energy assistance, and other relevant services), with public or private non-profit agencies and organizations that have a demonstrated record of effectiveness in providing assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) fiscal and administrative management of the eligible entity;

"(5) the involvement of project participants and community representatives in the planning and operation of the program to the extent practicable; and

"(6) the availability and proximity of comparable services provided by Community Action Agencies unless the Community Action Agency is the applicant and intends to expand existing services.

"(e) REQUIREMENTS.—

"(1) IN GENERAL.—Each eligible entity desiring to receive a grant under this section shall—

"(A) have demonstrated effectiveness in providing or arranging for the provision of services such as those required under this section;

"(B) to the maximum extent practicable, expand, coordinate, integrate, or contract with existing service providers, and avail itself of other resource and reimbursement mechanisms that may be used to provide services; and

"(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) APPLICATION.—Each application submitted under paragraph (1)(C) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the manner in which the services offered will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the target population, or will contract with such providers for

community-based services within the community to be served, and that funds provided under this section will be utilized to create new services only to the extent that no other funds can be obtained to fulfill the purpose.

"(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, housing and energy assistance, and income maintenance services;

"(H) describe the collection and provision of data on groups of individuals and geographic areas to be served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and natures of conditions and needs to be identified and assisted, and such other information as the Secretary requires;

"(I) describe the manner in which the applicant will implement the requirement of section 773;

"(J) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible entity, consisting of not more than 15 members that shall include—

"(i) participants in the programs, including parents;

"(ii) representatives of local private industry;

"(iii) individuals with expertise in the services the program intends to offer;

"(iv) representatives of the community in which the program will be located;

"(v) representatives of local government social service providers;

"(vi) representatives of local law enforcement agencies;

"(vii) representatives of the local public housing agency, where appropriate; and

"(viii) representatives of local education providers;

"(K) describe plans for evaluating the impact of the program;

"(L) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(M) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(N) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(f) ADMINISTRATIVE PROVISIONS.—

"(1) ADMINISTRATIVE COSTS.—Two percent of the amounts appropriated under this title may be used by the Secretary to administer and evaluate the program established under this title and to provide technical assistance to entities for the development and submission of applications for grants under this section.

"(2) LIMITATION.—Not more than 30 grants may be made under this subtitle.

"(3) AMOUNT OF GRANTS.—No grant made under this subtitle may exceed $2,500,000 per year nor more than a total of $4,000,000 for 2 years. Funds received under such grants shall remain available until expended.

"(g) FAMILY SUPPORT CENTERS.—Each program that receives assistance under this section shall establish one or more family support centers that operate—

"(1) in or near the immediate vicinity of governmentally subsidized housing;

"(2) in urban poverty areas; or

"(3) in non-urban poverty areas.

Such centers shall be the primary location for the administration of the programs and the provision of services under this title.

42 USC 11483.

"SEC. 773. TRAINING AND RETENTION.

"The Secretary shall require that entities that receive a grant under section 772 use not more than 7 percent of such grant to improve the retention and effectiveness of staff and volunteers.

42 USC 11484.

"SEC. 774. FAMILY CASE MANAGERS.

"(a) REQUIREMENT.—Each entity that receives a grant under section 772 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

"(b) NEEDS ASSESSMENT.—Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such family's initial visit to such program as to their need for services.

"(c) CONTINUING FUNCTIONS.—Family case managers shall formulate a service plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and referral services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities, as appropriate.

"(d) LIMITATION.—Each family case manager shall have a caseload that is of a sufficiently small size so as to permit such manager to effectively manage the delivery of comprehensive services to those families assigned to such manager.

42 USC 11485.

"SEC. 775. GATEWAY PROGRAMS.

"(a) IN GENERAL.—The Secretary shall use amounts made available in accordance with section 772(b) to make not more than 5 demonstration grants to local education agencies who, in consultation with the local public housing authority and private industry council, agree to provide on-site education, training and necessary support services to economically disadvantaged residents of public housing.

"(b) SELECTION OF GRANT RECIPIENTS.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall select a local education agency to receive a grant under subsection (a) if such agency has cooperated with the local public housing authority in order to meet the following requirements:

"(1) The local education agency shall demonstrate to the Secretary that training and ancillary support services will be accessed through existing program providers to the extent that they are located in the immediate vicinity of the public housing development, or will contract with such providers for on-site service delivery, and that funds provided under this section will be utilized to purchase such services only to the extent that no other funds can be obtained to fulfill the purpose. Government procurement.

"(2) The public housing agency shall agree to make available suitable facilities in the public housing development for the provision of education, training and support services under this section.

"(3) The local education agency shall demonstrate that the recipients of service have been recruited with the assistance of the public housing authority and are eligible individuals in accordance with the priorities established in subsection (c).

"(4) The local education agency shall demonstrate the ability to coordinate the services provided in this section with other services provided, with the public housing development and private industry council as well as with other public and private agencies and community-based organizations of demonstrated effectiveness providing similar and ancillary services to the target population.

"(5) The local education agency shall demonstrate that they have, to the fullest extent practicable, attempted to employ residents of the public housing development to carry out the purposes of this section whenever qualified residents are available.

"(c) INDIVIDUALS ELIGIBLE FOR SERVICES.—Local education agencies receiving grants under this section shall target participation in the training and services provided under such grants to individuals who—

"(1) reside in public housing;

"(2) are economically disadvantaged; and

"(3) have encountered barriers to employment because of basic skills deficiency including not having a high school diploma, GED, or the equivalent. Employment.

"(d) PRIORITY.—Local education agencies providing services under this section shall give priority to single heads of households with young dependent children. Infants and children.

"(e) MANDATORY SERVICES.—Any local education agency that receives a grant under this section shall establish a Gateway program to provide—

"(1) outreach and information services designed to make eligible individuals aware of available services;

"(2) literacy and bilingual education services, where appropriate;

"(3) remedial education and basic skills training;

"(4) employment training and personal management skill development or referrals for such services; and

"(5) child care or dependent care for dependents of eligible individuals during those times, including afternoons and evenings, when training services are being provided. Day care.

To the extent practicable, child care or dependent care services shall be designed to employ public housing residents after appropriate training.

"(f) PERMISSIVE SERVICES.—Local education agencies receiving grants under this section may make available, as part of their Gateway programs—

"(1) pre-employment skills training;

"(2) employment counseling and application assistance;

"(3) job development services;

"(4) job training;

"(5) Federal employment-related activity services;

"(6) completion of high school or GED program services;

"(7) transitional assistance, including child care for up to 6 months to enable such individual to successfully secure unsubsidized employment;

"(8) substance abuse prevention and education; and

"(9) other support services that the Secretary deems to be appropriate.

42 USC 11486.

"SEC. 776. EVALUATION.

Government contracts.

"(a) IN GENERAL.—The Secretary shall contract for an independent evaluation of the programs and entities that receive assistance under this title. Such evaluation shall be complete not later than the date that is 15 months after the date on which the first grants are awarded under this title.

"(b) MATTER TO BE EVALUATED.—The evaluation conducted under subsection (a) shall examine the degree to which the programs receiving assistance under this title have fulfilled the objectives included in the application in accordance with section 722(e)(2) in—

"(1) enhancing the living conditions in low income housing and in neighborhoods;

Infants and children.

"(2) improving the physical, social and educational development of low income children and families served by the program;

"(3) achieving progress towards increased potential for independence and self-sufficiency among families served by the program;

"(4) the degree to which the provision of services is affected by caseload size;

"(5) promoting increases in literacy levels and basic employment skills among residents of public housing developments served by grants under section 776; and

"(6) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible entity receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluation shall be provided by the Secretary to the eligible entities conducting the programs to enable such entities to improve such programs.

42 USC 11487.

"SEC. 777. REPORT.

"Not later than July 1, 1992, the Secretary shall prepare and submit, to the Committee on Education and Labor, of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report—

"(1) concerning the evaluation required under section 776;

"(2) providing recommendations for replicating grant programs, including identifying the geographic and demographic

characteristics of localities where this service coordination and delivery system may prove effective;

"(3) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle; and

"(4) describing the degree to which entities are coordinating with other existing programs.

"SEC. 778. CONSTRUCTION. 42 USC 11488.

"Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 779. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11489.

"There are authorized to be appropriated to carry out this subtitle, $50,000,000 for fiscal year 1991, $55,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal year 1993.".

Subtitle F—Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

SEC. 661. CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS.

(a) FINDINGS.—Congress finds that— 42 USC 5118 note.

(1) homelessness too often results in the placements of children into out-of-home care, or delays the reunification of such children with their parents; and

(2) strong coordination between child welfare agencies and housing authorities can protect homeless children or children at risk of becoming homeless from abuse and neglect and help prevent the unnecessary separation of children from their families.

(b) AMENDMENT.—The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) (as amended by Public Law 101-126) is amended by adding at the end thereof the following new title:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"SEC. 301. DEMONSTRATION GRANTS FOR PREVENTION OF INAPPROPRIATE SEPARATION FROM FAMILY AND FOR PREVENTION OF CHILD ABUSE AND NEGLECT. 42 USC 5118.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary may make grants to entities described in subsection (b)(1) for the purpose of assisting such entities in demonstrating, with respect to children

whose families are homeless or at risk of becoming homeless, the effectiveness of activities undertaken to prevent—

"(1) the inappropriate separation of such children from their families on the basis of homelessness or other problems regarding the availability and conditions of housing for such families; and

"(2) the abuse and neglect of such children.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—

"(1) IN GENERAL.—The entities referred to in subsection (a) are State and local agencies that provide services in geographic areas described in paragraph (2), and that have authority—

"(A) for removing children, temporarily or permanently, from the custody of the parents (or other legal guardians) of such children and placing such children in foster care or other out-of-home care; or

"(B) in the case of youths not less than 16 years of age for whom such a placement has been made, for assisting such youths in preparing to be discharged from such care into circumstances of providing for their own support.

"(2) ELIGIBLE GEOGRAPHIC AREAS.—The geographic areas referred to in paragraph (1) are geographic areas in which homelessness and other housing problems are—

"(A) threatening the well-being of children; and

"(B)(i) contributing to the placement of children in out-of-home care;

"(ii) preventing the reunification of children with their families; or

"(iii) in the case of youths not less than 16 years of age who have been placed in out-of-home care, preventing such youths from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(3) COOPERATION WITH APPROPRIATE PUBLIC AND PRIVATE ENTITIES.—The Secretary shall not make a grant under subsection (a) unless the agency involved has entered into agreements with appropriate entities in the geographic area involved (including child welfare agencies, public housing agencies, and appropriate public and nonprofit private entities that provide services to homeless families) regarding the joint planning, coordination and delivery of services under the grant.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary shall not make a grant under subsection (a) unless the agency involved agrees that, with respect to the costs to be incurred by such agency in carrying out the purpose described in such subsection, the agency will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided in such grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"SEC. 302. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF DEMONSTRATION GRANTS. 42 USC 5118a.

"(a) JOINT TRAINING OF APPROPRIATE SERVICE PERSONNEL.—

"(1) IN GENERAL.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees to establish, with respect to the subjects described in paragraph (2), a program for joint training concerning such subjects, for appropriate personnel of child welfare agencies, public housing agencies, and appropriate public and private entities that provide services to homeless families.

"(2) SPECIFICATION OF TRAINING SUBJECTS.—The subjects referred to in paragraph (1) are—

"(A) the relationship between homelessness, and other housing problems, and the initial and prolonged placement of children in out-of-home care;

"(B) the housing-related needs of families with children who are at risk of placement in out-of-home care; and

"(C) resources (including housing-related assistance) that are available to prevent the initial or prolonged placement in out-of-home care of children whose families are homeless or who have other housing problems.

"(b) ADDITIONAL AUTHORIZED ACTIVITIES.—In addition to activities authorized in subsection (a), a grantee under section 301(a) may expend grant funds for—

"(1) the hiring of additional personnel to provide assistance in obtaining appropriate housing—

"(A) to families whose children are at imminent risk of placement in out-of-home care or who are awaiting the return of children placed in such care; and

"(B) to youth who are preparing to be discharged from such care into circumstances of providing for their own support;

"(2) training and technical assistance for the personnel of shelters and other programs for homeless families (including domestic violence shelters) to assist such programs—

"(A) in the prevention and identification of child abuse and neglect among the families the programs served; and

"(B) in obtaining appropriate resources for families who need social services, including supportive services and respite care;

"(3) the development and dissemination of informational materials to advise homeless families with children and others who are seeking housing of resources and programs available to assist them; and

"(4) other activities, if authorized by the Secretary, that are necessary to address housing problems that result in the inappropriate initial or prolonged placement of children in out-of-home care.

"SEC. 303. ADDITIONAL REQUIRED AGREEMENTS. 42 USC 5118b.

"(a) REPORTS TO SECRETARY.—The Secretary shall not make a grant under section 301(a) unless the agency involved agrees that such agency will—

"(1) annually prepare and submit to the Secretary a report describing the specific activities carried out by the agency under the grant; and

"(2) include in the report submitted under paragraph (1), the results of an evaluation of the extent to which such activities have been effective in carrying out the purpose described in such section, including the effect of such activities regarding—

"(A) the incidence of placements of children in out-of-home care;

"(B) the reunification of children with their families; and

"(C) in the case of youths not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(b) EVALUATION BY THE SECRETARY.—The Secretary shall conduct evaluations to determine the effectiveness of demonstration programs supported under section 301(a) in—

"(1) strengthening coordination between child welfare agencies, housing authorities, and programs for homeless families;

"(2) preventing placements of children into out-of-home care due to homelessness or other housing problems;

"(3) facilitating the reunification of children with their families; and

"(4) in the case of youths not less than 16 years old who have been placed in out-of-home care, preventing such youth from being discharged from such care into circumstances of providing their own support without adequate living arrangements.

"(c) REPORT TO CONGRESS.—

"(1) PREPARATION OF LIST.—Not later than April 1, 1991, the Secretary, after consultation with the Secretary of Education, the Secretary of Housing and Urban Development and the Secretary of Labor, shall prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a list of Federal programs that provide services, or fund grants, contracts, or cooperative agreements for the provision of services, directed to the prevention of homelessness for families whose children are at risk of out of home placement and the incidence of child abuse that may be associated with homelessness, that shall include programs providing—

"(A) rent, utility, and other subsidies;

"(B) training; and

"(C) for inter-agency coordination, at both the local and State and Federal level.

"(2) CONTENTS OF LIST.—The list prepared under paragraph (1) shall include a description of—

"(A) the appropriate citations relating to the authority for such programs;

"(B) entities that are eligible to participate in each such program;

"(C) authorization levels and the annual amounts appropriated for such programs for each fiscal year in which such programs were authorized;

"(D) the agencies and divisions administering each such program;

"(E) the expiration date of the authority of each such program; and

"(F) to the extent available, the extent to which housing assistance under such programs can be accessed by child welfare and other appropriate agencies.

"(3) REPORT.—Not later than March 1, 1993, the Secretary shall prepare and submit to the appropriate committees of Congress a report that contains a description of the activities carried out under this title, and an assessment of the effectiveness of such programs in preventing initial and prolonged separation of children from their families due to homelessness and other housing problems. At a minimum the report shall contain—

"(A) information describing the localities in which activities are conducted;

"(B) information describing the specific activities undertaken with grant funds and, where relevant, the numbers of families and children assisted by such activities;

"(C) information concerning the nature of the joint training conducted with grant funds;

"(D) information concerning the manner in which other agencies such as child welfare, public housing authorities, and appropriate public and nonprofit private entities are consulting and coordinating with existing programs that are designed to prevent homelessness and to serve homeless families and youth; and

"(E) information concerning the impact of programs supported with grant funds under this title on—

"(i) the incidence of the placement of children into out-of-home care;

"(ii) the reunification of children with their families; and

"(iii) in the case of youth not less than 16 years of age who have been placed in out-of-home care, the discharge of such youths from such care into circumstances of providing for their own support with adequate living arrangements.

"(d) RESTRICTION ON USE OF GRANT.—The Secretary may not make a grant under section 301(a) unless the agency involved agrees that the agency will not expend the grant to purchase or improve real property.

"SEC. 304. DESCRIPTION OF INTENDED USES OF GRANT. 42 USC 5118c.

"The Secretary shall not make a grant under section 301(a) unless—

"(1) the agency involved submits to the Secretary a description of the purposes for which the agency intends to expend the grant;

"(2) with respect to the entities with which the agency has made agreements pursuant to section 301(b)(1), such entities have assisted the agency in preparing the description required in paragraph (1); and

"(3) the description includes a statement of the methods that the agency will utilize in conducting the evaluations required in section 303(a)(2).

"SEC. 305. REQUIREMENT OF SUBMISSION OF APPLICATION. 42 USC 5118d.

"The Secretary shall not make a grant under section 301(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in section 304, and the application is in such form, is made in such

manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title.

42 USC 5118e.

"SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $12,500,000 for fiscal year 1992.

"(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under subsection (a) shall remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The Child Abuse and Prevention Act (42 U.S.C. 5101 et seq.) is amended in the table of contents in section 101(b) by adding at the end thereof the following new items:

"TITLE III—CERTAIN PREVENTIVE SERVICES REGARDING CHILDREN OF HOMELESS FAMILIES OR FAMILIES AT RISK OF HOMELESSNESS

"Sec. 301. Demonstration grants for prevention of inappropriate separation from family and for prevention of child abuse and neglect.
"Sec. 302. Provisions with respect to carrying out purpose of demonstration grants.
"Sec. 303. Additional required agreements.
"Sec. 304. Description of intended uses of grant.
"Sec. 305. Requirement of submission of application.
"Sec. 306. Authorization of appropriations.".

TITLE VII—VETERANS PROGRAMS

SEC. 701. MEDICAL PROGRAMS.

Section 801(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Veterans Affairs $31,500,000 for fiscal year 1991 and $33,075,000 for fiscal year 1992 for the medical care of veterans by the Department. Any amount appropriated under this subsection shall be in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for fiscal years 1991 and 1992.".

Approved November 29, 1990.

LEGISLATIVE HISTORY—H.R. 3789 (S. 2863) (S. 2886):

HOUSE REPORTS: No. 101-583, Pt. 1 (Comm. on Banking, Finance and Urban Affairs) and Pt. 2 (Comm. on Energy and Commerce); and No. 101-951 (Comm. of Conference).
SENATE REPORTS: No. 101-436 accompanying S. 2863 (Comm. on Labor and Human Resources) and No. 101-458 accompanying S. 2886 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 26, S. 2863 considered and passed Senate.
Oct. 10, H.R. 3789 considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 26, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 29, Presidential statement.

Public Law 101-646
101st Congress

An Act

To prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.

Nov. 29, 1990
[H.R. 5390]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

"TITLE I—AQUATIC NUISANCE PREVENTION AND CONTROL

Subtitle A—General Provisions

"SECTION 1001. SHORT TITLE.

16 USC 4701 note.

"This title may be cited as the "Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990".

"SEC. 1002. FINDINGS AND PURPOSES.

16 USC 4701.

"(a) FINDINGS.—The Congress finds that—

"(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;

"(2) when environmental conditions are favorable, nonindigenous species, such as the zebra mussel (Dreissena polymorpha), become established and may disrupt the aquatic environment and economy of affected coastal areas;

"(3) the zebra mussel was unintentionally introduced into the Great Lakes and, if left uncontrolled, is expected to infest over two-thirds of the continental United States through the unintentional transportation of larvae and adults by vessels operating in inland waters; and

"(4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at $5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species could be severe.

"(b) PURPOSES.—The purposes of this Act are—

"(1) to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;

"(2) to coordinate federally conducted, funded or authorized research, prevention control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;

"(3) to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional

introductions of nonindigenous species from pathways other than ballast water exchange;

"(4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and

"(5) to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

16 USC 4702.

"SEC. 1003. DEFINITIONS.

"As used in this Act, the term—

"(1) 'appropriate Committees' means the Committee on Merchant Marine and Fisheries in the House of Representatives and the Committee on Environment and Public Works and Committee on Commerce, Science, and Transportation in the Senate; and

"(2) 'aquatic nuisance species' means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

"(3) 'assistant Secretary' means the Assistant Secretary of the Army (Civil Works);

"(4) 'ballast water' means any water and associated sediments used to manipulate the trim and stability of a vessel;

"(5) 'Director' means the Director of the United States Fish and Wildlife Service;

"(6) 'exclusive economic zone' means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

"(7) 'environmentally sound' methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

"(8) 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canandian Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

"(9) 'nonindigenous species' means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

"(10) 'Secretary' means the Secretary of the department in which the Coast Guard is operating;

"(11) 'Task Force' means the Aquatic Nuisance Species Task Force established under section 1201 of this Act;

"(12) 'territorial sea' means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

"(13) 'Under Secretary' means the Under Secretary of Commerce for Oceans and Atmosphere;

"(14) 'waters of the United States' means the navigable waters and the territorial sea of the United States; and

"(15) 'unintentional introduction' means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

"Subtitle B—Prevention of Unintentional Introductions of Aquatic Nuisance Species

"SEC. 1101. AQUATIC NUISANCE SPECIES IN THE GREAT LAKES. 16 USC 4711.

"(a) GUIDELINES.—(1) Not later than 6 months after the date of enactment of the Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

"(2) The guidelines issued under this subsection shall—

"(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

"(B) protect the safety of each vessel, its crew, and passengers;

"(C) take into consideration different vessel operating conditions; and

"(D) be based on the best scientific information available.

"(3) Within 12 months after the date of enactment of this Act, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection. Education. Technical assistance.

"(b) AUTHORITY OF SECRETARY.—(1) Within 24 months after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels. Regulations.

"(2) The regulations issued under this subsection shall—

"(A) require all vessels that carry ballast water and enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

"(B) require a vessel to—

"(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

"(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

"(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species.

"(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

"(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

"(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

"(F) request the Secretary of the Treasury to withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel, the owner or operator of which is in violation of the regulations;

"(G) protect the safety of each vessel, its crew, and passengers;

"(H) take into consideration different vessel operating conditions; and

"(I) be based on the best scientific information available.

"(c) CIVIL PENALTIES.—Any person who violates the regulations issued under subsection (b) shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

"(d) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations issued under subsection (b) is guilty of a class C felony.

"(e) CONSULTATION WITH CANADA.—In developing the guidelines and regulations, the Secretary is encouraged to consult with the Government of Canada to develop an effective international program for preventing the introduction and spread of aquatic nuisance species in the Great Lakes from the ballast water of vessels.

16 USC 4712.

"SEC. 1102. NATIONAL BALLAST WATER CONTROL PROGRAM.

"(a) STUDIES ON INTRODUCTION OF AQUATIC NUISANCE SPECIES BY VESSELS.—

"(1) BALLAST EXCHANGE STUDY.—The Task Force shall conduct a study—

"(A) to assess the environmental effects of ballast water exchange on the diversity and abundance of native species in receiving estuarine, marine, and fresh waters of the United States; and

"(B) to identify areas within the waters of the United States and the exclusive economic zone, if any, where the exchange of ballast water does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States.

"(2) BIOLOGICAL STUDY.—The Task Force shall conduct a study to determine whether aquatic nuisance species threaten the ecological characteristics and economic uses of waters of the United States other than the Great Lakes.

"(3) SHIPPING STUDY.—The Secretary shall conduct a study to determine the need for controls on vessels entering waters of the United States, other than the Great Lakes, to minimize the risk of unintentional introduction and dispersal of aquatic nui-

sance species in those waters. The study shall include an examination of—

"(A) the degree to which shipping may be a major pathway of transmission of aquatic nuisance species in those waters;

"(B) possible alternatives for controlling introduction of those species through shipping; and

"(C) the feasibility of implementing regional versus national control measures.

"(b) CONSULTATION.—The Secretary and the Task Force shall cooperate in conducting their respective studies under this section.

"(c) REPORTS.—

"(1) BALLAST EXCHANGE.—Not later than 18 months after the date of enactment of this Act and prior to the effective date of the regulations issued under section 1101(b), the Task Force shall submit a report to the appropriate Committees that presents the results of the study required under subsection (a)(1) and makes recommendations with respect to such regulations.

"(2) BIOLOGICAL AND SHIPPING STUDIES.—Not later than 18 months after the date of enactment of this Act, the Secretary and the Task Force shall each submit to the appropriate Committees a report on the results of their respective studies under paragraphs (2) and (3) of subsection (a).

"(d) NEGOTIATIONS.—The Secretary, working through the International Maritime Organization, is encouraged to enter into negotiations with the governments of foreign countries concerning the planning and implementation of measures aimed at the prevention and control of unintentional introductions of aquatic nuisance species in coastal waters.

"Subtitle C—Prevention and Control of Aquatic Nuisance Species

"SEC. 1201. ESTABLISHMENT OF TASK FORCE. 16 USC 4721.

"(a) TASK FORCE.—There is hereby established an "Aquatic Nuisance Species Task Force".

"(b) MEMBERSHIP.—Membership of the Task Force shall consist of—

"(1) the Director;

"(2) the Under Secretary;

"(3) the Administrator of the Environmental Protection Agency;

"(4) the Commandant of the United States Coast Guard;

"(5) the Assistant Secretary; and

"(6) the head of any other Federal agency that the chairpersons designated under subsection (d) deem appropriate.

"(c) EX OFFICIO MEMBERS.—The chairpersons designated under subsection (d) shall invite representatives of the Great Lakes Commission and State agencies and other governmental entities to participate as ex officio members of the Task Force.

"(d) CHAIRPERSONS.—The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible, and are authorized to undertake such activities as may be necessary, for carrying out this subtitle in consultation and cooperation with the other members of the Task Force.

"(e) MEMORANDUM OF UNDERSTANDING.—Within six months of the date of enactment of this Act, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each in jointly carrying out this subtitle.

"(f) COORDINATION.—Each Task Force member shall coordinate any action to carry out this subtitle with any such action by other members of the Task Force, and regional, State and local entities.

16 USC 4722.

"SEC. 1202. AQUATIC NUISANCE SPECIES PROGRAM.

"(a) IN GENERAL.—The Task Force shall develop and implement a program for waters of the United States to prevent introduction and dispersal of aquatic nuisance species; to monitor, control and study such species; and to disseminate related information.

"(b) CONTENT.—The program developed under subsection (a) shall—

"(1) identify the goals, priorities, and approaches for aquatic nuisance species prevention, monitoring, control, education and research to be conducted or funded by the Federal Government;

"(2) describe the specific prevention, monitoring, control, education and research activities to be conducted by each Task Force member;

"(3) coordinate aquatic nuisance species programs and activities of Task Force members and affected State agencies;

"(4) describe the role of each Task Force member in implementing the elements of the program as set forth in this subtitle;

"(5) include recommendations for funding to implement elements of the program; and

"(6) develop a demonstration program of prevention, monitoring, control, education and research for the zebra mussel, to be implemented in the Great Lakes and any other waters infested, or likely to become infested in the near future, by the zebra mussel.

"(c) PREVENTION.—

"(1) IN GENERAL.—The Task Force shall establish and implement measures, within the program developed under subsection (a), to minimize the risk of introduction of aquatic nuisance species to waters of the United States, including—

"(A) identification of pathways by which aquatic organisms are introduced to waters of the United States;

"(B) assessment of the risk that an aquatic organism carried by an identified pathway may become an aquatic nuisance species; and

"(C) evaluation of whether measures to prevent introductions of aquatic nuisance species are effective and environmentally sound.

Intergovernmental relations.

"(2) IMPLEMENTATION.—Whenever the Task Force determines that there is a substantial risk of unintentional introduction of an aquatic nuisance species by an identified pathway and that the adverse consequences of such an introduction are likely to be substantial, the Task Force shall, acting through the appropriate Federal agency, and after an opportunity for public comment, carry out cooperative, environmentally sound efforts with regional, State and local entities to minimize the risk of such an introduction.

"(d) MONITORING.—The Task Force shall establish and implement monitoring measures, within the program developed under subsection (a), to—

"(1) detect unintentional introductions of aquatic nuisance species;

"(2) determine the dispersal of aquatic nuisance species after introduction; and

"(3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

"(e) CONTROL.—

"(1) IN GENERAL.—The Task Force may develop cooperative efforts, within the program established under subsection (a), to control established aquatic nuisance species to minimize the risk of harm to the environment and the public health and welfare. For purposes of this Act, control efforts include eradication of infestations, reductions of populations, development of means of adapting human activities and public facilities to accommodate infestations, and prevention of the spread of aquatic nuisance species from infested areas. Such control efforts shall be developed in consultation with affected Federal agencies, States, Indian Tribes, local governments, interjurisdictional organizations, and other appropriate entities. Control actions authorized by this section shall be based on the best available scientific information and shall be conducted in an environmentally sound manner.

Intergovernmental relations. Indians.

"(2) DECISIONS.—The Task Force or any other affected agency or entity may recommend that the Task Force initiate a control effort. In determining whether a control program is warranted, the Task Force shall evaluate the need for control (including the projected consequences of no control and less than full control); the technical and biological feasibility and cost-effectiveness of alternative control strategies and actions; whether the benefits of control, including costs avoided, exceed the costs of the program; the risk of harm to non-target organisms and ecosystems, public health and welfare; and such other considerations the Task Force determines appropriate. The Task Force shall also determine the nature and extent of control of target aquatic nuisance species that is feasible and desirable.

"(3) PROGRAMS.—If the Task Force determines in accordance with paragraph (2) that control of an aquatic nuisance species is warranted, the Task Force shall develop a proposed control program to achieve the target level of control. A notice summarizing the proposed action and soliciting comments shall be published in the Federal Register, in major newspapers in the region affected, and in principal trade publications of the industries affected. Within 180 days of proposing a control program, and after consultation with affected governmental and other appropriate entities and taking into consideration other comments received, the Task Force shall complete development of the proposed control program.

Federal Register, publication.

"(f) RESEARCH.—

"(1) PRIORITIES.—The Task Force shall, within the program developed under subsection (a), conduct research concerning—

"(A) the environmental and economic risks associated with the introduction of aquatic nuisance species into the waters of the United States;

"(B) the principal pathways by which aquatic nuisance species are introduced and dispersed;

"(C) possible methods for the prevention, monitoring and control of aquatic nuisance species; and

"(D) the assessment of the effectiveness of prevention, monitoring and control methods.

"(2) PROTOCOL.—Within 90 days of the date of enactment of this Act, the Task Force shall establish and follow a protocol to ensure that research activities carried out under this subtitle do not result in the introduction of aquatic nuisance species to waters of the United States.

"(3) GRANTS FOR RESEARCH.—The Task Force shall allocate funds authorized under this Act for competitive research grants to study all aspects of aquatic nuisance species, which shall be administered through the National Sea Grant College Program and the Cooperative Fishery and Wildlife Research Units. Grants shall be conditioned to ensure that any recipient of funds follows the protocol established under paragraph (2) of this subsection.

"(g) TECHNICAL ASSISTANCE.—The Task Force shall, within the program developed under subsection (a), provide technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

"(h) EDUCATION.—The Task Force shall, with the program developed under subsection (a), establish and implement educational programs through Sea Grant Marine Advisory Services and any other available resources that it determines to be appropriate to inform the general public, State governments, governments of political subdivisions of States, and industrial and recreational users of aquatic resources in connection with matters concerning the identification of aquatic nuisance species, and control methods for such species, including the prevention of the further distribution of such species.

"(i) ZEBRA MUSSEL DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Task Force shall, within the program developed under subsection (a), undertake a program of prevention, monitoring, control, education and research for the zebra mussel to be implemented in the Great Lakes and any other waters of the United States infested or likely to become infested by the zebra mussel, including—

"(A) research and development concerning the species life history, environmental tolerances and impacts on fisheries and other ecosystem components, and the efficacy of control mechanisms and means of avoiding or minimizing impacts;

"(B) tracking the dispersal of the species and establishment of an early warning system to alert likely areas of future infestations;

"(C) development of control plans in coordination with regional, State and local entities; and

"(D) provision of technical assistance to regional, State and local entities to carry out this section.

"(2) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—The Assistant Secretary, in consultation with the Task Force, shall develop a program of research and technology development for the environmentally sound control of zebra mussels in and

around public facilities. The Assistant Secretary shall collect and make available, through publications and other appropriate means, information pertaining to such control methods.

"(j) IMPLEMENTATION.—

"(1) REGULATIONS.—Not later than 18 months after the date of the enactment of this Act, the Director and the Under Secretary may issue such rules and regulations as may be necessary to implement this section.

"(2) PARTICIPATION OF OTHERS.—The Task Force shall provide opportunities for affected Federal agencies which are not part of the Task Force, State and local government agencies, and regional and other entities with the necessary expertise to participate in control programs. If these other agencies or entities have sufficient authority or jurisdiction and expertise and where this will be more efficient or effective, responsibility for implementing all or a portion of a control program may be delegated to such agencies or entities.

"(k) REPORTS.—

"(1) Not later than 12 months after the date of enactment of this Act, the Task Force shall submit a report describing the program developed under subsection (a), including the research protocol required under subsection (f)(2), to the appropriate Committees.

"(2) On an annual basis after the submission of the report under paragraph (1), the Task Force shall submit a report to the appropriate Committees detailing progress in carrying out this section.

"SEC. 1203. GREAT LAKES REGIONAL COORDINATION. 16 USC 4723.

"(a) IN GENERAL.—Not later than 30 days following the date of enactment of this Act, the Task Force shall request that the Great Lakes Commission (established under Article IV of the Great Lakes Compact to which the Congress granted consent in the Act of July 24, 1968, P.L. 90-419) convene a panel of Great Lakes representatives from Federal, State and local agencies and from private environmental and commercial interests to—

"(1) identify priorities for the Great Lakes with respect to aquatic nuisance species;

"(2) make recommendations to the Task Force regarding programs to carry out section 1202(i) of this Act;

"(3) assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes;

"(4) coordinate, where possible, aquatic nuisance species program activities in the Great Lakes that are not conducted pursuant to this Act;

"(5) provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and Public information.

"(6) submit annually a report to the Task Force describing activities within the Great Lakes related to aquatic nuisance species prevention, research, control. Reports.

"(b) CONSULTATION.—The Task Force shall request that the Great Lakes Fishery Commission provide information to the panel convened under this section on technical and policy matters related to the international fishery resources of the Great Lakes.

"(c) CANADIAN PARTICIPATION.—The panel convened under this section is encourage to invite representatives from the Federal, provincial or territorial governments of Canada to participate as observers.

16 USC 4724.

"SEC. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.

"(a) STATE PLAN.—

"(1) IN GENERAL.—The Governor of each State may, after notice and opportunity for public comment, prepare and submit—

"(A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State, other than those related to public facilities, for which technical and financial assistance is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and

"(B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State for which technical and financial assistance is needed to reduce infestations of zebra mussels.

"(2) CONTENT.—Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall—

"(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;

"(B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities; and

"(C) a schedule of implementing the plan, including a schedule of annual objectives.

"(3) CONSULTATION.—

"(A) In developing and implementing a management plan, the State should, to the maximum extent practicable, involve local governments and regional entities, and public and private organizations that have expertise in the control of aquatic nuisance species.

"(B) Upon the request of a State, the Task Force or the Assistant Secretary, as appropriate under paragraph (1), may provide technical assistance in developing and implementing a management plan.

"(4) PLAN APPROVAL.—Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor with recommended modifications.

"(b) GRANT PROGRAM.—

"(1) STATE GRANTS.—The Director or the Assistant Secretary, as appropriate under subsection (a), may, at the recommendation of the Task Force, make grants to States with approved management plans for the implementation of those plans.

"(2) APPLICATION.—An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.

"(3) FEDERAL SHARE.—

"(A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

"(B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

"(4) ADMINISRATIVE COSTS.—For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

"(5) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

"SEC. 1205. RELATIONSHIP TO OTHER LAWS. 16 USC 4725.

"All actions taken by Federal agencies in implementing the provisions of section 1202 shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle.

"SEC. 1206. INTERNATIONAL COOPERATION. 16 USC 4726.

"(a) ADVICE.—The Task Force shall provide timely advice to the Secretary of State concerning aquatic nuisance species that infest waters shared with other countries.

"(b) NEGOTIATIONS.—The Secretary of State, in consultation with the Task Force, is encouraged to initiate negotiations with the governments of foreign countries concerning the planning and implementation of prevention, monitoring, research, education, and control programs related to aquatic nuisance species infesting shared water resources.

"SEC. 1207. INTENTIONAL INTRODUCTIONS POLICY REVIEW. Reports. 16 USC 4727.

"Within one year of the date of enactment of this Act, the Task Force shall, in consultation with State fish and wildlife agencies, other regional, State and local entities, potentially affected industries and other interested parties, identify and evaluate approaches for reducing the risk of adverse consequences associated with inten-

tional introduction of aquatic organisms and submit a report of their findings, conclusions and recommendations to the appropriate Committees.

"SEC. 1208. INJURIOUS SPECIES.

"Section 42(a) of title 18, United States Code is amended by inserting "of the zebra mussel of the species Dreissena polymorpha;" after "Pteropus;".

Guam.
16 USC 4728.

"SEC. 1209. BROWN TREE SNAKE CONTROL PROGRAM.

"The Task Force shall, within the program developed under subsection (a), undertake a comprehensive, environmentally sound program in coordination with regional, territorial, State and local entities to control the brown tree snake (Boiga irregularis) in Guam and other areas where the species is established outside of its historic range.

"Subtitle D—Authorizations of Appropriation

16 USC 4741.

"SEC. 1301. AUTHORIZATIONS.

"(a) PREVENTION OF UNINTENTIONAL INTRODUCTIONS.—There are authorized to be appropriated to develop and implement the provisions of subtitle B—

"(1) $500,000 until the end of fiscal year 1992 to the Secretary to carry out sections 1101 and 1102(a)(3);

"(2) $2,000,000 until the end of fiscal year 1992 to the Director and Under Secretary to carry out the studies under sections 1102(a)(1) and 1102(a)(2; and

"(3) $1,000,000 for each of fiscal years 1993, 1994, and 1995 to the Secretary for implementation and enforcement of the regulations promulgated under section 1101.

"(b) TASK FORCE AND AQUATIC NUISANCE SPECIES PROGRAM.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to develop and implement the provisions of subtitle C—

"(1) $7,000,000 to the Director to carry out sections 1202 and 1209;

"(2) $5,000,000 to the Under Secretary to carry out section 1202;

"(3) $1,125,000 to fund aquatic nuisance species prevention and control research under section 1202(i) at the Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration;

"(4) $5,000,000 for competitive grants for university research on aquatic nuisance species under section 1202(f)(3) as follows:

"(A) $3,375,000 to fund grants under section 206 of the National Sea Grant College Program Act (33 U.S.C. 1125), and of this amount, $2,500,000 to fund grants in the Great Lakes region; and

"(B) $1,675,000 to fund grants through the Cooperative Fisheries and Wildlife Research Unit Program of the United States Fish and Wildlife Service;

"(5) $500,000 to fund Sea Grant Marine Advisory Services education and technical assistance related to infestations of zebra mussels under sections 1202(g) and (h);

"(6) $200,000 to fund aquatic nuisance species prevention and control activities of the Great Lakes Commission; and

"(7) $2,000,000 to the Assistant Secretary to carry out section 1202(i)(2).

"(c) GRANTS FOR STATE MANAGEMENT PROGRAMS.—There are authorized to be appropriated for each of fiscal years 1991, 1992, 1993, 1994, and 1995 to make grants under section 1204—

"(1) $2,500,000 to the Director; and

"(2) $5,000,000 to the Assistant Secretary.

"(d) INTENTIONAL INTRODUCTIONS POLICY REVIEW.—There are authorized to be appropriated for fiscal year 1991, $500,000 to the Director and the Under Secretary to conduct the intentional introduction policy review under section 1207.

"Subtitle E—Cooperative Environmental Analyses

"SEC. 1401. ENVIRONMENTAL IMPACT ANALYSES.

Canada. Mexico. 16 USC 4751.

"The Secretary of State, in consultation with the Council on Environmental Quality, is encouraged to enter into negotiations with the governments of Canada and Mexico to provide for reciprocal cooperative environmental impact analysis of major Federal actions which have significant transboundary effects on the quality of the human environment in the United States, Canada, and Mexico.

"TITLE II—GREAT LAKES FISH AND WILDLIFE RESTORATION

Great Lakes Fish and Wildlife Restoration Act of 1990.

SECTION 2001. SHORT TITLE.

16 USC 941 note.

"This title may be cited as the "Great Lakes Fish and Wildlife Restoration Act of 1990".

"SEC. 2002. FINDINGS.

16 USC 941.

"The Congress finds and declares the following:

"(1) As the human population of the Great Lakes Basin has expanded to over 35,000,000 people, great demands have been placed on the lakes for use for boating and other recreation, navigation, municipal and industrial water supply, waste disposal, power production, and other purposes. These growing and often conflicting demands exert pressure on the fish and wildlife resources of the Great Lakes Basin, including in the form of contaminants, invasion by nonindigenous species, habitat degradation and destruction, legal and illegal fishery resource harvest levels, and sea lamprey predation.

"(2) The fishery resources of the Great Lakes support recreational fisheries enjoyed by more than 5,000,000 people annually and commercial fisheries providing approximately 9,000 jobs. Together, these fisheries generate economic activity worth more than $4,400,000,000 annually to the United States.

"(3) The availability of a suitable forage base is essential to lake trout, walleye, yellow perch, and other recreational and commercially valuable fishery resources of the Great Lakes Basin. Protecting and restoring productive fish habitat, includ-

ing by protecting water quality, is essential to the successful recovery of Great Lakes Basin fishery resources.

"(4) The Great Lakes Basin contains important breeding and migration habitat for all types of migratory birds. Many migratory bird species dependent on deteriorating Great Lakes Basin habitat have suffered serious population declines in recent years.

"(5) Over 80 percent of the original wetlands in the Great Lakes Basin have been destroyed and such losses continue at a rate of 20,000 acres annually.

"(6) Contaminant burdens in the fish and wildlife resources of the Great Lakes Basin are substantial and the impacts of those contaminants on the life functions of important fish and wildlife resources are poorly understood. Concern over the effects of those contaminants on human health have resulted in numerous public health advisories recommending restricted or no consumption of Great Lakes fish.

"(7) The lower Great Lakes are uniquely different from the upper Great Lakes biologically, physically, and in the degree of human use and shoreline development, and special fishery resource assessments and management activities are necessary to respond effectively to these special circumstances.

16 USC 941a.

"SEC. 2003. PURPOSE.

"The purposes of this Act are—

"(1) to carry out a comprehensive study of the status, and the assessment, management, and restoration needs, of the fishery resources of the Great Lakes Basin;

"(2) to develop proposals to implement recommendations resulting from that study; and

"(3) to provide assistance to the Great Lakes Fisheries Commission, States, Indian Tribes, and other interested entities to encourage cooperative conservation, restoration and management of the fish and wildlife resources and their habitat of the Great Lakes Basin.

16 USC 941b.

"SEC. 2004. DEFINITIONS.

"In this Act—

"(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

"(2) the term "Director" means the Director of the United States Fish and Wildlife Service;

"(3) the term "fish stock" means—

"(A) a taxonomically distinct species or subspecies of fish; or

"(B) any other aggregation of fish that are geographically, ecologically, behaviorally, or otherwise limited from breeding with individuals from other groups of fish and are capable of management as a unit;

"(4) the term "Great Lakes Basin" means the air, land, water, and living organisms within the drainage basin of the Saint Lawrence River at or upstream from the point at which the river becomes the international boundary between Canada and the United States;

"(5) the term "Indian Tribe" means any Indian tribe, band, village, nation, or other organized group or community that is recognized by the Bureau of Indian Affairs as eligible for the

special programs and services provided by the United States to Indians because of their status as Indians;

"(6) the term "lower Great Lakes" means the region in which is located that portion of the Great Lakes Basin which is downstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan;

"(7) the term "upper Great Lakes" means that portion of the Great Lakes Basin which is upstream from the confluence of the Saint Clair River and Lake Huron near Port Huron, Michigan.

"(8) the term "nonindigenous species" means a species of plant or animal that did not occur in the Great Lake Basin before European colonization of North America;

"(9) the term "Secretary" means the Secretary of the Army; and

"(10) the term "State Director" means the head of the agency, department, board, commission, or other governmental entity of each of the States of New York, Ohio, Indiana, Illinois, Michigan, Wisconsin, Minnesota, and the Commonwealth of Pennsylvania which is responsible for the management and conservation of the fish and wildlife resources of that State.

"SEC. 2005. GREAT LAKES FISHERY RESOURCES RESTORATION STUDY. 16 USC 941c.

"(a) IN GENERAL.—The Director shall conduct a comprehensive study of the status of, and the assessment, management, and restoration needs of, the fishery resources of the Great Lakes Basin and shall provide the opportunity for the Secretary, the Administrator, State Directors, Indian Tribes, the Great Lakes Fishery Commission, appropriate Canadian Government entities, and other appropriate entities to participate in the study. The Director shall complete the study by October 1, 1994.

"(b) MEMORANDUM OF UNDERSTANDING.—To provide opportunities for the full participation of all affected entities in the planning and conduct of the study, the Director shall invite the entities identified in subsection (a) to enter into a memorandum of understanding regarding the scope and focus of the study and the responsibilities of each participant for conducting the study.

"(c) CONTENT OF STUDY.—A study under this section shall include, but not be limited to—

"(1) identifying and describing the component drainages of the Great Lakes Basin (including the drainage for each of the Great Lakes), analyzing how the characteristics and current or expected land and water uses of those drainages have affected, and can be expected to affect in the future, the fishery resources and fish habitats of the Great Lakes Basin;

"(2) analyzing historical fishery resource data for the Great Lakes Basin to identify the causes of past and continuing clines of the fishery resources and the impediments to restoring those resources;

"(3) evaluating the adequacy, effectiveness, and consistency of current Great Lakes interagency fisheries management plans and Federal and State water quality programs, with respect to their effects on Great Lakes fishery resources;

"(4) analyzing the impacts of, and management control alternatives for, recently introduced nonindigenous species, including the zebra mussel, the ruffe, and the spiny water flea in accordance with the Aquatic Nuisance Prevention and Control Act of 1990;

"(5) developing recommendations regarding—

"(A) an action plan to analyze the effects of contaminant levels on fishery resources;

"(B) an action plan for the cooperative restoration and enhancement of depleted, nationally significant fish stocks, including lake trout, yellow perch, lake sturgeon, walleye, forage fish, and Atlantic salmon;

"(C) planning and technical assistance that should be provided to the Great Lakes Fisheries Commission, States, and Indian Tribes to assist their fishery resource restoration efforts;

"(D) mitigation measures to restore and enhance fishery resources adversely affected by past Federal (including federally assisted or approved) water resource development projects and other activities;

"(E) increasing the involvement of the International Joint Commission, the Great Lakes Commission, the Great Lakes Fishery Commission, and other interjurisdictional entities regarding fishery resources protection, restoration, and enhancement;

"(F) research projects and data gathering initiatives regarding population trends of fish stocks, including population abundance and structure, interspecific competition, survival rates, and behavioral patterns;

"(G) important fishery resource habitat and other areas that should be protected, restored, or enhanced for the benefit of Great Lakes fishery resources;

"(H) how private conservation organizations, recreational and commercial fishing interests, the aquaculture industry, and the general public could contribute to the implementation of the fishery resource restoration and enhancement recommendations developed pursuant to this Act; and

"(I) appropriate contributions that should be made by States and other non-Federal entities to the cost of activities undertaken to implement the recommendations, including a description of—

"(i) the activities that shall be cost-shared;

"(ii) the entities or individuals which shall share the costs of those activities;

"(iii) the proportion of appropriate project and activity costs that shall be borne by non-Federal interests; and

"(iv) how the entities or individuals who share costs should finance their contribution.

"(d) PROPOSALS FOR IMPLEMENTING RECOMMENDATIONS.—The Director shall develop proposals for implementing the recommendations of the study developed under subsection (c)(5). The proposals shall be consistent with the goals of the Great Lakes Water Quality Agreement, as revised in 1987, the 1954 Great lakes Fisheries Convention, State and tribal fishery management jurisdiction, and the 1980 Joint Strategic Plan for the management of Great Lakes fishery resources.

"SEC. 2006. GOALS OF UNITED STATES FISH AND WILDLIFE SERVICE PROGRAMS RELATED TO GREAT LAKES FISH AND WILDLIFE RESOURCES. 16 USC 941d.

"In administering programs of the United States Fish and Wildlife Service related to the Great Lakes Basin, the Director shall seek to achieve the following goals:

"(1) Restoring and maintaining self-sustaining fishery resource populations.

"(2) Minimizing the impacts of contaminants on fishery and wildlife resources.

"(3) Protecting, maintaining, and, where degraded and destroyed, restoring fish and wildlife habitat, including the enhancement and creation of wetlands that result in a net gain in the amount of those habitats.

"(4) Stopping illegal activities adversely impacting fishery and wildlife resources.

"(5) Restoring threatened and endangered species to viable, self-sustaining levels.

"(6) Protecting, managing, and conserving migratory birds.

"SEC. 2007. ESTABLISHMENT OF OFFICES. 16 USC 941e.

"(a) GREAT LAKES COORDINATION OFFICE.—The Director shall establish a centrally located facility for the coordination of all United States Fish an Wildlife Service activities in the Great Lakes Basin, to be known as the "Great Lakes Coordination Office". The functional responsibilities of the Great Lakes Coordination Office shall include intra- and interagency coordination, information distribution, and public awareness outreach. The Great Lakes Coordination Office shall include all administrative and technical support necessary to carry out its responsibilities.

"(b) LOWER GREAT LAKES FISHERY RESOURCES OFFICE.—The Director shall establish an office with necessary administrative and technical support services to carry out all United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the Lower Great Lakes. The office shall be known as the "Lower Great Lakes Fishery Resources Office", and shall be centrally located in the lower Great Lakes so as to facilitate fishery resource restoration and enhancement activities relating to the lower Great Lakes.

"(c) UPPER GREAT LAKES FISHERY RESOURCES OFFICES.—The Director shall establish one or more offices with necessary administrative and technical support services to carry out United States Fish and Wildlife Service operational activities related to fishery resource protection, restoration, maintenance, and enhancement in the upper Great Lakes. Each of the offices shall be known as an "Upper Great Lakes Fishery Resources Office", and shall be appropriately located so as to facilitate fishery resource activities in the upper Great Lakes.

"SEC. 2008. ANNUAL REPORTS. 16 USC 941f.

"Not later than 1 year after the date of the enactment of this Act and annually thereafter, the Director shall submit a report to the Committee on Merchant Marine and fisheries of the House of Representatives and the Committee on Environment and Public Works of the Senate. Each such report shall describe—

"(1) the progress and findings of the studies conducted under section 2005, including recommendations of implementing

activities, where appropriate, that would contribute to the restoration or improvement of one or more fish stocks of the Great Lakes Basin; and

"(2) activities undertaken to accomplish the goals stated in section 2006.

16 USC 941g.

"SEC. 2009. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to the Director—

"(1) for conducting a study under section 2005 not more than $4,000,000 for each of fiscal years 1991 through 1994;

"(2) to establish and operate the Great Lakes Coordination Office under section 2008(a) and Upper Great Lakes Fishery Resources Offices under section 2008(c), not more than $4,000,000 for each of fiscal years 1991 through 1995; and

"(3) to establish and operate the Lower Great Lakes Fishery Resources Offices under section 2008(b), not more than $2,000,000 for each of fiscal years 1991 through 1995.

"(b) There are authorized to be appropriated to the Secretary to carry out this Act, not more than $1,500,000 for each of fiscal years 1991 through 1995.".

TITLE III—WETLANDS

Coastal Wetlands Planning, Protection and Restoration Act. 16 USC 3951 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act".

16 USC 3951.

SEC. 302. DEFINITIONS.

As used in this title, the term—

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Louisiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this title or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individ-

ual phases, portions, or components of projects and operation, maintanence and rehabilitation of completed projects; the primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits;

(7) "coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana;

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce; and

(10) "Director" means the Director of the United States Fish and Wildlife Service.

SEC. 303. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS. 16 USC 3952.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within forty-five days after the date of enactment of this title, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana to provide for the long-term conservation of such wetlands and dependent fish and wildlife populations in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; except that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member that the project is cost effective and sound from an engineering perspective. Those projects which potentially impact navigation or flood control on the lower Mississippi River System shall be constructed consistent with section 304 of this Act.

(3) TRANSMITTAL OF LIST.—No later than one year after the date of enactment of this title, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter,

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the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure to carry out this title.

(4) LIST OF CONTENTS.—

(A) AREA IDENTIFICATION; PROJECT DESCRIPTION.—The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of the lead Task Force member to undertake each proposed coastal wetlands restoration project and the responsibilities of each other participating Task Force member, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) PRE-PLAN.—Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 306 of this title, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this title.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration

projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) PLAN SUBMISSION.—Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) PLAN EVALUATION.—Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in crea- Reports.

ting, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) COASTAL WETLANDS RESTORATION PROJECT BENEFITS.—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) CONSISTENCY.—(1) In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary, in consultation with the Director and the Administrator, shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(2) At the request of the Governor of the State of Louisiana, the Secretary of Commerce shall approve the plan as an amendment to the State's coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455).

(e) FUNDING OF WETLANDS RESTORATION PROJECTS.—The Secretary shall, with the funds made available in accordance with this title, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section. The Secretary shall not fund a coastal wetlands restoration project unless that project is subject to such terms and conditions as necessary to ensure that wetlands restored, enhanced or managed through that project will be administered for the long-term conservation of such lands and waters and dependent fish and wildlife populations.

(f) COST-SHARING.—

(1) FEDERAL SHARE.—Amounts made available in accordance with section 306 of this title to carry out coastal wetlands restoration projects under this title shall provide 75 percent of the cost of such projects.

(2) FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.—Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to this title, and such conservation plan is approved pursuant to section 304 of this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project under this section shall be 85 percent of the cost of the project. In the event that the Secretary, the Director, and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to this title, amounts made available in accordance with section 306 of this title for any coastal wetlands restoration project shall revert to 75 percent of the cost of the project: *Provided, however,* that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary, the Director, and Administrator, and the State has been given ninety days from such notice or hearing to take corrective action.

(3) FORM OF STATE SHARE.—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 percent of

the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 304. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING. 16 USC 3953.

(a) DEVELOPMENT OF CONSERVATION PLAN.—

(1) AGREEMENT.—The Secretary, the Director, and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) TERMS OF AGREEMENT.—

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary, the Director, and the Administrator shall promptly enter into an agreement (hereafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary, the Director, and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) GRANTS AND ASSISTANCE.—Upon the date of signing the agreement—

(A) the Administrator shall, in consultation with the Director, with the funds made available in accordance with section 306 of this title, make grants during the development of the conservation plan to assist the designated State agency in developing such plan. Such grants shall not exceed 75 percent of the cost of developing the plan; and

(B) the Secretary, the Director, and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

(b) CONSERVATION PLAN GOAL.—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan,

exclusive of any wetlands gains achieved through implementation of the preceding section of this title.

(c) ELEMENTS OF CONSERVATION PLAN.—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of the preceding section of this title;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) APPROVAL OF CONSERVATION PLAN.—

(1) IN GENERAL.—If the Governor submits a conservation plan to the Secretary, the Director, and the Administrator for their approval, the Secretary, the Director, and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) APPROVAL CRITERIA.—The Secretary, the Director, and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the plan was developed in accordance with terms of the agreement set forth in subsection (a) of this section.

(e) MODIFICATION OF CONSERVATION PLAN.—

(1) NONCOMPLIANCE.—If the Secretary, the Director, and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) RECONSIDERATION.—If the Governor submits a modified conservation plan to the Secretary, the Director, and the Administrator for their reconsideration, the Secretary, the

Director, and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with requirements of subsection (d) of this section.

(3) APPROVAL OF MODIFIED PLAN.—If the Secretary, the Director, and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) AMENDMENTS TO CONSERVATION PLAN.—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; except that minor changes to such plan shall not be subject to the requirements of this section.

(g) IMPLEMENTATION OF CONSERVATION PLAN.—A conservation plan approved under this section shall be implemented as provided therein.

(h) FEDERAL OVERSIGHT.—

(1) INITIAL REPORT TO CONGRESS.—Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary, the Director, and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including and accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) REPORT TO CONGRESS.—Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary, the Director, and the Administrator shall, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 305 NATIONAL COASTAL WETLANDS CONSERVATION GRANTS. 16 USC 3954.

(a) MATCHING GRANTS.—The Director shall, with the funds made available in accordance with the next following section of this title, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) PRIORITY.—Subject to the cost-sharing requirements of this section, the Director may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Director shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces. In addition, priority consideration shall be given to coastal wetlands conservation projects in maritime forests on coastal barrier islands.

(c) CONDITIONS.—The Director may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) COST-SHARING.—

(1) FEDERAL SHARE.—Grants to coastal States of matching moneys by the Director for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 percent of the total costs of such projects: except that such matching moneys may be used for payment of not to exceed 75 percent of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) FORM OF STATE SHARE.—The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(3) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(e) PARTIAL PAYMENTS.—

(1) The Director may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) The Director may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

Texas. (f) WETLANDS ASSESSMENT.—The Director shall, with the funds made available in accordance with the next following section of this title, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

16 USC 3955. **SEC. 306. DISTRIBUTION OF APPROPRIATIONS.**

(a) PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.—Of the total amount appropriated during a given fiscal year to carry out this title, 70 percent, not to exceed $70,000,000, shall be available, and shall remain available until expended, for the purposes of making expenditures—

(1) not to exceed the aggregate amount of $5,000,000 annually to assist the Task Force in the preparation of the list required under this title and the plan required under this title, including preparation of—

(A) preliminary assessments;
(B) general or site-specific inventories;
(C) reconnaissance, engineering or other studies;
(D) preliminary design work; and
(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetland restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under this title;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under this title;

(4) to make grants not to exceed $2,500,000 annually or $10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to this title.

(b) COASTAL WETLANDS CONSERVATION GRANTS.—Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent, not to exceed $15,000,000 shall be available, and shall remain available to the Director, for purposes of making grants—

(1) to any coastal State, except States eligible to receive funding under section 306(a), to carry out coastal wetlands conservation projects in accordance with section 305 of this title; and

(2) in the amount of $2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) NORTH AMERICAN WETLANDS CONSERVATION.—Of the total amount appropriated during a given fiscal year to carry out this title, 15 percent, not to exceed $15,000,000, shall be available to, and shall remain available until expended by, the Secretary of the Interior for allocation to carry out wetlands conservation projects in any coastal State under section 8 of the North American Wetlands Conservation Act (Public Law 101-233, 103 Stat. 1968, December 13, 1989).

SEC. 307. GENERAL PROVISIONS.

16 USC 3956.

(a) ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

Irrigation.
Navigation.
Flood control.

(b) STUDY.—The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

SEC. 308. CONFORMING AMENDMENT.

16 U.S.C. 777c is amended by adding the following after the first sentence: "The Secretary shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of

section 777b of this title as provided in the Coastal Wetlands Planning, Protection and Restoration Act: *Provided,* That, notwithstanding the provisions of section 777b, such sums shall remain available to carry out such Act through fiscal year 1999.".

Great Lakes Oil Pollution Research and Development Act.

"TITLE IV—GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT

33 USC 2701 note.

"SEC. 4001. SHORT TITLE.

"This title may be cited as the "Great Lakes Oil Pollution Research and Development Act".

"SEC. 4002. GREAT LAKES OIL POLLUTION RESEARCH AND DEVELOPMENT.

"Section 7001 of the Oil Pollution Act of 1990 (Public Law 101-380) is amended as follows:

Ante, p. 559.

"(1) GREAT LAKES DEMONSTRATION PROJECT.—In subsection (c)(6), strike "3" and insert "4", strike "and" after "California,", and insert "and (D) ports on the Great Lakes," after "Louisiana,".

"(2) FUNDING.—In subsection (f) strike "21,250,000" and insert "22,000,000" and in subsection (f)(2) strike "2,250,000" and insert "3,000,000".".

Approved November 29, 1990.

LEGISLATIVE HISTORY—H.R. 5390 (S. 2244):

SENATE REPORTS: No. 101-523 accompanying S. 2244 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 1, considered and passed House.
Oct. 26, considered and passed Senate, amended, in lieu of S. 2244.
Oct. 27, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 29, Presidential statement.

○

Public Law 101-647
101st Congress

An Act

To control crime.

Nov. 29, 1990
[S. 3266]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Crime Control Act of 1990.
18 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime Control Act of 1990".

TITLE I—INTERNATIONAL MONEY LAUNDERING

SEC. 101. REPORTS ON USES MADE OF CURRENCY TRANSACTION REPORTS.

31 USC 5311 note.

Not later than 180 days after the effective date of this section, and every 2 years for 4 years, the Secretary of the Treasury shall report to the Congress the following:

(1) the number of each type of report filed pursuant to subchapter II of chapter 53 of title 31, United States Code (or regulations promulgated thereunder) in the previous fiscal year;

(2) the number of reports filed pursuant to section 6050I of the Internal Revenue Code of 1986 (regarding transactions involving currency) in the previous fiscal year;

(3) an estimate of the rate of compliance with the reporting requirements by persons required to file the reports referred to in paragraphs (1) and (2);

(4) the manner in which the Department of the Treasury and other agencies of the United States collect, organize, analyze and use the reports referred to in paragraphs (1) and (2) to support investigations and prosecutions of (A) violations of the criminal laws of the United States, (B) violations of the laws of foreign countries, and (C) civil enforcement of the laws of the United States including the provisions regarding asset forfeiture;

(5) a summary of sanctions imposed in the previous fiscal year against persons who failed to comply with the reporting requirements referred to in paragraphs (1) and (2), and other steps taken to ensure maximum compliance;

(6) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by analysis of the reports referred to in paragraphs (1) and (2); and

(7) a summary of criminal indictments filed in the previous fiscal year which resulted, in large part, from investigations initiated by information regarding suspicious financial transactions provided voluntarily by financial institutions.

SEC. 102. ELECTRONIC SCANNING OF CERTAIN UNITED STATES CURRENCY NOTES.

Establishment.

(a) ELECTRONIC SCANNING TASK FORCE.—(1) Not more than thirty days after the date of enactment of this section, the Secretary of the Treasury (hereafter in this section referred to as the "Secretary") shall appoint an Electronic Scanning Task Force (hereafter in this section referred to as the "Task Force") to—

(A) study methods of printing on United States currency notes issued under section 51115 of title 31, United States Code, in denominations of $10 or more a serial number on each such United States currency note that may be read by electronic scanning;

(B) make an assessment of the cost of implementing such electronic scanning of such United States currency notes; and

(C) make recommendations about the amount of time needed to implement such electronic scanning.

(2) In appointing members to the Task Force described in subsection (a), the Secretary shall appoint such number of members as the Secretary determines to be appropriate. The Secretary, shall, at a minimum appoint to the Task Force—

(A) the Assistant Secretary for Enforcement in the Department of the Treasury (who shall serve as a nonvoting, ex officio member);

(B) at least one recognized expert from each of the following fields relating to electronic scanning technology:

(i) coding,

(ii) symbology,

(iii) scanning systems,

(iv) computer data compilation, and

(v) printing technology, and

(C) Representatives from each of the following:

(i) the Bureau of Engraving and Printing,

(ii) the Federal Reserve Board, and

(iii) the United States Secret Service.

(3) Except as provided in paragraph (2)(A), no individual who is a full-time employee of the Federal Government may serve as a member of the Task Force.

(4) The provisions of the Federal Advisory Committee Act shall not apply with respect to the Task Force.

(5) Members of the Task Force shall, while attending meetings and conferences of the Task Force or otherwise engaging in the business of the Task Force (including travel time), be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service under GS-18 of the General Schedule established under section 5332 of title 5, United States Code.

(6) While away from their homes or regular places of business on the business of the Task Force, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(7) Upon the issuance of the report by the Secretary under subsection (b), the Task Force shall cease to exist.

(b) REPORT TO THE CONGRESS.—Not later than one hundred and eighty days after the date of enactment of this section, the Secretary shall issue a report to the appropriate committees of the Congress

that summarizes the findings and recommendations of the Task Force under subsection (a)(1), and includes any additional recommendations by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 103. CONFORMING AMENDMENT RELATING TO THE EQUITABLE TRANSFER OF FORFEITED PROPERTY TO A PARTICIPATING FOREIGN NATION.

Section 981(i) of title 18, United States Code, is amended—

(1) by striking out the matter before paragraph (1);

(2) by realigning paragraphs (1) through (5) 2 ems to the left, so that the left margins of such paragraphs are flush;

(3) by striking out "(1) Notwithstanding" in paragraph (1) and all that follows through the end of the second sentence of that paragraph and inserting in lieu thereof the following:

"(i)(1) Whenever property is civilly or criminally forfeited under this chapter, the Attorney General or the Secretary of the Treasury, as the case may be, may transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.";

(4) by inserting after "Attorney General" in the third and fifth sentences of paragraph (1) the following: "or the Secretary of the Treasury"; and

(5) by striking out the last sentence of paragraph (1).

SEC. 104. ADDITION OF CONFORMING PREDICATE MONEY LAUNDERING REFERENCES TO "INSIDER" EXEMPTION FROM THE RIGHT TO FINANCIAL PRIVACY ACT.

Section 1113(l)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(l)(2)) is amended by inserting "or of section 1956 or 1957 of title 18, United States Code" after "any provision of subchapter II of chapter 53 of title 31, United States Code".

SEC. 105. CLARIFICATION OF DEFINITION OF "MONETARY INSTRUMENTS".

Section 1956(c)(5) of title 18, United States Code, is amended to read as follows:

"(5) the term 'monetary instruments' means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;".

SEC. 106. MONEY LAUNDERING AMENDMENTS.

Section 1956(c)(1) of title 18, United States Code, is amended by striking "State or Federal" and inserting "State, Federal, or foreign".

SEC. 107. CORRECTION OF ERRONEOUS PREDICATE OFFENSE REFERENCE UNDER 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals)" and inserting in lieu thereof "a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals)".

SEC. 108. KNOWLEDGE REQUIREMENT FOR INTERNATIONAL MONEY LAUNDERING.

Section 1956(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by inserting at the end the following: "For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statements or actions indicate that the defendant believed such representations to be true."; and

(2) in paragraph (3) by striking "For purposes of this paragraph" and inserting "For purposes of this paragraph and paragraph (2)".

Victims of Child Abuse Act of 1990.
Courts.
Legal services.
42 USC 13001 note.

TITLE II—VICTIMS OF CHILD ABUSE ACT OF 1990

SEC. 201. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

Grant programs.

Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

42 USC 13001.

SEC. 211. FINDINGS.

The Congress finds that—

(1) over 2,000,000 reports of suspected child abuse and neglect are made each year, and drug abuse is associated with a significant portion of these;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(4) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(5) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

SEC. 212. AUTHORITY OF THE DIRECTOR TO MAKE GRANTS. 42 USC 13002.

(a) IN GENERAL.—The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the "Director"), in consultation with officials of the Department of Health and Human Services, shall make grants to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section consistent with sections 262, 293, and 296 of subpart II of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(2) In general, the grant criteria established pursuant to paragraph (1) may require that a program include any of the following elements:

(A) A written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services.

(B) An appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect (referred to as the "counseling center").

(C) Referral of all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse.

(D) Joint initial investigative interviews of child victims by personnel from law enforcement, health, and social service agencies.

(E) A requirement that, to the extent practicable, the same agency representative who conducts an initial interview conduct all subsequent interviews.

(F) A requirement that, to the extent practicable, all interviews and meetings with a child victim occur at the counseling center.

(G) Coordination of each step of the investigation process to minimize the number of interviews that a child victim must attend.

(H) Designation of a director for the multidisciplinary program.

(I) Assignment of a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings.

(J) Such other criteria as the Director shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Director shall ensure that grants are distributed to both large and small States and to rural, suburban, and urban jurisdictions.

SEC. 213. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS. 42 USC 13003.

(a) IN GENERAL.—The Director shall make grants to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated

with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated experience in providing training and technical assistance for prosecutors.

(c) GRANT CRITERIA.—

(1) The Director shall establish the criteria to be used for evaluating applications for grants under this section, consistent with sections 262, 293, and 296 of subpart II of title II of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5665 et seq.).

(2) The grant criteria established pursuant to paragraph (1) shall require that a program provide training and technical assistance that includes information regarding improved child interview techniques, thorough investigative methods, interagency coordination and effective presentation of evidence in court, including the use of alternative courtroom procedures described in this title.

42 USC 13004.

SEC. 214. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $20,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992 and 1993.

(b) USE OF FUNDS.—Of the amounts appropriated under subsection (a), not less than 90 percent shall be used for grants under section 212.

Grant programs.

Subtitle B—Court-Appointed Special Advocate Program

42 USC 13011.

SEC. 215. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

42 USC 13012.

SEC. 216. PURPOSE.

The purpose of this chapter is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

42 USC 13013.

SEC. 217. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants to expand the court-appointed special advocate program.

(b) GRANTEE ORGANIZATIONS.—

(1) An organization to which a grant is made pursuant to subsection (a) shall be a national organization that has broad membership among court-appointed special advocates and has demonstrated experience in grant administration of court-appointed special advocate programs and in providing training

and technical assistance to court-appointed special advocate program; or (2) may be a local public or not-for-profit agency that has demonstrated the willingness to initiate or expand a court-appointed special advocate program.

(2) An organization described in paragraph (1)(a) that receives a grant may be authorized to make subgrants and enter into contracts with public and not-for-profit agencies to initiate and to expand the court-appointed special advocate program. Should a grant be made to a national organization for this purpose, the Administrator shall specify an amount not exceeding 5 percent that can be used for administrative purposes by the national organization.

(c) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section, consistent with sections 262, 293, and 296 of subpart II of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association. Such criteria may include the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough

review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

42 USC 13014.

SEC. 218. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated to carry out this chapter—

(1) $5,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this subtitle in each of fiscal years 1992, 1993, and 1994.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Grant programs.

Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners

42 USC 13021.

SEC. 221. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this chapter is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

SEC. 222. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL. 42 USC 13022.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

SEC. 223. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS. 42 USC 13023.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide or contract for, the implementation of—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with subtitle A.

(c) GRANT CRITERIA.—The Administrator shall make grants under subsections (a) and (b) consistent with section 262, 293, and 296 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

42 USC 13024.

SEC. 224. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this chapter—

(1) $10,000,000 in fiscal year 1991; and

(2) such sums as may be necessary to carry out this chapter in each of fiscal years 1992, 1993, and 1994.

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a), not less than 80 percent shall be used for grants under section 223(b).

(c) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

Subtitle D—Federal Victims' Protections and Rights

SEC. 225. CHILD VICTIMS' RIGHTS.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end the following new rule:

"§ 3509. Child victims' and child witnesses' rights

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'adult attendant' means an adult described in subsection (i) who accompanies a child throughout the judicial process for the purpose of providing emotional support;

"(2) the term 'child' means a person who is under the age of 18, who is or is alleged to be—

"(A) a victim of a crime of physical abuse, sexual abuse, or exploitation; or

"(B) a witness to a crime committed against another person;

"(3) the term 'child abuse' means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

"(4) the term 'physical injury' includes lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

"(5) the term 'mental injury' means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response, or cognition;

"(6) the term 'exploitation' means child pornography or child prostitution;

"(7) the term 'multidisciplinary child abuse team' means a professional unit composed of representatives from health, social service, law enforcement, and legal service agencies to coordinate the assistance needed to handle cases of child abuse;

"(8) the term 'sexual abuse' includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually

explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(9) the term 'sexually explicit conduct' means actual or simulated—

"(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

"(B) bestiality;

"(C) masturbation;

"(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

"(E) sadistic or masochistic abuse;

"(10) the term 'sex crime' means an act of sexual abuse that is a criminal act;

"(11) the term 'exploitation' means child pornography or child prostitution;

"(12) the term 'negligent treatment' means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

"(13) the term 'child abuse' does not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

"(b) ALTERNATIVES TO LIVE IN-COURT TESTIMONY.—

"(1) CHILD'S LIVE TESTIMONY BY 2-WAY CLOSED CIRCUIT TELEVISION.—

"(A) In a proceeding involving an alleged offense against a child, the attorney for the government, the child's attorney, or a guardian ad litem appointed under subdivision (h) may apply for an order that the child's testimony be taken in a room outside the courtroom and be televised by 2-way closed circuit television. The person seeking such an order shall apply for such an order at least 5 days before the trial date, unless the court finds on the record that the need for such an order was not reasonably foreseeable.

"(B) The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

"(i) The child is unable to testify because of fear.

"(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.

"(iii) The child suffers a mental or other infirmity.

"(iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

"(C) The court shall support a ruling on the child's inability to testify with findings on the record. In determining whether the impact on an individual child of one or more of the factors described in subparagraph (B) is so substantial

as to justify an order under subparagraph (A), the court may question the minor in chambers, or at some other comfortable place other than the courtroom, on the record for a reasonable period of time with the child attendant, the prosecutor, the child's attorney, the guardian ad litem, and the defense counsel present.

"(D) If the court orders the taking of testimony by television, the attorney for the government and the attorney for the defendant not including an attorney pro se for a party shall be present in a room outside the courtroom with the child and the child shall be subjected to direct and cross-examination. The only other persons who may be permitted in the room with the child during the child's testimony are—

"(i) the child's attorney or guardian ad litem appointed under subdivision (h);

"(ii) persons necessary to operate the closed-circuit television equipment;

"(iii) a judicial officer, appointed by the court; and

"(iv) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child, including an adult attendant.

The child's testimony shall be transmitted by closed circuit television into the courtroom for viewing and hearing by the defendant, jury, judge, and public. The defendant shall be provided with the means of private, contemporaneous communication with the defendant's attorney during the testimony. The closed circuit television transmission shall relay into the room in which the child is testifying the defendant's image, and the voice of the judge.

"(2) VIDEOTAPED DEPOSITION OF CHILD.—(A) In a proceeding involving an alleged offense against a child, the attorney for the government, the child's attorney, the child's parent or legal guardian, or the guardian ad litem appointed under subdivision (h) may apply for an order that a deposition be taken of the child's testimony and that the deposition be recorded and preserved on videotape.

"(B)(i) Upon timely receipt of an application described in subparagraph (A), the court shall make a preliminary finding regarding whether at the time of trial the child is likely to be unable to testify in open court in the physical presence of the defendant, jury, judge, and public for any of the following reasons:

"(I) The child will be unable to testify because of fear.

"(II) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying in open court.

"(III) The child suffers a mental or other infirmity.

"(IV) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.

"(ii) If the court finds that the child is likely to be unable to testify in open court for any of the reasons stated in clause (i), the court shall order that the child's deposition be taken and preserved by videotape.

"(iii) The trial judge shall preside at the videotape deposition of a child and shall rule on all questions as if at trial. The only

other persons who may be permitted to be present at the proceeding are—

"(I) the attorney for the Government;

"(II) the attorney for the defendant;

"(III) the child's attorney or guardian ad litem appointed under subdivision (h);

"(IV) persons necessary to operate the videotape equipment;

"(V) subject to clause (iv), the defendant; and

"(VI) other persons whose presence is determined by the court to be necessary to the welfare and well-being of the child.

The defendant shall be afforded the rights applicable to defendants during trial, including the right to an attorney, the right to be confronted with the witness against the defendant, and the right to cross-examine the child.

"(iv) If the preliminary finding of inability under clause (i) is based on evidence that the child is unable to testify in the physical presence of the defendant, the court may order that the defendant, including a defendant represented pro se, be excluded from the room in which the deposition is conducted. If the court orders that the defendant be excluded from the deposition room, the court shall order that 2-way closed circuit television equipment relay the defendant's image into the room in which the child is testifying, and the child's testimony into the room in which the defendant is viewing the proceeding, and that the defendant be provided with a means of private, contemporaneous communication with the defendant's attorney during the deposition.

"(v) HANDLING OF VIDEOTAPE.—The complete record of the examination of the child, including the image and voices of all persons who in any way participate in the examination, shall be made and preserved on video tape in addition to being stenographically recorded. The videotape shall be transmitted to the clerk of the court in which the action is pending and shall be made available for viewing to the prosecuting attorney, the defendant, and the defendant's attorney during ordinary business hours. Records.

"(C) If at the time of trial the court finds that the child is unable to testify as for a reason described in subparagraph (B)(i), the court may admit into evidence the child's videotaped deposition in lieu of the child's testifying at the trial. The court shall support a ruling under this subparagraph with findings on the record.

"(D) Upon timely receipt of notice that new evidence has been discovered after the original videotaping and before or during trial, the court, for good cause shown, may order an additional videotaped deposition. The testimony of the child shall be restricted to the matters specified by the court as the basis for granting the order.

"(E) In connection with the taking of a videotaped deposition under this paragraph, the court may enter a protective order for the purpose of protecting the privacy of the child.

"(F) The videotape of a deposition taken under this paragraph shall be destroyed 5 years after the date on which the trial court entered its judgment, but not before a final judgment is entered on appeal including Supreme Court review. The videotape shall Records.

become part of the court record and be kept by the court until it is destroyed.

"(c) COMPETENCY EXAMINATIONS.—

"(1) EFFECT OF FEDERAL RULES OF EVIDENCE.—Nothing in this subdivision shall be construed to abrogate rule 601 of the Federal Rules of Evidence.

"(2) PRESUMPTION.—A child is presumed to be competent.

"(3) REQUIREMENT OF WRITTEN MOTION.—A competency examination regarding a child witness may be conducted by the court only upon written motion and offer of proof of incompetency by a party.

"(4) REQUIREMENT OF COMPELLING REASONS.—A competency examination regarding a child may be conducted only if the court determines, on the record, that compelling reasons exist. A child's age alone is not a compelling reason.

"(5) PERSONS PERMITTED TO BE PRESENT.—The only persons who may be permitted to be present at a competency examination are—

"(A) the judge;

"(B) the attorney for the government;

"(C) the attorney for the defendant;

"(D) a court reporter; and

"(E) persons whose presence, in the opinion of the court, is necessary to the welfare and well-being of the child, including the child's attorney, guardian ad litem, or adult attendant.

"(6) NOT BEFORE JURY.—A competency examination regarding a child witness shall be conducted out of the sight and hearing of a jury.

"(7) DIRECT EXAMINATION OF CHILD.—Examination of a child related to competency shall normally be conducted by the court on the basis of questions submitted by the attorney for the Government and the attorney for the defendant including a party acting as an attorney pro se. The court may permit an attorney but not a party acting as an attorney pro se to examine a child directly on competency if the court is satisfied that the child will not suffer emotional trauma as a result of the examination.

"(8) APPROPRIATE QUESTIONS.—The questions asked at the competency examination of a child shall be appropriate to the age and developmental level of the child, shall not be related to the issues at trial, and shall focus on determining the child's ability to understand and answer simple questions.

"(9) PSYCHOLOGICAL AND PSYCHIATRIC EXAMINATIONS.—Psychological and psychiatric examinations to assess the competency of a child witness shall not be ordered without a showing of compelling need.

"(d) PRIVACY PROTECTION.—

"(1) CONFIDENTIALITY OF INFORMATION.—(A) A person acting in a capacity described in subparagraph (B) in connection with a criminal proceeding shall—

"(i) keep all documents that disclose the name or any other information concerning a child in a secure place to which no person who does not have reason to know their contents has access; and

"(ii) disclose documents described in clause (i) or the information in them that concerns a child only to persons

who, by reason of their participation in the proceeding, have reason to know such information.

"(B) Subparagraph (A) applies to—

"(i) all employees of the Government connected with the case, including employees of the Department of Justice, any law enforcement agency involved in the case, and any person hired by the government to provide assistance in the proceeding;

"(ii) employees of the court;

"(iii) the defendant and employees of the defendant, including the attorney for the defendant and persons hired by the defendant or the attorney for the defendant to provide assistance in the proceeding; and

"(iv) members of the jury.

"(2) FILING UNDER SEAL.—All papers to be filed in court that disclose the name of or any other information concerning a child shall be filed under seal without necessity of obtaining a court order. The person who makes the filing shall submit to the clerk of the court—

"(A) the complete paper to be kept under seal; and

"(B) the paper with the portions of it that disclose the name of or other information concerning a child redacted, to be placed in the public record. Public information.

"(3) PROTECTIVE ORDERS.—(A) On motion by any person the court may issue an order protecting a child from public disclosure of the name of or any other information concerning the child in the course of the proceedings, if the court determines that there is a significant possibility that such disclosure would be detrimental to the child.

"(B) A protective order issued under subparagraph (A) may—

"(i) provide that the testimony of a child witness, and the testimony of any other witness, when the attorney who calls the witness has reason to anticipate that the name of or any other information concerning a child may be divulged in the testimony, be taken in a closed courtroom; and

"(ii) provide for any other measures that may be necessary to protect the privacy of the child.

"(4) DISCLOSURE OF INFORMATION.—This subdivision does not prohibit disclosure of the name of or other information concerning a child to the defendant, the attorney for the defendant, a multidisciplinary child abuse team, a guardian ad litem, or an adult attendant, or to anyone to whom, in the opinion of the court, disclosure is necessary to the welfare and well-being of the child.

"(e) CLOSING THE COURTROOM.—When a child testifies the court may order the exclusion from the courtroom of all persons, including members of the press, who do not have a direct interest in the case. Such an order may be made if the court determines on the record that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Such an order shall be narrowly tailored to serve the government's specific compelling interest.

"(f) VICTIM IMPACT STATEMENT.—In preparing the presentence report pursuant to rule 32(c) of the Federal Rules of Criminal Procedure, the probation officer shall request information from the

multidisciplinary child abuse team and other appropriate sources to determine the impact of the offense on the child victim and any other children who may have been affected. A guardian ad litem appointed under subdivision (h) shall make every effort to obtain and report information that accurately expresses the child's and the family's views concerning the child's victimization. A guardian ad litem shall use forms that permit the child to express the child's views concerning the personal consequences of the child's victimization, at a level and in a form of communication commensurate with the child's age and ability.

"(g) USE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—

Intergovernmental relations.

"(1) IN GENERAL.—A multidisciplinary child abuse team shall be used when it is feasible to do so. The court shall work with State and local governments that have established multidisciplinary child abuse teams designed to assist child victims and child witnesses, and the court and the attorney for the government shall consult with the multidisciplinary child abuse team as appropriate.

"(2) ROLE OF MULTIDISCIPLINARY CHILD ABUSE TEAMS.—The role of the multidisciplinary child abuse team shall be to provide for a child services that the members of the team in their professional roles are capable of providing, including—

"(A) medical diagnoses and evaluation services, including provision or interpretation of x-rays, laboratory tests, and related services, as needed, and documentation of findings;

"(B) telephone consultation services in emergencies and in other situations;

"(C) medical evaluations related to abuse or neglect;

"(D) psychological and psychiatric diagnoses and evaluation services for the child, parent or parents, guardian or guardians, or other caregivers, or any other individual involved in a child victim or child witness case;

"(E) expert medical, psychological, and related professional testimony;

"(F) case service coordination and assistance, including the location of services available from public and private agencies in the community; and

"(G) training services for judges, litigators, court officers and others that are involved in child victim and child witness cases, in handling child victims and child witnesses.

"(h) GUARDIAN AD LITEM.—

"(1) IN GENERAL.—The court may appoint a guardian ad litem for a child who was a victim of, or a witness to, a crime involving abuse or exploitation to protect the best interests of the child. In making the appointment, the court shall consider a prospective guardian's background in, and familiarity with, the judicial process, social service programs, and child abuse issues. The guardian ad litem shall not be a person who is or may be a witness in a proceeding involving the child for whom the guardian is appointed.

"(2) DUTIES OF GUARDIAN AD LITEM.—A guardian ad litem may attend all the depositions, hearings, and trial proceedings in which a child participates, and make recommendations to the court concerning the welfare of the child. The guardian ad litem may have access to all reports, evaluations and records, except attorney's work product, necessary to effectively advocate for the child. (The extent of access to grand jury materials is

limited to the access routinely provided to victims and their representatives.) A guardian ad litem shall marshal and coordinate the delivery of resources and special services to the child. A guardian ad litem shall not be compelled to testify in any court action or proceeding concerning any information or opinion received from the child in the course of serving as a guardian ad litem.

"(3) IMMUNITIES.—A guardian ad litem shall be presumed to be acting in good faith and shall be immune from civil and criminal liability for complying with the guardian's lawful duties described in subpart (2).

"(i) ADULT ATTENDANT.—A child testifying at or attending a judicial proceeding shall have the right to be accompanied by an adult attendant to provide emotional support to the child. The court, at its discretion, may allow the adult attendant to remain in close physical proximity to or in contact with the child while the child testifies. The court may allow the adult attendant to hold the child's hand or allow the child to sit on the adult attendant's lap throughout the course of the proceeding. An adult attendant shall not provide the child with an answer to any question directed to the child during the course of the child's testimony or otherwise prompt the child. The image of the child attendant, for the time the child is testifying or being deposed, shall be recorded on videotape.

"(j) SPEEDY TRIAL.—In a proceeding in which a child is called to give testimony, on motion by the attorney for the Government or a guardian ad litem, or on its own motion, the court may designate the case as being of special public importance. In cases so designated, the court shall, consistent with these rules, expedite the proceeding and ensure that it takes precedence over any other. The court shall ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement with the criminal process. When deciding whether to grant a continuance, the court shall take into consideration the age of the child and the potential adverse impact the delay may have on the child's well-being. The court shall make written findings of fact and conclusions of law when granting a continuance in cases involving a child.

"(k) EXTENSION OF CHILD STATUTE OF LIMITATIONS.—No statute of limitation that would otherwise preclude prosecution for an offense involving the sexual or physical abuse of a child under the age of 18 years shall preclude such prosecution before the child reaches the age of 25 years. If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

"(l) TESTIMONIAL AIDS.—The court may permit a child to use anatomical dolls, puppets, drawings, mannequins, or any other demonstrative device the court deems appropriate for the purpose of assisting a child in testifying.".

(b) VIOLATION OF RULE REGARDING DISCLOSURE.—

(1) PUNISHMENT AS CONTEMPT.—Chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 403. Protection of the privacy of child victims and child witnesses

"A knowing or intentional violation of the privacy protection accorded by section 3509 of this title is a criminal contempt punishable by not more than one year's imprisonment, or a fine under this title, or both.".

(2) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"403. Protection of the privacy of child victims and child witnesses.".

42 USC 13031.

SEC. 226. CHILD ABUSE REPORTING.

(a) IN GENERAL.—A person who, while engaged in a professional capacity or activity described in subsection (b) on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d).

(b) COVERED PROFESSIONALS.—Persons engaged in the following professions and activities are subject to the requirements of subsection (a):

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.

(2) Psychologists, psychiatrists, and mental health professionals.

(3) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(4) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(5) Child care workers and administrators.

(6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(7) Foster parents.

(8) Commercial film and photo processors.

(c) DEFINITIONS.—For the purposes of this section—

(1) the term "child abuse" means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(2) the term "physical injury" includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(3) the term "mental injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

(4) the term "sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of a child to

engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(5) the term "sexually explicit conduct" means actual or simulated—

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(6) the term "exploitation" means child pornography or child prostitution;

(7) the term "negligent treatment" means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term "child abuse" shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

Federal buildings and facilities.

(d) AGENCY DESIGNATED TO RECEIVE REPORT AND ACTION TO BE TAKEN.—For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a). By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews with the child.

Federal buildings and facilities.

(e) REPORTING FORM.—In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) IMMUNITY FOR GOOD FAITH REPORTING AND ASSOCIATED ACTIONS.—All persons who, acting in good faith, make a report by subsection (a), or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defend-

ant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(g) CRIMINAL PENALTY FOR FAILURE TO REPORT.—(1) Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 2258. Failure to report child abuse

"A person who, while engaged in a professional capacity or activity described in subsection (b) of section 226 of the Victims of Child Abuse Act of 1990 on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, as defined in subsection (c) of that section, and fails to make a timely report as required by subsection (a) of that section, shall be guilty of a Class B misdemeanor.".

(2) The chapter analysis for chapter 110, United States Code, is amended—

(A) by amending the catchline to read as follows:

"CHAPTER 110—SEXUAL EXPLOITATION AND OTHER ABUSE OF CHILDREN";

and

(B) by adding at the end thereof the following new item:

"2258. Failure to report child abuse.".

(3) The item relating to chapter 110 in the part analysis for part 1 of title 18, United States Code, is amended to read as follows:

"110. Sexual exploitation and other abuse of children ..... 2251".

(h) TRAINING OF PROSPECTIVE REPORTERS.—All individuals in the occupations listed in subsection (b)(1) who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.

Subtitle E—Child Care Worker Employee Background Checks

42 USC 13041.

SEC. 231. REQUIREMENT FOR BACKGROUND CHECKS.

(a) IN GENERAL.—(1) Each agency of the Federal Government, and every facility operated by the Federal Government (or operated under contract with the Federal Government), that hires (or contracts for hire) individuals involved with the provision to children under the age of 18 of child care services shall assure that all existing and newly-hired employees undergo a criminal history background check. All existing staff shall receive such checks not later than 6 months after the date of enactment of this chapter, and no additional staff shall be hired without a check having been completed.

(2) For the purposes of this section, the term "child care services" means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in

teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

(b) CRIMINAL HISTORY CHECK.—(1) A background check required by subsection (a) shall be—

(A) based on a set of the employee's fingerprints obtained by a law enforcement officer and on other identifying information;

(B) conducted through the Identification Division of the Federal Bureau of Investigation and through the State criminal history repositories of all States that an employee or prospective employee lists as current and former residences in an employment application; and

(C) initiated through the personnel programs of the applicable Federal agencies.

(2) The results of the background check shall be communicated to the employing agency.

(c) APPLICABLE CRIMINAL HISTORIES.—Any conviction for a sex crime, an offense involving a child victim, or a drug felony, may be ground for denying employment or for dismissal of an employee in any of the positions listed in subsection (a)(2). In the case of an incident in which an individual has been charged with one of those offenses, when the charge has not yet been disposed of, an employer may suspend an employee from having any contact with children while on the job until the case is resolved. Conviction of a crime other than a sex crime may be considered if it bears on an individual's fitness to have responsibility for the safety and well-being of children.

(d) EMPLOYMENT APPLICATIONS.—(1) Employment applications for individuals who are seeking work for an agency of the Federal Government, or for a facility or program operated by (or through contract with) the Federal Government, in any of the positions listed in subsection (a)(1), shall contain a question asking whether the individual has ever been arrested for or charged with a crime involving a child, and if so requiring a description of the disposition of the arrest or charge. An application shall state that it is being signed under penalty of perjury, with the applicable Federal punishment for perjury stated on the application.

(2) A Federal agency seeking a criminal history record check shall first obtain the signature of the employee or prospective employee indicating that the employee or prospective employee has been notified of the employer's obligation to require a record check as a condition of employment and the employee's right to obtain a copy of the criminal history report made available to the employing Federal agency and the right to challenge the accuracy and completeness of any information contained in the report.

(e) ENCOURAGEMENT OF VOLUNTARY CRIMINAL HISTORY CHECKS FOR OTHERS WHO MAY HAVE CONTACT WITH CHILDREN.—Federal agencies and facilities are encouraged to submit identifying information for criminal history checks on volunteers working in any of the positions listed in subsection (a) and on adult household members in places where child care or foster care services are being provided in a home.

Intergovernmental relations.

Subtitle F—Grants for Televised Testimony

SEC. 241. GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE.

(a) ESTABLISHMENT OF GRANT PROGRAM.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

100 Stat. 3207-41.

(1) in part N—

(A) in the heading by striking "PART N" and inserting "PART O", and

42 USC 3797.

(B) by redesignating section 1401 as 1501, and

(2) by inserting after part M the following:

"PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

"FUNCTION OF THE DIRECTOR

42 USC 3796aa.

"SEC. 1401. The Director shall provide funds to eligible States and units of local government pursuant to this part.

"DESCRIPTION OF GRANT PROGRAM

42 USC 3796aa-1.

"SEC. 1402. The Director is authorized to make grants to States, for the use of States and units of local government in the States to provide equipment and personnel training for the closed-circuit televising and video taping of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children.

"APPLICATIONS TO RECEIVE GRANTS

42 USC 3796aa-2.

"SEC. 1403. To request a grant under section 1402, the chief executive officer of a State shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

"(1) a certification that Federal funds made available under section 1402 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of such funds, be made available for criminal proceedings for the violation of laws relating to the abuse of children;

"(2) a certification that funds required to pay the non-Federal portion of the cost of equipment and personnel training for which such grant is made shall be in addition to funds that would otherwise be made available by the recipients of grant funds for criminal proceedings for the violation of laws relating to the abuse of children;

"(3) an assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 60-day period beginning on the date such application or amendment is so submitted); and

"(4) an assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"REVIEW OF APPLICATIONS

"SEC. 1404. (a) The Bureau shall provide financial assistance to each State applicant under section 1402 of this title to provide equipment and personnel training for the closed-circuit televising and video taping of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children, upon determining that— 42 USC 3796aa-3.

"(1) there is in effect in such State a law that permits the closed-circuit televising and video taping of testimony of children in criminal proceedings for the violation of laws relating to the abuse of children;

"(2) such State law shall meet the following criteria:

"(A) the judges determination that a child witness will be traumatized by the presence of the defendant must be made on a case-by-case basis;

"(B) the trauma suffered must be more than de minimis;

"(C) the child witness must give his/her statements under oath;

"(D) the child witness must submit to cross-examination; and

"(E) the finder of fact must be permitted to observe the demeanor of the child witness in making his or her statement and the defendant must be able to contemporaneously communicate with his defense attorney;

"(3) the application submitted under section 1402 or amendment to such application is consistent with the requirements of this title; and

"(4) before the approval of such application and any amendment thereto the Bureau has made an affirmative finding in writing that such equipment and personnel training has been reviewed in accordance with section 1403 of this title.

Each application or amendment made and submitted for approval to the Bureau pursuant to section 1403 shall be deemed approved, in whole or in part, by the Bureau not later than 60 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(b) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

"SEC. 1405. (a) The total amount appropriated for this part in any fiscal year shall be set aside for section 1402 and allocated to States as follows: 42 USC 3796aa-4.

"(1) $50,000 shall be allocated to each of the participating States.

"(2) Of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each participating

State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) in a fiscal year shall distribute among units of local government, in such State for the purpose specified in section 1402 of this title that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government in the preceding fiscal year for prosecution of child abuse offenses bears to the aggregate amount of funds expended by the State and all units of local government in such State in such preceding fiscal year for prosecution of child abuse offenses.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by the State involved.

"(3) For purposes of determining the distribution of funds under paragraph (1), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsection (b) may be distributed by the Director or by the State involved for any use other than a use specified in an approved application.

"(d) If the Director determines, on the basis information available to the Director during any fiscal year, that a portion of the funds allocated to a State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 1402 of this title, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"REPORTS

42 USC 3796aa-5.

"SEC. 1406. (a) Each State which receives a grant under this title shall submit to the Director, for each year in which any part of such grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State application submitted under section 1403 of this title; and

"(2) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 90 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under this title to such State for such fiscal year; and

"(2) a summary of the information provided in compliance with subsection (a)(1).

"EXPENDITURE OF GRANTS; RECORDS

"SEC. 1407. (a) A grant made under this part may not be expended for more than 75 percent of the cost of the identified uses, in the aggregate, for which such grant is received to carry out section 1402, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash. Indians. 42 USC 3796aa-6.

"(b) Not more than 10 percent of a grant made under this part may be used for costs incurred to administer such grant.

"(c)(1) Each State which receives a grant under this title shall keep, and shall require units of local government which receive any part of such grant to keep, such records as the Director may require by rule to facilitate an effective audit.

"(2) The Director and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of States which receive grants, and of units of local government which receive any part of a grant made under this part if, in the opinion of the Director or the Comptroller General, such books, documents, and records are related to the receipt or use of any such grant.

"STATE OFFICE

"SEC. 1408. (a) The chief executive of each participating State shall designate a State office for purposes of— 42 USC 3796aa-7.

"(1) preparing an application to obtain funds under section 1402 of this title; and

"(2) administering funds received under this part from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing, and fund disbursements.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DEFINITIONS

"SEC. 1409. For purposes of this part— 42 USC 3796aa-8.

"(1) the term 'child' means an individual under the age of 18 years; and

"(2) the term 'abuse' means physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child.".

(b) TECHNICAL AMENDMENTS.—(1) Section 402(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "part E" and inserting "parts E and N". 42 USC 3742.

(2) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and M" and inserting "M, and N".

(3) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) is amended by striking "or M" and inserting ", M, or N".

(4) Section 808 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789) is amended by striking "or 1308" and inserting ", 1308, or 1408".

(5) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(A) by striking the items relating to part M and sections 1301 through 1312, as added by section 1552(b)(5) of the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570; 100 Stat. 3207-46), and

(B) by striking the items relating to part N and section 1401, and inserting the following new items:

"PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE

"Sec. 1401. Function of Director.

"Sec. 1402. Description of grant program.
"Sec. 1403. Application to receive grants.
"Sec. 1404. Review of applications.
"Sec. 1405. Allocation and distribution of funds under formula grants.
"Sec. 1406. Reports.
"Sec. 1407. Expenditure of grants; records.
"Sec. 1408. State office.
"Sec. 1409. Definitions.

"PART O—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1501. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in subsection (a)—

(A) in paragraph (3) by striking "and M" and inserting "M, and N";

(B) by redesignating paragraph (6) as paragraph (7); and

(C) by inserting after paragraph (5) the following:

"(6) There is authorized to be appropriated $25,000,000 for each of the fiscal years 1991, 1992, and 1993 to carry out the programs under part N of this title."; and

(2) in subsection (b) by striking "and M" and inserting "M, and N".

Subtitle G—Treatment for Juvenile Offenders Who Are Victims of Child Abuse Or Neglect

AUTHORITY TO MAKE GRANTS

42 USC 13051.

SEC. 251. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public and nonprofit private organizations to develop, establish, and support projects which—

(1) provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families so as to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

(2) based upon the best interests of juvenile offenders who receive treatment for abuse or neglect, provide transitional services (including individual, group, and family counseling) to such juvenile offenders—

(A) to strengthen the relationships of such juvenile offenders with their families and to encourage the resolution of intrafamily problems related to the abuse or neglect;

(B) to facilitate their alternative placement; or

(C) to prepare juveniles aged 16 years of age and older to live independently; or

(3) carry out research, including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services provided with grants made under this section.

ADMINISTRATIVE REQUIREMENTS

SEC. 252. The Administrator shall administer this subtitle subject to the requirements of sections 262, 293, and 296 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a, 5673, 5676). 42 USC 13052.

PRIORITY

SEC. 253. In making grants under section 690, the Administrator— 42 USC 13053.

(1) shall give priority to applicants that have experience in treating juveniles who are the victims of abuse or neglect; and

(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated delinquent for having committed offenses which are not serious crimes.

AUTHORIZATION OF APPROPRIATIONS

SEC. 254. (a) Subject to subsection (b), there are authorized to be appropriated to carry out this subtitle— 42 USC 13054.

(1) $15,000,000 for fiscal year 1991; and

(2) such sums as may be necessary for fiscal years 1992 and 1993.

(b) No amount is authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5676) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(c) From the amount appropriated to carry out this subtitle in any fiscal year, the Administrator shall use—

(1) not less than 85 percent to make grants under section 731 for treatment and transitional services;

(2) not to exceed 10 percent for grants under section 731 for research; and

(3) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering this subtitle.

DEFINITIONS

SEC. 255. For the purpose of this subtitle— 42 USC 13055.

(1) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention; and

(2) the term "juvenile" means an individual who is less than 18 years of age.

Child Protection Restoration and Penalties Enhancement Act of 1990.

TITLE III—CHILD PROTECTION RESTORATION AND PENALTIES ENHANCEMENT ACT OF 1990

SEC. 301. SHORT TITLE.

18 USC 2251 note.

(a) SHORT TITLE.—This title may be cited as the "Child Protection Restoration and Penalties Enhancement Act of 1990".

(b) EFFECTIVE DATE.—Section 2257(a)(1) of title 18, United States Code, is amended by striking "February 6, 1978" and inserting "November 1, 1990".

Subtitle A—Restoration of Recordkeeping Requirement

SEC. 311. RECORDKEEPING REQUIREMENTS.

Section 2257 of title 18, United States Code, is amended by striking subsections (d) and (e) and inserting the following:

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in this section, directly or indirectly, be used as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of this section or for a violation of any applicable provision of law with respect to the furnishing of false information.

Regulations.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(f) It shall be unlawful—

"(1) for any person to whom subsection (a) applies to fail to create or maintain the records as required by subsections (a) and (c) or by any regulation promulgated under this section;

"(2) for any person to whom subsection (a) applies knowingly to make any false entry in or knowingly to fail to make an appropriate entry in, any record required by subsection (b) of this section or any regulation promulgated under this section;

"(3) for any person to whom subsection (a) applies knowingly to fail to comply with the provisions of subsection (e) or any regulation promulgated pursuant to that subsection; and

"(4) for any person knowingly to sell or otherwise transfer, or offer for sale or transfer, any book, magazine, periodical, film, video, or other matter, produce in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce or which is intended for shipment in interstate or foreign commerce, which—

"(A) contains one or more visual depictions made after the effective date of this subsection of actual sexually explicit conduct; and

"(B) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

which does not have affixed thereto, in a manner prescribed as set forth in subsection (e)(1), a statement describing where the records required by this section may be located, but such person shall have no duty to determine the accuracy of the contents of the statement or the records required to be kept.

"(g) The Attorney General shall issue appropriate regulations to carry out this section. Regulations.

"(h) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (D) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in section 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish any book, magazine, periodical, film, video tape or other similar matter and includes the duplication, reproduction, or reissuing of any such matter, but does not include mere distribution or any other activity which does not involve hiring, contracting for managing, or otherwise arranging for the participation of the performers depicted; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.

"(i) Whoever violates this section shall be imprisoned for not more than 2 years, and fined in accordance with the provisions of this title, or both. Whoever violates this section after having been convicted of a violation punishable under this section shall be imprisoned for any period of years not more than 5 years but not less than 2 years, and fined in accordance with the provisions of this title, or both.". Law enforcement. Penalties.

SEC. 312. EFFECTIVE DATE. 18 USC 2257 note.

Subsections (d), (f), (g), (h), and (i) of section 2257 of title 18, United States Code, as added by this title shall take effect 90 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by subsections (d), (f), (g), (h), and (i) of section 2257 within 60 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 and of any regulation issued pursuant thereto shall take effect 90 days after the date of the enactment of this Act.

Subtitle B—Sexual Abuse Penalties

SEC. 321. SENTENCING COMMISSION GUIDELINES. 28 USC 994 note.

The United States Sentencing Commission shall amend existing guidelines for sentences involving sexual crimes against children,

including offenses contained in chapter 109A of title 18, so that more substantial penalties may be imposed if the Commission determines current penalties are inadequate.

SEC. 322. SEXUAL ABUSE OF A MINOR.

Section 2243(a) of title 18, United States Code, is amended by striking "five years" and inserting "15 years".

SEC. 323. CERTAIN ACTIVITIES RELATING TO VISUAL DEPICTIONS.

(a) Section 2252 of title 18, United States Code, is amended—
(1) by striking out "or" at the end of subsection (a)(1); and
(2) by striking out "shall be punished as provided in subsection (b) of this section" in subsection (a)(2) and all that follows through the end of subsection (b) and inserting the following:

"(3) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly sells or possesses with intent to sell any visual depiction; or

"(B) knowingly sells or possesses with intent to sell any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materails which have been mailed or so shipped or transported, by any means, including by computer, if—

"(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(ii) such visual depiction is of such conduct; or

"(4) either—

"(A) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States, or in the Indian country as defined in section 1151 of this title, knowingly possesses 3 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction; or

"(B) knowingly possesses 3 or more books, magazines, periodicals, films, video tapes, or other matter which contain any visual depiction that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which was produced using materials which have been mailed or so shipped or transported, by any means including by computer, if—

"(i) the producing of such visual depiction involves the use of a minor engaging in sexually explicit conduct; and

"(ii) such visual depiction is of such conduct;

shall be punished as provided in subsection (b) of this section.

"(b)(1) Whoever violates paragraph (1), (2), or (3) of subsection (a) shall be fined under this title or imprisoned not more than ten years, or both, but, if such person has a prior conviction under this section, such person shall be fined under this title and imprisoned for not less than five years nor more than fifteen years.

"(2) Whoever violates paragraph (4) of subsection (a) shall be fined under this title or imprisoned for not more than five years, or both.".

(b) Paragraph (2) of subsection 2252(a) of title 18, United States Code, is amended by striking "that has been transported or shipped in interstate or foreign commerce by any means including by computer or mailed" and inserting "that has been mailed, or has been shipped or transported in interstate or foreign commerce, or which contains materials which have been mailed or so shipped or transported, by any means including by computer,".

(c) Section 1460 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct," and

(2) so that subsection (b) reads as follows:

"(b) For the purposes of this section, the term 'visual depiction' includes undeveloped film and videotape but does not include mere words.".

TITLE IV—OFFENSES INVOLVING CHILDREN

SEC. 401. SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.

Section 1201 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) SPECIAL RULE FOR CERTAIN OFFENSES INVOLVING CHILDREN.—

"(1) TO WHOM APPLICABLE.—If—

"(A) the victim of an offense under this section has not attained the age of eighteen years; and

"(B) the offender—

"(i) has attained such age; and

"(ii) is not—

"(I) a parent;

"(II) a grandparent;

"(III) a brother;

"(IV) a sister;

"(V) an aunt;

"(VI) an uncle; or

"(VII) an individual having legal custody of the victim;

the sentence under this section for such offense shall be subject to paragraph (2) of this subsection.

"(2) GUIDELINES.—The United States Sentencing Commission is directed to amend the existing guidelines for the offense of 'kidnapping, abduction, or unlawful restraint,' by including the following additional specific offense characteristics: If the victim was intentionally maltreated (i.e., denied either food or medical care) to a life-threatening degree, increase by 4 levels; if the victim was sexually exploited (i.e., abused, used involuntarily for pornographic purposes) increase by 3 levels; if the victim was placed in the care or custody of another person who does not have a legal right to such care or custody of the child either in exchange for money or other consideration, increase by 3 levels; if the defendant allowed the child to be subjected to any

of the conduct specified in this section by another person, then increase by 2 levels.".

Victims' Rights and Restitution Act of 1990.

TITLE V—PROTECTION OF CRIME VICTIMS

42 USC 10601 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Victims' Rights and Restitution Act of 1990".

42 USC 10606.

SEC. 502. VICTIMS' RIGHTS.

(a) BEST EFFORTS TO ACCORD RIGHTS.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that victims of crime are accorded the rights described in subsection (b).

(b) RIGHTS OF CRIME VICTIMS.—A crime victim has the following rights:

(1) The right to be treated with fairness and with respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with attorney for the Government in the case.

(6) The right to restitution.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender.

(c) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure to accord to a victim the rights enumerated in subsection (b).

42 USC 10607.

SEC. 503. SERVICES TO VICTIMS.

(a) DESIGNATION OF RESPONSIBLE OFFICIALS.—The head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime shall designate by names and office titles the persons who will be responsible for identifying the victims of crime and performing the services described in subsection (c) at each stage of a criminal case.

(b) IDENTIFICATION OF VICTIMS.—At the earliest opportunity after the detection of a crime at which it may be done without interfering with an investigation, a responsible official shall—

(1) identify the victim or victims of a crime;

(2) inform the victims of their right to receive, on request, the services described in subsection (c); and

(3) inform each victim of the name, title, and business address and telephone number of the responsible official to whom the victim should address a request for each of the services described in subsection (c).

(c) DESCRIPTION OF SERVICES.—(1) A responsible official shall—

(A) inform a victim of the place where the victim may receive emergency medical and social services;

(B) inform a victim of any restitution or other relief to which the victim may be entitled under this or any other law and manner in which such relief may be obtained;

(C) inform a victim of public and private programs that are available to provide counseling, treatment, and other support to the victim; and

(D) assist a victim in contacting the persons who are responsible for providing the services and relief described in subparagraphs (A), (B), and (C).

(2) A responsible official shall arrange for a victim to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender.

(3) During the investigation and prosecution of a crime, a responsible official shall provide a victim the earliest possible notice of—

(A) the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation;

(B) the arrest of a suspected offender;

(C) the filing of charges against a suspected offender;

(D) the scheduling of each court proceeding that the witness is either required to attend or, under section 1102(b)(4), is entitled to attend;

(E) the release or detention status of an offender or suspected offender;

(F) the acceptance of a plea of guilty or nolo contendere or the rendering of a verdict after trial; and

(G) the sentence imposed on an offender, including the date on which the offender will be eligible for parole.

(4) During court proceedings, a responsible official shall ensure that a victim is provided a waiting area removed from and out of the sight and hearing of the defendant and defense witnesses.

(5) After trial, a responsible official shall provide a victim the earliest possible notice of—

(A) the scheduling of a parole hearing for the offender;

(B) the escape, work release, furlough, or any other form of release from custody of the offender; and

(C) the death of the offender, if the offender dies while in custody.

(6) At all times, a responsible official shall ensure that any property of a victim that is being held for evidentiary purposes be maintained in good condition and returned to the victim as soon as it is no longer needed for evidentiary purposes.

(7) The Attorney General or the head of another department or agency that conducts an investigation of a sexual assault shall pay, either directly or by reimbursement of payment by the victim, the cost of a physical examination of the victim which an investigating officer determines was necessary or useful for evidentiary purposes.

(8) A responsible official shall provide the victim with general information regarding the corrections process, including information about work release, furlough, probation, and eligibility for each.

(d) NO CAUSE OF ACTION OR DEFENSE.—This section does not create a cause of action or defense in favor of any person arising out of the failure of a responsible person to provide information as required by subsection (b) or (c).

(e) DEFINITIONS.—For the purposes of this section—

(1) the term "responsible official" means a person designated pursuant to subsection (a) to perform the functions of a responsible official under that section; and

(2) the term "victim" means a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime, including—

(A) in the case of a victim that is an institutional entity, an authorized representative of the entity; and

(B) in the case of a victim who is under 18 years of age, incompetent, incapacitated, or deceased, one of the following (in order of preference):

(i) a spouse;
(ii) a legal guardian;
(iii) a parent;
(iv) a child;
(v) a sibling;
(vi) another family member; or
(vii) another person designated by the court.

SEC. 504. VICTIMS OF CRIME.

42 USC 10601.

Section 1402(c)(1)(B)(i) of the Victims of Crime Act of 1984 is amended by striking "1991" and inserting "1990".

SEC. 505. EXTENSION OF DEADLINE FOR CERTAIN PROVISIONS IN VICTIMS OF CRIME ACT.

Section 7129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 10601 note) is amended by striking "1990" and inserting "1991".

42 USC 10606 note.

SEC. 506. SENSE OF CONGRESS WITH RESPECT TO VICTIMS OF CRIME.

It is the sense of Congress that the States should make every effort to adopt the following goals of the Victims of Crime Bill of Rights:

(1) Victims of crime should be treated with compassion, respect and dignity throughout the criminal justice process.

(2) Victims of crime should be reasonably protected from the accused throughout the criminal justice process.

(3) Victims of crime should have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as the decision to plea-bargain.

(4) Victims of crime should have the right to a reasonable assurance that the accused will be tried in an expeditious manner.

(5) A victim of crime should have the right to be present at all proceedings related to the offense against him, unless the victim is to testify and the court determines that the victim's testimony would be materially prejudiced by hearing other testimony at the trial.

(6) Victims of crime should have the right to information about the conviction, sentencing and imprisonment of the person who committed the crime against them.

(7) Victims of crime should be compensated for the damage resulting from the crime to the fullest extent possible by the person convicted of the crime.

(8) Victims of crime should have a statutorily designated advisory role in deciding the early release status of the person convicted of the crime against them.

(9) A victim of crime should never be forced to endure again the emotional and physical consequences of the original crime.

TITLE VI—LAW ENFORCEMENT AGENCIES

Subtitle A—Maintaining Funding for State and Local Law Enforcement Agencies

SEC. 601. MAINTAINING FUNDING FOR STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) Section 504(a)(1) of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended by section 211 of the Department of Justice Appropriations Act, 1990 (Public Law 101-162), is amended by striking "1990" and inserting in lieu thereof "1991". 42 USC 3754.

(b) IMPROVING THE EFFECTIVENESS OF COURT PROCESS.—Paragraph (10) of section 501 of part D of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows: 42 USC 3751.

"(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender and judicial resources, and implementing court delay reduction programs;".

Subtitle B—National Crime Information Center Project 2000

National Law Enforcement Cooperation Act of 1990. 28 USC 534 note.

SEC. 611. SHORT TITLE.

This section may be cited as the "National Law Enforcement Cooperation Act of 1990".

SEC. 612. FINDINGS.

The Congress finds that—

(1) cooperation among Federal, State and local law enforcement agencies is critical to an effective national response to the problems of violent crime and drug trafficking in the United States;

(2) the National Crime Information Center, which links more than 16,000 Federal, State and local law enforcement agencies, is the single most important avenue of cooperation among law enforcement agencies;

(3) major improvements to the National Crime Information Center are needed because the current system is more than twenty years old; carries much greater volumes of enforcement information; and at this time is unable to incorporate technological advances that would significantly improve its performance; and

(4) the Federal Bureau of Investigation, working with State and local law enforcement agencies and private organizations, has developed a promising plan, "NCIC 2000", to make the necessary upgrades to the National Crime Information Center that should meet the needs of United States law enforcement agencies into the next century.

SEC. 613. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated the following sums to implement the "NCIC 2000" project:

(1) $17,000,000 for fiscal year 1991;
(2) $25,000,000 for fiscal year 1992;
(3) $22,000,000 for fiscal year 1993;
(4) $9,000,000 for fiscal year 1994; and
(5) such sums as may be necessary for fiscal year 1995.

SEC. 614. REPORT.

By February 1 of each fiscal year for which funds for NCIC 2000 are requested, the Director of the Federal Bureau of Investigation shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives that details the progress that has been made in implementing NCIC 2000 and a complete justification for the funds requested in the following fiscal year for NCIC 2000.

TITLE VII—FEDERAL LAW ENFORCEMENT AND JUDICIAL ASSISTANCE

SEC. 701. ADDITIONAL AUTHORIZATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1991, the following sums (which shall be in addition to any other appropriations):

(1) For the Federal Bureau of Investigation, $98,000,000 for the hiring of additional agents and support personnel to be dedicated to the investigation of drug trafficking organizations;

(2) For the Drug Enforcement Administration, $100,500,000 which shall include—

(A) not to exceed $10,000,000 for enforcing provisions of Federal law regarding precursor and essential chemicals;

(B) not to exceed $37,500,000 for assigning not fewer than 250 agents and necessary support personnel to rural areas where State and local law enforcement agencies have identified the distribution of "crack" cocaine and/or the manufacture and distribution of methamphetamine to be a serious law enforcement problem that exceeds the resources of local law enforcement, and involves trafficking across State or national boundaries; and

(C) not to exceed $15,000,000 to expand DEA State and local task forces, including payment of State and local overtime equipment and personnel costs;

(3) For the United States courts, $9,000,000 for additional probation officers, judges, magistrates and other personnel including not to exceed $2,000,000 for training, document production, and other expenses related to the implementation of the Federal sentencing guidelines;

(4) For the United States attorneys, $24,000,000 for additional prosecutors and staff to implement a program of prosecuting in Federal court drug offenses arising out of arrests and investigations conducted by State and local law enforcement agencies;

(5) For defender services, $8,000,000 for the defense of persons prosecuted in Federal court for drug offenses arising out of

arrests and investigations conducted by State and local law enforcement agencies;

(6) For the United States marshals, $9,000,000; and

(7) For the Immigration and Naturalization Service United States Border Patrol, $45,000,000 to be allocated as follows:

(A) $15,000,000 for the hiring, training, and equipping of no fewer than 500 full-time equivalent Border Patrol officer positions;

(B) $25,000,000 for INS criminal investigations and the expeditious deportation of criminal aliens from detention; and

(C) $5,000,000 for the procurement of low-level light television systems, portable and permanent sensor systems, and 4-wheel drive law enforcement vehicles for the United States Border Patrol.

TITLE VIII—RURAL DRUG ENFORCEMENT

SEC. 801. RURAL DRUG ENFORCEMENT ASSISTANCE.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by section 241 of this Act, is amended—

(1) by redesignating part O as part P;

(2) by redesignating section 1501 as section 1601; and 42 USC 3797.

(3) by inserting after part N the following:

"Part O—Rural Drug Enforcement Assistance

"RURAL DRUG ENFORCEMENT ASSISTANCE

"SEC. 1501. (a) Of the total amount appropriated for this section in any fiscal year: 42 USC 3796bb.

"(1) 50 percent shall be allocated to and shared equally among rural States as described in subsection (b); and

"(2) 50 percent shall be allocated to the remaining States for use in nonmetropolitan areas within those States, as follows:

"(A) $100,000 to each nonrural State; and

"(B) of the total funds remaining after the allocation in subparagraph (A), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described as the population of such State bears to the population of all States.

"(b) For the purpose of this section, the term 'rural State' means a State that has a population density of fifty-two or fewer persons per square mile or a State in which the largest county has fewer than one hundred and fifty thousand people.

"OTHER REQUIREMENTS

"SEC. 1502. Subparts 1 and 3 of part E of this title shall apply with respect to funds appropriated to carry out this part, in the same manner as such subparts apply to funds appropriated to carry out part E, except that— 42 USC 3796bb-1.

"(1) section 506(a) of this title shall not apply with respect to this part; and

"(2) in addition to satisfying the requirements of section 503(a), each application for a grant under this part shall include in its application a statement specifying how such grant will be coordinated with a grant received under section 506 of this title for the same fiscal year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated $20,000,000 for fiscal year 1991, and such sums as may be necessary for fiscal years 1992 and 1993, to carry out part O.".

(c) TECHNICAL AMENDMENTS.—(1) Section 801(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782(b)) is amended by striking "and N" and inserting "N, and O".

(2) Section 802(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783(b)) as amended by section 241 of this Act, is amended by striking "or N" and inserting ", N, or O".

(3) The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) as amended by section 241 of this Act, is amended by striking the matter relating to part O and inserting the following:

"PART O—RURAL DRUG ENFORCEMENT ASSISTANCE

"Sec. 1401. Rural drug enforcement assistance.
"Sec. 1402. Other Requirements.

"PART P—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1501. Continuation of rules, authorities, and proceedings.".

TITLE IX—MANDATORY DETENTION

Mandatory Detention for Offenders Convicted of Serious Crimes Act.
18 USC 3141 note.

SEC. 901. SHORT TITLE.

This title may be cited as the "Mandatory Detention for Offenders Convicted of Serious Crimes Act".

SEC. 902. MANDATORY DETENTION.

(a) PENDING SENTENCE.—Subsection (a) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer"; and

(2) inserting at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and is awaiting imposition or execution of sentence be detained unless—

"(A)(i) the judicial officer finds there is a substantial likelihood that a motion for acquittal or new trial will be granted; or

"(ii) an attorney for the Government has recommended that no sentence of imprisonment be imposed on the person; and

"(B) the judicial officer finds by clear and convincing evidence that the person is not likely to flee or pose a danger to any other person or the community.".

(b) PENDING APPEAL.—Subsection (b) of section 3143 of title 18, United States Code, is amended by—

(1) striking "The judicial officer" and inserting:

"(1) Except as provided in paragraph (2), the judicial officer";

(2) redesignating subparagraphs (A), (B), (C), and (D) of paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively;

(3) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) adding at the end thereof the following:

"(2) The judicial officer shall order that a person who has been found guilty of an offense in a case described in subparagraph (A), (B), or (C) of subsection (f)(1) of section 3142 and sentenced to a term of imprisonment, and who has filed an appeal or a petition for a writ of certiorari, be detained.".

(c) EXCEPTIONAL CASES.—Subsection (c) of section 3145 of title 18, United States Code, is amended by adding at the end the following: "A person subject to detention pursuant to section 3143(a)(2) or (b)(2), and who meets the conditions of release set forth in section 3143(a)(1) or (b)(1), may be ordered released, under appropriate conditions, by the judicial officer, if it is clearly shown that there are exceptional reasons why such person's detention would not be appropriate.".

TITLE X—JUVENILE JUSTICE

SEC. 1001. TECHNICAL AMENDMENTS.

(a) CORRECTION OF MISSPELLED WORD.—Subsection (a) of section 3143 of title 18, United States Code, is amended by striking "waiting" and inserting "awaiting".

(b) CORRECTION OF REFERENCE TO REPEALED PROVISION.—Subsections (e) and (f) of section 3142 of title 18, United States Code, are each amended by striking "section 1 of the Act of September 15, 1980 (21 U.S.C. 955a)" and inserting "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)".

SEC. 1002. REDESIGNATION OF CONFUSING SECTIONS IN THE CONTROLLED SUBSTANCES ACT PERTAINING TO CHILDREN.

(a) SECTION 405—NEW SECTION 418.—(1) Section 405 of the Controlled Substances Act is redesignated as section 418. 21 USC 845, 859.

(2) Section 418 of such Act (as redesignated by paragraph (1)) is amended— 21 USC 859.

(A) in subsection (a), by striking "section 405A" and inserting "section 419"; and

(B) in subsection (b) by striking "section 405A" and inserting "section 419".

(b) SECTION 405A—NEW SECTION 419.—Section 405A of the Controlled Substances Act is redesignated as section 419. 21 USC 845a, 860.

(c) SECTION 405B—NEW SECTION 420.—Section 405B of the Controlled Substances Act is redesignated as section 420. 21 USC 845b, 861.

(d) TRANSFER OF SECTION 5301 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 421.—(1) Section 5301 of the Anti-Drug Abuse Act of 1988 is— 21 USC 853a, 862.

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 421 of the Controlled Substances Act.

(2) Section 421(a)(1) of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended by striking "(as such terms are defined for purposes of the Controlled Substances Act)". 21 USC 862.

21 USC 841.

(e) CONFORMING AMENDMENTS TO OTHER SECTIONS.—(1) Section 401(b) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(2) Section 401(c) of the Controlled Substances Act is amended by striking "section 405, 405A, or 405B" and inserting "section 418, 419, or 420".

(f) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part D of title II by striking the items for sections 405, 405A and 405B and inserting at the end thereof the following:

"418. Distribution to persons under age twenty-one.
"419. Distribution or manufacturing in or near schools and colleges.
"420. Employment of persons under 18 years of age.
"421. Denial of Federal benefits to drug traffickers and possessors.".

21 USC 844a.

(g) TRANSFER OF SECTION 6486 OF THE ANTI-DRUG ABUSE ACT OF 1988—NEW SECTION 405.—(1) Section 6486 of the Anti-Drug Abuse Act of 1988 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 405 of the Controlled Substances Act.

21 USC 844a.

(2) Section 405 of the Controlled Substances Act, as amended by paragraph (1) of this subsection, is amended—

(A) in subsection (a), by—

(i) striking "of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A))"; and

(ii) striking "of that Act (21 U.S.C. 841(b)(1)(A))";

(B) in subsection (c), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)";

(C) in subsection (j)(4), by striking "as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)".

(3) The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (as amended by subsection (c) of this section) is amended in part D of title II by inserting after the item for section 404 the following:

"405. Civil penalty for possession of small amounts of certain controlled substances.".

(h) PART E OF THE CONTROLLED SUBSTANCES ACT.—

21 USC 881-1, 888.

(1) SECTION 511A—NEW SECTION 518.—Section 511A of the Controlled Substances Act is redesignated as section 518.

21 USC 881a, 889.

(2) TRANSFER OF SECTION 1764 OF THE FOOD SECURITY ACT OF 1985.—Section 1764 of the Food Security Act of 1985 is—

(A) transferred to the Controlled Substances Act; and

(B) redesignated as section 519 of the Controlled Substances Act.

(3) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended in part E of title II by striking the items for section 511A and inserting at the end thereof the following:

"518. Expedited procedures for seized conveyances.
"519. Production control of controlled substances.".

SEC. 1003. CLARIFICATION OF ENHANCED PENALTIES UNDER CONTROLLED SUBSTANCES ACT.

Ante, p. 4827.

(a) SECTION 418 (OLD SECTION 405).—Section 418 of the Controlled Substances Act (as redesignated by this Act) is amended—

(1) in subsection (a), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to twice that authorized by

section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b), by striking "punishable by (1) a term of imprisonment, or a fine, or both, up to three times that authorized by section 401(b)" and inserting "subject to (1) three times the maximum punishment authorized by section 401(b)".

(b) SECTION 419 (OLD SECTION 405A).—Section 419 of the Controlled Substances Act (as redesignated by this Act) is amended— *Ante*, p. 4827.

(1) in subsection (a), by striking "punishable (1) by a term of imprisonment, or a fine, or both, up to twice that authorized by section 401(b)" and inserting "subject to (1) twice the maximum punishment authorized by section 401(b)"; and

(2) in subsection (b)(1), by striking subparagraph (B) and inserting "(B) three times the maximum punishment authorized by section 401(b) for a first offense".

(c) SECTION 420 (OLD SECTION 405B).—Section 420 of the Controlled Substances Act (as redesignated by this Act) is amended— *Ante*, p. 4827.

(1) in subsection (b), by striking "is punishable by a term of imprisonment up to twice that authorized, or up to twice the fine authorized, or both," and inserting "is subject to twice the maximum punishment otherwise authorized"; and

(2) in subsection (c), by striking "is punishable by a term of imprisonment up to three times that authorized, or up to three times the fine authorized, or both," and inserting "is subject to three times the maximum punishment otherwise authorized".

TITLE XI—SHORT-BARRELED SHOTGUNS

SEC. 1101. MINIMUM PENALTY RELATING TO SHORT-BARRELED SHOTGUNS AND OTHER FIREARMS.

Section 924(c)(1) of title 18, United States Code, is amended in the first sentence by—

(1) inserting "and if the firearm is a short-barreled rifle, short-barreled shotgun to imprisonment for ten years," after "sentenced to imprisonment for five years,"; and

(2) by inserting "or a destructive device," after "a machinegun,", wherever the term "machine gun" appears in section 924(c)(1).

TITLE XII—MISCELLANEOUS CRIMINAL LAW IMPROVEMENTS

SEC. 1201. CLARIFICATION OF MANDATORY MINIMUM PENALTY FOR SERIOUS CRACK POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended in the third sentence by striking out "shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both," and inserting in lieu thereof "shall be imprisoned not less than 5 years and not more than 20 years, and fined a minimum of $1,000,".

SEC. 1202. CORRECTION OF AN ERROR RELATING TO THE QUANTITY OF METHAMPHETAMINE NECESSARY TO TRIGGER A MANDATORY MINIMUM PENALTY.

Section 401(b)(1)(A)(viii) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(viii)) is amended by striking out "or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine" and inserting in lieu thereof "or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine".

SEC. 1203. CONFORMING AMENDMENT TO CONSPIRACY AND ATTEMPT PENALTY UNDER THE MARITIME DRUG LAW ENFORCEMENT ACT.

Section 3(j) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(j)) is amended by striking out "is punishable by imprisonment or fine, or both, which may not exceed the maximum punishment" and inserting in lieu thereof "shall be subject to the same penalties as those".

SEC. 1204. CONFORMING AMENDMENTS TO CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT RELATING TO METHAMPHETAMINE.

(a) LARGE AMOUNTS.—Section 1010(b)(1) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(1)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 1 kilogram or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

(b) SMALL AMOUNTS.—Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by—

(1) striking out "or" at the end of subparagraph (F);

(2) inserting "or" at the end of subparagraph (G); and

(3) adding a new subparagraph (H), as follows:

"(H) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.".

SEC. 1205. APPLICATION OF VARIOUS OFFENSES TO POSSESSIONS AND TERRITORIES.

(a) Section 232 of title 18, United States Code, is amended by adding a new paragraph, as follows:

"(8) The term 'State' includes a State of the United States, and any commonwealth, territory, or possession of the United States.".

(b) Section 245 of title 18, United States Code, is amended by adding a new subsection, as follows:

"(d) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) Section 402 of title 18, United States Code, is amended by adding a new undesignated paragraph, as follows:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(d) Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(e) Sections 1028(d)(5) and 1030(e)(3) of title 18, United States Code, are each amended by inserting "commonwealth," before "possession or territory of the United States".

(f) Section 1029(f) of title 18, United States Code, is amended by adding at the end the following: "For purposes of this subsection, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(g) Section 1084(e) of title 18, United States Code, is amended by inserting "commonwealth," before "territory or possession of the United States".

(h) Section 1114 of title 18, United States Code, is amended by inserting "or any other commonwealth, territory, or possession" after "the Virgin Islands".

(i) Section 1952(b) of title 18, United States Code, is amended—

(1) by inserting "(i)" after "As used in this section"; and

(2) by inserting "and (ii) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States" before the period.

(j) Section 1956(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(8) the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(k) Section 1958(b) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph (3), as follows:

"(3) 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(l) Section 2313 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding a new subsection, as follows:

"(b) For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(m) Section 2315 of title 18, United States Code, is amended by adding at the end the following undesignated paragraph:

"For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(n) Section 5032 of title 18, United States Code, is amended—

(1) in the second undesignated paragraph, by adding at the end the following: "For purposes of this section, the term 'State' includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States."; and

(2) in the third undesignated paragraph, by striking out "to the authorities of a State or the District of Columbia" and inserting in lieu thereof "to the authorities of a State".

SEC. 1206. REPEAL OF ANTIQUATED OFFENSE AND DELETION OF TABLE REFERENCES TO REPEALED OFFENSES.

(a) Section 45 of title 18, United States Code, is repealed.

(b) The table of sections for chapter 3 of title 18, United States Code, is amended by striking out the items relating to sections 43, 44, and 45.

SEC. 1207. REPEAL OF OTHER OUTMODED OFFENSES AND RELATED PROVISIONS.

(a) Section 969 of title 18, United States Code, is repealed and the table of sections for chapter 45 of title 18, United States Code, is amended by striking out the items relating to sections 968 and 969.

(b) Sections 2198 and 3286 of title 18, United States Code, are repealed and the respective tables of sections in chapter 107 and 213 are amended by striking out the items relating to sections 2198 and 3286.

SEC. 1208. CONFORMING JURISDICTIONAL AMENDMENT FOR SECTION 2314 TO COVER FRAUDULENT SCHEMES INVOLVING FOREIGN AS WELL AS INTERSTATE TRAVEL.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or foreign" after "interstate".

SEC. 1209. CLARIFICATION OF ONE-YEAR PERIOD.

Section 666(d) of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding a new paragraph, as follows:

"(4) the term 'in any one-year period' means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.".

SEC. 1210. REPEAL OF PROVISIONS JUDICIALLY DETERMINED TO BE INVALID.

(a) Section 1730 of title 18, United States Code, is amended by striking out ", if the portrayal does not tend to discredit that service".

(b) Section 1714 of title 18, United States Code, is repealed and the item for such section in the table of sections at the beginning of chapter 83 of title 18 is repealed.

(c) Section 1718 of title 18, United States Code, is repealed and the item for such section in the table of sections at the beginning of chapter 83 of title 18 is likewise repealed.

SEC. 1211. DELETION OF REQUIREMENT OF PERSONAL APPROVAL OF ATTORNEY GENERAL FOR PROSECUTIONS UNDER THE ATOMIC ENERGY ACT.

Section 221(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)) is amended by striking out "That no action shall be brought under section 222, 223, 224, 225, or 226 except by the express direction of the Attorney General: *And provided further,*".

SEC. 1212. TECHNICAL CORRECTION TO PROVISION FOR COMPUTING MARSHAL'S COMMISSION.

Section 1921(c)(1) of title 28, United States Code, is amended in the second sentence by striking out "If the property is to be disposed of by marshal's sale" and inserting in lieu thereof "if the property is not disposed of by marshal's sale".

SEC. 1213. CORRECTION OF MISPLACED PHRASE IN 18 U.S.C. 3289.

Section 3289 of title 18, United States Code, is amended by striking out "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," and inserting that same stricken language after "within six months of the expiration of the statute of limitations,".

SEC. 1214. MANDATORY MINIMUM SENTENCES FOR DRUG OFFENSES INVOLVING MINORS.

DISTRIBUTION OR MANUFACTURING IN OR NEAR SCHOOLS AND COLLEGES.—(1) Section 405A(a) of the Controlled Substances Act (21 U.S.C. 845a(a)) as redesignated by this Act, is amended— *Ante,* p. 4827.

(A) in paragraph (1) of the first sentence by striking ", or a fine, or both,";

(B) by adding after the first sentence the following: "A fine up to twice that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection."; and

(C) in the second sentence by striking beginning with "a term of" through the end of the sentence and inserting "a person shall be sentenced under this subsection to a term of imprisonment of not less than one year.".

(2) Section 405A(b) of the Controlled Substances Act (21 U.S.C. 845a(b)) as redesignated by this Act, is amended—

(A) in paragraph (1)(B) by striking ", or a fine up to three times that" through "or both"; and

(B) by inserting after the first sentence the following: "A fine up to three times that authorized by section 401(b) may be imposed in addition to any term of imprisonment authorized by this subsection. Except to the extent a greater minimum sentence is otherwise provided by section 401(b), a person shall be sentenced under this subsection to a term of imprisonment of not less than three years".

(3) Section 419(c) of the Controlled Substances Act (21 U.S.C. 845a(c)) as redesignated by this Act, is amended— *Ante,* p. 4827.

(A) in the first sentence by inserting "mandatory minimum" after "any";

(B) in the first sentence by striking "subsection (b) of"; and

(C) by striking the second sentence and inserting "An individual convicted under this section shall not be eligible for parole until the individual has served the mandatory minimum term of imprisonment as provided by this section.".

TITLE XIII—PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS

SEC. 1301. PUBLIC SAFETY OFFICERS' DISABILITY BENEFITS.

(a) PAYMENT.—Section 1201 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended—

(1) in subsections (c) and (d) by striking "(b)" each place it appears and inserting "(c)",

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i), respectively,

(3) by inserting after subsection (a) the following:

"(b) In accordance with regulations issued pursuant to this part, in any case in which the Bureau determines that a public safety officer has become permanently and totally disabled as the direct result of a catastrophic personal injury sustained in the line of duty, the Bureau shall pay, to the extent that appropriations are provided, a benefit of up to $100,000, adjusted in accordance with subsection (g), to such officer: *Provided,* That the total annual benefits paid under this section may not exceed $5,000,000. For the purposes of making these benefit payments, there are authorized to be appropriated for each fiscal year such sums as may be necessary: *Provided further,* That these benefit payments are subject to the availability of appropriations and that each beneficiary's payment shall be reduced by a proportionate share to the extent that sufficient funds are not appropriated.", and

(4) by adding at the end thereof the following:

"(j)(1) No benefit is payable under this part with respect to the death of a public safety officer if a benefit is paid under this part with respect to the disability of such officer.

"(2) No benefit is payable under this part with respect to the disability of a public safety officer if a benefit is payable under this part with respect to the death of such public safety officer.".

(b) LIMITATIONS.—Paragraphs (1), (2), (3), and (4) of section 1202 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796a) are each amended by inserting "or catastrophic injury" after "death".

(c) DEFINITION.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796c) is amended— 42 USC 3796b.

(1) by redesignating paragraphs (1) through (6) as paragraphs (2) through (7), respectively, and

(2) by inserting before paragraph (2), as so redesignated, the following:

"(1) 'catastrophic injury' means consequences of an injury that permanently prevent an individual from performing any gainful work;".

SEC. 1302. RESCUE SQUAD AND AMBULANCE PERSONNEL.

Section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended in paragraph (2) (relating to the definition of firefighter) by—

(1) adding "." after "ambulance crew"; and

(2) striking "who was responding to a fire, rescue or police emergency.".

SEC. 1303. EFFECTIVE DATE.

42 USC 3796 note.

EFFECTIVE DATE.—The amendments made by this title shall take effect upon enactment and shall not apply with respect to injuries occurring before the effective date of such amendments.

TITLE XIV—MONEY LAUNDERING

SEC. 1401. CRIMINAL FORFEITURE IN CASES INVOLVING CMIR VIOLATIONS.

Section 982(a) of title 18, United States Code, is amended by inserting ", 5316" after "5313(a)".

SEC. 1402. DEFINITION OF "FINANCIAL TRANSACTION".

Section 1956(c)(4) of title 18, United States Code, is amended by—

(1) inserting "(A)" before "a transaction" the first place it appears and inserting "(B)" before "a transaction" the second place it appears; and

(2) inserting "(i)" before "involving" the first place it appears and inserting "(ii)" before "involving" the second place it appears.

SEC. 1403. MONEY LAUNDERING FORFEITURES.

Section 982(b)(2) of title 18, United States Code, is amended by inserting the following before the period: "unless the defendant, in committing the offense or offenses giving rise to the forfeiture, conducted three or more separate transactions involving a total of $100,000 or more in any twelve month period".

SEC. 1404. ENVIRONMENTAL CRIMES AS MONEY LAUNDERING PREDICATES.

(a) Section 1956(c)(7) of title 18, United States Code, is amended by—

(1) striking "or" before "(D)"; and

(2) inserting "; or" and the following before the period:

"ENVIRONMENTAL CRIMES

"(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.)".

(b) Section 1956(e) of title 18, United States Code, is amended by adding at the end the following sentence: "Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Evironmental Protection Agency.

TITLE XV—DRUG-FREE SCHOOL ZONES

20 USC 3192 note.

SEC. 1501. DEVELOPMENT OF MODEL PROGRAM OF STRATEGIES AND TACTICS.

(a) IN GENERAL.—The Attorney General shall develop a model program of strategies and tactics for establishing and maintaining drug-free school zones.

(b) ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.—The program required by subsection (a) shall be designed to provide State and local law enforcement agencies with materials, training, and other assistance to establish, enforce, and evaluate the effectiveness of drug-free school zone enforcement efforts.

(c) PROGRAM CRITERIA.—The program required by subsection (a) shall—

(1) define the criminal justice community's role in creating and maintaining drug-free school zones;

(2) develop a framework for law enforcement collaboration with the school system and community resource network;

(3) identify a core law enforcement drug demand reduction program plan;

(4) provide materials and technical assistance for demarcating and establishing drug-free school zones;

(5) create a coordinated publicity plan with the school system and community resource network;

(6) identify and develop model drug-free school zone law enforcement strategies and tactics;

(7) develop a model coordinated strategy for prosecuting violations within the zones;

(8) create a uniform framework for monitoring and evaluating the effectiveness of drug-free school zones to determine which strategies and tactics succeed under various conditions and constraints; and

(9) provide support materials and exemplary program overviews.

(d) PREFERRED APPROACHES.—In establishing the program required by subsection (a), the Attorney General shall prefer approaches to drug-free school zone enforcement that unite the criminal justice community, the education community, and the network of community resources in meaningful collaboration to reduce the availability of and demand for drugs in a drug-free school zone.

(e) REPORT.—At the conclusion of the program required by subsection (a), the Attorney General shall submit a report to Congress describing the strategies and tactics that are found to be successful in establishing, enforcing, and maintaining drug-free school zones.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1991.

SEC. 1502. AMENDMENT TO THE CONTROLLED SUBSTANCES ACT.

Section 405A of the Controlled Substances Act (21 U.S.C. 845a) as redesignated by this Act, is amended—

Ante, p. 4827.

(1) in subsection (a) by—

(A) striking "playground,"; and

(B) inserting "or a playground," after "university,"; and

(2) in subsection (b) by—

(A) striking "playground,"; and

(B) inserting "or a playground," after "university,".

SEC. 1503. STRENGTHENING OF DRUG-FREE SCHOOL ZONES.

(a) GENERAL AUTHORITY.—Paragraph (8) of section 5122(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192(a)) is amended by striking the period and inserting the following: ", which shall include—

"(A) the determination, with the assistance of municipal authorities and local law enforcement agencies, as appropriate, of the geographical boundaries of schools within the State and the posting of signs identifying school properties as drug-free school zones;

"(B) drug-abuse education and prevention programs and enforcement policies designed to eliminate the illicit use of alcohol and drugs in such zones;

"(C) assisting teachers, administrators, athletic directors, and other school personnel in cooperating fully with law enforcement officials to punish violations of laws relating to illegal drugs;

"(D) informing the community—

"(i) of the content and intent of laws relating to school safety and laws relating to illegal drugs as they affect schoolchildren; and

"(ii) of the perimeters of the drug-free school zones;

"(E) employing the services of the local or substate regional advisory council on drug abuse education and prevention established or designated by the local application submitted under section 5126(a) as a resource for advice and support with respect to implementation of such zones; and

"(F) communication to students, teachers, athletic directors, and other school personnel by administrators that activities that are illicit and harmful to the health and well-being of the students will not be tolerated within schools and their surrounding environments.".

(b) CONFORMING AMENDMENT.—Subsection (a) of section 5137 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3217) is amended by inserting before the period at the end of the first sentence the following: "as described in section 5122(a)(8)".

SEC. 1504. DRUG ABUSE RESISTANCE EDUCATION AND REPLICATION OF SUCCESSFUL DRUG EDUCATION PROGRAMS.

Section 5122 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3192) is amended—

(1) in subsection (a), by striking "50 percent" and inserting "42.5 percent";

(2) in paragraph (1) of subsection (b), by striking "50 percent" and inserting "42.5 percent"; and

(3) by adding at the end the following:

"(c) DRUG ABUSE RESISTANCE EDUCATION PROGRAMS.—(1) Not less than 10 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to local educational agencies in consortium with entities which have experience in assisting school districts to provide instruction to students grades kindergarten through 6 to recognize and resist pressures that influence such students to use controlled substances, as defined in Schedules I and II of section 202 of the Controlled Substances Act the possession or distribution of which is unlawful under such Act, or beverage alcohol, such as Project Drug

Abuse Resistance Education, that meet the requirements of paragraph (2).

"(2) A local educational agency in consortium with an entity shall not be eligible for a grant under paragraph (1) unless such local educational agency in consortium with an entity will use assistance provided under such grant to provide or arrange for the provisions of services that shall include—

"(A) drug abuse resistance education instruction for students grades kindergarten through 6 that is designed to teach students to recognize and resist pressures to experiment that influence such children to use controlled substances, as defined under paragraph (1), or beverage alcohol, including instruction in the following areas—

"(i) drug use and misuse;

"(ii) understanding the consequences of drug abuse;

"(iii) resistance techniques;

"(iv) assertive response styles;

"(v) managing stress without taking drugs;

"(vi) decisionmaking and risk taking;

"(vii) media influences on drug use;

"(viii) positive alternatives to drug abuse behavior;

"(ix) interpersonal and communication skills;

"(x) self-esteem building activities; and

"(xi) resistance to peer pressure and gang pressure;

"(B) provisions for parental involvement;

"(C) classroom instruction by uniformed law enforcement officials;

"(D) the use of positive student leaders to influence younger students not to use drugs;

"(E) an emphasis on activity-oriented techniques designed to encourage student-generated responses to problem-solving situations; and

"(F) the awarding of a certificate of achievement to each student who participates in a drug abuse resistance education program.

"(3) Amounts received under paragraph (1) by any local educational agency or entity shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the support of projects of the type described in paragraph (2).

"(d) REPLICATION OF SUCCESSFUL DRUG EDUCATION PROGRAMS.—Not less than 5 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to local educational agencies or consortia of local educational agencies and private nonprofit entities to provide drug abuse education, prevention, or counseling services to students in kindergarten through grade 12.

"(e) ELIGIBILITY.—A local educational agency or consortium described in subsection (a) shall not be eligible for a grant under this section unless such agency or consortium agrees—

"(1) to use assistance provided under such grant to provide or arrange for the provision of programs offering drug abuse education, prevention, or counseling to students of compulsory school age, including—

"(A) programs to provide drug abuse counseling in the schools by trained personnel;

"(B) programs that stress the use of peers to combat student abuse of drugs and alcohol;

"(C) programs that stress parental and community involvement in combating student abuse of drugs and alcohol; and

"(D) other appropriate programs;

"(2) that programs provided with assistance under the grant shall be designed to prevent or eliminate student abuse of drugs or alcohol;

"(3) to use assistance provided under the grant to expand or replicate a program that has a demonstrated record of success at either the State or local level in preventing or eliminating student abuse of drugs or alcohol; and

"(4) to ensure that the program to be expanded or replicated is appropriate for the students to be served, based on an assessment of their most important needs.

"(f) APPLICATION.—A local educational agency or consortium described in subsection (a) that desires to receive a grant under this section shall submit an application to the chief executive office of the State at such time, in such manner, and containing or accompanied by such information and assurances as such officer may reasonably require. Each such application shall contain—

"(1) a discussion of why the particular program to be assisted under the grant is appropriate for and responds to the particular needs of the students to be served;

"(2) a complete description of the success of the program to be assisted under the grant in reducing or eliminating drug or alcohol abuse among students of compulsory school age;

"(3) an assurance that the consortium concerned will provide assistance, in cash or in kind, for the program assisted under the grant in an amount equal to not less than 10 percent of the amount provided under the grant; and

"(4) an assurance that funds received under the grant shall be used to supplement, not supplant, the amount of other Federal, State, and local funds expended for support of programs of the type described in subsection (b).".

SEC. 1505. SUPPORT OF SCHOOL-BASED RECREATIONAL ACTIVITIES.

Section 5125(a) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3195(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (16);

(2) by redesignating paragraph (13) the second place it appears as paragraph (14);

(3) by striking "and" at the end of paragraph (14) (as redesignated by paragraph (2) of this section); and

(4) by inserting after paragraph (14) the following:

"(15) in the case of a local educational agency that determines that it provides sufficient drug and alcohol abuse education during regular school hours, after-school programs that provide drug and alcohol abuse education for school-aged children, including children who are unsupervised after school, and that may include school-sponsored sports, recreational, educational, or instructional activities (local educational agency may make grants or contracts with nonprofit community-based organizations that offer sports, recreation, education, or child care programs); and".

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SEC. 1506. SUPPORT OF SCHOOL-BASED DRUG ABUSE COUNSELING PROGRAMS.

(a) GENERAL AUTHORITY.—Part C of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3201) is amended to read as follows:

"PART C—TRAINING OF TEACHERS, COUNSELORS, AND SCHOOL PERSONNEL

20 USC 3201.

"SEC. 5128. GRANTS FOR TRAINING OF TEACHERS.

"(a) IN GENERAL.—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teachers training programs in accordance with this section.

"(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of elementary and secondary school teachers and administrators, and other elementary and secondary school personnel concerning drug and alcohol abuse education and prevention.

20 USC 3202.

"SEC. 5129. GRANTS FOR TRAINING OF COUNSELORS.

"(a) IN GENERAL.—

"(1) From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall give priority to making a substantial number of grants to qualified State educational agencies, local educational agencies, and institutions of higher education for programs to train counselors, social workers, psychologists, or nurses in accordance with this section.

"(2) The Secretary may also make a grant under this part to any private nonprofit agency that has an agreement with a local educational agency to provide training in drug abuse counseling for individuals who will provide such counseling in the schools of such local educational agency.

"(b) USE OF FUNDS.—Amounts made available under grants under this section shall be used to establish, expand, or enhance programs and activities for the training of counselors, social workers, psychologists, or nurses who are providing or will provide drug abuse prevention, counseling, or referral services in elementary and secondary schools.

20 USC 3203.

"SEC. 5130. APPLICATIONS.

"(a) IN GENERAL.—Any State or local educational agency, institution of higher education, or consortium of such agencies or institutions that desires to receive a grant under this part in any fiscal year submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(b) CONTENTS.—Each application submitted under this section shall—

"(1) set forth the activities and programs to be carried out with funds paid under this part;

"(2) contain an estimate of the cost for the establishment and operation to such activities and programs;

"(3) provide assurances that the Federal funds made available under this section shall be used to supplement, and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

"(4) provide assurances of compliance with this part;

"(5) in the case of a grant under section 5129, contain a discussion of how the training to be assisted under the grant will assist the applicant to—

"(A) increase the number of school personnel who are trained to provide drug abuse counseling services; and

"(B) improve the quality of drug abuse counseling services offered by the applicant or the local educational agency concerned; and

"(6) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Subparagraph (A) of section 5111(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3181(a)(2)) is amended by striking "$35,000,000" and inserting "$50,000,000".

SEC. 1507. ADDITIONAL REQUIREMENTS FOR LOCAL APPLICATIONS.

Section 5126(a)(2) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3196(a)(2)) is amended—

(1) by redesignating subparagraphs (N) and (O) as subparagraphs (P) and (Q), respectively; and

(2) by inserting after subparagraph (M) the following:

"(N) describe how, to the extent practicable, assistance provided under the grant will be used to provide drug abuse counseling services to children of all ages, including students in the elementary schools;

"(O) describe how, to the extent practicable, activities assisted under the grant will be coordinated with local law enforcement agencies in order to improve security on school grounds and in the surrounding community and to educate students about—

"(i) the dangers of drug use and drug-related violence;

"(ii) the penalties for possession of or trafficking in illegal drugs;

"(iii) techniques for resisting drug abuse; and

"(iv) the importance of cooperating with law enforcement officials in eliminating drug abuse and identifying individuals who supply drugs to students;".

SEC. 1508. IDENTIFICATION OF FEDERALLY ASSISTED PROGRAMS.

Part G of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 5193. IDENTIFICATION OF FEDERALLY ASSISTED PROGRAMS. 20 USC 3233.

"Every local recipient of funds under this title shall, in any publication or public announcement, clearly identify any program assisted under this title as a Federal program funded under the Drug-Free Schools and Communities Act of 1986.".

SEC. 1509. TECHNICAL AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 2 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended— 20 USC 3181.

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking paragraph (1) and inserting the following:

"(1) in paragraph (1), by inserting after "part C" the following: "and section 5136"; and

"(2) in paragraph (2)—

"(A) in subparagraph (A), by striking 'and $20,000,000' and all that follows and inserting the following: '$20,000,000 for the fiscal year 1990, and $35,000,000 for each of the fiscal years 1991, 1992, and 1993.'"; and

"(B) in subparagraph (B), by striking '$230,000,000' and inserting '$215,000,000'; and".

(b) RESERVATIONS AND STATE ALLOTMENTS.—Subsection (a) of section 5112 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3182) is amended in the matter preceding paragraph (1) by inserting ", from" after "subsection (c)".

(c) RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.—

(1) CORRECTION OF PUNCTUATION.—Section 5124(a)(4)(B) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3194(a)(4)(B)) is amended by striking the comma at the end of clause (ii) and inserting a period.

(2) CORRECTION OF REFERENCE.—Section 7(2) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended in subparagraph (A) by inserting "the first place it appears" before "the following". 20 USC 3194.

(d) FEDERAL ACTIVITIES.—Section 5132(b) of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3212) is amended by striking "and" at the end of paragraph (5).

(e) EMERGENCY GRANTS.—The heading for section 5136 of the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3216) is amended to read as follows:

"SEC. 5136. EMERGENCY GRANTS.".

(f) CERTIFICATION OF DRUG AND ALCOHOL ABUSE PREVENTION PROGRAMS.—Section 22(b) of the Drug-Free Schools and Communities Act Amendments of 1989 is amended—

(1) in paragraph (1), by striking "Part D" and inserting "Part E"; and 20 USC 3224a.

(2) in paragraph (2), by striking "5126(e)" and inserting "5126(a)". 20 USC 3196.

(g) DISSEMINATION OF INFORMATION AND TECHNICAL ASSISTANCE.—Section 18 of the Drug-Free Schools and Communities Act Amendments of 1989 is amended by striking "Part D" and inserting "Part E". 20 USC 3224b.

TITLE XVI—MISCELLANEOUS

SEC. 1601. ENLARGEMENT OF FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended by striking out "the payment of awards for information or assistance leading to civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and

Corrupt Organizations statute (18 U.S.C. 1961 et seq.)" and inserting in lieu thereof "the payment of awards for information or assistance leading to a civil or criminal forfeiture under any law enforced or administered by the Department of Justice.".

SEC. 1602. AMENDMENT TO CLARIFY APPLICATION OF SENTENCING REFORM ACT TO ASSIMILATIVE CRIMES.

Section 3551(a) of title 18, United States Code, is amended by inserting "including sections 13 and 1153 of this title," after "any Federal statute,".

SEC. 1603. CONFORMING AMENDMENTS TO SUBSTITUTE A REFERENCE TO THE FDIC FOR THE NOW ABOLISHED FSLIC IN TWO BANKING OFFENSES.

Sections 657 and 1006 of title 18, United States Code, are each amended by striking out "the Federal Savings and Loan Insurance Corporation" and inserting in lieu thereof "the Federal Deposit Insurance Corporation".

SEC. 1604. CLARIFICATION OF APPLICABILITY OF 18 U.S.C. 1952 TO ALL MAILINGS IN FURTHERANCE OF UNLAWFUL ACTIVITY.

Section 1952(a) of title 18, United States Code, is amended—
(1) by inserting "the mail or" after "uses"; and
(2) by striking out "including the mail,".

SEC. 1605. ARREST OF FUGITIVE ABOUT TO ENTER UNITED STATES.

Section 3184 of title 18, United States Code, is amended by inserting "or, if there is reason to believe the person will shortly enter the United States" after "if the whereabouts within the United States of the person charged are not known".

SEC. 1606. CORRECTION TO REFERENCE TO NONEXISTENT AGENCIES IN 18 U.S.C. 1114.

Section 1114 of title 18, United States Code, is amended—
(1) by striking "secret service" and inserting "Secret Service";
(2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and
(3) by striking "the Federal Savings and Loan Insurance Corporation,".

TITLE XVII—GENERAL PROVISIONS

SEC. 1701. SUPPORT OF FEDERAL PRISONERS IN NON-FEDERAL INSTITUTIONS.

Section 4013 of title 18, United States Code, is amended by adding at the end thereof the following new subsection:

"(b)(1) The United States Marshals Service may designate districts that need additional support from private detention entities under subsection (a)(3) based on—

"(A) the number of Federal detainees in the district; and
"(B) the availability of appropriate Federal, State, and local government detention facilities.

"(2) In order to be eligible for a contract for the housing, care, and security of persons held in custody of the United States Marshals

pursuant to Federal law and funding under subsection (a)(3), a private entity shall—

"(A) be located in a district that has been designated as needing additional Federal detention facilities pursuant to paragraph (1);

"(B) meet the standards of the American Correctional Association;

"(C) comply with all applicable State and local laws and regulations;

"(D) have approved fire, security, escape, and riot plans; and

"(E) comply with any other regulations that the Marshals Service deems appropriate.

"(3) The United States Marshals Service shall provide an opportunity for public comment on a contract under subsection (a)(3).".

Gun-Free School Zones Act of 1990.
18 USC 921 note.

SEC. 1702. GUN-FREE SCHOOL ZONES ACT OF 1990.

(a) SHORT TITLE.—This section may be cited as the "Gun-Free School Zones Act of 1990".

(b) PROHIBITIONS AGAINST POSSESSION OR DISCHARGE OF A FIREARM IN A SCHOOL ZONE.—

(1) IN GENERAL.—Section 922 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(q)(1)(A) It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone.

"(B) Subparagraph (A) shall not apply to the possession of a firearm—

"(i) on private property not part of school grounds;

"(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtain such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

"(iii) which is—

"(I) not loaded; and

"(II) in a locked container, or a locked firearms rack which is on a motor vehicle;

"(iv) by an individual for use in a program approved by a school in the school zone;

"(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

"(vi) by a law enforcement officer acting in his or her official capacity; or

"(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

"(2)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

"(B) Subparagraph (A) shall not apply to the discharge of a firearm—

"(i) on private property not part of school grounds;

"(ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;

"(iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or

"(iv) by a law enforcement officer acting in his or her official capacity.

"(3) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun-free school zones as provided in this subsection.".

(2) DEFINITIONS.—Section 921(a) of such title is amended by adding at the end thereof the following new paragraphs:

"(25) The term 'school zone' means—

"(A) in, or on the grounds of, a public, parochial or private school; or

"(B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

"(26) The term 'school' means a school which provides elementary or secondary education, as determined under State law.

"(27) The term 'motor vehicle' has the meaning given such term in section 10102 of title 49, United States Code.".

(3) PENALTY.—Section 924(a) of such title is amended by adding at the end thereof the following new paragraph:

"(4) Whoever violates section 922(q) shall be fined not more than $5,000, imprisoned for not more than 5 years, or both. Notwithstanding any other provision of law, the term of imprisonment imposed under this paragraph shall not run concurrently with any other term of imprisonment imposed under any other provision of law. Except for the authorization of a term of imprisonment of not more than 5 years made in this paragraph, for the purpose of any other law a violation of section 922(q) shall be deemed to be a misdemeanor.".

(4) EFFECTIVE DATE.—The amendments made by this section shall apply to conduct engaged in after the end of the 60-day period beginning on the date of the enactment of this Act. 18 USC 921 note.

(5) GUN-FREE ZONE SIGNS.—Federal, State, and local authorities are encouraged to cause signs to be posted around school zones giving warning of prohibition of the possession of firearms in a school zone. 18 USC 922 note.

SEC. 1703. REPORT ON MANDATORY MINIMUM SENTENCING PROVISIONS.

(a) REPORT.—Not less than six months after the date of enactment of this Act, the United States Sentencing Commission shall transmit to the respective Judiciary Committees of the Senate and House of Representatives a report on mandatory minimum sentencing provisions in Federal law.

(b) COMPONENTS OF REPORT.—The report mandated by subsection (a) shall include:

(1) a compilation of all mandatory minimum sentencing provisions in Federal law;

(2) an assessment of the effect of mandatory minimum sentencing provisions on the goal of eliminating unwarranted sentencing disparity;

(3) a projection of the impact of mandatory minimum sentencing provisions on the Federal prison population;

(4) an assessment of the compatibility of mandatory minimum sentencing provisions and the sentencing guidelines system established by the Sentencing Reform Act of 1984;

(5) a description of the interaction between mandatory minimum sentencing provisions and plea agreements;

(6) a detailed empirical research study of the effect of mandatory minimum penalties in the Federal system;

(7) a discussion of mechanisms other than mandatory minimum sentencing laws by which Congress can express itself with respect to sentencing policy, such as:

(A) specific statutory instructions to the Sentencing Commission;

(B) general statutory instructions to the Sentencing Commission;

(C) increasing or decreasing the maximum sentence authorized for particular crimes;

(D) Sense of Congress resolutions; and

(8) any other information that the Commission would contribute to a thorough assessment of mandatory minimum sentencing provisions.

(c) AMENDMENT OF REPORT.—The Commission may amend or update the report mandated by subsection (a) at any time after its transmittal.

45 USC 446.

SEC. 1704. RAILROAD POLICE OFFICERS.

A railroad police officer who is employed by a rail carrier and certified or commissioned as a police officer under the laws of any State shall, in accordance with regulations issued by the Secretary of Transportation, be authorized to enforce the laws of any jurisdiction in which the rail carrier owns property, for the purpose of protecting—

(1) the employees, passengers, or patrons of the rail carrier;

(2) the property, equipment, and facilities owned, leased, operated, or maintained by the rail carrier;

(3) property moving in interstate or foreign commerce in the possession of the rail carrier; and

(4) personnel, equipment, and materials moving via railroad that are vital to the national defense, to the extent of the authority of a police officer properly certified or commissioned under the laws of that jurisdiction.

TITLE XVIII—CORRECTIONAL OPTIONS INCENTIVES AMENDMENTS

SEC. 1801. CORRECTIONAL OPTIONS GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subpart 2 of part E of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3760 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 the following:

"CHAPTER A—GRANTS TO PUBLIC AND PRIVATE ENTITIES".

(2) in section 510 by striking "subpart" each place it appears and inserting "chapter", 42 USC 3760.

(3) in section 511— 42 USC 3761.

(A) in the heading by striking "DISCRETIONARY", and

(B) by inserting "(other than chapter B of this subpart)" after "this part",

(4) in section 513— 42 USC 3763.

(A) in subsection (a)(1) by inserting "or 515" after "511", and

(B) in subsection (b) by inserting "applicable" after "all the" each place it appears,

(5) in section 514(2) by striking "public agency or private nonprofit organization within which the program or project has been conducted" and inserting "applicant that conducts such program or project", 42 USC 3764.

(6) by redesignating sections 513 and 514 as sections 517 and 518, respectively, and

(7) by inserting after section 512 the following:

"CHAPTER B—GRANTS TO PUBLIC AGENCIES

"CORRECTIONAL OPTIONS GRANTS

"SEC. 515. (a) The Director, in consultation with the Director of the National Institute of Corrections, may make— 42 USC 3762a.

"(1) 4 grants in each fiscal year, in various geographical areas throughout the United States, to public agencies for correctional options (including the cost of construction) that provide alternatives to traditional modes of incarceration and offender release programs—

"(A) to provide more appropriate intervention for youthful offenders who are not career criminals, but who, without such intervention, are likely to become career criminals or more serious offenders; Juvenile delinquency.

"(B) to provide a degree of security and discipline appropriate for the offender involved;

"(C) to provide diagnosis, and treatment and services (including counseling, substance abuse treatment, education, job training and placement assistance while under correctional supervision, and linkage to similar outside services), to increase the success rate of offenders who decide to pursue a course of lawful and productive conduct after release from legal restraint;

"(D) to reduce criminal recidivism by offenders who receive punishment through such alternatives;

"(E) to reduce the cost of correctional services and facilities by reducing criminal recidivism; and

"(F) to provide work that promotes development of industrial and service skills in connection with a correctional option;

"(2) grants to private nonprofit organizations—

"(A) for any of the purposes specified in subparagraphs (A) through (F) of paragraph (1);

"(B) to undertake educational and training programs for criminal justice personnel;

"(C) to provide technical assistance to States and local units of government; and

"(D) to carry out demonstration projects which, in view of previous research or experience, are likely to be a success in more than one jurisdiction;

in connection with a correctional option (excluding the cost of construction); and

"(3) grants to public agencies to establish, operate, and support boot camp prisons.

"(b) The selection of applicants to receive grants under subsection (a)(1) and (2) shall be based on their potential for developing or testing various innovative alternatives to traditional modes of incarceration and offender release programs. In selecting the applicants to receive grants under subsection (a)(3), the Director shall—

"(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling literacy education, vocational education, and job training programs during incarceration or after release; and

"(2) give priority to States that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

"(c) The Director shall consult with the Commission on Alternative Utilization of Military Facilities created by Public Law 100-456 in order to identify military facilities that may be used as sites for correctional programs receiving assistance under this chapter.

"ALLOCATION OF FUNDS; ADMINISTRATIVE PROVISIONS

42 USC 3762b.

"SEC. 516. (a) Of the total amount appropriated for this chapter in any fiscal year, 80 percent shall be used to make grants under section 515(a)(1), 10 percent for section 515(a)(2), and 10 percent for section 515(a)(3).

"(b) A grant made under section 515(a)(1) or (a)(3) may be made for an amount up to 75 percent of the cost of the correctional option contained in the approved application.

"(c) The Director shall—

Regulations.

"(1) not later than 90 days after funds are first appropriated to carry out this chapter, issue rules to carry out this chapter; and

"(2) not later than 180 days after funds are first appropriated to carry out this chapter—

Reports.

"(A) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing such rules; and

"(B) request applications for grants under this chapter.

"CHAPTER C—GENERAL REQUIREMENTS".

(b) EVALUATION.—Section 520(a)(2) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766(a)(2)) is amended by striking "section 511" and inserting "sections 511 and 515".

(c) DEFINITION.—Section 901(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)) is amended—

(1) in paragraph (20) by striking "and" at the end,

(2) in paragraph (21) by striking the period at the end, and

(3) by adding at the end the following:

"(22) 'correctional option' includes community-based incarceration, weekend incarceration, boot camp prison, electronic monitoring of offenders, intensive probation, and any other innovative punishment designed to have the greatest impact on offenders who can be punished more effectively in an environment other than a traditional correctional facility; and

"(23) 'boot camp prison' includes a correctional facility in which inmates are required to participate in a highly regimented program that provides strict discipline, physical training, and hard labor, together with extensive rehabilitative activities and with educational, job training, and drug treatment support.".

(d) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) by inserting after the heading relating to subpart 2 of part E the following:

"Chapter A—Grants to Public and Private Entities",

(2) in the item relating to section 511 by striking "discretionary", and

(3) by striking the items relating to sections 513 and 514, and inserting the following:

"CHAPTER B—GRANTS TO PUBLIC AGENCIES

"Sec. 515. Correctional options grants.
"Sec. 516. Allocation of funds; administrative provisions.

"CHAPTER C—GENERAL REQUIREMENTS

"Sec. 517. Application requirements.
"Sec. 518. Period of award.".

(e) CONFORMING AMENDMENTS.—Section 1001(a) of title I of the Omnibus Crime and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by inserting after paragraph (5) the following:

"(6) There are authorized to be appropriated $220,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out chapter B of subpart 2 of part E of this title.". Appropriation authorization.

SEC. 1802. CONVEYANCE OF PROPERTY AND FACILITIES AT MILITARY INSTALLATIONS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by adding at the end the following:

"§ 2693. Conveyance of certain property

"(a) Except as provided in subsection (b), before any real property or facility of the United States that is under the jurisdiction of any department, agency, or instrumentality of the Department of Defense is determined to be excess to the needs of such department, agency, or instrumentality, the Secretary shall—

"(1) provide adequate notification of the availability of such real property or facility within the Department of Defense;

"(2) if the real property or facility remains available after such notification, notify the Attorney General of its availability; and

"(3) if the Attorney General certifies that a determination has been made by the Director of the Bureau of Justice Assistance within the Department of Justice to utilize the real property or facility under the correctional options program carried out under section 515 of title I of the Omnibus Crime Control and Safe Streets Act of 1968, convey the real property or facility, without reimbursement, to the public agencies referred to in section 515(a)(1) or 515(a)(3) of title I of such Act for such utilization.

"(b) The provisions of this section shall not apply—

"(1) to real property and facilities to which title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is applicable; and

"(2) during any portion of a fiscal year after four conveyances have been made under this section in such fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2693. Conveyance of certain property.".

SEC. 1803. IMPROVEMENT OF CRIMINAL JUSTICE RECORDS.

(a) AMENDMENT.—Subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"IMPROVEMENT OF CRIMINAL JUSTICE RECORDS

42 USC 3759.

"SEC. 509. (a) Subject to subsection (d), each State which receives funds under section 506 in a fiscal year shall allocate not less than 5 percent of such funds to the improvement of criminal justice records.

"(b) The improvement referred to in subsection (a) shall include—

"(1) the completion of criminal histories to include the final dispositions of all arrests for felony offenses;

"(2) the full automation of all criminal justice histories and fingerprint records; and

Reports.

"(3) the frequency and quality of criminal history reports to the Federal Bureau of Investigation.

"(c) The Director, in consultation with the Director of the Bureau of Justice Statistics, shall establish guidelines for the fulfillment of the requirements specified in subsections (a) and (b) of this section.

"(d) In accordance with such guidelines as the Director shall issue and on the request of a State, the Director may—

"(1) waive compliance with subsection (a) by such State; or

"(2) authorize such State to reduce the minimum amount such State is required to allocate under subsection (a);

if the Director, in the discretion of the Director, finds that the quality of the State's criminal justice records does not warrant expending the amount allocated under subsection (a).".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the item relating to section 508 the following:

"Sec. 509. Improvement of criminal justice records.".

(c) APPLICATION OF AMENDMENTS.—The amendments made by this section shall not apply with respect to any fiscal year beginning before the date of the enactment of this Act. 42 USC 3759 note.

SEC. 1804. TESTING CERTAIN SEX OFFENDERS FOR HUMAN IMMUNODEFICIENCY VIRUS.

Section 506 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3756) is amended—

(1) in subsection (a)(1) by striking "subsection (e)" and inserting "subsections (e) and (f)",

(2) by redesignating subsection (f) as subsection (g), and

(3) by inserting after subsection (e) the following:

"(f)(1) For any fiscal year beginning more than 2 years after the effective date of this subsection—

"(A) 90 percent of the funds allocated under subsection (a), taking into consideration subsection (e) but without regard to this subsection, to a State described in paragraph (2) shall be distributed by the Director to such State; and

"(B) 10 percent of such amount shall be allocated equally among States that are not affected by the operation of subparagraph (A).

"(2) Paragraph (1)(A) refers to a State that does not have in effect, and does not enforce, in such fiscal year, a law that requires the State at the request of the victim of a sexual act—

"(A) to administer, to the defendant convicted under State law of such sexual act, a test to detect in such defendant the presence of the etiologic agent for acquired immune deficiency syndrome;

"(B) to disclose the results of such test to such defendant and to the victim of such sexual act; and

"(C) to provide to the victim of such sexual act counseling regarding HIV disease, HIV testing, in accordance with applicable law, and referral for appropriate health care and support services.

"(3) For purposes of this subsection—

"(A) the term 'convicted' includes adjudicated under juvenile proceedings; and

"(B) the term 'sexual act' has the meaning given such term in subparagraph (A) or (B) of section 2245(1) of title 18, United States Code.".

TITLE XIX—ANABOLIC STEROIDS CONTROL ACT OF 1990

Anabolic Steroids Control Act of 1990.

SEC. 1901. SHORT TITLE.

This Act may be cited as the "Anabolic Steroids Control Act of 1990". 21 USC 801 note.

SEC. 1902. ANABOLIC STEROID PENALTIES.

(a) ADDITION OF ANABOLIC STEROIDS TO SCHEDULE III.—Schedule III of section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) is amended by adding at the end the following:

"(e) Anabolic steroids.".

(b) DEFINITION OF ANABOLIC STEROID.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended by adding at the end the following:

"(41)(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes—

"(i) boldenone,
"(ii) chlorotestosterone,
"(iii) clostebol,
"(iv) dehydrochlormethyltestosterone,
"(v) dihydrotestosterone,
"(vi) drostanolone,
"(vii) ethylestrenol,
"(viii) fluoxymesterone,
"(ix) formebulone,
"(x) mesterolone,
"(xi) methandienone,
"(xii) methandranone,
"(xiii) methandriol,
"(xiv) methandrostenolone,
"(xv) methenolone,
"(xvi) methyltestosterone,
"(xvii) mibolerone,
"(xviii) nandrolone,
"(xix) norethandrolone,
"(xx) oxandrolone,
"(xxi) oxymesterone,
"(xxii) oxymetholone,
"(xxiii) stanolone,
"(xxiv) stanozolol,
"(xxv) testolactone,
"(xxvi) testosterone,
"(xxvii) trenbolone, and
"(xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

"(B)(i) Except as provided in clause (ii), such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration.

"(ii) If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of subparagraph (A).".

21 USC 829 note.

(c) EFFECT OF SCHEDULING ON PRESCRIPTIONS.—Any prescription for anabolic steroids subject to refill on or after the date of enactment of the amendments made by this section may be refilled without restriction under section 309(a) of the Controlled Substances Act (21 U.S.C. 829(a)).

21 USC 802 note.

(d) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 1903. REGULATIONS BY ATTORNEY GENERAL. 21 USC 802 note.

(a) ABUSE POTENTIAL.—The Attorney General, upon the recommendation of the Secretary of Health and Human Services, may, by regulation, exempt any compound, mixture, or preparation containing a substance in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 of this Act) from the application of all or any part of the Controlled Substances Act if, because of its concentration, preparation, mixture or delivery system, it has no significant potential for abuse.

(b) DRUGS FOR TREATMENT OF RARE DISEASES.—If the Attorney General finds that a drug listed in paragraph (41) of section 102 of the Controlled Substances Act (as added by section 2 of this Act) is—

(1) approved by the Food and Drug Administration as an accepted treatment for a rare disease or condition, as defined in section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb); and

(2) does not have a significant potential for abuse, the Attorney General may exempt such drug from any production regulations otherwise issued under the Controlled Substances Act as may be necessary to ensure adequate supplies of such drug for medical purposes.

(c) DATE OF ISSUANCE OF REGULATIONS.—The Attorney General shall issue regulations implementing this section not later than 45 days after the date of enactment of this Act, except that the regulations required under section 3(a) shall be issued not later than 180 days after the date of enactment of this Act.

SEC. 1904. AMENDMENT TO THE FOOD, DRUG, AND COSMETIC ACT.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by inserting a new subsection (e) as follows:

"(e)(1) Except as provided in paragraph (2), whoever knowingly distributes, or possesses with intent to distribute, human growth hormone for any use in humans other than the treatment of a disease or other recognized medical condition, where such use has been authorized by the Secretary of Health and Human Services under section 505 and pursuant to the order of a physician, is guilty of an offense punishable by not more than 5 years in prison, such fines as are authorized by title 18, United States Code, or both.

"(2) Whoever commits any offense set forth in paragraph (1) and such offense involves an individual under 18 years of age is punishable by not more than 10 years imprisonment, such fines as are authorized by title 18, United States Code, or both.

"(3) Any conviction for a violation of paragraphs (1) and (2) of this subsection shall be considered a felony violation of the Controlled Substances Act for the purposes of forfeiture under section 413 of such Act.

"(4) As used in this subsection the term 'human growth hormone' means somatrem, somatropin, or an analogue of either of them.

"(5) The Drug Enforcement Administration is authorized to investigate offenses punishable by this subsection.".

SEC. 1905. CONVICTION FOR VIOLATION OF SECTION 303(e) OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 2401 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 102 Stat. 4181) is repealed. Repeal. 21 USC 333a.

SEC. 1906. DEMONSTRATION PROGRAMS REGARDING ANABOLIC STEROIDS.

Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) in paragraph (10)(B), by striking "and" after the semicolon at the end;

(2) in paragraph (11)(B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(12) develop and support innovative demonstration programs designed to identify and deter the improper use or abuse of anabolic steroids by students, especially students in secondary schools.".

SEC. 1907. CLERICAL CORRECTION.

Section 404 of the Controlled Substances Act (21 U.S.C. 844) is amended by inserting "(a)" before "It shall be unlawful" in the first undesignated paragraph.

TITLE XX—ASSET FORFEITURE

SEC. 2001. AMENDMENTS RELATING TO THE SPECIAL FORFEITURE FUND.

(a) ASSETS FORFEITURE FUND AMENDMENT.—Section 524(c)(9) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "(9) There" and inserting in lieu thereof "(9)(A) There"; and

(2) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Subject to subparagraph (C), in each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may transfer from the Fund not more than $150,000,000 to the Special Forfeiture Fund established by section 6073 of the Anti-Drug Abuse Act of 1988. Such transfers shall be made at the end of each quarter of the fiscal year involved and on a quarterly pro rata basis.

"(C) Transfers under subparagraph (B) may be made only from excess unobligated amounts and only to the extent that, as determined by the Attorney General, such transfers will not impair the future availability of amounts for the purposes under paragraph (1).

"(D) At the end of each of fiscal years 1990, 1991, 1992, and 1993, the Attorney General may retain in the Fund not more than $15,000,000, or, if determined by the Attorney General to be necessary for asset-specific expenses, a greater amount equal to not more than one-tenth of the total of obligations from the Fund in preceding fiscal year.".

(b) SPECIAL FORFEITURE FUND AMENDMENT.—Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—Deposits in the Fund shall be made by transfer from the Department of Justice Assets Forfeiture Fund in the manner provided in section 524(c)(9) of title 28, United States Code.".

SEC. 2002. CLARIFICATION OF ATTORNEY GENERAL'S AUTHORITY TO WARRANT CLEAR TITLE UPON TRANSFER OF FORFEITED PROPERTY.

Section 524(c) of title 28, United States Code, is amended—

(1) by redesignating paragraph (10) as paragraph (11); and

(2) by inserting after paragraph (9) the following new paragraph:

"(10) Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department, the Attorney General is authorized, at his discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.".

SEC. 2003. CLARIFICATION OF ATTORNEY GENERAL'S FORFEITURE SALE AUTHORITY.

Section 511(e)(1)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(B)) and section 2254(f)(2) of title 18, United States Code, are each amended by inserting after "sell" the following: ", by public sale or any other commercially feasible means,".

SEC. 2004. FORFEITURE AND DESTRUCTION OF DANGEROUS, TOXIC, AND HAZARDOUS MATERIALS.

Section 511(f) of the Controlled Substances Act (21 U.S.C. 881(f)) is amended by inserting after "this title" each place it appears the following: "; all dangerous, toxic, or hazardous raw materials or products subject to forfeiture under subsection (a)(2) of this section; and any equipment or container subject to forfeiture under subsection (a)(2) or (3) which cannot be separated safely from such raw materials or products".

SEC. 2005. ADDITIONAL FORFEITURE AWARD AUTHORITY.

Section 524(c)(1)(C) of title 28, United States Code, is amended to read as follows:

"(C) at the discretion of the Attorney General, the payment of awards for information or assistance leading to—

"(i) a civil or criminal forfeiture under the Controlled Substances Act or the Controlled Substances Import and Export Act;

"(ii) a criminal forfeiture under chapter 96 of title 18;

"(iii) a civil forfeiture under section 981 of title 18; or

"(iv) a criminal forfeiture under section 982 of title 18.".

SEC. 2006. REPORT TO CONGRESS.

Section 524(c)(6) of title 28, United States Code, is amended—

(1) in the matter before subparagraph (A), by striking out "two";

(2) by striking out "and" at the end of subparagraph (A);

(3) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new subparagraph:

"(C) a report for such fiscal year, containing audited financial statements, in the form prescribed by the Attorney General, in consultation with the Comptroller General, including profit and loss information with respect to forfeited property (by category), and financial information on forfeited property transactions (by type of disposition).".

SEC. 2007. FORFEITURE OF DRUG PARAPHERNALIA.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(10) Any drug paraphernalia (as defined in section 1822 of the Mail Order Drug Paraphernalia Control Act).".

SEC. 2008. FORFEITURE OF A FIREARM USED TO FACILITATE A DRUG OFFENSE.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended by adding at the end the following new paragraph:

"(11) Any firearm (as defined in section 921 of title 18, United States Code) used or intended to be used to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) and any proceeds traceable to such property.".

TITLE XXI—PERKINS GRANT EXPANSION

SEC. 2101. POLICE RECRUITMENT EDUCATION PROGRAM.

(a) AMENDMENT.—Section 465(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087ee(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) as a full-time law enforcement officer or corrections officer for service to local, State, or Federal law enforcement or corrections agencies.".

(b) CONFORMING AMENDMENT.—Section 465(a)(3)(i) of such Act (20 U.S.C. 1087ee(a)(3)(i)) is amended by striking "(A) or (C)" and inserting "(A), (C), or (F)".

20 USC 1087ee note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only to loans made on or after the date of enactment of this Act under part E of title IV of the Higher Education Act of 1965.

TITLE XXII—FIREARMS PROVISIONS

SEC. 2201. PROHIBITION AGAINST TRANSFERRING FIREARMS TO NON-RESIDENTS.

Section 922(a)(5) of title 18, United States Code, is amended by striking "resides" the first place such term appears and all that follows through "(or other than that in which its place of business is located if the transferor is a corporation or other business entity);" and inserting "does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides;".

SEC. 2202. COMMERCE NEXUS FOR TRAFFICKING IN STOLEN FIREARMS.

(a) IN GENERAL.—Section 922(j) of title 18, United States Code, is amended by striking "or which constitutes," and inserting "which constitutes, or which has been shipped or transported in,".

(b) ALTERATION OF SERIAL NUMBER OF FIREARM.—Section 922(k) of title 18, United States Code, is amended by inserting "or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce" after "altered".

SEC. 2203. TECHNICAL AMENDMENTS.

(a) AMENDMENT TO SECTION 923(d)(1)(B).—Section 923(d)(1)(B) of title 18, United States Code, is amended by striking "(h)" and inserting "(n)".

(b) AMENDMENT TO SECTION 925(a)(1).—Section 925(a)(1) of title 18, United States Code, is amended by inserting "possession," before "or importation".

(c) AMENDMENTS TO SECTION 925(c).—Section 925(c) of title 18, United States Code, is amended—

(1) by striking "conviction" the first and third places such term appears and inserting "disability"; and

(2) by striking "by reason of such a conviction".

(d) AMENDMENTS TO SECTION 924(a).—Section 924(a) of title 18, United States Code, is amended by striking ", and shall become eligible for parole as the Parole Commission shall determine" each place such term appears. This amendment shall be effective with respect to any offense committed after November 1, 1987.

Effective date.
18 USC 924 note.

SEC. 2204. AMENDMENTS RELATING TO THE DOMESTIC ASSEMBLY OF NONIMPORTABLE FIREARMS.

(a) SEMIAUTOMATIC RIFLE DEFINED.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(28) The term 'semiautomatic rifle' means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.".

(b) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under section 925(d)(3) of this chapter as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to—

"(1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

"(2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Secretary.".

(c) PENALTY.—Section 924(a)(1)(B) of title 18, United States Code, is amended by striking "or (k)" and inserting "(k), or (q)".

SEC. 2205. PROHIBITION AGAINST POSSESSION OF FIREARMS IN FEDERAL COURT FACILITIES.

(a) PROHIBITION.—Section 930 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting "(other than a Federal court facility)" before the second comma;

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

(3) by inserting after subsection (c) the following:

"(d)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

"(2) Paragraph (1) shall not apply to conduct which is described in paragraph (1) or (2) of subsection (c).";

(4) in subsection (f) (as so redesignated by paragraph (2) of this subsection), by adding at the end the following:

"(3) The term 'Federal court facility' means the courtroom, judges' chambers, witness rooms, jury deliberation rooms, attorney conference rooms, prisoner holding cells, offices of the court clerks, the United States attorney, and the United States marshal, probation and parole offices, and adjoining corridors of any court of the United States."; and

(5) in subsection (g) (as so redesignated by paragraph (2) of this subsection)—

(A) by inserting "and notice of subsection (d) shall be posted conspicuously at each public entrance to each Federal court facility," after the first comma;

(B) by inserting "or (d)" before "with respect to"; and

(C) by inserting "or (d), as the case may be" before the period.

18 USC 930 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to conduct engaged in after the date of the enactment of this Act.

TITLE XXIII—CHEMICAL DIVERSION AND TRAFFICKING

SEC. 2301. CHEMICAL DIVERSION AND TRAFFICKING.

(a) NEW LISTED PRECURSOR CHEMICALS.—Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended by adding at the end the following:

"(M) Methylamine.
"(N) Ethylamine.
"(O) D-lysergic acid.
"(P) Propionic anhydride.
"(Q) Insosafrole.
"(R) Safrole.
"(S) Piperonal.
"(T) N-Methylepherdrine.
"(U) N-ethylephedrine.
"(V) N-methylpseudoephedrine.
"(W) N-ethylpseudoephedrine.
"(X) Hydriotic acid.
"(Y) Any salt, optical isomer, or salt of an optical isomer of the chemicals listed in subparagraphs (M) through (X) of this paragraph.".

(b) CONFORMING REPEAL.—Section 102(35) of the Controlled Substances Act (21 U.S.C. 802(35)) is amended by striking subparagraph (E).

TITLE XXIV—DRUG PARAPHERNALIA

SEC. 2401. DRUG PARAPHERNALIA.

(a) IN GENERAL.—The Controlled Substances Act is amended by adding at the end of part D the following:

"DRUG PARAPHERNALIA

"SEC. 422. (a) It is unlawful for any person— 21 USC 863.

"(1) to sell or offer for sale drug paraphernalia;

"(2) to use the mails or any other facility of interstate commerce to transport drug paraphernalia; or

"(3) to import or export drug paraphernalia.".

(b) TRANSFER OF REMAINING EXISTING PROVISIONS RELATING TO DRUG PARAPHERNALIA.—Subsections (b) through (f) of section 1822 of the Anti-Drug Abuse Act of 1986 (21 U.S.C. 857) are transferred to appear as subsections (b) through (f) of the section 422 added to the Controlled Substances Act by this section. 21 USC 857, 863.

(c) TECHNICAL CORRECTIONS TO TRANSFERRED PROVISIONS.—The provisions of law transferred by subsection (b) are amended— 21 USC 863.

(1) in subsection (b), by striking "not more than $100,000" and inserting "under title 18, United States Code"; and

(2) in subsection (f), by striking "This subtitle" and inserting "This section".

(d) CONFORMING REPEAL.—Subtitle O of title I of the Anti-Drug Abuse Act of 1986 is repealed. 21 USC 801 note, 857 and note.

TITLE XXV—BANKING LAW ENFORCEMENT

Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990.

SEC. 2500. SHORT TITLE.

This title may be cited as the "Comprehensive Thrift and Bank Fraud Prosecution and Taxpayer Recovery Act of 1990". 18 USC 1001 note.

Subtitle A—Enhanced Criminal Penalties

SEC. 2501. CONCEALMENT OF ASSETS FROM FDIC, RTC, OR NCUA ESTABLISHED AS CRIMINAL OFFENSE.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution

"Whoever—

"(1) knowingly conceals or endeavors to conceal an asset or property from the Federal Deposit Insurance Corporation, acting as conservator or receiver or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13, of the Federal Deposit Insurance Act, the Resolution Trust Corporation, any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, or the National Credit Union Administration Board, acting as conservator or liquidating agent;

"(2) corruptly impedes or endeavors to impede the functions of such Corporation, Board, or conservator; or

"(3) corruptly places or endeavors to place an asset or property beyond the reach of such Corporation, Board, or conservator,

shall be fined under this title or imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1031 the following new item:

"1032. Concealment of assets from conservator, receiver, or liquidating agent of financial institution.".

SEC. 2502. PROHIBITION ON CONTROL OF OR PARTICIPATION IN DEPOSITORY INSTITUTION BY CERTAIN CONVICTED PERSONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended to read as follows:

"(a) PROHIBITION.—

"(1) IN GENERAL.—Except with the prior written consent of the Corporation—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured depository institution;

"(ii) own or control, directly or indirectly, any insured depository institution; or

"(iii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution; and

"(B) any insured depository institution may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, or 1956 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Corporation may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Corporation, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of

paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.".

SEC. 2503. CRIME OF OBSTRUCTING AN EXAMINER.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code (relating to obstruction of justice) is amended by inserting after section 1516 the following new section:

"§ 1517. Obstructing examination of financial institution

"Whoever corruptly obstructs or attempts to obstruct any examination of a financial institution by an agency of the United States with jurisdiction to conduct an examination of such financial institution shall be fined under this title, imprisoned not more than 5 years, or both.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1516 the following new item:

"1517. Obstructing examination of financial institution.".

SEC. 2504. INCREASING BANK FRAUD AND EMBEZZLEMENT PENALTIES.

(a) RECEIPT OF COMMISSIONS OR GIFTS FOR PROCURING LOANS.—Section 215(a) of title 18, United States Code, is amended by striking "20" and inserting "30".

(b) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended by striking "20" and inserting "30".

(c) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended by striking "20" and inserting "30".

(d) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended by striking "20" and inserting "30".

(e) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended by striking "20" and inserting "30".

(f) FEDERAL DEPOSIT INSURANCE CORPORATION TRANSACTIONS.—Section 1007 of title 18, United States Code, is amended by striking "20" and inserting "30".

(g) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code, is amended by striking "20" and inserting "30".

(h) FRAUDS AND SWINDLES AFFECTING FINANCIAL INSTITUTIONS.—The last sentence of section 1341 of title 18, United States Code, is amended by striking "20" and inserting "30".

(i) WIRE FRAUDS AFFECTING FINANCIAL INSTITUTIONS.—The last sentence of section 1343 of title 18, United States Code, is amended by striking "20" and inserting "30".

(j) BANK FRAUD.—Section 1344 of title 18, United States Code, is amended by striking "20" and inserting "30".

SEC. 2505. STATUTE OF LIMITATIONS FOR RICO OFFENSES INVOLVING FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Section 3293 of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by inserting "or" at the end of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) section 1963, to the extent that the racketeering activity involves a violation of section 1344;".

18 USC 3293 note.

(b) SCOPE OF APPLICATION.—The amendments made by subsection (a) shall apply to any offense committed before the date of the enactment of this section, if the statute of limitations applicable to that offense had not run as of such date.

SEC. 2506. MONEY LAUNDERING INVOLVING BANK CRIMES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting "section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications), 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), " after "section 875 (relating to interstate communications),"; and

(2) by inserting "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution," after "section 1203 (relating to hostage taking),".

18 USC 994 note.

SEC. 2507. INCREASED PENALTIES IN MAJOR BANK CRIME CASES.

(a) INCREASED PENALTIES.—Pursuant to section 994 of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or amend existing guidelines, to provide that a defendant convicted of violating, or conspiring to violate, section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code, or section 1341 or 1343 affecting a financial institution (as defined in section 20 of title 18, United States Code), shall be assigned not less than offense level 24 under chapter 2 of the sentencing guidelines if the defendant derives more than $1,000,000 in gross receipts from the offense.

(b) AMENDMENTS TO SENTENCING GUIDELINES.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

SEC. 2508. RESTORATION OF PROPERTY FOR VICTIMS OF BANK CRIMES.

Section 981(e) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding after paragraph (5) the following new paragraph:

"(6) in the case of property referred to in subsection (a)(1)(C), restore forfeited property to any victim of an offense described in subsection (a)(1)(C); or".

SEC. 2509. ENHANCEMENT OF ABILITY TO ORDER RESTITUTION IN CERTAIN FRAUD CASES.

Section 3663(a) of title 18, United States Code, is amended—
(1) by inserting "(1)" after "(a)"; and
(2) by adding at the end the following:
"(2) For the purposes of restitution, a victim of an offense that involves as an element a scheme, a conspiracy, or a pattern of criminal activity means any person directly harmed by the defendant's criminal conduct in the course of the scheme, conspiracy, or pattern.
"(3) The court may also order restitution in any criminal case to the extent agreed to by the parties in a plea agreement.".

SEC. 2510. FINANCIAL CRIME KINGPIN STATUTE.

(a) CONTINUING FINANCIAL CRIME ENTERPRISES.—Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Continuing financial crimes enterprise

Penalties.

"(a) Whoever—
"(1) organizes, manages, or supervises a continuing financial crimes enterprise; and
"(2) receives $5,000,000 or more in gross receipts from such enterprise during any 24-month period,
shall be fined not more than $10,000,000 if an individual, or $20,000,000 if an organization, and imprisoned for a term of not less than 10 years and which may be life.
"(b) For purposes of subsection (a), the term 'continuing financial crimes enterprise' means a series of violations under section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of this title, or section 1341 or 1343 affecting a financial institution, committed by at least 4 persons acting in concert.".
(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following new item:

"225. Continuing financial crimes enterprise.".

Subtitle B—Protecting Assets From Wrongful Disposition

SEC. 2521. INJUNCTIVE RELIEF; PREJUDGMENT ATTACHMENTS.

(a) INJUNCTIVE RELIEF.—
(1) APPLICATION BY CONSERVATOR OR RECEIVER FOR INSURED DEPOSITORY INSTITUTIONS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by inserting after paragraph (17) (as added by section 2511 of this title) the following new paragraphs:
"(18) ATTACHMENT OF ASSETS AND OTHER INJUNCTIVE RELIEF.—Subject to paragraph (19), any court of competent jurisdiction may, at the request of—
"(A) the Corporation (in the Corporation's capacity as conservator or receiver for any insured depository institution or in the Corporation's corporate capacity with respect to any asset acquired or liability assumed by the Corporation under section 11, 12, or 13); or

"(B) any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision, issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Corporation or such conservator under the control of the court and appointing a trustee to hold such assets.

"(19) STANDARDS.—

"(A) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under paragraph (18) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(B) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by subparagraph (A)), the relief sought by the Corporation or a conservator pursuant to paragraph (18) may be requested under the laws of such State.".

(2) APPLICATION BY CONSERVATOR OR LIQUIDATING AGENT FOR INSURED CREDIT UNION.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (G) as subparagraph (I) and by inserting after subparagraph (F) the following new subparagraphs:

"(G) ATTACHMENT OF ASSETS AND INJUNCTIVE RELIEF.—Subject to subparagraph (H), any court of competent jurisdiction may, at the request of the Board (in the Board's capacity as conservator or liquidating agent for any insured credit union or in the Board's corporate capacity in the exercise of any authority under section 207), issue an order in accordance with Rule 65 of the Federal Rules of Civil Procedure, including an order placing the assets of any person designated by the Board under the control of the court and appointing a trustee to hold such assets.

"(H) STANDARDS.—

"(i) SHOWING.—Rule 65 of the Federal Rules of Civil Procedure shall apply with respect to any proceeding under subparagraph (G) without regard to the requirement of such rule that the applicant show that the injury, loss, or damage is irreparable and immediate.

"(ii) STATE PROCEEDING.—If, in the case of any proceeding in a State court, the court determines that rules of civil procedure available under the laws of such State provide substantially similar protections to such party's right to due process as Rule 65 (as modified with respect to such proceeding by clause (i)), the relief sought by the Board pursuant to subparagraph (G) may be requested under the laws of such State.".

(b) PREJUDGMENT ATTACHMENTS.—

(1) APPROPRIATE FEDERAL BANKING AGENCIES.—Section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)) is amended by adding at the end the following new paragraph:

"(4) PREJUDGMENT ATTACHMENT.—

"(A) IN GENERAL.—In any action brought by an appropriate Federal banking agency (excluding the Corporation

when acting in a manner described in section 11(d)(18)) pursuant to this section, or in actions brought in aid of, or to enforce an order in, any administrative or other civil action for money damages, restitution, or civil money penalties brought by such agency, the court may, upon application of the agency, issue a restraining order that—

"(i) prohibits any person subject to the proceeding from withdrawing, transferring, removing, dissipating, or disposing of any funds, assets or other property; and

"(ii) appoints a temporary receiver to administer the restraining order.

"(B) STANDARD.—A permanent or temporary injunction or restraining order shall be granted without bond upon a prima facie showing that money damages, restitution, or civil money penalties, as sought by such agency, is appropriate.".

(2) ATTORNEY GENERAL.—Section 1345 of title 18, United States Code, is amended—

(1) by striking the 1st sentence and inserting the following: "(a)(1) If a person is—

"(A) violating or about to violate this chapter or section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title; or

"(B) committing or about to commit a banking law violation (as defined in section 3322(d) of this title),

the Attorney General may commence a civil action in any Federal court to enjoin such violation.

"(2) If a person is alienating or disposing of property, or intends to alienate or dispose of property, obtained as a result of a banking law violation (as defined in section 3322(d) of this title) or property which is traceable to such violation, the Attorney General may commence a civil action in any Federal court—

"(A) to enjoin such alienation or disposition of property; or

"(B) for a restraining order to—

"(i) prohibit any person from withdrawing, transferring, removing, dissipating, or disposing of any such property or property of equivalent value; and

"(ii) appoint a temporary receiver to administer such restraining order.

(3) A permanent or temporary injunction or restraining order shall be granted without bond."; and

(2) by redesignating the material remaining in such section as subsection (b).

SEC. 2522. NONDISCHARGE OF DEBTS IN FEDERAL BANKRUPTCY INVOLVING OBLIGATIONS ARISING FROM A BREACH OF FIDUCIARY DUTY; DISALLOWING USE OF BANKRUPTCY TO EVADE COMMITMENTS TO MAINTAIN THE CAPITAL OF A FEDERALLY INSURED DEPOSITORY INSTITUTION OR TO EVADE CIVIL OR CRIMINAL LIABILITY.

(a) EXCEPTION TO DISCHARGE IN GENERAL.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (a) by—

(A) striking "or" at the end of paragraph (9);

(B) striking the period at the end of paragraph (10) and inserting a semicolon; and

(C) adding at the end thereof the following new paragraphs:

"(11) provided in any final judgment, unreviewable order, or consent order or decree entered in any court of the United States or of any State, issued by a Federal depository institutions regulatory agency, or contained in any settlement agreement entered into by the debtor, arising from any act of fraud or defalcation while acting in a fiduciary capacity committed with respect to any depository institution or insured credit union; or

"(12) for malicious or reckless failure to fulfill any commitment by the debtor to a Federal depository institutions regulatory agency to maintain the capital of an insured depository institution, except that this paragraph shall not extend any such commitment which would otherwise be terminated due to any act of such agency;"; and

(2) by adding at the end thereof the following new subsections:

"(e) Any institution-affiliated party of a depository institution or insured credit union shall be considered to be acting in a fiduciary capacity with respect to the purposes of subsection (a) (4) or (11).";

and

(3) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following:

"(2) Paragraph (1) shall not apply in the case of a Federal depository institutions regulatory agency seeking, in its capacity as conservator, receiver, or liquidating agent for an insured depository institution, to recover a debt described in subsection (a)(2), (a)(4), (a)(6), or (a)(11) owed to such institution by an institution-affiliated party unless the receiver, conservator, or liquidating agent was appointed in time to reasonably comply, or for a Federal depository institutions regulatory agency acting in its corporate capacity as a successor to such receiver, conservator, or liquidating agent to reasonably comply, with subsection (a)(3)(B) as a creditor of such institution-affiliated party with respect to such debt.".

(b) EXCEPTION TO EXEMPTIONS.—Section 522(c) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end;

(2) in paragraph (2) by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(3) a debt of a kind specified in section 523(a)(4) or 523(a)(6) of this title owed by an institution-affiliated party of an insured depository institution to a Federal depository institutions regulatory agency acting in its capacity as conservator, receiver, or liquidating agent for such institution.".

(c) ASSUMPTION OF COMMITMENTS AS EXECUTORY CONTRACTS.—Section 365 of title 11, United States Code, is amended by adding at the end thereof the following:

"(o) In a case under chapter 11 of this title, the trustee shall be deemed to have assumed (consistent with the debtor's other obligations under section 507), and shall immediately cure any deficit under, any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or its predecessors or successors, to maintain the capital of an insured

depository institution, and any claim for a subsequent breach of the obligations thereunder shall be entitled to priority under section 507. This subsection shall not extend any commitment that would otherwise be terminated by any act of such an agency.".

(d) COMMITMENTS TO MAINTAIN THE CAPITAL OF FEDERALLY INSURED DEPOSITORY INSTITUTIONS.—Section 507(a) of title 11, United States Code, is amended by adding at the end the following new paragraph:

"(8) Eighth, allowed unsecured claims based upon any commitment by the debtor to the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the Director of the Office of Thrift Supervision, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution.".

(e) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (32) through (53) as paragraphs (36) through (57), respectively;

(2) by inserting before paragraph (36), as so redesignated, the following:

"(33) 'institution-affiliated party'—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act), has the meaning given it in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)); and

"(B) with respect to an insured credit union, has the meaning given it in section 206(r) of the Federal Credit Union Act (12 U.S.C. 1786(r));

"(34) 'insured credit union' has the meaning given it in section 101(7) of the Federal Credit Union Act (12 U.S.C. 1752(7));

"(35) 'insured depository institution'—

"(A) has the meaning given it in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)); and

"(B) includes an insured credit union (except in the case of paragraphs (3) and (33)(A) of this subsection);";

(3) by redesignating paragraphs (3) through (31) as paragraphs (4) through (32), respectively; and

(4) by inserting after paragraph (2) the following:

"(3) 'Federal depository institutions regulatory agency' means—

"(A) with respect to an insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act) for which no conservator or receiver has been appointed, the appropriate Federal banking agency (as defined in section 3(q) of such Act);

"(B) with respect to an insured credit union (including an insured credit union for which the National Credit Union Administration has been appointed conservator or liquidating agent), the National Credit Union Administration;

"(C) with respect to any insured depository institution for which the Resolution Trust Corporation has been appointed conservator or receiver, the Resolution Trust Corporation; and

"(D) with respect to any insured depository institution for which the Federal Deposit Insurance Corporation has been

appointed conservator or receiver, the Federal Deposit Insurance Corporation;".

SEC. 2523. REGULATION OF GOLDEN PARACHUTES AND OTHER BENEFITS WHICH ARE SUBJECT TO MISUSE.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) AUTHORITY TO REGULATE OR PROHIBIT CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.—The Corporation may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

"(2) FACTORS TO BE TAKEN INTO ACCOUNT.—The Corporation shall prescribe, by regulation, the factors to be considered by the Corporation in taking any action pursuant to paragraph (1) which may include such factors as the following:

"(A) Whether there is a reasonable basis to believe that the institution-affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the depository institution or depository institution holding company that has had a material affect on the financial condition of the institution.

"(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for the insolvency of the depository institution or depository institution holding company, the appointment of a conservator or receiver for the depository institution, or the depository institution's troubled condition (as defined in the regulations prescribed pursuant to section 32(f)).

"(C) Whether there is a reasonable basis to believe that the institution-affiliated party has materially violated any applicable Federal or State banking law or regulation that has had a material affect on the financial condition of the institution.

"(D) Whether there is a reasonable basis to believe that the institution-affiliated party has violated or conspired to violate—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code; or

"(ii) section 1341 or 1343 of such title affecting a federally insured financial institution.

"(E) Whether the institution-affiliated party was in a position of managerial or fiduciary responsibility.

"(F) The length of time the party was affiliated with the insured depository institution or depository institution holding company and the degree to which—

"(i) the payment reasonably reflects compensation earned over the period of employment; and

"(ii) the compensation involved represents a reasonable payment for services rendered.

"(3) CERTAIN PAYMENTS PROHIBITED.—No insured depository institution or depository institution holding company may prepay the salary or any liability or legal expense of any institution-affiliated party if such payment is made—

"(A) in contemplation of the insolvency of such institution or holding company or after the commission of an act of insolvency; and

"(B) with a view to, or has the result of—

"(i) preventing the proper application of the assets of the institution to creditors; or

"(ii) preferring one creditor over another.

"(4) GOLDEN PARACHUTE PAYMENT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'golden parachute payment' means any payment (or any agreement to make any payment) in the nature of compensation by any insured depository institution or depository institution holding company for the benefit of any institution-affiliated party pursuant to an obligation of such institution or holding company that—

"(i) is contingent on the termination of such party's affiliation with the institution or holding company; and

"(ii) is received on or after the date on which—

"(I) the insured depository institution or depository institution holding company, or any insured depository institution subsidiary of such holding company, is insolvent;

"(II) any conservator or receiver is appointed for such institution; or

"(III) the institution's appropriate Federal banking agency determines that the insured depository institution is in a troubled condition (as defined in the regulations prescribed pursuant to section 32(f));

"(IV) the insured depository institution has been assigned a composite rating by the appropriate Federal banking agency or the Corporation of 4 or 5 under the Uniform Financial Institutions Rating System; or

"(V) the insured depository institution is subject to a proceeding initiated by the Corporation to terminate or suspend deposit insurance for such institution.

"(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

"(C) CERTAIN PAYMENTS NOT INCLUDED.—The term 'golden parachute payment' shall not include—

"(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory benefit plan;

"(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or

"(iii) any payment made by reason of the death or disability of an institution-affiliated party.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term 'indemnification payment' means any payment (or any agreement to make any payment) by any insured depository institution or depository institution holding company for the benefit of any person who is or was an institution-affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the appropriate Federal banking agency which results in a final order under which such person—

"(i) is assessed a civil money penalty;

"(ii) is removed or prohibited from participating in conduct of the affairs of the insured depository institution; or

"(iii) is required to take any affirmative action described in section 8(b)(6) with respect to such institution.

"(B) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—

"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;

"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(C) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

"(I) the determination, after such date, of the liability for the payment of such amount; or

"(II) the liquidation, after such date, of the amount of such payment.

"(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any insured depository institution or depository institution holding company from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the institution or holding company which is described in paragraph (5)(A).".

(b) NCUA INSURED CREDIT UNIONS DEPOSITORY INSTITUTIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(t) REGULATION OF CERTAIN FORMS OF BENEFITS TO INSTITUTION-AFFILIATED PARTIES.—

"(1) GOLDEN PARACHUTES AND INDEMNIFICATION PAYMENTS.—The Board may prohibit or limit, by regulation or order, any golden parachute payment or indemnification payment.

"(2) FACTORS TO BE TAKEN INTO ACCOUNT.—The Board shall prescribe, by regulation, the factors to be considered by the Board in taking any action pursuant to paragraph (1) which may include such factors as the following: Regulations.

"(A) Whether there is a reasonable basis to believe that the institution-affiliated party has committed any fraudulent act or omission, breach of trust or fiduciary duty, or insider abuse with regard to the credit union that has had a material affect on the financial condition of the credit union.

"(B) Whether there is a reasonable basis to believe that the institution-affiliated party is substantially responsible for the insolvency of the credit union, the appointment of a conservator or liquidating agent for the credit union, or the credit union's troubled condition (as defined in prescribed by the Board pursuant to paragraph (4)(A)(ii)(III)).

"(C) Whether there is a reasonable basis to believe that the institution-affiliated party has materially violated any applicable Federal or State banking law or regulation that has had a material affect on the financial condition of the credit union.

"(D) Whether there is a reasonable basis to believe that the institution-affiliated party has violated or conspired to violate—

"(i) section 215, 656, 657, 1005, 1006, 1007, 1014, 1032, or 1344 of title 18, United States Code; or

"(ii) section 1341 or 1343 of such title affecting a financial institution.

"(E) Whether the institution-affiliated party was in a position of managerial or fiduciary responsibility.

"(F) The length of time the party was affiliated with the credit union and the degree to which—

"(i) the payment reasonably reflects compensation earned over the period of employment; and

"(ii) the compensation involved represents a reasonable payment for services rendered.

"(3) CERTAIN PAYMENTS PROHIBITED.—No credit union may prepay the salary or any liability or legal expense of any institution-affiliated party if such payment is made—

"(A) in contemplation of the insolvency of such credit union or after the commission of an act of insolvency; and

"(B) with a view to, or has the result of—

"(i) preventing the proper application of the assets of the credit union; or

"(ii) preferring one creditor over another.

"(4) GOLDEN PARACHUTE PAYMENT DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'golden parachute payment' means any payment (or any agreement to make any payment) in the nature of compensation by any credit union for the benefit of any institution-affiliated party pursuant to an obligation of such credit union that—

"(i) is contingent on the termination of such party's affiliation with the credit union; and

"(ii) is received on or after the date on which—
"(I) the credit union is insolvent;
"(II) any conservator or liquidating agent is appointed for such credit union; or
"(III) the Board determines that the credit union is in a troubled condition (as defined in regulations which the Board shall prescribe);
"(IV) the credit union has been assigned a composite rating by the Board of 4 or 5 under the Uniform Financial Institutions Rating System (as applicable with respect to credit unions); or
"(V) the credit union is subject to a proceeding initiated by the Board to terminate or suspend deposit insurance for such credit union.

"(B) CERTAIN PAYMENTS IN CONTEMPLATION OF AN EVENT.—Any payment which would be a golden parachute payment but for the fact that such payment was made before the date referred to in subparagraph (A)(ii) shall be treated as a golden parachute payment if the payment was made in contemplation of the occurrence of an event described in any subclause of such subparagraph.

"(C) CERTAIN PAYMENTS NOT INCLUDED.—The term 'golden parachute payment' shall not include—
"(i) any payment made pursuant to a retirement plan which is qualified (or is intended to be qualified) under section 401 of the Internal Revenue Code of 1986 or other nondiscriminatory retirement or severance benefit plan;
"(ii) any payment made pursuant to a bona fide deferred compensation plan or arrangement which the Board determines, by regulation or order, to be permissible; or
"(iii) any payment made by reason of the death or disability of an institution-affiliated party.

"(5) OTHER DEFINITIONS.—For purposes of this subsection—
"(A) INDEMNIFICATION PAYMENT.—Subject to paragraph (6), the term 'indemnification payment' means any payment (or any agreement to make any payment) by any credit union for the benefit of any person who is or was an institution-affiliated party, to pay or reimburse such person for any liability or legal expense with regard to any administrative proceeding or civil action instituted by the Board which results in a final order under which such person—
"(i) is assessed a civil money penalty;
"(ii) is removed or prohibited from participating in conduct of the affairs of the credit union; or
"(iii) is required to take any affirmative action described in section 206(e)(3) with respect to such credit union.

"(B) LIABILITY OR LEGAL EXPENSE.—The term 'liability or legal expense' means—
"(i) any legal or other professional expense incurred in connection with any claim, proceeding, or action;
"(ii) the amount of, and any cost incurred in connection with, any settlement of any claim, proceeding, or action; and

"(iii) the amount of, and any cost incurred in connection with, any judgment or penalty imposed with respect to any claim, proceeding, or action.

"(C) PAYMENT.—The term 'payment' includes—

"(i) any direct or indirect transfer of any funds or any asset; and

"(ii) any segregation of any funds or assets for the purpose of making, or pursuant to an agreement to make, any payment after the date on which such funds or assets are segregated, without regard to whether the obligation to make such payment is contingent on—

"(I) the determination, after such date, of the liability for the payment of such amount; or

"(II) the liquidation, after such date, of the amount of such payment.

"(6) CERTAIN COMMERCIAL INSURANCE COVERAGE NOT TREATED AS COVERED BENEFIT PAYMENT.—No provision of this subsection shall be construed as prohibiting any credit union from purchasing any commercial insurance policy or fidelity bond, except that, subject to any requirement described in paragraph (5)(A)(iii), such insurance policy or bond shall not cover any legal or liability expense of the credit union which is described in paragraph (5)(A).".

SEC. 2524. AMENDMENTS RELATING TO CIVIL FORFEITURE.

Section 981 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(C)—

(A) by inserting "1032," after "1014,"; and

(B) by inserting "or a violation of section 1341 or 1343 of such title affecting a financial institution" before the period;

(2) in subsection (b)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(B) by striking all that appears before subparagraph (A) (as so redesignated by subparagraph (A) of this paragraph) and inserting the following:

"(b)(1) Any property—

"(A) subject to forfeiture to the United States under subparagraph (A) or (B) of subsection (a)(1) of this section—

"(i) may be seized by the Attorney General; or

"(ii) in the case of property involved in a violation of section 5313(a) or 5324 of title 31, United States Code, or section 1956 or 1957 of this title investigated by the Secretary of the Treasury or the United States Postal Service, may be seized by the Secretary of the Treasury or the Postal Service; and

"(B) subject to forfeiture to the United States under subparagraph (C) of subsection (a)(1) of this section may be seized by the Attorney General, the Secretary of the Treasury, or the Postal Service.

"(2) Property shall be seized under paragraph (1) of this subsection upon process issued pursuant to the Supplemental Rules for certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when—";

(3) in subsection (e)(3), by striking "(if the affected financial institution is in receivership or liquidation)"; and

(4) in subsection (e)(4), by striking "(if the affected financial institution is not in receivership or liquidation)".

SEC. 2525. CIVIL AND CRIMINAL FORFEITURE FOR FRAUD IN THE SALE OF ASSETS BY THE RESOLUTION TRUST CORPORATION, FDIC, OR NCUA.

(a) CIVIL FORFEITURE.—

(1) IN GENERAL.—Section 981(a)(1) of title 18, United States Code, is amended by adding the following new subparagraphs:

"(D) Any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, from a violation of—

"(i) section 666(a)(1) (relating to Federal program fraud);

"(ii) section 1001 (relating to fraud and false statements);

"(iii) section 1031 (relating to major fraud against the United States);

"(iv) section 1032 (relating to concealment of assets from conservator or receiver of insured financial institution);

"(v) section 1341 (relating to mail fraud); or

"(vi) section 1343 (relating to wire fraud),

if such violation relates to the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution, or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision or the National Credit Union Administration, as conservator or liquidating agent for a financial institution.

"(E) With respect to an offense listed in subsection (a)(1)(D) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations or promises, the gross receipts of such an offense shall include all property, real or personal, tangible or intangible, which thereby is obtained, directly or indirectly.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 981(e) of title 18, United States Code, is amended by inserting after paragraph (6) (as added by section 108(3) of this Act) the following new paragraph:

"(7) In the case of property referred to in subsection (a)(1)(D), to the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any other Federal financial institution regulatory agency (as defined in section 8(e)(7)(D) of the Federal Deposit Insurance Act).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding the following new paragraphs:

"(3) The court, in imposing a sentence on a person convicted of an offense under—

"(A) section 666(a)(1) (relating to Federal program fraud);

"(B) section 1001 (relating to fraud and false statements);

"(C) section 1031 (relating to major fraud against the United States);

"(D) section 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of insured financial institution);

"(E) section 1341 (relating to mail fraud); or

"(F) section 1343 (relating to wire fraud),

involving the sale of assets acquired or held by the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, as conservator or receiver for a financial institution or any other conservator for a financial institution appointed by the Office of the Comptroller of the Currency or the Office of Thrift Supervision, or the National Credit Union Administration, as conservator or liquidating agent for a financial institution, shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross receipts obtained, directly or indirectly, as a result of such violation.

"(4) With respect to an offense listed in subsection (a)(3) committed for the purpose of executing or attempting to execute any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent statements, pretenses, representations, or promises, the gross receipts of such an offense shall include any property, real or personal, tangible or intangible, which is obtained, directly or indirectly, as a result of such offense.".

SEC. 2526. PROHIBITION ON ACQUISITIONS FROM CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS BY CONVICTED FELONS.

(a) FDIC INSURED DEPOSITORY INSTITUTIONS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(p) CERTAIN CONVICTED DEBTORS PROHIBITED FROM PURCHASING ASSETS.—

"(1) CONVICTED DEBTORS.—Except as provided in paragraph (2), any individual who—

"(A) has been convicted of an offense under section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit such an offense, affecting any insured depository institution for which any conservator or receiver has been appointed; and

"(B) is in default on any loan or other extension of credit from such insured depository institution which, if not paid, will cause substantial loss to the institution, any deposit insurance fund, the Corporation, the FSLIC Resolution Fund, or the Resolution Trust Corporation,

may not purchase any asset of such institution from the conservator or receiver.

"(2) SETTLEMENT OF CLAIMS.—Paragraph (1) shall not apply to the sale or transfer by the Corporation of any asset of any insured depository institution to any individual if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

"(A) 1 or more claims that have been, or could have been, asserted by the Corporation against the individual; or

"(B) obligations owed by the individual to any insured depository institution, the FSLIC Resolution Fund, the Resolution Trust Corporation, or the Corporation.".

(b) INSURED CREDIT UNIONS.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by adding at the end the following new subsection:

"(q) PROHIBITION ON CERTAIN ACQUISITIONS OF ASSETS.—

"(1) CONVICTED DEBTORS.—Except as provided in paragraph (2), any individual who—

"(A) has been convicted of an offense under section 215, 657, 1006, 1014, 1032, 1341, 1343, or 1344 of title 18, United States Code, or of conspiring to commit any such offense, affecting any insured credit union for which the Board is appointed conservator or liquidating agent; and

"(B) is in default on any loan or other extension of credit from such insured credit union which, if not paid, will cause substantial loss to the credit union, the National Credit Union Share Insurance Fund, or the Board,

may not purchase any asset of such credit union from the conservator or liquidating agent.

"(2) SETTLEMENT OF CLAIMS.—Paragraph (1) shall not apply to the sale or transfer by the Board of any asset of any insured credit union to any individual if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of—

"(A) 1 or more claims that have been, or could have been, asserted by the Board against the individual; or

"(B) obligations owed by the individual to the insured credit union or the Board.".

(c) LIMITATION ON RTC ASSET SALES.—Section 21A(f) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(f)) is amended to read as follows:

"(f) LIMITATION ON CERTAIN CORPORATION ACTIVITIES.—

Regulations.

"(1) CERTAIN SALES PROHIBITED.—The Corporation shall prescribe regulations to prohibit the sale of assets of a failed institution by the Corporation to any person who—

"(A)(i) has defaulted, or was a member of a partnership or an officer or director of a corporation which has defaulted, on 1 or more obligations the aggregate amount of which exceed $1,000,000 to such failed institution;

"(ii) has been found to have engaged in fraudulent activity in connection with any obligation referred to in clause (i); and

"(iii) proposes to purchase any such asset in whole or in part through the use of the proceeds of a loan or advance of credit from the Corporation or from any institution subject to the jurisdiction of the Corporation pursuant to paragraph (3)(A);

"(B) participated, as an officer or director of such failed institution or of any affiliate of such institution, in a material way in transactions that resulted in a substantial loss to such failed institution;

"(C) has been removed from, or prohibited from participating in the affairs of, such failed institution pursuant to any final enforcement action by an appropriate Federal banking agency; or

"(D) has demonstrated a pattern or practice of defalcation regarding obligations to such failed institution.

"(2) SETTLEMENT OF CLAIMS; DEFINITIONS.—

"(A) SETTLEMENT OF CLAIMS.—Nothing in this subsection shall prohibit the Corporation from selling or otherwise

transferring any asset to any person if the sale or transfer of the asset resolves or settles, or is part of the resolution or settlement, of obligations owed by the person to the failed institution or the Corporation.

"(B) DEFINITIONS.—For purposes of paragraph (1)—

"(i) DEFAULT.—The term 'default' means a failure to comply with the terms of a loan or other obligation to such an extent that the property securing the obligation is foreclosed upon.

"(ii) AFFILIATE.—The term 'affiliate' has the meaning given to such term in section 2(k) of the Bank Holding Company Act of 1956.".

SEC. 2527. EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.

(a) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by inserting after subsection (p) (as added by section 2526 of this title) the following new subsection:

"(q) EXPEDITED PROCEDURES FOR CERTAIN CLAIMS.—

"(1) TIME FOR FILING NOTICE OF APPEAL.—The notice of appeal of any order, whether interlocutory or final, entered in any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution shall be filed not later than 30 days after the date of entry of the order. The hearing of the appeal shall be decided not later than 120 days after the date of the notice of appeal. The appeal shall be decided not later than 180 days after the date of the notice of appeal.

"(2) SCHEDULING.—Consistent with section 1657 of title 18, United States Code, a court of the United States shall expedite the consideration of any case brought by the Corporation against an insured depository institution's director, officer, employee, agent, attorney, accountant, or appraiser or any other person employed by or providing services to an insured depository institution. As far as practicable the court shall give such case priority on its docket.

"(3) JUDICIAL DISCRETION.—The court may modify the schedule and limitations stated in paragraphs (1) and (2) in a particular case, based on a specific finding that the ends of justice that would be served by making such a modification would outweigh the best interest of the public in having the case resolved expeditiously.".

(b) CONFORMING AMENDMENT.—Section 1657 of title 18, United States Code, is amended by inserting "section 11, 12, or 13 of the Federal Deposit Insurance Act" after "consideration of any action brought under".

SEC. 2528. FRAUDULENT CONVEYANCES AVOIDABLE BY CONSERVATORS AND RECEIVERS.

(a) INSURED DEPOSITORY INSTITUTIONS OTHER THAN INSURED CREDIT UNIONS.—Section 11(d) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)) is amended by adding at the end the following new paragraph:

"(17) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Corporation, as conservator or receiver for any insured depository institution, and any conservator appointed by the Comptroller of the Currency or the Director of the Office of Thrift Supervision may avoid a transfer of any interest of an institution-affiliated party, or any person who the Corporation or conservator determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Corporation or conservator was appointed conservator or receiver if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured depository institution, the Corporation or other conservator, or any other appropriate Federal banking agency.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Corporation or any conservator described in such subparagraph may recover, for the benefit of the insured depository institution, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Corporation or any conservator described in subparagraph (A) may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights under this paragraph of the Corporation and any conservator described in subparagraph (A) shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

(b) INSURED CREDIT UNIONS.—Section 207(b) of the Federal Credit Union Act (12 U.S.C. 1787(b)) is amended by adding at the end the following new paragraph:

"(16) FRAUDULENT TRANSFERS.—

"(A) IN GENERAL.—The Board, as conservator or liquidating agent for any insured credit union, may avoid a transfer of any interest of an institution-affiliated party, or any person who the Board determines is a debtor of the institution, in property, or any obligation incurred by such party or person, that was made within 5 years of the date on which the Board becomes conservator or liquidating agent if such party or person voluntarily or involuntarily made such transfer or incurred such liability with the intent to hinder, delay, or defraud the insured credit union or the Board.

"(B) RIGHT OF RECOVERY.—To the extent a transfer is avoided under subparagraph (A), the Board may recover,

for the benefit of the insured credit union, the property transferred, or, if a court so orders, the value of such property (at the time of such transfer) from—

"(i) the initial transferee of such transfer or the institution-affiliated party or person for whose benefit such transfer was made; or

"(ii) any immediate or mediate transferee of any such initial transferee.

"(C) RIGHTS OF TRANSFEREE OR OBLIGEE.—The Board may not recover under subparagraph (B) from—

"(i) any transferee that takes for value, including satisfaction or securing of a present or antecedent debt, in good faith; or

"(ii) any immediate or mediate good faith transferee of such transferee.

"(D) RIGHTS UNDER THIS PARAGRAPH.—The rights of the Board under this paragraph shall be superior to any rights of a trustee or any other party (other than any party which is a Federal agency) under title 11, United States Code.".

Subtitle C—Improved Procedures for Handling Banking-Related Cases

SEC. 2531. WIRETAP AUTHORITY FOR BANK FRAUD AND RELATED OFFENSES; TECHNICAL AMENDMENTS TO WIRETAP LAW.

Section 2516 of title 18, United States Code, is amended—

(1) in paragraph (1)(c)—

(A) by inserting "section 215 (relating to bribery of bank officials)," before "section 224";

(B) by inserting "section 1014 (relating to loans and credit applications generally; renewals and discounts)," before "sections 1503,";

(C) by inserting "section 1032 (relating to concealment of assets)," before "section 1084";

(D) by inserting "section 1344 (relating to bank fraud)," before "sections 2251 and 2252"; and

(E) by striking "the section in chapter 65 relating to destruction of an energy facility,"; and

(2) in paragraph (1)—

(A) by striking the 1st subparagraph which is designated as "(m)";

(B) by striking "and" at the end of the 2d subparagraph designated as "(m)" (as determined before the amendment made by subparagraph (A) of this paragraph);

(C) by striking the period at the end of subparagraph (n) and inserting "; and"; and

(D) by adding at the end the following new subparagraph:

"(o) any conspiracy to commit any offense described in any subparagraph of this paragraph."; and

(3) in paragraph (1)(j), by striking "any violation of section 1679(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or subsection

(i) or (n) of section 902 of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

SEC. 2532. FOREIGN INVESTIGATIONS BY FEDERAL BANKING AGENCIES AND INVESTIGATIONS ON BEHALF OF FOREIGN BANKING AUTHORITIES.

(a) APPROPRIATE FEDERAL BANKING AGENCIES, GENERALLY.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end thereof the following new subsection:

"(v) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the appropriate Federal banking agency may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—Any appropriate Federal banking agency may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—Any appropriate Federal banking agency may, in such agency's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the appropriate Federal banking agency.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the appropriate Federal banking agency shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or appropriate Federal banking agency regulation relating to the collection or transfer of information by any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of an appropriate Federal banking agency or any other Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(b) FOREIGN INVESTIGATIONS BY FDIC AND RTC AS CONSERVATOR OR RECEIVER.—Section 11 of the Federal Deposit Insurance Act (12

U.S.C. 1821) is amended by inserting after subsection (q) (as added by section 2527 of this Act) the following new subsection:

"(r) FOREIGN INVESTIGATIONS.—The Corporation and the Resolution Trust Corporation, as conservator or receiver of any insured depository institution and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 8(v); and

"(2) may each maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

(c) NATIONAL CREDIT UNION ADMINISTRATION, GENERALLY.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by inserting after subsection (t) (as added by section 2503(b) of this Act) the following new subsection:

"(u) FOREIGN INVESTIGATIONS.—

"(1) REQUESTING ASSISTANCE FROM FOREIGN BANKING AUTHORITIES.—In conducting any investigation, examination, or enforcement action under this Act, the Board may—

"(A) request the assistance of any foreign banking authority; and

"(B) maintain an office outside the United States.

"(2) PROVIDING ASSISTANCE TO FOREIGN BANKING AUTHORITIES.—

"(A) IN GENERAL.—The Board may, at the request of any foreign banking authority, assist such authority if such authority states that the requesting authority is conducting an investigation to determine whether any person has violated, is violating, or is about to violate any law or regulation relating to banking matters or currency transactions administered or enforced by the requesting authority.

"(B) INVESTIGATION BY FEDERAL BANKING AGENCY.—The Board may, in the Board's discretion, investigate and collect information and evidence pertinent to a request for assistance under subparagraph (A). Any such investigation shall comply with the laws of the United States and the policies and procedures of the Board.

"(C) FACTORS TO CONSIDER.—In deciding whether to provide assistance under this paragraph, the Board shall consider—

"(i) whether the requesting authority has agreed to provide reciprocal assistance with respect to banking matters within the jurisdiction of the Board or any appropriate Federal banking agency; and

"(ii) whether compliance with the request would prejudice the public interest of the United States.

"(D) TREATMENT OF FOREIGN BANKING AUTHORITY.—For purposes of any Federal law or Board regulation relating to the collection or transfer of information by the Board or any appropriate Federal banking agency, the foreign banking authority shall be treated as another appropriate Federal banking agency.

"(3) RULE OF CONSTRUCTION.—Paragraphs (1) and (2) shall not be construed to limit the authority of the Board or any other

Federal agency to provide or receive assistance or information to or from any foreign authority with respect to any matter.".

(d) FOREIGN INVESTIGATIONS BY BOARD AS CONSERVATOR OR LIQUIDATING AGENT.—Section 207 of the Federal Credit Union Act (12 U.S.C. 1787) is amended by inserting after subsection (q) (as added by section 2526(b) of this Act) the following new subsection:

"(r) FOREIGN INVESTIGATIONS.—The Board, as conservator or liquidating agent of any insured credit union and for purposes of carrying out any power, authority, or duty with respect to an insured credit union—

"(1) may request the assistance of any foreign banking authority and provide assistance to any foreign banking authority in accordance with section 206(u); and

"(2) may maintain an office to coordinate foreign investigations or investigations on behalf of foreign banking authorities.".

SEC. 2533. EXTENSION OF STATUTE OF LIMITATIONS FOR CIVIL PENALTIES.

Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended by adding at the end the following:

"(g) STATUTE OF LIMITATIONS.—A civil action under this section may not be commenced later than 10 years after the cause of action accrues.".

SEC. 2534. CLARIFICATION OF SUBPOENA AUTHORITY FOR FDIC, RTC, AND NCUA ACTING AS CONSERVATOR, RECEIVER, OR LIQUIDATING AGENT.

(a) FDIC AND RTC AUTHORITY.—Section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Corporation may, as conservator, receiver, or exclusive manager and for purposes of carrying out any power, authority, or duty with respect to an insured depository institution (including determining any claim against the institution and determining and realizing upon any asset of any person in the course of collecting money due the institution), exercise any power established under section 8(n), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD OF DIRECTORS.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board of Directors or their designees (or, in the case of a subpoena or subpoena duces tecum issued by the Resolution Trust Corporation under this subparagraph and section 21A(b)(4), only by, or with the written approval of, the Board of Directors of such Corporation or their designees).

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Cor-

poration, in any capacity, might otherwise have under section 10(c) of this Act.".

(b) NCUA AUTHORITY.—Section 207(b)(2) of the Federal Credit Union Act (12 U.S.C. 1787(b)(2)) is amended by redesignating subparagraph (I) (as so redesignated by section 202(b) of this Act) as subparagraph (J) and by inserting after subparagraph (H) (as added by such section) the following new subparagraph:

"(I) SUBPOENA AUTHORITY.—

"(i) IN GENERAL.—The Board may, as conservator or liquidating agent and for purposes of carrying out any power, authority, or duty with respect to an insured credit union (including determining any claim against the credit union and determining and realizing upon any asset of any person in the course of collecting money due the credit union), exercise any power established under section 206(p), and the provisions of such section shall apply with respect to the exercise of any such power under this subparagraph in the same manner as such provisions apply under such section.

"(ii) AUTHORITY OF BOARD.—A subpoena or subpoena duces tecum may be issued under clause (i) only by, or with the written approval of, the Board or their designees.

"(iii) RULE OF CONSTRUCTION.—This subsection shall not be construed as limiting any rights that the Board, in any capacity, might otherwise have under section 206(p).".

Subtitle D—Structural Reforms to Improve the Federal Response to Crimes Affecting Financial Institutions

SEC. 2536. ESTABLISHMENT OF FINANCIAL INSTITUTIONS CRIME UNIT AND OFFICE OF SPECIAL COUNSEL FOR FINANCIAL INSTITUTIONS CRIME UNIT. 28 USC 509 note.

(a) ESTABLISHMENT.—There is established within the Office of the Deputy Attorney General in the Department of Justice a Financial Institutions Fraud Unit to be headed by a special counsel (hereafter in this title referred to as the "Special Counsel").

(b) RESPONSIBILITY.—The Financial Institutions Fraud Unit and the Special Counsel shall be responsible to and shall report directly to the Deputy Attorney General.

(c) SUNSET.—The provisions of this section shall cease to apply at the end of the 5-year period beginning on the date of the enactment of this Act.

SEC. 2537. APPOINTMENT RESPONSIBILITIES AND COMPENSATION OF THE SPECIAL COUNSEL. 28 USC 509 note.

(a) APPOINTMENT.—The Special Counsel shall be appointed by the President, by and with the advice and consent of the Senate.

(b) RESPONSIBILITIES.—The Special Counsel shall—

(1) supervise and coordinate investigations and prosecutions within the Department of Justice of fraud and other criminal activity in and against the financial services industry, including, to the extent consistent with the independent counsel

provision of chapter 40 of title 28, United States Code, any such activity by any current or former elected official or high-level executive branch official or any member of the immediate family of any such official;

(2) ensure that Federal law relating to civil enforcement, asset seizure and forfeiture, money laundering, and racketeering are used to the fullest extent authorized to recover the proceeds of unlawful activities from persons who have committed crimes in and against the financial services industry; and

(3) ensure that adequate resources are made available for the investigation and prosecution of fraud and other criminal activity in and against the financial services industry.

(c) COMPENSATION.—The Special Counsel shall be paid at the basic pay payable for level V of the Executive Schedule.

28 USC 509 note.

SEC. 2538. ASSIGNMENT OF PERSONNEL.

There shall be assigned to the Financial Institutions Fraud Unit such personnel as the Attorney General deems necessary to provide an appropriate level of enforcement activity in the area of fraud and other criminal activity in and against the financial services industry.

28 USC 509 note.

SEC. 2539. FINANCIAL INSTITUTIONS FRAUD TASK FORCES.

(a) ESTABLISHMENT.—The Attorney General shall establish such financial institutions fraud task forces as the Attorney General deems appropriate to ensure that adequate resources are made available to investigate and prosecute crimes in or against financial institutions and to recover the proceeds of unlawful activities from persons who have committed fraud or have engaged in other criminal activity in or against the financial services industry.

(b) SUPERVISION.—The Attorney General shall determine how each task force shall be supervised and may provide for the supervision of any task force by the Special Counsel.

(c) SENIOR INTERAGENCY GROUP.—

(1) ESTABLISHMENT.—The Attorney General shall establish a senior interagency group to assist in identifying the most significant financial institution fraud cases and in allocating investigative and prosecutorial resources where they are most needed.

(2) MEMBERSHIP.—The senior interagency group shall be chaired by the Special Counsel and shall include senior officials from—

(A) the Department of Justice, including representatives of the Federal Bureau of Investigation, the Advisory Committee of United States Attorneys, and other relevant entities;

(B) the Department of the Treasury;

(C) the Office of Thrift Supervision;

(D) the Resolution Trust Corporation;

(E) the Federal Deposit Insurance Corporation;

(F) the Office of the Comptroller of the Currency;

(G) the Board of Governors of the Federal Reserve System; and

(H) the National Credit Union Administration.

(3) DUTIES.—This senior interagency group shall enhance interagency coordination and assist in accelerating the investigations and prosecution of financial institutions fraud.

SEC. 2540. RTC ENFORCEMENT DIVISION.

Section 21A(b)(12) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(12)) is amended by adding at the end thereof the following new subparagraph:

"(G) The Corporation shall maintain an executive-level position and dedicated staff to assist and advise the Corporation and other agencies in pursuing cases, civil claims, and administrative enforcement actions against institution-affiliated parties of insured depository institutions under the jurisdiction of the Corporation. These personnel shall have such duties as the Corporation establishes, including the duty to compile and publish a report to the Congress on the coordinated pursuit of claims by all Federal financial institution regulatory agencies, including the Department of Justice and the Securities and Exchange Commission. The report shall be published before December 31, 1990 and updated semiannually after such date.". Reports.

Subtitle E—Reporting Requirements

SEC. 2546. REPORTING REQUIREMENTS. 28 USC 522 note.

(a) IN GENERAL.—

(1) DATA COLLECTION.—The Attorney General shall compile and collect data concerning—

(A) the nature and number of civil and criminal investigations, prosecutions, and related proceedings, and civil enforcement and recovery proceedings, in progress with respect to banking law offenses under sections 981, 1008, 1032, and 3322(d) of title 18, United States Code, and section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and conspiracies to commit any such offense, including inactive investigations of such offenses;

(B) the number of—

(i) investigations, prosecutions, and related proceedings described in subparagraph (A) which are inactive as of the close of the reporting period but have not been closed or declined; and

(ii) unaddressed referrals which allege criminal misconduct involving offenses described in subparagraph (A),

and the reasons such matters are inactive and the referrals unaddressed;

(C) the nature and number of such matters closed, settled, or litigated to conclusion; and

(D) the results achieved, including convictions and pretrial diversions, fines and penalties levied, restitution assessed and collected, and damages recovered, in such matters.

(2) ANALYSIS AND REPORT.—The Attorney General shall analyze and report to the Congress on the data described in paragraph (1) and its coordination and other related activities named in section 2539(c)(2) and shall provide such report on the data monthly through December 31, 1991, and quarterly after such date.

(b) SPECIFICS OF REPORT.—The report required by subsection (a) shall—

(1) categorize data as to various types of financial institutions and appropriate dollar loss categories;

(2) disclose data for each Federal judicial district;

(3) describe the activities of the Financial Institution Fraud Unit; and

(4) list—

(A) the number of institutions, categorized by failed and open institutions, in which evidence of significant fraud, unlawful activity, insider abuse or serious misconduct has been alleged or detected;

(B) civil, criminal, and administrative enforcement actions, including those of the Federal financial institutions regulatory agencies, brought against offenders;

(C) any settlements or judgments obtained against offenders;

(D) indictments, guilty pleas, or verdicts obtained against offenders; and

(E) the resources allocated in pursuit of investigations, prosecutions, and sentencings (including indictments, guilty pleas, or verdicts obtained against offenders) and related proceedings.

Public information.

SEC. 2547. CIVIL DISCLOSURE.

(a) PROVISIONS APPLICABLE TO FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—Section 8(u) of the Federal Deposit Insurance Act (12 U.S.C. 1818(u)) is amended to read as follows:

"(u) PUBLIC DISCLOSURES OF FINAL ORDERS AND AGREEMENTS.—

"(1) IN GENERAL.—The appropriate Federal banking agency shall publish and make available to the public on a monthly basis—

"(A) any written agreement or other written statement for which a violation may be enforced by the appropriate Federal banking agency, unless the appropriate Federal banking agency, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by such agency under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by a Federal banking agency shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.

"(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to subsection (i). A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

"(5) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the appropriate Federal banking agency makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(6) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The appropriate Federal banking agency may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2).

"(7) RETENTION OF DOCUMENTS.—Each Federal banking agency shall keep and maintain a record, for a period of at least 6 years, of all documents described in paragraph (1) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by such agency under this section or any other laws.

"(8) DISCLOSURES TO CONGRESS.—No provision of this subsection may be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee of the Congress.".

(2) PUBLIC HEARINGS.—Section 8(h)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(h)(1)) is amended by striking "Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to all written agreements which are entered into and all written statements which become effective after the date of the enactment of this Act. 12 USC 1818 note.

(b) AMENDMENT OF FEDERAL CREDIT UNION ACT.—

(1) IN GENERAL.—Section 206(s) of the Federal Credit Union Act (12 U.S.C. 1786(s)) is amended to read as follows:

"(s) PUBLIC DISCLOSURE OF AGENCY ACTION.—

"(1) IN GENERAL.—The Board shall publish and make available to the public on a monthly basis—

"(A) any written agreement or other written statement for which a violation may be enforced by the Board, unless the Board, in its discretion, determines that publication would be contrary to the public interest;

"(B) any final order issued with respect to any administrative enforcement proceeding initiated by the Board under this section or any other law; and

"(C) any modification to or termination of any order or agreement made public pursuant to this paragraph.

"(2) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Board shall be open to the public, unless the agency, in its discretion, determines that holding an open hearing would be contrary to the public interest.

"(3) REPORTS TO CONGRESS.—A written report shall be made part of a determination not to hold a public hearing pursuant to paragraph (2) or not to publish a document pursuant to paragraph (1)(A). At the end of each calendar quarter, all such reports shall be transmitted to the Congress.

"(4) TRANSCRIPT OF HEARING.—A transcript that includes all testimony and other documentary evidence shall be prepared for all hearings commenced pursuant to subsection (k). A transcript of public hearings shall be made available to the public pursuant to section 552 of title 5, United States Code.

"(5) DELAY OF PUBLICATION UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Board makes a determination in writing that the publication of a final order pursuant to paragraph (1)(B) would seriously threaten the safety and soundness of an insured depository institution, the agency may delay the publication of the document for a reasonable time.

"(6) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Board may file any document or part of a document under seal in any administrative enforcement hearing commenced by the agency if disclosure of the document would be contrary to the public interest. A written report shall be made part of any determination to withhold any part of a document from the transcript of the hearing required by paragraph (2).

Reports.

"(7) RETENTION OF DOCUMENTS.—The Board shall keep and maintain a record, for a period of at least 6 years, of all documents described in paragraph (1) and all informal enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any administrative enforcement proceeding initiated by such agency under this section or any other laws.

"(8) DISCLOSURES TO CONGRESS.—No provision of this subsection may be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee of the Congress.".

(2) PUBLIC HEARING.—Section 206(j)(1) of the Federal Credit Union Act (12 U.S.C. 1786(j)(1)) is amended by striking "Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest.".

SEC. 2548. REPORT ON COURT BUSINESS IMPACT OF SAVINGS AND LOAN CRISIS.

Section 604(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis.".

Subtitle F—National Commission on Financial Institution Reform, Recovery, and Enforcement

SEC. 2551. ESTABLISHMENT.

There is hereby established a commission to be known as the National Commission on Financial Institution Reform, Recovery, and Enforcement (hereafter in this title referred to as the "Commission").

SEC. 2552. DUTIES OF THE COMMISSION.

The Commission shall—

(1) examine and identify the origin and causes of the problems in the savings and loan industry that led to the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, including consideration of the role of—

(A) State and Federal regulation of savings and loan associations, including capital and accounting standards;

(B) supervision of, and supervisory resources allocated to, savings and loan associations by, or under the authority of, State and Federal Governments;

(C) State and Federal statutes concerning savings and loan associations, including asset powers legislation;

(D) macroeconomic changes and regional recessions;

(E) competitive factors;

(F) unprecedented fraud and abuse by persons in or connected with savings and loan associations; and

(G) deposit insurance, including changes in the amount insured and in technology;

(2) recommend, on the basis of the Commission's examination and investigations under this section, further legislative, regulatory, supervisory, and other administrative changes that will—

(A) improve the safety and soundness of depository associations, the Federal deposit insurance funds, and other Federal insurance programs;

(B) facilitate civil and criminal enforcement actions concerning financial institutions; and

(C) prevent the recurrence of the problems identified in the savings and loan industry; and

(3) recommend any other reforms which the Commission determines to be appropriate.

SEC. 2553. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 8 members appointed as follows:

(1) 2 individuals appointed by the President.

(2) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(3) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of

whom shall be appointed upon the recommendation of the minority leader of the Senate.

(b) ELIGIBILITY.—No member, officer, or employee of the executive, legislative, or judicial branch of the Federal Government or of any State or local government may be a member of the Commission.

(c) TERMS.—

(1) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(2) VACANCY.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROHIBITION ON COMPENSATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) QUORUM.—5 members of the Commission shall constitute a quorum but 3 members may hold hearings.

(f) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the Commission from among its members.

(g) MEETINGS.—The Commission shall meet at the call of the Chairperson or of 5 members of the Commission.

(h) PROXY VOTING.—Members of the Commission may vote by proxy.

SEC. 2554. POWERS OF COMMISSION; HEARINGS AND SESSIONS.

(a) IN GENERAL.—The Commission may, for the purposes of carrying out this subtitle, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(b) WITNESSES; ADMINISTRATION OF OATHS.—

(1) IN GENERAL.—Subject to paragraph (2) and, in the case of a subpoena, to subsection (c), the Commission may call witnesses and administer oaths or affirmations to witnesses appearing before the Commission.

(2) COORDINATION OF CERTAIN TESTIMONY AND EVIDENCE.—(A) In any case where the Commission intends to call a witness or receive evidence (including a witness or evidence to be subpoened in accordance with subsection (c)) to provide testimony concerning a specific savings and loan association or the role of any person in connection therewith, the Commission shall, in writing not less than 21 days prior to the taking of such testimony or receiving such evidence, provide the Attorney General, the Director of the Office of Thrift Supervision, and the Chairperson of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation with—

(i) the name of the savings and loan association involved;

(ii) the date and location of the testimony or the receipt of evidence; and

(iii) as appropriate, the name of the witness and a specific identification of the subject matter about which such witness is to testify or provide evidence, or the specific nature of the evidence to be received.

(B) If the Attorney General, the Director of the Office of Thrift Supervision, or the Chairperson of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation determines that taking such testimony or receiving such evi-

dence (including witnesses or evidence to be subpoened in accordance with subsection (c)) would impair, impede, or compromise the investigation, prosecution, or adjudication of a criminal, civil, or administrative matter or proceeding, the Attorney General, the Director, or the Chairperson shall promptly notify the Commission of that determination.

(C) The Commission shall decide whether to proceed to call a witness or to receive evidence after considering any determination under subparagraph (B)—

(i) on the basis of the Commission's determination that taking such testimony or receiving such evidence is specifically necessary to carry out the duties of the Commission; and

(ii) upon an affirmative vote of not fewer than 5 members of the Commission (or not fewer than 6 members of the Commission in the case of a witness or evidence to be subpoened).

(D) The Commission shall notify the official who made the determination under subparagraph (B) of the Commission's determination under subparagraph (C).

(c) SUBPOENA POWER.—

(1) ADMINISTRATIVE ASPECTS OF SUBPOENA.—

(A) ATTENDANCE OR PRODUCTION AT DESIGNATED SITE.—The attendance of witnesses and the production of evidence may be required from any place within the United States at any designated place of hearing within the United States.

(B) FEES AND TRAVEL EXPENSES.—Persons served with a subpoena under this subsection shall be paid the same fees and mileage for travel within the United States that are paid witnesses in Federal courts.

(C) NO LIABILITY FOR OTHER EXPENSES.—The Commission and the United States shall not be liable for any expense, other than an expense described in subparagraph (B), incurred in connection with the production of any evidence under this subsection.

(2) FAILURE TO OBEY A SUBPOENA.—

(A) APPLICATION TO COURT.—If a person refuses to obey a subpoena issued under this subsection, the Commission may apply to a district court of the United States for an order requiring that person to appear before the Commission to give testimony or produce evidence, as the case may be, relating to the matter under investigation.

(B) JURISDICTION OF COURT.—The application may be made within the judicial district where the hearing is conducted or where that person is found, resides, or transacts business.

(C) FAILURE TO COMPLY WITH ORDER.—Any failure to obey the order of the court may be punished by the court as civil contempt.

(3) SERVICE OF SUBPOENAS.—The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) SERVICE OF PROCESS.—All process of any court to which application is to be made under paragraph (3) may be served in the judicial district in which the person required to be served resides or may be found.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) INTERIM REPORT.—Not later than 60 days after the date of the enactment of this Act, the Commission may submit a report to the Congress concerning the ability of the Commission to obtain information and evidence necessary to carry out its duties under this subtitle and including such recommendations concerning additional authority as the Commission deems appropriate.

(f) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission administrative support services on a reimbursable basis.

(g) POWERS OF MEMBERS AND AGENTS.—Except for actions that require a vote of the Commission, any member or agent authorized by the Commission may take any action the Commission may take.

SEC. 2555. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) STAFF.—Subject to such regulations as the Commission may prescribe, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS-18 of the General Schedule.

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

SEC. 2556. REPORT.

(a) REPORT REQUIRED.—The Commission shall submit a final report to the President and the Congress not later than 9 months after the election of the Chairperson under section 3(f).

(b) CONTENTS.—The final report shall, consistent with the duties of the Commission set forth in section 2562 of this title, contain a detailed statement of the findings, conclusions, and recommendations of the Commission.

SEC. 2557. TERMINATION.

The Commission shall terminate 30 days after submitting the report required by section 2566(a) of this Act.

SEC. 2558. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not to exceed $1,000,000 to carry out the purposes of this Act.

Subtitle G—Authorizations

SEC. 2559. ADDITIONAL FUNDING FOR INVESTIGATORS AND PROSECUTORS FOR BANK CRIME CASES.

(a) ADDITIONAL APPROPRIATION FOR DEPARTMENT OF JUSTICE.—Section 966(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—There is authorized to be appropriated to the Attorney General, without fiscal year limitation, $162,500,000 for each of fiscal years 1991 through 1993, for purposes of investigations, prosecutions, and civil proceedings involving financial institutions to which the Act and amendments made by this Act apply.

"(2) ALLOCATIONS.—With respect to fiscal years 1991 and 1992, the amount authorized to be appropriated under paragraph (1) shall be allocated as follows:

"(A) Federal Bureau of Investigation: $78,300,000.

"(B) The offices of the United States attorneys: $65,000,000.

"(C) The criminal division of the Department of Justice: $8,800,000.

"(D) The civil division of the Department of Justice: $7,000,000.

"(E) The tax division of the Department of Justice: $3,400,000.".

(b) ADDITIONAL APPROPRIATIONS FOR THE INTERNAL REVENUE SERVICE.—There is authorized to be appropriated to the Internal Revenue Service, Department of the Treasury, $16,000,000 for fiscal year 1991 for investigation of violations of the Internal Revenue Code of 1986, and related statutes, involving insured depository institutions.

(c) ADDITIONAL FUNDS FOR THE FEDERAL JUDICIARY.—Section 967 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 506) is amended to read as follows:

"SEC. 967. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS FOR THE FEDERAL JUDICIARY.

"(a) IN GENERAL.—There are authorized to be appropriated to the Federal court system $25,000,000 for fiscal year 1991 and $28,000,000 for each of fiscal years 1992 and 1993 to carry out such system's duties under this Act.".

Subtitle H—Actions Against Persons Committing Bank Fraud Crimes

Financial Institutions Anti-Fraud Enforcement Act of 1990.

SEC. 2560. SHORT TITLE.

12 USC 4201 note.

This subtitle may be cited as the "Financial Institutions Anti-Fraud Enforcement Act of 1990".

CHAPTER 1—DECLARATIONS PROVIDING NEW CLAIMS TO THE UNITED STATES

12 USC 4201.

SEC. 2561. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS.

(a) IN GENERAL.—Any person may file a declaration of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by the Attorney General for receiving declarations under this section.

12 USC 4202.

SEC. 2562. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2561 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts, relating to a particular transaction or transactions, which constitute a prima facie case of a violation giving rise to an action for civil penalties under section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States;

(3) contain at least 1 new factual element necessary to establish a prima facie case that was unknown to the Government at the time of filing; and

(4) set forth all facts supporting the allegation of a violation described in paragraph (2) known to the declarant, along with the names of material witnesses and the nature and location of documentary evidence known to the declarant.

12 USC 4203.

SEC. 2563. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2561 until—

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2566(b);

(2) the declarant receives notice of an award pursuant to section 2566(c); or

(3) the declarant is granted a contract to pursue an action under section 2565(b) or 2567.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is

required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this title, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

SEC. 2564. INELIGIBILITY TO FILE VALID DECLARATIONS. 12 USC 4204.

(a) IN GENERAL.—A declaration filed pursuant to section 811 and in accordance with sections 2562 and 2563 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 951(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(5), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2562, or that a declaration has been disclosed in violation of section 2563, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2565 or 2566.

12 USC 4205.

SEC. 2565. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a cause of action referred to in section 2561 based on the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) CRIMINAL CONVICTION.—(1) When the United States obtains a criminal conviction and the Attorney General determines that the conviction was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to receive not less than $5,000 and not more than $100,000, any such award to be paid from the Financial Institution Information Award Fund established under section 2569.

(2) In determining the size of any award under paragraph (1), the Attorney General may, in the Attorney General's discretion, consider any appropriate factor, including—

(A) the seriousness of the offense for which the conviction was obtained;

(B) the extent to which the facts alleged in the declaration contributed to the conviction;

(C) the number of offenders apprehended pursuant to information provided by the declarant;

(D) whether or not the offender was previously under investigation by any law enforcement agency when the declaration was filed;

(E) the extent to which the declarant cooperated in the development of the Government's case and its presentation at trial;

(F) the sentences and fines imposed on the offender and other offenders in related cases;

(G) the extent to which other sources of private information were relied upon; and

(H) the hardship to the declarant and any expenses the declarant incurred in preparing the declaration.

(d) SHARE OF FUNDS AND ASSETS.—(1) When the United States acquires funds or assets pursuant to the execution of a judgment, order, or settlement and the Attorney General determines that the judgment, order, or settlement was based in whole or in part on the information contained in a valid declaration filed under section 2561, the declarant shall have the right to share in the recovery as follows:

(A)(i) The declarant shall be entitled to 20 percent to 30 percent of any recovery up to the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(ii) In calculating an award under clause (i), the Attorney General may consider the size of the overall recovery and the usefulness of the information provided by the declarant.

(B) When a declarant has received an award under subsection (c), the Attorney General may subtract the amount of that reward from any recovery under this subsection.

(2)(A) When more than 1 declarant has provided information leading to a recovery under this subsection, the Attorney General shall first calculate the size of the total award under paragraph (1)(A) and then distribute that amount according to the contribution made by each declarant.

(B) In distributing any such award between 2 or more declarants, the Attorney General may, in the Attorney General's discretion, consider any appropriate factor.

(e) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(f) APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgment, order or settlement.

SEC. 2566. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY. 12 USC 4206.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2561 through 2564 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a civil or criminal proceeding, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) JUDGMENT, ORDER, OR SETTLEMENT.—(1) When the United States obtains a judgment, order, or settlement based in whole or in part on a valid declaration filed under section 2561, the Attorney General shall notify the declarant in writing of such fact.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under subsection (c) or (d) of section 2565 upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—If the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2564 within the time period set forth in subsection (e), the Attorney General shall notify the declarant in writing that—

(1) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(2) the declarant's allegations have not yet been addressed.

(e) TIME FOR NOTICES.—(1) In the case of a valid declaration filed not more than 3 years after the date of enactment of this Act, the Attorney General shall send notification to a declarant pursuant to subsection (d) not later than 3 years after the date of filing of the declaration.

(2)(A) Subject to subparagraph (B), in the case of a declaration filed more than 3 years after the date of enactment of this Act, the Attorney General shall send notification not later than 1 year after the date of filing of the declaration.

(B) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(f) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2563.

12 USC 4207.

SEC. 2567. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR.

(a) NOTIFICATION.—(1) If, pursuant to section 2566(d)(2), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2566(d)(2), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a notification under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

12 USC 4208.

SEC. 2568. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2566.

12 USC 4209.

SEC. 2569. FINANCIAL INSTITUTION INFORMATION AWARD FUND.

(a) ESTABLISHMENT.—There is established in the United States Treasury a special fund to be known as the Financial Institution Information Award Fund (referred to as the "Fund") which shall be available to the Attorney General without fiscal year limitation to pay awards to declarants pursuant to section 2565(c) and to pay special rewards pursuant to section 3059A of title 18, United States Code.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such funds as are necessary to maintain the Fund at a level not to exceed $5,000,000.

SEC. 2570. SOURCES OF PAYMENTS TO DECLARANTS. 12 USC 4210.

Notwithstanding any other law, an award under this title may be paid to a declarant, or to an individual providing information, from the amounts recovered through civil actions based in whole or in part on the information provided in a valid declaration under this title.

SEC. 2571. GOVERNMENT ACCOUNTABILITY; PUBLIC REPORTS ON PROCESSING OF DECLARATIONS. 12 USC 4211.

(a) IN GENERAL.—In addition to the written statements of reasons provided individual declarants under section 2566, on the date that is 6 months after the date of enactment of this Act, and at the end of each 6-month period thereafter during which this chapter is in effect, the Attorney General shall compile a public report on the processing of declarations under this chapter.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall state—

(1) the number of declarations filed within the relevant period;

(2) the number of declarations found invalid under sections 2562, 2563, and 2564;

(3) the number of valid declarations processed and their present status, including whether or not they have been reviewed and if they have been reviewed what determination was reached;

(4) the number and amounts of all rewards paid to declarants under this chapter; and

(5) the number of convictions attributable in whole or in part to valid declarations filed under this chapter and the number and dollar amounts of all monetary recoveries, criminal or civil, attributable in whole or in part to valid declarations filed under this chapter.

(c) CONFIDENTIALITY.—Notwithstanding any other law, in compiling the report required by subsection (a), the Attorney General may take all steps necessary to guard against the disclosure of any information that could in any way prejudice a current criminal or civil investigation or proceeding.

SEC. 2572. PROTECTION FOR DECLARANTS. 12 USC 4212.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 2573. PROMULGATION OF REGULATIONS. 12 USC 4213.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 2—DECLARATIONS PROVIDING THE UNITED STATES WITH NEW INFORMATION CONCERNING THE RECOVERY OF ASSETS

SEC. 2576. FILING OF CONFIDENTIAL DECLARATIONS BY PRIVATE PERSONS IDENTIFYING SPECIFIC ASSETS. 12 USC 4221.

(a) IN GENERAL.—After the United States obtains a final judgment or settlement in any action referred to in section 2561, any person may file a declaration identifying specific assets which might be

recovered by the United States in satisfaction of that judgment or settlement.

(b) PLACE OF FILING.—A declaration under subsection (a) shall be filed with the Attorney General of the United States or with an agent designated by him for receiving declarations under this section.

12 USC 4222.

SEC. 2577. CONTENTS OF DECLARATIONS.

A declaration filed pursuant to section 2576 shall—

(1) set forth the name and address of the declarant and the basis for the declarant's knowledge of the facts alleged;

(2) allege under oath or affirmation specific facts indicating the nature, location, and approximate dollar value of the asset or assets and the names of all persons known to the declarant to have possession, custody, or control of the asset or assets; and

(3) allege under oath or affirmation specific facts that establish a prima facie case showing that the asset is legally subject to attachment, garnishment, sequestration, or other proceeding in satisfaction of the judgment referred to in section 2576.

12 USC 4223.

SEC. 2578. CONFIDENTIALITY OF DECLARATIONS.

(a) PERIOD OF CONFIDENTIALITY.—A declarant and the declarant's agents shall not disclose the existence or filing of a declaration filed pursuant to section 2576 until:

(1) the declarant receives notice that the Attorney General has concluded that an action should not be pursued under section 2581(b);

(2) the declarant receives notice of an award pursuant to section 2581(c); or

(3) the declarant is granted a contract to pursue an action under section 2580(b) or 2582.

(b) MAINTENANCE OF CONFIDENTIALITY TO PREVENT PREJUDICE.—(1) Notwithstanding any other law, the contents of a declaration shall not be disclosed by the declarant if the disclosure would prejudice or compromise in any way the completion of any government investigation or any criminal or civil case that may arise out of, or make use of, information contained in a declaration, but information contained in a declaration may be disclosed as required by duly issued and authorized legal process.

(2) The Attorney General may in a circumstance described in paragraph (1) notify a declarant that continued confidentiality is required under this subsection notwithstanding paragraph (1) or (2) of subsection (a).

(c) LOSS OF RIGHTS.—A declarant who discloses, except as provided by this chapter, the existence or filing of a declaration or the contents thereof to anyone other than a duly authorized Federal or State investigator or the declarant's attorney shall immediately lose all rights under this chapter.

12 USC 4224.

SEC. 2579. INELIGIBILITY TO FILE VALID DECLARATIONS.

(a) IN GENERAL.—A declaration filed pursuant to section 2576 and in accordance with sections 2577 and 2578 is valid unless—

(1) the declaration is filed by a current or former officer or employee of a Federal or State government agency or instrumentality who discovered or gathered the information in the declaration, in whole or in part, while acting within the course of the declarant's government employment;

(2) the declaration is filed by a person who knowingly participated in the violation of section 1517 of title 18, United States Code, or any of the sections of title 18, United States Code, referred to in section 2561, or any other fraudulent conduct with respect to which the declaration is made;

(3) the declaration is filed by an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act (12 U.S.C. 1813(u)) who withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) which such party owed a fiduciary duty to disclose;

(4) the declaration is filed by a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

(5) the declaration identifies an asset or assets the nature, location, or possible recovery of which has been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, by any other government source, or by the news media, unless the person providing the declaration is the original source of the information.

(b) DEFINITION.—For the purposes of subsection (a)(5), the term "original source" means a person who has direct and independent knowledge of the information contained in the declaration and who voluntarily provided the information to the government prior to the disclosure.

(c) NOTICE OF INVALIDITY.—If the Attorney General determines at any time that a declaration is invalid under this section, that a declaration fails to meet the requirements of section 2577, or that a declaration has been disclosed in violation of section 2578, the Attorney General shall notify the person who filed the declaration in writing that the declaration is invalid, and the declarant shall not enjoy any of the rights of the declarant listed in section 2580 or 2581.

SEC. 2580. RIGHTS OF DECLARANTS; PARTICIPATION IN ACTIONS, AWARDS. 12 USC 4225.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) CIVIL ACTION.—If the Attorney General determines that a proceeding to recover the asset or assets identified in the declaration should be referred to private counsel pursuant to chapter 4, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute the action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

(c) SHARE OF ASSETS.—When the United States recovers any asset or assets specifically identified in a valid declaration filed under section 2576 and the Attorney General determines that the asset or assets would not have been recovered if the declaration had not been filed, the declarant shall have the right to share in the recovery in the amount of 20 percent to 30 percent of any recovery up to the first $1,000,000 recovered, 10 percent to 20 percent of the next $4,000,000 recovered, and 5 percent to 10 percent of the next $5,000,000 recovered.

(d) PROHIBITION OF DOUBLE AWARDS.—(1) No person shall receive both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information.

(2) When a person qualifies for both an award under this section and a reward under either section 34 of the Federal Deposit Insurance Act or section 3509A of title 18, United States Code, for providing the same or substantially similar information, the person may notify the Attorney General in writing of the person's election to seek an award under this section or a reward under such other section.

(e) APPROPRIATE FEDERAL BANKING AGENCY EXCEPTION.—For purposes of this section, funds or assets acquired by the United States shall not include any funds or assets acquired by any appropriate Federal banking agency acting in any capacity or the Resolution Trust Corporation acting in any capacity, except for any civil money penalties recovered by a Federal banking agency through a final judgement, order, or settlement.

12 USC 4226.

SEC. 2581. RIGHTS OF DECLARANTS; NOTIFICATIONS; GOVERNMENT ACCOUNTABILITY.

(a) IN GENERAL.—A person who has filed a declaration that meets the requirements of sections 2576 through 2579 shall have the rights stated in this section.

(b) NOTICE OF DECISION NOT TO PURSUE.—If, after review, the Attorney General concludes that the information contained in a declaration should not be pursued in a proceeding to recover the asset or assets, the Attorney General shall so notify the declarant in writing and shall provide a brief statement of the reasons that the declaration will not be pursued.

(c) JUDGMENT, ORDER, OR SETTLEMENT.—(1) When the United States obtains a final judgment, order, or settlement transferring to the United States title to an asset or assets identified in a valid declaration filed under section 831, the Attorney General shall notify the declarant in writing of the entry of the judgment, order, or settlement.

(2) A notice described in paragraph (1) shall contain—

(A) the Attorney General's determination of the amount of the award due the declarant under section 2580(c) upon recovery by the United States; and

(B) a short statement of reasons for the amount of the award.

(d) NOTICE OF PENDENCY OF INVESTIGATION OR PROCEEDING.—(1) Subject to paragraph (2), if the Attorney General has not provided the declarant with notice under subsection (b) or a notice of invalidity pursuant to section 2579 within 1 year after the date of filing of the declaration, the Attorney General shall notify the declarant in writing that—

(A) there is a pending investigation or proceeding in the course of which the declarant's allegations are being addressed; or

(B) the declarant's allegations have not yet been addressed.

(2) If the Attorney General certifies that it is in the interest of the United States to give further consideration to the information provided in the declaration for an additional 90-day period, the Attorney General shall so notify the declarant in writing.

(e) CONFIDENTIALITY OF NOTICES.—All notices provided to a declarant under this section shall be kept confidential by the declarant in the same manner, and subject to the same penalties, as the declaration under section 2578.

SEC. 2582. UNREVIEWED DECLARATIONS; PETITION TO PURSUE ACTION AS PRIVATE CONTRACTOR. 12 USC 4227.

(a) NOTIFICATION.—(1) If, pursuant to section 2581(d)(1)(B), the Attorney General notifies a declarant that the declarant's allegations have not yet been addressed, the declarant may notify the Attorney General to award a contract pursuant to chapter 4 to pursue the case.

(2) A declarant's notification under paragraph (1) shall be filed with the Attorney General not later than 30 days after the date of service of notice under section 2581(d)(1)(B), and the Attorney General shall respond to the notification not later than 30 days after receipt.

(b) CONTENTS OF RESPONSE.—In response to a notification under subsection (a)(1), the Attorney General shall—

(1) grant a contract pursuant to chapter 4; or

(2) proceed with an action.

(c) GRANT OF CONTRACT.—If the Attorney General decides to grant a contract, the declarant, after consultation with the Attorney General, shall have the right to select counsel to prosecute an action, and the declarant and the declarant's counsel shall act in accordance with chapter 4.

SEC. 2583. NONREVIEWABILITY OF ACTION BY THE ATTORNEY GENERAL. 12 USC 4228.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on any action taken by the Attorney General or any refusal to take action under this chapter, except for failure to provide notification under section 2581.

SEC. 2584. PROTECTION FOR DECLARANTS. 12 USC 4229.

A declarant under this chapter shall enjoy the protections of section 3059A(e) of title 18, United States Code.

SEC. 2585. PROMULGATION OF REGULATIONS. 12 USC 4230.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

CHAPTER 3—REWARDS FOR INFORMATION LEADING TO RECOVERIES, CIVIL PENALTIES, OR PROSECUTIONS

SEC. 2586. REWARD FOR INFORMATION LEADING TO RECOVERIES OR CIVIL PENALTIES.

Section 34(a) of the Federal Deposit Insurance Act (12 U.S.C. 1831k(a)) is amended—

(1) in paragraph (1) by striking ", in an amount that exceeds $50,000,"; and

(2) by amending paragraph (2) to read as follows:

"(2) a forfeiture under section 981 or 982 of title 18, United States Code, that arises in connection with a depository institution insured by the Federal Deposit Insurance Corporation".

SEC. 2587. REWARD FOR INFORMATION LEADING TO POSSIBLE PROSECUTION.

(a) AMENDMENT OF TITLE 18, UNITED STATES CODE.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3059 the following new section:

"§ 3059A. Special rewards for information relating to certain financial institution offenses

"(a)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make payments to persons who furnish information unknown to the Government relating to a possible prosecution under section 215, 287, 656, 657, 1001, 1005, 1006, 1007, 1014, 1032, 1341, 1343, or 1344 of this title affecting a depository institution insured by the Federal Deposit Insurance Corporation or any other agency or entity of the United States, or to a possible prosecution for conspiracy to commit such an offense.

"(2) The amount of a payment under paragraph (1) shall not exceed $50,000 and shall be paid from the Financial Institution Information Award Fund established under section 2569 of the Financial Institutions Anti-Fraud Enforcement Act of 1990.

"(b) A person is not eligible for a payment under this subsection (a) if—

"(1) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of his government employment;

"(2) the furnished information consists of allegations or transactions that have been disclosed to a member of the public in a criminal, civil, or administrative proceeding, in a congressional, administrative, or General Accounting Office report, hearing, audit or investigation, from any other government source, or from the news media unless the person is the original source of the information;

"(3) the person is an institution-affiliated party (as defined in section 3(u) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(u)) which withheld information during the course of any bank examination or investigation authorized pursuant to section 10 of such Act (12 U.S.C. 1820) who such party owed a fiduciary duty to disclose;

"(4) the person is a member of the immediate family of the individual whose activities are the subject of the declaration or where, in the discretion of the Attorney General, it appears the individual could benefit from the award; or

"(5) the person knowingly participated in the violation of the section with respect to which the payment would be made.

"(c) For the purposes of this subsection (b)(2), the term 'original source' means a person who has direct and independent knowledge of the information on which the allegations are based and has voluntarily provided the information to the Government prior to the disclosure.

"(d) Neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

"(e)(1) A person who—

"(A) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and

conditions of employment by an employer because of lawful acts done by the person on behalf of the person or others in furtherance of a prosecution under any of the sections referred to in subsection (a) (including provision of information relating to, investigation for, initiation of, testimony for, or assistance in such a prosecution); and

"(B) was not a knowing participant in the unlawful activity that is the subject of such a prosecution,

may, in a civil action, obtain all relief necessary to make the person whole.

"(2) Relief under paragraph (1) shall include—

"(A)(i) reinstatement with the same seniority status;

"(ii) 2 times the amount of back pay plus interest; and

"(iii) interest on the backpay,

that the plaintiff would have had but for the discrimination; and

"(B) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.".

(b) TECHNICAL AMENDMENT.—The chapter heading for chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3059 the following new item:

"3059A. Special rewards for information relating to certain financial institution offenses".

CHAPTER 4—USE OF PRIVATE LEGAL RESOURCES

SEC. 2588. AUTHORITY TO ENTER INTO CONTRACTS FOR PRIVATE COUNSEL. 12 USC 4241.

(a) IN GENERAL.—The Attorney General may enter into contracts retaining private counsel to furnish legal services, including representation in investigation, negotiation, compromise, settlement, litigation, and execution of judgments in the case of any civil action referred to in section 2561 or section 2580.

(b) TERMS AND CONDITIONS.—Each contract under subsection (a) shall include the provisions described in section 2591 and such other terms and conditions as the Attorney General considers necessary and appropriate to protect the interests of the United States.

(c) LIMITATION OF FEE.—The amount of the contingency fee payable for legal services furnished under a contract described in subsection (a) shall not exceed the contingency fee that counsel engaged in the private practice of law in the jurisdiction wherein the legal services are furnished typically charge clients for furnishing the same or comparable legal services.

(d) CONTINGENT FEES.—Notwithstanding section 3302(b) of title 31, United States Code, a contract under this section shall provide that a fee that the United States pays private counsel for services is payable from the amount recovered and shall be based on a percentage of the civil penalties or assets recovered.

SEC. 2589. CONTRACT DECISIONS NONREVIEWABLE. 12 USC 4242.

Notwithstanding any other law, no court shall have jurisdiction over any claim based on the Attorney General's decision to refuse to enter into a contract for legal services referred to in section 2588.

12 USC 4243.

SEC. 2590. REPRESENTATION.

Notwithstanding sections 516, 518(b), 519, and 547(2) of title 28, United States Code, private counsel retained under section 2588 may represent the United States in litigation in connection with legal services furnished pursuant to the contract entered into with that counsel, subject to the requirements specified in section 2591.

12 USC 4244.

SEC. 2591. CONTRACT PROVISIONS.

A contract made with a private counsel under section 2588 shall include—

(1) a provision permitting the Attorney General to terminate either the contract or the private counsel's representation of the United States in particular cases if the Attorney General finds that such action is in the best interests of the United States;

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(2) a provision requiring private counsel to transmit monthly to the Attorney General a report on the services relating to matters handled pursuant to the contract during the preceding month and the progress made during that period; and

(3) a provision requiring that the initiation, settlement, dismissal, or compromise of a claim be approved by a duly appointed officer of the United States.

12 USC 4245.

SEC. 2592. COUNTERCLAIMS.

Any counterclaim filed in any action brought on behalf of the United States by private counsel retained under section 2588 may not be asserted unless the counterclaim has been served directly on the Attorney General and the United States Attorney for the judicial district in which, or embracing the place in which, the action is pending. Such service shall be made in accordance with the rules of procedure of the court in which the action on behalf of the United States is pending.

12 USC 4246.

SEC. 2593. AWARDS OF COSTS AND FEES TO PREVAILING PLAINTIFF.

When the United States, through private counsel retained under this chapter, prevails in any civil action, the court, in its discretion, may allow the United States reasonable attorney's fees and other expenses of litigation as part of the costs.

12 USC 4247.

SEC. 2594. PROMULGATION OF REGULATIONS.

The Attorney General may promulgate any rules, regulations, or guidelines that, in the Attorney General's judgment, are necessary and appropriate to the effective administration of this chapter.

Subtitle I—Technical and Miscellaneous Amendments

SEC. 2595. TECHNICAL AMENDMENTS TO TITLE 18, UNITED STATES CODE, RELATING TO REFERENCES TO BANKING INSTITUTIONS AND AGENCIES.

(a) IN GENERAL.—

(1) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code, is amended—

(A) by inserting "depository institution holding company," before "national bank" the 1st place such term appears in the 1st sentence;

(B) by inserting "or holding company" after "such bank" each place such term appears in the 1st paragraph; and

(C) by adding at the end of the 2d paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3 of the Federal Deposit Insurance Act.".

(2) LENDING, CREDIT, AND INSURANCE INSTITUTIONS.—Section 657 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, the Resolution Trust Corporation, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(3) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code, is amended—

(A) by inserting "or company" after "such bank" each place such term appears in the 1st paragraph;

(B) by striking "bank or savings and loan" and inserting "depository institution"; and

(C) by adding at the end of the 6th undesignated paragraph the following new sentence: "For purposes of this section, the term 'depository institution holding company' has the meaning given such term in section 3(w)(1) of the Federal Deposit Insurance Act.".

(4) FEDERAL CREDIT INSTITUTION ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1006 of title 18, United States Code, is amended—

(A) by striking "Home Owners' Loan Corporation," and inserting "Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board, the Resolution Trust Corporation,"; and

(B) by striking "institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" and inserting "institution, other than an insured bank (as defined in section 656), the accounts of which are insured by the Federal Deposit Insurance Corporation".

(5) LOANS AND CREDIT APPLICATIONS GENERALLY; RENEWALS AND DISCOUNTS.—Section 1014 of title 18, United States Code, is amended—

(A) by striking "the Federal Home Loan Bank System," and inserting "the Office of Thrift Supervision, any Federal home loan bank, the Federal Housing Finance Board,"; and

(B) by inserting a comma after "Resolution Trust Corporation".

(b) INDICTMENTS AND INFORMATION DISMISSED BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended by striking "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final," where such term appears and inserting such term after "expiration of the applicable statute of limitations,".

SEC. 2596. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) CEASE AND DESIST AUTHORITY.—Section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) is amended—

(1) in paragraph (6), by inserting "or remedy" after "to take affirmative action to correct"; and

(2) in paragraph (4), by striking "subsections (c), (d), (h), (i), (k), (l), (m), and (n)" and inserting "subsections (c) through (s) and subsection (u)".

(b) TEMPORARY ORDERS.—Section 8(c)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)(1)) is amended—

(1) by inserting "or remedy" after "to take affirmative action to prevent"; and

(2) by striking "(b)(6)(B)" and inserting "(b)(6)".

(c) RIGHT TO FINANCIAL PRIVACY.—Section 1101(6)(B) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(6)(B)) by striking "3(f)(1)" and inserting "4(f)(1)".

(d) VIOLATIONS TO WHICH CIVIL MONEY PENALTIES APPLIES.—Section 951(c)(1) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 is amended— 12 USC 1833a.

(1) by inserting "287, 1001, 1032," before "1341;"; and

(2) by adding at the end thereof the following new flush sentence:

"This section shall apply to violations occurring on or after August 10, 1984."

SEC. 2597. AMENDMENTS TO INCLUDE VARIOUS ENTITIES WHICH ENGAGE IN INTERNATIONAL BANKING BUSINESS WITHIN THE UNITED STATES WITHIN THE SCOPE OF FINANCIAL CRIME PROVISIONS.

(a) DEFINITION OF FINANCIAL INSTITUTION.—Section 20 of title 18, United States Code, is amended—

(1) by striking the period at the end of paragraph (6) and inserting a semicolon; and

(2) by adding at the end the following new paragraphs:

"(7) a Federal Reserve bank or a member bank of the Federal Reserve System;

"(8) an organization operating under section 25 or section 25(a) of the Federal Reserve Act; or

"(9) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978).".

(b) OFFER OF LOAN OR GRATUITY TO BANK EXAMINER.—Section 212 of title 18, United States Code, is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "System or the deposits of which" and inserting "System, or the deposits of which";

(B) by inserting "or which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "deposits of which are insured by the Federal Deposit Insurance Corporation,"; and

(C) by inserting "branch, agency, organization," after "who examines or has authority to examine such bank,"; and

(2) in the 2d undesignated paragraph—

(A) by striking "System or insured" and inserting "System, insured"; and

(B) by inserting "branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "financial institutions,".

(c) ACCEPTANCE OF LOAN OR GRATUITY BY BANK EXAMINER.—Section 213 of title 18, United States Code, is amended—

(1) by striking "System or financial institutions the deposits of which" and inserting "System, financial institutions the deposits of which";

(2) by inserting "which are branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which are organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "deposits of which are insured by the Federal Deposit Insurance Corporation,";

(3) by inserting "branch, agency," after "accepts a loan or gratuity from any bank,".

(d) CUSTODIANS, GENERALLY, MISUSING PUBLIC FUNDS.—Section 648 of title 18, United States Code, is amended by inserting ", including any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)," after "or deposits in any bank".

(e) THEFT BY EXAMINER.—Section 655 of title 18, United States Code, is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "System or which is insured" and inserting "System, which is insured";

(B) by inserting "which is a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or which is an organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "by the Federal Deposit Insurance Corporation,"; and

(C) by inserting "branch, agency, or organization," after "premises of such bank,"; and

(2) in the 2d undesignated paragraph—

(A) by striking "System or banks the deposits of which" and inserting "System, banks the deposits of which"; and

(B) by inserting "branches or agencies of foreign banks (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organizations operating under section 25 or section 25(a) of the Federal Reserve Act," after "are insured by the Federal Deposit Insurance Corporation,".

(f) THEFT, EMBEZZLEMENT, OR MISAPPLICATION BY BANK OFFICER OR EMPLOYEE.—Section 656 of title 18, United States Code (as amended by section 2104(b) of this subtitle) is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "national bank, or insured bank" and inserting "national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,";

(B) by inserting "insured bank, branch, agency, or organization" after "receiver of a national bank,";

(C) by inserting ", branch, agency, or organization" after "misapplies any of the moneys, funds or credits of such bank";

(D) by inserting "branch, agency, or organization," after "custody or care of such bank,"; and

(2) in the 2d undesignated paragraph—

(A) by striking "and" after "one of the Federal Reserve banks;"; and

(B) by inserting before the period the following: "; and the term 'branch or agency of a foreign bank' means a branch or agency described in section 20(9) of this title".

(g) CERTIFICATION OF CHECKS.—Section 1004 of title 18, United States Code, is amended—

(1) by striking "or" after "Federal Reserve bank" and inserting a comma;

(2) by inserting "insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act), branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "member bank of the Federal Reserve System,"; and

(3) by inserting ", branch, agency, or organization," after "has been regularly deposited in the bank".

(h) BANK ENTRIES, REPORTS, AND TRANSACTIONS.—Section 1005 of title 18, United States Code (as amended by section 2104(d) of this subtitle) is amended—

(1) in the 1st undesignated paragraph—

(A) by striking "national bank or insured bank" and inserting "national bank, insured bank, branch or agency of a foreign bank, or organization operating under section 25 or section 25(a) of the Federal Reserve Act,"; and

(B) by inserting ", branch, agency, or organization" after "of such bank" each place such term appears;

(2) in the 3d undesignated paragraph, by striking "bank or company" each place such term appears and inserting "bank, company, branch, agency, or organization"; and

(3) in the last undesignated paragraph—

(A) by striking "and" after "one of the Federal Reserve banks;"; and

(B) by inserting before the period the following: "; and the term 'branch or agency of a foreign bank' means a branch or agency described in section 20(9) of this title".

(i) FALSE STATEMENTS IN LOAN, CREDIT, AND CROP INSURANCE APPLICATIONS.—Section 1014 of title 18, United States Code (as amended by section 2104(g) of this subtitle) is amended by inserting "a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "or the National Credit Union Administration Board".

(j) FRAUD AND RELATED ACTIVITY IN CONNECTION WITH COMPUTERS.—Section 1030(e)(4) of title 18, United States Code, is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(H) a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978); and

"(I) an organization operating under section 25 or section 25(a) of the Federal Reserve Act.".

(k) DISCLOSURE OF INFORMATION FROM A BANK EXAMINATION REPORT.—Section 1906 of title 18, United States Code, is amended—

(1) by striking "System, or bank insured" and inserting "System, any bank insured";

(2) by inserting ", any branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978), or any organization operating under section 25 or section 25(a) of the Federal Reserve Act," after "by the Federal Deposit Insurance Corporation";

(3) by inserting "branch, agency, or organization," after "proper officers of such bank,";

(4) by inserting "or a Federal branch or Federal agency (as such terms are defined in paragraphs (5) and (6) of section 1(b) of the International Banking Act of 1978)" after "national bank";

(5) by inserting ", an uninsured State branch or State agency (as such terms are defined in paragraphs (11) and (12) of section 1(b) of the International Banking Act of 1978), or an organization operating under section 25 or section 25(a) of the Federal Reserve Act" after "as to a State member bank";

(6) by inserting ", including any insured branch (as defined in section 3(s) of the Federal Deposit Insurance Act)," after "any other insured bank"; and

(7) by inserting "or organization" after "board of directors of such bank".

(l) BANK ROBBERY AND INCIDENTAL CRIMES.—Section 2113(f) of title 18, United States Code, is amended by inserting "including a branch or agency of a foreign bank (as such terms are defined in paragraphs (1) and (3) of section 1(b) of the International Banking Act of 1978)," after "operating under the laws of the United States,".

TITLE XXVI—LICIT OPIUM IMPORTS

SEC. 2601. UNITED STATES POLICY REGARDING IMPORTATION OF NARCOTIC RAW MATERIAL. India. Turkey.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine the advisability of continued reliance on the "80-20 rule" (21 C.F.R. sec. 1312.13) by which at least 80 percent of United States imports of narcotics raw material must come from India and Turkey.

(b) AGENCIES TO BE INVOLVED.—This review shall include information and views from the Department of State, the Administrator of the Drug Enforcement Administration, and the Secretary of the Department of Health and Human Services, the Secretary of Commerce and any other agencies the President determines appropriate.

(c) NATURE AND CONTENTS.—This review shall include—

(1) a report on the extent of the diversion taking place from the licit to the illicit market in India from the farm gate through the stockpile; Reports.

(2) an evaluation of the efforts being made by the Government of India to stop diversion from the licit to the illicit market, to

limit its stockpile of opium gum, and to limit and regulate the amount of land and number of farmers devoted to poppy cultivation, and the success or failure of these efforts;

(3) a description of the steps the President has taken to encourage these actions on the part of the Indian government, what further steps are contemplated and what action will be taken if Indian action proves ineffective;

(4) an assessment of whether continued reliance on the 80–20 rule serves to encourage these actions, an assessment of what circumstances would make continued reliance on the rule unacceptable to the President, and proposals for executive or legislative modification of the rule under those circumstances;

(5) an assessment of the feasibility of India converting from the opium gum to the concentrated poppy straw method of opium production;

(6) an assessment of the effects on United States supplies of narcotic raw material in the absence of 80–20; and

(7) an evaluation of the potential for market manipulation under the 80–20 rule.

President. (d) REPORT TO CONGRESS.—The President shall report the results of this review to Congress not later than April 1, 1991.

TITLE XXVII—SENTENCING FOR METHAMPHETAMINE OFFENSES

28 USC 994 note. SEC. 2701. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission is instructed to amend the existing guidelines for offenses involving smokable crystal methamphetamine under section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) so that convictions for offenses involving smokable crystal methamphetamine will be assigned an offense level under the guidelines which is two levels above that which would have been assigned to the same offense involving other forms of methamphetamine.

TITLE XXVIII—DRUG ENFORCEMENT GRANTS

SEC. 2801. BASE ALLOCATION FOR DRUG ENFORCEMENT GRANTS AND IMPROVING THE EFFECTIVENESS OF COURT PROCESS.

BASE ALLOCATION FOR DRUG ENFORCEMENT GRANT.—Paragraph (5) of section 1001(a) of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

42 USC 3793. Appropriation authorization. "(5) There are authorized to be appropriated $900,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.".

TITLE XXIX—PRISONS

SEC. 2901. REPORT WITH RESPECT TO FEDERAL PRISON INDUSTRIES.

Section 4124 of title 18, United States Code, is amended—

(1) in the first paragraph by inserting "(a)" before "The";

(2) in the second paragraph by inserting "(b)" before "Disputes"; and

(3) by adding at the end the following:

"(c) Each Federal department, agency, and institution subject to the requirements of subsection (a) shall separately report to the General Services Administration all of its acquisitions of products and services from Federal Prison Industries, and that reported information shall be entered in the Federal Procurement Data System referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act. Each report published by the Federal Procurement Data System that contains the information collected by the System shall include a statement to accompany the information reported by the department, agency, or institution under the preceding sentence as follows: 'Under current law, sales by Federal Prison Industries are considered intragovernmental transfers. The purpose of reporting sales by Federal Prison Industries is to provide a complete overview of acquisitions by the Federal Government during the reporting period.'.

"(d) Within 90 days after the date of the enactment of this subsection, Federal Prison Industries shall publish a catalog of all products and services which it offers for sale. This catalog shall be updated periodically to the extent necessary to ensure that the information in the catalog is complete and accurate.". Government publications.

SEC. 2902. PRERELEASE CUSTODY.

(a) IN GENERAL.—Section 3624(c) of title 18, United States Code, is amended by inserting after the first sentence the following: "The authority provided by this subsection may be used to place a prisoner in home confinement.".

(b) EFFECTIVE DATE.—Section 3624(c) of title 18, United States Code, as amended by this section, shall apply with respect to all inmates, regardless of the date of their offense. 18 USC 3624 note.

SEC. 2903. DRUG TREATMENT FOR PRISONERS.

Section 3621(b) of title 18, United States Code, is amended by adding at the end the following: "The Bureau shall, to the extent practicable, make available appropriate substance abuse treatment for each prisoner the Bureau determines has a treatable condition of substance addiction or abuse.".

SEC. 2904. FUNCTIONAL LITERACY REQUIREMENT FOR ALL INDIVIDUALS IN FEDERAL CORRECTIONAL INSTITUTIONS.

Section 3624 of title 18, United States Code, is amended by adding at the end the following:

"(f) MANDATORY FUNCTIONAL LITERACY REQUIREMENT.—

"(1) The Attorney General shall direct the Bureau of Prisons to have in effect a mandatory functional literacy program for all mentally capable inmates who are not functionally literate in each Federal correctional institution within 6 months from the date of the enactment of this Act.

"(2) Each mandatory functional literacy program shall include a requirement that each inmate participate in such program for a mandatory period sufficient to provide the inmate with an adequate opportunity to achieve functional literacy, and appropriate incentives which lead to successful completion of such programs shall be developed and implemented.

"(3) As used in this section, the term 'functional literacy' means—

"(A) an eighth grade equivalence in reading and mathematics on a nationally recognized standardized test;

"(B) functional competency or literacy on a nationally recognized criterion-referenced test; or

"(C) a combination of subparagraphs (A) and (B).

"(4) Non-English speaking inmates shall be required to participate in an English-As-A-Second-Language program until they function at the equivalence of the eighth grade on a nationally recognized educational achievement test.

"(5) The Chief Executive Officer of each institution shall have authority to grant waivers for good cause as determined and documented on an individual basis.

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"(6) A report shall be provided to Congress on an annual basis summarizing the results of this program, including the number of inmate participants, the number successfully completing the program, the number who do not successfully complete the program, and the reasons for failure to successfully complete the program.".

18 USC 4121 note.

SEC. 2905. MANDATORY WORK REQUIREMENT FOR ALL PRISONERS.

(a) IN GENERAL.—(1) It is the policy of the Federal Government that convicted inmates confined in Federal prisons, jails, and other detention facilities shall work. The type of work in which they will be involved shall be dictated by appropriate security considerations and by the health of the prisoner involved.

(2) A Federal prisoner may be excused from the requirement to work only as necessitated by—

(A) security considerations;

(B) disciplinary action;

(C) medical certification of disability such as would make it impracticable for prison officials to arrange useful work for the prisoner to perform; or

(D) a need for the prisoner to work less than a full work schedule in order to participate in literacy training, drug rehabilitation, or similar programs in addition to the work program.

SEC. 2906. EXPANSION OF THE PRIVATE SECTOR/PRISON INDUSTRY ENHANCEMENT CERTIFICATION PROGRAM.

Section 1761(c) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(2) by striking the matter preceding paragraph (2), as redesignated by paragraph (1) of this section, and inserting the following:

"(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners who—

"(1) are participating in—one of not more than 50 non-Federal prison work pilot projects designated by the Director of the Bureau of Justice Assistance; and"; and

(3) in paragraph (2), as redesignated by paragraph (1) of this section, by amending subparagraph (B) to read as follows:

"(B) reasonable charges for room and board, as determined by regulations issued by the chief State correctional officer, in the case of a State prisoner.".

SEC. 2907. COST SAVING MEASURES. 18 USC 4042 note.

The Director of the Federal Bureau of Prisons (referred to as the "Director") shall, to the extent practicable, take such measures as are appropriate to cut costs of construction. Such measures may include reducing expenditures for amenities including, for example, color television or pool tables.

SEC. 2908. REPORT BY SECRETARY OF LABOR. 18 USC 1761 note.

The Secretary of Labor shall submit to the Congress not later than March 1, 1991, and not less often than annually thereafter, reports which describe in detail the extent and manner of compliance by State Prison Industry Enhancement Certification programs with the requirements set forth in 18 U.S.C. 1761(c).

TITLE XXX—SHOCK INCARCERATION

SEC. 3001. SHOCK INCARCERATION PROGRAM.

(a) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4046. Shock incarceration program

"(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

"(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to—

"(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

"(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

"(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureau for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4046. Shock incarceration program.".

SEC. 3002. AUTHORIZATION OF APPROPRIATIONS. 18 USC 4046 note.

There are authorized to be appropriated for fiscal year 1990 and each fiscal year thereafter such sums as may be necessary to carry out the shock incarceration program established under the amendments made by this Act.

Criminal Victims Protection Act of 1990.

TITLE XXXI—BANKRUPTCY AND RESTITUTION

11 USC 101 note.

SEC. 3101. SHORT TITLE.

This title may be cited as the "Criminal Victims Protection Act of 1990".

SEC. 3102. NONDISCHARGEABILITY OF CERTAIN DEBTS ARISING FROM UNLAWFUL DRIVING WHILE INTOXICATED OR IMPAIRED.

(a) AMENDMENT TO CHAPTER 5.—Section 523(a)(9) of title 11, United States Code, is amended to read as follows:

"(9) for death or personal injury caused by the debtor's operation of a motor vehicle if such operation was unlawful because the debtor was intoxicated from using alcohol, a drug, or another substance; or".

(b) AMENDMENT TO CHAPTER 13.—Section 1328(a)(2) of title 11, United States Code, is amended by inserting "or 523(a)(9)" after "523(a)(5)".

SEC. 3103. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION IMPOSED FOR COMMITTING CRIMES.

Section 1328(a) of title 11, United States Code, is amended—

(1) in paragraph (1) by striking "or" at the end,

(2) in paragraph (2) by striking the period at the end and inserting "; or", and

(3) by adding at the end the following:

"(3) for restitution included in a sentence on the debtor's conviction of a crime.".

11 USC 523 note.

SEC. 3104. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

TITLE XXXII—MISCELLANEOUS

28 USC 509 note.

SEC. 3201. AUTHORIZATION OF APPROPRIATIONS FOR HUMANITARIAN EXPENSES.

(a) FEDERAL BUREAU OF INVESTIGATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Federal Bureau of Investigation $25,000, to be expended in the discretion of the Director of the Federal Bureau of Investigation to pay humanitarian expenses incurred—

(1) by an employee of the Bureau as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

(b) DRUG ENFORCEMENT ADMINISTRATION.—For each fiscal year beginning after September 30, 1990, there is authorized to be appropriated for the Drug Enforcement Administration $25,000, to be

expended at the discretion of the Administrator of the Drug Enforcement Administration to pay humanitarian expenses incurred—

(1) by an employee of the Administration as a result of serious illness, serious injury, or death occurring while on official business; or

(2) by any member of the immediate family of such employee, incident to the serious illness, serious injury, or death of such employee occurring while on official business.

SEC. 3202. BANNING OF ISOPROPAL NITRITE AND OTHER NITRITES. 15 USC 2057b.

(a) IN GENERAL.—Except as provided in subsection (b), volatile alkyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) LAWFUL PURPOSES.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States volatile alkyl nitrites for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) DEFINITIONS.—For purposes of this section, the term "commercial purpose" means any commercial purpose other than for the production of consumer products containing volatile alkyl nitrites that may be used for inhaling or otherwise introducing volatile alkyl nitrites into the human body for euphoric or physical effects.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this Act.

TITLE XXXIII—MISCELLANEOUS PROVISIONS

SEC. 3301. UNDERCOVER OPERATIONS OF INTERNAL REVENUE SERVICE.

(a) EXTENSION OF PROGRAM.—Paragraph (3) of section 7601(c) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking "1989" and "1990" and inserting "1991" and "1992", respectively. 26 USC 7608 note.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of undercover investigative operations of the Internal Revenue Service which were conducted using any authority provided in subsection (c) of section 7608 of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the use of the proceeds of such operations,

(B) the results of such operations, and

(C) the financial audits conducted by the Internal Revenue Service under such subsection.

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 3302. DISCLOSURE OF RETURNS ON CERTAIN CASH TRANSACTIONS.

(a) EXTENSION OF PROGRAM.—Paragraph (3) of section 7601(b) of the Anti-Drug Abuse Act of 1988 (relating to effective date) is amended by striking "2-year period" inserting "4-year period". 26 USC 6103 note.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the disclosure of returns to Federal agencies under paragraph (8) of section 6103(i) of the Internal Revenue Code of 1986. The study shall include an evaluation of—

(A) the Federal agencies requesting disclosure under such paragraph,

(B) the use of the information so disclosed, and

(C) the effect of the use of such information on the administration of Federal criminal statutes.

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

SEC. 3303. FELONY CLASSIFICATION FOR FAILURE TO FILE RETURN ON CERTAIN CASH TRANSACTIONS.

26 USC 7203.

(a) IN GENERAL.—The last sentence of section 7203 of the Internal Revenue Code of 1986 (relating to willful failure to file return, etc.) is amended by striking "by substituting" and inserting "by substituting 'felony' for 'misdemeanor' and".

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the criminal penalties established under section 7203 of the Internal Revenue Code of 1986 for violations of section 6050I of such Code. The study shall include an evaluation of—

(A) the number of cases in which such penalties have been sought for such violations, and

(B) any change in the effectiveness of such penalties by reason of the amendment made by subsection (a).

(2) REPORT.—Not later than July 1, 1991, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study required in paragraph (1).

26 USC 7203 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions, and failures to act, occurring after the date of the enactment of this Act.

26 USC 6103 note.

SEC. 3304. CONFIDENTIALITY OF TAX RETURN INFORMATION.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, no commission established by this Act shall have access to any return or return information, except to the extent authorized by section 6103 of the Internal Revenue Code of 1986.

(b) DEFINITIONS.—For purposes of this section, the terms "return" and "return information" have the respective meanings given such terms by section 6103(b) of the Internal Revenue Code of 1986.

42 USC 3721 note.

TITLE XXXIV—NATIONAL COMMISSION TO SUPPORT LAW ENFORCEMENT

SEC. 3401. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) law enforcement officers risk their lives daily to protect citizens, for modest rewards and too little recognition;

(2) a significant shift has occurred in the problems that law enforcement officers face without a corresponding change in the support from the Federal Government;

(3) law enforcement officers are on the front line in the war against drugs and crime;

(4) the rate of violent crime continues to increase along with the increase in drug use;

(5) a large percentage of individuals arrested test positive for drug usage;

(6) the Presidential Commission on Law Enforcement and the Administration of Justice of 1965 focused attention on many issues affecting law enforcement, and a review 25 years later would help to evaluate current problems, including drug-related crime, violence, racial conflict, and decreased funding; and

(7) a comprehensive study of law enforcement issues, including the role of the Federal Government in supporting law enforcement officers, working conditions, and responsibility for crime control would assist in redefining the relationships between the Federal Government, the public, and law enforcement officials.

SEC. 3402. ESTABLISHMENT.

There is hereby established the National Commission to Support Law Enforcement (hereafter in this title referred to as the "Commission").

SEC. 3403. DUTIES.

(a) IN GENERAL.—The Commission shall study and include in the report made under section 3407 recommendations for changes regarding law enforcement agencies and law enforcement issues on the Federal, State, and local levels, including the following:

(1) FUNDING.—The sufficiency of funding, including a review of grant programs at the Federal level.

(2) EMPLOYMENT.—The conditions of law enforcement employment.

(3) INFORMATION.—The effectiveness of information-sharing systems, intelligence, infrastructure, and procedures among law enforcement agencies of Federal, State, and local governments.

(4) RESEARCH AND TRAINING.—The status of law enforcement research and education and training.

(5) EQUIPMENT AND RESOURCES.—The adequacy of equipment, physical resources, and human resources.

(6) COOPERATION.—The cooperation among Federal, State, and local law enforcement agencies.

(7) RESPONSIBILITY.—The responsibility of governments and law enforcement agencies in solving the crime problem.

(8) IMPACT.—The impact of the criminal justice system, including court schedules and prison overcrowding, on law enforcement.

(b) CONSULTATION.—The Commission shall conduct surveys and consult with focus groups of law enforcement officers, local officials, and community leaders across the Nation to obtain information and seek advice on important law enforcement issues.

SEC. 3404. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 19 members as follows:

(1) 5 individuals from national law enforcement organizations representing law enforcement officers, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(2) 5 individuals from national law enforcement organizations representing law enforcement management, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(3) 2 individuals with academic expertise regarding law enforcement issues, appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate.

(4) 2 Members of the House of Representatives, appointed jointly by the Speaker and the minority leader of the House of Representatives.

(5) 2 Members of the Senate, appointed jointly by the majority leader and the minority leader of the Senate.

(6) 1 individual involved in Federal law enforcement from the Department of the Treasury, appointed by the President.

(7) 1 individual from the Department of Justice, appointed by the President.

(8) The Comptroller General of the United States, who shall serve as the chairperson of the Commission.

(b) COMPENSATION.—

(1) IN GENERAL.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of service on the Commission.

(2) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

SEC. 3405. EXPERTS AND CONSULTANTS.

(a) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Commission to assist the Commission in carrying out its duties under this title.

(c) ADMINISTRATIVE SUPPORT.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, administrative support services as the Commission may request.

SEC. 3406. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for purposes of this title, hold hearings, sit and act at the times and places, take testimony, and receive evidence, as the Commission considers appropriate.

(b) DELEGATION OF AUTHORITY.—Any member or agent of the Commission may, if authorized by the Commission, take any action the Commission is authorized to take by this section.

(c) INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon request of the chairperson of the Commission, the head

of an agency shall furnish the information to the Commission to the extent permitted by law.

(d) GIFTS AND DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 3407. REPORT.

Not later than the expiration of the 18-month period beginning on the date of the enactment of this title, the Commission shall submit to the Congress a report containing the findings of the Commission and specific proposals for legislation and administrative actions that the Commission has determined to be appropriate.

SEC. 3408. TERMINATION.

The Commission shall cease to exist upon the expiration of the 60-day period beginning on the date on which the Commission submits its report under section 3407.

TITLE XXXV—TECHNICAL AND MINOR SUBSTANTIVE AMENDMENTS

SEC. 3501. MODIFICATION OF APPROVAL REQUIREMENTS FOR GOVERNMENT SENTENCE APPEALS.

Section 3742(b) of title 18, United States Code, is amended—

(1) by striking ", with the personal approval of the Attorney General or the Solicitor General"; and

(2) by adding at the end the following: "The Government may not further prosecute such appeal without the personal approval of the Attorney General, the Solicitor General, or a deputy solicitor general designated by the Solicitor General.".

SEC. 3502. PENALTY FOR CERTAIN ACCESSORY AFTER THE FACT OFFENSES.

Section 3 of title 18, United States Code, is amended by striking "10 years" and inserting in lieu thereof "15 years".

SEC. 3503. DELETION OF REQUIREMENT FOR SOLICITOR GENERAL APPROVAL OF APPEAL TO A DISTRICT COURT FROM A SENTENCE IMPOSED BY A MAGISTRATE.

Section 3742(g) of title 18, United States Code, is amended by inserting "(except for the requirement of approval by the Attorney General or the Solicitor General in the case of a Government appeal)" after "and this section shall apply".

SEC. 3504. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 1.

The item relating to section 17 in the table of sections at the beginning of chapter 1 of title 18, United States Code, is amended by striking "Defense" and inserting "defense".

SEC. 3505. CORRECTION TO SECTION 12.

Section 12 of title 18, United States Code, is amended by striking "every officer and employee of that Service, whether he has taken the oath of office" and inserting "every officer and employee of that

Service, whether or not such officer or employee has taken the oath of office".

SEC. 3506. CORRECTION OF TABLE OF SECTIONS FOR CHAPTER 3.

The table of sections at the beginning of chapter 3 of title 18, United States Code, is amended—

(1) in the item relating to section 47, by inserting "; pollution of watering holes" after "burros"; and

(2) by striking the items related to sections 42 through 44 and inserting the following:

"42. Importation or shipment of injurious mammals, birds, fish (including mollusks and crustacea), amphibia, and reptiles; permits, specimens for museums; regulations.".

SEC. 3507. CORRECTION TO SECTION 114.

Section 114 of title 18, United States Code, is amended by striking "and imprisoned" and inserting "or imprisoned".

SEC. 3508. CORRECTION TO SECTION 115.

Section 115 of title 18, United States Code, is amended by striking "The Central" and inserting "the Central".

SEC. 3509. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 11.

The table of sections at the beginning of chapter 11 of title 18, United States Code, is amended—

(1) in the item relating to section 203, by striking "of Members" and inserting "to Members"; and

(2) in the item relating to section 204, by striking "Court of Claims" and inserting "United States Claims Court or United States Court of Appeals for the Federal Circuit".

SEC. 3510. CROSS REFERENCE UPDATE FOR SECTION 209.

Subsection (d) of section 209 of title 18, United States Code, is amended by striking "Government Employees Training Act" and all that follows through the end of such subsection and inserting "chapter 41 of title 5.".

SEC. 3511. CORRECTION TO SECTION 219.

Section 219(c) of title 18, United States Code, is amended by striking "Governments" and inserting "Government".

SEC. 3512. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 23.

The table of sections at the beginning of chapter 23 of title 18, United States Code, is amended—

(1) by striking the item relating to section 434; and

(2) in the item relating to section 437, by striking "Indian" and all that follows through "supplies" and inserting "Federal employees contracting or trading with Indians.".

SEC. 3513. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 25.

The table of sections at the beginning of chapter 25 of title 18, United States Code, is amended—

(1) in the item relating to section 491, by striking "used" and all that follows through "coins" and inserting "or paper used as money.";

(2) in the item relating to section 496, by striking "entry certificates" and inserting "matters"; and

(3) in the item relating to section 501, by inserting ", postage meter stamps," after "stamps".

SEC. 3514. MARGIN CORRECTION IN SECTION 510.

Subsection (a) of section 510 of title 18, United States Code, is amended—

(1) by inserting a semicolon after "or signature" in paragraph (2); and

(2) so that the matter beginning with "shall be fined" and all that follows through the end of such subsection is flush against the left margin.

SEC. 3515. CORRECTIONS TO SECTION 513.

Section 513(c)(3) of title 18, United States Code, is amended—

(1) by striking "(15 U.S.C. 1693(c))"; and

(2) by inserting a comma after "profit-sharing agreement".

SEC. 3516. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 29.

The table of sections at the beginning of chapter 29 of title 18, United States Code, is amended—

(1) in the item relating to section 603, by striking "Place of solicitation" and inserting "Making political contributions"; and

(2) in the item relating to section 607, by striking "Making political contributions" and inserting "Place of solicitation".

SEC. 3517. CORRECTION OF HEADING OF SECTION 665.

(a) The heading of section 665 of title 18, United States Code, is amended by striking the colons and inserting semicolons.

(b) Section 665(c) of title 18, United States Code, is amended by striking "Any person whoever" and inserting "Whoever".

SEC. 3518. PUNCTUATION CORRECTION TO HEADING FOR CHAPTER 33.

The heading at the beginning of chapter 33 of title 18, United States Code, is amended by inserting a comma after "insignia".

SEC. 3519. REDESIGNATION OF SECOND SECTION 798.

(a) GENERALLY.—The second section 798 of title 18, United States Code, is redesignated as section 798A.

(b) TABLE OF SECTIONS.—The item relating to the second section 798 in the table of sections at the beginning of chapter 37 of title 18, United States Code, is amended by striking "798" and inserting "798A".

(c) CROSS REFERENCE CONFORMING AMENDMENT.—Section 14 of title 18, United States Code, is amended by striking "798" the first place it appears and all that follows through "799" and inserting "798, 798A, 799".

SEC. 3520. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 40.

The item relating to section 843 in the table of sections at the beginning of chapter 40 of title 18, United States Code, is amended by striking "Licensing" and inserting "Licenses".

SEC. 3521. CORRECTION TO SECTION 842.

Section 842 of title 18, United States Code, is amended—

(1) in subsection (d)(5), by striking the period and inserting "; or"; and

(2) in subsection (i)(3), by striking the period and inserting "; or".

SEC. 3522. CORRECTION TO SECTION 844.

Section 844 of title 18, United States Code, is amended by striking the comma that immediately follows a comma.

SEC. 3523. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 44.

The item relating to section 928 in the table of sections at the beginning of chapter 44 of title 18, United States Code, is amended by striking "clause".

SEC. 3524. CORRECTION TO SECTION 922.

Section 922(b)(1) is amended by striking the period at the end and inserting a semicolon.

SEC. 3525. CORRECTION TO SECTION 923.

Section 923(a)(3)(B) is amended by inserting a comma after "devices".

SEC. 3526. AMENDMENTS RELATING TO THE UNDETECTABLE FIREARMS ACT OF 1988.

(a) REDESIGNATION IN TITLE 18.—Section 924 of title 18, United States Code, is amended by redesignating the second subsection (f) and subsection (g) as subsections (g) and (h), respectively.

(b) REDESIGNATION IN ORIGINAL ACT.—Section 2(f)(2)(B) of the Undetectable Firearms Act of 1988 is amended by inserting "and subsections (g) and (h) of such section are hereby redesignated as subsections (f) and (g), respectively" before the semicolon.

18 USC 924.

SEC. 3527. ELIMINATION OF REDUNDANT WORDS.

Section 924(c)(1) of title 18, United States Code, is amended by striking "imprisonment for" the 4th place it appears.

SEC. 3528. INSERTION OF MISSING PARENTHESES.

Section 924(a)(1) is amended by striking "3" and inserting "(3)".

SEC. 3529. ADDITIONAL CORRECTIONS TO SECTION 924.

Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(2)—

(A) by striking "subsections" and inserting "subsection"; and

(B) by inserting a comma after "years".

(2) in subsection (e)(2)(A)(ii), by striking "and"; and

(3) in subsection (e)(2)(B)(ii), by striking the period and inserting "; and".

SEC. 3530. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 45.

The table of sections at the beginning of chapter 45 of title 18, United States Code, is amended by striking the item relating to section 968.

SEC. 3531. CORRECTION TO SECTION 981.

Section 981(d) of title 18, United States Code, is amended by adding a period at the end.

SEC. 3532. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 47.

The item relating to section 1031 in the table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting a period after "1031".

SEC. 3533. CORRECTION OF CROSS REFERENCE IN SECTION 1030.

Section 1030 of title 18, United States Code, is amended by striking "paragraph r" and inserting "paragraph y".

SEC. 3534. ELIMINATION OF SUPERFLUOUS PUNCTUATION IN SECTION 1113.

Section 1113 of title 18, United States Code, is amended by striking the final period.

SEC. 3535. CAPITALIZATION AND AGENCY REFERENCE CORRECTIONS IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended—

(1) by striking "secret service" and inserting "Secret Service";

(2) by striking "any officer or employee of the Department of Health, Education, and Welfare," and inserting "any officer or employee of the Department of Education, the Department of Health and Human Services,"; and

(3) by striking "the Federal Savings and Loan Insurance Corporation,".

SEC. 3536. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 53.

The table of sections at the beginning of chapter 53 of title 18, United States Code, is amended by striking the item relating to section 1157.

SEC. 3537. CORRECTION TO SECTION 1168.

Section 1168(a) of title 18, United States Code, is amended by striking "and be imprisoned for" and inserting "or imprisoned".

SEC. 3538. CROSS REFERENCE CORRECTION IN SECTION 1201.

Section 1201(a)(3) of title 18, United States Code, is amended—

(1) by striking "101(36)" and inserting "101(38)"; and

(2) by striking ", as amended (49 U.S.C. 1301(36))".

SEC. 3539. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 57.

The table of sections at the beginning of chapter 57 of title 18, United States Code, is amended by striking the item relating to section 1232.

SEC. 3540. CORRECTION OF HEADING OF SECTION 1262.

The heading of section 1262 of title 18, United States Code, is amended by striking "state" and inserting "State".

SEC. 3541. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 63.

The item relating to section 1342 in the table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by striking "and" and inserting "or".

SEC. 3542. CORRECTION TO SECTION 1345.

Section 1345 of title 18, United States Code, is amended by inserting a comma after "of this title".

SEC. 3543. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 65.

The item relating to section 1366 in the table of sections at the beginning of chapter 65 of title 18, United States Code, is amended by inserting a period after "1366".

SEC. 3544. CORRECTION OF QUOTATION MARK.

Section 1365(g)(1)(A) of title 18, United States Code, is amended by inserting ar open quotation mark before "device".

SEC. 3545. CORRECTION OF CROSS REFERENCE.

Section 1366(c) of title 18, United States Code, is amended by striking "49 U.S.C. 1671" and inserting "section 2 of the Natural Gas Pipeline Safety Act of 1968".

SEC. 3546. ELIMINATION OF EXECUTED CLERICAL AMENDMENT.

Section 1366 of title 18, United States Code, is amended by striking subsection (d).

SEC. 3547. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 67.

The table of sections at the beginning of chapter 67 of title 18, United States Code, is amended by striking the item relating to section 1383.

SEC. 3548. CORRECTION TO SECTION 1466.

Section 1466(b) of title 18, United States Code, is amended—

(1) by striking "this subsection" and inserting "this section"; and

(2) by striking "subsection (b)" and inserting "this subsection".

SEC. 3549. CROSS REFERENCE CORRECTION TO SECTION 1467.

Section 1467(h)(4) of title 18, United States Code, is amended by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 3550. CORRECTION TO SECTION 1546.

Section 1546(a) of title 18, United States Code, is amended by striking "Shall be fined not more than in accordance with this title" and inserting "Shall be fined under this title".

SEC. 3551. CORRECTION TO SECTION 1716A.

Section 1716A(a) of title 18, United States Code, is amended by striking "shall be under this title" and inserting "shall be fined under this title or".

SEC. 3552. CORRECTION TO HEADING OF SECTION 1717.

(a) GENERALLY.—The heading of section 1717 of title 18, United States Code, is amended by striking "; opening letters".

(b) CONFORMING AMENDMENT.—The item relating to section 1717 in the table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by striking "; opening letters".

SEC. 3553. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 84.

The table of sections at the beginning of chapter 84 of title 18, United States Code, is amended by adding at the end the following:

"1752. Temporary residences and offices of the President and others.".

SEC. 3554. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 91.

The table of sections at the beginning of chapter 91 of title 18, United States Code, is amended by striking the item relating to section 1862.

SEC. 3555. CORRECTION TO SECTION 1864.

Section 1864 of title 18, United States Code, is amended—

(1) by striking "and" at the end of subsection (d)(1)(D); and

(2) in subsection (d)(2)(E), by striking the period at the end and inserting "; and".

SEC. 3556. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 93.

The table of sections at the beginning of chapter 93 of title 18, United States Code, is amended—

(1) in the item relating to section 1906, by striking "by bank examiner" and inserting "from a bank examination report"; and

(2) by striking the item relating to section 1914.

SEC. 3557. CORRECTIONS TO SECTION 1956.

Section 1956 of title 18, United States Code, is amended—

(1) in subsection (c)(7)(A), by striking "the Currency and Foreign Transactions Reporting Act" and inserting "subchapter II of chapter 53 of title 31";

(2) in subsection (c)(7)(D)—

(A) by striking "or section 2113" and inserting "section 2113";

(B) by striking "theft) of this title," and inserting "theft), or"; and

(C) by inserting "of this title" after "2319 (relating to copyright infringement)";

(D) by striking "paraphenalia" and inserting "paraphernalia"; and

(E) by striking the final period.

SEC. 3558. CORRECTION TO SECTION 1958.

Section 1958(b) of title 18, United States Code, is amended by striking "1952B" and inserting "1959".

SEC. 3559. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 96.

The item relating to section 1962 in the table of sections at the beginning of chapter 96 of title 18, United States Code, is amended by striking "racketeering".

SEC. 3560. CORRECTION TO SECTION 1961.

Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "section 1029 (relative" and inserting "section 1029 (relating"; and

(2) by striking "sections 2251 through 2252 (relating to sexual exploitation of children),".

SEC. 3561. CORRECTION TO SECTION 1963.

Section 1963(a) of title 18, United States Code, is amended by striking "or both." and inserting "or both".

SEC. 3562. CORRECTION OF HEADING OF SECTION 2114.

The heading of section 2114 of title 18, United States Code, is amended by inserting a comma after "money".

SEC. 3563. PUNCTUATION CORRECTION TO SECTION 2251(a).

Section 2251(a) of title 18, United States Code, is amended by striking "in,," and inserting "in,".

SEC. 3564. CORRECTIONS TO SECTION 2253.

Section 2253 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" and inserting "section 2251"; and

(2) in subsection (h)(4), by striking "in accordance" and all that follows through "United States Code" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 3565. CORRECTIONS TO SECTION 2254.

Section 2254 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "sections 2251" each place it appears and inserting "section 2251";

(2) in subsection (e), by inserting "INAPPLICABILITY OF CERTAIN SECTIONS.—" after "(e)"; and

(3) in subsection (f)—

(A) by striking "subchapter" and inserting "section"; and

(B) in paragraph (1), by striking "pursuant to section 1616 of title 19" and inserting "under section 616 of the Tariff Act of 1930".

SEC. 3566. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 111.

The item relating to section 2271 in the table of sections at the beginning of chapter 111 of title 18, United States Code, is amended by striking "vessel" and inserting "vessels".

SEC. 3567. CORRECTION OF HEADING OF SECTION 2318.

The heading of section 2318 of title 18, United States Code, is amended by striking the comma.

SEC. 3568. CROSS REFERENCE CORRECTIONS IN SECTION 2516.

Section 2516(j) of title 18, United States Code, is amended by striking "any violation of section 1679a(c)(2) (relating to destruction of a natural gas pipeline) or subsection (i) or (n) of section 1472 (relating to aircraft piracy) of title 49, of the United States Code" and inserting "any violation of section 11(c)(2) of the Natural Gas Pipeline Safety Act of 1968 (relating to destruction of a natural gas pipeline) or section 902(i) or (n) of the Federal Aviation Act of 1958 (relating to aircraft piracy)".

SEC. 3569. CORRECTIONS TO SECTION 3013.

Section 3013 of title 18, United States Code, is amended—

(1) in subsection (a)(1)(B)(i), by striking "a infraction" and inserting "an infraction"; and

(2) in subsection (a)(1)(B)(iii), by striking the period at the end and inserting a semicolon.

SEC. 3570. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 203.

The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by striking the item relating to section 3054.

SEC. 3571. CORRECTION TO SECTION 3058.

Section 3058 of title 18, United States Code, is amended by striking "beligerent" and inserting "belligerent".

SEC. 3572. CORRECTION TO SECTION 3077.

Section 3077 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking the comma before the close quotation mark and inserting a comma after that mark;

(2) in each of paragraphs (1), (2), (3), and (5), by striking the period at the end and inserting a semicolon; and

(3) in paragraph (6), by striking the period at the end and inserting "; and".

SEC. 3573. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 205.

The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended—

(1) by striking the item relating to section 3112; and

(2) by striking "3117" the last place it appears and inserting "3118".

SEC. 3574. REDESIGNATION OF DUPLICATE SECTION 3117.

Section 3117 of title 18, United States Code, that relates to implied consent for certain tests, is redesignated as section 3118.

SEC. 3575. CORRECTION TO SECTION 3124.

Section 3124(b) of title 18, United States Code, is amended by striking "subsection 3123(b)" and inserting "section 3123(b)".

SEC. 3576. CLARIFYING REENACTMENT OF PORTION OF SECTION 3154.

Paragraph (1) of section 3154 of title 18, United States Code, is amended by striking "community" and all that follows through the end of such paragraph and inserting "community, and, where appropriate, include a recommendation as to whether such individual should be released or detained and, if release is recommended, recommend appropriate conditions of release.".

SEC. 3577. PUNCTUATION CORRECTION TO SECTION 3165.

Section 3165(e)(2) of title 18, United States Code, is amended by striking "twelve-calendar month" and inserting "twelve-calendar-month".

SEC. 3578. SPELLING CORRECTION TO SECTION 3166.

Section 3166(b)(8) of title 18, United States Code, is amended by striking "extention" and inserting "extension".

SEC. 3579. STYLE CORRECTION TO SECTION 3170.

Subsections (a) and (b) of section 3170 of title 18, United States Code, are each amended by striking "(c)" and inserting "3166(c)" in lieu thereof.

SEC. 3580. CORRECTION TO SECTION 3289.

Section 3289 of title 18, United States Code, is amended by inserting a comma after "information" the second place it appears.

SEC. 3581. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 224.

The item relating to section 3526 in the table of sections at the beginning of chapter 224 of title 18, United States Code, is amended by inserting "; reimbursement of expenses" after "governments".

SEC. 3582. CORRECTION TO SECTION 3521.

Section 3521 of title 18, United States Code, is amended—

(1) in the final sentence of subsection (b)(1), by inserting "(G)" after "subparagraph"; and

(2) in subsection (d)(3), by inserting "the" before "Civil Rights Division".

SEC. 3583. CORRECTION TO SECTION 3562.

Section 3562(b)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 3584. CORRECTION TO SECTION 3563.

Section 3563 of title 18, United States Code, is amended—

(1) in subsection (a), by striking "defendent" and inserting "defendant"; and

(2) in subsection (b)(3)—

(A) by striking "pursuant to the provisions of section 3663 and 3664" and inserting "under sections 3663 and 3664"; and

(B) by inserting "section" before "3663(a)".

SEC. 3585. CORRECTION TO SECTION 3565.

Section 3565(a)(1) of title 18, United States Code, is amended by striking "of modifying" and inserting "or modifying".

SEC. 3586. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER C OF CHAPTER 227.

The table of sections at the beginning of subchapter C of chapter 227 of title 18, United States Code, is amended—

(1) in the item relating to section 3572, by inserting "and related matters" after "fines"; and

(2) in the item relating to section 3573, by striking "revision" and inserting "remission".

SEC. 3587. CORRECTION TO SECTION 3572.

Section 3572(c)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 3588. CORRECTION TO SECTION 3582.

Section 3582(b)(2) of title 18, United States Code, is amended by inserting "of the Federal Rules of Criminal Procedure" after "rule 35".

SEC. 3589. CORRECTION TO SECTION 3583.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d)(2), by inserting a comma after "3553(a)(2)(B)";

(2) in subsection (e)—

(A) by striking "or" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; or"; and

(C) by redesignating paragraph (5) as paragraph (4).

SEC. 3590. CORRECTION OF TABLE OF SECTIONS FOR SUBCHAPTER A OF CHAPTER 229.

The item relating to section 3607 in the table of sections at the beginning of subchapter A of chapter 229 of title 18, United States Code, is amended by striking "possessor" and inserting "possessors".

SEC. 3591. CORRECTION TO SECTION 3611.

Section 3611 of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 3592. CORRECTION TO SECTION 3612.

Section 3612(a) of title 18, United States Code, is amended by striking "604(a)(17)" each place it appears and inserting "604(a)(18)".

SEC. 3593. CORRECTION TO SECTION 3613.

Section 3613(c) is amended by striking the period before the final quotation mark and inserting a period after such mark.

SEC. 3594. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 232.

The item relating to section 3669 in the table of sections at the beginning of chapter 232 of title 18, United States Code, is amended by striking "Conveyance" and inserting "Conveyances".

SEC. 3595. CROSS REFERENCE UPDATE FOR SECTION 3663.

Section 3663(f)(4) of title 18, United States Code, is amended by striking "604(a)(17)" and inserting "604(a)(18)".

SEC. 3596. CROSS REFERENCE UPDATE FOR SECTION 3664.

Section 3664(a) of title 18, United States Code, is amended by striking "3579" and inserting "3663".

SEC. 3597. CORRECTION TO TABLE OF CHAPTERS FOR PART III.

The table of chapters for part III of title 18, United States Code, is amended—

(1) by inserting after the item relating to chapter 305 the following:

"306. Transfer to or from foreign countries ..... 4100";

and

(2) by inserting after the item relating to chapter 317 the following:

"319. National Institute of Corrections ..... 4351".

SEC. 3598. CROSS REFERENCE CORRECTION TO SECTION 4109.

Section 4109(a) of title 18, United States Code, is amended—

(1) by striking "the Criminal Justice Act (18 U.S.C. 3006A)" and inserting "section 3006A of this title"; and

(2) by striking "the Criminal Justice Act (18 U.S.C. 3006(a))" and inserting "section 3006A of this title".

SEC. 3599. CORRECTION TO SECTION 4013.

Section 4013 of title 18, United States Code, is amended by striking "(a)".

SEC. 3599A. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 307.

The item relating to section 4126 in the table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by striking "fund" and inserting "Fund".

SEC. 3599B. CORRECTION TO HEADING OF SECTION 4106A.

The heading at the beginning of section 4106A of title 18, United States Code, is amended by inserting "of" before "offenders" the second place it appears.

SEC. 3599C. CORRECTION TO SECTION 4106A.

Section 4106A(b)(1)(C) of title 18, United States Code, is amended by adding a period at the end.

SEC. 3599D. CORRECTION TO SECTION 4246.

Section 4246(g) of title 18, United States Code, is amended by striking "subchapter" and inserting "chapter".

SEC. 3599E. CORRECTION TO SECTION 4285.

Section 4285 of title 18, United States Code, is amended by striking "exced" and inserting "exceed".

SEC. 3599F. CORRECTION TO SECTION 4352.

Section 4352(c) of title 18, United States Code, is amended by striking "this shall" and inserting "this chapter shall".

SEC. 3599G. CORRECTION TO SECTION 5032.

The 4th paragraph of section 5032 of title 18, United States Code, is amended by striking "offenses set forth in this subsection" and inserting "offenses set forth in this paragraph".

SEC. 3599H. CORRECTION TO TABLE OF SECTIONS FOR CHAPTER 403.

The item relating to section 5042 in the table of sections at the beginning of chapter 403 of title 18, United States Code, is amended by striking "Probation" and inserting "probation".

SEC. 3599I. DEFINITIONS FOR CONTROLLED SUBSTANCES ACT.

Section 102(32)(A) of the Controlled Substances Act (21 U.S.C. 802(32)(A)) is amended by striking "stimulent" each place it appears and inserting "stimulant".

SEC. 3599J. SECTION 1010 OF THE CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1010(b)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)(2)) is amended by striking "suspervised" each place it appears and inserting "supervised".

SEC. 3599K. SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

Sections 401(b)(1)(A)(ii)(IV) and 401(b)(1)(B)(ii)(IV) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)(ii)(IV) and 841(b)(1)(B)(ii)(IV)) are each amended by striking "any of the substance" and inserting "any of the substances".

SEC. 3599L. SECTIONS 405, 405A, and 405B OF THE CONTROLLED SUBSTANCES ACT.

Sections 405(b), 405A(b), and 405B(c) of the Controlled Substances Act (which are redesignated by this Act) (21 U.S.C. 845(b), 845a(b), and 845b(c)) are each amended by striking "have become final" and inserting "has become final".

Ante, p. 4827.

SEC. 3599M. SECTION 510 OF THE CONTROLLED SUBSTANCES ACT.

Section 510(b)(3) of the Controlled Substances Act (21 U.S.C. 880(b)(3)) is amended by striking "paragraph (5)" and inserting "paragraph (4)".

TITLE XXXVI—FEDERAL DEBT COLLECTION

Federal Debt Collection Procedures Act of 1990.
Courts.
28 USC 1 note.

SEC. 3601. This title may be cited as the "Federal Debt Collection Procedures Act of 1990".

Subtitle A—Debt Collection Procedures

SEC. 3611. Title 28 of the United States Code is amended by inserting after chapter 175 the following:

"CHAPTER 176—FEDERAL DEBT COLLECTION PROCEDURE

"Subchapter
"A. Definitions and general provisions 3001
"B. Prejudgment remedies 3101
"C. Postjudgments remedies 3201
"D. Fraudulent transfers 3301

"SUBCHAPTER A—DEFINITIONS AND GENERAL PROVISIONS

"Sec.
"3001. Applicability of chapter.
"3002. Definitions.
"3003. Rules of construction.
"3004. Service of process; enforcement; notice.
"3005. Application of chapter to judgments.
"3006. Affidavit requirements.
"3007. Perishable personal property.
"3008. Proceedings before United States magistrates.
"3009. United States marshals' authority to designate keeper.
"3010. Co-owned property.
"3011. Assessment of surcharge on a debt.
"3012. Joinder of additional defendant.
"3013. Modification or protective order; supervision of enforcement.
"3014. Exempt property.
"3015. Discovery as to debtor's financial condition.

"§ 3001. Applicability of chapter

"(a) IN GENERAL.—Except as provided in subsection (b), the chapter provides the exclusive civil procedures for the United States—

"(1) to recover a judgment on a debt; or

"(2) to obtain, before judgment on a claim for a debt, a remedy in connection with such claim.

"(b) LIMITATION.—To the extent that another Federal law specifies procedures for recovering on a claim or a judgment for a debt arising under such law, those procedures shall apply to such claim or judgment to the extent those procedures are inconsistent with this chapter.

"(c) AMOUNTS OWING OTHER THAN DEBTS.—This chapter shall not apply with respect to an amount owing that is not a debt or to a claim for an amount owing that is not a debt.

"§ 3002. Definitions

"As used in this chapter:

"(1) 'Counsel for the United States' means—

"(A) a United States attorney, an assistant United States attorney designated to act on behalf of the United States attorney, or an attorney with the United States Department of Justice or with a Federal agency who has litigation authority; and

"(B) any private attorney authorized by contract made in accordance with section 3718 of title 31 to conduct litigation for collection of debts on behalf of the United States.

"(2) 'Court' means any court created by the Congress of the United States, excluding the United States Tax Court.

"(3) 'Debt' means—

"(A) an amount that is owing to the United States on account of a direct loan, or loan insured or guaranteed, by the United States; or

"(B) an amount that is owing to the United States on account of a fee, duty, lease, rent, service, sale of real or personal property, overpayment, fine, assessment, penalty, restitution, damages, interest, tax, bail bond forfeiture, reimbursement, recovery of a cost incurred by the United States, or other source of indebtedness to the United States, but that is not owing under the terms of a contract originally entered into by only persons other than the United States;

and includes any amount owing to the United States for the benefit of an Indian tribe or individual Indian, but excludes any amount to which the United States is entitled under section 3011(a).

"(4) 'Debtor' means a person who is liable for a debt or against whom there is a claim for a debt.

"(5) 'Disposable earnings' means that part of earnings remaining after all deductions required by law have been withheld.

"(6) 'Earnings' means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

"(7) 'Garnishee' means a person (other than the debtor) who has, or is reasonably thought to have, possession, custody, or control of any property in which the debtor has a substantial nonexempt interest, including any obligation due the debtor or to become due the debtor, and against whom a garnishment under section 3104 or 3205 is issued by a court.

"(8) 'Judgment' means a judgment, order, or decree entered in favor of the United States in a court and arising from a civil or criminal proceeding regarding a debt.

"(9) 'Nonexempt disposable earnings' means 25 percent of disposable earnings, subject to section 303 of the Consumer Credit Protection Act.

"(10) 'Person' includes a natural person (including an individual Indian), a corporation, a partnership, an unincorporated association, a trust, or an estate, or any other public or private entity, including a State or local government or an Indian tribe.

"(11) 'Prejudgment remedy' means the remedy of attachment, receivership, garnishment, or sequestration authorized by this chapter to be granted before judgment on the merits of a claim for a debt.

"(12) 'Property' includes any present or future interest, whether legal or equitable, in real, personal (including choses in

action), or mixed property, tangible or intangible, vested or contingent, wherever located and however held (including community property and property held in trust (including spendthrift and pension trusts)), but excludes—

"(A) property held in trust by the United States for the benefit of an Indian tribe or individual Indian; and

"(B) Indian lands subject to restrictions against alienation imposed by the United States.

"(13) 'Security agreement' means an agreement that creates or provides for a lien.

"(14) 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, or any territory or possession of the United States.

"(15) 'United States' means—

"(A) a Federal corporation;

"(B) an agency, department, commission, board, or other entity of the United States; or

"(C) an instrumentality of the United States.

"(16) 'United States marshal' means a United States marshal, a deputy marshal, or an official of the United States Marshals Service designated under section 564.

"§ 3003. Rules of construction

"(a) TERMS.—For purposes of this chapter—

"(1) the terms 'includes' and 'including' are not limiting;

"(2) the term 'or' is not exclusive; and

"(3) the singular includes the plural.

"(b) EFFECT ON RIGHTS OF THE UNITED STATES.—This chapter shall not be construed to curtail or limit the right of the United States under any other Federal law or any State law—

"(1) to collect taxes or to collect any other amount collectible in the same manner as a tax;

"(2) to collect any fine, penalty, assessment, restitution, or forfeiture arising in a criminal case;

"(3) to appoint or seek the appointment of a receiver; or

"(4) to enforce a security agreement.

"(c) EFFECT ON OTHER LAWS.—This chapter shall not be construed to supersede or modify the operation of—

"(1) title 11;

"(2) admiralty law;

"(3) section 3713 of title 31;

"(4) section 303 of the Consumer Credit Protection Act (15 U.S.C. 1673);

"(5) a statute of limitation applicable to a criminal proceeding;

"(6) the common law or statutory rights to set-off or recoupment;

"(7) any Federal law authorizing, or any inherent authority of a court to provide, injunctive relief;

"(8) the authority of a court—

"(A) to impose a sanction under the Federal Rules of Civil Procedure;

"(B) to appoint a receiver to effectuate its order; or

"(C) to exercise the power of contempt under any Federal law;

"(9) any law authorizing the United States to obtain partition, or to recover possession, of property in which the United States holds title; or

"(10) any provision of any other chapter of this title, except to the extent such provision is inconsistent with this chapter.

"(d) PREEMPTION.—This chapter shall preempt State law to the extent such law is inconsistent with a provision of this chapter.

"(e) EFFECT ON RIGHTS OF THE UNITED STATES UNDER FOREIGN AND INTERNATIONAL LAW.—This chapter shall not be construed to curtail or limit the rights of the United States under foreign law, under a treaty or an international agreement, or otherwise under international law.

"(f) APPLICABILITY OF FEDERAL RULES OF CIVIL PROCEDURE.—Except as provided otherwise in this chapter, the Federal Rules of Civil Procedure shall apply with respect to actions and proceedings under this chapter.

"§ 3004. Service of process; enforcement; notice

"(a) MANNER OF SERVICE.—A complaint, notice, writ, or other process required to be served in an action or proceeding under this chapter shall be served in accordance with the Federal Rules of Civil Procedure unless otherwise provided in this chapter.

"(b) NATIONWIDE ENFORCEMENT.—(1) Except as provided in paragraph (2)—

"(A) any writ, order, judgment, or other process, including a summons and complaint, filed under this chapter may be served in any State; and

"(B) such writ, order, or judgment may be enforced by the court issuing the writ, order, or process, regardless of where the person is served with the writ, order, or process.

"(2) If the debtor so requests, within 20 days after receiving the notice described in section 3101(d) or 3202(b), the action or proceeding in which the writ, order, or judgment was issued shall be transferred to the district court for the district in which the debtor resides.

"(c) NOTICE AND OTHER PROCESS.—At such time as counsel for the United States considers appropriate, but not later than the time a prejudgment or postjudgment remedy is put into effect under this chapter, counsel for the United States shall exercise reasonable diligence to serve on the debtor and any person who the United States believes, after exercising due diligence, has possession, custody, or control of the property, a copy of the application for such remedy, the order granting such remedy, and the notice required by section 3101(d) or 3202(b).

"§ 3005. Application of chapter to judgments

"This chapter shall not apply with respect to a judgment on a debt if such judgment is entered more than 10 years before the effective date of this chapter.

"§ 3006. Affidavit requirements

"Any affidavit required of the United States by this chapter may be made on information and belief, if reliable and reasonably necessary, establishing with particularity, to the court's satisfaction, facts supporting the claim of the United States.

"§ 3007. Perishable personal property

"(a) AUTHORITY TO SELL.—If at any time during any action or proceeding under this chapter the court determines on its own initiative or upon motion of any party, that any seized or detained personal property is likely to perish, waste, or be destroyed, or otherwise substantially depreciate in value during the pendency of the proceeding, the court shall order a commercially reasonable sale of such property.

"(b) DEPOSIT OF SALE PROCEEDS.—Within 5 days after such sale, the proceeds shall be deposited with the clerk of the court, accompanied by a statement in writing and signed by the United States marshal, to be filed in the action or proceeding, stating the time and place of sale, the name of the purchaser, the amount received, and an itemized account of expenses.

"(c) PRESUMPTION.—For purposes of liability on the part of the United States, there shall be a presumption that the price paid at a sale under subsection (a) is the fair market value of the property or portion.

"§ 3008. Proceedings before United States magistrates

"A district court of the United States may assign its duties in proceedings under this chapter to a United States magistrate to the extent not inconsistent with the Constitution and laws of the United States.

"§ 3009. United States marshals' authority to designate keeper

"Whenever a United States marshal is authorized to seize property pursuant to this chapter, the United States marshal may designate another person or Federal agency to hold for safekeeping such property seized.

"§ 3010. Co-owned property

"(a) LIMITATION.—The remedies available to the United States under this chapter may be enforced against property which is co-owned by a debtor and any other person only to the extent allowed by the law of the State where the property is located. This section shall not be construed to limit any right or interest of a debtor or co-owner in a retirement system for Federal military or civilian personnel established by the United States or any agency thereof or in a qualified retirement arrangement.

"(b) DEFINITIONS.—For purposes of subsection (a)—

"(1) the term 'retirement system for Federal military or civilian personnel' means a pension or annuity system for Federal military or civilian personnel of more than one agency, or for some or all of such personnel of a single agency, established by statute or by regulation pursuant to statutory authority; and

"(2) the term 'qualified retirement arrangement' means a plan qualified under section 401(a), 403(a), or 409 of the Internal Revenue Code of 1986 or a plan that is subject to the requirements of section 205 of the Employee Retirement Income Security Act of 1974.

"§ 3011. Assessment of surcharge on a debt

"(a) SURCHARGE AUTHORIZED.—In an action or proceeding under subchapter B or C, and subject to subsection (b), the United States is

entitled to recover a surcharge of 10 percent of the amount of the debt in connection with the recovery of the debt, to cover the cost of processing and handling the litigation and enforcement under this chapter of the claim for such debt.

"(b) LIMITATION.—Subsection (a) shall not apply if—

"(1) the United States receives an attorney's fee in connection with the enforcement of the claim; or

"(2) the law pursuant to which the action on the claim is based provides any other amount to cover such costs.

"§ 3012. Joinder of additional defendant

"The United States or the debtor may join as an additional defendant in an action or proceeding under this chapter any person reasonably believed to owe money (including money owed on account of a requirement to provide goods or services pursuant to a loan or loan guarantee extended under Federal law) to the debtor arising out of the transaction or occurrence giving rise to a debt.

"§ 3013. Modification or protective order; supervision of enforcement

"The court may at any time on its own initiative or the motion of any interested person, and after such notice as it may require, make an order denying, limiting, conditioning, regulating, extending, or modifying the use of any enforcement procedure under this chapter.

"§ 3014. Exempt property

"(a) ELECTION TO EXEMPT PROPERTY.—An individual debtor may, in an action or proceeding under this chapter, elect to exempt property listed in either paragraph (1) or, in the alternative, paragraph (2). If such action or proceeding is against debtors who are husband and wife, one debtor may not elect to exempt property listed in paragraph (1) and the other debtor elect to exempt property listed in paragraph (2). If the debtors cannot agree on the alternative to be elected, they shall be deemed to elect paragraph (1). Such property is either—

"(1) property that is specified in section 522(d) of title 11, as amended from time to time; or

"(2)(A) any property that is exempt under Federal law, other than paragraph (1), or State or local law that is applicable on the date of the filing of the application for a remedy under this chapter at the place in which the debtor's domicile has been located for the 180 days immediately preceding the date of the filing of such application, or for a longer portion of such 180-day period than in any other place; and

"(B) any interest in property in which the debtor had, immediately before the filing of such application, an interest as a tenant by the entirety or joint tenant, or an interest in a community estate, to the extent that such interest is exempt from process under applicable nonbankruptcy law.

"(b) EFFECT ON ASSERTION AND MANNER OF DETERMINATION.—

"(1) STATEMENT.—A court may order the debtor to file a statement with regard to any claimed exemption. A copy of such statement shall be served on counsel for the United States. Such statement shall be under oath and shall describe each item of property for which exemption is claimed, the value and the basis for such valuation, and the nature of the debtor's ownership interest.

"(2) HEARING.—The United States or the debtor, by application to the court in which an action or proceeding under this chapter is pending, may request a hearing on the applicability of any exemption claimed by the debtor. The court shall determine the extent (if any) to which the exemption applies. Unless it is reasonably evident that the exemption applies, the debtor shall bear the burden of persuasion.

"(3) STAY OF DISPOSITION.—Assertion of an exemption shall prevent the United States from selling or otherwise disposing of the property for which such exemption is claimed until the court determines whether the debtor has a substantial nonexempt interest in such property. The United States may not take possession of, dispose of, sell, or otherwise interfere with the debtor's normal use and enjoyment of an interest in property the United States knows or has reason to know is exempt.

"(c) DEBTORS IN JOINT CASES.—Subject to the limitation in subsection (a), this section shall apply separately with respect to each debtor in a joint case.

"§ 3015. Discovery as to debtor's financial condition

"(a) IN GENERAL.—Except as provided in subsection (b), in an action or proceeding under subchapter B or C, the United States may have discovery regarding the financial condition of the debtor in the manner in which discovery is authorized by the Federal Rules of Civil Procedure in an action on a claim for a debt.

"(b) LIMITATION.—Subsection (a) shall not apply with respect to an action or proceeding under subchapter B unless there is a reasonable likelihood that the debt involved exceeds $50,000.

"SUBCHAPTER B—PREJUDGMENT REMEDIES

"Sec.
"3101. Prejudgment remedies.
"3102. Attachment.
"3103. Receivership.
"3104. Garnishment.
"3105. Sequestration.

"§ 3101. Prejudgment remedies

"(a) APPLICATION.—(1) The United States may, in a proceeding in conjunction with the complaint or at any time after the filing of a civil action on a claim for a debt, make application under oath to a court to issue any prejudgment remedy.

"(2) Such application shall be filed with the court and shall set forth the factual and legal basis for each prejudgment remedy sought.

"(3) Such application shall—

"(A) state that the debtor against whom the prejudgment remedy is sought shall be afforded an opportunity for a hearing; and

"(B) set forth with particularity that all statutory requirements under this chapter for the issuance of the prejudgment remedy sought have been satisfied.

"(b) GROUNDS.—Subject to section 3102, 3103, 3104, or 3105, a prejudgment remedy may be granted by any court if the United States shows reasonable cause to believe that—

"(1) the debtor—

"(A) is about to leave the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States in its effort to recover a debt;

"(B) has or is about to assign, dispose, remove, conceal, ill treat, waste, or destroy property with the effect of hindering, delaying, or defrauding the United States;

"(C) has or is about to convert the debtor's property into money, securities, or evidence of debt in a manner prejudicial to the United States with the effect of hindering, delaying, or defrauding the United States; or

"(D) has evaded service of process by concealing himself or has temporarily withdrawn from the jurisdiction of the United States with the effect of hindering, delaying, or defrauding the United States; or

"(2) a prejudgment remedy is required to obtain jurisdiction within the United States and the prejudgment remedy sought will result in obtaining such jurisdiction.

"(c) AFFIDAVIT.—(1) The application under subsection (a) shall include an affidavit establishing with particularity to the court's satisfaction facts supporting the probable validity of the claim for a debt and the right of the United States to recover what is demanded in the application.

"(2) The affidavit shall state—

"(A) specifically the amount of the debt claimed by the United States and any interest or costs attributable to such debt;

"(B) one or more of the grounds specified in subsection (b); and

"(C) the requirements of section 3102(b), 3103(a), 3104(a), or 3105(b), as the case may be.

"(3) No bond is required of the United States.

"(d) NOTICE AND HEARING.—(1) On filing an application by the United States as provided in this section, the counsel for the United States shall prepare, and the clerk shall issue, a notice for service on the debtor against whom the prejudgment remedy is sought and on any other person whom the United States reasonably believes, after exercising due diligence, has possession, custody, or control of property affected by such remedy. Three copies of the notice shall be served on each such person. The form and content of such notice shall be approved jointly by a majority of the chief judges of the Federal districts in the State in which the court is located and shall be in substantially the following form:

" 'NOTICE

" 'You are hereby notified that this [property] is being taken by the United States Government ("the Government"), which says that [name of debtor] owes it a debt of $ [amount] for [reason for debt] and has filed a lawsuit to collect this debt. The Government says it must take this property at this time because [recite the pertinent ground or grounds from section 3101(b)]. The Government wants to make sure [name of debtor] will pay if the court determines that this money is owed.

" 'In addition, you are hereby notified that there are exemptions under the law which may protect some of this property from being taken by the Government if [name of debtor] can show that the exemptions apply. Below is a summary of the major exemptions which apply in most situations in the State of [State where property is located]:

" '[A statement summarizing in plain and understandable English the election available with respect to such State under section 3014 and the types of property that may be exempted under each of the alternatives specified in paragraphs (1) and (2) of section 3014(a), and a statement that different property may be so exempted with respect to the State in which the debtor resides.]

" 'If you are [name of debtor] and you disagree with the reason the Government gives for taking your property now, or if you think you do not owe the money to the Government that it says you do, or if you think the property the Government is taking qualifies under one of the above exemptions, you have a right to ask the court to return your property to you.

" 'If you want a hearing, you must promptly notify the court. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

" 'At the hearing you may explain to the judge why you think you do not owe the money to the Government, why you disagree with the reason the Government says it must take your property at this time, or why you believe the property the Government has taken is exempt or belongs to someone else. You may make any or all of these explanations as you see fit.

" 'If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after you receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

" 'Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.'.

"(2) By requesting, at any time before judgment on the claim for a debt, the court to hold a hearing, the debtor may move to quash the order granting such remedy. The court shall hold a hearing on such motion as soon as practicable, or, if requested by the debtor, within 5 days after receiving the request for a hearing or as soon thereafter as possible. The issues at such hearing shall be limited to—

"(A) the probable validity of the claim for the debt for which such remedy was granted and of any defense or claim of exemption asserted by such person;

"(B) compliance with any statutory requirement for the issuance of the prejudgment remedy granted;

"(C) the existence of any ground set forth in subsection (b); and

"(D) the inadequacy of alternative remedies (if any) to protect the interests of the United States.

"(e) ISSUANCE OF WRIT.—On the court's determination that the requirements of subsections (a), (b), and (c) have been met, the court shall issue all process sufficient to put into effect the prejudgment remedy sought.

"§ 3102. Attachment

"(a) PROPERTY SUBJECT TO ATTACHMENT.—(1) Any property in the possession, custody, or control of the debtor and in which the debtor has a substantial nonexempt interest, except earnings, may be attached pursuant to a writ of attachment in an action or proceeding against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The value of property attached shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property garnished or in receivership, or income sequestered, under this subchapter.

"(b) AVAILABILITY OF ATTACHMENT.—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to attach property in which the debtor has a substantial nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) Subject to subsections (a) and (b), a writ of attachment shall be issued by the court directing the United States marshal of the district where property described in subsection (a) is located to attach the property.

"(2) Several writs of attachment may be issued at the same time, or in succession, and sent to different judicial districts until sufficient property is attached.

"(3) The writ of attachment shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the attachment; and

"(E) a reasonable description of the property to be attached.

"(d) LEVY OF ATTACHMENT.—(1) The United States marshal receiving the writ shall proceed without delay to levy upon the property specified for attachment if found within the district. The marshal may not sell property unless ordered by the court.

"(2) In performing the levy, the United States marshal may enter any property owned, occupied, or controlled by the debtor, except that the marshal may not enter a residence or other building unless the writ expressly authorizes the marshal to do so or upon specific order of the court.

"(3) Levy on real property is made by entering the property and posting the writ and notice of levy in a conspicuous place upon the property.

"(4) Levy on personal property is made by taking possession of it. Levy on personal property not easily taken into possession or which cannot be taken into possession without great inconvenience or expense may be made by affixing a copy of the writ and notice of levy on it or in a conspicuous place in the vicinity of it describing in the notice of levy the property by quantity and with sufficient detail to identify the property levied on.

"(5) The United States marshal shall file a copy of the notice of levy in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of levy on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the property subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of attachment shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the levy.

"(2) The return shall describe the property attached with sufficient certainty to identify it and shall state the location where it was attached, the date and time it was attached, and the disposition made of the property. If no property was attached, the return shall so state.

"(3) If the property levied on is claimed, replevied under subsection (j)(2), or sold under section 3007 after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the property.

"(4) If personal property is replevied, the United States marshal shall deliver the replevin bond to the clerk of the court to be filed in the action.

"(f) LEVY OF ATTACHMENT AS LIEN ON PROPERTY; SATISFACTION OF LIEN.—(1) A levy on property under a writ of attachment under this section creates a lien in favor of the United States on the property or, in the case of perishable property sold under section 3007, on the proceeds of the sale.

"(2) Such lien shall be ranked ahead of any other security interests perfected after the later of the time of levy and the time a copy of the notice of levy is filed under subsection (d)(5).

"(3) Such lien shall arise from the time of levy and shall continue until a judgment in the action is obtained or denied, or the action is otherwise dismissed. The death of the debtor whose property is attached does not terminate the attachment lien. Upon issuance of a judgment in the action and registration under this chapter, the judgment lien so created relates back to the time of levy.

"(g) REDUCTION OR DISSOLUTION OF ATTACHMENT.—(1) If an excessive or unreasonable attachment is made, the debtor may submit a

motion to the court for a reduction of the amount of the attachment or its dissolution. Notice of such motion shall be served on the United States.

"(2) The court shall order a part of the property to be released, if after a hearing the court finds that the amount of the attachment is excessive or unreasonable or if the attachment is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

"(3) The court shall dissolve the attachment if the amount of the debt is unliquidated and unascertainable by calculation.

"(4) If any property claimed to be exempt is levied on, the debtor may, at any time after such levy, request that the court vacate such levy. If it appears to the court that the property so levied upon is exempt, the court shall order the levy vacated and the property returned to the debtor.

"(h) REPLEVIN OF ATTACHED PROPERTY BY DEBTOR; BOND.—If attached property is not sold before judgment, the debtor may replevy such property or any part thereof by giving a bond approved by counsel for the United States or the court and payable to the United States in double the reasonable value of the property to be replevied or double the value of the claim, whichever is less.

"(i) PRESERVATION OF PERSONAL PROPERTY UNDER ATTACHMENT.—If personal property in custody of the United States marshal under a writ of attachment is not replevied, claimed, or sold, the court may make such order for its preservation or use as appears to be in the interest of the parties.

"(j) JUDGMENT AND DISPOSITION OF ATTACHED PROPERTY.—

"(1) JUDGMENT FOR THE UNITED STATES.—On entry of judgment for the United States, the court shall order the proceeds of personal property sold pursuant to section 3007 to be applied to the satisfaction of the judgment, and shall order the sale of any remaining personal property and any real property levied on to the extent necessary to satisfy the judgment.

"(2) JUDGMENT FOR THE UNITED STATES WHEN PERSONAL PROPERTY REPLEVIED.—With respect to personal property under attachment that is replevied, the judgment which may be entered shall be against the debtor against whom the writ of attachment is issued and also against the sureties on the debtor's replevin bond for the value of the property.

"(3) RESTORATION OF PROPERTY AND EXONERATION OF REPLEVIN BOND.—If the attachment is vacated or if the judgment on the claim for the debt is for the person against whom the writ attachment is issued, the court shall order the property, or proceeds of perishable property sold under section 3007, restored to the debtor and shall exonerate any replevin bond.

"§ 3103. Receivership

"(a) APPOINTMENT OF A RECEIVER.—If the requirements of section 3101 are satisfied, a court may appoint a receiver for property in which the debtor has a substantial nonexempt interest if the United States shows reasonable cause to believe that there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, concealed, materially injured or damaged, or mismanaged.

"(b) POWERS OF RECEIVER.—(1) The appointing court may authorize a receiver—

"(A) to take possession of real and personal property and sue for, collect, and sell obligations upon such conditions and for such purposes as the court shall direct; and

"(B) to administer, collect, improve, lease, repair or sell pursuant to section 3007 such real and personal property as the court shall direct.

A receiver appointed to manage residential or commercial property shall have demonstrable expertise in the management of these types of property.

"(2) Unless expressly authorized by order of the court, a receiver shall have no power to employ attorneys, accountants, appraisers, auctioneers, or other professional persons.

"(c) DURATION OF RECEIVERSHIP.—A receivership shall not continue past the entry of judgment, or the conclusion of an appeal of such judgment, unless the court orders it continued under section 3203(e) or unless the court otherwise directs its continuation.

"(d) ACCOUNTS; REQUIREMENT TO REPORT.—A receiver shall keep written accounts itemizing receipts and expenditures, describing the property and naming the depository of receivership funds. The receiver's accounts shall be open to inspection by any person having an apparent interest in the property. The receiver shall file reports at regular intervals as directed by the court and shall serve the debtor and the United States with a copy thereof. Records.

"(e) MODIFICATION OF POWERS; REMOVAL.—On motion of the receiver or on its own initiative, the court which appointed the receiver may remove the receiver or modify the receiver's powers at any time.

"(f) PRIORITY.—If more than one court appoints a receiver for particular property, the receiver first qualifying under law shall be entitled to take possession, control, or custody of the property.

"(g) COMPENSATION OF RECEIVERS.—(1) A receiver is entitled to such commissions, not exceeding 5 percent of the sums received and disbursed by him, as the court allows unless the court otherwise directs.

"(2) If, at the termination of a receivership, there are no funds in the hands of a receiver, the court may fix the compensation of the receiver in accordance with the services rendered and may direct the party who moved for the appointment of the receiver to pay such compensation in addition to the necessary expenditures incurred by the receiver which remain unpaid.

"(3) At the termination of a receivership, the receiver shall file a final accounting of the receipts and disbursements and apply for compensation setting forth the amount sought and the services rendered by the receiver.

"§ 3104. Garnishment

"(a) IN GENERAL.—If the requirements of section 3101 are satisfied, a court may issue a writ of garnishment against property (excluding earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor in order to satisfy a claim for a debt. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall

be continuing and shall terminate only as provided in section 3205(c)(10).

"(b) WRIT.—(1) Subsections (b)(2) and (c) of section 3205 shall apply with respect to garnishment under this section, except that for purposes of this section—

"(A) earnings of the debtor shall not be subject to garnishment; and

"(B) a reference in such subsections to a judgment debtor shall be deemed to be a reference to a debtor.

"(2) The United States shall include in its application for a writ of garnishment—

"(A) the amount of the claim asserted by the United States for a debt; and

"(B) the date the writ is issued.

"(c) LIMITATION.—The value of property garnished shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(1) property securing the debt; and

"(2) property attached or in receivership, or income sequestered, under this subchapter.

"§ 3105. Sequestration

"(a) PROPERTY SUBJECT TO SEQUESTRATION.—(1) Any income from property in which the debtor has a substantial nonexempt interest may be sequestered pursuant to a writ of sequestration in an action or proceeding against a debtor on a claim for a debt and may be held as security to satisfy such judgment, and interest and costs, as the United States may recover on such claim.

"(2) The amount of income sequestered shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

"(A) property securing the debt; and

"(B) property attached, garnished, or in receivership under this subchapter.

"(b) AVAILABILITY OF SEQUESTRATION.—If the requirements of section 3101 are satisfied, a court shall issue a writ authorizing the United States to sequester income from property in which the debtor has a substantial nonexempt interest, as security for such judgment (and interest and costs) as the United States may recover on a claim for a debt—

"(1) in an action on a contract, express or implied, against the debtor for payment of money, only if the United States shows reasonable cause to believe that—

"(A) the contract is not fully secured by real or personal property; or

"(B) the value of the original security is substantially diminished, without any act of the United States or the person to whom the security was given, below the amount of the debt;

"(2) in an action against the debtor for damages in tort;

"(3) if the debtor resides outside the jurisdiction of the United States; or

"(4) in an action to recover a fine, penalty, or tax.

"(c) ISSUANCE OF WRIT; CONTENTS.—(1) Subject to subsections (a) and (b), a writ of sequestration shall be issued by the court directing the United States marshal of the district where income described in subsection (a) is located to sequester the income.

"(2) Several writs of sequestration may be issued at the same time, or in succession, and sent to different judicial districts until sufficient income is sequestered.

"(3) The writ of sequestration shall contain—

"(A) the date of the issuance of the writ;

"(B) the identity of the court, the docket number of the action, and the identity of the cause of action;

"(C) the name and last known address of the debtor;

"(D) the amount to be secured by the sequestration; and

"(E) a reasonable description of the income to be sequestered.

"(d) EXECUTION OF WRIT.—(1) The United States marshal receiving the writ shall proceed without delay to execute the writ.

"(2) The United States marshal shall file a copy of the notice of sequestration in the same manner as provided for judgments in section 3201(a)(1). The United States marshal shall serve a copy of the writ and notice of sequestration on—

"(A) the debtor against whom the writ is issued; and

"(B) the person who has possession of the income subject to the writ;

in the same manner that a summons is served in a civil action and make the return thereof.

"(e) DEPOSIT OF SEQUESTERED INCOME.—A person who has possession of the income subject to a writ of sequestration shall deposit such income with the clerk of the court, accompanied by a statement in writing stating the person's name, the name of the debtor, the amount of such income, the property from which such income is produced, and the period during which such income is produced.

"(f) RETURN OF WRIT; DUTIES OF MARSHAL; FURTHER RETURN.—(1) A United States marshal executing a writ of sequestration shall return the writ with the marshal's action endorsed thereon or attached thereto and signed by the marshal, to the court from which it was issued, within 5 days after the date of the execution.

"(2) The return shall describe the income sequestered with sufficient certainty to identify it and shall state the location where it was sequestered, and the date and time it was sequestered. If no income was sequestered, the return shall so state.

"(3) If sequestered income is claimed after the return, the United States marshal shall immediately make a further return to the clerk of the court showing the disposition of the income.

"(g) REDUCTION OR DISSOLUTION OF SEQUESTRATION.—(1) If an excessive or unreasonable sequestration is made, the debtor may submit a motion to the court for a reduction of the amount of the sequestration or its dissolution. Notice of such motion shall be served on the United States.

"(2) The court shall order a part of the income to be released, if after a hearing the court finds that the amount of the sequestration is excessive or unreasonable or if the sequestration is for an amount larger than the sum of the liquidated or ascertainable amount of the debt and the amount of interest and costs likely to be taxed.

"(3) The court shall dissolve the sequestration if the amount of the debt is unliquidated and unascertainable by calculation.

"(h) PRESERVATION OF INCOME UNDER SEQUESTER.—If personal property in custody of the United States marshal under a writ of sequestration is not claimed, the court may make such order for its preservation or use as appears to be in the interest of the parties.

"(i) JUDGMENT AND DISPOSITION OF SEQUESTERED INCOME.—

"(1) JUDGMENT FOR THE UNITED STATES.—On entry of judgment for the United States, the court shall order the sequestered income to be applied to the satisfaction of the judgment.

"(2) RESTORATION OF INCOME.—If the sequestration is vacated or if the judgment on the claim for the debt is for the person against whom the writ of sequestration is issued, the court shall order the income restored to the debtor.

"SUBCHAPTER C—POSTJUDGMENT REMEDIES

"Sec.
"3201. Judgment liens.
"3202. Enforcement of judgments.
"3203. Execution.
"3204. Installment payment order.
"3205. Garnishment.
"3206. Discharge.

"§ 3201. Judgment liens

"(a) CREATION.—A judgment in a civil action shall create a lien on all real property of a judgment debtor on filing a certified copy of the abstract of the judgment in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of section 6323(f) of the Internal Revenue Code of 1986. A lien created under this paragraph is for the amount necessary to satisfy the judgment, including costs and interest.

"(b) PRIORITY OF LIEN.—A lien created under subsection (a) shall have priority over any other lien or encumbrance which is perfected later in time.

"(c) DURATION OF LIEN; RENEWAL.—(1) Except as provided in paragraph (2), a lien created under subsection (a) is effective, unless satisfied, for a period of 20 years.

"(2) Such lien may be renewed for one additional period of 20 years upon filing a notice of renewal in the same manner as the judgment is filed and shall relate back to the date the judgment is filed if—

"(A) the notice of renewal is filed before the expiration of the 20-year period to prevent the expiration of the lien; and

"(B) the court approves the renewal of such lien under this paragraph.

"(d) RELEASE OF JUDGMENT LIEN.—A judgment lien shall be released on the filing of a satisfaction of judgment or release of lien in the same manner as the judgment is filed to obtain the lien.

"(e) EFFECT OF LIEN ON ELIGIBILITY FOR FEDERAL GRANTS, LOANS OR PROGRAMS.—A debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The agency of the United States that is responsible for such grants and loans may

promulgate regulations to allow for waiver of this restriction on eligibility for such grants, loans, and funds.

"(f) SALE OF PROPERTY SUBJECT TO JUDGMENT LIEN.—(1) On proper application to a court, the court may order the United States to sell, in accordance with sections 2001 and 2002, any real property subject to a judgment lien in effect under this section.

"(2) This subsection shall not preclude the United States from using an execution sale pursuant to section 3203(g) to sell real property subject to a judgment lien.

"§ 3202. Enforcement of judgments

"(a) ENFORCEMENT REMEDIES.—A judgment may be enforced by any of the remedies set forth in this subchapter. A court may issue other writs pursuant to section 1651 of title 28, United States Code, as necessary to support such remedies, subject to rule 81(b) of the Federal Rules of Civil Procedure.

"(b) NOTICE.—On the commencement by the United States of an action or proceeding under this subchapter to obtain a remedy, the counsel for the United States shall prepare, and clerk of the court shall issue, a notice in substantially the following form:

" 'NOTICE

" 'You are hereby notified that this [property] is being taken by the United States Government, which has a court judgment in [case docket number and jurisdiction of court] of $[amount] for [reason of debt].

" 'In addition, you are hereby notified that there are exemptions under the law which may protect some of this property from being taken by the United States Government if [name of judgment debtor] can show that the exemptions apply. Below is a summary of the major exemptions which apply in most situations in the State of [State where property is located]:

> " '[A statement summarizing in plain and understandable English the election available with respect to such State under section 3014 and the types of property that may be exempted under each of the alternatives specified in paragraphs (1) and (2) of section 3014(a) and a statement that different property may be so exempted with respect to the State in which the debtor resides.]

" 'If you are [name of judgment debtor], you have a right to ask the court to return your property to you if you think the property the Government is taking qualifies under one of the above exemptions [For a default judgment:] or if you think you do not owe the money to the United States Government that it says you do.

" 'If you want a hearing, you must notify the court within 20 days after you receive this notice. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. If you wish, you may use this notice to request the hearing by checking the box below and mailing this notice to the court clerk. You must also send a copy of your request to the Government at [address], so the Government will know you want a hearing. The hearing will take place within 5 days after the clerk receives your request, if you ask for it to take place that quickly, or as soon after that as possible.

" 'At the hearing you may explain to the judge why you believe the property the Government has taken is exempt [For a default

judgment:] or why you think you do not owe the money to the Government. [For a writ of execution:] If you do not request a hearing within 20 days of receiving this notice, your [property] may be sold at public auction and the payment used toward the money you owe the Government.

" 'If you think you live outside the Federal judicial district in which the court is located, you may request, not later than 20 days after your receive this notice, that this proceeding to take your property be transferred by the court to the Federal judicial district in which you reside. You must make your request in writing, and either mail it or deliver it in person to the clerk of the court at [address]. You must also send a copy of your request to the Government at [address], so the Government will know you want the proceeding to be transferred.

" 'Be sure to keep a copy of this notice for your own records. If you have any questions about your rights or about this procedure, you should contact a lawyer, an office of public legal assistance, or the clerk of the court. The clerk is not permitted to give legal advice, but can refer you to other sources of information.'.

"(c) SERVICE.—A copy of the notice and a copy of the application for granting a remedy under this subchapter shall be served by counsel for the United States on the judgment debtor against whom such remedy is sought and on each person whom the United States, after diligent inquiry, has reasonable cause to believe has an interest in property to which the remedy is directed.

"(d) HEARING.—By requesting, within 20 days after receiving the notice described in section 3202(b), the court to hold a hearing, the judgment debtor may move to quash the order granting such remedy. The court that issued such order shall hold a hearing on such motion as soon as practicable, or, if so requested by the judgment debtor, within 5 days after receiving the request or as soon thereafter as possible. The issues at such hearing shall be limited—

"(1) to the probable validity of any claim of exemption by the judgment debtor;

"(2) to compliance with any statutory requirement for the issuance of the postjudgment remedy granted; and

"(3) if the judgment is by default and only to the extent that the Constitution or another law of the United States provides a right to a hearing on the issue, to—

"(A) the probable validity of the claim for the debt which is merged in the judgment; and

"(B) the existence of good cause for setting aside such judgment.

This subparagraph shall not be construed to afford the judgment debtor the right to more than one such hearing except to the extent that the Constitution or another law of the United States provides a right to more than one such hearing.

"(e) SALE OF PROPERTY.—The property of a judgment debtor which is subject to sale to satisfy the judgment may be sold by judicial sale, pursuant to sections 2001, 2002, and 2004 or by execution sale pursuant to section 3203(g). If a hearing is requested pursuant to subsection (d), property with respect to which the request relates shall not be sold before such hearing.

"§ 3203. Execution

"(a) PROPERTY SUBJECT TO EXECUTION.—All property in which the judgment debtor has a substantial nonexempt interest shall be

subject to levy pursuant to a writ of execution. The debtor's earnings shall not be subject to execution while in the possession, custody, or control of the debtor's employer. Co-owned property shall be subject to execution to the extent such property is subject to execution under the law of the State in which it is located.

"(b) CREATION OF EXECUTION LIEN.—A lien shall be created in favor of the United States on all property levied on under a writ of execution and shall date from the time of the levy. Such lien shall have priority over all subsequent liens and shall be for the aggregate amount of the judgment, costs, and interest. The execution lien on any real property as to which the United States has a judgment lien shall relate back to the judgment lien date.

"(c) WRIT OF EXECUTION.—

"(1) ISSUANCE.—On written application of counsel for the United States, the court may issue a writ of execution. Multiple writs may issue simultaneously, and successive writs may issue before the return date of a writ previously issued.

"(2) FORM OF WRIT.—

"(A) GENERAL CONTENTS.—A writ of execution shall specify the date that the judgment is entered, the court in which it is entered, the amount of the judgment if for money, the amount of the costs, the amount of interest due, the sum due as of the date the writ is issued, the rate of postjudgment interest, the name of the judgment debtor, and the judgment debtor's last known address.

"(B) ADDITIONAL CONTENTS.—(i) Except as provided in clauses (ii) and (iii), the writ shall direct the United States marshal to satisfy the judgment by levying on and selling property in which the judgment debtor has a substantial nonexempt interest, but not to exceed property reasonably equivalent in value to the aggregate amount of the judgment, costs, and interest.

"(ii) A writ of execution issued on a judgment for the delivery to the United States of the possession of personal property, or for the delivery of the possession of real property, shall particularly describe the property, and shall require the marshal to deliver the possession of the property to the United States.

"(iii) A writ of execution on a judgment for the recovery of personal property or its value shall direct the marshal, in case a delivery of the specific property cannot be had, to levy and collect such value out of any property in which the judgment debtor has a substantial nonexempt interest.

"(d) LEVY OF EXECUTION.—

"(1) IN GENERAL.—Levy on property pursuant to a writ of execution issued under this section shall be made in the same manner as levy on property is made pursuant to a writ of attachment issued under section 3102(d).

"(2) DEATH OF JUDGMENT DEBTOR.—The death of the judgment debtor after a writ of execution is issued stays the execution proceedings, but any lien acquired by levy of the writ shall be recognized and enforced by the court for the district in which the estate of the deceased is located. The execution lien may be enforced—

"(A) against the executor, administrator, or personal representative of the estate of the deceased; or

"(B) if there be none, against the deceased's property coming to the heirs or devisees or at their option against cash in their possession, but only to the extent of the value of the property coming to them.

"(3) RECORDS OF UNITED STATES MARSHAL.—(A) A United States marshal receiving a writ of execution shall endorse thereon the exact hour and date of receipt.

"(B) The United States marshal shall make a written record of every levy, specify the property on which levy is made, the date on which levy is made, and the marshal's costs, expenses, and fees.

"(C) The United States marshal shall make a written return to the court on each writ of execution stating concisely what is done pursuant to the writ and shall deliver a copy to counsel for the United States who requests the writ. The writ shall be returned not more than—

"(i) 90 days after the date of issuance if levy is not made; or

"(ii) 10 days after the date of sale of property on which levy is made.

"(e) APPOINTMENT OF RECEIVER.—Pending the levy of execution, the court may appoint a receiver to manage property described in such writ if there is a substantial danger that the property will be removed from the jurisdiction of the court, lost, materially injured or damaged, or mismanaged.

"(f) REPLEVY; REDEMPTION.—

"(1) BEFORE EXECUTION SALE.—(A) Before execution sale, the United States marshal may return property to the judgment debtor any personal property taken in execution, on—

"(i) satisfaction of the judgment, interest, and costs, and any costs incurred in connection with scheduling the sale; or

"(ii) receipt from the judgment debtor of a bond—

"(I) payable to the United States, with 2 or more good and sufficient sureties to be approved by the marshal, conditioned on the delivery of the property to the marshal at the time and place named in the bond to be sold under subsection (g); or

"(II) for the payment to the marshal of a fair value thereof which shall be stated in the bond.

"(B) A judgment debtor who sells or disposes of property replevied under subparagraph (A) shall pay the United States marshal the stipulated value of such property.

"(C) If the judgment debtor fails to deliver such property to the United States marshal pursuant to the terms of the delivery described in subparagraph (A)(ii)(I) and fails to pay the United States marshal the stipulated value of such property, the United States marshal shall endorse the bond 'forfeited' and return it to the court from which the writ of execution issued. If the judgment is not fully satisfied, the court shall issue a writ of execution against the judgment debtor and the sureties on the bond for the amount due, not exceeding the stipulated value of the property, on which execution no delivery bond shall be taken, which instruction shall be endorsed on the writ.

"(2) AFTER EXECUTION SALE.—The judgment debtor shall not be entitled to redeem the property after the execution sale.

"(g) EXECUTION SALE.—

"(1) GENERAL PROCEDURES.—An execution sale under this section shall be conducted in a commercially reasonable manner—

"(A) SALE OF REAL PROPERTY.—

"(i) IN GENERAL.—(I) Except as provided in clause (ii), real property, or any interest therein, shall be sold, after the expiration of the 90-day period beginning on the date of levy under subsection (d), for cash at public auction at the courthouse of the county, parish, or city in which the greater part of the property is located or on the premises or some parcel thereof.

"(II) The court may order the sale of any real property after the expiration of the 30-day period beginning on the date of levy under subsection (d) if the court determines that such property is likely to perish, waste, be destroyed, or otherwise substantially depreciate in value during the 90-day period beginning on the date of levy.

"(III) The time and place of sale of real property, or any interest therein, under execution shall be advertised by the United States marshal, by publication of notice, once a week for at least 3 weeks prior to the sale, in at least one newspaper of general circulation in the county or parish where the property is located. The first publication shall appear not less than 25 days preceding the day of sale. The notice shall contain a statement of the authority by which the sale is to be made, the time of levy, the time and place of sale, and a brief description of the property to be sold, sufficient to identify the property (such as a street address for urban property and the survey identification and location for rural property), but it shall not be necessary for the notice to contain field notes. Such property shall be open for inspection and appraisal, subject to the judgment debtor's reasonable objections, for a reasonable period before the day of sale.

"(IV) The United States marshal shall serve written notice of public sale by personal delivery, or certified or registered mail, to each person whom the marshal has reasonable cause to believe, after a title search is conducted by the United States, has an interest in property under execution, including lienholders, co-owners, and tenants, at least 25 days before the day of sale, to the last known address of each such person.

"(ii) SALE OF CITY LOTS.—If the real property consists of several lots, tracts, or parcels in a city or town, each lot, tract, or parcel shall be offered for sale separately, unless not susceptible to separate sale because of the character of improvements.

"(iii) SALE OF RURAL PROPERTY.—If the real property is not located in a city or town, the judgment debtor may—

"(I) divide the property into lots of not less than 50 acres or in such greater or lesser amounts as ordered by the court;

"(II) furnish a survey of such prepared by a registered surveyor; and

"(III) designate the order in which those lots shall be sold.

When a sufficient number of lots are sold to satisfy the amount of the execution and costs of sale, the marshal shall stop the sale.

"(B) SALE OF PERSONAL PROPERTY.—(i) Personal property levied on shall be offered for sale on the premises where it is located at the time of levy, at the courthouse of the county, parish or city wherein it is located, or at another location if ordered by the court. Personal property susceptible of being exhibited shall not be sold unless it is present and subject to the view of those attending the sale unless—

"(I) the property consists of shares of stock in corporations;

"(II) by reason of the nature of the property, it is impractical to exhibit it; or

"(III) the debtor's interest in the property does not include the right to the exclusive possession.

"(ii)(I) Except as provided in subclause (II), personal property, or any interest therein, shall be sold after the expiration of the 30-day period beginning on the date of levy under subsection (d).

"(II) The court may order the sale of any personal property before the expiration of such 30-day period if the court determines that such property is likely to perish, waste, be destroyed, or otherwise substantially depreciate in value during such 30-day period.

"(iii) Notice of the time and place of the sale of personal property shall be given by the United States marshal by posting notice thereof for not less than 10 days successively immediately before the day of sale at the courthouse of any county, parish, or city, and at the place where the sale is to be made.

"(iv) The United States marshal shall serve written notice of public sale by personal delivery, or registered or certified mail at their last known addresses, on the judgment debtor and other persons who the marshal has reasonable cause to believe, after diligent inquiry, have a substantial interest in the property.

"(2) POSTPONEMENT OF SALE.—The United States marshal may postpone an execution sale from time to time by continuing the required posting or publication of notice until the date to which the sale is postponed, and appending, at the foot of each such notice of a current copy of the following:

" 'The above sale is postponed until the day of , 19 , at o'clock .M., , United States Marshal for the District of , by , Deputy, dated .'.

"(3) SALE PROCEDURES.—

"(A) BIDDING REQUIREMENTS.—A bidder at an execution sale of property, may be required by the United States marshal to make a cash deposit of as much as 20 percent of the sale price proposed before the bid is accepted.

"(B) RESALE OF PROPERTY.—If the terms of the sale are not complied with by the successful bidder, the United States marshal shall proceed to sell the property again on the same day if there is sufficient time. If there is insufficient

time, the marshal shall schedule and notice a subsequent sale of the property as provided in paragraphs (1) and (2).

(4) RIGHTS AND LIABILITIES OF PURCHASERS.—

"(A) TRANSFER OF TITLE AFTER SALE.—

"(i) If property is sold under this subsection and the successful bidder complies with the terms of the sale, the United States marshal shall execute and deliver all documents necessary to transfer to the successful bidder, without warranty, all the rights, titles, interests, and claims of the judgment debtor in the property.

"(ii) If the successful bidder dies before execution and delivery of the documents needed to transfer ownership, the United States marshal shall execute and deliver them to the successful bidder's estate. Such delivery to the estate shall have the same effect as if accomplished during the lifetime of the purchaser.

"(B) PURCHASER CONSIDERED INNOCENT PURCHASER WITHOUT NOTICE.—The purchaser of property sold under execution shall be deemed to be an innocent purchaser without notice if the purchaser would have been considered an innocent purchaser without notice had the sale been made voluntarily and in person by the judgment debtor.

"(C) LIABILITY OF SUCCESSFUL BIDDER WHO FAILS TO COMPLY.—A successful bidder at an execution sale who fails to comply with the terms of the sale shall forfeit to the United States the cash deposit or, at the election of the United States, shall be liable to the United States, on a subsequent sale of the property, for all net losses incurred by the United States as a result of such failure.

"(h) DISPOSITION OF PROCEEDS; FURTHER LEVY.—

"(1) DISTRIBUTION OF SALE PROCEEDS.—(A) The United States marshal shall first deliver to the judgment debtor such amounts to which the judgment debtor is entitled from the sale of partially exempt property.

"(B) The United States marshal shall next deduct from the proceeds of an execution sale of property an amount equal to the reasonable expenses incurred in making the levy of execution and in keeping and maintaining the property.

"(C) Except as provided in subparagraph (D), the United States marshal shall deliver the balance of the proceeds to the counsel for the United States as soon as practicable.

"(D) If more proceeds are received from the execution sale than is necessary to satisfy the executions held by the United States marshal, the marshal shall pay the surplus to the judgment debtor.

"(2) FURTHER LEVY IF EXECUTION NOT SATISFIED.—If the proceeds of the execution sale of the property levied on are insufficient to satisfy the execution, the United States marshal shall proceed on the same writ of execution to levy other property of the judgment debtor.

"§ 3204. Installment payment order

"(a) AUTHORITY TO ISSUE ORDER.—Subject to subsection (c), if it is shown that the judgment debtor—

"(1) is receiving or will receive substantial nonexempt disposable earnings from self employment that are not subject to garnishment; or

"(2) is diverting or concealing substantial earnings from any source, or property received in lieu of earnings;

then upon motion of the United States and notice to the judgment debtor, the court may, if appropriate, order that the judgment debtor make specified installment payments to the United States. Notice of the motion shall be served on the judgment debtor in the same manner as a summons or by registered or certified mail, return receipt requested. In fixing the amount of the payments, the court shall take into consideration after a hearing, the income, resources, and reasonable requirements of the judgment debtor and the judgment debtor's dependents, any other payments to be made in satisfaction of judgments against the judgment debtor, and the amount due on the judgment in favor of the United States.

"(b) MODIFICATION OF ORDER.—On motion of the United States or the judgment debtor, and upon a showing that the judgment debtor's financial circumstances have changed or that assets not previously disclosed by the judgment debtor have been discovered, the court may modify the amount of payments, alter their frequency, or require full payment.

"(c) LIMITATION.—(1) An order may not be issued under subsection (a), and if so issued shall have no force or effect, against a judgment debtor with respect to whom there is in effect a writ of garnishment of earnings issued under this chapter and based on the same debt.

"(2) An order may not be issued under subsection (a) with respect to any earnings of the debtor except nonexempt disposable earnings.

"§ 3205. Garnishment

"(a) IN GENERAL.—A court may issue a writ of garnishment against property (including nonexempt disposable earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor, in order to satisfy the judgment against the debtor. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall be continuing and shall terminate only as provided in subsection (c)(10).

"(b) WRIT.—

"(1) GENERAL REQUIREMENTS.—The United States shall include in its application for a writ of garnishment—

"(A) the judgment debtor's name, social security number (if known), and last known address;

"(B) the nature and amount of the debt owed and the facts that not less than 30 days has elapsed since demand on the debtor for payment of the debt was made and the judgment debtor has not paid the amount due; and

"(C) that the garnishee is believed to have possession of property (including nonexempt disposable earnings) in which the debtor has a substantial nonexempt interest.

"(2) PROPER GARNISHEE FOR PARTICULAR PROPERTY.—

"(A) If the property consists of a right to or share in the stock of an association or corporation, or interests or profits therein, for which a certificate of stock or other negotiable

instrument is not outstanding, the corporation, or the president or treasurer of the association shall be the garnishee.

"(B) If the property consists of an interest in a partnership interest, any partner other than the debtor shall be the garnishee on behalf of the partnership.

"(C) If the property or a debt is evidenced by a negotiable instrument for the payment of money, a negotiable document of title or a certificate of stock of an association or corporation, the instrument, document, or certificate shall be treated as property capable of delivery and the person holding it shall be the garnishee, except that—

"(i) subject to clause (ii), in the case of a security which is transferable in the manner set forth in State law, the entity that carries on its books an account in the name of the debtor in which is reflected such security shall be the garnishee; and

"(ii) notwithstanding clause (i), the pledgee shall be the garnishee if such security is pledged.

"(c) PROCEDURES APPLICABLE TO WRIT.—

"(1) COURT DETERMINATION.—If the court determines that the requirements of this section are satisfied, the court shall issue an appropriate writ of garnishment.

"(2) FORM OF WRIT.—The writ shall state—

"(A) The nature and amount of the debt, and any cost and interest owed with respect to the debt.

"(B) The name and address of the garnishee.

"(C) The name and address of counsel for the United States.

"(D) The last known address of the judgment debtor.

"(E) That the garnishee shall answer the writ within 10 days of service of the writ.

"(F) That the garnishee shall withhold and retain any property in which the debtor has a substantial nonexempt interest and for which the garnishee is or may become indebted to the judgment debtor pending further order of the court.

"(3) SERVICE OF WRIT.—The United States shall serve the garnishee and the judgment debtor with a copy of the writ of garnishment and shall certify to the court that this service was made. The writ shall be accompanied by—

"(A) an instruction explaining the requirement that the garnishee submit a written answer to the writ; and

"(B) instructions to the judgment debtor for objecting to the answer of the garnishee and for obtaining a hearing on the objections.

"(4) ANSWER OF THE GARNISHEE.—In its written answer to the writ of garnishment, the garnishee shall state under oath—

"(A) whether the garnishee has custody, control or possession of such property;

"(B) a description of such property and the value of such interest;

"(C) a description of any previous garnishments to which such property is subject and the extent to which any remaining property is not exempt; and

"(D) the amount of the debt the garnishee anticipates owing to the judgment debtor in the future and whether the

period for payment will be weekly or another specified period.

The garnishee shall file the original answer with the court issuing the writ and serve a copy on the debtor and counsel for the United States.

"(5) OBJECTIONS TO ANSWER.—Within 20 days after receipt of the answer, the judgment debtor or the United States may file a written objection to the answer and request a hearing. The party objecting shall state the grounds for the objection and bear the burden of proving such grounds. A copy of the objection and request for a hearing shall be served on the garnishee and all other parties. The court shall hold a hearing within 10 days after the date the request is received by the court, or as soon thereafter as is practicable, and give notice of the hearing date to all the parties.

"(6) GARNISHEE'S FAILURE TO ANSWER OR PAY.—If a garnishee fails to answer the writ of garnishment or to withhold property in accordance with the writ, the United States may petition the court for an order requiring the garnishee to appear before the court to answer the writ and to so withhold property before the appearance date. If the garnishee fails to appear, or appears and fails to show good cause why the garnishee failed to comply with the writ, the court shall enter judgment against the garnishee for the value of the judgment debtor's nonexempt interest in such property (including nonexempt disposable earnings). The court may award a reasonable attorney's fee to the United States and against the garnishee if the writ is not answered within the time specified therein and a petition requiring the garnishee to appear is filed as provided in this section.

"(7) DISPOSITION ORDER.—After the garnishee files an answer and if no hearing is requested within the required time period, the court shall promptly enter an order directing the garnishee as to the disposition of the judgment debtor's nonexempt interest in such property. If a hearing is timely requested, the order shall be entered within 5 days after the hearing, or as soon thereafter as is practicable.

"(8) PRIORITIES.—Judicial orders and garnishments for the support of a person shall have priority over a writ of garnishment issued under this section. As to any other writ of garnishment or levy, a garnishment issued under this section shall have priority over writs which are issued later in time.

"(9) ACCOUNTING.—(A) While a writ of garnishment is in effect under this section, the United States shall give an annual accounting on the garnishment to the judgment debtor and the garnishee.

"(B) Within 10 days after the garnishment terminates, the United States shall give a cumulative written accounting to the judgment debtor and garnishee of all property it receives under a writ of garnishment. Within 10 days after such accounting is received, the judgment debtor or garnishee may file a written objection to the accounting and a request for hearing. The party objecting shall state grounds for the objection. The court shall hold a hearing on the objection within 10 days after the court receives the request for a hearing, or as soon thereafter as is practicable.

"(10) TERMINATION OF GARNISHMENT.—A garnishment under this chapter is terminated only by—

"(A) a court order quashing the writ of garnishment;

"(B) exhaustion of property in the possesion, custody, or control of the garnishee in which the debtor has a substantial nonexempt interest (including nonexempt disposable earnings), unless the garnishee reinstates or reemploys the judgment debtor within 90 days after the judgment debtor's dismissal or resignation; or

"(C) satisfaction of the debt with respect to which the writ is issued.

"§ 3206. Discharge

"A person who pursuant to an execution or order issued under this chapter by a court pays or delivers to the United States, a United States marshal, or a receiver, money or other personal property in which a judgment debtor has or will have an interest, or so pays a debt such person owes the judgment debtor, is discharged from such debt to the judgment debtor to the extent of the payment or delivery.

"SUBCHAPTER D—FRAUDULENT TRANSFERS INVOLVING DEBTS

"Sec.
"3301. Definitions.
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"3307. Defenses, liability and protection of transferee.
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"§ 3301. Definitions

"As used in this subchapter:

"(1) 'Affiliate' means—

"(A) a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities—

"(i) as a fiduciary or agent without sole discretionary power to vote the securities; or

"(ii) solely to secure a debt, if the person has not exercised the power to vote;

"(B) a corporation 20 percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote, 20 percent or more of the outstanding voting securities of the debtor, other than the person who holds securities—

"(i) as a fiduciary or agent without sole power to vote the securities; or

"(ii) solely to secure a debt, if the person has not in fact exercised the power to vote;

"(C) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

"(D) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

"(2) 'Asset' means property of a debtor, but does not include—

"(A) property to the extent it is encumbered by a valid lien;

"(B) property to the extent it is generally exempt under nonbankruptcy law; or

"(C) an interest in real property held in tenancy by the entirety, or as part of a community estate, to extent such interest is not subject to process by the United States holding a claim against only one tenant or co-owner.

"(3) 'Claim' means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

"(4) 'Creditor' means a person who has a claim.

"(5) 'Insider' includes—

"(A) if the debtor is an individual—

"(i) a relative of the debtor or of a general partner of the debtor;

"(ii) a partnership in which the debtor is a general partner;

"(iii) a general partner in a partnership described in clause (ii); or

"(iv) a corporation of which the debtor is a director, officer, or person in control;

"(B) if the debtor is a corporation—

"(i) a director of the debtor;

"(ii) an officer of the debtor;

"(iii) a person in control of the debtor;

"(iv) a partnership in which the debtor is a general partner;

"(v) a general partner in a partnership described in clause (iv); or

"(vi) a relative of a general partner, director, officer, or person in control of the debtor;

"(C) if the debtor is a partnership—

"(i) a general partner in the debtor;

"(ii) a relative of a general partner in, a general partner of, or a person in control of the debtor;

"(iii) another partnership in which the debtor is a general partner;

"(iv) a general partner in a partnership described in clause (iii); or

"(v) a person in control of the debtor.

"(D) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

"(E) a managing agent of the debtor.

"(4) 'Lien' means a charge against or an interest in property to secure payment of a debt and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common law lien, or a statutory lien.

"(5) 'Relative' means an individual related, by consanguinity or adoption, within the third degree as determined by the

common law, a spouse, or an individual so related to a spouse within the third degree as so determined.

"(6) 'Transfer' means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

"(7) 'Valid lien' means a lien that is effective against the holder of a judicial lien subsequently obtained in legal or equitable proceeding.

"§ 3302. Insolvency

"(a) IN GENERAL.—Except as provided in subsection (c), a debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets at a fair valuation.

"(b) PRESUMPTION.—A debtor who is generally not paying debts as they become due is presumed to be insolvent.

"(c) CALCULATION.—A partnership is insolvent under subsection (a) if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of—

"(1) all of the partnership's assets; and

"(2) the sum of the excess of the value of each general partner's non-partnership assets over the partner's non-partnership debts.

"(d) ASSETS.—For purposes of this section, assets do not include property that is transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this subchapter.

"(e) DEBTS.—For purposes of this section, debts do not include an obligation to the extent such obligation is secured by a valid lien on property of the debtor not included as an asset.

"§ 3303. Value for transfer or obligation

"(a) TRANSACTION.—Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

"(b) REASONABLY EQUIVALENT VALUE.—For the purposes of sections 3304 and 3307, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of such interest upon default under a mortgage, deed of trust, or security agreement.

"(c) PRESENT VALUE.—A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

"§ 3304. Transfer fraudulent as to a debt to the United States

"(a) DEBT ARISING BEFORE TRANSFER.—Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States which arises before the transfer is made or the obligation is incurred if—

"(1)(A) the debtor makes the transfer or incurs the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation; and

"(B) the debtor is insolvent at that time or the debtor becomes insolvent as a result of the transfer or obligation; or

"(2)(A) the transfer was made to an insider for an antecedent debt, the debtor was insolvent at the time; and

"(B) the insider had reasonable cause to believe that the debtor was insolvent.

"(b) TRANSFERS WITHOUT REGARD TO DATE OF JUDGMENT.—(1) Except as provided in section 3307, a transfer made or obligation incurred by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the debtor makes the transfer or incurs the obligation—

"(A) with actual intent to hinder, delay, or defraud a creditor; or

"(B) without receiving a reasonably equivalent value in exchange for the transfer or obligation if the debtor—

"(i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or

"(ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.

"(2) In determining actual intent under paragraph (1), consideration may be given, among other factors, to whether—

"(A) the transfer or obligation was to an insider;

"(B) the debtor retained possession or control of the property transferred after the transfer;

"(C) the transfer or obligation was disclosed or concealed;

"(D) before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit;

"(E) the transfer was of substantially all the debtor's assets;

"(F) the debtor absconded;

"(G) the debtor removed or concealed assets;

"(H) the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred;

"(I) the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred;

"(J) the transfer occurred shortly before or shortly after a substantial debt was incurred; and

"(K) the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

"§ 3305. When transfer is made or obligation is incurred

"For the purposes of this subchapter:

"(1) A transfer is made—

"(A) with respect to an asset that is real property (other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset), when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an

interest in the asset that is superior to the interest of the transferee; and

"(B) with respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire, otherwise than under this subchapter, a judicial lien that is superior to the interest of the transferee.

"(2) If applicable law permits the transfer to be perfected as approved in paragraph (1) and the transfer is not so perfected before the commencement of an action or proceeding for relief under this subchapter, the transfer is deemed made immediately before the commencement of the action or proceeding.

"(3) If applicable law does not permit the transfer to be perfected as provided in paragraph (1), the transfer is made when it becomes effective between the debtor and the transferee.

"(4) A transfer is not made until the debtor has acquired rights in the asset transferred.

"(5) An obligation is incurred—

"(A) if oral, when it becomes effective between the parties; or

"(B) if evidenced by a writing executed by the obligor, when such writing is delivered to or for the benefit of the obligee.

"§ 3306. Remedies of the United States

"(a) IN GENERAL.—In an action or proceeding under this subchapter for relief against a transfer or obligation, the United States, subject to section 3307 and to applicable principles of equity and in accordance with the Federal Rules of Civil Procedure, may obtain—

"(1) avoidance of the transfer or obligation to the extent necessary to satisfy the debt to the United States;

"(2) a remedy under this chapter against the asset transferred or other property of the transferee; or

"(3) any other relief the circumstances may require.

"(b) LIMITATION.—A claim for relief with respect to a fraudulent transfer or obligation under this subchapter is extinguished unless action is brought—

"(1) under section 3304(b)(1)(A) within 6 years after the transfer was made or the obligation was incurred or, if later, within 2 years after the transfer or obligation was or could reasonably have been discovered by the claimant;

"(2) under subsection (a)(1) or (b)(1)(B) of section 3304 within 6 years after the transfer was made or the obligation was incurred; or

"(3) under section 3304(a)(2) within 2 years after the transfer was made or the obligation was incurred.

"§ 3307. Defenses, liability, and protection of transferee

"(a) GOOD FAITH TRANSFER.—A transfer or obligation is not voidable under section 3304(b) with respect to a person who took in good faith and for a reasonably equivalent value or against any transferee or obligee subsequent to such person.

"(b) LIMITATION.—Except as provided in subsection (d), to the extent a transfer is voidable in an action or proceeding by the United States under section 3306(a)(1), the United States may recover judgment for the value of the asset transferred, but not to

exceed the judgment on a debt. The judgment may be entered against—

"(1) the first transferee of the asset or the person for whose benefit the transfer was made; or

"(2) any subsequent transferee, other than a good faith transferee who took for value or any subsequent transferee of such good-faith transferee.

"(c) VALUE OF ASSET.—For purposes of subsection (b), the value of the asset is the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

"(d) RIGHTS OF GOOD FAITH TRANSFEREES AND OBLIGEES.—Notwithstanding voidability of a transfer or an obligation under this subchapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to—

"(1) a lien on or a right to retain any interest in the asset transferred;

"(2) enforcement of any obligation incurred; or

"(3) a reduction in the amount of the liability on the judgment.

"(e) EXCEPTIONS.—A transfer is not voidable under section 3304(a) or section 3304(b)(2) if the transfer results from—

"(1) termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law; or

"(2) enforcement of a security interest in compliance with article 9 of the Uniform Commercial Code or its equivalent in effect in the State where the property is located.

"(f) LIMITATION OF VOIDABILITY.—A transfer is not voidable under section 3304(a)(2)—

"(1) to the extent the insider gives new value to or for the benefit of the debtor after the transfer is made unless the new value is secured by a valid lien;

"(2) if made in the ordinary course of business or financial affairs of the debtor and the insider; or

"(3) if made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured both present value given for that purpose and an antecedent debt of the debtor.

"§ 3308. Supplementary provision

"Except as provided in this subchapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause shall apply to actions and proceedings under this subchapter.".

Sec. 3302. The table of chapters for part VI of title 28, United States Code, is amended by adding at the end the following:

"176. Federal Debt Collection Procedures".

Subtitle B—Amendments to Other Provisions of Law

SEC. 3621. Section 523(a)(8) of title 11, United States Code, is amended—

(1) by striking "for an educational" and all that follows through "unless", and inserting the following: "for an educational benefit overpayment or loan made, insured or guaran-

teed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution, or for an obligation to repay funds received as an educational benefit, scholarship or stipend, unless"; and

(2) by amending subparagraph (A) to read as follows:

"(A) such loan, benefit, scholarship, or stipend overpayment first became due more than 7 years (exclusive of any applicable suspension of the repayment period) before the date of the filing of the petition; or".

SEC. 3622. Section 3142(c)(1)(B)(xi) of title 18, United States Code, is amended to read as follows:

"(xi) execute an agreement to forfeit upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to assure the appearance of the person as required, and shall provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial office may require;".

SEC. 3623. Section 3142(c)(1)(B)(xii) of title 18, United States Code, is amended to read as follows:

"(xii) execute a bail bond with solvent sureties; who will execute an agreement to forfeit in such amount as is reasonably necessary to assure appearance of the person as required and shall provide the court with information regarding the value of the assets and liabilities of the surety if other than an approved surety and the nature and extent of encumbrances against the surety's property; such surety shall have a net worth which shall have sufficient unencumbered value to pay the amount of the bail bond;".

SEC. 3624. Section 3142(g)(4) of title 18, United States Code, is amended by—

(1) striking out "(c)(2)(K)" and inserting in lieu thereof "(c)(1)(B)(xi)"; and

(2) striking out "(c)(2)(L)" and inserting in lieu thereof "(c)(1)(B)(xii)".

SEC. 3625. Section 3552(d) of title 18, United States Code, is amended by adding at the end the following: "The court shall provide a copy of the presentence report to the attorney for the Government to use in collecting an assessment, criminal fine, forfeiture or restitution imposed.". Reports.

SEC. 3626. (a) Section 550 of title 28, United States Code, is amended—

(1) in the heading by striking "and messengers" and inserting ", messengers, and private process servers"; and

(2) by striking "and messengers on" and inserting ", messengers, and private process servers on".

(b) The table of sections of chapter 35 of title 28, United States Code, is amended by striking the item relating to section 550 and inserting the following:

"550. Clerical assistants, messengers, and private process servers.".

SEC. 3627. Section 1962 of title 28, United States Code, is amended by inserting after the first sentence the following: "This section does not apply to judgments entered in favor of the United States.".

SEC. 3628. Section 1963 of title 28, United States Code, is amended by inserting after the first sentence the following: "Such a judgment

entered in favor of the United States may be so registered any time after judgment is entered.".

SEC. 3629. (a) Chapter 129 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 2044. Payment of fine with bond money

Courts. "On motion of the United States attorney, the court shall order any money belonging to and deposited by or on behalf of the defendant with the court for the purposes of a criminal appearance bail bond (trial or appeal) to be held and paid over to the United States attorney to be applied to the payment of any assessment, fine, restitution, or penalty imposed upon the defendant. The court shall not release any money deposited for bond purposes after a plea or a verdict of the defendant's guilt has been entered and before sentencing except upon a showing that an assessment, fine, restitution or penalty cannot be imposed for the offense the defendant committed or that the defendant would suffer an undue hardship. This section shall not apply to any third party surety.".

(b) The table of sections for chapter 29 of title 28, United States Code, is amended by adding at the end thereof the following:

"2044. Payment of fine with bond money.".

SEC. 3630. Section 2410(c) of title 28, United States Code, is amended by adding at the end the following: "In any case where the United States is a bidder at the judicial sale, it may credit the amount determined to be due it against the amount it bids at such sales.".

Subtitle C—Miscellaneous

Effective dates. 28 USC 3001 note.

SEC. 3631. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b)(1) The amendments made by title I of this Act shall apply with respect to actions pending on the effective date of this Act in any court on—

(A) a claim for a debt; or

(B) a judgment for a debt.

(2) All notices, writs, orders, and judgments in effect in such actions shall continue in effect until superseded or modified in an action under chapter 176 of title 28 of the United States Code, as added by title I of this Act.

(3) For purposes of this subsection—

(A) the term "court" means a Federal, State, or local court, and

(B) the term "debt" has the meaning given such term in section and 3002(3) of such chapter.

TITLE XXXVII—NATIONAL CHILD SEARCH ASSISTANCE ACT OF 1990

42 USC 5779.

SEC. 3701. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 18

reported to such agency to the National Crime Information Center of the Department of Justice.

(b) GUIDELINES.—The Attorney General may establish guidelines for the collection of such reports including procedures for carrying out the purposes of this Act.

(c) ANNUAL SUMMARY.—The Attorney General shall publish an annual statistical summary of the reports received under this title.

SEC. 3702. STATE REQUIREMENTS. 42 USC 5780.

Each State reporting under the provisions of this title shall—

(1) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the observance of any waiting period before accepting a missing child or unidentified person report;

(2) provide that each such report and all necessary and available information, which, with respect to each missing child report, shall include—

(A) the name, date of birth, sex, race, height, weight, and eye and hair color of the child;

(B) the date and location of the last known contact with the child; and

(C) the category under which the child is reported missing;

is entered immediately into the State law enforcement system and the National Crime Information Center computer networks and made available to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports; and

(3) provide that after receiving reports as provided in paragraph (2), the law enforcement agency that entered the report into the National Crime Information Center shall—

(A) no later than 60 days after the original entry of the record into the State law enforcement system and National Crime Information Center computer networks, verify and update such record with any additional information, including, where available, medical and dental records; Records.

(B) institute or assist with appropriate search and investigative procedures; and

(C) maintain close liaison with the National Center for Missing and Exploited Children for the exchange of

information and technical assistance in the missing children cases.

Approved November 29, 1990.

LEGISLATIVE HISTORY—S. 3266 (H.R. 5269):

HOUSE REPORTS: No. 101-681, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means) both accompanying H.R. 5269.
CONGRESSIONAL RECORD, Vol. 136 (1990):
Oct. 3-5, H.R. 5269 considered and passed House.
Oct. 23, considered and passed Senate, amended.
Oct. 27, S. 3266 considered and passed Senate and House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 29, Presidential statement.

Public Law 101-648
101st Congress

An Act

To establish a framework for the conduct of negotiated rulemaking by Federal agencies.

Nov. 29, 1990
[S. 303]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Negotiated Rulemaking Act of 1990.
5 USC 581 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Negotiated Rulemaking Act of 1990".

SEC. 2. FINDINGS.

5 USC 581 note.

The Congress makes the following findings:

(1) Government regulation has increased substantially since the enactment of the Administrative Procedure Act.

(2) Agencies currently use rulemaking procedures that may discourage the affected parties from meeting and communicating with each other, and may cause parties with different interests to assume conflicting and antagonistic positions and to engage in expensive and time-consuming litigation over agency rules.

(3) Adversarial rulemaking deprives the affected parties and the public of the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule. It also deprives them of the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.

(4) Negotiated rulemaking, in which the parties who will be significantly affected by a rule participate in the development of the rule, can provide significant advantages over adversarial rulemaking.

(5) Negotiated rulemaking can increase the acceptability and improve the substance of rules, making it less likely that the affected parties will resist enforcement or challenge such rules in court. It may also shorten the amount of time needed to issue final rules.

(6) Agencies have the authority to establish negotiated rulemaking committees under the laws establishing such agencies and their activities and under the Federal Advisory Committee Act (5 U.S.C. App.). Several agencies have successfully used negotiated rulemaking. The process has not been widely used by other agencies, however, in part because such agencies are unfamiliar with the process or uncertain as to the authority for such rulemaking.

SEC. 3. NEGOTIATED RULEMAKING PROCEDURE.

(a) IN GENERAL.—Chapter 5 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"§ 581. Purpose

"The purpose of this subchapter is to establish a framework for the conduct of negotiated rulemaking, consistent with section 553 of this title, to encourage agencies to use the process when it enhances the informal rulemaking process. Nothing in this subchapter should be construed as an attempt to limit innovation and experimentation with the negotiated rulemaking process or with other innovative rulemaking procedures otherwise authorized by law.

"§ 582. Definitions

"For the purposes of this subchapter, the term—

"(1) 'agency' has the same meaning as in section 551(1) of this title;

"(2) 'consensus' means unanimous concurrence among the interests represented on a negotiated rulemaking committee established under this subchapter, unless such committee—

"(A) agrees to define such term to mean a general but not unanimous concurrence; or

"(B) agrees upon another specified definition;

"(3) 'convener' means a person who impartially assists an agency in determining whether establishment of a negotiated rulemaking committee is feasible and appropriate in a particular rulemaking;

"(4) 'facilitator' means a person who impartially aids in the discussions and negotiations among the members of a negotiated rulemaking committee to develop a proposed rule;

"(5) 'interest' means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner;

"(6) 'negotiated rulemaking' means rulemaking through the use of a negotiated rulemaking committee;

"(7) 'negotiated rulemaking committee' or 'committee' means an advisory committee established by an agency in accordance with this subchapter and the Federal Advisory Committee Act to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule;

"(8) 'party' has the same meaning as in section 551(3) of this title;

"(9) 'person' has the same meaning as in section 551(2) of this title;

"(10) 'rule' has the same meaning as in section 551(4) of this title; and

"(11) 'rulemaking' means 'rule making' as that term is defined in section 551(5) of this title.

"§ 583. Determination of need for negotiated rulemaking committee

"(a) DETERMINATION OF NEED BY THE AGENCY.—An agency may establish a negotiated rulemaking committee to negotiate and develop a proposed rule, if the head of the agency determines that the use of the negotiated rulemaking procedure is in the public interest. In making such a determination, the head of the agency shall consider whether—

"(1) there is a need for a rule;

"(2) there are a limited number of identifiable interests that will be significantly affected by the rule;

"(3) there is a reasonable likelihood that a committee can be convened with a balanced representation of persons who—

"(A) can adequately represent the interests identified under paragraph (2); and

"(B) are willing to negotiate in good faith to reach a consensus on the proposed rule;

"(4) there is a reasonable likelihood that a committee will reach a consensus on the proposed rule within a fixed period of time;

"(5) the negotiated rulemaking procedure will not unreasonably delay the notice of proposed rulemaking and the issuance of the final rule;

"(6) the agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and

"(7) the agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

"(b) USE OF CONVENERS.—

"(1) PURPOSES OF CONVENERS.—An agency may use the services of a convener to assist the agency in—

"(A) identifying persons who will be significantly affected by a proposed rule, including residents of rural areas; and

"(B) conducting discussions with such persons to identify the issues of concern to such persons, and to ascertain whether the establishment of a negotiated rulemaking committee is feasible and appropriate in the particular rulemaking.

"(2) DUTIES OF CONVENERS.—The convener shall report findings and may make recommendations to the agency. Upon request of the agency, the convener shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the proposed rule, including residents of rural areas. The report and any recommendations of the convener shall be made available to the public upon request. Reports.

"§ 584. Publication of notice; applications for membership on committees

"(a) PUBLICATION OF NOTICE.—If, after considering the report of a convener or conducting its own assessment, an agency decides to establish a negotiated rulemaking committee, the agency shall publish in the Federal Register and, as appropriate, in trade or other specialized publications, a notice which shall include— Federal Register, publication.

"(1) an announcement that the agency intends to establish a negotiated rulemaking committee to negotiate and develop a proposed rule;

"(2) a description of the subject and scope of the rule to be developed, and the issues to be considered;

"(3) a list of the interests which are likely to be significantly affected by the rule;

"(4) a list of the persons proposed to represent such interests and the person or persons proposed to represent the agency;

"(5) a proposed agenda and schedule for completing the work of the committee, including a target date for publication by the agency of a proposed rule for notice and comment;

"(6) a description of administrative support for the committee to be provided by the agency, including technical assistance;

"(7) a solicitation for comments on the proposal to establish the committee, and the proposed membership of the negotiated rulemaking committee; and

"(8) an explanation of how a person may apply or nominate another person for membership on the committee, as provided under subsection (b).

"(b) APPLICATIONS FOR MEMBERSHIP OR COMMITTEE.—Persons who will be significantly affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in a notice under subsection (a)(4) may apply for, or nominate another person for, membership on the negotiated rulemaking committee to represent such interests with respect to the proposed rule. Each application or nomination shall include—

"(1) the name of the applicant or nominee and a description of the interests such person shall represent;

"(2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent;

"(3) a written commitment that the applicant or nominee shall actively participate in good faith in the development of the rule under consideration; and

"(4) the reasons that the persons specified in the notice under subsection (a)(4) do not adequately represent the interests of the person submitting the application or nomination.

"(c) PERIOD FOR SUBMISSION OF COMMENTS AND APPLICATIONS.—The agency shall provide for a period of at least 30 calendar days for the submission of comments and applications under this section.

"§ 585. Establishment of committee

"(a) ESTABLISHMENT.—

"(1) DETERMINATION TO ESTABLISH COMMITTEE.—If after considering comments and applications submitted under section 584, the agency determines that a negotiated rulemaking committee can adequately represent the interests that will be significantly affected by a proposed rule and that it is feasible and appropriate in the particular rulemaking, the agency may establish a negotiated rulemaking committee. In establishing and administering such a committee, the agency shall comply with the Federal Advisory Committee Act with respect to such committee, except as otherwise provided in this subchapter.

Federal Register, publication.

"(2) DETERMINATION NOT TO ESTABLISH COMMITTEE.—If after considering such comments and applications, the agency decides not to establish a negotiated rulemaking committee, the agency shall promptly publish notice of such decision and the reasons therefor in the Federal Register and, as appropriate, in trade or other specialized publications, a copy of which shall be sent to any person who applied for, or nominated another person for membership on the negotiating rulemaking committee to represent such interests with respect to the proposed rule.

"(b) MEMBERSHIP.—The agency shall limit membership on a negotiated rulemaking committee to 25 members, unless the agency head

determines that a greater number of members is necessary for the functioning of the committee or to achieve balanced membership. Each committee shall include at least one person representing the agency.

"(c) ADMINISTRATIVE SUPPORT.—The agency shall provide appropriate administrative support to the negotiated rulemaking committee, including technical assistance.

"§ 586. Conduct of committee activity

"(a) DUTIES OF COMMITTEE.—Each negotiated rulemaking committee established under this subchapter shall consider the matter proposed by the agency for consideration and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and any other matter the committee determines is relevant to the proposed rule.

"(b) REPRESENTATIVES OF AGENCY ON COMMITTEE.—The person or persons representing the agency on a negotiated rulemaking committee shall participate in the deliberations and activities of the committee with the same rights and responsibilities as other members of the committee, and shall be authorized to fully represent the agency in the discussions and negotiations of the committee.

"(c) SELECTING FACILITATOR.—Notwithstanding section 10(e) of the Federal Advisory Committee Act, an agency may nominate either a person from the Federal Government or a person from outside the Federal Government to serve as a facilitator for the negotiations of the committee, subject to the approval of the committee by consensus. If the committee does not approve the nominee of the agency for facilitator, the agency shall submit a substitute nomination. If a committee does not approve any nominee of the agency for facilitator, the committee shall select by consensus a person to serve as facilitator. A person designated to represent the agency in substantive issues may not serve as facilitator or otherwise chair the committee.

"(d) DUTIES OF FACILITATOR.—A facilitator approved or selected by a negotiated rulemaking committee shall—

"(1) chair the meetings of the committee in an impartial manner;

"(2) impartially assist the members of the committee in conducting discussions and negotiations; and

"(3) manage the keeping of minutes and records as required under section 10 (b) and (c) of the Federal Advisory Committee Act, except that any personal notes and materials of the facilitator or of the members of a committee shall not be subject to section 552 of this title. Records.

"(e) COMMITTEE PROCEDURES.—A negotiated rulemaking committee established under this subchapter may adopt procedures for the operation of the committee. No provision of section 553 of this title shall apply to the procedures of a negotiated rulemaking committee.

"(f) REPORT OF COMMITTEE.—If a committee reaches a consensus on a proposed rule, at the conclusion of negotiations the committee shall transmit to the agency that established the committee a report containing the proposed rule. If the committee does not reach a consensus on a proposed rule, the committee may transmit to the agency a report specifying any areas in which the committee reached a consensus. The committee may include in a report any other information, recommendations, or materials that the committee considers appropriate. Any committee member may include as

an addendum to the report additional information, recommendations, or materials.

"(g) RECORDS OF COMMITTEE.—In addition to the report required by subsection (f), a committee shall submit to the agency the records required under section 10 (b) and (c) of the Federal Advisory Committee Act.

"§ 587. Termination of committee

"A negotiated rulemaking committee shall terminate upon promulgation of the final rule under consideration, unless the committee's charter contains an earlier termination date or the agency, after consulting the committee, or the committee itself specifies an earlier termination date.

"§ 588. Services, facilities, and payment of committee member expenses

"(a) SERVICES OF CONVENERS AND FACILITATORS.—

"(1) IN GENERAL.—An agency may employ or enter into contracts for the services of an individual or organization to serve as a convener or facilitator for a negotiated rulemaking committee under this subchapter, or may use the services of a Government employee to act as a convener or a facilitator for such a committee.

"(2) DETERMINATION OF CONFLICTING INTERESTS.—An agency shall determine whether a person under consideration to serve as convener or facilitator of a committee under paragraph (1) has any financial or other interest that would preclude such person from serving in an impartial and independent manner.

"(b) SERVICES AND FACILITIES OF OTHER ENTITIES.—For purposes of this subchapter, an agency may use the services and facilities of other Federal agencies and public and private agencies and instrumentalities with the consent of such agencies and instrumentalities, and with or without reimbursement to such agencies and instrumentalities, and may accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31. The Federal Mediation and Conciliation Service may provide services and facilities, with or without reimbursement, to assist agencies under this subchapter, including furnishing conveners, facilitators, and training in negotiated rulemaking.

"(c) EXPENSES OF COMMITTEE MEMBERS.—Members of a negotiated rulemaking committee shall be responsible for their own expenses of participation in such committee, except that an agency may, in accordance with section 7(d) of the Federal Advisory Committee Act, pay for a member's reasonable travel and per diem expenses, expenses to obtain technical assistance, and a reasonable rate of compensation, if—

"(1) such member certifies a lack of adequate financial resources to participate in the committee; and

"(2) the agency determines that such member's participation in the committee is necessary to assure an adequate representation of the member's interest.

"(d) STATUS OF MEMBER AS FEDERAL EMPLOYEE.—A member's receipt of funds under this section or section 589 shall not conclusively determine for purposes of sections 202 through 209 of title 18 whether that member is an employee of the United States Government.

"§ 589. Role of the Administrative Conference of the United States and other entities

"(a) CONSULTATION BY AGENCIES.—An agency may consult with the Administrative Conference of the United States or other public or private individuals or organizations for information and assistance in forming a negotiated rulemaking committee and conducting negotiations on a proposed rule.

"(b) ROSTER OF POTENTIAL CONVENERS AND FACILITATORS.—The Administrative Conference of the United States, in consultation with the Federal Mediation and Conciliation Service, shall maintain a roster of individuals who have acted as or are interested in serving as conveners or facilitators in negotiated rulemaking proceedings. The roster shall include individuals from government agencies and private groups, and shall be made available upon request. Agencies may also use rosters maintained by other public or private individuals or organizations.

"(c) PROCEDURES TO OBTAIN CONVENERS AND FACILITATORS.—

"(1) PROCEDURES.—The Administrative Conference of the United States shall develop procedures which permit agencies to obtain the services of conveners and facilitators on an expedited basis.

"(2) PAYMENT FOR SERVICES.—Payment for the services of conveners or facilitators shall be made by the agency using the services, unless the Chairman of the Administrative Conference agrees to pay for such services under subsection (f).

"(d) COMPILATION OF DATA ON NEGOTIATED RULEMAKING; REPORT TO CONGRESS.—

"(1) COMPILATION OF DATA.—The Administrative Conference of the United States shall compile and maintain data related to negotiated rulemaking and shall act as a clearinghouse to assist agencies and parties participating in negotiated rulemaking proceedings.

"(2) SUBMISSION OF INFORMATION BY AGENCIES.—Each agency engaged in negotiated rulemaking shall provide to the Administrative Conference of the United States a copy of any reports submitted to the agency by negotiated rulemaking committees under section 586 and such additional information as necessary to enable the Administrative Conference of the United States to comply with this subsection.

"(3) REPORTS TO CONGRESS.—The Administrative Conference of the United States shall review and analyze the reports and information received under this subsection and shall transmit a biennial report to the Committee on Governmental Affairs of the Senate and the appropriate committees of the House of Representatives that—

"(A) provides recommendations for effective use by agencies of negotiated rulemaking; and

"(B) describes the nature and amounts of expenditures made by the Administrative Conference of the United States to accomplish the purposes of this subchapter.

"(e) TRAINING IN NEGOTIATED RULEMAKING.—The Administrative Conference of the United States is authorized to provide training in negotiated rulemaking techniques and procedures for personnel of the Federal Government either on a reimbursable or nonreimbursable basis. Such training may be extended to private individuals on a reimbursable basis.

"(f) PAYMENT OF EXPENSES OF AGENCIES.—The Chairman of the Administrative Conference of the United States is authorized to pay, upon request of an agency, all or part of the expenses of establishing a negotiated rulemaking committee and conducting a negotiated rulemaking. Such expenses may include, but are not limited to—

"(1) the costs of conveners and facilitators;

"(2) the expenses of committee members determined by the agency to be eligible for assistance under section 588(c); and

"(3) training costs.

Determinations with respect to payments under this section shall be at the discretion of such Chairman in furthering the use by Federal agencies of negotiated rulemaking.

"(g) USE OF FUNDS OF THE CONFERENCE.—The Administrative Conference of the United States may apply funds received under section 575(c)(12) of this title to carry out the purposes of this subchapter.

"§ 590. Judicial review

"Any agency action relating to establishing, assisting, or terminating a negotiated rulemaking committee under this subchapter shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule if such judicial review is otherwise provided by law. A rule which is the product of negotiated rulemaking and is subject to judicial review shall not be accorded any greater deference by a court than a rule which is the product of other rulemaking procedures.".

(b) The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER IV—NEGOTIATED RULEMAKING PROCEDURE

"Sec. 581. Purpose.
"Sec. 582. Definitions.
"Sec. 583. Determination of need for negotiated rulemaking committee.
"Sec. 584. Publication of notice; applications for membership on committees.
"Sec. 585. Establishment of committee.
"Sec. 586. Conduct of committee activity.
"Sec. 587. Termination of committee.
"Sec. 588. Services, facilities, and payment of committee member expenses.
"Sec. 589. Role of the Administrative Conference of the United States and other entities.
"Sec. 590. Judicial review.".

5 USC 581 note.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

In order to carry out this Act and the amendments made by this Act, there are authorized to be appropriated to the Administrative Conference of the United States, in addition to amounts authorized by section 576 of title 5, United States Code, not in excess of $500,000 for each of the fiscal years 1991, 1992, and 1993.

5 USC 581 note.

SEC. 5. SUNSET AND SAVINGS PROVISIONS.

Subchapter IV of title 5, United States Code, as added by section 3 of this Act, and that portion of the table of sections at the beginning of chapter 5 of title 5, United States Code, relating to subchapter IV, are repealed, effective 6 years after the date of the enactment of this Act, except that the provisions of such subchapter shall continue to

apply after the date of the repeal with respect to then pending negotiated rulemaking proceedings initiated before the date of repeal which, in the judgment of the agencies which are convening or have convened such proceedings, require such continuation, until such negotiated rulemaking proceedings terminate pursuant to such subchapter.

Approved November 29, 1990.

LEGISLATIVE HISTORY—S. 303 (H.R. 743):

HOUSE REPORTS: No. 101-461 accompanying H.R. 743 (Comm. on the Judiciary).
SENATE REPORTS: No. 101-97 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 135 (1989): Aug. 3, considered and passed Senate.
Vol. 136 (1990): May 1, H.R. 743 considered and passed House; proceedings vacated and S. 303, amended, passed in lieu.
Oct. 4, Senate concurred in House amendments with amendments.
Oct. 22, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 29, Presidential statement.

○

Public Law 101-649
101st Congress

An Act

Nov. 29, 1990
[S. 358]

To amend the Immigration and Nationality Act to change the level, and preference system for admission, of immigrants to the United States, and to provide for administrative naturalization, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration Act of 1990.
Passports and visas.
8 USC 1101 note.

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Act of 1990".

(b) REFERENCES IN ACT.—Except as specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

TITLE I—IMMIGRANTS

Subtitle A—Worldwide and Per Country Levels

Sec. 101. Worldwide levels.
Sec. 102. Per country levels.
Sec. 103. Treatment of Hong Kong under per country levels.
Sec. 104. Asylee adjustments.

Subtitle B—Preference System

PART 1—FAMILY-SPONSORED IMMIGRANTS

Sec. 111. Family-sponsored immigrants.
Sec. 112. Transition for spouses and minor children of legalized aliens.

PART 2—EMPLOYMENT-BASED IMMIGRANTS

Sec. 121. Employment-based immigrants.
Sec. 122. Changes in labor certification process.
Sec. 123. Definitions of managerial capacity and executive capacity.
Sec. 124. Transition for employees of certain United States businesses operating in Hong Kong.

PART 3—DIVERSITY IMMIGRANTS

Sec. 131. Diversity immigrants.
Sec. 132. Diversity transition for aliens who are natives of certain adversely affected foreign states.
Sec. 133. One-year diversity transition for aliens who have been notified of availability of NP-5 visas.
Sec. 134. Transition for displaced Tibetans.

Subtitle C—Commission and Information

Sec. 141. Commission on Legal Immigration Reform.
Sec. 142. Statistical information systems.

Subtitle D—Miscellaneous

Sec. 151. Revision of special immigrant provisions relating to religious workers (C special immigrants).

Sec. 152. Special immigrant status for certain aliens employed at the United States mission in Hong Kong (D special immigrants).
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Subtitle E—Effective Dates; Conforming Amendments

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Sec. 506. Clarification respecting discretionary authority in deportation proceedings for incarcerated aliens.
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Sec. 508. Deportation for attempted violations of controlled substances laws.

Sec. 509. Good moral character definition.
Sec. 510. Report on criminal aliens.
Sec. 511. Limitation on waiver of exclusion for returning permanent residents convicted of an aggravated felony.
Sec. 512. Authorization of additional immigration judges for deportation proceedings involving criminal aliens.
Sec. 513. Effect of filing petition for review.
Sec. 514. Extending bar on reentry of aliens convicted of aggravated felonies.
Sec. 515. Asylum in the case of aliens convicted of aggravated felonies.

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Sec. 531. Dissemination of information concerning anti-discrimination protections under IRCA and title VII of the Civil Rights Act of 1964.
Sec. 532. Inclusion of certain seasonal agricultural workers within scope of anti-discrimination protections.
Sec. 533. Elimination of requirement that aliens file a declaration of intending to become a citizen in order to file anti-discrimination complaint.
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Sec. 537. Period for filing of complaints.
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Sec. 541. Authorizing increase by 1,000 in border patrol personnel.
Sec. 542. Application of increase in penalties to enhance enforcement activities.
Sec. 543. Increase in fine levels; authority of the INS to collect fines.
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TITLE VI—EXCLUSION AND DEPORTATION

Sec. 601. Revision of grounds for exclusion.
Sec. 602. Revision of grounds for deportation.
Sec. 603. Conforming amendments.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Battered spouse or child waiver of the conditional residence requirement.
Sec. 702. Bona fide marriage exception to foreign residence requirement for marriages entered into during certain immigration proceedings.
Sec. 703. 1-year extension of deadline for filing applications for adjustment from temporary to permament residence for legalized aliens.
Sec. 704. Commission on Agricultural Workers.
Sec. 705. Immigration Emergency Fund.

TITLE VIII—EDUCATION AND TRAINING

Sec. 801. Educational assistance and training.

TITLE I—IMMIGRANTS

Subtitle A—Worldwide and Per Country Levels

SEC. 101. WORLDWIDE LEVELS.

(a) IN GENERAL.—Section 201 (8 U.S.C. 1151) is amended to read as follows:

"WORLDWIDE LEVEL OF IMMIGRATION

"SEC. 201. (a) IN GENERAL.—Exclusive of aliens described in subsection (b), aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family-sponsored immigrants described in section 203(a) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a)) in a number not to exceed in any fiscal year the number specified in subsection (c) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year;

"(2) employment-based immigrants described in section 203(b) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b)), in a number not to exceed in any fiscal year the number specified in subsection (d) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year; and

"(3) for fiscal years beginning with fiscal year 1995, diversity immigrants described in section 203(c) (or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(c)) in a number not to exceed in any fiscal year the number specified in subsection (e) for that year, and not to exceed in any of the first 3 quarters of any fiscal year 27 percent of the worldwide level under such subsection for all of such fiscal year.

"(b) ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.—Aliens described in this subsection, who are not subject to the worldwide levels or numerical limitations of subsection (a), are as follows:

"(1)(A) Special immigrants described in subparagraph (A) or (B) of section 101(a)(27).

"(B) Aliens who are admitted under section 207 or whose status is adjusted under section 209.

"(C) Aliens whose status is adjusted to permanent residence under section 210, 210A, or 245A.

"(D) Aliens whose deportation is suspended under section 244(a).

"(E) Aliens provided permanent resident status under section 249.

"(2)(A)(i) IMMEDIATE RELATIVES.—For purposes of this subsection, the term 'immediate relatives' means the children, spouses, and parents of a citizen of the United States, except that, in the case of parents, such citizens shall be at least 21 years of age. In the case of an alien who was the spouse of a citizen of the United States for at least 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, the alien shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death but only if the spouse files a petition under section 204(a)(1)(A) within 2 years after such date and only until the date the spouse remarries.

"(ii) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative.

"(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.

"(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—(1)(A) The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is, subject to subparagraph (B), equal to—

"(i) 480,000, minus

"(ii) the number computed under paragraph (2), plus

"(iii) the number (if any) computed under paragraph (3).

"(B)(i) For each of fiscal years 1992, 1993, and 1994, 465,000 shall be substituted for 480,000 in subparagraph (A)(i).

"(ii) In no case shall the number computed under subparagraph (A) be less than 226,000.

"(2) The number computed under this paragraph for a fiscal year is the sum of the number of aliens described in subparagraphs (A) and (B) of subsection (b)(2) who were issued immigrant visas or who otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year.

"(3) The number computed under this paragraph for a fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(b) (relating to employment-based immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

"(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—(1) The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to—

"(A) 140,000, plus

"(B) the number computed under paragraph (2).

"(2) The number computed under this paragraph for a fiscal year is the difference (if any) between the maximum number of visas which may be issued under section 203(a) (relating to family-sponsored immigrants) during the previous fiscal year and the number of visas issued under that section during that year.

"(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants is equal to 55,000 for each fiscal year.".

(b) CLERICAL AMENDMENT.—The item in the table of contents relating to section 201 is amended to read as follows:

"Sec. 201. Worldwide level of immigration.".

SEC. 102. PER COUNTRY LEVELS.

Section 202 (8 U.S.C. 1152) is amended—

(1) by amending subsection (a) to read as follows:

"(a) PER COUNTRY LEVEL.—

"(1) NONDISCRIMINATION.—Except as specifically provided in paragraph (2) and in sections 101(a)(27), 201(b)(2)(A)(i), and 203, no person shall receive any preference or priority or be discriminated against in the issuance of an immigrant visa because of the person's race, sex, nationality, place of birth, or place of residence.

"(2) PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Subject to paragraphs (3) and (4), the total number of immigrant visas made available to natives of any single foreign state or dependent area under subsections (a) and (b) of section 203 in any fiscal year may not exceed 7

percent (in the case of a single foreign state) or 2 percent (in the case of a dependent area) of the total number of such visas made available under such subsections in that fiscal year.

"(3) EXCEPTION IF ADDITIONAL VISAS AVAILABLE.—If because of the application of paragraph (2) with respect to one or more foreign states or dependent areas, the total number of visas available under both subsections (a) and (b) of section 203 for a calendar quarter exceeds the number of qualified immigrants who otherwise may be issued such a visa, paragraph (2) shall not apply to visas made available to such states or areas during the remainder of such calendar quarter.

"(4) SPECIAL RULES FOR SPOUSES AND CHILDREN OF LAWFUL PERMANENT RESIDENT ALIENS.—

"(A) 75 PERCENT OF MINIMUM 2ND PREFERENCE SET-ASIDE FOR SPOUSES AND CHILDREN NOT SUBJECT TO PER COUNTRY LIMITATION.—

"(i) IN GENERAL.—Of the visa numbers made available under section 203(a) to immigrants described in section 203(a)(2)(A) in any fiscal year, 75 percent of the 2–A floor (as defined in clause (ii)) shall be issued without regard to the numerical limitation under paragraph (2).

"(ii) 2–A FLOOR DEFINED.—In this paragraph, the term '2–A floor' means, for a fiscal year, 77 percent of the total number of visas made available under section 203(a) to immigrants described in section 203(a)(2) in the fiscal year.

"(B) TREATMENT OF REMAINING 25 PERCENT FOR COUNTRIES SUBJECT TO SUBSECTION (e).—

"(i) IN GENERAL.—Of the visa numbers made available under section 203(a) to immigrants described in section 203(a)(2)(A) in any fiscal year, the remaining 25 percent of the 2–A floor shall be available in the case of a state or area that is subject to subsection (e) only to the extent that the total number of visas issued in accordance with subparagraph (A) to natives of the foreign state or area is less than the subsection (e) ceiling (as defined in clause (ii)).

"(ii) SUBSECTION (e) CEILING DEFINED.—In clause (i), the term 'subsection (e) ceiling' means, for a foreign state or dependent area, 77 percent of the maximum number of visas that may be made available under section 203(a) to immigrants who are natives of the state or area under section 203(a)(2) consistent with subsection (e).

"(C) TREATMENT OF UNMARRIED SONS AND DAUGHTERS IN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, the number of immigrant visas that may be made available to natives of the state or area under section 203(a)(2)(B) may not exceed—

"(i) 23 percent of the maximum number of visas that may be made available under section 203(a) to immigrants of the state or area described in section 203(a)(2) consistent with subsection (e), or

"(ii) the number (if any) by which the maximum number of visas that may be made available under

section 203(a) to immigrants of the state or area described in section 203(a)(2) consistent with subsection (e) exceeds the number of visas issued under section 203(a)(2)(A),

whichever is greater.

"(D) LIMITING PASS DOWN FOR CERTAIN COUNTRIES SUBJECT TO SUBSECTION (e).—In the case of a foreign state or dependent area to which subsection (e) applies, if the total number of visas issued under section 203(a)(2) exceeds the maximum number of visas that may be made available to immigrants of the state or area under section 203(a)(2) consistent with subsection (e) (determined without regard to this paragraph), in applying paragraphs (3) and (4) of section 203(a) under subsection (e)(2) all visas shall be deemed to have been required for the classes specified in paragraphs (1) and (2) of such section.";

(2) in subsection (b)—

(A) by inserting "RULES FOR CHARGEABILITY.—" after "(b)", and

(B) by striking "the numerical limitation set forth in the proviso to subsection (a) of this section" each place it appears and inserting "a numerical level established under subsection (a)(2)";

(3) in subsection (c)—

(A) by inserting "CHARGEABILITY FOR DEPENDENT AREAS.—" after "(c)",

(B) by striking "a special immigrant" and all that follows through "201(b)" and inserting "an alien described in section 201(b)", and

(C) by striking ", and the number" and all that follows through "one fiscal year";

(4) in subsection (d), by inserting "CHANGES IN TERRITORY.—" after "(d)"; and

(5) by amending subsection (e) to read as follows:

"(e) SPECIAL RULES FOR COUNTRIES AT CEILING.—If it is determined that the total number of immigrant visas made available under subsections (a) and (b) of section 203 to natives of any single foreign state or dependent area will exceed the numerical limitation specified in subsection (a)(2) in any fiscal year, in determining the allotment of immigrant visa numbers to natives under subsections (a) and (b) of section 203, visa numbers with respect to natives of that state or area shall be allocated (to the extent practicable and otherwise consistent with this section and section 203) in a manner so that—

"(1) the ratio of the visa numbers made available under section 203(a) to the visa numbers made available under section 203(b) is equal to the ratio of the worldwide level of immigration under section 201(c) to such level under section 201(d);

"(2) except as provided in subsection (a)(4), the proportion of the visa numbers made available under each of paragraphs (1) through (4) of section 203(a) is equal to the ratio of the total number of visas made available under the respective paragraph to the total number of visas made available under section 203(a), and

"(3) the proportion of the visa numbers made available under each of paragraphs (1) through (5) of section 203(b) is equal to the ratio of the total number of visas made available under the

respective paragraph to the total number of visas made available under section 203(b).

Nothing in this subsection shall be construed as limiting the number of visas that may be issued to natives of a foreign state or dependent area under section 203(a) or 203(b) if there is insufficient demand for visas for such natives under section 203(b) or 203(a), respectively, or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A).".

SEC. 103. TREATMENT OF HONG KONG UNDER PER COUNTRY LEVELS. 8 USC 1152 note.

The approval referred to in the first sentence of section 202(b) of the Immigration and Nationality Act shall be considered to have been granted, effective beginning with fiscal year 1991, with respect to Hong Kong as a separate foreign state, and not as a colony or other component or dependent area of another foreign state, except that the total number of immigrant visas made available to natives of Hong Kong under subsections (a) and (b) of section 203 of such Act in each of fiscal years 1991, 1992, and 1993 may not exceed 10,000.

SEC. 104. ASYLEE ADJUSTMENTS.

(a) INCREASE IN NUMERICAL LIMITATION ON ADJUSTMENT OF ASYLEES.—

(1) IN GENERAL.—Section 209(b) (8 U.S.C. 1159(b)) is amended by striking "five thousand" and inserting "10,000".

(2) EFFECTIVE DATE AND TRANSITION.—The amendment made by paragraph (1) shall apply to fiscal years beginning with fiscal year 1991 and the President is authorized, without the need for appropriate consultation, to increase the refugee determination previously made under section 207 of the Immigration and Nationality Act for fiscal year 1991 in order to make such amendment effective for such fiscal year. 8 USC 1159 note.

(b) ANNUAL ASYLEE ENUMERATION.—Section 207(a) (8 U.S.C. 1157(a)) is amended by adding at the end the following new paragraph:

"(4) In the determination made under this subsection for each fiscal year (beginning with fiscal year 1992), the President shall enumerate, with the respective number of refugees so determined, the number of aliens who were granted asylum in the previous year.". President.

(c) WAIVER OF NUMERICAL LIMITATION FOR CERTAIN CURRENT ASYLEES.—The numerical limitation on the number of aliens whose status may be adjusted under section 209(b) of the Immigration and Nationality Act shall not apply to an alien described in subsection (d) or to an alien who has applied for adjustment of status under such section on or before June 1, 1990. 8 USC 1159 note.

(d) ADJUSTMENT OF CERTAIN FORMER ASYLEES.— 8 USC 1159 note.

(1) IN GENERAL.—Subject to paragraph (2), the provisions of section 209(b) of the Immigration and Nationality Act shall also apply to an alien—

(A) who was granted asylum before the date of the enactment of this Act (regardless of whether or not such asylum has been terminated under section 208(b) of the Immigration and Nationality Act),

(B) who is no longer a refugee because of a change in circumstances in a foreign state, and

(C) who was (or would be) qualified for adjustment of status under section 209(b) of the Immigration and

Nationality Act as of the date of the enactment of this Act but for paragraphs (2) and (3) thereof and but for any numerical limitation under such section.

(2) APPLICATION OF PER COUNTRY LIMITATIONS.—The number of aliens who are natives of any foreign state who may adjust status pursuant to paragraph (1) in any fiscal year shall not exceed the difference between the per country limitation established under section 202(a) of the Immigration and Nationality Act and the number of aliens who are chargeable to that foreign state in the fiscal year under section 202 of such Act.

Subtitle B—Preference System

PART 1—FAMILY-SPONSORED IMMIGRANTS

SEC. 111. FAMILY-SPONSORED IMMIGRANTS.

Section 203 (8 U.S.C. 1153) is amended—

(1) by redesignating subsections (b) through (e) as subsections (d) through (g), respectively, and

(2) by striking subsection (a) and inserting the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the class specified in paragraph (4).

"(2) SPOUSES AND UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants—

"(A) who are the spouses or children of an alien lawfully admitted for permanent residence, or

"(B) who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence,

shall be allocated visas in a number not to exceed 114,200, plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1); except that not less than 77 percent of such visa numbers shall be allocated to aliens described in subparagraph (A).

"(3) MARRIED SONS AND MARRIED DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 23,400, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of citizens of the United States, if such citizens are at least 21 years of age, shall be allocated visas in a number not to exceed 65,000, plus any visas not required for the classes specified in paragraphs (1) through (3).".

SEC. 112. TRANSITION FOR SPOUSES AND MINOR CHILDREN OF LEGALIZED ALIENS. 8 USC 1153 note.

(a) ADDITIONAL VISA NUMBERS.—

(1) IN GENERAL.—In addition to any immigrant visas otherwise available, immigrant visa numbers shall be available in each of fiscal years 1992, 1993, and 1994 for spouses and children of eligible, legalized aliens (as defined in subsection (c)) in a number equal to 55,000 minus the number (if any) computed under paragraph (2) for the fiscal year.

(2) OFFSET.—The number computed under this paragraph for a fiscal year is the number (if any) by which—

(A) the sum of the number of aliens described in subparagraphs (A) and (B) of section 201(b)(2) of the Immigration and Nationality Act (or, for fiscal year 1992, section 201(b) of such Act) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence in the previous fiscal year, exceeds

(B) 239,000.

(b) ORDER.—Visa numbers under this section shall be made available in the order in which a petition, in behalf of each such immigrant for classification under section 203(a)(2) of the Immigration and Nationality Act, is filed with the Attorney General under section 204 of such Act.

(c) LEGALIZED ALIEN DEFINED.—In this section, the term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(1) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(2) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(3) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

PART 2—EMPLOYMENT-BASED IMMIGRANTS

SEC. 121. EMPLOYMENT-BASED IMMIGRANTS.

(a) IN GENERAL.—Section 203 (8 U.S.C. 1153) is amended by inserting after subsection (a), as inserted by section 111, the following new subsection:

"(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(d) for employment-based immigrants in a fiscal year shall be allotted visas as follows:

"(1) PRIORITY WORKERS.—Visas shall first be made available in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraphs (4) and (5), to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

"(A) ALIENS WITH EXTRAORDINARY ABILITY.—An alien is described in this subparagraph if—

"(i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been

recognized in the field through extensive documentation,

"(ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

"(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

"(B) OUTSTANDING PROFESSORS AND RESEARCHERS.—An alien is described in this subparagraph if—

"(i) the alien is recognized internationally as outstanding in a specific academic area,

"(ii) the alien has at least 3 years of experience in teaching or research in the academic area, and

"(iii) the alien seeks to enter the United States—

"(I) for a tenured position (or tenure-track position) within a university or institution of higher education to teach in the academic area,

"(II) for a comparable position with a university or institution of higher education to conduct research in the area, or

"(III) for a comparable position to conduct research in the area with a department, division, or institute of a private employer, if the department, division, or institute employs at least 3 persons full-time in research activities and has achieved documented accomplishments in an academic field.

"(C) CERTAIN MULTINATIONAL EXECUTIVES AND MANAGERS.—An alien is described in this subparagraph if the alien, in the 3 years preceding the time of the alien's application for classification and admission into the United States under this subparagraph, has been employed for at least 1 year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States in order to continue to render services to the same employer or to a subsidiary or affiliate thereof in a capacity that is managerial or executive.

"(2) ALIENS WHO ARE MEMBERS OF THE PROFESSIONS HOLDING ADVANCED DEGREES OR ALIENS OF EXCEPTIONAL ABILITY.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraph (1), to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

"(B) WAIVER OF JOB OFFER.—The Attorney General may, when he deems it to be in the national interest, waive the requirement of subparagraph (A) that an alien's services in the sciences, arts, or business be sought by an employer in the United States.

"(C) DETERMINATION OF EXCEPTIONAL ABILITY.—In determining under subparagraph (A) whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning or a license to prac-

tice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(3) SKILLED WORKERS, PROFESSIONALS, AND OTHER WORKERS.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 40,000, plus any visas not required for the classes specified in paragraphs (1) and (2), to the following classes of aliens who are not described in paragraph (2):

"(i) SKILLED WORKERS.—Qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(ii) PROFESSIONALS.—Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

"(iii) OTHER WORKERS.—Other qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

"(B) LIMITATION ON OTHER WORKERS.—Not more than 10,000 of the visas made available under this paragraph in any fiscal year may be available for qualified immigrants described in subparagraph (A)(iii).

"(C) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(5)(A).

"(4) CERTAIN SPECIAL IMMIGRANTS.—Visas shall be made available, in a number not to exceed 10,000, to qualified special immigrants described in section 101(a)(27) (other than those described in subparagraph (A) or (B) thereof), of which not more than 5,000 may be made available in any fiscal year to special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii).

"(5) EMPLOYMENT CREATION.—

"(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 10,000, to qualified immigrants seeking to enter the United States for the purpose of engaging in a new commercial enterprise—

"(i) which the alien has established,

"(ii) in which such alien has invested (after the date of the enactment of the Immigration Act of 1990) or, is actively in the process of investing, capital in an amount not less than the amount specified in subparagraph (C), and

"(iii) which will benefit the United States economy and create full-time employment for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the immigrant and the immigrant's spouse, sons, or daughters).

"(B) SET-ASIDE FOR TARGETTED EMPLOYMENT AREAS.—

"(i) IN GENERAL.—Not less than 3,000 of the visas made available under this paragraph in each fiscal year shall be reserved for qualified immigrants who establish a new commercial enterprise described in subparagraph (A) which will create employment in a targetted employment area.

"(ii) TARGETTED EMPLOYMENT AREA DEFINED.—In this paragraph, the term 'targetted employment area' means, at the time of the investment, a rural area or an area which has experienced high unemployment (of at least 150 percent of the national average rate).

"(iii) RURAL AREA DEFINED.—In this paragraph, the term 'rural area' means any area other than an area within a metropolitan statistical area or within the outer boundary of any city or town having a population of 20,000 or more (based on the most recent decennial census of the United States).

"(C) AMOUNT OF CAPITAL REQUIRED.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the amount of capital required under subparagraph (A) shall be $1,000,000. The Attorney General, in consultation with the Secretary of Labor and the Secretary of State, may from time to time prescribe regulations increasing the dollar amount specified under the previous sentence.

"(ii) ADJUSTMENT FOR TARGETTED EMPLOYMENT AREAS.—The Attorney General may, in the case of investment made in a targetted employment area, specify an amount of capital required under subparagraph (A) that is less than (but not less than ½ of) the amount specified in clause (i).

"(iii) ADJUSTMENT FOR HIGH EMPLOYMENT AREAS.—In the case of an investment made in a part of a metropolitan statistical area that at the time of the investment—

"(I) is not a targetted employment area, and

"(II) is an area with an unemployment rate significantly below the national average unemployment rate,

the Attorney General may specify an amount of capital required under subparagraph (A) that is greater than (but not greater than 3 times) the amount specified in clause (i).".

(b) DETERRING IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—

(1) CONDITIONAL BASIS FOR PERMANENT RESIDENT STATUS BASED ON ESTABLISHMENT OF COMMERCIAL ENTERPRISES.—Chapter 2 of title II is amended by inserting after section 216 the following new section:

"CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN

8 USC 1186b.

"SEC. 216A. (a) IN GENERAL.—

"(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of this Act, an alien entrepreneur (as defined in

subsection (f)(1)), alien spouse, and alien child (as defined in subsection (f)(2)) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of this section.

"(2) NOTICE OF REQUIREMENTS.—

"(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien entrepreneur, alien spouse, or alien child obtains permanent resident status on a conditional basis under paragraph (1), the Attorney General shall provide for notice to such an entrepreneur, spouse, or child respecting the provisions of this section and the requirements of subsection (c)(1) to have the conditional basis of such status removed.

"(B) AT TIME OF REQUIRED PETITION.—In addition, the Attorney General shall attempt to provide notice to such an entrepreneur, spouse, or child, at or about the beginning of the 90-day period described in subsection (d)(2)(A), of the requirements of subsection (c)(1).

"(C) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Attorney General to provide a notice under this paragraph shall not affect the enforcement of the provisions of this section with respect to such an entrepreneur, spouse, or child.

"(b) TERMINATION OF STATUS IF FINDING THAT QUALIFYING ENTREPRENEURSHIP IMPROPER.—

"(1) IN GENERAL.—In the case of an alien entrepreneur with permanent resident status on a conditional basis under subsection (a), if the Attorney General determines, before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence, that—

"(A) the establishment of the commercial enterprise was intended solely as a means of evading the immigration laws of the United States,

"(B)(i) a commercial enterprise was not established by the alien,

"(ii) the alien did not invest or was not actively in the process of investing the requisite capital; or

"(iii) the alien was not sustaining the actions described in clause (i) or (ii) throughout the period of the alien's residence in the United States, or

"(C) the alien was otherwise not conforming to the requirements of section 203(b)(5),

then the Attorney General shall so notify the alien involved and, subject to paragraph (2), shall terminate the permanent resident status of the alien (and the alien spouse and alien child) involved as of the date of the determination.

"(2) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that a condition described in paragraph (1) is met.

"(c) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION.—

"(1) IN GENERAL.—In order for the conditional basis established under subsection (a) for an alien entrepreneur, alien spouse, or alien child to be removed—

"(A) the alien entrepreneur must submit to the Attorney General, during the period described in subsection (d)(2), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subsection (d)(1), and

"(B) in accordance with subsection (d)(3), the alien entrepreneur must appear for a personal interview before an officer or employee of the Service respecting the facts and information described in subsection (d)(1).

"(2) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION OR HAVE PERSONAL INTERVIEW.—

"(A) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under subsection (a), if—

"(i) no petition is filed with respect to the alien in accordance with the provisions of paragraph (1)(A), or

"(ii) unless there is good cause shown, the alien entrepreneur fails to appear at the interview described in paragraph (1)(B) (if required under subsection (d)(3)),

the Attorney General shall terminate the permanent resident status of the alien as of the second anniversary of the alien's lawful admission for permanent residence.

"(B) HEARING IN DEPORTATION PROCEEDING.—In any deportation proceeding with respect to an alien whose permanent resident status is terminated under subparagraph (A), the burden of proof shall be on the alien to establish compliance with the conditions of paragraphs (1)(A) and (1)(B).

"(3) DETERMINATION AFTER PETITION AND INTERVIEW.—

"(A) IN GENERAL.—If—

"(i) a petition is filed in accordance with the provisions of paragraph (1)(A), and

"(ii) the alien entrepreneur appears at any interview described in paragraph (1)(B),

the Attorney General shall make a determination, within 90 days of the date of the such filing or interview (whichever is later), as to whether the facts and information described in subsection (d)(1) and alleged in the petition are true with respect to the qualifying commercial enterprise.

"(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General determines that such facts and information are true, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status effective as of the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(C) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General determines that such facts and information are not true, the Attorney General shall so notify the alien involved and, subject to subparagraph (D), shall terminate the permanent resident status of an alien entrepreneur, alien spouse, or alien child as of the date of the determination.

"(D) HEARING IN DEPORTATION PROCEEDING.—Any alien whose permanent resident status is terminated under subparagraph (C) may request a review of such determination in a proceeding to deport the alien. In such proceeding, the burden of proof shall be on the Attorney General to establish, by a preponderance of the evidence, that the facts and information described in subsection (d)(1) and alleged in the petition are not true with respect to the qualifying commercial enterprise.

"(d) DETAILS OF PETITION AND INTERVIEW.—

"(1) CONTENTS OF PETITION.—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that—

"(A) a commercial enterprise was established by the alien;

"(B) the alien invested or was actively in the process of investing the requisite capital; and

"(C) the alien sustained the actions described in subparagraphs (A) and (B) throughout the period of the alien's residence in the United States.

"(2) PERIOD FOR FILING PETITION.—

"(A) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—Except as provided in subparagraph (B), the petition under subsection (c)(1)(A) must be filed during the 90-day period before the second anniversary of the alien's obtaining the status of lawful admission for permanent residence.

"(B) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in subparagraph (A).

"(C) FILING OF PETITIONS DURING DEPORTATION.—In the case of an alien who is the subject of deportation hearings as a result of failure to file a petition on a timely basis in accordance with subparagraph (A), the Attorney General may stay such deportation proceedings against an alien pending the filing of the petition under subparagraph (B).

"(3) PERSONAL INTERVIEW.—The interview under subsection (c)(1)(B) shall be conducted within 90 days after the date of submitting a petition under subsection (c)(1)(A) and at a local office of the Service, designated by the Attorney General, which is convenient to the parties involved. The Attorney General, in the Attorney General's discretion, may waive the deadline for such an interview or the requirement for such an interview in such cases as may be appropriate.

"(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III, in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence.

"(f) DEFINITIONS.—In this section:

"(1) The term 'alien entrepreneur' means an alien who obtains the status of an alien lawfully admitted for permanent

residence (whether on a conditional basis or otherwise) under section 203(b)(5).

"(2) The term 'alien spouse' and the term 'alien child' mean an alien who obtains the status of an alien lawfully admitted for permanent residence (whether on a conditional basis or otherwise) by virtue of being the spouse or child, respectively, of an alien entrepreneur.".

(2) ADDITIONAL GROUND FOR DEPORTATION.—For additional ground of exclusion for termination of permanent residence on a conditional basis under section 216A of the Immigration and Nationality Act, see section 241(a)(1)(D) of such Act, as amended by section 602(a) of this Act.

(3) CRIMINAL PENALTY FOR IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—Section 275 (8 U.S.C. 1325) is amended by adding at the end the following new subsection:

"(c) Any individual who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined in accordance with title 18, United States Code, or both.".

(4) LIMITATION ON ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following new subsection:

"(f) The Attorney General may not adjust, under subsection (a), the status of an alien lawfully admitted to the United States for permanent residence on a conditional basis under section 216A.".

(5) CONFORMING AMENDMENT.—The table of contents is amended by inserting after the item relating to section 216 the following new item:

"Sec. 216A. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children.".

8 USC 1182 note.

SEC. 122. CHANGES IN LABOR CERTIFICATION PROCESS.

(a) LABOR MARKET INFORMATION PILOT PROGRAM FOR EMPLOYMENT-BASED IMMIGRANTS.—(1) The Secretary of Labor shall establish a pilot program which provides for a determination, in accordance with section 553 of title 5, United States Code, of labor shortages or surpluses in up to 10 defined occupational classifications in the United States. In making such determinations, the Secretary shall consider certifications approved under section 212(a)(5)(A) of the Immigration and Nationality Act and labor market and other information.

(2)(A) If under the pilot program there is a determination that there is a labor shortage with respect to an occupational classification, a certification under section 212(a)(5)(A) of the Immigration and Nationality Act for petitions for that occupational classification shall be deemed to have been issued.

(B) If under the pilot program there is a determination that there is a labor surplus with respect to an occupational classification, the Secretary of Labor may nonetheless make a certification under section 212(a)(5)(A) of the Immigration and Nationality Act with regard to a specific job opportunity in the occupational classification if the employer submits evidence, based on extensive recruitment efforts (including such efforts as the Secretary may require), demonstrating that the employer meets all the requirements for certification under such section.

(3) The pilot program under this subsection shall only be effective for applications for certifications filed during the 3-fiscal-year period beginning with fiscal year 1992.

(4) By not later than April 1, 1994, the Secretary of Labor shall report to the Committees on Education and Labor and Judiciary of the House of Representatives and the Committees on Labor and Human Resources and the Judiciary of the Senate on the operation of the pilot program under this subsection and whether the program should be extended and the number of defined occupational classifications permitted under the program if it is extended. Reports.

(b) NOTICE IN LABOR CERTIFICATIONS.—The Secretary of Labor shall provide, in the labor certification process under section 212(a)(5)(A) of the Immigration and Nationality Act, that—

(1) no certification may be made unless the applicant for certification has, at the time of filing the application, provided notice of the filing (A) to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or (B) if there is no such bargaining representative, to employees employed at the facility through posting in conspicuous locations; and

(2) any person may submit documentary evidence bearing on the application for certification (such as information on available workers, information on wages and working conditions, and information on the employer's failure to meet terms and conditions with respect to the employment of alien workers and co-workers).

SEC. 123. DEFINITIONS OF MANAGERIAL CAPACITY AND EXECUTIVE CAPACITY.

Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following:

"(44)(A) The term 'managerial capacity' means an assignment within an organization in which the employee primarily—

"(i) manages the organization, or a department, subdivision, function, or component of the organization;

"(ii) supervises and controls the work of other supervisory, professional, or managerial employees, or manages an essential function within the organization, or a department or subdivision of the organization;

"(iii) if another employee or other employees are directly supervised, has the authority to hire and fire or recommend those as well as other personnel actions (such as promotion and leave authorization) or, if no other employee is directly supervised, functions at a senior level within the organizational hierarchy or with respect to the function managed; and

"(iv) exercises discretion over the day-to-day operations of the activity or function for which the employee has authority.

A first-line supervisor is not considered to be acting in a managerial capacity merely by virtue of the supervisor's supervisory duties unless the employees supervised are professional.

"(B) The term 'executive capacity' means an assignment within an organization in which the employee primarily—

"(i) directs the management of the organization or a major component or function of the organization;

"(ii) establishes the goals and policies of the organization, component, or function;

"(iii) exercises wide latitude in discretionary decision-making; and

"(iv) receives only general supervision or direction from higher level executives, the board of directors, or stockholders of the organization.

"(C) If staffing levels are used as a factor in determining whether an individual is acting in a managerial or executive capacity, the Attorney General shall take into account the reasonable needs of the organization, component, or function in light of the overall purpose and stage of development of the organization, component, or function. An individual shall not be considered to be acting in a managerial or executive capacity (as previously defined) merely on the basis of the number of employees that the individual supervises or has supervised or directs or has directed.".

8 USC 1153 note.

SEC. 124. TRANSITION FOR EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.

(a) ADDITIONAL VISA NUMBERS.—

(1) TREATMENT OF PRINCIPALS.—In the case of any alien described in paragraph (3) with respect to whom a classification petition has been filed and approved under subsection (b), there shall be made available, in addition to the immigrant visas otherwise available in each of fiscal years 1991 through 1993 and without regard to section 202(a) of the Immigration and Nationality Act, up to 12,000 additional immigrant visas.

(2) DERIVATIVE RELATIVES.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, the alien's spouse or parent.

(3) EMPLOYEES OF CERTAIN UNITED STATES BUSINESSES OPERATING IN HONG KONG.—An alien is described in this paragraph if the alien—

(A) is a resident of Hong Kong and is employed in Hong Kong (and has been so employed during the 12 previous, consecutive months) as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, by a business entity which (i) is owned and organized in the United States (or is the subsidiary or affiliate of a business owned and organized in the United States), (ii) employs at least 100 employees in the United States and at least 50 employees outside the United States, and (iii) has a gross annual income of at least $50,000,000, and

(B) has an offer of employment from such business entity in the United States as an officer or supervisor or in a capacity that is managerial, executive, or involves specialized knowledge, which offer (i) is effective from the time of filing the petition for classification under this section through and including the time of entry into the United States and (ii) provides for salary and benefits comparable to the salary and benefits provided to others with similar responsibilities and experience within the same company.

(b) PETITIONS.—Any employer desiring and intending to employ within the United States an alien described in subsection (a)(3) may

file a petition with the Attorney General for such classification. No visa may be issued under subsection (a)(1) until such a petition has been approved.

(c) ALLOCATION.—Visa numbers made available under subsection (a) shall be made available in the order which petitions under subsection (b) are filed with the Attorney General.

(d) DEFINITIONS.—In this section:

(1) EXECUTIVE CAPACITY.—The term "executive capacity" has the meaning given such term in section 101(a)(44)(B) of the Immigration and Nationality Act, as added by section 123 of this Act.

(2) MANAGERIAL CAPACITY.—The term "managerial capacity" has the meaning given such term in section 101(a)(44)(A) of the Immigration and Nationality Act, as added by section 123 of this Act.

(3) OFFICER.—The term "officer" means, with respect to a business entity, the chairman or vice-chairman of the board of directors of the entity, the chairman or vice-chairman of the executive committee of the board of directors, the president, any vice-president, any assistant vice-president, any senior trust officer, the secretary, any assistant secretary, the treasurer, any assistant treasurer, any trust officer or associate trust officer, the controller, any assistant controller, or any other officer of the entity customarily performing functions similar to those performed by any of the above officers.

(4) SPECIALIZED KNOWLEDGE.—The term "specialized knowledge" has the meaning given such term in section 214(c)(2)(B) of the Immigration and Nationality Act, as amended by section 206(b)(2) of this Act.

(5) SUPERVISOR.—The term "supervisor" means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively recommend such action, if in connection with the foregoing the exercise of such authority is not merely of a routine or clerical nature, but requires the use of independent judgment.

PART 3—DIVERSITY IMMIGRANTS

SEC. 131. DIVERSITY IMMIGRANTS.

Section 203, as amended by sections 111 and 121 of this Act, is further amended by inserting after subsection (b) the following new subsection:

"(c) DIVERSITY IMMIGRANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), aliens subject to the worldwide level specified in section 201(e) for diversity immigrants shall be allotted visas each fiscal year as follows:

"(A) DETERMINATION OF PREFERENCE IMMIGRATION.—The Attorney General shall determine for the most recent previous 5-fiscal-year period for which data are available, the total number of aliens who are natives of each foreign state and who (i) were admitted or otherwise provided lawful permanent resident status (other than under this subsection) and (ii) were subject to the numerical limitations of

section 201(a) (other than paragraph (3) thereof) or who were admitted or otherwise provided lawful permanent resident status as an immediate relative or other alien described in section 201(b)(2).

"(B) IDENTIFICATION OF HIGH-ADMISSION AND LOW-ADMISSION REGIONS AND HIGH-ADMISSION AND LOW-ADMISSION STATES.—The Attorney General—

"(i) shall identify—

"(I) each region (each in this paragraph referred to as a 'high-admission region') for which the total of the numbers determined under subparagraph (A) for states in the region is greater than ⅙ of the total of all such numbers, and

"(II) each other region (each in this paragraph referred to as a 'low-admission region'); and

"(ii) shall identify—

"(I) each foreign state for which the number determined under subparagraph (A) is greater than 50,000 (each such state in this paragraph referred to as a 'high-admission state'), and

"(II) each other foreign state (each such state in this paragraph referred to as a 'low-admission state').

"(C) DETERMINATION OF PERCENTAGE OF WORLDWIDE IMMIGRATION ATTRIBUTABLE TO HIGH-ADMISSION REGIONS.—The Attorney General shall determine the percentage of the total of the numbers determined under subparagraph (A) that are numbers for foreign states in high-admission regions.

"(D) DETERMINATION OF REGIONAL POPULATIONS EXCLUDING HIGH-ADMISSION STATES AND RATIOS OF POPULATIONS OF REGIONS WITHIN LOW-ADMISSION REGIONS AND HIGH-ADMISSION REGIONS.—The Attorney General shall determine—

"(i) based on available estimates for each region, the total population of each region not including the population of any high-admission state;

"(ii) for each low-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the low-admission regions; and

"(iii) for each high-admission region, the ratio of the population of the region determined under clause (i) to the total of the populations determined under such clause for all the high-admission regions.

"(E) DISTRIBUTION OF VISAS.—

"(i) NO VISAS FOR NATIVES OF HIGH-ADMISSION STATES.—The percentage of visas made available under this paragraph to natives of a high-admission state is 0.

"(ii) FOR LOW-ADMISSION STATES IN LOW-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a low-admission region is the product of—

"(I) the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(ii).

"(iii) FOR LOW-ADMISSION STATES IN HIGH-ADMISSION REGIONS.—Subject to clauses (iv) and (v), the percentage of visas made available under this paragraph to natives (other than natives of a high-admission state) in a high-admission region is the product of—

"(I) 100 percent minus the percentage determined under subparagraph (C), and

"(II) the population ratio for that region determined under subparagraph (D)(iii).

"(iv) REDISTRIBUTION OF UNUSED VISA NUMBERS.—If the Secretary of State estimates that the number of immigrant visas to be issued to natives in any region for a fiscal year under this paragraph is less than the number of immigrant visas made available to such natives under this paragraph for the fiscal year, subject to clause (v), the excess visa numbers shall be made available to natives (other than natives of a high-admission state) of the other regions in proportion to the percentages otherwise specified in clauses (ii) and (iii).

"(v) LIMITATION ON VISAS FOR NATIVES OF A SINGLE FOREIGN STATE.—The percentage of visas made available under this paragraph to natives of any single foreign state for any fiscal year shall not exceed 7 percent.

"(F) REGION DEFINED.—Only for purposes of administering the diversity program under this subsection, Northern Ireland shall be treated as a separate foreign state, each colony or other component or dependent area of a foreign state overseas from the foreign state shall be treated as part of the foreign state, and the areas described in each of the following clauses shall be considered to be a separate region:

"(i) Africa.

"(ii) Asia.

"(iii) Europe.

"(iv) North America (other than Mexico).

"(v) Oceania.

"(vi) South America, Mexico, Central America, and the Caribbean.

"(2) REQUIREMENT OF EDUCATION OR WORK EXPERIENCE.—An alien is not eligible for a visa under this subsection unless the alien—

"(A) has at least a high school education or its equivalent, or

"(B) has, within 5 years of the date of application for a visa under this subsection, at least 2 years of work experience in an occupation which requires at least 2 years of training or experience.

"(3) MAINTENANCE OF INFORMATION.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under this subsection.".

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8 USC 1153 note.

SEC. 132. DIVERSITY TRANSITION FOR ALIENS WHO ARE NATIVES OF CERTAIN ADVERSELY AFFECTED FOREIGN STATES.

(a) IN GENERAL.—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified immigrants described in subsection (b) 40,000 immigrant visas in each of fiscal years 1992, 1993, and 1994.

(b) QUALIFIED ALIEN DESCRIBED.—An alien described in this subsection is an alien who—

(1) is a native of a foreign state that is not contiguous to the United States and that was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986,

(2) has a firm commitment for employment in the United States for a period of at least 1 year (beginning on the date of admission under this section), and

(3) except as provided in subsection (c), is admissible as an immigrant.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making immigrant visas provided under subsection (a) available in the chronological order in which aliens apply for each fiscal year, except that at least 40 percent of the number of such visas in each fiscal year shall be made available to natives of the foreign state the natives of which received the greatest number of visas issued under section 314 of the Immigration Reform and Control Act (or to aliens described in subsection (d) who are the spouses or children of such natives).

(d) DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, his spouse or parent.

(e) WAIVERS OF GROUNDS OF EXCLUSION.—In determining the admissibility of an alien provided a visa number under this section, the grounds of exclusion specified in paragraphs (5)(B) and (7)(A) of section 212(a) of the Immigration and Nationality Act shall not apply, and the Attorney General shall waive the ground of exclusion specified in paragraph (6)(C) of such section, unless the Attorney General finds that such a waiver is not in the national interest.

(f) APPLICATION FEE.—The Secretary of State shall require payment of a reasonable fee for the filing of an application under this section in order to cover the costs of processing applications under this section.

8 USC 1153 note.

SEC. 133. ONE-YEAR DIVERSITY TRANSITION FOR ALIENS WHO HAVE BEEN NOTIFIED OF AVAILABILITY OF NP-5 VISAS.

Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available in fiscal year 1991 immigrant visa numbers for qualified immigrants who—

(1) were notified by the Secretary of State before May 1, 1990, of their selection for issuance of a visa under section 314 of the Immigration Reform and Control Act of 1986, and

(2) are qualified for the issuance of such a visa but for (A) numerical and fiscal year limitations on the issuance of such

visas, (B) section 212(a)(19) or 212(e) of the Immigration and Nationality Act, or (C) the fact that the immigrant was a national, but not a native, of a foreign state described in section 314 of the Immigration Reform and Control Act of 1986.

Visas shall be made available under this section to spouses and children of qualified immigrants in the same manner as such visas were made available to such spouses and children under section 314 of the Immigration Reform and Control Act of 1986. The Attorney General may waive section 212(a)(19) of the Immigration and Nationality Act (or, on or after June 1, 1991, section 212(a)(6)(C) of such Act) in the case of qualified immigrants described in the first sentence of this section.

SEC. 134. TRANSITION FOR DISPLACED TIBETANS. 8 USC 1153 note.

(a) IN GENERAL.—Notwithstanding the numerical limitations in sections 201 and 202 of the Immigration and Nationality Act, there shall be made available to qualified displaced Tibetans described in subsection (b) 1,000 immigrant visas in the 3-fiscal-year period beginning with fiscal year 1991.

(b) QUALIFIED DISPLACED TIBETAN DESCRIBED.—An alien described in this subsection is an alien who—

(1) is a native of Tibet, and

(2) since before date of the enactment of this Act, has been continuously residing in India or Nepal.

For purposes of paragraph (1), an alien shall be considered to be a native of Tibet if the alien was born in Tibet or is the son, daughter, grandson, or granddaughter of an individual born in Tibet.

(c) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making immigrant visas provided under subsection (a) available to displaced aliens described in subsection (b) (or described in subsection (d) as the spouse or child of such an alien) in an equitable manner, giving preference to those aliens who are not firmly resettled in India or Nepal or who are most likely to be resettled successfully in the United States.

(d) DERIVATIVE STATUS FOR SPOUSES AND CHILDREN.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E) of the Immigration and Nationality Act) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under this section, be entitled to the same status, and the same order of consideration, provided under this section, if accompanying, or following to join, his spouse or parent.

Subtitle C—Commission and Information

SEC. 141. COMMISSION ON LEGAL IMMIGRATION REFORM. 8 USC 1153 note.

(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) Effective October 1, 1991, there is established a Commission on Legal Immigration Reform (in this section referred to as the "Commission") which shall be composed of 9 members to be appointed as follows:

(A) One member who shall serve as Chairman, to be appointed by the President. President.

(B) Two members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the Chairman of the Subcommittee on

Immigration, Refugees, and International Law of the Committee on the Judiciary of the House of Representatives.

(C) Two members to be appointed by the Minority Leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary of the House of Representatives.

(D) Two members to be appointed by the Majority Leader of the Senate who shall select such members from a list of nominees provided by the Chairman of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

(E) Two members to be appointed by the Minority Leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

(2) Initial appointments to the Commission shall be made during the 45-day period beginning on October 1, 1991. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

President. (3) Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (1)(A) shall expire at noon on January 20, 1993, and the President shall appoint an individual to serve for the remaining life of the Commission.

(b) FUNCTIONS OF COMMISSION.—The Commission shall—

(1) review and evaluate the impact of this Act and the amendments made by this Act, in accordance with subsection (c); and

Reports. (2) transmit to the Congress—

(A) not later than September 30, 1994, a first report describing the progress made in carrying out paragraph (1), and

(B) not later than September 30, 1997, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional changes that should be made with respect to legal immigration into the United States as the Commission deems appropriate.

(c) CONSIDERATIONS.—

(1) PARTICULAR CONSIDERATIONS.—In particular, the Commission shall consider the following:

(A) The requirements of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members and the impact which the establishment of a national level of immigration has upon the availability and priority of family preference visas.

(B) The impact of immigration and the implementation of the employment-based and diversity programs on labor needs, employment, and other economic and domestic conditions in the United States.

(C) The social, demographic, and natural resources impact of immigration.

(D) The impact of immigration on the foreign policy and national security interests of the United States.

(E) The impact of per country immigration levels on family-sponsored immigration.

(F) The impact of the numerical limitation on the adjustment of status of aliens granted asylum.

(G) The impact of the numerical limitations on the admission of nonimmigrants under section 214(g) of the Immigration and Nationality Act.

(2) DIVERSITY PROGRAM.—The Commission shall analyze the information maintained under section 203(c)(3) of the Immigration and Nationality Act and shall report to Congress in its report under subsection (b)(2) on—

(A) the characteristics of individuals admitted under section 203(c) of the Immigration and Nationality Act, and

(B) how such characteristics compare to the characteristics of family-sponsored immigrants and employment-based immigrants.

The Commission shall include in the report an assessment of the effect of the requirement of paragraph (2) of section 203(c) of the Immigration and Nationality Act on the diversity, educational, and skill level of aliens admitted.

(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule. Each member of the Commission who is such an officer or employee shall serve without additional pay.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of subsections (e) through (g) of section 304 of the Immigration Reform and Control Act of 1986 shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of subsection (e) thereof shall not apply.

(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(2)(B), except that the Commission may continue to function until January 1, 1998, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

(h) CONGRESSIONAL RESPONSE.—(1) No later than 90 days after the date of receipt of each report transmitted under subsection (b)(2), the Committees on the Judiciary of the House of Representatives and of the Senate shall initiate hearings to consider the findings and recommendations of the report.

(2) No later than 180 days after the date of receipt of such a report, each such Committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

SEC. 142. STATISTICAL INFORMATION SYSTEM.

Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsections:

"(c)(1) The Commissioner, in consultation with interested academicians, government agencies, and other parties, shall provide for a system for collection and dissemination, to Congress and the public, of information (not in individually identifiable form) useful in evaluating the social, economic, environmental, and demographic impact of immigration laws.

"(2) Such information shall include information on the alien population in the United States, on the rates of naturalization and emigration of resident aliens, on aliens who have been admitted, paroled, or granted asylum, on nonimmigrants in the United States (by occupation, basis for admission, and duration of stay), on aliens who have been excluded or deported from the United States, on the number of applications filed and granted for suspension of deportation, and on the number of aliens estimated to be present unlawfully in the United States in each fiscal year.

"(3) Such system shall provide for the collection and dissemination of such information not less often than annually.

Reports. "(d)(1) The Commissioner shall submit to Congress annually a report which contains a summary of the information collected under subsection (c) and an analysis of trends in immigration and naturalization.

"(2) Each annual report shall include information on the number, and rate of denial administratively, of applications for naturalization, for each district office of the Service and by national origin group.".

Subtitle D—Miscellaneous

SEC. 151. REVISION OF SPECIAL IMMIGRANT PROVISIONS RELATING TO RELIGIOUS WORKERS (C SPECIAL IMMIGRANTS).

(a) IN GENERAL.—Subparagraph (C) of section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended to read as follows:

"(C) an immigrant, and the immigrant's spouse and children if accompanying or following to join the immigrant, who—

"(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

"(ii) seeks to enter the United States—

"(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

"(II) before October 1, 1994, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

"(III) before October 1, 1994, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in

section 501(c)(3) of the Internal Revenue Code of 1986) at the request of the organization in a religious vocation or occupation; and

"(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);".

(b) REFERENCE TO NEW NONIMMIGRANT CLASSIFICATION.—For establishment of nonimmigrant classification for religious workers, see section 209.

SEC. 152. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED AT THE UNITED STATES MISSION IN HONG KONG (D SPECIAL IMMIGRANTS). 8 USC 1101 note.

(a) IN GENERAL.—Subject to subsection (c), an alien described in subsection (b) shall be treated as a special immigrant described in section 101(a)(27)(D) of the Immigration and Nationality Act.

(b) ALIENS COVERED.—An alien is described in this subsection if—

(1) the alien is—

(A) an employee at the United States consulate in Hong Kong under the authority of the Chief of Mission (including employment pursuant to section 5913 of title 5, United States Code) who has performed faithful service for a total of three years or more, or

(B) a member of the immediate family (as defined in 6 Foreign Affairs Manual 117k as of the date of the enactment of this Act) of an employee described in subparagraph (A) who has been living with the employee in the same household;

(2) the welfare of the employee or such an immediate family member is subject to a clear threat due directly to the employee's employment with the United States Government or under a United States Government official; and

(3) the principal officer in Hong Kong, in the officer's discretion, has recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status.

(c) EXPIRATION.—Subsection (a) shall only apply to aliens who file an application for special immigrant status under this section by not later than January 1, 2002.

(d) LIMITED WAIVER OF NUMERICAL LIMITATIONS.—The first 500 visas made available to aliens as special immigrants under this section shall not be counted against any numerical limitation established under section 201 or 202 of the Immigration and Nationality Act.

SEC. 153. SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS DECLARED DEPENDENT ON A JUVENILE COURT (J SPECIAL IMMIGRANTS).

(a) IN GENERAL.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(1) by striking "or" at the end of subparagraph (H),

(2) by striking the period at the end of subparagraph (I) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(J) an immigrant (i) who has been declared dependent on a juvenile court located in the United States and has been deemed eligible by that court for long-term foster care, and (ii) for whom

it has been determined in administrative or judicial proceedings that it would not be in the alien's best interest to be returned to the alien's or parent's previous country of nationality or country of last habitual residence; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.".

(b) WAIVER OF GROUNDS FOR DEPORTATION.—

(1) IN GENERAL.—Section 241 (8 U.S.C. 1251) is amended by adding at the end the following new subsection:

"(h) Paragraphs (1), (2), (5), (9), or (12) of subsection 241(a) (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (29), or (33) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

Effective date.
8 USC 1251 note.

(2) USE OF NEW GROUNDS FOR DEPORTATION.—Effective on the date that the amendments made by section 602 of this Act become effective, the subsection added by paragraph (1) is amended to read as follows:

"(h) Paragraphs (1)(A), (1)(B), (1)(C), (1)(D), or (3)(A), of subsection 241(a) (other than so much of paragraph (1) as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a)) shall not apply to a special immigrant described in section 101(a)(27)(J) based upon circumstances that exist before the date the alien was provided such special immigrant status.".

8 USC 1201 note.

SEC. 154. PERMITTING EXTENSION OF PERIOD OF VALIDITY OF IMMIGRANT VISAS FOR CERTAIN RESIDENTS OF HONG KONG.

(a) EXTENDING PERIOD OF VALIDITY.—

(1) IN GENERAL.—Subject to paragraph (2), the limitation on the period of validity of an immigrant visa under section 221(c) of the Immigration and Nationality Act shall not apply in the case of an immigrant visa issued, on or after the date of the enactment of this Act and before September 1, 2001, to an alien described in subsection (b), but only if—

(A) the alien elects, within the period of validity of the immigrant visa under such section, to have this section apply, and

(B) before the date the alien seeks to be admitted to the United States for lawful permanent residence, the alien notifies the appropriate consular officer of the alien's intention to seek such admission and provides such officer with such information as the officer determines to be necessary to verify that the alien remains eligible for admission to the United States as an immigrant.

(2) LIMITATION ON EXTENSION.—In no case shall the period of validity of a visa be extended under paragraph (1) beyond January 1, 2002.

(3) TREATMENT UNDER NUMERICAL LIMITATIONS.—In applying the numerical limitations of sections 201 and 202 of the Immigration and Nationality Act in the case of aliens for whose visas the period of validity is extended under this section, such limitations shall only apply at the time of original issuance of the visas and not at the time of admission of such aliens.

(b) ALIENS COVERED.—An alien is described in this subsection if the alien—

(1)(A) is chargeable under section 202 of the Immigration and Nationality Act to Hong Kong, and

(B)(i) is residing in Hong Kong as of the date of the enactment of this Act and is issued an immigrant visa under paragraph (1), (2), (4), or (5) of section 203(a) the Immigration and Nationality Act (as in effect on the date of the enactment of this Act) or under section 203(a) or 203(b)(1) of such Act (as in effect on and after October 1, 1991), or (ii) is the spouse or child (as defined in subsection (d)) of an alien described in clause (i), if accompanying or following to join the alien in coming to the United States; or

(2) is issued a visa under section 124 of this Act.

(c) TREATMENT OF CERTAIN EMPLOYEES IN HONG KONG.—

(1) IN GENERAL.—In applying the proviso of section 7 of the Central Intelligence Agency Act of 1949, in the case of an alien described in paragraph (2), the Director may charge the entry of the alien against the numerical limitation for any fiscal year (beginning with fiscal year 1991 and ending with fiscal year 1996) notwithstanding that the alien's entry is not made to the United States in that fiscal year so long as such entry is made before the end of fiscal year 1997.

(2) ALIENS COVERED.—An alien is described in this paragraph if the alien—

(A) is an employee of the Foreign Broadcast Information Service in Hong Kong, or

(B) is the spouse or child (as defined in subsection (d)) of an alien described in subparagraph (A), if accompanying or following to join the alien in coming to the United States.

(3) RELATION TO SIMILAR PROVISION.—The provisions of this subsection supersede section 403 of the Intelligence Authorization Act, Fiscal Year 1991.

(d) TREATMENT OF CHILDREN.—In this section, the term "child" has the meaning given such term in section 101(b)(1) of the Immigration and Nationality Act and also includes (for purposes of this section and the Immigration and Nationality Act as it applies to this section) an alien who was the child (as so defined) of the alien as of the date of the issuance of an immigrant visa to the alien described in subsection (b)(1) or, in the case described in subsection (c), as of the date of charging of the entry of the alien under the proviso under section 7 of the Central Intelligence Agency Act of 1949.

SEC. 155. EXPEDITED ISSUANCE OF LEBANESE SECOND AND FIFTH PREFERENCE VISAS. 8 USC 1153 note.

(a) IN GENERAL.—In the issuance of immigrant visas to certain Lebanese immigrants described in subsection (b) in fiscal years 1991 and 1992 and notwithstanding section 203(c) of the Immigration and Nationality Act (to the extent inconsistent with this section), the Secretary of State shall provide that immigrant visas which would otherwise be made available in the fiscal year shall be made available as early as possible in the fiscal year.

(b) LEBANESE IMMIGRANTS COVERED.—Lebanese immigrants described in this subsection are aliens who—

(1) are natives of Lebanon,

(2) are not firmly resettled in any foreign country outside Lebanon, and

(3) as of the date of the enactment of this Act, are the beneficiaries of a petition approved to accord status under section 203(a)(2) or 203(a)(5) of the Immigration and Nationality Act (as in effect as of the date of the enactment of this Act), or the child of such an alien if accompanying or following to join the alien.

Subtitle E—Effective Dates; Conforming Amendments

8 USC 1101 note.

SEC. 161. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this title shall take effect on October 1, 1991, and apply beginning with fiscal year 1992.

(b) PROVISIONS TAKING EFFECT UPON ENACTMENT.—The following sections (and amendments made by such sections) shall take effect on the date of the enactment of this Act and (unless otherwise provided) apply to fiscal year 1991:

(1) Section 103 (relating to per country limitation for Hong Kong).

(2) Section 104 (relating to asylee adjustments).

(3) Section 124 (relating to transition for employees of certain U.S. businesses in Hong Kong).

(4) Section 133 (relating to one-year diversity transition for aliens who have been notified of availability of NP-5 visas).

(5) Section 134 (relating to transition for displaced Tibetans).

(6) Section 153 (relating to special immigrants who are dependent on a juvenile court).

(7) Section 154 (permitting extension of validity of visas for certain residents of Hong Kong).

(8) Section 155 (relating to expedited issuance of Lebanese second and fifth preference visas).

(9) Section 162(b) (relating to immigrant visa petitioning process), but only insofar as such section relates to visas for fiscal years beginning with fiscal year 1992.

(c) GENERAL TRANSITIONS.—

(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(3) or section 203(a)(6) of such Act (as in effect before such date)—

(A) in order to maintain the priority date with respect to such a petition, the petitioner must file (by not later than October 1, 1993) a new petition for classification of the employment under paragraph (1), (2), or (3) of section 203(b) of such Act (as amended by this title), and

(B) any labor certification under section 212(a)(5)(A) of such Act required with respect to the new petition shall be deemed approved if the labor certification with respect to the previous petition was previously approved under section 212(a)(14) of such Act.

(2) Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or section 203(a)(5) of such Act (as in effect before such date) shall be deemed, as of such date, to be a petition filed under such section for preference status under

section 203(a)(3) or section 203(a)(4), respectively, of such Act (as amended by this title).

(d) ADMISSIBILITY STANDARDS.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1991, makes application for admission, the immigrant's admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act shall be determined under the provisions of law in effect on the date of the issuance of such visa.

(e) CONSTRUCTION.—Nothing in this title shall be construed as affecting the provisions of section 19 of Public Law 97-116, section 2(c)(1) of Public Law 97-271, or section 202(e) of Public Law 99-603.

SEC. 162. CONFORMING AMENDMENTS.

(a) RESTATEMENT OF DERIVATIVE STATUS, ORDER OF CONSIDERATION, ETC.—(1) Section 203, as amended by subtitle B, is further amended by striking all that follows subsection (c) and inserting the following: 8 USC 1153.

"(d) TREATMENT OF FAMILY MEMBERS.—A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a), (b), or (c), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, the spouse or parent.

"(e) ORDER OF CONSIDERATION.—(1) Immigrant visas made available under subsection (a) or (b) shall be issued to eligible immigrants in the order in which a petition in behalf of each such immigrant is filed with the Attorney General (or in the case of special immigrants under section 101(a)(27)(D), with the Secretary of State) as provided in section 204(a).

"(2) Immigrant visa numbers made available under subsection (c) (relating to diversity immigrants) shall be issued to eligible qualified immigrants strictly in a random order established by the Secretary of State for the fiscal year involved.

"(3) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State. Regulations.

"(f) PRESUMPTION.—Every immigrant shall be presumed not to be described in subsection (a) or (b) of this section, section 101(a)(27), or section 201(b)(2), until the immigrant establishes to the satisfaction of the consular officer and the immigration officer that the immigrant is so described. In the case of any alien claiming in his application for an immigrant visa to be described in section 201(b)(1) or in subsection (a) or (b) of this section, the consular officer shall not grant such status until he has been authorized to do so as provided by section 204.

"(g) LISTS.—For purposes of carrying out the Secretary's responsibilities in the orderly administration of this section, the Secretary of State may make reasonable estimates of the anticipated numbers of visas to be issued during any quarter of any fiscal year within each of the categories under subsections (a), (b), and (c) and to rely upon such estimates in authorizing the issuance of visas. The Secretary of State shall terminate the registration of any alien who fails to apply for an immigrant visa within one year following notification to the alien of the availability of such visa, but the Secretary shall reinstate the registration of any such alien who establishes within 2 years following the date of notification of the

availability of such visa that such failure to apply was due to circumstances beyond the alien's control.".

8 USC 1153 note.

(2) Nothing in this Act may be construed as continuing the availability of visas under section 203(a)(7) of the Immigration and Nationality Act, as in effect before the date of enactment of this Act.

(b) CHANGES IN PETITIONING PROCEDURE.—Section 204 (8 U.S.C. 1154) is amended—

(1) in subsection (a), by striking "(a)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(a)(1)(A) Any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 203(a) or to an immediate relative status under section 201(b)(2)(A)(i) may file a petition with the Attorney General for such classification.

"(B) Any alien lawfully admitted for permanent residence claiming that an alien is entitled to a classification by reason of the relationship described in section 203(a)(2) may file a petition with the Attorney General for such classification.

"(C) Any alien desiring to be classified under section 203(b)(1)(A), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

"(D) Any employer desiring and intending to employ within the United States an alien entitled to classification under section 203(b)(1)(B), 203(b)(1)(C), 203(b)(2), or 203(b)(3) may file a petition with the Attorney General for such classification.

"(E)(i) Any alien (other than a special immigrant under section 101(a)(27)(D)) desiring to be classified under section 203(b)(4), or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

"(ii) Aliens claiming status as a special immigrant under section 101(a)(27)(D) may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.

"(F) Any alien desiring to be classified under section 203(b)(5) may file a petition with the Secretary of State for such classification.

"(G)(i) Any alien desiring to be provided an immigrant visa under section 203(c) may file a petition at the place and time determined by the Secretary of State by regulation. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

"(ii)(I) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 203(c) for the fiscal year beginning after the end of the period.

"(II) Aliens who qualify, through random selection, for a visa under section 203(c) shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

"(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

"(iii) A petition or registration under this subparagraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.";

(2) in subsection (b)—

(A) by striking "section 203(a) (3) or (6)" and inserting "section 203(b)(2) or 203(b)(3)", and

(B) by striking "a preference status under section 203(a)" and inserting "preference under subsection (a) or (b) of section 203";

(3) in subsection (e), by striking "preference immigrant under section 203(a)" and inserting "immigrant under subsection (a), (b), or (c) of section 203";

(4) in subsection (g)(1), by striking "203(a)(4)" and inserting "203(a)(3)";

(5) by striking subsection (f); and

(6) by redesignating subsections (g) and (h) as (f) and (g), respectively.

(e) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 212(a)(5) (8 U.S.C. 1182(a)(5)), as amended by section 601(a) of this Act, is amended—

(A) in subparagraph (A), by striking "Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor" and inserting "Any alien who seeks admission or status as an immigrant under paragraph (2) or (3) of section 203(b)",

(B) in subparagraph (B), by inserting "who seeks admission or status as an immigrant under paragraph (2) or (3) of section 203(b)" after "An alien" the first place it appears, and

(C) by striking subparagraph (C).

(2) Section 244(d) (8 U.S.C. 1254(d)) is amended by striking ", and unless" and all that follows through "then current".

(3) Section 245(b) (8 U.S.C. 1255(b)) is amended—

(A) by striking "or nonpreference",

(B) by striking "202(e) or 203(a)" and inserting "201(a)", and

(C) by striking "for the fiscal year then current" and inserting "for the succeeding fiscal year".

(4) Section 3304(a)(14)(A) of the Internal Revenue Code of 1986 is amended by striking "section 203(a)(7) or". 26 USC 3304.

(5) Section 1614(a)(1)(B)(i) of the Social Security Act is amended by striking "section 203(a)(7) or". 42 USC 1382c.

(6) Section 2(c)(4) of the Virgin Islands Nonimmigrant Alien Adjustment Act of 1982 (Public Law 97-271) is amended by inserting before the period at the end the following: "(as in effect before October 1, 1991) or by reason of the relationship described in section 203(a)(2), 203(a)(3), or 203(a)(4), or 201(b)(2)(A)(i), respectively, of such Act (as in effect on or after such date)". 8 USC 1255 note.

(f) TECHNICAL CORRECTIONS TO IMMIGRATION NURSING RELIEF ACT OF 1989.—

(1) Section 2(b) of the Immigration Nursing Relief Act of 1989 (Public Law 101-238) is amended— 8 USC 1255 note.

(A) by striking "December 31, 1989" and inserting "September 1, 1989",

(B) by striking "in the lawful status" and inserting "in the status",

(C) by inserting "unauthorized employment performed before the date of the enactment of the Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and" after "spouse or child of such an alien,", and

(D) by striking "lawful status as such a nonimmigrant" and all that follows through "subsection (a)" and inserting "lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 162(f)(1) of the Immigration Act of 1990".

(2)(A) Section 101(a)(15)(H)(i)(a) (8 U.S.C. 1101(a)(15)(H)(i)(a)) is amended by striking "for the facility for which the alien will perform the services, or" and inserting "for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien's employer or controlled by the employer) for which the alien will perform the services, or".

(B) Section 212(m)(2)(A) (8 U.S.C. 1182(m)(2)(A)) is amended—

(i) by striking ", with respect to a facility for which an alien will perform services,",

(ii) in clause (iii), by inserting "employed by the facility" after "The alien", and

(iii) by adding at the end the following: "In the case of an alien for whom an employer has filed an attestation under this subparagraph and who is performing services at a worksite other than the employer's or other than a worksite controlled by the employer, the Secretary may waive such requirements for the attestation for the worksite as may be appropriate in order to avoid duplicative attestations, in cases of temporary, emergency circumstances, with respect to information not within the knowledge of the attestor, or for other good cause.".

Effective date.
8 USC 1101 note.

(3) The amendments made by this subsection shall apply as though included in the enactment of the Immigration Nursing Relief Act of 1989.

TITLE II—NONIMMIGRANTS

Subtitle A—General and Permanent Provisions

SEC. 201. REVISION AND EXTENSION OF THE VISA WAIVER PILOT PROGRAM FOR FOREIGN TOURISTS (B NONIMMIGRANTS).

(a) IN GENERAL.—Section 217 (8 U.S.C. 1187) is amended—

(1) in subsection (a)(2), by inserting ", and presents a passport issued by," after "is a national of";

(2) in subsection (a)(3)—

(A) by striking "ENTRY CONTROL AND WAIVER FORMS" and inserting "IMMIGRATION FORMS", and

(B) by striking all that follows "such admission" and inserting "completes such immigration form as the Attorney General shall establish.";

(3) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) ENTRY BY SEA OR AIR.—If arriving by sea or air, the alien arrives at the port of entry into the United States on a carrier which has entered into an agreement with the Service to guarantee transport of the alien out of the United States if the

alien is found inadmissible or deportable by an immigration officer.";

(4) by adding at the end of subsection (a) the following new paragraph:

"(7) ROUND-TRIP TICKET.—The alien is in possession of a round-trip transportation ticket (unless this requirement is waived by the Attorney General under regulations).";

(5) in subsection (b)—

(A) by striking the heading and paragraphs (1) through (3), and

(B) by redesignating paragraph (4) (and subparagraphs (A) and (B) thereof) as subsection (b) (and paragraphs (1) and (2) thereof, respectively), and moving the indentation of such redesignated subsection and paragraphs 2 ems to the left;

(6) in subsection (c)—

(A) in paragraph (1)—

(i) by striking "UP TO 8 COUNTRIES" in the heading and inserting "IN GENERAL", and

(ii) by striking all that follows "may designate" and inserting "any country as a pilot program country if it meets the requirements of paragraph (2).";

and

(B) in paragraph (2)—

(i) by striking "INITIAL QUALIFICATIONS" in the heading and inserting "QUALIFICATIONS",

(ii) by striking "For the initial period described in paragraph (4), a country" and inserting "A country", and

(iii) by adding at the end the following new subparagraphs:

"(C) MACHINE READABLE PASSPORT PROGRAM.—The government of the country certifies that it has or is in the process of developing a program to issue machine-readable passports to its citizens.

"(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States law enforcement interests would not be compromised by the designation of the country.";

(7) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) AUTHORITY.—Notwithstanding any other provision of this section, the Attorney General and the Secretary of State, acting jointly, may for any reason (including national security) refrain from waiving the visa requirement in respect to nationals of any country which may otherwise qualify for designation or may, at any time, rescind any waiver or designation previously granted under this section.";

(8) in subsection (e)(1), as so redesignated—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting ", and", and

(C) by adding at the end the following new subparagraph:

"(C) to be subject to the imposition of fines resulting from the transporting into the United States of a national of a designated country without a passport pursuant to regulations promulgated by the Attorney General."; and

(9) in subsection (f), as so redesignated, by striking all that follows "the period beginning" and inserting "on October 1, 1988, and ending on September 30, 1994.".

(b) PENALTY FOR TRANSPORT OF ALIENS WITHOUT VALID VISAS.—Section 273 (8 U.S.C. 1323) is amended—

(1) in subsection (a), by inserting "a valid passport and" before "an unexpired visa", and

(2) in subsection (c), by inserting "valid passport or" before "visa was required".

8 USC 1187 note.

(c) REPORT.—By not later than January 1, 1992, the Attorney General, in consultation with the Secretary of State, shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report on the operation of the automated data arrival and departure control system for foreign visitors and on admission refusals and overstays for such visitors who have entered under the visa waiver program.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of the date of the enactment of this Act.

Maritime carriers.
Air carriers.

SEC. 202. DENIAL OF CREWMEMBER STATUS IN THE CASE OF CERTAIN LABOR DISPUTES (D NONIMMIGRANTS).

8 USC 1187 note.

(a) IN GENERAL.—Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (3), no alien shall be entitled to nonimmigrant status described in section 101(a)(15)(D) if the alien intends to land for the purpose of performing service on board a vessel of the United States (as defined in section 2101(46) of title 46, United States Code) or on an aircraft of an air carrier (as defined in section 101(3) of the Federal Aviation Act of 1958) during a labor dispute where there is a strike or lockout in the bargaining unit of the employer in which the alien intends to perform such service.

"(2) An alien described in paragraph (1)—

"(A) may not be paroled into the United States pursuant to section 212(d)(5) unless the Attorney General determines that the parole of such alien is necessary to protect the national security of the United States; and

"(B) shall be considered not to be a bona fide crewman for purposes of section 252(b).

"(3) Paragraph (1) shall not apply to an alien if the air carrier or owner or operator of such vessel that employs the alien provides documentation that satisfies the Attorney General that the alien—

"(A) has been an employee of such employer for a period of not less than 1 year preceding the date that a strike or lawful lockout commenced;

"(B) has served as a qualified crewman for such employer at least once in each of 3 months during the 12-month period preceding such date; and

"(C) shall continue to provide the same services that such alien provided as such a crewman.".

(b) CONFORMING AMENDMENT.—Section 212(d)(5)(A) (8 U.S.C. 1182(d)(5)(A)) is amended by inserting "or in section 214(f)" after "except as provided in subparagraph (B)".

8 USC 1182 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act.

SEC. 203. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN (D NONIMMIGRANTS).

Maritime carriers.

(a) LIMITATION ON ALIENS.—

(1) IN GENERAL.—Chapter 6 of title II is amended by adding at the end the following new section:

"LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEN

"SEC. 258. (a) IN GENERAL.—For purposes of section 101(a)(15)(D)(i), the term 'normal operation and service on board a vessel' does not include any activity that is longshore work (as defined in subsection (b)), except as provided under subsection (c) or subsection (d).

8 USC 1288.

"(b) LONGSHORE WORK DEFINED.—

"(1) IN GENERAL.—In this section, except as provided in paragraph (2), the term 'longshore work' means any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go, in the United States or the coastal waters thereof.

"(2) EXCEPTION FOR SAFETY AND ENVIRONMENTAL PROTECTION.—The term 'longshore work' does not include the loading or unloading of any cargo for which the Secretary of Transportation has, under the authority contained in chapter 37 of title 46, United States Code (relating to Carriage of Liquid Bulk Dangerous Cargoes), section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), section 4106 of the Oil Pollution Act of 1990, or section 105 or 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1804, 1805) prescribed regulations which govern—

"(A) the handling or stowage of such cargo,

"(B) the manning of vessels and the duties, qualifications, and training of the officers and crew of vessels carrying such cargo, and

"(C) the reduction or elimination of discharge during ballasting, tank cleaning, handling of such cargo.

"(3) CONSTRUCTION.—Nothing in this section shall be construed as broadening, limiting, or otherwise modifying the meaning or scope of longshore work for purposes of any other law, collective bargaining agreement, or international agreement.

"(c) PREVAILING PRACTICE EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work in and about a local port if—

"(A)(i) there is in effect in the local port one or more collective bargaining agreements each covering at least 30 percent of the number of individuals employed in performing longshore work and (ii) each such agreement (covering such percentage of longshore workers) permits the activity to be performed by alien crewmen under the terms of such agreement; or

"(B) there is no collective bargaining agreement in effect in the local port covering at least 30 percent of the number of individuals employed in performing longshore work, and an employer of alien crewmen (or the employer's designated agent or representative) has filed with the Secretary of Labor at least 14 days before the date of performance of the activity (or later,

if necessary due to an unanticipated emergency, but not later than the date of performance of the activity) an attestation setting forth facts and evidence to show that—

"(i) the performance of the activity by alien crewmen is permitted under the prevailing practice of the particular port as of the date of filing of the attestation and that the use of alien crewmen for such activity—

"(I) is not during a strike or lockout in the course of a labor dispute, and

"(II) is not intended or designed to influence an election of a bargaining representative for workers in the local port; and

"(ii) notice of the attestation has been provided by the owner, agent, consignee, master, or commanding officer to the bargaining representative of longshore workers in the local port, or, where there is no such bargaining representative, notice of the attestation has been provided to longshore workers employed at the local port.

In applying subparagraph (B) in the case of a particular activity of longshore work consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel, the attestation shall be required to be filed only if the Secretary of Labor finds, based on a preponderance of the evidence which may be submitted by any interested party, that the performance of such particular activity is not described in clause (i) of such subparagraph.

"(2) Subject to paragraph (4), an attestation under paragraph (1) shall—

"(A) expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each such list under section 251 that it continues to comply with the conditions in the attestation.

"(3) An owner, agent, consignee, master, or commanding officer may meet the requirements under this subsection with respect to more than one alien crewman in a single list.

Public information. District of Columbia.

"(4)(A) The Secretary of Labor shall compile and make available for public examination in a timely manner in Washington, D.C., a list identifying owners, agents, consignees, masters, or commanding officers which have filed lists for nonimmigrants described in section 101(a)(15)(D)(i) with respect to whom an attestation under paragraph (1) is made and, for each such entity, a copy of the entity's attestation under paragraph (1) (and accompanying documentation) and each such list filed by the entity.

Investigations.

"(B)(i) The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting an entity's failure to meet conditions attested to, an entity's misrepresentation of a material fact in an attestation, or, in the case described in the last sentence of paragraph (1), whether the performance of the particular activity is or is not described in paragraph (1)(B)(i).

"(ii) Complaints may be filed by any aggrieved person or organization (including bargaining representatives, associations deemed appropriate by the Secretary, and other aggrieved parties as determined under regulations of the Secretary).

"(iii) The Secretary shall promptly conduct an investigation under this subparagraph if there is reasonable cause to believe that an entity fails to meet conditions attested to, an entity has misrepresented a material fact in the attestation, or, in the case described in the last sentence of paragraph (1), the performance of the particular activity is not described in paragraph (1)(B)(i).

"(C)(i) If the Secretary determines that reasonable cause exists to conduct an investigation with respect to an attestation, a complaining party may request that the activities attested to by the employer cease during the hearing process described in subparagraph (D). If such a request is made, the attesting employer shall be issued notice of such request and shall respond within 14 days to the notice. If the Secretary makes an initial determination that the complaining party's position is supported by a preponderance of the evidence submitted, the Secretary shall require immediately that the employer cease and desist from such activities until completion of the process described in subparagraph (D).

"(ii) If the Secretary determines that reasonable cause exists to conduct an investigation with respect to a matter under the last sentence of paragraph (1), a complaining party may request that the activities of the employer cease during the hearing process described in subparagraph (D) unless the employer files with the Secretary of Labor an attestation under paragraph (1). If such a request is made, the employer shall be issued notice of such request and shall respond within 14 days to the notice. If the Secretary makes an initial determination that the complaining party's position is supported by a preponderance of the evidence submitted, the Secretary shall require immediately that the employer cease and desist from such activities until completion of the process described in subparagraph (D) unless the employer files with the Secretary of Labor an attestation under paragraph (1).

"(D) Under the process established under subparagraph (B), the Secretary shall provide, within 180 days after the date a complaint is filed (or later for good cause shown), for a determination as to whether or not a basis exists to make a finding described in subparagraph (E). The Secretary shall provide notice of such determination to the interested parties and an opportunity for a hearing on the complaint within 60 days of the date of the determination.

"(E)(i) If the Secretary of Labor finds, after notice and opportunity for a hearing, that an entity has failed to meet a condition attested to or has made a misrepresentation of material fact in the attestation, the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $5,000 for each alien crewman performing unauthorized longshore work) as the Secretary determines to be appropriate. Upon receipt of such notice, the Attorney General shall not permit the vessels owned or chartered by such entity to enter any port of the United States during a period of up to 1 year.

"(ii) If the Secretary of Labor finds, after notice and opportunity for a hearing, that, in the case described in the last sentence of paragraph (1), the performance of the particular activity is not described in subparagraph (B)(i), the Secretary shall notify the Attorney General of such finding and, thereafter, the attestation described in paragraph (1) shall be required of the employer for the performance of the particular activity.

"(F) A finding by the Secretary of Labor under this paragraph that the performance of an activity by alien crewmen is not permitted under the prevailing practice of a local port shall preclude for one year the filing of a subsequent attestation concerning such activity in the port under paragraph (1).

"(d) RECIPROCITY EXCEPTION.—

"(1) IN GENERAL.—Subject to the determination of the Secretary of State pursuant to paragraph (2), the Attorney General shall permit an alien crewman to perform an activity constituting longshore work if—

"(A) the vessel is registered in a country that by law, regulation, or in practice does not prohibit such activity by crewmembers aboard United States vessels; and

"(B) nationals of a country (or countries) which by law, regulation, or in practice does not prohibit such activity by crewmembers aboard United States vessels hold a majority of the ownership interest in the vessel.

"(2) ESTABLISHMENT OF LIST.—The Secretary of State shall, in accordance with section 553 of title 5, United States Code, compile and annually maintain a list, of longshore work by particular activity, of countries where performance of such a particular activity by crewmembers aboard United States vessels is prohibited by law, regulation, or in practice in the country. By not later than 90 days after the date of the enactment of this section, the Secretary shall publish a notice of proposed rulemaking to establish such list. The Secretary shall first establish such list by not later than 180 days after the date of the enactment of this section.

"(3) IN PRACTICE DEFINED.—For purposes of this subsection, the term 'in practice' refers to an activity normally performed in such country during the one-year period preceding the arrival of such vessel into the United States or coastal waters thereof.".

8 USC 1288 note.

(2) NO APPLICATION TO CITIZENS OR NATIONALS OF THE UNITED STATES.—This section does not affect the performance of longshore work in the United States by citizens or nationals of the United States.

(3) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 257 the following new item:

"Sec. 258. Limitations on performance of longshore work by alien crewmen.".

(b) PENALTIES.—Section 251(d) (8 U.S.C. 1281(d)) is amended—

(1) in the first sentence by striking "pay to" and all that follows through "$10" and inserting "pay to the Commissioner the sum of $200"; and

(2) by inserting after the first sentence the following: "In the case that any owner, agent, consignee, master, or commanding officer of a vessel shall secure services of an alien crewman described in section 101(a)(15)(D)(i) to perform longshore work not included in the normal operation and service on board the vessel under section 258, the owner, agent, charterer, master, or commanding officer shall pay to the Commissioner the sum of $5,000, and such fine shall be a lien against the vessel.".

(c) CONFORMING AMENDMENTS.—Section 101(a)(15)(D)(i) (8 U.S.C. 1101(a)(15)(D)(i)) is amended—

(1) by striking "any capacity" and inserting "a capacity", and

(2) by inserting ", as defined in section 258(a)" after "on board a vessel".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services performed on or after 180 days after the date of the enactment of this Act. 8 USC 1101 note.

SEC. 204. TREATY TRADERS (E NONIMMIGRANTS).

(a) INCLUDING TRADE IN SERVICES AND TECHNOLOGY.—Section 101(a)(15)(E)(i) (8 U.S.C. 1101(a)(15)(E)(i)) is amended by inserting ", including trade in services or trade in technology" after "substantial trade".

(b) APPLICATION OF TREATY TRADER FOR CERTAIN FOREIGN STATES.—Each of the following foreign states shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act, to be a foreign state described in such section if the foreign state extends reciprocal nonimmigrant treatment to nationals of the United States: 8 USC 1101 note.

(1) The largest foreign state in each region (as defined in section 203(c)(1) of the Immigration and Nationality Act) which (A) has 1 or more dependent areas (as determined for purposes of section 202 of such Act) and (B) does not have a treaty of commerce and navigation with the United States.

(2) The foreign state which (A) was identified as an adversely affected foreign state for purposes of section 314 of the Immigration Reform and Control Act of 1986 and (B) does not have a treaty of commerce and navigation with the United States, but (C) had such a treaty with the United States before 1925.

(c) SUBSTANTIAL DEFINED.—Section 101(a), as amended by section 123 of this Act, is further amended by adding at the end the following new paragraph:

"(45) The term 'substantial' means, for purposes of paragraph (15)(E) with reference to trade or capital, such an amount of trade or capital as is established by the Secretary of State, after consultation with appropriate agencies of Government.".

SEC. 205. TEMPORARY WORKERS AND TRAINEES (H NONIMMIGRANTS).

(a) LIMITATION ON NUMBERS.—Section 214 (8 U.S.C. 1184), as amended by section 202(a), is amended by adding at the end the following new subsection:

"(g)(1) The total number of aliens who may be issued visas or otherwise provided nonimmigrant status during any fiscal year (beginning with fiscal year 1992)—

"(A) under section 101(a)(15)(H)(i)(b) may not exceed 65,000,

"(B) under section 101(a)(15)(H)(ii)(b) may not exceed 66,000, or

"(C) under section 101(a)(15)(P)(i) or section 101(a)(15)(P)(iii) may not exceed 25,000.

"(2) The numerical limitations of paragraph (1) shall only apply to principal aliens and not to the spouses or children of such aliens.

"(3) Aliens who are subject to the numerical limitations of paragraph (1) shall be issued visas (or otherwise provided nonimmigrant status) in the order in which petitions are filed for such visas or status.

"(4) In the case of a nonimmigrant described in section 101(a)(15)(H)(i)(b), the period of authorized admission as such a nonimmigrant may not exceed 6 years.".

(b) CONSTRUCTION RESPECTING INTENT WITH RESPECT TO ABANDONMENT OF FOREIGN RESIDENCE.—Section 214, as amended by section 202(a) and by subsection (a), is further amended—

(1) in subsection (b), by inserting "(other than a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15))" after "Every alien", and

(2) by adding at the end the following new subsection:

"(h) The fact that an alien is the beneficiary of an application for a preference status filed under section 204 or has otherwise sought permanent residence in the United States shall not constitute evidence of an intention to abandon a foreign residence for purposes of obtaining a visa as a nonimmigrant described in subparagraph (H)(i) or (L) of section 101(a)(15) or otherwise obtaining or maintaining the status of a nonimmigrant described in such subparagraph, if the alien had obtained a change of status under section 248 to a classification as such a nonimmigrant before the alien's most recent departure from the United States.".

(c) REVISION OF H-1B CATEGORY.—

(1) IN GENERAL.—Subclause (b) of section 101(a)(15)(H)(i) (8 U.S.C. 1101(a)(15)(H)(i)) is amended by striking "who is of distinguished" and all that follows through "such institution or agency" and inserting the following: "who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1), who meets the requirements for the occupation specified in section 214(i)(2), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with, and had approved by, the Secretary an application under section 212(n)(1)".

(2) SPECIALTY OCCUPATION DEFINED.—Section 214, as amended by section 202(a) and subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(i)(1) For purposes of section 101(a)(15)(H)(i)(b) and paragraph (2), the term 'specialty occupation' means an occupation that requires—

"(A) theoretical and practical application of a body of highly specialized knowledge, and

"(B) attainment of a bachelor's or higher degree in the specific specialty (or its equivalent) as a minimum for entry into the occupation in the United States.

"(2) For purposes of section 101(a)(15)(H)(i)(b), the requirements of this paragraph, with respect to a specialty occupation, are—

"(A) full state licensure to practice in the occupation, if such licensure is required to practice in the occupation,

"(B) completion of the degree described in paragraph (1)(B) for the occupation, or

"(C)(i) experience in the specialty equivalent to the completion of such degree, and (ii) recognition of expertise in the specialty through progressively responsible positions relating to the specialty.".

8 USC 1182.

(3) LABOR CONDITION APPLICATION FOR H-1B.—Section 212 is amended by adding at the end the following new subsection:

"(n)(1) No alien may be admitted or provided status as a nonimmigrant described in section 101(a)(15)(H)(i)(b) in an occupational

classification unless the employer has filed with the Secretary of Labor an application stating the following:

"(A) The employer—

"(i) is offering and will offer during the period of authorized employment to aliens and to other individuals employed in the occupational classification and in the area of employment wages that are at least— Wages.

"(I) the actual wage level for the occupational classification at the place of employment, or

"(II) the prevailing wage level for the occupational classification in the area of employment,

whichever is greater, determined as of the time of filing the application, and

"(ii) will provide working conditions for such aliens that will not adversely affect the working conditions of workers similarly employed.

"(B) There is not a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

"(C) The employer, at the time of filing the application—

"(i) has provided notice of the filing under this paragraph to the bargaining representative (if any) of the employer's employees in the occupational classification and area for which aliens are sought, or

"(ii) if there is no such bargaining representative, has posted notice of filing in conspicuous locations at the place of employment.

"(D) The application shall contain a specification of the number of workers sought, the occupational classification in which the workers will be employed, and wage rate and conditions under which they will be employed. The employer shall make available for public examination, within one working day after the date on which an application under this paragraph is filed, at the employer's principal place of business or worksite, a copy of each such application (and accompanying documentation). The Secretary shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of aliens sought, period of intended employment, and date of need. The Secretary shall make such list available for public examination in Washington, D.C. Public information. Public information. District of Columbia.

"(2)(A) The Secretary shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in an application submitted under paragraph (1) or a petitioner's misrepresentation of material facts in such an application. Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure or misrepresentation, respectively. The Secretary shall conduct an investigation under this paragraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred. Investigations.

"(B) Under such process, the Secretary shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C). If the Secretary determines that such

a reasonable basis exists, the Secretary shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary shall make a finding concerning the matter by not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary may consolidate the hearings under this subparagraph on such complaints.

"(C) If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition (or a substantial failure in the case of a condition described in subparagraph (C) or (D) of paragraph (1)) or misrepresentation of material fact in an application—

"(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed $1,000 per violation) as the Secretary determines to be appropriate, and

"(ii) the Attorney General shall not approve petitions filed with respect to that employer under section 204 or 214(c) during a period of at least 1 year for aliens to be employed by the employer.

"(D) In addition to the sanctions provided under subparagraph (C), if the Secretary finds, after notice and opportunity for a hearing, that an employer has not paid wages at the wage level specified under the application and required under paragraph (1), the Secretary shall order the employer to provide for payment of such amounts of back pay as may be required to comply with the requirements of paragraph (1).".

(d) LIMITATION ON TRAINEES.—Section 101(a)(15)(H)(iii) (8 U.S.C. 1101(a)(15)(H)(iii)) is amended by inserting before the semicolon at the end the following: ", in a training program that is not designed primarily to provide productive employment".

(e) REMOVAL OF FOREIGN RESIDENCE REQUIREMENT FOR H-1 NONIMMIGRANTS.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended—

(1) by striking "having a residence in a foreign country which he has no intention of abandoning";

(2) in clause (ii), by striking "who is coming temporarily to the United States (a)" and inserting "(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States";

(3) in clause (ii)(b), by inserting "having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States" immediately after "(b)"; and

(4) in clause (iii), by inserting "having a residence in a foreign country which he has no intention of abandoning" after "(iii)".

SEC. 206. INTRA-COMPANY TRANSFEREES (L NONIMMIGRANTS).

8 USC 1101 note.

(a) CLARIFICATION OF TREATMENT OF CERTAIN INTERNATIONAL ACCOUNTING FIRMS.—In applying sections 101(a)(15)(L) and 203(b)(1)(C) of the Immigration and Nationality Act, in the case of a partnership that is organized in the United States to provide accounting services and that markets its accounting services under an internationally recognized name under an agreement with a worldwide coordinating organization that is owned and controlled

by the member accounting firms, a partnership (or similar organization) that is organized outside the United States to provide accounting services shall be considered to be an affiliate of the United States partnership if it markets its accounting services under the same internationally recognized name under the agreement with the worldwide coordinating organization of which the United States partnership is also a member.

(b) USE OF BLANKET PETITIONS; DEADLINES FOR PROCESSING; PERIODS OF AUTHORIZED STAY; CONSTRUCTION.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by inserting "(1)" after "(c)", and

(2) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall provide for a procedure under which an importing employer which meets requirements established by the Attorney General may file a blanket petition to import aliens as nonimmigrants described in section 101(a)(15)(L) instead of filing individuals petitions under paragraph (1) to import such aliens. Such procedure shall permit the expedited processing of visas for entry of aliens covered under such a petition.

"(B) For purposes of section 101(a)(15)(L), an alien is considered to be serving in a capacity involving specialized knowledge with respect to a company if the alien has a special knowledge of the company product and its application in international markets or has an advanced level of knowledge of processes and procedures of the company.

"(C) The Attorney General shall provide a process for reviewing and acting upon petitions under this subsection with respect to nonimmigrants described in section 101(a)(15)(L) within 30 days after the date a completed petition has been filed.

"(D) The period of authorized admission for—

"(i) a nonimmigrant admitted to render services in a managerial or executive capacity under section 101(a)(15)(L) shall not exceed 7 years, or

"(ii) a nonimmigrant admitted to render services in a capacity that involved specialized knowledge under section 101(a)(15)(L) shall not exceed 5 years.".

(c) PERIOD OF PRIOR EMPLOYMENT WITH COMPANY.—Section 101(a)(15)(L) (8 U.S.C. 1101(a)(15)(L)) is amended by striking "immediately preceding" and inserting "within 3 years preceding".

SEC. 207. NEW CLASSIFICATION FOR ALIENS WITH EXTRAORDINARY ABILITY, ACCOMPANYING ALIENS, AND ATHLETES AND ENTERTAINERS (O & P NONIMMIGRANTS).

(a) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended—

(1) by striking "or" at the end of subparagraph (M),

(2) by striking the period at the end of subparagraph (N) and inserting a semicolon, and

(3) by adding at the end the following new subparagraphs:

"(O) an alien who—

"(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United

States to continue work in the area of extraordinary ability, but only if the Attorney General determines that the alien's entry into the United States will substantially benefit prospectively the United States; or

"(ii)(I) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

"(II) is an integral part of such actual performance,

"(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing longstanding working relationship or, with respect to the specific production, because significant principal photography will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

"(IV) has a foreign residence which the alien has no intention of abandoning; or

"(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien; or

"(P) an alien having a foreign residence which the alien has no intention of abandoning who—

"(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance, or performs as part of an entertainment group that has been recognized internationally as being outstanding in the discipline for a sustained and substantial period of time and has had a sustained and substantial relationship with that group over a period of at least 1 year and provides functions integral to the performance of the group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an athlete or entertainer with respect to a specific athletic competition or performance;

"(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers, between the United States and the foreign states involved;

"(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

"(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or

entertainer or with such a group under a program that is culturally unique; or

"(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien.".

(b) PERIODS OF ADMISSION, ETC.—Section 214 (8 U.S.C. 1184) is amended—

(1) in subsection (a), by inserting "(1)" after "(a)" and by adding at the end the following new paragraph:

"(2)(A) The period of authorized status as a nonimmigrant under section 101(a)(15)(O) shall be for such period as the Attorney General may specify in order to provide for the event for which the nonimmigrant is admitted.

"(B)(i) The period of authorized status as a nonimmigrant described in section 101(a)(15)(P) shall be for such period as the Attorney General may specify in order to provide for the competition, event, or performance for which the nonimmigrant is admitted. In the case of nonimmigrants admitted as individual athletes under section 101(a)(15)(P), the period of authorized status may be for an initial period (not to exceed 5 years) during which the nonimmigrant will perform as an athlete and such period may be extended by the Attorney General for an additional period of up to 5 years.

"(ii) An alien who is admitted as a nonimmigrant under clause (ii) or (iii) of section 101(a)(15)(P) may not be readmitted as such a nonimmigrant unless the alien has remained outside the United States for at least 3 months after the date of the most recent admission. The Attorney General may waive the application of the previous sentence in the case of individual tours in which the application would work an undue hardship."; and

(2) in subsection (c), as amended by section 206(b)—

(A) in paragraph (1), by striking "or (L)" and inserting ", (L), (O), or (P)(i)", and

(B) by adding at the end the following new paragraphs:

"(3) The Attorney General shall approve a petition—

"(A) with respect to a nonimmigrant described in section 101(a)(15)(O)(i) only after consultation with peer groups in the area of the alien's ability or, with respect to aliens seeking entry for a motion picture or television production, after consultation with the appropriate union representing the alien's occupational peers and a management organization in the area of the alien's ability, or

"(B) with respect to a nonimmigrant described in section 101(a)(15)(O)(ii) after consultation with labor organizations with expertise in the skill area involved.

In the case of an alien seeking entry for a motion picture or television production, (i) any opinion under the previous sentence shall only be advisory, (ii) any such opinion that recommends denial must be in writing, (iii) in making the decision the Attorney General shall consider the exigencies and scheduling of the production, and (iv) the Attorney General shall append to the decision any such opinion.

"(4)(A) A person may petition the Attorney General for classification of an alien as a nonimmigrant under clause (ii) of section 101(a)(15)(P).

"(B) The Attorney General shall approve petitions under this subsection with respect to nonimmigrants described in clause (i) or (iii) of section 101(a)(15)(P) only after consultation with labor

organizations with expertise in the specific field of athletics or entertainment involved.

"(C) The Attorney General shall approve petitions under this subsection for nonimmigrants described in section 101(a)(15)(P)(ii) only after consultation with labor organizations representing artists and entertainers in the United States, in order to assure reciprocity in fact with foreign states.

"(5) In the case of an alien who is provided nonimmigrant status under section 101(a)(15)(H)(i)(b) or 101(H)(ii)(b) and who is dismissed from employment by the employer before the end of the period of authorized admission, the employer shall be liable for the reasonable costs of return transportation of the alien abroad.

"(6) If a petition is filed and denied under this subsection, the Attorney General shall notify the petitioner of the determination and the reasons for the denial and of the process by which the petitioner may appeal the determination.".

8 USC 1184 note.

(c) WORK AUTHORIZATION DURING PENDING LABOR DISPUTES.—(1) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a)) and who is authorized to be employed in an occupation, if nonimmigrants constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

(A) continues to be authorized to be employed in the occupation for that employer, and

(B) is authorized to be employed in any occupation for any other employer so long as such strike or lockout continues with respect to that occupation and employer.

(2) In the case of an alien admitted as a nonimmigrant (other than under section 101(a)(15)(H)(ii)(a)) and who is authorized to be employed in an occupation, if nonimmigrants do not constitute a majority of the members of the bargaining unit in the occupation, during the period of any strike or lockout in the occupation with the employer which strike or lockout is pending on the date of the enactment of this Act the alien—

(A) is not authorized to be employed in the occupation for that employer, and

(B) is authorized to be employed in any occupation for any other employer so long as there is no strike or lockout with respect to that occupation and employer.

(3) With respect to a nonimmigrant described in paragraph (1) or (2) who does not perform unauthorized employment, any limit on the period of authorized stay shall be extended by the period of the strike or lockout, except that any such extension may not continue beyond the maximum authorized period of stay.

Effective date.

(4) The provisions of this subsection shall take effect on the date of the enactment of this Act.

SEC. 208. NEW CLASSIFICATION FOR INTERNATIONAL CULTURAL EXCHANGE PROGRAMS (Q NONIMMIGRANTS).

Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 207(a), is further amended—

(1) by striking "or" at the end of subparagraph (O),

(2) by striking the period at the end of subparagraph (P) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program designated by the Attorney General for the purpose of providing practical training, employment, and the sharing of the history, culture, and traditions of the country of the alien's nationality and who will be employed under the same wages and working conditions as domestic workers.".

SEC. 209. NEW CLASSIFICATION FOR ALIENS IN RELIGIOUS OCCUPATIONS (R NONIMMIGRANTS).

(a) IN GENERAL.—Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by sections 207(a) and 208, is further amended—

(1) by striking "or" at the end of subparagraph (P),

(2) by striking the period at the end of subparagraph (Q) and inserting "; or", and

(3) by adding at the end the following new subparagraph:

"(R) an alien, and the spouse and children of the alien if accompanying or following to join the alien, who—

"(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

"(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(C)(ii).".

(b) REFERENCE TO REVISION OF SPECIAL IMMIGRANT PROVISIONS.—For provision providing special immigrant status for certain aliens in religious occupations, see section 151.

Subtitle B—Temporary or Limited Provisions

SEC. 221. OFF-CAMPUS WORK AUTHORIZATION FOR STUDENTS (F NONIMMIGRANTS). 8 USC 1184 note.

(a) 3-YEAR PROVISION.—With respect to work authorization for aliens admitted as nonimmigrant students described in subparagraph (F) of section 101(a)(15) of the Immigration and Nationality Act during the 3-year period beginning October 1, 1991, the Attorney General shall grant such an alien work authorization to be employed in a position unrelated to the alien's field of study and off-campus if—

(1) the alien has completed 1 year as such a nonimmigrant and is maintaining good academic standing at the educational institution,

(2) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer (A) has recruited for at least 60 days for the position and (B) will provide for payment to the alien and to other similarly situated workers at a rate equal to not less than the actual wage level for the occupation at the place of employment or, if greater, the prevailing wage level for the occupation in the area of employment, and

(3) the alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-

time basis during vacation periods and between academic terms).

If the Secretary of Labor determines that an employer has provided an attestation under paragraph (2) that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an alien student under this subsection.

(b) REPORT TO CONGRESS.—Not later than April 1, 1994, the Commissioner of Immigration and Naturalization shall prepare and submit to the Congress on—

(1) whether the program of work authorization under subsection (a) should be extended, and

(2) the impact of such program on prevailing wages of workers.

8 USC 1101 note.

SEC. 222. ADMISSION OF NONIMMIGRANTS FOR COOPERATIVE RESEARCH, DEVELOPMENT, AND COPRODUCTION PROJECTS.

(a) IN GENERAL.—Subject to the succeeding provisions of this section, the Attorney General shall provide for nonimmigrant status in the case of an alien who—

(1) has a residence in a foreign country which the alien has no intention of abandoning, and

(2) is coming to the United States, upon a basis of reciprocity, to perform services of an exceptional nature requiring such merit and ability relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense, but not to exceed a period of more than 10 years, or who is the spouse or minor child of such an alien if accompanying or following to join the alien.

(b) NUMERICAL LIMITATION.—The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant under this section at any time may not exceed 100.

8 USC 1101 note.

SEC. 223. ESTABLISHMENT OF SPECIAL EDUCATION EXCHANGE VISITOR PROGRAM.

(a) IN GENERAL.—Subject to subsection (b), the Attorney General shall provide for nonimmigrant status in the case of an alien who—

(1) has a residence in a foreign country which the alien has no intention of abandoning, and

(2) is coming temporarily to the United States (for a period not to exceed 18 months) as a participant in a special education training program which provides for practical training and experience in the education of children with physical, mental, or emotional disabilities.

(b) NUMERICAL LIMITATION.—The number of aliens who may be admitted as (or otherwise be provided the status of) a nonimmigrant under this section in any fiscal year may not exceed 50.

Subtitle C—Effective Dates

8 USC 1101 note.

SEC. 231. EFFECTIVE DATES.

Except as otherwise provided in this title, this title, and the amendments made by this title, shall take effect on October 1, 1991, except that sections 222 and 223 shall take effect on the date of the enactment of this Act.

TITLE III—FAMILY UNITY AND TEMPORARY PROTECTED STATUS

SEC. 301. FAMILY UNITY.

8 USC 1255a note.

(a) TEMPORARY STAY OF DEPORTATION AND WORK AUTHORIZATION FOR CERTAIN ELIGIBLE IMMIGRANTS.—The Attorney General shall provide that in the case of an alien who is an eligible immigrant (as defined in subsection (b)(1)) as of May 5, 1988, who has entered the United States before such date, who resided in the United States on such date, and who is not lawfully admitted for permanent residence, the alien—

(1) may not be deported or otherwise required to depart from the United States on a ground specified in paragraph (1), (2), (5), (9), or (12) of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1) of such Act as relates to a ground of exclusion described in paragraph (9), (10), (23), (27), (28), (29), or (33) of section 212(a) of such Act), and

(2) shall be granted authorization to engage in employment in the United States and be provided an "employment authorized" endorsement or other appropriate work permit.

(b) ELIGIBLE IMMIGRANT AND LEGALIZED ALIEN DEFINED.—In this section:

(1) The term "eligible immigrant" means a qualified immigrant who is the spouse or unmarried child of a legalized alien.

(2) The term "legalized alien" means an alien lawfully admitted for temporary or permanent residence who was provided—

(A) temporary or permanent residence status under section 210 of the Immigration and Nationality Act,

(B) temporary or permanent residence status under section 245A of the Immigration and Nationality Act, or

(C) permanent residence status under section 202 of the Immigration Reform and Control Act of 1986.

(c) APPLICATION OF DEFINITIONS.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section.

(d) TEMPORARY DISQUALIFICATION FROM CERTAIN PUBLIC WELFARE ASSISTANCE.—Aliens provided the benefits of this section by virtue of their relation to a legalized alien described in subsection (b)(2)(A) or (b)(2)(B) shall be ineligible for public welfare assistance in the same manner and for the same period as the legalized alien is ineligible for such assistance under section 245A(h) or 210(f), respectively, of the Immigration and Nationality Act.

(e) EXCEPTION FOR CERTAIN ALIENS.—An alien is not eligible for the benefits of this section if the Attorney General finds that—

(1) the alien has been convicted of a felony or 3 or more misdemeanors in the United States, or

(2) the alien is described in section 243(h)(2) of the Immigration and Nationality Act.

(f) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to obtain benefits under this section.

(g) EFFECTIVE DATE.—This section shall take effect on October 1, 1991; except that the delay in effectiveness of this section shall not be construed as reflecting a Congressional belief that the existing family fairness program should be modified in any way before such date.

SEC. 302. TEMPORARY PROTECTED STATUS.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by inserting after section 244 the following new section:

"TEMPORARY PROTECTED STATUS

8 USC 1254a.

"SEC. 244A. (a) GRANTING OF STATUS.—

"(1) IN GENERAL.—In the case of an alien who is a national of a foreign state designated under subsection (b) and who meets the requirements of subsection (c), the Attorney General, in accordance with this section—

"(A) may grant the alien temporary protected status in the United States and shall not deport the alien from the United States during the period in which such status is in effect, and

"(B) shall authorize the alien to engage in employment in the United States and provide the alien with an 'employment authorized' endorsement or other appropriate work permit.

"(2) DURATION OF WORK AUTHORIZATION.—Work authorization provided under this section shall be effective throughout the period the alien is in temporary protected status under this section.

"(3) NOTICE.—

"(A) Upon the granting of temporary protected status under this section, the Attorney General shall provide the alien with information concerning such status under this section.

"(B) If, at the time of initiation of a deportation proceeding against an alien, the foreign state (of which the alien is a national) is designated under subsection (b), the Attorney General shall promptly notify the alien of the temporary protected status that may be available under this section.

"(C) If, at the time of designation of a foreign state under subsection (b), an alien (who is a national of such state) is in a deportation proceeding under this title, the Attorney General shall promptly notify the alien of the temporary protected status that may be available under this section.

"(D) Notices under this paragraph shall be provided in a form and language that the alien can understand.

"(4) TEMPORARY TREATMENT FOR ELIGIBLE ALIENS.—

"(A) In the case of an alien who can establish a prima facie case of eligibility for benefits under paragraph (1), but for the fact that the period of registration under subsection (c)(1)(A)(iv) has not begun, until the alien has had a reasonable opportunity to register during the first 30 days of such period, the Attorney General shall provide for the benefits of paragraph (1).

"(B) In the case of an alien who establishes a prima facie case of eligibility for benefits under paragraph (1), until a final determination with respect to the alien's eligibility for

such benefits under paragraph (1) has been made, the alien shall be provided such benefits.

"(5) CLARIFICATION.—Nothing in this section shall be construed as authorizing the Attorney General to deny temporary protected status to an alien based on the alien's immigration status or to require any alien, as a condition of being granted such status, either to relinquish nonimmigrant or other status the alien may have or to execute any waiver of other rights under this Act. The granting of temporary protected status under this section shall not be considered to be inconsistent with the granting of nonimmigrant status under this Act.

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Attorney General, after consultation with appropriate agencies of the Government, may designate any foreign state (or any part of such foreign state) under this subsection only if—

"(A) the Attorney General finds that there is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to that state (or to the part of the state) would pose a serious threat to their personal safety;

"(B) the Attorney General finds that—

"(i) there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected,

"(ii) the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state, and

"(iii) the foreign state officially has requested designation under this subparagraph; or

"(C) the Attorney General finds that there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

A designation of a foreign state (or part of such foreign state) under this paragraph shall not become effective unless notice of the designation (including a statement of the findings under this paragraph and the effective date of the designation) is published in the Federal Register. In such notice, the Attorney General shall also state an estimate of the number of nationals of the foreign state designated who are (or within the effective period of the designation are likely to become) eligible for temporary protected status under this section and their immigration status in the United States. Federal Register, publication.

"(2) EFFECTIVE PERIOD OF DESIGNATION FOR FOREIGN STATES.—The designation of a foreign state (or part of such foreign state) under paragraph (1) shall—

"(A) take effect upon the date of publication of the designation under such paragraph, or such later date as the Attorney General may specify in the notice published under such paragraph, and

"(B) shall remain in effect until the effective date of the termination of the designation under paragraph (3)(B).

For purposes of this section, the initial period of designation of a foreign state (or part thereof) under paragraph (1) is the period, specified by the Attorney General, of not less than 6 months and not more than 18 months.

"(3) PERIODIC REVIEW, TERMINATIONS, AND EXTENSIONS OF DESIGNATIONS.—

"(A) PERIODIC REVIEW.—At least 60 days before end of the initial period of designation, and any extended period of designation, of a foreign state (or part thereof) under this section the Attorney General, after consultation with appropriate agencies of the Government, shall review the conditions in the foreign state (or part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met. The Attorney General shall provide on a timely basis for the publication of notice of each such determination (including the basis for the determination, and, in the case of an affirmative determination, the period of extension of designation under subparagraph (C)) in the Federal Register.

Federal Register, publication.

"(B) TERMINATION OF DESIGNATION.—If the Attorney General determines under subparagraph (A) that a foreign state (or part of such foreign state) no longer continues to meet the conditions for designation under paragraph (1), the Attorney General shall terminate the designation by publishing notice in the Federal Register of the determination under this subparagraph (including the basis for the determination). Such termination is effective in accordance with subsection (d)(3), but shall not be effective earlier than 60 days after the date the notice is published or, if later, the expiration of the most recent previous extension under subparagraph (C).

Federal Register, publication.

"(C) EXTENSION OF DESIGNATION.—If the Attorney General does not determine under subparagraph (A) that a foreign state (or part of such foreign state) no longer meets the conditions for designation under paragraph (1), the period of designation of the foreign state is extended for an additional period of 6 months (or, in the discretion of the Attorney General, a period of 12 or 18 months).

"(4) INFORMATION CONCERNING PROTECTED STATUS AT TIME OF DESIGNATIONS.—At the time of a designation of a foreign state under this subsection, the Attorney General shall make available information respecting the temporary protected status made available to aliens who are nationals of such designated foreign state.

"(5) REVIEW.—

"(A) DESIGNATIONS.—There is no judicial review of any determination of the Attorney General with respect to the designation, or termination or extension of a designation, of a foreign state under this subsection.

"(B) APPLICATION TO INDIVIDUALS.—The Attorney General shall establish an administrative procedure for the review of the denial of benefits to aliens under this subsection. Such procedure shall not prevent an alien from asserting protection under this section in deportation proceedings if the alien demonstrates that the alien is a national of a state designated under paragraph (1).

"(c) ALIENS ELIGIBLE FOR TEMPORARY PROTECTED STATUS.—

"(1) IN GENERAL.—

"(A) NATIONALS OF DESIGNATED FOREIGN STATES.—Subject to paragraph (3), an alien, who is a national of a state designated under subsection (b)(1), meets the requirements of this paragraph only if—

"(i) the alien has been continuously physically present in the United States since the effective date of the most recent designation of that state;

"(ii) the alien has continuously resided in the United States since such date as the Attorney General may designate;

"(iii) the alien is admissible as an immigrant, except as otherwise provided under paragraph (2)(A), and is not ineligible for temporary protected status under paragraph (2)(B); and

"(iv) to the extent and in a manner which the Attorney General establishes, the alien registers for the temporary protected status under this section during a registration period of not less than 180 days.

"(B) REGISTRATION FEE.—The Attorney General may require payment of a reasonable fee as a condition of registering an alien under subparagraph (A)(iv) (including providing an alien with an 'employment authorized' endorsement or other appropriate work permit under this section). The amount of any such fee shall not exceed $50.

"(2) ELIGIBILITY STANDARDS.—

"(A) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—In the determination of an alien's admissibility for purposes of subparagraph (A)(iii) of paragraph (1)—

"(i) the provisions of paragraphs (14), (15), (20), (21), (25), and (32) of section 212(a) shall not apply;

"(ii) except as provided in clause (iii), the Attorney General may waive any other provision of section 212(a) in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest; but

"(iii) the Attorney General may not waive—

"(I) paragraphs (9) and (10) (relating to criminals) of such section,

"(II) paragraph (23) of such section (relating to drug offenses), except for so much of such paragraph as relates to a single offense of simple possession of 30 grams or less of marijuana,

"(III) paragraphs (27) and (29) of such section (relating to national security), or

"(IV) paragraph (33) of such section (relating to those who assisted in the Nazi persecution).

"(B) ALIENS INELIGIBLE.—An alien shall not be eligible for temporary protected status under this section if the Attorney General finds that—

"(i) the alien has been convicted of any felony or 2 or more misdemeanors committed in the United States, or

"(ii) the alien is described in section 243(h)(2).

"(3) WITHDRAWAL OF TEMPORARY PROTECTED STATUS.—The Attorney General shall withdraw temporary protected status granted to an alien under this section if—

"(A) the Attorney General finds that the alien was not in fact eligible for such status under this section,

"(B) except as provided in paragraph (4) and permitted in subsection (f)(3), the alien has not remained continuously physically present in the United States from the date the alien first was granted temporary protected status under this section, or

"(C) the alien fails, without good cause, to register with the Attorney General annually, at the end of each 12-month period after the granting of such status, in a form and manner specified by the Attorney General.

"(4) TREATMENT OF BRIEF, CASUAL, AND INNOCENT DEPARTURES AND CERTAIN OTHER ABSENCES.—

"(A) For purposes of paragraphs (1)(A)(i) and (3)(B), an alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences from the United States, without regard to whether such absences were authorized by the Attorney General.

"(B) For purposes of paragraph (1)(A)(ii), an alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence described in subparagraph (A) or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

"(5) CONSTRUCTION.—Nothing in this section shall be construed as authorizing an alien to apply for admission to, or to be admitted to, the United States in order to apply for temporary protected status under this section.

"(6) CONFIDENTIALITY OF INFORMATION.—The Attorney General shall establish procedures to protect the confidentiality of information provided by aliens under this section.

"(d) DOCUMENTATION.—

"(1) INITIAL ISSUANCE.—Upon the granting of temporary protected status to an alien under this section, the Attorney General shall provide for the issuance of such temporary documentation and authorization as may be necessary to carry out the purposes of this section.

"(2) PERIOD OF VALIDITY.—Subject to paragraph (3), such documentation shall be valid during the initial period of designation of the foreign state (or part thereof) involved and any extension of such period. The Attorney General may stagger the periods of validity of the documentation and authorization in order to provide for an orderly renewal of such documentation and authorization and for an orderly transition (under paragraph (3)) upon the termination of a designation of a foreign state (or any part of such foreign state).

"(3) EFFECTIVE DATE OF TERMINATIONS.—If the Attorney General terminates the designation of a foreign state (or part of such foreign state) under subsection (b)(3)(B), such termination shall only apply to documentation and authorization issued or renewed after the effective date of the publication of notice of the determination under that subsection (or, at the Attorney General's option, after such period after the effective date of the determination as the Attorney General determines to be appropriate in order to provide for an orderly transition).

"(4) DETENTION OF THE ALIEN.—An alien provided temporary protected status under this section shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States.

"(e) RELATION OF PERIOD OF TEMPORARY PROTECTED STATUS TO SUSPENSION OF DEPORTATION.—With respect to an alien granted temporary protected status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 244(a), unless the Attorney General determines that extreme hardship exists. Such period shall not cause a break in the continuity of residence of the period before and after such period for purposes of such section.

"(f) BENEFITS AND STATUS DURING PERIOD OF TEMPORARY PROTECTED STATUS.—During a period in which an alien is granted temporary protected status under this section—

"(1) the alien shall not be considered to be permanently residing in the United States under color of law;

"(2) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance;

"(3) the alien may travel abroad with the prior consent of the Attorney General; and

"(4) for purposes of adjustment of status under section 245 and change of status under section 248, the alien shall be considered as being in, and maintaining, lawful status as a nonimmigrant.

"(g) EXCLUSIVE REMEDY.—Except as otherwise specifically provided, this section shall constitute the exclusive authority of the Attorney General under law to permit aliens who are or may become otherwise deportable or have been paroled into the United States to remain in the United States temporarily because of their particular nationality or region of foreign state of nationality.

"(h) LIMITATION ON CONSIDERATION IN THE SENATE OF LEGISLATION ADJUSTING STATUS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider any bill, resolution, or amendment that—

"(A) provides for adjustment to lawful temporary or permanent resident alien status for any alien receiving temporary protected status under this section, or

"(B) has the effect of amending this subsection or limiting the application of this subsection.

"(2) SUPERMAJORITY REQUIRED.—Paragraph (1) may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members duly chosen and sworn. An affirmative vote of three-fifths of the Members of the Senate duly chosen and sworn shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under paragraph (1).

"(3) RULES.—Paragraphs (1) and (2) are enacted—

"(A) as an exercise of the rulemaking power of the Senate and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the matters described in paragraph (1) and supersede other rules of the Senate only to the extent that such paragraphs are inconsistent therewith; and

"(B) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner as in the case of any other rule of the Senate.

"(i) ANNUAL REPORT AND REVIEW.—

"(1) ANNUAL REPORT.—Not later than March 1 of each year (beginning with 1992), the Attorney General, after consultation with the appropriate agencies of the Government, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the operation of this section during the previous year. Each report shall include—

"(A) a listing of the foreign states or parts thereof designated under this section,

"(B) the number of nationals of each such state who have been granted temporary protected status under this section and their immigration status before being granted such status, and

"(C) an explanation of the reasons why foreign states or parts thereof were designated under subsection (b)(1) and, with respect to foreign states or parts thereof previously designated, why the designation was terminated or extended under subsection (b)(3).

"(2) COMMITTEE REPORT.—No later than 180 days after the date of receipt of such a report, the Committee on the Judiciary of each House of Congress shall report to its respective House such oversight findings and legislation as it deems appropriate.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 244 the following new item:

"Sec. 244A. Temporary protected status.".

People's Republic of China. 8 USC 1254a note.

(c) NO AFFECT ON EXECUTIVE ORDER 12711.—Notwithstanding subsection (g) of section 244A of the Immigration and Nationality Act (inserted by the amendment made by subsection (a)), such section shall not supercede or affect Executive Order 12711 (April 11, 1990, relating to policy implementation with respect to nationals of the People's Republic of China).

8 USC 1254a note.

SEC. 303. SPECIAL TEMPORARY PROTECTED STATUS FOR SALVADORANS.

(a) DESIGNATION.—

(1) IN GENERAL.—El Salvador is hereby designated under section 244A(b) of the Immigration and Nationality Act, subject to the provisions of this section.

(2) PERIOD OF DESIGNATION.—Such designation shall take effect on the date of the enactment of this section and shall remain in effect until the end of the 18-month period beginning January 1, 1991.

(b) ALIENS ELIGIBLE.—

(1) IN GENERAL.—In applying section 244A of the Immigration and Nationality Act pursuant to the designation under this section, subject to section 244A(c)(3) of such Act, an alien who is a national of El Salvador meets the requirements of section 244A(c)(1) of such Act only if—

(A) the alien has been continuously physically present in the United States since September 19, 1990;

(B) the alien is admissible as an immigrant, except as otherwise provided under section 244A(c)(2)(A) of such Act,

and is not ineligible for temporary protected status under section 244A(c)(2)(B) of such Act; and

(C) in a manner which the Attorney General shall establish, the alien registers for temporary protected status under this section during the registration period beginning January 1, 1991, and ending June 30, 1991.

(2) REGISTRATION FEE.—The Attorney General shall require payment of a reasonable fee as a condition of registering an alien under paragraph (1)(C) (including providing an alien with an "employment authorized" endorsement or other appropriate work permit under this section). The amount of the fee shall be sufficient to cover the costs of administration of this section. Notwithstanding section 3302 of title 31, United States Code, all such registration fees collected shall be credited to the appropriation to be used in carrying out this section.

(c) APPLICATION OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Except as provided in this subsection, the provisions of section 244A of the Immigration and Nationality Act (including subsection (h) thereof) shall apply to El Salvador (and aliens provided temporary protected status) under this section in the same manner as they apply to a foreign state designated (and aliens provided temporary protected status) under such section.

(2) PROVISIONS NOT APPLICABLE.—Subsections (b)(1), (b)(2), (b)(3), (c)(1), (c)(4), (d)(3), and (i) of such section 244A shall not apply under this section.

(3) 6-MONTH PERIOD OF REGISTRATION AND WORK AUTHORIZATION.—Notwithstanding section 244A(a)(2) of the Immigration and Nationality Act, the work authorization provided under this section shall be effective for periods of 6 months. In applying section 244A(c)(3)(C) of such Act under this section, "semiannually, at the end of each 6-month period" shall be substituted for "annually, at the end of each 12-month period" and, notwithstanding section 244A(d)(2) of such Act, the period of validity of documentation under this section shall be 6 months.

(4) REENTRY PERMITTED AFTER DEPARTURE FOR EMERGENCY CIRCUMSTANCES.—In applying section 244A(f)(3) of the Immigration and Nationality Act under this section, the Attorney General shall provide for advance parole in the case of an alien provided special temporary protected status under this section if the alien establishes to the satisfaction of the Attorney General that emergency and extenuating circumstances beyond the control of the alien requires the alien to depart for a brief, temporary trip abroad.

(d) ENFORCEMENT OF REQUIREMENT TO DEPART AT TIME OF TERMINATION OF DESIGNATION.—

(1) SHOW CAUSE ORDER AT TIME OF FINAL REGISTRATION.—At the registration occurring under this section closest to the date of termination of the designation of El Salvador under subsection (a), the Immigration and Naturalization Service shall serve on the alien granted temporary protected status an order to show cause that establishes a date for deportation proceedings which is after the date of such termination of designation. If El Salvador is subsequently designated under section 244A(b) of the Immigration and Nationality Act, the Service shall cancel such orders.

(2) SANCTION FOR FAILURE TO APPEAR.—If an alien is provided an order to show cause under paragraph (1) and fails to appear at such proceedings, except for exceptional circumstances, the alien may be deported in absentia under section 242B of the Immigration and Nationality Act (inserted by section 545(a) of this Act) and certain discretionary forms of relief are no longer available to the alien pursuant to such section.

TITLE IV—NATURALIZATION

SEC. 401. ADMINISTRATIVE NATURALIZATION.

(a) NATURALIZATION AUTHORITY.—Section 310 (8 U.S.C. 1421) is amended to read as follows:

"NATURALIZATION AUTHORITY

"SEC. 310. (a) AUTHORITY IN ATTORNEY GENERAL.—The sole authority to naturalize persons as citizens of the United States is conferred upon the Attorney General.

"(b) ADMINISTRATION OF OATHS.—An applicant for naturalization may choose to have the oath of allegiance under section 337(a) administered by the Attorney General or by any District Court of the United States for any State or by any court of record in any State having a seal, a clerk, and jurisdiction in actions in law or equity, or law and equity, in which the amount in controversy is unlimited. The jurisdiction of all courts in this subsection specified to administer the oath of allegiance shall extend only to persons resident within the respective jurisdiction of such courts.

"(c) JUDICIAL REVIEW.—A person whose application for naturalization under this title is denied, after a hearing before an immigration officer under section 336(a), may seek review of such denial before the United States district court for the district in which such person resides in accordance with chapter 7 of title 5, United States Code. Such review shall be de novo, and the court shall make its own findings of fact and conclusions of law and shall, at the request of the petitioner, conduct a hearing de novo on the application.

"(d) SOLE PROCEDURE.—A person may only be naturalized as a citizen of the United States in the manner and under the conditions prescribed in this title and not otherwise.".

(b) FILING OF APPLICATIONS.—Section 334(a) (8 U.S.C. 1445(a)) is amended by adding at the end the following new sentence: "In the case of an applicant subject to a requirement of continuous residence under section 316(a) or 319(a), the application for naturalization may be filed up to 3 months before the date the applicant would first otherwise meet such continuous residence requirement.".

(c) NOTIFICATION.—Section 335(b) (8 U.S.C. 1446(b)) is amended by adding at the end the following new sentence: "Any such employee shall, at the examination, inform the petitioner of the remedies available to the petitioner under section 336.".

SEC. 402. SUBSTITUTING 3 MONTHS RESIDENCE IN INS DISTRICT OR STATE FOR 6 MONTHS RESIDENCE IN A STATE.

Section 316(a)(1) (8 U.S.C. 1427(a)(1)) is amended by striking "and who has resided within the State in which the petitioner filed the petition for at least six months" and inserting "and who has resided within the State or within the district of the Service in the United

States in which the applicant filed the application for at least three months".

SEC. 403. WAIVER OF ENGLISH LANGUAGE REQUIREMENT FOR NATURALIZATION.

Section 312(1) (8 U.S.C. 1423(1)) is amended by striking "is over fifty years of age and has been living in the United States for periods totaling at least twenty years subsequent to a lawful admission for permanent residence" and inserting "either (A) is over 50 years of age and has been living in the United States for periods totaling at least 20 years subsequent to a lawful admission for permanent residence, or (B) is over 55 years of age and has been living in the United States for periods totaling at least 15 years subsequent to a lawful admission for permanent residence".

SEC. 404. TREATMENT OF SERVICE IN ARMED FORCES OF A FOREIGN COUNTRY.

8 USC 1426.

Section 315 (8 U.S.C. 1425) is amended—

(1) in subsection (a), by inserting "but subject to subsection (c)" after "section 405(b)", and

(2) by adding at the end the following new subsection:

"(c) An alien shall not be ineligible for citizenship under this section or otherwise because of an exemption from training or service in the Armed Forces of the United States pursuant to the exercise of rights under a treaty, if before the time of the exercise of such rights the alien served in the Armed Forces of a foreign country of which the alien was a national.".

SEC. 405. NATURALIZATION OF NATIVES OF THE PHILIPPINES THROUGH CERTAIN ACTIVE-DUTY SERVICE DURING WORLD WAR II.

8 USC 1440 note.

(a) WAIVER OF CERTAIN REQUIREMENTS.—(1) Clauses (1) and (2) of section 329(a) of the Immigration and Nationality Act (8 U.S.C. 1440(a)) shall not apply to the naturalization of any person—

(A) who was born in the Philippines and who was residing in the Philippines before the service described in subparagraph (B);

(B) who served honorably—

(i) in an active-duty status under the command of the United States Armed Forces in the Far East, or

(ii) within the Philippine Army, the Philippine Scouts, or recognized guerrilla units,

at any time during the period beginning September 1, 1939, and ending December 31, 1946;

(C) who is otherwise eligible for naturalization under section 329 of such Act; and

(D) who applies for naturalization during the 2-year period beginning on the date of the enactment of this Act.

(2) Subject to subsection (c), in applying section 329 of the Immigration and Nationality Act, service described in paragraph (1)(B) is considered to be honorable service in an active-duty status in the military, air, or naval forces of the United States.

(b) WAIVER OF RESIDENCY REQUIREMENT.—Section 340(d) of the Immigration and Nationality Act (8 U.S.C. 1451(d)) shall not apply to a person who is naturalized pursuant to subsection (a).

(c) STATUTORY CONSTRUCTION.—The enactment of this section shall not be construed as affecting the rights, privileges, or benefits of a person described in subsection (a)(1) under any provision of law

(other than the Immigration and Nationality Act) by reason of the service of such person or the service of any other person under the command of the United States Armed Forces.

SEC. 406. PUBLIC EDUCATION REGARDING NATURALIZATION BENEFITS.

Section 332 (8 U.S.C. 1443) is amended by adding at the end the following new subsection:

"(h) In order to promote the opportunities and responsibilities of United States citizenship, the Attorney General shall broadly distribute information concerning the benefits which persons may receive under this title and the requirements to obtain such benefits. In carrying out this subsection, the Attorney General shall seek the assistance of appropriate community groups, private voluntary agencies, and other relevant organizations. There are authorized to be appropriated (for each fiscal year beginning with fiscal year 1991) such sums as may be necessary to carry out this subsection.".

Appropriation authorization.

SEC. 407. CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS TO SECTION 310 REVISION.—(1) The item in the table of contents relating to section 310 is amended to read as follows:

"Sec. 310. Naturalization authority.".

(2) Section 101(a)(36) (8 U.S.C. 1101(a)(36)) is amended by striking "(except as used in section 310(a) of title III)".

(b) CONFORMING AMENDMENTS TO CHANGE IN RESIDENCE REQUIREMENT.—(1) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (a), by striking "has resided within the State in which he filed his petition for at least six months" and inserting "has resided within the State or the district of the Service in the United States in which the applicant filed his application for at least three months",

(B) in subsections (b) and (d), by striking "within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States", and

(C) in subsection (c), is amended by striking "within the jurisdiction of the court" and inserting "district of the Service in the United States".

(2) Section 322(c) (8 U.S.C. 1433(c)) is amended by striking "within the jurisdiction of the naturalization court" and inserting "within a State or a district of the Service in the United States".

(3) Section 324(a)(1) (8 U.S.C. 1435(a)(1)) is amended by inserting "or district of the Service in the United States" after "State".

(4) Section 328 (8 U.S.C. 1439) is amended—

(A) in subsection (a)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by striking "for at least six months" and inserting "for at least three months";

(B) in subsection (b)(1), by striking "within the jurisdiction of the court" and inserting "within a State or district of the Service in the United States"; and

(C) in subsection (c), by inserting "or district of the Service in the United States" after "State".

(5) Section 329(b) (8 U.S.C. 1440(b)) is amended—

(A) in paragraph (2)—

(i) by inserting "or district of the Service in the United States" after "State", and

(ii) by inserting "and" at the end of paragraph (2);

(B) by striking paragraph (3); and

(C) by redesignating paragraph (4) as paragraph (3).

(c) SUBSTITUTION OF APPLICATION FOR NATURALIZATION FOR PETITION FOR NATURALIZATION.—The text of the following provisions is amended by striking "a petition", "petition", "petitions", "a petitioner", "petitioner", "petitioner's", "petitioning", and "petitioned" each place it appears and inserting "an application", "application", "applications" or "applies" (as the case may be), "an applicant", "applicant", "applicant's", "applying", and "applied", respectively:

(1) Section 313(c) (8 U.S.C. 1424(c)).

(2) Section 316 (8 U.S.C. 1427).

(3) Section 317 (8 U.S.C. 1428).

(4) Section 318 (8 U.S.C. 1429).

(5) Sections 319 (a) and (c) (8 U.S.C. 1430 (a), (c)).

(6) Section 322 (8 U.S.C. 1433).

(7) Section 324 (8 U.S.C. 324). 8 USC 1435.

(8) Section 325 (8 U.S.C. 1436).

(9) Section 326 (8 U.S.C. 1437).

(10) Section 328 (8 U.S.C. 1439).

(11) Section 329 (8 U.S.C. 1440), other than subsection (d).

(12) Section 330 (8 U.S.C. 1441).

(13) Section 331 (8 U.S.C. 1442), other than subsection (d).

(14) Section 333(a) (8 U.S.C. 1444(a)).

(15) Section 334 (8 U.S.C. 1445).

(16) Section 335 (8 U.S.C. 1446).

(17) Section 336 (8 U.S.C. 1447).

(18) Section 337 (8 U.S.C. 1448).

(19) Section 338 (8 U.S.C. 1449).

(20) Section 344 (8 U.S.C. 1455).

(21) Section 1429 of title 18, United States Code.

(d) SUBSTITUTING APPROPRIATE ADMINISTRATIVE AUTHORITY FOR NATURALIZATION COURT.—(1) Section 316 (8 U.S.C. 1427) is amended—

(A) in subsection (b), by striking "the court" each place it appears and inserting "the Attorney General",

(B) in subsection (b), by striking "date of final hearing" and inserting "date of any hearing under section 336(a)",

(C) in subsection (e), by striking "the court" and inserting "the Attorney General",

(D) in subsection (g)(1), by striking "within the jurisdiction of the court" and inserting "within a particular State or district of the Service in the United States", and

(E) in subsection (g)(2), by amending the first sentence to read as follows: "An applicant for naturalization under this subsection may be administered the oath of allegiance under section 337(a) by any district court of the United States, without regard to the residence of the applicant.".

(2) The second sentence of section 317 (8 U.S.C. 1428) is amended by striking "and the naturalization court".

(3) The third sentence of section 318 (8 U.S.C. 1429) is amended—

(A) by striking "finally heard by a naturalization court" and inserting "considered by the Attorney General", and

(B) by striking "upon the naturalization court" and inserting "upon the Attorney General" .

(4) Section 319 (8 U.S.C. 1430) is amended—

(A) in subsection (b)(3), by striking "before the naturalization court" and inserting "before the Attorney General", and

(B) in subsection (c)(5), by striking "naturalization court" and inserting "Attorney General".

(5) Section 322(c)(2)(C) (8 U.S.C. 1433(c)(2)(C)) is amended by striking "naturalization court" the first place it appears and inserting "Attorney General".

(6) Section 324 (8 U.S.C. 1435) is amended—

(A) in subsection (a)—

(i) by inserting "and" at the end of paragraph (1),

(ii) by striking the semicolon at the end of paragraph (2) and inserting a period, and

(iii) by striking paragraphs (3) and (4);

(B) in subsection (b), by striking "naturalization court" and inserting "Attorney General"; and

(C) in subsection (c)—

(i) in paragraph (2), by striking "the judge or clerk of a naturalization court" and inserting "the Attorney General or the judge or clerk of a court described in section 310(b)", and

(ii) in paragraph (3), by striking "or naturalization court" each place it appears and inserting "court, or the Attorney General".

(7) Section 327(a) (8 U.S.C. 1438(a)) is amended—

(A) by striking "any naturalization court specified in section 310(a) of this title" and inserting "the Attorney General or before a court described in section 310(b)"; and

(B) by inserting "and by the Attorney General to the Secretary of State" after "Department of Justice".

(8) Section 328(c) (8 U.S.C. 1439(c)) is amended by striking "the final hearing" and inserting "any hearing".

(9) Section 331(b) (8 U.S.C. 1442(b)) is amended by striking "called for a hearing" and all that follows through "to be continued" and inserting "considered or heard except after 90 days' notice to the Attorney General to be considered at the examination or hearing, and the Attorney General's objection to such consideration shall cause the application to be continued".

(10) Section 332(a) (8 U.S.C. 1443(a)) is amended—

(A) by striking "for the purpose" and all that follows through "naturalization courts" in the first sentence, and

(B) by striking the second sentence.

(11) Section 333(a) (8 U.S.C. 1444(a)) is amended by striking "clerk of the court" and inserting "Attorney General".

(12) Section 334 (8 U.S.C. 1445) is amended—

(A) by amending the heading to read as follows:

"APPLICATION FOR NATURALIZATION; DECLARATION OF INTENTION";

(B) in subsection (a)—

(i) by striking "in the office of the clerk of a naturalization court" and inserting "with the Attorney General",

(ii) by striking "upon the hearing of such petition" and inserting "under this title";

(C) in subsection (b)—

(i) by striking "(1)",

(ii) by striking "and (2)" and all that follows through "Attorney General", and

(iii) by striking "petition for";

(D) by striking the first sentence of subsection (f) and inserting the following: "An alien over 18 years of age who is residing in the United States pursuant to a lawful admission for permanent residence may file with the Attorney General a declaration of intention to become a citizen of the United States. Such a declaration shall be filed in duplicate and in a form prescribed by the Attorney General and shall be accompanied by an application prescribed and approved by the Attorney General.";

(E) by redesignating subsection (f) as subsection (g); and

(F) by striking subsections (c) through (e) and inserting the following:

"(c) Hearings under section 336(a) on applications for naturalization shall be held at regular intervals specified by the Attorney General.

"(d) Except as provided in subsection (e), an application for naturalization shall be filed in the office of the Attorney General.

"(e) A person may file an application for naturalization other than in the office of the Attorney General, and an oath of allegiance administered other than in a public ceremony before the Attorney General or a court, if the Attorney General determines that the person has an illness or other disability which—

"(1) is of a permanent nature and is sufficiently serious to prevent the person's personal appearance, or

"(2) is of a nature which so incapacitates the person as to prevent him from personally appearing.".

(13) Section 335 (8 U.S.C. 1146) is amended— 8 USC 1446.

(A) by amending the heading to read as follows:

"INVESTIGATION OF APPLICANTS; EXAMINATION OF APPLICATIONS";

(B) in subsection (a), by striking "At any time" and all that follows through "336(a)" and inserting "Before a person may be naturalized";

(C) in subsection (b)—

(i) by striking "preliminary" each place it appears,

(ii) in the first sentence, by striking "to any naturalization court" and all that follows through "to such court",

(iii) by striking "any court exercising naturalization jurisdiction as specified in section 310 of this title" in the second sentence and inserting "any District Court of the United States", and

(iv) by striking "final hearing conducted by a naturalization court designated in section 310 of this title" in the third sentence and inserting "hearing conducted by an immigration officer under section 336(a)";

(D) in subsection (c)—

(i) by striking "preliminary" each place it appears, and

(ii) by striking "recommendation" and inserting "determination"; and

(E) by amending subsections (d) through (f) to read as follows:

"(d) The employee designated to conduct any such examination shall make a determination as to whether the application should be granted or denied, with reasons therefor.

"(e) After an application for naturalization has been filed with the Attorney General, the applicant shall not be permitted to withdraw his application, except with the consent of the Attorney General. In

cases where the Attorney General does not consent to the withdrawal of the application, the application shall be determined on its merits and a final order determination made accordingly. In cases where the applicant fails to prosecute his application, the application shall be decided on the merits unless the Attorney General dismisses it for lack of prosecution.

"(f) An applicant for naturalization who moves from the district of the Service in the United States in which the application is pending may, at any time thereafter, request the Service to transfer the application to any district of the Service in the United States which may act on the application. The transfer shall not be made without the consent of the Attorney General. In the case of such a transfer, the proceedings on the application shall continue as though the application had originally been filed in the district of the Service to which the application is transferred.".

(14) Section 336 (8 U.S.C. 1447) is amended—

(A) by amending the heading to read as follows:

"HEARINGS ON DENIALS OF APPLICATIONS FOR NATURALIZATION";

(B) by amending subsections (a) and (b) to read as follows:

"(a) If, after an examination under section 335, an application for naturalization is denied, the applicant may request a hearing before an immigration officer.

"(b) If there is a failure to make a determination under section 335 before the end of the 120-day period after the date on which the examination is conducted under such section, the applicant may apply to the United States district court for the district in which the applicant resides for a hearing on the matter. Such court has jurisdiction over the matter and may either determine the matter or remand the matter, with appropriate instructions, to the Service to determine the matter.";

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(C) in subsection (c), by striking "court" and inserting "immigration officer";

(D) in subsection (d)—

(i) by striking "clerk of the court" and all that follows through "naturalization" and inserting "immigration officer shall, if the applicant requests it at the time of filing the request for the hearing",

(ii) by striking "final" each place it appears, and

(iii) by adding at the end the following: "Such subpenas may be enforced in the same manner as subpenas under section 335(b) may be enforced."; and

(E) in subsection (e)—

(i) by striking "naturalization of any person," and inserting "administration by a court of the oath of allegiance under section 337(a)", and

(ii) by striking "included in the petition for naturalization of such persons" and inserting "included in an appropriate petition to the court".

(15) Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking "in open court" and inserting "in a public ceremony before the Attorney General or a court with jurisdiction under section 310(b)",

(ii) in the second and fourth sentences, by striking "naturalization court" each place it appears and inserting "Attorney General", and

(iii) in the fourth sentence, by striking "the court" and inserting "the Attorney General";

(B) in subsection (b)—

(i) by striking "in open court in the court in which the petition for naturalization is made" and inserting "in the same public ceremony in which the oath of allegiance is administered", and

(ii) by striking "in the court";

(C) in subsection (c)—

(i) by striking "being in open court" and inserting "attending a public ceremony", and

(ii) by striking "a judge of the court at such place as may be designated by the court" and inserting "at such place as the Attorney General may designate under section 334(e)"; and

(D) by adding at the end the following new subsection:

"(d) The Attorney General shall prescribe rules and procedures to ensure that the ceremonies conducted by the Attorney General for the administration of oaths of allegiance under this section are public, conducted frequently and at regular intervals, and are in keeping with the dignity of the occasion.". Regulations.

(16) Section 338 (8 U.S.C. 1449) is amended—

(A) by striking "by a naturalization court",

(B) by striking "the clerk of such court" and inserting "the Attorney General",

(C) by striking "title, venue, and location of the naturalization court" and inserting "location of the District office of the Service in which the application was filed and the title, authority, and location of the official or court administering the oath of allegiance",

(D) by striking "the court" and inserting "the Attorney General", and

(E) by striking "of the clerk of the naturalization court; and seal of the court" and inserting "of an immigration officer; and the seal of the Department of Justice".

(17) Section 339 (8 U.S.C. 1450) is amended to read as follows:

"FUNCTIONS AND DUTIES OF CLERKS AND RECORDS OF DECLARATIONS OF INTENTION AND APPLICATIONS FOR NATURALIZATION Courts.

"SEC. 339. (a) The clerk of each court that administers oaths of allegiance under section 337 shall—

"(1) issue to each person to whom such an oath is administered a document evidencing that such an oath was administered,

"(2) forward to the Attorney General information concerning each person to whom such an oath is administered by the court, within 30 days after the close of the month in which the oath was administered,

"(3) make and keep on file evidence for each such document issued, and

"(4) forward to the Attorney General certified copies of such other proceedings and orders instituted in or issued out of the

court affecting or relating to the naturalization of persons as may be required from time to time by the Attorney General.

"(b) Each district office of the Service in the United States shall maintain, in chronological order, indexed, and consecutively numbered, as part of its permanent records, all declarations of intention and applications for naturalization filed with the office.".

(18) Section 340 (8 U.S.C. 1451) is amended—

(A) in the first sentence of subsection (a), by striking "in any court specified in subsection (a) of section 310 of this title" and inserting "in any District Court of the United States",

(B) by amending the second sentence of subsection (g) to read as follows: "The clerk of the court shall transmit a copy of such order and judgment to the Attorney General.",

(C) by striking the third sentence of subsection (g), and

(D) in subsection (i), by striking "any naturalization court" and all that follows through "to take such action" and inserting the following: "the Attorney General to correct, reopen, alter, modify, or vacate an order naturalizing the person".

(19) Section 344 (8 U.S.C. 1455) is amended—

(A) in subsection (a)—

(i) by striking "The clerk of the court" and inserting "The Attorney General",

(ii) in paragraph (1), by striking "final", and

(iii) in paragraph (1), by striking "the naturalization court" and inserting "the Attorney General";

(B) by striking subsections (c), (d), (e), and (f);

(C) in subsection (g)—

(i) by striking ", and all fees paid over to the Attorney General by clerks of courts under the provisions of this title,", and

(ii) by striking "or by the clerks of the courts";

(D) in subsection (h)—

(i) by striking "no clerk of a United States court shall" and inserting "the Attorney General may not",

(ii) by striking ", and no clerk of any State court" and all that follows through "charged or collected", and

(iii) by striking the second sentence;

(E) in subsection (i), by striking "clerk of court", "from the clerk,", "such clerk", and "by the clerk" and inserting "Attorney General", "from the Attorney General,", "the Attorney General", and "by the Attorney General", respectively; and

(F) by redesignating subsections (g), (h), and (i) as subsections (c), (d), and (e), respectively.

Repeal.

(20) Section 348 (8 U.S.C. 1459) is repealed.

(e) STRIKING MISCELLANEOUS MATERIAL.—(1) Section 316 (8 U.S.C. 1427) is amended by striking subsection (f) and by redesignating subsection (g) as subsection (f).

(2) Section 331 (8 U.S.C. 1442) is amended by striking the second sentence of subsection (d).

(f) CORRECTIONS OF TABLE OF CONTENTS.—(1) The items in the table of contents relating to sections 334 through 336 are amended to read as follows:

"Sec. 334. Application for naturalization; declaration of intention.
"Sec. 335. Investigation of applicants; examination of applications.
"Sec. 336. Hearings on denials of applications for naturalization.".

(2) The item in the table of contents relating to section 339 is amended to read as follows:

"Sec. 339. Functions and duties of clerks and records of declarations of intention and applications for naturalization.".

(3) The item in the table of contents relating to section 348 is repealed.

SEC. 408. EFFECTIVE DATES AND SAVINGS PROVISIONS. 8 USC 1421 note.

(a) EFFECTIVE DATE.—

(1) NO NEW COURT PETITIONS AFTER EFFECTIVE DATE.—No court shall have jurisdiction, under section 310(a) of the Immigration and Nationality Act, to naturalize a person unless a petition for naturalization with respect to that person has been filed with the court before October 1, 1991.

(2) TREATMENT OF CURRENT COURT PETITIONS.—

(A) CONTINUATION OF CURRENT RULES.—Except as provided in subparagraph (B), any petition for naturalization which may be pending in a court on October 1, 1991, shall be heard and determined in accordance with the requirements of law in effect when the petition was filed.

(B) PERMITTING WITHDRAWAL AND CONSIDERATION OF APPLICATION UNDER NEW RULES.—In the case of any petition for naturalization which may be pending in any court on the date of the enactment of this Act, the petitioner may withdraw such petition and have the petitioner's application for naturalization considered under the amendments made by this title, but only if the petition is withdrawn not later than 3 months after the effective date.

(3) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this title are effective as of the date of the enactment of this Act.

(b) INTERIM, FINAL REGULATIONS.—The Attorney General shall prescribe regulations (on an interim, final basis or otherwise) to implement the amendments made by this title on a timely basis.

(c) CONTINUING DUTIES.—The amendments to section 339 of the Immigration and Nationality Act (relating to functions and duties of clerks) shall not apply to functions and duties respecting petitions filed before October 1, 1991.

(d) GENERAL SAVINGS PROVISIONS.—(1) Nothing contained in this title, unless otherwise specifically provided, shall be construed to affect the validity of any declaration of intention, petition for naturalization, certificate of naturalization, certification of citizenship, or other document or proceeding which is valid as of the effective date; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal, done or existing, as of the effective date.

(2) As to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters, the provisions of law repealed by this title are, unless otherwise specifically provided, hereby continued in force and effect.

(e) TREATMENT OF SERVICE IN ARMED FORCES OF FOREIGN COUNTRY.—The amendments made by section 404 (relating to treatment of service in armed forces of a foreign country) shall take effect on the date of the enactment of this Act and shall apply to exemptions from training or service obtained before, on, or after such date.

(f) FILIPINO WAR VETERANS.—Section 405 (relating to naturalization of natives of the Philippines through active-duty service under United States command during World War II) shall become effective

on May 1, 1991, without regard to whether regulations to implement such section have been issued by such date.

TITLE V—ENFORCEMENT

Subtitle A—Criminal Aliens

SEC. 501. AGGRAVATED FELONY DEFINITION.

(a) IN GENERAL.—Paragraph (43) of section 101(a) (8 U.S.C. 1101(a)) is amended—

(1) by aligning its left margin with the left margin of paragraph (42),

(2) by inserting "any illicit trafficking in any controlled substance (as defined in section 102 of the Controlled Substances Act), including" after "murder,",

(3) by inserting after "such title," the following: "any offense described in section 1956 of title 18, United States Code (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years,",

(4) by striking "committed within the United States",

(5) by adding at the end the following: "Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.", and

(6) by inserting before the period of the sentence added by paragraph (5) the following: "and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years".

8 USC 1101 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to offenses committed on or after the date of the enactment of this Act, except that the amendments made by paragraphs (2) and (5) of subsection (a) shall be effective as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988.

SEC. 502. SHORTENING PERIOD TO REQUEST JUDICIAL REVIEW.

8 USC 1105a.

(a) IN GENERAL.—Section 106(a)(1) (8 U.S.C. 1152a(a)(1)) is amended by striking "60 days" and inserting "30 days".

8 USC 1105a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to final deportation orders issued on or after January 1, 1991.

SEC. 503. ENHANCING ENFORCEMENT AUTHORITY OF INS OFFICERS.

(a) BROADENING AUTHORITY.—Section 287(a) (8 U.S.C. 1357(a)) is amended—

(1) by striking "and" at the end of paragraph (3), and

(2) in paragraph (4), by striking "United States" the second place it appears and all that follows and inserting the following: "United States, and

"(5) to make arrests—

"(A) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

"(B) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,

if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.". Regulations.

(b) REQUIRING FINGERPRINTING AND PHOTOGRAPHING OF CERTAIN ALIENS.—(1) Section 287 is further amended by adding at the end the following new subsection: 8 USC 1357.

"(f)(1) Under regulations of the Attorney General, the Commissioner shall provide for the fingerprinting and photographing of each alien 14 years of age or older against whom a proceeding is commenced under section 242.

"(2) Such fingerprints and photographs shall be made available to Federal, State, and local law enforcement agencies, upon request.".

(2) Section 264(b) (8 U.S.C. 1304(b)) is amended by inserting "(1) pursuant to section 287(f)(2), and (2)" after "only".

SEC. 504. CUSTODY PENDING DETERMINATION OF DEPORTABILITY AND EXCLUDABILITY.

(a) DEPORTABILITY.—Section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended—

(1) in the first sentence, by striking "upon completion of the alien's sentence for such conviction" and inserting "upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense)",

(2) in the second sentence, by inserting "but subject to subparagraph (B)" after "Notwithstanding subsection (a)",

(3) in the second sentence, by striking "subsection (a)" and inserting "paragraph (1) or subsections (c) and (d)",

(4) by inserting "(A)" after "(2)", and

(5) by adding at the end the following new subparagraph:

"(B) The Attorney General shall release from custody an alien who is lawfully admitted for permanent residence on bond or such other conditions as the Attorney General may prescribe if the

Attorney General determines that the alien is not a threat to the community and that the alien is likely to appear before any scheduled hearings.".

(b) EXCLUDABILITY.—Section 236 (8 U.S.C. 1226) is amended by adding at the end the following new subsection:

"(e)(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction.

"(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 243(g) exists.

"(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

"(A) a procedure for review of each request for relief under this subsection has been established,

"(B) such procedure includes consideration of the severity of the felony committed by the alien, and

"(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.".

8 USC 1252 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 505. ELIMINATION OF JUDICIAL RECOMMENDATIONS AGAINST DEPORTATION.

(a) IN GENERAL.—Section 241(b) (8 U.S.C. 1251(b)) is amended—

(1) in the first sentence—

(A) by striking "(1)", and

(B) by striking ", or (2)" and all that follows up to the period at the end; and

(2) in the second sentence, by inserting "or who has been convicted of an aggravated felony" after "subsection (a)(11) of this section".

8 USC 1251 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after such date.

SEC. 506. CLARIFICATION RESPECTING DISCRETIONARY AUTHORITY IN DEPORTATION PROCEEDINGS FOR INCARCERATED ALIENS.

(a) IN GENERAL.—Section 242A(d)(2) (8 U.S.C. 1252a(d)(2)) is amended by striking ", unless" and all that follows up to the period at the end.

8 USC 1252a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 507. REQUIRING COORDINATION PLAN WITH INS AS A CONDITION FOR RECEIPT OF DRUG CONTROL AND SYSTEM IMPROVEMENT GRANTS UNDER THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.

(a) IN GENERAL.—Section 503(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)) is amended by adding at the end the following new paragraph:

Intergovernmental relations. Records.

"(11) An assurance that the State has established a plan under which the State will provide without fee to the Immigration and Naturalization Service, within 30 days of the date of their conviction, the certified records of conviction of aliens who

have been convicted of violating the criminal laws of the State.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to grants for fiscal years beginning with fiscal year 1991. 42 USC 3753.

SEC. 508. DEPORTATION FOR ATTEMPTED VIOLATIONS OF CONTROLLED SUBSTANCES LAWS.

(a) IN GENERAL.—Section 241(a)(11) (8 U.S.C. 1251(a)(11)) is amended by inserting "or attempt" after "conspiracy".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to convictions occurring on or after the date of the enactment of this Act. 8 USC 1251 note.

SEC. 509. GOOD MORAL CHARACTER DEFINITION.

(a) IN GENERAL.—Section 101(f)(8) (8 U.S.C. 1101(f)(8)) is amended by striking "the crime of murder" and inserting "an aggravated felony (as defined in subsection (a)(43))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions occurring on or after such date. 8 USC 1101 note.

SEC. 510. REPORT ON CRIMINAL ALIENS. 8 USC 1251 note.

(a) IN GENERAL.—The Attorney General shall submit to the appropriate Committees of the Congress, by not later than December 1, 1991, a report that describes the efforts of the Immigration and Naturalization Service to identify, apprehend, detain, and remove from the United States aliens who have been convicted of crimes in the United States.

(b) CRIMINAL ALIEN CENSUS.—Such report shall include a statement of—

(1) the number of aliens in the United States who have been convicted of a criminal offense in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(2) the number of aliens lawfully admitted to the United States who have been convicted of such an offense and, based on such conviction, are subject to deportation from the United States;

(3) the number of aliens in the United States who are incarcerated in a penal institution in the United States, and, of such number, the number of such aliens who are not lawfully admitted to the United States;

(4)(A) the number of aliens whose deportation hearings have been conducted pursuant to section 242A(a) of the Immigration and Nationality Act, and (B) the percentage that such number represents of the total number of deportable aliens with respect to whom a hearing under such section could have been conducted since November 18, 1988; and

(5) the number of aliens in the United States who have reentered the United States after having been convicted of a criminal offense in the United States.

Within each of the numbers of aliens specified under this subsection who have been convicted of criminal offenses, the Attorney General shall distinguish between criminal offenses that are aggravated felonies (as defined in section 101(a)(43) of the Immigration and Nationality Act, as amended by this Act) and for other criminal offenses.

(c) CRIMINAL ALIEN REMOVAL PLAN.—The Attorney General shall include in the report a plan for the prompt removal from the United States of criminal aliens who are subject to exclusion or deportation. Such plan shall also include a statement of additional funds that would be required to provide for the prompt removal from the United States of—

(1)(A) aliens who are not lawfully admitted to the United States and who, as of the date of the enactment of this Act, have committed any criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, as of such date, have committed a criminal offense in the United States the commission of which makes the alien subject to deportation; and

(2)(A) aliens who are not lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States, and (B) aliens who are lawfully admitted to the United States and who, in the future, commit a criminal offense in the United States the commission of which makes the alien subject to deportation.

Such plan shall also include a method for identifying and preventing the unlawful reentry of aliens who have been been convicted of criminal offenses in the United States and removed from the United States.

SEC. 511. LIMITATION ON WAIVER OF EXCLUSION FOR RETURNING PERMANENT RESIDENTS CONVICTED OF AN AGGRAVATED FELONY.

(a) IN GENERAL.—Section 212(c) (8 U.S.C. 1182(c)) is amended by adding at the end the following: "The first sentence of this subsection shall not apply to an alien who has been convicted of an aggravated felony and has served a term of imprisonment of at least 5 years.".

8 USC 1182 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring after the date of the enactment of this Act.

SEC. 512. AUTHORIZATION OF ADDITIONAL IMMIGRATION JUDGES FOR DEPORTATION PROCEEDINGS INVOLVING CRIMINAL ALIENS.

Appropriation authorization.

There are authorized to be appropriated in each of fiscal years 1991 through 1995 such sums as are necessary to provide for 20 additional immigration judges in the Department of Justice, to be used to conduct proceedings under section 242A(d) of the Immigration and Nationality Act (8 U.S.C. 1252a(d)).

SEC. 513. EFFECT OF FILING PETITION FOR REVIEW.

(a) NO STAY UNLESS COURT ORDER.—Section 106(a)(3) (8 U.S.C. 1105a(a)(3)) is amended by inserting before the semicolon at the end the following: "or unless the alien is convicted of an aggravated felony, in which case the Service shall not stay the deportation of the alien pending determination of the petition of the court unless the court otherwise directs".

8 USC 1105a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to petitions to review filed more than 60 days after the date of the enactment of this Act.

SEC. 514. EXTENDING BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by striking "10 years" and inserting "20 years".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to admissions occurring on or after January 1, 1991. 8 USC 1182 note.

SEC. 515. ASYLUM IN THE CASE OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—(1) Section 208 (8 U.S.C. 1158) is amended by adding at the end the following new subsection:

"(d) An alien who has been convicted of an aggravated felony, notwithstanding subsection (a), may not apply for or be granted asylum.".

(2) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) is amended by adding at the end the following:

"For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.".

(b) EFFECTIVE DATES.— 8 USC 1158 note.

(1) The amendment made by subsection (a)(1) shall apply to applications for asylum made on or after the date of the enactment of this Act.

(2) The amendment made by subsection (a)(1) shall take effect on the date of the enactment of this Act and shall apply to convictions entered before, on, or after the date of the enactment of this Act.

Subtitle B—Provision Relating to Employer Sanctions

SEC. 521. ELIMINATION OF PAPERWORK REQUIREMENT FOR RECRUITERS AND REFERRERS.

(a) IN GENERAL.—Section 274A(a)(1) (8 U.S.C. 1324a(a)(1)) is amended—

(1) by striking "to hire, or to recruit or refer for a fee, for employment in the United States",

(2) in subparagraph (A), by inserting after "(A)" the following: "to hire, or to recruit or refer for a fee, for employment in the United States", and

(3) in subparagraph (B), by inserting after "(B)" the following: "(i) to hire for employment in the United States an individual without complying with the requirements of subsection (b) or (ii) if the person or entity is an agricultural association, agricultural employer, or farm labor contractor (as defined in section 3 of the Migrant and Seasonal Agricultural Worker Protection Act), to hire, or to recruit or refer for a fee, for employment in the United States". Agriculture.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to recruiting and referring occurring on or after the date of the enactment of this Act. 8 USC 1324a note.

Employment.

Subtitle C—Provisions Relating to Anti-Discrimination

SEC. 531. DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROTECTIONS UNDER IRCA AND TITLE VII OF THE CIVIL RIGHTS ACT OF 1964.

Section 274B (8 U.S.C. 1324b) is amended by adding at the end the following new subsection:

"(l) DISSEMINATION OF INFORMATION CONCERNING ANTI-DISCRIMINATION PROVISIONS.—

"(1) Not later than 3 months after the date of the enactment of this subsection, the Special Counsel, in cooperation with the chairman of the Equal Employment Opportunity Commission, the Secretary of Labor, and the Administrator of the Small Business Administration, shall conduct a campaign to disseminate information respecting the rights and remedies prescribed under this section and under title VII of the Civil Rights Act of 1964 in connection with unfair immigration-related employment practices. Such campaign shall be aimed at increasing the knowledge of employers, employees, and the general public concerning employer and employee rights, responsibilities, and remedies under this section and such title.

"(2) In order to carry out the campaign under this subsection, the Special Counsel—

"(A) may, to the extent deemed appropriate and subject to the availability of appropriations, contract with public and private organizations for outreach activities under the campaign, and

"(B) shall consult with the Secretary of Labor, the chairman of the Equal Employment Opportunity Commission, and the heads of such other agencies as may be appropriate.

Appropriation authorization.

"(3) There are authorized to be appropriated to carry out this subsection $10,000,000 for each fiscal year (beginning with fiscal year 1991).".

SEC. 532. INCLUSION OF CERTAIN SEASONAL AGRICULTURAL WORKERS WITHIN SCOPE OF ANTI-DISCRIMINATION PROTECTIONS.

(a) IN GENERAL.—Section 274B(a)(3)(B)(i) (8 U.S.C. 1324b(a)(3)(B)(i)) is amended by inserting "210(a), 210A(a), or" before "245A(a)(1)".

8 USC 1324b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the date of the enactment of this Act.

SEC. 533. ELIMINATION OF REQUIREMENT THAT ALIENS FILE A DECLARATION OF INTENDING TO BECOME A CITIZEN IN ORDER TO FILE ANTI-DISCRIMINATION COMPLAINT.

(a) IN GENERAL.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended—

(1) in paragraph (1)(B), by striking "citizen or intending citizen" and inserting "protected individual";

(2) in paragraph (3), by striking "CITIZEN OR INTENDING CITIZEN" and inserting "PROTECTED INDIVIDUAL";

(3) in paragraph (3), by striking "citizen or intending citizen" and inserting "protected individual"; and

(4) in paragraph (3)(B)—

(A) by striking "is an alien" and all that follows through "but does not" and inserting "is an alien who is lawfully admitted for permanent residence, is granted the status of an alien lawfully admitted for temporary residence under section 210(a), 210A(a), or 245A(a)(1), is admitted as a refugee under section 207, or is granted asylum under section 208; but does not", and

(B) by striking "(I)" and "(II)" and inserting "(i)" and "(ii)", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to unfair immigration-related employment practices occurring before, on, or after the date of the enactment of this Act. 8 USC 1324b note.

SEC. 534. ANTI-RETALIATION PROTECTIONS.

(a) CODIFICATION OF REGULATION.—Section 274B(a) (8 U.S.C. 1324b(a)) is amended by adding at the end the following:

"(5) PROHIBITION OF INTIMIDATION OR RETALIATION.—It is also an unfair immigration-related employment practice for a person or other entity to intimidate, threaten, coerce, or retaliate against any individual for the purpose of interfering with any right or privilege secured under this section or because the individual intends to file or has filed a charge or a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this section. An individual so intimidated, threatened, coerced, or retaliated against shall be considered, for purposes of subsections (d) and (g), to have been discriminated against.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to actions occurring on or after the date of the enactment of this Act. 8 USC 1324b note.

SEC. 535. TREATMENT OF CERTAIN ACTIONS AS DISCRIMINATION.

(a) DOCUMENTATION ABUSES.—Section 274B(a) (8 U.S.C. 1324b(a)), as amended by section 534, is further amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CERTAIN DOCUMENTARY PRACTICES AS EMPLOYMENT PRACTICES.—For purposes of paragraph (1), a person's or other entity's request, for purposes of satisfying the requirements of section 274A(b), for more or different documents than are required under such section or refusing to honor documents tendered that on their face reasonably appear to be genuine shall be treated as an unfair immigration-related employment practice relating to the hiring of individuals.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, but shall apply to actions occurring on or after such date. 8 USC 1324b note.

SEC. 536. CONFORMING CIVIL MONEY PENALTIES FOR ANTI-DISCRIMINATION VIOLATIONS TO THOSE FOR EMPLOYER SANCTIONS.

(a) CIVIL MONEY PENALTIES.—Section 274B(g)(2)(B) (8 U.S.C. 1324b(g)(2)(B)) is amended by amending clause (iv) to read as follows:

"(iv)(I) except as provided in subclauses (II) through (IV), to pay a civil penalty of not less than $250 and not more than $2,000 for each individual discriminated against,

"(II) except as provided in subclause (IV), in the case of a person or entity previously subject to a single order

under this paragraph, to pay a civil penalty of not less than $2,000 and not more than $5,000 for each individual discriminated against,

"(III) except as provided in subclause (IV), in the case of a person or entity previously subject to more than one order under this paragraph, to pay a civil penalty of not less than $3,000 and not more than $10,000 for each individual discriminated against, and

"(IV) in the case of an unfair immigration-related employment practice described in subsection (a)(6), to pay a civil penalty of not less than $100 and not more than $1,000 for each individual discriminated against.".

8 USC 1324b note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to unfair immigration-related employment practices occurring after the date of the enactment of this Act.

SEC. 537. PERIOD FOR FILING OF COMPLAINTS.

(a) 120-DAY PERIOD.—Section 274B(d)(2) (8 U.S.C. 1324b(d)(2)) is amended—

(1) by inserting "the Special Counsel shall notify the person making the charge of the determination not to file such a complaint during such period and" after "120-day period,",

(2) by inserting "within 90 days after the date of receipt of the notice" before the period at the end, and

(3) by adding at the end the following: "The Special Counsel's failure to file such a complaint within such 120-day period shall not affect the right of the Special Counsel to investigate the charge or to bring a complaint before an administrative law judge during such 90-day period.".

8 USC 1324b note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to charges received on or after the date of the enactment of this Act.

SEC. 538. SPECIAL COUNSEL ACCESS TO EMPLOYMENT ELIGIBILITY VERIFICATION FORMS.

(a) IN GENERAL.—Section 274A(b)(3) (8 U.S.C. 1324a(b)(3)) is amended by inserting ", the Special Counsel for Immigration-Related Unfair Employment Practices," after "officers of the Service,".

8 USC 1324a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 539. ADDITIONAL RELIEF IN ORDERS.

(a) IN GENERAL.—Section 274B(g)(2)(B) (8 U.S.C. 1324b(g)(2)(B)) is amended—

(1) by striking "and" at the end of clause (iii),

(2) by striking the period at the end of clause (iv)(II) and inserting a comma, and

(3) by adding at the end the following:

"(v) to post notices to employees about their rights under this section and employers' obligations under section 274A,

"(vi) to educate all personnel involved in hiring and complying with this section or section 274A about the requirements of this section or such section,

"(vii) to order (in an appropriate case) the removal of a false performance review or false warning from an employee's personnel file, and

"(viii) to order (in an appropriate case) the lifting of any restrictions on an employee's assignments, work shifts, or movements.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to orders with respect to unfair immigration-related employment practices occurring on or after the date of the enactment of this Act. 8 USC 1324b note.

Subtitle D—General Enforcement

SEC. 541. AUTHORIZING INCREASE BY 1,000 IN BORDER PATROL PERSONNEL.

There are authorized to be appropriated for fiscal year 1991 such additional sums as may be necessary to provide for an increase of 1,000 in the authorized personnel level of the border patrol of the Immigration and Naturalization Service, above the authorized level of the patrol as of September 30, 1990. Appropriation authorization.

SEC. 542. APPLICATION OF INCREASE IN PENALTIES TO ENHANCE ENFORCEMENT ACTIVITIES.

(a) IN GENERAL.—Section 280 (8 U.S.C. 1330) is amended—

(1) by inserting "(a)" after "280.", and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding section 3302 of title 31, United States Code, the increase in penalties collected resulting from the amendments made by sections 203(b), 543(a), and 544 of the Immigration Act of 1990 shall be credited to the appropriation— 8 USC 1330 note.

"(1) for the Immigration and Naturalization Service for activities that enhance enforcement of provisions of this title, including—

"(A) the identification, investigation, and apprehension of criminal aliens,

"(B) the implementation of the system described in section 242(a)(3)(A), and

"(C) for the repair, maintainance, or construction on the United States border, in areas experiencing high levels of apprehensions of illegal aliens, of structures to deter illegal entry into the United States; and

"(2) for the Executive Office for Immigration Review in the Department of Justice for the purpose of removing the backlogs in the preparation of transcripts of deportation proceedings conducted under section 242.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to fines and penalties collected on or after January 1, 1991.

SEC. 543. INCREASE IN FINE LEVELS; AUTHORITY OF THE INS TO COLLECT FINES.

(a) CIVIL PENALTIES.—

(1) FAILURE TO DELIVER MANIFEST.—Section 231(d) (8 U.S.C. 1221(d)) is amended by striking "collector of customs at the port of arrival or departure the sum of $10" and inserting "Commissioner the sum of $300".

(2) FAILURE TO PROVIDE FOR DEPORTATION.—Section 237(b) (8 U.S.C. 1227(b)) is amended by striking "district director of customs of the district in which port of arrival is situated or in

which any vessel or aircraft of the line may be found, the sum of $300" and inserting "Commissioner the sum of $2,000".

(3) IMPROPER AIRCRAFT ENTRY.—Section 239 (8 U.S.C. 1229) is amended by striking "$500" and inserting "$2,000".

(4) FAILURE TO CONTROL CREW.—Section 254(a) (8 U.S.C. 1284(a)) is amended—

(A) in the first sentence, by striking "collector of customs of the customs district in which the port of arrival is located or in which the failure to comply with the orders of the officer occurs the sum of $1,000" and inserting "Commissioner the sum of $3,000", and

(B) in the third sentence by striking "$200" and inserting "$500".

(5) EMPLOYMENT OF CERTAIN CREW.—Section 255 (8 U.S.C. 1285) is amended—

(A) in the second sentence, by striking "collector of customs of the customs district in which the port of arrival is located the sum of $50" and inserting "Commissioner the sum of $1,000", and

(B) in the third sentence, by striking "collector of customs" and inserting "Commissioner".

(6) IMPROPER DISCHARGE OF CREW.—Section 256 (8 U.S.C. 1286) is amended—

(A) in the second sentence, by striking "collector of customs of the customs district in which the violation occurred the sum of $1,000" and inserting "Commissioner the sum of $3,000",

(B) in the third sentence, by striking "collector of customs" and inserting "Commissioner", and

(C) in the fourth sentence, by striking "$500" and inserting "$1,500".

(7) ASSISTING UNLAWFUL ENTRY OF CREW.—Section 257 (8 U.S.C. 1287) is amended by striking "$5,000" and inserting "$10,000".

(8) DUTY TO PREVENT UNAUTHORIZED ENTRIES.—Section 271(a) (8 U.S.C. 1321) is amended by striking "$1,000" and inserting "$3,000".

(9) BRINGING IN CERTAIN ALIENS.—Section 272 (8 U.S.C. 1322) is amended—

(A) in subsection (a)—

(i) by striking "collector of customs of the customs district in which the place of arrival is located" and inserting "Commissioner", and

(ii) by striking "$1,000" and inserting "$3,000";

(B) in subsection (b)—

(i) by striking "collector of customs of the customs district in which the place of arrival is located" and inserting "Commissioner", and

(ii) by striking "$250" and inserting "$3,000"; and

(C) in subsection (c), by striking "collector of customs" and inserting "Commissioner".

(10) UNLAWFUL BRINGING OF ALIENS.—Section 273 (8 U.S.C. 1323) is amended—

(A) in subsection (b), by striking "collector of customs of the customs district in which the port of arrival is located the sum of $1,000" and inserting "Commissioner the sum of $3,000", and

(B) in subsection (d)—

(i) in the first sentence, by striking "collector of customs of the customs district in which the port of arrival is located the sum of $1,000" and inserting "Commissioner the sum of $3,000", and

(ii) in the second sentence, by striking "collector of customs" and inserting "Commissioner".

(b) CRIMINAL FINE LEVELS.—

(1) CREW MEMBER OVERSTAYING.—Section 252(c) (8 U.S.C. 1282(c)) is amended by striking "shall be guilty" and all that follows through "six months" and inserting "shall be fined not more than $2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months".

(2) CONCEALMENT OF ALIENS.—Section 275 (8 U.S.C. 1325) is amended—

(A) by inserting "or attempts to enter" after "(1) enters",

(B) by inserting "attempts to enter or" after "or (3)", and

(C) by striking "shall, for the first commission", and all that follows through "$1,000" and inserting "shall, for the first commission of any such offense, be fined not more than $2,000 (or, if greater, the amount provided under title 18, United States Code) or imprisoned not more than 6 months, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years".

(3) UNLAWFUL REENTRY.—Section 276 (8 U.S.C. 1326) is amended by striking "shall be guilty" and all that follows through "$1,000" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 2 years".

(4) AIDING IN ENTRY OF SUBVERSIVES.—Section 277 (8 U.S.C. 1327) is amended by striking "shall be guilty" and all that follows through "five years" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 10 years".

(5) IMPORTING PROSTITUTES.—Section 278 (8 U.S.C. 1328) is amended by striking "shall, in every" and all that follows through "ten years" and inserting "shall be fined under title 18, United States Code, or imprisoned not more than 10 years, or both".

(c) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) shall apply to actions taken after the date of the enactment of this Act. 8 USC 1221 note.

SEC. 544. CIVIL PENALTIES FOR DOCUMENT FRAUD.

(a) DOCUMENT FRAUD.—Title II is amended by adding after section 274B the following new section:

"PENALTIES FOR DOCUMENT FRAUD

"SEC. 274C. (a) ACTIVITIES PROHIBITED.—It is unlawful for any person or entity knowingly— 8 USC 1324c.

"(1) to forge, counterfeit, alter, or falsely make any document for the purpose of satisfying a requirement of this Act,

"(2) to use, attempt to use, possess, obtain, accept, or receive any forged, counterfeit, altered, or falsely made document in order to satisfy any requirement of this Act,

"(3) to use or attempt to use any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of satisfying a requirement of this Act, or

"(4) to accept or receive any document lawfully issued to a person other than the possessor (including a deceased individual) for the purpose of complying with section 274A(b).

"(b) EXCEPTION.—This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481).

"(c) CONSTRUCTION.—Nothing in this section shall be construed to diminish or qualify any of the penalties available for activities prohibited by this section but proscribed as well in title 18, United States Code.

"(d) ENFORCEMENT.—

"(1) AUTHORITY IN INVESTIGATIONS.—In conducting investigations and hearings under this subsection—

"(A) immigration officers and administrative law judges shall have reasonable access to examine evidence of any person or entity being investigated, and

"(B) administrative law judges, may, if necessary, compel by subpoena the attendance of witnesses and the production of evidence at any designated place or hearing.

In case of contumacy or refusal to obey a subpoena lawfully issued under this paragraph and upon application of the Attorney General, an appropriate district court of the United States may issue an order requiring compliance with such subpoena and any failure to obey such order may be punished by such court as a contempt thereof.

"(2) HEARING.—

"(A) IN GENERAL.—Before imposing an order described in paragraph (3) against a person or entity under this subsection for a violation of subsection (a), the Attorney General shall provide the person or entity with notice and, upon request made within a reasonable time (of not less than 30 days, as established by the Attorney General) of the date of the notice, a hearing respecting the violation.

"(B) CONDUCT OF HEARING.—Any hearing so requested shall be conducted before an administrative law judge. The hearing shall be conducted in accordance with the requirements of section 554 of title 5, United States Code. The hearing shall be held at the nearest practicable place to the place where the person or entity resides or of the place where the alleged violation occurred. If no hearing is so requested, the Attorney General's imposition of the order shall constitute a final and unappealable order.

"(C) ISSUANCE OF ORDERS.—If the administrative law judge determines, upon the preponderance of the evidence received, that a person or entity has violated subsection (a), the administrative law judge shall state his findings of fact and issue and cause to be served on such person or entity an order described in paragraph (3).

"(3) CEASE AND DESIST ORDER WITH CIVIL MONEY PENALTY.—With respect to a violation of subsection (a), the order under this subsection shall require the person or entity to cease and desist

from such violations and to pay a civil penalty in an amount of—

"(A) not less than $250 and not more than $2,000 for each document used, accepted, or created and each instance of use, acceptance, or creation, or

"(B) in the case of a person or entity previously subject to an order under this paragraph, not less than $2,000 and not more than $5,000 for each document used, accepted, or created and each instance of use, acceptance, or creation.

In applying this subsection in the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for the hiring, recruiting, or referring for employment, without reference to the practices of, and not under the control of or common control with, another subdivision, each such subdivision shall be considered a separate person or entity.

"(4) ADMINISTRATIVE APPELLATE REVIEW.—The decision and order of an administrative law judge shall become the final agency decision and order of the Attorney General unless, within 30 days, the Attorney General modifies or vacates the decision and order, in which case the decision and order of the Attorney General shall become a final order under this subsection.

"(5) JUDICIAL REVIEW.—A person or entity adversely affected by a final order under this section may, within 45 days after the date the final order is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order.

"(6) ENFORCEMENT OF ORDERS.—If a person or entity fails to comply with a final order issued under this section against the person or entity, the Attorney General shall file a suit to seek compliance with the order in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final order shall not be subject to review.".

(b) NEW GROUND OF DEPORTATION.—Section 241(a) (8 U.S.C. 1251(a)) is amended—

(1) by striking "or" at the end of paragraph (19),

(2) by striking the period at the end of paragraph (20) and inserting "; or", and

(3) by adding at the end the following new paragraph:

"(21) is the subject of a final order for violation of section 274C.".

(c) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 274B the following new item:

"Sec. 274C. Penalties for document fraud.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to persons or entities that have committed violations on or after the date of the enactment of this Act. 8 USC 1251 note.

SEC. 545. DEPORTATION PROCEDURES; REQUIRED NOTICE OF DEPORTATION HEARING; LIMITATION ON DISCRETIONARY RELIEF.

(a) IN GENERAL.—Chapter 5 of title II is amended by inserting after section 242A the following new section:

"DEPORTATION PROCEDURES

"SEC. 242B. (a) NOTICES.— 8 USC 1252b.

"(1) ORDER TO SHOW CAUSE.—In deportation proceedings under section 242, written notice (in this section referred to as an 'order to show cause') shall be given in person to the alien (or, if personal service is not practicable, such notice shall be given by certified mail to the alien or to the alien's counsel of record, if any) specifying the following:

"(A) The nature of the proceedings against the alien.

"(B) The legal authority under which the proceedings are conducted.

"(C) The acts or conduct alleged to be in violation of law.

"(D) The charges against the alien and the statutory provisions alleged to have been violated.

"(E) The alien may be represented by counsel and, upon request, the alien will be provided a list of counsel prepared under subsection (b)(2).

"(F)(i) The requirement that the alien must immediately provide (or have provided) the Attorney General with a written record of an address and telephone number (if any) at which the alien may be contacted respecting proceedings under section 242.

"(ii) The requirement that the alien must provide the Attorney General immediately with a written record of any change of the alien's address or telephone number.

"(iii) The consequences under subsection (c)(2) of failure to provide address and telephone information pursuant to this subparagraph.

"(2) NOTICE OF TIME AND PLACE OF PROCEEDINGS.—In deportation proceedings under section 242—

"(A) written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any), in the order to show cause or otherwise, of—

"(i) the time and place at which the proceedings will be held, and

"(ii) the consequences under subsection (c) of the failure to appear at such proceedings; and

"(B) in the case of any change or postponement in the time and place of such proceedings, written notice shall be given in person to the alien (or, if personal service is not practicable, written notice shall be given by certified mail to the alien or to the alien's counsel of record, if any) of—

"(i) the new time or place of the proceedings, and

"(ii) the consequences under subsection (c) of failing, except under exceptional circumstances, to attend such proceedings.

"(3) FORM OF INFORMATION.—Each order to show cause or other notice under this subsection—

"(A) shall be in English and Spanish, and

"(B) shall specify that the alien may be represented by an attorney in deportation proceedings under section 242 and will be provided, in accordance with subsection (b)(1), a period of time in order to obtain counsel and a current list described in subsection (b)(2).

Records.

"(4) CENTRAL ADDRESS FILES.—The Attorney General shall create a system to record and preserve on a timely basis notices

of addresses and telephone numbers (and changes) provided under paragraph (1)(F).

"(b) SECURING OF COUNSEL.—

"(1) IN GENERAL.—In order that an alien be permitted the opportunity to secure counsel before the first hearing date in proceedings under section 242, the hearing date shall not be scheduled earlier than 14 days after the service of the order to show cause.

"(2) CURRENT LISTS OF COUNSEL.—The Attorney General shall provide for lists (updated not less often than quarterly) of persons who have indicated their availability to represent aliens in proceedings under section 242.

"(c) CONSEQUENCES OF FAILURE TO APPEAR.—

"(1) IN GENERAL.—Any alien who, after written notice required under subsection (a)(2) has been provided to the alien or the alien's counsel of record, except as provided in paragraph (2), does not attend a proceeding under section 242, shall be ordered deported under section 242(b)(1) in absentia if the Service establishes by clear, unequivocal, and convincing evidence that, except as provided in paragraph (2), the written notice was so provided and that the alien is deportable.

"(2) NO NOTICE IF FAILURE TO PROVIDE ADDRESS INFORMATION.—No written notice shall be required under paragraph (1) if the alien has failed to provide the address required under subsection (a)(1)(F). Such written notice shall be considered sufficient if provided at the most recent address provided under such subsection.

"(3) RESCISSION OF ORDER.—Such an order may be rescinded only—

"(A) upon a motion to reopen filed within 180 days after the date of the order of deportation if the alien demonstrates that the failure to appear was because of exceptional circumstances (as defined in subsection (f)(2)), or

"(B) upon a motion to reopen filed at any time if the alien demonstrates that the alien did not receive notice in accordance with subsection (a)(2) or the alien demonstrates that the alien was in Federal or State custody and did not appear through no fault of the alien.

The filing of the motion to reopen described in subparagraph (A) or (B) shall stay the deportation of the alien pending disposition of the motion.

"(4) EFFECT ON JUDICIAL REVIEW.—Any petition for review under section 106 of an order entered in absentia under this subsection shall, notwithstanding such section, be filed not later than 60 days after the date of the final order of deportation and shall (except in cases described in section 106(a)(5)) be confined to the issues of the validity of the notice provided to the alien, to the reasons for the alien's not attending the proceeding, and to whether or not clear, convincing, and unequivocal evidence of deportability has been established.

"(d) TREATMENT OF FRIVOLOUS BEHAVIOR.—The Attorney General shall, by regulation— Regulations.

"(1) define in a proceeding before a special inquiry officer or before an appellate administrative body under this title, frivolous behavior for which attorneys may be sanctioned,

"(2) specify the circumstances under which an administrative appeal of a decision or ruling will be considered frivolous and will be summarily dismissed, and

"(3) impose appropriate sanctions (which may include suspension and disbarment) in the case of frivolous behavior.

Nothing in this subsection shall be construed as limiting the authority of the Board to take actions with respect to inappropriate behavior.

"(e) LIMITATION ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR.—

"(1) AT DEPORTATION PROCEEDINGS.—Any alien against whom a final order of deportation is entered in absentia under this section and who, at the time of the notice described in subsection (a)(2), was provided oral notice, either in the alien's native language or in another language the alien understands, of the time and place of the proceedings and of the consequences under this paragraph of failing, other than because of exceptional circumstances (as defined in subsection (f)(2)) to attend a proceeding under section 242, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the entry of the final order of deportation.

"(2) VOLUNTARY DEPARTURE.—

"(A) IN GENERAL.—Subject to subparagraph (B), any alien allowed to depart voluntarily under section 244(e)(1) or who has agreed to depart voluntarily at his own expense under section 242(b)(1) who remains in the United States after the scheduled date of departure, other than because of exceptional circumstances, shall not be eligible for relief described in paragraph (5) for a period of 5 years after the scheduled date of departure or the date of unlawful reentry, respectively.

"(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply to an alien allowed to depart voluntarily unless, before such departure, the Attorney General has provided written notice to the alien in English and Spanish and oral notice either in the alien's native language or in another language the alien understands of the consequences under subparagraph (A) of the alien's remaining in the United States after the scheduled date of departure, other than because of exceptional circumstances.

"(3) FAILURE TO APPEAR UNDER DEPORTATION ORDER.—

"(A) IN GENERAL.—Subject to subparagraph (B), any alien against whom a final order of deportation is entered under this section and who fails, other than because of exceptional circumstances, to appear for deportation at the time and place ordered shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date the alien was required to appear for deportation.

"(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply to an alien against whom a deportation order is entered unless the Attorney General has provided, orally in the alien's native language or in another language the alien understands and in the final order of deportation under this section of the consequences under subparagraph (A) of the alien's failure, other than because of exceptional circumstances, to appear for deportation at the time and place ordered.

"(4) FAILURE TO APPEAR FOR ASYLUM HEARING.—

"(A) IN GENERAL.—Subject to subparagraph (B), any alien—

"(i) whose period of authorized stay (if any) has expired through the passage of time,

"(ii) who has filed an application for asylum, and

"(iii) who fails, other than because of exceptional circumstances, to appear at the time and place specified for the asylum hearing,

shall not be eligible for relief described in paragraph (5) for a period of 5 years after the date of the asylum hearing.

"(B) WRITTEN AND ORAL NOTICE REQUIRED.—Subparagraph (A) shall not apply in the case of an alien with respect to failure to be present at a hearing unless—

"(i) written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the time and place at which the asylum hearing will be held, and in the case of any change or postponement in such time or place, written notice in English and Spanish, and oral notice either in the alien's native language or in another language the alien understands, was provided to the alien of the new time or place of the hearing; and

"(ii) notices under clause (i) specified the consequences under subparagraph (A) of failing, other than because of exceptional circumstances, to attend such hearing.

"(5) RELIEF COVERED.—The relief described in this paragraph is—

"(A) relief under section 212(c),

"(B) voluntary departure under section 242(b)(1),

"(C) suspension of deportation or voluntary departure under section 244, and

"(D) adjustment or change of status under section 245, 248, or 249.

"(f) DEFINITIONS.—In this section:

"(1) The term 'certified mail' means certified mail, return receipt requested.

"(2) The term 'exceptional circumstances' refers to exceptional circumstances (such as serious illness of the alien or death of an immediate relative of the alien, but not including less compelling circumstances) beyond the control of the alien.".

(b) JUDICIAL REVIEW.—Section 106(a) (8 U.S.C. 1105a) is amended—

(1) in paragraph (1), by striking "6 months" and inserting "90 days",

(2) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively, and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) whenever a petitioner seeks review of an order under this section, any review sought with respect to a motion to reopen or reconsider such an order shall be consolidated with the review of the order;".

(c) REPORT ON CONSOLIDATION OF REQUESTS FOR RELIEF.—The Attorney General shall submit to the Congress by not later than 6

months after the date of the enactment of this Act, a report on abuses associated with the failure of aliens to consolidate requests for discretionary relief before immigration judges at the first hearing on the merits. The Attorney General shall take into account possible exceptions appropriate in the interest of justice and shall include in the report such recommendations for changes in regulations or law as may be needed to prevent such abuses.

8 USC 1252 note.

(d) REGULATIONS ON MOTIONS TO REOPEN AND TO RECONSIDER AND ON ADMINISTRATIVE APPEALS.—Within 6 months after the date of the enactment of this Act, the Attorney General shall issue regulations with respect to—

(1) the period of time in which motions to reopen and to reconsider may be offered in deportation proceedings, which regulations include a limitation on the number of such motions that may be filed and a maximum time period for the filing of such motions; and

(2) the time period for the filing of administrative appeals in deportation proceedings and for the filing of appellate and reply briefs, which regulations include a limitation on the number of administrative appeals that may be made, a maximum time period for the filing of such motions and briefs, the items to be included in the notice of appeal, and the consolidation of motions to reopen or to reconsider with the appeal of the order of deportation.

(e) CONFORMING AMENDMENT.—The 8th sentence of section 242(b) (8 U.S.C. 1252(b)) is amended to read as follows: "Such regulations shall include requirements consistent with section 242B.".

(f) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 242A the following new item:

"Sec. 242B. Deportation procedures.".

8 USC 1252b note.

(g) EFFECTIVE DATES.—

(1) NOTICE-RELATED PROVISIONS.—

(A) Subsections (a), (b), (c), and (e)(1) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)), and the amendment made by subsection (e), shall be effective on a date specified by the Attorney General in the certification described in subparagraph (B), which date may not be earlier than 6 months after the date of such certification.

(B) The Attorney General shall certify to the Congress when the central address file system (described in section 242B(a)(4) of the Immigration and Nationality Act) has been established.

Reports.

(C) The Comptroller General shall submit to Congress, within 3 months after the date of the Attorney General's certification under subparagraph (B), a report on the adequacy of such system.

(2) CERTAIN LIMITS ON DISCRETIONARY RELIEF; SANCTIONS FOR FRIVOLOUS BEHAVIOR.—Subsections (d), (e)(2), and (e)(3) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on the date of the enactment of this Act.

(3) LIMITS ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR IN ASYLUM HEARING.—Subsection (e)(4) of section 242B of the Immigration and Nationality Act (as inserted by the amend-

ment made by subsection (a)) shall be effective on February 1, 1991.

(4) CONSOLIDATION OF RELIEF IN JUDICIAL REVIEW.—The amendments made by subsection (b) shall apply to final orders of deportation entered on or after January 1, 1991.

TITLE VI—EXCLUSION AND DEPORTATION

SEC. 601. REVISION OF GROUNDS FOR EXCLUSION.

(a) REVISED GROUNDS FOR EXCLUSION.—Subsection (a) of section 212 (8 U.S.C. 1182) is amended to read as follows:

"(a) CLASSES OF EXCLUDABLE ALIENS.—Except as otherwise provided in this Act, the following describes classes of excludable aliens who are ineligible to receive visas and who shall be excluded from admission into the United States:

"(1) HEALTH-RELATED GROUNDS.— Regulations.

"(A) IN GENERAL.—Any alien—

"(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance,

"(ii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services in consultation with the Attorney General)—

"(I) to have a physical or mental disorder and behavior associated with the disorder that may pose, or has posed, a threat to the property, safety, or welfare of the alien or others, or

"(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior,

"(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict,

is excludable.

"(B) WAIVER AUTHORIZED.—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (g).

"(2) CRIMINAL AND RELATED GROUNDS.—

"(A) CONVICTION OF CERTAIN CRIMES.—

"(i) IN GENERAL.—Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—

"(I) a crime involving moral turpitude (other than a purely political offense), or

"(II) a violation of (or a conspiracy to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)),

is excludable.

"(ii) EXCEPTION.—Clause (i)(I) shall not apply to an alien who committed only one crime if—

"(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States, or

"(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

"(B) MULTIPLE CRIMINAL CONVICTIONS.—Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement actually imposed were 5 years or more is excludable.

"(C) CONTROLLED SUBSTANCE TRAFFICKERS.—Any alien who the consular or immigration officer knows or has reason to believe is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assister, abettor, conspirator, or colluder with others in the illicit trafficking in any such controlled substance, is excludable.

"(D) PROSTITUTION AND COMMERCIALIZED VICE.—Any alien who—

"(i) is coming to the United States solely, principally, or incidentally to engage in prostitution, or has engaged in prostitution within 10 years of the date of application for a visa, entry, or adjustment of status,

"(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, entry, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution, or

"(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is excludable.

"(E) CERTAIN ALIENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—Any alien—

"(i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h)),

"(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense,

"(iii) who as a consequence of the offense and exercise of immunity has departed from the United States, and

"(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense,

is excludable.

"(F) WAIVER AUTHORIZED.—For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (h).

"(3) SECURITY AND RELATED GROUNDS.—

"(A) IN GENERAL.—Any alien who a consular officer or the Attorney General knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

"(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

"(ii) any other unlawful activity, or

"(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is excludable.

"(B) TERRORIST ACTIVITIES.—

"(i) IN GENERAL.—Any alien who—

"(I) has engaged in a terrorist activity, or

"(II) a consular officer or the Attorney General knows, or has reasonable ground to believe, is likely to engage after entry in any terrorist activity (as defined in clause (iii)),

is excludable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity. Palestine Liberation Organization.

"(ii) TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'terrorist activity' means any activity which is unlawful under the laws of the place where it is committed (or which, if committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

"(I) The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle).

"(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

"(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title 18, United States Code) or upon the liberty of such a person.

"(IV) An assassination.

"(V) The use of any—

"(a) biological agent, chemical agent, or nuclear weapon or device, or

"(b) explosive or firearm (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

"(VI) A threat, attempt, or conspiracy to do any of the foregoing.

"(iii) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this Act, the term 'engage in terrorist activity' means to commit, in an individual capacity or as a member of an organization, an act of terrorist activity or an act which the actor knows, or reasonably should know, affords material support to any individual, organization, or government in conducting a terrorist activity at any time, including any of the following acts:

"(I) The preparation or planning of a terrorist activity.

"(II) The gathering of information on potential targets for terrorist activity.

"(III) The providing of any type of material support, including a safe house, transportation, communications, funds, false identification, weapons, explosives, or training, to any individual the actor knows or has reason to believe has committed or plans to commit an act of terrorist activity.

"(IV) The soliciting of funds or other things of value for terrorist activity or for any terrorist organization.

"(V) The solicitation of any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity.

"(C) FOREIGN POLICY.—

"(i) IN GENERAL.—An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is excludable.

"(ii) EXCEPTION FOR OFFICIALS.—An alien who is an official of a foreign government or a purported government, or who is a candidate for election to a foreign government office during the period immediately preceding the election for that office, shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) solely because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States.

"(iii) EXCEPTION FOR OTHER ALIENS.—An alien, not described in clause (ii), shall not be excludable or subject to restrictions or conditions on entry into the United States under clause (i) because of the alien's past, current, or expected beliefs, statements, or associations, if such beliefs, statements, or associations would be lawful within the United States, unless the Secretary of State personally determines that the alien's admission would compromise a compelling United States foreign policy interest.

"(iv) NOTIFICATION OF DETERMINATIONS.—If a determination is made under clause (iii) with respect to an alien, the Secretary of State must notify on a timely basis the chairmen of the Committees on the Judiciary and Foreign Affairs of the House of Representatives and of the Committees on the Judiciary and Foreign Relations of the Senate of the identities of the alien and the reasons for the determination.

"(D) IMMIGRANT MEMBERSHIP IN TOTALITARIAN PARTY.—

"(i) IN GENERAL.—Any immigrant who is or has been a member of or affiliated with the Communist or any other totalitarian party (or subdivision or affiliate thereof), domestic or foreign, is excludable.

"(ii) EXCEPTION FOR INVOLUNTARY MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and whether necessary for such purposes.

"(iii) EXCEPTION FOR PAST MEMBERSHIP.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Attorney General when applying for admission) that—

"(I) the membership or affiliation terminated at least—

"(a) 2 years before the date of such application, or

"(b) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date, and

"(II) the alien is not a threat to the security of the United States.

"(iv) EXCEPTION FOR CLOSE FAMILY MEMBERS.—The Attorney General may, in the Attorney General's discretion, waive the application of clause (i) in the case of an immigrant who is the parent, spouse, son, daughter, brother, or sister of a citizen of the United States or a spouse, son, or daughter of an alien lawfully admitted

for permanent residence for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest if the alien is not a threat to the security of the United States.

Germany.

"(E) PARTICIPANTS IN NAZI PERSECUTIONS OR GENOCIDE.—

"(i) PARTICIPATION IN NAZI PERSECUTIONS.—Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

"(I) the Nazi government of Germany,

"(II) any government in any area occupied by the military forces of the Nazi government of Germany,

"(III) any government established with the assistance or cooperation of the Nazi government of Germany, or

"(IV) any government which was an ally of the Nazi government of Germany,

ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion is excludable.

"(ii) PARTICIPATION IN GENOCIDE.—Any alien who has engaged in conduct that is defined as genocide for purposes of the International Convention on the Prevention and Punishment of Genocide is excludable.

"(4) PUBLIC CHARGE.—Any alien who, in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission or adjustment of status, is likely at any time to become a public charge is excludable.

"(5) LABOR CERTIFICATION AND QUALIFICATIONS FOR CERTAIN IMMIGRANTS.—

"(A) LABOR CERTIFICATION.—

"(i) IN GENERAL.—Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled labor is excludable, unless the Secretary of Labor has determined and certified to the Secretary of State and the Attorney General that—

"(I) there are not sufficient workers who are able, willing, qualified (or equally qualified in the case of an alien described in clause (ii)) and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and

"(II) the employment of such alien will not adversely affect the wages and working conditions of workers in the United States similarly employed.

"(ii) CERTAIN ALIENS SUBJECT TO SPECIAL RULE.—For purposes of clause (i)(I), an alien described in this clause is an alien who—

"(I) is a member of the teaching profession, or

"(II) has exceptional ability in the sciences or the arts.

"(B) UNQUALIFIED PHYSICIANS.—An alien who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education

(regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is excludable, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date.

"(C) APPLICATION OF GROUNDS.—The grounds for exclusion of aliens under subparagraphs (A) and (B) shall apply to preference immigrant aliens described in paragraph (3) or (6) of section 203(a) and to nonpreference immigrant aliens described in section 203(a)(7).

"(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

"(A) ALIENS PREVIOUSLY DEPORTED.—Any alien who has been excluded from admission and deported and who again seeks admission within one year of the date of such deportation is excludable, unless prior to the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's reapplying for admission.

"(B) CERTAIN ALIENS PREVIOUSLY REMOVED.—Any alien who—

"(i) has been arrested and deported,

"(ii) has fallen into distress and has been removed pursuant to this or any prior Act,

"(iii) has been removed as an alien enemy, or

"(iv) has been removed at Government expense in lieu of deportation pursuant to section 242(b),

and who seeks admission within 5 years of the date of such deportation or removal (or within 20 years in the case of an alien convicted of an aggravated felony) is excludable, unless before the date of the alien's embarkation or reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory the Attorney General has consented to the alien's applying or reapplying for admission.

"(C) MISREPRESENTATION.—

"(i) IN GENERAL.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or entry into the United States or other benefit provided under this Act is excludable. Fraud.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (i).

"(D) STOWAWAYS.—Any alien who is a stowaway is excludable.

"(E) SMUGGLERS.—

"(i) IN GENERAL.—Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or

aided any other alien to enter or to try to enter the United States in violation of law is excludable.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(11).

"(F) SUBJECT OF CIVIL PENALTY.—An alien who is the subject of a final order for violation of section 274C is excludable.

"(7) DOCUMENTATION REQUIREMENTS.—

"(A) IMMIGRANTS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission—

"(I) who is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if such document is required under the regulations issued by the Attorney General under section 211(a), or

"(II) whose visa has been issued without compliance with the provisions of section 203,

is excludable.

"(ii) WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (k).

"(B) NONIMMIGRANTS.—

"(i) IN GENERAL.—Any nonimmigrant who—

"(I) is not in possession of a passport valid for a minimum of six months from the date of the expiration of the initial period of the alien's admission or contemplated initial period of stay authorizing the alien to return to the country from which the alien came or to proceed to and enter some other country during such period, or

"(II) is not in possession of a valid nonimmigrant visa or border crossing identification card at the time of application for admission,

is excludable.

"(ii) GENERAL WAIVER AUTHORIZED.—For provision authorizing waiver of clause (i), see subsection (d)(4).

"(iii) GUAM VISA WAIVER.—For provision authorizing waiver of clause (i) in the case of visitors to Guam, see subsection (l).

"(iv) VISA WAIVER PILOT PROGRAM.—For authority to waive the requirement of clause (i) under a pilot program, see section 217.

"(8) INELIGIBLE FOR CITIZENSHIP.—

"(A) IN GENERAL.—Any immigrant who is permanently ineligible to citizenship is excludable.

"(B) DRAFT EVADERS.—Any alien who has departed from or who has remained outside the United States to avoid or evade training or service in the armed forces in time of war or a period declared by the President to be a national emergency is excludable, except that this subparagraph shall not apply to an alien who at the time of such departure was a nonimmigrant and who is seeking to reenter the United States as a nonimmigrant.

"(9) MISCELLANEOUS.—

"(A) PRACTICING POLYGAMISTS.—Any immigrant who is coming to the United States to practice polygamy is excludable.

"(B) GUARDIAN REQUIRED TO ACCOMPANY EXCLUDED ALIEN.—Any alien accompanying another alien ordered to be excluded and deported and certified to be helpless from sickness or mental or physical disability or infancy pursuant to section 237(e), whose protection or guardianship is required by the alien ordered excluded and deported, is excludable.

"(C) INTERNATIONAL CHILD ABDUCTION.—

"(i) IN GENERAL.—Except as provided in clause (ii), any alien who, after entry of a court order granting custody to a citizen of the United States of a child having a lawful claim to United States citizenship, detains, retains, or withholds custody of the child outside the United States from the United States citizen granted custody, is excludable until the child is surrendered to such United States citizen.

"(ii) EXCEPTION.—Clause (i) shall not apply to an alien who is a national of a foreign state that is a signatory to the Hague Convention on the Civil Aspects of International Child Abduction.".

(b) NOTICE OF GROUNDS FOR EXCLUSION.—Such section is amended by striking subsection (b) and inserting the following new subsection: 8 USC 1182.

"(b) NOTICES OF DENIALS.—If an alien's application for a visa, for admission to the United States, or for adjustment of status is denied by an immigration or consular officer because the officer determines the alien to be excludable under subsection (a), the officer shall provide the alien with a timely written notice that—

"(1) states the determination, and

"(2) lists the specific provision or provisions of law under which the alien is excludable or ineligible for entry or adjustment of status.".

(c) REVIEW OF EXCLUSION LISTS.—The Attorney General and the Secretary of State shall develop protocols and guidelines for updating lookout books and the automated visa lookout system and similar mechanisms for the screening of aliens applying for visas for admission, or for admission, to the United States. Such protocols and guidelines shall be developed in a manner that ensures that in the case of an alien— 8 USC 1182 note.

(1) whose name is in such system, and

(2) who either (A) applies for entry after the effective date of the amendments made by this section, or (B) requests (in writing to a local consular office after such date) a review, without seeking admission, of the alien's continued excludability under the Immigration and Nationality Act,

if the alien is no longer excludable because of an amendment made by this section the alien's name shall be removed from such books and system and the alien shall be informed of such removal and if the alien continues to be excludable the alien shall be informed of such determination.

(d) CONFORMING AMENDMENTS TO SECTION 212.—

(1) Subsection (c) of section 212 (8 U.S.C. 1182) is amended by striking "paragraph (1) through (25) and paragraphs (30) and

(31) of subsection (a)" and inserting "subsection (a) (other than subparagraphs (A), (B), (C), or (E) of paragraph (3))".

8 USC 1182.

(2) Subsection (d) of such section is amended—

(A) by striking paragraphs (1), (2), (6), (9), and (10);

(B) in paragraph (3)—

(i) by striking "under one or more of the paragraphs enumerated in subsection (a) (other than paragraphs (27), (29), and (33))" and inserting "under subsection (a) (other than paragraphs (3)(A), (3)(C), and (3)(D) of such subsection)" each place it appears, and

Regulations.

(ii) by adding at the end the following new sentence: "The Attorney General shall prescribe conditions, including exaction of such bonds as may be necessary, to control and regulate the admission and return of excludable aliens applying for temporary admission under this paragraph.";

(C) in paragraph (4), by striking "(26)" and inserting "(7)(B)(i)";

(D) in paragraph (7), by striking "of this section, except paragraphs (20), (21), and (26)," and inserting "(other than paragraph (7))";

(E) in paragraph (8), by striking "(26), (27), and (29)" and inserting "(3)(A), (3)(B), (3)(C), and (7)(B)"; and

(F) by adding at the end the following new paragraph:

"(11) The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) of subsection (a)(6)(E) in the case of any alien lawfully admitted for permanent residence who temporarily proceeded abroad voluntary and not under an order of deportation, and who is otherwise admissible to the United States as a returning resident under section 211(b) if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.".

(3) Subsection (g) of such section is amended to read as follows:

"(g) The Attorney General may waive the application of—

"(1) section (a)(1)(A)(i) in the case of any alien who—

"(A) is the spouse or the unmarried son or daughter, or the minor unmarried lawfully adopted child, of a United States citizen, or of an alien lawfully admitted for permanent residence, or of an alien who has been issued an immigrant visa, or

"(B) has a son or daughter who is a United States citizen, or an alien lawfully admitted for permanent residence, or an alien who has been issued an immigrant visa, or

"(2) subsection (a)(1)(A)(ii) in the case of any alien,

in accordance with such terms, conditions, and controls, if any, including the giving of bond, as the Attorney General, in his discretion after consultation with the Secretary of Health and Human Services, may by regulation prescribe.".

(4) Subsection (h) of such section is amended to read as follows:

Drugs.

"(h) The Attorney General may, in his discretion, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of

marijuana in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or alien lawfully admitted for permanent residence if—

"(1) it is established to the satisfaction of the Attorney General that—

"(A) the alien is excludable only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities for which the alien is excludable occurred more than 15 years before the date of the alien's application for a visa, entry, or adjustment of status, and

"(B) the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States, and

"(C) the alien has been rehabilitated; and

"(2) the Attorney General, in his discretion, and pursuant to such terms, conditions and procedures as he may by regulations prescribe, has consented to the alien's applying or reapplying for a visa, for admission to the United States, or adjustment of status.

No waiver shall be provided under this subsection in the case of an alien who has been convicted of (or who has admitted committing acts that constitute) murder or criminal acts involving torture.".

(5) Subsection (i) of such section is amended to read as follows: 8 USC 1182.

"(i) The Attorney General may, in his discretion, waive application of clause (i) of subsection (a)(6)(C)—

"(1) in the case of an alien who is the spouse, parent, or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, or

"(2) if the fraud or misrepresentation occurred at least 10 years before the date of the alien's application for a visa, entry, or adjustment of status and it is established to the satisfaction of the Attorney General that the admission to the United States of such alien would not be contrary to the national welfare, safety, or security of the United States.".

(6) Subsection (k) of such section is amended by striking "paragraph (14), (20), or (21)" and inserting "paragraph (5)(A) or (7)(A)(i)".

(7) Subsection (l) of such section is amended by striking "paragraph (26)(B)" and inserting "paragraph (7)(B)(i)".

(e) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section and by section 603(a) of this Act shall apply to individuals entering the United States on or after June 1, 1991. 8 USC 1101 note.

(2) The amendments made by paragraphs (5) and (13) of section 603(a) shall apply to applications for adjustment of status made on or after June 1, 1991.

SEC. 602. REVISION OF GROUNDS FOR DEPORTATION.

(a) REVISED GROUNDS FOR DEPORTATION.—Subsection (a) of section 241 (8 U.S.C. 1251) is amended to read as follows:

"(a) CLASSES OF DEPORTABLE ALIENS.—Any alien (including an alien crewman) in the United States shall, upon the order of the Attorney General, be deported if the alien is deportable as being within one or more of the following classes of aliens:

"(1) EXCLUDABLE AT TIME OF ENTRY OR OF ADJUSTMENT OF STATUS OR VIOLATES STATUS.—

"(A) EXCLUDABLE ALIENS.—Any alien who at the time of entry or adjustment of status was within one or more of the classes of aliens excludable by the law existing at such time is deportable.

"(B) ENTERED WITHOUT INSPECTION.—Any alien who entered the United States without inspection or at any time or place other than as designated by the Attorney General or is in the United States in violation of this Act or any other law of the United States is deportable.

"(C) VIOLATED NONIMMIGRANT STATUS OR CONDITION OF ENTRY.—

"(i) NONIMMIGRANT STATUS VIOLATORS.—Any alien who was admitted as a nonimmigrant and who has failed to maintain the nonimmigrant status in which the alien was admitted or to which it was changed under section 248, or to comply with the conditions of any such status, is deportable.

"(ii) VIOLATORS OF CONDITIONS OF ENTRY.—Any alien whom the Secretary of Health and Human Services certifies has failed to comply with terms, conditions, and controls that were imposed under section 212(g) is deportable.

"(D) TERMINATION OF CONDITIONAL PERMANENT RESIDENCE.—

"(i) IN GENERAL.—Any alien with permanent resident status on a conditional basis under section 216 (relating to conditional permanent resident status for certain alien spouses and sons and daughters) or under section 216A (relating to conditional permanent resident status for certain alien entrepreneurs, spouses, and children) who has had such status terminated under such section is deportable.

"(ii) EXCEPTION.—Clause (i) shall not apply in the cases described in section 216(c)(4) (relating to certain hardship waivers).

"(E) SMUGGLING.—

"(i) IN GENERAL.—Any alien who (prior to the date of entry, at the time of entry, or within 5 years of the date of entry) knowingly has encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law is deportable.

"(ii) WAIVER AUTHORIZED.—The Attorney General may, in his discretion for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest, waive application of clause (i) in the case of any alien lawfully admitted for permanent residence if the alien has encouraged, induced, assisted, abetted, or aided only the alien's spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

"(F) FAILURE TO MAINTAIN EMPLOYMENT.—Any alien who obtains the status of an alien lawfully admitted for temporary residence under section 210A who fails to meet the requirement of section 210A(d)(5)(A) by the end of the applicable period is deportable.

"(G) MARRIAGE FRAUD.—An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(5)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if—

"(i) the alien obtains any entry into the United States with an immigrant visa or other documentation procured on the basis of a marriage entered into less than 2 years prior to such entry of the alien and which, within 2 years subsequent to any entry of the alien in the United States, shall be judicially annulled or terminated, unless the alien establishes to the satisfaction of the Attorney General that such marriage was not contracted for the purpose of evading any provisions of the immigration laws, or

"(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's marital agreement which in the opinion of the Attorney General was made for the purpose of procuring the alien's entry as an immigrant.

"(H) WAIVER AUTHORIZED FOR CERTAIN MISREPRESENTATIONS.—The provisions of this paragraph relating to the deportation of aliens within the United States on the ground that they were excludable at the time of entry as aliens described in section 212(a)(6)(C)(i), whether willful or innocent, may, in the discretion of the Attorney General, be waived for any alien (other than an alien described in paragraph (6) or (7)) who—

"(i) is the spouse, parent, son, or daughter of a citizen of the United States or of an alien lawfully admitted to the United States for permanent residence; and

"(ii) was in possession of an immigrant visa or equivalent document and was otherwise admissible to the United States at the time of such entry except for those grounds of inadmissibility specified under paragraphs (5)(A) and (7)(A) of section 212(a) which were a direct result of that fraud or misrepresentation.

A waiver of deportation for fraud or misrepresentation granted under this subparagraph shall also operate to waive deportation based on the grounds of inadmissibility at entry directly resulting from such fraud or misrepresentation.

"(2) CRIMINAL OFFENSES.—

"(A) GENERAL CRIMES.—

"(i) CRIMES OF MORAL TURPITUDE.—Any alien who—

"(I) is convicted of a crime involving moral turpitude committed within five years after the date of entry, and

"(II) either is sentenced to confinement or is confined therefor in a prison or correctional institution for one year or longer,

is deportable.

"(ii) MULTIPLE CRIMINAL CONVICTIONS.—Any alien who at any time after entry is convicted of two or more crimes involving moral turpitude, not arising out of a single scheme of criminal misconduct, regardless of

whether confined therefor and regardless of whether the convictions were in a single trial, is deportable.

"(iii) AGGRAVATED FELONY.—Any alien who is convicted of an aggravated felony at any time after entry is deportable.

"(iv) WAIVER AUTHORIZED.—Clauses (i), (ii), and (iii) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional pardon by the President of the United States or by the Governor of any of the several States.

"(B) CONTROLLED SUBSTANCES.—

"(i) CONVICTION.—Any alien who at any time after entry has been convicted of a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), other than a single offense involving possession for one's own use of 30 grams or less of marijuana, is deportable.

"(ii) DRUG ABUSERS AND ADDICTS.—Any alien who is, or at any time after entry has been, a drug abuser or addict is deportable.

"(C) CERTAIN FIREARM OFFENSES.—Any alien who at any time after entry is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying in violation of any law, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) is deportable.

"(D) MISCELLANEOUS CRIMES.—Any alien who at any time has been convicted (the judgment on such conviction becoming final) of, or has been so convicted of a conspiracy to violate—

"(i) any offense under chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason and sedition) of title 18, United States Code, for which a term of imprisonment of five or more years may be imposed;

"(ii) any offense under section 871 or 960 of title 18, United States Code;

"(iii) a violation of any provision of the Military Selective Service Act (50 U.S.C. App. 451 et seq.) or the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.); or

"(iv) a violation of section 215 or 278 of this Act, is deportable.

"(3) FAILURE TO REGISTER AND FALSIFICATION OF DOCUMENTS.—

"(A) CHANGE OF ADDRESS.—An alien who has failed to comply with the provisions of section 265 is deportable, unless the alien establishes to the satisfaction of the Attorney General that such failure was reasonably excusable or was not willful.

"(B) FAILURE TO REGISTER OR FALSIFICATION OF DOCUMENTS.—Any alien who at any time has been convicted—

"(i) under section 266(c) of this Act or under section 36(c) of the Alien Registration Act, 1940,

"(ii) of a violation of, or a conspiracy to violate, any provision of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.), or

"(iii) of a violation of, or a conspiracy to violate, section 1546 of title 18, United States Code (relating to fraud and misuse of visas, permits, and other entry documents),

is deportable.

"(4) SECURITY AND RELATED GROUNDS.—

"(A) IN GENERAL.—Any alien who has engaged, is engaged, or at any time after entry has engaged in—

"(i) any activity to violate any law of the United States relating to espionage or sabotage or to violate or evade any law prohibiting the export from the United States of goods, technology, or sensitive information,

"(ii) any other criminal activity which endangers public safety or national security, or

"(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is deportable.

"(B) TERRORIST ACTIVITIES.—Any alien who has engaged, is engaged, or at any time after entry has engaged in any terrorist activity (as defined in section 212(a)(3)(B)(iii)) is deportable.

"(C) FOREIGN POLICY.—

"(i) IN GENERAL.—An alien whose presence or activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is deportable.

"(ii) EXCEPTIONS.—The exceptions described in clauses (ii) and (iii) of section 212(a)(3)(C) shall apply to deportability under clause (i) in the same manner as they apply to excluability under section 212(a)(3)(C)(i).

"(D) ASSISTED IN NAZI PERSECUTION OR ENGAGED IN GENOCIDE.—Any alien described in clause (i) or (ii) of section 212(a)(3)(E) is deportable.

"(5) PUBLIC CHARGE.—Any alien who, within five years after the date of entry, has become a public charge from causes not affirmatively shown to have arisen since entry is deportable.".

(b) CONFORMING AMENDMENTS TO SECTION 241.—

(1) Subsections (b), (c), (f), and (g) of section 241 are repealed. 8 USC 1251.

(2) Subsection (e) of such section is amended—

(A) by striking "subsection (a) (6) or (7) of this section" and inserting "paragraph (4) of subsection (a)", and

(B) by redesignating such subsection as subsection (b).

(c) SAVINGS PROVISION.—Notwithstanding the amendments made by this section, any alien who was deportable because of a conviction (before the date of the enactment of this Act) of an offense referred to in paragraph (15), (16), (17), or (18) of section 241(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act, shall be considered to remain so deportable. Except as otherwise specifically provided in such section and subsection (d), the provisions of such section, as amended by this section, shall apply to all aliens described in subsection (a) thereof notwith- 8 USC 1251 note.

standing that (1) any such alien entered the United States before the date of the enactment of this Act, or (2) the facts, by reason of which an alien is described in such subsection, occurred before the date of the enactment of this Act.

8 USC 1161 note.

(d) EFFECTIVE DATE.—The amendments made by this section, and by section 603(b) of this Act, shall not apply to deportation proceedings for which notice has been provided to the alien before March 1, 1991.

SEC. 603. CONFORMING AMENDMENTS.

(a) RELATING TO GROUNDS FOR EXCLUSION.—

(1) Section 101 (8 U.S.C. 1101) is amended—

(A) in subsection (f)(3), by striking "paragraphs (11), (12), and (31)" and inserting "paragraphs (2)(D), (6)(E), and (9)(A)",

(B) in subsection (f)(3), by striking "paragraphs (9) and (10) of section 212(a) and paragraph (23)" and inserting "subparagraphs (A) and (B) of section 212(a)(2) and subparagraph (C) thereof", and

(C) in subsection (h), by striking "212(a)(34)" and inserting "212(a)(2)(E)".

(2) Section 102 (8 U.S.C. 1102) is amended—

(A) by striking "(27)" in paragraphs (1) and (2) and inserting "(3) (other than subparagraph (E))", and

(B) by striking "paragraphs (27) and (29)" in paragraph (3) and inserting "paragraph (3) (other than subparagraph (E))".

(3) Section 203(a)(7) (8 U.S.C. 1153(a)(7)) is amended by striking "section 212(a)(14)" and inserting "section 212(a)(5)".

(4) Sections 207(c)(3) and 209(c) (8 U.S.C. 1157(c)(3), 1159(c)) are each amended—

(A) by striking "(14), (15), (20), (21), (25), and (32)" and inserting "(4), (5), and (7)(A)", and

(B) by striking "(other than paragraph" and all that follows through "narcotics)" and inserting "(other than paragraph (2)(C) or subparagraphs (A), (B), (C), or (E) of paragraph (3))".

(5) Section 210 (8 U.S.C. 1160) is amended—

(A) in subsection (a)(3)(B)(i), by striking "212(a)(19)" and inserting "212(a)(6)(C)(i)",

(B) in subsection (c)(2)(A), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(C) in subsection (c)(2)(B)(ii)(I), by striking "Paragraph (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(D) in subsection (c)(2)(B)(ii)(II), by striking "(15)" and inserting "(4)",

(E) in subsection (c)(2)(B)(ii)(III), by striking "(23)" and inserting "(2)(C)",

(F) in subsection (c)(2)(B)(ii)(IV), by striking "Paragraphs (27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "Paragraph (3) (relating to security and related grounds), other than subparagraph (E) thereof",

(G) in subsection (c)(2)(B)(ii), by striking subclause (V), and

(H) in subsection (c)(2)(C), by striking "212(a)(15)" and inserting "212(a)(4)".

(6) Section 210A(e) (8 U.S.C. 1161(e)) is amended—

(A) in paragraph (1), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(B) in paragraph (2)(B)(i), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(C) in paragraph (2)(B)(ii), by striking "(23)" and inserting "(2)(C)",

(D) in paragraph (2)(B)(iii), by striking "(27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "and (3) (relating to security grounds), other than subparagraph (E) thereof",

(E) in paragraph (2)(B)(iv), by striking "(33)" and inserting "(3)(D)", and

(F) in paragraph (2)(C), by striking "212(a)(15)" and inserting "212(a)(4)".

(7) Section 211(b) (8 U.S.C. 1181(b)) is amended by striking "212(a)(20)" and inserting "212(a)(7)(A)".

(8) Section 213 (8 U.S.C. 1183) is amended—

(A) by striking "(7) or (15)" and inserting "(4)", and

(B) by inserting before the period at the end the following: ", irrespective of whether a demand for payment of public expenses has been made".

(9) Section 221(g) (8 U.S.C. 1201(g)) is amended by striking "212(a)(7), or section 212(a)(15)" and inserting "212(a)(4)".

(10) Section 234 (8 U.S.C. 1224) is amended by striking "paragraphs (1), (2), (3), (4), or (5)" and inserting "paragraph (1)" each place it appears.

(11) Section 235 (8 U.S.C 1225) is amended by striking "paragraph (27), (28), or (29) of section 212(a)" and inserting "subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3)".

(12) Section 236(d) (8 U.S.C. 1226(d)) is amended—

(A) by striking "is afflicted with a disease" and all that follows through "of section 212(a)" and inserting "has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 212(a)", and

(B) by striking the last sentence.

(13) Section 245A(d)(2) (8 U.S.C. 1255a(d)(2)) is amended—

(A) in subparagraph (A), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)",

(B) in subparagraph (B)(ii)(I), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)",

(C) in subparagraph (B)(ii)(II), by striking "(15)" and inserting "(4)",

(D) in subparagraph (B)(ii)(III), by striking "(23)" and inserting "(2)(C)",

(E) in subparagraph (B)(ii)(IV), by striking "(27), (28), and (29) (relating to national security and members of certain organizations)" and inserting "(3) (relating to security and related grounds), other than subparagraph (E) thereof",

(F) in subparagraph (B)(ii), by striking subclause (V),

(G) in subparagraph (B)(ii), by striking "212(a)(15)" and inserting "212(a)(4)", and

(H) in subparagraph (B)(iii), by striking "212(a)(15)" and inserting "212(a)(4)".

(14) Section 249 (8 U.S.C. 1259) is amended by striking "212(a)(33)" and inserting "212(a)(3)(E)".

(15) Section 272 (8 U.S.C. 1322)—

(A) in subsection (a)—

(i) by striking "(1) mentally retarded" and all that follows through "(6) a narcotic drug addict" and inserting "excludable under section 212(a)(1)", and

(ii) by striking "such disease or disability" and inserting "the excluding condition";

(B) by striking subsection (b);

(C) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(D) by striking "DISABILITY OR AFFLICTED WITH DISEASE" in the heading and inserting "EXCLUSION ON A HEALTH-RELATED GROUND".

(16) Section 277 (8 U.S.C. 1327) is amended by striking "212(a)(9)" and all that follows through "(29)" and inserting "212(a)(2) (insofar as an alien excludable under such section has been convicted of an aggravated felony) or 212(a)(3) (other than subparagraph (E) thereof)".

(17) The item in the table of contents relating to section 272 is amended to read as follows:

"Sec. 272. Bringing in aliens subject to exclusion on a health-related ground.".

Repeal.
Repeal.
8 USC 1182 and notes.

(18) Section 21 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2691) is repealed.

(19) Section 14 of Public Law 99-396 is repealed.

8 USC 1101 note.

(20) Section 584(a)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202) is amended—

(A) by striking "(14), (15), (20), (21), (25), and (32)" and inserting "(4), (5), and (7)(A)", and

(B) by striking "(other than paragraph" and all that follows through "narcotics)" and inserting "(other than paragraph (2)(C) or subparagraph (A), (B), (C), or (D) of paragraph (3))".

Repeal.
8 USC 1182 note.

(21) Section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (Public Law 100-204) is repealed.

8 USC 1255 note.

(22) Section 599E of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended by striking "(14), (15), (20), (21), (25), (28) (other than subparagraph (F)), and (32)" and inserting "(4), (5), and (7)(A)".

8 USC 1255a note.

(23) Section 301(a)(1) of this Act is amended by striking "on a ground specified" and all that follows through "of such Act)" and inserting "on a ground specified in paragraph (1)(A), (1)(B), (1)(C), (3)(A), of section 241(a) of the Immigration and Nationality Act (other than so much of section 241(a)(1)(A) of such Act as relates to a ground of exclusion described in paragraph (2) or (3) of section 212(a) of such Act)".

(24) Section 244A(c)(2)(A), as inserted by section 302 of this Act, is amended—

(A) in clause (i), by striking "(14), (20), (21), (25), and (32)" and inserting "(5) and (7)(A)";

(B) in clause (iii)(I), by striking "Paragraphs (9) and (10)" and inserting "Paragraphs (2)(A) and (2)(B)";

(C) in clause (iii)(II), by striking "(23)" and inserting "(2)(C)" and by adding "or" at the end;

(D) in clause (iii)(III), by striking "(27) and (29) (relating to national security)" and inserting "(3) (relating to security

and related grounds)" and by striking "; or" at the end and inserting a period; and

(E) by striking subclause (IV) of clause (iii).

(b) RELATING TO GROUNDS FOR DEPORTATION.—

(1) Section 210A(d)(5)(A) (8 U.S.C. 1161(d)(5)(A)) is amended by striking "241(a)(20)" and inserting "241(a)(1)(F)".

(2) Section 242 (8 U.S.C. 1252) is amended—

(A) in subsection (b), by striking "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "(2), (3), or (4)", and

(B) in subsection (e), by striking "paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" and inserting "paragraph (2), (3) or (4)".

(3) Sections 243(h)(1) and 244(a) (8 U.S.C. 1253(h)(1), 1254(a)) are each amended by striking "241(a)(19)" and inserting "241(a)(4)(D)".

(4) Section 244 (8 U.S.C. 1254) is amended—

(A) in subsection (a)(2), by striking "paragraph (4), (5), (6), (7), (11), (12), (14), (15), (16), (17), or (18)" and inserting "paragraph (2), (3), or (4)", and

(B) in subsection (e)(1), by striking "(4), (5), (6), (7), (11), (12), (14), (15), (16), (17), (18), or (19)" in paragraph (2) and inserting "(2), (3), or (4)".

(5) Section 202(n) of the Social Security Act (42 U.S.C. 402(n)) is amended—

(A) by striking "paragraph (1), (2), (4), (5), (6), (7), (10), (11), (12), (14), (15), (16), (17), or (18) of section 241(a)" in paragraph (1) and inserting "under section 241(a) (other than under paragraph (1)(C) or (1)(E) thereof)", and

(B) by striking "enumerated in paragraph (1) in this subsection" in paragraph (2) and inserting "(other than under paragraph (1)(C) or (1)(E) thereof)".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. BATTERED SPOUSE OR CHILD WAIVER OF THE CONDITIONAL RESIDENCE REQUIREMENT.

(a) IN GENERAL.—Section 216(c)(4) (8 U.S.C. 1186a(c)(4)) is amended—

(1) by striking "or" at the end of subparagraph (A);

(2) in subparagraph (B), by striking "by the alien spouse for good cause";

(3) in subparagraph (B), by striking the period at the end and inserting ", or";

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C) the qualifying marriage was entered into in good faith by the alien spouse and during the marriage the alien spouse or child was battered by or was the subject of extreme cruelty perpetrated by his or her spouse or citizen or permanent resident parent and the alien was not at fault in failing to meet the requirements of paragraph (1).";

and

(5) by adding at the end the following: "The Attorney General shall, by regulation, establish measures to protect the confidentiality of information concerning any abused alien spouse or

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child, including information regarding the whereabouts of such spouse or child.".

8 USC 1186a note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 702. BONA FIDE MARRIAGE EXCEPTION TO FOREIGN RESIDENCE REQUIREMENT FOR MARRIAGES ENTERED INTO DURING CERTAIN IMMIGRATION PROCEEDINGS.

(a) IN GENERAL.—Section 245(e) (8 U.S.C. 1255(e)) is amended—

(1) in paragraph (1), by striking "An alien" and inserting "Except as provided in paragraph (3), an alien", and

(2) by adding at the end the following new paragraph:

"(3) Paragraph (1) and section 204(h) shall not apply with respect to a marriage if the alien establishes by clear and convincing evidence to the satisfaction of the Attorney General that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place and the marriage was not entered into for the purpose of procuring the alien's entry as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien spouse or alien son or daughter. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.".

(b) CONFORMING AMENDMENT—Section 204(h) (8 U.S.C. 1154(h)) is amended by inserting "except as provided in section 245(e)(3)," after "Notwithstanding subsection (a),".

8 USC 1254 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to marriages entered into before, on, or after the date of the enactment of this Act.

SEC. 703. 1-YEAR EXTENSION OF DEADLINE FOR FILING APPLICATIONS FOR ADJUSTMENT FROM TEMPORARY TO PERMAMENT RESIDENCE FOR LEGALIZED ALIENS.

(a) IN GENERAL.—Section 245A(b) (8 U.S.C. 1255a(b)) is amended—

(1) in paragraph (1)(A), by striking "one-year period" and inserting "2-year period", and

(2) in paragraph (2)(C), by striking "thirty-first" and inserting "43rd".

(b) LATE FEE.—Section 245A(c)(7)(A) (8 U.S.C. 1255a(c)(7)(A)) is amended by adding at the end the following: "The Attorney General shall provide for an additional fee for filing an application for adjustment under subsection (b)(1) after the end of the first year of the 2-year period described in subsection (b)(1)(A).".

SEC. 704. COMMISSION ON AGRICULTURAL WORKERS.

8 USC 1160 note.

(a) 1-YEAR EXTENSION.—Section 304 of the Immigration Reform and Control Act of 1986 (Public Law 99-603) is amended—

(1) in subsection (c), by striking "five" and inserting "six", and

(2) in subsection (i), by striking "63" and inserting "75".

(b) STAFF.—Subsection (f) of such section is amended by striking "competitive service" and inserting "and compensation and other conditions of service in the civil service".

SEC. 705. IMMIGRATION EMERGENCY FUND.

(a) IN GENERAL.—Section 404(b) (8 U.S.C. 1101 note) is amended—

(1) by inserting "(1)" after "(b)",

(2) by inserting "(for fiscal year 1991 and any subsequent fiscal year)" after "appropriated",

(3) by striking "$35,000,000" and inserting "an amount sufficient to provide for a balance of $35,000,000 in such fund",

(4) by inserting "to carry out paragraph (2) and" after "to be used", and

(5) by adding at the end the following new paragraph:

"(2)(A) Funds which are authorized to be appropriated by paragraph (1), subject to the dollar limitation contained in subparagraph (B), shall be available, by application for the reimbursement of States and localities providing assistance as required by the Attorney General, to States and localities whenever—

"(i) a district director of the Service certifies to the Commissioner that the number of asylum applications filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter,

"(ii) the lives, property, safety, or welfare of the residents of a State or locality are endangered, or

"(iii) in any other circumstances as determined by the Attorney General.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.

"(C) For purposes of subparagraph (A), the requirement of paragraph (1) that an immigration emergency be determined shall not apply.

"(D) A decision with respect to an application for reimbursement under subparagraph (A) shall be made by the Attorney General within 15 days after the date of receipt of the application.".

(b) EFFECTIVE DATE.—Section 404(b)(2)(A)(i) of the Immigration and Nationality Act, as added by the amendment made by subsection (a)(5), shall apply with respect to increases in the number of asylum applications filed in a calendar quarter beginning on or after January 1, 1989. The Attorney General may not spend any amounts from the immigration emergency fund pursuant to the amendments made by subsection (a) before October 1, 1991. 8 USC 1101 note.

TITLE VIII—EDUCATION AND TRAINING

Grant programs. Intergovernmental relations. 29 USC 1506.

SEC. 801. EDUCATIONAL ASSISTANCE AND TRAINING.

(a) USE OF FUND.—The Secretary of Labor shall provide for grants to States to provide educational assistance and training for United States workers. The Secretary shall consult with the Secretary of Education in making grants under this section.

(b) ALLOCATION OF FUNDS.—Within the purposes described in subsection (a), funds in the account used under this section shall be allocated among the States based on a formula, established jointly by the Secretaries of Labor and Education, that takes into consideration—

(1) the location of foreign workers admitted into the United States,

(2) the location of individuals in the United States requiring and desiring the educational assistance and training for which the funds can be applied, and

(3) the location of unemployed and underemployed United States workers.

(c) DISBURSEMENT TO STATES.—

(1) Within the purposes and allocations established under this section, disbursements shall be made to the States, in accordance with grant applications submitted to and approved jointly by the Secretaries of Labor and Education, to be applied in a manner consistent with the guidelines established by such Secretaries in consultation with the States. In applying such grants, the States shall consider providing funding to joint labor-management trust funds and other such non-profit organizations which have demonstrated capability and experience in directly training and educating workers.

(2) Not more than 5 percent of the funds disbursed to any State under this section may be used for administrative expenses.

(d) LIMITATION ON FEDERAL OVERHEAD.—The Secretaries shall provide that not more than 2 percent of the amount of funds disbursed to States under this section may be used by the Federal Government in the administration of this section.

(e) ANNUAL REPORT.—The Secretary of Labor shall report annually to the Congress on the grants to States provided under this section.

(f) STATE DEFINED.—In this section, the term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

Approved November 29, 1990.

LEGISLATIVE HISTORY—S. 358 (H.R. 1630) (H.R. 4300):

HOUSE REPORTS: No. 101-187 accompanying H.R. 1630 (Comm. on the Judiciary); No. 101-723, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means) both accompanying H.R. 4300; and No. 101-955 (Comm. of Conference).

SENATE REPORTS: No. 101-55 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 135 (1989): July 11-13, considered and passed Senate.
July 31, H.R. 1630 considered and passed House.

Vol. 136 (1990): Oct. 2, 3, H.R. 4300 considered and passed House; S. 358, amended, passed in lieu.
Oct. 26, Senate agreed to conference report.
Oct. 27, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Nov. 29, Presidential remarks and statement.

Public Law 101-650
101st Congress

An Act

To provide for the appointment of additional Federal circuit and district judges, and for other purposes.

Dec. 1, 1990
[H.R. 5316]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Improvements Act of 1990".

Judicial Improvements Act of 1990.
Courts.
28 USC 1 note.

TITLE I—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

Civil Justice Reform Act of 1990.

SEC. 101. SHORT TITLE.

28 USC 1 note.

This title may be cited as the "Civil Justice Reform Act of 1990".

SEC. 102. FINDINGS.

28 USC 471 note.

The Congress makes the following findings:

(1) The problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters.

(2) The courts, the litigants, the litigants' attorneys, and the Congress and the executive branch, share responsibility for cost and delay in civil litigation and its impact on access to the courts, adjudication of cases on the merits, and the ability of the civil justice system to provide proper and timely judicial relief for aggrieved parties.

(3) The solutions to problems of cost and delay must include significant contributions by the courts, the litigants, the litigants' attorneys, and by the Congress and the executive branch.

(4) In identifying, developing, and implementing solutions to problems of cost and delay in civil litigation, it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system.

(5) Evidence suggests that an effective litigation management and cost and delay reduction program should incorporate several interrelated principles, including—

(A) the differential treatment of cases that provides for individualized and specific management according to their needs, complexity, duration, and probable litigation careers;

(B) early involvement of a judicial officer in planning the progress of a case, controlling the discovery process, and scheduling hearings, trials, and other litigation events;

(C) regular communication between a judicial officer and attorneys during the pretrial process; and

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(D) utilization of alternative dispute resolution programs in appropriate cases.

(6) Because the increasing volume and complexity of civil and criminal cases imposes increasingly heavy workload burdens on judicial officers, clerks of court, and other court personnel, it is necessary to create an effective administrative structure to ensure ongoing consultation and communication regarding effective litigation management and cost and delay reduction principles and techniques.

SEC. 103. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.—Title 28, United States Code, is amended by inserting after chapter 21 the following new chapter:

"CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

"Sec.

"471. Requirement for a district court civil justice expense and delay reduction plan.
"472. Development and implementation of a civil justice expense and delay reduction plan.
"473. Content of civil justice expense and delay reduction plans.
"474. Review of district court action.
"475. Periodic district court assessment.
"476. Enhancement of judicial information dissemination.
"477. Model civil justice expense and delay reduction plan.
"478. Advisory groups.
"479. Information on litigation management and cost and delay reduction.
"480. Training programs.
"481. Automated case information.
"482. Definitions.

"§ 471. Requirement for a district court civil justice expense and delay reduction plan

"There shall be implemented by each United States district court, in accordance with this title, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

"§ 472. Development and implementation of a civil justice expense and delay reduction plan

"(a) The civil justice expense and delay reduction plan implemented by a district court shall be developed or selected, as the case may be, after consideration of the recommendations of an advisory group appointed in accordance with section 478 of this title.

Reports.

"(b) The advisory group of a United States district court shall submit to the court a report, which shall be made available to the public and which shall include—

"(1) an assessment of the matters referred to in subsection (c)(1);

"(2) the basis for its recommendation that the district court develop a plan or select a model plan;

"(3) recommended measures, rules and programs; and

"(4) an explanation of the manner in which the recommended plan complies with section 473 of this title.

"(c)(1) In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall—

"(A) determine the condition of the civil and criminal dockets;

"(B) identify trends in case filings and in the demands being placed on the court's resources;

"(C) identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation; and

"(D) examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the courts.

"(2) In developing its recommendations, the advisory group of a district court shall take into account the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys.

"(3) The advisory group of a district court shall ensure that its recommended actions include significant contributions to be made by the court, the litigants, and the litigants' attorneys toward reducing cost and delay and thereby facilitating access to the courts.

"(d) The chief judge of the district court shall transmit a copy of the plan implemented in accordance with subsection (a) and the report prepared in accordance with subsection (b) of this section to—

"(1) the Director of the Administrative Office of the United States Courts;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

"§ 473. Content of civil justice expense and delay reduction plans

"(a) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following principles and guidelines of litigation management and cost and delay reduction:

"(1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case;

"(2) early and ongoing control of the pretrial process through involvement of a judicial officer in—

"(A) assessing and planning the progress of a case;

"(B) setting early, firm trial dates, such that the trial is scheduled to occur within eighteen months after the filing of the complaint, unless a judicial officer certifies that—

"(i) the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice; or

"(ii) the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

"(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion; and

"(D) setting, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition;

"(3) for all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

"(A) explores the parties' receptivity to, and the propriety of, settlement or proceeding with the litigation;

"(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

"(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

"(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

"(ii) phase discovery into two or more stages; and

"(D) sets, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition;

"(4) encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices;

"(5) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion; and

"(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

"(A) have been designated for use in a district court; or

"(B) the court may make available, including mediation, minitrial, and summary jury trial.

"(b) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following litigation management and cost and delay reduction techniques:

"(1) a requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so;

"(2) a requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters;

"(3) a requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request;

"(4) a neutral evaluation program for the presentation of the legal and factual basis of a case to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation;

"(5) a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference; and

"(6) such other features as the district court considers appropriate after considering the recommendations of the advisory group referred to in section 472(a) of this title.

"(c) Nothing in a civil justice expense and delay reduction plan relating to the settlement authority provisions of this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, or any delegation of the Attorney General.

"§ 474. Review of district court action

"(a)(1) The chief judges of each district court in a circuit and the chief judge of the court of appeals for such circuit shall, as a committee—

"(A) review each plan and report submitted pursuant to section 472(d) of this title; and

"(B) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(2) The chief judge of a court of appeals and the chief judge of a district court may designate another judge of such court to perform the chief judge's responsibilities under paragraph (1) of this subsection.

"(b) The Judicial Conference of the United States—

"(1) shall review each plan and report submitted by a district court pursuant to section 472(d) of this title; and

"(2) may request the district court to take additional action if the Judicial Conference determines that such court has not adequately responded to the conditions relevant to the civil and criminal dockets of the court or to the recommendations of the district court's advisory group.

"§ 475. Periodic district court assessment

"After developing or selecting a civil justice expense and delay reduction plan, each United States district court shall assess annually the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. In performing such assessment, the court shall consult with an advisory group appointed in accordance with section 478 of this title.

"§ 476. Enhancement of judicial information dissemination

"(a) The Director of the Administrative Office of the United States Courts shall prepare a semiannual report, available to the public, that discloses for each judicial officer— Reports.

"(1) the number of motions that have been pending for more than six months and the name of each case in which such motion has been pending;

"(2) the number of bench trials that have been submitted for more than six months and the name of each case in which such trials are under submission; and

"(3) the number and names of cases that have not been terminated within three years after filing.

"(b) To ensure uniformity of reporting, the standards for categorization or characterization of judicial actions to be prescribed in accordance with section 481 of this title shall apply to the semiannual report prepared under subsection (a).

"§ 477. Model civil justice expense and delay reduction plan

"(a)(1) Based on the plans developed and implemented by the United States district courts designated as Early Implementation District Courts pursuant to section 103(c) of the Civil Justice Reform Act of 1990, the Judicial Conference of the United States may develop one or more model civil justice expense and delay reduction plans. Any such model plan shall be accompanied by a report explaining the manner in which the plan complies with section 473 of this title.

Reports.

"(2) The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations to the Judicial Conference regarding the development of any model civil justice expense and delay reduction plan.

"(b) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any model plan and accompanying report.

"§ 478. Advisory groups

"(a) Within ninety days after the date of the enactment of this chapter, the advisory group required in each United States district court in accordance with section 472 of this title shall be appointed by the chief judge of each district court, after consultation with the other judges of such court.

"(b) The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(c) Subject to subsection (d), in no event shall any member of the advisory group serve longer than four years.

"(d) Notwithstanding subsection (c), the United States Attorney for a judicial district, or his or her designee, shall be a permanent member of the advisory group for that district court.

"(e) The chief judge of a United States district court may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Judicial Conference of the United States.

"(f) The members of an advisory group of a United States district court and any person designated as a reporter for such group shall be considered as independent contractors of such court when in the performance of official duties of the advisory group and may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before such court.

"§ 479. Information on litigation management and cost and delay reduction

"(a) Within four years after the date of the enactment of this chapter, the Judicial Conference of the United States shall prepare a comprehensive report on all plans received pursuant to section 472(d) of this title. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding such report to the Judicial Conference during the preparation of the report. The Judicial Conference shall transmit copies of the report to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives. Reports.

"(b) The Judicial Conference of the United States shall, on a continuing basis—

"(1) study ways to improve litigation management and dispute resolution services in the district courts; and

"(2) make recommendations to the district courts on ways to improve such services.

"(c)(1) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a Manual for Litigation Management and Cost and Delay Reduction. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding the preparation of and any subsequent revisions to the Manual. Government publications.

"(2) The Manual shall be developed after careful evaluation of the plans implemented under section 472 of this title, the demonstration program conducted under section 104 of the Civil Justice Reform Act of 1990, and the pilot program conducted under section 105 of the Civil Justice Reform Act of 1990.

"(3) The Manual shall contain a description and analysis of the litigation management, cost and delay reduction principles and techniques, and alternative dispute resolution programs considered most effective by the Judicial Conference, the Director of the Federal Judicial Center, and the Director of the Administrative Office of the United States Courts.

"§ 480. Training programs

"The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies, and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about litigation management and other techniques for reducing cost and expediting the resolution of civil litigation. The curriculum of such training programs shall be periodically revised to reflect such information and analyses.

"§ 481. Automated case information

"(a) The Director of the Administrative Office of the United States Courts shall ensure that each United States district court has the automated capability readily to retrieve information about the status of each case in such court.

"(b)(1) In carrying out subsection (a), the Director shall prescribe—

"(A) the information to be recorded in district court automated systems; and

"(B) standards for uniform categorization or characterization of judicial actions for the purpose of recording information on judicial actions in the district court automated systems.

"(2) The uniform standards prescribed under paragraph (1)(B) of this subsection shall include a definition of what constitutes a dismissal of a case and standards for measuring the period for which a motion has been pending.

Records. "(c) Each United States district court shall record information as prescribed pursuant to subsection (b) of this section.

"§ 482. Definitions

"As used in this chapter, the term 'judicial officer' means a United States district court judge or a United States magistrate.".

28 USC 471 note. (b) IMPLEMENTATION.—(1) Except as provided in section 105 of this Act, each United States district court shall, within three years after the date of the enactment of this title, implement a civil justice expense and delay reduction plan under section 471 of title 28, United States Code, as added by subsection (a).

(2) The requirements set forth in sections 471 through 478 of title 28, United States Code, as added by subsection (a), shall remain in effect for seven years after the date of the enactment of this title.

28 USC 471 note. (c) EARLY IMPLEMENTATION DISTRICT COURTS.—

(1) Any United States district court that, no earlier than June 30, 1991, and no later than December 31, 1991, develops and implements a civil justice expense and delay reduction plan under chapter 23 of title 28, United States Code, as added by subsection (a), shall be designated by the Judicial Conference of the United States as an Early Implementation District Court.

(2) The chief judge of a district so designated may apply to the Judicial Conference for additional resources, including technological and personnel support and information systems, necessary to implement its civil justice expense and delay reduction plan. The Judicial Conference may provide such resources out of funds appropriated pursuant to section 106(a).

Reports. (3) Within 18 months after the date of the enactment of this title, the Judicial Conference shall prepare a report on the plans developed and implemented by the Early Implementation District Courts.

(4) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and House of Representatives—

(A) copies of the plans developed and implemented by the Early Implementation District Courts;

(B) the reports submitted by such district courts pursuant to section 472(d) of title 28, United States Code, as added by subsection (a); and

(C) the report prepared in accordance with paragraph (3) of this subsection.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by adding at the end thereof the following:

"23. Civil justice expense and delay reduction plans..... 471".

SEC. 104. DEMONSTRATION PROGRAM. 28 USC 471 note.

(a) IN GENERAL.—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(2) A district court participating in the demonstration program may also be an Early Implementation District Court under section 103(c).

(b) PROGRAM REQUIREMENT.—(1) The United States District Court for the Western District of Michigan and the United States District Court for the Northern District of Ohio shall experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial.

(2) The United States District Court for the Northern District of California, the United States District Court for the Northern District of West Virginia, and the United States District Court for the Western District of Missouri shall experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution, that such district courts and the Judicial Conference of the United States shall select.

(c) STUDY OF RESULTS.—The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program.

(d) REPORT.—Not later than December 31, 1995, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 105. PILOT PROGRAM. 28 USC 471 note.

(a) IN GENERAL.—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a pilot program in accordance with subsection (b).

(2) A district court participating in the pilot program shall be designated as an Early Implementation District Court under section 103(c).

(b) PROGRAM REQUIREMENTS.—(1) Ten district courts (in this section referred to as "Pilot Districts") designated by the Judicial Conference of the United States shall implement expense and delay reduction plans under chapter 23 of title 28, United States Code (as added by section 103(a)), not later than December 31, 1991. In addition to complying with all other applicable provisions of chapter 23 of title 28, United States Code (as added by section 103(a)), the expense and delay reduction plans implemented by the Pilot Districts shall include the 6 principles and guidelines of litigation management and cost and delay reduction identified in section 473(a) of title 28, United States Code.

(2) At least 5 of the Pilot Districts designated by the Judicial Conference shall be judicial districts encompassing metropolitan areas.

(3) The expense and delay reduction plans implemented by the Pilot Districts shall remain in effect for a period of 3 years. At the end of that 3-year period, the Pilot Districts shall no longer be required to include, in their expense and delay reduction plans, the

6 principles and guidelines of litigation management and cost and delay reduction described in paragraph (1).

(c) PROGRAM STUDY REPORT.—(1) Not later than December 31, 1995, the Judicial Conference shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the pilot program under this section that includes an assessment of the extent to which costs and delays were reduced as a result of the program. The report shall compare those results to the impact on costs and delays in ten comparable judicial districts for which the application of section 473(a) of title 28, United States Code, had been discretionary. That comparison shall be based on a study conducted by an independent organization with expertise in the area of Federal court management.

(2)(A) The Judicial Conference shall include in its report a recommendation as to whether some or all district courts should be required to include, in their expense and delay reduction plans, the 6 principles and guidelines of litigation management and cost and delay reduction identified in section 473(a) of title 28, United States Code.

(B) If the Judicial Conference recommends in its report that some or all district courts be required to include such principles and guidelines in their expense and delay reduction plans, the Judicial Conference shall initiate proceedings for the prescription of rules implementing its recommendation, pursuant to chapter 131 of title 28, United States Code.

(C) If in its report the Judicial Conference does not recommend an expansion of the pilot program under subparagraph (A), the Judicial Conference shall identify alternative, more effective cost and delay reduction programs that should be implemented in light of the findings of the Judicial Conference in its report, and the Judicial Conference may initiate proceedings for the prescription of rules implementing its recommendation, pursuant to chapter 131 of title 28, United States Code.

SEC. 106. AUTHORIZATION.

(a) EARLY IMPLEMENTATION DISTRICT COURTS.—There is authorized to be appropriated not more than $15,000,000 for fiscal year 1991 to carry out the resource and planning needs necessary for the implementation of section 103(c).

(b) IMPLEMENTATION OF CHAPTER 23.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1991 to implement chapter 23 of title 28, United States Code.

(c) DEMONSTRATION PROGRAM.—There is authorized to be appropriated not more than $5,000,000 for fiscal year 1991 to carry out the provisions of section 104.

TITLE II—FEDERAL JUDGESHIPS

Federal Judgeship Act of 1990.
28 USC 1 note.

SECTION 201. SHORT TITLE.

This title may be cited as the "Federal Judgeship Act of 1990".

SEC. 202. CIRCUIT JUDGES FOR THE CIRCUIT COURT OF APPEALS.

President.
28 USC 44 note.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(1) 2 additional circuit judges for the third circuit court of appeals;

(2) 4 additional circuit judges for the fourth circuit court of appeals;

(3) 1 additional circuit judge for the fifth circuit court of appeals;

(4) 1 additional circuit judge for the sixth circuit court of appeals;

(5) 1 additional circuit judge for the eighth circuit court of appeals; and

(6) 2 additional circuit judges for the tenth circuit court of appeals.

(b) TABLES.—In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

"Circuits	Number of Judges
District of Columbia	12
First	6
Second	13
Third	14
Fourth	15
Fifth	17
Sixth	16
Seventh	11
Eighth	11
Ninth	28
Tenth	12
Eleventh	12
Federal	12.".

SEC. 203. DISTRICT JUDGES FOR THE DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate— President. 28 USC 133 note.

(1) 1 additional district judge for the western district of Arkansas;

(2) 2 additional district judges for the northern district of California;

(3) 5 additional district judges for the central district of California;

(4) 1 additional district judge for the southern district of California;

(5) 2 additional district judges for the district of Connecticut;

(6) 2 additional district judges for the middle district of Florida;

(7) 1 additional district judge for the northern district of Florida;

(8) 1 additional district judge for the southern district of Florida;

(9) 1 additional district judge for the middle district of Georgia;

(10) 1 additional district judge for the northern district of Illinois;

(11) 1 additional district judge for the southern district of Iowa;

(12) 1 additional district judge for the western district of Louisiana;

(13) 1 additional district judge for the district of Maine;

(14) 1 additional district judge for the district of Massachusetts;
(15) 1 additional district judge for the southern district of Mississippi;
(16) 1 additional district judge for the eastern district of Missouri;
(17) 1 additional district judge for the district of New Hampshire;
(18) 3 additional district judges for the district of New Jersey;
(19) 1 additional district judge for the district of New Mexico;
(20) 1 additional district judge for the southern district of New York;
(21) 3 additional district judges for the eastern district of New York;
(22) 1 additional district judge for the middle district of North Carolina;
(23) 1 additional district judge for the southern district of Ohio;
(24) 1 additional district judge for the northern district of Oklahoma;
(25) 1 additional district judge for the western district of Oklahoma;
(26) 1 additional district judge for the district of Oregon;
(27) 3 additional district judges for the eastern district of Pennsylvania;
(28) 1 additional district judge for the middle district of Pennsylvania;
(29) 1 additional district judge for the district of South Carolina;
(30) 1 additional district judge for the eastern district of Tennessee;
(31) 1 additional district judge for the western district of Tennessee;
(32) 1 additional district judge for the middle district of Tennessee;
(33) 2 additional district judges for the northern district of Texas;
(34) 1 additional district judge for the eastern district of Texas;
(35) 5 additional district judges for the southern district of Texas;
(36) 3 additional district judges for the western district of Texas;
(37) 1 additional district judge for the district of Utah;
(38) 1 additional district judge for the eastern district of Washington;
(39) 1 additional district judge for the northern district of West Virginia;
(40) 1 additional district judge for the southern district of West Virginia; and
(41) 1 additional district judge for the district of Wyoming.

28 USC 133 note.

(b) EXISTING JUDGESHIPS.—(1) The existing district judgeships for the western district of Arkansas, the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the eastern district of North Carolina, the northern district of Ohio, and the western district of Washington authorized by section 202(b) of the Bankruptcy Amendments and

Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 347-348) shall, as of the effective date of this title, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(2)(A) The existing 2 district judgeships for the eastern and western districts of Arkansas (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall hold the offices under section 133 of title 28, United States Code, as amended by this title.

(B) The existing district judgeship for the northern and southern districts of Iowa (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(C) The existing district judgeship for the northern, eastern, and western districts of Oklahoma (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) and the occupant of which has his or her official duty station at Oklahoma City on the date of the enactment of this title, shall be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(c) TEMPORARY JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate— President. 28 USC 133 note.

(1) 1 additional district judge for the northern district of Alabama;

(2) 1 additional district judge for the eastern district of California;

(3) 1 additional district judge for the district of Hawaii;

(4) 1 additional district judge for the central district of Illinois;

(5) 1 additional district judge for the southern district of Illinois;

(6) 1 additional district judge for the district of Kansas;

(7) 1 additional district judge for the western district of Michigan;

(8) 1 additional district judge for the eastern district of Missouri;

(9) 1 additional district judge for the district of Nebraska;

(10) 1 additional district judge for the northern district of New York;

(11) 1 additional district judge for the northern district of Ohio;

(12) 1 additional district judge for the eastern district of Pennsylvania; and

(13) 1 additional district judge for the eastern district of Virginia.

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 5 years or more after the effective date of this title, shall not be filled.

(d) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent

district judgeships authorized as a result of subsections (a) and (b) of this section, such table is amended to read as follows:

"DISTRICTS	JUDGES
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	5
Western	3
California:	
Northern	14
Eastern	6
Central	27
Southern	8
Colorado	7
Connecticut	8
Delaware	4
District of Columbia	15
Florida:	
Northern	4
Middle	11
Southern	16
Georgia:	
Northern	11
Middle	4
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	3
Maryland	10
Massachusetts	13
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	3
New Jersey	17

New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	15
Western	4
North Carolina:	
Eastern	4
Middle	4
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	6
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	6
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	9
South Dakota	3
Tennessee:	
Eastern	5
Middle	4
Western	5
Texas:	
Northern	12
Southern	18
Eastern	7
Western	10
Utah	5
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	4
Western	7
West Virginia:	
Northern	3
Southern	5
Wisconsin:	
Eastern	4
Western	2
Wyoming	3.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this title.

SEC. 205. STUDY BY GENERAL ACCOUNTING OFFICE. 28 USC 331 note.

(a) IN GENERAL.—The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies—

(1) provide an accurate measure of the workload of existing judges;

(2) are applied consistently to the various circuit courts of appeals and district courts; and

(3) provide an accurate indicator of the need for additional judgeships.

(b) REPORT TO CONGRESS.—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act, report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used by the Judicial Conference that were reviewed in the report.

28 USC 44 note.

SEC. 206. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this title.

Federal Courts Study Committee Implementation Act of 1990.

TITLE III—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

28 USC 1 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Courts Study Committee Implementation Act of 1990".

28 USC 620 note.

SEC. 302. STUDY OF INTERCIRCUIT CONFLICTS AND STRUCTURAL ALTERNATIVES FOR THE COURTS OF APPEALS BY FEDERAL JUDICIAL CENTER.

Reports.

(a) INTERCIRCUIT CONFLICTS.—The Board of the Federal Judicial Center is requested to conduct a study and submit to the Congress a report by January 1, 1992, on the number and frequency of conflicts among the judicial circuits in interpreting the law that remain unresolved because they are not heard by the Supreme Court.

(b) FACTORS TO CONSIDER IN STUDY.—In conducting such a study, the Center should consider, to the extent feasible, all relevant factors, such as whether the conflict—

(1) imposes economic costs or other harm on persons engaging in interstate commerce;

(2) encourages forum shopping among circuits;

(3) creates unfairness to litigants in different circuits, as in allowing Federal benefits in one circuit that are denied in other circuits; or

(4) encourages nonacquiescence by Federal agencies in the holdings of the courts of appeals for different circuits,

but is unlikely to be resolved by the Supreme Court.

Reports.

(c) STRUCTURAL ALTERNATIVES FOR THE COURTS OF APPEALS.—The Board of the Federal Judicial Center is requested to study the full range of structural alternatives for the Federal Courts of Appeals and submit a report on the study to the Congress and the Judicial Conference of the United States, no later than 2 years after the date of the enactment of this Act.

SEC. 303. EFFECT OF APPOINTMENT OF JUDGE AS DIRECTOR OF CERTAIN JUDICIAL BRANCH AGENCIES.

Section 133 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The President"; and

(2) by adding at the end thereof the following:

"(b)(1) In any case in which a judge of the United States (other than a senior judge) assumes the duties of a full-time office of Federal judicial administration, the President shall appoint, by and with the advice and consent of the Senate, an additional judge for the court on which such judge serves. If the judge who assumes the duties of such full-time office leaves that office and resumes the duties as an active judge of the court, then the President shall not appoint a judge to fill the first vacancy which occurs thereafter in that court. President.

"(2) For purposes of paragraph (1), the term 'office of Federal judicial administration' means a position as Director of the Federal Judicial Center, Director of the Administrative Office of the United States Courts, or administrative assistant to the Chief Justice.".

SEC. 304. EXTENSION OF TERMS OF OFFICE OF BANKRUPTCY JUDGES.

Section 152(a)(1) of title 28, United States Code, is amended by inserting after the third sentence the following: "However, upon the expiration of the term, a bankruptcy judge may, with the approval of the judicial council of the circuit, continue to perform the duties of the office until the earlier of the date which is 180 days after the expiration of the term or the date of the appointment of a successor.".

SEC. 305. APPEALS OF JUDGMENTS, ORDERS, AND DECREES OF BANKRUPTCY COURTS.

Section 158(b) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by inserting after paragraph (1) the following:

"(2) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section.".

SEC. 306. RETIREMENT SYSTEM FOR CLAIMS COURT JUDGES.

(a) NEW RETIREMENT SYSTEM.—(1) Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 178. Retirement of judges of the Claims Court

"(a) A judge of the United States Claims Court who retires from office after attaining the age and meeting the service requirements, whether continuously or otherwise, of this subsection shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service. The age and service requirements for retirement under this subsection are as follows:

"Attained Age:	Years of Service:
65	15
66	14
67	13
68	12
69	11
70	10.

"(b) A judge of the Claims Court who is not reappointed following the expiration of the term of office of such judge, and who retires upon the completion of such term shall, subject to subsection (f), be entitled to receive, during the remainder of such judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service, if—

"(1) such judge has served at least 1 full term as judge of the Claims Court, and

"(2) not earlier than 9 months before the date on which the term of office of such judge expired, and not later than 6 months before such date, such judge advised the President in writing that such judge was willing to accept reappointment as a judge of the Claims Court.

"(c) A judge of the Claims Court who has served at least 5 years, whether continuously or otherwise, as such a judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime—

"(1) an annuity equal to 50 percent of the salary payable to Claims Court judges in regular active service, if before retirement such judge served less than 10 years, or

"(2) an annuity equal to the salary payable to Claims Court judges in regular active service, if before retirement such judge served at least 10 years.

"(d) A judge who retires under subsection (a) or (b) may, at or after such retirement, be called upon by the chief judge of the Claims Court to perform such judicial duties with the Claims Court as may be requested of the retired judge for any period or periods specified by the chief judge, except that in the case of any such judge—

"(1) the aggregate of such periods in any one calendar year shall not (without his or her consent) exceed 90 calendar days; and

"(2) he or she shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a Claims Court judge in regular active service. Any individual performing judicial duties pursuant to this subsection shall receive the allowances for official travel and other expenses of a judge in regular active service.

"(e)(1) Any judge who retires under the provisions of subsection (a) or (b) of this section shall be designated 'senior judge'.

"(2) Any judge who retires under this section shall not be counted as a judge of the Claims Court for purposes of the number of judgeships authorized by section 171 of this title.

"(f)(1) A judge shall be entitled to an annuity under this section if the judge elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts in writing. Such an election—

"(A) may be made only while an individual is a judge of the Claims Court (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, such election may be made at any time before the day after the day on which his or her successor takes office); and

"(B) once made, shall, subject to subsection (k), be irrevocable.

"(2) A judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5, for service performed as a judge or otherwise;

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(C) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(D) retired pay under section 4096 of title 38.

"(g) For purposes of calculating the years of service of an individual under subsections (a) and (c), only those years of service as a judge of the Claims Court or a commissioner of the United States Court of Claims shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more.

"(h) An annuity under this section shall be payable at the times and in the same manner as the salary of a Claims Court judge in regular active service. Such annuity shall begin to accrue on the day following the day on which the annuitant's salary as a judge in regular active service ceases to accrue.

"(i)(1) Payments under this section which would otherwise be made to a judge of the Claims Court based upon his or her service shall be paid (in whole or in part) by the Director of the Administrative Office of the United States Courts to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall apply only to payments made by the Director of the Administrative Office of the United States Courts after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional information as the Director may prescribe.

"(3) As used in this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or court of Indian offense.

"(j)(1) Subject to paragraph (2), any judge of the Claims Court who retires under this section and who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim against the United States or any agency thereof shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which he so practices law.

"(2) If a judge of the Claims Court who retires under this section fails during any calendar year to perform judicial duties required of such judge by subsection (d), such judge shall forfeit all rights to an annuity under this section for the 1-year period which begins on the first day on which he or she so fails to perform such duties.

"(3) If a judge of the Claims Court who retires under this section accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties under subsection (d)), such judge shall forfeit all rights to an annuity under this section for the period for which such compensation is received.

"(4)(A) If a judge makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and subsection (d)) shall not apply to such judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such judge is entitled on the day before such effective date.

"(B) An election under subparagraph (A)—

"(i) may be made by a judge only if such judge meets the age and service requirements for retirement under subsection (a),

"(ii) may be made only during the period during which such judge may make an election to receive an annuity under this section or while the judge is receiving an annuity under this section, and

"(iii) shall be filed with the Director of the Administrative Office of the United States Courts.

Such an election, once it takes effect, shall be irrevocable.

"(C) Any election under this paragraph shall take effect on the first day of the first month following the month in which the election is made.

"(k)(1) Notwithstanding subsection (f)(1)(B), an individual who has filed an election under subsection (f) to receive an annuity may revoke such election at any time before the first day on which such annuity would (but for such revocation) begin to accrue with respect to such individual.

"(2) Any revocation under this subsection shall be made by filing a notice thereof in writing with the Director of Administrative Office of the United States Courts.

"(3) In the case of any revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election under subsection (f) to receive an annuity,

"(B) for purposes of section 376 of this title—

"(i) the individual shall be treated as not having filed an election under section 376(a)(1), and

"(ii) section 376(g) shall not apply, and the amount credited to such individual's account (together with interest at 3 percent per annum, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

"(C) no credit shall be allowed for any service as a judge of the Claims Court or as a commissioner of the United States Court of Claims unless with respect to such service either there has been deducted and withheld the amount required by chapter 83 or 84 (as the case may be) of title 5 or there has been deposited in the

Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

"(D) the Claims Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (f), and

"(E) if subparagraph (D) is complied with, service on the Claims Court or as a commissioner of the United States Court of Claims shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(l)(1) There is established in the Treasury a fund which shall be known as the 'Claims Court Judges Retirement Fund'. The Fund is appropriated for the payment of annuities and other payments under this section.

"(2) The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Claims Court Judges Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3)(A) There are authorized to be appropriated to the Claims Court Judges Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund. Appropriation authorization.

"(B) For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, of the present value of all benefits payable from the Claims Court Judges Retirement Fund, over the balance in the Fund as of the date the unfunded liability is determined. In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, with respect to the retirement annuities provided for in this section.

"(C) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.". Appropriation authorization.

(2) The table of sections at the beginning of chapter 7 of title 28, United States Code, is amended by adding at the end the following new item:

"178. Retirement of judges of the Claims Court.".

(b) JUDICIAL SURVIVORS' ANNUITIES.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by striking out "or" at the end of subparagraph (E);

(B) by adding "or" at the end of subparagraph (F);

(C) by inserting after subparagraph (F) the following: "(G) a judge of the United States Claims Court;";

(D) by striking out "or (v)" and inserting in lieu thereof "(v)"; and

(E) by inserting before the semicolon at the end thereof the following: ", or (vi) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990, in the case of a full-time judge of the Claims Court in active service on that date".

(2) Subsection (a)(2) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by adding "and" at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

"(G) in the case of a judge of the United States Claims Court, an annuity paid under section 178 of this title;".

(3) Subsection (b) is amended in the last sentence by striking out "section 377" each place it appears and inserting in each such place "section 178 or 377".

(c) CIVIL SERVICE RETIREMENT SYSTEM.—(1) Section 8331 of title 5, United States Code, is amended—

(A) by striking out "and" at the end of paragraph (24);

(B) by striking out the period at the end of paragraph (25) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(26) 'Claims Court judge' means a judge of the United States Claims Court who is appointed under chapter 7 of title 28 or who has served under section 167 of the Federal Courts Improvement Act of 1982.".

(2) Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by inserting "a Claims Court judge," after "Member,"; and

(B) in subsection (c), by inserting at the end of the table the following:

"Claims Court Judge	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1988.
	8	After September 30, 1988.".

(3) Section 8336(k) of title 5, United States Code, is amended to read as follows:

"(k) A bankruptcy judge, United States magistrate, or Claims Court judge who is separated from service, except by removal, after becoming 62 years of age and completing 5 years of civilian service, or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge, United States magistrate, or Claims Court judge, is entitled to an annuity.".

(4) Section 8339(n) of title 5, United States Code, is amended to read as follows:

"(n) The annuity of an employee who is a Claims Court judge, bankruptcy judge, or United States magistrate is computed, with respect to service as a Claims Court judge, as a commissioner of the Court of Claims, as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, and as a United States commissioner and with respect to the military service of any such individual (not exceeding 5 years) creditable under section 8332 of this title, by multiplying 2½ percent of the individual's average pay by the years of that service.".

(d) THRIFT SAVINGS PLAN.—(1) Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 8440b. Claims Court judges

"(a)(1) A judge of the United States Claims Court who is covered by section 178 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to this chapter.

"(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to Claims Court judges who make contributions to the Thrift Savings Fund under subsection (a) of this section.

"(2) The amount contributed by a Claims Court judge for any pay period shall not exceed 5 percent of basic pay for such pay period.

"(3) No contributions shall be made under section 8432(c) of this title for the benefit of a Claims Court judge making contributions under subsection (a) of this section.

"(4)(A) Section 8433(b) of this title applies to a Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an annuity under section 178 of title 28 (including a disability annuity under subsection (d) of such section).

"(B) Section 8433(d) of this title applies to any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an annuity under section 178 of title 28.

"(5) With respect to Claims Court judges to whom this section applies, retirement under section 178 of title 28 is a separation from service for purposes of this subchapter and subchapter VII.

"(6) For purposes of this section, the terms 'retirement' and 'retire' include removal from office under section 178(c) of title 28 on the sole ground of mental or physical disability.

"(7) Sums contributed pursuant to this section by Claims Court judges, as well as all previous contributions to the Thrift Savings Fund by those judges, and earnings attributable to such sums and contributions, may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(8) In the case of a Claims Court judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 178 of title 28, such annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.".

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding at the end thereof the following:

"8440b. Claims Court judges.".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—(1)(A) Section 402(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking out "redesignating paragraph (18)" and inserting in lieu thereof "redesignating paragraph (19)". 28 USC 604.

(B) Section 604(a) of title 28, United States Code, (relating to the duties of the Director of the Administrative Office of the United

States Courts), as amended pursuant to the amendment made by subparagraph (A) of this paragraph, is amended—

(i) in paragraph (7) by inserting "judges of the United States Claims Court," after "judges of the United States,";

(ii) by redesignating paragraph (23) as paragraph (24); and

(iii) by inserting after paragraph (22) the following:

"(23) Regulate and pay annuities to judges of the United States Claims Court in accordance with section 178 of this title; and".

(2) Section 8334(i) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, a judge of the United States Claims Court who is covered by section 178 of title 28 shall not be subject to deductions and contributions to the Fund if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(3) Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) A judge of the United States Claims Court who is covered by section 178 of title 28 shall be excluded from the operation of this chapter, other than subchapters III and VII of such chapter if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title.".

5 USC 8331 note.

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to judges of, and senior judges in active service with, the United States Claims Court on or after the date of the enactment of this Act.

SEC. 307. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE ADMINISTRATIVE OFFICE.

Section 601 of title 28, United States Code, is amended in the second sentence by striking out "Supreme Court" and inserting in lieu thereof "Chief Justice of the United States, after consulting with the Judicial Conference".

SEC. 308. MAGISTRATES.

(a) CONSENT TO TRIAL IN CIVIL ACTIONS.—Section 636(c)(2) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "their right to consent to the exercise of" and inserting in lieu thereof "the availability of a magistrate to exercise"; and

(2) by striking out the third sentence and inserting in lieu thereof the following: "Thereafter, either the district court judge or the magistrate may again advise the parties of the availability of the magistrate, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences.".

(b) EXTENSION OF TERMS OF OFFICE OF MAGISTRATES.—Section 631(f) of title 28, United States Code, is amended by striking out "60" and inserting in lieu thereof "180".

SEC. 309. APPEAL OF CERTAIN DETERMINATIONS RELATING TO BANKRUPTCY CASES.

(a) ABSTENTION DETERMINATIONS UNDER TITLE 11, UNITED STATES CODE.—Section 305(c) of title 11, United States Code, is amended by inserting before the period the following: "by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title".

(b) ABSTENTION DETERMINATIONS UNDER TITLE 28, UNITED STATES CODE.—The second sentence of section 1334(c)(2) of title 28, United States Code, is amended—

(1) by inserting "or not to abstain" after "to abstain", and

(2) by inserting the following before the period: "by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title".

(c) REMAND DETERMINATIONS UNDER TITLE 28, UNITED STATES CODE.—The second sentence of section 1452(b) of title 28, United States Code, is amended by inserting the following before the period: "by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title".

SEC. 310. SUPPLEMENTAL JURISDICTION.

(a) GRANT OF JURISDICTION.—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 1367. Supplemental jurisdiction

"(a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties. Claims.

"(b) In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

"(c) The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

"(1) the claim raises a novel or complex issue of State law,

"(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,

"(3) the district court has dismissed all claims over which it has original jurisdiction, or

"(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

"(d) The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

"(e) As used in this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1367. Supplemental jurisdiction.".

28 USC 1367 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions commenced on or after the date of the enactment of this Act.

SEC. 311. VENUE.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out "the judicial district" and all that follows through "arose" and inserting in lieu thereof the following: "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which the defendants are subject to personal jurisdiction at the time the action is commenced";

(2) in subsection (b), by striking out "may be brought" and all that follows through "law" and inserting in lieu thereof the following: "may, except as otherwise provided by law, be brought only if (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought";

(3) in subsection (e) by striking out "or (2)" and all that follows through "(4)", and inserting in lieu thereof "(2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3)".

SEC. 312. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, is amended—

(1) by striking out ", which would be removable if sued upon alone" and inserting in lieu thereof "within the jurisdiction conferred by section 1331 of this title"; and

(2) by striking out "remand all matters not otherwise within its original jurisdiction" and inserting in lieu thereof "may remand all matters in which State law predominates".

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following:

"§ 1658. Time limitations on the commencement of civil actions arising under Acts of Congress

"Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section may not be commenced later than 4 years after the cause of action accrues.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1658. Time limitations on the commencement of civil actions arising under Acts of Congress.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to causes of action accruing on or after the date of the enactment of this Act. 28 USC 1658 note.

SEC. 314. WITNESS AND JUROR FEES.

(a) WITNESS FEES.—Section 1821(b) of title 28, United States Code, is amended by striking out "$30" and inserting in lieu thereof "$40".

(b) JUROR FEES.—Section 1871(b) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out "$30" and inserting in lieu thereof "$40";

(2) in paragraph (2) by striking out "$5" and inserting in lieu thereof "$10"; and

(3) in paragraph (3) by striking out "$5" and inserting in lieu thereof "$10".

SEC. 315. POWER OF SUPREME COURT TO DEFINE FINAL DECISION FOR PURPOSES OF SECTION 1291 OF TITLE 28, UNITED STATES CODE.

Section 2072 of title 28, United States Code, is amended by adding at the end thereof the following:

"(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.".

SEC. 316. EXTENSION OF LIFE OF PAROLE COMMISSION. 18 USC 3551 note.

For the purposes of section 235(b) of Public Law 98-473 as it relates to chapter 311 of title 18, United States Code, and the United States Parole Commission, each reference in such section to "five years" or a "five-year period" shall be deemed a reference to "ten years" or a "ten-year period", respectively.

SEC. 317. BANKRUPTCY ADMINISTRATOR PROGRAM.

(a) EXTENSION.—Section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554; 28 U.S.C. 581 note) is amended—

(1) in subparagraph (A)(ii), by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 2002";

(2) in subparagraph (F)(i)(II), by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 2002";

(3) in subparagraph (F)(i), by striking out "October 1, 1993" and inserting in lieu thereof "October 1, 2003"; and

(4) in subparagraph (F)(ii), by striking out "October 1, 1993" and inserting in lieu thereof "October 1, 2003".

(b) STANDING.—A bankruptcy administrator may raise and may appear and be heard on any issue in any case under title 11, United 11 USC 307 note.

States Code, but may not file a plan pursuant to section 1121(c) of such title.

28 USC 581 note.

(c) POWER OF THE COURT.—Section 302(d)(3)(A)(ii) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, as amended by subsection (a), is further amended by inserting before the period at the end thereof the following: ", except that the amendment to section 105(a) of title 11, United States Code, shall become effective as of the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990".

18 USC 3006A note.

SEC. 318. STUDY OF FEDERAL DEFENDER PROGRAM.

(a) STUDY REQUIRED.—The Judicial Conference of the United States shall conduct a study of the Federal defender program under the Criminal Justice Act of 1964, as amended (enacting section 3006A of title 18, United States Code).

(b) ASSESSMENT OF PROGRAM.—In conducting the study, the Judicial Conference shall assess the effectiveness of the Federal defender program, including the following:

(1) The impact of judicial involvement in the selection and compensation of the Federal public defenders and the independence of Federal defender organizations, including the establishment and termination of Federal defender organizations and the Federal public defender and the community defender options.

(2) Equal employment and affirmative action procedures in the various Federal defender programs.

(3) Judicial involvement in the appointment and compensation of panel attorneys and experts.

(4) Adequacy of compensation for legal services provided under the Criminal Justice Act of 1964.

(5) The quality of the Criminal Justice Act of 1964 representation.

(6) The adequacy of administrative support for defender services programs.

(7) Maximum amounts of compensation for attorneys with regard to appeals of habeas corpus proceedings.

(8) Contempt, sanctions, and malpractice representation of panel attorneys.

(9) Appointment of counsel in multidefendant cases.

(10) Early appointment of counsel in general, and prior to the pretrial services interview in particular.

(11) The method and source of payment of the fees and expenses of fact witnesses for defendants with limited funds.

(12) The provisions of services or funds to financially eligible arrested but unconvicted persons for noncustodial transportation and subsistence expenses, including food and lodging, both prior to and during judicial proceedings.

(c) REPORT.—No later than March 31, 1992, the Judicial Conference shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include—

(1) any recommendations for legislation that the Judicial Conference finds appropriate;

(2) a proposed formula for the compensation of Federal defender program counsel that includes an amount to cover reasonable overhead and a reasonable hourly fee; and

(3) a discussion of any procedural or operational changes that the Judicial Conference finds appropriate for implementation by the courts of the United States.

SEC. 319. AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT OF 1978.

Section 502 of the Ethics in Government Act of 1978 (5 U.S.C. App.), as amended by the Ethics Reform Act of 1989, is amended—

(1) by inserting "(a) LIMITATIONS.—" before the first sentence; and

(2) by adding at the end thereof the following new subsection:

"(b) SENIOR JUDGES TEACHING COMPENSATION.—Any compensation for teaching received by a senior judge (as designated under section 294(b) of title 28, United States Code) approved under subsection (a)(5) of this section shall not be treated as outside earned income for the purpose of the limitation under section 501(a).".

SEC. 320. BIENNIAL CIRCUIT JUDICIAL CONFERENCE.

The first paragraph of section 333 of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "annually" and inserting "biennially, and may summon annually,"; and

(2) in the last sentence—

(A) by striking out "the United States District Court for the District of the Canal Zone,"; and

(B) by striking out "and the District Court of the Virgin Islands shall also be summoned annually" and inserting in lieu thereof "the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,".

SEC. 321. CHANGE OF NAME OF UNITED STATES MAGISTRATES. 28 USC 631 note.

After the enactment of this Act, each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge, and any reference to any United States magistrate or magistrate that is contained in title 28, United States Code, in any other Federal statute, or in any regulation of any department or agency of the United States in the executive branch that was issued before the enactment of this Act, shall be deemed to refer to a United States magistrate judge appointed under section 631 of title 28, United States Code.

SEC. 322. LENGTH OF SERVICE REQUIRED FOR ELIGIBILITY UNDER THE JUDICIAL SURVIVORS' ANNUITIES ACT.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Section 376(h)(1) of title 28, United States Code, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting "(A)" before "after having completed"; and

(B) by inserting after "have actually been made" the following: ", or (B) if the death of such judicial official was by assassination, before having satisfied the requirements of clause (A) if, for the period of such service, the deductions provided by subsection (b) or, in lieu thereof, the deposits required by subsection (d) have actually been made";

(2) by redesignating existing subparagraph (A) as clause (i);

(3) in existing subparagraph (B)—

(A) by striking out "(B)" and inserting in lieu thereof "(ii)";

(B) by striking out "(i)" and inserting in lieu thereof "(I)"; and

(C) by striking out "(ii)" and inserting in lieu thereof "(II)";

(4) in existing subparagraph (C)—

(A) by striking out "(C)" and inserting in lieu thereof "(iii)";

(B) in clause (i)—

(i) by striking out "(i)" and inserting in lieu thereof "(I)";

(ii) by striking out "subparagraph (1)(A) of this subsection" and inserting in lieu thereof "clause (i) of this paragraph";

(iii) by striking out "(ii)" and inserting in lieu thereof "(II)"; and

(iv) by striking out "(iii)" and inserting in lieu thereof "(III)"; and

(5) by adding at the end of subsection (h) the following:

"(6) In the case of the survivor or survivors of a judicial official to whom paragraph (1)(B) applies, there shall be deducted from the annuities otherwise payable under this section an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months prior to the judicial official's death.".

(b) DEFINITION OF ASSASSINATION.—Section 376(a) of title 28, United States Code, is amended—

(1) in paragraph (5)(C) by striking out "and" after the semicolon;

(2) in paragraph (6) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new paragraph:

"(7) 'assassinated' and 'assassination' mean the killing of a judicial official described in paragraph (1) (A), (B), (F), or (G) of this subsection that is motivated by the performance by that judicial official of his or her official duties.".

(c) DETERMINATION OF ASSASSINATION BY DIRECTOR.—Section 376(i) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(i)"; and

(2) by adding at the end thereof the following:

"(2) The Director of the Administrative Office of the United States Courts shall determine whether the killing of a judicial official was an assassination, subject to review only by the Judicial Conference of the United States. The head of any Federal agency that investigates the killing of a judicial official shall provide information to the Director that would assist the Director in making such determination.".

(d) COMPUTATION OF WIDOW'S AND WIDOWER'S ANNUITY.—Section 376(l)(1)(ii) of title 28, United States Code, is amended by striking out "but more than eighteen months,".

(e) REFUND OF CONTRIBUTIONS TO FUND.—Section 376(o) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(o)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraph (A) as so redesignated, by inserting "subject to paragraph (2) of this subsection," before "before having completed"; and

(4) by adding at the end thereof the following new paragraph:

"(2) In cases in which a judicial official dies as a result of assassination and leaves a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) or (t) of this section, paragraph (1)(A) of this subsection shall not apply.".

(f) OTHER BENEFITS.—Section 376 of title 28, United States Code, is amended by adding at the end thereof the following:

"(u) In the case of a judicial official who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of title 5 for any year would exceed the current salary for that year of the office of the judicial official.".

(g) EFFECTIVE DATE AND TRANSITION.— 28 USC 376 note.

(1) EFFECTIVE DATE.—Subject to paragraph (2), the amendments made by this Act shall apply to all judicial officials assassinated on or after May 28, 1979.

(2) RULES FOR RETROACTIVE APPLICATION.—(A) In the case of a judicial official who was assassinated on or after May 28, 1979, and before the date of the enactment of this Act, if the salary deductions provided by subsection (b) of section 376 of title 28, United States Code, or the deposits required by subsection (d) of such section, have been withdrawn pursuant to subsection (o) of such section, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount so withdrawn, with interest on the amount withdrawn at 3 percent per annum compounded on December 31 of each year.

(B) In the case of the survivor or survivors of a judicial official to whom this paragraph applies who had less than 18 months of service before being assassinated, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount of salary deductions that would have been made if such deductions been made for 18 months before the judicial official's death, plus interest as described in subparagraph (A).

(C) Subject to subparagraphs (A) and (B), the survivor or survivors of a judicial official to whom this paragraph applies shall be entitled to the payment of annuities they would have received under section 376 of title 28, United States Code, for the period beginning on the date such judicial official was assassinated and ending the date of the enactment of this Act. The Secretary of the Treasury shall pay into the Judicial Survivors' Annuities fund, out of any money in the Treasury not otherwise appropriated, the amount of the annuities to which the survivor or survivors are entitled under this subparagraph.

(3) DEFINITION.—For purposes of this subsection, the term—

(A) "assassinated" has the meaning given that term in section 376(a)(7) of title 28, United States Code, as added by this section; and

(B) "judicial official" has the meaning given that term in section 376(a)(1)(A) and (B) of title 28, United States Code.

(g) CONFORMING AMENDMENTS.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (h) is amended—

(A) in paragraph (2) by striking out "subparagraphs (1)(A) or (1)(B)" and inserting in lieu thereof "clause (i) or (ii) of paragraph (1)";

(B) in paragraph (3) by striking out "subparagraph" each place it appears and inserting in each such place "paragraph";

(C) in paragraph (4)—

(i) by striking out "subparagraph (1)(B)" each place it appears and inserting in each such place "paragraph (1)(ii)"; and

(ii) by striking out "subparagraph (1)(C)" and inserting in lieu thereof "paragraph (1)(iii)".

(2) Subsection (a)(5)(C) is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

SEC. 323. COMPOSITION OF JUDICIAL COUNCILS.

(a) COMPOSITION OF COUNCILS.—Section 332(a)(1) of title 28, United States Code, is amended to read as follows:

"(a)(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate, a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such member is determined by majority vote of all such judges of the circuit in regular active services.".

(b) CONFORMING AMENDMENT.—Section 332(a) of title 28, United States Code, is amended by striking out paragraph (3) and redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

SEC. 324. MISCELLANEOUS PROVISIONS.

(a) PLACE OF HOLDING COURT.—(1) Section 108 of title 28, United States Code, is amended by striking out "and Reno" in the last sentence and inserting in lieu thereof ", Reno, Ely, and Lovelock".

(2) Section 112(a) of title 28, United States Code, is amended by striking out "and Utica" in the last sentence and inserting in lieu thereof "Utica, and Watertown".

(b) REVISION OF DIVISIONS OF SOUTH DAKOTA JUDICIAL DISTRICT.—Section 122 of title 28, United States Code, is amended—

(1) in paragraph (3), by striking out "Jackson,"; and

(2) by paragraph (4)—

(A) by inserting "Jackson," after "Harding,"; and

(B) by striking out "Shannon, Washabaugh, and Washington" and inserting in lieu thereof "and Shannon".

SEC. 325. MISCELLANEOUS TECHNICAL AMENDMENTS.

(a) TITLE 9, UNITED STATES CODE.—

(1) The section 15 of title 9, United States Code, that is designated "Appeals" is amended by redesignating such section as section 16.

(2) The table of sections at the beginning of chapter 1 of title 9, United States Code, is amended by striking out

"15. Appeals."

and inserting in lieu thereof

"15. Inapplicability of the Act of State doctrine.
"16. Appeals.".

(b) TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended as follows:

(1) Section 332(f)(1) is amended by striking out "(5 U.S.C. 5316)" and inserting in lieu thereof "under section 5315 of title 5".

(2) Section 375(a)(1) is amended by striking out "377 of title" and inserting in lieu thereof "377 of this title".

(3) Section 377 is amended—

(A) in subsection (f) by striking out "any annuity to which" and all that follows through the end of the subsection and inserting in lieu thereof the following:

"(1) any annuity to which such judge or magistrate would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, for service performed as such a judge or magistrate or otherwise;

"(2) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(3) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(4) retired pay under section 4096 of title 38."; and

(B) in subsection (h) by striking out "in or after" and inserting in lieu thereof "on or after".

(4) Section 602(b) is amended by striking out "604(a)(15)(B)" and inserting in lieu thereof "604(a)(16)(B)".

(5) Section 995(a)(22) is amended by striking out "and" after the semicolon.

(6) Section 996(b) is amended by striking out "89 (Health Insurance), and 91 (Conflicts of Interest)" and inserting in lieu thereof "and 89 (Health Insurance)".

(7) Section 1499 is amended by inserting "and Safety" after "Hours".

(8) Section 1605(a)(6) is amended by striking out "State" and inserting in lieu thereof "state".

(9) Section 1610 is amended—

(A) in subsection (a)(6) by striking out "State" and inserting in lieu thereof "state"; and

(B) in subsection (e) by striking out "State" and inserting in lieu thereof "state".

(c) OTHER PROVISIONS OF LAW.—(1) Section 1011 of the Judicial Improvements and Access to Justice Act (102 Stat. 4668) is amended— 28 USC 604.

(A) by striking out "inserting a comma in lieu of the semicolon at the end thereof and adding thereafter" and inserting in lieu thereof "at the end"; and

(B) by striking out ": *Provided*, That" and inserting in lieu thereof ", except that".

(2) Section 204(b)(5)(A)(ii) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (102 Stat. 2201) is amended by striking out "whichever, occurs later," and inserting in lieu thereof 28 USC 533 note.

"whichever occurs later,".

Judicial Discipline and Removal Reform Act of 1990.

TITLE IV—JUDICIAL DISCIPLINE AND JUDICIAL REMOVAL

28 USC 1 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Judicial Discipline and Removal Reform Act of 1990".

Subtitle I—Judicial Discipline

SEC. 402. AMENDMENTS TO JUDICIAL COUNCILS REFORM AND JUDICIAL CONDUCT AND DISABILITY ACT OF 1980.

(a) IDENTIFICATION OF COMPLAINTS BY CHIEF JUDGE.—Paragraph (1) of section 372(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this subsection and thereby dispense with filing of a written complaint.".

(b) MEMBERSHIP OF SPECIAL INVESTIGATIVE COMMITTEES.—Paragraph (4) of section 372(c) of such title is amended by adding at the end thereof the following: "A judge appointed to a special committee under this paragraph may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45 of this title. If a judge appointed to a committee under this paragraph dies, or retires from office under section 371(a) of this title, while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.".

(c) PUBLIC AVAILABILITY OF IMPEACHMENT RECOMMENDATION.—(1) Paragraph (8) of section 372(c) of such title is amended by adding at the end thereof the following sentence: "Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.".

(2) Paragraph (14) of such section is amended—

(A) by striking out "All" and inserting in lieu thereof "Except as provided in paragraph (8), all";

(B) by striking out "unless" and inserting in lieu thereof "except to the extent that";

(C) in subparagraph (B) by inserting "such disclosure is" before "authorized";

(D) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(E) by inserting the following new subparagraph (A) immediately before subparagraph (B) (as so redesignated):

"(A) the judicial council of the circuit in its discretion releases a copy of a report of a special investigative committee under paragraph (5) to the complainant whose complaint initiated the investigation by that special committee and to the judge or magistrate whose conduct is the subject of the complaint;".

(d) IMPEACHMENT RECOMMENDATIONS WITH RESPECT TO CONVICTED JUDGES.—Section 372(c) of such title is further amended in paragraph (8)—

(1) by inserting "(A)" after "(8)"; and

(2) by adding at the end thereof the following:

"(B) If a judge or magistrate has been convicted of a felony and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under paragraph (7), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.".

(e) RULES BY JUDICIAL CONFERENCE AND JUDICIAL COUNCILS.—Paragraph (11) of section 372(c) of such title is amended by adding at the end thereof the following: "No rule promulgated under this subsection may limit the period of time within which a person may file a complaint under this subsection.".

(f) CONCLUSION OF PROCEEDINGS BY CHIEF JUDGE.—Paragraph (3)(B) of section 372(c) of such title is amended by inserting before the period the following: "or that action on the complaint is no longer necessary because of intervening events".

(g) DISMISSAL OF COMPLAINTS BY JUDICIAL COUNCILS.—Paragraph (6) of section 372(c) of such title is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

"(C) may dismiss the complaint; and".

(h) REIMBURSEMENT FOR EXPENSES AND ATTORNEYS' FEES.—Section 372(c) of such title is further amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18); and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) Upon the request of a judge or magistrate whose conduct is the subject of a complaint under this subsection, the judicial council may, if the complaint has been finally dismissed under paragraph (6)(C), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge or magistrate during the investigation which would not have been incurred but for the requirements of this subsection.".

(i) TECHNICAL CORRECTIONS.—(1) Paragraph (7)(B) of section 372(c) of such title is amended—

(A) by striking out "has engaged in conduct" and inserting in lieu thereof "may have engaged in conduct"; and

(B) in clause (i) by striking out "article I" and inserting in lieu thereof "article II".

(2) Paragraph (14)(C) of such section, as redesignated by subsection (c)(2)(D) of this section, is amended by striking out "subject to the complaint" and inserting in lieu thereof "subject of the complaint".

SEC. 403. CONTEMPT POWER FOR CIRCUIT COUNCILS.

Section 332(d)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court.".

SEC. 404. AMENDMENT TO OATH OF JUSTICES AND JUDGES.

Section 453 of title 28, United States Code, is amended by striking out "according to the best of my abilities and understanding, agreeably to" and inserting "under".

SEC. 405. AMENDMENT TO ETHICS IN GOVERNMENT ACT.

Section 104(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 104(b)) is amended by adding at the end thereof the following: "Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.".

SEC. 406. ADVISORY COMMITTEES FOR JUDICIAL DISCIPLINE RULES.

Section 2077(b) of title 28, United States Code, is amended by inserting before the period at the end of the first sentence the following: "and, in the case of an advisory committee appointed by a court of appeals, of the rules of the judicial council of the circuit".

28 USC 332 note.

SEC. 407. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle II—National Commission on Judicial Impeachment

National Commission on Judicial Discipline and Removal Act.

28 USC 372 note.

SEC. 408. SHORT TITLE.

This subtitle may be cited as the "National Commission on Judicial Discipline and Removal Act".

SEC. 409. ESTABLISHMENT.

There is hereby established a commission to be known as the "National Commission on Judicial Discipline and Removal" (hereafter in this subtitle referred to as the "Commission").

SEC. 410. DUTIES OF COMMISSION.

The duties of the Commission are—

(1) to investigate and study the problems and issues involved in the tenure (including discipline and removal) of an article III judge;

(2) to evaluate the advisability of proposing alternatives to current arrangements with respect to such problems and issues, including alternatives for discipline or removal of judges that would require amendment to the Constitution; and

(3) to prepare and submit to the Congress, the Chief Justice of the United States, and the President a report in accordance with section 415. Reports.

SEC. 411. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 13 members as follows:

(1) Three appointed by the President pro tempore of the Senate.

(2) Three appointed by the Speaker of the House of Representatives.

(3) Three appointed by the Chief Justice of the United States.

(4) Three appointed by the President.

(5) One appointed by the Conference of Chief Justices of the States of the United States.

(b) TERM.—Members of the Commission shall be appointed for the life of the Commission.

(c) QUORUM.—Six members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) CHAIRMAN.—The members of the Commission shall select one of the members to be the Chairman.

(e) APPOINTMENT DEADLINE.—The first appointments made under subsection (a) shall be made within 60 days after the date of the enactment of this Act.

(f) FIRST MEETING.—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of the enactment of this Act.

(g) VACANCY.—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(h) CONTINUATION OF MEMBERSHIP.—If any member of the Commission who was appointed to the Commission as a Member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of a government becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

SEC. 412. COMPENSATION OF THE COMMISSION.

(a) PAY.—(1) Except as provided in paragraph (2), each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) TRAVEL.—All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 413. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(b) STAFF.—The Chairman of the Commission may appoint and fix the pay of such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the annual rate of pay for any individual so appointed may not exceed a rate equal to the annual rate of basic pay payable for GS–18 of the General Schedule under section 5332 of such title.

(c) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 414. POWERS OF COMMISSION.

(a) HEARINGS AND SESSIONS.—The Commission or, on authorization of the Commission, a member of the Commission may, for the purpose of carrying out this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department, agency, or entity within the executive or judicial branch of the Federal Government information necessary to enable it to carry out this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) FACILITIES AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this subtitle.

(d) EXPENDITURES AND CONTRACTS.—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 415. REPORT.

The Commission shall submit to each House of Congress, the Chief Justice of the United States, and the President a report not later than one year after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 416. TERMINATION.

The Commission shall cease to exist on the date 30 days after the date it submits its report to the President and the Congress under section 415.

SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated the sum of $750,000 to carry out the provisions of this subtitle.

SEC. 418. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

TITLE V—TELEVISION PROGRAM IMPROVEMENT

SEC. 501. TELEVISION PROGRAM IMPROVEMENT.

Television Program Improvement Act of 1990.

47 USC 303c.

(a) SHORT TITLE.—This section may be cited as the "Television Program Improvement Act of 1990".

(b) DEFINITIONS.—For purposes of this section—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition;

(2) the term "person in the television industry" means a television network, any entity which produces programming (including theatrical motion pictures) for telecasting or telecasts programming, the National Cable Television Association, the Association of Independent Television Stations, Incorporated, the National Association of Broadcasters, the Motion Picture Association of America, the Community Antenna Television Association, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(3) the term "telecast" means—

(A) to broadcast by a television broadcast station; or

(B) to transmit by a cable television system or a satellite television distribution service.

(c) EXEMPTION.—The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence in telecast material.

(d) LIMITATIONS.—(1) The exemption provided in subsection (c) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(2) The exemption provided in subsection (c) shall apply only to any joint discussion, consideration, review, action, or agreement engaged in only during the 3-year period beginning on the date of the enactment of this section.

Visual Artists Rights Act of 1990.
Copyright.
17 USC 101 note.

TITLE VI—VISUAL ARTISTS RIGHTS

SEC. 601. SHORT TITLE.

This title may be cited as the "Visual Artists Rights Act of 1990".

SEC. 602. WORK OF VISUAL ART DEFINED.

Section 101 of title 17, United States Code, is amended by inserting after the paragraph defining "widow" the following:

"A 'work of visual art' is—

"(1) a painting, drawing, print, or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author, or, in the case of a sculpture, in multiple cast, carved, or fabricated sculptures of 200 or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or

"(2) a still photographic image produced for exhibition purposes only, existing in a single copy that is signed by the author, or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author.

"A work of visual art does not include—

"(A)(i) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;

"(ii) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

"(iii) any portion or part of any item described in clause (i) or (ii);

"(B) any work made for hire; or

"(C) any work not subject to copyright protection under this title.".

SEC. 603. RIGHTS OF ATTRIBUTION AND INTEGRITY.

(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Chapter 1 of title 17, United States Code, is amended by inserting after section 106 the following new section:

"§ 106A. Rights of certain authors to attribution and integrity

"(a) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Subject to section 107 and independent of the exclusive rights provided in section 106, the author of a work of visual art—

"(1) shall have the right—

"(A) to claim authorship of that work, and

"(B) to prevent the use of his or her name as the author of any work of visual art which he or she did not create;

"(2) shall have the right to prevent the use of his or her name as the author of the work of visual art in the event of a distortion, mutilation, or other modification of the work which would be prejudicial to his or her honor or reputation; and

"(3) subject to the limitations set forth in section 113(d), shall have the right—

"(A) to prevent any intentional distortion, mutilation, or other modification of that work which would be prejudicial to his or her honor or reputation, and any intentional distortion, mutilation, or modification of that work is a violation of that right, and

"(B) to prevent any destruction of a work of recognized stature, and any intentional or grossly negligent destruction of that work is a violation of that right.

"(b) SCOPE AND EXERCISE OF RIGHTS.—Only the author of a work of visual art has the rights conferred by subsection (a) in that work, whether or not the author is the copyright owner. The authors of a joint work of visual art are coowners of the rights conferred by subsection (a) in that work.

"(c) EXCEPTIONS.—(1) The modification of a work of visual art which is a result of the passage of time or the inherent nature of the materials is not a distortion, mutilation, or other modification described in subsection (a)(3)(A).

"(2) The modification of a work of visual art which is the result of conservation, or of the public presentation, including lighting and placement, of the work is not a destruction, distortion, mutilation, or other modification described in subsection (a)(3) unless the modification is caused by gross negligence.

"(3) The rights described in paragraphs (1) and (2) of subsection (a) shall not apply to any reproduction, depiction, portrayal, or other use of a work in, upon, or in any connection with any item described in subparagraph (A) or (B) of the definition of 'work of visual art' in section 101, and any such reproduction, depiction, portrayal, or other use of a work is not a destruction, distortion, mutilation, or other modification described in paragraph (3) of subsection (a).

"(d) DURATION OF RIGHTS.—(1) With respect to works of visual art created on or after the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, the rights conferred by subsection (a) shall endure for a term consisting of the life of the author.

"(2) With respect to works of visual art created before the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, but title to which has not, as of such effective date, been transferred from the author, the rights conferred by subsection (a) shall be coextensive with, and shall expire at the same time as, the rights conferred by section 106.

"(3) In the case of a joint work prepared by two or more authors, the rights conferred by subsection (a) shall endure for a term consisting of the life of the last surviving author.

"(4) All terms of the rights conferred by subsection (a) run to the end of the calendar year in which they would otherwise expire.

"(e) TRANSFER AND WAIVER.—(1) The rights conferred by subsection (a) may not be transferred, but those rights may be waived if the author expressly agrees to such waiver in a written instrument signed by the author. Such instrument shall specifically identify the work, and uses of that work, to which the waiver applies, and the waiver shall apply only to the work and uses so identified. In the case of a joint work prepared by two or more authors, a waiver of rights under this paragraph made by one such author waives such rights for all such authors.

"(2). Ownership of the rights conferred by subsection (a) with respect to a work of visual art is distinct from ownership of any copy

of that work, or of a copyright or any exclusive right under a copyright in that work. Transfer of ownership of any copy of a work of visual art, or of a copyright or any exclusive right under a copyright, shall not constitute a waiver of the rights conferred by subsection (a). Except as may otherwise be agreed by the author in a written instrument signed by the author, a waiver of the rights conferred by subsection (a) with respect to a work of visual art shall not constitute a transfer of ownership of any copy of that work, or of ownership of a copyright or of any exclusive right under a copyright in that work.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by inserting after the item relating to section 106 the following new item:

"106A. Rights of certain authors to attribution and integrity.".

SEC. 604. REMOVAL OF WORKS OF VISUAL ART FROM BUILDINGS.

Section 113 of title 17, United States Code, is amended by adding at the end thereof the following:

"(d)(1) In a case in which—

"(A) a work of visual art has been incorporated in or made part of a building in such a way that removing the work from the building will cause the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), and

"(B) the author consented to the installation of the work in the building either before the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, or in a written instrument executed on or after such effective date that is signed by the owner of the building and the author and that specifies that installation of the work may subject the work to destruction, distortion, mutilation, or other modification, by reason of its removal,

then the rights conferred by paragraphs (2) and (3) of section 106A(a) shall not apply.

"(2) If the owner of a building wishes to remove a work of visual art which is a part of such building and which can be removed from the building without the destruction, distortion, mutilation, or other modification of the work as described in section 106A(a)(3), the author's rights under paragraphs (2) and (3) of section 106A(a) shall apply unless—

"(A) the owner has made a diligent, good faith attempt without success to notify the author of the owner's intended action affecting the work of visual art, or

"(B) the owner did provide such notice in writing and the person so notified failed, within 90 days after receiving such notice, either to remove the work or to pay for its removal.

For purposes of subparagraph (A), an owner shall be presumed to have made a diligent, good faith attempt to send notice if the owner sent such notice by registered mail to the author at the most recent address of the author that was recorded with the Register of Copyrights pursuant to paragraph (3). If the work is removed at the expense of the author, title to that copy of the work shall be deemed to be in the author.

Records.

"(3) The Register of Copyrights shall establish a system of records whereby any author of a work of visual art that has been incorporated in or made part of a building, may record his or her identity

and address with the Copyright Office. The Register shall also establish procedures under which any such author may update the information so recorded, and procedures under which owners of buildings may record with the Copyright Office evidence of their efforts to comply with this subsection.".

SEC. 605. PREEMPTION.

Section 301 of title 17, United States Code, is amended by adding at the end the following:

"(f)(1) On or after the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990, all legal or equitable rights that are equivalent to any of the rights conferred by section 106A with respect to works of visual art to which the rights conferred by section 106A apply are governed exclusively by section 106A and section 113(d) and the provisions of this title relating to such sections. Thereafter, no person is entitled to any such right or equivalent right in any work of visual art under the common law or statutes of any State.

"(2) Nothing in paragraph (1) annuls or limits any rights or remedies under the common law or statutes of any State with respect to—

"(A) any cause of action from undertakings commenced before the effective date set forth in section 610(a) of the Visual Artists Rights Act of 1990;

"(B) activities violating legal or equitable rights that are not equivalent to any of the rights conferred by section 106A with respect to works of visual art; or

"(C) activities violating legal or equitable rights which extend beyond the life of the author.".

SEC. 606. INFRINGEMENT ACTIONS.

(a) IN GENERAL.—Section 501(a) of title 17, United States Code, is amended—

(1) by inserting after "118" the following: "or of the author as provided in section 106A(a)"; and

(2) by striking out "copyright." and inserting in lieu thereof "copyright or right of the author, as the case may be. For purposes of this chapter (other than section 506), any reference to copyright shall be deemed to include the rights conferred by section 106A(a).".

(b) EXCLUSION OF CRIMINAL PENALTIES.—Section 506 of title 17, United States Code, is amended by adding at the end thereof the following:

"(f) RIGHTS OF ATTRIBUTION AND INTEGRITY.—Nothing in this section applies to infringement of the rights conferred by section 106A(a).".

(c) REGISTRATION NOT A PREREQUISITE TO SUIT AND CERTAIN REMEDIES.—(1) Section 411(a) of title 17, United States Code, is amended in the first sentence by inserting after "United States" the following: "and an action brought for a violation of the rights of the author under section 106A(a)".

(2) Section 412 of title 17, United States Code, is amended by inserting "an action brought for a violation of the rights of the author under section 106A(a) or" after "other than".

SEC. 607. FAIR USE.

Section 107 of title 17, United States Code, is amended by striking out "section 106" and inserting in lieu thereof "sections 106 and 106A".

17 USC 106A note.

SEC. 608. STUDIES BY COPYRIGHT OFFICE.

(a) STUDY ON WAIVER OF RIGHTS PROVISION.—

(1) STUDY.—The Register of Copyrights shall conduct a study on the extent to which rights conferred by subsection (a) of section 106A of title 17, United States Code, have been waived under subsection (e)(1) of such section.

(2) REPORT TO CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report on the progress of the study conducted under paragraph (1). Not later than 5 years after such date of enactment, the Register of Copyrights shall submit to the Congress a final report on the results of the study conducted under paragraph (1), and any recommendations that the Register may have as a result of the study.

(b) STUDY ON RESALE ROYALTIES.—

(1) NATURE OF STUDY.—The Register of Copyrights, in consultation with the Chair of the National Endowment for the Arts, shall conduct a study on the feasibility of implementing—

(A) a requirement that, after the first sale of a work of art, a royalty on any resale of the work, consisting of a percentage of the price, be paid to the author of the work; and

(B) other possible requirements that would achieve the objective of allowing an author of a work of art to share monetarily in the enhanced value of that work.

(2) GROUPS TO BE CONSULTED.—The study under paragraph (1) shall be conducted in consultation with other appropriate departments and agencies of the United States, foreign governments, and groups involved in the creation, exhibition, dissemination, and preservation of works of art, including artists, art dealers, collectors of fine art, and curators of art museums.

(3) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Register of Copyrights shall submit to the Congress a report containing the results of the study conducted under this subsection.

17 USC 101 note.

SEC. 609. FIRST AMENDMENT APPLICATION.

This title does not authorize any governmental entity to take any action or enforce restrictions prohibited by the First Amendment to the United States Constitution.

17 USC 106A note.

SEC. 610. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b) and except as provided in subsection (c), this title and the amendments made by this title take effect 6 months after the date of the enactment of this Act.

(b) APPLICABILITY.—The rights created by section 106A of title 17, United States Code, shall apply to—

(1) works created before the effective date set forth in subsection (a) but title to which has not, as of such effective date, been transferred from the author, and

(2) works created on or after such effective date, but shall not apply to any destruction, distortion, mutilation, or other modi-

fication (as described in section 106A(a)(3) of such title) of any work which occurred before such effective date.

(c) SECTION 608.—Section 608 takes effect on the date of the enactment of this Act.

TITLE VII—ARCHITECTURAL WORKS

Architectural Works Copyright Protection Act. 17 USC 101 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Architectural Works Copyright Protection Act".

SEC. 702. DEFINITIONS.

(a) ARCHITECTURAL WORKS.—Section 101 of title 17, United States Code, is amended by inserting after the definition of "anonymous work" the following:

"An 'architectural work' is the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.".

(b) BERNE CONVENTION WORK.—Section 101 of title 17, United States Code, is amended in the definition of "Berne Convention work"—

(1) in paragraph (3)(B) by striking "or" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) in the case of an architectural work embodied in a building, such building is erected in a country adhering to the Berne Convention.".

SEC. 703. SUBJECT MATTER OF COPYRIGHT.

Section 102(a) of title 17, United States Code, is amended—

(1) in paragraph (6) by striking "and" after the semicolon;

(2) in paragraph (7) by striking the period and inserting "; and"; and

(3) by adding after paragraph (7) the following:

"(8) architectural works.".

SEC. 704. SCOPE OF EXCLUSIVE RIGHTS IN ARCHITECTURAL WORKS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding at the end the following:

"§ 120. Scope of exclusive rights in architectural works

"(a) PICTORIAL REPRESENTATIONS PERMITTED.—The copyright in an architectural work that has been constructed does not include the right to prevent the making, distributing, or public display of pictures, paintings, photographs, or other pictorial representations of the work, if the building in which the work is embodied is located in or ordinarily visible from a public place.

"(b) ALTERATIONS TO AND DESTRUCTION OF BUILDINGS.—Notwithstanding the provisions of section 106(2), the owners of a building embodying an architectural work may, without the consent of the author or copyright owner of the architectural work, make or authorize the making of alterations to such building, and destroy or authorize the destruction of such building.".

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end of the following:

"120. Scope of exclusive rights in architectural works.".

(2) Section 106 of title 17, United States Code, is amended by striking "119" and inserting "120".

SEC. 705. PREEMPTION.

Section 301(b) of title 17, United States Code, is amended—

(1) in paragraph (2) by striking "or" after the semicolon:

(2) in paragraph (3) by striking the period and inserting "; or"; and

(3) by adding after paragraph (3) the following:

"(4) State and local landmarks, historic preservation, zoning, or building codes, relating to architectural works protected under section 102(a)(8).".

17 USC 101 note.

SEC. 706. EFFECTIVE DATE.

The amendments made by this title apply to—

(1) any architectural work created on or after the date of the enactment of this Act; and

(2) any architectural work that, on the date of the enactment of this Act, is unconstructed and embodied in unpublished plans or drawings, except that protection for such architectural work under title 17, United States Code, by virtue of the amendments made by this title, shall terminate on December 31, 2002, unless the work is constructed by that date.

Computer Software Rental Amendments Act of 1990.
Copyright.

TITLE VIII—COMPUTER SOFTWARE

SEC. 801. SHORT TITLE.

17 USC 101 note.

This title may be cited as the "Computer Software Rental Amendments Act of 1990".

SEC. 802. RENTAL OF COMPUTER PROGRAMS.

Section 109(b) of title 17, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

Recordings.

(2) by striking paragraph (1) and inserting the following: "(b)(1)(A) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording or the owner of copyright in a computer program (including any tape, disk, or other medium embodying such program), and in the case of a sound recording in the musical works embodied therein, neither the owner of a particular phonorecord nor any person in possession of a particular copy of a computer program (including any tape, disk, or other medium embodying such program), may, for the purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord or computer program (including any tape, disk, or other medium embodying such program) by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution. The transfer of possession of a lawfully made copy of a computer program by a nonprofit educational institution

to another nonprofit educational institution or to faculty, staff, and students does not constitute rental, lease, or lending for direct or indirect commercial purposes under this subsection.

"(B) This subsection does not apply to—

"(i) a computer program which is embodied in a machine or product and which cannot be copied during the ordinary operation or use of the machine or product; or

"(ii) a computer program embodied in or used in conjunction with a limited purpose computer that is designed for playing video games and may be designed for other purposes.

"(C) Nothing in this subsection affects any provision of chapter 9 of this title.

"(2)(A) Nothing in this subsection shall apply to the lending of a computer program for nonprofit purposes by a nonprofit library, if each copy of a computer program which is lent by such library has affixed to the packaging containing the program a warning of copyright in accordance with requirements that the Register of Copyrights shall prescribe by regulation.

"(B) Not later than three years after the date of the enactment of the Computer Software Rental Amendments Act of 1990, and at such times thereafter as the Register of Copyright considers appropriate, the Register of Copyrights, after consultation with representatives of copyright owners and librarians, shall submit to the Congress a report stating whether this paragraph has achieved its intended purpose of maintaining the integrity of the copyright system while providing nonprofit libraries the capability to fulfill their function. Such report shall advise the Congress as to any information or recommendations that the Register of Copyrights considers necessary to carry out the purposes of this subsection."; and Reports.

(3) by striking paragraph (4), as redesignated by paragraph (1) of this section, and inserting the following:

"(4) Any person who distributes a phonorecord or a copy of a computer program (including any tape, disk, or other medium embodying such program) in violation of paragraph (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

SEC. 803. PUBLIC DISPLAY OF ELECTRONIC VIDEO GAMES.

Section 109 of title 17, United States Code, is amended by adding at the end the following:

"(e) Notwithstanding the provisions of sections 106(4) and 106(5), in the case of an electronic audiovisual game intended for use in coin-operated equipment, the owner of a particular copy of such a game lawfully made under this title, is entitled, without the authority of the copyright owner of the game, to publicly perform or display that game in coin-operated equipment, except that this subsection shall not apply to any work of authorship embodied in the audiovisual game if the copyright owner of the electronic audiovisual game is not also the copyright owner of the work of authorship.".

17 USC 109 note.

SEC. 804. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this title and the amendments made in section 802 shall take effect on the date of the enactment of this Act. The amendment made by section 803 shall take effect one year after such date of enactment.

(b) PROSPECTIVE APPLICATION.—Section 109(b) of title 17, United States Code, as amended by section 802 of this Act, shall not affect the right of a person in possession of a particular copy of a computer program, who acquired such copy before the date of the enactment of this Act, to dispose of the possession of that copy on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before such date of enactment.

(c) TERMINATION.—The amendments made by section 802 shall not apply to rentals, leasings, or lendings (or acts or practices in the nature of rentals, leasings, or lendings) occurring on or after October 1, 1997. The amendments made by section 803 shall not apply to public performances or displays that occur on or after October 1, 1995.

17 USC 205 note.

SEC. 805. RECORDATION OF SHAREWARE.

(a) IN GENERAL.—The Register of Copyrights is authorized, upon receipt of any document designated as pertaining to computer shareware and the fee prescribed by section 708 of title 17, United States Code, to record the document and return it with a certificate of recordation.

(b) MAINTENANCE OF RECORDS; PUBLICATION OF INFORMATION.—The Register of Copyrights is authorized to maintain current, separate records relating to the recordation of documents under subsection (a), and to compile and publish at periodic intervals information relating to such recordations. Such publications shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

(c) DEPOSIT OF COPIES IN LIBRARY OF CONGRESS.—In the case of public domain computer software, at the election of the person recording a document under subsection (a), 2 complete copies of the best edition (as defined in section 101 of title 17, United States Code) of the computer software as embodied in machine-readable form may be deposited for the benefit of the Machine-Readable Collections Reading Room of the Library of Congress.

(d) REGULATIONS.—The Register of Copyrights is authorized to establish regulations not inconsistent with law for the administration of the functions of the Register under this section. All regula-

tions established by the Register are subject to the approval of the Librarian of Congress.

Approved December 1, 1990.

LEGISLATIVE HISTORY—H.R. 5316 (S. 2648) (*See* H.R. 3134):

HOUSE REPORTS: No. 101-733 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 136 (1990):
Sept. 27, considered and passed House.
Oct. 27, considered and passed Senate, amended, in lieu of S. 2648. House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 26 (1990):
Dec. 1, Presidential statement.